UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS

SECOND SESSION

VOLUME 144—PART 6

MAY 1, 1998 TO MAY 13, 1998

(PAGES 7627 TO 9192)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1998

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *105th* CONGRESS, SECOND SESSION

SENATE—*Friday, May 1, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

On this Friday, as we complete another week of work, we thank You, Sovereign God, for Your help in all the ups and downs of life, all the triumphs and defeats of political life, and all the challenges of leadership. You are our Lord in all seasons and for all reasons. We can come to You when life makes us glad or sad. There is no circumstance beyond Your control. Wherever we go, You are there waiting for us. You are already at work with people before we encounter them. You prepare solutions for our complexities, and You are ready to help us resolve conflicts even before we ask. And so, we claim Your promise given through Jeremiah, "Call on Me, and I will answer you, and show great and mighty things, which you do not know."—Jeremiah 33:3.

This morning, Lord, we accept the admonition of Scripture to pray for the peace of Jerusalem. We do that in a special way by joining in gratitude for the nation of Israel as it celebrates its fiftieth anniversary. Continue to bless this new nation and its strategic place in the Middle East. In Your Holy Name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. JEFFORDS. Mr. President, this morning the Senate will begin consideration of S. 1186, the job training partnership bill, also known as the Workforce Investment Partnership Act. This will be taken up under a previous consent agreement. That agreement allows for 4 hours of debate divided equally among several amendments to be offered to the job training bill.

At the conclusion of the consideration of S. 1186, the Senate will begin a period of morning business, with Senator COVERDELL controlling 1 hour and Senator DASCHLE or his designee controlling 1 hour.

Members are reminded that no rollcall votes will occur during today's session, and any votes ordered with respect to the job training bill will be postponed, to occur at 5:30 p.m. on Tuesday, May 5.

As a further reminder, on Monday, May 4, the Senate will begin consideration of the IRS reform bill. It is hoped that Members will come to the floor on Monday to debate and to offer amendments to this important piece of legislation. Once again, as with the job training bill, any votes ordered with respect to the IRS reform bill will be stacked, to occur at 5:30 on Tuesday.

I thank my colleagues for their attention.

WORKFORCE INVESTMENT PARTNERSHIP ACT OF 1997

The PRESIDING OFFICER (Mr. ALLARD). The Chair lays before the Senate S. 1186.

The assistant legislative clerk read as follows:

A bill (S. 1186) to provide for education and training and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Workforce Investment Partnership Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—VOCATIONAL, TECHNOLOGICAL, AND TECH-PREP EDUCATION

Sec. 101. Short title.
Sec. 102. Findings and purpose.
Sec. 103. Voluntary selection and participation.

Subtitle A—Vocational Education

CHAPTER 1—FEDERAL PROVISIONS

Sec. 111. Reservations and State allotment.
Sec. 112. Performance measures and expected levels of performance.
Sec. 113. Assistance for the outlying areas.
Sec. 114. Indian and Hawaiian Native programs.
Sec. 115. Tribally controlled postsecondary vocational institutions.
Sec. 116. Incentive grants.

CHAPTER 2—STATE PROVISIONS

Sec. 121. State administration.
Sec. 122. State use of funds.
Sec. 123. State leadership activities.
Sec. 124. State plan.

CHAPTER 3—LOCAL PROVISIONS

Sec. 131. Distribution for secondary school vocational education.
Sec. 132. Distribution for postsecondary vocational education.
Sec. 133. Local activities.
Sec. 134. Local application.

Subtitle B—Tech-Prep Education

Sec. 151. Short title.
Sec. 152. Purposes.
Sec. 153. Definitions.
Sec. 154. Program authorized.
Sec. 155. Tech-prep education programs.
Sec. 156. Applications.
Sec. 157. Authorization of appropriations.

Subtitle C—General Provisions

Sec. 161. Administrative provisions.
Sec. 162. Evaluation, improvement, and accountability.
Sec. 163. National activities.
Sec. 164. National assessment of vocational education programs.
Sec. 165. National research center.
Sec. 166. Data systems.

Subtitle D—Authorization of Appropriations

Sec. 171. Authorization of appropriations.

Subtitle E—Repeal

Sec. 181. Repeal.

TITLE II—ADULT EDUCATION AND LITERACY

Sec. 201. Short title.
Sec. 202. Findings and purpose.

Subtitle A—Adult Education and Literacy Programs

CHAPTER 1—FEDERAL PROVISIONS

Sec. 211. Reservation; grants to States; allotments.
Sec. 212. Performance measures and expected levels of performance.
Sec. 213. National leadership activities.

CHAPTER 2—STATE PROVISIONS

Sec. 221. State administration.
Sec. 222. State distribution of funds; State share.
Sec. 223. State leadership activities.
Sec. 224. State plan.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Sec. 225. Programs for corrections education and other institutionalized individuals.

CHAPTER 3—LOCAL PROVISIONS

Sec. 231. Grants and contracts for eligible providers.
Sec. 232. Local application.
Sec. 233. Local administrative cost limits.

CHAPTER 4—GENERAL PROVISIONS

Sec. 241. Administrative provisions.
Sec. 242. Priorities and preferences.
Sec. 243. Incentive grants.
Sec. 244. Evaluation, improvement, and accountability.
Sec. 245. National Institute for Literacy.
Sec. 246. Authorization of appropriations.

Subtitle B—Repeal

Sec. 251. Repeal.

TITLE III—WORKFORCE INVESTMENT AND RELATED ACTIVITIES

Subtitle A—Workforce Investment Activities

CHAPTER 1—ALLOTMENTS TO STATES FOR ADULT EMPLOYMENT AND TRAINING ACTIVITIES, DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES, AND YOUTH ACTIVITIES

Sec. 301. General authorization.
Sec. 302. State allotments.
Sec. 303. Statewide partnership.
Sec. 304. State plan.

CHAPTER 2—ALLOCATIONS TO LOCAL WORKFORCE INVESTMENT AREAS

Sec. 306. Within State allocations.
Sec. 307. Local workforce investment areas.
Sec. 308. Local workforce investment partnerships and youth partnerships.
Sec. 309. Local plan.

CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES AND PROVIDERS

Sec. 311. Identification and oversight of one-stop partners and one-stop customer service center operators.
Sec. 312. Determination and identification of eligible providers of training services by program.
Sec. 313. Identification of eligible providers of youth activities.
Sec. 314. Statewide workforce investment activities.
Sec. 315. Local employment and training activities.
Sec. 316. Local youth activities.

CHAPTER 4—GENERAL PROVISIONS

Sec. 321. Accountability.
Sec. 322. Authorization of appropriations.

Subtitle B—Job Corps

Sec. 331. Purposes.
Sec. 332. Definitions.
Sec. 333. Establishment.
Sec. 334. Individuals eligible for the Job Corps.
Sec. 335. Recruitment, screening, selection, and assignment of enrollees.
Sec. 336. Enrollment.
Sec. 337. Job Corps centers.
Sec. 338. Program activities.
Sec. 339. Counseling and job placement.
Sec. 340. Support.
Sec. 341. Operating plan.
Sec. 342. Standards of conduct.
Sec. 343. Community participation.
Sec. 344. Industry councils.
Sec. 345. Advisory committees.
Sec. 346. Experimental, research, and demonstration projects.
Sec. 347. Application of provisions of Federal law.
Sec. 348. Special provisions.
Sec. 349. Management information.
Sec. 350. General provisions.
Sec. 351. Authorization of appropriations.

Subtitle C—National Programs

Sec. 361. Native American programs.
Sec. 362. Migrant and seasonal farmworker programs.
Sec. 363. Veterans' workforce investment programs.
Sec. 364. Youth opportunity grants.
Sec. 365. Incentive grants.
Sec. 366. Technical assistance.
Sec. 367. Demonstration, pilot, multiservice, research, and multistate projects.
Sec. 368. Evaluations.
Sec. 369. National emergency grants.
Sec. 370. Authorization of appropriations.

Subtitle D—Administration

Sec. 371. Requirements and restrictions.
Sec. 372. Prompt allocation of funds.
Sec. 373. Monitoring.
Sec. 374. Fiscal controls; sanctions.
Sec. 375. Reports; recordkeeping; investigations.
Sec. 376. Administrative adjudication.
Sec. 377. Judicial review.
Sec. 378. Nondiscrimination.
Sec. 379. Administrative provisions.
Sec. 380. State legislative authority.

Subtitle E—Repeals and Conforming Amendments

Sec. 391. Repeals.
Sec. 392. Conforming amendments.
Sec. 393. Effective dates.

TITLE IV—WORKFORCE INVESTMENT-RELATED ACTIVITIES

Subtitle A—Wagner-Peyser Act

Sec. 401. Definitions.
Sec. 402. Functions.
Sec. 403. Designation of State agencies.
Sec. 404. Appropriations.
Sec. 405. Disposition of allotted funds.
Sec. 406. State plans.
Sec. 407. Repeal of Federal Advisory Council.
Sec. 408. Regulations.
Sec. 409. Labor market information.
Sec. 410. Technical amendments.

Subtitle B—Linkages With Other Programs

Sec. 421. Trade Act of 1974.
Sec. 422. National Apprenticeship Act.
Sec. 423. Veterans' employment programs.
Sec. 424. Older Americans Act of 1965.

TITLE V—GENERAL PROVISIONS

Sec. 501. State unified plans.
Sec. 502. Transition provisions.
Sec. 503. Effective date.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADULT.—In paragraph (14) and title III, the term "adult" means an individual who is age 22 or older.

(2) ADULT EDUCATION.—The term "adult education" means services or instruction below the postsecondary level for individuals—

(A) who have attained 16 years of age or who are beyond the age of compulsory school attendance under State law;

(B) who are not enrolled in secondary school; and

(C) who—

(i) lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

(ii) do not possess a secondary school diploma or its recognized equivalent; or

(iii) are unable to speak, read, or write the English language.

(3) AREA VOCATIONAL EDUCATION SCHOOL.—The term "area vocational education school" means—

(A) a specialized public secondary school used exclusively or principally for the provision of vocational education for individuals who seek to study and prepare for entering the labor market;

(B) the department of a public secondary school exclusively or principally used for providing vocational education in not fewer than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

(C) a technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left public secondary school and who seek to study and prepare for entering the labor market, if the institute or school admits as regular students both individuals who have completed public secondary school and individuals who have left public secondary school; or

(D) the department or division of a junior college, community college, or university operating under the policies of the eligible agency and that provides vocational education in not fewer than 5 different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if the department or division admits as regular students both individuals who have completed public secondary school and individuals who have left public secondary school.

(4) CHIEF ELECTED OFFICIAL.—The term "chief elected official" means the chief elected executive officer of a unit of general local government in a local area.

(5) DISADVANTAGED ADULT.—In title III, and except as provided in section 302, the term "disadvantaged adult" means an adult who is a low-income individual.

(6) DISLOCATED WORKER.—The term "dislocated worker" means an individual who—

(A)(i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment;

(ii)(I) is eligible for or has exhausted entitlement to unemployment compensation; or

(II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop customer service center, attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and

(iii) is unlikely to return to a previous industry or occupation;

(B)(i) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;

(ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or

(iii) for purposes of eligibility to receive services under title III other than training services described in section 315(c)(3), intensive services, or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;

(C) was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters; or

(D) is a displaced homemaker.

(7) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who has been providing unpaid services to family members in the home and who—

(A) has been dependent on the income of another family member but is no longer supported by that income; and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(8) ECONOMIC DEVELOPMENT AGENCIES.—The term "economic development agencies" includes local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible for regulating, promoting, or assisting in local economic development.

(9) EDUCATIONAL SERVICE AGENCY.—The term "educational service agency" means a regional public multiservice agency authorized by State statute to develop and manage a service or program, and provide the service or program to a local educational agency.

(10) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY.—The terms "elementary school" and "local educational agency" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(11) ELIGIBLE AGENCY.—The term "eligible agency" means—

(A) in the case of vocational education activities or requirements described in title I—

(i) the individual, entity, or agency in a State or an outlying area responsible for administering or setting policy for vocational education in the State or outlying area, respectively, pursuant to the law of the State or outlying area, respectively; or

(ii) if no individual, entity, or agency is responsible for administering or setting such policy pursuant to the law of the State or outlying area, the individual, entity, or agency in a State or outlying area, respectively, responsible for administering or setting policy for vocational education in the State or outlying area, respectively, on the date of enactment of the Workforce Investment Partnership Act of 1997; and

(B) in the case of adult education and literacy activities or requirements described in title II—

(i) the individual, entity, or agency in a State or an outlying area responsible for administering or setting policy for adult education and literacy in the State or outlying area, respectively, pursuant to the law of the State or outlying area, respectively; or

(ii) if no individual, entity, or agency is responsible for administering or setting such policy pursuant to the law of the State or outlying area, the individual, entity, or agency in a State or outlying area, respectively, responsible for administering or setting policy for adult education and literacy in the State or outlying area, respectively, on the date of enactment of the Workforce Investment Partnership Act of 1997.

(12) ELIGIBLE INSTITUTION.—In title I, the term "eligible institution" means—

(A) an institution of higher education;

(B) a local educational agency providing education at the postsecondary level;

(C) an area vocational education school providing education at the postsecondary level;

(D) a postsecondary educational institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.); and

(E) a consortium of 2 or more of the entities described in subparagraphs (A) through (D).

(13) ELIGIBLE PROVIDER.—The term "eligible provider"—

(A) in title II, means—

(i) a local educational agency;

(ii) a community-based organization;

(iii) an institution of higher education;

(iv) a public or private nonprofit agency;

(v) a consortium of such agencies, organizations, or institutions; or

(vi) a library; and

(B) in title III, used with respect to—

(i) training services (other than on-the-job training), means a provider who is identified in accordance with section 312;

(ii) youth activities, means a provider who is awarded a grant in accordance with section 313; or

(iii) other workforce investment activities, means a public or private entity selected to be responsible for such activities, in accordance with subtitle A of title III, such as a one-stop customer service center operator designated or certified under section 311.

(14) EMPLOYMENT AND TRAINING ACTIVITY.—The term "employment and training activity" means an activity described in section 314(b)(1) or subsection (c)(1) or (d) of section 315, carried out for an adult or dislocated worker.

(15) ENGLISH LITERACY PROGRAM.—The term "English literacy program" means a program of instruction designed to help individuals of limited English proficiency achieve competence in the English language.

(16) GOVERNOR.—The term "Governor" means the chief executive officer of a State.

(17) INDIVIDUAL WITH A DISABILITY.—

(A) IN GENERAL.—The term "individual with a disability" means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(B) INDIVIDUALS WITH DISABILITIES.—The term "individuals with disabilities" means more than 1 individual with a disability.

(18) INDIVIDUAL OF LIMITED ENGLISH PROFICIENCY.—The term "individual of limited English proficiency" means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

(A) whose native language is a language other than English; or

(B) who lives in a family or community environment where a language other than English is the dominant language.

(19) INSTITUTION OF HIGHER EDUCATION.—Except for purposes of subtitle B of title I, the term "institution of higher education" has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(20) LITERACY.—

(A) IN GENERAL.—The term "literacy" means an individual's ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job and in society.

(B) WORKPLACE LITERACY PROGRAM.—The term "workplace literacy program" means a program of literacy activities that is offered in the workplace for the purpose of improving the productivity of the workforce through the improvement of literacy skills.

(21) LOCAL AREA.—In paragraph (4) and title III, the term "local area" means a local workforce investment area designated under section 307.

(22) LOCAL PARTNERSHIP.—In title III, the term "local partnership" means a local workforce investment partnership established under section 308(a).

(23) LOCAL PERFORMANCE MEASURE.—The term "local performance measure" means a performance measure established under section 321(b).

(24) LOW-INCOME INDIVIDUAL.—In paragraph (49) and title III, the term "low-income individual" means an individual who—

(A) receives, or is a member of a family that receives, cash payments under a Federal, State, or local income-based public assistance program;

(B) received an income, or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, payments described in subparagraph (A), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)) that, in relation to family size, does not exceed the higher of—

(i) the poverty line, for an equivalent period; or

(ii) 70 percent of the lower living standard income level, for an equivalent period;

(C) is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(D) qualifies as a homeless individual, as defined in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302);

(E) is a foster child on behalf of whom State or local government payments are made; or

(F) in cases permitted by regulations of the Secretary of Labor, is an individual with a disability whose own income meets the requirements of a program described in subparagraph (A) or of subparagraph (B), but who is a member of a family whose income does not meet such requirements.

(25) LOWER LIVING STANDARD INCOME LEVEL.—The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor based on the most recent lower living family budget issued by the Secretary of Labor.

(26) NONTRADITIONAL EMPLOYMENT.—In titles I and III, the term "nontraditional employment" refers to occupations or fields of work for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

(27) ON-THE-JOB TRAINING.—The term "on-the-job training" means training in the public or private sector that is provided to a paid participant while engaged in productive work in a job that—

(A) provides knowledge or skills essential to the full and adequate performance of the job;

(B) provides reimbursement to employers of up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and

(C) is limited in duration as appropriate to the occupation for which the participant is being trained.

(28) OUT-OF-SCHOOL YOUTH.—The term "out-of-school youth" means—

(A) a youth who is a school dropout; or

(B) a youth who has received a secondary school diploma or its equivalent but is basic literacy skills deficient, unemployed, or underemployed.

(29) OUTLYING AREA.—The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(30) PARTICIPANT.—The term "participant", used with respect to an activity carried out under title III, means an individual participating in the activity.

(31) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term "postsecondary educational institution" means—

(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

(B) a tribally controlled community college; or

(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

(32) POVERTY LINE.—The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(33) PUBLIC ASSISTANCE.—In title III, the term "public assistance" means Federal, State, or

local government cash payments for which eligibility is determined by a needs or income test.

(34) RAPID RESPONSE ACTIVITY.—In title III, the term "rapid response activity" means an activity provided by a State, or by an entity designated by a State, with funds provided by the State under section 306(a)(2), in the case of a permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster, that results in mass job dislocation, in order to assist dislocated workers in obtaining reemployment as soon as possible, with services including—

(A) the establishment of onsite contact with employers and employee representatives—

(i) immediately after the State is notified of a current or projected permanent closure or mass layoff; or

(ii) in the case of a disaster, immediately after the State is made aware of mass job dislocation as a result of such disaster;

(B) the provision of information and access to available employment and training activities;

(C) assistance in establishing a labor-management committee, voluntarily agreed to by labor and management, with the ability to devise and implement a strategy for assessing the employment and training needs of dislocated workers and obtaining services to meet such needs;

(D) the provision of emergency assistance adapted to the particular closure, layoff, or disaster; and

(E) the provision of assistance to the local community in developing a coordinated response and in obtaining access to State economic development assistance.

(35) SCHOOL DROPOUT.—The term "school dropout" means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

(36) SECONDARY SCHOOL.—The term "secondary school" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), except that the term does not include education below grade 9.

(37) SECRETARY.—

(A) TITLES I AND II.—In titles I and II, the term "Secretary" means the Secretary of Education.

(B) TITLE III.—In title III, the term "Secretary" means the Secretary of Labor.

(38) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(39) STATE EDUCATIONAL AGENCY.—The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary or secondary schools, or, if there is no such agency or officer, an agency or officer designated by the Governor or by State law.

(40) STATE PERFORMANCE MEASURE.—In title III, the term "State performance measure" means a performance measure established under section 321(a).

(41) STATEWIDE PARTNERSHIP.—The term "statewide partnership" means a partnership established under section 303.

(42) SUPPORTIVE SERVICES.—In title III, the term "supportive services" means services such as transportation, child care, dependent care, housing, and needs-based payments, that are necessary to enable an individual to participate in employment and training activities or youth activities.

(43) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" means an institution that receives assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.).

(44) UNIT OF GENERAL LOCAL GOVERNMENT.—In title III, the term "unit of general local government" means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(45) VETERAN; RELATED DEFINITIONS.—

(A) VETERAN.—The term "veteran" means an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable.

(B) DISABLED VETERAN.—The term "disabled veteran" means—

(i) a veteran who is entitled to compensation under laws administered by the Secretary of Veterans Affairs; or

(ii) an individual who was discharged or released from active duty because of service-connected disability.

(C) RECENTLY SEPARATED VETERAN.—The term "recently separated veteran" means any veteran who applies for participation under title III within 48 months of the discharge or release from active military, naval, or air service.

(D) VIETNAM ERA VETERAN.—The term "Vietnam era veteran" means a veteran any part of whose active military, naval, or air service occurred between August 5, 1964, and May 7, 1975.

(46) VOCATIONAL EDUCATION.—The term "vocational education" means organized education that—

(A) offers a sequence of courses that provides individuals with the academic knowledge and skills the individuals need to prepare for further education and for careers in current or emerging employment sectors; and

(B) includes competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, and occupation-specific skills, of an individual.

(47) VOCATIONAL REHABILITATION PROGRAM.—The term "vocational rehabilitation program" means a program assisted under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

(48) WORKFORCE INVESTMENT ACTIVITY.—The term "workforce investment activity" means an employment and training activity, a youth activity, and an activity described in section 314.

(49) YOUTH.—In paragraph (50) and title III (other than subtitles B and C of such title), the term "youth" means an individual who—

(A) is not less than age 14 and not more than age 21;

(B) is a low-income individual; and

(C) an individual who is 1 or more of the following:

(i) Deficient in basic literacy skills.

(ii) A school dropout.

(iii) Homeless, a runaway, or a foster child.

(iv) Pregnant or a parent.

(v) An offender.

(vi) An individual who requires additional assistance to complete an educational program, or to secure and hold employment.

(50) YOUTH ACTIVITY.—The term "youth activity" means an activity described in section 316, carried out for youth.

(51) YOUTH PARTNERSHIP.—The term "youth partnership" means a partnership established under section 308(i).

TITLE I—VOCATIONAL, TECHNOLOGICAL, AND TECH-PREP EDUCATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Carl D. Perkins Vocational and Applied Technology Education Act of 1997".

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in order to be successful workers, citizens, and learners in the 21st century, individuals will need—

(A) a combination of strong basic and advanced academic skills;

(B) computer and other technical skills;

(C) theoretical knowledge;

(D) communications, problem-solving, teamwork, and employability skills; and

(E) the ability to acquire additional knowledge and skills throughout a lifetime;

(2) students participating in vocational education can achieve challenging academic and technical skills, and may learn better and retain more, when the students learn in context, learn by doing, and have an opportunity to learn and understand how academic, vocational, and technological skills are used outside the classroom;

(3)(A) many high school graduates in the United States do not complete a rigorous course of study that prepares the graduates for completing a 2-year or 4-year college degree or for entering high-skill, high-wage careers;

(B) adult students are an increasingly diverse group and often enter postsecondary education unprepared for academic and technical work; and

(C) certain individuals often face great challenges in acquiring the knowledge and skills needed for successful employment;

(4) community colleges, technical colleges, and area vocational education schools are offering adults a gateway to higher education, and access to quality certificates and degrees that increase their skills and earnings, by—

(A) ensuring that the academic, vocational, and technological skills gained by students adequately prepare the students for the workforce; and

(B) enhancing connections with employers and 4-year institutions of higher education;

(5) local, State, and national programs supported under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) (as such Act was in effect on the day before the date of enactment of this Act) have assisted many students in obtaining technical, academic, and employability skills, and tech-prep education;

(6) the Federal Government can assist States and localities by carrying out nationally significant research, program development, demonstration, dissemination, evaluation, data collection, professional development, and technical assistance activities that support State and local efforts regarding vocational education; and

(7) through a performance partnership with States and localities based on clear programmatic goals, increased State and local flexibility, improved accountability, and performance measures, the Federal Government will provide to States and localities financial assistance for the improvement and expansion of vocational education for students participating in vocational education.

(b) PURPOSE.—The purpose of this title is to make the United States more competitive in the world economy by developing more fully the academic, vocational, and employability skills of secondary students and postsecondary students who elect to enroll in vocational education programs, by—

(1) building on the efforts of States and localities to develop challenging academic standards;

(2) promoting the development of services and activities that integrate academic, vocational, and technological instruction, and that link secondary and postsecondary education for participating vocational education students;

(3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve vocational education, including tech-prep education; and

(4) disseminating national research, and providing professional development and technical assistance, that will improve vocational education programs, services, and activities.

SEC. 103. VOLUNTARY SELECTION AND PARTICIPATION.

No funds made available under this title shall be used—

(1) to require any secondary school student to choose or pursue a specific career path or major; and

(2) to mandate that any individual participate in a vocational education program under this title.

Subtitle A—Vocational Education

CHAPTER 1—FEDERAL PROVISIONS

SEC. 111. RESERVATIONS AND STATE ALLOTMENT.

(a) Reservations and State Allotment.—

(1) Reservations.—From the sum appropriated under section 171 for each fiscal year, the Secretary shall reserve—

(A) 0.2 percent to carry out section 113;

(B) 1.75 percent to carry out sections 114 and 115, of which—

(i) 1.25 percent of the sum shall be available to carry out section 114(b);

(ii) 0.25 percent of the sum shall be available to carry out section 114(c); and

(iii) 0.25 percent of the sum shall be available to carry out section 115; and

(C) 1.3 percent of the sum shall be used to carry out sections 116, 163, 164, 165, and 166, of which not less than 0.65 percent of the sum shall be available to carry out section 116.

(2) State allotment formula.—Subject to paragraphs (3) and (4), from the remainder of the sums appropriated under section 171 and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year—

(A) an amount that bears the same ratio to 50 percent of the sums being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount that bears the same ratio to 20 percent of the sums being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount that bears the same ratio to 15 percent of the sums being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount that bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

(3) Minimum allotment.—

(A) In general.—Notwithstanding any other provision of law and subject to subparagraphs (B) and (C), and paragraph (4), no State shall receive for a fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 171 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

(B) Requirement.—Due to the application of subparagraph (A), for any fiscal year, no State shall receive more than 150 percent of the amount the State received under this subsection for the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act).

(C) Special rule.—

(i) In general.—Subject to paragraph (4), no State, by reason of subparagraph (A), shall be allotted for a fiscal year more than the lesser of—

(I) 150 percent of the amount that the State received in the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act); and

(II) the amount calculated under clause (ii).

(ii) Amount.—The amount calculated under this clause shall be determined by multiplying—

(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

(II) 150 percent of the national average per pupil payment made with funds available under this section for that year (or in the case of fiscal year 1999, only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act).

(4) Hold harmless.—

(A) In general.—No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311 et seq.) (as such part was in effect on the day before the date of enactment of this Act) for fiscal year 1997.

(B) Ratable reduction.—If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

(b) Reallotment.—If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which the funds were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State's allotment for the year in which the amount is obligated.

(c) Allotment Ratio.—

(1) In general.—The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico), except that—

(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

(ii) the allotment ratio for the Commonwealth of Puerto Rico shall be 0.60.

(2) Promulgation.—The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

(3) Definition of per capita income.—For the purpose of this section, the term "per capita income" means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) Population determination.—For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

SEC. 112. PERFORMANCE MEASURES AND EXPECTED LEVELS OF PERFORMANCE.

(a) Establishment of Performance Measures.—After consultation with eligible agencies, local educational agencies, eligible institutions, and other interested parties (including representatives of business and representatives of labor organizations), the Secretary shall establish and publish performance measures described in this subsection to assess the progress of each eligible agency in achieving the following:

(1) Student mastery of academic skills.

(2) Student mastery of job readiness skills.

(3) Student mastery of vocational skill proficiencies for students in vocational education programs, that are necessary for the receipt of a secondary school diploma or its recognized equivalent, or a secondary school skill certificate.

(4) Receipt of a postsecondary degree or certificate.

(5) Placement in, retention in, and completion of, secondary school education (as determined under State law) and postsecondary education, and placement and retention in employment and in military service, including for the populations described in section 124(c)(16).

(6) Participation in and completion of nontraditional vocational education programs.

(7) Other performance measures as determined by the Secretary.

(b) Expected Levels of Performance.—In developing a State plan, each eligible agency shall negotiate with the Secretary the expected levels of performance for the performance measures described in subsection (a).

SEC. 113. ASSISTANCE FOR THE OUTLYING AREAS.

(a) In General.—From the funds reserved under section 111(a)(1)(A), the Secretary—

(1) shall award a grant in the amount of $500,000 to Guam for vocational education and training for the purpose of providing direct educational services related to vocational education, including—

(A) teacher and counselor training and retraining;

(B) curriculum development; and

(C) improving vocational education programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education;

(2) shall award a grant in the amount of $600,000 to the United States Virgin Islands for vocational education for the purpose described in paragraph (1); and

(3) shall award a grant in the amount of $190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands for vocational education for the purpose described in paragraph (1).

(b) Special Rule.—

(1) In general.—From funds reserved under section 111(a)(1)(A) and not awarded under subsection (a), the Secretary shall make available the amount awarded to the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act (as such section was in effect on the day before the date of enactment of this Act) to award grants under the succeeding sentence. From the amount made

available under the preceding sentence, the Secretary shall award grants, to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau for the purpose described in subsection (a)(1).

(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this title for any fiscal year that begins after September 30, 2004.

(4) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

SEC. 114. INDIAN AND HAWAIIAN NATIVE PROGRAMS.

(a) DEFINITIONS; AUTHORITY OF SECRETARY.—

(1) DEFINITIONS.—For the purpose of this section—

(A) the term "Act of April 16, 1934" means the Act entitled "An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.);

(B) the term "Bureau funded school" has the meaning given the term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026); and

(C) the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

(2) AUTHORITY.—From the funds reserved pursuant to section 111(a)(1)(B), the Secretary shall award grants and enter into contracts for Indian and Hawaiian native programs in accordance with this section, except that such programs shall not include secondary school programs in Bureau funded schools.

(b) INDIAN PROGRAMS.—

(1) AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the funds reserved pursuant to section 111(a)(1)(B)(i), the Secretary is directed—

(i) upon the request of any Indian tribe, or a tribal organization serving an Indian tribe, which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under the Act of April 16, 1934; or

(ii) upon an application received from a Bureau funded school offering postsecondary or adult education programs filed at such time and under such conditions as the Secretary may prescribe,

to make grants to or enter into contracts with any Indian tribe or tribal organization, or to make a grant to such Bureau funded school, as appropriate, to plan, conduct, and administer programs or portions of programs authorized by, and consistent with the purpose of, this title.

(B) REQUIREMENTS.—The grants or contracts described in subparagraph (A), shall be subject to the following:

(i) TRIBAL ORGANIZATIONS.—Such grants or contracts with any tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this subsection.

(ii) BUREAU FUNDED SCHOOLS.—Such grants to Bureau funded schools shall not be subject to the requirements of the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or the Act of April 16, 1934.

(C) APPLICATION.—Any Indian tribe, tribal organization, or Bureau funded school eligible to receive assistance under this paragraph may apply individually or as part of a consortium with another such Indian tribe, tribal organization, or Bureau funded school.

(D) PERFORMANCE MEASURES AND EVALUATION.—Any Indian tribe, tribal organization, or Bureau funded school that receives assistance under this section shall—

(i) establish performance measures and expected level of performance to be achieved by students served under this section; and

(ii) evaluate the quality and effectiveness of activities and services provided under this subsection.

(E) MINIMUM.—In the case of a Bureau funded school, the minimum amount of a grant awarded or contract entered into under this section shall be $35,000.

(F) RESTRICTIONS.—The Secretary may not place upon grants awarded or contracts entered into under this paragraph any restrictions relating to programs other than restrictions that apply to grants made to or contracts entered into with States pursuant to allotments under section 111(a). The Secretary, in awarding grants and entering into contracts under this paragraph, shall ensure that the grants and contracts will improve vocational education programs, and shall give special consideration to—

(i) grants or contracts which involve, coordinate with, or encourage tribal economic development plans; and

(ii) applications from tribally controlled community colleges that—

(I) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

(II) operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization, and issue certificates for completion of vocational education programs.

(G) STIPENDS.—

(i) IN GENERAL.—Funds received pursuant to grants or contracts described in subparagraph (A) may be used to provide stipends to students who are enrolled in vocational education programs and who have acute economic needs which cannot be met through work-study programs.

(ii) AMOUNT.—Stipends described in clause (i) shall not exceed reasonable amounts as prescribed by the Secretary.

(2) MATCHING.—If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities administered either directly by, or under contract with, the Bureau of Indian Affairs, except that in no year shall funding for such programs, services, and activities be provided from accounts and programs that support other Indian education programs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall prepare jointly a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of the funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

(3) SPECIAL RULE.—Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this Act.

(c) HAWAIIAN NATIVE PROGRAMS.—From the funds reserved pursuant to section 111(a)(1)(B)(ii), the Secretary is directed, to award grants or enter into contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the purpose of this title, for the benefit of Hawaiian natives.

SEC. 115. TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS.

(a) IN GENERAL.—It is the purpose of this section to provide grants for the operation and improvement of tribally controlled postsecondary vocational institutions to ensure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(b) GRANTS AUTHORIZED.—From the funds reserved pursuant to section 111(a)(1)(B)(iii), the Secretary shall make grants to tribally controlled postsecondary vocational institutions to provide basic support for the vocational education and training of Indian students.

(c) ELIGIBLE GRANT RECIPIENTS.—To be eligible for assistance under this section a tribally controlled postsecondary vocational institution shall—

(1) be governed by a board of directors or trustees, a majority of whom are Indians;

(2) demonstrate adherence to stated goals, a philosophy, or a plan of operation which fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(3) have been in operation for at least 3 years;

(4) hold accreditation with or be a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational education; and

(5) enroll the full-time equivalency of not less than 100 students, of whom a majority are Indians.

(d) GRANT REQUIREMENTS.—

(1) APPLICATIONS.—Any tribally controlled postsecondary vocational institution that desires to receive a grant under this section shall submit an application to the Secretary. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this section that will allow the Secretary to audit and monitor programs.

(2) NUMBER.—The Secretary shall award not less than 2 grants under this section for each fiscal year.

(3) CONSULTATION.—In awarding grants under this section, the Secretary shall, to the extent practicable, consult with the boards of trustees of, and the tribal governments chartering, the institutions desiring the grants.

(4) LIMITATION.—Amounts made available through grants under this section shall not be used in connection with religious worship or sectarian instruction.

(e) USES OF GRANTS.—

(1) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, provide for

each program year to each tribally controlled vocational institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section; and

(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

(2) ACCOUNTING.—Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

(f) EFFECT ON OTHER PROGRAMS.—

(1) IN GENERAL.—Except as specifically provided in this Act, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary vocational institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) or any other applicable program for the benefit of institutions of higher education or vocational education.

(2) PROHIBITION ON ALTERATION OF GRANT AMOUNT.—The amount of any grant for which tribally controlled postsecondary vocational institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921 (commonly known as the "Snyder Act") (42 Stat. 208, chapter 115; 25 U.S.C. 13).

(3) PROHIBITION ON CONTRACT DENIAL.—No tribally controlled postsecondary vocational institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under such Act of November 2, 1921, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(g) NEEDS ESTIMATE AND REPORT ON FACILITIES AND FACILITIES IMPROVEMENT.—

(1) NEEDS ESTIMATE.—The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this section, and in consideration of employment needs, economic development needs, population training needs, and facilities needs, prepare an actual budget needs estimate for each institution eligible under this section for each subsequent program year, and submit such budget needs estimate to Congress in such a timely manner as will enable the appropriate committees of Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions. Such data shall take into account the goals and requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105).

(2) STUDY OF TRAINING AND HOUSING NEEDS.—

(A) IN GENERAL.—The Secretary shall conduct a detailed study of the training, housing, and immediate facilities needs of each institution eligible under this section. The study shall include an examination of—

(i) training equipment needs;

(ii) housing needs of families whose heads of households are students and whose dependents have no alternate source of support while such heads of households are students; and

(iii) immediate facilities needs.

(B) REPORT.—The Secretary shall report to Congress not later than July 1, 1999, on the results of the study required by subparagraph (A).

(C) CONTENTS.—The report required by subparagraph (B) shall include the number, type, and cost of meeting the needs described in subparagraph (A), and rank each institution by relative need.

(D) PRIORITY.—In conducting the study required by subparagraph (A), the Secretary shall give priority to institutions that are receiving assistance under this section.

(3) LONG-TERM STUDY OF FACILITIES.—

(A) IN GENERAL.—The Secretary shall provide for the conduct of a long-term study of the facilities of each institution eligible for assistance under this section.

(B) CONTENTS.—The study required by subparagraph (A) shall include a 5-year projection of training facilities, equipment, and housing needs and shall consider such factors as projected service population, employment, and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

(B) SUBMISSION.—The Secretary shall submit to Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on the date of enactment of this Act.

(h) DEFINITIONS.—For the purposes of this section:

(1) INDIAN; INDIAN TRIBE.—The terms "Indian" and "Indian tribe" have the meaning given such terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801).

(2) TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTION.—The term "tribally controlled postsecondary vocational institution" means an institution of higher education that—

(A) is formally controlled, or has been formally sanctioned or chartered by the governing body of an Indian tribe or tribes; and

(B) offers technical degrees or certificate granting programs.

SEC. 116. INCENTIVE GRANTS.

(a) IN GENERAL.—The Secretary may make grants to States that exceed—

(1) the State performance measures established by the Secretary of Education under this Act; and

(2) the State performance measures established under title III.

(b) PRIORITY.—In awarding incentive grants under this section, the Secretary shall give priority to those States submitting a State unified plan as described in section 501 that is approved by the appropriate Secretaries as described in such section.

(c) USE OF FUNDS.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative programs as determined by the State.

CHAPTER 2—STATE PROVISIONS

SEC. 121. STATE ADMINISTRATION.

Each eligible agency shall be responsible for the State administration of activities under this subtitle, including—

(1) the development, submission, and implementation of the State plan;

(2) the efficient and effective performance of the eligible agency's duties under this subtitle; and

(3) consultation with other appropriate agencies, groups, and individuals that are involved in the development and implementation of activities assisted under this subtitle, such as employers, parents, students, teachers, labor organizations, State and local elected officials, and local program administrators.

SEC. 122. STATE USE OF FUNDS.

(a) RESERVATIONS.—From funds allotted to each State under section 111(a) for each fiscal year, the eligible agency shall reserve—

(1) not more than 14 percent of the funds to carry out section 123;

(2) not more than 10 percent of the funds, or $300,000, whichever is greater, of which—

(A) $60,000 shall be available to provide technical assistance and advice to local educational agencies, postsecondary educational institutions, and other interested parties in the State for gender equity activities; and

(B) the remainder may be used to—

(i) develop the State plan;

(ii) review local applications;

(iii) monitor and evaluate program effectiveness;

(iv) provide technical assistance; and

(v) assure compliance with all applicable Federal laws, including required services and activities for individuals who are members of populations described in section 124(c)(16); and

(3) 1 percent of the funds, or the amount the State expended under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) for vocational education programs for criminal offenders for the fiscal year 1997, whichever is greater, to carry out programs for criminal offenders.

(b) REMAINDER.—From funds allotted to each State under section 111(a) for each fiscal year and not reserved under subsection (a), the eligible agency shall determine the portion of the funds that will be available to carry out sections 131 and 132.

(c) MATCHING REQUIREMENT.—Each eligible agency receiving funds under this subtitle shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(2).

SEC. 123. STATE LEADERSHIP ACTIVITIES.

(a) MANDATORY.—Each eligible agency shall use the funds reserved under section 122(a)(1) to conduct programs, services, and activities that further the development, implementation, and improvement of vocational education within the State and that are integrated, to the maximum extent possible, with challenging State academic standards, including—

(1) providing comprehensive professional development (including initial teacher preparation) for vocational, academic, guidance, and administrative personnel, that—

(A) will help the teachers and personnel to meet the expected levels of performance established under section 112;

(B) reflects the eligible agency's assessment of the eligible agency's needs for professional development; and

(C) is integrated with the professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6001 et seq.);

(2) developing and disseminating curricula that are aligned, as appropriate, with challenging State academic standards, and vocational and technological skills;

(3) monitoring and evaluating the quality of, and improvement in, activities conducted with assistance under this subtitle;

(4) promoting gender equity in secondary and postsecondary vocational education;

(5) supporting tech-prep education activities;

(6) improving and expanding the use of technology in instruction;

(7) supporting partnerships among local educational agencies, institutions of higher education, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve to challenging State academic standards, and vocational and technological skills; and

(8) serving individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities.

(b) PERMISSIVE.—Each eligible agency may use the funds reserved under section 122(a)(1) for—

(1) improving guidance and counseling programs that assist students in making informed education and vocational decisions;

(2) supporting vocational student organizations, especially with respect to efforts to increase the participation of students who are members of populations described in section 124(c)(16);

(3) providing vocational education programs for adults and school dropouts to complete their secondary school education; and

(4) providing assistance to students who have participated in services and activities under this subtitle in finding an appropriate job and continuing their education.

SEC. 124. STATE PLAN.

(a) STATE PLAN.—

(1) IN GENERAL.—Each eligible entity desiring assistance under this subtitle for any fiscal year shall prepare and submit to the Secretary a State plan for a 3-year period, together with such annual revisions as the eligible agency determines to be necessary.

(2) COORDINATION.—The period required by paragraph (1) shall be coordinated with the period covered by the State plan described in section 304.

(3) HEARING PROCESS.—The eligible agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups (including employers, labor organizations, and parents), an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the eligible agency's response to such recommendations shall be included with the State plan.

(b) DEVELOPMENT OF PLAN.—The eligible agency shall develop the State plan with representatives of secondary and postsecondary vocational education, and business, in the State and shall also consult the Governor of the State.

(c) CONTENTS OF THE PLAN.—The State plan shall include information that—

(1) describes the vocational education activities to be assisted that are designed to meet and reach the State performance measures;

(2) describes the integration of academic education with vocational education, and with technological education related to vocational education;

(3) describes how the eligible agency will disaggregate data relating to students participating in vocational education in order to adequately measure the progress of the students;

(4) describes how the eligible agency will adequately address the needs of students in alternative education programs;

(5) describes how the eligible agency will provide local educational agencies, area vocational education schools, and eligible institutions in the State with technical assistance;

(6) describes how the eligible agency will encourage the participation of the parents of secondary school students who are involved in vocational education activities;

(7) identifies how the eligible agency will obtain the active participation of business, labor organizations, and parents in the development and improvement of vocational education activities carried out by the eligible agency;

(8) describes how vocational education is aligned with State and regional employment opportunities;

(9) describes the methods proposed for the joint planning and coordination of programs carried out under this subtitle with other Federal education programs;

(10) describes how funds will be used to promote gender equity in secondary and postsecondary vocational education;

(11) describes how funds will be used to improve and expand the use of technology in instruction;

(12) describes how funds will be used to serve individuals in State correctional institutions;

(13) describes how funds will be used effectively to link secondary and postsecondary education;

(14) describes how funds will be allocated and used at the secondary and postsecondary level, any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia;

(15) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this subtitle and the data the eligible agency reports to the Secretary are complete, accurate, and reliable;

(16) describes how the eligible agency will develop program strategies for populations that include, at a minimum—

(A) low-income individuals, including foster children;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with multiple barriers to educational enhancement; and

(17) contains the description and information specified in paragraphs (8) and (16) of section 304(b) concerning the provision of services only for postsecondary students and school dropouts.

(d) PLAN APPROVAL.—

(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, only if the Secretary determines that—

(A) the State plan, or revision, respectively, meets the requirements of this section; and

(B) the State's performance measures and expected levels of performance under section 112 are sufficiently rigorous to meet the purpose of this title.

(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

(3) PEER REVIEW.—The Secretary shall establish a peer review process to make recommendations regarding approval of State plans and revisions to State plans.

(4) TIMEFRAME.—A State plan shall be deemed approved if the Secretary has not responded to the eligible ageycy regarding the plan within 90 days of the date the Secretary receives the plan.

(e) ELIGIBLE AGENCY REPORT.—

(1) IN GENERAL.—The eligible agency shall annually report to the Secretary regarding—

(A) the quality and effectiveness of the programs, services, and activities, assisted under this subtitle, based on the performance measures and expected levels of performance described in section 112; and

(B) the progress each population of individuals described in section 124(c)(16) is making toward achieving the expected levels of performance.

(2) CONTENTS.—The eligible agency report also—

(A) shall include such information, in such form, as the Secretary may reasonably require, in order to ensure the collection of uniform data; and

(B) shall be made available to the public.

CHAPTER 3—LOCAL PROVISIONS

SEC. 131. DISTRIBUTION FOR SECONDARY SCHOOL VOCATIONAL EDUCATION.

(a) ALLOCATION.—Except as otherwise provided in this section, each eligible agency shall distribute the portion of the funds made available for secondary school vocational education activities under section 122(b) for any fiscal year to local educational agencies within the State as follows:

(1) SEVENTY PERCENT.—From 70 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received under such section by all local educational agencies in the State for such year.

(2) TWENTY PERCENT.—From 20 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with disabilities who have individualized education programs under section 614(d) of the Individuals With Disabilities Education Act (20 U.S.C. 1414(d)) served by such local educational agency for the preceding fiscal year bears to the total number of such students served by all local educational agencies in the State for such year.

(3) TEN PERCENT.—From 10 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency for the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State for such year.

(b) MINIMUM ALLOCATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), no local educational agency shall receive an allocation under subsection (a) unless the amount allocated to such agency under subsection (a) is not less than $25,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocation requirement of this paragraph.

(2) WAIVER.—The eligible agency may waive the application of paragraph (1) in any case in which the local educational agency—

(A) is located in a rural, sparsely populated area; and

(B) demonstrates that such agency is unable to enter into a consortium for purposes of providing services under this section.

(3) REALLOCATION.—Any amounts that are not allocated by reason of paragraph (1) or (2) shall be reallocated to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

(c) LIMITED JURISDICTION AGENCIES.—

(1) IN GENERAL.—In applying the provisions of subsection (a), no eligible agency receiving assistance under this subtitle shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

(2) SPECIAL RULE.—The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over

secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

(d) ALLOCATIONS TO AREA VOCATIONAL EDUCATION SCHOOLS AND EDUCATIONAL SERVICE AGENCIES.—

(1) IN GENERAL.—Each eligible agency shall distribute the portion of funds made available for any fiscal year by such entity for secondary school vocational education activities under section 122(b) to the appropriate area vocational education school or educational service agency in any case in which—

(A) the area vocational education school or educational service agency, and the local educational agency concerned—

(i) have formed or will form a consortium for the purpose of receiving funds under this section; or

(ii) have entered into or will enter into a cooperative arrangement for such purpose; and

(B)(i) the area vocational education school or educational service agency serves an approximately equal or greater proportion of students who are individuals with disabilities or are low-income than the proportion of such students attending the secondary schools under the jurisdiction of all of the local educational agencies sending students to the area vocational education school or the educational service agency; or

(ii) the area vocational education school, educational service agency, or local educational agency demonstrates that the vocational education school or educational service agency is unable to meet the criterion described in clause (i) due to the lack of interest by students described in clause (i) in attending vocational education programs in that area vocational education school or educational service agency.

(2) ALLOCATION BASIS.—If an area vocational education school or educational service agency meets the requirements of paragraph (1), then—

(A) the amount that will otherwise be distributed to the local educational agency under this section shall be allocated to the area vocational education school, the educational service agency, and the local educational agency, based on each school's or agency's relative share of students described in paragraph (1)(B)(i) who are attending vocational education programs (based, if practicable, on the average enrollment for the prior 3 years); or

(B) such amount may be allocated on the basis of an agreement between the local educational agency and the area vocational education school or educational service agency.

(3) STATE DETERMINATION.—

(A) IN GENERAL.—For the purposes of this subsection, the eligible agency may determine the number of students who are low-income on the basis of—

(i) eligibility for—

(I) free or reduced-price meals under the National School Lunch Act (7 U.S.C. 1751 et seq.);

(II) assistance under a State program funded under part A of title IV of the Social Security Act;

(III) benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(IV) services under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); and

(ii) another index of economic status, including an estimate of such index, if the eligible agency demonstrates to the satisfaction of the Secretary that such index is a more representative means of determining such number.

(B) DATA.—If an eligible agency elects to use more than 1 factor described in subparagraph (A) for purposes of making the determination described in such subparagraph, the eligible agency shall ensure that the data used is not duplicative.

(4) APPEALS PROCEDURE.—The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium.

(5) SPECIAL RULE.—Notwithstanding the provisions of paragraphs (1), (2), (3), and (4), any local educational agency receiving an allocation that is not sufficient to conduct a secondary school vocational education program of sufficient size, scope, and quality to be effective may—

(A) form a consortium or enter into a cooperative agreement with an area vocational education school or educational service agency offering secondary school vocational education programs of sufficient size, scope, and quality to be effective and that are accessible to students who are individuals with disabilities or are low-income, and are served by such local educational agency; and

(B) transfer such allocation to the area vocational education school or educational service agency.

(e) SPECIAL RULE.—Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

SEC. 132. DISTRIBUTION FOR POSTSECONDARY VOCATIONAL EDUCATION.

(a) DISTRIBUTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available for postsecondary vocational education under section 122(b) for any fiscal year to eligible institutions within the State in accordance with paragraph (2).

(2) ALLOCATION.—Each eligible institution in the State having an application approved under section 134 for a fiscal year shall be allocated an amount that bears the same relationship to the amount of funds made available for postsecondary vocational education under section 122(b) for the fiscal year as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled for the preceding fiscal year by such eligible institution in vocational education duration programs that do not exceed 2 years in duration bears to the number of such recipients enrolled in such programs within the State for such fiscal year.

(3) MINIMUM ALLOCATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no eligible institution shall receive an allocation under paragraph (2) unless the amount allocated to the eligible institution under paragraph (2) is not less than $65,000.

(B) WAIVER.—The eligible agency may waive the application of subparagraph (A) in any case in which the eligible institution is located in a rural, sparsely populated area.

(C) REALLOCATION.—Any amounts that are not allocated by reason of subparagraph (A) or (B) shall be reallocated to eligible institutions that meet the requirements of subparagraph (A) or (B) in accordance with the provisions of this section.

(4) DEFINITION OF PELL GRANT RECIPIENT.—The term "Pell Grant recipient" means a recipient of financial aid under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a).

(b) ALTERNATIVE ALLOCATION.—An eligible agency may allocate funds made available for postsecondary education under section 122(b) for a fiscal year using an alternative formula if the eligible agency demonstrates to the Secretary's satisfaction that—

(1) the alternative formula better meets the purpose of this title; and

(2)(A) the formula described in subsection (a) does not result in an allocation of funds to the eligible institutions that serve the highest numbers or percentages of low-income students; and

(B) the alternative formula will result in such a distribution.

SEC. 133. LOCAL ACTIVITIES.

(a) MANDATORY.—Funds made available to a local educational agency or an eligible institution under this subtitle shall be used—

(1) to conduct vocational education programs, and technological education programs related to vocational education, that further student achievement;

(2) to provide services and activities that are of sufficient size, scope, and quality to be effective;

(3) to integrate academic education with vocational education for students participating in vocational education;

(4) to link secondary education (as determined under State law) and postsecondary education, including implementing tech-prep programs;

(5) to provide professional development activities to teachers, counselors, and administrators, including—

(A) inservice and preservice training in state-of-the-art vocational education programs;

(B) internship programs that provide business experience to teachers; and

(C) programs designed to train teachers specifically in the use and application of technology;

(6) to improve or expand the use of technology in vocational instruction, including professional development in the use of technology, which may include distance learning;

(7) to expand, improve, and modernize quality vocational education programs;

(8) to provide access to quality vocational education programs for students, including students who are members of the populations described in section 124(c)(16);

(9) to develop and implement performance management systems and evaluations; and

(10) to promote gender equity in secondary and postsecondary vocational education.

(b) PERMISSIVE.—Funds made available to a local educational agency or an eligible institution under this subtitle may be used—

(1) to carry out student internships;

(2) to provide guidance and counseling for students participating in vocational education programs;

(3) to provide vocational education programs for adults and school dropouts to complete their secondary school education;

(4) to acquire and adapt equipment, including instructional aids;

(5) to support vocational student organizations;

(6) to provide assistance to students who have participated in services and activities under this subtitle in finding an appropriate job and continuing their education; and

(7) to support other activities that are consistent with the purpose of this title.

SEC. 134. LOCAL APPLICATION.

(a) IN GENERAL.—Each local educational agency or eligible institution desiring assistance under this subtitle shall submit an application to the eligible agency at such time, in such manner, and accompanied by such information as the eligible agency (in consultation with such other educational entities as the eligible agency determines to be appropriate) may require.

(b) CONTENTS.—Each application shall, at a minimum—

(1) describe how the vocational education activities will be carried out pertaining to meeting the expected levels of performance;

(2) describe the process that will be used to independently evaluate and continuously improve the performance of the local educational agency or eligible institution, as appropriate; and

(3) describe how the local educational agency or eligible institution, as appropriate, will consult with students, parents, business, labor organizations, and other interested individuals, in carrying out activities under this subtitle.

Subtitle B—Tech-Prep Education

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Tech-Prep Education Act".

SEC. 152. PURPOSES.

The purposes of this subtitle are—

(1) to provide implementation grants to consortia of local educational agencies, postsecondary educational institutions, and employers or labor organizations, for the development and operation of programs designed to provide a tech-prep education program leading to a 2-year associate degree or a 2-year certificate;

(2) to provide, in a systematic manner, strong, comprehensive links among secondary schools, postsecondary educational institutions, and local or regional employers, or labor organizations; and

(3) to support the use of contextual, authentic, and applied teaching and curriculum based on each State's academic, occupational, and employability standards.

SEC. 153. DEFINITIONS.

(a) In this subtitle:

(1) ARTICULATION AGREEMENT.—The term "articulation agreement" means a written commitment to a program designed to provide students with a non duplicative sequence of progressive achievement leading to degrees or certificates in a tech-prep education program.

(2) COMMUNITY COLLEGE.—The term "community college"—

(A) has the meaning provided in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141) for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree; and

(B) includes tribally controlled community colleges.

(3) TECH-PREP PROGRAM.—The term "tech-prep program" means a program of study that—

(A) combines at a minimum 2 years of secondary education (as determined under State law) and a minimum 2 years of postsecondary education in a nonduplicative, sequential course of study;

(B) integrates academic and vocational instruction, and utilizes work-based and worksite learning where appropriate and available;

(C) provides technical preparation in a career field such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, health occupations, business, or applied economics;

(D) builds student competence in mathematics, science, communications, economics, and workplace skills, through applied, contextual academics, and integrated instruction in a coherent sequence of courses;

(E) leads to an associate or a baccalaureate degree or a certificate in a specific career field; and

(F) leads to placement in appropriate employment or further education.

SEC. 154. PROGRAM AUTHORIZED.

(a) DISCRETIONARY AMOUNTS.—

(1) IN GENERAL.—For any fiscal year for which the amount appropriated under section 157 to carry out this subtitle is equal to or less than $50,000,000, the Secretary shall award grants for tech-prep education programs to consortia of—

(A) local educational agencies, intermediate educational agencies or area vocational education schools serving secondary school students, or secondary schools funded by the Bureau of Indian Affairs;

(B)(i) nonprofit institutions of higher education that offer—

(I) a 2-year associate degree program, or a 2-year certificate program, and are qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)), including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and tribally controlled postsecondary vocational institutions; or

(II) a 2-year apprenticeship program that follows secondary instruction,

if such nonprofit institutions of higher education are not prohibited from receiving assistance under part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) pursuant to the provisions of section 435(a)(3) of such Act (20 U.S.C. 1083(a)); or

(ii) proprietary institutions of higher education which offer a 2-year associate degree program and which are qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)) if such proprietary institutions of higher education are not subject to a default management plan required by the Secretary; or

(C) employers or labor organizations.

(2) SPECIAL RULE.—A consortium described in paragraph (1) may include 1 or more institutions of higher education that award baccalaureate degrees.

(b) STATE GRANTS.—

(1) IN GENERAL.—For any fiscal year for which the amount made available under section 157 to carry out this subtitle exceeds $50,000,000, the Secretary shall allot such amount among the States in the same manner as funds are allotted to States under paragraphs (2), (3), and (4) of section 111(a).

(2) PAYMENTS TO ELIGIBLE AGENCIES.—The Secretary shall make a payment in the amount of a State's allotment under this paragraph to the eligible agency that serves the State and has an application approved under paragraph (4).

(3) AWARD BASIS.—From amounts made available to each eligible agency under this subsection, the eligible agency shall award grants, on a competitive basis or on the basis of a formula determined by the eligible agency, for tech-prep education programs to consortia described in subsection (a).

(4) STATE APPLICATION.—Each eligible agency desiring assistance under this subtitle shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

SEC. 155. TECH-PREP EDUCATION PROGRAMS.

(a) GENERAL AUTHORITY.—Each consortium shall use amounts provided through the grant to develop and operate a tech-prep education program.

(b) CONTENTS OF PROGRAM.—Any such tech-prep program shall—

(1) be carried out under an articulation agreement between the participants in the consortium;

(2) consist of at least 2 years of secondary school preceding graduation and 2 years or more of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, communications, and technologies designed to lead to an associate or baccalaureate degree or a certificate in a specific career field;

(3) include the development of tech-prep education program curricula for both secondary and postsecondary levels that—

(A) meets challenging academic standards developed by the State;

(B) links secondary schools and 2-year postsecondary institutions, and where possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields;

(C) uses, where appropriate and available, work-based or worksite learning in conjunction with business and industry; and

(D) uses educational technology and distance learning, as appropriate, to involve all the consortium partners more fully in the development and operation of programs.

(4) include a professional development program for academic, vocational, and technical teachers that—

(A) is designed to train teachers to effectively implement tech-prep education curricula;

(B) provides for joint training for teachers from all participants in the consortium;

(C) is designed to ensure that teachers stay current with the needs, expectations, and methods of business and industry;

(D) focuses on training postsecondary education faculty in the use of contextual and applied curricula and instruction; and

(E) provides training in the use and application of technology;

(5) include training programs for counselors designed to enable counselors to more effectively—

(A) make tech-prep education opportunities known to students interested in such activities;

(B) ensure that such students successfully complete such programs;

(C) ensure that such students are placed in appropriate employment; and

(D) stay current with the needs, expectations, and methods of business and industry;

(6) provide equal access to the full range of technical preparation programs to individuals who are members of populations described in section 124(c)(16), including the development of tech-prep education program services appropriate to the needs of such individuals; and

(7) provide for preparatory services that assist all participants in such programs.

(c) ADDITIONAL AUTHORIZED ACTIVITIES.—Each such tech-prep program may—

(1) provide for the acquisition of tech-prep education program equipment;

(2) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established and operated tech-prep programs;

(3) acquire technical assistance from State or local entities that have designed, established, and operated tech-prep programs that have effectively used educational technology and distance learning in the delivery of curricula and services and in the articulation process; and

(4) establish articulation agreements with institutions of higher education, labor organizations, or businesses located outside of the State served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs.

SEC. 156. APPLICATIONS.

(a) IN GENERAL.—Each consortium that desires to receive a grant under this subtitle shall submit an application to the Secretary or the eligible agency, as appropriate, at such time and in such manner as the Secretary or the eligible agency, as appropriate, shall prescribe.

(b) THREE-YEAR PLAN.—Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this subtitle.

(c) APPROVAL.—The Secretary or the eligible agency, as appropriate, shall approve applications based on the potential of the activities described in the application to create an effective

tech-prep education program described in section 155.

(d) Special Consideration.—The Secretary or the eligible agency, as appropriate, shall give special consideration to applications that—

(1) provide for effective employment placement activities or the transfer of students to 4-year institutions of higher education;

(2) are developed in consultation with 4-year institutions of higher education;

(3) address effectively the needs of populations described in section 124(c)(16);

(4) provide education and training in areas or skills where there are significant workforce shortages, including the information technology industry; and

(5) demonstrate how tech-prep programs will help students meet high academic and employability competencies.

(e) Equitable Distribution of Assistance.—In awarding grants under this subtitle, the Secretary shall ensure an equitable distribution of assistance among States, and the Secretary or the eligible agency, as appropriate, shall ensure an equitable distribution of assistance between urban and rural consortium participants.

(f) Notice.—

(1) In general.—In the case of grants to be awarded by the Secretary, each consortium that submits an application under this section shall provide notice of such submission and a copy of such application to the State educational agency and the State agency for higher education of the State in which the consortium is located.

(2) Notification.—The Secretary shall notify the State educational agency and the State agency for higher education of a State each time a consortium located in the State is selected to receive a grant under this subtitle.

SEC. 157. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

Subtitle C—General Provisions

SEC. 161. ADMINISTRATIVE PROVISIONS.

(a) Supplement Not Supplant.—Funds made available under this title for vocational education activities shall supplement, and shall not supplant, other public funds expended to carry out vocational education and tech-prep activities.

(b) Maintenance of Effort.—

(1) Determination.—No payments shall be made under this title for any fiscal year to an eligible agency for vocational education or tech-prep activities unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of the State for vocational education for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational education for the second fiscal year preceding the fiscal year for which the determination is made.

(2) Waiver.—The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

(c) Representation.—The eligible agency shall provide representation to the statewide partnership.

SEC. 162. EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY.

(a) Local Evaluation.—Each eligible agency shall evaluate annually the vocational education and tech-prep activities of each local educational agency or eligible institution receiving assistance under this title, using the performance measures established under section 112.

(b) Improvement Activities.—If, after reviewing the evaluation, an eligible agency determines that a local educational agency or eligible institution is not making substantial progress in achieving the purpose of this title, the eligible agency may work jointly with the local educational agency or eligible institution, respectively, to develop an improvement plan. If, after not more than 2 years of implementation of the improvement plan, the eligible agency determines that the local educational agency or eligible institution, respectively, is not making substantial progress, the eligible agency shall take whatever corrective action the eligible agency deems necessary, which may include termination of funding or the implementation of alternative service arrangements, consistent with State law. The eligible agency shall take corrective action under the preceding sentence only after the eligible agency has provided technical assistance to the local educational agency or eligible institution and shall ensure, to the extent practicable, that any corrective action the eligible agency takes allows for continued services to and activities for individuals served by the local educational agency or eligible institution, respectively.

(c) Technical Assistance.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 124, or is not making substantial progress in meeting the purpose of this title, based on the performance measures and expected levels of performance under section 112 included in the eligible agency's State plan, the Secretary shall work with the eligible agency to implement improvement activities.

(d) Withholding of Federal Funds.—If, after a reasonable time, but not earlier than 1 year after implementing activities described in subsection (c), the Secretary determines that the eligible agency is not making sufficient progress, based on the eligible agency's performance measures and expected levels of performance, the Secretary, after notice and opportunity for a hearing, shall withhold from the eligible agency all, or a portion, of the eligible agency's grant funds under this subtitle. The Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services, and activities within the State to meet the purpose of this title.

SEC. 163. NATIONAL ACTIVITIES.

The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation, capacity-building, and technical assistance activities that carry out the purpose of this title.

SEC. 164. NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS.

(a) In General.—The Secretary shall conduct a national assessment of vocational education programs assisted under this title, through studies and analyses conducted independently through competitive awards.

(b) Independent Advisory Panel.—The Secretary shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, and representatives of labor organizations, business, parents, guidance and counseling professionals, and other relevant groups, to advise the Secretary on the implementation of such assessment, including the issues to be addressed and the methodology of the studies involved, and the findings and recommendations resulting from the assessment. The panel shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary an independent analysis of the findings and recommendations resulting from the assessment. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this subsection.

(c) Contents.—The assessment required under subsection (a) shall include descriptions and evaluations of—

(1) the effect of the vocational education programs assisted under this title on State and tribal administration of vocational education programs and on local vocational education practices, including the capacity of State, tribal, and local vocational education systems to address the purpose of this title;

(2) expenditures at the Federal, State, tribal, and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State distribution formulas) on the delivery of services;

(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of such teachers;

(4) participation in vocational education programs;

(5) academic and employment outcomes of vocational education, including analyses of—

(A) the extent and success of integration of academic and vocational curricula; and

(B) the degree to which vocational education is relevant to subsequent employment or participation in postsecondary education;

(6) employer involvement in, and satisfaction with, vocational education programs; and

(7) the effect of performance measures, and other measures of accountability, on the delivery of vocational education services.

(d) Consultation.—

(1) In general.—The Secretary shall consult with the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate in the design and implementation of the assessment required under subsection (a).

(2) Reports.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary—

(A) an interim report regarding the assessment on or before July 1, 2001; and

(B) a final report, summarizing all studies and analyses that relate to the assessment and that are completed after the assessment, on or before July 1, 2002.

(3) Prohibition.—Notwithstanding any other provision of law or regulation, the reports required by this subsection shall not be subject to any review outside of the Department of Education before their transmittal to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary, but the President, the Secretary, and the independent advisory panel established under subsection (b) may make such additional recommendations to Congress with respect to the assessment as the President, the Secretary, or the panel determine to be appropriate.

SEC. 165. NATIONAL RESEARCH CENTER.

(a) General Authority.—

(1) In general.—The Secretary, through grants, contracts, or cooperative agreements,

may establish 1 or more national centers in the areas of—

(A) applied research and development; and

(B) dissemination and training.

(2) CONSULTATION.—The Secretary shall consult with the States prior to establishing 1 or more such centers.

(3) ELIGIBLE ENTITIES.—Entities eligible to receive funds under this section are institutions of higher education, other public or private nonprofit organizations or agencies, and consortia of such institutions, organizations, or agencies.

(b) ACTIVITIES.—

(1) IN GENERAL.—The national center or centers shall carry out such activities as the Secretary determines to be appropriate to assist State and local recipients of funds under this title to achieve the purpose of this title, which may include the research and evaluation activities in such areas as—

(A) the integration of vocational and academic instruction, secondary and postsecondary instruction;

(B) effective inservice and preservice teacher education that assists vocational education systems;

(C) performance measures and expected levels of performance that serve to improve vocational education programs and student achievement;

(D) effects of economic changes on the kinds of knowledge and skills required for employment or participation in postsecondary education;

(E) longitudinal studies of student achievement; and

(F) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include—

(i) serving as a repository for information on vocational and technological skills, State academic standards, and related materials; and

(ii) developing and maintaining national networks of educators who facilitate the development of vocational education systems.

(2) REPORT.—The center or centers conducting the activities described in paragraph (1) annually shall prepare a report of key research findings of such center or centers and shall submit copies of the report to the Secretary, the Secretary of Labor, and the Secretary of Health and Human Services. The Secretary shall submit that report to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Library of Congress, and each eligible agency.

(c) REVIEW.—The Secretary shall—

(1) consult at least annually with the national center or centers and with experts in education to ensure that the activities of the national center or centers meet the needs of vocational education programs; and

(2) undertake an independent review of each award recipient under this section prior to extending an award to such recipient beyond a 5-year period.

SEC. 166. DATA SYSTEMS.

(a) IN GENERAL.—The Secretary shall maintain a data system to collect information about, and report on, the condition of vocational education and on the effectiveness of State and local programs, services, and activities carried out under this title in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of vocational education. The Secretary annually shall report to Congress on the Secretary's analysis of performance data collected each year pursuant to this title.

(b) DATA SYSTEM.—In maintaining the data system, the Secretary shall ensure that the data system is compatible with other Federal information systems.

(c) ASSESSMENTS.—As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on vocational education for a nationally representative sample of students. Such assessment may include international comparisons.

Subtitle D—Authorization of Appropriations

SEC. 171. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out subtitle (A), and sections 163, 164, 165, and 166, such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

Subtitle E—Repeal

SEC. 181. REPEAL.

(a) REPEAL.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is repealed.

(b) REFERENCES TO CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—

(1) IMMIGRATION AND NATIONALITY ACT.—Section 245A(h)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(C)) is amended by striking "Vocational Education Act of 1963" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1997".

(2) NATIONAL DEFENSE AUTHORIZATION ACT.—Section 4461 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(A) in section 1114(b)(2)(C)(v) (20 U.S.C. 6314(b)(2)(C)(v)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act," and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1997";

(B) in section 9115(b)(5) (20 U.S.C. 7815(b)(5)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1997";

(C) in section 14302(a)(2) (20 U.S.C. 8852(a)(2))—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively; and

(D) in the matter preceding subparagraph (A) of section 14307(a)(1) (20 U.S.C. 8857(a)(1)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1997".

(4) EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking "(20 U.S.C. 2397h(3)" and inserting ", as such section was in effect on the day preceding the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Act of 1997".

(5) IMPROVING AMERICA'S SCHOOLS ACT OF 1994.—Section 563 of the Improving America's Schools Act of 1994 (20 U.S.C. 6301 note) is amended by striking "the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting "July 1, 1999".

(6) INTERNAL REVENUE CODE OF 1986.—Section 135(c)(3)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 135(c)(3)(B)) is amended—

(A) by striking "subparagraph (C) or (D) of section 521(3) of the Carl D. Perkins Vocational Education Act" and inserting "subparagraph (C) or (D) of section 2(3) of the Workforce Investment Partnership Act of 1997"; and

(B) by striking "any State (as defined in section 521(27) of such Act)" and inserting "any State or outlying area (as the terms 'State' and 'outlying area' are defined in section 2 of such Act)".

(7) APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) (as amended by subsection (c)(5)) is further amended by striking "Carl D. Perkins Vocational Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1997".

(8) VOCATIONAL EDUCATION AMENDMENTS OF 1968.—Section 104 of the Vocational Education Amendments of 1968 (82 Stat. 1091) is amended by striking "section 3 of the Carl D. Perkins Vocational Education Act" and inserting "the Carl D. Perkins Vocational and Applied Technology Education Act of 1997".

(9) OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(A) in section 502(b)(1)(N)(i) (42 U.S.C. 3056(b)(1)(N)(i)), by striking "or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)"; and

(B) in section 505(d)(2) (42 U.S.C. 3056c(d)(2))—

(i) by striking "employment and training programs" and inserting "workforce investment activities"; and

(ii) by striking "the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting "the Carl D. Perkins Vocational and Applied Technology Education Act of 1997".

TITLE II—ADULT EDUCATION AND LITERACY

SEC. 201. SHORT TITLE.

This title may be cited as the "Adult Education and Literacy Act".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the National Adult Literacy Survey and other studies have found that more than one-fifth of American adults demonstrate very low literacy skills that make it difficult for the adults to be economically self-sufficient, much less enter high-skill, high-wage jobs;

(2) data from the National Adult Literacy Survey show that adults with very low levels of literacy are 10 times as likely to be poor as adults with high levels of literacy; and

(3) our Nation's well-being is dependent on the knowledge and skills of all of our Nation's citizens.

(b) PURPOSE.—It is the purpose of this title to create a partnership among the Federal Government, States, and localities to help provide for adult education and literacy services so that adults who need such services, will, as appropriate, be able to—

(1) become literate and obtain the knowledge and skills needed to compete in a global economy;

(2) complete a secondary school education; and

(3) have the education skills necessary to support the educational development of their children.

Subtitle A—Adult Education and Literacy Programs

CHAPTER 1—FEDERAL PROVISIONS

SEC. 211. RESERVATION; GRANTS TO STATES; ALLOTMENTS.

(a) RESERVATION OF FUNDS FOR NATIONAL LEADERSHIP ACTIVITIES.—From the amount appropriated for any fiscal year under section 246, the Secretary shall reserve—

(1) 1.5 percent to carry out section 213;

(2) 2 percent to carry out section 243; and

(3) 1.5 percent to carry out section 245.

(b) GRANTS TO STATES.—From the sum appropriated under section 246 and not reserved under subsection (a) for a fiscal year, the Secretary shall award a grant to each eligible agency having a State plan approved under section 224 in an amount equal to the sum of the initial allotment under subsection (c)(1) and the additional allotment under subsection (c)(2) for the eligible agency for the fiscal year to enable the eligible agency to carry out the activities assisted under this subtitle.

(c) ALLOTMENTS.—

(1) INITIAL ALLOTMENTS.—From the sum appropriated under section 246 and not reserved under subsection (a) for a fiscal year, the Secretary first shall allot to each eligible agency having a State plan approved under section 224 the following amounts:

(A) $100,000 in the case of an eligible agency serving the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) $250,000, in the case of any other eligible agency.

(2) ADDITIONAL ALLOTMENTS.—From the sum appropriated under section 246, not reserved under subsection (a), and not allotted under paragraph (1), for any fiscal year, the Secretary shall allot to each eligible agency an amount that bears the same relationship to such sum as the number of qualifying adults in the State or outlying area served by the eligible agency bears to the number of such adults in all States and outlying areas.

(d) QUALIFYING ADULT.—For the purposes of this subsection, the term "qualifying adult" means an adult who—

(1) is at least 16 years of age;

(2) is beyond the age of compulsory school attendance under the law of the State or outlying area;

(3) does not possess a secondary school diploma or its recognized equivalent; and

(4) is not enrolled in secondary school.

(e) SPECIAL RULE.—

(1) IN GENERAL.—From amounts made available under subsection (c) for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, the Secretary shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this part in accordance with the provisions of this subtitle that the Secretary determines are not inconsistent with this subsection.

(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this part for any fiscal year that begins after September 30, 2004.

(4) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

(f) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—An eligible agency may receive a grant under this subtitle for any fiscal year only if the Secretary finds that the amount expended by the State for adult education and literacy, in the second fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of the amount expended for adult education and literacy in the third fiscal year preceding the fiscal year for which the determination is made.

(2) WAIVER.—The Secretary may waive the requirements of this subsection for 1 fiscal year only if the Secretary determines that such a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State.

(g) REALLOTMENT.—If the Secretary determines that any amount of a State's allotment under this section for any fiscal year will not be required for carrying out the program for which such amount has been allotted, the Secretary shall make such amount available for reallotment to 1 or more States on the basis that the Secretary determines would best serve the purpose of this title.

SEC. 212. PERFORMANCE MEASURES AND EXPECTED LEVELS OF PERFORMANCE.

(a) ESTABLISHMENT OF PERFORMANCE MEASURES.—After consultation with eligible agencies, eligible providers, and other interested parties (including representatives of business, representatives of labor organizations, and institutions of higher education), the Secretary shall establish and publish performance measures described in this subsection that assess the progress of each eligible agency in enhancing and developing more fully the literacy skills of the adult population in the State or outlying area. The measures, at a minimum, shall include—

(1) demonstrated improvements in literacy skill levels in reading and writing the English language, numeracy, and problem solving;

(2) attainment of secondary school diplomas or their recognized equivalent;

(3) placement in, retention in, or completion of, postsecondary education, training, or unsubsidized employment; and

(4) other performance measures the Secretary determines necessary.

(b) EXPECTED LEVELS OF PERFORMANCE.—In developing a State plan, each eligible agency shall negotiate with the Secretary the expected levels of performance for the performance measures described in subsection (a).

SEC. 213. NATIONAL LEADERSHIP ACTIVITIES.

(a) AUTHORITY.—From the amount reserved under section 211(a)(1) for any fiscal year, the Secretary may establish a program of national leadership and evaluation activities to enhance the quality of adult education and literacy nationwide.

(b) METHOD OF FUNDING.—The Secretary may carry out national leadership and evaluation activities directly or through grants, contracts, or cooperative agreements.

(c) USES OF FUNDS.—Funds made available to carry out this section shall be used for—

(1) research, such as estimating the number of adults functioning at the lowest levels of literacy proficiency;

(2) demonstration of model and innovative programs, such as the development of models for basic skill certificates, identification of effective strategies for working with adults with learning disabilities and with individuals with limited English proficiency who are adults, and workplace literacy programs;

(3) dissemination, such as dissemination of information regarding promising practices resulting from federally funded demonstration programs;

(4) evaluations and assessments, such as periodic independent evaluations of activities assisted under this subtitle and assessments of the condition and progress of literacy in the United States;

(5) efforts to support capacity building at the State and local levels, such as technical assistance in program planning, assessment, evaluation; and monitoring of activities under this subtitle;

(6) data collection, such as improvement of both local and State data systems through technical assistance and development of model performance data collection systems;

(7) professional development, such as technical assistance activities to advance effective training practices, identify exemplary professional development projects, and disseminate new findings in adult education training;

(8) technical assistance, such as endeavors that aid distance learning, and promote and improve the use of technology in the classroom; or

(9) other activities designed to enhance the quality of adult education and literacy nationwide.

CHAPTER 2—STATE PROVISIONS

SEC. 221. STATE ADMINISTRATION.

(a) IN GENERAL.—Each eligible agency shall be responsible for the State administration of activities under this subtitle, including—

(1) the development, submission, and implementation of the State plan;

(2) consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of activities assisted under this subtitle; and

(3) coordination and nonduplication with other Federal and State education, training, corrections, public housing, and social service programs.

(b) STATE-IMPOSED REQUIREMENTS.—Whenever a State imposes any rule or policy relating to the administration and operation of activities funded under this subtitle (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline), the State shall identify the rule or policy as a State-imposed requirement.

SEC. 222. STATE DISTRIBUTION OF FUNDS; STATE SHARE.

(a) STATE DISTRIBUTION OF FUNDS.—Each eligible agency receiving a grant under this subtitle for a fiscal year—

(1) shall use not less than 80 percent of the grant funds to carry out section 225 and to award grants and contracts under section 231 for the fiscal year, of which not more than 10 percent of the 80 percent shall be available to carry out section 225 for the fiscal year;

(2) shall use not more than 15 percent of the grant funds to carry out State leadership activities under section 223 for the fiscal year; and

(3) shall use not more than 5 percent of the grant funds, or $80,000, whichever is greater, for administrative expenses of the eligible agency for the fiscal year.

(b) STATE SHARE REQUIREMENT.—

(1) IN GENERAL.—In order to receive a grant from the Secretary under section 211(b) each eligible agency shall provide an amount equal to 25 percent of the total amount of funds expended for adult education in the State or outlying area, except that the Secretary may decrease the amount of funds required under this subsection for an eligible agency serving an outlying area.

(2) STATE'S SHARE.—An eligible agency's funds required under paragraph (1) may be in cash or in kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of this subtitle.

SEC. 223. STATE LEADERSHIP ACTIVITIES.

(a) IN GENERAL.—Each eligible agency shall use funds made available under section 222(a)(2) for 1 or more of the following activities:

(1) Professional development and training, including training in the use of software and technology.

(2) Developing and disseminating curricula for adult education and literacy activities.

(3) Monitoring ând evaluating the quality of, and improvement in, services and activities conducted with assistance under this subtitle.

(4) Establishing challenging performance measures and levels of performance for literacy proficiency in order to assess program quality and improvement.

(5) Integration of literacy instruction and occupational skill training, and promoting linkages with employers.

(6) Linkages with postsecondary institutions.

(7) Supporting State or regional networks of literacy resource centers.

(8) Other activities of statewide significance that promote the purpose of this subtitle.

(b) COLLABORATION.—In carrying out this section, eligible agencies shall collaborate where possible and avoid duplicating efforts in order to maximize the impact of the activities described in subsection (a).

SEC. 224. STATE PLAN.

(a) 3-YEAR PLANS.—

(1) IN GENERAL.—Each eligible agency desiring a grant under this subtitle for any fiscal year shall submit to, or have on file with, the Secretary a 3-year State plan.

(2) COMPREHENSIVE PLAN OR APPLICATION.—The eligible agency may submit the State plan as part of a comprehensive plan or application for Federal education assistance.

(b) PLAN CONTENTS.—In developing the State plan, and any revisions to the State plan, the eligible agency shall include in the State plan or revisions—

(1) an objective assessment of the needs of individuals in the State for adult education and literacy activities, including individuals most in need or hardest to serve, such as educationally disadvantaged adults, immigrants, individuals with limited English proficiency, incarcerated individuals, homeless individuals, recipients of public assistance, and individuals with disabilities;

(2) a description of the adult education and literacy activities that will be carried out with any funds received under this subtitle;

(3) a description of how the eligible agency will evaluate annually the effectiveness of the adult education and literacy activities based on the performance measures described in section 212;

(4) a description of how the eligible agency will ensure that the data reported to the eligible agency from eligible providers under this subtitle and the data the eligible agency reports to the Secretary are complete, accurate, and reliable;

(5) a description of the performance measures required under section 212(a) and how such performance measures and the expected levels of performance will ensure improvement of adult education and literacy activities in the State or outlying area;

(6) an assurance that the funds received under this subtitle will not be expended for any purpose other than for activities under this subtitle;

(7) a description of how the eligible agency will fund local activities in accordance with the priorities described in section 242(a);

(8) a description of how the eligible agency will determine which eligible providers are eligible for funding in accordance with the preferences described in section 242(b);

(9) a description of how funds will be used for State leadership activities, which activities may include professional development and training, instructional technology, and management technology;

(10) an assurance that the eligible agency will expend the funds under this subtitle only in a manner consistent with fiscal requirement in section 241;

(11) a description of the process that will be used for public participation and comment with respect to the State plan;

(12) a description of how the eligible agency will develop program strategies for populations that include, at a minimum—

(A) low-income students;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with multiple barriers to educational enhancement;

(13) a description of the measures that will be taken by the eligible agency to assure coordination of and avoid duplication among—

(A) adult education activities authorized under this subtitle;

(B) activities authorized under title III;

(C) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)), and title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(D) a work program authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(E) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(F) activities authorized under chapter 41 of title 38, United States Code;

(G) activities carried out by the Bureau of Apprenticeship and Training;

(H) training activities carried out by the Department of Housing and Urban Development; and

(I) programs authorized under State unemployment compensation laws and the Federal unemployment insurance program under titles III, IX, and XII of the Social Security Act (42 U.S.C. 501 et seq., 1101 et seq., and 1321 et seq.); and

(14) the description and information specified in paragraphs (8) and (16) of section 304(b).

(c) PLAN REVISIONS.—When changes in conditions or other factors require substantial revisions to an approved State plan, the eligible agency shall submit a revision to the State plan to the Secretary.

(d) CONSULTATION.—The eligible agency shall—

(1) submit the State plan, and any revisions to the State plan, to the Governor of the State for review and comment; and

(2) ensure that any comments by the Governor regarding the State plan, and any revision to the State plan, are submitted to the Secretary.

(e) PLAN APPROVAL.—

(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, only if the Secretary determines that—

(A) the State plan, or revision, respectively, meets the requirements of this section; and

(B) the State's performance measures and expected levels of performance under section 212 are sufficiently rigorous to meet the purpose of this title.

(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

(3) PEER REVIEW.—The Secretary shall establish a peer review process to make recommendations regarding the approval of State plans and revisions to the State plan.

SEC. 225. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.

(a) PROGRAM AUTHORIZED.—From funds made available under section 222(a)(1) for a fiscal year, each eligible agency shall carry out corrections education or education for other institutionalized individuals.

(b) USES OF FUNDS.—The funds described in subsection (a) shall be used for the cost of educational programs for criminal offenders in corrections institutions and for other institutionalized individuals, including academic programs for—

(1) basic education;

(2) special education programs as determined by the State;

(3) bilingual programs, or English as a second language programs; and

(4) secondary school credit programs.

(c) DEFINITION OF CRIMINAL OFFENDER.—

(1) CRIMINAL OFFENDER.—The term "criminal offender" means any individual who is charged with or convicted of any criminal offense.

(2) CORRECTIONAL INSTITUTION.—The term "correctional institution" means any—

(A) prison;

(B) jail;

(C) reformatory;

(D) work farm;

(E) detention center; or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

CHAPTER 3—LOCAL PROVISIONS

SEC. 231. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

(a) GRANTS.—From funds made available under section 222(a)(1), each eligible agency shall award multiyear grants or contracts to eligible providers within the State to enable the eligible providers to develop, implement, and improve adult education and literacy activities within the State.

(b) SPECIAL RULE.—Each eligible agency receiving funds under this subtitle shall ensure that all eligible providers have direct and equitable access to apply for grants or contracts under this section.

(c) REQUIRED LOCAL ACTIVITIES.—Each eligible provider receiving a grant or contract under this subtitle shall establish programs that provide instruction or services that meet the purpose described in section 202(b), such as—

(1) adult education and literacy services; or

(2) English literacy programs.

SEC. 232. LOCAL APPLICATION.

Each eligible provider desiring a grant or contract under this subtitle shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including—

(1) a description of how funds awarded under this subtitle will be spent;

(2) how the expected levels of performance of the eligible provider with respect to participant recruitment, retention, and performance measures described in section 212, will be met and reported to the eligible agency; and

(3) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy programs.

SEC. 233. LOCAL ADMINISTRATIVE COST LIMITS.

(a) IN GENERAL.—Subject to subsection (b), of the sum that is made available under this subtitle to an eligible provider—

(1) not less than 95 percent shall be expended for carrying out adult education and literacy activities; and

(2) the remaining amount, not to exceed 5 percent, shall be used for planning, administration, personnel development, and interagency coordination.

(b) SPECIAL RULE.—In cases where the cost limits described in subsection (a) are too restrictive to allow for adequate planning, administration, personnel development, and interagency

coordination, the eligible provider shall negotiate with the eligible agency in order to determine an adequate level of funds to be used for noninstructional purposes.

CHAPTER 4—GENERAL PROVISIONS

SEC. 241. ADMINISTRATIVE PROVISIONS.

(a) SUPPLEMENT NOT SUPPLANT.—Funds made available for adult education and literacy activities under this subtitle shall supplement and not supplant other State or local public funds expended for adult education and literacy activities.

(b) REPRESENTATION.—The eligible agency shall provide representation to the statewide partnership.

SEC. 242. PRIORITIES AND PREFERENCES.

(a) PRIORITIES.—Each eligible agency and eligible provider receiving assistance under this subtitle shall give priority in using the assistance to adult education and literacy activities that—

(1) are built on a strong foundation of research and effective educational practice;

(2) effectively employ advances in technology, as appropriate, including the use of computers;

(3) provide learning in real life contexts to ensure that an individual has the skills needed to compete in a global economy and exercise the rights and responsibilities of citizenship;

(4) are staffed by well-trained instructors, counselors, and administrators;

(5) are of sufficient intensity and duration for participants to achieve substantial learning gains, such as by earning a basic skills certificate that reflects skills acquisition and has meaning to employers;

(6) establish measurable performance levels for participant outcomes, such as levels of literacy achieved and attainment of a secondary school diploma or its recognized equivalent, that are tied to challenging State performance levels for literacy proficiency;

(7) coordinate with other available resources in the community, such as by establishing strong links with elementary schools and secondary schools, postsecondary institutions, 1-stop customer service centers, job training programs, and social service agencies;

(8) offer flexible schedules and support services (such as child care and transportation) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs; and

(9) maintain a high-quality information management system that has the capacity to report client outcomes and to monitor program performance against the State performance measures.

(b) PREFERENCES.—In determining which eligible providers will receive funds under this subtitle for a fiscal year, each eligible agency receiving a grant under this subtitle, in addition to addressing the priorities described in subsection (a), shall—

(1) give preference to eligible providers that the eligible agency determines serve local areas with high concentrations of individuals in poverty or with low levels of literacy (including English language proficiency); and

(2) consider—

(A) the results, if any, of the evaluations required under section 244(a); and

(B) the degree to which the eligible provider will coordinate with and utilize other literacy and social services available in the community.

SEC. 243. INCENTIVE GRANTS.

(a) IN GENERAL.—The Secretary may make grants to States that exceed—

(1) the State performance measures established by the Secretary of Education under this Act; and

(2) the State performance measures established under title III.

(b) PRIORITY.—In awarding incentive grants under this section, the Secretary shall give priority to those States submitting a State unified plan as described in section 501 that is approved by the appropriate Secretaries as described in such section.

(c) USE OF FUNDS.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative programs as determined by the State.

SEC. 244. EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY.

(a) LOCAL EVALUATION.—Each eligible agency shall biennially evaluate the adult education and literacy activities of each eligible provider that receives a grant or contract under this subtitle, using the performance measures established under section 212.

(b) IMPROVEMENT ACTIVITIES.—If, after reviewing the evaluation, an eligible agency determines that an eligible provider is not making substantial progress in achieving the purpose of this subtitle, the eligible agency may work jointly with the eligible provider to develop an improvement plan. If, after not more than 2 years of implementation of the improvement plan, the eligible agency determines that the eligible provider is not making substantial progress, the eligible agency shall take whatever corrective action the eligible agency deems necessary, which may include termination of funding or the implementation of alternative service arrangements, consistent with State law. The eligible agency shall take corrective action under the preceding sentence only after the eligible agency has provided technical assistance to the eligible provider and shall ensure, to the extent practicable, that any corrective action the eligible agency takes allows for continued services to and activities for the individuals served by the eligible provider.

(c) STATE REPORT.—

(1) IN GENERAL.—The eligible agency shall report annually to the Secretary regarding the quality and effectiveness of the adult education and literacy activities funded through the eligible agency's grants or contracts under this subtitle, based on the performance measures and expected levels of performance included in the State plan.

(2) INFORMATION.—The eligible agency shall include in the reports such information, in such form, as the Secretary may require in order to ensure the collection of uniform national data.

(3) AVAILABILITY.—The eligible agency shall make available to the public the annual report under this subsection.

(d) TECHNICAL ASSISTANCE.—If the Secretary determines that the eligible agency is not properly implementing the eligible agency's responsibilities under subsection (b), or is not making substantial progress in meeting the purpose of this subtitle, based on the performance measures and expected levels of performance included in the eligible agency's State plan, the Secretary shall work with the eligible agency to implement improvement activities.

(e) WITHHOLDING OF FEDERAL FUNDS.—If, not earlier than 2 years after implementing activities described in subsection (d), the Secretary determines that the eligible agency is not making sufficient progress, based on the eligible agency's performance measures and expected levels of performance, the Secretary, after notice and opportunity for a hearing, shall withhold from the eligible agency all, or a portion, of the eligible agency's grant under this subtitle. The Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services and activities within the State to meet the purpose of this title.

SEC. 245. NATIONAL INSTITUTE FOR LITERACY.

(a) PURPOSE.—The purpose of this section is to establish a National Institute for Literacy that—

(1) provides national leadership regarding literacy;

(2) coordinates literacy services and policy; and

(3) is a national resource for adult education and literacy, by providing the best and most current information available and supporting the creation of new ways to offer improved literacy services.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There shall be a National Institute for Literacy (in this section referred to as the "Institute"). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the "Interagency Group"). The Secretary may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education the purpose of which is determined by the Secretary to be related to the purpose of the Institute.

(2) RECOMMENDATIONS.—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the "Board") established under subsection (e) in planning the goals of the Institute and in the implementation of any programs to achieve the goals. If the Board's recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group takes that are inconsistent with the Board's recommendations, including the reasons for not following the Board's recommendations with respect to the actions. The Board may also request a meeting of the Interagency Group to discuss the Board's recommendations.

(3) DAILY OPERATIONS.—The daily operations of the Institute shall be administered by the Director of the Institute.

(c) DUTIES.—

(1) IN GENERAL.—In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized to—

(A) establish a national electronic data base of information that disseminates information to the broadest possible audience within the literacy and basic skills field, and that includes—

(i) effective practices in the provision of literacy and basic skills instruction, including the integration of such instruction with occupational skills training;

(ii) public and private literacy and basic skills programs and Federal, State, and local policies affecting the provision of literacy services at the national, State, and local levels;

(iii) opportunities for technical assistance, meetings, conferences, and other opportunities that lead to the improvement of literacy and basic skills services; and

(iv) a communication network for literacy programs, providers, social service agencies, and students;

(B) coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels;

(C) coordinate the support of research and development on literacy and basic skills for adults across Federal agencies, especially with the Office of Educational Research and Improvement in the Department of Education, and carry out basic and applied research and development on topics that are not being investigated by other organizations or agencies;

(D) collect and disseminate information on methods of advancing literacy;

(E) provide policy and technical assistance to Federal, State, and local entities for the improvement of policy and programs relating to literacy;

(F) fund a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

(i) encouraging the coordination of literacy services; and

(ii) serving as a link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources; and

(G) undertake other activities that lead to the improvement of the Nation's literacy delivery system and that complement other such efforts being undertaken by public and private agencies and organizations.

(2) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Institute may award grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

(d) LITERACY LEADERSHIP.—

(1) IN GENERAL.—The Institute may, in consultation with the Board, award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

(2) FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

(3) INTERNSHIPS.—The Institute, in consultation with the Board, is authorized to award paid and unpaid internships to individuals seeking to assist in carrying out the Institute's purpose and to accept assistance from volunteers.

(e) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There shall be a National Institute for Literacy Advisory Board, which shall consist of 10 individuals appointed by the President with the advice and consent of the Senate.

(B) COMPOSITION.—The Board shall comprise individuals who are not otherwise officers or employees of the Federal Government and who are representative of such entities as—

(i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English as a second language programs and services, social service organizations, and eligible providers receiving assistance under this subtitle;

(ii) businesses that have demonstrated interest in literacy programs;

(iii) literacy students, including literacy students with disabilities;

(iv) experts in the area of literacy research;

(v) State and local governments;

(vi) State Directors of adult education; and

(vii) labor organizations.

(2) DUTIES.—The Board shall—

(A) make recommendations concerning the appointment of the Director and staff of the Institute; and

(B) provide independent advice on the operation of the Institute.

(3) APPOINTMENTS.—

(A) IN GENERAL.—Appointments to the Board made after the date of enactment of the Workforce Investment Partnership Act shall be for 3-year terms, except that the initial terms for members may be established at 1, 2, or 3 years in order to establish a rotation in which ⅓ of the members are selected each year.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

(4) OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members.

(5) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of its members.

(f) GIFTS, BEQUESTS, AND DEVISES.—

(1) IN GENERAL.—The Institute may accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

(2) RULES.—The Board shall establish written rules setting forth the criteria to be used by the Institute in determining whether the acceptance of contributions of services, money, or property whether real or personal, tangible or intangible, would reflect unfavorably upon the ability of the Institute or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.

(g) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(h) STAFF.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

(i) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

(j) EXPERTS AND CONSULTANTS.—The Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(k) REPORT.—The Institute shall submit a biennial report to the Interagency Group and Congress.

(l) NONDUPLICATION.—The Institute shall not duplicate any functions carried out by the Secretary, the Secretary of Labor, or the Secretary of Health and Human Services under this subtitle. This subsection shall not be construed to prohibit the Secretaries from delegating such functions to the Institute.

(m) FUNDING.—Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

SEC. 246. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

Subtitle B—Repeal

SEC. 251. REPEAL.

(a) REPEAL.—The Adult Education Act (20 U.S.C. 1201 et. seq.) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) REFUGEE EDUCATION ASSISTANCE ACT.—Subsection (b) of section 402 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is repealed.

(2) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) SECTION 1202 OF ESEA.—Section 1202(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(c)(1)) is amended by striking "Adult Education Act" and inserting "Workforce Investment Partnership Act of 1997".

(B) SECTION 1205 OF ESEA.—Section 1205(8)(B) of such Act (20 U.S.C. 6365(8)(B)) is amended by striking "Adult Education Act" and inserting "Workforce Investment Partnership Act of 1997".

(C) SECTION 1206 OF ESEA.—Section 1206(a)(1)(A) of such Act (20 U.S.C. 6366(a)(1)(A)) is amended by striking "an adult basic education program under the Adult Education Act" and inserting "adult education and literacy activities under the Workforce Investment Partnership Act of 1997".

(D) SECTION 3113 OF ESEA.—Section 3113(1) of such Act (20 U.S.C. 6813(1)) is amended by striking "section 312 of the Adult Education Act" and inserting "section 2 of the Workforce Investment Partnership Act of 1997".

(E) SECTION 9161 OF ESEA.—Section 9161(2) of such Act (20 U.S.C. 7881(2)) is amended by striking "section 312(2) of the Adult Education Act" and inserting "section 2 of the Workforce Investment Partnership Act of 1997".

(3) OLDER AMERICANS ACT OF 1965.—Section 203(b)(8) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)(8)) is amended by striking "Adult Education Act" and inserting "Workforce Investment Partnership Act of 1997".

(4) NATIONAL LITERACY ACT OF 1991.—The National Literacy Act of 1991 (20 U.S.C. 1201 note) is repealed.

TITLE III—WORKFORCE INVESTMENT AND RELATED ACTIVITIES

Subtitle A—Workforce Investment Activities

CHAPTER 1—ALLOTMENTS TO STATES FOR ADULT EMPLOYMENT AND TRAINING ACTIVITIES, DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES, AND YOUTH ACTIVITIES

SEC. 301. GENERAL AUTHORIZATION.

The Secretary of Labor shall make an allotment to each State that has a State plan approved under section 304 and a grant to each outlying area that complies with the requirements of this title, to enable the State or outlying area to assist local areas in providing, through a statewide workforce investment system—

(1) adult employment and training activities;

(2) dislocated worker employment and training activities; and

(3) youth activities, including summer employment opportunities, tutoring, activities to promote study skills, alternative secondary school services, employment skill training, adult mentoring, and supportive services.

SEC. 302. STATE ALLOTMENTS.

(a) IN GENERAL.—The Secretary shall—

(1) make allotments and grants from the total amount appropriated under section 322(a) for a fiscal year in accordance with subsection (b)(1);

(2)(A) reserve 20 percent of the amount appropriated under section 322(b) for a fiscal year for use under sections 366(b)(2), 367(f), and 369; and

(B) make allotments and grants from 80 percent of the amount appropriated under section 322(b) for a fiscal year in accordance with subsection (b)(2); and

(3)(A) for each fiscal year in which the amount appropriated under section 322(c) exceeds $1,000,000,000, reserve a portion determined under subsection (b)(3)(A) of the amount appropriated under section 322(c) for use under sections 362 and 364; and

(B) use the remainder of the amount appropriated under section 322(c) for a fiscal year to make allotments and grants in accordance with subparagraphs (B) and (C) of subsection (b)(3) and make funds available for use under section 361.

(b) ALLOTMENT AMONG STATES.—

(1) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(1) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent—

(I) to provide assistance to the outlying areas to carry out adult employment and training activities; and

(II) for each of the fiscal years 1999 through 2004, to carry out the competition described in clause (iii), except that the amount reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1998, from amounts reserved under section 202(a)(1) of the Job Training Partnership Act (29 U.S.C. 1602(a)(1)) (as in effect on the day before the date of enactment of this Act).

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an outlying area shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(iii) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to make grants to outlying areas to carry out adult employment and training activities.

(iv) BASIS.—The Secretary shall make grants pursuant to clause (iii) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(v) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive a grant made under this subparagraph shall include in the application of the State for assistance—

(I) information demonstrating that the State will meet all conditions of the regulations described in clause (ix); and

(II) an assurance that, notwithstanding any other provision of this title, the State will use the amounts made available through such grants only for the direct provision of services.

(vi) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any funds under this subparagraph for any program year that begins after September 30, 2004.

(vii) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the amount made available for grants under clause (iii) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this subparagraph.

(viii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas, including the Freely Associated States, under this subparagraph.

(ix) REGULATIONS.—The Secretary shall issue regulations specifying requirements of this title that apply to outlying areas receiving funds under this subparagraph.

(B) STATES.—

(i) IN GENERAL.—After determining the amount to be reserved under subparagraph (A), the Secretary shall allot the remainder of the amount referred to in subsection (a)(1) for a fiscal year to the States pursuant to clause (ii) for adult employment and training activities.

(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

(I) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(II) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States.

(iii) MINIMUM AND MAXIMUM PERCENTAGES.—

(I) MINIMUM PERCENTAGE.—No State shall receive an allotment percentage for a fiscal year that is less than 90 percent of the allotment percentage of the State for the preceding fiscal year.

(II) MAXIMUM PERCENTAGE.—No State shall receive an allotment percentage for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

(iv) SMALL STATE MINIMUM ALLOTMENT.—No State shall receive an allotment under this subparagraph that is less than ½ of 1 percent of the remainder described in clause (i) for a fiscal year. Amounts necessary for increasing such allotments to States to comply with the preceding sentence shall be obtained by ratably reducing the allotments to be made to other States under this subparagraph.

(v) DEFINITIONS.—In this subparagraph:

(I) ALLOTMENT PERCENTAGE.—The term "allotment percentage", used with respect to fiscal year 1999 or a subsequent fiscal year, means a percentage of the remainder described in clause (i), received through an allotment made under this subparagraph, for the fiscal year. The term, used with respect to fiscal year 1998, means the percentage of the amounts allocated under section 202(b) of the Job Training Partnership Act (29 U.S.C. 1602(b)) (as in effect on the day before the date of enactment of this Act) received under such section by service delivery areas in the State involved for fiscal year 1998.

(II) AREA OF SUBSTANTIAL UNEMPLOYMENT.—The term "area of substantial unemployment" means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this subtitle and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subclause, determinations of areas of substantial unemployment shall be made once each fiscal year.

(III) DISADVANTAGED ADULT.—The term "disadvantaged adult" means an individual who is not less than age 22 and not more than age 72 and is a low-income individual.

(IV) EXCESS NUMBER.—The term "excess number" means the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in a State.

(2) DISLOCATED WORKER EMPLOYMENT AND TRAINING.—

(A) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(2)(B) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent—

(I) to provide assistance to the outlying areas to carry out dislocated worker employment and training activities; and

(II) for each of the fiscal years 1999 through 2004, to carry out the competition described in clause (iii), except that the amount reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1998, from amounts reserved under section 302(b) of the Job Training Partnership Act (29 U.S.C. 1652(b)) (as in effect on the day before the date of enactment of this Act).

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an outlying area shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(iii) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to make grants to outlying areas to carry out dislocated worker employment and training activities.

(iv) BASIS.—The Secretary shall make grants pursuant to clause (iii) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(v) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive a grant made under this subparagraph shall include in the application of the State for assistance—

(I) information demonstrating that the State will meet all conditions of the regulations described in clause (ix); and

(II) an assurance that, notwithstanding any other provision of this title, the State will use the amounts made available through such grants only for the direct provision of services.

(vi) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any funds under this subparagraph for any program year that begins after September 30, 2004.

(vii) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the amount made available for grants under clause (iii) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this subparagraph.

(viii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas, including the Freely Associated States, under this subparagraph.

(ix) REGULATIONS.—The Secretary shall issue regulations specifying requirements of this title that apply to outlying areas receiving funds under this subparagraph.

(B) STATES.—

(i) IN GENERAL.—After determining the amount to be reserved under subparagraph (A), the Secretary shall allot the remainder of the amount referred to in subsection (a)(2)(B) for a fiscal year to the States pursuant to clause (ii) for dislocated worker employment and training activities.

(ii) FORMULA.—Of the remainder—

(I) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States;

(II) 33⅓ percent shall be allotted on the basis described in paragraph (1)(B)(ii)(II); and

(III) 33⅓ percent shall be allotted on the basis of the relative number of individuals in each State who have been unemployed for 15 weeks or more, compared to the total number of individuals in all States who have been unemployed for 15 weeks or more.

(3) YOUTH ACTIVITIES.—

(A) YOUTH OPPORTUNITY GRANTS.—

(i) IN GENERAL.—For each fiscal year in which the amount appropriated under section 322(c)

exceeds $1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth opportunity grants under section 364 and provide youth activities under section 362.

(ii) Portion.—The portion referred to in clause (i) shall equal, for a fiscal year—

(I) except as provided in subclause (II), the difference obtained by subtracting $1,000,000,000 from the amount described in clause (i); and

(II) for any fiscal year in which the amount is $1,250,000,000 or greater, $250,000,000.

(iii) Youth activities for farmworkers.—From the portion described in clause (i) for a fiscal year, the Secretary shall make available $10,000,000 to provide youth activities under section 362.

(B) Outlying areas.—

(i) In general.—From the amount made available under subsection (a)(3)(B) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent—

(I) to provide assistance to the outlying areas to carry out youth activities; and

(II) for each of the fiscal years 1999 through 2004, to carry out the competition described in clause (iii), except that the amount reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1998, from amounts reserved under sections 252(a) and 262(a)(1) of the Job Training Partnership Act (29 U.S.C. and 1631(a) and 1642(a)(1)) (as in effect on the day before the date of enactment of this Act).

(ii) Application.—To be eligible to receive a grant under this subparagraph, an outlying area shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(iii) Competitive grants.—The Secretary shall use funds described in clause (i)(II) to make grants to outlying areas to carry out youth activities.

(iv) Basis.—The Secretary shall make grants pursuant to clause (iii) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(v) Assistance requirements.—Any Freely Associated State that desires to receive a grant made under this subparagraph shall include in the application of the State for assistance—

(I) information demonstrating that the State will meet all conditions of the regulations described in clause (ix); and

(II) an assurance that, notwithstanding any other provision of this title, the State will use the amounts made available through such grants only for the direct provision of services.

(vi) Termination of eligibility.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any funds under this subparagraph for any program year that begins after September 30, 2004.

(vii) Administrative costs.—The Secretary may provide not more than 5 percent of the amount made available for grants under clause (iii) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this subparagraph.

(viii) Additional requirement.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas, including the Freely Associated States, under this subparagraph.

(ix) Regulations.—The Secretary shall issue regulations specifying requirements of this title that apply to outlying areas receiving funds under this subparagraph.

(C) States.—

(i) In general.—After determining the amounts to be reserved under subparagraph (A) (if any) and subparagraph (B), the Secretary shall—

(I) from the amount referred to in subsection (a)(3)(B) for a fiscal year, make available $15,000,000 to provide youth activities under section 361; and

(II) allot the remainder of the amount referred to in subsection (a)(3)(B) for a fiscal year to the States pursuant to clause (ii) for youth activities.

(ii) Formula.—Subject to clause (iii), of the remainder—

(I) 33⅓ percent shall be allotted on the basis described in paragraph (1)(B)(ii)(I);

(II) 33⅓ percent shall be allotted on the basis described in paragraph (1)(B)(ii)(II); and

(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged youth in each State, compared to the total number of disadvantaged youth in all States.

(iii) Minimum percentage; maximum percentage; small state minimum allotment.—

(I) In general.—Except as provided in subclause (II), the requirements of clauses (iii), (iv), and (v) of paragraph (1)(B) shall apply to allotments made under this subparagraph in the same manner and to the same extent as the requirements apply to allotments made under paragraph (1)(B).

(II) Exceptions.—For purposes of applying the requirements of those clauses under this subparagraph—

(aa) references in those clauses to the remainder described in clause (i) of paragraph (1)(B) shall be considered to be references to the remainder described in clause (i)(II) of this subparagraph; and

(bb) the term "allotment percentage", used with respect to fiscal year 1998, means the percentage of the amounts allocated under sections 252(b) and 262(b) of the Job Training Partnership Act (29 U.S.C. 1631(b) and 1642(b)) (as in effect on the day before the date of enactment of this Act) received under such sections by service delivery areas in the State involved for fiscal year 1998.

(iv) Definition.—In this subparagraph, the term "disadvantaged youth" means an individual who is not less than age 14 and is not more than age 21 and is a low-income individual.

(4) Definition.—In this subsection, the term "Freely Associated States" means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

SEC. 303. STATEWIDE PARTNERSHIP.

(a) In General.—The Governor of a State shall establish and appoint the members of a statewide partnership to assist in the development of the State plan described in section 304 and carry out the functions described in subsection (d).

(b) Membership.—

(1) In general.—The statewide partnership shall include—

(A) the Governor;

(B) representatives, appointed by the Governor, who—

(i) are representatives of business in the State;

(ii) are owners of businesses, chief executives or operating officers of private businesses, and other business executives or employers with optimum policymaking or hiring authority, including members of local partnerships described in section 308(c)(2)(A)(i);

(iii) represent businesses with employment opportunities that reflect the employment opportunities of the State; and

(iv) are appointed from among individuals nominated by State business organizations and business trade associations;

(C) representatives, appointed by the Governor, who are individuals who have optimum policymaking authority, including—

(i) representatives of—

(I) chief elected officials (representing both cities and counties, where appropriate);

(II) labor organizations, who have been nominated by State labor federations; and

(III) individuals, and organizations, that have experience relating to youth activities;

(ii) the eligible agency officials responsible for vocational education, including postsecondary vocational education, and for adult education and literacy, and the State officials responsible for postsecondary education (including education in community colleges); and

(iii) the State agency official responsible for vocational rehabilitation and, where applicable, the State agency official responsible for providing vocational rehabilitation program activities for the blind;

(D) such other State agency officials as the Governor may designate, such as State agency officials carrying out activities relating to employment and training, economic development, public assistance, veterans, youth, juvenile justice and the employment service established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.); and

(E) two members of each chamber of the State legislature, appointed by the appropriate presiding officer of the chamber.

(2) Majority.—A majority of the members of the statewide partnership shall be representatives described in paragraph (1)(B).

(c) Chairman.—The Governor shall select a chairperson for the statewide partnership from among the representatives described in subsection (b)(1)(B).

(d) Functions.—In addition to developing the State plan, the statewide partnership shall—

(1) advise the Governor on the development of a comprehensive statewide workforce investment system;

(2) assist the Governor in preparing the annual report to the Secretaries described in section 321(d);

(3) assist the Governor in developing the statewide labor market information system described in section 15(e) of the Wagner-Peyser Act; and

(4) assist in the monitoring and continuous improvement of the performance of the statewide workforce investment system, including the evaluation of the effectiveness of workforce investment activities carried out under this subtitle in serving the needs of employers seeking skilled employees and individuals seeking services.

(e) Authority of Governor.—

(1) Authority.—The Governor shall have the final authority to determine the contents of and submit the State plan described in section 304.

(2) Process.—Prior to the date on which the Governor submits a State plan under section 304, the Governor shall—

(A) make available copies of a proposed State plan to the public;

(B) allow members of the statewide partnership and members of the public to submit comments on the proposed State plan to the Governor, not later than the end of the 30-day period beginning on the date on which the proposed State plan is made available; and

(C) include with the State plan submitted to the Secretary under section 304 any such comments that represent disagreement with the plan.

SEC. 304. STATE PLAN.

(a) In General.—For a State to be eligible to receive an allotment under section 302, the Governor of the State shall submit to the Secretary for approval a single comprehensive State plan (referred to in this title as the "State plan") that outlines a 3-year strategy for the statewide workforce investment system of the State and that meets the requirements of section 303 and this section.

(b) Contents.—The State plan shall include—

(1) a description of the statewide partnership described in section 303 used in developing the plan;

(2) a description of State-imposed requirements for the statewide workforce investment system;

(3) a description of the State performance measures developed for the workforce investment activities to be carried out through the system, that includes information identifying the State performance measures, established in accordance with section 321(b);

(4) information describing—

(A) the needs of the State with regard to current and projected employment opportunities;

(B) the job skills necessary to obtain the needed employment opportunities;

(C) the economic development needs of the State; and

(D) the type and availability of workforce investment activities in the State;

(5) an identification of local areas designated in the State, including a description of the process used for the designation of such areas, which shall—

(A) ensure a linkage between participants in workforce investment activities funded under this subtitle, and local employment opportunities;

(B) ensure that a significant portion of the population that lives in the local area also works in the same local area;

(C) ensure cooperation and coordination of activities between neighboring local areas; and

(D) take into consideration State economic development areas;

(6) an identification of criteria for the appointment of members of local partnerships based on the requirements of section 308;

(7) the detailed plans required under section 8 of the Wagner-Peyser Act;

(8) a description of the measures that will be taken by the State to assure coordination of and avoid duplication among—

(A) workforce investment activities authorized under this subtitle;

(B) other activities authorized under this title;

(C) activities authorized under title I or II;

(D) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)), and activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(E) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(F) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(G) activities authorized under chapter 41 of title 38, United States Code;

(H) activities carried out by the Bureau of Apprenticeship and Training;

(I) training activities carried out by the Department of Housing and Urban Development; and

(J) programs authorized under State unemployment compensation laws and the Federal unemployment insurance program under titles III, IX, and XII of the Social Security Act (42 U.S.C. 501 et seq., 1101 et seq., and 1321 et seq.);

(9) a description of the process used by the State to provide an opportunity for public comment, and input into the development of the State plan, prior to submission of the plan;

(10) a description of the process for the public to comment on members of the local partnerships;

(11) a description of the length of terms and appointment processes for members of the statewide partnership and local partnerships in the State;

(12) information identifying how the State will leverage any funds the State receives under this subtitle with other private and Federal resources;

(13) assurances that the State will provide, in accordance with section 374, for fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State through the allotment made under section 302;

(14) if appropriate, a description of a within-State allocation formula—

(A) that is based on factors relating to excess poverty in local areas or excess unemployment above the State average in local areas; and

(B) through which the State may distribute the funds the State receives under this subtitle for adult employment and training activities or youth activities to local areas;

(15) an assurance that the funds made available to the State through the allotment made under section 302 will supplement and not supplant other public funds expended to provide activities described in this subtitle;

(16) information indicating—

(A) how the services of one-stop partners in the State will be provided through the one-stop customer service system;

(B) how the costs of such services and the operating costs of the system will be funded; and

(C) how the State will assist in the development and implementation of the operating agreement described in section 311(c);

(17) information specifying the actions that constitute a conflict of interest prohibited in the State for purposes of section 308(g)(2)(B);

(18) a description of a core set of consistently defined data elements for reporting on the activities carried out through the one-stop customer service system in the State;

(19) with respect to employment and training activities funded under this subtitle, information—

(A) describing the employment and training activities that will be carried out with the funds the State receives under this subtitle, and a description of how the State will provide rapid response activities to dislocated workers;

(B) describing the State strategy for development of a fully operational statewide one-stop customer service system as described in section 315(b), including—

(i) criteria for use by chief elected officials and local partnerships, for designating or certifying one-stop customer service center operators, appointing one-stop partners, and conducting oversight with respect to the one-stop customer service system, for each local area; and

(ii) the steps that the State will take over the 3 years covered by the plan to ensure that all publicly funded labor exchange services described in section 315(c)(2) or the Wagner-Peyser Act (29 U.S.C. 49 et seq.), will be available through the one-stop customer service system of the State;

(C) describing the criteria used by the local partnership in the development of the local plan described in section 309; and

(D) describing the procedures the State will use to identify eligible providers of training services, as required under this subtitle; and

(20) with respect to youth activities funded under this subtitle, information—

(A) describing the youth activities that will be carried out with the funds the State receives under this subtitle;

(B) identifying the criteria to be used by the local partnership in awarding grants under section 313 for youth activities;

(C) identifying the types of criteria the Governor and local partnerships will use to identify effective and ineffective youth activities and eligible providers of such activities; and

(D) describing how the State will coordinate the youth activities carried out in the State under this subtitle with the services provided by Job Corps centers in the State.

(c) Plan Submission and Approval.—A State plan submitted to the Secretary under this section by a Governor shall be considered to be approved by the Secretary at the end of the 60-day period beginning on the day the Secretary receives the plan, unless the Secretary makes a written determination, during the 60-day period, that—

(1) the plan is inconsistent with a specific provision of this title; or

(2) the levels of performance have not been agreed to pursuant to section 321(b)(4).

(d) Modifications to Initial Plan.—A State may submit, for approval by the Secretary, substantial modifications to the State plan in accordance with the requirements of this section and section 303, as necessary, during the 3-year period of the plan.

CHAPTER 2—ALLOCATIONS TO LOCAL WORKFORCE INVESTMENT AREAS

SEC. 306. WITHIN STATE ALLOCATIONS.

(a) Reservations for State Activities.—

(1) ADULT EMPLOYMENT AND TRAINING ACTIVITIES, DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES, AND YOUTH ACTIVITIES.—The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under paragraphs (1)(B), (2)(B), and (3)(C)(ii) of section 302(b) for a fiscal year for statewide workforce investment activities described in subsections (b)(2) and (c) of section 314.

(2) STATEWIDE RAPID RESPONSE ACTIVITIES.—The Governor of the State shall reserve not more than 25 percent of the total amount allotted to the State under section 302(b)(2)(B) for a fiscal year for statewide rapid response activities described in section 314(b)(1).

(b) Within State Allocation.—

(1) Allocation.—The Governor of the State shall allocate to the local areas the funds that are allotted to the State under section 302(b) and are not reserved under subsection (a) for the purpose of providing employment and training activities to eligible participants pursuant to section 315 and youth activities to eligible participants pursuant to section 316.

(2) Methods.—The State, acting in accordance with the State plan, and after consulting with chief elected officials in the local areas, shall allocate—

(A) the funds that are allotted to the State for adult employment and training activities under section 302(b)(1)(B) and are not reserved under subsection (a)(1), in accordance with paragraph (3) or (4);

(B) the funds that are allotted to the State for dislocated worker employment and training activities under section 302(b)(2)(B) and are not reserved under paragraph (1) or (2) of subsection (a), in accordance with paragraph (3); and

(C) the funds that are allotted to the State for youth activities under section 302(b)(3)(C)(ii) and are not reserved under subsection (a)(1), in accordance with paragraph (3) or (4).

(3) ADULT EMPLOYMENT AND TRAINING ACTIVITIES, DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES, AND YOUTH ACTIVITIES FORMULA ALLOCATIONS.—

(A) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—In allocating the funds described in paragraph (2)(A) to local areas, a State may allocate—

(i) 33⅓ percent of the funds on the basis described in section 302(b)(1)(B)(ii)(I);

(ii) 33⅓ percent of the funds on the basis described in section 302(b)(1)(B)(ii)(II); and

(iii) 33⅓ percent of the funds on the basis described in section 302(b)(1)(B)(ii)(III).

(B) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—In allocating the funds described in paragraph (2)(B) to local areas, a State shall allocate—

(i) 33⅓ percent of the funds on the basis described in section 302(b)(2)(B)(ii)(I);

(ii) 33⅓ percent of the funds on the basis described in section 302(b)(2)(B)(ii)(II); and

(iii) 33⅓ percent of the funds on the basis described in section 302(b)(2)(B)(ii)(III).

(C) YOUTH ACTIVITIES.—In allocating the funds described in paragraph (2)(C) to local areas, a State may allocate—

(i) 33⅓ percent of the funds on the basis described in section 302(b)(3)(C)(ii)(I);

(ii) 33⅓ percent of the funds on the basis described in section 302(b)(3)(C)(ii)(II); and

(iii) 33⅓ percent of the funds on the basis described in section 302(b)(3)(C)(ii)(III).

(D) APPLICATION.—For purposes of carrying out subparagraphs (A), (B), and (C), and subparagraphs (A) and (B) of paragraph (4)—

(i) references in section 302(b) to a State shall be deemed to be references to a local area; and

(ii) references in section 302(b) to all States shall be deemed to be references to all local areas in the State involved.

(4) ADULT EMPLOYMENT AND TRAINING AND YOUTH DISCRETIONARY ALLOCATIONS.—

(A) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—In lieu of making the allocation described in paragraph (3)(A), in allocating the funds described in paragraph (2)(A) to local areas, a State may distribute—

(i) a portion equal to not less than 70 percent of the funds in accordance with paragraph (3)(A); and

(ii) the remaining portion of the funds on the basis of a formula that—

(I) takes into consideration factors relating to excess poverty in local areas or excess unemployment above the State average in local areas; and

(II) was developed by the statewide partnership and approved by the Secretary as part of the State plan.

(B) YOUTH ACTIVITIES.—In lieu of making the allocation described in paragraph (3)(C), in allocating the funds described in paragraph (2)(C) to local areas, a State may distribute—

(i) a portion equal to not less than 70 percent of the funds in accordance with paragraph (3)(C); and

(ii) the remaining portion of the funds on the basis of a formula that—

(I) takes into consideration factors relating to excess youth poverty in local areas or excess unemployment above the State average in local areas; and

(II) was developed by the statewide partnership and approved by the Secretary as part of the State plan.

(5) LIMITATION.—

(A) IN GENERAL.—Of the amount allocated to a local area under this subsection for a fiscal year—

(i) not more than 15 percent of the amount allocated under paragraph (3)(A) or (4)(A);

(ii) not more than 15 percent of the amount allocated under paragraph (3)(B); and

(iii) not more than 15 percent of the amount allocated under paragraph (3)(C) or (4)(B),

may be used by the local partnership for the administrative cost of carrying out local workforce investment activities described in section 315 or 316.

(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative cost of any of the local workforce investment activities described in sections 315 and 316, regardless of whether the funds were allocated under the provisions described in clause (i), (ii), or (iii) of subparagraph (A).

(C) REGULATIONS.—The Secretary, after consulting with the Governors, shall develop and issue regulations that define the term "administrative cost" for purposes of this title.

(6) TRANSFER AUTHORITY.—A local partnership may transfer, if such a transfer is approved by the Governor, not more than 20 percent of the funds allocated to the local area under paragraph (3)(A) or (4)(A), and 20 percent of the funds allocated to the local area under paragraph (3)(B), for a fiscal year between—

(A) adult employment and training activities; and

(B) dislocated worker employment and training activities.

(7) FISCAL AUTHORITY.—

(A) FISCAL AGENT.—The chief elected official in a local area shall serve as the fiscal agent for, and shall be liable for any misuse of, the funds allocated to the local area under this section, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the fiscal agent and bear such liability.

(B) DISBURSAL.—The fiscal agent shall disburse such funds for workforce investment activities at the direction of the local partnership, pursuant to the requirements of this title, if the direction does not violate a provision of this Act. The fiscal agent shall disburse funds immediately on receiving such direction from the local partnership.

SEC. 307. LOCAL WORKFORCE INVESTMENT AREAS.

(a) DESIGNATION OF AREAS.—

(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Governor shall designate local workforce investment areas in the State, in accordance with the State plan requirements described in section 304(b)(5).

(2) AUTOMATIC DESIGNATION.—

(A) IN GENERAL.—The Governor of the State shall approve a request for designation as a local area from any unit of general local government with a population of 500,000 or more, if the designation meets the State plan requirements described in section 304(b)(5).

(B) LARGE COUNTIES.—A county with a population of 500,000 or more may request such designation only with the agreement of the political subdivisions within the county with populations of 200,000 or more.

(C) LARGE POLITICAL SUBDIVISIONS.—Single units of general local government with populations of 200,000 or more that are service delivery areas on the date of enactment of this Act shall have an automatic right to request designation as local areas under this section.

(3) PERMANENT DESIGNATION.—Once the boundaries for a local area are determined under this section in accordance with the State plan, the boundaries shall not change except with the approval of the Governor.

(b) SMALL STATES.—The Governor of any State determined to be eligible to receive a minimum allotment under paragraph (1), (2), or (3) of section 302(b) for the first year covered by the State plan may designate the State as a single State local area for the purposes of this title. The Governor shall identify the State as a local area under section 304(b)(5), in lieu of designating local areas as described in subparagraphs (A), (B), and (C) of section 304(b)(5).

SEC. 308. LOCAL WORKFORCE INVESTMENT PARTNERSHIPS AND YOUTH PARTNERSHIPS.

(a) ESTABLISHMENT OF LOCAL PARTNERSHIP.—There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment partnership.

(b) ROLE OF LOCAL PARTNERSHIP.—The primary role of the local partnership shall be to set policy for the portion of the statewide workforce investment system within the local area, including—

(1) ensuring that the activities authorized under this subtitle and carried out in the local area meet local performance measures that include high academic and skill measures;

(2) ensuring that the activities meet the needs of employers and jobseekers; and

(3) ensuring the continuous improvement of the system.

(c) MEMBERSHIP OF LOCAL PARTNERSHIP.—

(1) STATE CRITERIA.—The Governor of the State shall establish criteria for the appointment of members of the local partnerships for local areas in the State in accordance with the requirements of paragraph (2). Information identifying such criteria shall be included in the State plan, as described in section 304(b)(6).

(2) COMPOSITION.—Such criteria shall require, at a minimum, that the membership of each local partnership—

(A) shall include—

(i) a majority of members who—

(I) are representatives of business in the local area;

(II) are owners of businesses, chief executives or operating officers of private businesses, and other business executives or employers with optimum policymaking or hiring authority;

(III) represent businesses with employment opportunities that reflect the employment opportunities of the local area; and

(IV) are appointed from among individuals nominated by local business organizations and business trade associations;

(ii) chief officers representing local postsecondary educational institutions, representatives of vocational education providers, and representatives of adult education providers;

(iii) chief officers representing labor organizations (for a local area in which such representatives reside), nominated by local labor federations, or (for a local area in which such representatives do not reside) other representatives of employees; and

(iv) chief officers representing economic development agencies, including private sector economic development entities;

(B) may include chief officers who have policymaking authority, from one-stop partners who have entered into an operating agreement described in section 311(c) to participate in the one-stop customer service system in the local area; and

(C) may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

(3) CHAIRPERSON.—The local partnership shall elect a chairperson from among the members of the partnership described in paragraph (2)(A)(i).

(d) APPOINTMENT AND CERTIFICATION OF LOCAL PARTNERSHIP.—

(1) APPOINTMENT OF LOCAL PARTNERSHIP MEMBERS AND ASSIGNMENT OF RESPONSIBILITIES.—

(A) IN GENERAL.—The chief elected official in a local area is authorized to appoint the members of the local partnership for such area, in accordance with the State criteria established under subsection (c).

(B) MULTIPLE UNITS OF LOCAL GOVERNMENT IN AREA.—

(i) IN GENERAL.—In a case in which a local area includes more than 1 unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials—

(I) in the appointment of the members of the local partnership from the individuals nominated or recommended to be such members in accordance with the criteria established under subsection (c); and

(II) in carrying out any other responsibilities assigned to such officials under this subtitle.

(ii) LACK OF AGREEMENT.—If, after a reasonable effort, the chief elected officials are unable

to reach agreement as provided under clause (i), the Governor may appoint the members of the local partnership from individuals so nominated or recommended.

(2) CERTIFICATION.—

(A) IN GENERAL.—The Governor shall annually certify 1 local partnership for each local area in the State.

(B) CRITERIA.—Such certification shall be based on criteria established under subsection (c) and, for a second or subsequent certification, the extent to which the local partnership has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures required under section 321(c).

(C) FAILURE TO ACHIEVE CERTIFICATION.—Failure of a local partnership to achieve certification shall result in reappointment and certification of another local partnership for the local area pursuant to the process described in paragraph (1) and this paragraph.

(3) DECERTIFICATION.—

(A) IN GENERAL.—Notwithstanding paragraph (2), the Governor may decertify a local partnership, at any time after providing notice and an opportunity for comment, for—

(i) fraud or abuse; or

(ii) failure to carry out the functions specified for the local partnership in paragraphs (1) through (5) of subsection (e).

(B) PLAN.—If the Governor decertifies a local partnership for a local area, the Governor may require that a local partnership be appointed and certified for the local area pursuant to a plan developed by the Governor in consultation with the chief elected official in the local area and in accordance with the criteria established under subsection (c).

(4) EXCEPTION.—Notwithstanding subsection (c) and paragraphs (1) and (2), if a State described in section 307(b) designates the State as a local area in the State plan, the Governor may designate the statewide partnership described in section 303 to carry out any of the functions described in subsection (e).

(e) FUNCTIONS OF LOCAL PARTNERSHIP.—The functions of the local partnership shall include—

(1) developing and submitting a local plan as described in section 309 in partnership with the appropriate chief elected official;

(2) appointing, certifying, or designating one-stop partners and one-stop customer service center operators, pursuant to the criteria specified in the local plan;

(3) conducting oversight with respect to the one-stop customer service system;

(4) modifying the list of eligible providers of training services pursuant to subsections (b)(3)(B) and (c)(2)(B) of section 312;

(5) setting local performance measures pursuant to section 312(b)(2)(D)(ii);

(6) analyzing and identifying—

(A) current and projected local employment opportunities; and

(B) the skills necessary to obtain such local employment opportunities;

(7) coordinating the workforce investment activities carried out in the local area with economic development strategies and developing other employer linkages with such activities; and

(8) assisting the Governor in developing the statewide labor market information system described in section 15(e) of the Wagner-Peyser Act.

(f) SUNSHINE PROVISION.—The local partnership shall make available to the public, on a regular basis through open meetings, information regarding the activities of the local partnership, including information regarding membership, the appointment of one-stop partners, the designation and certification of one-stop customer service center operators, and the award of grants to eligible providers of youth activities.

(g) OTHER ACTIVITIES OF LOCAL PARTNERSHIP.—

(1) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no local partnership may directly carry out or enter into a contract for a training service described in section 315(c)(3).

(B) WAIVERS.—The Governor of the State in which the local partnership is located may grant to the local partnership a written waiver of the prohibition set forth in subparagraph (A), if the local partnership provides substantial evidence that a private or public entity is not available to provide the training service and that the activity is necessary to provide an employment opportunity described in the local plan described in section 309.

(2) CONFLICT OF INTEREST.—No member of a local partnership may—

(A) vote on a matter under consideration by the local partnership—

(i) regarding the provision of services by such member (or by an organization that such member represents); or

(ii) that would provide direct financial benefit to such member or the immediate family of such member; or

(B) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

(h) TECHNICAL ASSISTANCE.—If a local area fails to meet established State or local performance measures, the Governor shall provide technical assistance to the local partnership involved to improve the performance of the local area.

(i) YOUTH PARTNERSHIP.—

(1) ESTABLISHMENT.—There shall be established in each local area of a State, a youth partnership appointed by the local partnership, in cooperation with the chief elected official, in the local area.

(2) MEMBERSHIP.—The membership of each youth partnership—

(A) shall include—

(i) 1 or more members of the local partnership;

(ii) representatives of youth service agencies, including juvenile justice agencies;

(iii) representatives of local public housing authorities;

(iv) parents of youth seeking assistance under this subtitle;

(v) individuals, including former participants, and representatives of organizations, that have experience relating to youth activities; and

(vi) representatives of the Job Corps, as appropriate; and

(B) may include such other individuals as the chairperson of the local partnership, in cooperation with the chief elected official, determines to be appropriate.

(3) DUTIES.—The duties of the youth partnership include—

(A) the development of the portions of the local plan relating to youth, as determined by the chairperson of the local partnership;

(B) awarding grants to, and conducting oversight with respect to, eligible providers of youth activities, as described in section 313, in the local area;

(C) coordinating youth activities in the local area; and

(D) other duties determined to be appropriate by the chairperson of the local partnership.

SEC. 309. LOCAL PLAN.

(a) IN GENERAL.—Each local partnership shall develop and submit to the Governor a comprehensive 3-year local plan (referred to in this title as the "local plan"), in partnership with the appropriate chief elected official. The local plan shall be consistent with the State plan.

(b) CONTENTS.—The local plan shall include—

(1) an identification of the needs of the local area with regard to current and projected employment opportunities;

(2) an identification of the job skills necessary to obtain such employment opportunities;

(3) a description of the activities to be used under this subtitle to link local employers and local jobseekers;

(4) an identification and assessment of the type and availability of adult and dislocated worker employment and training activities in the local area;

(5) an identification of successful eligible providers of youth activities in the local area;

(6) a description of the measures that will be taken by the local area to assure coordination of and avoid duplication among the programs and activities described in section 304(b)(8);

(7) a description of the manner in which the local partnership will coordinate activities carried out under this subtitle in the local area with such activities carried out in neighboring local areas;

(8) a description of the competitive process to be used to award grants in the local area for activities carried out under this subtitle;

(9) information describing local performance measures for the local area that are based on the performance measures in the State plan;

(10) in accordance with the State plan, a description of the criteria that the chief elected official in the local area and the local partnership will use to appoint, designate, or certify, and to conduct oversight with respect to, one-stop customer service center systems in the local area; and

(11) such other information as the Governor may require.

(c) PLAN SUBMISSION AND APPROVAL.—A local plan submitted to the Governor under this section shall be considered to be approved by the Governor at the end of the 60-day period beginning on the day the Governor receives the plan, unless the Governor makes a written determination during the 60-day period that—

(1) entities conducting evaluations conducted under section 321(e) in the local area have found deficiencies in activities carried out under this subtitle and the local area has not made acceptable progress in implementing corrective measures to address the deficiencies; or

(2) the plan does not comply with this title.

(d) LACK OF AGREEMENT.—If the local partnership and the appropriate chief elected official in the local area cannot agree on the local plan after making a reasonable effort, the Governor may develop the local plan.

CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES AND PROVIDERS

SEC. 311. IDENTIFICATION AND OVERSIGHT OF ONE-STOP PARTNERS AND ONE-STOP CUSTOMER SERVICE CENTER OPERATORS.

(a) IN GENERAL.—Consistent with the State plan, the chief elected official and the local partnership shall develop and implement operating agreements described in subsection (c) to appoint one-stop partners, shall designate or certify one-stop customer service center operators, and shall conduct oversight with respect to the one-stop customer service system, in the local area.

(b) ONE-STOP PARTNERS.—

(1) DESIGNATED PARTNERS.—

(A) IN GENERAL.—Each entity that carries out a program, services, or activities described in subparagraph (B) shall make available to participants, through a one-stop customer service center, the services described in section 315(c)(2) that are applicable to such program, and shall participate in the operation of such center as a party to the agreement described in subsection (c).

(B) PROGRAMS; SERVICES; ACTIVITIES.—The programs, services, and activities referred to in subparagraph (A) consist of—

(i) core services authorized under this subtitle;

(ii) other activities authorized under this title;

(iii) activities authorized under title I and title II;

(iv) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(v) programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 729 et seq.);

(vi) programs authorized under section 403(a)(5) of the Social Security Act (42 U.S.C. 603(a)(5)) (as added by section 5001 of the Balanced Budget Act of 1997);

(vii) programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(viii) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(ix) activities authorized under chapter 41 of title 38, United States Code;

(x) activities carried out by the Bureau of Apprenticeship and Training;

(xi) training activities carried out by the Department of Housing and Urban Development; and

(xii) programs authorized under State unemployment compensation laws and the Federal unemployment insurance program under titles III, IX, and XII of the Social Security Act (42 U.S.C. 501 et seq., 1101 et seq., and 1321 et seq.).

(2) ADDITIONAL PARTNERS.—

(A) IN GENERAL.—In addition to the entities described in paragraph (1), other entities that carry out human resource programs may make available to participants through a one-stop customer service center the services described in section 315(c)(2) that are applicable to such program, and participate in the operation of such centers as a party to the agreement described in subsection (c), if the local partnership and chief elected official involved approve such participation.

(B) PROGRAMS.—The programs referred to in subparagraph (A) include—

(i) programs authorized under part A of title IV of the Social Security Act;

(ii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

(iii) work programs authorized under section 6(o) of the Food Stamp Act of 1997 (7 U.S.C. 2015 (o)); and

(iv) other appropriate Federal, State, or local programs, including programs in the private sector.

(c) OPERATING AGREEMENTS.—

(1) IN GENERAL.—The one-stop customer service center operator selected pursuant to subsection (d) for a one-stop customer service center shall enter into a written agreement with the local partnership and one-stop partners described in subsection (b) concerning the operation of the center. Such agreement shall be subject to the approval of the chief elected official and the local partnership.

(2) CONTENTS.—The written agreement required under paragraph (1) shall contain—

(A) provisions describing—

(i) the services to be provided through the center;

(ii) how the costs of such services and the operating costs of the system will be funded,

(iii) methods for referral of individuals between the one-stop customer service center operators and the one-stop partners, for the appropriate services and activities;

(iv) the monitoring and oversight of activities carried out under the agreement; and

(v) the duration of the agreement and the procedures for amending the agreement during the term of the agreement; and

(B) such other provisions, consistent with the requirements of this title, as the parties to the agreement determine to be appropriate.

(d) ONE-STOP CUSTOMER SERVICE CENTER OPERATORS.—

(1) IN GENERAL.—To be eligible to receive funds made available under this subtitle to operate a one-stop customer service center, an entity shall—

(A) be designated or certified as a one-stop customer service center operator, as described in subsection (a); and

(B) be a public or private entity, or consortium of entities, of demonstrated effectiveness located in the local area, which entity or consortium may include an institution of higher education (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), a local employment service office established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), a local government agency, a private for-profit entity, a private nonprofit entity, or other interested entity, of demonstrated effectiveness.

(2) EXCEPTION.—Elementary schools and secondary schools shall not be eligible for designation or certification as one-stop customer service center operators, except that nontraditional secondary schools and area vocational education schools shall be eligible for such designation or certification.

(e) ESTABLISHED ONE-STOP CUSTOMER SERVICE SYSTEMS.—For a local area in which a one-stop customer service system has been established prior to the date of enactment of this Act, the local partnership, the chief elected official, and the Governor may agree to appoint, designate, or certify the one-stop partners and one-stop customer service center operators of such system, for purposes of this section.

(f) OVERSIGHT.—The local partnership shall conduct oversight with respect to the one-stop customer service center system and may terminate for cause the eligibility of such a partner or operator to provide activities through or operate a one-stop customer service center.

SEC. 312. DETERMINATION AND IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES BY PROGRAM.

(a) GENERAL ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsection (e), to be eligible to receive funds made available under section 306 to provide training services described in section 315(c)(3) (referred to in this title as "training services") and be identified as an eligible provider of such services, a provider of such services shall meet the requirements of this section.

(2) PROVIDERS.—To be eligible to receive the funds, the provider shall be—

(A) a postsecondary educational institution that—

(i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

(ii) provides a program that leads to an associate degree, baccalaureate degree, or certificate; or

(B) another public or private provider of a program.

(b) INITIAL DETERMINATION AND IDENTIFICATION.—

(1) POSTSECONDARY EDUCATIONAL INSTITUTIONS.—To be eligible to receive funds as described in subsection (a), an institution described in subsection (a)(2)(A) shall submit an application at such time, in such manner, and containing such information as the designated State agency described in subsection (f) may require, after consultation with the local partnerships in the State. On submission of the application, the institution shall automatically be initially eligible to receive such funds for the program described in subsection (a)(2)(A).

(2) OTHER PROVIDERS.—

(A) PROCEDURE.—The Governor, in consultation with the local partnerships in the State, shall establish a procedure for determining the initial eligibility of providers described in subsection (a)(2)(B) to receive such funds for specified programs. The procedure shall require a provider of a program to meet minimum acceptable levels of performance based on—

(i) performance criteria relating to the rates, percentages, increases, and costs described in subparagraph (C) for the program, as demonstrated using verifiable program-specific performance information described in subparagraph (C) and submitted to the designated State agency, as required under subparagraph (C); and

(ii) performance criteria relating to any characteristics for which local partnerships request the submission of information under subparagraph (D) for the program, as demonstrated using the information submitted.

(B) MINIMUM LEVELS.—The Governor shall—

(i) consider, in determining such minimum levels—

(I) criteria relating to the economic, geographic, and demographic factors in the local areas in which the provider provides the program; and

(II) the characteristics of the population served by such provider through the program; and

(ii) verify the minimum levels of performance by using quarterly records described in section 321.

(C) APPLICATION.—To be initially eligible to receive funds as described in subsection (a), a provider described in subsection (a)(2)(B) shall submit an application at such time, in such manner, and containing such information as the designated State agency may require, including performance information on—

(i) program completion rates for participants in the applicable program conducted by the provider;

(ii) the percentage of the graduates of the program placed in unsubsidized employment in an occupation related to the program conducted;

(iii) retention rates of the graduates in unsubsidized employment—

(I) 6 months after completion of the program; and

(II) 12 months after completion of the program;

(iv) the wages received by the graduates placed in unsubsidized employment after the completion of participation in the program—

(I) on the first day of the employment;

(II) 6 months after the first day of the employment; and

(III) 12 months after the first day of the employment;

(v) where appropriate, the rates of licensure or certification of the graduates, attainment of academic degrees or equivalents, or attainment of other measures of skill; and

(vi) program cost per participant in the program.

(D) ADDITIONAL INFORMATION.—

(i) IN GENERAL.—In addition to the performance information described in subparagraph (C), the local partnerships in the State involved may require that a provider submit, to the local partnerships and to the designated State agency, other performance information relating to the program to be initially identified as an eligible provider of training services, including information regarding the ability of the provider to provide continued counseling and support regarding the workplace to the graduates, for not less than 12 months after the graduation involved.

(ii) HIGHER LEVELS OF PERFORMANCE ELIGIBILITY.—The local partnership may require higher levels of performance than the minimum levels established under subparagraph (A)(i) for initial eligibility to receive funds as described in subsection (a).

(3) LIST OF ELIGIBLE PROVIDERS BY PROGRAM.—

(A) IN GENERAL.—The designated State agency, after reviewing the performance information described in paragraph (2)(C) and any information required to be submitted under paragraph (2)(D) and using the procedure described in paragraph (2)(B), shall—

(i) identify eligible providers of training services described in subparagraphs (A) and (B) of subsection (a)(2), including identifying the programs of the providers through which the providers may offer the training services; and

(ii) compile a list of the eligible providers, and the programs, accompanied by the performance information described in paragraph (2)(C) and any information required to be submitted under paragraph (2)(D) for each such provider described in subsection (a)(2)(B).

(B) LOCAL MODIFICATION.—The local partnership may modify such list by reducing the number of eligible providers listed, to ensure that the eligible providers carry out programs that provide skills that enable participants to obtain local employment opportunities.

(c) SUBSEQUENT ELIGIBILITY.—

(1) INFORMATION AND CRITERIA.—To be eligible to continue to receive funds as described in subsection (a) for a program, a provider shall—

(A) submit the performance information described in subsection (b)(2)(C) and any information required to be submitted under subsection (b)(2)(D) annually to the designated State agency at such time and in such manner as the designated State agency may require for the program;

(B) annually meet the performance criteria described in subclause (I) and (if applicable) subclause (II) of subsection (b)(2)(B)(i) for the program; and

(C) annually meet local performance measures, as demonstrated utilizing quarterly records described in section 321, for the program.

(2) LIST OF ELIGIBLE PROVIDERS BY PROGRAM.—

(A) IN GENERAL.—The designated State agency, after reviewing the performance information and any other information submitted under paragraph (1) and using the procedure described in subsection (b)(2)(A), shall identify eligible providers and programs, and compile a list of the providers and programs, as described in subsection (b)(3), accompanied by the performance information and other information for each such provider.

(B) LOCAL MODIFICATION.—The local partnership may modify such list by reducing the number of eligible providers listed, to ensure that the eligible providers carry out programs that provide skills that enable participants to obtain local employment opportunities.

(3) AVAILABILITY.—Such list and information shall be made widely available to participants in employment and training activities funded under this subtitle, and to others, through the one-stop customer service system described in section 315(b).

(d) ENFORCEMENT.—

(1) ACCURACY OF INFORMATION.—If the designated State agency, after consultation with the local partnership involved, determines that a provider or individual supplying information on behalf of a provider intentionally supplies inaccurate information under this section, the agency shall terminate the eligibility of the provider to receive funds described in subsection (a) for a period of time, but not less than 2 years.

(2) COMPLIANCE WITH CRITERIA OR REQUIREMENTS.—If the designated State agency, after consultation with the local partnership, determines that an eligible provider or a program of training services carried out by an eligible provider fails to meet the required performance criteria and performance measures described in subparagraphs (B) and (C) of subsection (c)(1), or materially violates any provision of this title, including the regulations promulgated to implement this title, the agency may terminate the eligibility of the provider to receive funds described in subsection (a) for such program or take such other action as the agency determines to be appropriate.

(3) REPAYMENT.—Any provider whose eligibility is terminated under paragraph (1) or (2) for a program shall be liable for repayment of funds described in subsection (a) received for the program during any period of noncompliance described in such paragraph.

(4) APPEAL.—The Governor shall establish a procedure for an eligible provider to appeal a determination by the designated State agency that results in termination of eligibility under this subsection. Such procedure shall provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

(e) ON-THE-JOB TRAINING EXCEPTION.—

(1) IN GENERAL.—Providers of on-the-job training shall not be subject to the requirements of subsections (a) through (d).

(2) COLLECTION AND DISSEMINATION OF INFORMATION.—A one-stop customer service center operator in a local area shall collect such performance information from on-the-job training providers as the Governor may require, and disseminate such information through the one-stop customer service system.

(f) ADMINISTRATION.—The Governor shall designate a State agency to collect and disseminate the performance information described in subsection (b)(2)(C) and any information required to be submitted under subsection (b)(2)(D) and carry out other duties described in this section.

SEC. 313. IDENTIFICATION OF ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

The youth partnership is authorized to award grants on a competitive basis, based on the criteria contained in the State plan and local plan, to providers of youth activities, and conduct oversight with respect to such providers, in the local area.

SEC. 314. STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.

(a) IN GENERAL.—Funds reserved by a Governor for a State—

(1) under section 306(a)(2) shall be used to carry out the statewide rapid response activities described in subsection (b)(1); and

(2) under section 306(a)(1)—

(A) shall be used to carry out the statewide workforce investment activities described in subsection (b)(2); and

(B) may be used to carry out any of the statewide workforce investment activities described in subsection (c),

regardless of whether the funds were allotted to the State under paragraph (1), (2), or (3) of section 302(b).

(b) REQUIRED STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—

(1) STATEWIDE RAPID RESPONSE ACTIVITIES.—A State shall use funds reserved under section 306(a)(2) to carry out statewide rapid response activities, which shall include—

(A) provision of rapid response activities, carried out in local areas by the State, working in conjunction with the local partnership and the chief elected official in the local area; and

(B) provision of additional assistance to local areas that experience disasters, mass layoffs or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in the local areas by the State, working in conjunction with the local partnership and the chief elected official in the local areas.

(2) OTHER REQUIRED STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—A State shall use funds reserved under section 306(a)(1) to carry out other statewide workforce investment activities, which shall include—

(A) disseminating the list of eligible providers of training services, including eligible providers of nontraditional training services, and the performance information as described in subsections (b) and (c) of section 312, and a list of eligible providers of youth activities described in section 313;

(B) conducting evaluations, under section 321(e), of activities authorized in this section, section 315, and section 316, in coordination with the activities carried out under section 368;

(C) providing incentive grants to local areas for regional cooperation among local partnerships, for local coordination and nonduplication of activities carried out under this Act, and for comparative performance by local areas on the local performance measures described in section 321(c);

(D) providing technical assistance to local areas that fail to meet local performance measures;

(E) assisting in the establishment and operation of a one-stop customer service system; and

(F) operating a fiscal and management accountability information system under section 321(f).

(c) ALLOWABLE STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—

(1) IN GENERAL.—A State may use funds reserved under section 306(a)(1) to carry out additional statewide workforce investment activities, which may include—

(A) subject to paragraph (2), administration by the State of the workforce investment activities carried out under this subtitle;

(B) identification and implementation of incumbent worker training programs, which may include the establishment and implementation of an employer loan program;

(C) carrying out other activities authorized in section 315 that the State determines to be necessary to assist local areas in carrying out activities described in subsection (c) or (d) of section 315 through the statewide workforce investment system; and

(D) carrying out, on a statewide basis, activities described in section 316.

(2) LIMITATION.—

(A) IN GENERAL.—Of the funds allotted to a State under section 302(b) and reserved under section 306(a)(1) for a fiscal year—

(i) not more than 5 percent of the amount allotted under section 302(b)(1);

(ii) not more than 5 percent of the amount allotted under section 302(b)(2); and

(iii) not more than 5 percent of the amount allotted under section 302(b)(3),

may be used by the State for the administration of statewide workforce investment activities carried out under this section.

(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative cost of any of the statewide workforce investment activities, regardless of whether the funds were allotted to the State under paragraph (1), (2), or (3) of section 302(b).

SEC. 315. LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.

(a) IN GENERAL.—Funds received by a local area under paragraph (3)(A) or (4)(A), as appropriate, of section 306(b), and funds received by the local area under section 306(b)(3)(B)—

(1) shall be used to carry out employment and training activities described in subsection (c) for adults or dislocated workers, as appropriate; and

(2) may be used to carry out employment and training activities described in subsection (d) for adults or dislocated workers, as appropriate.

(b) ESTABLISHMENT OF ONE-STOP CUSTOMER SERVICE SYSTEM.—

(1) IN GENERAL.—There shall be established in a State that receives an allotment under section 302 a one-stop customer service system, which—

(A) shall provide the core services described in subsection (c)(2);

(B) shall provide access to training services as described in subsection (c)(3);

(C) shall provide access to the activities (if any) carried out under subsection (d); and

(D) shall provide access to the information described in section 15 of the Wagner-Peyser Act and all job search, placement, recruitment, and other labor exchange services authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(2) ONE-STOP DELIVERY.—At a minimum, the one-stop customer service system—

(A) shall make each of the services described in paragraph (1) accessible at not less than 1 physical customer service center in each local area of the State; and

(B) may also make services described in paragraph (1) available—

(i) through a network of customer service centers that can provide 1 or more of the services described in paragraph (1) to such individuals; and

(ii) through a network of eligible one-stop partners—

(I) in which each partner provides 1 or more of the services to such individuals and is accessible at a customer service center that consists of a physical location or an electronically or technologically linked access point; and

(II) that assures individuals that information on the availability of core services will be available regardless of where the individuals initially enter the statewide workforce investment system, including information made available through an access point described in subclause (I).

(c) REQUIRED LOCAL ACTIVITIES.—

(1) IN GENERAL.—Funds received by a local area under paragraph (3)(A) or (4)(A), as appropriate, of section 306(b), and funds received by the local area under section 306(b)(3)(B), shall be used—

(A) to establish a one-stop customer service center described in subsection (b);

(B) to provide the core services described in paragraph (2) to participants described in such paragraph through the one-stop customer service system; and

(C) to provide training services described in paragraph (3) to participants described in such paragraph.

(2) CORE SERVICES.—Funds received by a local area as described in paragraph (1) shall be used to provide core services, which shall be available to all individuals seeking assistance through a one-stop customer service system and shall, at a minimum, include—

(A) determinations of whether the individuals are eligible to receive activities under this subtitle;

(B) outreach, intake (which may include worker profiling), and orientation to the information and other services available through the one-stop customer service system;

(C) initial assessment of skill levels, aptitudes, abilities, and supportive service needs;

(D) case management assistance, as appropriate;

(E) job search and placement assistance;

(F) provision of information regarding—

(i) local, State, and, if appropriate, regional or national, employment opportunities; and

(ii) job skills necessary to obtain the employment opportunities;

(G) provision of performance information on eligible providers of training services as described in section 312, provided by program, and eligible providers of youth activities as described in section 313, eligible providers of adult education as described in title II, eligible providers of postsecondary vocational education activities and vocational education activities available to school dropouts as described in title I, and eligible providers of vocational rehabilitation program activities as described in title I of the Rehabilitation Act of 1973;

(H) provision of performance information on the activities carried out by one-stop partners, as appropriate;

(I) provision of information regarding how the local area is performing on the local performance measures described in section 321(c), and any additional performance information provided to the one-stop customer service center by the local partnership;

(J) provision of accurate information relating to the availability of supportive services, including child care and transportation, available in the local area, and referral to such services, as appropriate;

(K) provision of information regarding filing claims for unemployment compensation;

(L) assistance in establishing eligibility for—

(i) welfare-to-work activities authorized under section 403(a)(5) of the Social Security Act (as added by section 5001 of the Balanced Budget Act of 1997) available in the local area; and

(ii) programs of financial aid assistance for training and education programs that are not funded under this Act and are available in the local area; and

(M) followup services, including counseling regarding the workplace, for participants in workforce investment activities who are placed in unsubsidized employment, for not less than 12 months after the completion of such participation, as appropriate.

(3) REQUIRED TRAINING SERVICES.—

(A) ELIGIBLE PARTICIPANTS.—Funds received by a local area as described in paragraph (1) shall be used to provide training services to individuals—

(i) who are adults (including dislocated workers);

(ii) who seek the services;

(iii)(I) who are unable to obtain employment through the core services; or

(II) who are employed and who are determined by a one-stop customer service center operator to be in need of such training services in order to gain or retain employment that allows for self-sufficiency;

(iv) who after an interview, evaluation, or assessment, and case management, have been determined by a one-stop customer service center operator or one-stop partner, as appropriate, to be in need of training services and to have the skills and qualifications, to successfully participate in the selected program of training services;

(v) who select programs of training services that are directly linked to the employment opportunities in the local area involved or in another area in which the adults receiving such services are willing to relocate;

(vi) who meet the requirements of subparagraph (B); and

(vii) who are determined to be eligible in accordance with the priority system, if any, in effect under subparagraph (D).

(B) QUALIFICATION.—

(i) REQUIREMENT.—Except as provided in clause (ii), provision of such training services shall be limited to individuals who—

(I) are unable to obtain other grant assistance for such services, including Federal Pell Grants established under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); or

(II) require assistance beyond the assistance made available under other grant assistance programs, including Federal Pell Grants.

(ii) REIMBURSEMENTS.—Training services may be provided under this paragraph to an individual who otherwise meets the requirements of this paragraph while an application for a Federal Pell Grant is pending, except that if such individual is subsequently awarded a Federal Pell Grant, appropriate reimbursement shall be made to the local area from such Federal Pell Grant.

(C) TRAINING SERVICES.—Training services may include—

(i) employment skill training;

(ii) on-the-job training;

(iii) job readiness training; and

(iv) adult education services when provided in combination with services described in clause (i), (ii), or (iii).

(D) PRIORITY.—In the event that funds are limited within a local area for adult employment and training activities, priority shall be given to disadvantaged adults for receipt of training services provided under this paragraph. The appropriate local partnership and the Governor shall direct the one-stop customer service center operator in the local area with regard to making determinations related to such priority.

(E) DELIVERY OF SERVICES.—Training services provided under this paragraph shall be provided—

(i) except as provided in section 312(e), through eligible providers of such services identified in accordance with section 312; and

(ii) in accordance with subparagraph (F).

(F) CONSUMER CHOICE REQUIREMENTS.—

(i) IN GENERAL.—Training services provided under this paragraph shall be provided in a manner that maximizes consumer choice in the selection of an eligible provider of such services.

(ii) ELIGIBLE PROVIDERS.—Each local partnership, through one-stop customer service centers, shall make available—

(I) the list of eligible providers required under subsection (b)(3) or (c)(2) of section 312, with a description of the programs through which the providers may offer the training services, and a list of the names of on-the-job training providers; and

(II) the performance information on eligible providers of training services as described in section 312.

(iii) EMPLOYMENT INFORMATION.—Each local partnership, through one-stop customer service centers, shall make available—

(I) information regarding local, State, and, if appropriate, regional or national, employment opportunities; and

(II) information regarding the job skills necessary to obtain the employment opportunities.

(iv) INDIVIDUAL TRAINING ACCOUNTS.—An individual who is eligible pursuant to subparagraph (A) and seeks training services may select, in consultation with a case manager, an eligible provider of training services from the lists of providers described in clause (ii)(I). Upon such selection, the operator of the one-stop customer service center shall, to the extent practicable, refer such individual to the eligible provider of training services, and arrange for payment for such services through an individual training account.

(d) PERMISSIBLE LOCAL ACTIVITIES.—

(1) DISCRETIONARY ONE-STOP DELIVERY ACTIVITIES.—Funds received by a local area under paragraph (3)(A) or (4)(A), as appropriate, of section 306(b), and funds received by the local area under section 306(b)(3)(B) may be used to provide, through one-stop delivery described in subsection (b)(2)—

(A) intensive employment-related services for participants in training services;

(B) customized screening and referral of qualified participants in training services to employment; and

(C) customized employment-related services to employers.

(2) SUPPORTIVE SERVICES.—Funds received by the local area as described in paragraph (1) may be used to provide supportive services to participants—

(A) who are participating in activities described in this section; and

(B) who are unable to obtain such supportive services through other programs providing such services.

(3) NEEDS-RELATED PAYMENTS.—

(A) IN GENERAL.—Funds received by the local area under section 306(b)(3)(B) may be used to provide needs-related payments to dislocated workers who do not qualify for, or have exhausted, unemployment compensation, for the purpose of enabling such individuals to participate in training services.

(B) ADDITIONAL ELIGIBILITY REQUIREMENTS.—In addition to the requirements contained in subparagraph (A), a dislocated worker who has ceased to qualify for unemployment compensation may be eligible to receive needs-related payments under this paragraph only if such worker was enrolled in the training services—

(i) by the end of the 13th week of the worker's unemployment compensation benefits period for the most recent layoff that resulted in a determination of the worker's eligibility for employment and training activities for dislocated workers under this subtitle; or

(ii) if later, by the end of the 13th week after the worker is informed that a short-term layoff will exceed 6 months.

(C) LEVEL OF PAYMENTS.—The level of a needs-related payment made to a dislocated worker under this paragraph shall not exceed the greater of—

(i) the applicable level of unemployment compensation; or

(ii) if such worker did not qualify for unemployment compensation, an amount equal to the poverty line, for an equivalent period, which amount shall be adjusted to reflect changes in total family income.

SEC. 316. LOCAL YOUTH ACTIVITIES.

(a) PURPOSES.—The purposes of this section are—

(1) to provide effective and comprehensive activities to youth seeking assistance in achieving academic and employment success;

(2) to ensure continuous contact for youth with committed adults;

(3) to provide opportunities for training to youth;

(4) to provide continued support services for youth;

(5) to provide incentives for recognition and achievement to youth; and

(6) to provide opportunities for youth in activities related to leadership, development, decisionmaking, citizenship, and community service.

(b) REQUIRED ELEMENTS.—Funds received by a local area under paragraph (3)(C) or (4)(B) of section 306(b) shall be used to carry out, for youth who seek the activities, activities that—

(1) consist of the provision of—

(A) tutoring, study skills training, and instruction, leading to completion of secondary school, including dropout prevention strategies;

(B) alternative secondary school services;

(C) summer employment opportunities and other paid and unpaid work experiences, including internships;

(D) employment skill training, as appropriate;

(E) community service and leadership development opportunities;

(F) services described in section 315(c)(2);

(G) supportive services;

(H) adult mentoring for the period of participation and a subsequent period, for a total of not less than 12 months; and

(I) followup services for not less than 12 months after the completion of participation, as appropriate;

(2) provide—

(A) preparation for postsecondary educational opportunities, in appropriate cases;

(B) strong linkages between academic and occupational learning; and

(C) preparation for unsubsidized employment opportunities, in appropriate cases; and

(3) involve parents, participants, and other members of the community with experience relating to youth in the design and implementation of the activities.

(c) PRIORITY.—At a minimum, 50 percent of the funds described in subsection (b) shall be used to provide youth activities to out-of-school youth.

(d) PROHIBITIONS.—

(1) NO LOCAL EDUCATION CURRICULUM.—No funds described in subsection (b) shall be used to develop or implement local school system education curricula.

(2) NONDUPLICATION.—No funds described in subsection (b) shall be used to carry out activities that duplicate federally funded activities available to youth in the local area.

(3) NONINTERFERENCE AND NONREPLACEMENT OF REGULAR ACADEMIC REQUIREMENTS.—No funds described in subsection (b) shall be used to provide an activity for youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth.

CHAPTER 4—GENERAL PROVISIONS

SEC. 321. ACCOUNTABILITY.

(a) PURPOSE.—The purpose of this section is to provide comprehensive performance measures to assess the progress of States and local areas (including eligible providers and programs of activities authorized under this subtitle that are made available in the States and local areas), in assisting both employers and jobseekers in meeting their employment needs, in order to ensure an adequate return on the investment of Federal funds for the activities.

(b) STATE PERFORMANCE MEASURES.—

(1) IN GENERAL.—To be eligible to receive an allotment under section 302, a State shall establish, and identify in the State plan, State performance measures. Each State performance measure shall consist of an indicator of performance, referred to in paragraph (2) or (3), and a performance level, referred to in paragraph (4).

(2) CORE INDICATORS OF PERFORMANCE.—The State performance measures shall contain indicators of performance, including, at a minimum—

(A) core indicators of performance for adults, including dislocated workers, participating in activities that are training services, which indicators consist of—

(i) placement in unsubsidized employment related to the training received through the activities;

(ii) retention in unsubsidized employment related to the training received through the activities—

(I) 6 months after completion of participation in the activities; and

(II) 12 months after completion of participation;

(iii) wages received by such participants who are placed in unsubsidized employment related to the training received through the activities after completion of participation—

(I) on the first day of the employment;

(II) 6 months after the first day of the employment; and

(III) 12 months after the first day of the employment; and

(iv) percentage of wage replacement for dislocated workers placed in unsubsidized employment related to the training received through the activities;

(B) core indicators of performance for adults, including dislocated workers, participating in activities that are core services, which indicators consist of the indicators described in clauses (i) through (iv) of subparagraph (A); and

(C) core indicators of performance for youth participating in youth activities under section 316, that consist of—

(i) attainment of secondary school diplomas or their recognized equivalents;

(ii) attainment of job readiness and employment skills;

(iii) placement in, retention in, and completion of postsecondary education, advanced training, or an apprenticeship;

(iv) placement in unsubsidized employment related to the training received through the activities;

(v) retention in unsubsidized employment related to the training received through the activities—

(I) 6 months after completion of participation in the activities; and

(II) 12 months after completion of participation; and

(vi) wages received by such participants who are placed in unsubsidized employment related to the training received through the activities, after completion of participation—

(I) on the first day of the employment;

(II) 6 months after the first day of the employment; and

(III) 12 months after the first day of the employment.

(3) CUSTOMER SATISFACTION INDICATOR.—The State performance measures shall contain an indicator of performance with respect to customer satisfaction of employers and participants, which may be measured through surveys conducted after the conclusion of participation in workforce investment activities.

(4) STATE LEVELS OF PERFORMANCE.—In order to ensure an adequate return on the investment of Federal funds in workforce investment activities, the Secretary and each Governor shall reach agreement on the levels of performance expected to be achieved by the State, on the State performance measures established pursuant to this subsection. In reaching the agreement, the Secretary and Governor shall establish a level of performance for each indicator of performance described in paragraph (2) or (3). Such agreement shall take into account—

(A) how the levels compare with the levels established by other States, taking into consideration the specific circumstances, including economic circumstances, of each State; and

(B) the extent to which such levels promote continuous improvement in performance by such State and ensure an adequate return on the investment of Federal funds.

(5) POPULATIONS.—In developing the State performance measures, a State shall develop and identify in the State plan State performance measures for populations that include, at a minimum—

(A) disadvantaged adults;

(B) dislocated workers;

(C) out-of-school youth; and

(D) individuals with disabilities.

(c) LOCAL PERFORMANCE MEASURES.—

(1) IN GENERAL.—Each Governor shall negotiate and reach agreement with the local partnership and the chief elected official in each local area on local performance measures. Each local performance measure shall consist of an indicator of performance referred to in paragraph (2) or (3) of subsection (b), and a performance level referred to in paragraph (2).

(2) PERFORMANCE LEVELS.—Based on the expected levels of performance established pursuant to subsection (b)(4), the Governor shall negotiate and reach agreement with the local partnership and the chief elected official in each local area regarding the levels of performance expected to be achieved for the local area on the indicators of performance.

(3) POPULATIONS.—In negotiating and reaching agreement on the local performance measures, the Governor, local partnership, and chief elected official, shall negotiate and reach agreement on local performance measures for populations that include, at a minimum, the populations described in subsection (b)(5). The local

partnership shall identify these local performance measures in the local plan.

(d) REPORT.—

(1) IN GENERAL.—Each State that receives an allotment under section 302 shall annually prepare and submit to the Secretary a report on the progress of the State in achieving State performance measures. The annual report shall also include information regarding the progress of local areas in achieving local performance measures. The report shall also include information on the status of State evaluations of workforce investment activities described in subsection (e).

(2) ADDITIONAL INFORMATION.—In preparing such report, the State shall include, at a minimum, information relating to—

(A) the performance of graduates of programs of training services as compared to former enrollees in the programs, with respect to the core indicators described in subsection (b)(2)(A);

(B) the educational attainment of such graduates and former enrollees;

(C) the cost of the workforce investment activities relative to the impact of the activities on the performance of graduates on the core indicators; and

(D) the performance of welfare recipients, veterans, individuals with disabilities, and displaced homemakers with respect to the core indicators described in subparagraphs (A) and (B) of subsection (b)(2).

(3) INFORMATION DISSEMINATION.—The Secretary shall make the information contained in such reports available to Congress, the Library of Congress, and the public through publication and other appropriate methods, and shall disseminate State-by-State comparisons of the information that take into consideration the specific circumstances, including economic circumstances, of the States.

(4) DEFINITION.—In this subsection, the term "welfare recipient" means a person receiving payments described in section 2(24)(A).

(e) EVALUATION OF STATE PROGRAMS.—

(1) WORKFORCE INVESTMENT ACTIVITIES.—Using funds reserved under section 306(a)(1), a State shall conduct ongoing evaluations of workforce investment activities carried out in the State under this subtitle.

(2) CRITERIA FOR LONGITUDINAL STUDIES.—The evaluations shall include longitudinal studies of the workforce investment activities. Evaluation criteria for purposes of the longitudinal studies shall be developed in conjunction with statewide partnerships and local partnerships. The criteria shall measure the relationship between the level of public funding for the activities and the degree to which the activities promote employment and wage gains. Such longitudinal studies shall be conducted by an evaluator who is unaffiliated with the statewide partnership or the local partnership and shall include measures that reflect the State performance measures.

(3) ADDITIONAL STUDIES.—The State shall also fund evaluation studies of the workforce investment activities. The evaluation studies shall provide ongoing analysis to statewide partnerships and local partnerships to promote efficiency and effectiveness in improving employability outcomes for jobseekers and competitiveness for employers. Such evaluation studies shall be designed in conjunction with statewide partnerships and local partnerships, and shall include analysis of customer feedback, and outcome and process measures.

(f) FISCAL AND MANAGEMENT ACCOUNTABILITY INFORMATION SYSTEMS.—

(1) IN GENERAL.—Using funds reserved under section 306(a)(1), the Governor shall operate a fiscal and management accountability information system, based on guidelines established by the Secretary in consultation with the Governors and other appropriate parties. Such guidelines shall promote the efficient collection and use of fiscal and management information for reporting and monitoring the use of funds made available to the State under this subtitle for workforce investment activities and for use by the State in preparing the annual report described in subsection (d). In measuring the progress of the State on State and local performance measures, a State shall utilize quarterly wage records available through the unemployment insurance system.

(2) CONFIDENTIALITY.—In carrying out the requirements of this Act, the State shall comply with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (as added by the Family Educational Rights and Privacy Act of 1974).

(g) SANCTIONS.—

(1) DETERMINATION.—If a State fails to meet 2 or more State performance measures described in this section for each of the 3 years covered by a State plan, the Secretary shall determine whether the failure is attributable to—

(A) adult employment and training activities;

(B) dislocated worker employment and training activities; or

(C) youth activities.

(2) TECHNICAL ASSISTANCE OR REDUCTION OF ALLOTMENTS.—The Secretary—

(A) may provide technical assistance to the State to improve the level of performance of the State, in accordance with section 366(b); and

(B) shall, on finding that a State fails to meet 2 or more State performance measures for 2 consecutive years, reduce, by not more than 5 percent, the allotment made under section 302 for the category of activities to which the failure is attributable.

(3) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The Secretary may use an amount retained as a result of a reduction in an allotment made under paragraph (2)(B) to award an incentive grant under section 365 or to provide technical assistance in accordance with section 366.

(h) INCENTIVE GRANTS.—The Secretary may make incentive grants under section 365 to States that exceed the State performance measures.

(i) DEFINITIONS.—In this section:

(1) FORMER ENROLLEE.—The term "former enrollee" means an individual who has been selected for and has enrolled in a program of workforce investment activities, but left the program before completing the requirements of the program.

(2) GRADUATE.—The term "graduate" means an individual who has been selected for and has enrolled in a program of workforce investment activities and has completed the requirements of such program.

(j) OTHER TERMS.—The Secretary, in consultation with the Governors, local partnerships, and other appropriate entities, shall issue regulations that identify and define other terms used in this title, in order to promote uniformity in the implementation of this Act.

SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

(a) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 302(a)(1) under this subtitle, such sums as may be necessary for each of fiscal years 1999 through 2004.

(b) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 302(a)(2) under this subtitle, such sums as may be necessary for each of fiscal years 1999 through 2004.

(c) YOUTH ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 302(a)(3) under this subtitle, such sums as may be necessary for each of fiscal years 1999 through 2004.

Subtitle B—Job Corps

SEC. 331. PURPOSES.

The purposes of this subtitle are—

(1) to maintain a national Job Corps program, carried out in partnership with States and communities, to assist eligible youth who need and can benefit from an intensive program, operated in a group setting in residential and nonresidential centers, to become more responsible, employable, and productive citizens;

(2) to set forth standards and procedures for selecting individuals as enrollees in the Job Corps;

(3) to authorize the establishment of Job Corps centers in which enrollees will participate in intensive programs of activities described in this subtitle; and

(4) to prescribe various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps.

SEC. 332. DEFINITIONS.

In this subtitle:

(1) APPLICABLE LOCAL PARTNERSHIP.—The term "applicable local partnership" means a local partnership—

(A) that provides information for a Job Corps center on local employment opportunities and the job skills needed to obtain the opportunities; and

(B) that serves communities in which the graduates of the Job Corps center seek employment.

(2) APPLICABLE ONE-STOP CUSTOMER SERVICE CENTER.—The term "applicable one-stop customer service center" means a one-stop customer service center that provides services, such as referral, intake, recruitment, and placement, to a Job Corps center.

(3) ENROLLEE.—The term "enrollee" means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, and remains with the program, but has not yet become a graduate.

(4) FORMER ENROLLEE.—The term "former enrollee" means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, but left the program before completing the requirements of a vocational training program, or receiving a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(5) GRADUATE.—The term "graduate" means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program and has completed the requirements of a vocational training program, or received a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(6) JOB CORPS.—The term "Job Corps" means the Job Corps described in section 333.

(7) JOB CORPS CENTER.—The term "Job Corps center" means a center described in section 333.

(8) OPERATOR.—The term "operator" means an entity selected under this subtitle to operate a Job Corps center.

(9) REGION.—The term "region" means an area served by a regional office of the Employment and Training Administration.

(10) SERVICE PROVIDER.—The term "service provider" means an entity selected under this subtitle to provide services described in this subtitle to a Job Corps center.

SEC. 333. ESTABLISHMENT.

There shall be established in the Department of Labor a Job Corps program, to carry out activities described in this subtitle for individuals enrolled in a Job Corps and assigned to a center.

SEC. 334. INDIVIDUALS ELIGIBLE FOR THE JOB CORPS.

To be eligible to become an enrollee, an individual shall be—

(1) not less than age 16 and not more than age 21 on the date of enrollment, except that—

(A) not more than 20 percent of the individuals enrolled in the Job Corps may be not less than age 22 and not more than age 24 on the date of enrollment; and

(B) either such maximum age limitation may be waived by the Secretary, in accordance with regulations of the Secretary, in the case of an individual with a disability;

(2) a low-income individual; and

(3) an individual who is 1 or more of the following:

(A) Basic skills deficient.

(B) A school dropout.

(C) Homeless, a runaway, or a foster child.

(D) A parent.

(E) An individual who requires additional education, vocational training, or intensive counseling and related assistance, in order to participate successfully in regular schoolwork or to secure and hold employment.

SEC. 335. RECRUITMENT, SCREENING, SELECTION, AND ASSIGNMENT OF ENROLLEES.

(a) STANDARDS AND PROCEDURES.—

(1) IN GENERAL.—The Secretary shall prescribe specific standards and procedures for the recruitment, screening, and selection of eligible applicants for the Job Corps, after considering recommendations from the Governors, local partnerships, and other interested parties.

(2) METHODS.—In prescribing standards and procedures under paragraph (1), the Secretary, at a minimum, shall—

(A) prescribe procedures for informing enrollees that drug tests will be administered to the enrollees and the results received within 45 days after the enrollees enroll in the Job Corps;

(B) establish standards for recruitment of Job Corps applicants;

(C) establish standards and procedures for—

(i) determining, for each applicant, whether the educational and vocational needs of the applicant can best be met through the Job Corps program or an alternative program in the community in which the applicant resides; and

(ii) obtaining from each applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment;

(D) where appropriate, take measures to improve the professional capability of the individuals conducting screening of the applicants; and

(E) assure that an appropriate number of enrollees are from rural areas.

(3) IMPLEMENTATION.—To the extent practicable, the standards and procedures shall be implemented through arrangements with—

(A) applicable one-stop customer service centers;

(B) community action agencies, business organizations, and labor organizations; and

(C) agencies and individuals that have contact with youth over substantial periods of time and are able to offer reliable information about the needs and problems of youth.

(4) CONSULTATION.—The standards and procedures shall provide for necessary consultation with individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers.

(5) REIMBURSEMENT.—The Secretary is authorized to enter into contracts with and make payments to individuals and organizations for the cost of conducting recruitment, screening, and selection of eligible applicants for the Job Corps, as provided for in this section. The Secretary shall make no payment to any individual or organization solely as compensation for referring the names of applicants for the Job Corps.

(b) SPECIAL LIMITATIONS ON SELECTION.—

(1) IN GENERAL.—No individual shall be selected as an enrollee unless the individual or organization implementing the standards and procedures determines that—

(A) there is a reasonable expectation that the individual considered for selection can participate successfully in group situations and activities, and is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the Job Corps program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the Job Corps center to which the individual might be assigned and communities surrounding the Job Corps center;

(B) the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe the rules; and

(C) the individual has passed a background check conducted in accordance with procedures established by the Secretary.

(2) INDIVIDUALS ON PROBATION, PAROLE, OR SUPERVISED RELEASE.—An individual on probation, parole, or supervised release may be selected as an enrollee only if release from the supervision of the probation or parole official involved is satisfactory to the official and the Secretary and does not violate applicable laws (including regulations). No individual shall be denied a position in the Job Corps solely on the basis of individual contact with the criminal justice system.

(c) ASSIGNMENT PLAN.—

(1) IN GENERAL.—Every 2 years, the Secretary shall develop and implement an assignment plan for assigning enrollees to Job Corps centers. In developing the plan, the Secretary shall, based on the analysis described in paragraph (2), establish targets, applicable to each Job Corps center, for—

(A) the maximum attainable percentage of enrollees at the Job Corps center that reside in the State in which the center is located; and

(B) the maximum attainable percentage of enrollees at the Job Corps center that reside in the region in which the center is located, and in surrounding regions.

(2) ANALYSIS.—In order to develop the plan described in paragraph (1), the Secretary shall, every 2 years, analyze, for the Job Corps center—

(A) the size of the population of individuals eligible to participate in Job Corps in the State and region in which the Job Corps center is located, and in surrounding regions;

(B) the relative demand for participation in the Job Corps in the State and region, and in surrounding regions; and

(C) the capacity and utilization of the Job Corps center, including services provided through the center.

(d) ASSIGNMENT OF INDIVIDUAL ENROLLEES.—

(1) IN GENERAL.—After an individual has been selected for the Job Corps in accordance with the standards and procedures of the Secretary under subsection (a), the enrollee shall be assigned to the Job Corps center that is closest to the home of the enrollee, except that the Secretary may waive this requirement if—

(A) the enrollee chooses a vocational training program, or requires an English as a second language program, that is not available at such center;

(B) the enrollee is an individual with a disability and may be better served at another center;

(C) the enrollee would be unduly delayed in participating in the Job Corps program because the closest center is operating at full capacity; or

(D) the parent or guardian of the enrollee requests assignment of the enrollee to another Job Corps center due to circumstances in the community of the enrollee that would impair prospects for successful participation in the Job Corps program.

(2) ENROLLEES WHO ARE YOUNGER THAN 18.—An enrollee who is younger than 18 shall not be assigned to a Job Corps center other than the center closest to the home of the enrollee pursuant to paragraph (1) if the parent or guardian of the enrollee objects to the assignment.

SEC. 336. ENROLLMENT.

(a) RELATIONSHIP BETWEEN ENROLLMENT AND MILITARY OBLIGATIONS.—Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

(b) PERIOD OF ENROLLMENT.—No individual may be enrolled in the Job Corps for more than 2 years, except—

(1) in a case in which completion of an advanced career training program under section 338(b) would require an individual to participate in the Job Corps for not more than 1 additional year; or

(2) as the Secretary may authorize in a special case.

SEC. 337. JOB CORPS CENTERS.

(a) OPERATORS AND SERVICE PROVIDERS.—

(1) ELIGIBLE ENTITIES.—

(A) OPERATORS.—The Secretary shall enter into an agreement with a Federal, State, or local agency, such as individuals participating in a statewide partnership or in a local partnership or an agency that operates or wishes to develop an area vocational education school facility or residential vocational school, or with a private organization, for the operation of each Job Corps center.

(B) PROVIDERS.—The Secretary may enter into an agreement with a local entity to provide activities described in this subtitle to the Job Corps center.

(2) SELECTION PROCESS.—

(A) COMPETITIVE BASIS.—Except as provided in subsections (c) and (d) of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the Secretary shall select on a competitive basis an entity to operate a Job Corps center and entities to provide activities described in this subtitle to the Job Corps center. In developing a solicitation for an operator or service provider, the Secretary shall consult with the Governor of the State in which the center is located, the industry council for the Job Corps center (if established), and the applicable local partnership regarding the contents of such solicitation, including elements that will promote the consistency of the activities carried out through the center with the objectives set forth in the State plan or in a local plan.

(B) RECOMMENDATIONS AND CONSIDERATIONS.—

(i) OPERATORS.—In selecting an entity to operate a Job Corps center, the Secretary shall consider—

(I) the ability of the entity to coordinate the activities carried out through the Job Corps center with activities carried out under the appropriate State plan and local plans;

(II) the degree to which the vocational training that the entity proposes for the center reflects local employment opportunities in the local areas in which enrollees at the center intend to seek employment;

(III) the degree to which the entity is familiar with the surrounding communities, applicable one-stop centers, and the State and region in which the center is located; and

(IV) the past performance of the entity, if any, relating to operating or providing activities described in this subtitle to a Job Corps center.

(ii) PROVIDERS.—In selecting a service provider for a Job Corps center, the Secretary shall consider the factors described in subclauses (I) through (IV) of clause (i), as appropriate.

(b) Character and Activities.—Job Corps centers may be residential or nonresidential in character, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with access to activities described in this subtitle. In any year, no more than 20 percent of the individuals enrolled in the Job Corps may be nonresidential participants in the Job Corps.

(c) Civilian Conservation Centers.—

(1) In general.—The Job Corps centers may include Civilian Conservation Centers operated under agreements with the Secretary of Agriculture or the Secretary of the Interior, located primarily in rural areas, which shall provide, in addition to other vocational training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest.

(2) Selection process.—The Secretary may select an entity to operate a Civilian Conservation Center on a competitive basis, as provided in subsection (a), if the center fails to meet such national performance standards as the Secretary shall establish.

(d) Indian Tribes.—

(1) General authority.—The Secretary may enter into agreements with Indian tribes to operate Job Corps centers for Indians.

(2) Definitions.—In this subsection, the terms "Indian" and "Indian tribe", have the meanings given such terms in subsections (d) and (e), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 338. PROGRAM ACTIVITIES.

(a) Activities Provided by Job Corps Centers.—

(1) In general.—Each Job Corps center shall provide enrollees with an intensive, well organized, and fully supervised program of education, vocational training, work experience, recreational activities, and counseling. Each Job Corps center shall provide enrollees assigned to the center with access to core services described in subtitle A.

(2) Relationship to opportunities.—

(A) In general.—The activities provided under this subsection shall provide work-based learning throughout the enrollment of the enrollees and assist the enrollees in obtaining meaningful unsubsidized employment, participating in secondary education or postsecondary education programs, enrolling in other suitable vocational training programs, or satisfying Armed Forces requirements, on completion of their enrollment.

(B) Link to employment opportunities.—The vocational training provided shall be linked to the employment opportunities in the local area in which the enrollee intends to seek employment after graduation.

(b) Advanced Career Training Programs.—

(1) In general.—The Secretary may arrange for programs of advanced career training for selected enrollees in which the enrollees may continue to participate for a period of not to exceed 1 year in addition to the period of participation to which the enrollees would otherwise be limited. The advanced career training may be provided through the eligible providers of training services identified by the State involved under section 312.

(2) Benefits.—

(A) In general.—During the period of participation in an advanced career training program, an enrollee shall be eligible for full Job Corps benefits, or a monthly stipend equal to the average value of the residential support, food, allowances, and other benefits provided to enrollees assigned to residential Job Corps centers.

(B) Calculation.—The total amount for which an enrollee shall be eligible under subparagraph (A) shall be reduced by the amount of any scholarship or other educational grant assistance received by such enrollee for advanced career training.

(3) Demonstration.—Each year, any operator seeking to enroll additional enrollees in an advanced career training program shall demonstrate that participants in such program have achieved a reasonable rate of completion and placement in training-related jobs before the operator may carry out such additional enrollment.

(c) Continued Services.—The Secretary shall also provide continued services to graduates, including providing counseling regarding the workplace for 12 months after the date of graduation of the graduates. In selecting a provider for such services, the Secretary shall give priority to one-stop partners.

SEC. 339. COUNSELING AND JOB PLACEMENT.

(a) Counseling and Testing.—The Secretary shall arrange for counseling and testing for each enrollee at regular intervals to measure progress in the education and vocational training programs carried out through the Job Corps.

(b) Placement.—The Secretary shall arrange for counseling and testing for enrollees prior to their scheduled graduations to determine their capabilities and, based on their capabilities, shall make every effort to arrange to place the enrollees in jobs in the vocations for which the enrollees are trained or to assist the enrollees in obtaining further activities described in this subtitle. In arranging for the placement of graduates in jobs, the Secretary shall utilize the one-stop customer service system to the fullest extent possible.

(c) Status and Progress.—The Secretary shall determine the status and progress of enrollees scheduled for graduation and make every effort to assure that their needs for further activities described in this subtitle are met.

SEC. 340. SUPPORT.

(a) Personal Allowances.—The Secretary shall provide enrollees assigned to Job Corps centers with such personal allowances as the Secretary may determine to be necessary or appropriate to meet the needs of the enrollees.

(b) Readjustment Allowances.—The Secretary shall arrange for a readjustment allowance to be paid to eligible former enrollees and graduates. The Secretary shall arrange for the allowance to be paid at the one-stop customer service center nearest to the home of such a former enrollee or graduate who is returning home, or at the one-stop customer service center nearest to the location where the former enrollee or graduate has indicated an intent to seek employment. If the Secretary uses any organization, in lieu of a one-stop customer service center, to provide placement services under this Act, the Secretary shall arrange for that organization to pay the readjustment allowance.

SEC. 341. OPERATING PLAN.

(a) In General.—The provisions of the contract between the Secretary and an entity selected to operate a Job Corps center shall, at a minimum, serve as an operating plan for the Job Corps center.

(b) Additional Information.—The Secretary may require the operator, in order to remain eligible to operate the Job Corps center, to submit such additional information as the Secretary may require, which shall be considered part of the operating plan.

(c) Availability.—The Secretary shall make the operating plan described in subsections (a) and (b), excluding any proprietary information, available to the public.

SEC. 342. STANDARDS OF CONDUCT.

(a) Provision and Enforcement.—The Secretary shall provide, and directors of Job Corps centers shall stringently enforce, standards of conduct within the centers. Such standards of conduct shall include provisions forbidding the actions described in subsection (b)(2)(A).

(b) Disciplinary Measures.—

(1) In general.—To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees. If such a director determines that an enrollee has committed a violation of the standards of conduct, the director shall dismiss the enrollee from the Job Corps if the director determines that the retention of the enrollee in the Job Corps will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

(2) Zero tolerance policy and drug testing.—

(A) Guidelines.—The Secretary shall adopt guidelines establishing a zero tolerance policy for an act of violence, for use, sale, or possession of a controlled substance, for abuse of alcohol, or for other illegal or disruptive activity.

(B) Drug testing.—The Secretary shall require drug testing of all enrollees for controlled substances in accordance with procedures prescribed by the Secretary under section 335(a).

(C) Definitions.—In this paragraph:

(i) Controlled substance.—The term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(ii) Zero tolerance policy.—The term "zero tolerance policy" means a policy under which an enrollee shall be automatically dismissed from the Job Corps after a determination by the director that the enrollee has carried out an action described in subparagraph (A).

(c) Appeal.—A disciplinary measure taken by a director under this section shall be subject to expeditious appeal in accordance with procedures established by the Secretary.

SEC. 343. COMMUNITY PARTICIPATION.

(a) Business and Community Liaison.—Each Job Corps center shall have a Business and Community Liaison (referred to in this Act as a "Liaison"), designated by the director of the center.

(b) Responsibilities.—The responsibilities of the Liaison shall include—

(1) establishing and developing relationships and networks with—

(A) local and (in the case of rural or remote sites) distant employers; and

(B) applicable one-stop customer service centers and applicable local partnerships,

for the purpose of providing job opportunities for Job Corps graduates; and

(2) establishing and developing relationships with members of the community in which the Job Corps center is located, informing members of the community about the projects of the Job Corps center and changes in the rules, procedures, or activities of the center that may affect the community, and planning events of mutual interest to the community and the Job Corps center.

(c) New Centers.—The Liaison for a Job Corps center that is not yet operating shall establish and develop the relationships and networks described in subsection (b) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

SEC. 344. INDUSTRY COUNCILS.

(a) In General.—Each Job Corps center shall have an industry council, appointed by the director of the center after consultation with the Liaison, in accordance with procedures established by the Secretary.

(b) Industry Council Composition.—

(1) In general.—An industry council shall be comprised of—

(A) a majority of members who shall be local and (in the case of rural or remote sites) distant owners of business concerns, chief executives or

chief operating officers of nongovernmental employers, or other private sector employers, who—

(i) have substantial management, hiring, or policy responsibility; and

(ii) represent businesses with employment opportunities that reflect the employment opportunities of the applicable local area; and

(B) representatives of labor organizations (where present) and representatives of employees.

(2) LOCAL PARTNERSHIP.—The industry council may include members of the applicable local partnerships who meet the requirements described in paragraph (1).

(c) RESPONSIBILITIES.—The responsibilities of the industry council shall be—

(1) to work closely with all applicable local partnerships in order to determine, and recommend to the Secretary, appropriate vocational training for the center;

(2) to review all the relevant labor market information to—

(A) determine the employment opportunities in the local areas in which the enrollees intend to seek employment after graduation;

(B) determine the skills and education that are necessary to obtain the employment opportunities; and

(C) recommend to the Secretary the type of vocational training that should be implemented at the center to enable the enrollees to obtain the employment opportunities; and

(3) to meet at least once every 6 months to reevaluate the labor market information, and other relevant information, to determine, and recommend to the Secretary, any necessary changes in the vocational training provided at the center.

(d) NEW CENTERS.—The industry council for a Job Corps center that is not yet operating shall carry out the responsibilities described in subsection (c) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

SEC. 345. ADVISORY COMMITTEES.

The Secretary may establish and use advisory committees in connection with the operation of the Job Corps program, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

SEC. 346. EXPERIMENTAL, RESEARCH, AND DEMONSTRATION PROJECTS.

The Secretary may carry out experimental, research, or demonstration projects relating to carrying out the Job Corps program and may waive any provision of this subtitle that the Secretary finds would prevent the Secretary from carrying out the projects.

SEC. 347. APPLICATION OF PROVISIONS OF FEDERAL LAW.

(a) ENROLLEES NOT CONSIDERED TO BE FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees shall not be considered to be Federal employees and shall not be subject to the provisions of law relating to Federal employment, including such provisions regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) PROVISIONS RELATING TO TAXES AND SOCIAL SECURITY BENEFITS.—For purposes of the Internal Revenue Code of 1986 and title II of the Social Security Act (42 U.S.C. 401 et seq.), enrollees shall be deemed to be employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(3) PROVISIONS RELATING TO COMPENSATION TO FEDERAL EMPLOYEES FOR WORK INJURIES.—For purposes of subchapter I of chapter 81 of title 5, United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed to be civil employees of the Government of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of such subchapter shall apply as specified in section 8143(a) of title 5, United States Code.

(4) FEDERAL TORT CLAIMS PROVISIONS.—For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered to be employees of the Government.

(b) ADJUSTMENTS AND SETTLEMENTS.—Whenever the Secretary finds a claim for damages to a person or property resulting from the operation of the Job Corps to be a proper charge against the United States, and the claim is not cognizable under section 2672 of title 28, United States Code, the Secretary may adjust and settle the claim in an amount not exceeding $1,500.

(c) PERSONNEL OF THE UNIFORMED SERVICES.—Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Job Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

SEC. 348. SPECIAL PROVISIONS.

(a) ENROLLMENT.—The Secretary shall ensure that women and men have an equal opportunity to participate in the Job Corps program, consistent with section 335.

(b) STUDIES, EVALUATIONS, PROPOSALS, AND DATA.—The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of carrying out the Job Corps program shall become the property of the United States.

(c) TRANSFER OF PROPERTY.—

(1) IN GENERAL.—Notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, the Secretary and the Secretary of Education shall receive priority by the Secretary of Defense for the direct transfer, on a nonreimbursable basis, of the property described in paragraph (2) for use in carrying out programs under this Act or under any other Act.

(2) PROPERTY.—The property described in this paragraph is real and personal property under the control of the Department of Defense that is not used by such Department, including property that the Secretary of Defense determines is in excess of current and projected requirements of such Department.

(d) GROSS RECEIPTS.—Transactions conducted by a private for-profit or nonprofit entity that is an operator or service provider for a Job Corps center shall not be considered to be generating gross receipts. Such an operator or service provider shall not be liable, directly or indirectly, to any State or subdivision of a State (nor to any person acting on behalf of such a State or subdivision) for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes imposed on, or measured by, gross receipts in connection with any payments made to or by such entity for operating or providing services to a Job Corps center. Such an operator or service provider shall not be liable to any State or subdivision of a State to collect or pay any sales, excise, use, or similar tax imposed on the sale to or use by such operator or service provider of any property, service, or other item in connection with the operation of or provision of services to a Job Corps center.

(e) MANAGEMENT FEE.—The Secretary shall provide each operator and (in an appropriate case, as determined by the Secretary) service provider with an equitable and negotiated management fee of not less than 1 percent of the amount of the funding provided under the appropriate agreement specified in section 337.

(f) DONATIONS.—The Secretary may accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including equipment and materials, if such donations are available for appropriate use for the purposes set forth in this subtitle.

(g) SALE OF PROPERTY.—Notwithstanding any other provision of law, if the Administrator of General Services sells a Job Corps center facility, the Administrator shall transfer the proceeds from the sale to the Secretary, who shall use the proceeds to carry out the Job Corps program.

SEC. 349. MANAGEMENT INFORMATION.

(a) FINANCIAL MANAGEMENT INFORMATION SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish procedures to ensure that each operator, and each service provider, maintains a financial management information system that will provide—

(A) accurate, complete, and current disclosures of the costs of Job Corps operations; and

(B) sufficient data for the effective evaluation of activities carried out through the Job Corps program.

(2) ACCOUNTS.—Each operator and service provider shall maintain funds received under this subtitle in accounts in a manner that ensures timely and accurate reporting as required by the Secretary.

(3) FISCAL RESPONSIBILITY.—Operators shall remain fiscally responsible and control costs, regardless of whether the funds made available for Job Corps centers are incrementally increased or decreased between fiscal years.

(b) AUDIT.—

(1) ACCESS.—The Secretary, the Inspector General of the Department of Labor, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the operators and service providers described in subsection (a) that are pertinent to the Job Corps program, for purposes of conducting surveys, audits, and evaluations of the operators and service providers.

(2) SURVEYS, AUDITS, AND EVALUATIONS.—The Secretary shall survey, audit, or evaluate, or arrange for the survey, audit, or evaluation of, the operators and service providers, using Federal auditors or independent public accountants. The Secretary shall conduct such surveys, audits, or evaluations not less often than once every 3 years.

(c) INFORMATION ON CORE PERFORMANCE MEASURES.—

(1) ESTABLISHMENT.—The Secretary shall, with continuity and consistency from year to year, establish core performance measures, and expected performance levels on the performance measures, for Job Corps centers and the Job Corps program, relating to—

(A) the number of graduates and the rate of such graduation, analyzed by type of vocational training received through the Job Corps program and by whether the vocational training was provided by a local or national service provider;

(B) the number of graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received, analyzed by whether the vocational training was provided by a local or national service provider and by whether the placement in the employment was conducted by a local or national service provider;

(C) the average wage received by graduates who entered unsubsidized employment related to

the vocational training received through the Job Corps program and the average wage received by graduates who entered unsubsidized employment unrelated to the vocational training received;

(D) the average wage received by graduates placed in unsubsidized employment after completion of the Job Corps program—

(i) on the first day of the employment;

(ii) 6 months after the first day of the employment; and

(iii) 12 months after the first day of the employment,

analyzed by type of vocational training received through the Job Corps program;

(E) the number of graduates who entered unsubsidized employment and were retained in the unsubsidized employment—

(i) 6 months after completion of the Job Corps program; and

(ii) 12 months after completion of the Job Corps program;

(F) the number of graduates who entered unsubsidized employment—

(i) for 32 hours per week or more;

(ii) for not less than 20 but less than 32 hours per week; and

(iii) for less than 20 hours per week;

(G) the number of graduates who entered postsecondary education or advanced training programs, including registered apprenticeship programs, as appropriate; and

(H) the number of graduates who attained job readiness and employment skills.

(2) PERFORMANCE OF RECRUITERS.—The Secretary shall also establish performance measures, and expected performance levels on the performance measures, for local and national recruitment service providers serving the Job Corps program. The performance measures shall relate to the number of enrollees retained in the Job Corps program for 30 days and for 60 days after initial placement in the program.

(3) REPORT.—The Secretary shall collect, and annually submit a report to the appropriate committees of Congress containing, information on the performance of each Job Corps center, and the Job Corps program, on the core performance measures, as compared to the expected performance level for each performance measure. The report shall also contain information on the performance of the service providers described in paragraph (2) on the performance measures established under such paragraph, as compared to the expected performance levels for the performance measures.

(d) ADDITIONAL INFORMATION.—The Secretary shall also collect, and submit in the report described in subsection (c), information on the performance of each Job Corps center, and the Job Corps program, regarding—

(1) the number of enrollees served;

(2) the average level of learning gains for graduates and former enrollees;

(3) the number of former enrollees and graduates who entered the Armed Forces;

(4) the number of former enrollees who entered postsecondary education;

(5) the number of former enrollees who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received;

(6) the number of former enrollees and graduates who obtained a secondary school diploma or its recognized equivalent;

(7) the number and percentage of dropouts from the Job Corps program including the number dismissed under the zero tolerance policy described in section 342(b); and

(8) any additional information required by the Secretary.

(e) METHODS.—The Secretary may, to collect the information described in subsections (c) and (d), use methods described in subtitle A.

(f) PERFORMANCE ASSESSMENTS AND IMPROVEMENTS.—

(1) ASSESSMENTS.—The Secretary shall conduct an annual assessment of the performance of each Job Corps center. Based on the assessment, the Secretary shall take measures to continuously improve the performance of the Job Corps program.

(2) PERFORMANCE IMPROVEMENT PLANS.—With respect to a Job Corps center that fails to meet the expected levels of performance relating to the core performance measures specified in subsection (c), the Secretary shall develop and implement a performance improvement plan. Such a plan shall require action including—

(A) providing technical assistance to the center;

(B) changing the vocational training offered at the center;

(C) changing the management staff of the center;

(D) replacing the operator of the center;

(E) reducing the capacity of the center;

(F) relocating the center; or

(G) closing the center.

(3) ADDITIONAL PERFORMANCE IMPROVEMENT PLANS.—In addition to the performance improvement plans required under paragraph (2), the Secretary may develop and implement additional performance improvement plans. Such a plan shall require improvements, including the actions described in paragraph (2), for a Job Corps center that fails to meet criteria established by the Secretary other than the expected levels of performance described in paragraph (2).

SEC. 350. GENERAL PROVISIONS.

The Secretary is authorized to—

(1) disseminate, with regard to the provisions of section 3204 of title 39, United States Code, data and information in such forms as the Secretary shall determine to be appropriate, to public agencies, private organizations, and the general public;

(2) subject to section 347(b), collect or compromise all obligations to or held by the Secretary and exercise all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) expend funds made available for purposes of this subtitle—

(A) for printing and binding, in accordance with applicable law (including regulation); and

(B) without regard to any other law (including regulation), for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not expend funds under the authority of this subparagraph—

(i) except when necessary to obtain an item, service, or facility, that is required in the proper administration of this subtitle, and that otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which the item, service, or facility is needed; and

(ii) prior to having given written notification to the Administrator of General Services (if the expenditure would affect an activity that otherwise would be under the jurisdiction of the General Services Administration) of the intention of the Secretary to make the expenditure, and the reasons and justifications for the expenditure.

SEC. 351. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of the fiscal years 1999 through 2004.

Subtitle C—National Programs

SEC. 361. NATIVE AMERICAN PROGRAMS.

(a) PURPOSE AND POLICY.—

(1) PURPOSE.—The purpose of this section is to support workforce investment activities and supplemental services for Indian and Native Hawaiian individuals in order—

(A) to develop more fully the academic, occupational, and literacy skills of such individuals;

(B) to make such individuals more competitive in the workforce; and

(C) to promote the economic and social development of Indian and Native Hawaiian communities in accordance with the goals and values of such communities.

(2) INDIAN POLICY.—All programs assisted under this section shall be administered in a manner consistent with the principles of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and the government-to-government relationship between the Federal Government and Indian tribal governments.

(b) DEFINITIONS.—In this section:

(1) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—The terms "Indian", "Indian tribe", and "tribal organization" have the meanings given such terms in subsections (d), (e), and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(2) NATIVE HAWAIIAN AND NATIVE HAWAIIAN ORGANIZATION.—The terms "Native Hawaiian" and "Native Hawaiian organization" have the meanings given such terms in paragraphs (1) and (3), respectively, of section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

(c) PROGRAMS AUTHORIZED.—The Secretary shall make grants to, or enter into contracts or cooperative agreements with, Indian tribes, tribal organizations, Indian-controlled organizations serving Indians, or Native Hawaiian organizations to carry out the authorized activities described in subsection (d).

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Funds made available under this section shall be used to carry out the activities described in paragraph (2) that—

(A) are consistent with this section; and

(B) are necessary to meet the needs of Indians or Native Hawaiians preparing to enter, reenter, or retain unsubsidized employment.

(2) WORKFORCE INVESTMENT ACTIVITIES AND SUPPLEMENTAL SERVICES.—

(A) IN GENERAL.—Funds made available under this section shall be used for—

(i) building a comprehensive facility to be utilized by American Samoans residing in Hawaii for the co-location of federally funded and State funded workforce investment activities;

(ii) comprehensive workforce investment activities for Indians or Native Hawaiians; or

(iii) supplemental services for Indian or Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, or Hawaii.

(B) SPECIAL RULE.—Notwithstanding any other provision of this section, individuals who were eligible to participate in programs under section 401 of the Job Training Partnership Act (29 U.S.C. 1671) (as such section was in effect on the day before the date of enactment of this Act) shall be eligible to participate in an activity assisted under subparagraph (A)(i).

(e) PROGRAM PLAN.—In order to receive a grant or enter into a contract or cooperative agreement under this section an entity described in subsection (c) shall submit to the Secretary a plan that describes a 2-year strategy for meeting the needs of Indian or Native Hawaiian individuals, as appropriate, in the area served by such entity. Such plan shall—

(1) be consistent with the purpose of this section;

(2) identify the population to be served;

(3) identify the education and employment needs of the population to be served and the manner in which the activities to be provided

will strengthen the ability of the individuals served to obtain or retain unsubsidized employment;

(4) describe the activities to be provided and the manner in which such activities are to be integrated with other appropriate activities; and

(5) describe, after the entity submitting the plan consults with the Secretary, the performance measures to be used to assess the performance of entities in carrying out the activities assisted under this section.

(f) CONSOLIDATION OF FUNDS.—Each entity receiving assistance under this section may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(g) NONDUPLICATIVE AND NONEXCLUSIVE SERVICES.—Nothing in this section shall be construed—

(1) to limit the eligibility of any entity described in subsection (c) to participate in any activity offered by a State or local entity under this Act; or

(2) to preclude or discourage any agreement, between any entity described in subsection (c) and any State or local entity, to facilitate the provision of services by such entity or to the population served by such entity.

(h) ADMINISTRATIVE PROVISIONS.—

(1) ORGANIZATIONAL UNIT ESTABLISHED.—The Secretary shall designate a single organizational unit within the Department of Labor that shall have primary responsibility for the administration of the activities authorized under this section.

(2) REGULATIONS.—The Secretary shall consult with the entities described in subsection (c) in—

(A) establishing regulations to carry out this section, including performance measures for entities receiving assistance under such subsection, taking into account the economic circumstances of such entities; and

(B) developing a funding distribution plan that takes into consideration previous levels of funding (prior to the date of enactment of this Act) to such entities.

(3) WAIVERS.—

(A) IN GENERAL.—With respect to an entity described in subsection (c), the Secretary, notwithstanding any other provision of law, may, pursuant to a request submitted by such entity that meets the requirements established under paragraph (2), waive any of the statutory or regulatory requirements of this title that are inconsistent with the specific needs of the entities described in such subsection, except that the Secretary may not waive requirements relating to wage and labor standards, worker rights, participation and protection of participants, grievance procedures, and judicial review.

(B) REQUEST AND APPROVAL.—An entity described in subsection (c) that requests a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the program of workforce investment activities carried out by the entity, which plan shall meet the requirements established by the Secretary and shall be generally consistent with the requirements of section 379(i)(3).

(4) ADVISORY COUNCIL.—

(A) IN GENERAL.—The Secretary shall establish a Native American Employment and Training Council to facilitate the consultation described in paragraph (2).

(B) COMPOSITION.—The Council shall be composed of individuals, appointed by the Secretary, who are representatives of the entities described in subsection (c).

(C) DUTIES.—The Council shall advise the Secretary on all aspects of the operation and administration of the programs assisted under this section, including the selection of the individual appointed as the head of the unit established under paragraph (1).

(D) PERSONNEL MATTERS.—

(i) COMPENSATION OF MEMBERS.—Members of the Council shall serve without compensation.

(ii) TRAVEL EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(iii) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Council with such administrative support as may be necessary to perform the functions of the Council.

(E) CHAIRPERSON.—The Council shall select a chairperson from among its members.

(F) MEETINGS.—The Council shall meet not less than twice each year.

(G) APPLICATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

(5) TECHNICAL ASSISTANCE.—The Secretary, acting through the unit established under paragraph (1), is authorized to provide technical assistance to entities described in subsection (c) that receive assistance under this section to enable such entities to improve the activities authorized under this section that are provided by such entities.

SEC. 362. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

(a) IN GENERAL.—Every 2 years, the Secretary shall, on a competitive basis, make grants to, or enter into contracts with, eligible entities to carry out the activities described in subsection (d).

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant or enter into a contract under this section, an entity shall have an understanding of the problems of eligible migrant and seasonal farmworkers (including dependents), a familiarity with the area to be served, and the ability to demonstrate a capacity to administer effectively a diversified program of workforce investment activities (including youth activities) and related assistance for eligible migrant and seasonal farmworkers.

(c) PROGRAM PLAN.—

(1) IN GENERAL.—To be eligible to receive a grant or enter into a contract under this section, an entity described in subsection (b) shall submit to the Secretary a plan that describes a 2-year strategy for meeting the needs of eligible migrant and seasonal farmworkers in the area to be served by such entity.

(2) ADMINISTRATION.—Grants and contracts awarded under this section shall be centrally administered by the Department of Labor and competitively awarded by the Secretary using procedures consistent with standard Federal Government competitive procurement policies.

(3) COMPETITION.—

(A) IN GENERAL.—The competition for grants made and contracts entered into under this section shall be conducted every 2 years.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if a recipient of such a grant or contract has performed satisfactorily under the terms of the grant agreement or contract, the Secretary may waive the requirement for such competition for such recipient upon receipt from the recipient of a satisfactory 2-year plan described in paragraph (1) for the succeeding 2-year grant or contract period.

(4) CONTENTS.—Such plan shall—

(A) identify the education and employment needs of the eligible migrant and seasonal farmworkers to be served and the manner in which the workforce investment activities (including youth activities) to be carried out will strengthen the ability of the eligible migrant and seasonal farmworkers to obtain or retain unsubsidized employment or stabilize their unsubsidized employment;

(B) describe the related assistance, including supportive services, to be provided and the manner in which such assistance and services are to be integrated and coordinated with other appropriate services; and

(C) describe, after consultation with the Secretary, the performance measures to be used to assess the performance of such entity in carrying out the activities assisted under this section.

(d) AUTHORIZED ACTIVITIES.—Funds made available under this section shall be used to carry out workforce investment activities (including youth activities) and provide related assistance for eligible migrant and seasonal farmworkers, which may include employment, training, educational assistance, literacy assistance, an English language program, worker safety training, supportive services, dropout prevention activities, follow-up services for those individuals placed in employment, self-employment and related business enterprise development education as needed by eligible migrant and seasonal farmworkers and identified pursuant to the plan required by subsection (c), and technical assistance relating to capacity enhancement in such areas as management information technology.

(e) CONSULTATION WITH GOVERNORS AND LOCAL PARTNERSHIPS.—In making grants and entering into contracts under this section, the Secretary shall consult with the Governors and local partnerships of the States in which the eligible entities will carry out the activities described in subsection (d).

(f) REGULATIONS.—The Secretary shall consult with eligible migrant and seasonal farmworkers groups and States in establishing regulations to carry out this section, including performance measures for eligible entities that take into account the economic circumstances and demographics of eligible migrant and seasonal farmworkers.

(g) DEFINITIONS.—In this section:

(1) DISADVANTAGED.—The term "disadvantaged", used with respect to a farmworker, means a farmworker whose income, for 12 consecutive months out of the 24 months prior to application for the program involved, does not exceed the higher of—

(A) the poverty line (as defined in section 334(a)(2)(B)) for an equivalent period; or

(B) 70 percent of the lower living standard income level, for an equivalent period.

(2) ELIGIBLE MIGRANT AND SEASONAL FARMWORKERS.—The term "eligible migrant and seasonal farmworkers" means individuals who are eligible migrant farmworkers or are eligible seasonal farmworkers.

(3) ELIGIBLE MIGRANT FARMWORKER.—The term "eligible migrant farmworker" means—

(A) an eligible seasonal farmworker described in paragraph (4)(A) whose agricultural labor requires travel to a job site such that the farmworker is unable to return to a permanent place of residence within the same day; and

(B) a dependent of the farmworker described in subparagraph (A).

(4) ELIGIBLE SEASONAL FARMWORKER.—The term "eligible seasonal farmworker" means—

(A) a disadvantaged person who, for 12 consecutive months out of the 24 months prior to application for the program involved, has been primarily employed in agricultural labor that is characterized by chronic unemployment or underemployment; and

(B) a dependent of the person described in subparagraph (A).

SEC. 363. VETERANS' WORKFORCE INVESTMENT PROGRAMS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary shall conduct, directly or through grants or contracts, programs to meet the needs for workforce investment activities of service-connected disabled veterans, Vietnam era veterans, and recently separated veterans.

(2) CONDUCT OF PROGRAMS.—Programs supported under this section may be conducted through grants and contracts with public agencies and private nonprofit organizations, including recipients of Federal ussistance under other provisions of this title, that the Secretary determines have an understanding of the unemployment problems of veterans described in paragraph (1), familiarity with the area to be served, and the capability to administer effectively a program of workforce investment activities for such veterans.

(3) REQUIRED ACTIVITIES.—Programs supported under this section shall include—

(A) activities to enhance services provided to veterans by other providers of workforce investment activities funded by Federal, State, or local government;

(B) activities to provide workforce investment activities to such veterans that are not adequately provided by other public providers of workforce investment activities; and

(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such veterans and to inform such veterans about employment, job training, on-the-job training and educational opportunities under this title, under title 38, United States Code, and under other provisions of law, which activities shall be coordinated with activities provided through the one-stop customer service centers.

(b) ADMINISTRATION OF PROGRAMS.—

(1) IN GENERAL.—The Secretary shall administer programs supported under this section through the Assistant Secretary for Veterans' Employment and Training.

(2) ADDITIONAL RESPONSIBILITIES.—In carrying out responsibilities under this section, the Assistant Secretary for Veterans' Employment and Training shall—

(A) be responsible for the awarding of grants and contracts and the distribution of funds under this section and for the establishment of appropriate fiscal controls, accountability, and program performance measures for recipients of grants and contracts under this section; and

(B) consult with the Secretary of Veterans Affairs and take steps to ensure that programs supported under this section are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38, United States Code, including programs and activities conducted under subchapter II of chapter 77 of such title, chapters 30, 31, 32, and 34 of such title, and sections 1712A, 1720A, 3687, and 4103A of such title.

SEC. 364. YOUTH OPPORTUNITY GRANTS.

(a) GRANTS.—

(1) IN GENERAL.—Using funds made available under section 302(b)(3)(A), the Secretary shall make grants to eligible local partnerships to provide activities described in subsection (b) for youth to increase the long-term employment of eligible youth who live in empowerment zones, enterprise communities, and high poverty areas and who seek assistance.

(2) GRANT PERIOD.—The Secretary may make a grant under this section for a 1-year period, and may renew the grant for each of the 4 succeeding years.

(3) GRANT AWARDS.—The minimum amount that may be made available to a grant recipient for the first year of a grant made under this section shall be $10,000,000.

(b) USE OF FUNDS.—

(1) IN GENERAL.—A local partnership that receives a grant under this section shall use the funds made available through the grant to provide activities that meet the requirements of section 316, except as provided in paragraph (2), as well as youth development activities such as activities relating to leadership development, citizenship, and community service, and recreation activities.

(2) INTENSIVE PLACEMENT AND FOLLOWUP SERVICES.—In providing activities under this section, a local partnership shall provide—

(A) intensive placement services; and

(B) followup services for not less than 24 months after the completion of participation in the other activities described in this subsection, as appropriate.

(c) ELIGIBLE LOCAL PARTNERSHIPS.—To be eligible to receive a grant under this section, a local partnership—

(1) shall serve a community that—

(A) has a population of at least 50,000; and

(B) has been designated as an empowerment zone or an enterprise community under section 1391 of the Internal Revenue Code of 1986; or

(2) in a State without a zone or community described in paragraph (1)(B), shall serve a community that has been designated as a high poverty area by the Governor of the State.

(d) APPLICATION.—To be eligible to receive a grant under this section, a local partnership shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the local partnership will provide under this section to youth in the community described in subsection (c);

(2) a description of the performance measures negotiated under subsection (e), and the manner in which the local partnerships will carry out the activities to meet the performance measures;

(3) a description of the manner in which the activities will be linked to activities described in section 316; and

(4) a description of the community support, including financial support through leveraging additional public and private resources, for the activities.

(e) PERFORMANCE MEASURES.—

(1) IN GENERAL.—The Secretary shall negotiate and reach agreement with the local partnership on performance measures that will be used to evaluate the performance of the local partnership in carrying out the activities described in subsection (b). Each local performance measure shall consist of an indicator of performance referred to in paragraph (2) or (3) of section 321(b), and a performance level referred to in paragraph (2).

(2) PERFORMANCE LEVELS.—The Secretary shall negotiate and reach agreement with the local partnership regarding the levels of performance expected to be achieved by the local partnership on the indicators of performance.

SEC. 365. INCENTIVE GRANTS.

(a) IN GENERAL.—The Secretary may make grants to States that exceed—

(1) the State performance measures established by the Secretary of Education under this Act; and

(2) the State performance measures established under this title.

(b) PRIORITY.—In awarding incentive grants under this section, the Secretary shall give priority to those States submitting a State unified plan as described in section 501 that is approved by the appropriate Secretaries as described in such section.

(c) USE OF FUNDS.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative programs as determined by the State.

SEC. 366. TECHNICAL ASSISTANCE.

(a) TRANSITION ASSISTANCE.—The Secretary shall provide technical assistance to assist States in making transitions from carrying out activities under provisions described in section 391 to carrying out activities under this title.

(b) PERFORMANCE IMPROVEMENT.—

(1) GENERAL ASSISTANCE.—

(A) AUTHORITY.—The Secretary—

(i) shall provide technical assistance to States that do not meet a State performance measure described in section 321(b) for a program year; and

(ii) may provide technical assistance to other States, local areas, and grant recipients under sections 361 and 362 to promote the continuous improvement of the programs and activities authorized under this title.

(B) FORM OF ASSISTANCE.—In carrying out this paragraph on behalf of a State, or grant recipient under section 361 or 362, the Secretary, after consultation with the State or grant recipient, may award grants and enter into contracts and cooperative agreements.

(C) LIMITATION.—Grants or contracts awarded under this paragraph that are for amounts in excess of $50,000 shall only be awarded on a competitive basis.

(2) DISLOCATED WORKER TECHNICAL ASSISTANCE.—

(A) AUTHORITY.—Of the amounts available pursuant to section 302(a)(2), the Secretary shall reserve not more than 5 percent of such amounts to provide technical assistance to States that do not meet the State performance measures described in section 321(b) with respect to employment and training activities for dislocated workers. Using such reserved funds, the Secretary may provide such assistance to other States, local areas, business and labor organizations, and other entities involved in providing assistance to dislocated workers, to promote the continuous improvement of assistance provided to dislocated workers, under this title.

(B) TRAINING.—Amounts reserved under this paragraph may be used to provide for the training of staff, including specialists, who provide rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees. Such projects shall be administered through the dislocated worker office described in section 369(b).

SEC. 367. DEMONSTRATION, PILOT, MULTISERVICE, RESEARCH, AND MULTISTATE PROJECTS.

(a) STRATEGIC PLAN.—

(1) IN GENERAL.—After consultation with States, localities, and other interested parties, the Secretary shall, every 2 years, publish in the Federal Register, a plan that describes the demonstration and pilot (including dislocated worker demonstration and pilot), multiservice, research, and multistate project priorities of the Department of Labor concerning employment and training for the 5-year period following the submission of the plan. Copies of the plan shall be transmitted to the appropriate committees of Congress.

(2) LIMITATION.—With respect to a plan published under paragraph (1), the Secretary shall ensure that research projects (referred to in subsection (d)) are considered for incorporation into the plan only after projects referred to in subsections (b), (c), and (e) have been considered and incorporated into the plan, and are funded only as funds remain to permit the funding of such research projects.

(3) FACTORS.—The plan published under paragraph (1) shall contain strategies to address national employment and training problems and take into account factors such as—

(A) the availability of existing research (as of the date of the publication);

(B) the need to ensure results that have interstate validity;

(C) the benefits of economies of scale and the efficiency of proposed projects; and

(D) the likelihood that the results of the projects will be useful to policymakers and stakeholders in addressing employment and training problems.

(b) DEMONSTRATION AND PILOT PROJECTS.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out demonstration and pilot projects for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of specialized methods, in addressing employment and training needs. Such projects shall include the provision of direct services to individuals to enhance employment opportunities and an evaluation component.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out demonstration and pilot projects under this subsection shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of the funding for the project.

(B) ELIGIBLE ENTITIES.—Grants or contracts may be awarded under this subsection only to—

(i) entities with recognized expertise in—

(I) conducting national demonstration projects;

(II) utilizing state-of-the-art demonstration methods; and

(III) conducting evaluations of employment and training projects; or

(ii) State and local entities with expertise in operating or overseeing employment and training programs.

(C) TIME LIMITS.—The Secretary shall establish appropriate time limits for carrying out demonstration and pilot projects under this subsection.

(c) MULTISERVICE PROJECTS.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out multiservice projects—

(A) that will test an array of approaches to the provision of employment and training services to a variety of targeted populations;

(B) in which the entity carrying out the project, in conjunction with employers, organized labor, and other groups such as the disability community, will design, develop, and test various training approaches in order to determine effective practices; and

(C) that will assist in the development and replication of effective service delivery strategies for targeted populations for the national employment and training system as a whole.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out multiservice projects under this subsection shall be awarded only on a competitive basis.

(B) TIME LIMITS.—A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

(d) RESEARCH.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out research projects that will contribute to the solution of employment and training problems in the United States.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out research projects under this subsection in amounts that exceed $50,000 shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of the funding for the project.

(B) ELIGIBLE ENTITIES.—Grants or contracts shall be awarded under this subsection only to entities with nationally recognized expertise in the methods, techniques, and knowledge of the social sciences.

(C) TIME LIMITS.—The Secretary shall establish appropriate time limits for the duration of research projects funded under this subsection.

(e) MULTISTATE PROJECTS.—

(1) IN GENERAL.—

(A) AUTHORITY.—Under a plan published under subsection (a), the Secretary may, through grants or contracts, carry out multistate projects that require demonstrated expertise that is available at the national level to effectively disseminate best practices and models for implementing employment and training services, address the specialized employment and training needs of particular service populations, or address industrywide skill shortages.

(B) DESIGN OF GRANTS.—Grants or contracts awarded under this subsection shall be designed to obtain information relating to the provision of services under different economic conditions or to various demographic groups in order to provide guidance at the national and State levels about how best to administer specific employment and training services.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out multistate projects under this subsection shall be awarded only on a competitive basis.

(B) TIME LIMITS.—A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

(f) DISLOCATED WORKER PROJECTS.—Of the amount made available pursuant to section 302(a)(2)(A) for any program year, the Secretary shall use not more than 5 percent of such amount to carry out demonstration and pilot projects, multiservice projects, and multistate projects, relating to the employment and training needs of dislocated workers. Of the requirements of this section, such projects shall be subject only to the provisions relating to review and evaluation of applications under subsection (g). Such projects may include demonstration and pilot projects relating to promoting self-employment, promoting job creation, averting dislocations, assisting dislocated farmers, assisting dislocated fishermen, and promoting public works. Such projects shall be administered through the dislocated worker office described in section 369(b).

(g) PEER REVIEW.—The Secretary shall utilize a peer review process to—

(1) review and evaluate all applications for grants and contracts in amounts that exceed $100,000 that are submitted under this section; and

(2) review and designate exemplary and promising programs under this section.

SEC. 368. EVALUATIONS.

(a) PROGRAMS AND ACTIVITIES CARRIED OUT UNDER THIS TITLE.—For the purpose of improving the management and effectiveness of programs and activities carried out under this title, the Secretary shall provide for the continuing evaluation of the programs and activities. Such evaluations shall address—

(1) the general effectiveness of such programs and activities in relation to their cost;

(2) the effectiveness of the performance measures relating to such programs and activities;

(3) the effectiveness of the structure and mechanisms for delivery of services through such programs and activities;

(4) the impact of the programs and activities on the community and participants involved;

(5) the impact of such programs and activities on related programs and activities;

(6) the extent to which such programs and activities meet the needs of various demographic groups; and

(7) such other factors as may be appropriate.

(b) OTHER PROGRAMS AND ACTIVITIES.—The Secretary may conduct evaluations of other federally funded employment-related programs and activities, including programs and activities administered under—

(1) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(2) the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.);

(3) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

(4) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

(5) the Federal unemployment insurance program under titles III, IX, and XII of the Social Security Act (42 U.S.C. 501 et seq., 1101 et seq., and 1321 et seq.).

(c) TECHNIQUES.—Evaluations conducted under this section shall utilize appropriate methodology and research designs, which may include the use of control groups chosen by scientific random assignment methodologies. Such an evaluation shall be conducted by a person not immediately involved in the administration of the program or activity being evaluated.

(d) REPORTS.—The entity carrying out an evaluation described in subsection (a), (b), or (c) shall prepare and submit to the Secretary a draft report and a final report containing the results of the evaluation.

(e) REPORTS TO CONGRESS.—Not later than 30 days after the completion of such a draft report, the Secretary shall transmit the draft report to the appropriate committees of Congress. Not later than 60 days after the completion of such a final report, the Secretary shall transmit the final report to the appropriate committees of Congress.

SEC. 369. NATIONAL EMERGENCY GRANTS.

(a) IN GENERAL.—The Secretary is authorized to award national emergency grants in a timely manner—

(1) to an entity described in subsection (c) to provide employment and training assistance to workers affected by major economic dislocations, such as plant closures, mass layoffs, or closures and realignments of military installations;

(2) to provide assistance to the Governor of any State within the boundaries of which is an area that has suffered an emergency or a major disaster as defined in paragraphs (1) and (2), respectively, of section 102 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 (1) and (2)) (referred to in this section as the "disaster area") to provide disaster relief employment in the area; and

(3) to provide additional assistance to a State or local partnership for eligible dislocated workers in a case in which the State or local partnership has expended the funds provided under this section to carry out activities described in paragraphs (1) and (2) and can demonstrate the need for additional funds to provide appropriate services for such workers, in accordance with requirements prescribed by the Secretary.

(b) ADMINISTRATION.—The Secretary shall designate a dislocated worker office to coordinate the functions of the Secretary under this title relating to national emergency grants.

(c) EMPLOYMENT AND TRAINING ASSISTANCE REQUIREMENTS.—

(1) APPLICATION.—To be eligible to receive a grant under subsection (a)(1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) ELIGIBLE ENTITY.—In this subsection, the term "entity" means a State, a local partnership, an entity described in section 361(c), an

employer or employer association, a labor organization, and an entity determined to be eligible by the Governor of the State involved.

(d) DISASTER RELIEF EMPLOYMENT ASSISTANCE REQUIREMENTS.—

(1) IN GENERAL.—Funds made available under subsection (a)(2)—

(A) shall be used to provide disaster relief employment on projects that provide food, clothing, shelter, and other humanitarian assistance for disaster victims, and projects regarding demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area;

(B) may be expended through public and private agencies and organizations engaged in such projects; and

(C) may be expended to provide the services authorized under section 315(c).

(2) ELIGIBILITY.—An individual shall be eligible to be offered disaster relief employment under subsection (a)(2) if such individual is a dislocated worker, is a long-term unemployed individual, or is temporarily or permanently laid off as a consequence of the disaster.

(3) LIMITATIONS ON DISASTER RELIEF EMPLOYMENT.—No individual shall be employed under subsection (a)(2) for more than 6 months for work related to recovery from a single natural disaster.

SEC. 370. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—

(1) NATIVE AMERICAN PROGRAMS; MIGRANT AND SEASONAL FARMWORKER PROGRAMS; VETERANS' EMPLOYMENT PROGRAMS.—Subject to subsection (b)(1), there are authorized to be appropriated to carry out sections 361 through 363 such sums as may be necessary for each of the fiscal years 1999 through 2004.

(2) INCENTIVE GRANTS; TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS; EVALUATIONS.—Subject to subsection (b)(2), there are authorized to be appropriated to carry out sections 365 through 368, such sums as may be necessary for each of fiscal years 1999 through 2004.

(b) RESERVATIONS.—

(1) NATIVE AMERICAN PROGRAMS; MIGRANT AND SEASONAL FARMWORKER PROGRAMS; VETERANS' EMPLOYMENT PROGRAMS.—Of the amount appropriated under subsection (a)(1) for a fiscal year, the Secretary shall—

(A) reserve not less than $55,000,000 for carrying out section 361;

(B) reserve not less than $70,000,000 for carrying out section 362; and

(C) reserve not less than $7,300,000 for carrying out section 363.

(2) INCENTIVE GRANTS; TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS; EVALUATIONS.—Of the amount appropriated under subsection (a)(2) for a fiscal year, the Secretary shall—

(A) reserve 36.8 percent for carrying out section 365;

(B) reserve 25 percent for carrying out section 366 (other than section 366(b)(2));

(C) reserve 24.2 percent for carrying out section 367 (other than 367(f)); and

(D) reserve 14 percent for carrying out section 368.

Subtitle D—Administration

SEC. 371. REQUIREMENTS AND RESTRICTIONS.

(a) BENEFITS.—

(1) WAGES.—

(A) IN GENERAL.—Individuals in on-the-job training or individuals employed in programs and activities carried out under this title shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar skills. Such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law.

(B) CONSTRUCTION.—The reference in subparagraph (A) to section 6(a)(1) of the Fair Labor Standards Act of 1938—

(i) shall be deemed to be a reference to section 6(c) of that Act (29 U.S.C. 206(c)) for individuals in the Commonwealth of Puerto Rico;

(ii) shall be deemed to be a reference to section 6(a)(3) (29 U.S.C. 206(a)(3)) of that Act for individuals in American Samoa; and

(iii) shall not be applicable for individuals in other territorial jurisdictions in which section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) does not apply.

(2) TREATMENT OF ALLOWANCES, EARNINGS, AND PAYMENTS.—Allowances, earnings, and payments to individuals participating in programs and activities carried out under this title shall not be considered to be income for the purposes of determining eligibility for, and the amount of income transfer and in-kind aid furnished under, any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).

(b) LABOR STANDARDS.—

(1) DISPLACEMENT.—

(A) PROHIBITION.—A participant in a program or activity authorized under this title (referred to in this subsection as a "specified activity") shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

(B) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(2) OTHER PROHIBITIONS.—A participant in a specified activity shall not be employed in a job—

(A) when any other individual is on layoff from the same or any substantially equivalent job with the participating employer;

(B) when the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

(C) that is created in a promotional line that will infringe in any way on the promotional opportunities of currently employed individuals (as of the date of the participation).

(3) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that a State workers' compensation law applies, workers' compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

(4) EMPLOYMENT CONDITIONS.—Individuals in on-the-job training or individuals employed in programs and activities carried out under this title, shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

(5) OPPORTUNITY TO SUBMIT COMMENTS.—Consistent with sections 303(d)(2) and 309(c), interested members of the public shall be provided an opportunity to submit comments with respect to programs and activities proposed to be funded under subtitle A.

(c) GRIEVANCE PROCEDURE.—

(1) IN GENERAL.—Each State receiving an allotment under section 302 and each grant recipient under section 361 or 362 shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this title from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within 60 days after the date of the filing of the grievance or complaint.

(2) INVESTIGATION.—

(A) IN GENERAL.—The Secretary shall investigate an allegation of a violation described in paragraph (1) if—

(i) a decision relating to such violation has not been reached within 60 days after the date of the filing of the grievance or complaint and either party appeals the decision to the Secretary; or

(ii) a decision relating to such violation has been reached within 60 days after the date of the filing and the party to which such decision is adverse appeals the decision to the Secretary.

(B) ADDITIONAL REQUIREMENT.—The Secretary shall make a final determination relating to an appeal made under subparagraph (A) no later than 120 days after the date of such appeal.

(3) REMEDIES.—Remedies that may be imposed under this subsection for a violation of any requirement of this title shall be limited—

(A) to suspension or termination of payments under this title to a person that has violated any requirement of this title;

(B) to prohibition of placement of a participant with an employer that has violated any requirement of this title;

(C) where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and

(D) where appropriate, to other equitable relief.

(4) CONSTRUCTION.—Nothing in paragraph (3) shall be construed to prohibit a grievant or complainant from pursuing a remedy authorized under another Federal, State, or local law for a violation of this title.

(d) RELOCATION.—

(1) PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR INDUCE RELOCATION.—No funds provided under this title shall be used, or proposed for use, to encourage or induce the relocation of a business or part of a business if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(2) PROHIBITION ON USE OF FUNDS FOR CUSTOMIZED OR SKILL TRAINING AND RELATED ACTIVITIES AFTER RELOCATION.—No funds provided under this title for an employment and training activity shall be used for customized or skill training, on-the-job training, or company-specific assessments of job applicants or employees, for any business or part of a business that has relocated, until the date that is 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business results in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(3) REPAYMENT.—If the Secretary determines that a violation of paragraph (1) or (2) has occurred, the Secretary shall require the State that has violated such paragraph to repay to the United States an amount equal to the amount expended in violation of such paragraph.

(e) Limitation on Use of Funds.—No funds available under this title shall be used for employment generating activities, economic development activities, activities for the capitalization of businesses, investment in contract bidding resource centers, or similar activities. No funds available under subtitle A shall be used for foreign travel.

SEC. 372. PROMPT ALLOCATION OF FUNDS.

(a) Allotments and Allocations Based on Latest Available Data.—All allotments and allocations under section 302, 306, or 366 shall be based on the latest available data and estimates satisfactory to the Secretary. All data relating to disadvantaged adults, disadvantaged youth, and low-income individuals shall be based on the most recent satisfactory data from the Bureau of the Census.

(b) Publication in Federal Register Relating to Formula Funds.—Whenever the Secretary allots funds required to be allotted under section 302 or 366, the Secretary shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient of the funds.

(c) Requirement for Funds Distributed by Formula.—All funds required to be allotted or allocated under section 302, 306, or 366 shall be allotted or allocated within 45 days after the date of enactment of the Act appropriating the funds, except that, if such funds are appropriated in advance as authorized by section 379(g), such funds shall be allotted or allocated not later than the March 31 preceding the program year for which such funds are to be available for obligation.

(d) Availability of Funds.—Funds shall be made available under section 306 to the chief elected official for a local area not later than 30 days after the date the funds are made available to the Governor involved, under section 302, or 7 days after the date the local plan for the area is approved, whichever is later.

SEC. 373. MONITORING.

(a) In General.—The Secretary is authorized to monitor all recipients of financial assistance under this title to determine whether the recipients are complying with the provisions of this title, including the regulations issued under this title.

(b) Investigations.—The Secretary may investigate any matter the Secretary determines to be necessary to determine the compliance of the recipients with this title, including the regulations issued under this title. The investigations authorized by this subsection may include examining records (including making certified copies of the records), questioning employees, and entering any premises or onto any site in which any part of a program or activity of such a recipient is conducted or in which any of the records of the recipient are kept.

(c) Additional Requirement.—For the purpose of any investigation or hearing conducted under this title by the Secretary, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of documents) apply to the Secretary, in the same manner and to the same extent as the provisions apply to the Federal Trade Commission.

SEC. 374. FISCAL CONTROLS; SANCTIONS.

(a) Establishment of Fiscal Controls by States.—

(1) In general.—Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds allocated to local areas under subtitle A. Such procedures shall ensure that all financial transactions carried out under subtitle A are conducted and records maintained in accordance with generally accepted accounting principles applicable in each State.

(2) Regulations.—The Secretary shall prescribe regulations establishing uniform cost principles that are substantially equivalent to such principles generally applicable to recipients of Federal grant funds, and are consistent with appropriate circulars of the Office of Management and Budget. At a minimum, such regulations shall provide that—

(A) to be allowable, costs incurred under this title shall—

(i) be necessary and reasonable for proper and efficient administration of the programs and activities carried out under this title;

(ii) except for the administrative funds described in sections 306(b)(5) and 314(c)(2), be allocable to the programs and activities carried out under this title; and

(iii) not be a general expense required to carry out the overall responsibilities of State or local governments; and

(B) procurement transactions between local partnerships and such governments shall be conducted only on a cost-reimbursable basis.

(3) Procurement standards.—Each Governor, in accordance with minimum requirements established by the Secretary (after consultation with the Governors) in regulations, shall prescribe and implement procurement standards to ensure fiscal accountability and prevent fraud and abuse in programs and activities carried out under this title.

(4) Monitoring.—The Governor shall conduct onsite monitoring of each local area within the State to ensure compliance with the procurement standards prescribed pursuant to paragraph (3).

(5) Action by governor.—If the Governor determines that a local area is not in compliance with the procurement standards prescribed pursuant to paragraph (3), the Governor shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

(6) Certification.—The Governor shall, every 3 years, certify to the Secretary that—

(A) the State has implemented the procurement standards prescribed under paragraph (3);

(B) the State has monitored local areas to ensure compliance with the procurement standards as required under paragraph (4); and

(C) the State has taken appropriate action to secure compliance pursuant to paragraph (5).

(7) Action by the secretary.—If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (f) in the event of failure of the Governor to take the required appropriate action to secure compliance.

(b) Substantial Violation.—

(1) Action by governor.—If, as a result of a financial or compliance audit or otherwise, the Governor determines that there is a substantial violation of a specific provision of this title, including regulations issued under this title, and corrective action has not been taken, the Governor shall impose a reorganization plan, which may include—

(A) decertifying the local partnership involved in accordance with section 308(c)(3);

(B) prohibiting the use of providers who have been identified as eligible providers of workforce investment activities under chapter 3 of subtitle A;

(C) selecting an alternative entity to administer a program or activity for the local area involved;

(D) merging the local area into 1 or more other local areas; or

(E) making such other changes as the Secretary or Governor determines to be necessary to secure compliance.

(2) Appeal.—The action taken by the Governor pursuant to paragraph (1) may be appealed to the Secretary, who shall make a final decision on the appeal not later than 60 days after the receipt of the appeal.

(3) Action by secretary.—If the Governor fails to take promptly the action required under paragraph (1), the Secretary shall take such action.

(c) Access by Comptroller General.—For the purpose of evaluating and reviewing programs and activities established or provided for by this title, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs and activities that are in the possession, custody, or control of a State, a local partnership, any recipient of funds under this title, or any subgrantee or contractor of such a recipient.

(d) Repayment of Certain Amounts to the United States.—

(1) In general.—Every recipient of funds under this title shall repay to the United States amounts found not to have been expended in accordance with this title.

(2) Offset of repayment.—If the Secretary determines that a State has expended funds made available under this title in a manner contrary to the requirements of this title, the Secretary may offset repayment of such expenditures against any other amount to which the State is or may be entitled, except as provided under subsection (e)(1).

(3) Repayment from deduction by state.—If the Secretary requires a State to repay funds as a result of a determination that a local area of the State has expended funds contrary to the requirements of this title, the Governor of the State may use an amount deducted under paragraph (4) to repay the funds, except as provided under subsection (e)(1).

(4) Deduction by state.—The Governor may deduct an amount equal to the misexpenditure described in paragraph (3) from subsequent program year allocations to the local area from funds reserved for the administrative costs of the local programs involved, as appropriate.

(5) Limitations.—A deduction made by a State as described in paragraph (4) shall not be made until such time as the Governor has taken appropriate corrective action to ensure full compliance within such local area with regard to appropriate expenditures of funds under this title.

(e) Repayment of Amounts.—

(1) In general.—Each recipient of funds under this title shall be liable to repay the amounts described in subsection (d)(1), from funds other than funds received under this title, upon a determination by the Secretary that the misexpenditure of funds was due to willful disregard of the requirements of this title, gross negligence, failure to observe accepted standards of administration, or a pattern of misexpenditure as described in paragraphs (2) and (3) of subsection (d). No such determination shall be made under this subsection or subsection (d) until notice and opportunity for a fair hearing has been given to the recipient.

(2) Factors in imposing sanctions.—In determining whether to impose any sanction authorized by this section against a recipient for violations by a subgrantee or contractor of such recipient under this title (including the regulations issued under this title), the Secretary shall first determine whether such recipient has adequately demonstrated that the recipient has—

(A) established and adhered to an appropriate system for the award and monitoring of grants and contracts with subgrantees and contractors

that contains acceptable standards for ensuring accountability;

(B) entered into a written grant agreement or contract with such subgrantee or contractor that established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the grant agreement or contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this title, including regulations issued under this title, by such subgrantee or contractor.

(3) WAIVER.—If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this title and any applicable Federal or State law directly against any subgrantee or contractor for violation of this title, including regulations issued under this title.

(f) IMMEDIATE TERMINATION OR SUSPENSION OF ASSISTANCE IN EMERGENCY SITUATIONS.—In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program or activity involved, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, to the recipient if the recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

(g) DISCRIMINATION AGAINST PARTICIPANTS.—If the Secretary determines that any recipient of funds under this title has discharged or in any other manner discriminated in violation of section 378 against, a participant or any other individual in connection with the administration of the program or activity involved, or any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this title, or has testified or is about to testify in any such proceeding or investigation under or related to this title, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this title, including regulations issued under this title, the Secretary shall, within 30 days after the date of the determination, take such action or order such corrective measures, as may be necessary, with respect to the recipient or the aggrieved individual.

(h) REMEDIES.—The remedies described in this section shall not be construed to be the exclusive remedies available for violations described in this section.

SEC. 375. REPORTS; RECORDKEEPING; INVESTIGATIONS.

(a) REPORTS.—

(1) IN GENERAL.—Recipients of funds under this title shall keep records that are sufficient to permit the preparation of reports required by this title and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

(2) SUBMISSION TO THE SECRETARY.—Every such recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary may require regarding the performance of programs and activities carried out under this title. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by Congress or a committee of Congress.

(3) MAINTENANCE OF STANDARDIZED RECORDS.—In order to allow for the preparation of the reports required under subsection (c), such recipients shall maintain standardized records for all individual participants and provide to the Secretary a sufficient number of such records to provide for an adequate analysis of the records.

(4) AVAILABILITY TO THE PUBLIC.—

(A) IN GENERAL.—Except as provided in subparagraph (B), records maintained by such recipients pursuant to this subsection shall be made available to the public upon request.

(B) EXCEPTION.—Subparagraph (A) shall not apply to—

(i) information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(ii) trade secrets, or commercial or financial information, that is obtained from a person and privileged or confidential.

(C) FEES TO RECOVER COSTS.—Such recipients may charge fees sufficient to recover costs applicable to the processing of requests for records under subparagraph (A).

(b) INVESTIGATIONS OF USE OF FUNDS.—

(1) IN GENERAL.—

(A) SECRETARY.—In order to evaluate compliance with the provisions of this title, the Secretary shall conduct, in several States, in each fiscal year, investigations of the use of funds received by recipients under this title.

(B) COMPTROLLER GENERAL OF THE UNITED STATES.—In order to ensure compliance with the provisions of this title, the Comptroller General of the United States may conduct investigations of the use of funds received under this title by any recipient.

(2) PROHIBITION.—In conducting any investigation under this title, the Secretary or the Comptroller General of the United States may not request the compilation of any information that the recipient is not otherwise required to compile and that is not readily available to such recipient.

(3) AUDITS.—

(A) IN GENERAL.—In carrying out any audit under this title (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through grant or contract, the Secretary, the Inspector General of the Department of Labor, or the Comptroller General of the United States shall furnish to the State, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not later than 14 days (or as soon as practicable), prior to the commencement of the audit.

(B) NOTIFICATION REQUIREMENT.—If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

(C) ADDITIONAL REQUIREMENT.—The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding contained in the reports.

(D) RULE OF CONSTRUCTION.—Nothing contained in this title shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General of the United States.

(c) ACCESSIBILITY OF REPORTS.—Each State, each local partnership, and each recipient (other than a subrecipient, subgrantee, or contractor of a recipient) receiving funds under this title shall—

(1) make readily accessible such reports concerning its operations and expenditures as shall be prescribed by the Secretary;

(2) prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide, local area, and other appropriate bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 378; and

(3) monitor the performance of providers in complying with the terms of grants, contracts, or other agreements made pursuant to this title.

(d) INFORMATION TO BE INCLUDED IN REPORTS.—

(1) IN GENERAL.—The reports required in subsection (c) shall include information regarding programs and activities carried out under this title pertaining to—

(A) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information regarding participants;

(B) the programs and activities in which participants are enrolled, and the length of time that participants are engaged in such programs and activities;

(C) outcomes of the programs and activities for participants, including the occupations of participants, and placement for participants in nontraditional employment;

(D) specified costs of the programs and activities; and

(E) information necessary to prepare reports to comply with section 378.

(2) ADDITIONAL REQUIREMENT.—The Secretary shall ensure that all elements of the information required for the reports described in paragraph (1) are defined and reported uniformly.

(e) RETENTION OF RECORDS.—The Governor of a State that receives funds under this title shall ensure that requirements are established for retention of all records of the State pertinent to all grants awarded, and contracts and agreements entered into, under this title, including financial, statistical, property, and participant records and supporting documentation. For funds allotted to a State under this title for any program year, the State shall retain the records for 2 subsequent program years. The State shall retain records for nonexpendable property that is used to carry out this title for a period of 3 years after final disposition of the property.

(f) QUARTERLY FINANCIAL REPORTS.—

(1) IN GENERAL.—Each local partnership in the State shall submit quarterly financial reports to the Governor with respect to programs and activities carried out under this title. Such reports shall include information identifying all program and activity costs by cost category in accordance with generally accepted accounting principles and by year of the appropriation involved.

(2) ADDITIONAL REQUIREMENT.—Each State shall submit to the Secretary, on a quarterly basis, a summary of the reports submitted to the Governor pursuant to paragraph (1).

(g) MAINTENANCE OF ADDITIONAL RECORDS.—Each State and local partnership shall maintain records with respect to programs and activities carried out under this title that identify—

(1) any income or profits earned, including such income or profits earned by subrecipients; and

(2) any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.

(h) COST CATEGORIES.—In requiring entities to maintain records of costs by category under this title, the Secretary shall require only that the costs be categorized as administrative or programmatic costs.

SEC. 376. ADMINISTRATIVE ADJUDICATION.

(a) IN GENERAL.—Whenever any applicant for financial assistance under this title is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient for whom a corrective action has been required or a sanction has been imposed by the Secretary under section 374. Except to the extent provided for in section 371(c) or 378, all other disputes arising under this title relating to the manner in which the recipient carries out a program or activity under this title shall be adjudicated under grievance procedures established by the recipient or under applicable law other than this title.

(b) APPEAL.—The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part of the decision has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. After the 20-day period the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days after such filing, has notified the parties that the case involved has been accepted for review.

(c) TIME LIMIT.—Any case accepted for review by the Secretary under subsection (b) shall be decided within 180 days after such acceptance. If the case is not decided within the 180-day period, the decision of the administrative law judge shall become the final decision of the Secretary at the end of the 180-day period.

(d) ADDITIONAL REQUIREMENT.—The provisions of section 377 shall apply to any final action of the Secretary under this section.

SEC. 377. JUDICIAL REVIEW.

(a) REVIEW.—

(1) PETITION.—With respect to any final order by the Secretary under section 376 by which the Secretary awards, declines to award, or only conditionally awards, financial assistance under this title, or any final order of the Secretary under section 376 with respect to a corrective action or sanction imposed under section 374, any party to a proceeding which resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds involved, by filing a review petition within 30 days after the date of issuance of such final order.

(2) ACTION ON PETITION.—The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record on which the final order was entered as provided in section 2112 of title 28, United States Code. The filing of a review petition shall not stay the order of the Secretary, unless the court orders a stay. Petitions filed under this subsection shall be heard expeditiously, if possible within 10 days after the date of filing of a reply to the petition.

(3) STANDARD AND SCOPE OF REVIEW.—No objection to the order of the Secretary shall be considered by the court unless the objection was specifically urged, in a timely manner, before the Secretary. The review shall be limited to questions of law and the findings of fact of the Secretary shall be conclusive if supported by substantial evidence.

(b) JUDGMENT.—The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The judgment of the court regarding the order shall be final, subject to certiorari review by the Supreme Court as provided in section 1254(1) of title 28, United States Code.

SEC. 378. NONDISCRIMINATION.

(a) PROHIBITED DISCRIMINATION.—

(1) PROHIBITION ON DISCRIMINATION IN FEDERAL PROGRAMS AND ACTIVITIES.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), programs and activities funded in whole or in part under this title shall be considered to be programs and activities receiving Federal financial assistance, and education programs and activities receiving Federal financial assistance.

(2) PROHIBITION OF DISCRIMINATION REGARDING PARTICIPATION, BENEFITS, AND EMPLOYMENT.—No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.

(3) PROHIBITION ON ASSISTANCE FOR FACILITIES FOR SECTARIAN INSTRUCTION OR RELIGIOUS WORSHIP.—Participants shall not be employed under this title to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship.

(4) PROHIBITION ON DISCRIMINATION ON BASIS OF PARTICIPANT STATUS.—No person may discriminate against an individual who is a participant in a program or activity that receives funds under this title, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant, in carrying out any endeavor that involves—

(A) participants in programs and activities that receive funding under this title; and

(B) persons who receive no assistance under this title.

(5) PROHIBITION ON DISCRIMINATION AGAINST CERTAIN NONCITIZENS.—Participation in programs and activities or receiving funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, other aliens lawfully present in the United States, and other individuals authorized by the Attorney General to work in the United States.

(b) ACTION OF SECRETARY.—Whenever the Secretary finds that a State or other recipient of funds under this title has failed to comply with a provision of law referred to in subsection (a)(1), or with paragraph (2), (3), (4), or (5) of subsection (a), including an applicable regulation prescribed to carry out such provision or paragraph, the Secretary shall notify such State or recipient and shall request that the State or recipient comply. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided to the head of a Federal department or agency under the Age Discrimination Act of 1975, title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964, as may be applicable; or

(3) take such other action as may be provided by law.

(c) ACTION OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient of funds under this title is engaged in a pattern or practice of discrimination in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) JOB CORPS MEMBERS.—For purposes of this section, Job Corps members shall be considered as the ultimate beneficiaries of an education program or activity receiving Federal financial assistance.

SEC. 379. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe rules and regulations to carry out this title to the extent necessary to implement, administer, and ensure compliance with the requirements of this title. Such rules and regulations may include provisions making adjustments authorized by section 6504 of title 31, United States Code. All such rules and regulations shall be published in the Federal Register at least 30 days prior to their effective dates. Copies of each such rule or regulation shall be transmitted to the appropriate committees of Congress on the date of such publication and shall contain, with respect to each material provision of such rule or regulation, a citation to the particular substantive section of law that is the basis for the provision.

(b) ACQUISITION OF CERTAIN PROPERTY AND SERVICES.—The Secretary is authorized, in carrying out this title, to accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.

(c) AUTHORITY TO ENTER INTO CERTAIN AGREEMENTS AND TO MAKE CERTAIN EXPENDITURES.—The Secretary may make such grants, enter into such contracts or agreements, establish such procedures, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend such funds under this title, as may be necessary to carry out this title, including making expenditures for construction, repairs, and capital improvements, and including making necessary adjustments in payments on account of overpayments or underpayments.

(d) ANNUAL REPORT.—The Secretary shall prepare and submit to Congress an annual report regarding the programs and activities carried out under this title. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs and activities in meeting the objectives of this title;

(2) a summary of major findings from research, evaluations, pilot projects, and experiments conducted under this title in the fiscal year prior to the submission of the report;

(3) recommendations for modifications in the programs and activities based on analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary determines to be appropriate.

(e) UTILIZATION OF SERVICES AND FACILITIES.—The Secretary is authorized, in carrying out this title, under the same procedures as are *applicable under subsection (c) or to the extent permitted by law other than this title, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized, in carrying out this title, to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with the consent of the State or political subdivision.*

(f) OBLIGATIONAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary shall have no authority to enter into contracts, grant agreements, or other financial assistance agreements under this title except to such extent and in such amounts as are provided in advance in appropriations Acts.

(g) PROGRAM YEAR.—

(1) IN GENERAL.—Appropriations for any fiscal year for programs and activities carried out under this title shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(2) AVAILABILITY.—Funds obligated for any program year for a program or activity carried out under this title may be expended by each State receiving such funds during that program year and the 2 succeeding program years. Funds received by local areas from States under this title during a program year may be expended during that program year and the succeeding program year. No amount of the funds described in this paragraph shall be deobligated on account of a rate of expenditure that is consistent with a State plan, an operating plan described in section 341, or a plan, grant agreement, contract, application, or other agreement described in subtitle C, as appropriate.

(h) ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT.—The Secretary shall ensure that each individual participating in any program or activity established under this title, or receiving any assistance or benefit under this title, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.

(i) WAIVERS.—

(1) SPECIAL RULE.—With respect to a State that has been granted a waiver under the provisions relating to training and employment services of the Department of Labor in title I of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–234), the authority provided under such waiver shall continue in effect and apply, and include a waiver of the related provisions of subtitle A and this subtitle, for the duration of the initial waiver.

(2) GENERAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary may waive for a State, or a local area in a State, pursuant to a request submitted by the Governor of the State (in consultation with appropriate local elected officials) that meets the requirements of paragraph (3)—

(A) any of the statutory or regulatory requirements of subtitle A or this subtitle (except for requirements relating to wage and labor standards, worker rights, participation and protection of participants, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility of providers or participants, and the establishment and functions of local areas); and

(B) any of the statutory or regulatory requirements of sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i) (excluding requirements relating to the provision of services to unemployment insurance claimants (including veterans) but including reporting requirements relating to such provision of services, and excluding requirements relating to universal access to basic labor exchange services without cost to jobseekers).

(3) REQUESTS.—A Governor requesting a waiver under paragraph (2) shall submit a plan to the Secretary to improve the statewide workforce investment system that—

(A) identifies the statutory or regulatory requirements that are requested to be waived and the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver;

(B) describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;

(C) describes the goals of the waiver and the expected programmatic outcomes if the request is granted;

(D) describes the individuals impacted by the waiver; and

(E) describes the process used to monitor the progress in implementing such a waiver, and the process by which notice and an opportunity to comment on such request has been provided to the organizations identified in section 308(b)(2).

(4) CONDITIONS.—Not later than 90 days after the date of the original submission of a request for a waiver under paragraph (2), the Secretary shall provide a waiver under this subsection if and only to the extent that—

(A) the Secretary determines that the requirements requested to be waived impede the ability of the State or local area, as appropriate, to implement the plan described in paragraph (3); and

(B) the State has executed a memorandum of understanding with the Secretary requiring such State to meet, or ensure that the local area meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability.

SEC. 380. STATE LEGISLATIVE AUTHORITY.

(a) AUTHORITY OF STATE LEGISLATURE.—Nothing in this title shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this title, of the activities assisted under this title. Any funds received by a State under this title shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this title.

(b) INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS.—In the event that compliance with provisions of this title would be enhanced by compacts and cooperative agreements between States, the consent of Congress is given to States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

Subtitle E—Repeals and Conforming Amendments

SEC. 391. REPEALS.

(a) GENERAL IMMEDIATE REPEALS.—The following provisions are repealed:

(1) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(2) Title II of Public Law 95–250 (92 Stat. 172).

(3) The Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.).

(4) Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211).

(5) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.), except section 738 of such title (42 U.S.C. 11448).

(6) Subchapter I of chapter 421 of title 49, United States Code.

(b) SUBSEQUENT REPEALS.—The following provisions are repealed:

(1) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(2) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.), except subtitle B and section 738 of such title (42 U.S.C. 11431 et seq. and 11448).

SEC. 392. CONFORMING AMENDMENTS.

(a) PREPARATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary shall prepare recommended legislation containing technical and conforming amendments to reflect the changes made by this subtitle.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to Congress the recommended legislation referred to under paragraph (1).

SEC. 393. EFFECTIVE DATES.

(a) IMMEDIATE REPEALS.—The repeals made by section 391(a) shall take effect on the date of enactment of this Act.

(b) SUBSEQUENT REPEALS.—The repeals made by section 391(b) shall take effect on July 1, 1999.

TITLE IV—WORKFORCE INVESTMENT-RELATED ACTIVITIES

Subtitle A—Wagner-Peyser Act

SEC. 401. DEFINITIONS.

Section 2 of the Wagner-Peyser Act (29 U.S.C. 49a) is amended—

(1) in paragraph (1)—

(A) by striking "or officials"; and

(B) by striking "Job Training Partnership Act" and inserting "Workforce Investment Partnership Act of 1997";

(2) by striking paragraphs (2) and (4);

(3) by redesignating paragraphs (3) and (5) as paragraphs (5) and (6), respectively;

(4) by inserting after paragraph (1) the following:

"(2) the term 'local workforce investment area' means a local workforce investment area designated under section 307 of the Workforce Investment Partnership Act of 1997;

"(3) the term 'local workforce investment partnership' means a local workforce investment partnership established under section 308 of the Workforce Investment Partnership Act of 1997;

"(4) the term 'one-stop customer service system' means a one-stop customer service system established under section 315(b) of the Workforce Investment Partnership Act of 1997;"; and

(5) in paragraph (5) (as redesignated in paragraph (3)), by striking the semicolon and inserting "; and".

SEC. 402. FUNCTIONS.

(a) IN GENERAL.—Section 3(a) of the Wagner-Peyser Act (29 U.S.C. 49b(a)) is amended to read as follows:

"(a) The Secretary shall—

"(1) assist in the coordination and development of a nationwide system of public labor exchange services, provided as part of the one-stop customer service systems of the States;

"(2) assist in the development of continuous improvement models for such nationwide system that ensure private sector satisfaction with the system and meet the demands of jobseekers relating to the system; and

"(3) ensure, for individuals otherwise eligible to receive unemployment compensation, the provision of reemployment services and other activities in which the individuals are required to participate to receive the compensation.".

(b) CONFORMING AMENDMENTS.—Section 508(b)(1) of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a(b)(1)) is amended—

(1) by striking "the third sentence of section 3(a)" and inserting "section 3(b)"; and

(2) by striking "49b(a)" and inserting "49b(b))".

SEC. 403. DESIGNATION OF STATE AGENCIES.

Section 4 of the Wagner-Peyser Act (29 U.S.C. 49c) is amended—

(1) by striking ", through its legislature," and inserting ", pursuant to State statute,";

(2) by inserting after "the provisions of this Act and" the following: ", in accordance with such State statute, the Governor shall"; and

(3) by striking "United States Employment Service" and inserting "Secretary".

SEC. 404. APPROPRIATIONS.

Section 5(c) of the Wagner-Peyser Act (29 U.S.C. 49d(c)) is amended by striking paragraph (3).

SEC. 405. DISPOSITION OF ALLOTTED FUNDS.

Section 7 of the Wagner-Peyser Act (29 U.S.C. 49f) is amended—

(1) in subsection (b)(2), by striking "private industry council" and inserting "local workforce investment partnership";

(2) in subsection (c)(2), by striking "any program under" and all that follows and inserting "any workforce investment activity carried out under the Workforce Investment Partnership Act of 1997.";

(3) in subsection (d)—

(A) by striking "United States Employment Service" and inserting "Secretary"; and

(B) by striking "Job Training Partnership Act" and inserting "Workforce Investment Partnership Act of 1997"; and

(4) by adding at the end the following:

"(e) All job search, placement, recruitment, labor market information, and other labor exchange services authorized under subsection (a) shall be provided as part of the one-stop customer service system established by the State.".

SEC. 406. STATE PLANS.

Section 8 of the Wagner-Peyser Act (29 U.S.C. 49g) is amended—

(1) in subsection (a) to read as follows:

"(a) Any State desiring to receive assistance under this Act shall submit to the Secretary, as part of the State plan submitted under section 304 of the Workforce Investment Partnership Act of 1997, detailed plans for carrying out the provisions of this Act within such State.";

(2) by striking subsections (b), (c), and (e);

(3) by redesignating subsection (d) as subsection (b); and

(4) by adding at the end the following:

"(c) The part of the State plan described in subsection (a) shall include the information described in paragraphs (8) and (16) of section 304(b) of the Workforce Investment Partnership Act of 1997.".

SEC. 407. REPEAL OF FEDERAL ADVISORY COUNCIL.

Section 11 of the Wagner-Peyser Act (29 U.S.C. 49j) is hereby repealed.

SEC. 408. REGULATIONS.

Section 12 of the Wagner-Peyser Act (29 U.S.C. 49k) is amended by striking "The Director, with the approval of the Secretary of Labor," and inserting "The Secretary".

SEC. 409. LABOR MARKET INFORMATION.

The Wagner-Peyser Act is amended—

(1) by redesignating section 15 (29 U.S.C. 49 note) as section 16; and

(2) by inserting after section 14 (29 U.S.C. 49l–1) the following:

"SEC. 15. LABOR MARKET INFORMATION.

"(a) SYSTEM CONTENT.—

"(1) IN GENERAL.—The Secretary, in accordance with the provisions of this section, shall oversee the development, maintenance, and continuous improvement of a system of labor market information that includes—

"(A) statistical data from cooperative statistical survey and projection programs and data from administrative reporting systems that, taken together, enumerate, estimate, and project the employment opportunities at the national, State, and local levels in a timely manner, including data on—

"(i) employment and unemployment status of the national, State, and local populations, as such data are developed by the Bureau of Labor Statistics and other sources;

"(ii) industrial distribution of occupations, as well as current and projected employment opportunities and skill trends by occupation and industry, with particular attention paid to State and local employment opportunities;

"(iii) the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings; and

"(iv) employee information maintained in a longitudinal manner and collected (as of the date of enactment of the Workforce Investment Partnership Act of 1997) by States;

"(B) State and local employment information, and other appropriate statistical data related to labor market dynamics (compiled for States and localities with technical assistance provided by the Secretary), which shall—

"(i) be current and comprehensive, as of the date used;

"(ii) assist individuals to make informed choices relating to employment and training; and

"(iii) assist employers to locate, identify skill traits of, and train individuals who are seeking employment and training;

"(C) technical standards (which the Secretary shall make publicly available) for data and information described in subparagraphs (A) and (B) that, at a minimum, meet the criteria of chapter 35 of title 44, United States Code;

"(D) procedures to ensure compatibility and additivity of the data and information described in subparagraphs (A) and (B) from national, State, and local levels;

"(E) procedures to support standardization and aggregation of data from administrative reporting systems described in subparagraph (A) of employment-related programs;

"(F) analysis of data and information described in subparagraphs (A) and (B) for uses such as State and local policymaking;

"(G) wide dissemination of such data, information, and analysis, training for users of the data, information, and analysis, and voluntary technical standards for dissemination mechanisms; and

"(H) programs of—

"(i) research and demonstration; and

"(ii) technical assistance for States and localities.

"(2) INFORMATION TO BE CONFIDENTIAL.—

"(A) IN GENERAL.—No officer or employee of the Federal Government or agent of the Federal Government may—

"(i) use any submission that is furnished for exclusively statistical purposes under the provisions of this section for any purpose other than the statistical purposes for which the submission is furnished;

"(ii) make any publication or media transmittal of the data contained in the submission described in clause (i) that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means; or

"(iii) permit anyone other than a sworn officer, employee, or agent of any Federal department or agency, or a contractor (including an employee of a contractor) of such department or agency, to examine an individual submission described in clause (i);

without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission.

"(B) IMMUNITY FROM LEGAL PROCESS.—Any submission (including any data derived from the submission) that is collected and retained by a Federal department or agency, or an officer, employee, agent, or contractor of such a department or agency, for exclusively statistical purposes under this section shall be immune from the legal process and shall not, without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) CONSTRUCTION.—Nothing in this section shall be construed to provide immunity from the legal process for such submission (including any data derived from the submission) if the submission is in the possession of any person, agency, or entity other than the Federal Government or an officer, employee, agent, or contractor of the Federal Government, or if the submission is independently collected, retained, or produced for purposes other than the purposes of this Act.

"(b) SYSTEM RESPONSIBILITIES.—

"(1) IN GENERAL.—The labor market information system shall be planned, administered, overseen, and evaluated through a cooperative governance structure involving the Federal Government and States.

"(2) DUTIES.—The Secretary, with respect to data collection, analysis, and dissemination of labor market information for the system, shall carry out the following duties:

"(A) Assign responsibilities within the Department of Labor for elements of the system described in subsection (a) to ensure that all statistical and administrative data collected is consistent with appropriate Bureau of Labor Statistics standards and definitions.

"(B) Actively seek the cooperation of other Federal agencies to establish and maintain mechanisms for ensuring complementarity and nonduplication in the development and operation of statistical and administrative data collection activities.

"(C) Eliminate gaps and duplication in statistical undertakings, with the systemization of wage surveys as an early priority.

"(D) In collaboration with the Bureau of Labor Statistics and States, develop and maintain the elements of the system described in subsection (a), including the development of consistent definitions for use by the States in collecting the data and information described in subparagraphs (A) and (B), of subsection (a)(1) and the development of the annual plan under subsection (c).

"(E) Establish procedures for the system to ensure that—

"(i) such data and information are timely;

"(ii) administrative records for the system are consistent in order to facilitate aggregation of such data and information;

"(iii) paperwork and reporting for the system are reduced to a minimum; and

"(iv) States and localities are fully involved in the maintenance and continuous improvement of the system at the State and local levels.

"(c) ANNUAL PLAN.—The Secretary, with the assistance of the States and the Bureau of Labor Statistics, and with the assistance of other appropriate Federal agencies, shall prepare an annual plan which shall be the mechanism for achieving cooperative management of the nationwide labor market information system described in subsection (a) and the statewide labor market information systems that comprise the nationwide system. The plan shall—

"(1)(A) describe the elements of the system described in subsection (a), including standards, definitions, formats, collection methodologies, and other necessary system elements, for use in collecting data and information described in subparagraphs (A) and (B) of subsection (a)(1); and

"(B) include assurances that—

"(i) the data will be timely and detailed;

"(ii) administrative records will be standardized to facilitate the aggregation of the data from local areas to State and national levels and to support the creation of new statistical series from program records; and *"(iii) paperwork and reporting requirements for employers and individuals will be reduced;*

"(2) include a report on the results of an annual consumer satisfaction review concerning the performance of the system, including the performance of the system in addressing the needs of Congress, States, localities, employers, jobseekers, and other consumers;

"(3) evaluate the performance of the system and recommend needed improvements, taking into consideration the results of the consumer satisfaction review, with particular attention paid to the improvements needed at the State and local levels;

"(4) describe annual priorities, and priorities over 5 years, for the system;

"(5) describe current (as of the date of the submission of the plan) spending and spending needs to carry out activities under this section, including the costs to States and localities of meeting the requirements of subsection (e)(2); and

"(6) describe the involvement of States in the development of the plan, through formal consultations conducted by the Secretary in cooperation with representatives of the Governors of every State, and with representatives of local partnerships, pursuant to a process established by the Secretary in cooperation with the States.

"(d) COORDINATION WITH THE STATES.—The Secretary and the Bureau of Labor Statistics, in cooperation with the States, shall—

"(1) develop the annual plan described in subsection (c) by holding formal consultations, at least once each quarter, on the products and administration of the nationwide labor market information system; and

"(2) hold the consultations with representatives from each of the 10 Federal regions of the Employment and Training Administration, elected (pursuant to a process established by the Secretary) by and from the State labor market information directors affiliated with the State agencies that perform the duties described in subsection (e)(2).

"(e) STATE RESPONSIBILITIES.—

"(1) DESIGNATION OF STATE AGENCY.—In order to receive Federal financial assistance under this section, the Governor of a State—

"(A) shall designate a single State agency to be responsible for the management of the portions of the system described in subsection (a) that comprise a statewide labor market information system; and

"(B) shall establish a process for the oversight of such system.

"(2) DUTIES.—In order to receive Federal financial assistance under this section, the State agency shall—

"(A) consult with State and local employers, participants, and local partnerships about the labor market relevance of the data to be collected and disseminated through the statewide labor market information system;

"(B) consult with State educational agencies and local educational agencies concerning providing labor market information in order to meet the needs of secondary school and postsecondary school students who seek such information;

"(C) collect and disseminate for the system, on behalf of the State and localities in the State, the information and data described in subparagraphs (A) and (B) of subsection (a)(1);

"(D) maintain and continuously improve the statewide labor market information system in accordance with this section;

"(E) perform contract and grant responsibilities for data collection, analysis, and dissemination for such system;

"(F) conduct such other data collection, analysis, and dissemination activities as will ensure an effective statewide labor market information system;

"(G) actively seek the participation of other State and local agencies in data collection, analysis, and dissemination activities in order to ensure complementarity, compatibility, and usefulness of data;

"(H) participate in the development of the annual plan described in subsection (c); and

"(I) utilize the quarterly records described in sections 321(f)(1) and 312 to assist the State and other States in measuring State progress on State performance measures.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the ability of a State agency to conduct additional data collection, analysis, and dissemination activities with State funds or with Federal funds from sources other than this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999 through 2004.

"(g) DEFINITIONS.—In this section, the terms 'local area' and 'local partnership' have the meanings given the terms in section 2 of the Workforce Investment Partnership Act of 1997.".

SEC. 410. TECHNICAL AMENDMENTS.

Sections 3(b), 6(b)(1), and 7(d) of the Wagner Peyser Act (29 U.S.C. 49b(b), 49e(b)(1), and 49f(d)) are amended by striking "Secretary of Labor" and inserting "Secretary".

Subtitle B—Linkages With Other Programs

SEC. 421. TRADE ACT OF 1974.

Section 241 of the Trade Act of 1974 (19 U.S.C. 2313) is amended by adding at the end the following:

"(d) To be eligible to receive funds under this section, a State shall submit to the Secretary an application that includes the description and information described in paragraphs (8) and (16) of section 304(b) of the Workforce Investment Partnership Act of 1997.".

SEC. 422. NATIONAL APPRENTICESHIP ACT.

The Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) is amended by inserting after section 3 the following:

"SEC. 3A. COORDINATION AND NONDUPLICATION.

"In carrying out this Act, the Secretary of Labor shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation of this Act that includes the description and information described in paragraphs (8) and (16) of section 304(b) of the Workforce Investment Partnership Act of 1997.".

SEC. 423. VETERANS' EMPLOYMENT PROGRAMS.

Chapter 41 of title 38, United States Code, is amended by adding at the end the following:

"§4110B. Coordination and nonduplication

"In carrying out this chapter, the Secretary shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation of this Act that includes the description and information described in paragraphs (8) and (16) of section 304(b) of the Workforce Investment Partnership Act of 1997.".

SEC. 424. OLDER AMERICANS ACT OF 1965.

Section 502(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)) is amended—

(1) in subparagraph (O), by striking "; and" and inserting a semicolon;

(2) in subparagraph (P), by striking the period and inserting "; and"; and

(3) by adding at the end the following subparagraph:

"(Q) will provide to the Secretary the description and information described in paragraphs (8) and (16) of section 304(b) of the Workforce Investment Partnership Act of 1997.".

Subtitle C—Twenty-First Century Workforce Commission

SEC. 431. SHORT TITLE.

This subtitle may be cited as the "Twenty-First Century Workforce Commission Act".

SEC. 432. FINDINGS.

Congress finds that—

(1) information technology is one of the fastest growing areas in the United States economy;

(2) the United States is a world leader in the information technology industry;

(3) the continued growth and prosperity of the information technology industry is important to the continued prosperity of the United States economy;

(4) highly skilled employees are essential for the success of business entities in the information technology industry and other business entities that use information technology;

(5) employees in information technology jobs are highly paid;

(6) as of the date of enactment of this Act, these employees are in high demand in all industries and all regions of the United States; and

(7) through a concerted effort by business entities, the Federal Government, the governments of States and political subdivisions of States, and educational institutions, more individuals will gain the skills necessary to enter into a technology-based job market, ensuring that the United States remains the world leader in the information technology industry.

SEC. 433. DEFINITIONS.

In this subtitle:

(1) BUSINESS ENTITY.—The term "business entity" means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) COMMISSION.—The term "Commission" means the Twenty-First Century Workforce Commission established under section 434.

(3) INFORMATION TECHNOLOGY.—The term "information technology" has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 (110 Stat. 679).

(4) STATE.—The term "State" means each of the several States of the United States and the District of Columbia.

SEC. 434. ESTABLISHMENT OF TWENTY-FIRST CENTURY WORKFORCE COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Twenty-First Century Workforce Commission.

(b) MEMBERSHIP.—

(1) COMPOSITION.—

(A) IN GENERAL.—The Commission shall be composed of 21 members, of which—

(i) 7 members shall be appointed by the President;

(ii) 7 members shall be appointed by the Majority Leader of the Senate; and

(iii) 7 members shall be appointed by the Speaker of the House of Representatives.

(B) GOVERNMENTAL REPRESENTATIVES.—Of the members appointed under this subsection—

(i) 1 member shall be an officer or employee of the Department of Labor, who shall be appointed by the President;

(ii) 1 member shall be an officer or employee of the Department of Education, who shall be appointed by the President; and

(iii) 2 members shall be representatives of the governments of States and political subdivisions of States, 1 of whom shall be appointed by the Majority Leader of the Senate and 1 of whom shall be appointed by the Speaker of the House of Representatives.

(C) EDUCATORS.—Of the members appointed under this subsection, 6 shall be educators who are selected from among elementary, secondary, vocational, and postsecondary educators—

(i) 2 of whom shall be appointed by the President;

(ii) 2 of whom shall be appointed by the Majority Leader of the Senate; and

(iii) 2 of whom shall be appointed by the Speaker of the House of Representatives.

(D) BUSINESS REPRESENTATIVES.—

(i) IN GENERAL.—Of the members appointed under this subsection, at least 4 shall be individuals who are employed by non-information technology business entities.

(ii) SIZE.—Members appointed under this subsection in accordance with clause (i) shall, to the extent practicable, include individuals from business entities of a size that is small or average for a non-information technology business entity.

(2) DATE.—The appointments of the members of the Commission shall be made by the later of—

(A) October 31, 1998; or

(B) the date that is 45 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a chairperson and vice chairperson from among its members.

SEC. 435. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of all matters relating to the information technology workforce in the United States.

(2) MATTERS STUDIED.—The matters studied by the Commission shall include an examination of—

(A) the skills necessary to enter the information technology workforce;

(B) ways to expand the number of skilled information technology workers; and

(C) the relative efficacy of programs in the United States and foreign countries to train information technology workers, with special emphasis on programs that provide for secondary education or postsecondary education in a program other than a 4-year baccalaureate program (including associate degree programs and graduate degree programs).

(3) PUBLIC HEARINGS.—As part of the study conducted under this subsection, the Commission shall hold public hearings in each region of the United States concerning the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(4) EXISTING INFORMATION.—To the extent practicable, in carrying out the study under this subsection, the Commission shall identify and use existing information related to the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(5) CONSULTATION WITH CHIEF INFORMATION OFFICERS COUNCIL.—In carrying out the study under this subsection, the Commission shall consult with the Chief Information Officers Council established under Executive Order No. 13011.

(b) REPORT.—Not later than 6 months after the first meeting of the Commission, the Commission shall submit a report to the President and the Congress that shall contain a detailed statement of the findings and conclusions of the Commission resulting from the study, together with its recommendations for such legislation and administrative actions as the Commission considers to be appropriate.

(c) FACILITATION OF EXCHANGE OF INFORMATION.—In carrying out the study under subsection (a), the Commission shall, to the extent practicable, facilitate the exchange of information concerning the issues that are the subject of the study among—

(1) officials of the Federal Government and the governments of States and political subdivisions of States; and

(2) educators from Federal, State, and local institutions of higher education and secondary schools.

SEC. 436. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 437. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Except as provided in subsection (b), each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 438. TERMINATION OF THE COMMISSION.

The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its report under section 435(b).

SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 to the Commission to carry out the purposes of this subtitle.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. STATE UNIFIED PLANS.

(a) PURPOSE.—The purpose of this section is to permit and encourage the submission of State unified plans, to assure coordination of and to avoid duplication between the activities carried out through the one-stop customer service systems.

(b) DEFINITIONS.—In this section:

(1) APPROPRIATE SECRETARY.—The term "appropriate Secretary" means the head of the Federal agency with authority to carry out a system program.

(2) APPROPRIATE STATE AGENCY.—The term "appropriate State agency"—

(A) used with respect to a system program authorized under title I or II, means an eligible agency; and

(B) used with respect to another system program, means a State agency with authority to carry out the system program, as specified by the Governor of the State.

(3) SYSTEM PROGRAM.—The term "system program" means a program of activities, carried out through the one-stop customer service system, that are—

(A) activities authorized under title I or II;

(B) workforce investment activities authorized under subtitle A of title III;

(C) other activities authorized under title III;

(D) programs authorized under section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d));

(E) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(F) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(G) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(H) activities carried out by the Bureau of Apprenticeship and Training;

(I) programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

(J) activities authorized under chapter 41 of title 38, United States Code;

(K) programs authorized under State unemployment compensation laws and the Federal unemployment insurance program under titles III, IX, and XII of the Social Security Act (42 U.S.C. 501 et seq., 1101 et seq., and 1321 et seq.);

(L) programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(M) programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.); or

(N) training activities carried out by the Department of Housing and Urban Development.

(c) STATE UNIFIED PLAN.—A State may develop and submit to the appropriate Secretaries a State unified plan for 2 or more of the system programs.

(d) CONTENTS.—

(1) PLANNING PROVISIONS.—

(A) IN GENERAL.—In a State that elects to develop a State unified plan, the plan shall contain planning provisions, which shall be developed in a manner that substantially reflects the

planning requirements of the provisions of the Federal statutes authorizing the system programs.

(B) PLANNING REQUIREMENTS.—In subparagraph (A), the term "planning requirements", used with respect to a system program, means such requirements as the appropriate Secretary shall by regulation specify for the system program.

(2) INFORMATION PROVISIONS.—In addition to the planning provisions required to be included pursuant to paragraph (1), the plan shall include the following:

(A) A description of the process used for developing the State unified plan.

(B) A description of the process used to consult the chief elected officials in the State about the State unified plan.

(C) A description of the accountability system of the State for activities carried out through the one-stop customer service system.

(D) A description of how the one-stop customer service system will provide the services identified in the State unified plan through such system.

(E) An assurance that the funds appropriated under Federal law to carry out the activities identified in the State unified plan will be used to supplement and not supplant other Federal, State, and local public funds expended to carry out the activities for eligible individuals.

(e) DEVELOPMENT.—

(1) PLANNING PROVISIONS.—The provisions of the plan described in subsection (d)(1) shall be developed by the statewide partnership. The portion of the State unified plan relating to a system program may be modified, as appropriate, with the agreement of the Governor and the head of the appropriate State agency with authority to carry out the system program. The Governor and the head of the appropriate State agency shall have the final authority to determine the content of the portion of the State unified plan that relates to the system program.

(2) INFORMATION PROVISIONS.—The provisions of the plan described in subsection (d)(2) shall be developed by the statewide partnership, which shall have the final authority to determine the content of the provisions.

(f) SUBMISSION.—After the heads of the appropriate State agencies approve the portions of the State unified plan that relate to their system programs, the State unified plan shall be submitted to the appropriate Secretaries by—

(1) the Governor; and

(2) an eligible agency, in the case of a plan containing a portion relating to the system program of the eligible agency.

(g) APPROVAL BY THE APPROPRIATE SECRETARIES.—

(1) JURISDICTION.—Each of the appropriate Secretaries shall have the authority to approve the portion of the State unified plan relating to the system program for which the Secretary has authority. On the approval of the Secretary, the portion of the plan relating to the system program shall be implemented by the State pursuant to the State unified plan.

(2) APPROVAL.—A portion of a State unified plan submitted to an appropriate Secretary under this section shall be considered to be approved by the appropriate Secretary at the end of the 60-day period beginning on the day the appropriate Secretary receives the portion, unless the Secretary makes a written determination, during the 60-day period, that the portion does not substantially reflect the planning requirements of the appropriate Federal statutes authorizing the system programs.

SEC. 502. TRANSITION PROVISIONS.

(a) IN GENERAL.—The Secretary of Education or the Secretary of Labor, as appropriate, shall take such steps as such Secretary determines to be appropriate to provide for the orderly transition to the authority of this Act from any authority under provisions of law to be repealed under subtitle E of title I, subtitle B of title II, or subtitle E of title III, or any related authority.

(b) EXTENDED TRANSITION PERIOD.—

(1) IN GENERAL.—If, on or before July 1, 1997, a State has enacted a State statute that provides for the establishment or conduct of 3 or more of the programs, projects, or activities described in subparagraphs (A) through (E) of paragraph (2), the State shall not be required to comply with provisions of this Act that conflict with the provisions of such State statute relating to such programs, projects, or activities for the period ending 3 years after the effective date specified in section 503(a). After such 3-year period, the Secretary of Education or the Secretary of Labor, as appropriate, shall allow a State to continue operating under such State statute if the State is meeting the State performance measures of the State.

(2) PROGRAMS, PROJECTS, AND ACTIVITIES DESCRIBED.—The programs, projects, and activities described in this paragraph are the following:

(A) Establishment of statewide partnerships or substate partnerships, including local and regional partnerships.

(B) Reorganization or consolidation of State agencies with responsibility for workforce investment activities.

(C) Reorganization or consolidation of workforce investment activities.

(D) Restructuring of local delivery systems for workforce investment activities.

(E) Development or restructuring of State accountability or oversight systems for workforce investment systems to focus on performance.

SEC. 503. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act takes effect on July 1, 1999.

(b) EARLY IMPLEMENTATION.—At the option of a State, the Governor of the State and the chief official of the eligible agencies in the State may use funds made available under a provision of law described in section 502(a), or any related authority to implement this Act at any time prior to July 1, 1999.

(c) EARLY IMPLEMENTATION AND TRANSITION PROVISIONS.—Section 502 and this section take effect on the date of enactment of this Act.

(d) TWENTY-FIRST CENTURY WORKFORCE COMMISSION.—Subtitle C of title IV takes effect on the date of enactment of this Act.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, I yield myself such time as I may consume.

Mr. President, today the Senate is considering the Workforce Investment Partnership Act, S. 1186. This legislation incorporates job training, vocational education, and adult education—three programs. Last year we passed welfare reform, which has no hope of success unless individuals have the appropriate education and training to compete in the workforce.

We will never successfully reduce the welfare rolls unless we give people the tools to enter the workforce. Vocational education, adult education, and job training are how we give people those tools. This bill creates a system where all three of these key areas work together.

Separate funding streams and administration are maintained. I repeat that. Separate funding streams and administration are maintained for each of these activities, in recognition that each activity serves a distinct function. At the same time, the important interrelationship among these activities has too often been ignored. Policy in each area has generally been considered in a vacuum, leading to disappointment and frustration to job seekers and employers alike. For this reason, Senator DEWINE, Senator KENNEDY, Senator WELLSTONE, and I have written legislation which will assist States in coordinating policies related to job training and training-related education.

States that are moving forward in their workforce development efforts believe that all of the education and training players create an agenda which reflects an education and training partnership instead of having these two critical areas living individually, in solitary confinement.

Senator KENNEDY and I have been working on job training legislation for over 2 decades. I count the Job Training Partnership Act, which I coauthored along with Representative Hawkins and Senators KENNEDY, HATCH, and Quayle, as a significant legislative accomplishment.

Today, 16 years later, it is clear that the Job Training Partnership Act is not sufficient to meet the increasing demands made on our education and training system. This Nation has failed to implement strategies which will enable our workforce to meet the demands made by an ever changing international economy.

Our international competitors have been leaders in making the important link between education and work. The United States is beginning to make some progress, although it is clearly not yet nationwide.

I have seen examples of this progress in a few States, including my home State of Vermont. Vergennes Union High School has an excellent biotech program that was established through a partnership between the business community and the local school district. They were talking about things we hadn't even heard of a few years ago in their high school class. In addition, Essex Technical Center offers an array of programs that serve all students, ranging from at-risk youths to adults.

Another State that is an exemplary leader in workforce development is Mississippi. Two years ago, I visited Mississippi and was overwhelmed by their academic, financial, and overall community commitment to revitalize their vocational education-tech prep system. This program is so successful that the Mississippi legislature passed an increase in their sales tax to expand that initiative. This has been very beneficial to the Mississippi economy. Businesses not only stay in Mississippi, but major companies are relocating to Mississippi, because of the skilled workforce that is in place because of these improvements.

The Workforce Investment Partnership Act builds upon an excellent workforce development system that is evolving in Vermont, Mississippi, and in other States throughout the Nation. S. 1186 will enable States to have greater flexibility to promote coordination between vocational education, adult education, and training. The Workforce Investment Partnership Act gives States, local communities, and employers both the assistance and the incentives to train individuals—to train individuals for real jobs.

The two key points of the Workforce Investment Partnership Act are the establishment of tough accountability measures and a rallying of the private and public sectors to implement an education and training delivery system that enables all members of our society to receive the education and training they need at any point in their lifetime—I repeat that, at any point in their lifetime.

As I mentioned, accountability is a key feature of S. 1186. Those States that exceed their performance measures—the accountability mechanisms in all three titles—will be eligible for additional funding from the Department of Education and Labor, which can then be used for innovative activities related to the programs authorized under S. 1186.

I believe this bill, which unanimously passed the Senate Labor and Human Resources Committee and has the support of the business community, including the National Association of Manufacturers, the National Alliance of Businesses, the Chamber of Commerce, and the administration, is one of the most important initiatives the Senate will consider this year.

Year after year, report after report indicates that we do not have an adequately trained workforce. The following statistics illustrate this point: A Committee for Economic Development study estimates that each year's class of high school dropouts costs over $200 billion in lost incomes and taxes over the lifetimes of those students. I would like to note that my friend from Ohio, Senator DEWINE, has done an outstanding job in this legislation in taking the lead on the youth provisions which will hopefully improve this very, very terrible statistic.

American employers spend over $200 billion a year in remedial education and training for their employees—over $200 billion a year in remedial education and training for their employees. I point out that Europe spends about the same amount, but they spend it with their schools so that they don't have to wait an extra 2 years to be entering into the workforce.

This Nation presently has 190,000 positions unfilled in the technology area because of a lack of skilled workers. Those skills could be taught, almost all of them, in the high schools, but kids have to wait until they get out of high school under the present system, although some schools, as I mentioned earlier, like Vergennes, are moving in that area to provide those skills which are reachable with the talents of our young people in high school rather than waiting to go to further skill training.

The business community, Federal, State, and local governments must support education and training systems which allow all members of society to enter the training system and receive the education and training they need at any point in their lifetime, whether it be the high school student pursuing a biotech career, the adult who is desperate to trade a welfare check for a paycheck, the dislocated worker who needs to learn new skills to enhance his or her marketability, the vocational rehabilitation client who needs training assistance, or the incumbent worker who requires additional education and training to keep pace with the ever-evolving global economy. S. 1186 lays a foundation for achieving that goal.

Before I turn to my colleagues, I would like to express my deep appreciation to Senators KENNEDY, DEWINE, and WELLSTONE and their staffs and also a special thank you to the Congressional Research Service and the Senate legislative counsel staff for all of their hard work in this bipartisan initiative. I thank each of them for their time and effort in getting S. 1186 to this point.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Connie Garner, who is a legislative fellow, be granted the privilege of the floor for the duration of the workforce bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, at the outset I want to express appreciation on this side, not just for our committee but for all of our Democratic Members, to the chairman of our committee, and also to Senator DEWINE, who is the chairman of the subcommittee. I know I speak for Senator WELLSTONE, who was very much involved in the development of this legislation, in thanking them for their leadership and for their work with all of us in bringing this legislation to the floor of the U.S. Senate.

This is a very important piece of legislation. It is going to make a significant difference in the quality of life for millions of Americans. It has been a long, arduous task to bring us to where we are today. Senator Kassebaum had been very interested in initially seeing how we could consolidate and coordinate 126 different programs in six different agencies and try and make some sense with a newer kind of workforce.

So many of these various workforce programs have been targeted to particular needs—people who lost work as a result of imports; people who lost work because of environmental considerations; young people who dropped out of school; older workers who have been dislocated. There was a wide range of programs, and there was a solid effort to try to develop and fashion various efforts to make some sense out of these programs and ensure that we were going to invest in our fellow citizens, young and old, and to do it in an effective way.

It hasn't been easy. We have tried to address this, and I can remember the times when we were not effective in doing so. I remember the CETA program and all of its difficulties and challenges in later years, under the leadership of Senator Quayle at that time and the members of our committee. I welcomed the opportunity of joining with Senator Quayle as we developed the Job Training Partnership Act to give greater local control and local input in terms of a shifting economy. This has been an evolving process.

We have done a constructive review of all of the various job training programs to find out, with the new challenges we are facing, how can we do better in meeting these various needs: what the role of vocational training is; what the role of adult education programs is going to be; how we are tying this into evolving changes in our workforce as a result of technology, as a result of a change in our competitiveness, and as a result of the downsizing we have seen that has impacted a lot of people who have good skills, but in a particular area, that perhaps may not be as necessary today as they were in another period of time.

It is only as a result of the hard work of the chairman of our full committee and the chairman of the subcommittee that we have been able to work through the process and make a recommendation that reflects the best judgment of all the members of the committee and the solid judgment of many men and women, and local, State, and national organizations who have given a great deal of time and attention to this issue, and who know the strengths and weaknesses of what is happening out in the local communities and at the State level, that we can present this legislation to the Senate. It is one of the most important pieces of legislation that we will pass.

There are various pieces of legislation that are above the radar screen, and there are some that are just below the radar screen. Many of those which come just below the radar screen in so many respects have a dramatic impact, a much more important impact on our fellow citizens than some of those that might be highly visible, highly volatile pieces of legislation.

We welcome the chance to be here this morning to make these recommendations and, hopefully, to consider some of the amendments that have been recommended by our colleagues and then move towards passage on Tuesday. We are urging all of our colleagues to support this legislation. We hopefully will then move in a timely way into the conference with the House, moving it along, recognizing that we do have a compressed time period but understanding that on this legislation we are not going to fail. I wanted to at least make those brief observations before commenting on the legislation.

An educated workforce has become the most valuable resource in the modern economy. Our Nation's long-term economic vitality depends on the creation of an effective, accessible, and accountable system of job training and career development which is open to all of our citizens. Schools must assume more responsibility for preparing their students to meet the challenges of the 21st century workplace. Disadvantaged adults and out-of-school youth need the opportunity to develop job skills which will make them productive members of the community. Dislocated workers who have been displaced by the rapid pace of technological change deserve the chance to pursue new careers. The way in which we respond to these challenges today will determine how prosperous a nation we are in the next century.

The importance of highly developed employment skills has never been greater. The gap in earnings between skilled and unskilled workers is steadily widening. I think all of us are very much proud of the fact that we have a strong economy. The figures, even in today's papers, indicate that is so. Hopefully, as a nation with a common purpose, we want to make sure that all Americans are going to be participating in the strength of our economy and that it isn't going to be just segmented among those who are already in a more favorable economic stance.

For that to happen, having good work skills is an absolutely essential element and ingredient in terms of giving individual Americans the opportunities to participate in a more meaningful way in our economic expansion. For those who enter the workforce with good academic training and well-developed career skills, this new economy offers almost unlimited potential. However, for others who lack basic proficiency in language, math, and science, and no new skills, the new economy presents an increasingly hostile environment.

Over 3 million young men and women between the ages of 16 and 24 in this country did not complete high school and are not enrolled in school. Many more graduate from high school without the level of knowledge and skill that a high school diploma should represent. They will require more education and job training in order to obtain stable, well-paying employment. Without it, they are in danger of becoming a lost workforce generation.

Effective job training is also essential to the success of welfare reform. More than 40 percent of those in the JTPA program for disadvantaged adults have come from welfare rolls. Under the welfare reform legislation, an additional 1.7 million people will be entering the job market. Most of these individuals have little or no work background and very limited employment skills. In many cases, they are also the sole support of young children. They are making urgent, new demands on a job training system that is already burdened beyond its capacity. There is an approximately $3 billion program that has been recommended by the administration in terms of employment. We have tried to work that out to be complementary to what we are doing here so we have a more consolidated effort in terms of trying to meet those particular needs in the welfare-to-work programs.

In addition, the combination of rapidly changing technology and the shift of manufacturing jobs overseas is creating an alarming number of dislocated workers. These individuals have extensive work experience but their skills are no longer in demand. We must give them the opportunity for retraining and for the development of new skills to enable them to compete in the 21st century workplace.

Even today, we are only, I believe, dealing with about 30 percent of those who would otherwise be eligible for those programs, so we know that the need is out there. We have a better way of addressing that need with this program.

The accelerating pace of technological change has made much of the existing job training system obsolete. Broad reforms are needed to meet the demands of the modern workplace.

The Workforce Investment Partnership Act, unanimously approved by the Labor and Human Resources Committee, will provide the employment training opportunities for millions of Americans. It responds to the challenge of the changing workplace by enabling men and women to acquire the skills required to enter the workforce and upgrade their skills throughout their careers. It will provide them with access to the educational tools that will enable them not only to keep up but to get ahead.

Thirty or 40 years ago, in my own State of Massachusetts, if your grandfather worked in the Four Rivers Shipyard, his son worked in the Four Rivers Shipyard, and his grandson worked in the Four Rivers Shipyard. All got paid pretty good wages, all had pretty good lives, and all were able to provide for their families and be involved in the community.

Today, everyone who enters the workforce is going to have seven different jobs—seven different jobs. We know that the private sector provides some training, but it is small and it is primarily among the white collar. Only about 7 or 8 percent of the major companies provide training programs, and that is divided between white and blue collar. So those that are the great workforce, the engine for most of these companies, with the exception of some very important and significant training programs from some excellent companies, do not receive the kind of training that is going to continually equip them to participate in our economy. Broad reforms are needed to meet the demands of a modern workforce.

Mr. President, this, as I mentioned, represents the best judgment of the bipartisan efforts in our committee. I want to publicly commend Senators JEFFORDS and DEWINE for the genuine spirit of bipartisanship which has made this effort possible. Senator WELLSTONE and I appreciate it. The resulting legislation will, I believe, truly expand career options, encourage greater program innovation, and facilitate cooperative efforts amongst business, labor, education, and State and local governments.

I also want to recognize the important role that the President has given in bringing about reform in our current job training system. He has consistently emphasized the need for greater individual choice in the selection of career paths and training providers. The philosophy behind his skill grant proposal is reflected in our legislation.

The Workforce Investment Partnership Act is designed to provide easy access to the state-of-the-art employment training programs which are geared to real job opportunities in the community through a single, customer-friendly system of One Stop Career Centers. Over 700 such centers are already operating successfully across the country. This legislation will ensure that every individual in need of employment services will have access to such a facility. The cornerstones of the new system are individual choice and quality labor market information. In the past, men and women seeking new careers often did not know what skills were most in demand, which training programs had the best performance. All too often they were forced to make one of the most important decisions of their lives based on anecdotes and late-night advertisements.

An individual comes into the One Stop Career Centers and takes the various kinds of tests. If he wants to look at some new career possibilities, find out what his or her aptitude is in the areas of his skills, find out in what particular areas there are available jobs, and take a look at the various training programs for those particular jobs, that center will have access to that information: what jobs are there, whether the training programs really lead to jobs, and how those graduates of that particular training program are doing after 2 or 3 or 4 years.

The individual will be able to make a judgment themselves about which training program is best suited for them, and know that they have the excellent opportunity of moving ahead into a training program. That is a concept that has been developed in a number of different areas.

My own State of Massachusetts has a very innovative program that was developed initially through Governor Dukakis and has been strongly supported by Governor Weld and our current Lieutenant Governor Cellucci. Lieutenant Governor Cellucci actually came down and testified for us. The One Stop Career Center approach is an area where we have had strong bipartisan support and important involvement by management, as well as labor.

No training system can function effectively without accurate and timely information. The frequent unavailability of quality labor market information is one of the most serious flaws in the current system. This legislation places a strong emphasis on providing accurate and timely information about what area industries are growing, what skills those jobs require, and what earning potential they have. Extensive business community and organized labor participation are encouraged in developing a regional plan based on this information. Once a career choice is made, the individuals must select a training provider. At present, many applicants make that choice with little or no reliable information. Under this bill, each training provider will have to publicly report graduation rates, job placement and retention rates, and average earnings of graduates.

We have found in my own State of Massachusetts, with these consolidations in what we call the REBs, that we have much greater involvement of community-to-business and worker participation, because these programs have been united, with a common spirit and a common focus. There has been much greater interest, support, and effectiveness because of greater consolidation, as opposed to so much of the scattered programs that have been out there previously.

Because of the extensive information that will be available to each applicant, real consumer choice in the selection of a career and training program will be possible. The legislation establishes individual training accounts for financially eligible participants, which they can use to access career education and skill training programs. Men and women seeking training assistance will no longer be limited to a few predetermined options. As long as there are real job opportunities in the field selected and the training provider meets established performance standards, the individual will be free to choose which option best suits his or her needs.

An essential element of the new system we have designed is the accountability. The chairman has mentioned this. As we noted earlier, each training provider will have to monitor and report the job placement retention achieved by its graduates and average earnings. Only the programs that meet an acceptable performance will be eligible for receipt of public funds. The same principle of accountability is applied to those agencies administering State and local programs. They have been given wide latitude to innovate under the legislation, but they, too, will be held accountable, if their programs fail to meet the challenging performance targets.

The rapid pace of technological training in the workplace has produced an alarming number of workers who have become dislocated in mid-career. The dislocation has been compounded by an increasing number of labor-intensive production employers relocating their businesses abroad. This trend has been particularly acute in the manufacturing sector. We have a special obligation to these dislocated workers who have long and dedicated work histories and now are unemployed through no fault of their own. The Workforce Investment Partnership Act makes a commitment to them by maintaining a special dislocated worker program supported by a separate funding stream geared to their retraining needs. The current dislocated program serves approximately 540,000 dislocated workers nationwide in the most recent year. Of those who completed the program, 71 percent were employed when they left the program, earning, on average, 93 percent of their previous wages. America's dislocated workers have earned the right to assistance in developing new skills which will allow them to be full participants in the 21st century economy.

There is no challenge facing America today which is tougher and more important than providing at-risk, often out-of-school youth with meaningful education and employment. I am particularly pleased with the commitment the Workforce Investment Partnership Act makes to these young men and women. This legislation authorizes a new initiative focusing on teenagers living in poverty in communities offering them few employment opportunities.

Each year, the Secretary of Labor will award grants from a $250 million fund to innovative programs designed to provide opportunities to youth living in these areas. The programs will emphasize mentoring, strong links between academic and work-site learning, and job placement and retention. It will encourage broad-based community participation from local service agencies and area employers. These model programs will, we believe, identify the techniques which are most effective. That is what we want to try to do.

Another important program for young people who face the highest barriers to employment is Job Corps. Most of the participants grow up in extreme poverty with limited opportunities. Job Corps, at its best, moves them from deprivation to opportunity. But, for many of them, it is an extremely difficult transition. Job Corps is a program worth preserving and worth expanding too. Our legislation decisively rejects the view that Job Corps should be dismantled. Instead, it strengthens the program in several ways. It establishes closer ties between individual Job Corps Centers and the community they serve. It ensures that training programs correspond with the area's labor market needs. It extends follow-up counseling for participants up to 12 months and established detailed performance standards to hold programs accountable.

The legislation also provides the continuation of some jobs as an essential element of the youth grant. For many youth, summer jobs are the first opportunity to work and their first critical step in learning the work ethic. The summer jobs program also provide many youth with quality learning experiences and follow up during the school year. Studies by the Department of Labor's Office of Inspector General and research by Westat, Inc., have reported positive findings regarding the program, concluding that work sites are well-supervised and disciplined, that jobs provide useful work, that the education component teaches students new skills that they apply in school, and that students learn the value of work.

What we have seen in Massachusetts, particularly in Boston, where we have anywhere from 8,000 to 10,000 jobs a year, is that many of the youth go 1, 2, and some even 3 years. The private-sector involvement in these programs works very closely in the supervision and development of programs and then has a very active stream of bringing these young people who are going through high school at this time, and moving them right into jobs at some of our major companies in Boston. It has been very, very successful because they have coordinated the public-private partnership in a very effective way.

I believe that the summer jobs program needs to continue to be available on a significant scale with sufficient funding. This bill recognizes the critical importance of the summer youth program by requiring that it be a part of each local area's youth program and allowing local communities to determine the number of summer jobs be created.

The Workforce Investment Partnership Act includes titles reauthorizing major vocational education and adult literacy programs. Both programs will continue to be separately funded and independently administered. We have incorporated them in the Workforce Act because they must be integral components of any comprehensive strategy to prepare people to meet the demands of the 21st century workplace. Students who participate in vocational education must be provided with both strong academic preparation and advanced employment skills training. Recognizing this core principle, the legislation supports broad-based career preparation education which meets both high academic standards and teaches state-of-the-art technological skills. Adult literacy programs are essential for the 27 percent of the adult population who have not earned a high school diploma or its equivalent. Learning to read and communicate effectively are the first steps to career advancement. This legislation will increase access to educational opportunities for those most in need of assistance and enhance the quality of services provided. In vocational education and adult literacy, we place the same emphasis on program accountability which we did in job training.

The Workforce Investment Partnership Act will make it possible for millions of Americans to gain the skills needed to compete in a global economy. In doing so, we are enabling them to realize their personal dreams.

An educated workforce has become the most valuable resource in the modern economy. Our nation's long term economic vitality depends on the creation of an effective, accessible, and accountable system of job training and career development which is open to all our citizens. Schools must assume more responsibility for preparing their students to meet the challenges of the 21st century workplace. Disadvantaged adults and out of school youth need the opportunity to develop job skills which will make them productive members of the community. Dislocated workers who have been displaced by the rapid pace of technological change deserve the chance to pursue new careers. The way in which we respond to these challenges today will determine how prosperous a nation we are in the next century.

The importance of highly developed employment skills has never been greater. The gap in earnings between skilled and unskilled workers is steadily widening. For those who enter the workforce with good academic training and well-developed career skills, this new economy offers almost unlimited potential. However, for those who lack basic proficiency in language, math and science and who have no career skills, the new economy presents an increasingly hostile environment.

Over three million young men and women between the ages of 16 and 24 in this country did not complete high school and are not enrolled in school. Many more graduate from high school without the level of knowledge and skill that a high school diploma should represent. They will require more education and job training in order to obtain stable, well-paying employment. Without it, they are in danger of becoming a lost workforce generation.

Effective job training is also essential to the success of welfare reform. More than 40% of those in the JTPA program for disadvantaged adults have come from the welfare rolls. Under the welfare reform legislation, an additional 1.7 million people will be entering the job market. Most of these individuals have little or no work background and very limited employment skills. In many cases, they are also the sole support of young children. They are making urgent new demands on a job training system that is already burdened beyond its capacity.

In addition, the combination of rapidly changing technology and the shift of manufacturing jobs overseas is creating an alarming number of dislocated workers. These individuals have extensive work experience, but their skills are no longer in demand. We must give them the opportunity for retraining, and for the development of new skills to enable them to compete in the 21st century workplace.

The accelerating pace of technological change has made much of the existing job training system obsolete. Broad reforms are clearly needed to meet the demands of the modern workplace.

The Workforce Investment Partnership Act, unanimously approved by the Labor and Human Resources Committee, will provide employment training opportunities for millions of Americans. It responds to the challenge of the changing workplace by enabling men and women to acquire the skills required to enter the workforce and to upgrade their skills throughout their careers. It will provide them with access to the educational tools that will enable them not only to keep up, but to get ahead.

The legislation is the product of a true bipartisan collaboration. I want to publicly commend Senators JEFFORDS and DEWINE for the genuine spirit of bipartisanship which has made this effort possible. Senator WELLSTONE and I appreciate it. The resulting legislation will, I believe, truly expand career options, encourage greater program innovation, and facilitate cooperative efforts amongst business, labor, education and state and local government.

I also want to recognize the important role President Clinton has played in bringing about this dramatic reform of our current job training system. He has consistently emphasized the need for greater individual choice in the selection of career paths and training providers. The philosophy behind his skill grant proposal is reflected in our legislation.

The Workforce Investment Partnership Act is designed to provide easy access to state of the art employment training programs which are geared to real job opportunities in the community through a single, customer-friendly system of One Stop Career Centers. Over 700 such Centers are already operating successfully across the country. This legislation will ensure that every individual in need of employment services will have access to such a facility. The cornerstones of this new system are individual choice and quality labor market information. In the past, men and women seeking new careers often did not know what job skills were most in demand and which training programs had the best performance record. All too often, they were forced to make one of the most important decisions of their lives based on anecdotes and late-night advertisements.

No training system can function effectively without accurate and timely information. The frequent unavailability of quality labor market information is one of the most serious flaws in the current system. This legislation places a strong emphasis on providing accurate and timely information about what area industries are growing, what skills those jobs require, and what earning potential they have. Extensive business community and organized labor participation are encouraged in developing a regional plan based on this information. Once a career choice is made, the individual must still select a training provider. At present, many applicants make that choice with a little or no reliable information. Under this bill, each training provider will have to publicly report graduation rates, job placement and retention rates, and average earnings of graduates.

Because of the extensive information which will be available to each applicant, real consumer choice in the selection of a career and of a training provider will be possible. The legislation establishes individual training accounts for financially eligible participants, which they can use to access career education and skill training programs. Men and women seeking training assistance will no longer be limited to a few predetermined options. As long as there are real job opportunities in the field selected and the training provider meets established performance standards, the individual will be free to choose which option best suits his or her needs.

An essential element of the new system we have designed is accountability. As I noted earlier, each training provider will have to monitor and report the job placement and retention achieved by its graduates and their average earnings. Only those training programs that meet an acceptable performance standard will remain eligible for receipt of public funds. The same principle of accountability is applied to those agencies administering state and local programs. They are being given wide latitude to innovate under this legislation. But they too will be held accountable if their programs fail to meet challenging performance targets.

The rapid pace of technological change in the workplace has produced an alarming number of workers who have become dislocated in mid-career. The dislocation has been compounded by the increasing number of labor intensive production employers relocating their businesses abroad. This trend has been particularly acute in the manufacturing sector. We have a special obligation to these dislocated workers who have long and dedicated work histories and now are unemployed through no fault of their own. The Workforce Investment Partnership Act makes a commitment to them by maintaining a special dislocated worker program, supported by a separate funding stream, which is geared to their retraining needs. The current dislocated worker program served approximately 540,000 dislocated workers nationwide in the most recent year. Of those who completed the program during that year, 71 percent were employed when they left the program, earning on average 93 percent of their previous wages. America's dislocated workers have earned the right to assistance in developing new skills which will allow them to be full participants in the 21st century economy.

There is no challenge facing America today which is tougher or more important than providing at-risk, often out-of-school, youth with meaningful education and employment opportunities. Far too many of our teenagers are being left behind without the skills needed to survive in the 21st century economy. I am particularly pleased with the commitment which the Workforce Investment Partnership Act makes to these young men and women. This legislation authorizes a new initiative focused on teenagers living in poverty in communities offering them few constructive employment opportunities. Each year, the Secretary of Labor will award grants from a $250 million fund to innovative programs designed to provide opportunities to youth living in these areas. The programs will emphasize mentoring, strong links between academic and worksite learning, and job placement and retention. It will encourage broad based community participation from local service agencies and area employers. These model programs will, we believe, identify the techniques which are most effective in reaching those youth at greatest risk.

Another important program for young people who face the highest barriers to employment is Job Corps. Most of the participants grow up in extreme poverty. Their educational opportunities are limited. Job Corps, at its best, moves them from deprivation to opportunity. But, for many of them, it is an extremely difficult transition. As a result, critics of the program are always able to point to failures. But for each story of failure, there are many stories of success. Job Corps is a program worth preserving and worth expanding too. Our legislation decisively rejects the view that Job Corps should be dismantled. Instead, it strengthens the program in several ways. It establishes closer ties between individual Job Corps Centers and the communities they serve. It ensures that training programs correspond with the area's labor market needs. It extends follow-up counseling for participants up to 12 months and established detailed performance standards to hold programs accountable.

The legislation also provides for the continuation of summer jobs as an essential element of the youth grant. For many youth, summer jobs are their first opportunity to work and their first critical step in learning the work ethic. The summer jobs program also provides many youth with quality learning experiences and follow up during the school year. Studies by the Department of Labor's Office of the Inspector General and research by Westat, Inc. have reported positive findings regarding the program, concluding that work sites are well-supervised and disciplined, that jobs provide useful work, that the education component teaches students new skills that they apply in school, and that students learn the value of work.

I believe that the summer jobs program needs to continue to be available on a significant scale with sufficient funding. This bill recognizes the critical importance of the summer youth program by requiring that it be a part of each local area's youth program and allowing local communities to determine the number of summer jobs to be created.

The Workforce Investment Partnership Act includes titles reauthorizing major vocational education and adult literacy programs. Both programs will continue to be separately funded and independently administered. We have incorporated them in the Workforce Act because they must be integral components of any comprehensive strategy to prepare people to meet the demands of the 21st century workplace. Students who participate in vocational education must be provided with both strong academic preparation and advanced employment skills training. Recognizing this core principle, the legislation supports broad-based career preparation education which meets both high academic standards and teaches state- of-the-art technological skills. Adult literacy programs are essential for the 27% of the adult population who have not earned a high school diploma or its equivalent. Learning to read and communicate effectively are the first steps to career advancement. This legislation will increase access to educational opportunities for those people most in need of assistance and enhance the quality of services provided. In vocational education and adult literacy, we are placing the same emphasis on program accountability which we did in job training.

The Workforce Investment Partnership Act will make it possible for millions of Americans to gain the skills needed to compete in a global economy. In doing so, we are also enabling them to realize their personal American dreams.

I ask unanimous consent to have printed in the RECORD a statement of administrative policy and letters of endorsement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, April 30, 1998.

STATEMENT OF ADMINISTRATION POLICY

S. 1186—WORKFORCE INVESTMENT PARTNERSHIP ACT OF 1998 (SEN. DEWINE (R) OH AND 3 OTHERS)

The Administration strongly supports Senate passage of S. 1186, as modified by the expected managers' amendment, because it would reform workforce development programs by incorporating key principles articulated in the President's G.I. Bill for America's Workers. The Administration urges Congress to enact this legislation by July 1, 1998 in order to make available appropriations for fiscal year 1999 for the President's proposed Youth Opportunity Areas initiative to increase employment among out-of-school youth in high-poverty areas.

The Administration does not agree with every provision in S. 1186. In addition, an amendment may be offered that would prohibit the use of funds available under the Act to carry out activities authorized under the School-to-Work Opportunities Act. The Administration strongly opposes this amendment and will work in conference to address this and any other remaining concerns.

The new workforce development system embodied in S. 1186 would empower individuals to obtain the services and skills they need to enhance their employment opportunities. It would accomplish this through skill grants, consumer report cards on training program performance, and universal access to core services, such as job search assistance. The new system also would: (1) streamline access to job training programs through one-stop career centers; (2) enhance accountability for results through State and local performance standards and certification of training providers; and (3) increase flexibility for States and localities to enhance the effectiveness of programs. The Administration is concerned about certain provisions that limit the summer jobs component of the youth grant, and looks forward to addressing this and other concerns in conference.

The Administration is pleased that S. 1186 would target vocational education and adult education funds to educational agencies and institutions with the greatest need and to activities that promote program quality. The Administration looks forward to addressing in conference its remaining concerns about the adequacy of funding for: (1) national activities to ensure accountability and promote program quality, and (2) Tribally Controlled Postsecondary vocational institutions.

In addition, the Administration understands that an amended version of S. 1579, the Rehabilitation Act Amendments of 1998, will be incorporated into S. 1186 during Senate consideration. The Administration supports Senate passage of the Rehabilitation Act amendments, which would, among other things, streamline eligibility determinations for SSA beneficiaries and improve State planning and accountability for results. The Administration also strongly supports ensuring that the Federal Government procures and uses information technology that is accessible to individuals with disabilities, as provided in the revision to section 508 proposed by the Administration. Finally, the Administration supports the intent of S. 1579, as reflected in the Committee report, to provide for greater collaboration between each State vocational rehabilitation (VR) program and the workforce investment system without compromising the fundamental structure and funding of the State's VR program.

PAY-AS-YOU-GO SCORING

S. 1186, as amended to include the text of S. 1579, would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. Because the reauthorization does not change mandatory spending calculations from current law, OMB estimates that the net pay-as-you-go effect would be zero.

APRIL 23, 1998.

Hon. JIM JEFFORDS,
Hon. MIKE DEWINE,
Hon. EDWARD KENNEDY,
Hon. PAUL WELLSTONE,
U.S. Senate, Washington, DC.

DEAR CHAIRMEN JEFFORDS AND DEWINE, SENATORS KENNEDY AND WELLSTONE: The undersigned organizations represent students, parents, teachers, counselors, school administrators, principals, local and state school board members, field researchers, community colleges and state education officials who care about the future of students seeking secondary and postsecondary vocational-technical education opportunities. We would like to thank you for your efforts in developing the Workforce Investment Partnership Act (S. 1186) and your continued efforts to ensure Senate consideration of the bill as soon as possible.

Vocational-technical education provides students with the academic and occupational skills they need to be successful in pursuing further education and career choices. We believe that S. 1186 has many positive features that will assist in the continuous improvement and expansion of vocational-technical education opportunities. Your legislation is very important to our nation's students and we are confident that the remaining issues can be resolved.

Again, we sincerely appreciate the work that has gone into developing this very critical piece of legislation. If we can be of any assistance to you in moving this bill forward, please do not hesitate to contact any of the organizations listed below or contact Nancy O'Brien at 703/683-3111, ext. 311.

Sincerely,

American Association of Community Colleges; American Association of Family and Consumer Sciences; American Association of School Administrators; American Counseling Association; American Educational Research Association; American Vocational Association; Business Professionals of America; Council of Chief State School Officers; Federal Advocacy for California Education; and Future Homemakers of America.

National Association of Agriculture Educators; National Association of Elementary School Principals; National Association of State Boards of Education; National Association of State Directors of Vocational-Technical Education Consortium; National Education Association; National Education Knowledge Industry Association; National School Boards Association; New York State Education Department; Technology Students of America; and Texas Education Agency.

NATIONAL ASSOCIATION OF STATE DIRECTORS OF VOCATIONAL TECHNICAL EDUCATION CONSORTIUM,
Washington, DC, March 18, 1998.

DEAR SENATOR: The National Association of State Directors of Vocational Technical Education Consortium (NASDVTEc) represents the state and territory leaders responsible for the nation's vocational technical education system. On NASDVTEc's behalf, I write to share our support for the Senate's efforts to enact legislation that authorizes a federal investment in vocational technical education. S. 1186, the Workforce Investment Partnership Act of 1998, holds much potential for creating expanded and improved opportunities for our nation's students by providing access to quality vocational technical education. We urge you to support S. 1186, the Workforce Investment Partnership Act of 1998.

NASDVTEc is very supportive of many of S. 1186's features including: a commitment to a strong state role; adequate state-level resources to effect change; assurances that funds appropriated for vocational technical education can be used only for vocational technical education activities; and a strong focus on technology, accountability and achieving high levels of academic and vocational proficiency.

As we understand it, the manager's amendment will provide the opportunity for greater coordination among programs while assuring that vocational technical education continues to be planned for and administered by education officials, even under a unified plan. While it is our preference that separate legislation be enacted for vocational technical education, we appreciate the additional flexibility provided and the assurance that S. 1186 will build on and strengthen vocational technical education programs and activities that have proven successful.

We wish to commend Chairman Jeffords, Senators DeWine, Kennedy and Wellstone for their bipartisan efforts to bring forward this very important piece of legislation. Thank you for your support of vocational technical education and for your consideration of our views. Please do not hesitate to contact me at 202/737-0303 if NASDVTEc can be of assistance during your consideration of S. 1186.

Sincerely,

KIMBERLY A. GREEN,
Executive Director.

COUNCIL OF CHIEF STATE SCHOOL OFFICERS,
Washington, DC, March 19, 1998.

MEMBERS OF THE UNITED STATES SENATE,
Washington, DC.

Re: Vote Yes for S. 1186 Workforce Investment Partnership

DEAR SENATOR: I write on behalf of the state commissioners and superintendents of education to urge that you vote for the Chairman's substitute amendment to the Workforce Investment Partnership Act (S. 1186) and for its passage by the Senate. We also urge that you vote against any amendments which would erode the provisions of the legislation which reauthorize federal support for vocational and adult education or undermine the provisions for educational integrity and governance of these programs.

Federal support for linking academic and occupational study through vocational education is important for secondary school reform. It will help eliminate the "general track" in high schools, and will ease the secondary-postsecondary transition for students through tech-prep. Federal support for adult education is important to enable a diverse range of adults to gain basic academic skills. These adults include parents and caregivers who desire to enhance their reading competencies, individuals who seek proficiency in English for productive employment, and individuals who strive to leave welfare for work. S. 1186 provides for these vital purposes.

The provisions of Titles I and II reauthorizing vocational and adult education as separate programs enable state and local education officials responsible for these programs to continue to direct the federal assistance to statewide educational reform and improvement. The critical connections between these federal funding streams and other federal, state and local education funding are provided in this bill.

The Workforce Investment Partnership Act contains provisions for states to voluntarily submit unified plans for two or more of the programs authorized. These provisions would facilitate coordination of vocational and adult education with job-training related programs, without mandating cumbersome processes or duplicative and expensive new bureaucracy at the state level. The Title V provisions for joint planning retain the authorities of education officials for the vocational and adult education programs and thus avoid superseding state responsibility for education.

We urge you to support the Chairman's substitute for S. 1186 when the bill comes before the full Senate for passage. If there is any additional information we can provide, please call me or our Director of Federal-State Relations, Carnie Hayes, at (202) 336-7009. Thank you for your support of S. 1186.

Sincerely,

GORDON M. AMBACH,
Executive Director.

AMERICAN VOCATIONAL ASSOCIATION,
Alexandria, VA, March 17, 1998.

Hon. EDWARD KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the American Vocational Association (AVA) and the 38,000 vocational-technical educators that we represent nationwide, I urge you to vote in favor of S. 1186, the Workforce Investment Partnership Act, which may be considered in the full Senate this week.

The Senate Labor and Human Resources Committee has worked hard to address the concerns raised by vocational-technical educators about this legislation last fall. We believe the managers' amendment that will be offered effectively addresses the core issues we raised. As we understand it, the managers' amendment includes: Assurances that funding appropriated for vocational-technical education programs will be directed to school-based programs and cannot be diverted to other areas. Assurances that education governance authorities at the state and local levels will continue to have jurisdiction over vocational-technical education programs. A strong focus on professional development for vocational-technical education teachers, administrators, and counselors. Increased emphasis on technology. Assurances that unified planning will adhere to the requirements of the vocational-technical education provisions. Effective support for state administration and leadership.

In addition to encouraging the Senate to pass this important legislation, we urge the Senate to accept the House structure of a separate bill for vocational-technical education, apart from job training, when S. 1186 goes to conference with the House version. Further, we will provide detailed comments on our conference priorities, including additional changes that we would like to see to some of the Senate language, as the bill moves towards conference.

We also wish to commend Chairmen Jeffords and DeWine, Senator Wellstone and you for your leadership and bipartisanship in developing and moving this legislation. If you have any questions about our views on S. 1186 or on any other matter, please do not hesitate to contact Nancy O'Brien, AVA's assistant executive director for government relations, or me at (703) 683-3111.

Thank you for your attention to this important issue.

Sincerely,

BRET LOVEJOY,
Executive Director.

AMERICAN ASSOCIATION OF
COMMUNITY COLLEGES,
Washington, DC, March 17, 1998.

DEAR SENATOR: The American Association of Community Colleges (AACC) strongly endorses S. 1186, the Workforce Investment Partnership Act, and urges you to support this legislation when it is considered by the Senate. AACC represents 1,061 regionally accredited, associate degrees granting institutions of higher education.

AACC appreciates the refinements made to S. 1186 in response to the concerns of community colleges. We strongly support the following aspects of the legislation: State education authorities will retain primary responsibility for administering vocational and adult education programs. Since educators have the ultimate responsibility for delivering workforce education, they should have primary responsibility over the formulation and execution of the state's vocational and adult education plans.

Changes made to Title V of the bill ensure that federal funds appropriated under the bill specifically for vocational education, adult education, and training will be used for those purposes. This structure helps to maintain the integrity of the federal role in these program.

Perkins Basic State Grant funds will not be extended to proprietary institutions. At a time when Basic State Grant funding is essentially flat, community colleges could not support extending federal vocational education funds to a whole set of additional institutions.

Community colleges are guaranteed a role on the state level collaborative body that will develop the state adult training system. This is appropriate given the key role community colleges play as adult job training providers.

The Tech-Prep program is authorized as a discrete program with its own funding stream, separate from that of the Perkins Basic State Grant. This guarantees that Tech-Prep will not have to directly compete with other vocational education programs for financial support.

Community colleges remain concerned about the new outcomes reporting measures the bill places on adult job training providers. S. 1186 specifically requires colleges to provide information regarding students' retention in jobs and increases in wages when they are placed in a job, and for six and twelve months after placement. This could be a substantial burden for many community colleges. Community colleges support the establishment of additional accountability measures and look forward to working in conference to help craft reporting requirements that genuinely measure program success without creating an administrative burden for providers.

We believe S. 1186 provides the framwork for states to develop high-quality workforce education and training systems. We greatly appreciate the consideration given to the concerns of community colleges throughout the development of the bill, and look forward to working throughout the conference process to ensure that community colleges can continue to provide high quality workforce education and training programs.

Again, I urge you to support S. 1186, the Workforce Investment Partnership Act.

Sincerely,

DAVID R. PIERCE,
President.

Mr. KENNEDY. I wanted also to discuss the Rehabilitation Act amendments of 1998. I welcome the opportunity to commend again Senator DEWINE and Senator JEFFORDS for their leadership in making this reauthorization a priority and including this legislation as a part of the larger workforce development systems in the states.

I also commend Senator WELLSTONE, Senator HARKIN, Senator DODD, and the Clinton Administration for their leadership in developing a bipartisan bill. I especially want to commend all of the staff members for their skillful work to make this process successful.

For over 20 years, since the Vocational Rehabilitation Act was first enacted in 1973, state vocational rehabilitation systems have brought new hope to individuals with disabilities throughout the country, so they can reach their full potential and actively participate in their communities. Through the vocational rehabilitation, individuals with disabilities have access to training, counseling, support and job opportunities they need in order to become independent and productive, and live fulfilling lives.

The Rehabilitation Act Amendments give us an excellent opportunity to do more to keep the promise of the Americans with Disabilities Act—by ensuing that all working-age individuals with disabilities, even those with the most significant disabilities, have realistic opportunities to obtain the support they need to reach their employment goals.

With this legislation, we are building on the past gains by strengthening employment possibilities for all individuals with disabilities.

The new provisions of this bill streamline the role of government by simplifying access to vocational rehabilitation services. It widens employment opportunities by establishing linkages with the larger statewide workforce systems. It also makes services available to individuals with disabilities who do not require extensive rehabilitation in order to become employed. Those who achieve work outcomes through this assistance will receive at least the minimum wage. This measure also recognizes that individuals receiving disability benefits through Social Security are significantly disabled and should be presumed to be eligible for vocational rehabilitation services.

Throughout this process, we have heard from consumers, advocates, and program administrators. The bill strengthens the role of individuals in developing their own employment plans. It makes it easier for agencies to work together, so that individuals with disabilities can obtain the support and services they need.

I commend all the consumers, the advocates, the families, and the administrators who have done so much to help us shape the legislation. Their commitment to constructive compromise will improve the lives of all people with disabilities.

Our larger goal is to see the talents and strengths of individuals with disabilities are recognized, enhanced, and fairly rewarded in communities and workplaces across the Nation. I look forward to working with my colleagues in Congress to achieve this great goal. I think this is another very important piece of legislation. I commend our leaders for the way this has been fashioned and shaped.

Mr. JEFFORDS. First, let me commend my ranking member, Senator KENNEDY, whom I have worked with for many, many years, for giving the detail and the emphasis on the importance of this legislation, especially with respect to combining with the other training programs, vocational rehabilitation, which is an important step that this bill creates to make sure that we bring the disability community more closely aligned into the workplace and to give them the rights to further their employment opportunities that they well deserve.

AMENDMENT NO. 2329

(Purpose: To improve the bill)

Mr. JEFFORDS. I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Vermont [Mr. JEFFORDS], for himself, Mr. DEWINE, Mr. KENNEDY, and Mr. WELLSTONE, proposes an amendment numbered 2329.

Mr. JEFFORDS. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. JEFFORDS. Mr. President, this is an amendment in the nature of a substitute and it is the work of the committee. So we have already really defined in our statement, Senator KENNEDY and myself, the contents of that amendment.

Mr. President, I emphasize that this was a committee piece of work, and what happened is amazing in a sense, if you understand my committee, which has probably the largest divergence and philosophical persuasion. We were able to sit down and work together and come up with a piece of legislation which passed the committee unanimously, and as I think things will develop, will show that we probably will get a similar consideration on the floor.

I yield to Senator DEWINE, after first commending him and also his cohort, Senator WELLSTONE, for the incredible amount of work they put in. Senator KENNEDY and I are the leaders of the committee, but it is the subcommittee that really did the majority of the work here. I want to commend them for the tremendous capacity to work together. As I said, there is some divergence in the philosophical opinion between the two men. But it proved to be of great advantage to the whole body here by coming out with an excellent piece of work. I now yield the floor to Senator DEWINE.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from Ohio.

Mr. DEWINE. Mr. President, we begin debate this morning on an important piece of legislation, which we have all been working on for the last few years—legislation that I believe is vitally important to the economic future of our country. As Senator JEFFORDS and Senator KENNEDY have so eloquently pointed out, this is a bipartisan bill. It is a bipartisan bill that will truly make a difference.

Let me thank the full committee chairman, Senator JEFFORDS, the ranking minority member of the committee, Senator KENNEDY, and Senator WELLSTONE, who is the ranking member of our subcommittee. I also thank all the members of the Labor Committee who unanimously approved and voted in favor of this legislation—Senators COATS, GREGG, FRIST, ENZI, HUTCHINSON, COLLINS, WARNER, MCCONNELL, DODD, HARKIN, MIKULSKI, BINGAMAN, MURRAY, and REED of Rhode Island—a truly bipartisan bill, in a committee that, as my chairman has pointed out so very well, has a great divergence of philosophical backgrounds and beliefs. We all came together because we knew this bill would make a difference. We knew the status quo was simply not acceptable.

Mr. President, S. 1186, the Workforce Investment Partnership Act, which we are considering this morning, will bring much-needed and overdue reform to our job training system. Mr. President, as chairman of the employment and training subcommittee, I have come to this Senate floor on numerous occasions to stress the immediate need to reform the Federal job training system. This need increases each day that Congress does not act. The status quo is simply not acceptable.

In writing this bill, our subcommittee held a number of important oversight hearings on this issue over the last 3 years. Let me just pause for a moment to say how much I have enjoyed working with the ranking minority member of that committee, Senator WELLSTONE, as we have held these hearings and worked on this important piece of legislation.

Mr. President, at 2 hearings in Washington, DC, we heard from officials from Los Angeles, from the State of Oregon, from Hennepin County, Minnesota. We heard from business groups, such as the Cleveland Growth Association.

At a hearing in Cleveland, Ohio, we heard from concerned groups like the Akron Regional Development Board, the Lorain County Workforce Institute, the Lake County Employment and Training Administration, Cuyahoga County Community College, and Cleveland State University.

What we heard, Mr. President, is that today's system is a fragmented and duplicative maze of narrowly focused job training and job training-related programs, administered by numerous Federal agencies that lack coordination, lack a coherent strategy to provide training assistance, and lack the confidence of the two key consumers who utilize these services—namely, those seeking the training, and those businesses seeking to hire these individuals.

Mr. President, probably one of the most historic accomplishments of the 104th Congress was our legislation that transformed the American welfare system. In passing a bill to end welfare as we knew it, we were empowering the States, empowering the local communities, and private businesses to seek a better way—to replace welfare with opportunity.

Mr. President, what the Senate is considering this morning is a bipartisan bill that would provide States and localities with another tool—a very important tool—to make work, not welfare, the way of life for millions of our fellow citizens. People on welfare need to know they have a real future, a bright future, a future based on opportunity and economic advancement for themselves and their families. They need to know that when they leave the welfare rolls, there is a job out there—a job for them.

Mr. President, this is one major reason that our bipartisan job training legislation is so important. This really was the unfinished business of the last Congress. This really is the unfinished business of welfare reform. This bill—the Workforce Investment Partnership Act—that we are considering this morning, which again I point out passed unanimously out of the Labor Committee—would help States and local communities succeed in this crucial task of making welfare reform truly work. It would help make work, not welfare, a reality in the lives of America's disadvantaged workers.

Mr. President, to achieve this goal, individuals need to be provided the opportunity to receive the education and skills and training necessary to obtain meaningful, long-term employment. However, tragically, the current job training programs have been unable to provide quality service on a consistent enough basis.

Employers at every level are finding it increasingly difficult to locate and attract qualified employees for high-skilled, high paying, good jobs, as well as finding it difficult to attract qualified employees for level-entry positions.

Let me provide my colleagues with a couple of examples. In northern Virginia, not far from here, 19,000 high-tech, high-paying jobs remain unfilled because individuals lack the basic skills to fill them.

My home State of Ohio faces a similar predicament, as I am sure the Chair's home State of Georgia does as well. A Cleveland Growth Association survey recently showed that employers are becoming increasingly concerned about the quality and availability of the skilled labor which may ultimately impede their future growth plans.

Nationwide, the number of unfilled high-tech jobs is estimated to be at about 350,000. The increasing labor shortage threatens our Nation's economic growth and our productivity and our ability to compete in the world. This, in turn, also threatens our historic welfare reform.

Mr. President, it is clear that we must act immediately. S. 1186, the Workforce Investment Partnership Act, must pass the U.S. Senate and become law so that individuals may have the opportunity to increase their skills and to obtain meaningful, long-term employment.

As a Member of the Senate Labor and Human Resources Committee, as the chairman of the Subcommittee on Employment and Training, I have spent the last few years examining our Federal job training programs. What we all have found is alarming. During our examination of these programs, it has become clear to all of us that these programs are in dire need of reform. As a result, Mr. President, the business community is frustrated because the current programs fail to meet their employment needs.

States, localities and community activists are frustrated because the programs are many times confusing and duplicative. Individuals seeking assistance are frustrated because the system is so confusing they often don't even know where to begin, where to start.

We need to reform the current job training programs. We need to provide States with the tools necessary to develop their own comprehensive system that works for workers and works for the States.

Our bill, S. 1186, provides States and localities with the tools and the flexibility to implement real reform. It is the only way they will be able to provide comprehensive services to those individuals who are seeking training and education assistance.

Our bill provides States and localities with the framework to establish a truly comprehensive workforce development system.

The bill brings together nearly 70 categorical programs—including adult education, vocational education, training, welfare to work, the Wagner-Peyser Act, the Older Americans Act, the Rehabilitation Act, Trade Adjustment Assistance, and other job training programs. All in all Mr. President, nearly 70 categorical programs.

Further, this bill that the Senate is considering this morning offers a reborn Federal Job Corps program—the oldest program of over 30 years, and the most expensive in the Federal system. We make this system anew, and we link it to local communities really for the first time in its over 30-year history.

Further, our bill provides States with the option to submit a "Unified Plan" or a single State plan for the numerous education and training programs incorporated into the bill.

And it establishes a "no wrong door" approach to training and education assistance. Under today's system, people have difficulty knowing where to begin to look for training assistance—because there are no clear points of entry and no clear paths from one program to another. Our bill makes sure that whatever "door" people go through—whatever agency they approach—they will receive comprehensive information about all the programs available to them. They will learn about the availability, eligibility, and quality of the programs through a "one-stop customer service system."

The bill also gives States and localities the flexibility they need to design their own workforce development systems.

It authorizes and expands a modified "Work-Flex" program for all States, flexibility that is currently limited to only six demonstration States.

Under "Work-Flex," in our bill, the States have the authority to approve requests for waivers of statutory and regulatory provisions submitted by their local workforce areas.

The bill allows States to consolidate the 15 percent "State Reserve" funds from each funding stream—adults, dislocated workers, and youth—in order to target their own State's priorities.

Our bill provides Governors and local elected officials with the ability to designate local service areas, increasing the population threshold to 500,000.

It increases the States' authority over the development of State performance measures—giving Governors the authority to set additional core measures of performance, and negotiate the expected levels of performance—more accountability.

And finally, Mr. President, our bill eliminates numerous Federal requirements and mandatory set-asides. This is a very important measure giving States the flexibility, authority, and funding to design their systems.

STATE REFORMS

The bill recognizes—and keeps—some of the great progress already being made at the State level.

It grandfathers State statutes enacted prior to December 31, 1997, relating to State councils, local boards, designation of service areas, and sanctioning of local areas for poor performance.

It allows States to continue their existing reform efforts—and provides Governors broad waiver authority from the new requirements under the bill, in order to implement additional State reforms.

REDUCING FEDERAL RED TAPE

This bill is about reform. Our bill reduces Federal requirements and bureaucracy.

In addition to allowing States to consolidate the administration funds from the various funding streams, the bill removes income eligibility requirements and enables States to provide all the adults who voluntarily seek assistance the comprehensive services that are available through the one-stop customer service system.

It establishes an effective and accountable system—ensuring that training leads to meaningful, long-term employment.

It streamlines and simplifies the core accountability measures, reducing the number of accountability measures by more than 80%.

The goal of these provisions is to increase accountability while decreasing red tape.

Furthermore, the bill eliminates government bureaucracy and promotes personal responsibility by providing "Individual Training Accounts" or vouchers to individuals voluntarily seeking assistance so they can choose their training and education provider.

WHY BUSINESS SUPPORTS OUR BILL

Mr. President, all of these reforms are calculated to fundamentally streamline and rationalize our job training system—and make it work for real people. Moreover, the reforms are based on free market competition. That's why the business community is strongly behind this legislation.

Our bill provides the business community a strong leadership role, which is one thing that we have learned as we held hearings day after day and month after month. We heard from the business community. They have to be involved in the planning of these programs.

Under this bill, the membership of the Statewide and local partnerships will be composed of a majority of business representatives—and the partnerships will be chaired by business representatives.

Statewide and local partnerships will be responsible for overseeing the workforce investment system, including the establishment of criteria and standards for the job training programs and the certification of local job training providers.

And business organizations may be designated as one-stop customer service center operators.

Mr. President, the reforms contained in this bill will make it easier for our workers to get the training they need and the jobs they want. It will make it easier for our businesses to fill their jobs, so many of which stand empty today for want of skilled workers.

Put these reforms together, and you get a recipe for an America that works—and the realization of the hopes for our country that were embodied in the 1996 welfare reform bill.

At this time, Mr. President, I would ask unanimous consent that the following letters of support for S. 1186 be made part of the RECORD—letters from the National Alliance of Business, the City of New York, the U.S. Chamber of Commerce, the Council of Chief State School Officers, the Society for Human Resource Management, the National Conference of State Legislatures, and the Cleveland Growth Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ALLIANCE OF BUSINESS,
Washington, DC, March 17, 1998.

Hon. MIKE DEWINE,
Chairman, Subcommittee on Employment and Training, Committee on Labor and Human Resources, Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR DEWINE: The business community supports the Workforce Investment Partnership Act (S. 1186). The bill reflects changes that the business community recommended in principles submitted prior to committee action last fall. The bill transforms the current patchwork of federally-funded worker training programs into a comprehensive system with business-led partnerships at the state and local level to ensure accountability and results based on high standards.

We want to ensure strong provisions in a final compromise with the House. We will work to have a final bill that would increase state options for consolidation, strengthen measures of performance and accountability, and guarantee that programs are responsive to skill needs in the local labor market. The urgency we have for this reform bill is dictated by the rapid changes in the marketplace that render many older programs obsolete.

Early action is necessary to allow enough time to secure a final compromise with the House. We urge your support for this bill.

Sincerely,

ROBERT T. JONES,
President and CEO.

THE CITY OF NEW YORK,
DEPARTMENT OF EMPLOYMENT,
New York, NY, March 12, 1998.

Hon. MIKE DEWINE,
Senate Committee on Labor and Human Resources, Russell Senate Office Building, Washington, DC.

DEAR SENATOR DEWINE: I write in support of the "Workforce Investment Partnership Act", S. 1186, which is expected to come to the Senate floor for a vote early next week. As the largest and most diverse Service Delivery Area under the Job Training Partnership Act, I believe that this bipartisan legislation addresses most of the New York City's concerns for achieving reform and consolidation of job training and employment programs.

This legislation includes important reforms and has broad support from those involved with workforce development. This bill is important to New York City because it: 1) insures a significant role of the chief local elected official; 2) formally establishes One Stop Career Centers as part of the workforce development system; 3) supports $250 million annually for at risk youth; and 4) demonstrates a renewed commitment to workforce development.

Thank you again for considering the City's views in the development of this legislation. We look forward to swift passage of this bill in the Senate and resolution of the Senate and House Bills to conference.

Sincerely,

ANTONIO PAGAN,
Commissioner.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, March 18, 1998.

Hon. MIKE DEWINE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DEWINE: On behalf of the U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, we strongly urge your support for S. 1186, the Workforce Investment Partnership Act when it comes before a vote on the Senate floor.

The Chamber supports the Workforce Investment Partnership Act because it proposes a streamlined, business-oriented approach to job training which will empower states with the ability to transform the current patchwork of programs into a comprehensive, effective system. S. 1186 will also require the active participation of the business community through statewide partnerships and local workforce investment partnerships. Furthermore, the Chamber supports the autonomy S. 1186 grants the states by allowing them to submit waivers to re-engineer federally funded programs or systems to improve their effectiveness. Finally, the U.S. Chamber of Commerce is pleased with the bill's designation of state and local chambers of commerce as potential "One-Stop Customer Service Delivery Systems" because it will better integrate the needs of both the workforce and the business community.

Accordingly, we strongly urge your support for S. 1186, the Workforce Investment Partnership Act. Workforce education is a top priority of the U.S. Chamber and we may consider using this vote in our annual "How They Voted" vote ratings.

The U.S. Chamber of Commerce commends the Senate on its efforts concerning this issue, and pledges to continue working with both Houses of Congress to enact job training legislation that will better prepare the workforce to meet today's—and tomorrow's—challenges.

Sincerely,

R. BRUCE JOSTEN.

NATIONAL CONFERENCE
OF STATE LEGISLATURES,
Washington, DC, March 26, 1998.

Hon. MIKE DEWINE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR DEWINE: We are writing to express our support for passage of S. 1186, the Workforce Investment Partnership Act of 1998. As President of the National Conference of State Legislatures and Chair of NCSL's Education, Labor and Job Training Committee respectively, we believe that this legislation represents a significant improvement over current law which will consolidate job training services into a more rational and coherent state and local system.

For the first time in the history of federal involvement in workforce programs, S. 1186 recognizes the primacy of state legislatures in coordinating federal and state human resource development policy. Specifically, this legislation requires legislative appropriation of federal funds. This will allow state policymakers the opportunity to exercise open and public hearings on the flow of federal dollars to the state. The legislation also grandfathers existing state workforce reform efforts passed by legislatures and already enacted by a majority of the states. In addition, the accountability provisions should serve as an incentive for continuous improvement of workforce development systems.

We appreciate the leadership, hard work and commitment you have shown in moving this legislation thus far. We believe that now is the time to pass S. 1186, so that the disadvantaged and the employers who are searching for trained employees are linked in a comprehensive and coherent workforce development system.

Sincerely,

Senator RICHARD FINAN,
President, Ohio Senate; President, NCSL.

Senator LINDA FURNEY,
Assistant Minority Leader, Ohio Senate; Chair, Education, Labor and Job Training, NCSL Assembly on Federal Issues.

COUNCIL OF CHIEF
STATE SCHOOL OFFICERS,
Washington, DC March 19, 1998.

Re vote "yes" for S. 1186 workforce investment partnership.

MEMBERS OF THE U.S. SENATE:
Washington, DC.

DEAR SENATOR: I write on behalf of the state commissioners and superintendents of education to urge that you vote for the Chairman's substitute amendment to the Workforce Investment Partnership Act (S. 1186) and for its passage by the Senate. We also urge that you vote against any amendments which would erode the provisions of the legislation which reauthorize federal support for vocational and adult education or undermine the provisions for educational integrity and governance of these programs.

Federal support for linking academic and occupational study through vocational education is important for secondary school reform. It will help to eliminate the "general track" in high schools, and will ease the secondary-postsecondary transition for students through tech-prep. Federal support for adult education is important to enable a diverse range of adults to gain basic academic skills. These adults include parents and caregivers who desire to enhance their reading competencies, individuals who seek proficiency in English for productive employment, and individuals who strive to leave welfare for work. S. 1186 provides for these vital purposes.

The provisions of Titles I and II reauthorizing vocational and adult education as separate programs enable state and local education officials responsible for these programs to continue to direct the federal assistance to statewide educational reform and improvement. The critical connections between these federal funding streams and other federal, state and local education funding are provided in this bill.

The Workforce Investment Partnership Act contains provisions for states to voluntarily submit unified plans for two or more of the programs authorized. These provisions would facilitate coordination of vocational and adult education with job-training related programs, without mandating cumbersome processes or duplicative and expensive new bureaucracy at the state level. The Title V provisions for joint planning retain the authorities of education officials for the vocational and adult education programs and thus avoid superseding state responsibility for education.

We urge you to support the Chairman's substitute for S. 1186 when the bill comes before the full Senate for passage. If there is any additional information we can provide, please call me or our Director of Federal-State Relations, Carnie Hayes, at (202) 336-7009. Thank you for your support of S. 1186.

Sincerely,

GORDON M. AMBACH.
Executive Director.

SOCIETY FOR HUMAN
RESOURCE MANAGEMENT,
Alexandria, VA, March 19, 1998.
U.S. SENATE,
Washington, DC.

DEAR SENATOR: The Society for Human Resource Management (SHRM) is the leading voice of the human resource profession. SHRM, which celebrates its 50th anniversary in 1998, provides education and information services, conferences and seminars, government and media representation, online services and publications to more than 93,000 professional and student members from around the world. The Society, the world's largest human resource management association, is a founding member of the North American Human Resource Management Association and a founding member and Secretariat of the World Federation of Personnel Management Associations.

On behalf of SHRM, I am writing to ask you to support S. 1186, the Workforce Investment Partnership Act, which would consolidate approximately 100 federal job training programs into a single system. As you know, the House passed similar legislation, H.R. 1385, in May of 1997. We are especially pleased that S. 1186 would require the state wide and local partnerships to be comprised of a majority of private sector representatives and that the state programs are instructed to coordinate with ongoing welfare to work efforts.

SHRM has had a longstanding commitment to the consolidation of training programs, and has repeatedly urged Congress to consolidate training programs to the maximum extent possible, in order to provide for an efficient, effective system. SHRM has also historically opposed nontargeted and uncoordinated training efforts that could result in a costly redundancy or misallocation of training. SHRM believes it is critical that the U.S. maintain and improve the skills of its workforce. SHRM also believes that effective, well coordinated, discretionary use of employee training dollars can achieve both measurable and substantial results for employers and employees. SHRM applauds the many employers who have already understood the importance of investing in the skills of the workforce and have established a variety of effective and innovative training programs for their employees.

SHRM was disappointed that House and Senate passed legislation failed to be reconciled and signed into law during 1996 and is hopeful that legislation will be enacted during 1998 before Congress adjourns. We commend the Senate for bringing S. 1186 to a vote. We urge you to support S. 1186 and look forward to working closely with you to speed its enactment. Feel free to contact Deanna Gelak, SPHR, Director of Governmental Affairs at (703) 535-6027 with any questions which you may have during floor consideration of this important measure.

Sincerely,

SUSAN R. MEISINGER,
SPHR, Senior Vice President.

THE GROWTH ASSOCIATION OF
CLEVELAND—YEARS OF CREATING
GROWTH,
Cleveland, OH, February 11, 1998.
Hon. TRENT LOTT,
*U.S. Senate Majority Leader, U.S. Senate,
Washington, DC.*

DEAR SENATOR LOTT: The Greater Cleveland Growth Association, the largest urban chamber of commerce in the country, strongly supports S. 1186—the Workforce Investment Partnership Act. We urge passage of this bill on the Senate floor as soon as possible.

As an employer, and as chairman of a business community initiative on workforce development, I know the importance of the public policies changes contained in the bill. We support the legislation because it reflects the policy that the job training system must be employer-driven to effectively match worker skills with jobs that employers have or will have in the future.

Like many communities, the Northeast Ohio region is experiencing its lowest unemployment rate in decades. This has resulted in labor shortages at both the entry levels and in specific occupations. While this is a positive indicator of a strong economy, our companies' inability to find qualified workers threatens that progress. It amplifies the need for reforming fragmented and narrowly focused job training programs into a comprehensive system that will anticipate and respond to labor market demands.

We believe that S. 1186 contains provisions that will bridge the gaps between employers and workers by effectively delivering job training services at the state and local levels.

With the creation of statewide partnerships and Local Workforce Investment Partnerships, the active participation of business in planning and oversight capacities is greatly strengthened.

We are encouraged by the consolidation and simplification of federal programs into more flexible block grants that can be tailored by states to meet local labor market needs.

The new one-stop, customer-centered service system will improve access for job seekers and employers alike.

Thank you for your consideration of this important business and community issue. We hope S. 1186 will soon pass in the U.S. Senate.

Sincerely,

CURTIS E. MOLL,
Chairman and Chief Executive Officer, MTD Products, Inc.; Chairman, Jobs and Workforce Initiative.

AMENDMENT NO. 2330

(Purpose: To amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations for that Act)

Mr. DEWINE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio (Mr. DEWINE) proposes an amendment numbered 2330.

Mr. DEWINE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DEWINE. Mr. President, I rise at this point today to discuss the pending amendment, the Rehabilitation Act Amendments of 1998.

This is bipartisan legislation, which I am presenting as an amendment, has the strong support for the work that has been done by our chairman, Senator JEFFORDS. It has the support of the work that has been done by the ranking member, Senator KENNEDY, and also the distinguished ranking member of the Employment and Training Subcommittee, Senator WELLSTONE. The work product also has the support of our distinguished colleagues, Senators HARKIN, FRIST, COLLINS, REED, CHAFEE, and BINGAMAN.

Mr. President, this amendment is the result of open and extensive negotiations that have earned it widespread and deep support both here in Washington, but more importantly at the State and local community level.

The rehabilitation act I have submitted as an amendment is the country's only Federally funded program that provides job training and job placement services to individuals with disabilities. I believe the reauthorization of this Act gives us a perfect opportunity to build on and develop the positive changes that were made when it was last reauthorized, in 1992.

The Subcommittee on Employment and Training began the reauthorization process last year by holding two hearings: the first in Washington, and the second in Columbus, OH. the Subcommittee listened carefully to the suggestions of vocational rehabilitation clients and their counselors, to administrators, and to service providers.

We found many opportunities to build on the positive changes Congress made in 1992. I would like now to discuss some of the most important improvements we believe we have made to the 1992 Act.

First of all, the amendment would link the Rehabilitation Act to the underlying job training reform bill that is before the Senate this morning. One of the problems we heard over and over again in our hearings was one we have already tried to address in the Workforce Investment Partnership Act. The fact is, there is a large disconnect between the vocational rehabilitation system and the rest of the country's job training systems. Too many disabled individuals are not receiving the basic job training information they need because they fall through the gap between the two job training systems. For example, a disabled individual may not meet the current legal definition of "disabled" and thus not qualify for services from their State's vocational rehabilitation system, yet that same individual could be turned away from his or her State's generic job training system because that person is seen as being disabled. They literally fall between the two systems, not technically qualifying for either one. We need to change that, and this amendment does that.

Therefore, the most important change we undertake is to link the vocational rehabilitation system to the states' new workforce systems under the Workforce Investment Partnership Act. No one should underestimate the importance of cooperation and mutual awareness between the two systems, and the strong statutory links that are necessary to ensure such cooperation. However, let me make it very clear, as Senators KENNEDY and JEFFORDS have point out: Under no circumstances will the vocational rehabilitation system's integrity be compromised. That is the last thing we intend to do. Its funding will not be redirected to other populations.

Our goal is clear. It is to improve vocational rehabilitation, not deplete its resources.

Once these programs are joined, state vocational rehabilitation agencies will provide more people with either the basic information they need to begin their road to employment, or a referral to the state's new job training system. What makes this referral so much better than the current system is that employees in the state's new job training program will now be trained specifically to address the unique employment needs of disabled individuals.

This simple solution will be achieved by the cooperative agreements and contracts required by this bill—between state workforce systems and state vocational rehabilitation systems. It will result in providing more disabled individuals with better jobs.

These agreements or contracts may include the following: Arrangements for interagency staff training; arrangements for electronic sharing of labor market information and information on job vacancies; arrangements to use common intake procedures, forms, and referral procedures; and agreements to share client databases.

However, let me be clear again. Vocational rehabilitation agencies will not be required to spend any of their federal allotment on activities other than those that help provide jobs for disabled individuals.

This legislation also streamlines the vocational rehabilitation system, and allows state vocational rehabilitation agencies to save millions of dollars. They will now be able to use these dollars for job training and referral services instead of administration.

For example, current law's so-called "strategic plan," which really was duplicative, is eliminated. In Ohio, this means a savings of close to $3 million—and other states can expect the same kind of savings.

Our bill also simplifies eligibility procedures—a common complaint we heard as we held hearings. For example, a person who qualifies for benefits or assistance under another program, such as Social Security Disability Insurance, Supplemental Security Income, or the Individuals with Disabilities Education Act, under our bill may use that qualification instead of having to go through a whole new process to receive vocational rehabilitation services. State agencies no longer will have to redo lengthy administrative procedures to determine a person's eligibility when they know that person clearly qualifies. This, too, will save valuable resources.

Based on the information we gathered at our hearings and the suggestions we heard from the people who deal with vocational rehabilitation programs on a daily basis, we will reauthorize the Rehabilitation Act for 7 years. A longer period will allow states the opportunity to properly and effectively implement these positive changes and needed improvements.

The witnesses who testified at our Washington hearing described their serious concerns about vocational rehabilitation clients' "independence," their lack of opportunity for "self-assertion," and they strongly emphasized that clients should have meaningful roles in developing their own "Individualized Rehabilitation Employment Plans."

We believe we have in this legislation taken care of these concerns.

Empowered clients, who will always have the opportunity of working as a team with a VR counselor, may now exercise more consumer choice as to what employment goals they want to reach and how they want to reach them.

Finally, one of the most positive changes our bill makes is to emphasize the value of self-employment. If a vocational rehabilitation client wants to be self-employed, there is no reason why he or she should not receive the training and assistance they need to reach their employment goal.

At our Columbus hearing, I was surprised to learn that under current law, self employment is hardly, if ever, promoted. It is discouraged many times. Now, clients, together with their vocational rehabilitation counselors, have more flexibility and can develop plans to achieve self-employment.

Mr. President, let me conclude my comments about this amendment by thanking once again the Chairman of the Labor Committee, Senator JEFFORDS; the Ranking Member of the Committee, Senator KENNEDY; the Ranking Member of the Employment and Training Subcommittee, Senator WELLSTONE, Senator COLLINS, Senator CHAFEE, Senator BINGAMAN, and my colleague from Iowa, Senator HARKIN, for all the work they and their staffs put into this process. I would also like to thank my colleague from Tennessee, Senator FRIST, and his staff for their contribution not only in the 105th Congress, but also for his contributions to developing links to our previous workforce bill in the 104th Congress.

This bill streamlines the vocational rehabilitation system's administration allowing millions of dollars to go to job training services. This bill improves the lives of individuals with disabilities and provides opportunities for more jobs and better jobs. It creates a more user-friendly, consumer-driven program—and promotes the creation of a seamless job training program that will be able to serve more people more efficiently.

Mr. President, I ask for the support of my colleagues on this amendment. At this time I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I am pleased to join with my colleague Senator DEWINE in offering S. 1579, the Rehabilitation Act Amendments of 1998, as reported out of the Labor and Human Resources Committee, as an amendment to S. 1186 as amended by the Committee substitute.

By attaching S. 1579 to the workforce legislation we will facilitate its consideration. However, I want to make clear that the Rehabilitation Act, when these amendments become law, will remain a freestanding statute.

S. 1579 will open up more employment opportunities to individuals with disabilities. It will also provide State vocational rehabilitation agencies and others who provide employment-related assistance to individuals with disabilities with the tools they need to provide appropriate, timely help to individuals with disabilities who want to work. Provisions in this bill and in S. 1186 bring us closer to a seamless system for job training and employment assistance.

Without compromising the integrity of a State's vocational rehabilitation program, the Rehabilitation Act Amendments of 1998 link vocational rehabilitation services to those services that are available under current State workforce systems and those that will be available under the Workforce Investment Partnership Act of 1998.

Linkage provisions are found in sections pertaining to the findings and purposes of the legislation, definitions, program administration, reports, information dissemination, and State plan requirements, including those concerning data reporting. Complementary and parallel provisions promoting linkage between vocational rehabilitation agencies and State workforce systems also are included in the Workforce Investment Partnership Act of 1998. As the result of these linkage provisions individuals with disabilities who want to work will not be turned away or denied assistance by a State's workforce system, of which the vocational rehabilitation program will be an integral component. There will be no wrong door to the system, no revolving door. Instead, there will be appropriate assistance.

The amendments simplify access to vocational rehabilitation services. The State plan requirements have been rewritten to simplify administration of the vocational rehabilitation program. The amendments reduce the 36 State plan requirements in current law to 24 and require the submission of one State plan, with amendments thereafter under certain circumstances. The bill allows, when a State is operating under an order of selection, for the State to offer core services to individuals with disabilities who do not meet a State's criteria for full services from the vocational rehabilitation agency. The legislation gives vocational rehabilitation agencies the ability to secure financial support from other entities who could or should pay for certain services needed by an individual with a disability, who is being assisted by the vocational rehabilitation agency to prepare for or secure a job. The bill requires State vocational rehabilitation agencies and State Rehabilitation Councils to jointly—develop and conduct a comprehensive needs assessment every three years, and annually, to set and report on employment goals for individuals with disabilities.

They streamline the administration and access to the vocational rehabilitation program. The bill simplifies procedures for eligibility by allowing consideration of existing evaluation information in determining an individuals's eligibility for vocational rehabilitation services. The bill strengthens eligible individuals's roles in developing their individualized rehabilitation employment plans.

The bill also amends other titles in the Rehabilitation Act. Title II, which authorizes the National Institute on Disability and Rehabilitation Research, is amended to require that all funding priorities of the Institute be derived from a five-year plan that will be subjected to public comment and then submitted to Congress. The bill expands the authority of the Institute to allow funding of initiatives related to the quality assurance of assistive technology and the effectiveness of alternative medicine when used to treat individuals with disabilities. The legislation streamlines and updates title III of the Act, which authorizes training and demonstration activities, by clearly delineating funding priorities, simplifying the notification of interested parties about upcoming grant opportunities, and permitting funding for training of personnel in one-stop centers so that they will be more able to appropriately and effectively assist individuals with disabilities seeking employment-related assistance through such centers.

S. 1579 strengthens section 508 of the Rehabilitation Act pertaining to the accessibility of electronic and information technology for individuals with disabilities employed or served by Federal agencies. S. 1579 amends title VI of the Act by adding a new initiative, Projects in Telecommuting and Self-Employment for Individuals with Disabilities, and by permitting Projects with Industry to assist eligible individuals without waiting for referrals or eligibility status determinations from vocational rehabilitation agencies and to provide training and/or placement services.

Vermonters with disabilities benefited from the 1992 amendments to the Rehabilitation Act. Vermonters with disabilities will benefit from these 1998 amendments. In Vermont, one out of every eight residents is disabled. The Division of Vocational Rehabilitation has enabled many Vermonters with disabilities to exercise the choices in setting employment goals and selecting service providers to help them achieve those goals. In 1996, Vermont's vocational rehabilitation program provided an array of services to almost 5,000 Vermonters, while directly assisting 850 individuals with disabilities to become successfully employed.

In 1996 Vermont consumers of vocational rehabilitation services who secured employment enjoy an average increase in income exceeding $8,000 per year. Seventy-three percent of these individuals entered the workforce earning more than minimum wage. Seventy-eight percent of these Vermonters who were assisted by the Vermont Division of Rehabilitation in 1996 remain employed today. In addition, the Vermont Consumer Choice Project has allowed my State to create organizational structures, policies and practices that have resulted in a greater degree of informed choice for individuals seeking and receiving vocational rehabilitation services.

Throughout S. 1579 there are references to traditionally underserved populations. I want to bring special attention to one such population that I am particularly aware of in my home state of Vermont: farmers with disabilities.

In America an estimated 11 million people with disabilities live in rural areas. In the agricultural arena, an estimated 500,000 farmers and ranchers nationwide have physical disabilities that limit their ability to perform one or more work-related tasks. Each year, over 200,000 persons employed in agriculture are injured on the job, with many incurring a permanent disability as a result. Thousands more in the agricultural community experience disability as a result of non-farm injuries, illnesses, and chronic health conditions. These individuals consistently encounter barriers to receiving appropriate vocational rehabilitation services.

Providing vocational rehabilitation services in rural environments can be challenging, but we clearly need to do more to serve these individuals who contribute so much to American society. State vocational rehabilitation agencies have large caseloads. Given these large caseloads, it is often challenging to adequately serve individuals with disabilities in rural areas. Moreover, there are few rehabilitation professionals who are knowledgeable about various occupations in rural America or about how to successfully adapt or modify those work environments.

Since 1991, the AgrAbility Program of the U.S. Department of Agriculture has helped thousands of farmers, ranchers, and farm workers to accommodate their disabilities in order to work safely and efficiently in agricultural production. A program that has existed in my home state of Vermont for nearly 30 years was one of the models on which the AgrAbility program was based. This program is a jointly operated by the Vermont Rehabilitation Service and the Cooperative Extension Service. It has helped hundreds of farmers accommodate their disabilities and remain productive. The lessons that we have learned in Vermont and through the AgrAbility program nationally need to be infused into the vocational rehabilitation system.

Currently, nineteen States are served by AgrAbility projects, and at least a dozen additional States are pursuing funding. AgrAbility projects are conducted as partnerships between university-based State extension service agencies and nonprofit disability organizations, including Easter Seal societies, United Cerebral Palsy Associations, Goodwill societies and Independent Living Centers. These AgrAbility projects can provide State vocational rehabilitation agencies with a wide range of training and technical assistance to improve and expand vocational rehabilitation services to people with disabilities seeking to maintain their work in agriculture.

In closing, I would like to acknowledge that we would not have been able to offer our colleagues this bipartisan, consensus-based legislation without Senator FRIST's efforts in 1995 with regard to S. 143 and the efforts of many hard working staff including, Aaron Grau with Senator DEWINE, Elizabeth Aldridge with the Senate Legislative Counsel, Connie Gardner with Senator KENNEDY, Roger Wolfson with Senator WELLSTONE, Sharon Masling with Senator HARKIN, Jim Fenton with Senator DODD, Pat Morrissey, Sherry Kaiman, and Heidi Mohlman of my staff. In addition, I wish to recognize the cooperation and technical assistance that we received from Assistant Secretary for Special Education and Rehabilitative Services, Judith Heumann, and Fredric Schroeder, Commissioner of the Rehabilitation Services Administration of the U.S. Department of Education and their staff. I also wish to thank the Consortium for Citizens with Disabilities, Task Force on Employment and Training, for its timely input on legislative proposals and its assistance on disseminating discussion drafts. Finally, I wish to extend a special thanks to Bob Rabe, Director of the Ohio Rehabilitation Commission and Chair of the Reauthorization Task Force of the Council of State Administrators of Vocational Rehabilitation (CSAVR) and Diane Dalmasse, the Director of the Division of Vocational Rehabilitation in Vermont for helping us to understand how the amendments will affect the delivery of vocational rehabilitation services.

As I said on January 28, 1998 when my colleagues and I introduced this legislation, having a job and liking it are the bottom line. I urge my colleagues to join us in supporting S. 1579 as an amendment to the Workforce Investment Partnership Act of 1998. Passing it will mean more jobs and better jobs for individuals with disabilities.

Mr. President, I also want to commend a staff member who has been with the Congress in one body or the other for many years who contributed very greatly to bringing about a consensus on this piece of legislation, Pat Morrissey.

At this time, Mr. President, I believe the amendment on both sides is acceptable and we could have a vote on it at this time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2330) was agreed to.

Mr. JEFFORDS. Mr. President, I now yield, in accordance with the order, to Senator ASHCROFT to offer his amendments.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Vermont for providing me with this opportunity. I commend both the Senator from Vermont and the Senator from Ohio for their outstanding work, along with other members of the committee. I know they worked hard in this particular endeavor.

PRIVILEGE OF THE FLOOR

Mr. ASHCROFT. Mr. President, I ask unanimous consent that Kevin Ring of my staff be permitted to be on the Senate floor today until adjournment, for the purposes of these discussions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2331 TO AMENDMENT NO. 2329

(Purpose: To prohibit the use of funds to carry out activities authorized under the School-to-Work Opportunities Act of 1994)

Mr. ASHCROFT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Missouri [Mr. ASHCROFT] proposes an amendment numbered 2331 to Amendment No. 2329.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> In title V, strike the section heading for section 505 and insert the following:
>
> **SEC. 505. LIMITATION.**
>
> None of the funds made available under this Act may be used to carry out activities authorized under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).
>
> **SEC. 506. EFFECTIVE DATE.**

Mr. ASHCROFT. Mr. President, the purpose of this amendment is to make certain that this legislation, the Workforce Investment Partnership Act, and the 1994 School-to-Work law are and remain separate programs. The amendment simply states that none of the funds made available under this Act may be used to carry out activities authorized under the School-to-Work Opportunities Act. The Senate Labor and Human Resources Committee has emphasized that School-to-Work is a completely separate program that is no way part of or linked to S. 1186. Section 316(d)(2) of the bill states:

> Funds shall not be used to carry out activities that duplicate federally funded activities available to youth.

The committee has cited this section as prohibiting any localities from using S. 1168 funding to expand School-to-Work. Although Section 316 may be clear to legislative counsel and to those of us inside the beltway, there are still concerns about the misuse of adult job training funds for School-to-Work activities. My amendment clarifies in an unambiguous manner that the funds in this bill cannot be used to carry out School-to-Work activities.

Many concerned citizens are troubled by the possibility that adult job training programs and even vocational education programs will be linked to elementary and secondary education and the School-to-Work Program. The concern is that this bill and the system it sets up would be linked to the School-to-Work system. I share these concerns. This amendment makes it clear to all involved, including those at the State level who will implement this law, that School-to-Work and adult job training are two distinct programs.

The population that this legislation is aimed to help is different from the population served by the School-to-Work Act. They have different needs and different focuses, and this bill should make clear that they are to remain separate.

My hope in offering this amendment is to ensure the two programs remain separate and the funds made available under this bill are not used to supplement the School-to-Work Act or to link School-to-Work activities with the Workforce Investment Partnership Act activities.

No matter how one feels about School-to-Work, and there are some who oppose it and some who support it, you should support this amendment. This amendment does not affect the School-to-Work law in any way, other than to reaffirm the separate nature of the Workforce Investment Partnership Act from the School-to-Work Program.

The Labor and Human Resources Committee is supportive of this amendment because it further clarifies what they understand the bill to do. In fact, the committee has repeatedly responded to the concerns about this issue by stating:

> School-to-Work is a completely separate program that is no way part of or linked to S. 1186. This amendment seeks to reassure those who are troubled by the possible linking of adult job training system to the School-to-Work Program. But more than that, the purpose of this amendment is to keep these two programs separate, not just rhetorically but in reality and in actuality.

I thank the chairman for his support of this important amendment. It is my understanding the amendment is acceptable to both sides and is consistent with the understanding of the committee generally. I offer it and urge its adoption.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. We have checked with the minority. It is acceptable to both sides.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. DEWINE. Mr. President, I will be brief but I would like to rise at this point to speak in strong support of the amendment of Senator ASHCROFT to S. 1186. This amendment prohibits the use of funds to carry out activities authorized under the School-to-Work Opportunities Act of 1994.

Let me state it was never—I repeat never—my intention to include funds for School-to-Work activities in S. 1186. The bill we are currently debating, I believe, reflects this intent. In fact, section 316(d)(2) of the bill clearly states:

> Funds . . . shall not be used to carry out activities that duplicate federally funded activities available to youth.

This provision prohibits States and localities from using S. 1186 funding in any way to expand School-to-Work. The ASHCROFT amendment—let me state I thank my friend and colleague from Missouri for this contribution to the bill—will simply clarify this language. It will clarify it by adding, quoting from Senator ASHCROFT's amendment:

> None of the funds made available under this Act may be used to carry out activities authorized under the School-to-Work Opportunities Act of 1994.

This amendment is simple and it is straightforward. The ASHCROFT amendment emphasizes, I believe, what the bill already clearly states. There has been opposition to S. 1186, driven by, I believe, a lack of understanding of this piece of legislation and a fear that our schools are going to be turned into training facilities that force children into career tracks. This is simply not true. This is the last thing—let me repeat, as I have stated on the floor before—this is the last thing this U.S. Senator would seek to do. This is the last thing this Member of the Senate would ever propose, would ever push, would ever write or, frankly, would ever even vote for.

S. 1186 does not expand the School-to-Work Act. School-to-Work is a completely separate program that is in no way part of or linked to S. 1186. I repeat, School-to-Work is in no way part of or linked to S. 1186. I would never support an expansion of School-to-Work. We do not need a Federal program directing students how to make the transition from School-to-Work. It is not an appropriate Federal role. Furthermore, School-to-Work's prescription will not solve the problem that too many kids are graduating today without the basic academics needed to succeed on the job, to succeed in post-secondary education, or to succeed in life.

I support inclusion of the ASHCROFT amendment in S. 1186. I thank my colleague from Missouri for proposing it. I believe it simply clarifies what is already in the bill, which is that funds in this legislation cannot be used to carry out activities authorized under the School-to-Work Opportunities Act of 1994.

I yield the floor.

Mr. KENNEDY. Mr. President, I strongly disagree with the adverse comments of the Senator from Missouri regarding the School-to-Work Opportunities Act. That Act has provided countless young men and women across America with educational and career development opportunities which they would never have otherwise had. It has given those teenagers a greater range of choice in preparing for their future careers. It has opened the doors of prospective employers to these students and afforded them invaluable work opportunities. The evidence is there. I could speak for hours reciting success stories resulting from the School-to-Work program.

However, this is not the appropriate time to debate the merits of School-to-Work. The Workforce Investment Partnership Act does not even mention the School-to-Work Opportunities Act once in its 444 pages of text. It does not amend or alter the School-to-Work Act in any way.

The concern of all Senators today should be focused on the Workforce Investment Partnership Act which we are now considering. I have been assured by those advocating the Ashcroft amendment that it does not in any way limit the use of funds made available under the Workforce Act for any activity authorized by the Workforce Act. That is the issue which is most important today. Notwithstanding the Ashcroft amendment, funds available under each title of the Workforce Act will be able to be used to support any activity which that title authorizes. Based on that representation regarding the intent of the amendment, I do not request a rollcall vote.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. I ask for a vote at this time.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2331) was agreed to.

Mr. ASHCROFT addressed the Chair.

The Chair recognizes the Senator from Missouri.

AMENDMENT NO. 2332 TO AMENDMENT NO. 2329

(Purpose: To establish a requirement that individuals submit to drug tests, to ensure that applicants and participants make full use of benefits extended through training services)

Mr. ASHCROFT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. ASHCROFT] proposes an amendment numbered 2332 to amendment No. 2329.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 371, add the following:

(f) Drug Testing Limitations on Participants in Training Services.—

(1) Finding.—Congress finds that—

(A) the possession, distribution, and use of drugs by participants in training services should not be tolerated, and that such use prevents participants from making full use of the benefits extended through training services at the expense of taxpayers; and

(B) applicants and participants should be tested for illegal drug use, in order to maximize the training services and assistance provided under this title.

(2) Drug tests.—Each eligible provider of training services shall administer a drug test—

(A) on a random basis, to individuals who apply to participate in training services; and

(B) to a participant in training services, on reasonable suspicion of drug use by the participant.

(3) Eligibility of applicants.—In order for such an applicant to be eligible to participate in training services, the applicant shall agree to submit to a drug test administered as described in paragraph (2)(A) and, if the test is administered to the applicant, shall pass the test.

(4) Eligibility of participants.—In order for such a participant to remain eligible to participate in training services, the participant shall agree to submit to a drug test administered as described in paragraph (2)(B) and, if the test is administered to the participant, shall pass the test. If a participant refuses to submit to the drug test, or fails the drug test, the eligible provider shall dismiss the participant from participation in training services.

(5) Reapplication.—

(A) In general.—Except as provided in subparagraph (B), an individual who is an applicant and is disqualified from eligibility under paragraph (3), or who is a participant and is dismissed under paragraph (4), may reapply, not earlier than 6 months after the date of the disqualification or dismissal, to participate in training services. If the individual demonstrates that the individual has completed a drug treatment program and passed a drug test within the 30-day period prior to the date of the reapplication, the individual may participate in training services, under the same terms and conditions as apply to other applicants and participants, including submission to drug tests administered as described in paragraph (2).

(B) Second disqualification or dismissal.—If the individual reapplies to participate in training services and fails a drug test administered under paragraph (2) by the eligible provider, while the individual is an applicant or a participant, the eligible provider shall disqualify the individual from eligibility for, or dismiss the individual from participation in, training services. The individual shall not be eligible to reapply for participation in training services for 2 years after such disqualification or dismissal.

(6) Appeal.—A decision by an eligible provider to disqualify an individual from eligibility for participation in training services under paragraph (3) or (5), or to dismiss a participant as described in paragraph (4) or (5), shall be subject to expeditious appeal in accordance with procedures established by the State in which the eligible provider is located.

(7) National uniform guidelines.—

(A) In general.—The Secretary of Labor shall develop voluntary guidelines to assist eligible providers concerning the drug testing required under this subsection.

(B) Privacy.—The guidelines shall promote, to the maximum extent practicable, individual privacy in the collection of specimen samples for such drug testing.

(C) Laboratories and procedures.—With respect to standards concerning laboratories and procedures for such drug testing, the guidelines shall incorporate the Mandatory Guidelines for Federal Workplace Drug Testing Programs, 53 Fed. Reg. 11970 (1988) (or a successor to such guidelines), including the portion of the mandatory guidelines that—

(i) establishes comprehensive standards for all aspects of laboratory drug testing and laboratory procedures, including standards that require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimen samples;

(ii) establishes the minimum list of drugs for which individuals may be tested; and

(iii) establishes appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform such drug testing.

(D) Screening and confirmation.—The guidelines described in subparagraph (A) shall provide that, for drug testing conducted under this subsection—

(i) each laboratory involved in the drug testing of any individual shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(ii) all tests that indicate the use, in violation of law (including Federal regulation) of a drug by the individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding the-drug;

(iii) each specimen sample shall be subdivided, secured, and labeled in the presence of the individual; and

(iv) a portion of each specimen sample shall be retained in a secure manner to prevent the possibility of tampering, so that if the confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory, if the individual requests the independent test not later than 3 days after being advised of the results of the first confirmation test.

(E) CONFIDENTIALITY.—The guidelines shall provide for the confidentiality of the test results and medical information (other than information relating to a drug) of the individuals tested under this subsection, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection.

(F) SELECTION FOR RANDOM TESTS.—The guidelines shall ensure that individuals who apply to participate in training services are selected for drug testing on a random basis, using nondiscriminatory and impartial methods.

(8) NONLIABILITY OF LOCAL PARTNERSHIPS.—A local partnership, and the individual members of a local partnership, shall be immune from civil liability with respect to any claim based in whole or part on activities carried out to implement this subsection.

(9) REPORTING REQUIREMENTS.—An eligible provider shall make records of drug testing conducted under this subsection available for inspection by other eligible providers, including eligible providers in other local areas, for the sole purpose of enabling the providers to determine the eligibility status of an applicant pursuant to this subsection.

(10) USE OF DRUG TESTS.—No Federal, State, or local prosecutor may use drug test results obtained under this subsection in a criminal action.

(11) DEFINITIONS.—As used in this subsection:

(A) DRUG.—The term "drug" means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(B) DRUG TEST.—The term "drug test" means a biochemical drug test carried out by a facility that is approved by the eligible provider administering the test.

(C) RANDOM BASIS.—For purposes of the application of this subsection in a State, the term "random basis" has the meaning determined by the Governor of the State, in the sole discretion of the Governor.

(D) TRAINING SERVICES.—The term "training services" means services described in section 315(c)(3).

Mr. ASHCROFT. Mr. President, my amendment requires random drug testing for all job training applicants and drug testing of program participants based on a standard of reasonable suspicion. If an applicant or participant tested positive, they could reapply after 6 months from the date of disqualification, but at reapplication they must show that they passed a drug test within the last 30 days. A second failure of a drug test would require a two year wait before one could reapply. This provision allows individuals who have failed a drug test to get treatment and assistance and reapply for program funds.

I think it is important to say that I believe it does not pay us to try to train people who are high on drugs. Nor does it pay us to train people who are involved so substantially with drugs that when they go to take a drug test to get a job, they will be turned down because they are positive for drugs. I believe it is important, then, for us to be sensitive to these facts and to include in the legislation the fact that we will prefer people who are drug free for employment training, because we might as well give them the training because they will actually be able to get and hold a job. This is something that is very important.

During the last Congress, the Senate passed an identical amendment to the job training legislation. The amendment was agreed to by a vote of 54 to 43 with broad, bipartisan support. The conferees retained the drug testing provision in their conference report in the last Congress. So this is an item which is acceptable.

Since most of the private sector conducts drug testing on job applicants and employees, then a government-funded job training program should be able to do the same. According to the 1996 American Management Association Survey: Workplace Drug Testing and Drug Abuse Policies, we know that the share of major U.S. firms that test for drugs rose to 81 percent in 1996, and that was from 78 percent in 1995. The survey also found that 89% of all manufacturers drug-test, and 100% of all transportation firms test, due to Department of Transportation regulations.

Additionally, 79% of wholesalers and retailers drug-test. These are all areas where participants are most likely to find jobs. More people are being asked to take drug tests when they show up for a job. Let's make part of their training the fact that they would take such tests and that they would be able to pass those tests.

Additionally, our federal Job Corps program requires drug testing. Why shouldn't we have the same standards in this government job training program?

When you have a finite amount of government resources, you should spend them in the most efficient and effective way.

Since the American taxpayers are funding this job training program, there should be accountability. Taxpayer money is wasted if the person trained with government money cannot get a job because they cannot pass a drug test, which the majority of the private sector will conduct on employees. Since our resources are scarce, we should focus them on people who are likely to succeed.

Why train someone who will end up never being able to get a job, because they can't pass a drug test? On the other hand, we should train those people who are responsible enough to be drug free and who want to work. These are the people who can benefit from the training.

In fairness to the program participants, and in fairness to the taxpayers, applicants for the job training programs that will be authorized under this bill should be tested for the use of illegal drugs.

Finally, Government is in the business of teaching lessons. Requiring drug-testing for a government job training program teaches responsibility to participants. If people know that there will be drug testing in government job training programs, they will have an incentive to stay off of drugs.

Not testing participants is unfair to them because it falsely leads them to believe that they can be drug users and get jobs, and it is unfair to the American taxpayers who have to pay for those false hopes.

It is my understanding that this amendment has been cleared on both sides with the understanding, of course, partly in respect to the fact that the Congress previously voted in this respect.

Mr. KENNEDY. Mr. President, the amendment offered by the Senator from Missouri would require applicants and participants in job training programs to submit to drug testing. I am opposed to the amendment because it represents an unwarranted and unprecedented intrusion into the privacy of the thousands of ordinary Americans who use job training services.

In addition, the amendment is a costly and unfunded Federal mandate. One of the innovations of this job training bill is the degree of flexibility it gives States and localities. The Ashcroft amendment is completely out of step with that goal.

Drug testing has an important role in certain job training settings, just as it has in certain workplace settings. But the proposal by the Senator from Missouri is overbroad, excessively expensive, and an example of the intrusive Federal policy role that this bill is designed to combat.

The vast majority of the people who will use the job training services authorized in this bill are upstanding citizens, not criminals. They are displaced defense workers. They are blue collar workers who have been laid off as a result of a factory closing. They are professionals seeking to improve their skills in specialized fields. They are victims of natural disasters and runaway plants moving overseas.

The Ashcroft amendment says to these people: If you want this assistance to try to improve your skills and obtain employment, you have to agree to submit to a Government test for possible drug abuse. I do not believe that the privacy of ordinary citizens hoping to improve their job skills should be routinely invaded in this intrusive manner.

The Government uses drug testing today for airline pilots, train conductors, and other employees involved in sensitive public safety tasks. If programs funded by this bill train people in sensitive jobs, there is nothing that would prohibit drug testing.

But routinely testing of everyone is too extreme. We do not do it in other programs, and we should not do it in this one.

We do not drug-test people seeking Government assistance in financing a mortgage; we do not drug-test flood or earthquake victims applying for disaster relief; we do not drug-test crime victims seeking assistance from the Federal Office of Victim Services; we do not drug-test farmers seeking crop subsidies. We do not drug-test corporate executive seeking overseas marketing assistance from the Commerce Department.

Why are job training recipients singled out for this stigma? No case has been made that this population is more susceptible to drug abuse than the population at large.

The amendment offered by the Senator from Missouri requires drug testing in two situations. First, every applicant to a job training program is subject to testing on a random basis. Second, participants in training programs are subject to testing based on reasonable suspicion of drug use. Both random basis and reasonable suspicion are undefined concepts. They raise the specter that excessive distinctions will be made based on stereotypes and prejudices.

As we have often been told, Washington does not have all the answers. We should not replace one set of Federal mandates with another set of Federal mandates. This bill is designed to maximize local flexibility, but the Ashcroft amendment goes in the opposite direction.

Indeed, the Ashcroft amendment would actually preempt some State laws. A number of State legislatures have addressed the circumstances under which drug testing can be utilized, but the Ashcroft amendment would actually override the considered judgments of those legislative bodies and put in place a one-size-fits-all Federal mandate.

Drug testing on the scale contemplated by this amendment would be enormously expensive. By some estimates, 1 million Americans use the job training services included in this bill. The Department of Health and Human Services estimates that the average cost of a drug test is about $35.

That means it would cost $35 million each year to administer an average of one test to each person. Either this amendment saddles local governments with a huge unfunded mandate, or it eats up a large portion of the Federal funds made available under this bill.

It is also important to note that drug testing technology is not infallible. Depending upon the type of testing technology that is used, as many as 4 percent of all drug tests result in false positives. That means that if a million drug tests are administered, some 40,000 Americans might be inaccurately labeled as drug users.

Of course there are often opportunities for appeals and confirmation tests and retests. But we should think long and hard before we adopt this amendment and subject tens of thousands of ordinary, law-abiding Americans to the Kafka-esque nightmare of being falsely accused of drug use.

The amendment requires those who test positive for drugs to obtain drug treatment. But who will pay for treatment? Right now, only a third of the Americans who need substance abuse treatment receive it because insurance coverage and public funding are inadequate. In light of that fiscal reality, it makes no sense to institute a massive new Government drug testing program.

Finally, the amendment is objectionable because it may deter people who need job training services from seeking them. The threat of an intrusive drug test may put off drug users and nondrug users alike. We want to encourage people to improve their skills. We want to encourage the unemployed to become employed. We should not erect barriers to the services authorized in this bill.

Job training programs do not need the Federal Government to tell them how to deal with drug abuse. They have the tools they need. Where drug testing is appropriate, it will occur. But a sweeping Federal mandate is completely unnecessary and excessively expensive.

I have concerns about the privacy issue, concerns about the cost issue, concerns about preempting State laws, concerns about issues relating to standards and to quality control for random tests. They are all sound reasons to oppose this imprudent amendments.

Mr. ASHCROFT. Mr. President, I ask that the measure be voted on at this time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2332) was agreed to.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. Mr. President, first, I thank my friend from Missouri for his amendments which he so forthrightly and quickly disposed of so that we can move forward on this very important piece of legislation.

AMENDMENT NO. 2333 TO AMENDMENT NO. 2329

(Purpose: To provide for a right for certain large units of general local government to submit appeals concerning designation as local areas)

Mr. JEFFORDS. Mr. President, I ask for the immediate consideration of an amendment by Senator LAUTENBERG, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. LAUTENBERG, proposes an amendment numbered 2333 to amendment No. 2329.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 307(a)(2), strike subparagraph (C) and insert the following:

(C) LARGE POLITICAL SUBDIVISIONS.—A single unit of general local government with a population of 200,000 or more that is a service delivery area under the Job Training Partnership Act on the date of enactment of this Act, and that is not designated as local area by the Governor under paragraph (1), shall have an automatic right to submit an appeal regarding designation to the Secretary. In conducting the appeal, the Secretary may determine that the unit of general local government shall be designated as a local area under paragraph (1), on determining that the programs of the service delivery area have demonstrated effectiveness, if the designation of the unit meets the State plan requirements described in section 304(b)(5).

Mr. LAUTENBERG. Mr. President, I am pleased to offer this amendment to S. 1186, the "Workforce Investment Partnership Act." My amendment will provide a mechanism for 59 U.S. cities currently administering locally-tailored workforce development services under the Job Training Partnership Act to retain their designation as Service Delivery Areas (SDAs). This amendment allows those 59 cities that are existing SDAs, with successful job training programs, to appeal to the Secretary of Labor if the Governor of their State denies their request to retain SDA status.

Without my amendment, 59 cities, with 200,000 people or more, that had previously been SDAs but whose populations are under the new 500,000 threshold, would have to specially request SDA designation from their State. Among others, these cities include Denver, Colorado; Fort Worth, Texas; Long Beach, California; Akron, Ohio; Omaha, Nebraska; and two cities in my state of New Jersey, Jersey City and Newark. If Governors have sole discretion to terminate SDA designations, successful and long standing community job training programs would be terminated. This could be disruptive to cities that are taking leadership roles in implementing welfare-to-work job training programs to meet welfare reform goals.

I support the goal of S. 1186 to consolidate job training and employment programs into a more efficient workforce development system. I believe that creating an appeal mechanism for existing SDA designated cities with productive programs, like Newark and Jersey City, will enhance this legislation's objective to meet that goal.

I want to thank the bill's managers, Senators DEWINE and WELLSTONE, as well as the Ranking Democratic Member on the Labor Committee, Senator KENNEDY, for working with me on this issue. They should be congratulated on creating a strong, bipartisan bill. I am grateful that Senator WELLSTONE, Senator KENNEDY and Secretary Herman have committed their support to this provision when S. 1186 goes to conference.

Mr. DEWINE. Mr. President, I would like to take this opportunity to discuss and explain that portion of the Workforce Investment Partnership Act that deals with States' "Service Delivery Areas."

As I have stated before, the current system of Federal job training programs is no system at all. Consumers, individuals seeking assistance, and businesses seeking to hire them face a fragmented and duplicative maze of narrowly focused programs that lack coordination, a coherent strategy to provide training assistance, and the confidence of the consumers who need to use the services.

These problems are the result of numerous shortcomings that have developed over time and become part of a dated and neglected job training system that no longer considers the needs or resources of the States and localities it serves.

One of the current system's largest shortcomings is its ineffective designation of over 600 Service Delivery Areas. These 600 plus regions are a tremendous burden on the country's job training system and one of the greatest contributors to "a complex patchwork of overlapping bureaucratic responsibilities."

Over the past 15 years, it has been the Federal government deciding where these Service Delivery Areas would be.

Over the past 15 years, the Federal government used a general federal mandate and chose the number "200,000" to represent what it thought the appropriate population of Service Delivery Areas should be.

Over the past 15 years, the Federal government's Service Delivery Area criteria remained stagnant while States continued to grow and change.

The number 200,000 no longer adequately reflects the needs or resources of each and every State. It does not allow States to take their economic development or empowerment zones into account. It does not flex to reflect the ever-changing populations of cities and counties. In many urban areas it fragments a much larger labor market making coordination among State and local employment agencies difficult if not impossible.

The "Washington-knows-best", "one-size-fits-all" approach no longer works and we have the past 15 years to prove it.

To fix this problem—to clear out this bureaucracy—and to create a cleaner more accountable and more efficient job training system, we must do away with the paternalistic Washington mentality, return the Service Delivery Area designation decisions to the States and localities, and ultimately lower the number of Service Delivery Areas.

To do this, the bill outlines four criteria to be followed in selecting the State's Service Delivery Areas:

The States and their localities must ensure that there is a link between participants in workforce investment activities and local employment opportunities;

The States and their localities must ensure that a significant number of people who live in the proposed area also work in the area;

The States and their localities must ensure that neighboring Service Delivery Areas cooperate with each other and coordinate their activities; and finally

The States and their localities must ensure that the State economic development areas are taken into consideration.

Currently, it is the Federal Government that decides what regions will become Service Delivery Areas and what regions will not.

Under this new law, this cleaner, more accountable, and more effective system, it is the States and local communities that will make these decisions; it is the States and local communities that will have a true understanding of how to best apply these four new criteria; and it will be the States and local communities that determine how their job training dollars will best be used.

Mr. President, we can no longer afford the "Washington knows best" mentality. That is the thinking that created the current maze and bureaucratic patchwork of job training programs. That is the thinking that brings us here today—needing to change the system and fix its problems. We must put the decisions, such as Service Delivery Area designation, in the hands of those who are closest to their needs and resources.

This bill, and the positive changes it makes to the way Service Delivery Areas are currently designated, will help eliminate the "Washington one-size-fits-all mentality" and allow States, their Governors, their cities, and their municipalities—through a consensus process—to change the status quo and develop a more effective and locally controlled job training system.

Mr. President, I yield the floor.

Mr. JEFFORDS. Mr. President, I ask that the amendment be adopted. It is accepted on both sides of the aisle.

The PRESIDING OFFICER. Without objection, the amendment is agreed, to.

The amendment (No. 2333) was agreed to.

AMENDMENT NO. 2334 TO AMENDMENT NO. 2329

(Purpose: To establish a demonstration program that locates secondary schools on the sites of community colleges for the purpose of conducting tech-prep programs)

Mr. JEFFORDS. Mr. President, I send to the desk an amendment on behalf of Senator DOMENICI.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. DOMENICI, proposes an amendment numbered 2334 to amendment No. 2329.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After section 157, insert the following:

SEC. 158. DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM AUTHORIZED.—From funds appropriated under subsection (e) for a fiscal year, the Secretary shall award grants to consortia described in section 154(a) to enable the consortia to carry out tech-prep education programs.

(b) PROGRAM CONTENTS.—Each tech-prep program referred to in subsection (a)—

(1) shall—

(A) involve the location of a secondary school on the site of a community college;

(B) involve a business as a member of the consortium; and

(C) require the voluntary participation of secondary school students in the tech-prep education program; and

(2) may provide summer internships at a business for students or teachers.

(c) APPLICATION.—Each consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require.

(d) APPLICABILITY.—The provisions of sections 154, 155, 156, and 157 shall not apply to this section, except that—

(1) the provisions of section 154(a) shall apply for purposes of describing consortia eligible to receive assistance under this section;

(2) each tech-prep education program assisted under this section shall meet the requirements of paragraphs (1), (2), (3)(A), (3)(B), (3)(C), (3)(D), (4), (5), (6), and (7) of section 155(b), except that such paragraph (3)(B) shall be applied by striking ", and where possible and practicable, 4-year institutions of higher education through nonduplicative sequence of courses in career fields"; and

(3) in awarding grants under this section, the Secretary shall give special consideration to consortia submitting applications under subsection (c) that meet the requirements of paragraphs (1), (3), (4), and (5) of section 156(d), except that such paragraph (1) shall be applied by striking "or the transfer of students to 4-year institutions of higher education".

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1999 and each of the 5 succeeding fiscal years.

Mr. JEFFORDS. Mr. President, this amendment will establish a tech-prep demonstration program that locates secondary schools on the sites of community colleges. Tech-prep is an outstanding program. I believe this amendment will enhance tech-prep activities. I ask my colleagues to support it. I know of no objection to the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2334) was agreed to.

SECTION 367

Mr. DEWINE. Mr. President, I would like to engage in a brief colloquy with the distinguished ranking member of the Subcommittee on Employment and Training, Senator WELLSTONE, concerning the initiatives covered by section 367 of the bill. Mr. President, I strongly feel that clarifying the intent of this section will be helpful in my efforts to ensure that a very worthwhile initiative in Northeastern, Ohio receives favorable consideration by the Department of Labor.

As I understand it, section 367 authorizes the Secretary of Labor to carry out demonstration projects to develop new techniques, different approaches, and specialized methods to address communities; employment and training needs. This section also requires the community or entity to substantially contribute to their project's funding, have expertise in undertaking national demonstration projects, or have expertise in overseeing employment and training programs.

The Ohio initiative I referred to establishes an Engineering and Training Center which will provide employers, employees, students, and the underemployed access to job training services and course work germane the region's existing manufacturing base as well as its fledgling information technology industries. For example, the Center would provide welders, who recently lost their jobs when Ford Motor Company closed its Thunderbird and Econoline plants, computer software instruction for new computer controlled welding equipment. The Engineering and Training Center would also contain working laboratories where employees would receive custom training on the latest technology equipment.

Would the Senator agree that the establishment of such an Engineering and Training Center, whose principal focus is to provide job training to workers in a community suffering from the closure of auto and steel plants, is the type of activity section 367 encourages? And would the willingness of local foundations to provide half the cost of such an initiative satisfy the bill's substantial funding equipment?

Mr. WELLSTONE. I agree with my friend's reading of section 367. Its demonstration and pilot project section clearly is meant to encourage projects to help develop and implement techniques, approaches and methods such as those the Senator informs us are contained in the proposal from his state for an engineering and training center. I would also certainly think that local private funding of 50 percent would qualify as "a substantial portion."

Mr. DEWINE. Would the Senator agree that a County Community College, which functions as an integral part of the county's welfare-to-work initiative, and whose President who has won national awards and is the driving force in virtually every job training initiative in the region, addresses the bill's "expertise in employment and training programs?

Mr. WELLSTONE. I would fully expect the Department to give all due consideration to a proposal from an institution and chairman with such impressive credentials and expertise.

Mr. DEWINE. I thank the Senator.

MIGRANT AND SEASONAL FARMWORKERS

Mr. WELLSTONE. Mr. President, it has been a pleasure working with my colleague from OHIO on this bill. I appreciate his extremely hard work. I would like to confirm my understanding of a provision of the bill and ensure it is the same as the understanding of my colleague. For purposes of programs authorized under Title III of the bill, that is, the Workforce Investment Activities title, housing is considered to be an eligible supportive service. That is specified in the bill's definition section. In Section 362 of Title III, the section dealing with migrant and seasonal farmworker programs, a range of workforce investment activities are authorized, including employment and training assistance. The section then also authorizes further related assistance for eligible migrant and seasonal farmworkers, including supportive services.

For a number of years, the Labor Department has provided funding to a small number of single purpose grantees which provide an essential supportive service to farmworkers: improving their housing conditions. As S. 1186 defines supportive services to include housing and includes supportive services as eligible workforce investment related assistance for farmworkers, it seems clear to me that the bill would allow the Secretary to continue to make grants for farmworker housing.

Mr. DEWINE. The Senator is correct. Under the bill, the Secretary would have the discretion to continue grants to improve farmworker housing.

Mr. WELLSTONE. I thank the Senator.

Mr. JEFFORDS. Mr. President, I would not object to the Senator from Missouri speaking in morning business for a period, I believe, of up to 10 minutes.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that I have an opportunity to speak as in morning business for up to 6 minutes, until 11 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. I thank the Chair.

(The remarks of Mr. ASHCROFT pertaining to the introduction of S. 2023 and S. 2028 located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ASHCROFT. I thank the Senator from Vermont, the Senator from Ohio, and the Senator from Georgia in allowing me to make these statements and introduce these matters. I yield the floor.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. I ask unanimous consent that I be able to proceed as in morning business for a period not exceeding 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOBACCO LEGISLATION AND TEEN SMOKING

Mr. JEFFORDS. Mr. President, I had hoped to be in Burlington, VT, this morning meeting with a group of high school students. They have been studying tobacco use among adults and teens and talking about the proposed tobacco settlement in their health and civics classes. I regret that I am not able to be in Vermont to talk with them.

But I do want to take this opportunity to express my support for prompt consideration of tobacco legislation. When I look around the classrooms here in D.C. with students here in D.C.—when I read in the Brent School, or when I meet students at home, as I had planned to today—I see dozens of faces alive with potential. I see those kids as the soccer and track stars. I wonder which ones enjoy science and which ones are the budding artists. To me, each of these kids represents an unknown but a promising future.

To the tobacco industry, every single one of these kids represents nothing more than a replacement smoker. The tobacco industry's goal is to turn each of these young athletes and budding scientists into a smoker. We know now that the tobacco industry has plotted to capture the cub scout and the kindergarten market.

We have documentation that the tobacco industry has studied the behavior of children as young as 5 to determine how susceptible they are. And their scheming has worked. Every day, every week of every year, 3,000 children become addicted to cigarettes. A third of them will die early from smoking, and those who go on to raise families will endanger their children through low birthweight complications and secondhand smoke.

Vermont and other States have done much to combat teen smoking. I applaud the parents, teachers, and State health officials who have led the battle against big tobacco at the local level. It is time now for Congress to do something too.

Ever since the Attorneys General announced their proposed settlement last June, Congress has been talking to experts and debating the best approach to reduce teen smoking. But the time for talking is behind us. And time is running out. It is critical that the Senate act on tobacco legislation in the coming weeks. We cannot allow politics to stand in the way of this rare opportunity. This issue is too important and too complicated to leave to the last minute.

As chairman of the Senate Labor and Human Resources Committee, I have held seven hearings on the question of what tobacco policy would be best for this country. We heard from the experts that there is no silver bullet that will solve the problem of teen smoking. But that is no excuse for inactivity. Smoking kills 400,000 people a year, and it is the leading preventable cause of death in the United States. Nine out of ten smokers became addicted as teenagers.

My home State of Vermont, unfortunately, is not immune from the problem. Our teen smoking rate is higher—higher—than the national average. More than one in every three Vermont high school students are regular smokers. More than 12,000 Vermont teens currently under age 18 will die prematurely from tobacco-related disease. That is like wiping the towns of Underhill, Jericho, Richmond, and Huntington right off the map—wiping them right off the map.

Despite the best efforts of parents, educators, and health professionals around the State over the past few years, more and more teenagers are deciding to smoke. Unless we act now to help them quit, most of these kids will continue to smoke into adulthood.

I pledge to Vermonters that I will do everything I can to enact comprehensive tobacco legislation this year. In February, I introduced the Prevent Addiction To Smoking Among Teens Act, the PAST Act, to enact and improve upon the public health provisions of the tobacco settlement. Last month, the Senate Commerce Committee passed comprehensive legislation which incorporated many of the public health provisions originally proposed in the PAST Act.

As tobacco legislation moves through the Senate, I will continue my fight to ensure that we keep our eyes on the goal of improving the public health and preventing kids from smoking. Congress needs to pass legislation which will prevent kids from smoking. Even though there is no silver bullet, we do know of many approaches which have proven effective, particularly when used in combination.

A national tobacco policy must give the Food and Drug Administration full authority to regulate tobacco, the Centers for Disease Control, the National Institutes of Health, and the State health departments, and others in the fight to convince high school students not to smoke, and to treat those who have decided to do so, as well as we can, to get them to stop.

We need to make teen smoking a thing of the past. I cannot think of a better graduation present for high school seniors in Vermont and around the country than to stop teenage smoking.

Mr. President, thank you very much. I yield back the balance of my time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORKFORCE INVESTMENT PARTNERSHIP ACT OF 1997

The Senate continued with consideration of the bill.

Mr. DODD. Mr. President, I commend my colleagues, Senators JEFFORDS, KENNEDY, WELLSTONE and DEWINE for their tireless efforts to bring this bipartisan bill to the Senate floor. I hope that any remaining disagreements can be worked out in Conference.

Few issues that we have a chance to debate and vote on are as critically important to the future of this country as the one before us today. The strength of our workforce is directly linked to a lifetime of quality education and training. And never have the challenges been greater. We must remain steadfast in our efforts to continue educating and training our workforce so that more of our companies can successfully adapt to the rapid developments of modern technology.

The Workforce Investment Partnership Act is the culmination of many years of hard work. The current maze of more than 160 separate programs which are administered by 15 separate federal agencies has become unnecessarily cumbersome for both those in need of training assistance and those employers seeking to hire skilled workers. This bill streamlines these programs by giving more authority to state and local governments, but retaining crucial federal requirements in order to ensure that the most vulnerable and deserving members of our population, including disadvantaged youth and displaced workers, receive the support and training assistance they need. This focus will ensure that these individuals have a chance to share in our nation's continued economic prosperity and growth. In addition, by emphasizing results and accountability from job training programs, our workers will be better equipped with the skills they need to land high-wage and high-skilled jobs.

I know firsthand the struggle many hard-working individuals face as their company downsizes or scales back production. For many years, the Connecticut economy was dependent on defense-oriented industries. In the past few years, many qualified, highly skilled workers in Connecticut have lost their jobs as a result of military downsizing. In the last 12 months, more than 1,500 defense related jobs were lost in my state.

The Workforce Investment Partnership Act ensures that defense employees who are adversely affected by base closings and military downsizing will have access to job training and supportive services through the National Reserve Account in title III of the Job Training Partnership Act. If these workers receive access to training, they can acquire the skills needed for employment in the technology driven economy of the 21st century.

The Connecticut economy is changing. In February, a group of 120 business leaders stated that a highly educated and trained work force is the only way that Connecticut can capitalize on the promises of the new technology driven sectors such as software development, information technology and photonics. For too long, we were focused on job loss. It is now time to focus on the rebuilding of our economy and ensure that all potential employees, including former welfare recipients and displaced workers, receive the training and skills they need.

I am especially pleased that a cornerstone of the job training bill will be streamlined service delivery. The bill accomplishes this integration by building on the One-Stop system to unify the patchwork of fragmented job training and employment programs into a single, customer-friendly environment. The proposed legislation would expand the concept of universal access to services for job seekers and businesses without eligibility criteria.

Connecticut is nearing completion of implementation of its One-Stop Career

Center System, Connecticut Works, which is being financed through a grant from the U.S. Department of Labor. This network has reformed the delivery of job training services in Connecticut. To date, a total of 16 centers have been created across the state and I have had the privilege of visiting many of them. Gone are the dreary unemployment centers of the past.

Each of the centers in Connecticut offers a broad array of services including a variety of job search workshops and self-service research rooms with computer and Internet access. A wide range of written material is provided in the research rooms, and customers have access to fax machines and telephones to assist them in their job search. Enhanced and coordinated services to businesses are provided through the use of an Employer Contact Management System. Customer surveys and performance measurements ensure that customer needs are addressed. The partnership with the State library has brought access to electronic labor market and job search services through local libraries to over one hundred sites throughout Connecticut, bringing services to more customers with expanded days and hours of operation.

Mr. President, vocational educational activities are also provided for within the Workforce legislation. Significantly, WIPA will put into place challenging performance measures to gauge the efficiency of the educational programs it oversees. These measures will require proficient training in the areas of job readiness skills, vocational skills, and placement, retention, and completion of educational opportunities. The Carl D. Perkins vocational educational title, which will separately appropriate and administer all vocational educational programs, will teach participants computer skills and new technologies to prepare them for the burgeoning high-tech labor market.

WIPA further provides for the coordination of adult education and job training systems, allowing adult education to play a crucial role in a participant's job training program. In the area of adult education and literacy, WIPA specifically targets those communities demonstrating significant illiteracy rates to receive adult education programs on a priority basis. I am pleased that the Workforce legislation also includes a provision that will direct funds designated to support English as a Second Language (ESL) programs to those ESL programs in communities with designated need. This means that ESL programs with waiting lists—those in communities with the greatest need for the valuable services these programs provide—will receive funds on a prioritized basis.

Mr. President, in order to better assist non-native English speakers and fully assimilate them into our society, we must help them become more fluent in English. I can think of few more important factors in determining whether or not someone new to this society will successfully make this difficult transition than their ability to speak English.

A clear and effective grasp of the English language is still the best indicator of success for non-native English speakers. The ability to speak English for anyone in today's marketplace represents an "open door," Mr. President. This "open door" can lead to greater employment and advancement opportunities for those whose first language is not English.

The reauthorization of the Rehabilitation Act, offered as an amendment to the Workforce legislation, is critically important legislation that I am proud to cosponsor. The Rehabilitation Act provides comprehensive vocational rehabilitation services designed to help individuals with disabilities become more employable and achieve greater independence and integration into society.

Under the Rehabilitation Act, States, with assistance provided by the federal government in the manner of formula-derived grants, provide a broad array of services to individuals with disabilities that includes assessment, counseling, vocational and other educational services, work related placement services, and rehabilitation technology services. In 1995 alone, Mr. President, more than 1.25 million Americans with disabilities were served by vocational rehabilitation programs.

I am particularly pleased that a provision dealing with assistive technology was included in the reauthorization legislation. This provision, Section 508, will require the federal government to provide assistive technology to Federal employees with disabilities. This provision will put into place for the first time regulations requiring the federal government to provide its employees with disabilities with access to appropriate technology suited to their individual needs.

This legislation would allow the federal government to take the lead in providing critical access to information technology to all federal employees with disabilities in this country. It strengthens the federal requirement that electronic and information technology purchased by federal agencies be accessible to their employees with disabilities.

Electronic and information technology accessibility is essential for federal employees to maintain a meaningful employment experience, as well as to meet their full potential. We live in a world where information and technology are synonymous with professional advancement. Increasingly, essential job functions have come to involve the use of technology, and where it is inaccessible, job opportunities that others take for granted are foreclosed to people with disabilities.

Presently, there are approximately 145,000 individuals with disabilities in the federal workforce. Roughly 61 percent of these employees hold permanent positions in professional, administrative, or technical occupations. Nationally, there are 49 million Americans who have disabilities, nearly half of them have a severe disability. Yet most mass market information technology is designed without consideration for their needs.

It is critical, Mr. President, given the rapid introduction into the workforce of novel technologically-advanced products, that persons with disabilities not be allowed to fall behind. The federal government must truly be an equal opportunity employer, and this equal opportunity must apply fully to individuals with special needs.

I view Section 508 as a hopeful first step in an effort to ensure that all individuals with disabilities have access to the assistive technology providing them the ability to reach their full ability. Though Section 508 will presently only affect federal employees, it is my hope that one day all individuals with disabilities will have the same access to assistive technology now afforded federal employees because of Section 508.

Lastly, Mr. President, I would like to commend Senators JEFFORDS, DEWINE, KENNEDY and WELLSTONE for the important role they each played in making the Workforce legislation and the reauthorization of the Rehabilitation Act a reality. They worked closely with myself and my staff to address numerous concerns and for that I wish to thank them.

Ms. COLLINS. The Workforce Investment Partnership Act restates the Senate's long commitment to vocational education, adult education, job training, and vocational rehabilitation. Yet it does more than just continue this tradition; it builds upon our experiences and moves us forward—improving our education and training programs. S. 1186 will provide better opportunities for America's citizens to get the skills they, as individuals, need to obtain work and that America's businesses need to retain their competitive edge in the global economy.

S. 1186 is a commitment to meeting the challenges faced by America to produce the workforce that we need for the 21st century. It incorporates almost seventy categorical programs and builds an integrated workforce system as a replacement for the current group of fragmented or duplicative programs.

The vocational education section is particularly significant in its emphasis on the inclusion of a strong academic component in vocational education assuring that students in vocational programs receive the strongest possible education and the broadest possible base on which to build careers. It requires the states to explain how duplication will be avoided, and how the activities of related programs will be coordinated. Finally it requires the establishment of rigorous performance measures of both state and local progress toward concrete goals.

The job training components will lead to more comprehensive and efficient state systems for workforce development with linkages to strengthen welfare to work activities. It gives greater authority and flexibility to the states in the way each responds to the education and training needs of its citizens and its business community. For example, under S. 1186, a governor in a state with a "Work-Flex" program can waive requirements that prevent a local workforce area from responding efficiently to local needs. It allows governors to consolidate administrative funds and state reserve funds from different funding streams to coordinate and manage the use of these funds for a state's priorities.

The Workforce Investment Partnership Act will also encourage efforts by the states to improve the integration of previously separate programs, a change that is especially welcome in Maine where extensive efforts are already underway to coordinate the efforts of the vocational high schools, the technical colleges, adult education and job training programs and vocational rehabilitation. This streamlining and integration of federal programs will support Maine's priorities in this area.

I am especially pleased that the bill includes incentive grants that will reward states that exceed their goals and will support states in the development of innovative programs tailored to their own needs. This will result in new models and methods for vocational education and job training. The incentive grants should encourage the states to move toward the important goal of improved integration of vocational education, adult education and job training.

This bill also incorporates the Rehabilitation Act, which I cosponsored. In doing so it provides important links between vocational rehabilitation and a state's workforce system. It simplifies the access of persons with disabilities to vocational rehabilitation services and streamlines the administration of these services.

The Workforce Investment Partnership Act challenges each state to improve the vocational education and vocational rehabilitation that it provides to its citizens, to be sure that its vocational and job training programs respond to and anticipate the changing demands of the economy, and that it fosters programs helping those on welfare move to work. This bill will help the states turn these challenges into opportunities.

Mr. WELLSTONE. Mr. President, I am very pleased we are about to pass what may be one of the most significant and positive pieces of legislation to be enacted into law this Congress—S. 1186, the Workforce Investment Partnership Act. It is the outcome of an open, cooperative and bipartisan process beginning with a number of hearings on the subject last year in our Labor Subcommittee on Employment and Training. As soon as possible, following passage here, I hope we can proceed to a conference with members of the House and reconcile the differences between this bill and the one which that body passed last year. Some of those differences are substantial, but most are not fundamental.

This major re-write of job training and workforce development law is vitally needed. If we can keep a conference bill close in most respects to this Senate bill, it will, upon enactment, represent an important step forward for the country's economy, workers and businesses. I agree with President Clinton's statement regarding this Senate bill, contained in a letter he wrote recently to the Majority Leader. The President correctly observed that the bill is "essential to widening the circle of opportunity for more Americans and keeping our economy growing steady and strong."

I would like to commend the Chairman of the full Committee, Senator JEFFORDS, as well as the Chairman of the Subcommittee on Employment and Training, Senator DEWINE, for their leadership on the bill. Senator DEWINE in particular has been tireless in pushing the process forward to make this bill happen. I commend my colleague for his work, as well as that of his staff. Likewise, I thank my friend and colleague, the Ranking Member of the full Labor Committee, Senator KENNEDY, as well as his staff, for their work on this bill. It has been a formidable amount of labor. Department of Labor officials and staff also have provided an enormous amount of technical assistance. We appreciate their dedication.

Arriving at this point has required compromise. As is usually the case with a bill of this magnitude, no senator or group with an interest in this key area of federal policy is likely to call our bill perfect. But the wide array of organizations and associations who support it are testimony to the fact that we have engaged in a very democratic process. We have endorsements of the bill from the U.S. Chamber of Commerce, The National Association of Manufacturers, the National Association of Private Industry Councils, the Society for Human Resource Management, the National Alliance of Business, the Business Round Table, the National League of Cities, the National Conference of State Legislators, the National Association of Counties, the U.S. Conference of Mayors, the National Job Corps Coalition, the American Vocational Association, the American Association of Community Colleges, and the National Association of State Directors of Vocational Technical Education, to name a few. It is a good bill, with widespread support.

The Workforce Investment Partnership Act will fundamentally improve our federal system of job training. It incorporates adult and vocational education without threatening those programs' separate funding streams. With the inclusion of Senator DEWINE's amendment, it will also include reauthorization and improvement of vocational rehabilitation programs, again without threatening separate funding for vocational rehabilitation programs.

The bill will help coordinate, streamline and decentralize our federal job training system. At the same time, it will make that system more accountable to real performance measures. It gives private sector employers—the people who have jobs to offer and who need workers with the right skills—a greater role in directing policy at the state and local level, which is where most decision-making power resides in this bill.

S. 1186 will move the whole country to where Minnesota and a number of other states have already moved decisively: to a system of One-Stop service centers where people can get all the information they need in one location. It will replace currently over-bureaucratized systems in many states and localities with systems driven more by the needs of those who utilize them. Adults seeking training will receive Individual Training Accounts to give them direct control over their own careers. High quality labor market information will be accessible through the One-Stops, and training providers will be required to report publicly on their performance. Men and women will have the ability to make their own choices based on the best information about which profession they should pursue, about the skills and training they'll need, and about the best place to get those skills and that training.

I have visited Minnesota One-Stops. They work. I would like to commend the Minnesota Department of Economic Security, by the way, which is the agency responsible for job training in my state. Commissioner R. Jane Brown and her staff do excellent and important work. I appreciate the cooperation we have received from them throughout the legislative process on this bill.

The bill targets resources from the federal level to those who need them. It assures separate funding to adults, to youth, and to dislocated workers according to state formulae, and also according to formulae within states. There was no attempt this time to do away with NAFTA Trade Adjustment

Assistance or to threaten other important dislocated worker assistance. There was no effort to drastically reduce funding for job training systems based on hoped-for savings from consolidation of programs. That is crucial. This bill does not overreach. It does not block-grant job training, adult education and vocational education programs. It retains crucial federal priorities, then allows state and local authorities to decide how best to address their needs.

For example, even when our economy is performing generally well, as it currently is, many workers will lose their jobs due to forces beyond their control, due to economic change. We cannot abandon Americans who can and want to be productive. We need to respond quickly to plant closings and mass layoffs with job search assistance and retraining for new jobs. The current dislocated worker program serves about half a million dislocated American workers a year. It usually succeeds in training displaced workers for new jobs—jobs which provide over 90 percent of their previous wages.

It is even more true that many youth, especially in poor urban and rural areas, are being left behind by our prosperity. Many have dropped out or are at risk of dropping out of school. This harms us all. We lose productivity. We lose revenue. Most importantly, we lose the potential of our young people. The bill's Out-of-School Youth initiative is extremely important. It targets funds directly to youth in high-poverty urban and rural areas. It concentrates its resources to help bring fundamental change to the neighborhoods it will serve. It emphasizes work and private sector employment. And it is already paid for. Congress provided a $250 million advance appropriation for the initiative last year, contingent upon enactment of this bill.

One of the principles we had in mind as we drafted the bill is the following: we wanted the money and the decision-making power to go down to the local level. We wanted this to be a decentralized system. The bill achieves that. The governors have a strong role in this system, as they should. Governors write their state plans. They name the statewide workforce partnership. They receive the money on a formula basis. They administer the programs statewide. They have a good deal of flexibility.

But the local level is just as important. This bill represents a crucial step forward in that respect. Money and decision-making power flow down to the local level. The bill includes an in-state formula funding mechanism. Local workforce boards selected by local government leaders will make policy at the local level. Local business people, local elected officials and local citizens are in the best position to know local workforce needs.

We received important assistance in drafting the bill from national organizations representing different levels of government—the governors, mayors, state and local elected officials, as well as counties. Our job training system requires coordination and cooperation among all levels of goverment. The "governance coalition" that provided key advice for us played a vitally helpful role.

The Federal Government is providing a lot of money for this system. What we ask is that it be spent according to certain priorities. We believe we are correct to establish priorities—a stream of money for adults, a stream for dislocated workers, a stream for youth. And we ask that reasonable performance objectives are met. That is another key feature of the bill. We require measurable results. For too many years appropriators have correctly asked us, "how do we know whether the programs are delivering any benefits?" It is appropriate to require measurable results. The bill requires states and local workforce boards to establish and meet measurable standards for success in placement of trainees in jobs related to the training they received, in wages that trainees receive over 6-month and 12-month periods, and other relevant measures.

In addition to programs for adults, youth and dislocated workers, the job training title of the bill also contains renewal of four important "national" job training programs. These are programs currently authorized by the Job Training Partnership Act and operated on a national basis by the Department of Labor, rather than through the job training infrastructures of the 50 states. One of these is the Job Corps program. The Hubert H. Humphrey Job Corps Center in St. Paul is one of the best-performing Job Corps centers in the nation. Last year we had Ralph DiBattista, former director of that center, as well as Dave McKenzie, the current director, at our Subcommittee hearing on youth training. They were joined that day by Susan Lees, a very impressive young trainee at the Humphrey Center, at that time on her way to becoming an auto technician at a Ford dealership.

The Job Corps and other federal employment training programs for the nation's youth represent a crucial and cost-effective investment. Providing opportunities to youth, especially at-risk youth, is absolutely necessary. Training allows youth to gain the skills they need to be productive, to make the most of their abilities, and ultimately to support themselves and become fully contributing citizens in our economy and society.

The bill also renews current national Native American programs, Migrant and Seasonal Farmworker programs, and Veterans programs. These are key elements of the country's system of helping to ensure that those Americans who need and qualify for training in order to be the most productive workers they can be get the best and most cost-effective services that the federal government can provide.

I am pleased we were able to make some improvements in the job training programs in the bill with respect to veterans. As a member of the Veterans Affairs Committee, I wanted to be sure that veterans job training programs would serve today's veterans. Therefore we updated the program's eligibility provision to ensure that Gulf War veterans and other veterans with significant barriers to employment, including homeless veterans, will be served. The managers' amendment also makes an improvement for veterans in the bill's state plan section. It will require that Governors, as they write and implement their state plans, provide reasonable assurances that veterans will receive services on a fair basis in state-administered programs.

I also am pleased we were able to include in the bill provisions to continue the authorization and operation of four rural Concentrated Employment Programs (CEPs). These CEPs currently operate in Minnesota, Kentucky, Montana and Wisconsin. Congress established CEPs in 1964 as part of the War on Poverty's Economic Opportunity Act. With the creation of the Comprehensive Employment and Training Act (CETA) program, Senator Humphrey and Congressman Perkins acted to continue an authorization for the four CEPS I mentioned. When the Job Training Partnership Act was passed in 1983, they were continued again. The CEPs do an excellent job serving difficult, high-unemployment rural areas. I intend to work hard if necessary to retain this provision in conference, although I anticipate no opposition.

There are five amendments to the bill which we have agreed to accept. The first of these is by Mr. DEWINE. It is the vocational rehabilitation bill. The Rehabilitation Act assists well over a million Americans with disabilities annually through comprehensive vocational rehabilitation services. It is a crucial and successful set of programs. It embodies the commitment of the federal government and the American public to those among us with physical and mental disabilities. I am very satisfied with this set of improvements to that Act. Jay Johnson of East Grand Forks, Minnesota testified on behalf of the National Council on Independent Living at a Subcommittee hearing last year. Mr. Johnson is executive director of "Options," a center for independent living in East Grand Forks. I am very proud of the disability community in Minnesota for their advocacy and for their determination. I think this bill does right by them.

The amendment by Mr. LAUTENBERG gives units of local government which are currently service delivery areas under the Job Training Partnership Act and which have population of 200,000 or more an automatic right to appeal to the Secretary of Labor a decision by a Governor not to continue that area as an SDA. Without the amendment the bill would give units of local government with a population of 500,000 or more automatic certification to continue as SDAs, whereas those with 200,000 or more would be entitled only to an automatic right to request continuance as SDAs. I consider the amendment by the senator from New Jersey to be an improvement to the bill, and I intend to support it in conference, as well.

I do not support either of the amendments offered by my friend from Missouri, Mr. ASHCROFT. We are accepting them for now, but I hope they can be modified or removed in conference. The first would require that job training service recipients be drug tested. It is bad policy. It is an unwarranted invasion of privacy. It is wrong because it sends a distasteful message about a presumption regarding Americans who benefit from improving their skills through job training—a presumption which I hope none of us really holds. And it would drain large amounts of money from the program, money which should go to training.

The second Ashcroft amendment also is objectionable. It prohibits funds authorized in the bill from funding activities authorized in the School to Work Act. Our bill does not authorize making grants under the School to Work Act. But we encourage states and localities to integrate and coordinate their vocational education and job training systems. Of course we want to facilitate lifelong learning and the continual development of productive skills.

School to Work Programs have been a great success. They take a new approach to learning. They are programs which operate on the idea that a young person learns best when he or she can apply school-learning to life situations. In March of 1996, I invited a School to Work student to Washington to tell his story. Cameron Dick was a student at the American Indian Opportunity Industrial Center, one of nine schools in the Phillips area of Minneapolis. Phillips is predominantly poor and has one of the highest concentrations of Native Americans among urban centers in the United States. The American Indian OIC is in its fourth year of a 5-year Urban Opportunity Grant for its School to Work program. It works with high school dropouts who have decided to give high school another shot by both educating and training them for jobs. The idea is to "Get a diploma and get a paycheck." Cameron was a high school dropout, but through the OIC program became an A student, participated in afternoon employment programs and tutored other young people. The programs work.

Mr. President, I believe this Congress will succeed where we did not during the last Congress. I am very hopeful that following passage of this bill we can reach an acceptable conference agreement with the House and that we can then send major, important legislation to the President for his signature.

Mr. REED. Mr. President, this morning I rise in support of the Workforce Investment Partnership Act. This bill was unanimously passed out of the Labor and Human Resources Committee. It is good and sensible legislation, crafted in a bipartisan fashion. I commend Subcommittee Chairman DEWINE and Senator WELLSTONE as well as Chairman JEFFORDS and Ranking Member KENNEDY for their excellent leadership. There is one section in this legislation of particular importance to me; one that I believe merits special attention. If this body is successful in passing S. 1886, this program will benefit greatly. The section I am referring to is Job Corps.

Job Corps is America's only national residential education and training program for at risk youths. I emphasize only, Mr. President, because my colleagues need to be aware that there is no other program that annually assists more than 65,000 of this country's most disadvantaged young men and women to become meaningful and productive members of society. Job Corps is the largest and most comprehensive program that offers a second chance to those who would otherwise be left behind. The young men and women who make a commitment to themselves and the Job Corps program deserve our support. This program ensures them access to educational and vocational training, fully preparing them to meet the needs of this country's employers. Indeed, a recent survey of small businesses indicated that a lack of trained employees is the largest current impediment to business growth. As a result, the Job Corps program provides invaluable assistance not only to disadvantaged youth, but also to employers and the host communities of Job Corps centers, which benefit from community service projects completed by students.

This bill represents a comprehensive Congressional effort to enhance all components of the Job Corps program. Great pains have been taken to create a continuum from the day a Job Corps student is recruited into the program to the day that student starts his or her job, and beyond.

Mr. President, let me take a minute to expand on these improvements. Job Corps has been and continues to be a model for other education and training programs. The placement rate of the program is phenomenal: this year over 80% of Job Corps graduates will be placed in good paying jobs, enter the military, or go onto post-secondary education. The performance measurement standards of Job Corps have long been praised for being thorough and rigorous. These demanding standards have stimulated the program's ongoing self-assessment and improvement over the years. Thanks to this legislation, Job Corps' performance standards can serve as a model for other programs. With enactment of this bill, all programs under WIPA will be challenged to increase their performance and accountability to achieve the results Job Corps does.

Mr. President, support for this legislation will help Job Corps become even better. First, with this legislation, Job Corps will become a core partner with one-stop training centers, making sure that every young, disadvantaged person walking into a neighborhood one-stop site will learn about this program and know it is an option. If the young person is ready to commit to his or her future, pledging not to drink or take drugs, the program is ready to offer an intensive, self-paced, state of the art education and training. Second, every Job Corps campus will form partnerships with the private sector in order to develop training programs suitable for available, local employment; identify job opportunities for students; and help integrate the Job Corps campus and facilities into the fabric of a community. Third, a stringent process will be put in place to ensure that poor performing centers are quickly identified and offered help to improve their performance. Finally, every year, Congress will receive a report on the program's performance that will include how many students graduated from each center and from which trade, how many were employed, their wages when hired, and what these students are making a year later. This kind of information will be instrumental to make sure we improve upon the success that has been Job Corps' for more than 30 years.

Mr. President, in the Administration's current budget President Clinton has followed the initiative taken by Congress last year to moderately expand the program. Support for such expansion was demonstrated overwhelmingly when forty-one of my colleagues joined me in a letter to Appropriations Subcommittee Chairman SPECTER and Ranking Member HARKIN in support of this budget increase. Job Corps gains this breadth of support in Congress because Members are aware of the positive impact it has on literally millions of lives. This legislation improves upon a program with a demonstrated record of success. Therefore, Members can be confident that the program will continue to serve more disadvantaged young people with as high a rate of success. It is my hope, Mr. President, that soon the Job Corps program will become truly national, with a center in every state of our nation. My home state of Rhode Island is currently involved in the application process for a center. Our Governor, local elected officials, employers, educational institutions, and civic organizations have all committed to developing a high-performance center in our state. I have been actively working on the federal level to assist them.

Thank you, Mr. President. I urge my colleagues to support this worthy legislation.

AMENDMENT NO. 2329, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2329, as amended.

The amendment (No. 2329), as amended, was agreed to.

The PRESIDING OFFICER. Is there further debate on the committee substitute?

If there is no objection, the committee substitute amendment, as amended, is agreed to.

The committee substitute amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. JEFFORDS. Mr. President, I ask unanimous consent the Labor Committee be discharged from further consideration of H.R. 1385, the Employment Training and Literacy Act, and the Senate proceed to its consideration. I further ask unanimous consent that all after the enacting clause be stricken and the text of S. 1186, as amended, be inserted in lieu thereof, the bill be read a third time, and a vote occur on passage of H.R. 1385 on Tuesday, May 5, at 5:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1186) as amended, was ordered to a third reading and was read the third time.

Mr. JEFFORDS. I ask unanimous consent that, at 4:30 on Tuesday, there be 60 minutes of debate equally divided in the usual form for closing remarks prior to the vote on the passage of the bill. I further ask unanimous consent that, following passage of the bill, the Senate insist on its amendment and request a conference with the House and the Chair be authorized to appoint conferees on the part of the Senate. I finally ask unanimous consent that S. 1186 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. I yield back the remainder of my time, and I also have authority to yield back the remaining time of the minority.

The PRESIDING OFFICER. All time is yielded back.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now begin a period of morning business.

The Chair recognizes the Senator from Georgia for 1 hour.

INTERNAL REVENUE SERVICE

Mr. COVERDELL. Mr. President, the hearings that the Senate Finance Committee has been conducting on the Internal Revenue Service—the adjectives that have been used to describe it are "startling," "stunning," "unbelievable." I do believe most of the American public who have seen this unfold before their eyes are aghast at some of the assertions and allegations that have been made.

Recently, I became very concerned that the IRS was still conducting random audits. They indicated to me that they were not. So I asked the General Accounting Office to verify to me that random audits were not a tool of the Internal Revenue Service. A report was issued dated February 1998: "Report to the Honorable Paul Coverdell, U.S. Senate, Tax Administration, IRS Use of Random Selection in Choosing Tax Returns for Audits."

On page 2, at the very top, it says, "IRS officials did identify 6 projects involving subpopulations of taxpayers with indications of noncompliance from which taxpayers were randomly selected for audit." Let me repeat that—"from which taxpayers were randomly selected for audit."

I made a public statement of deep concern about the fact I had been advised they were not and the General Accounting Office said they were. On the same occasion, on or about early March, the Internal Revenue Service issued an interim memorandum to its employees, and they quote me saying the disclosures "are a result of General Accounting Office review requested by myself to examine random audits."

Then they told their employees that during fiscal years 1994 through 1996, "the IRS did not randomly select returns for audit from either the population of all taxpayers or all returns. IRS has about 40 audit sources which are programs and techniques used to select potentially noncompliant returns for audit. IRS audit sources do not rely on random selection from the population of all returns but IRS selects returns having characteristics indicative of potential noncompliance."

Here is the key point, right here in the publication from the IRS. There are three little dots, and then it says, "No taxpayers outside of these six subpopulations were selected at random for audit." Dot dot dot.

Mr. President, the "dot dot dot" is this sentence: "IRS officials did identify six projects involving subpopulations of taxpayers with indications of noncompliance from which taxpayers were randomly audited," Dot dot dot.

Now, the tax system is complicated beyond belief. Everybody knows the story where they gave a similar family to 50 accountants. It was an exercise that some major publication went through. They all turned them in. Not one of the 50 turned it in the same way, and not one of them was correct.

So it is easy to make administrative errors. I have to tell you, Mr. President, "dot dot dot" is not an administrative oversight. "Dot dot dot" left out this sentence intentionally. It quoted everything else in the paragraph but left that sentence out.

If the American taxpayers did that, they would be in deep trouble. This is why there is no credibility anymore. They just don't have any credibility. There are a lot of good folks over there. I have met them; I know of them. A lot of them have been very cooperative with our office trying to solve problems. But there is just no credibility. It is this kind of behavior—in fact, this is sort of tame.

It is this kind of occasion that has caused an outraged population to call on a Congress to do something bold, to bring this kind of behavior under control.

Mr. President, that is exactly what is going to happen in this Congress. The IRS is not going to be the same institution by the end of this Congress.

Mr. President, I think the Senator from Ohio will be here momentarily and we will hear from him regarding his hearings on the Internal Revenue Service.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, we have now been joined by my distinguished colleague from Ohio, who was talking to me moments ago about hearings he held in his own home State. I yield up to 15 minutes to the Senator from Ohio for his remarks.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. DEWINE. Mr. President, I thank my colleague from Georgia for holding this session where we have a chance to talk about the problems connected with the IRS. He has been a true leader in this issue.

This is a matter of great importance and interest to the taxpayers across this country. Mr. President, it is becoming clearer every day that we simply have to reform the IRS. The facts of IRS abuse are, by now, well known. As the hearings continue, we get more information every single day. The essential facts are very disturbing.

In 1996, the IRS answered only 20 percent of its phone calls.

An IRS report released in January of this year showed that one out of every four IRS revenue officers and supervisors felt pressured to achieve enforcement goals. Tax collection statistics were used to evaluate the performance of employees—and the district offices were ranked on how much taxes they collected—collected from us.

In 1993, the IRS gave incorrect information to taxpayers a stunning 8.5 million times. In 1987, the GAO said that 47% of the calls to the IRS resulted in incorrect information.

A recent survey actually found that one out of two Americans would rather be mugged than audited.

MAUREEN SCHAEFFER

I recently held a hearing in Toledo on the issue of IRS reform and tax reform. One of the witnesses was Maureen Schaeffer, from Lakewood, Ohio.

Maureen told us she was married for twenty years to an abusive, alcoholic husband. He was the sole wage earner and handled all of their tax matters, and she signed all of their joint tax returns. She worked in the home, raising their seven children and caring for his invalid mother. After twenty years of marriage, Maureen realized the negative impact that he was having on their children—so she filed for divorce. At the time of the divorce, Maureen knew that her ex-husband was being audited by the IRS, and in the settlement agreement reached between them the ex-husband assumed responsibility for all back taxes.

In the summer of 1996, the ex-husband filed for bankruptcy. His only creditors were his ex-wife—Maureen—and the IRS. Shortly after the filing of the bankruptcy, Maureen was notified by the IRS that she owed $150,000 to the IRS. One week later, the IRS gave her another notice—this time to inform her that she owed an additional $100,000. She contacted the IRS's taxpayer advocate's office in the Northern District of Ohio. She was told that they would contact her after they looked into her case. When she did not hear back from them, she called back, only to be told that they were not allowed to work on her case.

In February 1997, the IRS seized the funds in Maureen's Individual Retirement Account. Seizing this money would settle the back taxes and penalties owed—but it would also create an additional tax liability for Maureen—because she will now owe taxes on the early, although forced, withdrawal of her IRA funds.

Last year, Maureen attended the Problem Resolution day in Cleveland, sponsored by the IRS.

Problem Resolution Day was an effort on the part of the IRS to be more taxpayer-friendly—an opportunity for taxpayers to discuss their problems with IRS employees who had the power to take care of the problems.

But when she asked the IRS, "Why did you let my ex-husband get away with this for all of these years?" the IRS representative responded that "you are easier to get money from."

Mr. President, that response by the IRS reflects an attitude we need to change. We need an IRS that shares the values held by hard-working tax-paying Americans. And that's what the bill developed by the Chairman of the Finance Committee, Senator BILL ROTH, would accomplish.

If Congress passes Chairman ROTH's bill, future spouses would not have to face the kind of nightmare experience Maureen Schaeffer had to deal with. The bill provides for proportionate liability for spouses. Innocent spouses could choose to avoid joint and several liability—and be liable only for tax attributable to their own income. The bill also includes a provision to waive the 10% addition to tax for early withdrawal from an IRA or other qualified plan when it is used to address tax liability.

JAMES SULEWSKI

At our hearing in Toledo, we also heard the testimony of James Sulewski. Mr. Sulewski is a former IRS criminal investigator who is now a tax attorney in private practice—and he is a man with tremendous insight into the workings of the IRS.

He was particularly concerned with some of the criteria on which IRS employees are evaluated. One of the criteria is how long a particular case is in their hands. In his opinion, this causes many employees to develop what he called a "hot potato response." In this case, the employee gathers the minimal amount of information necessary to move the case off of his or her desk. As a result, cases are often passed on three to five times before they are resolved, when—in many cases—they could have been resolved by the first employee to see the file. This is a major problem, because when these cases are not resolved at an early stage, they end up going to Tax Court.

In Mr. Sulewski's practice, he has had approximately 100 cases that have gone to Tax Court, yet only one case has gone to trial. Clearly, these are—very often—matters that do not need to go to Tax Court.

Fifty percent of the cases going to Tax Court could have been settled beforehand—if employees did not have this pressure to move the file off of their desk.

JOSEPH WELTON

Now let me describe the testimony of Joseph Welton. He and his wife filed their taxes on time for tax year 1995. Two months aftr filing, the Weltons received a refund check in the amount of $1,943.00 and a letter from the IRS stating that they had overpaid their taxes. Mr. Welton was surprised to receive the refund so he called the IRS to check on it. The IRS employee told him that they were in fact, due a refund, so the Weltons cashed the check and spent the money. Several months later they received a letter from the IRS stating that the refund was erroneous and that they needed to repay the money within 30 days. The Weltons entered an installment agreement with the IRS and they are now repaying the IRS at a rate of $55

As of July 1997 they have paid the IRS $330.00. Of that amount, $79.33 was applied for penalty, $124.17 was applied to interest and $126.50 was applied to principal. Mr. Welton, understandably, objects to the penalty that he is charged every month.

Let me note, Mr. President, that his complaint has been addressed in Chairman ROTH's legislation. Specifically, there is a provision in the bill that would eliminate the failure to pay penalty while the taxpayer is in an installment agreement.

TAX REFORM

Mr. President, my hearing in Toledo focused not just on reforming the way the IRS does business, but on fundamental reform of the tax code itself.

Let me say that as I travel my home State of Ohio—I am sure my colleague from Georgia has the same experience in Georgia—there is a tremendous amount of interest in meaningful and true and legitimate, fundamental Tax Code reform.

I was pleased to hear from a number of Ohioans who offered their views on how to make the tax code simpler, and less burdensome on families.

We heard from Terry McClure, a thirty-five year old farmer from Paulding County, Ohio. With his father, he operates a 2,500 acre farm raising soybeans, corn and wheat. The farm has been in his family for five generations. Terry and his family are understandably concerned with the difficulty of passing the farm on to future generations without losing large parts of it to the estate tax. They, like so many family farmers, would like to pass the farmland on to their children and their grandchildren. However, because the farm acreage is their largest asset, the effect of the estate tax will be devastating.

We also heard the testimony of Robert Koerner, the former president and general manager of Koerner Farms—a 300-cow dairy farm in Williams County. Robert Koerner and his brother owned the farming operations jointly, until his brother's family wanted to sell their half of the business. Most of the land had been held for a long time, so there were appreciable capital gains on the property. As a result of the tax consequences of the sale, Mr. Koerner was unable to purchase the half of the business being sold by his brother.

Mr. Koerner testified that his family would still be in the farming business if not for the tax code. This is nothing less than a tragic situation—one that will only be repeated unless we in Congress take further steps to reform inheritance taxes.

Edd Auld is the Vice President and General Manager of ROCO Courier & Delivery, Inc. in Toledo. He testified that the tax code is so complicated and time-consuming that he finds he is unable to comply with it on his own. As a result, he is required to hire an outside accountant each year so that the business can be in compliance. The amount that he has spent on accounting firms over the years would have paid for an additional two delivery trucks that would generate an additional $75,000 to $100,000 in income each year—which would have created new jobs and additional tax revenue for the government, new jobs for Ohio and for our country would have been created.

THE REFORM BILL

Mr. President, I found our Toledo hearing both valuable and informative. The witnesses told us what it's like for hard-working, tax-paying families to live with the IRS and under today's tax code. They want change, and we owe it to them to get the process of change under way. The first installment of this process of change is represented by the important legislation sponsored by Chairman ROTH.

But let me stress that it's just the beginning. There are a number of very interesting ideas on how to reform the tax code. We should continue to explore these ideas, and discuss them with the American people. The taxpayers of this country know that the tax code is too complex and too costly—and they want to replace it with a tax code that is fair, simple, and honest.

Perhaps the simplest way to overhaul the IRS would be to overhaul the tax code itself. Taxpayers spend nearly $157 billion a year to comply with the tax code. The tax code also costs the taxpayer a great deal of time not to mention a great deal of anguish, and a great deal of worry—it costs Americans an estimated 5.4 billion hours just to comply with the code.

The 1040 EZ form—the least complicated of all tax forms—requires 31 pages of instructions! The Internal Revenue Code has over 5.5 million words of law and regulations—and the IRS sends out 8 billion pages of forms and instructions each year. And the tax code keeps getting more complicated.

The bottom line is we have a tax code that Americans rightly believe is complex, unfair, confusing and perhaps even dishonest. These are some of the reasons I am a cosponsor of the Tax Code Termination Act—which would sunset the tax code at the end of 2001, permitting the Congress to write a tax code that is simple—fair—and honest.

I look forward to working on this issue throughout this session, and in the years ahead, in the hope that the result will be a tax system that truly represents the values of the American people.

Let me again thank my colleague from Georgia for putting this block of time together so that we can come to the floor today in the U.S. Senate to talk about an issue that genuinely concerns all Americans, concerns the people of the State of Ohio, and the people of Georgia. It is something, Mr. President, that I think Congress should heed the words of the American people on —"It is time for change."

Thank you very much. I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate the remarks by the Senator from Ohio. He has had a busy morning. I want to take just a second to compliment him on his work in terms of the workplace that he described here this morning. This is a piece of legislation about very complicated Federal programs which passed out of the committee unanimously by every Republican and every Democrat. It is a real credit to the tenacity of the Senator from Ohio.

Mr. President, I yield up to 15 minutes, again, on this question of the overhaul of the IRS to my good colleague, the Senator from Wyoming.

The PRESIDING OFFICER. The senior Senator from Wyoming is recognized.

Mr. THOMAS. Thank you, Mr. President.

Mr. President, I thank the Senator from Georgia for arranging for time to talk about something that, of course, is probably as important to Americans as any issue, and it is probably good to talk about it shortly after the 15th of April. It is on our minds, and should be.

So I am delighted that we are aimed towards doing something next week, doing something that almost everyone agrees needs to be done; that is, to make some adjustment in the system of collection of taxes; some adjustments with the IRS. Everyone knows that it is needed. But it has been needed for a good long time, yet we have not done anything. We have not done anything about it. We now have had, of course, hearings that have gone on for some time both in the House and in the Senate, which have brought to the attention of every one of the American people and to Members of Congress the need to make change. And, hopefully, that will happen. Up until now it seems to me, this agency, as is the case with many agencies, has sort of insulated themselves from public opinion and has sort of set themselves aside from the mainstream of America. Frankly, that is relatively easy to do in a bureaucracy. It seems to me that is one of the reasons that we need somehow to get more nonbureaucratic input into this system.

Do we need to collect taxes? Of course, we do. Are our tax collectors ever popular? Of course not. But nevertheless there is a way to do this job that is more accountable to taxpayers. That is what we seek.

I have been working very hard at a number of agencies. One of the things that strikes me in terms of what goes on in government as opposed to the private sector is there is really no built-in discipline. In the private sector you are competing with somebody. If you do not do the job, somebody else does it. So you are required to be relatively efficient, or else someone takes the work. You are required to please the people you serve, or they go somewhere else. Of course, that is not the case in government, and particularly in the case of the IRS.

I think it is important that we do this. I have been involved in trying to take activities that could better be done by contract and by individuals in the private sector in all parts of government. But I have to tell you that this is one that has insulated itself a great deal. We need to do something about it.

We find the same kind of threatening, the same kind of criminal intimidation going on in HCFA, in health care at the moment; trying to do something about fraud and abuse, which everyone supports. But the idea of challenging people, to threaten people, to intimidate people into doing it is not the best resolution. But that is not the best answer. So we need to find a way to do that.

In my opinion, the underlying issue, of course, is the Tax Code. One of the problems that IRS has is to enforce a very complicated, convoluted, excessively voluminous and detailed Tax Code, and we need to change that. I think almost everyone, again, is for that change, but interestingly enough, as you talk about how specifically do you change it, then you find less unanimity. But changing the Tax Code is one thing that we must do which will help in the tax collection but it isn't the only thing. We also need to make changes in IRS, and that is what this is about.

So there will be lots of ideas. The committee has a bill ready to go. The House has passed a bill. I think we will find there will be different views as to how best to do it. But I hope that we are driven, and I think we will be, by a vision of what we want the results to be, and then implement what it takes to cause those results to be different. Again, in the case of government, as opposed to often in the private sector, we are not result driven. We do not measure it by what it is we want to accomplish. We simply measure the process. And that ends up not doing what we would like to do.

I think it is fair to say the IRS is out of control. The hearings we have had certainly would substantiate that. I do not think many people would argue with it. We have to do something that will cause the IRS to be more accountable to taxpayers. And this goal is too important to be partisan. Hopefully, it will not be. I hope we do not find ourselves smothered with extraneous amendments with other kinds of ideas. I think we ought to focus on how we make this IRS collection business work better and not be diverted by using this bill for lots of other things.

I think we also need to recognize that IRS reform is a part of a changing tax culture that is maturing, I believe, in this country, certainly is maturing here. And this is one of the components of changing this whole tax scene in which we live, making it simpler, frankly, reducing taxes and making the collection a system that is consumer friendly and at the same time enforces the law. I think we have to recognize that that is what is done.

So our agenda is simple and should, indeed, be simple. We have to ensure that the IRS serves the American people and not the other way around. That is our task. We need to consider this legislation of restructuring. Again, it is sort of interesting that as you seek to make some changes to produce different results in government, it is very difficult; the reaction you get almost generally is: Oh, things are OK. We don't need to change anything.

There is no incentive to change in the bureaucracy. And that is what makes it difficult. I am hopeful that we can move to do some of these things. We need to give people outside the bureaucracy some oversight of the enforcement so that when you bring in the view of citizens, you bring in the view of people with expertise, so that, in fact, it can be made a part of the bureaucracy which doesn't automatically exist.

We need to require the termination of employees who have been involved in offenses, just like you do in every other business, like you do in every other activity. We need to hold managers responsible and accountable. We should do that. It doesn't seem like a strange thing, but it is difficult. The people who are supervisors, who are in fact responsible to see that the job is done and done in the proper fashion, need to be held accountable to do that and, of course, have the authority to do it as well.

We need to change the burden of proof in Tax Courts, putting it on the IRS, not on the taxpayer. We need to protect innocent spouses who are caught up in some kind of marital dilemma in which the spouse is entirely outside of that income but becomes involved. We need to extend, I suspect, the executive privilege beyond the same type that applies to lawyers to accountants and to other tax practitioners so that we have a way for people to be able to communicate among those who are helping them without causing that to be part of the problem.

I hope this next week is productive, as we think it will be; that we can come up with some real management principles that will convert this task, this necessary task of tax collection into one that is more customer friendly, that is more accountable, indeed, is more effective and has the impact of getting this job done without the kind of offensive activities we have seen happen.

I appreciate the time. I appreciate Senator COVERDELL setting it up, and I would like to yield to my good friend and associate from Wyoming, Senator ENZI.

The PRESIDING OFFICER (Mr. THOMAS). The Chair recognizes the Senator from Wyoming.

Mr. ENZI. I thank the Chair. I thank my senior Senator. It is kind of Wyoming day, talking about the need for IRS reform.

I do rise this morning in support of H.R. 2676, which is the Internal Revenue Service Restructuring and Reform Act of 1998 that was passed by the House.

That document, of course, has been taken by the Senate and improved based on the hearings that were held last year and are currently going on here.

By passing legislation to reform the IRS, Congress will take an important step in reforming what many Americans believe to be the most feared agency in the United States. This bill will overhaul the IRS organizational structure. It will provide necessary protections for American taxpayers, and it will require greater accountability for our employees, the IRS employees. There has been tremendous support in this body for making a change. We talked about it at the end of last year when we were appalled at the hearings that were going on at that time. I hope people are tuning into the hearings that are going on now to see the real-life examples of what can happen with a bureaucracy out of control.

For any who are interested in the details of the hearings, I have a web site, as do many of the Senators. That web site the day after the hearings posts the testimony from those hearings. We are keeping careful track of it. There are a number of documents that people would be interested in reading that have some summaries of it. I have one in my hand called "The Lowlights of Today's IRS Testimony," that even talks about a manager being pulled at gunpoint from a shower by the IRS. I know that the American public is keeping up on this. I know my colleagues are keeping up on this. I am convinced that there will be something significant done to get the IRS under control.

The IRS Reform Act will overhaul the organizational structure of the IRS. In order for any organization to perform its function well, it is necessary for it to know its mission. When I was in the Wyoming State Legislature, we passed an act that forced strategic planning by all of the agencies, one of the most valuable things we have done. We forced them to say what it was they were trying to do. And then we asked them how can we tell if you get it done?

That process was so valuable that in a 3-week period we changed our budgeting process to a balanced budget, a new record for the State of Wyoming. I was so excited about what happened there that I talked about having that happen in Washington. I have to tell you that I was delighted when I got here when I found out that Congress had already passed a Government Performance and Results Act. That is an act which says to all of the agencies tell us what you do and tell us how we can tell if you got it done—measurable goals, prioritized goals, goals that are reflected in a budget for the agency so that what they say they are doing is really what they are spending their money on. I didn't feel there was a lot of emphasis on this new program, and a lot of dissension by the agencies, so I did some field trips just after the first of the year. I went to a number of the agencies that had these Government performance and results plans, and asked some more questions just to emphasize a little bit whether they really understood what it was we were trying to get at, the question of how do we know if you got it done?

One of the agencies that I went to was the Internal Revenue Service. I don't think there is even the beginning of the numbers to be able to tell what they have done so they can tell if they are getting better. Quite frankly, from the testimony that we have heard, we don't want them getting better.

We talked a little bit about the telephone conversations that they have. This is not as drastic stuff as was covered in the hearings. This is some normal stuff that people run into when they are trying to get answers from the IRS. You call them up. A guy answers the phone on the other end and he tells you the answer to your question. You use that information and you have no backup for it, so if somebody later says that it is wrong, you are hung out to dry. It is your problem.

I suggested maybe there ought to be written confirmations sent when they give us an opinion, something that we can attach to our tax document and save until that horrible day of an audit. And then we can say, "No, no, the IRS agent told me this. This is the data I relied on to file my taxes."

We talked about error notices. I don't know how many people have gotten error notices, but if you do, you get this computer-generated form that says: You have the following problem. And then a series of codes. And you can take another document that is multiple pages and look at it and figure out, perhaps, from that code, what you may or may not have done wrong.

What a way to run a business. We have computers. This thing is computer generated. The computer could look up the actual reason if it was keyed in there and list explicitly what they thought you had done wrong so you would have ample notice of what the potential problem was, instead of that fear of being a criminal, for the days that you wait until you meet the IRS person, who then asks you a series of irrelevant questions that you could have had exact answers for, could have maybe even submitted them by mail.

Then there is the problem of dollar thresholds. I had one client who had a 58-cent difference on $2 million worth of reporting and it took 3 months and 10 letters to clear up that discrepancy. I don't know how much the IRS expected to make off of a 58-cent error, but I can tell you that their postage on the first letter almost cost them more than what they were trying to correct. Not very good management.

We talked about random audits that the Senator from Georgia addressed earlier. They also assured me they were not doing random audits but had this terrible conflict because they cannot tell without random audits how much money they are not collecting. They want to be able to go into people's documents, who they have absolutely no reason to suspect of any errors at all, and review absolutely every detail of their documents and force them to get detailed documents to back up things that we never require detailed documents for when you are filing your tax return. They wanted to look through absolutely everything of your personal life to see if maybe you didn't file something so they can see what the estimated error is of taxes not collected. That is an abomination. Why do we want to know exactly how much, within a few pennies, people did not pay? Their job is to collect the money that was not paid, finding the biggest offenders first. That is a very specific task that auditors do regularly. Auditors figure out who the potential worst people are, and that is from a very prescribed set of criteria that give them indications that somebody may have made errors on their taxes. Most of the time those would prove to not be true, because sometimes people really do have unusual expenditures. They really do have unusual business expenses. But when they do, they have to answer to the IRS. That is a legitimate audit. But not a random one, going through documents and details that nobody ever anticipated needing to dredge up or being required to get in advance.

I have to say I think the new Commissioner brings a management perspective instead of a tax perspective, instead of an "audit the people" aspect, and I look forward to changes that will be made on that basis.

I also asked the IRS if they were doing anything to suggest simplification of the Tax Code. This was a huge revelation to me. We have a Paperwork Reduction Act in the United States. It says that every Government agency is supposed to be figuring out how to reduce the paperwork that you have to do—reduce the paperwork. I even checked to see who generates the most paperwork. It was no surprise. Seventy-five percent of all paperwork for Government agencies is taxes. You know that if you fill out your forms. There are huge numbers of taxes.

We had a couple of suggestions for ways that we thought there might be just an additional little explanation right on the tax form, so people would understand what they were filling out. Better there, instead of going through pages of documents. The EZ–1040 form has a 33-page instruction manual, and you still have to be an accountant to understand that instruction manual.

I thought maybe just a couple of little additions right there on the page would help people to get the answer and to get it right and to get it easier. That is where the big revelation comes in. The Paperwork Reduction Act is based solely on numbers of lines that are removed from documents. That is what you get your credit for and that is all you get credit for. So there is no incentive whatsoever to make a form more understandable if it increases the number of lines by even one, not a bit of incentive. In fact, there is a disincentive to do that. That is why you find the huge documents explaining the taxes that accompany what are considered to be relatively simple forms. There is a lot of room for improvement there yet.

I am not putting all the blame on the IRS on this. There is a difficulty with the tax structure and it is up to Congress to get that tax structure changed. It needs to be easier. It needs to be fairer.

Our taxes right now are based on kind of a policy. It is a policy that gets put together as another person explains a policy to us. We have to decide whether we are going to go with policy or just collecting money. Just collecting money is a lot easier. I suggest, if we are going to have a tax policy, we ought to really have a tax policy and sit down and have that debate and talk about whether we are trying to promote the American dream and have strong families and have home ownership and encourage investment and savings and encourage small business. And we can do that through a Tax Code. And I really think we can do that through a Tax Code and make the Tax Code simple. And we have to do that.

Right now we talk about stronger families and then we penalize marriages; we discourage parents from raising their own children; and we only give big business a health care tax break. We put the American people in a tax trap. You have to work longer and harder to pay your taxes, and if you work longer and harder, you have more taxes you have to pay. We do have to find a way to make filing easier, and that means fewer forms, that means fewer instructions, that means less chance for making a mistake, and that has to mean less chance for an audit. If you are audited, we have to have the IRS under control so that the taxpayer is the person who is in control, not the one who feels like they are going to jail.

The IRS reform bill makes some important structural changes, which, I believe, will help to focus the agency's mission. This legislation creates a separate board to oversee the management and operations of the IRS.

This board will include six "private life" experts who will bring their collective private-sector experience to such tasks as reviewing and approving the agency's strategic plans and budget requests to make sure everything matches up. The board will also have "big picture" authority over IRS enforcement and collection activities. Board members would not, however, be permitted to intervene in particular tax disputes. Moreover, in order to ensure the agency's autonomy from improper influence, these board members would be governed by conflict of interest restrictions. I believe this new board, which will be comprised largely of people with experience in the private sector, will help the agency meet better the needs and the concerns of the agency's customers—America's taxpayers.

The IRS reform legislation provides important safeguards for American taxpayers. For too long, the IRS has filled the roles of judge, jury and executioner in collection actions against taxpayers. This Reform Act would shift the burden of proof from the taxpayer to the IRS in most court proceedings as long as the taxpayer introduces credible evidence relevant to determining his or her income tax liability.

It would also place the burden of proof on the IRS in determining whether penalties should be imposed. The bill expands the taxpayer's ability to collect attorney's fees when the IRS brings unwarranted actions against them and allows taxpayers to recover civil damages from an IRS employee if he is negligent in the collection actions.

Taxpayers may also recover attorney's fees in civil actions against the IRS when the IRS engages in unauthorized browsing or disclosure of taxpayer information. It would also provide substantial relief for innocent spouses in collection actions based on past joint returns by allowing the spouses to be liable only for tax attributable to their income. No one should be liable for taxes they couldn't possibly know about.

Many of the taxpayer protection provisions in the Reform Act are a direct result of the abuses uncovered last year by the Senate Finance Committee hearings. Many people were shocked to learn that a number of the due-process protections Americans take for granted in other legal proceedings do not apply to actions involving the IRS. This bill corrects many of those injustices.

Once this bill becomes law, the IRS will be required to provide notice to taxpayers 30 days before the Service files a notice of Federal tax lien. A taxpayer would then have 30 days to request a hearing from the IRS appeals. No collection activity would be allowed until after the hearing. The taxpayer would likewise be able to petition the Tax Court to contest the appeals decision.

Finally, the communications privilege now granted only to attorneys would be extended to accountants. That means you could ask your accountant a question about your taxes, and when he gave that answer, you could rely on it not being passed directly on to the IRS. He would be in your corner for sure. It needs to be that way. We have to change some other agencies, too. People are afraid to ask the EPA about potential pollution problems because they don't want to be fined. They just want to stop the problem and correct it if there really is one. But we have this Government fear of asking a question for fear that it will come down on us with penalties and unusual actions by a Government agency. The same thing happens with OSHA. If there is a safety problem, you don't want to ask OSHA for sure, because it might just result in penalties, not even an answer. That is the problem we have with Government.

This would make the questions that you ask your accountant your questions and your information, and you could feel secure that it would not be the subject of the penalties by the IRS. This change would provide taxpayers with the necessary confidentiality and communications with their tax preparers whether or not they are licensed attorneys. I believe these changes will help rein in many of the intimidation tactics used to target unsuspecting taxpayers.

Lastly, the IRS reform bill will demand greater accountability from the 100,000 employees who work for IRS. It requires all IRS notices and correspondence to include the name, the phone number, and address of the IRS employee whom the taxpayer should contact regarding the notice. Moreover, this bill requires the IRS to maintain complaints of any employee misconduct on an individual employee basis. Individuals will be responsible for their own actions. It won't just be passed off as an IRS problem. It will prohibit the IRS from labeling individual taxpayers as "illegal tax protesters" and maintaining lists of these individuals.

The IRS will also have to disclose to taxpayers in simple terms the criteria and procedures for selecting the taxpayer for audit. I believe this will decrease the ability of the IRS to target innocent taxpayers and small businesses for audits.

Mr. President, the IRS Reform Act will go a long way in reforming our Government's tax collection practices. By returning customer service and accountability to the IRS, this legislation helps ensure that the American taxpayers will be treated with the decency and respect they deserve. I urge my colleagues to join me in supporting the IRS Restructuring Reform Act. I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank my colleague from Wyoming, whose professional experience on these matters is evident in his presentation. He makes an eloquent case for the reforms that are encompassed in the legislation to be offered by Chairman BILL ROTH, chairman of the Finance Committee.

Both the Senator from Wyoming and I have talked about random audits and our dismay about them being conducted by the IRS. A random audit is like Russian roulette. A random audit means the IRS, even though your return reflects no discrepancy, can reach in, pick it out with no cause and suddenly be banging on your door. This ought not to happen in America. The IRS should not be conducting random audits.

I introduced legislation last week that will prohibit the use of random audits. We are told they are not being conducted, but they are. So we are going to legislate so they do not. I am very hopeful that at the end of the day, the work of the Senator from Wyoming, myself, and others will address the issue of random audits in the final legislation.

This report that I received from the General Accounting Office shows that 47 percent of these random audits were occurring in 11 Southern States—47 percent in 11 Southern States. That only represents 29 percent of our population, and that 85 percent of the random audits were directed at people who make $25,000 or less—$25,000 or less.

The first suspicion one has is, "Well, there's a person who can't defend himself."

I have come to know over the years a gentleman at Georgia State University who is a pioneer in tax clinics. There are very few of them in the country, but he got a Federal grant several years ago and got one started. They use university students to help low-income people who have had trouble with the IRS. They have 300 clients. He is a wonderful gentleman. We just rewarded and honored him recently. His name is Ron Blasi.

He appeared at a hearing we had, Mr. President. This is what he said:

> Among those low-income taxpayers represented before the IRS by tax clinic volunteers—

Those are his volunteers; they do this for nothing—

> 80 percent at the end paid less than the IRS claim called for.

Eighty percent.

That is not a very good record. And 8 out of 10—wham—who get hit with this audit hammer do not owe the taxes. So you have taken that taxpayer who has the least ability to complete the form—no accountants, no lawyers, trying to do it themselves—and you make them the target of random audits.

He goes on to say—this was a story in the Marietta Daily Journal—

> Auditing "pits one of the most powerful agencies in the federal government against people who don't have the resources to defend themselves," said Blasi, who added that each year nearly 20,000 low-income taxpayers in metro Atlanta receive audit notices.

I asked him in the hearing—I said, "What is the effect of that audit notice on these people?" He said, "Chilling and frightening, because they really don't know where to go. And often because they have no resources, they only get in deeper and deeper trouble because they really don't know how to deal with this agency." He said, "Most of these people end up paying more taxes than they really owe if they don't have legal representation."

This is very discomforting. First of all, we said, "Do you conduct random audits?" And they said, "No, we don't." And the General Accounting Office said, "Yes, you do." Then in a memorandum to their own employees, they misquote the General Accounting Office and leave out the statement that says they do random audits. And then the General Accounting Office says, "And the target is low-income people. They're the principal target of the random audits."

And you have three chances more of being audited in the State of Georgia than many of the other States. Well, we have very rural and poor areas in our part of the country.

At the end of the day, by the end of the 105th Congress, Mr. President, you will not recognize the IRS. This Congress is going to change this behavior. We want fair taxes. We want taxpayers to be held accountable. But this kind of targeting, this kind of misrepresentation, the kinds of stories we have heard—everybody in this Congress has heard this from constituents—bully tactics, arrogance, confusion, information that is incorrect, the chilling effect.

We just heard the Senator from Ohio talk about a person who was sent a check from IRS. The fellow said, "Well, I don't think I am due that." He calls them. They say, "Oh, yes, you are." Then IRS finds out they made a mistake, and they charge the man a penalty. That is incredible.

I met a fellow sitting on a plane—Mr. President, I think I have run over my time. I do not know if the other side is here, so I might talk for a minute or 2 until they get here.

I will close with this. This is one of these fellows who is going to have a conversation with you whether you want to or not. And he got to talking about an incident with IRS. He paid his taxes. They contacted him 3 months later and said, "You didn't pay your taxes." So he went down to the office, and he said, "Well, here is my check." They said, "We didn't get it." He said, "Well, here is the cancellation notice with the Government certifying it got the check." "Hmm." Well, they came to find out that they applied the check to his previous year's taxes. So that would have triggered a refund, which they never sent him. And then they said—and this is the key one—"Well, we're going to charge you a penalty anyway." So they said he would have to pay penalty and interest rates because they applied the tax to the wrong year. He said, "That's it. We're going to court." And they finally backed off.

But that kind of activity has to stop.

Mr. President, I yield the floor and suggest the absence of a quorum. My hour has expired.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. COVERDELL. OK.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I ask unanimous consent to proceed for the next 15 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, let me first again just congratulate my colleague from Georgia on a great statement and echo what he has been saying this morning. He is the true leader in drawing the Senate's attention and public attention to the need for true reform in the IRS.

The stories that he referenced, that I was talking about earlier today, that we have heard about in Toledo, superficially, may sound funny, but as he pointed out when he and I were talking about it, they are not funny, they are tragedies. They are real human tragedies.

It is just hard to believe that the IRS has gone on for so long in this country unchecked. And I say to Senator COVERDELL, if these are any demonstration of the need for congressional oversight, if there ever was an example of what hearings will really accomplish, it is the hearings that Chairman ROTH held several months ago starting off with, when we saw the acting head of the IRS come in to that hearing and in 5 minutes, the first 5 minutes of testimony, he changed more IRS policy than has been changed in the last decade. That was a result of oversight hearings.

Frankly, this Congress needs to do more of that, not just in regard to the IRS but in regard to all Federal agencies. It is part of our charge. It is part of our responsibility. It is what we ought to do. So I just again commend my friend and colleague from Georgia for taking the time this morning to talk about an issue that really affects the American people and that the American people are really interested in. We spend a lot of time on this floor talking about things that are important, but I am not sure the average American really thinks it affects their lives. Let me tell you, the IRS affects people's lives, virtually everybody in this country.

So I salute and congratulate my colleague from Georgia.

Mr. COVERDELL. I thank the Senator from Ohio.

(The remarks of Mr. DEWINE pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DEWINE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I want to conclude this discussion of the Senate Finance Committee's work in exposing problems with the IRS by commending the Chairman of the Senate Finance Committee, Senator ROTH, for holding the series of hearings to expose problems in the Internal Revenue Service's dealings with taxpayers. I also want to thank the taxpayers and IRS employees who had the courage to come forward and tell their stories publicly. Although we all knew that there were serious problems with the way the IRS does business, it is safe to say that all of us were truly shocked at what we learned from the hearings.

As Senator ROTH put it, we found that the IRS far too often targets vulnerable taxpayers, treats them with hostility and arrogance, uses unethical and even illegal tactics to collect money that sometimes is not even owed, and uses quotas to evaluate employees.

Its effort, obviously, is to try to bring in more money. But I think all of us would agree that it is not an acceptable behavior, and, therefore, clearly that kind of behavior will be dealt with in the legislation which we will be preparing.

I think it is also important to make the point that most IRS employees, like most other Government employees, are not only law abiding and very hard working but are very professional in what they do. They have, especially at the IRS, the very difficult and even thankless task of administering the code that, frankly, the Congress and the President made extremely complex and difficult to administer. It is filled with contradictory provisions. It is often open to differing interpretations. Frankly, we have given the IRS tremendous power in administering the code, but it is power that can bankrupt families, can put people out of their homes, and, as we heard, even ruin some lives. Any abuse of that power is intolerable.

Let me recount some of the things that have been uncovered as a result of these hearings. We heard that a taxpayer was hounded by the IRS for overpaying his taxes. The IRS put one constituent through the wringer of audits annually for 20 years and never found anything wrong.

Another person received a tax refund in error from the IRS. Knowing that it was an error, the constituent never cashed the check, yet when the IRS discovered its own error later, it demanded the refund back with interest.

One family that had a lien placed on its house worked out a payment plan with one IRS agent, only to have another IRS agent institute foreclosure proceedings. What is most galling to taxpayers is not that they have to pay taxes, but that there is virtually no recourse when the IRS makes an error. The cost of setting things right—hiring attorneys and CPAs—can be so high that people agree to pay taxes and penalties that they do not really owe.

Another thing we found was the abuse that innocent spouses can suffer at the hands of the IRS and current law. By resisting calls from the other side to rush the IRS reform bill to vote, we have been able to craft far stronger provisions to protect innocent spouses. The legislation that will come before the Senate next week would ensure that innocent spouses are responsible only for their own tax liability.

It was two and a half months ago that I came before the Senate to discuss the plight of a constituent of mine, a woman who divorced in late 1995. She paid her taxes in full and on time during the last two years of her marriage, but her husband apparently did not. The IRS ultimately came after her for the taxes that her former spouse did not pay. It did not aggressively pursue the tax bill with him.

About two weeks after hearing from my constituent, I sent Chairman Roth a letter identifying ways of improving the IRS reform bill, and on that short list was a recommendation to make innocent-spouse relief easier to obtain, and to make it available retroactively, or at least to all cases pending on the date of enactment of the bill.

So obviously, I am delighted that the Finance Committee has focused on the issue of innocent-spouse protection and has included provisions that better protect my constituent and women across the country in similar situations.

The IRS reform bill is a good bill, and it deserves an "aye" vote. But let us be under no illusion that even a good reform bill will solve the myriad problems that exist. Our nation's Tax Code, as currently written, amounts to thousands of pages of confusing, seemingly contradictory tax-law provisions. We need to reform the IRS, but unless that reform is followed up with a more fundamental overhaul of the Internal Revenue Code, problems with collections and enforcement are likely to persist. If the Tax Code cannot be deciphered, it does not matter what kind of personnel or process changes we make at the agency. Complexity invites different interpretations of the tax laws from different people, and that is where most of the problems at the IRS arise.

Replacing the existing code with a simpler, fairer, flatter tax would facilitate compliance by taxpayers, offer fewer occasions for intrusive IRS investigations, and eliminate the need for special interests to lobby for complicated tax loopholes.

The IRS reform bill, Finance Committee hearings about taxpayer abuse by the IRS, the Kemp Commission's recommendations in favor of fundamental tax reform, new proposals to sunset the IRS Code, and the debate that sponsors of the flat tax and sales tax have taken on the road in recent months, will all help to move the tax-reform discussion forward.

In conclusion, we can pass an IRS reform bill to try to rein in the IRS and make sure that it treats taxpayers fairly, reasonably, and respectfully. But let us not fool ourselves. The IRS cannot be faulted for a Tax Code that is too complex and filled with contradictory provisions.

Until the Tax Code is simplified, problems in one form or another are likely to persist. We must use this opportunity to begin the debate about fundamental tax reform.

TRIBUTE TO ERROL SEWELL

Mr. THURMOND. Mr. President, if one wants to find an excellent example of a private organization making a significant difference in the lives of young people, one need look no further than the Boys & Girls Clubs of America. This organization has dedicated itself to providing invaluable services and activities for our Nation's youngest citizens, and their efforts have not only helped to provide a diversion from the many destructive temptations that face our children in this day and age, but have also made neighborhoods throughout the United States better places to live.

For the past forty-two years, Errol Sewell has dedicated his life to promoting the Boys & Girls Clubs of America and helping to make this organization the success it is today. Mr. Sewell's association with the Boys & Girls Clubs began in Valdosta, Georgia where he was a member of the clubhouse in what was then a small, sleepy southern town near the Florida border. In 1956, Mr. Sewell made what was a natural transition, from that of "club member" to "club staffer", and he began what became a lifelong association with the Boys & Girls Clubs of America.

Mr. Sewell's abilities and talents as a manager and a leader did not go unnoticed, and he was brought to the national staff in 1969 in the capacity of field representative for the Southeast region. Over the past almost twenty years, he has worked tirelessly to promote the Clubs, and has steadily moved up the organization ladder to the position of senior vice president. In that capacity, Mr. Sewell established what will be his most lasting legacy of service and accomplishment in the Boys & Girls Clubs of America organization, he is credited with being one of the key people in almost doubling the number of members of this organization.

In the late 1980's when Mr. Sewell became Senior Vice President for Field Services, there were approximately one million boys and girls who belonged to about 1,000 clubs across the nation. It became the vision and the goal of senior officers of the Boys & Girls Clubs of America to double the size of its membership in five years, and largely through the determination and hard work of Errol Sewell, that goal was reached. Today, there are almost three million children who are members of the Boys & Girls Clubs of America, and clubhouses are added to this organization at a rate of about four a week. This is truly an impressive accomplishment, and it is one that is worthy of commendation. Errol Sewell and the Boys and Girls Clubs of America are deserving of credit and our gratitude.

Mr. President, Errol Sewell is retiring from the organization that has been a part of his life since his childhood. As this dedicated man steps down from his duties, he can take great pride in all he has accomplished, not the least of which is securing the most lucrative endowment the organization has ever received, $10 million to establish the "Joseph B. Whitehead Leadership Development Fund". Unquestionably, Mr. Sewell leaves the Boys & Girls Clubs of America a bigger, better, and stronger organization thanks to his efforts, and I know that he will be missed by all those who have had the pleasure of working with him. I am certain that all my colleagues would join me in congratulating him on his successes and wishing him continued health and happiness in the years to come.

CHIEF HAROLD BRUNELLE OF THE HYANNIS FIRE DEPARTMENT

Mr. KENNEDY. Mr. President, the Hyannis Fire Department recently honored Harold S. Brunelle of Hyannis by appointing him as Fire Chief. This honor is a well-deserved tribute to Chief Brunelle, his 26-year career with the Department, and his commitment to the community of Hyannis.

Chief Brunelle was chosen after nation-wide competition for the position of Fire Chief, and he was selected unanimously for the position in a field of 34 applicants.

Chief Brunelle joined the Hyannis Department in 1972 as a Junior Firefighter and rose through the ranks because of his great ability and dedication. His selection as Fire Chief demonstrates the town's confidence in Mr. Brunelle and their faith in his able service and leadership to the residents of the community.

Hyannis and Massachusetts are proud of Harold Brunelle's appointment as Fire Chief. I congratulate him on this distinction, and I look forward to working closely with him in the years ahead.

I ask unanimous consent that an article from the Barnstable Register on Chief Brunelle's selection be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Barnstable Register, Mar. 19, 1998]

NEW FIRE CHIEF A FAMILIAR HYANNIS FACE

(By John Basile)

HYANNIS.—A 26-year commitment to the Hyannis Fire Department has led Harold Brunelle to its top job.

Mr. Brunelle was named fire chief late last week in a unanimous vote of the Board of Fire Commissioners after a nationwide search to replace Chief Paul Chisholm, who retired after seven years on the job. He was selected from a field of 34 applicants.

"Just to be a firefighter is a privilege and an honor. To be able to rise through the ranks and become chief is the proudest thing I could experience," Chief Brunelle said during an interview in his office at the Hyannis fire station.

Chief Brunelle has been serving as acting chief since last November when Chief Chisholm stepped down. He started with the Hyannis Fire Department in 1972 as a junior firefighter and was appointed a permanent firefighter in 1974. He rose through the ranks of senior firefighter, lieutenant and captain before becoming deputy chief in 1990.

Born and raised in Hyannis, Chief Brunelle still lives there with his wife and three children, and said his appointment sets an important precedent for the Hyannis Fire Department.

"One of the real positive things that came out of the appointment is that people from within the department received the message that there is career advancement here," Chief Brunelle said. Promotions within the department to fill Chief Brunelle's former role as deputy chief and other command positions are expected in the next few months and will depend on the results of competitive exams.

The appointment of the new fire chief followed a grueling selection process involving a mathematical ranking formula, scrutiny by a professional assessment panel and one-on-one interviews with fire commissioners.

"Nobody can say he wasn't tested," said Richard Gallagher, chairman of the Board of Fire Commissioners. "I'm delighted for him because he's earned it, just as he earned every rank in the department." Mr. Gallagher praised the new chief's style.

"He will be a chief that can be approached by people," he said. "You'll get an honest answer out of Harold."

The new chief said he was supported through the application process by former fire Chief Glen Clough, "who basically built the Hyannis Fire Department in his 30-plus years as chief." He also thanked former Chief Richard Farrenkopf "for all of his time and expertise devoted to training."

Chief Brunelle, who has logged countless hours over the years in schools and at fire safety events, said residential fire prevention will continue to be a high priority for him.

He hopes to reinvigorate a successful program of a few years ago in which senior citizens were able to get low cost smoke detectors through the fire department.

Chief Brunelle has not yet negotiated a final contact with the Board of Fire Commissioners, but is expected to earn about $76,000 a year.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty, a withdrawal and sundry nominations which were referred to the Committee on Governmental Affairs.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following report of committees was submitted:

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1415: A bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes (Rept. No. 105–180).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:Q

By Mr. ASHCROFT:

S. 2023. A bill to provide increased penalties for drug offenses involving minors; to the Committee on the Judiciary.

S. 2024. A bill to increase the penalties for trafficking in methamphetamine in order to equalize those penalties with the penalties for trafficking in crack cocaine; to the Committee on the Judiciary.

By Mr. COVERDELL (for himself and Mr. ABRAHAM):

S. 2025. A bill to promote the safety of food, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DEWINE (for himself and Mr. HUTCHINSON):

S. 2026. A bill to require the Commissioner of Food and Drugs to conduct assessments and take other actions relating to the transition from use of chloroflurocarbons in metered-dose inhalers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BRYAN (for himself and Mr. REID):

S. 2027. A bill to clarify the fair tax treatment of meals provided hotel and restaurant employees in non-discriminatory employee cafeterias; to the Committee on Finance.

By Mr. ASHCROFT:

S. 2028. A bill to amend the National Narcotics Leadership Act of 1988 to extend the authorization for the Office of National Drug Control Policy until September 30, 2000, to expand the responsibilities and powers of the Director of the Office of National Drug Control Policy, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ASHCROFT:

S. 2023. A bill to provide increased penalties for drug offenses involving minors; to the Committee on the Judiciary.

THE PROTECT OUR CHILDREN ACT OF 1998

S. 2024. A bill to increase the penalties for trafficking in methamphetamine in order to equalize those penalties with the penalties for trafficking in crack cocaine; to the Committee on the Judiciary.

THE METHAMPHETAMINE TRAFFICKING PENALTY ENHANCEMENT ACT OF 1998

Mr. ASHCROFT. Mr. President, today I am introducing three bills: No. 1, The Protect Our Children Act. This legislation substantially increases the penalties on adults who distribute drugs to minors, who sell drugs in or near schools, and who use minors to distribute drugs.

Each of these crimes currently carries a 1-year mandatory minimum sentence. My legislation would raise the mandatory term for each of these crimes to 3 years.

The legislation also makes it a crime for an adult to use a minor to commit a violent crime. Adults found guilty of using a minor would be subject to two times the maximum imprisonment and two times the maximum fine for the violent crime itself. We need to make it especially costly for adults who decide to use minors to commit crimes, because they think they can avoid the penalty themselves and because they believe that the minor might not have a substantial liability for punishment.

The second bill which I am introducing is the Methamphetamine Trafficking Penalty Enhancement Act. Meth production and trafficking are enormous problems across America, particularly in my home State of Missouri. The Methamphetamine Trafficking Penalty Enhancement Act equalizes penalties for crack cocaine and meth trafficking by setting a 5-year mandatory term for 5 grams of methamphetamine and a 10-year mandatory sentence for 50 grams.

Mr. President, I ask unanimous consent that the texts of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protect Our Children Act of 1998".

SEC. 2. INCREASED PENALTIES FOR DISTRIBUTING DRUGS TO MINORS.

Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a), by striking "one year" and inserting "3 years"; and

(2) in subsection (b), by striking "one year" and inserting "5 years".

SEC. 3. INCREASED PENALTY FOR DRUG TRAFFICKING IN OR NEAR A SCHOOL OR OTHER PROTECTED LOCATION.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a), by striking "one year" and inserting "3 years"; and

(2) in subsection (b), by striking "three years" each place that term appears and inserting "5 years".

SEC. 4. INCREASED PENALTIES FOR USING MINORS TO DISTRIBUTE DRUGS.

Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b), by striking "one year" and inserting "3 years"; and

(2) in subsection (c), by striking "one year" and inserting "5 years".

SEC. 5. USE OF MINORS IN CRIMES OF VIOLENCE.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"§ 25. Use of minors in crimes of violence

"(a) PENALTIES.—Except as otherwise provided by law, whoever, being not less than 18 years of age, knowingly and intentionally uses a minor to commit a crime of violence, or to assist in avoiding detection or apprehension for a crime of violence, shall—

"(1) be subject to 2 times the maximum imprisonment and 2 times the maximum fine for the crime of violence; and

"(2) for second or subsequent convictions under this subsection, be subject to 3 times the maximum imprisonment and 3 times the maximum fine otherwise provided for the crime of violence in which the minor is used.

"(b) DEFINITIONS.—In this section:

"(1) CRIME OF VIOLENCE.—The term 'crime of violence' has the same meaning as in section 16.

"(2) MINOR.—The term 'minor' means a person who is less than 18 years of age.

"(3) USES.—The term 'uses' means employs, hires, persuades, induces, entices, or coerces.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"25. Use of minors in crimes of violence.".

S. 2024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Methamphetamine Trafficking Penalty Enhancement Act of 1998".

SEC. 2. METHAMPHETAMINE PENALTY INCREASES.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) in subparagraph (A)(viii)—

(A) by striking "100 grams" and inserting "50 grams"; and

(B) by striking "1 kilogram" and inserting "500 grams"; and

(2) in subparagraph (B)(viii)—

(A) by striking "10 grams" and inserting "5 grams"; and

(B) by striking "100 grams" and inserting "50 grams".

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraph (1)(H)—

(A) by striking "100 grams" and inserting "50 grams"; and

(B) by striking "1 kilogram" and inserting "500 grams"; and

(2) in paragraph (2)(H)—

(A) by striking "10 grams" and inserting "5 grams"; and

(B) by striking "100 grams" and inserting "50 grams".

By Mr. COVERDELL (for himself and Mr. ABRAHAM):

S. 2025. A bill to promote the safety of food, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE FOOD RESEARCH, EDUCATION, SAFETY, AND HEALTH ACT OF 1998

Mr. COVERDELL. Mr. President, I believe that protecting our nation's food supply should be a high priority for Congress and this Administration. Today, America produces the safest food in the world, however, more needs to be done in order to make it even safer. We are increasingly becoming a global economy. Agricultural trade is on the rise. Due to these circumstances, there are new and emerging food borne threats which need to be addressed. That is why I am introducing a comprehensive food safety proposal, The Food Research, Education, Safety, and Health Act of 1998, also known as the F.R.E.S.H. Act, which will provide the additional tools and resources necessary to make our food even safer. I am pleased to have the distinguished Senator from Michigan (Mr. ABRAHAM), join me as an original co-sponsor of this legislation.

As chairman of the Senate Agriculture Subcommittee with jurisdiction over food safety issues, I believe this proposal could not come at a more critical time. The public is becoming increasingly concerned with the safety of their food. Over the past year, there have been increased reports of people becoming sick due to food borne related illnesses. Children and some adults became ill with Hepatitis A from contaminated strawberries distributed to schools through USDA's school lunch program. In addition, there have been reports, even as late as yesterday, of ground beef contaminated with the E.coli 0157:H7 bacteria having to be recalled from grocery store shelves.

In drafting this legislation, my staff and I have had numerous discussions with the University of Georgia. Dr. Mike Doyle, Director of the Center for Food Safety and Quality Enhancement and Department Head of Food Science and Technology at the University of Georgia, is a leading food safety authority and expert on the E.coli 0157:H7 bacteria. We talked with others, including farmers, health experts, processors, and government officials, in crafting this comprehensive, responsible food safety approach.

Several months ago, I traveled to Guatemala to investigate reports of unsanitary conditions existing within that country. This was prompted by reports of Guatemalan raspberries being contaminated with Cyclospora. While I was heartened and impressed by the investments and continuing efforts the Guatemalan producers have made in food safety infrastructure, there are still legitimate safety concerns we have for American consumers which need to be addressed.

I believe we need to place a greater emphasis on food safety consumer education, research, and prevention efforts in order to continue to maintain our safe food supply. My legislation is intended to do just that. The F.R.E.S.H. Act provides for the following:

Consumer education food safety block grants to the States.

Directs the Department of Agriculture to carry out consumer education initiatives on the irradiation of foods.

Establishes a Food Safety Council for the purpose of evaluating and establishing priorities for food safety research and education, and food-related prevention activities. The Council would be required to submit an annual report to Congress on actions taken by the Council, including any recommendations for improvement in food safety.

Competitive research grants to study food borne pathogens and finding the best methods to reduce or eliminate them as a threat to humans.

Directs the Secretary of Agriculture to conduct a number of demonstration projects to determine the epidemiology and ecology of potential food borne pathogens and develop interventions. The Secretary would be required to submit report to Congress on these projects by no later than December 1, 2001.

Authorizes $5 million for the Centers for Disease Control and Prevention (CDC) to pay for expense associated with the detection of food borne pathogens. This funding will be used for the employment of new scientists and the acquisition of new scientific equipment.

Authorizes $5 million to enable the National Institutes of Health (NIH) to conduct research concerning medical treatments for individuals infected with food borne pathogens.

Directs the Secretary of Agriculture to establish a Food Safety Research Information Office in the National Agricultural Library. This office will provide the scientific community and other interested persons with information on public and private research activities on food safety.

Directs the Secretary of Agriculture to conduct risk assessments for each species of animal that is used to produce food in the U.S., at each step in the food chain in order to determine the risk of pathogens posed by the species. Risk assessments would also be conducted for each type of fruit and vegetable.

Authorizes $10.4 million for the Food and Drug Administration (FDA) to hire new microbiologists and inspectors in order to decrease the risk of importing unsafe food products.

Mr. President, food safety is a matter of utmost importance to me, and the American people. I urge my colleagues and the Administration to support this important legislative initiative.

By Mr. DEWINE (for himself and Mr. HUTCHINSON):

S. 2026. A bill to require the Commissioner of Food and Drugs to conduct assessments and take other actions relating to the transition from use of chloroflurocarbons in metered-dose inhalers, and for other purposes; to the Committee on Labor and Human Resources.

THE ASTHMA INHALER PROTECTION ACT

Mr. DEWINE. Mr. President, I come to the floor this afternoon to introduce, along with my good friend Senator TIM HUTCHINSON of Arkansas, the Asthma Inhaler Protection Act.

This bill is designed to protect the millions of Americans who use medical inhalers for diseases such as asthma and cystic fibrosis. This Asthma Inhaler Protection Act is needed to make sure that the Food and Drug Administration is extremely—extremely—careful in how it phases out the use of asthma inhalers that contain chlorofluorocarbons, or CFCs.

This bill that Senator HUTCHINSON and I are introducing today makes sure that as FDA phases out the use of inhalers with CFCs, adequate replacements are available that meet all patients' needs. That is the key.

Mr. President, there are 15 million Americans who have asthma, almost all of whom regularly use asthma inhalers such as this one, 15 million Americans who have asthma, many of whom use inhalers just like the one I took out of my pocket. They use these inhalers to help them control their disease. Without having access to a drug that meets his or her specific needs, each of these Americans would be adding much greater risk of having an asthma attack or, if they have an asthma attack, not being able to control it short of going to the emergency room in a hospital, which is where many people had to go before they had access to these inhalers.

I had the personal experience with our daughter Becky a number of years ago when she was small and she had asthma. The doctor finally, after we had been to the emergency room time after time, said I think she needs to use these new inhalers that are on the market, even though they had not been prescribed for children at that time. He said go ahead and use it. So Becky started using these and it made her life a lot easier, certainly the life of her parents, as well.

Without access to a drug that meets these specific needs, each of these asthma sufferers would be in greater danger. Without an appropriate medication, they also would have a much worse chance of stopping an asthma attack once it has begun.

What is the problem? The problem is almost all asthma inhalers currently on the market contain CFCs. Almost every single one of them changes this. Under international agreement, this country has agreed to the goal of eventually eliminating all uses—all uses—of CFCs.

What this means for asthma patients is that over a period of many years new inhalers that don't use CFCs will be brought to the market, and use of the old inhalers that contain CFCs will be phased out. But as we do this, as we comply with this international agreement—and this, of course, is something that was agreed to because of the concern for the environment, and I understand that—I think as we do this we must make sure this transition process is done very, very carefully and that we do it with the utmost attention to those individuals whose quality of life may depend on the use of these inhalers.

We must be absolutely sure that if and when we take an inhaler that contains CFCs off the market there are adequate replacements that meet the needs of each and every person that currently uses the old-time inhaler. My one and only goal when it comes to this transition is to make sure that all people, all people who rely on these drugs, continue to have access to inhalers that have been proven, already proven to meet their needs. All other issues are secondary to making sure that these patients are, in fact, protected.

In March of 1997 the FDA released its first proposal on how to go about this transition. Now, simply put, the FDA's initial response does not meet the goal of fully protecting asthma patients. The medical and patient communities have been unanimous in expressing concern that the FDA's proposal, when it goes into effect, could take existing medications away from patients without adequate replacements being at that time available. The bottom line is that the FDA's proposal could and will put patients at risk.

What do we do about it? Where do we go from here? I understand that many people believe the FDA has seen the light. Some people tell me they plan to correct the problems in their initial proposal during the next step of the process, the next step of the process being the proposed rule. Now, I would like to believe that this will happen, but I am not sure it will.

It is now over a year since the FDA released its earlier proposal, but despite all the public criticism which has ensued there has never been a single public statement by that agency that it intends to change the policy to address these very legitimate medical concerns. That is why I feel congressional action is necessary.

That is why Senator HUTCHINSON and I are introducing this bill today. We need to be sure that the FDA, as it pursues this transition, writes its policy so that all patients are protected. Because of this, I am pleased to cosponsor this legislation, S. 1299, a bill that Senator HUTCHINSON introduced last year. Let me say that Senator HUTCHINSON has been someone who has taken the lead in this crusade.

That bill lets the FDA know in the clearest of terms that its initial proposal was unacceptable and that bill further gives the FDA guidance on how it should proceed with the rules for this transition.

Let me again congratulate my colleague from Arkansas for his leadership on this issue and for the introduction of his work on that bill. Since last year, Mr. President, I have continued to work on this issue. I have had my staff explore various options and various proposals. We have identified several additional ideas I believe are important to make sure that patients are protected and that should be included in any legislation on the phaseout of CFC inhalers.

Recently, I have worked with Senator HUTCHINSON to develop these thoughts into this piece of legislation that we are introducing today, the Asthma Inhaler Protection Act. Our bill does these things: First, it makes sure that the FDA, before it takes the next step of publishing a proposed rule, has looked at several issues that are necessary for the agency to make informed choices in this area. Second, our bill gives the FDA the broad outline of what the transition policy should look like so that all patients' needs are protected. Finally, our bill will help save FDA resources by telling the agency to not review any new drug applications for products that contain CFCs unless the new product represents a significant new medical advance.

I want to make clear that this bill is not necessarily a finished product. We are open to additional ideas and suggestions. We will consider any additional thoughts and ideas on how to improve the bill to make sure that people who use asthma inhalers are truly protected.

I hope my colleagues and anyone interested in the safety of Americans with asthma could look at this bill and consider supporting it. I believe this bill is crucial to get FDA back on the right course. It is absolutely necessary so that no asthma patients are ever put in a situation where they can't get the best inhalers that fit their very specific medical needs.

Again, I urge my colleagues to cosponsor this bill, which I believe is a matter of good common sense, and a bill that will help protect the asthma sufferers of this country.

By Mr. BRYAN (for himself and Mr. REID):

S. 2027. A bill to clarify the fair tax treatment of meals provided hotel and restaurant employees in non-discriminatory employee cafeterias; to the Committee on Finance.

THE WORKING MEALS FAIRNESS ACT

Mr. REID. Mr. President, I rise to introduce the Working Meals Fairness Act for myself and Senator BRYAN, which provides for the exemption of meals from consideration as taxable income when provided as a benefit to employees of the service sector.

Mr. President, during the past few days the Finance Committee has conducted hearings in which victims of IRS injustice have provided poignant testimony of their experiences at the hands of overzealous IRS agents. Their testimony has made us all aware that the time has come to overhaul the manner in which the IRS deals with the honest law-abiding citizens of this country. This overhaul will require a fundamental restructuring of the IRS customer service organization and a fresh look at what constitutes fairness.

Mr. President, as part of this fresh look, I am joining Senator BRYAN today in introducing legislation to remedy an unquestionably unfair tax policy resulting from a recent tax court decision. It was a decision in support of the IRS' position which is going to have widespread effect on the working men and women who are employed by our hotels, restaurants and resorts. In short, this decision eliminated the deduction for meals provided to service industry employees by their employer. Our legislation would reform the manner in which gratuitous meals are treated as taxable income under current IRS code.

Mr. President, all across this country, workers are going to be asked to pay taxes to the IRS for the meal they receive while on duty in the service industry. These workers often work more than one job, while raising a family, and for all intents and purposes play by the rules. It isn't enough that these same workers pay transportation costs and child care costs to hold these jobs. Now we must tax the hand that feeds them. These meals are often provided for the convenience of both the employer and employee in order to provide the enhanced customer service which has become the hallmark of the service sector in this country.

Mr. President, our legislation, simply put, would exempt any meal, provided as a benefit of employment to an employee during their shift of duty, from being treated as taxable income.

Mr. President, this nation depends heavily on the vital contributions of the service industry. It is an industry characterized by high employee turnover, low wages and in many cases, poor benefits. In order to recruit and retain the quality worker that the industry depends upon, and we as consumers have come to expect, the provision of a meal is the least we can offer. To tax this meal is going a bit too far in my judgement. Isn't it ironic that we maintain a policy which costs the average service worker $300 a year in additional taxes? Isn't it ironic . . . we often tax those who can least afford to pay?

Mr. President, my job in this body is to stand up for the workers of Nevada. I ask my colleagues to stand with me on this matter on behalf of workers in their state. Because of policies like this, the average American is justified in their perception that the rich get richer and the poor stay poor. I therefore ask my colleagues in this body to join with me in taking another step on behalf of the American worker who sent us here to represent their interests.

Mr. President, it is time we all ask the IRS to leave the service workers of America alone. They are already paying their fair share.

Mr. President, I request unanimous consent that the Working Meals Fairness Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2027

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 119 of the Internal Revenue Code of 1986 is amended by adding the following new subsection:

(e) In the case of an employee of a hotel or restaurant, gross income shall not include the value of meals furnished to such employee by an employer in a non-discriminatory employee cafeteria located on the business premises of the employer immediately before, immediately after, or during work shifts.

By Mr. ASHCROFT:

S. 2028. A bill to amend the National Narcotics Leadership Act of 1988 to extend the authorization for the Office of National Drug Control Policy until September 30, 2000, to expand the responsibilities and powers of the Director of the Office of National Drug Control Policy, and for other purposes; to the Committee on the Judiciary.

THE DRUG CZAR RESPONSIBILITY AND ACCOUNTABILITY ACT OF 1998

Mr. ASHCROFT. Mr. President, I am introducing today the Drug Czar Responsibility and Accountability Act. It adds to the responsibilities of the drug czar's office the establishment of Federal policies, goals and performance measures, including specific reduction targets.

Why is such a measure needed? Consider this: Overall illicit drug use among children age 12 to 17 was 5.3 percent when the President took office. In 1996, it was 9 percent. That is an increase of 70 percent since 1993. Now, the President proposes to cut drug use by 20 percent by the year 2002. In other words, 2 years after the President wants to leave office, he hopes to get teen drug use to only 128 percent of where it was when he took office.

I happen to have been a Boy Scout. I think most of us in the Chamber have had some association with scouting. We either hauled kids to the campfires, to the Brownies, or to the Cub Scouts or Boy Scouts. The fundamental principle of scouting is you always leave the campground a little better than you found it.

Here we have a President who, in terms of teen drug use, wants to set as a goal that there will be 128 percent of the drug use that there was when he came into office, and that goal isn't even supposed to be attained until 2 years after he leaves office.

I don't think we will ever achieve greatness in our culture if we don't at least aspire to good things. Our opportunity is to leave the campground better than we found it, not worse than we found it, and certainly not 128 percent worse than we found it. We cannot defer maintenance of the campground until after we are gone.

The tradition of America is to provide to the next generation a broader set of opportunities, a brighter set of horizons than we have ever known before. That should not be forgotten when we talk about curtailing the scourge of drugs on our young people.

Here we have a President who wants to instruct a drug czar to ratchet the drug problem all the way back to 128 percent of what it was when he started and not to get that done until 2 years after he leaves office. I think it is disgraceful.

Mr. President, because of my concern for combating underage drug use, I will also offer an amendment to the tobacco bill when it comes to the Senate floor to make certain the epidemic of underage illegal drug use is addressed in that respect. My amendment will allow States to use tobacco settlement funds for anti-illegal drug and law enforcement purposes, not just teen smoking programs.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Drug Czar Responsibility and Accountability Act of 1998".

(b) AMENDMENT REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1501 et seq.).

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Overall drug use among children aged 12 to 17 in 1992 was 5.3 percent. In 1996, it was 9 percent, an increase of 70 percent.

(2) Use of any illicit drug among 8th graders in 1992 was 12.9 percent. In 1997, it was 22.1 percent, an increase of 71 percent.

(3) Use of any illicit drug among 10th graders in 1992 was 20.4 percent. In 1997, it was 38.5 percent, an increase of 91 percent.

(4) Use of any illicit drug among 12th graders in 1992 was 27.1 percent. In 1997, it was 42.4 percent, an increase of 56 percent.

(5) Use of marijuana among 8th graders in 1992 was 3.7 percent. In 1997, it was 10.2 percent, an increase of 176 percent.

(6) Use of marijuana among children aged 12 to 17 in 1992 was 3.4 percent. In 1996, it was 7.1 percent, an increase of 109 percent.

(7) Use of cocaine among children aged 12 to 17 in 1992 was 0.3 percent. In 1996, it was 0.6 percent, an increase of 100 percent.

(8) Marijuana-related medical emergencies in 1992 totaled 23,997. In 1996, there were 50,037 such emergencies, an increase of 108 percent.

(9) Cocaine-related medical emergencies in 1992 totaled 119,843. In 1996, there were 144,180 such emergencies, an increase of 20 percent.

(10) Heroin-related medical emergencies in 1992 totaled 48,003. In 1996, there were 70,463 such emergencies, an increase of 47 percent.

SEC. 3. EXPANSION OF RESPONSIBILITIES OF DIRECTOR.

(a) EXPANSION OF RESPONSIBILITIES.—Section 1003(b) (21 U.S.C. 1502(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) establish Federal policies, objectives, goals, priorities, and performance measures (including specific annual agency targets expressed in terms of precise percentages) for the National Drug Control Program and for each National Drug Control Program agency, which shall include targets for reducing the levels of overall unlawful drug use, adolescent unlawful drug use, and drug-related emergency room incidents to January 19, 1993 levels;";

(2) by striking paragraph (3) and inserting the following:

"(3) coordinate, oversee, and evaluate the effectiveness of the implementation of the policies, objectives, goals, performance measures, and priorities established under paragraph (1) and the fulfillment of the responsibilities of the National Drug Control Program agencies under the National Drug Control Strategy;";

(3) in paragraph (5), by inserting "and nongovernmental entities involved in demand reduction" after "governments";

(4) in paragraph (7), by striking "and" at the end;

(5) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following:

"(9) require each National Drug Control Program agency to submit to the Director on a semi-annual basis (beginning with the first 6 months of 1999) an evaluation of progress by the agency with respect to drug control program goals using the performance measures referred to in paragraph (1), including progress with respect to—

"(A) success in reducing domestic and foreign sources of illegal drugs;

"(B) success in protecting the borders of the United States (and in particular the Southwestern border of the United States) from penetration by illegal narcotics;

"(C) success in reducing violent crime associated with drug use in the United States;

"(D) success in reducing the negative health and social consequences of drug use in the United States; and

"(E) implementation of drug treatment and prevention programs in the United States and improvements in the adequacy and effectiveness of such programs;

"(10) submit to Congress on a semiannual basis, not later than 60 days after the date of the last day of the applicable 6-month period, a summary of—

"(A) each evaluation received by the Director under paragraph (9); and

"(B) the progress of each National Drug Control Program agency toward the drug control program goals of the agency using the performance measures described in paragraph (1);

"(11) require the National Drug Control Program agencies to submit to the Director not later than February 1 of each year a detailed accounting of all funds expended by the agencies for National Drug Control Program activities during the previous fiscal year, and require such accounting to be authenticated by the Inspector General for each agency prior to submission to the Director;

"(12) submit to Congress not later than April 1 of each year the information submitted to the Director under paragraph (11);

"(13) submit to Congress not later than August 1 of each year a report including—

"(A) the budget guidance provided by the Director to each National Drug Control Program agency for the fiscal year in which the report is submitted and for the other fiscal years within the applicable 5-year budget plan relating to such fiscal year; and

"(B) a summary of the request of each National Drug Control Program agency to the Director under this Act (prior to review of the request by the Office of Management and Budget) for the resources required to achieve the targets of the agency under this Act;

"(14) act as a representative of the President before Congress on all aspects of the National Drug Control Program;

"(15) act as the primary spokesperson of the President on drug issues;

"(16) make recommendations to National Drug Control Program agency heads with respect to implementation of Federal counter-drug programs;

"(17) take such actions as necessary to oppose any attempt to legalize the use of a substance (in any form) that—

"(A) is listed in schedule I of section 202 of the Controlled Substances Act (21 U.S.C. 812); and

"(B) has not been approved for use for medical purposes by the Food and Drug Administration; and

"(18) ensure that drug prevention and drug treatment research and information is effectively disseminated by National Drug Control Program agencies to State and local governments and nongovernmental entities involved in demand reduction by—

"(A) encouraging formal consultation between any such agency that conducts or sponsors research, and any such agency that disseminates information in developing research and information product development agendas;

"(B) encouraging such agencies (as appropriate) to develop and implement dissemination plans that specifically target State and local governments and nongovernmental entities involved in demand reduction; and

"(C) developing a single interagency clearinghouse for the dissemination of research and information by such agencies to State and local governments and nongovernmental agencies involved in demand reduction.".

(b) SURVEY OF DRUG USE.—

(1) IN GENERAL.—The University of Michigan shall not be prohibited under any law from conducting the survey of drug use among young people in the United States known as the Monitoring the Future Survey.

(2) OTHER SURVEYS.—The National Parents' Resource Institute for Drug Education in Atlanta, Georgia, shall not be prohibited under any law from conducting the survey of drug use among young people in the United States known as the National PRIDE Survey.

SEC. 4. EXPANSION OF POWERS OF DIRECTOR.

Section 1003(d) (21 U.S.C. 1502(d)) is amended—

(1) in paragraph (9), by striking the period and inserting a semicolon; and

(2) by adding at the end the following:

"(10) require the heads of National Drug Control Program agencies to provide the Director with statistics, studies, reports, and any other information regarding Federal control of drug abuse;

"(11) require the heads of National Drug Control Program agencies to provide the Director with information regarding any position (before an individual is nominated for such position) that—

"(A) relates to the National Drug Control Program;

"(B) is at or above the level of Deputy Assistant Secretary; and

"(C) involves responsibility for Federal counternarcotics or antidrug programs; and

"(12) make recommendations to the National Drug Intelligence Center on the specific projects that the Director determines will enhance the effectiveness of implementation of the National Drug Control Strategy.".

SEC. 5. SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.

(a) IN GENERAL.—Section 1005(a) (21 U.S.C. 1504(a)) is amended—

(1) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

"(A) include comprehensive, research-based, specific, long-range goals and performance measures (including specific annual targets expressed in terms of precise percentages) for reducing drug abuse and the consequences of drug abuse in the United States;";

(B) in subparagraph (C), by striking "and" at the end;

(C) by striking subparagraph (D);

(D) by adding at the end the following:

"(D) include 4-year projections for National Drug Control Program priorities (including budget priorities); and

"(E) review international, Federal, State, local, and private sector drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.";

(2) in paragraph (3)(A), by striking clauses (iv) and (v) and inserting the following:

"(iv) private citizens and organizations with experience and expertise in demand reduction;

"(v) private citizens and organizations with experience and expertise in supply reduction; and

"(vi) appropriate representatives of foreign governments.";

(3) in paragraph (4)—

(A) in subparagraph (B), by striking clauses (i) through (vi) and inserting the following:

"(i) the quantities of cocaine, heroin, marijuana, methamphetamine, ecstasy, and rohypnol available for consumption in the United States;

"(ii) the amount of cocaine, heroin, marijuana, ecstasy, rohypnol, methamphetamine, and precursor chemicals entering the United States;

"(iii) the number of hectares of marijuana, poppy, and coca cultivated and destroyed domestically and in other countries;

"(iv) the number of metric tons of marijuana, cocaine, heroin, and methamphetamine seized;

"(v) the number of cocaine and methamphetamine processing labs destroyed domestically and in other countries;

"(vi) changes in the price and purity of heroin and cocaine, changes in price of methamphetamine, and changes in tetrahydrocannabinol level of marijuana;";

(B) in subparagraph (C), by striking "and" at the end;

(C) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(E) assessment of the cultivation of illegal drugs in the United States."; and

(4) in paragraph (5)—

(A) in the matter preceding subparagraph (A), by striking "February 1, 1995" and inserting "February 1, 1999";

(B) in the matter preceding subparagraph (A), by striking "second";

(C) in subparagraph (C), by striking "and" at the end;

(D) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(E) a description of the National Drug Control Program performance measures described in subsection (a)(2)(A).".

(b) GOALS AND PERFORMANCE MEASURES FOR NATIONAL DRUG CONTROL STRATEGY.—Section 1005(b) (21 U.S.C. 1504(b)) is amended—

(1) in the heading, by striking ", OBJECTIVES, AND PRIORITIES" and inserting "AND PERFORMANCE MEASURES";

(2) in the matter after the heading, by inserting "(1)" before "Each National Drug Control Strategy";

(3) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively;

(4) in subparagraph (A) (as redesignated by paragraph (3)), by striking "and priorities" and inserting "and performance measures";

(5) in subparagraph (C) (as redesignated by paragraph (3)), by striking "3-year projections" and inserting "4-year projections"; and

(6) by adding at the end the following:

"(2) In establishing the performance measures required by this subsection, the Director shall—

"(A) establish performance measures and targets expressed in terms of precise percentages for each National Drug Control Strategy goal and objective;

"(B) revise such performance measures and targets as necessary, and reflect such performance measures and targets in the National Drug Control Program budget submitted to Congress;

"(C) consult with affected National Drug Control Program agencies;

"(D) identify programs and activities of National Drug Control Program agencies that support the goals of the National Drug Control Strategy;

"(E) evaluate in detail the implementation by each National Drug Control Program agency of program activities supporting the National Drug Control Strategy;

"(F) monitor consistency between the drug-related goals of the National Drug Control Program agencies and ensure that drug control agency goals and budgets fully support, and are fully consistent with, the National Drug Control Strategy;

"(G) coordinate the development and implementation of national drug control data collection and reporting systems to support Federal policy formulation and performance measurement;

"(H) ensure that no Federal drug control funds are expended for any study or contract relating to the legalization (for a medical use or any other use) of a substance listed in schedule I of section 202 of the Controlled Substances Act (21 U.S.C. 812); and

"(I) ensure that no Federal funds appropriated for the High Intensity Drug Trafficking Program are expended for the expansion of drug treatment programs.".

SEC. 6. REPORT ON DESIGNATION OF HIGH INTENSITY DRUG TRAFFICKING AREAS.

Section 1005(c)(3) (21 U.S.C. 1504(c)(3)) is amended to read as follows:

"(3) ANNUAL REPORT.—Not later than March 1 of each year, the Director shall submit to Congress a report—

"(A) on the effectiveness of, and need for, the designation of areas under this subsection as high intensity drug trafficking areas; and

"(B) that includes any recommendations of the Director for legislative action with respect to such designation.".

SEC. 7. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

Section 1011 (21 U.S.C. 1508) is amended by striking "8 succeeding fiscal years" and inserting "10 succeeding fiscal years".

SEC. 8. REPORT REQUIRED.

Not later than November 1, 1998, the Director of the Office of National Drug Control Policy shall submit to Congress a report including—

(1) proposed goals, targets, performance measures (as described in section 1003(b)(1) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(b)(1))), and specific initiatives with respect to the National Drug Control Program, including the High Intensity Drug Trafficking Area Program; and

(2) proposals to coordinate the efforts of all National Drug Control Program agencies.

SEC. 9. CONSISTENCY WITH NATIONAL SECURITY ACT OF 1947.

Section 1004 (21 U.S.C. 1503) is amended—

(1) in subsection (a)—

(A) by striking "(1)";

(B) by striking "(2)(A)" and inserting "(b) CONSISTENCY WITH NATIONAL SECURITY ACT OF 1947.—(1)";

(C) by striking "(B)" and inserting "(2)"; and

(D) by striking "subparagraph (A)" and inserting "paragraph (1)"; and

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively.

ADDITIONAL COSPONSORS

S. 1255

At the request of Mr. COATS, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 1255, a bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based policy may be used to enable individuals and families with limited means to achieve economic self-sufficiency.

S. 1334

At the request of Mr. BOND, the names of the Senator from Arizona (Mr. MCCAIN) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1534

At the request of Mr. TORRICELLI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1534, a bill to amend the Higher Education Act of 1965 to delay the commencement of the student loan repayment period for certain students called to active duty in the Armed Forces.

S. 1930

At the request of Mr. NICKLES, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1930, a bill to provide certainty for, reduce administrative and compliance burdens associated with, and streamline and improve the collection of royalties from Federal and outer continental shelf oil and gas leases, and for other purposes.

SENATE CONCURRENT RESOLUTION 82

At the request of Mr. WELLSTONE, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Maryland (Ms. MIKULSKI), and the Senator from North Carolina (Mr. FAIRCLOTH) were added as cosponsors of Senate Concurrent Resolution 82, a concurrent resolution expressing the sense of Congress concerning the worldwide trafficking of persons, that has a disproportionate impact on women and girls, and is condemned by the international community as a violation of fundamental human rights.

AMENDMENTS SUBMITTED ON APRIL 30, 1998

PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON A ACCESSION OF POLAND, HUNGARY, AND CZECH REPUBLIC

MOYNIHAN (AND WARNER) EXECUTIVE AMENDMENT NO. 2321

Mr. MOYNIHAN (for himself and Mr. WARNER) proposed an amendment to the resolution of ratification for the treaty (Treaty Doc. No. 105-36) protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic. These protocols were opened for signature at Brussels on December 16, 1997, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty; as follows:

At the end of section 3 of the resolution (relating to conditions), add the following:

( ) DEFERRAL OF RATIFICATION OF NATO ENLARGEMENT UNTIL ADMISSION OF POLAND, HUNGARY, AND CZECH REPUBLIC TO THE EUROPEAN UNION.—

(A) CERTIFICATION REQUIRED.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that Poland, Hungary, and the Czech Republic have each acceded to membership in the European Union and have each engaged in initial voting participation in an official action of the European Union.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed as an expression by the Senate of an intent to accept as a new NATO member any country other than Poland, Hungary, or the Czech Republic if that country becomes a member of the European Union after the date of adoption of this resolution.

WARNER (AND OTHERS) EXECUTIVE AMENDMENT NO. 2322

Mr. WARNER (for himself, Mr. MOYNIHAN, Mr. BINGAMAN, Mrs. HUTCHISON, and Mr. DORGAN) proposed an amendment to the resolution of ratification for the treaty (Treaty Doc. No. 105-36) protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic. These protocols were opened for signature at Brussels on December 16, 1997, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty; as follows:

At the appropriate place in section 2 of the resolution, insert the following:

( ) UNITED STATES POLICY REGARDING FURTHER ENLARGEMENT OF NATO.—Prior to the date of deposit of the United States instrument of ratification, the President shall certify to the Senate that it is the policy of the United States not to encourage, participate in, or agree to any further enlargement of NATO for a period of at least three years beginning on the earliest date by which Poland, Hungary, and the Czech Republic have all acceded to the North Atlantic Treaty.

HARKIN EXECUTIVE AMENDMENT NO. 2323

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the resolution of ratification for the treaty (Treaty Doc. No. 105-36) protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic. These protocols were opened for signature at Brussels on December 16, 1997, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty; as follows:

At the end of section 2 of the resolution, insert the following:

( ) COMPATIBILITY OF CERTAIN PROGRAMS WITH OBLIGATIONS UNDER THE NUCLEAR NON-PROLIFERATION TREATY.—The Senate declares that the President, as part of NATO's ongoing Strategic Review, should examine the political and legal compatibility between—

(1) current United States programs involving nuclear weapons cooperation with other NATO members; and

(2) the obligations of the United States and the other NATO members under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968.

BINGAMAN EXECUTIVE AMENDMENT NO. 2324

Mr. BINGAMAN proposed an amendment to the resolution of ratification for the treaty (Treaty Doc. No. 105-36) protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic. These protocols were opened for signature at Brussels on December 16, 1997, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty; as follows:

At the appropriate place in section 3 of the resolution, insert the following:

() UNITED STATES POLICY LIMITING NATO ENLARGEMENT UNTIL THE STRATEGIC CONCEPT OF NATO IS REVISED.—Prior to the date of deposit of the United States instrument of ratification, the President shall certify to the Senate that, until such time as the North Atlantic Council agrees on a revised Strategic Concept of NATO, it is the policy of the United States not to support the admission of, or the invitation for admission of, any new NATO member, other than Poland, Hungary, or the Czech Republic.

INHOFE EXECUTIVE AMENDMENT NO. 2325

(Ordered to lie on the table.)

Mr. INHOFE proposed an amendment to the resolution of ratification for the treaty (Treaty Doc. No. 105-36) protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic. These protocols were opened for signature at Brussels on December 16, 1997, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty; as follows:

At the appropriate place in section 3 of the resolution, insert the following:

( ) REQUIREMENT OF TRANSMITTAL TO THE SENATE OF KYOTO PROTOCOL ON GLOBAL WARMING.—Prior to the deposit of the United States instrument of ratification, the President shall submit the Kyoto Protocol to the United Nations Framework Convention on Climate Change, done at Kyoto on December 10, 1997, to the Senate for its consideration under Article II, section 2, clause 2 of the Constitution of the United States (relating to the making of treaties.)

HARKIN EXECUTIVE AMENDMENT NO. 2326

Mr. HARKIN proposed an amendment to the resolution of ratification for the treaty (Treaty Doc. No. 105-36) protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic. These protocols were opened for signature at Brussels on December 16, 1997, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty; as follows:

At the end of section 2 of the resolution, insert the following:

( ) COMPATIBILITY OF CERTAIN PROGRAMS WITH OBLIGATIONS UNDER THE NUCLEAR NON-PROLIFERATION TREATY.—The Senate declares that the President, as part of NATO's ongoing Strategic Review, should examine the political and legal compatibility between—

(1) current United States programs involving nuclear weapons cooperation with other NATO members; and

(2) the obligations of the United States and the other NATO members under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968.

NICKLES (AND SMITH) EXECUTIVE AMENDMENT NO. 2327

Mr. NICKLES (for himself and Mr. SMITH of New Hampshire) proposed an amendment to the resolution of ratification for the treaty (Treaty Doc. No. 105-36) protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic. These protocols were opened for signature at Brussels on December 16, 1997, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty; as follows:

In subparagraph (C) of section 3(1) of the resolution, strike clauses (ii) and (iii) and insert in lieu thereof the following:

(ii) An analysis of all potential threats to the North Atlantic area (meaning the entire territory of all NATO members) up to the year 2010, including the consideration of a reconstituted conventional threat to Europe, emerging capabilities of non-NATO countries to use nuclear, biological, or chemical weapons affecting the North Atlantic area, and the emerging ballistic missile and cruise missile threat affecting the North Atlantic area;

(iii) the identification of alternative system architectures for the deployment of a NATO missile defense for the entire territory of all NATO members that would be capable of countering the threat posed by emerging ballistic and cruise missile systems in countries other than declared nuclear powers, as well as in countries that are existing nuclear powers, together with timetables for development and an estimate of costs.

SMITH EXECUTIVE AMENDMENT NO. 2328

Mr. SMITH of New Hampshire proposed an amendment to the resolution of ratification for the treaty (Treaty Doc. No. 105-36) protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic. These protocols were opened for signature at Brussels on December 16, 1997, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty; as follows:

At the appropriate place in section 3 of the resolution, insert the following:

( ) LEGISLATIVE ACTION REGARDING DEPLOYMENTS IN BOSNIA AND HERZEGOVINA.—Prior to the deposit of the United States instrument of ratification, the Senate and the House of Representatives shall each have taken a vote on legislation that, if enacted, would contain specific authorization for the continued deployment of the United States Armed Forces in Bosnia and Herzegovina as part of the NATO mission in that country.

AMENDMENTS SUBMITTED ON MAY 1, 1998

THE WORKFORCE INVESTMENT PARTNERSHIP ACT OF 1998

JEFFORDS (AND OTHERS) AMENDMENT NO. 2329

Mr. JEFFORDS (for himself, Mr. DEWINE, Mr. KENNEDY, and Mr. WELLSTONE) proposed an amendment to the bill (S. 1186) to provide for education and training, and for other purposes; as follows:

On page 398, beginning with line 4, strike all through page 796, line 18, and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Workforce Investment Partnership Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—VOCATIONAL, TECHNOLOGICAL, AND TECH-PREP EDUCATION

Sec. 101. Short title.
Sec. 102. Findings and purpose.
Sec. 103. Voluntary selection and participation.
Sec. 104. Construction.

Subtitle A—Vocational Education

Chapter 1—Federal Provisions

Sec. 111. Reservations and State allotment.
Sec. 112. Performance measures and expected levels of performance.
Sec. 113. Assistance for the outlying areas.
Sec. 114. Indian and Hawaiian Native programs.
Sec. 115. Tribally controlled postsecondary vocational institutions.
Sec. 116. Incentive grants.

Chapter 2—State Provisions

Sec. 121. State administration.
Sec. 122. State use of funds.
Sec. 123. State leadership activities.
Sec. 124. State plan.

Chapter 3—Local Provisions

Sec. 131. Distribution for secondary school vocational education.
Sec. 132. Distribution for postsecondary vocational education.
Sec. 133. Local activities.
Sec. 134. Local application.
Sec. 135. Consortia.

Subtitle B—Tech-Prep Education

Sec. 151. Short title.
Sec. 152. Purposes.
Sec. 153. Definitions.
Sec. 154. Program authorized.
Sec. 155. Tech-prep education programs.
Sec. 156. Applications.
Sec. 157. Authorization of appropriations.

Subtitle C—General Provisions

Sec. 161. Administrative provisions.
Sec. 162. Evaluation, improvement, and accountability.
Sec. 163. National activities.
Sec. 164. National assessment of vocational education programs.
Sec. 165. National research center.
Sec. 166. Data systems.
Sec. 167. Promoting scholar-athlete competitions.
Sec. 168. Definition.

Subtitle D—Authorization of Appropriations

Sec. 171. Authorization of appropriations.

Subtitle E—Repeal

Sec. 181. Repeal.

TITLE II—ADULT EDUCATION AND LITERACY

Sec. 201. Short title.
Sec. 202. Findings and purpose.

Subtitle A—Adult Education and Literacy Programs

Chapter 1—Federal Provisions

Sec. 211. Reservation; grants to States; allotments.
Sec. 212. Performance measures and expected levels of performance.
Sec. 213. National leadership activities.

Chapter 2—State Provisions

Sec. 221. State administration.
Sec. 222. State distribution of funds; State share.
Sec. 223. State leadership activities.
Sec. 224. State plan.
Sec. 225. Programs for corrections education and other institutionalized individuals.

Chapter 3—Local Provisions

Sec. 231. Grants and contracts for eligible providers.
Sec. 232. Local application.
Sec. 233. Local administrative cost limits.

Chapter 4—General Provisions

Sec. 241. Administrative provisions.
Sec. 242. Priorities and preferences.
Sec. 243. Incentive grants.
Sec. 244. Evaluation, improvement, and accountability.
Sec. 245. National Institute for Literacy.
Sec. 246. Authorization of appropriations.

Subtitle B—Repeal

Sec. 251. Repeal.

TITLE III—WORKFORCE INVESTMENT AND RELATED ACTIVITIES

Subtitle A—Workforce Investment Activities

Chapter 1—Allotments to States for Adult Employment and Training Activities, Dislocated Worker Employment and Training Activities, and Youth Activities

Sec. 301. General authorization.
Sec. 302. State allotments.
Sec. 303. Statewide partnership.
Sec. 304. State plan.

Chapter 2—Allocations to Local Workforce Investment Areas

Sec. 306. Within State allocations.
Sec. 307. Local workforce investment areas.
Sec. 308. Local workforce investment partnerships and youth partnerships.
Sec. 309. Local plan.

Chapter 3—Workforce Investment Activities and Providers

Sec. 311. Identification and oversight of one-stop partners and one-stop customer service center operators.
Sec. 312. Determination and identification of eligible providers of training services by program.
Sec. 313. Identification of eligible providers of youth activities.
Sec. 314. Statewide workforce investment activities.
Sec. 315. Local employment and training activities.
Sec. 316. Local youth activities.

Chapter 4—General Provisions

Sec. 321. Accountability.
Sec. 322. Authorization of appropriations.

Subtitle B—Job Corps

Sec. 331. Purposes.
Sec. 332. Definitions.
Sec. 333. Establishment.
Sec. 334. Individuals eligible for the Job Corps.
Sec. 335. Recruitment, screening, selection, and assignment of enrollees.
Sec. 336. Enrollment.
Sec. 337. Job Corps centers.
Sec. 338. Program activities.
Sec. 339. Counseling and job placement.
Sec. 340. Support.
Sec. 341. Operating plan.
Sec. 342. Standards of conduct.
Sec. 343. Community participation.
Sec. 344. Industry councils.
Sec. 345. Advisory committees.
Sec. 346. Experimental, research, and demonstration projects.
Sec. 347. Application of provisions of Federal law.
Sec. 348. Special provisions.
Sec. 349. Management information.
Sec. 350. General provisions.
Sec. 351. Authorization of appropriations.

Subtitle C—National Programs

Sec. 361. Native American programs.
Sec. 362. Migrant and seasonal farmworker programs.
Sec. 363. Veterans' workforce investment programs.
Sec. 364. Youth opportunity grants.
Sec. 365. Incentive grants.
Sec. 366. Technical assistance.
Sec. 367. Demonstration, pilot, multiservice, research, and multistate projects.
Sec. 368. Evaluations.
Sec. 369. National emergency grants.
Sec. 370. Authorization of appropriations.

Subtitle D—Administration

Sec. 371. Requirements and restrictions.
Sec. 372. Prompt allocation of funds.
Sec. 373. Monitoring.
Sec. 374. Fiscal controls; sanctions.
Sec. 375. Reports; recordkeeping; investigations.
Sec. 376. Administrative adjudication.
Sec. 377. Judicial review.
Sec. 378. Nondiscrimination.
Sec. 379. Administrative provisions.
Sec. 380. State legislative authority.
Sec. 381. Workforce flexibility partnership plans.
Sec. 382. Use of certain real property.
Sec. 383. Continuation of State activities and policies.

Subtitle E—Repeals and Conforming Amendments

Sec. 391. Repeals.
Sec. 392. Conforming amendments.
Sec. 393. Effective dates.

TITLE IV—WORKFORCE INVESTMENT-RELATED ACTIVITIES

Subtitle A—Wagner-Peyser Act

Sec. 401. Definitions.
Sec. 402. Functions.
Sec. 403. Designation of State agencies.
Sec. 404. Appropriations.
Sec. 405. Disposition of allotted funds.
Sec. 406. State plans.
Sec. 407. Repeal of Federal advisory council.
Sec. 408. Regulations.
Sec. 409. Labor market information.
Sec. 410. Technical amendments.

Subtitle B—Linkages With Other Programs

Sec. 421. Trade Act of 1974.
Sec. 422. Veterans' employment programs.
Sec. 423. Older Americans Act of 1965.

Subtitle C—Twenty-First Century Workforce Commission

Sec. 431. Short title.
Sec. 432. Findings.
Sec. 433. Definitions.
Sec. 434. Establishment of Twenty-First Century Workforce Commission.
Sec. 435. Duties of the Commission.
Sec. 436. Powers of the Commission.
Sec. 437. Commission personnel matters.
Sec. 438. Termination of the Commission.
Sec. 439. Authorization of appropriations.

TITLE V—GENERAL PROVISIONS

Sec. 501. State unified plan.
Sec. 502. Definitions for core indicators of performance.
Sec. 503. Transition provisions.
Sec. 504. Privacy.

Sec. 505. Effective date.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADULT.—In paragraph (14) and title III (other than section 302), the term "adult" means an individual who is age 22 or older.

(2) ADULT EDUCATION.—The term "adult education" means services or instruction below the postsecondary level for individuals—

(A) who have attained 16 years of age or who are beyond the age of compulsory school attendance under State law;

(B) who are not enrolled in secondary school; and

(C) who—

(i) lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

(ii) do not possess a secondary school diploma or its recognized equivalent; or

(iii) are unable to speak, read, or write the English language.

(3) AREA VOCATIONAL EDUCATION SCHOOL.—The term "area vocational education school" means—

(A) a specialized public secondary school used exclusively or principally for the provision of vocational education for individuals who seek to study and prepare for entering the labor market;

(B) the department of a public secondary school exclusively or principally used for providing vocational education in not fewer than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

(C) a public or nonprofit technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who—

(i)(I) have completed public secondary school; or

(II) have left public secondary school; and

(ii) seek to study and prepare for entering the labor market; or

(D) the department or division of a junior college, community college, or university that—

(i) operates under the policies of the appropriate State agency that oversees postsecondary education and is approved under subpart 2 of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099b et seq.); and

(ii) provides vocational education in not fewer than 5 different occupational fields leading to immediate employment but not necessarily leading to a degree; and

(iii) admits as regular students both individuals who have completed public secondary school and individuals who have left public secondary school.

(4) CHIEF ELECTED OFFICIAL.—The term "chief elected official" means—

(A) the chief elected executive officer of a unit of general local government in a local area; and

(B) in a case in which a local area includes more than 1 unit of general local government, the individuals designated under the agreement described in section 308(d)(1)(B)(i).

(5) DISADVANTAGED ADULT.—In title III, and except as provided in section 302, the term "disadvantaged adult" means an adult who is a low-income individual.

(6) DISLOCATED WORKER.—The term "dislocated worker" means an individual who—

(A)(i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment;

(ii)(I) is eligible for or has exhausted entitlement to unemployment compensation; or

(II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop customer service center, attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and

(iii) is unlikely to return to a previous industry or occupation;

(B)(i) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;

(ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or

(iii) for purposes of eligibility to receive services under title III other than training services described in section 315(c)(3), intensive services, or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;

(C) was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters; or

(D) is a displaced homemaker.

(7) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who has been providing unpaid services to family members in the home and who—

(A) has been dependent on the income of another family member but is no longer supported by that income; and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(8) ECONOMIC DEVELOPMENT AGENCIES.—The term "economic development agencies" includes local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible for regulating, promoting, or assisting in local economic development.

(9) EDUCATIONAL SERVICE AGENCY.—The term "educational service agency" means a regional public multiservice agency authorized by State statute to develop and manage a service or program, and provide the service or program to a local educational agency.

(10) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY.—The terms "elementary school" and "local educational agency" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(11) ELIGIBLE AGENCY.—The term "eligible agency" in the case of vocational education, or adult education and literacy, activities or requirements described in this Act, means the sole entity or agency in a State or an outlying area responsible for administering or supervising policy for vocational education, or adult education and literacy, respectively, in the State or outlying area, respectively, consistent with the law of the State or outlying area, respectively.

(12) ELIGIBLE INSTITUTION.—In title I, the term "eligible institution" means—

(A) an institution of higher education;

(B) a local educational agency providing education at the postsecondary level;

(C) an area vocational education school providing education at the postsecondary level;

(D) a postsecondary educational institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.); and

(E) a consortium of 2 or more of the entities described in subparagraphs (A) through (D).

(13) ELIGIBLE PROVIDER.—The term "eligible provider"—

(A) in title II, means—

(i) a local educational agency;

(ii) a community-based organization;

(iii) an institution of higher education;

(iv) a public or private nonprofit agency;

(v) a consortium of such agencies, organizations, or institutions; or

(vi) a library; and

(B) in title III, used with respect to—

(i) training services (other than on-the-job training), means a provider who is identified in accordance with section 312;

(ii) youth activities, means a provider who is awarded a grant in accordance with section 313; or

(iii) other workforce investment activities, means a public or private entity selected to be responsible for such activities, in accordance with subtitle A of title III, such as a one-stop customer service center operator designated or certified under section 311.

(14) EMPLOYMENT AND TRAINING ACTIVITY.—The term "employment and training activity" means an activity described in section 314(b)(1) or subsection (c)(1) or (d) of section 315, carried out for an adult or dislocated worker.

(15) ENGLISH LITERACY PROGRAM.—The term "English literacy program" means a program of instruction designed to help individuals of limited English proficiency achieve competence in the English language.

(16) GOVERNOR.—The term "Governor" means the chief executive officer of a State.

(17) INDIVIDUAL WITH A DISABILITY.—

(A) IN GENERAL.—The term "individual with a disability" means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(B) INDIVIDUALS WITH DISABILITIES.—The term "individuals with disabilities" means more than 1 individual with a disability.

(18) INDIVIDUAL OF LIMITED ENGLISH PROFICIENCY.—The term "individual of limited English proficiency" means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

(A) whose native language is a language other than English; or

(B) who lives in a family or community environment where a language other than English is the dominant language.

(19) INSTITUTION OF HIGHER EDUCATION.—Except for purposes of subtitle B of title I, the term "institution of higher education" means an institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(20) LITERACY.—

(A) IN GENERAL.—The term "literacy" means an individual's ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job and in society.

(B) WORKPLACE LITERACY PROGRAM.—The term "workplace literacy program" means a program of literacy activities that is offered for the purpose of improving the productivity of the workforce through the improvement of literacy skills.

(21) LOCAL AREA.—In paragraph (4) and title III, the term "local area" means a local

workforce investment area designated under section 307.

(22) LOCAL PARTNERSHIP.—In title III, the term "local partnership" means a local workforce investment partnership established under section 308(a).

(23) LOCAL PERFORMANCE MEASURE.—The term "local performance measure" means a performance measure established under section 321(c).

(24) LOW-INCOME INDIVIDUAL.—In paragraph (51) and title III, the term "low-income individual" means an individual who—

(A) receives, or is a member of a family that receives, cash payments under a Federal, State, or local income-based public assistance program;

(B) received an income, or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, payments described in subparagraph (A), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)) that, in relation to family size, does not exceed the higher of—

(i) the poverty line, for an equivalent period; or

(ii) 70 percent of the lower living standard income level, for an equivalent period;

(C) is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(D) qualifies as a homeless individual, as defined in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302);

(E) is a foster child on behalf of whom State or local government payments are made; or

(F) in cases permitted by regulations of the Secretary of Labor, is an individual with a disability whose own income meets the requirements of a program described in subparagraph (A) or of subparagraph (B), but who is a member of a family whose income does not meet such requirements.

(25) LOWER LIVING STANDARD INCOME LEVEL.—The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor based on the most recent lower living family budget issued by the Secretary of Labor.

(26) NONTRADITIONAL EMPLOYMENT.—In titles I and III, the term "nontraditional employment" refers to occupations or fields of work for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

(27) ON-THE-JOB TRAINING.—The term "on-the-job training" means training in the public or private sector that is provided to a paid participant while engaged in productive work in a job that—

(A) provides knowledge or skills essential to the full and adequate performance of the job;

(B) provides reimbursement to employers of up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and

(C) is limited in duration as appropriate to the occupation for which the participant is being trained.

(28) OUT-OF-SCHOOL YOUTH.—The term "out-of-school youth" means—

(A) a youth who is a school dropout; or

(B) a youth who has received a secondary school diploma or its equivalent but is basic literacy skills deficient, unemployed, or underemployed.

(29) OUTLYING AREA.—The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(30) PARTICIPANT.—The term "participant", used with respect to an activity carried out under title III, means an individual participating in the activity.

(31) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term "postsecondary educational institution" means—

(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

(B) a tribally controlled community college; or

(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

(32) POVERTY LINE.—The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(33) PUBLIC ASSISTANCE.—In title III, the term "public assistance" means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.

(34) RAPID RESPONSE ACTIVITY.—In title III, the term "rapid response activity" means an activity provided by a State, or by an entity designated by a State, with funds provided by the State under section 306(a)(2), in the case of a permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster, that results in mass job dislocation, in order to assist dislocated workers in obtaining reemployment as soon as possible, with services including—

(A) the establishment of onsite contact with employers and employee representatives—

(i) immediately after the State is notified of a current or projected permanent closure or mass layoff; or

(ii) in the case of a disaster, immediately after the State is made aware of mass job dislocation as a result of such disaster;

(B) the provision of information and access to available employment and training activities;

(C) assistance in establishing a labor-management committee, voluntarily agreed to by labor and management, with the ability to devise and implement a strategy for assessing the employment and training needs of dislocated workers and obtaining services to meet such needs;

(D) the provision of emergency assistance adapted to the particular closure, layoff, or disaster; and

(E) the provision of assistance to the local community in developing a coordinated response and in obtaining access to State economic development assistance.

(35) SCHOOL DROPOUT.—The term "school dropout" means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

(36) SECONDARY SCHOOL.—The term "secondary school" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), except that the term does not include education below grade 9.

(37) SECRETARY.—

(A) TITLES I AND II.—In titles I and II, the term "Secretary" means the Secretary of Education.

(B) TITLE III.—In title III, the term "Secretary" means the Secretary of Labor.

(38) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(39) STATE EDUCATIONAL AGENCY.—The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary or secondary schools, or, if there is no such agency or officer, an agency or officer designated by the Governor or by State law.

(40) STATE PERFORMANCE MEASURE.—In title III, the term "State performance measure" means a performance measure established under section 321(b).

(41) STATEWIDE PARTNERSHIP.—The term "statewide partnership" means a partnership established under section 303.

(42) SUPPORTIVE SERVICES.—

(A) TITLE I.—In title I, the term "supportive services" means services related to curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

(B) TITLE III.—In title III, the term "supportive services" means services such as transportation, child care, dependent care, housing, and needs-based payments, that are necessary to enable an individual to participate in employment and training activities or youth activities.

(43) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" means an institution that receives assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.).

(44) UNIT OF GENERAL LOCAL GOVERNMENT.—In title III, the term "unit of general local government" means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(45) VETERAN; RELATED DEFINITIONS.—

(A) VETERAN.—The term "veteran" means an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable.

(B) RECENTLY SEPARATED VETERAN.—The term "recently separated veteran" means any veteran who applies for participation under title III within 48 months of the discharge or release from active military, naval, or air service.

(46) VOCATIONAL EDUCATION.—The term "vocational education" means organized education that—

(A) offers a sequence of courses that provides individuals with the academic and technological knowledge and skills the individuals need to prepare for further education and for careers (other than careers requiring a baccalaureate, master's, or doctoral degree) in current or emerging employment sectors; and

(B) includes competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technological skills, and occupation-specific skills, of an individual.

(47) VOCATIONAL REHABILITATION PROGRAM.—The term "vocational rehabilitation program" means a program assisted under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

(48) VOCATIONAL STUDENT ORGANIZATION.—

(A) IN GENERAL.—The term "vocational student organization" means an organization for individuals enrolled in a vocational education program.

(B) STATE AND NATIONAL UNITS.—An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in vocational education at the local level.

(49) WELFARE RECIPIENT.—The term "welfare recipient" means a person receiving payments described in paragraph (24)(A).

(50) WORKFORCE INVESTMENT ACTIVITY.—The term "workforce investment activity" means an employment and training activity, a youth activity, and an activity described in section 314.

(51) YOUTH.—In paragraph (52) and title III (other than section 302 and subtitles B and C of such title), the term "youth" means an individual who—

(A) is not less than age 14 and not more than age 21;

(B) is a low-income individual; and

(C) an individual who is 1 or more of the following:

(i) Deficient in basic literacy skills.

(ii) A school dropout.

(iii) Homeless, a runaway, or a foster child.

(iv) Pregnant or a parent.

(v) An offender.

(vi) An individual who requires additional assistance to complete an educational program, or to secure and hold employment.

(52) YOUTH ACTIVITY.—The term "youth activity" means an activity described in section 316, carried out for youth.

(53) YOUTH PARTNERSHIP.—The term "youth partnership" means a partnership established under section 308(i).

TITLE I—VOCATIONAL, TECHNOLOGICAL, AND TECH-PREP EDUCATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in order to be successful workers, citizens, and learners in the 21st century, individuals will need—

(A) a combination of strong basic and advanced academic skills;

(B) computer and other technical skills;

(C) theoretical knowledge;

(D) communications, problem-solving, teamwork, and employability skills; and

(E) the ability to acquire additional knowledge and skills throughout a lifetime;

(2) students participating in vocational education can achieve challenging academic and technical skills, and may learn better and retain more, when the students learn in context, learn by doing, and have an opportunity to learn and understand how academic, vocational, and technological skills are used outside the classroom;

(3)(A) many high school graduates in the United States do not complete a rigorous course of study that prepares the graduates for completing a 2-year or 4-year college degree or for entering high-skill, high-wage careers;

(B) adult students are an increasingly diverse group and often enter postsecondary education unprepared for academic and technical work; and

(C) certain individuals often face great challenges in acquiring the knowledge and skills needed for successful employment;

(4) community colleges, technical colleges, and area vocational education schools are offering adults a gateway to higher education, and access to quality certificates and degrees that increase their skills and earnings, by—

(A) ensuring that the academic, vocational, and technological skills gained by students adequately prepare the students for the workforce; and

(B) enhancing connections with employers and 4-year institutions of higher education;

(5) local, State, and national programs supported under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) (as such Act was in effect on the day before the date of enactment of this Act) have assisted many students in obtaining technical, academic, and employability skills, and tech-prep education;

(6) the Federal Government can assist States and localities by carrying out nationally significant research, program development, demonstration, dissemination, evaluation, data collection, professional development, and technical assistance activities that support State and local efforts regarding vocational education; and

(7) through a performance partnership with States and localities based on clear programmatic goals, increased State and local flexibility, improved accountability, and performance measures, the Federal Government will provide to States and localities financial assistance for the improvement and expansion of vocational education for students participating in vocational education.

(b) PURPOSE.—The purpose of this title is to make the United States more competitive in the world economy by developing more fully the academic, technological, vocational, and employability skills of secondary students and postsecondary students who elect to enroll in vocational education programs, by—

(1) building on the efforts of States and localities to develop challenging academic standards;

(2) promoting the development of services and activities that integrate academic, vocational, and technological instruction, and that link secondary and postsecondary education for participating vocational education students;

(3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve vocational education, including tech-prep education; and

(4) disseminating national research, and providing professional development and technical assistance, that will improve vocational education programs, services, and activities.

SEC. 103. VOLUNTARY SELECTION AND PARTICIPATION.

No funds made available under this title shall be used—

(1) to require any secondary school student to choose or pursue a specific career path or major; and

(2) to mandate that any individual participate in a vocational education program, including a vocational education program that requires the attainment of a federally funded skill level or standard.

SEC. 104. CONSTRUCTION.

Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law. This section shall not be construed to bar students attending private, religious, or home schools from participation in programs or services under this Act.

Subtitle A—Vocational Education

CHAPTER 1—FEDERAL PROVISIONS

SEC. 111. RESERVATIONS AND STATE ALLOTMENT.

(a) RESERVATIONS AND STATE ALLOTMENT.—

(1) RESERVATIONS.—From the sum appropriated under section 171 for each fiscal year, the Secretary shall reserve—

(A) 0.2 percent to carry out section 113;

(B) 1.80 percent to carry out sections 114 and 115, of which—

(i) 1.25 percent of the sum shall be available to carry out section 114(b);

(ii) 0.25 percent of the sum shall be available to carry out section 114(c); and

(iii) 0.30 percent of the sum shall be available to carry out section 115; and

(C) 1.3 percent to carry out sections 116, 163, 164, 165, and 166, of which not less than 0.65 percent of the sum shall be available to carry out section 116 for each of the fiscal years 2001 through 2005.

(2) STATE ALLOTMENT FORMULA.—Subject to paragraphs (3) and (4), from the remainder of the sums appropriated under section 171 and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year—

(A) an amount that bears the same ratio to 50 percent of the sums being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount that bears the same ratio to 20 percent of the sums being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount that bears the same ratio to 15 percent of the sums being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount that bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

(3) MINIMUM ALLOTMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraphs (B) and (C), and paragraph (4), no State shall receive for a fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 171 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

(B) REQUIREMENT.—Due to the application of subparagraph (A), for any fiscal year, no State shall receive more than 150 percent of the amount the State received under this subsection for the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act).

(C) Special rule.—

(i) In general.—Subject to paragraph (4), no State, by reason of subparagraph (A), shall be allotted for a fiscal year more than the lesser of—

(I) 150 percent of the amount that the State received in the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act); and

(II) the amount calculated under clause (ii).

(ii) Amount.—The amount calculated under this clause shall be determined by multiplying—

(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

(II) 150 percent of the national average per pupil payment made with funds available under this section for that year (or in the case of fiscal year 1999, only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act).

(4) Hold harmless.—

(A) In general.—No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311 et seq.) (as such part was in effect on the day before the date of enactment of this Act) for fiscal year 1997.

(B) Ratable reduction.—If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

(b) Reallotment.—If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which the funds were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State's allotment for the year in which the amount is obligated.

(c) Allotment Ratio.—

(1) In general.—The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico and the United States Virgin Islands), except that—

(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

(ii) the allotment ratio for the Commonwealth of Puerto Rico and the United States Virgin Islands shall be 0.60.

(2) Promulgation.—The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

(3) Definition of per capita income.—For the purpose of this section, the term "per capita income" means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) Population determination.—For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

(d) Definition of State.—For the purpose of this section, the term "State" means each of the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, and the United States Virgin Islands.

SEC. 112. PERFORMANCE MEASURES AND EXPECTED LEVELS OF PERFORMANCE.

(a) Publication of Performance Measures.—

(1) In general.—The Secretary shall publish the following performance measures to assess the progress of each eligible agency:

(A) Student attainment of academic skills.

(B) Student attainment of job readiness skills.

(C) Student attainment of vocational skill proficiencies for students in vocational education programs, that are necessary for the receipt of a secondary school diploma or its recognized equivalent, or a secondary school skill certificate.

(D) Receipt of a postsecondary degree or certificate.

(E) Retention in, and completion of, secondary school education (as determined under State law), placement in, retention in, and completion of postsecondary education, employment, or military service.

(F) Participation in and completion of vocational education programs that lead to nontraditional employment.

(2) Special rule.—The Secretary shall establish 1 set of performance measures for students served under this title, including populations described in section 124(c)(16).

(b) Expected Levels of Performance.—In developing a State plan, each eligible agency shall negotiate with the Secretary the expected levels of performance for the performance measures described in subsection (a).

SEC. 113. ASSISTANCE FOR THE OUTLYING AREAS.

(a) In General.—From the funds reserved under section 111(a)(1)(A), the Secretary—

(1) shall award a grant in the amount of $500,000 to Guam for vocational education and training for the purpose of providing direct educational services related to vocational education, including—

(A) teacher and counselor training and retraining;

(B) curriculum development; and

(C) improving vocational education programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education; and

(2) shall award a grant in the amount of $190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands for vocational education for the purpose described in paragraph (1).

(b) Special Rule.—

(1) In general.—From funds reserved under section 111(a)(1)(A) and not awarded under subsection (a), the Secretary shall make available the amount awarded to the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act (as such section was in effect on the day before the date of enactment of this Act) to award grants under the succeeding sentence. From the amount made available under the preceding sentence, the Secretary shall award grants, to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau for the purpose described in subsection (a)(1).

(2) Award basis.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) Termination of eligibility.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this title for any fiscal year that begins after September 30, 2004.

(4) Administrative costs.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

SEC. 114. INDIAN AND HAWAIIAN NATIVE PROGRAMS.

(a) Definitions; Authority of Secretary.—

(1) Definitions.—For the purpose of this section—

(A) the term "Act of April 16, 1934" means the Act entitled "An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.);

(B) the term "Bureau funded school" has the meaning given the term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026);

(C) the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii; and

(D) the terms "Indian" and "Indian tribe" have the meanings given the terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801).

(2) Authority.—From the funds reserved pursuant to section 111(a)(1)(B), the Secretary shall award grants and enter into contracts for Indian and Hawaiian native programs in accordance with this section, except that such programs shall not include secondary school programs in Bureau funded schools.

(b) Indian Programs.—

(1) Authority.—

(A) In general.—Except as provided in subparagraph (B), from the funds reserved pursuant to section 111(a)(1)(B)(i), the Secretary is directed—

(i) upon the request of any Indian tribe, or a tribal organization serving an Indian tribe, which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under the Act of April 16, 1934; or

(ii) upon an application received from a Bureau funded school offering postsecondary or adult education programs filed at such time and under such conditions as the Secretary may prescribe,

to make grants to or enter into contracts with any Indian tribe or tribal organization, or to make a grant to such Bureau funded school, as appropriate, to plan, conduct, and administer programs or portions of programs authorized by, and consistent with the purpose of, this title.

(B) Requirements.—The grants or contracts described in subparagraph (A), shall be subject to the following:

(i) Tribes and tribal organizations.—Such grants or contracts with any tribes or tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this subsection.

(ii) Bureau funded schools.—Such grants to Bureau funded schools shall not be subject to the requirements of the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or the Act of April 16, 1934.

(C) Regulations.—If the Secretary promulgates any regulations applicable to subparagraph (B), the Secretary shall—

(i) confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members; and

(ii) promulgate the regulations under subchapter III of chapter 5 of title 5, United States Code, commonly known as the "Negotiated Rulemaking Act of 1990".

(D) Application.—Any Indian tribe, tribal organization, or Bureau funded school eligible to receive assistance under this paragraph may apply individually or as part of a consortium with another such Indian tribe, tribal organization, or Bureau funded school.

(E) Performance measures and evaluation.—Any Indian tribe, tribal organization, or Bureau funded school that receives assistance under this section shall—

(i) establish performance measures and expected levels of performance to be achieved by students served under this section; and

(ii) evaluate the quality and effectiveness of activities and services provided under this subsection.

(F) Minimum.—In the case of a Bureau funded school, the minimum amount of a grant awarded or contract entered into under this section shall be $35,000.

(G) Restrictions.—The Secretary may not place upon grants awarded or contracts entered into under this paragraph any restrictions relating to programs other than restrictions that apply to grants made to or contracts entered into with States pursuant to allotments under section 111(a). The Secretary, in awarding grants and entering into contracts under this paragraph, shall ensure that the grants and contracts will improve vocational education programs, and shall give special consideration to—

(i) grants or contracts which involve, coordinate with, or encourage tribal economic development plans; and

(ii) applications from tribally controlled community colleges that—

(I) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

(II) operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization, and issue certificates for completion of vocational education programs.

(H) Stipends.—

(i) In general.—Funds received pursuant to grants or contracts described in subparagraph (A) may be used to provide stipends to students who are enrolled in vocational education programs and who have acute economic needs which cannot be met through work-study programs.

(ii) Amount.—Stipends described in clause (i) shall not exceed reasonable amounts as prescribed by the Secretary.

(2) Matching.—If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities administered either directly by, or under contract with, the Bureau of Indian Affairs, except that in no year shall funding for such programs, services, and activities be provided from accounts and programs that support other Indian education programs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall prepare jointly a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of the funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

(3) Special rule.—Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this Act.

(c) Hawaiian Native Programs.—From the funds reserved pursuant to section 111(a)(1)(B)(ii), the Secretary shall award grants or enter into contracts, with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii, for the planing, conduct, or administration of programs, or portions thereof, that are described in this title and consistent with the purpose of this title, for the benefit of Hawaiian natives.

SEC. 115. TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS.

(a) In General.—It is the purpose of this section to provide grants for the operation and improvement of tribally controlled postsecondary vocational institutions to ensure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(b) Grants Authorized.—

(1) In general.—From the funds reserved pursuant to section 111(a)(1)(B)(iii), the Secretary shall make grants to tribally controlled postsecondary vocational institutions to provide basic support for the vocational education and training of Indian students.

(2) Amount of grants.—

(A) In general.—If the sum appropriated for any fiscal year for grants under this section is not sufficient to pay in full the total amount that approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant that received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

(B) Per capita determination.—For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational institutions under this part for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

(c) Eligible Grant Recipients.—To be eligible for assistance under this section a tribally controlled postsecondary vocational institution shall—

(1) be governed by a board of directors or trustees, a majority of whom are Indians;

(2) demonstrate adherence to stated goals, a philosophy, or a plan of operation which fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(3) have been in operation for at least 3 years;

(4) hold accreditation with or be a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational education; and

(5) enroll the full-time equivalency of not less than 100 students, of whom a majority are Indians.

(d) Grant Requirements.—

(1) Applications.—Any tribally controlled postsecondary vocational institution that desires to receive a grant under this section shall submit an application to the Secretary. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this section that will allow the Secretary to audit and monitor programs.

(2) Number.—The Secretary shall award not less than 2 grants under this section for each fiscal year.

(3) Consultation.—In awarding grants under this section, the Secretary shall, to the extent practicable, consult with the boards of trustees of, and the tribal governments chartering, the institutions desiring the grants.

(4) Limitation.—Amounts made available through grants under this section shall not be used in connection with religious worship or sectarian instruction.

(e) Uses of Grants.—

(1) In general.—The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary vocational institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section; and

(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

(2) Accounting.—Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

(f) Effect on Other Programs.—

(1) In general.—Except as specifically provided in this Act, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary vocational institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) or any other applicable program for the benefit of institutions of higher education or vocational education.

(2) Prohibition on alteration of grant amount.—The amount of any grant for which tribally controlled postsecondary vocational institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921 (commonly known as the "Snyder Act") (42 Stat. 208, chapter 115; 25 U.S.C. 13).

(3) Prohibition on contract denial.—No tribally controlled postsecondary vocational institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under such Act of November 2, 1921, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(g) Needs Estimate and Report on Facilities and Facilities Improvement.—

(1) Needs estimate.—The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this section, and in consideration of employment needs, economic development needs, population training needs, and facilities needs, prepare an actual budget needs estimate for each institution eligible under this section for each subsequent program year, and submit such budget needs estimate to Congress in such a timely manner as will enable the appropriate committees of Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions. Such data shall take into account the goals and requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105).

(2) Study of training and housing needs.—

(A) In general.—The Secretary shall conduct a detailed study of the training, housing, and immediate facilities needs of each institution eligible under this section. The study shall include an examination of—

(i) training equipment needs;

(ii) housing needs of families whose heads of households are students and whose dependents have no alternate source of support while such heads of households are students; and

(iii) immediate facilities needs.

(B) Report.—The Secretary shall report to Congress not later than July 1, 1999, on the results of the study required by subparagraph (A).

(C) Contents.—The report required by subparagraph (B) shall include the number, type, and cost of meeting the needs described in subparagraph (A), and rank each institution by relative need.

(D) Priority.—In conducting the study required by subparagraph (A), the Secretary shall give priority to institutions that are receiving assistance under this section.

(3) Long-term study of facilities.—

(A) In general.—The Secretary shall provide for the conduct of a long-term study of the facilities of each institution eligible for assistance under this section.

(B) Contents.—The study required by subparagraph (A) shall include a 5-year projection of training facilities, equipment, and housing needs and shall consider such factors as projected service population, employment, and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

(C) Submission.—The Secretary shall submit to Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on the date of enactment of this Act.

(h) Definitions.—For the purposes of this section:

(1) Indian; indian tribe.—The terms "Indian" and "Indian tribe" have the meaning given such terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801).

(2) Tribally controlled postsecondary vocational institution.—The term "tribally controlled postsecondary vocational institution" means an institution of higher education that—

(A) is formally controlled, or has been formally sanctioned or chartered by the governing body of an Indian tribe or tribes; and

(B) offers technical degrees or certificate granting programs.

(3) Indian student count.—The term "Indian student count" means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary vocational institution, determined as follows:

(A) Registrations.—The registrations of Indian students as in effect on October 1 of each year.

(B) Summer term.—Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

(C) Admission criteria.—Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a secondary school diploma or its recognized equivalent shall be counted toward the computation of the Indian student count.

(D) Determination of hours.—Indian students earning credits in any continuing education program of a tribally controlled postsecondary vocational institution shall be included in determining the sum of all credit or clock hours.

(E) Continuing education.—Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution's system for providing credit for participation in such programs.

SEC. 116. INCENTIVE GRANTS.

(a) In General.—The Secretary may make grants to States that exceed the expected levels of performance for performance measures established under this Act.

(b) Use of Funds.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative vocational education, adult education and literacy, or workforce investment programs as determined by the State.

CHAPTER 2—STATE PROVISIONS

SEC. 121. STATE ADMINISTRATION.

Each eligible agency shall be responsible for the State administration of activities under this subtitle, including—

(1) the development, submission, and implementation of the State plan;

(2) the efficient and effective performance of the eligible agency's duties under this subtitle; and

(3) consultation with other appropriate agencies, groups, and individuals that are involved in the development and implementation of activities assisted under this subtitle, such as employers, parents, students, teachers, labor organizations, State and local elected officials, and local program administrators.

SEC. 122. STATE USE OF FUNDS.

(a) Reservations.—From funds allotted to each State under section 111(a) for each fiscal year, the eligible agency shall reserve—

(1) not more than 14 percent of the funds to carry out section 123;

(2) not more than 10 percent of the funds, or $300,000, whichever is greater, of which—

(A) $60,000 shall be available to provide technical assistance and advice to local educational agencies, postsecondary educational institutions, and other interested parties in the State for gender equity activities; and

(B) the remainder may be used to—

(i) develop the State plan;

(ii) review local applications;

(iii) monitor and evaluate program effectiveness;

(iv) provide technical assistance; and

(v) assure compliance with all applicable Federal laws, including required services and activities for individuals who are members of populations described in section 124(c)(16); and

(3) 1 percent of the funds, or the amount the State expended under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) for vocational education programs for criminal offenders for the fiscal year 1997, whichever is greater, to carry out programs for criminal offenders.

(b) Remainder.—From funds allotted to each State under section 111(a) for each fiscal year and not reserved under subsection (a), the eligible agency shall determine the portion of the funds that will be available to carry out sections 131 and 132.

(c) Matching Requirement.—Each eligible agency receiving funds under this subtitle shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(2).

SEC. 123. STATE LEADERSHIP ACTIVITIES.

(a) Mandatory.—Each eligible agency shall use the funds reserved under section 122(a)(1) to conduct programs, services, and activities that further the development, implementation, and improvement of vocational education within the State and that are integrated, to the maximum extent possible, with challenging State academic standards, including—

(1) providing comprehensive professional development (including initial teacher preparation) for vocational, academic, guidance, and administrative personnel, that—

(A) will help the teachers and personnel to assist students in meeting the expected levels of performance established under section 112;

(B) reflects the eligible agency's assessment of the eligible agency's needs for professional development; and

(C) is integrated with the professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6001 et seq.);

(2) developing and disseminating curricula that are aligned, as appropriate, with challenging State academic standards, and vocational and technological skills;

(3) monitoring and evaluating the quality of, and improvement in, activities conducted with assistance under this subtitle;

(4) providing gender equity programs in secondary and postsecondary vocational education;

(5) supporting tech-prep education activities;

(6) improving and expanding the use of technology in instruction;

(7) supporting partnerships among local educational agencies, institutions of higher education, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve State academic standards, and vocational and technological skills; and

(8) serving individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities.

(b) Permissive.—Each eligible agency may use the funds reserved under section 122(a)(1) for—

(1) improving guidance and counseling programs that assist students in making informed education and vocational decisions;

(2) supporting vocational student organizations, especially with respect to efforts to increase the participation of students who are members of populations described in section 124(c)(16);

(3) providing vocational education programs for adults and school dropouts to complete their secondary school education; and

(4) providing assistance to students who have participated in services and activities under this subtitle in finding an appropriate job and continuing their education.

SEC. 124. STATE PLAN.

(a) State Plan.—

(1) In general.—Each eligible entity desiring assistance under this subtitle for any fiscal year shall prepare and submit to the Secretary a State plan for a 3-year period, together with such annual revisions as the eligible agency determines to be necessary.

(2) Coordination.—The period required by paragraph (1) shall be coordinated with the period covered by the State plan described in section 304.

(3) Hearing process.—The eligible agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups (including employers, labor organizations, and parents), an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the eligible agency's response to such recommendations shall be included with the State plan.

(b) Plan Development.—The eligible agency shall develop the State plan with representatives of secondary and postsecondary vocational education, parents, representatives of populations described in section 124(c)(16), and businesses, in the State and shall also consult the Governor of the State.

(c) Plan Contents.—The State plan shall include information that—

(1) describes the vocational education activities to be assisted that are designed to meet and reach the State performance measures;

(2) describes the integration of academic and technological education with vocational education;

(3) describes how the eligible agency will disaggregate data relating to students participating in vocational education in order to adequately measure the progress of the students;

(4) describes how the eligible agency will adequately address the needs of students in alternative education programs;

(5) describes how the eligible agency will provide local educational agencies, area vocational education schools, and eligible institutions in the State with technical assistance;

(6) describes how the eligible agency will encourage the participation of the parents of secondary school students who are involved in vocational education activities;

(7) identifies how the eligible agency will obtain the active participation of business, labor organizations, and parents in the development and improvement of vocational education activities carried out by the eligible agency;

(8) describes how vocational education relates to State and regional employment opportunities;

(9) describes the methods proposed for the joint planning and coordination of programs carried out under this subtitle with other Federal education programs;

(10) describes how funds will be used to promote gender equity in secondary and postsecondary vocational education;

(11) describes how funds will be used to improve and expand the use of technology in instruction;

(12) describes how funds will be used to serve individuals in State correctional institutions;

(13) describes how funds will be used effectively to link secondary and postsecondary education;

(14) describes how funds will be allocated and used at the secondary and postsecondary level, any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia;

(15) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this subtitle and the data the eligible agency reports to the Secretary are complete, accurate, and reliable;

(16) describes the eligible agency's program strategies for populations that include, at a minimum—

(A) low-income individuals, including foster children;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with other barriers to educational achievement, including individuals with limited English proficiency;

(17) describes how individuals who are members of the special populations described in subsection (c)(16)—

(A) will be provided with equal access to activities assisted under this title; and

(B) will not be discriminated against on the basis of their status as members of the special populations; and

(18) contains the description and information specified in paragraphs (9) and (17) of section 304(b) concerning the provision of services only for postsecondary students and school dropouts.

(d) Plan Approval.—

(1) In general.—The Secretary shall approve a State plan, or a revision to an approved State plan, only if the Secretary determines that—

(A) the State plan, or revision, respectively, meets the requirements of this section; and

(B) the State's performance measures and expected levels of performance under section 112 are sufficiently rigorous to meet the purpose of this title.

(2) Disapproval.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

(3) Peer review.—The Secretary shall establish a peer review process to make recommendations regarding approval of State plans.

(4) Timeframe.—A State plan shall be deemed approved if the Secretary has not responded to the eligible agency regarding the plan within 90 days of the date the Secretary receives the plan.

(e) Assurances.—A State plan shall contain assurances that the State will comply with the requirements of this title and the provisions of the State plan, and provide for such fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State under this title.

(f) Eligible Agency Report.—

(1) In general.—The eligible agency shall annually report to the Secretary regarding—

(A) the quality and effectiveness of the programs, services, and activities, assisted under this subtitle, based on the performance measures and expected levels of performance described in section 112; and

(B) the progress each population of individuals described in section 124(c)(16) is making toward achieving the expected levels of performance.

(2) Contents.—The eligible agency report also—

(A) shall include such information, in such form, as the Secretary may reasonably require, in order to ensure the collection of uniform data; and

(B) shall be made available to the public.

CHAPTER 3—LOCAL PROVISIONS

SEC. 131. DISTRIBUTION FOR SECONDARY SCHOOL VOCATIONAL EDUCATION.

(a) Allocation.—Except as otherwise provided in this section, each eligible agency shall distribute the portion of the funds made available for secondary school vocational education activities under section 122(b) for any fiscal year to local educational agencies within the State as follows:

(1) Seventy percent.—From 70 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received under such section by all local educational agencies in the State for such year.

(2) Twenty percent.—From 20 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with disabilities who have individualized education programs under section 614(d) of the Individuals With Disabilities Education Act (20 U.S.C. 1414(d)) served by such local educational agency for the preceding fiscal year bears to the total number of such students served by all local educational agencies in the State for such year.

(3) Ten percent.—From 10 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency for the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State for such year.

(b) Minimum Allocation.—

(1) In general.—Except as provided in paragraph (2), no local educational agency shall receive an allocation under subsection (a) unless the amount allocated to such agency under subsection (a) is not less than $25,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocation requirement of this paragraph.

(2) Waiver.—The eligible agency may waive the application of paragraph (1) for a local educational agency that is located in a rural, sparsely populated area.

(3) Reallocation.—Any amounts that are not allocated by reason of paragraph (1) or (2) shall be reallocated to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

(c) Limited Jurisdiction Agencies.—

(1) In general.—In applying the provisions of subsection (a), no eligible agency receiving assistance under this subtitle shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

(2) Special rule.—The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

(d) Allocations to Area Vocational Education Schools and Educational Service Agencies.—

(1) In general.—Each eligible agency shall distribute the portion of funds made available for any fiscal year by such entity for secondary school vocational education activities under section 122(b) to the appropriate area vocational education school or educational service agency in any case in which—

(A) the area vocational education school or educational service agency, and the local educational agency concerned—

(i) have formed or will form a consortium for the purpose of receiving funds under this section; or

(ii) have entered into or will enter into a cooperative arrangement for such purpose; and

(B)(i) the area vocational education school or educational service agency serves an approximately equal or greater proportion of students who are individuals with disabilities or are low-income than the proportion of such students attending the secondary schools under the jurisdiction of all of the local educational agencies sending students to the area vocational education school or the educational service agency; or

(ii) the area vocational education school, educational service agency, or local educational agency demonstrates that the vocational education school or educational service agency is unable to meet the criterion described in clause (i) due to the lack of interest by students described in clause (i) in attending vocational education programs in that area vocational education school or educational service agency.

(2) Allocation basis.—If an area vocational education school or educational service agency meets the requirements of paragraph (1), then—

(A) the amount that will otherwise be distributed to the local educational agency under this section shall be allocated to the area vocational education school, the educational service agency, and the local educational agency, based on each school's or agency's relative share of students described in paragraph (1)(B)(i) who are attending vocational education programs (based, if practicable, on the average enrollment for the prior 3 years); or

(B) such amount may be allocated on the basis of an agreement between the local educational agency and the area vocational education school or educational service agency.

(3) State determination.—

(A) In general.—For the purposes of this subsection, the eligible agency may determine the number of students who are low-income on the basis of—

(i) eligibility for—

(I) free or reduced-price meals under the National School Lunch Act (7 U.S.C. 1751 et seq.);

(II) assistance under a State program funded under part A of title IV of the Social Security Act;

(III) benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(IV) services under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); or

(ii) another index of economic status, including an estimate of such index, if the eligible agency demonstrates to the satisfaction of the Secretary that such index is a more representative means of determining such number.

(B) Data.—If an eligible agency elects to use more than 1 factor described in subparagraph (A) for purposes of making the determination described in such subparagraph, the eligible agency shall ensure that the data used is not duplicative.

(4) Appeals procedure.—The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium.

(5) Special rule.—Notwithstanding the provisions of paragraphs (1), (2), (3), and (4), any local educational agency receiving an allocation that is not sufficient to conduct a secondary school vocational education program of sufficient size, scope, and quality to be effective may—

(A) form a consortium or enter into a cooperative agreement with an area vocational education school or educational service agency offering secondary school vocational education programs of sufficient size, scope, and quality to be effective and that are accessible to students who are individuals with disabilities or are low-income, and are served by such local educational agency; and

(B) transfer such allocation to the area vocational education school or educational service agency.

(e) Special Rule.—Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

SEC. 132. DISTRIBUTION FOR POSTSECONDARY VOCATIONAL EDUCATION.

(a) Distribution.—

(1) In general.—Except as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available for postsecondary vocational education under section 122(b) for any fiscal year to eligible institutions within the State in accordance with paragraph (2).

(2) Allocation.—Each eligible institution in the State having an application approved under section 134 for a fiscal year shall be allocated an amount that bears the same relationship to the amount of funds made available for postsecondary vocational education under section 122(b) for the fiscal year as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled for the preceding fiscal year by such eligible institution in vocational education programs that do not exceed 2 years in duration bears to the number of such recipients enrolled in such programs within the State for such fiscal year.

(3) Special rule for consortia.—In order for a consortium described in section 2(12)(E) to receive assistance under this section, such consortium shall operate joint projects that—

(A) provide services to all postsecondary institutions participating in the consortium; and

(B) are of sufficient size, scope, and quality to be effective.

(4) Minimum allocation.—

(A) In general.—Except as provided in subparagraph (B), no eligible institution shall receive an allocation under paragraph (2) unless the amount allocated to the eligible institution under paragraph (2) is not less than $65,000.

(B) Waiver.—The eligible agency may waive the application of subparagraph (A) in any case in which the eligible institution is located in a rural, sparsely populated area.

(C) Reallocation.—Any amounts that are not allocated by reason of subparagraph (A) or (B) shall be reallocated to eligible institutions that meet the requirements of subparagraph (A) or (B) in accordance with the provisions of this section.

(5) Definition of Pell Grant Recipient.—The term "Pell Grant recipient" means a recipient of financial aid under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a).

(b) Alternative Allocation.—An eligible agency may allocate funds made available for postsecondary education under section 122(b) for a fiscal year using an alternative formula if the eligible agency demonstrates to the Secretary's satisfaction that—

(1) the alternative formula better meets the purpose of this title; and

(2)(A) the formula described in subsection (a) does not result in an allocation of funds to the eligible institutions that serve the highest numbers or percentages of low-income students; and

(B) the alternative formula will result in such a distribution.

SEC. 133. LOCAL ACTIVITIES.

(a) Mandatory.—Funds made available to a local educational agency or an eligible institution under this subtitle shall be used—

(1) to initiate, improve, expand, and modernize quality vocational education programs;

(2) to improve or expand the use of technology in vocational instruction, including professional development in the use of technology, which instruction may include distance learning;

(3) to provide services and activities that are of sufficient size, scope, and quality to be effective;

(4) to integrate academic education with vocational education for students participating in vocational education;

(5) to link secondary education (as determined under State law) and postsecondary education, including implementing tech-prep programs;

(6) to provide professional development activities to teachers, counselors, and administrators, including—

(A) inservice and preservice training in state-of-the-art vocational education programs;

(B) internship programs that provide business experience to teachers; and

(C) programs designed to train teachers specifically in the use and application of technology;

(7) to develop and implement programs that provide access to, and the supportive services needed to participate in, quality vocational education programs for students, including students who are members of the populations described in section 124(c)(16);

(8) to develop and implement performance management systems and evaluations; and

(9) to promote gender equity in secondary and postsecondary vocational education.

(b) Permissive.—Funds made available to a local educational agency or an eligible institution under this subtitle may be used—

(1) to carry out student internships;

(2) to provide guidance and counseling for students participating in vocational education programs;

(3) to provide vocational education programs for adults and school dropouts to complete their secondary school education;

(4) to acquire and adapt equipment, including instructional aids;

(5) to support vocational student organizations;

(6) to provide assistance to students who have participated in services and activities under this subtitle in finding an appropriate job and continuing their education; and

(7) to support other vocational education activities that are consistent with the purpose of this title.

SEC. 134. LOCAL APPLICATION.

(a) In General.—Each local educational agency or eligible institution desiring assistance under this subtitle shall submit an application to the eligible agency at such time, in such manner, and accompanied by such information as the eligible agency (in consultation with such other educational entities as the eligible agency determines to be appropriate) may require.

(b) Contents.—Each application shall, at a minimum—

(1) describe how the vocational education activities will be carried out pertaining to meeting the expected levels of performance;

(2) describe the process that will be used to independently evaluate and continuously improve the performance of the local educational agency or eligible institution, as appropriate;

(3) describe how the local educational agency or eligible institution, as appropriate, will plan and consult with students, parents, representatives of populations described in section 124(c)(16), businesses, labor organizations, and other interested individuals, in carrying out activities under this subtitle;

(4) describe how the local educational agency or eligible institution, as appropriate, will review vocational education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to the programs, for populations described in section 124(c)(16); and

(5) describe how individuals who are members of the special populations described in section 124(c)(16) will not be discriminated against on the basis of their status as members of the special populations.

SEC. 135. CONSORTIA.

A local educational agency and an eligible institution may form a consortium to carry out the provisions of this chapter if the sum of the amount the consortium receives for a fiscal year under sections 131 and 132 equals or exceeds $65,000.

Subtitle B—Tech-Prep Education

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Tech-Prep Education Act".

SEC. 152. PURPOSES.

The purposes of this subtitle are—

(1) to provide implementation grants to consortia of local educational agencies, postsecondary educational institutions, and employers or labor organizations, for the development and operation of programs designed to provide a tech-prep education program leading to a 2-year associate degree or a 2-year certificate;

(2) to provide, in a systematic manner, strong, comprehensive links among secondary schools, postsecondary educational institutions, and local or regional employers, or labor organizations; and

(3) to support the use of contextual, authentic, and applied teaching and curriculum based on each State's academic, occupational, and employability standards.

SEC. 153. DEFINITIONS.

(a) In this subtitle:

(1) Articulation Agreement.—The term "articulation agreement" means a written commitment to a program designed to provide students with a non duplicative sequence of progressive achievement leading to degrees or certificates in a tech-prep education program.

(2) Community College.—The term "community college"—

(A) has the meaning provided in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141) for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree; and

(B) includes tribally controlled community colleges.

(3) Tech-Prep Program.—The term "tech-prep program" means a program of study that—

(A) combines at a minimum 2 years of secondary education (as determined under State law) with a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study;

(B) integrates academic and vocational instruction, and utilizes work-based and worksite learning where appropriate and available;

(C) provides technical preparation in a career field such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, health occupations, business, or applied economics;

(D) builds student competence in mathematics, science, reading, writing, communications, economics, and workplace skills through applied, contextual academics, and integrated instruction, in a coherent sequence of courses;

(E) leads to an associate or a baccalaureate degree or a certificate in a specific career field; and

(F) leads to placement in appropriate employment or further education.

SEC. 154. PROGRAM AUTHORIZED.

(a) Discretionary Amounts.—

(1) In General.—For any fiscal year for which the amount appropriated under section 157 to carry out this subtitle is equal to or less than $50,000,000, the Secretary shall award grants for tech-prep education programs to consortia between or among—

(A) a local educational agency, an intermediate educational agency or area vocational education school serving secondary school students, or a secondary school funded by the Bureau of Indian Affairs; and

(B)(i) a nonprofit institution of higher education that offers—

(I) a 2-year associate degree program, or a 2-year certificate program, and is qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)), including an institution receiving assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and a tribally controlled postsecondary vocational institution; or

(II) a 2-year apprenticeship program that follows secondary instruction,

if such nonprofit institution of higher education is not prohibited from receiving assistance under part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) pursuant to the provisions of section 435(a)(3) of such Act (20 U.S.C. 1083(a)); or

(ii) a proprietary institution of higher education that offers a 2-year associate degree program and is qualified as an institution of higher education pursuant to section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)), if such proprietary institution of higher education is not subject to a default management plan required by the Secretary.

(2) Special Rule.—In addition, a consortium described in paragraph (1) may include 1 or more—

(A) institutions of higher education that award a baccalaureate degree; and

(B) employer or labor organizations.

(b) State Grants.—

(1) In General.—For any fiscal year for which the amount made available under section 157 to carry out this subtitle exceeds

$50,000,000, the Secretary shall allot such amount among the States in the same manner as funds are allotted to States under paragraphs (2), (3), and (4) of section 111(a).

(2) PAYMENTS TO ELIGIBLE AGENCIES.—The Secretary shall make a payment in the amount of a State's allotment under this paragraph to the eligible agency that serves the State and has an application approved under paragraph (4).,

(3) AWARD BASIS.—From amounts made available to each eligible agency under this subsection, the eligible agency shall award grants, on a competitive basis or on the basis of a formula determined by the eligible agency, for tech-prep education programs to consortia described in subsection (a).

(4) STATE APPLICATION.—Each eligible agency desiring assistance under this subtitle shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

SEC. 155. TECH-PREP EDUCATION PROGRAMS.

(a) GENERAL AUTHORITY.—Each consortium shall use amounts provided through the grant to develop and operate a tech-prep education program.

(b) CONTENTS OF PROGRAM.—Any such tech-prep program shall—

(1) be carried out under an articulation agreement between the participants in the consortium;

(2) consist of at least 2 years of secondary school preceding graduation and 2 years or more of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, reading, writing, communications, and technologies designed to lead to an associate's degree or a certificate in a specific career field;

(3) include the development of tech-prep education program curricula for both secondary and postsecondary levels that—

(A) meets academic standards developed by the State;

(B) links secondary schools and 2-year postsecondary institutions, and where possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields;

(C) uses, where appropriate and available, work-based or worksite learning in conjunction with business and industry; and

(D) uses educational technology and distance learning, as appropriate, to involve all the consortium partners more fully in the development and operation of programs.

(4) include a professional development program for academic, vocational, and technical teachers that—

(A) is designed to train teachers to effectively implement tech-prep education curricula;

(B) provides for joint training for teachers from all participants in the consortium;

(C) is designed to ensure that teachers stay current with the needs, expectations, and methods of business and industry;

(D) focuses on training postsecondary education faculty in the use of contextual and applied curricula and instruction; and

(E) provides training in the use and application of technology;

(5) include training programs for counselors designed to enable counselors to more effectively—

(A) make tech-prep education opportunities known to students interested in such activities;

(B) ensure that such students successfully complete such programs;

(C) ensure that such students are placed in appropriate employment; and

(D) stay current with the needs, expectations, and methods of business and industry;

(6) provide equal access to the full range of technical preparation programs to individuals who are members of populations described in section 124(c)(16), including the development of tech-prep education program services appropriate to the needs of such individuals; and

(7) provide for preparatory services that assist all participants in such programs.

(c) ADDITIONAL AUTHORIZED ACTIVITIES.—Each such tech-prep program may—

(1) provide for the acquisition of tech-prep education program equipment;

(2) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established and operated tech-prep programs;

(3) acquire technical assistance from State or local entities that have designed, established, and operated tech-prep programs that have effectively used educational technology and distance learning in the delivery of curricula and services and in the articulation process; and

(4) establish articulation agreements with institutions of higher education, labor organizations, or businesses located outside of the State served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs.

SEC. 156. APPLICATIONS.

(a) IN GENERAL.—Each consortium that desires to receive a grant under this subtitle shall submit an application to the Secretary or the eligible agency, as appropriate, at such time and in such manner as the Secretary or the eligible agency, as appropriate, shall prescribe.

(b) THREE-YEAR PLAN.—Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this subtitle.

(c) APPROVAL.—The Secretary or the eligible agency, as appropriate, shall approve applications based on the potential of the activities described in the application to create an effective tech-prep education program described in section 155.

(d) SPECIAL CONSIDERATION.—The Secretary or the eligible agency, as appropriate, shall give special consideration to applications that—

(1) provide for effective employment placement activities or the transfer of students to 4-year institutions of higher education;

(2) are developed in consultation with 4-year institutions of higher education;

(3) address effectively the needs of populations described in section 124(c)(16);

(4) provide education and training in areas or skills where there are significant workforce shortages, including the information technology industry; and

(5) demonstrate how tech-prep programs will help students meet high academic and employability competencies.

(e) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In awarding grants under this subtitle, the Secretary shall ensure an equitable distribution of assistance among States, and the Secretary or the eligible agency, as appropriate, shall ensure an equitable distribution of assistance between urban and rural consortium participants.

(f) NOTICE.—

(1) IN GENERAL.—In the case of grants to be awarded by the Secretary, each consortium that submits an application under this section shall provide notice of such submission and a copy of such application to the State educational agency and the State agency for higher education of the State in which the consortium is located.

(2) NOTIFICATION.—The Secretary shall notify the State educational agency and the State agency for higher education of a State each time a consortium located in the State is selected to receive a grant under this subtitle.

SEC. 157. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

Subtitle C—General Provisions

SEC. 161. ADMINISTRATIVE PROVISIONS.

(a) SUPPLEMENT NOT SUPPLANT.—Funds made available under this title for vocational education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out vocational education and tech-prep activities.

(b) MAINTENANCE OF EFFORT.—

(1) DETERMINATION.—No payments shall be made under this title for any fiscal year to an eligible agency for vocational education or tech-prep activities unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of the State for vocational education for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational education for the second fiscal year preceding the fiscal year for which the determination is made.

(2) WAIVER.—The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

(c) REPRESENTATION.—The eligible agency shall provide representation to the statewide partnership.

SEC. 162. EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY.

(a) LOCAL EVALUATION.—Each eligible agency shall evaluate annually the vocational education and tech-prep activities of each local educational agency or eligible institution receiving assistance under this title, using the performance measures established under section 112.

(b) IMPROVEMENT ACTIVITIES.—If, after reviewing the evaluation, an eligible agency determines that a local educational agency or eligible institution is not making substantial progress in achieving the purpose of this title, the local educational agency or eligible institution, in consultation with teachers, parents, and other school staff, shall—

(1) conduct an assessment of the educational and other problems that the local educational agency or eligible institution shall address to overcome local performance problems;

(2) enter into an improvement plan based on the results of the assessment, which plan shall include instructional and other programmatic innovations of demonstrated effectiveness, and where necessary, strategies for appropriate staffing and staff development; and

(3) conduct regular evaluations of the progress being made toward program improvement goals.

(c) TECHNICAL ASSISTANCE.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 124, or is not making substantial progress in meeting the purpose of this title, based on the performance measures and expected levels of performance under section 112 included in the eligible agency's State plan, the Secretary shall work with the eligible agency to implement improvement activities.

(d) WITHHOLDING OF FEDERAL FUNDS.—If, after a reasonable time, but not earlier than 1 year after implementing activities described in subsection (c), the Secretary determines that the eligible agency is not making sufficient progress, based on the eligible agency's performance measures and expected levels of performance, the Secretary, after notice and opportunity for a hearing, shall withhold from the eligible agency all, or a portion, of the eligible agency's grant funds under this subtitle. The Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services, and activities within the State to meet the purpose of this title.

SEC. 163. NATIONAL ACTIVITIES.

The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation, capacity-building, and technical assistance activities that carry out the purpose of this title.

SEC. 164. NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct a national assessment of vocational education programs assisted under this title, through studies and analyses conducted independently through competitive awards.

(b) INDEPENDENT ADVISORY PANEL.—The Secretary shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, and representatives of labor organizations, business, parents, guidance and counseling professionals, and other relevant groups, to advise the Secretary on the implementation of such assessment, including the issues to be addressed and the methodology of the studies involved, and the findings and recommendations resulting from the assessment. The panel shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary an independent analysis of the findings and recommendations resulting from the assessment. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this subsection.

(c) CONTENTS.—The assessment required under subsection (a) shall include descriptions and evaluations of—

(1) the effect of the vocational education programs assisted under this title on State and tribal administration of vocational education programs and on local vocational education practices, including the capacity of State, tribal, and local vocational education systems to address the purpose of this title;

(2) expenditures at the Federal, State, tribal, and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State distribution formulas) on the delivery of services;

(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of such teachers;

(4) participation in vocational education programs;

(5) academic and employment outcomes of vocational education, including analyses of—

(A) the number of vocational education students and tech-prep students who meet State academic standards;

(B) the extent and success of integration of academic and vocational education for students participating in vocational education programs; and

(C) the degree to which vocational education is relevant to subsequent employment or participation in postsecondary education;

(6) employer involvement in, and satisfaction with, vocational education programs;

(7) the use and impact of educational technology and distance learning with respect to vocational education and tech-prep programs; and

(8) the effect of performance measures, and other measures of accountability, on the delivery of vocational education services.

(d) CONSULTATION.—

(1) IN GENERAL.—The Secretary shall consult with the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate in the design and implementation of the assessment required under subsection (a).

(2) REPORTS.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary—

(A) an interim report regarding the assessment on or before July 1, 2001; and

(B) a final report, summarizing all studies and analyses that relate to the assessment and that are completed after the assessment, on or before July 1, 2002.

(3) PROHIBITION.—Notwithstanding any other provision of law or regulation, the reports required by this subsection shall not be subject to any review outside of the Department of Education before their transmittal to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary, but the President, the Secretary, and the independent advisory panel established under subsection (b) may make such additional recommendations to Congress with respect to the assessment as the President, the Secretary, or the panel determine to be appropriate.

SEC. 165. NATIONAL RESEARCH CENTER.

(a) GENERAL AUTHORITY.—

(1) IN GENERAL.—The Secretary, through grants, contracts, or cooperative agreements, may establish 1 or more national centers in the areas of—

(A) applied research and development; and

(B) dissemination and training.

(2) CONSULTATION.—The Secretary shall consult with the States prior to establishing 1 or more such centers.

(3) ELIGIBLE ENTITIES.—Entities eligible to receive funds under this section are institutions of higher education, other public or private nonprofit organizations or agencies, and consortia of such institutions, organizations, or agencies.

(b) ACTIVITIES.—

(1) IN GENERAL.—The national center or centers shall carry out such activities as the Secretary determines to be appropriate to assist State and local recipients of funds under this title to achieve the purpose of this title, which may include the research and evaluation activities in such areas as—

(A) the integration of vocational and academic instruction, secondary and postsecondary instruction;

(B) effective inservice and preservice teacher education that assists vocational education systems;

(C) education technology and distance learning approaches and strategies that are effective with respect to vocational education;

(D) performance measures and expected levels of performance that serve to improve vocational education programs and student achievement;

(E) effects of economic changes on the kinds of knowledge and skills required for employment or participation in postsecondary education;

(F) longitudinal studies of student achievement; and

(G) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include—

(i) serving as a repository for information on vocational and technological skills, State academic standards, and related materials; and

(ii) developing and maintaining national networks of educators who facilitate the development of vocational education systems.

(2) REPORT.—The center or centers conducting the activities described in paragraph (1) annually shall prepare a report of key research findings of such center or centers and shall submit copies of the report to the Secretary, the Secretary of Labor, and the Secretary of Health and Human Services. The Secretary shall submit that report to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Library of Congress, and each eligible agency.

(c) REVIEW.—The Secretary shall—

(1) consult at least annually with the national center or centers and with experts in education to ensure that the activities of the national center or centers meet the needs of vocational education programs; and

(2) undertake an independent review of each award recipient under this section prior to extending an award to such recipient beyond a 5-year period.

SEC. 166. DATA SYSTEMS.

(a) IN GENERAL.—The Secretary shall maintain a data system to collect information about, and report on, the condition of vocational education and on the effectiveness of State and local programs, services, and activities carried out under this title in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of vocational education. The Secretary annually shall report to Congress on the Secretary's analysis of performance data collected each year pursuant to this title, including an analysis of performance data regarding the populations described in section 124(c)(16).

(b) DATA SYSTEM.—In maintaining the data system, the Secretary shall ensure that the data system is compatible with other Federal information systems.

(c) Assessments.—As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on vocational education for a nationally representative sample of students. Such assessment may include international comparisons.

SEC. 167. PROMOTING SCHOLAR-ATHLETE COMPETITIONS.

Section 10104 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8004) is amended—

(1) in subsection (a), by striking "to be held in 1995"; and

(2) in subsection (b)—

(A) in paragraph (4), by striking "in the summer of 1995;" and inserting "; and";

(B) in paragraph (5), by striking "in 1996 and thereafter, as well as replicate such program internationally; and" and inserting "and internationally."; and

(C) by striking paragraph (6).

SEC. 168. DEFINITION.

In this title, the term "gender equity", used with respect to a program, service, or activity, means a program, service, or activity that is designed to ensure that men and women (including single parents and displaced homemakers) have access to opportunities to participate in vocational education that prepares the men and women to enter high-skill, high-wage careers.

Subtitle D—Authorization of Appropriations

SEC. 171. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out subtitle (A), and sections 163, 164, 165, and 166, such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

Subtitle E—Repeal

SEC. 181. REPEAL.

(a) Repeal.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is repealed.

(b) References to Carl D. Perkins Vocational and Applied Technology Education Act.—

(1) Immigration and nationality act.—Section 245A(h)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(C)) is amended by striking "Vocational Education Act of 1963" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(2) National defense authorization act.—Section 4461 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(3) Elementary and secondary education act of 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(A) in section 1114(b)(2)(C)(v) (20 U.S.C. 6314(b)(2)(C)(v)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act," and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998";

(B) in section 9115(b)(5) (20 U.S.C. 7815(b)(5)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998";

(C) in section 14302(a)(2) (20 U.S.C. 8852(a)(2))—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively; and

(D) in the matter preceding subparagraph (A) of section 14307(a)(1) (20 U.S.C. 8857(a)(1)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(4) Equity in educational land-grant status act of 1994.—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking "(20 U.S.C. 2397h(3)" and inserting ", as such section was in effect on the day preceding the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(5) Improving america's schools act of 1994.—Section 563 of the Improving America's Schools Act of 1994 (20 U.S.C. 6301 note) is amended by striking "the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting "July 1, 1999".

(6) Internal revenue code of 1986.—Section 135(c)(3)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 135(c)(3)(B)) is amended—

(A) by striking "subparagraph (C) or (D) of section 521(3) of the Carl D. Perkins Vocational Education Act" and inserting "subparagraph (C) or (D) of section 2(3) of the Workforce Investment Partnership Act of 1998"; and

(B) by striking "any State (as defined in section 521(27) of such Act)" and inserting "any State or outlying area (as the terms 'State' and 'outlying area' are defined in section 2 of such Act)".

(7) Appalachian regional development act of 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) (as amended by subsection (c)(5)) is further amended by striking "Carl D. Perkins Vocational Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(8) Vocational education amendments of 1968.—Section 104 of the Vocational Education Amendments of 1968 (82 Stat. 1091) is amended by striking "section 3 of the Carl D. Perkins Vocational Education Act" and inserting "the Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(9) Older americans act of 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(A) in section 502(b)(1)(N)(i) (42 U.S.C. 3056(b)(1)(N)(i)), by striking "or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)"; and

(B) in section 505(d)(2) (42 U.S.C. 3056c(d)(2))—

(i) by striking "employment and training programs" and inserting "workforce investment activities"; and

(ii) by striking "the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting "the Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

TITLE II—ADULT EDUCATION AND LITERACY

SEC. 201. SHORT TITLE.

This title may be cited as the "Adult Education and Literacy Act".

SEC. 202. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that—

(1) the National Adult Literacy Survey and other studies have found that more than one-fifth of American adults demonstrate very low literacy skills that make it difficult for the adults to be economically self-sufficient, much less enter high-skill, high-wage jobs;

(2) data from the National Adult Literacy Survey show that adults with very low levels of literacy are 10 times as likely to be poor as adults with high levels of literacy; and

(3) our Nation's well-being is dependent on the knowledge and skills of all of our Nation's citizens.

(b) Purpose.—It is the purpose of this title to create a partnership among the Federal Government, States, and localities to help provide for adult education and literacy services so that adults who need such services, will, as appropriate, be able to—

(1) become literate and obtain the knowledge and skills needed to compete in a global economy;

(2) complete a secondary school education; and

(3) have the education skills necessary to support the educational development of their children.

Subtitle A—Adult Education and Literacy Programs

CHAPTER 1—FEDERAL PROVISIONS

SEC. 211. RESERVATION; GRANTS TO STATES; ALLOTMENTS.

(a) Reservation of Funds for National Leadership Activities.—From the amount appropriated for any fiscal year under section 246, the Secretary shall reserve—

(1) 1.5 percent to carry out section 213;

(2) 2 percent to carry out section 243; and

(3) 1.5 percent to carry out section 245.

(b) Grants to States.—From the sum appropriated under section 246 and not reserved under subsection (a) for a fiscal year, the Secretary shall award a grant to each eligible agency having a State plan approved under section 224 in an amount equal to the sum of the initial allotment under subsection (c)(1) and the additional allotment under subsection (c)(2) for the eligible agency for the fiscal year to enable the eligible agency to carry out the activities assisted under this subtitle.

(c) Allotments.—

(1) Initial allotments.—From the sum appropriated under section 246 and not reserved under subsection (a) for a fiscal year, the Secretary first shall allot to each eligible agency having a State plan approved under section 224 the following amounts:

(A) $100,000 in the case of an eligible agency serving the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) $250,000, in the case of any other eligible agency.

(2) Additional allotments.—From the sum appropriated under section 246, not reserved under subsection (a), and not allotted under paragraph (1), for any fiscal year, the Secretary shall allot to each eligible agency an amount that bears the same relationship to such sum as the number of qualifying adults in the State or outlying area served by the eligible agency bears to the number of such adults in all States and outlying areas.

(d) Qualifying Adult.—For the purposes of this subsection, the term "qualifying adult" means an adult who—

(1) is at least 16 years of age;

(2) is beyond the age of compulsory school attendance under the law of the State or outlying area;

(3) does not possess a secondary school diploma or its recognized equivalent; and

(4) is not enrolled in secondary school.

(e) Special Rule.—

(1) In general.—From amounts made available under subsection (c) for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of

Palau, the Secretary shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this part in accordance with the provisions of this subtitle that the Secretary determines are not inconsistent with this subsection.

(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this part for any fiscal year that begins after September 30, 2004.

(4) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

(f) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—An eligible agency may receive a grant under this subtitle for any fiscal year only if the Secretary finds that the amount expended by the State for adult education and literacy, in the second fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of the amount expended for adult education and literacy in the third fiscal year preceding the fiscal year for which the determination is made.

(2) WAIVER.—The Secretary may waive the requirements of this subsection for 1 fiscal year only if the Secretary determines that such a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State.

(g) REALLOTMENT.—If the Secretary determines that any amount of a State's allotment under this section for any fiscal year will not be required for carrying out the program for which such amount has been allotted, the Secretary shall make such amount available for reallotment to 1 or more States on the basis that the Secretary determines would best serve the purpose of this title.

SEC. 212. PERFORMANCE MEASURES AND EXPECTED LEVELS OF PERFORMANCE.

(a) PERFORMANCE MEASURES.—The Secretary shall publish the following performance measures to assess the progress of each eligible agency:

(1) Demonstrated improvements in literacy skill levels in reading, writing and speaking the English language, numeracy, and problem-solving.

(2) Attainment of secondary school diplomas or their recognized equivalent.

(3) Placement in, retention in, or completion of, postsecondary education, training, or unsubsidized employment.

(b) EXPECTED LEVELS OF PERFORMANCE.—In developing a State plan, each eligible agency shall negotiate with the Secretary the expected levels of performance for the performance measures described in subsection (a).

SEC. 213. NATIONAL LEADERSHIP ACTIVITIES.

(a) AUTHORITY.—From the amount reserved under section 211(a)(1) for any fiscal year, the Secretary may establish a program of national leadership and evaluation activities to enhance the quality of adult education and literacy nationwide.

(b) METHOD OF FUNDING.—The Secretary may carry out national leadership and evaluation activities directly or through grants, contracts, or cooperative agreements.

(c) USES OF FUNDS.—Funds made available to carry out this section shall be used for—

(1) research, such as estimating the number of adults functioning at the lowest levels of literacy proficiency;

(2) demonstration of model and innovative programs, such as the development of models for basic skill certificates, identification of effective strategies for working with adults with learning disabilities and with individuals with limited English proficiency who are adults, and workplace literacy programs;

(3) dissemination, such as dissemination of information regarding promising practices resulting from federally funded demonstration programs;

(4) evaluations and assessments, such as periodic independent evaluations of activities assisted under this subtitle and assessments of the condition and progress of literacy in the United States;

(5) efforts to support capacity building at the State and local levels, such as technical assistance in program planning, assessment, evaluation, and monitoring of activities under this subtitle;

(6) data collection, such as improvement of both local and State data systems through technical assistance and development of model performance data collection systems;

(7) professional development, such as technical assistance activities to advance effective training practices, identify exemplary professional development projects, and disseminate new findings in adult education training;

(8) technical assistance, such as endeavors that aid distance learning, and promote and improve the use of technology in the classroom; or

(9) other activities designed to enhance the quality of adult education and literacy nationwide.

CHAPTER 2—STATE PROVISIONS

SEC. 221. STATE ADMINISTRATION.

(a) IN GENERAL.—Each eligible agency shall be responsible for the State administration of activities under this subtitle, including—

(1) the development, submission, and implementation of the State plan;

(2) consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of activities assisted under this subtitle; and

(3) coordination and nonduplication with other Federal and State education, training, corrections, public housing, and social service programs.

(b) STATE-IMPOSED REQUIREMENTS.—Whenever a State imposes any rule or policy relating to the administration and operation of activities funded under this subtitle (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline), the State shall identify the rule or policy as a State-imposed requirement.

SEC. 222. STATE DISTRIBUTION OF FUNDS; STATE SHARE.

(a) STATE DISTRIBUTION OF FUNDS.—Each eligible agency receiving a grant under this subtitle for a fiscal year—

(1) shall use not less than 80 percent of the grant funds to carry out section 225 and to award grants and contracts under section 231, of which not more than 10 percent of the 80 percent shall be available to carry out section 225;

(2) shall use not more than 15 percent of the grant funds to carry out State leadership activities under section 223; and

(3) shall use not more than 5 percent of the grant funds, or $80,000, whichever is greater, for administrative expenses of the eligible agency.

(b) STATE SHARE REQUIREMENT.—

(1) IN GENERAL.—In order to receive a grant from the Secretary under section 211(b) each eligible agency shall provide an amount equal to 25 percent of the total amount of funds expended for adult education in the State or outlying area, except that the Secretary may decrease the amount of funds required under this subsection for an eligible agency serving an outlying area.

(2) STATE'S SHARE.—An eligible agency's funds required under paragraph (1) may be in cash or in kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of this subtitle.

SEC. 223. STATE LEADERSHIP ACTIVITIES.

(a) IN GENERAL.—Each eligible agency shall use funds made available under section 222(a)(2) for 1 or more of the following activities:

(1) Professional development and training, including training in the use of software and technology.

(2) Developing and disseminating curricula for adult education and literacy activities.

(3) Monitoring and evaluating the quality of, and improvement in, services and activities conducted with assistance under this subtitle.

(4) Establishing challenging performance measures and levels of performance for literacy proficiency in order to assess program quality and improvement.

(5) Integration of literacy instruction and occupational skill training, and promoting linkages with employers.

(6) Linkages with postsecondary institutions.

(7) Supporting State or regional networks of literacy resource centers.

(8) Other activities of statewide significance that promote the purpose of this subtitle.

(b) COLLABORATION.—In carrying out this section, eligible agencies shall collaborate where possible and avoid duplicating efforts in order to maximize the impact of the activities described in subsection (a).

SEC. 224. STATE PLAN.

(a) 3-YEAR PLANS.—

(1) IN GENERAL.—Each eligible agency desiring a grant under this subtitle for any fiscal year shall submit to, or have on file with, the Secretary a 3-year State plan.

(2) COMPREHENSIVE PLAN OR APPLICATION.—The eligible agency may submit the State plan as part of a comprehensive plan or application for Federal education assistance.

(b) PLAN CONTENTS.—In developing the State plan, and any revisions to the State plan, the eligible agency shall include in the State plan or revisions—

(1) an objective assessment of the needs of individuals in the State for adult education and literacy activities, including individuals most in need or hardest to serve, such as educationally disadvantaged adults, immigrants, individuals with limited English proficiency, incarcerated individuals, homeless individuals, recipients of public assistance, and individuals with disabilities;

(2) a description of the adult education and literacy activities that will be carried out with any funds received under this subtitle;

(3) a description of how the eligible agency will evaluate annually the effectiveness of

the adult education and literacy activities based on the performance measures described in section 212;

(4) a description of how the eligible agency will ensure that the data reported to the eligible agency from eligible providers under this subtitle and the data the eligible agency reports to the Secretary are complete, accurate, and reliable;

(5) a description of the performance measures required under section 212(a) and how such performance measures and the expected levels of performance will ensure improvement of adult education and literacy activities in the State or outlying area;

(6) an assurance that the funds received under this subtitle will not be expended for any purpose other than for activities under this subtitle;

(7) a description of how the eligible agency will fund local activities in accordance with the priorities described in section 242(a);

(8) a description of how the eligible agency will determine which eligible providers are eligible for funding in accordance with the preferences described in section 242(b);

(9) a description of how funds will be used for State leadership activities, which activities may include professional development and training, instructional technology, and management technology;

(10) an assurance that the eligible agency will expend the funds under this subtitle only in a manner consistent with fiscal requirement in section 241;

(11) a description of the process that will be used for public participation and comment with respect to the State plan;

(12) a description of how the eligible agency will develop program strategies for populations that include, at a minimum—

(A) low-income students;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with multiple barriers to educational enhancement, including individuals with limited English proficiency;

(13) a description of the measures that will be taken by the eligible agency to assure coordination of and avoid duplication among—

(A) adult education activities authorized under this subtitle;

(B) activities authorized under title III;

(C) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)), and title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(D) a work program authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(E) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(F) activities authorized under chapter 41 of title 38, United States Code;

(G) training activities carried out by the Department of Housing and Urban Development; and

(H) programs authorized under State unemployment compensation laws in accordance with applicable Federal law; and

(14) the description and information specified in paragraphs (9) and (17) of section 304(b).

(c) PLAN REVISIONS.—When changes in conditions or other factors require substantial revisions to an approved State plan, the eligible agency shall submit a revision to the State plan to the Secretary.

(d) CONSULTATION.—The eligible agency shall—

(1) submit the State plan, and any revisions to the State plan, to the Governor of the State for review and comment; and

(2) ensure that any comments by the Governor regarding the State plan, and any revision to the State plan, are submitted to the Secretary.

(e) PLAN APPROVAL.—

(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, only if the Secretary determines that—

(A) the State plan, or revision, respectively, meets the requirements of this section; and

(B) the State's performance measures and expected levels of performance under section 212 are sufficiently rigorous to meet the purpose of this title.

(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

(3) PEER REVIEW.—The Secretary shall establish a peer review process to make recommendations regarding the approval of State plans.

SEC. 225. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.

(a) PROGRAM AUTHORIZED.—From funds made available under section 222(a)(1) for a fiscal year, each eligible agency shall carry out corrections education or education for other institutionalized individuals.

(b) USES OF FUNDS.—The funds described in subsection (a) shall be used for the cost of educational programs for criminal offenders in corrections institutions and for other institutionalized individuals, including academic programs for—

(1) basic education;

(2) special education programs as determined by the State;

(3) bilingual programs, or English as a second language programs; and

(4) secondary school credit programs.

(c) DEFINITION OF CRIMINAL OFFENDER.—

(1) CRIMINAL OFFENDER.—The term "criminal offender" means any individual who is charged with or convicted of any criminal offense.

(2) CORRECTIONAL INSTITUTION.—The term "correctional institution" means any—

(A) prison;

(B) jail;

(C) reformatory;

(D) work farm;

(E) detention center; or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

CHAPTER 3—LOCAL PROVISIONS

SEC. 231. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

(a) GRANTS.—From funds made available under section 222(a)(1), each eligible agency shall award multiyear grants or contracts to eligible providers within the State to enable the eligible providers to develop, implement, and improve adult education and literacy activities within the State.

(b) SPECIAL RULE.—Each eligible agency receiving funds under this subtitle shall ensure that all eligible providers have direct and equitable access to apply for grants or contracts under this section.

(c) REQUIRED LOCAL ACTIVITIES.—Each eligible provider receiving a grant or contract under this subtitle shall establish programs that provide instruction or services that meet the purpose described in section 202(b), such as—

(1) adult education and literacy services; or

(2) English literacy programs.

SEC. 232. LOCAL APPLICATION.

Each eligible provider desiring a grant or contract under this subtitle shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including—

(1) a description of how funds awarded under this subtitle will be spent;

(2) how the expected levels of performance of the eligible provider with respect to participant recruitment, retention, and performance measures described in section 212, will be met and reported to the eligible agency; and

(3) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy programs.

SEC. 233. LOCAL ADMINISTRATIVE COST LIMITS.

(a) IN GENERAL.—Subject to subsection (b), of the sum that is made available under this subtitle to an eligible provider—

(1) not less than 95 percent shall be expended for carrying out adult education and literacy activities; and

(2) the remaining amount, not to exceed 5 percent, shall be used for planning, administration, personnel development, and interagency coordination.

(b) SPECIAL RULE.—In cases where the cost limits described in subsection (a) are too restrictive to allow for adequate planning, administration, personnel development, and interagency coordination, the eligible provider shall negotiate with the eligible agency in order to determine an adequate level of funds to be used for noninstructional purposes.

CHAPTER 4—GENERAL PROVISIONS

SEC. 241. ADMINISTRATIVE PROVISIONS.

(a) SUPPLEMENT NOT SUPPLANT.—Funds made available for adult education and literacy activities under this subtitle shall supplement and not supplant other State or local public funds expended for adult education and literacy activities.

(b) REPRESENTATION.—The eligible agency shall provide representation to the statewide partnership.

SEC. 242. PRIORITIES AND PREFERENCES.

(a) PRIORITIES.—Each eligible agency and eligible provider receiving assistance under this subtitle shall give priority in using the assistance to adult education and literacy activities that—

(1) are built on a strong foundation of research and effective educational practice;

(2) effectively employ advances in technology, as appropriate, including the use of computers;

(3) provide learning in real life contexts to ensure that an individual has the skills needed to compete in a global economy and exercise the rights and responsibilities of citizenship;

(4) are staffed by well-trained instructors, counselors, and administrators;

(5) are of sufficient intensity and duration for participants to achieve substantial learning gains, such as by earning a basic skills certificate that reflects skills acquisition and has meaning to employers;

(6) establish measurable performance levels for participant outcomes, such as levels of literacy achieved and attainment of a secondary school diploma or its recognized equivalent, that are tied to challenging State performance levels for literacy proficiency;

(7) coordinate with other available resources in the community, such as by establishing strong links with elementary schools and secondary schools, postsecondary institutions, 1-stop customer service centers, job training programs, and social service agencies;

(8) offer flexible schedules and support services (such as child care and transportation) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs; and

(9) maintain a high-quality information management system that has the capacity to report client outcomes and to monitor program performance against the State performance measures.

(b) Preferences.—In determining which eligible providers will receive funds under this subtitle for a fiscal year, each eligible agency receiving a grant under this subtitle, in addition to addressing the priorities described in subsection (a), shall—

(1) give preference to eligible providers that the eligible agency determines serve—

(A) local areas with high concentrations of individuals in poverty or with low levels of literacy (including English language proficiency); or

(B) local communities that have a demonstrated need for additional English as a second language programs; and

(2) consider—

(A) the results, if any, of the evaluations required under section 244(a); and

(B) the degree to which the eligible provider will coordinate with and utilize other literacy and social services available in the community.

SEC. 243. INCENTIVE GRANTS.

(a) In General.—The Secretary may make grants to States that exceed the expected levels of performance for performance measures established under this Act.

(b) Use of Funds.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative vocational education, adult education and literacy, or workforce investment programs as determined by the State.

SEC. 244. EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY.

(a) Local Evaluation.—Each eligible agency shall biennially evaluate the adult education and literacy activities of each eligible provider that receives a grant or contract under this subtitle, using the performance measures established under section 212.

(b) Improvement Activities.—If, after reviewing the evaluation, an eligible agency determines that an eligible provider is not making substantial progress in achieving the purpose of this subtitle, the eligible agency may work jointly with the eligible provider to develop an improvement plan. If, after not more than 2 years of implementation of the improvement plan, the eligible agency determines that the eligible provider is not making substantial progress, the eligible agency shall take whatever corrective action the eligible agency deems necessary, which may include termination of funding or the implementation of alternative service arrangements, consistent with State law. The eligible agency shall take corrective action under the preceding sentence only after the eligible agency has provided technical assistance to the eligible provider and shall ensure, to the extent practicable, that any corrective action the eligible agency takes allows for continued services to and activities for the individuals served by the eligible provider.

(c) State Report.—

(1) In general.—The eligible agency shall report annually to the Secretary regarding the quality and effectiveness of the adult education and literacy activities funded through the eligible agency's grants or contracts under this subtitle, based on the performance measures and expected levels of performance included in the State plan.

(2) Information.—The eligible agency shall include in the reports such information, in such form, as the Secretary may require in order to ensure the collection of uniform national data.

(3) Availability.—The eligible agency shall make available to the public the annual report under this subsection.

(d) Technical Assistance.—If the Secretary determines that the eligible agency is not properly implementing the eligible agency's responsibilities under subsection (b), or is not making substantial progress in meeting the purpose of this subtitle, based on the performance measures and expected levels of performance included in the eligible agency's State plan, the Secretary shall work with the eligible agency to implement improvement activities.

(e) Withholding of Federal Funds.—If, not earlier than 2 years after implementing activities described in subsection (d), the Secretary determines that the eligible agency is not making sufficient progress, based on the eligible agency's performance measures and expected levels of performance, the Secretary, after notice and opportunity for a hearing, shall withhold from the eligible agency all, or a portion, of the eligible agency's grant under this subtitle. The Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services and activities within the State to meet the purpose of this title.

SEC. 245. NATIONAL INSTITUTE FOR LITERACY.

(a) Purpose.—The purpose of this section is to establish a National Institute for Literacy that—

(1) provides national leadership regarding literacy;

(2) coordinates literacy services and policy; and

(3) is a national resource for adult education and literacy, by providing the best and most current information available and supporting the creation of new ways to offer improved literacy services.

(b) Establishment.—

(1) In general.—There shall be a National Institute for Literacy (in this section referred to as the "Institute"). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the "Interagency Group"). The Secretary may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education the purpose of which is determined by the Secretary to be related to the purpose of the Institute.

(2) Recommendations.—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the "Board") established under subsection (e) in planning the goals of the Institute and in the implementation of any programs to achieve the goals. If the Board's recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group takes that are inconsistent with the Board's recommendations, including the reasons for not following the Board's recommendations with respect to the actions. The Board may also request a meeting of the Interagency Group to discuss the Board's recommendations.

(3) Daily operations.—The daily operations of the Institute shall be administered by the Director of the Institute.

(c) Duties.—

(1) In general.—In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized to—

(A) establish a national electronic data base of information that disseminates information to the broadest possible audience within the literacy and basic skills field, and that includes—

(i) effective practices in the provision of literacy and basic skills instruction, including the integration of such instruction with occupational skills training;

(ii) public and private literacy and basic skills programs and Federal, State, and local policies affecting the provision of literacy services at the national, State, and local levels;

(iii) opportunities for technical assistance, meetings, conferences, and other opportunities that lead to the improvement of literacy and basic skills services; and

(iv) a communication network for literacy programs, providers, social service agencies, and students;

(B) coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels;

(C) coordinate the support of research and development on literacy and basic skills for adults across Federal agencies, especially with the Office of Educational Research and Improvement in the Department of Education, and carry out basic and applied research and development on topics that are not being investigated by other organizations or agencies;

(D) collect and disseminate information on methods of advancing literacy;

(E) provide policy and technical assistance to Federal, State, and local entities for the improvement of policy and programs relating to literacy;

(F) fund a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

(i) encouraging the coordination of literacy services; and

(ii) serving as a link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources; and

(G) undertake other activities that lead to the improvement of the Nation's literacy delivery system and that complement other such efforts being undertaken by public and private agencies and organizations.

(2) Grants, contracts, and cooperative agreements.—The Institute may award grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

(d) Literacy Leadership.—

(1) In general.—The Institute may, in consultation with the Board, award fellowships,

with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

(2) FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

(3) INTERNSHIPS.—The Institute, in consultation with the Board, is authorized to award paid and unpaid internships to individuals seeking to assist in carrying out the Institute's purpose and to accept assistance from volunteers.

(e) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There shall be a National Institute for Literacy Advisory Board, which shall consist of 10 individuals appointed by the President with the advice and consent of the Senate.

(B) COMPOSITION.—The Board shall comprise individuals who are not otherwise officers or employees of the Federal Government and who are representative of such entities as—

(i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English as a second language programs and services, social service organizations, and eligible providers receiving assistance under this subtitle;

(ii) businesses that have demonstrated interest in literacy programs;

(iii) literacy students, including literacy students with disabilities;

(iv) experts in the area of literacy research;

(v) State and local governments;

(vi) State Directors of adult education; and

(vii) labor organizations.

(2) DUTIES.—The Board shall—

(A) make recommendations concerning the appointment of the Director and staff of the Institute; and

(B) provide independent advice on the operation of the Institute.

(3) APPOINTMENTS.—

(A) IN GENERAL.—Appointments to the Board made after the date of enactment of the Workforce Investment Partnership Act shall be for 3-year terms, except that the initial terms for members may be established at 1, 2, or 3 years in order to establish a rotation in which ⅓ of the members are selected each year.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

(4) OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members.

(5) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of its members.

(f) GIFTS, BEQUESTS, AND DEVISES.—

(1) IN GENERAL.—The Institute may accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

(2) RULES.—The Board shall establish written rules setting forth the criteria to be used by the Institute in determining whether the acceptance of contributions of services, money, or property whether real or personal, tangible or intangible, would reflect unfavorably upon the ability of the Institute or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.

(g) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(h) STAFF.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

(i) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

(j) EXPERTS AND CONSULTANTS.—The Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(k) REPORT.—The Institute shall submit a biennial report to the Interagency Group and Congress.

(l) NONDUPLICATION.—The Institute shall not duplicate any functions carried out by the Secretary, the Secretary of Labor, or the Secretary of Health and Human Services under this subtitle. This subsection shall not be construed to prohibit the Secretaries from delegating such functions to the Institute.

(m) FUNDING.—Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

SEC. 246. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

Subtitle B—Repeal

SEC. 251. REPEAL.

(a) REPEAL.—The Adult Education Act (20 U.S.C. 1201 et. seq.) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) REFUGEE EDUCATION ASSISTANCE ACT.—Subsection (b) of section 402 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is repealed.

(2) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) SECTION 1202 OF ESEA.—Section 1202(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(c)(1)) is amended by striking "Adult Education Act" and inserting "Workforce Investment Partnership Act of 1998".

(B) SECTION 1205 OF ESEA.—Section 1205(8)(B) of such Act (20 U.S.C. 6365(8)(B)) is amended by striking "Adult Education Act" and inserting "Workforce Investment Partnership Act of 1998".

(C) SECTION 1206 OF ESEA.—Section 1206(a)(1)(A) of such Act (20 U.S.C. 6366(a)(1)(A)) is amended by striking "an adult basic education program under the Adult Education Act" and inserting "adult education and literacy activities under the Workforce Investment Partnership Act of 1998".

(D) SECTION 3113 OF ESEA.—Section 3113(1) of such Act (20 U.S.C. 6813(1)) is amended by striking "section 312 of the Adult Education Act" and inserting "section 2 of the Workforce Investment Partnership Act of 1998".

(E) SECTION 9161 OF ESEA.—Section 9161(2) of such Act (20 U.S.C. 7881(2)) is amended by striking "section 312(2) of the Adult Education Act" and inserting "section 2 of the Workforce Investment Partnership Act of 1998".

(3) OLDER AMERICANS ACT OF 1965.—Section 203(b)(8) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)(8)) is amended by striking "Adult Education Act" and inserting "Workforce Investment Partnership Act of 1998".

(4) NATIONAL LITERACY ACT OF 1991.—The National Literacy Act of 1991 (20 U.S.C. 1201 note) is repealed.

TITLE III—WORKFORCE INVESTMENT AND RELATED ACTIVITIES

Subtitle A—Workforce Investment Activities

CHAPTER 1—ALLOTMENTS TO STATES FOR ADULT EMPLOYMENT AND TRAINING ACTIVITIES, DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES, AND YOUTH ACTIVITIES

SEC. 301. GENERAL AUTHORIZATION.

The Secretary of Labor shall make an allotment to each State that has a State plan approved under section 304 and a grant to each outlying area that complies with the requirements of this title, to enable the State or outlying area to assist local areas in providing, through a statewide workforce investment system—

(1) adult employment and training activities;

(2) dislocated worker employment and training activities; and

(3) youth activities, including summer employment opportunities, tutoring, activities to promote study skills, alternative secondary school services, employment skill training, adult mentoring, and supportive services.

SEC. 302. STATE ALLOTMENTS.

(a) IN GENERAL.—The Secretary shall—

(1) make allotments and grants from the total amount appropriated under section 322(a) for a fiscal year in accordance with subsection (b)(1);

(2)(A) reserve 20 percent of the amount appropriated under section 322(b) for a fiscal year for use under subsection (b)(2)(A), and under sections 366(b)(2), 367(f), and 369; and

(B) make allotments from 80 percent of the amount appropriated under section 322(b) for a fiscal year in accordance with subsection (b)(2)(B); and

(3)(A) for each fiscal year in which the amount appropriated under section 322(c) exceeds $1,000,000,000, reserve a portion determined under subsection (b)(3)(A) of the amount appropriated under section 322(c) for use under sections 362 and 364; and

(B) use the remainder of the amount appropriated under section 322(c) for a fiscal year to make allotments and grants in accordance with subparagraphs (B) and (C) of subsection (b)(3) and make funds available for use under section 361.

(b) ALLOTMENT AMONG STATES.—

(1) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(1) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent—

(I) to provide assistance to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands to carry out adult employment and training activities; and

(II) for each of the fiscal years 1999 through 2004, to carry out the competition described in clause (iii), except that the amount reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1998, from amounts reserved under section 202(a)(1) of the Job Training Partnership Act (29 U.S.C. 1602(a)(1)) (as in effect on the day before the date of enactment of this Act).

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an outlying area shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(iii) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to make grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out adult employment and training activities.

(iv) BASIS.—The Secretary shall make grants pursuant to clause (iii) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(v) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive a grant made under clause (iii) shall include in the application of the State for assistance—

(I) information demonstrating that the State will meet all conditions of the regulations described in clause (ix); and

(II) an assurance that, notwithstanding any other provision of this title, the State will use the amounts made available through such grants only for the direct provision of services.

(vi) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any funds under clause (iii) for any program year that begins after September 30, 2004.

(vii) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the amount made available for grants under clause (iii) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this subparagraph.

(viii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas, including the Freely Associated States, under this subparagraph.

(ix) REGULATIONS.—The Secretary shall issue regulations specifying requirements of this title that apply to outlying areas receiving funds under this subparagraph.

(B) STATES.—

(i) IN GENERAL.—After determining the amount to be reserved under subparagraph (A), the Secretary shall allot the remainder of the amount referred to in subsection (a)(1) for a fiscal year to the States pursuant to clause (ii) for adult employment and training activities.

(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

(I) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(II) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States, except as described in clause (iii).

(iii) CALCULATION.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 307(a)(2)(A)(ii), the allotment shall be based on the higher of—

(I) the number of adults in families with an income below the low-income level in such area; or

(II) the number of disadvantaged adults in such area.

(iv) MINIMUM AND MAXIMUM PERCENTAGES AND MINIMUM ALLOTMENTS.—In making allotments under this subparagraph, the Secretary shall ensure the following:

(I) MINIMUM PERCENTAGE.—The Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is less than 90 percent of the allotment percentage of the State for the preceding fiscal year.

(II) SMALL STATE MINIMUM ALLOTMENT.—Subject to subclauses (I) and (III), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than ⅔ of 1 percent of the remainder described in clause (i) for a fiscal year.

(III) MAXIMUM PERCENTAGE.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

(v) DEFINITIONS.—In this subparagraph:

(I) ADULT.—The term "adult" means an individual who is not less than age 22 and not more than age 72.

(II) ALLOTMENT PERCENTAGE.—The term "allotment percentage", used with respect to fiscal year 1999 or a subsequent fiscal year, means a percentage of the remainder described in clause (i), received through an allotment made under this subparagraph, for the fiscal year. The term, used with respect to fiscal year 1998, means the percentage of the amounts allotted to States under section 202(a) of the Job Training Partnership Act (29 U.S.C. 1602(a)) (as in effect on the day before the date of enactment of this Act) received under such section by the State involved for fiscal year 1998.

(III) AREA OF SUBSTANTIAL UNEMPLOYMENT.—The term "area of substantial unemployment" means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this subtitle and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subclause, determinations of areas of substantial unemployment shall be made once each fiscal year.

(IV) DISADVANTAGED ADULT.—Subject to subclause (V), the term "disadvantaged adult" means an adult who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

(V) DISADVANTAGED ADULT SPECIAL RULE.—The Secretary shall, as appropriate and to the extent practicable, exclude students at an institution of higher education and members of the Armed Forces from the determination of the number of disadvantaged adults.

(VI) EXCESS NUMBER.—The term "excess number" means, used with respect to the excess number of unemployed individuals within a State, the higher of—

(aa) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

(bb) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

(2) DISLOCATED WORKER EMPLOYMENT AND TRAINING.—

(A) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(2)(A) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent of the amount made available under subsection (a)(2)—

(I) to provide assistance to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands to carry out dislocated worker employment and training activities; and

(II) for each of the fiscal years 1999 through 2004, to carry out the competition described in clause (iii), except that the amount reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1998, from amounts reserved under section 302(e) of the Job Training Partnership Act (29 U.S.C. 1652(e)) (as in effect on the day before the date of enactment of this Act).

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an outlying area shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(iii) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to make grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out dislocated worker employment and training activities.

(iv) BASIS.—The Secretary shall make grants pursuant to clause (iii) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(v) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive a grant made under clause (iii) shall include in the application of the State for assistance—

(I) information demonstrating that the State will meet all conditions of the regulations described in clause (ix); and

(II) an assurance that, notwithstanding any other provision of this title, the State will use the amounts made available through such grants only for the direct provision of services.

(vi) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any funds under clause (iii) for any program year that begins after September 30, 2004.

(vii) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the amount made available for grants under clause (iii) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this subparagraph.

(viii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas, including the Freely Associated States, under this subparagraph.

(ix) REGULATIONS.—The Secretary shall issue regulations specifying requirements of this title that apply to outlying areas receiving funds under this subparagraph.

(B) STATES.—

(i) IN GENERAL.—The Secretary shall allot the amount referred to in subsection (a)(2)(B) for a fiscal year to the States pursuant to clause (ii) for dislocated worker employment and training activities.

(ii) FORMULA.—Of the amount—

(I) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States;

(II) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33⅓ percent shall be allotted on the basis of the relative number of individuals in each State who have been unemployed for 15 weeks or more, compared to the total number of individuals in all States who have been unemployed for 15 weeks or more.

(iii) DEFINITION.—In this subparagraph, the term "excess number" means, used with respect to the excess number of unemployed individuals within a State, the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

(3) YOUTH ACTIVITIES.—

(A) YOUTH OPPORTUNITY GRANTS.—

(i) IN GENERAL.—For each fiscal year in which the amount appropriated under section 322(c) exceeds $1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth opportunity grants and other activities under section 364 and provide youth activities under section 362.

(ii) PORTION.—The portion referred to in clause (i) shall equal, for a fiscal year—

(I) except as provided in subclause (II), the difference obtained by subtracting $1,000,000,000 from the amount described in clause (i); and

(II) for any fiscal year in which the amount is $1,250,000,000 or greater, $250,000,000.

(iii) YOUTH ACTIVITIES FOR FARMWORKERS.—From the portion described in clause (i) for a fiscal year, the Secretary shall make available $10,000,000 to provide youth activities under section 362.

(iv) ROLE MODEL ACADEMY PROJECT.—From the portion described in clause (i) for fiscal year 1999, the Secretary shall make available not more than $10,000,000 to carry out section 364(g).

(B) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(3)(B) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent—

(I) to provide assistance to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands to carry out youth activities; and

(II) for each of the fiscal years 1999 through 2004, to carry out the competition described in clause (iii), except that the amount reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1998, from amounts reserved under sections 252(a) and 262(a)(1) of the Job Training Partnership Act (29 U.S.C. and 1631(a) and 1642(a)(1)) (as in effect on the day before the date of enactment of this Act).

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an outlying area shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(iii) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to make grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out youth activities.

(iv) BASIS.—The Secretary shall make grants pursuant to clause (iii) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(v) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive a grant made under clause (iii) shall include in the application of the State for assistance—

(I) information demonstrating that the State will meet all conditions of the regulations described in clause (ix); and

(II) an assurance that, notwithstanding any other provision of this title, the State will use the amounts made available through such grants only for the direct provision of services.

(vi) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any funds under clause (iii) for any program year that begins after September 30, 2004.

(vii) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the amount made available for grants under clause (iii) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this subparagraph.

(viii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas, including the Freely Associated States, under this subparagraph.

(ix) REGULATIONS.—The Secretary shall issue regulations specifying requirements of this title that apply to outlying areas receiving funds under this subparagraph.

(C) STATES:—

(i) IN GENERAL.—After determining the amounts to be reserved under subparagraph (A) (if any) and subparagraph (B), the Secretary shall—

(I) from the amount referred to in subsection (a)(3)(B) for a fiscal year, make available $15,000,000 to provide youth activities under section 361; and

(II) allot the remainder of the amount referred to in subsection (a)(3)(B) for a fiscal year to the States pursuant to clause (ii) for youth activities.

(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

(I) 33⅓ percent shall be allotted on the basis described in paragraph (1)(B)(ii)(I);

(II) 33⅓ percent shall be allotted on the basis described in paragraph (1)(B)(ii)(II); and

(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged youth in each State, compared to the total number of disadvantaged youth in all States, except as described in clause (iii).

(iii) CALCULATION.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 307(a)(2)(A)(ii), the allotment shall be based on the higher of—

(I) the number of youth in families with an income below the low-income level in such area; or

(II) the number of disadvantaged youth in such area.

(iv) MINIMUM PERCENTAGE; MAXIMUM PERCENTAGE; SMALL STATE MINIMUM ALLOTMENT.—

(I) IN GENERAL.—Except as provided in subclause (II), the requirements of clauses (iv) and (v) of paragraph (1)(B) shall apply to allotments made under this subparagraph in the same manner and to the same extent as the requirements apply to allotments made under paragraph (1)(B).

(II) EXCEPTIONS.—For purposes of applying the requirements of those clauses under this subparagraph—

(aa) references in those clauses to the remainder described in clause (i) of paragraph (1)(B) shall be considered to be references to the remainder described in clause (i)(II) of this subparagraph; and

(bb) the term "allotment percentage", used with respect to fiscal year 1998, means the percentage of the amounts allotted to States under sections 252(b) and 262(a) of the Job Training Partnership Act (29 U.S.C. 1631(b) and 1642(a)) (as in effect on the day before the date of enactment of this Act) received under such sections by the State involved for fiscal year 1998.

(v) DEFINITIONS.—In this subparagraph:

(I) DISADVANTAGED YOUTH.—The term "disadvantaged youth" means a youth who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

(II) DISADVANTAGED YOUTH SPECIAL RULE.—The Secretary shall, as appropriate and to the extent practicable, exclude students at an institution of higher education and members of the Armed Forces from the determination of the number of disadvantaged youth.

(III) YOUTH.—The term "youth" means an individual who is not less than age 16 and not more than age 21.

(4) DEFINITIONS.—In this subsection:

(A) FREELY ASSOCIATED STATES.—The term "Freely Associated States" means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) LOW-INCOME LEVEL.—The term "low-income level", used with respect to a year, means that amount that bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

SEC. 303. STATEWIDE PARTNERSHIP.

(a) IN GENERAL.—The Governor of a State shall establish and appoint the members of a statewide partnership to assist in the development of the State plan described in section 304 and carry out the functions described in subsection (d).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The statewide partnership shall include—

(A) the Governor;

(B) representatives, appointed by the Governor, who—

(i) are representatives of business in the State;

(ii) are owners of businesses, chief executives or operating officers of private businesses, and other business executives or employers with optimum policymaking or hiring authority, including members of local partnerships described in section 308(c)(2)(A)(i);

(iii) represent businesses with employment opportunities that reflect the employment opportunities of the State; and

(iv) are appointed from among individuals nominated by State business organizations and business trade associations;

(C) representatives, appointed by the Governor, who are individuals who have optimum policymaking authority, including—

(i) representatives of—

(I) chief elected officials (representing both cities and counties, where appropriate);

(II) labor organizations, who have been nominated by State labor federations; and

(III) individuals, and organizations, that have experience relating to youth activities;

(ii) the eligible agency officials responsible for vocational education, including postsecondary vocational education, and for adult education and literacy, and the State officials responsible for postsecondary education (including education in community colleges); and

(iii) the State agency official responsible for vocational rehabilitation and, where applicable, the State agency official responsible for providing vocational rehabilitation program activities for the blind;

(D) such other State agency officials as the Governor may designate, such as State agency officials carrying out activities relating to employment and training, economic development, public assistance, veterans, youth, juvenile justice and the employment service established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.); and

(E) two members of each chamber of the State legislature, appointed by the appropriate presiding officer of the chamber.

(2) Majority.—A majority of the members of the statewide partnership shall be representatives described in paragraph (1)(B).

(c) Chairman.—The Governor shall select a chairperson for the statewide partnership from among the representatives described in subsection (b)(1)(B).

(d) Functions.—In addition to developing the State plan, the statewide partnership shall—

(1) advise the Governor on the development of a comprehensive statewide workforce investment system;

(2) assist the Governor in preparing the annual report to the Secretaries described in section 321(d);

(3) assist the Governor in developing the statewide labor market information system described in section 15(e) of the Wagner-Peyser Act; and

(4) assist in the monitoring and continuous improvement of the performance of the statewide workforce investment system, including the evaluation of the effectiveness of workforce investment activities carried out under this subtitle in serving the needs of employers seeking skilled employees and individuals seeking services.

(e) Authority of Governor.—

(1) Authority.—The Governor shall have the final authority to determine the contents of and submit the State plan described in section 304.

(2) Process.—Prior to the date on which the Governor submits a State plan under section 304, the Governor shall—

(A) make available copies of a proposed State plan to the public;

(B) allow members of the statewide partnership and members of the public, including representatives of labor organizations and businesses, to submit comments on the proposed State plan to the Governor, not later than the end of the 30-day period beginning on the date on which the proposed State plan is made available; and

(C) include with the State plan submitted to the Secretary under section 304 any such comments that represent disagreement with the plan.

(f) Alternative Entity.—

(1) In general.—For purposes of complying with subsections (a), (b), and (c), a State may use any State entity (including a State council, State workforce development board, combination of regional workforce development boards, or similar entity) that—

(A) is in existence on December 31, 1997;

(B)(i) is established pursuant to section 122 or title VII of the Job Training Partnership Act (29 U.S.C. 1532 or 1792 et seq.), as in effect on December 31, 1997; or

(ii) is substantially similar to the statewide partnership described in subsections (a), (b), and (c); and

(C) includes representatives of business in the State and representatives of labor organizations in the State.

(2) References.—References in this Act to a statewide partnership shall be considered to include such an entity.

SEC. 304. STATE PLAN.

(a) In General.—For a State to be eligible to receive an allotment under section 302, the Governor of the State shall submit to the Secretary for approval a single comprehensive State plan (referred to in this title as the "State plan") that outlines a 3-year strategy for the statewide workforce investment system of the State and that meets the requirements of section 303 and this section.

(b) Contents.—The State plan shall include—

(1) a description of the statewide partnership described in section 303 used in developing the plan;

(2) a description of State-imposed requirements for the statewide workforce investment system;

(3) a description of the State performance measures developed for the workforce investment activities to be carried out through the system, that includes information identifying the State performance measures, established in accordance with section 321(b);

(4) information describing—

(A) the needs of the State with regard to current and projected employment opportunities;

(B) the job skills necessary to obtain the needed employment opportunities;

(C) the economic development needs of the State; and

(D) the type and availability of workforce investment activities in the State;

(5) an identification of local areas designated in the State, including a description of the process used for the designation of such areas, which shall—

(A) ensure a linkage between participants in workforce investment activities funded under this subtitle, and local employment opportunities;

(B) ensure that a significant portion of the population that lives in the local area also works in the same local area;

(C) ensure cooperation and coordination of activities between neighboring local areas; and

(D) take into consideration State economic development areas;

(6) an identification of the criteria for recognition of chief elected officials who will carry out the policy, planning, and other responsibilities authorized for the officials in this title in the local areas identified under paragraph (5);

(7) an identification of criteria for the appointment of members of local partnerships based on the requirements of section 308;

(8) the detailed plans required under section 8 of the Wagner-Peyser Act;

(9) a description of the measures that will be taken by the State to assure coordination of and avoid duplication among—

(A) workforce investment activities authorized under this subtitle;

(B) other activities authorized under this title;

(C) activities authorized under title I or II;

(D) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)), and activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(E) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(F) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(G) activities authorized under chapter 41 of title 38, United States Code;

(H) training activities carried out by the Department of Housing and Urban Development; and

(I) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law);

(10) a description of the process used by the State, consistent with section 303(e)(2), to provide an opportunity for public comment, including comment by representatives of labor organizations and businesses, and input into the development of the State plan, prior to submission of the plan;

(11) a description of the process for the public to comment on members of the local partnerships;

(12) a description of the length of terms and appointment processes for members of the statewide partnership and local partnerships in the State;

(13) information identifying how the State will leverage any funds the State receives under this subtitle with other private and Federal resources;

(14) assurances that the State will provide, in accordance with section 374, for fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State through the allotment made under section 302;

(15) if appropriate, a description of a within-State allocation formula—

(A) that is based on factors relating to excess poverty in local areas or excess unemployment above the State average in local areas; and

(B) through which the State may distribute the funds the State receives under this subtitle for adult employment and training activities or youth activities to local areas;

(16) an assurance that the funds made available to the State through the allotment

made under section 302 will supplement and not supplant other public funds expended to provide activities described in this subtitle;

(17) information indicating—

(A) how the services of one-stop partners in the State will be provided through the one-stop customer service system;

(B) how the costs of such services and the operating costs of the system will be funded; and

(C) how the State will assist in the development and implementation of the operating agreement described in section 311(c);

(18) information specifying the actions that constitute a conflict of interest prohibited in the State for purposes of section 308(g)(2)(B);

(19) a description of a core set of consistently defined data elements for reporting on the activities carried out through the one-stop customer service system in the State;

(20) with respect to employment and training activities funded under this subtitle—

(A) information describing the employment and training activities that will be carried out with the funds the State receives under this subtitle, describing how the State will provide rapid response activities to dislocated workers, and designating an identifiable State rapid response dislocated worker unit, to be funded under section 306(a)(2) to carry out statewide rapid response activities, and an assurance that veterans will be afforded services under this subtitle to the extent practicable;

(B) information describing the State strategy for development of a fully operational statewide one-stop customer service system as described in section 315(b), including—

(i) criteria for use by chief elected officials and local partnerships, for designating or certifying one-stop customer service center operators, appointing one-stop partners, and conducting oversight with respect to the one-stop customer service system, for each local area; and

(ii) the steps that the State will take over the 3 years covered by the plan to ensure that all publicly funded labor exchange services described in section 315(c)(2) or the Wagner-Peyser Act (29 U.S.C. 49 et seq.), will be available through the one-stop customer service system of the State;

(C) information describing the criteria used by the local partnership in the development of the local plan described in section 309; and

(D) information describing the procedures the State will use to identify eligible providers of training services, as required under this subtitle; and

(21) with respect to youth activities funded under this subtitle, information—

(A) describing the youth activities that will be carried out with the funds the State receives under this subtitle;

(B) identifying the criteria to be used by the local partnership in awarding grants and contracts under section 313 for youth activities;

(C) identifying the types of criteria the Governor and local partnerships will use to identify effective and ineffective youth activities and eligible providers of such activities; and

(D) describing how the State will coordinate the youth activities carried out in the State under this subtitle with the services provided by Job Corps centers in the State.

(c) Plan Submission and Approval.—A State plan submitted to the Secretary under this section by a Governor shall be considered to be approved by the Secretary at the end of the 60-day period beginning on the day the Secretary receives the plan, unless the Secretary makes a written determination, during the 60-day period, that—

(1) the plan is inconsistent with the provisions of this title;

(2) in the case of the portion of the plan described in section 8(a) of the Wagner-Peyser Act (29 U.S.C. 49g(a)), the portion does not satisfy the criteria for approval provided in section 8(d) of such Act); or

(3) the levels of performance have not been agreed to pursuant to section 321(b)(4).

(d) Modifications to Initial Plan.—A State may submit, for approval by the Secretary, substantial modifications to the State plan in accordance with the requirements of this section and section 303, as necessary, during the 3-year period of the plan.

CHAPTER 2—ALLOCATIONS TO LOCAL WORKFORCE INVESTMENT AREAS

SEC. 306. WITHIN STATE ALLOCATIONS.

(a) Reservations for State Activities.—

(1) Adult employment and training activities, dislocated worker employment and training activities, and youth activities.—The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under paragraphs (1)(B), (2)(B), and (3)(C)(ii) of section 302(b) for a fiscal year for statewide workforce investment activities described in subsections (b)(2) and (c) of section 314.

(2) Statewide rapid response activities.—The Governor of the State shall reserve not more than 25 percent of the total amount allotted to the State under section 302(b)(2)(B) for a fiscal year for statewide rapid response activities described in section 314(b)(1).

(b) Within State Allocation.—

(1) Allocation.—The Governor of the State shall allocate to the local areas the funds that are allotted to the State under section 302(b) and are not reserved under subsection (a) for the purpose of providing employment and training activities to eligible participants pursuant to section 315 and youth activities to eligible participants pursuant to section 316.

(2) Methods.—The State, acting in accordance with the State plan, and after consulting with chief elected officials in the local areas, shall allocate—

(A) the funds that are allotted to the State for adult employment and training activities under section 302(b)(1)(B) and are not reserved under subsection (a)(1), in accordance with paragraph (3) or (4);

(B) the funds that are allotted to the State for dislocated worker employment and training activities under section 302(b)(2)(B) and are not reserved under paragraph (1) or (2) of subsection (a), in accordance with paragraph (3); and

(C) the funds that are allotted to the State for youth activities under section 302(b)(3)(C)(ii) and are not reserved under subsection (a)(1), in accordance with paragraph (3) or (4).

(3) Adult employment and training activities, dislocated worker employment and training activities, and youth activities formula allocations.—

(A) Adult employment and training activities.—

(i) Allocation.—In allocating the funds described in paragraph (2)(A) to local areas, a State may allocate—

(I) 33⅓ percent of the funds on the basis described in section 302(b)(1)(B)(ii)(I);

(II) 33⅓ percent of the funds on the basis described in section 302(b)(1)(B)(ii)(II); and

(III) 33⅓ percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 302(b)(1)(B).

(ii) Minimum percentage.—No local area shall receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area (or the service delivery area that most closely corresponds to the local area) for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) Definition.—The term "allocation percentage", used with respect to fiscal year 1999 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year. The term, used with respect to fiscal year 1998, means the percentage of the amounts allocated to service delivery areas under section 202(b) of the Job Training Partnership Act (29 U.S.C. 1602(b)) (as in effect on the day before the date of enactment of this Act) received under such section by the service delivery area that most closely corresponds to the local area involved for fiscal year 1998.

(B) Dislocated worker employment and training activities.—

(i) Formula.—In allocating the funds described in paragraph (2)(B) to local areas, a State shall allocate the funds based on an allocation formula prescribed by the Governor of the State. Such formula may be amended by the Governor not more than once for each program year. Such formula shall utilize the most appropriate information available to the Governor to distribute amounts to address the State's worker readjustment assistance needs.

(ii) Information.—The information described in clause (i) shall include—

(I) insured unemployment data;

(II) unemployment concentrations;

(III) plant closing and mass layoff data;

(IV) declining industries data;

(V) farmer-rancher economic hardship data; and

(VI) long-term unemployment data.

(C) Youth activities.—

(i) Allocation.—In allocating the funds described in paragraph (2)(C) to local areas, a State may allocate—

(I) 33⅓ percent of the funds on the basis described in section 302(b)(3)(C)(ii)(I);

(II) 33⅓ percent of the funds on the basis described in section 302(b)(3)(C)(ii)(II); and

(III) 33⅓ percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 302(b)(3)(C).

(ii) Minimum percentage.—No local area shall receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area (or the service delivery area that most closely corresponds to the local area) for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) Definition.—The term "allocation percentage", used with respect to fiscal year 1999 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year. The term, used with respect to fiscal year 1998, means the percentage of the amounts allocated to service delivery areas under sections 252(b) and 262(b) of the Job Training

Partnership Act (29 U.S.C. (29 U.S.C. 1631(b), 1642(b)) (as in effect on the day before the date of enactment of this Act) received under such section by the service delivery area that most closely corresponds to the local area involved for fiscal year 1998.

(D) APPLICATION.—For purposes of carrying out subparagraphs (A), (B), and (C), and subparagraphs (A) and (B) of paragraph (4)—

(i) references in section 302(b) to a State shall be deemed to be references to a local area;

(ii) references in section 302(b) to all States shall be deemed to be references to all local areas in the State involved;

(iii) except as described in clauses (i) and (ii), references in paragraphs (1) and (3) of section 302(b) to the term "excess number" shall be considered to be references to the term as defined in section 302(b)(1); and

(iv) except as described in clause (i), a reference in section 302(b)(2) to the term "excess number" shall be considered to be a reference to the term as defined in such section.

(4) ADULT EMPLOYMENT AND TRAINING AND YOUTH DISCRETIONARY ALLOCATIONS.—

(A) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—In lieu of making the allocation described in paragraph (3)(A), in allocating the funds described in paragraph (2)(A) to local areas, a State may distribute—

(i) a portion equal to not less than 70 percent of the funds in accordance with paragraph (3)(A); and

(ii) the remaining portion of the funds on the basis of a formula that—

(I) incorporates additional factors (other than the factors described in paragraph (3)(A)) relating to excess poverty in local areas or excess unemployment above the State average in local areas; and

(II) was developed by the statewide partnership and approved by the Secretary as part of the State plan.

(B) YOUTH ACTIVITIES.—In lieu of making the allocation described in paragraph (3)(C), in allocating the funds described in paragraph (2)(C) to local areas, a State may distribute—

(i) a portion equal to not less than 70 percent of the funds in accordance with paragraph (3)(C); and

(ii) the remaining portion of the funds on the basis of a formula that—

(I) incorporates additional factors (other than the factors described in paragraph (3)(C)) relating to excess youth poverty in local areas or excess unemployment above the State average in local areas; and

(II) was developed by the statewide partnership and approved by the Secretary as part of the State plan.

(5) LIMITATION.—

(A) IN GENERAL.—Of the amount allocated to a local area under this subsection for a fiscal year—

(i) not more than 15 percent of the amount allocated under paragraph (3)(A) or (4)(A);

(ii) not more than 15 percent of the amount allocated under paragraph (3)(B); and

(iii) not more than 15 percent of the amount allocated under paragraph (3)(C) or (4)(B),

may be used by the local partnership for the administrative cost of carrying out local workforce investment activities described in section 315 or 316.

(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative cost of any of the local workforce investment activities described in sections 315 and 316, regardless of whether the funds were allocated under the provisions described in clause (i), (ii), or (iii) of subparagraph (A).

(C) REGULATIONS.—The Secretary, after consulting with the Governors, shall develop and issue regulations that define the term "administrative cost" for purposes of this title.

(6) TRANSFER AUTHORITY.—A local partnership may transfer, if such a transfer is approved by the Governor, not more than 20 percent of the funds allocated to the local area under paragraph (3)(A) or (4)(A), and 20 percent of the funds allocated to the local area under paragraph (3)(B), for a fiscal year between—

(A) adult employment and training activities; and

(B) dislocated worker employment and training activities.

(7) FISCAL AUTHORITY.—

(A) FISCAL AGENT.—The chief elected official in a local area shall serve as the fiscal agent for, and shall be liable for any misuse of, the funds allocated to the local area under this section, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the fiscal agent and bear such liability.

(B) DISBURSAL.—The fiscal agent shall disburse such funds for workforce investment activities at the direction of the local partnership, pursuant to the requirements of this title, if the direction does not violate a provision of this Act. The fiscal agent shall disburse funds immediately on receiving such direction from the local partnership.

SEC. 307. LOCAL WORKFORCE INVESTMENT AREAS.

(a) DESIGNATION OF AREAS.—

(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Governor shall designate local workforce investment areas in the State, in accordance with the State plan requirements described in section 304(b)(5).

(2) AUTOMATIC DESIGNATION.—

(A) IN GENERAL.—The Governor of the State shall approve a request for designation as a local area—

(i) from any unit of general local government with a population of 500,000 or more, if the designation meets the State plan requirements described in section 304(b)(5);

(ii) of the area served by a rural concentrated employment program grant recipient of demonstrated effectiveness that served as a service delivery area under the Job Training Partnership Act, if the grant recipient has submitted the request and if the designation meets the State plan requirements described in section 304(b)(5); and

(iii) of an area that served as a service delivery area under section 101(a)(4)(A)(ii) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) in a State that has a population of 1,100,000 or less and a population density greater than 900 persons per square mile, if the designation meets the State plan requirements described in section 304(b)(5).

(B) LARGE COUNTIES.—A county with a population of 500,000 or more may request such designation only with the agreement of the political subdivisions within the county with populations of 200,000 or more.

(C) LARGE POLITICAL SUBDIVISIONS.—Single units of general local government with populations of 200,000 or more that are service delivery areas on the date of enactment of this Act shall have an automatic right to request designation as local areas under this section.

(3) PERMANENT DESIGNATION.—Once the boundaries for a local area are determined under this section in accordance with the State plan, the boundaries shall not change except with the approval of the Governor.

(b) SMALL STATES.—The Governor of any State determined to be eligible to receive a minimum allotment under paragraph (1) or (3) of section 302(b), in accordance with section 302(b)(1)(B)(iv)(II), for the first year covered by the State plan, or of a State that is a single State service delivery area under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) as of July 1, 1998, may designate the State as a single State local area for the purposes of this title. The Governor shall identify the State as a local area under section 304(b)(5), in lieu of designating local areas as described in subparagraphs (A), (B), and (C) of section 304(b)(5).

SEC. 308. LOCAL WORKFORCE INVESTMENT PARTNERSHIPS AND YOUTH PARTNERSHIPS.

(a) ESTABLISHMENT OF LOCAL PARTNERSHIP.—There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment partnership.

(b) ROLE OF LOCAL PARTNERSHIP.—The primary role of the local partnership shall be to set policy for the portion of the statewide workforce investment system within the local area, including—

(1) ensuring that the activities authorized under this subtitle and carried out in the local area meet local performance measures;

(2) ensuring that the activities meet the needs of employers and jobseekers; and

(3) ensuring the continuous improvement of the system.

(c) MEMBERSHIP OF LOCAL PARTNERSHIP.—

(1) STATE CRITERIA.—The Governor of the State shall establish criteria for the appointment of members of the local partnerships for local areas in the State in accordance with the requirements of paragraph (2). Information identifying such criteria shall be included in the State plan, as described in section 304(b)(7).

(2) COMPOSITION.—Such criteria shall require, at a minimum, that the membership of each local partnership—

(A) shall include—

(i) a majority of members who—

(I) are representatives of business in the local area;

(II) are owners of businesses, chief executives or operating officers of private businesses, and other business executives or employers with optimum policymaking or hiring authority;

(III) represent businesses with employment opportunities that reflect the employment opportunities of the local area; and

(IV) are appointed from among individuals nominated by local business organizations and business trade associations;

(ii) chief officers representing local postsecondary educational institutions, representatives of vocational education providers, and representatives of adult education providers;

(iii) chief officers representing labor organizations (for a local area in which such representatives reside), nominated by local labor federations, or (for a local area in which such representatives do not reside) other representatives of employees; and

(iv) chief officers representing economic development agencies, including private sector economic development entities;

(B) may include chief officers who have policymaking authority, from one-stop partners who have entered into an operating agreement described in section 311(c) to participate in the one-stop customer service system in the local area; and

(C) may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

(3) Chairperson.—The local partnership shall elect a chairperson from among the members of the partnership described in paragraph (2)(A)(i).

(d) Appointment and Certification of Local Partnership.—

(1) Appointment of local partnership members and assignment of responsibilities.—

(A) In general.—The chief elected official in a local area is authorized to appoint the members of the local partnership for such area, in accordance with the State criteria established under subsection (c).

(B) Multiple units of local government in area.—

(i) In general.—In a case in which a local area includes more than 1 unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials—

(I) in the appointment of the members of the local partnership from the individuals nominated or recommended to be such members in accordance with the criteria established under subsection (c); and

(II) in carrying out any other responsibilities assigned to such officials under this subtitle.

(ii) Lack of agreement.—If, after a reasonable effort, the chief elected officials are unable to reach agreement as provided under clause (i), the Governor may appoint the members of the local partnership from individuals so nominated or recommended.

(C) Concentrated employment programs.—In the case of a local area designated in accordance with section 307(a)(2)(A)(ii), the governing body of the concentrated employment program involved shall act in consultation with the chief elected official in the local area to appoint members of the local partnership, in accordance with the State criteria established under subsection (c), and to carry out any other responsibility relating to workforce investment activities assigned to such official under this Act.

(2) Certification.—

(A) In general.—The Governor shall annually certify 1 local partnership for each local area in the State.

(B) Criteria.—Such certification shall be based on criteria established under subsection (c) and, for a second or subsequent certification, the extent to which the local partnership has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures required under section 321(c).

(C) Failure to achieve certification.—Failure of a local partnership to achieve certification shall result in reappointment and certification of another local partnership for the local area pursuant to the process described in paragraph (1) and this paragraph.

(3) Decertification.—

(A) In general.—Notwithstanding paragraph (2), the Governor may decertify a local partnership, at any time after providing notice and an opportunity for comment, for—

(i) fraud or abuse; or

(ii) failure to carry out the functions specified for the local partnership in any of paragraphs (1), (2), (4), (5), and (6) of subsection (e).

(B) Plan.—If the Governor decertifies a local partnership for a local area, the Governor may require that a local partnership be appointed and certified for the local area pursuant to a plan developed by the Governor in consultation with the chief elected official in the local area and in accordance with the criteria established under subsection (c).

(4) Exception.—Notwithstanding subsection (c) and paragraphs (1) and (2), if a State described in section 307(b) designates the State as a local area in the State plan, the Governor may designate the statewide partnership described in section 303 to carry out any of the functions described in subsection (e).

(e) Functions of Local Partnership.—The functions of the local partnership shall include—

(1) developing and submitting a local plan as described in section 309 in partnership with the appropriate chief elected official;

(2) appointing, certifying, or designating one-stop partners and one-stop customer service center operators, pursuant to the criteria specified in the local plan;

(3) promoting the participation of private sector employers in the statewide workforce investment system, and ensuring the effective provision through the system of connecting, brokering, and coaching activities, through intermediaries such as the entities operating the one-stop customer service center in the local area or through other organizations, to assist such employers in meeting hiring needs;

(4) conducting oversight with respect to the one-stop customer service system;

(5) modifying the list of eligible providers of training services pursuant to subsections (b)(3)(B) and (c)(2)(B) of section 312;

(6) setting local performance measures pursuant to section 312(b)(2)(D)(ii);

(7) analyzing and identifying—

(A) current and projected local employment opportunities; and

(B) the skills necessary to obtain such local employment opportunities;

(8) coordinating the workforce investment activities carried out in the local area with economic development strategies and developing other employer linkages with such activities; and

(9) assisting the Governor in developing the statewide labor market information system described in section 15(e) of the Wagner-Peyser Act.

(f) Sunshine Provision.—The local partnership shall make available to the public, on a regular basis through open meetings, information regarding the activities of the local partnership, including information regarding membership, the appointment of one-stop partners, the designation and certification of one-stop customer service center operators, and the award of grants and contracts to eligible providers of youth activities.

(g) Other Activities of Local Partnership.—

(1) Limitation.—

(A) In general.—Except as provided in subparagraph (B), no local partnership may directly carry out or enter into a contract for a training service described in section 315(c)(3).

(B) Waivers.—The Governor of the State in which the local partnership is located may grant to the local partnership a written waiver of the prohibition set forth in subparagraph (A), if the local partnership provides sufficient evidence that a private or public entity is not available to provide the training service and that the activity is necessary to provide an employment opportunity described in the local plan described in section 309.

(2) Conflict of interest.—No member of a local partnership may—

(A) vote on a matter under consideration by the local partnership—

(i) regarding the provision of services by such member (or by an organization that such member represents); or

(ii) that would provide direct financial benefit to such member or the immediate family of such member; or

(B) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

(h) Technical Assistance.—If a local area fails to meet established State or local performance measures, the Governor shall provide technical assistance to the local partnership involved to improve the performance of the local area.

(i) Youth Partnership.—

(1) Establishment.—There shall be established in each local area of a State, a youth partnership appointed by the local partnership, in cooperation with the chief elected official, in the local area.

(2) Membership.—The membership of each youth partnership—

(A) shall include—

(i) 1 or more members of the local partnership;

(ii) representatives of youth service agencies, including juvenile justice agencies;

(iii) representatives of local public housing authorities;

(iv) parents of youth seeking assistance under this subtitle;

(v) individuals, including former participants, and representatives of organizations, that have experience relating to youth activities;

(vi) representatives of businesses in the local area that employ youth; and

(vii) representatives of the Job Corps, as appropriate; and

(B) may include such other individuals as the chairperson of the local partnership, in cooperation with the chief elected official, determines to be appropriate.

(3) Duties.—The duties of the youth partnership include—

(A) the development of the portions of the local plan relating to youth, as determined by the chairperson of the local partnership;

(B) subject to the approval of the local partnership, awarding grants and contracts to, and conducting oversight with respect to, eligible providers of youth activities, as described in section 313, in the local area;

(C) coordinating youth activities in the local area; and

(D) other duties determined to be appropriate by the chairperson of the local partnership.

(j) Alternative Entity.—

(1) In general.—For purposes of complying with subsections (a), (c), and (d), and paragraphs (1) and (2) of subsection (i), a State may use any local entity (including a local council, regional workforce development board, or similar entity) that—

(A) is established to serve the local area (or the service delivery area that most closely corresponds to the local area);

(B) is in existence on December 31, 1997;

(C)(i) is established pursuant to section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on December 31, 1997; or

(ii) is substantially similar to the local and youth partnerships described in subsections (a), (c), and (d), and paragraphs (1) and (2) of subsection (i); and

(D) includes—

(i) representatives of business in the local area; and

(ii)(I) representatives of labor organizations in the local area, for a local area in which such representatives reside; or

(II) for a local area in which such representatives do not reside, other representatives of employees in the local area.

(2) REFERENCES.—References in this Act to a local partnership or a youth partnership shall be considered to include such an entity.

SEC. 309. LOCAL PLAN.

(a) IN GENERAL.—Each local partnership shall develop and submit to the Governor a comprehensive 3-year local plan (referred to in this title as the "local plan"), in partnership with the appropriate chief elected official. The local plan shall be consistent with the State plan.

(b) CONTENTS.—The local plan shall include—

(1) an identification of the needs of the local area with regard to current and projected employment opportunities;

(2) an identification of the job skills necessary to obtain such employment opportunities;

(3) a description of the activities to be used under this subtitle to link local employers and local jobseekers;

(4) an identification and assessment of the type and availability of adult and dislocated worker employment and training activities in the local area;

(5) an identification of successful eligible providers of youth activities in the local area;

(6) a description of the measures that will be taken by the local area to assure coordination of and avoid duplication among the programs and activities described in section 304(b)(9);

(7) a description of the manner in which the local partnership will coordinate activities carried out under this subtitle in the local area with such activities carried out in neighboring local areas;

(8) a description of the competitive process to be used to award grants and contracts in the local area for activities carried out under this subtitle;

(9) information describing local performance measures for the local area that are based on the performance measures in the State plan;

(10) in accordance with the State plan, a description of the criteria that the chief elected official in the local area and the local partnership will use to appoint, designate, or certify, and to conduct oversight with respect to, one-stop customer service center systems in the local area;

(11) a description of the process used by the local partnership, consistent with subsection (c), to provide an opportunity for public comment, including comment by representatives of labor organizations and businesses, and input into the development of the local plan, prior to submission of the plan; and

(12) such other information as the Governor may require.

(c) PROCESS.—Prior to the date on which the local partnership submits a local plan under this section, the local partnership shall—

(1) make available copies of a proposed local plan to the public;

(2) allow members of the local partnership and members of the public, including representatives of labor organizations and businesses, to submit comments on the proposed local plan to the local partnership, not later than the end of the 30-day period beginning on the date on which the proposed local plan is made available; and

(3) include with the local plan submitted to the Governor under this section any such comments that represent disagreement with the plan.

(d) PLAN SUBMISSION AND APPROVAL.—A local plan submitted to the Governor under this section shall be considered to be approved by the Governor at the end of the 60-day period beginning on the day the Governor receives the plan, unless the Governor makes a written determination during the 60-day period that—

(1) deficiencies in activities carried out under this subtitle have been identified, through audits conducted under section 374 or otherwise, and the local area has not made acceptable progress in implementing corrective measures to address the deficiencies; or

(2) the plan does not comply with this title.

(e) LACK OF AGREEMENT.—If the local partnership and the appropriate chief elected official in the local area cannot agree on the local plan after making a reasonable effort, the Governor may develop the local plan.

CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES AND PROVIDERS

SEC. 311. IDENTIFICATION AND OVERSIGHT OF ONE-STOP PARTNERS AND ONE-STOP CUSTOMER SERVICE CENTER OPERATORS.

(a) IN GENERAL.—Consistent with the State plan, the chief elected official and the local partnership shall develop and implement operating agreements described in subsection (c) to appoint one-stop partners, shall designate or certify one-stop customer service center operators, and shall conduct oversight with respect to the one-stop customer service system, in the local area.

(b) ONE-STOP PARTNERS.—

(1) DESIGNATED PARTNERS.—

(A) IN GENERAL.—Each entity that carries out a program, services, or activities described in subparagraph (B) shall make available to participants, through a one-stop customer service center, the services described in section 315(c)(2) that are applicable to such program, and shall participate in the operation of such center as a party to the agreement described in subsection (c), consistent with the requirements of the Federal law in which the program, services, or activities are authorized.

(B) PROGRAMS; SERVICES; ACTIVITIES.—The programs, services, and activities referred to in subparagraph (A) consist of—

(i) core services authorized under this subtitle;

(ii) other activities authorized under this title;

(iii) activities authorized under title I and title II;

(iv) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(v) programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 729 et seq.);

(vi) programs authorized under section 403(a)(5) of the Social Security Act (42 U.S.C. 603(a)(5)) (as added by section 5001 of the Balanced Budget Act of 1997);

(vii) programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(viii) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(ix) activities authorized under chapter 41 of title 38, United States Code;

(x) training activities carried out by the Department of Housing and Urban Development; and

(xi) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(2) ADDITIONAL PARTNERS.—

(A) IN GENERAL.—In addition to the entities described in paragraph (1), other entities that carry out human resource programs may make available to participants through a one-stop customer service center the services described in section 315(c)(2) that are applicable to such program, and participate in the operation of such centers as a party to the agreement described in subsection (c), if the local partnership and chief elected official involved approve such participation.

(B) PROGRAMS.—The programs referred to in subparagraph (A) include—

(i) programs authorized under part A of title IV of the Social Security Act;

(ii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

(iii) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)); and

(iv) other appropriate Federal, State, or local programs, including programs in the private sector.

(c) OPERATING AGREEMENTS.—

(1) IN GENERAL.—The one-stop customer service center operator selected pursuant to subsection (d) for a one-stop customer service center shall enter into a written agreement with the local partnership and one-stop partners described in subsection (b) concerning the operation of the center. Such agreement shall be subject to the approval of the chief elected official and the local partnership.

(2) CONTENTS.—The written agreement required under paragraph (1) shall contain—

(A) provisions describing—

(i) the services to be provided through the center;

(ii) how the costs of such services and the operating costs of the system will be funded,

(iii) methods for referral of individuals between the one-stop customer service center operators and the one-stop partners, for the appropriate services and activities;

(iv) the monitoring and oversight of activities carried out under the agreement; and

(v) the duration of the agreement and the procedures for amending the agreement during the term of the agreement; and

(B) such other provisions, consistent with the requirements of this title, as the parties to the agreement determine to be appropriate.

(d) ONE-STOP CUSTOMER SERVICE CENTER OPERATORS.—

(1) IN GENERAL.—To be eligible to receive funds made available under this subtitle to operate a one-stop customer service center, an entity shall—

(A) be designated or certified as a one-stop customer service center operator, as described in subsection (a); and

(B) be a public or private entity, or consortium of entities, of demonstrated effectiveness located in the local area, which entity or consortium may include an institution of higher education (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), a local employment service office established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), a local government agency, a private for-profit entity, a private nonprofit entity, or other interested entity, of demonstrated effectiveness.

(2) EXCEPTION.—Elementary schools and secondary schools shall not be eligible for

designation or certification as one-stop customer service center operators, except that nontraditional public secondary schools and area vocational education schools shall be eligible for such designation or certification.

(e) ESTABLISHED ONE-STOP CUSTOMER SERVICE SYSTEMS.—For a local area in which a one-stop customer service system has been established prior to the date of enactment of this Act, the local partnership, the chief elected official, and the Governor may agree to appoint, designate, or certify the one-stop partners and one-stop customer service center operators of such system, for purposes of this section.

(f) OVERSIGHT.—The local partnership shall conduct oversight with respect to the one-stop customer service center system and may terminate for cause the eligibility of such a partner or operator to provide activities through or operate a one-stop customer service center.

SEC. 312. DETERMINATION AND IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES BY PROGRAM.

(a) GENERAL ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsection (e), to be eligible to receive funds made available under section 306 to provide training services described in section 315(c)(3) (referred to in this title as "training services") and be identified as an eligible provider of such services, a provider of such services shall meet the requirements of this section.

(2) PROVIDERS.—To be eligible to receive the funds, the provider shall be—

(A) a postsecondary educational institution that—

(i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

(ii) provides a program that leads to an associate degree, baccalaureate degree, or certificate; or

(B) another public or private provider of a program.

(b) INITIAL DETERMINATION AND IDENTIFICATION.—

(1) POSTSECONDARY EDUCATIONAL INSTITUTIONS.—To be eligible to receive funds as described in subsection (a), an institution described in subsection (a)(2)(A) shall submit an application at such time, in such manner, and containing such information as the designated State agency described in subsection (f) may require, after consultation with the local partnerships in the State. On submission of the application, the institution shall automatically be initially eligible to receive such funds for the program described in subsection (a)(2)(A).

(2) OTHER PROVIDERS.—

(A) PROCEDURE.—The Governor, in consultation with the local partnerships in the State, shall establish a procedure for determining the initial eligibility of providers described in subsection (a)(2)(B) to receive such funds for specified programs. The procedure shall require a provider of a program to meet minimum acceptable levels of performance based on—

(i) performance criteria relating to the rates, percentages, increases, and costs described in subparagraph (C) for the program, as demonstrated using verifiable program-specific performance information described in subparagraph (C) and submitted to the designated State agency, as required under subparagraph (C); and

(ii) performance criteria relating to any characteristics for which local partnerships request the submission of information under subparagraph (D) for the program, as demonstrated using the information submitted.

(B) MINIMUM LEVELS.—The Governor shall—

(i) consider, in determining such minimum levels—

(I) criteria relating to the economic, geographic, and demographic factors in the local areas in which the provider provides the program; and

(II) the characteristics of the population served by such provider through the program; and

(ii) verify the minimum levels of performance by using quarterly records described in section 321.

(C) APPLICATION.—To be initially eligible to receive funds as described in subsection (a), a provider described in subsection (a)(2)(B) shall submit an application at such time, in such manner, and containing such information as the designated State agency may require, including performance information on—

(i) program completion rates for participants in the applicable program conducted by the provider;

(ii) the percentage of the graduates of the program placed in unsubsidized employment in an occupation related to the program conducted;

(iii) retention rates of the graduates in unsubsidized employment—

(I) 6 months after the first day of the employment; and

(II) 12 months after the first day of the employment;

(iv) the wages received by the graduates placed in unsubsidized employment after the completion of participation in the program—

(I) on the first day of the employment;

(II) 6 months after the first day of the employment; and

(III) 12 months after the first day of the employment;

(v) where appropriate, the rates of licensure or certification of the graduates, attainment of academic degrees or equivalents, or attainment of other measures of skill; and

(vi) program cost per participant in the program.

(D) ADDITIONAL INFORMATION.—

(i) IN GENERAL.—In addition to the performance information described in subparagraph (C), the local partnerships in the State involved may require that a provider submit, to the local partnerships and to the designated State agency, other performance information relating to the program to be initially identified as an eligible provider of training services, including information regarding the ability of the provider to provide continued counseling and support regarding the workplace to the graduates, for not less than 12 months after the graduation involved.

(ii) HIGHER LEVELS OF PERFORMANCE ELIGIBILITY.—The local partnership may require higher levels of performance than the minimum levels established under subparagraph (A)(i) for initial eligibility to receive funds as described in subsection (a).

(3) LIST OF ELIGIBLE PROVIDERS BY PROGRAM.—

(A) IN GENERAL.—The designated State agency, after reviewing the performance information described in paragraph (2)(C) and any information required to be submitted under paragraph (2)(D) and using the procedure described in paragraph (2)(B), shall—

(i) identify eligible providers of training services described in subparagraphs (A) and (B) of subsection (a)(2), including identifying the programs of the providers through which the providers may offer the training services; and

(ii) compile a list of the eligible providers, and the programs, accompanied by the performance information described in paragraph (2)(C) and any information required to be submitted under paragraph (2)(D) for each such provider described in subsection (a)(2)(B).

(B) LOCAL MODIFICATION.—The local partnership may modify such list by reducing the number of eligible providers listed, to ensure that the eligible providers carry out programs that provide skills that enable participants to obtain local employment opportunities.

(c) SUBSEQUENT ELIGIBILITY.—

(1) INFORMATION AND CRITERIA.—To be eligible to continue to receive funds as described in subsection (a) for a program, a provider shall—

(A) submit the performance information described in subsection (b)(2)(C) and any information required to be submitted under subsection (b)(2)(D) annually to the designated State agency at such time and in such manner as the designated State agency may require for the program; and

(B) annually meet the performance criteria described in subsection (b)(2)(A) for the program, as demonstrated utilizing quarterly records described in section 321.

(2) LIST OF ELIGIBLE PROVIDERS BY PROGRAM.—

(A) IN GENERAL.—The designated State agency, after reviewing the performance information and any other information submitted under paragraph (1) and using the procedure described in subsection (b)(2)(A), shall identify eligible providers and programs, and compile a list of the providers and programs, as described in subsection (b)(3), accompanied by the performance information and other information for each such provider.

(B) LOCAL MODIFICATION.—The local partnership may modify such list by reducing the number of eligible providers listed, to ensure that the eligible providers carry out programs that provide skills that enable participants to obtain local employment opportunities.

(3) AVAILABILITY.—Such list and information shall be made widely available to participants in employment and training activities funded under this subtitle, and to others, through the one-stop customer service system described in section 315(b).

(d) ENFORCEMENT.—

(1) ACCURACY OF INFORMATION.—If the designated State agency, after consultation with the local partnership involved, determines that a provider or individual supplying information on behalf of a provider intentionally supplies inaccurate information under this section, the agency shall terminate the eligibility of the provider to receive funds described in subsection (a) for a period of time, but not less than 2 years.

(2) COMPLIANCE WITH CRITERIA OR REQUIREMENTS.—If the designated State agency, after consultation with the local partnership, determines that a provider described in this section or a program of training services carried out by such a provider fails to meet the required performance criteria described in subsection (c)(1)(B) or subsection (e)(2), as appropriate, or materially violates any provision of this title, including the regulations promulgated to implement this title, the agency may terminate the eligibility of the provider to receive funds described in subsection (a) for such program or take such other action as the agency determines to be appropriate.

(3) REPAYMENT.—Any provider whose eligibility is terminated under paragraph (1) or

(2) for a program shall be liable for repayment of funds described in subsection (a) received for the program during any period of noncompliance described in such paragraph.

(4) APPEAL.—The Governor shall establish a procedure for a provider to appeal a determination by the designated State agency that results in termination of eligibility under this subsection. Such procedure shall provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

(e) ON-THE-JOB TRAINING EXCEPTION.—

(1) IN GENERAL.—Providers of on-the-job training shall not be subject to the requirements of subsections (a) through (c).

(2) COLLECTION AND DISSEMINATION OF INFORMATION.—A one-stop customer service center operator in a local area shall collect such performance information from on-the-job training providers as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate such information through the one-stop customer service system.

(f) ADMINISTRATION.—The Governor shall designate a State agency to collect and disseminate the performance information described in subsection (b)(2)(C) and any information required to be submitted under subsection (b)(2)(D) and carry out other duties described in this section.

SEC. 313. IDENTIFICATION OF ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

The youth partnership is authorized to award grants and contracts on a competitive basis, based on the criteria contained in the State plan and local plan, to providers of youth activities, and conduct oversight with respect to such providers, in the local area.

SEC. 314. STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.

(a) IN GENERAL.—Funds reserved by a Governor for a State—

(1) under section 306(a)(2) shall be used to carry out the statewide rapid response activities described in subsection (b)(1); and

(2) under section 306(a)(1)—

(A) shall be used to carry out the statewide workforce investment activities described in subsection (b)(2); and

(B) may be used to carry out any of the statewide workforce investment activities described in subsection (c),

regardless of whether the funds were allotted to the State under paragraph (1), (2), or (3) of section 302(b).

(b) REQUIRED STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—

(1) STATEWIDE RAPID RESPONSE ACTIVITIES.—A State shall use funds reserved under section 306(a)(2) to carry out statewide rapid response activities, which shall include—

(A) provision of rapid response activities, carried out in local areas by the State, working in conjunction with the local partnership and the chief elected official in the local area; and

(B) provision of additional assistance to local areas that experience disasters, mass layoffs or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in the local areas by the State, working in conjunction with the local partnership and the chief elected official in the local areas.

(2) OTHER REQUIRED STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—A State shall use funds reserved under section 306(a)(1) to carry out other statewide workforce investment activities, which shall include—

(A) disseminating the list of eligible providers of training services, including eligible providers of nontraditional training services, and the performance information as described in subsections (b) and (c) of section 312, and a list of eligible providers of youth activities described in section 313;

(B) conducting evaluations, under section 321(e), of activities authorized in this section, section 315, and section 316, in coordination with the activities carried out under section 368;

(C) providing incentive grants to local areas for regional cooperation among local partnerships, for local coordination and nonduplication of activities carried out under this Act, and for comparative performance by local areas on the local performance measures described in section 321(c);

(D) providing technical assistance to local areas that fail to meet local performance measures;

(E) assisting in the establishment and operation of a one-stop customer service system; and

(F) operating a fiscal and management accountability information system under section 321(f).

(c) ALLOWABLE STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—

(1) IN GENERAL.—A State may use funds reserved under section 306(a)(1) to carry out additional statewide workforce investment activities, which may include—

(A) subject to paragraph (2), administration by the State of the workforce investment activities carried out under this subtitle;

(B) identification and implementation of incumbent worker training programs, which may include the establishment and implementation of an employer loan program;

(C) carrying out other activities authorized in section 315 that the State determines to be necessary to assist local areas in carrying out activities described in subsection (c) or (d) of section 315 through the statewide workforce investment system; and

(D) carrying out, on a statewide basis, activities described in section 316.

(2) LIMITATION.—

(A) IN GENERAL.—Of the funds allotted to a State under section 302(b) and reserved under section 306(a)(1) for a fiscal year—

(i) not more than 5 percent of the amount allotted under section 302(b)(1);

(ii) not more than 5 percent of the amount allotted under section 302(b)(2); and

(iii) not more than 5 percent of the amount allotted under section 302(b)(3),

may be used by the State for the administration of statewide workforce investment activities carried out under this section.

(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative cost of any of the statewide workforce investment activities, regardless of whether the funds were allotted to the State under paragraph (1), (2), or (3) of section 302(b).

(d) PROHIBITION.—No funds described in subsection (a) shall be used to develop or implement education curricula for school systems in the State.

SEC. 315. LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.

(a) IN GENERAL.—Funds received by a local area under paragraph (3)(A) or (4)(A), as appropriate, of section 306(b), and funds received by the local area under section 306(b)(3)(B)—

(1) shall be used to carry out employment and training activities described in subsection (c) for adults or dislocated workers, as appropriate; and

(2) may be used to carry out employment and training activities described in subsection (d) for adults or dislocated workers, as appropriate.

(b) ESTABLISHMENT OF ONE-STOP CUSTOMER SERVICE SYSTEM.—

(1) IN GENERAL.—There shall be established in a State that receives an allotment under section 302 a one-stop customer service system, which—

(A) shall provide the core services described in subsection (c)(2);

(B) shall provide access to training services as described in subsection (c)(3);

(C) shall provide access to the activities (if any) carried out under subsection (d); and

(D) shall provide access to the information described in section 15 of the Wagner-Peyser Act and all job search, placement, recruitment, and other labor exchange services authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(2) ONE-STOP DELIVERY.—At a minimum, the one-stop customer service system—

(A) shall make each of the services described in paragraph (1) accessible at not less than 1 physical customer service center in each local area of the State; and

(B) may also make services described in paragraph (1) available—

(i) through a network of customer service centers that can provide 1 or more of the services described in paragraph (1) to such individuals; and

(ii) through a network of eligible one-stop partners—

(I) in which each partner provides 1 or more of the services to such individuals and is accessible at a customer service center that consists of a physical location or an electronically or technologically linked access point; and

(II) that assures individuals that information on the availability of core services will be available regardless of where the individuals initially enter the statewide workforce investment system, including information made available through an access point described in subclause (I).

(c) REQUIRED LOCAL ACTIVITIES.—

(1) IN GENERAL.—Funds received by a local area under paragraph (3)(A) or (4)(A), as appropriate, of section 306(b), and funds received by the local area under section 306(b)(3)(B), shall be used—

(A) to establish a one-stop customer service center described in subsection (b);

(B) to provide the core services described in paragraph (2) to participants described in such paragraph through the one-stop customer service system; and

(C) to provide training services described in paragraph (3) to participants described in such paragraph.

(2) CORE SERVICES.—Funds received by a local area as described in paragraph (1) shall be used to provide core services, which shall be available to all individuals seeking assistance through a one-stop customer service system and shall, at a minimum, include—

(A) determinations of whether the individuals are eligible to receive activities under this subtitle;

(B) outreach, intake (which may include worker profiling), and orientation to the information and other services available through the one-stop customer service system;

(C) initial assessment of skill levels, aptitudes, abilities, and supportive service needs;

(D) case management assistance, as appropriate;

(E) job search and placement assistance;

(F) provision of information regarding—

(i) local, State, and, if appropriate, regional or national, employment opportunities; and

(ii) job skills necessary to obtain the employment opportunities;

(G) provision of performance information on eligible providers of training services as described in section 312, provided by program, and eligible providers of youth activities as described in section 313, eligible providers of adult education as described in title II, eligible providers of postsecondary vocational education activities and vocational education activities available to school dropouts as described in title I, and eligible providers of vocational rehabilitation program activities as described in title I of the Rehabilitation Act of 1973;

(H) provision of performance information on the activities carried out by one-stop partners, as appropriate;

(I) provision of information regarding how the local area is performing on the local performance measures described in section 321(c), and any additional performance information provided to the one-stop customer service center by the local partnership;

(J) provision of accurate information relating to the availability of supportive services, including child care and transportation, available in the local area, and referral to such services, as appropriate;

(K) provision of information regarding filing claims for unemployment compensation;

(L) assistance in establishing eligibility for—

(i) welfare-to-work activities authorized under section 403(a)(5) of the Social Security Act (as added by section 5001 of the Balanced Budget Act of 1997) available in the local area; and

(ii) programs of financial aid assistance for training and education programs that are not funded under this Act and are available in the local area; and

(M) followup services, including counseling regarding the workplace, for participants in workforce investment activities who are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.

(3) REQUIRED TRAINING SERVICES.—

(A) ELIGIBLE PARTICIPANTS.—Funds received by a local area as described in paragraph (1) shall be used to provide training services to individuals—

(i) who are adults (including dislocated workers);

(ii) who seek the services;

(iii)(I) who are unable to obtain employment through the core services; or

(II) who are employed and who are determined by a one-stop customer service center operator to be in need of such training services in order to gain or retain employment that allows for self-sufficiency;

(iv) who after an interview, evaluation, or assessment, and case management, have been determined by a one-stop customer service center operator or one-stop partner, as appropriate, to be in need of training services and to have the skills and qualifications, to successfully participate in the selected program of training services;

(v) who select programs of training services that are directly linked to the employment opportunities in the local area involved or in another area in which the adults receiving such services are willing to relocate;

(vi) who meet the requirements of subparagraph (B); and

(vii) who are determined to be eligible in accordance with the priority system, if any, in effect under subparagraph (D).

(B) QUALIFICATION.—

(i) REQUIREMENT.—Except as provided in clause (ii), provision of such training services shall be limited to individuals who—

(I) are unable to obtain other grant assistance for such services, including Federal Pell Grants established under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); or

(II) require assistance beyond the assistance made available under other grant assistance programs, including Federal Pell Grants.

(ii) REIMBURSEMENTS.—Training services may be provided under this paragraph to an individual who otherwise meets the requirements of this paragraph while an application for a Federal Pell Grant is pending, except that if such individual is subsequently awarded a Federal Pell Grant, appropriate reimbursement shall be made to the local area from such Federal Pell Grant.

(C) TRAINING SERVICES.—Training services may include—

(i) employment skill training;

(ii) on-the-job training;

(iii) job readiness training; and

(iv) adult education services when provided in combination with services described in clause (i), (ii), or (iii).

(D) PRIORITY.—In the event that funds are limited within a local area for adult employment and training activities, priority shall be given to disadvantaged adults for receipt of training services provided under this paragraph. The appropriate local partnership and the Governor shall direct the one-stop customer service center operator in the local area with regard to making determinations related to such priority.

(E) DELIVERY OF SERVICES.—Training services provided under this paragraph shall be provided—

(i) except as provided in section 312(e), through eligible providers of such services identified in accordance with section 312; and

(ii) in accordance with subparagraph (F).

(F) CONSUMER CHOICE REQUIREMENTS.—

(i) IN GENERAL.—Training services provided under this paragraph shall be provided in a manner that maximizes consumer choice in the selection of an eligible provider of such services.

(ii) ELIGIBLE PROVIDERS.—Each local partnership, through one-stop customer service centers, shall make available—

(I) the list of eligible providers required under subsection (b)(3) or (c)(2) of section 312, with a description of the programs through which the providers may offer the training services, and a list of the names of on-the-job training providers; and

(II) the performance information on eligible providers of training services as described in section 312.

(iii) EMPLOYMENT INFORMATION.—Each local partnership, through one-stop customer service centers, shall make available—

(I) information regarding local, State, and, if appropriate, regional or national, employment opportunities; and

(II) information regarding the job skills necessary to obtain the employment opportunities.

(iv) INDIVIDUAL TRAINING ACCOUNTS.—An individual who is eligible pursuant to subparagraph (A) and seeks training services may select, in consultation with a case manager, an eligible provider of training services from the lists of providers described in clause (ii)(I). Upon such selection, the operator of the one-stop customer service center shall, to the extent practicable, refer such individual to the eligible provider of training services, and arrange for payment for such services through an individual training account.

(d) PERMISSIBLE LOCAL ACTIVITIES.—

(1) DISCRETIONARY ONE-STOP DELIVERY ACTIVITIES.—Funds received by a local area under paragraph (3)(A) or (4)(A), as appropriate, of section 306(b), and funds received by the local area under section 306(b)(3)(B) may be used to provide, through one-stop delivery described in subsection (b)(2)—

(A) intensive employment-related services for adults;

(B) customized screening and referral of qualified participants in training services to employment; and

(C) customized employment-related services to employers.

(2) SUPPORTIVE SERVICES.—Funds received by the local area as described in paragraph (1) may be used to provide supportive services to participants—

(A) who are participating in activities described in this section; and

(B) who are unable to obtain such supportive services through other programs providing such services.

(3) NEEDS-RELATED PAYMENTS.—

(A) IN GENERAL.—Funds received by the local area under section 306(b)(3)(B) may be used to provide needs-related payments to dislocated workers who do not qualify for, or have exhausted, unemployment compensation, for the purpose of enabling such individuals to participate in training services.

(B) ADDITIONAL ELIGIBILITY REQUIREMENTS.—In addition to the requirements contained in subparagraph (A), a dislocated worker who has ceased to qualify for unemployment compensation may be eligible to receive needs-related payments under this paragraph only if such worker was enrolled in the training services—

(i) by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility for employment and training activities for dislocated workers under this subtitle; or

(ii) if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months.

(C) LEVEL OF PAYMENTS.—The level of a needs-related payment made to a dislocated worker under this paragraph shall not exceed the greater of—

(i) the applicable level of unemployment compensation; or

(ii) if such worker did not qualify for unemployment compensation, an amount equal to the poverty line, for an equivalent period, which amount shall be adjusted to reflect changes in total family income.

SEC. 316. LOCAL YOUTH ACTIVITIES.

(a) PURPOSES.—The purposes of this section are—

(1) to provide, to youth seeking assistance in achieving academic and employment success, effective and comprehensive activities, which shall include a variety of options for improving educational and skill competencies and provide effective connections to employers;

(2) to ensure continuous contact for youth with committed adults;

(3) to provide opportunities for training to youth;

(4) to provide continued support services for youth;

(5) to provide incentives for recognition and achievement to youth; and

(6) to provide opportunities for youth in activities related to leadership, development, decisionmaking, citizenship, and community service.

(b) REQUIRED ELEMENTS.—Funds received by a local area under paragraph (3)(C) or

(4)(B) of section 306(b) shall be used to carry out, for youth who seek the activities, activities that—

(1) consist of the provision of—

(A) tutoring, study skills training, and instruction, leading to completion of secondary school, including dropout prevention strategies;

(B) alternative secondary school services;

(C) summer employment opportunities and other paid and unpaid work experiences, including internships and job shadowing;

(D) employment skill training, as appropriate;

(E) community service and leadership development opportunities;

(F) services described in section 315(c)(2);

(G) supportive services;

(H) adult mentoring for the period of participation and a subsequent period, for a total of not less than 12 months; and

(I) followup services for not less than 12 months after the completion of participation, as appropriate;

(2) provide—

(A) preparation for postsecondary educational opportunities, in appropriate cases;

(B) strong linkages between academic and occupational learning;

(C) preparation for unsubsidized employment opportunities, in appropriate cases; and

(D) effective connections to intermediaries with strong links to—

(i) the job market; and

(ii) local and regional employers; and

(3) involve parents, participants, and other members of the community with experience relating to youth in the design and implementation of the activities.

(c) Priority.—

(1) In general.—At a minimum, 50 percent of the funds described in subsection (b) shall be used to provide youth activities to out-of-school youth.

(2) Exception.—A State that receives a minimum allotment under paragraph (1) or (3) of section 302(b) in accordance with section 302(b)(1)(B)(iv)(II) may reduce the percentage described in paragraph (1) for a local area in the State, if—

(A) after an analysis of the youth population in the local area, the State determines that the local area will be unable to meet the percentage described in paragraph (1) due to a low number of out-of-school youth; and

(B)(i) the State submits to the Secretary, for the local area, a request including a proposed reduced percentage for purposes of paragraph (1), and the summary of the youth population analysis; and

(ii) the request is approved by the Secretary.

(d) Prohibitions.—

(1) No local education curriculum.—No funds described in subsection (b) shall be used to develop or implement local school system education curricula.

(2) Nonduplication.—No funds described in subsection (b) shall be used to carry out activities that duplicate federally funded activities available to youth in the local area.

(3) Noninterference and nonreplacement of regular academic requirements.—No funds described in subsection (b) shall be used to provide an activity for youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth.

CHAPTER 4—GENERAL PROVISIONS

SEC. 321. ACCOUNTABILITY.

(a) Purpose.—The purpose of this section is to establish comprehensive performance measures to assess the effectiveness of States and local areas in achieving continuous improvement of workforce investment activities funded under this subtitle, in order to maximize the return on investment of Federal funds in State and local workforce development activities.

(b) State Performance Measures.—

(1) In general.—To be eligible to receive an allotment under section 302, a State shall establish, and identify in the State plan, State performance measures. Each State performance measure shall consist of an indicator of performance referred to in paragraph (2) or (3) and a level of performance referred to in paragraph (4).

(2) Core indicators of performance.—

(A) In general.—The State performance measures shall include indicators of performance for workforce investment activities provided under this subtitle (except for self-service and informational activities) for each of the population groups described in subparagraph (B). Such indicators, at a minimum, shall consist of—

(i) entry into unsubsidized employment;

(ii) retention in unsubsidized employment 6 months after entry into the employment;

(iii) earnings received in unsubsidized employment 6 months after entry into the employment; and

(iv) attainment of a recognized credential relating to achievement of educational skills (including basic skills) or occupational skills, by participants who entered unsubsidized employment, or by participants who are in-school youth, taking into account attainment of more than 1 such credential.

(B) Population groups.—The indicators described in subparagraph (A) shall be applicable to each of the following populations:

(i) Dislocated workers.

(ii) Economically disadvantaged adults.

(iii) Youth.

(3) Additional indicators of performance.—

(A) Customer satisfaction indicators.—A State shall identify in the State plan an indicator of performance concerning customer satisfaction of employers and workers with results achieved from the workforce investment activities in which the employers and workers participated under this subtitle. The customer satisfaction may be measured through surveys conducted after the conclusion of participation in the workforce investment activities.

(B) Additional indicators.—A State may identify in the State plan additional indicators of performance relating to State goals for workforce investment, including goals for the economic success of the citizens of the State or other State goals related to the objectives of this subtitle.

(4) State levels of performance.—

(A) In general.—The Secretary and each Governor shall reach agreement on the levels of performance expected to be achieved by the State on the State performance measures established pursuant to this subsection. In reaching the agreement, the Secretary and Governor shall establish a level of performance for each of the indicators of performance described in paragraphs (2) and (3). Such agreement shall take into account—

(i) how the levels compare with the levels established by other States, taking into account factors including differences in economic conditions, the characteristics of participants when the participants entered the program, and the services to be provided;

(ii) the extent to which such levels promote continuous improvement in performance on the performance measures by such State and ensure maximum return on the investment of Federal funds; and

(iii) the extent to which the levels will assist the State in attaining the workforce investment goals of the State.

(B) Adjustments.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in subparagraph (A)(i), the Governor may request that the levels of performance agreed to under subparagraph (A) be adjusted. The Secretary, after collaboration with the representatives described in subsection (i), shall issue objective criteria and methods for making such adjustments.

(c) Local Performance Measures.—

(1) In general.—Each Governor shall negotiate and reach agreement with the local partnership and the chief elected official in each local area on local performance measures, based on the State performance measures identified in the State plan. Each local performance measure shall consist of an indicator of performance referred to in paragraph (2) or (3) of subsection (b) and a level of performance referred to in paragraph (2).

(2) Agreement.—

(A) In general.—In reaching the agreement, the Governor, local partnership, and chief elected official shall establish an expected level of performance for each of the indicators of performance.

(B) Considerations.—Such agreement shall take into account at the local level the matters considered at the State level under clauses (i), (ii), and (iii) of subsection (b)(4)(A).

(C) Adjustments.—If unanticipated circumstances arise in a local area resulting in a significant change in the factors referred to in subsection (b)(4)(A)(i), the local partnership and chief elected official may request that the levels of performance agreed to under paragraph (1) be adjusted, using criteria and methods referred to in subsection (b)(4)(B).

(d) Report.—

(1) In general.—Each State that receives an allotment under section 302 shall annually prepare and submit to the Secretary a report on the progress of the State in achieving State performance measures. The annual report also shall include information regarding the progress of local areas in achieving local performance measures. The report also shall include information on the status of State evaluations of workforce investment activities described in subsection (e).

(2) Additional information.—In preparing such report, the State shall include, at a minimum, information on participants in workforce investment activities relating to—

(A) entry by participants who have completed training services provided under section 315(c)(3) into unsubsidized employment related to the training received;

(B) wages at entry into employment for participants in workforce investment activities who entered unsubsidized employment, including the rate of wage replacement for such participants who are dislocated workers;

(C) cost of workforce investment activities relative to the effect of the activities on the performance of participants;

(D) retention and earnings received in unsubsidized employment 12 months after entry into the employment;

(E) performance with respect to the indicators of performance specified in subsection (b)(2) of participants in workforce investment activities who received the training services compared with the performance of participants in workforce investment activities who received only services other than the training services (excluding participants who received only self-service and informational activities); and

(F) performance with respect to the indicators of performance specified in subsection (b)(2) of welfare recipients, out-of-school youth, veterans, and individuals with disabilities.

(3) Information dissemination.—The Secretary shall make the information contained in such reports available to Congress, the Library of Congress, and the public through publication and other appropriate methods. The Secretary shall disseminate State-by-State comparisons of the information after adjusting the information to take account of differences in specific circumstances, including economic circumstances, of the States and after consulting with each Governor as to the accuracy of the information after adjustment.

(e) Evaluation of State Programs.—

(1) In general.—Using funds made available under this subtitle, the State, in coordination with local partnerships in the State, shall conduct ongoing evaluation studies of workforce investment activities carried out in the State under this subtitle in order to promote, establish, implement, and utilize methods for continuously improving the activities in order to achieve high-level performance within, and high-level outcomes from, the statewide workforce investment system. To the maximum extent practicable, the State shall coordinate the evaluations with the evaluations provided for by the Secretary under section 368.

(2) Design.—The evaluation studies conducted under this subsection shall be designed in conjunction with the statewide partnership and local partnerships and shall include analysis of customer feedback and outcome and process measures in the statewide workforce investment system.

(3) Results.—The State shall periodically prepare and submit to the statewide partnership and local partnerships in the State reports containing the results of evaluation studies conducted under this subsection, to promote the efficiency and effectiveness of the statewide workforce investment system in improving employability for jobseekers and competitiveness for employers.

(f) Fiscal and Management Accountability Information Systems.—

(1) In general.—Using funds made available under this subtitle, the Governor, in coordination with local partnerships and chief elected officials in the State, shall establish and operate a fiscal and management accountability information system based on guidelines established by the Secretary after consultation with the Governors, local elected officials, and officers of agencies that administer workforce investment activities in local areas. Such guidelines shall promote efficient collection and use of fiscal and management information for reporting and monitoring the use of funds made available under this subtitle and for preparing the annual report described in subsection (d).

(2) Wage records.—In measuring the progress of the State on State and local performance measures, a State shall utilize quarterly wage records. The Secretary shall make arrangements to ensure that the wage records of any State are available to any other State to the extent that such wage records are required by the State in carrying out the State plan of the State or completing the annual report described in subsection (d).

(3) Confidentiality.—In carrying out the requirements of this Act, the State shall comply with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (as added by the Family Educational Rights and Privacy Act of 1974).

(g) Sanctions.—

(1) Technical assistance or reduction of allotments.—The Secretary shall—

(A) if a State failed to meet ⅓ or more of the State performance measures for any year, provide technical assistance in accordance with section 366(b) to the State to improve the level of performance of the State; and

(B) if a State failed to meet ½ or more of the State performance measures for each of 2 consecutive years, or failed to meet the State performance measures and the extent of the failure with respect to ⅓ of such measures was significant for each of 2 consecutive years—

(i) determine whether the failure involved is attributable to—

(I) adult employment and training activities;

(II) dislocated worker employment and training activities; or

(III) youth activities; and

(ii) reduce, by not more than 5 percent, the allotment of the State under section 302 for 1 year for the category of activities described in clause (i) to which the failure is attributable.

(2) Criteria.—The Secretary, after collaboration with the representatives described in subsection (i), shall issue objective criteria for determining cases in which the extent of failure is significant for purposes of paragraph (1)(B).

(3) Funds resulting from reduced allotments.—The Secretary shall use an amount retained, as a result of a reduction in an allotment to a State made under paragraph (1)(B), to provide technical assistance in accordance with section 366 to such State.

(h) Incentive Grants.—The Secretary shall make incentive grants under this title in accordance with section 365 to States that exceed the levels of performance for performance measures established under this Act. In awarding incentive grants under this title, the Secretary shall give special consideration to those States achieving the highest levels of performance on indicators of performance related to employment retention and earnings.

(i) Other Measures and Terminology.—

(1) Responsibilities.—The Secretary, after collaboration with representatives of appropriate Federal agencies, and representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities, educators, and participants, with expertise regarding workforce investment policies and workforce investment activities, shall issue—

(A) definitions for information required to be reported under subsection (d)(2);

(B) terms for a menu of additional indicators of performance described in subsection (b)(3)(B) to assist States in assessing their progress toward State workforce investment goals;

(C) objective criteria and methods described in subsection (b)(4)(B) for making adjustments to levels of performance; and

(D) objective criteria described in subsection (g)(2) for determining significant extent of failure on performance measures.

(2) Definitions for core indicators.—The Secretary and the representatives described in paragraph (1) shall participate in the activities described in section 502 concerning the issuance of definitions for indicators of performance described in subsection (b)(2).

(3) Assistance.—The Secretary shall make the services of objective staff available to the representatives to assist the representatives in participating in the collaboration described in paragraph (1) and in the activities described in section 502.

SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

(a) Adult Employment and Training Activities.—There are authorized to be appropriated to carry out the activities described in section 302(a)(1) under this subtitle, such sums as may be necessary for each of fiscal years 1999 through 2004.

(b) Dislocated Worker Employment and Training Activities.—There are authorized to be appropriated to carry out the activities described in section 302(a)(2) under this subtitle, such sums as may be necessary for each of fiscal years 1999 through 2004.

(c) Youth Activities.—There are authorized to be appropriated to carry out the activities described in section 302(a)(3) under this subtitle, such sums as may be necessary for each of fiscal years 1999 through 2004.

Subtitle B—Job Corps

SEC. 331. PURPOSES.

The purposes of this subtitle are—

(1) to maintain a national Job Corps program, carried out in partnership with States and communities, to assist eligible youth who need and can benefit from an intensive program, operated in a group setting in residential and nonresidential centers, to become more responsible, employable, and productive citizens;

(2) to set forth standards and procedures for selecting individuals as enrollees in the Job Corps;

(3) to authorize the establishment of Job Corps centers in which enrollees will participate in intensive programs of activities described in this subtitle; and

(4) to prescribe various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps.

SEC. 332. DEFINITIONS.

In this subtitle:

(1) Applicable local partnership.—The term "applicable local partnership" means a local partnership—

(A) that provides information for a Job Corps center on local employment opportunities and the job skills needed to obtain the opportunities; and

(B) that serves communities in which the graduates of the Job Corps center seek employment.

(2) Applicable one-stop customer service center.—The term "applicable one-stop customer service center" means a one-stop customer service center that provides services, such as referral, intake, recruitment, and placement, to a Job Corps center.

(3) Enrollee.—The term "enrollee" means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, and remains with the program, but has not yet become a graduate.

(4) Former enrollee.—The term "former enrollee" means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, but left the program before completing the requirements of a vocational training program, or receiving a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(5) Graduate.—The term "graduate" means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program and has completed the requirements of a vocational training

program, or received a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(6) JOB CORPS.—The term "Job Corps" means the Job Corps described in section 333.

(7) JOB CORPS CENTER.—The term "Job Corps center" means a center described in section 333.

(8) OPERATOR.—The term "operator" means an entity selected under this subtitle to operate a Job Corps center.

(9) REGION.—The term "region" means an area served by a regional office of the Employment and Training Administration.

(10) SERVICE PROVIDER.—The term "service provider" means an entity selected under this subtitle to provide services described in this subtitle to a Job Corps center.

SEC. 333. ESTABLISHMENT.

There shall be established in the Department of Labor a Job Corps program, to carry out activities described in this subtitle for individuals enrolled in a Job Corps and assigned to a center.

SEC. 334. INDIVIDUALS ELIGIBLE FOR THE JOB CORPS.

To be eligible to become an enrollee, an individual shall be—

(1) not less than age 16 and not more than age 21 on the date of enrollment, except that—

(A) not more than 20 percent of the individuals enrolled in the Job Corps may be not less than age 22 and not more than age 24 on the date of enrollment; and

(B) either such maximum age limitation may be waived by the Secretary, in accordance with regulations of the Secretary, in the case of an individual with a disability;

(2) a low-income individual; and

(3) an individual who is 1 or more of the following:

(A) Basic skills deficient.

(B) A school dropout.

(C) Homeless, a runaway, or a foster child.

(D) A parent.

(E) An individual who requires additional education, vocational training, or intensive counseling and related assistance, in order to participate successfully in regular schoolwork or to secure and hold employment.

SEC. 335. RECRUITMENT, SCREENING, SELECTION, AND ASSIGNMENT OF ENROLLEES.

(a) STANDARDS AND PROCEDURES.—

(1) IN GENERAL.—The Secretary shall prescribe specific standards and procedures for the recruitment, screening, and selection of eligible applicants for the Job Corps, after considering recommendations from the Governors, local partnerships, and other interested parties.

(2) METHODS.—In prescribing standards and procedures under paragraph (1), the Secretary, at a minimum, shall—

(A) prescribe procedures for informing enrollees that drug tests will be administered to the enrollees and the results received within 45 days after the enrollees enroll in the Job Corps;

(B) establish standards for recruitment of Job Corps applicants;

(C) establish standards and procedures for—

(i) determining, for each applicant, whether the educational and vocational needs of the applicant can best be met through the Job Corps program or an alternative program in the community in which the applicant resides; and

(ii) obtaining from each applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment;

(D) where appropriate, take measures to improve the professional capability of the individuals conducting screening of the applicants; and

(E) assure that an appropriate number of enrollees are from rural areas.

(3) IMPLEMENTATION.—To the extent practicable, the standards and procedures shall be implemented through arrangements with—

(A) applicable one-stop customer service centers;

(B) community action agencies, business organizations, and labor organizations; and

(C) agencies and individuals that have contact with youth over substantial periods of time and are able to offer reliable information about the needs and problems of youth.

(4) CONSULTATION.—The standards and procedures shall provide for necessary consultation with individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers.

(5) REIMBURSEMENT.—The Secretary is authorized to enter into contracts with and make payments to individuals and organizations for the cost of conducting recruitment, screening, and selection of eligible applicants for the Job Corps, as provided for in this section. The Secretary shall make no payment to any individual or organization solely as compensation for referring the names of applicants for the Job Corps.

(b) SPECIAL LIMITATIONS ON SELECTION.—

(1) IN GENERAL.—No individual shall be selected as an enrollee unless the individual or organization implementing the standards and procedures determines that—

(A) there is a reasonable expectation that the individual considered for selection can participate successfully in group situations and activities, and is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the Job Corps program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the Job Corps center to which the individual might be assigned and communities surrounding the Job Corps center;

(B) the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe the rules; and

(C) the individual has passed a background check conducted in accordance with procedures established by the Secretary.

(2) INDIVIDUALS ON PROBATION, PAROLE, OR SUPERVISED RELEASE.—An individual on probation, parole, or supervised release may be selected as an enrollee only if release from the supervision of the probation or parole official involved is satisfactory to the official and the Secretary and does not violate applicable laws (including regulations). No individual shall be denied a position in the Job Corps solely on the basis of individual contact with the criminal justice system.

(c) ASSIGNMENT PLAN.—

(1) IN GENERAL.—Every 2 years, the Secretary shall develop and implement an assignment plan for assigning enrollees to Job Corps centers. In developing the plan, the Secretary shall, based on the analysis described in paragraph (2), establish targets, applicable to each Job Corps center, for—

(A) the maximum attainable percentage of enrollees at the Job Corps center that reside in the State in which the center is located; and

(B) the maximum attainable percentage of enrollees at the Job Corps center that reside in the region in which the center is located, and in surrounding regions.

(2) ANALYSIS.—In order to develop the plan described in paragraph (1), the Secretary shall, every 2 years, analyze, for the Job Corps center—

(A) the size of the population of individuals eligible to participate in Job Corps in the State and region in which the Job Corps center is located, and in surrounding regions;

(B) the relative demand for participation in the Job Corps in the State and region, and in surrounding regions; and

(C) the capacity and utilization of the Job Corps center, including services provided through the center.

(d) ASSIGNMENT OF INDIVIDUAL ENROLLEES.—

(1) IN GENERAL.—After an individual has been selected for the Job Corps in accordance with the standards and procedures of the Secretary under subsection (a), the enrollee shall be assigned to the Job Corps center that is closest to the home of the enrollee, except that the Secretary may waive this requirement if—

(A) the enrollee chooses a vocational training program, or requires an English as a second language program, that is not available at such center;

(B) the enrollee is an individual with a disability and may be better served at another center;

(C) the enrollee would be unduly delayed in participating in the Job Corps program because the closest center is operating at full capacity; or

(D) the parent or guardian of the enrollee requests assignment of the enrollee to another Job Corps center due to circumstances in the community of the enrollee that would impair prospects for successful participation in the Job Corps program.

(2) ENROLLEES WHO ARE YOUNGER THAN 18.—An enrollee who is younger than 18 shall not be assigned to a Job Corps center other than the center closest to the home of the enrollee pursuant to paragraph (1) if the parent or guardian of the enrollee objects to the assignment.

SEC. 336. ENROLLMENT.

(a) RELATIONSHIP BETWEEN ENROLLMENT AND MILITARY OBLIGATIONS.—Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

(b) PERIOD OF ENROLLMENT.—No individual may be enrolled in the Job Corps for more than 2 years, except—

(1) in a case in which completion of an advanced career training program under section 338(b) would require an individual to participate in the Job Corps for not more than 1 additional year; or

(2) as the Secretary may authorize in a special case.

SEC. 337. JOB CORPS CENTERS.

(a) OPERATORS AND SERVICE PROVIDERS.—

(1) ELIGIBLE ENTITIES.—

(A) OPERATORS.—The Secretary shall enter into an agreement with a Federal, State, or local agency, such as individuals participating in a statewide partnership or in a local partnership or an agency that operates or wishes to develop an area vocational education school facility or residential vocational school, or with a private organization, for the operation of each Job Corps center.

(B) PROVIDERS.—The Secretary may enter into an agreement with a local entity to provide activities described in this subtitle to the Job Corps center.

(2) SELECTION PROCESS.—

(A) COMPETITIVE BASIS.—Except as provided in subsections (c) and (d) of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the Secretary shall select on a competitive basis an entity to operate a Job Corps center and entities to provide activities described in this subtitle to the Job Corps center. In developing a solicitation for an operator or service provider, the Secretary shall consult with the Governor of the State in which the center is located, the industry council for the Job Corps center (if established), and the applicable local partnership regarding the contents of such solicitation, including elements that will promote the consistency of the activities carried out through the center with the objectives set forth in the State plan or in a local plan.

(B) Recommendations and considerations.—

(i) Operators.—In selecting an entity to operate a Job Corps center, the Secretary shall consider—

(I) the ability of the entity to coordinate the activities carried out through the Job Corps center with activities carried out under the appropriate State plan and local plans;

(II) the degree to which the vocational training that the entity proposes for the center reflects local employment opportunities in the local areas in which enrollees at the center intend to seek employment;

(III) the degree to which the entity is familiar with the surrounding communities, applicable one-stop centers, and the State and region in which the center is located; and

(IV) the past performance of the entity, if any, relating to operating or providing activities described in this subtitle to a Job Corps center.

(ii) Providers.—In selecting a service provider for a Job Corps center, the Secretary shall consider the factors described in subclauses (I) through (IV) of clause (i), as appropriate.

(b) Character and Activities.—Job Corps centers may be residential or nonresidential in character, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with access to activities described in this subtitle. In any year, no more than 20 percent of the individuals enrolled in the Job Corps may be nonresidential participants in the Job Corps.

(c) Civilian Conservation Centers.—

(1) In general.—The Job Corps centers may include Civilian Conservation Centers operated under agreements with the Secretary of Agriculture or the Secretary of the Interior, located primarily in rural areas, which shall provide, in addition to other vocational training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest.

(2) Selection process.—The Secretary may select an entity to operate a Civilian Conservation Center on a competitive basis, as provided in subsection (a), if the center fails to meet such national performance standards as the Secretary shall establish.

(d) Indian Tribes.—

(1) General authority.—The Secretary may enter into agreements with Indian tribes to operate Job Corps centers for Indians.

(2) Definitions.—In this subsection, the terms "Indian" and "Indian tribe", have the meanings given such terms in subsections (d) and (e), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 338. PROGRAM ACTIVITIES.

(a) Activities Provided by Job Corps Centers.—

(1) In general.—Each Job Corps center shall provide enrollees with an intensive, well organized, and fully supervised program of education, vocational training, work experience, recreational activities, and counseling. Each Job Corps center shall provide enrollees assigned to the center with access to core services described in subtitle A.

(2) Relationship to opportunities.—

(A) In general.—The activities provided under this subsection shall provide work-based learning throughout the enrollment of the enrollees and assist the enrollees in obtaining meaningful unsubsidized employment, participating in secondary education or postsecondary education programs, enrolling in other suitable vocational training programs, or satisfying Armed Forces requirements, on completion of their enrollment.

(B) Link to employment opportunities.—The vocational training provided shall be linked to the employment opportunities in the local area in which the enrollee intends to seek employment after graduation.

(b) Advanced Career Training Programs.—

(1) In general.—The Secretary may arrange for programs of advanced career training for selected enrollees in which the enrollees may continue to participate for a period of not to exceed 1 year in addition to the period of participation to which the enrollees would otherwise be limited. The advanced career training may be provided through the eligible providers of training services identified by the State involved under section 312.

(2) Benefits.—

(A) In general.—During the period of participation in an advanced career training program, an enrollee shall be eligible for full Job Corps benefits, or a monthly stipend equal to the average value of the residential support, food, allowances, and other benefits provided to enrollees assigned to residential Job Corps centers.

(B) Calculation.—The total amount for which an enrollee shall be eligible under subparagraph (A) shall be reduced by the amount of any scholarship or other educational grant assistance received by such enrollee for advanced career training.

(3) Demonstration.—Each year, any operator seeking to enroll additional enrollees in an advanced career training program shall demonstrate that participants in such program have achieved a reasonable rate of completion and placement in training-related jobs before the operator may carry out such additional enrollment.

(c) Continued Services.—The Secretary shall also provide continued services to graduates, including providing counseling regarding the workplace for 12 months after the date of graduation of the graduates. In selecting a provider for such services, the Secretary shall give priority to one-stop partners.

SEC. 339. COUNSELING AND JOB PLACEMENT.

(a) Counseling and Testing.—The Secretary shall arrange for counseling and testing for each enrollee at regular intervals to measure progress in the education and vocational training programs carried out through the Job Corps.

(b) Placement.—The Secretary shall arrange for counseling and testing for enrollees prior to their scheduled graduations to determine their capabilities and, based on their capabilities, shall make every effort to arrange to place the enrollees in jobs in the vocations for which the enrollees are trained or to assist the enrollees in obtaining further activities described in this subtitle. In arranging for the placement of graduates in jobs, the Secretary shall utilize the one-stop customer service system to the fullest extent possible.

(c) Status and Progress.—The Secretary shall determine the status and progress of enrollees scheduled for graduation and make every effort to assure that their needs for further activities described in this subtitle are met.

SEC. 340. SUPPORT.

(a) Personal Allowances.—The Secretary shall provide enrollees assigned to Job Corps centers with such personal allowances as the Secretary may determine to be necessary or appropriate to meet the needs of the enrollees.

(b) Readjustment Allowances.—The Secretary shall arrange for a readjustment allowance to be paid to eligible former enrollees and graduates. The Secretary shall arrange for the allowance to be paid at the one-stop customer service center nearest to the home of such a former enrollee or graduate who is returning home, or at the one-stop customer service center nearest to the location where the former enrollee or graduate has indicated an intent to seek employment. If the Secretary uses any organization, in lieu of a one-stop customer service center, to provide placement services under this Act, the Secretary shall arrange for that organization to pay the readjustment allowance.

SEC. 341. OPERATING PLAN.

(a) In General.—The provisions of the contract between the Secretary and an entity selected to operate a Job Corps center shall, at a minimum, serve as an operating plan for the Job Corps center.

(b) Additional Information.—The Secretary may require the operator, in order to remain eligible to operate the Job Corps center, to submit such additional information as the Secretary may require, which shall be considered part of the operating plan.

(c) Availability.—The Secretary shall make the operating plan described in subsections (a) and (b), excluding any proprietary information, available to the public.

SEC. 342. STANDARDS OF CONDUCT.

(a) Provision and Enforcement.—The Secretary shall provide, and directors of Job Corps centers shall stringently enforce, standards of conduct within the centers. Such standards of conduct shall include provisions forbidding the actions described in subsection (b)(2)(A).

(b) Disciplinary Measures.—

(1) In general.—To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees. If such a director determines that an enrollee has committed a violation of the standards of conduct, the director shall dismiss the enrollee from the Job Corps if the director determines that the retention of the enrollee in the Job Corps will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

(2) Zero tolerance policy and drug testing.—

(A) Guidelines.—The Secretary shall adopt guidelines establishing a zero tolerance policy for an act of violence, for use, sale, or possession of a controlled substance, for abuse of alcohol, or for other illegal or disruptive activity.

(B) DRUG TESTING.—The Secretary shall require drug testing of all enrollees for controlled substances in accordance with procedures prescribed by the Secretary under section 335(a).

(C) DEFINITIONS.—In this paragraph:

(i) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(ii) ZERO TOLERANCE POLICY.—The term "zero tolerance policy" means a policy under which an enrollee shall be automatically dismissed from the Job Corps after a determination by the director that the enrollee has carried out an action described in subparagraph (A).

(c) APPEAL.—A disciplinary measure taken by a director under this section shall be subject to expeditious appeal in accordance with procedures established by the Secretary.

SEC. 343. COMMUNITY PARTICIPATION.

(a) BUSINESS AND COMMUNITY LIAISON.—Each Job Corps center shall have a Business and Community Liaison (referred to in this Act as a "Liaison"), designated by the director of the center.

(b) RESPONSIBILITIES.—The responsibilities of the Liaison shall include—

(1) establishing and developing relationships and networks with—

(A) local and distant employers; and

(B) applicable one-stop customer service centers and applicable local partnerships,

for the purpose of providing job opportunities for Job Corps graduates; and

(2) establishing and developing relationships with members of the community in which the Job Corps center is located, informing members of the community about the projects of the Job Corps center and changes in the rules, procedures, or activities of the center that may affect the community, and planning events of mutual interest to the community and the Job Corps center.

(c) NEW CENTERS.—The Liaison for a Job Corps center that is not yet operating shall establish and develop the relationships and networks described in subsection (b) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

SEC. 344. INDUSTRY COUNCILS.

(a) IN GENERAL.—Each Job Corps center shall have an industry council, appointed by the director of the center after consultation with the Liaison, in accordance with procedures established by the Secretary.

(b) INDUSTRY COUNCIL COMPOSITION.—

(1) IN GENERAL.—An industry council shall be comprised of—

(A) a majority of members who shall be local and distant owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector employers, who—

(i) have substantial management, hiring, or policy responsibility; and

(ii) represent businesses with employment opportunities that reflect the employment opportunities of the applicable local area; and

(B) representatives of labor organizations (where present) and representatives of employees.

(2) LOCAL PARTNERSHIP.—The industry council may include members of the applicable local partnerships who meet the requirements described in paragraph (1).

(c) RESPONSIBILITIES.—The responsibilities of the industry council shall be—

(1) to work closely with all applicable local partnerships in order to determine, and recommend to the Secretary, appropriate vocational training for the center;

(2) to review all the relevant labor market information to—

(A) determine the employment opportunities in the local areas in which the enrollees intend to seek employment after graduation;

(B) determine the skills and education that are necessary to obtain the employment opportunities; and

(C) recommend to the Secretary the type of vocational training that should be implemented at the center to enable the enrollees to obtain the employment opportunities; and

(3) to meet at least once every 6 months to reevaluate the labor market information, and other relevant information, to determine, and recommend to the Secretary, any necessary changes in the vocational training provided at the center.

(d) NEW CENTERS.—The industry council for a Job Corps center that is not yet operating shall carry out the responsibilities described in subsection (c) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

SEC. 345. ADVISORY COMMITTEES.

The Secretary may establish and use advisory committees in connection with the operation of the Job Corps program, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

SEC. 346. EXPERIMENTAL, RESEARCH, AND DEMONSTRATION PROJECTS.

The Secretary may carry out experimental, research, or demonstration projects relating to carrying out the Job Corps program and may waive any provisions of this subtitle that the Secretary finds would prevent the Secretary from carrying out the projects.

SEC. 347. APPLICATION OF PROVISIONS OF FEDERAL LAW.

(a) ENROLLEES NOT CONSIDERED TO BE FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees shall not be considered to be Federal employees and shall not be subject to the provisions of law relating to Federal employment, including such provisions regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) PROVISIONS RELATING TO TAXES AND SOCIAL SECURITY BENEFITS.—For purposes of the Internal Revenue Code of 1986 and title II of the Social Security Act (42 U.S.C. 401 et seq.), enrollees shall be deemed to be employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(3) PROVISIONS RELATING TO COMPENSATION TO FEDERAL EMPLOYEES FOR WORK INJURIES.—For purposes of subchapter I of chapter 81 of title 5, United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed to be civil employees of the Government of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of such subchapter shall apply as specified in section 8143(a) of title 5, United States Code.

(4) FEDERAL TORT CLAIMS PROVISIONS.—For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered to be employees of the Government.

(b). ADJUSTMENTS AND SETTLEMENTS.—Whenever the Secretary finds a claim for damages to a person or property resulting from the operation of the Job Corps to be a proper charge against the United States, and the claim is not cognizable under section 2672 of title 28, United States Code, the Secretary may adjust and settle the claim in an amount not exceeding $1,500.

(c) PERSONNEL OF THE UNIFORMED SERVICES.—Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Job Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

SEC. 348. SPECIAL PROVISIONS.

(a) ENROLLMENT.—The Secretary shall ensure that women and men have an equal opportunity to participate in the Job Corps program, consistent with section 335.

(b) STUDIES, EVALUATIONS, PROPOSALS, AND DATA.—The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of carrying out the Job Corps program shall become the property of the United States.

(c) TRANSFER OF PROPERTY.—

(1) IN GENERAL.—Notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, the Secretary and the Secretary of Education shall receive priority by the Secretary of Defense for the direct transfer, on a nonreimbursable basis, of the property described in paragraph (2) for use in carrying out programs under this Act or under any other Act.

(2) PROPERTY.—The property described in this paragraph is real and personal property under the control of the Department of Defense that is not used by such Department, including property that the Secretary of Defense determines is in excess of current and projected requirements of such Department.

(d) GROSS RECEIPTS.—Transactions conducted by a private for-profit or nonprofit entity that is an operator or service provider for a Job Corps center shall not be considered to be generating gross receipts. Such an operator or service provider shall not be liable, directly or indirectly, to any State or subdivision of a State (nor to any person acting on behalf of such a State or subdivision) for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes imposed on, or measured by, gross receipts in connection with any payments made to or by such entity for operating or providing services to a Job Corps center. Such an operator or service provider shall not be liable to any State or subdivision of a State to collect or pay any sales, excise, use, or similar tax imposed on the sale to or use by such operator or service provider of any property, service, or other item in connection with the operation of or provision of services to a Job Corps center.

(e) MANAGEMENT FEE.—The Secretary shall provide each operator and (in an appropriate case, as determined by the Secretary) service provider with an equitable and negotiated management fee of not less than 1 percent of the amount of the funding provided under the appropriate agreement specified in section 337.

(f) DONATIONS.—The Secretary may accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including equipment and materials, if such donations are available for appropriate use for the purposes set forth in this subtitle.

(g) Sale of Property.—Notwithstanding any other provision of law, if the Administrator of General Services sells a Job Corps center facility, the Administrator shall transfer the proceeds from the sale to the Secretary, who shall use the proceeds to carry out the Job Corps program.

SEC. 349. MANAGEMENT INFORMATION.

(a) Financial Management Information System.—

(1) In general.—The Secretary shall establish procedures to ensure that each operator, and each service provider, maintains a financial management information system that will provide—

(A) accurate, complete, and current disclosures of the costs of Job Corps operations; and

(B) sufficient data for the effective evaluation of activities carried out through the Job Corps program.

(2) Accounts.—Each operator and service provider shall maintain funds received under this subtitle in accounts in a manner that ensures timely and accurate reporting as required by the Secretary.

(3) Fiscal responsibility.—Operators shall remain fiscally responsible and control costs, regardless of whether the funds made available for Job Corps centers are incrementally increased or decreased between fiscal years.

(b) Audit.—

(1) Access.—The Secretary, the Inspector General of the Department of Labor, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the operators and service providers described in subsection (a) that are pertinent to the Job Corps program, for purposes of conducting surveys, audits, and evaluations of the operators and service providers.

(2) Surveys, audits, and evaluations.—The Secretary shall survey, audit, or evaluate, or arrange for the survey, audit, or evaluation of, the operators and service providers, using Federal auditors or independent public accountants. The Secretary shall conduct such surveys, audits, or evaluations not less often than once every 3 years.

(c) Information on Core Performance Measures.—

(1) Establishment.—The Secretary shall, with continuity and consistency from year to year, establish core performance measures, and expected performance levels on the performance measures, for Job Corps centers and the Job Corps program, relating to—

(A) the number of graduates and the rate of such graduation, analyzed by type of vocational training received through the Job Corps program and by whether the vocational training was provided by a local or national service provider;

(B) the number of graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received, analyzed by whether the vocational training was provided by a local or national service provider and by whether the placement in the employment was conducted by a local or national service provider;

(C) the average wage received by graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the average wage received by graduates who entered unsubsidized employment unrelated to the vocational training received;

(D) the average wage received by graduates placed in unsubsidized employment after completion of the Job Corps program—

(i) on the first day of the employment;

(ii) 6 months after the first day of the employment; and

(iii) 12 months after the first day of the employment,

analyzed by type of vocational training received through the Job Corps program;

(E) the number of graduates who entered unsubsidized employment and were retained in the unsubsidized employment—

(i) 6 months after the first day of the employment; and

(ii) 12 months after the first day of the employment;

(F) the number of graduates who entered unsubsidized employment—

(i) for 32 hours per week or more;

(ii) for not less than 20 but less than 32 hours per week; and

(iii) for less than 20 hours per week;

(G) the number of graduates who entered postsecondary education or advanced training programs, including registered apprenticeship programs, as appropriate; and

(H) the number of graduates who attained job readiness and employment skills.

(2) Performance of recruiters.—The Secretary shall also establish performance measures, and expected performance levels on the performance measures, for local and national recruitment service providers serving the Job Corps program. The performance measures shall relate to the number of enrollees retained in the Job Corps program for 30 days and for 60 days after initial placement in the program.

(3) Report.—The Secretary shall collect, and annually submit a report to the appropriate committees of Congress containing, information on the performance of each Job Corps center, and the Job Corps program, on the core performance measures, as compared to the expected performance level for each performance measure. The report shall also contain information on the performance of the service providers described in paragraph (2) on the performance measures established under such paragraph, as compared to the expected performance levels for the performance measures.

(d) Additional Information.—The Secretary shall also collect, and submit in the report described in subsection (c), information on the performance of each Job Corps center, and the Job Corps program, regarding—

(1) the number of enrollees served;

(2) the average level of learning gains for graduates and former enrollees;

(3) the number of former enrollees and graduates who entered the Armed Forces;

(4) the number of former enrollees who entered postsecondary education;

(5) the number of former enrollees who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received;

(6) the number of former enrollees and graduates who obtained a secondary school diploma or its recognized equivalent;

(7) the number and percentage of dropouts from the Job Corps program including the number dismissed under the zero tolerance policy described in section 342(b); and

(8) any additional information required by the Secretary.

(e) Methods.—The Secretary may, to collect the information described in subsections (c) and (d), use methods described in subtitle A.

(f) Performance Assessments and Improvements.—

(1) Assessments.—The Secretary shall conduct an annual assessment of the performance of each Job Corps center. Based on the assessment, the Secretary shall take measures to continuously improve the performance of the Job Corps program.

(2) Performance improvement plans.—With respect to a Job Corps center that fails to meet the expected levels of performance relating to the core performance measures specified in subsection (c), the Secretary shall develop and implement a performance improvement plan. Such a plan shall require action including—

(A) providing technical assistance to the center;

(B) changing the vocational training offered at the center;

(C) changing the management staff of the center;

(D) replacing the operator of the center;

(E) reducing the capacity of the center;

(F) relocating the center; or

(G) closing the center.

(3) Additional performance improvement plans.—In addition to the performance improvement plans required under paragraph (2), the Secretary may develop and implement additional performance improvement plans. Such a plan shall require improvements, including the actions described in paragraph (2), for a Job Corps center that fails to meet criteria established by the Secretary other than the expected levels of performance described in paragraph (2).

SEC. 350. GENERAL PROVISIONS.

The Secretary is authorized to—

(1) disseminate, with regard to the provisions of section 3204 of title 39, United States Code, data and information in such forms as the Secretary shall determine to be appropriate, to public agencies, private organizations, and the general public;

(2) subject to section 347(b), collect or compromise all obligations to or held by the Secretary and exercise all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) expend funds made available for purposes of this subtitle—

(A) for printing and binding, in accordance with applicable law (including regulation); and

(B) without regard to any other law (including regulation), for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not expend funds under the authority of this subparagraph—

(i) except when necessary to obtain an item, service, or facility, that is required in the proper administration of this subtitle, and that otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which the item, service, or facility is needed; and

(ii) prior to having given written notification to the Administrator of General Services (if the expenditure would affect an activity that otherwise would be under the jurisdiction of the General Services Administration) of the intention of the Secretary to make the expenditure, and the reasons and justifications for the expenditure.

SEC. 351. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of the fiscal years 1999 through 2004.

Subtitle C—National Programs

SEC. 361. NATIVE AMERICAN PROGRAMS.

(a) PURPOSE AND POLICY.—

(1) PURPOSE.—The purpose of this section is to support workforce investment activities and supplemental services for Indian and Native Hawaiian individuals in order—

(A) to develop more fully the academic, occupational, and literacy skills of such individuals;

(B) to make such individuals more competitive in the workforce; and

(C) to promote the economic and social development of Indian and Native Hawaiian communities in accordance with the goals and values of such communities.

(2) INDIAN POLICY.—All programs assisted under this section shall be administered in a manner consistent with the principles of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and the government-to-government relationship between the Federal Government and Indian tribal governments.

(b) DEFINITIONS.—In this section:

(1) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—The terms "Indian", "Indian tribe", and "tribal organization" have the meanings given such terms in subsections (d), (e), and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(2) NATIVE HAWAIIAN AND NATIVE HAWAIIAN ORGANIZATION.—The terms "Native Hawaiian" and "Native Hawaiian organization" have the meanings given such terms in paragraphs (1) and (3), respectively, of section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

(c) PROGRAMS AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, Indian tribes, tribal organizations, Indian-controlled organizations serving Indians, or Native Hawaiian organizations to carry out the authorized activities described in subsection (d).

(2) EXCEPTION.—The competition for grants, contracts, or cooperative agreements conducted under paragraph (1) shall be conducted every 2 years, except that if a recipient of such a grant, contract, or agreement has performed satisfactorily, the Secretary may waive the requirements for such competition on receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year period of the grant, contract, or agreement.

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Funds made available under subsection (c) shall be used to carry out the activities described in paragraph (2) that—

(A) are consistent with this section; and

(B) are necessary to meet the needs of Indians or Native Hawaiians preparing to enter, reenter, or retain unsubsidized employment.

(2) WORKFORCE INVESTMENT ACTIVITIES AND SUPPLEMENTAL SERVICES.—

(A) IN GENERAL.—Funds made available under subsection (c) shall be used for—

(i) building a comprehensive facility to be utilized by American Samoans residing in Hawaii for the co-location of federally funded and State funded workforce investment activities;

(ii) comprehensive workforce investment activities for Indians or Native Hawaiians; or

(iii) supplemental services for Indian or Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, or Hawaii.

(B) SPECIAL RULE.—Notwithstanding any other provision of this section, individuals who were eligible to participate in programs under section 401 of the Job Training Partnership Act (29 U.S.C. 1671) (as such section was in effect on the day before the date of enactment of this Act) shall be eligible to participate in an activity assisted under subparagraph (A)(i).

(e) PROGRAM PLAN.—In order to receive a grant or enter into a contract or cooperative agreement under this section an entity described in subsection (c) shall submit to the Secretary a program plan that describes a 2-year strategy for meeting the needs of Indian or Native Hawaiian individuals, as appropriate, in the area served by such entity. Such plan shall—

(1) be consistent with the purpose of this section;

(2) identify the population to be served;

(3) identify the education and employment needs of the population to be served and the manner in which the activities to be provided will strengthen the ability of the individuals served to obtain or retain unsubsidized employment;

(4) describe the activities to be provided and the manner in which such activities are to be integrated with other appropriate activities; and

(5) describe, after the entity submitting the plan consults with the Secretary, the performance measures to be used to assess the performance of entities in carrying out the activities assisted under this section.

(f) CONSOLIDATION OF FUNDS.—Each entity receiving assistance under subsection (c) may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(g) NONDUPLICATIVE AND NONEXCLUSIVE SERVICES.—Nothing in this section shall be construed—

(1) to limit the eligibility of any entity described in subsection (c) to participate in any activity offered by a State or local entity under this Act; or

(2) to preclude or discourage any agreement, between any entity described in subsection (c) and any State or local entity, to facilitate the provision of services by such entity or to the population served by such entity.

(h) ADMINISTRATIVE PROVISIONS.—

(1) ORGANIZATIONAL UNIT ESTABLISHED.—The Secretary shall designate a single organizational unit within the Department of Labor that shall have primary responsibility for the administration of the activities authorized under this section.

(2) REGULATIONS.—The Secretary shall consult with the entities described in subsection (c) in—

(A) establishing regulations to carry out this section, including performance measures for entities receiving assistance under such subsection, taking into account the economic circumstances of such entities; and

(B) developing a funding distribution plan that takes into consideration previous levels of funding (prior to the date of enactment of this Act) to such entities.

(3) WAIVERS.—

(A) IN GENERAL.—With respect to an entity described in subsection (c), the Secretary, notwithstanding any other provision of law, may, pursuant to a request submitted by such entity that meets the requirements established under paragraph (2), waive any of the statutory or regulatory requirements of this title that are inconsistent with the specific needs of the entities described in such subsection, except that the Secretary may not waive requirements relating to wage and labor standards, worker rights, participation and protection of participants, grievance procedures, and judicial review.

(B) REQUEST AND APPROVAL.—An entity described in subsection (c) that requests a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the program of workforce investment activities carried out by the entity, which plan shall meet the requirements established by the Secretary and shall be generally consistent with the requirements of section 379(i)(4)(B).

(4) ADVISORY COUNCIL.—

(A) IN GENERAL.—Using funds made available to carry out this section, the Secretary shall establish a Native American Employment and Training Council to facilitate the consultation described in paragraph (2).

(B) COMPOSITION.—The Council shall be composed of individuals, appointed by the Secretary, who are representatives of the entities described in subsection (c).

(C) DUTIES.—The Council shall advise the Secretary on all aspects of the operation and administration of the programs assisted under this section, including the selection of the individual appointed as the head of the unit established under paragraph (1).

(D) PERSONNEL MATTERS.—

(i) COMPENSATION OF MEMBERS.—Members of the Council shall serve without compensation.

(ii) TRAVEL EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(iii) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Council with such administrative support as may be necessary to perform the functions of the Council.

(E) CHAIRPERSON.—The Council shall select a chairperson from among its members.

(F) MEETINGS.—The Council shall meet not less than twice each year.

(G) APPLICATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

(5) TECHNICAL ASSISTANCE.—The Secretary, acting through the unit established under paragraph (1), is authorized to provide technical assistance to entities described in subsection (c) that receive assistance under subsection (c) to enable such entities to improve the activities authorized under this section that are provided by such entities.

SEC. 362. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

(a) IN GENERAL.—Every 2 years, the Secretary shall, on a competitive basis, make grants to, or enter into contracts with, eligible entities to carry out the activities described in subsection (d).

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant or enter into a contract under this section, an entity shall have an understanding of the problems of eligible migrant and seasonal farmworkers (including dependents), a familiarity with the area to be served, and the ability to demonstrate a capacity to administer effectively a diversified program of workforce investment activities (including youth activities) and related assistance for eligible migrant and seasonal farmworkers.

(c) PROGRAM PLAN.—

(1) IN GENERAL.—To be eligible to receive a grant or enter into a contract under this section, an entity described in subsection (b) shall submit to the Secretary a plan that describes a 2-year strategy for meeting the needs of eligible migrant and seasonal farmworkers in the area to be served by such entity.

(2) ADMINISTRATION.—Grants and contracts awarded under this section shall be centrally administered by the Department of Labor and competitively awarded by the Secretary using procedures consistent with standard Federal Government competitive procurement policies.

(3) COMPETITION.—

(A) IN GENERAL.—The competition for grants made and contracts entered into under this section shall be conducted every 2 years.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if a recipient of such a grant or contract has performed satisfactorily under the terms of the grant agreement or contract, the Secretary may waive the requirement for such competition for such recipient upon receipt from the recipient of a satisfactory 2-year plan described in paragraph (1) for the succeeding 2-year grant or contract period.

(4) CONTENTS.—Such plan shall—

(A) identify the education and employment needs of the eligible migrant and seasonal farmworkers to be served and the manner in which the workforce investment activities (including youth activities) to be carried out will strengthen the ability of the eligible migrant and seasonal farmworkers to obtain or retain unsubsidized employment or stabilize their unsubsidized employment;

(B) describe the related assistance, including supportive services, to be provided and the manner in which such assistance and services are to be integrated and coordinated with other appropriate services; and

(C) describe, after consultation with the Secretary, the performance measures to be used to assess the performance of such entity in carrying out the activities assisted under this section.

(d) AUTHORIZED ACTIVITIES.—Funds made available under this section shall be used to carry out workforce investment activities (including youth activities) and provide related assistance for eligible migrant and seasonal farmworkers, which may include employment, training, educational assistance, literacy assistance, an English language program, worker safety training, supportive services, dropout prevention activities, follow-up services for those individuals placed in employment, self-employment and related business enterprise development education as needed by eligible migrant and seasonal farmworkers and identified pursuant to the plan required by subsection (c), and technical assistance relating to capacity enhancement in such areas as management information technology.

(e) CONSULTATION WITH GOVERNORS AND LOCAL PARTNERSHIPS.—In making grants and entering into contracts under this section, the Secretary shall consult with the Governors and local partnerships of the States in which the eligible entities will carry out the activities described in subsection (d).

(f) REGULATIONS.—The Secretary shall consult with eligible migrant and seasonal farmworkers groups and States in establishing regulations to carry out this section, including performance measures for eligible entities that take into account the economic circumstances and demographics of eligible migrant and seasonal farmworkers.

(g) DEFINITIONS.—In this section:

(1) DISADVANTAGED.—The term "disadvantaged", used with respect to a farmworker, means a farmworker whose income, for 12 consecutive months out of the 24 months prior to application for the program involved, does not exceed the higher of—

(A) the poverty line (as defined in section 334(a)(2)(B)) for an equivalent period; or

(B) 70 percent of the lower living standard income level, for an equivalent period.

(2) ELIGIBLE MIGRANT AND SEASONAL FARMWORKERS.—The term "eligible migrant and seasonal farmworkers" means individuals who are eligible migrant farmworkers or are eligible seasonal farmworkers.

(3) ELIGIBLE MIGRANT FARMWORKER.—The term "eligible migrant farmworker" means—

(A) an eligible seasonal farmworker described in paragraph (4)(A) whose agricultural labor requires travel to a job site such that the farmworker is unable to return to a permanent place of residence within the same day; and

(B) a dependent of the farmworker described in subparagraph (A).

(4) ELIGIBLE SEASONAL FARMWORKER.—The term "eligible seasonal farmworker" means—

(A) a disadvantaged person who, for 12 consecutive months out of the 24 months prior to application for the program involved, has been primarily employed in agricultural labor that is characterized by chronic unemployment or underemployment; and

(B) a dependent of the person described in subparagraph (A).

SEC. 363. VETERANS' WORKFORCE INVESTMENT PROGRAMS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary shall conduct, directly or through grants or contracts, programs to meet the needs for workforce investment activities of veterans with service-connected disabilities, veterans who have significant barriers to employment, veterans who served on active duty in the armed forces during a war or in a campaign or expedition for which a campaign badge has been authorized, and recently separated veterans.

(2) CONDUCT OF PROGRAMS.—Programs supported under this section may be conducted through grants and contracts with public agencies and private nonprofit organizations, including recipients of Federal assistance under other provisions of this title, that the Secretary determines have an understanding of the unemployment problems of veterans described in paragraph (1), familiarity with the area to be served, and the capability to administer effectively a program of workforce investment activities for such veterans.

(3) REQUIRED ACTIVITIES.—Programs supported under this section shall include—

(A) activities to enhance services provided to veterans by other providers of workforce investment activities funded by Federal, State, or local government;

(B) activities to provide workforce investment activities to such veterans that are not adequately provided by other public providers of workforce investment activities; and

(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such veterans and to inform such veterans about employment, job training, on-the-job training and educational opportunities under this title, under title 38, United States Code, and under other provisions of law, which activities shall be coordinated with activities provided through the one-stop customer service centers.

(b) ADMINISTRATION OF PROGRAMS.—

(1) IN GENERAL.—The Secretary shall administer programs supported under this section through the Assistant Secretary for Veterans' Employment and Training.

(2) ADDITIONAL RESPONSIBILITIES.—In carrying out responsibilities under this section, the Assistant Secretary for Veterans' Employment and Training shall—

(A) be responsible for the awarding of grants and contracts and the distribution of funds under this section and for the establishment of appropriate fiscal controls, accountability, and program performance measures for recipients of grants and contracts under this section; and

(B) consult with the Secretary of Veterans Affairs and take steps to ensure that programs supported under this section are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38, United States Code, including programs and activities conducted under subchapter II of chapter 77 of such title, chapters 30, 31, 32, and 34 of such title, and sections 1712A, 1720A, 3687, and 4103A of such title.

SEC. 364. YOUTH OPPORTUNITY GRANTS.

(a) GRANTS.—

(1) IN GENERAL.—Using funds made available under section 302(b)(3)(A), the Secretary shall make grants to eligible local partnerships and eligible entities described in subsection (d) to provide activities described in subsection (b) for youth to increase the long-term employment of eligible youth who live in empowerment zones, enterprise communities, and high poverty areas and who seek assistance.

(2) GRANT PERIOD.—The Secretary may make a grant under this section for a 1-year period, and may renew the grant for each of the 4 succeeding years.

(3) GRANT AWARDS.—In making grants under this section, the Secretary shall ensure that grants are distributed equitably among local partnerships and entities serving urban areas and local partnerships and entities serving rural areas, taking into consideration the poverty rate in such urban and rural areas, as described in subsection (c)(3)(B).

(b) USE OF FUNDS.—

(1) IN GENERAL.—A local partnership or entity that receives a grant under this section shall use the funds made available through the grant to provide activities that meet the requirements of section 316, except as provided in paragraph (2), as well as youth development activities such as activities relating to leadership development, citizenship, and community service, and recreation activities.

(2) INTENSIVE PLACEMENT AND FOLLOWUP SERVICES.—In providing activities under this section, a local partnership or entity shall provide—

(A) intensive placement services; and

(B) followup services for not less than 24 months after the completion of participation in the other activities described in this subsection, as appropriate.

(c) ELIGIBLE LOCAL PARTNERSHIPS.—To be eligible to receive a grant under this section, a local partnership shall serve a community that—

(1) has been designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986;

(2)(A) is a State without a zone or community described in paragraph (1); and

(B) has been designated as a high poverty area by the Governor of the State; or

(3) is 1 of 2 areas in a State that—

(A) have been designated by the Governor as areas for which a local partnership may apply for a grant under this section; and

(B) meet the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986.

(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity (other than a local partnership) shall—

(1) be a recipient of financial assistance under section 361; and

(2) serve a community that—

(A) meets the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986; and

(B) is located on an Indian reservation.

(e) APPLICATION.—To be eligible to receive a grant under this section, a local partnership or entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the local partnership or entity will provide under this section to youth in the community described in subsection (c);

(2) a description of the performance measures negotiated under subsection (f), and the manner in which the local partnerships or entities will carry out the activities to meet the performance measures;

(3) a description of the manner in which the activities will be linked to activities described in section 316; and

(4) a description of the community support, including financial support through leveraging additional public and private resources, for the activities.

(f) PERFORMANCE MEASURES.—

(1) IN GENERAL.—The Secretary shall negotiate and reach agreement with the local partnership or entity on performance measures for the indicators of performance referred to in paragraphs (2) and (3) of section 321(b) that will be used to evaluate the performance of the local partnership or entity in carrying out the activities described in subsection (b). Each local performance measure shall consist of such a indicator of performance, and a performance level referred to in paragraph (2).

(2) PERFORMANCE LEVELS.—The Secretary shall negotiate and reach agreement with the local partnership or entity regarding the levels of performance expected to be achieved by the local partnership or entity on the indicators of performance.

(g) ROLE MODEL ACADEMY PROJECT.—

(1) IN GENERAL.—Using the funds made available pursuant to section 302(b)(3)(A)(iv) for fiscal year 1999, the Secretary shall provide assistance to an entity to carry out a project establishing a role model academy for out-of-school youth.

(2) RESIDENTIAL CENTER.—The entity shall use the assistance to establish an academy that consists of a residential center located on the site of a military installation closed or realigned pursuant to a law providing for closures and realignments of such installations.

(3) SERVICES.—The academy established pursuant to this subsection shall provide services that—

(A) utilize a military style model that emphasizes leadership skills and discipline, or another model of demonstrated effectiveness; and

(B) include vocational training, secondary school course work leading to a secondary school diploma or recognized equivalent, and the use of mentors who serve as role models and who provide academic training and career counseling to the youth.

SEC. 365. INCENTIVE GRANTS.

(a) IN GENERAL.—Effective July 1, 2000, the Secretary may make grants to States that exceed the expected levels of performance for performance measures established under this Act.

(b) USE OF FUNDS.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative vocational education, adult education and literacy, or workforce investment activity programs, as determined by the State.

(c) INCENTIVE GRANT REGULATIONS.—The Secretary of Labor and the Secretary of Education shall jointly promulgate 1 set of regulations for incentive grants under sections 116 and 243 and this section.

SEC. 366. TECHNICAL ASSISTANCE.

(a) TRANSITION ASSISTANCE.—The Secretary shall provide technical assistance to assist States in making transitions from carrying out activities under provisions described in section 391 to carrying out activities under this title.

(b) PERFORMANCE IMPROVEMENT.—

(1) GENERAL ASSISTANCE.—

(A) AUTHORITY.—The Secretary—

(i) shall provide technical assistance to States who fail to meet ⅓ or more of the State performance measures for a program year; and

(ii) may provide technical assistance to other States, local areas, and recipients of financial assistance under any of sections 361 through 364 to promote the continuous improvement of the programs and activities authorized under this title.

(B) FORM OF ASSISTANCE.—In carrying out this paragraph on behalf of a State, or recipient of financial assistance under any of sections 361 through 364, the Secretary, after consultation with the State or grant recipient, may award grants and enter into contracts and cooperative agreements.

(C) LIMITATION.—Grants or contracts awarded under this paragraph that are for amounts in excess of $50,000 shall only be awarded on a competitive basis.

(2) DISLOCATED WORKER TECHNICAL ASSISTANCE.—

(A) AUTHORITY.—Of the amounts available pursuant to section 302(a)(2), the Secretary shall reserve not more than 5 percent of such amounts to provide technical assistance to States that do not meet the State performance measures described in section 321(b) with respect to employment and training activities for dislocated workers. Using such reserved funds, the Secretary may provide such assistance to other States, local areas, business and labor organizations, and other entities involved in providing assistance to dislocated workers, to promote the continuous improvement of assistance provided to dislocated workers, under this title.

(B) TRAINING.—Amounts reserved under this paragraph may be used to provide for the training of staff, including specialists, who provide rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees. Such projects shall be administered through the dislocated worker office described in section 369(b).

SEC. 367. DEMONSTRATION, PILOT, MULTISERVICE, RESEARCH, AND MULTISTATE PROJECTS.

(a) STRATEGIC PLAN.—

(1) IN GENERAL.—After consultation with States, localities, and other interested parties, the Secretary shall, every 2 years, publish in the Federal Register, a plan that describes the demonstration and pilot (including dislocated worker demonstration and pilot), multiservice, research, and multistate project priorities of the Department of Labor concerning employment and training for the 5-year period following the submission of the plan. Copies of the plan shall be transmitted to the appropriate committees of Congress.

(2) LIMITATION.—With respect to a plan published under paragraph (1), the Secretary shall ensure that research projects (referred to in subsection (d)) are considered for incorporation into the plan only after projects referred to in subsections (b), (c), and (e) have been considered and incorporated into the plan, and are funded only as funds remain to permit the funding of such research projects.

(3) FACTORS.—The plan published under paragraph (1) shall contain strategies to address national employment and training problems and take into account factors such as—

(A) the availability of existing research (as of the date of the publication);

(B) the need to ensure results that have interstate validity;

(C) the benefits of economies of scale and the efficiency of proposed projects; and

(D) the likelihood that the results of the projects will be useful to policymakers and stakeholders in addressing employment and training problems.

(b) DEMONSTRATION AND PILOT PROJECTS.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out demonstration and pilot projects for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of specialized methods, in addressing employment and training needs. Such projects shall include the provision of direct services to individuals to enhance employment opportunities and an evaluation component.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out demonstration and pilot projects under this subsection shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of the funding for the project.

(B) ELIGIBLE ENTITIES.—Grants or contracts may be awarded under this subsection only to—

(i) entities with recognized expertise in—

(I) conducting national demonstration projects;

(II) utilizing state-of-the-art demonstration methods; and

(III) conducting evaluations of employment and training projects; or

(ii) State and local entities with expertise in operating or overseeing employment and training programs.

(C) TIME LIMITS.—The Secretary shall establish appropriate time limits for carrying out demonstration and pilot projects under this subsection.

(c) MULTISERVICE PROJECTS.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out multiservice projects—

(A) that will test an array of approaches to the provision of employment and training services to a variety of targeted populations;

(B) in which the entity carrying out the project, in conjunction with employers, organized labor, and other groups such as the disability community, will design, develop, and test various training approaches in order to determine effective practices; and

(C) that will assist in the development and replication of effective service delivery strategies for targeted populations for the national employment and training system as a whole.

(2) Limitations.—

(A) Competitive awards.—Grants or contracts awarded for carrying out multiservice projects under this subsection shall be awarded only on a competitive basis.

(B) Time limits.—A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

(d) Research.—

(1) In general.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out research projects that will contribute to the solution of employment and training problems in the United States.

(2) Formula improvement study and report.—

(A) Study.—The Secretary shall conduct a 2-year study concerning improvements in the formulas described in section 302(b)(1)(B) and paragraphs (3)(A) and (4)(A) of section 306(b) (regarding distributing funds under subtitle A to States and local areas for adult employment and training activities). In conducting the study, the Secretary shall examine means of improving the formulas by—

(i) developing formulas based on statistically reliable data;

(ii) developing formulas that are consistent with the goals and objectives of this title; and

(iii) developing formulas based on organizational and financial stability of statewide partnerships and local partnerships.

(B) Report.—The Secretary shall prepare and submit to Congress a report containing the results of the study, including recommendations for improved formulas.

(3) Limitations.—

(A) Competitive awards.—Grants or contracts awarded for carrying out research projects under this subsection in amounts that exceed $50,000 shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of the funding for the project.

(B) Eligible entities.—Grants or contracts shall be awarded under this subsection only to entities with nationally recognized expertise in the methods, techniques, and knowledge of the social sciences.

(C) Time limits.—The Secretary shall establish appropriate time limits for the duration of research projects funded under this subsection.

(e) Multistate Projects.—

(1) In general.—

(A) Authority.—Under a plan published under subsection (a), the Secretary may, through grants or contracts, carry out multistate projects that require demonstrated expertise that is available at the national level to effectively disseminate best practices and models for implementing employment and training services, address the specialized employment and training needs of particular service populations, or address industrywide skill shortages.

(B) Design of grants.—Grants or contracts awarded under this subsection shall be designed to obtain information relating to the provision of services under different economic conditions or to various demographic groups in order to provide guidance at the national and State levels about how best to administer specific employment and training services.

(2) Limitations.—

(A) Competitive awards.—Grants or contracts awarded for carrying out multistate projects under this subsection shall be awarded only on a competitive basis.

(B) Time limits.—A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

(f) Dislocated Worker Projects.—Of the amount made available pursuant to section 302(a)(2)(A) for any program year, the Secretary shall use not more than 10 percent of such amount to carry out demonstration and pilot projects, multiservice projects, and multistate projects, relating to the employment and training needs of dislocated workers. Of the requirements of this section, such projects shall be subject only to the provisions relating to review and evaluation of applications under subsection (g). Such projects may include demonstration and pilot projects relating to promoting self-employment, promoting job creation, averting dislocations, assisting dislocated farmers, assisting dislocated fishermen, and promoting public works. Such projects shall be administered through the dislocated worker office described in section 369(b).

(g) Peer Review.—The Secretary shall utilize a peer review process to—

(1) review and evaluate all applications for grants and contracts in amounts that exceed $100,000 that are submitted under this section; and

(2) review and designate exemplary and promising programs under this section.

SEC. 368. EVALUATIONS.

(a) Programs and Activities Carried Out Under This Title.—For the purpose of improving the management and effectiveness of programs and activities carried out under this title, the Secretary shall provide for the continuing evaluation of the programs and activities. Such evaluations shall address—

(1) the general effectiveness of such programs and activities in relation to their cost;

(2) the effectiveness of the performance measures relating to such programs and activities;

(3) the effectiveness of the structure and mechanisms for delivery of services through such programs and activities;

(4) the impact of the programs and activities on the community and participants involved;

(5) the impact of such programs and activities on related programs and activities;

(6) the extent to which such programs and activities meet the needs of various demographic groups; and

(7) such other factors as may be appropriate.

(b) Other Programs and Activities.—The Secretary may conduct evaluations of other federally funded employment-related programs and activities, including programs and activities administered under—

(1) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(2) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

(3) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

(4) State unemployment compensation laws (in accordance with applicable Federal law).

(c) Techniques.—Evaluations conducted under this section shall utilize appropriate methodology and research designs, including the use of control groups chosen by scientific random assignment methodologies. The Secretary shall conduct as least 1 multisite control group evaluation under this section by the end of fiscal year 2004.

(d) Reports.—The entity carrying out an evaluation described in subsection (a) or (b) shall prepare and submit to the Secretary a draft report and a final report containing the results of the evaluation.

(e) Reports to Congress.—Not later than 30 days after the completion of such a draft report, the Secretary shall transmit the draft report to the appropriate committees of Congress. Not later than 60 days after the completion of such a final report, the Secretary shall transmit the final report to the appropriate committees of Congress.

(f) Coordination.—The Secretary shall ensure the coordination of evaluations carried out by States pursuant to section 321(e) with the evaluations carried out under this section.

SEC. 369. NATIONAL EMERGENCY GRANTS.

(a) In General.—The Secretary is authorized to award national emergency grants in a timely manner—

(1) to an entity described in subsection (c) to provide employment and training assistance to workers affected by major economic dislocations, such as plant closures, mass layoffs, or closures and realignments of military installations;

(2) to provide assistance to the Governor of any State within the boundaries of which is an area that has suffered an emergency or a major disaster as defined in paragraphs (1) and (2), respectively, of section 102 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 (1) and (2)) (referred to in this section as the "disaster area") to provide disaster relief employment in the area; and

(3) to provide additional assistance to a State or local partnership for eligible dislocated workers in a case in which the State or local partnership has expended the funds provided under this section to carry out activities described in paragraphs (1) and (2) and can demonstrate the need for additional funds to provide appropriate services for such workers, in accordance with requirements prescribed by the Secretary.

(b) Administration.—The Secretary shall designate a dislocated worker office to coordinate the functions of the Secretary under this title relating to employment and training activities for dislocated workers, including activities carried out under the national emergency grants.

(c) Employment and Training Assistance Requirements.—

(1) Grant recipient eligibility.—

(A) Application.—To be eligible to receive a grant under subsection (a)(1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) Eligible entity.—In this paragraph, the term "entity" means a State, a local partnership, an entity described in section

361(c), an employer or employer association, a labor organization, and an entity determined to be eligible by the Governor of the State involved.

(2) PARTICIPANT ELIGIBILITY.—

(A) IN GENERAL.—In order to be eligible to receive employment and training assistance under a national emergency grant awarded pursuant to subsection (a)(1), an individual shall be—

(i) a dislocated worker;

(ii) a civilian employee of the Department of Defense employed at a military installation that is being closed, or that will undergo realignment, within the next 24 months after the date of the determination of eligibility;

(iii) an individual who is employed in a nonmanagerial position with a Department of Defense contractor, who is determined by the Secretary of Defense to be at-risk of termination from employment as a result of reductions in defense expenditures, and whose employer is converting operations from defense to nondefense applications in order to prevent worker layoffs; or

(iv) a member of the Armed Forces who—

(I) was on active duty or full-time National Guard duty;

(II)(aa) is involuntarily separated (as defined in section 1141 of title 10, United States Code) from active duty or full-time National Guard duty; or

(bb) is separated from active duty or full-time National Guard duty pursuant to a special separation benefits program under section 1174a of title 10, United States Code, or the voluntary separation incentive program under section 1175 of that title;

(III) is not entitled to retired or retained pay incident to the separation described in subclause (II); and

(IV) applies for such employment and training assistance before the end of the 180-day period beginning on the date of that separation.

(B) RETRAINING ASSISTANCE.—The individuals described in subparagraph (A)(iii) shall be eligible for retraining assistance to upgrade skills by obtaining marketable skills needed to support the conversion described in subparagraph (A)(iii).

(C) ADDITIONAL REQUIREMENTS.—The Secretary shall establish and publish additional requirements related to eligibility for employment and training assistance under the national emergency grants to ensure effective use of the funds available for this purpose.

(D) DEFINITIONS.—In this paragraph, the terms 'military institution' and 'realignment' have the meanings given the terms in section 2910 of the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510; 10 U.S.C. 2687 note).

(d) DISASTER RELIEF EMPLOYMENT ASSISTANCE REQUIREMENTS.—

(1) IN GENERAL.—Funds made available under subsection (a)(2)—

(A) shall be used to provide disaster relief employment on projects that provide food, clothing, shelter, and other humanitarian assistance for disaster victims, and projects regarding demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area;

(B) may be expended through public and private agencies and organizations engaged in such projects; and

(C) may be expended to provide the services authorized under section 315(c).

(2) ELIGIBILITY.—An individual shall be eligible to be offered disaster relief employment under subsection (a)(2) if such individual is a dislocated worker, is a long-term unemployed individual, or is temporarily or permanently laid off as a consequence of the disaster.

(3) LIMITATIONS ON DISASTER RELIEF EMPLOYMENT.—No individual shall be employed under subsection (a)(2) for more than 6 months for work related to recovery from a single natural disaster.

SEC. 370. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—

(1) NATIVE AMERICAN PROGRAMS; MIGRANT AND SEASONAL FARMWORKER PROGRAMS; VETERANS' EMPLOYMENT PROGRAMS.—Subject to subsection (b)(1), there are authorized to be appropriated to carry out sections 361 through 363 such sums as may be necessary for each of the fiscal years 1999 through 2004.

(2) INCENTIVE GRANTS; TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS; EVALUATIONS.—Subject to subsection (b)(2), there are authorized to be appropriated to carry out sections 365 through 368, such sums as may be necessary for each of fiscal years 1999 through 2004.

(b) RESERVATIONS.—

(1) NATIVE AMERICAN PROGRAMS; MIGRANT AND SEASONAL FARMWORKER PROGRAMS; VETERANS' EMPLOYMENT PROGRAMS.—Of the amount appropriated under subsection (a)(1) for a fiscal year, the Secretary shall—

(A) reserve not less than $55,000,000 for carrying out section 361;

(B) reserve not less than $70,000,000 for carrying out section 362; and

(C) reserve not less than $7,300,000 for carrying out section 363.

(2) INCENTIVE GRANTS; TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS; EVALUATIONS.—Of the amount appropriated under subsection (a)(2) for a fiscal year, the Secretary shall—

(A)(i) for fiscal year 1999, reserve no funds for carrying out section 365; and

(ii) for each of fiscal years 2000 through 2004, reserve 36.8 percent for carrying out section 365;

(B)(i) for fiscal year 1999, reserve 61.8 percent for carrying out section 366 (other than section 366(b)(2)); and

(ii) for each of fiscal years 2000 through 2004, reserve 25 percent for carrying out section 366 (other than section 366(b)(2));

(C) reserve 24.2 percent for carrying out section 367 (other than 367(f)); and

(D) reserve 14 percent for carrying out section 368.

Subtitle D—Administration

SEC. 371. REQUIREMENTS AND RESTRICTIONS.

(a) BENEFITS.—

(1) WAGES.—

(A) IN GENERAL.—Individuals in on-the-job training or individuals employed in programs and activities carried out under this title shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar skills. Such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law.

(B) CONSTRUCTION.—The reference in subparagraph (A) to section 6(a)(1) of the Fair Labor Standards Act of 1938—

(i) shall be deemed to be a reference to section 6(c) of that Act (29 U.S.C. 206(c)) for individuals in the Commonwealth of Puerto Rico;

(ii) shall be deemed to be a reference to section 6(a)(3) (29 U.S.C. 206(a)(3)) of that Act for individuals in American Samoa; and

(iii) shall not be applicable for individuals in other territorial jurisdictions in which section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) does not apply.

(2) TREATMENT OF ALLOWANCES, EARNINGS, AND PAYMENTS.—Allowances, earnings, and payments to individuals participating in programs and activities carried out under this title shall not be considered to be income for the purposes of determining eligibility for, and the amount of income transfer and in-kind aid furnished under, any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).

(b) LABOR STANDARDS.—

(1) DISPLACEMENT.—

(A) PROHIBITION.—A participant in a program or activity authorized under this title (referred to in this subsection as a "specified activity") shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

(B) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(2) OTHER PROHIBITIONS.—A participant in a specified activity shall not be employed in a job—

(A) when any other individual is on layoff from the same or any substantially equivalent job with the participating employer;

(B) when the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

(C) that is created in a promotional line that will infringe in any way on the promotional opportunities of currently employed individuals (as of the date of the participation).

(3) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that a State workers' compensation law applies, workers' compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

(4) EMPLOYMENT CONDITIONS.—Individuals in on-the-job training or individuals employed in programs and activities carried out under this title, shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

(5) OPPORTUNITY TO SUBMIT COMMENTS.—Interested members of the public, including representatives of labor organizations and businesses, shall be provided an opportunity to submit comments to the Secretary with respect to programs and activities proposed to be funded under subtitle A.

(6) NO IMPACT ON UNION ORGANIZING.—Each recipient of funds under this title shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

(c) Grievance Procedure.—

(1) In general.—Each State receiving an allotment under section 302 and each recipient of financial assistance under section 361 or 362 shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this title from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within 60 days after the date of the filing of the grievance or complaint.

(2) Investigation.—

(A) In general.—The Secretary shall investigate an allegation of a violation described in paragraph (1) if—

(i) a decision relating to such violation has not been reached within 60 days after the date of the filing of the grievance or complaint and either party appeals the decision to the Secretary; or

(ii) a decision relating to such violation has been reached within 60 days after the date of the filing and the party to which such decision is adverse appeals the decision to the Secretary.

(B) Additional requirement.—The Secretary shall make a final determination relating to an appeal made under subparagraph (A) no later than 120 days after the date of such appeal.

(3) Remedies.—Remedies that may be imposed under this subsection for a violation of any requirement of this title shall be limited—

(A) to suspension or termination of payments under this title to a person that has violated any requirement of this title;

(B) to prohibition of placement of a participant with an employer that has violated any requirement of this title;

(C) where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and

(D) where appropriate, to other equitable relief.

(4) Construction.—Nothing in paragraph (3) shall be construed to prohibit a grievant or complainant from pursuing a remedy authorized under another Federal, State, or local law for a violation of this title.

(d) Relocation.—

(1) Prohibition on use of funds to encourage or induce relocation.—No funds provided under this title shall be used, or proposed for use, to encourage or induce the relocation of a business or part of a business if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(2) Prohibition on use of funds for customized or skill training and related activities after relocation.—No funds provided under this title for an employment and training activity shall be used for customized or skill training, on-the-job training, or company-specific assessments of job applicants or employees, for any business or part of a business that has relocated, until the date that is 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business results in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(3) Repayment.—If the Secretary determines that a violation of paragraph (1) or (2) has occurred, the Secretary shall require the State that has violated such paragraph to repay to the United States an amount equal to the amount expended in violation of such paragraph.

(e) Limitation on Use of Funds.—No funds available under this title shall be used for employment generating activities, economic development activities, activities for the capitalization of businesses, investment in contract bidding resource centers, or similar activities. No funds available under subtitle A shall be used for foreign travel.

SEC. 372. PROMPT ALLOCATION OF FUNDS.

(a) Allotments Based on Latest Available Data.—All allotments under section 302 shall be based on the latest available data and estimates satisfactory to the Secretary. All data relating to disadvantaged adults, disadvantaged youth, and low-income individuals shall be based on the most recent satisfactory data from the Bureau of the Census.

(b) Publication in Federal Register Relating to Formula Funds.—Whenever the Secretary allots funds required to be allotted under section 302, the Secretary shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient of the funds.

(c) Requirement for Funds Distributed by Formula.—All funds required to be allotted or allocated under section 302 or 306 shall be allotted or allocated within 45 days after the date of enactment of the Act appropriating the funds, except that, if such funds are appropriated in advance as authorized by section 379(g), such funds shall be allotted or allocated not later than the March 31 preceding the program year for which such funds are to be available for obligation.

(d) Availability of Funds.—Funds shall be made available under section 306 to the chief elected official for a local area not later than 30 days after the date the funds are made available to the Governor involved, under section 302, or 7 days after the date the local plan for the area is approved, whichever is later.

SEC. 373. MONITORING.

(a) In General.—The Secretary is authorized to monitor all recipients of financial assistance under this title to determine whether the recipients are complying with the provisions of this title, including the regulations issued under this title.

(b) Investigations.—The Secretary may investigate any matter the Secretary determines to be necessary to determine the compliance of the recipients with this title, including the regulations issued under this title. The investigations authorized by this subsection may include examining records (including making certified copies of the records), questioning employees, and entering any premises or onto any site in which any part of a program or activity of such a recipient is conducted or in which any of the records of the recipient are kept.

(c) Additional Requirement.—For the purpose of any investigation or hearing conducted under this title by the Secretary, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of documents) apply to the Secretary, in the same manner and to the same extent as the provisions apply to the Federal Trade Commission.

SEC. 374. FISCAL CONTROLS; SANCTIONS.

(a) Establishment of Fiscal Controls by States.—

(1) In general.—Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds allocated to local areas under subtitle A. Such procedures shall ensure that all financial transactions carried out under subtitle A are conducted and records maintained in accordance with generally accepted accounting principles applicable in each State.

(2) Cost principles.—

(A) In general.—Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title shall comply with the applicable uniform cost principles included in the appropriate circulars of the Office of Management and Budget for the type of entity receiving the funds.

(B) Exception.—The funds made available to a State for administration of statewide workforce investment activities in accordance with section 314(c)(2) shall be allocable to the overall administration of workforce investment activities, but need not be specifically allocable to—

(i) the administration of adult employment and training activities;

(ii) the administration of dislocated worker employment and training activities; or

(iii) the administration of youth activities.

(3) Uniform administrative requirements.—

(A) In general.—Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title shall comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds, as promulgated in circulars or rules of the Office of Management and Budget.

(B) Additional requirement.—Procurement transactions under this title between local partnerships and units of State or local governments shall be conducted only on a cost-reimbursable basis.

(4) Monitoring.—Each Governor of a State shall conduct onsite monitoring of each local area within the State to ensure compliance with the uniform administrative requirements referred to in paragraph (3).

(5) Action by governor.—If the Governor determines that a local area is not in compliance with the uniform administrative requirements referred to in paragraph (3), the Governor shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

(6) Certification.—The Governor shall, every 3 years, certify to the Secretary that—

(A) the State has implemented the uniform administrative requirements referred to in paragraph (3);

(B) the State has monitored local areas to ensure compliance with the uniform administrative requirements as required under paragraph (4); and

(C) the State has taken appropriate action to secure compliance pursuant to paragraph (5).

(7) Action by the secretary.—If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (f) in the event of failure of the Governor to take the required appropriate action to secure compliance.

(b) Substantial Violation.—

(1) Action by governor.—If, as a result of a financial or compliance audit or otherwise,

the Governor determines that there is a substantial violation of a specific provision of this title, including regulations issued under this title, and corrective action has not been taken, the Governor shall impose a reorganization plan, which may include—

(A) decertifying the local partnership involved in accordance with section 308(c)(3);

(B) prohibiting the use of providers who have been identified as eligible providers of workforce investment activities under chapter 3 of subtitle A;

(C) selecting an alternative entity to administer a program or activity for the local area involved;

(D) merging the local area into 1 or more other local areas; or

(E) making such other changes as the Secretary or Governor determines to be necessary to secure compliance.

(2) APPEAL.—The action taken by the Governor pursuant to paragraph (1) may be appealed to the Secretary, who shall make a final decision on the appeal not later than 60 days after the receipt of the appeal.

(3) ACTION BY SECRETARY.—If the Governor fails to take promptly the action required under paragraph (1), the Secretary shall take such action.

(c) ACCESS BY COMPTROLLER GENERAL.—For the purpose of evaluating and reviewing programs and activities established or provided for by this title, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs and activities that are in the possession, custody, or control of a State, a local partnership, any recipient of funds under this title, or any subgrantee or contractor of such a recipient.

(d) REPAYMENT OF CERTAIN AMOUNTS TO THE UNITED STATES.—

(1) IN GENERAL.—Every recipient of funds under this title shall repay to the United States amounts found not to have been expended in accordance with this title.

(2) OFFSET OF REPAYMENT.—If the Secretary determines that a State has expended funds made available under this title in a manner contrary to the requirements of this title, the Secretary may offset repayment of such expenditures against any other amount to which the State is or may be entitled, except as provided under subsection (e)(1).

(3) REPAYMENT FROM DEDUCTION BY STATE.—If the Secretary requires a State to repay funds as a result of a determination that a local area of the State has expended funds contrary to the requirements of this title, the Governor of the State may use an amount deducted under paragraph (4) to repay the funds, except as provided under subsection (e)(1).

(4) DEDUCTION BY STATE.—The Governor may deduct an amount equal to the misexpenditure described in paragraph (3) from subsequent program year allocations to the local area from funds reserved for the administrative costs of the local programs involved, as appropriate.

(5) LIMITATIONS.—A deduction made by a State as described in paragraph (4) shall not be made until such time as the Governor has taken appropriate corrective action to ensure full compliance within such local area with regard to appropriate expenditures of funds under this title.

(e) REPAYMENT OF AMOUNTS.—

(1) IN GENERAL.—Each recipient of funds under this title shall be liable to repay the amounts described in subsection (d)(1), from funds other than funds received under this title, upon a determination by the Secretary that the misexpenditure of funds was due to willful disregard of the requirements of this title, gross negligence, failure to observe accepted standards of administration, or a pattern of misexpenditure as described in paragraphs (2) and (3) of subsection (d). No such determination shall be made under this subsection or subsection (d) until notice and opportunity for a fair hearing has been given to the recipient.

(2) FACTORS IN IMPOSING SANCTIONS.—In determining whether to impose any sanction authorized by this section against a recipient for violations by a subgrantee or contractor of such recipient under this title (including the regulations issued under this title), the Secretary shall first determine whether such recipient has adequately demonstrated that the recipient has—

(A) established and adhered to an appropriate system for the award and monitoring of grants and contracts with subgrantees and contractors that contains acceptable standards for ensuring accountability;

(B) entered into a written grant agreement or contract with such subgrantee or contractor that established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the grant agreement or contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this title, including regulations issued under this title, by such subgrantee or contractor.

(3) WAIVER.—If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this title and any applicable Federal or State law directly against any subgrantee or contractor for violation of this title, including regulations issued under this title.

(f) IMMEDIATE TERMINATION OR SUSPENSION OF ASSISTANCE IN EMERGENCY SITUATIONS.—In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program or activity involved, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, to the recipient if the recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

(g) DISCRIMINATION AGAINST PARTICIPANTS.—If the Secretary determines that any recipient of funds under this title has discharged or in any other manner discriminated in violation of section 378 against, a participant or any other individual in connection with the administration of the program or activity involved, or any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this title, or has testified or is about to testify in any such proceeding or investigation under or related to this title, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this title, including regulations issued under this title, the Secretary shall, within 30 days after the date of the determination, take such action or order such corrective measures, as may be necessary, with respect to the recipient or the aggrieved individual.

(h) REMEDIES.—The remedies described in this section shall not be construed to be the exclusive remedies available for violations described in this section.

SEC. 375. REPORTS; RECORDKEEPING; INVESTIGATIONS.

(a) REPORTS.—

(1) IN GENERAL.—Recipients of funds under this title shall keep records that are sufficient to permit the preparation of reports required by this title and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

(2) SUBMISSION TO THE SECRETARY.—Every such recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary may require regarding the performance of programs and activities carried out under this title. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by Congress or a committee of Congress.

(3) MAINTENANCE OF STANDARDIZED RECORDS.—In order to allow for the preparation of the reports required under subsection (c), such recipients shall maintain standardized records for all individual participants and provide to the Secretary a sufficient number of such records to provide for an adequate analysis of the records.

(4) AVAILABILITY TO THE PUBLIC.—

(A) IN GENERAL.—Except as provided in subparagraph (B), records maintained by such recipients pursuant to this subsection shall be made available to the public upon request.

(B) EXCEPTION.—Subparagraph (A) shall not apply to—

(i) information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(ii) trade secrets, or commercial or financial information, that is obtained from a person and privileged or confidential.

(C) FEES TO RECOVER COSTS.—Such recipients may charge fees sufficient to recover costs applicable to the processing of requests for records under subparagraph (A).

(b) INVESTIGATIONS OF USE OF FUNDS.—

(1) IN GENERAL.—

(A) SECRETARY.—In order to evaluate compliance with the provisions of this title, the Secretary shall conduct, in several States, in each fiscal year, investigations of the use of funds received by recipients under this title.

(B) COMPTROLLER GENERAL OF THE UNITED STATES.—In order to ensure compliance with the provisions of this title, the Comptroller General of the United States may conduct investigations of the use of funds received under this title by any recipient.

(2) PROHIBITION.—In conducting any investigation under this title, the Secretary or the Comptroller General of the United States may not request the compilation of any information that the recipient is not otherwise required to compile and that is not readily available to such recipient.

(3) AUDITS.—

(A) IN GENERAL.—In carrying out any audit under this title (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through grant or contract, the Secretary, the Inspector General of the Department of Labor, or the Comptroller General of the United States shall furnish to the State, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not later than 14 days (or as soon as practicable), prior to the commencement of the audit.

(B) Notification requirement.—If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

(C) Additional requirement.—The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding contained in the reports.

(D) Rule of construction.—Nothing contained in this title shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General of the United States.

(c) Accessibility of Reports.—Each State, each local partnership, and each recipient (other than a subrecipient, subgrantee, or contractor of a recipient) receiving funds under this title shall—

(1) make readily accessible such reports concerning its operations and expenditures as shall be prescribed by the Secretary;

(2) prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide, local area, and other appropriate bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 378; and

(3) monitor the performance of providers in complying with the terms of grants, contracts, or other agreements made pursuant to this title.

(d) Information To Be Included in Reports.—

(1) In general.—The reports required in subsection (c) shall include information regarding programs and activities carried out under this title pertaining to—

(A) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information regarding participants;

(B) the programs and activities in which participants are enrolled, and the length of time that participants are engaged in such programs and activities;

(C) outcomes of the programs and activities for participants, including the occupations of participants, and placement for participants in nontraditional employment;

(D) specified costs of the programs and activities; and

(E) information necessary to prepare reports to comply with section 378.

(2) Additional requirement.—The Secretary shall ensure that all elements of the information required for the reports described in paragraph (1) are defined and reported uniformly.

(e) Retention of Records.—The Governor of a State that receives funds under this title shall ensure that requirements are established for retention of all records of the State pertinent to all grants awarded, and contracts and agreements entered into, under this title, including financial, statistical, property, and participant records and supporting documentation. For funds allotted to a State under this title for any program year, the State shall retain the records for 2 subsequent program years. The State shall retain records for nonexpendable property that is used to carry out this title for a period of 3 years after final disposition of the property.

(f) Quarterly Financial Reports.—

(1) In general.—Each local partnership in the State shall submit quarterly financial reports to the Governor with respect to programs and activities carried out under this title. Such reports shall include information identifying all program and activity costs by cost category in accordance with generally accepted accounting principles and by year of the appropriation involved.

(2) Additional requirement.—Each State shall submit to the Secretary, on a quarterly basis, a summary of the reports submitted to the Governor pursuant to paragraph (1).

(g) Maintenance of Additional Records.—Each State and local partnership shall maintain records with respect to programs and activities carried out under this title that identify—

(1) any income or profits earned, including such income or profits earned by subrecipients; and

(2) any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.

(h) Cost Categories.—In requiring entities to maintain records of costs by category under this title, the Secretary shall require only that the costs be categorized as administrative or programmatic costs.

SEC. 376. ADMINISTRATIVE ADJUDICATION.

(a) In General.—Whenever any applicant for financial assistance under this title is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient for whom a corrective action has been required or a sanction has been imposed by the Secretary under section 374. Except to the extent provided for in section 371(c) or 378, all other disputes arising under this title relating to the manner in which the recipient carries out a program or activity under this title shall be adjudicated under grievance procedures established by the recipient or under applicable law other than this title.

(b) Appeal.—The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part of the decision has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. After the 20-day period the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days after such filing, has notified the parties that the case involved has been accepted for review.

(c) Time Limit.—Any case accepted for review by the Secretary under subsection (b) shall be decided within 180 days after such acceptance. If the case is not decided within the 180-day period, the decision of the administrative law judge shall become the final decision of the Secretary at the end of the 180-day period.

(d) Additional Requirement.—The provisions of section 377 shall apply to any final action of the Secretary under this section.

SEC. 377. JUDICIAL REVIEW.

(a) Review.—

(1) Petition.—With respect to any final order by the Secretary under section 376 by which the Secretary awards, declines to award, or only conditionally awards, financial assistance under this title, or any final order of the Secretary under section 376 with respect to a corrective action or sanction imposed under section 374, any party to a proceeding which resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds involved, by filing a review petition within 30 days after the date of issuance of such final order.

(2) Action on petition.—The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record on which the final order was entered as provided in section 2112 of title 28, United States Code. The filing of a review petition shall not stay the order of the Secretary, unless the court orders a stay. Petitions filed under this subsection shall be heard expeditiously, if possible within 10 days after the date of filing of a reply to the petition.

(3) Standard and scope of review.—No objection to the order of the Secretary shall be considered by the court unless the objection was specifically urged, in a timely manner, before the Secretary. The review shall be limited to questions of law and the findings of fact of the Secretary shall be conclusive if supported by substantial evidence.

(b) Judgment.—The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The judgment of the court regarding the order shall be final, subject to certiorari review by the Supreme Court as provided in section 1254(1) of title 28, United States Code.

SEC. 378. NONDISCRIMINATION.

(a) Prohibited Discrimination.—

(1) Prohibition on discrimination in federal programs and activities.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), or on the basis of religion under any applicable provision of Federal law, programs and activities funded or otherwise financially assisted in whole or in part under this title shall be considered to be programs and activities receiving Federal financial assistance, and education programs and activities receiving Federal financial assistance.

(2) Prohibition of discrimination regarding participation, benefits, and employment.—Except as otherwise permitted under title IX of the Education Amendments of 1972, no individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.

(3) Prohibition on assistance for facilities for sectarian instruction or religious worship.—Participants shall not be

employed under this title to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).

(4) PROHIBITION ON DISCRIMINATION ON BASIS OF PARTICIPANT STATUS.—No person may discriminate against an individual who is a participant in a program or activity that receives funds under this title, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant, in carrying out any endeavor that involves—

(A) participants in programs and activities that receive funding under this title; and

(B) persons who receive no assistance under this title.

(5) PROHIBITION ON DISCRIMINATION AGAINST CERTAIN NONCITIZENS.—Participation in programs and activities or receiving funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, other aliens lawfully present in the United States, and other individuals authorized by the Attorney General to work in the United States.

(b) ACTION OF SECRETARY.—Whenever the Secretary finds that a State or other recipient of funds under this title has failed to comply with a provision of law referred to in subsection (a)(1), or with paragraph (2), (3), (4), or (5) of subsection (a), including an applicable regulation prescribed to carry out such provision or paragraph, the Secretary shall notify such State or recipient and shall request that the State or recipient comply. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided to the head of a Federal department or agency under the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964, as may be applicable; or

(3) take such other action as may be provided by law.

(c) ACTION OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient of funds under this title is engaged in a pattern or practice of discrimination in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) JOB CORPS MEMBERS.—For purposes of this section, Job Corps members shall be considered as the ultimate beneficiaries of a program or activity receiving Federal financial assistance and an education program or activity receiving Federal financial assistance.

SEC. 379. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe rules and regulations to carry out this title to the extent necessary to implement, administer, and ensure compliance with the requirements of this title. Such rules and regulations may include provisions making adjustments authorized by section 6504 of title 31, United States Code. All such rules and regulations shall be published in the Federal Register at least 30 days prior to their effective dates. Copies of each such rule or regulation shall be transmitted to the appropriate committees of Congress on the date of such publication and shall contain, with respect to each material provision of such rule or regulation, a citation to the particular substantive section of law that is the basis for the provision.

(b) ACQUISITION OF CERTAIN PROPERTY AND SERVICES.—The Secretary is authorized, in carrying out this title, to accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.

(c) AUTHORITY TO ENTER INTO CERTAIN AGREEMENTS AND TO MAKE CERTAIN EXPENDITURES.—The Secretary may make such grants, enter into such contracts or agreements, establish such procedures, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend such funds under this title, as may be necessary to carry out this title, including making expenditures for construction, repairs, and capital improvements, and including making necessary adjustments in payments on account of overpayments or underpayments.

(d) ANNUAL REPORT.—The Secretary shall prepare and submit to Congress an annual report regarding the programs and activities carried out under this title. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs and activities in meeting the objectives of this title;

(2) a summary of major findings from research, evaluations, pilot projects, and experiments conducted under this title in the fiscal year prior to the submission of the report;

(3) recommendations for modifications in the programs and activities based on analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary determines to be appropriate.

(e) UTILIZATION OF SERVICES AND FACILITIES.—The Secretary is authorized, in carrying out this title, under the same procedures as are applicable under subsection (c) or to the extent permitted by law other than this title, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized, in carrying out this title, to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with the consent of the State or political subdivision.

(f) OBLIGATIONAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary shall have no authority to enter into contracts, grant agreements, or other financial assistance agreements under this title except to such extent and in such amounts as are provided in advance in appropriations Acts.

(g) PROGRAM YEAR.—

(1) IN GENERAL.—

(A) PROGRAM YEAR.—Except as provided in subparagraph (B), appropriations for any fiscal year for programs and activities carried out under this title shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(B) YOUTH ACTIVITIES.—The Secretary may make available for obligation, beginning April 1 of any fiscal year, funds appropriated for such fiscal year to carry out youth activities under subtitle A.

(2) AVAILABILITY.—Funds obligated for any program year for a program or activity carried out under this title may be expended by each State receiving such funds during that program year and the 2 succeeding program years. Funds obligated for any program year for a program or activity carried out under section 367 or 368 shall remain available until expended. Funds received by local areas from States under this title during a program year may be expended during that program year and the succeeding program year. No amount of the funds described in this paragraph shall be deobligated on account of a rate of expenditure that is consistent with a State plan, an operating plan described in section 341, or a plan, grant agreement, contract, application, or other agreement described in subtitle C, as appropriate.

(h) ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT.—The Secretary shall ensure that each individual participating in any program or activity established under this title, or receiving any assistance or benefit under this title, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.

(i) WAIVERS AND SPECIAL RULES.—

(1) EXISTING WAIVERS.—With respect to a State that has been granted a waiver under the provisions relating to training and employment services of the Department of Labor in title I of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 (Public Law 104-208; 110 Stat. 3009-234), the authority provided under such waiver shall continue in effect and apply, and include a waiver of the related provisions of subtitle A and this subtitle, for the duration of the initial waiver.

(2) SPECIAL RULE REGARDING DESIGNATED AREAS.—A State that enacts, not later than December 31, 1997, a State law providing for the designation of service delivery areas for the delivery of workforce investment activities, may use such areas as local areas under this title, notwithstanding section 307(a).

(3) SPECIAL RULE REGARDING SANCTIONS.—A State that enacts, not later than December 31, 1997, a State law providing for the sanctioning of such service delivery areas for failure to meet performance measures for workforce investment activities, may use the State law to sanction local areas for failure to meet State performance measures under this title.

(4) GENERAL WAIVERS OF STATUTORY OR REGULATORY REQUIREMENTS.—

(A) GENERAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary may waive for a State, or a local area in a State, pursuant to a request submitted by the Governor of the State (in consultation with appropriate local elected officials) that meets the requirements of subparagraph (B)—

(i) any of the statutory or regulatory requirements of subtitle A or this subtitle (except for requirements relating to wage and labor standards, worker rights, participation and protection of workers, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility of providers or participants, the establishment and functions of local areas and local partnerships, and procedures for review and approval of plans); and

(ii) any of the statutory or regulatory requirements of sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i) (excluding requirements relating to the provision of services to unemployment insurance claimants and veterans, and requirements relating to universal access to basic labor exchange services without cost to jobseekers).

(B) REQUESTS.—A Governor requesting a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the statewide workforce investment system that—

(i) identifies the statutory or regulatory requirements that are requested to be waived and the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver;

(ii) describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;

(iii) describes the goals of the waiver and the expected programmatic outcomes if the request is granted;

(iv) describes the individuals impacted by the waiver; and

(v) describes the process used to monitor the progress in implementing such a waiver, and the process by which notice and an opportunity to comment on such request has been provided to the organizations identified in section 308(c)(2).

(C) CONDITIONS.—Not later than 90 days after the date of the original submission of a request for a waiver under subparagraph (A), the Secretary shall provide a waiver under this paragraph if and only to the extent that—

(i) the Secretary determines that the requirements requested to be waived impede the ability of the State or local area, as appropriate, to implement the plan described in subparagraph (B); and

(ii) the State has executed a memorandum of understanding with the Secretary requiring such State to meet, or ensure that the local area meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability.

SEC. 380. STATE LEGISLATIVE AUTHORITY.

(a) AUTHORITY OF STATE LEGISLATURE.—Nothing in this title shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this title, of the activities assisted under this title. Any funds received by a State under this title shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this title.

(b) INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS.—In the event that compliance with provisions of this title would be enhanced by compacts and cooperative agreements between States, the consent of Congress is given to States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

SEC. 381. WORKFORCE FLEXIBILITY PARTNERSHIP PLANS.

(a) PLANS.—A State may submit to the Secretary, and the Secretary may approve, a workforce flexibility partnership plan under which the State is authorized to waive, in accordance with the plan—

(1) any of the statutory or regulatory requirements applicable under this title to local areas, pursuant to applications for such waivers from the local areas, except for requirements relating to the basic purposes of this title, wage and labor standards, grievance procedures and judicial review, nondiscrimination, eligibility of participants, allocation of funds to local areas, establishment and functions of local areas and local partnerships, review and approval of local plans, and worker rights, participation, and protection;

(2) any of the statutory or regulatory requirements applicable under sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i) to the State, except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to jobseekers; and

(3) any of the statutory or regulatory requirements applicable under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) to State agencies on aging with respect to activities carried out using funds allotted under section 506(a)(3) of such Act (42 U.S.C. 3056d(a)(3)), except for requirements relating to the basic purposes of such Act, wage and labor standards, eligibility of participants in the activities, and standards for agreements.

(b) CONTENT OF PLANS.—A workforce flexibility partnership plan implemented by a State under subsection (a) shall include descriptions of—

(1)(A) the process by which local areas in the State may submit and obtain approval by the State of applications for waivers of requirements applicable under this title; and

(B) the requirements described in subparagraph (A) that are likely to be waived by the State under the plan;

(2) the requirements applicable under sections 8 through 10 of the Wagner-Peyser Act that are proposed to be waived, if any;

(3) the requirements applicable under the Older Americans Act of 1965 that are proposed to be waived, if any;

(4) the outcomes to be achieved by the waivers described in paragraphs (1) through (3); and

(5) other measures to be taken to ensure appropriate accountability for Federal funds in connection with the waivers.

(c) PERIODS.—The Secretary may approve a workforce flexibility partnership plan for a period of not more than 5 years.

(d) OPPORTUNITY FOR PUBLIC COMMENTS.—Prior to submitting a workforce flexibility partnership plan to the Secretary for approval, the State shall provide to all interested parties and to the general public adequate notice and a reasonable opportunity for comment on the waiver requests proposed to be implemented pursuant to such plan.

SEC. 382. USE OF CERTAIN REAL PROPERTY.

(a) IN GENERAL.—Notwithstanding any other provision of law, pursuant to a plan submitted by a Governor of a State and approved by the Secretary, the Governor may authorize a public agency to use, for any of the functions of a one-stop customer service system within the State, real property in which, as of the effective date of this Act, the Federal Government has acquired equity through use of funds provided under title III of the Social Security Act (42 U.S.C. 501 et seq.), section 903(c) of such Act (42 U.S.C. 1103(c)), or the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(b) USE OF FUNDS.—Subsequent to the commencement of the use of the property described in subsection (a) for the functions of a one-stop customer service system, funds provided under the provisions of law described in subsection (a) may only be used to acquire further equity in such property, or to pay operating and maintenance expenses relating to such property in proportion to the extent of the use of such property attributable to the activities authorized under such provisions of law.

SEC. 383. CONTINUATION OF STATE ACTIVITIES AND POLICIES.

(a) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may not deny approval of a State plan for a covered State, or an application of a covered State for financial assistance, under this title or find a covered State (including a statewide partnership or Governor), or a local area (including a local partnership or chief elected official) in a covered State, in violation of a provision of this title, on the basis that—

(1)(A) the State proposes to allocate or disburse, allocates, or disburses, within the State, funds made available to the State under section 302 in accordance with the allocation formula for the type of activities involved, or in accordance with a disbursal procedure or process, used by the State under prior consistent State law; or

(B) a local partnership in the State proposes to disburse, or disburses, within the local area, funds made available to a State under section 302 in accordance with a disbursal procedure or process used by a private industry council under prior consistent State law;

(2) the State proposes to carry out or carries out a State procedure through which local areas use, as fiscal agents for funds made available to the State under section 302 and allocated within the State, fiscal agents selected in accordance with a process established under prior consistent State law;

(3) the State proposes to carry out or carries out a State procedure through which the local partnerships in the State (or the local partnerships, the chief elected officials in the State, and the Governor) designate or select the one-stop partners and one-stop customer service center operators of the statewide system in the State under prior consistent State law, in lieu of making the appointment, designation, or certification described in section 311 (regardless of the date the one-stop customer service systems involved have been established);

(4) the State proposes to carry out or carries out a State procedure through which the persons responsible for selecting eligible providers for purposes of subtitle A are permitted to determine that a provider shall not be selected to provide both intake services under section 315(c)(2) and training services under section 315(c)(3), under prior consistent State law;

(5) the State proposes to designate or designates a statewide partnership, or proposes to assign or assigns functions and roles of the statewide partnership (including determining the time periods for development and submission of a State plan required under section 304), for purposes of subtitle A in accordance with prior consistent State law; or

(6) a local partnership in the State proposes to use or carry out, uses, or carries out a local plan (including assigning functions

and roles of the local partnership) for purposes of subtitle A in accordance with the authorities and requirements applicable to local plans and private industry councils under prior consistent State law.

(b) DEFINITION.—In this section:

(1) COVERED STATE.—The term "covered State" means a State that enacted a State law described in paragraph (2).

(2) PRIOR CONSISTENT STATE LAW.—The term "prior consistent State law" means a State law, not inconsistent with the Job Training Partnership Act or any other applicable Federal law, that took effect on September 1, 1993, September 1, 1995, or September 1, 1997.

Subtitle E—Repeals and Conforming Amendments

SEC. 391. REPEALS.

(a) GENERAL IMMEDIATE REPEALS.—The following provisions are repealed:

(1) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(2) Title II of Public Law 95–250 (92 Stat. 172).

(3) The Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.).

(4) Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211).

(5) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.), except section 738 of such title (42 U.S.C. 11448).

(6) Subchapter I of chapter 421 of title 49, United States Code.

(b) SUBSEQUENT REPEALS.—The following provisions are repealed:

(1) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(2) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.), except subtitle B and section 738 of such title (42 U.S.C. 11431 et seq. and 11448).

SEC. 392. CONFORMING AMENDMENTS.

(a) PREPARATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary shall prepare recommended legislation containing technical and conforming amendments to reflect the changes made by this subtitle.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to Congress the recommended legislation referred to under subsection (a).

SEC. 393. EFFECTIVE DATES.

(a) IMMEDIATE REPEALS.—The repeals made by section 391(a) shall take effect on the date of enactment of this Act.

(b) SUBSEQUENT REPEALS.—The repeals made by section 391(b) shall take effect on July 1, 1999.

TITLE IV—WORKFORCE INVESTMENT-RELATED ACTIVITIES

Subtitle A—Wagner-Peyser Act

SEC. 401. DEFINITIONS.

Section 2 of the Wagner-Peyser Act (29 U.S.C. 49a) is amended—

(1) in paragraph (1)—

(A) by striking "or officials"; and

(B) by striking "Job Training Partnership Act" and inserting "Workforce Investment Partnership Act of 1998";

(2) by striking paragraphs (2) and (4);

(3) by redesignating paragraphs (3) and (5) as paragraphs (5) and (6), respectively;

(4) by inserting after paragraph (1) the following:

"(2) the term 'local workforce investment area' means a local workforce investment area designated under section 307 of the Workforce Investment Partnership Act of 1998;

"(3) the term 'local workforce investment partnership' means a local workforce investment partnership established under section 308 of the Workforce Investment Partnership Act of 1998;

"(4) the term 'one-stop customer service system' means a one-stop customer service system established under section 315(b) of the Workforce Investment Partnership Act of 1998;"; and

(5) in paragraph (5) (as redesignated in paragraph (3)), by striking the semicolon and inserting "; and".

SEC. 402. FUNCTIONS.

(a) IN GENERAL.—Section 3 of the Wagner-Peyser Act (29 U.S.C. 49b) is amended—

(1) in subsection (a), by striking "United States Employment Service" and inserting "Secretary"; and

(2) by adding at the end the following:

"(c) The Secretary shall—

"(1) assist in the coordination and development of a nationwide system of public labor exchange services, provided as part of the one-stop customer service systems of the States;

"(2) assist in the development of continuous improvement models for such nationwide system that ensure private sector satisfaction with the system and meet the demands of jobseekers relating to the system; and

"(3) ensure, for individuals otherwise eligible to receive unemployment compensation, the provision of reemployment services and other activities in which the individuals are required to participate to receive the compensation.".

(b) CONFORMING AMENDMENTS.—Section 508(b)(1) of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a(b)(1)) is amended—

(1) by striking "the third sentence of section 3(a)" and inserting "section 3(b)"; and

(2) by striking "49b(a)" and inserting "49b(b))".

SEC. 403. DESIGNATION OF STATE AGENCIES.

Section 4 of the Wagner-Peyser Act (29 U.S.C. 49c) is amended—

(1) by striking ", through its legislature," and inserting ", pursuant to State statute,";

(2) by inserting after "the provisions of this Act and" the following: ", in accordance with such State statute, the Governor shall"; and

(3) by striking "United States Employment Service" and inserting "Secretary".

SEC. 404. APPROPRIATIONS.

Section 5(c) of the Wagner-Peyser Act (29 U.S.C. 49d(c)) is amended by striking paragraph (3).

SEC. 405. DISPOSITION OF ALLOTTED FUNDS.

Section 7 of the Wagner-Peyser Act (29 U.S.C. 49f) is amended—

(1) in subsection (b)(2), by striking "private industry council" and inserting "local workforce investment partnership";

(2) in subsection (c)(2), by striking "any program under" and all that follows and inserting "any workforce investment activity carried out under the Workforce Investment Partnership Act of 1998.";

(3) in subsection (d)—

(A) by striking "United States Employment Service" and inserting "Secretary"; and

(B) by striking "Job Training Partnership Act" and inserting "Workforce Investment Partnership Act of 1998"; and

(4) by adding at the end the following:

"(e) All job search, placement, recruitment, labor market information, and other labor exchange services authorized under subsection (a) shall be provided, consistent with the other requirements of this Act, as part of the one-stop customer service system established by the State.".

SEC. 406. STATE PLANS.

Section 8 of the Wagner-Peyser Act (29 U.S.C. 49g) is amended—

(1) in subsection (a) to read as follows:

"(a) Any State desiring to receive assistance under this Act shall submit to the Secretary, as part of the State plan submitted under section 304 of the Workforce Investment Partnership Act of 1998, detailed plans for carrying out the provisions of this Act within such State.";

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b);

(4) by inserting after subsection (b) the following:

"(c) The part of the State plan described in subsection (a) shall include the information described in paragraphs (9) and (17) of section 304(b) of the Workforce Investment Partnership Act of 1998.";

(5) by redesignating subsection (e) as subsection (d); and

(6) in subsection (d) (as redesignated in paragraph (5)), by striking "such plans" and inserting "such detailed plans".

SEC. 407. REPEAL OF FEDERAL ADVISORY COUNCIL.

Section 11 of the Wagner-Peyser Act (29 U.S.C. 49j) is amended by striking "11." and all that follows through "(b) In" and inserting "11. In".

SEC. 408. REGULATIONS.

Section 12 of the Wagner-Peyser Act (29 U.S.C. 49k) is amended by striking "The Director, with the approval of the Secretary of Labor," and inserting "The Secretary".

SEC. 409. LABOR MARKET INFORMATION.

The Wagner-Peyser Act is amended—

(1) by redesignating section 15 (29 U.S.C. 49 note) as section 16; and

(2) by inserting after section 14 (29 U.S.C. 49l–1) the following:

"SEC. 15. LABOR MARKET INFORMATION.

"(a) SYSTEM CONTENT.—

"(1) IN GENERAL.—The Secretary, in accordance with the provisions of this section, shall oversee the development, maintenance, and continuous improvement of a system of labor market information that includes—

"(A) statistical data from cooperative statistical survey and projection programs and data from administrative reporting systems that, taken together, enumerate, estimate, and project the employment opportunities at the national, State, and local levels in a timely manner, including data on—

"(i) employment and unemployment status of the national, State, and local populations, as such data are developed by the Bureau of Labor Statistics and other sources;

"(ii) industrial distribution of occupations, as well as current and projected employment opportunities and skill trends by occupation and industry, with particular attention paid to State and local employment opportunities;

"(iii) the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings; and

"(iv) employee information maintained in a longitudinal manner and collected (as of the date of enactment of the Workforce Investment Partnership Act of 1998) by States;

"(B) State and local employment information, and other appropriate statistical data related to labor market dynamics (compiled for States and localities with technical assistance provided by the Secretary), which shall—

“(i) be current and comprehensive, as of the date used;

“(ii) assist individuals to make informed choices relating to employment and training; and

“(iii) assist employers to locate, identify skill traits of, and train individuals who are seeking employment and training;

“(C) technical standards (which the Secretary shall make publicly available) for data and information described in subparagraphs (A) and (B) that, at a minimum, meet the criteria of chapter 35 of title 44, United States Code;

“(D) procedures to ensure compatibility and additivity of the data and information described in subparagraphs (A) and (B) from national, State, and local levels;

“(E) procedures to support standardization and aggregation of data from administrative reporting systems described in subparagraph (A) of employment-related programs;

“(F) analysis of data and information described in subparagraphs (A) and (B) for uses such as State and local policymaking;

“(G) wide dissemination of such data, information, and analysis, training for users of the data, information, and analysis, and voluntary technical standards for dissemination mechanisms; and

“(H) programs of—

“(i) research and demonstration; and

“(ii) technical assistance for States and localities.

“(2) INFORMATION TO BE CONFIDENTIAL.—

“(A) IN GENERAL.—No officer or employee of the Federal Government or agent of the Federal Government may—

“(i) use any submission that is furnished for exclusively statistical purposes under the provisions of this section for any purpose other than the statistical purposes for which the submission is furnished;

“(ii) make any publication or media transmittal of the data contained in the submission described in clause (i) that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means; or

“(iii) permit anyone other than a sworn officer, employee, or agent of any Federal department or agency, or a contractor (including an employee of a contractor) of such department or agency, to examine an individual submission described in clause (i);

without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission.

“(B) IMMUNITY FROM LEGAL PROCESS.—Any submission (including any data derived from the submission) that is collected and retained by a Federal department or agency, or an officer, employee, agent, or contractor of such a department or agency, for exclusively statistical purposes under this section shall be immune from the legal process and shall not, without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

“(C) CONSTRUCTION.—Nothing in this section shall be construed to provide immunity from the legal process for such submission (including any data derived from the submission) if the submission is in the possession of any person, agency, or entity other than the Federal Government or an officer, employee, agent, or contractor of the Federal Government, or if the submission is independently collected, retained, or produced for purposes other than the purposes of this Act.

“(b) SYSTEM RESPONSIBILITIES.—

“(1) IN GENERAL.—The labor market information system shall be planned, administered, overseen, and evaluated through a cooperative governance structure involving the Federal Government and States.

“(2) DUTIES.—The Secretary, with respect to data collection, analysis, and dissemination of labor market information for the system, shall carry out the following duties:

“(A) Assign responsibilities within the Department of Labor for elements of the system described in subsection (a) to ensure that all statistical and administrative data collected is consistent with appropriate Bureau of Labor Statistics standards and definitions.

“(B) Actively seek the cooperation of other Federal agencies to establish and maintain mechanisms for ensuring complementarity and nonduplication in the development and operation of statistical and administrative data collection activities.

“(C) Eliminate gaps and duplication in statistical undertakings, with the systemization of wage surveys as an early priority.

“(D) In collaboration with the Bureau of Labor Statistics and States, develop and maintain the elements of the system described in subsection (a), including the development of consistent definitions for use by the States in collecting the data and information described in subparagraphs (A) and (B), of subsection (a)(1) and the development of the annual plan under subsection (c).

“(E) Establish procedures for the system to ensure that—

“(i) such data and information are timely;

“(ii) administrative records for the system are consistent in order to facilitate aggregation of such data and information;

“(iii) paperwork and reporting for the system are reduced to a minimum; and

“(iv) States and localities are fully involved in the maintenance and continuous improvement of the system at the State and local levels.

“(c) ANNUAL PLAN.—The Secretary, with the assistance of the States and the Bureau of Labor Statistics, and with the assistance of other appropriate Federal agencies, shall prepare an annual plan which shall be the mechanism for achieving cooperative management of the nationwide labor market information system described in subsection (a) and the statewide labor market information systems that comprise the nationwide system. The plan shall—

“(1)(A) describe the elements of the system described in subsection (a), including standards, definitions, formats, collection methodologies, and other necessary system elements, for use in collecting data and information described in subparagraphs (A) and (B) of subsection (a)(1); and

“(B) include assurances that—

“(i) the data will be timely and detailed;

“(ii) administrative records will be standardized to facilitate the aggregation of the data from local areas to State and national levels and to support the creation of new statistical series from program records; and

“(iii) paperwork and reporting requirements for employers and individuals will be reduced;

“(2) include a report on the results of an annual consumer satisfaction review concerning the performance of the system, including the performance of the system in addressing the needs of Congress, States, localities, employers, jobseekers, and other consumers;

“(3) evaluate the performance of the system and recommend needed improvements, taking into consideration the results of the consumer satisfaction review, with particular attention paid to the improvements needed at the State and local levels;

“(4) describe annual priorities, and priorities over 5 years, for the system;

“(5) describe current (as of the date of the submission of the plan) spending and spending needs to carry out activities under this section, including the costs to States and localities of meeting the requirements of subsection (e)(2); and

“(6) describe the involvement of States in the development of the plan, through formal consultations conducted by the Secretary in cooperation with representatives of the Governors of every State, and with representatives of local partnerships, pursuant to a process established by the Secretary in cooperation with the States.

“(d) COORDINATION WITH THE STATES.—The Secretary and the Bureau of Labor Statistics, in cooperation with the States, shall—

“(1) develop the annual plan described in subsection (c) by holding formal consultations, at least once each quarter, on the products and administration of the nationwide labor market information system; and

“(2) hold the consultations with representatives from each of the 10 Federal regions of the Employment and Training Administration, elected (pursuant to a process established by the Secretary) by and from the State labor market information directors affiliated with the State agencies that perform the duties described in subsection (e)(2).

“(e) STATE RESPONSIBILITIES.—

“(1) DESIGNATION OF STATE AGENCY.—In order to receive Federal financial assistance under this section, the Governor of a State—

“(A)(i) except as provided in clause (ii), shall designate a single State agency to be responsible for the management of the portions of the system described in subsection (a) that comprise a statewide labor market information system; and

“(ii) may assign the State occupational information coordinating committee established under section 422 of the Carl D. Perkins Vocational and Applied Technology Education Act (as in effect on the day before the date of enactment of the Workforce Investment Partnership Act of 1998), the responsibility to carry out the functions of the system relating to labor market information that such committee carried out on the day prior to such date of enactment; and

“(B) shall establish a process for the oversight of such system.

“(2) DUTIES.—In order to receive Federal financial assistance under this section, the State agency shall—

“(A) consult with State and local employers, participants, and local partnerships about the labor market relevance of the data to be collected and disseminated through the statewide labor market information system;

“(B) consult with State educational agencies and local educational agencies concerning providing labor market information in order to meet the needs of secondary school and postsecondary school students who seek such information;

“(C) collect and disseminate for the system, on behalf of the State and localities in the State, the information and data described in subparagraphs (A) and (B) of subsection (a)(1);

“(D) maintain and continuously improve the statewide labor market information system in accordance with this section;

"(E) perform contract and grant responsibilities for data collection, analysis, and dissemination for such system;

"(F) conduct such other data collection, analysis, and dissemination activities as will ensure an effective statewide labor market information system;

"(G) actively seek the participation of other State and local agencies in data collection, analysis, and dissemination activities in order to ensure complementarity, compatibility, and usefulness of data;

"(H) participate in the development of the annual plan described in subsection (c); and

"(I) utilize the quarterly records described in sections 321(f)(2) and 312 of the Workforce Investment Partnership Act of 1998 to assist the State and other States in measuring State progress on State performance measures.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the ability of a State agency to conduct additional data collection, analysis, and dissemination activities with State funds or with Federal funds from sources other than this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999 through 2004.

"(g) DEFINITIONS.—In this section, the terms 'local area' and 'local partnership' have the meanings given the terms in section 2 of the Workforce Investment Partnership Act of 1998.".

SEC. 410. TECHNICAL AMENDMENTS.

Sections 3(b), 6(b)(1), and 7(d) of the Wagner-Peyser Act (29 U.S.C. 49b(b), 49e(b)(1), and 49f(d)) are amended by striking "Secretary of Labor" and inserting "Secretary".

Subtitle B—Linkages With Other Programs

SEC. 421. TRADE ACT OF 1974.

Section 241 of the Trade Act of 1974 (19 U.S.C. 2313) is amended by adding at the end the following:

"(d) To be eligible to receive funds under this section, a State shall submit to the Secretary an application that includes the description and information described in paragraphs (9) and (17) of section 304(b) of the Workforce Investment Partnership Act of 1998.".

SEC. 422. VETERANS' EMPLOYMENT PROGRAMS.

Chapter 41 of title 38, United States Code, is amended by adding at the end the following:

"§ 4110B. Coordination and nonduplication

"In carrying out this chapter, the Secretary shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation of this Act that includes the description and information described in paragraphs (9) and (17) of section 304(b) of the Workforce Investment Partnership Act of 1998.".

SEC. 423. OLDER AMERICANS ACT OF 1965.

Section 502(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)) is amended—

(1) in subparagraph (O), by striking "; and" and inserting a semicolon;

(2) in subparagraph (P), by striking the period and inserting "; and"; and

(3) by adding at the end the following subparagraph:

"(Q) will provide to the Secretary the description and information described in paragraphs (9) and (17) of section 304(b) of the Workforce Investment Partnership Act of 1998.".

Subtitle C—Twenty-First Century Workforce Commission

SEC. 431. SHORT TITLE.

This subtitle may be cited as the "Twenty-First Century Workforce Commission Act".

SEC. 432. FINDINGS.

Congress finds that—

(1) information technology is one of the fastest growing areas in the United States economy;

(2) the United States is a world leader in the information technology industry;

(3) the continued growth and prosperity of the information technology industry is important to the continued prosperity of the United States economy;

(4) highly skilled employees are essential for the success of business entities in the information technology industry and other business entities that use information technology;

(5) employees in information technology jobs are highly paid;

(6) as of the date of enactment of this Act, these employees are in high demand in all industries and all regions of the United States; and

(7) through a concerted effort by business entities, the Federal Government, the governments of States and political subdivisions of States, and educational institutions, more individuals will gain the skills necessary to enter into a technology-based job market, ensuring that the United States remains the world leader in the information technology industry.

SEC. 433. DEFINITIONS.

In this subtitle:

(1) BUSINESS ENTITY.—The term "business entity" means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) COMMISSION.—The term "Commission" means the Twenty-First Century Workforce Commission established under section 434.

(3) INFORMATION TECHNOLOGY.—The term "information technology" has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 (110 Stat. 679).

(4) STATE.—The term "State" means each of the several States of the United States and the District of Columbia.

SEC. 434. ESTABLISHMENT OF TWENTY-FIRST CENTURY WORKFORCE COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Twenty-First Century Workforce Commission.

(b) MEMBERSHIP.—

(1) COMPOSITION.—

(A) IN GENERAL.—The Commission shall be composed of 21 members, of which—

(i) 7 members shall be appointed by the President;

(ii) 7 members shall be appointed by the Majority Leader of the Senate; and

(iii) 7 members shall be appointed by the Speaker of the House of Representatives.

(B) GOVERNMENTAL REPRESENTATIVES.—Of the members appointed under this subsection—

(i) 1 member shall be an officer or employee of the Department of Labor, who shall be appointed by the President;

(ii) 1 member shall be an officer or employee of the Department of Education, who shall be appointed by the President; and

(iii) 2 members shall be representatives of the governments of States and political subdivisions of States, 1 of whom shall be appointed by the Majority Leader of the Senate and 1 of whom shall be appointed by the Speaker of the House of Representatives.

(C) EDUCATORS.—Of the members appointed under this subsection, 6 shall be educators who are selected from among elementary, secondary, vocational, and postsecondary educators—

(i) 2 of whom shall be appointed by the President;

(ii) 2 of whom shall be appointed by the Majority Leader of the Senate; and

(iii) 2 of whom shall be appointed by the Speaker of the House of Representatives.

(D) BUSINESS REPRESENTATIVES.—

(i) IN GENERAL.—Of the members appointed under this subsection, at least 4 shall be individuals who are employed by non-information technology business entities.

(ii) SIZE.—Members appointed under this subsection in accordance with clause (i) shall, to the extent practicable, include individuals from business entities of a size that is small or average for a non-information technology business entity.

(2) DATE.—The appointments of the members of the Commission shall be made by the later of—

(A) October 31, 1998; or

(B) the date that is 45 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a chairperson and vice chairperson from among its members.

SEC. 435. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of all matters relating to the information technology workforce in the United States.

(2) MATTERS STUDIED.—The matters studied by the Commission shall include an examination of—

(A) the skills necessary to enter the information technology workforce;

(B) ways to expand the number of skilled information technology workers; and

(C) the relative efficacy of programs in the United States and foreign countries to train information technology workers, with special emphasis on programs that provide for secondary education or postsecondary education in a program other than a 4-year baccalaureate program (including associate degree programs and graduate degree programs).

(3) PUBLIC HEARINGS.—As part of the study conducted under this subsection, the Commission shall hold public hearings in each region of the United States concerning the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(4) EXISTING INFORMATION.—To the extent practicable, in carrying out the study under this subsection, the Commission shall identify and use existing information related to the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(5) CONSULTATION WITH CHIEF INFORMATION OFFICERS COUNCIL.—In carrying out the study

under this subsection, the Commission shall consult with the Chief Information Officers Council established under Executive Order No. 13011.

(b) REPORT.—Not later than 6 months after the first meeting of the Commission, the Commission shall submit a report to the President and the Congress that shall contain a detailed statement of the findings and conclusions of the Commission resulting from the study, together with its recommendations for such legislation and administrative actions as the Commission considers to be appropriate.

(c) FACILITATION OF EXCHANGE OF INFORMATION.—In carrying out the study under subsection (a), the Commission shall, to the extent practicable, facilitate the exchange of information concerning the issues that are the subject of the study among—

(1) officials of the Federal Government and the governments of States and political subdivisions of States; and

(2) educators from Federal, State, and local institutions of higher education and secondary schools.

SEC. 436. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 437. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Except as provided in subsection (b), each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 438. TERMINATION OF THE COMMISSION.

The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its report under section 435(b).

SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 to the Commission to carry out the purposes of this subtitle.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. STATE UNIFIED PLAN.

(a) DEFINITION OF APPROPRIATE SECRETARY.—In this section, the term "appropriate Secretary" means the head of the Federal agency who exercises administrative authority over an activity or program described in subsection (b).

(b) STATE UNIFIED PLAN.—

(1) IN GENERAL.—A State may develop and submit to the appropriate Secretaries a State unified plan for 2 or more of the activities or programs set forth in paragraph (2). The State unified plan shall cover 1 or more of the activities set forth in subparagraphs (A) through (C) of paragraph (2) and may cover 1 or more of the activities set forth in subparagraphs (D) through (M) of paragraph (2).

(2) ACTIVITIES.—The activities and programs referred to in paragraph (1) are as follows:

(A) Activities authorized under title I.

(B) Activities authorized under title II.

(C) Activities authorized under title III.

(D) Programs authorized under section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)).

(E) Work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)).

(F) Activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(G) Programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(H) Programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 of such Act (29 U.S.C. 732).

(I) Activities authorized under chapter 41 of title 38, United States Code.

(J) Programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(K) Programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(L) Programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(M) Training activities carried out by the Department of Housing and Urban Development.

(c) REQUIREMENTS.—

(1) IN GENERAL.—The portion of a State unified plan covering an activity or program described in subsection (b) shall be subject to the requirements, if any, applicable to a plan or application for assistance under the Federal statute authorizing the activity or program.

(2) ADDITIONAL SUBMISSION NOT REQUIRED.—A State that submits a State unified plan covering an activity or program described in subsection (b) that is approved under subsection (d) shall not be required to submit any other plan or application in order to receive Federal funds to carry out the activity or program.

(3) COORDINATION.—A State unified plan shall include—

(A) a description of the methods used for joint planning and coordination of the programs and activities included in the unified plan; and

(B) an assurance that the methods included an opportunity for the entities responsible for planning or administering such programs and activities to review and comment on all portions of the unified plan.

(d) APPROVAL BY THE APPROPRIATE SECRETARIES.—

(1) JURISDICTION.—The appropriate Secretary shall have the authority to approve the portion of the State unified plan relating to the activity or program over which the appropriate Secretary exercises administrative authority. On the approval of the appropriate Secretary, the portion of the plan relating to the activity or program shall be implemented by the State pursuant to the applicable portion of the State unified plan.

(2) APPROVAL.—

(A) IN GENERAL.—A portion of the State unified plan covering an activity or program described in subsection (b) that is submitted to the appropriate Secretary under this section shall be considered to be approved by the appropriate Secretary at the end of the 90-day period beginning on the day the appropriate Secretary receives the portion, unless the appropriate Secretary makes a written determination, during the 90-day period, that the portion is not consistent with the requirements of the Federal statute authorizing the activity or program including the criteria for approval of a plan or application, if any, under such statute or the plan is not consistent with the requirements of subsection (c)(3).

(B) SPECIAL RULE.—In subparagraph (A), the term "criteria for approval of a State plan", relating to activities carried out under title I, II, or III, includes a requirement for agreement between the State and the appropriate Secretary regarding State performance measures, including levels of performance.

SEC. 502. DEFINITIONS FOR CORE INDICATORS OF PERFORMANCE.

(a) IN GENERAL.—In order to ensure nationwide comparability of performance data, the Secretary of Labor and the Secretary of Education, after consultation with the representatives described in subsection (b), shall issue definitions for performance measures established under titles I and II and definitions for core indicators of performance for performance measures established under title III.

(b) Representatives.—The representatives referred to in subsection (a) are representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities (as defined in section 2(13)(B)), educators, participants in activities carried out under this Act, State Directors of vocational education, State Directors of adult education, providers of vocational education, providers of adult education, providers of literacy services, individuals with expertise in serving the employment and training needs of disadvantaged youth (as defined in section 302(b)(3)(C)), parents, and other interested parties, with expertise regarding activities authorized under this Act.

SEC. 503. TRANSITION PROVISIONS.

The Secretary of Education or the Secretary of Labor, as appropriate, shall take such steps as such Secretary determines to be appropriate to provide for the orderly transition to the authority of this Act from any authority under provisions of law to be repealed under subtitle E of title I, subtitle B of title II, or subtitle E of title III, or any related authority.

SEC. 504. PRIVACY.

Nothing in this Act shall be construed to supersede the privacy protections afforded parents and students under section 444 of the General Education Provisions Act (20 U.S.C. 1232g), as added by the Family Educational Rights and Privacy Act of 1974 (section 513 of Public Law 93-380; 88 Stat. 571).

SEC. 505. EFFECTIVE DATE.

(a) In General.—Except as otherwise provided in this Act, this Act takes effect on July 1, 1999.

(b) Early Implementation.—At the option of a State, the Governor of the State and the chief official of the eligible agencies in the State may use funds made available under a provision of law described in section 503, or any related authority to implement this Act at any time prior to July 1, 1999.

(c) Early Implementation and Transition Provisions.—Section 503 and this section take effect on the date of enactment of this Act.

(d) Twenty-First Century Workforce Commission.—Subtitle C of title IV takes effect on the date of enactment of this Act.

DEWINE AMENDMENT NO. 2330

Mr. DEWINE proposed an amendment to the bill, S. 1186, supra; as follows:

At the end, add the following:

TITLE VI—REHABILITATION ACT AMENDMENTS OF 1998

SEC. 601. SHORT TITLE.

This title may be cited as the "Rehabilitation Act Amendments of 1998".

SEC. 602. TITLE.

The title of the Rehabilitation Act of 1973 is amended by striking "to establish special responsibilities" and all that follows and inserting the following: "to create linkage between State vocational rehabilitation programs and workforce investment activities carried out under the Workforce Investment Partnership Act of 1998, to establish special responsibilities for the Secretary of Education for coordination of all activities with respect to individuals with disabilities within and across programs administered by the Federal Government, and for other purposes.".

SEC. 603. GENERAL PROVISIONS.

The Rehabilitation Act of 1973 is amended by striking the matter preceding title I and inserting the following:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) Short Title.—This Act may be cited as the 'Rehabilitation Act of 1973'.

"(b) Table of Contents.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Findings; purpose; policy.
"Sec. 3. Rehabilitation Services Administration.
"Sec. 4. Advance funding.
"Sec. 5. Joint funding.
"Sec. 7. Definitions.
"Sec. 8. Allotment percentage.
"Sec. 10. Nonduplication.
"Sec. 11. Application of other laws.
"Sec. 12. Administration of the Act.
"Sec. 13. Reports.
"Sec. 14. Evaluation.
"Sec. 15. Information clearinghouse.
"Sec. 16. Transfer of funds.
"Sec. 17. State administration.
"Sec. 18. Review of applications.
"Sec. 19. Carryover.
"Sec. 20. Client assistance information.
"Sec. 21. Traditionally underserved populations.

"TITLE I—VOCATIONAL REHABILITATION SERVICES

"Part A—General Provisions

"Sec. 100. Declaration of policy; authorization of appropriations.
"Sec. 101. State plans.
"Sec. 102. Eligibility and individualized rehabilitation employment plan.
"Sec. 103. Vocational rehabilitation services.
"Sec. 104. Non-Federal share for establishment of program.
"Sec. 105. State Rehabilitation Council.
"Sec. 106. Evaluation standards and performance indicators.
"Sec. 107. Monitoring and review.
"Sec. 108. Expenditure of certain amounts.
"Sec. 109. Training of employers with respect to Americans with Disabilities Act of 1990.

"Part B—Basic Vocational Rehabilitation Services

"Sec. 110. State allotments.
"Sec. 111. Payments to States.
"Sec. 112. Client assistance program.

"Part C—American Indian Vocational Rehabilitation Services

"Sec. 121. Vocational rehabilitation services grants.

"Part D—Vocational Rehabilitation Services Client Information

"Sec. 131. Data sharing.

"TITLE II—RESEARCH AND TRAINING

"Sec. 200. Declaration of purpose.
"Sec. 201. Authorization of appropriations.
"Sec. 202. National Institute on Disability and Rehabilitation Research.
"Sec. 203. Interagency Committee.
"Sec. 204. Research and other covered activities.
"Sec. 205. Rehabilitation Research Advisory Council.

"TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS

"Sec. 301. Declaration of purpose and competitive basis of grants and contracts.
"Sec. 302. Training.
"Sec. 303. Special demonstration program.
"Sec. 304. Migrant and seasonal farmworkers.
"Sec. 305. Recreational programs.
"Sec. 306. Measuring of project outcomes and performance.

"TITLE IV—NATIONAL COUNCIL ON DISABILITY

"Sec. 400. Establishment of National Council on Disability.
"Sec. 401. Duties of National Council.
"Sec. 402. Compensation of National Council members.
"Sec. 403. Staff of National Council.
"Sec. 404. Administrative powers of National Council.
"Sec. 405. Authorization of Appropriations.

"TITLE V—RIGHTS AND ADVOCACY

"Sec. 501. Employment of individuals with disabilities.
"Sec. 502. Architectural and Transportation Barriers Compliance Board.
"Sec. 503. Employment under Federal contracts.
"Sec. 504. Nondiscrimination under Federal grants and programs.
"Sec. 505. Remedies and attorneys' fees.
"Sec. 506. Secretarial responsibilities.
"Sec. 507. Interagency Disability Coordinating Council.
"Sec. 508. Electronic and information technology regulations.
"Sec. 509. Protection and advocacy of individual rights.

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

"Sec. 601. Short title.

"Part A—Projects in Telecommuting and Self-Employment for Individuals With Disabilities

"Sec. 611. Findings, policies, and purposes.
"Sec. 612. Projects in telecommuting for individuals with disabilities.
"Sec. 613. Projects in self-employment for individuals with disabilities.
"Sec. 614. Discretionary authority for dual-purpose applications.
"Sec. 615. Authorization of appropriations.

"Part B—Projects With Industry

"Sec. 621. Projects with industry.
"Sec. 622. Authorization of appropriations.

"Part C—Supported Employment Services for Individuals With the Most Significant Disabilities

"Sec. 631. Purpose.
"Sec. 632. Allotments.
"Sec. 633. Availability of services.
"Sec. 634. Eligibility.
"Sec. 635. State plan.
"Sec. 636. Restriction.
"Sec. 637. Savings provision.
"Sec. 638. Authorization of appropriations.

"TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

"Chapter 1—Individuals With Significant Disabilities

"Part A—General Provisions

"Sec. 701. Purpose.
"Sec. 702. Definitions.
"Sec. 703. Eligibility for receipt of services.
"Sec. 704. State plan.
"Sec. 705. Statewide Independent Living Council.
"Sec. 706. Responsibilities of the Commissioner.

"Part B—Independent Living Services

"Sec. 711. Allotments.
"Sec. 712. Payments to States from allotments.
"Sec. 713. Authorized uses of funds.
"Sec. 714. Authorization of appropriations.

"Part C—Centers for Independent Living

"Sec. 721. Program authorization.
"Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.

“Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
“Sec. 724. Centers operated by State agencies.
“Sec. 725. Standards and assurances for centers for independent living.
“Sec. 726. Definitions.
“Sec. 727. Authorization of appropriations.

“CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

“Sec. 751. Definition.
“Sec. 752. Program of grants.
“Sec. 753. Authorization of appropriations.

“FINDINGS; PURPOSE; POLICY

“SEC. 2. (a) FINDINGS.—Congress finds that—

“(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

“(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

“(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

“(A) live independently;

“(B) enjoy self-determination;

“(C) make choices;

“(D) contribute to society;

“(E) pursue meaningful careers; and

“(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

“(4) increased employment of individuals with disabilities can be achieved through implementation of statewide activities carried out under the Workforce Investment Partnership Act of 1998 that provide meaningful and effective participation for individuals with disabilities in workforce investment activities and activities carried out under the vocational rehabilitation program established under title I, and through the provision of independent living services, support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

“(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

“(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

“(A) make informed choices and decisions; and

“(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

“(b) PURPOSE.—The purposes of this Act are—

“(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

“(A) statewide activities carried out in accordance with the Workforce Investment Partnership Act of 1998 that include, as integral components, comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

“(B) independent living centers and services;

“(C) research;

“(D) training;

“(E) demonstration projects; and

“(F) the guarantee of equal opportunity; and

“(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

“(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

“(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

“(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

“(3) inclusion, integration, and full participation of the individuals;

“(4) support for the involvement of an individual's representative if an individual with a disability requests, desires, or needs such support; and

“(5) support for individual and systemic advocacy and community involvement.

“REHABILITATION SERVICES ADMINISTRATION

“SEC. 3. (a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the ‘Commissioner’) appointed by the President by and with the advice and consent of the Senate. Except for titles IV and V and part A of title VI and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management. In the performance of the functions of the office, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this Act to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of the functions of the office under this Act, the Commissioner shall be guided by general policies of the National Council on Disability established under title IV of this Act.

“(b) The Secretary shall take whatever action is necessary to ensure that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act (29 U.S.C. 31-42), are expended only for the programs, personnel, and administration of programs carried out under this Act.

“(c) The Secretary shall take such action as necessary to ensure that—

“(1) the staffing of the Rehabilitation Services Administration shall be in sufficient numbers to meet program needs and at levels which will attract and maintain the most qualified personnel; and

“(2) such staff includes individuals who have training and experience in the provision of rehabilitation services and that staff competencies meet professional standards.

“ADVANCE FUNDING

“SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

“(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

“JOINT FUNDING

“SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act.

“SEC. 7. DEFINITIONS.

“For the purposes of this Act:

“(1) ADMINISTRATIVE COSTS.—The term ‘administrative costs’ means expenditures incurred by the designated State unit in the performance of administrative functions under the vocational rehabilitation program carried out under title I, including expenses related to program planning, development, monitoring, and evaluation, including—

“(A) expenses for—

“(i) quality assurance;

“(ii) budgeting, accounting, financial management, information systems, and related data processing;

“(iii) provision of information about the program to the public;

“(iv) technical assistance and related support services to other State agencies, private nonprofit organizations, and businesses and industries, except for technical assistance and support services described in section 103(b)(5);

“(v) the State Rehabilitation Council and other entities that advise the designated State unit with regard to the provision of vocational rehabilitation services;

“(vi) removal of architectural barriers in State vocational rehabilitation agency offices and State operated rehabilitation facilities;

“(vii) operation and maintenance of designated State unit facilities, equipment, and grounds;

“(viii) supplies; and

“(ix)(I) administration of the comprehensive system of personnel development described in section 101(a)(7), including personnel administration, and administration of affirmative action plans;

"(II) training and staff development; and

"(III) administrative salaries, including clerical and other support staff salaries, in support of the administrative functions;

"(B) travel costs related to carrying out the program, other than travel costs related to the provision of services;

"(C) costs incurred in conducting reviews of rehabilitation counselor or coordinator determinations; and

"(D) legal expenses required in the administration of the program.

"(2) ASSESSMENT FOR DETERMINING ELIGIBILITY AND VOCATIONAL REHABILITATION NEEDS.—The term 'assessment for determining eligibility and vocational rehabilitation needs' means, as appropriate in each case—

"(A)(i) a review of existing data—

"(I) to determine whether an individual is eligible for vocational rehabilitation services; and

"(II) to assign priority for an order of selection described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

"(ii) to the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make such determination and assignment;

"(B) to the extent additional data is necessary to make a determination of the employment outcomes, and the objectives, nature, and scope of vocational rehabilitation services, to be included in the individualized rehabilitation employment plan of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual, which comprehensive assessment—

"(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized rehabilitation employment plan of the eligible individual;

"(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

"(I) existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection described in section 101(a)(5)(A) for the individual; and

"(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

"(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

"(iv) may include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;

"(C) referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

"(D) an exploration of the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, including experiences in which the individual is provided appropriate supports and training.

"(3) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)), except that the reference in such section to the term 'individuals with disabilities' shall be deemed to mean more than one individual with a disability as defined in paragraph (20)(A).

"(4) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' has the meaning given such term in section 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(3)), except that the reference in such section—

"(A) to the term 'individual with a disability' shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

"(B) to the term 'individuals with disabilities' shall be deemed to mean more than one such individual.

"(5) COMMUNITY REHABILITATION PROGRAM.—The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

"(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

"(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

"(C) recreational therapy;

"(D) physical and occupational therapy;

"(E) speech, language, and hearing therapy;

"(F) psychiatric, psychological, and social services, including positive behavior management;

"(G) assessment for determining eligibility and vocational rehabilitation needs;

"(H) rehabilitation technology;

"(I) job development, placement, and retention services;

"(J) evaluation or control of specific disabilities;

"(K) orientation and mobility services for individuals who are blind;

"(L) extended employment;

"(M) psychosocial rehabilitation services;

"(N) supported employment services and extended services;

"(O) services to family members when necessary to the vocational rehabilitation of the individual;

"(P) personal assistance services; or

"(Q) services similar to the services described in one of subparagraphs (A) through (P).

"(6) CRIMINAL ACT.—The term 'criminal act' means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government, which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, or intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

"(7) DESIGNATED STATE AGENCY.—The term 'designated State agency' means an agency designated under section 101(a)(2)(A).

"(8) DESIGNATED STATE UNIT.—The term 'designated State unit' means—

"(A) any State agency unit required under section 101(a)(2)(B)(ii); or

"(B) in cases in which no such unit is so required, the State agency described in section 101(a)(2)(B)(i).

"(9) DISABILITY.—The term 'disability' means—

"(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

"(B) for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII, a physical or mental impairment that substantially limits one or more major life activities.

"(10) DRUG AND ILLEGAL USE OF DRUGS.—

"(A) DRUG.—The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(B) ILLEGAL USE OF DRUGS.—The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

"(11) EMPLOYMENT OUTCOME.—The term 'employment outcome' means, with respect to an individual—

"(A) entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;

"(B) satisfying the vocational outcome of supported employment; or

"(C) satisfying any other vocational outcome the Secretary may determine to be appropriate (including satisfying the vocational outcome of self-employment or business ownership),

in a manner consistent with this Act.

"(12) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—The term 'establishment of a community rehabilitation program' includes the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to community rehabilitation program purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations the Secretary shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of facilities for community rehabilitation programs), and may include such additional equipment and staffing as the Commissioner considers appropriate.

"(13) EXTENDED SERVICES.—The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with a most significant disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized rehabilitation employment plan; and

"(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

"(14) FEDERAL SHARE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'Federal share' means 78.7 percent.

"(B) RELATIONSHIP TO EXPENDITURES BY A POLITICAL SUBDIVISION.—For the purpose of determining the non-Federal share with respect to a State, expenditures by a political subdivision thereof or by a local agency shall be regarded as expenditures by such State, subject to such limitations and conditions as the Secretary shall by regulation prescribe.

"(15) GOVERNOR.—The term 'Governor' means—

"(A) a chief executive officer of a State; or

"(B) in the case of a State that, under State law, vests authority for the administration of the activities carried out under this Act in an entity other than the Governor, such as 1 or more houses of the State legislature or an independent board, the chief officer of that entity.

"(16) IMPARTIAL HEARING OFFICER.—

"(A) IN GENERAL.—The term 'impartial hearing officer' means an individual—

"(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

"(ii) who is not a member of the State Rehabilitation Council described in section 105;

"(iii) who has not been involved previously in the vocational rehabilitation of the applicant or client;

"(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

"(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

"(B) CONSTRUCTION.—An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

"(17) INDEPENDENT LIVING CORE SERVICES.—The term 'independent living core services' means—

"(A) information and referral services;

"(B) independent living skills training;

"(C) peer counseling (including cross-disability peer counseling); and

"(D) individual and systems advocacy.

"(18) INDEPENDENT LIVING SERVICES.—The term 'independent living services' includes—

"(A) independent living core services; and

"(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

"(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

"(iii) rehabilitation technology;

"(iv) mobility training;

"(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

"(vi) personal assistance services, including attendant care and the training of personnel providing such services;

"(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

"(viii) consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

"(ix) education and training necessary for living in a community and participating in community activities;

"(x) supported living;

"(xi) transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

"(xii) physical rehabilitation;

"(xiii) therapeutic treatment;

"(xiv) provision of needed prostheses and other appliances and devices;

"(xv) individual and group social and recreational services;

"(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

"(xvii) services for children;

"(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

"(xix) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

"(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

"(xxi) such other services as may be necessary and not inconsistent with the provisions of this Act.

"(19) INDIAN; AMERICAN INDIAN; INDIAN AMERICAN; INDIAN TRIBE.—

"(A) IN GENERAL.—The terms 'Indian', 'American Indian', and 'Indian American' mean an individual who is a member of an Indian tribe.

"(B) INDIAN TRIBE.—The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act).

"(20) INDIVIDUAL WITH A DISABILITY.—

"(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the term 'individual with a disability' means any individual who—

"(i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and

"(ii) can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to title I, III, or VI.

"(B) CERTAIN PROGRAMS; LIMITATIONS ON MAJOR LIFE ACTIVITIES.—Subject to subparagraphs (C), (D), (E), and (F), the term 'individual with a disability' means, for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII of this Act, any person who—

"(i) has a physical or mental impairment which substantially limits one or more of such person's major life activities;

"(ii) has a record of such an impairment; or

"(iii) is regarded as having such an impairment.

"(C) RIGHTS AND ADVOCACY PROVISIONS.—

"(i) IN GENERAL; EXCLUSION OF INDIVIDUALS ENGAGING IN DRUG USE.—For purposes of title V, the term 'individual with a disability' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) EXCEPTION FOR INDIVIDUALS NO LONGER ENGAGING IN DRUG USE.—Nothing in clause (i) shall be construed to exclude as an individual with a disability an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) EXCLUSION FOR CERTAIN SERVICES.—Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II, and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) DISCIPLINARY ACTION.—For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities. Furthermore, the due process procedures at section 104.36 of title 34, Code of Federal Regulations (or any corresponding similar regulation or ruling) shall not apply to such disciplinary actions.

"(v) EMPLOYMENT; EXCLUSION OF ALCOHOLICS.—For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with a disability' does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

"(D) EMPLOYMENT; EXCLUSION OF INDIVIDUALS WITH CERTAIN DISEASES OR INFECTIONS.—For the purposes of sections 503 and 504, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

"(E) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF HOMOSEXUALITY OR BISEXUALITY.—For the purposes of sections 501, 503, and 504—

"(i) for purposes of the application of subparagraph (B) to such sections, the term 'impairment' does not include homosexuality or bisexuality; and

"(ii) therefore the term 'individual with a disability' does not include an individual on the basis of homosexuality or bisexuality.

"(F) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF CERTAIN DISORDERS.—For the purposes of sections 501, 503, and 504, the term 'individual with a disability' does not include an individual on the basis of—

"(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

"(ii) compulsive gambling, kleptomania, or pyromania; or

"(iii) psychoactive substance use disorders resulting from current illegal use of drugs.

"(G) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than one individual with a disability.

"(21) INDIVIDUAL WITH A SIGNIFICANT DISABILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), the term 'individual with a significant disability' means an individual with a disability—

"(i) who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

"(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

"(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (B) of paragraph (2) to cause comparable substantial functional limitation.

"(B) INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.—For purposes of title VII, the term 'individual with a significant disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

"(C) RESEARCH AND TRAINING.—For purposes of title II, the term 'individual with a significant disability' includes an individual described in subparagraph (A) or (B).

"(D) INDIVIDUALS WITH SIGNIFICANT DISABILITIES.—The term 'individuals with significant disabilities' means more than one individual with a significant disability.

"(E) INDIVIDUAL WITH A MOST SIGNIFICANT DISABILITY.—

"(i) IN GENERAL.—The term 'individual with a most significant disability', used with respect to an individual in a State, means an individual with a significant disability who meets criteria established by the State under section 101(a)(5)(C).

"(ii) INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES.—The term 'individuals with the most significant disabilities' means more than one individual with a most significant disability.

"(22) INDIVIDUAL'S REPRESENTATIVE; APPLICANT'S REPRESENTATIVE.—

"(A) INDIVIDUAL'S REPRESENTATIVE.—The term 'individual's representative' used with respect to an eligible individual or other individual with a disability, means—

"(i) any representative chosen by the eligible individual or other individual with a disability, including a parent, guardian, other family member, or advocate; or

"(ii) if a representative or legal guardian has been appointed by a court to represent the eligible individual or other individual with a disability, the court-appointed representative or legal guardian.

"(B) APPLICANT'S REPRESENTATIVE.—The term 'applicant's representative' means—

"(i) any representative described in subparagraph (A)(i) chosen by the applicant; or

"(ii) if a representative or legal guardian has been appointed by a court to represent the applicant, the court-appointed representative or legal guardian.

"(23) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(24) LOCAL AGENCY.—The term 'local agency' means an agency of a unit of general local government or of an Indian tribe (or combination of such units or tribes) which has an agreement with the designated State agency to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from arranging to utilize another local public or nonprofit agency to provide vocational rehabilitation services if such an arrangement is made part of the agreement specified in this paragraph.

"(25) LOCAL WORKFORCE INVESTMENT PARTNERSHIP.—The term 'local workforce investment partnership' means a local workforce investment partnership established under section 308 of the Workforce Investment Partnership Act of 1998.

"(26) NONPROFIT.—The term 'nonprofit', when used with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

"(27) ONGOING SUPPORT SERVICES.—The term 'ongoing support services' means services—

"(A) provided to individuals with the most significant disabilities;

"(B) provided, at a minimum, twice monthly—

"(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

"(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

"(C) consisting of—

"(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (2)(B);

"(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

"(iii) job development, job retention, and placement services;

"(iv) social skills training;

"(v) regular observation or supervision of the individual;

"(vi) followup services such as regular contact with the employers, the individuals, the individuals' representatives, and other appropriate individuals, in order to reinforce and stabilize the job placement;

"(vii) facilitation of natural supports at the worksite;

"(viii) any other service identified in section 103; or

"(ix) a service similar to another service described in this subparagraph.

"(28) PERSONAL ASSISTANCE SERVICES.—The term 'personal assistance services' means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

"(29) PUBLIC OR NONPROFIT.—The term 'public or nonprofit', used with respect to an agency or organization, includes an Indian tribe.

"(30) REHABILITATION TECHNOLOGY.—The term 'rehabilitation technology' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"(31) REQUIRES VOCATIONAL REHABILITATION SERVICES.—The term 'requires vocational rehabilitation services', used with respect to an individual with a disability as defined in paragraph (20)(A), means that the individual is unable to prepare for, secure, retain, or regain employment consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual without vocational rehabilitation services, because the individual—

"(A) has never been employed;

"(B) has lost employment;

"(C) is underemployed;

"(D) is at immediate risk of losing employment; or

"(E) receives benefits on the basis of disability or blindness pursuant to title II or XVI of the Social Security Act (42 U.S.C. 401 et seq. or 1381 et seq.), in a case in which the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.

"(32) SECRETARY.—The term 'Secretary', except when the context otherwise requires, means the Secretary of Education.

"(33) STATE.—The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(34) STATEWIDE WORKFORCE INVESTMENT PARTNERSHIP.—The term 'statewide workforce investment partnership' means a partnership established under section 303 of the Workforce Investment Partnership Act of 1998.

"(35) STATEWIDE WORKFORCE INVESTMENT SYSTEM.—The term 'statewide workforce investment system' means a system described in section 301 of the Workforce Investment Partnership Act of 1998.

"(36) SUPPORTED EMPLOYMENT.—

"(A) IN GENERAL.—The term 'supported employment' means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services for the period, and any extension, described in paragraph (37)(C) and extended services after the transition described in paragraph (13)(C) in order to perform such work.

"(B) CERTAIN TRANSITIONAL EMPLOYMENT.—Such term includes transitional employment for persons who are individuals with the most significant disabilities due to mental illness.

"(37) SUPPORTED EMPLOYMENT SERVICES.—The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual to achieve competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized rehabilitation employment plan; and

"(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized rehabilitation employment plan.

"(38) TRANSITION SERVICES.—The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

"(39) UNDEREMPLOYED.—The term 'underemployed', used with respect to an individual with a disability, as defined in paragraph (20)(A), means a situation in which the individual is employed in a job that is not consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.

"(40) VOCATIONAL REHABILITATION SERVICES.—The term 'vocational rehabilitation services' means those services identified in section 103 which are provided to individuals with disabilities under this Act.

"(41) WORKFORCE INVESTMENT ACTIVITIES.—The term 'workforce investment activities' has the meaning given the term in section 2 of the Workforce Investment Partnership Act of 1998 carried out under that Act.

"ALLOTMENT PERCENTAGE

"SEC. 8. (a)(1) For purposes of section 110, the allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that—

"(A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum; and

"(B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be 75 per centum.

"(2) The allotment percentages shall be promulgated by the Secretary between October 1 and December 31 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the October 1 next succeeding such promulgation.

"(3) The term 'United States' means (but only for purposes of this subsection) the fifty States and the District of Columbia.

"(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

"NONDUPLICATION

"SEC. 10. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act, except that this section shall not be construed to limit or reduce fees for services rendered by community rehabilitation programs.

"APPLICATION OF OTHER LAWS

"SEC. 11. The provisions of the Act of December 5, 1974 (Public Law 93-510) and of title V of the Act of October 15, 1977 (Public Law 95-134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.

"ADMINISTRATION OF THE ACT

"SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

"(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations, including assistance to enable such agencies and organizations to facilitate meaningful and effective participation by individuals with disabilities in workforce investment activities;

"(2) provide short-term training and technical instruction, including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches);

"(3) conduct special projects and demonstrations;

"(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

"(5) provide monitoring and conduct evaluations.

"(b)(1) In carrying out the duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

"(2) In carrying out the provisions of this Act, the Commissioner shall appoint such task forces as may be necessary to collect and disseminate information in order to improve the ability of the Commissioner to carry out the provisions of this Act.

"(c) The Commissioner may promulgate such regulations as are considered appropriate to carry out the Commissioner's duties under this Act.

"(d) The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

"(e) Not later than 180 days after the date of enactment of the Rehabilitation Act Amendments of 1998, the Secretary shall receive public comment and promulgate regulations to implement the amendments made by the Rehabilitation Act Amendments of 1998.

"(f) In promulgating regulations to carry out this Act, the Secretary shall promulgate only regulations that are necessary to administer and ensure compliance with the specific requirements of this Act.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"REPORTS

"SEC. 13. (a) Not later than one hundred and eighty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act, including the activities and staffing of the information clearinghouse under section 15.

"(b) The Commissioner shall collect information to determine whether the purposes of this Act are being met and to assess the performance of programs carried out under this

Act. The Commissioner shall take whatever action is necessary to assure that the identity of each individual for which information is supplied under this section is kept confidential, except as otherwise required by law (including regulation).

"(c) In preparing the report, the Commissioner shall annually collect and include in the report information based on the information submitted by States in accordance with section 101(a)(10). The Commissioner shall, to the maximum extent appropriate, include in the report all information that is required to be submitted in the reports described in section 321(d) of the Workforce Investment Partnership Act of 1998 and that pertains to the employment of individuals with disabilities.

"EVALUATION

"SEC. 14. (a) For the purpose of improving program management and effectiveness, the Secretary, in consultation with the Commissioner, shall evaluate all the programs authorized by this Act, their general effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, using appropriate methodology and evaluative research designs. The Secretary shall establish and use standards for the evaluations required by this subsection. Such an evaluation shall be conducted by a person not immediately involved in the administration of the program evaluated.

"(b) In carrying out evaluations under this section, the Secretary shall obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

"(c) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds under this Act shall become the property of the United States.

"(d) Such information as the Secretary may determine to be necessary for purposes of the evaluations conducted under this section shall be made available upon request of the Secretary, by the departments and agencies of the executive branch.

"(e)(1) To assess the linkages between vocational rehabilitation services and economic and noneconomic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

"(2) The study shall address factors related to attrition and completion of the program through which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

"(3) The study shall be planned to cover the period beginning on the application of individuals with disabilities for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services.

"(f)(1) The Commissioner shall identify and disseminate information on exemplary practices concerning vocational rehabilitation.

"(2) To facilitate compliance with paragraph (1), the Commissioner shall conduct studies and analyses that identify exemplary practices concerning vocational rehabilitation, including studies in areas relating to providing informed choice in the rehabilitation process, promoting consumer satisfaction, promoting job placement and retention, providing supported employment, providing services to particular disability populations, financing personal assistance services, providing assistive technology devices and assistive technology services, entering into cooperative agreements, establishing standards and certification for community rehabilitation programs, converting from nonintegrated to integrated employment, and providing caseload management.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"INFORMATION CLEARINGHOUSE

"SEC. 15. (a) The Secretary shall establish a central clearinghouse for information and resource availability for individuals with disabilities which shall provide information and data regarding—

"(1) the location, provision, and availability of services and programs for individuals with disabilities, including such information and data provided by statewide partnerships established under section 303 of the Workforce Investment Partnership Act of 1998 regarding such services and programs authorized under such Act;

"(2) research and recent medical and scientific developments bearing on disabilities (and their prevention, amelioration, causes, and cures); and

"(3) the current numbers of individuals with disabilities and their needs.

The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

"(b) The Commissioner may assist the Secretary to develop within the Department of Education a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, individuals with disabilities and their families, professionals in fields serving such individuals, and the general public.

"(c) The office established to carry out the provisions of this section shall be known as the 'Office of Information and Resources for Individuals with Disabilities'.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"TRANSFER OF FUNDS

"SEC. 16. (a) Except as provided in subsection (b) of this section, no funds appropriated under this Act for any program or activity may be used for any purpose other than that for which the funds were specifically authorized.

"(b) No more than 1 percent of funds appropriated for discretionary grants, contracts, or cooperative agreements authorized by this Act may be used for the purpose of providing non-Federal panels of experts to review applications for such grants, contracts, or cooperative agreements.

"STATE ADMINISTRATION

"SEC. 17. The application of any State rule or policy relating to the administration or operation of programs funded by this Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

"REVIEW OF APPLICATIONS

"SEC. 18. Applications for grants in excess of $100,000 in the aggregate authorized to be funded under this Act, other than grants primarily for the purpose of conducting dissemination or conferences, shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

"SEC. 19. CARRYOVER.

"(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law—

"(1) any funds appropriated for a fiscal year to carry out any grant program under part B of title I, section 509 (except as provided in section 509(b)), part C of title VI, part B or C of chapter 1 of title VII, or chapter 2 of title VII (except as provided in section 752(b)), including any funds reallotted under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or

"(2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received,

shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

"(b) NON-FEDERAL SHARE.—Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.

"SEC. 20. CLIENT ASSISTANCE INFORMATION.

"All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals who are applicants for or recipients of the services, or the applicants' representatives or individuals' representatives, of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.

"SEC. 21. TRADITIONALLY UNDERSERVED POPULATIONS.

"(a) FINDINGS.—With respect to the programs authorized in titles II through VII, the Congress finds as follows:

"(1) RACIAL PROFILE.—The racial profile of America is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

"(2) RATE OF DISABILITY.—Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be significantly disabled.

"(3) INEQUITABLE TREATMENT.—Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

“(4) Recruitment.—Recruitment efforts within vocational rehabilitation at the level of preservice training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

“(b) Outreach to Minorities.—

“(1) In general.—For each fiscal year, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research (referred to in this subsection as the ‘Director’) shall reserve 1 percent of the funds appropriated for the fiscal year for programs authorized under titles II, III, VI, and VII to carry out this subsection. The Commissioner and the Director shall use the reserved funds to carry out 1 or more of the activities described in paragraph (2) through a grant, contract, or cooperative agreement.

“(2) Activities.—The activities carried out by the Commissioner and the Director shall include 1 or more of the following:

“(A) Making awards to minority entities and Indian tribes to carry out activities under the programs authorized under titles II, III, VI, and VII.

“(B) Making awards to minority entities and Indian tribes to conduct research, training, technical assistance, or a related activity, to improve services provided under this Act, especially services provided to individuals from minority backgrounds.

“(C) Making awards to entities described in paragraph (3) to provide outreach and technical assistance to minority entities and Indian tribes to promote their participation in activities funded under this Act, including assistance to enhance their capacity to carry out such activities.

“(3) Eligibility.—To be eligible to receive an award under paragraph (2)(C), an entity shall be a State or a public or private nonprofit agency or organization, such as an institution of higher education or an Indian tribe.

“(4) Report.—In each fiscal year, the Commissioner and the Director shall prepare and submit to Congress a report that describes the activities funded under this subsection for the preceding fiscal year.

“(5) Definitions.—In this subsection:

“(A) Historically black college or university.—The term ‘historically Black college or university’ means a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

“(B) Minority entity.—The term ‘minority entity’ means an entity that is a historically Black college or university, a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent.

“(c) Demonstration.—In awarding grants, or entering into contracts or cooperative agreements under titles I, II, III, VI, and VII, and section 509, the Commissioner and the Director, in appropriate cases, shall require applicants to demonstrate how the applicants will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.”.

SEC. 604. VOCATIONAL REHABILITATION SERVICES.

Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) is amended to read as follows:

“TITLE I—VOCATIONAL REHABILITATION SERVICES

“PART A—GENERAL PROVISIONS

“SEC. 100. DECLARATION OF POLICY; AUTHORIZATION OF APPROPRIATIONS.

“(a) Findings; Purpose; Policy.—

“(1) Findings.—Congress finds that—

“(A) work—

“(i) is a valued activity, both for individuals and society; and

“(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in the United States;

“(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

“(C) individuals with disabilities, including individuals with the most significant disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

“(D) reasons for significant numbers of individuals with disabilities not working, or working at levels not commensurate with their abilities and capabilities, include—

“(i) discrimination;

“(ii) lack of accessible and available transportation;

“(iii) fear of losing health coverage under the medicare and medicaid programs carried out under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing private health insurance; and

“(iv) lack of education, training, and supports to meet job qualification standards necessary to secure, retain, regain, or advance in employment;

“(E) enforcement of title V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities;

“(F) the provision of workforce investment activities and vocational rehabilitation services can enable individuals with disabilities, including individuals with the most significant disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities; and

“(G) linkages between the vocational rehabilitation programs established under this title and other components of the statewide workforce investment system are critical to ensure effective and meaningful participation by individuals with disabilities in workforce investment activities.

“(2) Purpose.—The purpose of this title is to assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation, each of which is—

“(A) an integral part of a statewide workforce investment system; and

“(B) designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for and engage in gainful employment.

“(3) Policy.—It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

“(A) Individuals with disabilities, including individuals with the most significant disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

“(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

“(C) Individuals who are applicants for such programs or eligible to participate in such programs must be active and full partners, in collaboration with qualified vocational rehabilitation professionals, in the vocational rehabilitation process, making meaningful and informed choices—

“(i) during assessments for determining eligibility and vocational rehabilitation needs; and

“(ii) in the selection of employment outcomes for the individuals, services needed to achieve the outcomes, entities providing such services, and the methods used to secure such services.

“(D) Families and other natural supports can play important roles in the success of a vocational rehabilitation program, if the individual with a disability involved requests, desires, or needs such supports.

“(E) Vocational rehabilitation counselors that are trained and prepared in accordance with State policies and procedures as described in section 101(a)(7)(A)(iii) (referred to individually in this title as a ‘qualified vocational rehabilitation counselor’), other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment outcomes and objectives of an individual.

“(F) Individuals with disabilities and the individuals’ representatives are full partners in a vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

“(G) Accountability measures must facilitate the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most significant disabilities.

“(b) Authorization of Appropriations.—

“(1) In general.—For the purpose of making grants to States under part B to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1998 through 2004, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this paragraph for the immediately preceding fiscal year, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year.

“(2) Reference.—The reference in paragraph (1) to grants to States under part B shall not be considered to refer to grants under section 112.

“(c) Consumer Price Index.—

“(1) Percentage change.—No later than November 15 of each fiscal year (beginning with fiscal year 1979), the Secretary of Labor shall publish in the Federal Register the percentage change in the Consumer Price Index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

"(2) APPLICATION.—

"(A) INCREASE.—If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

"(B) NO INCREASE OR DECREASE.—If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1).

"(3) DEFINITION.—For purposes of this section, the term 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.

"(d) EXTENSION.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION OR DURATION OF PROGRAM.—Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

"(i) of the authorization of appropriations for the program authorized by the State grant program under part B of this title; or

"(ii) of the duration of the program authorized by the State grant program under part B of this title;

has passed legislation which would have the effect of extending the authorization or duration (as the case may be) of such program, such authorization or duration is automatically extended for 1 additional year for the program authorized by this title.

"(B) CALCULATION.—The amount authorized to be appropriated for the additional fiscal year described in subparagraph (A) shall be an amount equal to the amount appropriated for such program for fiscal year 2004, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year, if the percentage change indicates an increase.

"(2) CONSTRUCTION.—

"(A) PASSAGE OF LEGISLATION.—For the purposes of paragraph (1)(A), Congress shall not be deemed to have passed legislation unless such legislation becomes law.

"(B) ACTS OR DETERMINATIONS OF COMMISSIONER.—In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this title, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which the extension described in that part of paragraph (1) that follows clause (ii) of paragraph (1)(A) is in effect.

"SEC. 101. STATE PLANS.

"(a) PLAN REQUIREMENTS.—

"(1) IN GENERAL.—

"(A) SUBMISSION.—To be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services that meets the requirements of this section, on the same date that the State submits a State plan under section 304 of the Workforce Investment Partnership Act of 1998.

"(B) NONDUPLICATION.—The State shall not be required to submit, in the State plan for vocational rehabilitation services, policies, procedures, or descriptions required under this title that have been previously submitted to the Commissioner and that demonstrate that such State meets the requirements of this title, including any policies, procedures, or descriptions submitted under this title as in effect on the day before the effective date of the Rehabilitation Act Amendments of 1998.

"(C) DURATION.—The State plan shall remain in effect subject to the submission of such modifications as the State determines to be necessary or as the Commissioner may require based on a change in State policy, a change in Federal law (including regulations), an interpretation of this Act by a Federal court or the highest court of the State, or a finding by the Commissioner of State noncompliance with the requirements of this Act, until the State submits and receives approval of a new State plan.

"(2) DESIGNATED STATE AGENCY; DESIGNATED STATE UNIT.—

"(A) DESIGNATED STATE AGENCY.—The State plan shall designate a State agency as the sole State agency to administer the plan, or to supervise the administration of the plan by a local agency, except that—

"(i) where, under State law, the State agency for individuals who are blind or another agency that provides assistance or services to adults who are blind is authorized to provide vocational rehabilitation services to individuals who are blind, that agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency to administer or supervise the administration of the rest of the State plan;

"(ii) the Commissioner, on the request of a State, may authorize the designated State agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit the agencies to carry out a joint program to provide services to individuals with disabilities, and may waive compliance, with respect to vocational rehabilitation services furnished under the joint program, with the requirement of paragraph (4) that the plan be in effect in all political subdivisions of the State; and

"(iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa.

"(B) DESIGNATED STATE UNIT.—The State agency designated under subparagraph (A) shall be—

"(i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities; or

"(ii) if not such an agency, the State agency (or each State agency if 2 are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit that—

"(I) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, and is responsible for the vocational rehabilitation program of the designated State agency;

"(II) has a full-time director;

"(III) has a staff employed on the rehabilitation work of the organizational unit all or substantially all of whom are employed full time on such work; and

"(IV) is located at an organizational level and has an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency.

"(C) RESPONSIBILITY FOR SERVICES FOR THE BLIND.—If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility for the rest of the plan to another organizational unit of the designated State agency, with the provisions of subparagraph (B) applying separately to each of the designated State units.

"(3) NON-FEDERAL SHARE.—The State plan shall provide for financial participation by the State, or if the State so elects, by the State and local agencies, to provide the amount of the non-Federal share of the cost of carrying out part B.

"(4) STATEWIDENESS.—The State plan shall provide that the plan shall be in effect in all political subdivisions of the State, except that in the case of any activity that, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of individuals with disabilities or groups of individuals with disabilities, the Commissioner may waive compliance with the requirement that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by the Commissioner. The Commissioner may waive compliance with the requirement only if the non-Federal share of the cost of the vocational rehabilitation services is provided from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual).

"(5) ORDER OF SELECTION FOR VOCATIONAL REHABILITATION SERVICES.—In the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the State who apply for the services, the State plan shall—

"(A) show the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services;

"(B) provide the justification for the order of selection;

"(C) include an assurance that, in accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and

"(D) provide that eligible individuals, who do not meet the order of selection criteria, shall have access to services provided through the information and referral system implemented under paragraph (20).

"(6) METHODS FOR ADMINISTRATION.—

"(A) IN GENERAL.—The State plan shall provide for such methods of administration as are found by the Commissioner to be necessary for the proper and efficient administration of the plan.

"(B) EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.—The State plan shall provide that the designated State agency, and entities carrying out community rehabilitation programs in the State, who are in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified individuals with disabilities covered under, and on the same terms and conditions as set forth in, section 503.

"(C) Personnel and Program Standards for Community Rehabilitation Programs.—The State plan shall provide that the designated State unit shall establish, maintain, and implement minimum standards for community rehabilitation programs providing services to individuals under this title, including—

"(i) standards—

"(I) governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitation services through such programs; and

"(II) providing, to the extent that providers of vocational rehabilitation services utilize personnel who do not meet the highest requirements in the State applicable to a particular profession or discipline, that the providers shall take steps to ensure the retraining or hiring of personnel so that such personnel meet appropriate professional standards in the State; and

"(ii) minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an individual receiving services through such programs.

"(D) Facilities.—The State plan shall provide that facilities used in connection with the delivery of services assisted under the State plan shall comply with the Act entitled 'An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved on August 12, 1968 (commonly known as the 'Architectural Barriers Act of 1968'), with section 504, and with the Americans with Disabilities Act of 1990.

"(7) Comprehensive System of Personnel Development.—The State plan shall include—

"(A) a description, consistent with the purposes of this Act, of a comprehensive system of personnel development for personnel employed by the designated State unit and involved in carrying out this title, which, at a minimum, shall consist of—

"(i) a description of the procedures and activities the designated State agency will implement and undertake to address the current and projected needs for personnel, and training needs of such personnel, in the designated State unit to ensure that the personnel are adequately trained and prepared;

"(ii) a plan to coordinate and facilitate efforts between the designated State unit and institutions of higher education and professional associations to recruit, prepare, and retain qualified personnel, including personnel from culturally or linguistically diverse backgrounds, and personnel that include individuals with disabilities;

"(iii) a description of policies and procedures on the establishment and maintenance of reasonable standards to ensure that personnel, including professionals and paraprofessionals, are adequately trained and prepared, including—

"(I) standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

"(II) to the extent that such standards are not based on the highest requirements in the State applicable to a particular profession or discipline, the steps the State will take to ensure the retraining or hiring of personnel within the designated State unit so that such personnel meet appropriate professional standards in the State;

"(iv) a description of a system for evaluating the performance of vocational rehabilitation counselors, coordinators, and other personnel used in the State, including a description of how the system facilitates the accomplishment of the purpose and policy of this title, including the policy of serving individuals with the most significant disabilities;

"(v) a description of standards to ensure the availability of personnel within the designated State unit who are, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an applicant or eligible individual; and

"(vi) a detailed description, including a budget, of how the funds reserved under subparagraph (B) will be expended to carry out the comprehensive system for personnel development, including the provision of in-service training for personnel of the designated State unit;

"(B) assurances that—

"(i) at a minimum, the State will reserve from the allotment made to the State under section 110 an amount to carry out the comprehensive system of personnel development, including the provision of in-service training for personnel of the designated State unit;

"(ii) for fiscal year 1999, the amount reserved will be equal to the amount of the funds the State received for fiscal year 1998 to provide in-service training under section 302, or for any State that did not receive those funds for fiscal year 1998, an amount determined by the Commissioner; and

"(iii) for each subsequent year, the amount reserved under this subparagraph will be equal to the amount reserved under this subparagraph for the previous fiscal year, increased by the percentage change in the Consumer Price Index published under section 100(c) in such previous fiscal year, if the percentage change indicates an increase; and

"(C) an assurance that the standards adopted by a State in accordance with subparagraph (A)(iii) shall not permit discrimination on the basis of disability with regard to training and hiring.

"(8) Comparable Services and Benefits.—

"(A) Determination of Availability.—

"(i) In General.—The State plan shall include an assurance that, prior to providing any vocational rehabilitation service to an eligible individual, except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a), the designated State unit will determine whether comparable services and benefits are available under any other program (other than a program carried out under this title) unless such a determination would interrupt or delay—

"(I) the progress of the individual toward achieving the employment outcome identified in the individualized rehabilitation employment plan of the individual in accordance with section 102(b); or

"(II) the provision of such service to any individual at extreme medical risk.

"(ii) Awards and Scholarships.—For purposes of clause (i), comparable benefits do not include awards and scholarships based on merit.

"(B) Interagency Agreement.—The State plan shall include an assurance that the Governor of the State or the designee of the Governor will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between any appropriate public entity, including a component of the statewide workforce investment system, and the designated State unit, in order to ensure the provision of vocational rehabilitation services described in subparagraph (A) (other than those services specified in paragraph (5)(D), and in paragraphs (1) through (4) and (14) of section 103(a)), that are included in the individualized rehabilitation employment plan of an eligible individual, including the provision of such vocational rehabilitation services during the pendency of any dispute described in clause (iii). Such agreement or mechanism shall include the following:

"(i) Agency Financial Responsibility.—An identification of, or a description of a method for defining, the financial responsibility of such public entity for providing such services, and a provision stating that the financial responsibility of such public entity for providing such services, including the financial responsibility of the State agency responsible for administering the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), other public agencies, and public institutions of higher education, shall precede the financial responsibility of the designated State unit especially with regard to the provision of auxiliary aids and services to the maximum extent allowed by law.

"(ii) Conditions, Terms, and Procedures of Reimbursement.—Information specifying the conditions, terms, and procedures under which a designated State unit shall pursue and obtain reimbursement by other public agencies for providing such services.

"(iii) Interagency Disputes.—Information specifying procedures for resolving interagency disputes under the agreement or other mechanism (including procedures under which the designated State unit may initiate proceedings to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism).

"(iv) Coordination of Services Procedures.—Information specifying policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely delivery of vocational rehabilitation services (except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)).

"(C) Responsibilities of Other Agencies.—

"(i) Responsibilities Under Other Law.—Notwithstanding subparagraph (B), if any public agency other than a designated State unit is obligated under Federal or State law, or assigned responsibility under State policy or under this paragraph, to provide or pay for any services that are also considered to be vocational rehabilitation services (other than those specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)), such public agency shall fulfill that obligation or responsibility, either directly or by contract or other arrangement.

"(ii) Reimbursement.—In a case in which a public agency other than the designated State unit fails to fulfill the financial responsibility of the agency described in this paragraph to provide services described in clause (i), the designated State unit may claim reimbursement from such public agency for such services. Such public agency shall reimburse the designated State unit pursuant to the terms of the interagency agreement or other mechanism in effect under this paragraph according to the procedures established pursuant to subparagraph (B)(ii).

"(D) METHODS.—The Governor of a State may meet the requirements of subparagraph (B) through—

"(i) a State statute or regulation;

"(ii) a signed agreement between the respective agency officials that clearly identifies the responsibilities of each agency relating to the provision of services; or

"(iii) another appropriate method, as determined by the designated State unit.

"(9) INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—

"(A) DEVELOPMENT AND IMPLEMENTATION.—The State plan shall include an assurance that an individualized rehabilitation employment plan meeting the requirements of section 102(b) will be developed and implemented in a timely manner for an individual subsequent to the determination of the eligibility of the individual for services under this title, except that in a State operating under an order of selection described in paragraph (5), the plan will be developed and implemented only for individuals meeting the order of selection criteria of the State.

"(B) PROVISION OF SERVICES.—The State plan shall include an assurance that such services will be provided in accordance with the provisions of the individualized rehabilitation employment plan.

"(10) REPORTING REQUIREMENTS.—

"(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will submit reports in the form and level of detail and at the time required by the Commissioner regarding applicants for, and eligible individuals receiving, services under this title.

"(B) ANNUAL REPORTING.—In specifying the information to be submitted in the reports, the Commissioner shall require annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 321(d)(2) of the Workforce Investment Partnership Act of 1998 that are determined by the Secretary to be relevant in assessing the performance of designated State units in carrying out the vocational rehabilitation program established under this title.

"(C) ADDITIONAL DATA.—In specifying the information required to be submitted in the reports, the Commissioner shall require additional data with regard to applicants and eligible individuals related to—

"(i) the number of applicants and the number of individuals determined to be eligible or ineligible for the program carried out under this title, including—

"(I) the number of individuals determined to be ineligible because they did not require vocational rehabilitation services, as provided in section 102(a); and

"(II) the number of individuals determined, on the basis of clear and convincing evidence, to be too severely disabled to benefit in terms of an employment outcome from vocational rehabilitation services;

"(ii) the number of individuals who received vocational rehabilitation services through the program, including—

"(I) the number who received services under paragraph (5)(D), but not assistance under an individualized rehabilitation employment plan; and

"(II) the number who received assistance under an individualized rehabilitation employment plan consistent with section 102(b);

"(iii) the number of individuals receiving public assistance and the amount of the public assistance on the date of application and on the last date of participation in the program carried out under this title;

"(iv) the number of individuals with disabilities who ended their participation in the program and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

"(v) the number of individuals who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

"(I) the number of such individuals who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment;

"(II) the number of such individuals who received employment benefits from an employer during such employment; and

"(III) the number of such individuals whose public assistance was terminated or reduced after such participation.

"(D) COSTS AND RESULTS.—The Commissioner shall also require that the designated State agency include in the reports information on—

"(i) the costs under this title of conducting administration, providing assessment services, counseling and guidance, and other direct services provided by designated State agency staff, providing services purchased under individualized rehabilitation employment plans, supporting small business enterprises, establishing, developing, and improving community rehabilitation programs, and providing other services to groups; and

"(ii) the results of annual evaluation by the State of program effectiveness under paragraph (15)(E).

"(E) ADDITIONAL INFORMATION.—The Commissioner shall require that each designated State unit include in the reports additional information related to the applicants and eligible individuals, obtained either through a complete count or sampling, including—

"(i) information on—

"(I) age, gender, race, ethnicity, education, type of impairment, severity of disability, and whether the individuals are students described in clause (i) or (ii)(II) of paragraph (11)(D);

"(II) dates of application, determination of eligibility or ineligibility, initiation of the individualized rehabilitation employment plan, and termination of participation in the program;

"(III) earnings at the time of application for the program and termination of participation in the program;

"(IV) work status and occupation;

"(V) types of services, including assistive technology services and assistive technology devices, provided under the program;

"(VI) types of public or private programs or agencies that furnished services under the program; and

"(VII) the reasons for individuals terminating participation in the program without achieving an employment outcome; and

"(ii) information necessary to determine the success of the State in meeting—

"(I) the State performance measures established under section 321(b) of the Workforce Investment Partnership Act of 1998 to the extent the measures are applicable to individuals with disabilities; and

"(II) the standards and indicators established pursuant to section 106.

"(F) COMPLETENESS AND CONFIDENTIALITY.—The State plan shall include an assurance that the information submitted in the reports will include a complete count, except as provided in subparagraph (E), of the applicants and eligible individuals, in a manner permitting the greatest possible cross-classification of data and that the identity of each individual for which information is supplied under this paragraph will be kept confidential.

"(11) COOPERATION, COLLABORATION, AND COORDINATION.—

"(A) COOPERATIVE AGREEMENTS WITH OTHER COMPONENTS OF STATEWIDE WORKFORCE INVESTMENT SYSTEMS.—The State plan shall provide that the designated State unit or designated State agency shall enter into a cooperative agreement with other entities that are components of the statewide workforce investment system of the State, regarding the system, which agreement may provide for—

"(i) provision of intercomponent staff training and technical assistance with regard to—

"(I) the availability and benefits of, and information on eligibility standards for, vocational rehabilitation services; and

"(II) the promotion of equal, effective, and meaningful participation by individuals with disabilities in workforce investment activities in the State through the promotion of program accessibility, the use of nondiscriminatory policies and procedures, and the provision of reasonable accommodations, auxiliary aids and services, and rehabilitation technology, for individuals with disabilities;

"(ii) use of information and financial management systems that link all components of the statewide workforce investment system, that link the components to other electronic networks, including nonvisual electronic networks, and that relate to such subjects as labor market information, and information on job vacancies, career planning, and workforce investment activities;

"(iii) use of customer service features such as common intake and referral procedures, customer databases, resource information, and human services hotlines;

"(iv) establishment of cooperative efforts with employers to—

"(I) facilitate job placement; and

"(II) carry out any other activities that the designated State unit and the employers determine to be appropriate;

"(v) identification of staff roles, responsibilities, and available resources, and specification of the financial responsibility of each component of the statewide workforce investment system with regard to paying for necessary services (consistent with State law and Federal requirements); and

"(vi) specification of procedures for resolving disputes among such components.

"(B) REPLICATION OF COOPERATIVE AGREEMENTS.—The State plan shall provide for the replication of such cooperative agreements at the local level between individual offices of the designated State unit and local entities carrying out activities through the statewide workforce investment system.

"(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, the Federal, State, and local agencies and programs that are not carrying out activities through the statewide workforce investment system.

"(D) COORDINATION WITH EDUCATION OFFICIALS.—The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials that are designed to facilitate the transition of students who are individuals with disabilities described in section 7(20)(B) from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—

“(i) consultation and technical assistance to assist educational agencies in planning for the transition of students who are individuals with disabilities described in section 7(20)(B) from school to post-school activities, including vocational rehabilitation services;

“(ii)(I) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities described in clause (i) that facilitates the development and completion of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (as added by section 101 of Public Law 105–17); and

“(II) transition planning and services for students who are eligible to receive services under this title and who will be exiting school in the school year in which the planning and services are provided;

“(iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for the transition services described in clause (ii)(II); and

“(iv) procedures for outreach to and identification of students with disabilities described in clause (ii)(II) who need the transition services.

“(E) COORDINATION WITH STATEWIDE INDEPENDENT LIVING COUNCILS AND INDEPENDENT LIVING CENTERS.—The State plan shall include an assurance that the designated State unit, the Statewide Independent Living Council established under section 705, and the independent living centers described in part C of title VII within the State have developed working relationships and coordinate their activities.

“(F) COOPERATIVE AGREEMENT WITH RECIPIENTS OF GRANTS FOR SERVICES TO AMERICAN INDIANS.—In applicable cases, the State plan shall include an assurance that the State has entered into a formal cooperative agreement with each grant recipient in the State that receives funds under part C. The agreement shall describe strategies for collaboration and coordination in providing vocational rehabilitation services to American Indians who are individuals with disabilities, including—

“(i) strategies for interagency referral and information sharing that will assist in eligibility determinations and the development of individualized rehabilitation employment plans;

“(ii) procedures for ensuring that American Indians who are individuals with disabilities and are living near a reservation or tribal service area are provided vocational rehabilitation services; and

“(iii) provisions for sharing resources in cooperative studies and assessments, joint training activities, and other collaborative activities designed to improve the provision of services to American Indians who are individuals with disabilities.

“(12) RESIDENCY.—The State plan shall include an assurance that the State will not impose a residence requirement that excludes from services provided under the plan any individual who is present in the State.

“(13) SERVICES TO AMERICAN INDIANS.—The State plan shall include an assurance that, except as otherwise provided in part C, the designated State agency will provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the designated State agency provides such services to other significant populations of individuals with disabilities residing in the State.

“(14) ANNUAL REVIEW OF INDIVIDUALS IN EXTENDED EMPLOYMENT OR OTHER EMPLOYMENT UNDER SPECIAL CERTIFICATE PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938.—The State plan shall provide for—

“(A) an annual review and reevaluation of the status of each individual with a disability served under this title who has achieved an employment outcome either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) for 2 years after the achievement of the outcome (and annually thereafter if requested by the individual or, if appropriate, the individual's representative), to determine the interests, priorities, and needs of the individual with respect to competitive employment or training for competitive employment;

“(B) input into the review and reevaluation, and a signed acknowledgment that such review and reevaluation have been conducted, by the individual with a disability, or, if appropriate, the individual's representative; and

“(C) maximum efforts, including the identification and provision of vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist the individuals described in subparagraph (A) in engaging in competitive employment.

“(15) ANNUAL STATE GOALS AND REPORTS OF PROGRESS.—

“(A) ASSESSMENTS AND ESTIMATES.—The State plan shall—

“(i) include the results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State has such a Council) every 3 years, describing the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of—

“(I) individuals with the most significant disabilities, including their need for supported employment services;

“(II) individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program carried out under this title; and

“(III) individuals with disabilities served through other components of the statewide workforce investment system (other than the vocational rehabilitation program), as identified by such individuals and personnel assisting such individuals through the components;

“(ii) include an assessment of the need to establish, develop, or improve community rehabilitation programs within the State; and

“(iii) provide that the State shall submit to the Commissioner a report containing information regarding updates to the assessments, for any year in which the State updates the assessments.

“(B) ANNUAL ESTIMATES.—The State plan shall include, and shall provide that the State shall annually submit a report to the Commissioner that includes, State estimates of—

“(i) the number of individuals in the State who are eligible for services under this title;

“(ii) the number of such individuals who will receive services provided with funds provided under part B and under part C of title VI, including, if the designated State agency uses an order of selection in accordance with paragraph (5), estimates of the number of individuals to be served under each priority category within the order; and

“(iii) the costs of the services described in clause (i), including, if the designated State agency uses an order of selection in accordance with paragraph (5), the service costs for each priority category within the order.

“(C) GOALS AND PRIORITIES.—

“(i) IN GENERAL.—The State plan shall identify the goals and priorities of the State in carrying out the program. The goals and priorities shall be jointly developed, agreed to, and reviewed annually by the designated State unit and the State Rehabilitation Council, if the State has such a Council. Any revisions to the goals and priorities shall be jointly agreed to by the designated State unit and the State Rehabilitation Council, if the State has such a Council. The State plan shall provide that the State shall submit to the Commissioner a report containing information regarding revisions in the goals and priorities, for any year in which the State revises the goals and priorities.

“(ii) BASIS.—The State goals and priorities shall be based on an analysis of—

“(I) the comprehensive assessment described in subparagraph (A), including any updates to the assessment;

“(II) the performance of the State on the standards and indicators established under section 106; and

“(III) other available information on the operation and the effectiveness of the vocational rehabilitation program carried out in the State, including any reports received from the State Rehabilitation Council, under section 105(c) and the findings and recommendations from monitoring activities conducted under section 107.

“(iii) SERVICE AND OUTCOME GOALS FOR CATEGORIES IN ORDER OF SELECTION.—If the designated State agency uses an order of selection in accordance with paragraph (5), the State shall also identify in the State plan service and outcome goals and the time within which these goals may be achieved for individuals in each priority category within the order.

“(D) STRATEGIES.—The State plan shall contain a description of the strategies the State will use to address the needs identified in the assessment conducted under subparagraph (A) and achieve the goals and priorities identified in subparagraph (C), including—

“(i) the methods to be used to expand and improve services to individuals with disabilities, including how a broad range of assistive technology services and assistive technology devices will be provided to such individuals at each stage of the rehabilitation process and how such services and devices will be provided to such individuals on a statewide basis;

“(ii) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program;

“(iii) where necessary, the plan of the State for establishing, developing, or improving community rehabilitation programs;

“(iv) strategies to improve the performance of the State with respect to the evaluation standards and performance indicators established pursuant to section 106; and

“(v) strategies for assisting entities carrying out other components of the statewide workforce investment system (other than the vocational rehabilitation program) in assisting individuals with disabilities.

“(E) EVALUATION AND REPORTS OF PROGRESS.—The State plan shall—

“(i) include the results of an evaluation of the effectiveness of the vocational rehabilitation program, and a joint report by the designated State unit and the State Rehabilitation Council, if the State has such a Council, to the Commissioner on the progress made in improving the effectiveness from the previous year, which evaluation and report shall include—

“(I) an evaluation of the extent to which the goals identified in subparagraph (C) were achieved;

“(II) a description of strategies that contributed to achieving the goals;

“(III) to the extent to which the goals were not achieved, a description of the factors that impeded that achievement; and

“(IV) an assessment of the performance of the State on the standards and indicators established pursuant to section 106; and

“(ii) provide that the designated State unit and the State Rehabilitation Council, if the State has such a Council, shall jointly submit to the Commissioner an annual report that contains the information described in clause (i).

“(16) PUBLIC COMMENT.—The State plan shall—

“(A) provide that the designated State agency, prior to the adoption of any policies or procedures governing the provision of vocational rehabilitation services under the State plan (including making any amendment to such policies and procedures), shall conduct public meetings throughout the State, after providing adequate notice of the meetings, to provide the public, including individuals with disabilities, an opportunity to comment on the policies or procedures, and actively consult with the Director of the client assistance program carried out under section 112, and, as appropriate, Indian tribes, tribal organizations, and Native Hawaiian organizations on the policies or procedures; and

“(B) provide that the designated State agency (or each designated State agency if 2 agencies are designated) and any sole agency administering the plan in a political subdivision of the State, shall take into account, in connection with matters of general policy arising in the administration of the plan, the views of—

“(i) individuals and groups of individuals who are recipients of vocational rehabilitation services, or in appropriate cases, the individuals' representatives;

“(ii) personnel working in programs that provide vocational rehabilitation services to individuals with disabilities;

“(iii) providers of vocational rehabilitation services to individuals with disabilities;

“(iv) the director of the client assistance program; and

“(v) the State Rehabilitation Council, if the State has such a Council.

“(17) PROHIBITION ON USE OF FUNDS FOR CONSTRUCTION OF FACILITIES.—The State plan shall contain an assurance that the State will not use any funds made available under this title for the construction of facilities.

“(18) INNOVATION AND EXPANSION ACTIVITIES.—The State plan shall—

“(A) include an assurance that the State will reserve and use a portion of the funds allotted to the State under section 110—

“(i) for the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities under this title, particularly individuals with the most significant disabilities, consistent with the findings of the statewide assessment and goals and priorities of the State as described in paragraph (15); and

“(ii) to support the funding of—

“(I) the State Rehabilitation Council, if the State has such a Council, consistent with the plan prepared under section 105(d)(1); and

“(II) the Statewide Independent Living Council, consistent with the plan prepared under section 705(e)(1);

“(B) include a description of how the reserved funds will be utilized; and

“(C) provide that the State shall submit to the Commissioner an annual report containing a description of how the reserved funds will be utilized.

“(19) CHOICE.—The State plan shall include an assurance that applicants and eligible individuals or, as appropriate, the applicants' representatives or individuals' representatives, will be provided information and support services to assist the applicants and individuals in exercising informed choice throughout the rehabilitation process, consistent with the provisions of section 102(d).

“(20) INFORMATION AND REFERRAL SERVICES.—

“(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will implement an information and referral system adequate to ensure that individuals with disabilities will be provided accurate vocational rehabilitation information, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment, and will be appropriately referred to Federal and State programs (other than the vocational rehabilitation program carried out under this title), including other components of the statewide workforce investment system in the State.

“(B) SERVICES.—In providing activities through the system established under subparagraph (A), the State may include services consisting of the provision of individualized counseling and guidance, individualized vocational exploration, supervised job placement referrals, and assistance in securing reasonable accommodations for eligible individuals who do not meet the order of selection criteria used by the State, to the extent that such services are not purchased by the designated State unit.

“(21) STATE INDEPENDENT CONSUMER-CONTROLLED COMMISSION; STATE REHABILITATION COUNCIL.—

“(A) COMMISSION OR COUNCIL.—The State plan shall provide that either—

“(i) the designated State agency is an independent commission that—

“(I) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;

“(II) is consumer-controlled by persons who—

“(aa) are individuals with physical or mental impairments that substantially limit major life activities; and

“(bb) represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;

“(III) includes family members, advocates, or other representatives, of individuals with mental impairments; and

“(IV) undertakes the functions set forth in section 105(c)(4); or

“(ii) the State has established a State Rehabilitation Council that meets the criteria set forth in section 105 and the designated State unit—

“(I) in accordance with paragraph (15), jointly develops, agrees to, and reviews annually State goals and priorities, and jointly submits annual reports of progress with the Council;

“(II) regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

“(III) includes in the State plan and in any revision to the State plan, a summary of input provided by the Council, including recommendations from the annual report of the Council described in section 105(c)(5), the review and analysis of consumer satisfaction described in section 105(c)(4), and other reports prepared by the Council, and the response of the designated State unit to such input and recommendations, including explanations for rejecting any input or recommendation; and

“(IV) transmits to the Council—

“(aa) all plans, reports, and other information required under this title to be submitted to the Secretary;

“(bb) all policies, and information on all practices and procedures, of general applicability provided to or used by rehabilitation personnel in carrying out this title; and

“(cc) copies of due process hearing decisions issued under this title, which shall be transmitted in such a manner as to ensure that the identity of the participants in the hearings is kept confidential.

“(B) MORE THAN 1 DESIGNATED STATE AGENCY.—In the case of a State that, under section 101(a)(2), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and designates a separate State agency to administer the rest of the State plan, the State shall either establish a State Rehabilitation Council for each of the 2 agencies that does not meet the requirements in subparagraph (A)(i), or establish 1 State Rehabilitation Council for both agencies if neither agency meets the requirements of subparagraph (A)(i).

“(22) SUPPORTED EMPLOYMENT STATE PLAN SUPPLEMENT.—The State plan shall include an assurance that the State has an acceptable plan for carrying out part C of title VI, including the use of funds under that part to supplement funds made available under part B of this title to pay for the cost of services leading to supported employment.

“(23) ELECTRONIC AND INFORMATION TECHNOLOGY REGULATIONS.—The State plan shall include an assurance that the State, and any recipient or subrecipient of funds made available to the State under this title—

“(A) will comply with the requirements of section 508, including the regulations established under that section; and

“(B) will designate an employee to coordinate efforts to comply with section 508 and will adopt grievance procedures that incorporate due process standards and provide for the prompt and equitable resolution of complaints concerning such requirements.

"(24) ANNUAL UPDATES.—The plan shall include an assurance that the State will submit to the Commissioner reports containing annual updates of the information required under paragraph (7) (relating to a comprehensive system of personnel development) and any other updates of the information required under this section that are requested by the Commissioner, and annual reports as provided in paragraphs (15) (relating to assessments, estimates, goals and priorities, and reports of progress) and (18) (relating to innovation and expansion), at such time and in such manner as the Secretary may determine to be appropriate.

"(b) APPROVAL; DISAPPROVAL OF THE STATE PLAN.—

"(1) APPROVAL.—The Commissioner shall approve any plan that the Commissioner finds fulfills the conditions specified in this section, and shall disapprove any plan that does not fulfill such conditions.

"(2) DISAPPROVAL.—Prior to disapproval of the State plan, the Commissioner shall notify the State of the intention to disapprove the plan and shall afford the State reasonable notice and opportunity for a hearing.

"SEC. 102. ELIGIBILITY AND INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.

"(a) ELIGIBILITY.—

"(1) CRITERION FOR ELIGIBILITY.—An individual is eligible for assistance under this title if the individual—

"(A) is an individual with a disability under section 7(20)(A); and

"(B) requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

"(2) PRESUMPTION OF BENEFIT.—

"(A) DEMONSTRATION.—For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(20)(A), unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

"(B) METHODS.—In making the demonstration required under subparagraph (A), the designated State unit shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, as described in section 7(2)(D), with appropriate supports provided through the designated State unit, except under limited circumstances when an individual can not take advantage of such experiences. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

"(3) PRESUMPTION OF ELIGIBILITY.—For purposes of this section, an individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be—

"(A) considered to be an individual with a significant disability under section 7(21)(A); and

"(B) presumed to be eligible for vocational rehabilitation services under this title (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual in accordance with paragraph (2).

"(4) USE OF EXISTING INFORMATION.—

"(A) IN GENERAL.—To the maximum extent appropriate and consistent with the requirements of this part, for purposes of determining the eligibility of an individual for vocational rehabilitation services under this title and developing the individualized rehabilitation employment plan described in subsection (b) for the individual, the designated State unit shall use information that is existing and current (as of the date of the determination of eligibility or of the development of the individualized rehabilitation employment plan), including information available from other programs and providers, particularly information used by education officials and the Social Security Administration, information provided by the individual and the family of the individual, and information obtained under the assessment for determining eligibility and vocational rehabilitation needs.

"(B) DETERMINATIONS BY OFFICIALS OF OTHER AGENCIES.—Determinations made by officials of other agencies, particularly education officials described in section 101(a)(11)(D), regarding whether an individual satisfies 1 or more factors relating to whether an individual is an individual with a disability under section 7(20)(A) or an individual with a significant disability under section 7(21)(A) shall be used, to the extent appropriate and consistent with the requirements of this part, in assisting the designated State unit in making such determinations.

"(C) BASIS.—The determination of eligibility for vocational rehabilitation services shall be based on—

"(i) the review of existing data described in section 7(2)(A)(i); and

"(ii) to the extent that such data is unavailable or insufficient for determining eligibility, the provision of assessment activities described in section 7(2)(A)(ii).

"(5) DETERMINATION OF INELIGIBILITY.—If an individual who applies for services under this title is determined, based on the review of existing data and, to the extent necessary, the assessment activities described in section 7(2)(A)(ii), not to be eligible for the services, or if an eligible individual receiving services under an individualized rehabilitation employment plan is determined to be no longer eligible for the services—

"(A) the ineligibility determination involved shall be made only after providing an opportunity for full consultation with the individual or, as appropriate, the individual's representative;

"(B) the individual or, as appropriate, the individual's representative, shall be informed in writing (supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual) of the ineligibility determination, including—

"(i) the reasons for the determination; and

"(ii) a description of the means by which the individual may express, and seek a remedy for, any dissatisfaction with the determination, including the procedures for review by an impartial hearing officer under subsection (c);

"(C) the individual shall be provided with a description of services available from the client assistance program under section 112 and information on how to contact that program; and

"(D) any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed—

"(i) within 12 months; and

"(ii) annually thereafter, if such a review is requested by the individual or, if appropriate, by the individual's representative.

"(6) TIMEFRAME FOR MAKING AN ELIGIBILITY DETERMINATION.—The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless—

"(A) exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or

"(B) the designated State unit is exploring an individual's abilities, capabilities, and capacity to perform in work situations under paragraph (2)(B).

"(b) DEVELOPMENT OF AN INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—

"(1) OPTIONS FOR DEVELOPING AN INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—If an individual is determined to be eligible for vocational rehabilitation services as described in subsection (a), the designated State unit shall complete the assessment for determining eligibility and vocational rehabilitation needs, as appropriate, and shall provide the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, with information on the individual's options for developing an individualized rehabilitation employment plan, including—

"(A) information on the availability of assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the individualized rehabilitation employment plan for the individual, and the availability of technical assistance in developing all or part of the individualized rehabilitation employment plan for the individual;

"(B) a description of the full range of components that shall be included in an individualized rehabilitation employment plan;

"(C) as appropriate—

"(i) an explanation of agency guidelines and criteria associated with financial commitments concerning an individualized rehabilitation employment plan;

"(ii) additional information the eligible individual requests or the designated State unit determines to be necessary; and

"(iii) information on the availability of assistance in completing designated State agency forms required in developing an individualized rehabilitation employment plan; and

"(D)(i) a description of the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsection (c); and

"(ii) a description of the availability of a client assistance program established pursuant to section 112 and information about how to contact the client assistance program.

"(2) MANDATORY PROCEDURES.—

"(A) WRITTEN DOCUMENT.—An individualized rehabilitation employment plan shall be a written document prepared on forms provided by the designated State unit.

"(B) INFORMED CHOICE.—An individualized rehabilitation employment plan shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services, consistent with subsection (d).

"(C) SIGNATORIES.—An individualized rehabilitation employment plan shall be—

"(i) agreed to, and signed by, such eligible individual or, as appropriate, the individual's representative; and

"(ii) approved and signed by a qualified vocational rehabilitation counselor employed by the designated State unit.

"(D) COPY.—A copy of the individualized rehabilitation employment plan for an eligible individual shall be provided to the individual or, as appropriate, to the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or, as appropriate, of the individual's representative.

"(E) REVIEW AND AMENDMENT.—The individualized rehabilitation employment plan shall be—

"(i) reviewed at least annually by—

"(I) a qualified vocational rehabilitation counselor; and

"(II) the eligible individual or, as appropriate, the individual's representative; and

"(ii) amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the designated State agency or a qualified vocational rehabilitation counselor employed by the designated State unit, if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative, and by a qualified vocational rehabilitation counselor employed by the designated State unit).

"(3) MANDATORY COMPONENTS OF AN INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—Regardless of the approach selected by an eligible individual to develop an individualized rehabilitation employment plan, an individualized rehabilitation employment plan shall, at a minimum, contain mandatory components consisting of—

"(A) a description of the specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting;

"(B)(i) a description of the specific vocational rehabilitation services that are—

"(I) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training in the management of such services; and

"(II) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the eligible individual; and

"(ii) timelines for the achievement of the employment outcome and for the initiation of the services;

"(C) a description of the entity chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure such services;

"(D) a description of criteria to evaluate progress toward achievement of the employment outcome;

"(E) the terms and conditions of the individualized rehabilitation employment plan, including, as appropriate, information describing—

"(i) the responsibilities of the designated State unit;

"(ii) the responsibilities of the eligible individual, including—

"(I) the responsibilities the eligible individual will assume in relation to the employment outcome of the individual;

"(II) if applicable, the participation of the eligible individual in paying for the costs of the plan; and

"(III) the responsibility of the eligible individual with regard to applying for and securing comparable benefits as described in section 101(a)(8); and

"(iii) the responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits requirements as described in section 101(a)(8);

"(F) for an eligible individual with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying—

"(i) the extended services needed by the eligible individual; and

"(ii) the source of extended services or, to the extent that the source of the extended services cannot be identified at the time of the development of the individualized rehabilitation employment plan, a description of the basis for concluding that there is a reasonable expectation that such source will become available; and

"(G) as determined to be necessary, a statement of projected need for post-employment services.

"(c) PROCEDURES.—

"(1) IN GENERAL.—Each State shall establish procedures for mediation of, and procedures for review through an impartial due process hearing of, determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services to applicants or eligible individuals.

"(2) NOTIFICATION.—

"(A) RIGHTS AND ASSISTANCE.—The procedures shall provide that an applicant or an eligible individual or, as appropriate, the applicant's representative or individual's representative shall be notified of—

"(i) the right to obtain review of determinations described in paragraph (1) in an impartial due process hearing under paragraph (5);

"(ii) the right to pursue mediation with respect to the determinations under paragraph (4); and

"(iii) the availability of assistance from the client assistance program under section 112.

"(B) TIMING.—Such notification shall be provided in writing—

"(i) at the time an individual applies for vocational rehabilitation services provided under this title;

"(ii) at the time the individualized rehabilitation employment plan for the individual is developed; and

"(iii) upon reduction, suspension, or cessation of vocational rehabilitation services for the individual.

"(3) EVIDENCE AND REPRESENTATION.—The procedures required under this subsection shall, at a minimum—

"(A) provide an opportunity for an applicant or an eligible individual, or, as appropriate, the applicant's representative or individual's representative, to submit at the mediation session or hearing evidence and information to support the position of the applicant or eligible individual; and

"(B) include provisions to allow an applicant or an eligible individual to be represented in the mediation session or hearing by a person selected by the applicant or eligible individual.

"(4) MEDIATION.—

"(A) PROCEDURES.—Each State shall ensure that procedures are established and implemented under this subsection to allow parties described in paragraph (1) to disputes involving any determination described in paragraph (1) to resolve such disputes through a mediation process that, at a minimum, shall be available whenever a hearing is requested under this subsection.

"(B) REQUIREMENTS.—Such procedures shall ensure that the mediation process—

"(i) is voluntary on the part of the parties;

"(ii) is not used to deny or delay the right of an individual to a hearing under this subsection, or to deny any other right afforded under this title; and

"(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

"(C) LIST OF MEDIATORS.—The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title, from which the mediators described in subparagraph (B) shall be selected.

"(D) COST.—The State shall bear the cost of the mediation process.

"(E) SCHEDULING.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

"(F) AGREEMENT.—An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

"(G) CONFIDENTIALITY.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

"(H) CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the parties to such a dispute from informally resolving the dispute prior to proceedings under this paragraph or paragraph (5), if the informal process used is not used to deny or delay the right of the applicant or eligible individual to a hearing under this subsection or to deny any other right afforded under this title.

"(5) HEARINGS.—

"(A) OFFICER.—A due process hearing described in paragraph (2) shall be conducted by an impartial hearing officer who shall issue a decision based on the provisions of the approved State plan, this Act (including regulations implementing this Act), and State regulations and policies that are consistent with the Federal requirements specified in this title. The officer shall provide the decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit.

“(B) List.—The designated State unit shall maintain a list of qualified impartial hearing officers who are knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title from which the officer described in subparagraph (A) shall be selected. For the purposes of maintaining such list, impartial hearing officers shall be identified jointly by—

“(i) the designated State unit; and

“(ii) members of the Council or commission, as appropriate, described in section 101(a)(21).

“(C) Selection.—Such an impartial hearing officer shall be selected to hear a particular case relating to a determination—

“(i) on a random basis; or

“(ii) by agreement between—

“(I) the Director of the designated State unit and the individual with a disability; or

“(II) in appropriate cases, the Director and the individual's representative.

“(D) Procedures for seeking review.—A State may establish procedures to enable a party involved in a hearing under this paragraph to seek an impartial review of the decision of the hearing officer under subparagraph (A) by—

“(i) the chief official of the designated State agency if the State has established both a designated State agency and a designated State unit under section 101(a)(2); or

“(ii) an official from the office of the Governor.

“(E) Review request.—If the State establishes impartial review procedures under subparagraph (D), either party may request the review of the decision of the hearing officer within 20 days after the decision.

“(F) Reviewing official.—The reviewing official described in subparagraph (D) shall—

“(i) in conducting the review, provide an opportunity for the submission of additional evidence and information relevant to a final decision concerning the matter under review;

“(ii) not overturn or modify the decision of the hearing officer, or part of the decision, that supports the position of the applicant or eligible individual unless the reviewing official concludes, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the approved State plan, this Act (including regulations implementing this Act) or any State regulation or policy that is consistent with the Federal requirements specified in this title; and

“(iii) make a final decision with respect to the matter in a timely manner and provide such decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit, including a full report of the findings and the grounds for such decision.

“(G) Finality of hearing decision.—A decision made after a hearing under subparagraph (A) shall be final, except that a party may request an impartial review if the State has established procedures for such review under subparagraph (D) and a party involved in a hearing may bring a civil action under subparagraph (J).

“(H) Finality of review.—A decision made under subparagraph (F) shall be final unless such a party brings a civil action under subparagraph (J).

“(I) Implementation.—If a party brings a civil action under subparagraph (J) to challenge a final decision of a hearing officer under subparagraph (A) or to challenge a final decision of a State reviewing official under subparagraph (F), the final decision involved shall be implemented pending review by the court.

“(J) Civil action.—

“(i) In general.—Any party aggrieved by a final decision described in subparagraph (I), may bring a civil action for review of such decision. The action may be brought in any State court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy.

“(ii) Procedure.—In any action brought under this subparagraph, the court—

“(I) shall receive the records relating to the hearing under subparagraph (A) and the records relating to the State review under subparagraphs (D) through (F), if applicable;

“(II) shall hear additional evidence at the request of a party to the action; and

“(III) basing the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

“(6) Hearing board.—

“(A) In general.—A fair hearing board, established by a State before January 1, 1985, and authorized under State law to review determinations or decisions under this Act, is authorized to carry out the responsibilities of the impartial hearing officer under this subsection.

“(B) Application.—The provisions of paragraphs (1), (2), and (3) that relate to due process hearings do not apply, and paragraph (5) (other than subparagraph (J)) does not apply, to any State to which subparagraph (A) applies.

“(7) Impact on provision of services.—Unless the individual with a disability so requests, or, in an appropriate case, the individual's representative, so requests, pending a decision by a mediator, hearing officer, or reviewing officer under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided for the individual, including evaluation and assessment services and plan development, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual, or the individual's representative.

“(8) Information collection and report.—

“(A) In general.—The Director of the designated State unit shall collect information described in subparagraph (B) and prepare and submit to the Commissioner a report containing such information. The Commissioner shall prepare a summary of the information furnished under this paragraph and include the summary in the annual report submitted under section 13. The Commissioner shall also collect copies of the final decisions of impartial hearing officers conducting hearings under this subsection and State officials conducting reviews under this subsection.

“(B) Information.—The information required to be collected under this subsection includes—

“(i) a copy of the standards used by State reviewing officials for reviewing decisions made by impartial hearing officers under this subsection;

“(ii) information on the number of hearings and reviews sought from the impartial hearing officers and the State reviewing officials, including the type of complaints and the issues involved;

“(iii) information on the number of hearing decisions made under this subsection that were not reviewed by the State reviewing officials; and

“(iv) information on the number of the hearing decisions that were reviewed by the State reviewing officials, and, based on such reviews, the number of hearing decisions that were—

“(I) sustained in favor of an applicant or eligible individual;

“(II) sustained in favor of the designated State unit;

“(III) reversed in whole or in part in favor of the applicant or eligible individual; and

“(IV) reversed in whole or in part in favor of the designated State unit.

“(C) Confidentiality.—The confidentiality of records of applicants and eligible individuals maintained by the designated State unit shall not preclude the access of the Commissioner to those records for the purposes described in subparagraph (A).

“(d) Policies and Procedures.—Each designated State agency, in consultation with the State Rehabilitation Council, if the State has such a council, shall, consistent with section 100(a)(3)(C), develop and implement written policies and procedures that enable each individual who is an applicant for or eligible to receive vocational rehabilitation services under this title to exercise informed choice throughout the vocational rehabilitation process carried out under this title, including policies and procedures that require the designated State agency—

“(1) to inform each such applicant and eligible individual (including students with disabilities described in section 101(a)(11)(D)(ii)(II) who are making the transition from programs under the responsibility of an educational agency to programs under the responsibility of the designated State unit), through appropriate modes of communication, about the availability of, and opportunities to exercise, informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice, throughout the vocational rehabilitation process;

“(2) to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services under this title;

“(3) to develop and implement flexible procurement policies and methods that facilitate the provision of services, and that afford eligible individuals meaningful choices among the methods used to procure services, under this title;

“(4) to provide or assist eligible individuals in acquiring information that enables those individuals to exercise informed choice under this title in the selection of—

“(A) the employment outcome;

“(B) the specific vocational rehabilitation services needed to achieve the employment outcome;

“(C) the entity that will provide the services;

“(D) the employment setting and the settings in which the services will be provided; and

“(E) the methods available for procuring the services; and

“(5) to ensure that the availability and scope of informed choice provided under this section is consistent with the obligations of the designated State agency under this title.

“SEC. 103. VOCATIONAL REHABILITATION SERVICES.

“(a) Vocational Rehabilitation Services for Individuals.—Vocational rehabilitation services provided under this title are any services described in an individualized rehabilitation employment plan necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including—

"(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

"(2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d);

"(3) referral and other services to secure needed services from other agencies through agreements developed under section 101(b)(11), if such services are not available under this title;

"(4) job-related services, including job search and placement assistance, job retention services, followup services, and follow-along services;

"(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;

"(6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 101(a)(8)(A)), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including—

"(A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

"(B) necessary hospitalization in connection with surgery or treatment;

"(C) prosthetic and orthotic devices;

"(D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;

"(E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

"(F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;

"(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized rehabilitation employment plan;

"(8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;

"(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

"(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;

"(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

"(12) occupational licenses, tools, equipment, and initial stocks and supplies;

"(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided under the statewide workforce investment system, to eligible individuals who are pursuing self-employment or establishing a small business operation as an employment outcome;

"(14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

"(15) transition services for students with disabilities described in section 101(a)(11)(D)(ii)(II), that facilitate the achievement of the employment outcome identified in the individualized rehabilitation employment plan;

"(16) supported employment services;

"(17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and

"(18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

"(b) Vocational Rehabilitation Services for Groups of Individuals.—Vocational rehabilitation services provided for the benefit of groups of individuals with disabilities may also include the following:

"(1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.

"(2) The establishment, development, or improvement of community rehabilitation programs, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized rehabilitation employment plan of any 1 individual with a disability. Such programs shall be used to provide services that promote integration and competitive employment.

"(3) The use of telecommunications systems (including telephone, television, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities.

"(4)(A) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media.

"(B) Captioned television, films, or video cassettes for individuals who are deaf or hard of hearing.

"(C) Tactile materials for individuals who are deaf-blind.

"(D) Other special services that provide information through tactile, vibratory, auditory, and visual media.

"(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.

"(6) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities described in section 101(a)(11)(D)(i) from school to post-school activities, including employment.

"SEC. 104. NON-FEDERAL SHARE FOR ESTABLISHMENT OF PROGRAM.

"For the purpose of determining the amount of payments to States for carrying out part B of this title (or to an Indian tribe under part C), the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of establishment of a community rehabilitation program, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to establishment of such a program.

"SEC. 105. STATE REHABILITATION COUNCIL.

"(a) Establishment.—

"(1) In general.—Except as provided in section 101(a)(21)(A)(i), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Council (referred to in this section as the 'Council') in accordance with this section.

"(2) Separate agency for individuals who are blind.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(2)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

"(b) Composition and Appointment.—

"(1) Composition.—

"(A) In general.—Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

"(i) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

"(ii) at least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17);

"(iii) at least one representative of the client assistance program established under section 112;

"(iv) at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

"(v) at least one representative of community rehabilitation program service providers;

"(vi) four representatives of business, industry, and labor;

"(vii) representatives of disability advocacy groups representing a cross section of—

"(I) individuals with physical, cognitive, sensory, and mental disabilities; and

"(II) individuals' representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

"(viii) current or former applicants for, or recipients of, vocational rehabilitation services;

"(ix) in a State in which one or more projects are carried out under section 121, at least one representative of the directors of the projects;

"(x) at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this title and part B of the Individuals with Disabilities Education Act; and

"(xi) at least one representative of the statewide workforce investment partnership.

"(B) SEPARATE COUNCIL.—In the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

"(i) at least one representative described in subparagraph (A)(i);

"(ii) at least one representative described in subparagraph (A)(ii);

"(iii) at least one representative described in subparagraph (A)(iii);

"(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

"(v) at least one representative described in subparagraph (A)(v);

"(vi) four representatives described in subparagraph (A)(vi);

"(vii) at least one representative of a disability advocacy group representing individuals who are blind;

"(viii) at least one individual's representative, of an individual who—

"(I) is an individual who is blind and has multiple disabilities; and

"(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself;

"(ix) applicants or recipients described in subparagraph (A)(viii);

"(x) in a State described in subparagraph (A)(ix), at least one representative described in such subparagraph;

"(xi) at least one representative described in subparagraph (A)(x); and

"(xii) at least one representative described in subparagraph (A)(xi).

"(C) EXCEPTION.—In the case of a separate Council established under subsection (a)(2), any Council that is required by State law, as in effect on the date of enactment of the Rehabilitation Act Amendments of 1992, to have fewer than 15 members shall be deemed to be in compliance with subparagraph (B) if the Council—

"(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

"(ii) includes at least—

"(I) one representative described in subparagraph (B)(vi); and

"(II) one applicant or recipient described in subparagraph (B)(ix).

"(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio, nonvoting member of the Council.

"(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

"(4) QUALIFICATIONS.—A majority of Council members shall be persons who are—

"(A) individuals with disabilities described in section 7(20)(A); and

"(B) not employed by the designated State unit.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the chief executive officer does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council, other than a representative described in clause (iii) or (ix) of paragraph (1)(A), or clause (iii) or (x) of paragraph (1)(B), may serve more than two consecutive full terms.

"(7) VACANCIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(B) DELEGATION.—The Governor may delegate the authority to fill such a vacancy to the remaining members of the Council after making the original appointment.

"(c) FUNCTIONS OF COUNCIL.—The Council shall, after consulting with the statewide workforce investment partnership—

"(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

"(A) eligibility (including order of selection);

"(B) the extent, scope, and effectiveness of services provided; and

"(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes under this title;

"(2) in partnership with the designated State unit—

"(A) develop, agree to, and review State goals and priorities in accordance with section 101(a)(15)(C); and

"(B) evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Commissioner in accordance with section 101(a)(15)(E);

"(3) advise the designated State agency and the designated State unit regarding activities authorized to be carried out under this title, and assist in the preparation of the State plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by this title;

"(4) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

"(A) the functions performed by the designated State agency;

"(B) vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under this Act; and

"(C) employment outcomes achieved by eligible individuals receiving services under this title, including the availability of health and other employment benefits in connection with such employment outcomes;

"(5) prepare and submit an annual report to the Governor and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

"(6) to avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities of other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 612(a)(21) of the Individual with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17), the State Developmental Disabilities Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), the State mental health planning council established under section 1914(a) of the Public Health Service Act (42 U.S.C. 300x–4(a)), and the statewide workforce investment partnership;

"(7) provide for coordination and the establishment of working relationships between the designated State agency and the Statewide Independent Living Council and centers for independent living within the State; and

"(8) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

"(d) RESOURCES.—

"(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor consistent with paragraph (1).

"(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

"(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

"(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

"(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

"(g) COMPENSATION AND EXPENSES.—The Council may use funds allocated to the Council by the designated State unit under this title (except for funds appropriated to carry out the client assistance program under section 112 and funds reserved pursuant to section 110(c) to carry out part C) to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

"(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT OF STANDARDS AND INDICATORS.—The Commissioner shall, not later than September 30, 1998, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program carried out under this title.

"(B) REVIEW AND REVISION.—Effective September 30, 1998, the Commissioner shall review and, if necessary, revise the evaluation standards and performance indicators every 3 years. Any revisions of the standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. Any revisions of the standards and indicators shall be subject to the publication, review, and comment provisions of paragraph (3).

"(C) BASES.—Effective July 1, 1999, to the maximum extent practicable, the standards and indicators shall be consistent with the core indicators of performance established under section 321(b) of the Workforce Investment Partnership Act of 1998.

"(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate the accomplishment of the purpose and policy of this title.

"(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

"(b) COMPLIANCE.—

"(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

"(2) PROGRAM IMPROVEMENT.—

"(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State, and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

"(B) REVIEW.—The Commissioner shall—

"(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

"(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

"(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

"(d) REPORT TO CONGRESS.—Beginning in fiscal year 1999, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.

"SEC. 107. MONITORING AND REVIEW.

"(a) IN GENERAL.—

"(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

"(A) provide for the annual review and periodic onsite monitoring of programs under this title; and

"(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

"(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

"(A) State policies and procedures;

"(B) guidance materials;

"(C) decisions resulting from hearings conducted in accordance with due process;

"(D) State goals established under section 101(a)(15) and the extent to which the State has achieved such goals;

"(E) plans and reports prepared under section 106(b);

"(F) consumer satisfaction reviews and analyses described in section 105(c)(4);

"(G) information provided by the State Rehabilitation Council established under section 105, if the State has such a Council, or by the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

"(H) reports; and

"(I) budget and financial management data.

"(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

"(A) onsite visits, including onsite reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 101(a)(5)(A);

"(B) public hearings and other strategies for collecting information from the public;

"(C) meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

"(D) reviews of individual case files, including individualized rehabilitation employment plans and ineligibility determinations; and

"(E) meetings with rehabilitation counselors and other personnel.

"(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

"(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) whether the personnel evaluation system described in section 101(a)(7)(A)(iv) facilitates the accomplishments of the program;

"(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission; and

"(E) such other areas of inquiry as the Commissioner may consider appropriate.

"(5) REPORTS.—If the Commissioner issues a report detailing the findings of an annual review or onsite monitoring conducted under this section, the report shall be made available to the State Rehabilitation Council, if the State has such a Council.

"(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

"(1) provide technical assistance to programs under this title regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

"(c) FAILURE TO COMPLY WITH PLAN.—

"(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

"(2) Period.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) Disbursal of withheld funds.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

"(d) Review.—

"(1) Petition.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) Submissions and determinations.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3) Standards of review.—

"(A) In general.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

"(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

"(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) Substantial evidence.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).

"SEC. 108. EXPENDITURE OF CERTAIN AMOUNTS.

"(a) Expenditure.—Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part C of title VI, or under title VII.

"(b) Amounts.—The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.

"SEC. 109. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.

"A State may expend payments received under section 111—

"(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

"(2) to inform employers of the existence of the program and the availability of the services of the program.

"Part B—Basic Vocational Rehabilitation Services

"State allotments

"Sec. 110. (a)(1) Subject to the provisions of subsection (c), for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of—

"(A) the population of the State; and

"(B) the square of its allotment percentage,

bears to the sum of the corresponding products for all the States.

"(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

"(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 100(b)(1) for allotment under this section in excess of the amount appropriated under section 100(b)(1)(A) for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

"(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and

"(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

"(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands) under this subsection for any fiscal year which is less than one-third of 1 percent of the amount appropriated under section 100(b)(1), or $3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.

"(b)(1) Not later than forty-five days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

"(2) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall make such amount available for carrying out the purposes of this title to one or more other States to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes. The Commissioner shall make such amount available only if such other State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

"(3) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

"(c)(1) For fiscal year 1987 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 100(b)(1) for allotment under this section a sum, determined under paragraph (2), to carry out the purposes of part C.

"(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

"(A) not less than three-quarters of 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for fiscal year 1998; and

"(B) not less than 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for each of fiscal years 1999 through 2004.

"Payments to States

"Sec. 111. (a)(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 101, including expenditures for the administration of the State plan.

"(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a) of section 110 for such year.

"(B) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year.

"(C) The Commissioner may waive or modify any requirement or limitation under paragraphs (A) and (B) if the Commissioner determines that a waiver or modification is an equitable response to exceptional or uncontrollable circumstances affecting the State.

"(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

"(1) The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by the Commissioner, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Commissioner may find necessary.

"(2) The Commissioner shall pay, from the allotment available therefor, the amount so estimated by the Commissioner for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which the Commissioner finds that the estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Commissioner may determine.

"CLIENT ASSISTANCE PROGRAM

"SEC. 112. (a) From funds appropriated under subsection (h), the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this Act, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and services provided under this Act, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this Act and to facilitate access to the services funded under this Act through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

"(b) No State may receive payments from its allotment under this Act in any fiscal year unless the State has in effect not later than October 1, 1984, a client assistance program which—

"(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this Act within the State; and

"(2) meets the requirements of designation under subsection (c).

"(c)(1)(A) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this subparagraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this Act. If there is an agency in the State which has, or had, prior to the date of enactment of the Rehabilitation Amendments of 1984, served as a client assistance agency under this section and which received Federal financial assistance under this Act, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

"(B)(i) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

"(I) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

"(II) individuals with disabilities or the individuals' representatives have timely notice of the redesignation and opportunity for public comment; and

"(III) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.

"(ii) If, after the date of enactment of the Rehabilitation Act Amendments of 1998—

"(I) a designated State agency undergoes any change in the organizational structure of the agency that results in the creation of 1 or more new State agencies or departments or results in the merger of the designated State agency with 1 or more other State agencies or departments; and

"(II) an agency (including an office or other unit) within the designated State agency was conducting a client assistance program before the change under the last sentence of subparagraph (A),

the Governor shall redesignate the agency conducting the program. In conducting the redesignation, the Governor shall designate to conduct the program an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

"(2) In carrying out the provisions of this section, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving individuals with disabilities in the State.

"(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

"(d) The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

"(e)(1)(A) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than $50,000.

"(B) The Secretary shall allot $30,000 each to American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(C) For the purpose of this paragraph, the term 'State' does not include American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed $7,500,000, the minimum allotment shall be $100,000 for States and $45,000 for territories.

"(ii) For any fiscal year in which the total amount appropriated under subsection (h) exceeds the total amount appropriated under such subsection for the preceding fiscal year, the Secretary shall increase each of the minimum allotments under clause (i) by a percentage that shall not exceed the percentage increase in the total amount appropriated under such subsection between the preceding fiscal year and the fiscal year involved.

"(2) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary at appropriate times to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period, and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any such amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

"(3) Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay to the agency designated under subsection (c) the amount specified in the application approved under subsection (f).

"(f) No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

"(g) The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:

"(1) No employees of such programs shall, while so employed, serve as staff or consultants of any rehabilitation project, program, or facility receiving assistance under this Act in the State.

"(2) Each program shall be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.

"(3)(A) Each program shall contain provisions designed to assure that to the maximum extent possible alternative means of dispute resolution are available for use at the discretion of an applicant or client of the program prior to resorting to litigation or formal adjudication to resolve a dispute arising under this section.

"(B) In subparagraph (A), the term 'alternative means of dispute resolution' means any procedure, including good faith negotiation, conciliation, facilitation, mediation, factfinding, and arbitration, and any combination of procedures, that is used in lieu of litigation in a court or formal adjudication in an administrative forum, to resolve a dispute arising under this section.

"(4) For purposes of any periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(h) There are authorized to be appropriated such sums as may be necessary for fiscal years 1998 through 2004 to carry out the provisions of this section.

"PART C—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"VOCATIONAL REHABILITATION SERVICES GRANTS

"SEC. 121. (a) The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of vocational rehabilitation services for American Indians who are individuals with disabilities residing on such reservations. The non-Federal share of such costs may be in cash or in kind, fairly valued, and the Commissioner may waive such non-Federal share requirement in order to carry out the purposes of this Act.

"(b)(1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

"(A) is made at such time, in such manner, and contains such information as the Commissioner may require;

"(B) contains assurances that the rehabilitation services provided under this part to American Indians who are individuals with disabilities residing on a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other individuals with disabilities residing in the State and that, where appropriate, may include services traditionally used by Indian tribes; and

"(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

"(2) The provisions of sections 5, 6, 7, and 102(a) of the Indian Self-Determination and Education Assistance Act shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Education or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

"(3) Any application approved under this part shall be effective for not more than 60 months, except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).

"(4) In making grants under this part, the Secretary shall give priority consideration to applications for the continuation of programs which have been funded under this part.

"(5) Nothing in this section may be construed to authorize a separate service delivery system for Indian residents of a State who reside in non-reservation areas.

"(c) The term 'reservation' includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

"PART D—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

"SEC. 131. DATA SHARING.

"(a) IN GENERAL.—

"(1) MEMORANDUM OF UNDERSTANDING.—The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purposes of exchanging data of mutual importance—

"(A) that concern clients of designated State agencies; and

"(B) that are data maintained either by—

"(i) the Rehabilitation Services Administration, as required by section 13; or

"(ii) the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records.

"(2) LABOR MARKET INFORMATION.—The Secretary of Labor shall provide the Commissioner with labor market information that facilitates evaluation by the Commissioner of the program carried out under part B, and allows the Commissioner to compare the progress of individuals with disabilities who are assisted under the program in securing, retaining, regaining, and advancing in employment with the progress made by individuals who are assisted under title III of the Workforce Investment Partnership Act of 1998.

"(b) TREATMENT OF INFORMATION.—For purposes of the exchange described in subsection (a)(1), the data described in subsection (a)(1)(B)(ii) shall not be considered return information (as defined in section 6103(b)(2) of the Internal Revenue Code of 1986) and, as appropriate, the confidentiality of all client information shall be maintained by the Rehabilitation Services Administration and the Social Security Administration.".

SEC. 605. RESEARCH AND TRAINING.

Title II of the Rehabilitation Act of 1973 (29 U.S.C. 760 et seq.) is amended to read as follows:

"TITLE II—RESEARCH AND TRAINING

"DECLARATION OF PURPOSE

"SEC. 200. The purpose of this title is to—

"(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

"(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the 5-year plan developed under section 202(h);

"(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

"(A) the procurement process for the purchase of rehabilitation technology;

"(B) the utilization of rehabilitation technology on a national basis;

"(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently; and

"(D) the development or transfer of assistive technology;

"(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

"(A) generated by research, demonstration projects, training, and related activities; and

"(B) regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities,

to rehabilitation professionals, individuals with disabilities, and other interested parties, including the general public;

"(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in employment, including employment involving telecommuting and self-employment; and

"(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 201. (a) There are authorized to be appropriated—

"(1) for the purpose of providing for the expenses of the National Institute on Disability and Rehabilitation Research under section 202, which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204, such sums as may be necessary for each of fiscal years 1998 through 2004; and

"(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1998 through 2004.

"(b) Funds appropriated under this title shall remain available until expended.

"NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH

"SEC. 202. (a)(1) There is established within the Department of Education a National Institute on Disability and Rehabilitation Research (hereinafter in this title referred to as the 'Institute'), which shall be headed by a Director (hereinafter in this title referred to as the 'Director'), in order to—

"(A) promote, coordinate, and provide for—

"(i) research;

"(ii) demonstration projects and training; and

"(iii) related activities,

with respect to individuals with disabilities;

"(B) more effectively carry out activities through the programs under section 204 and activities under this section;

"(C) widely disseminate information from the activities described in subparagraphs (A) and (B); and

"(D) provide leadership in advancing the quality of life of individuals with disabilities.

"(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).

"(b) The Director, through the Institute, shall be responsible for—

"(1) administering the programs described in section 204 and activities under this section;

"(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, training, and related activities (referred to in this title as 'covered activities') funded by the Institute, to—

"(A) other Federal, State, tribal, and local public agencies;

"(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(C) rehabilitation practitioners; and

"(D) individuals with disabilities and the individuals' representatives;

"(3) coordinating, through the Interagency Committee established by section 203 of this Act, all Federal programs and policies relating to research in rehabilitation;

"(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

"(A) public and private entities, including—

"(i) elementary and secondary schools (as defined in section 14101 of the Elementary and Secondary Education Act of 1965; and

"(ii) institutions of higher education;

"(B) rehabilitation practitioners;

"(C) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this Act); and

"(D) the individuals' representatives for the individuals described in subparagraph (C);

"(5)(A) conducting an education program to inform the public about ways of providing for the rehabilitation of individuals with disabilities, including information relating to—

"(i) family care;

"(ii) self-care; and

"(iii) assistive technology devices and assistive technology services; and

"(B) as part of the program, disseminating engineering information about assistive technology devices;

"(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology (including advances concerning the selection and use of assistive technology devices and assistive technology services), pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;

"(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title, including dissemination activities;

"(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Health Care Financing Administration, the Social Security Administration, the Bureau of Indian Affairs, the Indian Health Service, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of individuals with disabilities, including information on individuals with disabilities who live in rural or inner-city settings, with particular attention given to underserved populations, and widely disseminating such reports and studies to rehabilitation professionals, individuals with disabilities, the individuals' representatives, and others to assist in the planning, assessment, and evaluation of vocational and other rehabilitation services for individuals with disabilities;

"(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

"(10) conducting research to examine the relationship between the provision of specific services and successful, sustained employment outcomes, including employment outcomes involving self-employment; and

"(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).

"(c)(1) The Director, acting through the Institute or 1 or more entities funded by the Institute, shall provide for the development and dissemination of models to address consumer-driven information needs related to assistive technology devices and assistive technology services.

"(2) The development and dissemination of models may include—

"(A) convening groups of individuals with disabilities, family members and advocates of such individuals, commercial producers of assistive technology, and entities funded by the Institute to develop, assess, and disseminate knowledge about information needs related to assistive technology;

"(B) identifying the types of information regarding assistive technology devices and assistive technology services that individuals with disabilities find especially useful;

"(C) evaluating current models, and developing new models, for transmitting the information described in subparagraph (B) to consumers and to commercial producers of assistive technology; and

"(D) disseminating through 1 or more entities funded by the Institute, the models described in subparagraph (C) and findings regarding the information described in subparagraph (B) to consumers and commercial producers of assistive technology.

"(d)(1) The Director of the Institute shall be appointed by the Secretary. The Director shall be an individual with substantial experience in rehabilitation and in research administration. The Director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Director shall not delegate any of his functions to any officer who is not directly responsible to the Director.

"(2) There shall be a Deputy Director of the Institute (referred to in this section as the 'Deputy Director') who shall be appointed by the Secretary. The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration. The Deputy Director shall be compensated at the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, and shall act for the Director during the absence of the Director or the inability of the Director to perform the essential functions of the job, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be a Senior Executive Service position, as defined in section 3132 of title 5, United States Code.

"(3) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director determines to be necessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions, in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

"(4) The Director may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(e) The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Director considers necessary to procure the assistance of highly qualified research fellows, including individuals with disabilities, from the United States and foreign countries.

"(f)(1) The Director shall, pursuant to regulations that the Secretary shall prescribe, provide for scientific peer review of all applications for financial assistance for research, training, and demonstration projects over which the Director has authority. The Director shall provide for the review by utilizing, to the maximum extent possible, appropriate peer review panels established within the Institute. The panels shall be standing panels if the grant period involved or the duration of the program involved is not more than 3 years. The panels shall be composed of individuals who are not Federal employees, who are scientists or other experts in the rehabilitation field (including the independent living field), including knowledgeable individuals with disabilities, and the individuals' representatives, and who are competent to review applications for the financial assistance.

"(2) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panels.

"(3) The Director shall solicit nominations for such panels from the public and shall publish the names of the individuals selected. Individuals comprising each panel shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review.

"(4) In providing for such scientific peer review, the Secretary shall provide for training, as necessary and appropriate, to facilitate the effective participation of those individuals selected to participate in such review.

"(g) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.

"(h)(1) The Director shall—

"(A) by October 1, 1998 and every fifth October 1 thereafter, prepare and publish in the Federal Register for public comment a draft of a 5-year plan that outlines priorities for rehabilitation research, demonstration projects, training, and related activities and explains the basis for such priorities;

"(B) by June 1, 1999, and every fifth June 1 thereafter, after considering public comments, submit the plan in final form to the appropriate committees of Congress;

"(C) at appropriate intervals, prepare and submit revisions in the plan to the appropriate committees of Congress; and

"(D) annually prepare and submit progress reports on the plan to the appropriate committees of Congress.

"(2) Such plan shall—

"(A) identify any covered activity that should be conducted under this section and section 204 respecting the full inclusion and integration into society of individuals with disabilities, especially in the area of employment;

"(B) determine the funding priorities for covered activities to be conducted under this section and section 204;

"(C) specify appropriate goals and timetables for covered activities to be conducted under this section and section 204;

"(D) be developed by the Director—

"(i) after consultation with the Rehabilitation Research Advisory Council established under section 205;

"(ii) in coordination with the Commissioner;

"(iii) after consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Interagency Committee on Disability Research established under section 203; and

"(iv) after full consideration of the input of individuals with disabilities and the individuals' representatives, organizations representing individuals with disabilities, providers of services furnished under this Act, researchers in the rehabilitation field, and any other persons or entities the Director considers to be appropriate;

"(E) specify plans for widespread dissemination of the results of covered activities, in accessible formats, to rehabilitation practitioners, individuals with disabilities, and the individuals' representatives; and

"(F) specify plans for widespread dissemination of the results of covered activities that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs carried out under this Act.

"(i) In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 203, regarding the design of research projects conducted by such entities and the results and applications of such research.

"(j)(1) The Director shall take appropriate actions to provide for a comprehensive and coordinated research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult, through the Interagency Committee established by section 203, with the Director as Chairperson of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

"(2) Any person responsible for administering any program of the National Institutes of Health, the Department of Veterans Affairs, the National Science Foundation, the National Aeronautics and Space Administration, the Office of Special Education and Rehabilitative Services, or of any other Federal entity, shall, through the Interagency Committee established by section 203, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this title.

"(k) The Director shall make grants to institutions of higher education for the training of rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act.

"INTERAGENCY COMMITTEE

"SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Disability Research (hereinafter in this section referred to as the 'Committee'), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services, the Secretary of Education, the Secretary of Veterans Affairs, the Director of the National Institutes of Health, the Director of the National Institute of Mental Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Director of the Indian Health Service, and the Director of the National Science Foundation.

"(2) The Committee shall meet not less than four times each year.

"(b) After receiving input from individuals with disabilities and the individuals' representatives, the Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of individuals with disabilities.

"(c) The Committee shall annually submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of individuals with disabilities.

"RESEARCH AND OTHER COVERED ACTIVITIES

"SEC. 204. (a)(1) To the extent consistent with priorities established in the 5-year plan described in section 202(h), the Director may make grants to and contracts with States and public or private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to pay part of the cost of projects for the purpose of planning and conducting research, demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most significant disabilities, and improve the effectiveness of services authorized under this Act.

"(2)(A) In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, V, VI, and VII, including projects addressing the needs described in the State plans submitted under section 101 or 704 by State agencies.

"(B) Such projects, as described in the State plans submitted by State agencies, may include—

"(i) medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, including basic research where related to rehabilitation techniques or services;

"(ii) studies and analysis of industrial, vocational, social, recreational, psychiatric, psychological, economic, and other factors affecting rehabilitation of individuals with disabilities;

"(iii) studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized;

"(iv) studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of individuals with disabilities;

"(v) studies, analyses, and other activities related to supported employment;

"(vi) related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of individuals with disabilities and individuals with the most significant disabilities, particularly individuals with disabilities, and individuals with the most significant disabilities, who are members of populations that are unserved or underserved by programs under this Act; and

"(vii) studies, analyses, and other activities related to job accommodations, including the use of rehabilitation engineering and assistive technology.

"(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the research or other specialized covered activities described in paragraphs (2) through (18). A research grant made under any of paragraphs (2) through (18) may only be used in a manner consistent with priorities established in the 5-year plan described in section 202(h).

"(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which Centers shall—

"(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

"(ii) serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the individuals' representatives.

"(B) The Centers shall conduct research and training activities by—

"(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities, especially promoting the ability of the individuals to prepare for, secure, retain, regain, or advance in employment;

"(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

"(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

"(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the individuals' representatives, through conferences, workshops, public education programs, in-service training programs, and similar activities.

"(C) The research to be carried out at each such Center may include—

"(i) basic or applied medical rehabilitation research;

"(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

"(iii) research related to vocational rehabilitation;

"(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

"(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

"(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

"(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

"(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

"(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

"(G) Grants made under this paragraph may be used to provide faculty support for teaching—

"(i) rehabilitation-related courses of study for credit; and

"(ii) other courses offered by the Centers, either directly or through another entity.

"(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

"(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

"(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

"(K) To be eligible to receive a grant under this paragraph, each such institution or provider described in subparagraph (A) shall—

"(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

"(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

"(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(N) In conducting scientific peer review under section 202(f) of an application for the renewal of a grant made under this paragraph, the peer review panel shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the individuals' representatives.

"(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

"(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

"(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

"(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

"(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

"(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

"(ii) demonstrating and disseminating—

"(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

"(II) other scientific research to assist in meeting the employment and independent living needs of individuals with significant disabilities; or

"(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

"(I) consumer responsive and individual and family-centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

"(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with significant disabilities.

"(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with programs established under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the individuals' representatives to—

"(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

"(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

"(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

"(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

"(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

"(I) Early childhood services, including early intervention and family support.

"(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

"(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and title V.

"(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills, and activities of daily living.

"(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the individuals' representatives.

"(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(G) Each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.); and

"(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program of the Center in terms of both short- and long-term impact on the lives of individuals with disabilities, and such other information as may be requested by the Director.

"(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

"(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the individuals' representatives, and organizations receiving financial assistance under this paragraph;

"(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

"(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

"(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

"(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost-effectiveness of, such a regional system;

"(iii) demonstrate and evaluate existing, new, and improved methods and rehabilitation technology essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

"(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.

"(5) Research grants may be used to conduct a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals with such disease and which will—

"(A) ensure dissemination of research findings;

"(B) provide encouragement and support for initiatives and new approaches by individuals and institutional investigators; and

"(C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts,

in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease. No person shall be selected to participate in such program who is eligible for services for such disease under any other provision of law.

"(6) Research grants may be used to conduct a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of individuals with disabilities in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of individuals with disabilities, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of individuals with disabilities with other nations as a means of increasing the levels of skill of rehabilitation personnel.

"(7) Research grants may be used to conduct a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of individuals with disabilities.

"(8) Research grants may be used to conduct a program of joint projects with the National Institutes of Health, the National Institute of Mental Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Department of Health and Human Services, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

"(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.

"(10) Research grants may be used to conduct a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of individuals with disabilities, including individuals with significant disabilities.

"(11) Research grants may be used to conduct a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to individuals who are deaf or hard of hearing captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programing.

"(12) Research grants may be used to conduct a model research and demonstration program to develop innovative methods of providing services for preschool age children who are individuals with disabilities, including—

"(A) early intervention, assessment, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of children who are individuals with significant disabilities up to the age of five, with a special emphasis on children who are individuals with significant disabilities up to the age of three;

"(B) such physical therapy, language development, pediatric, nursing, psychological, and psychiatric services as are necessary for such children; and

"(C) appropriate services for the parents of such children, including psychological and psychiatric services, parent counseling, and training.

"(13) Research grants may be used to conduct a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and addressing the employment needs of individuals with disabilities, including programs that—

"(A) provide training and continuing education for personnel involved with the employment of individuals with disabilities;

"(B) develop model procedures for testing and evaluating the employment needs of individuals with disabilities;

"(C) develop model training programs to teach individuals with disabilities skills which will lead to appropriate employment;

"(D) develop new approaches for job placement of individuals with disabilities, including new followup procedures relating to such placement;

"(E) provide information services regarding education, training, employment, and job placement for individuals with disabilities; and

"(F) develop new approaches and provide information regarding job accommodations, including the use of rehabilitation engineering and assistive technology.

"(14) Research grants may be used to conduct a rehabilitation research program under which financial assistance is provided in order to—

"(A) test new concepts and innovative ideas;

"(B) demonstrate research results of high potential benefits;

"(C) purchase prototype aids and devices for evaluation;

"(D) develop unique rehabilitation training curricula; and

"(E) be responsive to special initiatives of the Director.

No single grant under this paragraph may exceed $50,000 in any fiscal year and all payments made under this paragraph in any fiscal year may not exceed 5 percent of the amount available for this section to the National Institute on Disability and Rehabilitation Research in any fiscal year. Regulations and administrative procedures with respect to financial assistance under this paragraph shall, to the maximum extent possible, be expedited.

"(15) Research grants may be used to conduct studies of the rehabilitation needs of American Indian populations and of effective mechanisms for the delivery of rehabilitation services to Indians residing on and off reservations.

"(16) Research grants may be used to conduct a demonstration program under which one or more projects national in scope shall be established to develop procedures to provide incentives for the development, manufacturing, and marketing of orphan technological devices, including technology transfer concerning such devices, designed to enable individuals with disabilities to achieve independence and access to gainful employment.

"(17)(A) Research grants may be used to conduct a research program related to quality assurance in the area of rehabilitation technology.

"(B) Activities carried out under the research program may include—

"(i) the development of methodologies to evaluate rehabilitation technology products and services and the dissemination of the methodologies to consumers and other interested parties;

"(ii) identification of models for service provider training and evaluation and certification of the effectiveness of the models;

"(iii) identification and dissemination of outcome measurement models for the assessment of rehabilitation technology products and services; and

"(iv) development and testing of research-based tools to enhance consumer decisionmaking about rehabilitation technology products and services.

"(C) The Director shall develop the quality assurance research program after consultation with representatives of all types of organizations interested in rehabilitation technology quality assurance.

"(18) Research grants may be used to provide for research and demonstration projects and related activities that explore the use and effectiveness of specific alternative or complementary medical practices for individuals with disabilities. Such projects and activities may include projects and activities designed to—

"(A) determine the use of specific alternative or complementary medical practices among individuals with disabilities and the perceived effectiveness of the practices;

"(B) determine the specific information sources, decisionmaking methods, and methods of payment used by individuals with disabilities who access alternative or complementary medical services;

"(C) develop criteria to screen and assess the validity of research studies of such practices for individuals with disabilities; and

"(D) determine the effectiveness of specific alternative or complementary medical practices that show promise for promoting increased functioning, prevention of secondary disabilities, or other positive outcomes for individuals with certain types of disabilities, by conducting controlled research studies.

"(c)(1) In carrying out evaluations of covered activities under this section, the Director is authorized to make arrangements for site visits to obtain information on the accomplishments of the projects.

"(2) The Director shall not make a grant under this section that exceeds $499,999 unless the peer review of the grant application has included a site visit.

"REHABILITATION RESEARCH ADVISORY COUNCIL

"SEC. 205. (a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary.

"(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the 5-year plan required by section 202(h).

"(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the individuals' representatives. At least one-half of the members shall be individuals with disabilities or the individuals' representatives.

"(d) TERMS OF APPOINTMENT.—

"(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

"(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(f) PAYMENT AND EXPENSES.—

"(1) PAYMENT.—Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

"(2) TRAVEL EXPENSES.—Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

"(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.".

SEC. 606. PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS.

Title III of the Rehabilitation Act of 1973 (29 U.S.C. 770 et seq.) is amended to read as follows:

"TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS

"SEC. 301. DECLARATION OF PURPOSE AND COMPETITIVE BASIS OF GRANTS AND CONTRACTS.

"(a) PURPOSE.—It is the purpose of this title to authorize grants and contracts to—

"(1)(A) provide academic training to ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs (including supported employment programs), through independent living services programs, and through client assistance programs; and

"(B) provide training to maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery and rehabilitation technology services;

"(2) conduct special projects and demonstrations that expand and improve the provision of rehabilitation and other services authorized under this Act, or that otherwise further the purposes of this Act, including related research and evaluation;

"(3) provide vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers;

"(4) initiate recreational programs to provide recreational activities and related experiences for individuals with disabilities to aid such individuals in employment, mobility, socialization, independence, and community integration; and

"(5) provide training and information to individuals with disabilities and the individuals' representatives, and other appropriate parties to develop the skills necessary for individuals with disabilities to gain access to the rehabilitation system and workforce investment system and to become active decisionmakers in the rehabilitation process.

"(b) COMPETITIVE BASIS OF GRANTS AND CONTRACTS.—The Secretary shall ensure that all grants and contracts are awarded under this title on a competitive basis.

"SEC. 302. TRAINING.

"(a) GRANTS AND CONTRACTS FOR PERSONNEL TRAINING.—

"(1) AUTHORITY.—The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the cost of projects to provide training, traineeships, and related activities, including the provision of technical assistance, that are designed to assist in increasing the numbers of, and upgrading the skills of, qualified personnel (especially rehabilitation counselors) who are trained in providing vocational, medical, social, and psychological rehabilitation services, who are trained to assist individuals with communication and related disorders, who are trained to provide other services provided under this Act, to individuals with disabilities, and who may include—

"(A) personnel specifically trained in providing employment assistance to individuals with disabilities through job development and job placement services;

"(B) personnel specifically trained to identify, assess, and meet the individual rehabilitation needs of individuals with disabilities, including needs for rehabilitation technology;

"(C) personnel specifically trained to deliver services to individuals who may benefit from receiving independent living services;

"(D) personnel specifically trained to deliver services in the client assistance programs;

"(E) personnel specifically trained to deliver services, through supported employment programs, to individuals with a most significant disability;

"(F) personnel providing vocational rehabilitation services specifically trained in the use of braille, the importance of braille literacy, and in methods of teaching braille; and

"(G) personnel trained in performing other functions necessary to the provision of vocational, medical, social, and psychological rehabilitation services, and other services provided under this Act.

"(2) AUTHORITY TO PROVIDE SCHOLARSHIPS.—Grants and contracts under paragraph (1) may be expended for scholarships and may include necessary stipends and allowances.

"(3) RELATED FEDERAL STATUTES.—In carrying out this subsection, the Commissioner may make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training regarding related Federal statutes (other than this Act).

“(4) TRAINING FOR STATEWIDE WORKFORCE SYSTEMS PERSONNEL.—The Commissioner may make grants to and enter into contracts under this subsection with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training to personnel providing services to individuals with disabilities under the Workforce Investment Partnership Act of 1998. Under this paragraph, personnel may be trained—

“(A) in evaluative skills to determine whether an individual with a disability may be served by the State vocational rehabilitation program or another component of the statewide workforce investment system; or

“(B) to assist individuals with disabilities seeking assistance through one-stop customer service centers established under section 315 of the Workforce Investment Partnership Act of 1998.

“(5) JOINT FUNDING.—Training and other activities provided under paragraph (4) for personnel may be jointly funded with the Department of Labor, using funds made available under title III of the Workforce Investment Partnership Act of 1998.

“(b) GRANTS AND CONTRACTS FOR ACADEMIC DEGREES AND ACADEMIC CERTIFICATE GRANTING TRAINING PROJECTS.—

“(1) AUTHORITY.—

“(A) IN GENERAL.—The Commissioner may make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the costs of academic training projects to provide training that leads to an academic degree or academic certificate. In making such grants or entering into such contracts, the Commissioner shall target funds to areas determined under subsection (e) to have shortages of qualified personnel.

“(B) TYPES OF PROJECTS.—Academic training projects described in this subsection may include—

“(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

“(ii) projects to train personnel to provide—

“(I) services to individuals with specific disabilities or individuals with disabilities who have specific impediments to rehabilitation, including individuals who are members of populations that are unserved or underserved by programs under this Act;

“(II) job development and job placement services to individuals with disabilities;

“(III) supported employment services, including services of employment specialists for individuals with disabilities;

“(IV) specialized services for individuals with significant disabilities; or

“(V) recreation for individuals with disabilities;

“(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities; and

“(iv) projects to train personnel in the use, applications, and benefits of rehabilitation technology.

“(2) APPLICATION.—No grant shall be awarded or contract entered into under this subsection unless the applicant has submitted to the Commissioner an application at such time, in such form, in accordance with such procedures, and including such information as the Secretary may require, including—

“(A) a description of how the designated State unit or units will participate in the project to be funded under the grant or contract, including, as appropriate, participation on advisory committees, as practicum sites, in curriculum development, and in other ways so as to build closer relationships between the applicant and the designated State unit and to encourage students to pursue careers in public vocational rehabilitation programs;

“(B) the identification of potential employers that would meet the requirements of paragraph (4)(A)(i); and

“(C) an assurance that data on the employment of graduates or trainees who participate in the project is accurate.

“(3) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), no grant or contract under this subsection may be used to provide any one course of study to an individual for a period of more than 4 years.

“(B) EXCEPTION.—If a grant or contract recipient under this subsection determines that an individual has a disability which seriously affects the completion of training under this subsection, the grant or contract recipient may extend the period referred to in subparagraph (A).

“(4) REQUIRED AGREEMENTS.—

“(A) IN GENERAL.—A recipient of a grant or contract under this subsection shall provide assurances to the Commissioner that each individual who receives a scholarship, for the first academic year after the date of enactment of the Rehabilitation Act Amendments of 1998, utilizing funds provided under such grant or contract shall enter into an agreement with the recipient under which the individual shall—

“(i) maintain employment—

“(I) with an employer that is a State rehabilitation or other agency or organization (including a professional corporation or practice group) that provides services to individuals with disabilities under this Act, or with an institution of higher education or other organization that conducts rehabilitation education, training, or research under this Act;

“(II) on a full- or part-time basis; and

“(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this subsection was received by the individual, within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in this subclause and 2 additional years;

“(ii) directly provide or administer services, conduct research, or furnish training, funded under this Act; and

“(iii) repay all or part of the amount of any scholarship received under the grant or contract, plus interest, if the individual does not fulfill the requirements of clauses (i) and (ii), except that the Commissioner may by regulation provide for repayment exceptions and deferrals.

“(B) ENFORCEMENT.—The Commissioner shall be responsible for the enforcement of each agreement entered into under subparagraph (A) upon the completion of the training involved with respect to such agreement.

“(c) GRANTS TO HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—The Commissioner, in carrying out this section, shall make grants to historically Black colleges and universities and other institutions of higher education whose minority student enrollment is at least 50 percent of the total enrollment of the institution.

“(d) APPLICATION.—A grant may not be awarded to a State or other organization under this section unless the State or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require, including a detailed description of strategies that will be utilized to recruit and train individuals so as to reflect the diverse populations of the United States as part of the effort to increase the number of individuals with disabilities, and individuals who are from linguistically and culturally diverse backgrounds, who are available to provide rehabilitation services.

“(e) EVALUATION AND COLLECTION OF DATA.—The Commissioner shall evaluate the impact of the training programs conducted under this section, and collect information on the training needs of, and data on shortages of qualified personnel necessary to provide services to individuals with disabilities.

“(f) GRANTS FOR THE TRAINING OF INTERPRETERS.—

“(1) AUTHORITY.—

“(A) IN GENERAL.—For the purpose of training a sufficient number of qualified interpreters to meet the communications needs of individuals who are deaf or hard of hearing, and individuals who are deaf-blind, the Commissioner, acting through a Federal office responsible for deafness and communicative disorders, may award grants to public or private nonprofit agencies or organizations to pay part of the costs—

“(i) for the establishment of interpreter training programs; or

“(ii) to enable such agencies or organizations to provide financial assistance for ongoing interpreter training programs.

“(B) GEOGRAPHIC AREAS.—The Commissioner shall award grants under this subsection for programs in geographic areas throughout the United States that the Commissioner considers appropriate to best carry out the objectives of this section.

“(C) PRIORITY.—In awarding grants under this subsection, the Commissioner shall give priority to public or private nonprofit agencies or organizations with existing programs that have a demonstrated capacity for providing interpreter training services.

“(D) FUNDING.—The Commissioner may award grants under this subsection through the use of—

“(i) amounts appropriated to carry out this section; or

“(ii) pursuant to an agreement with the Director of the Office of the Special Education Program (established under section 603 of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105–17))), amounts appropriated under section 686 of the Individuals with Disabilities Education Act.

“(2) APPLICATION.—A grant may not be awarded to an agency or organization under paragraph (1) unless the agency or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require, including—

“(A) a description of the manner in which an interpreter training program will be developed and operated during the 5-year period following the date on which a grant is received by the applicant under this subsection;

"(B) a demonstration of the applicant's capacity or potential for providing training for interpreters for individuals who are deaf or hard of hearing, and individuals who are deaf-blind;

"(C) assurances that any interpreter trained or retrained under a program funded under the grant will meet such minimum standards of competency as the Commissioner may establish for purposes of this subsection; and

"(D) such other information as the Commissioner may require.

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2004.

"(h) Provision of Information.—The Commissioner, subject to the provisions of section 306, may require that recipients of grants or contracts under this section provide information, including data, with regard to the impact of activities funded under this section.

"SEC. 303. SPECIAL DEMONSTRATION PROGRAM.

"(a) Authority.—The Commissioner, subject to the provisions of section 306, may award grants or contracts to eligible entities to pay all or part of the cost of programs that expand and improve the provision of rehabilitation and other services authorized under this Act or that further the purposes of the Act, including related research and evaluation activities.

"(b) Eligible Entities and Terms and Conditions.—

"(1) Eligible entities.—To be eligible to receive a grant or contract under subsection (a), an entity shall be a State vocational rehabilitation agency, community rehabilitation program, Indian tribe or tribal organization, or other public or nonprofit agency or organization, or as the Commissioner determines appropriate, a for-profit organization. The Commissioner may limit competitions to 1 or more types of organizations described in this paragraph.

"(2) Terms and conditions.—Awards under this section shall contain such terms and conditions as the Commissioner may require.

"(c) Application.—An eligible entity that desires to receive an award under this section shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Commissioner may require, including, if the Commissioner determines appropriate, a description of how the proposed project or demonstration program—

"(1) is based on current research findings, which may include research conducted by the National Institute on Disability and Rehabilitation Research, the National Institutes of Health, and other public or private organizations; and

"(2) is of national significance.

"(d) Types of Projects.—The programs that may be funded under this section include—

"(1) special projects and demonstrations of service delivery;

"(2) model demonstration projects;

"(3) technical assistance projects;

"(4) systems change projects;

"(5) special studies and evaluations; and

"(6) dissemination and utilization activities.

"(e) Priority for Competitions.—

"(1) In general.—In announcing competitions for grants and contracts under this section, the Commissioner shall give priority consideration to—

"(A) projects to provide training, information, and technical assistance that will enable individuals with disabilities and the individuals' representatives, to participate more effectively in meeting the vocational, independent living, and rehabilitation needs of the individuals with disabilities;

"(B) special projects and demonstration programs of service delivery for adults who are either low-functioning and deaf or low-functioning and hard of hearing;

"(C) innovative methods of promoting consumer choice in the rehabilitation process;

"(D) supported employment, including community-based supported employment programs to meet the needs of individuals with the most significant disabilities or to provide technical assistance to States and community organizations to improve and expand the provision of supported employment services; and

"(E) model transitional planning services for youths with disabilities.

"(2) Eligibility and coordination.—

"(A) Eligibility.—Eligible applicants for grants and contracts under this section for projects described in paragraph (1)(A) include—

"(i) Parent Training and Information Centers funded under section 682 of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105–17));

"(ii) organizations that meet the definition of a parent organization in section 682 of such Act; and

"(iii) private nonprofit organizations assisting parent training and information centers.

"(B) Coordination.—Recipients of grants and contracts under this section for projects described in paragraph (1)(A) shall, to the extent practicable, coordinate training and information activities with Centers for Independent Living.

"(3) Additional competitions.—In announcing competitions for grants and contracts under this section, the Commissioner may require that applicants address 1 or more of the following:

"(A) Age ranges.

"(B) Types of disabilities.

"(C) Types of services.

"(D) Models of service delivery.

"(E) Stage of the rehabilitation process.

"(F) The needs of—

"(i) underserved populations;

"(ii) unserved and underserved areas;

"(iii) individuals with significant disabilities;

"(iv) low-incidence disability populations; and

"(v) individuals residing in federally designated empowerment zones and enterprise communities.

"(G) Expansion of employment opportunities for individuals with disabilities.

"(H) Systems change projects to promote meaningful access of individuals with disabilities to employment-related services under the Workforce Investment Partnership Act of 1998 and under other Federal laws.

"(I) Innovative methods of promoting the achievement of high-quality employment outcomes.

"(J) The demonstration of the effectiveness of early intervention activities in improving employment outcomes.

"(K) Alternative methods of providing affordable transportation services to individuals with disabilities who are employed, seeking employment, or receiving vocational rehabilitation services from public or private organizations and who reside in geographic areas in which public transportation or paratransit service is not available.

"(f) Use of Funds for Continuation Awards.—The Commissioner may use funds made available to carry out this section for continuation awards for projects that were funded under sections 12 and 311 (as such sections were in effect on the day prior to the date of the enactment of the Rehabilitation Act Amendments of 1998).

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2004.

"SEC. 304. MIGRANT AND SEASONAL FARMWORKERS.

"(a) Grants.—

"(1) Authority.—The Commissioner, subject to the provisions of section 306, may make grants to eligible entities to pay up to 90 percent of the cost of projects or demonstration programs for the provision of vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers, as determined in accordance with rules prescribed by the Secretary of Labor, and to the family members who are residing with such individuals (whether or not such family members are individuals with disabilities).

"(2) Eligible entities.—To be eligible to receive a grant under paragraph (1), an entity shall be—

"(A) a State designated agency;

"(B) a nonprofit agency working in collaboration with a State agency described in subparagraph (A); or

"(C) a local agency working in collaboration with a State agency described in subparagraph (A).

"(3) Maintenance and transportation.—

"(A) In general.—Amounts provided under a grant under this section may be used to provide for the maintenance of and transportation for individuals and family members described in paragraph (1) as necessary for the rehabilitation of such individuals.

"(B) Requirement.—Maintenance payments under this paragraph shall be provided in a manner consistent with any maintenance payments provided to other individuals with disabilities in the State under this Act.

"(4) Assurance of cooperation.—To be eligible to receive a grant under this section an entity shall provide assurances (satisfactory to the Commissioner) that in the provision of services under the grant there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migrant or seasonal farmworkers or their families.

"(5) Coordination with other programs.—The Commissioner shall administer this section in coordination with other programs serving migrant and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), and the Workforce Investment Partnership Act of 1998.

"(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section, for each of the fiscal years 1998 through 2004.

"SEC. 305. RECREATIONAL PROGRAMS.

"(a) Grants.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Commissioner, subject to the provisions of section 306, shall make grants to States, public agencies, and nonprofit private organizations to pay the Federal share of the cost of the establishment and operation of recreation programs to provide individuals with disabilities with recreational activities and related experiences to aid in the employment, mobility, socialization, independence, and community integration of such individuals.

"(B) RECREATION PROGRAMS.—The recreation programs that may be funded using assistance provided under a grant under this section may include vocational skills development, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4-H activities, music, dancing, handicrafts, art, and homemaking. When possible and appropriate, such programs and activities should be provided in settings with peers who are not individuals with disabilities.

"(C) DESIGN OF PROGRAM.—Programs and activities carried out under this section shall be designed to demonstrate ways in which such programs assist in maximizing the independence and integration of individuals with disabilities.

"(2) MAXIMUM TERM OF GRANT.—A grant under this section shall be made for a period of not more than 3 years.

"(3) AVAILABILITY OF NONGRANT RESOURCES.—

"(A) IN GENERAL.—A grant may not be made to an applicant under this section unless the applicant provides assurances that, with respect to costs of the recreation program to be carried out under the grant, the applicant, to the maximum extent practicable, will make available non-Federal resources (in cash or in-kind) to pay the non-Federal share of such costs.

"(B) FEDERAL SHARE.—The Federal share of the costs of the recreation programs carried out under this section shall be—

"(i) with respect to the first year in which assistance is provided under a grant under this section, 100 percent;

"(ii) with respect to the second year in which assistance is provided under a grant under this section, 75 percent; and

"(iii) with respect to the third year in which assistance is provided under a grant under this section, 50 percent.

"(4) APPLICATION.—To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

"(A) the manner in which the findings and results of the project to be funded under the grant, particularly information that facilitates the replication of the results of such projects, will be made generally available; and

"(B) the manner in which the service program funded under the grant will be continued after Federal assistance ends.

"(5) LEVEL OF SERVICES.—Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

"(6) REPORTS BY GRANTEES.—

"(A) REQUIREMENT.—The Commissioner shall require that each recipient of a grant under this section annually prepare and submit to the Commissioner a report concerning the results of the activities funded under the grant.

"(B) LIMITATION.—The Commissioner may not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated the annual report of the recipient under subparagraph (A) for the current year.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1998 through 2004.

"SEC. 306. MEASURING OF PROJECT OUTCOMES AND PERFORMANCE.

"The Commissioner may require that recipients of grants under this title submit information, including data, as determined by the Commissioner to be necessary to measure project outcomes and performance, including any data needed to comply with the Government Performance and Results Act.".

SEC. 607. NATIONAL COUNCIL ON DISABILITY.

Title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.) is amended to read as follows:

"TITLE IV—NATIONAL COUNCIL ON DISABILITY

"ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY

"SEC. 400. (a)(1)(A) There is established within the Federal Government a National Council on Disability (hereinafter in this title referred to as the 'National Council'), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate.

"(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

"(i) organizations representing a broad range of individuals with disabilities; and

"(ii) organizations interested in individuals with disabilities.

"(C) The members of the National Council shall be individuals with disabilities, parents or guardians of individuals with disabilities, or other individuals who have substantial knowledge or experience relating to disability policy or programs. The members of the National Council shall be appointed so as to be representative of individuals with disabilities, national organizations concerned with individuals with disabilities, providers and administrators of services to individuals with disabilities, individuals engaged in conducting medical or scientific research relating to individuals with disabilities, business concerns, and labor organizations. A majority of the members of the National Council shall be individuals with disabilities. The members of the National Council shall be broadly representative of minority and other individuals and groups.

"(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

"(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

"(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

"(b)(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2)(A) No member of the National Council may serve more than two consecutive full terms beginning on the date of commencement of the first full term on the Council. Members may serve after the expiration of their terms until their successors have taken office.

"(B) As used in this paragraph, the term 'full term' means a term of 3 years.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

"(c) The President shall designate the Chairperson from among the members appointed to the National Council. The National Council shall meet at the call of the Chairperson, but not less often than four times each year.

"(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

"DUTIES OF NATIONAL COUNCIL

"SEC. 401. (a) The National Council shall—

"(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;

"(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

"(3) advise the President, the Congress, the Commissioner, the appropriate Assistant Secretary of the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under this Act;

"(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;

"(5) review and evaluate on a continuing basis—

"(A) policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act; and

"(B) all statutes and regulations pertaining to Federal programs which assist such individuals with disabilities;

in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities;

"(6) assess the extent to which such policies, programs, practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);

"(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

"(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies or other Federal entities, respecting ways to better promote the policies set forth in section 400(a)(2);

"(9) provide to the Congress on a continuing basis advice, recommendations, legislative proposals, and any additional information that the National Council or the Congress deems appropriate; and

"(10) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the international, Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.

"(b)(1) Not later than July 26, 1998, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled 'National Disability Policy: A Progress Report'.

"(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

"(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the National Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.

"COMPENSATION OF NATIONAL COUNCIL MEMBERS

"SEC. 402. (a) Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, including travel time, for each day they are engaged in the performance of their duties as members of the National Council.

"(b) Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

"(c) While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"STAFF OF NATIONAL COUNCIL

"SEC. 403. (a)(1) The Chairperson of the National Council may appoint and remove, without regard to the provisions of title 5, United States Code, governing appointments, the provisions of chapter 75 of such title (relating to adverse actions), the provisions of chapter 77 of such title (relating to appeals), or the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates), an Executive Director to assist the National Council to carry out its duties. The Executive Director shall be appointed from among individuals who are experienced in the planning or operation of programs for individuals with disabilities.

"(2) The Executive Director is authorized to hire technical and professional employees to assist the National Council to carry out its duties.

"(b)(1) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code).

"(2) The National Council may—

"(A) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

"(B) in the name of the Council, solicit, accept, employ, and dispose of, in furtherance of this Act, any money or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and

"(C) enter into contracts and cooperative agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, preparation of reports and other activities necessary to the discharge of the Council's duties and responsibilities.

"(3) Not more than 10 per centum of the total amounts available to the National Council in each fiscal year may be used for official representation and reception.

"(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

"(d)(1) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts made available under subsection (a)(2)(B) as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

"(2) The amounts described in paragraph (1), and the interest on, and the proceeds from the sale or redemption of, the obligations described in paragraph (1) shall be available to the National Council to carry out this title.

"ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

"SEC. 404. (a) The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this title.

"(b) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

"(c) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

"(d) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 405. There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1998 through 2004.".

SEC. 608. RIGHTS AND ADVOCACY.

(a) CONFORMING AMENDMENTS TO RIGHTS AND ADVOCACY PROVISIONS.—

(1) EMPLOYMENT.—Section 501 (29 U.S.C. 791) is amended—

(A) in the third sentence of subsection (a), by striking "President's Committees on Employment of the Handicapped" and inserting "President's Committees on Employment of People With Disabilities"; and

(B) in subsection (e), by striking "individualized written rehabilitation program" and inserting "individualized rehabilitation employment plan".

(2) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(A) in subsection (a)(1), in the sentence following subparagraph (B), by striking "Chairperson" and inserting "chairperson";

(B) in subsection (b)—

(i) in paragraph (9), by striking "; and" and inserting a semicolon;

(ii) in paragraph (10), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(11) carry out the responsibilities specified for the Access Board in section 508";

(C) in subsection (d)(2)(A), by inserting before the semicolon the following: "and section 508(d)(2)(C)";

(D) in subsection (g)(2), by striking "Committee on Education and Labor" and inserting "Committee on Education and the Workforce"; and

(E) in subsection (i), by striking "fiscal years 1993 through 1997" and inserting "fiscal years 1998 through 2004".

(3) FEDERAL GRANTS AND CONTRACTS.—Section 504(a) (29 U.S.C. 794(a)) is amended in the first sentence by striking "section 7(8)" and inserting "section 7(20)".

(4) SECRETARIAL RESPONSIBILITIES.—Section 506(a) (29 U.S.C. 794b(a)) is amended—

(A) by striking the second sentence and inserting the following: "Any concurrence of the Access Board under paragraph (2) shall reflect its consideration of cost studies carried out by States."; and

(B) in the second sentence of subsection (c), by striking "provided under this paragraph" and inserting "provided under this subsection".

(b) ELECTRONIC AND INFORMATION TECHNOLOGY REGULATIONS.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

"SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY.

"(a) REQUIREMENTS FOR FEDERAL DEPARTMENTS AND AGENCIES.—

"(1) ACCESSIBILITY.—Each Federal department or agency shall procure, maintain, and use (unless such procurement, maintenance, or use is not practicable) electronic and information technology that allows, regardless of the type of medium of the technology, individuals with disabilities to have access to and use information and data that is comparable to the information and data that is accessible to and used by individuals who are not individuals with disabilities.

"(2) ELECTRONIC AND INFORMATION TECHNOLOGY STANDARDS.—

"(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Architectural and Transportation Barriers Compliance Board (referred to in this section as the 'Access Board'), after consultation with the Secretary of Education, the Administrator of General Services, the Director of the Office of Management and Budget, the Secretary of Commerce, the Chairman of the Federal Communications Commission, and the head of any other Federal department or agency that the Access Board determines to be appropriate, including consultation on relevant research findings, and after consultation with the electronic and information technology industry and appropriate public or nonprofit agencies or organizations, shall issue and publish standards setting forth—

"(i) for purposes of this section, a definition of electronic and information technology that is consistent with the definition of information technology in section 5002 of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679); and

"(ii) the technical and functional performance criteria necessary to implement the requirements set forth in paragraph (1).

"(B) REVIEW AND AMENDMENT.—The Access Board shall periodically review and, as appropriate, amend the standards required under subparagraph (A) to reflect technological advances or changes in electronic and information technology.

"(3) INCORPORATION OF STANDARDS.—Not later than 6 months after the Access Board publishes the standards required under paragraph (2), the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each Federal department or agency shall revise the Federal procurement policies and directives under the control of the department or agency to incorporate those standards.

"(b) TECHNICAL ASSISTANCE.—The Administrator of General Services and the Access Board shall provide technical assistance to individuals and Federal departments and agencies concerning the requirements of this section.

"(c) AGENCY EVALUATIONS.—Not later than 6 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the head of each Federal department or agency shall evaluate the extent to which the electronic and information technology of the department or agency is accessible to individuals with disabilities, and submit a report containing the evaluation to the Attorney General.

"(d) REPORTS.—

"(1) INTERIM REPORT.—Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Attorney General shall prepare and submit to the President a report containing information on and recommendations regarding the state of electronic and information technology accessibility in the Federal Government for individuals with disabilities.

"(2) BIENNIAL REPORTS.—Not later than 3 years after the date of enactment of the Rehabilitation Act Amendments of 1998, and every 2 years thereafter, the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance with the requirements of this section, including actions regarding individual complaints under subsection (f).

"(e) COOPERATION.—Each head of a Federal department or agency (including the Access Board, the Equal Employment Opportunity Commission, and the General Services Administration) shall provide the Attorney General with such information as the Attorney General determines is necessary to conduct the evaluations under subsection (c) and prepare the reports under subsection (d).

"(f) ENFORCEMENT.—

"(1) GENERAL.—Any individual with a disability, including a Federal employee or a person served by a Federal agency, may file a complaint alleging that a procurement action initiated after the date described in paragraph (4) fails to comply with subsection (a)(1).

"(2) ADMINISTRATIVE COMPLAINTS.—Complaints filed under paragraph (1) shall be filed with the Federal department or agency alleged to be in noncompliance. The Federal department or agency receiving the complaint shall apply the complaint procedures established to implement section 504 for resolving allegations of discrimination in a federally conducted program or activity.

"(3) CIVIL ACTIONS.—The remedies, procedures, and rights set forth in sections 505(a)(2) and 505(b) shall be the remedies, procedures, and rights available to any individual alleging that a procurement action initiated after the date described in paragraph (4) fails to comply with subsection (a)(1).

"(4) APPLICATION.—This subsection shall apply to Federal departments and agencies on the date of publication of the standards issued pursuant to subsection (a)(2)(A).

"(g) RELATIONSHIP TO OTHER FEDERAL LAWS.—This section shall not be construed to limit any right, remedy, or procedure otherwise available under any provision of Federal law (including sections 501 through 505) that provides greater or equal protection for the rights of individuals with disabilities than this section.".

(c) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—Section 509 (29 U.S.C. 794e) is amended to read as follows:

"SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

"(a) PURPOSE.—The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

"(1) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 112; and

"(2) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) because the individuals do not have a developmental disability, as defined in section 102 of such Act (42 U.S.C. 6002) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) because the individuals are not individuals with mental illness, as defined in section 102 of such Act (42 U.S.C. 10802).

"(b) APPROPRIATIONS LESS THAN $5,500,000.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a).

"(c) APPROPRIATIONS OF $5,500,000 OR MORE.—

"(1) RESERVATIONS.—

"(A) TECHNICAL ASSISTANCE.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

"(B) GRANT FOR THE ELIGIBLE SYSTEM SERVING THE AMERICAN INDIAN CONSORTIUM.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $10,500,000, the Commissioner shall reserve a portion, and use the portion to make a grant for the eligible system serving the American Indian consortium. The Commission shall make the grant in an amount of not less than $50,000 for the fiscal year.

"(2) ALLOTMENTS.—For any such fiscal year, after the reservations required by paragraph (1) have been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for such individuals.

"(3) SYSTEMS WITHIN STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

"(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than $100,000 or one-third of one percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than $100,000 or one-third of one percent of such remainder shall be increased to the greater of the two amounts.

"(4) SYSTEMS WITHIN OTHER JURISDICTIONS.—

"(A) IN GENERAL.—For the purposes of paragraph (3)(B), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

"(B) ALLOTMENT.—The eligible system within a jurisdiction described in subparagraph (A) shall be allotted under paragraph (3)(A) not less than $50,000 for the fiscal year for which the allotment is made.

"(5) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section for the preceding fiscal year, the Commissioner shall increase each of the minimum grants or allotments under paragraphs (1)(B), (3)(B), and (4)(B) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this section between the preceding fiscal year and the fiscal year involved.

"(d) PROPORTIONAL REDUCTION.—To provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(3)(B), or to provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(4)(B), the Commissioner shall proportionately reduce the allotments of the remaining systems within States under subsection (c)(3), with such adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under subsection (c)(5)) under subsection (c)(3)(B), or the minimum allotment for a State (as increased under subsection (c)(5)) under subsection (c)(4)(B), as appropriate.

"(e) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

"(f) APPLICATION.—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

"(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

"(2) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.);

"(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State or the American Indian consortium who are individuals described in subsection (a);

"(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State or the American Indian consortium;

"(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, the individuals' representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

"(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

"(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

"(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system;

"(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided; and

"(8) not use allotments or grants provided under this section in a manner inconsistent with section 5 of the Assisted Suicide Funding Restriction Act of 1997.

"(g) CARRYOVER AND DIRECT PAYMENT.—

"(1) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State or the grant for the eligible system that serves the American Indian consortium involved under this section, unless the State or American Indian consortium provides otherwise.

"(2) CARRYOVER.—Any amount paid to an eligible system that serves a State or American Indian consortium for a fiscal year that remains unobligated at the end of such year shall remain available to such system that serves the State or American Indian consortium for obligation during the next fiscal year for the purposes for which such amount was paid.

"(h) LIMITATION ON DISCLOSURE REQUIREMENTS.—For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(i) ADMINISTRATIVE COST.—In any State in which an eligible system is located within a State agency, a State may use a portion of any allotment under subsection (c) for the cost of the administration of the system required by this section. Such portion may not exceed 5 percent of the allotment.

"(j) DELEGATION.—The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

"(k) REPORT.—The Commissioner shall annually prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

"(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2004.

"(m) DEFINITIONS.—As used in this section:

"(1) ELIGIBLE SYSTEM.—The term 'eligible system' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f).

"(2) AMERICAN INDIAN CONSORTIUM.—The term 'American Indian consortium' means a consortium established as described in section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042).".

SEC. 609. EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.

Title VI of the Rehabilitation Act of 1973 (29 U.S.C. 795 et seq.) is amended to read as follows:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

"SEC. 601. SHORT TITLE.

"This title may be cited as the 'Employment Opportunities for Individuals With Disabilities Act'.

"PART A—PROJECTS IN TELECOMMUTING AND SELF-EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES

"SEC. 611. FINDINGS, POLICIES, AND PURPOSES.

"(a) FINDINGS.—Congress makes the following findings:

"(1) It is in the best interest of the United States to identify and promote increased employment opportunities for individuals with disabilities.

"(2) Telecommuting is one of the most rapidly expanding forms of employment. In 1990 there were 4,000,000 telecommuters and that number has risen to 11,100,000 in 1997.

"(3) It is in the best interest of the United States to ensure that individuals with disabilities have access to telecommuting employment opportunities. It has been estimated that 10 percent of individuals with disabilities, who are unemployed, could benefit from telecommuting opportunities.

"(4) It is in the interest of employers to recognize that individuals with disabilities are excellent candidates for telecommuting employment opportunities.

"(5) Individuals with disabilities, especially those living in rural areas, often do not have access to accessible transportation, and in such cases telecommuting presents an excellent opportunity for the employment of such individuals.

"(6) It is in the best interests of economic development agencies, venture capitalists, and financial institutions for the Federal Government to demonstrate that individuals with disabilities, who wish to become or who are self-employed, can meet the criteria for assistance, investment of capital, and business that other entrepreneurs meet.

"(b) POLICIES.—It is the policy of the United States to—

"(1) promote opportunities for individuals with disabilities to—

"(A) secure, retain, regain, or advance in employment involving telecommuting;

"(B) gain access to employment opportunities; and

"(C) demonstrate their abilities, capabilities, interests, and preferences regarding employment in positions that are increasingly being offered to individuals in the workplace; and

"(2) promote opportunities for individuals with disabilities to engage in self-employment enterprises that permit these individuals to achieve significant levels of independence, participate in and contribute to the life of their communities, and offer employment opportunities to others.

"(c) PURPOSES.—It is the purpose of this part to—

"(1) through the awarding of 1-time, time-limited grants, contracts, or cooperative agreements to public and private entities—

"(A) provide funds, in accordance with section 612, to enable individuals with disabilities to identify and secure employment opportunities involving telecommuting; and

"(B) encourage employers to become partners in providing telecommuting placements for individuals with disabilities through the involvement of such employers in telecommuting projects that continue and expand opportunities for the provision of telecommuting placements to individuals with disabilities beyond those opportunities that are currently facilitated by the telecommuting projects; and

"(2) through the awarding of 1-time, time-limited grants, contracts, cooperative agreements, or other appropriate mechanisms of providing assistance to public or private entities—

"(A) assist individuals with disabilities to engage in self-employment enterprises in accordance with section 613; and

"(B) encourage entities to assist more individuals with disabilities to engage in self-employment enterprises.

"SEC. 612. PROJECTS IN TELECOMMUTING FOR INDIVIDUALS WITH DISABILITIES.

"(a) IN GENERAL.—The Commissioner shall, on a competitive basis, award 1-time, time-limited grants, contracts, or cooperative agreements to eligible entities for the establishment and operation of projects in telecommuting for individuals with disabilities.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a) an entity shall—

"(1) be—

"(A) an entity carrying out a Project With Industry described in part B;

"(B) a designated State agency;

"(C) a statewide workforce investment partnership or local workforce investment partnership;

"(D) a public educational agency;

"(E) a training institution, which may include an institution of higher education;

"(F) a private organization, with priority given to organizations of or for individuals with disabilities;

"(G) a public or private employer;

"(H) any other entity that the Commissioner determines to be appropriate; or

"(I) a combination or consortium of the entities described in subparagraphs (A) through (H);

"(2) have 3 or more years of experience in assisting individuals with disabilities in securing, retaining, regaining, or advancing in employment;

"(3) demonstrate that such entity has the capacity to secure full- and part-time employment involving telecommuting for individuals with disabilities; and

"(4) submit an application that meets the requirements of subsection (c).

"(c) APPLICATION REQUIREMENTS.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall submit to the Commissioner at such time, in such manner, and containing such information concerning the telecommuting project to be funded under the grant, contract, or agreement as the Commissioner may require, including—

"(1) a description of how and the extent to which the applicant meets the requirement of subsection (b)(2);

"(2) with respect to any partners who will participate in the implementation of activities under the telecommuting project, a description of—

"(A) the identity of such partners; and

"(B) the roles and responsibilities of each partner in preparing the application, and if funded, the roles and responsibility of each partner during the telecommuting project;

"(3) a description of the geographic region that will be the focus of activity under the telecommuting project;

"(4) a projection for each year of a 3-year period of the grant, contract, or agreement, of the number of individuals with disabilities who will be employed as the result of the assistance provided by the telecommuting project;

"(5) with respect to any employers that have indicated an interest in offering telecommuting employment opportunities to individuals with disabilities, a description of—

"(A) the identity of such employers; and

"(B) the manner in which additional employers would be recruited under the telecommuting project;

"(6) a description of the manner in which individuals with disabilities will be identified and selected to participate in the telecommuting project;

"(7) a description of the jobs that will be targeted by the telecommuting project;

"(8) a description of the process by which individuals with disabilities will be matched with employers for telecommuting placements;

"(9) a description of the manner in which the project will become self-sustaining in the third year of the telecommuting project; and

"(10) a description of the nature and amount of funding, including in-kind support, other than funds received under this part, that will be available to be used by the telecommuting project.

"(d) USE OF FUNDS.—Amounts received under a grant, contract, or cooperative agreement under subsection (a) shall be used for—

"(1) the recruitment of individuals with disabilities for telecommuting placements;

"(2) the conduct of marketing activities with respect to employers;

"(3) the purchase of training services for an individual with a disability who is going to assume a telecommuting placement;

"(4) the purchase of equipment, materials, telephone lines, auxiliary aids, and services related to telecommuting placements;

"(5) the provision of orientation services and training to the supervisors of employers participating in the project and to co-workers of individuals with disabilities who are selected for telecommuting placements;

"(6) the provision of technical assistance to employers, including technical assistance regarding reasonable accommodations with regard to individuals with disabilities participating in telecommuting placements; and

"(7) other uses determined appropriate by the Commissioner.

"(e) PROJECT REQUIREMENTS.—Telecommuting projects funded under this section shall—

"(1) establish criteria for safety with regard to the telecommuting work space, which at a minimum meet guidelines established by the Occupational Safety and Health Administration for a work space of comparable size and function;

"(2) on an annual basis, enter into agreements with the Commissioner that contain goals concerning the number of individuals with disabilities that the project will place in telecommuting positions;

"(3) establish procedures for ensuring that prospective employers and individuals with disabilities, who are to assume telecommuting placements, have a clear understanding of how the individual's work performance will be monitored and evaluated by the employer;

"(4) identify and make available support services for individuals with disabilities in telecommuting placements;

"(5) develop procedures that allow the telecommuting project, the employer, and the individual with a disability to reach agreement on their respective responsibilities with regard to establishing and maintaining the telecommuting placement; and

"(6) for each year of a telecommuting project, submit an annual report to the Commissioner concerning—

"(A) the number of individuals with disabilities placed in telecommuting positions and whether the goal described in the agreement entered into under paragraph (2) was met;

"(B) the number of individuals with disabilities employed as salaried employees and their annual salaries;

"(C) the number of individuals with disabilities employed as independent contractors and their annual incomes;

"(D) the number of individuals with disabilities that received benefits from their employers;

"(E) the number of individuals with disabilities in telecommuting placements still working after—

"(i) 6 months; and

"(ii) 12 months; and

"(F) any reports filed with the Occupational Safety and Health Administration.

"(f) LIMITATIONS.—

"(1) PERIOD OF AWARD.—A grant, contract, or cooperative agreement under subsection (a) shall be for a 3-year period.

"(2) AMOUNT.—The amount of a grant, contract, or cooperative agreement under subsection (a) shall not be less than $250,000 nor more than $1,000,000.

"SEC. 613. PROJECTS IN SELF-EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES.

"(a) IN GENERAL.—The Commissioner shall, on a competitive basis, award 1-time, time-limited grants, contracts, or cooperative agreements to eligible entities for the establishment and operation of projects in self-employment for individuals with disabilities.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a) an entity shall—

"(1) be—

"(A) a financial institution;

"(B) an economic development agency;

"(C) a venture capitalist;

"(D) an entity carrying out a Project With Industry described in part B;

"(E) a designated State agency, or other public entity;

"(F) a private organization, including employers and organizations related to individuals with disabilities;

"(G) any other entity that the Commissioner determines to be appropriate; or

"(H) a combination or consortium of the entities described in subparagraphs (A) through (G);

"(2) demonstrate that such entity has the capacity to assist clients, including clients with disabilities, to successfully engage in self-employment enterprises, and

"(3) submit an application that meets the requirements of subsection (c).

"(c) APPLICATION REQUIREMENTS.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall submit to the Commissioner at such time, in such manner, and containing such information concerning the self-employment project to be funded under the grant, contract, or agreement as the Commissioner may require, including—

"(1) a description of how and the extent to which the applicant has assisted individuals, including individuals with disabilities, if appropriate, to successfully engage in self-employment enterprises;

"(2) with respect to any partners who will participate in the implementation of activities under the self-employment project, a description of—

"(A) the identity of such partners; and

"(B) the roles and responsibilities of each partner in preparing the application, and if funded, the roles and responsibility of each partner during the self-employment project;

"(3) a description of the geographic region that will be the focus of activity in the self-employment project;

"(4) a projection for each year of a 3-year period of the grant, contract, or agreement, of the number of clients who will be assisted to engage in self-employment enterprises through the self-employment project;

"(5) a description of the manner in which potential clients will be identified and selected to be assisted by the self-employment project;

"(6) a description of the manner in which self-employment enterprises (or market niches) will be identified for the geographic areas to be targeted in the self-employment project;

"(7) a description of the process by which prospective clients will be matched with self-employment opportunities;

"(8) a description of the manner in which the project will become self-sustaining in the third year of the self-employment project; and

"(9) a description of the nature and amount of funding, including in-kind support, other than funds received under this part, that will be available to be used during the self-employment project.

"(d) USE OF FUNDS.—Amounts received under a grant, contract, or cooperative agreement under subsection (a) shall be used—

"(1) for the preparation of marketing analyses to identify self-employment opportunities;

"(2) for the conduct of marketing activities with respect to financial institutions or venture capitalists concerning the benefits of investing in individuals with disabilities who are engaged in self-employment enterprises;

"(3) for the conduct of marketing activities with respect to potential clients who engage in or might engage in self-employment enterprises;

"(4) for the provision of training for clients to be assisted through the project who seek to engage or are engaging in self-employment enterprises;

"(5) to cover the costs of business expenses specifically related to an individual's disability;

"(6) to provide assistance for clients in developing business plans for capital investment;

"(7) to provide assistance for clients in securing capital to engage in a self-employment enterprise;

"(8) to provide technical assistance to clients engaged in self-employment enterprises who seek such assistance in order to sustain or expand their enterprises; and

"(9) for other uses as determined appropriate by the Commissioner.

"(e) PROJECT REQUIREMENTS.—Self-employment projects funded under this section shall—

"(1) establish criteria for and apply such criteria in selecting clients to be assisted through the project;

"(2) on an annual basis, enter into agreements with the Commissioner that contain goals concerning the number of individuals with disabilities that the project will assist in starting and sustaining self-employment enterprises;

"(3) establish and apply criteria to determine whether an enterprise is a viable option in which to invest project funds;

"(4) establish and apply criteria to determine when and if the project would provide assistance in sustaining an ongoing enterprise engaged in by a client or potential client;

"(5) establish and apply criteria to determine when and if the project would provide assistance in expanding an ongoing enterprise engaged in by a client or potential client;

"(6) establish and apply procedures to ensure that a potential client has a clear understanding of the scope and limits of assistance from the project that will be applicable in such client's case;

"(7) develop procedures, which include a written agreement, that provide for the documentation of the respective responsibilities of the self-employment project and any client with regard to the creation, maintenance, or expansion of the client's self-employment enterprise; and

"(8) with respect to the project, submit a report to the Commissioner—

"(A) for each project year, concerning the number of clients assisted by the project who are engaging in self-employment enterprises and whether the goal described in the agreement entered into under paragraph (2) was met; and

"(B) concerning the number of clients assisted by the project who are still engaged in such an enterprise on the date that is—

"(i) 6 months after the date on which assistance provided by the project was terminated; and

"(ii) 12 months after the date on which assistance provided by the project was terminated.

"(f) DURATION OF AWARDS.—A grant, contract, or cooperative agreement under subsection (a) shall be for a 3-year period.

"(g) DEFINITION.—For the purpose of this section, the term 'client' means 1 or more individuals with disabilities who engage in or seek to engage in a self-employment enterprise.

"SEC. 614. DISCRETIONARY AUTHORITY FOR DUAL-PURPOSE APPLICATIONS.

"(a) IN GENERAL.—The Commissioner may establish procedures to permit applicants for grants, contracts, or cooperative agreements under this part to submit applications that serve dual purposes, so long as such applications meet the requirements of sections 612 and 613.

"(b) AMOUNT OF ASSISTANCE.—In a case described in subsection (a), the minimum amount of a grant, contract, or cooperative agreement awarded under a dual-purpose application may, at the discretion of the Commissioner, exceed the limitations described in section 612(f)(2).

"SEC. 615. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this part, $10,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2004.

"PART B—PROJECTS WITH INDUSTRY

"PROJECTS WITH INDUSTRY

"SEC. 621. (a)(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

"(2) The Commissioner, in consultation with the Secretary of Labor and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

"(A) provide for the establishment of business advisory councils, that shall—

"(i) be comprised of—

"(I) representatives of private industry, business concerns, and organized labor;

"(II) individuals with disabilities and representatives of individuals with disabilities; and

"(III) a representative of the appropriate designated State unit;

"(ii) identify job and career availability within the community, consistent with the current and projected local employment opportunities identified by the local workforce investment partnership for the community under section 308(e)(6) of the Workforce Investment Partnership Act of 1998;

"(iii) identify the skills necessary to perform the jobs and careers identified; and

"(iv) prescribe training programs designed to develop appropriate job and career skills, or job placement programs designed to identify and develop job placement and career advancement opportunities, for individuals with disabilities in fields related to the job and career availability identified under clause (ii);

"(B) provide job development, job placement, and career advancement services;

"(C) to the extent appropriate, provide for—

"(i) training in realistic work settings in order to prepare individuals with disabilities for employment and career advancement in the competitive market; and

"(ii) the modification of any facilities or equipment of the employer involved that are used primarily by individuals with disabilities, except that a project shall not be required to provide for such modification if the modification is required as a reasonable accommodation under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

"(D) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

"(3)(A) An individual shall be eligible for services described in paragraph (2) if the individual is determined to be an individual described in section 102(a)(1), and if the determination is made in a manner consistent with section 102(a).

"(B) Such a determination may be made by the recipient of a grant under this part, to the extent the determination is appropriate and available and consistent with the requirements of section 102(a).

"(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or the individuals' representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect data and information of the type described in subparagraphs (A) through (C) of section 101(a)(10), as determined to be appropriate by the Commissioner.

"(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

"(A) assist employers in hiring individuals with disabilities; or

"(B) improve or develop relationships between—

"(i) grant recipients or prospective grant recipients; and

"(ii) employers or organized labor; or

"(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities.

"(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

"(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

"(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated nondisabled co-workers of the individual, and that such individuals with disabilities shall not be segregated from their co-workers; and

"(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.

"(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

"(d)(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

"(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations.

"(3) No standards may be established under this subsection unless the standards are approved by the National Council on Disability. The Council shall be afforded adequate time to review and approve the standards,

"(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

"(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(2) The Commissioner shall, to the extent practicable, ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

"(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register, in final form, indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

"(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

"(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

"(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

"(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not an employee of the Federal Government; and

"(ii) has experience or expertise in conducting projects.

"(D) The Commissioner shall ensure that—

"(i) a representative of the appropriate designated State unit shall participate in the review; and

"(ii) no person shall participate in the review of a grant recipient if—

"(I) the grant recipient provides any direct financial benefit to the reviewer; or

"(II) participation in the review would give the appearance of a conflict of interest.

"(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years.

"(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of onsite compliance reviews, identifying individual grant recipients.

"(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

"(1) entities conducting projects for the purpose of assisting such entities in—

"(A) the improvement of or the development of relationships with private industry or labor; or

"(B) the improvement of relationships with State vocational rehabilitation agencies; and

"(2) entities planning the development of new projects.

"(h) As used in this section:

"(1) The term 'agreement' means an agreement described in subsection (a)(4).

"(2) The term 'project' means a Project With Industry established under subsection (a)(2).

"(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2).

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 622. There are authorized to be appropriated to carry out the provisions of this part, such sums as may be necessary for each of fiscal years 1998 through 2004.

"Part C—Supported Employment Services for Individuals With the Most Significant Disabilities

"SEC. 631. PURPOSE.

"It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most significant disabilities to enable such individuals to achieve the employment outcome of supported employment.

"SEC. 632. ALLOTMENTS.

"(a) In General.—

"(1) States.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

"(A) no State shall receive less than $250,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

"(B) if the sums appropriated to carry out this part for the fiscal year exceed by $1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than $300,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

"(2) Certain territories.—

"(A) In general.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

"(B) Allotment.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made.

"(b) Reallotment.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

"SEC. 633. AVAILABILITY OF SERVICES.

"Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, or title I, may not be used to provide extended services to individuals who are eligible under this part or title I.

"SEC. 634. ELIGIBILITY.

"An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

"(1) the individual is eligible for vocational rehabilitation services;

"(2) the individual is determined to be an individual with a most significant disability; and

"(3) a comprehensive assessment of rehabilitation needs of the individual described in section 7(2)(B), including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate employment outcome for the individual.

"SEC. 635. STATE PLAN.

"(a) State Plan Supplements.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

"(b) Contents.—Each such plan supplement shall—

"(1) designate each designated State agency as the agency to administer the program assisted under this part;

"(2) summarize the results of the comprehensive, statewide assessment conducted under section 101(a)(15)(A)(i), with respect to the rehabilitation needs of individuals with significant disabilities and the need for supported employment services, including needs related to coordination;

"(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

"(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

"(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

"(6) provide assurances that—

"(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

"(B) the comprehensive assessments of individuals with significant disabilities conducted under section 102(b)(1) and funded under title I will include consideration of supported employment as an appropriate employment outcome;

"(C) an individualized rehabilitation employment plan, as required by section 102, will be developed and updated using funds under title I in order to—

"(i) specify the supported employment services to be provided;

"(ii) specify the expected extended services needed; and

"(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized rehabilitation employment plan is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

"(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized rehabilitation employment plan;

"(E) services provided under an individualized rehabilitation employment plan will be coordinated with services provided under other individualized plans established under other Federal or State programs;

"(F) to the extent jobs skills training is provided, the training will be provided onsite; and

"(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities;

"(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

"(8) contain such other information and be submitted in such manner as the Commissioner may require.

"SEC. 636. RESTRICTION.

"Each State agency designated under section 635(b)(1) shall collect the information required by section 101(a)(10) separately for eligible individuals receiving supported employment services under this part and for eligible individuals receiving supported employment services under title I.

"SEC. 637. SAVINGS PROVISION.

"(a) Supported Employment Services.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

"(b) Postemployment Services.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

"SEC. 638. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1998 through 2004.".

SEC. 610. INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.

Title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.) is amended to read as follows:

"TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

"CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT DISABILITIES

"PART A—GENERAL PROVISIONS

"SEC. 701. PURPOSE.

"The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

"(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

"(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

"(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 705, State vocational rehabilitation programs receiving assistance under title I, State programs of supported employment services receiving assistance under part C of title VI, client assistance programs receiving assistance under section 112, programs funded under other titles of this Act, programs funded under other Federal law, and programs funded through non-Federal sources.

"SEC. 702. DEFINITIONS.

"As used in this chapter:

"(1) Center for independent living.—The term 'center for independent living' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

"(A) is designed and operated within a local community by individuals with disabilities; and

"(B) provides an array of independent living services.

"(2) Consumer control.—The term 'consumer control' means, with respect to a center for independent living, that the center vests power and authority in individuals with disabilities.

"SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.

"Services may be provided under this chapter to any individual with a significant disability, as defined in section 7(21)(B).

"SEC. 704. STATE PLAN.

"(a) In General.—

"(1) Requirement.—To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

"(2) Joint development.—The plan under paragraph (1) shall be jointly developed and signed by—

"(A) the director of the designated State unit; and

"(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

"(3) Periodic review and revision.—The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

"(A) the provision of State independent living services;

"(B) the development and support of a statewide network of centers for independent living; and

"(C) working relationships between—

"(i) programs providing independent living services and independent living centers; and

"(ii) the vocational rehabilitation program established under title I, and other programs providing services for individuals with disabilities.

"(4) Date of submission.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan.

"(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705.

"(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

"(1) receive, account for, and disburse funds received by the State under this chapter based on the plan;

"(2) provide administrative support services for a program under part B, and a program under part C in a case in which the program is administered by the State under section 723;

"(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

"(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

"(d) OBJECTIVES.—The plan shall—

"(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

"(2) explain how such objectives are consistent with and further the purpose of this chapter.

"(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this chapter to individuals with significant disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

"(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this chapter to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

"(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.

"(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, as provided in section 723, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

"(i) COOPERATION, COORDINATION, AND WORKING RELATIONSHIPS AMONG VARIOUS ENTITIES.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

"(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

"(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

"(j) COORDINATION OF SERVICES.—The plan shall describe how services funded under this chapter will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

"(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

"(l) OUTREACH.—With respect to services and centers funded under this chapter, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

"(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this chapter will—

"(1) notify all individuals seeking or receiving services under this chapter about the availability of the client assistance program under section 112, the purposes of the services provided under such program, and how to contact such program;

"(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

"(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this chapter;

"(4)(A) maintain records that fully disclose—

"(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

"(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

"(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

"(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

"(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

"(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

"(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this chapter; and

"(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

"(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.

"SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.

"(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this chapter, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within a State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(2) COMPOSITION.—The Council shall include—

"(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State;

"(B) as ex officio, nonvoting members—

"(i) a representative from the designated State unit; and

"(ii) representatives from other State agencies that provide services for individuals with disabilities; and

"(C) in a State in which 1 or more projects are carried out under section 121, at least 1 representative of the directors of the projects.

"(3) ADDITIONAL MEMBERS.—The Council may include—

"(A) other representatives from centers for independent living;

"(B) parents and guardians of individuals with disabilities;

"(C) advocates of and for individuals with disabilities;

"(D) representatives from private businesses;

"(E) representatives from organizations that provide services for individuals with disabilities; and

"(F) other appropriate individuals.

"(4) QUALIFICATIONS.—

"(A) IN GENERAL.—The Council shall be composed of members—

"(i) who provide statewide representation;

"(ii) who represent a broad range of individuals with disabilities from diverse backgrounds;

"(iii) who are knowledgeable about centers for independent living and independent living services; and

"(iv) a majority of whom are persons who are—

"(I) individuals with disabilities described in section 7(20)(B); and

"(II) not employed by any State agency or center for independent living.

"(B) VOTING MEMBERS.—A majority of the voting members of the Council shall be—

"(i) individuals with disabilities described in section 7(20)(B); and

"(ii) not employed by any State agency or center for independent living.

"(5) CHAIRPERSON.—The Council shall select a chairperson from among the voting membership of the Council.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(B) DELEGATION.—The Governor may delegate the authority to fill such a vacancy to the remaining voting members of the Council after making the original appointment.

"(c) DUTIES.—The Council shall—

"(1) jointly develop and sign (in conjunction with the designated State unit) the State plan required in section 704;

"(2) monitor, review, and evaluate the implementation of the State plan;

"(3) coordinate activities with the State Rehabilitation Council established under section 105, if the State has such a Council, or the commission described in section 101(a)(21)(A), if the State has such a commission, and councils that address the needs of specific disability populations and issues under other Federal law;

"(4) ensure that all regularly scheduled meetings of the Statewide Independent Living Council are open to the public and sufficient advance notice is provided; and

"(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

"(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(e) PLAN.—

"(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this chapter, and under section 110 (consistent with section 101(a)(18)), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

"(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

"(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"SEC. 706. RESPONSIBILITIES OF THE COMMISSIONER.

"(a) APPROVAL OF STATE PLANS.—

"(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 704 that the Commissioner determines meets the requirements of section 704, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

"(2) PROCEDURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 704.

"(B) APPLICATION.—For purposes of the application described in subparagraph (A), all references in such provisions—

"(i) to the Secretary shall be deemed to be references to the Commissioner; and

"(ii) to section 101 shall be deemed to be references to section 704.

"(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 725.

"(c) ONSITE COMPLIANCE REVIEWS.—

"(1) REVIEWS.—The Commissioner shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funds under section 722 and shall periodically conduct such a review of each such center. The Commissioner shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 723, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 723, centers that receive funding under section 723 in such State. The Commissioner shall select the centers and State units described in this paragraph for review on a random basis.

"(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

"(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

"(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

"(C) ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not a government employee; and

"(ii) has experience in the operation of centers for independent living.

"(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards and assurances set forth in section 725. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of onsite compliance reviews, identifying individual centers for independent living and other recipients of assistance under this chapter.

"PART B—INDEPENDENT LIVING SERVICES

"SEC. 711. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made.

"(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

"(b) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with subsection (a)(1)(B), to provide minimum allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(C), or to provide minimum allotments to States under subsection (a)(2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by subsection (a)(1)(B).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

"SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.

"(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 706. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

‘‘(b) FEDERAL SHARE.—

‘‘(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 706.

‘‘(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

“SEC. 713. AUTHORIZED USES OF FUNDS.

‘‘The State may use funds received under this part to provide the resources described in section 705(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

‘‘(1) to provide independent living services to individuals with significant disabilities;

‘‘(2) to demonstrate ways to expand and improve independent living services;

‘‘(3) to support the operation of centers for independent living that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 725;

‘‘(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

‘‘(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

‘‘(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

‘‘(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

“SEC. 714. AUTHORIZATION OF APPROPRIATIONS.

‘‘There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1998 through 2004.

“PART C—CENTERS FOR INDEPENDENT LIVING

“SEC. 721. PROGRAM AUTHORIZATION.

‘‘(a) IN GENERAL.—From the funds appropriated for fiscal year 1998 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d).

‘‘(b) TRAINING.—

‘‘(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance to eligible agencies, centers for independent living, and Statewide Independent Living Councils for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this part for the fiscal year involved.

‘‘(2) ALLOCATION.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

‘‘(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

‘‘(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

‘‘(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

‘‘(c) IN GENERAL.—

‘‘(1) STATES.—

‘‘(A) POPULATION BASIS.—After the reservation required by subsection (b) has been made, and except as provided in subparagraphs (B) and (C), from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

‘‘(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

‘‘(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

‘‘(i) if such excess is not less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $450,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $450,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts;

‘‘(ii) if such excess is not less than $4,000,000 and is less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $400,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $400,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts; and

‘‘(iii) if such excess is less than $4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts described in clause (ii).

‘‘(2) CERTAIN TERRITORIES.—

‘‘(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

‘‘(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the remainder for the fiscal year for which the allotment is made.

‘‘(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

‘‘(4) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with paragraph (1)(B), to provide minimum allotments to States (as increased under paragraph (3)) under paragraph (1)(C), or to provide minimum allotments to States under paragraph (2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under paragraph (1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by paragraph (1)(B).

‘‘(d) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

“SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

‘‘(a) ESTABLISHMENT.—

‘‘(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

"(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant proposing to serve such region, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel and the involvement of individuals with significant disabilities;

"(v) budgets and cost-effectiveness;

"(vi) an evaluation plan; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs, consistent with the provisions of the State plan submitted under section 704 regarding establishment of a statewide network of centers for independent living.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

"(g) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

"SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) INITIAL YEAR.—

"(i) DETERMINATION.—The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

"(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

"(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B), making such adjustments as may be necessary to accommodate State funding cycles such as 2-year funding cycles or State fiscal years that do not coincide with the Federal fiscal year.

"(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

"(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to eligible agencies in the State in accordance with section 722.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) Selection.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 725 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with significant disabilities by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(3) Current centers.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) Order of Priorities.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) Nonresidential Agencies.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

"(g) Review.—

"(1) In general.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) Enforcement.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (i), the date of any final decision under subsection (i),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

"(h) Onsite Compliance Review.—The director of the designated State unit shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funding under this section in the State. Each team that conducts onsite compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

"(i) Adverse Actions.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

"SEC. 724. CENTERS OPERATED BY STATE AGENCIES.

"A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) of this section (as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1998) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

"(1) no nonprofit private agency—

"(A) submits an acceptable application to operate a center for independent living for the fiscal year before a date specified by the Commissioner; and

"(B) obtains approval of the application under section 722 or 723; or

"(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

"SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.

"(a) In General.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter and the objective of providing assistance effectively and efficiently.

"(b) Standards.—

"(1) Philosophy.—The center shall promote and practice the independent living philosophy of—

"(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

"(B) self-help and self-advocacy;

"(C) development of peer relationships and peer role models; and

"(D) equal access of individuals with significant disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

"(2) Provision of services.—The center shall provide services to individuals with a range of significant disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of populations that are unserved or underserved by programs under this title). Eligibility for services at any center for independent living shall be determined by the center, and shall not be based on the presence of any one or more specific significant disabilities.

"(3) Independent living goals.—The center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek such assistance by the center.

"(4) Community options.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with significant disabilities.

"(5) Independent living core services.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.

"(6) Activities to increase community capacity.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.

"(7) Resource development activities.—The center shall conduct resource development activities to obtain funding from sources other than this chapter.

"(c) Assurances.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities;

“(3) the applicant will comply with the standards set forth in subsection (b);

“(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;

“(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;

“(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

“(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit, notwithstanding section 7502(a)(2)(A) of title 31, United States Code;

“(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

“(A) the extent to which the center is in compliance with the standards;

“(B) the number and types of individuals with significant disabilities receiving services through the center;

“(C) the types of services provided through the center and the number of individuals with significant disabilities receiving each type of service;

“(D) the sources and amounts of funding for the operation of the center;

“(E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

“(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

“(9) individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

“(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;

“(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

“(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

“(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

“(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

“SEC. 726. DEFINITIONS.

“As used in this part, the term ‘eligible agency’ means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

“SEC. 727. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1998 through 2004.

“CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

“SEC. 751. DEFINITION.

“For purposes of this chapter, the term ‘older individual who is blind’ means an individual age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

“SEC. 752. PROGRAM OF GRANTS.

“(a) IN GENERAL.—

“(1) AUTHORITY FOR GRANTS.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older individuals who are blind.

“(2) DESIGNATED STATE AGENCY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the agency described in section 101(a)(2)(A)(i).

“(b) CONTINGENT COMPETITIVE GRANTS.—Beginning with fiscal year 1993, in the case of any fiscal year for which the amount appropriated under section 753 is less than $13,000,000, grants made under subsection (a) shall be—

“(1) discretionary grants made on a competitive basis to States; or

“(2) grants made on a noncompetitive basis to pay for the continuation costs of activities for which a grant was awarded—

“(A) under this chapter; or

“(B) under part C, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

“(c) CONTINGENT FORMULA GRANTS.—

“(1) IN GENERAL.—In the case of any fiscal year for which the amount appropriated under section 753 is equal to or greater than $13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

“(2) ALLOTMENTS.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

“(d) SERVICES GENERALLY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

“(1) providing independent living services to older individuals who are blind;

“(2) conducting activities that will improve or expand services for such individuals; and

“(3) conducting activities to help improve public understanding of the problems of such individuals.

“(e) INDEPENDENT LIVING SERVICES.—Independent living services for purposes of subsection (d)(1) include—

“(1) services to help correct blindness, such as—

“(A) outreach services;

“(B) visual screening;

“(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

“(D) hospitalization related to such services;

“(2) the provision of eyeglasses and other visual aids;

“(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

“(4) mobility training, braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

“(5) guide services, reader services, and transportation;

“(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

“(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

“(8) other independent living services.

“(f) MATCHING FUNDS.—

“(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $9 of Federal funds provided in the grant.

“(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

“(g) CERTAIN EXPENDITURES OF GRANTS.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

“(h) REQUIREMENT REGARDING STATE PLAN.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.

“(i) APPLICATION FOR GRANT.—

“(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under subsection (j)(4)).

“(2) CONTENTS.—An application for a grant under this section shall contain—

“(A) an assurance that the agency described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the agency operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

“(i) the number and types of older individuals who are blind and are receiving services;

“(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

“(iii) the sources and amounts of funding for the operation of each project or program;

“(iv) the amounts and percentages of resources committed to each type of service provided;

“(v) data on actions taken to employ, and advance in employment, qualified individuals with significant disabilities, including older individuals who are blind; and

“(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

“(B) an assurance that the agency will—

“(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

“(ii) engage in—

“(I) capacity-building activities, including collaboration with other agencies and organizations;

“(II) activities to promote community awareness, involvement, and assistance; and

“(III) outreach efforts; and

“(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 704.

“(j) AMOUNT OF FORMULA GRANT.—

“(1) IN GENERAL.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

“(A) the amount determined under paragraph (2); or

“(B) the amount determined under paragraph (3).

“(2) MINIMUM ALLOTMENT.—

“(A) STATES.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

“(i) $225,000; or

“(ii) an amount equal to one-third of one percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

“(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000.

“(3) FORMULA.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

“(A) the amount appropriated under section 753 and available for allotments under subsection (a); and

“(B) a percentage equal to the quotient of—

“(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

“(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

“(4) DISPOSITION OF CERTAIN AMOUNTS.—

“(A) GRANTS.—From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) relative to the populations in other States of older individuals who are blind.

“(B) AMOUNTS.—The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

“(i) the failure of any State to submit an application under subsection (i);

“(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

“(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

“(C) CONDITIONS.—The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

“SEC. 753. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1998 through 2004.”.

SEC. 611. HELEN KELLER NATIONAL CENTER ACT.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904(a)) is amended by striking “1993 through 1997” and inserting “1998 through 2004”.

(b) HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT FUND.—The first sentence of section 208(h) of such Act (29 U.S.C. 1907(h)) is amended by striking “1993 through 1997” and inserting “1998 through 2004”.

(c) REGISTRY.—Such Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following:

“SEC. 209. NATIONAL REGISTRY AND AUTHORIZATION OF APPROPRIATIONS.

“(a) REGISTRY.—The Center shall establish and maintain a national registry of individuals who are deaf-blind, using funds made available under subsection (b).

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) such sums as may be necessary for each of fiscal years 1998 through 2004.”.

SEC. 612. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

Section 2(2) of the joint resolution approved July 11, 1949 (63 Stat. 409, chapter 302; 36 U.S.C. 155b(2)) is amended by inserting “solicit,” before “accept,”.

SEC. 613. CONFORMING AMENDMENTS.

(a) PREPARATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary of Education shall prepare recommended legislation containing technical and conforming amendments to reflect the changes made by this title.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Education shall submit to Congress the recommended legislation referred to under subsection (a).

ASHCROFT AMENDMENTS NOS. 2331–2332

Mr. ASHCROFT proposed two amendments to the bill, S. 1186, supra; as follows:

AMENDMENT NO. 2331

In title V, strike the section heading for section 505 and insert the following:

SEC. 505. LIMITATION.

None of the funds made available under this Act may be used to carry out activities authorized under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

SEC. 506. EFFECTIVE DATE.

AMENDMENT NO. 2332

At the end of section 371, add the following:

(f) DRUG TESTING LIMITATIONS ON PARTICIPANTS IN TRAINING SERVICES.—

(1) FINDING.—Congress finds that—

(A) the possession, distribution, and use of drugs by participants in training services should not be tolerated, and that such use prevents participants from making full use of the benefits extended through training services at the expense of taxpayers; and

(B) applicants and participants should be tested for illegal drug use, in order to maximize the training services and assistance provided under this title.

(2) DRUG TESTS.—Each eligible provider of training services shall administer a drug test—

(A) on a random basis, to individuals who apply to participate in training services; and

(B) to a participant in training services, on reasonable suspicion of drug use by the participant.

(3) ELIGIBILITY OF APPLICANTS.—In order for such an applicant to be eligible to participate in training services, the applicant shall agree to submit to a drug test administered as described in paragraph (2)(A) and, if the test is administered to the applicant, shall pass the test.

(4) ELIGIBILITY OF PARTICIPANTS.—In order for such a participant to remain eligible to participate in training services, the participant shall agree to submit to a drug test administered as described in paragraph (2)(B) and, if the test is administered to the participant, shall pass the test. If a participant refuses to submit to the drug test, or fails the drug test, the eligible provider shall dismiss the participant from participation in training services.

(5) REAPPLICATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an individual who is an applicant and is disqualified from eligibility under paragraph (3), or who is a participant and is dismissed under paragraph (4), may reapply, not earlier than 6 months after the date of the disqualification or dismissal, to participate in training services. If the individual demonstrates that the individual has completed a drug treatment program and passed a drug test within the 30-day period prior to the date of the reapplication, the individual may participate in training services, under the same terms and conditions as apply to other applicants and participants, including submission to drug tests administered as described in paragraph (2).

(B) SECOND DISQUALIFICATION OR DISMISSAL.—If the individual reapplies to participate in training services and fails a drug test administered under paragraph (2) by the eligible provider, while the individual is an applicant or a participant, the eligible provider shall disqualify the individual from eligibility for, or dismiss the individual from participation in, training services. The individual shall not be eligible to reapply for participation in training services for 2 years after such disqualification or dismissal.

(6) APPEAL.—A decision by an eligible provider to disqualify an individual from eligibility for participation in training services under paragraph (3) or (5), or to dismiss a participant as described in paragraph (4) or (5), shall be subject to expeditious appeal in accordance with procedures established by

the State in which the eligible provider is located.

(7) NATIONAL UNIFORM GUIDELINES.—

(A) IN GENERAL.—The Secretary of Labor shall develop voluntary guidelines to assist eligible providers concerning the drug testing required under this subsection.

(B) PRIVACY.—The guidelines shall promote, to the maximum extent practicable, individual privacy in the collection of specimen samples for such drug testing.

(C) LABORATORIES AND PROCEDURES.—With respect to standards concerning laboratories and procedures for such drug testing, the guidelines shall incorporate the Mandatory Guidelines for Federal Workplace Drug Testing Programs, 53 Fed. Reg. 11970 (1988) (or a successor to such guidelines), including the portion of the mandatory guidelines that—

(i) establishes comprehensive standards for all aspects of laboratory drug testing and laboratory procedures, including standards that require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimen samples;

(ii) establishes the minimum list of drugs for which individuals may be tested; and

(iii) establishes appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform such drug testing.

(D) SCREENING AND CONFIRMATION.—The guidelines described in subparagraph (A) shall provide that, for drug testing conducted under this subsection—

(i) each laboratory involved in the drug testing of any individual shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(ii) all tests that indicate the use, in violation of law (including Federal regulation) of a drug by the individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding the drug;

(iii) each specimen sample shall be subdivided, secured, and labeled in the presence of the individual; and

(iv) a portion of each specimen sample shall be retained in a secure manner to prevent the possibility of tampering, so that if the confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory, if the individual requests the independent test not later than 3 days after being advised of the results of the first confirmation test.

(E) CONFIDENTIALITY.—The guidelines shall provide for the confidentiality of the test results and medical information (other than information relating to a drug) of the individuals tested under this subsection, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection.

(F) SELECTION FOR RANDOM TESTS.—The guidelines shall ensure that individuals who apply to participate in training services are selected for drug testing on a random basis, using nondiscriminatory and impartial methods.

(8) NONLIABILITY OF LOCAL PARTNERSHIPS.—A local partnership, and the individual members of a local partnership, shall be immune from civil liability with respect to any claim based in whole or part on activities carried out to implement this subsection.

(9) REPORTING REQUIREMENTS.—An eligible provider shall make records of drug testing conducted under this subsection available for inspection by other eligible providers, including eligible providers in other local areas, for the sole purpose of enabling the providers to determine the eligibility status of an applicant pursuant to this subsection.

(10) USE OF DRUG TESTS.—No Federal, State, or local prosecutor may use drug test results obtained under this subsection in a criminal action.

(11) DEFINITIONS.—As used in this subsection:

(A) DRUG.—The term "drug" means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(B) DRUG TEST.—The term "drug test" means a biochemical drug test carried out by a facility that is approved by the eligible provider administering the test.

(C) RANDOM BASIS.—For purposes of the application of this subsection in a State, the term "random basis" has the meaning determined by the Governor of the State, in the sole discretion of the Governor.

(D) TRAINING SERVICES.—The term "training services" means services described in section 315(c)(3).

LAUTENBERG AMENDMENT NO. 2333

Mr. JEFFORDS (for Mr. LAUTENBERG) proposed an amendment to the bill, S. 1186, supra; as follows:

In section 307(a)(2), strike subparagraph (C) and insert the following:

(C) LARGE POLITICAL SUBDIVISIONS.—A single unit of general local government with a population of 200,000 or more that is a service delivery area under the Job Training Partnership Act on the date of enactment of this Act, and that is not designated as a local area by the Governor under paragraph (1), shall have an automatic right to submit an appeal regarding designation to the Secretary. In conducting the appeal, the Secretary may determine that the unit of general local government shall be designated as a local area under paragraph (1), on determining that the programs of the service delivery area have demonstrated effectiveness, if the designation of the unit meets the State plan requirements described in section 304(b)(5).

DOMENICI AMENDMENT NO. 2334

Mr. JEFFORDS (for Mr. DOMENICI) proposed an amendment to the bill, S. 1186, supra; as follows:

After section 157, insert the following:

SEC. 158. DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM AUTHORIZED.—From funds appropriated under subsection (e) for a fiscal year, the Secretary shall award grants to consortia described in section 154(a) to enable the consortia to carry out tech-prep education programs.

(b) PROGRAM CONTENTS.—Each tech-prep program referred to in subsection (a)—

(1) shall—

(A) involve the location of a secondary school on the site of a community college;

(B) involve a business as a member of the consortium; and

(C) require the voluntary participation of secondary school students in the tech-prep education program; and

(2) may provide summer internships at a business for students or teachers.

(c) APPLICATION.—Each consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require.

(d) APPLICABILITY.—The provisions of sections 154, 155, 156, and 157 shall not apply to this section, except that—

(1) the provisions of section 154(a) shall apply for purposes of describing consortia eligible to receive assistance under this section;

(2) each tech-prep education program assisted under this section shall meet the requirements of paragraphs (1), (2), (3)(A), (3)(B), (3)(C), (3)(D), (4), (5), (6), and (7) of section 155(b), except that such paragraph (3)(B) shall be applied by striking ", and where possible and practicable, 4-year institutions of higher education through nonduplicative sequence of courses in career fields"; and

(3) in awarding grants under this section, the Secretary shall give special consideration to consortia submitting applications under subsection (c) that meet the requirements of paragraphs (1), (3), (4), and (5) of section 156(d), except that such paragraph (1) shall be applied by striking "or the transfer of students to 4-year institutions of higher education".

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1999 and each of the 5 succeeding fiscal years.

THE U.S. HOLOCAUST ASSETS COMMISSION ACT OF 1998

D'AMATO AMENDMENT NO. 2335

Mr. KYL (for Mr. D'AMATO) proposed an amendment to the bill (S. 1900) to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "U.S. Holocaust Assets Commission Act of 1998".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Presidential Commission, to be known as the "Presidential Advisory Commission on Holocaust Assets in the United States" (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) NUMBER.—The Commission shall be composed of 21 members, appointed in accordance with paragraph (2).

(2) APPOINTMENTS.—Of the 21 members of the Commission—

(A) 9 shall be private citizens, appointed by the President;

(B) 3 shall be representatives of the Department of State, the Department of Justice, and the Department of the Treasury (1 representative of each such Department), appointed by the President;

(C) 2 shall be Members of the House of Representatives, appointed by the Speaker of the House of Representatives;

(D) 2 shall be Members of the House of Representatives, appointed by the Minority Leader of the House of Representatives;

(E) 2 shall be Members of the Senate, appointed by the Majority Leader of the Senate;

(F) 2 shall be Members of the Senate, appointed by the Minority Leader of the Senate; and

(G) 1 shall be the Chairperson of the United States Holocaust Memorial Council.

(3) Criteria for membership.—Each private citizen appointed to the Commission shall be an individual who has a record of demonstrated leadership on issues relating to the Holocaust or in the fields of commerce, culture, or education that would assist the Commission in analyzing the disposition of the assets of Holocaust victims.

(4) Advisory panels.—The Chairperson of the Commission may, in the discretion of the Chairperson, establish advisory panels to the Commission, including State or local officials, representatives of organizations having an interest in the work of the Commission, or others having expertise that is relevant to the purposes of the Commission.

(5) Date.—The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(c) Chairperson.—The Chairperson of the Commission shall be selected by the President from among the members of the Commission appointed under subparagraph (A) or (B) of subsection (b)(2).

(d) Period of Appointment.—Members of the Commission shall be appointed for the life of the Commission.

(e) Vacancies.—Any vacancy in the membership of the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(f) Meetings.—The Commission shall meet at the call of the Chairperson at any time after the date of appointment of the Chairperson.

(g) Quorum.—Eleven of the members of the Commission shall constitute a quorum, but a lesser number of members may hold meetings.

SEC. 3. DUTIES OF THE COMMISSION.

(a) Original Research.—

(1) In general.—Except as otherwise provided in paragraph (3), the Commission shall conduct a thorough study and develop an historical record of the collection and disposition of the assets described in paragraph (2), if such assets came into the possession or control of the Federal Government, including the Board of Governors of the Federal Reserve System or any Federal reserve bank, at any time after January 30, 1933—

(A) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c);

(B) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c); or

(C) in the case of assets consisting of gold bullion, monetary gold, or similar assets, after such assets had been obtained by the Nazi government of Germany from the central bank or other governmental treasury in any area occupied by the military forces of the Nazi government of Germany.

(2) Types of assets.—Assets described in this paragraph include—

(A) gold;

(B) gems, jewelry, and non-gold precious metals;

(C) accounts in banks in the United States;

(D) domestic financial instruments purchased before May 8, 1945 by individual victims of the Holocaust, whether recorded in the name of the victim or in the name of a nominee;

(E) insurance policies and proceeds thereof;

(F) real estate situated in the United States;

(G) works of art; and

(H) books, manuscripts, and religious objects.

(3) Coordination of activities.—In carrying out its duties under paragraph (1), the Commission shall, to the maximum extent practicable, coordinate its activities with, and not duplicate similar activities already or being undertaken by, private individuals, private entities, or government entities, whether domestic or foreign.

(b) Comprehensive Review of Other Research.—Upon request by the Commission and permission by the relevant individuals or entities, the Commission shall review comprehensively research by private individuals, private entities, and non-Federal government entities, whether domestic or foreign, into the collection and disposition of the assets described in subsection (a)(2), to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States at any time after January 30, 1933, either—

(1) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c); or

(2) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c).

(c) Governments Included.—A government referred to in this subsection includes, as in existence during the period beginning on March 23, 1933, and ending on May 8, 1945—

(1) the Nazi government of Germany;

(2) any government in any area occupied by the military forces of the Nazi government of Germany;

(3) any government established with the assistance or cooperation of the Nazi government of Germany; and

(4) any government which was an ally of the Nazi government of Germany.

(d) Reports.—

(1) Submission to the President.—Not later than December 31, 1999, the Commission shall submit a final report to the President that shall contain any recommendations for such legislative, administrative, or other action as it deems necessary or appropriate. The Commission may submit interim reports to the President as it deems appropriate.

(2) Submission to the Congress.—After receipt of the final report under paragraph (1), the President shall submit to the Congress any recommendations for legislative, administrative, or other action that the President considers necessary or appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) Compensation.—No member of the Commission who is a private citizen shall be compensated for service on the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Executive Director, Deputy Executive Director, General Counsel, and Other Staff.—

(1) In general.—Not later than 90 days after the selection of the Chairperson of the Commission under section 2, the Chairperson shall, without regard to the civil service laws and regulations, appoint an executive director, a deputy executive director, and a general counsel of the Commission, and such other additional personnel as may be necessary to enable the Commission to perform its duties under this Act.

(2) Qualifications.—The executive director, deputy executive director, and general counsel of the Commission shall be appointed without regard to political affiliation, and shall possess all necessary security clearances for such positions.

(3) Duties of executive director.—The executive director of the Commission shall—

(A) serve as principal liaison between the Commission and other Government entities;

(B) be responsible for the administration and coordination of the review of records by the Commission; and

(C) be responsible for coordinating all official activities of the Commission.

(4) Compensation.—The Chairperson of the Commission may fix the compensation of the executive director, deputy executive director, general counsel, and other personnel employed by the Commission, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that—

(A) the rate of pay for the executive director of the Commission may not exceed the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(B) the rate of pay for the deputy executive director, the general counsel of the Commission, and other Commission personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) Employee benefits.—

(A) In general.—An employee of the Commission shall be an employee for purposes of chapters 84, 85, 87, and 89 of title 5, United States Code, and service as an employee of the Commission shall be service for purposes of such chapters.

(B) Nonapplication to members.—This paragraph shall not apply to a member of the Commission.

(6) Office of personnel management.—The Office of Personnel Management—

(A) may promulgate regulations to apply the provisions referred to under subsection (a) to employees of the Commission; and

(B) shall provide support services relating to—

(i) the initial employment of employees of the Commission; and

(ii) other personnel needs of the Commission.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement to the agency of that employee, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) STAFF QUALIFICATIONS.—Any person appointed to the staff of or employed by the Commission shall be an individual of integrity and impartiality.

(g) CONDITIONAL EMPLOYMENT.—

(1) IN GENERAL.—The Commission may offer employment on a conditional basis to a prospective employee pending the completion of any necessary security clearance background investigation. During the pendency of any such investigation, the Commission shall ensure than such conditional employee is not given and does not have access to or responsibility involving classified or otherwise restricted material.

(2) TERMINATION.—If a person hired on a conditional basis as described in paragraph (1) is denied or otherwise does not qualify for all security clearances necessary for the fulfillment of the responsibilities of that person as an employee of the Commission, the Commission shall immediately terminate the employment of that person with the Commission.

(h) EXPEDITED SECURITY CLEARANCE PROCEDURES.—A candidate for executive director or deputy executive director of the Commission and any potential employee of the Commission shall, to the maximum extent possible, be investigated or otherwise evaluated for and granted, if applicable, any necessary security clearances on an expedited basis.

SEC. 6. SUPPORT SERVICES.

During the 180-day period following the date of enactment of this Act, the General Services Administration shall provide administrative support services (including offices and equipment) for the Commission.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report under section 3.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) INAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(b) PUBLIC ATTENDANCE.—To the maximum extent practicable, each meeting of the Commission shall be open to members of the public.

SEC. 9. FUNDING OF COMMISSION.

Notwithstanding section 1346 of title 31, United States Code, or section 611 of the Treasury and General Government Appropriations Act, 1998, of funds made available for fiscal years 1998 and 1999 to the Departments of Justice, State, and any other appropriate agency that are otherwise unobligated, not more than $3,500,000 shall be available for the interagency funding of activities of the Commission under this Act. Funds made available to the Commission pursuant to this section shall remain available for obligation until December 31, 1999.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. COVERDELL. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Friday, May 1, 1998 beginning at 9 a.m. in room 215 Dicksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION

• Mr. INOUYE. Mr. President, on May 2–4, 1998, more than 1200 students from across the nation will be in Washington, D.C. to compete in the national finals of the We the People . . . The Citizen and the Constitution program. I am proud to announce that a class from Lahainaluna High School from Lahaina, Maui will represent the State of Hawaii. These young scholars have worked diligently to reach the national finals by winning competitions in their home state.

The distinguished students representing Hawaii are: Iao Eisenberg, Tiffany Fujiwara, Jasmine Hentz, Erin Lockhart, William Myers, Leah Nakamura, Ryan Ott, Michael Prieto, Julie Reed, Sal Saribay, Justin Serrano, Jeffrey Shelton, Yee Ning Tay, Kerry Tsubaki.

I would also like to recognize their teacher, Ms. Ruth Hill, who deserves much of the credit for the success of the class. The district coordinator, Ms. Jane Kinoshita, also contributed a significant amount of time and effort to help these students reach the national finals.

The We the People . . . The Citizen and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three-day national competition simulates a congressional hearing whereby students are given the opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary constitutional issues. The simulated congressional hearing consists of oral presentations by the students before panels of adult judges.

Administered by the Center for Civic Education, the We the People . . . program, has provided curricular materials at upper elementary, middle, and high school levels for more than 75,000 teachers and 24 million students nationwide. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers.

The We the People . . . program is designed to help students achieve a reasoned commitment to the fundamental values and principals that bind Americans together as a people. The program also fosters civic dispositions or traits of public and private character conducive to effective and responsible participation in politics and government.

I wish to extend my best wishes to these constitutional scholars in the upcoming We the People . . . national finals and commend them for their great achievement of reaching this level of competition.•

THE VERY BAD DEBT BOXSCORE

• Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, April 30, 1998, the federal debt stood at $5,499,894,559,513.94 (Five trillion, four hundred ninety-nine billion, eight hundred ninety-four million, five hundred fifty-nine thousand, five hundred thirteen dollars and ninety-four cents).

One year ago, April 30, 1997, the federal debt stood at $5,353,971,000,000 (Five trillion, three hundred fifty-three billion, nine hundred seventy-one million).

Five years ago, April 30, 1993, the federal debt stood at $4,254,084,000,000 (Four trillion, two hundred fifty-four billion, eighty-four million).

Twenty-five years ago, April 30, 1973, the federal debt stood at $457,063,000,000 (Four hundred fifty-seven billion, sixty-three million) which reflects a debt increase of more than $5 trillion—$5,042,831,559,513.94 (Five trillion, forty-two billion, eight hundred thirty-one million, five hundred fifty-nine thousand, five hundred thirteen dollars and ninety-four cents) during the past 25 years.•

CONGRATULATIONS TO PENNY ABEGGLEN ON THE SECRETARY'S AWARD FOR EXCELLENCE IN NURSING

• Mr. BURNS. Mr. President, I stand today to recognize a very special Montanan. Penny Abegglen has received the Secretary's Award for Excellence in Nursing from the Department of Veterans Affairs. I am very proud that Penny's hard work and dedication to veterans is being recognized with this award.

The Secretary's Award for Excellence in Nursing is one of the highest honors for nursing, and Penny competed with 172 nurses from around the country for this award. Her work in opening a sleep lab at Fort Harrison, Montana, demonstrates initiative above and beyond the call of duty. It has saved Montana's veterans with sleep disorders from making long trips out-of-state to receive treatment.

Penny has worked hard to provide better care to patients and to make herself a better nurse. She should be very proud of her accomplishments and of their well-deserved recognition by the Department of Veterans Affairs. It is a pleasure to let my colleagues and the American people know of the fine service Penny Abegglen has provided to Montana's veterans.•

"IT'S MY FIGHT, TOO"

• Mr. GREGG. Mr. President, I rise today to pay tribute to women, men, and their families who are fighting the scourge of breast cancer. As many of my colleagues may remember, last Spring, I submitted S. Res. 85, with my fellow Senator from New Hampshire, recognizing the family and friends of breast cancer patients in the struggle to cope with this disease. The Senate passed my Resolution by unanimous consent and expressed their overwhelming support for individuals who provide strength and support for loved ones fighting breast cancer. I come to the floor today to again note the importance of this expression and to recognize a very important organization in my home state of New Hampshire that is spreading this message to breast cancer patients across the country.

The American Cancer Society estimates that in 1998, 178,700 new cases of invasive breast cancer will be diagnosed among women in the United States and 1,600 cases will be diagnosed among men. These numbers more than triple in size when you consider the family and friends who are also impacted by the disease. With each and every one of these cases comes family and friends who are looked upon to provide the caring and loving needed to overcome such a terrifying disease.

The Northeast Health Care Quality Foundation, in Dover, New Hampshire, has done an excellent job of expressing this notion to the people of New Hampshire and beyond. With their campaign titled, "It's My Fight, Too," the Foundation has let individuals afflicted with breast cancer know that they are not alone in their struggle. It is important for the family to understand that their feelings are shared by others in their same situation and that they should find strength in numbers.

Awareness campaigns like "It's My Fight Too," are extremely important to foster an environment where support for both the individual with breast cancer and their family and friends is encouraged. Awareness is the key to allowing people to understand and identify with those suffering around them. We can all, as community members, provide support and strength to those in need.

As Mother's Day approaches, the Northeast Health Care Quality Foundation will be holding their annual event to recognize the important women in our lives who may or may not be suffering from this disease but who nevertheless, need to know that breast cancer is not just a women's disease but a struggle that can be fought by all of us together. Their event, "Family and Friends Against Breast Cancer, It's My Fight Too, A Night of Hope, Song and Love" will bring people from across the Northeast together to express the same support the Senate expressed with the passage of S. Res. 85. I commend the efforts of the Northeast Health Care Quality Foundation and encourage organizations across the country follow their leadership and example.•

THE 65TH ANNIVERSARY OF THE CIVILIAN CONSERVATION CORPS

• Mr. DODD. Mr. President, I rise to recognize the sixty-fifth anniversary of the Civilian Conservation Corps, and to pay tribute to the commendable service its members offered our nation. Created by President Franklin Roosevelt on March 31, 1933, the Civilian Conservation Corps had a profound impact on this nation, helping to sustain the United States through the depths of the Depression, and setting a precedent for other federal agencies to carry on the diverse missions of the Civilian Conservation Corps.

Within days after his presidential inauguration, Franklin Roosevelt initiated plans for the Civilian Conservation Corps, citing the need for an organization that would provide jobs for hundreds of thousands unemployed young men ages 18 to 25. President Roosevelt declared that the Civilian Conservation Corps would "conserve our precious natural resources and pay dividends to the present and future generations. More important, we can take a vast army of the unemployed out into healthful surroundings." The Civilian Conservation Corps' intention was not only to provide services to the United States but also to give the unemployed an opportunity to live in healthful surroundings with a steady pay, room, board, and clothing.

By July 1, 1933, a quarter of a million enrollees had enlisted in the Civilian Conservation Corps, making it the fastest large-scale mobilization of men in U.S. history. The enrollees enlisted for six months with the option to re-enroll for another six months or a maximum of two years. They worked forty-hour weeks and received thirty dollars a month. Each month, they required the men to send twenty-five dollars to their families to help them through the difficulties of the Depression. The Civilian Conservation Corps provided members with the opportunity to learn a new skill and allowed them to attend classes to further their education. More than 100,000 men were taught to read and write with the aid of the Civilian Conservation Corps's education classes.

The accomplishments the Civilian Conservation Corps achieved in its nine year existence are impressive. Historical areas in Jamestown, Williamsburg, Yorktown, Fredericksburg and Spotsylvania were restored and developed by the Corps members. At the program's peak, there were over 500 Civilian Conservation Corps camps in national, state, and local parks. Civilian Conservation Corps workers cleared trails, built buildings and shelters, fought forest fires, planted trees, and made other improvements to parks in all the states, territories, and possessions. The three million men planted a total of 2.3 billion trees, spent 6.4 million days fighting forest fires and eradicated diseases and pests. These accomplishments contributed to the Civilian Conservation Corps' lasting environmental legacy. Today, agencies such as President Clinton's Americorps, the Park Service, the Bureau of Reclamation, the Forest Service and the Natural Resources Conservation Service are continuing the tradition of the Civilian Conservation Corps by instilling a sense of value for our natural environment as well as for national service.

Communities across the country benefitted from the hard toil of the Civilian Conservation Corps. The camps helped local economies, bringing large numbers of consumers to the towns' stores and industries. More importantly, they aided the communities in times of crisis, searching for missing persons, fighting fires, and offering assistance to residents during snow and ice storms. The state of Connecticut received such services from the twenty forest camps located within the state during the peak of the Corps program.

Besides offering the members an opportunity to work, the Civilian Conservation Corps provided long-lasting friendships and ties that have endured over the sixty-five years since the Corps' inception. This sense of loyalty and pride extended to an unquestionable sense of pride for our country that is almost unparalleled. The work of the Civilian Conservation Corps remains as a monument to the young men who dedicated their lives to mending and preserving our natural resources. These men have earned the respect and honor of our nation. I offer my heartfelt thanks to the members of the Civilian Conservation Corps and congratulations on their sixty-fifth anniversary.

WEST LAFAYETTE GIRLS' BASKETBALL TEAM

• Mr. LUGAR. Mr. President, I rise today to recognize the West Lafayette girls' basketball team in West Lafayette, Indiana as the 1998 Indiana Class 3A Girls' Basketball State Champion.

On Saturday, March 14, 1998, the West Lafayette Red Devils rallied under coach Steve Dietrich and assistant coaches Alyson Sautter and Corissa Yasen, to defeat the Franklin Community Grizzly Cubs, 62–45, to win Indiana's first girls' Class 3A title. The Red

Devils finished their season with an impressive 24–4 record.

I congratulate the West Lafayette Red Devils on their season of excellence in the Hoosier tradition of basketball. I commend the players, coaches and supporters for their dedication and enthusiasm, which has fostered an outstanding girls' basketball program.

Members of the State Championship team are: Rachael Anderson, Captain; Abbie Erickson, Captain; Kuleni Gebisa, Captain; Keaton Brumm; Lello Gebisa; Lea Musselman; Joni Woods; Hannah Anderson; Johanna Smith; Megan Stacker; Kristen Aaltonen; Ebba Gebisa; and Jeannine Mellish.●

ORDER OF PROCEDURE

Mr. KYL. Mr. President, I have a series of unanimous consent requests that I would like to make, one of which is that we will conclude our business today after the Senator from North Dakota has had an opportunity to make his remarks.

NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK

Mr. KYL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 352, Senate Resolution 175.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 175) to designate the week of May 3, 1998, as "National Correctional Officers and Employees Week."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. KYL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agree to, and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 175) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 175), with its preamble, reads as follows:

Whereas the operation of correctional facilities represents a crucial component of our criminal justice system;

Whereas correctional personnel play a vital role in protecting the rights of the public to be safeguarded from criminal activity;

Whereas correctional personnel are responsible for the care, custody, and dignity of the human beings charged to their care; and

Whereas correctional personnel work under demanding circumstances and face danger in their daily work lives: Now, therefore, be it

Resolved, That the Senate designates the week of May 3, 1998, as "National Correctional Officers and Employees Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

U.S. HOLOCAUST ASSETS COMMISSION ACT OF 1998

Mr. KYL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 351, S. 1900.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1900) to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "U.S. Holocaust Assets Commission Act of 1998".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Presidential Commission, to be known as the "Presidential Advisory Commission on Holocaust Assets in the United States" (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) NUMBER.—The Commission shall be composed of 21 members, appointed in accordance with paragraph (2).

(2) APPOINTMENTS.—Of the 21 members of the Commission—

(A) 9 shall be private citizens, appointed by the President;

(B) 3 shall be representatives of the Department of State, the Department of Justice, and the Department of the Treasury (1 representative of each such Department), appointed by the President;

(C) 2 shall be Members of the House of Representatives, appointed by the Speaker of the House of Representatives;

(D) 2 shall be Members of the House of Representatives, appointed by the Minority Leader of the House of Representatives;

(E) 2 shall be Members of the Senate, appointed by the Majority Leader of the Senate;

(F) 2 shall be Members of the Senate, appointed by the Minority Leader of the Senate; and

(G) 1 shall be the Chairperson of the United States Holocaust Memorial Council.

(3) CRITERIA FOR MEMBERSHIP.—Each private citizen appointed to the Commission shall be an individual who has a record of demonstrated leadership on issues relating to the Holocaust or in the fields of commerce, culture, or education that would assist the Commission in analyzing the disposition of the assets of Holocaust victims.

(4) ADVISORY PANELS.—The Chairperson of the Commission may, in the discretion of the Chairperson, establish advisory panels to the Commission, including State or local officials, representatives of organizations having an interest in the work of the Commission, or others having expertise that is relevant to the purposes of the Commission.

(5) DATE.—The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(c) CHAIRPERSON.—The Chairperson of the Commission shall be selected by the President from among the members of the Commission appointed under subparagraph (A) or (B) of subsection (b)(2).

(d) PERIOD OF APPOINTMENT.—Members of the Commission shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy in the membership of the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(f) MEETINGS.—The Commission shall meet at the call of the Chairperson at any time after the date of appointment of the Chairperson.

(g) QUORUM.—Eleven of the members of the Commission shall constitute a quorum, but a lesser number of members may hold meetings.

SEC. 3. DUTIES OF THE COMMISSION.

(a) ORIGINAL RESEARCH.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (3), the Commission shall conduct a thorough study and develop an historical record of the collection and disposition of the assets described in paragraph (2), if such assets came into the possession or control of the Federal Government, including the Board of Governors of the Federal Reserve System or any Federal reserve bank, at any time after January 30, 1933—

(A) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c);

(B) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c); or

(C) in the case of assets consisting of gold bullion, monetary gold, or similar assets, after such assets had been obtained by the Nazi government of Germany from the central bank or other governmental treasury in any area occupied by the military forces of the Nazi government of Germany.

(2) TYPES OF ASSETS.—Assets described in this paragraph include—

(A) gold;

(B) gems, jewelry, and non-gold precious metals;

(C) accounts in banks in the United States;

(D) domestic financial instruments purchased before May 8, 1945 by individual victims of the Holocaust, whether recorded in the name of the victim or in the name of a nominee;

(E) insurance policies and proceeds thereof;

(F) real estate situated in the United States;

(G) works of art; and

(H) books, manuscripts, and religious objects.

(3) COORDINATION OF ACTIVITIES.—In carrying out its duties under paragraph (1), the Commission shall, to the maximum extent practicable, coordinate its activities with, and not duplicate similar activities already or being undertaken by, private individuals, private entities, or government entities, whether domestic or foreign.

(b) COMPREHENSIVE REVIEW OF OTHER RESEARCH.—Upon request by the Commission and permission by the relevant individuals or entities, the Commission shall review comprehensively research by private individuals, private entities, and non-Federal government entities, whether domestic or foreign, into the collection and disposition of the assets described in subsection (a)(2), to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States at any time after January 30, 1933, either—

(1) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c); or

(2) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c).

(c) Governments Included.—A government referred to in this subsection includes, as in existence during the period beginning on March 23, 1933, and ending on May 8, 1945—

(1) the Nazi government of Germany;

(2) any government in any area occupied by the military forces of the Nazi government of Germany;

(3) any government established with the assistance or cooperation of the Nazi government of Germany; and

(4) any government which was an ally of the Nazi government of Germany.

(d) Reports.—

(1) Submission to the President.—Not later than December 31, 1999, the Commission shall submit a final report to the President that shall contain any recommendations for such legislative, administrative, or other action as it deems necessary or appropriate. The Commission may submit interim reports to the President as it deems appropriate.

(2) Submission to the Congress.—After receipt of the final report under paragraph (1), the President shall submit to the Congress any recommendations for legislative, administrative, or other action that the President considers necessary or appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) Compensation.—No member of the Commission who is a private citizen shall be compensated for service on the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Executive Director, Deputy Executive Director, General Counsel, and Other Staff.—

(1) In general.—Not later than 90 days after the selection of the Chairperson of the Commission under section 2, the Chairperson shall, without regard to the civil service laws and regulations, appoint an executive director, a deputy executive director, and a general counsel of the Commission, and such other additional personnel as may be necessary to enable the Commission to perform its duties under this Act.

(2) Qualifications.—The executive director, deputy executive director, and general counsel of the Commission shall be appointed without regard to political affiliation, and shall possess all necessary security clearances for such positions.

(3) Duties of executive director.—The executive director of the Commission shall—

(A) serve as principal liaison between the Commission and other Government entities;

(B) be responsible for the administration and coordination of the review of records by the Commission; and

(C) be responsible for coordinating all official activities of the Commission.

(4) Compensation.—The Chairperson of the Commission may fix the compensation of the executive director, deputy executive director, general counsel, and other personnel employed by the Commission, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that—

(A) the rate of pay for the executive director of the Commission may not exceed the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(B) the rate of pay for the deputy executive director, the general counsel of the Commission, and other Commission personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) Employee benefits.—

(A) In general.—An employee of the Commission shall be an employee for purposes of chapters 84, 85, 87, and 89 of title 5, United States Code, and service as an employee of the Commission shall be service for purposes of such chapters.

(B) Nonapplication to members.—This paragraph shall not apply to a member of the Commission.

(6) Office of personnel management.—The Office of Personnel Management—

(A) may promulgate regulations to apply the provisions referred to under subsection (a) to employees of the Commission; and

(B) shall provide support services relating to—

(i) the initial employment of employees of the Commission; and

(ii) other personnel needs of the Commission.

(d) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement to the agency of that employee, and such detail shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) Staff Qualifications.—Any person appointed to the staff of or employed by the Commission shall be an individual of integrity and impartiality.

(g) Conditional Employment.—

(1) In general.—The Commission may offer employment on a conditional basis to a prospective employee pending the completion of any necessary security clearance background investigation. During the pendency of any such investigation, the Commission shall ensure than such conditional employee is not given and does not have access to or responsibility involving classified or otherwise restricted material.

(2) Termination.—If a person hired on a conditional basis as described in paragraph (1) is denied or otherwise does not qualify for all security clearances necessary for the fulfillment of the responsibilities of that person as an employee of the Commission, the Commission shall immediately terminate the employment of that person with the Commission.

(h) Expedited Security Clearance Procedures.—A candidate for executive director or deputy executive director of the Commission and any potential employee of the Commission shall, to the maximum extent possible, be investigated or otherwise evaluated for and granted, if applicable, any necessary security clearances on an expedited basis.

SEC. 6. SUPPORT SERVICES.

During the 180-day period following the date of enactment of this Act, the General Services Administration shall provide administrative support services (including offices and equipment) for the Commission.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report under section 3.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) Inapplicability of FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(b) Public Attendance.—To the maximum extent practicable, each meeting of the Commission shall be open to members of the public.

SEC. 9. FUNDING OF COMMISSION.

Notwithstanding section 1346 of title 31, United States Code, or section 611 of the Treasury and General Government Appropriations Act, 1998, of funds made available for fiscal years 1998 and 1999 to the Departments of Justice, State, and any other appropriate agency that are otherwise unobligated, not more than $3,500,000 shall be available for the interagency funding of activities of the Commission under this Act. Funds made available to the Commission pursuant to this section shall remain available for obligation until December 31, 1999.

AMENDMENT NO. 2335

(Purpose: To provide a substitute)

Mr. KYL. Mr. President, Senator D'Amato has a substitute amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. Kyl), for Mr. D'Amato, proposes an amendment numbered 2335.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "U.S. Holocaust Assets Commission Act of 1998".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) Establishment.—There is established a Presidential Commission, to be known as the "Presidential Advisory Commission on Holocaust Assets in the United States" (hereafter in this Act referred to as the "Commission").

(b) Membership.—

(1) Number.—The Commission shall be composed of 21 members, appointed in accordance with paragraph (2).

(2) Appointments.—Of the 21 members of the Commission—

(A) 9 shall be private citizens, appointed by the President;

(B) 3 shall be representatives of the Department of State, the Department of Justice, and the Department of the Treasury (1 representative of each such Department), appointed by the President;

(C) 2 shall be Members of the House of Representatives, appointed by the Speaker of the House of Representatives;

(D) 2 shall be Members of the House of Representatives, appointed by the Minority Leader of the House of Representatives;

(E) 2 shall be Members of the Senate, appointed by the Majority Leader of the Senate;

(F) 2 shall be Members of the Senate, appointed by the Minority Leader of the Senate; and

(G) 1 shall be the Chairperson of the United States Holocaust Memorial Council.

(3) CRITERIA FOR MEMBERSHIP.—Each private citizen appointed to the Commission shall be an individual who has a record of demonstrated leadership on issues relating to the Holocaust or in the fields of commerce, culture, or education that would assist the Commission in analyzing the disposition of the assets of Holocaust victims.

(4) ADVISORY PANELS.—The Chairperson of the Commission may, in the discretion of the Chairperson, establish advisory panels to the Commission, including State or local officials, representatives of organizations having an interest in the work of the Commission, or others having expertise that is relevant to the purposes of the Commission.

(5) DATE.—The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(c) CHAIRPERSON.—The Chairperson of the Commission shall be selected by the President from among the members of the Commission appointed under subparagraph (A) or (B) of subsection (b)(2).

(d) PERIOD OF APPOINTMENT.—Members of the Commission shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy in the membership of the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(f) MEETINGS.—The Commission shall meet at the call of the Chairperson at any time after the date of appointment of the Chairperson.

(g) QUORUM.—Eleven of the members of the Commission shall constitute a quorum, but a lesser number of members may hold meetings.

SEC. 3. DUTIES OF THE COMMISSION.

(a) ORIGINAL RESEARCH.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (3), the Commission shall conduct a thorough study and develop an historical record of the collection and disposition of the assets described in paragraph (2), if such assets came into the possession or control of the Federal Government, including the Board of Governors of the Federal Reserve System or any Federal reserve bank, at any time after January 30, 1933—

(A) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c);

(B) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c); or

(C) in the case of assets consisting of gold bullion, monetary gold, or similar assets, after such assets had been obtained by the Nazi government of Germany from the central bank or other governmental treasury in any area occupied by the military forces of the Nazi government of Germany.

(2) TYPES OF ASSETS.—Assets described in this paragraph include—

(A) gold;

(B) gems, jewelry, and non-gold precious metals;

(C) accounts in banks in the United States;

(D) domestic financial instruments purchased before May 8, 1945 by individual victims of the Holocaust, whether recorded in the name of the victim or in the name of a nominee;

(E) insurance policies and proceeds thereof;

(F) real estate situated in the United States;

(G) works of art; and

(H) books, manuscripts, and religious objects.

(3) COORDINATION OF ACTIVITIES.—In carrying out its duties under paragraph (1), the Commission shall, to the maximum extent practicable, coordinate its activities with, and not duplicate similar activities already or being undertaken by, private individuals, private entities, or government entities, whether domestic or foreign.

(b) COMPREHENSIVE REVIEW OF OTHER RESEARCH.—Upon request by the Commission and permission by the relevant individuals or entities, the Commission shall review comprehensively research by private individuals, private entities, and non-Federal government entities, whether domestic or foreign, into the collection and disposition of the assets described in subsection (a)(2), to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States at any time after January 30, 1933, either—

(1) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c); or

(2) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c).

(c) GOVERNMENTS INCLUDED.—A government referred to in this subsection includes, as in existence during the period beginning on March 23, 1933, and ending on May 8, 1945—

(1) the Nazi government of Germany;

(2) any government in any area occupied by the military forces of the Nazi government of Germany;

(3) any government established with the assistance or cooperation of the Nazi government of Germany; and

(4) any government which was an ally of the Nazi government of Germany.

(d) REPORTS.—

(1) SUBMISSION TO THE PRESIDENT.—Not later than December 31, 1999, the Commission shall submit a final report to the President that shall contain any recommendations for such legislative, administrative, or other action as it deems necessary or appropriate. The Commission may submit interim reports to the President as it deems appropriate.

(2) SUBMISSION TO THE CONGRESS.—After receipt of the final report under paragraph (1), the President shall submit to the Congress any recommendations for legislative, administrative, or other action that the President considers necessary or appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION.—No member of the Commission who is a private citizen shall be compensated for service on the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DIRECTOR, GENERAL COUNSEL, AND OTHER STAFF.—

(1) IN GENERAL.—Not later than 90 days after the selection of the Chairperson of the Commission under section 2, the Chairperson shall, without regard to the civil service laws and regulations, appoint an executive director, a deputy executive director, and a general counsel of the Commission, and such other additional personnel as may be necessary to enable the Commission to perform its duties under this Act.

(2) QUALIFICATIONS.—The executive director, deputy executive director, and general counsel of the Commission shall be appointed without regard to political affiliation, and shall possess all necessary security clearances for such positions.

(3) DUTIES OF EXECUTIVE DIRECTOR.—The executive director of the Commission shall—

(A) serve as principal liaison between the Commission and other Government entities;

(B) be responsible for the administration and coordination of the review of records by the Commission; and

(C) be responsible for coordinating all official activities of the Commission.

(4) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director, deputy executive director, general counsel, and other personnel employed by the Commission, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that—

(A) the rate of pay for the executive director of the Commission may not exceed the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(B) the rate of pay for the deputy executive director, the general counsel of the Commission, and other Commission personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) EMPLOYEE BENEFITS.—

(A) IN GENERAL.—An employee of the Commission shall be an employee for purposes of chapters 84, 85, 87, and 89 of title 5, United States Code, and service as an employee of the Commission shall be service for purposes of such chapters.

(B) NONAPPLICATION TO MEMBERS.—This paragraph shall not apply to a member of the Commission.

(6) OFFICE OF PERSONNEL MANAGEMENT.—The Office of Personnel Management—

(A) may promulgate regulations to apply the provisions referred to under subsection (a) to employees of the Commission; and

(B) shall provide support services relating to—

(i) the initial employment of employees of the Commission; and

(ii) other personnel needs of the Commission.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement to the agency of that employee, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) STAFF QUALIFICATIONS.—Any person appointed to the staff of or employed by the Commission shall be an individual of integrity and impartiality.

(g) CONDITIONAL EMPLOYMENT.—

(1) IN GENERAL.—The Commission may offer employment on a conditional basis to a prospective employee pending the completion of any necessary security clearance background investigation. During the pendency of any such investigation, the Commission shall ensure than such conditional employee is not given and does not have access to or responsibility involving classified or otherwise restricted material.

(2) TERMINATION.—If a person hired on a conditional basis as described in paragraph (1) is denied or otherwise does not qualify for all security clearances necessary for the fulfillment of the responsibilities of that person as an employee of the Commission, the Commission shall immediately terminate the employment of that person with the Commission.

(h) EXPEDITED SECURITY CLEARANCE PROCEDURES.—A candidate for executive director or deputy executive director of the Commission and any potential employee of the Commission shall, to the maximum extent possible, be investigated or otherwise evaluated for and granted, if applicable, any necessary security clearances on an expedited basis.

SEC. 6. SUPPORT SERVICES.

During the 180-day period following the date of enactment of this Act, the General Services Administration shall provide administrative support services (including offices and equipment) for the Commission.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report under section 3.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) INAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(b) PUBLIC ATTENDANCE.—To the maximum extent practicable, each meeting of the Commission shall be open to members of the public.

SEC. 9. FUNDING OF COMMISSION.

Notwithstanding section 1346 of title 31, United States Code, or section 611 of the Treasury and General Government Appropriations Act, 1998, of funds made available for fiscal years 1998 and 1999 to the Departments of Justice, State, and any other appropriate agency that are otherwise unobligated, not more than $3,500,000 shall be available for the interagency funding of activities of the Commission under this Act. Funds made available to the Commission pursuant to this section shall remain available for obligation until December 31, 1999.

Mr. KYL. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be considered read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Amendment (No. 2335) was agreed to.

THE PRESIDING OFFICER. Without objection, the committee amendment, as amended, is agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

ORDERS FOR MONDAY, MAY 4, 1998

Mr. KYL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. on Monday, May 4. I further ask that on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 12 noon, with Senators permitted to speak for up to 10 minutes each, with the following exceptions:

Senator HUTCHINSON for 30 minutes;

And Senator DORGAN for 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. I further ask that following morning business at noon, the Senate proceed to the consideration of H.R. 2676, the IRS reform bill, for debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. KYL. For the information of all Senators, when the Senate reconvenes on Monday, it is the leader's intention to begin consideration of the IRS reform bill. It is hoped that Members will come to the floor, offer their opening statements and debate this important piece of legislation. As a reminder, any votes ordered with respect to the IRS reform bill will be postponed to occur following the vote on the job training partnership bill ordered for 5:30 p.m. on Tuesday, May 5.

ORDER FOR ADJOURNMENT

Mr. KYL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator DORGAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

HEALTH CARE BILL OF RIGHTS

Mr. DORGAN. Mr. President, following the business of the Senate today, there was an hour of morning business and a number of Members of the Senate came to the floor to comment on the hearings that were held yesterday and, I think today, before the Senate Finance Committee. These are hearings about the Internal Revenue Service. I am going to talk about that in a bit because the hearings are dealing with, at least from what I have read, some abuses in the Internal Revenue Service. Some of the instances that have been disclosed in these hearings represent abusive behavior on the part of some employees of the Internal Revenue Service. I will comment on that in a moment, but first I want to talk about some other abuses first that relate to another agenda that many of us want brought to the floor of this Chamber to be debated as soon as is possible. I am referring to abuses in the area of health care, particularly with regard to managed care organizations in our country.

We know that some in this Chamber and in the Congress do not want to address the issue of managed care because the largest insurance companies in the country do not want it addressed. It would be difficult and inconvenient for some insurance plans if the Congress addressed these issues, so there is some stalling going on. However, we intend to, every day that we are in session and have the opportunity, come to the floor of the Senate and talk about some specific instances of abuse that the American people have suffered at the hands of their health care plans. In many respects, we have a wonderful system of health care in this country—new medicines and procedures, breathtaking medical advances—but this is only true for the people who have the quality care available to them.

Let me talk about one American named Buddy Kuhl from Missouri who is dead now. Buddy had a heart attack on his 25th wedding anniversary. He was told by his doctor that he required specialized heart surgery, but because the hospital in his hometown did not have the necessary equipment for that surgery, the doctor arranged for the surgery to be performed in St. Louis. When the hospital requested precertification for the surgery, the utilization review coordinator—that is quite a title, utilization review coordinator—at Mr. Kuhl's HMO refused because the St. Louis hospital was outside the HMO's service area. So the surgery was canceled. The HMO, instead, sent Mr. Kuhl to another doctor to determine whether the surgery could be performed locally. The second doctor agreed with the first one that the surgery had to be performed in St. Louis.

So 2 weeks later, finally the HMO and the accountant who makes these judgments decided they would pay for the surgery in St. Louis, but by that time, the surgery could not be scheduled for another 60 days. By the time the doctors in St. Louis examined Mr. Kuhl, his heart had deteriorated so much that surgery was no longer a possibility. Instead, they concluded he needed a heart transplant. Although the HMO refused to pay for the evaluation for a heart transplant, Mr. Kuhl managed to be placed on the transplant waiting list in St. Louis. Tragically, he died waiting for that heart transplant. Mr. Kuhl was only 45 years old, and he left behind a wife and two children. And the Kuhl family attorney said this: "He did what his HMO told him. Unfortunately, he's dead because he did."

Mr. President, Mr. Kuhl's case is not an isolated one. There is case after case all across this country. Do you think this family has any recourse against their managed care organization? No, because that organization cannot be sued. They can make a decision that will lead to a patient's death but a law called ERISA, an acronym unfamiliar to the widow of Mr. Kuhl, prevents certain types of health plans from being sued.

Some of us in this Chamber believe that health care ought to be a function of doctors providing the health care, rather than some insurance company executive prescribing what is necessary for the medical care of a patient 500 miles away. Yet that is the way health care has evolved. Ask any doctor and you will discover the truth of that statement.

Some of us believe there ought to be a patients' bill of rights that would provide some very basic protections to consumers in their dealings with their health plan. For instance, every patient in this country should have the right to know all of their medical options, not just the cheapest, all of the medical options to treat their disease or their problem, not just the least expensive. And patients and their families ought to have the right to address the wrongs that are done them when a managed care organization's bad decision leads to long-term disability or death.

When you hear the stories of the abuses in managed care, and, yes, they are abuses, it is perfectly understandable, I suppose, why many organizations resist every step of the way any effort to bring to the floor of this Senate a patients' bill of rights. But if we are talking about abuses in this Congress and it is perfectly appropriate to talk about the abuses in the IRS, let us also talk about abuses we can stop in the area of managed care. Just as we ought to stop the shameful abuses that are occurring at the IRS, let us also make sure that Americans who walk through a doctor's office door or through a hospital entrance understand that their care is not going to be a function of a profit and loss statement but rather a function of a health care provider responding in a caring way to their health care problem.

Regrettably, that is not happening in this country today. We can remedy this if we understand exactly what is happening. We will come every day to the floor of the Senate to talk about the abuses in managed care until those who schedule the business of the Senate decide that this is an important enough issue for the American people that it ought to be high on the agenda of the issues to be considered here in the Congress.

Let me finish by telling a story I read about not too long ago about a woman who had just been the victim of an accident and had suffered a brain injury. As her brain was swelling and she was laying in the back of the ambulance, she informed the driver of the ambulance that she wanted to go to a hospital that was farther away. After she recovered, she was asked why she told the ambulance driver she wanted to go to the hospital that was farther away even though it was the closer hospital that was affiliated with her health care plan. And she explained that she knew by having read and heard about what had happened with her neighbors and others, that the hospital would evaluate her care in the context of profit and loss, and she wanted everything that was humanly possible to be done by doctors and nurses to save her life. That is the concern of people about managed care. I am not suggesting that all managed care in this country has disserved the needs of the patients in this country. That is not the case. In some cases it has reduced the cost of health care and still provides decent service.

But you know and I know that all across this country there are examples of managed care organizations that are forcing doctors to sign contracts that say to a doctor, "Don't let one of your patients show up at an emergency room. If you do, if one of your patients comes into an emergency room, guess what, we are taking it out of your pocket." You talk about a disincentive. That represents a conflict of interest, yet that is what is going on in these managed care organizations, because it is becoming for them not so much a delivery of health care, it is a function of profit and loss.

We ought to begin to separate that discussion just a bit by passing a patients' bill of rights. To those who say they don't want to bring that to the floor, I say you are going to be annoyed then, because every day we will come to the floor to talk about this, and one day, one way, sooner or later, we are going to debate this on the floor with a piece of legislation we call the Patients' Bill of Rights. You may not think that now, but before the end of the year it will be here and you will vote on it.

THE INTERNAL REVENUE SERVICE

Mr. DORGAN. Mr. President, let me go to a couple of other issues.

About the Internal Revenue Service hearings that are being held in the Senate Finance Committee this week, let me say first that I think those hearings are appropriate. I think anywhere you find abuses of a taxing agency, they are repulsive and disgusting. Those who commit those abuses ought to be summarily fired and penalized in any other way the agency can do so.

It is clear to me from the hearings that have been held that there has been mismanagement at the Internal Revenue Service and that some of the circumstances of abuses they should have known about, they didn't. On some of misconduct that they did know about, they didn't take appropriate action. And if these hearings accomplish anything, I hope it is that this agency simply cannot ever treat lightly the abuse of the American taxpayer. It is ugly and disgusting and must never happen. All tax agencies have a special responsibility to make sure it doesn't happen.

I ran a State tax agency for some long while in a State capital, and I understand about it. We were the repository of hundreds of thousands of income tax returns having sensitive financial information of all the folks of our State. I understand the responsibility of taxing authorities to make certain that the agency behaves appropriately with taxpayers. And I am appalled by some of the stories that have come from these hearings.

We ought to stop in its tracks any abuse that exists anywhere, anytime in the IRS, and we ought to do it now. And I will support the legislation that comes to the floor of the Senate dealing with changing some of the procedures down at the Internal Revenue Service.

But I want to tell you something else we should stop, and we should do it now. We should stop the fundraising that goes on surrounding these issues. I hold in my hand a fundraising letter by a Member of the Senate. It was sent to people across this country, coordinated, I assume, to be timed with the IRS hearings in the Senate Finance Committee. It is, I understand, the second such fundraising letter that has gone out, possibly the third. The letters have been timed, I think—at least I am told—to coordinate somehow with the hearings on the IRS.

This fundraising letter for a political party, signed by a Member of the Senate, talks about ending the IRS reign of terror. It goes on and on and so on. It says: We are on the right side. If you will just send us $25, $50, $100, $250, $500—if you will just send us some money, we will be your pen pal for life. We will keep sending you these letters. We will work hard in Congress on all the right things. I think it is the right thing to do to hold hearings in the Finance Committee about IRS abuse. It is not the right thing for the party that schedules those hearings to use the opportunity to send fundraising letters all across this country. In some cases, they have even boasted about the money they have raised in the first round of fundraising letters with respect to the hearings they held. What that suggests is, this is a lot more than public policy. It is a very heavy dose of money politics.

There is no question that this country's Tax Code is in desperate need of change and repair, and we have more ideas to change it than there are Members of Congress. We have people who say, let's have a VAT tax, let's have a flat tax, let's have a national sales tax. There are dozens of variations on each. It is interesting that those who complain the loudest in this Chamber about the complexity of the Tax Code are those who have hauled the heaviest loads of legislation on the floor of the Senate to complicate the Tax Code.

I believe the first tax form and return and instructions were a total of something like seven pages, with everything. Now it is like a huge mail order catalog, with all of the forms and all the instructions. I understand that people can't deal with that complexity and should not have to. This Tax Code is Byzantine. It is way out of whack. We ought to change it. We ought to simplify it. It is interesting that those who have made it complex have done so because they've wanted special deals for themselves, carving out special tax breaks for a few while others are asked to pay more.

It wasn't too long ago that we would read stories about a corporation in this country that made $4 billion of income in a year. Do you know how much they paid in income tax? Zero, nothing, no tax. They were tax exempt. So we made some changes in the Tax Code to see if we couldn't get them to pay taxes like other Americans. All of those changes in the Tax Code changed the circumstances of the code to add lines to the code and make it more complicated. I understand all that.

I am going through a list of things I think we can do to dramatically simplify the Tax Code. I have proposed some legislation that I think would allow up to 70 million Americans to never have to file a federal income tax return again. I will go through that and explain how I think that can occur.

But I must say, I find it interesting that in this climate, what we have is fundraising letters coordinated with hearings designed, I think, to pave the way for a tax system to say to the American people, "What we would like to do is change your tax system so there is one rate for everybody." Steve Forbes says that. I spoke at a banquet once when he was sitting in the audience. I said, "You know, only in Washington, DC, would a billionaire proposing a significant tax cut for himself be considered having a bold public policy statement." Only in Washington, DC, could that happen. A single rate, so the richest American pays the same tax rate as the lowest person on the income scale when they file their tax returns? I don't think so. It doesn't make sense to me.

It seems to me the person who is making $20 million a year can afford to pay a couple of percent more than somebody who is making $22,000 a year and trying to raise a couple of kids. So, should we have a one-size-fits-all, one-rate-fits-all tax system? I don't think so.

How about a national sales tax? We have people over there on the other side who are offering national sales taxes. In fact, I was down at the Brookings Institution a while back and spoke. I saw a study they have just done that says if you have a national sales tax in this country, you are going to have to tax almost everything with this sales tax and you are going to have a rate that is in excess of 30 percent—30 percent, to raise the same money the current system uses. Wouldn't it be interesting to see how people would react if they said, "Oh, you are going to buy a home? Yes, that's the price, but there is one more little thing: You have to pay a 30 percent sales tax on the home." How long do you think the American people would stand for that? It might sound kind of simple. The fact is, a 30 percent sales tax, or 35 percent sales tax, added on top of the local sales tax of 4, 5, 6, 8, 9 percent in some parts of the country—I wonder if people are going to think that is a pretty healthy tax program. I don't think so.

There is, it seems to me, an opportunity to do a couple of things.

(Mr. HAGEL assumed the Chair.)

Mr. DORGAN. Mr. President, we can pass some legislation that will be brought to the floor of this Congress that deals directly with some of the abuse that has been disclosed at these hearings.

I agree with one of the other Senators this morning who said there are a lot of folks at the Internal Revenue Service who do good work and good public service. I received a letter the other day from a fellow in North Dakota, a conservative Republican businessman who is very successful and has done very well for many years. He said, "I don't want you to tell anybody that I told you this, but I am watching all this IRS stuff, and I have been in business for 35 years and have had a lot of dealings with the Internal Revenue Service. And I have never dealt with any one of them who weren't good, honest people and easy to deal with." He had nothing but good to say. I jotted a note back and said, "Good for you."

That is probably the case for a lot of people. I think most people find their experience with the Internal Revenue Service is fair, but when they find it is not, when they find abuse, we have a responsibility to stop it, even if it is just the exception.

We intend to pass a piece of legislation—and I intend to vote for it—that responds to that. Last November, the House of Representatives, incidentally, passed similar legislation by a vote of 426 to 4. We could have passed this legislation last November, or at the very latest in January when the Congress returned, but we did not. Delay, delay, delay and more delay, until now. We are probably ready to have the legislation brought to the floor next week. As I said, I will be supportive of it, but we could have passed this legislation long, long ago. I worry—and I hope I am not right—that it had a lot to do with these fund-raising letters that have gone out in some concert with these hearings.

Let me describe just for a moment what we could do to the tax system. We could do something positive for tens of millions of Americans. I want to describe it. It is called the Fair and Simple Shortcut Tax plan or "FASST." I have worked with some of my colleagues on it in both the Senate and House.

The proposition is this: Many Americans have as their only income the wages they earn at their workplace. They ought not have to file an annual federal tax return. Some 30 countries in the world have some kind of income tax in which you don't have to file an annual return.

For someone who gets most of their money from their wage or salary at work, we can say to those folks, "Your tax withholding at work can be modified slightly so that it becomes your actual tax liability when it is sent to the IRS by your employer. You don't have to worry about filing any tax return." No April 15 deadline. No waiting in line at the post office. No getting your records together. You don't have to file an annual tax return. Up to seventy million people, I estimate, could be taken off the tax rolls in this country with the returns that are now filed if we used a plan like this. Let me describe the plan to you.

The plan would say that if you are a family earning up to $100,000 a year in wages, or a single taxpayer earning up to $50,000 in wages annually, and if your other income, that is non-wage income such as capital gains, interest and dividends is less than $5,000 for a couple, and $2,500 or less for a single person—then you simply fill out a W–4 form, as you now do at your place of employment. On your W–4 form, we will make a couple of other check marks. You change it very little. There will be a couple of additional check marks—one for child credit and the second for home ownership.

When you complete that W–4 form at work, if you choose the option of using the Fair and Simple Shortcut Tax plan, then you don't have to file a federal income tax return. Your employer, working from a table prepared by the IRS, will determine what your withholding is. When your employer sends in that withholding to the IRS that is your exact tax liability, no tax return is needed.

Up to 70 million Americans would be able to do that easily, quickly, with no tax return filed and no records to be gathered. In addition, up to $5,000 in other income would be exempt from taxation because you are not trying to trace every nickel and track down every dime of some other income stream in order to have withholding from it.

It is a wonderful incentive at that point because there is an incentive for interest and capital gains at the bottom that is nontaxable. The incentive for the rest of your wage income is to say that you are going to pay taxes at 15% after claiming several important deductions. And you are not going to have to file a tax return. The W–4 is modified slightly so that you are still able to get credit for home ownership and a deduction for interest payments on a home mortgage.

All of that can be done today. It can be done in Congress now. It is not complicated. Some 30 countries have some modified approach to this no-return filing system.

Is it as aggressive as some saying, "Let's just get rid of the entire Code?" No, it is not. In fact, my plan would say every taxpayer has the choice. The choice is do you want to use the Fair and Simple Shortcut Tax plan and not file a return or they can say, "I really don't want to do this. I fit the income requirements, but I don't want to do it. I prefer to file a return every year. I prefer to go searching for my records. I prefer to wait at the post office because I enjoy that. I just prefer to do it the hard way. I prefer the current system."

I don't think many would do that, but my point is this would be a choice for most taxpayers. However, those who do not fit in this system would file, as they do now, under the current system. I would make some changes to help simplify things for them too.

I would eliminate, for a fairly sizable part of the population, the alternative minimum tax calculations which have become very complicated and were never intended to harness a bunch of taxpayers who are making $80,000 or $150,000. The alternative minimum tax calculations were designed to try to get the largest enterprises in the country that were making tens of millions of dollars and paying nothing, to start becoming taxpayers once again.

I also propose for those who want to use the old system that they get a tax credit to help offset the cost of tax preparation. Businesses would get a tax credit to offset the cost of preparing the W–4 forms. There would be almost no added cost here for businesses, but I would provide some incentive for them.

Again, this is an approach that can be done, and it can be done quickly and easily. This Congress could embrace it. It is the only plan that I am aware of that really relates to honest simplification of the Tax Code. Taking 70 million people out of the loop of having to file an annual income tax return is a huge step forward toward simplification.

I hope, Mr. President, as we begin talking about what we do about this frightful complexity in the Tax Code, that we will decide as a Senate and a Congress that this is a plan that we can embrace.

William Gale, a senior fellow at the Brookings Institute says:

> Roughly half of the U.S. taxpayers could be placed on a no-return system with relatively minor changes in the tax laws."

A no-income-tax-return system.

The GAO says:

> No-return systems are proven. More than 30 countries, including Germany, Japan, and the United Kingdom use some form of the no-return system.

I hope that some of my colleagues will join me as I begin to discuss some of these issues in the context of tax reform in this Congress.

Mr. President, I have a couple of other items that I wish to discuss today briefly. There was a substantial amount of discussion this morning about a range of issues, most of them dealing with taxation. I just wanted to cover a couple of other items—one, that I have spent a lot of time talking about on the floor of the Senate, but then I want to talk about the larger agenda issues those of us on this side of the political aisle in the Senate want to see brought to the Senate for debate.

OUR TRADE POLICY WITH CHINA

Mr. DORGAN. I noticed that China decided recently that it is going to ban direct marketing in China. That means that Amway, Avon, Mary Kay Corporation and similar companies are told they cannot any longer direct market. Apparently, some scams were going on in China—not by these companies, mind you—that was causing some problems, so China just said no more direct marketing in this country.

Our trade ambassador, Charlene Barshefsky, immediately went into action and met with China's Minister, Wu Yi, on Friday to discuss the issue. And that is fine. I do not know much about Mary Kay, Avon or Amway, but they are aggrieved. They are legitimate businesses, but China has banned them. They ought to be able to do business in China. I think it is fine for the trade ambassador to jump in and say, "Why don't you own up to our trade agreements here and let these people market?"

But I just ask this: Could we be as aggressive on behalf of wheat and meat as we are on behalf of cosmetics? Could we be as aggressive on behalf of farmers who cannot get enough wheat into China?

We have been dealing with China for a decade on this thing called TCK smut. China, for example, has displaced America as the major wheat supplier to China, even as they send us all their shirts and shoes and trousers and trinkets. And they have ratcheted up this huge trade surplus with us, but we cannot get enough wheat into China. We cannot get enough meat into China. We can't get hardly any pork into China. We can't get enough beef or chicken into China.

I say to our trade representatives, that is fine. You be aggressive about cosmetics and you be aggressive about direct selling, but why don't you also start being as aggressive for wheat and meat? Why don't you be aggressive on behalf of individual American farmers who all across this country discover they cannot get their products into a country, China, that is ratcheting up a huge trade surplus with us?

We have become an unbelievable cash cow for China's hard currency needs. Shame on us for a trade policy that allows that. I just ask the trade ambassador, get busy. Get aggressive. It is fine that you care about Amway, Mary Kay, Avon, and other direct sellers. But get busy on behalf of those who get up at sunrise and do chores, who plow fields, who produce wheat and meat and want to get that into China as well.

Mr. President, that was therapeutic to say on a Friday anyway.

THE DEMOCRATIC AGENDA IN THE SENATE

Mr. DORGAN. Let me talk about one last point, and that is the agenda of the Senate. The fact is, I come from a side of the political aisle in the Senate that does not control the agenda. The reason why is because we lost the election. The other side has more people, they elect the majority leader, and the majority leader decides the agenda of the Senate. I am not complaining about that. That is the way the Senate works and that is what the rules are.

But we being a minority still have an agenda, and we still have certain rules in this Senate to work with to try to make certain our agenda is also considered. I want to mention just for a moment a couple of points in that agenda. I started out by discussing the Patients' Bill of Rights and the issue of health care quality in this country. We intend to see that there is a vote on managed care reform, the Patients' Bill of Rights, in this Congress.

We also fully intend to see that a tobacco bill is brought up, and I think the majority leader now is going to a tobacco bill for consideration. We must as a country decide that this country will no longer countenance tobacco companies targeting kids. You cannot addict 30-year-olds. Who reaches age 30 and says, "What can I do to improve my life?" and comes up with the answer of smoking? The tobacco companies addict kids. They get kids when they are 14, 15, 16 years old and addict them to nicotine. Those are the new customers for tobacco. By age 30, you know tobacco causes cancer and heart disease and a whole range of enormous health problems that threaten the American people. So almost nobody who is not addicted to nicotine by age 30 discovers that they could improve their life by starting to smoke.

We must decide that we will not any longer in this country allow tobacco to target kids. The tobacco industry does not have that right. We have written a piece of tobacco legislation in the Senate Commerce Committee under the leadership of Senator MCCAIN. It is a good piece of legislation. It is not perfect. I voted for it. I proposed some changes to it during the Committee's consideration, and I will propose some changes on the floor of the Senate as well. But overall it is a good piece of legislation.

Senator MCCAIN should be commended for his leadership. And the product of his leadership will be brought to the floor of the Senate. We need a wide open debate on that. This Congress must pass a tobacco bill. And we ought to do it soon.

We did just discuss education on the floor of the Senate and, frankly, many of us are dissatisfied. Obviously, we did not get what we wanted from that debate. The way that debate was structured, we had 30 minutes on this side of the aisle—30 minutes—to discuss an issue of substantial national importance, and that is the decay of America's school infrastructure.

We proposed that the Federal Government just provide some help with respect to the interest costs on bonds that are used to build or modernize new schools. That is a significant priority, in my judgment. Yet the Senate said no, the priority should be to give tax subsidies, the bulk of which will go to kids who go to private schools.

Last Sunday, I was in Fort Yates, ND, on the Standing Rock Indian Reservation, at the Bureau of Indian Affairs school there. The elementary school has roughly 150 students, but it is closed now. If you go into the school building, you will see there is no carpeting, and the ceiling tiles have been removed. The lights were leaking PCBs, which is a carcinogen. And all the kids had to be removed from the school. That was February 13. The kids—these are mostly Indian children—are going to school in a gymnasium. The air is stale in this gymnasium, and there is no air-conditioning or ventilation that moves the air around.

They have created classrooms by putting in big, make-shift plywood dividers that are not anchored to the floor. You just touch the dividers and they go back and forth. In some cases, the children are sitting on the bleachers and trying to do their classwork. And the noise from the 100-some kids in this gymnasium creates just a din. And that has been the quality of their education since February 13.

And so one can talk about whether the condition of our schools matters. The school I just spoke of happens to be a BIA school. It is the responsibility of this Congress and the Bureau of Indian Affairs. It is not the responsibility of some local school district. It is our responsibility.

Up the road 45 miles, I was in a school that I have mentioned a couple of times, the Cannon Ball Elementary School. This is a public school, although it happens to be on an Indian reservation as well. Nobody here in this Chamber would want to send their children to that school. There are 140 kids, plus teachers and staff, and only two bathrooms and one water fountain in the school. Part of the school is 90 years old and has been condemned. The choir room, which is a former janitor's closet, has to be abandoned once or twice a week because sewer gas seeps in and they cannot continue to have kids in that room. Nobody here would say that would be a good place to have their children attend school. It is a public school, but it does not have any money because its tax base is so poor.

So what do school officials do when large parts of the school have been condemned, kids are crammed into a classroom 12 foot by 8 foot, with not 1 inch between their desks because it is so crowded, and with twice as many kids scheduled to go into that classroom the next year? What they will do is split that class up, and they will put them in a big, open room. One teacher will teach two classes at the same time, going back and forth between the two groups of kids.

And you can say, well, school construction is not important or it is somebody else's job. That school district does not have the capability ever to build a new school on its own because it simply does not have the tax base to support a bonding initiative. The cost of building a new school of the size that is needed is about $2.5 million. Yet the maximum bonding capacity of that school district, because it is on Indian land and its tax base is so small, is only $750,000.

So 140 children—mostly Indian children—will continue to go to a school that none of us would want our kids to attend unless we do something to help them. The teachers at the school there are wonderful. The administrator is a wonderful man. They do a terrific job under tough circumstances. But those kids deserve better than that. When those kids walk through that schoolroom door, they deserve better than that.

A little second grader named Rosie Two Bears asked me when I was in the classroom, she said, "Mr. Senator, will you buy me a new school?" Well, I can't buy her a new school, but part of the debate about the education agenda ought to be is school construction important and is this a national problem and is there something we can do, at least at the margin, to say this is a priority? Is it a higher priority than giving a tax credit to somebody who wants to send their child to a private school? I think so. At least it ought to be, but we only had 30 minutes to make that case. And we didn't have the votes, unfortunately, to prevail on that amendment.

Our point is that we have an agenda that relates to the center of what most people are concerned about and we want that agenda considered by the Senate. Most people are in their homes in the evening and talking at the dinner table. They are asking themselves pretty routine questions about life. How did the job go today, how is your job, do you have a job that pays well, has decent security? Do you have benefits? So how is the job? Or how about health care? Do grandpa and grandma have access to health care? How about the kids; do they have access to health care? What about the neighborhood; is it safe? Are the streets safe to walk in?

Jobs and health care and education. What about our kids? Are they going to good schools? Are we proud in the morning when we send them off to schools? Those are the central issues—schools, health care, jobs, safety and security, crime. Those are the central issues that we must debate on the floor of the Senate.

We have developed an agenda under the leadership of Senator DASCHLE and many others in our caucus. We don't believe we have the exclusive ideas that represent all the best ideas or the only ideas. We understand there are plenty of other people in this Chamber that have ideas of their own, some of which might fit better than the ideas we have, but we believe that the topics I just discussed are the central topics that relate to how most people live every day, and most of the conditions they have every day, and we very much want to see all of these topics—the agenda that the Republicans have and the agenda that the Democrats have—brought to the floor of the Senate for a full debate and have the American people weigh in on that discussion and tell us what they think is important.

As we continue holding hearings and developing the agenda here in the Congress, I hope that agenda brought to the floor of the Senate will reflect the agenda we think is important. I say again, we fully intend to pursue this agenda with great vigor. For those who now suggest that they will keep it off the floor of the Senate—managed care reform, for example—I say to them we will be awfully annoying for a long time because we insist it come to the floor.

Let me make another point that I think will represent a significant area of priority debate in this Congress, and that is there are these folks who stand up at the desks in the Senate and the House of Representatives and talk about the surplus, what we should do with the surplus. In fact, some are talking about how large a tax cut they can give this year to deal with the budget surplus. There is no budget surplus. There isn't a budget surplus. We have made wonderful progress in wrestling the budget deficit to the ground, but there is not a budget surplus unless you save the Social Security revenues for the purpose they were intended to be saved for.

I say to all of those who are rushing to embrace their favorite tax cut plan, President Clinton said it in the State of the Union Address, and we still believe it, save Social Security first. When people, from their paychecks, make a payment to the Social Security trust fund in the form of a tax that is dedicated to be used only for one purpose, do not misuse it. Don't use it as other revenue. Don't count it as part of your budget calculation. Save it in the trust fund and save Social Security first. That is the responsibility of this Congress.

All of those folks who have ideas either to provide tax breaks or to spend the money that doesn't exist, I say to them you have and we have a responsibility to save Social Security first. When we get to a budget debate on a budget conference report, we will once again, I assume, have that kind of contest about what ought to be done with respect to this budget.

I say as emphatically as I can, you do not have a budget surplus until you have made whole the Social Security funds and kept the promise to the American people to save Social Security first.

I yield the floor.

ADJOURNMENT UNTIL 11 A.M. MONDAY, MAY 4, 1998

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 11 a.m., Monday, May 4, 1997.

Thereupon, the Senate, at 1:34 p.m., adjourned until Monday, May 4, 1998.

NOMINATIONS

Executive nominations received by the Senate May 1, 1998:

THE JUDICIARY

NATALIA COMBS GREENE, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE STEPHEN F. EILPERIN.

NEAL E. KRAVITZ, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE PAUL RAINEY WEBBER, III, TERM EXPIRED.

WITHDRAWAL

EXECUTIVE MESSAGE TRANSMITTED BY THE PRESIDENT TO THE SENATE ON MAY 1, 1998, WITHDRAWING FROM FURTHER SENATE CONSIDERATION THE FOLLOWING NOMINATIONS:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

KEVIN EMANUEL MARCHMAN, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE JOSEPH SHULDINER, WHICH WAS SENT TO THE SENATE ON MARCH 19, 1997, AND ON JANUARY 29, 1998.

EXTENSIONS OF REMARKS

TRIBUTE TO MS. KARA PIVARSKI

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. DOYLE. Mr. Speaker, I rise today to honor Ms. Kara Pivarski from Springdale High School. Kara is the top winner in the 1998 18th Congressional District High School Art Competition, *An Artistic Discovery*.

Kara's outstanding artwork reflects all the signs of an artist of considerable talent. "Hey, you in white", an oil composition, not only captures the nuances of light and shadow, but the complex nature of human expression. Her attention to detail has the effect of transporting you to the time and place of the painting's subjects.

I always look forward to viewing the artwork created by our local student artists, and I am pleased that Kara's artwork will be displayed in a national exhibition along with students from across the country. Kara, you can be extremely proud of your accomplishment.

Congratulations! Best wishes for future success.

IN SUPPORT OF HOME EDUCATION

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. BLUNT. Mr. Speaker, I am pleased again to join along with the Missouri State Senate and the Missouri House of Representatives in support of home education. The Missouri General Assembly has designated the second week of May as Home Education Week. Missouri is looked to as a leader nationwide in the home education movement. That would not be possible without the dedication of our parents who are continually committed to the strong educational principles that have ensured the success of home education. Those principles are the commitments to teaching the fundamentals in reading, writing and arithmetic.

Home education has provided parents the flexibility to tailor education lessons to their child's needs. It also provides an environment where parents can apply the lessons they teach in real-life settings. That may be taking a trip to a botanical garden or national forest to learn about plant science or visiting a local newspaper to learn about a possible career in journalism, photography, printing or advertising.

Home education is successful and history proves it. Since the founding of America many famous Americans have been home educated. That list includes George Washington, Thomas Jefferson, Booker T. Washington, Thomas Edison, Andrew Carnegie, Franklin D. Roosevelt, Mark Twain, and Sandra Day O'Connor. A most recent example was last May when Rebecca Sealfon of Brooklyn, NY won the National Spelling Bee. So when I hear that over 3,500 families in Missouri alone are home educating, I am not surprised.

Without hesitation, I thank each parent who is at home teaching their child the skills they will need to succeed in the competitive world we live in today. It takes countless hours of preparation and teaching time that may seemingly go unnoticed. Your efforts have not gone unnoticed and they did not go unnoticed when Thomas Jefferson wrote the Declaration of Independence and Thomas Edison invented the light bulb. I hope that my colleagues will join me today to let you know that those efforts are appreciated.

IN HONOR OF JOHN MUSICO

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mrs. MALONEY of New York. Mr. Speaker, I rise today to honor John Musico, superintendent of School District 14 in Greenpoint, Brooklyn.

A life-long New York resident, Mr. Musico's distinguished career has truly encompassed all aspects of the New York City School system. A graduate of this system himself, he began his teaching career in 1967 at Public School 59, during which time he also served as UFT chapter chair and as a delegate to the AFT, NCA, and NYSUT conventions representing teachers until 1973.

In 1973 Mr. Musico was selected to be an assistant principal of Early Childhood. He expanded this program, which was the largest of its kind in the district, to include an experimental three-year old program and all-day kindergarten.

Four years later, he became principal of PS 110. During his 15 year term, Mr. Musico initiated many innovative ideas, including restructuring the reading and math programs, establishing a foreign language program, creating a gifted and talented program, and encouraging strong parental involvement.

These accomplishments were recognized in his appointment as deputy superintendent of District 14 in December, 1992. In this position, Mr. Musico was dedicated to restructuring the district's schools and developing educational initiatives to promote the district's goal-oriented philosophy. His advocacy of an extended school day for students, staff development, and his concept of making every middle school teacher a teacher of reading helped to restructure and refocus the district.

In 1996 Mr. Musico was unanimously selected by District 14's Community School Board to serve as superintendent, a post which, under his leadership, has led the district to achieve notable success. This year he was honored for his work by the mayor and the school's chancellor when the district achieved the largest gain in reading in the city, a success which can be attributed to the combination of an outstanding Community School Board, caring and involved parents, devoted teachers, and a group of the finest supervisors in the city.

Mr. Speaker, I ask that my colleagues rise with me in this tribute to Mr. Musico and School District 14. It is due to the combined efforts of this outstanding man and the community he serves, that the children of this district can be assured one of the finest educations available. I am proud to count them among my constituents. Thank you.

PART 1: JOBS WITH JUSTICE FIRST NATIONAL WORKERS' RIGHTS BOARD HEARING

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to commend the Jobs With Justice coalition, a national organization of community, labor and religious groups that is dedicated to fighting for the rights of working people. When it was established in 1989, Jobs With Justice set out to create a grassroots network of local affiliates that were willing and able to take action on difficult issues such as fair wages, union organizing rights, and the impact of international trade policies on jobs. This dynamic organization has been the driving force behind local and state initiatives for living wage jobs, leading to measures such as the Living Wage Ordinance passed by the City Council of Portland, Oregon.

In addition, Jobs With Justice has started a growing network of Workers Rights Boards (WRB) that lend strategic support to unorganized workers who are striving for justice and fairness on the job. The boards are composed of local labor, religious, political and community leaders who lend their time to learning about the abuses that working people too often suffer at the hands of unscrupulous employers. These Workers Rights Boards are truly an example of grass roots democracy in action.

Jobs With Justice convened its "First National Workers' Rights Board Hearing on Welfare/Workfare Issues" in Chicago in 1997. This hearing featured a number of community, labor and political leaders. I include their testimony for the CONGRESSIONAL RECORD. Part 1 of this statement includes: Brooks Sunkett of the Communications Workers of America

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(CWA); Josie Mooney of the Service Employees International Union (SEIU); and David Roth of Cleveland Works.

BROOKS SUNKETT, COMMUNICATIONS WORKERS OF AMERICA

Mr. Chairman, Board Members, and most importantly, social justice advocates.

I am very honored to come before you today and express my deep concern over workfare and welfare privatization upon working Americans and the most needy of our society.

Fortunately for all of you, the time constraints of today's agenda will not allow me to completely cover these issues, in depth as I usually do. But, I will briefly elaborate upon these very real problems.

My opinion of workfare has always been very clear. To me it is little more than institutionalized slavery. I realize that is a very strong statement, but I feel it is nonetheless accurate. I can think of no better statement to drive home the point that workfare will eventually drive down the wages, and force working Americans to do more work for less pay.

Although I am not an economist, one need not have a degree in economics to realize that flooding the workforce with millions of people working for less than a living wage, will ultimately erode the standard wage of thousands of jobs.

Those of us in labor who have fought for decades to improve the working lives and livelihoods of the American worker, face the very real possibility of seeing the improvements made through thousands of struggles and hardships simply melt away.

As sad as this is, it gets worse, because this is not just an organized labor problem. All workers, union and nonunion, will suffer the effects of widespread workfare programs.

Anyone who honestly believes that workfare will not affect him, his job, his wages or even his taxes, is fooling himself. Just ask Hattie Hartgrove, a Nassau County New York employee. Hattie was laid-off from her part-time job as a custodian due to budget cuts. Soon after going on welfare Hattie was assigned to the same job in the same department to work off her benefits at lower pay with no benefits.

Stories like Hattie's are fairly unique because the strong economy currently allows for many would-be workfare participants to move into real jobs. Additionally, many states have been slow to develop much more than pilot workfare programs. They are struggling with the contradiction of providing worker protections for participants, and the potentially enormous cost of such programs when the economy slows down. Although few will admit it, many States already realize that workfare is no panacea.

It is imperative that we not let the effects of our temporarily strong economy, and the still relatively high TANF benefits, lull us into a false sense of security.

If workfare programs expand like conservative congressmen hope, many working Americans will not know what hit them when the economy turns down, and the TANF funding dries up.

For at exactly the time when people will need help the most, that is when the most negative effect of workfare will peak.

Workfare is bad enough, but welfare privatization adds insult to injury. If State governments are allowed to sell out on their responsibility, the needs of millions will go unmet. In Texas alone, where we have fought, and continue to fight against privatization, 2.5 million medicaid recipients will be negatively affected by privatization. Another 2.1 million food stamp participants, which represents 10% of the food stamps nationwide, will also be affected. Additionally, nearly 17 thousand welfare jobs will be lost as well. All this just to put another 3 billion dollars in the already fat corporate pockets of the privatizing companies.

With a kiss and a promise, Lockheed Martin wants us to believe that they can administrate welfare systems better and cheaper than public workers, and still make a profit. This magic would impress even Houdini. I guess we are not to take into account that just four years ago, Lockheed Martin contracted with California to provide a child support computer system for $99 million; but today the system is still incomplete, and has cost in excess of $300 million dollars. Or maybe Anderson Consulting thought that no one heard of their child support tracking system in Texas which is four years overdue and exceeds estimated costs by 600 percent.

The fact is, privatizing welfare systems is wrong because it will cost more, and the systems are likely to be less than reliable. Aside from the cost and quality, welfare privatization is morally wrong. It clearly represents a major shift in focus from the needs of the poor to the needs of the wealthy.

We must continue to fight any attempts to deny minimum wages to workfare participants. On the other hand, we need to applaud all states that have shunned workfare programs and decided to put their resources into helping real people, with real needs, get into real jobs, paying real wages and benefits.

We must continue to mobilize, educate and motivate the public around the truths of welfare.

We must no longer allow public misconception to open the door for predator politicians to prey upon the poor and weak.

We can make a difference! We can turn back the devastating impact of workfare if we stand up together and fight together, and demand that public need come before corporate greed.

We can win!

JOSIE MOONEY, SERVICE EMPLOYEES INTERNATIONAL UNION

My name is Josie Mooney. I am Executive Director of SEIU Local 790 in San Francisco. We represent 22,000 members who work for public sector and nonprofit employers in Northern California. Our members work as clerks, food service workers, custodians, librarians, nurses, 911 dispatchers, paraprofessionals, and in many other capacities. Eighty percent of our members are women and people of color.

Many of the workers we represent were on welfare at one point or another in their lives. These workers are a living testament to a reality we all should know and understand: The best way to lift somebody out of poverty in this country is to get them a union job. The wages, the health benefits, the pensions, and the workplace rights and protections that unions give to workers help to ensure a decent standard of living for every working person, and help to ensure that each worker will be treated with dignity and respect.

As workfare workers come into our workplaces, we have several important and interrelated obligations. The first is to make sure—through our collective bargaining agreements and through our laws—that the employer is not able to use workfare workers to displace our members. We cannot end poverty by putting others into poverty and by undercutting standards we in the public sector have worked many decades to win and retain.

So in California we fought for and won strong language in California's new welfare bill that is aimed at preventing such displacement. At the same time, on the federal and state levels, our members, along with the members of other SEIU locals throughout California and the US, mobilized to fight to make sure that workfare workers would be treated as workers. We said, "If you work, you are entitled to health and safety protections; If you work, you are entitled to be protected from discrimination; If you work, you are entitled to the minimum wage." We won these battles, and in California our new statute also gives workfare workers the right to representation.

Statutory language, of course, is not enough. In our contract we have negotiated representation language, but we will still need to push for full representation rights for workfare workers.

While these struggles are critical, they alone do not fulfill the basic obligation we have as unions, as advocates, as members the communities in which we live. For people to get out of poverty permanently they need, as I said earlier, a real job, a permanent full-time job with benefits, a union job. So we need to fight for more: more training, more jobs—real jobs.

And to get that good job, that real job, new entrants to the workforce need training. In San Francisco we have negotiated a joint labor management committee to examine the possibility of establishing training and apprenticeship programs for workfare workers.

But then where are the jobs? We may need a public job creation initiative in San Francisco, one that would include training along with the assurance of permanent full-time employment. But we also need the resources to provide the necessary support for workers to move into these jobs, such as safe, affordable, quality child care.

Public job creation takes money, however, and cities like San Francisco do not necessarily have the money to make it happen in a big enough way.

Who does? Private enterprise. Corporations are making record profits. Virtually all corporate leaders in California supported the TANF bill signed last year. They will get subsidies when they hire welfare recipients. So, therefore, corporate America has an obligation to create jobs—real jobs, permanent full-time jobs, with good wages and benefits, with training and support.

In San Francisco, we have the Committee on Jobs. I think it's really the Committee on Corporate profits. In the last four years, these companies have downsized by over 35,000 jobs, while their profits have soared. Last year alone, their average profits increased over 30%. Their executive compensation is off the charts. Some of their CEO's make in a day or a week what our members earn in a year.

These companies have pledged to fill 2000 jobs with welfare recipients by the year 2000. Three problems: First, so far only one company has hired anyone—40 welfare to work participants into temporary jobs. The second problem is that these 2000 jobs are not new jobs. And the final problem—the major problem—is that there are at least another 10,000 welfare recipients who still need jobs. I think the private sector has a long way to go to meet their obligation to the community.

As unions, we have the obligation to continue the battle for everyone to have an opportunity to make a good, decent living. We will do this by continuing our struggles to maintain and raise standards for all workers. We will develop, support, and fight for public and private job creation initiatives. We will continue to work in community coalitions to win living wage ordinances, as our locals have in Los Angeles and around the country.

And we will continue to organize the unorganized, because, as I noted earlier, the most effective anti-poverty program this country has ever had is the labor movement.

David Roth, Executive Director of Cleveland Works

Cleveland Works is an agency that was cited by both the AFL–CIO Executive Board and the Clinton Administration as an example of successful preparation of our welfare recipients, allowing them to make successful transitions to real jobs. Its success is based on an extensive set of training and support services provided to clients. These supports are threatened by the new workfare rules which, among other things, would disqualify people in serious training sessions from public support. David Roth, the Executive Director of Cleveland Works, could not attend today, but submitted testimony. I will read excerpts from his lengthy statement.

One of the main reasons new federal, state, and local welfare legislation—welfare reform—is fundamentally flawed is because there is no longer any priority, let alone resources, for job training that can meet both employers' workforce development needs and people's needs to be gainfully employed. At the core of Cleveland Works' philosophy and mission is the fundamental belief that full-time employment with health benefits is the only way for a person and his/her family to achieve a decent standard of living. A comprehensive and unique array of integrated family programs and job related support services help participants leap the many hurdles and barriers which stand in the way of meaningful employment, good education, decent housing and adequate health care. Cleveland Works is an attempt to successfully remove a family's long-term welfare dependency by providing heads of households on public assistance with full-time jobs that provide employer-paid family health benefits and an hourly wage that truly allows families to achieve a good quality of life. Cleveland Works handles only job openings that are full-time, offer employer-paid family health benefits, and come with an average hourly wage high enough to remove a family from the welfare rolls, and much more importantly, from the vicious cycle of poverty. To us, it is a mystery how any organization can effectively move large numbers of welfare recipients into full-time work without on-site family support programs, particularly legal services and family development services. In the end, people cannot permanently escape poverty without attorneys and doctors, counselors and advocates, teachers and Cleveland Works trainers working for them. Developing and maintaining these essential services, is a small investment for the great reward of thousands of families escaping poverty and becoming hard working, productive, taxpaying citizens. While endorsing Head Start programs, we ought to provide the resources to enable child care and education to be year-round and last the entire day, thereby being worker and family friendly. The more we ignore the truth that low income people want to work and only request equal opportunity to become excellent employees, the more we will continue to perpetuate an underclass whose stagnation and deprivation will adversely affect us all. How can we deceive ourselves into thinking people can somehow magically rise out of poverty when we know they do not have the most potent weapon-skills and abilities which enable them to apply their education and be paid for their labor? How do we justify drastic reductions in job training funding when we know for employers to successfully compete they require a better skilled, educated employee? We can continue fighting illiteracy, drugs, broken homes, hunger, homelessness, domestic violence and mental illness, but still never succeed until we face the stark reality that employment is the core absolute to a family's ability to successfully control and shape a better, brighter future. Low-income people cannot be convinced or simply counseled into becoming more responsible, secure, honest, trustworthy, healthy citizens unless we effectively enable them to seize meaningful opportunities to job training programs. There will be no need to throw billions of dollars towards research and academic surveys if agencies designed to address these problems and provide essential services to the poor are adequately funded and held accountable for their performance. America is unique among advanced industrial nations in its tolerance of unequal access to health care, education and employment on which not the quality of life, but life itself, depends. We are currently wrestling with how to best accomplish welfare reform, yet the ingredients for successful job training are non-existent because of the overwhelming legislative and political emphasis and funding directed at moving people off welfare, rather than effectively training them to meet employers' needs so they can become, and remain, tax paying, law abiding citizens. It is unconscionable that while employers are in such great need of employees, and people are in such great need of employment, there is no coordinated or concentrated effort to solve these problems.

One of the things that is disheartening to us in Cleveland Jobs with Justice and the Cleveland area Workers' Rights Board is that even as the Administration holds Cleveland Works up as an example, it promulgates laws and regulations that under cut the agency's programs.

TRIBUTE TO MR. ERNEST WITHERS

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. FORD. Mr. Speaker, I rise today to honor Mr. Ernest C. Withers, Sr. as an activist who occupies a significant place in the annals of the Civil Rights Movement and the history of Memphis, Tennessee.

As a native Memphian, Mr. Withers is respected throughout the community for his contributions toward the establishment and advancement of equality. As a veteran of World War II, he returned to Memphis to become one of the nine African-American men chosen as the first black police officers for the city in 1948. After several years, he left this job to embark full time in a profession that he felt could more effectively bolster social change in Memphis and the nation.

Mr. Ernest Withers is best known for his profession and remarkable career as one of the nation's premier photo journalists. As a photographer, he photographed and chronicled the history-making people and events of the Civil Rights Movement of the Sixties and focused the attention of the nation on this momentous era of human history. The powerful images that he captured have been widely showcased in national publications including Life, Newsweek, and Time. The dynamic individuals of the time that he visually captured included Dr. Martin Luther King, Jr., Fannie Lou Hamer, Bayard Rustin, Rosa Parks, and Whitney Young.

Subsequent to the movement, Mr. Withers remained prolific, capturing memorable events and people including President Richard Nixon, Jackie Robinson, Elvis Presley and B. B. King on film. In conjunction with his son, the late State Representative Teddy Withers, Mr. Ernest Withers made several trips to Africa in efforts to further establish Memphis as an international hub for trade. His work as a social documentalist has been recognized and featured by many museums and institutions including the Massachusetts College of Art, the Atlanta High Museum of Art, Vanderbilt University, and the National Civil Rights Museum in Memphis, Tennessee. Now in his seventies, Mr. Ernest Withers remains active, working out of his own studio in Memphis where he continues to captivate us with his innovative style and visual perspectives.

For his contributions and commitment to community, Mr. Speaker, I would ask you and my colleagues in the U.S. House of Representatives to join with me in honoring this dynamic participant in and recorder of history, Mr. Ernest C. Withers, Sr.

TRIBUTE TO LEADERSHIP TRAINING INSTITUTE

HON. STEVE LARGENT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. LARGENT. Mr. Speaker, I rise today to commend the Leadership Training Institute (LTI) for its goal to call America's youth to their highest personal standard of excellence and their greatest potential for leadership.

To maintain greatness as a nation, we must strive for excellence as individuals. And the standard of excellence is largely set by our nation's leaders—leaders in politics, business, the media, and in our pulpits.

Training programs that encourage youth to achieve their highest possible standard of excellence are setting the necessary foundations for tomorrow's leaders.

The Leadership Training Institute originated in Arkansas. But through its staff, youth participants, and donors, reaches across many states, including my home state of Oklahoma. LTI strives to impart to America's youth the common virtues in our Nation's great leaders and the source and continuity of those virtues over the course of our history. Thomas Jefferson recognized, "God who gave us liberty. Can the liberties of a nation be secure when we have removed a conviction that those liberties are the gift of God?"

The programs and activities of LTI are designed to prepare youth to face the moral challenges of our day with a foundation that is scientifically reasoned and replete with experiences of America's greatest leaders. This training, which is rich in Biblical perspectives, plays an important role in preparing today's youth to set standards of excellence for themselves and others in their homes, schools, communities, and government.

TAX LIMITATION CONSTITUTIONAL AMENDMENT

SPEECH OF

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 22, 1998

Mr. STOKES. Mr. Speaker, I rise to oppose H.J. Res. 111, the Tax Limitations Constitutional Amendment that would require a two-thirds majority vote in the House and the Senate to pass any bill increasing internal Federal revenues, except in time of war or military conflict.

It saddens me deeply that we are once again considering a bill so flawed, that similar measures in each of the last 2 years have failed. In 1996, it was 37 votes shy of the required two-thirds vote. In 1997, there were fewer supporters of the bill than in 1996, failing by 49 votes short of the required two-thirds majority. The Senate has not considered the measure.

This constitutional amendment is being introduced in spite of the knowledge that it will fail once again. I believe that the introduction of this bill serves another purpose. Taxes in the United States, compared to the size of the economy, have remained relatively stable for the past 45 years. This stability is remarkable when you consider that we have engaged in one, long-lasting cold war, and at least two major hot wars in this period of time. Compared to most other industrial countries our taxes are lower. Anger over taxes has to be manufactured. I believe that H.J. Res. 111 is highly destructive of our social cohesiveness. Our strength as a nation rests on the foundation of our Constitution and the body of thought that led to that magnificent document.

We are a political society that flows from the firm knowledge that we are governed by laws of our own creation and that these laws are transparent and, on the whole, fair. This basic rule of law depends on the willing acceptance of and cooperation by the people to be part of the body politic. This knowledge of our fundamental governing system is essential to a peaceful, civil society. Instigating anger over taxes, whipping up emotions over the costs of operating our sophisticated system of laws and institutions has a profoundly negative effect, and I can only urge my colleagues and my fellow citizens to consider the steady loss of interest of most Americans in the exercise of government, as evidenced by low voter turnout and lack of systematic public debate over serious issues.

What are the weaknesses in H.J. Res. 111? This constitutional amendment will deprive the Congress of the legislative ability to amend our present Tax Codes with its many loopholes and weaknesses. It will essentially freeze the current tax system and make it even more difficult to close corporate loopholes. It will also make it more difficult to eliminate tax advantages for the wealthy. This amendment will additionally, prevent us from passing reconciliation bills which reduce future deficits by making balanced spending cuts and raising revenues, unless there are tax cuts of equal size.

Another terrible feature of this bill is that it will deprive us of majority rule in Government. A supermajority of two-thirds of Congress, means that one-third, the minority, controls the outcome. The intellectual battle, and the practice over supermajorities, were waged in the early days of this Republic, under the Articles of Confederation. The hamstringing of the legislature, and of the young Government then convinced the Founders that a simple majority, our present system for the passage of tax bills, was the most workable and the two-thirds majority for passage of revenue bills was abandoned.

I firmly believe that our taxes serve essential purposes. We are a Nation generally admired and envied around the world. Given our technological sophistication, and our heterogeneous society, it is ludicrous to think that we can function without a civil service, a government of civil servants. We are a Nation which needs a more engaged citizenry, not one that sees taxes as burdensome and government as extraneous.

April 15 is our annual time of reckoning. We pay our dues as responsible citizens, and with that, we accept our responsibility to see that the monies are used wisely and effectively. As elected officials, we must exercise the most sensitive and educational roles that we have sought and use these powers and responsibilities to further engage our people in improving our process, not in destroying it. I urge my distinguished colleagues to soundly defeat H.J. Res. 111.

HONORING DON MAYTON

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to a man who has dedicated his career to making our nation's automotive industry the best in the world. On April 30, 1998, Mr. Don Mayton of Flint, Michigan will be the guest of honor as family, friends and fellow colleagues join in celebrating his retirement from the General Motors Corporation after 41 years of dedicated service.

Born in Sewickley, Pennsylvania, Don Mayton received a bachelor's degree from General Motors Institute in 1961, and an Administration and Management Degree from Carnegie Mellon University in 1968. He began his professional career with General Motors in 1956 as a student-in-training at the former Fisher Body Division facility in Pittsburgh, Pennsylvania. While he was there, he held a number of positions including Production Engineer, Supervisor of Metal Assembly and General Supervisor of Maintenance. In 1972, he was transferred to Kalamazoo, Michigan to become Assistant Plant Engineer. Five years later he was promoted to Plant Superintendent.

From 1978 to 1989, Don's loyalty to General Motors was evidenced by the number of moves he and his family made. He moved from Kalamazoo to Mansfield and later Parma, Ohio, eventually returning to Michigan in 1989 to become Plant Manager in Grand Rapids. In 1994, Don was named Manager of the Flint Metal Fabricating Plant, the position he currently holds.

During his long tenure with General Motors, Don has garnered a reputation as a reliable, efficient, and highly effective employee. Furthermore, his co-workers respect and admire him. He has an incredible knowledge of the automotive industry and understands the importance of coalitions and teamwork. His management and leadership will surely be missed.

Mr. Speaker, I am pleased to have the opportunity to honor my constituent and friend Don Mayton before my colleagues in the House of Representatives. Although he is retiring from active employment, I am sure that his longstanding contributions to our community will continue for years to come. Please join me in wishing Don and his family all the best.

HARLEY-DAVIDSON: CELEBRATING 95 YEARS OF GREAT MOTORCYCLES

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. KLECZKA. Mr. Speaker, Milwaukee is known across the country for its great ball teams, great beer, and great bratwurst. Now, my hometown will attract worldwide notoriety when it will be descended upon by thousands and thousands of hogs—not swine, but Harley-Davidson Motorcycles. This summer Harley-Davidson will celebrate its 95th birthday with an anniversary reunion and rally throughout the streets of downtown Milwaukee.

In the finest Milwaukee tradition, Davidson brothers William, Walter, and Arthur, and William Harley crafted their first litter of "hogs" in a 10-foot by 15-foot wooden shed in 1903 using the best available tools, ingenuity, and a lot of hard work.

Responding to the needs of our national defense, Harley-Davidson became an important government contractor by supporting the military in border skirmishes with Pancho Villa in the early 1900s, providing 20,000 motorcycles in World War I, and supplying American and Allied forces with more than 90,000 motor bikes during World War II.

During the 1950s and 1960s, the only American-made motorcycles transformed from merely a mode of transportation to an American icon. Motorcycle-riding movie stars Marlon Brando in the "Wild Ones," and Peter Fonda in "Easy Rider" epitomized the free-spirited individualism associated with Harley-Davidson motorcycles. Harley's popularity continues to spread to modern day Hollywood celebrities like Tonight Show host Jay Leno. However, an influx of low-priced imports dramatically reduced Harley-Davidson's market share during the late 1960s and 1970s.

Not to be deterred, innovative company officials and dedicated employees worked hard to return the slumping motorcycle producer back to its "king of the road" status. Through improving and streamlining its operations with the help of its dedicated employees, Harley-Davidson returned to public ownership in 1986 with a successful stock offering. Capital raised through public ownership allowed the motorcycle company to diversify into other recreational vehicles.

Thanks to public support, the company's commitment to quality, and employee involvement, Harley-Davidson now owns a huge share of the heavyweight and superheavyweight motor bike market.

The City of Milwaukee is proud to call itself the birthplace of the original hog. On behalf of the people of the 4th Congressional District in Wisconsin, I wish Harley-Davidson Motorcycles a happy 95th birthday with many more to come!

CONGRATULATING THE RECIPIENTS OF "POSITIVE FAMILY IMAGE AWARDS"

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. MENENDEZ. Mr. Speaker, I rise today to congratulate six of my constituents who, for their service to the community, have been named the recipients of "Positive Family Image Awards" by the Urban League of Hudson County, New Jersey. Mr. Michael Yorker, Mrs. Ella M.G. Lawrence, Mr. George Wilson, Mrs. Henrietta Robinson Booker, Mr. Rhudell Snelling and Mrs. Elizabeth Henry will be honored at the Urban League's Twentieth Annual Equal Opportunity Day Dinner, being held at the Meadowlands Hilton in Secaucas, New Jersey.

My colleagues, let me take a brief moment to tell you about these great people who are so vital to the Urban League and the entire community.

When Mrs. Henrietta Robinson Booker arrived in Jersey City, New Jersey from Statesboro, Georgia, she stayed in the House of Friendliness, the Branch of the YWCA for Colored women, as quarters were segregated back then. From that point on, Mrs. Booker has been the voice of hope, courage and strength for those in dire need. As a prominent member of numerous organizations—the NAACP, J.C. Title I Advisory Board, Council for Companions for Senior Citizens, the Red Cross and the Salvation Army—Mrs. Booker has enriched the lives of countless citizens of Jersey City. For her presence in the community, we are blessed.

Mr. Rhudell Snelling, a graduate of Lincoln High School in Jersey City has contributed to the community through his musical talents. As a member of St. John's Baptist Church, 'Rhudy' was named the director of the Church's choir and became minister of music in 1960. Rhudy has also volunteered his musical abilities as a member of the NAACP and has recorded with the Eastern Choral Guild of Montclair on United Artists Labels. For the sharing of his talents to benefit others, I thank Mr. Rhudy Snelling.

Elizabeth Henry is a dividend clerk at Sanford C. Bernstein & Co., and will soon be working on the New York Stock Exchange. This career woman serves as a wonderful example for all single mothers as she guides, encourages, and inspires her three boys Leonty Danzie, 17 years of age, Shawn, 14, and Antonio Farthing, Jr., her foster son and nephew. For her loving dedication to her children, I applaud Mrs. Henry.

Mrs. Ella M.G. Lawrence, a graduate of Seton Hall University, is a mother of five children and is retired after teaching English and being a guidance counselor in the Jersey City Public School System for thirty years. As one of the founding members of the organization, Citizens Against Rate Increases, a member of the Board of Trustees for the Model Cities program, and a lifetime member of the NAACP, Mrs. Lawrence has been a force in the community and well deserving of this award.

Mr. George Wilson, a native of Sumter, South Carolina came to Jersey City in search of a better opportunity for employment. In 1968, after attending Jersey City State College and serving in the United States Army for two years, he ended that search as he was sworn in as a Jersey City Policeman. In 1989, he was promoted to the rank of sergeant, and in 1996 was appointed to the position of Undersheriff of Hudson County, where he serves today. He has served his community as a leader in various ways including being a founding member and past president of the Interdepartmental Minority Police Action Council, the president and a successful coach of the Bergen/Lafayette Little League, and the president of the Martin Luther King, Jr. Parade and Scholarship Committee. He is married to Naomi Motley Wilson and has four children and eight grandchildren.

Finally, I would like to express my gratitude toward Mr. Michael Yorker. Mr. Yorker, a undergraduate and post graduate of Jersey City State College, has served in the Jersey City public schools system in a variety of positions over the last twenty years and is currently the acting principal of Public school 32/SSP. His community involvement includes serving as speaker for many organizational conferences such as Delta Sigma Theta, Block Associations, and various Church and youth groups. Not surprisingly, Mr. Yorker has received numerous awards for all his contributions to the community. He is married to Rene and is the proud father of five children.

These six fine citizens exemplify just what the Urban League of Hudson County is all about. It is an organization committed to the needs of the community, reaching out, being proactive, and taking real initiative to improve economic and social conditions and opportunities for African Americans and other minority groups in Hudson County, New Jersey. Again, my thanks and congratulations to these six awardees and all who are a part of the Urban League of Hudson County.

COMMEND KENNYWOOD AMUSEMENT PARK OF WEST MIFFLIN, PENNSYLVANIA ON ITS CENTENNIAL ANNIVERSARY

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. DOYLE. Mr. Speaker, I would like to extend congratulations to Kennywood Amusement Park on their centennial anniversary. This traditional amusement park is located within my congressional district in West Mifflin, Pennsylvania along the Monongahela River, where it has remained in operation for one hundred years. Originating as a small trolley park in 1898, Kennywood has survived through times of struggle and success to become a fine amusement park.

Andrew Mellon's Monongahela Street Railway Company established this trolley park in 1898. The turn of the century brought competition from several amusement retreats in the Pittsburgh area. The Pittsburgh Railway Company designated its lease to A.S. McSwigan and Frederick W. Henninger. Today, third and fourth generations of these individuals continue to manage the park.

Over the years, as numerous roller coasters and rides were added, the park grew in size and popularity. Many of the older rides, including wooden roller coasters from the 1910's and 1920's are still in operation today, and are becoming endangered species in the amusement park industry. In 1987, Kennywood received national attention when it was designated as a National Historic Landmark.

Kennywood survived through adversity and several hardships. They endured the burden of the Great Depression, financial difficulties during World War II, and competition from million dollar theme parks in the 1960's and 1970's. Despite significant changes in history and cultures, Kennywood remains a traditional amusement park.

After one hundred years in the amusement business, Kennywood continues to prosper. One of the fundamental reasons for its survival is the goal it sets forth. Kennywood applies modern technology to new rides while maintaining the atmosphere of amusement parks of the past.

Having lived in western Pennsylvania all my life, I have personally enjoyed visiting Kennywood many times as a child and have enjoyed sharing the joy of Kennywood with my wife and children also. I want to congratulate Kennywood on their one-hundredth anniversary and commend the management for preserving a place that means so much to many people.

HIGHER EDUCATION AMENDMENTS OF 1998

SPEECH OF

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 29, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes:

Mr. THOMPSON. Mr. Chairman, I rise today in opposition of Rep. Frank Riggs's (R–CA) H.R. 3330, the "Anti-Discrimination in College Admissions Act" of 1998 which will be offered as an amendment during the House consideration of HR 6, The "Higher Education Authorization Act" of 1998. This amendment would prohibit colleges and universities that take race, sex, color ethnicity, or national origin into account in connection with admission(s) from participating in, or receiving funds under any programs authorized by the Higher Act of 1965 (HEA).

This amendment will not only have a devastating impact on postsecondary admissions at both public and private institutions, but also discourage institutions from considering race, even in instances where the purpose is focused on remedying past discrimination. This piece of legislation is far more sweeping than California's Proposition 209 in that HR 3330 aims to eliminate affirmative action in private, as well as public, colleges and universities. It will also constrain an institution's ability to satisfy constitutional and statutory requirements to eliminate discrimination in postsecondary education.

There is clear evidence of what happens when universities are forced to drop their affirmative action programs. When the University of California's board of Regents banned all affirmative action the acceptance rate programs the acceptance rate of African Americans to UCLA Law School fell by 80 percent. After the *Hopwood* decision, admission of African-Americans to the University of Texas School of Law dropped by 88 percent. It is clear that with the passage of this amendment, there will be a resegregation of colleges and universities.

In Mississippi the percent of the population 25 and older that have a college degree is 14.7 percent. Moreover, Mississippi ranks 47 out of 50 States in relation to the percent of the population having a college degree and 47 out of 50 in comparison to other African Americans in the 50 States.

The Riggs amendment is an unnecessary and dangerous bill that would dismantle the progress that has been achieved in the last 30 years. It will merely serve as a tool to increase the disparities in education and income between men and women, whites and blacks. Affirmative Action in higher education has clearly established significant advances in the area of equal opportunity for ethnic minorities and women in admissions to colleges and universities. I will continue to support and strengthen such programs of equal opportunity. If Higher Education Authorization Act (HR 6) contains the "Anti-Discrimination in College Admissions Act of 1998", I will vote against HR 6.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. KIND. Mr. Speaker, over the past week many individuals, organizations and newspaper editorial boards have criticized the Bipartisan Campaign Integrity Act, H.R. 2183. They claim that the freshman crafted bill is not real reform. They argue that we must support a more comprehensive bill that has stronger provisions banning soft money, limiting independent expenditures and restricting candidate spending.

While I support comprehensive reform I believe that H.R. 2183 is the only campaign finance reform legislation that can pass the House of Representatives and become law. Our bill was drafted in the spirit of compromise. We recognized that there are many issues that could be put in legislation that will unfairly impact one political party over the other. As a group our Freshman Task Force agreed to eliminate all poison pills that would doom our bill to failure. The success of our effort is reflected in the Speaker's agreement to allow our bill to be the base bill for consideration when the House debates campaign finance reform.

Other reform advocates have argued that we need to challenge previous rulings by the Supreme Court on campaign finance reform. I disagree. Our bill will pass a Supreme Court challenge. Other bills directly contradict Supreme Court rulings. As a Supreme Court Justice recently said to me "our rulings may not always be right, but we are still Supreme." To pass legislation that is clearly unconstitutional will only kill campaign reform.

The Bipartisan Freshman Campaign Integrity Act will pass the House and will pass a constitutional challenge. It is time for the House of Representatives to pass H.R. 2183.

HIGHWAY BILL RESTORES TRUST WITH THE AMERICAN PEOPLE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. BEREUTER. Mr. Speaker, the highway bill recently passed by the House takes an important step toward addressing our nation's enormous surface transportation needs. In addition to the obvious benefits of much higher revenues for better roads and bridges, this legislation recognizes that the money in the Highway Trust Fund belongs to the American people. Finally, we are returning to the principles that were established by President Dwight D. Eisenhower for the Highway Trust Funds. When Americans pay this tax at the gas pump, they have every right to expect that their money actually will be used for transportation and not diverted to other purposes. The balance held for the Highway Trust Fund has ballooned, and that money has been used for government programs and deficit reduction efforts which are not related to transportation. It is a violation of the trust of the American people when those highway trust funds are used for other purposes.

This Member encourages his colleagues to read the following opinion piece by David R. Kraemer, chairman of the American Road and Transportation Builders Association, which appeared in the Omaha World-Herald on April 27, 1998. It highlights the importance of using the money from the Highway Trust Fund in the way it was originally intended.

HIGHWAY BILL HELPS EVERYONE

(By David R. Kraemer)

(The writer is 1998 chairman of the American Road and Transportation Builders Association, the nation's largest organization of highway contractors.).

A lot of criticism has been flying around during the past few weeks about the federal highway bill, with the media, special interest groups and fiscal hawks all trying to paint the bill as a pork-laden "budget buster."

The finger-pointing obscures what the highway bill is really for: improving our transportation system. Critics of the highway bill are missing—or choosing to ignore—three critical realities.

One, America's transportation infrastructure is in desperate need of improvement. Two, the highway bill is paid for in advance through fees paid by people who use the system, and the revenues go straight into the Highway Trust Fund expressly for this purpose. Three, improving our highways will save thousands of lives. Plain and simple.

The first point is obvious to anyone who travels the nation's highways. Across the country, hundreds of thousands of miles of roads and thousands of bridges are in poor condition, posing a danger to drivers and undercutting economic growth. According to the U.S. Department of Transportation, 59 percent of the nation's major roads are in poor or mediocre condition, and 31 percent of our bridges are structurally deficient or functionally obsolete.

The Department of Transportation also says we must spend $46.1 billion annually just to maintain our highways and bridges, let alone make improvements or upgrades. Clearly, funding road repair and improvement should be a top priority for the federal government.

Fortunately, the dollars Congress is committing to the program are available from a reliable source—highway users.

The most misunderstanding issue related to the highway bill is where the money—all $200 billion plus—is coming from. It comes from all of us who use the roads, through taxes paid at the gas pump and through other road-related assessments. For every gallon of gas purchased. 18.3 cents is deposited into the Highway Trust Fund, which by law is supposed to be used for transportation improvements.

Unfortunately, billions of dollars have been allowed to accumulate in the trust fund and mask deficit spending elsewhere in the federal budget. More than $25 billion is sitting in the trust fund now, unspent on road and bridge repair.

If people want to criticize Congress about the highway bill, the issue is not how much they want to spend but how little. By keeping dollars in the trust fund that were intended to go toward road and bridge improvement. Congress is short-changing America's highway users.

The fact is, improving highways will save lives. Research shows that for every $1 billion spent since 1955 on improving the nation's highways, 1,400 traffic deaths and 50,000 injuries have been avoided. The Transportation Department estimates that every year 30 percent of all traffic fatalities—more than 12,000 American deaths—are related in some way to poor road conditions. Adding turning lanes, widening shoulders, constructing lane barriers, improving signage and safety markings and repairing dangerous bridges all are important safety upgrades proven to save lives.

When a bridge collapses and lives are lost, the story makes the evening news and a hue and cry is raised about how to prevent it from happening again. The answer lives in Washington and in the thousands of repair and improvement projects authorized in the federal highway bill that are now being so roundly criticized. Unfortunately, all the political squabbling diverts attention from these real issues.

So who benefits from the highway bill? Everyone. Communities grow, commercial and private transportation becomes easier and more efficient, and thousands of new jobs are created. Moreover, improving our transportation system will save billions of dollars from being lost each year in wasted productivity, vehicle maintenance, insurance fees and, tragically, health care expenses to care for people injured on our highways.

PERSONAL EXPLANATION

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. HINOJOSA. Mr. Speaker, on Thursday, April 23, a personal matter resulted in my missing two roll call votes. These were #107 and #108. Had I been present I would have cast a yea vote in support of the Conyers amendment, and a no vote in opposition to the Aderholt amendment.

LAW DAY, 1998

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. MALONEY of Connecticut. Mr. Speaker, May 1, 1998 is Law Day in our nation, a day set aside to remind all of us of the importance of the Constitutional rights and civic responsibilities associated with American citizenship. It is a day to reflect on the true meaning of our right to free speech, to worship in the way that best serves our conscience, to select our representatives in government and to even be critical of that government as needed. These and other basic rights are often taken for granted, but one only needs to view the nightly news to appreciate that our cherished rights and freedoms are not enjoyed everywhere. Law Day gives us occasion to celebrate those rights and freedoms.

When President Dwight Eisenhower established Law Day in 1958, he said, "It is fitting that the American people should remember with pride, and vigilantly guard, our great heritage of liberty, justice and equality under law." He further stated, "It is our moral and civic obligation as a free people to preserve and strengthen that great heritage." Law Day provides the forum for that celebration.

On Friday, in communities across this nation, ceremonies will be held in courthouses and town halls. Such will be the case in Superior Court in Meriden, Connecticut, located in our state's 5th Congressional District. That ceremony, hosted by the Meriden Bar Association, will focus on this year's general theme, "Celebrate Your Freedom." School children, as well as citizens from all walks of life, will be in attendance to hear speakers stress the importance of the freedoms and liberties guaranteed by our Constitution and Bill of Rights, and protected by our laws and courts.

I urge all Americans to pause on this very special day and consider the true significance of the rights and liberties we enjoy every day in this country. Such recognition is important to maintaining those rights. As Alfred H. Knight said in his American Bar Association Silver Gavel Award-winning book, The Law of life, "we are more likely to lose the meaning of our freedoms through ignorance and carelessness than through intentional government evil."

Mr. Speaker, I call on you and each Member of the House of Representatives, to take this day to heart and help lead the effort to bring the importance of our freedoms, and the laws that protect them, to the attention of the American public on not just Friday, May 1st, but every day of the year. On behalf of Connecticut's 5th Congressional District, I want to commend the Meriden Bar Association for their contribution to this cause in the name of Freedom.

TOWN OF MAINE CELEBRATES SESQUICENTENNIAL

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. WALSH. Mr. Speaker, as a newborn nation grew two centuries ago, townships in America sprouted with the promise of freedom and despite great obstacles. Such as the founding experience of the Town of Maine, which this August celebrates its 150th Birthday.

Maine is an area rich in history. The Town is located in Broome County, New York, within the land tract originally known as the "Boston Purchase" made back in 1787. Many of the original settlers in Maine were Revolutionary War soldiers. The Maine Township was officially formed on March 27, 1848.

On behalf of our forefathers and the generations who will follow as well, I would like to thank the entire Maine Sesquicentennial Planning Committee for their important and historic work in putting together this important official recognition of the Town of Maine Sesquicentennial. It is the dedication of these individuals as well as the Nanticoke Valley Historical Society that preserves an accurate record of history for many generations to come.

I am pleased to mark this solemn occasion for all Town of Maine families in the CONGRESSIONAL RECORD, forever preserving this memorable time.

Congratulations to the citizens of the Town of Maine. All the best to you as you embark on your Sesquicentennial Celebration, which will culminate this summer.

TRIBUTE TO RUSSELL HUSE

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Mr. Russell Huse, a native of Los Angeles, California, for his dedicated service to the community, his passion for the environment, and his inspiring courage and physical fortitude. I also would like to extend to Mr. Huse my warmest birthday wishes as he prepares to celebrate his 90th birthday on April 30th.

One could say that Mr. Huse and his family were among my district's original homesteaders. Russell was born on April 30, 1908 in Los Angeles. As a young boy, he spent countless summers and holidays at his grandfather's 6,000 acre ranch which encompassed an area that today is known as Westlake Village. Living on the ranch, Russell developed a work ethic, an unconquerable spirit and determination that has remained his trademark to this day.

Russell went on to study fine arts at UCLA and later settled into a career as a Supervisory Technical Writer and Artist at the United States Naval Weapons Center in China Lake, California. But at UCLA, he put his fighting spirit to good use on the football field for three years under Coach Bill Spaudling. Even now, Russell remains one of the team's most avid fans, often traveling hundred of miles to root the Bruins on to victory.

After UCLA, Russell served as a Park Ranger in Yosemite National Park. It was here, in one of our nation's most beautiful spots, that Russell developed his love for nature which has subsequently led him to devote a large portion of his life to conservation. And it was this love of nature that gave birth to Russell's true passion—mountain climbing.

Despite the fact that Russell did not begin climbing until his late 40's, he has some 160 peaks to his credit. He has scaled Chincey in South America, Mont Blanc and the Matterhorn in the Swiss Alps, all after turning 65 years old. While climbing in Switzerland, Russell completed the solo rescue of a climber, stranded on the mountain with a broken leg. This experience, while earning him a Proclamation for heroism from the townspeople at the base of Mont Blanc, led Russell to found the China Lake Mountain Rescue Group. This organization saves peoples lives in California and Mexico, allowing climbers to enjoy nature in comfort and security.

Today, Russell remains actively involved in organizations within his community. He and his wife Edith live in a beautiful hilltop home in Westlake Village, overlooking the land he used to play on as a young boy so many years ago. Again, I wish to extend my warmest wishes to Russell Huse as he celebrates his 90th birthday and I would like to wish him good luck as he steams on toward the century mark.

Mr. Speaker, distinguished colleagues, please join me in honoring Russell Huse for his decades of service to others. Throughout all of his 90 years, he has remained young at heart and he continues to live a life that inspires us all to be our best.

KEY PRINCIPLES OF FREEDOM

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. GINGRICH. Mr. Speaker, I believe that there are two key principles at the root of our freedoms. The first is the right of America's people to know the truth if a crime was committed, and the second is the principle that under the United States Constitution, no one is above the law.

When 19 Democrats voted to deny immunity for four witnesses on illegal campaign contributions, they blocked the people's right to know. Michael Kelly's column explains the dangers facing Democrats if they decide that cover-up is a party principle. I commend this article to my colleagues.

[From the Washington Post, Apr. 29, 1998]

THE CASE AGAINST THE CLINTONS

(By Michael Kelly)

As we head into what is either going to be a summer dog days or the summer when the last dog dies, the party line among those who man President Clinton's high stone wall against impeachment is that there is not any there here. Tellingly, no one seriously makes the public argument that Clinton is not guilty of at least some of the offenses of which he has been accused—say, at least, perjury in the Lewinsky matter.

Instead, the liberals' defense goes like this: Okay, our boy did a few things he maybe shouldna. But who amongst us is poifect? And, anyway, these things weren't crimes, or they shouldn't be. And, also anyway, the president's persecutors are the real danger to the republic; their partisan, out-of-control witch hunt is far worse than any of the allegations they are investigating. And so on, fortissimo, con allegro, ad infinitum.

There is one truffle of truth buried in all this: Clinton certainly has enemies who seek to ruin his presidency. No fair-minded person can impute fair-mindedness to Richard Mellon Scaife, who has bankrolled years of anti-Clinton scandal-mongering on several fronts, or to Congressman Dan Burton, the chairman of the House Government Reform and Oversight Committee investigation into Clinton's conduct whose mask of magisterial impartiality slipped a wee bit recently when he called the president a "scumbag."

But it is always the case with politicians who are accused of scandalous behavior that at least some of their accusers are motivated by partisan animus. That is the way it is in politics; that is the way it was for Richard Nixon. Partisanship is relevant only when it is corrupting—when the prosecutors are running not a fair investigation but a railroad job. Is that the case here?

First, to the accusation that Starr is, as Hillary Rodman Clinton has said, "scratching for dirt . . . doing everything possible to try to make some accusation against my husband." It is true that Starr repeatedly has expanded his investigation from his original task of probing the Whitewater land deal. But these expansions—into the death of Vincent Foster, travelgate, the Lewinsky matter and other areas—were undertaken at the request of, and with the approval of, Clinton's own attorney general, Janet Reno, who decided in each case that there was enough "serious and credible evidence" of wrongdoing to mandate investigation.

Was Reno right? Did these accusations merit investigation, or do they represent, as the Clinton defense argues, the criminalization of the ordinary business of politics and the ordinary affairs of life?

Here is the essence of the allegations: that a small group of politically connected Arkansans, including the governor of the state and his wife, abused power and privilege to conspire in a series of thefts that ultimately caused the failure of a savings and loan at a cost to taxpayers of $58 million; that, facing exposure, these political insiders engaged in a long campaign of obstruction of justice, perjury and intimidation of witnesses; that this behavior is part of a pattern of abuse of power and that it extends to other areas: for instance, in the president's sexual exploitation of women who worked for him.

Perhaps these allegations are false. Perhaps the officials of the Federal Deposit Insurance Corp. were wrong when they testified that a legal document drafted by Hillary Clinton and Webster Hubbell in 1986 was used "to deceive regulators" about the financing of the Castle Grande real estate development, a project that the federal insurance investigators have called "a sham" intended as a vehicle for the insiders' fraud scheme. Perhaps Mrs. Clinton did not commit perjury when she testified under oath that she did not remember doing any legal work on the Castle Grande matter.

Perhaps there is nothing criminal in the fact that friends, aides and political benefactors of the president worked to funnel $600,000 in make-work "consulting fees" to Hubbell after he resigned in disgrace from the Justice Department and while he was negotiating a plea bargain with Starr, a bargain which Starr's prosecutors believe he reneged upon. Perhaps the $600,000 was not hush money to the sole witness who could, perhaps personally implicate Mrs. Clinton for involvement in a fraud and for perjury.

And perhaps the president did not have sex in the workplace with a young female employee and perhaps he did not lie under oath about this, nor encourage others to lie, nor otherwise seek to obstruct justice. And perhaps he did not abuse his position of privilege to make crude sexual advance to a woman seeking employment, and perhaps he or his agents did not encourage this woman and others to lie about this.

Perhaps the truth will exonerate Clinton. But until then, is it really liberalism's position that the truth isn't worth finding out?

CONGRATULATION NEW CASTLE HIGH SCHOOL MEN'S BASKETBALL TEAM

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. KLINK. Mr. Speaker, I rise today to acknowledge the New Castle High School Men's Basketball team for their victorious 1997–98 season. Under the leadership of Head Coach John Sananderea, the Red Hurricanes advanced down a record-breaking path to the state championship title game.

This season has been unforgettable for the team itself as well as the Western Pennsylvania Interscholastic Athletic League. Setting four records in the Class AAAA division, the Red Hurricanes are the first team to reach the 30-win plateau finishing with a record of 30–2. They are the first team to win back-to-back WPIAL Class AAAA championships and the second to advance to the PIAA title game. In addition, Coach Sananderea was named WPIAL coach of the Year.

The 1998 Red Hurricanes team have their mark in the WPIAL record books, as well as the New Castle community. The team's talent and respect for the game inspired the community, renewing a sense of spirit, unity, and pride in New Castle.

It is with great pride and honor that I urge my colleagues to rise and honor the New Castle Red Hurricanes. Their success has made their school, community, and the entire Fourth Congressional District proud.

CONGRATULATING RABBI AND MRS. DAVID EDELMAN ON DECADES OF DEDICATION AND SERVICE TO THE JEWISH COMMUNITY

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, I am privileged to have the opportunity to honor two outstanding constituents, Rabbi David Edelman and wife, Lillian Edelman.

Their 48 years of devotion to the Jewish community is an inspiration to us all and reminds us of our responsibilities to serve one another. As leaders in education, community outreach, and religious stewardship, both Rabbi and Mrs. Edelman incorporate in their work the fullness of their Judaic faith so as to enhance the quality of Jewish life in the Greater Springfield area and elsewhere.

At Yeshiva Academy in Longmeadow, MA, Rabbi and Mrs. Edelman have laid the foundation for one of the finest Jewish educational institutions in our nation. Having been involved in the establishment of Yeshiva from its beginnings, the Edelmans continue to be central figures at this thriving Academy that they so dutifully helped create. Both Rabbi and Lillian Edelman have collaborated in sharing administrative duties at Yeshiva while making their own unique contributions as well.

Rabbi Edelman has been active in strengthening the Academy's commitment to community service through his involvement in outreach programs, adult education, and after school activities. Equally notable are Mrs. Edelman's efforts in founding a sisterhood at Yeshiva which became the Parent-Teacher Association and as innovator, designing the concept of the Auction to support the school's fundraising initiatives.

In extending their ministry beyond Yeshiva, Rabbi and Mrs. Edelman have been able to enrich the quality of Jewish life for a host of citizens outside of their immediate community who reside in other areas of Massachusetts and Connecticut. Rabbi Edelman has shared his knowledge of the Judaic tradition with students of Chassidic philosophy at the University of Massachusetts and in classes at the Jewish Nursing Home. As visiting clergy at Baystate Medical Center and spiritual leader at both

Knesser Israel and Beis Medrash Lubavitch, Rabbi has been similarly generous in spreading the teachings of Judaism. Lillian Edelman's activism and memberships include the Hebrew Free Loan Association, the Mizrachi, and the Kesser Israel sisterhood.

Just as they have spread Judaic values within the community, so too have Rabbi and Mrs. Edelman instilled the spirit of this religion in their home. Perhaps the greatest reflection of any couple and surely the Edelmans is their remarkable achievement in raising eight fine children. In their sons and daughters, Rabbi and Mrs. Edelman have laid the roots of their legacy of service and commitment to the Jewish tradition. Together this family manifests through their vocations and good works a deep understanding of Jewish morality and generosity.

Indeed two individuals who have made every facet of their lives work within the foundation of Judaism in a spirit of communal devotion, I am proud to honor Rabbi and Mrs. David Edelman on 48 years of service to the Jewish community.

PALMERTON'S CENTENNIAL

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. KANJORSKI. Mr. Speaker, today I rise to pay tribute to the residents of the Borough of Palmerton as they celebrate their 100th Anniversary.

The history of Palmerton is a rich one. What is now Palmerton Borough was first settled by Europeans in the 1740's who were attracted to the area by its abundant natural resources—coal, paint ore, iron oxide, and zinc. Indeed, zinc mining was the main industry in the Borough for many years. Although Palmerton did not legally become a Borough until October 14, 1912, Palmerton's unofficial birthday was on July 3, 1898 when, following the formation of the Palmer Land Company by Stephen S. Palmer, the President of the New Jersey Zinc Company, the town plan initiative was signed.

In 1900, the people of Palmerton saw the completion of the sewer system and the introduction of telephone services and electricity to some homes. By 1907, Palmerton was home to more than 2000 people. The Palmerton Post Office, fire company, town park, Delaware Elementary School, Hospital, railroad passenger station, local Boy Scouts of America chapter, and the Neighborhood House all emerged in the surrounding years.

The region continued to grow as 110 bungalow-type houses and another 125 homes were completed in 1913. In 1920, Palmerton was already home to a Red Cross Detachment, two banks, a four-year high school, and several churches. The Stephen S. Palmer Junior-Senior High School was opened in April 1925 for grades 7 through 12. The Palmerton Community Chest was formed and the first automatic telephones in the Commonwealth of Pennsylvania were installed.

Although the coal and zinc mines that originally fueled the Borough's growth have long since closed, the 5400 residents of Palmerton Borough continue to thrive as they move toward the new millennium. Two major initiatives will help prepare the Borough for the 21st Century: the flood-control project at the Aquashicola Creek and the Brownfields initiative at Horsehead Industries' West Plant promoted by State Representative Keith McCall, county and borough officials, the local Chamber of Commerce, and myself.

Since my election to Congress in 1984, I have spent a great deal of time in Palmerton but one visit last year is especially prominent in my mind. The event was a re-dedication of the town swimming pool, which had been renovated after 50 years of use. I have been to many events like this one over my career, but I was struck by the optimism of the crowd. It seemed like the entire town had come out to note how they were committed to looking after the future needs of their community. It brought home to me the community spirit that is at the heart of Palmerton.

Mr. Speaker, I am extremely proud to congratulate Palmerton on its Centennial Anniversary. Knowing that Palmerton's best days are ahead of it, I send my sincere best wishes for continued growth and prosperity.

TRIBUTE TO MS. GRETCHEN SNEEGAS, 1998 MIDWEST REGION YOUTH ADVOCATE OF THE YEAR, FROM INDIANAPOLIS, INDIANA

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Ms. CARSON. Mr. Speaker, I rise today to pay tribute to a remarkable young woman from Indianapolis, Indiana. I am proud to announce that Ms. Gretchen Sneegas, a sixth grader at New Augusta Middle School, will be honored today (April 30, 1998) as this year's Midwest Regional Youth Advocate of the Year by the Campaign for Tobacco-Free Kids. Ms. Sneegas is one of six individual youth activists and one teen tobacco-control group to be honored by the CAMPAIGN in 1998.

The Youth Advocates of the Year Awards, now in their third year, were created to encourage tobacco control activism and leadership among the nation's youth.

Ms. Sneegas was nominated by Susan Chitwood, Community Development Director of the Indianapolis division of the American Cancer Society, for her dedication to tobacco control efforts from the state house to the school house. An aggressive advocate for change, Gretchen pushed for a state ban on cigarette vending machines, even going so far as to provide state lawmakers with photographic evidence of how easy it is for kids to buy cigarettes in this way. She has also learned how to reach out to her peers and motivate other young people to get involved in this fight. When Indiana's State Legislature overrode the Governor's veto of a bill that prevented local governments from restricting the sale of tobacco products, she mobilized young people from all across Indiana to stage a protest at the State Capitol.

The Youth Advocates of the Year Awards recognize that kids are not just part of the problem—they can be a powerful part of the solution.

This award is presented during the same week of Surgeon General David Satcher's timely report on *Tobacco Use Among U.S. Racial/Ethnic Minority Groups*. This report underscores the urgent need for comprehensive legislation to reduce youth smoking. According to this report, smoking rates among minority groups, particularly teens, are on the rise. In Indiana alone, 37.8 percent of High School kids currently smoke cigarettes, and 13.9 percent of High School kids use smokeless tobacco. The Center for Disease Control projects—of these Indiana teenagers who smoke—140,645 kids currently under the age of 18 will die prematurely from tobacco-related disease.

I thank the Campaign for Tobacco-Free Kids for selecting Ms. Sneegas. Smoking is the leading cause of preventable death in the U.S.—I applaud the CAMPAIGN for its dedication to providing opportunities encouraging youth to get involved in tobacco control activities in their communities and at the state and national levels.

I am very pleased to have this opportunity to acknowledge and honor inspiring young individuals like Ms. Sneegas who have worked hard to keep America's kids tobacco-free. They are youth leaders who actively take a stand for and with other kids demanding tobacco-free lives and healthier futures—and they make a difference!

THE NATION'S TRANSPORTATION SYSTEM

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. GORDON. Mr. Speaker, I would like to draw attention to an article that appeared in my home town newspaper, the Daily News Journal, on Sunday April 26, 1998, concerning the future of our nation's transportation system.

Mr. Kevin Backwell, Vice President, AAA Auto Club of the South, which has over 157,000 members in west and central Tennessee, makes a strong case for the need to invest in our country's infrastructure.

This bill is especially important to the future of Middle Tennessee, because of the rapid growth we have experienced over the past decade. As one of the fastest growing regions in the country, this bill invests in the future of Middle Tennessee by looking toward new, innovative transportation systems, such as the Middle Tennessee Commuter Rail.

This bill represents a strong commitment to the economic future and the quality of life of Middle Tennessee.

[From the Daily News Journal]

MAINTAINING HIGHWAYS IMPORTANT FOR NATION

To the editor,

The good news coming out of Washington in recent weeks is that Congress is finally addressing the concerns of America's motorists with the reauthorization of the Intermodal Surface Transportation Efficiency Act

(ISTEA), and is prepared to make significant investments in the nation's transportation infrastructure.

However, it would seem that critics of this legislation have forgotten what it's like to drive on our nation's highways and bridges; to sit in long lines of congested traffic; dodge potholes; or to watch in frustration as the nation's economic backbone crumbles from a failure to properly maintain the system. Due to years of chronic underinvestment, according to federal government reports, one-third of all major roads in the United States are in "poor or mediocre condition" and a fourth of the 570,000 bridges in the country are either "structurally deficient or functionally obsolete."

ISTEA does not propose to pave over America. The great need—and primary goal of both the House and Senate bills—is to repair existing roads and bridges. Outmoded and poorly maintained roads and bridges cost lives and impair personal mobility. They also negatively impact productivity and economic activity. In a booming economy, there is no excuse to allow the continued deterioration of the very transportation system that sustains economic growth!

When a corporation makes capital investments in outmoded plants and equipment, we applaud its actions. Congress is now increasing capital investments in our badly deteriorated transportation infrastructure, and members who supported it are to be commended.

At first glance, the size of the increased investments in transportation funding appear large. We need to remember that they are spread out over the next six years. It is also important to remember that every penny proposed for surface transportation investment comes from revenues collected from motorists through the federal gasoline tax. We pay taxes at the gasoline pump to maintain our roads and bridges. We are asking that those tax dollars be invested as they were intended—not buried away in a trust fund to mask other federal spending practices.

As the conference committee negotiates the final details of the bill to send to the president, we urge our leaders to remain firm in their resolve. Investing in transportation is investing in America's future. It is investing in safety. It is the right priority for the 21st century.

KEVIN W. BAKEWELL, APR
Vice President, Public & Government Relations, AAA Auto Club South, Tampa, Fla.

SENSE OF CONGRESS ON 50TH ANNIVERSARY OF FOUNDING OF MODERN STATE OF ISRAEL

SPEECH OF

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 28, 1998

Ms. GRANGER. Mr. Speaker, almost sixty years ago, the most tragic event of the 20th Century began. In its early stages, it was hard to see. But it was there. It was a knock on the door late at night. It was a forced train ride to a far away place. Shamefully and secretly, the Holocaust began. Before it was over, more than six million Jews would give their lives.

Yet the impact of this tragedy did not stop there. As the author and Holocaust survivor Elie Weisel once said, "Not all victims were Jews. But all Jews were victims."

And so while the world lost the Holocaust victims, the Holocaust victims' impact was not lost on the world. If nothing else, this horror awakened the world to the need for a Jewish nation. For too long, Jews were adrift in the world. Without any hope. Without any home.

50 years ago this month that changed. The descendants of Abraham and David once again created a nation called Israel. Against all the odds, the Jewish nation began. And survived. And grew. And conquered. Today, Israel is a thriving nation of almost six million citizens. It remains the only democracy in the Middle East. And it continues to serve as one of America's staunchest allies in the world.

As we celebrate the 50th Anniversary of the birth of the modern Israel, we can take great pride in the role America played in helping to create this beacon of hope in the Middle East. And we can draw strength from the courage, conviction, and commitment of this Democratic nation.

Yes, there have been struggles. But the suffering has increased the resolve of these heroic people.

Yes, there have been tragedies. But the cost of freedom has never been cheap, and the Israeli people have always been willing to meet it.

And yes, there have been all kinds of setbacks. But what does not destroy Israel makes it stronger.

After 50 years, the nation of Israel remains. Proud. Prepared. And free. God bless this nation, their people, and their future. And may God preserve their special place in the world and in our hearts.

HONORING THE QUEENS BOROUGH PUBLIC LIBRARY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. ACKERMAN. Mr. Speaker, I rise to applaud the achievement of the Queens Borough Public Library which has grown to become by far and away the busiest library in the entire nation. The following article from the Washington Post describes how the library has continually sought input from a growing immigrant community. The Queens system checks out over 15.3 million books and materials a year, and spends more money per capita on books than any other major urban American library. The Queens Borough Public Library should serve as a model of how one institution can bring together people of various races and ethnicities for the good of an entire community.

A BOROUGHFUL OF BOOKWORMS—MOTIVATED IMMIGRANTS MAKE QUEENS LIBRARY BUSIEST IN U.S.

(By Blaine Harden)

NEW YORK, April 27—Pin-Pin Lin treks twice a week with her two sons and a big shopping bag to a crowded library in the borough of Queens. The Taiwanese immigrant herds her boys as they plunder books from library shelves and toss them in the bag.

Sitting between her sons at a library table while they riffle through the books, she looks up words in an English-Cantonese dictionary and frets about any "no-good" English words they might read, speak or think.

"I no want to miss anything," explains Lin, who every Thursday morning, when her boys are in school, attends English language class at the Queens library. "If I don't learn about American culture and speak English, I could lose them. If they think I not understand, they not do what I say."

Book-obsessed, worrywart immigrants like Pin-Pin Lin are the driving reason why the Queens Public Library is far and away the busiest in the United States. Most library books in Queens do not go out of date. They wear out from overuse and fall to pieces.

The library circulates the nation's highest number of books, tapes and videos—15.3 million a year.

In the sprawling borough that lies across the East River from Manhattan, library card holders check out more books per capita than users of any big city library system in the country. The 1.95 million residents of Queens use the public library five times more frequently than residents of the District of Columbia, twice as often as residents of Prince George's County and a third more frequently than people in Montgomery County.

The Los Angeles library serves about 1.4 million more people than the Queens library, but last year people in Queens checked out 4 million more books.

"We have complaints all the time from our older clientele, who want quiet and who want space. Well, our libraries aren't quiet and, for the most part, they aren't spacious," says Gary Strong, director of the Queens Public Library, one of three public library networks in the city. There is also a library system in Brooklyn and the New York Public Library serves Manhattan, the Bronx and Staten Island.

"The people who use our library are highly motivated," Strong adds. "They want jobs. They want to learn how to live in America."

Queens has the highest percentage of foreign-born residents of any borough in New York, a city that at the end of the 20th Century is sponging up one of the great waves of immigration in its history. Nearly half the residents of Queens speak a language other than English at home. More than a third were born in a foreign country.

The extraordinary love affair between immigrants and libraries is a century-old story in New York, as it is in other American cities that have been immigrant gateways. The most crowded libraries in New York have always been in neighborhoods with the largest population of recent immigrants.

That love affair continues at the end of the century, but with complications, especially in Queens. The book lovers who elbow each other for space in the library's 62 branches are more than ever before a mixed bunch—racially, linguistically and culturally.

The busiest branch in the nation's busiest library system is in Flushing, which has been inundated in the past decade with Chinese, Korean, Indian, Russian, Colombian and Afghan immigrants. Until a handsome new library building opens this summer, the Flushing branch is crammed into a former furniture store.

Inside, there are not nearly enough little chairs for all the little kids who wiggle and squeal and devour picture book after picture book. Stacks of blue plastic-coated foam pads are available so kids and parents can sit on the tile floor.

Queues form behind computer terminals that allow immigrants to search home country periodicals using Chinese, Korean and Roman writing systems. "Watch Your Belongings!" signs are in English, Spanish and Chinese.

There are no public bathrooms—space being too precious to waste on nonessentials. But there are librarians who speak Russian, Hindi, Chinese, Korean, Gujarati and Spanish.

"Have you ever wondered where the new South Asian materials are?" asks a sign taped to a pillar in the Flushing branch library. "Well, wonder no more. They're here! You can find materials in: Bengali, Gujarati, Hindi, Malayalam and Urdu."

"We have gone from a dozen countries to a hundred countries," says Strong. "We are not just waiting for them to come to us after they have solved all their problems, after they have a job and after they have the kids in school. We go after them. We advertise. We do not check their immigration status."

Immigration had already transformed Flushing from a staid middle-class Italian and Jewish community into a polyglot boom town when Ruth Herzburg took over eight years ago as library branch manager. Herzburg quickly discovered that the branch was falling behind the newcomer mix.

Herzburg tentatively put a small collection of Korean-language books out on a shelf five years ago. "Those books walked off the shelves. Before that, we didn't really know the Koreans were here," she said.

As immigrants make the transition from their native language to English, Herzburg says they hunger for basically the same kinds of books—translations of potboiler American fiction like Danielle Steel, self-help books and computer books. Many immigrants to Queens have technical skills, she says, and they demand science, technology and business books.

By spending more money per capita on books and other materials than any other major urban American library system, the Queens Public Library has marshaled its resources to seduce each new group of immigrants and lure them into the branches.

The seduction starts by sending library emissaries to immigrant associations that work with recent arrivals. In the languages of the immigrants, they explain how the library can show them how to get a driver's license, navigate the Internet and learn English. The library runs the largest English-as-a-second-language program in the country and says it could double its enrollment if it had more space and money.

"Starting with survival skills, they get introduced to the library and it is often the beginning of a lifelong habit," said Adriana Acaucan Tandler, head of the library's New Americans program and herself an immigrant from Brazil.

Using census data and a demographer and by commissioning polls among Queens residents, the library has been able to spot holes in library usage. The biggest hole in the late 1980s was among Spanish speakers.

The library went after them with an aggressive public relations campaign. It translated applications for library cards into Spanish, purchased spots on Spanish radio and pulled together a Spanish collection of 100,000 items in 10 branches.

"In just three years, we found that Spanish speakers were using the library as much as anybody in the borough. They read everything from Cervantes to 'Superman.' The secret of our success is that we give people what they want, instead of what we think they should have," Acauan Tandler said.

What adults want, above all else, is translations of American bestsellers in their own language. The library tries to buy them quickly and in quantity. At the Flushing branch, the head librarian has about $125,000 a year to spend as she wishes on "hot" books.

"We don't wait for the central office to send out popular books. We like to go around to all the local bookstores and buy popular books off the shelves. All the books are in foreign languages. We don't even have an English-language bookstore in Flushing," said Herzburg.

Pin-Pin Lin tries to steer her boys, ages 10 and 13, away from Chinese-language books. She prefers they read only in English. To that end, she makes sure they leave the library after each visit with 20 or so English books in the shopping bag.

"I don't care if they read all. Kid is kid. If they don't like books. I bring them back and get more," said Lin.

SENSE OF CONGRESS ON 50TH ANNIVERSARY OF FOUNDING OF MODERN STATE OF ISRAEL

SPEECH OF

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 28, 1998

Mr. FARR of California. Mr. Speaker, today we celebrate the 50th year of statehood of a strong and trusted ally, the State of Israel. A young nation with a long and honorable history, Israel has been a symbol of hope and a land of opportunity for millions of Jews throughout the world. Surviving six wars, continuing terrorism, and severe economic boycotts, Israel's 600,000 citizens have shown the world what it means to be committed to one's homeland.

Against all odds, Israel has established a dynamic, vibrant democracy that supports free elections, free press, and freedom of speech. A country of remarkable accomplishments, Israel has moved from a poor third-world country to a thriving state with unlimited economic prospects, Israel has molded fields of sand into successful farms, villages of historic destruction into brilliant cities with prosperous businesses and enterprising kibutzes, and barren desert lands into lush forests of green. Persecution endured has been turned into prosperity, isolation into idealism and hardship into heroism.

With all its successes, the people of Israel have never forgotten who they are, the roots that intertwine every Israeli with every member of the global Jewish community. Israel has welcomed over 1,000,000 refugees with open arms, providing work and learning opportunities, with the chance to become a vital part of the Israel experience.

The United States' bond with Israel is stronger than ever, a friendship that has flourished and helped strengthen both of our nations. Working together for peace in the Middle East, we all yearn to see a day when children no longer need be afraid of war and terrorism and all families throughout the region feel safe and secure. We can now look forward to a time that this troubled area of the world toils towards tearing down age-old barriers instead of erecting new ones.

The Israeli nation has become an inspiration for people the world over. I salute Israel on this joyous anniversary and pledge my support to its enduring legacy.

HOUSE OF REPRESENTATIVES—*Monday, May 4, 1998*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. PEASE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 4, 1998.

I hereby designate the Honorable EDWARD A. PEASE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As the morning brings light into a dark world, so may your gifts of love, O God, bring light and blessing to all people. With the frustrations that mark anyone's day we are grateful that You illumine our days and comfort our souls. Whether we are living on the mountain top of joyful experience or walking through the valley of the shadow of death, we know Your presence can lead us and give us peace. In your name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California (Mr. HORN) come forward and lead the House in the Pledge of Allegiance.

Mr. HORN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a bill of the following title, in which concurrence of the House is requested:

S. 1900. An act to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Thursday, April 30, 1998:

H.R. 3579, making emergency supplemental appropriations for the fiscal year ending September 30, 1998, and for other purposes.

CORRECTION TO THE CONGRESSIONAL RECORD OF THURSDAY, APRIL 30, 1998, PAGES 7378, 7379 AND 7380, RECORDED VOTE NUMBERED 118, MOTION TO COMMIT OFFERED BY MS. NORTON; AND RECORDED VOTE NUMBERED 119, PASSAGE OF THE BILL S. 1502, THE DISTRICT OF COLUMBIA STUDENT OPPORTUNITY SCHOLARSHIP ACT OF 1997

MOTION TO COMMIT OFFERED BY MS. NORTON

Ms. NORTON. Madam Speaker, I offer a motion to commit the Senate bill to the Committee on Government Reform and Oversight.

The SPEAKER pro tempore. Is the gentlewoman opposed to the Senate bill?

Ms. NORTON. Yes, Madam Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to commit.

The Clerk read as follows:

Ms. NORTON moves to commit the bill S. 1502 to the Committee on Government Reform and Oversight.

The SPEAKER pro tempore. The motion is not debatable.

Without objection, the previous question is ordered on the motion to commit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to commit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. NORTON. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that she will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the Senate bill.

The vote was taken by electronic device, and there were—ayes 198, noes 224, not voting 11, as follows:

[Roll No. 118]

AYES—198

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—224

Aderholt
Archer
Armey
Bachus
Baker
Ballenger

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NOT VOTING—11

Bateman
Bunning
Dixon
Gonzalez
Kennelly
McHugh
Meek (FL)
Parker
Sandlin
Smith (MI)
Young (AK)

□ 1453

The Clerk announced the following pairs:

On this vote:

Mrs. Kennelly of Connecticut for, with Mr. Young of Arkansas against.

Mrs. Meek of Florida for, with Mr. Smith of Michigan against.

Mrs. CHENOWETH changed her vote from "aye" to "no."

Mr. VENTO and Mr. ANDREWS changed their vote from "no" to "aye."

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. NORTON. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 214, noes 206, answered "present" 1, not voting 12, as follows:

[Roll No. 119]

AYES—214

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Bonilla
Bono
Boyd
Brady
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NOES—206

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Crapo
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates
Young (AK)

ANSWERED "PRESENT"—1

Paul

NOT VOTING—12

Bateman
Boehner
Brown (CA)
Bunning
Dixon
Gonzalez
Hall (TX)
Kennelly
Meek (FL)
Parker
Sandlin
Smith (MI)

□ 1504

The Clerk announced the following pairs:

On this vote:

Mr. Bunning for, with Mrs. Kennelly of Connecticut against.

Mr. Smith of Michigan for, with Mrs. Meek of Florida against.

Mr. YOUNG of Alaska changed his vote from "aye" to "no."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HORN, and to include therein extraneous material, notwithstanding the fact that it exceeds 2 pages of the RECORD and is estimated by the Public Printer to cost $1,497.

The following Members (at the request of Mr. HORN) and to include extraneous matter:

Mr. FORBES.
Mr. WOLF.
Mr. HORN.
Mr. SCHUMER.
Mr. BONIOR.
Mr. SERRANO.
Mr. PALLONE.
Mr. KIND.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3579. An act making emergency supplemental appropriations for the fiscal year ending September 30, 1998, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following dates present to the President, for his approval, a bill, and a joint resolution of the House of the following titles:

On April 30, 1998:

H.R. 3579. An act making emergency supplemental appropriations for the fiscal year ending September 30, 1998, and for other purposes.

On May 1, 1998:

H.J. Res. 102. Joint resolution expressing the sense of the Congress on the occasion of the 50th anniversary of the founding of the modern State of Israel and reaffirming the bonds of friendship and cooperation between the United States and Israel.

ADJOURNMENT

Mr. HORN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 5, 1998, at 12:30 p.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

8839. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 1997-98 Crop Year for Tart Cherries [FV97-930-6 FR] received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8840. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Esfenvalerate; Pesticide Tolerances [OPP-300634; FRL-5781-8] (RIN: 2070-AB78) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8841. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Subordination of Direct Loan Basic Security to Secure a Guaranteed Line of Credit (RIN: 0560-AE92) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8842. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Dairy Indemnity Payment Program (RIN: 0560-AF-30) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8843. A letter from the Administrator, Foreign Agricultural Service, transmitting the Service's final rule—Cooperative Marketing Associations (RIN: 0560-AF33) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8844. A letter from the Secretary of Defense, transmitting an interim report on the progress of the Mental Health Wraparound Demonstration Project; to the Committee on National Security.

8845. A letter from the Assistant Secretary for Special Education and Rehabilitative Services, Department of Education, transmitting Final Priorities—Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities; and Research and Innovation to Improve Services and Results for Children with Disabilities, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

8846. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

8847. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Management of Financial Assistance Report Deliverables [98-02] received April 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8848. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Environment, Safety and Health Reporting [DOE O 231.1 Chg 2] received April 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8849. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Parts and Accessories Necessary for Safe Operation; Antilock Brake Systems [FHWA Docket No. MC-94-31; FHWA-97-2318] (RIN: 2125-AD42) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8850. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; New York State Implementations Plan Revision [Region II Docket No. NY25-2-173b, FRL-5995-4] received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8851. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to OMB Control Numbers [OPPTS-00191; FRL-5724-3] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8852. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Substituted Phenol; Significant New Use Rule [OPPTS-50622D; FRL-5782-5] (RIN: 2070-AB27) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8853. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions for Transportation Control Measures [GA-035-9807a; FRL-6004-8] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8854. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards [FRL-5969-4] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8855. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Oklahoma: Final Authorization and Incorporation By Reference of State Hazardous Waste Management Program [FRL-6003-4] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8856. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Standards of Performance for New Stationary Sources: General Provisions; National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions [AD-FRL-6003-7] (RIN: 2060-AH94) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8857. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approval Numbers Under the Paperwork Reduction Act [FRL-5670-1] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8858. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approval Numbers Under the Paperwork Reduction

Act [FRL-5807-2] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8859. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions From Wood Furniture Manufacturing Operations; Correction [AD-FRL-5833-6] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8860. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions From Wood Furniture Manufacturing Operations [AD-FRL-5336-2] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8861. A letter from the Nuclear Waste Technical Review Board, transmitting the Board's report entitled "1997 Findings and Recommendations," pursuant to 42 U.S.C. 10268; to the Committee on Commerce.

8862. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to the Sweden (Transmittal No. DTC-62-98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8863. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Turkey (Transmittal No. DTC-60-98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8864. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the United States-Hong Kong Policy Act of 1992, pursuant to 22 U.S.C. 5731; to the Committee on International Relations.

8865. A letter from the Executive Director, District of Columbia Retirement Board, transmitting the Board's annual report of activities for fiscal year 1997, pursuant to D.C. Code section 1-732 and 1-734(a)(1)(A); to the Committee on Government Reform and Oversight.

8866. A letter from the Executive Director, Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

8867. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the Committee's final rule—Procurement List Additions and Deletions received April 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

8868. A letter from the Human Resources Manager, CoBank, transmitting the annual report of the Comptrollers' ACB Retirement Plan for the year ending December 31, 1996, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

8869. A letter from the Associate Attorney General, Department of Justice, transmitting a report of activities under the Freedom of Information Act for the calendar year 1997, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

8870. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Department of Transportation Acquisition Regulations [48 CFR Parts 1201, 1202, 1203, 1205, 1206, 1209, 1214, 1216, 1217, 1222, 1224, 1225, 1236, 1237, 1246, and 1252] received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

8871. A letter from the Chairman, Federal Election Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1997, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

8872. A letter from the General Counsel, Office of Management and Budget, transmitting the Office's final rule—Freedom of Information Act (RIN: 0348-AB42) received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

8873. A letter from the Director, Operations and Finance, The American Battle Monuments Commission, transmitting a report of activities under the Freedom of Information Act for the calendar year 1997, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

8874. A letter from the Assistant Secretary for Mine Safety and Health, Department of Labor, transmitting the Department's final rule—Criteria and Procedures for Proposed Assessment of Civil Penalties (RIN: 1219-AA49) received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8875. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Screening Requirements of Carriers [INS No. 1697-95] (RIN: 1115-AD97) received April 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

8876. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Amendment of the Regulatory Definition of Arriving Alien [INS Order No. 1868-97] (RIN: 1115-AE87) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

8877. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-200F and -200C Series Airplanes [Docket No. 98-NM-127-AD; Amendment 39-10498; AD 98-09-17] (RIN: 2120-AA64) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8878. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Flight Rules in the Vicinity of Grand Canyon National Park [Docket No. 28537; Amendment Nos. 91-257, 121-270, 135-72, 93-76] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8879. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; EXTRA Flugzeugbau GmbH Models EA-300 and EA-300S Airplanes [Docket No. 97-CE-91-AD; Amendment 39-10490; AD 98-09-10] (RIN: 2120-AA64) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8880. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Avions Pierre Robin Model R3000/160 Airplanes [Docket No. 97-CE-97-AD; Amendment 39-10488; AD 98-09-08] (RIN: 2120-AA64) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8881. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lockheed Model L-1011-385 Series Airplanes [Docket No. 98-NM-125-AD; Amendment 39-10492; AD 98-08-09] (RIN: 2120-AA64) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8882. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD-11 and MD-11F Series Airplanes [Docket No. 98-NM-126-AD; Amendment 39-10491; AD 98-08-11] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8883. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600 and 700 Series Airplanes [Docket No. 96-NM-186-AD; Amendment 39-10486; AD 98-09-07] (RIN: 2120-AA64) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8884. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace BAe Model ATP Airplanes [Docket No. 97-NM-226-AD; Amendment 39-10484; AD 98-09-05] (RIN: 2120-AA64) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8885. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Washington Court House, OH [Airspace Docket No. 98-AGL-1] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8886. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes [Docket No. 97-NM-135-AD; Amendment 39-10485; AD 98-09-06] (RIN: 2120-AA64) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8887. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A310 and A300-600 Series Airplanes [Docket No. 97-NM-337-AD; Amendment 39-10482; AD 98-09-03] (RIN: 2120-AA64) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8888. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR72 Series Airplanes [Docket No. 97-NM-263-AD; Amendment 39-10483; AD 98-09-04] (RIN: 2120-AA64) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8889. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Alice, TX [Airspace Docket No. 97–ASW–27] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8890. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Athens, OH [Airspace Docket No. 98–AGL–3] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8891. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Springfield, IL [Airspace Docket No. 98–AGL–4] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8892. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR–42 and ATR–72 Series Airplanes [Docket No. 98–NM–124–AD; Amendment 39–10497; AD 98–09–16] (RIN: 2120–AA64) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8893. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Alexander Schleicher GmbH Segelflugzeugbau Model ASH–26E Sailplanes [Docket No. 97–CE–118–AD; Amendment 39–10489; AD 98–09–09] (RIN: 2120–AA64) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8894. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Two-Way End-of-Train Telemetry Devices and Certain Passenger Train Operations [FRA Docket No. PB–9, Notice No. 11] (RIN: 2130–AB22) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8895. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Passenger Train Emergency Preparedness [FRA Docket No. PTEP–1, Notice No. 3] (RIN: 2130–AA96) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8896. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Notice of Hazardous Conditions/Immediate Reporting of Casualties [CGD 94–027 and CGD 94–030] (RIN: 2115–AE82 and 2115–AE89) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8897. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; Colorado River, Laughlin, Nevada [COTP San Diego; 98–009] (RIN: 2115–AA97) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8898. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Hobucken, NC [CGD05–98–030] (RIN: 2115–AE47) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8899. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Anchorage Area: Special Anchorage, Hudson River, at Hyde Park, NY [CGD01 97–017] (RIN: 2115–AA98) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8900. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Security Zone Regulations: New London Harbor, Connecticut [CGD01–97–104] (RIN: 2115–AA97) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8901. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone: San Diego Bay, CA [COTP San Diego, CA; 97–004] (RIN: 2115–AA97) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8902. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; Thunderboat Regatta [CGD11–97–006] (RIN: 2115–AE46) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8903. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lockheed Model L–1011 Series Airplanes Equipped with Rolls Royce Model RB211–22B Engines [Docket No. 96–NM–59–AD; Amendment 39–10504; AD 98–09–23] (RIN: 2120–AA64) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8904. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Industrie Model A320 and A321 Series Airplanes [Docket No. 95–NM–143–AD; Amendment 39–10499; AD 98–09–18] (RIN: 2120–AA64) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8905. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80, and C–9 (Military) Series Airplanes, and Model MD–88 Airplanes [Docket No. 96–NM–199–AD; Amendment 39–10500; AD 98–09–19] (RIN: 2120–AA64) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8906. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes [Docket No. 97–NM–217–AD; Amendment 39–10502; AD 98–09–21] (RIN: 2120–AA64) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8907. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A310 Series Airplanes [Docket No. 96–NM–248–AD; Amendment 39–10501; AD 98–09–20] (RIN: 2120–AA64) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8908. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42–200, -300, and -320 Series Airplanes [Docket No. 97–NM–303–AD; Amendment 39–10503; AD 98–09–22] (RIN: 2120–AA64) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8909. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Model 1900D Airplanes [Docket No. 97–CE–68–AD; Amendment 39–10493; AD 98–09–12] (RIN: 2120–AA64) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8910. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Diamond Aircraft Industries Models HK 36 TTS and HK 36 TTC Sailplanes [Docket No. 97–CE–132–AD; Amendment 39–10495; AD 98–09–14] (RIN: 2120–AA64) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8911. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASK 21 Sailplanes [Docket No. 97–CE–104–AD; Amendment 39–10494; AD 98–09–13] (RIN: 2120–AA64) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8912. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Luftfahrt GmbH Models 228–100, 228–101, 228–200, and 228–201 Airplanes [Docket No. 97–CE–124–AD; Amendment 39–10391; AD 98–06–13] (RIN: 2120–AA64) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8913. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; The New Piper Aircraft, Inc. Models PA–31, PA–31–300, PA–31–325, and PA 31–350 Airplanes [Docket No. 97–CE–48–AD; Amendment 39–10506; AD 98–09–25] (RIN: 2120–AA64) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8914. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29199; Amdt. No.1865] (RIN: 2120–AA65) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8915. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29198; Amdt. No. 1864] (RIN: 2120–AA65) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8916. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29164; Amdt. No. 1860] (RIN: 2120–AA65) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8917. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29163; Amdt. No. 1859] (RIN: 2120–AA65) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8918. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29162; Amdt. No. 1858] (RIN: 2120–AA65) received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8919. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class D and Class E Airspace; Cape Girardeau, MO [Airspace Docket No. 98–ACE–2] received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8920. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class D and Class E Airspace; St. Joseph, MO [Airspace Docket No. 98–ACE–6] received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8921. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Columbia, MO [Airspace Docket No. 98–ACE–3] received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8922. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class D and Class E Airspace; Joplin, MO; Correction [Airspace Docket No. 98–ACE–4] received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8923. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class D and Class E Airspace; Joplin, MO; Correction [Airspace Docket No. 98–ACE–4] received April 30, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

8924. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Laboratory Directed Research and Development [DOE O 413.2] received April 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

8925. A letter from the Chief Counsel, Bureau of Public Debt, transmitting the Bureau's final rule—Regulations Governing Book-Entry Treasury Bonds, Notes, and Bills; Determination Regarding State Statute; South Dakota [31 CFR Part 357] received April 21, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8926. A letter from the General Counsel, Department of Housing and Urban Development, transmitting the Department's final rule—Empowerment Zones: Rule for Second Round Designations [Docket No. FR–428–I–04] (RIN: 2506–AB97) received April 20, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8927. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Trade or Business Expenses [Revenue Ruling 98–25] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8928. A letter from the Chief, Regulations Unit, U.S. Customs Service, transmitting the Service's final rule—Abolishment of Boca Grande as a port of entry [T.D. 98–37] received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8929. A letter from the Director, Office of Thrift Supervision, transmitting the Office of Thrift Supervision's 1997 Annual Consumer Report to Congress, pursuant to 12 U.S.C. 1462a(g); jointly to the Committees on Banking and Financial Services and Commerce.

8930. A letter from the Secretary of Energy, transmitting the fourth annual report on Building Energy Efficiency Standards Activities, pursuant to Public Law 102—486, section 101(a) (106 Stat. 2786); jointly to the Committees on Commerce and Transportation and Infrastructure.

8931. A letter from the Secretary of Energy, transmitting a report entitled "A Role for Federal Purchasing in Commercializing New Energy-Efficient and Renewable-Energy Technologies"; jointly to the Committees on Commerce and Science.

8932. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that the President proposes to exercise his authority under section 614(a)(1) of the Foreign Assistance Act of 1961, as amended (the "Act"), to authorize the furnishing of defense articles and services to the Korean Peninsula Energy Development Organization, pursuant to 22 U.S.C. 2364(a)(1); jointly to the Committees on International Relations and Appropriations.

8933. A letter from the Secretary of Defense and Acting Secretary of Veterans Affairs, transmitting a report on the implementation on that portion of the law dealing with sharing of health care resources between the two departments, pursuant to 38 U.S.C. 8111(f); jointly to the Committees on Veterans' Affairs and National Security.

8934. A letter from the Acting Assistant Secretary for Health Affairs, Department of Defense, transmitting a report to Congress describing its plans for the first phase of the Medicare subvention demonstration as well as plans regarding subsequent demonstration phases; jointly to the Committees on Ways and Means, Commerce, and National Security.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

(The following action occurred on April 30, 1998)

(Omitted from the Record of April 30, 1998)

H.R. 1778. Referral to the Committees on Government Reform and Oversight, Transportation and Infrastructure, and Commerce for a period ending not later than June 2, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

Mr. PORTMAN (for himself and Mr. Cardin) introduced a bill (H.R. 3788) to provide for pension reform, and for other purposes; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

303. The SPEAKER presented a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 10 memorializing the recognition of state and county rights-of-way under Revised Statute 2477 and take appropriate action to invalidate the proposed policy change for forest roadless areas; to the Committee on Agriculture.

304. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 9 memorializing that Congress amend the Idaho Admission Bill to provide a reference to the Public School Permanent Endowment Fund; to the Committee on Education and the Workforce.

305. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 14 memorializing the Congress of the United States to take action immediately to terminate the Interior Columbia Basin Ecosystem Managment Project with no Record of Decision being Approved; to the Committee on Resources.

306. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 13 memorializing the Congress of the United States to adopt, in as timely a manner as possible, a multiyear federal surface transportation program reauthorization legislation; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 662: Mr. Serrano and Mr. Shays.

H.R. 1401: Mr. Foley.

H.R. 2009: Mrs. Mink of Hawaii, Mr. Manton, Mr. Boehlert, and Mrs. Emerson.

H.R. 2154: Mrs. Clayton.

H.R. 3033: Mr. Gephardt.

H.R. 3099: Mrs. Emerson.

H.R. 3127: Ms. Pryce of Ohio, Mr. Hunter, Mr. Watts of Oklahoma, Mr. Kucinich, Mr. Horn, Mr. Hulshof, Mr. Kleczka, Mr. Stenholm, Mr. Evans, Mr. Pappas, and Mr. Hilliard.

H.R. 3181: Ms. Furse and Ms. Millender-McDonald.

H.R. 3247: Mr. Fattah, Mr. Maloney of Connecticut, Mr. Hutchinson, Ms. Slaughter, Mrs. Johnson of Connecticut, and Mr. Towns.

H.R. 3269: Ms. Kilpatrick and Ms. Slaughter.

H.R. 3341: Mr. Serrano.

H.R. 3538: Ms. Pelosi.

H.R. 3648: Mr. King of New York, Mr. Foley, Mrs. Kelly, and Mr. Boehlert.

H. Con. Res. 239: Mr. Porter and Ms. Furse.

H. Con. Res. 264: Mr. Cook, Mrs. McCarthy of New York, Mr. Matsui, Mr. Towns, Mr. Bentsen, Mr. Traficant, and Mr. Kennedy of Massachusetts.

H. Res. 399: Mr. RAMSTAD.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6

OFFERED BY: MR. OWENS

AMENDMENT NO. 78: Page 349, after line 9, insert the following:

TITLE XI—INFORMATION TECHNOLOGY EDUCATION RECRUITMENT

SEC. 1101. POSTSECONDARY INFORMATION TECHNOLOGY EDUCATION RECRUITMENT.

(a) FINDINGS.—The Congress finds the following:

(1) There are more than 200,000 to 400,000 vacancies in various categories of information technology jobs.

(2) From 1996 to 2005, more than 1,300,000 new computer scientists, engineers, and systems analysts will be required in the United States to fill vacant jobs, which equals 136,800 new workers per year.

(3) Systems analysts will experience the largest job growth, accounting for a 103 percent increase in the number of new positions from 1996 (506,000) to 2005 (1,025,000).

(4) The shortage of information technology workers transcends industries, affecting the manufacturing, service, transportation, health care, education, and government sectors. Within each sector, vacancies exist at all levels from aides and mechanics to programmers and designers.

(5) The information technology worker shortage is having an adverse effect on the viability of businesses in the United States and on the Nation's competitiveness. Industry surveys report that half of industry executives cite the lack of workers skilled in technology as the number one obstacle to their company's growth. An additional 20 percent of industry executives identify the lack of information technology workers as a major obstacle to their company's growth.

(6) A major factor affecting the short supply of information technology workers is the mismatch between what universities teach and what industry needs.

(7) It is in the national interest to promote special initiatives which effectively educate and train our domestic workforce to keep pace with these expanding job opportunities.

(8) Institutions of higher education have the capacity and resources to provide a role of oversight and technical assistance to a wide range of local entities, including community-based organizations, participating in a comprehensive education and training program for potential technology workers.

(9) Higher education institutions must be responsive to the digital environment and expand both their outreach efforts and on-campus activities to train and certify individuals to close the information technology worker gap.

(b) AMENDMENT.—Title II is amended by adding at the end the following:

"PART G—INFORMATION TECHNOLOGY EDUCATION RECRUITMENT

"SEC. 281. PARTNERSHIPS FOR POSTSECONDARY INFORMATION TECHNOLOGY EDUCATION RECRUITMENT.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary may make grants under this section, in accordance with competitive criteria established by the Secretary, to institutions of higher education, in order to establish, oversee the operation of, and provide technical assistance to, projects described in paragraph (2).

"(2) PROJECTS.—Projects under this section shall be projects implemented by a community-based organization described in subsection (b), or by the institution of higher education receiving the grant, to provide postsecondary information technology education.

"(3) RESTRICTIONS.—An institution of higher education shall be eligible to receive only one grant under this section, but may, subject to the requirements of this section, use the grant to enter into contracts with more than one community-based organization. A community-based organization shall not be eligible to enter into a contract under this section with more than one institution of higher education.

"(4) PERIOD OF GRANT.—The provision of payments under a grant under this section shall not exceed 5 fiscal years and shall be subject to the annual approval of the Secretary and subject to the availability of appropriations for each fiscal year involved.

"(b) COMMUNITY-BASED ORGANIZATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), a community-based organization described in this subsection is an entity that, at the time the entity enters into a contract with an institution of higher education for a project under this section, and throughout the duration of that contract—

"(A) is—

"(i) a governmental agency; or

"(ii) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; and

"(B) is one of the following:

"(i) A local partnership (as defined in section 4 of the School-to-Work Opportunities Act of 1994) receiving a grant under section 302 of such Act.

"(ii) An entity organized and operated for religious purposes.

"(iii) An entity furnishing school-age child care services after school.

"(iv) A community-based college computer recruitment center.

"(v) An entity furnishing adult education.

"(vi) A library.

"(vii) A museum.

"(viii) Any other entity organized and operated for cultural, literary, or educational purposes.

"(2) LIMITATION.—An entity shall not be considered a community-based organization described in this subsection unless, at the time the entity enters into a contract with an institution of higher education for a project under this section, it has demonstrated to the satisfaction of the Secretary that—

"(A) it has the capacity successfully to recruit eligible individuals described in subsection (c) for participation in a project described in subsection (a), consistent with the enrollment requirements in subsection (d)(2)(E);

"(B) it is providing an educational service, social service, or employment procurement service; and

"(C) in the case of an entity that independently manages its own finances, it has been in existence 2 years or more.

"(c) ELIGIBLE INDIVIDUALS.—An eligible individual described in this subsection is an individual who—

"(1) has submitted a satisfactory application to receive postsecondary information technology education recruitment assistance through a project under this section; and

"(2) has a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate.

"(d) DUTIES.—

"(1) INSTITUTIONS OF HIGHER EDUCATION.—An institution of higher education receiving a grant under this section shall use the funds provided under the grant to carry out the following duties:

"(A) Final selection of community-based organizations described in subsection (b) desiring to provide, at one or more sites, in accordance with a contract with the institution of higher education and this section, postsecondary information technology education and employment procurement assistance to eligible individuals described in subsection (c).

"(B) Entering into a contract with each community-based organization selected under subparagraph (A) under which the institution and the organization agree to carry out the duties respectively required of them under this section with respect to each site described in subparagraph (A).

"(C) With respect to each site described in subparagraph (A)—

"(i) design of a process for the recruitment of students from the site to enroll in college courses or matriculate in college programs;

"(ii) provision of such funding for the establishment and initial operation of the site as was specified in the grant application submitted by the institution to the Secretary;

"(iii) approval of final site selection and preparation;

"(iv) initial orientation and training of personnel employed to manage and operate the site;

"(v) design and certification of the instructional and academic programs, and oversight of the implementation of the programs;

"(vi) oversight of equipment purchases and contracts for equipment maintenance; and

"(vii) selection of an outside contractor for periodic evaluation of the management and operation of the site.

"(2) COMMUNITY-BASED ORGANIZATIONS.—

"(A) IN GENERAL.—A community-based organization implementing a project under this section with an institution of higher education, at one or more sites, shall carry out the duties described in this paragraph, with respect to each such site, subject to the oversight and guidance of the institution.

"(B) GENERAL DUTIES.—The organization—

"(i) shall undertake final site selection and preparation;

"(ii) shall recruit and hire a site director;

"(iii) shall carry out any supplementary instructional, academic, or educational activities specified in the contract with the institution of higher education that are not described in subparagraph (D);

"(iv) shall assemble an advisory committee composed of individuals residing in the community in which the site is located, as well as industry representatives, who desire to assist the organization in ensuring that the goals of the organization are consistent with the goals and needs of the community population;

"(v) shall provide to the institution other evidence of volunteer support from among individuals residing in the community in which the site is located and industry representatives;

"(vi) shall recruit eligible individuals for enrollment, subject to subparagraph (E); and

"(vii) shall maintain waiting lists of eligible individuals desiring to enroll in the project's programs.

"(C) SITE REQUIREMENTS.—The organization shall ensure that each site—

"(i) has a minimum of 20 fully functioning computers with sufficient capacity to perform all of the computer operations that are the subject of the curriculum specified in subparagraph (D);

"(ii) in addition to the space for the computers described in clause (i), has—

"(I) a classroom space with the capacity for seating a minimum of 30 students; and

"(II) a separate office for the site director;

"(iii) is real property subject to the control of the organization or the institution, through a lease or other legal instrument, for a period of not less than 5 years;

"(iv) is open to enrolled individuals not less than 12 hours per day; and

"(v) is located within walking distance of public transportation.

"(D) INFORMATION TECHNOLOGY CURRICULUM.—

"(i) IN GENERAL.—The organization shall ensure that each site offers enrollees a curriculum that includes a broad range of course work in information technology.

"(ii) COURSES LEADING TO CERTIFICATION.—Such curriculum shall include course work leading to a certification of competence in areas of information technology recognized by the National Skill Standards Board established under the National Skill Standards Act of 1994.

"(iii) SPECIFIC COURSES.—The computer training offered shall include courses in basic computer competence, on-the-job upgrade assistance, and advanced computer competence.

"(E) ENROLLMENT REQUIREMENTS.—The organization shall ensure that its enrollment of eligible individuals at each site is consistent with the following:

"(i) Not less than 50 percent of the eligible individuals shall be, at the time of enrollment, individuals—

"(I) to whom a credit was allowed under section 32 of the Internal Revenue Code of 1986 for the preceding taxable year;

"(II) who are recipients of assistance under a State program funded under part A of title IV of the Social Security Act;

"(III) who are a member of a household participating in the food stamp program; or

"(IV) who are considered low-income pursuant to regulations promulgated by the Secretary under this section.

"(ii) Not less than 50 percent of the eligible individuals shall be, at the time of enrollment, under 25 years of age.

"(iii) No prerequisite relating to net worth, income, or assets may be applied to any eligible individual who, at the time of enrollment, is over 50 years of age, except that this requirement shall not be construed to supersede clause (i).

"(e) IMPLEMENTATION OF PROJECTS SOLELY BY INSTITUTIONS.—The Secretary may make a grant under this section to an institution of higher education that desires to implement a project under this section without the participation of a community-based organization described in subsection (b), if the institution agrees to carry out all of the duties required of such an organization under this section, in addition to the duties otherwise required of an institution of higher education. The Secretary shall, in awarding grants under this section, give priority to institutions of higher education whose grant application includes an assurance that the institution will contract with one or more community-based organizations in accordance with this section.

"(f) APPLICATIONS.—To apply for a grant under this section for any fiscal year, an institution of higher education shall submit an application to the Secretary in accordance with the procedures established by the Secretary. The application shall specify the institution's preliminary selections for the community-based organizations (if any) with which the institution proposes to contract, and shall include information with respect to preliminary site selections.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(h) DEFINITIONS.—For purposes of this section:

"(1) ADULT EDUCATION.—The term 'adult education' has the meaning given such term in section 312 of the Adult Education Act.

"(2) COMMUNITY-BASED COLLEGE COMPUTER RECRUITMENT CENTER.—The term 'community-based college computer recruitment center' means a computer center—

"(A) funded by both the Federal Government and at least one private sector entity;

"(B) located in a low-income community (as determined by the Secretary); and

"(C) organized and operated for the purpose of providing families with access to computer resources that otherwise would not be available to them.

"(3) FOOD STAMP PROGRAM.—The term 'food stamp program' has the meaning given such term in section 3(h) of the Food Stamp Act of 1977.

"(4) LIBRARY.—The term 'library' has the meaning given such term in section 213 of the Library Services and Technology Act.

"(5) MUSEUM.—The term 'museum' has the meaning given such term in section 272 of the Museum and Library Services Act.".

SENATE—*Monday, May 4, 1998*

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, our Creator, Sustainer and Strength, You have given us the gift of life, blessed us with this new week, and given us work to do for Your glory. We admit our need for Your insight and inspiration. You never intended for us to depend solely on our own intellect and understanding. We humbly place our total dependence on Your power to maximize the use of the talents You have entrusted to us. Guide us, Lord. We accept Your absolute reign and rule in our minds.

Thank You for the peace of mind we have when we submit our needs to You. Source of our courage, we unreservedly commit to You our lives and the decisions to be made this week. We relinquish our control and intentionally ask You to take charge. Think and speak through us. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, I want to say once again how much I appreciated the cooperation that I received from Senators on both sides of the aisle last week. I think last week was a very good week for the Senate. We completed the NATO enlargement debate, and I thought it was a good debate. I thought the Senate showed a great deal of seriousness and maturity in the way they handled the final phases and cast their votes on Thursday night.

We also completed action on the supplemental appropriations bill, which has gone to the President. That way, we will have the funds we need for the defense of our country and to assist with natural disasters that have hit any number of States over the past few months.

Also, on Friday, we did have debate on the workplace development bill—all debate except for the final 1 hour. All amendments were handled. I believe there were five or six amendments that had been pending. So Senator JEFFORDS, Senator DEWINE, and others did a good job getting that debate done on Friday. We will pick that bill back up at 4:30 on Tuesday. There will be 1 hour of debate, followed by final passage on the Workplace Development Act at 5:30 on Tuesday.

Following morning business this morning, the Senate will begin consideration then of H.R. 2676, the IRS reform and restructuring bill, for debate only. It is hoped that Members will come to the floor to offer opening statements and debate this very important piece of legislation.

IRS REFORM

Mr. LOTT. Mr. President, as a member of the Finance Committee, once again, last week I found the hearings on IRS enlightening, in fact, horrifying. We had witness after witness come in and put their own jobs and reputations on the line—if they were IRS employees—to talk about the protection system of mismanagement and misconduct within IRS. We had small businessmen come forward and talk about businesses being raided—in one instance, I think by 64 gun-carrying IRS agents and U.S. marshals—when they had done nothing wrong. We heard great detail about the efforts that have been gone to by management to protect misconduct.

Finally, we heard of targeting of political officials or public officials for audits or for, in one case, an effort to show that this person had been laundering money, and it was not true. Senator Howard Baker, the great former majority leader, came before the committee and told what he had experienced—by the way, even though he was under a lot of pressure not to do so.

We clearly have a culture of intimidation and misconduct at the IRS. It is not something that has just developed; it has been growing and getting worse for the past 15 years. We need serious IRS reform. The House-passed legislation made a major step in the right direction last year, but we have found a lot more abuses. We have come up with more things that need to be done to make the IRS genuinely representative of what the people expect them to be—that is, to do their job, which is not easy, and to protect the truly hardworking and honest IRS agents who are doing their jobs every day, some who came forward and pointed out where problems have been.

We have learned a lot and have come up with some good legislation. There will be some relevant amendments that will need to be offered and debated and voted on. I hope we can come to an agreement that will not allow this bill to become one that is attacked by poison pills or cause its delay or destruction. The American people want this IRS reform. I think to get off in a debate of unrelated issues—whether it is trade issues, many of which I may be for, or health issues, or whatever—would be a big mistake. We ought to have a good debate this Monday and Tuesday. We ought to complete this IRS debate by Wednesday or Thursday night, at the latest. We were able to get our job done last week. I hope we can do it again this week.

Now, in addition to those bills, on Thursday or Friday we may try to take up a couple of other issues. It will depend on how the debate goes. The agriculture research conference report is something we might try to get up Thursday night or Friday, or not later than next Monday. We also have pending before us a number of other important bills, including the higher education legislation and nuclear waste. So there are a number of bills that are waiting.

Again, I ask for the cooperation of the Senators on both sides of the aisle to work with the chairman of the Finance Committee and ranking member to get an agreement on how we can proceed. Let's have a good debate, relevant amendments, and let's complete this job.

Even the President, who originally resisted IRS reform, on his radio show Saturday said what has been happening at IRS is outrageous and that we should act on this legislation and get it to him as quickly as possible. I hope we will move forward, now that we have him involved in this effort, and complete this important legislation.

Mr. President, I note that there are no Senators waiting to speak. I believe the managers of the legislation will be here at noon. From now until noon will be a period of morning business.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KYL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 12 o'clock noon, at which time, under the previous order, the Senate

---

will proceed, for debate only, to the consideration of H.R. 2676.

Under the previous order, the Senator from North Dakota is recognized at this time.

Mr. DORGAN. Mr. President, my understanding is the 30 minutes that I am able to use under a previous unanimous consent agreement will bump up against the 12 o'clock time. I ask unanimous consent that the 12 o'clock time be modified so I may use the entire 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is permitted to speak until 12:15 p.m.

ISTEA

Mr. DORGAN. Mr. President, I want to visit about a couple of things this morning. First, I want to talk about the highway bill that is in conference between the House and the Senate. It is now May 4, 1998. The highway bill, or a piece of legislation people commonly refer to as ISTEA (the Intermodal Surface Transportation Efficiency Act) was supposed to have been completed last year, but it was not. The highway bill was extended until May 1, and then the authorization for the highway bill expired.

We are now on May 4 without highway legislation that is authorized, and the highway officials and Governors around the country are wondering, appropriately, what is going to happen to this highway bill? With what authority can I obligate money? What about the projects we have to do in our States to build roads and repair bridges?

I don't blame State and local highway officials and others who are rightly furious with the Congress that it has not gotten its work done. It is a shame, in my judgment, that almost a year after the legislation should have been done, not only was the legislation not done, but we have already had an extension and that has expired. Now, here we are with no highway bill at all.

I ask those who run this Congress and those who are convening the conference on the highway bill, let's decide to get this thing done. This isn't rocket science; it is building highways. We know how to do that. If the political will doesn't exist to do what is necessary to reach a compromise on a highway bill, then I suppose that those who run the Congress should say to the Governors and the highway commissioners, "We can't be counted upon to do this work."

I hope in the coming days people will understand the urgency of this. I come from the State of North Dakota, and we have a relatively short construction season. It is not fair to our States for this Congress not to do its work on time. We should do it, it ought to be done, and it ought to be done soon.

TOBACCO LEGISLATION

Mr. DORGAN. Mr. President, I came to the floor today to talk for just a moment about the tobacco legislation that is to be brought to the floor of the Senate. My understanding is that we will consider, in the next perhaps month, the tobacco legislation that was enacted by the Senate Commerce Committee, of which I am a member.

The Senate Commerce Committee considered a comprehensive tobacco bill. We passed it, and the vote was 19 to 1. The legislation is controversial, to be sure, and the tobacco industry has now ratcheted up an enormous amount of money and energy directed at trying to kill the bill.

I thought it would be interesting to read into the RECORD a few comments here and there dealing with the tobacco companies and why they are so interested in killing this tobacco legislation. We will see an enormous amount of money spent on advertising to try to kill this legislation.

My colleague, Senator CONRAD from North Dakota, chaired a task force on the issue of tobacco and created a piece of legislation. He has done a wonderful job, in my judgment, dealing with this issue, and the Senate could well take its cues from the work Senator CONRAD has done. Incidentally, the Senate Commerce Committee took much from the legislation Senator CONRAD introduced in the Congress.

The reason we are concerned about the tobacco issue is the targeting of teenagers in this country to get them to smoke. I have said before on the floor that almost no one reaches age 30 and wonders, "What more could I do to fulfill my life?" and decides they should start smoking. Almost no one reaches majority age and says, "Gee, what am I missing?" and concludes what they have really missed is, they have not smoked and they need to start smoking cigarettes. The reason they don't arrive at that answer is that by that age, they know that cigarettes can kill you.

Mr. President, 300,000 to 400,000 people a year die in this country from smoking and smoking-related causes, and the only future customers for tobacco are kids. The only conceivable future customers for cigarettes are children, and that is why many in this country, myself included, believe it is important for us to say to the tobacco industry, "Never again shall you target America's children to addict them to tobacco, addict them to nicotine. We won't allow it." That is what the tobacco legislation is all about.

What did the tobacco companies know, and when did they know it about the subject of nicotine? We are now hearing a lot of testimony and discussion about that. Tobacco companies have been at the forefront of nicotine research in the last several decades. In fact, the tobacco companies, since the early 1960s, claimed that nicotine was not addictive and anyone who smokes makes a free choice to smoke.

By the 1960s, however, all of the reports we are now seeing, including confidential memoranda and data from a tobacco company, showed us they had developed a very sophisticated understanding of nicotine pharmacology and they knew very well that nicotine was pharmacologically addictive. The release of internal tobacco company documents makes it clear. They realize the impact and significance of nicotine.

In 1963, a British American Tobacco document said:

> Nicotine is by far the most characteristic single constituent in tobacco, and the known physiological effects are positively correlated with smoker response.

In 1969, a draft report to the Philip Morris board of directors said:

> In the past, we at R&D—that is research and development—have said that we're not in the cigarette business, we're in the smoke business. It might be more pointed to observe that the cigarette is the vehicle of smoke, smoke is the vehicle of nicotine and nicotine is the agent of a pleasurable body response.

In a memo from 1978, Brown & Williamson, signed by H.D. Steele says:

> Very few consumers are aware of the effects of nicotine, i.e., its addictive nature and that nicotine is a poison.

That is a tobacco industry paper.

> There is little doubt if it were not for the nicotine in tobacco smoke, people would be less inclined to smoke than they are to blow bubbles or to light sparklers.

M.A.H. Russell, 1974.

1983, Brown & Williamson:

> Nicotine is the addicting agent in cigarettes.

1983, Brown & Williamson:

> Raleigh and Belair smokers are addicted to smoking. . . . They smoke primarily to reduce negative feeling states rather than for pleasure. Given their low income, smoking represents a financial drain on family resources. Saving coupons for household items helps reduce guilt associated with smoking.

How about the health effects of tobacco? What do the tobacco companies know about that?

The vice president of a tobacco company, in 1963, said:

> At best, the probabilities are that some combination of constituents of smoke will be found conducive to the onset of cancer or to create an environment in which cancer is more likely to occur.

That is "at best," he says. That is a fellow who helps run a tobacco company.

1970, lung cancer experiments that were done by the general manager of research prepared for the managing director of Gallaher Electronic Telegraph:

> One of the striking features of the Auerbach experiment was that practically every dog which smoked suffered significantly from the effects of the smoke either in terms of severe irritation and bronchitis, pre-cancerous changes or cancer.

A top research official for the American Tobacco Company, 1970:

> [W]e believe the Auerbach work proves beyond reasonable doubt that fresh whole cigarette smoke is carcinogenic to dog lungs and therefore it is highly likely that it is carcinogenic to human beings.
>
> [T]he results of the research would appear to us to remove the controversy regarding the causation of human lung cancer . . .

How about tobacco companies targeting kids?

1981, Philip Morris, a report from a researcher to the Vice President of Research and Development at Philip Morris. He says:

> Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while in their teens. At least a part of the success of Marlboro Red during its most rapid growth period was because it became the brand of choice among teenagers who then stuck with it as they grew older.

Teenage smokers. A memorandum from the tobacco industry:

> To improve our ability to forecast future trends, this report examines the demographics and smoking behavior of 14–17 year old smokers.

This is a company now that is doing detailed research on 14- to 17-year-old smokers. "Forecasting future trends," that means "they're our customers. We're interested in them. We want to keep them smoking."

One company was concerned because their share of teenaged smokers declined while the share of teenagers who purchased a competitive brand increased. That concerned the company a great deal.

Another tobacco industry statement:

> It is important to know as much as possible about teenage smoking patterns and attitudes. Today's teenager is tomorrow's potential regular customer. . . . it is during the teenage years that the initial brand choice is made.

And that is the statement from a tobacco company.

Now, the consequences of tobacco smoking are quite clear. Tobacco is a legal product, and in my judgment shall and will be legal in the future. But it is not a legal product for children. An industry that has record profits and has targeted children, because it believes that children are its future customers, is an industry that, in my judgment, is sadly out of touch with its responsibilities.

The U.S. Senate and the Congress has a responsibility to take up the tobacco bill. We passed it out of the Senate Commerce Committee now nearly a month ago under the leadership of Senator MCCAIN. I noted today in the newspapers that Senator MCCAIN indicated that, I believe he said $50 to $100 million is to be spent by the tobacco industry to defeat efforts in Congress to pass a comprehensive tobacco bill.

I hope the American people take note that this industry is the same industry which said tobacco is not addictive when in fact they knew it was addictive. They were saying we are not targeting children when in fact they were targeting children.

I hope the American people understand, as well, that when the tobacco industry launches a massive effort to try to derail the efforts of the Congress to pass a comprehensive tobacco bill, the American people have the capability in this system of ours to make the difference. They can weigh in. They can make their views known about whether or not they believe this Congress shall pass a piece of legislation to stop this industry from targeting America's children and from trying to addict America's children to cigarettes.

Mr. President, my colleague from North Dakota, Senator CONRAD, is on the floor. I would like to yield to him as much time as he consumes to discuss another issue, and at the conclusion of his remarks, it is my intention to follow up on the issue he is going to discuss. Let me yield the time that he consumes to Senator CONRAD.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CONRAD. I thank you very much, and my colleague from North Dakota, Senator DORGAN, for this time.

AGRICULTURE DISASTER IN NORTH DAKOTA

Mr. CONRAD. I have come to the floor this morning to talk about a disaster that is happening in my home State, but it is receiving very little attention. People who are watching and my colleagues might recall that last year we had a set of disasters in North Dakota that had tremendous national publicity and national attention.

We had the worst winter in our history, followed by the most powerful winter storm in 50 years, followed by the worst flood in 500 years; and in the midst of that, fire broke out that destroyed much of downtown Grand Forks, ND. It was really almost apocalyptic. But this year we have another disaster occurring, and it is receiving very little attention. I call it the "stealth disaster," because it is really flying below the radar screen. There are almost no national stories, no national attention. In fact, I believe very few people know this disaster is occurring. But it is occurring and it is an extraordinary disaster that is hurting the farmers of my State.

We are in a wet cycle. This wet cycle has bred disease, disease that cost us about a third of our crop last year. That, coupled with very low prices, has meant that our farmers are not cash-flowing.

I was just home during a series of farm meetings and in each and every stop was told we will lose perhaps 3,000 farmers this year in North Dakota. We only have 30,000. So losing 3,000 in 1 year would really be quite extraordinary.

But these farmers are facing a cash-flow crunch as a result of bad policy, as a result of low prices, as a result of this incredible disease that has broken out. And again, this is a disaster of really staggering proportions in that it gets very little attention, and there is very little the Federal Government is prepared to do.

It is very interesting, if you have a disaster like this. Last year when this disaster occurred, or these sets of disasters occurred in North Dakota, and we searched to find if there was Federal help, we found that indeed there was. The SBA rushed to help. The Federal Emergency Management Agency was there. The Housing and Urban Development Program was there with CDBG funds. There was a marvelous, marvelous response that has helped the devastated communities recover.

But now we have a different kind of crisis and a different kind of disaster. And when we look for assistance, we find there is virtually none. What you will find is, about the only thing that is available is low-interest loans.

Now, additional debt for those who can't cash flow because of a terrible outbreak of disease and because of low prices and because of weak farm policy, saying "Take on more debt," doesn't sound like a very good deal. But that is exactly what we are faced with, because we no longer have a disaster program for farmers; it doesn't exist. The only thing we have is low-interest loans; that is it. When farmers experience a disaster, the Federal response is to help them go further into debt. It doesn't make much sense.

We have a circumstance that is, as I described, dramatic. I brought this chart to show what has happened to North Dakota farm income. I say it was washed away in 1997. In 1996, this chart shows the farm income of our State, $764 million; but in 1997, farm income in our State was reduced to $15 million. That is divided among 30,000 farmers. That means the average net income per farm in North Dakota in 1997 was only $500. That is a reduction in income of 98 percent from 1996 to 1997. That is a disaster.

Let me go to the next chart that shows farm income from 1996 to 1997, quarter by quarter, so that my colleagues can see the pattern. In 1996, you could see it was about equivalent from quarter to quarter, but, boy, we came to the end of the year, 1996, and look what happened to farm income. It fell off the table. I guess in this case we can say it fell off the chart. That is a 98 percent reduction, a farm income of only $15 million in the entire State for the entire year, divided among 30,000 farmers. As I say, that is only $500 apiece.

It is no wonder everywhere I go farmers are saying to me, "We have a disaster." It is not just farmers. In community after community, the bankers are taking me aside and saying, "Senator, there is something radically wrong with farm policy." There is something radically wrong with our disaster programs when farmers can go through these 5 bad years of this incredible wet cycle, and disease develops, and low prices come on to the market, and there is nothing to help these producers. They are going to be washed away every bit as much as the residents of Grand Forks were washed away by the flood waters last year.

Some will say North Dakota is a marginal area; when you have bad weather, you will get hurt. I brought this chart to show the Red River Valley. The Red River Valley has the richest farmland in the world. The Red River Valley used to be the bottom of a great lake, Lake Agassiz. Thousands of years ago, when the lake was there, it built up extraordinarily rich soil. When you come to the Red River Valley of North Dakota, you see the richest farmland anywhere in the world. In places it is 8 feet thick, an incredible lode that is so rich.

When I was growing up, we were told there had never been a farm failure; there had never been a crop failure in the Red River Valley, ever. These last 5 years have seen extraordinary developments because even in the Red River Valley, the richest farmland in the world, farm income is down precipitously. You can see from 1996 to 1997 farm income, the richest farming area in the world, down 62 percent.

Now the next chart, North Dakota is a place that produces wheat. Indeed we do. We are typically the No. 1 or No. 2 wheat-producing State. Look what happened to the total value of the spring wheat crop. This shows from 1993 to 1997, the crop was about $1 billion in value; in 1993, it declined somewhat; in 1994, came up handsomely; in 1996, it was approaching $1.3 billion. Look what happened last year—a 41 percent decline.

It wasn't just the wheat crop. The No. 2 crop in North Dakota is barley. Of course, those who are listening probably know that barley is used to feed animals. It is also used to brew beer. The barley crop, same pattern: You saw a pretty good increase from 1993 to 1996, and then a steep decline in 1997.

Some have said this is just a blip, this is just a blip in terms of prices. Yes, you have the disease problem. Hopefully, that will pass at some point. But it is disastrous when you lose a third to 40 percent of the crop in one year because of disease and then, on top of that, you have very low prices. That leaves farmers in an incredibly vulnerable position. Some have said, on the price front that is just a blip.

I thought I would bring along this chart that shows prices from 1996 through 1997, month by month, because if you look at that chart, it doesn't look like a blip. In fact, the only blip that occurs is right here, a period of high prices when we were debating the farm bill. At that point, people were told, "We have reached an era of permanently high farm prices because of export demand; farmers can count on a period going forward of high prices." You can see how long that lasted. That lasted about 90 days. Instead, prices started coming down. Both wheat and barley—you can see the wheat prices in blue, the barley prices in red, on the chart, and both of them, from the time we debated the farm bill, have gone down, down, down.

This represents a disaster to the thousands of producers in North Dakota who rely on agricultural income to sustain themselves. We have a disaster occurring, and there needs to be a response. I don't think we want to see washed away 10 percent of the farmers in 1 year—and that is this year. I can tell you, Mr. President, next year is going to be far worse unless conditions change, unless prices firm up, unless there is a Federal response, unless the disease problem changes. And, unfortunately, once you get into a wet cycle, these diseases continue as long as the wet cycle does. The result is devastating, absolutely devastating. I fear that we will face a true calamity next year unless there is a Federal response.

In closing, Mr. President, a troubled agricultural economy is dangerous for rural communities and for our entire Nation. The importance of a strong agricultural economy and the maintenance of a rural infrastructure was perhaps best summed up by William Jennings Bryan when he said, "Burn down your cities and leave our farms, and your cities will spring up again as if by magic, but destroy our farms and the grass will grow in the streets of every city in the country."

William Jennings Bryan was right. Agriculture is right at the core of the strength of the American economy. North Dakota is in the first trench. We are the first ones to experience the defects of a national policy that was put in place in 1996. But I alert my colleagues that unless we take action, others will follow. When they have a disease problem, when they face low prices, they will see enormous economic pressure on farm producers, and they, too, will be in a position to lose a significant chunk of their farm families.

That is a tragedy for our State. I believe it is a tragedy for our Nation. I hope very much my colleagues are listening and will understand, just as we responded to a more visible disaster last year, we must fashion a Federal response to this stealth disaster that is occurring this year.

I alert my colleagues that I will be coming to the floor on a regular basis to bring this matter to their attention in the hopes that we can fashion a stronger national policy. So while North Dakota is suffering this year, we might prevent other States from experiencing what we are facing in 1998.

I thank the Chair and yield the floor.

Mr. MOYNIHAN. Mr. President, I rise simply to congratulate the Senator from North Dakota on a clear and persuasive presentation of what is not just a North Dakota problem, but a national problem. The United States is blessed beyond the imaginings of William Jennings Bryan by the degree to which a very small farm population provides the most ample diet the world has ever known for a global nation.

I might say—and it won't come as a surprise to my friend from North Dakota, but not everybody would know—that New York State is a wheat-growing region. In 62 counties, I think we have commercial wheat grown in 50. There are parts of the western areas of the State where if you travel along the Erie Canal, at the level where it is raised above the surrounding land looking north and south, you could be in North Dakota looking at the wheat fields. Those prices affect ours, too. The Senator is right to think that the '96 legislation should be revisited in terms of the economic realities facing those farmers, upon whom we all depend, because we eat that bread and drink that beer.

I thank the Chair.

Mr. CONRAD. Mr. President, I thank my colleague from New York. I am honored to serve with him on the Senate Finance Committee. My wife and I were just telling a colleague the other night that sometimes we have a chance to have dinner with the Senator from New York, and we always feel that it is a privilege because it is like a seminar. There are very few people that have the knowledge bank of the senior Senator from New York. It is an honor to be able to serve with him on the Finance Committee. He has reminded me on more than one occasion that New York is a major agricultural producing State as well.

I just say to my colleague that our experience with the changes that were made, in terms of eliminating a disaster program for agriculture, is a very bitter pill because now we are experiencing the disaster. The only assistance is low-interest loans. When you have persons that aren't cash flowing, to say that the only help we can extend to you is for you to go deeper into debt, that doesn't seem like much in the way of a helping hand. And it is so totally opposite to what we experienced last year with those extraordinary natural disasters that I think it is important to bring it to the attention of my colleagues. This year we are about to lose—in North Dakota alone—10 percent of the farmers. In one year. And next year will be far worse, unless we take action.

I thank my colleague from New York.

Mr. MOYNIHAN. Mr. President, I will add a historical note here because it suggests the global reach of what might seem to be local problems. I think it is widely agreed that it was the arrival of wheat from western New York in Liverpool through the Erie Canal that led to the repeal of what the British called the "corn laws"—the British use the term "corn"; we use the term "wheat"—which kept the tariffs on wheat so that the vast landlords could remain the vast landlords. American wheat was so much less expensive that the British decided to cease all that and become an industrial nation. And then two generations later, it was the arrival in the Baltic of wheat from North Dakota, South Dakota, and Kansas. The prices were such that the local, aristocratical, landed gentry of Prussia simply could not compete. The next thing you know, you have enormous emigration from that part of the world to the United States through Ellis Island. These are not small events.

The price of food is a very important matter. It is a tribute to American farmers that we don't think much about it any longer because it has become relatively stable. I can speak to the fact that when we began the War on Poverty, under President Johnson, we used as a measure the "city workers food basket", which was designed by the Department of Agriculture and measured what is necessary to raise a family of 4 in the city. We said a family needed 3 times that number. Well, this quickly became hopelessly out of date because the price of food kept going down. Now the price will go up. If those prices crash now, prices will rise later. The Senator is on to something important, and I thank him, as one Member of this body.

Mr. CONRAD. I thank the Senator from New York. Mr. President, I might conclude by saying that I was looking at the chart here. While North Dakota suffered a 98 percent reduction in farm income from 1996 to 1997, New York suffered a 44 percent reduction in farm income from 1996 to 1997, one of the worst hits in the country. So North Dakota, unfortunately, leads the pack. We are at the top of the chart in terms of States losing farm income. Unfortunately, the State of New York is also in that top tier. In fact, they ranked fourth in terms of reduction and tied for third, actually, with 44 percent reduction in farm income. So I am certain the producers in your State are suffering as well. We have had the double whammy—not only of low prices, but low prices coupled with this unprecedented outbreak of disease. That is creating a crisis and we simply must respond. I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed for debate only to the consideration of H.R. 2676, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Internal Revenue Service Restructuring and Reform Act of 1998".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Reorganization of the Internal Revenue Service

Sec. 1001. Reorganization of the Internal Revenue Service.
Sec. 1002. IRS mission to focus on taxpayers' needs.

Subtitle B—Executive Branch Governance and Senior Management

Sec. 1101. Internal Revenue Service Oversight Board.
Sec. 1102. Commissioner of Internal Revenue; other officials.
Sec. 1103. Treasury Inspector General for Tax Administration.
Sec. 1104. Other personnel.
Sec. 1105. Prohibition on executive branch influence over taxpayer audits and other investigations.

Subtitle C—Personnel Flexibilities

Sec. 1201. Improvements in personnel flexibilities.
Sec. 1202. Voluntary separation incentive payments.
Sec. 1203. Termination of employment for misconduct.
Sec. 1204. Basis for evaluation of Internal Revenue Service employees.
Sec. 1205. Employee training program.

TITLE II—ELECTRONIC FILING

Sec. 2001. Electronic filing of tax and information returns.
Sec. 2002. Due date for certain information returns.
Sec. 2003. Paperless electronic filing.
Sec. 2004. Return-free tax system.
Sec. 2005. Access to account information.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

Sec. 3000. Short title.

Subtitle A—Burden of Proof

Sec. 3001. Burden of proof.

Subtitle B—Proceedings by Taxpayers

Sec. 3101. Expansion of authority to award costs and certain fees.
Sec. 3102. Civil damages for collection actions.
Sec. 3103. Increase in size of cases permitted on small case calendar.
Sec. 3104. Expansion of Tax Court jurisdiction to responsible person penalties.
Sec. 3105. Actions for refund with respect to certain estates which have elected the installment method of payment.
Sec. 3106. Tax Court jurisdiction to review adverse IRS determination of tax-exempt status of bond issue.
Sec. 3107. Civil action for release of erroneous lien.

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

Sec. 3201. Spousal election to limit joint and several liability on joint return.
Sec. 3202. Suspension of statute of limitations on filing refund claims during periods of disability.

Subtitle D—Provisions Relating to Interest and Penalties

Sec. 3301. Elimination of interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.
Sec. 3302. Increase in overpayment rate payable to taxpayers other than corporations.
Sec. 3303. Elimination of penalty on individual's failure to pay for months during period of installment agreement.
Sec. 3304. Mitigation of failure to deposit penalty.
Sec. 3305. Suspension of interest and certain penalties where Secretary fails to contact individual taxpayer.
Sec. 3306. Procedural requirements for imposition of penalties and additions to tax.
Sec. 3307. Personal delivery of notice of penalty under section 6672.
Sec. 3308. Notice of interest charges.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

PART I—DUE PROCESS

Sec. 3401. Due process in IRS collection actions.

PART II—EXAMINATION ACTIVITIES

Sec. 3411. Uniform application of confidentiality privilege to taxpayer communications with federally authorized practitioners.
Sec. 3412. Limitation on financial status audit techniques.
Sec. 3413. Software trade secrets protection.
Sec. 3414. Threat of audit prohibited to coerce tip reporting alternative commitment agreements.
Sec. 3415. Taxpayers allowed motion to quash all third-party summonses.
Sec. 3416. Service of summonses to third-party recordkeepers permitted by mail.
Sec. 3417. Prohibition on IRS contact of third parties without prior notice.

PART III—COLLECTION ACTIVITIES

SUBPART A—APPROVAL PROCESS

Sec. 3421. Approval process for liens, levies, and seizures.

SUBPART B—LIENS AND LEVIES

Sec. 3431. Modifications to certain levy exemption amounts.

Sec. 3432. Release of levy upon agreement that amount is uncollectible.

Sec. 3433. Levy prohibited during pendency of refund proceedings.

Sec. 3434. Approval required for jeopardy and termination assessments and jeopardy levies.

Sec. 3435. Increase in amount of certain property on which lien not valid.

Sec. 3436. Waiver of early withdrawal tax for IRS levies on employer-sponsored retirement plans or IRAs.

SUBPART C—SEIZURES

Sec. 3441. Prohibition of sales of seized property at less than minimum bid.

Sec. 3442. Accounting of sales of seized property.

Sec. 3443. Uniform asset disposal mechanism.

Sec. 3444. Codification of IRS administrative procedures for seizure of taxpayer's property.

Sec. 3445. Procedures for seizure of residences and businesses.

PART IV—PROVISIONS RELATING TO EXAMINATION AND COLLECTION ACTIVITIES

Sec. 3461. Procedures relating to extensions of statute of limitations by agreement.

Sec. 3462. Offers-in-compromise.

Sec. 3463. Notice of deficiency to specify deadlines for filing Tax Court petition.

Sec. 3464. Refund or credit of overpayments before final determination.

Sec. 3465. IRS procedures relating to appeals of examinations and collections.

Sec. 3466. Application of certain fair debt collection procedures.

Sec. 3467. Guaranteed availability of installment agreements.

Subtitle F—Disclosures to Taxpayers

Sec. 3501. Explanation of joint and several liability.

Sec. 3502. Explanation of taxpayers' rights in interviews with the Internal Revenue Service.

Sec. 3503. Disclosure of criteria for examination selection.

Sec. 3504. Explanations of appeals and collection process.

Sec. 3505. Explanation of reason for refund denial.

Sec. 3506. Statements regarding installment agreements.

Sec. 3507. Notification of change in tax matters partner.

Subtitle G—Low Income Taxpayer Clinics

Sec. 3601. Low income taxpayer clinics.

Subtitle H—Other Matters

Sec. 3701. Cataloging complaints.

Sec. 3702. Archive of records of Internal Revenue Service.

Sec. 3703. Payment of taxes.

Sec. 3704. Clarification of authority of Secretary relating to the making of elections.

Sec. 3705. IRS employee contacts.

Sec. 3706. Use of pseudonyms by IRS employees.

Sec. 3707. Conferences of right in the National Office of IRS.

Sec. 3708. Illegal tax protester designation.

Sec. 3709. Provision of confidential information to Congress by whistleblowers.

Sec. 3710. Listing of local IRS telephone numbers and addresses.

Sec. 3711. Identification of return preparers.

Sec. 3712. Offset of past-due, legally enforceable State income tax obligations against overpayments.

Sec. 3713. Treatment of IRS notices on foreign tax provisions.

Subtitle I—Studies

Sec. 3801. Administration of penalties and interest.

Sec. 3802. Confidentiality of tax return information.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Sec. 4001. Century date change.

Sec. 4002. Tax law complexity analysis.

TITLE V—REVENUE PROVISIONS

Sec. 5001. Clarification of deduction for deferred compensation.

Sec. 5002. Modification to foreign tax credit carryback and carryover periods.

Sec. 5003. Clarification and expansion of mathematical error assessment procedures.

Sec. 5004. Termination of exception for certain real estate investment trusts from the treatment of stapled entities.

Sec. 5005. Certain customer receivables ineligible for mark-to-market treatment.

Sec. 5006. Inclusion of rotavirus gastroenteritis to list of taxable vaccines.

TITLE VI—TECHNICAL CORRECTIONS

Sec. 6001. Short title.

Sec. 6002. Definitions.

Sec. 6003. Amendments related to title I of 1997 Act.

Sec. 6004. Amendments related to title II of 1997 Act.

Sec. 6005. Amendments related to title III of 1997 Act.

Sec. 6006. Amendment related to title IV of 1997 Act.

Sec. 6007. Amendments related to title V of 1997 Act.

Sec. 6008. Amendments related to title VII of 1997 Act.

Sec. 6009. Amendments related to title IX of 1997 Act.

Sec. 6010. Amendments related to title X of 1997 Act.

Sec. 6011. Amendments related to title XI of 1997 Act.

Sec. 6012. Amendments related to title XII of 1997 Act.

Sec. 6013. Amendments related to title XIII of 1997 Act.

Sec. 6014. Amendments related to title XIV of 1997 Act.

Sec. 6015. Amendments related to title XV of 1997 Act.

Sec. 6016. Amendments related to title XVI of 1997 Act.

Sec. 6017. Amendments related to Small Business Job Protection Act of 1996.

Sec. 6018. Amendments related to Taxpayer Bill of Rights 2.

Sec. 6019. Amendment related to Omnibus Budget Reconciliation Act of 1993.

Sec. 6020. Amendment related to Revenue Reconciliation Act of 1990.

Sec. 6021. Amendment related to Tax Reform Act of 1986.

Sec. 6022. Miscellaneous clerical and deadwood changes.

Sec. 6023. Effective date.

TITLE I—REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Reorganization of the Internal Revenue Service

SEC. 1001. REORGANIZATION OF THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement a plan to reorganize the Internal Revenue Service. The plan shall—

(1) supersede any organization or reorganization of the Internal Revenue Service based on any statute or reorganization plan applicable on the effective date of this section;

(2) eliminate or substantially modify the existing organization of the Internal Revenue Service which is based on a national, regional, and district structure;

(3) establish organizational units serving particular groups of taxpayers with similar needs; and

(4) ensure an independent appeals function within the Internal Revenue Service, including the prohibition in the plan of ex parte communications between appeals officers and other Internal Revenue Service employees to the extent that such communications appear to compromise the independence of the appeals officers.

(b) SAVINGS PROVISIONS.—

(1) PRESERVATION OF SPECIFIC TAX RIGHTS AND REMEDIES.—Nothing in the plan developed and implemented under subsection (a) shall be considered to impair any right or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws. For the purpose of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action. The venue of any such action shall be the same as under existing law.

(2) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of any function transferred or affected by the reorganization of the Internal Revenue Service or any other administrative unit of the Department of the Treasury under this section, and

(B) which are in effect at the time this section takes effect, or were final before the effective date of this section and are to become effective on or after the effective date of this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Treasury, the Commissioner of Internal Revenue, or other authorized official, a court of competent jurisdiction, or by operation of law.

(3) PROCEEDINGS NOT AFFECTED.—The provisions of this section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) at the time this section takes effect, with respect to functions transferred or affected by the reorganization under this section but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a

duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(4) SUITS NOT AFFECTED.—The provisions of this section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(5) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service), or by or against any individual in the official capacity of such individual as an officer of the Department of the Treasury, shall abate by reason of the enactment of this section.

(6) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) relating to a function transferred or affected by the reorganization under this section may be continued by the Department of the Treasury through any appropriate administrative unit of the Department, including the Internal Revenue Service with the same effect as if this section had not been enacted.

SEC. 1002. IRS MISSION TO FOCUS ON TAXPAYERS' NEEDS.

The Internal Revenue Service shall review and restate its mission to place a greater emphasis on serving the public and meeting taxpayers' needs.

Subtitle B—Executive Branch Governance and Senior Management

SEC. 1101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

"(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (hereafter in this subchapter referred to as the 'Oversight Board').

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Oversight Board shall be composed of 9 members, as follows:

"(A) 6 members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

"(B) 1 member shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury.

"(C) 1 member shall be the Commissioner of Internal Revenue.

"(D) 1 member shall be an individual who is a representative of an organization that represents a substantial number of Internal Revenue Service employees and who is appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS AND TERMS.—

"(A) QUALIFICATIONS.—Members of the Oversight Board described in paragraph (1)(A) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in 1 or more of the following areas:

"(i) Management of large service organizations.

"(ii) Customer service.

"(iii) Federal tax laws, including tax administration and compliance.

"(iv) Information technology.

"(v) Organization development.

"(vi) The needs and concerns of taxpayers.

In the aggregate, the members of the Oversight Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence.

"(B) TERMS.—Each member who is described in subparagraph (A) or (D) of paragraph (1) shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A)—

"(i) 2 members shall be appointed for a term of 2 years,

"(ii) 2 members shall be appointed for a term of 4 years, and

"(iii) 2 members shall be appointed for a term of 5 years.

"(C) REAPPOINTMENT.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Oversight Board.

"(D) VACANCY.—Any vacancy on the Oversight Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

"(3) ETHICAL CONSIDERATIONS.—

"(A) FINANCIAL DISCLOSURE.—

"(i) IN GENERAL.—During the entire period that an individual appointed under subparagraph (A) or (D) of paragraph (1) is a member of the Oversight Board, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act, except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

"(ii) REPRESENTED ORGANIZATION.—The organization represented by the individual appointed under paragraph (1)(D) shall file an annual financial report with the Committee on Finance in the Senate and the Committee on Ways and Means in the House of Representatives. Such report shall include information regarding compensation paid to the individual so appointed, other individuals employed by the organization, and membership dues collected by the organization.

"(B) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, United States Code, except as provided in subparagraph (D)(i)(II), an individual appointed under subparagraph (A) or (D) of paragraph (1) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Board, except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

"(C) PRIVATE MEMBERS WHO ARE SPECIAL GOVERNMENT EMPLOYEES.—If an individual appointed under paragraph (1)(A) is a special Government employee, the following additional rules apply for purposes of chapter 11 of title 18, United States Code:

"(i) RESTRICTION ON REPRESENTATION.—In addition to any restriction under section 205(c) of title 18, United States Code, except as provided in subsections (d) through (i) of section 205 of such title, such individual (except in the proper discharge of official duties) shall not, with or without compensation, represent anyone to or before any officer or employee of—

"(I) the Oversight Board or the Internal Revenue Service on any matter,

"(II) the Department of the Treasury on any matter involving the internal revenue laws or involving the management or operations of the Internal Revenue Service, or

"(III) the Department of Justice with respect to litigation involving a matter described in subclause (I) or (II).

"(ii) COMPENSATION FOR SERVICES PROVIDED BY ANOTHER.—For purposes of section 203 of such title—

"(I) such individual shall not be subject to the restrictions of subsection (a)(1) thereof for sharing in compensation earned by another for representations on matters covered by such section, and

"(II) a person shall not be subject to the restrictions of subsection (a)(2) thereof for sharing such compensation with such individual.

"(D) EXEMPTIONS FOR MEMBER FROM EMPLOYEE ORGANIZATION.—

"(i) EXEMPTION FROM CRIMINAL CONFLICT LAWS.—An individual appointed under paragraph (1)(D) shall not be subject to—

"(I) section 203 or 205 of title 18, United States Code, for acting as an agent or attorney for (or otherwise representing), with or without compensation, the organization described in paragraph (1)(D),

"(II) section 207 of such title for making, with the intent to influence, any communication or appearance before an officer or employee of the United States on behalf of the organization which such individual represented while a member of the Board, or

"(III) section 208 of such title for personal and substantial participation in a particular matter in which all financial interests which would otherwise prohibit the individual's participation are interests of such organization.

"(ii) COMPENSATION.—Nothing in section 203 of title 18, United States Code, shall prohibit an organization represented by the individual appointed under paragraph (1)(D) from giving, promising, or offering compensation to the individual for acting as its agent or attorney or for otherwise representing such organization.

"(4) QUORUM.—5 members of the Oversight Board shall constitute a quorum. A majority of members present and voting shall be required for the Oversight Board to take action.

"(5) REMOVAL.—

"(A) IN GENERAL.—Any member of the Oversight Board appointed under paragraph (1) (A) or (D) may be removed at the will of the President.

"(B) SECRETARY AND COMMISSIONER.—An individual described in subparagraph (B) or (C) of paragraph (1) shall be removed upon termination of service in the office described in such subparagraph.

"(6) CLAIMS.—

"(A) IN GENERAL.—Members of the Oversight Board who are described in paragraph (1) (A) or (D) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member.

"(B) EFFECT ON OTHER LAW.—This paragraph shall not be construed—

"(i) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions,

"(ii) to affect any other right or remedy against the United States under applicable law, or

"(iii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

"(c) GENERAL RESPONSIBILITIES.—

"(1) OVERSIGHT.—

"(A) IN GENERAL.—The Oversight Board shall oversee the Internal Revenue Service in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

"(B) MISSION OF IRS.—As part of its oversight functions described in subparagraph (A), the Oversight Board shall ensure that the organization and operation of the Internal Revenue Service allows it to carry out its mission.

"(C) CONFIDENTIALITY.—The Oversight Board shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

"(2) EXCEPTIONS.—The Oversight Board shall have no responsibilities or authority with respect to—

"(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

"(B) specific law enforcement activities of the Internal Revenue Service, including specific compliance activities such as examinations, collection activities, and criminal investigations,

"(C) specific procurement activities of the Internal Revenue Service, or

"(D) except as provided in subsection (d)(3), specific personnel actions.

"(d) SPECIFIC RESPONSIBILITIES.—The Oversight Board shall have the following specific responsibilities:

"(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

"(A) mission and objectives, and standards of performance relative to either, and

"(B) annual and long-range strategic plans.

"(2) OPERATIONAL PLANS.—To review the operational functions of the Internal Revenue Service, including—

"(A) plans for modernization of the tax system,

"(B) plans for outsourcing or managed competition, and

"(C) plans for training and education.

"(3) MANAGEMENT.—To—

"(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,

"(B) recommend to the Secretary of the Treasury, after taking into consideration any recommendations of the Commissioner, 3 candidates for appointment as the National Taxpayer Advocate from individuals who have—

"(i) a background in customer service as well as tax law, and

"(ii) experience in representing individual taxpayers,

"(C) recommend to the Secretary of the Treasury the removal of the National Taxpayer Advocate,

"(D) review the Commissioner's selection, evaluation, and compensation of Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service,

"(E) review and approve the Commissioner's plans for any major reorganization of the Internal Revenue Service, and

"(F) review procedures of the Internal Revenue Service relating to financial audits required by law.

"(4) BUDGET.—To—

"(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

"(B) submit such budget request to the Secretary of the Treasury, and

"(C) ensure that the budget request supports the annual and long-range strategic plans.

"(5) TAXPAYER PROTECTION.—To ensure the proper treatment of taxpayers by the employees of the Internal Revenue Service.

The Secretary shall submit the budget request referred to in paragraph (4)(B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

"(e) BOARD PERSONNEL MATTERS.—

"(1) COMPENSATION OF MEMBERS.—

"(A) IN GENERAL.—Each member of the Oversight Board who is described in subsection (b)(1)(A) shall be compensated at a rate of $30,000 per year. All other members shall serve without compensation for such service.

"(B) CHAIRPERSON.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Oversight Board shall be compensated at a rate of $50,000 per year.

"(2) TRAVEL EXPENSES.—The members of the Oversight Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business for purposes of duties as a member of the Oversight Board.

"(3) STAFF.—

"(A) IN GENERAL.—The Chairperson of the Oversight Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

"(B) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairperson of the Oversight Board, a Federal agency shall detail a Federal Government employee to the Oversight Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

"(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(f) ADMINISTRATIVE MATTERS.—

"(1) CHAIR.—

"(A) TERM.—The members of the Oversight Board shall elect for a 2-year term a chairperson from among the members appointed under subsection (b)(1)(A).

"(B) POWERS.—Except as otherwise provided by a majority vote of the Oversight Board, the powers of the Chairperson shall include—

"(i) establishing committees,

"(ii) setting meeting places and times,

"(iii) establishing meeting agendas, and

"(iv) developing rules for the conduct of business.

"(2) MEETINGS.—The Oversight Board shall meet at least quarterly and at such other times as the Chairperson determines appropriate.

"(3) REPORTS.—

"(A) ANNUAL.—The Oversight Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

"(B) ADDITIONAL REPORT.—Upon a determination by the Oversight Board under subsection (c)(1)(B) that the organization and operation of the Internal Revenue Service are not allowing it to carry out its mission, the Oversight Board shall report such determination to the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate.

"(g) TERMINATION OF BOARD.—The Internal Revenue Service Oversight Board established under subsection (a) shall terminate on September 30, 2008."

(b) RESTRICTION ON DISCLOSURE OF RETURN INFORMATION TO OVERSIGHT BOARD MEMBERS.—Section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

"(5) INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), and except as provided in subparagraph (B), no return or return information may be disclosed to any member of the Oversight Board described in subparagraph (A) or (D) of section 7802(b)(1) or to any employee or detailee of such Board by reason of their service with the Board. Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by any such individual to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary, the Treasury Inspector General for Tax Administration, and the Joint Committee on Taxation.

"(B) EXCEPTION FOR REPORTS TO THE BOARD.—If—

"(i) the Commissioner or the Treasury Inspector General for Tax Administration prepares any report or other matter for the Oversight Board in order to assist the Board in carrying out its duties, and

"(ii) the Commissioner or such Inspector General determines it is necessary to include any return or return information in such report or other matter to enable the Board to carry out such duties,

such return or return information (other than information regarding taxpayer identity) may be disclosed to members, employees, or detailees of the Board solely for the purpose of carrying out such duties."

(c) CONFORMING AMENDMENTS.—

(1) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended by striking "or" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", or", and by adding at the end the following new paragraph:

"(7) a member of the Internal Revenue Service Oversight Board."

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Internal Revenue Service Oversight Board."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INITIAL NOMINATIONS TO INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—The President shall submit the initial nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act.

(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF OVERSIGHT BOARD.—Nothing in this section shall be construed to invalidate the actions and authority of the Internal Revenue Service prior to the appointment of the members of the Internal Revenue Service Oversight Board.

(4) SPECIAL RULE FOR REORGANIZATION PLAN.—The authority of the Internal Revenue Service Oversight Board under section 7802(d)(3)(E) of such Code (as so added) to approve major reorganization plans shall not apply to the reorganization plan under section 1001 of this Act.

SEC. 1102. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

(a) IN GENERAL.—Section 7803 (relating to other personnel) is amended to read as follows:

"SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

"(a) COMMISSIONER OF INTERNAL REVENUE.—

"(1) APPOINTMENT.—

"(A) IN GENERAL.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the

President, by and with the advice and consent of the Senate, to a 5-year term. Such appointment shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

"(B) Vacancy.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which such individual's predecessor was appointed shall be appointed only for the remainder of that term.

"(C) Removal.—The Commissioner may be removed at the will of the President.

"(D) Reappointment.—The Commissioner may be appointed to more than one 5-year term.

"(2) Duties.—The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

"(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party,

"(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel, and

"(C) recommend to the Oversight Board candidates for appointment as National Taxpayer Advocate when a vacancy occurs.

If the Secretary determines not to delegate a power specified in subparagraph (A), (B), or (C), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

"(3) Consultation with board.—The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

"(b) Chief Counsel for the Internal Revenue Service.—

"(1) Appointment.—There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the consent of the Senate.

"(2) Duties.—The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary, including the duty—

"(A) to be legal advisor to the Commissioner and the Commissioner's officers and employees,

"(B) to furnish legal opinions for the preparation and review of rulings and memoranda of technical advice,

"(C) to prepare, review, and assist in the preparation of proposed legislation, treaties, regulations, and Executive Orders relating to laws which affect the Internal Revenue Service,

"(D) to represent the Commissioner in cases before the Tax Court, and

"(E) to determine which civil actions should be litigated under the laws relating to the Internal Revenue Service and prepare recommendations for the Department of Justice regarding the commencement of such actions.

If the Secretary determines not to delegate a power specified in subparagraph (A), (B), (C), (D), or (E), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

"(3) Report to commissioner.—The Chief Counsel shall report directly to the Commissioner of Internal Revenue.

"(c) Office of the Taxpayer Advocate.—

"(1) Establishment.—

"(A) In general.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'.

"(B) National taxpayer advocate.—

"(i) In general.—The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the 'National Taxpayer Advocate'. The National Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of Internal Revenue.

"(ii) Appointment.—The National Taxpayer Advocate shall be appointed by the Secretary of the Treasury from among the 3 individuals nominated by the Oversight Board under section 7802(d)(3).

"(iii) Restriction on employment.—An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Internal Revenue Service during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the National Taxpayer Advocate.

"(2) Functions of office.—

"(A) In general.—It shall be the function of the Office of Taxpayer Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) Annual reports.—

"(i) Objectives.—Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) Activities.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

"(I) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

"(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

"(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

"(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

"(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

"(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

"(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

"(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

"(IX) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems,

"(X) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes, and

"(XI) include such other information as the National Taxpayer Advocate may deem advisable.

"(iii) Report to be submitted directly.—Each report required under this subparagraph shall be provided directly to the committees described in clause (i) without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

"(C) Other responsibilities.—The National Taxpayer Advocate shall—

"(i) monitor the coverage and geographic allocation of local offices of taxpayer advocates,

"(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local offices of taxpayer advocates,

"(iii) ensure that the local telephone number for each local office of the taxpayer advocate is published and available to taxpayers served by the office, and

"(iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.

"(D) Personnel actions.—

"(i) In general.—The National Taxpayer Advocate shall have the responsibility and authority to—

"(I) appoint at least 1 local taxpayer advocate for each State, and

"(II) evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of a taxpayer advocate described in subclause (I).

"(ii) Consultation.—The National Taxpayer Advocate may consult with the appropriate supervisory personnel of the Internal Revenue Service in carrying out the National Taxpayer Advocate's responsibilities under this subparagraph.

"(3) Responsibilities of commissioner.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the National Taxpayer Advocate within 3 months after submission to the Commissioner.

"(4) Operation of local offices.—

"(A) In general.—Each local taxpayer advocate—

"(i) shall report directly to the National Taxpayer Advocate,

"(ii) may consult with the appropriate supervisory personnel of the Internal Revenue Service regarding the daily operation of the local office of the taxpayer advocate,

"(iii) shall, at the initial meeting with any taxpayer seeking the assistance of a local office

of the taxpayer advocate, notify such taxpayer that the office operates independently of any other Internal Revenue Service office and reports directly to Congress through the National Taxpayer Advocate, and

"(iv) may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.

"(B) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

"(d) ADDITIONAL DUTIES OF THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—

"(1) ANNUAL REPORTING.—The Treasury Inspector General for Tax Administration shall include in one of the semiannual reports under section 5 of the Inspector General Act of 1978—

"(A) an evaluation of the compliance of the Internal Revenue Service with—

"(i) restrictions under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998 on the use of enforcement statistics to evaluate Internal Revenue Service employees,

"(ii) restrictions under section 7521 on directly contacting taxpayers who have indicated that they prefer their representatives be contacted,

"(iii) required procedures under section 6320 for approval of a notice of a lien,

"(iv) required procedures under subchapter D of chapter 64 for seizure of property for collection of taxes, including required procedures under section 6330 for approval of a levy or notice of levy, and

"(v) restrictions under section 3708 of the Internal Revenue Service Restructuring and Reform Act of 1998 on designation of taxpayers,

"(B) a review and a certification of whether or not the Secretary is complying with the requirements of section 6103(e)(8) to disclose information to an individual filing a joint return on collection activity involving the other individual filing the return,

"(C) information regarding extensions of the statute of limitations for assessment and collection of tax under section 6501 and the provision of notice to taxpayers regarding requests for such extension,

"(D) an evaluation of the adequacy and security of the technology of the Internal Revenue Service,

"(E) any termination or mitigation under section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998, and

"(F) information regarding improper denial of requests for information from the Internal Revenue Service identified under paragraph (2).

"(2) SEMIANNUAL REPORTS.—

"(A) IN GENERAL.—The Treasury Inspector General for Tax Administration shall include in each semiannual report under section 5 of the Inspector General Act of 1978—

"(i) the number of taxpayer complaints during the reporting period;

"(ii) the number of employee misconduct and taxpayer abuse allegations received during the period from taxpayers, Internal Revenue Service employees, and other sources;

"(iii) a summary of the status of such complaints and allegations; and

"(iv) a summary of the disposition of such complaints and allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such complaints and allegations.

"(B) Clauses (iii) and (iv) of subparagraph (B) shall only apply to complaints and allegations of serious employee misconduct.

"(3) OTHER RESPONSIBILITIES.—The Treasury Inspector General for Tax Administration shall—

"(A) conduct periodic audits of not less than 1 percent of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103 of this title or section 552(b)(7) of title 5, United States Code, and

"(B) establish and maintain a toll-free telephone number for taxpayers to use to confidentially register complaints of misconduct by Internal Revenue Service employees and incorporate the telephone number in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1)."

(b) NOTICE OF RIGHT TO CONTACT OFFICE INCLUDED IN NOTICE OF DEFICIENCY.—Section 6212(a) (relating to notice of deficiency) is amended by adding at the end the following: "Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and phone number of the appropriate office."

(c) EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.—Section 7811(a) (relating to taxpayer assistance orders) is amended to read as follows:

"(a) AUTHORITY TO ISSUE.—

"(1) IN GENERAL.—Upon application filed by a taxpayer with the Office of the Taxpayer Advocate (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the National Taxpayer Advocate may issue a Taxpayer Assistance Order if, in the determination of the National Taxpayer Advocate—

"(A) the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary, or

"(B) the issuance of a Taxpayer Assistance Order is otherwise appropriate considering the circumstances of the taxpayer.

"(2) DETERMINATION OF HARDSHIP.—For purposes of paragraph (1), a significant hardship shall include—

"(A) an immediate threat of adverse action,

"(B) a delay of more than 30 days in resolving taxpayer account problems,

"(C) the incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted, or

"(D) irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.

"(3) STANDARD WHERE ADMINISTRATIVE GUIDANCE NOT FOLLOWED.—In cases where any Internal Revenue Service employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the National Taxpayer Advocate shall construe the factors taken into account in determining whether to issue a taxpayer assistance order in the manner most favorable to the taxpayer."

(d) CONFORMING AMENDMENTS RELATING TO NATIONAL TAXPAYER ADVOCATE.—

(1) The following provisions are each amended by striking "Taxpayer Advocate" each place it appears and inserting "National Taxpayer Advocate":

(A) Section 6323(j)(1)(D) (relating to withdrawal of notice in certain circumstances).

(B) Section 6343(d)(2)(D) (relating to return of property in certain cases).

(C) Section 7811(b)(2)(D) (relating to terms of a Taxpayer Assistance Order).

(D) Section 7811(c) (relating to authority to modify or rescind).

(E) Section 7811(d)(2) (relating to suspension of running of period of limitation).

(F) Section 7811(e) (relating to independent action of Taxpayer Advocate).

(G) Section 7811(f) (relating to Taxpayer Advocate).

(2) Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by striking "Taxpayer Advocate's" and inserting "National Taxpayer Advocate's".

(3) The headings of subsections (e) and (f) of section 7811 are each amended by striking "TAXPAYER ADVOCATE" and inserting "NATIONAL TAXPAYER ADVOCATE".

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7803 and inserting the following new item:

"Sec. 7803. Commissioner of Internal Revenue;
other officials."

(2) Section 5109 of title 5, United States Code, is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

(3) Section 7611(f)(1) (relating to restrictions on church tax inquiries and examinations) is amended by striking "Assistant Commissioner for Employee Plans and Exempt Organizations of the Internal Revenue Service" and inserting "Secretary".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) CHIEF COUNSEL.—Section 7803(b)(3) of the Internal Revenue Code of 1986, as added by this section, shall take effect on the date that is 90 days after the date of the enactment of this Act.

(3) NATIONAL TAXPAYER ADVOCATE.—During the period before the appointment of the Internal Revenue Service Oversight Board and notwithstanding section 7803(c)(1)(B)(ii) of the Internal Revenue Code of 1986, as added by this section, the National Taxpayer Advocate shall be appointed by the Secretary of the Treasury from among individuals who have a background in customer service as well as tax law and who have experience in representing individual taxpayers. The Commissioner of Internal Revenue shall submit to the Secretary a list of nominations for consideration under the preceding sentence.

(4) CURRENT OFFICERS.—

(A) In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of the Internal Revenue Code of 1986, as added by this section, shall begin as of the date of such appointment.

(B) Clauses (ii) and (iii) of section 7803(c)(1)(B) of such Code, as added by this section, shall not apply to the individual serving as Taxpayer Advocate on the date of the enactment of this Act.

SEC. 1103. TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.

(a) ESTABLISHMENT OF 2 INSPECTORS GENERAL IN THE DEPARTMENT OF THE TREASURY.—Section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking the matter following paragraph (3) and inserting the following:

"there is established—

"(A) in each of such establishments an office of Inspector General, subject to subparagraph (B); and

"(B) in the establishment of the Department of the Treasury—

"(i) an Office of Inspector General of the Department of the Treasury; and

"(ii) an Office of Treasury Inspector General for Tax Administration."

(b) AMENDMENTS TO SECTION 8D OF THE INSPECTOR GENERAL ACT OF 1978.—

(1) LIMITATION ON AUTHORITY OF INSPECTOR GENERAL.—Section 8D(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(4) The Secretary of the Treasury may not exercise any power under paragraph (1) or (2) with respect to the Treasury Inspector General for Tax Administration."

(2) DUTIES OF INSPECTOR GENERAL OF THE DEPARTMENT OF THE TREASURY; RELATIONSHIP TO THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Section 8D(b) of such Act is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following:

"(2) The Inspector General of the Department of the Treasury shall exercise all duties and responsibilities of an Inspector General for the Department of the Treasury other than the duties and responsibilities exercised by the Treasury Inspector General for Tax Administration.

"(3) The Secretary of the Treasury shall establish procedures under which the Inspector General of the Department of the Treasury and the Treasury Inspector General for Tax Administration will—

"(A) determine how audits and investigations are allocated in cases of overlapping jurisdiction, and

"(B) provide for coordination, cooperation, and efficiency in the conduct of such audits and investigations."

(3) ACCESS TO RETURNS AND RETURN INFORMATION.—Section 8D(e) of such Act is amended—

(A) in paragraph (1), by striking "Inspector General" and inserting "Treasury Inspector General for Tax Administration";

(B) in paragraph (2), by striking all beginning with "(2)" through subparagraph (B);

(C)(i) by redesignating subparagraph (C) of paragraph (2) as paragraph (2) of such subsection; and

(ii) in such redesignated paragraph (2), by striking "Inspector General" and inserting "Treasury Inspector General for Tax Administration"; and

(D)(i) by redesignating subparagraph (D) of such paragraph as paragraph (3) of such subsection; and

(ii) in such redesignated paragraph (3), by striking "Inspector General" and inserting "Treasury Inspector General for Tax Administration".

(4) EFFECT ON CERTAIN FINAL DECISIONS OF THE SECRETARY.—Section 8D(f) of such Act is amended by striking "Inspector General" and inserting "Inspector General of the Department of the Treasury or the Treasury Inspector General for Tax Administration".

(5) REPEAL OF LIMITATION ON REPORTS TO THE ATTORNEY GENERAL.—Section 8D of such Act is amended by striking subsection (g).

(6) TRANSMISSION OF REPORTS.—Section 8D(h) of such Act is amended—

(A) by striking "(h)" and inserting "(g)(1)";

(B) by striking "and the Committees on Government Operations and Ways and Means of the House of Representatives" and inserting "and the Committees on Government Reform and Oversight and Ways and Means of the House of Representatives"; and

(C) by adding at the end the following:

"(2) Any report made by the Treasury Inspector General for Tax Administration that is required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under such subsection, to the Internal Revenue Service Oversight Board and the Commissioner of Internal Revenue."

(7) TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Section 8D of the Act is amended by adding at the end the following:

"(h) The Treasury Inspector General for Tax Administration shall exercise all duties and responsibilities of an Inspector General of an establishment with respect to the Department of the Treasury and the Secretary of the Treasury on all matters relating to the Internal Revenue Service. The Treasury Inspector General for Tax Administration shall have sole authority under this Act to conduct an audit or investigation of the Internal Revenue Service Oversight Board and the Chief Counsel for the Internal Revenue Service.

"(i) In addition to the requirements of the first sentence of section 3(a), the Treasury Inspector General for Tax Administration should have experience in tax administration and demonstrated ability to lead a large and complex organization.

"(j) An individual appointed to the position of Treasury Inspector General for Tax Administration, the Assistant Inspector General for Auditing of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(1), the Assistant Inspector General for Investigations of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(2), or any position of Deputy Inspector General of the Office of the Treasury Inspector General for Tax Administration may not be an employee of the Internal Revenue Service—

"(1) during the 2-year period preceding the date of appointment to such position; or

"(2) during the 5-year period following the date such individual ends service in such position.

"(k)(1) In addition to the duties and responsibilities exercised by an inspector general of an establishment, the Treasury Inspector General for Tax Administration—

"(A) shall have the duty to enforce criminal provisions under section 7608(b) of the Internal Revenue Code of 1986;

"(B) in addition to the functions authorized under section 7608(b)(2) of such Code, may carry firearms;

"(C) shall be responsible for protecting the Internal Revenue Service against external attempts to corrupt or threaten employees of the Internal Revenue Service; and

"(D) may designate any employee in the Office of the Treasury Inspector General for Tax Administration to enforce such laws and perform such functions referred to under subparagraphs (A), (B), and (C).

"(2)(A) In performing a law enforcement function under paragraph (1), the Treasury Inspector General for Tax Administration shall report any reasonable grounds to believe there has been a violation of Federal criminal law to the Attorney General at an appropriate time as determined by the Treasury Inspector General for Tax Administration, notwithstanding section 4(d).

"(B) In the administration of section 5(d) and subsection (g)(2) of this section, the Secretary of the Treasury may transmit the required report with respect to the Treasury Inspector General for Tax Administration at an appropriate time as determined by the Secretary, if the problem, abuse, or deficiency relates to—

"(i) the performance of a law enforcement function under paragraph (1); and

"(ii) sensitive information concerning matters under subsection (a)(1)(A) through (F).

"(3) Nothing in this subsection shall be construed to affect the authority of any other person to carry out or enforce any provision specified in paragraph (1).

"(l)(1) The Treasury Inspector General for Tax Administration shall timely conduct an audit or investigation relating to the Internal Revenue Service upon the written request of the Commissioner of Internal Revenue or the Internal Revenue Service Oversight Board.

"(2)(A) Any final report of an audit conducted by the Treasury Inspector General for Tax Administration shall be timely submitted by the Inspector General to the Commissioner of Internal Revenue and the Internal Revenue Service Oversight Board.

"(B) The Treasury Inspector General for Tax Administration shall periodically submit to the Commissioner and Board a list of investigations for which a final report has been completed by the Inspector General and shall provide a copy of any such report upon request of the Commissioner or Board.

"(C) This paragraph applies regardless of whether the applicable audit or investigation is requested under paragraph (1)."

(c) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—Section 9(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended in subparagraph (L)—

(A) by inserting "(i)" after "(L)";

(B) by inserting "and" after the semicolon; and

(C) by adding at the end the following:

"(ii) of the Treasury Inspector General for Tax Administration, effective 180 days after the date of the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998, the Office of Chief Inspector of the Internal Revenue Service;".

(2) TERMINATION OF OFFICE OF CHIEF INSPECTOR.—Effective upon the transfer of functions under the amendment made by paragraph (1), the Office of Chief Inspector of the Internal Revenue Service is terminated.

(3) RETENTION OF CERTAIN INTERNAL AUDIT PERSONNEL.—In making the transfer under the amendment made by paragraph (1), the Commissioner of Internal Revenue shall designate and retain an appropriate number (not in excess of 300) of internal audit full-time equivalent employee positions necessary for management relating to the Internal Revenue Service.

(4) ADDITIONAL PERSONNEL TRANSFERS.—Effective 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer 21 full-time equivalent positions from the Office of the Inspector General of the Department of the Treasury to the Office of the Treasury Inspector General for Tax Administration.

(d) AUDITS AND REPORTS OF AGENCY FINANCIAL STATEMENTS.—Subject to section 3521(g) of title 31, United States Code—

(1) the Inspector General of the Department of the Treasury shall, subject to paragraph (2)—

(A) audit each financial statement in accordance with section 3521(e) of such title; and

(B) prepare and submit each report required under section 3521(f) of such title; and

(2) the Treasury Inspector General for Tax Administration shall—

(A) audit that portion of each financial statement referred to under paragraph (1)(A) that relates to custodial and administrative accounts of the Internal Revenue Service; and

(B) prepare that portion of each report referred to under paragraph (1)(B) that relates to custodial and administrative accounts of the Internal Revenue Service.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TRANSFER OF FUNCTIONS.—Section 8D(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "and the internal audits and internal investigations performed by the Office of Assistant Commissioner (Inspection) of the Internal Revenue Service".

(2) AMENDMENTS RELATING TO REFERENCES TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF THE TREASURY.—

(A) LIMITATION ON AUTHORITY.—Section 8D(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(i) in the first sentence of paragraph (1), by inserting "of the Department of the Treasury" after "Inspector General";

(ii) in paragraph (2), by inserting "of the Department of the Treasury" after "prohibit the Inspector General"; and

(iii) in paragraph (3)—

(I) in the first sentence, by inserting "of the Department of the Treasury" after "notify the Inspector General"; and

(II) in the second sentence, by inserting "of the Department of the Treasury" after "notice, the Inspector General".

(B) Duties.—Section 8D(b) of such Act is amended in the second sentence by inserting "of the Department of the Treasury" after "Inspector General".

(C) Audits and investigations.—Section 8D (c) and (d) of such Act are amended by inserting "of the Department of the Treasury" after "Inspector General" each place it appears.

(3) References.—The second section 8G of the Inspector General Act of 1978 (relating to rule of construction of special provisions) is amended—

(A) by striking "Sec. 8G" and inserting "Sec. 8H";

(B) by striking "or 8E" and inserting "8E or 8F"; and

(C) by striking "section 8F(a)" and inserting "section 8G(a)".

(4) Amendment to internal revenue code of 1986.—Section 7608(b)(1) of the Internal Revenue Code of 1986 is amended by striking "or of the Internal Security Division".

SEC. 1104. OTHER PERSONNEL.

(a) In General.—Section 7804 (relating to the effect of reorganization plans) is amended to read as follows:

"SEC. 7804. OTHER PERSONNEL.

"(a) Appointment and Supervision.—Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

"(b) Posts of Duty of Employees in Field Service or Traveling.—Unless otherwise prescribed by the Secretary—

"(1) Designation of post of duty.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

"(2) Detail of personnel from field service.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

"(c) Delinquent Internal Revenue Officers and Employees.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount."

(b) Conforming Amendments.—

(1) Subsection (b) of section 6344 is amended by striking "section 7803(d)" and inserting "section 7804(c)".

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

"Sec. 7804. Other personnel."

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1105. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

(a) In General.—Part I of subchapter A of chapter 75 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7216 the following new section:

"SEC. 7217. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

"(a) Prohibition.—It shall be unlawful for any applicable person to request, directly or indirectly, any officer or employee of the Internal Revenue Service to conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.

"(b) Reporting Requirement.—Any officer or employee of the Internal Revenue Service receiving any request prohibited by subsection (a) shall report the receipt of such request to the Treasury Inspector General for Tax Administration.

"(c) Exceptions.—Subsection (a) shall not apply to any written request made—

"(1) to an applicable person by or on behalf of the taxpayer and forwarded by such applicable person to the Internal Revenue Service,

"(2) by an applicable person for disclosure of return or return information under section 6103 if such request is made in accordance with the requirements of such section, or

"(3) by the Secretary of the Treasury as a consequence of the implementation of a change in tax policy.

"(d) Penalty.—Any person who willfully violates subsection (a) or fails to report under subsection (b) shall be punished upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

"(e) Applicable Person.—For purposes of this section, the term 'applicable person' means—

"(1) the President, the Vice President, any employee of the executive office of the President, and any employee of the executive office of the Vice President, and

"(2) any individual (other than the Attorney General of the United States) serving in a position specified in section 5312 of title 5, United States Code."

(b) Clerical Amendment.—The table of sections for part I of subchapter A of chapter 75 is amended by adding after the item relating to section 7216 the following new item:

"Sec. 7217. Prohibition on executive branch influence over taxpayer audits and other investigations."

(c) Effective Date.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

Subtitle C—Personnel Flexibilities

SEC. 1201. IMPROVEMENTS IN PERSONNEL FLEXIBILITIES.

(a) In General.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

"Subpart I—Miscellaneous

"CHAPTER 95—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE

"Sec.
"9501. Internal Revenue Service personnel flexibilities.
"9502. Pay authority for critical positions.
"9503. Streamlined critical pay authority.
"9504. Recruitment, retention, and relocation incentives.
"9505. Performance awards for senior executives.
"9506. Limited appointments to career reserved Senior Executive Service positions.
"9507. Streamlined demonstration project authority.
"9508. General workforce performance management system.
"9509. General workforce classification and pay.
"9510. General workforce staffing.

"§ 9501. Internal Revenue Service personnel flexibilities

"(a) Any flexibilities provided by sections 9502 through 9510 of this chapter shall be exercised in a manner consistent with—

"(1) chapter 23 (relating to merit system principles and prohibited personnel practices);

"(2) provisions relating to preference eligibles;

"(3) except as otherwise specifically provided, section 5307 (relating to the aggregate limitation on pay);

"(4) except as otherwise specifically provided, chapter 71 (relating to labor-management relations); and

"(5) subject to subsections (b) and (c) of section 1104, as though such authorities were delegated to the Secretary of the Treasury under section 1104(a)(2).

"(b) The Secretary of the Treasury shall provide the Office of Personnel Management with any information that Office requires in carrying out its responsibilities under this section.

"(c) Employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any flexibility provided by sections 9507 through 9510 of this chapter unless the exclusive representative and the Internal Revenue Service have entered into a written agreement which specifically provides for the exercise of that flexibility. Such written agreement may be imposed by the Federal Services Impasses Panel under section 7119.

"§ 9502. Pay authority for critical positions

"(a) When the Secretary of the Treasury seeks a grant of authority under section 5377 for critical pay for 1 or more positions at the Internal Revenue Service, the Office of Management and Budget may fix the rate of basic pay, notwithstanding sections 5377(d)(2) and 5307, at any rate up to the salary set in accordance with section 104 of title 3.

"(b) Notwithstanding section 5307, no allowance, differential, bonus, award, or similar cash payment may be paid to any employee receiving critical pay at a rate fixed under subsection (a), in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

"§ 9503. Streamlined critical pay authority

"(a) Notwithstanding section 9502, and without regard to the provisions of this title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 (relating to classification and pay rates), the Secretary of the Treasury may, for a period of 10 years after the date of enactment of this section, establish, fix the compensation of, and appoint individuals to, designated critical administrative, technical, and professional positions needed to carry out the functions of the Internal Revenue Service, if—

"(1) the positions—

"(A) require expertise of an extremely high level in an administrative, technical, or professional field; and

"(B) are critical to the Internal Revenue Service's successful accomplishment of an important mission;

"(2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position;

"(3) the number of such positions does not exceed 40 at any one time;

"(4) designation of such positions are approved by the Secretary of the Treasury;

"(5) the terms of such appointments are limited to no more than 4 years;

"(6) appointees to such positions were not Internal Revenue Service employees immediately prior to such appointment;

"(7) total annual compensation for any appointee to such positions does not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3; and

"(8) all such positions are excluded from the collective bargaining unit.

"(b) Individuals appointed under this section shall not be considered to be employees for purposes of subchapter II of chapter 75.

"§9504. Recruitment, retention, and relocation incentives

"For a period of 10 years after the date of enactment of this section and subject to approval by the Office of Personnel Management, the Secretary of the Treasury may provide for variations from sections 5753 and 5754 governing payment of recruitment, relocation, and retention incentives.

"§9505. Performance awards for senior executives

"(a) For a period of 10 years after the date of enactment of this section, Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service may be paid a performance bonus without regard to the limitation in section 5384(b)(2) if the Secretary of the Treasury finds such award warranted based on the executive's performance.

"(b) In evaluating an executive's performance for purposes of an award under this section, the Secretary of the Treasury shall take into account the executive's contributions toward the successful accomplishment of goals and objectives established under the Government Performance and Results Act of 1993, division E of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679), Revenue Procedure 64–22 (as in effect on July 30, 1997), taxpayer service surveys, and other performance metrics or plans established in consultation with the Internal Revenue Service Oversight Board.

"(c) Any award in excess of 20 percent of an executive's rate of basic pay shall be approved by the Secretary of the Treasury.

"(d) Notwithstanding section 5384(b)(3), the Secretary of the Treasury shall determine the aggregate amount of performance awards available to be paid during any fiscal year under this section and section 5384 to career senior executives in the Internal Revenue Service. Such amount may not exceed an amount equal to 5 percent of the aggregate amount of basic pay paid to career senior executives in the Internal Revenue Service during the preceding fiscal year. The Internal Revenue Service shall not be included in the determination under section 5384(b)(3) of the aggregate amount of performance awards payable to career senior executives in the Department of the Treasury other than the Internal Revenue Service.

"(e) Notwithstanding section 5307, a performance bonus award may not be paid to an executive in a calendar year if, or to the extent that, the executive's total annual compensation will exceed the maximum amount of total annual compensation payable at the rate determined under section 104 of title 3.

"§9506. Limited appointments to career reserved Senior Executive Service positions

"(a) In the application of section 3132, a 'career reserved position' in the Internal Revenue Service means a position designated under section 3132(b) which may be filled only by—

"(1) a career appointee, or

"(2) a limited emergency appointee or a limited term appointee—

"(A) who, immediately upon entering the career reserved position, was serving under a career or career-conditional appointment outside the Senior Executive Service; or

"(B) whose limited emergency or limited term appointment is approved in advance by the Office of Personnel Management.

"(b)(1) The number of positions described under subsection (a) which are filled by an appointee as described under paragraph (2) of such subsection may not exceed 10 percent of the total number of Senior Executive Service positions in the Internal Revenue Service.

"(2) Notwithstanding section 3132—

"(A) the term of an appointee described under subsection (a)(2) may be for any period not to exceed 3 years; and

"(B) such an appointee may serve—

"(i) 2 such terms; or

"(ii) 2 such terms in addition to any unexpired term applicable at the time of appointment.

"§9507. Streamlined demonstration project authority

"(a) The exercise of any of the flexibilities under sections 9502 through 9510 shall not affect the authority of the Secretary of the Treasury to implement for the Internal Revenue Service a demonstration project subject to chapter 47, as provided in subsection (b).

"(b) In applying section 4703 to a demonstration project described in section 4701(a)(4) which involves the Internal Revenue Service—

"(1) section 4703(b)(1) shall be deemed to read as follows:

"'(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;';

"(2) section 4703(b)(3) shall not apply;

"(3) the 180-day notification period in section 4703(b)(4) shall be deemed to be a notification period of 30 days;

"(4) section 4703(b)(6) shall be deemed to read as follows:

"'(6) provides each House of Congress with the final version of the plan.';

"(5) section 4703(c)(1) shall be deemed to read as follows:

"'(1) subchapter V of chapter 63 or subpart G of part III of this title;';

"(6) the requirements of paragraphs (1)(A) and (2) of section 4703(d) shall not apply; and

"(7) notwithstanding section 4703(d)(1)(B), based on an evaluation as provided in section 4703(h), the Office of Personnel Management and the Secretary of the Treasury, except as otherwise provided by this subsection, may waive the termination date of a demonstration project under section 4703(d).

"(c) At least 90 days before waiving the termination date under subsection (b)(7), the Office of Personnel Management shall publish in the Federal Register a notice of its intention to waive the termination date and shall inform in writing both Houses of Congress of its intention.

"§9508. General workforce performance management system

"(a) In lieu of a performance appraisal system established under section 4302, the Secretary of the Treasury may establish for all or part of the Internal Revenue Service a performance management system that—

"(1) maintains individual accountability by—

"(A) establishing 1 or more retention standards for each employee related to the work of the employee and expressed in terms of individual performance, and communicating such retention standards to employees;

"(B) making periodic determinations of whether each employee meets or does not meet the employee's established retention standards; and

"(C) taking actions, in accordance with applicable laws and regulations, with respect to any employee whose performance does not meet established retention standards, including denying any increases in basic pay, promotions, and credit for performance under section 3502, and taking 1 or more of the following actions:

"(i) Reassignment.

"(ii) An action under chapter 43 or chapter 75 of this title.

"(iii) Any other appropriate action to resolve the performance problem; and

"(2) except as provided under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998, strengthens the system's effectiveness by—

"(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the Internal Revenue Service's performance planning procedures, including those established under the Government Performance and Results Act of 1993, division E of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679), Revenue Procedure 64–22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

"(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

"(C) using performance assessments as a basis for granting employee awards, adjusting an employee's rate of basic pay, and other appropriate personnel actions, in accordance with applicable laws and regulations.

"(b)(1) For purposes of subsection (a)(2), the term 'performance assessment' means a determination of whether or not retention standards established under subsection (a)(1)(A) are met, and any additional performance determination made on the basis of performance goals and objectives established under subsection (a)(2)(A).

"(2) For purposes of this title, the term 'unacceptable performance' with respect to an employee of the Internal Revenue Service covered by a performance management system established under this section means performance of the employee which fails to meet a retention standard established under this section.

"(c)(1) The Secretary of the Treasury may establish an awards program designed to provide incentives for and recognition of organizational, group, and individual achievements by providing for granting awards to employees who, as individuals or members of a group, contribute to meeting the performance goals and objectives established under this chapter by such means as a superior individual or group accomplishment, a documented productivity gain, or sustained superior performance.

"(2) A cash award under subchapter I of chapter 45 may be granted to an employee of the Internal Revenue Service without the need for any approval under section 4502(b).

"(d)(1) In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, '30 days' may be deemed to be '15 days'.

"(2) Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

"§9509. General workforce classification and pay

"(a) For purposes of this section, the term 'broad-banded system' means a system for

grouping positions for pay, job evaluation, and other purposes that is different from the system established under chapter 51 and subchapter III of chapter 53 as a result of combining grades and related ranges of rates of pay in 1 or more occupational series.

"(b)(1)(A) The Secretary of the Treasury may, subject to criteria to be prescribed by the Office of Personnel Management, establish 1 or more broad-banded systems covering all or any portion of the Internal Revenue Service workforce.

"(B) With the approval of the Office of Personnel Management, a broad-banded system established under this section may either include or consist of positions that otherwise would be subject to subchapter IV of chapter 53 or section 5376.

"(2) The Office of Personnel Management may require the Secretary of the Treasury to submit information relating to broad-banded systems at the Internal Revenue Service.

"(3) Except as otherwise provided under this section, employees under a broad-banded system shall continue to be subject to the laws and regulations covering employees under the pay system that otherwise would apply to such employees.

"(4) The criteria to be prescribed by the Office of Personnel Management shall, at a minimum—

"(A) ensure that the structure of any broad-banded system maintains the principle of equal pay for substantially equal work;

"(B) establish the minimum and maximum number of grades that may be combined into pay bands;

"(C) establish requirements for setting minimum and maximum rates of pay in a pay band;

"(D) establish requirements for adjusting the pay of an employee within a pay band;

"(E) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

"(F) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

"(c) With the approval of the Office of Personnel Management and in accordance with a plan for implementation submitted by the Secretary of the Treasury, the Secretary may, with respect to Internal Revenue Service employees who are covered by a broad-banded system established under this section, provide for variations from the provisions of subchapter VI of chapter 53.

"§9510. General workforce staffing

"(a)(1) Except as otherwise provided by this section, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures if—

"(A) the employee has completed, in the competitive service, 2 years of current continuous service under a term appointment or any combination of term appointments;

"(B) such term appointment or appointments were made under competitive procedures prescribed for permanent appointments;

"(C) the employee's performance under such term appointment or appointments met established retention standards, or, if not covered by a performance management system established under section 9508, was rated at the fully successful level or higher (or equivalent thereof); and

"(D) the vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

"(2) An appointment under this section may be made only to a position in the same line of work as a position to which the employee received a term appointment under competitive procedures.

"(b)(1) Notwithstanding subchapter I of chapter 33, the Secretary of the Treasury may establish category rating systems for evaluating applicants for Internal Revenue Service positions in the competitive service under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings.

"(2) Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the position to be filled.

"(3) Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS–9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

"(4) An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories.

"(5) Notwithstanding paragraph (4), the appointing authority may not pass over a preference eligible in the same or higher category from which selection is made unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

"(c) The Secretary of the Treasury may detail employees among the offices of the Internal Revenue Service without regard to the 120-day limitation in section 3341(b).

"(d) Notwithstanding any other provision of law, the Secretary of the Treasury may establish a probationary period under section 3321 of up to 3 years for Internal Revenue Service positions if the Secretary of the Treasury determines that the nature of the work is such that a shorter period is insufficient to demonstrate complete proficiency in the position.

"(e) Nothing in this section exempts the Secretary of the Treasury from—

"(1) any employment priority established under direction of the President for the placement of surplus or displaced employees; or

"(2) any obligation under a court order or decree relating to the employment practices of the Internal Revenue Service or the Department of the Treasury.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of title 5, United States Code, is amended by adding at the end the following:

"Subpart I—Miscellaneous

"95. Personnel flexibilities relating to the Internal Revenue Service .... 9501".

SEC. 1202. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) DEFINITION.—In this section, the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the Internal Revenue Service serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system;

(2) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in paragraph (1);

(3) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(4) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(5) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(6) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(7) any employee who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may pay voluntary separation incentive payments under this section to any employee to the extent necessary to carry out the plan to reorganize the Internal Revenue Service under section 1001.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by an agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before January 1, 2003;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(c) ADDITIONAL INTERNAL REVENUE SERVICE CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, the Internal Revenue Service shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—In paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other

than a full-time basis, with appropriate adjustment therefor.

(d) Effect of Subsequent Employment With the Government.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Internal Revenue Service.

(e) Effect on Internal Revenue Service Employment Levels.—

(1) Intended effect.—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in the Internal Revenue Service.

(2) Use of voluntary separations.—The Internal Revenue Service may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 1203. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

(a) In General.—Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

(b) Acts or Omissions.—The acts or omissions referred to under subsection (a) are—

(1) failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

(2) providing a false statement under oath with respect to a material matter involving a taxpayer;

(3) violation of the civil rights of a taxpayer or other employee of the Internal Revenue Service;

(4) falsifying or destroying documents to conceal mistakes made by the employee with respect to a matter involving a taxpayer;

(5) assault or battery on a taxpayer or other employee of the Internal Revenue Service;

(6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or other employee of the Internal Revenue Service; and

(7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry.

(c) Determination of Commissioner.—

(1) In general.—The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).

(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

(3) No appeal.—Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

SEC. 1204. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) In General.—The Internal Revenue Service shall not use records of tax enforcement results—

(1) to evaluate employees and their immediate supervisors; or

(2) to impose or suggest production quotas or goals with respect to individuals described in paragraph (1).

(b) Taxpayer Service.—The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.

(c) Certification.—Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue that tax enforcement results are not used in a manner prohibited by subsection (a).

(d) Technical and Conforming Amendment.—Section 6231 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647; 102 Stat. 3734) is repealed.

(e) Effective Date.—This section shall apply to evaluations conducted on or after the date of the enactment of this Act.

SEC. 1205. EMPLOYEE TRAINING PROGRAM.

(a) In General.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Internal Revenue shall implement an employee training program and shall submit an employee training plan to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(b) Contents.—The plan submitted under subsection (a) shall—

(1) detail a comprehensive employee training program to ensure adequate customer service training;

(2) detail a schedule for training and the fiscal years during which the training will occur;

(3) detail the funding of the program and relevant information to demonstrate the priority and commitment of resources to the plan;

(4) review the organizational design of customer service;

(5) provide for the implementation of a performance development system; and

(6) provide for at least 16 hours of conflict management training during fiscal year 1999 for employees conducting collection activities.

TITLE II—ELECTRONIC FILING

SEC. 2001. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.

(a) In General.—It is the policy of the Congress that—

(1) paperless filing should be the preferred and most convenient means of filing tax and information returns, and

(2) it should be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007.

(b) Strategic Plan.—

(1) In general.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the "Secretary") shall establish a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days. To the extent practicable, such plan shall provide that all returns prepared electronically for taxable years beginning after 2001 shall be filed electronically.

(2) Electronic commerce advisory group.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the small business community and from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) Promotion of Electronic Filing and Incentives.—Section 6011 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Promotion of Electronic Filing.—

"(1) In general.—The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

"(2) Incentives.—The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns."

(d) Annual Reports.—Not later than June 30 of each calendar year after 1998, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary of the Treasury, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2) shall report to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives and the Committees on Finance, Appropriations, and Governmental Affairs of the Senate on—

(1) the progress of the Internal Revenue Service in meeting the goal of receiving electronically 80 percent of tax and information returns by 2007;

(2) the status of the plan required by subsection (b); and

(3) the legislative changes necessary to assist the Internal Revenue Service in meeting such goal.

SEC. 2002. DUE DATE FOR CERTAIN INFORMATION RETURNS.

(a) Information Returns Filed Electronically.—Section 6071 (relating to time for filing returns and other documents) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) Electronically Filed Information Returns.—Returns made under subparts B and C of part III of this subchapter which are filed electronically shall be filed on or before March 31 of the year following the calendar year to which such returns relate."

(b) Study Relating to Time For Providing Notice to Recipients.—

(1) In general.—The Secretary of the Treasury shall conduct a study evaluating the effect of extending the deadline for providing statements to persons with respect to whom information is required to be furnished under subparts B and C of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (other than section 6051 of such Code) from January 31 to February 15 of the year in which the return to which the statement relates is required to be filed.

(2) Report.—Not later than December 31, 1998, the Secretary of the Treasury shall submit a report on the study under paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(c) Effective Date.—The amendment made by subsection (a) shall apply to returns required to be filed after December 31, 1999.

SEC. 2003. PAPERLESS ELECTRONIC FILING.

(a) In General.—Section 6061 (relating to signing of returns and other documents) is amended—

(1) by striking "Except as otherwise provided by" and inserting the following:

"(a) GENERAL RULE.—Except as otherwise provided by subsection (b) and", and

(2) by adding at the end the following new subsection:

"(b) ELECTRONIC SIGNATURES.—

"(1) IN GENERAL.—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary may provide for alternative methods of subscribing all returns, declarations, statements, or other documents required or permitted to be made or written under internal revenue laws and regulations.

"(2) TREATMENT OF ALTERNATIVE METHODS.—Notwithstanding any other provision of law, any return, declaration, statement, or other document filed and verified, signed, or subscribed under any method adopted under paragraph (1) shall be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though signed and subscribed. Any such return, declaration, statement, or other document shall be presumed to have been actually submitted and subscribed by the person on whose behalf it was submitted.

"(3) PUBLISHED GUIDANCE.—The Secretary shall publish guidance as appropriate to define and implement any method adopted under paragraph (1)."

(b) ACKNOWLEDGMENT OF ELECTRONIC FILING.—Section 7502(c) is amended to read as follows:

"(c) REGISTERED AND CERTIFIED MAILING; ELECTRONIC FILING.—

"(1) REGISTERED MAIL.—For purposes of this section, if any return, claim, statement, or other document, or payment, is sent by United States registered mail—

"(A) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed, and

"(B) the date of registration shall be deemed the postmark date.

"(2) CERTIFIED MAIL; ELECTRONIC FILING.—The Secretary is authorized to provide by regulations the extent to which the provisions of paragraph (1) with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail and electronic filing."

(c) ESTABLISHMENT OF PROCEDURES FOR OTHER INFORMATION.—In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.

(d) PROCEDURES FOR AUTHORIZING DISCLOSURE ELECTRONICALLY.—The Secretary shall establish procedures for taxpayers to designate, on electronically filed returns, persons to whom information may be disclosed under section 6103(c) of the Internal Revenue Code of 1986.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 2004. RETURN-FREE TAX SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which appropriate individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

(b) REPORT.—Not later than June 30 of each calendar year after 1999, such Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

(1) what additional resources the Internal Revenue Service would need to implement such a system,

(2) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system,

(3) the procedures developed pursuant to subsection (a), and

(4) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a).

SEC. 2005. ACCESS TO ACCOUNT INFORMATION.

(a) IN GENERAL.—Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically (and their designees under section 6103(c) of the Internal Revenue Code of 1986) would be able to review the taxpayer's account electronically, but only if all necessary safeguards to ensure the privacy of such account information are in place.

(b) REPORT.—Not later than December 31, 2003, the Secretary of the Treasury shall report on the progress the Secretary is making on the development of procedures under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

SEC. 3000. SHORT TITLE.

This title may be cited as the "Taxpayer Bill of Rights 3".

Subtitle A—Burden of Proof

SEC. 3001. BURDEN OF PROOF.

(a) IN GENERAL.—Chapter 76 (relating to judicial proceedings) is amended by adding at the end the following new subchapter:

"Subchapter E—Burden of Proof

"Sec. 7491. Burden of proof.

"SEC. 7491. BURDEN OF PROOF.

"(a) BURDEN SHIFTS WHERE TAXPAYER PRODUCES CREDIBLE EVIDENCE.—

"(1) GENERAL RULE.—If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the income tax liability of the taxpayer, the Secretary shall have the burden of proof with respect to such issue.

"(2) LIMITATIONS.—Paragraph (1) shall apply with respect to an issue only if—

"(A) the taxpayer has complied with the requirements under this title to substantiate any item,

"(B) the taxpayer has maintained all records required under this title and has cooperated with reasonable requests by the Secretary for witnesses, information, documents, meetings, and interviews, and

"(C) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430(c)(4)(A)(ii).

"(3) COORDINATION.—Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of proof with respect to such issue.

"(b) USE OF STATISTICAL INFORMATION ON UNRELATED TAXPAYERS.—In the case of an individual taxpayer, the Secretary shall have the burden of proof in any court proceeding with respect to any item of income which was reconstructed by the Secretary solely through the use of statistical information on unrelated taxpayers.

"(c) PENALTIES.—Notwithstanding any other provision of this title, the Secretary shall have the burden of production in any court proceeding with respect to the liability of any individual for any penalty, addition to tax, or additional amount imposed by this title."

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 76 is amended by adding at the end the following new item:

"SUBCHAPTER E. Burden of proof."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to court proceedings arising in connection with examinations commencing after the date of the enactment of this Act.

Subtitle B—Proceedings by Taxpayers

SEC. 3101. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.

(a) AWARD OF ALL REASONABLE ATTORNEYS FEES.—

(1) IN GENERAL.—Section 7430(c)(1) (relating to reasonable litigation costs) is amended—

(A) by striking clause (iii) of subparagraph (B) and inserting:

"(iii) reasonable fees paid or incurred for the services of attorneys in connection with the court proceeding.", and

(B) by striking the last 2 sentences.

(2) CONFORMING AMENDMENT.—Section 7430(c)(2)(B) is amended by striking "or (iii)".

(b) AWARD OF ADMINISTRATIVE COSTS INCURRED AFTER 30-DAY LETTER.—Paragraph (2) of section 7430(c) is amended by striking the last sentence and inserting the following new flush sentence:

"Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, (ii) the date of the notice of deficiency, or (iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent."

(c) AWARD OF FEES FOR CERTAIN ADDITIONAL SERVICES.—Paragraph (3) of section 7430(c) is amended to read as follows:

"(3) ATTORNEYS FEES.—

"(A) IN GENERAL.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

"(B) PRO BONO SERVICES.—The court may award reasonable attorneys fees under subsection (a) in excess of the attorneys fees paid or incurred if such fees are less than the reasonable attorneys fees because an individual is representing the prevailing party for no fee or for a fee which (taking into account all the facts and circumstances) is no more than a nominal fee. This subparagraph shall apply only if such award is paid to such individual or such individual's employer."

(d) DETERMINATION OF WHETHER POSITION OF UNITED STATES IS SUBSTANTIALLY JUSTIFIED.—Subparagraph (B) of section 7430(c)(4) is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

"(iii) EFFECT OF LOSING ON SUBSTANTIALLY SIMILAR ISSUES.—In determining for purposes of clause (i) whether the position of the United States was substantially justified, the court shall take into account whether the United States has lost in courts of appeal for other circuits on substantially similar issues."

(e) TAXPAYER TREATED AS PREVAILING IF JUDGMENT IS LESS THAN TAXPAYER'S OFFER.—

(1) IN GENERAL.—Section 7430(c)(4) (defining prevailing party) is amended by adding at the end the following new subparagraph:

"(E) SPECIAL RULES WHERE JUDGMENT LESS THAN TAXPAYER'S OFFER.—

"(i) IN GENERAL.—A party to a court proceeding meeting the requirements of subparagraph (A)(ii) shall be treated as the prevailing

party if the liability of the taxpayer pursuant to the judgment in the proceeding (determined without regard to interest) is equal to or less than the liability of the taxpayer which would have been so determined if the United States had accepted a qualified offer of the party under subsection (g).

"(ii) EXCEPTIONS.—This subparagraph shall not apply to—

"(I) any judgment issued pursuant to a settlement, or

"(II) any proceeding in which the amount of tax liability is not in issue, including any declaratory judgment proceeding, any proceeding to enforce or quash any summons issued pursuant to this title, and any action to restrain disclosure under section 6110(f).

"(iii) SPECIAL RULES.—If this subparagraph applies to any court proceeding—

"(I) the determination under clause (i) shall be made by reference to the last qualified offer made with respect to the tax liability at issue in the proceeding, and

"(II) reasonable administrative and litigation costs shall only include costs incurred on and after the date of such offer.

"(iv) COORDINATION.—This subparagraph shall not apply to a party which is a prevailing party under any other provision of this paragraph."

(2) QUALIFIED OFFER.—Section 7430 is amended by adding at the end the following new subsection:

"(g) QUALIFIED OFFER.—For purposes of subsection (c)(4)—

"(1) IN GENERAL.—The term 'qualified offer' means a written offer which—

"(A) is made by the taxpayer to the United States during the qualified offer period,

"(B) specifies the amount of the taxpayer's liability (determined without regard to interest),

"(C) is designated at the time it is made as a qualified offer for purposes of this section, and

"(D) remains open during the period beginning on the date it is made and ending on the earliest of the date the offer is rejected, the date the trial begins, or the 90th day after the date the offer is made.

"(2) QUALIFIED OFFER PERIOD.—For purposes of this subsection, the term 'qualified offer period' means the period—

"(A) beginning on the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, and

"(B) ending on the date which is 30 days before the date the case is first set for trial."

(f) AWARD OF ATTORNEYS FEES IN UNAUTHORIZED INSPECTION AND DISCLOSURE CASES.—Section 7431(c) (relating to damages) is amended by striking the period at the end of paragraph (2) and inserting ", plus", and by adding at the end the following new paragraph:

"(3) in the case of a plaintiff which is described in section 7430(c)(4)(A)(ii), reasonable attorneys fees, except that if the defendant is the United States, reasonable attorneys fees may be awarded only if the plaintiff is the prevailing party (as determined under section 7430(c)(4))."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred (and, in the case of the amendment made by subsection (c), services performed) more than 180 days after the date of the enactment of this Act.

SEC. 3102. CIVIL DAMAGES FOR COLLECTION ACTIONS.

(a) EXTENSION TO NEGLIGENCE ACTIONS.—

(1) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended—

(A) in subsection (a), by inserting ", or by reason of negligence," after "recklessly or intentionally", and

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by inserting "($100,000, in the case of negligence)" after "$1,000,000", and

(ii) in paragraph (1), by inserting "or negligent" after "reckless or intentional".

(2) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—Paragraph (1) of section 7433(d) is amended to read as follows:

"(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service."

(b) DAMAGES ALLOWED IN CIVIL ACTIONS BY PERSONS OTHER THAN TAXPAYERS.—Section 7426 is amended by redesignating subsection (h) as subsection (i) and by adding after subsection (g) the following new subsection:

"(h) RECOVERY OF DAMAGES PERMITTED IN CERTAIN CASES.—

"(1) IN GENERAL.—Notwithstanding subsection (b), if, in any action brought under this section, there is a finding that any officer or employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregarded any provision of this title the defendant shall be liable to the plaintiff in an amount equal to the lesser of $1,000,000 ($100,000 in the case of negligence) or the sum of—

"(A) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional or negligent actions of the officer or employee (reduced by any amount of such damages awarded under subsection (b)), and

"(B) the costs of the action.

"(2) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under this section unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service."

(c) CIVIL DAMAGES FOR IRS VIOLATIONS OF BANKRUPTCY PROCEDURES.—

(1) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended by adding at the end the following new subsection:

"(e) ACTIONS FOR VIOLATIONS OF CERTAIN BANKRUPTCY PROCEDURES.—

"(1) IN GENERAL.—If, in connection with any collection of Federal tax with respect to a taxpayer, any officer or employee of the Internal Revenue Service willfully violates any provision of section 362 (relating to automatic stay) or 524 (relating to effect of discharge) of title 11, United States Code, or any regulation promulgated under such section, such taxpayer may petition the bankruptcy court to recover damages against the United States.

"(2) REMEDY TO BE EXCLUSIVE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), notwithstanding section 105 of such title 11, such petition shall be the exclusive remedy for recovering damages resulting from such actions.

"(B) CERTAIN OTHER ACTIONS PERMITTED.—Subparagraph (A) shall not apply to an action under section 362(h) of such title 11 for a violation of a stay provided by section 362 of such title; except that—

"(i) administrative and litigation costs in connection with such an action may only be awarded under section 7430, and

"(ii) administrative costs may be awarded only if incurred on or after the date that the bankruptcy petition is filed."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 7433 is amended by inserting "or petition filed under subsection (e)" after "subsection (a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 3103. INCREASE IN SIZE OF CASES PERMITTED ON SMALL CASE CALENDAR.

(a) IN GENERAL.—Section 7463 (relating to disputes involving $10,000 or less) is amended by striking "$10,000" each place it appears (including the section heading) and inserting "$50,000".

(b) CONFORMING AMENDMENTS.—

(1) Sections 7436(c)(1) and 7443A(b)(3) are each amended by striking "$10,000" and inserting "$50,000".

(2) The table of sections for part II of subchapter C of chapter 76 is amended by striking "$10,000" in the item relating to section 7463 and inserting "$50,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

SEC. 3104. EXPANSION OF TAX COURT JURISDICTION TO RESPONSIBLE PERSON PENALTIES.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) PETITION FOR REVIEW BY TAX COURT.—

"(1) IN GENERAL.—A person may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the person's liability under subsection (a) if such petition is filed during the 90-day period beginning on the day on which notice and demand of the penalty under subsection (a) is made on such person.

"(2) RESTRICTIONS APPLICABLE TO COLLECTION OF ASSESSMENT.—

"(A) IN GENERAL.—Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court for collection of any assessment of any penalty under subsection (a) shall be made, begun, or prosecuted until the expiration of the 90-day period described in paragraph (1), or, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

"(B) AUTHORITY TO ENJOIN COLLECTION ACTIONS.—Notwithstanding the provisions of section 7421(a), the beginning of any levy or proceeding in court for collection of any assessment of any penalty under subsection (a) during the time the prohibition under subparagraph (A) is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this subparagraph to enjoin any action or proceeding unless a timely petition has been filed under paragraph (1) and then only in respect of the amount of the assessment to which such petition relates.

"(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under paragraph (1) relates shall be suspended for the period during which the Secretary is prohibited by paragraph (2)(A) from collecting by levy or a proceeding in court and for 60 days thereafter.

"(4) APPLICABLE RULES.—

"(A) CREDIT OR REFUND ALLOWED.—Notwithstanding any other law or rule of law (other than section 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this subsection.

"(B) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun, the Tax

Court shall lose jurisdiction of the action under this subsection to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable periods that are the subject of the suit for refund.''

(b) Conforming Amendments.—

(1) Section 7103(a)(4) is amended by striking ''6672(b)'' and inserting ''6672(d)''.

(2) Section 7421(a) is amended by striking ''6672(b)'' and inserting ''6672 (c) and (d)''.

(c) Effective Date.—The amendments made by this section shall apply to penalties imposed after the date of the enactment of this Act.

SEC. 3105. ACTIONS FOR REFUND WITH RESPECT TO CERTAIN ESTATES WHICH HAVE ELECTED THE INSTALLMENT METHOD OF PAYMENT.

(a) In General.—Section 7422 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) Special Rule for Actions With Respect to Estates for Which an Election Under Section 6166 Is Made.—

''(1) In general.—The district courts of the United States and the United States Court of Federal Claims shall not fail to have jurisdiction over any action brought by the representative of an estate to which this subsection applies to determine the correct amount of the estate tax liability of such estate (or for any refund with respect thereto) solely because the full amount of such liability has not been paid by reason of an election under section 6166 with respect to such estate.

''(2) Estates to which subsection applies.—This subsection shall apply to any estate if, as of the date the action is filed—

''(A) no portion of the installments payable under section 6166 have been accelerated,

''(B) all such installments the due date for which is on or before the date the action is filed have been paid,

''(C) there is no case pending in the Tax Court with respect to the tax imposed by section 2001 on the estate and, if a notice of deficiency under section 6212 with respect to such tax has been issued, the time for filing a petition with the Tax Court with respect to such notice has expired, and

''(D) no proceeding for declaratory judgment under section 7479 is pending.

''(3) Prohibition on collection of disallowed liability.—If the court redetermines under paragraph (1) the estate tax liability of an estate, no part of such liability which is disallowed by a decision of such court which has become final may be collected by the Secretary, and amounts paid in excess of the installments determined by the court as currently due and payable shall be refunded.''

(b) Extension of Time To File Refund Suit.—Section 7479 (relating to declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166) is amended by adding at the end the following new subsection:

''(c) Extension of Time To File Refund Suit.—The 2-year period in section 6532(a)(1) for filing suit for refund after disallowance of a claim shall be suspended during the 90-day period after the mailing of the notice referred to in subsection (b)(3) and, if a pleading has been filed with the Tax Court under this section, until the decision of the Tax Court has become final.''

(c) Effective Date.—The amendments made by this section shall apply to any claim for refund filed after the date of the enactment of this Act.

SEC. 3106. TAX COURT JURISDICTION TO REVIEW ADVERSE IRS DETERMINATION OF TAX-EXEMPT STATUS OF BOND ISSUE.

(a) In General.—Section 7478 (relating to declaratory judgments relating to status of certain governmental obligations) is amended—

(1) by striking ''prospective obligations will be'' both places it appears in subsection (a) and inserting ''previously issued or prospective obligations is or will be'', and

(2) by striking subsection (b)(1) and inserting the following:

''(1) Petitioner.—Except as provided in subsection (c), a pleading may be filed under this section only by the issuer or prospective issuer.''

(b) Notice Requirement.—Section 7478(b) is amended by adding at the end the following:

''(4) Notice to holders of previously issued obligations.—

''(A) In general.—If an issuer of previously issued obligations files a pleading under this section, the court shall not issue a declaratory judgment or decree under this section unless it determines that the petitioner has provided adequate notice to holders of such obligations within 10 days of the filing of the pleading.

''(B) Delivery of notice.—The notice under subparagraph (A) shall be given using the most practicable of the following methods:

''(i) In person.

''(ii) By certified or registered mail sent to the holder's last known address.

''(iii) By printing in appropriate publications.

''(C) Contents of the notice.—The notice under subparagraph (A) shall include a statement of the holder's right to intervene in, and participate in, any proceeding under this section with respect to obligations held or formerly held by the holder.''

(c) Intervention; Other Rules.—Section 7478 is amended by adding at the end the following:

''(c) Bondholder Intervention.—If an issuer of previously issued obligations files a pleading under this section, then the Tax Court shall permit any person who demonstrates to the satisfaction of the court that such person was or is a holder of any of such previously issued obligations to intervene in, and participate in, the proceedings before the court with respect to such pleading, on such terms and conditions as shall be established by the court.

''(d) Period of Limitations, Collection, and Imposition of Interest and Penalties Stayed Pending Conclusion of Proceedings.—

''(1) In general.—If an issuer of previously issued obligations files a pleading under this section—

''(A) the running of the period of limitations in sections 6501 and 6502 on the assessment and the collection of any tax due by a person (whether or not a party to a proceeding under this section) on the interest paid on such previously issued obligations,

''(B) the collection of such tax due, and

''(C) the imposition of any interest, penalties, additions to tax, or additional amounts in respect to any such unpaid tax,

shall be suspended from the date of such filing until the date on which the decision of the Tax Court becomes final.

''(2) Cross reference.—

''For additional suspension of running of period of limitation, see section 6503.''

(d) Effective Date; Special Rule.—

(1) Effective date.—Except as provided in paragraph (2), the amendments made by this section shall apply to determinations made after the date of the enactment of this Act.

(2) Special rule.—Notwithstanding section 7478(b)(3) of the Internal Revenue Code of 1986, in the case of a technical advice memorandum which—

(A) provides that any interest on any obligation which is part of an issue (or portion thereof) is not exempt from taxation under the Internal Revenue Code of 1986, and

(B) was publicly released within 1 year of the date of the enactment of this Act,

a pleading may be filed under section 7478 of such Code with respect to such memorandum not later than the 90th day after such date.

SEC. 3107. CIVIL ACTION FOR RELEASE OF ERRONEOUS LIEN.

(a) Right of Substitution of Value.—Subsection (b) of section 6325 (relating to release of lien or discharge of property) is amended by adding at the end the following new paragraph:

''(4) Right of substitution of value.—

''(A) In general.—At the request of the owner of any property subject to any lien imposed by this chapter, the Secretary shall issue a certificate of discharge of such property if such owner—

''(i) deposits with the Secretary an amount of money equal to the value of the interest of the United States (as determined by the Secretary) in the property, or

''(ii) furnishes a bond acceptable to the Secretary in a like amount.

''(B) Refund of deposit with interest and release of bond.—The Secretary shall refund the amount so deposited (and shall pay interest at the overpayment rate under section 6621), and shall release such bond, to the extent that the Secretary determines that—

''(i) the unsatisfied liability giving rise to the lien can be satisfied from a source other than such property, or

''(ii) the value of the interest of the United States in the property is less than the Secretary's prior determination of such value.

''(C) Use of deposit, etc., if action to contest lien not filed.—If no action is filed under section 7426(a)(4) within the period prescribed therefor, the Secretary shall, within 60 days after the expiration of such period—

''(i) apply the amount deposited, or collect on such bond, to the extent necessary to satisfy the unsatisfied liability secured by the lien, and

''(ii) refund (with interest as described in subparagraph (B)) any portion of the amount deposited which is not used to satisfy such liability.

''(D) Exception.—Subparagraph (A) shall not apply if the owner of the property is the person whose unsatisfied liability gave rise to the lien.''

(b) Civil Action To Release Erroneous Lien.—

(1) In general.—Subsection (a) of section 7426 (relating to civil actions by persons other than taxpayers) is amended by adding at the end the following new paragraph:

''(4) Substitution of value.—If a certificate of discharge is issued to any person under section 6325(b)(4) with respect to any property, such person may, within 120 days after the day on which such certificate is issued, bring a civil action against the United States in a district court of the United States for a determination of whether the value of the interest of the United States (if any) in such property is less than the value determined by the Secretary. No other action may be brought by such person for such a determination.''

(2) Form of relief.—

(A) In general.—Subsection (b) of section 7426 is amended by adding at the end the following new paragraph:

''(5) Substitution of value.—If the court determines that the Secretary's determination of the value of the interest of the United States in the property for purposes of section 6325(b)(4) exceeds the actual value of such interest, the court shall grant a judgment ordering a refund of the amount deposited, and a release of the bond, to the extent that the aggregate of the

amounts thereof exceeds such value determined by the court."

(B) INTEREST ALLOWED ON REFUND OF DEPOSIT.—Subsection (g) of section 7426 is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting "; and", and by adding at the end the following new paragraph:

"(3) in the case of a judgment pursuant to subsection (b)(5) which orders a refund of any amount, from the date the Secretary received such amount to the date of payment of such judgment."

(3) SUSPENSION OF RUNNING OF STATUTE OF LIMITATION.—Subsection (f) of section 6503 is amended to read as follows:

"(f) WRONGFUL SEIZURE OF OR LIEN ON PROPERTY OF THIRD PARTY.—

"(1) WRONGFUL SEIZURE.—The running of the period under section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secretary to the date the Secretary returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned.

"(2) WRONGFUL LIEN.—In the case of any assessment for which a lien was made on any property, the running of the period under section 6502 shall be suspended for a period equal to the period beginning on the date any person becomes entitled to a certificate under section 6325(b)(4) with respect to such property and ending on the date which is 30 days after the earlier of—

"(A) the earliest date on which the Secretary no longer holds any amount as a deposit or bond provided under section 6325(b)(4) by reason of such deposit or bond being used to satisfy the unpaid tax or being refunded or released, or

"(B) the date that the judgment secured under section 7426(b)(5) becomes final.

The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the value of the interest of the United States in the property plus interest, penalties, additions to the tax, and additional amounts attributable thereto."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

SEC. 3201. SPOUSAL ELECTION TO LIMIT JOINT AND SEVERAL LIABILITY ON JOINT RETURN.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 is amended by inserting after section 6014 the following new section:

"SEC. 6015. ELECTION TO LIMIT JOINT AND SEVERAL LIABILITY ON JOINT RETURN.

"(a) ELECTION TO LIMIT LIABILITY.—

"(1) IN GENERAL.—Notwithstanding section 6013(d)(3), and except as provided in paragraphs (2) and (3), if an individual who has made a joint return for any taxable year elects the application of this section—

"(A) the individual's liability for any tax shown on the return which remains unpaid as of the payment due date shall not exceed the individual's separate return amount determined under subsection (b), and

"(B) the individual's liability for any deficiency which is assessed shall not exceed the portion of such deficiency properly allocable to the individual under subsection (c).

"(2) BURDEN OF PROOF.—Except as provided in paragraph (3) (B) or (C), each individual who elects the application of this section shall have the burden of proof with respect to establishing the individual's separate return amount and the portion of any deficiency allocable to such individual.

"(3) ELECTION.—

"(A) IN GENERAL.—An election under this subsection for any taxable year shall be made not later than 2 years after the date on which the Secretary has begun collection activities with respect to the individual making the election.

"(B) CERTAIN TAXPAYERS INELIGIBLE TO ELECT.—If the Secretary demonstrates that assets were transferred between individuals filing a joint return as part of a fraudulent scheme by such individuals, an election under this section by either individual shall be invalid (and section 6013(d)(3) shall apply to the joint return).

"(C) ELECTION NOT VALID WITH RESPECT TO CERTAIN DEFICIENCIES.—If the Secretary demonstrates that an individual making an election under this section had actual knowledge of any item giving rise to a deficiency (or portion thereof) which is not allocable to such individual under subsection (c), such election shall not apply to such deficiency (or portion).

"(b) SEPARATE RETURN AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'separate return amount' means, with respect to an individual, an amount equal to the excess (if any) of—

"(A) the tax liability of the individual which would have been determined (on the basis of the items shown on the joint return) for the taxable year if the individual had filed a separate return, over

"(B) the aggregate payments of such tax properly allocable to such individual.

"(2) SPECIAL RULES FOR COMPUTING TAX LIABILITIES AND PAYMENT.—

"(A) TREATMENT OF CERTAIN CREDITS.—The credits allowed by sections 31, 33, and 34 for any taxable year—

"(i) shall not be taken into account in determining the amount of tax shown on a return or the tax liability of an individual filing a separate return, but

"(ii) shall be taken into account in determining the aggregate payments of tax of the individual to whom such credits are properly allocable.

"(B) MATHEMATICAL AND CLERICAL ERRORS.—Tax shown on a return shall include any tax assessed on account of a mathematical or clerical error (within the meaning of section 6213(g)(2)) appearing on the return.

"(3) PAYMENT DUE DATE.—The term 'payment due date' means the date prescribed for payment of the tax (determined with regard to any extension of time for payment).

"(c) ALLOCATION OF DEFICIENCY.—For purposes of subsection (a)(1)(B)—

"(1) IN GENERAL.—The portion of any deficiency on a joint return allocated to an individual shall be the amount which bears the same ratio to such deficiency as the net amount of items taken into account in computing the deficiency and allocable to the individual under paragraph (3) bears to the net amount of all items taken into account in computing the deficiency.

"(2) SEPARATE TREATMENT OF CERTAIN ITEMS.—If a deficiency (or portion thereof) is attributable to—

"(A) the disallowance of a credit, or

"(B) any tax (other than tax imposed by section 1 or 55) required to be included with the joint return,

and such item is allocated to 1 individual under paragraph (3), such deficiency (or portion) shall be allocated to such individual. Any such item shall not be taken into account under paragraph (1).

"(3) ALLOCATION OF ITEMS GIVING RISE TO THE DEFICIENCY.—For purposes of this subsection—

"(A) IN GENERAL.—Any item giving rise to a deficiency on a joint return shall be allocated to individuals filing the return in the same manner as it would have been allocated if the individuals had filed separate returns for the taxable year.

"(B) EXCEPTION WHERE OTHER SPOUSE BENEFITS.—Under rules prescribed by the Secretary, an item otherwise allocable to an individual under subparagraph (A) shall be allocated to the other individual filing the joint return to the extent the item gave rise to a tax benefit on the joint return to the other individual.

"(C) EXCEPTION FOR FRAUD.—The Secretary may provide for an allocation of any item in a manner not prescribed by subparagraph (A) if the Secretary establishes that such allocation is appropriate due to fraud of 1 or both individuals.

"(d) PETITION FOR REVIEW BY TAX COURT.—

"(1) IN GENERAL.—In the case of an individual who elects to have this section apply—

"(A) IN GENERAL.—The individual may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the appropriate relief available to the individual under this section if such petition is filed during the 90-day period beginning on the date on which the Secretary mails by certified or registered mail a notice to such individual of the Secretary's determination of relief available to the spouse. Notwithstanding the preceding sentence, an individual may file such petition at any time after the date which is 6 months after the date such election is filed with the Secretary and before the close of such 90-day period.

"(B) RESTRICTIONS APPLICABLE TO COLLECTION OF ASSESSMENT.—

"(i) IN GENERAL.—Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court shall be made, begun, or prosecuted against the spouse making an election under subsection (a) for collection of any assessment to which such election relates until the expiration of the 90-day period described in subparagraph (A), or, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

"(ii) AUTHORITY TO ENJOIN COLLECTION ACTIONS.—Notwithstanding the provisions of section 7421(a), the beginning of such levy or proceeding during the time the prohibition under clause (i) is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this subparagraph to enjoin any action or proceeding unless a timely petition has been filed under subparagraph (A) and then only in respect of the amount of the assessment to which the election under subsection (a) relates.

"(2) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under paragraph (1)(A) relates shall be suspended for the period during which the Secretary is prohibited by paragraph (1)(B) from collecting by levy or a proceeding in court and for 60 days thereafter.

"(3) APPLICABLE RULES.—

"(A) ALLOWANCE OF CREDIT OR REFUND.—Except as provided in subparagraph (B), notwithstanding any other law or rule of law (other than section 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this section.

"(B) RES JUDICATA.—In the case of any election under subsection (a), if a decision of the Tax Court in any prior proceeding for the same taxable year has become final, such decision shall be conclusive except with respect to the qualification of the individual for relief which was not an issue in such proceeding. The exception contained in the preceding sentence shall

not apply if the Tax Court determines that the individual participated meaningfully in such prior proceeding.

"(C) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun by either individual filing the joint return pursuant to section 6532—

"(i) the Tax Court shall lose jurisdiction of the individual's action under this section to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable years that are the subject of the suit for refund, and

"(ii) the court acquiring jurisdiction shall have jurisdiction over the petition filed under this subsection.

"(4) NOTICE TO OTHER SPOUSE.—The Tax Court shall establish rules which provide the individual filing a joint return but not making the election under subsection (a) with adequate notice and an opportunity to become a party to a proceeding under this subsection.

"(e) EQUITABLE RELIEF.—Under procedures prescribed by the Secretary, if—

"(1) a separate return amount determined under subsection (b) or an allocation of deficiency under subsection (c) is attributable to an item being allocated to an individual,

"(2) the individual establishes that he or she did not know, and had no reason to know, of such item, and

"(3) taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either) attributable to such item,

the Secretary may provide that, for purposes of this section, such item shall not be allocated to such individual but shall be allocated to the other individual filing the joint return.

"(f) OTHER RULES.—For purposes of this section—

"(1) COMMUNITY PROPERTY LAWS DISREGARDED.—Any determination under this section shall be made without regard to community property laws.

"(2) LIMITATIONS ON SEPARATE RETURNS DISREGARDED.—If an item of deduction or credit is disallowed in its entirety solely because a separate return is filed, such disallowance shall be disregarded and the item shall be computed as if a joint return had been filed and then allocated between the spouses appropriately. A similar rule shall apply for purposes of section 86.

"(3) CHILD'S LIABILITY.—If the liability of a child of a taxpayer is included on a joint return, such liability shall be disregarded in computing the separate liability of either spouse and such liability shall be allocated appropriately between the spouses.

"(g) LIABILITY INCREASED BY REASON OF TRANSFERS OF PROPERTY TO AVOID TAX.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, any limitation on the tax liability of an individual electing the application of this section shall be increased by the value of any disqualified asset transferred to the individual.

"(2) DISQUALIFIED ASSET.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'disqualified asset' means any property or right to property transferred to an individual making the election under this section with respect to a joint return by the other individual filing such joint return if the principal purpose of the transfer was the avoidance of tax or payment of tax.

"(B) PRESUMPTION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), except as provided in clause (ii), any transfer which is made after the date which is 1 year before—

"(I) in the case of any unpaid tax to which subsection (a)(1)(A) applies, the payment due date of such unpaid tax, and

"(II) in the case of any deficiency to which subsection (a)(1)(B) applies, the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent,

shall be presumed to have as its principal purpose the avoidance of tax or payment of tax.

"(ii) EXCEPTIONS.—Clause (i) shall not apply to any transfer—

"(I) pursuant to a decree of divorce or separate maintenance or a written instrument incident to such a decree, or

"(II) which an individual establishes did not have as its principal purpose the avoidance of tax or payment of tax.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this section, including—

"(1) regulations providing methods for allocation of items other than the methods under subsection (c)(3), and

"(2) regulations providing the opportunity for an individual to have notice of, and an opportunity to participate in, any administrative proceeding with respect to an election made under subsection (a) by the other individual filing the joint return."

(b) SEPARATE FORM FOR APPLYING FOR SPOUSAL RELIEF.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall develop a separate form with instructions for use by taxpayers in applying for relief under section 6015(a) of the Internal Revenue Code of 1986, as added by this section.

(c) SEPARATE NOTICE TO EACH FILER.—The Secretary of the Treasury shall, wherever practicable, send any notice relating to a joint return under section 6013 of the Internal Revenue Code of 1986 separately to each individual filing the joint return.

(d) CONFORMING AMENDMENTS.—

(1) Section 6013 is amended by striking subsection (e).

(2) Subparagraph (A) of section 6230(c)(5) is amended by striking "section 6013(e)" and inserting "section 6015".

(3) Section 7421(a) is amended by inserting "6015(d)," after "sections".

(e) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by inserting after the item relating to section 6014 the following new item:

"Sec. 6015. Election to limit joint and several liability on joint return."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any liability for tax arising after the date of the enactment of this Act and any liability for tax arising on or before such date but remaining unpaid as of such date.

(2) 2-YEAR PERIOD.—The 2-year period under section 6015(a)(3)(A) of the Internal Revenue Code of 1986 shall not expire before the date which is 2 years after the date of the first collection activity after the date of the enactment of this Act.

SEC. 3202. SUSPENSION OF STATUTE OF LIMITATIONS ON FILING REFUND CLAIMS DURING PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS UNABLE TO MANAGE FINANCIAL AFFAIRS DUE TO DISABILITY.—

"(1) IN GENERAL.—In the case of an individual, the running of the periods specified in subsections (a), (b), and (c) shall be suspended during any period of such individual's life that such individual is financially disabled.

"(2) FINANCIALLY DISABLED.—

"(A) IN GENERAL.—For purposes of paragraph (1), an individual is financially disabled if such individual is unable to manage his financial affairs by reason of a medically determinable physical or mental impairment of the individual which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to have such an impairment unless proof of the existence thereof is furnished in such form and manner as the Secretary may require.

"(B) EXCEPTION WHERE INDIVIDUAL HAS GUARDIAN, ETC.—An individual shall not be treated as financially disabled during any period that such individual's spouse or any other person is authorized to act on behalf of such individual in financial matters."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods of disability before, on, or after the date of the enactment of this Act but shall not apply to any claim for credit or refund which (without regard to such amendment) is barred by the operation of any law or rule of law (including res judicata) as of January 1, 1998.

Subtitle D—Provisions Relating to Interest and Penalties

SEC. 3301. ELIMINATION OF INTEREST RATE DIFFERENTIAL ON OVERLAPPING PERIODS OF INTEREST ON INCOME TAX OVERPAYMENTS AND UNDERPAYMENTS.

(a) IN GENERAL.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end the following new subsection:

"(d) ELIMINATION OF INTEREST ON OVERLAPPING PERIODS OF INCOME TAX OVERPAYMENTS AND UNDERPAYMENTS.—To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by chapters 1 and 2, the net rate of interest under this section on such amounts shall be zero for such period."

(b) CONFORMING AMENDMENT.—Subsection (f) of section 6601 (relating to satisfaction by credits) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to the extent that section 6621(d) applies."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest for calendar quarters beginning after the date of the enactment of this Act.

SEC. 3302. INCREASE IN OVERPAYMENT RATE PAYABLE TO TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 6621(a)(1) (defining overpayment rate) is amended to read as follows:

"(B) 3 percentage points (2 percentage points in the case of a corporation)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest for calendar quarters beginning after the date of the enactment of this Act.

SEC. 3303. ELIMINATION OF PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.

(a) IN GENERAL.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(h) LIMITATION ON PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.—In the case of an individual who files a return of tax on or before the due date for the return (including extensions), no addition to the tax shall be imposed

under paragraph (2) or (3) of subsection (a) with respect to the individual's liability for tax relating to the return for any month during which an installment agreement under section 6159 is in effect for the payment of such tax."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for purposes of determining additions to the tax for months beginning after the date of the enactment of this Act.

SEC. 3304. MITIGATION OF FAILURE TO DEPOSIT PENALTY.

(a) TAXPAYER MAY DESIGNATE PERIODS TO WHICH DEPOSITS APPLY.—Section 6656 (relating to underpayment of deposits) is amended by adding at the end the following new subsection:

"(e) DESIGNATION OF PERIODS TO WHICH DEPOSITS APPLY.—

"(1) IN GENERAL.—A person may designate the period or periods to which a deposit is to be applied for purposes of this section.

"(2) TIME FOR MAKING DESIGNATION.—A person shall make any designation under paragraph (1) on or before the later of—

"(A) the date the deposit is made, or

"(B) the 90th day after the earlier of the dates determined under subsection (b)(1)(B) with respect to a notice covering the period to which the deposit would be applied but for a designation under this subsection."

(b) EXPANSION OF EXEMPTION FOR FIRST-TIME DEPOSITS.—

(1) IN GENERAL.—Paragraph (2) of section 6656(c) (relating to exemption for first-time depositors of employment taxes) is amended to read as follows:

"(2) such failure—

"(A) occurs during the 1st quarter that such person was required to deposit any employment tax, or

"(B) if such person is required to change the frequency of deposits of any employment tax, relates to the first deposit to which such change applies, and".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to deposits required to be made after the 180th day after the date of the enactment of this Act.

SEC. 3305. SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT INDIVIDUAL TAXPAYER.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER.—

"(1) IN GENERAL.—In the case of an individual who files a return of tax imposed by subtitle A for a taxable year on or before the due date for the return (including extensions), if the Secretary does not provide a notice of deficiency to the taxpayer before the close of the 1-year period beginning on the later of—

"(A) the date on which the return is filed, or

"(B) the due date of the return without regard to extensions,

the Secretary shall suspend the imposition of any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return which is computed by reference to the period of time the failure continues to exist and which is properly allocable to the suspension period.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any penalty imposed by section 6651,

"(B) any interest, penalty, addition to tax, or additional amount in a case involving fraud, or

"(C) any criminal penalty.

"(3) SUSPENSION PERIOD.—For purposes of this subsection, the term 'suspension period' means the period—

"(A) beginning on the day after the close of the 1-year period under paragraph (1), and

"(B) ending on the date which is 21 days after the date on which notice and demand for payment of tax relating to such return is made by the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 3306. PROCEDURAL REQUIREMENTS FOR IMPOSITION OF PENALTIES AND ADDITIONS TO TAX.

(a) IN GENERAL.—Chapter 68 (relating to additions to the tax, additional amounts, and assessable penalties) is amended by adding at the end the following new subchapter:

"Subchapter C—Procedural Requirements

"Sec. 6751. Procedural requirements.

"SEC. 6751. PROCEDURAL REQUIREMENTS.

"(a) COMPUTATION OF PENALTY INCLUDED IN NOTICE.—The Secretary shall include with each notice of penalty under this title information with respect to the name of the penalty, the section of this title under which the penalty is imposed, and a computation of the penalty.

"(b) APPROVAL OF ASSESSMENT.—

"(1) IN GENERAL.—No penalty under this title shall be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any addition to tax under section 6651, 6654, or 6655, or

"(B) any other penalty automatically calculated through electronic means.

"(c) PENALTIES.—For purposes of this section, the term 'penalty' includes any addition to tax or any additional amount."

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 68 is amended by adding at the end the following new item:

"SUBCHAPTER C. Procedural requirements."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices issued, and penalties assessed, after the 180th day after the date of the enactment of this Act.

SEC. 3307. PERSONAL DELIVERY OF NOTICE OF PENALTY UNDER SECTION 6672.

(a) IN GENERAL.—Paragraph (1) of section 6672(b) (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by inserting "or in person" after "section 6212(b)".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6672(b) is amended by inserting "(or, in the case of such a notice delivered in person, such delivery)" after "paragraph (1)".

(2) Paragraph (3) of section 6672(b) is amended by inserting "or delivered in person" after "mailed" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3308. NOTICE OF INTEREST CHARGES.

(a) IN GENERAL.—Chapter 67 (relating to interest) is amended by adding at the end the following new subchapter:

"Subchapter D—Notice requirements

"Sec. 6631. Notice requirements.

"SEC. 6631. NOTICE REQUIREMENTS.

"The Secretary shall include with each notice to an individual taxpayer which includes an amount of interest required to be paid by such taxpayer under this title information with respect to the section of this title under which the interest is imposed and a computation of the interest."

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 67 is amended by adding at the end the following new item:

"SUBCHAPTER D. Notice requirements."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices issued after June 30, 2000.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

PART I—DUE PROCESS

SEC. 3401. DUE PROCESS IN IRS COLLECTION ACTIONS.

(a) NOTICE AND OPPORTUNITY FOR HEARING BEFORE FILING OF NOTICE OF LIEN.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting before the table of sections the following:

"Part I. Due process for liens.

"Part II. Liens.

"PART I—DUE PROCESS FOR LIENS

"Sec. 6320. Notice and opportunity for hearing before filing of notice of lien.

"SEC. 6320. NOTICE AND OPPORTUNITY FOR HEARING BEFORE FILING OF NOTICE OF LIEN.

"(a) REQUIREMENT OF NOTICE.—

"(1) IN GENERAL.—No notice of lien may be filed under section 6323 unless the Secretary has notified in writing the person described in section 6321 of the Secretary's intention to file such a notice of lien.

"(2) TIME AND METHOD FOR NOTICE.—The notice required under paragraph (1) shall be—

"(A) given in person,

"(B) left at the dwelling or usual place of business of such person, or

"(C) sent by certified or registered mail to such person's last known address,

not less than 30 days before the day of the filing of the notice of lien.

"(3) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1) shall include in simple and nontechnical terms—

"(A) the amount of unpaid tax,

"(B) the right of the person to request a hearing during the 30-day period described in paragraph (2),

"(C) the administrative appeals available to the taxpayer with respect to such lien and the procedures relating to such appeals, and

"(D) the provisions of this title and procedures relating to the release of liens on property.

"(b) RIGHT TO FAIR HEARING.—

"(1) IN GENERAL.—If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

"(2) IMPARTIAL OFFICER.—The hearing under this subsection shall be conducted by an officer or employee who has had no involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section. A taxpayer may waive the requirement of this paragraph.

"(c) CONDUCT OF HEARING; REVIEW; SUSPENSIONS.—For purposes of this section, subsections (c), (d) (other than paragraph (2)(B) thereof), and (e) of section 6330 shall apply.

"PART II—LIENS".

(b) NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.—Subchapter D of chapter 64 (relating to seizure of property for collection of taxes) is amended by inserting before the table of sections the following:

"Part I. Due process for collections.

"Part II. Levy.

"PART I—DUE PROCESS FOR COLLECTIONS

"Sec. 6330. Notice and opportunity for hearing before levy.

"SEC. 6330. NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.

"(a) Requirement of Notice Before Levy.—

"(1) In general.—No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of the Secretary's intention to make such a levy.

"(2) Time and method for notice.—

"(A) In general.—The notice required under paragraph (1) shall be—

"(i) given in person,

"(ii) left at the dwelling or usual place of business of such person, or

"(iii) sent by certified or registered mail to such person's last known address,

not less than 30 days before the day of the levy.

"(B) Longer period for life insurance and endowment contracts.—In the case of a levy on an organization with respect to a life insurance or endowment contract issued by such organization, subparagraph (A) shall be applied by substituting '90 days' for '30 days'.

"(3) Information included with notice.—The notice required under paragraph (1) shall include in simple and nontechnical terms—

"(A) the amount of unpaid tax,

"(B) the right of the person to request a hearing during the applicable period under paragraph (2), and

"(C) the proposed action by the Secretary and the rights of the person with respect to such action, including a brief statement which sets forth—

"(i) the provisions of this title relating to levy and sale of property,

"(ii) the procedures applicable to the levy and sale of property under this title,

"(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

"(iv) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159), and

"(v) the provisions of this title and procedures relating to redemption of property and release of liens on property.

"(b) Right to Fair Hearing.—

"(1) In general.—If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

"(2) Impartial officer.—The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6320. A taxpayer may waive the requirement of this paragraph.

"(c) Matters Considered at Hearing.—In the case of any hearing conducted under this section—

"(1) Requirement of investigation.—The Secretary shall verify at the hearing that the requirements of any applicable law or administrative procedure have been met.

"(2) Issues at hearing.—The person may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including—

"(A) challenges to the underlying tax liability as to existence or amount,

"(B) appropriate spousal defenses,

"(C) challenges to the appropriateness of collection actions, and

"(D) offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.

"(3) Basis for the determination.—The determination by an appeals officer under this subsection shall take into consideration—

"(A) the verification presented under paragraph (1),

"(B) the issues raised under paragraph (2), and

"(C) whether the proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that the collection action be no more intrusive than necessary.

"(4) Certain issues precluded.—An issue may not be raised at the hearing if—

"(A) the issue was raised at a previous hearing under this section or section 6320 or in any other previous administrative or judicial proceeding, and

"(B) the person seeking to raise the issue participated meaningfully in such hearing or proceeding.

This paragraph shall not apply to any issue with respect to which subsection (d)(2)(B) applies.

"(d) Proceeding After Hearing.—

"(1) Judicial review of determination.—The person may appeal a determination under this subsection to the Tax Court within 30 days of the date of such determination.

"(2) Jurisdiction retained at IRS office of appeals.—The Internal Revenue Service Office of Appeals shall retain jurisdiction with respect to any determination made under this section, including subsequent hearings requested by the person who requested the original hearing on issues regarding—

"(A) collection actions taken or proposed with respect to such determination, and

"(B) after the person has exhausted all administrative remedies, a change in circumstances with respect to such person which affects such determination.

"(e) Suspension of Collections and Statute of Limitations.—If a hearing is requested under subsection (a)(3)(B), the levy actions which are the subject of the requested hearing and the running of any period of limitations under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), or section 6532 (relating to other suits) shall be suspended for the period during which such hearing, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such hearing.

"(f) Jeopardy Collection.—If the Secretary has made a finding under the last sentence of section 6331(a) that the collection of tax is in jeopardy, this section shall not apply, except that the taxpayer shall be given the opportunity for the hearing described in this section within a reasonable period of time after the levy.

"PART II—LEVY".

(c) Review by Special Trial Judges Allowed.—

(1) In general.—Section 7443(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

"(4) any proceeding under section 6320 or 6330, and".

(2) Authority to make decisions.—Section 7443(c) (relating to authority to make court decisions) is amended by striking "or (3)" and inserting "(3), or (4)".

(d) Conforming Amendment.—Section 6331 is amended by striking subsection (d).

(e) Effective Date.—The amendments made by this section shall apply to collection actions initiated after the date which is 180 days after the date of the enactment of this Act.

PART II—EXAMINATION ACTIVITIES

SEC. 3411. UNIFORM APPLICATION OF CONFIDENTIALITY PRIVILEGE TO TAXPAYER COMMUNICATIONS WITH FEDERALLY AUTHORIZED PRACTITIONERS.

(a) In General.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7525. UNIFORM APPLICATION OF CONFIDENTIALITY PRIVILEGE TO TAXPAYER COMMUNICATIONS WITH FEDERALLY AUTHORIZED PRACTITIONERS.

"(a) General Rule.—With respect to tax advice, the same common law protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to a communication between a taxpayer and any federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney.

"(b) Limitations.—Subsection (a) may only be asserted in—

"(1) any noncriminal tax matter before the Internal Revenue Service, and

"(2) any noncriminal tax proceeding in Federal court with respect to such matter.

"(c) Definitions.—For purposes of this section—

"(1) Federally authorized tax practitioner.—The term 'federally authorized tax practitioner' means any individual who is authorized under Federal law to practice before the Internal Revenue Service if such practice is subject to Federal regulation under section 330 of title 31, United States Code.

"(2) Tax advice.—The term 'tax advice' means advice given by an individual with respect to a matter which is within the scope of the individual's authority to practice described in paragraph (1)."

(b) Conforming Amendment.—The table of sections for such chapter 77 is amended by adding at the end the following new item:

"Sec. 7525. Uniform application of confidentiality privilege to taxpayer communications with federally authorized practitioners."

(c) Effective Date.—The amendments made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 3412. LIMITATION ON FINANCIAL STATUS AUDIT TECHNIQUES.

Section 7602 (relating to examination of books and witnesses) is amended by adding at the end the following new subsection:

"(d) Limitation on Examination on Unreported Income.—The Secretary shall not use financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the Secretary has a reasonable indication that there is a likelihood of such unreported income."

SEC. 3413. SOFTWARE TRADE SECRETS PROTECTION.

(a) In General.—Subchapter A of chapter 78 (relating to examination and inspection) is amended by redesignating section 7612 as section 7613 and by inserting after 7611 the following:

"SEC. 7612. SPECIAL PROCEDURES FOR SUMMONSES FOR COMPUTER SOFTWARE.

"(a) General Rule.—For purposes of this title—

"(1) except as provided in subsection (b), no summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, to produce or analyze any computer software source code, and

"(2) any software and related materials which are provided to the Secretary under this title shall be subject to the safeguards under subsection (c).

"(b) CIRCUMSTANCES UNDER WHICH COMPUTER SOFTWARE SOURCE CODE MAY BE PROVIDED.—

"(1) IN GENERAL.—Subsection (a)(1) shall not apply to any portion, item, or component of computer software source code if—

"(A) the Secretary is unable to otherwise reasonably ascertain the correctness of any item on a return from—

"(i) the taxpayer's books, papers, records, or other data, or

"(ii) the computer software executable code (and any modifications thereof) to which such source code relates and any associated data which, when executed, produces the output to ascertain the correctness of the item,

"(B) the Secretary identifies with reasonable specificity the portion, item, or component of such source code needed to verify the correctness of such item on the return, and

"(C) the Secretary determines that the need for the portion, item, or component of such source code with respect to such item outweighs the risks of unauthorized disclosure of trade secrets.

"(2) EXCEPTIONS.—Subsection (a)(1) shall not apply to—

"(A) any inquiry into any offense connected with the administration or enforcement of the internal revenue laws,

"(B) any computer software source code developed by the taxpayer or a related person for internal use by the taxpayer or such person, or

"(C) any communications between the owner of the source code and the taxpayer or related persons.

"(3) COOPERATION REQUIRED.—For purposes of paragraph (1), the Secretary shall be treated as meeting the requirements of subparagraphs (A) and (B) of such paragraph if—

"(A) the Secretary determines that it is not feasible to determine the correctness of an item without access to the computer software executable code and associated data described in paragraph (1)(A)(ii),

"(B) the Secretary makes a formal request to the taxpayer for such code and data and to the owner of the computer software source code for such executable code, and

"(C) such code and data is not provided within 180 days of such request.

"(4) RIGHT TO CONTEST SUMMONS.—In any proceeding brought under section 7604 to enforce a summons issued under the authority of this subsection, the court shall, at the request of any party, hold a hearing to determine whether the applicable requirements of this subsection have been met.

"(c) SAFEGUARDS TO ENSURE PROTECTION OF TRADE SECRETS AND OTHER CONFIDENTIAL INFORMATION.—

"(1) ENTRY OF PROTECTIVE ORDER.—In any court proceeding to enforce a summons for any portion of software, the court may receive evidence and issue any order necessary to prevent the disclosure of trade secrets or other confidential information with respect to such software, including requiring that any information be placed under seal to be opened only as directed by the court.

"(2) PROTECTION OF SOFTWARE.—Notwithstanding any other provision of this section, and in addition to any protections ordered pursuant to paragraph (1), in the case of software that comes into the possession or control of the Secretary in the course of any examination with respect to any taxpayer—

"(A) the software may be used only in connection with the examination of such taxpayer's return, any appeal by the taxpayer to the Internal Revenue Service Office of Appeals, any judicial proceeding (and any appeals therefrom), and any inquiry into any offense connected with the administration or enforcement of the internal revenue laws,

"(B) the Secretary shall provide, in advance, to the taxpayer and the owner of the software a written list of the names of all individuals who will analyze or otherwise have access to the software,

"(C) the software shall be maintained in a secure area or place, and, in the case of computer software source code, shall not be removed from the owner's place of business unless the owner permits, or a court orders, such removal,

"(D) the software may not be copied except as necessary to perform such analysis, and the Secretary shall number all copies made and certify in writing that no other copies have been (or will be) made,

"(E) at the end of the period during which the software may be used under subparagraph (A)—

"(i) the software and all copies thereof shall be returned to the person from whom they were obtained and any copies thereof made under subparagraph (D) on the hard drive of a machine or other mass storage device shall be permanently deleted, and

"(ii) the Secretary shall obtain from any person who analyzes or otherwise had access to such software a written certification under penalty of perjury that all copies and related materials have been returned and that no copies were made of them,

"(F) the software may not be decompiled or disassembled, and

"(G) the Secretary shall provide to the taxpayer and the owner of any interest in such software, as the case may be, a written agreement, between the Secretary and any person who is not an officer or employee of the United States and who will analyze or otherwise have access to such software, which provides that such person agrees not to—

"(i) disclose such software to any person other than authorized employees or agents of the Secretary during and after employment by the Secretary, or

"(ii) participate for 2 years in the development of software which is intended for a similar purpose as the software examined.

For purposes of subparagraph (C), the owner shall make available any necessary equipment or materials for analysis of computer software source code required to be conducted on the owner's premises. The owner of any interest in the software shall be considered a party to any agreement described in subparagraph (G).

"(d) DEFINITIONS.—For purposes of this section—

"(1) SOFTWARE.—The term 'software' includes computer software source code and computer software executable code.

"(2) COMPUTER SOFTWARE SOURCE CODE.—The term 'computer software source code' means—

"(A) the code written by a programmer using a programming language which is comprehensible to appropriately trained persons, is not machine readable, and is not capable of directly being used to give instructions to a computer,

"(B) related programmers' notes, design documents, memoranda, and similar documentation, and

"(C) related customer communications.

"(3) COMPUTER SOFTWARE EXECUTABLE CODE.—The term 'computer software executable code' means—

"(A) any object code, machine code, or other code readable by a computer when loaded into its memory and used directly by such computer to execute instructions, and

"(B) any related user manuals.

"(4) OWNER.—The term 'owner' shall, with respect to any software, include the developer of the software.

"(5) RELATED PERSON.—A person shall be treated as related to another person if such persons are related persons under section 267 or 707(b)."

(b) UNAUTHORIZED DISCLOSURE OF SOFTWARE.—Section 7213 (relating to unauthorized disclosure of information) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

"(d) DISCLOSURE OF SOFTWARE.—Any person who willfully divulges or makes known software (as defined in section 7612(d)(1)) to any person in violation of section 7612 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution."

(c) APPLICATION OF SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.—Paragraph (2) of section 7603(b), as amended by section 3416(a), is amended by striking "and" at the end of subparagraph (H), by striking a period at the end of subparagraph (I) and inserting ", and", and by adding at the end the following:

"(J) any owner or developer of a computer software source code (as defined in section 7612(d)(2)).

Subparagraph (J) shall apply only with respect to a summons requiring the production of the source code referred to in subparagraph (J) or the program and data described in section 7612(b)(1)(A)(ii) to which such source code relates."

(d) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 78 is amended by striking the item relating to section 7612 and by inserting the following:

"Sec. 7612. Special procedures for summonses for computer software.

"Sec. 7613. Cross references."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to summonses issued, and software acquired, after the date of the enactment of this Act.

(2) SOFTWARE PROTECTION.—In the case of any software acquired on or before such date of enactment, the requirements of section 7612(a)(2) of the Internal Revenue Code of 1986 (as added by such amendments) shall apply after the 90th day after such date. The preceding sentence shall not apply to the requirement under section 7612(c)(2)(G)(ii) of such Code (as so added).

SEC. 3414. THREAT OF AUDIT PROHIBITED TO COERCE TIP REPORTING ALTERNATIVE COMMITMENT AGREEMENTS.

The Secretary of the Treasury or the Secretary's delegate shall instruct employees of the Internal Revenue Service that they may not threaten to audit any taxpayer in an attempt to coerce the taxpayer into entering into a Tip Reporting Alternative Commitment Agreement.

SEC. 3415. TAXPAYERS ALLOWED MOTION TO QUASH ALL THIRD-PARTY SUMMONSES.

(a) IN GENERAL.—Paragraph (1) of section 7609(a) (relating to summonses to which section applies) is amended by striking so much of such paragraph as precedes "notice of the summons" and inserting the following:

"(1) IN GENERAL.—If any summons to which this section applies requires the giving of testimony on, or the production of any portion of records made or kept on, any person (other than the person summoned) who is identified in the summons, then".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 7609 is amended by striking paragraphs (3) and (4), by redesignating paragraph (5) as paragraph (3), and by striking in paragraph (3) (as so redesignated) "subsection (c)(2)(B)" and inserting "subsection (c)(2)(D)".

(2) Subsection (c) of section 7609 is amended to read as follows:

"(c) Summons to Which Section Applies.—

"(1) In general.—Except as provided in paragraph (2), this section shall apply to any summons issued under paragraph (2) of section 7602(a) or under section 6420(e)(2), 6421(g)(2), or 6427(j)(2).

"(2) Exceptions.—This section shall not apply to any summons—

"(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person,

"(B) issued to determine whether or not records of the business transactions or affairs of an identified person have been made or kept,

"(C) issued solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in section 7603(b)(2)(A),

"(D) issued in aid of the collection of—

"(i) an assessment made or judgment rendered against the person with respect to whose liability the summons is issued, or

"(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i),

"(E)(i) issued by a criminal investigator of the Internal Revenue Service in connection with the investigation of an offense connected with the administration or enforcement of the internal revenue laws, and

"(ii) served on any person who is not a third-party recordkeeper (as defined in section 7603(b)), or

"(F) described in subsection (f) or (g).

"(3) Records.—For purposes of this section, the term 'records' includes books, papers, and other data."

(3) Paragraph (2) of section 7609(e) is amended by striking "third-party recordkeeper's" and all that follows through "subsection (f)" and inserting "summoned party's response to the summons".

(4) Subsection (f) of section 7609 is amended—

(A) by striking "described in subsection (c)" and inserting "described in subsection (c)(1)", and

(B) by inserting "or testimony" after "records" in paragraph (3).

(5) Subsection (g) of section 7609 is amended by striking "In the case of any summons described in subsection (c), the provisions of subsections (a)(1) and (b) shall not apply if" and inserting "A summons is described in this subsection if".

(6)(A) Subsection (i) of section 7609 is amended by striking "Third-Party Recordkeeper and" in the subsection heading.

(B) Paragraph (1) of section 7609(i) is amended by striking "described in subsection (c), the third-party recordkeeper" and inserting "to which this section applies for the production of records, the summoned party".

(C) Paragraph (2) of section 7609(i) is amended—

(i) by striking "recordkeeper" in the heading and inserting "summoned party", and

(ii) by striking "the third-party recordkeeper" and inserting "the summoned party".

(D) Paragraph (3) of section 7609(i) is amended to read as follows:

"(3) Protection for summoned party who discloses.—Any summoned party, or agent or employee thereof, making a disclosure of records or testimony pursuant to this section in good faith reliance on the certificate of the Secretary or an order of a court requiring production of records or the giving of such testimony shall not be liable to any customer or other person for such disclosure."

(c) Effective Date.—The amendments made by this section shall apply to summonses served after the date of the enactment of this Act.

SEC. 3416. SERVICE OF SUMMONSES TO THIRD-PARTY RECORDKEEPERS PERMITTED BY MAIL.

(a) In General.—Section 7603 (relating to service of summons) is amended by striking "A summons issued" and inserting "(a) In General.—A summons issued" and by adding at the end the following new subsection:

"(b) Service by Mail to Third-Party Recordkeepers.—

"(1) In general.—A summons referred to in subsection (a) for the production of books, papers, records, or other data by a third-party recordkeeper may also be served by certified or registered mail to the last known address of such recordkeeper.

"(2) Third-party recordkeeper.—For purposes of paragraph (1), the term 'third-party recordkeeper' means—

"(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));

"(B) any consumer reporting agency (as defined under section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)));

"(C) any person extending credit through the use of credit cards or similar devices;

"(D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));

"(E) any attorney;

"(F) any accountant;

"(G) any barter exchange (as defined in section 6045(c)(3));

"(H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof, and

"(I) any enrolled agent."

(b) Effective Date.—The amendment made by this section shall apply to summonses served after the date of the enactment of this Act.

SEC. 3417. PROHIBITION ON IRS CONTACT OF THIRD PARTIES WITHOUT PRIOR NOTICE.

(a) In General.—Section 7602 (relating to examination of books and witnesses), as amended by section 3412, is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) Limitation of Authority To Contact Third Parties.—An officer or employee of the Internal Revenue Service may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of such taxpayer without providing reasonable notice to the taxpayer that such contact will be made. This subsection shall not apply—

"(1) to any contact which the taxpayer has authorized,

"(2) if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax, or

"(3) with respect to any pending criminal investigation."

(b) Effective Date.—The amendments made by this section shall apply to contacts made after the 180th day after the date of the enactment of this Act.

PART III—COLLECTION ACTIVITIES

Subpart A—Approval Process

SEC. 3421. APPROVAL PROCESS FOR LIENS, LEVIES, AND SEIZURES.

(a) In General.—The Commissioner of Internal Revenue shall develop and implement procedures under which—

(1) a determination by an employee to file a notice of lien or levy with respect to, or to levy or seize, any property or right to property would, where appropriate, be required to be reviewed by a supervisor of the employee before the action was taken, and

(2) appropriate disciplinary action would be taken against the employee or supervisor where the procedures under paragraph (1) were not followed.

(b) Review Process.—The review process under subsection (a)(1) may include a certification that the employee has—

(1) reviewed the taxpayer's information,

(2) verified that a balance is due, and

(3) affirmed that the action proposed to be taken is appropriate given the taxpayer's circumstances, considering the amount due and the value of the property or right to property.

Subpart B—Liens and Levies

SEC. 3431. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.

(a) Fuel, Etc.—Section 6334(a)(2) (relating to fuel, provisions, furniture, and personal effects) is amended by striking "$2,500" and inserting "$10,000".

(b) Books, Etc.—Section 6334(a)(3) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,250" and inserting "$5,000".

(c) Conforming Amendment.—Section 6334(g)(1) (relating to inflation adjustment) is amended—

(1) by striking "1997" and inserting "1999", and

(2) by striking "1996" in subparagraph (B) and inserting "1998".

(d) Effective Date.—The amendments made by this section shall take effect with respect to levies issued after the date of the enactment of this Act.

SEC. 3432. RELEASE OF LEVY UPON AGREEMENT THAT AMOUNT IS UNCOLLECTIBLE.

(a) In General.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(e) Immediate Release of Levy Upon Agreement That Amount is not Collectible.—In the case of a levy on the salary or wages payable to or received by the taxpayer, upon agreement with the taxpayer that the tax is not collectible, the Secretary shall immediately release such levy before any intervening salary or wage payment period."

(b) Effective Date.—The amendment made by this section shall apply to levies imposed after the date of the enactment of this Act.

SEC. 3433. LEVY PROHIBITED DURING PENDENCY OF REFUND PROCEEDINGS.

(a) In General.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) No Levy During Pendency of Proceedings for Refund of Divisible Tax.—

"(1) In general.—No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid divisible tax during the pendency of any proceeding brought by such person in a proper court for the recovery of any portion of such divisible tax which was paid by such person if—

"(A) the decision in such proceeding would be res judicata with respect to such unpaid tax, or

"(B) such person would be collaterally estopped from contesting such unpaid tax by reason of such proceeding.

"(2) Divisible tax.—For purposes of paragraph (1), the term 'divisible tax' means—

"(A) any tax imposed by subtitle C, and

"(B) the penalty imposed by section 6672 with respect to any such tax.

"(3) Exceptions.—

"(A) Certain unpaid taxes.—This subsection shall not apply with respect to any unpaid tax if—

"(i) the taxpayer files a written notice with the Secretary which waives the restriction imposed by this subsection on levy with respect to such tax, or *"(ii) the Secretary finds that the collection of such tax is in jeopardy.*

"(B) CERTAIN LEVIES.—This subsection shall not apply to—

"(i) any levy to carry out an offset under section 6402, and

"(ii) any levy which was first made before the date that the applicable proceeding under this subsection commenced.

"(4) LIMITATION ON COLLECTION ACTIVITY; AUTHORITY TO ENJOIN COLLECTION.—

"(A) LIMITATION ON COLLECTION.—No proceeding in court for the collection of any unpaid tax to which paragraph (1) applies shall be begun by the Secretary during the pendency of a proceeding under such paragraph. This subparagraph shall not apply to—

"(i) any counterclaim in a proceeding under such paragraph, or

"(ii) any proceeding relating to a proceeding under such paragraph.

"(B) AUTHORITY TO ENJOIN.—Notwithstanding section 7421(a), a levy or collection proceeding prohibited by this subsection may be enjoined (during the period such prohibition is in force) by the court in which the proceeding under paragraph (1) is brought.

"(5) SUSPENSION OF STATUTE OF LIMITATIONS ON COLLECTION.—The period of limitations under section 6502 shall be suspended for the period during which the Secretary is prohibited under this subsection from making a levy.

"(6) PENDENCY OF PROCEEDING.—For purposes of this subsection, a proceeding is pending beginning on the date such proceeding commences and ending on the date the decision in such proceeding becomes final."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to unpaid tax attributable to taxable periods beginning after December 31, 1998.

SEC. 3434. APPROVAL REQUIRED FOR JEOPARDY AND TERMINATION ASSESSMENTS AND JEOPARDY LEVIES.

(a) IN GENERAL.—Paragraph (1) of section 7429(a) (relating to review of jeopardy levy or assessment procedures) is amended to read as follows:

"(1) ADMINISTRATIVE REVIEW.—

"(A) PRIOR APPROVAL REQUIRED.—No assessment may be made under section 6851(a), 6852(a), 6861(a), or 6862, and no levy may be made under section 6331(a) less than 30 days after notice and demand for payment is made, unless the Chief Counsel for the Internal Revenue Service (or such Counsel's delegate) personally approves (in writing) such assessment or levy.

"(B) INFORMATION TO TAXPAYER.—Within 5 days after the day on which such an assessment or levy is made, the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relied in making such assessment or levy."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxes assessed and levies made after the date of the enactment of this Act.

SEC. 3435. INCREASE IN AMOUNT OF CERTAIN PROPERTY ON WHICH LIEN NOT VALID.

(a) CERTAIN PROPERTY.—

(1) IN GENERAL.—Subsection (b) of section 6323 (relating to validity and priority against certain persons) is amended—

(A) by striking "$250" in paragraph (4) (relating to personal property purchased in casual sale) and inserting "$1,000", and

(B) by striking "$1,000" in paragraph (7) (relating to residential property subject to a mechanic's lien for certain repairs and improvements) and inserting "$5,000".

(2) INFLATION ADJUSTMENT.—Subsection (i) of section 6323 (relating to special rules) is amended by adding at the end the following new paragraph:

"(4) COST-OF-LIVING ADJUSTMENT.—In the case of notices of liens imposed by section 6321 which are filed in any calendar year after 1998, each of the dollar amounts under paragraph (4) or (7) of subsection (b) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10."

(b) EXPANSION OF TREATMENT OF PASSBOOK LOANS.—Paragraph (10) of section 6323(b) is amended—

(1) by striking "PASSBOOK LOANS" in the heading and inserting "DEPOSIT-SECURED LOANS",

(2) by striking ", evidenced by a passbook,", and

(3) by striking all that follows "secured by such account" and inserting a period.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3436. WAIVER OF EARLY WITHDRAWAL TAX FOR IRS LEVIES ON EMPLOYER-SPONSORED RETIREMENT PLANS OR IRAS.

(a) IN GENERAL.—Section 72(t)(2)(A) (relating to subsection not to apply to certain distributions) is amended by striking "or" at the end of clauses (iv) and (v), by striking the period at the end of clause (vi) and inserting ", or", and by adding at the end the following new clause:

"(vii) made on account of a levy under section 6331 on the qualified retirement plan."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to levies made after the date of the enactment of this Act.

Subpart C—Seizures

SEC. 3441. PROHIBITION OF SALES OF SEIZED PROPERTY AT LESS THAN MINIMUM BID.

(a) IN GENERAL.—Section 6335(e)(1)(A)(i) (relating to determinations relating to minimum price) is amended by striking "a minimum price for which such property shall be sold" and inserting "a minimum price below which such property shall not be sold".

(b) REFERENCE TO PENALTY FOR VIOLATION.—Section 6335(e) is amended by adding at the end the following new paragraph:

"(4) CROSS REFERENCE.—

"For provision providing for civil damages for violation of paragraph (1)(A)(i), see section 7433."

SEC. 3442. ACCOUNTING OF SALES OF SEIZED PROPERTY.

(a) IN GENERAL.—Section 6340 (relating to records of sale) is amended—

(1) in subsection (a)—

(A) by striking "real", and

(B) by inserting "or certificate of sale of personal property" after "deed", and

(2) by adding at the end the following new subsection:

"(c) ACCOUNTING TO TAXPAYER.—The taxpayer with respect to whose liability the sale was conducted or who redeemed the property shall be furnished—

"(1) the record under subsection (a) (other than the names of the purchasers),

"(2) the amount from such sale applied to the taxpayer's liability, and

"(3) the remaining balance of such liability."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to seizures occurring after the date of the enactment of this Act.

SEC. 3443. UNIFORM ASSET DISPOSAL MECHANISM.

Not later than the date which is 2 years after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall implement a uniform asset disposal mechanism for sales under section 6335 of the Internal Revenue Code of 1986. The mechanism should be designed to remove any participation in such sales by revenue officers of the Internal Revenue Service and should consider the use of outsourcing.

SEC. 3444. CODIFICATION OF IRS ADMINISTRATIVE PROCEDURES FOR SEIZURE OF TAXPAYER'S PROPERTY.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint), as amended by section 3401(c), is amended by inserting after subsection (c) the following new subsection:

"(d) NO LEVY BEFORE INVESTIGATION OF STATUS OF PROPERTY.—

"(1) IN GENERAL.—For purposes of applying the provisions of this subchapter, no levy may be made on any property or right to property until a thorough investigation of the status of such property has been completed.

"(2) ELEMENTS IN INVESTIGATION.—For purposes of paragraph (1), an investigation of the status of any property shall include—

"(A) a verification of the taxpayer's liability,

"(B) the completion of an analysis under subsection (f),

"(C) the determination that the equity in such property is sufficient to yield net proceeds from the sale of such property to apply to such liability, and

"(D) a thorough consideration of alternative collection methods."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3445. PROCEDURES FOR SEIZURE OF RESIDENCES AND BUSINESSES.

(a) IN GENERAL.—Section 6334(a)(13) (relating to property exempt from levy) is amended to read as follows:

"(13) RESIDENCES EXEMPT IN SMALL DEFICIENCY CASES AND PRINCIPAL RESIDENCES AND CERTAIN BUSINESS ASSETS EXEMPT IN ABSENCE OF CERTAIN APPROVAL OR JEOPARDY.—

"(A) RESIDENCES IN SMALL DEFICIENCY CASES.—If the amount of the levy does not exceed $5,000, any real property used as a residence by the taxpayer or any other individual.

"(B) PRINCIPAL RESIDENCES AND CERTAIN BUSINESS ASSETS.—Except to the extent provided in subsection (e), the principal residence of the taxpayer (within the meaning of section 121), and assets used in the trade or business of an individual taxpayer."

(b) CONFORMING AMENDMENTS.—Section 6334(e) is amended—

(1) by striking "subsection (a)(13)" and inserting "subsection (a)(13)(B)",

(2) by adding at the end the following new flush sentence:

"An official may not approve a levy under paragraph (1) unless the official determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.", and

(3) by inserting "AND CERTAIN BUSINESS ASSETS" after "PRINCIPAL RESIDENCE" in the heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART IV—PROVISIONS RELATING TO EXAMINATION AND COLLECTION ACTIVITIES

SEC. 3461. PROCEDURES RELATING TO EXTENSIONS OF STATUTE OF LIMITATIONS BY AGREEMENT.

(a) REPEAL OF AUTHORITY TO EXTEND 10-YEAR COLLECTION PERIOD AFTER ASSESSMENT.—

Section 6502(a) (relating to length of period after collection) is amended—

(1) by striking paragraph (2) and inserting:

"(2) if there is a release of levy under section 6343 after such 10-year period, prior to the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before such release.", and

(2) by striking the first sentence in the matter following paragraph (2).

(b) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—Paragraph (4) of section 6501(c) (relating to the period for limitations on assessment and collection) is amended—

(1) by striking "Where" and inserting the following:

"(A) IN GENERAL.—Where", and

(2) by adding at the end the following new subparagraph:

"(B) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues or to a particular period of time, on each occasion when the taxpayer is requested to provide such consent."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to requests to extend the period of limitations made after the date of the enactment of this Act.

(2) PRIOR REQUEST.—If, in any request to extend the period of limitations made on or before the date of the enactment of this Act, a taxpayer agreed to extend such period beyond the 10-year period referred to in section 6502(a) of the Internal Revenue Code of 1986, such extension shall expire on the later of—

(A) the last day of such 10-year period, or

(B) the date which is 180 days after such date of the enactment.

SEC. 3462. OFFERS-IN-COMPROMISE.

(a) STANDARDS FOR EVALUATION OF OFFERS-IN-COMPROMISE.—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:

"(c) STANDARDS FOR EVALUATION OF OFFERS.—

"(1) IN GENERAL.—The Secretary shall prescribe guidelines for officers and employees of the Internal Revenue Service to determine whether an offer-in-compromise is adequate.

"(2) ALLOWANCES FOR BASIC LIVING EXPENSES.—

"(A) IN GENERAL.—In prescribing guidelines under paragraph (1), the Secretary shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.

"(B) USE OF SCHEDULES.—The guidelines shall provide that officers and employees of the Internal Revenue Service shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the schedules published under subparagraph (A) is appropriate and shall not use the schedules to the extent such use would result in the taxpayer not having adequate means to provide for basic living expenses.

"(3) SPECIAL RULES RELATING TO TREATMENT OF OFFERS.—The guidelines under paragraph (1) shall provide that—

"(A) an officer or employee of the Internal Revenue Service shall not reject an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer, and

"(B) in the case of an offer-in-compromise which relates only to issues of liability of the taxpayer—

"(i) such offer shall not be rejected solely because the Secretary is unable to locate the taxpayer's return or return information for verification of such liability, and

"(ii) the taxpayer shall not be required to provide a financial statement."

(b) LEVY PROHIBITED WHILE OFFER-IN-COMPROMISE PENDING.—Section 6331 (relating to levy and distraint), as amended by section 3433, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) NO LEVY WHILE CERTAIN OFFERS PENDING.—

"(1) OFFER IN COMPROMISE PENDING.—No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

"(A) during the period that an offer by such person in compromise under section 7122 of such unpaid tax is pending with the Secretary, and

"(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending).

For purposes of subparagraph (A), an offer is pending beginning on the date the Secretary accepts such offer for processing.

"(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (3), (4), and (5) of subsection (i) shall apply for purposes of this subsection."

(c) REVIEW OF REJECTIONS OF OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—

(1) IN GENERAL.—Section 7122 (relating to compromises), as amended by subsection (a), is amended by adding at the end the following:

"(d) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures—

"(1) for an independent administrative review of any rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under this section or section 6159 before such rejection is communicated to the taxpayer, and

"(2) which allow a taxpayer to appeal any rejection of such offer or agreement to the Internal Revenue Service Office of Appeals."

(2) CONFORMING AMENDMENT.—Section 6159 (relating to installment agreements) is amended by adding at the end the following new subsection:

"(d) CROSS REFERENCE.—

"For rights to administrative review and appeal, see section 7122(d)."

(d) PREPARATION OF STATEMENT RELATING TO OFFERS-IN-COMPROMISE.—The Secretary of the Treasury shall prepare a statement which sets forth in simple, nontechnical terms the rights of a taxpayer and the obligations of the Internal Revenue Service relating to offers-in-compromise. Such statement shall—

(1) advise taxpayers who have entered into a compromise of the advantages of promptly notifying the Internal Revenue Service of any change of address or marital status,

(2) provide notice to taxpayers that in the case of a compromise terminated due to the actions of 1 spouse or former spouse, the Internal Revenue Service will, upon application, reinstate such compromise with the spouse or former spouse who remains in compliance with such compromise, and

(3) provide notice to the taxpayer that the taxpayer may appeal the rejection of an offer-in-compromise to the Internal Revenue Service Office of Appeals.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to proposed offers-in-compromise and installment agreements submitted after the date of the enactment of this Act.

(2) SUSPENSION OF COLLECTION BY LEVY.—The amendment made by subsection (b) shall apply to offers-in-compromise pending on or made after the 60th day after the date of the enactment of this Act.

SEC. 3463. NOTICE OF DEFICIENCY TO SPECIFY DEADLINES FOR FILING TAX COURT PETITION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall include on each notice of deficiency under section 6212 of the Internal Revenue Code of 1986 the date determined by such Secretary (or delegate) as the last day on which the taxpayer may file a petition with the Tax Court.

(b) LATER FILING DEADLINES SPECIFIED ON NOTICE OF DEFICIENCY TO BE BINDING.—Subsection (a) of section 6213 (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by adding at the end the following new sentence: "Any petition filed with the Tax Court on or before the last date specified for filing such petition by the Secretary in the notice of deficiency shall be treated as timely filed."

(c) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (b) shall apply to notices mailed after December 31, 1998.

SEC. 3464. REFUND OR CREDIT OF OVERPAYMENTS BEFORE FINAL DETERMINATION.

(a) TAX COURT PROCEEDINGS.—Subsection (a) of section 6213 is amended—

(1) by striking ", including the Tax Court." and inserting ", including the Tax Court, and a refund may be ordered by such court of any amount collected within the period during which the Secretary is prohibited from collecting by levy or through a proceeding in court under the provisions of this subsection.", and

(2) by striking "to enjoin any action or proceeding" and inserting "to enjoin any action or proceeding or order any refund".

(b) OTHER PROCEEDINGS.—Subsection (a) of section 6512 is amended by striking the period at the end of paragraph (4) and inserting ", and", and by inserting after paragraph (4) the following new paragraphs:

"(5) As to any amount collected within the period during which the Secretary is prohibited from making the assessment or from collecting by levy or through a proceeding in court under the provisions of section 6213(a), and

"(6) As to overpayments the Secretary is authorized to refund or credit pending appeal as provided in subsection (b)."

(c) REFUND OR CREDIT PENDING APPEAL.—Paragraph (1) of section 6512(b) is amended by adding at the end the following new sentence: "If a notice of appeal in respect of the decision of the Tax Court is filed under section 7483, the Secretary is authorized to refund or credit the overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3465. IRS PROCEDURES RELATING TO APPEALS OF EXAMINATIONS AND COLLECTIONS.

(a) DISPUTE RESOLUTION PROCEDURES.—

(1) IN GENERAL.—Chapter 74 (relating to closing agreements and compromises) is amended by redesignating section 7123 as section 7124 and by inserting after section 7122 the following new section:

"SEC. 7123. APPEALS DISPUTE RESOLUTION PROCEDURES.

"(a) EARLY REFERRAL TO APPEALS PROCEDURES.—The Secretary shall prescribe procedures by which any taxpayer may request early referral of 1 or more unresolved issues from the examination or collection division to the Internal Revenue Service Office of Appeals.

"(b) ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.—

"(1) MEDIATION.—The Secretary shall prescribe procedures under which a taxpayer or the Internal Revenue Service Office of Appeals may *request non-binding mediation on any issue unresolved at the conclusion of—*

"(A) appeals procedures, or

"(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

"(2) ARBITRATION.—The Secretary shall establish a pilot program under which a taxpayer and the Internal Revenue Service Office of Appeals may jointly request binding arbitration on any issue unresolved at the conclusion of—

"(A) appeals procedures, or

"(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122."

(2) CONFORMING AMENDMENT.—The table of sections for chapter 74 is amended by striking the item relating to section 7123 and inserting the following new items:

"Sec. 7123. Appeals dispute resolution procedures.

"Sec. 7124. Cross references."

(b) APPEALS OFFICERS IN EACH STATE.—The Commissioner of Internal Revenue shall ensure that an appeals officer is regularly available within each State.

(c) APPEALS VIDEOCONFERENCING ALTERNATIVE FOR RURAL AREAS.—The Commissioner of Internal Revenue shall consider the use of the videoconferencing of appeals conferences between appeals officers and taxpayers seeking appeals in rural or remote areas.

SEC. 3466. APPLICATION OF CERTAIN FAIR DEBT COLLECTION PROCEDURES.

(a) IN GENERAL.—Subchapter A of chapter 64 (relating to collection) is amended by inserting after section 6303 the following new section:

"SEC. 6304. FAIR TAX COLLECTION PRACTICES.

"(a) COMMUNICATION WITH THE TAXPAYER.—Without the prior consent of the taxpayer given directly to the Secretary or the express permission of a court of competent jurisdiction, the Secretary may not communicate with a taxpayer in connection with the collection of any unpaid tax—

"(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the taxpayer;

"(2) if the Secretary knows the taxpayer is represented by any person authorized to practice before the Internal Revenue Service with respect to such unpaid tax and has knowledge of, or can readily ascertain, such person's name and address, unless such person fails to respond within a reasonable period of time to a communication from the Secretary or unless such person consents to direct communication with the taxpayer; or

"(3) at the taxpayer's place of employment if the Secretary knows or has reason to know that the taxpayer's employer prohibits the taxpayer from receiving such communication.

In the absence of knowledge of circumstances to the contrary, the Secretary shall assume that the convenient time for communicating with a taxpayer is after 8 a.m. and before 9 p.m., local time at the taxpayer's location.

"(b) PROHIBITION OF HARASSMENT AND ABUSE.—The Secretary may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of any unpaid tax. Without limiting the general application of the foregoing, the following conduct is a violation of this subsection:

"(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

"(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

"(3) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

"(4) Except as provided under rules similar to the rules in section 804 of the Fair Debt Collection Practices Act (15 U.S.C. 1692b), the placement of telephone calls without meaningful disclosure of the caller's identity.

"(c) CIVIL ACTION FOR VIOLATIONS OF SECTION.—

"For civil action for violations of this section, see section 7433."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 64 is amended by inserting after the item relating to section 6303 the following new item:

"Sec. 6304. Fair tax collection practices."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3467. GUARANTEED AVAILABILITY OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SECRETARY REQUIRED TO ENTER INTO INSTALLMENT AGREEMENTS IN CERTAIN CASES.—In the case of a liability for tax of an individual under subtitle A, the Secretary shall enter into an agreement to accept the payment of such tax in installments if, as of the date the individual offers to enter into the agreement—

"(1) the aggregate amount of such liability (determined without regard to interest, penalties, additions to the tax, and additional amounts) does not exceed $10,000,

"(2) the taxpayer (and, if such liability relates to a joint return, the taxpayer's spouse) has not, during any of the preceding 5 taxable years—

"(A) failed to file any return of tax imposed by subtitle A,

"(B) failed to pay any tax required to be shown on any such return, or

"(C) entered into an installment agreement under this section for payment of any tax imposed by subtitle A,

"(3) the Secretary determines that the taxpayer is financially unable to pay such liability in full when due (and the taxpayer submits such information as the Secretary may require to make such determination),

"(4) the agreement requires full payment of such liability within 3 years, and

"(5) the taxpayer agrees to comply with the provisions of this title for the period such agreement is in effect."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle F—Disclosures to Taxpayers

SEC. 3501. EXPLANATION OF JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish procedures to clearly alert married taxpayers of their joint and several liabilities on all appropriate publications and instructions.

(b) RIGHT TO LIMIT LIABILITY.—The procedures under subsection (a) shall include requirements that notice of an individual's right to limit joint and several liability under section 6015 of the Internal Revenue Code of 1986 shall be included in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) and in any collection-related notices.

SEC. 3502. EXPLANATION OF TAXPAYERS' RIGHTS IN INTERVIEWS WITH THE INTERNAL REVENUE SERVICE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) to more clearly inform taxpayers of their rights—

(1) to be represented at interviews with the Internal Revenue Service by any person authorized to practice before the Internal Revenue Service, and

(2) to suspend an interview pursuant to section 7521(b)(2) of the Internal Revenue Code of 1986.

SEC. 3503. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including whether taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the same day.

SEC. 3504. EXPLANATIONS OF APPEALS AND COLLECTION PROCESS.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, include with any 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals an explanation of the entire process from examination through collection with respect to such proposed deficiency, including the assistance available to the taxpayer from the National Taxpayer Advocate at various points in the process.

SEC. 3505. EXPLANATION OF REASON FOR REFUND DENIAL.

(a) IN GENERAL.—Section 6402 (relating to authority to make credits or refunds) is amended by adding at the end the following new subsection:

"(j) EXPLANATION OF REASON FOR REFUND DENIAL.—In the case of a denial of a claim for refund, the Secretary shall provide the taxpayer with an explanation for such denial."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to denials issued after the 180th day after the date of the enactment of this Act.

SEC. 3506. STATEMENTS REGARDING INSTALLMENT AGREEMENTS.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, provide each taxpayer who has an installment agreement in effect under section 6159 of the Internal Revenue Code of 1986 an annual statement setting forth the initial balance at the beginning of the year, the payments made during the year, and the remaining balance as of the end of the year.

SEC. 3507. NOTIFICATION OF CHANGE IN TAX MATTERS PARTNER.

(a) IN GENERAL.—Section 6231(a)(7) (defining tax matters partner) is amended by adding at

the end the following new sentence: "The Secretary shall, within 30 days of selecting a tax matters partner under the preceding sentence, notify all partners required to receive notice under section 6223(a) of the name and address of the individual selected."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to selections of tax matters partners made by the Secretary of the Treasury after the date of the enactment of this Act.

Subtitle G—Low Income Taxpayer Clinics

SEC. 3601. LOW INCOME TAXPAYER CLINICS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by section 3411, is amended by adding at the end the following new section:

"SEC. 7526. LOW INCOME TAXPAYER CLINICS.

"(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED LOW INCOME TAXPAYER CLINIC.—

"(A) IN GENERAL.—The term 'qualified low income taxpayer clinic' means a clinic which—

"(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

"(ii)(I) represents low income taxpayers in controversies with the Internal Revenue Service, or

"(II) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title.

"(B) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(ii)(I) if—

"(i) at least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and

"(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

"(2) CLINIC.—The term 'clinic' includes—

"(A) a clinical program at an accredited law, business, or accounting school in which students represent low income taxpayers in controversies arising under this title, and

"(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

"(3) QUALIFIED REPRESENTATIVE.—The term 'qualified representative' means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

"(c) SPECIAL RULES AND LIMITATIONS.—

"(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $3,000,000 per year (exclusive of costs of administering the program) to grants under this section.

"(2) LIMITATION ON ANNUAL GRANTS TO A CLINIC.—The aggregate amount of grants which may be made under this section to a clinic for a year shall not exceed $100,000.

"(3) MULTI-YEAR GRANTS.—Upon application of a qualified low income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

"(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary shall consider—

"(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

"(B) the existence of other low income taxpayer clinics serving the same population,

"(C) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low income taxpayers, and

"(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic.

"(5) REQUIREMENT OF MATCHING FUNDS.—A low income taxpayer clinic must provide matching funds on a dollar for dollar basis for all grants provided under this section. Matching funds may include—

"(A) the salary (including fringe benefits) of individuals performing services for the clinic, and

"(B) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the institution sponsoring the clinic, shall not be counted as matching funds."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new section:

"Sec. 7526. Low income taxpayer clinics."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle H—Other Matters

SEC. 3701. CATALOGING COMPLAINTS.

In collecting data for the report required under section 1211 of Taxpayer Bill of Rights 2 (Public Law 104–168), the Secretary of the Treasury or the Secretary's delegate shall maintain records of taxpayer complaints of misconduct by Internal Revenue Service employees on an individual employee basis.

SEC. 3702. ARCHIVE OF RECORDS OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

"(17) DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsections (f), (i)(7), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration whose official duties require such disclosure for purposes of such appraisal."

(b) CONFORMING AMENDMENTS.—Section 6103(p) is amended—

(1) in paragraph (3)(A), by striking "or (16)" and inserting "(16), or (17)",

(2) in paragraph (4), by striking "or (14)" and inserting ", (14), or (17)" in the matter preceding subparagraph (A), and

(3) in paragraph (4)(F)(ii), by striking "or (15)" and inserting ", (15), or (17)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Archivist of the United States after the date of the enactment of this Act.

SEC. 3703. PAYMENT OF TAXES.

The Secretary of the Treasury or the Secretary's delegate shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order made payable to the United States Treasury.

SEC. 3704. CLARIFICATION OF AUTHORITY OF SECRETARY RELATING TO THE MAKING OF ELECTIONS.

Subsection (d) of section 7805 is amended by striking "by regulations or forms".

SEC. 3705. IRS EMPLOYEE CONTACTS.

(a) NOTICE.—The Secretary of the Treasury or the Secretary's delegate shall provide that any correspondence or notice received by a taxpayer from the Internal Revenue Service shall include in a prominent manner the name and telephone number of an Internal Revenue Service employee the taxpayer may contact with respect to the correspondence or notice.

(b) SINGLE CONTACT.—The Secretary of the Treasury or the Secretary's delegate shall develop a procedure under which, to the extent practicable and if advantageous to the taxpayer, one Internal Revenue Service employee shall be assigned to handle a taxpayer's matter until it is resolved.

(c) EFFECTIVE DATE.—This section shall take effect 60 days after the date of the enactment of this Act.

SEC. 3706. USE OF PSEUDONYMS BY IRS EMPLOYEES.

(a) IN GENERAL.—Any employee of the Internal Revenue Service may use a pseudonym only if—

(1) adequate justification for the use of a pseudonym is provided by the employee, including protection of personal safety, and

(2) such use is approved by the employee's supervisor before the pseudonym is used.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to requests made after the date of the enactment of this Act.

SEC. 3707. CONFERENCES OF RIGHT IN THE NATIONAL OFFICE OF IRS.

(a) IN GENERAL.—In any conference of right in the National Office of the Internal Revenue Service, participation in such conference shall, upon request of the taxpayer, be limited to personnel of the National Office.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to requests made after the date of the enactment of this Act.

SEC. 3708. ILLEGAL TAX PROTESTER DESIGNATION.

(a) PROHIBITION.—The officers and employees of the Internal Revenue Service—

(1) shall not designate taxpayers as illegal tax protesters (or any similar designation), and

(2) in the case of any such designation made on or before the date of the enactment of this Act—

(A) shall remove such designation from the individual master file, and

(B) shall disregard any such designation not located in the individual master file.

(b) DESIGNATION OF NONFILERS ALLOWED.—An officer or employee of the Internal Revenue Service may designate any appropriate taxpayer as a nonfiler, but shall remove such designation once the taxpayer has filed income tax returns for 2 consecutive taxable years and paid all taxes shown on such returns.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 3709. PROVISION OF CONFIDENTIAL INFORMATION TO CONGRESS BY WHISTLEBLOWERS.

(a) IN GENERAL.—Paragraph (1) of section 6103(f) (relating to disclosure of confidential information to committees of Congress) is amended—

(1) by striking "Upon written" and inserting the following:

"(A) WRITTEN REQUEST BY CHAIRMAN.—Upon written"; and

(2) by adding at the end the following new subparagraph:

"(B) WHISTLEBLOWER INFORMATION.—Any person who otherwise has or had access to any return or return information under this section may disclose such return or return information to a chairman of a committee referred to in subparagraph (A) or the chief of staff of the Joint Committee of Taxation only if—

"(i) the disclosure is for the purpose of alleging an incident of employee misconduct or taxpayer abuse, and

"(ii) the chairman of the committee to which the disclosure is made (or either chairman in the case of disclosure to the chief of staff) gives prior written approval for the disclosure."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3710. LISTING OF LOCAL IRS TELEPHONE NUMBERS AND ADDRESSES.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, provide that the local telephone numbers and addresses of Internal Revenue Service offices located in any particular area be listed in the telephone book for that area.

SEC. 3711. IDENTIFICATION OF RETURN PREPARERS.

(a) IN GENERAL.—The last sentence of section 6109(a) (relating to identifying numbers) is amended by striking "For purposes of this subsection" and inserting "For purposes of paragraphs (1), (2), and (3)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 3712. OFFSET OF PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS AGAINST OVERPAYMENTS.

(a) IN GENERAL.—Section 6402 (relating to authority to make credits or refunds) is amended by redesignating subsections (e) through (i) as subsections (f) through (j), respectively, and by inserting after subsection (d) the following new subsection:

"(e) COLLECTION OF PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS.—

"(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a past-due, legally enforceable State income tax obligation to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

"(A) reduce the amount of any overpayment payable to such person by the amount of such State income tax obligation;

"(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

"(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State income tax obligation.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

"(2) OFFSET PERMITTED ONLY AGAINST RESIDENTS OF STATE SEEKING OFFSET.—Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the return for such taxable year is an address within the State seeking the offset.

"(3) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

"(A) after such overpayment is reduced pursuant to—

"(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment,

"(ii) subsection (c) with respect to past-due support, and

"(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency, and

"(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from 1 or more agencies of the State of more than 1 debt subject to paragraph (1) that is owed by such person to such an agency, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

"(4) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

"(A) notifies the person owing the past-due State income tax liability that the State proposes to take action pursuant to this section,

"(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable,

"(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable, and

"(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such State income tax obligation.

"(5) PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATION.—For purposes of this subsection, the term 'past-due, legally enforceable State income tax obligation' means a debt—

"(A) which resulted from a judgment which—

"(i) was rendered by a court of competent jurisdiction which has determined an amount of State income tax to be due, and

"(ii) is no longer subject to judicial review, and

"(B) which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term 'State income tax' includes any local tax administered by the chief tax administration agency of the State.

"(6) REGULATIONS.—The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State income tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of State income taxes and the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

"(7) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).".

(b) DISCLOSURE OF CERTAIN INFORMATION TO STATES REQUESTING REFUND OFFSETS FOR PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS.—

(1) Paragraph (10) of section 6103(l) is amended by striking "(c) or (d)" each place it appears and inserting "(c), (d), or (e)".

(2) The paragraph heading for such paragraph (10) is amended by striking "SECTION 6402(c) OR 6402(d)" and inserting "SUBSECTION (c), (d), OR (e) OF SECTION 6402".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6402 is amended by striking "(c) and (d)" and inserting "(c) (d), and (e)".

(2) Paragraph (2) of section 6402(d) is amended by striking "and before such overpayment" and inserting "and before such overpayment is reduced pursuant to subsection (e) and before such overpayment".

(3) Subsection (f) of section 6402, as redesignated by subsection (a), is amended—

(A) by striking "(c) or (d)" and inserting "(c), (d), or (e)", and

(B) by striking "Federal agency" and inserting "Federal agency or State".

(4) Subsection (h) of section 6402, as redesignated by subsection (a), is amended by striking "subsection (c)" and inserting "subsection (c) or (e)".

(d) EFFECTIVE DATE.—The amendments made by this section (other than subsection (d)) shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 after December 31, 1998.

SEC. 3713. TREATMENT OF IRS NOTICES ON FOREIGN TAX PROVISIONS.

(a) NOTICE 98–11.—

(1) MORATORIUM.—The Secretary of the Treasury or his delegate shall not implement final or temporary regulations with respect to Internal Revenue Service Notice 98–11 during the period—

(A) beginning on January 16, 1998, and

(B) ending on the date which is 6 months after the date of the enactment of this Act.

(2) SENSE OF SENATE REGARDING NOTICE.—It is the sense of the Senate that—

(A) the Secretary of the Treasury or his delegate should withdraw Internal Revenue Service Notice 98–11 and the regulations issued with respect to such notice, and

(B) Congress, not the Department of the Treasury or the Internal Revenue Service, should determine the policy issues with respect to the treatment of hybrid transactions under subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986.

(b) NOTICE 98–5.—It is the sense of the Senate that—

(1) the Secretary of the Treasury or his delegate should limit any regulations issued with respect to Internal Revenue Service Notice 98–5 to the specific transactions contained in such notice, and

(2) such regulations should—

(A) not affect transactions undertaken in the ordinary course of business,

(B) not have an effective date before the earlier of the dates described in subparagraph (A) or (B) of section 7805(b)(1) of the Internal Revenue Code of 1986, and

(C) be issued in accordance with normal regulatory procedures which include an opportunity for comment.

Nothing in the preceding sentence shall be construed as expressing any intent by the Senate to limit the Secretary's ability to address abusive transactions.

Subtitle I—Studies

SEC. 3801. ADMINISTRATION OF PENALTIES AND INTEREST.

The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study—

(1) reviewing the administration and implementation by the Internal Revenue Service of the interest and penalty provisions of the Internal Revenue Code of 1986 (including the penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989), and

(2) making any legislative and administrative recommendations the Committee or the Secretary deems appropriate to simplify penalty or interest administration and reduce taxpayer burden.

Such studies shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 9 months after the date of the enactment of this Act.

SEC. 3802. CONFIDENTIALITY OF TAX RETURN INFORMATION.

The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as the Committee or the Secretary deems appropriate, to the Congress not later than one year after the date of the enactment of this Act. Such study shall examine—

(1) the present protections for taxpayer privacy,

(2) any need for third parties to use tax return information,

(3) whether greater levels of voluntary compliance may be achieved by allowing the public to know who is legally required to file tax returns, but does not file tax returns, and

(4) the interrelationship of the taxpayer confidentiality provisions in the Internal Revenue Code of 1986 with such provisions in other Federal law, including section 552a of title 5, United States Code (commonly known as the "Freedom of Information Act").

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

SEC. 4001. CENTURY DATE CHANGE.

(a) Sense of Congress.—It is the sense of Congress that the Internal Revenue Service should place a high priority on resolving the century date change computing problems.

(b) Report on Effect of Legislation on Century Date Change.—The Commissioner of Internal Revenue shall expeditiously submit a report to Congress on—

(1) the overall impact of this Act on the ability of the Internal Revenue Service to resolve the century date change computing problems, and

(2) provisions of this Act that will require significant amounts of computer programming prior to December 31, 1999, in order to carry out such provisions.

SEC. 4002. TAX LAW COMPLEXITY ANALYSIS.

(a) Commissioner Study.—

(1) In general.—The Commissioner of Internal Revenue shall conduct each year an analysis of the sources of the complexity of the administration of the Federal tax laws. Such analysis may include an analysis of—

(A) questions frequently asked by taxpayers with respect to return filing,

(B) common errors made by taxpayers in filling out their returns,

(C) areas of law which frequently result in disagreements between taxpayers and the Internal Revenue Service,

(D) major areas of law in which there is no (or incomplete) published guidance or in which the law is uncertain,

(E) areas in which revenue officers make frequent errors interpreting or applying the law,

(F) the impact of recent legislation on complexity, and

(G) forms supplied by the Internal Revenue Service, including the time it takes for taxpayers to complete and review forms, the number of taxpayers who use each form, and how recent legislation has affected the time it takes to complete and review forms.

(2) Report.—The Commissioner shall each year report the results of the analysis conducted under paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, including any recommendations for reducing the complexity of the administration of the Federal tax laws.

(b) Analysis to Accompany Certain Legislation.—

(1) In general.—The Joint Committee on Taxation, in consultation with the Internal Revenue Service and the Department of the Treasury, shall include a tax complexity analysis in each report for legislation, or provide such analysis to members of the committee reporting the legislation as soon as practicable after the report is filed, if—

(A) such legislation is reported by the Committee on Finance in the Senate, the Committee on Ways and Means of the House of Representatives, or any committee of conference, and

(B) such legislation includes a provision which would directly or indirectly amend the Internal Revenue Code of 1986 and which has widespread applicability to individuals or small businesses.

(2) Tax complexity analysis.—For purposes of this subsection, the term "tax complexity analysis" means, with respect to any legislation, a report on the complexity and administrative difficulties of each provision described in paragraph (1)(B) which—

(A) includes—

(i) an estimate of the number of taxpayers affected by the provision, and

(ii) if applicable, the income level of taxpayers affected by the provision, and

(B) should include (if determinable)—

(i) the extent to which tax forms supplied by the Internal Revenue Service would require revision and whether any new forms would be required,

(ii) the extent to which taxpayers would be required to keep additional records,

(iii) the estimated cost to taxpayers to comply with the provision,

(iv) the extent to which enactment of the provision would require the Internal Revenue Service to develop or modify regulatory guidance,

(v) the extent to which the provision may result in disagreements between taxpayers and the Internal Revenue Service, and

(vi) any expected impact on the Internal Revenue Service from the provision (including the impact on internal training, revision of the Internal Revenue Manual, reprogramming of computers, and the extent to which the Internal Revenue Service would be required to divert or redirect resources in response to the provision).

(3) Effective date.—This subsection shall apply to legislation considered on or after January 1, 1999.

TITLE V—REVENUE PROVISIONS

SEC. 5001. CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION.

(a) In General.—Section 404(a) (relating to deduction for contributions of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end the following new paragraph:

"(11) Determinations relating to deferred compensation.—For purposes of determining under this section—

"(A) whether compensation of an employee is deferred compensation, and

"(B) when deferred compensation is paid,

no amount shall be treated as received by the employee, or paid, until it is actually received by the employee."

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

(2) Change in method of accounting.—In the case of any taxpayer required by the amendment made by subsection (a) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

SEC. 5002. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) In General.—Section 904(c) (relating to limitation on credit) is amended—

(1) by striking "in the second preceding taxable year,", and

(2) by striking "or fifth" and inserting "fifth, sixth, or seventh".

(b) Effective Date.—The amendment made by subsection (a) shall apply to credits arising in taxable years ending after the date of the enactment of this Act.

SEC. 5003. CLARIFICATION AND EXPANSION OF MATHEMATICAL ERROR ASSESSMENT PROCEDURES.

(a) TIN Deemed Incorrect if Information on Return Differs With Agency Records.—Section 6213(g)(2) (defining mathematical or clerical error) is amended by adding at the end the following flush sentence:

"A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN."

(b) Expansion of Mathematical Error Procedures to Cases Where TIN Establishes Individual Not Eligible for Tax Credit.—Section 6213(g)(2), as amended by title VI of this Act, is amended by striking "and" at the end of subparagraph (J), by striking the period at the end of the subparagraph (K) and inserting ", and", and by adding at the end the following new subparagraph:

"(L) the inclusion on a return of a TIN required to be included on the return under section 21, 24, or 32 if—

"(i) such TIN is of an individual whose age affects the amount of the credit under such section, and

"(ii) the computation of the credit on the return reflects the treatment of such individual as being of an age different from the individual's age based on such TIN."

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 5004. TERMINATION OF EXCEPTION FOR CERTAIN REAL ESTATE INVESTMENT TRUSTS FROM THE TREATMENT OF STAPLED ENTITIES.

(a) In General.—Notwithstanding paragraph (3) of section 136(c) of the Tax Reform Act of 1984 (relating to stapled stock; stapled entities), the REIT gross income provisions shall be applied by treating the activities and gross income of members of the stapled REIT group properly allocable to any nonqualified real property interest held by the exempt REIT or any stapled entity which is a member of such group (or treated under subsection (c) as held by such REIT or stapled entity) as the activities and gross income of the exempt REIT in the same manner as if the exempt REIT and such group were 1 entity.

(b) Nonqualified Real Property Interest.—For purposes of this section—

(1) In general.—The term "nonqualified real property interest" means, with respect to any

exempt REIT, any interest in real property acquired after March 26, 1998, by the exempt REIT or any stapled entity.

(2) EXCEPTION FOR BINDING CONTRACTS, ETC.—Such term shall not include any interest in real property acquired after March 26, 1998, by the exempt REIT or any stapled entity if—

(A) the acquisition is pursuant to a written agreement which was binding on such date and at all times thereafter on such REIT or stapled entity, or

(B) the acquisition is described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) IMPROVEMENTS AND LEASES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term "nonqualified real property interest" shall not include—

(i) any improvement to land owned or leased by the exempt REIT or any member of the stapled REIT group, and

(ii) any repair to, or improvement of, any improvement owned or leased by the exempt REIT or any member of the stapled REIT group,

if such ownership or leasehold interest is a qualified real property interest.

(B) LEASES.—Such term shall not include any lease of a qualified real property interest.

(C) TERMINATION WHERE CHANGE IN USE.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to any improvement placed in service after December 31, 1999, which is part of a change in the use of the property to which such improvement relates unless the cost of such improvement does not exceed 200 percent of—

(I) the cost of such property, or

(II) if such property is substituted basis property (as defined in section 7701(a)(42) of the Internal Revenue Code of 1986), the fair market value of the property at the time of acquisition.

(ii) BINDING CONTRACTS.—For purposes of clause (i), an improvement shall be treated as placed in service before January 1, 2000, if such improvement is placed in service before January 1, 2004, pursuant to a binding contract in effect on December 31, 1999, and at all times thereafter.

(4) TREATMENT OF ENTITIES WHICH ARE NOT STAPLED, ETC. ON MARCH 26, 1998.—Notwithstanding any other provision of this section, all interests in real property held by an exempt REIT or any stapled entity with respect to such REIT (or treated under subsection (c) as held by such REIT or stapled entity) shall be treated as nonqualified real property interests unless—

(A) such stapled entity was a stapled entity with respect to such REIT as of March 26, 1998, and at all times thereafter, and

(B) as of March 26, 1998, and at all times thereafter, such REIT was a real estate investment trust.

(5) QUALIFIED REAL PROPERTY INTEREST.—The term "qualified real property interest" means any interest in real property other than a nonqualified real property interest.

(c) TREATMENT OF PROPERTY HELD BY 10-PERCENT SUBSIDIARIES.—For purposes of this section—

(1) IN GENERAL.—Any exempt REIT and any stapled entity shall be treated as holding their proportionate shares of each interest in real property held by any 10-percent subsidiary entity of the exempt REIT or stapled entity, as the case may be.

(2) PROPERTY HELD BY 10-PERCENT SUBSIDIARIES TREATED AS NONQUALIFIED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any interest in real property held by a 10-percent subsidiary entity of an exempt REIT or stapled entity shall be treated as a nonqualified real property interest.

(B) EXCEPTION FOR INTERESTS IN REAL PROPERTY HELD ON MARCH 26, 1998, ETC.—In the case of an entity which was a 10-percent subsidiary entity of an exempt REIT or stapled entity on March 26, 1998, and at all times thereafter, an interest in real property held by such subsidiary entity shall be treated as a qualified real property interest if such interest would be so treated if held directly by the exempt REIT or the stapled entity.

(3) REDUCTION IN QUALIFIED REAL PROPERTY INTERESTS IF INCREASE IN OWNERSHIP OF SUBSIDIARY.—If, after March 26, 1998, an exempt REIT or stapled entity increases its ownership interest in a subsidiary entity to which paragraph (2)(B) applies above its ownership interest in such subsidiary entity as of such date, the additional portion of each interest in real property which is treated as held by the exempt REIT or stapled entity by reason of such increased ownership shall be treated as a nonqualified real property interest.

(4) SPECIAL RULES FOR DETERMINING OWNERSHIP.—For purposes of this subsection—

(A) percentage ownership of an entity shall be determined in accordance with subsection (e)(4),

(B) interests in the entity which are acquired by the exempt REIT or stapled entity in any acquisition described in an agreement, announcement, or filing described in subsection (b)(2) shall be treated as acquired on March 26, 1998, and

(C) except as provided in guidance prescribed by the Secretary, any change in proportionate ownership which is attributable solely to fluctuations in the relative fair market values of different classes of stock shall not be taken into account.

(d) TREATMENT OF PROPERTY SECURED BY MORTGAGE HELD BY EXEMPT REIT OR MEMBER OF STAPLED REIT GROUP.—

(1) IN GENERAL.—In the case of any nonqualified obligation held by an exempt REIT or any member of the stapled REIT group, the REIT gross income provisions shall be applied by treating the exempt REIT as having impermissible tenant service income equal to—

(A) the interest income from such obligation which is properly allocable to the property described in paragraph (2), and

(B) the income of any member of the stapled REIT group from services described in paragraph (2) with respect to such property.

If the income referred to in subparagraph (A) or (B) is of a 10-percent subsidiary entity, only the portion of such income which is properly allocable to the exempt REIT's or the stapled entity's interest in the subsidiary entity shall be taken into account.

(2) NONQUALIFIED OBLIGATION.—Except as otherwise provided in this subsection, the term "nonqualified obligation" means any obligation secured by a mortgage on an interest in real property if the income of any member of the stapled REIT group for services furnished with respect to such property would be impermissible tenant service income were such property held by the exempt REIT and such services furnished by the exempt REIT.

(3) EXCEPTION FOR CERTAIN MARKET RATE OBLIGATIONS.—Such term shall not include any obligation—

(A) payments under which would be treated as interest if received by a REIT, and

(B) the rate of interest on which does not exceed an arm's length rate.

(4) EXCEPTION FOR EXISTING OBLIGATIONS.—Such term shall not include any obligation—

(A) which is secured on March 26, 1998, by an interest in real property, and

(B) which is held on such date by the exempt REIT or any entity which is a member of the stapled REIT group on such date and at all times thereafter,

but only so long as such obligation is secured by such interest. The preceding sentence shall not cease to apply by reason of the refinancing of the obligation if (immediately after the refinancing) the principal amount of the obligation resulting from the refinancing does not exceed the principal amount of the refinanced obligation (immediately before the refinancing).

(5) TREATMENT OF ENTITIES WHICH ARE NOT STAPLED, ETC. ON MARCH 26, 1998.—A rule similar to the rule of subsection (b)(4) shall apply for purposes of this subsection.

(6) INCREASE IN AMOUNT OF NONQUALIFIED OBLIGATIONS IF INCREASE IN OWNERSHIP OF SUBSIDIARY.—A rule similar to the rule of subsection (c)(3) shall apply for purposes of this subsection.

(7) COORDINATION WITH SUBSECTION (a).—This subsection shall not apply to the portion of any interest in real property that the exempt REIT or stapled entity holds or is treated as holding under this section without regard to this subsection.

(e) DEFINITIONS.—For purposes of this section—

(1) REIT GROSS INCOME PROVISIONS.—The term "REIT gross income provisions" means—

(A) paragraphs (2), (3), and (6) of section 856(c) of the Internal Revenue Code of 1986, and

(B) section 857(b)(5) of such Code.

(2) EXEMPT REIT.—The term "exempt REIT" means a real estate investment trust to which section 269B of the Internal Revenue Code of 1986 does not apply by reason of paragraph (3) of section 136(c) of the Tax Reform Act of 1984.

(3) STAPLED REIT GROUP.—The term "stapled REIT group" means, with respect to an exempt REIT, the group consisting of—

(A) all entities which are stapled entities with respect to the exempt REIT, and

(B) all entities which are 10-percent subsidiary entities of the exempt REIT or any such stapled entity.

(4) 10-PERCENT SUBSIDIARY ENTITY.—

(A) IN GENERAL.—The term "10-percent subsidiary entity" means, with respect to any exempt REIT or stapled entity, any entity in which the exempt REIT or stapled entity (as the case may be) directly or indirectly holds at least a 10-percent interest.

(B) EXCEPTION FOR CERTAIN C CORPORATION SUBSIDIARIES OF REITS.—A corporation which would, but for this subparagraph, be treated as a 10-percent subsidiary of an exempt REIT shall not be so treated if such corporation is taxable under section 11 of the Internal Revenue Code of 1986.

(C) 10-PERCENT INTEREST.—The term "10-percent interest" means—

(i) in the case of an interest in a corporation, ownership of 10 percent (by vote or value) of the stock in such corporation,

(ii) in the case of an interest in a partnership, ownership of 10 percent of the assets or net profits interest in the partnership, and

(iii) in any other case, ownership of 10 percent of the beneficial interests in the entity.

(5) OTHER DEFINITIONS.—Terms used in this section which are used in section 269B or section 856 of such Code shall have the respective meanings given such terms by such section.

(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance to prevent the avoidance of such purposes and to prevent the double counting of income.

(g) EFFECTIVE DATE.—This section shall apply to taxable years ending after March 26, 1998.

SEC. 5005. CERTAIN CUSTOMER RECEIVABLES INELIGIBLE FOR MARK-TO-MARKET TREATMENT.

(a) CERTAIN RECEIVABLES NOT ELIGIBLE FOR MARK TO MARKET.—Section 475(c) (relating to definitions) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR CERTAIN RECEIVABLES.—

"(A) In General.—Paragraph (2)(C) shall not include any note, bond, debenture, or other evidence of indebtedness which is nonfinancial customer paper.

"(B) Nonfinancial Customer Paper.—For purposes of subparagraph (A), the term 'nonfinancial customer paper' means any receivable—

"(i) arising out of the sale of goods or services by a person the principal activity of which is the selling or providing of nonfinancial goods and services, and

"(ii) held by such person (or a person who bears a relationship to such person described in section 267(b) or 707(b)) at all times since issue."

(b) Effective Date.—

(1) In General.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) Change in Method of Accounting.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 5006. INCLUSION OF ROTAVIRUS GASTROENTERITIS TO LIST OF TAXABLE VACCINES.

(a) In General.—Section 4132(1) (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

"(K) Any vaccine against rotavirus gastroenteritis."

(b) Effective Date.—

(1) Sales.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

(2) Deliveries.—For purposes of paragraph (1), in the case of sales on or before the date of the enactment of this Act for which delivery is made after such date, the delivery date shall be considered the sale date.

TITLE VI—TECHNICAL CORRECTIONS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Tax Technical Corrections Act of 1998".

SEC. 6002. DEFINITIONS.

For purposes of this title—

(1) 1986 Code.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) 1997 Act.—The term "1997 Act" means the Taxpayer Relief Act of 1997.

SEC. 6003. AMENDMENTS RELATED TO TITLE I OF 1997 ACT.

(a) Amendments Related to Section 101(a) of 1997 Act.—

(1) Subsection (d) of section 24 of the 1986 Code is amended—

(A) by striking paragraphs (3) and (4),

(B) by redesignating paragraph (5) as paragraph (3), and

(C) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) In General.—In the case of a taxpayer with 3 or more qualifying children for any taxable year, the aggregate credits allowed under subpart C shall be increased by the lesser of—

"(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a), or

"(B) the amount by which the aggregate amount of credits allowed by this subpart (without regard to this subsection) would increase if the limitation imposed by section 26(a) were increased by the excess (if any) of—

"(i) the taxpayer's social security taxes for the taxable year, over

"(ii) the credit allowed under section 32 (determined without regard to subsection (n)) for the taxable year.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a).

"(2) Reduction of Credit to Taxpayer Subject to Alternative Minimum Tax.—The credit determined under this subsection for the taxable year shall be reduced by the excess (if any) of—

"(A) the amount of tax imposed by section 55 (relating to alternative minimum tax) with respect to such taxpayer for such taxable year, over

"(B) the amount of the reduction under section 32(h) with respect to such taxpayer for such taxable year."

(2) Paragraph (3) of section 24(d) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking "paragraph (3)" and inserting "paragraph (1)".

(b) Amendments Related to Section 101(b) of 1997 Act.—

(1) The subsection (m) of section 32 of the 1986 Code added by section 101(b) of the 1997 Act is amended to read as follows:

"(n) Supplemental Child Credit.—

"(1) In General.—In the case of a taxpayer with respect to whom a credit is allowed under section 24(a) for the taxable year, the credit otherwise allowable under this section shall be increased by the lesser of—

"(A) the excess of—

"(i) the credits allowed under subpart A (determined after the application of section 26 and without regard to this subsection), over

"(ii) the credits which would be allowed under subpart A after the application of section 26, determined without regard to section 24 and this subsection, or

"(B) the excess of—

"(i) the sum of the credits allowed under this part (determined without regard to sections 31, 33, and 34 and this subsection), over

"(ii) the sum of the regular tax and the social security taxes (as defined in section 24(d)).

The credit determined under this subsection shall be allowed without regard to any other provision of this section, including subsection (d).

"(2) Coordination With Other Credits.—The amount of the credit under this subsection shall reduce the amount of the credits otherwise allowable under subpart A for the taxable year (determined after the application of section 26), but the amount of the credit under this subsection (and such reduction) shall not be taken into account in determining the amount of any other credit allowable under this part.".

SEC. 6004. AMENDMENTS RELATED TO TITLE II OF 1997 ACT.

(a) Amendments Related to Section 201 of 1997 Act.—

(1) The item relating to section 25A in the table of sections for subpart A of part IV of subchapter A of chapter 1 of the 1986 Code is amended to read as follows:

"Sec. 25A. Hope and Lifetime Learning credits."

(2) Subsection (a) of section 6050S of the 1986 Code is amended to read as follows:

"(a) In General.—Any person—

"(1) which is an eligible educational institution—

"(A) which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

"(B) which makes reimbursements or refunds (or similar amounts) to any individual of qualified tuition and related expenses,

"(2) which is engaged in a trade or business of making payments to any individual under an insurance arrangement as reimbursements or refunds (or similar amounts) of qualified tuition and related expenses, or

"(3) except as provided in regulations, which is engaged in a trade or business and, in the course of which, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe."

(3) Subparagraph (A) of section 201(c)(2) of the 1997 Act is amended to read as follows:

"(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

"'(x) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),'".

(b) Amendment Related to Section 202 of 1997 Act.—Paragraph (1) of section 221(e) of the 1986 Code is amended by inserting "by the taxpayer" after "incurred" the first place it appears.

(c) Amendments Related to Section 211 of 1997 Act.—

(1) Paragraph (3) of section 135(c) of the 1986 Code is amended to read as follows:

"(3) Eligible Educational Institution.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5)."

(2) Subparagraph (A) of section 529(c)(3) of the 1986 Code is amended by striking "section 72(b)" and inserting "section 72".

(3) Paragraph (2) of section 529(e) of the 1986 Code is amended to read as follows:

"(2) Member of Family.—The term 'member of the family' means, with respect to any designated beneficiary—

"(A) the spouse of such beneficiary,

"(B) an individual who bears a relationship to such beneficiary which is described in paragraphs (1) through (8) of section 152(a), and

"(C) the spouse of any individual described in subparagraph (B)."

(d) Amendments Related to Section 213 of 1997 Act.—

(1) Section 530(b)(1) of the 1986 Code (defining education individual retirement account) is amended by inserting "an individual who is" before "the designated beneficiary" in the material preceding subparagraph (A).

(2)(A) Section 530(b)(1)(E) of the 1986 Code (defining education individual retirement account) is amended to read as follows:

"(E) Except as provided in subsection (d)(7), any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death of such beneficiary."

(B) Paragraph (7) of section 530(d) of the 1986 Code is amended by inserting at the end the following new sentence: "In applying the preceding sentence, members of the family of the designated beneficiary shall be treated in the same manner as the spouse under such paragraph (8)."

(C) Subsection (d) of section 530 of the 1986 Code is amended by adding at the end the following new paragraph:

"(8) Deemed Distribution on Required Distribution Date.—In any case in which a distribution is required under subsection (b)(1)(E),

any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period."

(3)(A) Paragraph (1) of section 530(d) of the 1986 Code is amended by striking "section 72(b)" and inserting "section 72".

(B) Subsection (e) of section 72 of the 1986 Code is amended by inserting after paragraph (8) the following new paragraph:

"(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED STATE TUITION PROGRAMS AND EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified State tuition program (as defined in section 529(b)) or under an education individual retirement account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph."

(4) Paragraph (2) of section 135(d) of the 1986 Code is amended to read as follows:

"(2) COORDINATION WITH OTHER HIGHER EDUCATION BENEFITS.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by—

"(A) the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 25A with respect to such expenses, and

"(B) the amount of such expenses which are taken into account in determining the exclusion under section 530(d)(2)."

(5) Section 530(d)(2) (relating to distributions for qualified higher education expenses) is amended by adding at the end the following new subparagraph:

"(D) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph."

(6) Section 530(d)(4)(B) of the 1986 Code (relating to exceptions) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or", and by adding at the end the following new clause:

"(iv) an amount which is includible in gross income solely because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2) for the taxable year."

(7) So much of section 530(d)(4)(C) of the 1986 Code as precedes clause (ii) thereof is amended to read as follows:

"(C) CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

"(i) such distribution is made on or before the day prescribed by law (including extensions of time) for filing the beneficiary's return of tax for the taxable year or, if the beneficiary is not required to file such a return, the 15th day of the 4th month of the taxable year following the taxable year, and".

(8) Subparagraph (C) of section 135(c)(2) of the 1986 Code is amended—

(A) by inserting "AND EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS" in the heading after "PROGRAM", and

(B) by striking "section 529(c)(3)(A)" and inserting "section 72".

(9) Paragraph (1) of section 4973(e) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—In the case of education individual retirement accounts maintained for the benefit of any 1 beneficiary, the term 'excess contributions' means the sum of—

"(A) the amount by which the amount contributed for the taxable year to such accounts exceeds \$500 (or, if less, the sum of the maximum amounts permitted to be contributed under section 530(c) by the contributors to such accounts for such year),

"(B) if any amount is contributed during such year to a qualified State tuition program for the benefit of such beneficiary, any amount contributed to such accounts for any taxable year, and

"(C) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"(i) the distributions out of the accounts for the taxable year which are included in gross income, and

"(ii) the excess (if any) of the maximum amount which may be contributed to the accounts for the taxable year (other than excess contributions within the meaning of subparagraphs (A) and (B)) over the amount contributed to the accounts for the taxable year."

(e) AMENDMENTS RELATED TO SECTION 224 OF 1997 ACT.—

(1) Clauses (vi) and (vii) of section 170(e)(6)(B) of the 1986 Code are each amended by striking "entity's" and inserting "donee's".

(2) Clause (iv) of section 170(e)(6)(B) of the 1986 Code is amended by striking "organization or entity" and inserting "donee".

(3) Subclause (I) of section 170(e)(6)(C)(ii) of the 1986 Code is amended by striking "an entity" and inserting "a donee".

(4) Section 170(e)(6)(F) of the 1986 Code (relating to termination) is amended by striking "1999" and inserting "2000".

(f) AMENDMENTS RELATED TO SECTION 225 OF 1997 ACT.—

(1) The last sentence of section 108(f)(2) of the 1986 Code is amended to read as follows:

"The term 'student loan' includes any loan made by an educational organization described in section 170(b)(1)(A)(ii) or by an organization exempt from tax under section 501(a) to refinance a loan to an individual to assist the individual in attending any such educational organization but only if the refinancing loan is pursuant to a program of the refinancing organization which is designed as described in subparagraph (D)(ii)."

(2) Section 108(f)(3) of the 1986 Code is amended by striking "(or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D))".

(g) AMENDMENTS RELATED TO SECTION 226 OF 1997 ACT.—

(1) Section 226(a) of the 1997 Act is amended by striking "section 1397E" and inserting "section 1397D".

(2) Section 1397E(d)(4)(B) of the 1986 Code is amended by striking "local education agency as defined" and inserting "local educational agency as defined".

(3) Section 1397E is amended by adding at the end the following new subsection:

"(h) CREDIT TREATED AS ALLOWED UNDER PART IV OF SUBCHAPTER A.—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter."

SEC. 6005. AMENDMENTS RELATED TO TITLE III OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF 1997 ACT.—

(1) Section 219(g) of the 1986 Code is amended—

(A) by inserting "or the individual's spouse" after "individual" in paragraph (1), and

(B) by striking paragraph (7) and inserting:

"(7) SPECIAL RULE FOR SPOUSES WHO ARE NOT ACTIVE PARTICIPANTS.—If this subsection applies to an individual for any taxable year solely because their spouse is an active participant, then, in applying this subsection to the individual (but not their spouse)—

"(A) the applicable dollar amount under paragraph (3)(B)(i) shall be \$150,000, and

"(B) the amount applicable under paragraph (2)(A)(ii) shall be \$10,000."

(2) Paragraph (2) of section 301(a) of the 1997 Act is amended by inserting "after '\$10,000'" before the period.

(b) AMENDMENTS RELATED TO SECTION 302 OF 1997 ACT.—

(1) Section 408A(c)(3)(A) of the 1986 Code is amended by striking "shall be reduced" and inserting "shall not exceed an amount equal to the amount determined under paragraph (2)(A) for such taxable year, reduced".

(2) Section 408A(c)(3) of the 1986 Code (relating to limits based on modified adjusted gross income) is amended—

(A) by inserting "or a married individual filing a separate return" after "joint return" in subparagraph (A)(ii),

(B) in subparagraph (B)—

(i) by inserting ", for the taxable year of the distribution to which such contribution relates" after "if", and

(ii) by striking "for such taxable year" in clause (i), and

(C) by striking "and the deduction under section 219 shall be taken into account" in subparagraph (C)(i).

(3)(A) Section 408A(d)(2) of the 1986 Code (defining qualified distribution) is amended by striking subparagraph (B) and inserting the following:

"(B) DISTRIBUTIONS WITHIN NONEXCLUSION PERIOD.—A payment or distribution from a Roth IRA shall not be treated as a qualified distribution under subparagraph (A) if such payment or distribution is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to a Roth IRA (or such individual's spouse made a contribution to a Roth IRA) established for such individual."

(B) Section 408A(d)(2) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(C) DISTRIBUTIONS OF EXCESS CONTRIBUTIONS AND EARNINGS.—The term 'qualified distribution' shall not include any distribution of any contribution described in section 408(d)(4) and any net income allocable to the contribution."

(4) Section 408A(d)(3) of the 1986 Code (relating to rollovers from IRAs other than Roth IRAs) is amended—

(A) by striking clause (iii) of subparagraph (A) and inserting:

"(iii) unless the taxpayer elects not to have this clause apply for any taxable year, any amount required to be included in gross income for such taxable year by reason of this paragraph for any distribution before January 1, 1999, shall be so included ratably over the 4-taxable year period beginning with such taxable year.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year."; and

(B) by adding at the end the following:

"(F) SPECIAL RULES FOR CONTRIBUTIONS TO WHICH 4-YEAR AVERAGING APPLIES.—In the case of a qualified rollover contribution to a Roth IRA of a distribution to which subparagraph (A)(iii) applied, the following rules shall apply:

"(i) ACCELERATION OF INCLUSION.—

"(I) IN GENERAL.—The amount required to be included in gross income for each of the first 3 taxable years in the 4-year period under subparagraph (A)(iii) shall be increased by the aggregate distributions from Roth IRAs for such taxable year which are allocable under paragraph (4) to the portion of such qualified rollover contribution required to be included in gross income under subparagraph (A)(i).

"(II) LIMITATION ON AGGREGATE AMOUNT INCLUDED.—The amount required to be included in gross income for any taxable year under subparagraph (A)(iii) shall not exceed the aggregate amount required to be included in gross income under subparagraph (A)(iii) for all taxable years in the 4-year period (without regard to subclause (I)) reduced by amounts included for all preceding taxable years.

"(ii) DEATH OF DISTRIBUTEE.—

"(I) IN GENERAL.—If the individual required to include amounts in gross income under such subparagraph dies before all of such amounts are included, all remaining amounts shall be included in gross income for the taxable year which includes the date of death.

"(II) SPECIAL RULE FOR SURVIVING SPOUSE.—If the spouse of the individual described in subclause (I) acquires the individual's entire interest in any Roth IRA to which such qualified rollover contribution is properly allocable, the spouse may elect to treat the remaining amounts described in subclause (I) as includible in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of such individual in which such amounts would otherwise have been includible. Any such election may not be made or changed after the due date for the spouse's taxable year which includes the date of death.

"(G) SPECIAL RULE FOR APPLYING SECTION 72.—

"(i) IN GENERAL.—If—

"(I) any portion of a distribution from a Roth IRA is properly allocable to a qualified rollover contribution described in this paragraph, and

"(II) such distribution is made within the 5-taxable year period beginning with the taxable year in which such contribution was made,

then section 72(t) shall be applied as if such portion were includible in gross income.

"(ii) LIMITATION.—Clause (i) shall apply only to the extent of the amount of the qualified rollover contribution includible in gross income under subparagraph (A)(i)."

(5)(A) Section 408A(d)(4) of the 1986 Code is amended to read as follows:

"(4) AGGREGATION AND ORDERING RULES.—

"(A) AGGREGATION RULES.—Section 408(d)(2) shall be applied separately with respect to Roth IRAs and other individual retirement plans.

"(B) ORDERING RULES.—For purposes of applying this section and section 72 to any distribution from a Roth IRA, such distribution shall be treated as made—

"(i) from contributions to the extent that the amount of such distribution, when added to all previous distributions from the Roth IRA, does not exceed the aggregate contributions to the Roth IRA, and

"(ii) from such contributions in the following order:

"(I) Contributions other than qualified rollover contributions to which paragraph (3) applies.

"(II) Qualified rollover contributions to which paragraph (3) applies on a first-in, first-out basis.

Any distribution allocated to a qualified rollover contribution under clause (ii)(II) shall be allocated first to the portion of such contribution required to be included in gross income."

(B) Section 408A(d)(1) of the 1986 Code is amended to read as follows:

"(1) EXCLUSION.—Any qualified distribution from a Roth IRA shall not be includible in gross income."

(6)(A) Section 408A(d) of the 1986 Code (relating to distribution rules) is amended by adding at the end the following:

"(6) TAXPAYER MAY MAKE ADJUSTMENTS BEFORE DUE DATE.—

"(A) IN GENERAL.—Except as provided by the Secretary, if, on or before the due date for any taxable year, a taxpayer transfers in a trustee-to-trustee transfer any contribution to an individual retirement plan made during such taxable year from such plan to any other individual retirement plan, then, for purposes of this chapter, such contribution shall be treated as having been made to the transferee plan (and not the transferor plan).

"(B) SPECIAL RULES.—

"(i) TRANSFER OF EARNINGS.—Subparagraph (A) shall not apply to the transfer of any contribution unless such transfer is accompanied by any net income allocable to such contribution.

"(ii) NO DEDUCTION.—Subparagraph (A) shall apply to the transfer of any contribution only to the extent no deduction was allowed with respect to the contribution to the transferor plan."

(B) Section 408A(d)(3) of the 1986 Code, as amended by this subsection, is amended by striking subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(7) Section 408A(d) of the 1986 Code, as amended by paragraph (6), is amended by adding at the end the following new paragraph:

"(7) DUE DATE.—For purposes of this subsection, the due date for any taxable year is the date prescribed by law (including extensions of time) for filing the taxpayer's return for such taxable year."

(8)(A) Section 4973(f) of the 1986 Code is amended—

(i) by striking "such accounts" in paragraph (1)(A) and inserting "Roth IRAs", and

(ii) by striking "to the accounts" in paragraph (2)(B) and inserting "by the individual to all individual retirement plans".

(B) Section 4973(b) of the 1986 Code is amended—

(i) by inserting "a contribution to a Roth IRA or" after "other than" in paragraph (1)(A), and

(ii) by inserting "(including the amount contributed to a Roth IRA)" after "annuities" in paragraph (2)(C).

(C) Section 302(b) of the 1997 Act is amended by striking "Section 4973(b)" and inserting "Section 4973".

(9) Section 408A of the 1986 Code is amended by adding at the end the following new subsection:

"(f) INDIVIDUAL RETIREMENT PLAN.—For purposes of this section—

"(1) a simplified employee pension or a simple retirement account may not be designated as a Roth IRA, and

"(2) contributions to any such pension or account shall not be taken into account for purposes of subsection (c)(2)(B)."

(c) AMENDMENTS RELATED TO SECTION 303 OF 1997 ACT.—

(1) Section 72(t)(8)(E) of the 1986 Code is amended—

(A) by striking "120 days" and inserting "120th day", and

(B) by striking "60 days" and inserting "60th day".

(2)(A) Section 402(c)(4) of the 1986 Code is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", by inserting at the end the following new subparagraph:

"(C) any hardship distribution described in section 401(k)(2)(B)(i)(IV)."

(B) Section 403(b)(8)(B) of the 1986 Code is amended by inserting "(including paragraph (4)(C) thereof)" after "section 402(c)".

(C) The amendments made by this paragraph shall apply to distributions after December 31, 1998.

(d) AMENDMENTS RELATED TO SECTION 311 OF 1997 ACT.—

(1) Subsection (h) of section 1 of the 1986 Code (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the net capital gain, or

"(ii) the lesser of—

"(I) the amount of taxable income taxed at a rate below 28 percent, or

"(II) taxable income reduced by the adjusted net capital gain,

"(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

"(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 28 percent, over

"(ii) the taxable income reduced by the adjusted net capital gain,

"(C) 20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B),

"(D) 25 percent of the excess (if any) of—

"(i) the unrecaptured section 1250 gain (or, if less, the net capital gain), over

"(ii) the excess (if any) of—

"(I) the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain, over

"(II) taxable income, and

"(E) 28 percent of the amount of taxable income in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

"(2) REDUCED CAPITAL GAIN RATES FOR QUALIFIED 5-YEAR GAIN.—

"(A) REDUCTION IN 10-PERCENT RATE.—In the case of any taxable year beginning after December 31, 2000, the rate under paragraph (1)(B) shall be 8 percent with respect to so much of the amount to which the 10-percent rate would otherwise apply as does not exceed qualified 5-year gain, and 10 percent with respect to the remainder of such amount.

"(B) REDUCTION IN 20-PERCENT RATE.—The rate under paragraph (1)(C) shall be 18 percent with respect to so much of the amount to which the 20-percent rate would otherwise apply as does not exceed the lesser of—

"(i) the excess of qualified 5-year gain over the amount of such gain taken into account under subparagraph (A) of this paragraph, or

"(ii) the amount of qualified 5-year gain (determined by taking into account only property the holding period for which begins after December 31, 2000),

and 20 percent with respect to the remainder of such amount. For purposes of determining under the preceding sentence whether the holding period of property begins after December 31, 2000, the holding period of property acquired pursuant to the exercise of an option (or other right or obligation to acquire property) shall include the period such option (or other right or obligation) was held.

"(3) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(4) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term 'adjusted net capital gain' means net capital gain reduced (but not below zero) by the sum of—

"(A) unrecaptured section 1250 gain, and

"(B) 28 percent rate gain.

"(5) 28 PERCENT RATE GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term '28 percent rate gain' means the excess (if any) of—

"(i) the sum of—

"(I) the aggregate long-term capital gain from property held for more than 1 year but not more than 18 months,

"(II) collectibles gain, and

"(III) section 1202 gain, over

"(ii) the sum of—

"(I) the aggregate long-term capital loss (not described in subclause (IV)) from property referred to in clause (i)(I),

"(II) collectibles loss,

"(III) the net short-term capital loss, and

"(IV) the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.

"(B) SPECIAL RULES.—

"(i) SHORT SALE GAINS AND HOLDING PERIODS.—Rules similar to the rules of section 1233(b) shall apply where the substantially identical property has been held more than 1 year but not more than 18 months; except that, for purposes of such rules—

"(I) section 1233(b)(1) shall be applied by substituting '18 months' for '1 year' each place it appears, and

"(II) the holding period of such property shall be treated as being 1 year on the day before the earlier of the date of the closing of the short sale or the date such property is disposed of.

"(ii) LONG-TERM LOSSES.—Section 1233(d) shall be applied separately by substituting '18 months' for '1 year' each place it appears.

"(iii) OPTIONS.—A rule similar to the rule of section 1092(f) shall apply where the stock was held for more than 18 months.

"(iv) SECTION 1256 CONTRACTS.—Amounts treated as long-term capital gain or loss under section 1256(a)(3) shall be treated as attributable to property held for more than 18 months.

"(6) COLLECTIBLES GAIN AND LOSS.—For purposes of this subsection—

"(A) IN GENERAL.—The terms 'collectibles gain' and 'collectibles loss' mean gain or loss (respectively) from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 18 months but only to the extent such gain is taken into account in computing gross income and such loss is taken into account in computing taxable income.

"(B) PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

"(7) UNRECAPTURED SECTION 1250 GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'unrecaptured section 1250 gain' means the excess (if any) of—

"(i) the amount of long-term capital gain (not otherwise treated as ordinary income) which would be treated as ordinary income if—

"(I) section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, and

"(II) only gain from property held for more than 18 months were taken into account, over

"(ii) the excess (if any) of—

"(I) the amount described in paragraph (5)(A)(ii), over

"(II) the amount described in paragraph (5)(A)(i).

"(B) LIMITATION WITH RESPECT TO SECTION 1231 PROPERTY.—The amount described in subparagraph (A)(i) from sales, exchanges, and conversions described in section 1231(a)(3)(A) for any taxable year shall not exceed the net section 1231 gain (as defined in section 1231(c)(3)) for such year.

"(8) SECTION 1202 GAIN.—For purposes of this subsection, the term 'section 1202 gain' means an amount equal to the gain excluded from gross income under section 1202(a).

"(9) QUALIFIED 5-YEAR GAIN.—For purposes of this subsection, the term 'qualified 5-year gain' means the aggregate long-term capital gain from property held for more than 5 years. The determination under the preceding sentence shall be made without regard to collectibles gain, gain described in paragraph (7)(A)(i), and section 1202 gain.

"(10) COORDINATION WITH RECAPTURE OF NET ORDINARY LOSSES UNDER SECTION 1231.—If any amount is treated as ordinary income under section 1231(c), such amount shall be allocated among the separate categories of net section 1231 gain (as defined in section 1231(c)(3)) in such manner as the Secretary may by forms or regulations prescribe.

"(11) REGULATIONS.—The Secretary may prescribe such regulations as are appropriate (including regulations requiring reporting) to apply this subsection in the case of sales and exchanges by pass-thru entities and of interests in such entities.

"(12) PASS-THRU ENTITY DEFINED.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) a regulated investment company,

"(B) a real estate investment trust,

"(C) an S corporation,

"(D) a partnership,

"(E) an estate or trust,

"(F) a common trust fund,

"(G) a foreign investment company which is described in section 1246(b)(1) and for which an election is in effect under section 1247, and

"(H) a qualified electing fund (as defined in section 1295).

"(13) SPECIAL RULES FOR PERIODS DURING 1997.—

"(A) DETERMINATION OF 28 PERCENT RATE GAIN.—In applying paragraph (5)—

"(i) the amount determined under subclause (I) of paragraph (5)(A)(i) shall include long-term capital gain (not otherwise described in paragraph (5)(A)(i)) which is properly taken into account for the portion of the taxable year before May 7, 1997,

"(ii) the amounts determined under subclause (I) of paragraph (5)(A)(ii) shall include long-term capital loss (not otherwise described in paragraph (5)(A)(ii)) which is properly taken into account for the portion of the taxable year before May 7, 1997, and

"(iii) clauses (i)(I) and (ii)(I) of paragraph (5)(A) shall be applied by not taking into account any gain and loss on property held for more than 1 year but not more than 18 months which is properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

"(B) OTHER SPECIAL RULES.—

"(i) DETERMINATION OF UNRECAPTURED SECTION 1250 GAIN NOT TO INCLUDE PRE-MAY 7, 1997 GAIN.—The amount determined under paragraph (7)(A)(i) shall not include gain properly taken into account for the portion of the taxable year before May 7, 1997.

"(ii) OTHER TRANSITIONAL RULES FOR 18-MONTH HOLDING PERIOD.—Paragraphs (6)(A) and (7)(A)(i)(II) shall be applied by substituting '1 year' for '18 months' with respect to gain properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

"(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—In applying this paragraph with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level."

(2) Paragraph (3) of section 55(b) of the 1986 Code is amended to read as follows:

"(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NONCORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

"(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the lesser of—

"(i) the net capital gain, or

"(ii) the sum of—

"(I) the adjusted net capital gain, plus

"(II) the unrecaptured section 1250 gain, plus

"(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

"(C) 20 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (B), plus

"(D) 25 percent of the amount of taxable excess in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

In the case of taxable years beginning after December 31, 2000, rules similar to the rules of section 1(h)(2) shall apply for purposes of subparagraphs (B) and (C). Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h) but computed with the adjustments under this part."

(3) Section 57(a)(7) of the 1986 Code is amended by adding at the end the following new sentence: "In the case of stock the holding period of which begins after December 31, 2000 (determined with the application of the last sentence of section 1(h)(2)(B)), the preceding sentence shall be applied by substituting '28 percent' for '42 percent'."

(4) Paragraphs (11) and (12) of section 1223, and section 1235(a), of the 1986 Code are each amended by striking "1 year" each place it appears and inserting "18 months".

(e) AMENDMENTS RELATED TO SECTION 312 OF 1997 ACT.—

(1) Paragraph (2) of section 121(b) of the 1986 Code is amended to read as follows:

"(2) SPECIAL RULES FOR JOINT RETURNS.—In the case of a husband and wife who make a joint return for the taxable year of the sale or exchange of the property—

"(A) $500,000 LIMITATION FOR CERTAIN JOINT RETURNS.—Paragraph (1) shall be applied by substituting '$500,000' for '$250,000' if—

"(i) either spouse meets the ownership requirements of subsection (a) with respect to such property,

"(ii) both spouses meet the use requirements of subsection (a) with respect to such property, and

"(iii) neither spouse is ineligible for the benefits of subsection (a) with respect to such property by reason of paragraph (3).

"(B) OTHER JOINT RETURNS.—If such spouses do not meet the requirements of subparagraph (A), the limitation under paragraph (1) shall be the sum of the limitations under paragraph (1) to which each spouse would be entitled if such spouses had not been married. For purposes of the preceding sentence, each spouse shall be treated as owning the property during the period that either spouse owned the property."

(2) Section 121(c)(1) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a), and subsection (b)(3), shall not apply; but the dollar limitation under paragraph (1) or (2) of subsection (b), whichever is applicable, shall be equal to—

"(A) the amount which bears the same ratio to such limitation (determined without regard to this paragraph) as

"(B)(i) the shorter of—

"(I) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

"(II) the period after the date of the most recent prior sale or exchange by the taxpayer to which subsection (a) applied and before the date of such sale or exchange, bears to

"(ii) 2 years."

(3) Section 312(d)(2) of the 1997 Act (relating to sales before date of the enactment) is amended by inserting "on or" before "before" each place it appears in the text and heading.

(f) AMENDMENT RELATED TO SECTION 313 OF 1997 ACT.—Section 1045 of the 1986 Code is amended by adding at the end the following new subsection:

"(c) LIMITATION ON APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—Subsection (a) shall apply to a partnership or S corporation for a taxable year only if at all times during such taxable year all of the partners in the partnership, or all of the shareholders of the S corporation, are natural persons, estates, or trusts (other than trusts having any beneficiary which is a C corporation)."

SEC. 6006. AMENDMENT RELATED TO TITLE IV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 401 OF 1997 ACT.—Paragraph (1) of section 55(e) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—

"(A) $7,500,000 GROSS RECEIPTS TEST.—The tentative minimum tax of a corporation shall be zero for any taxable year if the corporation's average annual gross receipts for all 3-taxable-year periods ending before such taxable year does not exceed $7,500,000. For purposes of the preceding sentence, only taxable years beginning after December 31, 1993, shall be taken into account.

"(B) $5,000,000 GROSS RECEIPTS TEST FOR FIRST 3-YEAR PERIOD.—Subparagraph (A) shall be applied by substituting '$5,000,000' for '$7,500,000' for the first 3-taxable-year period (or portion thereof) of the corporation which is taken into account under subparagraph (A).

"(C) FIRST TAXABLE YEAR CORPORATION IN EXISTENCE.—If such taxable year is the first taxable year that such corporation is in existence, the tentative minimum tax of such corporation for such year shall be zero.

"(D) SPECIAL RULES.—For purposes of this paragraph, the rules of paragraphs (2) and (3) of section 448(c) shall apply."

(b) AMENDMENT RELATED TO SECTION 402 OF 1997 ACT.—Subsection (c) of section 168 of the 1986 Code is amended—

(1) by striking paragraph (2), and

(2) by striking the portion of such subsection preceding the table in paragraph (1) and inserting the following:

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:".

SEC. 6007. AMENDMENTS RELATED TO TITLE V OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 501 OF 1997 ACT.—

(1) Paragraph (2) of section 2001(c) of the 1986 Code is amended by striking "$10,000,000" and all that follows and inserting "$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) (determined without regard to section 2057(a)(3), and $359,200."

(2) Subsection (c) of section 2631 of the 1986 Code is amended to read as follows:

"(c) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1998, the $1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—

"(A) $1,000,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.

"(2) ALLOCATION OF INCREASE.—Any increase under paragraph (1) for any calendar year shall apply only to generation-skipping transfers made during or after such calendar year; except that no such increase for calendar years after the calendar year in which the transferor dies shall apply to transfers by such transferor."

(3) Subsection (f) of section 501 of the 1997 Act is amended by inserting "(other than the amendment made by subsection (d))" after "this section".

(b) AMENDMENTS RELATED TO SECTION 502 OF 1997 ACT.—

(1)(A) Section 2033A of the 1986 Code is hereby moved to the end of part IV of subchapter A of chapter 11 of the 1986 Code and redesignated as section 2057.

(B) So much of such section 2057 (as so redesignated) as precedes subsection (b) thereof is amended to read as follows:

"SEC. 2057. FAMILY-OWNED BUSINESS INTERESTS.

"(a) GENERAL RULE.—

"(1) ALLOWANCE OF DEDUCTION.—For purposes of the tax imposed by section 2001, in the case of an estate of a decedent to which this section applies, the value of the taxable estate shall be determined by deducting from the value of the gross estate the adjusted value of the qualified family-owned business interests of the decedent which are described in subsection (b)(2).

"(2) MAXIMUM DEDUCTION.—The deduction allowed by this section shall not exceed $675,000.

"(3) COORDINATION WITH UNIFIED CREDIT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if this section applies to an estate, the applicable exclusion amount under section 2010 shall be $625,000.

"(B) INCREASE IN UNIFIED CREDIT IF DEDUCTION IS LESS THAN $675,000.—If the deduction allowed by this section is less than $675,000, the amount of the applicable exclusion amount under section 2010 shall be increased (but not above the amount which would apply to the estate without regard to this section) by the excess of $675,000 over the amount of the deduction allowed."

(C) Subparagraph (A) of section 2057(b)(2) of the 1986 Code (as so redesignated) is amended by striking "(without regard to this section)".

(D) Subsection (c) of section 2057 of the 1986 Code (as so redesignated) is amended by striking "(determined without regard to this section)".

(E) The table of sections for part III of subchapter A of chapter 11 of the 1986 Code is amended by striking the item relating to section 2033A.

(F) The table of sections for part IV of such subchapter is amended by adding at the end the following new item:

"Sec. 2057. Family-owned business interests."

(2) Section 2057(b)(3) of the 1986 Code (as so redesignated) is amended to read as follows:

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the sum of—

"(A) the amount of such gifts from the decedent to members of the decedent's family taken into account under section 2001(b)(1)(B), plus

"(B) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death."

(3)(A) Section 2057(e)(2)(C) of the 1986 Code (as so redesignated) is amended by striking "(as defined in section 543(a))" and inserting "(as defined in section 543(a) without regard to paragraph (2)(B) thereof) if such trade or business were a corporation".

(B) Clause (ii) of section 2057(e)(2)(D) of the 1986 Code (as so redesignated) is amended by striking "income of which is described in section 543(a) or" and inserting "personal holding company income (as defined in subparagraph (C)) or income described".

(4) Paragraph (2) of section 2057(f) of the 1986 Code (as so redesignated) is amended—

(A) by striking "(as determined under rules similar to the rules of section 2032A(c)(2)(B))", and

(B) by adding at the end the following new subparagraph:

"(C) ADJUSTED TAX DIFFERENCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The adjusted tax difference attributable to a qualified family-owned business interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under clause (ii)) as the value of such interest bears to the value of all qualified family-owned business interests described in subsection (b)(2).

"(ii) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.—For purposes of clause (i), the term 'adjusted tax difference with respect to the estate' means the excess of what would have been the estate tax liability but for the election under this section over the estate tax liability. For purposes of this clause, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax."

(5)(A) Paragraph (1) of section 2057(e) of the 1986 Code (as so redesignated) is amended by adding at the end the following:

"For purposes of the preceding sentence, a decedent shall be treated as engaged in a trade or business if any member of the decedent's family is engaged in such trade or business."

(B) Subsection (f) of section 2057 of the 1986 Code (as so redesignated) is amended by adding at the end the following new paragraph:

"(3) USE IN TRADE OR BUSINESS BY FAMILY MEMBERS.—A qualified heir shall not be treated as disposing of an interest described in subsection (e)(1)(A) by reason of ceasing to be engaged in a trade or business so long as the property to which such interest relates is used in a trade or business by any member of such individual's family."

(6) Paragraph (1) of section 2057(g) of the 1986 Code (as so redesignated) is amended by striking "or (M)".

(7) Paragraph (3) of section 2057(i) of the 1986 Code (as so redesignated) is amended by redesignating subparagraphs (L), (M), and (N) as subparagraphs (N), (O), and (P), respectively, and by inserting after subparagraph (K) the following new subparagraphs:

"(L) Section 2032A(g) (relating to application to interests in partnerships, corporations, and trusts).

"(M) Subsections (h) and (i) of section 2032A."

(c) AMENDMENTS RELATED TO SECTION 503 OF THE 1997 ACT.—

(1) Clause (iii) of section 6166(b)(7)(A) of the 1986 Code is amended to read as follows:

"(iii) for purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero."

(2) Clause (iii) of section 6166(b)(8)(A) of the 1986 Code is amended to read as follows:

"(iii) 2-Percent interest rate not to apply.—For purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero."

(d) Amendment Related to Section 505 of the 1997 Act.—Paragraphs (1) and (2) of section 7479(a) of the 1986 Code are each amended by striking "an estate," and inserting "an estate (or with respect to any property included therein),".

(e) Amendments Related to Section 506 of the 1997 Act.—

(1) Paragraph (1) of section 506(e) of the 1997 Act is amended by striking "and (c)" and inserting ", (c), and (d)".

(2)(A) Paragraph (9) of section 6501(c) of the 1986 Code is amended by striking the last sentence.

(B) Subsection (f) of section 2001 of the 1986 Code is amended to read as follows:

"(f) Valuation of Gifts.—

"(1) In general—If the time has expired under section 6501 within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on—

"(A) the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), or

"(B) an increase in taxable gifts required under section 2701(d),

the value thereof shall, for purposes of computing the tax under this chapter, be the value as finally determined for purposes of chapter 12.

"(2) Final determination.—For purposes of paragraph (1), a value shall be treated as finally determined for purposes of chapter 12 if—

"(A) the value is shown on a return under such chapter and such value is not contested by the Secretary before the expiration of the time referred to in paragraph (1) with respect to such return,

"(B) in a case not described in subparagraph (A), the value is specified by the Secretary and such value is not timely contested by the taxpayer, or

"(C) the value is determined by a court or pursuant to a settlement agreement with the Secretary."

(B) Subsection (c) of section 2504 of the 1986 Code is amended to read as follows:

"(c) Valuation of Gifts.—If the time has expired under section 6501 within which a tax may be assessed under this chapter 12 (or under corresponding provisions of prior laws) on—

"(1) the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), or

"(2) an increase in taxable gifts required under section 2701(d),

the value thereof shall, for purposes of computing the tax under this chapter, be the value as finally determined (within the meaning of section 2001(f)(2)) for purposes of this chapter."

(f) Amendments Related to Section 507 of 1997 Act.—

(1) Paragraph (3) of section 1(g) of the 1986 Code is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(2) Section 641 of the 1986 Code is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(3) Paragraph (4) of section 1361(e) of the 1986 Code is amended by striking "section 641(d)" and inserting "section 641(c)".

(4) Subparagraph (A) of section 6103(e)(1) of the 1986 Code is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(g) Amendments Related to Section 508 of 1997 Act.—

(1) Subsection (c) of section 2031 of the 1986 Code is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) Treatment of easements granted after death.—In any case in which the qualified conservation easement is granted after the date of the decedent's death and on or before the due date (including extensions) for filing the return of tax imposed by section 2001, the deduction under section 2055(f) with respect to such easement shall be allowed to the estate but only if no charitable deduction is allowed under chapter 1 to any person with respect to the grant of such easement."

(2) The first sentence of paragraph (6) of section 2031(c) of the 1986 Code is amended by striking all that follows "shall be made" and inserting "on or before the due date (including extensions) for filing the return of tax imposed by section 2001 and shall be made on such return."

SEC. 6008. AMENDMENTS RELATED TO TITLE VII OF 1997 ACT.

(a) Amendment Related to Section 1400 of 1986 Code.—Section 1400(b)(2)(B) of the 1986 Code is amended by inserting "as determined on the basis of the 1990 census" after "percent".

(b) Amendment Related to Section 1400A of 1986 Code.—Subsection (a) of section 1400A of the 1986 Code is amended by inserting before the period "and section 1394(b)(3)(B)(iii) shall be applied without regard to the employee residency requirement".

(c) Amendments Related to Section 1400B of 1986 Code.—

(1) Section 1400B(b) of the 1986 Code is amended by inserting after paragraph (4) the following new paragraph:

"(5) Treatment of DC zone termination.—The termination of the designation of the DC Zone shall be disregarded for purposes of determining whether any property is a DC Zone asset."

(2) Paragraph (6) of section 1400B(b) of the 1986 Code is amended by striking "(4)(A)(ii)" and inserting "(4)(A)(i) or (ii)".

(3) Section 1400B(c) of the 1986 Code is amended by striking "entity which is an".

(4) Section 1400B(d)(2) of the 1986 Code is amended by inserting "as determined on the basis of the 1990 census" after "percent".

(d) Amendments Related to Section 1400C of 1986 Code.—

(1) Paragraph (1) of section 1400C(b) of the 1986 Code is amended by inserting "and subsection (d)" after "this subsection".

(2) Paragraph (1) of section 1400C(c) of the 1986 Code is amended to read as follows:

"(1) In general.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence in the District of Columbia during the 1-year period ending on the date of the purchase of the principal residence to which this section applies."

(3) Subparagraph (B) of section 1400C(e)(2) of the 1986 Code is amended by inserting before the period "on the date the taxpayer first occupies such residence".

(4) Paragraph (3) of section 1400C(e) of the 1986 Code is amended by striking all that follows "principal residence" and inserting "on the date such residence is purchased."

(5) Subsection (i) of section 1400C of the 1986 Code is amended to read as follows:

"(i) Application of Section.—This section shall apply to property purchased after August 4, 1997, and before January 1, 2001."

(6) Subsection (c) of section 23 of the 1986 Code is amended by inserting "and section 1400C" after "other than this section".

(7) Subparagraph (C) of section 25(e)(1) of the 1986 Code is amended by striking "section 23" and inserting "sections 23 and 1400C".

SEC. 6009. AMENDMENTS RELATED TO TITLE IX OF 1997 ACT.

(a) Amendment Related to Section 901 of 1997 Act.—Section 9503(c)(7) of the 1986 Code is amended—

(1) by striking "resulting from the amendments made by" and inserting "(and transfers to the Mass Transit Account) resulting from the amendments made by subsections (a) and (b) of section 901 of", and

(2) by inserting before the period "and deposits in the Highway Trust Fund (and transfers to the Mass Transit Account) shall be treated as made when they would have been required to be made without regard to section 901(e) of the Taxpayer Relief Act of 1997".

(b) Amendment Related to Section 907 of 1997 Act.—Paragraph (2) of section 9503(e) of the 1986 Code is amended by striking the last sentence and inserting the following new sentence: "For purposes of the preceding sentence, the term 'mass transit portion' means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and deposited into the Highway Trust Fund, the amount determined at the rate of—

"(A) except as otherwise provided in this sentence, 2.86 cents per gallon,

"(B) 1.43 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,

"(C) 1.86 cents per gallon in the case of liquefied natural gas,

"(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and

"(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas."

(c) Amendment Related to Section 908 of 1997 Act.—Paragraph (6) of section 5041(b) of the 1986 Code is amended by inserting "which is a still wine" after "hard cider".

(d) Amendment Related to Section 964 of 1997 Act.—

(1) In general.—Subparagraph (C) of section 7704(g)(3) of the 1986 Code is amended by striking the period at the end and inserting "and shall be paid by the partnership. Section 6655 shall be applied to such partnership with respect to such tax in the same manner as if the partnership were a corporation, such tax were imposed by section 11, and references in such section to taxable income were references to the gross income referred to in subparagraph (A)."

(2) Effective date.—The second sentence of section 7704(g)(3)(C) of the 1986 Code (as added by paragraph (1)) shall apply to taxable years beginning after the date of the enactment of this Act.

(e) Amendment Related to Section 971 of 1997 Act.—Clause (ii) of section 280F(a)(1)(C) is amended by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)".

(f) Amendment Related to Section 976 of 1997 Act.—Section 6103(d)(5) of the 1986 Code is amended by striking "section 967 of the Taxpayer Relief Act of 1997." and inserting "section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph."

(g) Amendment Related to Section 977 of 1997 Act.—Paragraph (2) of section 977(e) of the 1997 Act is amended to read as follows:

"(2) Non-Amtrak state.—The term 'non-Amtrak State' means any State which is not receiving intercity passenger rail service from the Corporation as of the date of the enactment of this Act."

SEC. 6010. AMENDMENTS RELATED TO TITLE X OF 1997 ACT.

(a) Amendments Related to Section 1001 of 1997 Act.—

(1) Paragraph (2) of section 1259(b) of the 1986 Code is amended—

(A) by striking "debt" each place it appears in subparagraph (A) and inserting "position",

(B) by striking "and" at the end of subparagraph (A), and

(C) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) any hedge with respect to a position described in subparagraph (A), and".

(2) Section 1259(d)(1) of the 1986 Code is amended by inserting "(including cash)" after "property".

(3) Subparagraph (D) of section 475(f)(1) of the 1986 Code is amended by adding at the end the following new sentence: "Subsection (d)(3) shall not apply under the preceding sentence for purposes of applying sections 1402 and 7704."

(4) Subparagraph (C) of section 1001(d)(3) of the 1997 Act is amended by striking "within the 30-day period beginning on" and inserting "before the close of the 30th day after".

(b) AMENDMENT RELATED TO SECTION 1011 OF 1997 ACT.—Paragraph (1) of section 1059(g) of the 1986 Code is amended by striking "and in the case of stock held by pass-thru entities" and inserting ", in the case of stock held by pass-thru entities, and in the case of consolidated groups".

(c) AMENDMENTS RELATED TO SECTION 1012 OF 1997 ACT.—

(1) Paragraph (1) of section 1012(d) of the 1997 Act is amended by striking "1997, pursuant" and inserting "1997; except that the amendment made by subsection (a) shall apply to such distributions only if pursuant".

(2) Subparagraph (A) of section 355(e)(3) of the 1986 Code is amended—

(A) by striking "shall not be treated as described in" and inserting "shall not be taken into account in applying", and

(B) by striking clause (iv) and inserting the following new clause:

"(iv) The acquisition of stock in the distributing corporation or any controlled corporation to the extent that the percentage of stock owned directly or indirectly in such corporation by each person owning stock in such corporation immediately before the acquisition does not decrease."

(3)(A) Subsection (c) of section 351 of the 1986 Code is amended to read as follows:

"(c) SPECIAL RULES WHERE DISTRIBUTION TO SHAREHOLDERS.—

"(1) IN GENERAL.—In determining control for purposes of this section, the fact that any corporate transferor distributes part or all of the stock in the corporation which it receives in the exchange to its shareholders shall not be taken into account.

"(2) SPECIAL RULE FOR SECTION 355.—If the requirements of section 355 (or so much of section 356 as relates to section 355) are met with respect to a distribution described in paragraph (1), then, solely for purposes of determining the tax treatment of the transfers of property to the controlled corporation by the distributing corporation, the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock shall not be taken into account in determining control for purposes of this section."

(B) Clause (ii) of section 368(a)(2)(H) of the 1986 Code is amended to read as follows:

"(ii) in the case of a transaction with respect to which the requirements of section 355 (or so much of section 356 as relates to section 355) are met, the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock shall not be taken into account."

(d) AMENDMENTS RELATED TO SECTION 1013 OF 1997 ACT.—

(1) Paragraph (5) of section 304(b) of the 1986 Code is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(2) Subsection (b) of section 304 of the 1986 Code is amended by adding at the end the following new paragraph:

"(6) AVOIDANCE OF MULTIPLE INCLUSIONS, ETC.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation or the issuing corporation is a foreign corporation, the Secretary shall prescribe such regulations as are appropriate in order to eliminate a multiple inclusion of any item in income by reason of this subpart and to provide appropriate basis adjustments (including modifications to the application of sections 959 and 961)."

(e) AMENDMENTS RELATED TO SECTION 1014 OF 1997 ACT.—

(1) Paragraph (1) of section 351(g) of the 1986 Code is amended by adding "and" at the end of subparagraph (A) and by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

"(B) if (and only if) the transferor receives stock other than nonqualified preferred stock—

"(i) subsection (b) shall apply to such transferor, and

"(ii) such nonqualified preferred stock shall be treated as other property for purposes of applying subsection (b)."

(2) Clause (ii) of section 354(a)(2)(C) of 1986 Code is amended by adding at the end the following new subclause:

"(III) EXTENSION OF STATUTE OF LIMITATIONS.—The statutory period for the assessment of any deficiency attributable to a corporation failing to be a family-owned corporation shall not expire before the expiration of 3 years after the date the Secretary is notified by the corporation (in such manner as the Secretary may prescribe) of such failure, and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(f) AMENDMENT RELATED TO SECTION 1024 OF 1997 ACT.—Section 6331(h)(1) of the 1986 Code is amended by striking "The effect of a levy" and inserting "If the Secretary approves a levy under this subsection, the effect of such levy".

(g) AMENDMENTS RELATED TO SECTION 1031 OF 1997 ACT.—

(1) Subsection (l) of section 4041 of the 1986 Code is amended by striking "subsection (e) or (f)" and inserting "subsection (f) or (g)".

(2) Subsection (b) of section 9502 of the 1986 Code is amended by moving the sentence added at the end of paragraph (1) to the end of such subsection.

(3) Subsection (c) of section 6421 of the 1986 Code is amended—

(A) by striking "(2)(A)" and inserting "(2)", and

(B) by adding at the end the following sentence: "Subsection (a) shall not apply to gasoline to which this subsection applies."

(h) AMENDMENTS RELATED TO SECTION 1032 OF 1997 ACT.—

(1) Section 1032(a) of the 1997 Act is amended by striking "Subsection (a) of section 4083" and inserting "Paragraph (1) of section 4083(a)".

(2) Section 1032(e)(12)(A) of the 1997 Act shall be applied as if "gasoline, diesel fuel," were the material proposed to be stricken.

(3) Paragraph (1) of section 4101(e) of the 1986 Code is amended by striking "dyed diesel fuel and kerosene" and inserting "such fuel in a dyed form".

(i) AMENDMENT RELATED TO SECTION 1034 OF 1997 ACT.—Paragraph (3) of section 4251(d) of the 1986 Code is amended by striking "other similar arrangement" and inserting "any other similar arrangement".

(j) AMENDMENTS RELATED TO SECTION 1041 OF 1997 ACT.—

(1) Subparagraph (A) of section 512(b)(13) of the 1986 Code is amended by inserting "or accrues" after "receives".

(2) Subclause (I) of section 512(b)(13)(B)(i) of the 1986 Code is amended by striking "(as defined in section 513A(a)(5)(A))".

(3) Paragraph (2) of section 1041(b) of the 1997 Act is amended to read as follows:

"(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any amount received or accrued during the first 2 taxable years beginning on or after the date of the enactment of this Act if such amount is received or accrued pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before such amount is received or accrued. The preceding sentence shall not apply to any amount which would (but for the exercise of an option to accelerate payment of such amount) be received or accrued after such 2 taxable years."

(k) AMENDMENTS RELATED TO SECTION 1053 OF 1997 ACT.—

(1) Section 853 of the 1986 Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TREATMENT OF TAXES NOT ALLOWED AS A CREDIT UNDER SECTION 901(k).—This section shall not apply to any tax with respect to which the regulated investment company is not allowed a credit under section 901 by reason of section 901(k)."

(2) Subsection (c) of section 853 of the 1986 Code is amended by striking the last sentence.

(l) AMENDMENT RELATED TO SECTION 1055 OF 1997 ACT.—Section 6611(g)(1) of the 1986 Code is amended by striking "(e), and (h)" and inserting "and (e)".

(m) AMENDMENT RELATED TO SECTION 1061 OF 1997 ACT.—Subsection (c) of section 751 of the 1986 Code is amended by striking "731" each place it appears and inserting "731, 732,".

(n) AMENDMENT RELATED TO SECTION 1083 OF 1997 ACT.—Section 1083(a)(2) of the 1997 Act is amended—

(1) by striking "21" and inserting "20", and

(2) by striking "22" and inserting "21".

(o) AMENDMENT RELATED TO SECTION 1084 OF 1997 ACT.—

(1) Paragraph (3) of section 264(a) of the 1986 Code is amended by striking "subsection (c)" and inserting "subsection (d)".

(2) Paragraph (4) of section 264(a) of the 1986 Code is amended by striking "subsection (d)" and inserting "subsection (e)".

(3)(A) Paragraph (4) of section 264(f) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(E) MASTER CONTRACTS.—If coverage for each insured under a master contract is treated as a separate contract for purposes of sections 817(h), 7702, and 7702A, coverage for each such insured shall be treated as a separate contract for purposes of subparagraph (A). For purposes of the preceding sentence, the term 'master contract' shall not include any group life insurance contract (as defined in section 848(e)(2))."

(B) The second sentence of section 1084(d) of the 1997 Act is amended by striking "but" and all that follows and inserting "except that, in the case of a master contract (within the meaning of section 264(f)(4)(E) of the Internal Revenue Code of 1986), the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives."

(4)(A) Clause (iv) of section 264(f)(5)(A) of the 1986 Code is amended by striking the second sentence.

(B) Subparagraph (B) of section 6724(d)(1) of the 1986 Code is amended by striking "or" at the end of clause (xv), by striking the period at the

end of clause (xvi) and inserting ", or", and by adding at the end the following new clause:

"(xvii) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts)."

(C) Paragraph (2) of section 6724(d) of the 1986 Code is amended by striking "or" at the end of subparagraph (Y), by striking the period at the end of subparagraph (Z) and inserting "or", and by adding at the end the following new subparagraph:

"(AA) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts)."

(p) Amendments Related to Section 1085 of 1997 Act.—

(1) Paragraph (5) of section 32(c) of the 1986 Code is amended—

(A) by inserting before the period at the end of subparagraph (A) "and increased by the amounts described in subparagraph (C)",

(B) by adding "or" at the end of clause (iii) of subparagraph (B), and

(C) by striking all that follows subclause (II) of subparagraph (B)(iv) and inserting the following:

"(III) other trades or businesses.

For purposes of clause (iv), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.

"(C) Certain amounts included.—An amount is described in this subparagraph if it is—

"(i) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, or

"(ii) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.

Clause (ii) shall not include any amount which is not includible in gross income by reason of a trustee-to-trustee transfer or a rollover distribution."

(2) Clause (v) of section 32(c)(2)(B) of the 1986 Code is amended by inserting "shall be taken into account" before ", but only".

(3) The text of paragraph (3) of section 1085(a) of the 1997 Act is amended to read as follows: "Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", and", and by inserting after subparagraph (J) the following new subparagraph:

"(K) an omission of information required by section 32(k)(2) (relating to taxpayers making improper prior claims of earned income credit)."

(q) Amendment Related to Section 1088 of 1997 Act.—Section 1088(b)(2)(C) of the 1997 Act is amended by inserting "more than 1 year" before "after".

(r) Amendment Related to Section 1089 of 1997 Act.—Paragraphs (1)(C) and (2)(C) of section 664(d) of the 1986 Code are each amended by adding ", and" at the end.

SEC. 6011. AMENDMENTS RELATED TO TITLE XI OF 1997 ACT.

(a) Amendment Related to Section 1103 of 1997 Act.—The paragraph (3) of section 59(a) added by section 1103 of the 1997 Act is redesignated as paragraph (4).

(b) Amendments Related to Section 1121 of 1997 Act.—

(1) Subsection (e) of section 1297 of the 1986 Code is amended by adding at the end the following new paragraph:

"(4) Treatment of holders of options.—Paragraph (1) shall not apply to stock treated as owned by a person by reason of section 1298(a)(4) (relating to the treatment of a person that has an option to acquire stock as owning such stock) unless such person establishes that such stock is owned (within the meaning of section 958(a)) by a United States shareholder (as defined in section 951(b)) who is not exempt from tax under this chapter."

(2) Section 1298(a)(2)(B) of the 1986 Code is amended by adding at the end the following new sentence: "Section 1297(e) shall not apply in determining whether a corporation is a passive foreign investment company for purposes of this subparagraph."

(c) Amendments Related to Section 1122 of 1997 Act.—

(1) Section 672(f)(3)(B) of the 1986 Code is amended by striking "section 1296" and inserting "section 1297".

(2) Paragraph (1) of section 1291(d) of the 1986 Code is amended by adding at the end the following new sentence: "In the case of stock which is marked to market under section 475 or any other provision of this chapter, this section shall not apply, except that rules similar to the rules of section 1296(j) shall apply."

(3) Subsection (d) of section 1296 of the 1986 Code is amended by adding at the end the following new sentence: "In the case of a regulated investment company which elected to mark to market the stock held by such company as of the last day of the taxable year preceding such company's first taxable year for which such company elects the application of this section, the amount referred to in paragraph (1) shall include amounts included in gross income under such mark to market with respect to such stock for prior taxable years."

(d) Amendment Related to Section 1123 of 1997 Act.—The subsection (e) of section 1297 of the 1986 Code added by section 1123 of the 1997 Act is redesignated as subsection (f).

(e) Amendments Related to Section 1131 of 1997 Act.—

(1) Section 991 of the 1986 Code is amended by striking "except for the tax imposed by chapter 5".

(2) Section 6013 of the 1986 Code is amended by striking "chapters 1 and 5" each place it appears in paragraphs (1)(A) and (5) of subsection (g) and in subsection (h)(1) and inserting "chapter 1" .

(f) Amendment Related to Section 1144 of 1997 Act.—Paragraphs (1) and (2) of section 1144(c) of the 1997 Act are each amended by striking "6038B(b)" and inserting "6038B(c) (as redesignated by subsection (b))".

SEC. 6012. AMENDMENTS RELATED TO TITLE XII OF 1997 ACT.

(a) Amendment Related to Section 1204 of 1997 Act.—The last sentence of section 162(a) of the 1986 Code is amended by striking "investigate" and all that follows and inserting "investigate or prosecute, or provide support services for the investigation or prosecution of, a Federal crime."

(b) Amendments Related to Section 1205 of 1997 Act.—

(1) Section 6311(e)(1) of the 1986 Code is amended by striking "section 6103(k)(8)" and inserting "section 6103(k)(9)".

(2) Paragraph (8) of section 6103(k) of the 1986 Code (as added by section 1205(c)(1) of the 1997 Act) is redesignated as paragraph (9).

(3) The subsection (g) of section 7431 of the 1986 Code added by section 1205 of the 1997 Act is redesignated as subsection (h) and is amended by striking "(8)" in the heading and inserting "(9)".

(4) Section 1205(c)(3) of the 1997 Act shall be applied as if it read as follows:

"(3) Section 6103(p)(3)(A), as amended by section 1026(b)(1)(A) of the 1997 Act, is amended by striking "or (8)" and inserting "(8), or (9)".

(5) Section 1213(b) of the 1997 Act is amended by striking "section 6724(d)(1)(A)" and inserting "section 6724(d)(1)".

(c) Amendment Related to Section 1221 of 1997 Act.—Paragraph (2) of section 774(d) of the 1986 Act is amended by inserting before the period "or 857(b)(3)(D)".

(d) Amendment Related to Section 1226 of 1997 Act.—Section 1226 of the 1997 Act is amended by striking "ending on or" and inserting "beginning".

(e) Amendment Related to Section 1231 of 1997 Act.—Subsection (c) of section 6211 of the 1986 Code is amended—

(1) by striking "Subchapter C" in the heading and inserting "Subchapters C and D", and

(2) by striking "subchapter C" in the text and inserting "subchapters C and D".

(f) Amendment Related to Section 1256 of 1997 Act.—Subparagraph (A) of section 857(d)(3) of the 1986 Code is amended by striking "earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies)" and inserting "earliest earnings and profits accumulated in any taxable year to which the provisions of this part did not apply".

(g) Amendment Related to Section 1285 of 1997 Act.—Section 7430(b) of the 1986 Code is amended by redesignating paragraph (5) as paragraph (4).

SEC. 6013. AMENDMENTS RELATED TO TITLE XIII OF 1997 ACT.

(a) Amendments Related to Section 1305 of 1997 Act.—

(1) Section 646 of the 1986 Code is redesignated as section 645.

(2) The item relating to section 646 in the table of sections for subpart A of part I of subchapter J of chapter 1 of the 1986 Code is amended by striking "Sec. 646" and inserting "Sec. 645".

(3) Paragraph (1) of section 2652(b) of the 1986 Code is amended by striking "section 646" and inserting "section 645".

(4)(A) Paragraph (1) of section 2652(b) of the 1986 Code is amended by striking the second sentence.

(B) Subsection (b) of section 2654 of the 1986 Code is amended by adding at the end the following new sentence: "For purposes of this subsection, a trust shall be treated as part of an estate during any period that the trust is so treated under section 645."

(b) Amendments Related to Section 1309 of 1997 Act.—

(1) Subsection (b) of section 685 of the 1986 Code is amended by adding at the end the following flush sentence:

"A trust shall not fail to be treated as meeting the requirement of paragraph (6) by reason of the death of an individual but only during the 60-day period beginning on the date of such death."

(2) Subsection (f) of section 685 of the 1986 Code is amended by inserting before the period at the end "and of trusts terminated during the year".

SEC. 6014. AMENDMENTS RELATED TO TITLE XIV OF 1997 ACT.

(a) Amendment Related to Section 1422 of 1997 Act.—Section 5364 of the 1986 Code is amended by striking "Wine imported or brought into" and inserting "Natural wine (as defined in section 5381) imported or brought into".

(b) Amendment Related to Section 1434 of 1997 Act.—Paragraph (2) of section 4052(f) of the 1986 Code is amended by striking "this section" and inserting "such section".

(c) Amendment Related to Section 1436 of 1997 Act.—Paragraph (2) of section 4091(a) of the 1986 Code is amended by inserting "or on which tax has been credited or refunded" after "such paragraph".

(d) Amendment Related to Section 1453 of 1997 Act.—Subparagraph (D) of section 7430(c)(4) of the 1986 Code is amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(ii)".

SEC. 6015. AMENDMENTS RELATED TO TITLE XV OF 1997 ACT.

(a) Amendment Related to Section 1501 of 1997 Act.—The paragraph (8) of section 408(p) of the 1986 Code added by section 1501(b) of the 1997 Act is redesignated as paragraph (9).

(b) Amendment Related to Section 1505 of 1997 Act.—Section 1505(d)(2) of the 1997 Act is amended by striking "(b)(12)" and inserting "(b)(12)(A)(i)".

(c) Amendments Related to Section 1529 of 1997 Act.—

(1) Section 1529(a) of the 1997 Act is amended to read as follows:

"(a) General Rule.—Amounts to which this section applies which are received by an individual (or the survivors of the individual) as a result of hypertension or heart disease of the individual shall be excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986."

(2) Section 1529(b)(1)(B) of the 1997 Act is amended to read as follows:

"(B) under—

"(i) a State law (as amended on May 19, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees hired before July 1, 1992, or

"(ii) any other statute, ordinance, labor agreement, or similar provision as a disability pension payment or in the nature of a disability pension payment attributable to employment as a police officer or fireman, but only if the individual is referred to in the State law described in clause (i); and".

(d) Amendment Related to Section 1530 of 1997 Act.—Subparagraph (C) of section 404(a)(9) of the 1986 Code (as added by section 1530 of the 1997 Act) is redesignated as subparagraph (D) and is amended by striking "A qualified" and inserting "Qualified Gratuitous Transfers.—A qualified".

(e) Amendment Related to Section 1531 of 1997 Act.—Subsection (f) of section 9811 of the 1986 Code (as added by section 1531 of the 1997 Act) is redesignated as subsection (e).

SEC. 6016. AMENDMENTS RELATED TO TITLE XVI OF 1997 ACT.

(a) Amendments Related to Section 1601(d) of 1997 Act.—

(1) Amendments related to section 1601(d)(1)—

(A) Section 408(p)(2)(D)(i) of the 1986 Code is amended by striking "or (B)" in the last sentence.

(B) Section 408(p) of the 1986 Code is amended by adding at the end the following:

"(10) Special rules for acquisitions, dispositions, and similar transactions.—

"(A) In general.—An employer which fails to meet any applicable requirement by reason of an acquisition, disposition, or similar transaction shall not be treated as failing to meet such requirement during the transition period if—

"(i) the employer satisfies requirements similar to the requirements of section 410(b)(6)(C)(i)(II), and

"(ii) the qualified salary reduction arrangement maintained by the employer would satisfy the requirements of this subsection after the transaction if the employer which maintained the arrangement before the transaction had remained a separate employer.

"(B) Applicable requirement.—For purposes of this paragraph, the term 'applicable requirement' means—

"(i) the requirement under paragraph (2)(A)(i) that an employer be an eligible employer,

"(ii) the requirement under paragraph (2)(D) that an arrangement be the only plan of an employer, and

"(iii) the participation requirements under paragraph (4).

"(C) Transition period.—For purposes of this paragraph, the term 'transition period' means the period beginning on the date of any transaction described in subparagraph (A) and ending on the last day of the second calendar year following the calendar year in which such transaction occurs."

(C) Section 408(p)(2) of the 1986 Code is amended—

(i) by striking "the preceding sentence shall apply only in accordance with rules similar to the rules of section 410(b)(6)(C)(i)" in the last sentence of subparagraph (C)(i)(II) and inserting "the preceding sentence shall not apply", and

(ii) by striking clause (iii) of subparagraph (D).

(2) Amendment to section 1601(d)(4).—Section 1601(d)(4)(A) of the 1997 Act is amended—

(A) by striking "Section 403(b)(11)" and inserting "Paragraphs (7)(A)(ii) and (11) of section 403(b)", and

(B) by striking "403(b)(1)" in clause (ii) and inserting "403(b)(10)".

(b) Amendment Related to Section 1601(f)(4) of 1997 Act.—Subsection (d) of section 6427 of the 1986 Code is amended—

(1) by striking "Helicopters" in the heading and inserting "Other Aircraft Uses", and

(2) by inserting "or a fixed-wing aircraft" after "helicopter".

SEC. 6017. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.

(a) Amendment Relating to Section 1116.—Subparagraph (C) of section 1116(b)(2) of the Small Business Job Protection Act of 1996 is amended by striking "chapter 68" and inserting "chapter 61".

(b) Amendment Relating to Section 1421.—Section 408(d)(7) of the 1986 Code is amended—

(1) by inserting "or 402(k)" after "section 402(h)" in subparagraph (B) thereof, and

(2) by inserting "or simple retirement accounts" after "pensions" in the heading thereof.

(c) Amendment Relating to Section 1431.—Subparagraph (E) of section 1431(c)(1) of the Small Business Job Protection Act of 1996 is amended to read as follows:

"(E) Section 414(q)(5), as redesignated by subparagraph (A), is amended by striking 'under paragraph (4) or the number of officers taken into account under paragraph (5)'".

(d) Amendment Relating to Section 1604.—Paragraph (3) of section 1604(b) of such Act is amended—

(1) by striking "such Code" and inserting "the Internal Revenue Code of 1986", and

(2) by striking "such date of enactment" and inserting "the date of the enactment of this Act".

(e) Amendment Relating to Section 1609.—Paragraph (1) of section 1609(h) of such Act is amended by striking "paragraph (3)(A)(i)" and inserting "paragraph (3)(A)".

(f) Amendments Relating to Section 1807.—

(1) Subparagraph (A) of section 23(b)(2) of the 1986 Code (relating to income limitation on credit for adoption expenses) is amended by inserting "(determined without regard to subsection (c))" after "for any taxable year".

(2) Paragraph (3) of section 1807(c) of the Small Business Job Protection Act of 1996 is amended by striking "Clause (i)" and inserting "Clause (ii)".

(g) Amendment Relating to Section 1903.—Subsection (b) of section 1903 of such Act shall be applied as if "or" in the material proposed to be stricken were capitalized.

(h) Effective Date.—The amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.

SEC. 6018. AMENDMENTS RELATED TO TAXPAYER BILL OF RIGHTS 2.

(a) In General.—Subsection (b) of section 6104 of the 1986 Code is amended by adding at the end the following new sentence: "In the case of an organization described in section 501(d), this subsection shall not apply to copies referred to in section 6031(b) with respect to such organization."

(b) Public Inspection.—Subparagraph (C) of section 6104(e)(1) of the 1986 Code is amended by adding at the end the following new sentence: "In the case of an organization described in section 501(d), subparagraph (A) shall not require the disclosure of the copies referred to in section 6031(b) with respect to such organization."

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6019. AMENDMENT RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1993.

(a) In General.—Section 196(c) of the 1986 Code is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7), and insert ", and", and by adding at the end the following new paragraph:

"(8) the employer social security credit determined under section 45B(a)."

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 13443 of the Revenue Reconciliation Act of 1993.

SEC. 6020. AMENDMENT RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) Identification Requirement for Individuals Eligible for Earned Income Credit.—Subparagraph (F) of section 32(c)(1) of the 1986 Code is amended by striking "The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—" and inserting "No credit shall be allowed under this section to an eligible individual who does not include on the return of tax for the taxable year—".

(b) Identification Requirement for Qualifying Children Under Earned Income Credit.—

(1) In general.—Clause (i) of section 32(c)(3)(D) of the 1986 Code is amended—

(A) by striking "The requirements of this subparagraph are met" and inserting "A qualifying child shall not be taken into account under subsection (b)",

(B) by striking "each" and inserting "the", and

(C) by striking "(without regard to this subparagraph)".

(2) Individuals who do not include TIN, etc., of any qualifying child.—Paragraph (1) of section 32(c) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(G) Individuals who do not include TIN, etc., of any qualifying child.—No credit shall be allowed under this section to any eligible individual who has 1 or more qualifying children if no qualifying child of such individual is taken into account under subsection (b) by reason of paragraph (3)(D)."

(3) Conforming amendment.—Subparagraph (A) of section 32(c)(3) is amended by inserting "and" at the end of clause (ii), by striking ", and" at the end of clause (iii) and inserting a period, and by striking clause (iv).

(c) Effective Dates.—

(1) Eligible individuals.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 451 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) Qualifying children.—The amendments made by subsection (b) shall take effect as if included in the amendments made by section 11111 of Revenue Reconciliation Act of 1990.

SEC. 6021. AMENDMENT RELATED TO TAX REFORM ACT OF 1986.

(a) IN GENERAL.—Section 6401(b)(1) of the 1986 Code is amended by striking "and D" and inserting "D, and G".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 701(b) of the Tax Reform Act of 1986.

SEC. 6022. MISCELLANEOUS CLERICAL AND DEADWOOD CHANGES.

(1) The heading for subparagraph (B) of section 45A(b)(1) of the 1986 Code is amended by striking "TARGETED JOBS CREDIT" and inserting "WORK OPPORTUNITY CREDIT".

(2) The subsection heading for section 59(b) of the 1986 Code is amended by striking "SECTION 936 CREDIT" and inserting "CREDITS UNDER SECTION 30A OR 936".

(3) Subsection (n) of section 72 of the 1986 Code is amended by inserting "(as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996)" after "section 101(b)(2)(D)".

(4) Subparagraph (A) of section 72(t)(3) of the 1986 Code is amended by striking "(A)(v)," and inserting "(A)(v)".

(5) Clause (ii) of section 142(f)(3)(A) of the 1986 Code is amended by striking "1997, (" and inserting "1997 (".

(6) The last sentence of paragraph (3) of section 501(n) of the 1986 Code is amended by striking "subparagraph (C)(ii)" and inserting "subparagraph (E)(ii)".

(7) The heading for subclause (II) of section 512(b)(17)(B)(ii) of the 1986 Code is amended by striking "RULE" and inserting "RULE".

(8) Clause (ii) of section 543(d)(5)(A) of the 1986 Code is amended by striking "section 563(c)" and inserting "section 563(d)".

(9) Subparagraph (B) of section 871(f)(2) of the 1986 Code is amended by striking "(19 U.S.C. 2462)" and inserting "19 U.S.C. 2461 et seq.)".

(10) Paragraph (2) of section 1017(a) of the 1986 Code is amended by striking "(b)(2)(D)" and inserting "(b)(2)(E)".

(11) Subparagraph (D) of section 1250(d)(4) of the 1986 Code is amended by striking "the last sentence of section 1033(b)" and inserting "section 1033(b)(2)".

(12) Paragraph (5) of section 3121(a) of the 1986 Code is amended—

(A) by striking the semicolon at the end of subparagraph (F) and inserting a comma,

(B) by striking "or" at the end of subparagraph (G), and

(C) by striking the period at the end of subparagraph (I) and inserting a semicolon.

(13) Paragraph (19) of section 3401(a) of the 1986 Code is amended by inserting "for" before "any benefit provided to".

(14) Paragraph (21) of section 3401(a) of the 1986 Code is amended by inserting "for" before "any payment made".

(15) Sections 4092(b) and 6427(q)(2) of the 1986 Code are each amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(16) Sections 4221(c) and 4222(d) of the 1986 Code are each amended by striking "4053(a)(6)" and inserting "4053(6)".

(17)(A) The heading of section 4973 of the 1986 Code is amended to read as follows:

"SEC. 4973. TAX ON EXCESS CONTRIBUTIONS TO CERTAIN TAX-FAVORED ACCOUNTS AND ANNUITIES."

(B) The item relating to section 4973 in the table of sections for chapter 43 of the 1986 Code is amended to read as follows:

"Sec. 4973. Tax on excess contributions to certain tax-favored accounts and annuities."

(18) Section 4975 of the 1986 Code is amended—

(A) in subsection (c)(3) by striking "exempt for the tax" and inserting "exempt from the tax", and

(B) in subsection (i) by striking "Secretary of Treasury" and inserting "Secretary of the Treasury".

(19) Paragraph (1) of section 6039(a) of the 1986 Code is amended by inserting "to any person" after "transfers".

(20) Subparagraph (A) of section 6050R(b)(2) of the 1986 Code is amended by striking the semicolon at the end thereof and inserting a comma.

(21) Subparagraph (A) of section 6103(h)(4) of the 1986 Code is amended by inserting "if" before "the taxpayer is a party to".

(22) Paragraph (5) of section 6416(b) of the 1986 Code is amended by striking "section 4216(e)(1)" each place it appears and inserting "section 4216(d)(1)".

(23)(A) Section 6421 of the 1986 Code is amended by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(B) Subsection (b) of section 34 of the 1986 Code is amended by striking "section 6421(j)" and inserting "section 6421(i)".

(C) Subsections (a) and (b) of section 6421 of the 1986 Code are each amended by striking "subsection (j)" and inserting "subsection (i)".

(24) Paragraph (3) of section 6427(f) of the 1986 Code is amended by striking ", (e),".

(25)(A) Section 6427 of the 1986 Code, as amended by paragraph (2), is amended by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(B) Paragraphs (1) and (2)(A) of section 6427(i) of the 1986 Code are each amended by striking "(q)" and inserting "(o)".

(26) Subsection (m) of section 6501 of the 1986 Code is amended by striking "election under" and all that follows through "(or any" and inserting "election under section 30(d)(4), 40(f), 43, 45B, 45C(d)(4), or 51(j) (or any".

(27) The paragraph heading of paragraph (2) of section 7702B(e) of the 1986 Code is amended by inserting "SECTION" after "APPLICATION OF".

(28) Paragraph (3) of section 7435(b) of the 1986 Code is amended by striking "attorneys fees" and inserting "attorneys' fees".

(29) Subparagraph (B) of section 7872(f)(2) of the 1986 Code is amended by striking "foregone" and inserting "forgone".

(30) Subsection (e) of section 9502 of the 1986 Code is amended to read as follows:

"(e) CERTAIN TAXES ON ALCOHOL MIXTURES TO REMAIN IN GENERAL FUND.—For purposes of this section, the amounts which would (but for this subsection) be required to be appropriated under subparagraphs (A), (C), and (D) of subsection (b)(1) shall be reduced by—

"(1) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol, and

"(2) 0.67 cent per gallon in the case of fuel used in producing a mixture described in paragraph (1)."

(31)(A) Clause (i) of section 9503(c)(2)(A) of the 1986 Code is amended by adding "and" at the end of subclause (II), by striking subclause (III), and by redesignating subclause (IV) as subclause (III).

(B) Clause (ii) of such section is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "fuel".

(32) The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6023. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent that the following staff from the Joint Committee on Taxation be granted floor privileges during consideration of the IRS restructuring bill, H.R. 2676: Thomas A. Barthold, Lauralee A. Matthews, Alysa M. McDaniel, John F. Navratil, Joseph W. Nega, Judy K. Owens, Lindy L. Paull, Oren S. Penn, Cecily W. Rock, Melbert E. Schwarz, Carolyn E. Smith, Maxine B. Terry, Michael A. Udell, and Barry L. Wold.

I further ask unanimous consent that Eric Thorson of the Finance Committee staff also be granted floor privileges during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, the need for this Internal Revenue Service restructuring legislation is clear. Last summer, the National Commission on Restructuring—following an extensive review of the IRS—issued a report to revamp the agency.

Last September, the Finance Committee held 3 days of hearings regarding practices and procedures of the Internal Revenue Service, which raised even more startling problems that have been festering within the IRS for years.

Following these hearings, the agency's new Commissioner, Charles Rossotti, released a report that validated the concerns we raised, and he made a commitment to reform the Service. Likewise, in response to these hearings, the House considered and passed an IRS restructuring bill in November, and the Finance Committee began the new year with a series of five hearings on restructuring, which included testimony from past IRS Commissioners. Those restructuring hearings were followed with what can only be considered the most in-depth IRS oversight hearings ever, which concluded only last Friday. Throughout this extensive effort at oversight restructuring, my colleagues and I have been working on the legislation before us today. Our staffs have been meeting. There have been countless hours, late nights, and early mornings spent to develop a restructured bill that is strong, thorough, and workable. I appreciate these efforts. I also compliment the House on its swift action on the earlier version, and recognize the very effective leadership of Ways and Means Committee Chairman BILL ARCHER. Their efforts provided a solid foundation for restructuring the agency, and made it clear that Congress is ready to respond to the demands of the American people and reform the IRS. That, again, became clear when the Senate Finance Committee voted 20 to nothing in support of the legislation which we are about to consider—legislation that takes a major step toward changing the way that the IRS does business with the American people.

I call this legislation a major step because it provides greater protections and reforms that were included in the House bill. It goes much further than the House bill, offering powerful provisions to correct the abuses and inefficiencies our extensive investigation and oversight efforts have uncovered. But I also want to refer to this effort as a step, because I believe reform of the IRS must be an ongoing process. It must be a process of continued vigilance, constructive hearings, and cooperation between Congress and the executive branch. But anyone who reads all this legislation proposes will realize that it is a strong product of a collective effort. If this legislation were a collegiate athlete, it would be considered a blue-chip recruit. While it is not perfect, it is ready to play and includes numerous provisions that strengthen taxpayer protections. It makes IRS employees more accountable, provides enhanced oversight, gives the Commissioner the tools necessary to bring the IRS into the next century, and offers greater due process to taxpayers who are trying to comply with our complex tax laws.

The legislation pending before us today allows Commissioner Rossotti to eliminate the current national office, regional office, and the district office structure of the IRS. It gives him the authority to replace these antiquated management models with operating units that will directly serve particular groups of taxpayers, better meeting their needs and making the agency much more efficient and user friendly.

Commissioner Rossotti should be complimented on his tremendous work and managerial skills. His plan to restructure the agency is as bold as it is necessary, and this legislation gives him the authority he needs to move forward.

One of the major concerns we've listened to throughout our oversight initiative—a theme that repeated itself over and over again—was that the taxpayers who get caught in the IRS hall of mirrors have no place to turn that is truly independent and structured to represent their concerns. With this legislation, we require the agency to establish an independent Office of Appeals—one that may not be influenced by tax collection employees or auditors. Appeals officers will be made available in every state, and they will be better able to work with taxpayers who proceed through the appeals process.

We heard a lot about the need for independence in our hearings. Agency employees themselves made it clear that there is no dependable and consistent mechanism in place to represent taxpayer interests. Just as this bill will give the appeals process greater independence, it will also make the Office of Taxpayer Advocate as well as local problem resolution officers more independent. In the future, the Secretary of Treasury, rather than the Commissioner will appoint the National Taxpayer Advocate. And the Taxpayer Advocate will be just that.

Criteria to fill this position will include that the Advocate must not be an IRS employee two years before and five years after holding this position. In addition, this bill provides the Advocate with much greater discretion to issue an assistance order to help taxpayers.

In an effort to ensure that independent review and accountability become part of the IRS culture—top to bottom—our legislation creates a nine-member IRS Oversight Board—a board composed of six experts from various professional fields in the private sector, the Commissioner, the Secretary of Treasury, and a representative of IRS employees.

As we heard in our oversight hearings, one of the key elements missing in the current agency is a powerful influence independent enough from management and the senior executive corps that it can monitor and hold managers and executives accountable for their actions, and the actions of their employees. Under our legislation, the Oversight Board will have broad responsibility and will ensure that the IRS has procedures in place to carry out its mission.

In order to help prevent the types of abuses disclosed in our Finance Committee hearings, the Board will have "big picture" authority over law enforcement and collection activities. While the Board may not intervene in particular taxpayer or employee cases, it will have access to information in order to help prevent the types of abuses that are brought to the Board's attention. If the Commissioner does not respond to issues raised by the Board, the Board may contact the chairmen of the tax writing committees.

We discovered in our hours and hours of testimony from IRS employees, and in the countless letters we received, that part of the intimidating culture of the agency is sustained by the fact that they feel there are no independent protections for them if they report wrong-doing. I was most disturbed to find in our investigation that there is a dangerous kill-the-messenger syndrome within the agency. Over 50% of employees servicewide believe that management does not communicate honestly with the rank-and-file. Fifty-four percent were adamant that there is distrust between management and employees.

When asked if there is adequate protection from retaliation against employees who report misconduct, 72% either disagreed, strongly disagreed, or did not care to comment. More than one in four indicated that they believe management fails to treat employees with respect. And 30% strongly disagree that, "Disciplinary actions are applied fairly to employees." If we are to have an agency that the public trusts and that the employees are proud of, these statistics must change.

In an effort to do this, our legislation eliminates the IRS Office of Chief Inspector. It transfers its full time equivalents to a new Treasury Inspector General for Tax Administration. There have been too many allegations that the current IRS Office of Chief Inspector does not have sufficient independence from the IRS to adequately fulfill its obligation. Likewise, the current Treasury Inspector General, which lacks resources and has experienced problems of its own, does not provide seamless oversight over the IRS.

This change is one of the most important distinctions between the House bill and the Senate bill, and it is of critical importance.

Our bill creates a new Treasury IG for Tax Administration which will have greater independence than the IRS Chief Inspector. This provision is supported by Commissioner Rossotti, and will create a structure where the new Treasury IG for Tax Administration will not allow oversight to fall through the cracks, and will provide a seamless check on how tax laws are being administered.

This new Treasury IG for Tax Administration will provide independent investigations of alleged IRS employee misconduct without management interference. The new Treasury IG will also respond in a timely manner to requests to investigate or audit made by the Commissioner or the IRS Oversight Board.

I believe that an intimidating edge now exists in the current management structure. The statistics I've just disclosed confirm that this is true.

One of the problems is that the Commissioner does not have the kind of authority that is necessary to eliminate those managers who contaminate the culture of the agency. And the Commissioner does not have sufficient authority to hire those who will work toward making the kinds of changes that are necessary. This legislation gives the Commissioner the tools he needs to hire top-flight managers who are experts in their field.

It gives him the wherewithal to transform the agency's workforce by providing bonuses and other incentives, and to sufficiently discipline employees whose inappropriate actions are a plague on the agency.

As we have seen—even this past week—the Finance Committee has disclosed egregious conduct by IRS employees. We have received thousands of letters relating the same.

They have come from taxpayers and agency employees, alike. The stories we have heard are outrageous, as is the fact that many of those who perpetrate these abuses do so without consequence. This will not stand. Our bill requires the IRS to terminate an employee if it is proven that the employee failed to obtain required authorization to seize a taxpayer's property, committed perjury material to a taxpayer's matter, or falsified or destroyed documents to conceal the employee's mistakes with respect to a taxpayer's case.

This legislation allows terminations to take place if an IRS employee engages in abuses or egregious misconduct. Conditions for which an employee can be dismissed include, but are not limited to, assaulting or battering a taxpayer or other IRS employee, violating the civil rights of a taxpayer or other IRS employee, or breaking the law, regulations, or IRS policies for the purpose of retaliating or harassing a taxpayer or other IRS employee.

Our legislation also allows an employee to be fired for willfully misusing section 6103 authority to conceal information from Congress.

With this legislation, we show that we mean business. An environment that allows employees guilty of these kinds of behaviors to continue to work within the system is not acceptable to me, the Finance Committee, or to the American people. We have heard enough excuses. And Commissioner Rossotti agrees that enough is enough!

One of the most troubling issues raised in our September hearings was the widespread use of enforcement statistics to evaluate front line IRS employees and their supervisors.

Subsequent reports by the IRS Chief Inspector substantiated our findings that the agency was, in fact, illegally evaluating employees based on enforcement statistics. Then, in our hearings just last week, we heard that such evaluations continue. In my mind, Mr. President, this mocks Congress. It demonstrates that the IRS believes it is above the law. It is indicative of a culture that believes that if it will simply hold on long enough oversight and accountability will go away and the managers and executives who have made careers out of bending the law can get back to business as usual.

The bill pending before us strengthens the law against this. It prohibits the use of enforcement statistics to evaluate any IRS employee, not merely front line collection employees and their supervisors. And the new Treasury IG would be required to report on whether the IRS is abiding by the law.

Each of the measures I have outlined thus far demonstrates just how serious we are in our effort to change the Internal Revenue Service.

Each will go a long way towards protecting the taxpayer and honest employees who are working to make the IRS a true service-oriented agency. But we don't stop here. We offer much more in the way of taxpayer protections. We shift the burden of proof to the IRS if the taxpayer maintains records, cooperates with the agency, and provides credible evidence to the court. In addition, the IRS will have the burden of providing a taxpayer's income if it uses arbitrary statistics to determine that income.

This legislation also allows taxpayers to recover attorney fees and costs from the date the taxpayer rightfully appeals an audit, and it eliminates the $110 per hour cap on recoverable attorney fees. Taxpayers should not be forced to litigate if the IRS is unreasonable. In order to level the playing field, if the agency forces a taxpayer to litigate and go to trial, our bill allows a taxpayer to recover all attorney fees and costs from the time the taxpayer makes a qualified offer if the amount of the court judgment is equal to or less than the taxpayer's offer.

Taxpayers should not have to foot the bill if the IRS is unreasonable. Beyond this, our legislation includes various provisions which allow taxpayers and third parties to recover against the IRS for civil damages. It also establishes procedures for third parties to have erroneous liens removed from their property.

Another major taxpayer protection in this legislation is our provision to strengthen innocent spouse relief. This legislation overhauls the current innocent spouse relief which is wholly inadequate.

We do this by limiting a spouse's tax liability to the proportion of his or her income reported on the tax return, or returns, in question. As a result of concerns raised by members of the Finance Committee, relief would not be available in cases of fraud, or if the IRS proves the taxpayer claiming innocent spouse relief had actual knowledge of an item giving rise to the tax liability.

Some of the most tragic stories our committee heard concerned innocent spouses whose economic lives have been ruined by the unrelenting pursuit of IRS collections officers.

What we propose here are needed changes—changes that will bring a semblance of sanity to the current system and protect honest spouses who, under no circumstances, should be held accountable for the liabilities of their former spouses just because they are easier to find or more vulnerable to intimidation. Many of the innocent spouses we listened to in our hearings—and many of the letters I have reviewed since—told us how they have been placed under terrible burdens because of interest and penalties that continue to grow as their cases age.

Again, with this legislation, we do something about that. We make necessary and important changes to how penalties and interest are applied. In order to prevent IRS employees from arbitrarily using penalties as leverage against taxpayers, our legislation requires non-computer determined penalties to be approved by management. Furthermore, each notice to taxpayers which includes a penalty or interest must specify how the amount was calculated. Our legislation disallows the imposition of the failure-to-pay penalty while the taxpayer is in an installment agreement.

It allows the taxpayer to designate deposits for each payroll period rather than using the first-in-first-out—"FIFO"—method that results in cascading penalties.

Under this bill, if the IRS does not provide a notice of deficiency within one year after a return is timely filed, then interest and penalties will be suspended until 21 days after demand for payment. Of course, this increased protection—as all increased protections—are meant to protect honest taxpayers.

We will not excuse those who evade their responsibility or cheat on their income tax returns. These protections exclude the failure to file, failure to pay, and penalties related to fraud.

Increased protections for honest taxpayers will also affect due process. This was one of the glaring issues raised in our IRS hearings.

Currently there is a woeful lack of protection in this area, particularly during collection activity, where the IRS is the judge and jury, and where some agency employees take a cavalier approach to issuing a notice of lien, levy, or seizure of a taxpayer's home, personal belongings, or business property. In order to ensure due process to taxpayers, our bill requires the IRS to provide 30-days notice to a taxpayer before it may issue a notice of lien, levy, or seizure.

If the taxpayer requests a hearing, all collection activity must stop. If the taxpayer disputes the findings of the appeals officer, the taxpayer may petition the tax court for relief.

Our legislation requires the IRS to implement a review process under which liens, levies, and seizures would be approved by a supervisor who would review the taxpayer's information, verify that a balance is due, and affirm that a lien, levy, or seizure is appropriate under the circumstances, including the amount due and the value of the asset.

Failure to follow these procedures, under our legislation, would result in disciplinary action against the revenue officer and his or her supervisor. We also require the Treasury Inspector General to collect this information and annually report to the tax writing committees of Congress.

On those occasions when the IRS makes seizures, the agency will be required to follow certain procedures and provide an accounting to the taxpayers. It is unbelievable that the IRS does not currently provide a receipt to taxpayers when their property is seized and sold.

Revenue Officers have incredible discretion. As such, this bill requires the

IRS to implement a uniform asset disposal system for sales of seized property to prevent revenue officers from conducting sales.

It would prohibit the IRS from seizing real property used as a residence if the unpaid tax liability is less than $5,000. Also, a principal residence or business property would only be seized as a last resort.

In the area of examination, our bill expands the attorney-client privilege to other tax practitioners to the extent such communications would be privileged between an attorney and his client.

It limits IRS authority to require the production of computer source code and establishes a number of protections against the disclosure and improper use of trade secrets and confidential information of any computer software program or source code that comes into the possession of the IRS as part of an examination of a taxpayer.

The legislation allows taxpayers to bring an action to quash all third-party summonses by informing the taxpayers of such summonses before the IRS contacts the third party.

Beyond these important changes, this legislation introduces several other measures to protect the taxpayer. It is surprising how long some IRS cases remain open and how long some taxpayers remain in the crosshairs of the agency. This is accomplished when the IRS pressures taxpayers, often by threatening them, to waive the 10-year statute of limitations on collection. Mr. President, 10 years is long enough, and to protect these taxpayers, our bill would prohibit waivers of the collection statute. It would also make it easier for taxpayers, who dispute the amount of their tax liability or can't pay the full amount, to compromise with the IRS or enter into installment agreements.

The legislation that we introduce today also provides taxpayers with an enhanced mechanism to appeal an audit, request early referral to appeals, and request alternative dispute resolution. It includes various routine requirements, including an explanation of the reason for denial of a refund and annual statement to taxpayers regarding the amount remaining on their installment agreement.

The bill also requires IRS notices to include the name and phone number of an IRS employee the taxpayer should contact to resolve any issue on the notice.

In order to protect innocent taxpayers who are improperly labeled as "illegal tax protesters," this bill will, out and out, prohibit such designation. It will also take an important step towards helping Congress simplify the law by requiring the Joint Tax Committee to prepare a complexity analysis on tax legislation.

As you can see, Mr. President, this is a very thorough, comprehensive piece of legislation. It is extremely important. There is no question that it is well worth the wait. When our hearing began last September, an agency employee made a complaint that lodged itself in my mind, one that I have not been able to forget. He said, "If the true number of incidents of taxpayer abuse was ever known, the public would be appalled. If the public also knew the number of abuses covered up by the IRS, there would be a taxpayer revolt."

What we bring with this important legislation is a new era of openness to an agency that for too long has been able to operate beyond the view of Congress.

We bring a new era of accountability to an agency marked by a culture that protects even the most lawless employees from the consequences of their actions.

We bring a new era of efficiency and modern management to an organizational structure that dates back to before the industrial age.

We bring forward a promise of hope to honest taxpayers and valued employees who have waited too long. With this legislation, Commissioner Rossotti will be able to transform the IRS, provide accountability, and establish much-needed taxpayer protection. Americans, for the first time ever, will have a tax collection agency marked by a sincere dedication to service.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise, in the first instance, to commend our chairman for his commitment to restoring public confidence in the Internal Revenue Service and for the legislation he has so ably crafted and now so succinctly set forth in the opening statement of this debate, which I think will probably consume the better part of the Senate's time for this week.

He, of course, stood on the shoulders of giants, you might say. In the report of the National Commission on Restructuring the Internal Revenue Service, "A Vision for a New IRS," which was a statutory commission established in 1996, and which reported in June of 1997—chaired by our distinguished and gallant committee member BOB KERREY, J. ROBERT KERREY, whom I will ask to manage this legislation in the days ahead, he having been the principal author here, along with his colleague from the other side of the aisle, Senator CHUCK GRASSLEY, CHARLES GRASSLEY, "CHUCK" to his friends. They anticipated the work we did, although I don't think they could have anticipated some of the things we encountered in those hearings. Those two Senators have been indefatigable in their endeavor to transform the IRS into a consumer-based agency.

As two rounds of hearings held by the Finance Committee illustrate, there is much room for improvement at the IRS. There is much room for improvement in almost any of our Government agencies, but few, other than the Social Security Administration, so directly affect the citizenry, and none other has the capacity to be punitive, to extract resources, to impose fines. There is no other agency such as this. It is extraordinary, the fact that we have paid so little attention to the management of the Service.

The Internal Revenue Service was created in 1862 in the administration of President Lincoln, at the time when an income tax was established to help finance the Civil War. President Lincoln signed the Civil War Income Tax Act into law July 1, 1862. However, it was not until last September, nearly a century and a half later, that the full Finance Committee exercised its oversight jurisdiction, and no credit can be too great to be given Senator ROTH as the new chairman for this effort.

It is our duty to know what is going on in this large public agency. It has more than 100,000 employees. In 1997, it collected $1.5 trillion and processed 210 million tax returns. We get used to these numbers, Mr. President, but to give a sense of dimension, 1 billion minutes ago, Julius Caesar ruled the Roman Empire. If that is what 1 billion minutes is, think what 1.5 trillion minutes would be.

Some, mind you, contend that the IRS is out of control and somehow should be abolished. In truth, we simply need to get it under control and shaped in the mode of modern management.

Last November, the Senate took an important first step to getting the agency in such a working mode by unanimously confirming Charles O. Rossotti as Commissioner of Internal Revenue. We have previously, for generations, had tax lawyers as the Commissioners. They were superb tax lawyers, gifted and committed, but not necessarily managers for the management problem that needed to be addressed. And particularly not technologies. The Service had a huge problem bringing itself along into the computer age. Vast amounts have been spent with systems that do not interact well. And now, of course, we have the year 2000 problem, which all agencies of Government face. All activities you can imagine compounding that earlier difficulty.

Commissioner Rossotti has already made a visible difference. He has put in motion a plan to modernize the agency by reorganizing according to type of taxpayer, such as the individual payer, the small business, the large corporation, or the exempt organization, of which there are so many, rather than according to the simple organization of regional offices that do everything.

In addition to establishing programs to improve the treatment of taxpayers, such as problem-solving days and extended telephone service, Commissioner Rossotti has done two things very specifically addressed to the concerns of the Finance Committee. He has appointed former Comptroller General Charles Bowsher to conduct an independent review of the IRS internal Inspection Service. It was remarkable that the Comptroller General, after 15 years of dealing with the Congress' often unfortunate demands on the General Accounting Office, came back to public service to do this. A more qualified person you could not imagine.

Secondly, and again an achievement of some considerable measure, Mr. Rossotti has persuaded Judge William Webster, formerly the Director of the Central Intelligence Agency, and prior to that the Federal Bureau of Investigation, to look into the activities and the operations of the Criminal Investigation Division of the Internal Revenue Service.

This is, obviously, a troubled branch of the agency. We do not associate the Internal Revenue Service with men in body armor carrying automatic weapons, breaking into offices and telling everyone to freeze, if you will. Yet, we heard testimony that could not be doubted that just such things are happening, and they need to be very carefully controlled and obviously have not been. How widespread that behavior is, we do not know. But we will learn from Judge Webster, and not a moment too soon.

The legislation before us represents a second major step. It would establish an Internal Revenue Service oversight board consisting of six private citizens, a representative of the IRS employees' union, the Secretary of the Treasury, and the Commissioner of the IRS itself. The board will be responsible for certifying the strategic direction and goals of the agency, while the Commissioner will continue to manage all day-to-day operations. The Finance Committee specifically voted to include the Secretary and a union representative on the board, making the composition of that board identical to that of the House bill reported out of the Committee on Ways and Means, which passed the House of Representatives by an extraordinary vote of 426–4.

But now it should be clear in anticipation of some amendments, not necessary but in anticipation of the possibility, it should be clear that if this board is to have any stature within the Government and with the public, the Secretary of the Treasury must be on it. That is basic management practice. As Senator BREAUX aptly stated during the Finance Committee markup, it is also far better to have the union working cooperatively on the inside rather than working in opposition on the outside.

I would also point out that the bill includes a number of provisions to create flexibility for the Commissioner in the area of personnel. In recognition of the great disparity between the salary structures in Government and those in the private sector on parallel activities, the legislation provides a streamlined process by which the Commissioner can appoint up to 40 individuals designated critical technical and professional positions for up to 4-year terms at an annual compensation equivalent to the pay of the Vice President, currently $175,400.

The Commissioner can go out and find this person to do this particular job and make it a 4-year appointment. Persons who obviously are in the private sector will come into Government at not too large a sacrifice, and for most it would be a considerable one. I do not want to use the word "sacrifice"—lachrymose, perhaps—just a large reduction in income for the kinds of persons that will be sought after, but not so large that they cannot manage the transition.

Other provisions will permit the establishment of a new performance management system focused on individual accountability and will allow for the creation of an award system to provide incentives for and recognition of individual group and organizational achievements. Additional measures call for the termination of IRS employees for violations committed in connection with the performance of their official duties.

The bill contains two provisions of special interest to this Senator, the first of which Senator KERREY and I particularly supported, and Senator ROTH mentioned in his opening statement. It would require the staff of the Joint Committee on Taxation to provide an analysis of complexity and administrability issues associated with all pending tax legislation.

Many of the problems faced by the IRS arise from the Tax Code itself. One of the clearest visions of the National Commission on Restructuring the Internal Revenue Service was simplification of the tax law which says it is necessary to reduce taxpayer burden and facilitate improved tax administration. One has to note, regrettably perhaps, that our proposal for simplification goes on some 511 pages. This is a pattern we have gotten into which we ought to avoid.

If enacted, and this bill will be enacted, it will be the 64th public law to amend the Internal Revenue Code since the great Tax Reform Act of 1986. In 1986, led by Senator Packwood, we greatly simplified the Code. We lowered tax rates, we broadened the base, we got rid of all manner of absurdities and irrational provisions in the Code.

The core group, as we called ourselves, would meet each morning in Senator Packwood's office and talk about the day's plans. It would be my particular job to provide a reading from the Wall Street Journal. I would find—never failed—an advertisement somewhere in the Journal of that day talking about mountain sheep or billy goats, or what have you, in which it would say "losses guaranteed." Such were the provisions of the Tax Code at that time—you made money by investing in activities that lost money. We cleared all that out, or thought we did, and we brought rates down and hoped they would stay there.

This will be the 64th law since that time amending and complexifying. I recall last year we passed a bill, 802 pages, called the Taxpayer Relief Act of 1997, and the only copy on the Senate floor was here at this desk. The copy for the chairman was spirited away to be examined in the Budget Committee for violations of the Byrd rule, as I recall. And Senators would come up and ask the Senator from New York if there were certain provisions in the bill. They had no way of knowing because there was no copy on the floor.

This sort of analysis will take time to do it, but 20 years from now we may look back and think that one of the most important provisions that was contained in this measure was the report by the Joint Committee on Taxation of the complexity of a tax measure, and how well, in fact, the IRS could handle its administration. Because if we failed to simplify the Code, we failed to address the heart of this problem. Complexity contributes to taxpayer frustration, obviously, and to tax evasion, as well.

We look forward to working with the chairman to try to reduce tax evasion, which is a much larger matter than we have tended to assume.

Commissioner Rossotti, in his testimony before the Finance Committee on Friday, stated that tax evasion is now at an estimated $195 billion a year. If we were to do no more than collect half the taxes now owed and deliberately not paid, our revenue situation would be profoundly changed. And that can be done, and I think Commissioner Rossotti intends to at least attempt it. We are talking about laws here. If we are a nation of laws, not only do taxpayers have rights, but they have responsibilities. Both should be pursued with energy and effectiveness.

A second provision has to do with the so-called year 2000 problem or the century date change, as Commissioner Rossotti terms it. The IRS has had some well-publicized difficulties with its computer modernization efforts. These problems have been exacerbated by programming changes required by the Taxpayer Relief Act last year and by the year 2000 problem.

It is beginning to sink in that we have a real problem here. Our majority leader and the minority leader are much to be congratulated. We have now created a special committee on this matter with our distinguished colleague, Senator BENNETT, as the chairman. This is not a problem in the ordinary sense, a difficulty to be looked after or endured. No. The General Accounting Office testified before us September of last year that the computer conversion problem could be catastrophic. The whole system could crash. We are not alone in this regard. The IRS is just another large information center dependent on information processing which it cannot do if the computers are not changed in time. The adjustments are not that complicated but the pressure of time is extraordinary.

I recently had the occasion of introducing the Chairman of the Securities and Exchange Commission, our distinguished Chairman Arthur Levitt, who was nominated for a second term. We were talking while we were waiting for the hearing in the Banking Committee to begin. He mentioned this issue and said that for the banks and such he is responsible for, if they do not get this done it is terminal. Not just that the profits drop a bit or some activities can't survive—it is terminal.

The Defense Department has unimaginable difficulties. They will get it done or they hope they will get it done, or our missiles won't be aimed in the right direction, things like that. And the Commissioner has asked that some of the provisions in this bill be delayed not for a long time but until after the year 2000 so he can have the year 2000 problem solved before he puts in these new provisions. It is a very reasonable, orderly, sane recommendation and we would be disorderly not to heed it. He has already sent us a 6-page letter that tells us when he can have this provision in place, when he can have that provision in place. He knows what he is talking about. I hope we will listen.

Two final points: The bill requires the Joint Committee and the Treasury to study the issue of taxpayer confidentiality. We must strike a balance between taxpayer privacy on the one hand and the ability of Government to function on the other. In our hearings we have had a matter where IRS officials, faced with specific charges, will often seem evasive or unresponsive in their answers. What they are doing is responding to the law that forbids them to discuss things they know, but which are confidential. Some balancing of that is in order, and I hope we can see it brought about.

Finally, Mr. President, a comment on the cost of the legislation. Through the ingenuity of the chairman, we have fully funded this measure for the first 5 years of its operation. It is underfunded by $10 billion in the second 5 years. We hope to do something about this. I think it is unseemly of us to bring tax reform legislation to the Senate and fully ignore the fact that we aren't paying for it. We can pay for it; it is not an impossible sum, and it is surely incumbent upon the committee and the managers of the legislation to see if we can't find that extra $10 billion.

Mr. ROTH. Will the Senator yield for a comment?

Mr. MOYNIHAN. I am happy to; yes.

Mr. ROTH. I want to make it clear that it is the intent of the chairman to fully pay for both the first 5 years and the second 5 years.

Mr. MOYNIHAN. Yes. I am not surprised. We pay our bills—or we ought to pay our bills. As I said, it would be unseemly to bring a measure of this kind to the floor saying, "Let's manage these matters better," and not manage to pay for it. That is welcome news, and the Senator has my cooperation on that, to be sure.

Finally, Mr. President, I am going to ask Senator KERREY to manage the legislation on our side. As I said, he was co-chairman of the National Commission on Restructuring the Internal Revenue Service. Their superb report, "A New Vision for the IRS," which was issued last June—11 months ago—has led to the work we are doing now, which we bring to the floor with pride and with the expectation that we will be successful.

On that note, sir, I yield the floor.

Mr. JOHNSON addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from South Dakota is recognized.

Mr. JOHNSON. I ask unanimous consent to speak for such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I thank the ranking member, Senator MOYNIHAN of New York, and the chairman, Senator ROTH of Delaware, for their excellent work on this legislation and for bringing this to the floor.

I rise today to express my qualified support for this legislation that is long overdue, the IRS Reform and Restructuring Act. When I say "qualified," that qualification is primarily over the question of paying for this legislation in full. As a member of the Senate Budget Committee, it is a matter of great importance to me. I am very heartened that Chairman ROTH has expressed very clearly on the floor here today that there will, in fact, be offsets sufficient to pay for this legislation not only during the first 5 years but the remaining 5 years as well. I look forward to reviewing those offsets, of course. But I am very heartened by that, because I think that is a key underlying requirement for this body to responsibly take up IRS reform legislation.

The road bringing us to this day has been long indeed. It was, after all, in the fall of 1995 that the legislation was enacted calling for the establishment of a commission on restructuring the IRS. Nearly 1 year ago, this commission submitted its report to Congress.

After a period of congressional hearings and negotiation, compromise legislation was agreed upon by President Clinton, Secretary of Treasury Rubin, and the minority leadership of both Houses of Congress. With this support, it is not surprising that the House passed H.R. 2676 last November by an overwhelming margin of 424–6. The administration, since that time, has appointed former FBI and CIA Director William H. Webster to review the practices of the IRS and its Criminal Investigation Division. I think that is a very important and responsible step on the part of the administration, which is consistent with the direction and concerns expressed by both the House and the Senate.

It has been frustrating that it has taken so long to bring this legislation to the floor. During the State of the Union Address at the beginning of the year, President Clinton called for passage of this bill as his first item of business. One week later, the majority leader pledged that IRS reform would be considered on this floor by March 30. Once again, unfortunately, the Senate did nothing. We spent days debating such items as renaming airports, but there was no action on this critical legislation. March 30 came and went, and so did an even more significant date for over 100 million Americans, and that was April 15, tax day. As the American people met the deadline for filing their tax forms, the Senate had not yet taken this legislation up on the floor.

Finally, after much delay, this measure has reached the Senate floor. It has often been said that, "It is better late than never." This week's Congressional Quarterly, a respected nonpartisan political publication, observes that one reason for the delay may have been a desire to raise campaign money. I certainly hope that was not the case. I believe that this legislation could, in fact, go a long way toward addressing many of the fundamental organizational problems that we see in the IRS today. That agency, as we all know very well, has antiquated computer systems, customer service phone lines that typically have busy signals, and many other operational inefficiencies. Furthermore, we have all heard about the large number of complaints about overzealous enforcement, rude service, and simple inability to get a clear answer. These are problems that clearly must be addressed.

Of course, it should be recognized that during the course of Senate hearings, the IRS was not in a position to refute individual cases brought before the committee because of their confidentiality restrictions, and so the "rest of the story," as is sometimes heard, went untold. Nonetheless, it is clear, both through hearings and individual complaints to our respective offices, that there have been abuses. There is no room for that, and there ought to be zero tolerance for that abuse.

This bill will create an IRS governance and oversight board, which will be charged with overseeing the long-term strategic and operational plans for the agency. Personnel policies will be made more flexible. Expanded use of electronic filing will become a significant goal, with the hope that by the year 2007 only 20 percent of the tax returns will be filed on paper.

Additionally, this bill will expand taxpayer rights. The burden of proof in Tax Court proceedings will lie with the IRS rather than with the taxpayer. Penalties will be allowed for IRS collection activities that negligently violate the Internal Revenue Code. Relief will be granted to spouses who are innocent of an underpayment filed on a return. Taxpayers will be granted expanded confidentiality protection as well as explicit notice of their rights.

One of the more overlooked provisions of this bill, however, is perhaps one of the most important. The bill states—albeit in a sense of the Congress, nonetheless an important expression of the point of view of this body—that frontline IRS technical experts should be heard during congressional consideration of tax legislation in an effort to avoid additional complexity to the Tax Code. It has been Congresses and Presidents, after all, not the IRS, that have been responsible for creating a Tax Code which is overly complex and difficult to enforce.

In a sense, the IRS has been an easy target for this whole debate, as has always been the case, I suppose. Few people like an agency responsible for collecting taxes.

We must instead recognize, however, that a great deal of the responsibility for this problem rests on the doorstep of Congress itself. The Taxpayer Relief Act of 1997, for example, while an excellent piece of legislation in very many respects, contains hundreds of new tax provisions, most of which increased the complexity of the Tax Code. We have in this debate the remarkable inconsistency of those who decry the complexity of the Tax Code on the one hand, but never miss an opportunity to worsen the situation by supporting every conceivable tax provision complication that comes along.

I do have a serious reservation already expressed at the outset, and that is the Senate version of the bill as it now stands is expected to cost the Treasury $19.3 billion over the next 10 years. The proposed offsets are nearly $10 billion short of paying for this cost, meaning this bill, until it is amended, is in violation of the pay-as-you-go rules in the Budget Act, and costing three times the cost of the House-passed IRS reform legislation. As a member of the Senate Budget Committee, I believe it is extremely important that we maintain the budget discipline that has brought us the first balanced unified budget in three decades, and not jeopardize even as worthy a cause as this. I look forward, again, to reviewing the chairman's offers that he will raise later on in this debate.

Additionally, I would be remiss if I failed to point out there are, in fact, a great number of IRS employees who deserve to be recognized for the exemplary service they provide for this Nation. Although I have certainly heard my share of complaints about the IRS, I have also heard from constituents who relate their stories of problems they have had. I am also very much aware of IRS employees who go about their duties every day as public servants in a professional and competent and able manner. We in Congress must be careful not to use too broad a brush in the heat of this debate. The vast majority of IRS employees are good and capable public servants with a tough job on their hands. The fact is that fact has been lost as we listened to one side of the story, one side that does indeed, however, need to be corrected.

But I think it is important for us to go about this debate and recognize that on the one hand elected officials have created a complex Tax Code, though we want aggressive tax collection in order to address the problem of tax evasion in this country, which costs the taxpayers $100 billion a year in uncollected taxes, an unfair tax on those Americans who fairly and legally pay their taxes. So on the one hand we want the IRS to be aggressive about making those collections, but on the other hand we also want an IRS with a human face on it that recognizes that intimidation and overaggressiveness has no place. This is a fine line to walk—a line that has been crossed in numerous instances about unfortunate situations with the IRS—but one that is difficult to walk in some instances.

Mr. President, I look forward to the debate on this legislation. It is a positive step forward in our efforts to create a tax system that is simpler and less burdensome on taxpayers. We cannot rest with the debate on this bill, however, since the more difficult and more complex job lies ahead. To truly resolve this problem, we will need to get to the ultimate source, which is the complexity and the difficulty of the Tax Code itself, and there the guilty party is not the IRS but the Congress itself.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. I thank the Chair.

Mr. President, April 15, the day on which we pay our annual tribute to the IRS, will never be one of the happiest days on the calendar for Americans. It is a time in which all of us are required to pay that which we owe to the Federal Government by way of the tax system that we, as Members of the Congress, have imposed upon the American people.

We have heard in the past few days a number of the abuses that have been foisted upon the American public, and I will speak to those issues in more detail in a moment. In the meantime, we have an opportunity to pass a reform and restructuring piece of legislation which, as a member of the Senate Finance Committee, I am pleased to support and endorse, and I hope we can get this to the President for his signature as soon as possible.

Many of us believe that it would have been possible to have passed this legislation last year so that the benefits that are provided in this legislation to the American taxpayer could have been available in the early part of this year before this year's tax collections went into effect. Nevertheless, we do have an opportunity to move forward on this important piece of legislation.

Reform of the IRS is not a partisan issue. In my judgment, by acting quickly on this legislation, we can provide some much-needed protections and service improvements to the American taxpayers.

I think it is fair to acknowledge that the problems with the IRS are not of recent origin or vintage. They have existed for many years. But it does seem to me that the timing for change is most fortuitous an opportunity for us to pass a broad, far-reaching IRS reform bill in a time when we have a Commissioner of the Internal Revenue Service, Mr. Rossotti, who has a unique and, I believe, highly qualified background to help us implement these changes.

Mr. Rossotti, unlike his distinguished predecessors, is not a man with a tax or an accounting background, but brings a distinctive business perspective. Many of the problems of the IRS deal with fundamental change of structure, so I believe that his background provides a unique opportunity, combined with this legislation, to produce the kind of changes which will benefit the American public and which Democrats and Republicans alike are prepared to embrace.

Already, in the few short months that he has served as our Commissioner, he has demonstrated a commitment to reform and change, and I believe that is highly encouraging.

Our responsibility as Members of Congress, in my view, is to give Commissioner Rossotti the tools that he needs to do the job, and the legislation before the Senate today does just that. Thanks to the leadership of Chairman ROTH and the ranking member, Senator MOYNIHAN, the public today is more aware than ever of the types of abuses we need to correct in the IRS.

Last week's hearings in particular reveal that the agency is in serious need of reform. I think all Americans were truly shocked and outraged by the testimony that we heard.

The task of collecting taxes is always a difficult one, but little, if any, circumstances would dictate the strong-armed, police-style tactics that we listened to last week were necessary in dealing with the taxpayers who testified before the Finance Committee.

The IRS, like any other agency, should attempt to use the least intrusive, the least confrontational method available to carrying out its duties.

Having said that, the abuses that we heard last week, I think, engendered the justifiable outrage by all of us, but there are those who are part of our country who are involved in criminal and other kind of nefarious activities, and so we must, at the time we reform this agency, not deprive the agency of the ability to move against those who are truly involved in either criminal conspiracies or other kind of activities in which they are underpaying their taxes.

Each of us who pay our taxes on time as required—and that is the vast majority of the American people—will suffer the consequences if changes that we bring into the system makes it more difficult to collect from those who would evade the taxes.

The consequence of that course of action will mean that all of us will pay more, not less, as a result of failing to collect taxes that are lawfully due pursuant to the IRS Code. So we clearly need to be mindful of that.

That testimony, nevertheless, I think was shocking to most Americans and certainly to the members of the committee where dozens of armed, flak-jacketed agents raided well-established businesses and individuals. This clearly appears to be an agency, at least in respect to those circumstances that we were informed about last week, that is out of control. Nothing that we heard, assuming that there was a tax liability owed by the taxpayers who testified, justified that kind of egregious conduct.

That kind of conduct gives a bad name to those 100,000 IRS employees who are decent, law-abiding citizens. They are our neighbors. They are our friends. They are involved in the civic culture of our community. They are involved in Little League and all of the other activities that make up a community. But this kind of conduct is egregious, it is unacceptable, and it cannot be allowed to continue.

I believe that the chairman and the committee have produced a strong bill that will give the Commissioner the tools he needs to make real reforms in the IRS possible. I would like to spend a couple of minutes addressing several of those reforms.

Establishing an IRS oversight board to provide input and oversight from the customers of the IRS, the American taxpayer, in addition to those who have responsibility for enforcing the Code, I believe, broadens the perspective of the oversight, and I fully support that provision.

Providing some kind of continuity for the Commissioner, as this legislation provides a 5-year term, I think is important for the stability and management of the agency. If, as I suspect, many of the agency's problems are deep-seated, institutional and cultural in nature, it is very difficult for an IRS Commissioner, no matter what his enthusiasm or her enthusiasm for reform might be, to make those kinds of changes in a couple of years. It takes a longer period of time to turn around a bureaucracy that is as large and encrusted as the IRS.

It will strengthen the Office of the Taxpayer Advocate by ensuring that the taxpayer advocate is truly independent from the IRS bureaucracy and increasing the ability of the taxpayer advocate to provide relief to taxpayers.

We have sought in the past, by establishing such an office, to provide that kind of assistance to the American taxpayer, but I believe candor requires us to acknowledge that we have fallen short of the mark, because the perception, if not the reality, is that the taxpayer advocate of the past is still part of the IRS structure, and the individual who holds that position looks to his or her future—the IRS itself—and therefore has been reluctant to aggressively intervene on behalf of the American taxpayer who has a legitimate grievance or issue to raise.

It will enhance oversight of IRS activities by strengthening the Treasury Inspector General Office. We heard much in the last week about employees who have complained about misconduct on the part of some of their co-employees, reporting this misconduct only to be ignored. Hopefully, a more effective oversight responsibility on the part of the inspector general's office will provide assurance that those comments and concerns—shared, as I have indicated, by the vast majority of employees of the IRS who are responsible, dedicated public servants who, as we were abhorred by what we heard, they, too, are greatly troubled by that kind of misconduct on the part of the few employees who engage in that type of excessive conduct.

This legislation requires the IRS to use fair and equitable treatment of taxpayers as a basis for employee evaluation.

Mr. President, one of the ongoing concerns in my own State has been the so-called quota system. This Congress has in the past attempted to send a message indicating that the quota system can no longer be used either to evaluate employees or as part of a collection tool.

Unhappily, notwithstanding those earlier directions from the Congress, we found last year as we were beginning our discussion of the reform measures in the Finance Committee that indeed, in the district in Nevada, such quotas were in fact being used, although they were not described as quotas. From all appearances, those who are part of the evaluating process could, in my judgment, have reached no other conclusion but that their performance would be judged by the amount of money that would be extracted from each taxpayer who came to the office by reason of some conflict or disagreement as to the amount of revenue that the taxpayer owed.

A quota system is inherently wrong and unfair because it engenders a confrontational attitude. That is to say, the IRS revenue officer looks at the taxpayer not as a consumer, one who has a problem that needs to be addressed, but basically as an individual that the revenue agent must collect a certain amount of taxes from in order to be evaluated positively by his or her superiors for purposes of tenure or promotion within the system.

I have to say that once we called this practice to the attention of the Acting IRS Commissioner at the time, he was forceful in his denunciation, as is Mr. Rossotti, our new director. But, nevertheless, notwithstanding directions from the past, these quotas were still there. That needs to be changed. And I believe that we provide not only the specifics, but the tenure in this legislation that directs that to be accomplished.

This legislation establishes goals for increased electronic filing, which offers benefits to both the taxpayers and the IRS. If there is a part of this cloud that has a shining moment, it is in the system that has been created that allows for telefiling. It is a system available to millions of taxpayers, a paperless system that allows the taxpayer to get his or her refund, if one is due, much quicker than the old process. It relieves an enormous paperwork burden on the part of the IRS. So it is a win-win, a win for the taxpayer and a win for the IRS. I am pleased to see that more taxpayers are availing themselves of this. And electronic filing also provides simplification for the taxpayer as well as for the IRS, and that practice has increased as well.

By shifting the burden of proof in certain cases where the taxpayer has cooperated with the IRS in providing all documentation to a tax case, again, it has the effect of leveling the playing field for the taxpayer in an issue of dispute or controversy with the IRS.

Expanding the opportunity for taxpayers to recover reasonable costs and attorney's fees when a taxpayer prevails over the IRS—this, too, levels the playing field and is in the essence of fair play.

Enhancing the ability of taxpayers to recover civil damages when they are victims of IRS abuse or negligence—this provision that we have added to the code treats taxpayers more equitably by eliminating interest rate differentials between many overpayments and underpayments so that the taxpayer is treated as the IRS is treated for purposes of interest payments that may be due as a result of money owed to the taxpayer.

The bill that we have before us provides relief from certain penalties when a taxpayer is making a good-faith effort to pay past due taxes.

This legislation enhances due process rights prior to seizures and levies and improves the ability of taxpayers to take advantage of "offers in compromise" and installment agreements.

This legislation increases disclosure to taxpayers of reasons for IRS actions, including providing reasons for denying a refund and clearly informing taxpayers of their rights during audits or other IRS procedures, thereby making the process less mystifying and secretive but more open and understood by the American taxpayer.

It requires all IRS correspondence to identify by name, phone number, and address, and to provide the IRS contact regarding the correspondence, and to require the Joint Tax Committee to analyze the change in tax complexity of legislation being considered by the Congress.

Mr. President, there is plenty of blame to spread around regarding the many problems with the IRS. It is certainly clear that for far too long a culture has existed within the agency that views the taxpayer as the adversary rather than as the customer. Overcoming this taxpayer-hostile culture is not something that we can accomplish instantaneously through legislative fiat, but I believe if we give Commissioner Rossotti the tools he needs to do his job, problems in this agency can be resolved and long-entrenched attitudes can be changed.

Most of the more than 100,000 employees of the IRS are conscientious public servants dedicated to doing their job in a fair, impartial, and effective manner. With strong leadership from the top, increased taxpayer protections and increased flexibility to reward employees who do their job well and to, conversely, penalize those who do not, I think, are what this agency needs before it can be turned around.

The IRS will never be the most popular Federal agency. But if, by passing this legislation, we ensure that honest, hard-working taxpayers are treated fairly and with respect by the IRS, we will have made a major improvement. I do not mean to suggest that by simply passing this legislation we will solve every problem with the IRS. Of course, that is not the case.

A great part of the problems with the IRS rests with this body, the Congress itself. The code is extraordinarily complex, difficult to administer, ambiguous in parts, uncertain in terms of its intended consequence. With every good intention Congress has had, for many, many years the IRS Tax Code has become more complicated, not less so. I want to be clear that I supported the changes in the Tax Code that were part of the balanced budget agreement last year. But last year's tax bill is a good example of the code becoming more complex.

While I believe that there were many solid policy reasons for every provision of last year's bill, no one can argue that last year's legislative enactment will provide for tax simplification. It has made the code more complex. And in recent weeks on the floor of this Chamber, we have heard proposals being offered on behalf of some of the educational issues that have been debated that will make the code even more complicated.

The bill before the Senate today will, however, provide great improvements in the management of the IRS. And until such time as we can provide for a simpler Tax Code that can be more effectively administered, we have a responsibility to provide the necessary tools so that the code can be more fairly enforced and implemented.

Mr. President, I strongly support this legislation and hope the Senate will pass this bill in the near future.

I note that the distinguished senior Senator from Nebraska joins us on the floor and undoubtedly will have much to say. I would like to pay tribute to him and his congressional counterparts for the years that they spent as part of a review of this Tax Code, the testimony they heard, the stories that were told to them. The genesis for this reform lies largely with the action of the distinguished senior Senator from Nebraska, Mr. KERREY. I acknowledge that. All of us ought to be grateful.

He and Senator GRASSLEY and others, in a bipartisan way, during the interim, took the many hours out of their time to canvas some of the more outrageous and objectionable provisions of the code, some of the practices that have occurred over the years, the injustices that have occurred. The legislation that they framed, which is the basis for action today, moves us a long way in the direction of reform.

The American people ought to be very grateful to him, Senator GRASSLEY, and others, for their efforts in moving this reform along the way.

I yield the floor.

Mr. ENZI address the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise this afternoon in support of this bill that we have been addressing since noon, H.R. 2637, the Internal Revenue Service Restructuring and Reform Act of 1998. By passing this legislation, Congress will take an important step in reforming what many Americans believe to be the most feared agency in the United States.

I want to congratulate Chairman ROTH of the Finance Committee for the tremendous effort he made last year to begin some oversight hearings. We heard earlier today those may be the first oversight hearings in the history of the IRS, an IRS that was formed during the Civil War.

The hearings that we heard last year were frightening, revealing, and to most of the American public, not surprising, unfortunately. We learned a lot from that process. It provided emphasis and timing to be able to do the reform bill that we are presently debating, a reform bill that will bring a little bit of a sense of security to the honest American taxpayer.

Last year I had so much interest in the hearings that were going on that we arranged for each day's hearings to be on our web site, the web site for my office, each day. Those were available within 24 hours. We have also been taking the hearings that were just held and getting them posted on the web site so they would be accessible to every American in the United States. I think that access to that will lend more urgency to the work before the Senate today.

The bill before the Senate today, and I appreciate the very detailed explanation that Chairman ROTH gave earlier this afternoon, this bill will first overhaul the IRS organizational structure; secondly, it will provide necessary protections for American taxpayers; and third, it will require greater accountability from the IRS employees.

I will talk about that in a little more depth. First, the IRS Reform Act will overhaul the organizational structure of the IRS. In order for any organization to perform its function well, it is necessary for it to know what that function is, to know its mission. When I was in the Wyoming State Legislature, I worked with a number of agencies as they implemented strategic plans. We passed a bill that forced each of them to say what they do and how we could tell if they got it done. I think that is key to anything in government. There is no bottom line, but there is a mission.

I watched that process as they did it in the State. We heard from directors, from the agencies, and we heard from the employees as it got down to their level on what they do and how we could tell if they got it done. I have to say I was so pleased, there were employees that came forward and said, "My job shouldn't exist. It doesn't fit with what we say we are doing." It is my earnest hope that every one of those people were promoted, not eliminated.

It worked so well in our State that we were able to get our budget balancing process down to a record 3 weeks and then to 13 days. I was pretty excited when I got elected to come back to Washington. I thought that was one of the things that the Federal Government could do—have a mission process. But when I got back here, I was excited to find that it already existed. We have a Government Performance and Results Act. It requires every Federal agency to have a mission statement, to have goals, to define them, so that they are measurable and prioritized, and then to see that the goals match up with the budget so they are spending the money on what they said they would.

As a result of my excitement over that act, I got copies of a number of agencies I was interested in to see what they said they were doing and how we would know if they got it done. One of those agencies was the IRS. Something else I did was to go on a field trip to those agencies and let them explain to me, through their government performance and results, what it was they thought they were doing. It was an interesting trip to the IRS. I will admit to say they were extremely cooperative and had a lot of insights they were willing to share with me on problems they have and solutions they are arriving at.

One of the things that I asked about was when a taxpayer calls in and asks a question about their taxes, how do they know they can rely on that? I want to tell you there isn't a good answer to that. I have asked for written confirmation when that answer is given so you can put that with your tax records and then show that to the agent if you are audited.

We talked about having error notices that are easier to read. I don't know how many people have received an error notice, but they are computer-generated letters, and the computer-generated letter generates a series of codes that might be the reason you are being audited. You can take those series of codes and you can look in an extremely long document that comes with the letter and see what the range of possibilities are on what may have been done wrong and what is not right. It is computer generated. The computer is spewing out a series of letters. It could at least transform those letters into the exact words from the text of what those possibilities are. We are suggesting they ought to tell you what the problem is that brought you up for an audit.

There are also problems with dollar thresholds. I remember when one of my clients—and I am the only accountant in the U.S. Senate—one of my clients, on a $3 million report, was told they were off by 58 cents. It took 3 months and about nine letters to get that straightened out. I suggest that when the IRS sent that very first letter they had already used as much money as they had the possibility of correcting—58 cents. It turned out they had made a mistake in their addition—58 cents.

Then there is the problem of random audits. The IRS has been randomly auditing people in extreme detail. No reason showed up for the need for the audit. It was to get an estimate of how many dollars they might be missing. Those people were required to produce more documents than if they had been chosen for an audit. They had to find the documents for every single line of their audit. What would it achieve? It would give us a better state of how much money is not being collected. It wouldn't collect a dime. We have asked for that process to be stopped, and we have been told it is, but you will hear numbers still brought out about the possibility that we are doing random audits.

I congratulate the new Commissioner. The new Commissioner brings a management perspective instead of a tax perspective to an agency that needs some management perspective. He has already changed some of the phone overflow so that people who may not have as heavy a work load can be answering questions. He is looking at a lot of things that need to be done.

I have to admit that Congress has a big task ahead of it because part of the problem is the Tax Code itself. It is too cumbersome, too hard to understand, too many provisions, too many exceptions, too many interpretations.

So it is up to Congress to take a look at the Tax Code and the American taxpayers to demand that we take a look at that Tax Code. We have to decide if it is going to be a Tax Code of policy or just one of collecting money. So far, we say it is a tax policy. But we really haven't taken the step of sitting down and determining tax policy and what we are trying to achieve. We always jump to the solution without agreement on the problem. I think the voters would buy and be excited over a clearly defined problem. They would hope for a solution.

We talk about the American dream. We talk about strong families. We talk about home ownership. We talk about health care for everyone. We talk about the need and importance for investment and savings. We talk about the role that small business plays as the backbone of our economy and the economic hope and dream for individuals across this country. In the land of freedom, we hide taxes. And it gets worse. We double tax some people. I ask you, with the exception of home ownership, where are those things reflected in the Tax Code?

Stronger families? No, we penalize marriage. We discourage parents from raising their own children. We only give big corporations a health care tax break. We don't even give the same break to individuals paying their portion of health care. We tax investment and interest and at an escalated rate, unearned income. Our current tax system discourages the small, the beginning businesses, particularly those beginning in the home, which brings us back to families. America has become the home of the "tax trap," and the IRS gets to spring it. Let's see, the way the tax trap works is, the harder you work, the more taxes you pay. The more taxes you have to pay, the longer and harder you have to work. You end up with more work, and Washington ends up with more money. I don't think that is how our forefathers saw the system happening.

We in Congress have to make filing easier, and that means less forms, that means less instructions, that means less chance of making a mistake, and that means less chance of an audit.

When I was at the IRS on the field trip, I asked about paperwork simplification—a major effort by the Federal Government. We have to reduce the amount of paperwork Americans have to do. Well, I want to tell you how they told me how that is rated. The IRS generates more paperwork than the other agencies combined; 75 percent of all Government paperwork comes through the IRS.

We had some suggestions for ways the tax forms could be a little easier to fill out. A couple of those required adding another line so that you knew how the number got from here to here. Can't do that. The way the Paperwork Reduction Act works is, to get any credit under paperwork reduction, you have to remove lines from the tax forms or any other Government form, regardless of whether that makes it more difficult or not. That will give you a little explanation why the EZ-1040 form—the simplest form we are supposed to fill out—has a 33-page instruction manual. You have to be a lawyer to read the detail to figure out what to put on this "simplified" tax form. That is not right. But that is why we have it.

The Paperwork Reduction Act only gives credit for taking lines off the form, not for building millions of pages of explanation for the lines that you do not understand. I thought of an "Enzi Form 1040," a 1-page form. It would still provide the auditing capability that the IRS would need. It can be done if we go to tax policy and if we get together and work on simplification.

Now, the IRS reform bill makes some important structural changes, which I believe will help to focus the agency's mission. This legislation creates a separate board to oversee the management and operations of the IRS. This board would include six private life experts, who will bring their collective private sector experience to such tasks as reviewing and approving the agency's strategic plans and budget requests. The board would also have big picture authority over IRS enforcement and collection activities. Board members would not, however, be permitted to intervene in particular tax disputes. Moreover, in order to ensure the agency's autonomy from improper influence, these board members would be governed by conflict of interest restrictions. I believe this new board, which will be comprised largely of people with experience in the private sector, will help the agency better meet the needs and concerns of the agency's customers—the American taxpayer.

Secondly, the IRS reform legislation provides important safeguards for the American taxpayers. For too long, the IRS has actively filled the roles of judge, jury, and executioner in collection actions against taxpayers. This Reform Act would shift the burden of proof from the taxpayer to the IRS in most court proceedings, as long as the taxpayer introduces credible evidence relevant to determining his or her income tax liability. It would also place the burden of proof on the IRS in determining whether penalties should be imposed. The bill expands a taxpayer's ability to collect attorney fees when the IRS brings unwarranted action against them and allows taxpayers to recover civil damages when an IRS employee is negligent in collection actions. Taxpayers may also recover attorney fees in civil actions against the IRS when the IRS engages in unauthorized browsing or disclosure of taxpayer information. It would also provide substantial relief for innocent spouses in collection actions based on past joint returns by allowing spouses to be liable only for tax attributable to their income.

Many of the taxpayer provisions in the IRS Reform Act are a direct result of the abuses uncovered last year by the Senate Finance Committee hearings. Many people were shocked to learn that a number of the due process protections Americans take for granted in other legal proceedings do not apply to actions involving the IRS. The bill corrects many of these injustices. Once this bill becomes law, the IRS will be required to provide notice to taxpayers 30 days before the Service files a notice of a Federal tax lien. A taxpayer would then have 30 days to request a hearing by IRS appeals. No collection activity would be allowed until after the hearing. The taxpayer would likewise be able to petition the Tax Court to contest the appeals decision. Finally, the communications privilege now granted only to attorneys would be extended to accountants and other tax practitioners. This charge would provide taxpayers with the necessary confidentiality in communications with their tax preparers, whether or not they are licensed attorneys.

I hope this reform activity will spread to some of the other agencies. We have people across America who are living in fear of the Government that they vote for, that they pay for, that is supposed to be working for them—people who really want to do the right thing, but are afraid to ask the right questions for fear that question will be used to penalize them, for fear that question will put them in the public spotlight and embarrass them. It isn't just the IRS; the Environmental Protection Agency is one that a number of small businesses live in fear of asking a question about: Is it pollution? How do I stop it? Can I clean it up and spend the money myself and not be penalized?

OSHA is another one of those, where the small businessman lives in fear of asking the right question for fear it will result in a penalty and not an answer. Sometimes they are not even allowed to give an answer, but they are allowed to penalize.

So what we are talking about in this bill is allowing the taxpayer to ask his accountant the right question to see if that is what he really owes and not have that become a road map for the IRS for future action. I believe these changes will help rein in many of the intimidation tactics used to target the unsuspecting taxpayers.

Thirdly, and lastly, the IRS reform bill will bring and demand greater accountability from the more than 100,000 employees who work for the Internal Revenue Service.

It requires all IRS notices and correspondence to include the name, phone number, and address of the IRS employee whom the taxpayer should contact regarding the notice. Imagine that—being able to talk to the person that knows the problem. Moreover, this bill requires the IRS to maintain complaints of any employee misconduct on an individual employee basis. This won't be just the IRS. Each person will have accountability. It will prohibit the IRS from labeling individual taxpayers as "illegal tax protesters" and maintaining lists of these individuals. The IRS will also have to disclose to taxpayers in simple terms the criteria and procedures for selecting taxpayers for audit. I believe this will decrease the ability of the IRS to target innocent taxpayers and innocent small businesses for audit.

Mr. President, the IRS Reform Act will go a long way in reforming our Government's tax collection practices. By returning customer services and accountability to the IRS, this legislation helps ensure that the American taxpayers are treated with the decency and respect they deserve.

Again, I want to thank the chairman for the hearings that he held to lend emphasis to the need for this bill and the desire to have this bill.

I appreciate the bipartisan effort that has been made to get this bill moving through the process this week and look forward to the debate that we will have on it.

I urge my colleagues to join me in supporting the IRS Restructuring and Reform Act of 1998.

I thank the Chair.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I thank my friend from Wyoming for his excellent statement about the need for this legislation. All of us involved in this over the years, including the distinguished chairman, hope the debate that we are having will be constructive and lead to enactment and passage by this body as quickly as possible after conference with the House and the signature of the President for substantial new powers, and the reason to believe that this change in the law will improve the quality of service that every single American taxpayer gets, and cause all of us to want to make certain that this bill passes as quickly as possible.

Mr. President, the legislation we begin debate on today—the Internal Revenue Service Reform and Restructuring Act of 1998—will touch the lives of every taxpaying American. The law which authorizes the federal agency known as the IRS to collect taxes affects more Americans than any other.

Before I discuss what is in this legislation I must offer praise to several who have played key roles in developing the bill before us today. First among them is Senator BILL ROTH, Chairman of the Senate's Finance Committee. Chairman ROTH's enthusiasm for protecting American taxpayers who fear this agency, his desire to make certain the Commissioner of this agency has the statutory authority to manage it, and his willingness to accommodate the ideas of all members of his committee made it possible to produce a unanimous vote of support.

Likewise, Senator MOYNIHAN, our ranking member stood steadfastly with our Chairman to make certain our rhetorical excesses did not lead to changes in the law which would have the perverse effect of increasing the tax burden on law abiding Americans who experience no difficulty with the IRS. One of the most difficult judgments we have to make is to separate the legitimate and constructive complaint from those who simply do not want to pay their taxes. To paraphrase H.L. Mencken: "Injustice is not so difficult to bear as people say; it is justice that is difficult to bear."

In addition I want to thank Senator RICHARD SHELBY, Chairman of the

Treasury Postal Subcommittee of the Senate's Appropriations Committee. His support in 1995 for the creation of the National Commission of Restructuring the Internal Revenue Service—along with Congressmen Jim Ross Lightfoot and STENY HOYER—was in response to the IRS having wasted $4 billion of taxpayers' money on a failed investment known as Tax Systems Modernization.

Mr. President, I also want to praise the work done by Congressman ROB PORTMAN, who was my co-chair of the National Commission.

Congressman PORTMAN and I became partners in this year long effort during which we received extensive input from American taxpayers and experts on the IRS and tax system, holding 12 days of public hearings and spending hundreds of hours in private sessions with public and private sector experts, academics, and citizen's groups to review IRS operations and services. In addition to holding three field hearings in Cincinnati, Omaha, and Des Moines, the Commission met privately with over 500 individuals, including senior level and front-line IRS employees across the country.

Mr. President, let me also congratulate the men and women who served on the National Commission beginning with Senator GRASSLEY and Congressman BEN CARDIN who cosponsored the House legislation. Together, we worked hard to ensure this effort remained bipartisan and bicameral. Restructuring this agency so that taxpayer satisfaction becomes paramount at the new IRS by making certain this agency initiates contact with a taxpayer only if the agency is prepared to devote the resources necessary for a proper and timely resolution of the matter is not a partisan issue. Americans of all political persuasions are demanding we change this law.

Finally, I want to extend my thanks and appreciation to Secretary of the Treasury Bob Rubin and President Clinton. While our early disagreements about governance were getting public attention, Secretary Rubin was making substantial changes in the operation of IRS in response to the National Commission's work. Most notable was the decision to break with precedent and nominate a person with business and management experience to be the IRS Commissioner, Mr. Charles Rossotti.

The last time this law was changed was in 1952 in response to the problem of widespread fraud and allegations of bribery. This time a key reason for taxpayer frustration with the IRS is the lack of appropriate attention to taxpayer needs especially when compared with service from comparable private sector financial institutions. To increase customer service without causing a deterioration in the IRS's ability to collect the taxes Congress has directed the agency to collect is not as simple as it appears. Multiple changes are needed.

The key areas where this legislation makes changes are in executive branch governance and management of the IRS, Congressional oversight of the IRS, personnel flexibilities, customer service and compliance, technology modernization, electronic filing, tax law simplification, taxpayer rights and financial accountability. Each add to a whole which I believe will be noted by taxpayers as improving the service they receive and reducing the abuses they report.

As we debate this legislation remember that the IRS collects 95% of the tax revenue this Congress uses to pay for spending this Congress has authorized. Last year we appropriated $7 billion to the IRS to collect $1.6 billion. This represents less than half of one percent of total revenues and makes the U.S. Tax collection agency the most efficient amongst all our industrial competitors. We would not be debating this bill if we believed that we could not do better, but it is useful to understand the challenges presented to the IRS and to give this agency credit for the successes it has achieved.

Mr. President, it is also useful to remember that a majority of Americans (including those who testified before the National Commission) believe that when it comes time to apportion blame, Congress is more at fault than the IRS. And, given our enthusiasm for constantly changing the tax code and inconsistent oversight, the American people have figured this one out right.

The just passed Education IRA bill for K–12 expenses, would be the 64th tax law added to the books since 1986 and will add significantly to the nearly $75 billion spent annually by taxpayers in an effort to comply with the tax code. It is also an example of how Congress passes tax law without considering the cost of administering this new tax law and its real impact on the American taxpayers it is supposed to help.

The prospects are dizzying. I am not on the floor to argue the merits of this legislation, but I would like to discuss instead the facts of its results. This legislation allows for tax-free withdrawals from education accounts for room and board, uniforms, transportation expenses, or supplementary items or services, but only if these things are required or provided by the school. So this new law will not only require families to have a pretty sophisticated understanding of the law before they take their money out but will require the IRS to become even more invasive in their efforts to make certain that parents can justify their expenditures with detailed records.

Anyone who expresses surprise that the IRS will be asking taxpayers to submit busfare receipts and clothing bills with their tax returns is not paying attention to the connection between the tax law and the actions of the IRS.

And the confusion does not end there, because when the bill sunsets in 2002, we will have established three separate rules governing education savings accounts. This year, we have education savings accounts that can be used for higher education but not K through 12. Next year and through the year 2002, we have different rules which allow tax-free withdrawals from these accounts. After 2003, K through 12 withdrawals could be made, but only from the contributions and earnings from 1999 and 2002.

So how will the taxpayers know what they are to take out is tax free? How will the IRS know and how will the IRS attempt to explain these new rules to taxpayers, and who will understand them? Indeed, will anybody understand them? But that is the challenge the IRS will face. We pass a law; they have to write the changes in the code; they have to disseminate those changes to the taxpayer; and then they have to judge whether or not the taxpayer is abiding by the new rules and abiding by the new code as written, as dictated by changes in the law that we have just passed.

There are no shortages of examples of actions taken by Congress to change our tax laws that result in increased burdens on the American taxpayers coupled—and I say it again. It isn't just an increased burden on the taxpayer, but every change we make in the tax law says to the IRS: We want you to invade even more and find out more of what the American people are doing before you allow this tax break to occur.

I urge citizens, if they are in doubt—we have the bill itself. That is what we are debating, a change in the law—Title VI of this law, this bill before us today, is called Technical Corrections. Now, most of these technical corrections are to the Balanced Budget Act of 1997. And lest anybody think I am down here taking a shot at someone who voted for it, I voted for the Balanced Budget Act of 1997. With an interest in saying that we balance our budget, I voted for the bill. But all the provisions and technical corrections are technical corrections as a consequence of confusion in the law, and that confusion increases the burden on the taxpayer, increases their requirement to go to accountants to figure out what the Tax Code is, and increases the likelihood when there is a dispute between the IRS and the taxpayer, the taxpayer is going to come to us with a complaint about the invasive nature of the IRS.

I urge citizens to read what is called "Explanation of Provision" in the Finance Committee report, the much smaller document that is available to citizens as they follow this debate, especially those who are staff of Members on the floor. Read the "Explanation of Provision." You get an understanding of the difficulty that the American people are having and why they are right to conclude that, in spite of our rhetoric, we have created many of the problems they experience with the IRS.

Now, Mr. President, I would like to go briefly through the provisions of this proposed new law to make the point that Congress has finally got the message from the American people. With the enactment of this legislation, we will make dealing with the IRS much easier than it has been in the past.

The first of the four titles is the most relevant. Title I, Mr. President, deals with executive branch governance and management of the IRS. In addition to directing the IRS to revise its mission statement to provide greater emphasis on serving the public and meeting the needs of taxpayers, there are five major changes in this title that deserve attention.

First, the IRS Commissioner would be directed under law to restructure the IRS by eliminating or substantially modifying the present law three-tier geographic area structure and replacing it with an organizational structure that features operating units serving four groups of taxpayers with similar needs.

Mr. President, this three-tier structure was created in 1952, and what the Commissioner has proposed to do is follow the lead, the recommendation, of the Restructuring Commission to organize by four functional categories—that is to say, individual taxpayers, small businesses, large businesses, and the tax-exempt sector.

Under this structure, each unit will be charged with end-to-end responsibility for serving a particular group of taxpayers. Today, each of the 33 district offices and then 10 service centers are required to deal with every kind of taxpayer and every type of issue. The proposed plan would enable IRS personnel to understand the needs and problems affecting and protecting groups of taxpayers and better address those issues.

I am going to digress a bit and talk about an amendment that is going to come before this floor to knock out a provision that would have on the nine-member oversight board a member of the Treasury Employees Union or someone who represents a large number of employees. This provision is why there needs to be a Treasury employee representative on there. This will require significant personnel changes. This is not an easy thing for the Commissioner to do. We, I think, are quite correct in putting in statute that we want him to do that, that we direct him to either eliminate or substantially eliminate this three-tier system. But this will require significant personnel structuring. I believe we need to have that representative on the inside of the tent when these decisions are made. It is much more likely that a satisfactory result will occur.

So my colleagues will understand, both Congressman PORTMAN and I support this. And support for the idea came from a number of other people who have gone through this, most notable of which is Australia. When they restructured their tax collection agency, they found lots of personnel issues that were surfacing, and they made the decision early on. They testified that it was a sound decision to put that employee representative on the governing board.

Mr. WELLSTONE. Will the Senator yield?

Mr. KERREY. Yes.

Mr. WELLSTONE. I am in the Chamber now, and I wanted to make it clear to the Senator that I am learning a lot as I hear him go through the bill, and I hope the Senator will take his time in explaining the provisions. This is an important piece of legislation, and I just want to make that clear out of courtesy.

Please go forward with the arguments. I am learning in the Chamber.

Mr. KERREY. I appreciate it. I thank the Senator.

The present-law structure impedes continuity and accountability. I emphasize this. This is one of the big complaints to the Restructuring Commission and the hearings that Senator ROTH had. We heard repeatedly from taxpayers that they just didn't know what was going on; something would start and stop. They did not get continuity and accountability under present law.

For example, if a taxpayer moves—let's say a taxpayer decides that they would rather live in Omaha, NE, than Portland, OR—a logical move, it seems to me. They decide they want to go from Oregon to Nebraska. Responsibility for the taxpayer's account would move to another geographical area. It would transfer to the Nebraska area. Every taxpayer is served by a service center in at least one district. So in addition to the new service area, there is a new service center. Thus, many taxpayers have to work with different offices on the same issue. Thus, again, they fail to provide the continuity. They fail to provide the accountability that everybody expects when they are dealing with any private sector organization.

The proposed structure would eliminate many of these problems. Not only would this proposed structure eliminate that problem, but it is much more likely the Commissioner is going to be able to come to us with some real exciting changes. For example, by putting all small businesses together, I believe it is likely—every other tax commissioner that talked to us about this said that its likely the Commissioner will come and say, We have got 35, 40, maybe 50 percent of our small businesses that are paying no taxes but they are spending $1 billion or so, they are spending a lot of money, complying. We can reduce the cost of compliance without reducing the amount of money coming in to us by simply exempting a significant number of people.

Likewise, if there is a huge difference between the problems faced in collecting taxes from individuals, most of whom have withholding accounts—and 99 percent of the American people who have withholding comply with the Tax Code. They are the easiest to collect taxes from. They are just trying to figure out what the amount is so they can get it paid in an expeditious fashion to factor it into the family budget. Whereas a large business, $600,000 to $1 million or more, they have a complicated set of circumstances, much more labor intensive, much more likely to have accountants and lawyers, and so forth, working with them.

What the Commissioner is proposing to do is get rid of this three-tiered structure, and what we have done with this legislation is incorporate it into law.

Let me say the chairman and I have had many disagreements about the timing of this thing. The Senate has made substantial improvements to its bill, and this is one of them. This is an area where we have substantially improved what the House passed by incorporating the recommendation of the Restructuring Commission to knock out this three-tiered system and go to a functionalized system. I predict that for small business, large business, as well as nonprofit, they are going to find a big improvement in the way they get services from the IRS. I think we are going to find happier customers and we are going to find ourselves with an IRS that costs even less on a unit basis than it currently does.

(Ms. COLLINS assumed the Chair.)

Another major change made by this law, Madam President, is the creation of a new executive branch oversight board. This bill sets up a nine-member, public-private board to oversee the IRS in the "administration, management, conduct, direction and supervision of the execution and application of the internal revenue laws." There are some specific references to what is not covered in this legislation, what this board would not be doing. It is not expected to be micromanaging. It will not be given information about taxpayers' returns, except in unusual circumstances where they need to know. They are not going to be involved in procurement. They are not going to be involved in personnel issues. There are lots of things that are specifically excluded.

They are going to be subject to all the conflict-of-interest laws that any executive branch appointment would be. All these things have been laid out in the legislation and are worth reviewing by Members who are wondering how this new oversight board is going to operate.

Specifically, Madam President, the board will review and approve strategic plans for the IRS, review the operational functions of the IRS—including plans for tax administration systems modernization, review and approve major reorganizations and review operations of the IRS to ensure the proper treatment of taxpayers.

Madam President, we tried to avoid what I think is a common mistake when creating boards like this, and that is to specify precisely what each member has to be in order to be nominated. What we did was we set out a half a dozen or so different areas that we think are important, different knowledge bases that we think are important in order for this board to be able to do its job, and we give the President a substantial amount of authority to make those decisions. We stagger the appointment terms so that eventually you get to a point where everybody is on a 5-year term. They can be extended for 5 years. We stagger the Chair as well. I think we have created an administrative structure that will dramatically increase the accountability and will make it much easier for us in Congress to do good oversight of the IRS.

This title I also, Madam President, establishes a 5-year term for the Commissioner of the IRS. That has been discussed before. We need increased continuity. Both the Commissioner and the Assistant Treasury Secretary, who has principal first line authority over the Commissioner, have, over the last 10 years, been on the job somewhere like an average of 2 or 3 years. This presents serious continuity problems. We establish a 5-year term for the Commissioner and we require the Commissioner to have demonstrated ability in management. This title also gives the Commissioner a great amount of flexibility in hiring those persons necessary to administer and enforce the Nation's tax laws.

Another important part of title I is the way that this title beefs up and makes more independent, the taxpayer advocate. Later, if the floor is vacated, I may come down here, I may stand here and read the various provisions in this part of title I. Colleagues need to understand that this taxpayer advocate is going to be completely different than the current taxpayer advocate. The bill gives the IRS oversight board input into the selection of the taxpayer advocate. It limits prior and future employment of the advocate with the IRS, and gives the advocate broad discretion to provide relief with regard to taxpayers. It provides a problem resolution system with local taxpayer advocates who report directly to the national taxpayer advocate.

Currently, we have a thing called a taxpayer advocate. We are going to have a national taxpayer advocate and I guarantee every single Member is going to find that this taxpayer advocate provides a much different kind of service, much more independent service than with what we are currently dealing. The advocate is required to report to Congress on a variety of compliance problems, identify those repetitive problems that may be there as a result of the code, may be there as a result of the law.

This is a very, very powerful new position, Madam President. I thank Senator BREAUX of Louisiana. He is the principal author of this change. I would put it second on the list of things that the Senate changed in the House bill that are substantial improvements. My guess is Congressman PORTMAN and the others on the House side, Chairman ARCHER, will accept these changes. Senator BREAUX made it a point to figure out how to better help taxpayers with a complaint about their treatment by the IRS. This section is a substantial improvement.

Another improvement was made by the chairman, which establishes a new, independent Treasury inspector general for tax administration within the Department of Treasury. Currently, we have two. We have an inspection division in the IRS; we have an IG over Treasury. We still have an IG at Treasury under this new law, but we move the IG for tax administration over to Treasury. We leave the audit function in the IRS. There will be two IGs. The IG for Treasury will be responsible for Treasury items and the tax administration IG will be responsible for the IRS. It is a big improvement over the current status quo. We have had difficulty finding out who is responsible, going to point the finger back and forth as to who had the authority. This makes it clear who does and who does not have the authority for doing IG reports and investigations of the Internal Revenue Service.

As the committee report notes, Madam President, this will give the IRS Office of the Chief Inspector "sufficient structural and actual autonomy from the agency it is charged with monitoring and overseeing." That is the goal. It is the hope of the chairman, and indeed the hope of the entire committee, this provision will improve the quality as well as the credibility of IRS oversight.

Madam President, in title II we deal with an arcane issue that I consider to be quite important, and that is the issue of electronic filing, where the potential for increasing efficiency and decreasing complaints is substantial. Indeed, I envision the IRS in this legislation being the first of a long line of Government agencies migrating from the old world of paper transactions to the new world of electronic commerce. Indeed, my vision also includes the law enabling the Commissioner to establish rules and regulations so the private sector has a substantial opportunity to compete for businesses from the customers who it is already handling. We had some very exciting testimony in this regard from the IRS in the National Restructuring Commission about what the private sector is doing already to try to help taxpayers reduce the cost to comply with the tax law.

It is very important to point out that for most American taxpayers, if not all American taxpayers, the largest bill they pay every year is their tax bill. It is important for them to understand what that tax bill is and to get it paid for in an efficient fashion in order for them to do financial planning for their families.

I hope that this electronic filing provision, by stating the goal of promotion of electronic filing and setting a long-range goal of 80 percent of all tax returns by the year 2007, will make it more likely that taxpayers, as they migrate to this electronic field of commerce, will have lower costs and an easier time of complying.

Title III is a portion that has been given a lot of attention. As I said at the beginning, there are lots of parts to this overall whole. There is no question that taxpayer rights are important. Senator GRASSLEY and Senator Pryor, while he was still in the Senate, were sort of alternating chair and ranking members of the Subcommittee on Finance that dealt with a piece of legislation called the Taxpayer Bill of Rights I, Taxpayer Bill of Rights II. This is effectively Taxpayer Bill of Rights III. Also, I want to call attention to the fact that for an entire year, Congressman PORTMAN, who was my cochair of this Commission, steadily made me a convert of the need to extend additional powers to taxpayers. There are lots of them in this title III.

The goal of this change in the law is to reach a point where all taxpayers are presumed to be law-abiding citizens who just want to know the amount of their tax so they can pay, rather than presuming that all taxpayers are criminals or cheats. But the goal is also to preserve the important law enforcement functions of reducing the threat of drugs, money laundering, and fraudulent commercial transactions. None of us want to change the law and then find out 2 years later that we made it easier for drug dealers, money launderers, and commercial cheats out there to do business as a result of decreasing the power of the criminal investigation division of the IRS. We must also make certain that the IRS has the authority and the resources to go after those citizens who intentionally avoid paying taxes. We need to make certain the IRS has the full force of law to leverage against them.

Madam President, there are seven provisions in title III that are worthy of comment at this time. First is the burden of proof. Once a dispute reaches Tax Court under this new law, the burden of proof in a civil case shifts from the taxpayer to the IRS. There are a lot of concerns expressed about this from the standpoint of actually increasing the cost to complying taxpayers. We have limited the opportunity for this shift. I think it is a responsible provision in the legislation, and I am hopeful it will be retained as is.

Second, the bill increases the leverage of taxpayers in civil proceedings by expanding the authority to award costs and certain fees and increasing potential civil damages for collection actions.

A lot of people on the administration side, not this administration but who administer tax law, were concerned about this provision. I think it is a terribly important provision if we are going to try to get to a point where, when collection notices are send out, the IRS knows with certainty they are going to be able to devote enough resources to be able to get the collection, because very often what happens is they send a collection notice out, start an action, and then they don't have enough resources, they stop, it drags on for years and years and years, and that is where you end up with taxpayers spending an enormous amount of money trying to comply with something the IRS, at the end of the day, finds out they didn't think was much of a case anyway.

This will, I think, create a healthy amount of constraint on the IRS from sending collection notices out knowing there is an expanded right of action and expanded right, as well, to collect civil damages if negligence can be proved.

Third, the bill provides significant relief for what are known as "innocent spouses" and for taxpayers who are unable to manage their financial affairs because of disabilities.

Fourth, the bill gives the taxpayer new protections against the piling on of interest and penalties.

Fifth, title III contains protections for taxpayers subject to audit or collection activities.

Sixth, this title requires better disclosures to taxpayers. One of the most important things we heard repetitively was that the taxpayer simply didn't know what the case was, didn't understand what was going on. This requires the IRS to make full disclosure so that the taxpayer can better accommodate the needs of the IRS.

Seventh, the bill authorizes establishment of low-income taxpayer clinics. This is very important. There are an awful lot of Americans who simply don't have the resources to either hire a private sector individual or to do it themselves. They are confused about it. Our law ought to always be written so that everybody has a shot at the American dream, and they should not be precluded from achieving that American dream because they don't have enough resources to understand how the IRS works.

Title IV of this legislation deals with congressional accountability. Most of the changes which the Senate Finance Committee has made in the House bill have made the legislation better. I indicated several of them already. However, I don't believe title IV represents an improvement over the House bill.

The goal of congressional oversight must be to overcome two substantial barriers that the Restructuring Commission found. Barrier No. 1 is that the IRS has 535 members of its board of directors, many of whom don't know what the IRS does or what the budget is. It is easy to complain about what the IRS does, but the IRS gets inconsistent signals—we want you to go out and collect the taxes; we don't want you to be too aggressive; we want you to be more aggressive, less aggressive; Congress changes, new Members come on board with new ideas, and it is inconsistent oversight that comes as a consequence of all these kind of changes.

The second barrier is that the Commissioner, now required to have management expertise, when he or she comes to Congress with their plan of what they want to do, they have to go to six different oversight committees—three in the Senate and three in the House.

What the Commission found repeatedly—again, remember, we started this whole thing with Senator SHELBY and I saying $4 billion wasted on tax system modernization is a call for action. One of the things we heard both from public sector and private sector people is that if you can't get shared consensus about where it is you want to go with technology—as the man said, any road is likely to take you there—you are apt then, as a consequence, to make mistakes.

It is this increased activity from all the different congressional oversight committees that may have good intentions but also may make it difficult for us to achieve consensus. We recommended in our bill and the House-passed bill that some kind of super-oversight occur on a biennial basis with these consolidated committees. It may be the Finance Committee can simply change its internal rules. I made a recommendation last week in the Finance Committee. It may be there is some way we can deal with that. But let's not pass a bill which restructures the executive branch and then doesn't restructure anything we do. Remember, if you ask the American people who the problem is, 70 percent say it is Congress. We write the laws and determine what kind of oversight IRS gets, and one of the problems is inconsistent oversight. My hope is we can take a look at title IV and look for ways to strengthen the congressional oversight.

There is a tax complexity analysis in title IV which I consider to be terribly important. I cited earlier the example of the education IRA. There was no discussion of the impact upon the taxpayers, no discussion of complexity analysis, no attempt to measure whether or not the IRS is going to be more invasive or less invasive. There was no cost analysis done at all.

The Commissioner is not at the table when the tax laws are written. Under this new law, the Commissioner will be empowered to comment. It could be the President stands up and has some new tax law idea—HOPE scholarships, for example. It could be "Senator Blowhard" giving a speech about some new idea that he or she has. Whoever it is who has some change in the Tax Code, typically it is designed to give an audience some sense of, we are doing something without spending any money. We have to be very careful that we don't, in the process of doing something that is earning a round of applause, do something that will increase the cost to the taxpayer to comply, as well, Madam President, as increasing the invasiveness of the IRS.

I appreciate very much there is a tax complexity analysis and the Commissioner is given new authorities to comment on tax bills, but I believe we can go a bit further in increasing the oversight and the accountability of the Congress. In title VI, as I said, these are mostly what are called technical corrections, but it is a real window into this problem of tax complexity.

I don't know what the vote was—maybe the Senator from Minnesota remembers—but there was a big vote on the Balanced Budget Act, with 80 votes. I voted for it. We passed this thing, issued press releases, "The budget is balanced." Most of these technical corrections in title IV deal with the complexity that we created and the confusion that we created. It is an effort to clarify what we tried to do last fall.

I want to point out that the members of the Finance Committee and the staff of the Finance Committee, both on the majority and minority side, have scrubbed this section very carefully to ensure that all the provisions in this title are appropriate and relatively noncontroversial. We have not added new loopholes or some new, special provision. These are only technical corrections that clarify what we intended to do mostly, as I said, in 1997.

In brief, these are the provisions of the bill that we are considering today.

I no doubt will have plenty of opportunity to come down again and describe some further detail that is in this proposed law. I will end as I began, by praising the outstanding leadership and work of Senators ROTH and MOYNIHAN as well as the longstanding work on taxpayers' rights performed by Senator GRASSLEY. With the 426-to-4 vote last fall by the House of Representatives and the support of President Clinton, we should be able to change the law and achieve our objective of giving the American people an IRS that is more user friendly and customer oriented.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, first, I thank the Senator from Nebraska. He has really led the way on this issue. He is well known for his outspokenness as a Senator, and he has been outspoken on this question long before the rest of us.

I think we will pass this bill this week. I think it will be a very strong, bipartisan effort. Senator KERREY mentioned Senator GRASSLEY and Senator ROTH, Senator MOYNIHAN, but on any one piece of legislation or any one issue, at least it is my view as a Senator, you need a Senator who is a catalyst, you need someone who is out there ahead of other people, who is willing to be very outspoken and push very hard. The Senator from Nebraska has done just that.

TAX RETURN FILING EXTENSION

Mr. WELLSTONE. Madam President, let me just say to the authors of this legislation, and I thank them for their fine support, I will have one amendment that is terribly important to my State of Minnesota.

Last year, we were hit by floods that had a devastating effect on our community. I think people all over the country know about Grand Forks and East Grand Forks and other communities. Last year, we said to people who were struggling because of what happened that we would extend the time for them to file their tax returns, and when they had to pay their taxes. We also were willing to forgive them on the interest they would have to pay for late filing and late payment.

This time around, this past year, just a few months ago, we were hit with tornadoes that were just devastating to communities like Saint Peter and Le Center and a number of other different communities. I could list many. What we have now in the bill is the assurance from last year that Minnesotans who have been hit by tornadoes, communities that have been hit by tornadoes, can again extend the filing of their tax return and when they make their payments, but we don't have any provision that would allow them forgiveness on the interest.

I will have an amendment that will give them forgiveness on the interest payment. It will be a huge help to people who have really been through it, colleagues. I think there will be strong support for this. What I will essentially say in this amendment, for the next year what we will do is for all citizens across the country, including Minnesotans who have been hit with these disasters, that they will, No. 1, have an extension again on the filing and payment of tax; and for those that have been personally affected—not everyone, because the cost runs up—but for those personally affected, they will again be forgiven the interest on this payment.

It is not a huge expenditure. We will have an offset. I say to colleagues it is terribly important to a lot of people in Minnesota and I think a lot of people around the country. I hope this amendment will be approved. I think other colleagues will come to the floor with similar amendments. We can do this together, Democrats and Republicans, Republicans and Democrats. I am trying to make sure we get help to people.

Mr. KYL. Madam President, I rise in support of the Internal Revenue Service Restructuring and Reform Act. This is a much stronger and much more effective bill because of the time that the chairman of the Finance Committee, Senator BILL ROTH, has taken to thoroughly investigate problems at the agency and identify meaningful solutions. I want to commend him for his work.

The politically easy thing to do would have been to rush the original bill to a vote, as many on the other side tried to do on numerous occasions. But by taking the time to do the job right, we have a much better bill. For one thing, we now have far stronger provisions to protect innocent spouses. The legislation would ensure that innocent spouses are responsible only for their own tax liability.

Madam President, it was two and a half months ago that I came before the Senate to discuss the plight of a constituent of mine, a woman who divorced in late 1995. She paid her taxes in full and on time during the last two years of her marriage, but her husband apparently did not. The IRS ultimately came after her for the taxes that her former spouse did not pay. It did not aggressively pursue the tax bill with him.

After two weeks after hearing from my constituent, I sent Chairman ROTH a letter identifying ways of improving the IRS reform bill, and on that short list was a recommendation to make innocent-spouse relief easier to obtain, and to make it available retroactively, or at least to all cases pending on the date of enactment of the bill.

So obviously, I am delighted that the Finance Committee has focused on the issue of innocent-spouse protection and has included provisions that better protect my constituent and women across the country in similar situations.

The Finance Committee has improved upon the bill in other ways, too. For example, it would suspend interest charges and penalties after one year if the IRS fails to notify a taxpayer of a deficiency. Without that provision, taxpayers can find that penalties and interest started accruing years before they were ever made aware that there was a problem with their tax returns.

The bill would make the Taxpayer Advocate's office independent of the agency to ensure that it represents the taxpayers' interest, not just the agency's interest. It would give the IRS Commissioner the statutory authority he needs to restructure the agency. It would hold IRS employees accountable for their actions by requiring the agency to terminate employees who commit perjury, falsify documents, or violate the rules to retaliate against a taxpayer. It would make the offers-in-compromise program more fair to taxpayers. And it would ensure due process in collections activities.

These are important things—changes worth taking the time to make. We have got to try to get things right. Too many past attempts to rein in the IRS have come up short, and once Congress's attention turns to other things, the agency has gone back to business as usual.

This is a good bill. It deserves an "aye" vote. But let us be under no illusion that even a good reform bill will solve the myriad problems that exist. Our nation's Tax Code, as currently written, amounts to thousands of pages of confusing, seemingly contradictory tax-law provisions. We need to reform the IRS, but unless that reform is followed up with a more fundamental overhaul of the Internal Revenue Code, problems with collections and enforcement are likely to persist. If the Tax Code cannot be deciphered, it does not matter what kind of personnel or process changes we make at the agency. Complexity invites different interpretations of the tax laws from different people, and that is where most of the problems at the IRS arise.

Replacing the existing code with a simpler, fairer, flatter tax would facilitate compliance by taxpayers, offer fewer occasions for intrusive IRS investigations, and eliminate the need for special interests to lobby for complicated tax loopholes.

There are a variety of approaches to fundamental reform that are pending before Congress: a flat-rate income tax; a national sales tax, the Kemp Commission's simpler single-rate tax. Each has its passionate advocates in Congress and around the country, and any one of these options would be preferable to the existing income-tax system.

So why, many people will ask, have we not been able to settle on one of them and act on fundamental tax reform? The answer is that, while there is overwhelming public consensus in favor of an overhaul of the Tax Code, a public consensus has yet to emerge in favor of a sales tax over a flat tax or some alternative. And given President Clinton's lack of support for fundamental tax reform, it is likely to take a public consensus, the likes of which we have not seen in recent years, to drive such a tax-overhaul plan through Congress, past the President, and into law.

Steve Forbes made tax reform the central theme of his campaign for the presidency two years ago. He carried Arizona in the Republican presidential primary, in large part because his tax plan resonated among the people in my state. Yet he failed to win the nomination, and neither Bill Clinton nor Bob Dole pursued the issue with as much passion or conviction. And it will take a national campaign to build the kind of consensus that will be needed to move forward with fundamental tax reform, which is probably the most momentous undertaking of the century.

The IRS reform bill, Finance Committee hearings about taxpayer abuse by the IRS, the Kemp Commission's recommendations in favor of fundamental tax reform, new proposals to sunset the IRS Code, and the debate that sponsors of the flat tax and sales tax have taken on the road in recent months, will all help to move the discussion forward.

In conclusion, we can pass an IRS reform bill to try to rein in the IRS and make sure that it treats taxpayers fairly, reasonably, and respectfully. But let us not fool ourselves. The IRS cannot be faulted for a Tax Code that is too complex and filled with contradictory provisions.

Until the Tax Code is simplified, problems in one form or another are likely to persist. We must use this opportunity to begin the debate about fundamental tax reform.

Mr. WELLSTONE. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JAMES C. HORMEL

Mr. WELLSTONE. Madam President, I rise today with a little bit of sense of sadness to bring to my colleagues' attention the nomination—I guess I will add, and indignation—the nomination of James C. Hormel to be U.S. Ambassador to Luxembourg. As is the case too often up here, the nomination has been put on the shelf, held by a "hold" at the request of a few Senators.

Before I talk about the reasons for the "hold," I want to talk briefly about the history of the nomination and some facts about the nominee, Mr. Hormel, and his background.

Last fall, following a hearing on his nomination, the Senate Foreign Relations Committee voted 16 to 2 in favor of Mr. Hormel. This vote took place November 4, 1997. Originally, it was a voice vote. It was approved. That means by unanimous vote. Two Senators then requested to have a recorded vote and went on record in opposition. So it was a 16–2 vote in the Senate Foreign Relations Committee. That is a very strong vote.

The nomination was placed on the Executive Calendar. And despite the fact that the Senate confirmed every other Foreign Relations Committee nominee before the close of the first session—some 50 nominees in total—Jim Hormel's nomination was left languishing because of "holds" placed on it by a few Senators.

Madam President, that such a distinguished and qualified nominee would face opposition is on its face hard to understand.

Jim Hormel is first and foremost a loving and devoted father of five and a grandfather of 13. His entire family has been unfailingly supportive of his nomination. And people who know him well say he is decent, patient and a very gentle person.

Madam President, I was very moved by a letter from Alice Turner, former wife of James Hormel, a letter written to the majority leader, Senator LOTT, supporting her ex-husband's nomination. And I quote:

> I have known Jim for 46 years and for ten of those years I was married to him . . . I grew to understand the terrible prejudice and hatred that he knew he would have to face . . . and is facing as he goes through the difficult process this nomination and its opponents have put him through . . . I share with you these personal things because I gather his personal ethics have been questioned. If anyone on this earth could come close to judging that it would be me. He is a wonderful father, grandfather and friend . . . Jim Hormel has given enormously to his family, his community and to this country. He is just asking to be allowed to give one more time. This is a good man. Give him a chance.

End of quote to Senator LOTT.

His professional credentials are equally impressive. He is an accomplished businessman. He serves as chairman of Equidex, an investment firm, and he serves as a member of the board of directors of the San Francisco Chamber of Commerce.

He has also spent time as a lawyer and as an educator. He served as a dean and assistant dean of students at the University of Chicago Law School. In addition, he currently serves as a member of the board of members of his alma mater, Swarthmore College.

Let me just give my colleagues a sampling of the kind of organizations he served on, impressive in its breadth as well as its diversity. In addition to his support for Swarthmore and the University of Chicago, he has provided resources and assistance to the Virginia Institute of Autism, Breast Cancer Action, the American Foundation for AIDS Research, the American Indian College Fund, the United Negro College Fund, the NAACP, the Institute for International Education, the Human Rights Campaign Foundation, Catholic Youth Organization, Jewish Family and Child Services, the San Francisco Museum of Modern Art, the San Francisco Public Library, the San Francisco Ballet, and the San Francisco Symphony.

Many of these organizations have honored him with awards. His commitment to public service and his commitment to the cause of human rights came together when he was named as a member of the United States delegation to the 51st U.N. Human Rights Commission in Geneva in 1995. And there he helped the United States press its case for improved human rights in nations as diverse as China, Cuba, and Iraq.

Finally, he was nominated in 1977 to serve as an alternative representative on the U.S. delegation to the 51st General Assembly.

There is an irony because on May 23, 1977, the same U.S. Senate that opposes his nomination, not letting us have a vote, unanimously confirmed James Hormel to represent this country at the United Nations.

Madam President, it seems clear to many of us why some Senators do not want to allow a vote on James Hormel's nomination. It is because James Hormel is gay. In a queer, unquestionable case of discrimination, these Senators refuse to let the full Senate vote on a qualified nominee because of his sexual orientation. Surely, the U.S. Senate does not want to be party to this kind of discrimination.

James Hormel is exactly the kind of person who should be encouraged to engage in public service. He is intelligent, civic-minded, generous, and he is a person of proven accomplishment who wants to serve our country. We need people like him in public service. We cannot afford to drive him away because of his sexual orientation.

So, Madam President, this is a matter of simple fairness. We have before us a qualified nominee, with broad support, approved by the committee of jurisdiction. We should at least be allowed a vote on the floor of the U.S. Senate. If people have concerns, let them express them. Let us have a debate, and let us address them, but let us give James Hormel a chance. Let us have a vote.

So I call on the majority leader to schedule a vote on James Hormel's nomination. I call upon those who have a hold to allow the nomination to reach the floor. If other Senators wish, let us debate the qualifications. But it is wrong to prevent the Senate from having an up-or-down vote on this nomination.

Some of the Senators who have holds on this nomination claim that it is not because he is gay. They claim it is because of his views on certain issues involving gay rights or something to that effect. The truth is, I do not know exactly what their objections are.

But there is a more important truth. If Senators disagree with this nomination, let them come to the floor. Let us debate this out in the open. That is what the tradition of the U.S. Senate about deliberative action is all about. So I challenge my colleagues who have holds on this nomination to come to this very floor, explain why they believe James Hormel is unfit to become an American Ambassador because he happens to be gay. Let other Senators and the American people judge on the merits of this argument.

The issue is a very simple one. We have a qualified nominee who was resoundingly approved by the Senate Foreign Relations Committee. He is entitled to a vote. And as a United States Senator, I am entitled to cast my vote for him.

Madam President, I have language which would be a sense of the Senate to express the intention of the Senate to consider the nomination of James Hormel as United States Ambassador to Luxembourg, that the Senate would make clear its intention to consider this nomination before a certain date and to vote. I will not bring this amendment up on this bill. But this is an amendment that I will bring to the floor of the U.S. Senate on another bill. It is time for us to speak up. It is time for us to deal with what is an injustice.

Mr. President, I will work with my colleagues from California, Senator FEINSTEIN and Senator BOXER. And I will work with other colleagues as well.

Let me just conclude by reading on this matter—and I say to my colleague from Arkansas, I have just one other matter in morning business to cover, and I shall be brief—from the Fort Worth Star-Telegram, "Senate Should Be Allowed To Vote." In an editorial calling for Republicans to let the Senate vote on James Hormel, the Fort Worth Star-Telegram writes:

> Conservatives, like Sens. Gordon Smith of Oregon and Orrin Hatch of Utah take him at his word and support his nomination. Some others, harking to conservative groups that are part of the GOP constituency, do not. Yet they say the issue is not his sexual orientation. If it is not, then the Senate should be allowed to vote, yea or nay. If sexual orientation actually is the issue, then the Senate needs to take a look at itself in the mirror.

I repeat that. "If sexual orientation actually is the issue"—I say this to the majority leader. I call on the majority leader to bring this matter before the Senate for a vote. I quote the Fort Worth Star-Telegram, the conclusion:

> If sexual orientation actually is the issue, then the Senate needs to take a look at itself in the mirror.

We will not know until we have this nomination out on the floor. And we must do that. I hope the majority leader will take action. I have an amendment that I will bring to the floor if that is what is necessary. I think it is time for all of us to speak up.

Madam President, I just have one other matter that I want to cover in morning business.

HEALTH CARE

Mr. WELLSTONE. Mr. President, let me just briefly speak to one major public policy question that we will deal with in the U.S. Senate. I want to talk about something that has happened in the past couple of years which has had a major impact on the lives of people in Minnesota and across the country. I think people are scratching their head and trying to figure out when we had a referendum on this or when we voted.

The topic is all the ways in which large insurance companies are dominating managed health care plans, all the ways the pendulum has swung so far in the other direction. Many citizens that need the care cannot get the care they needed.

Jenna Johnson is only 15 years old. She suffers from cerebral palsy, seizures and a deteriorating condition called dystonia, which causes her to lose most of the muscle control in her body. She takes multiple prescription medications, undergoes countless hours of physical therapy, and relies on special medical equipment to live her life. Her treatments have nearly broken her body, colleagues, but her spirit and determination remain firmly intact.

In the spring of 1966 Jenna's dystonia worsened. She was fragile from weight loss caused from the 22 pills she took daily to combat her symptoms. The medication caused serious side effects, ranging from damage to her stomach lining to psychotic episodes. The Johnsons found a specialist, a world-renowned pediatric surgeon in Pittsburgh that was an expert in treating conditions similar to Jenna's. He had the expertise in testing and surgery to place an internal pump and catheter to deliver medication.

To make a long and very painful story short, this procedure was Jenna's only hope. She was slipping away before her parents' eyes.

Minnesota is a great health care State. We have the University of Minnesota. We have the Mayo Clinic. Many people from other States—Delaware, Nebraska or Arkansas—quite often are referred to our State. But in this particular case, the expert that could help was a pediatric surgeon in Pittsburgh. The doctor was out of the plan and out of the State and the Johnsons were out of luck.

The request for the procedure was immediately denied. After an appeals process of more than 30 days and countless visits to local doctors and letters to doctors in Pittsburgh and the HMO, the Johnson's plan finally allowed Jenna to undergo the procedure.

It is wrong, Madam President, when a sick child and her family have to spend all of their time and energy fighting their health plan to get the care their child needs.

Let me just simply say that, again, Jenna has had to struggle with the illness. Again, the Johnsons had to try to figure out how to get additional help. And again, after many appeals, the care was first denied and finally given care.

I want to simply point out what has now happened is that the Johnsons have been switched to another HMO and they have been told that any additional care that Jenna might need will be denied outright. Any additional care this courageous 15-year-old young woman will need will be denied. They are out of luck. The Johnson's family is at their wit's end. Jenna's family has joined several HMOs and they can still not find one that will provide the most basic of medical needs without dealing with an overly burdensome corporate review.

Now, let me just quote Jenna's mother, if I could, because I think this gets to what we are dealing with. Her mother, Cynthia, stated, "Why, at a time of crisis, is emergency medical care denied? . . . If my daughter should have another emergency, what will we do?"

She feels vulnerable. She wants to get the care for her daughter, and because of the current situation in our country, she can't do it.

Now, Madam President, the pendulum has swung way too far. We talked about containing costs. Fine. But where is the protection for consumers? What happens to families that are dealing with chronic illnesses? What happens to families that need specialty care? What happens to families who are trying to get the best possible care for their children?

We have now moved to a system in our country which is increasingly corporatized and bureaucracized, where the bottom line has become the only line. We need to make sure that there is some protection for consumers.

I think there are three issues, and I will summarize them: One, who gets to define "medical necessity?" It is outrageous that doctors, nurses, nurse practitioners and nurse assistants, who know what needs to be done in treating a child like Jenna, or an adult, today find themselves unable to provide the kind of care they thought they would be able to provide to people when they were in medical and nursing school. They should be making the decision.

Secondly, it is just outrageous—we are talking about something called point-of-service option; people find themselves moved from one plan to another, from one year to another, and all of a sudden you have seen a doctor or have been to a clinic with your children and you are canceled out. You no longer have an option of being able to see a doctor or a clinic that has taken care of you and your children for a decade plus. All the trust, all the rapport, all of what makes for good medicine, goes out the window.

Finally, we have to make sure that if we are going to pass a strong Patient Protection Act we have offices of consumer affairs in every State. They are independent with ombudsman that can be advocating for people. Family USA has done some fine work on this. It is not just an 800 number for people to call. People need to call a number, there needs to be an office that is there for consumers, where people can say, "I was denied care, what do I do," and you have a skillful person that can be there as an advocate for people.

I am saying to my colleagues, especially my colleagues on the other side of the aisle, I don't know how many days we have left, probably fewer than 50 days or thereabouts. We have to get going on this. We have to get going on this.

We have an important effort on the floor this week, bipartisan effort, which I think reflects some very fine work. But overall we have not been doing a lot. We have not been doing a lot about making sure there is good health care for people. We have not been doing a lot by way of being there for consumers. We have not been doing a lot by way of making sure that children come to school at age 5, kindergarten, knowing the alphabet, knowing colors, shapes and sizes, knowing how to spell their name, having been read to, and ready to learn.

We have not been doing much by way of making sure that we move toward some system of universal health care coverage. There are over 40 million people that are uninsured. There are other families that are paying more than they should pay. There needs to be some income protection for them. What about a package of benefits for every citizen in the country comparable to what we have? What ever happened to the battle cry that we should pass legislation to make sure the people we serve have as good a health care as what we have? What about the strong patient protection?

I have a bill called the Healthy Americans Act, which I am introducing this week, which is a strategy to move toward universal coverage and says to Arkansas, Nebraska or Minnesota, if you agree to the national framework, there will be Federal grant money available to you to reach universal coverage. You decide how you want to contain costs. You decide how you want to deliver the care. We have to move toward that system of care. We haven't done that. We are not there on health care. We are not there on investment in children and education. We are not there on strong consumer protection, and we are not there on a lot of issues that are very important to working families and communities.

This issue of whether or not the U.S. Senate is on the side of big insurance companies or the consumers will be a litmus test for all of us. After we get done with this bill, let's get a lot of this substantive legislation on the floor. My hope is—and I will finish on this—that I won't have to have an amendment calling for a vote on James Hormel, but rather will bring that to the floor and make sure we do that as well.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

THE GROWING THREAT OF CHINA TO THE UNITED STATES

Mr. HUTCHINSON. Madam President, the headlines in last week's newspapers ought to bring pause to this body and to all of us as Americans. The Washington Times, on Friday, had the headline "China Targets Nukes at U.S." The inside part of that article, on a graphic, it says "China's Long-Range Missiles," quoting a CIA report last May that "13 of China's 18 CSS–4 missiles are now targeted at cities in the United States of America."

This report was followed by a report in the Washington Times today, headlined "U.S. Firms Make China More Dangerous: Technology Aid Helps Missiles Reach America." I will say that again. "Technology Aid Helps Missiles Reach America." This was also reported in the New York Times, another major newspaper in the United States. These stories are based on a new CIA report released last week that noted that 13 of China's 18 long-range strategic missiles have single nuclear warheads aimed at U.S. cities. These missiles, with a range of over 8,000 miles, prove convincingly that China views the United States as its most serious adversary. This is further proof, I believe, that the current administration's policy of so-called constructive engagement has failed, and failed terribly, as China continues to go this route, as China continues to take provocative actions and actions that seriously endanger the security of the United States. It is important to note that these missiles are in addition to China's 25 CSS–3 missiles, with ranges of more than 3,400 miles, and its 18 CSS–4 missiles, with ranges exceeding 8,000 miles, and its planned DF–31, with a range exceeding 7,000 miles.

Until last year, China lacked even the intelligence, and certainly they lacked the technology necessary to manufacture boosters that could reliably strike at such long distances. In fact, it is reported that in a launch test of the boosters, their technology failed to launch the boosters three out of five times. That is a 60-percent failure rate. Likewise, they were years from developing the space technology necessary to launch multiple, independently targetable reentry vehicles, otherwise known as MIRVs, multiple warhead missiles. Now they are only years away, if not months, from having such technology.

Some time ago, I participated in a firing-line debate on the campus of the University of Mississippi. During that debate, when the issue of national security was raised, former Secretary of State Henry Kissinger reassured the audience of thousands, and the nationwide television audience of millions, that we need not be concerned about China's capability to launch missiles that might place American cities at risk. He said, in fact, it would be a couple of decades before China was anywhere near having the technology that could place the United States and American citizens at risk. Well, now we find that because of our own aid, and because of our own technology transfers to China, already we are seeing these missiles targeting American cities, and that this advanced technology is very much now at their disposal.

How did China get this technology? Two U.S. companies—the Loral Space and Communications Company and the Hughes Electronic Company—are under investigation by the State Department following a classified Pentagon report that concluded that the two companies illegally gave China space expertise during cooperation on a Chinese commercial satellite launch. This report concluded that "the United States national security has been harmed."

Here are the details: In 1996, during the course of an investigation of a Chinese rocket carrying a $200 million Loral satellite, scientists allegedly shared with their Chinese counterparts a report explaining the cause of the accident, which turned out to be an electrical flaw in the flight control system. This system is similar to those used on ICBM launch-guidance systems.

In February, with the investigation of this incident underway, President Clinton permitted Loral to launch another satellite on a Chinese rocket and to provide the Chinese with the same expertise that is at issue in the criminal case, officials have said. A senior official said the administration recognized the sensitivity of the decision but approved the launch because the investigation had reached no conclusions, and Loral had properly handled accident launches. The administration, he said, still could take administrative action against the companies if they were found to have violated export laws in their earlier dealings with the Chinese.

Another company—Motorola—is also involved in upgrading China's missile system. The chairman of the House Science Subcommittee on Space and Technology received word from an unnamed official from Motorola that they, too, have been involved in upgrading China's missile capability. Interestingly, this executive claims the work is being done under a waiver—a waiver granted from the Clinton administration—thus, circumventing all of the bans and restrictions on such technology transfers. This technology was supposed to be controlled, restricted. Madam President, trade in missile and space technology to China was supposed to be severely restricted under the sanctions related to the crackdown of the Tiananmen Square massacre. Unfortunately, this administration has implemented a give-give strategy of appeasement, which has weakened or eliminated most of these restrictions.

Politics must not supersede national security concerns. Why did this administration make such an incredible and risky decision? Loral has numerous business deals with China. Loral has close ties to the White House. Its chairman and chief executive officer, Bernard Schwartz, was the largest individual contributor to the Democratic National Committee last year. Motorola's involvement and ties with this administration are just now being investigated. This raises serious questions and puts a dark cloud over these dealings, particularly in light of the CIA report indicating China is now targeting American cities.

In addition to legally getting this technology through these waivers from the current administration, China has twice violated its agreement to follow the principles of the missile technology and control regime. Yet, under this administration's policy of appeasement, the administration is asking China to sign on to the missile technology regime. This is like stacking new promises on top of broken promises and then calling it progress. It is important to note that China's inclusion in the missile regime would allow even greater technology transfers to be made, thus, putting more Americans at even greater risk.

Madam President, most importantly, China continues to repress and oppress its own people, in violation of international law. The latest State Department Report on Human Rights in China shows that China is still a major, if not the major, offender of internationally recognized human rights in the world today.

This report from our own State Department notes that China continues to engage in "torture, extrajudicial killings, arbitrary arrest and detention, forced abortion and sterilization, crackdowns on independent Catholic and Protestant bishops and believers, brutal oppression of ethnic minorities and religions in Tibet and Xinjiang and, of course, absolute intolerance of free political speech or free press"—from our State Department report.

These are not new charges. The tragedy is not that we are hearing these charges repeated; the tragedy is that we continue the same policy that has allowed these kinds of repression and repressive practices to exist. We continue along the same line as if everything is fine. Human rights abuses, religious persecution, forced abortion, and slavery are all raised at the staff level, with only token concern expressed by senior officials in this administration.

In addition to this report from the State Department, there are well documented abuses. The U.S. Attorney for the Southern District of New York has indicted two Chinese immigrants for the sale and marketing of human body parts. I raised this allegation at a speech that I gave at the Fulbright Institute on the campus of the University of Arkansas in Fayetteville, with many visitors there from outside the State of Arkansas, and their disbelief and skepticism was expressed to me that this in fact was factual.

Well, it is factual. It is beyond dispute that two indictments have been brought down regarding the sale of human body parts and harvesting of these body parts from Chinese prisoners with the full cooperation of the Chinese Government, and in some instances U.S. businesses. In this case, U.S. industry is alleged to have provided the Chinese Government with a dialysis machine to assist the harvesting of organs in their prison hospitals.

On the policy of appeasement—the administration calls it "constructive engagement"—I think indisputably today a policy of appeasement to the Chinese Government is obviously failing. According to a report in the Washington Post on Friday titled "U.S.-China Talks Make Little Progress on Summit Agenda," the United States, we find, is getting few concessions from China relating to the inspection of technology that we share with them; we are getting few concessions on limiting proliferation of technology to third-party states like Iran; and we are getting few concessions on the most important issue of all—that of human rights conditions, particularly in Tibet.

As the President prepares to travel to China, as he prepares to continue this policy of so-called "constructive engagement," we find that even as we seek concessions in line with international norms, that we meet a stone wall. Our only token concessions are the release of high-profile prisoners. Despite this very obvious failure, we continue to give, and give under the guise of "constructive engagement."

We have provided key technology that puts our own country at risk. We have set up a hot line that reaches from the White House to China. We have begun assisting China in its efforts to gain membership into the World Trade Organization, even as our balance of trade with China reaches new levels, new highs. Yet we try to orchestrate their efforts to get into the WTO. We dropped our annual push for a resolution condemning China's human rights record at the United Nations. This is something we have done year in and year out. We called upon the United Nations to condemn the abuses that are ongoing in China. This administration has dropped even that kind of symbolic gesture that has been a part of our foreign policy.

We failed to do that in spite of the adoption of the sense-of-the-Senate resolution asking this administration to do that. And we continue to provide China most-favored-nation status. In return for this, we have witnessed the release of three—we have witnessed the release of three—high-profile prisoners of conscience from China's prisons, three out of the thousands upon thousands of political and religious dissidents currently held in Chinese prisons.

I would suggest to my colleagues in the Senate that we need to immediately respond in two ways. First of all, the Senate should immediately pass the 8 House-passed bills on China, bills that the House of Representatives adopted on huge bipartisan margins, by huge margins last year, usually from 350 votes to 400-plus votes on these various bills, short of denying most-favored-nation status but at least taking targeted measures to tell this repressive government in Beijing that the United States is serious when it announces its concerns about the abuses that are ongoing in China. Eight bills—ten bills passed the House. Two of them we have adopted in the Senate, but eight continue to languish without action.

I asked our majority leader. I talked with him. He has given positive indications that we will bring these eight House bills to the floor for a vote in the U.S. Senate prior to the President's trip to Beijing in June.

These bills include H.R. 2195 regarding slave labor, which passed the House by a vote of 419 to 2. H.R. 2195 was designed to keep slave-labor products out of the United States, authorizing needed funding for genuine enforcement of the ban on slave-labor products, calling upon the President to strengthen international agreements to improve monitoring of slave-labor imports. If it passed by this overwhelming margin in the House, I suspect if we had an opportunity to vote on that in the Senate, it would pass by an equally large margin. It is something we need to do before the President travels to China.

H.R. 967, the "Free the Clergy" bill, which passed the House on November 6 of last year by a 366 to 54 margin: H.R. 967 targets those Communist officials who engage in religious persecution, banning their travel to the United States by prohibiting the expenditure of any U.S. taxpayer dollars in support of their travel and subjecting it to a Presidential waiver allowing them to be denied their visas. I think that is a simple step, a very modest step, that we should, that we must, do to ensure that United States statements of concern about religious persecution in China have some validity—even the denial of visas, travel opportunities, for those officials in China who continue to practice and implement the policy of religious persecution.

H.R. 2570 regarding forced abortions passed the House on November 6, 1997, with a 415-to-1 margin, yet the Senate these many months later has not yet had an opportunity to vote on this bill. This bill, H.R. 2570, targets those Communist officials involved in forced abortion sterilization, banning once again their travel to the United States. I think that, once again, is a very modest move. It is about the most modest move that we could possibly take regarding Communist government officials who are implementing a policy of forced abortion and sterilizations in China today and prohibiting them from traveling to the United States.

H.R. 2358 on human rights monitors passed the House by a 416-to-5 vote. It would increase six-fold the number of U.S. diplomats at the Beijing Embassy assigned to monitor human rights.

I visited China in January. I know firsthand how short-handed our State Department officials and diplomatic officials are and how limited they are in their ability to monitor the ongoing human rights abuses in China. If we are to have the knowledge, if we as a body are to have the information that we so desperately need, these human rights monitors are needed. In addition, the new law will add at least one human rights monitor to each U.S. consulate in Communist China.

H.R. 2232 on Radio Free Asia passed the House by a 401-to-21 margin and would fund a 24-hour-a-day broadcast throughout Communist China in each of the major dialects spoken in China. This Radio Free Asia bill will allow the truth of freedom to penetrate Communist China. And, in fact, the truth will set them free. And, as we are allowed to give the story of freedom and the story of democracy, the democracy movement, which was so alive almost 9 years ago on Tiananmen Square, will be alive and evident again in China. It passed by an overwhelming margin.

H.R. 2605 on World Bank loans passed the House by a 354-to-59 margin. This bill would direct U.S. representatives at the World Bank to vote against below-market subsidies for Communist China. This is far short of denying MFN. I have heard all of the arguments against denying MFN in China. Indeed, this is not a blunt instrument. This is a very sharp scalpel, a very small instrument that can be used, simply denying subsidized loans by the American taxpayer to the Government of Communist China, which continues to practice these horrendous abuses against their own people.

H.R. 2647, the People's Liberation Army companies, corporations—companies and businesses and enterprises owned and operated by the People's Liberation Army, which passed the House by a vote of 405 to 10, would require the Defense Department, the Justice Department, the FBI, and the CIA to compile a list of known PLA commercial fronts operating in the United States and would authorize the President to monitor, to restrict, and to seize the assets of and ban such PLA companies within the United States.

For my colleagues, I would say these are companies predominantly owned and operated by the military of Communist China. These companies should not be free to operate and to trade freely in the United States. So this would authorize our various agencies—the Defense Department, Justice Department, FBI, CIA, and so forth—to monitor, to provide a list and authorize the President to restrict and seize the assets of such companies.

H.R. 2386, this legislation, passing by a vote of 301 to 116, provides that the United States shall help Taiwan to develop and deploy an effective theater missile defense system. It has been obvious by some of the actions and some of the statements of the Beijing regime that they had designs on free Taiwan. This would simply be a step in ensuring that Taiwan would be able to defend themselves against any overt military action by the mainland Chinese Communist government.

The second step I believe that we should take as a body, the Senate should support the resolution that I introduced on releasing the remaining dissidents in China. Senate Resolution 212, which I introduced on April 22, last month, with six cosponsors, has been referred to the Senate Foreign Relations Committee and expresses the sense of the Senate that at the upcoming United States-China summit the President should demand the release of all persons remaining imprisoned in China and Tibet for political or religious reasons.

I hope that as our President journeys to China these most important issues—human rights, religious persecution, weapons proliferation—would not be relegated to staff level discussions but, in fact, the President himself would elevate them and would ensure that these issues become the primary focus of our relationship with China and that progress on these fronts is directly linked to the trade opportunities that China seeks. This resolution states that in the upcoming proposed summit between President Clinton and President Jiang of China, President Clinton should demand the immediate and unconditional release, consistent with established principles of human rights, of all persons remaining in China and Tibet for political or religious reasons.

It says, secondly, the President should submit a report to Congress as soon as possible after the proposed summit in China concerning his progress in securing the release of persons imprisoned in China and Tibet.

Third, it says one prisoner released into exile does not change the fundamental flaws within the Chinese judicial and penal system.

Fourth, it states that the U.S. policy of granting concessions to the Chinese Government in exchange for the release of high-profile prisoners is an offense to the thousands of dissidents remaining in prison.

I, as all Americans, rejoice and am thrilled at the release of any prisoner of conscience in China. Wang Dan's release, I am glad for that. Wei's release, I am glad for that. But I also know that the release of a handful of well-known dissidents is no substitute for change in the fundamental policy of the Chinese Government, which continues to be one of repression and persecution of those who would raise their voice for freedom or raise their voice for their own conscience.

And then the resolution states that the President should not offer to lift the sanctions imposed on China after the 1989 crackdown in Tiananmen Square, and those measures should not be reversed until we see substantive and real changes in the policies of the Chinese Government. I am not anti-Chinese. I was thrilled while I was in China to meet scores of individuals in China who are going about their daily lives making a living. I was glad to see the progress in moving toward a market system. I was glad to see the churches that are, though regulated stringently by the government, filled to the brim every Sunday. I was glad to see the Buddhist temples, though, once again, strictly regulated by the government, seeking to operate and continuing to operate. But I was chagrined to see that the government's fundamental policy towards its own people has not changed, that their concept of freedom is not that which is embedded in the founding documents envisioned by our Founding Fathers and appreciated and admired and accepted by the international community all over this world.

This is not a case of the United States seeking to impose its ideas of democracy upon another culture. It, rather, is seeking to have our country, as it always has, reflect in our foreign policy the underlying values of freedom that are not American but are human, that transcend every national boundary, that transcend every culture and society and are fundamental for basic respect of human dignity and human rights.

It is that, I think, President Reagan had in mind when he spoke of this country as a shining city on a hill, a nation that could be admired and respected the world over because of a foreign policy, reflected in its attitude and in its policies toward our neighbors around the world, of fundamental respect for human rights. It was almost 9 years ago when the massacre at Tiananmen occurred—June 8 and June 9, almost 9 years ago. Those students, hundreds of them that were massacred, looked to the United States as its emblem, as its symbol of freedom in the world. It was Lady Liberty that they erected that stood there in Tiananmen Square day after day, week after week, testimony to the desire of Chinese people for greater freedom. Now it is our time to stand with them. It is time for our President as he journeys to China to take this stand forcefully and to elevate this as the primary reason, the primary purpose in his journey to that important nation in the world. And as he is willing to do that, this body will stand with him. I hope, once again, that the Senate will adopt the House-passed bills, that we will adopt the sense of the Senate, and in so doing we will arm the President with the forceful opinion of the American people that fundamental change needs to take place in the Chinese Communist government in its attitudes and its policies toward its own people.

Madam President, I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I ask unanimous consent that I be permitted to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 2030 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TELEPHONE PRIVACY ACT

Mr. BUMPERS. Madam President, I recently introduced S. 1973, the Telephone Privacy Act. This bill, which has bipartisan support, has nothing to do with Linda Tripp or anybody else.

I first proposed legislation regarding telephone privacy in 1984 when it was revealed that Charles Wick, who was head of the United States Information Agency, had tape-recorded President Reagan and President Carter and several Cabinet officials 84 times without their knowledge.

Can you remember when you were a kid and you used to listen to telephone conversations? The announcer would call somebody or somebody would call in because they had the answer to a question, and you would hear beeping in the background. In those days, that was a sign that you were being recorded. Somewhere along the line, that practice was discontinued. Today, you can tape-record your very best friend and not tell that friend and hand it to all three networks for use on the evening news and no federal crime has been committed.

Not too long ago, Attorney General Reno testified before the Appropriations Subcommittee on State, Justice, Commerce, on which I sit. At that time, we were working on this bill, and I asked her about it. She said, "Well, Florida already has such a law that makes it a criminal offense to tape-record a conversation without telling somebody."

I said, "How long have they had the law?"

She said, "Since around 1970."

I said, "Were you the prosecutor in Dade County at the time that happened?"

She said she was.

I said, "Well, how did you feel about the bill when it was being debated?"

She said, "I favored it."

As usual, Congress doesn't get the message until after the States have acted—16 States have already enacted legislation almost identical to S. 1968, and here we sit still allowing people to invade our privacy, the most fundamental privacy when people have their guard down the most, by tape-recording conversations which can later be used for any purpose they choose. It is not an offense, and it ought to be.

I hope that some of my colleagues who may be listening will go back and look at my full remarks that were entered in the RECORD at the time I introduced that bill.

EXCULPATORY EVIDENCE AND GRAND JURIES

Mr. BUMPERS. Madam President, on a separate matter, I want to inform my colleagues that I am also working on legislation that will require prosecutors, before they ask for an indictment, to also give the grand jury any exculpatory evidence they may possess.

Prosecutors, as I previously outlined in some detail, have such an advantage, such an upper hand. Some of it is legitimate, and some of it is not. As one New York judge said, "A grand jury will indict a ham sandwich" if the prosecutor asked them to.

I had a prosecutor tell me one time, "This is the best grand jury I ever saw; it indicted everybody I asked them to indict." Of course they indicted everybody. They are putty in his hands.

I will just give you an illustration of the kind of case that I am trying to get at.

Let's assume that you are a prosecutor and you are getting ready to ask the grand jury to indict somebody for capital murder. Assume further that all the testimony that has been taken in that case said that the man who pulled the trigger and committed the murder was wearing a green jacket.

Assume further that the prosecutor has had information come to him personally, though it has never been presented to the grand jury, that it was, in fact, a red jacket.

I am making a rather extreme case here, but I ask you, in the spirit of elemental fairness, do you believe that the prosecutor, before he asks somebody to go on trial and possibly end up in the electric chair, is beholden in any way to tell the grand jury of totally exculpatory evidence that he may have in his possession?

There is a Supreme Court decision, the name of which I forget, in which the Supreme Court ruled 5–4 that the prosecutor is absolutely under no compulsion to tell the grand jury of any exculpatory evidence in his possession. If that isn't a betrayal of everything that we Americans believe, including fundamental fairness, if that is not a betrayal of everything I was taught in law school, I cannot think of a more egregious case.

Madam President, one of the reasons we have not had these debates in the past is because the crime rate in this country was soaring. And everybody was in a put-them-in-jail and throw-away-the-key mode. But I wanted my colleagues to stop and just reflect for a moment. God knows, I am not suggesting any guilty person should go free, but you heard that old story: Better that 1,000 guilty people go free than one innocent person be convicted.

I did not do very much criminal trial work when I practiced law. I used to take maybe one case a year just so I would have to stay boned up on what the Supreme Court had ruled on, mostly rules of evidence and defendants' rights. And, yes, I defended a man one time that in my own mind I felt sure was guilty and the jury acquitted him. That sounds terrible to a lot of people who do not understand the criminal justice system. Everybody is entitled to a trial.

So all I am saying is the crime rates are coming down. People ought to be in a little more circumspect mood about what the Founding Fathers meant. The most important thing I said in my former remarks a moment ago about the bill I am introducing today is that the law is supposed to be a shield as well as a sword. It is supposed to protect the liberty of people in this country as well as to prosecute the guilty. It also has an obligation to defend and free the innocent. So that is all these proposals I am making are calculated to do; keep a firm commitment to our elemental belief in fairness, in the rights of the innocent and, yes, to prosecute and convict the guilty.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Madam President, I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE TOBACCO LEGISLATION

Mr. DORGAN. Madam President, before I begin talking about an amendment I intend to offer on the piece of legislation we will consider this week dealing with the IRS, let me say that the Congress Daily this afternoon indicates the Senate majority leader says "the compromise tobacco bill developed by Commerce Chairman McCAIN may not be the base bill considered by the Senate when it takes up the tobacco issue. . ."

I am quoting:

> When asked whether he plans to bring the McCain bill to the floor, Lott said: "I am referring to a bill; it could be McCain, a version of McCain, it could be something else."

Again, I was quoting.

I would hope that Senator LOTT, the majority leader, would understand that when the Senate Commerce Committee marks up a piece of legislation and passes it with only one dissenting vote, a piece of legislation that is embraced by Republicans and Democrats in the Senate Commerce Committee, that that would not be work that is discarded as we move to begin consideration of a comprehensive tobacco bill.

There is a reason for a committee system in the Congress, and that is to work through committees to develop a proposal, and bring that proposal to the floor of the Senate. I would be very disappointed if the majority leader intends one way or the other to bring a piece of legislation to the floor which is vastly different than that which was passed out of the Senate Commerce Committee.

Again, I know there is a tremendous amount of lobbying going on in this town and around the country by the tobacco industry to try to resist and fight this kind of tobacco legislation. I understand that and I understand why they are doing that. Literally hundreds of millions—billions of dollars, hundreds of billions of dollars are at stake. But we must, it seems to me, in discharging our responsibility, pass a comprehensive tobacco bill. A good start in doing that would be to take the piece of legislation that we have drafted and marked up in the Senate Commerce Committee and bring that to the floor of the U.S. Senate.

In response, I think, to the aggressive initiative around this country by the tobacco industry, some are saying, "Maybe we ought to back off. Maybe we ought to not be quite as aggressive."

The fact is the origin of the tobacco legislation comes from our determination to see that this industry stops targeting America's children. And if someone thinks that they have not targeted America's children, then I say read the evidence. The Supreme Court has just ruled in a manner that requires thousands of pages of evidence to be disclosed. That evidence from the tobacco industry itself demonstrates that the only source of new smokers has been to addict America's children.

Smoking is legal. Tobacco use is legal, and will remain legal in this country. But it is not legal and should not be legal to attempt to addict America's children. That is why a comprehensive tobacco bill needs to be brought to the floor of the Senate. I urge the majority leader in the strongest terms possible to use the process that we have started here in the Senate, bring to the floor the piece of legislation I and others, with the leadership of Senator McCAIN, have developed, and use that as a starting point on the Senate floor to deal with comprehensive tobacco legislation.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. DORGAN. Mr. President, the agenda for the Senate this week will be to discuss the bill that deals with the Internal Revenue Service. Among other things, this piece of legislation creates an Internal Revenue Service oversight board to help take a look at the management of various things with respect to the running of the IRS.

I spoke last week about hearings on IRS misconduct and abuse. I indicated that, while I think the IRS has many good people who work very hard to collect the taxes that our laws require to be collected in this country, it is clear from the hearings that there have also been abuses that ought never be tolerated. I commend the Chairman for holding last week's hearings. We must use these hearings as the occasion to understand what went wrong and make sure it never goes wrong again. The American people don't ever deserve an IRS that is not fully accountable and an IRS that in some cases will harass and badger taxpayers in ways disclosed during the hearings last week.

Let me just tackle one other aspect of the Internal Revenue Code and the behavior of the IRS. The IRS is required to collect the taxes needed to run the Government. Now the question is from whom does the IRS collect the amounts that are due? The people who go to work every day? The families that make a salary at work, and when they earn that salary, they have withholding taken out of their paychecks. Their taxes are sent to the U.S. Government. They don't have a choice. There is no flexibility. They work, they receive a paycheck, and they have withholding.

But there are others doing business in America that are not quite so compliant. We need an IRS that cares about what they are doing as well and makes sure they pay their fair share of the tax load in this country. Let me give you an example. In a recent year, we had a study completed by the General Accounting Office (GAO), the investigative watchdog of Congress. One of the GAO's main findings was that 46 percent of the largest foreign-based multinational firms—that is, firms with over $100 million in assets—are transacting hundreds of billions of dollars of business in this country and paying zero in income taxes to our country. That is right—not 10 percent or 5 percent or 1 percent, they paid zero in income taxes to this country.

Now how, you ask, would a company based overseas do business in America, do tens of billions of dollars' worth of business, earn billions of dollars' worth of profit and pay zero in taxes? I mentioned 46 percent of the largest companies with over $100 million in assets paid no taxes; 74 percent of all foreign-based corporations in the U.S. paid nothing, zero, in Federal income taxes. Let me say that again: 74 percent of all foreign-based corporations doing business in the United States paid zero in Federal income taxes to this country. How do they do it? Something called transfer pricing.

It is not only the foreign-based corporations, incidentally, that have a problem here. Most corporations that are doing business all around the globe are finding ways to minimize their tax burden through transfer pricing. Of course, not all of them do that. Many corporations pay exactly what they owe and do the best job they can of accounting for it.

But transfer pricing means that you overprice an import into the United States in order to inflate the cost of goods sold, and therefore reduce, if not wipe out, their profit here. Or the alternative would be to underprice something you are exporting to another country in order that your subsidiary in the other country earns a very large income which would be subject low or no taxes in the other country. Because you priced it so low as you exported it here in this country, you end up making no money.

Let me give you an example of how this works. There are a couple of professors employed at Florida International University. Their names are Simon Pak and John Zdanowicz. I have met them. They have done a lot of interesting work on the issue of transfer pricing. It is a Byzantine, complicated area of tax law, so complicated that very few people pay any attention to it. Yet billions and billions of dollars of tax avoidance occur every single year. "U.S. Government is Cheated out of $42.6 Billion in Tax Revenues in 1997, Study Reveals." Pak and Zdanowicz recently released a study showing a conservative estimate of tax loss during 1997 due to abnormal pricing in international trade was $42.6 billion.

Let me give some examples. Tweezers—everybody knows what tweezers are. Tweezers are tiny little things you buy at the drugstore for $1, $2, or $3. Tweezers were imported from Switzerland at $218 each. Now, did somebody really pay $218 for a pair of tweezers? Sure—a U.S. subsidiary of a foreign-based corporation. The foreign-based corporation sells the tweezers at $218 apiece, and they are a controlled U.S. subsidiary. They can never, ever make a profit, if they so desire. So whatever that corporation decides to do in the United States, they control their pricing back and forth. They will do a lot of business, make a lot of profit, but by overpricing tweezers to the tune of $218 apiece, they will never pay an income tax to the U.S. Government.

So they can come here and they can compete against a U.S. business that doesn't do business in 10 countries, just does business here, and when they make a profit, they must pay a tax.

How about bulldozers? Everybody knows what a bulldozer is. You drive down the road and see a construction project, you can identify a bulldozer at first glance. It is one of the biggest things you will see. Bulldozers exported to Belize for $551. Does anybody know where you can buy a $551 bulldozer?

Let me go through some of the rest of the examples. Safety razor blades, $13 a piece. Television antennas—everybody knows what a television antenna is—$1,738 from the United Kingdom. Venetian blinds—most everybody has priced venetian blinds at some point. This would be a company that sold venetian blinds abroad and sold them at a price that guarantees they can't make a profit here. They do it through controlled companies, so it is not real, just the way they price their transactions. Venetian blinds, 3 cents. How about a toothbrush for $18? Or better yet, a tractor tire shipped to France for $7.65?

All of this represents tax avoidance in sophisticated swindles designed to prevent the U.S. Government from taxing a profit as they would do with a domestic corporation.

The reason I mention all of this sophisticated tax avoidance that is that it is almost impossible to detect. When you have companies—a company wanting to do business in this country, in most cases it will be a large foreign-based corporation that creates a U.S. subsidiary.

They will do business with their own subsidiary. And to try to construct their transactions back to some reasonable market prices is like trying to connect two plates of spaghetti together. It is impossible. Yet, that is what the IRS is attempting to do. It doesn't do very well; can't do very well. Enforcement here is abysmal. In fact, depending on who you ask, the tax avoidance per year is $40 billion, some say $25 billion, and some say $15 billion. There has been a study that says $4 billion and the IRS says only $1 billion. What is the truth? The truth is that it is far more than $1 billion or $4 billion that the IRS and Treasury are talking about. It is far closer to the numbers put together by Professors Pak and Zdanowicz.

Well, I will speak more about the amendment at some point during this week when I offer it. The amendment I will offer is very simple.

The amendment I will offer is to say the newly established IRS Oversight Board will review whether the IRS has the resources needed to prevent tax avoidance by companies using unlawful transfer pricing methods. In order to enable the board to carry out this duty, IRS shall conduct a study relating to its enforcement of transfer pricing abuses by multinational companies. Specifically, the IRS will review the effectiveness of current enforcement tools used by the IRS to ensure compliance under Section 482 of the Internal Revenue Code and determine the scope of nonpayment of U.S. taxes caused by both foreign and U.S.-based multinational firms operating in the United States.

Then the Board will report back to Congress its findings on the IRS enforcement of transfer pricing abuses and make recommendations for improving IRS enforcement tools.

I understand what the response to this is by corporations who are engaged in tax avoidance by transfer pricing. I understand what the response is by the Treasury Department and the Internal Revenue Service. Corporations will say: Well, none of this goes on, this doesn't happen. The Internal Revenue Service and the Treasury Department will say: It happens, but we have done such a great job there is very little tax avoidance.

But, of course, neither is true. The fact is that we have a very serious problem in this area, one that needs to be corrected, and it will not be corrected with the current enforcement method used by the Internal Revenue Service and the Treasury Department. As we talk now about how to recast the Internal Revenue Service, develop new procedures, develop new protections for taxpayers, develop an IRS oversight board, I am asking that the Internal Revenue Service and the Treasury Department—especially at the direction of this new oversight board—take a fresh, new look at this issue and try to determine how we can do better.

In America, when someone decides to begin to do business and risk their capital in order to hold themselves out to do business and earn a profit, when and if they earn that profit, they must pay an income tax. The reason for that is, we tax profits and we tax income in order to pay for our common defense, in order to build roads, and do a whole series of things in this country that we need to do together. But we have some who do business in this country that pay no taxes. I especially point to the foreign-based multinational firms. The GAO report says they come to this country and approximately 74 percent of them doing business here pay no U.S. income taxes. Those who are listening to this will be surprised to learn that the brand names they are well familiar with every single day, often the brand names on foreign products sold in the U.S., mean that someone has done a lot of business here, made a lot of profit here, and ended up paying zero in income taxes. In my judgment this means they are unfairly competing in this marketplace.

U.S. businesses with whom they compete in this marketplace, if they are doing so only in the U.S., must pay a tax on their income, and so, too, should foreign-based corporations doing business in the United States through their subsidiaries.

Madam President, with that, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, May 1, 1998, the federal debt stood at $5,501,155,718,728.09 (Five trillion, five hundred one billion, one hundred fifty-five million, seven hundred eighteen thousand, seven hundred twenty-eight dollars and nine cents).

One year ago, May 1, 1997, the federal debt stood at $5,338,453,000,000 (Five trillion, three hundred thirty-eight billion, four hundred fifty-three million).

Twenty-five years ago, May 1, 1973, the federal debt stood at $456,190,000,000 (Four hundred fifty-six billion, one hundred ninety million) which reflects a debt increase of more than $5 trillion—$5,044,965,718,728.09 (Five trillion, forty-four billion, nine hundred sixty-five million, seven hundred eighteen thousand, seven hundred twenty-eight dollars and nine cents) during the past 25 years.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on May 1, 1998, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 3579. An act making supplemental appropriations for the fiscal year ending September 30, 1998, and for other purposes.

Under the authority of the order of the Senate of January 7, 1997, the enrolled bill was signed on May 1, 1998, during the adjournment of the Senate, by the President pro tempore (Mr. THURMOND).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4690. A communication from the Administrator of the Farm and Foreign Agricultural Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Dairy Indemnity Payment Program" (RIN0560-AF30) received on April 23, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4691. A communication from the Administrator of the Farm and Foreign Agricultural Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Cooperative Marketing Associations" (RIN0560-AF33) received on April 23, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4692. A communication from the Administrator of the Farm and Foreign Agricultural Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Subordination of Direct Loan Basic Security to Secure a Guaranteed Line of Credit" (RIN0560-AE92) received on April 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4693. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mediterranean Fruit Fly; Addition to Quarantined Areas" (Docket #98-046-1) received on April 21, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4694. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Brucellosis in Cattle; State and Area Classifications; Georgia" (Docket #98-018-1) received on April 21, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4695. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mediterranean Fruit Fly; Removal of Quarantined Area" (Docket #97-102-2) received on April 21, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4696. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mediterranean Fruit Fly; Removal of Quarantined Area" (Docket #97-056-9) received on April 21, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4697. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Relaxation of the Minimum Size Requirement for Red Seedless Grapefruit" (Docket #FV98-905-2 FIR) received on April 24, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4698. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tart Cherries Grown in the States of Michigan, et al.; Temporary Suspension of a Proviso for Exporting Juice and Juice Concentrate; Establishment of Rules and Regulations Concerning Exemptions From Certain Order Provisions; and Establishment of Regulations for Handler Diversion" (Docket #FV97-930-4 FIR) received on April 27, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4699. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Issuance of Grower Diversion Certificates" (Docket #FV97-930-5 FIR) received on April 27, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4700. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Olives Grown in California; Increased Assessment Rate" (Docket #FV98-932-1 FR) received on April 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4701. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Dried Prunes Produced in California; Undersized Regulation for the 1998-99 Crop Year" (Docket #FV98-993-1 FR) received on April 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4702. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Cantaloupes; Grade Standards" (Docket #FV-98-301) received on April 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4703. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 1997-98 Crop Year for Tart Cherries" (Docket #FV-97-930-6 FR) received on April 28, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4704. A communication from the Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the annual consumer report for calendar year 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-4705. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report of Comprehensive Needs Assessments; to the Committee on Banking, Housing, and Urban Affairs.

EC-4706. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "Dissemination of Building Technology 'Best Practices' "; to the Committee on Banking, Housing, and Urban Affairs.

EC-4707. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within seven days of enactment dated April 23, 1998; to the Committee on the Budget.

EC-4708. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder and Scup Fisheries; Readjustments to 1998 Quotas; Commercial Summer Period Scup Quota Harvested for Maryland" (Docket #971015246-7293-02; ID 041398A) received on May 1, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4709. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Economic Exclusive Zone Off Alaska; Deep-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska" (Docket #971208297-8054-02) received on May 1, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4710. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/"Other Flatfish" Fishery Category by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands" (Docket #971208298-8055-02) received on May 1, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4711. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled

"Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Eastern Regulatory Area of the Gulf of Alaska" (Docket #971208297–8054–02; ID 041498B) received on April 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4712. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries by Vessels Using Hook-and-Line Gear in the Gulf of Alaska" (Docket #971208297–8054–02; ID 041498A) received on April 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4713. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands" (Docket #971208298–8055–02; ID 033098B) received on April 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4714. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Gulf of Alaska" (Docket #971208297–8054–02; ID 041098A) received on April 24, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4715. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; In season Adjustments, Cape Falcon, OR, to Point Mugu, CA" (Docket #970429101–7101–01; ID 032798B) received on April 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4716. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone off Alaska; Offshore Component Pacific Cod in the Central Regulatory Area" (Docket #971208297–8054–02; ID 033098A) received on April 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4717. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure" (Docket #970930235–8028–02; ID 032598D) received on April 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4718. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure" (Docket #970930235–8028–02; ID 032598E) received on April 20, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1882. A bill to reauthorize the Higher Education Act of 1965, and for other purposes (Rept. No. 105–181).

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 1260. A bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes (Rept. No. 105–182).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY:

S. 2029. A bill to reduce temporarily the duty on sodium bentazon; to the Committee on Finance.

By Mr. BUMPERS:

S. 2030. A bill to amend the Federal Rules of Civil Procedure, relating to counsel for witnesses in grand jury proceedings, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. TORRICELLI (for himself and Mr. COVERDELL):

S. Con. Res. 93. A concurrent resolution expressing the sense of the Congress with respect to documentation requirements for physicians who submit claims to Medicare for office visits and for other evaluation and management services; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUMPERS:

S. 2030. A bill to amend the Federal rules of Civil Procedure, relating to counsel for witnesses in grand jury proceedings, and for other purposes; to the Committee on the Judiciary.

THE GRAND JURY DUE PROCESS ACT

Mr. BUMPERS. Mr. President, I am today introducing legislation which will remedy a longstanding injustice in our criminal justice system by granting to grand jury witnesses the right to the presence of counsel when testifying before the grand jury.

In our legal system, the right to counsel is fundamental. Every person, no matter how guilty or innocent, deserves to have an advocate. So fundamental is this right to counsel that it was recognized by the founders and enshrined in the sixth amendment to the Constitution. Along with the right to an impartial jury, public trial, and the right to confront witnesses, it is a universal element of fundamental fairness recognized by every civilized system of justice. Lawyers may never be popular, said William Shakespeare in Henry VI, Act III Scene II: "The first we do, let's kill all the lawyers."

But lawyers are a necessity. No one in his right mind wants to confront the judicial system without the benefit of a lawyer.

The Anglo-American criminal justice system has given us more freedom and better justice than any country in the history of civilization. The rights of American citizens evolved over centuries of English and American history are now enshrined in the Bill of Rights and are the standards of freedom and liberty all over the world. We must not allow those rights to be eroded. No American would claim that our system is perfect, nor do I so claim. I am convinced beyond a doubt that our system has serious flaws, one of which most people are probably not even aware and many might find hard to believe in this day and age. A witness summoned before a grand jury has no right to the presence of his lawyer in the grand jury room. Depriving anybody of the right to counsel is fundamentally wrong. No person should be required to face any part of the criminal justice system without the presence of his or her lawyer if he or she chooses.

Think of it this way. Police have absolutely no right to question an arrestee without his lawyer in the room unless the individual waives that right. The police even have a constitutional duty under the Miranda decision to advise people of their rights to a lawyer, even though anybody who has watched television in the last 35 years ought to know that they are entitled to a lawyer. If the police fail to observe this constitutional requirement, the statement by the accused is inadmissible in court.

But when an ordinary citizen is called before a grand jury, no lawyer—no lawyers are allowed to be present. The prosecutor and the grand jury have the unlimited ability to question the witness, who is not even under arrest, without an attorney present. This gross inconsistency can only be described as Byzantine, an anachronism.

I have never been one to say that criminal defendants have too many rights. They have no more than the Constitution entitles them. In this instance, however, a criminal defendant has more rights than the average ordinary citizen called before a grand jury. A criminal defendant cannot be questioned without a lawyer present, and he or she may invoke his or her right not to testify under the fifth amendment privilege against self-incrimination.

But a witness, a witness in the grand jury room who may later become a target under criminal investigation, has no such rights. He or she must testify fully and truthfully, no matter how burdensome or embarrassing or impertinent or irrelevant the questions may be, and without the assistance of counsel. The rules of evidence which normally require that questions be relevant and material do not apply in the grand jury room. On the contrary, so-called "fishing expeditions" have become commonplace. No matter how irrelevant or outrageous the questions, the witness must answer.

Mr. President, I ask you or any American to consider whether, if you or your son or daughter were served a subpoena to testify before the grand jury on a criminal case, even though the grand jury is supposedly investigating somebody else, would you want the right to have your own lawyer in the room? Would you feel the process was a fair one if you were told that you were not legally entitled to have a lawyer present? What if you or your loved one were called before the grand jury for a second, third, or fourth time? Would you begin to feel that you might be under suspicion for something? And would you feel comfortable answering endless questions without your lawyer present?

The grand jury is the only circumstance I can imagine in life where a free person does not have a complete legal right to hire a lawyer and have that lawyer accompany him in any kind of proceeding. No matter how serious the matter under consideration, no matter what the question—from the most complex matter of tax accounting to the most personal, intimate family concerns—no matter how hazy your recollection might be, you have no right to a lawyer before the grand jury. The grand jury room is the one and only room in the courthouse, the very temple of justice, where the proceeding is entirely one-sided.

Under existing law, there could be a sign on the grand jury room saying, "No lawyers allowed." The Government has as many lawyers as the Treasury can pay. The witness has zero. Notwithstanding that he or she may be there against his or her will, notwithstanding the power of the grand jury and the prosecutor to indict, a witness before a grand jury is defenseless. He or she has no friend in the room. Surely, nobody feels so alone as a grand jury witness, knowing that the weight of the Federal criminal justice system rests on his or her every word. Give the wrong answer, you can be accused of perjury, obstruction of justice, or any other of a number of crimes. If you refuse to answer, you can go directly to jail without benefit of a trial, being held in contempt.

Mr. President, I ask you to consider, What kind of atmosphere is created in this one-sided proceeding? Is it one of fairness or is it one of intimidation? Bear in mind that there is no limit on the number of times a person may be called to testify before the same grand jury. In recent news reports—we have all read them—some people have been called to testify for the fifth or sixth time—no lawyer allowed—before the same grand jury. If you were in this position, or a member of your family were, how would you feel about being called for the sixth time to testify without your lawyer present? Would you feel threatened or intimidated? And this kind of proceeding not only does not provide justice and fairness, it doesn't even provide the appearance of justice and fairness, which is essential if citizens are to have confidence in our criminal justice system.

This system needs changing. The bill I am introducing is a modest proposal to give some balance to a very unlevel playing field. The main purpose of the original grand jury was probably helping in the collection of taxes. These ancient roots precede even the right to jury trial, because in the earliest times, trial was by ordeal. The accused was required to put his hand in boiling water or was tested by drowning. Needless to say, there weren't very many acquittals.

The grand jury has always symbolized the power of the criminal justice system to bring any person before the bar of justice. No one is beyond the power of the grand jury to seek evidence and to indict if there is probable cause to believe that a crime has been committed. Even before the right to trial by jury was secured, English grand juries had power to investigate and to accuse. Composed of ordinary citizens, grand juries had the power to compel any person to appear and give testimony or evidence. Historically, the grand jury was a guarantor of liberty—a guarantor of liberty.

The courts have often stated that the grand jury has a dual function. Listen to this. The courts have said that the grand jury has a dual function, "to clear the innocent, no less than to bring to trial those who may be guilty." The grand juries exist "as a means of protecting the citizen against unfounded accusation, whether it comes from the government, or be prompted by partisan passion or private enmity."

We just saw what private enmity is when somebody tried to set up Howard Baker in a tax fraud case.

The Founding Fathers so respected the institution that they enshrined the right to indictment by a grand jury in the sixth amendment to the Constitution. Here it is:

> No person shall be held to answer for a capital, or otherwise infamous crime, [and that has been interpreted many times to mean a felony] unless on presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger * * *.

That is amendment 5 to the Constitution. The grand jury should be both a sword and a shield, a powerful tool in the hands of prosecutors and a defender of liberty by protecting against meritless or overzealous prosecutions.

In colonial America, a grand jury in Boston helped signal the beginning of the end of colonial government when the jurors refused the Government's request to indict the Stamp Act rioters. In modern times, however, the grand jury has become almost exclusively a sword and not a shield. Examples of the grand jury as a shield are hard to come by. In short, we have allowed the protection intended by the founders to take a 180-degree turn.

The Supreme Court has conceded that the grand jury does not always serve its intended purpose of protecting the innocent. This is what the Supreme Court said in U.S. v. Dionisio:

> The grand jury may not always serve its historic role as a protective bulwark standing solidly between the ordinary citizen and an overzealous prosecutor.

Those were the words of Justice Douglas. Douglas said in dissent in that case—he was much more explicit:

> It is, indeed, common knowledge that the grand jury, having been conceived as a bulwark between the citizen and the government, is now a tool of the Executive.

Despite its ancient origins, the grand jury remains one of the most controversial aspects of our judiciary system. Most States have abandoned or abolished grand juries in favor of the filing of information by prosecutors. That is the way we do it in my home State of Arkansas. Many would argue that the grand jury is an anachronism which costs more than it is worth. In one of the most famous critiques of the institution, the Chief Judge of the State of New York stated that most grand juries would "indict a ham sandwich" if the prosecutor requested it.

While some have argued for eliminating the grand jury, I am not one to second-guess the wisdom of our Founding Fathers. Rather, I believe we should make the system work as intended—as a protector of freedom—by reforming the grand jury system so as to ensure due process of law for all concerned.

In the 1970s, there was considerable debate in Congress over the merits of the grand jury following revelations of abuses of the system under the Nixon administration. There has been no serious congressional debate over the grand jury system for over 10 years. The time for that debate has come.

Over 30 years ago, the Supreme Court said in Gideon v. Wainwright that counsel must be appointed for those who cannot afford a lawyer before any criminal trial in which a prison sentence may result.

The bill I am introducing today is a logical extension of the sixth amendment to the Constitution, as well as the fifth amendment's promise of due process of law. Granted, a witness before a grand jury is not under immediate threat of indictment, but most of them are there against their will, and they are certainly looking over the abyss.

Let me emphasize that my bill, although a departure from historical practice, is still a modest proposal. This bill would not in any way change criminal procedure except for allowing a witness' lawyer to be present in the grand jury room. The lawyer would not be allowed to speak to the jury or to examine witnesses. He or she would be able to advise his or her client and no more.

Allowing the mere presence of a witness' lawyer will in no way disrupt or slow the grand jury proceedings. What it might do is to deter a prosecutor from doing something improper simply because he knows there is no other lawyer watching. It may give a witness some comfort to be able to ask his or her lawyer for advice before answering a complex question. That right is provided today, but the witness has to go outside the courtroom to see his or her counselor because the counsel is not allowed in the grand jury room.

My bill will thus allow for grand juries to operate more smoothly and efficiently, reducing the need to stop proceedings so the witness can go out of the room and talk to his or her lawyer.

This bill goes to the very reason lawyers exist. It may give the public more confidence that the proceedings are fair and balanced at a time when public confidence in the judicial system is about as low as it has ever been. If any of these purposes are met, my legislation will have served a noble purpose.

Mr. President, I hope that all Senators will take note of this bill and that they will support it. It will be referred to the Judiciary Committee, and I hope that the committee will schedule hearings very promptly.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Grand Jury Due Process Act".

SEC. 2. GRAND JURIES.

(a) IN GENERAL.—Rule 6 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (d), by inserting "and counsel for that witness (as provided in subdivision (h))" after "under examination"; and

(2) by adding at the end the following:

"(h) COUNSEL FOR GRAND JURY WITNESSES.—

"(1) IN GENERAL.—

"(A) RIGHT OF ASSISTANCE.—Each witness subpoenaed to appear and testify before a grand jury in a district court, or to produce books, papers, documents, or other objects before that grand jury, shall be allowed the assistance of counsel during such time as the witness is questioned in the grand jury room.

"(B) RETENTION OR APPOINTMENT.—Counsel for a witness described in subparagraph (A)—

"(i) may be retained by the witness; or

"(ii) in the case of a witness who is determined by the court to be financially unable to obtain counsel, shall be appointed as provided in section 3006A of title 18, United States Code.

"(2) POWERS AND DUTIES OF COUNSEL.—A counsel retained by or appointed for a witness under paragraph (1)—

"(A) shall be allowed to be present in the grand jury room only during the questioning of the witness and only to advise the witness;

"(B) shall not be permitted to address the attorney for the government or any grand juror, or otherwise participate in the proceedings before the grand jury; and

"(C) shall not represent more than 1 client in a grand jury proceeding, if the exercise of the independent judgment of the counsel on behalf of 1 or both clients will be, or is likely to be, adversely affected by the representation of another client.

"(3) POWERS OF THE COURT.—

"(A) IN GENERAL.—If the court determines that counsel retained by or appointed for a witness under this subdivision has violated paragraph (2), or that such action is necessary to ensure that the activities of the grand jury are not unduly delayed or impeded, the court may—

"(i) remove the counsel and either appoint new counsel or order the witness to obtain new counsel; and

"(ii) with respect to a violation of paragraph (2)(C), order separate representation of the witnesses at issue, giving appropriate weight to the right of each witness to counsel of his or her own choosing.

"(B) NO EFFECT ON OTHER SANCTIONS.—Nothing in this paragraph shall be construed to affect the contempt powers of the court or the power of the court to impose other appropriate sanctions.

"(4) NOTICE.—Upon service of any subpoena requiring any witness to testify or produce information at any proceeding before a grand jury impaneled before a district court, the witness shall be given adequate and reasonable notice of the right to the presence of counsel in the grand jury room, as provided in this subdivision.".

ADDITIONAL COSPONSORS

S. 850

At the request of Mr. AKAKA, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 850, a bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 1069

At the request of Mr. MURKOWSKI, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1069, a bill entitled the "National Discovery Trails Act of 1997."

S. 1141

At the request of Mr. ROBERTS, his name was added as a cosponsor of S. 1141, a bill to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes.

S. 1180

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1180, a bill to reauthorize the Endangered Species Act.

S. 1220

At the request of Mr. DODD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1220, a bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

S. 1264

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1264, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement.

S. 1286

At the request of Mr. JEFFORDS, the names of the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1286, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain amounts received as scholarships by an individual under the National Health Corps Scholarship Program.

S. 1348

At the request of Mr. LIEBERMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1348, a bill to provide for innovative strategies for achieving superior environmental performance, and for other purposes.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1391

At the request of Mr. DODD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1391, a bill to authorize the President to permit the sale and export of food, medicines, and medical equipment to Cuba.

S. 1464

At the request of Mr. HATCH, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 1677

At the request of Mr. CHAFEE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1724

At the request of Ms. COLLINS, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1724, a bill to amend the Internal Revenue Code of 1986 to repeal the information reporting requirement relating to the Hope Scholarship and Lifetime Learning Credits imposed on educational institutions and certain other trades and businesses.

S. 1733

At the request of Mr. ROBERTS, his name was added as a cosponsor of S. 1733, a bill to require the Commissioner of Social Security and food stamp State agencies to take certain actions to ensure that food stamp coupons are not issued for deceased individuals.

S. 1737

At the request of Mr. MACK, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1737, a bill to amend the Internal Revenue Code of 1986 to provide a uniform application of the confidentiality privilege to taxpayer communications with federally authorized practitioners.

S. 1879

At the request of Mr. BURNS, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Utah (Mr. BENNETT), the Senator from Montana (Mr. BAUCUS), the Senator from Idaho (Mr. KEMPTHORNE), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1879, a bill to provide for the permanent extension of income averaging for farmers.

S. 1903

At the request of Mr. THOMAS, the names of the Senator from New York (Mr. D'AMATO) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1903, a bill to prohibit the return of veterans memorial objects to foreign nations without specific authorization in law.

S. 1924

At the request of Mr. MACK, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. ASHCROFT, the names of the Senator from Colorado (Mr. ALLARD), the Senator from North Dakota (Mr. DORGAN), the Senator from Iowa (Mr. GRASSLEY), the Senator from Utah (Mr. HATCH), the Senator from South Dakota (Mr. JOHNSON), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of Senate Concurrent Resolution 88, a concurrent resolution calling on Japan to establish and maintain an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.

SENATE CONCURRENT RESOLUTION 93 EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO MEDICARE DOCUMENTATION REQUIREMENTS

Mr. TORRICELLI (for himself and Mr. COVERDELL) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 93

Whereas adequate documentation is necessary to assure quality and appropriateness of services;

Whereas effective strategies to eliminate waste, fraud, and abuse in the Medicare program should not result in excessive documentation requirements being imposed on physicians that will interfere with patient care;

Whereas if the documentation in the medical record does not meet program requirements, payments for such claims may be denied and an investigation into potential fraud and abuse may result;

Whereas the administrative complexity of the documentation requirements may increase the risk that physicians will make inadvertent coding errors; and

Whereas inadvertent errors or legitimate differences of opinion on coding and documentation of physician services under current law are not grounds for concluding that fraud has occurred: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Health Care Financing Administration should—

(1) further postpone its plans to implement the documentation guidelines for evaluation and management services, as currently constituted;

(2) continue consultation with organizations representing physicians on how to reduce the complexity of any such guidelines prior to their use by Medicare or its agents in review of claims submitted to the program;

(3) conduct a pilot study of any such documentation requirements prior to use in audits and other review activities; and

(4) assure that any such documentation guidelines, if applied by Medicare or its agents in review activities, contribute to quality care and do not detract from good patient care by requiring physicians to spend undue time documenting their services—at the expense of spending less time with patients—or lead to sanctions being imposed for unintentional coding and documentation errors.

Mr. TORRICELLI. Mr. President, I rise today on behalf of myself and my colleague from Georgia, Senator COVERDELL, to submit a concurrent resolution expressing the sense of Congress with respect to documentation requirements for physicians who submit claims to Medicare for office visits and other evaluation and management services.

In May of last year, the Health Care Financing Administration (HCFA) released revised Medicare documentation guidelines for evaluation and management (E/M) services. The guidelines were intended to provide physicians and claims reviewers advice about preparing and reviewing documentation for E/M services. They were also expected to improve the quality of medical records and continuity of patient care.

It is clear now, nearly eight months after the guidelines were implemented, that the guidelines' intent has not been fulfilled. Rather than improving the quality of patient care, the new E/M guidelines have caused patient care to suffer.

I have received hundreds of letters from physicians in my state of New Jersey telling me that they spend so much time trying to figure out how to bill Medicare under the new guidelines that they have little time left for their patients. There are 42 choices a physician must consider before selecting the proper E/M code for a given service. These kind of highly complicated and excessive billing guidelines force physicians to spend less time with their patients and more time on their charts. The result is a diversion of the physicians' attention away from patient care and medical decision-making. Even the American Medical Association (AMA), who helped draft the guidelines, warns that they may impose an undue burden on physicians that may detract from patient care. These concerns have prompted the AMA to commit to make changes in the guidelines that address concerns about their complexity.

The resolution I rise to submit today expresses the sense of Congress that HCFA should postpone its plan to implement the documentation guidelines and continue consultation with physicians organizations on how to reduce the complexity of E/M guidelines. The resolution also expresses the sense of Congress that HCFA should conduct a pilot study of any documentation requirements prior to their implementation to assure that they contribute to, rather than detract from, quality patient care.

It is well settled that adequate documentation is necessary to assure quality and appropriateness of Medicare services. It is also needed to prevent waste, fraud and abuse. However, we in Congress have a responsibility to ensure that strategies to address these issues not result in burdensome requirements that interfere with patient care.

AMENDMENTS SUBMITTED

THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

SPECTER AMENDMENT NO. 2336

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; as follows:

At the end, add the following:

TITLE —FLAT TAX

SEC. 01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Flat Tax Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 01. Short title; table of contents.
Sec. 02. Flat tax on individual taxable earned income and business taxable income.
Sec. 03. Repeal of estate and gift taxes.
Sec. 04. Additional repeals.
Sec. 05. Effective dates.

SEC. 02. FLAT TAX ON INDIVIDUAL TAXABLE EARNED INCOME AND BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Subchapter A of chapter 1 of subtitle A is amended to read as follows:

"Subchapter A—Determination of Tax Liability

"Part I. Tax on individuals.
"Part II. Tax on business activities.

"PART I—TAX ON INDIVIDUALS

"Sec. 1. Tax imposed.
"Sec. 2. Standard deduction.
"Sec. 3. Deduction for cash charitable contributions.
"Sec. 4. Deduction for home acquisition indebtedness.
"Sec. 5. Definitions and special rules.

"SECTION 1. TAX IMPOSED.

"(a) IMPOSITION OF TAX.—There is hereby imposed on every individual a tax equal to 20 percent of the taxable earned income of such individual.

"(b) TAXABLE EARNED INCOME.—For purposes of this section, the term 'taxable earned income' means the excess (if any) of—

"(1) the earned income received or accrued during the taxable year, over

"(2) the sum of—

"(A) the standard deduction,

"(B) the deduction for cash charitable contributions, and

"(C) the deduction for home acquisition indebtedness,

for such taxable year.

"(c) EARNED INCOME.—For purposes of this section—

"(1) IN GENERAL.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received from sources within the United States as compensation for personal services actually rendered, but does not include that part of compensation derived by the taxpayer for personal services rendered by the taxpayer to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

"(2) TAXPAYER ENGAGED IN TRADE OR BUSINESS.—In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of the taxpayer's share of the net profits of such trade or business, shall be considered as earned income.

"SEC. 2. STANDARD DEDUCTION.

"(a) IN GENERAL.—For purposes of this subtitle, the term 'standard deduction' means the sum of—

"(1) the basic standard deduction, plus

"(2) the additional standard deduction.

"(b) BASIC STANDARD DEDUCTION.—For purposes of subsection (a), the basic standard deduction is—

"(1) $17,500 in the case of—

"(A) a joint return, and

"(B) a surviving spouse (as defined in section 5(a)),

"(2) $15,000 in the case of a head of household (as defined in section 5(b)), and

"(3) $10,000 in the case of an individual—

"(A) who is not married and who is not a surviving spouse or head of household, or

"(B) who is a married individual filing a separate return.

"(c) ADDITIONAL STANDARD DEDUCTION.—For purposes of subsection (a), the additional standard deduction is $5,000 for each dependent (as defined in section 5(d))—

"(1) whose earned income for the calendar year in which the taxable year of the taxpayer begins is less than the basic standard deduction specified in subsection (b)(3), or

"(2) who is a child of the taxpayer and who—

"(A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or

"(B) is a student who has not attained the age of 24 at the close of such calendar year.

"(d) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subsections (b) and (c) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) of such section.

"(2) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"SEC. 3. DEDUCTION FOR CASH CHARITABLE CONTRIBUTIONS.

"(a) GENERAL RULE.—For purposes of this part, there shall be allowed as a deduction any charitable contribution (as defined in subsection (b)) not to exceed $2,500 ($1,250, in the case of a married individual filing a separate return), payment of which is made within the taxable year.

"(b) CHARITABLE CONTRIBUTION DEFINED.—For purposes of this section , the term 'charitable contribution' means a contribution or gift of cash or its equivalent to or for the use of the following:

"(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

"(2) A corporation, trust, or community chest, fund, or foundation—

"(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States;

"(B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals;

"(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

"(D) which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B). Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph.

"(3) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

"(A) organized in the United States or any of its possessions, and

"(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"(4) In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

"(5) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

For purposes of this section, the term 'charitable contribution' also means an amount treated under subsection (d) as paid for the use of an organization described in paragraph (2), (3), or (4).

"(c) DISALLOWANCE OF DEDUCTION IN CERTAIN CASES AND SPECIAL RULES.—

"(1) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

"(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

"(B) CONTENT OF ACKNOWLEDGMENT.—An acknowledgment meets the requirements of this subparagraph if it includes the following information:

"(i) The amount of cash contributed.

"(ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any contribution described in clause (i).

"(iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

For purposes of this subparagraph, the term 'intangible religious benefit' means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.

"(C) Contemporaneous.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

"(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

"(ii) the due date (including extensions) for filing such return.

"(D) Substantiation not required for contributions reported by the donee organization.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

"(E) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases.

"(2) Denial of deduction where contribution for lobbying activities.—No deduction shall be allowed under this section for a contribution to an organization which conducts activities to which section 11(d)(2)(C)(i) applies on matters of direct financial interest to the donor's trade or business, if a principal purpose of the contribution was to avoid Federal income tax by securing a deduction for such activities under this section which would be disallowed by reason of section 11(d)(2)(C) if the donor had conducted such activities directly. No deduction shall be allowed under section 11(d) for any amount for which a deduction is disallowed under the preceding sentence.

"(d) Amounts Paid To Maintain Certain Students as Members of Taxpayer's Household.—

"(1) In general.—Subject to the limitations provided by paragraph (2), amounts paid by the taxpayer to maintain an individual (other than a dependent, as defined in section 5(d), or a relative of the taxpayer) as a member of such taxpayer's household during the period that such individual is—

"(A) a member of the taxpayer's household under a written agreement between the taxpayer and an organization described in paragraph (2), (3), or (4) of subsection (b) to implement a program of the organization to provide educational opportunities for pupils or students in private homes, and

"(B) a full-time pupil or student in the twelfth or any lower grade at an educational organization located in the United States which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on,

shall be treated as amounts paid for the use of the organization.

"(2) Limitations.—

"(A) Amount.—Paragraph (1) shall apply to amounts paid within the taxable year only to the extent that such amounts do not exceed $50 multiplied by the number of full calendar months during the taxable year which fall within the period described in paragraph (1). For purposes of the preceding sentence, if 15 or more days of a calendar month fall within such period such month shall be considered as a full calendar month.

"(B) Compensation or reimbursement.—Paragraph (1) shall not apply to any amount paid by the taxpayer within the taxable year if the taxpayer receives any money or other property as compensation or reimbursement for maintaining the individual in the taxpayer's household during the period described in paragraph (1).

"(3) Relative defined.—For purposes of paragraph (1), the term 'relative of the taxpayer' means an individual who, with respect to the taxpayer, bears any of the relationships described in subparagraphs (A) through (H) of section 5(d)(1).

"(4) No other amount allowed as deduction.—No deduction shall be allowed under subsection (a) for any amount paid by a taxpayer to maintain an individual as a member of the taxpayer's household under a program described in paragraph (1)(A) except as provided in this subsection.

"(e) Denial of Deduction for Certain Travel Expenses.—No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel.

"(f) Disallowance of Deductions in Certain Cases.—For disallowance of deductions for contributions to or for the use of Communist controlled organizations, see section 11(a) of the Internal Security Act of 1950 (50 U.S.C. 790).

"(g) Treatment of Certain Amounts Paid to or for the Benefit of Institutions of Higher Education.—

"(1) In general.—For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

"(2) Amount described.—For purposes of paragraph (1), an amount is described in this paragraph if—

"(A) the amount is paid by the taxpayer to or for the benefit of an educational organization—

"(i) which is described in subsection (d)(1)(B), and

"(ii) which is an institution of higher education (as defined in section 3304(f)), and

"(B) such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection.

"(h) Other Cross References.—

"(1) For treatment of certain organizations providing child care, see section 501(k).

"(2) For charitable contributions of partners, see section 702.

"(3) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for the use of the United States, see section 6973 of title 10, United States Code.

"(4) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.

"(5) For treatment of gifts of money accepted by the Attorney General for credit to the 'Commissary Funds, Federal Prisons' as gifts to or for the use of the United States, see section 4043 of title 18, United States Code.

"(6) For charitable contributions to or for the use of Indian tribal governments (or subdivisions of such governments), see section 7871.

"SEC. 4. DEDUCTION FOR HOME ACQUISITION INDEBTEDNESS.

"(a) General Rule.—For purposes of this part, there shall be allowed as a deduction all qualified residence interest paid or accrued within the taxable year.

"(b) Qualified Residence Interest Defined.—The term 'qualified residence interest' means any interest which is paid or accrued during the taxable year on acquisition indebtedness with respect to any qualified residence of the taxpayer. For purposes of the preceding sentence, the determination of whether any property is a qualified residence of the taxpayer shall be made as of the time the interest is accrued.

"(c) Acquisition Indebtedness.—

"(1) In general.—The term 'acquisition indebtedness' means any indebtedness which—

"(A) is incurred in acquiring, constructing, or substantially improving any qualified residence of the taxpayer, and

"(B) is secured by such residence.

Such term also includes any indebtedness secured by such residence resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence (or this sentence); but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

"(2) $100,000 limitation.—The aggregate amount treated as acquisition indebtedness for any period shall not exceed $100,000 ($50,000 in the case of a married individual filing a separate return).

"(d) Treatment of Indebtedness Incurred on or Before October 13, 1987.—

"(1) In general.—In the case of any pre-October 13, 1987, indebtedness—

"(A) such indebtedness shall be treated as acquisition indebtedness, and

"(B) the limitation of subsection (b)(2) shall not apply.

"(2) Reduction in $100,000 limitation.—The limitation of subsection (b)(2) shall be reduced (but not below zero) by the aggregate amount of outstanding pre-October 13, 1987, indebtedness.

"(3) Pre-October 13, 1987, indebtedness.—The term 'pre-October 13, 1987, indebtedness' means—

"(A) any indebtedness which was incurred on or before October 13, 1987, and which was secured by a qualified residence on October 13, 1987, and at all times thereafter before the interest is paid or accrued, or

"(B) any indebtedness which is secured by the qualified residence and was incurred after October 13, 1987, to refinance indebtedness described in subparagraph (A) (or refinanced indebtedness meeting the requirements of this subparagraph) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

"(4) LIMITATION ON PERIOD OF REFINANCING.—Subparagraph (B) of paragraph (3) shall not apply to any indebtedness after—

"(A) the expiration of the term of the indebtedness described in paragraph (3)(A), or

"(B) if the principal of the indebtedness described in paragraph (3)(A) is not amortized over its term, the expiration of the term of the first refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such first refinancing).

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED RESIDENCE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (C), the term 'qualified residence' means the principal residence of the taxpayer.

"(B) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If a married couple does not file a joint return for the taxable year—

"(i) such couple shall be treated as 1 taxpayer for purposes of subparagraph (A), and

"(ii) each individual shall be entitled to take into account ½ of the principal residence unless both individuals consent in writing to 1 individual taking into account the principal residence.

"(C) PRE-OCTOBER 13, 1987, INDEBTEDNESS.—In the case of any pre-October 13, 1987, indebtedness, the term 'qualified residence' has the meaning given that term in section 163(h)(4), as in effect on the day before the date of enactment of this subparagraph.

"(2) SPECIAL RULE FOR COOPERATIVE HOUSING CORPORATIONS.—Any indebtedness secured by stock held by the taxpayer as a tenant-stockholder in a cooperative housing corporation shall be treated as secured by the house or apartment which the taxpayer is entitled to occupy as such a tenant-stockholder. If stock described in the preceding sentence may not be used to secure indebtedness, indebtedness shall be treated as so secured if the taxpayer establishes to the satisfaction of the Secretary that such indebtedness was incurred to acquire such stock.

"(3) UNENFORCEABLE SECURITY INTERESTS.—Indebtedness shall not fail to be treated as secured by any property solely because, under any applicable State or local homestead or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

"(4) SPECIAL RULES FOR ESTATES AND TRUSTS.—For purposes of determining whether any interest paid or accrued by an estate or trust is qualified residence interest, any residence held by such estate or trust shall be treated as a qualified residence of such estate or trust if such estate or trust establishes that such residence is a qualified residence of a beneficiary who has a present interest in such estate or trust or an interest in the residuary of such estate or trust.

"SEC. 5. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITION OF SURVIVING SPOUSE.—

"(1) IN GENERAL.—For purposes of this part, the term 'surviving spouse' means a taxpayer—

"(A) whose spouse died during either of the taxpayer's 2 taxable years immediately preceding the taxable year, and

"(B) who maintains as the taxpayer's home a household which constitutes for the taxable year the principal place of abode (as a member of such household) of a dependent—

"(i) who (within the meaning of subsection (d)) is a son, stepson, daughter, or stepdaughter of the taxpayer, and

"(ii) with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 2.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over one-half of the cost of maintaining the household during the taxable year is furnished by such individual.

"(2) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of this part a taxpayer shall not be considered to be a surviving spouse—

"(A) if the taxpayer has remarried at any time before the close of the taxable year, or

"(B) unless, for the taxpayer's taxable year during which the taxpayer's spouse died, a joint return could have been made under the provisions of section 6013 (without regard to subsection (a)(3) thereof).

"(3) SPECIAL RULE WHERE DECEASED SPOUSE WAS IN MISSING STATUS.—If an individual was in a missing status (within the meaning of section 6013(f)(3)) as a result of service in a combat zone and if such individual remains in such status until the date referred to in subparagraph (A) or (B), then, for purposes of paragraph (1)(A), the date on which such individual dies shall be treated as the earlier of the date determined under subparagraph (A) or the date determined under subparagraph (B):

"(A) The date on which the determination is made under section 556 of title 37 of the United States Code or under section 5566 of title 5 of such Code (whichever is applicable) that such individual died while in such missing status.

"(B) Except in the case of the combat zone designated for purposes of the Vietnam conflict, the date which is 2 years after the date designated as the date of termination of combatant activities in that zone.

"(b) DEFINITION OF HEAD OF HOUSEHOLD.—

"(1) IN GENERAL.—For purposes of this part, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of such individual's taxable year, is not a surviving spouse (as defined in subsection (a)), and either—

"(A) maintains as such individual's home a household which constitutes for more than one-half of such taxable year the principal place of abode, as a member of such household, of—

"(i) a son, stepson, daughter, or stepdaughter of the taxpayer, or a descendant of a son or daughter of the taxpayer, but if such son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a deduction for the taxable year for such person under section 2 (or would be so entitled but for subparagraph (B) or (D) of subsection (d)(5)), or

"(ii) any other person who is a dependent of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such person under section 2, or

"(B) maintains a household which constitutes for such taxable year the principal place of abode of the father or mother of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such father or mother under section 2.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over one-half of the cost of maintaining the household during the taxable year is furnished by such individual.

"(2) DETERMINATION OF STATUS.—For purposes of this subsection—

"(A) a legally adopted child of a person shall be considered a child of such person by blood;

"(B) an individual who is legally separated from such individual's spouse under a decree of divorce or of separate maintenance shall not be considered as married;

"(C) a taxpayer shall be considered as not married at the close of such taxpayer's taxable year if at any time during the taxable year such taxpayer's spouse is a nonresident alien; and

"(D) a taxpayer shall be considered as married at the close of such taxpayer's taxable year if such taxpayer's spouse (other than a spouse described in subparagraph (C)) died during the taxable year.

"(3) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of this part, a taxpayer shall not be considered to be a head of a household—

"(A) if at any time during the taxable year the taxpayer is a nonresident alien; or

"(B) by reason of an individual who would not be a dependent for the taxable year but for—

"(i) subparagraph (I) of subsection (d)(1), or

"(ii) paragraph (3) of subsection (d).

"(c) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 7703(b).

"(d) DEPENDENT DEFINED.—

"(1) GENERAL DEFINITION.—For purposes of this part, the term 'dependent' means any of the following individuals over one-half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under paragraph (3) or (5) as received from the taxpayer):

"(A) A son or daughter of the taxpayer, or a descendant of either.

"(B) A stepson or stepdaughter of the taxpayer.

"(C) A brother, sister, stepbrother, or stepsister of the taxpayer.

"(D) The father or mother of the taxpayer, or an ancestor of either.

"(E) A stepfather or stepmother of the taxpayer.

"(F) A son or daughter of a brother or sister of the taxpayer.

"(G) A brother or sister of the father or mother of the taxpayer.

"(H) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer.

"(I) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

"(2) RULES RELATING TO GENERAL DEFINITION.—For purposes of this section—

"(A) BROTHER; SISTER.—The terms 'brother' and 'sister' include a brother or sister by the halfblood.

"(B) CHILD.—In determining whether any of the relationships specified in paragraph (1) or subparagraph (A) of this paragraph exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child satisfies the requirements of paragraph (1)(I) with respect to such individual), shall be treated as a child of such individual by blood.

"(C) CITIZENSHIP.—The term 'dependent' does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States or of a country contiguous to the United States. The preceding sentence shall not exclude from the definition of 'dependent' any child of the taxpayer legally adopted by such taxpayer, if, for the taxable year of the taxpayer, the child has as such child's principal place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen or national of the United States.

"(D) ALIMONY, ETC.—A payment to a wife which is alimony or separate maintenance shall not be treated as a payment by the wife's husband for the support of any dependent.

"(E) UNLAWFUL ARRANGEMENTS.—An individual is not a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

"(3) MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(A) no one person contributed over one-half of such support;

"(B) over one-half of such support was received from persons each of whom, but for the fact that such person did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year;

"(C) the taxpayer contributed over 10 percent of such support; and

"(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(4) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of paragraph (1), in the case of any individual who is—

"(A) a son, stepson, daughter, or stepdaughter of the taxpayer (within the meaning of this subsection), and

"(B) a student,

amounts received as scholarships for study at an educational organization described in section 3(d)(1)(B) shall not be taken into account in determining whether such individual received more than one-half of such individual's support from the taxpayer.

"(5) SUPPORT TEST IN CASE OF CHILD OF DIVORCED PARENTS, ETC.—

"(A) CUSTODIAL PARENT GETS EXEMPTION.—Except as otherwise provided in this paragraph, if—

"(i) a child receives over one-half of such child's support during the calendar year from such child's parents—

"(I) who are divorced or legally separated under a decree of divorce or separate maintenance,

"(II) who are separated under a written separation agreement, or

"(III) who live apart at all times during the last 6 months of the calendar year, and

"(ii) such child is in the custody of 1 or both of such child's parents for more than one-half of the calendar year,

such child shall be treated, for purposes of paragraph (1), as receiving over one-half of such child's support during the calendar year from the parent having custody for a greater portion of the calendar year (hereafter in this paragraph referred to as the 'custodial parent').

"(B) EXCEPTION WHERE CUSTODIAL PARENT RELEASES CLAIM TO EXEMPTION FOR THE YEAR.—A child of parents described in subparagraph (A) shall be treated as having received over one-half of such child's support during a calendar year from the noncustodial parent if—

"(i) the custodial parent signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such custodial parent will not claim such child as a dependent for any taxable year beginning in such calendar year, and

"(ii) the noncustodial parent attaches such written declaration to the noncustodial parent's return for the taxable year beginning during such calendar year.

For purposes of this paragraph, the term 'noncustodial parent' means the parent who is not the custodial parent.

"(C) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENT.—This paragraph shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provisions of paragraph (3).

"(D) EXCEPTION FOR CERTAIN PRE-1985 INSTRUMENTS.—

"(i) IN GENERAL.—A child of parents described in subparagraph (A) shall be treated as having received over one-half such child's support during a calendar year from the noncustodial parent if—

"(I) a qualified pre-1985 instrument between the parents applicable to the taxable year beginning in such calendar year provides that the noncustodial parent shall be entitled to any deduction allowable under section 2 for such child, and

"(II) the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of this clause, amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

"(ii) QUALIFIED PRE-1985 INSTRUMENT.—For purposes of this subparagraph, the term 'qualified pre-1985 instrument' means any decree of divorce or separate maintenance or written agreement—

"(I) which is executed before January 1, 1985,

"(II) which on such date contains the provision described in clause (i)(I), and

"(III) which is not modified on or after such date in a modification which expressly provides that this subparagraph shall not apply to such decree or agreement.

"(E) SPECIAL RULE FOR SUPPORT RECEIVED FROM NEW SPOUSE OF PARENT.—For purposes of this paragraph, in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

"PART II—TAX ON BUSINESS ACTIVITIES

"Sec. 11. Tax imposed on business activities.

"SEC. 11. TAX IMPOSED ON BUSINESS ACTIVITIES.

"(a) TAX IMPOSED.—There is hereby imposed on every person engaged in a business activity located in the United States a tax equal to 20 percent of the business taxable income of such person.

"(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the person engaged in the business activity, whether such person is an individual, partnership, corporation, or otherwise.

"(c) BUSINESS TAXABLE INCOME.—

"(1) IN GENERAL.—For purposes of this section, the term 'business taxable income' means gross active income reduced by the deductions specified in subsection (d).

"(2) GROSS ACTIVE INCOME.—For purposes of paragraph (1), the term 'gross active income' means gross income other than investment income.

"(d) DEDUCTIONS.—

"(1) IN GENERAL.—The deductions specified in this subsection are—

"(A) the cost of business inputs for the business activity,

"(B) the compensation (including contributions to qualified retirement plans but not including other fringe benefits) paid for employees performing services in such activity, and

"(C) the cost of personal and real property used in such activity.

"(2) BUSINESS INPUTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the term 'cost of business inputs' means—

"(i) the actual cost of goods, services, and materials, whether or not resold during the taxable year, and

"(ii) the actual cost, if reasonable, of travel and entertainment expenses for business purposes.

"(B) PURCHASES OF GOODS AND SERVICES EXCLUDED.—Such term shall not include purchases of goods and services provided to employees or owners.

"(C) CERTAIN LOBBYING AND POLITICAL EXPENDITURES EXCLUDED.—

"(i) IN GENERAL.—Such term shall not include any amount paid or incurred in connection with—

"(I) influencing legislation,

"(II) participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office,

"(III) any attempt to influence the general public, or segments thereof, with respect to elections, legislative matters, or referendums, or

"(IV) any direct communication with a covered executive branch official in an attempt to influence the official actions or positions of such official.

"(ii) EXCEPTION FOR LOCAL LEGISLATION.—In the case of any legislation of any local council or similar governing body—

"(I) clause (i)(I) shall not apply, and

"(II) such term shall include all ordinary and necessary expenses (including, but not limited to, traveling expenses described in subparagraph (A)(iii) and the cost of preparing testimony) paid or incurred during the taxable year in carrying on any trade or business—

"(aa) in direct connection with appearances before, submission of statements to, or sending communications to the committees, or individual members, of such council or body with respect to legislation or proposed legislation of direct interest to the taxpayer, or

"(bb) in direct connection with communication of information between the taxpayer and an organization of which the taxpayer is a member with respect to any such legislation or proposed legislation which is of direct interest to the taxpayer and to such organization, and that portion of the dues so paid or incurred with respect to any organization of which the taxpayer is a member which is attributable to the expenses of the activities carried on by such organization.

"(iii) APPLICATION TO DUES OF TAX-EXEMPT ORGANIZATIONS.—Such term shall include the portion of dues or other similar amounts paid by the taxpayer to an organization which is exempt from tax under this subtitle which the organization notifies the taxpayer under section 6033(e)(1)(A)(ii) is allocable to expenditures to which clause (i) applies.

“(iv) INFLUENCING LEGISLATION.—For purposes of this subparagraph—

“(I) IN GENERAL.—The term ‘influencing legislation’ means any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of legislation.

“(II) LEGISLATION.—The term ‘legislation’ has the meaning given that term in section 4911(e)(2).

“(v) OTHER SPECIAL RULES.—

“(I) EXCEPTION FOR CERTAIN TAXPAYERS.—In the case of any taxpayer engaged in the trade or business of conducting activities described in clause (i), clause (i) shall not apply to expenditures of the taxpayer in conducting such activities directly on behalf of another person (but shall apply to payments by such other person to the taxpayer for conducting such activities).

“(II) DE MINIMIS EXCEPTION.—

“(aa) IN GENERAL.—Clause (i) shall not apply to any in-house expenditures for any taxable year if such expenditures do not exceed $2,000. In determining whether a taxpayer exceeds the $2,000 limit, there shall not be taken into account overhead costs otherwise allocable to activities described in subclauses (I) and (IV) of clause (i).

“(bb) IN-HOUSE EXPENDITURES.—For purposes of provision (aa), the term ‘in-house expenditures’ means expenditures described in subclauses (I) and (IV) of clause (i) other than payments by the taxpayer to a person engaged in the trade or business of conducting activities described in clause (i) for the conduct of such activities on behalf of the taxpayer, or dues or other similar amounts paid or incurred by the taxpayer which are allocable to activities described in clause (i).

“(III) EXPENSES INCURRED IN CONNECTION WITH LOBBYING AND POLITICAL ACTIVITIES.—Any amount paid or incurred for research for, or preparation, planning, or coordination of, any activity described in clause (i) shall be treated as paid or incurred in connection with such activity.

“(vi) COVERED EXECUTIVE BRANCH OFFICIAL.—For purposes of this subparagraph, the term ‘covered executive branch official’ means—

“(I) the President,

“(II) the Vice President,

“(III) any officer or employee of the White House Office of the Executive Office of the President, and the 2 most senior level officers of each of the other agencies in such Executive Office, and

“(IV) any individual serving in a position in level I of the Executive Schedule under section 5312 of title 5, United States Code, any other individual designated by the President as having Cabinet level status, and any immediate deputy of such an individual.

“(vii) SPECIAL RULE FOR INDIAN TRIBAL GOVERNMENTS.—For purposes of this subparagraph, an Indian tribal government shall be treated in the same manner as a local council or similar governing body.

“(viii) CROSS REFERENCE.—

“For reporting requirements and alternative taxes related to this subsection, see section 6033(e).

“(e) CARRYOVER OF EXCESS DEDUCTIONS.—

“(1) IN GENERAL.—If the aggregate deductions for any taxable year exceed the gross active income for such taxable year, the amount of the deductions specified in subsection (d) for the succeeding taxable year (determined without regard to this subsection) shall be increased by the sum of—

“(A) such excess, plus

“(B) the product of such excess and the 3-month Treasury rate for the last month of such taxable year.

“(2) 3-MONTH TREASURY RATE.—For purposes of paragraph (1), the 3-month Treasury rate is the rate determined by the Secretary based on the average market yield (during any 1-month period selected by the Secretary and ending in the calendar month in which the determination is made) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 months or less.”

(b) CONFORMING REPEALS AND REDESIGNATIONS.—

(1) REPEALS.—The following subchapters of chapter 1 of subtitle A and the items relating to such subchapters in the table of subchapters for such chapter 1 are repealed:

(A) Subchapter B (relating to computation of taxable income).

(B) Subchapter C (relating to corporate distributions and adjustments).

(C) Subchapter D (relating to deferred compensation, etc.).

(D) Subchapter G (relating to corporations used to avoid income tax on shareholders).

(E) Subchapter H (relating to banking institutions).

(F) Subchapter I (relating to natural resources).

(G) Subchapter J (relating to estates, trusts, beneficiaries, and decedents).

(H) Subchapter L (relating to insurance companies).

(I) Subchapter M (relating to regulated investment companies and real estate investment trusts).

(J) Subchapter N (relating to tax based on income from sources within or without the United States).

(K) Subchapter O (relating to gain or loss on disposition of property).

(L) Subchapter P (relating to capital gains and losses).

(M) Subchapter Q (relating to readjustment of tax between years and special limitations).

(N) Subchapter S (relating to tax treatment of S corporations and their shareholders).

(O) Subchapter T (relating to cooperatives and their patrons).

(P) Subchapter U (relating to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas).

(Q) Subchapter V (relating to title 11 cases).

(2) REDESIGNATIONS.—The following subchapters of chapter 1 of subtitle A and the items relating to such subchapters in the table of subchapters for such chapter 1 are redesignated:

(A) Subchapter E (relating to accounting periods and methods of accounting) as subchapter B.

(B) Subchapter F (relating to exempt organizations) as subchapter C.

(C) Subchapter K (relating to partners and partnerships) as subchapter D.

SEC. 03. REPEAL OF ESTATE AND GIFT TAXES.

Subtitle B (relating to estate, gift, and generation-skipping taxes) and the item relating to such subtitle in the table of subtitles is repealed.

SEC. 04. ADDITIONAL REPEALS.

Subtitles H (relating to financing of presidential election campaigns) and J (relating to coal industry health benefits) and the items relating to such subtitles in the table of subtitles are repealed.

SEC. 05. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title apply to taxable years beginning after December 31, 1997.

(b) REPEAL OF ESTATE AND GIFT TAXES.—The repeal made by section 03 applies to estates of decedents dying, and transfers made, after December 31, 1997.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this title, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this title.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Tuesday, May 5, 1998, 10 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is “10 Years of the SAFE KIDS Campaign.” For further information, please call the committee, 202/224–5375.

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources, Subcommittee on Children and Families, will be held on Tuesday, May 5, 1998, 2 p.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is “Community Services Block Grant: Expanding Opportunities for Community and Neighborhood Partnerships.” For further information, please call the committee, 202/224–5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Thursday, May 7, 1998, 10 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is “Better Teachers for Today's Classroom: How to Make it Happen.” For further information, please call the committee, 202/224–5375.

ADDITIONAL STATEMENTS

CONSUMER AND MAIN STREET PROTECTION ACT OF 1998

• Mr. GRAHAM. Mr. President, I rise to announce my cosponsorship of Senator BUMPERS' “Consumer and Main Street Protection Act of 1998.” My support for this legislation is based on four important principles:

First, this bill promotes tax fairness. Mail order businesses unfairly benefit from their unique status. They can engage in interstate commerce—sell products to customers in any state of the Nation—but are not responsible for collecting state and local sales taxes.

This places state and local businesses, which have no choice but to collect sales tax on the merchandise they sell, at a severe competitive disadvantage. This is especially damaging to small businesses, which are the backbone of our Nation's economy. Over the last five years, Florida businesses with less than 20 employees have created 71 percent of all new jobs in the state—775,000 in total. Our bill will put main street merchants on the same competitive footing as mail order businesses.

Second, this bill protects consumers. It prevents them from experiencing an unexpected and unwelcome tax surprise. Many mail order shoppers are unaware that most states are empowered to assess a sales tax on the purchase of goods sold across state lines. They are surprised when states like Florida come around to collect sales tax due on particularly expensive goods.

Third, this bill preserves states' rights. Mr. President, there is no state right that is more fundamental than the right to decide how to raise revenue. Because the Federal Government has not protected this right, Florida currently loses an estimated $168.9 million each year in potential revenues. Nationwide, states have lost more than $3.3 billion as a result of Washington's handcuffs. If we are determined to make good on our promise to return more power and responsibility to states and local communities—and I think we must be—it makes no sense to dictate how Governors and legislators raise money. That's their job, not ours.

Mr. President, state officials from across the Nation are asking for our help. But don't take my word for it. Ask the National Governors Association, which once again passed a resolution supporting this kind of federal legislation at its Winter 1997 meetings.

Finally, this bill provides fairness to mail order firms. Most companies with nationwide sales of less than $3 million are exempt. The act gives companies the option of collecting a single blended rate for each state rather than the myriad of different state and local rates. Out of state companies only have to file tax returns once per quarter. And states participating in the Act must establish a toll-free number for out-of-state companies to obtain information and forms.

Mr. President, it is time that the Federal Government remove the straitjacket from states and restore to Governors and state legislators their power to raise revenue. I commend Senator BUMPERS for his efforts to preserve states' rights in these important fiscal matters.●

TRIBUTE TO THE CAMPBELLSVILLE UNIVERSITY LADY TIGERS: 1998 MID-SOUTH CONFERENCE BASKETBALL TOURNAMENT CHAMPIONS

● **Mr. McCONNELL.** Mr. President, I rise today to celebrate the remarkable season recently completed by the Lady Tigers of Campbellsville University, located in the town of Campbellsville, Kentucky. While many are more familiar with the Kentucky basketball dynasties built in places like Louisville and Lexington, Campbellsville has a pretty impressive run of its own going.

Nationally ranked all year, the Lady Tigers completed their regular season with a record of 21–7. Winning both the Mid-South Conference Regular Season and Tournament titles earned Campbellsville an automatic bid to the National Association of Intercollegiate Athletics (NAIA) championship tournament in Jackson, Tennessee. This is the ninth consecutive season that Campbellsville has qualified for the national tournament.

The Lady Tigers opened the NAIA national tournament by defeating Big State Conference Tournament Champion LeTourneau University 95–56 in the first round and then defeated Oklahoma City University in the Second Round by a score of 69–51. The Lady Tigers were finally stopped in the quarterfinals by four-time defending National Champion, Southern Nazarene University of Oklahoma, in a heartbreaker, 72–67.

Throughout the season, the Lady Tigers were led by Mid South Conference Player of the Year Shannon Wathen, and All-Conference teammates Julie Jeffries and Farrah Sullivan. Together, this senior triumvirate combined to average over thirty nine-points and fifteen rebounds per game. Post-season honors were also bestowed on Coach Donna Wise, who has led Campbellsville to nine consecutive national tournament births and ranks second in wins among active NAIA coaches with 475.

Mr. President, Coach Wise has built a national powerhouse women's basketball program in Campbellsville, a small town in Central Kentucky. I hope my colleagues will join me in offering congratulations to Coach Wise, her players, and everyone associated with the Campbellsville Lady Tigers on another great season.●

COSPONSORSHIP OF S. 1180, ENDANGERED SPECIES REAUTHORIZATION ACT

● **Mr. CRAIG.** Mr. President, I would like to take a few minutes today to talk about S. 1180, the Endangered Species Act reauthorization bill, and why I have decided to cosponsor it at this time.

As our colleagues know, this bill was passed by the Environment and Public Works Committee last fall, and it is currently on the calendar, ready for consideration by the full Senate. I have been slow to cosponsor S. 1180 because of some reservations I had—and still have—about the bill. I will talk in more detail about those reservations later.

However, I am absolutely convinced that the current Endangered Species Act is not only a dismal failure at saving species, but is actually working against that goal. Furthermore, everyday we tolerate this defective law, its unfair and unnecessary burdens increase on citizens and the economy. Yet at the same time, the American people continue to believe that conserving fish and wildlife species for the enjoyment of future generations is the right thing to do and I agree. They want to make changes to the law, but don't want to see the Endangered Species Act thrown out.

That's why for the last three years, my colleague and friend from Idaho, Senator KEMPTHORNE, has been working mightly to improve this complex law. He has held hearings, built coalitions, drafted and re-drafted language to correct the problems while still advancing the goals of the Endangered Species Act. I congratulate him, as well as our other Senate colleagues who have worked with him to produce this bill.

S. 1180 would make some positive reforms to the current system. It would re-focus the process on actually saving species. It would create opportunities and benefits for people who are affected by the government's actions in these areas.

For example, the bill emphasizes sound science—instead of politics—to guide actions taken to conserve and recover species. It requires independent peer review for listing and delisting decisions, and for the establishment of a biological recovery goal in a recovery plan. Specific time limits would have to be observed, and States and local citizens would have a larger role in the process.

I believe these provisions and others would make significant improvements in our current process, to the benefit of both our wildlife and our citizenry. While additional corrections could be made, those who drafted this bill believe that a more comprehensive overhaul of ESA is not going to pass this Congress. I tend to agree with that assessment and am willing to pursue the strategy of trying to pass these reforms now as a foundation for further reforms in the future. That is the message I would like to send with my cosponsorship of S. 1180.

Having said all that, Mr. President, I cannot endorse each and every provision of this legislation. I will be supporting amendments that will change or add to the bill in a number of areas.

For instance, while I support S. 1180's stated goal of providing incentives to promote voluntary habitat conservation by private landowners, I am very concerned about what the bill as a whole will fail to do in the area of protecting private property rights.

This is no small matter. The right to own and use property goes to the very heart of our American democracy. It was so important to our founding fathers that they enshrined the protection of private property in the Constitution's Bill of Rights.

It is equally important today. Yet our federal government has increasingly ignored these rights. President Clinton rejected the Constitution's guarantee outright when he pledged to veto any "compensation entitlement legislation" intended to strengthen Americans' private property rights. Representatives of this Administration have even suggested that the idea of private property is an outmoded notion.

Nowhere is the Administration's hostility to private property rights more evident than in the area of endangered species regulation. Let's take a look at Secretary Babbitt's "no surprises" policy, for example. The basic idea is that if landowners surrender control over the use of part of their property for ESA purposes, then the federal government will let them use the rest of it without interference. To put it another way, Secretary Babbitt proposes that you pay the government for the right to use your own land. By comparison, the Constitution of the United States promises that if the federal government wants your land used a certain way, the federal government has to pay you for it.

Mr. President, even more outrageous than Secretary Babbitt's program is the fact that many landowners think it's actually a pretty good deal. How oppressive and tyrannical has ESA regulation become, when citizens are willing—even eager—to give up their property and their constitutionally-protected right to compensation, just to get the government to leave them alone?

I applaud S. 1180's goal of reducing regulatory burdens and improving the certainty and finality of government action in protecting endangered species. It is bad policy to require the American people to sacrifice their constitutionally-protected rights for any federal program—even this one. I would like to see S. 1180 strengthen and protect the Fifth Amendment right to compensation. I will vote for amendments and or legislation that strengthens our citizen's private property rights.

Private property rights are not the only critical issue that concerns me in this legislation. I also had hoped that S. 1180 would directly address the issue of water rights, and specifically deny that any of its provisions create an express or implied federal water right.

Mr. President, the paramount natural resource issue for the American West is the sovereignty of the states over the water that flows and exists within their borders. It is easy to say that all we need to do is remain silent on this issue and all will be well. In fact, however, preserving state water sovereignty is not so easy. The reality of how federal water rights are created, or not created, requires that we speak to the question in legislation.

The appropriation doctrine is the water law of western states and has as its central premise that the first person to claim a water right has priority on its use over those water claimants who assert claims at later dates. In the arid West, this principle lies at the very heart of our economy. It is the ability to allocate this precious resource (water) for uses that allows us to exist.

It is for this reason we westerners become particularly agitated when the federal government tries to disrupt this principle or to "take" our water. Does this legislation create a federal reserved water right? There are those who would say "no," and there are those who would press to assert such a right.

It is for this reason that this legislation should clearly state the Congress' intent. For the record, this Senator does not intend for the endangered species reauthorization legislation to create a federal reserved water right. This is why I believe S. 1180 must state clearly that no implied or express federal water right is created in this legislation. I will support and vote for such an amendment.

With these areas of concern in mind, I am also inclined to support a shorter term of reauthorization than S. 1180 provides. As I mentioned previously, it is my goal to build additional improvements on the foundation laid by this legislation. Accelerating the opportunity for Congress to re-open the issue would only advance that goal.

In closing, Mr. President, let me repeat my endorsement for the goals that Senator KEMPTHORNE and the other supporters of this bill set out to ahieve in reauthorizing the Endangered Species Act. I think the bill will make improvements that are critical to ongoing ESA efforts in my state and elsewhere in the nation, and amendments in the areas I have discussed today will enhance those improvements.•

TRIBUTE TO VERMONT'S FEDERAL EMPLOYEES

• Mr. JEFFORDS. Mr. President, the week of May 4, 1998 is Public Service Recognition Week. It is a time to applaud the tremendous efforts and accomplishments of government employees, and to educate the public about the far reaching capabilities and services provided by government employees. It is also a time for public servants to remind ourselves why we chose to serve society through careers in public service.

This year's theme is "Working for You, Working for America", highlighting the commitment of public employees to work for the benefit of each individual, and for the collective benefit to improve the quality of life across our great nation.

In Vermont, over 6,000 members of our workforce are federal employees. We provide technical assistance to farmers, respond to disasters, manage forest land, and deliver mail. We administer federal funds to provide educational benefits, housing assistance, job training, and school breakfast and lunch programs. We process social security survivors benefits, veterans compensation, and small business loans. We are the faces of government—caseworkers, nurses, administrators, law enforcement officers. Day to day, our jobs are rarely front page news. We are on the front line and behind the scenes, working hard to resolve problems and make systems more effective.

Yet during this one week of the year, we hope to let people know how we touch their lives. We'd like the media to highlight the successes: thousands of tax refunds processed on time, hundreds of packages delivered the night before Christmas, dozens of checks issued for crop assistance after a spring flood, thousands of affordable housing units for the elderly and disabled, and upkeep of a hiking trail from one end of the state to the other providing unparalleled vistas.

Federal employees tout years of experience and commitment, investing themselves to bring about positive change. Continuously striving to be more efficient, more effective and more customer-service oriented, public servants care, and know government has a role to empower citizens to make life better. Federal employees contribute to our one-of-a-kind democracy. I rise to salute Vermont's federal employees . . . you truly make a difference.•

"IT'S MY FIGHT, TOO"

• Mr. GREGG. Mr. President, I rise today to pay tribute to women, men, and their families who are fighting the scourge of breast cancer. As many of my colleagues may remember, last spring, I submitted S. Res. 85, with my fellow Senator from New Hampshire, recognizing the family and friends of breast cancer patients in the struggle to cope with this disease. The Senate passed my Resolution by unanimous consent and expressed their overwhelming support for individuals who provide strength and support for loved ones fighting breast cancer. I come to the floor today to again note the importance of this expression and to recognize a very important organization in my home state of New Hampshire that is spreading this message to breast cancer patients across the country.

The American Cancer Society estimates that in 1998, 178,700 new cases of invasive breast cancer will be diagnosed among women in the United States and 1,600 cases will be diagnosed among men. These numbers more than triple in size when you consider the family and friends who are also impacted by the disease. With each and every one of these cases comes family and friends who are looked upon to provide the caring and loving needed to overcome such a terrifying disease.

The Northeast Health Care Quality Foundation, in Dover, New Hampshire, has done an excellent job of expressing this notion to the people of New Hampshire and beyond. With their campaign titled, "It's My Fight, Too," the Foundation has let individuals afflicted with breast cancer know that they are not alone in their struggle. It is important for the family to understand that their feelings are shared by others in their same situation and that they should find strength in numbers.

Awareness campaigns like "It's My Fight Too," are extremely important to foster an environment where support for both the individual with breast cancer and their family and friends is encouraged. Awareness is the key to allowing people to understand and identify with those suffering around them. We can all, as community members, provide support and strength to those in need.

As Mother's Day approaches, the Northeast Health Care Quality Foundation will be holding their annual event to recognize the important women in our lives who may or may not be suffering from this disease but who never the less, need to know that breast cancer is not just a women's disease but a struggle that can be fought by all of us together. Their event, "Family and Friends Against Breast Cancer, It's My Fight Too, A Night of Hope, Song and Love" will bring people from across the Northeast together to express the same support the Senate expressed with the passage of S. Res. 85. I commend the efforts of the Northeast Health Care Quality Foundation and encourage organizations across the country to follow their leadership and example.•

WORKER MEMORIAL DAY

• Mr. GRAMS. Mr. President, I rise to remember the American workers who have suffered injuries or died while at the work places in my home state of Minnesota and across the country.

As my colleagues may know, since 1989 the unions of the AFL-CIO have recognized April 28 as "Worker Memorial Day" to commemorate the millions of workplace injuries, illnesses and deaths that occur each year. In addition, many unions throughout the world now mark April 28 as an "International Day of Mourning."

In Minnesota, AFL-CIO affiliates commemorated Worker Memorial Day with a wide variety of events around the state. This past Tuesday at noon, members of Minneapolis and St. Paul building trades met near the State Capitol in St. Paul to remember workers who have been killed or injured in the job. A bell tolled once for each local construction worker who died in the past year of job-related causes.

In Grand Forks, the Northern Valley Labor Council and the Grand Forks Building and Construction Trades Council placed Workers Memorial Day stickers on their clothing at work. Statewide, a "Minnesota's Workforce Minute" Message about Workers' Memorial Day aired several times over the 29 stations of Minnesota News Network's Lifestyle Network.

Lastly, the Minnesota Department of Transportation and local unions in the Twin Cities and St. Cloud participated in a number of Worker Memorial Day activities including the broadcast of a Workers Memorial Day message from the Metro Division Engineer over the MnDOT public address and radio communication systems. This message preceded the observance of a moment of silence at 2 p.m.1

Mr. President, this year also marks the 28th anniversary of the enactment of the Occupational Safety and Health Act. In 1970, President Nixon signed legislation which created the Occupational Safety and Health Administration (OSHA) to establish and enforce labor standards and the National Institute for Occupational Safety Health (NIOSH) to conduct research investigations.

At the Department of Labor bill signing, President Nixon underscored the goal of this historic legislation. President Nixon noted how the bill's enactment, ". . . Represents in its culmination the American system at its best: Democrats, Republicans, the House, the Senate, the White House, business, labor, all cooperating in a common goal—the saving of lives, the avoiding of injuries, making the places of work for 55 million Americans safer and more pleasant places."

Mr. President, the goal of the Occupational Safety and Health Act is to prevent injuries, illnesses, and fatalities in the workplace. Through statistics provided by the Department of Labor it appears as though the intent of this Act has achieved some level of success. Unfortunately, these numbers are still too high.

According to Bureau of Labor Statistics, there were over 6,000 workplace fatalities in 1996, the lowest level in five years. There were 6.2 million workplace injuries or illnesses among private sector firms with more than 11 or more employees, about 400,000 fewer than in 1995. In my home state alone, 92 Minnesotans lost their lives, and 138,000 suffered injuries or illnesses on the job in 1996.

I have always supported employers and employees in their effort to create safe and healthy work places without cumbersome federal regulations. Workers are a business' most valuable asset and they deserve safe and healthy work places that will enable them to better perform their jobs. Safe working environments, achieved by restoring common sense and cooperation among workers, job providers and the federal government, result in smart business.

I strongly believe we need to continue to promote better safety and public health standards. One way this can be accomplished is through comprehensive reform of the Federal regulatory process. For this reason, I am proud to be a cosponsor of S. 981, the "Regulatory Improvement Act of 1997" sponsored by Senator CARL LEVIN, one of the leading health, safety and environmental experts in the Senate.

In my view, legislation such as the Regulatory Improvement Act of 1997 will ensure a more open and accountable regulatory process which will improve our health, safety and environmental protections while reducing the regulatory burden on those subject to those laws. It will not compromise health or safety protections. I recently wrote the Majority Leader urging that this legislation receive consideration on the Senate floor, and I am hopeful that we will have a debate on how to best ensure safe and healthy work places in the coming weeks.

On each Workers Memorial Day, I urge my colleagues to remember those American workers who have lost their lives or were injured on the job. Congress, the Administration, labor and business, must work together as they did nearly 30 years ago, to ensure that there are adequate protections to prevent unnecessary injuries and fatalities in the future and improve the lives of all of our nation's workers.•

TRIBUTE TO THE FLOYD COUNTY EMERGENCY AND RESCUE SQUAD: THIRTY YEARS OF VOLUNTEER SERVICE IN EASTERN KENTUCKY

• Mr. MCCONNELL. Mr. President, I rise today to recognize the anniversary of the Floyd County Emergency and Rescue Squad. Thirty years ago this week, this squad of volunteers was formed to help the people of Eastern Kentucky in times of emergency and disaster, and have been doing so ever since.

The Floyd County Emergency and Rescue Squad was founded in April, 1958, as a result of a tragic accident in Prestonsburg, Kentucky, in which a school bus plunged into the Big Sandy River, killing 26 students and the driver. As a result of this tragedy, dozens of community members came together to form the Squad and the late Graham Burchett became the first Captain, a position he held for twenty years.

Since that time, over 300 community members have served on the Squad—doctors and lawyers, coal miners and factory workers—people from all walks of life have worked side-by-side in volunteer service to their community. The Squad operates without any public support. The members are all volunteers and all their equipment is paid for through private donations and grants.

The Squad currently maintains a roster of thirty active members and dozens of reserve members. The Squad is called on for auto extrication, water rescue and drowning recovery, lost or missing persons, and assistance to coal mine rescue teams. In the last month alone, they have assisted in the evacuation of flood victims, recovered a drowning victim and have assisted on four auto accidents.

Despite the fact that the Squad must labor mightily for every dollar they get, they have managed to secure ultra-modern equipment, and are called frequently to assist in recovery activities outside the county and even outside the state.

Mr. President, I hope all my colleagues will join me in offering our congratulations to Captain Harry Adams, Co-Captain Richie Schoolcraft, Treasurer and Secretary Brian Sexton, First Lieutenant Derek Calhoun and Second Lieutenant Lee Schoolcraft and all the volunteers of the Floyd County Rescue Squad. They carry on the Squad's rich tradition of volunteering their time and risking their lives to help the people of their community, and they are all worthy of our admiration and thanks.●

PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC

(The text of resolution of ratification to the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic as agreed to by the Senate on April 30, 1998, reads as follows:)

Resolved, (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO DECLARATIONS AND CONDITIONS.

The Senate advises and consents to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7)), which were opened for signature at Brussels on December 16, 1997, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty, subject to the declarations of section 2 and the conditions of section 3.

SEC. 2. DECLARATIONS.

The advice and consent of the Senate to ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic is subject to the following declarations:

(1) REAFFIRMATION THAT UNITED STATES MEMBERSHIP IN NATO REMAINS A VITAL NATIONAL SECURITY INTEREST OF THE UNITED STATES.—The Senate declares that—

(A) for nearly 50 years the North Atlantic Treaty Organization (NATO) has served as the preeminent organization to defend the territory of the countries in the North Atlantic area against all external threats;

(B) through common action, the established democracies of North America and Europe that were joined in NATO persevered and prevailed in the task of ensuring the survival of democratic government in Europe and North America throughout the Cold War;

(C) NATO enhances the security of the United States by embedding European states in a process of cooperative security planning, by preventing the destabilizing renationalization of European military policies, and by ensuring an ongoing and direct leadership role for the United States in European security affairs;

(D) the responsibility and financial burden of defending the democracies of Europe and North America can be more equitably shared through an alliance in which specific obligations and force goals are met by its members;

(E) the security and prosperity of the United States is enhanced by NATO's collective defense against aggression that may threaten the territory of NATO members; and

(F) United States membership in NATO remains a vital national security interest of the United States.

(2) STRATEGIC RATIONALE FOR NATO ENLARGEMENT.—The Senate finds that—

(A) notwithstanding the collapse of communism in most of Europe and the dissolution of the Soviet Union, the United States and its NATO allies face threats to their stability and territorial integrity, including those common threats described in section 3(1)(A)(v);

(B) the invasion of Poland, Hungary, or the Czech Republic, or their destabilization arising from external subversion, would threaten the stability of Europe and jeopardize vital United States national security interests;

(C) Poland, Hungary, and the Czech Republic, having established democratic governments and having demonstrated a willingness to meet all requirements of membership, including those necessary to contribute to the territorial defense of all NATO members, are in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

(D) extending NATO membership to Poland, Hungary, and the Czech Republic will strengthen NATO, enhance security and stability in Central Europe, deter potential aggressors, and thereby advance the interests of the United States and its NATO allies.

(3) SUPREMACY OF THE NORTH ATLANTIC COUNCIL IN NATO DECISION-MAKING.—The Senate understands that—

(A) as the North Atlantic Council is the supreme decision-making body of NATO, the North Atlantic Council will not subject its decisions to review, challenge, or veto by any forum affiliated with NATO, including the Permanent Joint Council or the Euro-Atlantic Partnership Council, or by any nonmember state participating in any such forum;

(B) the North Atlantic Council does not require the consent of the United Nations, the Organization for Security and Cooperation in Europe, or any other international organization in order to take any action pursuant to the North Atlantic Treaty in defense of the North Atlantic area, including the deployment, operation, or stationing of forces; and

(C) the North Atlantic Council has direct responsibility for matters relating to the basic policies of NATO, including development of the Strategic Concept of NATO (as defined in section 3(1)(F)), and a consensus position of the North Atlantic Council will precede any negotiation between NATO and non-NATO members that affects NATO's relationship with non-NATO members participating in fora such as the Permanent Joint Council.

(4) FULL MEMBERSHIP FOR NEW NATO MEMBERS.—

(A) IN GENERAL.—The Senate understands that Poland, Hungary, and the Czech Republic, in becoming NATO members, will have all the rights, obligations, responsibilities, and protections that are afforded to all other NATO members.

(B) POLITICAL COMMITMENTS.—The Senate endorses the political commitments made by NATO to the Russian Federation in the NATO-Russia Founding Act, which are not legally binding and do not in any way preclude any future decisions by the North Atlantic Council to preserve the security of NATO members.

(5) NATO-RUSSIA RELATIONSHIP. The Senate finds that it is in the interest of the United States for NATO to develop a new and constructive relationship with the Russian Federation as the Russian Federation pursues democratization, market reforms, and peaceful relations with its neighbors.

(6) THE IMPORTANCE OF EUROPEAN INTEGRATION.—

(A) Sense of the senate. It is the sense of the Senate that—

(i) the central purpose of NATO is to provide for the collective defense of its members;

(ii) the Organization for Security and Cooperation in Europe is a fundamental institution for the promotion of democracy, the rule of law, crisis prevention, and post-conflict rehabilitation and, as such, is an essential forum for the discussion and resolution of political disputes among European members, Canada, and the United States; and

(iii) the European Union is an essential organization for the economic, political, and social integration of all qualified European countries into an undivided Europe.

(B) POLICY OF THE UNITED STATES. The policy of the United States is—

(i) to utilize fully the institutions of the Organization for Security and Cooperation in Europe to reach political solutions for disputes in Europe; and

(ii) to encourage actively the efforts of the European Union to expand its membership, which will help to stabilize the democracies of Central and Eastern Europe.

(7) FUTURE CONSIDERATION OF CANDIDATES FOR MEMBERSHIP IN NATO.

(A) SENATE FINDINGS. The Senate finds that—

(i) Article 10 of the North Atlantic Treaty provides that NATO members by unanimous agreement may invite the accession to the

North Atlantic Treaty of any other European state in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area;

(ii) in its Madrid summit declaration of July 8, 1997, NATO pledged to "maintain an open door to the admission of additional Alliance members in the future" if those countries satisfy the requirements of Article 10 of the North Atlantic Treaty;

(iii) other than Poland, Hungary, and the Czech Republic, the United States has not consented to invite, or committed to invite, any other country to join NATO in the future; and

(iv) the United States will not support the accession to the North Atlantic Treaty of, or the invitation to begin accession talks with, any European state (other than Poland, Hungary, or the Czech Republic), unless—

(I) the President consults with the Senate consistent with Article II, section 2, clause 2 of the Constitution of the United States (relating to the advice and consent of the Senate to the making of treaties); and

(II) the prospective NATO member can fulfill the obligations and responsibilities of membership, and its inclusion would serve the overall political and strategic interests of NATO and the United States.

(B) REQUIREMENT FOR CONSENSUS AND RATIFICATION.—The Senate declares that no action or agreement other than a consensus decision by the full membership of NATO, approved by the national procedures of each NATO member, including, in the case of the United States, the requirements of Article II, section 2, clause 2 of the Constitution of the United States (relating to the advice and consent of the Senate to the making of treaties), will constitute a security commitment pursuant to the North Atlantic Treaty.

(8) PARTNERSHIP FOR PEACE.—The Senate declares that—

(A) the Partnership for Peace between NATO members and the Partnership for Peace countries is an important and enduring complement to NATO in maintaining and enhancing regional security;

(B) the Partnership for Peace serves a critical role in promoting common objectives of NATO members and the Partnership for Peace countries, including

(i) increased transparency in the national defense planning and budgeting processes;

(ii) ensuring democratic control of defense forces;

(iii) maintaining the capability and readiness of Partnership for Peace countries to contribute to operations of the United Nations and the Organization for Security and Cooperation in Europe;

(iv) developing cooperative military relations with NATO; and

(v) enhancing the interoperability between forces of the Partnership for Peace countries and forces of NATO members;

(C) NATO has undertaken new initiatives to further strengthen the Partnership for Peace with the objectives of

(i) strengthening the political consultation mechanism in the Partnership for Peace through the Euro-Atlantic Partnership Council;

(ii) enhancing the operational role of the Partnership for Peace; and

(iii) providing for expanded involvement of members of the Partnership for Peace in decision-making and planning within the Partnership;

(D) enhancement of the Partnership for Peace promotes the security of the United States by strengthening stability and security throughout the North Atlantic area;

(E) the accession to the North Atlantic Treaty of new NATO members in the future must not undermine the ability of NATO and the Partnership for Peace countries to achieve the objectives of the Partnership for Peace; and

(F) membership in the Partnership for Peace does not in any way prejudice application or consideration for accession to the North Atlantic Treaty.

(9) REGARDING PAYMENTS OWED BY EUROPEAN COUNTRIES TO VICTIMS OF THE NAZIS.—

(A) DECLARATION.—The Senate declares that, in future meetings and correspondence with European governments, the Secretary of State should

(i) raise the issue of insurance benefits owed to victims of the Nazis (and their beneficiaries and heirs) by these countries as a result of the actions taken by any communist predecessor regimes in nationalizing foreign insurance companies and confiscating their assets in the aftermath of World War II;

(ii) seek to secure a commitment from the governments of these countries to provide a full accounting of the total value of insurance company assets that were seized by any communist predecessors and to share all documents relevant to unpaid insurance claims that are in their possession; and

(iii) seek to secure a commitment from the governments of these countries to contribute to the payment of these unpaid insurance claims in an amount that reflects the present value of the assets seized by any communist governments (and for which no compensation had previously been paid).

(B) DEFINITION.—As used in this paragraph, the term "victims of the Nazis" means persons persecuted during the period beginning on March 23, 1933 and ending on May 8, 1945, by, under the direction of, on behalf of, or under authority granted by the Nazi government of Germany or any country allied with that government.

SEC. 3. CONDITIONS.

The advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic is subject to the following conditions, which shall be binding upon the President:

(1) THE STRATEGIC CONCEPT OF NATO.—

(A) POLICY OF THE UNITED STATES TOWARD THE STRATEGIC CONCEPT OF NATO.—The Senate understands that the policy of the United States is that the core concepts contained in the 1991 Strategic Concept of NATO (as defined in subparagraph (F)), which adapted NATO's strategy to the post-Cold War environment, remain valid today, and that the upcoming revision of that document will reflect the following principles:

(i) FIRST AND FOREMOST A MILITARY ALLIANCE.—NATO is first and foremost a military alliance. NATO's success in securing peace is predicated on its military strength and strategic unity.

(ii) PRINCIPAL FOUNDATION FOR DEFENSE OF SECURITY INTERESTS OF NATO MEMBERS.—NATO serves as the principal foundation for collectively defending the security interests of its members against external threats.

(iii) PROMOTION AND PROTECTION OF UNITED STATES VITAL NATIONAL SECURITY INTERESTS.—Strong United States leadership of NATO promotes and protects United States vital national security interests.

(iv) UNITED STATES LEADERSHIP ROLE.—The United States maintains its leadership role in NATO through the stationing of United States combat forces in Europe, providing military commanders for key NATO commands, and through the presence of United States nuclear forces on the territory of Europe.

(v) COMMON THREATS.—NATO members will face common threats to their security in the post-Cold War environment, including—

(I) the potential for the re-emergence of a hegemonic power confronting Europe;

(II) rogue states and non-state actors possessing nuclear, biological, or chemical weapons and the means to deliver these weapons by ballistic or cruise missiles, or other unconventional delivery means;

(III) threats of a wider nature, including the disruption of the flow of vital resources, and other possible transnational threats; and

(IV) conflict in the North Atlantic area stemming from ethnic and religious enmity, the revival of historic disputes, or the actions of undemocratic leaders.

(vi) CORE MISSION OF NATO.—Defense planning will affirm a commitment by NATO members to a credible capability for collective self-defense, which remains the core mission of NATO. All NATO members will contribute to this core mission.

(vii) CAPACITY TO RESPOND TO COMMON THREATS.—NATO's continued success requires a credible military capability to deter and respond to common threats. Building on its core capabilities for collective self-defense of its members, NATO will ensure that its military force structure, defense planning, command structures, and force goals promote NATO's capacity to project power when the security of a NATO member is threatened, and provide a basis for ad hoc coalitions of willing partners among NATO members. This will require that NATO members possess national military capabilities to rapidly deploy forces over long distances, sustain operations for extended periods of time, and operate jointly with the United States in high intensity conflicts.

(viii) INTEGRATED MILITARY STRUCTURE.—The Integrated Military Structure of NATO underpins NATO's effectiveness as a military alliance by embedding NATO members in a process of cooperative defense planning and ensuring unity of command.

(ix) NUCLEAR POSTURE.—Nuclear weapons will continue to make an essential contribution to deterring aggression, especially aggression by potential adversaries armed with nuclear, biological, or chemical weapons. A credible NATO nuclear deterrent posture requires the stationing of United States nuclear forces in Europe, which provides an essential political and military link between Europe and North America, and the widespread participation of NATO members in nuclear roles. In addition, the NATO deterrent posture will continue to ensure uncertainty in the mind of any potential aggressor about the nature of the response by NATO members to military aggression.

(x) BURDENSHARING.—The responsibility and financial burden of defending the democracies of Europe will be more equitably shared in a manner in which specific obligations and force goals are met by NATO members.

(B) THE FUNDAMENTAL IMPORTANCE OF COLLECTIVE DEFENSE.—The Senate declares that—

(i) in order for NATO to serve the security interests of the United States, the core purpose of NATO must continue to be the collective defense of the territory of all NATO members; and

(ii) NATO may also, pursuant to Article 4 of the North Atlantic Treaty, on a case-by-case basis, engage in other missions when there is a consensus among its members that there is a threat to the security and interests of NATO members.

(C) DEFENSE PLANNING, COMMAND STRUCTURES, AND FORCE GOALS.—The Senate declares that NATO must continue to pursue defense planning, command structures, and force goals to meet the requirements of Article 5 of the North Atlantic Treaty as well as the requirements of other missions agreed upon by NATO members, but must do so in a manner that first and foremost ensures under the North Atlantic Treaty the ability of NATO to deter and counter any significant military threat to the territory of any NATO member.

(D) REPORT.—Not later than 180 days after the date of adoption of this resolution, the President shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the Strategic Concept of NATO. The report shall be submitted in both classified and unclassified form and shall include—

(i) an explanation of the manner in which the Strategic Concept of NATO affects United States military requirements both within and outside the North Atlantic area, including the broader strategic rationale of NATO;

(ii) an analysis of all potential threats to the North Atlantic area (meaning the entire territory of all NATO members) up to the year 2010, including the consideration of a reconstituted conventional threat to Europe, emerging capabilities of non-NATO countries to use nuclear, biological, or chemical weapons affecting the North Atlantic area, and the emerging ballistic missile and cruise missile threat affecting the North Atlantic area;

(iii) the identification of alternative system architectures for the deployment of a NATO missile defense for the entire territory of all NATO members that would be capable of countering the threat posed by emerging ballistic and cruise missile systems in countries other than declared nuclear powers, as well as in countries that are existing nuclear powers, together with timetables for development and an estimate of costs;

(iv) a detailed assessment of the progress of all NATO members, on a country-by-country basis, toward meeting current force goals; and

(v) a general description of the overall approach to updating the Strategic Concept of NATO.

(E) BRIEFINGS ON REVISIONS TO THE STRATEGIC CONCEPT.—Not less than twice in the 300-day period following the date of adoption of this resolution, each at an agreed time to precede each Ministerial meeting of the North Atlantic Council, the Senate expects the appropriate officials of the executive branch of Government to offer detailed briefings to the appropriate congressional committees on proposed changes to the Strategic Concept of NATO, including—

(i) an explanation of the manner in which specific revisions to the Strategic Concept of NATO will serve United States national security interests and affect United States military requirements both within and outside the North Atlantic area;

(ii) a timetable for implementation of new force goals by all NATO members under any revised Strategic Concept of NATO;

(iii) a description of any negotiations regarding the revision of the nuclear weapons policy of NATO; and

(iv) a description of any proposal to condition decisions of the North Atlantic Council upon the approval of the United Nations, the Organization for Security and Cooperation in Europe, or any NATO-affiliated forum.

(F) DEFINITION.—For the purposes of this paragraph, the term "Strategic Concept of NATO" means the document agreed to by the Heads of State and Government participating in the meeting of the North Atlantic Council in Rome on November 7–8, 1991, or any subsequent document agreed to by the North Atlantic Council that would serve a similar purpose.

(2) COSTS, BENEFITS, BURDENSHARING, AND MILITARY IMPLICATIONS OF THE ENLARGEMENT OF NATO.—

(A) PRESIDENTIAL CERTIFICATION.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that—

(i) the inclusion of Poland, Hungary, and the Czech Republic in NATO will not have the effect of increasing the overall percentage share of the United States in the common budgets of NATO;

(ii) the United States is under no commitment to subsidize the national expenses necessary for Poland, Hungary, or the Czech Republic to meet its NATO commitments; and

(iii) the inclusion of Poland, Hungary, and the Czech Republic in NATO does not detract from the ability of the United States to meet or to fund its military requirements outside the North Atlantic area.

(B) ANNUAL REPORTS.—Not later than April 1 of each year during the five-year period following the date of entry into force of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic, the President shall submit to the appropriate congressional committees a report, which may be submitted in an unclassified and classified form, and which shall contain the following information:

(i) The amount contributed to the common budgets of NATO by each NATO member during the preceding calendar year.

(ii) The proportional share assigned to, and paid by, each NATO member under NATO's cost-sharing arrangements.

(iii) The national defense budget of each NATO member, the steps taken by each NATO member to meet NATO force goals, and the adequacy of the national defense budget of each NATO member in meeting common defense and security obligations.

(iv) Any costs incurred by the United States in connection with the membership of Poland, Hungary, or the Czech Republic in NATO, including the deployment of United States military personnel, the provision of any defense article or defense service, the funding of any training activity, or the modification or construction of any military facility.

(v) The status of discussions concerning NATO membership for countries participating in the Partnership for Peace.

(C) UNITED STATES FUTURE PAYMENTS TO THE COMMON-FUNDED BUDGETS OF NATO.—

(i) SENSE OF THE SENATE REGARDING UNITED STATES SHARE OF NATO'S COMMON-FUNDED BUDGETS.—It is the sense of the Senate that, beginning with fiscal year 1999, and for each fiscal year thereafter through the fiscal year 2003, the President should—

(I) propose to NATO a limitation on the United States percentage share of the common-funded budgets of NATO for that fiscal year equal to the United States percentage share of those budgets for the preceding fiscal year, minus one percent; and

(II) not later than 60 days after the date of the United States proposal under subclause (I), submit a report to Congress describing the action, if any, taken by NATO to carry out the United States proposal.

(ii) ANNUAL LIMITATION ON UNITED STATES EXPENDITURES FOR NATO.—Unless specifically authorized by law, the total amount of expenditures by the United States in any fiscal year beginning on or after October 1, 1998, for payments to the common-funded budgets of NATO shall not exceed the total of all such payments made by the United States in fiscal year 1998.

(iii) DEFINITIONS.—In this subparagraph:

(I) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means—

(aa) the Military Budget, the Security Investment Program, and the Civil Budget of NATO; and

(bb) any successor or additional account or program of NATO.

(II) UNITED STATES PERCENTAGE SHARE OF THE COMMON-FUNDED BUDGETS OF NATO.—The term "United States percentage share of the common-funded budgets of NATO" means the percentage that the total of all United States payments during a fiscal year to the common-funded budgets of NATO represents to the total amounts payable by all NATO members to those budgets during that fiscal year.

(D) REQUIREMENT OF PAYMENT OUT OF FUNDS SPECIFICALLY AUTHORIZED.—No cost incurred by NATO, other than through the common-funded budgets of NATO, in connection with the admission to membership, or participation, in NATO of any country that was not a member of NATO as of March 1, 1998, may be paid out of funds available to any department, agency, or other entity of the United States unless the funds are specifically authorized by law for that purpose.

(E) REPORTS ON FUTURE ENLARGEMENT OF NATO.—

(i) REPORTS PRIOR TO COMMENCEMENT OF ACCESSION TALKS.—Prior to any decision by the North Atlantic Council to invite any country (other than Poland, Hungary, or the Czech Republic) to begin accession talks with NATO, the President shall submit to the appropriate congressional committees a detailed report regarding each country being actively considered for NATO membership, including—

(I) an evaluation of how that country will further the principles of the North Atlantic Treaty and contribute to the security of the North Atlantic area;

(II) an evaluation of the eligibility of that country for membership based on the principles and criteria identified by NATO and the United States, including the military readiness of that country;

(III) an explanation of how an invitation to that country would affect the national security interests of the United States;

(IV) an up-to-date United States Government analysis of the common-funded military requirements and costs associated with integrating that country into NATO, and an analysis of the shares of those costs to be borne by NATO members, including the United States; and

(V) a preliminary analysis of the implications for the United States defense budget and other United States budgets of integrating that country into NATO.

(ii) UPDATED REPORTS PRIOR TO SIGNING PROTOCOLS OF ACCESSION.—Prior to the signing of any protocol to the North Atlantic Treaty on the accession of any country, the President shall submit to the appropriate congressional committees a report, in classified and unclassified forms—

(I) updating the information contained in the report required under clause (i) with respect to that country; and

(II) including an analysis of that country's ability to meet the full range of the financial burdens of NATO membership, and the likely impact upon the military effectiveness of NATO of the country invited for accession talks, if the country were to be admitted to NATO.

(F) REVIEW AND REPORTS BY THE GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall conduct a review and assessment of the evaluations and analyses contained in all reports submitted under subparagraph (E) and, not later than 90 days after the date of submission of any report under subparagraph (E)(ii), shall submit a report to the appropriate congressional committees setting forth the assessment resulting from that review.

(3) THE NATO-RUSSIA FOUNDING ACT AND THE PERMANENT JOINT COUNCIL.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate the following:

(A) IN GENERAL.—The NATO-Russia Founding Act and the Permanent Joint Council do not provide the Russian Federation with a veto over NATO policy.

(B) NATO DECISION-MAKING.—The NATO-Russia Founding Act and the Permanent Joint Council do not provide the Russian Federation any role in the North Atlantic Council or NATO decision-making, including—

(i) any decision NATO makes on an internal matter; or

(ii) the manner in which NATO organizes itself, conducts its business, or plans, prepares for, or conducts any mission that affects one or more of its members, such as collective defense, as stated under Article 5 of the North Atlantic Treaty.

(C) NATURE OF DISCUSSIONS IN THE PERMANENT JOINT COUNCIL.—In discussions in the Permanent Joint Council—

(i) the Permanent Joint Council will not be a forum in which NATO's basic strategy, doctrine, or readiness is negotiated with the Russian Federation, and NATO will not use the Permanent Joint Council as a substitute for formal arms control negotiations such as the adaptation of the Treaty on Conventional Armed Forces in Europe, done at Paris on November 19, 1990;

(ii) any discussion with the Russian Federation of NATO doctrine will be for explanatory, not decision-making purposes;

(iii) any explanation described in clause (ii) will not extend to a level of detail that could in any way compromise the effectiveness of NATO's military forces, and any such explanation will be offered only after NATO has first set its policies on issues affecting internal matters;

(iv) NATO will not discuss any agenda item with the Russian Federation prior to agreeing to a NATO position within the North Atlantic Council on that agenda item; and

(v) the Permanent Joint Council will not be used to make any decision on NATO doctrine, strategy, or readiness.

(4) REPORTS ON INTELLIGENCE MATTERS.—

(A) PROGRESS REPORT.—Not later than January 1, 1999, the President shall submit a report to the congressional intelligence committees on the progress of Poland, Hungary, and the Czech Republic in satisfying the security requirements for membership in NATO.

(B) REPORTS REGARDING PROTECTION OF INTELLIGENCE SOURCES AND METHODS.—Not later than January 1, 1999, and again not later than the date that is 90 days after the date of accession to the North Atlantic Treaty by Poland, Hungary, and the Czech Republic, the Director of Central Intelligence shall submit a detailed report to the congressional intelligence committees—

(i) identifying the latest procedures and requirements established by Poland, Hungary, and the Czech Republic for the protection of intelligence sources and methods; and

(ii) including an assessment of how the overall procedures and requirements of Poland, Hungary, and the Czech Republic for the protection of intelligence sources and methods compare with the procedures and requirements of other NATO members for the protection of intelligence sources and methods.

(C) DEFINITIONS.—In this paragraph:

(i) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term "congressional intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(ii) DATE OF ACCESSION TO THE NORTH ATLANTIC TREATY BY POLAND, HUNGARY, AND THE CZECH REPUBLIC.—The term "date of accession to the North Atlantic Treaty by Poland, Hungary, and the Czech Republic" means the latest of the following dates:

(I) The date on which Poland accedes to the North Atlantic Treaty.

(II) The date on which Hungary accedes to the North Atlantic Treaty,

(III) The date on which the Czech Republic accedes to the North Atlantic Treaty.

(5) REQUIREMENT OF FULL COOPERATION WITH UNITED STATES EFFORTS TO OBTAIN THE FULLEST POSSIBLE ACCOUNTING OF CAPTURED AND MISSING UNITED STATES PERSONNEL FROM PAST MILITARY CONFLICTS OR COLD WAR INCIDENTS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that each of the governments of Poland, Hungary, and the Czech Republic are fully cooperating with United States efforts to obtain the fullest possible accounting of captured and missing United States personnel from past military conflicts or Cold War incidents, to include—

(A) facilitating full access to relevant archival material; and

(B) identifying individuals who may possess knowledge relative to captured and missing United States personnel, and encouraging such individuals to speak with United States Government officials.

(6) TREATY INTERPRETATION.—

(A) PRINCIPLES OF TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally-based principles of treaty interpretation set forth in condition (1) in the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988.

(B) CONSTRUCTION OF SENATE RESOLUTION OF RATIFICATION.—Nothing in condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, shall be construed as authorizing the President to obtain legislative approval for modifications or amendments to treaties through majority approval of both Houses of Congress.

(C) DEFINITION.—As used in this paragraph, the term "INF Treaty" refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, done at Washington on December 8, 1987.

SEC. 4. DEFINITIONS.

In this resolution:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives.—

(2) NATO.—The term "NATO" means the North Atlantic Treaty Organization.

(3) NATO MEMBERS.—The term "NATO members" means all countries that are parties to the North Atlantic Treaty.

(4) NATO-RUSSIA FOUNDING ACT.—The term "NATO-Russia Founding Act" means the document entitled the "Founding Act on Mutual Relations, Cooperation and Security Between NATO and the Russian Federation", dated May 27, 1997.

(5) NORTH ATLANTIC AREA.—The term "North Atlantic area" means the area covered by Article 6 of the North Atlantic Treaty, as applied by the North Atlantic Council.

(6) NORTH ATLANTIC TREATY.—The term "North Atlantic Treaty" means the North Atlantic Treaty, signed at Washington on April 4, 1949 (63 Stat. 2241; TIAS 1964), as amended.

(7) PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC. The term "Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic" refers to the following protocols transmitted by the President to the Senate on February 11, 1998 (Treaty Document No. 105–36):

(A) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Poland, signed at Brussels on December 16, 1997.

(B) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Hungary, signed at Brussels on December 16, 1997.

(C) The Protocol to the North Atlantic Treaty on the Accession of the Czech Republic, signed at Brussels on December 16, 1997.

(8) UNITED STATES INSTRUMENT OF RATIFICATION.—The term "United States instrument of ratification" means the instrument of ratification of the United States of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic.

REMOVAL OF INJUNCTION OF SECRECY

Ms. COLLINS. Mr. President, as in executive session, I ask unanimous consent that the Injunction of Secrecy be removed from the following convention transmitted to the Senate on May 1, 1998, by the President of the United States: Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Treaty Document No. 105–43). I further ask that the convention be considered as having been read the first time; that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the "Convention"), adopted at Paris on November 21, 1997, by a conference held under the auspices of the Organization for Economic Cooperation and Development (OECD). The Convention was signed in Paris on December 17, 1997, by the United States and 32 other nations.

I transmit also, for the information of the Senate, interpretive Commentaries on the Convention, adopted by the negotiating conference in conjunction with the Convention, that are relevant to the Senate's consideration of the Convention. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Convention.

Since the enactment in 1977 of the Foreign Corrupt Practices Act (FCPA), the United States has been alone in specifically criminalizing the business-related bribery of foreign public officials. United States corporations have contended that this has put them at a significant disadvantage in competing for international contracts with respect to foreign competitors who are not subject to such laws. Consistent with the sense of the Congress, as expressed in the Omnibus Trade and Competitiveness Act of 1988, encouraging negotiation of an agreement within the OECD governing the type of behavior that is prohibited under the FCPA, the United States has worked assiduously within the OECD to persuade other countries to adopt similar legislation. Those efforts have resulted in this Convention that once in force, will require that the Parties enact laws to criminalize the bribery of foreign public officials to obtain or retain business or other improper advantage in the conduct of international business.

While the Convention is largely consistent with existing U.S. law, my Administration will propose certain amendments to the FCPA to bring it into conformity with and to implement the Convention. Legislation will be submitted separately to the Congress.

I recommend that the Senate give early and favorable consideration to the Convention, and that it give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 1, 1998.*

AUTHORITY TO CORRECT TREATY DOCUMENT NO. 105–36

Ms. COLLINS. Mr. President, as in executive session, I ask unanimous consent that the Secretary of the Senate be authorized to make a correction in section 3.2(D) of the Resolution of Ratification of Executive Treaty Document No. 105–36 by inserting the word "specifically" before "authorized."

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, MAY 5, 1998

Ms. COLLINS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Tuesday, May 5. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and that the Senate then begin a period of morning business until 10:30 a.m., with Senators permitted to speak for up to 5 minutes each with the following exceptions: Senator HATCH, 30 minutes; Senator DORGAN, 15 minutes; Senator CONRAD, 15 minutes; and Senator CRAIG for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I further ask that following morning business, the Senate resume consideration of H.R. 2676, the IRS reform bill, with debate only in order prior to the policy luncheon recess, except for the offering of a managers' amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I further ask unanimous consent that the Senate stand in recess from the hours of 12:30 to 2:15 p.m. for the weekly policy conferences to meet tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Ms. COLLINS. Mr. President, tomorrow, following the morning business period, the Senate will resume consideration of the IRS reform bill. It is hoped that the managers' amendment will be offered during Tuesday's session. In addition, Members who desire to debate this legislation are encouraged to do so tomorrow so that the Senate can complete action on the IRS reform bill as early as possible this week.

As a reminder, there will be a rollcall vote tomorrow at 5:30 p.m. on passage of the workforce development legislation, H.R. 1385. Any votes ordered with respect to the IRS reform bill will be stacked to occur following that 5:30 vote.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Ms. COLLINS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:17 p.m., adjourned until Tuesday, May 5, 1998, at 9:30 a.m.

EXTENSIONS OF REMARKS

THE NATIONAL ACADEMY OF SCIENCES A NATIONAL TREASURE

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 4, 1998

Mr. HORN. Mr. Speaker, one of America's great treasures is the National Academy of Sciences. Its distinguished members have rendered service to our government and the American people since the early years of the Civil War. President Lincoln saw the need for the availability of talented scientists to help their nation whether they are recommending various policies and to provide specific advice on complex scientific and technological problems both military and civilian.

At its 135th Annual Meeting earlier this week, Dr. Bruce Alberts, the President of the Academy reported on its work. I believe my colleagues and citizens generally will be interested in the work of the Academy to encourage a better scientific base by students throughout our land. Half of Dr. Alberts' report expresses a major concern as to whether our country will be able to educate the two million new teachers which we will need in the next decade. Those new teachers must have a solid base in mathematics and science if the United States is to remain the leader in science and technology throughout the 21st Century.

The Academy has consistently built working relationships with other scientists and their academies throughout the world. That type of collaboration is essential if the countries—both large and small—are to meet the needs of their people and to provide the opportunities for a better life than is now possible in all too many places.

The report of Dr. Alberts should be reassuring. His remarks entitled "Moving from Analysis to Action" show that our brightest minds are devoted to dealing with the very real problems that confront all humankind. I submit these wise remarks for the RECORD.

MOVING FROM ANALYSIS TO ACTION

Welcome to this 135th annual meeting of the Academy. We had a very exciting year in Washington in 1997. When I spoke last April, our role as an independent adviser to the nation was threatened by a legal ruling that applied the Federal Advisory Committee Act to the operations of the Academy. Because of a great deal of very hard work by many people, the crises that started in January 1997 ended in November, when Congress passed a bill that ensures our committees are kept free from government control. The tremendous support we received from the federal administration and from so many members of Congress is deeply appreciated, and it is great testimony to the value they place on the objective advice that we provide to the nation.

As is appropriate, much of the advice we provide focuses on the policies needed to support our vigorous scientific research enterprise. Especially influential are the reports of our Committee on Science, Engineering, and Public Policy, known as COSEPUP, under the leadership of Academy member Phil Griffiths. Their analysis of President Clinton's 1999 budget was released last week. This report focuses on the federal science and technology component of that budget, an important concept that was developed in the 1995 report of an Academy committee chaired by Frank Press. COSEPUP will provide this analysis every year, making sure that this crucial part of the federal investment in science is closely watched.

COSEPUP also is deeply engaged in a very important study dealing with the implications that the Government Performance and Results Act has for basic research. This new law, known as GPRA, requires all agencies to set goals and to use performance measures for management and budgeting. It is intended to encourage greater efficiency and accountability in Federal programs. But if not implemented wisely, it could have a negative effect on the research enterprise—an effect that we are working hard to avoid.

For the remainder of this talk, I want to focus on just two issues: education, and science in its international context. I start with the education imperative.

At this session last year, I discussed the eighth-grade results in the Third International Mathematics and Science Study (TIMSS), where U.S. students ranked about average in both science and math among 41 countries. This spring, the test results for our high school seniors showed that they had done even worse in this international comparison. Many Americans didn't believe it. Column after column ran on the opinion pages of the nation's major newspapers, challenging the results. How can the world's undisputed leader in science and technology produce a population of young people with such poor science and mathematics skills? Recall that this was a test in which students at the end of secondary school from 21 countries participated, and U.S. students outperformed only two countries. Could these poor results reflect either a flaw in the exam, or an unusual bimodal distribution in the U.S. performance—with the top 10 percent of our students doing very well? Unfortunately, the answer is no. TIMSS also included a comparison across countries of the very best students in both advanced mathematics and physics. The results are shown on the next slide. Here, there was not a single nation that we outperformed!

If we examine U.S. scores on our own national examinations, we find that the performance of our students has been improving at a gradual pace since 1970. What the TIMSS results mean in fact is that, while we have been improving our science and mathematics education slowly, many other nations of the world have been doing so at a faster rate.

Clearly, we can and must do better if we are to remain a strong and productive nation throughout the next century. This Academy has been trying to play a major role in science and math education for many years. I would like to talk about some ways in which we can be even more effective, given that there is so much that needs to be done.

As you know, through the National Research Council, we led the development of this nation's first-ever set of National Science Education Standards. We have made these voluntary Standards freely available on the World Wide Web, and we also have published special user-friendly guides for parents. And just this month we released a new type of product for the Academy—a book produced for teachers to help them teach evolution and the nature of science. Some 15,000 free copies of this book have been sent to science teachers across the country, and anyone in the world can also get it free from the Web. Academy member Don Kennedy, who led this highly successful effort, is encouraging us to produce more documents along these lines. Please take a close look at the evolution book, and then send us your ideas for further projects.

As I left California in 1993 to assume my job at the Academy, the state was completing its elaborate process of adopting new science textbooks. This event, which occurs every eight years, culminates with a small list of state-approved science teaching materials, determining what each school district can purchase with state funds. I watched this process closely in San Francisco and was appalled to see what happened at the middle school level. Despite all of the expensive and time-consuming effort involved, San Francisco's middle schools were left with, as an example, a sixth-grade human biology textbook with mindless chapters devoid of any context that could enable readers to understand the content. What is tragic about this is that many of San Francisco's elementary school students are benefiting from an excellent hands-on science curriculum, composed of modules similar to those produced by our National Science Resources Center, a partnership between the Academy and the Smithsonian Institution. When these students leave the fifth grade, many say that science is their favorite subject. But in middle school, textbooks such as the one I have just described make them lose all interest in science.

Outstanding teachers have told us repeatedly that the Science Standards are not enough. In order to teach effectively, teachers need both curriculum materials that match the Standards and high-quality training in how to use them. The Academy has been attempting to help by examining all of the science curricula commercially available and compiling analyses of the best available teaching materials. In 1995, the National Science Resources Center published a book titled, "Resources for Teaching Elementary School Science," and this month they published a sequel, "Resources for Teaching Middle School Science." Again, these two documents are available on our Web site, at no cost.

We also have begun a new project, organized by our Center for Science, Mathematics, and Engineering Education. Here a committee chaired by NAS member Maxine Singer is bringing scientists and science teachers together to produce an easy-to-use, effective guide for school districts on how to select curriculum materials that match the Science Standards. Through such devices, we

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

hope to create a more sophisticated market, which should in turn drive the production of higher-quality curricula.

Unfortunately, multiple forces have created within our education system a very stable equilibrium that resists change. The next slide shows a diagram of the entire system, based on a figure that was published in one of our education reports. The system is in gridlock, with most of the arrows pointed directly at the teachers. Over the next few minutes, I will explain what the Academy hopes to be able to do in specific areas.

I start with state and national examinations. As indicated by the next slide, at present the tests support the vocabulary-laden textbooks, and the textbooks support the tests. Students are taught to memorize terms and regurgitate definitions, and perform procedures without meaning in order to do well on the exams. Having them learn for meaning is not the main goal—and sometimes not a goal at all. Biology is my field, and I can state with confidence that it is totally unrealistic to try to teach anyone all of biology in one year. But such broad survey courses are exactly what is taught in most high schools, and this type of teaching is strongly reinforced by the national SAT II biology subject test offered by the College Board. The result is pressure on teachers to cover all of biology, with little opportunity to develop concepts, or to give students any feeling for the nature of science.

Consider this quote from a popular 1997 study guide called "Cracking the SAT II: Biology Subject Test": "We'll show you that you don't really have to understand anything. You just have to make a couple of simple associations, like these. Aerobic respiration with: presence of oxygen more ATP produced. . . . Anaerobic respiration with: absence of oxygen, less ATP produced. . . . When we get through, you may not really understand much about the difference between aerobic and anaerobic respiration. But you don't have to, and we'll prove it. . . . Whether or not you understand your answers, the scoring machines at the Educational Testing Service will think you did. Their scoring machines don't look for brilliant scientists and they don't look for understanding. . . . Stick with us, and you'll make the scoring machines very happy."

The textbooks that teach to such tests, as well as the tests themselves, stand in powerful contrast to our view of education as a valuable experience. Is it any wonder that an extensive analysis of the attitudes toward schooling of 20,000 middle-class American adolescents shows that 40 percent of them are completely disengaged from what is going on in the classroom? These young Americans place no value on what is being taught, and they correspondingly pay no attention to it. The blame for this has often been placed on a decline of parental and community values. But when one looks at the science curriculum and the science tests that these students are subjected to, one has to wonder whether a great deal of the blame does not instead belong the excruciatingly boring material that they are expected to learn.

The Academy has been working to improve the science achievement tests used for college admissions for more than six years. We began by engaging both the College Board and the Educational Testing Service in discussions about their science exams. More recently, we have been working with the American College Testing Program and with the Association of American Universities to encourage them to require different, more meaningful measures of science achievement. I am pleased to say that we are now seeing some progress in all of these endeavors.

Let's turn now to the districts that govern our schools. What can be done about the fact that so many of our school systems are dysfunctional organizations that not only fail to support teachers with the incentives, resources, and training that they need, but place burdens upon teachers that make it almost impossible for them to do their job well?

We will never have quality education for most of our children unless school systems can transform themselves into effective organizations that spread good instruction throughout all of their schools. Our Center on Science, Mathematics, and Engineering Education is in the midst of a planning process that focuses on school-district improvement. A small group—led by Ray Cortines, previously San Francisco's school superintendent and former chancellor of the New York City schools, and by Robert Waterman, an expert in corporate management who coauthored "In Search of Excellence"—is attempting to see what can be learned from studies of the 20 or so effective school districts in the United States and Canada that might serve as organizational models. My personal belief is that we will not be able to make major progress in U.S. education until we can successfully attack this issue head-on.

I want to end this part of my discussion by focusing on the education and recruitment of teachers. We know that far too few of them have the understanding of science or math that they need to be able to teach these subjects effectively in schools today. We also know that the preparation for teaching provided in most education schools is inadequate. Teachers are generally taught pedagogy, divorced from any subject matter, whereas to be a good math teacher, one needs focused preparation on how to teach mathematics. And to be a good science teacher, one needs focused preparation on how to teach science. Moreover, we seem to assume that a science or moth teacher will learn everything that he or she needs to know during their college years, but in reality a teacher should be provided with an experienced, expert mentor, along with continuous professional development. Doctors don't graduate from medical school and practice medicine for 30 years with only their initial training. Similarly, with science evolving at an ever-increasing rate, the professional development of science teachers must become a non-ending process that is deeply embedded in each school district.

An enormous turnover of teachers will occur during the next 10 years, when it is estimated that some 2 million new teachers will be needed. What might the Academy do to address the urgent national need for talented teachers? For education, I believe that the World Wide Web has an unexploited potential for creating dynamic change. This summer, the Center on Science, Mathematics, and Engineering Education is planning to try an experiment in which we bring together the nation's best teacher educators in middle school mathematics. We propose to have these individuals attend a revolving "summer camp" where they demonstrate how they do what they do in teacher develpment—using their very best videotapes, teaching lessons, and student exercises. The aim is to pool the best of these materials to create high-quality "shareware" for teacher preparation that can be made freely accessible on the Web. We have not yet been able to reform teacher education through policy studies and books aimed at university facility and deans. But perhaps we can drive reform from below by using such Web sites to make all students aware of the preparation they should expect from their colleges and universities, if they are to become effective teachers.

If the Academy is going to have a profound impact on the quality of science education, we need to encourage all senior scientists who discuss career options with young scientists and mathematicians to stress the importance of teaching as one career option. Simultaneously, we need to lower the barriers that presently prevent many talented young scientists from even considering teaching as a career. Here I cite as a model the Teach for America Program, which recruits talented undergraduates to spend two years teaching in some of our nation's most desperate schools. Remarkably, studies show that these teachers perform very well despite an initial handicap stemming from their having received only six weeks of summer "boot camp" training in how to teach. About half of these individuals stay on after their two-year commitment, and many become leaders in their schools and school districts.

In my opinion, we need many more pathways that allow people who know science and mathematics well to readily enter the teaching profession.

Let me now change topics completely, and move on to an equally important challenge: the need for a greatly expanded role of U.S. scientists in the developing world.

In the early 1990s, the Carnegie Commission on Science, Technology, and Government published a series of reports emphasizing the need for a greatly increased role for science and scientists in international affairs. Several of the members of the Academy were leaders in that effort. As the Commission pointed out, there are tremendous unexploited opportunities for the scientific community in the international arena. In a world full of conflicting cultural values and competing needs, scientists everywhere share a powerful common culture that respects honesty, generosity, and ideas independent of their source, while rewarding merit. A major aim of this Academy is to strengthen the ties between scientists and their institutions around the world. Our goal is to create a scientific network that becomes a central element in the interactions between nations—increasing the level of rationality in international discourse, while enhancing the influence of scientists everywhere in the decision-making processes of their own governments.

I am pleased to announce that we recently received a letter from the Department of State in which Secretary Madeleine Albright requests that we help the State Department determine "the contributions that science, technology, and health can make to foreign policy, and how the Department might better carry out its responsibilities to that end." This effort has been encouraged by our Public Welfare Medalist, William Golden, whose advice and help on this matter has been crucial.

What are the main principles that should underlie our response to the State Department? I would like to suggest consideration of the four ideas shown on the next slide, which I will briefly discuss in turn.

Science Can Be A Powerful Force for Promoting Democracy. The vitality of a nation's science and technology enterprise is increasingly becoming the main driver of economic advancement around the world. Success requires a free exchange of ideas, as well as universal access to the world's great store of knowledge. Historically, the growth of science has helped to spread democracy, and this is even more true today.

Many governments around the world exert power over their citizens through the control of information. But restricting access to knowledge has proven to be self-destructive to the economic vitality of nations in the modern world. The reason is a simple one: The world is too complex for a few leaders to make wise decisions about all aspects of public policy. Thus, in a recent article in the Washington Post titled, "Beijing Spring: Talk of Reform," I was pleased to read that the following public statement had just been published in an official Chinese weekly: "Only in a democratic environment can people dare to voice new opinions and can their intelligence, wisdom, and ability be fully brought into play. If we don't encourage people to think freely and voice new opinions, our society will actually be utterly stagnant, though it may seem tranquil."

New Scientific and Technical Advances Are Essential To Accommodate the World's Rapidly Expanding Population. The rapid rise in the human population in the second half of this century has led to a crowded world—one that will require all of the ingenuity available from science and technology to maintain stability in the face of increasing demands on natural resources. Thus, for example, a potential disaster is looming in Africa. Traditionally, farmers had enough land available to practice shifting cultivation, in which fields were left fallow for 10 or so years between cycles of plantings. But now, because of Africa's dramatically increasing population, there is not enough land to allow these practices. The result is a continuing process of soil degradation that reduces yields, and will make it nearly impossible for Africa to feed itself. The best estimates for the year 2010 predict that fully one-third of the people in Sub-Saharan Africa will have great difficulty obtaining food, versus 12 percent of the people in South Asia and 5 percent in East Asia.

It has been argued that the ethnic conflicts that led to the massacres in Rwanda were in large part triggered by conflicts over limited food resources. We can expect more of such conflicts in the future, unless something dramatic is done now. How might the tremendous scientific resources of the developed world be brought to bear on increasing the African food supply? At present, I see large numbers of talented, idealistic young people in our universities who would welcome the challenge of working on such urgent scientific problems. But the many opportunities to use modern science in behalf of the developing world remain invisible to most scientists on our university campuses. As a result, a great potential resource for improving the human condition is being ignored.

Electronic Communication Networks Make Possible a New Kind of World Science. In looking to the future, it is important to recognize that we are only at the very beginning of the communications revolution. For example, by the year 2002, we are promised by several commercial partnerships that good connectivity to the World Wide Web will become available everywhere in the world, at a modest cost through satellite communications. Moreover, at least some of these partnerships have promised to provide heavily subsidized connections for the developing world.

Developing countries have traditionally had very poor access to the world's store of scientific knowledge. With the electronic publication of scientific journals, we now have the potential to eliminate this lack of access. The Academy has decided to lead the way with our flagship journal, the *Proceedings of the National Academy of Sciences*, making it free on the Web for developing nations. We also are hoping to spread this practice widely among other scientific and technical journals, since there is almost no cost involved in providing such free electronic access.

The next problem that scientists in developing countries will face is that of finding the information they need in the mass of published literature. In 1997, the U.S. government set an important precedent. We announced that the National Library of Medicine's indexing of the complete biomedical literature would be made electronically available for free around the world, at their cleverly named Web site, "PubMed." A similar ability to search the complete agricultural and environmental literature should follow. The director of the PubMed effort, David Lipman, is presently investigating what can be done to produce such a site.

The communications revolution also is driving a great transformation in education. Already, the Web is being used as a direct teaching tool, providing virtual classrooms of interacting students and faculty. This tool allows a course taught at one site to be taken by students anywhere in the world. Such technologies present an enormous opportunity to spread the ability to use scientific and technical knowledge everywhere—an ability that will be absolutely essential if we are to head for a more rational and sustainable world in the 21st century.

Science Academies Can Be a Strong Force For Wide Policy-making. In preparing for the future, we need to remember that we are only a tiny part of the world's people. In 1998, seven out of every eight children born will be growing up in a developing nation. As the Carnegie Commission emphasized, we need more effective mechanisms for providing scientific advice internationally—particularly in view of the overwhelming needs of this huge population.

In 1993, the scientific academies of the world met for the first time in New Delhi in order to address world population issues. The report developed by this group of 60 Academies was presented a year later at the 1994 U.N. Conference at Cairo. Its success has now led to a more formal collaboration between Academies, known as the InterAcademy Panel (IAP). The next slide shows the countries thus far represented in this group. A common Web site for the entire group will soon be online, overseen by this Academy. As you will hear on Tuesday from Foreign Secretary Sherry Rowland, the IAP is working toward a major conference in Tokyo in May of 2000, focused on the challenges for science and technology in the transition to a more sustainable world.

Inspired by a successful joint study with the Mexican Academy that produced a report on Mexico City's water supply, we began a study in 1996 titled, "Sustaining Freshwater Resources in the Middle East," as a collaboration between our Academy, the Royal Scientific Society of Jordan, the Israel Academy of Sciences and Humanities, and the Palestine Health Council. The final version of this report is now in review, and we expect it to be released this summer. I would also like to highlight a new energy study that we initiated this year with China. Here, four Academies, two from the United States and two from China, are collaborating to produce a major, forward-looking study of the energy options for our two countries. Recently, the Indian Science and Engineering Academies have indicated an interest in carrying out a similar energy study with us. I believe that these Indian and Chinese collaborations are likely to lead us all toward a wiser use of global energy resources.

My dream for the IAP is to have it become recognized as a major provider of international advice—for developing nations, the World Bank, and the many similar agencies that require expert scientific and technical assistance. Through an IAP mechanism, any country or organization seeking advice could immediately call on a small group of Academies of its choosing to provide it with politically balanced input coupled with the appropriate scientific and technical expertise.

I would like to end my talk by briefly describing three common challenges that we face in reaching out boldly in the two main areas I have emphasized—education and international science.

The Importance of a Clear Vision. For both education and international science, we need a strong consensus for where we are heading and how we want to get there. I would argue that we now have that vision for science education in the United States in the form of the Science Education Standards. In the coming year, we will attempt to prepare an international science road map to help our State Department. My discussions with the leaders of Academies from developing countries convinces me that they will need to develop their own road maps in the form of national science policies. To quote José Goldemberg, a distinguished scientific leader from Brazil: "What my scientist colleagues and national leaders alike failed to understand was that development does not necessarily coincide with the possession of nuclear weapons or the capability to launch satellites. Rather, it requires modern agriculture, industrial systems, and education. . . . This scenario means that we in developing countries should not expect to follow the research model that led to the scientific enterprise of the United States and elsewhere. Rather, we need to adapt and develop technologies appropriate to our local circumstances, help strengthen education, and expand our roles as advisers in both government and industry."

The Need to Learn From Action-Oriented Research and Experience. In his work for the Carnegie Commission, Jimmy Carter made the following observations about global development: "Hundreds of well-intentioned international aid agencies, with their own priorities and idiosyncrasies, seldom cooperate or even communicate with each other. Instead, they compete for publicity, funding, and access to potential recipients. Overburdened leaders in developing countries, whose governments are often relatively disorganized, confront a cacophony of offers and demands from donors."

Replace a few words, and exactly the same could be said about most of our nation's past attempts at education reform.

My contacts with education projects in the United States and with international development projects in agriculture have made me aware of a common failing in these important human endeavors. Many experiments are carried out to try to improve these systems. A few are very successful, but many turn out to be failures. The natural inclination is to hide all of the failures. But as every experimental scientists knows, progress is made from learning from what did not work, and then improving the process by incorporating this knowledge into a general framework for moving forward. As scientists, I would hope that we could lead the world toward more rational approaches to improving both education and international development efforts.

The Need to Rethink How We Measure Progress. As I speak, the U.S. economy is booming. But as I look around our plush shopping malls, observing the rush of our citizens to consume more and more, I wonder whether this is really progress. In thinking about how our nation can prove itself as the world leader it purports to be, we might do well to consider the words of Franklin Roosevelt that are engraved on his new memorial, a short distance from this Academy: "The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have little."

As many others have pointed out, every year the inequities of wealth are becoming greater, both within our nation and around the world. At the national level, improving education for all Americans is the best way to reduce such inequities. Likewise, the spread of scientific and technological information throughout the world, involving a generous sharing of knowledge resources by our nation's scientists and engineers, can improve the lives of those who are most in need around the globe.

As I have tried to emphasize in this talk, these are not only challenges for science, they are also major challenges for this Academy. Because of your stature and your achievements, the people in this room have the potential to change the world profoundly. I urge you to view this organization as a lever through which you can exert a beneficial, lasting influence on both the nation and the world.

IN HONOR OF FATHER C. DAVID WILLIAMS

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 4, 1998

Mr. SCHUMER. Mr. Speaker, I would like to take a few minutes today to recognize the work and accomplishments of Father C. David Williams on the occasion of his 56th birthday. Father Williams will soon be crowning a long list of accomplishments with a D. Min in Pastoral Counseling. This distinction recognizes the immense devotion to this faith which the Father has displayed throughout his work and study.

Father Williams has served as Rector of the historic St. George's Episcopal Church in Bedford Stuyvesant since September 4, 1984. Previously, Father Williams served as the Senior Chaplain of the House of Detention at Riker's Island, New York City from 1979 to 1984. During that time, from 1982 to 1984, the Father also served as Convener of the Black Caucus of the Episcopal Diocese of New York. Father Williams is currently the Convener of the Black Caucus of the Diocese of Long Island.

Father Williams will receive his Doctorate from the Graduate Theological Foundation in Donaldson Indiana under the auspices of the Roman Catholic Archdiocese of Milwaukee, Oxford University in England, and the Diocese of Canterbury, England. Father Williams has just recently finished his studies at Oxford University.

In his quest to serve his community, the Father organizes the growing Community Development Corporation out of St. George's Church and has led a group of St. George's parishioners on a pilgrimage to Israel and Egypt.

The hard work and study of Father C. David Williams has left a lasting impression upon the parishioners of St. George's Episcopal Church. In recognition of these accomplishments, I ask my colleagues today to join me in giving tribute to a man who has taken time not just to study, but also to work at improving the lives of those around him.

TRIBUTE TO THE PORT HURON MUSEUM OF ARTS AND SCIENCES

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 4, 1998

Mr. BONIOR. Mr. Speaker, I am honored to have the opportunity to recognize the 30th anniversary of the Port Huron Museum of Arts and History. The Port Huron community will celebrate this historic event on May 3, 1998.

In 1968, the Port Huron community organized a volunteer effort to open the doors of the Port Huron Museum of Arts and History. In the beginning, the Museum relied solely on volunteers to operate the institution. Even though the Museum now employs a small staff of full-time, part-time, and seasonal help; more than 24,000 volunteer hours were contributed in 1997. Throughout the past 30 years, many people have worked together and dedicated their talents to create a lasting cultural and educational resource for the Port Huron area.

Located inside the 1904 Carnegie Library, the Port Huron Museum of Arts and History is the home of many exhibits dedicated to local history, natural history, and art. The Museum is committed to bringing a variety of events to the public such as the Festival of International Cultures and the Blue Water Native American Pow Wow. In 1990, the Museum was proud to dedicate the Huron Lightship, a National Landmark, as its first offsite facility. Not only is Port Huron Museum a valuable resource to the Port Huron community, it is also recognized throughout the State of Michigan and the nation as center for research in folk arts, archaeology, and Great Lakes marine lore.

Throughout the past 30 years, the Museum of Arts and History has contributed greatly to the cultural diversity of Port Huron. The staff and volunteers of the Port Huron Museum have worked hard to encourage an appreciation and understanding for art and history in our community. I would like to congratulate all the people who have made the 30th Anniversary of the Port Huron Museum of Arts and Sciences a reality.

THE LOUDEST VOICE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 4, 1998

Mr. WOLF. Mr. Speaker, I want to begin by talking for a moment about two groups that aren't widely discussed here on the House floor. The first is Mother Jones and the second is USA*Engage. Then I want to focus a little bit on how things get done in this town and suggest that we, as stewards of government, must take care that we represent the American people and not narrowly focused special interests.

Mother Jones or "MoJo" is a national magazine of investigative journalism focusing on political reporting. It is named after and in the spirit of the legendary Mary Harris (Mother) Jones who was one of the most effective organizers of her time. Before passing on at the ripe old age of 100, this spirited mother of four effectively led fights against child labor, and on behalf of coal miners and other labor groups during the early years of this century.

Ken Silverstein wrote an article in the June 1998 issue of Mother Jones detailing the creation of USA*Engage. This group hired Washington lobbyist Anne Wexler to try and make sure nothing gets in the way of promoting international trade with countries around the world whose governments are renown for brutal, fear-based, repression of their own people. The human rights records of these countries are made more dismal by widespread torture, terror, imprisonment, persecution and killing of all who do not walk the line.

According to MoJo, some of America's largest businesses have given their proxy to USA*Engage to deal with these countries having a History of repressing their own people. The list of these firms reads like a Who's Who of big business. I know these companies are run by good and decent people who are probably not aware of the range of activities in which the Wexler Group is intensely involved on behalf of USA*Engage. I am sure that the stockholders and customers are not aware of them and would be shocked and angered if they were.

Anne Wexler has assembled a daunting army for her assault on Washington that includes a former U.S. Trade Representative, former Members of Congress, a former close staffer of the President, the former law firm of the State Department official who heads up the committee charged with reviewing proposed sanctions, and others. And look at what they have accomplished:

Instant access to Congress and the ear of State Department officials charged with assessing human rights violations.

"Pro-trade" studies from pricey and prestigious think tanks.

The matching-up and contact of religious groups and leaders interested in human rights around the world by business representatives thought to have special sway or influence.

"Spin control." MoJo says USA*Engage boasts that of 242 newspaper editorials, 180 were favorable, 36 neutral and only 26 were hostile.

MoJo quotes human rights advocate Simon Billenness, talking about the important role economic sanctions played in ending South Africa's apartheid regime, "If USA*Engage had succeeded with these tactics during the apartheid years, Nelson Mandela might still be in prison." I recognize that these companies can hire whomever they choose, but there are consequences.

Look at what they are doing. Look at the real issue. We are talking about countries which are committing the very worst atrocities on their own people for simply believing in God. In Sudan, starvation is the weapon of choice, spiced with high altitude bombing, mass murder and selling their own people into slavery. In Sudan, over the past decade, about 1.1 million people have been killed or allowed to starve.

In China, Catholic bishops and priests, Protestant lay-ministers, Buddhist monks and nuns as well as many Muslims are jailed—for years and years. And their jails are not patterned after those in this country. Starvation, torture, filth and darkness are the steady diet. The fate of the prisoner is up to the whim of the guard. Brutal working conditions and brutal hours are the norm. Sometimes death is the only friend they can hope for.

Tibet is in danger of losing its religion, its culture, its language and even its identity. It has already lost thousands of Buddhist monasteries and too many monks and nuns.

In Iraq, the Kurds have been used for target practice and guinea pigs for toxic killing. MoJo talks about the track record of Burma and Nigeria.

The victims of these outrages and more are Anne Wexler's targets. When she and her other well connected friends are successful in changing a legislative clause here and writing a Dear Colleague there, when they urge another Member to sign on to a "gutting amendment," do they think about the Catholic bishop starting his third decade in a brutal Chinese prison? Or the young boys on the slave block in southern Sudan?

I know these are harsh thoughts. But we are dealing with harsh dictators and regimes. What we do here matters. What we say and the content of legislation we pass have real consequences. In this case, innocent people, clear on the other side of the world, pay an enormous price.

Please think about this. Did these companies mean to give Anne Wexler this much power? If you are a government official working on these matters, do you think about what your actions mean to those who have no one looking out for them? And if you are a Member of Congress, do you remember when Anne Wexler and company stops by, that no one is speaking for those on the other end—those in Sudan, in Iraq and in China? Just because Anne Wexler is the only voice, she shouldn't be the loudest voice.

Perhaps the worse thing they have done with their access is to deliberately misstate the moderate nature of the Wolf-Specter Freedom from Religious Persecution bill. At its root it calls for withdrawal of non-humanitarian taxpayer subsidies to hardcore persecuting countries and gives the president total discretion to maintain the subsidies.

In the end, however, Members will read the bill and understand its moderate character and people in the pews will hear that this bipartisan effort gives the persecuted people of the world a needed voice.

CITY NEWS 100 MOST INFLUENTIAL AWARD

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 4, 1998

Mr. PALLONE. Mr. Speaker, on Thursday, May 7, 1998, the City News Publishing Company of Plainfield, NJ will present the City News 100 Most Influential. According to the parameters of the 100 Most Influential, the awards are presented for the purpose of "honoring individuals for their tireless efforts in furthering the progress of black people in New Jersey and rebuilding New Jersey's urban communities."

Mr. Speaker, City News is the largest African American newspaper in New Jersey. It created the 100 Most Influential Award to honor and celebrate the efforts of people and corporations that have supported efforts to infuse economic, social, cultural, scientific, spiritual and political vitality into New Jersey's urban centers. Individuals are honored for their work in the following categories; civil rights; corporate community involvement; community development; community service; education; economic development; entertainment and sports; health, science and technology; media, arts and culture; minority business enterprise; politics, law and government; and religion. Nominations for the 100 Most Influential are received from former nominees and honorees, the corporate community and from the readers of City News. While honorees are notified of their awards, the names are kept confidential until the night of the award ceremonies.

Mr. Speaker, it is an honor for me to salute the City News Publishing Company for their ongoing service to the community, and, particularly for their recognition of outstanding citizens of our state for their contributions in many walks of life. With the support of numerous corporate sponsors, particularly event cosponsors PSE&G and Dun & Broadstreet, City News is continuing its fine tradition of leadership. I anxiously await to hear the names of the winners, all of whom I am sure will be very well deserving of this great honor.

TO COMMEMORATE MONSIGNOR JOHN A. BURNS ON HIS 50TH ANNIVERSARY OF ORDINATION TO THE PRIESTHOOD

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 4, 1998

Mr. SCHUMER. Mr. Speaker, I ask my colleagues to join me in sending warm wishes to Monsignor John A. Burns on the occasion of his 50th Anniversary of Ordination to the priesthood.

Monsignor Burns was ordained as a priest on May 22, 1948. He celebrated his first Mass at Incorporation Parish, where he had previously served faithfully as an alter boy for over a decade. Msgr. Burn's first assignment was to St. Ephrem's in Bay Ridge. He spent 17 years there. After that the Monsignor spent four years at the Guardian Angel Parish and five years at St. Sebastion's in Woodside.

Then in June 1974 Monsignor Burns received his first pastorate at Mary Queen of Heaven. Over the next 23 years he helped create many social as well as spiritual groups, including strong senior citizen groups, a sports program for children from grammer school through high school, a drama club, travel group, and an arts and ceramic group. On May 22, 1988 Msgr. Burns was elevated to Monsignor on the same day he celebrated his fortieth anniversary of priestly ordination. Over the years of his priestly endeavors as pastor of Mary Queen of Heaven Church have been spent in unceasing efforts to imbue the community with a rich spiritual life, as well as beautify the church.

I would like to take this time to say that we should not let this anniversary be a celebration of how many years Monsignor has served. Rather it should be a celebration of the events and actions that the Monsignor has been a part of over the years. He has been an inspirational figure to us all.

Congratulations, Monsignor Burns, on the occasion of your 50th anniversary of ordination to the priesthood.

TRIBUTE TO THE NATIONAL YOUTH SPORTS PROGRAM AT BRONX COMMUNITY COLLEGE

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 4, 1998

Mr. SERRANO. Mr. Speaker, it is with joy that I rise to pay tribute to the National Youth Sports Program at Bronx Community College, which is dedicated to improving the lives of young people in the Bronx.

Under the leadership of Dr. Joyne Bloom, Administrator, and Mr. Guy Hughes, Activity Director, over four hundred boys and girls annually have benefited from their participation in this program, which assists economically disadvantaged young people through summer educational and sports experiences on the College's campus.

The curriculum consists of comprehensive team and individual lifetime sports instruction as well as aquatics, dance and martial arts. There is an academic component of the instruction in drug and alcohol abuse prevention, nutrition and personal health, career goals and opportunities, and job responsibilities.

A healthy meal and snack are offered on a daily basis. Students learn the values of teamwork, sharing group cohesion, respect and citizenship. Awards are given for exemplary achievement. Boys and girls ages ten through sixteen learn to become contributing members of their communities.

In 1994 this program received a proclamation from the Bronx Borough President's office and in 1994 and 1995 the Office of the Mayor of the City of New York also presented the program with a proclamation.

And, today, Mr. Speaker, it is an honor and a privilege for me to ask my colleagues to join me in recognizing Dr. Joyce Bloom, Mr. Guy Hughes and the National Youth Sports Program at Bronx Community College.

SENSE OF CONGRESS ON 50TH ANNIVERSARY OF FOUNDING OF MODERN STATE OF ISRAEL

SPEECH OF

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 28, 1998

Mr. FORBES. Mr. Speaker, on May 14th, 1948 the modern state of Israel was proclaimed, creating a homeland for the worldwide Jewish diaspora from the ancient land of Abraham and David. In the life of any country, a 50th anniversary is a notable milestone of historical achievement. In the case of Israel, a half-century of life exemplifies nothing less than an enduring miracle.

The Jewish people, drawn to their country by a sacred relationship and a divine promise, flourished in ancient times. Their history is a seemingly never-ending succession of miracles, punctuated by the painful sting of suffering. A poor, enslaved people in the Land of Egypt, the Israelites were led by God out of Egypt and into the desert and freedom. It was there in the barren desert that their leader, Moses, went up to Mt. Sinai and came down with the Torah, the word of God. In the midst of their escape and suffering in the barren wilderness, the Jewish people provided the world with the Ten Commandments, the foundation of all western morality.

Back in their own country, the Jewish people ultimately realized the greatness that the Lord had promised. From King David, the poet warrior, to Solomon, the model of wisdom, the Jews gave us heroes that stir our hearts and souls still.

Sadly, though, Jewish suffering was not at its end. In 722 B.C.E. the Assyrians vanquished ten of their twelve tribes and sent the Israelites into exile. Only two small groups remained, fortified only by an undying faith in God and a refusal to surrender to the fate their enemies planned for them. They refused to give up hope. They refused to give up their faith.

In 586 B.C.E., this small remnant was captured. Their temple, built by Solomon, was destroyed. Forced into exile to Babylonia, again the Jewish people thrived. Without a temple, they developed houses of worship—the historical beginning of synagogues. Unable to offer sacrifices, their religious leaders developed prayers as a way to reach the Almighty. Forbidden to publicly worship or have priests, they developed a new way of thinking of religious leaders as teachers. This was how the title rabbi came to be.

Miraculously returning from their exile, the Jewish people rebuilt their Temple in Jerusalem. They wanted nothing more than simply to live under the grace and peace of God.

But then in the year 70 of the Common Era, the Second Temple was destroyed by the Romans. During a final revolt against the Romans, at Masada, the sheared plain that stands in the Judean desert, brave Jews sacrificed their lives rather than endure as slaves. The Romans forced Jews to leave and even re-named the country "Palestine" named after the Phoenicians, the enemies of the Jews. The Jewish people had lost their country and would not recover for nearly two millennia.

By any realistic view of history, the Israelites, few in number, robbed their homeland and set apart by the cruelest of persecutions, should have disappeared.

But history is not able to reckon with the Jewish people. Instead of disappearing, the Jews flourished under the Lord's protective eye, developing a vast treasure of religious literature and a way of life that stressed lifelong learning and a striving to lead a moral life.

Through inquisition and torture, through religious coercion and unendurable pain, the Jewish people held firm to their religious foundations. Here, in our own century, occurred the Holocaust, the most monstrous and inhuman evil that mankind has ever inflicted upon itself. Six million Jews, one and a half million of them children, were systematically murdered. One-third of the Jewish people in the world died during the Holocaust.

Even during these darkest hours of the Holocaust, when all hope for the Jewish people seemed to have disappeared, when their very future hung on the edge of despair, they persevered. Then came Israel.

The modern vision of a Jewish state, nourished by an historic attachment to the land of Israel, was given expression by the Viennese journalist Theodor Herzl, who organized the First Zionist Congress in 1897. When the Congress was ended, Herzl noted in his diary that the Jewish state would come into being in 50 years. It was exactly 50 years later that Israel was born.

On May 14, 1948, David Ben Gurion announced the birth of the modern Jewish nation. A day later, Arab armies attacked in full force, in an attempt to kill it before it had a chance to be born. After a bitter struggle for its very life, against overwhelming odds and trained armies, Israel prevailed. Their nation would not die. Masada would not fall again. David Ben-Gurion, the first Prime Minister and Menachem Begin, who would later become Prime Minister, both contributed mightily to Israel's birth. The number of heroes in Israel's birth is innumerable.

Over the course of the past 50 years, Israel has had to continually fight for its survival. In both 1956 and 1967, Israel had to defend itself against the attacks of its antagonistic neighbors. The Six Day War of '67 was particularly difficult for Israel. When the war was over, Israel gained control over all of Jerusalem including the Western Wall, the most sacred site in Jewish life because it is the last remaining part of the Second Temple. The Jews had returned to their land and to their holy city. In many ways, they returned to history itself.

Still, wars followed, though some Arab nations have come to see the need for peace. However, to this day, many Arabs have not reconciled themselves to the permanent existence of Israel. Terrorists, rogue nations, and bitter and implacable enemies continue to threaten Israel Yet at 50, Israel has never been stronger.

Perhaps, especially for the Jews, but finally for all decent people, the very existence of Israel remains a symbol. Israel's historic return as a nation offers hope and reassurance for people the world over who are struggling to realize their own homeland. Israel's refusal to surrender to enduring horrors provides a model of courage for those in need of strength. Israel's commitment to democracy and religious freedom is a wonderful example for those who believe that nations can be both strong and decent.

Israel will always possess a special place in the heart and mind of the United States. Israel is, of course, a vital military ally, paramount in its support of the U.S. in the United Nations, and a dependable military source of information and support. Beyond these prudential reasons, however, Israel means much more to us. Sentinels of democracy, both nations were founded in pursuit of the righteous cause of liberty and human dignity. Citizens of both great nations have sacrificed their own lives in defense of freedom and in battle against tyranny. Neither America nor Israel is willing to accept the exploitation and oppression of innocent people by despotic rulers.

The truth is that Israel is not just another nation; it is part of our family. As one brother to another, we in the United States rejoice as we celebrate Israel's 50th birthday. Let us use this moment to vow to stand forever by Israel's side. Let every enemy of Israel know that the United States stands firmly beside Israel. We will never be silent when Israel is in danger. We will never let Israel's enemies win.

We stand with Israel. We wait in excitement to witness the miraculous achievements that Israel will have in the next 50 years.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 5, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 6

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold oversight hearings on the Common Carrier Bureau of the Federal Communications Commission.

SR-253

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense, focusing on the U.S. Pacific Command.

SD-192

Armed Services

Closed business meeting, to mark up a proposed National Defense Authorization Act for Fiscal Year 1999.

SR-222

Judiciary

To hold hearings to examine the consequences of raising tobacco prices.

SD-226

Indian Affairs

To resume hearings to examine the status of tribal sovereign immunity and the role its plays to preserve the Federal Government's protection of tribal self-government, and its impact on Indian economic development, commercial dealings, and taxation, focusing on S. 1691, to provide for Indian legal reform.

SD-106

Select on Intelligence

Closed business meeting, to mark up a proposed National Intelligence Authorization Act for Fiscal Year 1999.

SH-219

10:30 a.m.

Foreign Relations

Near Eastern and South Asian Affairs Subcommittee

To hold hearings to examine United States policy toward Iran.

SD-419

2:00 p.m.

Foreign Relations

European Affairs Subcommittee

To hold hearings to examine the crisis in Kosovo.

SD-419

Special on Aging

To hold hearings on the status of the Health Care Financing Administration's development of its information campaign and recommendations on how to make seniors better aware of this and other health care resources.

SD-562

2:30 p.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 94 and H.R. 449, bills to provide for the orderly disposal of Federal lands in Nevada, and for the acquisition of certain environmentally sensitive lands in Nevada.

SD-366

MAY 7

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine agricultural trade policies.

SR-332

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1999 for the National Science Foundation, Office of Science and Technology Policy, Council on Environmental Quality, and Office of Environmental Quality.

SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1999 for the Executive Office of the President.

SD-192

Labor and Human Resources

To hold hearings on organ allocation and the Organ Procurement Transplant Network (OPTN) regulation.

SD-430

10:00 a.m.

Armed Services Closed business meeting, to continue to mark up a proposed National Defense Authorization Act for Fiscal Year 1999.

SR-222

Banking, Housing, and Urban Affairs

Housing Opportunity and Community Development Subcommittee

To hold hearings to examine issues relating to the implementation of the Department of Housing and Urban Development's "HUD 2020" Management Reform Plan.

SD-538

Foreign Relations

To hold hearings on the nominations of William Joseph Burns, of Pennsylvania, to be Ambassador to the Hashemite Kingdom of Jordan, and Ryan Clark Crocker, of Washington, to be Ambassador to the Syrian Arab Republic.

SD-419

Judiciary

Business meeting, to consider pending calendar business.

SD-226

Labor and Human Resources

To hold hearings to examine proposals for providing more qualified teachers in the American classroom.

SD-430

2:00 p.m.

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold hearings on titles VI, VII, VIII, and XI of S. 1693, to renew, reform, reinvigorate, and protect the National Park System.

SD-366

2:15 p.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on S. 1089, to terminate the effectiveness of certain amendments to the foreign repair station rules of the Federal Aviation Administration, focusing on a recent GAO report regarding aviation repair stations.

SR-253

2:30 p.m.

Foreign Relations

International Economic Policy, Export and Trade Promotion Subcommittee

To hold oversight hearings to examine activities of the Overseas Private Investment Corporation.

SD-419

MAY 8

9:30 a.m.

Joint Economic

To hold hearings to examine the employment-unemployment situation for April.

1334 Longworth Building

MAY 11

2:00 p.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense.

SD-192

MAY 12

9:30 a.m.

Indian Affairs

To hold hearings on proposed legislation to revise the Indian Gaming Regulatory Act of 1988, focusing on lands into trust for purposes of gaming.

Room to be announced

2:00 p.m.

Foreign Relations

To hold hearings on S. 1868, to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide, to authorize United States actions in response to religious persecution worldwide, to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council.

SD-419

MAY 13

9:30 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense.

SD-192

MAY 14

9:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the Department of Agriculture's Year 2000 compliance.

SR-332

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to examine the safety of food imports.

SD-342

Small Business

To hold hearings on the nomination of Fred P. Hochberg, of New York, to be Deputy Administrator of the Small Business Administration.

SR-428A

2:00 p.m.

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold hearings on titles IX and X of S. 1693, to renew, reform, reinvigorate, and protect the National Park System, and S. 1614, to require a permit for the making of motion picture, television program, or other forms of commercial visual depiction in a unit of the National Park System or National Wildlife Refuge System.

SD–366

MAY 18

2:00 p.m.

Governmental Affairs

Oversight of Government Management, Restructuring and the District of Columbia Subcommittee

To hold hearings to examine the role of faith-based charities in the District of Columbia.

SD–342

MAY 19

10:00 a.m.

Labor and Human Resources

To hold hearings to examine grievance procedures in the health care industry.

SD–430

MAY 20

10:00 a.m.

Indian Affairs

Business meeting, to mark up S. 1691, to provide for Indian legal reform.

SR–485

MAY 21

10:00 a.m.

Labor and Human Resources

To hold hearings on genetic information issues.

SD–430

2:00 p.m.

Energy and Natural Resources

Energy Research and Development, Production and Regulation Subcommittee

To hold hearings on S. 1141, to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and S. 1418, to promote the research, identification, assessment, exploration, and development of methane hydrate resources.

SD–366

OCTOBER 6

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.

345 Cannon Building

POSTPONEMENTS

MAY 5

10:30 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1999 for foreign assistance programs.

SD–138

SENATE—*Tuesday May 5, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign Lord of our Nation, You have created each of us to know, love, and serve You. Thanksgiving is the memory of our hearts and the thermostat of our souls, opening us to the inflow of Your Spirit and the realization of even greater blessings. You have shown us that gratitude is the parent of all other virtues. Without gratitude, our lives miss the greatness that you intended and remain proud, self-centered, and small.

We begin this day with gratitude for the gifts of life, intellect, emotion, will, strength, fortitude, and courage. We are privileged to live in this free land so richly blessed by You.

But we also thank You for the problems that make us dependent on You for guidance and strength. When we turned to You in the past, You gave us the leadership skills we needed. Thank You, Lord, for taking us where we are, with all our human weaknesses, and using us for Your glory. May we always be distinguished by the immensity of our gratitude for the way You pour out Your wisdom and vision when we call out to You for help. We are profoundly grateful. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will be in a period of morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of H.R. 2676, the IRS reform and restructuring bill, for debate only, prior to the policy luncheon recess, except for the offering of a managers' amendment if one is agreed to and worked out. I have the impression they have made good progress in that area.

Members are encouraged to come to the floor to debate this IRS reform bill so the Senate can complete action as early as possible this week. It is certainly very important legislation. A lot of effort has been put into its development. I know Senators do want to make comments on it, but I hope they will not wait until later in the week. They have a golden opportunity this morning and this afternoon to go ahead and make statements they are prepared to offer.

As a reminder, a rollcall vote is scheduled this evening at 5:30 on passage of H.R. 1385, the workforce development bill. There will be 1 hour of debate prior to that, beginning at 4:30. Any votes ordered with respect to the IRS reform bill will be stacked to occur following the 5:30 vote.

I thank my colleagues for their attention to this. I hope we can have the type of cooperation this week that we received last week.

Mr. President, I do have a statement I would like to make, but before I begin that, let me observe the absence of a quorum just for a moment.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

INTERNAL REVENUE SERVICE REFORM

Mr. LOTT. Mr. President, today we begin our second day of floor debate on legislation to rein in the Internal Revenue Service. As hearings demonstrated last week, once again, the IRS is an agency with real problems. I should note, again, it has a job to do. It is not an easy job. We acknowledge that. We also have to give credit to those IRS employees who work hard, do an honest job, and don't target people for unnecessary audits or try to set up laundering schemes, things of that nature. A lot of IRS employees have put their own jobs on the line and have endured a lot of harassment because they have said there are problems here.

We heard from a number of them last week who came in. In fact, one lady came in, she is chief of a division, and complained about the slowness or inaction by the Deputy Commissioner of IRS where there has been misconduct within the IRS. It seems when complaints or problems develop and recommendations are made, they are put in a desk somewhere, or on a desk, and they seem to just disappear. It was an IRS agent who came and said the Deputy Commissioner is not following up on things.

We had a panel of IRS agents who came in and talked about the problems they had found. IRS agents are the ones who pointed out there had been targeted audits of people like Senator Howard Baker. It was three IRS agents who were, in effect, punished or moved because they said there is a rogue agent here out of control doing something that is wrong and illegal. So a lot of IRS workers are the ones who have brought these matters to our attention.

The most compelling testimony, though, last week, for me, involved small businessmen who had been raided unfairly. Some of them still, obviously, are emotionally distraught over what they had to endure. One of them was a man by the name of John Colaprete. Mr. Colaprete is a small businessman, a restaurant owner, in Virginia Beach, VA. He told the Senate Finance Committee how the IRS almost destroyed his business. This morning you will get a chance to hear his story in his own words. I am going to read his testimony because it was so compelling. I fear a lot of Senators did not hear his testimony, and a lot of the American people didn't hear it, but this is just one of the three. I know there are many others in the country.

This is the type of thing that is being done by the Criminal Investigation Unit at IRS that has to be reined in.

> My name is John Colaprete. I'm from Virginia Beach, and I'm in the restaurant business.
>
> I'm also a husband, a father, and veteran, having served my country proudly as a U.S. Marine Corps captain from 1965 to 1969.
>
> I have never been in any sort of trouble with the law, and I believe that every American has an obligation to pay their fair share of income taxes.
>
> I have never failed to meet that obligation.
>
> I have always considered myself both patriotic and a law-abiding citizen.
>
> I will always be a law-abiding citizen. However, I feel I have literally been punished for upholding the laws of the nation I swore an allegiance to honor and defend.
>
> Four years ago, I employed a bookkeeper in my restaurant who eventually embezzled approximately $40,000.00 from the business. She went to prison for her crimes, but not before turning my life, and the lives of countless others, upside down. With the full cooperation of the Internal Revenue Service, this woman, a multiple felon, who already had an outstanding warrant for her arrest, managed not once but twice, to victimize me, my family, partners, employees, patrons and others in the business community who depended upon me and my business.
>
> This dance with the Devil began in March of 1994, when my partner and I became aware that we were being swindled by our bookkeeper. When we discovered substantial shortages in our accounts, we confronted her, and she admitted to stealing from our business. She told us she would make restitution. Unfortunately, rather than make

restitution, she sought shelter with the IRS and told them a fantastic tale of money laundering, gun running and drug dealing by my partner and me.

Little did I know that the IRS would spend less than 48 hours investigating my bookkeeper's allegations before conducting raids on my business, my home, and the home of my manager.

Little did I know that the government I had so proudly served would accept these allegations to be true, despite the alarming lack of substantiation, probable cause, or proof of any sort whatsoever.

Little did I know that the IRS, when faced with the outrageous claim that I had thousands of pounds of cocaine stored like cordwood in my office, would subscribe to a policy of Guilty Until Proven Innocent. Unfortunately, in the case of the IRS, I now know this is standard operating procedure when dealing with law-abiding taxpayers.

This wasn't a matter of an honest mistake; in fact, a recently retired FBI agent divulged in a deposition taken for the case that I have pending against the IRS, that he had advised all involved to be skeptical about the claims of my accuser. The FBI specifically declined to become involved, and in the words of one of its agents, the whole story sounded like a "Grade B" movie.

On the morning that both my home and business were raided—raids executed solely on the word of my ex-bookkeeper—I was in a church for the occasion of my son's first holy communion. Armed agents, accompanied by drug-sniffing dogs, stormed my restaurant during breakfast, ordered patrons out of the restaurant and interrogated my employees. The IRS impounded my records, my cash registers, and my computers. Since the raids, we managed to get up and running, despite what can easily be perceived as our own government's best attempts to put us out of business.

Today, I still wonder how such a thing can happen, but I know it does. And I'd like you to know that for every taxpayer like me—those who have survived armed assaults on our businesses and our homes—there are perhaps several thousands of taxpayers who, in fear, lick their wounds, tally their losses, and consider themselves lucky that the IRS has finally left them alone, their innocence notwithstanding. I have nothing to hide, and I will never consider myself lucky when I ponder the events of the last four years. As for the taxpayers who have suffered similar injustices at the hands of the IRS, I hear from these people every week. They seek me out and relate horror stories that, at one time, would have evoked from me nothing more than simple skepticism. I used to believe that such things could only happen in a Communist bloc country, or a police state. I don't believe that anymore.

When the raid occurred at my home, the front door was torn from the hinges. My dogs were impounded, along with my safe and 12 years of my personal income tax returns and supporting documents. When that safe was finally returned, an heirloom watch that I had received as a gift from my father was missing. In the aftermath of the raid, I returned to find my home in shambles. It was as if I had been burglarized, both in appearance and in the sense of having been grossly violated.

While my restaurant and my home were being raided by armed agents of the Internal Revenue Service, a raid was also being conducted on the home of my manager.

In that raid, my manager was pulled at gunpoint from the shower and forcibly restrained while he attempted to call an attorney. His teenage son was forced to the floor at gunpoint. His daughter, 14 years old at the time, had several friends over for a slumber party the night before. These young girls had to get dressed under the watchful eyes of male agents, despite the presence of female agents. The IRS agents stood in the doorway to the bedroom, refusing these young girls even a semblance of privacy.

We were never charged with any crimes. After scrutinizing our records for four months, the IRS returned most of them. A rental truck pulled up in front of my business one day, and the items that were returned were basically dumped in a pile on the street for us to sort through. I never received an apology.

Following the raids, I could get no answers as to why all of this occurred. I was met with "No comment, Mr. Colaprete," at every turn. Freedom of information requests were ignored, ostensibly due to a backlog of such requests, and despite legally mandated time limits on such requests. Two newspapers in Virginia Beach made repeated requests under the Freedom of Information Act, only to have the Justice Department thumb its nose at those requests. When an investigative journalist began to get to the bottom of things, he was also subjected to the harassment of the IRS. He had an opportunity to interview Special Agent Carol Willman from the IRS office in Norfolk, Virginia. During that interview, Ms. Willman interrupted the reporter's inquiries with a demand for his Social Security number. Within the year, he was notified that the IRS wanted to audit his return. When a local publication reported this, the audit was abruptly canceled. An IRS agent stated at the time that the agency does not retaliate against citizens through the use of audits, but the facts would seem to indicate otherwise.

The ex-bookkeeper, meanwhile, was kept in protective custody by the IRS in a motel up until the time of the raids. It is almost unimaginable that there could be such a level of incompetence at the IRS that they would not only take the word of this woman and begin any sort of investigation, but they would shield her from the authorities who were trying to arrest her. The woman who the IRS was protecting and on whom they had relied had already been convicted numerous times. In fact, the outstanding criminal charge pending against her at the time she approached the IRS was for a crime involving lying and stealing. Ironically, just a week before this woman approached the IRS, I had specifically gone to the police and filed a complaint against her, alleging that she had lied, stolen and embezzled from me. In the face of all of that, how could anyone, let alone a supposedly trained, professional inspector with the IRS, accept at face value what this woman was saying? Based on her word, she—Carol Willman—not only commenced an investigation, but completely shut down a business and turned the lives of innocent people upside down less than 48 hours after first being introduced to the woman. Is there such a competitive atmosphere within the IRS to add another feather in their cap that they would ignore not only basic investigative techniques, but the obvious flaws in this woman's character and simply accept her at face value? It is frightening that such a woman could have conned the IRS into believing that her employer, despite all appearances to the contrary, was a high-level gangster and then shield her from the law in the belief that she would lead them to a bigger fish—like me.

To compound the Keystone Cop mistakes that had already been made, the IRS then allowed her to leave the jurisdiction of Virginia to go to North Carolina where she was only later sent to jail for embezzling from three other employers in that state. On the surface, it might appear that she acted alone, but that just isn't so. The IRS was her partner in crime—first, acting in concert to destroy my life, and then allowing her to flee the state and victimize others.

I looked for answers and was rebuffed at every turn. I suffered a deep depression that lasted a year. I was immobilized and could not get out of bed some days. My neighbors shunned me. My wife, who is an artist, has not been able to pick up a paint brush in four years. My children were taunted at school and told that their father was a gangster and a drug dealer—a Mafioso. I raised my children with a zero tolerance for dishonesty, and now they must hear allegations that I am a tax cheat. I am here to tell you that I am none of those things.

Relatively speaking, the trauma that has befallen me is mild, compared to what has happened to my manager. He has suffered severe depression, sought counseling from his pastor, literally been shunned by friends and acquaintances, and has yet to get his life back in order. He has been ruined financially and emotionally, with little or no hope of ever getting his life back to where it was prior to the raids.

I'm also here to tell you that we cannot treat our citizens this way—not in America. I have been repeatedly victimized over the past four years, primarily by a government tax agency that is funded with my tax dollars. If Americans have a perception of the IRS as the Boogey Man, it is because the IRS itself has promoted that perception through policies that are fundamentally unconstitutional and illegal.

This is not a partisan issue—it is a people issue and a freedom issue.

I have a lawsuit pending against the IRS, and I will not rest until I have had my day in court. The IRS response to the lawsuit has been to cast doubt on my character by insinuating that they did, in fact, find evidence of wrongdoing, but they chose not to prosecute it. If I was guilty of anything, why would they "choose" not to prosecute? While any "allegations" will eventually be shown in court to be what they are, i.e., a smoke screen, until I can get into court to prove my case, these "allegations" linger in the community where I live and work and continue to compound my frustration.

The system does not work for the American taxpayer. The total sense of violation that we have experienced has had a devastating effect on us all. In the wake of all of this, I find there is no system in place to defend me, or others like me. I'd like to believe that someone takes responsibility for what has happened—for what continues to happen every day in this country. If the example we are to set for our citizens is one of no accountability and no remorse, then our form of government—the oldest surviving democracy on the planet—cannot survive much longer.

A day doesn't go by that I don't wonder what harassment will occur next. I would like to know why this dark entity known as the IRS has come into my life and refused to leave. So who protects me in the system? Who cares about my constitutional rights? Not the courts. Not the IRS. I am hoping that the buck stops here—with you, Senator Roth and this Committee.

I leave you with just three questions, Senators:

> (1) Why did this happen?
>
> (2) What will you do to see that it never happens again to innocent taxpaying Americans? We cannot employ inexperienced and immature people to play God with the lives of our taxpayers—IRS agents who decide that it's a beautiful day to go out and destroy someone's life; and finally,
>
> (3) Once this ordeal has ended and I have obtained a verdict in a court of law and a judgment against the IRS, what will you do to assure me that the IRS pays the judgment, rather than continue to beat me into submission through endless appeals and an outright refusal to pay the judgment that I obtain?
>
> In this great democracy, we have created this entity to collect taxes which we all agree must exist. However, we have empowered this agency to be subject to no one, to no laws, to no checks and balances, and all of us—including each and every one of you—are afraid of them! Why should we fear the very people we employ?
>
> When these hearings began last September, I was told that Senator Roth would conduct these hearings because he has no fear. After my ordeal, I have no fear any longer, but when Americans receive that letter with the logo of the IRS in the upper left hand corner, their pulse rate, heart beat and blood pressure rise. There is a genuine fear. This fear must stop.

Mr. President, I want to open today's debate by sending messages to two groups of people.

To Mr. Colaprete, to his family, to his manager, to the employees of his restaurant, and to the residents of Virginia Beach whose lives were harmed by the IRS, I want to say that I'm sorry. Since the IRS apparently thinks they do not need to apologize to you. I will. On behalf of myself and the United States Senate, I apologize for the harm that your government has done to you.

I also want to say to Mr. Colaprete that it is our intent that this never happens again. The legislation we have before us is specifically designed to stop the kind of abuse you suffered, and we will continue to maintain a vigilant watch over this agency.

To the agents at the IRS, who have been out of control, and to the management who is protecting those agents, I want to say watch out. We are on to you, and we will not let you do this sort of thing to the American people.

That is our goal here, to provide some protections, some oversight that is free and separate from the IRS, a private citizen entity to look into their procedures and their conduct. It also is to give some relief to the taxpayers who now find quite often that the penalties and the interest far surpass the basic amount that was owed.

This action is overdue. I want us to have a strong bill because I don't want us to come back 2 years from now and find out what we did, in fact, did not change the culture at IRS. I do believe that the new Commissioner, Mr. Rossotti, is trying hard to turn things around, but it is not all the agency's fault. The laws that we have on the books have been inadequate. In fact, I am not sure we can fix these laws. We may have to just scrap what we have and start over again.

For now, until that is done, we must build in protections against this type of abuse of ordinary citizens and taxpayers.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m, with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Utah, Mr. HATCH, is recognized to speak for up to 30 minutes.

Mr. HATCH. Without losing my right to the floor, I am happy to yield time to the distinguished Senator from Idaho. Then I would like to make my statement.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I ask unanimous consent the time I use would not take away from the allocated time of the Senator from Utah.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENDANGERED SPECIES REAUTHORIZATION

Mr. CRAIG. Mr. President, today I come to the floor to speak to the reauthorization of the Endangered Species Act. I ask unanimous consent my name be added to the cosponsorship of S. 1180, a bill reauthorizing the Endangered Species Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I would like to take a few minutes today to talk about S. 1180, the Endangered Species Act reauthorization bill, and why I have decided to cosponsor it at this time.

As our colleagues know, this bill was passed by the Environment and Public Works Committee last fall, and it is currently on the calendar, ready for consideration by the full Senate. I have been slow to cosponsor S. 1180 because of some reservations I had—and still have—about the bill. I will talk in more detail about those details in a minute.

However, I am absolutely convinced that the current Endangered Species Act is not only a dismal failure at saving species, but is actually working against that goal. Furthermore, every day we tolerate this defective law, its unfair and unnecessary burdens increase on citizens and the economy. Yet at the same time, the American people continue to believe that conserving fish and wildlife species for the enjoyment of future generations is the right thing to do. And I certainly agree with that. They want to make changes to the law, but don't want to see the Endangered Species Act thrown out.

That is why for the last three years, my colleague and friend from Idaho, Senator KEMPTHORNE, has been working mightily to improve this complex law. He has held hearings, built coalitions, drafted and re-drafted language to correct the problems while still advancing the goals of the Endangered Species Act. I congratulate him, as well as our other Senate colleagues who have worked with him to produce this bill.

S. 1180 would make some positive reforms in the current system. It would re-focus the process on actually saving species. It would create opportunities and benefits for people who are affected by the government's actions in these areas.

For example, the bill emphasizes *sound science—instead of politics*—to guide actions taken to conserve and recover species. It requires independent peer review for listing and delisting decisions, and for the establishment of a biological recovery goal in a recovery plan. Specific time limits would be observed, and States and local citizens would have a larger role in the process.

I believe these provisions and others would make significant improvements in our current process, to the benefit of both our wildlife and our citizenry. While additional corrections could be made, those who drafted this bill believe that a more comprehensive overhaul of ESA is not going to pass this Congress. I tend to agree with that assessment and I am also willing to pursue the strategy of trying to pass these reforms now as a foundation for further reforms later. That is the message I would like to send with my cosponsorship of S. 1180 today.

Having said all that, Mr. President, I cannot endorse each and every provision within this legislation. I will be supporting amendments that will change or add to the bill in a number of areas.

For instance, while I support S. 1180's stated goal of providing incentives to promote voluntary habitat conservation by private landowners, I am very concerned about what the bill as a whole will fail to do in the area of protecting private property rights.

This is no small matter. The right to own and use property goes to the very heart of our American democracy. It was so important to our founding fathers that they enshrined the protection of private property in the Constitution's Bill of Rights.

It is equally important today. Yet our federal government has increasingly ignored these rights. President Clinton rejected the Constitution's guarantee outright when he pledged to veto any "compensation entitlement legislation" intended to strengthen Americans' private property rights. Representatives of this administration have even suggested that the idea of *private property is an outmoded notion*.

Let me say to them, how dare they. Nowhere in the administration's hostility toward private property rights is there more evidence of that than in their threat to veto an endangered species reform that has that in it.

Let's take a look at Secretary Babbitt's "no surprises" policy, for example. The basic idea is that if landowners surrender control over the use of part of their property for ESA purposes, then the Federal Government will let them use the rest of it without interference. To put it another way, Secretary Babbitt proposes that you pay the Government for the right to use your own land. By comparison, the Constitution of the United States promises that if the Federal Government wants your land used a certain way, the Federal Government has to pay you for it.

Even more outrageous than Secretary Babbitt's program is the fact that many landowners think it is actually a pretty good deal. How oppressive and tyrannical have ESA regulations become, when citizens are willing, even eager, to give up their property and their constitutionally protected right to compensation just to get the Government off their back, just to get the Government to leave them alone.

I applaud the goal of S. 1180 in reducing regulatory burdens and improving the certainty and finality of Government action in protecting endangered species. It is bad policy to require the American people to sacrifice their constitutionally protected rights for any Federal program, even this one.

I would like to see S. 1180 strengthen and protect fifth amendment rights to compensation. I will vote for amendments and/or legislation that strengthens our citizens' private property rights.

The paramount natural resource issue for Americans in the West is sovereignty of our States over water that flows and exists within the boundaries of those Western States. It is easy to say that all we need to do is remain silent on this issue and it will be OK. In fact, however, preserving State water sovereignty is not so easy. The reality of how Federal water rights are created, or not created, requires that we speak to the question, I believe, in this legislation.

The appropriation doctrine is the water law of Western States and has as its central premise that the first person to claim a water right has priority on its use over those water claimants who assert claims at a later date. In the arid West, this principle lies at the very heart of our economy. It is the ability to allocate this precious resource—the resource of water—that allows us to exist in the West.

It is for this reason we westerners become particularly agitated when the Federal Government tries to disrupt this principle or to "take" our water. Does this legislation create a Federal reserved water right? The answer is no, it doesn't. But it should say that very clearly. And I will support an amendment that I hope can pass, which will say very clearly that, within the Endangered Species Act reauthorization, it doesn't.

With all of those considerations, though, I believe it is important that we move S. 1180. I think it is a positive step forward. As I have said, I believe it lays the right foundation for further changes in Congresses to come. It says to the American people that we are concerned about preserving species of animals, insects, of all things on this earth, if we can possibly do it. At the same time, there is a reasonable right and a reasonable responsibility enshrined within the Constitution that we preserve the right of the citizenry to exist also.

It is for this reason that this legislation should clearly state the Congress' intent. For the record, this Senator does not intend for the endangered species reauthorization legislation to create a federal reserved water right. This is why I believe S. 1180 must state clearly that no implied or express federal water right is created in this legislation. I will support and vote for such an amendment.

With these areas of concern in mind, I am also inclined to support a shorter term of reauthorization than S. 1180 provides. As I mentioned previously, it is my goal to build additional improvements on the foundation laid by this legislation. Accelerating the opportunity for Congress to re-open the issue would only advance that goal.

In closing, Mr. President, let me repeat my endorsement for the goals that Senator KEMPTHORNE and the other supporters of this bill set out to achieve in reauthorizing the Endangered Species Act. I think the bill will make improvements that are critical to ongoing EAS efforts in my state and elsewhere in the nation, and amendments in the areas I have discussed today will enhance those improvements.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Utah is recognized.

COMPREHENSIVE ANTI-TOBACCO LEGISLATION

Mr. HATCH. Mr. President, to date, our efforts to develop comprehensive, bipartisan anti-tobacco legislation have been stymied by the lack of consensus on a number of major issues.

Over the next few weeks, I intend to devote full attention toward refocusing our efforts on a bill which can be enacted this year.

To accomplish that goal, it is important that Congress and the Administration reflect on what our objective actually has been—and should continue to be.

Last June, the 40 State Attorneys General, public health representatives, tobacco company officials, and representatives of the Castano group, announced a bold new initiative focused on eradicating the scourge of youth tobacco use.

This proposed global tobacco settlement presents Washington with a once-in-a-generation-opportunity to help families and communities raise a whole generation of youth tobacco-free.

Certainly, no one in Congress was bound to the particulars of the June agreement.

But, we would not have seen such virtually unprecedented legislative consideration of the tobacco issue in the past 11 months were it not for this settlement.

In short, our objective in 1997 was to improve the public health, and specifically the health of our youth, through a constitutional package of reforms which relies on a guaranteed stream of revenue from tobacco companies.

Our objective should be the same in 1998.

But it appears that it is not.

Unfortunately, partisan politics, fear, greed and Washington's pile-on mentality have caused us to lose sight of this objective.

Instead, we are simply trying to "out-tobacco" one another. If that continues, the public interest will not be served, and Big Tobacco will win.

As an optimist, I remain hopeful the Congress will succeed this year in passing strong, anti-tobacco legislation that is comprehensive, workable, and Constitutionally-permissible.

But as a realist, I also know that the events of the last few weeks, in which this issue has become increasingly fractionalized and politicized, make our task that much more difficult.

Comprehensive tobacco legislation is now in jeopardy. Not for want of trying, to be sure, but for a lack of consensus on several crucial issues.

For us to consider comprehensive tobacco legislation, and then to fail, would be a terrible loss, a loss for our country, a loss for our political system, and a loss for the generation of our youth America's parents hope to bring up tobacco-free.

Let me be blunt. Our failure to enact comprehensive anti-tobacco legislation would also be a significant victory for the tobacco industry, an industry which has knowingly marketed harmful products for decades, deliberately targeting our youth in their quest for profits.

Let me be equally frank. Passage of just any bill will be a significant loss for the American people, who should be able to rely on their legislators to write sound, responsible legislation.

In writing a bill, we should not give in to the tobacco industry's demands. We should not give in to their less-than-veiled attempts to force both the Administration and the Congress into abandoning our objectives—addressing the problem of youth tobacco, reforming the legal system to allow for appropriate compensation to claimants, enhancing biomedical research with respect to tobacco, improving the public health, as well as helping our farmers transition away from growing tobacco.

At the outset of my remarks, I want to distinguish carefully and clearly any substantive concerns I have about the legislation that has emerged from the Commerce Committee with my respect and admiration for those who have brought the legislation to this point.

First and foremost, I commend the Chairman of the Commerce Committee, Senator McCAIN. Anybody who knows anything about JOHN McCAIN knows that he is a patriot and true American hero.

As I will lay out, while I do have significant concerns with many of the major details of the legislation that the Commerce Committee has put forward—and would have preferred that we could have worked more closely together—I do commend the efforts of all the members of the Commerce Committee in moving a bill forward for floor consideration.

But before I discuss the policies of tobacco control, I want to sound a cautionary note about its politics.

Pundits report that Democrats are in a "win-win" position on this issue.

As conventional wisdom goes, the minority can keep on moving the goal posts of this legislation, proposing more and more harsh amendments, defying Republicans to vote against their ever-changing version of the bill.

In this way, the Democrats can either foster the perception that they are tougher on Big Tobacco by making the bill more and more onerous, or they can tar and feather any recalcitrant Republicans with the charge that Republicans are in cahoots with Big Tobacco. That is pure bunk.

Listening to the President's press conference last week, I was impressed by his earnest statement that this not be an election year issue. But, as we all well know, any issue raised consistently fewer than six months before an election is an election issue. It cannot be avoided.

All rhetoric aside, the way to accomplish our goal—the reduction of youth tobacco use—is for the Congress and the White House to work together on a bill which can be enacted and implemented. We are not there yet, despite public protestations to the contrary.

A number of key differences in approach are major stumbling blocks to enactment of a bill. These barriers include:

ALLOCATING ANY REVENUES THAT ARE DERIVED FROM A BILL

The Senate budget resolution calls for all revenues to be devoted to Medicare.

While the House has not completed work on its version, there are some in the House who believe that tobacco revenues should be used for more general tax decreases.

Others suggest the tobacco revenues be used to help pay for health insurance for low-income people.

A fourth approach is embodied in the President's budget, which advances a number of new or expanded domestic spending programs that will be financed with tobacco revenues.

DETERMINING THE FINAL COST OF THE PROPOSAL

The bill approved by the Senate Commerce Committee has an initial price tag of $516 billion over the next 25 years, without any calculation of the lookback provision, which naturally could push that price tag much higher.

In contrast, the original settlement offered on June 20, 1997 was $368.5 billion.

Legitimate questions have been raised about the ability of various industry players to pay a sum as high as $500 billion to $700 billion, which is what, extrapolated out, the Commerce bill could cost in the end.

Let's face it, as much as many would like to penalize this industry, we are penalizing ourselves if we enact a new program predicated upon revenues that won't be there.

ASSESSING THE PER PACK OR PER CARTON INCREASE

A related question is the price per product increase that will result from the new industry payments.

A widely-reported figure is the Treasury Department's estimate that the Commerce bill, for example, will result in a per cigarette pack increase of $1.10 five years from now.

As the Judiciary Committee's hearing last week revealed, we do not know the precise methodology the Administration used to make this price projection. Deputy Secretary Summers told the Judiciary Committee last week that he would provide us with the information that I requested, but we are still waiting.

We do know that Wall Street experts, like David Adelman of Morgan Stanley Dean Witter, Martin Feldman of Salomon Smith Barney, and Gary Black of Sanford C. Bernstein, have concluded that the Administration's projections are far too low and that the true retail price of a pack of cigarettes—measured in constant 1997 dollars—will be in the neighborhood of $5 per pack in year 5, more than a $3 increase.

Under this scenario, the price per carton will shoot up $30. This increase is almost twice as high, twice as fast, as the "up to $1.50 per pack" increase over 10 years called for by the President last September.

ASCERTAINING THE EFFECT ON LAW ENFORCEMENT

The Treasury Department testified before the Judiciary Committee last week that "by closing the distribution chain for tobacco products, we will be able to ensure that these products flow through legitimate channels and effectively police any leakages that do take place." In fact, Deputy Secretary Summers said that with these regulatory controls, "we do not expect a large-scale smuggling problem. . ."

Law enforcement officials at all levels with whom I have spoken are not so sanguine. These are the officers who will be on the front lines, policing against the violence, hijackings, smuggling, and other related crimes that are inherent in any opportunity for a black market.

One officer with whom I spoke termed the Treasury statement "laughable."

DEVELOPING A CONSENSUS ON THE AGRICULTURE PROVISIONS

One of the most unifying themes in the tobacco debate is the need to make certain that we provide an adequate program to transition American farmers out of tobacco production into other alternatives.

There are major divisions, however, on how to structure that program. There are two major approaches in the Senate, one developed by our colleague from Kentucky, Senator FORD (the "LEAF" Act), the other by our colleague from Indiana, Senator LUGAR.

The major difference between these two bills is that the Lugar bill terminates the tobacco price support program, while the LEAF bill does not.

The final key difference is in determining the extent of the role of the tobacco companies in any final legislation.

As many are aware, the Department of Justice has undertaken one or more investigations related to tobacco companies.

If there have been violations of the law, they should be prosecuted to their fullest, and it behooves the Department to move forward on its investigations swiftly and conclusively.

But this specter of wrong-doing should not be allowed to cast such a shadow over the tobacco legislation that it becomes an excuse for inaction.

Some have castigated the companies for their departure from directionless congressional deliberations.

I do not believe that Congress needs the approval of the industry to pass tobacco legislation.

As everyone knows, I am no friend of the tobacco industry or their products.

But, having made these points, as a legislator with a deep appreciation of the process of building consensus in our democratic society, I do believe that Congress would be wise to consider the perspectives of the tobacco industry in fashioning legislation.

This is true for one very fundamental reason: we want a program which works, a program with which this tremendously-resourced, tremendously-creative industry will comply.

Perhaps I am just not as smart as those who believe the companies cannot contribute anything constructive to the process.

When Congress is dramatically affecting a sector of the economy, as long as that industry's products are legal, as long as they have a right to perform in our society, then that industry's views should be heard, no matter how much we don't like that industry.

That should not amount to a veto.

No outside group—not the tobacco companies, not the private attorneys, not the state attorney generals, not the public health groups, not anyone—should expect or be granted a veto over this legislation.

What all affected parties should get is a forum for their views, an opportunity to be heard. This is the very essence of democracy.

So I must ask those who pride themselves on not sitting down at the table with this industry to reexamine this position.

I echo the suggestion that Mississippi Attorney General Mike Moore made a few weeks ago, that the President reconvene all of the original participants in these negotiations. Congress should be part of such talks.

It just seems to me that beyond the purely public health issues, tobacco legislation has major social, political, and economic dimensions that argues for an inclusive process as possible.

Some 50 million Americans use these products. Public health experts almost unanimously agree that we should not make them go cold turkey overnight.

There is also the question of political philosophy of whether it is a proper role for the government to take away the freedom of adult Americans to consume tobacco products.

Moreover, as a conservative, I am generally loath to endorse any type of new taxes. I am particularly sensitive about advocating a regressive scheme whereby the lower income segments of our society which have disproportionately higher smoking rates are called upon, in essence, to fund social programs dictated by the political elites.

Tobacco revenue ought not be used to finance an explosion of new entitlements, a veritable "honey pot" of money to fund a mini Great Society.

I am afraid that the President's approach in the budget strays down this path by paying for child care and education initiatives with the as yet agreed upon and uncollected tobacco revenues.

To put it bluntly, the President has spent the money even before Congress has passed a bill.

Also from an economic standpoint, I am mindful that several million decent, tax-paying, Americans are dependent, directly or indirectly, on the tobacco industry for their livelihoods.

We have wisely, I think, sought to make an accommodation to the thousands of tobacco farmer families.

Do we not also have some similar responsibility to carefully consider the economic interests of those who work on the loading docks at Philip Morris or sell cigarettes at the local gas station or 7-11 Store?

Still other of our citizens are shareholders in these firms or may be dependent on pension funds with substantial holdings of tobacco securities.

I note that Yale University, home of one of the most absolutist anti-tobacconists, Dr. David Kessler, recently voted not to divest its tobacco holdings from its endowment investment portfolio. To me, this says a lot.

We in Congress and the Administration must take care not to engage in a game of political one-upsmanship in which we all trip over ourselves in the race to show the public who is the toughest on tobacco.

We may find that in the quest to punish the black-hatted tobacco industry we will have trampled over the interests and security of a lot of ordinary, hard-working Americans.

These are very hard questions to answer, but they are questions which must be resolved before Congress can write a tobacco bill.

Ten days ago, I received a bipartisan letter from four of the State Attorneys General who participated in last year's settlement negotiations.

This letter—which I believe is a serious effort to help Congress make the corrections necessary before we consider the Commerce Committee legislation—highlighted three areas of concern, three particular areas in which Congress runs the risk of undermining the settlement's objectives if it continues down the current road.

I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COLORADO DEPARTMENT OF LAW,
OFFICE OF THE ATTORNEY GENERAL,
Denver, CO, April 24, 1998

Hon. ORRIN G. HATCH,
U.S. Senate,
Russell Building, Washington, DC.

DEAR SENATOR HATCH: We are pleased to respond to your request for our legal views on pending tobacco legislation. You have specifically asked us about any constitutional concerns and the consequences. There are three key issues of concern to us: 1. the difficulty of accomplishing several provisions of the legislation without the industry's waiver of constitutional challenges; 2. the potential for creating a contraband market; and 3. potential bankruptcy of the industry.

We are glad that Congress is now seriously focusing on passing comprehensive tobacco legislation and that full Senate consideration is likely in the near future. We have appreciated the opportunity to work with you, Senator McCain, and others throughout the hearing process and committee consideration of tobacco issues. Your leadership in holding the first Congressional hearings last year addressing the legal complexities of the tobacco settlement was especially helpful. We look forward to continuing to share whatever insight and expertise we have gained from several years of engaging in legal battles with the tobacco industry.

The landmark agreement reached on June 20, 1997, was not perfect, but it includes critical themes which should provide the framework for any Congressional action. Tobacco legislation must be comprehensive. It must pass constitutional muster so the war against teen smoking moves to the streets and not the courthouse. And any financial settlement must not bankrupt the industry and produce even greater problems for the nation.

As lawyers, we believe that the industry's waiver of constitutional challenges is necessary to accomplish many of the public health goals within the bounds of the Constitution. Losing the voluntary nature of the settlement agreement may have severe legal repercussions. Therefore, the following consequences should be considered:

NO CONSENT DECREES

Consent decrees are essential to ensure long-term compliance by the industry with key elements of the comprehensive package. Consent decrees, by definition, require the consent of all parties to the litigation. If a party does not agree to the terms of a proposed decree, then the court cannot thrust a settlement upon the parties. *Theatre Time Clock Co., Inc.* v. *Motion Picture Advertising Corp.*, 323 F. Supp. 172, 173 (E.D. La. 1971). Therefore, If any party objects to a term contained within a proposed consent decree, a court cannot order its acceptance. *Flight Transportation Corp. Securities Litigation* v. *Fox and Co.*, 794 F.2d 318, 321 (8th Cir. 1986). Consequently, if the tobacco industry will not enter into the consent decrees, particularly the advertising restrictions, corporate culture, payments, and other enforcement mechanisms of the decree, the lawsuits cannot be settled with assurance. The states will lose those enforcement mechanisms that were contemplated to be included in such consent decrees.

LOOK-BACK PENALTIES

Penalties must have a direct relationship to the harm being prevented. Penalties imposed by the government must be "rational in light of [their] purpose to punish what has occurred and to deter its repetition." *Pulla* v. *Amoco Oil Company*, 72 F.3d 648, 658 (8th Cir. 1995). Therefore, there must be a reasonable relationship between the penalties imposed and the harm likely to result from the defendant's conduct as well as the harm that has actually occurred. *Id.* at 659 (quoting *TXO Prod. Corp.* v. *Alliance Resources Corp.*, 509 U.S. 443 (1993)).

Although the courts have not articulated any precise formula for ascertaining the "reasonableness" of penalties, Justice Scalia observed that the touchstone is the value of the fine in relation to the particular offense.

Austin v. *United States*, 509 U.S. 602, 627 (1993) (Scalia, J., concurring in part and concurring in the judgment). If there is no reasonable relationship, the penalties would be considered an excessive fine and would not withstand judicial scrutiny. See generally *TXO*, 509 U.S. 443; *Pulla*, 72 F.3d 648.

The June 20 agreement with the tobacco industry had a formula for the penalties imposed, which linked the actual cost of a youth who begins smoking and the profit received from that youth over the course of his life, to the amount of the penalty. This demonstrates precisely the type of rational relationship required by courts.

However, the proposed look-back penalty may not pass judicial scrutiny. At $3.5 billion, the fines are the largest imposed on any industry for any conduct. As originally proposed, the penalties could be suspended if the manufacturers made serious, good faith efforts to curb youth smoking but, unfortunately, failed to successfully change the behavior of teenagers. This approach provided a due process review, rather than imposing penalties through strict liability. Under the current Senate Commerce bill, the companies will be penalized even if they make every reasonable attempt to halt youth smoking.

A look-back penalty closely tied to tobacco company behavior, or a penalty voluntarily agreed to by the companies, is constitutionally sound and a valuable mechanism for fighting youth smoking.

ADVERTISING AND MARKETING RESTRICTIONS

The District court in *Beahm* v. *U.S. Food and Drug Administration*, 966 F.Supp. 1374 (M.D.N.C. 1997), held that the FDA's regulations relating to restrictions on tobacco advertising were beyond the authority of the FDA and, therefore, were invalid. This case is currently on appeal to the Fourth Circuit. Although that court has not yet ruled on the validity of existing FDA advertising regulations, even if it should find that those regulations are within the purview of FDA control, the advertising and marketing restrictions set forth in the June 20th agreement may not survive First Amendment review. This is in part because the restrictions envisioned by the June 20 agreement are much more expansive than the FDA restrictions currently being litigated. The total ban on outdoor advertising, black and white only ads, prohibition on Internet advertising, and prohibition on event sponsorship are but a few examples of the marketing and advertising restrictions contained in the June 20 agreement, implemented by the voluntary Master Settlement Agreement, Protocol and consent decree.

It has been recognized that the First Amendment "directs us to be especially skeptical of regulations that seek to keep people in the dark for what the government perceives to be their own good." *Liquormart, Inc.* v. *Rhode Island*, 116 S.Ct. 1495, 1508 (1996). Furthermore, even communications that do no more than propose a commercial transaction are entitled to the coverage of the First Amendment. *Id.* In recognition of the seriousness of this issue, the Supreme Court has stated that "when a State entirely prohibits the dissemination of truthful, nonmisleading commercial messages for reasons unrelated to the preservation of a fair bargaining process," strict scrutiny is applicable. *Id.* at 1506. Consequently, in order to survive judicial review, the government must demonstrate that its restriction on speech was no more extensive than necessary. *Id.* at 1509. Because of this heavy burden, "speech prohibitions of this type rarely survive constitutional review." *Id.* at 1508.

Although the June 20 agreement with the tobacco companies does not propose a total ban on advertising, its expansiveness may nonetheless cause a reviewing court to apply the strict scrutiny review utilized in *Liquormart*. As that court recognized, not all commercial speech regulations are subject to a similar form of constitutional review. *Id.* at 1507. Therefore, when a state regulates commercial messages to protect consumers from deceptive, misleading, or otherwise harmful advertisements, "less than strict review" is appropriate. *Id.* However, because the advertisements forbidden by the June 20 restrictions would have presumably been truthful in nature and the restrictions are being implemented for purposes other than protecting the bargaining process, it seems likely that this less stringent standard of review would be inapplicable. Consequently, the government would have to demonstrate that there were no less intrusive means available to accomplish their goals. As the court in *Liquormart* recognized, application of this standard usually acts as the death knell for government restrictions. *Id.* at 1508.

In this same vein, the restrictions included in the June 20 agreement could probably not be characterized as time, place or manner of expression restrictions, which carry with them a less stringent standard of review. Specifically, such bans are content neutral. See generally *Kovacs* v. *Cooper*, 336 U.S. 77 (1949). Conversely, the bans envisioned in the agreement are obviously content driven.

In sum, the expansiveness of the proposed advertising restrictions as well as the high burden that must be met in order to justify such restrictions, raise serious concerns that without the industry's voluntary consent and participation, the advertising prohibitions envisioned in the June 20 agreement may not survive First Amendment scrutiny.

Additionally, the June 20 agreement incorporated the FDA regulations, which, if overturned by the Fourth Circuit, would also be unavailable as a regulatory mechanism. While it is true that the industry would have some incentive to limit its advertising and marketing to achieve the look back requirements, if the look back penalties are also found to be legally deficient, their value as an incentive would be eliminated.

ADVERTISING RESTRICTIONS AGAINST RETAILERS, DISTRIBUTORS, WHOLESALERS, AND ADVERTISING BUSINESSES

The June 20 agreement contemplated that the participating companies would police their retailers, wholesalers, distributors, and advertising agencies by contract and by refraining from placing ads with them. These voluntary implementation mechanisms were to be built into the Master Settlement Agreement, Protocol and consent decrees. However, any legislation that could be unconstitutional as to the industry could also be unconstitutional as to the related agents. Therefore, the same First Amendment issues that could preclude the government from instituting blanket prohibitions on advertising by tobacco manufacturers may also preclude prohibitions affecting industry agents.

DOCUMENT DISCLOSURE

The public depository of documents set forth in the June 20 agreement presumed some level of voluntary participation on the part of the tobacco industry. While documents filed in court, or otherwise made available to the public, can certainly be put in a central public depository, it is questionable that the industry can be required to release documents not otherwise available, including documents it considers privileged or confidential, as well as any future documents or research.

Obviously, almost any American business would object to the government seizing its internal corporate documents and opening them for inspection. The depository raises both private property and search and seizure concerns.

The Fifth Amendment provides in part: "nor shall private property be taken for public use, without just compensation." U.S.C.A. Const. Amend. 5. It has been widely recognized that the property to which this amendment applies is that which "is made up of mutually reinforcing understandings that are sufficiently well grounded to support a claim of entitlement." *Nixon* v. *U.S.*, 978 F.2d 1269, 1275 (1992) (recognizing that former President had a property interest in presidential papers). Those property interests may be created in a myriad of ways, including uniform custom and practice. *Id.* at 1276.

Accordingly, the documents that were to be deposited by the tobacco companies in a public depository constitute "property" for Fifth Amendment purposes. This conclusion is consistent with the district court's decision in *Nika Corp.* v. *City of Kansas City*, 582 F. Supp. 343 (W.D. Mo. 1983), wherein it was held that a corporation's documents constituted "property" invoking Fifth Amendment protections. See also *U.S.* v. *Dauphin Deposit Trust Co.*, 385 F.2d 129 (3rd Cir. 1967) (trust company had a property interest in various business records). In *Nika* the court held that the government could not confiscate particular business documents without providing for a method of compensation for such taking. *Id.* Although the court found that there were adequate means provided in that case, this clearly demonstrates that corporate documents constitute "property" for Fifth Amendment purposes, thereby invoking the necessity for compensation when the government takes such for public purposes. Consequently, there is a strong possibility the tobacco companies could not be compelled to deposit the documents specified in the June 20 agreement without just compensation.

Furthermore, if the Fifth Amendment protects the industry from being required to hand over to the government all of its documents, it seems that it would also protect them from being required to pay the costs of the depository, unless the costs are somehow built into other licensing fees.

The tobacco companies would almost certainly raise objections based on case or controversy and standing against individuals wishing to challenge a decision by the companies to withhold documents. Under Article III, §2 of the Constitution, the federal courts have jurisdiction over disputes only where there is a "case" or "controversy." *Raines* v. *Byrd*, 117 S.Ct. 2312, 2317 (1997). One element of that test requires the complainant to establish that they have standing to sue. *Id.* This requires the complainant to demonstrate that he has suffered a personal injury fairly traceable to the defendant's allegedly unlawful conduct * * *.' *Id.* Therefore, any individual wishing to protest tobacco companies' refusal to disclose documents would have to establish that they were injured by such refusal Presumably, the only means of doing so would be to assert that the refusal negatively impacted their own personal pending litigation with a particular tobacco company. However, this would be difficult to demonstrate because a tobacco company's refusal to deposit documents in a public depository is not the equivalent of refusing to produce those documents in a particular action. Consequently, any individual wishing to protest the tobacco companies' refusal to disclose documents might have to wait until their own suit was filed, motions for discovery were made, and a particular tobacco company refused to comply, before they would have standing on this issue. Even then, they might not be able to demonstrate that they were somehow injured by the tobacco company's refusal to place such documents in a public depository.

One of the primary benefits to individual claimants of having the industry documents placed in a public depository, aside from having ready access to the documents, is the voluntary agreement of the companies not to challenge the authenticity of the documents when they are offered as evidence in individual trials. The companies are now well-known for fighting vigorous evidentiary battles. If the industry does not enter into the voluntary agreements, one can also assume that they will challenge the introduction of these documents in individual trials, resulting in considerably more expense for the plaintiffs than was envisioned under the June 20 agreement.

CONTRABAND

As law enforcement officials of the states, we are also concerned about the danger of creating a contraband market for tobacco products. Our children will not be helped by creating a new product line for organized crime, nor by providing a new entry market for drug dealers. Additionally, the adverse health consequences of smoking cigarettes produced in unregulated foreign or clandestine domestic markets are likely to be even more significant than cigarettes produced by the existing U.S. companies.

The experience of the states with relatively high tax rates on tobacco products has been studied in some detail. Revenues lost to smuggling cigarettes into these states has been a major concern. This is estimated to be a $1 billion per year problem nationwide. In 1988 California increased its tobacco tax from 18 cents to 35 cents per pack and today the contraband market is estimated to be between 17.2 and 23% of cigarettes sold. Michigan increased its cigarette tax in 1994 from 25 cents to 35 cents a pack. Michigan lost an estimated $144.5 million per year in tax revenue. Washington State increased its tax in 1997 to 82.5 cents per pack, and lost an estimated $110 million a year to smuggling. New York State, with a 56 cent state tax estimates it is losing about $300 million of tax revenue per year due to smuggling. The typical scenario after a state makes a significant increase in its cigarette tax is a decrease in sales in that state, but a marked increase in sales in neighboring states. Smoking rates in the higher-tax state typically remain the same, so the increase in sales reflects purchases to take into the higher-tax state.

There is a definite correlation between tax rates and the level of smuggling. For many years, the differential in tax rates on tobacco products was mainly an interstate problem with contraband products being smuggled into those states with the highest tax rates. The problem has now reached international proportions. At first, popular American brands were smuggled into other countries. We are now seeing that as tobacco taxes rise nationwide, foreign manufactured cigarettes and other products are being smuggled into the United States.

BANKRUPTCY

Finally, we believe it to be in the best interests of accomplishing the broad public health goals of legislation to avoid bankruptcy of the tobacco industry.

Critics of the June 20 settlement have suggested that bankruptcy is not a great risk. This industry has a history of annual domestic profits. For example in 1996 Philip Morris and RJR (76 percent of the market) had domestic profits of $6.3 billion. While it is not possible to determine precisely the market value of the domestic tobacco companies (not the parent companies), it is possible to estimate their market value—if they were sold today. The stock of the Nabisco Food Company, which is 80.5 percent owned by RJR, trades publicly. This allows an extrapolation of the value which the market places on RJR's tobacco operations. That value is $1.184 billion. Part of that is comprised of international operations and part is domestic. Foreign tobacco companies like Imperial and Gallaher trade at price earning rations of 10 to 11. If one uses a 10.5 P/E for Reynolds' international earnings, Reynolds' domestic operations have a negative market value of $1.1196 billion. Using similar valuation methods for the other companies, Brown & Williamson is worth a negative $240 million; Lorillard is worth a positive $641 million and Philip Morris USA is positive $3.855 billion. If one were to ignore the fact that foreign tobacco companies trade at P/E's higher than the imputed value of domestic companies and assume identical valuation of domestic and foreign companies, the entire domestic industry could be worth as much as $21.484 billion. On this basis, the total market of the industry (both foreign and domestic) is estimated to be less than $50 billion. Liability to the states alone exceed several hundred billion dollars. The conclusion is obvious—this is an industry that produces significant cash but has questionable inherent value as many industry assets cannot be converted to other uses and have little value outside the tobacco environment.

State Attorneys General do not seek financial ruin of any industry. It is our job to bring about compliance with the laws and that is what we seek from the tobacco companies. This is an industry that sells a legal product, employs thousands of people, and provides a living to many more, ranging from farmers to retailers. Our goal has been to hold the industry accountable for its actions, and to provide for significant public health gains. If the current companies are liquidated, new companies can be expected to step into the breach, within or outside this country. We would have virtually no claims against these replacement tobacco companies for past industry practices. Further, foreign tobacco companies (possibly with manufacturing operations abroad) might immediately step in to satisfy US demand for cigarettes. This, of course, could hurt our farming communities and those whose employment depends on this industry.

In conclusion, we appreciate your interest and efforts to move comprehensive legislation forward. We are concerned that the fundamental goal of reducing youth smoking may be lost in the current political rhetoric. It's time for action and for comprehensive legislation to achieve this goal now, not after years of additional litigation and debate.

Sincerely,

GALE A. NORTON,
Attorney General,
State of Colorado.
BETTY D. MONTGOMERY,
Attorney General,
State of Ohio.
JAN GRAHAM,
Attorney General,
State of Utah.
CHRISTINE O. GREGOIRE,
Attorney General,
State of Washington.

Mr. HATCH. In brief, the concerns highlighted in this letter from the Attorneys General of Colorado, Ohio, Utah and Washington are:

(1) The difficulties created by enacting legislation without the industry's voluntary waiver of several constitutional prerogatives.

The Generals raise specific legal concerns about attempting to legislate in the absence of consent decrees and other voluntary agreements with the industry.

These concerns go to several major features of any comprehensive bill: advertising and marketing restrictions (including restrictions affecting retailers, distributors, and advertisers); look back penalties; and document disclosure.

We should also take to heart General Mike Moore's observation that, in the nearly three years since it was first proposed, the FDA's rule on tobacco advertising has not gone into effect.

We all know the cause: litigation.

But by settling the lawsuit, in Mississippi, there is no billboard advertising today, a result that goes far beyond the FDA rule and what the Constitution would permit us to do legislatively.

(2) The second concern of the Attorneys General is the untoward effect that the potential bankruptcy of the tobacco industry would entail. Let me be clear about my position on this.

I would like nothing more than for the tobacco industry to pay a trillion dollars. But I also want an anti-tobacco program which works. All of the bills before Congress have in common a serious effort to curtail youth tobacco use. All of the bills rely on industry payments to fund those efforts.

If we bankrupt the companies, or if we drive them offshore, ultimately no one wins, because we need the industry payments to fund the massive anti-tobacco program the American public wants. Without that funding source, the whole program goes down the drain.

If the companies become bankrupt or move offshore, it is a whole new ball game, and one which we cannot control.

It would be more intellectually honest just to ban tobacco.

On this subject, the AGs' letter said:

> State Attorneys General do not seek financial ruin of any industry. It is our job to bring about compliance with the laws and that is what we seek from the tobacco companies. This is an industry that sells a legal product, employs thousands of people, and provides a living to many more, ranging from farmers to retailers. Our goal has been to hold the industry accountable for its actions, and to provide for significant public health gains. If the current companies are liquidated, new companies can be expected to step into the breach, within or outside

this country. We would have virtually no claims against these replacement companies for past industry practices. Further, foreign tobacco companies (possibly with manufacturing operations abroad) might immediately step in to satisfy U.S. demand for cigarettes. This, of course, could hurt our farming communities and those whose employment depends on this industry.

(3) The third major point of concern for the Attorneys General is the potential for increasing the black market for illegal contraband cigarettes.

A recent case study from Alaska is illustrative. Five months ago, Alaska increased its cigarette tax from 29 cents to one dollar. From all we know about nicotine addiction, the resulting decrease in sales cannot be explained by sudden cessation. Rather, it appears that legal sales were replaced in part by black market cigarettes. The Alaskan legislature is considering rolling back some of the tobacco taxes.

With respect to the issue of contraband the AGs' letter says:

> As law enforcement officials of the states, we are also concerned about the danger of creating a contraband market for tobacco products. Our children will not be helped by creating a new product line for organized crime, nor by providing a new entry market for drug dealers. Additionally, the adverse health consequences of smoking cigarettes produced in unregulated foreign or clandestine markets are likely to be even more significant than cigarettes produced by the existing U.S. companies . . .

The letter from the AGs notes that the cigarette contraband problem is already $1 billion nationally. For example, the AGs provide an estimate that in the state of California—which raised its state tobacco tax in 1988 from 18 cents to 35 cents a pack—that today between 17% and 23% are smuggled. That's about 1 in every 5 cigarettes.

The AG's letter goes on to say:

> There is a definite correlation between tax rates and the level of smuggling. For many years, the differential in tax rates on tobacco taxes was mainly an interstate problem with contraband products being smuggled into those states with the highest tax rates. The problem has now reached international proportions. At first, popular American brands were smuggled into other countries. We are now seeing that as tobacco taxes rise nationwide, foreign manufactured cigarettes and other products are being smuggled into the United States.

I have also received letters from a number of law enforcement organizations, whose thousands of members will be expected to provide the first line of defense against these smugglers. These law enforcement officers are extremely apprehensive that passage of this legislation will precipitate the emergence of a thriving black market in cigarettes, posing huge problems for law enforcement at every level. They say the Commerce bill, in particular, will inevitably lead to the creation of a massive black market, giving organized crime a new line of business and undermining not only respect for the rule of law, but also the real goal of the legislation, preventing underage tobacco use.

I might also add that one of the most frightening outcomes of a new black market would be the likelihood that children will find it easier than ever to purchase tobacco products.

One of government's principal responsibilities is to help families and communities keep children from smoking. A large, lucrative black market could have the unintended consequences of making parents' job harder.

It is not too hard to envision unregulated cigarettes being sold on literally every street corner.

In response to this concern we have been told by the Administration not to worry because the system contemplated by the Commerce Committee bill is a closed system.

When our colleague from California, Senator FEINSTEIN, asked a series of questions about this black market she was repeatedly told about this purported closed system.

I believe that Senator FEINSTEIN shares my concern about the government's ability to design a "closed system," given our experience with guarding the nation's borders and safeguarding our children in the costly and never-ending battle against illicit drugs.

I share Senator's FEINSTEIN's pointed remarks on this issue because I, too, simply do not believe that this closed system will prove so easy to implement.

It seems to me that the real question for policymakers is this. Given these facts, how can we shape a comprehensive national tobacco control strategy that can help prevent the next generation of young Americans from choosing to use tobacco and help those already addicted to stop?

In my view, most of the essential elements for answering this question can be found in the proposed global tobacco settlement announced last June 20th.

In return for funding a comprehensive anti-tobacco education and cessation program with an unprecedented payment of $368.5 billion spread over 25 years, under the agreement the industry would be granted a measure of financial certainty and predictability by settling a series of pending lawsuits.

Now, almost 11 months after that settlement was proposed, it still holds forth the best model for comprehensive legislation which can be enacted this year.

It contains the limited liability provisions which are necessary to evoke tobacco industry compliance with the program.

The President's most senior representatives have said, both publicly and privately, that they would not oppose some version of those provisions in a bill which was otherwise acceptable. It is not the breaking point some assert it to be.

The AGs' proposal also avoids some of the pitfalls inherent in legislation currently being discussed. For example, it will pass Constitutional scrutiny.

At some point, you have to stand up for some principles like the First Amendment's protection of commercial speech—a principle that, according to virtually every constitutional law expert that has testified before the Judiciary Committee, will be subject to court intervention if advertising and promotion restrictions of tobacco products are written into a federal statute.

For example, noted First Amendment practitioner Floyd Abrams has stated that attempting to codify the existing FDA rule—currently held in abeyance pending further judicial proceedings in the Fourth Circuit Court of Appeals, would run afoul of First Amendment protection.

By virtually insisting that the Commerce Committee codify the FDA rule, the Administration is risking a protracted Constitutional battle over advertising provisions that industry will voluntary go far beyond.

Still others point out that, absent industry agreement by contract and consent decree, it will be unconstitutional to require so-called industry lookback penalties if certain tobacco reduction targets are not met.

Mr. President, these are issues that concern me very much.

They are issues which merit serious study, and then concerted action, but they should not be stumbling blocks to enactment of a final bill.

I am alarmed.

I see the sands racing through the hourglass as we move toward adjournment, but I do not see consensus emerging on the shape of tobacco legislation.

Indeed, I see the Congress increasingly polarized, as members race into either one of two camps: the "keep-upping-the-ante" faction, those who will "pile on" any punitive bill, or the "minimalist approach" contingent.

The result of this polarity is a paralysis which cannot be breached until we realize we are jeopardizing our effectiveness through politicization.

Surely there is a middle ground, a basis for legislation which focuses on our real target—weaning a generation of kids off of nicotine—not on the politics of punishment.

These political games not only disappoint those we represent, but also, as I have outlined, punish them as well.

We owe our kids, and we owe their parents, hard-working Americans in every state, so much, much more.

RELEASE OF WINDOWS 98

Mr. HATCH. Mr. President, I am told that this afternoon in New York City Bill Gates and a number of other executives from throughout the computer and software industries will be holding a press conference urging law enforcement officials not to interfere with the release of Windows 98.

I certainly do not begrudge Mr. Gates or others in the industry to make their views known. That is what makes our democracy work. Indeed, I would like nothing more than to see more enlightened debate on this terribly important policy issue. But I cannot help but wonder how many of these executives are on that stage because they truly want to be. It strikes me as curious that it was only after calls from Microsoft that many of these individuals saw fit to sign letters and make public appearances. Indeed, I have been told that some executives in fact hope to see the Justice Department pursue further its case against Microsoft, but have chosen to join Mr. Gates on that stage today because they feel they have little choice but do so in order not to jeopardize their relationship with the industry's most powerful and important player. I understand perfectly well that no one would publicly admit as much, but, given recent developments, I do believe it is a question worth considering.

But, I also think it is timely to review where we stand today as the Justice Department considers whether to bring a broader suit alleging anti-competitive or monopolistic practices by Microsoft.

I first raised the question of Microsoft's seemingly exclusionary licensing practices last November. While we are not privy to all of the licensing and other practices the Justice Department has been scrutinizing, over the past few months a number of specific practices have come to light. In particular, we have learned that Microsoft not only tied the shipment of its browser, Internet Explorer, to its monopoly operating system, Windows, but also engaged in a series of licensing practices with respect to computer makers, Internet Service Providers, and Internet Content Providers which appear designed not to serve consumers but rather to exclude competing browser companies from the marketplace. For a company with a monopoly in the personal computer operating system market—and nobody other than Microsoft would dispute that the firm has monopoly power—to use its monopoly power to exclude potential rivals clearly raises serious antitrust concerns.

Let me point out that such seemingly predatory and exclusionary practices raise concerns for even the most conservative, free-market antitrust thinkers. Judge Robert Bork, one of the most brilliant and highly respected conservative antitrust thinkers, and author of the renowned "Antitrust Paradox," just yesterday explained in The New York Times why even he is troubled by what he has learned of Microsoft's practices. As Judge Bork wrote:

> [w]hen a monopolist employs practices and makes agreements that exclude competitors and does so without the justification that the practices and agreements benefit consumers, the company is guilty . . . of an attempt to monopolize in violation of Section 2 of the Sherman Act. When its own documents display a clear intent to monopolize through such means, the case is cold.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 4, 1998]

WHAT ANTITRUST IS ALL ABOUT

(By Robert H. Bork)

WASHINGTON.—Rarely does a prospective antitrust case roil public passion. But since it became known that I represent a company urging the Justice Department to challenge certain of Microsoft's business practices, my mail has certainly livened up. One letter writer complained that I had sold my "sole." His spelling aside, that writer was at least kinder than the one who labeled me senile.

There seems to be a widespread impression that the Microsoft controversy should be resolved by an ideological litmus test: liberals are bent on punishing success, and conservatives must defend Bill Gates' company from any application of the antitrust laws. But the question is not one of politics or ideology; it is one of law and economics. And that is why an outspoken free marketeer like me can be found arguing against Microsoft.

Indeed, in Congress and among the players, liberals and conservatives, Democrats and Republicans are found on each side of the controversy. What, then, is the complaint of the many companies that are urging action by the Justice Department?

These companies—customers as well as rivals of Microsoft—challenge some of Microsoft's business practices as predatory, intended to preserve the company's monopoly of personal computer operating systems through practices that exclude or severely hinder rivals but do not benefit consumers. Microsoft's effort to maintain and expand a market dominance that now stands at 90 to 95 percent violates traditional antitrust principles. Specifically, it violates Section 2 of the Sherman Act, territory visited decades ago by the Supreme Court.

The case, from 1951, was Lorain Journal Company v. United States, and the Court's ruling is directly on point. The Journal, in the Court's description of the case, "enjoyed a substantial monopoly in Lorain, Ohio, of the mass dissemination of news and advertising." The daily newspaper had 99 percent coverage in the town.

"Those factors," the Court said, "made The Journal an indispensable medium of advertising for many Lorain concerns." A minor threat to The Journal's monopoly arose, however, with the establishment of radio station WEOL in a nearby town. The newspaper responded by refusing to accept local advertising from any Lorain County advertiser that used WEOL.

The Supreme Court called that an attempt to monopolize, illegal under Section 2 of the Sherman Act. There being no apparent efficiency justification for The Journal's action—that is, no evidence that it resulted in an operation whose efficiency somehow benefited consumers—it was deemed predatory. To those who say I have altered my longstanding position to represent an opponent of Microsoft, I'm happy to note that 20 years ago I wrote that the Lorain Journal case had been correctly decided.

The parallel between The Journal's action and Microsoft's behavior is exact. Microsoft has a similarly overwhelming market share, and it imposes conditions on those with whom it deals that exclude rivals without any apparent justification on the grounds of efficiency. In fact, the case against Microsoft is stronger, for there are many documents in the public domain that make clear that Microsoft specifically intended to crush competition.

We may not yet know all of the exclusionary practices, but we do know many. Here's a sampler:

Microsoft's operating system licenses have forbidden "original equipment manufacturers"—makers of personal computers—to alter the first display screen from that required by Microsoft. Microsoft thus controls what the consumer sees. This restriction also hampers consumers' use of competing browsers to search the Internet or to serve as an alternative platform for other programs.

Microsoft has restrained Internet service providers and on-line services, which are forced to deal with Microsoft because of its monopoly in the Windows system. For instance, it has forbidden service providers to advertise or promote any non-Microsoft Web browser or even mention that such a browser is available. Netscape and others are denied an important distribution channel to consumers.

Companies that provide content on the Internet, to gain access to Microsoft's screen display, have been forced to agree not to promote content developed for competing platforms.

When a monopolist employs practices and makes agreements that exclude competitors and does so without the justification that the practices and agreements benefit consumers, the company is guilty, as was The Lorain Journal, of an attempt to monopolize in violation of Section 2 of the Sherman Act. When its own documents display a clear intent to monopolize through such means, the case is cold.

Netscape and the other companies seeking an end to these practices are not asking the Justice Department to take any action that would interfere in the slightest with Microsoft's ability to innovate. The department is simply being asked to stop Microsoft from stifling the innovations of others. The object is to create a level playing field benefiting consumers. That is what antitrust is about—a view that should require no one to sell his "sole."

Mr. HATCH. Anyone who knows Judge Bork knows that he would never take the position he has taken were he not convinced that it was 100 percent consistent with the antitrust views he has long espoused.

Similarly, Daniel Oliver, former chairman of the Federal Trade Commission under President Reagan, just published a piece in the May 4 edition of The National Review. Mr. Oliver, long known as a free-market proponent who generally opposes all but the most justified government intervention in the marketplace, had this to say:

> If ever there was a case that raises consumer-welfare issues, this would seem to be it. Microsoft has a 90 per cent share of a world market; there are reasons to think that share will endure; Microsoft has engaged in restrictive practices; and many of

those practices do not appear to have any efficiency justifications that would benefit consumers rather than the company. Where you find a dead body, a bloody knife, fingerprints, and a motive, there may have been a crime.

I ask unanimous consent that this article as well be printed in the RECORD, along with a personal letter I received several weeks ago from Mr. Oliver and from Mr. James Miller, also a former chairman of the Federal Trade Commission and director of the Office of Management and Budget under President Reagan.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the National Review, May 4, 1998]

NECESSARY GATESKEEPING . . .

DOES ANTITRUST LAW PROTECT CONSUMER WELFARE, OR PUNISH THE FIRMS CONSUMERS PREFER?

(By Daniel Oliver)

The Department of Justice is pursuing Microsoft on antitrust grounds, and a number of conservative writers and organizations have gone to Microsoft's defense, including the Wall Street Journal, Jack Kemp, Adam Thierer of the Heritage Foundation, Thomas Sowell—and National Review. They proclaim that the free market is a better protector of consumer welfare than government; and their visceral distrust of government activity is welcome in this post-the-era-of-big-government-is-over era. But for antitrust cases, which are complex and fact-specific, the head is a better guide than the viscera.

The charges against the Justice Department's lawyers are familiar—and all the more persuasive because government lawyers have certainly been guilty of such things in the past. They are accused of arrogant industrial planning, micromanaging, trying to second-guess the market and pick winners, supporting Microsoft's competitors rather than competition, and going off on a leftward regulatory lurch. However, even if all those charges against the Justice Department were true, there could still be a case against Microsoft that would benefit consumers.

The central problem the critics of the Justice Department have to deal with is that Microsoft probably has "market power"—or the ability to threaten consumer welfare. (Market power is determined by looking at market share and a company's ability to maintain it.) Microsoft has approximately 90 percent of the world market for PC operating systems. In a large market—the world—90 percent is huge.

But the critics are reluctant to concede the importance—or even the existence—of Microsoft's large market share. One critic claims the appropriate market in which to measure Microsoft's share is the entire $570-billion computer industry, of which Microsoft controls only a small portion. Alternatively, he suggests that the appropriate market is all software, of which Microsoft produces only 4 percent. In antitrust whoever defines the market controls the debate. If you define the market broadly enough, no one company will ever seem to have enough power to harm consumer welfare.

Some of the Justice Department's critics maintain that Microsoft's large market share is irrelevant by claiming that barriers to entry into the software business are low, and that we can expect competitors to come along and unseat any incumbent monopolist.

The software industry, however, is characterized by extremely low marginal costs. Unlike the second automobile off an assembly line, the second copy of a new software program costs virtually nothing to produce—which gives established companies a tremendous advantage over their competitors. In addition, what economists call "network effects" make entry into the software business difficult. The more people there are who use a particular computer system, the more valuable that system will be—and the more difficult it will be for the producer of a new product to get it accepted by the "installed base" of consumers using both the established product (the operating system) and the ancillary products (software written for that system). The unprecedented economies of scale resulting from low to no marginal cost for production combined with network effects make the "natural" barriers to entry into the software market substantial.

The fact is, Microsoft seems to have a monopoly (i.e., market power), and that should be a source of concern to consumers—not because Bill Gates might turn out to be an evil genius, but because he will be inclined to behave like—a monopolist.

Microsoft may have earned its monopoly in operating systems by providing a product preferred by most customers. But can we say the same thing about its share of, say, the word-processing market? In 1995, WordPerfect was the most popular word-processing program, with 60 per cent of the market. Today WordPerfect is down to 13 per cent, and Microsoft's MS Word has about 80 per cent. That's a remarkable shift of consumer preferences.

How did Microsoft do it? Did consumers find it difficult to run WordPerfect on Microsoft's operating system? Suppose, hypothetically, that Microsoft used its monopoly position in operating systems to make WordPerfect work less perfectly, with the intention, and result, of driving people from WordPerfect to Microsoft's own word-processing product. It shouldn't take a left-winger to spot the consumer harm. Consumers would be denied real choice.

The point is not that Microsoft has misused its position, but that if Microsoft is in a position to misuse its position, consumers, and their champions at the Justice Department, should be concerned.

The current concern is that Microsoft might use its position in the operating-systems market to: (1) monopolize access to Internet content; (2) monopolize the market for web browsers; or (3) maintain its current share of the operating systems market by making sure that other web-browser products will not, when combined with Internet applications, amount to an alternative operating system. If Microsoft succeeds in any of those endeavors, consumers will be harmed by not being free to choose other products.

Bill Gates "scoffs" at rivals' charges of anti-competitive behavior and "bristles" at the mention of the word monopoly. But the evidence suggests that Microsoft has routinely engaged in sharp-elbow practices that seem designed to preserve or extend its monopoly. Under repeated questioning at a Senate hearing in March, Gates finally conceded—for the first time publicly—that Microsoft puts restrictions in its contracts that bar some of the websites featured in its Internet software from promoting Netscape or being included in Netscape's rival listing. Microsoft has also required computer manufacturers to pay license fees for products even if they didn't install them. Once they have paid for the Microsoft product, they will have less incentive to pay for a competing product. That makes it more difficult for competitors to sell to the computer manufacturers.

The Justice Department's action is designed to assist competition and innovation. A software geek with a new idea, or the investors he goes to for seed capital, may rightly fear that, even if he can get to production, his product will be duplicated by Microsoft and then bundled into its operating system. While he might develop property rights that would be protected by the intellectual-property laws, he is not likely to have the cash to assert those rights against monopoly-rich Microsoft.

There are three policy options for dealing with monopolies: outlaw all monopolies; allow monopolies to function completely unfettered; or allow monopolies to exist but with some limitations on what they can do. U.S. public policy has selected the third option in the belief that it will produce more consumer welfare than the others.

If ever there was a case that raised consumer-welfare issues, this would seem to be it. Microsoft has a 90 per cent share of a world market; there are reasons to think that share will endure; Microsoft has engaged in restrictive practices; and many of those practices do not appear to have any efficiency justifications that would benefit consumers rather than the company. Where you find a dead body, a bloody knife, fingerprints, and a motive, there may have been a crime.

Objecting to the Microsoft case is tantamount to saying we shouldn't have any antitrust laws at all. That may not be intellectually scandalous, but it is certainly a minority position, and not the position of the Chicago School or the people who served in the Reagan Administrations—or even one dictated by common sense.

MARCH 19, 1998.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR: As the two chairmen of the Federal Trade Commission during the Reagan Administrations, whose responsibility it was to enforce the antitrust laws, we want to applaud your investigation into whether those laws are adequate to deal with competition issues in our information technology economy.

A number of prominent conservatives have criticized you, as well as the Justice Department which has brought a case against Microsoft, on two grounds: that the free market will protect consumers' interests; and that government intervention will in no event be beneficial.

We disagree with these criticisms in the instant case. Although we are and have been extremely skeptical of government intervention in the economy—as is evidenced by the innumerable statements we have made over the years—we believe government does have a role to play in keeping markets free and that the Microsoft situation deserves serious review.

Whether Microsoft has "market power"—a technical term—which raises antitrust concerns is, of course, a separate question. Microsoft clearly plays a dominant role in the market for computer software systems. Moreover, as you discovered—with some difficulty—at the Senate Judiciary Committee hearing on March 3rd, Microsoft appears to have engaged in certain practices designed to restrict the activities of its competitors. On the other hand, Microsoft's dominant role in the PC operating systems market may not imply monopoly power and in any event may evanesce within a few years. This is an empirical matter, and an informed judgement awaits further information and analysis.

The purpose of this letter is not to write a brief against Microsoft. It is only say what we think should be obvious: that the Microsoft situation raises serious concerns about the vigor of competition in the market for PC operating systems. After all, Microsoft is not the corner drug store, or the local bakery. It is a world wide company, with a market value greater than IBM and General Motors combined, doing business in this country's, and perhaps the world's, most important industry. The extent of competition in this industry should be of vital concern to your committee as you contemplate the efficacy of the antitrust laws to protect the interests of consumers.

Those who profess to be unconcerned by Microsoft's position and behavior may say they are followers of the Chicago School of economics—which is a shorthand way of expressing great skepticism about antitrust enforcement and government intervention into the economy.

We share those concerns, as is evidenced—to repeat—by the myriad public statements we have given over many years. But in our judgement, not to be concerned by Microsoft is neither good public policy, nor does such an attitude reflect an accurate understanding of the Chicago School.

Finally, we want to address what we think is a strawman issue: that government (the Justice Department and the Senate Judiciary Committee) is only acting in response to the whining of Microsoft's competitors who are attempting to get from politicians what they have been unsuccessful in obtaining in the market place. We know from experience that such protestations are not an accurate guide to the competitiveness of the market. But even if the current inquiry is prompted by the efforts of Microsoft's competitors, this motivation bears little relation to the facts of the case. Microsoft either is or is not behaving properly, and the antitrust laws either are or are not adequate for current circumstances wholly independently of what Microsoft's competitors are trying to accomplish.

For that reason we applaud your investigation, wish you every success, and offer to help in any way we can.

Yours sincerely,

JAMES C. MILLER III.

DANIEL OLIVER.

Mr. HATCH. There are those who object that the Government should not interfere with the dynamic hi-tech marketplace. I agree with those who espouse a natural, instinctive skepticism toward any Government intervention in the marketplace. But enforcement of the antitrust laws may be all the more important if innovation in the most important, fast-growing sector of our present and future economy is being suffocated under the thumb of a company both willing and able to exploit its monopoly power.

The media campaign surrounding the public release of Windows 95 was accompanied by a theme song. As I recall, it was the Rolling Stones' hit song Start Me Up. For innovators seeking to compete with Bill Gates, for PC makers who feel that they have little choice but to steer clear of any actions that might upset their relationship with Microsoft, and for consumers, beholden to Microsoft for software products, I wonder whether the theme song for Windows 98 shouldn't be another Rolling Stones hit—Under My Thumb.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

THE FARM CRISIS IN NORTH DAKOTA

Mr. CONRAD. Mr. President, I rose yesterday to discuss the farm crisis in my home State of North Dakota. Yesterday, I showed a chart that showed what has happened to farm income in our State between 1996 and 1997, and I start today with that same chart because it shows North Dakota farm income being washed away in 1997.

In 1996, we had $764 million of farm income in the State of North Dakota; in 1997, $15 million—a 98 percent reduction in farm income from 1 year to the next. If that is not a crisis, I don't know what would constitute one. The total farm income of the State of North Dakota in 1997 was $15 million. That is divided up among the 30,000 farmers of our State. In other words, the average farmer had a profit, or net income, of only $500 for the entire year. That is a crisis.

The problems for agriculture go much further, deep into the pockets of farm producers. In my State and many other States, the economic difficulty in agriculture means trouble on Main Street. If the pockets of farmers are empty, so are the pockets of bankers, grocers, implement dealers, cafe and gas station owners—you name it; any Main Street business is negatively affected, and so are the workers whose businesses are affected.

About a week and a half ago, a meeting was held on the border of northeastern North Dakota and northwest Minnesota, where the farm troubles in our region are the worst. At that meeting, which was held by the State Farm Service Agencies, there were agricultural lenders, implement dealers, agricultural suppliers, and other agribusinesses in attendance. Today I thought I would share some of the comments made at that meeting by those people who are dependent on the agricultural economy. These comments illustrate the problems we are facing in agriculture in North Dakota.

The first comments were made by agricultural suppliers—the providers of fuel, seed, fertilizer, and other farm inputs. Here is what two of them said at this meeting. The first one said:

> My daughter sells seed to farmers. Earlier she distributed the seed, now she is going around to pick it up.

That is a very bad sign, when those who are selling seed are going around to pick it up after it has been distributed. That means acreage is not going to be planted, and it is not going to be planted because farmers can't cash flow. They didn't cash flow last year; they aren't going to cash flow this year. That is because of this stealth crisis that is occurring out in my State. I am alerting my colleagues, it is in my State today; it may be in your State tomorrow. This is a crisis that has no Federal response.

The second ag supplier said:

> Yesterday, six farmers wanted anhydrous ammonia fertilizer. I turned four of them away. The question this year is not, "Do you have a loan?" but "Is that check any good?"

All across North Dakota, those are the kinds of questions that are being asked.

Also at this meeting there were implement dealers. The implement dealers also had some interesting comments. One said:

> Last year, all the combines I sold went to senior citizens. That should tell you something about the condition of our young farmers.

The second implement dealer said:

> In 1974 it took 5,600 bushels of wheat to buy a 250 horsepower four wheel drive tractor. Today it takes 26,000 bushels to buy the same horsepower, and it doesn't cover any more ground than the old one. There just isn't any buying power left in the bushels they produce.

When asked yesterday, Why are we having this crisis in North Dakota? It flows from a number of factors.

No. 1 is low prices.

No. 2, it flows from widespread disease as a result of 5 years of overly wet conditions.

No. 3 is a very weak Federal farm policy.

Those are the fundamental causes for the crisis in our State.

It is not just the implement dealers at this particular meeting who are talking about it. In addition, I have also heard from other implement dealers in recent news articles about the crisis in agriculture. Jon Sundby, a farm machinery dealer in Hillsboro, ND, said:

> A year ago at this time, I think we sold 42 tractors. This year we have sold three.

Mr. President, that reflects the depth of the crisis that is hitting North Dakota.

Bob Lamp, the executive vice president of the North Dakota Implement Dealers Association, said:

> At this point, there isn't much of a market for machinery because of the economy.

Comments from implement dealers and others reflect what is happening all across our State. It is not just implement dealers. Ag lenders are also weighing in. They were at this April 23 meeting. About a week and a half ago that meeting occurred. As anybody in agriculture knows, if you don't have money to operate your farm, you simply can't farm. It is rare in my State for producers to farm without loans to cover their operating expenses. That is why ag lenders are critically important to farmers.

Here is what some of them are saying about our current agricultural economy.

One ag lender said at this April 23 meeting:

> Too many are trying to farm this year on credit cards —

On credit cards—

> That is a recipe for disaster.

I was just with somebody from the State department of agriculture. He had been looking at farm plans. He saw one farmer who had credit card advances of $130,000—$130,000 on credit cards—to farm. That is a recipe for disaster.

A second ag lender said:

> The farmers in trouble are good, honest producers who are suffering in silence. USDA needs to raise loan limits and make interest assistance more widely available on existing loans.

A third said:

> This is, by far, the worst year ever, even considering the 1980s.

Mr. President, suffering in silence, I found that. I just took a tour of my State, held farm meetings all across North Dakota during the 2-week break in April, and what I found was that farm producers are shellshocked. They are suffering in silence. They don't know where to turn.

One recommended that "USDA needs to raise loan limits." He is exactly right. The Secretary of Agriculture supports lifting the caps on commodity loans, but does not have the authority to do it. The Congress has the authority. We are the ones who have to make a decision to provide some relief.

Those loan levels are unusually low. In the 1996 farm bill, caps were set on wheat at $2.58 a bushel. There is no one who can farm and make it on $2.58 a bushel. That doesn't cover your operating expenses.

Were we to simply remove the caps, we calculate the loan rate would be 62 cents higher, $3.20 a bushel. That, too, is inadequate, but it would be a help and it is the one thing we could do quickly to put some money in the pockets of these farm producers who are otherwise going to go under.

I indicated yesterday that we are going to lose 3,000 farmers in North Dakota this year. We only have 30,000. Ten percent of the people are going to go out of business this year, and the situation next year, unless we act, is going to be far worse.

I very much hope that my colleagues are listening, because this is a crisis. Last year, we had a very visual crisis in North Dakota with the floods, the fires and the most powerful winter storm in 50 years. The news media paid attention. As a result, we received a strong response. Well, the disaster continues, but there is virtually no attention being paid to it. That is why I say we have a stealth disaster this year. The conditions are undermining our agricultural producers in a way that is unprecedented. We have never seen such economic hardship on the farm, and yet there is almost no Federal response.

If we are going to avert disaster, the Federal Government needs to respond; this Congress needs to respond. Why is it? Because Congress passed a farm bill that forces farmers to face greater risk and succeed or fail based on the whims of the marketplace. It is because Congress has failed to act on the research title of the farm bill and has placed in jeopardy not only the future of agricultural research, but stability in our crop insurance system and rural development in the Fund for Rural America. Those items are funded in the research bill. It is because our crop insurance system is based on a formula which unfairly penalizes producers who experience repeated disaster, and it is especially because when our farmers face a disaster in crop production, there is no program to help.

As I indicated yesterday, if you have a disaster in agriculture today, the only help is a low-interest loan. So we are saying to these people at the very time they don't have the money to cash flow, "Go deeper into debt." That is no answer.

All of these problems need to be addressed, and they need to be addressed as soon as possible. The livelihood of our farmers, our Main Street businesses, our rural infrastructure and the very health of our Nation depend on it.

I have one last comment from an ag lender. This is in North Dakota, and he said:

> Agriculture needs to be on the top of the agenda for the President, the Secretary and Congress, but, unfortunately, it doesn't seem to be.

Mr. President, we have to make it part of the agenda or we are going to have a calamity in North Dakota. I say to my colleagues, we are the first to experience this. Others of my colleagues will probably not be far behind, because if you have a weather disaster, if you have a series of bad years, as we have experienced, you will find there is precious little Federal assistance. That is because of the changes that have been made in the farm bill and other measures taken by Congress.

I alert my colleagues, North Dakota may be experiencing this stealth disaster today, but our colleagues are probably not far behind. I urge them to pay attention to this problem. We are an early warning signal, just like they used to send the birds down the mine shaft to see if there was air. North Dakota is the little bird in the mine shaft warning the rest of the Nation that we have a badly flawed farm policy in place. A 98-percent reduction in farm income in 1 year—98 percent. I don't think there is another industry that could survive that kind of fiscal calamity. I know our industry cannot.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. GRASSLEY). One minute, 24 seconds.

MANAGED CARE

Mr. CONRAD. Mr. President, on another matter, I want to address the issue of a young man named Ethan Bedrick. Let me put up Ethan's picture so we can see who we are talking about. This is Ethan. Ethan was born on January 28, 1992. His delivery went badly, and as a result of asphyxiation, he has suffered from severe cerebral palsy and spastic quadriplegic which impairs motor functions in all of his limbs.

You can see him. He is a fighter. Look at that look on his face. He is a happy young fellow, even though he faces severe restrictions.

He was put on a regimen of intense physical, occupational and speech therapy to help him overcome some of these obstacles.

At the age of 14 months, Ethan's insurance company abruptly cut off coverage for his speech therapy and limited his physical therapy to only 15 sessions per year. Mr. President, can you imagine, this little boy was damaged at birth, and when he is 14 months old, the insurance company cuts off coverage for his speech therapy, limits his physical therapy to 15 sessions a year. At 14 months, when the insurance company made these decisions to cut off this young child from the therapy he needed, the change was recommended by an insurance company representative performing a utilization review of his case. The reviewer cited a 50 percent chance that Ethan could walk by age 5 as a minimal benefit of further therapy.

Further, the reviewer never met personally with Ethan, his family, or Ethan's team of regular doctors. Upon review, the insurer affirmed its position with a second company doctor, citing a single New England Journal of Medicine article on physical therapy and child development. That article was published in 1988, 4 years before Ethan was born.

I want to go back to the point here that was made by the insurance reviewer. The change was recommended by the insurance company reviewer, citing a 50 percent chance that Ethan could walk by age 5 as a "minimal benefit." Shame on that reviewer; shame on that company. A 50 percent chance of walking is a minimal benefit? How would they feel if it were their child? How would they feel then? A 50 percent chance of walking is a minimal benefit?

Further, the doctor declared the prescribed therapeutic equipment, including a bath chair designed for aiding his parents and care providers in his bathing, and an upright walker to allow him upright movement and muscle development, were merely convenience items—convenience items—and costs not to be covered by his insurance. Can you imagine if you were the parents of this little boy and you were told a walker is a convenience item? You were told that a device to help in the bathing of this multiply handicapped child was a convenience item?

The Bedricks, the parents, didn't feel that way. They filed suit. In 1996, the fourth circuit ruled that the insurer's decision to restrict therapy was arbitrary and capricious because the opinions of their medical experts were unfounded and tainted by conflict. Further, the court concluded that neither the insurance plan nor corporate guidelines require "significant progress" as a precondition to providing medically necessary treatments. The court noted, "It is as important not to get worse as it is to get better. The implication that walking by age 5 would not be significant progress for this unfortunate child is simply revolting." Those are the words of the court, that the position of this insurance company "is simply revolting."

This is a quote from the attorney for young Ethan. "The implication that walking by age 5 would not be a 'significant progress' for this unfortunate child is simply revolting. . . . The delivery of health care services should be based on the promotion of good health and not the margin of profit."

During the time of review and litigation, Ethan lost 3 years of vital therapy, and ERISA, the Employee Retirement Insurance and Savings Account which governs HMOs, left the Bedricks with no remedy for compensation for Ethan's loss of therapy. The Bedricks' ability to give justice for what the HMO did to Ethan was erased because of ERISA.

I raise this issue today because very soon Congress is going to have a chance to act and we, in conscience, must insist that children like Ethan have a fair shot at fair treatment. This little boy, now 6 years old, should not be told that a 50/50 chance of being able to walk is, as described by the insurance company, "a marginal, minimal benefit." That simply cannot be what we do in this country to little boys like Ethan.

I yield the floor.

Mr. DORGAN. Mr. President, the story that was just described by my colleague, Senator CONRAD, is one that occurs all too often across this country in this new era of managed care. Every day we intend to describe the circumstances of managed care in this country that require us to bring a Patients' Bill of Rights to the floor. Every day we will discuss this issue on the floor of the Senate, hoping that we will be able to persuade those who schedule the Senate to bring the Patients' Bill of Rights to the Senate.

Every person in this country seeking health care ought to have a right to know all of their options for treatment, not just the cheapest option for treatment. Everyone seeking health care in this country ought to have a right to show up in an emergency room and get necessary treatment for an emergency medical need. The list goes on. That is why we want to see a piece of legislation called the Patients' Bill of Rights brought to the floor of the Senate.

The PRESIDING OFFICER. Under a previous order, the Chair recognizes the Senator from North Dakota, Mr. DORGAN, for 9 minutes 31 seconds of the previously allotted time.

AGRICULTURE

Mr. DORGAN. Mr. President, for the remaining moments I will speak on the subject of agriculture. I know it is probably something a lot of people do not think about or don't want to talk much about. Family farmers in my State are in trouble. At night when you fly across my State in a small airplane and look down, those family farmers have the brilliant yard lights that peek up at you. Each of these points of light represent a family living in the country, trying to make a living on the family farm.

Recently there was an editorial cartoon in the Forum newspaper of Fargo, ND, showing a truckload of family farmers going down the road surrounded by a landscape of farm problems, including low prices, crop disease, and inadequate programs. The road sign in the cartoon stated, "The point of no returns." Why? Here is what is happening to the price of wheat. We passed a new farm bill and the price of wheat goes down, and down. Wheat prices are down 42 percent since May of 1996, following the passage of the new farm law. The point is that the new farm law pulls the rug out from under family farmers in terms of a safety net and tells the farmers, "Go to the marketplace to get your price." Then the marketplace has a pathetically low price, and farmers go broke.

I had a farm meeting in Mandan, ND, and a fellow stood up. He was a big burly guy with a beard. He said his grandfather farmed, his dad farmed, and he has farmed for 23 years. His chin began to quiver, and he began to get tears in his eyes, and he said, "I can't keep farming. I am forced to quit this year."

We have all heard the stories. One by one. I suppose people say that is just one farmer. Yet "one by one" means that across this country, there are hundreds and thousands of farmers leaving farming. It is especially evident in my State. When farmers can't make a living and go out of business, it seems to me that is an enormous step backwards. Family farmers contribute something very important to this country.

Family farmers have had to fight several things in my State recently. They had to fight the weather. We went through a winter in which we had 3 years' worth of snow in 3 months. We had seven blizzards, the last of which put nearly 2 feet of snow on the ground. It was the worst blizzard in 50 years. Farmers had to fight that. Then they had to fight low prices. Then they had to fight a crop disease known as fusarium head blight or scab which wiped out a quantity of their crop. And, then they have to fight a Congress and a farm policy which has been constructed by people in Congress who say it doesn't matter who farms.

These folk think agrifactories are fine. They can farm as far as the largest tractor will go, until it runs out of gas, and that is fine with them. It is not fine with me. If we end up with a land of giant agrifactories farming America's farmland, we will have lost something forever in this country that is very important. As a matter of social and economic policy, we ought to fight with every fiber of our being to make sure we have a network of families living out on the farms in this country's future.

I watched one day when somebody came in that door, breathless, and walked to the floor of the Senate on the supplemental appropriations bill and offered an amendment for $177 million to be added to star wars national missile defense system. They added $177 million that wasn't even asked for. But that wasn't a problem. It was accepted by consent. A total of $177 million was added early in the morning. That was OK with this body because it was for star wars. But somehow we don't have enough money to provide a decent wheat price for a family farmer who is struggling out there.

I got a letter from a man and his wife who quit farming recently. The letter is from George and Karen Saxowsky, of Hebron, ND. I will read just a couple of paragraphs, since I have 2 more minutes. It describes for those who don't know about family farming what this family went through. She wrote a Christmas letter and described part of what they went through in the storms. She talked about the last blizzard.

I will read a couple paragraphs:

> As the storm abated Sunday evening I could hear Glendon yelling and ran to see what was going on now, but couldn't find him. Here, they had found a cow laying on its side drowning in muck. Glendon was laying flat on his belly holding the cows head out of the muck while George was trying frantically to get the tractor down to him. I plowed through four foot deep snow to help—the first tractor got wet and quit. [All during the storm we had distributor caps in the oven drying out!] He got the Bobcat—it quit; he got the next tractor and we made it down

> there, tore a fence down, put chains on the cow and pulled her out. She died; as did a calf that had been buried in the snow someplace in the ten feet we pulled the cow and we didn't even see, until the snow melted enough, that it was under her; as did those two calves in the basement; as did a calf that had followed its mother to the water fountain, got stuck in the snow and froze to death standing up—we must have walked by that calf fifty times but with the blizzard didn't see it—they get snow covered really fast; as did the cow in the corral with a roof over her head with water and hay right beside her; as did—well, you get the picture. It continued for fourteen days after the storm, every day we lost at least one cow and/or calf. We took them to the vets for autopsies and what-not but it just seemed there was nothing we could do to save them. One day we made it to 5:00 without any dying and thought the curse was broken but by midnight we had lost a cow and a calf. It was a terrible, terrible time, but we lived through it—but not alone. Friends were there for us. On the Friday after the storm one called to tell us to get out of the house and come to town for a Fireman's Dance—we were just too exhausted and depressed—but he was really pushy (he did the same thing for us after last year's cow incident on I–94). We went and visited with other farmer-ranchers who were in the same boat—it really was so helpful and encouraging?
>
> We were really dreading the first snow of this winter. Long about October, George started talking about quitting farming—I took it as a mid-life crisis; a one time slide. But he kept talking—and then started making plans. We would put in a crop in '98 and quit in '99. I still thought 'this-too-shall-pass' but he just go more serious. In November I started getting calls asking if I would like a job off the farm? I have to tell you, I was so flattered that they even considered me capable of doing what they needed; I had been self-employed for almost 25 years! I turned them down, but it did start the wheels turning. Then, there was an ad in the paper for a job in Hebron with benefits. We talked about it and I applied; they offered me the job and I took it. This was not easy, now we couldn't put a crop in this spring as the job is 40 hours a week including every other Saturday and George can't farm without me.
>
> The bottom line is: a 47 year old, 4th generation farmer in this 27th year of farming is quitting farming.

This is why this farm couple is quitting farming. It is not just because of the storm and the dead cattle. It is about making a living and getting some return for their efforts.

North Dakota farmers had a decline of $750 million in farm income in 1997. Low prices, crop disease, weather. Senator CONRAD pointed out that 98 percent of the net income of farmers was washed away by this set of problems. And, there is one more problem that farmers face. They face a Congress that doesn't seem to care whether there are family farmers.

The new farm program pulls the rug out from under our family farmers. They are told to go to the marketplace to get their price. When they go there, the big millers are there and the big grocery manufacturers are there, and the big grain traders are there. They all want lower prices, so they drive prices down so when family farmers go to the marketplace, they find pathetically low prices, well below their costs of production for grain.

The fact is they lose money year after year because farm prices are consistently below the full economic costs of production. Then they suffer through crop disease on top of it all, and find out the crop insurance program doesn't work. When they turn to the safety net, they find that, no, that has been pulled away. When they ask what is the loan rate on a bushel of wheat, they find it is the lowest it has been in decades.

So the question is: Is somebody here going to start to care about whether we have family farmers or not? Or is the priority here that you can waltz through these doors and offer a couple hundred million dollars for star wars, and get plenty of money for things like that; but when it comes to family farmers we don't have enough money for a decent support price to help them stay on the farm?

Mr. President, I and others will be talking about this in the coming days. I hope, as we search for some solutions, this Congress will decide family farmers are worth finding solutions for, and that we will develop a better farm program, one that really works to provide protection for family farmers.

I yield the floor.

WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION

Ms. COLLINS. Mr. President, on May 2–4, 1998, more than 1,200 students from across the nation were in Washington, D.C. to compete in the national finals of the We the People . . . The Citizen and the Constitution program. I am proud to announce that a class from Old Orchard Beach High School represented the State of Maine. These outstanding young scholars worked diligently to reach the national finals by winning local competitions in Maine.

The distinguished members of the class representing Maine are: Lauren Asperschlager, Lucy Coulthard, Chad Daley, Rose Gordon, Krista Knowles, Nathan LaChance, Sarah Lunn, Sandra Marshall, Katie McPherson, Cindy St. Onge, Sam Tarbox, and Sharon Wilson. I also want to recognize their teacher, Michael Angelosante, who deserves much of the credit for the success of the class. The district coordinator, John Drisko, and the state coordinator, Pam Beal, also contributed a significant amount of time and effort to help the class reach the national finals.

The We the People . . . The Citizen and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three-day national competition simulates a congressional hearing whereby the students are given the opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary constitutional issues. The simulated congressional hearing consists of oral presentations by the students before panels of adult judges.

Administered by the Center for Civic Education, The We the People . . . program has provided curricular materials at upper elementary, middle, and high school levels for more than 75,000 teachers and 24 million students nationwide. Members of Congress and their staffs enhance the program by discussing current constitutional issues with students and teachers.

The We the People . . . program is designed to help students achieve a reasoned commitment to the fundamental values and principles that bind Americans together as a people. The program also fosters civic involvement as well as character traits conducive to effective and responsible participation in politics and government.

I commend these student constitutional experts from Maine and throughout the nation who have participated in the We the People . . . national finals for their achievement in reaching this level of the competition.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2676, which the clerk will report.

The bill clerk read as follows:

> A bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

The PRESIDING OFFICER. The time until 12:30 p.m. shall be for debate only, unless the managers' amendment is offered.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I urge my colleagues to come down to debate this important piece of legislation. A number of individuals have indicated they want the opportunity to discuss this legislation, the restructuring of IRS. We do have an hour and a half available for any Senators who want to come down and give their comments with respect to this legislation. This is their opportunity, and I urge that they do so immediately.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWNBACK). Without objection, it is so ordered.

Mr. KERREY. Mr. President, the Internal Revenue Service Reform and Restructuring Act of 1998 will touch the lives of hundreds of millions of Americans.

More Americans pay taxes than vote. The perception of how our government treats us—its citizens—is rooted more in our contact with the IRS than with any other U.S. agency or entity.

How we are treated by the IRS—and our tax laws—effects our perception of whether or not we believe we have a fair shot at the American Dream and whether or not we are a government of, by and for the people.

During our deliberations this week, we must be mindful of Congress's complicity in allowing the IRS to become what it has become. The IRS is not Sears & Roebuck—we are its Board of Directors. We write the tax laws, we are responsible for the oversight and it was on our watch that the IRS became the mess we now try to clean up.

Mr. President, I remind my colleagues that Congress has changed the tax code 63 times since 1986, and these changes have created a tax code that costs the American taxpayers $75 billion a year to comply. We do so without considering the cost for the IRS to administer it, and without considering the cost for taxpayers to comply. If you doubt that we have made things difficult I challenge you to take a look at this year's Schedule D on capital gains and losses. A few years back Dave Barry noted that we were making progress in our mission to "develop a tax form so scary that merely reading it will cause the ordinary taxpayer's brain to explode." He cited Schedule J, Form 118 "Separate Limitation Loss Allocations and Other Adjustments Necessary to Determine Numerators of Limitation Fractions, Year-End Recharacterization Balances and Overall Foreign Loss Account Balances." If that is not complicated enough, I'd suggest he go back and take a look at this year's Schedule D.

The American public knows that Congress plays a leading role in all of this. In a recent poll, 72 percent of Americans blamed Congress for the ills of the IRS, and not the IRS itself.

According to a special Harris Poll conducted on April 15th, "[t]ax evasion is believed by most people to be more widespread than harassment by the IRS." The poll also found that by a margin of 50 to 33 percent, Americans believe more people "get away with not paying all the taxes they should" than pay "all their taxes and are unfairly harassed by the IRS." Willful noncompliance with our tax laws cost those of us who do comply an estimated $100 billion annually. IRS Commissioner Rossotti testified last week that taxpayer noncompliance costs the individual American taxpayer $1,600 annually.

Today 85 percent of Americans comply with our tax laws willfully, without incident. If we do not adequately address the issue of noncompliance, we will be sending the wrong message.

It is our responsibility to not only change the culture at the IRS so that those who do comply are treated fairly and with respect, but we must also change the law to allow Commissioner Rossotti the authority to make the changes he needs to and to provide the IRS with the proper resources to catch those who choose to break the law.

I urge my colleagues to consider the overall importance of the bill before us this week. What we do will have a profound impact on the IRS, how Congress writes tax law and how Americans perceive this body and our government.

Let us move forward, swiftly and in a cooperative manner, and give the IRS the overhaul it needs, provide the congressional oversight that is required, the IRS Commissioner the statutory authority he lacks, and the taxpayers the relief they deserve.

Mr. President, I know from the hearings in the Finance Committee held by the distinguished chairman, Senator ROTH, last September, and over the last several weeks—very, very needed and very, very worthwhile oversight hearings—that among other things which were focused on in those hearings were the actions taken by the Criminal Investigation Division. I know that there were an awful lot of citizens—in fact, every single member of the Finance Committee—who were outraged listening to some of the stories told about how the strong arm of the law was used to go after not necessarily innocent but certainly taxpayers that were not a threat to the life and limb of their neighbors. There was a substantial amount of force used in all of the cases. I don't pass judgment as to whether or not the IRS was right in the claim itself. But there is no question that there are times when the IRS uses more force than is necessary to carry out its function under the Criminal Investigative Division.

We hope that the changes in our law and instructions to Commissioner Rossotti will enable us to reduce and eliminate that kind of excessive use of force. Mr. Rossotti himself has indicated that he is going to ask former FBI Director William Webster to evaluate the Criminal Investigation Division and come up with a set of protocols that will enable them to eliminate the times when they use unnecessary force to enforce the law.

Let me caution Members who are outraged to be careful when they come and propose amendments to that particular section of this law. The caution needs to be based upon our desire, I hope, to keep the streets safe for Americans. It is my judgment that mission No. 1 for a government is to protect its citizens. We don't have public safety if we do not have citizens feeling safe when they are walking the streets, or when they are engaging in commercial transactions. If that doesn't occur, we have anarchy, and citizens not only are going to be quite concerned but they are apt to throw all of us out of office.

All of us know that a combination of events has reduced crime across the Nation. Americans like that. They want to feel safe. They don't want to feel they are at risk, having people preying on them for a variety of reasons.

The IRS is an important part of our effort to get that done. All Members who are concerned about the Criminal Investigation Division and who may have some changes they want to make in that division, I am likely to support those if it will reduce the incidents of force being used against citizens who pose no threat but will oppose those that I fear will make it easier for drug dealers, money launderers, and other sorts of criminals who are preying on the American people. If Members come to the floor and want to weaken the capacity of the Criminal Investigation Division to keep Americans safe, I will introduce into the RECORD, as I did in the hearings, 14 examples, and more if necessary, to show this body what the Criminal Investigation Division is doing to keep Americans safe. If there is somebody out in America who is a drug dealer or a money launderer, they don't have on their forehead "drug dealer" or "money launderer." They are apt to look normal. One of the things we very often fail to do is get both sides of the story when we hear stories of abuse.

I could bring every single person who is in Nebraska's prison system in front of any committee here in Washington, DC, and every single one of them will tell you the government abused their rights. There is nobody who is guilty in our prisons. They are all innocent. They are all abused by the government in some way, shape or form.

So let's be careful as we evaluate the Criminal Investigation Division. We have Mr. Webster who has been assigned by Mr. Rossotti to examine their procedure and protocol, but let's be careful that we don't change the law to make it easier for people to prey on Americans to get their job done.

All of us understand there is an amendment to the Constitution, the fourth amendment, that provides us protections against unreasonable searches and seizures. I am encouraged that many who have been silent on this protection that is guaranteed to all citizens are now starting to understand that it can be a substantial problem to infringe upon that fourth amendment right. But if a law enforcement entity has probable cause and gets an arrest warrant as a consequence of having probable cause that somebody is violating the law—a drug dealer, money launderer, and so forth—again, walk down the street. These people don't stand out for you and say, well, there's somebody who is a threat to our society. If they have probable cause, if they believe it is necessary to get a search warrant, they don't call that person up and say, hey, Jim, next Wednesday I am going to be over to get the evidence, because they know that unless they have the element of surprise, the evidence is going to be destroyed.

I believe the legislation before the body today, the variety of things that are being done, will substantially improve the operation of the IRS and will give the American people better service, will shift more power to the taxpayer. In title I, there is a section I may end up reading on this floor. I am a cosponsor of the bill. It was originally introduced by JOHN BREAUX.

The Taxpayer Advocate will be much more independent, have much more power, and I guarantee you that the taxpayers will know the independence that the Taxpayer Advocate has; that he will be required annually to come to us and say, here are provisions of the Tax Code that are causing the IRS special problems. These are problems and difficulties that we are facing as a result of the laws that you all pass and make recommendations for changing those laws. So that, again, the goal ought to be to write the law so that the IRS presumes all Americans are law-abiding citizens willing to voluntarily comply. They just want to know the size of their tax bill so they can pay it but reserve the authority and power of the IRS to go after individuals who either intentionally do not want to comply or, worse, are criminals who are preying on innocent Americans in a variety of different ways.

I hope during the deliberations we will have a constructive debate. I know we are waiting for the caucuses to find out what Members are going to do with both nongermane amendments as well as germane amendments that could kill the bill. I say, again, the importance of this cannot be overstated. The citizens' confidence in Government of, by, and for the people is at stake. We now have a declining number of Americans who believe the IRS is getting the job done. It is one of the least popular agencies at the Federal level. We have a significant role in creating that unpopularity because we wrote the law to begin with. The law that governs the IRS has not been rewritten since 1952. It is long since passed the time it was necessary to rewrite those laws.

I thank Senators ROTH, MOYNIHAN, GRASSLEY, Congressman PORTMAN, Congressman CARDIN, and many others who have been involved in this from the very beginning. It started way back in 1995 when Senator SHELBY, the distinguished manager, and I were managing an appropriations bill. We had attempted to fence an appropriation dealing with tax systems modernization in 1994. It failed. We got it fenced in 1995. We didn't believe it was enough. We saw the taxpayer money being wasted. We created in the appropriations bill the National Commission for Restructuring the IRS. That Commission deliberated with Congressman PORTMAN and 16 other people for well over a year. Senator ROTH, last year, picked the ball up and had wonderful oversight hearings, and did so again this year.

It is time to get the bill passed. The House bill passed 426 to 4 last September. The bill that is before us today is a substantial improvement over that bill in what the House has done. I say on behalf of 200 million Americans who pay their taxes every single year, let's get this thing done as quickly as possible so they can have these new powers that they will have under the law and so the IRS Commissioner has the power and authority he needs to manage this agency.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

Mr. BREAUX. Are we on the bill or are we in morning business, Mr. President?

The PRESIDING OFFICER. We are on H.R. 2676, the IRS reform bill.

Mr. BREAUX. I thank the Chair.

I rise in support of the legislation and say to all of my colleagues, and to the American public as well, it is very good news that we are now at the point of not talking about it as much as we are actually trying to do something to fix the problem. The problem I speak of is the information that Congress and the Senate have received over the past several weeks regarding what I will argue are fundamental abuses within the Internal Revenue Service and how they treat many American citizens.

The hearings the Finance Committee held really brought out some very disturbing facts and information about the interaction of the Internal Revenue Service with average Americans. We have a tax system in this country with which most people completely and totally comply. We have one of the highest rates of compliance of any free nation anywhere in the world. It is something of which we can be very proud.

Also, it is interesting to note—and maybe people don't realize—that less than 2 percent of American taxpayers are audited each year, substantially less than 2 percent as a matter of fact, which means most Americans file their tax returns, pay what they owe during the year, and at the end of the year that is it in terms of their dealings with the Internal Revenue Service. But still, in all, it seems there is a very disturbing feeling by most Americans that the Internal Revenue Service, an agency of our own Government, is not only on their side but actually is against their basic interests in how they deal with their own Government. I know that for a fact. I even feel somewhat intimidated by calling the agency myself on behalf of a constituent. The response seems to come back: How dare you call us. We are the IRS and you have no business making an inquiry.

The other story that goes around is people have pointed out one of the greatest lies ever told is: I'm from the Government and I'm here to help you.

It is like someone who gets a letter from the Internal Revenue Service; generally it evokes a tremendous amount of fear from the average citizens in this country when they get such a letter. It is always the butt of so many evening television shows, jokes about people actually having a fear of their own Government and an actual fear of the agents of our own Government, who are Federal employees, who actually work for the citizens of this country.

I think the hearings show this is a feeling among far too many people in this country. What we are doing is bringing legislation to the floor to try to correct some of those abuses and make it work more on behalf of American citizens instead of against American citizens.

A couple of weeks ago, I was back in Louisiana and someone from my State said, "What do you have coming up this week?" I said, "We are going to have more hearings on the Internal Revenue Service." And my constituent said in response, "My God, you have had enough hearings. When are you going to do something about fixing the problem? We know there is a problem; when are you going to fix it? Are you going to spend the whole year talking about it? We got the message; there is a problem. The question is, What is Congress going to do to attempt to fix the problem?"

I am pleased to report that is why we are on the floor of the U.S. Senate today with legislation that has been reported out in a bipartisan fashion. Under the leadership of the distinguished chairman, Senator ROTH, and the ranking Democrat, Senator MOYNIHAN, we have brought this piece of legislation to the floor. I want to particularly commend Senator KERREY from Nebraska, who has been on the floor this morning and yesterday outlining this legislation. He chaired a commission which really did a great deal of work prior to the Congress bringing up this legislative proposal. His work as commission chairman really was the genesis for bringing about this real effort to reform the Internal Revenue Service.

Some would say, "Just throw it out, scratch it, do away with it." That is all fine and good. I can give a great speech anywhere in the country talking about abolishing the IRS. But also, it is important to find out, what are you replacing it with? What type of agency do you have to collect the revenues to run the Government?

I think people legitimately are concerned. They want the services of Government. They want the highway trust fund to work. They want the highway program to work. They want Medicare and they want the Medicaid programs to work. They want education to work. They want the services of Government, but in order to have that, you have to have some mechanism to collect taxes in a fair manner. We should do everything we can to make the system more fair and make it more simple than it is, but eventually we are going to have to have some agency that is going to participate in helping collect those taxes under a fair system.

I think what we do today is to try to improve that system. We say we are going to make it work better, we are going to attempt to eliminate the abuses in the system and abuses by people who work for the Internal Revenue Service.

I would like to concentrate just on one feature of the bill that is now before the Senate, and that is something that I have worked on hard—in fact, introduced a separate bill on, to create a National Taxpayer Advocate to help taxpayers when they have problems with the Internal Revenue Service.

Back in 1996, in the Taxpayers' Bill of Rights, we established this Taxpayer Advocate. The concept was not very complicated. It was, when people have a problem with the Internal Revenue Service, they generally are at the mercy of the system. The Government has literally thousands of attorneys and tax attorneys and prosecutors to go after individuals, but the individual citizens don't have anyone to represent their interests in dealing with the Internal Revenue Service. The National Taxpayer Advocate concept was to have someone who was on the side of the taxpayers, to help the taxpayers put together what they need to show what they have done was entirely honest and appropriate.

The National Taxpayer Advocate did establish this position of a Taxpayer Advocate Office, and the function was to assist the taxpayers in resolving their problems and to identify areas in which taxpayers have problems in dealings with IRS, and also propose any administrative changes that would help make the system more fair, and identify any legislative recommendations that we in Congress could institute to make it more fair and easier for the average taxpayer.

The problem with the old law in 1996 was that the Taxpayer Advocate designated authority, under these assistance programs, to the local and regional resolution officers who worked for the Internal Revenue Service. This really undermined the independence of the Taxpayer Advocate. It is very important, if you are going to have people who help the taxpayer, that they should not be totally dictated to by the Internal Revenue Service itself. It was something that, while it had the right intention, did not work as it should.

This legislation contains several very important changes. I am very pleased to report to our other colleagues that this legislation corrects some of the problems with the original Taxpayer Advocate Office. We are going to make it more independent, which it has to be in order to work. We are going to make it more accountable to the taxpayers of this country, who are the people they are there to serve, and make it easier for them to resolve disputes between the taxpayer and the Internal Revenue Service.

The bill, in doing that, replaces the present law's problem resolution system with a system of local taxpayer advocates who report directly to the National Taxpayer Advocate Office and who will be employees of the Taxpayer Advocate Office, independent from the Internal Revenue Service's examination, collection, and appeals function. In other words, they will be working directly for the Taxpayer Advocate Office and will be independent of the IRS examination and collection offices and appeals office.

The National Taxpayer Advocate has a responsibility to evaluate and take personnel actions with respect to any local taxpayer advocate or any employee in the Office of the National Taxpayer Advocate. And to further ensure their independence, the National Taxpayer Advocate may not have been an officer or employee of the Internal Revenue Service during the 2-year period ending with their appointment and will not be able to accept employment with the IRS for at least 5 years after ceasing to be the National Taxpayer Advocate. That means the people who are going to be running this office cannot just have come out of the Internal Revenue Service, where their loyalties would be legitimately questioned. And they have to agree they will not go to work for the Internal Revenue Service for at least 5 years after they leave this position.

So what we are creating, I think, is a truly independent National Taxpayer Advocate Office, to be on the side of the taxpayer for a change instead of being on the side of the Government, saying they are going to represent the interests of the taxpayer. There is a conflict there. If you are going to have adequate representation for the individual taxpayer, the person cannot be an IRS employee; they have a different obligation of what they are trying to do.

So this Taxpayer Advocate Office will not be able to be a previous IRS employee and not be able to go to work right after giving up the job as a National Taxpayer Advocate. I think that feature is very, very important, because if you were still an employee of the IRS directly under their responsibility, it simply would not work. If you just came out of the IRS, it would not work. And if you knew you were going to go to work for the IRS as soon as you finished the job as a National Taxpayer Advocate, then you would be looking over your shoulder to make sure you didn't make them mad or unhappy in what you did in representing America's taxpayers.

That conflict has been eliminated by what we have in the legislation which is now before the Senate. The whole concept is to have a truly independent National Taxpayer Advocate whose one focus will be making sure that taxpayers have good representation, are fairly treated, and have someone, for a change, who is really on their side when they have a conflict with the Internal Revenue Service.

It is interesting to note that we go further in this legislation and say that at the initial meeting with any taxpayers seeking assistance with the Office of Taxpayer Advocate, that the local taxpayer advocate is required to notify that taxpayer that they operate independently of the IRS office and that they report directly to Congress through the National Taxpayer Advocate. At the discretion of the local taxpayer advocate, he shall not disclose to any IRS employee any contact with or any information that they provide to the taxpayer.

We are really trying to build some walls between the IRS and the Taxpayer Advocate and their work with the taxpayers, the American citizens of this country, to make sure that they, the taxpayers, know the person they are dealing with is independent, has their interests at heart, and doesn't have to go report to the Internal Revenue Service district director about what he or she has discussed or talked about with the taxpayer who is seeking assistance.

In addition, each local office of the Taxpayer Advocate is to maintain separate phones, separate faxes, and other electronic communications access, and a separate post office address. We are really trying to make it as separate and independent as we possibly can, so that when the average person gets that letter talking about an audit or a question that they have, they know there will be someplace they can go without having to incur the expense of hiring outside CPAs or outside attorneys and pay them sometimes very high fees just to have someone help them with their problem. There will be someplace they can go, which will be independent of the IRS, which will have as their first, second, third, and last mission to help that taxpayer. They can be comfortable there will not be communication or sharing of information of their discussions with the Taxpayer Advocate with the Internal Revenue Service.

I think this is a very important part of the bill that is before the Senate today. Other features in the bill are equally as important, certainly, and I think in the end will go a very long way to assuring the American taxpayers that they have a system that is not out to get them, that is not out to intimidate them, that is not out to embarrass them; that if they are honest taxpayers, they will be treated honestly and will be treated fairly and, if they have a problem, there will be someplace they can go to get honest information and help and assistance that is not directed by the Internal Revenue Service but is being directed by the Office of the Taxpayer Advocate. That is now part of this bill, and I think it is a very important part of it as well.

With that, Mr. President, I yield the floor, as I see other Members who are waiting to speak.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I compliment the Senator from Louisiana. I have done it a couple of times previously. I was pleased to be able to cosponsor his legislation having to do with strengthening the Taxpayer Advocate in this bill. If we can keep the nongermane amendments off and stick to the business of changing the law to give the taxpayers this new authority and power with this one provision, the Taxpayer Advocate, it will be noticed immediately.

This Taxpayer Advocate will be truly independent, with separate phone numbers, separate faxes, a separate operation, with the capacity to organize taxpayer advocates in each of the 50 States, to operate independently, not only settling problems that taxpayers have but bringing to Congress' attention repetitive problems that they identify that they think need to be solved by us either changing the law or changing some other procedures.

We have had the Taxpayer Advocate created before under the Taxpayer Bill of Rights II, when it was created. The change from Taxpayer Advocate to National Taxpayer Advocate is not by accident. I hope colleagues have a chance to look at this particular section of the bill as they consider how we are going to proceed this week. Look at the language in this particular section and ask yourself the question: Do I want to give the taxpayers in my State this kind of Taxpayer Advocate, this kind of power, this kind of representation? Do I think that they will appreciate the changes they will see in the way IRS operates and the kind of service they get from that IRS? I think Senators will look at that and say, "My gosh, I don't want to slow this bill down. We need to get this thing done. We have waited long enough. We need to get this bill done so these new powers can be felt by the taxpayers in my State."

Again, I appreciate very much what the Senator from Louisiana has done. This is one of the most important sections of this bill. It is not in the House bill. Senator ROTH, the chairman of our committee, talked many times about the need to make certain we took the House bill and made it as strong as we could. I was constantly pressing that we move in an expeditious fashion. This is one of several examples where the House bill has been substantially improved.

I hope colleagues, as they look at this bill, will remember we are trying to give the taxpayers in all the States in this Nation new power, new authority, and an IRS that will much better serve their needs in a much more courteous and expeditious fashion.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I appreciate the fact that the leader is bringing to the floor this week the Internal Revenue Service reform bill and giving the Senate the opportunity to act expeditiously on this matter. It is my hope that as soon as we act, there will be a prompt conference committee with the House, which has already passed analogous although not as comprehensive legislation, so that soon the American people will have the benefit of the reforms that are contained in this legislation.

We did not get to this point easily. I compliment particularly Senators BOB KERREY and CHARLES GRASSLEY, who served on the commission that reviewed the IRS from which many of the ideas contained in this legislation have emanated. I congratulate Senators ROTH and MOYNIHAN of the Finance Committee for having led us to this point. And I congratulate new Commissioner Rossotti of the IRS, who has brought a fire, an energy, to reform the agency from the inside that has facilitated the consideration of these structural changes that will be contained in this legislation.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, before I proceed further, I ask unanimous consent that Kate Mahar, Ed Moore, and Maribel Garcia-Romero of my staff be allowed the privilege of the floor for the pendency of the debate on the IRS reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, first, I will comment on some provisions which will be in the Senate bill that I have had a particular interest in and then to alert the Senate to an amendment I will be offering, possibly with others, when we reach the consideration of this bill.

This bill follows many months of investigations and hearings by the Finance Committee, both in Washington and throughout the Nation. It follows a process in which the committee has first tried to do a careful diagnosis of what was the problem and then consider the options, the prescriptions that might deal with that problem, and then incorporate into this legislation that prescription which was considered to be the most appropriate.

I compliment the people who have participated in this process. Specifically, I held a hearing in January in Orlando, FL, where a number of Floridians had the opportunity to participate in this thoughtful process of diagnosis and prescription. I know that Senator NICKLES held a similar hearing in Oklahoma. Other Senators communicated with their constituents through various forums. So this is, in a real sense, a product of the people of America.

Let me review some of the diagnoses and the pathologies in the IRS that surfaced. One of those was the need to help taxpayers resolve their debts. What was discovered was that many taxpayers want to resolve their IRS debts but the Code imposes so many penalties that once a liability is established, it is very difficult to satisfy that debt.

As an example, a Floridian, Carl Junstrom of Tampa, over 10 years ago, because of misinterpreted advice of an IRS agent, ended up being responsible for $25,000 in taxes. He entered into an agreement with the IRS under which he paid $181 a month towards that debt owed. After having faithfully met that monthly obligation for almost a decade, and having paid $28,000 towards an original $25,000 indebtedness, Mr. Junstrom was informed that he still owed $26,000.

How is that possible? The answer is, because the penalty clock kept running during the pendency of this agreement and, therefore, although he thought he was paying off his indebtedness and, in fact, paid $3,000 more than he originally owed, because of accumulated penalties during that same 10-year period, he ended up owing more than he had at the beginning of the process.

What is the remedy? This bill includes a provision that encourages the

IRS and the taxpayers to engage in installment agreements by, one, assuring the availability of payment plans for taxpayers with liabilities of $10,000 or less and, two, eliminating the failure-to-pay penalty for periods where the taxpayer is making payments pursuant to an installment agreement.

In the case of Mr. Junstrom, the penalty clock would have stopped as long as he was making his $181-a-month payments.

Another remedy is to adopt proposals to eliminate the differential between the interest rate the IRS charges individuals and the rate that the IRS pays taxpayers. Previously, there had been a higher interest charged to the taxpayers on a deficit than the interest which the taxpayer would receive if it was found that they were owed a refund. That differential is eliminated in this legislation.

A second problem identified was protecting the innocent taxpayer. What is the problem? One example of the problem is that many individuals filing joint returns find out subsequent to filing those joint returns that their spouse has understated income or overstated deductions. Although the individual may have had little or no income and little or no knowledge of this, the IRS holds that person responsible for 100 percent of the taxes attributable to the individual spouse's action. This typically surfaces after there has been a divorce and one spouse, often the husband, has left town. The wife, who usually has custodial responsibility for the children, is still there and is accessible, so she becomes the target for the IRS collection activity. About 50,000 women a year are in that category which is generically referred to as the "innocent spouse." An example is Karen Andreasen, a Floridian. Her signature was forged on a joint return, but she ended up being held liable for her ex-husband's debts.

The remedy? The remedy incorporates legislation which Senator D'AMATO and others, including myself, have introduced as discrete legislation. This generally would adopt an approach recommended by the American Bar Association which essentially says that each spouse is to pay his or her share of the tax liability in proportion to what he or she contributed to the original tax return. If, for example, the return represented income that was 80 percent the husband's earning and 20 percent wife's earning, in a subsequent dispute the wife would be limited to a responsibility of 20 percent of any deficiency. That is a very important provision in this legislation, which will have an immediate benefit, because this legislation applies this new standard retroactively to existing open cases for many tens of thousands of spouses caught in this vice.

Another issue that surfaced was assisting taxpayers in their negotiations with the IRS. What is the problem? The problem is that many taxpayers, especially small businesses and moderate-income families, find themselves unable to negotiate with an agency which has the power to seize, levy and garnish wages. An example, Betty Bryant of Miami, Florida started a small business to supplement her income as a State employee. She actually overpaid her taxes but filled out the form incorrectly and ended up with wages being garnished while this matter was in controversy. Another example, Thomas Jones, submitted an offer-in-compromise to the IRS. The offer was rejected even though the IRS admitted they couldn't find his file. They rejected his offer even though they didn't have the information upon which to make an intelligent judgment as to whether the offer was appropriate or not. He also was not apprised of his right to appeal the rejection of his offer.

What is the remedy? The Finance Committee includes proposals to require a review of any IRS decision to reject an offer-in-compromise by collection. This will assure that there will be some independent party reviewing the offer in compromise. Moreover, the bill requires that the taxpayer be notified of this right.

In addition, the bill requires the IRS to suspend collection efforts if the taxpayer appeals the rejection of an offer-in-compromise.

The committee also approved proposals to expand the IRS Alternative Dispute Resolution Program. In many jurisdictions, the development of alternative dispute resolution procedures has provided a significant and frequently much more efficient alternative to traditional litigation. This proposal would build upon a pilot program initiated by the IRS pursuant to the Alternative Dispute Resolution Act of 1996. It would allow third-party mediation of cases of tax disputes. It would also establish a pilot program for the use of arbitration in tax disputes.

The legislation also provides a proposal to require acceptance of an offer-in-compromise if the IRS has lost the taxpayer's file.

Another area where Senators found deficiencies in the IRS is customer service. What is the problem? Many taxpayers feel they are treated as criminals rather than as customers. The IRS is often unreachable and difficult to pin down on advice they give to taxpayers on how to properly fill out a return. Jim Stamps of Jacksonville provided testimony that it had taken him 4 years to get a letter stating that he had paid off all the taxes that he owed. Without that letter, many opportunities that were available to him personally and in business were frustrated.

Mr. Junstrom, who I mentioned earlier, the man who had the $25,000 bill, paid $28,000 but still owed $26,000, and had requested the IRS to sit down with him to explain what he owed. He never was afforded that opportunity and continued to receive confusing and conflicting notices.

What is the remedy? The bill reported out of the committee includes a requirement that the IRS evaluate employees on their customer service as well as on their collection ability. The Finance Committee heard testimony indicating that in the past not only was there almost a total focus of evaluation based on how much money an agent collected, but that those standards became numeric, and if you didn't meet the standard of collections, then you received a downgrade on your evaluation.

This legislation repeats and expands upon a directive that Senator GRASSLEY wrote into the Taxpayer Bill of Rights that made it illegal to evaluate an IRS employee based on a numerical standard of how much was collected. But this legislation goes beyond that and says that employee evaluation will give emphasis to their customer service as well as their other responsibilities.

The IRS reform bill will also increase accessibility by a very simple thing—pick up the telephone book today and look under U.S. Government in virtually any community in America and then look under IRS. One thing you will see is an 800 number as to where to call to get service. There are two things that you typically do not see. First, you may not find a local telephone number that you can call in the event that the 800 number is busy, which happens frequently, particularly during periods just before April the 15th. Second, what you don't see is an address so that the taxpayer who wants to go down and actually meet face to face with a human being to review their problem will know where to call and where to go. This legislation will require the IRS publish both its local telephone number and its local address.

The legislation requires the IRS to issue annual statements to taxpayers who have entered into installment agreements, like Mr. Junstrom. The statement would include amounts paid, remaining balance, and projected payoff time so that the taxpayer will be in regular knowledge of where he or she stands with the IRS.

None of us purports that this legislation will solve all of the problems and all the taxpayer complaints with the IRS. And we should resist the temptation to oversell this legislation. The IRS will have to take many administrative actions to implement these laws and undertake other reforms to achieve that goal. Fortunately, I believe the IRS is moving expeditiously to become a more user-friendly agency. It is dealing with a culture which in the past has focused inside the agency, what was to the convenience of the agency, like not publishing the address so that taxpayers wouldn't come down to the IRS office and ask a lot of questions, to an agency that is moving to a culture of being consumer friendly and saying: Here is where we are, come down and we seriously want to render service to the taxpayer.

Commissioner Rossotti has implemented a broad range of reforms and has undertaken investigations to get to the bottom of other allegations that have been made about the agency's activities. The IRS has extended its hours, implemented problem resolution days, and has stopped evaluating collection agents based on the numerical amount of taxes they collect. This legislation will continue that effort. Mr. President, all of what I have just said is in the bill that we will soon be considering, and I recommend that bill and these provisions to my colleagues.

Let me now turn to a provision that is not currently in the bill. It is my intention to offer an amendment to ensure that the new IRS Oversight Board will have at least one member with expertise on small business issues.

One of the recurring themes of the hearings that we have had is the concentration of problems between taxpayers and the IRS, especially when that taxpayer was a small businessman or woman—an individual who frequently is relatively new to business, learning what the difference was between an expense deductible item and an item that had to be amortized over time, a person who frequently did not have access to or could not afford expert professional advice, but a person who was trying to comply with their legal responsibilities.

These are not evaders of taxation, they are people who need help, and up-to-date information, in order to meet their responsibilities.

We are creating in this legislation an oversight board. That oversight board is intended to provide a new window of enlightenment, in both directions, from the public to the IRS, and from the IRS back to the public. Under legislation crafted in the Finance Committee, the current board would be composed of 9 individuals. Those 9 individuals will include the Secretary of the Treasury, the IRS Commissioner, and a representative of the IRS employees. In addition to those 3 named individuals, there will be 6 Presidential appointees. Each of these 6 must possess expertise in at least one of the following areas: Management of large service organizations, customer service, Federal tax laws, information technology, organization development, and the needs and concerns of taxpayers.

Missing from this list is any specific requirement for expertise in small business issues—an omission that I consider to be glaring given the fact that small businesses are the backbone of the American economy and such a large target of concern for IRS activities.

I believe that at least one of the members of the IRS oversight board should have practical experience in small business issues.

Let me outline the reasons why I feel so strongly about this, and why I will be introducing an amendment to make this part of the IRS reform legislation.

Small businesses have more difficulty dealing with the complex Internal Revenue Code. Small businesses have relatively less time, money, and expertise than large corporations. They need an IRS that is sensitive to these limitations.

Let me explain how I came to this conclusion with a specific example that relates to this bill.

In January of this year, I hosted a Retirement Security Summit at the University of South Florida in Tampa. One session of that Retirement Security Summit specifically focused on the issue of small businesses and their pension plans.

Delegates, small business owners and their representatives discussed their frustrations and their experiences with the IRS. They told me that many small businesses do not offer retirement plans for their employees because they fear the draconian penalties that the IRS can impose for inadvertent violations of complex pension laws.

Mr. President, this is a very serious issue of security for tens of millions of Americans who work for small businesses, the fastest-growing sector of our economy, but whose employers do not provide pension and retirement programs.

We identified that one of the reasons for that unwillingness to provide these programs is the concern of the consequences of subsequent IRS enforcement if the small business finds itself in some technical violation.

Several of my Senate colleagues and I began to consider whether congressional action would help solve this problem. We drafted legislation to provide that companies that correct errors prior to audit would not be subject to sanction. But before we offered the proposal as an amendment to the IRS Reform bill, we wrote to the IRS commissioner, Mr. Rossotti, and asked him if the IRS proposed to change the imposition of penalties for inadvertent errors.

Commissioner Rossotti responded immediately, in a matter of days, and committed to expanding existing self-correction programs and allow taxpayers to rely on those self-correction programs. We were pleased with the quick action of the commissioner in issuing Revenue Procedure 98–22, which many small businesses have characterized as a common sense, reasonable solution to their problem.

That process made me realize how difficult it is for many small businesses to comply not only with the complexities of tax laws as they relate to pension plans, but the whole array of rules that the Internal Revenue Code has spawned. It made me further realize that the IRS needs to be sensitive to small businesses when it issues regulations and enforces the tax laws.

Small business owners often have fewer resources, but must still comply with the same complicated Tax Code as large businesses. Small businesses cannot afford to hire full-time lawyers and accountants to monitor the Tax Code for changes that may apply to them. And small businesses should not have to wait for Congress to be able to change the law where solutions can be found by administrative action.

The myriad of challenges that small businesses face have been reflected in the hearings the Finance Committee has held this year on IRS reform. Many of the taxpayers who have testified so persuasively about mistreatment at the hands of IRS agents have been small business owners.

In my opinion, by adding a small business person to the IRS oversight board, we will be able to provide for a more prompt, more sensitive understanding of the needs of small businesses and the ability of IRS to respond internally.

Even the IRS has acknowledged the unique needs of small businesses. In testimony before the Senate Finance Committee on January 28 of this year, Commissioner Rossotti proposed reorganizing the IRS into 4 units—each charged with end-to-end responsibility for serving a particular group of taxpayers. He proposed dedicating one of those four working units to small businesses.

Mr. President, it is for those reasons that it is my intention, with other Members of the Senate, to offer an amendment to this bill, when it is before the Senate, to include a representative of small business as one of the 6 presidential appointees to the IRS oversight board. I believe this would be of substantial benefit to the enforcement of our tax laws as they relate to the special needs of small businesses.

Mr. President, before I conclude, I want to acknowledge the efforts of Senator KIT BOND, who chairs the Small Business Committee. He has included a similar provision in legislation that he will be introducing.

Should the requirement that the oversight board have small business expertise not be incorporated in the bill through Senator BOND's amendment, I will urge adoption of this targeted amendment that I will intend to offer.

The amendment is simple, fair, and essential if we are to bolster our Nation's small businesses. Mr. President, I urge my colleagues to support legislation to include small business on the IRS oversight board. I ask the managers to let us know when it would be appropriate to introduce this amendment.

Mr. President, I appreciate this opportunity to discuss the process by which the items in the IRS reform bill have been developed. It has been thoughtful and it has received the strong, steady support of our chairman, Senator ROTH, and has led to a set of reforms that I believe the Senate will be very much carrying out the wishes of the American people in adopting.

With respect to small business, Commissioner Rossotti stated:

> Another very important group of taxpayers are small businesses, including sole proprietors and small business corporations. There are about 25 million filers in this category. Compared to other individual taxpayers, this group has much more frequent and complex filing requirements and pays much more directly to the IRS, including tax deposits, quarterly employment returns, and many other types of income tax returns and schedules. Providing good service to this group of taxpayers is more difficult than wage and investment filers, and compliance and collection problems are also much greater. Small start-up businesses in particular need special help. By dedicating a fully responsible unit to providing all IRS services for the self-employed and small business, this unit will be able to work closely with industry associations, small business groups and preparers to solve problems for the benefit of all.

Commissioner Rossotti is right. The IRS needs to focus resources on helping small businesses, and that focus needs to be reflected on the Oversight Board.

The amendment that I propose to offer is also needed because small businesses play such a central role in our nation's economic strength. The numbers tell the story:

Small Business Administration figures indicate that of the 5,369,068 employer firms in 1995, 78.8% had fewer than 10 employees, and 99.7% had fewer than 500 employees.

Employers with fewer than 500 employees increased from 4,941,821 in 1988 to 5,261,967 in 1994, a 6.5% increase.

The number of small business owners (as measured by business tax returns) in the United States increased by 57% since 1982.

According to the Small Business Administration, America's small businesses created 11,827,000 jobs from 1992 to 1996. This number represents the vast majority of all new jobs created during that period.

Small microbusinesses with 1–4 employees generated about 50% of all the net new jobs from 1992–1996, while firms with 5–19 employees created another 27% of new employment opportunities.

The fastest growing of small-business-dominated industries during the past several years include restaurants, outpatient care facilities, offices of physicians, special trade construction contractors, computer and data processing services, and credit reporting and collection.

Ninety-four percent of high technology firms have less than 500 employees; 73% have fewer than 20 employees.

In my home state of Florida, the productivity of small business is astounding.

In 1996, Florida had 348,000 businesses with employees. 99% of all businesses with employees had less than 500 workers.

The state also had 412,000 self-employed persons in 1996, for an estimated total of 760,000 businesses.

In Florida, small businesses created 1,081,000 or the 1,194,000 net new jobs from 1992 to 1996. Very small businesses (less than 20 employees) created 71.7% of the small business growth with 775,000 new jobs. These numbers reflect the importance of small businesses as job creators.

Recent IRS statistics reflect the rapid growth of small businesses. They indicate that net income reported by sole proprietors has doubled in the last decade.

It is because of these reasons and trends that I urge my colleagues to support this effort to give small businesses a voice on the IRS Oversight Board.

Mr. President, I want to acknowledge the efforts of Senator KIT BOND, Chairman of the Small Business Committee, in this area. He included a similar provision in his IRS Reform bill.

Should the requirement that the Oversight Board have small business expertise not be adopted via a broader amendment, I will urge the adoption of this targeted amendment.

The amendment I propose is simple, fair, and essential if we are to bolster our Nation's small businesses. I urge my colleagues to support it—and ask the managers to let us know when it is appropriate to introduce the amendment. The amendment that I propose to offer will extend its benefits in a very significant way to the most important part of the American economy, the small business community of this Nation.

Thank you, Mr. President.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for the purpose of introducing a piece of legislation in conjunction with Senator ALLARD, who will be soon joining me to speak.

The PRESIDING OFFICER. Does the Senator have a time limit on that?

Mr. ABRAHAM. I would like to speak for up to 10 minutes, to be followed by Senator ALLARD for up to 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I also seek unanimous consent that at the conclusion of Senator ALLARD's remarks the Senate stand in recess for purposes of conducting the weekly policy luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan is recognized.

Mr. ABRAHAM. I thank the Chair.

(The remarks of Mr. ABRAHAM and Mr. ALLARD pertaining to the introduction of S. 2033 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS UNTIL 2:15

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:49 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. THOMAS].

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

UNANIMOUS CONSENT AGREEMENT

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate resume consideration of H.R. 2676 for debate only until 3 p.m.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent that I may talk about an amendment I plan on offering after the debate time has expired. I would like to explain a little about the amendment, if I may have the time.

Mr. ROTH. Mr. President, I didn't hear the distinguished Senator's request.

Mr. GRAMS. I was asking unanimous consent to speak about an amendment. I am going to offer an amendment this afternoon following the time set aside for the debate.

Mr. ROTH. It is the hope of the manager that upon the passage of 3 p.m., we will move ahead with the managers' amendment.

The PRESIDING OFFICER. The Senator has a right to discuss his amendment at this time.

Mr. GRAMS. Mr. President, I just wanted to inform the Senate of my intentions today—later on, after this time for debate—to offer an amendment that would permanently exempt interest payments owed by disaster victims to the Internal Revenue Service.

This is a very simple and straightforward amendment. The amendment is actually derived from the "Disaster Victim Tax Extension Act," legislation I introduced on April 29, 1998 with Senators COVERDELL, FRIST, MCCAIN, HUTCHINSON, SMITH of Oregon, GRAHAM of Florida, and D'AMATO.

As I stated in a Dear Colleague letter circulated on April 22, this amendment permanently exempts interest payments for disaster victims who reside in presidentially declared disaster areas and have been granted an extension for their tax filing.

The reason for this amendment is very clear:

Each year, our country is hit by natural disasters of all kinds—such as hurricanes, tornadoes, earthquakes, floods, and ice storms—causing extreme hardship for hundreds of thousands of Americans.

This year, 15 states have already been hit by deadly disasters:

Starting March 7, severe storms and flooding struck the state of Alabama, damaging nearly 1,200 homes, and the city of Elba in Coffee County was evacuated as a result of a levee failure. Three deaths were attributed to the floods and one person was reported missing.

On February 9, twenty-seven California counties were wracked by severe storms.

During the period of January 28 through February 6, a series of severe winter storms hit communities in Sussex County in Delaware.

Also in February, three southern Florida counties were victimized by tornadoes and other violent weather.

In February, six counties in Georgia were struck by tornadoes. On March 20, amid flood recovery efforts, tornadoes and windstorms tore through northeast Georgia, adding to the overall devastation. Tornadoes again touched down in west Georgia, metro Atlanta, and southeast Georgia on April 9.

In February, Atlantic and Cape May counties in southern New Jersey were hit by the coastal storm that lashed the area.

On April 16, six Tennessee counties were ravaged by deadly tornadoes and other violent weather.

And, Mr. President, on March 29, seven counties in my own state of Minnesota were hit by deadly tornadoes, damaging thousands of homes and businesses along an 86-mile path carved through the communities of St. Peter, Comfrey, and Le Center.

Just days after the March storm, I traveled to the disaster site in south-central Minnesota to witness the destruction and meet with the Minnesotans—families, farmers, and other business owners—forced to cope with this tragedy. Mr. President, I've never witnessed devastation on such a scale. I have heard of tornado-damaged areas being compared to "war zones," but had no idea how close that was to the truth. This was indeed a war zone, and the Minnesotans I met with that Friday and Saturday were very much its innocent victims.

Two of those victims tragically lost their lives.

The property damage was widespread. Grain storage bins were leveled, the fronts of homes were sheared off, farm fields were choked with debris, making it impossible to plant, rows of telephone poles snapped, brick houses leveled, countless trees were downed at Gustavus Adolphus College, and the spire of its church was torn off, vehicles were scattered by the winds, some landing in farm fields, the historic Bell Tower of the courthouse in downtown Saint Peter was destroyed.

I am told the March tornadoes were some of the largest and longest in Minnesota's history. It's hard to imagine, but the Comfrey and Saint Peter tornadoes were a mile and a quarter wide—2,200 yards. That is nearly twice as wide as any previous tornado to hit my state, and far larger than the average tornado, which is only 100 yards wide. The tornado that destroyed Comfrey created a damage zone of 77 square miles. Just how large is that? Larger than the entire city of San Francisco, which is contained within 75.2 square miles.

The estimated total dollar value of insured losses caused by the south-central Minnesota tornadoes has reached $175 million, exceeding insured losses incurred in my state during the floods one year ago. Minnesotans have come together to clean up and begin the rebuilding, as we always do when our neighbors need help, and I'm impressed with their spirit in facing this disaster. Still, it's going to take many months, perhaps years, before life returns to normal in those towns caught in the tornadoes' paths.

Minnesota's experience is, unfortunately, not unique. Deadly natural disasters occur every year. Lives are lost, homes are demolished, property is destroyed, businesses are ruined, and crops are wiped out. The survivors of these disasters need our help to get their feet back on the ground.

Federal disaster assistance has been effective. In fact, almost all of the major disaster sites have been subsequently designated as presidentially declared disaster areas and are eligible to receive federal disaster assistance.

However, there is one hurdle Congress must remove. Residents in presidentially declared disaster areas can often get an extension to file their tax returns. However, interest owed cannot be exempted by the IRS. The IRS charges an 8 percent interest rate for taxes owed, even if disaster victims get an extension for tax filing. So this is adding insult to injury.

Exempting interest payments owed to the IRS requires congressional action. Many states, like Minnesota, immediately grant exemptions for interest payments on state taxes when disaster areas are declared. Although Congress has granted such federal waivers in the past, they must be done legislatively each time a disaster occurs, and appropriate vehicles are not always available. This creates one more uncertainty for disaster victims.

My amendment would once and for all remove this barrier and give residents of presidentially declared disaster areas an interest payment exemption on any federal taxes owed. Under my amendment, the exemption is effective retroactively to tax year 1997, so that all of this year's disaster victims will be covered for their late filing.

Mr. President, this may seem like a small matter, but for disaster survivors in Minnesota, Georgia, Alabama, California, Delaware, Florida, New Jersey, Tennessee, and every state devastated by events entirely and utterly out of their control, every dollar counts in their efforts to begin to repair and to rebuild their lives. I urge my colleagues to support this amendment to make sure that we put in place permanently an exemption so the IRS will not charge interest on taxes that are due and that are not paid on time because of extensions due to disasters.

Again, it may seem like a small matter, but to those people who have experienced these disasters, it is a lot.

I urge my colleagues to support this amendment. I will be sending this to the desk as soon as the chairman's time on his debate has been concluded.

I thank you very much.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, let me speak about the same issue which my colleague has spoken about. As I talk to other Senators, I think we are going to hear the same thing that Senator CLELAND from Georgia, I say to the chairman of the Finance Committee, was saying—that in his State it is the same issue. In my State of Minnesota, it is the same issue. I have essentially the same amendment that Senator GRAMS has. I think we can all join in one effort. That is the way it should be. What we are saying—and what my colleague said happened in St. Peter really put it best—I make this appeal to colleagues. This is just a matter of, I guess, just trying to help people out. People have enough on their minds. There has been such devastation.

The last time around when we dealt with the devastation of the flooding in Minnesota and a number of other States, we were able to get not only an extension on the filings of the IRS tax forms but also, in addition, an extension on the actual payment. Along with that, we had congressional action which led to a forgiveness on the interest for late payments. But that did not automatically exempt. So this effort that a number of us have been working on is a terribly important amendment.

I think both Senators from Minnesota and other Senators from other States who have been hit with these disasters just in the last several months this year would provide some help to people. That is what it is all about—providing help to people. It is my hope—in talking with other Senators and we had a discussion in the caucus at lunch as we look at whether or not it is a relevant amendment—it is certainly my belief this meets that test. This deals with a specific provision already in this bill that deals with the forbearance on interest payments and, therefore, I think it would meet the test of relevant amendments. I know that will be one of the questions that will be raised by my colleagues.

I join in with Senator GRAMS and with Senators from other States, all of whom really feel we want to try to get this done, and we want to try to get this done on this bill. We will have a chance later on to come out here and speak about our amendments, although I think the floor amendments will essentially merge into one amendment. I make an appeal to colleagues—Democrats and Republicans, Republicans and Democrats alike—to please give us your support. This is very important to the people in our State.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I will be offering, after the 3 o'clock timeframe, an amendment to the Internal Revenue Service Restructuring and Reform Act. I commend the chairman of the committee and the members of the committee who have done so much good work in crafting a measure that I think is a strong measure that will do much to resolve the questions many citizens of America have about whether the IRS is treating them fairly, whether they are getting a fair shake.

I have talked with a lot of people in my State, and I can tell you that there are a very large number of people in the IRS who have the confidence of the private sector folks, the taxpayers, and their representatives who work with them.

Coming from Missouri, we can say that the overwhelming number of IRS agents who are dealing with the public are dealing on a fair, evenhanded basis. But we have had examples brought forth in the Finance Committee of abuses that are clearly outrageous. Something needs to be done to shape up the system so that a rogue agent cannot give the entire agency a bad name and that a rogue agent cannot impose or inflict upon a taxpayer burdens and penalties and requirements that are nowhere in the statutes.

I will be offering an amendment which changes the proposed structure for the advisory board. I believe if you are going to have an advisory board, if you are going to put the IRS into some kind of board, then you need to do the job all the way. It is clear from the hearings and from the testimony that there is significant support for saying the IRS ought to be run by a board, it ought to have an insulation from political influence—it should be kept free from direct interference by the White House or even guidance out of the Treasury in terms of enforcement of the laws. Not tax policy. Tax policy is rightly one in which we expect the Secretary of the Treasury and the President to offer advice, counsel, and work with the Congress on carrying out the policy.

But given the example of audits which at least raise the question of whether they have been conducted or directed by political influence, I think the only safeguard for the American people is to make the board a full-time professional board composed of five members—four from the private sector plus the Commissioner of IRS—and give it the full authority to run the day-to-day operations of the IRS. It would have a consultative role in developing tax policy. But let's take a look at it. We have full-time boards that conduct some agencies with very sensitive responsibilities—the Securities and Exchange Commission, the Federal Communications Commission. These are boards which run agencies with very important economic powers over the economy and over citizens in the economy. To the extent that we have entrusted powers to them, we see that they are able to provide a buffer between political influence and the work of the agency.

On the other hand, if you are concerned about reforming an agency and you find that the agency is out of control, as the committee has found the IRS to be, then how can you expect a part-time advisory board to get the job done? Nobody has been able to cite me an example where a part-time advisory board came in and got control of the agency. The purpose of a part-time advisory board is to give advice which can be accepted or ignored, and, from the hearings, we have seen that a part-time advisory board type of advice is not what the IRS needs.

I think the time has come, if we are going to fulfill the mandate given to us by our constituents to do something about the IRS, to reform it, then we ought to set up a full-time board so the members do not have to split their time between private activities—between their own jobs and their own responsibilities—and looking over the IRS on a day-or-two-a-month basis. It just does not make any sense.

As a former chief executive of my State, I know that agencies can run a unit of Government and they can do so without political interference. In my experience, sometimes agencies of State government were too immune to interference or guidance or leadership from the Governor. But if the question here is to make sure that there is not improper influence on tax audits and tax investigation targets, the only way to do the job and to do it properly is to put the management and the authority over the work of the IRS in the control of a board with full-time members on an equal footing with the Commissioner so that they can insulate the IRS from any political influence. I believe this is a very logical step to ensure that the reformed IRS meets the standards we would all expect to see for this agency. If we are going to go for a board, let's go big time. Either go for an independent, full-time board with executive authority or get back up on the porch and let the existing agency run itself.

Mr. President, I look forward to discussing this amendment when the time ripens for its consideration in the Chamber. I appreciate the chairman and the manager on the other side bringing to the floor a very good bill. I believe this provision will make it an even better bill, and I look forward to debating it, I hope this afternoon.

I thank the Chair. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I assume that we are on the IRS restructuring legislation; is that right?

The PRESIDING OFFICER. That is correct.

Mr. GRASSLEY. Mr. President, we are here today in the second day of debate on this legislation to discuss a very important issue, and that is the restructuring of the Internal Revenue Service. As my colleagues know, I have worked very hard on this issue—serving on the National Commission on Restructuring of the IRS and joining Senator KERREY of Nebraska in introducing the first piece of comprehensive legislation that would comprehensively restructure the IRS. In addition, Senators REID, KERREY and I introduced the Taxpayers' Bill of Rights III earlier this year.

There are real problems in dealing with the IRS, and there are real problems at that agency, as shown in the Senate Finance Committee hearings—which were so ably chaired by Senator ROTH from Delaware, the chairman of that committee—and not only the recent ones which were probably the most shocking, but also starting last September with hearings that brought out horror stories.

These hearings about the horror stories were about our Government's treatment of taxpayers. Every time I go home I hear from constituents who tell me about their firsthand experiences with the IRS. Rarely are they good. For this reason, it is not good enough to just try. We have to succeed in this reform.

I would like to tell you what I learned about this issue in the Restructuring Commission's hearings and deliberations that took place during the fall of 1996 carrying over to the first 9 months of 1997, at these hearings and our deliberations there—but also, as I have already alluded to, the Finance Committee hearings which also were a very good basis for this legislation. Then we have all had some of our own studies of this issue as well. This is what I have learned: The IRS routinely abuses taxpayers, and the rules the IRS lives by are unfair to the taxpayers and not according to the rule of law.

The structure of the IRS was not set up with its consumer, the taxpayer, in mind. The IRS functions without accountability. The IRS agents are not held accountable for their acts. This breeds a culture of abuse and a culture of coverup, and this is where we stand today. We have a chance to fix this culture. We have one chance to enact real, solid, IRS reform. We in the Senate are supposed to be in the business of improving people's lives. We must pass real, solid and lasting IRS reform. We must set up a system that makes the IRS accountable for its actions, and then we in the Congress, who have constitutional responsibilities of oversight, have, over the next several months, with intensity, but on an ongoing basis, a responsibility to make sure that we continue the oversight work that has been done. We bear some responsibility in the Congress for an out-of-control agency. But I think with proper congressional oversight we will make sure that this does not happen again.

This legislation before us now makes many strides towards fixing the IRS. For starters, it strengthens oversight of the IRS. It creates an IRS Oversight Board. This Board will be made up of nine individuals who will oversee the administration, the management, the conduct, the direction and even the budget of the IRS. The IRS Commissioner and a representative of the National Taxpayers Employees Union will also serve on this Board. The union representative is especially important. Our IRS Restructuring Commission had a union representative on it. Bob Tobias, the president of the NTEU, was instrumental in the Commission's work. The Commission would not have made recommendations for such strong reforms and made them by such a strong majority if it were not for his involvement. Working with him, I learned that the union also wants strong reforms within the IRS.

Another important provision of this bill that increases IRS oversight is the creation of a new Treasury Inspector General who will be devoted exclusively to IRS matters. This office will have all the powers and authority granted under the Inspector General Act, resources dedicated specifically and only to the IRS oversight, and independence from being in the Treasury Department rather than being at the IRS.

This bill also takes an important step in helping Congress' oversight efforts and in making sure that the public and press can assist us in these efforts. This bill requires a new Inspector General for Tax Administration to randomly audit 1 percent of all IRS documents that the IRS redacts before it releases those documents. In our Restructuring Commission hearings we learned that the IRS uses its privacy privilege to hide its own wrongdoing from us in the Congress and, hence, from the public and also from the press. This is illegal, but more important it is deceitful. This bill requires that a small percentage of documents be audited to ensure that the IRS can't hide behind laws designed to protect the taxpayers.

These provisions, although great, are still not enough. In addition, Congress must continue its diligent oversight efforts. The IRS is important to us now, but will it be important to us even 5 years from now? Or will we be focused on another issue of the day then? We need to commit to have strong, thorough oversight hearings on an ongoing basis.

This bill also gives taxpayers important new rights. It helps taxpayers know their rights and to navigate the tax collection system. I believe that Americans are smart people. If you give Americans enough information, and if you treat Americans fairly, they can usually take care of themselves.

This bill empowers taxpayers with important new rights and puts the taxpayers on a more equal footing with the IRS. I say a more equal footing. I think it would be intellectually dishonest for me to say with the passage of this legislation that we have totally leveled the playing field, which the taxpayers ought to expect and which I hope I am surprised some day and I can say that we have, but I don't want to categorically say that today.

This bill also has innocent spouse reforms so that innocent spouses are treated exactly as they are, and that is they are innocent.

This bill limits the seizure authority of the IRS. It allows taxpayers to sue the IRS if its agents are negligent in violating the code and the constitutional rights of our citizens. It prohibits the IRS from contacting third parties without prior notification to the taxpayer. It requires that the IRS exhaust all collection options, including installment agreements, before seizing a business or a principal place of residence.

I could go on and on, but the point is that the bill before us is strong, comprehensive reform. This bill is stronger than its House-passed companion, and we can all thank Chairman ROTH and the Finance Committee generally—but without his leadership, it would not have happened—for making this strong, because we do need to pass this legislation. We need to insist that the conference report be equally as strong. And then we need to get it on the President's desk as soon as possible.

The American people deserve to be treated with respect, especially by their own Government. The American people deserve this bill, and the American people deserve to be represented by Senators who have the courage and foresight to not only enact this legislation, but after it is enacted, to see, through the constitutional responsibilities of oversight, that it is actually carried out.

When this legislation is passed, I want to be able to say to the American people, "We're on the road to eliminating the culture of intimidation within that agency." I want to be able to say to the American people, "On April 15th next that you're treated by the IRS with the same courtesy, with the same accurate information and with the same timely response that they expect out of you, the taxpayer, on April the 15th."

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, Senator GRASSLEY not only was on the National Commission on Restructuring the IRS, along with myself and Congressman PORTMAN and Congressman CARDIN on the House side, but long before I ever became interested in this issue, Senator GRASSLEY, along with Senator Pryor—indeed, Senator GRASSLEY may want to offer some historical reflections on this—has been involved with trying to change the law and put the law on the side of the taxpayers, to give them more rights.

I believe, I say to the Senator, the first taxpayers' bill of rights legislation was enacted, was it 1994? I ask the Senator from Iowa, the first taxpayers' bill of rights—I know Taxpayers' Bill of Rights II was 1996.

Mr. GRASSLEY. I think the first one would have been in 1988 or 1989.

Mr. KERREY. The Senator from Iowa and Senator Pryor were partners in developing that legislation. Did the two of you work together on the Taxpayers' Bill of Rights II?

Mr. GRASSLEY. Yes.

Mr. KERREY. Both of those pieces of legislation were landmark bills. The reason they were landmark bills is they laid a foundation upon which we are building this legislation. All of title III, which adds additional powers to what the taxpayers will be granted, was added as a consequence of evaluating whether or not the Taxpayers' Bill of Rights II has gone as far as we want to go.

I say that because a lot of colleagues have come up and said, "Well, does this legislation go too far; does it give taxpayers so many new rights that the IRS will not be able to do their job?" which is to collect taxes? "Is there any power left in the IRS?" And the answer is yes.

All through this we have been conscious of the need to balance, and what we have been able to do is look at the impact of Taxpayers' Bill of Rights II. We can see additional authority needs to be granted to taxpayers. I think it is an admirable balance, and it would not have been possible to get it done without Senator GRASSLEY's longstanding interest and understanding and leadership on this issue. I publicly thank him for making certain that we extend additional rights without undercutting the authority of the IRS to do what we have asked it to do.

Mr. GRASSLEY. Mr. President, I thank the Senator from Nebraska very much for his kind remarks and for the background of the Taxpayers' Bill of Rights I and II, but most importantly for his thoughtful leadership on the Commission, because that was 1 year of very hard work for Senator KERREY. He gave it the attention that this problem deserves. The strong piece of legislation that has gone through the House of Representatives and now strengthened by the Senate Finance Committee under Senator ROTH's leadership would not have been possible without the digging and leadership that Senator KERREY has shown.

Mr. KERREY. Now let's do trade.

Mr. GRASSLEY. We will do trade. I yield the floor.

Mr. KERREY. Likewise, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate continue H.R. 2676 for debate only until 3:30 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. KEMPTHORNE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate continue the debate on H.R. 2676 for debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask permission to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAY AND CHASE

Mr. GRASSLEY. Mr. President, I would like to talk about "pay and chase" today. "Pay and chase" is a Pentagon term used to describe another misguided policy. With pay and chase, the Pentagon pays the bills first and then tries to track down the receipts later on. Sometimes they find them; sometimes they don't. And sometimes, they don't even bother to look. This is not a good policy. It is unbusinesslike, and it's dangerous.

Under current law, payment is not due until a valid receipt is in hand. A certified receipt tells you that the goods and services have in fact been delivered.

So, to me, pay and chase is a mystery. Why, Mr. President, would anyone—in or out of government—want to pay a bill without a receipt? That defies understanding. It makes no sense. Unfortunately, this is exactly what the Pentagon bureaucrats are urging Secretary of Defense Cohen to do.

Today, pay and chase is unofficial policy. It's practiced but not authorized by the law. But the Pentagon bureaucrats want Secretary of Defense Cohen to change that and make it O.K.—with the law.

Secretary Cohen made his request in a letter to the Senate dated February 2, 1998.

Mr. President, I ask unanimous consent to have his letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, February 2, 1998.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am forwarding for your consideration draft legislation that, if enacted, would be entitled the "Department of Defense Reform Act of 1998." This bill is intended to form the core of the Defense Reform Initiative (DRI). I request prompt action by the Congress on this proposal.

The DRI is an exciting, sweeping reform of the "business" of the Department of Defense. It will affect the Department from its corporate headquarters at the Pentagon to each service member and his or her family throughout the world. While aspects of our reforms can and already are being accomplished within existing statutory authorities, the proposed bill is crucial to implementing many of the most important and far-reaching reform elements that will make the Department more business oriented. The DRI will give us the authority to use those practices that our American industry counterparts successfully have used to become leaner and more flexible in a world of increasing change and flexibility.

Re-engineering the Department. We will re-engineer by adopting the best private sector business practices in defense support activities. For example, we propose to incorporate state-of-the-art business procedures in our travel system. Section 301 would streamline our household goods transportation so that simplified "Do-it-Yourself" (DITY) moves would be available to every service member. Section 401 would authorize streamlined procurement payment practices so that our civilian contractors would get prompt and accurate payments for their goods and services. Section 403 would enable all Federal agencies more freely to use private sector practices in the sale of surplus personal property, alone or in conjunction with current Government reinvention and streamlining initiatives, and to foster more expedient and efficient disposals of property.

Consolidation. Next, we will consolidate organizations to reduce unnecessary redundancy and to move program management out of Pentagon corporate headquarters and back into the field. The Office of the Secretary of Defense and defense agency personnel will be cut, as will personnel in Department of Defense field and related activities. Section 202 supports this initiative by extending current force drawdown authorities through September 30, 2003. Section 107 would clarify that I can make organizational changes as the National Defense University in order that I can move parts of organizations into that structure when appropriate.

In addition to cutting the size of staffs, the DRI will establish a number of new organizational arrangements. Among these is a Threat Reduction & Treaty Compliance Agency created to address the challenges of weapons of mass destruction. Section 102 supports this initiative by eliminating the requirement for an Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs. Sections 104 through 107 support another important consolidation initiative—establishing a Chancellor for Education and Professional

Development to raise the quality of civilian training and professional development to world-class standards. Part of our consolidation effort will enhance the role of the National Guard and other Reserve elements in domestic emergency responses. Sections 501 through 503 support this effort by making our Reserve component and National Guard members more available and an even closer member of our family.

Competition. We will compete many more functions now being performed in-house, which will improve quality, cut costs, and make the Department more responsive. While this initiative will apply throughout the Department, some candidates for competition include civilian and retiree payments, personnel services, surplus property disposal, national stockpile sales, leased property management, and drug testing laboratories. Section 402 would permit use of contractor employees of a contractor whose system is being tested, to provide the analytic and logistic support in those cases where contractor impartiality is assured.

Elimination. Finally, we will eliminate excess infrastructure. Since the end of the Cold War, the Department of Defense has reduced its military forces significantly, but infrastructure cuts lag behind. The defense budget has been reduced by 40 percent, and military personnel will have declined by 36 percent by 2003. At the same time, after four rounds of base closures, the Department's domestic base structure is only 21 percent slimmer. Consequently, we need to make more infrastructure reductions. Money is wasted on keeping open excess installations. These resources can better be directed to support the warfighter. Title VII of our bill would authorize two additional rounds of base closures. Each round will provide annual savings of $1.4 billion.

The DRI would increase direct spending annually by less than $10 million during fiscal years 1999–2002; therefore, it is subject to the pay-as-you-go (paygo) requirement of the Omnibus Budget Reconciliation Act of 1990. This proposal should be considered with other proposals in the President's Fiscal Year 1999 Budget that together meet the paygo requirement.

Enactment of this proposal, together with our other management and structural changes, dramatically will enhance our ability to improve organizational efficiency while making more effective use of the Department's financial and personnel resources. I urge the Congress to enact this legislation promptly so that we can pursue these crucial management reforms.

Sincerely,

Bill Cohen.

Mr. GRASSLEY. Making pay and chase official policy is just one small piece of Secretary Cohen's Defense Reform Initiative or DRI package. Secretary Cohen's pay and chase proposal is embodied in section 401 of the DRI.

Mr. President, I ask unanimous consent to have section 401 printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

SECTION 401. AUTHORITY FOR STATISTICAL SAMPLING TO ENSURE RECEIPT OF GOODS AND SERVICES.

(a) In General.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2405 the following new section 2406:

§ 2406. Statistical sampling procedures in the payment for goods and services before verification

"(a) Verification After Payment.—Notwithstanding section 3324 of title 31, in making payments for goods or services, the Secretary may prescribe regulations that authorize verification, after payment, of receipt and acceptance of goods and services. Any such regulations shall prescribe the use of statistical sampling procedures for verification and acceptance purposes. Such procedures shall be commensurate with risk of loss to the Government.

"(b) Protection of Payment Officials.—Provided that proper collection actions have been executed, a disbursing or certifying official, who relies on the procedures established pursuant to this section, is not liable for losses to the Government resulting from the payment or certification of a voucher not audited specifically because of the use of such procedures.".

(b) Clerical Amendment.—The table of sections for such Chapter 141 is amended by inserting after the item relating to section 2405 the following:

"2406 Statistical sampling procedures in the payment for goods and services before verification."

Mr. GRASSLEY. The Section 401 pay and chase proposal has three parts.

First, Section 401 would authorize DOD to pay bills without receipts—with no dollar limit.

Second, Section 401 would require only random after-the-fact verification of some receipts.

Third, disbursing officials would be relieved of all responsibility for erroneous or fraudulent payments that could result from this policy.

Mr. President, this is a terrible idea. Section 401 says it's OK to pay bills without receipts. Just do it—$50,000; $500,000; $1 million; $10 million; or $100 million. The sky's the limit. It doesn't matter how big the bill is. Just pay it! And if you make a mistake, that's OK, too. Not to worry.

Nobody can be held accountable for erroneous or fraudulent payments. This proposal could not have come at a worse time. All reports from the General Accounting Office (GAO) and Inspector General (IG) clearly indicate that DOD's internal controls are weak or non-existent.

Not only do weak or non-existent internal controls make for easy embezzlement, they invite it. And it seems like embezzlers are on a rampage. That's the subject of a recent article entitled "Embezzlement Growth is Dramatic." The article was written by Mr. Gary Strauss and appeared on page 1 of USA Today on January 13, 1998.

Mr. President, I ask unanimous consent to have this article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From USA Today, Jan. 13, 1998]

EMBEZZLEMENT GROWTH IS "DRAMATIC"

(By Gary Strauss)

Wendell Doman wasn't your typical embezzler. A Mormon and father of seven, Doman didn't steal from corporate coffers to fund a wild spending spree, trophy mistress, gambling or drug addition. Instead, the 37-year-old chief financial officer of New Age music company Narada Media was thinking long term.

Sure, he spent $37,000 on a BMW he judiciously kept away from the office. And there was the $243,500 Minneapolis home to which he moved after quitting Milwaukee-based Narada in February. But the bulk of the $1.13 million federal prosecutors say he stole was squirreled in Vanaguard's Growth and Income stock mutual fund.

It's unclear how many Wendell Domans lurk in the offices of Corporate America. Only a fraction of embezzlement cases are reported—the prime reason the Justice Department has difficulty gauging the white-collar crime that can be among the most troubling for businesses.

But judging from anecdotal accounts from prosecutors, insurers and fraud specialists, 1997 may go down as a record year for corporate embezzlement.

"There's been a dramatic increase in embezzlement across the board, everything from small mom-and-pop shops to major corporations," says Chris Franklin, who manages embezzlement claims for Chubb, a major provider of fidelity insurance, which covers businesses' embezzlement losses.

High six-figure and low million-dollar thefts such as Doman's are increasingly common, says Tom Harrington, head of the FBI's economic crimes squad in the agency's Philadelphia office. "I talk to my counterparts all across the country. The amounts being embezzled are growing."

The FBI estimates 15,700 workers were arrested for embezzlement in 1996, up almost 25% since 1993. But the FBI numbers probably account for just 10% of embezzlers, says Frank Hagan, a criminology professor at Pennsylvania's Mercyhurst College and coauthor of *White Collar Deviance*, to be released next year. "These numbers aren't accepted by criminologists because embezzling is grossly under-reported," he says.

Most companies are too embarrassed to report such white-collar crimes for fear of appearing inept, spurring more employee theft or angering sharesholders, clients or customers, says Sharon Parker, who's prosecuted numerous white-collar crime cases as an assistant U.S. attorney in Indiana. Nor are companies legally bound to report embezzlement. Only banks are required to notify authorities.

Yet based on a recent, first-of-its kind survey of 2,600 fraud investigators. U.S. businesses lose more than $400 billion annually to fraud, nearly a third of that from embezzlement, says Joseph Wells, head of the 20,000-member Association of Certified Fraud Examiners.

"This reality is a problem, particularly among mid- and upper-level managers," says Wells, author of *Occupational Fraud and Abuse*. Wells cites decentralized operations, mid-level management layoffs, rising computer use and a booming economy.

The flourishing cottage industries of fraud investigation, forensic accounting and white-collar criminal defense law underscore embezzlement's growth.

"Business is booming," says Howard Silverstone, a forensic accountant with Lindquist Avey Macdonald Baskerville, a financial fraud investigator. "It's up 300%-400% since the start of the decade. And the cases we hear about are just the tip of the iceberg. Most of the time, it's luck that this kind of crime is even discovered."

Hard statistical evidence aside, embezzlers are getting more brazen.

At his recent sentencing on federal wire-fraud charges, Doman contended he was entitled to keep about $206,000, the earnings on the stolen money in his Vanguard account. U.S. District Judge Charles Clevert scoffed at Doman's request, sentenced him to 33 months in prison and ordered him to pay Narada $1.34 million. Doman, serving time in a federal prison in Oxford, Wis., could not be reached.

Wednesday, former Los Angeles *Times* editorial business manager Charles Boesch was sentenced to four years in prison federal charges of embezzling almost $780,000 over four years.

Prosecutors say Boesch, 53, took the money—intended as payments to freelance writers—over four years by submitting bogus invoices for payment to accomplices, including his former son-in-law.

UNDONE BY TIME

Doman and Boesch's thefts look like chump change compared to the $12.5 million Francis Vitale Jr. stole from specialty chemicals maker Engelhard over nine years.

Vitale, Engelhard's former vice president of strategic development and corporate affairs, used the money to accumulate one of the world's most extensive collections of rare and antique clocks. Most of the collection was housed at his Spring Lake, N.J., antique clock shop. It was auctioned for $8 million to repay Engelhard's insurer.

At Engelhard, where he earned a six-figure salary and was a member of the management committee. Vitale was "extremely well-respected" until a routine audit uncovered the thefts, says corporate spokesman Mark Dresner.

Vitale had sole discretion to approve international marketing expenses, so he was able to fabricate more than 150 invoices for his clock shop's purchases into bills Engelhard "owed" for expenses. Vitale, 53, is to be sentenced Thursday.

It's not uncommon for embezzlers to go undetected for years, largely because managers have few supervisors holding them accountable, says Silverstone, the forensic accountant.

That's precisely what happened at Day-Lee Foods, a Japanese-owned meat-exporter in Santa Fe Springs, Calif. In what may be the largest U.S. embezzlement case ever reported, Chief Financial Officer Yasuyoshi Kato stole $95 million.

Until the scheme was uncovered by federal tax investigators in March, Kato stole by issuing company checks to himself for seven years. He covered the missing funds by securing corporate loans to Day-Lee from California subsidiaries of Japanese banks, according to court filings.

Kato, who earned $150,000 a year, had sole control over Day-Lee's finances. That also enabled him to pay earlier loans by arranging even more loans.

DOING THE CHA-CHA

Prosecutors contend Kato went through money like water, buying beachfront condominiums, citrus ranches, even a nightclub named Club Cha-Cha. Money also went to his ex-wife, who bought a rare car dealership, jewelry and animal menagerie that included miniature horses and sharks.

In October, Kato was sentenced to 63 months in prison. Day-Lee's parent, Nippon Meat Packers, estimates losses, including interest on the loans at $100 million.

What motivate embezzlers? Usually any one of a number of vices, although experts paint a portrait of a compulsive, obsessive person in a position of power.

Insiders at Engelhard joke about Vitale's clock fetish.

Attorneys involved in the Doman case point to a conservative, tightly wound CPA who was paying nearly a third of his $75,000 salary to support his ex-wife and children. Doman also may have felt a sense of entitlement. According to court records, he felt his bosses had reneged on a purported offer of a 5% stake in the company before it was to be sold.

Kato's attorney, John Yzurdiaga, says Kato was merely trying to satisfy his ex-wife's insatiable spending appetite.

But, notes Chubb's Franklin, the pilferer could be anyone. "We've seen cases where daughters have ripped off their father's firms," he says. "You can't trust anybody."

In virtually all cases, there are systemic problems, such as lax internal controls, that make it all too easy to steal, says Bart Schwartz, CEO of fraud investigator Decision Strategies/Fair-fax International. "In a booming economy, everyone's looking at business opportunities. They aren't looking internally," he says. "That can allow schemes to go on for years."

Increasingly, companies are initiating countermeasures. Barnes & Thornburg, a 200-member South Bend, Ind., legal firm, formed a white-collar unit a year ago. They've advised clients to implement compliance programs and improve internal accounting procedures, such as requiring more than one employee to sign checks, says unit chief George Horn.

But even Barnes & Thornburg wasn't immune. Longtime partner Ernest Szarwark was indicted in July for mail fraud. He's charged with stealing $500,000 over eight years by taking fees clients paid him and not submitting them to the firm. He also wrote himself checks from the firm's trust account.

WHERE THERE'S A WILL . . .

Ronald TerMeer, on probation after spending 18 months in prison for embezzling $225,000 from Ohio-based Huntington National Bank, says even with beefed up controls, greedy employees will try to circumvent the system.

"You can probably always find a way to steal. But it usually takes someone with obsessive, compulsive behavior to embezzle," says TerMeer, the bank's former controller. "In my case, it was compulsive gambling and alcohol addiction." TerMeer has written a self-published book: *From Doing Federal Time, A Handbook for Businessmen Who are Facing Federal White Collar Criminal Charges.*

Experts fear corporate embezzlement is likely to become more pervasive and the thefts even greater.

"Individuals believe they can perpetrate these crimes and get away with it," says Chuck Owens, chief of the FBI's financial crimes unit. "Corporate insider fraud will remain a substantial problem. There's a fairly high greed level out there."

Mr. GRASSLEY. Mr. President, this is what the article says.

"Lax internal controls" are the cause for "a dramatic increase in embezzlement across the board."

"Lax internal controls" will be laxer-if Section 401 goes through.

Now, Mr. President, there is no magic in a receipt.

A receipt is not a leakproof defense against fraud—mainly because a receipt is so easy to forge.

A receipt by itself is not much of a weapon.

It is just one weapon in the controller's arsenal.

To be an effective weapon, a receipt must be coupled to other control devices—like separation of duties.

Unfortunately, at the Pentagon, receipts don't necessarily go hand-in-hand with the other control mechanisms.

I learned that lesson in my examination of several DOD fraud cases:

The Lugas case at Reese AFB, Texas; the McGill case in Norfolk, VA; and the Krenik case in the Pentagon.

In these cases, there was no separation of duties.

For example, I discoverd that Mr. Krenik's duties literally covered the waterfront. He was involved in every phase of the cycle of transactions from beginning to end. He: developed requirements for goods and services, wrote purchase orders, steered contracts to favored vendors, received and accepted deliveries, certified contract performance by signing receiving reports like the DD–250, and submitted invoices to the finance office for payment.

In Mr. Krenik's organization—the 7th Communications Group—there was no separation of duties. In that environment, it was so easy for Mr. Krenik to fabricate phony invoices and receipts and get paid.

He said it was a piece of cake. It was just too easy.

This is what Mr. Krenik said after being apprehended:

> I saw how others had manipulated the DD–250s [receipts], so I thought I could do that also. . . . It was so easy to generate fake billings and open the Post Office box.

I fear that Mr. Krenik was led into temptation by lax internal controls.

With separation of duties, it would have been very difficult—if not impossible—for him to do what he did. More scrutiny by others would have greatly increased the probability of detection. That fear alone is sometimes enough to deter fraud.

With duties properly separated, the goods are delivered to a central warehouse. After a receipt is certified by an independent warehouse-person, the goods are then turned over to the customer or user—someone like Mr. Krenik.

In the right circumstances, a certified receipt can be a powerful weapon, and I want the certified receipt to be a powerful weapon in the DOD Comptroller's arsenal.

I want receipt verification to be at the top of the checklist of things to do before making a payment.

Above all, I do not want to see this body gut DOD's internal financial controls—or what remains of them—in the name of "defense reform."

Section 401, as written, would gut DOD's remaining internal controls.

Knowing that DOD's internal controls are already weak or non-existent, the GAO and the IG oppose Section 401, as written.

Section 401 would eliminate what's leftover, and it "ain't" much.

And the crooks are hard at work. We know that for a fact because there is a new case at Dayton AFB, Ohio.

Though we don't yet have all the details on the case, it looks like a carbon copy of the Krenik case—fraudulent invoices and receiving reports valued at nearly $1 million.

Dayton happened, despite Air Force assurances to the contrary.

The Air Force assured me on July 18, 1997, in no uncertain terms, that a Krenik-style operation could never happen again.

The Air Force said it had "more internal controls to prevent this type of action from happening again."

I hate to say it but Dayton was happening as those words were being placed on paper.

Weak or non-existent controls combined with heightened embezzlement activity do not argue for Section 401.

So why push pay and chase now?

Pay and chase is a bad idea. It would make DOD's accounts more vulnerable to theft and abuse.

They are already far too vulnerable.

What we need to do now is strengthen internal controls not weaken them.

We need to make the certified receipt the potent anti-fraud weapon that it should be.

DOD should not be authorized to make payments without receipts.

And those responsible must be held accountable for erroneous and fraudulent payments—as they are today.

As I see it, there are two ways to handle Section 401:

(1) remove it entirely from the DRI package; or (2) modify it.

Mr. President, I am ready to work with the Armed Services Committee in developing a mutually acceptable modification to Section 401.

It can be done, and I could help the Committee do it.

There is a way to do it that will serve the best interests of the taxpayers and the Armed Forces.

I yield the floor.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed as in morning business for not to exceed 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MICROSOFT

Mr. GORTON. Mr. President, my esteemed colleague, the senior Senator from Utah, Senator HATCH, was on the floor this morning once again after his letter of last Friday denouncing Microsoft's use of its First Amendment rights to defend itself against an unwarranted attack by the Department of Justice and a handful of state Attorneys General.

At one level, at least, he went beyond the remarks in his letter with the totally unsubstantiated claim that the many C.E.O.'s who joined with Microsoft last week and again today to plead with the Department of Justice not to inhibit or to postpone the marketing of Windows' 98 were somehow or another coerced into taking this position. As a consequence the Senator from Utah not only questions the right of men and women leading major American corporations to speak out on behalf of their products, but also insults them by saying they acted outside of their own freewill. Mr. President as I have said, there isn't the slightest evidence for this proposition.

These C.E.O.'s were and are defending the right of a magnificent and innovative American corporation to keep on innovating, to keep on providing newer and better products for the people of the United States, and for that matter, for the people of the world.

The Senator from Utah buttressed his position by quoting from Judge Robert Bork, who has had a dramatic late-life conversion from free market principles to support willing government intervention in perhaps the most dynamic of all of our free markets. While the Senator from Utah defended Judge Bork's objectivity in this, he failed to note that the judge has recently been hired by Netscape and by others.

Now, Judge Bork's historic position is perhaps quoted best in just two lines from his book "The Antitrust Paradox," in which he says "the responsibility of the federal courts for the integrity of virtue of law requires that they take consumer welfare as the sole value that guides antitrust decisions." The sole value that guides antitrust decisions should be consumer welfare. Mr. President, in this entire debate, we haven't heard a breath, a whisper, or a sentence about consumer welfare.

This is a campaign by Microsoft's unsuccessful competitors to limit Microsoft's competitive ability to benefit consumers. Consumers aren't complaining, competitors are.

Judge Bork has dramatically changed positions from that of a consumer advocate to an advocate of government control. I must confess, Mr. President, that there is precedent for his position. There are antitrust cases that might justify some sort of move of this nature by the Department of Justice. In 1945 in a decision relating to ALCOA, the Supreme Court determined that ALCOA's "superior skill, foresight and industry," were exclusionary of less efficient forms. In 1953, in a case involving the United Shoe Machinery Company, it was decided that United's long line of superior shoe machines and low leasing rates illegally excluded higher cost rivals. Now if that is the theory of antitrust under which Judge Bork is operating, Senator HATCH is operating and the Department of Justice is operating, let them say so. Let them say that they don't want innovation, that they don't like the new developments, and that they do not want advancing technology.

But, Mr. President, the whole fight in this case is over whether or not we are going to permit the next generation of operating systems to go to market. It is that that is at issue, and only that.

Finally, Mr. President, in this connection, Senator HATCH ended his remarks with a line from the Rolling Stones. In the interests of fairness and impartiality, I think that we ought to try another one. When I hear Senator HATCH defending Janet Reno and lawyers of the Justice Department I figure he has been listening to "Sympathy for the Devil" a little too much lately. There is another Rolling Stones song that describes what Microsoft does for it's customers: a little hit called "Satisfaction." Microsoft has been satisfying their customers for 20 years and that's what they ought to continue to do. To the Senator from Utah and everyone at the Justice Department who wants to stand between Microsoft and its customers, all I can say is, fellas, "you can't always get what you want."

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with consideration of the bill.

Mr. ROTH. Mr. President, I ask unanimous consent that the debate on H.R. 2676 continue for debate purposes only until 4:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. Mr. President, I am a member of the Senate Finance Committee, so it gives me special joy that we have at last turned the Senate's full attention to revamping the Internal Revenue Service.

Should we have acted earlier? Of course, we should have. The House overwhelmingly passed its version of this bill months ago by a vote of 426 to 4, and so the reason that we have delayed, frankly, is inexplicable given this bill enjoys such broad-based support in both Chambers of the Congress.

The Finance Committee unanimously reported this bill out for action in March, and so I am no less encouraged, however, that we are only this week acting on the bill. As you know, we had a subsequent set of hearings which spoke to and gave voice to additional problems with the Internal Revenue Service, and that had something to do with the delay. I think the American people would have liked to have seen us pass the legislation before the tax filing date in April. Nonetheless, we are here today in May to pass this bill, and I am hopeful that we will do so.

Also, I am very pleased by the way that we have in the interim, since the beginning of these hearings and investigations, put in place a Commissioner of the Internal Revenue Service who has demonstrated his willingness to act. I am thankful, also, that in the additional hearings that we had in the Finance Committee, any additional information that came out will provide that Commissioner with the information he will need to take immediate action to, one, uncover abuses, two, rectify them, and three, to protect those good employees in the IRS who have been trying to help with the reform of that agency.

Over the last 8 months, I, along with a number of my colleagues on the Finance Committee, have heard horror story after horror story about the abuses inflicted on taxpayers by unsupportable activity within the IRS. We were all outraged by the stories of armed raids on innocent taxpayers' property, unauthorized and unnecessary audits of working-class families, and excessive fees and penalties charged to taxpayers who are just trying to pay their tax bills on time and in a responsible manner. The tales told at those hearings were appalling, but, frankly, they were nothing new to the American taxpayers who know too well what can happen when an agency with the powers of the Internal Revenue Service goes out of control.

Unfortunately, these stories were not the first that we had heard about these abuses. In fact, if anything, the Congress was called upon to act precisely because of the taxpayers and citizens who were raising the point with all of us as elected officials and demanding action from us. So, finally, we now have an opportunity to respond to them. The calls that we had in my State of Illinois were from Illinoisans who had been verbally abused or harassed by auditors, people who had grown frustrated with not being able to get a simple answer to a simple question, or a nice answer to a simple question. All of those things, I think, reach critical mass. And finally the Congress is going to act on this matter. I think it is not a moment too soon. We all have a responsibility and a duty to correct the abuses and an obligation to put the "service" back into the Internal Revenue Service.

I would like to point out that it has been some 40 years in the making since Congress has considered significant reforms to the IRS. With this bill we therefore have a historic opportunity to overhaul this agency and to transform it into an efficient, modern, and responsive agency that is focused on doing its job and not abusing the American people. The IRS interacts with more citizens than any other Government agency, or, frankly, any other private sector business. It collects fully 95 percent of the revenue which is needed to fund the national Government. It is, therefore, unfortunate that it has become one of the most feared and most hated agencies in the country.

But the blame, frankly, does not lie solely with the IRS. My mother used to have an expression: "When you point one finger, you have three fingers pointing back to yourself." I think, frankly, that Congress bears a significant amount of the blame for not exercising its appropriate and responsible role in oversight of the agency, but also for creating the chaotic tax collection system that we now have. I think, indeed, Congress bears the greatest blame for creating a Tax Code that is burdensome and is so complicated that the transaction costs to ordinary citizens are very often overwhelming. People who should otherwise be able to file a simple tax return find themselves frightened into going and paying tax preparers simply because the Code is so complex that they are afraid they can't make their way around it.

In addition to the awful state of affairs at the IRS, our tax system has also presented a series of tax loopholes for dishonest citizens. You have the worst of both possible worlds. You have on the one hand complications that honest citizens have a hard time finding their way around, and loopholes that dishonest citizens find too readily.

Last week, it was announced that a "tax gap" existed, which is the amount of nonpaid taxes that people avoid by taking advantage of the loopholes or the complications in the Code. That tax gap amounts to some $195 billion a year. In other words, honest citizens pay $1,600 a year per year forever in the taxes they pay because of tax avoidance. While our hearings did not go far enough in talking about this issue of tax compliance, it certainly, I think, heads in the right direction if we can restore some sense of fairness, and if we can restore some sense of confidence with the American people in the operation of this agency.

Mr. President, additionally I hope that after we have passed this bill we will also begin to address the issue of tax complication. Just last month, some 120 million Americans sent out some form of tax return to the IRS. Of these taxpayers more than 40 percent of them filed either the short tax form known as the 1040EZ or the 1040 long form. These two forms—one of which is only one page long—are designed to be simple and easy to complete. But each year, again, millions of Americans paid millions of dollars to tax preparers to fill out these forms because they are afraid of making a mistake and facing the wrath of an IRS, which, frankly, is not known to be very user friendly. I hope that we will address the issue of tax compliance or tax simplification as we address the issue of reform of the agency, because while these two things are related they are not the same thing, and I think it would be a huge mistake to think that with the passage of this legislation we would have cured the underlying problem with the complexity and with the confusion that the Tax Code itself causes.

Unfortunately, we frankly have been moving in the wrong direction in regard to tax simplification or getting rid of the complexities. For example, in last year's Balanced Budget Act, which was, of course, hailed as providing significant tax relief to the American people, the Balanced Budget Act added over 1 million new words and 315 new pages to the Internal Revenue Code. The capital gains computation form alone grew from 19 lines to 54 lines. So anybody who filled out their tax forms in April knows how much more difficult we have made the Code by trying to tinker and trying to give tax relief here and tax relief there.

The result is tax complexity that is, frankly, overwhelming. The average taxpayer will spend some 9 hours and 54 minutes preparing just the 1040 form for the tax year 1997. The total burden on all taxpayers for maintaining records, preparing and filing their tax returns, is estimated to be in excess of 1.6 million hours this year. That is kind of a funny number and incomprehensible. But when you consider how many people have to put in that kind of time, it really is a staggering use of energy and time by the American people that, frankly, could be put to better use if we had a more simple and fair Tax Code.

I believe, frankly, the system we have now is outrageous. Having the additional headache of figuring out the complex forms dealing with rude and cranky workers at the IRS and possibly facing audit is really overwhelming. That is what has led to this day and brought us to the point of reforming and changing the system.

Mr. President, I think we took the first step toward positive change last October when the President nominated and we confirmed Mr. Rossotti to oversee the IRS. Commissioner Rossotti has already begun the process towards changing the way business is done over there. During his short tenure he has already been quick to respond to problems that are identified. He has proved that he is not afraid to make the hard calls at the IRS. Since his appointment in late October, Commissioner Rossotti has made several major administrative changes that will help taxpayers break through some of the red tape at the IRS.

In December, Commissioner Rossotti announced the establishment of interim procedures requiring higher level management approval of seizures of property for nonpayment of Federal taxes. The issue of seizures was really one of the high points of the abuses that we heard because they are so dramatic and so obvious. In January, Commissioner Rossotti announced broad-sweeping changes designed to modernize the Service. This "modernization" was tailored to emphasize customer service as well as production within the agency. Then, in February Commissioner Rossotti announced internal changes to address the innocent spouse problem, and just this past month he announced the appointment of William Webster to head the IRS' review of the Criminal Investigations Division. I think we should all applaud his willingness to implement some meaningful changes and his interest in moving forward quickly on an issue which, frankly, has been very long in the coming.

The solution does not lie solely in mending the day-to-day administrative operations of the IRS, however. Indeed, this body shares a great responsibility in ensuring that we are responsive to the needs of taxpayers by passing laws that will put the "service" back in International Revenue Service. I believe that this bill is a major step in that direction.

In addition to giving Commissioner Rossotti the additional statutory authority he needs to continue restructuring the management of the agency, this bill also contains several administrative changes. A new oversight board is established that will have the responsibility of reviewing and approving the operational functions of the IRS and reviewing the practices and procedures of the IRS. The IRS is given greater flexibility in hiring and firing IRS employees, and electronic filers are encouraged to continue filing electronically by removing barriers.

This legislation, however, also provides taxpayers with a plethora of expanded rights and protections, including provisions that will allow taxpayers to enjoy expanded ability to sue the IRS when the IRS blatantly and intentionally disregards the law; a provision that will give the Secretary of the Treasury the authority to provide up to $3 million annually in matching grants to low-income taxpayer clinics; and a provision that will eliminate the penalty for failure to pay taxes when a taxpayer is paying those taxes under an installment agreement. The rules for computation of interest have been simplifies. For those taxpayers who are audited, the bill will include procedures to insure that due process is afforded prior to the seizure of any property and it will require that the IRS set up a process so that any lien, levy, or seizure will have to be approved by a supervisor. Taxpayers would also be given greater access to installment payment agreements with the IRS, greater access to information about the appeals and collections process, and greater access to statements regarding the payments and balance owed in installment agreements.

In addition, several of provisions that I helped craft, and that I believe will give taxpayers further protection, have also been included in this partisan legislation. For example, taxpayers who successfully defend themselves in disputes with the IRS will receive increased reimbursements for legal fees and other expenses incurred. In our hearings we heard from several attorneys who believes that the IRS should pay more reasonable damages when the IRS erroneously pursues an innocent taxpayer. I believe it is only fair that we not leave the taxpayer holding the bill when the IRS audits them unfairly.

Finally, this legislation will also give greater protection to other individuals who are often overlooked by the tax law. For example, new protections for innocent spouses are included in the bill. The change would make couples who file joint returns liable only for taxes based on the income of the husband or wife instead of the total liability for all of the couple's taxes.

There are several other provisions that I believe will also serve useful to many taxpayers. Among them is a so called technical correction that will ensure that more farmers are eligible for the inheritance tax relief that was approved last year by Congress and a provision that would protect computer software writers from having their "source code" information arbitrarily accessed by the IRS. I support the amendment, it is unfortunate that the unintended consequences of complexities we've recently added to the Tax Code come to be remedied by such technical corrections.

All of these changes are needed to amend the current operation of the IRS, but there is still much more to do to address the desperate condition of our tax system as a whole. This bill presents a vital first step in that process.

In closing, I would like to by commending Senators ROTH and MOYNIHAN on their leadership in the Senate Finance Committee on this bill. I would also like to the Kerry Commission for finally getting us to this point.

I would have preferred to have completed fundamental reform of the IRS prior to the April 15th deadline that 140,000,000 taxpayers have to meet, but as the saying goes, "better late than never." I remain encouraged that fundamental reform of our tax system as a whole is around the corner, and I look forward to completing action on this bill. I urge my colleagues to join me in supporting this legislation, and in doing so beginning the process of reforming our tax system in a manner that is fair and efficient for all Americans.

I commend the commission, the Kerrey commission. Senator KERREY is on the floor. I want to commend him for his work in this regard. He has done a great deal to bring us this far. I want to commend the chairman of the Finance Committee, Senator ROTH, for his work in giving us a bipartisan bill. I want to register my strong support for this initiative. I think this bill shows Congress at its best, when we are functioning in the oversight capacity over these agencies that I think the Founding Fathers intended us to do. This oversight is so vitally important to restore confidence not just in the Internal Revenue Service but in our Government as a whole.

I thank the Chair, and I yield the floor.

WORKFORCE INVESTMENT PARTNERSHIP ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 1385, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1385) to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, there will now be 60 minutes of debate equally divided in the usual form for closing remarks prior to final passage.

Mr. JEFFORDS. Mr. President, first I yield to the Senator from Minnesota for a unanimous consent request.

The PRESIDING OFFICER. The Senator from Minnesota.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Jana O'Leary, who is an intern in my office, be allowed to be in the Chamber for the duration of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

Mr. JEFFORDS. Mr. President, the Senate is resuming consideration of the Workforce Investment Partnership Act, S. 1186. This legislation incorporates job training, vocational education, and adult education.

Last Friday, the Senate began debate on S. 1186. Amendments by Senators DEWINE, DOMENICI, LAUTENBERG, and ASHCROFT were adopted and made a part of this substitute. We have only today to have the final vote on the legislation, and we have 1 hour equally divided for that purpose.

The legislation before this body today is one of the most important proposals we will consider this year. S. 1186 proposes a streamlined, practical, business-oriented approach to job training which empowers States with the ability to transform the current patchwork of programs into a comprehensive system. The purpose of this bill is to better coordinate and to consolidate in certain circumstances 90 federally funded programs and promote joint partnerships between education leaders in the business community in developing a workforce development system that is first rate.

Perhaps the best illustration of why we need to revamp our workforce system can be clearly seen on a weekly basis in the want-ad sections of the newspapers throughout the Nation. There are presently 190,000 unfilled positions in the technology field. The reason for the difficulty in filling these positions is not because of low unemployment numbers but because of the lack of skilled workers. Many of these jobs do not require 4 years plus post-secondary education. In fact, if we had the proper high school vocational education system, these could be filled by students graduating from high school. They require an excellent vocational education system and the ability to pursue technical education following high school graduation or receive this education as high school students.

One of the most fascinating facts to come out of the Senate Labor Committee's hearings on the workforce is that Malaysia has replicated our tech-prep model. In other words, we have presently a model system with a few schools using it which, if duplicated throughout this country, could provide us with what we need today. The unusual thing is that in this country it takes us a long time to replicate anything through our school systems. Malaysia came over here, studied our Tech-Prep Program, and went back to Malaysia and implemented it overnight—again, moving them into a position to improve their competitiveness and perhaps exceed our own competitiveness.

That is the kind of challenge we have now had delivered to us by our competitors in the international markets. It is up to us to take the steps necessary to ensure that we can meet the international competition which we are facing and not have 190,000 jobs out there begging because we cannot provide the skilled workforce.

Fifteen years ago, "A Nation At Risk" was published and warned us about this problem. This report posed the question as to whether the United States would have an adequately trained workforce to meet the global challenges of the 21st century. Fifteen years later, here is what we have. According to the latest census information, 22 percent of the population in the United States aged 25 and over have completed less than 12 years of schooling. These are the kinds of problems with which we are faced. A most recent national adult literacy survey indicated that 44 million adults have literacy difficulty. This means that over 20 percent of adults in this country have trouble using reading, writing, and computation skills to say nothing of qualifying for jobs that are available, for which we should have the workforce. The same is true in my State of Vermont. All States have this very serious problem.

With the statistics I just mentioned, the United States is still the most productive country in the world, but we are losing our edge to other industrialized nations such as Japan and Germany as well as other rapidly developing countries such as Taiwan, Korea, and China. Recent international exams have demonstrated that notwithstanding this warning we had 15 years ago, we have not made significant headway in being able to meet the challenge of that competition and to provide the workforce for those 190,000 jobs that are going begging right now.

Over the past 25 years, the standard of living for those Americans without a 4-year postsecondary degree has plunged. In the next decade, we are in danger of being surpassed as the world's foremost economic power if we do not begin to redefine our priorities at the national, State, and local levels.

This is an excellent bill, Mr. President. Senator DEWINE, my good friend from Ohio, who was in charge of the subcommittee that developed this bill, along with Senator WELLSTONE, has produced a wonderful bill. It is going to do a great deal to bring us forward as we face the problems of the Nation and the problems of our national competitiveness.

Mr. President, at this point I will be happy to yield the floor. Senator WELLSTONE, I believe, desires to be heard.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I yield 5 minutes to my colleague, Senator KERREY, from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I thank the Senator from Minnesota.

Mr. President, I rise in support of S. 1186, the Workforce Investment Partnership Act. This is an initiative that I have been involved with since my days as Governor of Nebraska from 1983 to 1987, and it is something I am proud to see come to fruition in the Senate.

All of us understand that in today's global economy, this kind of legislation represents an important step in helping individual Americans achieve their shot at the American dream.

One of the most satisfying efforts for me is to help, as a public official, some individual acquire the skills they need to earn a good wage so that they can support themselves and their families. Investments such as vocational education, job training, and adult education play a major role in this effort. But in order to be more effective, these programs need to be streamlined and coordinated in such a way that they work together to provide individuals the information and resources they need to be successful in a job market that demands an increasingly higher skill level.

In 1994, along with Senator Nancy Kassebaum of Kansas, I introduced legislation to consolidate 91 job training programs into a single authorization called the Workforce Development Act. The bill also sought to reconnect job training, training-related education, and actual jobs. It also provided States greater flexibility in designing job training systems.

Mr. President, I take great pleasure and am pleased that these concepts represented in this legislation are also incorporated into S. 1186. S. 1186 also encourages statewide partnerships consisting of the business community, the education community, the Governor, and local and State elected officials. A key responsibility in this partnership is the development of a State plan. The legislation also encourages one-stop customer service centers which will provide a central point of entry to job training programs.

In the last few years in my State of Nebraska, Congress has increased its commitment to preparing individuals for the workforce. We have seen in our State an increase in Federal funding for job training of approximately $1.5 million since 1996; for vocational education, we have seen an increase of about $700,000; and for adult education, about $460,000.

Mr. President, I would like to call this to the attention of my colleagues. I suspect, if they are like me, sometimes these program names get confusing, and I wonder whether or not they have any impact.

In Nebraska, the $6.276 million allocation of Federal job training funds in 1997 provided 4,000 of my citizens with the skills they need to become more productive and to earn a higher living and satisfy the market demand, as the Senator from Vermont identified. There are many jobs out there that are unfilled simply because we cannot find people with skills. Mr. President, 4,000 of those jobs were filled; 4,000 of those people are happier.

In addition, vocational and applied technology education grants assisted 70,000 secondary students and 47,800 post-secondary students who now have higher skills, a technical education they otherwise would not have had. They are going to get a shot at the American dream. They are going to be happier. They are going to be healthier. As I said, there are very few things that are more gratifying than having an individual say to you, "Thank you for helping me get a shot at the American dream," and 17,340 adults in a single year were assisted in my State as a consequence of the $1.7 million in addition education.

This is an investment with an excellent return. The legislation will not only help more individuals achieve the American dream but will also help our Nation become the best educated, most productive country in the world as we enter the 21st century. The Workforce Investment Partnership Act represents a good bipartisan effort to increase opportunities for American citizens. I look forward to seeing it move through Congress, and I congratulate and thank sincerely the distinguished chairman of the committee, Senator JEFFORDS of Vermont, and the ranking Democrat on the subcommittee, Senator WELLSTONE, as well as the chairman of the subcommittee, Senator DEWINE. On behalf of the tens of thousands of Nebraskans who will receive the benefits of this program, I thank you.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask if, after 10 minutes, I might be so notified?

The PRESIDING OFFICER. The Senator will be notified.

Mr. WELLSTONE. Mr. President, first of all, let me thank Chairman JEFFORDS for his leadership. He had a lot to do with this piece of legislation. We did a lot of work on the Subcommittee on Employment and Training, but Senator JEFFORDS and Senator KENNEDY were absolutely critical to bringing this piece of legislation finally to the floor and keeping all of us together. Senator DEWINE—it was really a labor of love working with him. He has just put all of himself into this piece of legislation. He has done a great job.

I would also like to thank a couple of other people: On Senator KENNEDY's staff, Jeff Teitz, who is out on the floor with me today, for his work, and Brian Ahlberg who works with me and has put hundreds of hours into this, as have a number of other very talented people.

I am not going to go into all of the specific provisions. I really want to take some time to thank some people who helped out. But let me just say, S. 1186, the Workforce Investment Partnership Act, is an important piece of legislation. The President correctly observed that the bill is "essential to widening the circle of opportunity for more Americans and keeping our economy growing steady and strong."

My concern all along has been that over the past couple of years there has been some discussion about cutting funding for job training programs. That would be the worst thing in the world for us to do. I think what we have now done, in a bipartisan way, is we brought people together around to job training that really takes root at the community level. We are talking about a program that is more streamlined. We decentralize it. There are accountable job performance measures, as there should be. The Governors have a key role to play, but they are in partnership with local communities. And at local levels of government, whether they be county or city, you have key decisionmakers as well.

The private sector is an essential part of this, as should be the case, because a lot of these jobs that will be created will be in the private sector. We are talking about, you know, that goal that I think is the most important goal for most families in our country, which is to earn a decent living and to be able to raise your children successfully. This is all about doing that.

In addition, we have kept separate funding for adults and youth and dislocated workers. We don't have a straight block grant program; we keep our priorities at the national level. I think we should do that.

The out-of-school youth initiative is extremely important, targeting funds to youth in high-poverty areas, both urban and rural. Please colleagues—and I don't think too many colleagues make this mistake, but quite often when we talk about "youth" or "lack of jobs" or "young people dropping out of schools" or "inadequate housing" or "inadequate education" or "affordable child care" or "affordable health care," we think about these issues as urban issues. These issues are every bit as important to rural America. The problems are more hidden but they are no less real. The nice thing about the out-of-school initiative is that it is already paid for. Congress has already provided $250 million in an advance appropriation.

I want to take special note of the contribution of Hennepin County Commissioner Peter McLaughlin, who testified at one of our subcommittee hearings.

I want to also take note of our important national job training programs that we have renewed. The Job Corps Program, we have the Hubert H. Humphrey Job Corps Center in Saint Paul, which is one of the best performing centers in the country. Last year, we had Ralph DiBattista and Dave McKenzie, the current director—Ralph was a former director—at a hearing on youth training. They were joined by Susan Lees, who is an impressive young trainee at the center, on her way to becoming an auto technician at the Ford dealership.

The bill also renews current Native American programs and migrant and seasonal farm worker programs.

And finally the veterans program—I want to say to the veterans community, we heard from you loud and clear. You wanted to have a separate focus on veterans programs, a separate funding stream. We have some additional provisions by way of eligibility to make sure that gulf war veterans, some of whom are really struggling, will be well served; as well as homeless veterans.

We have also built into this bill the continuation of Concentrated Employment Programs, rural CEPs. That is to say, in rural areas where there is high concentration of unemployment and poverty, we have a special focus to make sure the job training is out there.

I think—and many colleagues have worked on this but I get to say it on the floor of the Senate, with some pride—this is a very Minnesota-like program. The one-stop centers, we have been doing that in our State. The idea of decentralization, of trying to build good partnerships between the Governor and the local community, trying to build good partnerships between the public and private sector with a focus on good job training, good skills development, and job opportunities for people. Job opportunities for people—I can't really think of anything more important for us to be focusing our attention on.

So, I want to make it very clear that I am very, very proud of this piece of legislation. I thank my colleagues again—Senator DEWINE, Senator JEFFORDS, and Senator KENNEDY as well.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. There are 18 minutes remaining to the Senator from Minnesota, 23 minutes to the Senator from Vermont.

Mr. WELLSTONE. Mr. President, I don't see other Senators on the floor right now. I might just highlight some amendments to this piece of legislation, to make maximum use of time.

There are five amendments to the bill which we have agreed to accept. The first is one by Mr. DEWINE. It is the vocational rehabilitation bill. It is extremely important. I think what Senator DEWINE has done is basically provided a set of improvements to this piece of legislation. It is an amendment that I strongly support.

There is an amendment by Senator LAUTENBERG which gives units of local government which are currently service delivery areas under the Job Training Partnership Act, and which have a population of 200,000 or more, an automatic right to appeal to the Secretary of Labor a decision by a Governor not to continue that area as an SDA. That also is an amendment which I support.

There are two other amendments by Senator ASHCROFT which I will my colleague, the chairman, Senator JEFFORDS, to speak to if he chooses.

Mr. JEFFORDS. On my time, I will.

Mr. WELLSTONE. I won't use anymore time. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I yield myself such time as I may consume.

Mr. President, let me just make a few more comments. I believe Senator DEWINE will be here shortly. As was pointed out, there are three bills which are combined in this bill, and I want to talk a little bit about vocational rehabilitation.

It is extremely important that as we move forward, we do more and more for our disabled community to give them every possible opportunity to compete for jobs and to demonstrate their capacity to help our Nation's workforce. We place these programs together, although we maintain separate streams of funding to ensure that each of these programs in adult education, vocational education, job training, and vocational rehabilitation will not feel at all threatened that money will be taken from them.

It is important at the same time that we recognize the great capacity of people with disabilities to come into the workforce if they are given the opportunity. By placing them in the same bill, it is important to demonstrate that they are ready and willing to take advantage of the opportunities in the workforce in many places which they have been denied.

Also, as I mentioned earlier in my statement, the problems we have with the adult workforce is literacy, to a large extent. As the demands become higher and greater on our workforce, we are recognizing that we need more people to move into the workforce to take the jobs that are available. Thus, it is incredibly important that we coordinate adult education along with vocational education.

That is the purpose of this bill, to get everybody to work together to improve the workforce of this Nation to meet the competition of nations overseas. While I am pleased with the progress we have made, I believe that we have moved forward on this bill to do everything possible we can to make ourselves more competitive.

I will now talk a little bit about a report released by the National Center for Research and Vocational Education which gave a good overview of training in European nations. I think it is important that my colleagues understand the kind of competition we are getting in Europe, and I will say the same is true and maybe even more so in Asia.

This report highlights the importance of a cohesive partnership between educators and employers. Employers in Europe are active participants in the governance of work-related education and training in Australia, Great Britain, France and Germany.

Another significant finding of the report is that European nations, such as the Netherlands and Denmark, are attempting to develop a technical education system which can survive as either a bridge to additional vocational training or pursuing college-level courses.

Although we are not Europe, we are beginning to make some progress. With the passage of S. 1186, that progress will only continue to grow.

I am also hopeful that passage of the Workforce Investment Partnership Act will eliminate many of the misconceptions that exist regarding vocational education, adult education and training. Some perceive vocational education as a second-rate education for students who cannot otherwise succeed in the so-called traditional academic path. Nothing—and I say nothing—could be further from the truth. In fact, the opposite in many cases is the situation now.

Vocational education courses hold appeal for all students. In my home State of Vermont, over 4,500 students participate in vocational education courses of which 12 percent are adults. A strong technical education system is the best kind of training. As has been pointed out, as we move forward in our lives, the need for vocational education or skills training is going to increase. We are going to change jobs five, six, seven times during our lives as we move into the next century, and we are going to need training continuously.

The same is true now with our society. However, we just do not have the appropriate training available. We need to coordinate, we need to get together and figure out how we can provide the skills that are necessary.

If employment and training programs are to succeed, a simple, integrated workforce development system must be established that gives States, local communities, employers and students both the assistance and the incentives to participate in our global economy. S. 1186 is a good step in responding to this need. I urge my colleagues to support the passage of the Workforce Investment Partnership Act.

Before turning to others who may want to speak on this legislation, I again thank my colleagues and coauthors of the bill, in particular Senators KENNEDY, DEWINE and WELLSTONE. In particular, I thank the Employment and Training Subcommittee chaired by Senator DEWINE, who has done an outstanding job in putting together this bill. Senator WELLSTONE, the Employment and Training Subcommittee ranking member, has also done a tremendous job in drafting key provisions of this bill. Senator KENNEDY and I have been working for many years on this effort, and we are pleased to have Senators DEWINE and WELLSTONE as our partners.

I also thank the staff of Senators WELLSTONE, KENNEDY and DEWINE, and the staff of the Congressional Research Service and legislative counsel have worked tirelessly on this bill.

In addition, I also thank the administration for their hard work. The business community led by the National Alliance for Business, the Chamber of Commerce, the National Association of Manufacturers are also to be commended for their efforts and for their support.

I express my appreciation to the Chief State School Officers and other educational organizations who offered constructive comments during the drafting of S. 1186.

Most of all, I thank my home State of Vermont for serving as an inspiration for this legislation. Almost 1 year ago, I held a hearing in Vermont on workforce development. Over 100 Vermonters attended and offered various perspectives which have been incorporated in this bill.

Also, I thank the State of Mississippi. I went down to the State of Mississippi and found that they had one of the most innovative vocational education systems that I have had the chance to observe. They are dedicated there and doing a fine job.

In fact, I noted that their unemployment rate was going down, even though they were losing hundreds of jobs to Mexico. Why? Because of the business community seeing the state of their vocational training and their ability to train for the skills necessary for the jobs that are locating in Mississippi. Thus, they are losing low-wage jobs and replacing them with high-wage jobs. We have, therefore, taken a close look at the Mississippi system and have made sure our bill models their initiative. So I commend those in other States and certainly my own State of Vermont which I mentioned, who have tried to make efforts but they have been hindered to a certain extent by the problems with our present system, the inability to coordinate.

This bill is designed to try and provide that coordination, to ensure that all of this country can move now to make sure that we are ready for the future. We established the goals to make sure by the next century we would have moved past our educational difficulties to the greatest extent possible, to make sure that our young people would be ready to enter the workforce, to make sure we provided them the skills not after high school but in high school, as well as to make sure this Nation would be competitive in the year ahead.

I yield to my good friend, Senator DEWINE, who deserves maximum credit from our side for his productive work in giving us a bill today which we can be proud of, which we can vote for with great confidence. We will improve this Nation's workforce.

I yield to Senator DEWINE.

Mr. DEWINE. Mr. President, I thank Chairman JEFFORDS for the work he has done on this bill. It is a real bipartisan bill, as we have pointed out many times on this floor; Senator WELLSTONE, Senator KENNEDY, Senator JEFFORDS, myself. It is a bill that will truly change the status quo, a bill that will really make a difference.

We will be voting on this bill in about half an hour. This legislation, S. 1186, will fundamentally reform our Nation's currently fragmented, duplicative and many times ineffective job training programs. I believe this bill will transform them into a coordinated, accountable, and flexible workforce investment system.

Before the Senate votes, I want to spend a few minutes discussing the reasons why the Workforce Investment Partnership Act does enjoy such bipartisan support. One of the most historic, if not the most historic accomplishments of the 105th Congress was the legislation that revolutionized the American welfare system. In passing a bill to end welfare as we knew it, we were empowering the States and local communities to seek a better way to make work, not welfare, the way of life for millions of disadvantaged Americans.

The bill we are considering this evening, S. 1186, is a very important extension of that basic welfare reform, continuing the devolution of Federal power to where it rightfully belongs—States, localities—and most importantly, the individuals who are voluntarily seeking training assistance.

This bill, S. 1186, recognizes the leadership of States and localities which have show innovation and initiative over the last few years, even in the midst of many times onerous Federal barriers and obstacles. By eradicating outdated rules and regulations, we can remove the barriers that have stymied people in the past. We can empower States and local communities by giving them the tools, the tools and the flexibility that they need to implement real reform, reform that will allow them to provide truly comprehensive training services.

This bill, S. 1186, also promotes free market competition. The Workforce Investment Partnership Act establishes an effective and accountable workforce development system, ensuring that training leads to meaningful, long-term employment.

Under this bill, training services will be held accountable to high standards. This means they will have to prove training leads ultimately to meaningful, unsubsidized employment, showing how many people were placed, at what cost, and how many people remained employed 6 months, a year or 18 months later. That is true accountability. That is the true measure of whether job training works or does not work. Does the person have a job 6 months or 12 months later, and what kind of a job is it.

S. 1186 also has bipartisan support because it eliminates government bureaucracy and promotes personal responsibility. The Workforce Investment Partnership Act would provide training assistance through individual training accounts or vouchers in order to allow the individual seeking assistance to have a say themselves about where, how and what training they will receive. These programs should be tailored to individual needs, not to Washington bureaucrats and what Washington bureaucrats think is best.

This bill provides program coordination and simplification. The Workforce Investment Partnership Act incorporates nearly 70 categorical programs, eliminating numerous Federal requirements and mandatory set-asides. This bill authorizes and expands a modified work-flex program which allows States to approve requests for waivers of Federal statutory and regulatory requirements submitted by their local communities. The bill provides States with the option to submit a unified plan or a single-State plan for the numerous programs incorporated into the legislation.

Further, this bill removes income eligibility requirements. States will be allowed to provide all adults who voluntarily seek assistance the comprehensive services available through the one-stop customer service system—services such as job search, placement assistance, skill assessment, and case management.

Just like welfare reform, job training reform depends on participation of the business community, the local business community. This bill not only allows for business community involvement, but business community leadership, as well. The private sector must outline its employment needs and assist in the design of training programs so that individuals that receive training assistance obtain long-term, meaningful employment.

To summarize, job training reform is needed. It is needed because we can no longer afford the Washington-knows-best attitude that created the current maze of training and related programs. With a few notable exceptions, the evidence on the one-size-fits-all approach reveals far more failures than successes. However, because of Congress' inability to enact reform in the past, States and localities have begun the task of creating their own comprehensive systems which meet the unique needs of their States and local communities.

Frankly, they have been frustrated. They have been frustrated by the Federal laws and regulations which prevent them from developing more responsive and more effective workforce investment systems. This bill, the Workforce Investment Partnership act, is designed to reform the Federal Government's role in providing job training assistance to Americans. For too long, that role has been to foster confusion, frustration, and complication. With this bipartisan bill, we offer a new foundation and a positive framework for success. Instead of rules that tie the hands of States and localities, this bill provides the tools, the tools to empower them to develop comprehensive work force investment systems that address the needs of job seekers and employers alike.

This morning's Cleveland Plain Dealer, in an editorial, I think, gets it exactly right. "A Bill That Works. Consolidation could produce job-training programs that do their own jobs better." "A Bill That Works."

This bill is a road map, a road map to a better system. If we are to achieve the goals we have set—stronger economy, a better trained workforce, true and meaningful welfare reform—we need to begin that journey today.

I want to thank all my colleagues who have worked so hard to pass this important bill. I also want to thank all the concerned individuals and groups who have offered their support, including the National Alliance of Business, City of New York, U.S. Chamber of Commerce, the Council of Chief State School Officers, Society for Human Resource Management, the National Conference of State Legislatures, the Cleveland Growth Association, the National Association of Manufacturers, the National Association of Private Industry Councils, the National Association of Counties, the American Vocational Association and the National Association of State Directors of Vocational Education Consortium. All of these groups have worked to put this bill together. We have a comprehensive bill that brings about the reform that we all need.

In summary, we will be voting in a little over 20 minutes on a bill that will fundamentally reform job training in this country. This reform is long overdue. It is a reform that will bring about more accountability. We will be able to measure success and failure better. It is a bill that will give more authority to the local communities. It will be a bill that will empower the recipients to have more choices in regard to the job training that fits their needs. And it will work. It will work because we are incorporating, as never before, the local business community—not just in the implementation of the plan, but rather in the design of the plan. The one thing that we have seen as we have held hearings across this country, time and time and time again, is how important it is to include the local business community because, ultimately, they are the consumers, along with the people who need the jobs and the people who need the job training. They are all the consumers. It doesn't do any good to design a job training program and train someone for a job and that job does not exist in the local community. That is why the enclosure and inclusion of the business community, making them a part of this process from the very beginning, is such an essential part of this bill.

Let me again thank Chairman JEFFORDS for his work on the bill, along with Senator KENNEDY, Senator WELLSTONE, and the other members of the committee. This bill was passed out of our committee by a unanimous vote. Several of my colleagues have already noted on the floor that this is a committee that has a very wide divergence of points of view. This committee has many members that have opinions that many times do not always agree. But the fact that we were able to pass this bill unanimously out of the committee, I think, shows its bipartisan support and also shows that the status quo was not acceptable, and this bill makes a significant change and improvement in that status quo.

I yield the floor.

PRE-VOCATIONAL TRAINING

Mr. SPECTER. Mr. President, I have sought recognition to discuss the issue of pre-vocational training in the context of this legislation. In March, I introduced S. 1709, the Job Preparation and Retention Training Act of 1998, which would have authorized a new Labor Department program providing grants to community-based organizations which would provide essential pre-vocational training to individuals who have not successfully entered the workforce.

In my floor remarks on March 4 upon introduction of S. 1709, I noted that one such community-based organization, Opportunities Industrialization Centers of America, Inc., has found that the average hourly wage of trainees prior to pre-vocational training was $3.70, but after such training, these same participants started earning an average of $8.00 an hour, with a placement rate of 85 percent into gainful employment.

After consultation with Chairman JEFFORDS, I have decided not to offer my bill as an amendment to the comprehensive job training bill before us, based on assurances that in Conference, he and Chairman DEWINE will work with me to ensure that pre-vocational training is more accessible to individuals who are not prepared to fully benefit from the training and skills development provided in S. 1186.

Mr. JEFFORDS. I thank my colleague from Pennsylvania for his work on job training and educational issues, both in this context, and as Chairman of the appropriations subcommittee with jurisdiction over such programs. I will endeavor to work with him on enhancing the issue of pre-vocational training in conference with the House and welcome his input on this critical issue.

Mrs. MURRAY. Mr. President, I rise today to speak about S. 1186—the Workforce Investment Partnership Act and to applaud the Labor and Human Resources Committee for the bipartisan manner in which the legislation was developed.

In the last Congress the opportunity for reform of employment and training programs was lost due to partisan bickering and the insistence on a reform structure which I believe jeopardized the investment in skills training—and in particular the investment in the retraining of dislocated workers.

This bill builds on the success of the dislocated worker program and adds other elements which will improve the program. These include establishing One-Stop centers as the framework of the new workforce development system which will improve dislocated worker access to quality information and services, and the proposed skill grants—or Individual Training Account system—which will enable them to make informed choices about training opportunities with qualified vendors.

Despite our improving economy, there are always workers who will lose jobs because of economic change. We owe these workers the tools to get back on their feet, through rapid response to plant closings and mass layoffs, job search assistance and retraining for new jobs. I am particularly pleased that this bill includes rapid response and labor-management committees which have been important tools under the current dislocated worker program. This program, where formula grants to states and localities are supplemented by National Reserve Account to allow the Secretary of Labor to respond to emergencies, has been successful in helping hundreds of thousands of workers each year to make mid-career changes.

The current dislocated worker program served approximately 540,000 dislocated workers nationwide in the most recent year. Of those who completed the program during that year, 71 percent were employed when they left the program, earning on average 93 percent of their previous wages, and for workers who had received retraining, the wage replacement was 95 percent.

The Office of the Inspector General of the U.S. Department of Labor conducted an audit of JTPA Title III retraining services to determine how successful retraining was in helping dislocated workers to return to work. The conclusion of the April 1995 report was: "The purpose of Title III is to return dislocated workers to productive employment. In this context, the program was successful. Program participants were reemployed, remained in the workforce, and regained their prior earning power."

In my own state of Washington, we have experienced layoffs in the timber and aerospace industries and the assistance provided by Title III of JTPA has been essential to meeting the needs of affected workers.

The success of the program is illustrated by the experience of one dislocated worker, Mr. David Hamilton of Valley, Washington. He had a steady income working in the logging industry, but only for six to eight months each year. This created a difficult financial situation when employment was not available. In July 1995, he was laid off from Accord Logging.

He decided to investigate career options in the cross-country truck driving field. He learned of the opportunities available through JTPA and began actively seeking financial assistance for training. With only a tenth grade education, his employment opportunities were limited. He knew that he needed a GED, but his assessment test also indicated a deficiency in basic math skills. With his unemployment benefits nearly exhausted, he held steadfastly to his hope of entering the truck driving industry. He pursued his education and training through the Colville Job Service JTPA Title III program. His determination to obtain a Commercial Drivers License increased as he passed his physical and Wonderlic tests (in lieu of a GED). He met the program qualifications for Title III funding and completed his training on February 23, 1997, with excellent grades. He was immediately placed with G & G Trucking and was driving cross-country the following Monday. G & G agreed to assist him with the financing needed to purchase a tractor. Within six months he became an owner-operator. As an owner-operator, he will earn between $12 and $18 per hour. He now has a reliable source of income and greater financial security.

The success of Mr. Hamilton and other dislocated worker program participants is why I am so pleased that S. 1186 is designed to assure that funding for dislocated workers will be maintained. This is an important improvement over last year's bill and I thank the authors of S. 1186 for their attention to this critical item.

Mr. President, I also ask unanimous consent to have printed in the RECORD a letter from Mr. Rick Bender, President of Washington State's Labor Council. I have been working with Chairman JEFFORDS to address Title III in the bill which provided training funds only after labor consultations have been performed. I am hopeful that the Department will work with respective labor organizations to continue this successful communication. Washington State has developed a Community Based Rapid Response policy that quickly meets the various needs and concerns of dislocated workers. Mr. Bender has been at the forefront of this effort and provides a compelling argument to continue this consultation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON STATE
LABOR COUNCIL, AFL–CIO,
Seattle, WA, March 25, 1998.

Hon. PATTY MURRAY,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURRAY: The Workforce Investment Partnership Act (S. 1186) is ready to come to the floor of the US Senate for action. The Act, as written, is missing a crucial provision of benefit to Union members.

The current JTPA Act provides that, ". . . any program conducted with funds made available under Title III which will provide services to a substantial number of members of a labor organization will be established only after full consultation with such labor organization." (Sec. 311(b)(7)). This provision is ominously absent from the new bill.

The new legislation will cause irreparable harm to our Union members who suffer layoff through plant closure due to the failure to require labor consultation when planning services for them.

The language quoted above has enabled the Washington State Labor Council, AFL–CIO, to assist its affiliates in demanding appropriate levels of service for their members who are facing long term layoff. The ability to demand that funding be pulled from bad retraining programs has been key to the success of Labor's active participation in workforce employment and training programs in Washington State.

The Washington State Labor Council presently operates a contract with Washington State Employment Security to provide Rapid Response services to our union members whose plant(s) may be closing or downsizing. By actively invoking this language, we make the workforce development system move towards a customized approach toward service and training design, which takes the needs of working men and women and their families into account. Without this language in the bill service and training design will take the convenience of service agencies into account, not our members' needs.

Any assistance you can provide to insert this crucial provision into S. 1186, the Workforce Investment Partnership Act, will be greatly appreciated.

Sincerely,

RICK S. BENDER,
President.

Mr. KOHL. Mr. President, I rise today to add my voice to the bipartisan chorus in support of the Workforce Investment Partnership Act. I commend the sponsors for their excellent work. Senators JEFFORDS, DEWINE, KENNEDY, and WELLSTONE have done an outstanding job of crafting legislation that is long overdue. For too long American workers have had to struggle through a complex system of dozens of different job training and educational programs to get the skills they needed to enter, or reenter the job market. Today, the Senate takes concrete steps to streamline the current system so that getting the help they need will be easier for the workers of America.

The Workforce Investment Partnership Act simplifies the search for a job by encouraging communities to establish a "one stop shopping" location. Localities will have one location where an individual can go to get help finding a job or search out skill training opportunities. At this location all of the options will be laid out, and the choice will be up to the worker.

Inherent in this idea is that there will be no wrong door. No longer will a person be told, "We can't help you here because you don't qualify for these programs. Maybe they can help you down the hall." That sort of bureaucratic run around results in inefficiency and frustrates the very people we are trying to help.

This job training reform bill focuses on shifting power back to the states and local communities. Government, business, labor, and community groups will collaborate on strategies that fit the economic situation of the individual state and locality. The Senate version of this bill also takes the important step of allowing states to keep reforms they have made that are working. Wisconsin has made many changes to its job training system on its own initiative that have been groundbreaking and very successful. I am pleased the Committee recognizes that there is no need to replace programs that are already doing the job and meeting the goals set forth in this legislation.

I am also pleased we maintain our commitment to helping at risk youth. This bill ensures that providing opportunities for kids on the edge will continue, and that the funds will move quickly to those who need it most. I hope that the Conference Committee can quickly complete its work so that the $250 million set aside in last year's budget for Out-of-School Youth will become available before the July 1 deadline. These kids need our help to become productive citizens and contribute to society. If Congress fails to complete action before July 1, these young people will be forced to wait even longer for our support.

In today's global economy, our people are our greatest resource. With the rise in information and technology, the nations that are the most creative, most innovative, and most inventive will have the edge. The United States currently has the lead in these sectors and this bill will help our people maintain their advantage through continuing their education and updating their skills. Our nation's continued prosperity, and the prosperity of our workers, hinges on a well-trained workforce. This bill helps ensure that our current economic growth will continue into the future and be shared by all Americans.

Mr. HARKIN. Mr. President, I rise in support of S. 1579, the Rehabilitation Act Amendments of 1998, of which I am proud to be an original co-sponsor. I would like to commend Senators JEFFORDS, DEWINE, KENNEDY, and WELLSTONE, for making reauthorization of the Rehabilitation Act a priority, and for including this legislation as an amendment to the Workforce legislation.

The State Vocational Rehabilitation Services Program provides $2.2 billion in formula grant assistance to States to help individuals with disabilities prepare for and engage in gainful employment. Since established by the Smith-Fess act 75 years ago, state vocational rehabilitation programs have served some nine million people. This program promotes economic independence for people with disabilities, and the numbers reflect that.

In 1992, Congress made major changes to the Act, namely, increasing consumer participation, streamlining processes, and reducing unnecessary paperwork. In the bill before us today, we have built on the '92 amendments. The bill preserves and strengthens the themes of the '92 amendments, while fine-tuning and aligning the Act with other workforce reforms.

The Rehabilitation Act Amendments of 1998 strengthen the role of the consumer throughout the vocational rehabilitation process, particularly in the development of the individual's employment plan. This reauthorization reduces unnecessary burdens on State VR agencies by streamlining the State plan; indeed, the bill reduces the 36 State plan requirements in current law to 24. The bill also refocuses the State plan on improving outcomes for individuals with disabilities by requiring States to develop, jointly with the State Rehabilitation Council, annual goals and strategies for improving results.

Access of Social Security beneficiaries to VR services is facilitated, and unnecessary gatekeeping is eliminated, by making SSI and SSDI beneficiaries presumptively eligible for services under the VR States Grants program. This change will eliminate the need for the VR agency to determine on a case-by-case basis whether individuals "require" VR services in order to gain employment. Under this bill, if a person receiving SSI or SSDI walks through the door of a VR agency, that person will be presumed eligible for VR services. As the Administrator of the Iowa VR agency explained to me, "now we don't have to spend time and money determining whether an individual on SSI or SSDI is eligible for services. Instead, we can focus our resources where they should be focused—on assisting our consumers in obtaining employment."

Of particular interest to me and to Senator DODD are the changes to Section 508 of the Act, which pertain to electronic and information technology accessibility. This section will make it easier for individuals with disabilities who are federal employees to obtain the assistive technology they need in order to do their jobs.

Finally, this bill widens employment opportunities for people with disabilities by establishing linkages with larger statewide workforce systems. I would like to point out, however, as Senators JEFFORDS, DEWINE, and KENNEDY already have, that vocational rehabilitation agencies will not be required to spend any of their federal allotment on activities other than those that help provide jobs for people with disabilities.

In sum, the Rehabilitation Act Amendments of 1998 bring us closer to the goal of fostering independence for people with disabilities by providing them with the services they need in order to enter the workforce. I would like to thank Senators DEWINE, JEFFORDS, KENNEDY, WELLSTONE, and DODD, and the Clinton Administration, for their leadership in developing this bill in a bipartisan manner. I also would like to commend all the staff members who worked on this bill. Without their tireless efforts, we would never have been able to bring this important reauthorization to the floor.

Mr. JOHNSON. Mr. President, I share the widespread support for this important legislation. This bill would consolidate and reauthorize job training and vocational education programs. This bill enables states to create a unified plan for all social services related to job training and vocational and adult education.

Job training and vocational education are vital programs which prepare individuals to compete in today's changing global economy. An estimated 346,000 high-tech jobs are going unfilled nationwide. The increasing shortage of highly trained workers threatens our nation's economic growth and our productivity. This measure will help address these shortcomings and prepare more of America's workers, and thus America's businesses, for the Twenty-first century.

We live in a capitalist society with a free market economy. Employers seek to hire the best qualified job candidates. S. 1186 simply provides a means to help individuals acquire the skills necessary to compete. The acquisition of these skills will best help individuals thrive as our economy continues to grow. Too many of our citizens have been left behind the growing economy of the past years, and this measure will help them keep up with the new economy.

I believe that S. 1186 also supports our commitment to move individuals from welfare to work. Job training prepares individuals to compete in the marketplace, and remain free from government assistance. For all of the foregoing reasons, I support this bill.

One important part of this legislation is the reauthorization of the programs under the Carl D. Perkins Vocation and Applied Technology Education Act. I have heard from constituents across my state that these programs are a very critical component of our vocational and technical education system.

As we in the Congress work to help our nation prepare for the Twenty-first century, there are few challenges more fundamental to our success than ensuring that our work force has the education and training necessary to compete in the global economy. More and more jobs require technical skills, training that is not offered in our traditional four-year colleges. Our vocational and technical schools, accordingly, are absolutely essential for the students and workers of today. Technical skills lead to higher wages for workers and more competitive businesses. That is why the federal-state-local partnership for vocational and technical education, which has been very successful to date, must be continued.

The highest priority for the moment is to get the reauthorization of the Perkins Act programs through the Senate and into conference. The legislative session this year is very short, and we cannot afford to delay passage of this bill any further. That said, however, there are a number of provisions of this bill which need improvement.

Foremost among the needed changes, in my view, is that the Senate should accept what the House has proposed in terms of a separate bill for vocational-technical education. This difference is very crucial, for it is essential to preserve the independent mission and funding stream for vocational education.

For some time, it appeared that the Senate bill was headed in the wrong direction, removing the separate designation for vocational and technical education and placing these programs into the mix of the overhaul of our job training and retraining programs. That would have been a serious mistake, and I am pleased with the improvements that the managers of this bill have agreed to offer to this legislation.

Among the expected changes is an assurance that funding appropriated for vocational-technical education programs will be directed to school-based programs and not diverted to other areas. Additionally, the amendment is expected to ensure that governance for vocational education will remain at the state and local level, and that a strong focus will remain on professional development for teachers and administrators.

The House, on the other hand, has proposed a separate legislative authorization for the Perkins Act programs. Despite the forthcoming changes to the Senate bill, I urge the Senate conferees to accept the position of the House with respect to reauthorization.

Today, however, I believe that we should send this bill to the conference committee, where I hope that the remaining issues can be resolved, and I urge my colleagues to join me in passing this bill as expeditiously as possible.

WORKFORCE INVESTMENT PARTNERSHIP ACT

Mr. DASCHLE. Mr. President, the time has come for the Senate to take appropriate steps to ensure that our work force is equipped to meet the challenges we will face in the next century. Today, high-skill, high-wage jobs are being created faster than they can be filled. This is not because of a labor shortage. Instead we are suffering from a "skill shortage." Not enough workers in this country possess the skills necessary to fill these jobs. In order to keep our economy strong and growing, our people must receive the education and training they need to become productive employees in the 21st century.

The Workforce Investment Partnership Act of 1997 (WIPA) is the first step in providing the education and training job seekers need to compete for high-wage jobs. This bill would consolidate many narrowly-focused federal vocational education, adult education and job training programs that currently provide a disjointed approach to job training and job placement. Through the establishment of "one-stop" customer service centers, job seekers will have a central point of entry to job training programs. These one-stop centers will also offer "individual training accounts" allowing job seekers to choose their preferred type of education and job training programs to better accommodate their individual skills or interests. Finally, one-stop centers will provide applicants and employers alike with a centralized source of information about training and employment opportunities available in the area.

WIPA's goal of streamlining our many training programs bears great similarity to legislation I introduced in January, 1997, called the Working Americans Opportunity Act. Reforming and improving our nation's job training system has long been a Democratic priority. I am glad to see strong, bipartisan support for WIPA and look forward to working with my colleagues on the other side of the aisle to enact this important legislation.

The passage of this legislation is of particular importance to the people of South Dakota, where we have recently experienced large scale layoffs in Huron with the closing of the Dakota Pork processing plant, and in Lead with cutbacks at the Homestake Gold mine. People in my home state have been drastically affected by these layoffs. It is my hope that these programs will enable them to receive the training they need to compete for the high-wage jobs of tomorrow.

I believe it is very important that any investment we make in education and training produces positive, measurable results. That's why I am pleased this bill ensures that each training provider and agency administering state and local programs is held to a higher level of accountability than in the past. These agencies will be responsible for monitoring and reporting job placement, job retention and average earnings for program graduates. If a program is not performing up to acceptable standards, it will no longer be eligible to receive public funding.

It is of particular importance that we act quickly on this bill. Unless it is signed into law by June 1, the Department of Labor will not be able to implement Youth Opportunity Grants. This grant program invests money in poverty-stricken areas to help youth who have left school to get year-round jobs. Appropriations for these grants are contingent on the authorization of the Workforce Investment Partnership Act. This worthwhile program deserves a chance to be implemented as it was intended.

By working in a bipartisan way to reform vocational education and job training programs, I believe that we can, during this Congress, create opportunities for American workers that will help to keep our economy strong for the next century.

Mr. McCAIN. Mr. President, I rise to offer my support for H.R. 1385, the Workforce Investment Partnership Act. This bill is the result of several years of hard work and bipartisan cooperation by Congress on behalf of our nation's workforce and employers.

Our present job training system has become overly bureaucratic, fragmented and duplicative without adequate accountability or assessment measures. Currently, the federal government administers 163 separate programs, scattered across 15 agencies, at a cost of more than $20 billion a year. The Workforce Investment Partnership Act addresses these problems by consolidating and reforming the nation's federal vocational education, job training, and adult literacy programs. Bluntly, this bill reduces Federal bureaucracy and unnecessary requirements.

This legislation builds upon the monumental welfare reform bill of 1996 by giving our states and communities the appropriate tools for providing individuals with the education, skills and training necessary to obtain meaningful, long term employment. This is something which our current system has been unable to consistently and effectively provide for our workforce. The Workforce Investment Partnership Act will provide individuals with an opportunity to increase their skills while obtaining a job. This will help millions of Americans attempting to move themselves out of the welfare system. If the historic welfare reforms made in 1996 are to work we must have an effective system of job training and vocational and adult education.

Over and over again, I hear from employers in my home state of Arizona who are concerned about the lack of individuals qualified to fill their rapidly growing high-tech and high-paying positions. And I know this isn't just a problem in Arizona. This is a problem throughout our entire country. Nationally, the number of unfilled high-tech jobs is about 350,000. We cannot allow this trend to continue. If we do allow this trend to continue, we will be killing our ability to compete in the global market and remain ahead of our international competitors.

An important aspect of this legislation is the flexibility and freedom it provides to the individual states for developing and designing their own tailored-made workforce development systems. Under this bill, states and local communities, can tailor their programs to best suit their unique populations and employment needs.

Another important aspect of this legislation is that it contains reauthorization of the Rehabilitation Act for seven years. The Rehabilitation Act is the country's only Federally supported program which provides job training and placement services for people with disabilities. Too many disabled individuals are falling between the gaps in the existing vocational systems which is why the Workforce Investment Partnership Act links the vocational rehabilitation system to the new workforce systems of each state. This will result in providing better jobs for more of our nation's disabled individuals.

The success of our nation in this increasingly globalized, competitive economy depends upon a highly skilled workforce, and a comprehensive, sophisticated system of work preparation, training, and retraining. The Workforce Investment Partnership Act is a positive step toward accommodating these needs. Again, I am pleased to support this bill which will create a more efficient and effective job training system for our country.

Mr. LIEBERMAN. Mr. President, I would like to say a few words about the Workforce Investment Partnership Act of 1997 that we are voting on today in the Senate. The Workforce Investment Partnership Act will reform vocational education, adult education and job training programs, provide more accountability within these programs, and improve delivery to our citizens. Education and training are two of the most important investments a government can make in its citizens. It is as important as ensuring the physical health of its citizens because education and training, and the robustness of a nation's industry, are primary determinants of the economic health of the country. Education and training also determine individuals' ability to reach personal goals. Providing people with quality education and training moves people off the welfare rolls, increases upward mobility, increases incomes, and provides our industry with a more skilled workforce.

We are in the enviable situation now of having only 4.7 percent unemployment in the United States. The high-tech industry tells us it has as many as 190,000 unfilled jobs. There are jobs available. The challenge is to match the worker's skill with industry needs. There are two challenges to providing workers with the necessary skills. The first is to make sure our children coming out of school have the basic skills they need for today's workforce, and then, to realize that learning, education and training are lifelong pursuits and do not stop once you join the workforce.

It is clear we need to do more in both these areas. A good education should be our long term goal. But, as my esteemed colleague Mr. KENNEDY mentioned last week, right now we have over three million young men and women between the ages of 16 and 24 in this country who did not complete high school and are not enrolled in school.

After interviewing a diverse group of employers and college professors, Public Agenda found profound dissatisfaction with the way public schools are preparing students. More than 60% of employers and three quarters of professors said they believe that a high school diploma is no guarantee a student has learned the basics, and nearly 7 out of 10 employers said the high school graduates they see are not ready to succeed in the workplace. These young people will need remedial education and training in order to join the workforce.

But young people are not the only ones who need help. The program in S. 1186 focus on the unemployed, dislocated, disadvantaged and seriously underemployed whose industry may be downsizing, whose employer may be moving offshore, who lack a sufficient education, who are coming off of welfare, or who haven't kept pace with technological skills needed for today's rapidly changing workplace. To remain competitive in today's workforce, workers must be more flexible in terms of changing careers and upgrading their skills. S. 1186 recognizes the importance of lifelong learning and enables people to receive the education and training they need at any point in their life.

This bill provides the ties between education and job readiness. It does this by consolidating dozens of narrowly focused programs and replacing the present fragmented system with an integrated workforce system. It integrates adult education and literacy instruction with occupational skill training and professional development. It integrates vocational and academic studies. Importantly, this legislation brings the business community into the process by creating industry-led policy making boards that develop strategies for a comprehensive workforce investment system in each State. Involving business is essential to ensuring that training programs are based on local employment needs and conditions.

Another innovation of The Workforce Investment Partnership Act is that it establishes "individual training accounts" to give job-seekers more choice in selecting the type of education and training programs they want. The bill also encourages the creation of "One-Stop Customer Service" centers which provide a central resource for all job seekers, not just those that qualify for Labor Department programs, to get information on training and employment opportunities available in the local area.

In Connecticut, we have already seen the benefits of implementing some of these changes. We are starting to implement the One-Stop Customer Service centers. We have streamlined JTPA and TANF, the welfare-to-work program. We have moved the job component of TANF from the Department of Social Services to the Labor Department where the jobs are—where it belongs.

The Workforce Investment Partnership Act is one piece of the solution to improving our nation's workforce. We still need to improve our educational system, attract more students into the maths and sciences, and make lifelong learning and skill upgrades a part of everyone's life. America is beginning to move in this direction. President Clinton introduced the Hope Scholarship that will encourage lifelong learning. Some states and industries are beginning to cooperate to create worker training programs that serve regional industry clusters; Senator SARBANES introduced, and I am proud to be cosponsoring, S. 2021 to stimulate this cooperation among companies to develop regional skills alliances that provide training for jobs that are waiting in the participating companies. More companies are working closely with local community colleges and universities to match academic programs with workforce needs. We need to support all these different pieces because they fit together to provide our citizens with the tools they need to not just keep up but to move ahead and realize their goals.

I applaud the work of Senator DEWINE, Senator JEFFORDS, Senator KENNEDY, Senator WELLSTONE, and their staffs in drafting the Workforce Investment Partnership Act and I appreciate all the hard work that went into it. I support this worthy legislation.

Mr. ENZI. Mr. President, I rise in support of the Workforce Investment Partnership Act, offered by Senator DEWINE, Senator JEFFORDS and other members of the Subcommittee on Employment and Training on which I serve. I would like to take a minute here to express my reasons for supporting the bill and explain why this is a good piece of legislation.

Our mission in this area was most clearly put before us by the General Accounting Office. In their testimony to the Senate Labor Committee they showed that our current system for delivery of job training and vocational education is broken. The 163 programs across 15 agencies result in a disjointed and uncoordinated system that is a very inefficient use of the taxpayers' money. I have said that we probably need an education program just to teach people how to figure out how to find federal job training assistance. We need to simplify the process and this bill fixes many of the problems that the GAO outlined.

This legislation is built around the idea that we need more flexibility for state education and labor programs to work. It builds on local needs and interests, ensuring a fair partnership between business and educators. Importantly, it maintains strong program objectives while at the same time, allowing individuals to make decisions about their own training programs through a voucher system.

The goals of the vocational education program are clear—to prepare kids for what happens after high school. Not all kids are college-bound. Not all kids should be college-bound. Those who are not, should have an opportunity to follow educational programs that are relevant to their interests. This bill gives States greater flexibility to design programs that will target the unique needs of their students.

The goals of the job training programs are also clear—to prepare people for their jobs in a rapidly changing workplace. Business cooperation and input is critical for that. Flexibility for state and local partnerships is also important so they can tailor programs to meet local needs. This bill accomplishes that flexibility and increases local empowerment.

My home State of Wyoming has made a lot of progress in this area. Our Governor, Jim Geringer, has taken a strong interest in developing a coordinated system of education and employment, with an emphasis on individual responsibility. Two years ago, he called for a state-wide conference on the issue. The focus was how to help Wyoming's people meet ever-changing workplace needs and how we could help not only our kids, but our adults, find and keep valuable jobs without having to leave the State.

One of the biggest problems we identified in Wyoming was that the federal system was fragmented, had too many narrow categories of eligibility, duplicated effort and had confusing accountability requirements. The bill before us today will resolve these problems. It will improve delivery by enabling states to develop coordinated education and training programs. It gives States the program objectives, but allows them to design their own measurement systems. Most importantly, this bill lets the people in my State focus federal dollars where Wyomingites think they should go.

One part of the bill that I strongly support are changes that have been made to the Labor Market Information system. Here we have been able to move towards a state-based data system and ensure that state needs get a priority with the Department of Labor's Bureau of Labor Statistics. In the past, the Bureau has paid little attention to state statistics agencies. This is another issue of local control where people in our states know more about what labor information is important to local needs.

I want to take a minute to address a few of the specific concerns that have been raised about this bill. First is the difficulty raised by the National Governors Association about coordination with local workforce boards. This does not pose a problem in my state because we do not have any population centers that would qualify for separate local grants. Our State Workforce Board will serve the entire state. On this issue, however, I would say that it is important for State Government to be able to coordinate these activities. I also believe that local government knows best when it comes to the needs of local communities. This bill strikes a sound balance between these two efforts.

The second concern I have heard is that "unified plans" will allow governors to transfer education money into training. Again, it is my position that local and state government is most responsive to and knowledgeable about local needs. If educators are unable to justify certain spending in the face of greater needs in training areas, then local government should be able to make that decision. That works both ways. Training advocates will have to show the importance and relative value of their programs. This bill provides a great opportunity for state and local governments in Title 5, which provides an option for unified plans. Not surprisingly, this part has caused the most difficulty for "big government" types at the Departments of Labor and Education.

A third concern I have heard is that this bill will give the Secretary of Education increased powers over the content of state education plans. I want to point out that I am very sensitive to that question. It is one of the first tests I apply in my review of any proposal that affects K–12 education. Local and state control must be preserved. With that in mind, it is important to note that the concerns are not unfounded.

This legislation directs the Department of Education to consult with states in developing performance measures to evaluate state programs. The measures relate to student mastery of academic and vocational skills, as well as placement and retention in education and later in job situations. States will then negotiate with the Department to determine expected levels of performance—tailored to meet State differences—but according to the index developed by the Department. The question is—Is it more intrusive than current performance requirements under the Carl Perkins Act?

Under the Perkins law, States must submit plans that include descriptions of how they will meet certain federal objectives. But there is one big difference. Carl Perkins empowered state boards to develop the performance measures. States only had to show they were making progress according to their own defined measurements. I am very concerned about allowing the Department of Education into the development of these measurements. I do not believe the federal government is genuinely capable of setting standards for mastery of academic and vocational skills for our kids. That role belongs to elected school boards and state government—not to appointed federal officials.

The good Senator from Missouri, Senator JOHN ASHCROFT, has expressed real concerns about this part of Title 1 of the bill. While I strongly support the majority of this legislation, I would prefer to see the performance provisions that were included in the House bill, end up in the final version. I do intend to push for the House version in conference.

In closing, Mr. President, I want to say that this is a good bill. As with any legislation, though, it is not perfect. There are some parts I would prefer to see removed or changed. But on the whole, this bill is a remarkable improvement over the chaotic maze of existing job training, vocational education and adult education programs. It is a step forward for local and state control of these efforts. It is a step forward in simplifying delivery of these services and making them more responsive to changing needs. And it is a step forward for personal choice and for accountability.

Ms. MIKULSKI. Mr. President, I rise today in support of the Workforce Investment Partnership Act of 1997. As a member of the Committee on Labor and Human Resources, I am very proud that we have produced this bipartisan legislation. As a United States Senator, one of my priorities for Maryland is to work hard to keep our economy strong. This bill represents a real step forward in maintaining a robust economy for America.

I support this bill for three reasons. First, it represents a comprehensive reform of vocational, adult education and job training programs. Second, it provides for the essential element of accountability. Finally, it streamlines the delivery service system into "One Stop Customer Service."

This legislation consolidates many of the narrowly focused programs which exist for job training and adult education. In the past, these programs have really represented no system at all. The patchwork of rules, requirements and bureaucracy did nothing but confuse the people these programs were designed to help. The Workforce Investment Partnership Act incorporates nearly 70 of these programs into a simplified plan. Allowing states the option to submit a "Unified Plan" makes the most sense for streamlining and simplifying the system.

I believe, Mr. President, that accountability in training is essential. Programs must deliver what they promise. In exchange for giving States the flexibility they need to design and achieve strategies for reform, it is reasonable to retain some Federal control. Taxpayers deserve a dollar's worth of service for a dollar's worth of taxes. The standards for measuring state performance provide that accountability.

In my state of Maryland, we currently have forty-one One-Stop career centers with more on the way. These "user-friendly" services are critical to helping people entering into employment training and placement. Providing core functions in one, easy customer service system is truly the focal point of the legislation we are voting on here today. One Stop centers have been proven effective both in Maryland and nationwide. I am very pleased to see the progress these centers have made and that they are the cornerstone of the Workforce Act.

This legislation, Mr. President, helps our citizens who are ready, willing and able to work. By giving the States and business communities more flexibility in designing their training programs, we are giving our citizens an opportunity for a new beginning. It gives them a new beginning to become more productive members of our workforce. It gives them a new beginning to get off the welfare rolls and earn the self-respect they deserve by earning their own money and taking care of themselves.

The future of our country means making sure that our workforce is trained and ready to face the challenges of the 21st century. This means the federal government taking responsibility for getting our people off welfare and providing real solutions for getting them trained and helping them find work. By empowering our citizens with real life tools for success in the workforce we can achieve real reform of the current system. I am proud to serve on the committee that stepped up to the plate and showed the American public that we are ready to fight for our workforce.

HIGH SCHOOLS AT COMMUNITY COLLEGES

Mr. DOMENICI. Mr. President, I rise today to say a few words about my amendment to the Workforce Investment Partnership Act of 1998 and to make a few comments about the overall bill.

Simply put, my amendment allows consortia applying for a Tech-Prep the additional option of using the money to locate high schools at Community Colleges. The Tech-Prep section already seeks to create consortia of local schools, post-secondary schools, and employers to form a cohesive link between the entities.

My amendment merely goes one step further and simplifies the process by allowing grants to be used for the placement of high schools at community colleges. The idea is not without precedence, in fact the Middle College Consortium is a national network of twenty two high schools located on college campuses.

Mr. President, I think the fundamental question becomes: "What is education?" I believe education is far more than books, classrooms, and teachers, it is about learning and preparing for life. I want to mention several points I have heard from students and employers that reinforce my belief.

A high school student stated to me that often he and his classmates are simply bored in class and that creative learning concepts must be put forth. Amazingly, an employer stated that only one in forty applicants were qualified for even an entry level position. All of us, businesses and individuals, are paying taxes and I think it is only fair that we expect some kind of return in terms of our schools producing qualified graduates.

Is there a one size fits all solution? Of course not, because not everyone wants to pursue the same career path. However, my amendment enables those desiring to pursue a vocationally based career yet another option and tool to help ensure their success.

I am very pleased that an integral part of a Tech-Prep Program is a focus on math, science, reading, writing, communications, economics, and workplace skills. Also Tech-Prep Programs integrate the academic and vocational instruction with work-based learning.

My amendment ensures this by requiring a consortium to contain a business partner. Industry will have the opportunity to take an active role in ensuring graduating students possess the tools and knowledge that they will need to succeed in the local workforce. The business partner will also act as a gateway for student and teacher internships and also provide students a head start in obtaining a job.

Mr. President, there is one point I want to make absolutely clear: student attendance at a high school at a Community College will be voluntary. However, many high school students have already decided to pursue a vocationally based career and are even now taking those kind of classes. My amendment is aimed at those students in an effort to ensure they will succeed.

Community Colleges often have more resources, like vocational facilities and business partnerships, than a traditional high school. Students choosing to participate will become acquainted with the instructors, facilities, and application process for admission, and a natural path to at least a two-year degree will be created.

Mr. President, my amendment is about creating yet another option so our children will be empowered with every available resource to succeed.

Now I would like to make a few remarks about the Workforce Investment Partnership Act of 1998. First, I would like to compliment Senators JEFFORDS, DEWINE, KENNEDY, and WELLSTONE for all of their work on this bill. Second, I am very pleased the Senate will shortly vote on this very important piece of legislation to reform the Federal job training and education related programs.

Like many Federal programs, current job training and education related programs are a maze of overlapping and duplicative programs. The bill incorporates close to 70 programs under three titles: Adult Education, Vocational Education, and Job Training.

The streamlining of the current voc-ed programs into a manageable system will allow for the delivery services in the most effective manner possible. By delivering services in the most effective manner we can accomplish two important things: a prepared workforce and a business community that is confident in the workforce.

I believe one of the keys to the bill is the transfer of power from Washington to the individual states. States will have the flexibility, authority, and means to design a vocational educational system that best meets the needs of the state because decisions will be made by state officials and not Washington. By eliminating multiple Federal requirements and mandatory set-asides, states obtain that flexibility.

States will also have the option to submit a unified plan or a single State plan for all of the education and training programs incorporated in the bill. Again, this is another example of providing states with the ability to design programs that best meet their needs.

The Bill also greatly simplifies the process for individuals seeking to obtain voc-ed services through a "no wrong door" approach. This "one-stop customer service system" will allow individuals to receive comprehensive information about the availability, eligibility, and quality of the programs at one location or via a computer network.

Mr. President, I also want to say how pleased I am that Senator DEWINE's amendment will reauthorize the Rehabilitation Act of 1973. As my colleagues are aware, the Rehabilitation Act is our country's primary Federally funded job training program for disabled individuals. I believe the reauthorization takes on even greater importance since the authorization for the act expired in September of 1997.

Among other things the reauthorization will: link the Rehabilitation Act and the Workforce Investment Partnership Act of 1998; streamline current vocational rehabilitation systems to increase efficiency and access; and improve the delivery of services to individuals with disabilities by providing more choice and a greater number of quality jobs.

Again Mr. President, the changes I have just mentioned create more options and allow for the best possible delivery of services.

And that is exactly what my amendment and the overall bill are all about: creating more options and providing for the best possible delivery of services.

Mr. JEFFORDS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes 38 seconds.

Mr. JEFFORDS. I yield to the Senator from South Carolina 2 minutes.

Mr. KENNEDY. Mr. President, I would be glad to yield 3 minutes of our time to the Senator.

Mr. THURMOND. I thank the Senator. I just need about 7 minutes.

Mr. President, I rise today to express my views on S. 1186, the Workforce Investment Partnership Act of 1998. This bill will consolidate vocational education, adult education and Federal employment training programs. I generally support this effort. However, I do have some concerns regarding the treatment of current veterans' employment and training programs.

This Nation has a long history of providing assistance to our veterans, dating from colonial days. Since World War I, several laws have been enacted to address veterans' employment problems. Such legislation has reaffirmed and strengthened the federal government's role in promoting wider employment and training opportunities for veterans. The Federal government has a legitimate role in veterans' employment issues since it is the action of the Federal government that gives an individual the status of "veteran."

Currently, the primary programs to assist veterans are those administered by the Department of Labor, through the Veterans' Employment and Training Service (VETS). These include the Disabled Veterans' Outreach Program (DVOP) and the Local Veterans' Employment Representative (LVER), which are grant programs to the States, and will continue in their present form.

The current provisions of Title 38 of the United States Code were designed to address services provided to veterans in a traditional Job Service delivery system. However, this system is changing. We now see a wide variance in delivery system design, configuration, and service delivery providers. Some states are contracting with private business, community agencies, or other units of government. Other states are focusing on electronic services.

This changing environment makes it difficult to guarantee that government is providing maximum employment and training opportunities, with priority of service for veterans.

To maximize these opportunities and to protect that priority, the Veterans Employment and Training Service is required by Federal law to promote and monitor participation of veterans in federally funded employment and training programs.

Because of the national interest in veterans' programs, I supported language in this bill that (1) authorized a veteran representative to the Statewide Partnership; (2) required the State plan to assure coordination with veterans programs; (3) provided assurances in the State plan that veterans will be afforded services under the employment and training subtitle "to the maximum extent practicable"; (4) required performance reporting on workforce investment activities provided for veterans; and (5) included dislocated Department of Defense civilians, contractor personnel, and members of the Armed Forces as eligible participants in National emergency grants.

While these provisions help provide visibility of veterans programs at the national and state level, I am concerned that veterans employment and training programs are not represented at the local level. The bill does not provide for a veterans representative on the local workforce investment partnership. This partnership has the responsibility of setting policy for the local area and ensuring that local performance measures are met, that needs of employers and job seekers are met, and is responsible for continuous improvement of the system. Furthermore, the local partnership develops and implements the operating agreements for the one-stop customer service centers.

I can support this arrangement in principle, where local business, labor and government leaders develop and oversee a plan to meet local community needs. However, where veterans programs are included in the one-stop center, veterans should have representation. This will ensure, if it becomes apparent that veterans are being underserved in any given local workforce investment area, that steps will be taken to address and correct the disparity.

I encourage those Senators who are conferees to consider carefully the commitment our veterans made to the Nation, and the commitment this Nation has made to its veterans. I urge the conference to adopt language that will (1) ensure that maximum employment and training services are made available and provided to veterans; (2) require State and local plans to include information to track services to veterans; (3) include veteran representatives on local partnerships; and (4) provide that nothing in this Act shall be construed to repeal or modify any special rights or privileges for veterans including priority of service.

Mr. President, I believe these modifications to the bill will strengthen this measure and protect the interests of our veterans. I look forward to working with the bill managers and with other conferees.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that a letter of support from the Business Roundtable be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE BUSINESS ROUNDTABLE,
Washington, DC, March 18, 1998.

Hon. JAMES M. JEFFORDS,
Chairman, Labor & Human Resources Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Business Roundtable commends you and Senators DeWine, Kennedy and Wellstone for your leadership in developing S. 1186, the Workforce Investment Partnership Act. We hope the Senate will act promptly to approve this important bipartisan legislation to reform America's workforce programs.

S. 1186 is, in most respects, in accord with the principles for reform of job training programs we submitted to the Labor and Human Resources Committee late last year. The bill promises to transform the present fragmented approach into a comprehensive workforce development system to meet the needs of employers and job seekers.

Specifically, the bill would create a basis for program consolidation through joint planning; establish business-led partnerships at the state and local levels; and, most importantly, strengthen accountability by using performance standards to measure the effectiveness of programs in achieving continuous improvement. It would commit states and local areas to maximize the return on investment of federal funds in workforce activities.

Employers have an important stake in the reengineering of federal workforce programs. US competitiveness rests on the skills of American workers. We look forward to working with you and other members of the Committee to ensure that the final compromise reached with the House of Representatives continues to reflect business community principles for reform.

Sincerely,

GEORGE M.C. FISHER,
Chairman & CEO, Eastman Kodak Co.; Chairman, Human Resources Task Force, The Business Roundtable.

LAWRENCE PERLMAN,
Chairman & CEO, Ceridian Corp.; Chairman, The Working Group on Workforce Development, The Business Roundtable.

Ms. SNOWE. Mr. President, as we approach a new century with a globally competitive economy that increasingly puts pressure on many domestic industries, I believe it is critical that Congress recognize and address a serious need in our nation's workforce: the need to provide increased access to training for incumbent workers at small businesses.

As the distinguished Chairman and Ranking Member of the Senate Committee on Labor and Human Resources are aware, many states have seen workers displaced as long-standing local businesses have been downsized or closed. In Maine, we have endured dramatic shifts in our labor force as footwear manufacturers, textile manufacturers, and paper mills have been closed, and workers have been forced out of long-standing jobs that had been the cornerstone of their communities. This shift in long-standing industries is occurring not only in Maine, but across the nation as cities, towns, and communities attempt to stay one step ahead of the changing demands of the global job market.

These displacements have demonstrated time and time again that the only certainty in the workforce is uncertainty—and the most important attribute that any worker can have when a job is in jeopardy is to have a broad base of training and skills. For only with a wide array of skills can any worker be truly confident that they have the knowledge and abilities necessary to rapidly adapt to today's changing work environment on-the-job—and the changing business environment that is driven by global competition. Therefore, I believe it is critical that we increase access to training for American workers and bring them some peace of mind that they will be ready for the changing skills demand—and the changing job market—that tomorrow will bring.

In light of this need for increased training and skill development, I am particularly concerned about the plight of individuals who work at small businesses because—among all workers—these individuals are the least likely to receive training. I have had the opportunity to view this problem firsthand, and discuss it with individuals who have studied the problem extensively, as co-chair of the bipartisan Senate Manufacturing Task Force and as a member of the Senate Small Business Committee.

Over and over again I have heard of the inability of workers at small businesses to have access to training—and the reason for this lack of access is clear: many small businesses simply do not have the financial resources necessary to provide training to their workers.

Therefore, in response to the gaping training needs of workers at small businesses, I have offered legislation that is designed to directly address the inability of small businesses to afford training. Specifically, my legislation—S. 1170, the Working American Training Voucher Act—would provide $1,000 training vouchers to one million working men and women at small businesses across the United States.

The legislation was crafted from the premise that we should not wait until a worker has been laid-off from their job, or a company shuts its doors and shutters its windows, to take steps to help the American worker receive adequate training. Rather, we should take steps to ensure that our nation's workforce is confident of their future and feels prepared to address the rapid changes that are occurring both in the global economy and on-the-job—especially as new technologies are introduced in the workplace that require an ever-expanding base of skills.

Increasing access to training for incumbent workers at small business will not only address this need, but I think we would all agree that the best way to reduce the impact and cost of unemployment is to take steps to keep those who are already employed on-the-job.

Mr. JEFFORDS. Mr. President, the Senator from Maine has properly recognized a serious need in the American workforce, and one that I hope will be strongly addressed by the Congress. Incumbent workers nationwide—and particularly those at small businesses—must be provided with increased access to training, and I commend her for raising this issue at this time, and for offering legislation that is intended to address this tangible need.

Mr. KENNEDY. Mr. President, I join my colleagues in recognizing the need for increased access to training for incumbent workers, and appreciate the efforts of my colleague, Senator SNOWE, for heightening awareness on this issue.

Ms. SNOWE. Thank you, Mr. Chairman and Ranking Member KENNEDY. Mr. President, while my legislation has not yet been acted on, I believe the legislation now before the Senate—S. 1186, the Workforce Investment Partnership Act (WIPA) provides us with an excellent opportunity to address the training needs of incumbent workers at small businesses.

Mr. President, as has been outlined on the floor of the Senate today, the WIPA restructures and streamlines federal job training programs to improve the delivery of these services to millions of Americans in need, including disadvantaged adults and dislocated workers. For crafting a bill that improves the delivery of job training services nationwide, I would like to commend the authors of this legislation: the Chairman of the Labor and Employment Subcommittee, Senator DEWINE; the distinguished Chairman of the Labor Committee, Senator JEFFORDS; the Ranking Member of the

Labor Committee, Senator KENNEDY; and the Ranking Member of the Employment and Training Subcommittee, Senator WELLSTONE.

While I am very supportive of this legislation, I urge that provisions be added and modifications made during the upcoming House-Senate conference on the bill to improve access to training for incumbent workers at small businesses. Specifically, I urge that the Senate conferees look for opportunities to improve such access during the consideration of the newly-created training vouchers in Section 315; the transfer authority of job training monies by local partnerships in Section 306; the demonstration and pilot projects in Section 367; and any other section in which increased flexibility of job training monies would lead to improved access to training for incumbent workers at small businesses.

Mr. JEFFORDS. Mr. President, because of my shared interest in providing increased access to training for incumbent workers, I look forward to working with my colleague, Senator SNOWE, to address the training needs of incumbent workers, particularly those in industries that are vulnerable to the ups-and-downs of our economy.

Mr. KENNEDY. Mr. President, I strongly support efforts to improve training opportunities for incumbent workers, but would emphasize that it must not be done at the expense of individuals who have already been displaced from their jobs. Therefore, I look forward to working with the Senator from Maine on this issue.

Ms. SNOWE. Thank you, Mr. Chairman and Senator KENNEDY, for your interest in this important issue. I look forward to working with you as S. 1186 moves through the legislative process, as well as on S. 1170, the Working American Training Voucher Act.

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. KENNEDY. I yield 3 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I rise in support of H.R. 1385, the Workforce Investment Partnership Act. I really believe this bill would provide the infrastructure necessary to reform our Federal job training system. Currently, Federal job training programs are a hodgepodge of rules, regulations and requirements, which reflect duplicative agency responsibilities. This unfortunate situation deters employees with good intentions from seeking assistance for those in need. For the past 8 months, my colleagues in the Senate Labor and Human Resources Committee have been working diligently to reform this ineffective system.

H.R. 1385 is an ideal bill, a bipartisan bill that will consolidate dozens of programs within the Federal system of vocational and adult education, vocational rehabilitation, and job training programs.

It will give states and local governments the flexibility to design training programs that best meet the needs of their communities. It encourages "One-Stop Customer Service" centers where applicants and employers may go to inquire about different training and employment opportunities that are available.

In the State of Hawaii, efforts are already underway to streamline various workforce-related organizations and programs into a comprehensive system that encompasses economic development, workforce, and education priorities. The Hawaii State Legislature recently consolidated five Hawaii Department of Labor and Industrial Relations advisory policy bodies into a single agency, the Hawaii Workforce Development Council.

This council is similar to entities in 30 other states.

Many of our states have begun the process of consolidation, and it is time that the Federal government provide them with the direction and the resources necessary to complete this process.

I thank my colleagues, Senator DEWINE, JEFFORDS, KENNEDY, and WELLSTONE for their efforts in bringing forward this bipartisan compromise for Senate consideration. H.R. 1385 will target Federal funds to those individuals who need it most and to those programs that are proven to be effective. I believe this bill will provide the infrastructure necessary to reform our Federal job training system.

The time is now to reform this system, and I am pleased to express my support for this bill.

Mr. KENNEDY. Mr. President, I would be glad to yield 15 seconds to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I mentioned to staff and other Senators but I didn't share the comments on the floor, and I didn't mention the really fine work of Mark Powden and Dwayne Sattler. I appreciate their work. I mentioned some people who I had a chance to work with. I forgot to mention others. I was feeling guilty.

I thank the Senator for the 15 seconds.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eight minutes 30 seconds.

Mr. KENNEDY. Mr. President, I yield myself 7½ minutes.

Mr. President, as was stated by the Senators from Ohio, Vermont, and Minnesota, in just a few moments we are going to vote on this legislation, which will make such a very, very important difference for millions of Americans.

I want to express my very deep sense of appreciation for the really excellent work that has been done by the chairman of the subcommittee, Senator DEWINE, and our friend and colleague, Senator WELLSTONE, and the chairman of the full committee, Senator JEFFORDS.

These are complex issues and involve a variety of different interests and various constituency groups. But we all have a common purpose and a common goal; that is, to try to make sure that America has the best trained workforce we could possibly have as we move into the 21st century.

The process has not been easy. It has been an issue which our committee has over a very considerable period of time wrestled with. In 1970s, we attempted improving the CETA job training program. There were many, many problems in that program. In the early 1980s, we moved in a different direction. That direction was the Job Training Partnership Act, which attempted to refashion and shape our job programs with greater emphasis on private sector employment. It was the only domestic program that passed between 1980 and 1984. In many respects, it has worked well. But, the enormous technological changes we have seen in the workplace require new training initiatives. Since the early 1990s, we have been working to develop the most effective approach.

Now I am very, very hopeful that those hours and days of hearings, and the very solid work that has been done by the Committee will result in passage of this landmark legislation. I hope it will now not only receive the overwhelming support of the Members of this body, but also that we can move ahead into the conference and reach an agreement worthy of all our support. 1998 should be the year that workforce legislation is enacted into law. It would mean so much for millions of Americans in need of educational and career training opportunities.

We have had a fairly contentious Congress so far. But this, I think, has been an extraordinary example of the legislative process working. I think it is a real tribute overall to our chairman, Senator JEFFORDS, with his leadership.

We are designing legislation for a workforce that will have probably seven or eight different jobs during their careers. Thirty years ago, if a person worked in the Fall River Shipyard in Massachusetts, his father worked there and his grandfather worked there before him, and he spent his entire career there. But now we know that for new entries into that workforce, they are going to have seven different jobs.

With the global economy, we are going to find there are going to be new industries that are highly successful. There will be other industries that will be facing consolidation. We will have downsizing. We will have expansion.

New skills that will be necessary. Individual workers will need access to training to update their skills throughout their working lives.

This legislation will provide the opportunity to get that training. It is really a very, very important new concept and new idea, and one that I think can really ensure that our workforce is going to be the best in the world.

We are talking about included in this legislation programs for individuals who are dislocated workers and others who are disadvantaged adults and youth. We are talking about individuals with disabilities who want to be able to work and pull their fair share. We are talking about at-risk youth. We are also dealing with adult literacy, and vocational education programs. Together, these programs will prepare the workforce of tomorrow.

Mr. President, this is really, I think, a major achievement. I am enormously grateful to my staff: to Jeffrey Teitz, who has done an outstanding job on the workforce and education issues; and to Connie Gardner, who has done an extraordinary job on vocational rehabilitation. Jeffrey Teitz, along with Sherry Kaiman of Senator JEFFORDS' staff, Dwayne Sattler of Senator DEWINE's staff, and Brian Ahlberg of Senator WELLSTONE's staff, worked for over a year to fashion the consensus legislation which we are considering today. I am proud of their work. I also want to recognize Patricia Morrissey of Senator JEFFORDS' staff on vocational rehabilitation.

All of us who are in support of this legislation believe it will make America have the best educated and the best trained workforce in the world; and that those families who participate in these programs will have the great opportunities open to them. It will enable them to realize their own American dreams. I hope my colleagues will support it overwhelmingly.

Mr. President, while employment training legislation has not received the same level of public attention as some other issues on this year's agenda, very few bills will have a greater impact on more Americans than the Workforce Investment Partnership Act.

The importance of highly developed employment skills has never been greater. The gap in earnings between skilled and unskilled workers is steadily widening. For those who enter the workforce with good academic training and well-developed career skills, this new economy offers almost unlimited potential. However, for those who lack basic proficiency in language, math and science and who have no career skills, the new economy presents an increasingly hostile environment.

An educated workforce has become the most valuable resource in the modern economy. Our nation's long term economic vitality depends on the creation of an effective, accessible, and accountable system of job training and career development which is open to all our citizens. Schools must assume more responsibility for preparing their students to meet the challenges of the 21st century workplace. Disadvantaged adults and out of school youth need the opportunity to develop job skills which will make them productive members of the community. Dislocated workers who have been displaced by the rapid pace of technological change deserve the chance to pursue new careers. Individuals with disabilities need the opportunity to fully develop their career potential. The way in which we respond to these challenges today will determine how prosperous a nation we are in the next century.

The Workforce Investment Partnership Act, unanimously approved by the Labor and Human Resources Committee will provide employment training opportunities for millions of Americans. It responds to the challenge of the changing workplace by enabling men and women to acquire the skills required to enter the workforce and to upgrade their skills throughout their careers. It will provide them with access to the educational tools that will enable them not only to keep up, but to get ahead.

The legislation is the product of a true bipartisan collaboration. I want to publicly commend Senators JEFFORDS and DEWINE for the genuine spirit of bipartisanship which has made this effort possible. Senator WELLSTONE and I appreciate it. The resulting legislation will, I believe, truly expand career options, encourage greater program innovation, and facilitate cooperative efforts amongst business, labor, education and state and local government.

The Workforce Investment Partnership Act is designed to provide easy access to state-of-the-art employment training programs which are geared to real job opportunities in the community through a single, customer-friendly system of One Stop Career Centers. The cornerstones of this new system are individual choice and quality labor market information.

No training system can function effectively without accurate and timely information. The frequent unavailability of quality labor market information is one of the most serious flaws in the current system. This legislation places a strong emphasis on providing accurate and timely information about what area industries are growing, what skills those jobs require, and what earning potential they have. Extensive business community and organized labor participation are encouraged in developing a regional plan based on this information. Once a career choice is made, the individual must still select a training provider. At present, many applicants make that choice with a little or no reliable information. Under this bill, each training provider will have to publicly report graduation rates, job placement and retention rates, and average earnings of graduates.

Because of the extensive information which will be available to each applicant, real consumer choice in the selection of a career and of a training provider will be possible. The legislation establishes individual training accounts for financially eligible participants, which they can use to access career education and skill training programs. Men and women seeking training assistance will no longer be limited to a few predetermined options. As long as there are real job opportunities in the field selected and the training provider meets established performance standards, the individual will be free to choose which option best suits his or her needs.

There is no challenge facing America today which is tougher or more important than providing at-risk, often out-of-school, youth with meaningful education and employment opportunities. Far too many of our teenagers are being left behind without the skills needed to survive in the 21st century economy. I am particularly pleased with the commitment which the Workforce Investment Partnership Act makes to these young men and women. This legislation authorizes a new initiative focused on teenagers living in poverty in communities offering them few constructive employment opportunities. Each year, the Secretary of Labor will award grants from a $250 million fund to innovative programs designed to provide opportunities to youth living in these areas. The programs will emphasize mentoring, strong links between academic and worksite learning, and job placement and retention. It will encourage broad based community participation from local service agencies and area employers. These model programs will, we believe, identify the techniques which are most effective in reaching those youth at greatest risk.

This legislation also provides for the continuation of JobCorps and the Summer Jobs Program as essential elements of a comprehensive effort to help disadvantaged youth gain valuable training and work experience.

The Workforce Investment Partnership Act includes titles reauthorizing major vocational education and adult literacy programs. Both programs will continue to be separately funded and independently administered. We have incorporated them in the Workforce Act because they must be integral components of any comprehensive strategy to prepare people to meet the demands of the 21st century workplace.

Students who participate in vocational education must be provided with both strong academic preparation and advanced employment skills training.

Recognizing this core principle, the legislation supports broad-based career preparation education which meets both high academic standards and teaches state-of-the-art technological skills.

Adult literacy programs are essential for the 27 percent of the adult population who have not earned a high school diploma or its equivalent. Learning to read and communicate effectively are the first steps to career advancement. A leading authority on this issue, Professor Richard Wade of the City University Graduate Center in New York, has called adult literacy "America's Silent Scandal", and he's right. This legislation will increase access to educational opportunities for those people most in need of assistance and enhance the quality of services provided.

The Workforce Investment Partnership Act will make it possible for millions of Americans to gain the skills needed to compete in a global economy. I urge all of my colleagues to support it.

I yield the remainder of the time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JEFFORDS. Mr. President, I urge my colleagues to vote for this bill. It is a tremendous step forward in helping this Nation meet international competition. I praise the staff on both sides for making it possible for us to come here in this great love fest that we have had in the Chamber. Having voted it out of the committee unanimously, I hope that this body would see fit to do the same.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. FAIRCLOTH) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 91, nays 7, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—91

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—7

Allard
Ashcroft
Bond
Brownback
Inhofe
Shelby
Smith (NH)

NOT VOTING—2

Faircloth
Helms

The bill (H.R. 1385), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 1385) entitled "An Act to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Workforce Investment Partnership Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—VOCATIONAL, TECHNOLOGICAL, AND TECH-PREP EDUCATION

Sec. 101. Short title.
Sec. 102. Findings and purpose.
Sec. 103. Voluntary selection and participation.
Sec. 104. Construction.

Subtitle A—Vocational Education

CHAPTER 1—FEDERAL PROVISIONS

Sec. 111. Reservations and State allotment.
Sec. 112. Performance measures and expected levels of performance.
Sec. 113. Assistance for the outlying areas.
Sec. 114. Indian and Hawaiian Native programs.
Sec. 115. Tribally controlled postsecondary vocational institutions.
Sec. 116. Incentive grants.

CHAPTER 2—STATE PROVISIONS

Sec. 121. State administration.
Sec. 122. State use of funds.
Sec. 123. State leadership activities.
Sec. 124. State plan.

CHAPTER 3—LOCAL PROVISIONS

Sec. 131. Distribution for secondary school vocational education.
Sec. 132. Distribution for postsecondary vocational education.
Sec. 133. Local activities.
Sec. 134. Local application.
Sec. 135. Consortia.

Subtitle B—Tech-Prep Education

Sec. 151. Short title.
Sec. 152. Purposes.
Sec. 153. Definitions.
Sec. 154. Program authorized.
Sec. 155. Tech-prep education programs.
Sec. 156. Applications.
Sec. 157. Authorization of appropriations.
Sec. 158. Demonstration program.

Subtitle C—General Provisions

Sec. 161. Administrative provisions.
Sec. 162. Evaluation, improvement, and accountability.
Sec. 163. National activities.
Sec. 164. National assessment of vocational education programs.
Sec. 165. National research center.
Sec. 166. Data systems.
Sec. 167. Promoting scholar-athlete competitions.
Sec. 168. Definition.

Subtitle D—Authorization of Appropriations

Sec. 171. Authorization of appropriations.

Subtitle E—Repeal

Sec. 181. Repeal.

TITLE II—ADULT EDUCATION AND LITERACY

Sec. 201. Short title.
Sec. 202. Findings and purpose.

Subtitle A—Adult Education and Literacy Programs

CHAPTER 1—FEDERAL PROVISIONS

Sec. 211. Reservation; grants to States; allotments.
Sec. 212. Performance measures and expected levels of performance.
Sec. 213. National leadership activities.

CHAPTER 2—STATE PROVISIONS

Sec. 221. State administration.
Sec. 222. State distribution of funds; State share.
Sec. 223. State leadership activities.
Sec. 224. State plan.
Sec. 225. Programs for corrections education and other institutionalized individuals.

CHAPTER 3—LOCAL PROVISIONS

Sec. 231. Grants and contracts for eligible providers.
Sec. 232. Local application.
Sec. 233. Local administrative cost limits.

CHAPTER 4—GENERAL PROVISIONS

Sec. 241. Administrative provisions.
Sec. 242. Priorities and preferences.
Sec. 243. Incentive grants.
Sec. 244. Evaluation, improvement, and accountability.
Sec. 245. National Institute for Literacy.
Sec. 246. Authorization of appropriations.

Subtitle B—Repeal

Sec. 251. Repeal.

TITLE III—WORKFORCE INVESTMENT AND RELATED ACTIVITIES

Subtitle A—Workforce Investment Activities

CHAPTER 1—ALLOTMENTS TO STATES FOR ADULT EMPLOYMENT AND TRAINING ACTIVITIES, DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES, AND YOUTH ACTIVITIES

Sec. 301. General authorization.
Sec. 302. State allotments.
Sec. 303. Statewide partnership.
Sec. 304. State plan.

CHAPTER 2—ALLOCATIONS TO LOCAL WORKFORCE INVESTMENT AREAS

Sec. 306. Within State allocations.
Sec. 307. Local workforce investment areas.
Sec. 308. Local workforce investment partnerships and youth partnerships.
Sec. 309. Local plan.

CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES AND PROVIDERS

Sec. 311. Identification and oversight of one-stop partners and one-stop customer service center operators.
Sec. 312. Determination and identification of eligible providers of training services by program.

Sec. 313. Identification of eligible providers of youth activities.
Sec. 314. Statewide workforce investment activities.
Sec. 315. Local employment and training activities.
Sec. 316. Local youth activities.
CHAPTER 4—GENERAL PROVISIONS
Sec. 321. Accountability.
Sec. 322. Authorization of appropriations.
Subtitle B—Job Corps
Sec. 331. Purposes.
Sec. 332. Definitions.
Sec. 333. Establishment.
Sec. 334. Individuals eligible for the Job Corps.
Sec. 335. Recruitment, screening, selection, and assignment of enrollees.
Sec. 336. Enrollment.
Sec. 337. Job Corps centers.
Sec. 338. Program activities.
Sec. 339. Counseling and job placement.
Sec. 340. Support.
Sec. 341. Operating plan.
Sec. 342. Standards of conduct.
Sec. 343. Community participation.
Sec. 344. Industry councils.
Sec. 345. Advisory committees.
Sec. 346. Experimental, research, and demonstration projects.
Sec. 347. Application of provisions of Federal law.
Sec. 348. Special provisions.
Sec. 349. Management information.
Sec. 350. General provisions.
Sec. 351. Authorization of appropriations.
Subtitle C—National Programs
Sec. 361. Native American programs.
Sec. 362. Migrant and seasonal farmworker programs.
Sec. 363. Veterans' workforce investment programs.
Sec. 364. Youth opportunity grants.
Sec. 365. Incentive grants.
Sec. 366. Technical assistance.
Sec. 367. Demonstration, pilot, multiservice, research, and multistate projects.
Sec. 368. Evaluations.
Sec. 369. National emergency grants.
Sec. 370. Authorization of appropriations.
Subtitle D—Administration
Sec. 371. Requirements and restrictions.
Sec. 372. Prompt allocation of funds.
Sec. 373. Monitoring.
Sec. 374. Fiscal controls; sanctions.
Sec. 375. Reports; recordkeeping; investigations.
Sec. 376. Administrative adjudication.
Sec. 377. Judicial review.
Sec. 378. Nondiscrimination.
Sec. 379. Administrative provisions.
Sec. 380. State legislative authority.
Sec. 381. Workforce flexibility partnership plans.
Sec. 382. Use of certain real property.
Sec. 383. Continuation of State activities and policies.
Subtitle E—Repeals and Conforming Amendments
Sec. 391. Repeals.
Sec. 392. Conforming amendments.
Sec. 393. Effective dates.
TITLE IV—WORKFORCE INVESTMENT-RELATED ACTIVITIES
Subtitle A—Wagner-Peyser Act
Sec. 401. Definitions.
Sec. 402. Functions.
Sec. 403. Designation of State agencies.
Sec. 404. Appropriations.
Sec. 405. Disposition of allotted funds.
Sec. 406. State plans.
Sec. 407. Repeal of Federal advisory council.
Sec. 408. Regulations.
Sec. 409. Labor market information.
Sec. 410. Technical amendments.
Subtitle B—Linkages With Other Programs
Sec. 421. Trade Act of 1974.
Sec. 422. Veterans' employment programs.
Sec. 423. Older Americans Act of 1965.
Subtitle C—Twenty-First Century Workforce Commission
Sec. 431. Short title.
Sec. 432. Findings.
Sec. 433. Definitions.
Sec. 434. Establishment of Twenty-First Century Workforce Commission.
Sec. 435. Duties of the Commission.
Sec. 436. Powers of the Commission.
Sec. 437. Commission personnel matters.
Sec. 438. Termination of the Commission.
Sec. 439. Authorization of appropriations.
TITLE V—GENERAL PROVISIONS
Sec. 501. State unified plan.
Sec. 502. Definitions for core indicators of performance.
Sec. 503. Transition provisions.
Sec. 504. Privacy.
Sec. 505. Limitation.
Sec. 506. Effective date.
TITLE VI—REHABILITATION ACT AMENDMENTS OF 1998
Sec. 601. Short title.
Sec. 602. Title.
Sec. 603. General provisions.
Sec. 604. Vocational rehabilitation services.
Sec. 605. Research and training.
Sec. 606. Professional development and special projects and demonstrations.
Sec. 607. National Council on Disability.
Sec. 608. Rights and advocacy.
Sec. 609. Employment opportunities for individuals with disabilities.
Sec. 610. Independent living services and centers for independent living.
Sec. 611. Helen Keller National Center Act.
Sec. 612. President's Committee on Employment of People With Disabilities.
Sec. 613. Conforming amendments.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADULT.—In paragraph (14) and title III (other than section 302), the term "adult" means an individual who is age 22 or older.

(2) ADULT EDUCATION.—The term "adult education" means services or instruction below the postsecondary level for individuals—

(A) who have attained 16 years of age or who are beyond the age of compulsory school attendance under State law;

(B) who are not enrolled in secondary school; and

(C) who—

(i) lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

(ii) do not possess a secondary school diploma or its recognized equivalent; or

(iii) are unable to speak, read, or write the English language.

(3) AREA VOCATIONAL EDUCATION SCHOOL.—The term "area vocational education school" means—

(A) a specialized public secondary school used exclusively or principally for the provision of vocational education for individuals who seek to study and prepare for entering the labor market;

(B) the department of a public secondary school exclusively or principally used for providing vocational education in not fewer than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

(C) a public or nonprofit technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who—

(i)(I) have completed public secondary school; or

(II) have left public secondary school; and

(ii) seek to study and prepare for entering the labor market; or

(D) the department or division of a junior college, community college, or university that—

(i) operates under the policies of the appropriate State agency that oversees postsecondary education and is approved under subpart 2 of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099b et seq.); and

(ii) provides vocational education in not fewer than 5 different occupational fields leading to immediate employment but not necessarily leading to a degree; and

(iii) admits as regular students both individuals who have completed public secondary school and individuals who have left public secondary school.

(4) CHIEF ELECTED OFFICIAL.—The term "chief elected official" means—

(A) the chief elected executive officer of a unit of general local government in a local area; and

(B) in a case in which a local area includes more than 1 unit of general local government, the individuals designated under the agreement described in section 308(d)(1)(B)(i).

(5) DISADVANTAGED ADULT.—In title III, and except as provided in section 302, the term "disadvantaged adult" means an adult who is a low-income individual.

(6) DISLOCATED WORKER.—The term "dislocated worker" means an individual who—

(A)(i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment;

(ii)(I) is eligible for or has exhausted entitlement to unemployment compensation; or

(II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop customer service center, attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and

(iii) is unlikely to return to a previous industry or occupation;

(B)(i) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;

(ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or

(iii) for purposes of eligibility to receive services under title III other than training services described in section 315(c)(3), intensive services, or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;

(C) was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters; or

(D) is a displaced homemaker.

(7) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who has been providing unpaid services to family members in the home and who—

(A) has been dependent on the income of another family member but is no longer supported by that income; and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(8) ECONOMIC DEVELOPMENT AGENCIES.—The term "economic development agencies" includes local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible

for regulating, promoting, or assisting in local economic development.

(9) EDUCATIONAL SERVICE AGENCY.—The term "educational service agency" means a regional public multiservice agency authorized by State statute to develop and manage a service or program, and provide the service or program to a local educational agency.

(10) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY.—The terms "elementary school" and "local educational agency" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(11) ELIGIBLE AGENCY.—The term "eligible agency" in the case of vocational education, or adult education and literacy, activities or requirements described in this Act, means the sole entity or agency in a State or an outlying area responsible for administering or supervising policy for vocational education, or adult education and literacy, respectively, in the State or outlying area, respectively, consistent with the law of the State or outlying area, respectively.

(12) ELIGIBLE INSTITUTION.—In title I, the term "eligible institution" means—

(A) an institution of higher education;

(B) a local educational agency providing education at the postsecondary level;

(C) an area vocational education school providing education at the postsecondary level;

(D) a postsecondary educational institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.); and

(E) a consortium of 2 or more of the entities described in subparagraphs (A) through (D).

(13) ELIGIBLE PROVIDER.—The term "eligible provider"—

(A) in title II, means—

(i) a local educational agency;

(ii) a community-based organization;

(iii) an institution of higher education;

(iv) a public or private nonprofit agency;

(v) a consortium of such agencies, organizations, or institutions; or

(vi) a library; and

(B) in title III, used with respect to—

(i) training services (other than on-the-job training), means a provider who is identified in accordance with section 312;

(ii) youth activities, means a provider who is awarded a grant in accordance with section 313; or

(iii) other workforce investment activities, means a public or private entity selected to be responsible for such activities, in accordance with subtitle A of title III, such as a one-stop customer service center operator designated or certified under section 311.

(14) EMPLOYMENT AND TRAINING ACTIVITY.—The term "employment and training activity" means an activity described in section 314(b)(1) or subsection (c)(1) or (d) of section 315, carried out for an adult or dislocated worker.

(15) ENGLISH LITERACY PROGRAM.—The term "English literacy program" means a program of instruction designed to help individuals of limited English proficiency achieve competence in the English language.

(16) GOVERNOR.—The term "Governor" means the chief executive officer of a State.

(17) INDIVIDUAL WITH A DISABILITY.—

(A) IN GENERAL.—The term "individual with a disability" means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(B) INDIVIDUALS WITH DISABILITIES.—The term "individuals with disabilities" means more than 1 individual with a disability.

(18) INDIVIDUAL OF LIMITED ENGLISH PROFICIENCY.—The term "individual of limited English proficiency" means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

(A) whose native language is a language other than English; or

(B) who lives in a family or community environment where a language other than English is the dominant language.

(19) INSTITUTION OF HIGHER EDUCATION.—Except for purposes of subtitle B of title I, the term "institution of higher education" means an institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(20) LITERACY.—

(A) IN GENERAL.—The term "literacy" means an individual's ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job and in society.

(B) WORKPLACE LITERACY PROGRAM.—The term "workplace literacy program" means a program of literacy activities that is offered for the purpose of improving the productivity of the workforce through the improvement of literacy skills.

(21) LOCAL AREA.—In paragraph (4) and title III, the term "local area" means a local workforce investment area designated under section 307.

(22) LOCAL PARTNERSHIP.—In title III, the term "local partnership" means a local workforce investment partnership established under section 308(a).

(23) LOCAL PERFORMANCE MEASURE.—The term "local performance measure" means a performance measure established under section 321(c).

(24) LOW-INCOME INDIVIDUAL.—In paragraph (51) and title III, the term "low-income individual" means an individual who—

(A) receives, or is a member of a family that receives, cash payments under a Federal, State, or local income-based public assistance program;

(B) received an income, or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, payments described in subparagraph (A), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)) that, in relation to family size, does not exceed the higher of—

(i) the poverty line, for an equivalent period; or

(ii) 70 percent of the lower living standard income level, for an equivalent period;

(C) is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(D) qualifies as a homeless individual, as defined in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302);

(E) is a foster child on behalf of whom State or local government payments are made; or

(F) in cases permitted by regulations of the Secretary of Labor, is an individual with a disability whose own income meets the requirements of a program described in subparagraph (A) or of subparagraph (B), but who is a member of a family whose income does not meet such requirements.

(25) LOWER LIVING STANDARD INCOME LEVEL.—The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor based on the most recent lower living family budget issued by the Secretary of Labor.

(26) NONTRADITIONAL EMPLOYMENT.—In titles I and III, the term "nontraditional employment" refers to occupations or fields of work for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

(27) ON-THE-JOB TRAINING.—The term "on-the-job training" means training in the public or private sector that is provided to a paid participant while engaged in productive work in a job that—

(A) provides knowledge or skills essential to the full and adequate performance of the job;

(B) provides reimbursement to employers of up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and

(C) is limited in duration as appropriate to the occupation for which the participant is being trained.

(28) OUT-OF-SCHOOL YOUTH.—The term "out-of-school youth" means—

(A) a youth who is a school dropout; or

(B) a youth who has received a secondary school diploma or its equivalent but is basic literacy skills deficient, unemployed, or underemployed.

(29) OUTLYING AREA.—The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(30) PARTICIPANT.—The term "participant", used with respect to an activity carried out under title III, means an individual participating in the activity.

(31) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term "postsecondary educational institution" means—

(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

(B) a tribally controlled community college; or

(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

(32) POVERTY LINE.—The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(33) PUBLIC ASSISTANCE.—In title III, the term "public assistance" means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.

(34) RAPID RESPONSE ACTIVITY.—In title III, the term "rapid response activity" means an activity provided by a State, or by an entity designated by a State, with funds provided by the State under section 306(a)(2), in the case of a permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster, that results in mass job dislocation, in order to assist dislocated workers in obtaining reemployment as soon as possible, with services including—

(A) the establishment of onsite contact with employers and employee representatives—

(i) immediately after the State is notified of a current or projected permanent closure or mass layoff; or

(ii) in the case of a disaster, immediately after the State is made aware of mass job dislocation as a result of such disaster;

(B) the provision of information and access to available employment and training activities;

(C) assistance in establishing a labor-management committee, voluntarily agreed to by labor and management, with the ability to devise and implement a strategy for assessing the employment and training needs of dislocated workers and obtaining services to meet such needs;

(D) the provision of emergency assistance adapted to the particular closure, layoff, or disaster; and

(E) the provision of assistance to the local community in developing a coordinated response and in obtaining access to State economic development assistance.

(35) SCHOOL DROPOUT.—The term "school dropout" means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

(36) SECONDARY SCHOOL.—The term "secondary school" has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), except that the term does not include education below grade 9.

(37) SECRETARY.—

(A) TITLES I AND II.—In titles I and II, the term "Secretary" means the Secretary of Education.

(B) TITLE III.—In title III, the term "Secretary" means the Secretary of Labor.

(38) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(39) STATE EDUCATIONAL AGENCY.—The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary or secondary schools, or, if there is no such agency or officer, an agency or officer designated by the Governor or by State law.

(40) STATE PERFORMANCE MEASURE.—In title III, the term "State performance measure" means a performance measure established under section 321(b).

(41) STATEWIDE PARTNERSHIP.—The term "statewide partnership" means a partnership established under section 303.

(42) SUPPORTIVE SERVICES.—

(A) TITLE I.—In title I, the term "supportive services" means services related to curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

(B) TITLE III.—In title III, the term "supportive services" means services such as transportation, child care, dependent care, housing, and needs-based payments, that are necessary to enable an individual to participate in employment and training activities or youth activities.

(43) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" means an institution that receives assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.).

(44) UNIT OF GENERAL LOCAL GOVERNMENT.—In title III, the term "unit of general local government" means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(45) VETERAN; RELATED DEFINITIONS.—

(A) VETERAN.—The term "veteran" means an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable.

(B) RECENTLY SEPARATED VETERAN.—The term "recently separated veteran" means any veteran who applies for participation under title III within 48 months of the discharge or release from active military, naval, or air service.

(46) VOCATIONAL EDUCATION.—The term "vocational education" means organized education that—

(A) offers a sequence of courses that provides individuals with the academic and technological knowledge and skills the individuals need to prepare for further education and for careers (other than careers requiring a baccalaureate, master's, or doctoral degree) in current or emerging employment sectors; and

(B) includes competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technological skills, and occupation-specific skills, of an individual.

(47) VOCATIONAL REHABILITATION PROGRAM.—The term "vocational rehabilitation program" means a program assisted under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

(48) VOCATIONAL STUDENT ORGANIZATION.—

(A) IN GENERAL.—The term "vocational student organization" means an organization for individuals enrolled in a vocational education program.

(B) STATE AND NATIONAL UNITS.—An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in vocational education at the local level.

(49) WELFARE RECIPIENT.—The term "welfare recipient" means a person receiving payments described in paragraph (24)(A).

(50) WORKFORCE INVESTMENT ACTIVITY.—The term "workforce investment activity" means an employment and training activity, a youth activity, and an activity described in section 314.

(51) YOUTH.—In paragraph (52) and title III (other than section 302 and subtitles B and C of such title), the term "youth" means an individual who—

(A) is not less than age 14 and not more than age 21;

(B) is a low-income individual; and

(C) an individual who is 1 or more of the following:

(i) Deficient in basic literacy skills.

(ii) A school dropout.

(iii) Homeless, a runaway, or a foster child.

(iv) Pregnant or a parent.

(v) An offender.

(vi) An individual who requires additional assistance to complete an educational program, or to secure and hold employment.

(52) YOUTH ACTIVITY.—The term "youth activity" means an activity described in section 316, carried out for youth.

(53) YOUTH PARTNERSHIP.—The term "youth partnership" means a partnership established under section 308(i).

TITLE I—VOCATIONAL, TECHNOLOGICAL, AND TECH-PREP EDUCATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in order to be successful workers, citizens, and learners in the 21st century, individuals will need—

(A) a combination of strong basic and advanced academic skills;

(B) computer and other technical skills;

(C) theoretical knowledge;

(D) communications, problem-solving, teamwork, and employability skills; and

(E) the ability to acquire additional knowledge and skills throughout a lifetime;

(2) students participating in vocational education can achieve challenging academic and technical skills, and may learn better and retain more, when the students learn in context, learn by doing, and have an opportunity to learn and understand how academic, vocational, and technological skills are used outside the classroom;

(3)(A) many high school graduates in the United States do not complete a rigorous course of study that prepares the graduates for completing a 2-year or 4-year college degree or for entering high-skill, high-wage careers;

(B) adult students are an increasingly diverse group and often enter postsecondary education unprepared for academic and technical work; and

(C) certain individuals often face great challenges in acquiring the knowledge and skills needed for successful employment;

(4) community colleges, technical colleges, and area vocational education schools are offering adults a gateway to higher education, and access to quality certificates and degrees that increase their skills and earnings, by—

(A) ensuring that the academic, vocational, and technological skills gained by students adequately prepare the students for the workforce; and

(B) enhancing connections with employers and 4-year institutions of higher education;

(5) local, State, and national programs supported under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) (as such Act was in effect on the day before the date of enactment of this Act) have assisted many students in obtaining technical, academic, and employability skills, and tech-prep education;

(6) the Federal Government can assist States and localities by carrying out nationally significant research, program development, demonstration, dissemination, evaluation, data collection, professional development, and technical assistance activities that support State and local efforts regarding vocational education; and

(7) through a performance partnership with States and localities based on clear programmatic goals, increased State and local flexibility, improved accountability, and performance measures, the Federal Government will provide to States and localities financial assistance for the improvement and expansion of vocational education for students participating in vocational education.

(b) PURPOSE.—The purpose of this title is to make the United States more competitive in the world economy by developing more fully the academic, technological, vocational, and employability skills of secondary students and postsecondary students who elect to enroll in vocational education programs, by—

(1) building on the efforts of States and localities to develop challenging academic standards;

(2) promoting the development of services and activities that integrate academic, vocational, and technological instruction, and that link secondary and postsecondary education for participating vocational education students;

(3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve vocational education, including tech-prep education; and

(4) disseminating national research, and providing professional development and technical assistance, that will improve vocational education programs, services, and activities.

SEC. 103. VOLUNTARY SELECTION AND PARTICIPATION.

No funds made available under this title shall be used—

(1) to require any secondary school student to choose or pursue a specific career path or major; and

(2) to mandate that any individual participate in a vocational education program, including a vocational education program that requires the attainment of a federally funded skill level or standard.

SEC. 104. CONSTRUCTION.

Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law. This section shall not be construed to bar students attending private, religious, or home schools from participation in programs or services under this Act.

Subtitle A—Vocational Education

CHAPTER 1—FEDERAL PROVISIONS

SEC. 111. RESERVATIONS AND STATE ALLOTMENT.

(a) Reservations and State Allotment.—

(1) Reservations.—From the sum appropriated under section 171 for each fiscal year, the Secretary shall reserve—

(A) 0.2 percent to carry out section 113;

(B) 1.80 percent to carry out sections 114 and 115, of which—

(i) 1.25 percent of the sum shall be available to carry out section 114(b);

(ii) 0.25 percent of the sum shall be available to carry out section 114(c); and

(iii) 0.30 percent of the sum shall be available to carry out section 115; and

(C) 1.3 percent to carry out sections 116, 163, 164, 165, and 166, of which not less than 0.65 percent of the sum shall be available to carry out section 116 for each of the fiscal years 2001 through 2005.

(2) State allotment formula.—Subject to paragraphs (3) and (4), from the remainder of the sums appropriated under section 171 and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year—

(A) an amount that bears the same ratio to 50 percent of the sums being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount that bears the same ratio to 20 percent of the sums being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount that bears the same ratio to 15 percent of the sums being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount that bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

(3) Minimum allotment.—

(A) In general.—Notwithstanding any other provision of law and subject to subparagraphs (B) and (C), and paragraph (4), no State shall receive for a fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 171 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

(B) Requirement.—Due to the application of subparagraph (A), for any fiscal year, no State shall receive more than 150 percent of the amount the State received under this subsection for the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act).

(C) Special rule.—

(i) In general.—Subject to paragraph (4), no State, by reason of subparagraph (A), shall be allotted for a fiscal year more than the lesser of—

(I) 150 percent of the amount that the State received in the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act); and

(II) the amount calculated under clause (ii).

(ii) Amount.—The amount calculated under this clause shall be determined by multiplying—

(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

(II) 150 percent of the national average per pupil payment made with funds available under this section for that year (or in the case of fiscal year 1999, only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of this Act).

(4) Hold harmless.—

(A) In general.—No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311 et seq.) (as such part was in effect on the day before the date of enactment of this Act) for fiscal year 1997.

(B) Ratable reduction.—If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

(b) Reallotment.—If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which the funds were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State's allotment for the year in which the amount is obligated.

(c) Allotment Ratio.—

(1) In general.—The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico and the United States Virgin Islands), except that—

(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

(ii) the allotment ratio for the Commonwealth of Puerto Rico and the United States Virgin Islands shall be 0.60.

(2) Promulgation.—The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

(3) Definition of per capita income.—For the purpose of this section, the term "per capita income" means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) Population determination.—For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

(d) Definition of State.—For the purpose of this section, the term "State" means each of the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, and the United States Virgin Islands.

SEC. 112. PERFORMANCE MEASURES AND EXPECTED LEVELS OF PERFORMANCE.

(a) Publication of Performance Measures.—

(1) In general.—The Secretary shall publish the following performance measures to assess the progress of each eligible agency:

(A) Student attainment of academic skills.

(B) Student attainment of job readiness skills.

(C) Student attainment of vocational skill proficiencies for students in vocational education programs, that are necessary for the receipt of a secondary school diploma or its recognized equivalent, or a secondary school skill certificate.

(D) Receipt of a postsecondary degree or certificate.

(E) Retention in, and completion of, secondary school education (as determined under State law), placement in, retention in, and completion of postsecondary education, employment, or military service.

(F) Participation in and completion of vocational education programs that lead to nontraditional employment.

(2) Special rule.—The Secretary shall establish 1 set of performance measures for students served under this title, including populations described in section 124(c)(16).

(b) Expected Levels of Performance.—In developing a State plan, each eligible agency shall negotiate with the Secretary the expected levels of performance for the performance measures described in subsection (a).

SEC. 113. ASSISTANCE FOR THE OUTLYING AREAS.

(a) In General.—From the funds reserved under section 111(a)(1)(A), the Secretary—

(1) shall award a grant in the amount of $500,000 to Guam for vocational education and training for the purpose of providing direct educational services related to vocational education, including—

(A) teacher and counselor training and retraining;

(B) curriculum development; and

(C) improving vocational education programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education; and

(2) shall award a grant in the amount of $190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands for vocational education for the purpose described in paragraph (1).

(b) Special Rule.—

(1) In general.—From funds reserved under section 111(a)(1)(A) and not awarded under subsection (a), the Secretary shall make available the amount awarded to the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act (as such section was in effect on the day before the date of enactment of this Act) to award grants under the

succeeding sentence. From the amount made available under the preceding sentence, the Secretary shall award grants, to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau for the purpose described in subsection (a)(1).

(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this title for any fiscal year that begins after September 30, 2004.

(4) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

SEC. 114. INDIAN AND HAWAIIAN NATIVE PROGRAMS.

(a) DEFINITIONS; AUTHORITY OF SECRETARY.—

(1) DEFINITIONS.—For the purpose of this section—

(A) the term "Act of April 16, 1934" means the Act entitled "An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.);

(B) the term "Bureau funded school" has the meaning given the term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026);

(C) the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii; and

(D) the terms "Indian" and "Indian tribe" have the meanings given the terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801).

(2) AUTHORITY.—From the funds reserved pursuant to section 111(a)(1)(B), the Secretary shall award grants and enter into contracts for Indian and Hawaiian native programs in accordance with this section, except that such programs shall not include secondary school programs in Bureau funded schools.

(b) INDIAN PROGRAMS.—

(1) AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the funds reserved pursuant to section 111(a)(1)(B)(i), the Secretary is directed—

(i) upon the request of any Indian tribe, or a tribal organization serving an Indian tribe, which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under the Act of April 16, 1934; or

(ii) upon an application received from a Bureau funded school offering postsecondary or adult education programs filed at such time and under such conditions as the Secretary may prescribe,

to make grants to or enter into contracts with any Indian tribe or tribal organization, or to make a grant to such Bureau funded school, as appropriate, to plan, conduct, and administer programs or portions of programs authorized by, and consistent with the purpose of, this title.

(B) REQUIREMENTS.—The grants or contracts described in subparagraph (A), shall be subject to the following:

(i) TRIBES AND TRIBAL ORGANIZATIONS.—Such grants or contracts with any tribes or tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this subsection.

(ii) BUREAU FUNDED SCHOOLS.—Such grants to Bureau funded schools shall not be subject to the requirements of the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or the Act of April 16, 1934.

(C) REGULATIONS.—If the Secretary promulgates any regulations applicable to subparagraph (B), the Secretary shall—

(i) confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members; and

(ii) promulgate the regulations under subchapter III of chapter 5 of title 5, United States Code, commonly known as the "Negotiated Rulemaking Act of 1990".

(D) APPLICATION.—Any Indian tribe, tribal organization, or Bureau funded school eligible to receive assistance under this paragraph may apply individually or as part of a consortium with another such Indian tribe, tribal organization, or Bureau funded school.

(E) PERFORMANCE MEASURES AND EVALUATION.—Any Indian tribe, tribal organization, or Bureau funded school that receives assistance under this section shall—

(i) establish performance measures and expected levels of performance to be achieved by students served under this section; and

(ii) evaluate the quality and effectiveness of activities and services provided under this subsection.

(F) MINIMUM.—In the case of a Bureau funded school, the minimum amount of a grant awarded or contract entered into under this section shall be $35,000.

(G) RESTRICTIONS.—The Secretary may not place upon grants awarded or contracts entered into under this paragraph any restrictions relating to programs other than restrictions that apply to grants made to or contracts entered into with States pursuant to allotments under section 111(a). The Secretary, in awarding grants and entering into contracts under this paragraph, shall ensure that the grants and contracts will improve vocational education programs, and shall give special consideration to—

(i) grants or contracts which involve, coordinate with, or encourage tribal economic development plans; and

(ii) applications from tribally controlled community colleges that—

(I) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

(II) operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization, and issue certificates for completion of vocational education programs.

(H) STIPENDS.—

(i) IN GENERAL.—Funds received pursuant to grants or contracts described in subparagraph (A) may be used to provide stipends to students who are enrolled in vocational education programs and who have acute economic needs which cannot be met through work-study programs.

(ii) AMOUNT.—Stipends described in clause (i) shall not exceed reasonable amounts as prescribed by the Secretary.

(2) MATCHING.—If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities administered either directly by, or under contract with, the Bureau of Indian Affairs, except that in no year shall funding for such programs, services, and activities be provided from accounts and programs that support other Indian education programs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall prepare jointly a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of the funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

(3) SPECIAL RULE.—Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this Act.

(c) HAWAIIAN NATIVE PROGRAMS.—From the funds reserved pursuant to section 111(a)(1)(B)(ii), the Secretary shall award grants or enter into contracts, with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii, for the planning, conduct, or administration of programs, or portions thereof, that are described in this title and consistent with the purpose of this title, for the benefit of Hawaiian natives.

SEC. 115. TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS.

(a) IN GENERAL.—It is the purpose of this section to provide grants for the operation and improvement of tribally controlled postsecondary vocational institutions to ensure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From the funds reserved pursuant to section 111(a)(1)(B)(iii), the Secretary shall make grants to tribally controlled postsecondary vocational institutions to provide basic support for the vocational education and training of Indian students.

(2) AMOUNT OF GRANTS.—

(A) IN GENERAL.—If the sum appropriated for any fiscal year for grants under this section is not sufficient to pay in full the total amount that approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant that received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

(B) PER CAPITA DETERMINATION.—For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational institutions under this part for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

(c) Eligible Grant Recipients.—To be eligible for assistance under this section a tribally controlled postsecondary vocational institution shall—

(1) be governed. by a board of directors or trustees, a majority of whom are Indians;

(2) demonstrate adherence to stated goals, a philosophy, or a plan of operation which fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(3) have been in operation for at least 3 years;

(4) hold accreditation with or be a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational education; and

(5) enroll the full-time equivalency of not less than 100 students, of whom a majority are Indians.

(d) Grant Requirements.—

(1) Applications.—Any tribally controlled postsecondary vocational institution that desires to receive a grant under this section shall submit an application to the Secretary. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this section that will allow the Secretary to audit and monitor programs.

(2) Number.—The Secretary shall award not less than 2 grants under this section for each fiscal year.

(3) Consultation.—In awarding grants under this section, the Secretary shall, to the extent practicable, consult with the boards of trustees of, and the tribal governments chartering, the institutions desiring the grants.

(4) Limitation.—Amounts made available through grants under this section shall not be used in connection with religious worship or sectarian instruction.

(e) Uses of Grants.—

(1) In general.—The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary vocational institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section; and

(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

(2) Accounting.—Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

(f) Effect on Other Programs.—

(1) In general.—Except as specifically provided in this Act, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary vocational institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) or any other applicable program for the benefit of institutions of higher education or vocational education.

(2) Prohibition on alteration of grant amount.—The amount of any grant for which tribally controlled postsecondary vocational institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921 (commonly known as the "Snyder Act") (42 Stat. 208, chapter 115; 25 U.S.C. 13).

(3) Prohibition on contract denial.—No tribally controlled postsecondary vocational institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under such Act of November 2, 1921, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(g) Needs Estimate and Report on Facilities and Facilities Improvement.—

(1) Needs estimate.—The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this section, and in consideration of employment needs, economic development needs, population training needs, and facilities needs, prepare an actual budget needs estimate for each institution eligible under this section for each subsequent program year, and submit such budget needs estimate to Congress in such a timely manner as will enable the appropriate committees of Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions. Such data shall take into account the goals and requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105).

(2) Study of training and housing needs.—

(A) In general.—The Secretary shall conduct a detailed study of the training, housing, and immediate facilities needs of each institution eligible under this section. The study shall include an examination of—

(i) training equipment needs;

(ii) housing needs of families whose heads of households are students and whose dependents have no alternate source of support while such heads of households are students; and

(iii) immediate facilities needs.

(B) Report.—The Secretary shall report to Congress not later than July 1, 1999, on the results of the study required by subparagraph (A).

(C) Contents.—The report required by subparagraph (B) shall include the number, type, and cost of meeting the needs described in subparagraph (A), and rank each institution by relative need.

(D) Priority.—In conducting the study required by subparagraph (A), the Secretary shall give priority to institutions that are receiving assistance under this section.

(3) Long-term study of facilities.—

(A) In general.—The Secretary shall provide for the conduct of a long-term study of the facilities of each institution eligible for assistance under this section.

(B) Contents.—The study required by subparagraph (A) shall include a 5-year projection of training facilities, equipment, and housing needs and shall consider such factors as projected service population, employment, and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

(C) Submission.—The Secretary shall submit to Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on the date of enactment of this Act.

(h) Definitions.—For the purposes of this section:

(1) Indian; Indian tribe.—The terms "Indian" and "Indian tribe" have the meaning given such terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801).

(2) Tribally controlled postsecondary vocational institution.—The term "tribally controlled postsecondary vocational institution" means an institution of higher education that—

(A) is formally controlled, or has been formally sanctioned or chartered by the governing body of an Indian tribe or tribes; and

(B) offers technical degrees or certificate granting programs.

(3) Indian student count.—The term "Indian student count" means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary vocational institution, determined as follows:

(A) Registrations.—The registrations of Indian students as in effect on October 1 of each year.

(B) Summer term.—Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

(C) Admission criteria.—Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a secondary school diploma or its recognized equivalent shall be counted toward the computation of the Indian student count.

(D) Determination of hours.—Indian students earning credits in any continuing education program of a tribally controlled postsecondary vocational institution shall be included in determining the sum of all credit or clock hours.

(E) Continuing education.—Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution's system for providing credit for participation in such programs.

SEC. 116. INCENTIVE GRANTS.

(a) In General.—The Secretary may make grants to States that exceed the expected levels of performance for performance measures established under this Act.

(b) Use of Funds.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative vocational education, adult education and literacy, or workforce investment programs as determined by the State.

CHAPTER 2—STATE PROVISIONS

SEC. 121. STATE ADMINISTRATION.

Each eligible agency shall be responsible for the State administration of activities under this subtitle, including—

(1) the development, submission, and implementation of the State plan;

(2) the efficient and effective performance of the eligible agency's duties under this subtitle; and

(3) consultation with other appropriate agencies, groups, and individuals that are involved

in the development and implementation of activities assisted under this subtitle, such as employers, parents, students, teachers, labor organizations, State and local elected officials, and local program administrators.

SEC. 122. STATE USE OF FUNDS.

(a) RESERVATIONS.—From funds allotted to each State under section 111(a) for each fiscal year, the eligible agency shall reserve—

(1) not more than 14 percent of the funds to carry out section 123;

(2) not more than 10 percent of the funds, or $300,000, whichever is greater, of which—

(A) $60,000 shall be available to provide technical assistance and advice to local educational agencies, postsecondary educational institutions, and other interested parties in the State for gender equity activities; and

(B) the remainder may be used to—

(i) develop the State plan;

(ii) review local applications;

(iii) monitor and evaluate program effectiveness;

(iv) provide technical assistance; and

(v) assure compliance with all applicable Federal laws, including required services and activities for individuals who are members of populations described in section 124(c)(16); and

(3) 1 percent of the funds, or the amount the State expended under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) for vocational education programs for criminal offenders for the fiscal year 1997, whichever is greater, to carry out programs for criminal offenders.

(b) REMAINDER.—From funds allotted to each State under section 111(a) for each fiscal year and not reserved under subsection (a), the eligible agency shall determine the portion of the funds that will be available to carry out sections 131 and 132.

(c) MATCHING REQUIREMENT.—Each eligible agency receiving funds under this subtitle shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(2).

SEC. 123. STATE LEADERSHIP ACTIVITIES.

(a) MANDATORY.—Each eligible agency shall use the funds reserved under section 122(a)(1) to conduct programs, services, and activities that further the development, implementation, and improvement of vocational education within the State and that are integrated, to the maximum extent possible, with challenging State academic standards, including—

(1) providing comprehensive professional development (including initial teacher preparation) for vocational, academic, guidance, and administrative personnel, that—

(A) will help the teachers and personnel to assist students in meeting the expected levels of performance established under section 112;

(B) reflects the eligible agency's assessment of the eligible agency's needs for professional development; and

(C) is integrated with the professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6001 et seq.);

(2) developing and disseminating curricula that are aligned, as appropriate, with challenging State academic standards, and vocational and technological skills;

(3) monitoring and evaluating the quality of, and improvement in, activities conducted with assistance under this subtitle;

(4) providing gender equity programs in secondary and postsecondary vocational education;

(5) supporting tech-prep education activities;

(6) improving and expanding the use of technology in instruction;

(7) supporting partnerships among local educational agencies, institutions of higher education, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve State academic standards, and vocational and technological skills; and

(8) serving individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities.

(b) PERMISSIVE.—Each eligible agency may use the funds reserved under section 122(a)(1) for—

(1) improving guidance and counseling programs that assist students in making informed education and vocational decisions;

(2) supporting vocational student organizations, especially with respect to efforts to increase the participation of students who are members of populations described in section 124(c)(16);

(3) providing vocational education programs for adults and school dropouts to complete their secondary school education; and

(4) providing assistance to students who have participated in services and activities under this subtitle in finding an appropriate job and continuing their education.

SEC. 124. STATE PLAN.

(a) STATE PLAN.—

(1) IN GENERAL.—Each eligible entity desiring assistance under this subtitle for any fiscal year shall prepare and submit to the Secretary a State plan for a 3-year period, together with such annual revisions as the eligible agency determines to be necessary.

(2) COORDINATION.—The period required by paragraph (1) shall be coordinated with the period covered by the State plan described in section 304.

(3) HEARING PROCESS.—The eligible agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups (including employers, labor organizations, and parents), an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the eligible agency's response to such recommendations shall be included with the State plan.

(b) PLAN DEVELOPMENT.—The eligible agency shall develop the State plan with representatives of secondary and postsecondary vocational education, parents, representatives of populations described in section 124(c)(16), and businesses, in the State and shall also consult the Governor of the State.

(c) PLAN CONTENTS.—The State plan shall include information that—

(1) describes the vocational education activities to be assisted that are designed to meet and reach the State performance measures;

(2) describes the integration of academic and technological education with vocational education;

(3) describes how the eligible agency will disaggregate data relating to students participating in vocational education in order to adequately measure the progress of the students;

(4) describes how the eligible agency will adequately address the needs of students in alternative education programs;

(5) describes how the eligible agency will provide local educational agencies, area vocational education schools, and eligible institutions in the State with technical assistance;

(6) describes how the eligible agency will encourage the participation of the parents of secondary school students who are involved in vocational education activities;

(7) identifies how the eligible agency will obtain the active participation of business, labor organizations, and parents in the development and improvement of vocational education activities carried out by the eligible agency;

(8) describes how vocational education relates to State and regional employment opportunities;

(9) describes the methods proposed for the joint planning and coordination of programs carried out under this subtitle with other Federal education programs;

(10) describes how funds will be used to promote gender equity in secondary and postsecondary vocational education;

(11) describes how funds will be used to improve and expand the use of technology in instruction;

(12) describes how funds will be used to serve individuals in State correctional institutions;

(13) describes how funds will be used effectively to link secondary and postsecondary education;

(14) describes how funds will be allocated and used at the secondary and postsecondary level, any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia;

(15) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this subtitle and the data the eligible agency reports to the Secretary are complete, accurate, and reliable;

(16) describes the eligible agency's program strategies for populations that include, at a minimum—

(A) low-income individuals, including foster children;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with other barriers to educational achievement, including individuals with limited English proficiency;

(17) describes how individuals who are members of the special populations described in subsection (c)(16)—

(A) will be provided with equal access to activities assisted under this title; and

(B) will not be discriminated against on the basis of their status as members of the special populations; and

(18) contains the description and information specified in paragraphs (9) and (17) of section 304(b) concerning the provision of services only for postsecondary students and school dropouts.

(d) PLAN APPROVAL.—

(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, only if the Secretary determines that—

(A) the State plan, or revision, respectively, meets the requirements of this section; and

(B) the State's performance measures and expected levels of performance under section 112 are sufficiently rigorous to meet the purpose of this title.

(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

(3) PEER REVIEW.—The Secretary shall establish a peer review process to make recommendations regarding approval of State plans.

(4) TIMEFRAME.—A State plan shall be deemed approved if the Secretary has not responded to the eligible agency regarding the plan within 90 days of the date the Secretary receives the plan.

(e) ASSURANCES.—A State plan shall contain assurances that the State will comply with the requirements of this title and the provisions of the State plan, and provide for such fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State under this title.

(f) ELIGIBLE AGENCY REPORT.—

(1) IN GENERAL.—The eligible agency shall annually report to the Secretary regarding—

(A) the quality and effectiveness of the programs, services, and activities, assisted under this subtitle, based on the performance measures and expected levels of performance described in section 112; and

(B) the progress each population of individuals described in section 124(c)(16) is making toward achieving the expected levels of performance.

(2) CONTENTS.—The eligible agency report also—

(A) shall include such information, in such form, as the Secretary may reasonably require, in order to ensure the collection of uniform data; and

(B) shall be made available to the public.

CHAPTER 3—LOCAL PROVISIONS

SEC. 131. DISTRIBUTION FOR SECONDARY SCHOOL VOCATIONAL EDUCATION.

(a) ALLOCATION.—Except as otherwise provided in this section, each eligible agency shall distribute the portion of the funds made available for secondary school vocational education activities under section 122(b) for any fiscal year to local educational agencies within the State as follows:

(1) SEVENTY PERCENT.—From 70 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received under such section by all local educational agencies in the State for such year.

(2) TWENTY PERCENT.—From 20 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with disabilities who have individualized education programs under section 614(d) of the Individuals With Disabilities Education Act (20 U.S.C. 1414(d)) served by such local educational agency for the preceding fiscal year bears to the total number of such students served by all local educational agencies in the State for such year.

(3) TEN PERCENT.—From 10 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency for the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State for such year.

(b) MINIMUM ALLOCATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), no local educational agency shall receive an allocation under subsection (a) unless the amount allocated to such agency under subsection (a) is not less than $25,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocation requirement of this paragraph.

(2) WAIVER.—The eligible agency may waive the application of paragraph (1) for a local educational agency that is located in a rural, sparsely populated area.

(3) REALLOCATION.—Any amounts that are not allocated by reason of paragraph (1) or (2) shall be reallocated to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

(c) LIMITED JURISDICTION AGENCIES.—

(1) IN GENERAL.—In applying the provisions of subsection (a), no eligible agency receiving assistance under this subtitle shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

(2) SPECIAL RULE.—The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

(d) ALLOCATIONS TO AREA VOCATIONAL EDUCATION SCHOOLS AND EDUCATIONAL SERVICE AGENCIES.—

(1) IN GENERAL.—Each eligible agency shall distribute the portion of funds made available for any fiscal year by such entity for secondary school vocational education activities under section 122(b) to the appropriate area vocational education school or educational service agency in any case in which—

(A) the area vocational education school or educational service agency, and the local educational agency concerned—

(i) have formed or will form a consortium for the purpose of receiving funds under this section; or

(ii) have entered into or will enter into a cooperative arrangement for such purpose; and

(B)(i) the area vocational education school or educational service agency serves an approximately equal or greater proportion of students who are individuals with disabilities or are low-income than the proportion of such students attending the secondary schools under the jurisdiction of all of the local educational agencies sending students to the area vocational education school or the educational service agency; or

(ii) the area vocational education school, educational service agency, or local educational agency demonstrates that the vocational education school or educational service agency is unable to meet the criterion described in clause (i) due to the lack of interest by students described in clause (i) in attending vocational education programs in that area vocational education school or educational service agency.

(2) ALLOCATION BASIS.—If an area vocational education school or educational service agency meets the requirements of paragraph (1), then—

(A) the amount that will otherwise be distributed to the local educational agency under this section shall be allocated to the area vocational education school, the educational service agency, and the local educational agency, based on each school's or agency's relative share of students described in paragraph (1)(B)(i) who are attending vocational education programs (based, if practicable, on the average enrollment for the prior 3 years); or

(B) such amount may be allocated on the basis of an agreement between the local educational agency and the area vocational education school or educational service agency.

(3) STATE DETERMINATION.—

(A) IN GENERAL.—For the purposes of this subsection, the eligible agency may determine the number of students who are low-income on the basis of—

(i) eligibility for—

(I) free or reduced-price meals under the National School Lunch Act (7 U.S.C. 1751 et seq.);

(II) assistance under a State program funded under part A of title IV of the Social Security Act;

(III) benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(IV) services under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.); or

(ii) another index of economic status, including an estimate of such index, if the eligible agency demonstrates to the satisfaction of the Secretary that such index is a more representative means of determining such number.

(B) DATA.—If an eligible agency elects to use more than 1 factor described in subparagraph (A) for purposes of making the determination described in such subparagraph, the eligible agency shall ensure that the data used is not duplicative.

(4) APPEALS PROCEDURE.—The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium.

(5) SPECIAL RULE.—Notwithstanding the provisions of paragraphs (1), (2), (3), and (4), any local educational agency receiving an allocation that is not sufficient to conduct a secondary school vocational education program of sufficient size, scope, and quality to be effective may—

(A) form a consortium or enter into a cooperative agreement with an area vocational education school or educational service agency offering secondary school vocational education programs of sufficient size, scope, and quality to be effective and that are accessible to students who are individuals with disabilities or are low-income, and are served by such local educational agency; and

(B) transfer such allocation to the area vocational education school or educational service agency.

(e) SPECIAL RULE.—Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

SEC. 132. DISTRIBUTION FOR POSTSECONDARY VOCATIONAL EDUCATION.

(a) DISTRIBUTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available for postsecondary vocational education under section 122(b) for any fiscal year to eligible institutions within the State in accordance with paragraph (2).

(2) ALLOCATION.—Each eligible institution in the State having an application approved under section 134 for a fiscal year shall be allocated an amount that bears the same relationship to the amount of funds made available for postsecondary vocational education under section 122(b) for the fiscal year as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled for the preceding fiscal year by such eligible institution in vocational education programs that do not exceed 2 years in duration bears to the number of such recipients enrolled in such programs within the State for such fiscal year.

(3) SPECIAL RULE FOR CONSORTIA.—In order for a consortium described in section 2(12)(E) to receive assistance under this section, such consortium shall operate joint projects that—

(A) provide services to all postsecondary institutions participating in the consortium; and

(B) are of sufficient size, scope, and quality to be effective.

(4) MINIMUM ALLOCATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no eligible institution shall receive an allocation under paragraph (2) unless the amount allocated to the eligible institution under paragraph (2) is not less than $65,000.

(B) WAIVER.—The eligible agency may waive the application of subparagraph (A) in any case

in which the eligible institution is located in a rural, sparsely populated area.

(C) REALLOCATION.—Any amounts that are not allocated by reason of subparagraph (A) or (B) shall be reallocated to eligible institutions that meet the requirements of subparagraph (A) or (B) in accordance with the provisions of this section.

(5) DEFINITION OF PELL GRANT RECIPIENT.—The term "Pell Grant recipient" means a recipient of financial aid under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a).

(b) ALTERNATIVE ALLOCATION.—An eligible agency may allocate funds made available for postsecondary education under section 122(b) for a fiscal year using an alternative formula if the eligible agency demonstrates to the Secretary's satisfaction that—

(1) the alternative formula better meets the purpose of this title; and

(2)(A) the formula described in subsection (a) does not result in an allocation of funds to the eligible institutions that serve the highest numbers or percentages of low-income students; and

(B) the alternative formula will result in such a distribution.

SEC. 133. LOCAL ACTIVITIES.

(a) MANDATORY.—Funds made available to a local educational agency or an eligible institution under this subtitle shall be used—

(1) to initiate, improve, expand, and modernize quality vocational education programs;

(2) to improve or expand the use of technology in vocational instruction, including professional development in the use of technology, which instruction may include distance learning;

(3) to provide services and activities that are of sufficient size, scope, and quality to be effective;

(4) to integrate academic education with vocational education for students participating in vocational education;

(5) to link secondary education (as determined under State law) and postsecondary education, including implementing tech-prep programs;

(6) to provide professional development activities to teachers, counselors, and administrators, including—

(A) inservice and preservice training in state-of-the-art vocational education programs;

(B) internship programs that provide business experience to teachers; and

(C) programs designed to train teachers specifically in the use and application of technology;

(7) to develop and implement programs that provide access to, and the supportive services needed to participate in, quality vocational education programs for students, including students who are members of the populations described in section 124(c)(16);

(8) to develop and implement performance management systems and evaluations; and

(9) to promote gender equity in secondary and postsecondary vocational education.

(b) PERMISSIVE.—Funds made available to a local educational agency or an eligible institution under this subtitle may be used—

(1) to carry out student internships;

(2) to provide guidance and counseling for students participating in vocational education programs;

(3) to provide vocational education programs for adults and school dropouts to complete their secondary school education;

(4) to acquire and adapt equipment, including instructional aids;

(5) to support vocational student organizations;

(6) to provide assistance to students who have participated in services and activities under this subtitle in finding an appropriate job and continuing their education; and

(7) to support other vocational education activities that are consistent with the purpose of this title.

SEC. 134. LOCAL APPLICATION.

(a) IN GENERAL.—Each local educational agency or eligible institution desiring assistance under this subtitle shall submit an application to the eligible agency at such time, in such manner, and accompanied by such information as the eligible agency (in consultation with such other educational entities as the eligible agency determines to be appropriate) may require.

(b) CONTENTS.—Each application shall, at a minimum—

(1) describe how the vocational education activities will be carried out pertaining to meeting the expected levels of performance;

(2) describe the process that will be used to independently evaluate and continuously improve the performance of the local educational agency or eligible institution, as appropriate;

(3) describe how the local educational agency or eligible institution, as appropriate, will plan and consult with students, parents, representatives of populations described in section 124(c)(16), businesses, labor organizations, and other interested individuals, in carrying out activities under this subtitle;

(4) describe how the local educational agency or eligible institution, as appropriate, will review vocational education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to the programs, for populations described in section 124(c)(16); and

(5) describe how individuals who are members of the special populations described in section 124(c)(16) will not be discriminated against on the basis of their status as members of the special populations.

SEC. 135. CONSORTIA.

A local educational agency and an eligible institution may form a consortium to carry out the provisions of this chapter if the sum of the amount the consortium receives for a fiscal year under sections 131 and 132 equals or exceeds $65,000.

Subtitle B—Tech-Prep Education

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Tech-Prep Education Act".

SEC. 152. PURPOSES.

The purposes of this subtitle are—

(1) to provide implementation grants to consortia of local educational agencies, postsecondary educational institutions, and employers or labor organizations, for the development and operation of programs designed to provide a tech-prep education program leading to a 2-year associate degree or a 2-year certificate;

(2) to provide, in a systematic manner, strong, comprehensive links among secondary schools, postsecondary educational institutions, and local or regional employers, or labor organizations; and

(3) to support the use of contextual, authentic, and applied teaching and curriculum based on each State's academic, occupational, and employability standards.

SEC. 153. DEFINITIONS.

(a) In this subtitle:

(1) ARTICULATION AGREEMENT.—The term "articulation agreement" means a written commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to degrees or certificates in a tech-prep education program.

(2) COMMUNITY COLLEGE.—The term "community college"—

(A) has the meaning provided in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141) for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree; and

(B) includes tribally controlled community colleges.

(3) TECH-PREP PROGRAM.—The term "tech-prep program" means a program of study that—

(A) combines at a minimum 2 years of secondary education (as determined under State law) with a minimum of 2 years of postsecondary education in a non-duplicative, sequential course of study;

(B) integrates academic and vocational instruction, and utilizes work-based and worksite learning where appropriate and available;

(C) provides technical preparation in a career field such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, health occupations, business, or applied economics;

(D) builds student competence in mathematics, science, reading, writing, communications, economics, and workplace skills through applied, contextual academics, and integrated instruction, in a coherent sequence of courses;

(E) leads to an associate or a baccalaureate degree or a certificate in a specific career field; and

(F) leads to placement in appropriate employment or further education.

SEC. 154. PROGRAM AUTHORIZED.

(a) DISCRETIONARY AMOUNTS.—

(1) IN GENERAL.—For any fiscal year for which the amount appropriated under section 157 to carry out this subtitle is equal to or less than $50,000,000, the Secretary shall award grants for tech-prep education programs to consortia between or among—

(A) a local educational agency, an intermediate educational agency or area vocational education school serving secondary school students, or a secondary school funded by the Bureau of Indian Affairs; and

(B)(i) a nonprofit institution of higher education that offers—

(I) a 2-year associate degree program, or a 2-year certificate program, and is qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)), including an institution receiving assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and a tribally controlled postsecondary vocational institution; or

(II) a 2-year apprenticeship program that follows secondary instruction,

if such nonprofit institution of higher education is not prohibited from receiving assistance under part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) pursuant to the provisions of section 435(a)(3) of such Act (20 U.S.C. 1083(a)); or

(ii) a proprietary institution of higher education that offers a 2-year associate degree program and is qualified as an institution of higher education pursuant to section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)), if such proprietary institution of higher education is not subject to a default management plan required by the Secretary.

(2) SPECIAL RULE.—In addition, a consortium described in paragraph (1) may include 1 or more—

(A) institutions of higher education that award a baccalaureate degree; and

(B) employer or labor organizations.

(b) STATE GRANTS.—

(1) IN GENERAL.—For any fiscal year for which the amount made available under section 157 to carry out this subtitle exceeds $50,000,000, the Secretary shall allot such amount among the States in the same manner as funds are allotted to States under paragraphs (2), (3), and (4) of section 111(a).

(2) PAYMENTS TO ELIGIBLE AGENCIES.—The Secretary shall make a payment in the amount

of a State's allotment under this paragraph to the eligible agency that serves the State and has an application approved under paragraph (4).

(3) AWARD BASIS.—From amounts made available to each eligible agency under this subsection, the eligible agency shall award grants, on a competitive basis or on the basis of a formula determined by the eligible agency, for tech-prep education programs to consortia described in subsection (a).

(4) STATE APPLICATION.—Each eligible agency desiring assistance under this subtitle shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

SEC. 155. TECH-PREP EDUCATION PROGRAMS.

(a) GENERAL AUTHORITY.—Each consortium shall use amounts provided through the grant to develop and operate a tech-prep education program.

(b) CONTENTS OF PROGRAM.—Any such tech-prep program shall—

(1) be carried out under an articulation agreement between the participants in the consortium;

(2) consist of at least 2 years of secondary school preceding graduation and 2 years or more of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, reading, writing, communications, and technologies designed to lead to an associate's degree or a certificate in a specific career field;

(3) include the development of tech-prep education program curricula for both secondary and postsecondary levels that—

(A) meets academic standards developed by the State;

(B) links secondary schools and 2-year postsecondary institutions, and where possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields;

(C) uses, where appropriate and available, work-based or worksite learning in conjunction with business and industry; and

(D) uses educational technology and distance learning, as appropriate, to involve all the consortium partners more fully in the development and operation of programs.

(4) include a professional development program for academic, vocational, and technical teachers that—

(A) is designed to train teachers to effectively implement tech-prep education curricula;

(B) provides for joint training for teachers from all participants in the consortium;

(C) is designed to ensure that teachers stay current with the needs, expectations, and methods of business and industry;

(D) focuses on training postsecondary education faculty in the use of contextual and applied curricula and instruction; and

(E) provides training in the use and application of technology;

(5) include training programs for counselors designed to enable counselors to more effectively—

(A) make tech-prep education opportunities known to students interested in such activities;

(B) ensure that such students successfully complete such programs;

(C) ensure that such students are placed in appropriate employment; and

(D) stay current with the needs, expectations, and methods of business and industry;

(6) provide equal access to the full range of technical preparation programs to individuals who are members of populations described in section 124(c)(16), including the development of tech-prep education program services appropriate to the needs of such individuals; and

(7) provide for preparatory services that assist all participants in such programs.

(c) ADDITIONAL AUTHORIZED ACTIVITIES.—Each such tech-prep program may—

(1) provide for the acquisition of tech-prep education program equipment;

(2) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established and operated tech-prep programs;

(3) acquire technical assistance from State or local entities that have designed, established, and operated tech-prep programs that have effectively used educational technology and distance learning in the delivery of curricula and services and in the articulation process; and

(4) establish articulation agreements with institutions of higher education, labor organizations, or businesses located outside of the State served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs.

SEC. 156. APPLICATIONS.

(a) IN GENERAL.—Each consortium that desires to receive a grant under this subtitle shall submit an application to the Secretary or the eligible agency, as appropriate, at such time and in such manner as the Secretary or the eligible agency, as appropriate, shall prescribe.

(b) THREE-YEAR PLAN.—Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this subtitle.

(c) APPROVAL.—The Secretary or the eligible agency, as appropriate, shall approve applications based on the potential of the activities described in the application to create an effective tech-prep education program described in section 155.

(d) SPECIAL CONSIDERATION.—The Secretary or the eligible agency, as appropriate, shall give special consideration to applications that—

(1) provide for effective employment placement activities or the transfer of students to 4-year institutions of higher education;

(2) are developed in consultation with 4-year institutions of higher education;

(3) address effectively the needs of populations described in section 124(c)(16);

(4) provide education and training in areas or skills where there are significant workforce shortages, including the information technology industry; and

(5) demonstrate how tech-prep programs will help students meet high academic and employability competencies.

(e) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In awarding grants under this subtitle, the Secretary shall ensure an equitable distribution of assistance among States, and the Secretary or the eligible agency, as appropriate, shall ensure an equitable distribution of assistance between urban and rural consortium participants.

(f) NOTICE.—

(1) IN GENERAL.—In the case of grants to be awarded by the Secretary, each consortium that submits an application under this section shall provide notice of such submission and a copy of such application to the State educational agency and the State agency for higher education of the State in which the consortium is located.

(2) NOTIFICATION.—The Secretary shall notify the State educational agency and the State agency for higher education of a State each time a consortium located in the State is selected to receive a grant under this subtitle.

SEC. 157. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

SEC. 158. DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM AUTHORIZED.—From funds appropriated under subsection (e) for a fiscal year, the Secretary shall award grants to consortia described in section 154(a) to enable the consortia to carry out tech-prep education programs.

(b) PROGRAM CONTENTS.—Each tech-prep program referred to in subsection (a)—

(1) shall—

(A) involve the location of a secondary school on the site of a community college;

(B) involve a business as a member of the consortium; and

(C) require the voluntary participation of secondary school students in the tech-prep education program; and

(2) may provide summer internships at a business for students or teachers.

(c) APPLICATION.—Each consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require.

(d) APPLICABILITY.—The provisions of sections 154, 155, 156, and 157 shall not apply to this section, except that—

(1) the provisions of section 154(a) shall apply for purposes of describing consortia eligible to receive assistance under this section;

(2) each tech-prep education program assisted under this section shall meet the requirements of paragraphs (1), (2), (3)(A), (3)(B), (3)(C), (3)(D), (4), (5), (6), and (7) of section 155(b), except that such paragraph (3)(B) shall be applied by striking ", and where possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields"; and

(3) in awarding grants under this section, the Secretary shall give special consideration to consortia submitting applications under subsection (c) that meet the requirements of paragraphs (1), (3), (4), and (5) of section 156(d), except that such paragraph (1) shall be applied by striking "or the transfer of students to 4-year institutions of higher education".

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1999 and each of the 5 succeeding fiscal years.

Subtitle C—General Provisions

SEC. 161. ADMINISTRATIVE PROVISIONS.

(a) SUPPLEMENT NOT SUPPLANT.—Funds made available under this title for vocational education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out vocational education and tech-prep activities.

(b) MAINTENANCE OF EFFORT.—

(1) DETERMINATION.—No payments shall be made under this title for any fiscal year to an eligible agency for vocational education or tech-prep activities unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of the State for vocational education for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational education for the second fiscal year preceding the fiscal year for which the determination is made.

(2) WAIVER.—The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed

on the basis of the level of funding that would, but for such waiver, have been required.

(c) REPRESENTATION.—The eligible agency shall provide representation to the statewide partnership.

SEC. 162. EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY.

(a) LOCAL EVALUATION.—Each eligible agency shall evaluate annually the vocational education and tech-prep activities of each local educational agency or eligible institution receiving assistance under this title, using the performance measures established under section 112.

(b) IMPROVEMENT ACTIVITIES.—If, after reviewing the evaluation, an eligible agency determines that a local educational agency or eligible institution is not making substantial progress in achieving the purpose of this title, the local educational agency or eligible institution, in consultation with teachers, parents, and other school staff, shall—

(1) conduct an assessment of the educational and other problems that the local educational agency or eligible institution shall address to overcome local performance problems;

(2) enter into an improvement plan based on the results of the assessment, which plan shall include instructional and other programmatic innovations of demonstrated effectiveness, and where necessary, strategies for appropriate staffing and staff development; and

(3) conduct regular evaluations of the progress being made toward program improvement goals.

(c) TECHNICAL ASSISTANCE.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 124, or is not making substantial progress in meeting the purpose of this title, based on the performance measures and expected levels of performance under section 112 included in the eligible agency's State plan, the Secretary shall work with the eligible agency to implement improvement activities.

(d) WITHHOLDING OF FEDERAL FUNDS.—If, after a reasonable time, but not earlier than 1 year after implementing activities described in subsection (c), the Secretary determines that the eligible agency is not making sufficient progress, based on the eligible agency's performance measures and expected levels of performance, the Secretary, after notice and opportunity for a hearing, shall withhold from the eligible agency all, or a portion, of the eligible agency's grant funds under this subtitle. The Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services, and activities within the State to meet the purpose of this title.

SEC. 163. NATIONAL ACTIVITIES.

The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation, capacity-building, and technical assistance activities that carry out the purpose of this title.

SEC. 164. NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct a national assessment of vocational education programs assisted under this title, through studies and analyses conducted independently through competitive awards.

(b) INDEPENDENT ADVISORY PANEL.—The Secretary shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, and representatives of labor organizations, business, parents, guidance and counseling professionals, and other relevant groups, to advise the Secretary on the implementation of such assessment, including the issues to be addressed and the methodology of the studies involved, and the findings and recommendations resulting from the assessment. The panel shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary an independent analysis of the findings and recommendations resulting from the assessment. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this subsection.

(c) CONTENTS.—The assessment required under subsection (a) shall include descriptions and evaluations of—

(1) the effect of the vocational education programs assisted under this title on State and tribal administration of vocational education programs and on local vocational education practices, including the capacity of State, tribal, and local vocational education systems to address the purpose of this title;

(2) expenditures at the Federal, State, tribal, and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State distribution formulas) on the delivery of services;

(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of such teachers;

(4) participation in vocational education programs;

(5) academic and employment outcomes of vocational education, including analyses of—

(A) the number of vocational education students and tech-prep students who meet State academic standards;

(B) the extent and success of integration of academic and vocational education for students participating in vocational education programs; and

(C) the degree to which vocational education is relevant to subsequent employment or participation in postsecondary education;

(6) employer involvement in, and satisfaction with, vocational education programs;

(7) the use and impact of educational technology and distance learning with respect to vocational education and tech-prep programs; and

(8) the effect of performance measures, and other measures of accountability, on the delivery of vocational education services.

(d) CONSULTATION.—

(1) IN GENERAL.—The Secretary shall consult with the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate in the design and implementation of the assessment required under subsection (a).

(2) REPORTS.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary—

(A) an interim report regarding the assessment on or before July 1, 2001; and

(B) a final report, summarizing all studies and analyses that relate to the assessment and that are completed after the assessment, on or before July 1, 2002.

(3) PROHIBITION.—Notwithstanding any other provision of law or regulation, the reports required by this subsection shall not be subject to any review outside of the Department of Education before their transmittal to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary, but the President, the Secretary, and the independent advisory panel established under subsection (b) may make such additional recommendations to Congress with respect to the assessment as the President, the Secretary, or the panel determine to be appropriate.

SEC. 165. NATIONAL RESEARCH CENTER.

(a) GENERAL AUTHORITY.—

(1) IN GENERAL.—The Secretary, through grants, contracts, or cooperative agreements, may establish 1 or more national centers in the areas of—

(A) applied research and development; and

(B) dissemination and training.

(2) CONSULTATION.—The Secretary shall consult with the States prior to establishing 1 or more such centers.

(3) ELIGIBLE ENTITIES.—Entities eligible to receive funds under this section are institutions of higher education, other public or private nonprofit organizations or agencies, and consortia of such institutions, organizations, or agencies.

(b) ACTIVITIES.—

(1) IN GENERAL.—The national center or centers shall carry out such activities as the Secretary determines to be appropriate to assist State and local recipients of funds under this title to achieve the purpose of this title, which may include the research and evaluation activities in such areas as—

(A) the integration of vocational and academic instruction, secondary and postsecondary instruction;

(B) effective inservice and preservice teacher education that assists vocational education systems;

(C) education technology and distance learning approaches and strategies that are effective with respect to vocational education;

(D) performance measures and expected levels of performance that serve to improve vocational education programs and student achievement;

(E) effects of economic changes on the kinds of knowledge and skills required for employment or participation in postsecondary education;

(F) longitudinal studies of student achievement; and

(G) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include—

(i) serving as a repository for information on vocational and technological skills, State academic standards, and related materials; and

(ii) developing and maintaining national networks of educators who facilitate the development of vocational education systems.

(2) REPORT.—The center or centers conducting the activities described in paragraph (1) annually shall prepare a report of key research findings of such center or centers and shall submit copies of the report to the Secretary, the Secretary of Labor, and the Secretary of Health and Human Services. The Secretary shall submit that report to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Library of Congress, and each eligible agency.

(c) REVIEW.—The Secretary shall—

(1) consult at least annually with the national center or centers and with experts in education to ensure that the activities of the national center or centers meet the needs of vocational education programs; and

(2) undertake an independent review of each award recipient under this section prior to extending an award to such recipient beyond a 5-year period.

SEC. 166. DATA SYSTEMS.

(a) IN GENERAL.—The Secretary shall maintain a data system to collect information about, and report on, the condition of vocational education and on the effectiveness of State and local programs, services, and activities carried out under this title in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of vocational education. The Secretary annually shall report to Congress on the Secretary's analysis of performance data collected

each year pursuant to this title, including an analysis of performance data regarding the populations described in section 124(c)(16).

(b) DATA SYSTEM.—In maintaining the data system, the Secretary shall ensure that the data system is compatible with other Federal information systems.

(c) ASSESSMENTS.—As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on vocational education for a nationally representative sample of students. Such assessment may include international comparisons.

SEC. 167. PROMOTING SCHOLAR-ATHLETE COMPETITIONS.

Section 10104 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8004) is amended—

(1) in subsection (a), by striking "to be held in 1995"; and

(2) in subsection (b)—

(A) in paragraph (4), by striking "in the summer of 1995;" and inserting "; and";

(B) in paragraph (5), by striking "in 1996 and thereafter, as well as replicate such program internationally; and" and inserting "and internationally."; and

(C) by striking paragraph (6).

SEC. 168. DEFINITION.

In this title, the term "gender equity", used with respect to a program, service, or activity, means a program, service, or activity that is designed to ensure that men and women (including single parents and displaced homemakers) have access to opportunities to participate in vocational education that prepares the men and women to enter high-skill, high-wage careers.

Subtitle D—Authorization of Appropriations

SEC. 171. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out subtitle (A), and sections 163, 164, 165, and 166, such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

Subtitle E—Repeal

SEC. 181. REPEAL.

(a) REPEAL.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is repealed.

(b) REFERENCES TO CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—

(1) IMMIGRATION AND NATIONALITY ACT.—Section 245A(h)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(C)) is amended by striking "Vocational Education Act of 1963" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(2) NATIONAL DEFENSE AUTHORIZATION ACT.—Section 4461 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(A) in section 1114(b)(2)(C)(v) (20 U.S.C. 6314(b)(2)(C)(v)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act," and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998";

(B) in section 9115(b)(5) (20 U.S.C. 7815(b)(5)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998";

(C) in section 14302(a)(2) (20 U.S.C. 8852(a)(2))—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively; and

(D) in the matter preceding subparagraph (A) of section 14307(a)(1) (20 U.S.C. 8857(a)(1)), by striking "Carl D. Perkins Vocational and Applied Technology Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(4) EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking "(20 U.S.C. 2397h(3)" and inserting ", as such section was in effect on the day preceding the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(5) IMPROVING AMERICA'S SCHOOLS ACT OF 1994.—Section 563 of the Improving America's Schools Act of 1994 (20 U.S.C. 6301 note) is amended by striking "the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting "July 1, 1999".

(6) INTERNAL REVENUE CODE OF 1986.—Section 135(c)(3)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 135(c)(3)(B)) is amended—

(A) by striking "subparagraph (C) or (D) of section 521(3) of the Carl D. Perkins Vocational Education Act" and inserting "subparagraph (C) or (D) of section 2(3) of the Workforce Investment Partnership Act of 1998"; and

(B) by striking "any State (as defined in section 521(27) of such Act)" and inserting "any State or outlying area (as the terms 'State' and 'outlying area' are defined in section 2 of such Act)".

(7) APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) (as amended by subsection (c)(5)) is further amended by striking "Carl D. Perkins Vocational Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(8) VOCATIONAL EDUCATION AMENDMENTS OF 1968.—Section 104 of the Vocational Education Amendments of 1968 (82 Stat. 1091) is amended by striking "section 3 of the Carl D. Perkins Vocational Education Act" and inserting "the Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

(9) OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(A) in section 502(b)(1)(N)(i) (42 U.S.C. 3056(b)(1)(N)(i)), by striking "or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)"; and

(B) in section 505(d)(2) (42 U.S.C. 3056c(d)(2))—

(i) by striking "employment and training programs" and inserting "workforce investment activities"; and

(ii) by striking "the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)" and inserting "the Carl D. Perkins Vocational and Applied Technology Education Act of 1998".

TITLE II—ADULT EDUCATION AND LITERACY

SEC. 201. SHORT TITLE.

This title may be cited as the "Adult Education and Literacy Act".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the National Adult Literacy Survey and other studies have found that more than one-fifth of American adults demonstrate very low literacy skills that make it difficult for the adults to be economically self-sufficient, much less enter high-skill, high-wage jobs;

(2) data from the National Adult Literacy Survey show that adults with very low levels of literacy are 10 times as likely to be poor as adults with high levels of literacy; and

(3) our Nation's well-being is dependent on the knowledge and skills of all of our Nation's citizens.

(b) PURPOSE.—It is the purpose of this title to create a partnership among the Federal Government, States, and localities to help provide for adult education and literacy services so that adults who need such services, will, as appropriate, be able to—

(1) become literate and obtain the knowledge and skills needed to compete in a global economy;

(2) complete a secondary school education; and

(3) have the education skills necessary to support the educational development of their children.

Subtitle A—Adult Education and Literacy Programs

CHAPTER 1—FEDERAL PROVISIONS

SEC. 211. RESERVATION; GRANTS TO STATES; ALLOTMENTS.

(a) RESERVATION OF FUNDS FOR NATIONAL LEADERSHIP ACTIVITIES.—From the amount appropriated for any fiscal year under section 246, the Secretary shall reserve—

(1) 1.5 percent to carry out section 213;

(2) 2 percent to carry out section 243; and

(3) 1.5 percent to carry out section 245.

(b) GRANTS TO STATES.—From the sum appropriated under section 246 and not reserved under subsection (a) for a fiscal year, the Secretary shall award a grant to each eligible agency having a State plan approved under section 224 in an amount equal to the sum of the initial allotment under subsection (c)(1) and the additional allotment under subsection (c)(2) for the eligible agency for the fiscal year to enable the eligible agency to carry out the activities assisted under this subtitle.

(c) ALLOTMENTS.—

(1) INITIAL ALLOTMENTS.—From the sum appropriated under section 246 and not reserved under subsection (a) for a fiscal year, the Secretary first shall allot to each eligible agency having a State plan approved under section 224 the following amounts:

(A) $100,000 in the case of an eligible agency serving the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) $250,000, in the case of any other eligible agency.

(2) ADDITIONAL ALLOTMENTS.—From the sum appropriated under section 246, not reserved under subsection (a), and not allotted under paragraph (1), for any fiscal year, the Secretary shall allot to each eligible agency an amount that bears the same relationship to such sum as the number of qualifying adults in the State or outlying area served by the eligible agency bears to the number of such adults in all States and outlying areas.

(d) QUALIFYING ADULT.—For the purposes of this subsection, the term "qualifying adult" means an adult who—

(1) is at least 16 years of age;

(2) is beyond the age of compulsory school attendance under the law of the State or outlying area;

(3) does not possess a secondary school diploma or its recognized equivalent; and

(4) is not enrolled in secondary school.

(e) SPECIAL RULE.—

(1) IN GENERAL.—From amounts made available under subsection (c) for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, the Secretary

shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this part in accordance with the provisions of this subtitle that the Secretary determines are not inconsistent with this subsection.

(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this part for any fiscal year that begins after September 30, 2004.

(4) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

(f) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—An eligible agency may receive a grant under this subtitle for any fiscal year only if the Secretary finds that the amount expended by the State for adult education and literacy, in the second fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of the amount expended for adult education and literacy in the third fiscal year preceding the fiscal year for which the determination is made.

(2) WAIVER.—The Secretary may waive the requirements of this subsection for 1 fiscal year only if the Secretary determines that such a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State.

(g) REALLOTMENT.—If the Secretary determines that any amount of a State's allotment under this section for any fiscal year will not be required for carrying out the program for which such amount has been allotted, the Secretary shall make such amount available for reallotment to 1 or more States on the basis that the Secretary determines would best serve the purpose of this title.

SEC. 212. PERFORMANCE MEASURES AND EXPECTED LEVELS OF PERFORMANCE.

(a) PERFORMANCE MEASURES.—The Secretary shall publish the following performance measures to assess the progress of each eligible agency:

(1) Demonstrated improvements in literacy skill levels in reading, writing and speaking the English language, numeracy, and problem-solving.

(2) Attainment of secondary school diplomas or their recognized equivalent.

(3) Placement in, retention in, or completion of, postsecondary education, training, or unsubsidized employment.

(b) EXPECTED LEVELS OF PERFORMANCE.—In developing a State plan, each eligible agency shall negotiate with the Secretary the expected levels of performance for the performance measures described in subsection (a).

SEC. 213. NATIONAL LEADERSHIP ACTIVITIES.

(a) AUTHORITY.—From the amount reserved under section 211(a)(1) for any fiscal year, the Secretary may establish a program of national leadership and evaluation activities to enhance the quality of adult education and literacy nationwide.

(b) METHOD OF FUNDING.—The Secretary may carry out national leadership and evaluation activities directly or through grants, contracts, or cooperative agreements.

(c) USES OF FUNDS.—Funds made available to carry out this section shall be used for—

(1) research, such as estimating the number of adults functioning at the lowest levels of literacy proficiency;

(2) demonstration of model and innovative programs, such as the development of models for basic skill certificates, identification of effective strategies for working with adults with learning disabilities and with individuals with limited English proficiency who are adults, and workplace literacy programs;

(3) dissemination, such as dissemination of information regarding promising practices resulting from federally funded demonstration programs;

(4) evaluations and assessments, such as periodic independent evaluations of activities assisted under this subtitle and assessments of the condition and progress of literacy in the United States;

(5) efforts to support capacity building at the State and local levels, such as technical assistance in program planning, assessment, evaluation, and monitoring of activities under this subtitle;

(6) data collection, such as improvement of both local and State data systems through technical assistance and development of model performance data collection systems;

(7) professional development, such as technical assistance activities to advance effective training practices, identify exemplary professional development projects, and disseminate new findings in adult education training;

(8) technical assistance, such as endeavors that aid distance learning, and promote and improve the use of technology in the classroom; or

(9) other activities designed to enhance the quality of adult education and literacy nationwide.

CHAPTER 2—STATE PROVISIONS

SEC. 221. STATE ADMINISTRATION.

(a) IN GENERAL.—Each eligible agency shall be responsible for the State administration of activities under this subtitle, including—

(1) the development, submission, and implementation of the State plan;

(2) consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of activities assisted under this subtitle; and

(3) coordination and nonduplication with other Federal and State education, training, corrections, public housing, and social service programs.

(b) STATE-IMPOSED REQUIREMENTS.—Whenever a State imposes any rule or policy relating to the administration and operation of activities funded under this subtitle (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline), the State shall identify the rule or policy as a State-imposed requirement.

SEC. 222. STATE DISTRIBUTION OF FUNDS; STATE SHARE.

(a) STATE DISTRIBUTION OF FUNDS.—Each eligible agency receiving a grant under this subtitle for a fiscal year—

(1) shall use not less than 80 percent of the grant funds to carry out section 225 and to award grants and contracts under section 231, of which not more than 10 percent of the 80 percent shall be available to carry out section 225;

(2) shall use not more than 15 percent of the grant funds to carry out State leadership activities under section 223; and

(3) shall use not more than 5 percent of the grant funds, or $80,000, whichever is greater, for administrative expenses of the eligible agency.

(b) STATE SHARE REQUIREMENT.—

(1) IN GENERAL.—In order to receive a grant from the Secretary under section 211(b) each eligible agency shall provide an amount equal to 25 percent of the total amount of funds expended for adult education in the State or outlying area, except that the Secretary may decrease the amount of funds required under this subsection for an eligible agency serving an outlying area.

(2) STATE'S SHARE.—An eligible agency's funds required under paragraph (1) may be in cash or in kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of this subtitle.

SEC. 223. STATE LEADERSHIP ACTIVITIES.

(a) IN GENERAL.—Each eligible agency shall use funds made available under section 222(a)(2) for 1 or more of the following activities:

(1) Professional development and training, including training in the use of software and technology.

(2) Developing and disseminating curricula for adult education and literacy activities.

(3) Monitoring and evaluating the quality of, and improvement in, services and activities conducted with assistance under this subtitle.

(4) Establishing challenging performance measures and levels of performance for literacy proficiency in order to assess program quality and improvement.

(5) Integration of literacy instruction and occupational skill training, and promoting linkages with employers.

(6) Linkages with postsecondary institutions.

(7) Supporting State or regional networks of literacy resource centers.

(8) Other activities of statewide significance that promote the purpose of this subtitle.

(b) COLLABORATION.—In carrying out this section, eligible agencies shall collaborate where possible and avoid duplicating efforts in order to maximize the impact of the activities described in subsection (a).

SEC. 224. STATE PLAN.

(a) 3-YEAR PLANS.—

(1) IN GENERAL.—Each eligible agency desiring a grant under this subtitle for any fiscal year shall submit to, or have on file with, the Secretary a 3-year State plan.

(2) COMPREHENSIVE PLAN OR APPLICATION.—The eligible agency may submit the State plan as part of a comprehensive plan or application for Federal education assistance.

(b) PLAN CONTENTS.—In developing the State plan, and any revisions to the State plan, the eligible agency shall include in the State plan or revisions—

(1) an objective assessment of the needs of individuals in the State for adult education and literacy activities, including individuals most in need or hardest to serve, such as educationally disadvantaged adults, immigrants, individuals with limited English proficiency, incarcerated individuals, homeless individuals, recipients of public assistance, and individuals with disabilities;

(2) a description of the adult education and literacy activities that will be carried out with any funds received under this subtitle;

(3) a description of how the eligible agency will evaluate annually the effectiveness of the adult education and literacy activities based on the performance measures described in section 212;

(4) a description of how the eligible agency will ensure that the data reported to the eligible agency from eligible providers under this subtitle and the data the eligible agency reports to the Secretary are complete, accurate, and reliable;

(5) a description of the performance measures required under section 212(a) and how such performance measures and the expected levels of performance will ensure improvement of adult education and literacy activities in the State or outlying area;

(6) an assurance that the funds received under this subtitle will not be expended for any purpose other than for activities under this subtitle;

(7) a description of how the eligible agency will fund local activities in accordance with the priorities described in section 242(a);

(8) a description of how the eligible agency will determine which eligible providers are eligible for funding in accordance with the preferences described in section 242(b);

(9) a description of how funds will be used for State leadership activities, which activities may include professional development and training, instructional technology, and management technology;

(10) an assurance that the eligible agency will expend the funds under this subtitle only in a manner consistent with fiscal requirement in section 241;

(11) a description of the process that will be used for public participation and comment with respect to the State plan;

(12) a description of how the eligible agency will develop program strategies for populations that include, at a minimum—

(A) low-income students;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with multiple barriers to educational enhancement, including individuals with limited English proficiency;

(13) a description of the measures that will be taken by the eligible agency to assure coordination of and avoid duplication among—

(A) adult education activities authorized under this subtitle;

(B) activities authorized under title III;

(C) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)), and title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(D) a work program authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(E) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(F) activities authorized under chapter 41 of title 38, United States Code;

(G) training activities carried out by the Department of Housing and Urban Development; and

(H) programs authorized under State unemployment compensation laws in accordance with applicable Federal law; and

(14) the description and information specified in paragraphs (9) and (17) of section 304(b).

(c) PLAN REVISIONS.—When changes in conditions or other factors require substantial revisions to an approved State plan, the eligible agency shall submit a revision to the State plan to the Secretary.

(d) CONSULTATION.—The eligible agency shall—

(1) submit the State plan, and any revisions to the State plan, to the Governor of the State for review and comment; and

(2) ensure that any comments by the Governor regarding the State plan, and any revision to the State plan, are submitted to the Secretary.

(e) PLAN APPROVAL.—

(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, only if the Secretary determines that—

(A) the State plan, or revision, respectively, meets the requirements of this section; and

(B) the State's performance measures and expected levels of performance under section 212 are sufficiently rigorous to meet the purpose of this title.

(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

(3) PEER REVIEW.—The Secretary shall establish a peer review process to make recommendations regarding the approval of State plans.

SEC. 225. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.

(a) PROGRAM AUTHORIZED.—From funds made available under section 222(a)(1) for a fiscal year, each eligible agency shall carry out corrections education or education for other institutionalized individuals.

(b) USES OF FUNDS.—The funds described in subsection (a) shall be used for the cost of educational programs for criminal offenders in corrections institutions and for other institutionalized individuals, including academic programs for—

(1) basic education;

(2) special education programs as determined by the State;

(3) bilingual programs, or English as a second language programs; and

(4) secondary school credit programs.

(c) DEFINITION OF CRIMINAL OFFENDER.—

(1) CRIMINAL OFFENDER.—The term "criminal offender" means any individual who is charged with or convicted of any criminal offense.

(2) CORRECTIONAL INSTITUTION.—The term "correctional institution" means any—

(A) prison;

(B) jail;

(C) reformatory;

(D) work farm;

(E) detention center; or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

CHAPTER 3—LOCAL PROVISIONS

SEC. 231. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

(a) GRANTS.—From funds made available under section 222(a)(1), each eligible agency shall award multiyear grants or contracts to eligible providers within the State to enable the eligible providers to develop, implement, and improve adult education and literacy activities within the State.

(b) SPECIAL RULE.—Each eligible agency receiving funds under this subtitle shall ensure that all eligible providers have direct and equitable access to apply for grants or contracts under this section.

(c) REQUIRED LOCAL ACTIVITIES.—Each eligible provider receiving a grant or contract under this subtitle shall establish programs that provide instruction or services that meet the purpose described in section 202(b), such as—

(1) adult education and literacy services; or

(2) English literacy programs.

SEC. 232. LOCAL APPLICATION.

Each eligible provider desiring a grant or contract under this subtitle shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including—

(1) a description of how funds awarded under this subtitle will be spent;

(2) how the expected levels of performance of the eligible provider with respect to participant recruitment, retention, and performance measures described in section 212, will be met and reported to the eligible agency; and

(3) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy programs.

SEC. 233. LOCAL ADMINISTRATIVE COST LIMITS.

(a) IN GENERAL.—Subject to subsection (b), of the sum that is made available under this subtitle to an eligible provider—

(1) not less than 95 percent shall be expended for carrying out adult education and literacy activities; and

(2) the remaining amount, not to exceed 5 percent, shall be used for planning, administration, personnel development, and interagency coordination.

(b) SPECIAL RULE.—In cases where the cost limits described in subsection (a) are too restrictive to allow for adequate planning, administration, personnel development, and interagency coordination, the eligible provider shall negotiate with the eligible agency in order to determine an adequate level of funds to be used for noninstructional purposes.

CHAPTER 4—GENERAL PROVISIONS

SEC. 241. ADMINISTRATIVE PROVISIONS.

(a) SUPPLEMENT NOT SUPPLANT.—Funds made available for adult education and literacy activities under this subtitle shall supplement and not supplant other State or local public funds expended for adult education and literacy activities.

(b) REPRESENTATION.—The eligible agency shall provide representation to the statewide partnership.

SEC. 242. PRIORITIES AND PREFERENCES.

(a) PRIORITIES.—Each eligible agency and eligible provider receiving assistance under this subtitle shall give priority in using the assistance to adult education and literacy activities that—

(1) are built on a strong foundation of research and effective educational practice;

(2) effectively employ advances in technology, as appropriate, including the use of computers;

(3) provide learning in real life contexts to ensure that an individual has the skills needed to compete in a global economy and exercise the rights and responsibilities of citizenship;

(4) are staffed by well-trained instructors, counselors, and administrators;

(5) are of sufficient intensity and duration for participants to achieve substantial learning gains, such as by earning a basic skills certificate that reflects skills acquisition and has meaning to employers;

(6) establish measurable performance levels for participant outcomes, such as levels of literacy achieved and attainment of a secondary school diploma or its recognized equivalent, that are tied to challenging State performance levels for literacy proficiency;

(7) coordinate with other available resources in the community, such as by establishing strong links with elementary schools and secondary schools, postsecondary institutions, 1-stop customer service centers, job training programs, and social service agencies;

(8) offer flexible schedules and support services (such as child care and transportation) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs; and

(9) maintain a high-quality information management system that has the capacity to report client outcomes and to monitor program performance against the State performance measures.

(b) PREFERENCES.—In determining which eligible providers will receive funds under this subtitle for a fiscal year, each eligible agency receiving a grant under this subtitle, in addition to addressing the priorities described in subsection (a), shall—

(1) give preference to eligible providers that the eligible agency determines serve—

(A) local areas with high concentrations of individuals in poverty or with low levels of literacy (including English language proficiency); or

(B) local communities that have a demonstrated need for additional English as a second language programs; and

(2) consider—

(A) the results, if any, of the evaluations required under section 244(a); and

(B) the degree to which the eligible provider will coordinate with and utilize other literacy and social services available in the community.

SEC. 243. INCENTIVE GRANTS.

(a) In General.—The Secretary may make grants to States that exceed the expected levels of performance for performance measures established under this Act.

(b) Use of Funds.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative vocational education, adult education and literacy, or workforce investment programs as determined by the State.

SEC. 244. EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY.

(a) Local Evaluation.—Each eligible agency shall biennially evaluate the adult education and literacy activities of each eligible provider that receives a grant or contract under this subtitle, using the performance measures established under section 212.

(b) Improvement Activities.—If, after reviewing the evaluation, an eligible agency determines that an eligible provider is not making substantial progress in achieving the purpose of this subtitle, the eligible agency may work jointly with the eligible provider to develop an improvement plan. If, after not more than 2 years of implementation of the improvement plan, the eligible agency determines that the eligible provider is not making substantial progress, the eligible agency shall take whatever corrective action the eligible agency deems necessary, which may include termination of funding or the implementation of alternative service arrangements, consistent with State law. The eligible agency shall take corrective action under the preceding sentence only after the eligible agency has provided technical assistance to the eligible provider and shall ensure, to the extent practicable, that any corrective action the eligible agency takes allows for continued services to and activities for the individuals served by the eligible provider.

(c) State Report.—

(1) In general.—The eligible agency shall report annually to the Secretary regarding the quality and effectiveness of the adult education and literacy activities funded through the eligible agency's grants or contracts under this subtitle, based on the performance measures and expected levels of performance included in the State plan.

(2) Information.—The eligible agency shall include in the reports such information, in such form, as the Secretary may require in order to ensure the collection of uniform national data.

(3) Availability.—The eligible agency shall make available to the public the annual report under this subsection.

(d) Technical Assistance.—If the Secretary determines that the eligible agency is not properly implementing the eligible agency's responsibilities under subsection (b), or is not making substantial progress in meeting the purpose of this subtitle, based on the performance measures and expected levels of performance included in the eligible agency's State plan, the Secretary shall work with the eligible agency to implement improvement activities.

(e) Withholding of Federal Funds.—If, not earlier than 2 years after implementing activities described in subsection (d), the Secretary determines that the eligible agency is not making sufficient progress, based on the eligible agency's performance measures and expected levels of performance, the Secretary, after notice and opportunity for a hearing, shall withhold from the eligible agency all, or a portion, of the eligible agency's grant under this subtitle. The Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services and activities within the State to meet the purpose of this title.

SEC. 245. NATIONAL INSTITUTE FOR LITERACY.

(a) Purpose.—The purpose of this section is to establish a National Institute for Literacy that—

(1) provides national leadership regarding literacy;

(2) coordinates literacy services and policy; and

(3) is a national resource for adult education and literacy, by providing the best and most current information available and supporting the creation of new ways to offer improved literacy services.

(b) Establishment.—

(1) In general.—There shall be a National Institute for Literacy (in this section referred to as the "Institute"). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the "Interagency Group"). The Secretary may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education the purpose of which is determined by the Secretary to be related to the purpose of the Institute.

(2) Recommendations.—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the "Board") established under subsection (e) in planning the goals of the Institute and in the implementation of any programs to achieve the goals. If the Board's recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group takes that are inconsistent with the Board's recommendations, including the reasons for not following the Board's recommendations with respect to the actions. The Board may also request a meeting of the Interagency Group to discuss the Board's recommendations.

(3) Daily operations.—The daily operations of the Institute shall be administered by the Director of the Institute.

(c) Duties.—

(1) In general.—In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized to—

(A) establish a national electronic data base of information that disseminates information to the broadest possible audience within the literacy and basic skills field, and that includes—

(i) effective practices in the provision of literacy and basic skills instruction, including the integration of such instruction with occupational skills training;

(ii) public and private literacy and basic skills programs and Federal, State, and local policies affecting the provision of literacy services at the national, State, and local levels;

(iii) opportunities for technical assistance, meetings, conferences, and other opportunities that lead to the improvement of literacy and basic skills services; and

(iv) a communication network for literacy programs, providers, social service agencies, and students;

(B) coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels;

(C) coordinate the support of research and development on literacy and basic skills for adults across Federal agencies, especially with the Office of Educational Research and Improvement in the Department of Education, and carry out basic and applied research and development on topics that are not being investigated by other organizations or agencies;

(D) collect and disseminate information on methods of advancing literacy;

(E) provide policy and technical assistance to Federal, State, and local entities for the improvement of policy and programs relating to literacy;

(F) fund a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

(i) encouraging the coordination of literacy services; and

(ii) serving as a link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources; and

(G) undertake other activities that lead to the improvement of the Nation's literacy delivery system and that complement other such efforts being undertaken by public and private agencies and organizations.

(2) Grants, contracts, and cooperative agreements.—The Institute may award grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

(d) Literacy Leadership.—

(1) In general.—The Institute may, in consultation with the Board, award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

(2) Fellowships.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

(3) Internships.—The Institute, in consultation with the Board, is authorized to award paid and unpaid internships to individuals seeking to assist in carrying out the Institute's purpose and to accept assistance from volunteers.

(e) National Institute for Literacy Advisory Board.—

(1) Establishment.—

(A) In general.—There shall be a National Institute for Literacy Advisory Board, which shall consist of 10 individuals appointed by the President with the advice and consent of the Senate.

(B) Composition.—The Board shall comprise individuals who are not otherwise officers or employees of the Federal Government and who are representative of such entities as—

(i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English as a second language programs and services, social service organizations, and eligible providers receiving assistance under this subtitle;

(ii) businesses that have demonstrated interest in literacy programs;

(iii) literacy students, including literacy students with disabilities;

(iv) experts in the area of literacy research;

(v) State and local governments;

(vi) State Directors of adult education; and

(vii) labor organizations.

(2) DUTIES.—The Board shall—

(A) make recommendations concerning the appointment of the Director and staff of the Institute; and

(B) provide independent advice on the operation of the Institute.

(3) APPOINTMENTS.—

(A) IN GENERAL.—Appointments to the Board made after the date of enactment of the Workforce Investment Partnership Act shall be for 3-year terms, except that the initial terms for members may be established at 1, 2, or 3 years in order to establish a rotation in which ⅓ of the members are selected each year.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

(4) OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members.

(5) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of its members.

(f) GIFTS, BEQUESTS, AND DEVISES.—

(1) IN GENERAL.—The Institute may accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

(2) RULES.—The Board shall establish written rules setting forth the criteria to be used by the Institute in determining whether the acceptance of contributions of services, money, or property whether real or personal, tangible or intangible, would reflect unfavorably upon the ability of the Institute or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.

(g) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(h) STAFF.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

(i) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

(j) EXPERTS AND CONSULTANTS.—The Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(k) REPORT.—The Institute shall submit a biennial report to the Interagency Group and Congress.

(l) NONDUPLICATION.—The Institute shall not duplicate any functions carried out by the Secretary, the Secretary of Labor, or the Secretary of Health and Human Services under this subtitle. This subsection shall not be construed to prohibit the Secretaries from delegating such functions to the Institute.

(m) FUNDING.—Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

SEC. 246. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1999 and each of the 5 succeeding fiscal years.

Subtitle B—Repeal

SEC. 251. REPEAL.

(a) REPEAL.—The Adult Education Act (20 U.S.C. 1201 et. seq.) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) REFUGEE EDUCATION ASSISTANCE ACT.—Subsection (b) of section 402 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is repealed.

(2) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) SECTION 1202 OF ESEA.—Section 1202(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(c)(1)) is amended by striking "Adult Education Act" and inserting "Workforce Investment Partnership Act of 1998".

(B) SECTION 1205 OF ESEA.—Section 1205(8)(B) of such Act (20 U.S.C. 6365(8)(B)) is amended by striking "Adult Education Act" and inserting "Workforce Investment Partnership Act of 1998".

(C) SECTION 1206 OF ESEA.—Section 1206(a)(1)(A) of such Act (20 U.S.C. 6366(a)(1)(A)) is amended by striking "an adult basic education program under the Adult Education Act" and inserting "adult education and literacy activities under the Workforce Investment Partnership Act of 1998".

(D) SECTION 3113 OF ESEA.—Section 3113(1) of such Act (20 U.S.C. 6813(1)) is amended by striking "section 312 of the Adult Education Act" and inserting "section 2 of the Workforce Investment Partnership Act of 1998".

(E) SECTION 9161 OF ESEA.—Section 9161(2) of such Act (20 U.S.C. 7881(2)) is amended by striking "section 312(2) of the Adult Education Act" and inserting "section 2 of the Workforce Investment Partnership Act of 1998".

(3) OLDER AMERICANS ACT OF 1965.—Section 203(b)(8) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)(8)) is amended by striking "Adult Education Act" and inserting "Workforce Investment Partnership Act of 1998".

(4) NATIONAL LITERACY ACT OF 1991.—The National Literacy Act of 1991 (20 U.S.C. 1201 note) is repealed.

TITLE III—WORKFORCE INVESTMENT AND RELATED ACTIVITIES

Subtitle A—Workforce Investment Activities

CHAPTER 1—ALLOTMENTS TO STATES FOR ADULT EMPLOYMENT AND TRAINING ACTIVITIES, DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES, AND YOUTH ACTIVITIES

SEC. 301. GENERAL AUTHORIZATION.

The Secretary of Labor shall make an allotment to each State that has a State plan approved under section 304 and a grant to each outlying area that complies with the requirements of this title, to enable the State or outlying area to assist local areas in providing, through a statewide workforce investment system—

(1) adult employment and training activities;

(2) dislocated worker employment and training activities; and

(3) youth activities, including summer employment opportunities, tutoring, activities to promote study skills, alternative secondary school services, employment skill training, adult mentoring, and supportive services.

SEC. 302. STATE ALLOTMENTS.

(a) IN GENERAL.—The Secretary shall—

(1) make allotments and grants from the total amount appropriated under section 322(a) for a fiscal year in accordance with subsection (b)(1);

(2)(A) reserve 20 percent of the amount appropriated under section 322(b) for a fiscal year for use under subsection (b)(2)(A), and under sections 366(b)(2), 367(f), and 369; and

(B) make allotments from 80 percent of the amount appropriated under section 322(b) for a fiscal year in accordance with subsection (b)(2)(B); and

(3)(A) for each fiscal year in which the amount appropriated under section 322(c) exceeds $1,000,000,000, reserve a portion determined under subsection (b)(3)(A) of the amount appropriated under section 322(c) for use under sections 362 and 364; and

(B) use the remainder of the amount appropriated under section 322(c) for a fiscal year to make allotments and grants in accordance with subparagraphs (B) and (C) of subsection (b)(3) and make funds available for use under section 361.

(b) ALLOTMENT AMONG STATES.—

(1) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(1) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent—

(I) to provide assistance to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands to carry out adult employment and training activities; and

(II) for each of the fiscal years 1999 through 2004, to carry out the competition described in clause (iii), except that the amount reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1998, from amounts reserved under section 202(a)(1) of the Job Training Partnership Act (29 U.S.C. 1602(a)(1)) (as in effect on the day before the date of enactment of this Act).

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an outlying area shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(iii) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to make grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out adult employment and training activities. .

(iv) BASIS.—The Secretary shall make grants pursuant to clause (iii) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(v) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive a grant made under clause (iii) shall include in the application of the State for assistance—

(I) information demonstrating that the State will meet all conditions of the regulations described in clause (ix); and

(II) an assurance that, notwithstanding any other provision of this title, the State will use the amounts made available through such grants only for the direct provision of services.

(vi) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any funds under clause (iii) for any program year that begins after September 30, 2004.

(vii) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the *amount made available for grants under clause (iii) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this subparagraph.*

(viii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas, including the Freely Associated States, under this subparagraph.

(ix) REGULATIONS.—The Secretary shall issue regulations specifying requirements of this title that apply to outlying areas receiving funds under this subparagraph.

(B) STATES.—

(i) IN GENERAL.—After determining the amount to be reserved under subparagraph (A), the Secretary shall allot the remainder of the amount referred to in subsection (a)(1) for a fiscal year to the States pursuant to clause (ii) for adult employment and training activities.

(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

(I) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(II) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States, except as described in clause (iii).

(iii) CALCULATION.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 307(a)(2)(A)(ii), the allotment shall be based on the higher of—

(I) the number of adults in families with an income below the low-income level in such area; or

(II) the number of disadvantaged adults in such area.

(iv) MINIMUM AND MAXIMUM PERCENTAGES AND MINIMUM ALLOTMENTS.—In making allotments under this subparagraph, the Secretary shall ensure the following:

(I) MINIMUM PERCENTAGE.—The Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is less than 90 percent of the allotment percentage of the State for the preceding fiscal year.

(II) SMALL STATE MINIMUM ALLOTMENT.—Subject to subclauses (I) and (III), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than ⅖ of 1 percent of the remainder described in clause (i) for a fiscal year.

(III) MAXIMUM PERCENTAGE.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

(v) DEFINITIONS.—In this subparagraph:

(I) ADULT.—The term "adult" means an individual who is not less than age 22 and not more than age 72.

(II) ALLOTMENT PERCENTAGE.—The term "allotment percentage", used with respect to fiscal year 1999 or a subsequent fiscal year, means a percentage of the remainder described in clause (i), received through an allotment made under this subparagraph, for the fiscal year. The term, used with respect to fiscal year 1998, means the percentage of the amounts allotted to States under section 202(a) of the Job Training Partnership Act (29 U.S.C. 1602(a)) (as in effect on the day before the date of enactment of this Act) received under such section by the State involved for fiscal year 1998.

(III) AREA OF SUBSTANTIAL UNEMPLOYMENT.—The term "area of substantial unemployment" means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this subtitle and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subclause, determinations of areas of substantial unemployment shall be made once each fiscal year.

(IV) DISADVANTAGED ADULT.—Subject to subclause (V), the term "disadvantaged adult" means an adult who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

(V) DISADVANTAGED ADULT SPECIAL RULE.—The Secretary shall, as appropriate and to the extent practicable, exclude students at an institution of higher education and members of the Armed Forces from the determination of the number of disadvantaged adults.

(VI) EXCESS NUMBER.—The term "excess number" means, used with respect to the excess number of unemployed individuals within a State, The higher of—

(aa) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

(bb) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

(2) DISLOCATED WORKER EMPLOYMENT AND TRAINING.—

(A) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(2)(A) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent of the amount made available under subsection (a)(2)—

(I) to provide assistance to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands to carry out dislocated worker employment and training activities; and

(II) for each of the fiscal years 1999 through 2004, to carry out the competition described in clause (iii), except that the amount reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1998, from amounts reserved under section 302(e) of the Job Training Partnership Act (29 U.S.C. 1652(e)) (as in effect on the day before the date of enactment of this Act).

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an outlying area shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(iii) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to make grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out dislocated worker employment and training activities.

(iv) BASIS.—The Secretary shall make grants pursuant to clause (iii) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(v) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive a grant made under clause (iii) shall include in the application of the State for assistance—

(I) information demonstrating that the State will meet all conditions of the regulations described in clause (ix); and

(II) an assurance that, notwithstanding any other provision of this title, the State will use the amounts made available through such grants only for the direct provision of services.

(vi) TERMINATION OF ELIGIBILITY.—Nothwithstanding any other provision of law, the Freely Associated States shall not receive any funds under clause (iii) for any program year that begins after September 30, 2004.

(vii) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the amount made available for grants under clause (iii) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this subparagraph.

(viii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas, including the Freely Associated States, under this subparagraph.

(ix) REGULATIONS.—The Secretary shall issue regulations specifying requirements of this title that apply to outlying areas receiving funds under this subparagraph.

(B) STATES.—

(i) IN GENERAL.—The secretary shall allot the amount referred to in subsection (a)(2)(B) for a fiscal year to the States pursuant to clause (ii) for dislocated worker employment and training activities.

(ii) FORMULA.—Of the amount—

(I) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States;

(II) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33⅓ percent shall be allotted on the basis of the relative number of individuals in each State who have been unemployed for 15 weeks or more, compared to the total number of individuals in all States who have been unemployed for 15 weeks or more.

(iii) DEFINITION.—In this subparagraph, the term "excess number" means, used with respect to the excess number of unemployed individuals within a State, the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

(3) YOUTH ACTIVITIES.—

(A) YOUTH OPPORTUNITY GRANTS.—

(i) IN GENERAL.—For each fiscal year in which the amount appropriated under section 322(c) exceeds $1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth opportunity grants and other activities under section 364 and provide youth activities under section 362.

(ii) PORTION.—The portion referred to include clause (i) shall equal, for a fiscal year—

(I) except as provided in subclause (II), the difference obtained by subtracting $1,000,000,000 from the amount described in clause (i); and

(II) for any fiscal year in which the amount is $1,250,000,000 or greater, $250,000,000.

(iii) YOUTH ACTIVITIES FOR FARMWORKERS.—From the portion described in clause (i) for a fiscal year, the Secretary shall make available $10,000,000 to provide youth activities under section 362.

(iv) ROLE MODEL ACADEMY PROJECT.—From the portion described in clause (i) for fiscal year

1999, the Secretary shall make available not more than $10,000,000 to carry out section 364(g).

(B) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(3)(B) for a fiscal year, the Secretary shall reserve not more than ¼ of 1 percent—

(I) to provide assistance to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands to carry out youth activities; and

(II) for each of the fiscal years 1999 through 2004, to carry out the competition described in clause (iii), except that the amount reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1998, from amounts reserved under sections 252(a) and 262(a)(1) of the Job Training Partnership Act (29 U.S.C. and 1631(a) and 1642(a)(1)) (as in effect on the day before the date of enactment of this Act).

(ii) APPLICATION.— To be eligible to receive a grant under this subparagraph, an outlying area shall submit an applications to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary and may require.

(iii) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(ii) to make grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the republic of Palau to carry out youth activities.

(iv) BASIS.—The Secretary shall make grants pursuant to clause (iii) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(v) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive a grant made under clause (iii) shall include in the application of the State for assistance—

(I) information demonstrating that the State will meet all conditions of the regulations described in clause (ix); and

(II) an assurance that, notwithstanding any other provision of this title, the State will use the amounts made available through such grants only for the direct provision of services.

(vi) TERMINATION OF ELIGIBILITY.—Nothwithstanding any other provision of law, the Freely Associated States shall not receive any funds under clause (iii) for any program year that begins after September 30, 2005.

(vii) ADMINISTRATIVE COSTS.— The Secretary may provide not more than 5 percent of the amount made available for grants under clause (iii) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this subparagraph.

(viii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to those areas, including the Freely Associated States, under this subparagraph.

(ix) REGULATIONS.—The Secretary shall issue regulations specifying requirements of this title that apply to outlying areas receiving funds under the subparagraph.

(C) STATES.—

(i) IN GENERAL.—After determining the amounts to be reserved under subparagraph (A) (if any) and subparagraph (B), the Secretary shall—

(I) from the amount referred to in subsection (a)(3)(B) for a fiscal year, make available $15,000,000 to provide youth activities under section 361; and

(II) allot the remainder of the amount referred to in subsection (a)(3)(B) for a fiscal year to the States pursuant to clause (ii) for youth activities.

(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

(I) 33⅓ percent shall be allotted on the basis described in paragraph (1)(B)(ii)(I);

(II) 33⅓ percent shall be allotted on the basis described in paragraph (1)(B)(ii)(II); and

(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged youth in each State, compared to the total number of disadvantaged youth in all States, except as described in clause (iii).

(iii) CALCULATION.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 307(a)(2)(A)(ii), the allotment shall be based on the higher of—

(I) the number of youth in families with an income below the low-income level in such area; or

(II) the number of disadvantaged youth in such area.

(iv) MINIMUM PERCENTAGE; MAXIMUM PERCENTAGE; SMALL STATE MINIMUM ALLOTMENT.—

(I) IN GENERAL.—Except as provided in subclause (II), the requirements of clauses (iv) and (v) of paragraph (1)(B) shall apply to allotments made under this subparagraph in the same manner and to the same extent as the requirements apply to allotments made under paragraph (1)(B).

(II) EXCEPTIONS.—For purposes of applying the requirements of those clauses under this subparagraph—

(aa) references in those clauses to the remainder described in clause (i) of paragraph (1)(B) shall be considered to be references to the remainder described in clause (i)(II) of this subparagraph; and

(bb) the term "allotment percentage", used with respect to fiscal year 1998, means the percentage of the amounts allotted to States under sections 252(b) and 262(a) of the Job Training Partnership Act (29 U.S.C. 1631(b) and 1642(a)) (as in effect on the day before the date of enactment of this Act) received under such sections by the State involved for fiscal year 1998.

(v) DEFINITIONS.—In this subparagraph:

(I) DISADVANTAGED YOUTH.—The term "disadvantaged youth" means a youth who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

(II) DISADVANTAGED YOUTH SPECIAL RULE.—The Secretary shall, as appropriate and to the extent practicable, exclude students at an institution of higher education and members of the Armed Forces from the determination of the number of disadvantaged youth.

(III) YOUTH.—The term "youth" means an individual who is not less than age 16 and not more than age 21.

(4) DEFINITIONS.—In this subsection:

(A) FREELY ASSOCIATED STATES.—The term "Freely Associated States" means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) LOW-INCOME LEVEL.—The term "low-income level", used with respect to a year, means that amount that bears the same relationship to $7,000 as the Consumer Price Index for that year bears the Consumer Price Index for 1969, rounded to the nearest $1,000.

SEC. 303. STATEWIDE PARTNERSHIP.

(a) IN GENERAL.—The Governor of a state shall establish and appoint the members of a statewide partnership to assist in the development of the State plan described in section 304 and carry out the functions described in subsection (d).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The statewide partnership shall include—

(A) the Governor;

(B) representatives, appointed by the Governor, who—

(i) are representatives of business in the State;

(ii) are owners of businesses, chief executives or operating officers of private businesses, and other business executives or employers with optimum policymaking or hiring authority, including members of local partnerships described in section 308(c)(2)(A)(i);

(iii) represent businesses with employment opportunities that reflect the employment opportunities of the State; and

(iv) are appointed from among individuals nominated by State business organizations and business trade associations;

(C) representatives, appointed by the Governor, who are individuals who have optimum policymaking authority, including—

(i) representatives of—

(I) chief elected officials (representing both cities and counties, where appropriate);

(II) labor organizations, who have been nominated by State labor federations; and

(III) individuals, and organizations, that have experience relating to youth activities;

(ii) the eligible agency officials responsible for vocational education, including postsecondary vocational education, and for adult education and literacy, and the State officials responsible for postsecondary education (including education in community colleges); and

(iii) the State agency official responsible for vocational rehabilitation and, where applicable, the State agency official responsible for providing vocational rehabilitation program activities for the blind;

(D) such other State agency officials as the Governor may designate, such as State agency officials carrying out activities relating to employment and training, economic development, public assistance, veterans, youth, juvenile justice and the employment service established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.); and

(E) two members of each chamber of the State legislature, appointed by the appropriate presiding officer of the chamber.

(2) MAJORITY.—A majority of the members of the statewide partnership shall be representatives described in paragraph (1)(B).

(c) CHAIRMAN.—The Governor shall select a chairperson for the statewide partnership from among the representatives described in subsection (b)(1)(B).

(d) FUNCTIONS.—In addition to developing the State plan, the statewide partnership shall—

(1) advise the Governor on the development of a comprehensive statewide workforce investment system;

(2) assist the Governor in preparing the annual report to the Secretaries described in section 321(d);

(3) assist the Governor in developing the statewide labor market information system described in section 15(e) of the Wagner-Peyser Act; and

(4) assist in the monitoring and continuous improvement of the performance of the statewide workforce investment system, including the evaluation of the effectiveness of workforce investment activities carried out under this subtitle in serving the needs of employers seeking skilled employees and individuals seeking services.

(e) AUTHORITY OF GOVERNOR.—

(1) AUTHORITY.—The Governor shall have the final authority to determine the contents of and submit the State plan described in section 304.

(2) PROCESS.—Prior to the date on which the Governor submits a State plan under section 304, the Governor shall—

(A) make available copies of a proposed State plan to the public;

(B) allow members of the statewide partnership and members of the public, including representatives of labor organizations and businesses, to submit comments on the proposed State plan to the Governor, not later than the end of the 30-day period beginning on the date on which the proposed State plan is made available; and

(C) include with the State plan submitted to the Secretary under section 304 any such comments that represent disagreement with the plan.

(f) ALTERNATIVE ENTITY.—

(1) IN GENERAL.—For purposes of complying with subsections (a), (b), and (c), a State may use any State entity (including a State council, State workforce development board, combination or regional workforce development boards, or similar entity) that—

(A) is in existence on December 31, 1997;

(B)(i) is established pursuant to section 122 or title VII of the Job Training Partnership Act (29 U.S.C. 1532 or 1792 et seq.), as in effect on December 31, 1997; or

(ii) is substantially similar to the statewide partnership described in subsections (a), (b), and (c); and

(C) includes representatives of business in the State and representatives of labor organizations in the State.

(2) REFERENCES.—References in this Act to a statewide partnership shall be considered to include such an entity.

SEC. 304. STATE PLAN.

(a) IN GENERAL.—For a State to be eligible to receive an allotment under section 302, the Governor of the State shall submit to the Secretary for approval a single comprehensive State plan (referred to in this title as the "State plan") that outlines a 3-year strategy for the statewide workforce investment system of the State and that meets the requirements of section 303 and this section.

(b) CONTENTS.—The State plan shall include—

(1) a description of the statewide partnership described in section 303 used in developing the plan;

(2) a description of State-imposed requirements for the statewide workforce investment system;

(3) a description of the State performance measures developed for the workforce investment activities to be carried out through the system, that includes information identifying the State performance measures, established in accordance with section 321(b);

(4) information describing—

(A) the needs of the State with regard to current and projected employment opportunities;

(B) the job skills necessary to obtain the needed employment opportunities;

(C) the economic development needs of the State; and

(D) the type and availability of workforce investment activities in the State;

(5) an identification of local areas designated in the State, including a description of the process used for the designation of such areas, which shall—

(A) ensure a linkage between participants in workforce investment activities funded under this subtitle, and local employment opportunities;

(B) ensure that a significant portion of the population that lives in the local area also works in the same local area;

(C) ensure cooperation and coordination of activities between neighboring local areas; and

(D) take into consideration State economic development areas;

(6) an identification of the criteria for recognition of chief elected officials who will carry out the policy, planning, and other responsibilities authorized for the officials in this title in the local areas identified under paragraph (5);

(7) an identification of criteria for the appointment of members of local partnerships based on the requirements of section 308;

(8) the detailed plans required under section 8 of the Wagner-Peyser Act;

(9) a description of the measures that will be taken by the State to assure coordination of an avoid duplication among—

(A) workforce investment activities authorized under this subtitle;

(B) other activities authorized under this title;

(C) activities authorized under title I or II;

(D) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)), and activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(E) work programs authorized under section 6(i) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(F) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(G) activities authorized under chapter 41 of title 38, United States Code;

(H) training activities carried out by the Department of Housing and Urban Development; and

(I) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law);

(10) a description of the process used by the State, consistent with section 303(e)(2), to provide an opportunity for public comment, including comment by representatives of labor organizations and businesses, and input into the development of the State plan, prior to submission of the plan;

(11) a description of the process for the public to comment on members of the local partnerships;

(12) a description of the length of terms and appointment processes for members of the statewide partnership and local partnerships in the States;

(13) information identifying how the State will leverage any funds the State receives under this subtitle with other private and Federal resources;

(14) assurances that the State will provide, in accordance with section 374, for fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State through the allotment made under section 302;

(15) if appropriate, a description of a within-State allocation formula—

(A) that is based on factors relating to excess poverty in local areas or excess unemployment above the State average in local areas; and

(B) through which the State may distribute the funds the State receives under this subtitle for adult employment and training activities or youth activities to local areas;

(16) an assurance that the funds made available to the State through the allotment made under section 302 will supplement and not supplant other public funds expended to provide activities described in this subtitle;

(17) information indicating—

(A) how the services of one-stop partners in the State will be provided through the one-stop customer service system;

(B) how the costs of such services and the operating costs of the system will be funded; and

(C) how the State will assist in the development and implementation of the operating agreement described in section 311(c);

(18) information specifying the actions that constitute a conflict of interest prohibited in the State for purposes of section 308(g)(2)(B);

(19) a description of a core set of consistently defined data elements for reporting on the activities carried out through the one-stop customer service system in the State;

(20) with respect to employment and training activities funded under this subtitle—

(A) information describing the employment and training activities that will be carried out with the funds the State receives under this subtitle, describing how the State will provide rapid response activities to dislocated workers, and designating an identifiable State rapid response dislocated worker unit, to be funded under section 306(a)(2) to carry out statewide rapid response activities, and an assurance that veterans will be afforded services under this subtitle to the extent practicable;

(B) information describing the State strategy for development of a fully operational statewide one-stop customer service system as described in section 315(b), including—

(i) criteria for use by chief elected officials and local partnerships, for designating or certifying one-stop customer service center operators, appointing one-stop partners, and conducting oversight with respect to the one-stop customer service system, for each local area; and

(ii) the steps that the State will take over the 3 years covered by the plan to ensure that all publicly funded labor exchange services described in section 315(c)(2) or the Wagner-Peyser Act (29 U.S.C. 49 et seq.), will be available through the one-stop customer service system of the State;

(C) information describing the criteria used by the local partnership in the development of the local plan described in section 309; and

(D) information describing the procedures the State will use to identify eligible providers of training services, as required under this subtitle; and

(21) with respect to youth activities funded under this subtitle, information—

(A) describing the youth activities that will be carried out with the funds the State receives under this subtitle;

(B) identifying the criteria to be used by the local partnership in awarding grants and contracts under section 313 for youth activities;

(C) identifying the types of criteria the Governor and local partnerships will use to identify effective and ineffective youth activities and eligible providers of such activities; and

(D) describing how the State will coordinate the youth activities carried out in the State under this subtitle with the services provided by Job Corps centers in the State.

(c) PLAN SUBMISSION AND APPROVAL.—A State plan submitted to the Secretary under this section by a Governor shall be considered to be approved by the Secretary at the end of the 60-day period beginning on the day the Secretary receives the plan, unless the Secretary makes a written determination, during the 60-day period, that—

(1) the plan is inconsistent with the provisions of this title;

(2) in the case of the portion of the plan described in section 8(a) of the Wagner-Peyser Act (29 U.S.C. 49g(a)), the portion does not satisfy the criteria for approval provided in section 8(d) of such Act); or

(3) the levels of performance have not been agreed to pursuant to section 321(b)(4).

(d) MODIFICATION TO INITIAL PLAN.—A State may submit, for approval by the Secretary, substantial modifications to the State plan in accordance with the requirements of this section and section 303, as necessary, during the 3-year period of the plan.

CHAPTER 2—ALLOCATIONS TO LOCAL WORKFORCE INVESTMENT AREAS

SEC. 306. WITHIN STATE ALLOCATIONS.

(a) RESERVATIONS FOR STATE ACTIVITIES.—

(1) ADULT EMPLOYMENT AND TRAINING ACTIVITIES, DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES, AND YOUTH ACTIVITIES.—The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under paragraphs (1)(B), (2)(B), and (3)(C)(ii) of section 302(b) for a fiscal year for statewide workforce investment activities described in subsections (b)(2) and (c) of section 314.

(2) STATEWIDE RAPID RESPONSE ACTIVITIES.—The Governor of the State shall reserve not more than 25 percent of the total amount allotted to the State under section 302(b)(2)(B) for a fiscal year for statewide rapid response activities described in section 314(b)(1).

(b) WITHIN STATE ALLOCATION.—

(1) ALLOCATION.—The Governor of the State shall allocate to the local areas the funds that are allotted to the State under section 302(b) and are not reserved under subsection (a) for the purpose of providing employment and training activities to eligible participants pursuant to section 315 and youth activities to eligible participants pursuant to section 316.

(2) METHODS.—The State acting in accordance with the State plan, and after consulting with chief elected officials in the local areas, shall allocate—

(A) the funds that are allotted to the State for adult employment and training activities under section 302(b)(1)(B) and are not reserved under subsection (a)(1), in accordance with paragraph (3) or (4);

(B) the funds that are allotted to the State for dislocated worker employment and training activities under section 302(b)(2)(B) and are not reserved under paragraph (1) or (2) of subsection (a), in accordance with paragraph (3); and

(C) the funds that are allotted to the State for youth activities under section 302(b)(3)(C)(ii) and are not reserved under subsection (a)(1), in accordance with paragraph (3) or (4).

(3) ADULT EMPLOYMENT AND TRAINING ACTIVITIES, DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES, AND YOUTH ACTIVITIES FORMULA ALLOCATIONS.—

(A) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

(i) ALLOCATION.—In allocating the funds described in paragraph (2)(A) to local areas, a State may allocate—

(I) 33⅓ percent of the funds on the basis described in section 302(b)(1)(B)(ii)(I);

(II) 33⅓ percent of the funds on the basis described in section 302(b)(1)(B)(ii)(II); and

(III) 33⅓ percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 302(b)(1)(B).

(ii) MINIMUM PERCENTAGE.—No local area shall receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area (or the service delivery area that most closely corresponds to the local area) for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) DEFINITION.—The term "allocation percentage", used with respect to fiscal year 1999 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year. The term, used with respect to fiscal year 1998, means the percentage of the amounts allocated to service delivery areas under section 202(b) of the Job Training Partnership Act (29 U.S.C. 1602(b)) (as in effect on the day before the date of enactment of this Act) received under such section by the service delivery area that most closely corresponds to the local area involved for fiscal year 1998.

(B) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—

(i) FORMULA.—In allocating the funds described in paragraph (2)(B) to local areas, a State shall allocate the funds based on an allocation formula prescribed by the Governor of the State. Such formula may be amended by the Governor not more than once for each program year. Such formula shall utilize the most appropriate information available to the Governor to distribute amounts to address the State's worker readjustment assistance needs.

(ii) INFORMATION.—The information described in clause (i) shall include—

(I) insured unemployment data;

(II) unemployment concentrations;

(III) plant closing and mass layoff data;

(IV) declining industries data;

(V) farmer-rancher economic hardship data; and

(VI) long-term unemployment data.

(C) YOUTH ACTIVITIES.—

(i) ALLOCATION.—In allocating the funds described in paragraph (2)(C) to local areas, a State may allocate—

(I) 33⅓ percent of the funds on the basis described in section 302(b)(3)(C)(ii)(I);

(II) 33⅓ percent of the funds on the basis described in section 302(b)(3)(C)(ii)(II); and

(III) 33⅓ percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 302(b)(3)(C).

(ii) MINIMUM PERCENTAGE.—No local area shall receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area (or the service delivery area that most closely corresponds to the local area) for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) DEFINITION.—The term "allocation percentage", used with respect to fiscal year 1999 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year. The term, used with respect to fiscal year 1998, means the percentage of the amounts allocated to service delivery areas under sections 252(b) and 262(b) of the Job Training Partnership Act (29 U.S.C. 1631(b), 1642(b)) (as in effect on the day before the date of enactment of this Act) received under such section by the service delivery area that most closely corresponds to the local area involved for fiscal year 1998.

(D) APPLICATION.—For purposes of carrying out subparagraphs (A), (B), and (C), and subparagraphs (A) and (B) of paragraph (4)—

(i) references in section 302(b) to a State shall be deemed to be references to a local area;

(ii) references in section 302(b) to all States shall be deemed to be references to all local areas in the State involved:

(iii) except as described in clauses (i) and (ii) references in paragraphs (1) and (3) of section 302(b) to the term "excess number" shall be considered to be references to the term as defined in section 302(b)(1); and

(iv) except as described in clause (i), a reference in section 302(b)(2) to the term "excess number shall be considered to be a reference to the term as defined in such section.

(4) ADULT EMPLOYMENT AND TRAINING AND YOUTH DISCRETIONARY ALLOCATIONS.—

(A) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—In lieu of making the allocation described in paragraph (3)(A), in allocating the funds described in paragraph (2)(A) to local areas, a State may distribute—

(i) a portion equal to not less than 70 percent of the funds in accordance with paragraph (3)(A); and

(ii) the remaining portion of the funds on the basis of a formula that—

(I) incorporates additional factors (other than the factors described in paragraph (3)(A) relating to excess poverty in local areas or excess unemployment above the State average in local areas; and

(II) was developed by the statewide partnership and approved by the Secretary as part of the State plan.

(B) YOUTH ACTIVITIES.—In lieu of making the allocation described in paragraph (3)(C), in allocating the funds described in paragraph (2)(C) to local areas, a State may distribute—

(i) a portion equal to not less than 70 percent of the funds in accordance with paragraph (3)(C); and

(ii) the remaining portion of the funds on the basis of a formula that—

(I) incorporates additional factors (other than the factors described in paragraph (3)(C) relating to excess youth poverty in local areas or excess unemployment above the State average in local areas; and

(II) was developed by the statewide partnership and approved by the Secretary as part of the State plan.

(5) LIMITATION.—

(A) IN GENERAL.—Of the amount allocated to a local area under this subsection for a fiscal year—

(i) not more than 15 percent of the amount allocated under paragraph (3)(A) or (4)(A);

(ii) not more than 15 percent of the amount allocated under paragraph (3)(B); and

(iii) not more than 15 percent of the amount allocated under paragraph (3)(C) or (4)(B), may be used by the local partnership for the administrative cost of carrying out local workforce investment activities described in section 315 or 316.

(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative cost of any of the local workforce investment activities described in sections 315 and 316, regardless of whether the funds were allocated under the provisions described in clause (i), (ii), or (iii) of subparagraph (A).

(C) REGULATIONS.—The secretary, after consulting with the Governors, shall develop and issue regulations that define the term "administrative cost" for purposes of this title.

(6) TRANSFER AUTHORITY.—A local partnership may transfer, if such a transfer is approved by the Governor, not more than 20 percent of the funds allocated to the local area under paragraph (3)(A) or (4)(A), and 20 percent of the funds allocated to the local area under paragraph (3)(B), for a fiscal year between—

(A) adult employment and training activities; and

(B) dislocated worker employment and training activities.

(7) FISCAL AUTHORITY.—

(A) FISCAL AGENT.—The chief elected official in a local area shall serve as the fiscal agent for, and shall be liable for any misuse of, the funds allocated to the local area under this section, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the fiscal agent and bear such liability.

(B) DISBURSAL.—The fiscal agent shall disburse such funds for workforce investment activities at the direction of the local partnership, pursuant to the requirements of this title, if the direction does not violate a provision of this Act. The fiscal agent shall disburse funds immediately on receiving such direction from the local partnership.

SEC. 307. LOCAL WORKFORCE INVESTMENT AREAS.

(a) DESIGNATION OF AREAS.—

(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Governor

shall designate local workforce investment areas in the State, in accordance with the State plan requirements described in section 304(b)(5).

(2) AUTOMATIC DESIGNATION.—

(A) IN GENERAL.—The Governor of the State shall approve a request for designation as a local area—

(i) from any unit of general local government with a population of 500,000 or more, if the designation meets the State plan requirements described in section 304(b)(5);

(ii) of the area severed by a rural concentrated employment program grant recipient of demonstrated effectiveness that served as a service delivery are under the Job Training Partnership Act, if the grant recipient has submitted the request and if the designation meets the State plan requirements described in section 304(b)(5); and

(iii) of an area that served as a service delivery area under section 101(a)(4)(A)(ii) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) in a State that has a population of 1,100,000 or less and a population density greater than 900 persons per square mile, if the designation meets the State plan requirements described in section 304(b)(5).

(B) LARGE COUNTIES.—A county with a population of 500,000 or more may request such designation only with the agreement of the political subdivisions within the county with populations of 200,000 or more.

(C) LARGE POLITICAL SUBDIVISIONS.—A single unit of general local government with a population of 200,000 or more that is a service delivery area under the Job Training Partnership Act on the date of enactment of this Act, and that is not designated as a local area by the Governor under paragraph (1), shall have an automatic right to submit an appeal regarding designation to the Secretary. In conducting the appeal, the Secretary may determine that the unit of general local government shall be designated as local area under paragraph (1), on determining that the programs of the service delivery area have demonstrated effectiveness, if the designation of the unit meets the State plan requirements described in section 304(b)(5).

(3) PERMANENT DESIGNATION. Once the boundaries for a local area are determined under this section in accordance with the State plan, the boundaries shall not change except with the approval of the Governor.

(b) SMALL STATES.—The Governor of any State determined to be eligible to receive a minimum allotment under paragraph (1) or (3) of section 302(b), in accordance with section 302(b)(1)(B)(iv)(II), for the first year covered by the State plan, or of a State that is a single State service delivery area under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) as of July 1, 1998, may designate the State as a single State local area for the purposes of this title. The Governor shall identify the State as a local area under section 304(b)(5), in lieu of designating local areas as described in subparagraphs (A), (B), and (C) of section 304(b)(5).

SEC. 308. LOCAL WORKFORCE INVESTMENT PARTNERSHIPS AND YOUTH PARTNERSHIPS.

(a) ESTABLISHMENT OF LOCAL PARTNERSHIP.—There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment partnership.

(b) ROLE OF LOCAL PARTNERSHIP.—The primary role of the local partnership shall be to set policy for the portion of the statewide workforce investment system within the local area, including—

(1) ensuring that the activities authorized under this subtitle and carried out in the local area meet local performance measures;

(2) ensuring that the activities meet the needs of employers and jobseekers; and

(3) ensuring the continuous improvement of the system.

(c) MEMBERSHIP OF LOCAL PARTNERSHIP.—

(1) STATE CRITERIA.—The Governor of the State shall establish criteria for the appointment of members of the local partnerships for local areas in the State in accordance with the requirements of paragraph (2). Information identifying such criteria shall be included in the State plan, as described in section 304(b)(7).

(2) COMPOSITION.—Such criteria shall require, at a minimum, that the membership of each local partnership—

(A) shall include—

(1) a majority of members who—

(I) are representatives of business in the local area;

(II) are owners of business, chief executives or operating officers of private businesses, and other business executives or employers with optimum policymaking or hiring authority;

(III) represent businesses with employment opportunities that reflect the employment opportunities of the local area; and

(IV) are appointed from among individuals nominated by local business organizations and business trade associations;

(ii) chief officers representing local post-secondary educational institutions, representatives of vocational education providers, and representatives of adult education providers;

(iii) chief officers representing labor organizations (for a local area in which such representatives reside), nominated by local labor federations, or (for a local area in which such representatives do not reside) other representatives of employees; and

(iv) chief officers representing economic development agencies, including private sector economic development entities;

(B) may include chief officers who have policymaking authority, from one-stop partners who have entered into an operating agreement described in section 311(c) to participate in the one-stop customer service system in the local area; and

(C) may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

(3) CHAIRPERSON.—The local partnership shall elect a chairperson from among the members of the partnership described in paragraph (2)(A)(i).

(d) APPOINTMENT AND CERTIFICATION OF LOCAL PARTNERSHIP.—

(1) APPOINTMENT OF LOCAL PARTNERSHIP MEMBERS AND ASSIGNMENT OF RESPONSIBILITIES.—

(A) IN GENERAL.—The chief elected official in a local area is authorized to appoint the members of the local partnership for such area, in accordance with the State criteria established under subsection (c).

(B) MULTIPLE UNITS OF LOCAL GOVERNMENT IN AREA.—

(i) IN GENERAL.—In a case in which a local area includes more than 1 unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials—

(I) in the appointment of the members of the local partnership from the individuals nominated or recommended to be such members in accordance with the criteria established under subsection (c); and

(II) in carrying out any other responsibilities assigned to such officials under this subtitle.

(ii) LACK OF AGREEMENT.—If, after a reasonable effort, the chief elected officials are unable to reach agreement as provided under clause (i), the Governor may appoint the members of the local partnership from individuals so nominated or recommended.

(C) CONCENTRATED EMPLOYMENT PROGRAMS.—In the case of a local area designated in accordance with section 307(a)(2)(A)(ii), the governing body of the concentrated employment program involved shall act in consultation with the chief elected official in the local area to appoint members of the local partnership, in accordance with the State criteria established under subsection (c), and to carry out any other responsibility relating to workforce investment activities assigned to such official under this Act.

(2) CERTIFICATION.—

(A) IN GENERAL.—The Governor shall annually certify 1 local partnership for each local area in the State.

(B) CRITERIA.—Such certification shall be based on criteria established under subsection (c), and for a second or subsequent certification, the extent to which the local partnership has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures required under section 321(c).

(C) FAILURE TO ACHIEVE CERTIFICATION.—Failure of a local partnership to achieve certification shall result in reappointment and certification of another local partnership for the local area pursuant to the process described in paragraph (1) and this paragraph.

(3) DECERTIFICATION.—

(A) IN GENERAL.—Notwithstanding paragraph (2), the Governor may decertify a local partnership, at any time after providing notice and an opportunity for comment, for—

(i) fraud or abuse; or

(ii) failure to carry out the functions specified for the local partnership in any of paragraphs (1), (2), (4), (5), and (6) of subsection (e).

(B) PLAN.—If the Governor decertifies a local partnership for a local area, the Governor may require that a local partnership be appointed and certified for the local area pursuant to a plan developed by the Governor in consultation with the chief elected official in the local area and in accordance with the criteria established under subsection (c).

(4) EXCEPTION.—Nothwithstanding subsection (c) and paragraphs (1) and (2), if a State described in section 307(b) designates the State as a local ares in the State plan, the Governor may designate the statewide partnership described in section 303 to carry out any of the functions described in subsection (e).

(e) FUNCTIONS OF LOCAL PARTNERSHIP.—The functions of the local partnership shall include—

(1) developing and submitting a local plan as described in section 309 in partnership with the appropriate chief elected official;

(2) appointing, certifying, or designating one-stop partners and one-stop customer service center operators, pursuant to the criteria specified in the local plan;

(3) promoting the participation of private sector employers in the statewide workforce investment system, and ensuring the effective provisions through the system of connecting, brokering, and coaching activities, through intermediaries such as the entities operating the one-stop customer service center in the local area or through other organizations, to assist such employers in meeting hiring needs;

(4) conducting oversight with respect to the one-stop customer service system;

(5) modifying the list of eligible providers of training services pursuant to subsections (b)(3)(B) and (c)(2)(B) of section 312;

(6) setting local performance measures pursuant to section 312(b)(2)(D)(ii);

(7) analyzing and identifying—

(A) current and projected local employment opportunities; and

(B) the skills necessary to obtain such local employment opportunities;

(8) coordinating the workforce investment activities carried out in the local area with economic development strategies and developing

other employer linkages with such activities; and

(9) assisting the Governor in developing the statewide labor market information system described in section 15(e) of the Wagner-Peyser Act.

(f) SUNSHINE PROVISIONS.— The local partnership shall make available to the public, on a regular basis through open meetings, information regarding the activities of the local partnership, including information regarding membership, the appointment of one-stop partners, the designation and certification of one-stop customer service center operators, and the award of grants and contracts to eligible providers of youth activities.

(g) OTHER ACTIVITIES OF LOCAL PARTNERSHIP.—

(1) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no local partnership may directly carry out or enter into a contract for a training service described in section 315(c)(3).

(B) WAIVERS.—The Governor of the State in which the local partnership is located may grant to the local partnership a written waiver of the prohibition set forth in subparagraph (A), if the local partnership provides sufficient evidence that a private or public entity is not available to provide the training service and that the activity is necessary to provide an employment opportunity described in the local plan described in section 309.

(2) CONFLICT OF INTEREST.—No member of a local partnership may—

(A) vote on a matter under consideration by local partnership—

(i) regarding the provision of services by such member (or by an organization that such member represents); or

(ii) that would provide direct financial benefit to such member or the immediate family of such member; or

(B) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

(h) TECHNICAL ASSISTANCE.—If a local area fails to meet established State or local performance measures, the Governor shall provide technical assistance to the local partnership involved to improve the performance of the local area.

(i) YOUTH PARTNERSHIP.—

(1) ESTABLISHMENT.—There shall be established in each local area of a State, a youth partnership appointment by the local partnership, in cooperation with the chief elected official, in the local area.

(2) MEMBERSHIP.—The membership of each youth partnership—

(A) shall include—

(i) 1 or more members of the local partnership;

(ii) representatives of youth service agencies, including juvenile justice agencies;

(III) representatives of local public housing authorities;

(iv) parents of youth seeking assistance under this subtitle;

(v) individuals, including former participants, and representatives of organizations, that have experience relating to youth activities;

(vi) representatives of businesses in the local area that employ youth; and

(vii) representatives of the Job Corps, as appropriate; and

(B) may include such other individuals as the chairperson of the local partnership, in cooperation with the chief elected official, determines to be appropriate.

(3) DUTIES.—The duties of the youth partnership include—

(A) the development of the portions of the local plan relating to youth, as determine by the chairperson of the local partnership;

(B) subject to the approval of the local partnership, awarding grants and contracts to, and conducting oversight with respect to, eligible providers of youth activities, as described in section 313, in the local area;

(C) coordinating youth activities in the local area; and

(D) other duties determined to be appropriate by the chairperson of the local partnership.

(j) ALTERNATIVE ENTITY.—

(1) IN GENERAL.—For purposes of complying with subsections (a), (c), and (d), and paragraphs (1) and (2) of subsection (i), a State may use any local entity (including a local council, regional workforce development board, or similar entity) that—

(A) is established to serve the local area (or the service delivery area that most closely corresponds to the local area);

(B) is in existence on December 31, 1997;

(C)(i) is established pursuant to section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on December 31, 1997; or

(ii) is substantially similar to the local and youth partnerships described in subsections (a), (c), and (d), and paragraphs (1) and (2) of subsection (i); and

(D) includes—

(i) representatives of business in the local area; and

(ii)(I) representatives of labor organizations in the local area, for a local area in which such representatives reside; or

(II) for a local area in which such representatives do not reside, other representatives of employees in the local area.

(2) REFERENCES.—References in this Act to a local partnership or a youth partnership shall be considered to include such an entity.

SEC. 309. LOCAL PLAN.

(a) IN GENERAL.—Each local partnership shall develop and submit to the Governor a comprehensive 3-year local plan (referred to in this title as the "local plan"), in partnership with the appropriate chief elected official. The local plan shall be consistent with the State plan.

(b) CONTENTS.—The local plan shall include—

(1) an identification of the needs of the local area with regard to current and projected employment opportunities;

(2) an identification of the job skills necessary to obtain such employment opportunities;

(3) a description of the activities to be used under this subtitle to link local employers and local jobseekers;

(4) an identification and assessment of the type and availability of adult and dislocated worker employment and training activities in the local area;

(5) an identification of successful eligible providers of youth activities in the local area;

(6) a description of the measures that will be taken by the local area to assure coordination of and avoid duplication among the programs and activities described in section 304(b)(9);

(7) a description of the manner in which the local partnership will coordinate activities carried out under this subtitle in the local area with such activities carried out in neighboring local areas;

(8) a description of the competitive process to be used to award grants and contracts in the local area for activities carried out under this subtitle;

(9) information describing local performance measures for the local area that are based on the performance measures in the State plan;

(10) in accordance with the State plan, a description of the criteria that the chief elected official, the local area and the local partnership will use to appoint, designate, or certify, and to conduct oversight with respect to, one-stop customer service center systems in the local area;

(11) a description of the process used by the local partnership, consistent with subsection (c), to provide an opportunity for public comment, including comment by representatives of labor organizations and businesses, and input into the development of the local plan, prior to submission of the plan; and

(12) such other information as the Governor may require.

(c) PROCESS.—Prior to the date on which the local partnership submits a local plan under this section, the local partnership shall—

(1) make available copies of a proposed local plan to the public;

(2) allow members of the local partnership and members of the public, including representatives of labor organizations and businesses, to submit comments on the proposed local plan to the local partnership, not later than the end of the 30-day period beginning on the date on which the proposed local plan is made available; and

(3) include with the local plan submitted to the Governor under this section any such comments that represent disagreement with the plan.

(d) PLAN SUBMISSION AND APPROVAL.—A local plan submitted to the Governor under this section shall be considered to be approved by the Governor at the end of the 60-day period beginning on the day the Governor receives the plan, unless the Governor makes a written determination during the 60-day period that—

(1) deficiencies in activities carried out under this subtitle have been identified, through audits conducted under section 374 or otherwise, and the local area has not made acceptable progress in implementing corrective measures to address the deficiencies; or

(2) the plan does not comply with this title

(e) LACK OF AGREEMENT.—If the local partnership and the appropriate chief elected official in the local area cannot agree on the local plan after making a reasonable effort, the Governor may develop the local plan.

CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES AND PROVIDERS

SEC. 311. IDENTIFICATION AND OVERSIGHT OF ONE-STOP PARTNERS AND ONE-STOP CUSTOMER SERVICE CENTER OPERATORS.

(a) IN GENERAL.—Consistent with the State plan, the chief elected official and the local partnership shall develop and implement operating agreements described in subsection (c) to appoint one-stop partners, shall designate or certify one-stop customer service center operators, and shall conduct oversight with respect to the one-stop customer service system, in the local area.

(b) ONE-STOP PARTNERS.—

(1) Designated partners.—

(A) IN GENERAL.—Each entity that carries out a program, services, or activities described in subparagraph (B) shall make available to participants, through a one-stop customer service center, the services described in section 315(c)(2) that are applicable to such program, and shall participate in the operation of such center as a party to the agreement described in subsection (c), consistent with the requirements of the Federal law in which the program, services, or activities are authorized.

(B) PROGRAMS; SERVICES; ACTIVITIES.—The programs, services, and activities referred to in subparagraph (A) consist of—

(i) core services authorized under this subtitle;

(ii) other activities authorized under this title;

(iii) activities authorized under title I and title II;

(iv) programs authorized under the Wagner-Peyser Act (29 U.S.C. et seq.);

(v) programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 729 et seq.);

(vi) programs authorized under section 403(a)(5) of the Social Security Act (42 U.S.C. 603(a)(5)) (as added by section 5001 of the Balanced Budget Act of 1997);

(vii) programs authorized under title VI of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(viii) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(ix) activities authorized under chapter 41 of title 38, United States Code;

(x) training activities carried out by the Department of Housing and Urban Development; and

(xi) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(2) ADDITIONAL PARTNERS.—

(A) IN GENERAL.—In addition to the entities described in paragraph (1), other entities that carry out human resource programs may make available to participants through a one-stop customer service center the services described in section 315(c)(2) that are applicable to such program, and participate in the operations of such centers as a party to the agreement described in subsection (c), if the local partnership and chief elected official involved approve such participation.

(B) PROGRAMS.— The programs referred to in subparagraph (A) include—

(i) programs authorized under part A of title IV of the Social Security Act;

(ii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

(iii) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)); and

(iv) other appropriate Federal, State, or local programs, including programs in the private sector.

(c) OPERATING AGREEMENTS.—

(1) IN GENERAL.—The one-stop customer service center operator selected pursuant to subsection (d) for a one-stop customer service center shall enter into a written agreement with the local partnership and one-stop partners described in subsection (b) concerning the operation of the center. Such agreement shall be subject to the approval of the chief elected official and the local partnership.

(2) CONTENTS.—The written agreement required under paragraph (1) shall contain—

(A) provisions describing—

(i) the services to be provided through the center;

(ii) how the costs of such services and the operating costs of the system will be funded.

(iii) methods for referral of individuals between the one-stop customer service center operators and the one-stop partners, for the appropriate services and activities;

(iv) the monitoring and oversight of activities carried out under the agreement; and

(v) the duration of the agreement and the procedures for amending the agreement during the term of the agreement; and

(B) such other provisions, consistent with the requirements of this title, as the parties to the agreement determine to be appropriate.

(d) ONE-STOP CUSTOMER SERVICE CENTER OPERATORS.—

(1) IN GENERAL.—To be eligible to receive funds made available under this subtitle to operate a one-stop customer service center, an entity shall—

(A) be designated or certified as a one-stop customer service center operator, as described in subsection (a); and

(B) be a public or private entity, or consortium of entities, of demonstrated effectiveness located in the local area, which entity or consortium may include an institution of higher education (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), a local employment service office established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), a local government agency, a private for-profit entity, a private nonprofit entity, or other interested entity, of demonstrated effectiveness.

(2) EXCEPTION.—Elementary schools and secondary schools shall not be eligible for designation or certification as one-stop customer service center operators, except that nontraditional public secondary schools and area vocational education schools shall be eligible for such designation or certification.

(e) ESTABLISHED ONE-STOP CUSTOMER SERVICE SYSTEMS.—For a local area in which a one-stop customer service system has been established prior to the date of enactment of this Act, the local partnership, the chief elected official, and the Governor may agree to appoint, designate, or certify the one-stop partners and one-stop customer service center operators of such system, for purposes of this section.

(f) OVERSIGHT.—The local partnership shall conduct oversight with respect to the one-stop customer service center system and may terminate for cause the eligibility of such a partner or operator to provide activities through or operate a one-stop customer service center.

SEC. 312. DETERMINATION AND IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES BY PROGRAM.

(a) GENERAL ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsection (e), to be eligible to receive funds made available under section 306 to provide training services described in section 315(c)(3) (referred to in this title as "training services") and be identified as an eligible provider of such services, a provider of such services shall meet the requirements of this section.

(2) PROVIDERS.—To be eligible to receive the funds, the provider shall be—

(A) a postsecondary educational institution that—

(i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

(ii) provides a program that leads to an associate degree, baccalaureate degree, or certificate; or

(B) another public or private provider of a program.

(b) INITIAL DETERMINATION AND IDENTIFICATION.

(1) POSTSECONDARY EDUCATIONAL INSTITUTIONS.—To be eligible to receive funds as described in subsection (a), an institution described in subsection (a)(2)(A) shall submit an application at such time, in such manner, and containing such information as the designated State agency described in subsection (f) may require, after consultation with the local partnerships in the State. On submission of the application, the institution shall automatically be initially eligible to receive such funds for the program described in subsection (a)(2)(A).

(2) OTHER PROVIDERS.—

(A) PROCEDURE.—The Governor, in consultation with the local partnerships in the State, shall establish a procedure for determining the initial eligibility of providers described in subsection (a)(2)(B) to receive such funds for specified programs. The procedure shall require a provider of a program to meet minimum acceptable levels of performance based on—

(i) performance criteria relating to the rates, percentages, increases, and costs described in subparagraph (C) for the program, as demonstrated using verifiable program-specific performance information described in subparagraph (C) and submitted to the designated State agency, as required under subparagraph (C); and

(ii) performance criteria relating to any characteristics for which local partnerships request the submission of information under subparagraph (D) for the program, as demonstrated using the information submitted.

(B) MINIMUM LEVELS.—The Governor shall—

(i) consider, in determing such minimum levels—

(I) criteria relating to the economic, geographic, and demographic factors in the local areas in which the provider provides the program; and

(ii) verify the minimum levels of performance by using quarterly records described in section 321.

(C) APPLICATION.—To be initially eligible to receive funds as described in subsection (a), a provider described in subsection (a)(2)(B) shall submit an application at such time, in such manner, and containing such information as the designated State agency may require, including performance information on—

(i) program completion rates for participants in the applicable program conducted by the provider;

(ii)the percentage of the graduates of the program placed in unsubsidized employment in an occupation related to the program conducted;

(iii) retention rates of the graduates in unsubsidized employment—

(I) 6 months after the first day of the employment; and

(II) 12 months after the first day of the employment;

(iv) the wages received by the graduates placed in unsubsidized employment after the completion of participation in the program—

(I) on the first day of the employment;

(II) 6 months after the first day of the employment; and

(III) 12 months after the first day of the employment;

(v) where appropriate, the rates of license or certification of the graduates, attainment of academic degrees or equivalents, or attainment of other measures of skill; and

(vi) program cost per participant in the program.

(D) ADDITIONAL INFORMATION.—

(i) IN GENERAL.—In addition to the performance information described in subparagraph (C), the local partnerships in the State involved may require that a provider submit, to the local partnerships and to the designated State agency, other performance information relating to the program to be initially identified as an eligible provider of training services, including information regarding the ability of the provider to provide continued counseling and support regarding the workplace to the graduates, for not less than 12 months after the graduation involved.

(ii) HIGHER LEVELS OF PERFORMANCE ELIGIBILITY.—The local partnership may require higher levels of performance than the minimum levels established under subparagraph (A)(i) for initial eligibility to receive funds as described in subsection (a).

(3) LIST OF ELIGIBLE PROVIDERS BY PROGRAM.—

(A) IN GENERAL.—The designated State agency, after reviewing the performance information described in paragraph (2)(C) and any information required to be submitted under paragraph (2)(D) and using the procedure described in paragraph (2)(B), shall—

(i) identify eligible providers of training services described in subparagraphs (A) and (B) of subsection (a)(2), including identifying the programs of the providers through which the providers may offer the training services; and

(ii) compile a list of the eligible providers, and the programs, accompanied by the performance information described in paragraph (2)(C) and any information required to be submitted under paragraph (2)(D) for each such provider described in subsection (a)(2)(B).

(B) LOCAL MODIFICATION.—The local partnership may modify such list by reducing the number of eligible providers listed, to ensure that the *eligible providers carry out programs that provide skills that enable participants to obtain local employment opportunities.*

(c) SUBSEQUENT ELIGIBILITY.—

(1) INFORMATION AND CRITERIA.—To be eligible to continue to receive funds as described in subsection (a) for a program, a provider shall—

(A) submit the performance information described in subsection (b)(2)(C) and any information required to be submitted under subsection (b)(2)(D) annually to the designated State agency at such time and in such manner as the designated State agency may require for the program; and

(B) annually meet the performance criteria described in subsection (b)(2)(A) for the program, as demonstrated utilizing quarterly records described in section 321.

(2) LIST OF ELIGIBLE PROVIDERS BY PROGRAM.—

(A) IN GENERAL.—The designated State agency, after reviewing the performance information any other information submitted under paragraph (1) and using the procedure described in subsection (b)(2)(A), shall identify eligible providers and programs, and compile a list of the providers and programs, as described in subsection (b)(3), accompanied by the performance information and other information for each such provider.

(B) LOCAL MODIFICATION.—The local partnership may modify such list by reducing the number of eligible providers listed, to ensure that the eligible providers carry out programs that provide skills that enable participants to obtain local employment opportunities.

(3) AVAILABILITY.—Such list and information shall be made widely available to participants in employment and training activities funded under this subtitle, and to others, through the one-stop customer service system described in section 315(b).

(d) ENFORCEMENT.—

(1) ACCURACY OF INFORMATION.—If the designated State agency, after consultation with the local partnership involved, determines that a provider or individual supplying information on behalf of a provider intentionally supplies inaccurate information under this section, the agency shall terminate the eligibility of the provider to receive funds described in subsection (a) for a period of time, but not less than 2 years.

(2) COMPLIANCE WITH CRITERIA OR REQUIREMENTS.—If the designated State agency, after consultation with the local partnership, determines that a provider described in this section or a program of training services carried out by such a provider fails to meet the required performance criteria described in subsection (c)(1)(B) or subsection (e)(2), as appropriate, or materially violates any provision of this title, including the regulations promulgated to implement this title, the agency may terminate the eligibility of the provider to receive funds described in subsection (a) for such program or take such other action as the agency determines to be appropriate.

(3) REPAYMENT.—Any provider whose eligibility is terminated under paragraph (1) or (2) for a program shall be liable for repayment of funds described in subsection (a) received for the program during any period of noncompliance described in such paragraph.

(4) APPEAL.—The Governor shall establish a procedure for a provider to appeal a determination by the designated State agency that results in termination of eligibility under this subsection. Such procedure shall provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

(e) ON-THE-JOB TRAINING EXCEPTION.—

(1) IN GENERAL.—Providers of on-the-job training shall not be subject to the requirements of subsections (a) through (c).

(2) COLLECTION AND DISSEMINATION OF INFORMATION.—A one-stop customer service center operator in local area shall collect such performance information from on-the-job training providers as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate such information through the one-stop customer service system.

(f) ADMINISTRATION.—The Governor shall designate a State agency to collect and disseminate the performance information described in subsection (b)(2)(C) and any information required to be submitted under subsection (b)(2)(D) and carry out other duties described in this section.

SEC. 313. IDENTIFICATION OF ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

The youth partnership is authorized to award grants and contracts on a competitive basis, based on the criteria contained in the State plan and local plan, to providers of youth activities, and conduct oversight with respect to such providers, in the local area.

SEC. 314. STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.

(a) IN GENERAL.—Funds reserved by a Governor for a State—

(1) under section 306(a)(2) shall be used to carry out the statewide rapid response activities described in subsection (b)(1); and

(2) under section 306(a)(1)—

(A) shall be used to carry out the statewide workforce investment activities described in subsection (b)(2); and

(B) may be used to carry out any of the statewide workforce investment activities described in subsection (c), regardless of whether the funds were allotted to the State under paragraph (1), (2), or (3) of section 302(b).

(b) Required Statewide Workforce Investment Activities.—

(1) STATEWIDE RAPID RESPONSE ACTIVITIES.—A State shall use funds reserved under section 306(a)(2) to carry out statewide rapid response activities, which shall include—

(A) provision of rapid response activities, carried out in local areas by the State, working in conjunction with the local partnership and the chief elected official in the local area; and

(B) provision of additional assistance to local areas that experience disasters, mass layoffs or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in the local areas by the State, working in conjunction with the local partnership and the chief elected official in the local ares.

(2) OTHER REQUIRED STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—A State shall use funds reserved under section 306(a)(1) to carry out other statewide workforce investment activities, which shall include—

(A) disseminating the list of eligible providers of training services, including eligible providers of nontraditional training services, and the performance information as described in subsections (b) and (c) of section 312, and a list of eligible providers of youth activities described in section 313;

(B) conducting evaluations, under section 321(e), of activities authorized in this section, section 315, and section 316, in coordination with the activities carried out under section 368;

(C) providing incentive grants to local areas for regional cooperation among local partnerships, for local coordination and nonduplication of activities carried out under this Act, and for comparative performance by local areas on the local performance measures described in section 321(c);

(D) providing technical assistance to local areas that fail to meet local performance measures;

(E) assisting in the establishment and operation of a one-stop customer service system; and

(F) operating a fiscal and management accountability information system under section 321(f)

(c) ALLOWABLE STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—

(1) IN GENERAL.—A State may use funds reserved under section 306(a)(1) to carry out additional statewide workforce investment activities, which may include—

(A) subject to paragraph (2), administration by the State of the workforce investment activities carried out under this subtitle;

(B) identification and implementation of incumbent worker training programs, which may include the establishment and implementation of an employer loan program;

(C) carrying out other activities authorized in section 315 that the State determines to be necessary to assist local areas in carrying out activities described in subsection (c) or (d) of section 315 through the statewide workforce investment system; and

(D) carrying out, on a statewide basis, activities described in section 316.

(2) LIMITATION.—

(A) IN GENERAL.—Of the funds allotted to a State under section 302(b) and reserved under section 306(a)(1) for a fiscal year—

(i) not more than 5 percent of the amount allotted under section 302(b)(1);

(ii) not more than 5 percent of the amount allotted under section 302(b)(2); and

(iii) not more than 5 percent of the amount allotted under section 302(b)(3),

may be used by the State for the administration of statewide workforce investment activities carried out under this section.

(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative cost of any of the statewide workforce investment activities, regardless of whether the funds were allotted to the State under paragraph (1), (2) or (3) of section 302(b).

(d) PROHIBITION.—No funds described in subsection (a) shall be used to develop or implement education curricula for school systems in the State.

SEC. 315. LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.

(a) IN GENERAL.—Funds received by a local area under paragraph (3)(A) or (4)(A), as appropriate, of section 306(b) and funds received by the local area under section 306(b)(3)(B)—

(1) shall be used to carry out employment and training activities described in subsection (c) for adults or dislocated workers, as appropriate; and

(2) may be used to carry out employment and training activities described in subsection (d) for adults or dislocated workers, as appropriate.

(b) ESTABLISHMENT OF ONE-STOP CUSTOMER SERVICE SYSTEM.—

(1) IN GENERAL.—There shall be established in a State that receives an allotment under section 302 a one-stop customer service system, which—

(A) shall provide the core services described in subsection (c)(2);

(B) shall provide access to training services as described in subsection (c)(3);

(C) shall provide access to the activities (if any) carried out under subsection (d); and

(D) shall provide access to the information described in section 15 of the Wagner-Peyser Act and all job search, placement, recruitment, and other labor exchange services authorized under the Wagner-Peyser Act (29 U.S.C. 39 et seq.).

(2) ONE-STOP DELIVERY.—At a minimum, the one-stop customer service system—

(A) shall make each of the services described in paragraph (1) accessible at not less than 1 physical customer service center in each local area of the State; and

(B) may also make services described in paragraph (1) available—

(i) through a network of customer service centers that can provide 1 or more of the services described in paragraph (1) to such individuals; and

(ii) through a network of eligible one-stop partners—

(I) in which each partner provides 1 or more of the services to such individuals and is accessible at a customer service center that consists of a physical location or an electronically or technologically linked access point; and

(II) that assures individuals that information on the availability of core services will be available regardless of where the individuals initially enter the statewide workforce investment system, including information made available through an access point described in subclause (I).

(c) REQUIRED LOCAL ACTIVITIES.—

(1) IN GENERAL.—Funds received by a local area under paragraph (3)(A) or (4)(A), as appropriate, of section 306(b), and funds received by the local area under section 306(b)(3)(B), shall be used—

(A) to establish a one-stop customer service centers described in subsection (b);

(B) to provide the core services described in paragraph (2) to participants described in such paragraph through the one-stop customer service system; and

(C) to provide training services described in paragraph (3) to participants described in such paragraph.

(2) CORE SERVICES.—Funds received by a local area as described in paragraph (1) shall be used to provide core services, which shall be available to all individuals seeking assistance through a one-stop customer service system and shall, at a minimum, include—

(A) determinations of whether the individuals are eligible to receive activities under this subtitle;

(B) outreach, intake (which may include worker profiling), and orientation to the information and other services available through the one-stop customer service system;

(C) initial assessment of skill levels, aptitudes, abilities, and supportive service needs;

(D) case management assistance, as appropriate;

(E) job search and placement assistance;

(F) provision of information regarding—

(i) local, State and, if appropriate, regional or national, employment opportunities; and

(ii) job skills necessary to obtain the employment opportunities;

(G) provision of performance information on eligible providers of training services as described in section 312, provided by program, and eligible providers of youth activities as described in section 313, eligible providers of adult education as described in title II, eligible providers of postsecondary vocational education activities and vocational education activities available to school dropouts as described in title I, and eligible providers of vocational rehabilitation program activities as described in title I of the Rehabilitation Act of 1973;

(H) provision of performance information on the activities carried out by one-stop partners, as appropriate;

(I) provision of information regarding how the local area is performing on the local performance measures described in section 321(c), and any additional performance information provided to the one-stop customer service center by the local partnership;

(J) provision of accurate information relating to the availability of supportive services, including child care and transportation, available in the local area, and referral to such services, as appropriate;

(K) provisions of information regarding filing claims for unemployment compensation;

(L) assistance in establishing eligibility for—

(i) welfare-to-work activities authorized under section 403(a)(5) of the Social Security Act (as added by section 5001 of the Balanced Budget Act of 1997) available in the local area; and

(ii) programs of financial aid assistance for training and education programs that are not funded under this Act and are available in the local area; and

(M) follow up services, including counseling regarding the workplace, for participants in workforce investment activities who are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.

(3) REQUIRED TRAINING SERVICES.—

(A) ELIGIBLE PARTICIPANTS.—Funds received by a local area as described in paragraph (1) shall be used to provide training services to individuals—

(i) who are adults (including dislocated workers);

(ii) who seek the services;

(iii)(I) who are unable to obtain employment through the core services; or

(II) who are employed and who are determined by a one-stop customer service center operator to be in need of such training services in order to gain or retain employment that allows for self-sufficiency;

(iv) who after an interview, evaluation, or assessment, and case management, have been determined by a one-stop customer service center operator or one-stop partner, as appropriate, to be in need of training services and to have the skills and qualifications, to successfully participate in the selected program of training services;

(v) who select programs of training services that are directly linked to the employment opportunities in the local area involved or in another area in which the adults receiving such services are willing to relocate;

(vi) who are determined to be eligible in accordance with the priority system, if any, in effect under subparagraph (D).

(B) QUALIFICATION.—

(i) REQUIREMENT.—Except as provided in clause (ii), provision of such training services shall be limited to individuals who—

(I) are unable to obtain other grant assistance for such services, including Federal Pell Grants established under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); or

(II) require assistance beyond the assistance made available under other grant assistance programs, including Federal Pell Grants.

(ii) REIMBURSEMENTS.—Training services may be provided under this paragraph to an individual who otherwise meets the requirements of this paragraph while an application for a Federal Pell Grant is pending, except that if such individual is subsequently awarded a Federal Pell Grant, appropriate reimbursement shall be made to the local area from such Federal Pell Grant.

(C) TRAINING SERVICES.—Training services may include—

(i) employment skill training;

(ii) on-the-job training

(iii) job readiness training; and

(iv) adult education services when provided in combination with services described in clause (i), (ii), or (iii).

(D) PRIORITY.—In the event that funds are limited within a local area for adult employment and training activities, priority shall be given to disadvantaged adults for receipt of training services provide under this paragraph. The appropriate local partnership and the Governor shall direct the one-stop customer service center operator in the local area with regard to making determinations related to such priority.

(E) DELIVERY OF SERVICES.—Training services provided under this paragraph shall be provided—

(i) except as provided in section 312(e), through eligible providers of such services identified in accordance with section 312; and

(ii) in accordance with subparagraph (F).

(F) CONSUMER CHOICE REQUIREMENTS.—

(i) IN GENERAL.—Training services provided under this paragraph shall be provided in a manner that maximizes consumer choice in the selection of an eligible provider of such services.

(ii) ELIGIBLE PROVIDERS.—Each local partnership, through one-stop customer service centers, shall make available—

(I) the list of eligible providers required under subsection (b)(3) or (c)(2) of section 312, with a description of the programs through which the providers may offer the training services, and a list of the names of on-the-job training providers; and

(II) the performance information on eligible providers of training services as described in section 312.

(iii) EMPLOYMENT INFORMATION.—Each local partnership, through one-stop customer service centers, shall make available—

(I) information regarding local, State, and if appropriate, regional or national employment opportunities; and

(II) information regarding the job skills necessary to obtain the employment opportunities.

(iv) INDIVIDUAL TRAINING ACCOUNTS.—An individual who is eligible pursuant to subparagraph (A) and seeks training services may select, in consultation with a case manager, an eligible provider of training services from the list of providers described in clause (ii)(I). Upon such selection, the operator of the one-stop customer service center shall, to the extent practicable, refer such individual to the eligible provider of training services, and arrange for payment for such services through an individual training account.

(d) PERMISSIBLE LOCAL ACTIVITIES.—

(1) DISCRETIONARY ONE-STOP DELIVERY ACTIVITIES.—Funds received by a local area under paragraph (3)(A) or (4)(A), as appropriate, of section 306(b), and funds received by the local area under section 306(b)(3)(B) may be used to provide, through one-stop delivery described in subsection (b)(2)—

(A) intensive employment-related services for adults;

(B) customized screening and referral of qualified participants in training services to employment; and

(C) customized employment-related services to employers.

(2) SUPPORTIVE SERVICES.—Funds received by the local area as described in paragraph (1) may be used to provide supportive services to participants—

(A) who are participating in activities described in this section; and

(B) who are unable to obtain such supportive services through other programs providing such services.

(3) NEEDS-RELATED PAYMENTS.—

(A) IN GENERAL.—Funds received by the local area under section 306(b)(3)(B) may be used to provide needs-related payments to dislocated workers who do not qualify for, or have exhausted, unemployment compensation, for the purpose of enabling such individuals to participate in training services.

(B) ADDITIONAL ELIGIBILITY REQUIREMENTS.—In addition to the requirements contained in subparagraph (A), a dislocated worker who has ceased to qualify for unemployment compensation may be eligible to receive needs-related payments under this paragraph only if such worker was enrolled in the training services—

(i) by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility for employment and training activities for dislocated workers under this subtitle; or

(ii) if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months.

(C) LEVEL OF PAYMENTS—The level of a needs-related payment made to a dislocated worker under this paragraph shall not exceed the greater of—

(i) the applicable level of unemployment compensation; or

(ii) if such worker did not qualify for unemployment compensation, an amount equal to the poverty line, for an equivalent period, which amount shall be adjusted to reflect changes in total family income.

SEC. 316. LOCAL YOUTH ACTIVITIES.

(a) PURPOSES.—The purposes of this section are—

(1) to provide, the youth seeking assistance in achieving academic and employment success, effective and comprehensive activiites, which shall include a variety of options for improving educational and skill competencies and provide effective connections to employers;

(2) to ensure continuous contact for youth with committed adults;

(3) to provide opportunities for training to youth;

(4) to provide continued support services for youth;

(5) to provide incentives for recognition and achievement to youth; and

(6) to provide opportunities for youth in activities related to leadership, development, decisionmaking, citizenship, and community service.

(b) REQUIRED ELEMENTS.—Funds received by a local area under paragraph (3)(C) or (4)(B) of section 306(b) shall be used to carry out, for youth who seek the activities, activities that—

(1) consist of the provision of—

(A) tutoring, study skills training, and instruction, leading to completion of secondary school, including dropout prevention strategies;

(B) alternative secondary school services;

(C) summer employment opportunities and other paid and unpaid work experiences, including internships and job shadowing;

(D) employment skill training, as appropriate;

(E) community service and leadership development opportunities;

(F) services described in section 315(c)(2);

(G) supportive services;

(H) adult mentoring for the period of participation and a subsequent period, for a total of not less than 12 months; and

(I) followup services for not less than 12 months after the completion of participation, as appropriate;

(2) provide—

(A) preparation for postsecondary educational opportunities, in appropriate cases;

(B) strong linkages between academic and occupational learning;

(C) preparation for unsubsidized employment opportunities, in appropriate cases; and

(D) effective connections to intermediaries with strong links to—

(i) the job market; and

(ii) local and regional employers; and

(3) involve parents, participants, and other members of the community with experience relating to youth in the design and implementation of the activities.

(c) PRIORITY.—

(1) IN GENERAL.—At a minimum, 50 percent of the funds described in subsection (b) shall be used to provide youth activities to out-of-school youth.

(2) EXCEPTION.—A State that receives a minimum allotment under paragraph (1) or (3) of section 302(b) in accordance with section 302(b)(1)(B)(iv)(II) may reduce the percentage described in paragraph (1) for a local area in the State, if—

(A) after an analysis of the youth population in the local area, the State determines that the local area will be unable to meet the percentage described in paragraph (1) due to a low number of out-of-school youth; and

(B)(i) the State submits to the Secretary, for the local area, a request including a proposed reduced percentae for purposes of paragraph (1), and the summary of the youth population anlysis; and

(ii) the request is approved by the Secretary.

(d) PROHIBITIONS.—

(1) NO LOCAL EDUCATION CURRICULUM.—No funds described in subsection (b) shall be used to develop or implement local school system education curricula.

(2) NONDUPLICATION.—No funds described in subsection (b) shall be used to carry out activities that duplicate federally funded activities available to youth in the local area.

(3) NONINTERFERENCE AND NONREPLACEMENT OF REGULAR ACADEMIC REQUIREMENTS.—No funds described in subsection (b) shall be used to provide an activity for youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth.

CHAPTER 4—GENERAL PROVISIONS

SEC. 321. ACCOUNTABILITY.

(a) PURPOSE.—The purpose of this section is to establish comprehensive performance measures to assess the effectiveness of States and local areas in achieving continuous improvement of workforce investment activities funded under this subtitle, in order to maximize the return on investment of Federal funds in State and local workforce development activites.

(b) STATE PERFORMANCE MEASURES.—

(1) IN GENERAL.—To be eligible to receive an allotment under section 302, a State shall establish, and identify in the State plan, State performance measures. Each State performance measure shall consist of an indicator of performance referred to in paragraph (2) or (3) and a level of performance referred to in paragraph (4).

(2) CORE INDICATORS OF PERFORMANCE.—

(A) IN GENERAL.—The State performance measures shall include indicators of performance for workforce investment activities provided under this subtitle (except for self-service and informational activities) for each of the population groups described in subparagraph (B). Such indicators, at a minimum, shall consist of—

(i) entry into unsubsidized employment;

(ii) retention in unsubsidized employment 6 months after entry into the employment;

(iii) earnings received in unsubsidized employment 6 months after entry into the employment; and

(iv) attainment of a recognized credential relating to achievement of educational skills (including basic skills) or occupational skills, by participants who entered unsubsidized employment, or by participants who are in-school youth, taking into account attainment of more than 1 such credential.

(B) POPULATION GROUPS.—The indicators described in subparagraph (A) shall be applicable to each of the following populations;

(i) Dislocated workers.

(ii) Economically disadvantaged adults.

(iii) Youth.

(3) ADDITIONAL INDICATORS OF PERFORMANCE.—

(A) CUSTOMER SATISFACTION INDICATORS.—A State shall identify in the State plan an indicatior of performance concerning customer satisfaction of employers and workers with results achieved from the workforce investment activities in which the employers and workers participated under this subtitle. The customer satisfaction may be measured through surveys conducted after the conclusion of participation in the workforce investment activities.

(B) ADDITIONAL INDICATORS.—A State may identify in the State plan additional indicators of performance relating to State goals for workforce investment, including goals for the economic success of the citizens of the State of other State goals related to the objectives of this subtitle.

(4) STATE LEVELS OF PERFORMANCE.—

(A) IN GENERAL.—The Secretary and each governor shall reach agreement on the levels of performance expected to be achieved by the State on the State performance measures established pursuant to this subsection. In reaching the agreement, the Secretary and Governor shall establish a level of performance for each of the indicators of performance described in paragraphs (2) and (3). Such agreement shall take into account—

(i) how the levels compare with the levels established by other States, taking into account factors including differences in economic conditions, the characteristics of participants when the participants entered the program, and the services to be provided;

(ii) the extent to which such levels promote continuous improvement in performance on the performance measures by such State and ensure maximum return on the investment of Federal funds; and

(iii) the extent to which the levels will assist the State in attaining the workforce investment goals of the State.

(B) ADJUSTMENTS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in subparagraph (A)(i), the Governor may request that the levels of performance agreed to under subparagraph (A) be adjusted. The Secretary, after collaboration with the representatives described in subsection (i), shall issue objective criteria and methods for making such adjustments.

(c) LOCAL PERFORMANCE MEASURES.—

(1) IN GENERAL.—Each Governor shall negotiate and reach agreement with the local partnership and the chief elected official in each local area on local performance measures, based on the State performance measures identified in the State plan. Each local performance measure shall consist of an indicator of performance referred to in paragraph (2) or (3) of subsection (b) and a level of performance referred to in paragraph (2).

(2) AGREEMENT.—

(A) IN GENERAL.—In reaching the agreement, the Governor, local partnership, and chief elected official shall establish an expected level of performance for each of the indicators of performance.

(B) CONSIDERATIONS.—Such agreement shall take into account at the local level the matters considered at the State level under clauses (i), (ii), and (iii) of subsection (b)(4)(A).

(C) ADJUSTMENTS.—If unanticipated circumstances arise in a local area resulting in a significant change in the factors referred to in subsection (b)(4)(A)(i), the local partnership and chief elected official may request that the levels of performance agreed to under paragraph (1) be adjusted, using criteria and methods referred to in subsection (b)(4)(B).

(d) REPORT.—

(1) IN GENERAL.—Each State that receives an allotment under section 302 shall annually prepare and submit to the Secretary a report on the progress of the State in achieving State performance measures. The annual report also shall include information regarding the progress of local areas in achieving local performance meansures. The report also shall include information on the status of State evaluations of workforce investment activities described in subsection (e).

(2) ADDITIONAL INFORMATION.—In preparing such report, the State shall include, at a minimum, information on participants in workforce investment activities relating to—

(A) entry by participants who have completed training services provided under section 315(c)(3) into unsubsidized employment related to the training received;

(B) wages at entry into employment for participants in workforce investment activities who entered unsubsidized employment, including the rate of wage replacement for such paraticipants who are dislocated workers;

(C) Cost of workforce investment activities relative to the effect of the activities on the performance of participants;

(D) retention and earnings received in unsubsidized employment 12 months after entry into the employment;

(E) performance with respect to the indicators of performance specified in subsection (b)(2) of participants in workforce investment activities who received the training services compared with the performance of participants in workforce investment activities who received only services other than the training services (excluding participants who received only self-service and informational activities); and

(F) performance with respect to the indicators of performance specified in subsection (b)(2) of welfare recipients, out-of-school youth, veterans, and individuals with disabilities.

(3) INFORMATION DISSEMINATION.—The Secretary shall make the information contained in such reports available to Congress, the Library of Congess, and the public through publication and other appropriate methods. The Secretary shall disseminate State-by-State comparisons of the informaiton after adjusting the information to take account of differences in specific circumstances, including economic circumstances, of the States and after consulting with each Governor as to the accuracy of the information after adjustment.

(e) EVALUATION OF STATE PROGRAMS.—

(1) IN GENERAL.—Using funds made available under this subtitle, the State, in coordination with local partnerships in the State, shall conduct ongoing evaluation studies of workforce investment activities carried out in the State under this subtitle in order to promote, establish, implement, and utilize methods for continuously improving the activities in order to achieve high-level performance within, and high-level outcomes from, the statewide workforce investment system. To the maximum extent practicable, the State shall coordinate the evaluations with the evaluations provided for by the Secretary under section 368.

(2) DESIGN.—The evaluation studies conducted under this subsection shall be designed in conjunction with the statewide partnership and local partnerships and shall include analysis of customer feedback and outcome and process measures in the statewide workforce investment system.

(3) RESULTS.—The State shall periodically prepare and submit to the statewide partnership and local partnerships in the State reports containing the results of evaluation studies conducted under this subsection, to promote the efficiency and effectiveness of the statewide workforce investment system in improving employability for jobseekers and competitiveness for employers.

(f) FISCAL AND MANAGEMENT ACCOUNTABILITY INFORMATION SYSTEMS.—

(1) IN GENERAL.—Using funds made available under this subtitle, the Governor, in coordination with local partnerships and chief elected offcials in the State, shall establish and operate a fiscal and management accountability information system based on guidelines established by the Secretary after consultation with the Governors, local elected officials, and officers of agencies that administer workforce investment activities in local areas. Such guidelines shall promote efficient collection and use of fiscal and management information for reporting and monitoring the use of funds made available under this subtitle and for preparing the annual report described in subsection (d).

(2) WAGE RECORDS.—In measuring the progress of the State on State and local performance measures, a State shall utilize quarterly wage record. The Secretary shall make arrangements to ensure that the wage records of any State are available to any other State to the extent that such wage records are required by the State in carrying out the State plan of the State or completing the annual report described in subsection (d).

(3) CONFIDENTIALITY.—In carrying out the requirements of this Act, the State shall comply with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (as added by the Family Educational Rights and Privacy Act of 1974).

(g) SANCTIONS.—

(1) TECHNICAL ASSISTANCE OR REDUCTION OF ALLOTMENTS.—The Secretary shall—

(A) if a State failed to meet ⅓ or more of the State performance measures for any year, provide technical assistance in accordance with section 366(b) to the State to improve the level of performance of the State; and

(B) if a State failed to meet ½ or more of the State performance measures for each of 2 consecutive years, or failed to meet the State performance measures and the extent of the failure with respect to ⅓ of such measures was significant for each of 2 consecutive years—

(i) determine whether the failure involved is attributable to—

(I) adult employment and training activities;

(II) dislocated worker employment and training activities; or

(III) youth activities; and

(ii) reduce, by not more than 5 percent, the allotment of the State under section 302 for 1 year for the category of activities described in clause (i) to which the failure is attributable.

(2) CRITERIA.—The Secretary, after collaboration with the representatives described in subsection (i), shall issue objective criteria for determining cases in which the extent of failure is significant for purposes of paragraph (1)(B).

(C) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The Secretary shall use an amount retained, as a result of a reduction in an allotment to a State made under paragraph (I)(B), to provide technical assistance in accordance with section 366 to such State.

(h) INCENTIVE GRANTS.—The Secretary shall make incentive grants under this title in accordance with section 365 to States that exceed the levels of performance for performance measures established under this Act. In awarding incentive grants under this title, the Secretary shall give special consideration to those States achieving the highest levels of performance on indicators of performance related to employment retention and earnings.

(i) OTHER MEASURES AND TERMINOLOGY.—

(1) RESPONSIBILITIES.—The Secretary, after collaboration with representatives of appropriate Federal agencies, and representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities, educators, and participants, with expertise regarding workforce investment policies and workforce investment activities, shall issue—

(A) definitions for information required to be reported under subsection (d)(2);

(B) terms for a menu of additional indicators of performance described in subsection (b)(3)(B) to assist States in assessing their progress toward State workforce investment goals;

(C) objective criteria and methods described in subsection (b)(4)(B) for making adjustments to levels of performance; and

(D) objective criteria described in subsection (g)(2) for determining significant extent of failure on performance measures.

(2)' DEFINITIONS FOR CORE INDICATORS.—The Secretary and the reprsentatives described in paragraph (1) shall participate in the activities described in section 502 concerning the issuance of definitions of indicators of performance described in subsection (b)(2).

(3) ASSISTANCE.—The Secretary shall make the services of objective staff available to the represtatives to assist the representatives in participating in the collaboration described in paragraph (1) and in the activities described in section 502.

SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

(a) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 302(a)(1) under this subtitle, such sums as may be necessary for each of fiscal years 1999 through 2004.

(b) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 302(a)(2) under this subtitle, such sums as may be necessary for each of fiscal years 1999 through 2004.

(c) YOUTH ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 302(a)(3) under this subtitle, such sums as may be necessary for each of fiscal years 1999 through 2004.

Subtitle B—Job Corps

SEC. 331. PURPOSES.

The purposes of this subtitle are—

(1) to maintain a national Job Corps program, carried out in partnership with States and communities, to assist eligible youth who need and can benefit from an intensive program, operated in a group setting in residential and nonresidential centers, to become more responsible, employable, and productive citizens;

(2) to set forth standards and procedures for selecting individuals as enrollees in the Job Corps;

(3) to authorize the establishment of Job Corps centers in which enrollees will participate in intensive programs of activities described in this subtitle; and

(4) to prescribe various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps.

SEC. 332. DEFINITIONS.

In this subtitle:

(1) APPLICABLE LOCAL PARTNERSHIP.—The term "applicable local partnership" means a local partnership—

(A) that provides information for a Job Corps center on local employment opportunities and the job skills needed to obtain the opportunities; and

(B) that serves communities in which the graduates of the Job Corps center seek employment.

(2) APPLICABLE ONE-STOP CUSTOMER SERVICE.—The term "applicable one-stop customer service center" means a one-stop customer service center that provides services, such as referral, intake, recruitment, and placement, to a Job Corps center.

(3) ENROLLEE.—The term "enrollee" means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, and remains with the program, but has not yet become a graduate.

(4) FORMER ENROLLEE.—The term "former enrollee" means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, but left the program before completing the requirements of a vocational training program, or received a secondary school diploma or recognized equivalent,

as a result of participation in the Job Corps program.

(5) GRADUATE.—The term "graduate" means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, and has completed the requirement of a vocational training program, or received a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(6) JOB CORPS.—The term "Job Corps" means the Job Corps described in section 333.

(7) JOB CORPS CENTER.— The term "Job Corps center" means a center described in section 333.

(8) OPERATOR.—The term "operator" means an entity selected under this subtitle to operate a Job Corps center.

(9) REGION.—The term "region" means an area served by a regional office of the Employment and Training Administration.

(10) SERVICE PROVIDER.—The term "service provider" means an entity selected under this subtitle to provide services described in this subtitle to a Job Corps center.

SEC. 333. ESTABLISHMENT.

There shall be established in the Department of Labor a Job Corps program, to carry out activities described in this subtitle for individuals enrolled in a Job Corps and assigned to a center.

SEC. 334. INDIVIDUALS ELIGIBLE FOR THE JOB CORPS.

To be eligible to become an enrollee, an individual shall be—

(1) not less than age 16 and not more than age 21 on the date of enrollment, except that—

(A) not more than 20 percent of the individuals enrolled in the Job Corps may be not less than age 22 and not more than age 24 on the date of enrollment; and

(B) either such maximum age limitation may be waived by the Secretary, in accordance with regulations of the Secretary, in the case of an individual with a disability;

(2) a low-income individual; and

(3) an individual who is 1 or more of the following:

(A) Basic skills deficient.

(B) A school dropout.

(C) Homeless, a runaway, or a foster child.

(D) A parent.

(E) An individual who requires additional education, vocational training, or intensive counseling and related assistance, in order to participate successfully in regular schoolwork or to secure and hold employment.

SEC. 335. RECRUITMENT, SCREENING, SELECTION, AND ASSIGNMENT OF ENROLLEES.

(a) STANDARDS AND PROCEDURES.—

(1) IN GENERAL.—The Secretary shall prescribe specific standards and procedures for the recruitment, screening, and selection of eligible applicants for the Job Corps, after considering recommendations from the governors, local partnerships, and other interested parties.

(2) METHODS.—In prescribing standards and procedures under paragraph (1), the Secretary, at a minimum, shall—

(A) prescribe procedures for informing enrollees that drug tests will be administered to the enrollees and the results received within 45 days after the enrollees enroll in the Job Corps;

(B) establish standards for recruitment of the Job Corps applicants;

(C) establish standards and procedures for—

(i) determining, for each applicant, whether the educational and vocational needs of the applicant can best be met through the Job Corps program or an alternative program in the community in which the applicant resides; and

(ii) obtaining from each applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment;

(D) where appropriate, take measures to improve the professional capability of the individuals conducting screening of the applicants, and

(E) assure that an appropriate number of enrollees are from rural areas.

(3) IMPLEMENTATION.—To the extent practicable, the standards and procedures shall be implemented through arrangements with—

(A) applicable one-stop customer service centers;

(B) community action agencies, business organizations, and labor organizations; and

(C) agencies and individuals that have contact with youth over substantial periods of time and are able to offer reliable information about the needs and problems of youth.

(4) CONSULTATION.—The standards and procedures shall provide for necessary consultation with individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers.

(5) REIMBURSEMENT.—The Secretary is authorized to enter into contracts with and make payments to individuals and organizations for the cost of conducting recruitment, screening, and selection of eligible applicants for the Job Corps, as provided for in this section. The Secretary shall make no payment to any individual or organization solely as compensation for referring the names of applicants for the Job Corps.

(b) SPECIAL LIMITATIONS OF SELECTION.—

(1) IN GENERAL.—No individual shall be selected as an enrollee unless the individual or organization implementing the standards and procedures determines that—

(A) there is a reasonable expectation that the individual considered for selection can participate successfully in group situations and activities, and is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the Job Corps program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the Job Corps center to which the individual might be assigned and communities surrounding the Job Corps center;

(B) the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe the rules; and

(C) the individual has passed a background check conducted in accordance with procedures established by the Secretary.

(2) INDIVIDUALS ON PROBATION, PAROLE, OR SUPERVISED RELEASE.—An individual on probation, parole, or supervised release may be selected as an enrollee only if release from the supervision of the probation or parole official involved is satisfactory to the official and the Secretary and does not violate applicable laws (including regulations). No individual shall be denied a position in the Job Corps solely on the basis of individual contact with the criminal justice system.

(c) ASSIGNMENT PLAN.—

(1) IN GENERAL.—Every 2 years, the Secretary shall develop and implement an assignment plan for assigning enrollees to Job Corps center. In developing the plan, the Secretary shall, based on the analysis described in paragraph (2), establish targets, applicable to each Job Corps center, for—

(A) the maximum attainable percentage of enrollees at the Job Corps center that reside in the State in which the center is located; and

(B) the maximum attainable percentage of enrollees at the Job Corps center that reside in the region in which the center is located, and in surrounding regions.

(2) ANALYSIS.—In order to develop the plan described in paragraph (1), the Secretary shall, every 2 years, analyze, for the Job Corps center—

(A) the size of the population of individuals eligible to participate in Job Corps in the State and region in which the Job Corps center is located, and in surrounding regions;

(B) the relative demand for participation in the Job Corps in the State and region, and in surrounding regions; and

(C) the capacity and utilization of the Job Corps center, including services provided through the center.

(d) ASSIGNMENT OF INDIVIDUAL ENROLLEES.—

(1) IN GENERAL.—After an individual has been selected for the Job Corps in accordance with the standards and procedures of the Secretary under subsection (a), the enrollee shall be assigned to the home of the enrollee, except that the Secretary may waive this requirement if—

(A) the enrollee chooses a vocational training program, or requires an English as a second language program, that is not available at such center;

(B) the enrollee is an individual with a disability and may be better served at another center;

(C) the enrollee would be unduly delayed in participating in the Job Corps program because the closest center is operating at full capacity; or

(D) The parent or guardian of the enrollee requests assignment of the enrollee to another Job Corps center due to circumstances in the community of the enrollee that would impair prospects for successful participation in the Job Corps Program.

(2) ENROLLEES WHO ARE YOUNGER THAN 18.—An enrollee who is younger than 18 shall not be assigned to a Job Coprs center other than the center closest to the home of the enrollee pursuant to paragraph (1) if the parent or guardian of the enrollee objects to the assignment

SEC. 336. ENROLLMENT.

(a) RELATIONSHIP BETWEEN ENROLLMENT AND MILITARY OBLIGATIONS.—Enrollment in the Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

(b) PERIOD OF ENROLLMENT.—No individual may be enrolled in the Job Corps for more than 2 years, except—

(1) in a case in which completion of an advanced career training program under section 338(b) would require an individual to participate in the Job Corps for not more than 1 additional year; or

(2) as the Secretary may authorize in a special case.

SEC. 337. JOB CORPS CENTERS.

(a) OPERATORS AND SERVICE PROVIDERS.—

(1) ELIGIBLE ENTITIES.—

(A) OPERATORS.—The Secretary shall enter into an agreement with a Federal, State, or local agency, such as individuals participating in a statewide partnership or in a local partnership or an agency that operates or wishes to develop an area vocational education school, or with a private organization, for the operation of each Job Corps center.

(B) PROVIDERS.—The Secretary may enter into an agreement with a local entity to provide activities described in this subtitle to the Job Corps center.

(2) SELECTION PROCESS.—

(A) COMPETITIVE BASIS.—Except as provided in subsections (c) and (d) of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the Secretary shall select on a competitive basis an entity to operate a Job Corps center and entities to provide activities described in this subtitle to the Job Corps center. In developing a solicitation for an operator or service provider, the Secretary shall consult with the Governor of the State in which the center is located, the industry council for the Job Corps center (if established), and the applicable local partnership regarding the contents of

such solicitation, including elements that will promote the consistency of the activities carried out through the center with the objectives set forth in the State plan or in a local plan.

(B) RECOMMENDATIONS AND CONSIDERATIONS.—

(i) OPERATORS.—In selecting an entity to operate a Job Corps center, the Secretary shall consider—

(I) the ability of the entity to coordinate the activities carried out through the Job Corps center with activities carried out under the appropriate State plan and local plans;

(II) the degree to which the vocational training that the entity proposes for the center reflects local employment opportunities in the local areas in which enrollees at the center intend to seek employment;

(III) to degree to which the entity is familiar with the surrounding communities, applicable one-stop centers, and the State and region in which the center is located; and

(IV) the past performance of the entity, if any, relating to operating or providing activities described in this subtitle to a Job Corps center.

(ii) PROVIDERS.—In selecting a service provider for a Job Corps center, the Secretary shall consider the factors described in subclauses (I) through (IV) of clause (i), as appropriate.

(b) CHARACTER AND ACTIVITIES.—Job Corps centers may be residential or nonresidential in character, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with access to activities described in this subtitle. In any year, no more than 20 percent of the individuals enrolled in the Job Corps may be nonresidential participants in the Job Corps.

(c) CIVILIAN CONSERVATION CENTERS.—

(1) IN GENERAL.—The Job Corps centers may include Civilian Conservation Centers operated under agreements with the Secretary of Agriculture of the Secretary of the Interior, located primarily in rural areas, which shall provide, in addition to other vocational training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest.

(2) SELECTION PROCESS.—The Secretary may select an entity to operate Civilian Conservation Center on a competitive basis, as provided in subsection (a), if the center fails to meet such national performance standards as the Secretary shall establish.

(d) INDIAN TRIBES.—

(1) GENERAL AUTHORITY.—The Secretary may enter into agreements with Indian tribes to operate Job Corps centers for Indians.

(2) DEFINITIONS.—In this subsection, the terms "Indian" and "Indian tribe", have the meanings given such terms in subsections (d) and (e), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 338. PROGRAM ACTIVITIES.

(a) ACTIVITIES PROVIDED BY JOB CORPS CENTERS.

(1) IN GENERAL.—Each Job Corps center shall provide enrollees with an intensive, well organized, and fully supervised program of education, vocational training, work experience, recreational activities, and counseling. Each Job Corps center shall provide enrollees assigned to the center with access to core services described in subtitle A.

(2) RELATIONSHIP TO OPPORTUNITIES.—

(A) IN GENERAL.— The activities provided under this subsection shall provide work-based learning throughout the enrollment of the enrollees and assist the enrollees in obtaining meaningful unsubsidized employment, participating in secondary education or postsecondary education programs, enrolling in other suitable vocational training programs, or satisfying Armed Forces requirements, on completion of their enrollment.

(B) LINK TO EMPLOYMENT OPPORTUNITIES.—The vocational training provided shall be linked to the employment opportunities in the local area in which the enrollee intends to seek employment after graduation.

(b) ADVANCED CAREER TRAINING PROGRAMS.—

(1) In general.—The Secretary may arrange for programs of advanced career training for selected enrollees in which the enrollees may continue to participate for a period of not to exceed 1 year in addition to the period of participation to which the enrollees would otherwise be limited. The advanced career training may be provided through the eligible providers of training services identified by the State involved under section 312.

(2) BENEFITS.—

(A) IN GENERAL.—During the period of participation in an advanced career training program, an enrollee shall be eligible for full Job Corps benefits, or a monthly stipend equal to the average value of the residential support, food, allowances, and other benefits provided to enrollees assigned to residential Job Corps centers.

(B) CALCULATION.—The total amount for which an enrollee shall be eligible under subparagraph (A) shall be reduced by the amount of any scholarship or other educational grant assistance received by such enrollee for advanced career training.

(3) DEMONSTRATION.—Each year, any operator seeking to enroll additional enrollees in an advanced career training program shall demonstrate that participants in such program have achieved a reasonable rate of completion and placement in training-related jobs before the operator may carry out such additional enrollment.

(c) CONTINUED SERVICES.—The Secretary shall also provide continued services to graduates, including providing counseling regarding the workplace for 12 months after the date of graduation of the graduates. In selecting a provider for such services, the Secretary shall give priority to one-stop partners.

SEC. 339. COUNSELING AND JOB PLACEMENT.

(a) COUNSELING AND TESTING.—The Secretary shall arrange for counseling and testing for each enrollee at regular intervals to measure progress in the education and vocational training programs carried out through the Job Corps.

(b) PLACEMENT.—The secretary shall arrange for counseling and testing for enrollees prior to their scheduled graduations to determine their capabilities and, based on their capabilities, shall make every effort to arrange to place the enrollees in jobs in the vocations for which the enrollees are trained or to assist the enrollees in obtaining further activities described in this subtitle. In arranging for the placement of graduates in jobs, the Secretary shall utilize the one-stop customer service system to the fullest extent possible.

(c) STATUS AND PROGRESS.—The Secretary shall determine the status and progress of enrollees scheduled for graduation and make every effort to assure that their needs for further activities described in this subtitle are met.

SEC. 340. SUPPORT.

(a) PERSONAL ALLOWANCES. The Secretary shall provide enrollees assigned to Job Corps centers with such personal allowances as the Secretary may determine to be necessary or appropriate to meet the needs of the enrollees.

(b) READJUSTMENT ALLOWANCES.—The Secretary shall arrange for a readjustment allowance to be paid to eligible former enrollees and graduates. The Secretary shall arrange for the allowance to be paid at the one-stop customer service center nearest to the home of such a former enrollee or graduate who is returning home, or at the one-stop customer service center nearest to the location where the former enrollee or graduate has indicated an intent to seek employment. If the Secretary uses any organization, in lieu of a one-stop customer service center, to provide placement services under this Act, the Secretary shall arrange for the organization to pay the readjustment allowance.

SEC. 341. OPERATING PLAN.

(a) IN GENERAL .—The provisions of the contract between the Secretary and an entity selected to operate a Job Corps center shall, at a minimum, serve as an operating plan for the Job Corps center.

(b) ADDITIONAL INFORMATION.—The Secretary may require the operator, in order to remain eligible to operate the Job Corps center, to submit such additional information as the Secretary may require, which shall be considered part of the operating plan.

(c) AVAILABILITY.—The Secretary shall make the operating plan described in subsections (a) and (b), excluding any proprietary information, available to the public.

SEC. 342. STANDARDS OF CONDUCT.

(a) PROVISION AND ENFORCEMENT.—The Secretary shall provide, and directors of Job Corps centers shall stringently enforce, standards of conduct within the centers. Such standards of conduct shall include provisions forbidding the actions described in subsection (b)(2)(A).

(b) DISCIPLINARY MEASURES.—

(1) IN GENERAL.—To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees. If such a director determines that an enrollee has committed a violation of the standards of conduct, the director shall dismiss the enrollee from the Job Corps if the director determines that the retention of the enrollee in the Job Corps will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

(2) ZERO TOLERANCE POLICY AND DRUG TESTING.—

(A) GUIDELINES.—The Secretary shall adopt guidelines establishing a zero tolerance policy for an act of violence, for use, sale, or possession of a controlled substance, for abuse of alcohol, or for other illegal or disruptive activity.

(B) DRUG TESTING.—The Secretary shall require drug testing of all enrollees for controlled substances in accordance with procedures prescribed by the Secretary under section 335(a).

(C) DEFINITIONS.—In this paragraph:

(i) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(ii) ZERO TOLERANCE POLICY.—The term "zero tolerance policy" means a policy under which an enrollee shall be automatically dismissed from the Job Corps after a determination by the director that the enrollee has carried out an action described in subparagraph (A).

(c) APPEAL.—A disciplinary measure taken by a director under this section shall be subject to expeditious appeal in accordance with procedures established by the Secretary.

SEC. 343. COMMUNITY PARTICIPATION.

(a) BUSINESS AND COMMUNITY LIAISON.—Each Job Corps center shall have a Business and Community Liaison (referred to in this Act as a "Liaison"), designated by the director of the center.

(b) RESPONSIBILITIES.—The responsibilities of the Liaison shall include—

(1) establishing and developing relationships and networks with—

(A) local and distant employers; and

(B) applicable one-stop customer service centers and applicable local partnerships,

for the purpose of providing job opportunities for Job Corps graduates; and

(2) establishing and developing relationships with members of the community in which the Job Corps center is located, informing members of the community about the projects of the Job Corps center and changes in the rules, procedures, or activities of the center that may affect the community, and planning events of mutual interest to the community and the Job Corps center.

(c) NEW CENTERS.—The Liaison for a Job Corps center that is not yet operating shall establish and develop the relationships and networks described in subsection (b) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

SEC. 344. INDUSTRY COUNCILS.

(a) IN GENERAL.—Each Job Corps center shall have an industry council, appointed by the director of the center after consultation with the Liaison, in accordance with procedures established by the Secretary.

(b) INDUSTRY COUNCIL COMPOSITION.—

(1) IN GENERAL.—An industry council shall be comprised of—

(A) a majority of members who shall be local and distant owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector employers, who—

(i) have substantial management, hiring, or policy responsibility; and

(ii) represent businesses with employment opportunities that reflect the employment opportunities of the applicable local area; and

(B) representatives of labor organizations (where present) and representatives of employees.

(2) LOCAL PARTNERSHIP.—The industry council may include members of the applicable local partnerships who meet the requirements described in paragraph (1).

(c) RESPONSIBILITIES.—The responsibilities of the industry council shall be—

(1) to work closely with all applicable local partnerships in order to determine, and recommend to the Secretary, appropriate vocational training for the center;

(2) to review all the relevant labor market information to—

(A) determine the employment opportunities in the local areas in which the enrollees intend to seek employment after graduation;

(B) determine the skills and education that are necessary to obtain the employment opportunities; and

(C) recommend to the Secretary the type of vocational training that should be implemented at the center to enable the enrollees to obtain the employment opportunities; and

(3) to meet at least once every 6 months to reevaluate the labor market information, and other relevant information, to determine, and recommend to the Secretary, any necessary changes in the vocational training provided at the center.

(d) NEW CENTERS.—The industry council for a Job Corps center that is not yet operating shall carry out the responsibilities described in subsection (c) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

SEC. 345. ADVISORY COMMITTEES.

The Secretary may establish and use advisory committees in connection with the operation of the Job Corps program, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

SEC. 346. EXPERIMENTAL, RESEARCH, AND DEMONSTRATION PROJECTS.

The Secretary may carry out experimental, research, or demonstration projects relating to carrying out the Job Corps program and may waive any provisions of the subtitle that the Secretary finds would prevent the Secretary from carrying out the projects.

SEC. 347. APPLICATION OF PROVISIONS OF FEDERAL LAW.

(a) ENROLLEES NOT CONSIDERED TO BE FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees shall not be considered to be Federal employees and shall not be subject to the provisions of law relating to Federal employment, including such provisions regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) PROVISIONS RELATING TO TAXES AND SOCIAL SECURITY BENEFITS.—For purposes of the Internal Revenue Code of 1986 and title II of the Social Security Act (42 U.S.C. 401 et seq.), enrollees shall be deemed to be employees of the United States and any service performed by an individual as an enrollee shall be deemed to be employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(3) PROVISIONS RELATING TO COMPENSATION TO FEDERAL EMPLOYEES FOR WORK INJURIES.—For purposes of subchapter I of chapter 81 of title 5, United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed to be civil employees of the Government of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of such subchapter shall apply as specified in section 8143(a) of title 5, United States Code.

(4) FEDERAL TORT CLAIMS PROVISIONS.—For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered to be employees of the Government.

(b) ADJUSTMENTS AND SETTLEMENTS.—Whenever the Secretary finds a claim for damages to a person or property resulting from the operation of the Job Corps to be a proper charge against the United States, and the claim is not cognizable under section 2672 of title 28, United States Code, the Secretary may adjust and settle the claim in an amount not exceeding $1,500.

(c) PERSONNEL OF THE UNIFORMED SERVICES.—Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Job Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

SEC. 348. SPECIAL PROVISIONS.

(a) ENROLLMENT.—The Secretary shall ensure that women and men have an equal opportunity to participate in the Job Corps program, consistent with section 335.

(b) STUDIES, EVALUATIONS, PROPOSALS, AND DATA.—The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of carrying out the Job Corps program shall become the property of the United States.

(c) TRANSFER OF PROPERTY.—

(1) IN GENERAL.—Notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, the Secretary and the Secretary of Education shall receive priority by the Secretary of Defense for the direct transfer, on a nonreimbursable basis, of the property described in paragraph (2) for use in carrying out programs under this Act of under any other Act.

(2) PROPERTY.—The property described in this paragraph is real and personal property under the control of the Department of Defense that is not used by such Department, including property that the Secretary of Defense determines is in excess of current and projected requirements of such Department.

(d) GROSS RECEIPTS.—Transactions conducted by a private for-profit or nonprofit entity that is an operator or service provider for a Job Corps center shall not be considered to be generating gross receipts. Such an operator or service provider shall not be liable, directly or indirectly, to any State or subdivision of a State (nor to any person acting on behalf of such a State or subdivision) for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes imposed on, or measured by, gross receipts in connection with any payments made to or by such entity for operating or providing services to a Job Corps center. Such an operator or service provider shall not be liable to any State or subdivision of a State to collect or pay any sales, excise, use, or similar tax imposed on the sale to or use by such operator or service provider of any property, service, or other item in connection with the operation of or provisions of services to a Job Corps center.

(e) MANAGEMENT FEE.—The Secretary shall provide each operator and (in an appropriate case, as determined by the Secretary) service provider with an equitable and negotiated management fee of not less than 1 percent of the amount of the funding provided under the appropriate agreement specified in section 337.

(f) DONATIONS.—The Secretary may accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including equipment and materials, if such donations are available for appropriate use for the purposes set forth in this subtitle.

(g) SALE OF PROPERTY.—Notwithstanding any other provision of law, if the Administrator of General Services sells a Job Corps center facility, the Administrator shall transfer the proceeds from the sale to the Secretary, who shall use the proceeds to carry out the Job Corps program.

SEC. 349. MANAGEMENT INFORMATION.

(a) FINANCIAL MANAGEMENT INFORMATION SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish procedures to ensure that each operator, and each service provider, maintains a financial management information system that will provide—

(A) accurate, complete, and current disclosures of the costs of Job Corps operations; and

(B) sufficient data for the effective evaluation of activities carried out through the Job Corps program.

(2) ACCOUNTS.—Each operator and service provider shall maintain funds received under this subtitle in accounts in a manner that ensures timely and accurate reporting as required by the Secretary.

(3) FISCAL RESPONSIBILITY.—Operators shall remain fiscally responsible and control costs, regardless of whether the funds made available for Job Corps centers are incrementally increased or decreased between fiscal years.

(b) AUDIT.—

(1) ACCESS.—The Secretary, the Inspector General of the Department of Labor, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the operators and service providers described in subsection (a) that are pertinent to the Job Corps program, for purposes of conducting surveys, audits, and evaluations of the operators and service providers.

(2) SURVEYS, AUDITS, AND EVALUATIONS.—The Secretary shall survey, audit, or evaluate, or arrange for the survey, audit, or evaluation of, the operator, and service providers, using Federal auditors or independent public accountants. The Secretary shall conduct such surveys, audits, or evaluations not less often than once every 3 years.

(c) INFORMATION ON CORE PERFORMANCE MEASURES.—

(1) ESTABLISHMENT.—The Secretary shall with continuity and consistency from year to year, establish core performance measures, and expected performance levels on the performance measures, for Job Corps centers and the Job Corps program, relating to—

(A) the number of graduates and the rate of such graduation, analyzed by type of vocational training received through the Job Corps program and by whether the vocational training was provided by a local or national service provider;

(B) the number of graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received, analyzed by whether the vocational training was provided by a local or national service provider and by whether the placement in the employment was conducted by a local or national service provider;

(C) the average wage received by graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the average wage received by graduates who entered unsubsidized employment unrelated to the vocational training received;

(D) the average wage received by graduates placed in unsubsidized employment after completion of the Job Corps program—

(i) on the first day of the employment;

(ii) 6 months after the first day of the employment, and

(iii) 12 months after the first day of the employment,

analyzed by type of vocational training received through the Job Corps program;

(E) the number of graduates who entered unsubsidized employment and were retained in the unsubsidized employment—

(i) 6 months after the first day of the employment; and

(ii) 12 months after the first day of the employment;

(F) the number of graduates who entered unsubsidized employment—

(i) for 32 hours per week or more;

(ii) for not less than 20 but less than 32 hours per week; and

(iii) for less than 20 hours per week;

(G) the number of graduates who entered postsecondary education or advanced training programs, including registered apprenticeship programs, as appropriate; and

(H) the number of graduates who attained job readiness and employment skills.

(2) PERFORMANCE OF RECRUITERS.—The Secretary shall also establish performance measures, and expected performance levels on the performance measures, for local and national recruitment service providers serving the Job Corps program. The performance measures shall relate to the number of enrollees retained in the Job Corps program for 30 days and for 60 days after initial placement in the program.

(3) REPORT.—The Secretary shall collect, and annually submit a report to the appropriate committees of Congress containing, information on the performance of each Job Corps center, and the core performance measures, as compared to the expected performance level for each performance measure. The report shall also contain information on the performance of the service providers described in paragraph (2) on the performance measures established under such paragraph, as compared to the expected performance levels for the performance measures.

(d) ADDITIONAL INFORMATION.—The Secretary shall also collect, and submit in the report described in subsection (c), information on the performance of each Job Corps center, and the Job Corps program, regarding

(1) the number of enrollees served;

(2) the average level of learning gains for graduates and former enrollees;

(3) the number of former enrollees and graduates who entered the Armed Forces;

(4) the number of former enrollees who entered postsecondary education;

(5) the number of former enrollees who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received;

(6) the number of former enrollees and graduates who obtained a secondary school diploma or its recognized equivalent;

(7) the number and percentage of dropouts from the Job Corps program including the number dismissed under the zero tolerance policy described in section 342(b); and

(8) any additional information required by the Secretary.

(e) METHODS.—The Secretary may, to collect the information described in subsections (c) and (d), use methods described in subtitle A.

(f) PERFORMANCE ASSESSMENTS AND IMPROVEMENTS.—

(1) ASSESSMENTS.—The Secretary shall conduct an annual assessment of the performance of each Job Corps center. Based on the assessment, the Secretary shall take measures to continuously improve the performance of the Job Corps program.

(2) PERFORMANCE IMPROVEMENT PLANS.—With respect to a Job Corps center that fails to meet the expected levels of performance relating to the core performance measures specified in subsection (c), the Secretary shall develop and implement a performance improvement plan. Such a plan shall require action including—

(A) providing technical assistance to the center;

(B) changing the vocational training offered at the center;

(C) changing the management staff of the center;

(D) replacing the operator of the center;

(E) reducing the capacity of the center;

(F) relocating the center; or

(G) closing the center.

(3) ADDITIONAL PERFORMANCE IMPROVEMENT PLANS.—In addition to the performance improvement plans required under paragraph (2), the Secretary may develop and implement additional performance improvement plans. Such a plan shall require improvements, including the actions described in paragraph (2), for a Job Corps center that fails to meet criteria established by the Secretary other than the expected levels of performance described in paragraph (2).

SEC. 350. GENERAL PROVISIONS.

The Secretary is authorized to—

(1) disseminate, with regard to the provisions of section 3204 of title 39, United States Code, data and information in such forms as the Secretary shall determine to be appropriate, to public agencies, private organizations, and the general public;

(2) subject to section 347(b), collect or compromise all obligations to or held by the Secretary and exercise all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) expend funds made available for purposes of this subtitle—

(A) for printing and binding, in accordance with applicable law (including regulation); and

(B) without regard to any other law (including regulation), for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not expend funds under the authority of this subparagraph—

(i) except when necessary to obtain an item, service, or facility, that is required in the proper administration of this subtitle, and that otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which the item, service, or facility is needed; and

(ii) prior to having given written notification to the Administrator of General Services (if the expenditure would affect an activity that otherwise would be under the jurisdiction of the General Services Administration) of the intention of the Secretary to make the expenditure, and the reasons and justifications for the expenditure.

SEC. 351. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of the fiscal years 1999 through 2004.

Subtitle C—National Programs

SEC. 361. NATIVE AMERICAN PROGRAMS.

(a) PURPOSE AND POLICY.—

(1) PURPOSE.—The purpose of this section is to support workforce investment activities and supplemental services for Indian and Native Hawaiian individuals in order—

(A) to develop more fully the academic, occupational, and literacy skills of such individuals;

(B) to make such individuals more competitive in the workforce; and

(C) to promote the economic and social development of Indian and Native Hawaiian communities in accordance with the goals and values of such communities.

(2) INDIAN POLICY.—All programs assisted under this section shall be administered in a manner consistent with the principles of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and the government-to-government relationship between the Federal Government and Indian tribal governments.

(b) DEFINITIONS.—In this section:

(1) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—The terms "Indian", "Indian tribe", and "tribal organization" have the meanings given such terms in subsections (d), (e), and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(2) NATIVE HAWAIIAN AND NATIVE HAWAIIAN ORGANIZATION.—The terms "Native Hawaiian" and "Native Hawaiian organization" have the meanings given such terms in paragraphs (1) and (3), respectively, of section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

(c) PROGRAMS AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, Indian tribes, tribal organizations, Indian-controlled organizations serving Indians, or Native Hawaiian organizations to carry out the authorized activities described in subsection (d).

(2) EXCEPTION.—The competition for grants, contracts, or cooperative agreements conducted under paragraph (1) shall be conducted every 2 years, except that if a recipient of such a grant, contract, or agreement has performed satisfactorily, the Secretary may waive the requirements for such competition on receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year period of the grant, contract, or agreement.

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Funds made available under subsection (c) shall be used to carry out the activities described in paragraph (2) that—

(A) are consistent with this section; and

(B) are necessary to meet the needs of Indians or Native Hawaiians preparing to enter, reenter, or retain unsubsidized employment.

(2) WORKFORCE INVESTMENT ACTIVITIES AND SUPPLEMENTAL SERVICES.—

(A) IN GENERAL.—Funds made available under subsection (c) shall be used for—

(i) building a comprehensive facility to be utilized by American Samoans residing in Hawaii for the co-location of federally funded and State funded workforce investment activities;

(ii) comprehensive workforce investment activities for Indians or Native Hawaiians; or

(iii) supplemental services for Indian or Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, or Hawaii.

(B) SPECIAL RULE.—Notwithstanding any other provision of this section, individuals who were eligible to participate in programs under section 401 of the Job Training Partnership Act (29 U.S.C. 1671) (as such section was in effect on the day before the date of enactment of this Act) shall be eligible to participate in an activity assisted under subparagraph (A)(i).

(e) PROGRAM PLAN.—In order to receive a grant or enter into a contract or cooperative agreement under this section an entity described in subsection (c) shall submit to the Secretary a program plan that describes a 2-year strategy for meeting the needs of Indian or Native Hawaiian individuals, as appropriate, in the area served by such entity. Such plan shall—

(1) be consistent with the purpose of this section;

(2) identify the population to be served;

(3) identify the education and employment needs of the population to be served and the manner in which the activities to be provided will strengthen the ability of the individuals served to obtain or retain unsubsidized employment;

(4) describe the activities to be provided and the manner in which such activities are to be integrated with other appropriate activities; and

(5) describe, after the entity submitting the plan consults with the Secretary, the performance measures to be used to assess the performance of entities in carrying out the activities assisted under this section.

(f) CONSOLIDATION OF FUNDS.—Each entity receiving assistance under subsection (c) may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(g) NONDUPLICATIVE AND NONEXCLUSIVE SERVICES.—Nothing in this section shall be construed—

(1) to limit the eligibility of any entity described in subsection (c) to participate in any activity offered by a State or local entity under this Act; or

(2) to preclude or discourage any agreement, between any entity described in subsection (c) and any State or local entity, to facilitate the provision of services by such entity or to the population served by such entity.

(h) ADMINISTRATIVE PROVISIONS.—

(1) ORGANIZATIONAL UNIT ESTABLISHED.—The Secretary shall designate a single organizational unit within the Department of Labor that shall have primary responsibility for the administration of the activities authorized under this section.

(2) REGULATIONS.—The Secretary shall consult with the entities described in subsection (c) in—

(A) establishing regulations to carry out this section, including performance measures for entities receiving assistance under such subsection, taking into account the economic circumstances of such entities; and

(B) developing a funding distribution plan that takes into consideration previous levels of funding (prior to the date of enactment of this Act) to such entities.

(3) WAIVERS.—

(A) IN GENERAL.—With respect to an entity described in subsection (c), the Secretary, notwithstanding any other provision of law, may, pursuant to a request submitted by such entity that meets the requirements established under paragraph (2), waive any of the statutory or regulatory requirements of this title that are inconsistent with the specific needs of the entities described in such subsection, except that the Secretary may not waive requirements relating to wage and labor standards, worker rights, participation and protection of participants, grievance procedures, and judicial review.

(B) REQUEST AND APPROVAL.—An entity described in subsection (c) that requests a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the program of workforce investment activities carried out by the entity, which plan shall meet the requirements established by the Secretary and shall be generally consistent with the requirements of section 379(i)(4)(B).

(4) ADVISORY COUNCIL.—

(A) IN GENERAL.—Using funds made available to carry out this section, the Secretary shall establish a Native American Employment and Training Council to facilitate the consultation described in paragraph (2).

(B) COMPOSITION.—The Council shall be composed of individuals, appointed by the Secretary, who are representatives of the entities described in subsection (c).

(C) DUTIES.—The Council shall advise the Secretary on all aspects of the operation and administration of the programs assisted under this section, including the selection of the individual appointed as the head of the unit established under paragraph (1).

(D) PERSONNEL MATTERS.—

(i) COMPENSATION OF MEMBERS.—Members of the Council shall serve without compensation.

(ii) TRAVEL EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(iii) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Council with such administrative support as may be necessary to perform the functions of the Council.

(E) CHAIRPERSON.—The Council shall select a chairperson from among its members.

(F) MEETINGS.—The Council shall meet not less than twice each year.

(G) APPLICATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

(5) TECHNICAL ASSISTANCE.—The Secretary, acting through the unit established under paragraph (1), is authorized to provide technical assistance to entities described in subsection (c) that receive assistance under subsection (c) to enable such entities to improve the activities authorized under this section that are provided by such entities.

SEC. 362. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

(a) IN GENERAL.—Every 2 years, the Secretary shall, on a competitive basis, make grants to, or enter into contracts with, eligible entities to carry out the activities described in subsection (d).

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant or enter into a contract under this section, an entity shall have an understanding of the problems of eligible migrant and seasonal farmworkers (including dependents), a familiarity with the area to be served, and the ability to demonstrate a capacity to administer effectively a diversified program of workforce investment activities (including youth activities) and related assistance for eligible migrant and seasonal farmworkers.

(c) PROGRAM PLAN.—

(1) IN GENERAL.—To be eligible to receive a grant or enter into a contract under this section, an entity described in subsection (b) shall submit to the Secretary a plan that describes a 2-year strategy for meeting the needs of eligible migrant and seasonal farmworkers in the area to be served by such entity.

(2) ADMINISTRATION.—Grants and contracts awarded under this section shall be centrally administered by the Department of Labor and competitively awarded by the Secretary using procedures consistent with standard Federal Government competitive procurement policies.

(3) COMPETITION.—

(A) IN GENERAL.—The competition for grants made and contracts entered into under this section shall be conducted every 2 years.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if a recipient of such a grant or contract has performed satisfactorily under the terms of the grant agreement or contract, the Secretary may waive the requirement for such competition for such recipient upon receipt from the recipient of a satisfactory 2-year plan described in paragraph (1) for the succeeding 2-year grant or contract period.

(4) CONTENTS.—Such plan shall—

(A) identify the education and employment needs of the eligible migrant and seasonal farmworkers to be served and the manner in which the workforce investment activities (including youth activities) to be carried out will strengthen the ability of the eligible migrant and seasonal farmworkers to obtain or retain unsubsidized employment or stabilize their unsubsidized employment;

(B) describe the related assistance, including supportive services, to be provided and the manner in which such assistance and services are to be integrated and coordinated with other appropriate services; and

(C) describe, after consultation with the Secretary, the performance measures to be used to assess the performance of such entity in carrying out the activities assisted under this section.

(d) AUTHORIZED ACTIVITIES.—Funds made available under this section shall be used to carry out workforce investment activities (including youth activities) and provide related assistance for eligible migrant and seasonal farmworkers, which may include employment, training, educational assistance, literacy assistance, an English language program, worker safety training, supportive services, dropout prevention activities, follow-up services for those individuals placed in employment, self-employment and related business enterprise development education as needed by eligible migrant and seasonal farmworkers and identified pursuant to the plan required by subsection (c), and technical assistance relating to capacity enhancement in such areas as management information technology.

(e) CONSULTATION WITH GOVERNORS AND LOCAL PARTNERSHIPS.—In making grants and entering into contracts under this section, the Secretary shall consult with the Governors and local partnerships of the States in which the eligible entities will carry out the activities described in subsection (d).

(f) REGULATIONS.—The Secretary shall consult with eligible migrant and seasonal farmworkers groups and States in establishing regulations to

carry out this section, including performance measures for eligible entities that take into account the economic circumstances and demographics of eligible migrant and seasonal farmworkers.

(g) DEFINITIONS.—In this section:

(1) DISADVANTAGED.—The term "disadvantaged", used with respect to a farmworker, means a farmworker whose income, for 12 consecutive months out of the 24 months prior to application for the program involved, does not exceed the higher of—

(A) the poverty line (as defined in section 334(a)(2)(B)) for an equivalent period; or

(B) 70 percent of the lower living standard income level, for an equivalent period.

(2) ELIGIBLE MIGRANT AND SEASONAL FARMWORKERS.—The term "eligible migrant and seasonal farmworkers" means individuals who are eligible migrant farmworkers or are eligible seasonal farmworkers.

(3) ELIGIBLE MIGRANT FARMWORKER.—The term "eligible migrant farmworker" means—

(A) an eligible seasonal farmworker described in paragraph (4)(A) whose agricultural labor requires travel to a job site such that the farmworker is unable to return to a permanent place of residence within the same day; and

(B) a dependent of the farmworker described in subparagraph (A).

(4) ELIGIBLE SEASONAL FARMWORKER.—The term "eligible seasonal farmworker" means—

(A) a disadvantaged person who, for 12 consecutive months out of the 24 months prior to application for the program involved, has been primarily employed in agricultural labor that is characterized by chronic unemployment or underemployment; and

(B) a dependent of the person described in subparagraph (A).

SEC. 363. VETERANS' WORKFORCE INVESTMENT PROGRAMS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary shall conduct, directly or through grants or contracts, programs to meet the needs for workforce investment activities of veterans with service-connected disabilities, veterans who have significant barriers to employment, veterans who served on active duty in the armed forces during a war or in a campaign or expedition for which a campaign badge has been authorized, and recently separated veterans.

(2) CONDUCT OF PROGRAMS.—Programs supported under this section may be conducted through grants and contracts with public agencies and private nonprofit organizations, including recipients of Federal assistance under other provisions of this title, that the Secretary determines have an understanding of the unemployment problems of veterans described in paragraph (1), familiarity with the area to be served, and the capability to administer effectively a program of workforce investment activities for such veterans.

(3) REQUIRED ACTIVITIES.—Programs supported under this section shall include—

(A) activities to enhance services provided to veterans by other providers of workforce investment activities funded by Federal, State, or local government;

(B) activities to provide workforce investment activities to such veterans that are not adequately provided by other public providers of workforce investment activities; and

(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such veterans and to inform such veterans about employment, job training, on-the-job training and educational opportunities under this title, under title 38, United States Code, and under other provisions of law, which activities shall be coordinated with activities provided through the one-stop customer service centers.

(b) ADMINISTRATION OF PROGRAMS.—

(1) IN GENERAL.—The Secretary shall administer programs supported under this section through the Assistant Secretary for Veterans' Employment and Training.

(2) ADDITIONAL RESPONSIBILITIES.—In carrying out responsibilities under this section, the Assistant Secretary for Veterans' Employment and Training shall—

(A) be responsible for the awarding of grants and contracts and the distribution of funds under this section and for the establishment of appropriate fiscal controls, accountability, and program performance measures for recipients of grants and contracts under this section; and

(B) consult with the Secretary of Veterans Affairs and take steps to ensure that programs supported under this section are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38, United States Code, including programs and activities conducted under subchapter II of chapter 77 of such title, chapters 30, 31, 32, and 34 of such title, and sections 1712A, 1720A, 3687, and 4103A of such title.

SEC. 364. YOUTH OPPORTUNITY GRANTS.

(a) GRANTS.—

(1) IN GENERAL.—Using funds made available under section 302(b)(3)(A), the Secretary shall make grants to eligible local partnerships and eligible entities described in subsection (d) to provide activities described in subsection (b) for youth to increase the long-term employment of eligible youth who live in empowerment zones, enterprise communities, and high poverty areas and who seek assistance.

(2) GRANT PERIOD.—The Secretary may make a grant under this section for a 1-year period, and may renew the grant for each of the 4 succeeding years.

(3) GRANT AWARDS.—In making grants under this section, the Secretary shall ensure that grants are distributed equitably among local partnerships and entities serving urban areas and local partnerships and entities serving rural areas, taking into consideration the poverty rate in such urban and rural areas, as described in subsection (c)(3)(B).

(b) USE OF FUNDS.—

(1) IN GENERAL.—A local partnership or entity that receives a grant under this section shall use the funds made available through the grant to provide activities that meet the requirements of section 316, except as provided in paragraph (2), as well as youth development activities such as activities relating to leadership development, citizenship, and community service, and recreation activities.

(2) INTENSIVE PLACEMENT AND FOLLOWUP SERVICES.—In providing activities under this section, a local partnership or entity shall provide—

(A) intensive placement services; and

(B) followup services for not less than 24 months after the completion of participation in the other activities described in this subsection, as appropriate.

(c) ELIGIBLE LOCAL PARTNERSHIPS.—To be eligible to receive a grant under this section, a local partnership shall serve a community that—

(1) has been designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986;

(2)(A) is a State without a zone or community described in paragraph (1); and

(B) has been designated as a high poverty area by the Governor of the State; or

(3) is 1 of 2 areas in a State that—

(A) have been designated by the Governor as areas for which a local partnership may apply for a grant under this section; and

(B) meet the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986.

(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity (other than a local partnership) shall—

(1) be a recipient of financial assistance under section 361; and

(2) serve a community that—

(A) meets the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986; and

(B) is located on an Indian reservation.

(e) APPLICATION.—To be eligible to receive a grant under this section, a local partnership or entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the local partnership or entity will provide under this section to youth in the community described in subsection (c);

(2) a description of the performance measures negotiated under subsection (f), and the manner in which the local partnerships or entities will carry out the activities to meet the performance measures;

(3) a description of the manner in which the activities will be linked to activities described in section 316; and

(4) a description of the community support, including financial support through leveraging additional public and private resources, for the activities.

(f) PERFORMANCE MEASURES.—

(1) IN GENERAL.—The Secretary shall negotiate and reach agreement with the local partnership or entity on performance measures for the indicators of performance referred to in paragraphs (2) and (3) of section 321(b) that will be used to evaluate the performance of the local partnership or entity in carrying out the activities described in subsection (b). Each local performance measure shall consist of such a indicator of performance, and a performance level referred to in paragraph (2).

(2) PERFORMANCE LEVELS.—The Secretary shall negotiate and reach agreement with the local partnership or entity regarding the levels of performance expected to be achieved by the local partnership or entity on the indicators of performance.

(g) ROLE MODEL ACADEMY PROJECT.—

(1) IN GENERAL.—Using the funds made available pursuant to section 302(b)(3)(A)(iv) for fiscal year 1999, the Secretary shall provide assistance to an entity to carry out a project establishing a role model academy for out-of-school youth.

(2) RESIDENTIAL CENTER.—The entity shall use the assistance to establish an academy that consists of a residential center located on the site of a military installation closed or realigned pursuant to a law providing for closures and realignments of such installations.

(3) SERVICES.—The academy established pursuant to this subsection shall provide services that—

(A) utilize a military style model that emphasizes leadership skills and discipline, or another model of demonstrated effectiveness; and

(B) include vocational training, secondary school course work leading to a secondary school diploma or recognized equivalent, and the use of mentors who serve as role models and who provide academic training and career counseling to the youth.

SEC. 365. INCENTIVE GRANTS.

(a) IN GENERAL.—Effective July 1, 2000, the Secretary may make grants to States that exceed the expected levels of performance for performance measures established under this Act.

(b) USE OF FUNDS.—A State that receives an incentive grant under this section shall use the funds made available through the grant to carry out innovative vocational education, adult education and literacy, or workforce investment activity programs, as determined by the State.

(c) INCENTIVE GRANT REGULATIONS.—The Secretary of Labor and the Secretary of Education shall jointly promulgate 1 set of regulations for incentive grants under sections 116 and 243 and this section.

SEC. 366. TECHNICAL ASSISTANCE.

(a) TRANSITION ASSISTANCE.—The Secretary shall provide technical assistance to assist States in making transitions from carrying out activities under provisions described in section 391 to carrying out activities under this title.

(b) PERFORMANCE IMPROVEMENT.—

(1) GENERAL ASSISTANCE.—

(A) AUTHORITY.—The Secretary—

(i) shall provide technical assistance to States who fail to meet ⅓ or more of the State performance measures for a program year; and

(ii) may provide technical assistance to other States, local areas, and recipients of financial assistance under any of sections 361 through 364 to promote the continuous improvement of the programs and activities authorized under this title.

(B) FORM OF ASSISTANCE.—In carrying out this paragraph on behalf of a State, or recipient of financial assistance under any of sections 361 through 364, the Secretary, after consultation with the State or grant recipient, may award grants and enter into contracts and cooperative agreements.

(C) LIMITATION.—Grants or contracts awarded under this paragraph that are for amounts in excess of $50,000 shall only be awarded on a competitive basis.

(2) DISLOCATED WORKER TECHNICAL ASSISTANCE.—

(A) AUTHORITY.—Of the amounts available pursuant to section 302(a)(2), the Secretary shall reserve not more than 5 percent of such amounts to provide technical assistance to States that do not meet the State performance measures described in section 321(b) with respect to employment and training activities for dislocated workers. Using such reserved funds, the Secretary may provide such assistance to other States, local areas, business and labor organizations, and other entities involved in providing assistance to dislocated workers, to promote the continuous improvement of assistance provided to dislocated workers, under this title.

(B) TRAINING.—Amounts reserved under this paragraph may be used to provide for the training of staff, including specialists, who provide rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees. Such projects shall be administered through the dislocated worker office described in section 369(b).

SEC. 367. DEMONSTRATION, PILOT, MULTISERVICE, RESEARCH, AND MULTISTATE PROJECTS.

(a) STRATEGIC PLAN.—

(1) IN GENERAL.—After consultation with States, localities, and other interested parties, the Secretary shall, every 2 years, publish in the Federal Register, a plan that describes the demonstration and pilot (including dislocated worker demonstration and pilot), multiservice, research, and multistate project priorities of the Department of Labor concerning employment and training for the 5-year period following the submission of the plan. Copies of the plan shall be transmitted to the appropriate committees of Congress.

(2) LIMITATION.—With respect to a plan published under paragraph (1), the Secretary shall ensure that research projects (referred to in subsection (d)) are considered for incorporation into the plan only after projects referred to in subsections (b), (c), and (e) have been considered and incorporated into the plan, and are funded only as funds remain to permit the funding of such research projects.

(3) FACTORS.—The plan published under paragraph (1) shall contain strategies to address national employment and training problems and take into account factors such as—

(A) the availability of existing research (as of the date of the publication);

(B) the need to ensure results that have interstate validity;

(C) the benefits of economies of scale and the efficiency of proposed projects; and

(D) the likelihood that the results of the projects will be useful to policymakers and stakeholders in addressing employment and training problems.

(b) DEMONSTRATION AND PILOT PROJECTS.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out demonstration and pilot projects for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of specialized methods, in addressing employment and training needs. Such projects shall include the provision of direct services to individuals to enhance employment opportunities and an evaluation component.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out demonstration and pilot projects under this subsection shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of the funding for the project.

(B) ELIGIBLE ENTITIES.—Grants or contracts may be awarded under this subsection only to—

(i) entities with recognized expertise in—

(I) conducting national demonstration projects;

(II) utilizing state-of-the-art demonstration methods; and

(III) conducting evaluations of employment and training projects; or

(ii) State and local entities with expertise in operating or overseeing employment and training programs.

(C) TIME LIMITS.—The Secretary shall establish appropriate time limits for carrying out demonstration and pilot projects under this subsection.

(c) MULTISERVICE PROJECTS.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out multiservice projects—

(A) that will test an array of approaches to the provision of employment and training services to a variety of targeted populations;

(B) in which the entity carrying out the project, in conjunction with employers, organized labor, and other groups such as the disability community, will design, develop, and test various training approaches in order to determine effective practices; and

(C) that will assist in the development and replication of effective service delivery strategies for targeted populations for the national employment and training system as a whole.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out multiservice projects under this subsection shall be awarded only on a competitive basis.

(B) TIME LIMITS.—A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

(d) RESEARCH.—

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out research projects that will contribute to the solution of employment and training problems in the United States.

(2) FORMULA IMPROVEMENT STUDY AND REPORT.—

(A) STUDY.—The Secretary shall conduct a 2-year study concerning improvements in the formulas described in section 302(b)(1)(B) and paragraphs (3)(A) and (4)(A) of section 306(b) (regarding distributing funds under subtitle A to States and local areas for adult employment and training activities). In conducting the study, the Secretary shall examine means of improving the formulas by—

(i) developing formulas based on statistically reliable data;

(ii) developing formulas that are consistent with the goals and objectives of this title; and

(iii) developing formulas based on organizational and financial stability of statewide partnerships and local partnerships.

(B) REPORT.—The Secretary shall prepare and submit to Congress a report containing the results of the study, including recommendations for improved formulas.

(3) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out research projects under this subsection in amounts that exceed $50,000 shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of the funding for the project.

(B) ELIGIBLE ENTITIES.—Grants or contracts shall be awarded under this subsection only to entities with nationally recognized expertise in the methods, techniques, and knowledge of the social sciences.

(C) TIME LIMITS.—The Secretary shall establish appropriate time limits for the duration of research projects funded under this subsection.

(e) MULTISTATE PROJECTS.—

(1) IN GENERAL.—

(A) AUTHORITY.—Under a plan published under subsection (a), the Secretary may, through grants or contracts, carry out multistate projects that require demonstrated expertise that is available at the national level to effectively disseminate best practices and models for implementing employment and training services, address the specialized employment and training needs of particular service populations, or address industrywide skill shortages.

(B) DESIGN OF GRANTS.—Grants or contracts awarded under this subsection shall be designed to obtain information relating to the provision of services under different economic conditions or to various demographic groups in order to provide guidance at the national and State levels about how best to administer specific employment and training services.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out multistate projects under this subsection shall be awarded only or a competitive basis.

(B) TIME LIMITS.—A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

(f) DISLOCATED WORKER PROJECTS.—Of the amount made available pursuant to section 302(a)(2)(A) for any program year, the Secretary shall use not more than 10 percent of such amount to carry out demonstration and pilot projects, multiservice projects, and multistate projects, relating to the employment and training needs of dislocated workers. Of the requirements of this section, such projects shall be subject only to the provisions relating to review and evaluation of applications under subsection (g).

Such projects may include demonstration and pilot projects relating to promoting self-employment, promoting job creation, averting dislocations, assisting dislocated farmers, assisting dislocated fishermen, and promoting public works. Such projects shall be administered through the dislocated worker office described in section 369(b).

(g) PEER REVIEW.—The Secretary shall utilize a peer review process to—

(1) review and evaluate all applications for grants and contracts in amounts that exceed $100,000 that are submitted under this section; and

(2) review and designate exemplary and promising programs under this section.

SEC. 368. EVALUATIONS.

(a) PROGRAMS AND ACTIVITIES CARRIED OUT UNDER THIS TITLE.—For the purpose of improving the management and effectiveness of programs and activities carried out under this title, the Secretary shall provide for the continuing evaluation of the programs and activities. Such evaluations shall address—

(1) the general effectiveness of such programs and activities in relation to their cost;

(2) the effectiveness of the performance measures relating to such programs and activities;

(3) the effectiveness of the structure and mechanisms for delivery of services through such programs and activities;

(4) the impact of the programs and activities on the community and participants involved;

(5) the impact of such programs and activities on related programs and activities;

(6) the extent to which such programs and activities meet the needs of various demographic groups; and

(7) such other factors as may be appropriate.

(b) OTHER PROGRAMS AND ACTIVITIES.—The Secretary may conduct evaluations of other federally funded employment-related programs and activities, including programs and activities administered under—

(1) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(2) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

(3) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

(4) State unemployment compensation laws (in accordance with applicable Federal law).

(c) TECHNIQUES.—Evaluations conducted under this section shall utilize appropriate methodology and research designs, including the use of control groups chosen by scientific random assignment methodologies. The Secretary shall conduct as least 1 multisite control group evaluation under this section by the end of fiscal year 2004.

(d) REPORTS.—The entity carrying out an evaluation described in subsection (a) or (b) shall prepare and submit to the Secretary a draft report and a final report containing the results of the evaluation.

(e) REPORTS TO CONGRESS.—Not later than 30 days after the completion of such a draft report, the Secretary shall transmit the draft report to the appropriate committees of Congress. Not later than 60 days after the completion of such a final report, the Secretary shall transmit the final report to the appropriate committees of Congress.

(f) COORDINATION.—The Secretary shall ensure the coordination of evaluations carried out by States pursuant to section 321(e) with the evaluations carried out under this section.

SEC. 369. NATIONAL EMERGENCY GRANTS.

(a) IN GENERAL.—The Secretary is authorized to award national emergency grants in a timely manner—

(1) to an entity described in subsection (c) to provide employment and training assistance to workers affected by major economic dislocations, such as plant closures, mass layoffs, or closures and realignments of military installations;

(2) to provide assistance to the Governor of any State within the boundaries of which is an area that has suffered an emergency or a major disaster as defined in paragraphs (1) and (2), respectively, of section 102 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 (1) and (2)) (referred to in this section as the "disaster area") to provide disaster relief employment in the area; and

(3) to provide additional assistance to a State or local partnership for eligible dislocated workers in a case in which the State or local partnership has expended the funds provided under this section to carry out activities described in paragraphs (1) and (2) and can demonstrate the need for additional funds to provide appropriate services for such workers, in accordance with requirements prescribed by the Secretary.

(b) ADMINISTRATION.—The Secretary shall designate a dislocated worker office to coordinate the functions of the Secretary under this title relating to employment and training activities for dislocated workers, including activities carried out under the national emergency grants.

(c) EMPLOYMENT AND TRAINING ASSISTANCE REQUIREMENTS.—

(1) GRANT RECIPIENT ELIGIBILITY.—

(A) APPLICATION.—To be eligible to receive a grant under subsection (a)(1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) ELIGIBLE ENTITY.—In this paragraph, the term "entity" means a State, a local partnership, an entity described in section 361(c), an employer or employer association, a labor organization, and an entity determined to be eligible by the Governor of the State involved.

(2) PARTICIPANT ELIGIBILITY.—

(A) IN GENERAL.—In order to be eligible to receive employment and training assistance under a national emergency grant awarded pursuant to subsection (a)(1), an individual shall be—

(i) a dislocated worker;

(ii) a civilian employee of the Department of Defense employed at a military installation that is being closed, or that will undergo realignment, within the next 24 months after the date of the determination of eligibility;

(iii) an individual who is employed in a nonmanagerial position with a Department of Defense contractor, who is determined by the Secretary of Defense to be at-risk of termination from employment as a result of reductions in defense expenditures, and whose employer is converting operations from defense to nondefense applications in order to prevent worker layoffs; or

(iv) a member of the Armed Forces who—

(I) was on active duty or full-time National Guard duty;

(II)(aa) is involuntarily separated (as defined in section 1141 of title 10, United States Code) from active duty or full-time National Guard duty; or

(bb) is separated from active duty or full-time National Guard duty pursuant to a special separation benefits program under section 1174a of title 10, United States Code, or the voluntary separation incentive program under section 1175 of that title;

(III) is not entitled to retired or retained pay incident to the separation described in subclause (II); and

(IV) applies for such employment and training assistance before the end of the 180-day period beginning on the date of that separation.

(B) RETRAINING ASSISTANCE.—The individuals described in subparagraph (A)(iii) shall be eligible for retraining assistance to upgrade skills by obtaining marketable skills needed to support the conversion described in subparagraph (A)(iii).

(C) ADDITIONAL REQUIREMENTS.—The Secretary shall establish and publish additional requirements related to eligibility for employment and training assistance under the national emergency grants to ensure effective use of the funds available for this purpose.

(D) DEFINITIONS.—In this paragraph, the terms 'military institution' and 'realignment' have the meanings given the terms in section 2910 of the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510; 10 U.S.C. 2687 note).

(d) DISASTER RELIEF EMPLOYMENT ASSISTANCE REQUIREMENTS.—

(1) IN GENERAL.—Funds made available under subsection (a)(2)—

(A) shall be used to provide disaster relief employment on projects that provide food, clothing, shelter, and other humanitarian assistance for disaster victims, and projects regarding demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area;

(B) may be expended through public and private agencies and organizations engaged in such projects; and

(C) may be expended to provide the services authorized under section 315(c).

(2) ELIGIBILITY.—An individual shall be eligible to be offered disaster relief employment under subsection (a)(2) if such individual is a dislocated worker, is a long-term unemployed individual, or is temporarily or permanently laid off as a consequence of the disaster.

(3) LIMITATIONS ON DISASTER RELIEF EMPLOYMENT.—No individual shall be employed under subsection (a)(2) for more than 6 months for work related to recovery from a single natural disaster.

SEC. 370. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—

(1) NATIVE AMERICAN PROGRAMS; MIGRANT AND SEASONAL FARMWORKER PROGRAMS; VETERANS' EMPLOYMENT PROGRAMS.—Subject to subsection (b)(1), there are authorized to be appropriated to carry out sections 361 through 363 such sums as may be necessary for each of the fiscal years 1999 through 2004.

(2) INCENTIVE GRANTS; TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS; EVALUATIONS.—Subject to subsection (b)(2), there are authorized to be appropriated to carry out sections 365 through 368, such sums as may be necessary for each of fiscal years 1999 through 2004.

(b) RESERVATIONS.—

(1) NATIVE AMERICAN PROGRAMS; MIGRANT AND SEASONAL FARMWORKER PROGRAMS; VETERANS' EMPLOYMENT PROGRAMS.—Of the amount appropriated under subsection (a)(1) for a fiscal year, the Secretary shall—

(A) reserve not less than $55,000,000 for carrying out section 361;

(B) reserve not less than $70,000,000 for carrying out section 362; and

(C) reserve not less than $7,300,000 for carrying out section 363.

(2) INCENTIVE GRANTS; TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS; EVALUATIONS.—Of the amount appropriated under subsection (a)(2) for a fiscal year, the Secretary shall—

(A)(i) for fiscal year 1999, reserve no funds for carrying out section 365; and

(ii) for each of fiscal years 2000 through 2004, reserve 36.8 percent for carrying out section 365;

(B)(i) for fiscal year 1999, reserve 61.8 percent for carrying out section 366 (other than section 366(b)(2)); and

(ii) for each of fiscal years 2000 through 2004, reserve 25 percent for carrying out section 366 (other than section 366(b)(2));

(C) reserve 24.2 percent of a carrying out section 367 (other than 367(f)); and

(D) reserve 14 percent for carrying out section 368.

Subtitle D—Administration

SEC. 371. REQUIREMENTS AND RESTRICTIONS.

(a) BENEFITS.—

(1) WAGES.—

(A) IN GENERAL.—Individuals in on-the-job training or individuals employed in programs and activities carried out under this title shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar skills. Such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law.

(B) CONSTRUCTION.—The reference in subparagraph (A) to section 6(a)(1) of the Fair Labor Standards Act of 1938—

(i) shall be deemed to be a reference to section 6(c) of that Act (29 U.S.C. 206(c)) for individuals in the Commonwealth of Puerto Rico;

(ii) shall be deemed to be a reference to section 6(a)(3) (29 U.S.C. 206(a)(3)) of that Act for individuals in American Samoa; and

(iii) shall not be applicable for individuals in other territorial jurisdictions in which section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) does not apply.

(2) TREATMENT OF ALLOWANCES, EARNINGS, AND PAYMENTS.—Allowances, earnings, and payments to individuals participating in programs and activities carried out under this title shall not be considered to be income for the purposes of determining eligibility for, and the amount of income transfer and in-kind aid furnished under, any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).

(b) LABOR STANDARDS.—

(1) DISPLACEMENT.—

(A) PROHIBITION.—A participant in a program or activity authorized under this title (referred to in this subsection as a "specified activity") shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

(B) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(2) OTHER PROHIBITIONS.—A participant in a specified activity shall not be employed in a job—

(A) when any other individual is on layoff from the same or any substantially equivalent job with the participating employer;

(B) when the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

(C) that is created in a promotional line that will infringe in any way on the promotional opportunities of currently employed individuals (as of the date of the participation).

(3) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that a State workers' compensation law applies, workers' compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

(4) EMPLOYMENT CONDITIONS.—Individuals in on-the-job training or individuals employed in programs and activities carried out under this title, shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

(5) OPPORTUNITY TO SUBMIT COMMENTS.—Interested members of the public, including representatives of labor organizations and businesses, shall be provided an opportunity to submit comments to the Secretary with respect to programs and activities proposed to be funded under subtitle A.

(6) NO IMPACT ON UNION ORGANIZING.—Each recipient of funds under this title shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

(c) GRIEVANCE PROCEDURE.—

(1) IN GENERAL.—Each State receiving an allotment under section 302 and each recipient of financial assistance under section 361 or 362 shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this title from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within 60 days after the date of the filing of the grievance or complaint.

(2) INVESTIGATION.—

(A) IN GENERAL.—The Secretary shall investigate an allegation of a violation described in paragraph (1) if—

(i) a decision relating to such violation has not been reached within 60 days after the date of the filing of the grievance or complaint and either party appeals the decision to the Secretary; or

(ii) a decision relating to such violation has been reached within 60 days after the date of the filing and the party to which such decision is adverse appeals the decision to the Secretary.

(B) ADDITIONAL REQUIREMENT.—The Secretary shall make a final determination relating to an appeal made under subparagraph (A) no later than 120 days after the date of such appeal.

(3) REMEDIES.—Remedies that may be imposed under this subsection for a violation of any requirement of this title shall be limited—

(A) to suspension or termination of payments under this title to a person that has violated any requirement of this title;

(B) to prohibition of placement of a participant with an employer that has violated any requirement of this title;

(C) where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and

(D) where appropriate, to other equitable relief.

(4) CONSTRUCTION.—Nothing in paragraph (3) shall be construed to prohibit a grievant or complainant from pursuing a remedy authorized under another Federal, State, or local law for a violation of this title.

(d) RELOCATION.—

(1) PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR INDUCE RELOCATION.—No funds provided under this title shall be used, or proposed for use, to encourage or induce the relocation of a business or part of a business if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(2) PROHIBITION ON USE OF FUNDS FOR CUSTOMIZED OR SKILL TRAINING AND RELATED ACTIVITIES AFTER RELOCATION.—No funds provided under this title for an employment and training activity shall be used for customized or skill training, on-the-job training, or company-specific assessments of job applicants or employees, for any business or part of a business that has relocated, until the date that is 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business results in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(3) REPAYMENT.—If the Secretary determines that a violation of paragraph (1) or (2) has occurred, the Secretary shall require the State that has violated such paragraph to repay to the United States an amount equal to the amount expended in violation of such paragraph.

(e) LIMITATION ON USE OF FUNDS.—No funds available under this title shall be used for employment generating activities, economic development activities, activities for the capitalization of businesses, investment in contract bidding resource centers, or similar activities. No funds available under subtitle A shall be used for foreign travel.

(f) DRUG TESTING LIMITATIONS ON PARTICIPANTS IN TRAINING SERVICES.—

(1) FINDING.—Congress finds that—

(A) the possession, distribution, and use of drugs by participants in training services should not be tolerated, and that such use prevents participants from making full use of the benefits extended through training services at the expense of taxpayers; and

(B) applicants and participants should be tested for illegal drug use, in order to maximize the training services and assistance provided under this title.

(2) DRUG TESTS.—Each eligible provider of training services shall administer a drug test—

(A) on a random basis, to individuals who apply to participate in training services; and

(B) to a participant in training services, on reasonable suspicion of drug use by the participant.

(3) ELIGIBILITY OF APPLICANTS.—In order for such an applicant to be eligible to participate in training services, the applicant shall agree to submit to a drug test administered as described in paragraph (2)(A) and, if the test is administered to the applicant, shall pass the test.

(4) ELIGIBILITY OF PARTICIPANTS.—In order for such a participant to remain eligible to participate in training services, the participant shall agree to submit to a drug test administered as described in paragraph (2)(B) and, if the test is administered to the participant, shall pass the test. If a participant refuses to submit to the drug test, or fails the drug test, the eligible provider shall dismiss the participant from participation in training services.

(5) REAPPLICATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an individual who is an applicant and is disqualified from eligibility under paragraph (3), or who is a participant and is dismissed under paragraph (4), may reapply, not earlier than 6 months after the date of the disqualification or dismissal, to participate in training services. If the individual demonstrates that the individual has completed a drug treatment program and passed a drug test within the 30-day period prior to the date of the reapplication, the individual may participate in training services, under the same terms and conditions as apply to other applicants and participants, including submission to drug tests administered as described in paragraph (2).

(B) SECOND DISQUALIFICATION OR DISMISSAL.—If the individual reapplies to participate in

training services and fails a drug test administered under paragraph (2) by the eligible provider, while the individual is an applicant or a participant, the eligible provider shall disqualify the individual from eligibility for, or dismiss the individual from participation in, training services. The individual shall not be eligible to reapply for participation in training services for 2 years after such disqualification or dismissal.

(6) APPEAL.—A decision by an eligible provider to disqualify an individual from eligibility for participation in training services under paragraph (3) or (5), or to dismiss a participant as described in paragraph (4) or (5), shall be subject to expeditious appeal in accordance with procedures established by the State in which the eligible provider is located.

(7) NATIONAL UNIFORM GUIDELINES.—

(A) IN GENERAL.—The Secretary of Labor shall develop voluntary guidelines to assist eligible providers concerning the drug testing required under this subsection.

(B) PRIVACY.—The guidelines shall promote, to the maximum extent practicable, individual privacy in the collection of specimen samples for such drug testing.

(C) LABORATORIES AND PROCEDURES.—With respect to standards concerning laboratories and procedures for such drug testing, the guidelines shall incorporate the Mandatory Guidelines for Federal Workplace Drug Testing Programs, 53 Fed. Reg. 11970 (1988) (or a successor to such guidelines), including the portion of the mandatory guidelines that—

(i) establishes comprehensive standards for all aspects of laboratory drug testing and laboratory procedures, including standards that require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimen samples;

(ii) establishes the minimum list of drugs for which individuals may be tested; and

(iii) establishes appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform such drug testing.

(D) SCREENING AND CONFIRMATION.—The guidelines described in subparagraph (A) shall provide that, for drug testing conducted under this subsection—

(i) each laboratory involved in the drug testing of any individual shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(ii) all tests that indicate the use, in violation of law (including Federal regulation) of a drug by the individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding the drug;

(iii) each specimen sample shall be subdivided, secured, and labeled in the presence of the individual; and

(iv) a portion of each specimen sample shall be retained in a secure manner to prevent the possibility of tampering, so that if the confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory, if the individual requests the independent test not later than 3 days after being advised of the results of the first confirmation test.

(E) CONFIDENTIALITY.—The guidelines shall provide for the confidentiality of the test results and medical information (other than information relating to a drug) of the individuals tested under this subsection, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection.

(F) SELECTION FOR RANDOM TESTS.—The guidelines shall ensure that individuals who apply to participate in training services are selected for drug testing on a random basis, using nondiscriminatory and impartial methods.

(8) NONLIABILITY OF LOCAL PARTNERSHIPS.—A local partnership, and the individual members of a local partnership, shall be immune from civil liability with respect to any claim based in whole or part on activities carried out to implement this subsection.

(9) REPORTING REQUIREMENTS.—An eligible provider shall make records of drug testing conducted under this subsection available for inspection by other eligible providers, including eligible providers in other local areas, for the sole purpose of enabling the providers to determine the eligibility status of an applicant pursuant to this subsection.

(10) USE OF DRUG TESTS.—No Federal, State, or local prosecutor may use drug test results obtained under this subsection in a criminal action.

(11) DEFINITIONS.—As used in this subsection:

(A) DRUG.—The term "drug" means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(B) DRUG TEST.—The term "drug test" means a biochemical drug test carried out by a facility that is approved by the eligible provider administering the test.

(C) RANDOM BASIS.—For purposes of the application of this subsection in a State, the term "random basis" has the meaning determined by the Governor of the State, in the sole discretion of the Governor.

(D) TRAINING SERVICES.—The term "training services" means services described in section 315(c)(3).

SEC. 372. PROMPT ALLOCATION OF FUNDS.

(a) ALLOTMENTS BASED ON LATEST AVAILABLE DATA.—All allotments under section 302 shall be based on the latest available data and estimates satisfactory to the Secretary. All data relating to disadvantaged adults, disadvantaged youth, and low-income individuals shall be based on the most recent satisfactory data from the Bureau of the Census.

(b) PUBLICATION IN FEDERAL REGISTER RELATING TO FORMULA FUNDS.—Whenever the Secretary allots funds required to be allotted under section 302, the Secretary shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient of the funds.

(c) REQUIREMENT FOR FUNDS DISTRIBUTED BY FORMULA.—All funds required to be allotted or allocated under section 302 or 306 shall be allotted or allocated within 45 days after the date of enactment of the Act appropriating the funds, except that, if such funds are appropriated in advance as authorized by section 379(g), such funds shall be allotted or allocated not later than the March 31 preceding the program year for which such funds are to be available for obligation.

(d) AVAILABILITY OF FUNDS.—Funds shall be made available under section 306 to the chief elected official for a local area not later than 30 days after the date the funds are made available to the Governor involved, under section 302, or 7 days after the date the local plan for the area is approved, whichever is later.

SEC. 373. MONITORING.

(a) IN GENERAL.—The Secretary is authorized to monitor all recipients of financial assistance under this title to determine whether the recipients are complying with the provisions of this title, including the regulations issued under this title.

(b) INVESTIGATIONS.—The Secretary may investigate any matter the Secretary determines to be necessary to determine the compliance of the recipients with this title, including the regulations issued under this title. The investigations authorized by this subsection may include examining records (including making certified copies of the records), questioning employees, and entering any premises or onto any site in which any part of a program or activity of such a recipient is conducted or in which any of the records of the recipient are kept.

(c) ADDITIONAL REQUIREMENT.—For the purpose of any investigation or hearing conducted under this title by the Secretary, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of documents) apply to the Secretary, in the same manner and to the same extent as the provisions apply to the Federal Trade Commission.

SEC. 374. FISCAL CONTROLS; SANCTIONS.

(a) ESTABLISHMENT OF FISCAL CONTROLS BY STATES.—

(1) IN GENERAL.—Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds allocated to local areas under subtitle A. Such procedures shall ensure that all financial transactions carried out under subtitle A are conducted and records maintained in accordance with generally accepted accounting principles applicable in each State.

(2) COST PRINCIPLES.—

(A) IN GENERAL.—Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title shall comply with the applicable uniform cost principles included in the appropriate circulars of the Office of Management and Budget for the type of entity receiving the funds.

(B) EXCEPTION.—The funds made available to a State for administration of statewide workforce investment activities in accordance with section 314(c)(2) shall be allocable to the overall administration of workforce investment activities, but need not be specifically allocable to—

(i) the administration of adult employment and training activities;

(ii) the administration of dislocated worker employment and training activities; or

(iii) the administration of youth activities.

(3) UNIFORM ADMINISTRATIVE REQUIREMENTS.—

(A) IN GENERAL.—Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title shall comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds, as promulgated in circulars or rules of the Office of Management and Budget.

(B) ADDITIONAL REQUIREMENT.—Procurement transactions under this title between local partnerships and units of State or local governments shall be conducted only on a cost-reimbursable basis.

(4) MONITORING.—Each Governor of a State shall conduct onsite monitoring of each local area within the State to ensure compliance with the uniform administrative requirements referred to in paragraph (3).

(5) ACTION BY GOVERNOR.—If the Governor determines that a local area is not in compliance with the uniform administrative requirements referred to in paragraph (3), the Governor shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

(6) CERTIFICATION.—The Governor shall, every 3 years, certify to the Secretary that—

(A) the State has implemented the uniform administrative requirements referred to in paragraph (3);

(B) the State has monitored local areas to ensure compliance with the uniform administrative requirements as required under paragraph (4); and

(C) the State has taken appropriate action to secure compliance pursuant to paragraph (5).

(7) ACTION BY THE SECRETARY.—If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (f) in the event of failure of the Governor to take the required appropriate action to secure compliance.

(b) SUBSTANTIAL VIOLATION.—

(1) ACTION BY GOVERNOR.—If, as a result of a financial or compliance audit or otherwise, the Governor determines that there is a substantial violation of a specific provision of this title, including regulations issued under this title, and corrective action has not been taken, the Governor shall impose a reorganization plan, which may include—

(A) decertifying the local partnership involved in accordance with section 308(c)(3);

(B) prohibiting the use of providers who have been identified as eligible providers of workforce investment activities under chapter 3 of subtitle A;

(C) selecting an alternative entity to administer a program or activity for the local area involved;

(D) merging the local area into 1 or more other local areas; or

(E) making such other changes as the Secretary or Governor determines to be necessary to secure compliance.

(2) APPEAL.—The action taken by the Governor pursuant to paragraph (1) may be appealed to the Secretary, who shall make a final decision on the appeal not later than 60 days after the receipt of the appeal.

(3) ACTION BY SECRETARY.—If the Governor fails to take promptly the action required under paragraph (1), the Secretary shall take such action.

(c) ACCESS BY COMPTROLLER GENERAL.—For the purpose of evaluating and reviewing programs and activities established or provided for by this title, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs and activities that are in the possession, custody, or control of a State, a local partnership, any recipient of funds under this title, or any subgrantee or contractor of such a recipient.

(d) REPAYMENT OF CERTAIN AMOUNTS TO THE UNITED STATES.—

(1) IN GENERAL.—Every recipient of funds under this title shall repay to the United States amounts found not to have been expended in accordance with this title.

(2) OFFSET OF REPAYMENT.—If the Secretary determines that a State has expended funds made available under this title in a manner contrary to the requirements of this title, the Secretary may offset repayment of such expenditures against any other amount to which the State is or may be entitled, except as provided under subsection (e)(1).

(3) REPAYMENT FROM DEDUCTION BY STATE.—If the Secretary requires a State to repay funds as a result of a determination that a local area of the State has expended funds contrary to the requirements of this title, the Governor of the State may use an amount deducted under paragraph (4) to repay the funds, except as provided under subsection (e)(1).

(4) DEDUCTION BY STATE.—The Governor may deduct an amount equal to the misexpenditure described in paragraph (3) from subsequent program year allocations to the local area from funds reserved for the administrative costs of the local programs involved, as appropriate.

(5) LIMITATIONS.—A deduction made by a State as described in paragraph (4) shall not be made until such time as the Governor has taken appropriate corrective action to ensure full compliance within such local area with regard to appropriate expenditures of funds under this title.

(e) REPAYMENT OF AMOUNTS.—

(1) IN GENERAL.—Each recipient of funds under this title shall be liable to repay the amounts described in subsection (d)(1), from funds other than funds received under this title, upon a determination by the Secretary that the misexpenditure of funds was due to willful disregard of the requirements of this title, gross negligence, failure to observe accepted standards of administration, or a pattern of misexpenditure as described in paragraphs (2) and (3) of subsection (d). No such determination shall be made under this subsection or subsection (d) until notice and opportunity for a fair hearing has been given to the recipient.

(2) FACTORS IN IMPOSING SANCTIONS.—In determining whether to impose any sanction authorized by this section against a recipient for violations by a subgrantee or contractor of such recipient under this title (including the regulations issued under this title), the Secretary shall first determine whether such recipient has adequately demonstrated that the recipient has—

(A) established and adhered to an appropriate system for the award and monitoring of grants and contracts with subgrantees and contractors that contains acceptable standards for ensuring accountability;

(B) entered into a written grant agreement or contract with such subgrantee or contractor that established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the grant agreement or contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this title, including regulations issued under this title, by such subgrantee or contractor.

(3) WAIVER.—If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this title and any applicable Federal or State law directly against any subgrantee or contractor for violation of this title, including regulations issued under this title.

(f) IMMEDIATE TERMINATION OR SUSPENSION OF ASSISTANCE IN EMERGENCY SITUATIONS.—In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program or activity involved, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, to the recipient if the recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

(g) DISCRIMINATION AGAINST PARTICIPANTS.—If the Secretary determines that any recipient of funds under this title has discharged or in any other manner discriminated in violation of section 378 against, a participant or any other individual in connection with the administration of the program or activity involved, or any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this title, or has testified or is about to testify in any such proceeding or investigation under or related to this title, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this title, including regulations issued under this title, the Secretary shall, within 30 days after the date of the determination, take such action or order such corrective measures, as may be necessary, with respect to the recipient or the aggrieved individual.

(h) REMEDIES.—The remedies described in this section shall not be construed to be the exclusive remedies available for violations described in this section.

SEC. 375. REPORTS; RECORDKEEPING; INVESTIGATIONS.

(a) REPORTS.—

(1) IN GENERAL.—Recipients of funds under this title shall keep records that are sufficient to permit the preparation of reports required by this title and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

(2) SUBMISSION TO THE SECRETARY.—Every such recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary may require regarding the performance of programs and activities carried out under this title. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by Congress or a committee of Congress.

(3) MAINTENANCE OF STANDARDIZED RECORDS.—In order to allow for the preparation of the reports required under subsection (c), such recipients shall maintain standardized records for all individual participants and provide to the Secretary a sufficient number of such records to provide for an adequate analysis of the records.

(4) AVAILABILITY TO THE PUBLIC.—

(A) IN GENERAL.—Except as provided in subparagraph (B), records maintained by such recipients pursuant to this subsection shall be made available to the public upon request.

(B) EXCEPTION.—Subparagraph (A) shall not apply to—

(i) information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(ii) trade secrets, or commercial or financial information, that is obtained from a person and privileged or confidential.

(C) FEES TO RECOVER COSTS.—Such recipients may charge fees sufficient to recover costs applicable to the processing of requests for records under subparagraph (A).

(b) INVESTIGATIONS OF USE OF FUNDS.—

(1) IN GENERAL.—

(A) SECRETARY.—In order to evaluate compliance with the provisions of this title, the Secretary shall conduct, in several States, in each fiscal year, investigations of the use of funds received by recipients under this title.

(B) COMPTROLLER GENERAL OF THE UNITED STATES.—In order to ensure compliance with the provisions of this title, the Comptroller General of the United States may conduct investigations of the use of funds received under this title by any recipient.

(2) PROHIBITION.—In conducting any investigation under this title, the Secretary or the Comptroller General of the United States may not request the compilation of any information that the recipient is not otherwise required to compile and that is not readily available to such recipient.

(3) AUDITS.—

(A) IN GENERAL.—In carrying out any audit under this title (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through grant or contract, the Secretary, the Inspector General of the Department of Labor, or the Comptroller General of the United States shall furnish to the State, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not later than 14 days (or as soon as practicable), prior to the commencement of the audit.

(B) NOTIFICATION REQUIREMENT.—If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

(C) ADDITIONAL REQUIREMENT.—The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding contained in the reports.

(D) RULE OF CONSTRUCTION.—Nothing contained in this title shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General of the United States.

(c) ACCESSIBILITY OF REPORTS.—Each State, each local partnership, and each recipient (other than a subrecipient, subgrantee, or contractor of a recipient) receiving funds under this title shall—

(1) make readily accessible such reports concerning its operations and expenditures as shall be prescribed by the Secretary;

(2) prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide, local area, and other appropriate bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 378; and

(3) monitor the performance of providers in complying with the terms of grants, contracts, or other agreements made pursuant to this title.

(d) INFORMATION TO BE INCLUDED IN REPORTS.—

(1) IN GENERAL.—The reports required in subsection (c) shall include information regarding programs and activities carried out under this title pertaining to—

(A) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information regarding participants;

(B) the programs and activities in which participants are enrolled, and the length of time that participants are engaged in such programs and activities;

(C) outcomes of the programs and activities for participants, including the occupations of participants, and placement for participants in nontraditional employment;

(D) specified costs of the programs and activities; and

(E) information necessary to prepare reports to comply with section 378.

(2) ADDITIONAL REQUIREMENT.—The Secretary shall ensure that all elements of the information required for the reports described in paragraph (1) are defined and reported uniformly.

(e) RETENTION OF RECORDS.—The Governor of a State that receives funds under this title shall ensure that requirements are established for retention of all records of the State pertinent to all grants awarded, and contracts and agreements entered into, under this title, including financial, statistical, property, and participant records and supporting documentation. For funds allotted to a State under this title for any program year, the State shall retain the records for 2 subsequent program years. The State shall retain records for nonexpendable property that is used to carry out this title for a period of 3 years after final disposition of the property.

(f) QUARTERLY FINANCIAL REPORTS.—

(1) IN GENERAL.—Each local partnership in the State shall submit quarterly financial reports to the Governor with respect to programs and activities carried out under this title. Such reports shall include information identifying all program and activity costs by cost category in accordance with generally accepted accounting principles and by year of the appropriation involved.

(2) ADDITIONAL REQUIREMENT.—Each State shall submit to the Secretary, on a quarterly basis, a summary of the reports submitted to the Governor pursuant to paragraph (1).

(g) MAINTENANCE OF ADDITIONAL RECORDS.—Each State and local partnership shall maintain records with respect to programs and activities carried out under this title that identify—

(1) any income or profits earned, including such income or profits earned by subrecipients; and

(2) any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.

(h) COST CATEGORIES.—In requiring entities to maintain records of costs by category under this title, the Secretary shall require only that the costs be categorized as administrative or programmatic costs.

SEC. 376. ADMINISTRATIVE ADJUDICATION.

(a) IN GENERAL.—Whenever any applicant for financial assistance under this title is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient for whom a corrective action has been required or a sanction has been imposed by the Secretary under section 374. Except to the extent provided for in section 371(c) or 378, all other disputes arising under this title relating to the manner in which the recipient carries out a program or activity under this title shall be adjudicated under grievance procedures established by the recipient or under applicable law other than this title.

(b) APPEAL.—The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part of the decision has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. After the 20-day period the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days after such filing, has notified the parties that the case involved has been accepted for review.

(c) TIME LIMIT.—Any case accepted for review by the Secretary under subsection (b) shall be decided within 180 days after such acceptance. If the case is not decided within the 180-day period, the decision of the administrative law judge shall become the final decision of the Secretary at the end of the 180-day period.

(d) ADDITIONAL REQUIREMENT.—The provisions of section 377 shall apply to any final action of the Secretary under this section.

SEC. 377. JUDICIAL REVIEW.

(a) REVIEW.—

(1) PETITION.—With respect to any final order by the Secretary under section 376 by which the Secretary awards, declines to award, or only conditionally awards, financial assistance under this title, or any final order of the Secretary under section 376 with respect to a corrective action or sanction imposed under section 374, any party to a proceeding which resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds involved, by filing a review petition within 30 days after the date of issuance of such final order.

(2) ACTION ON PETITION.—The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record on which the final order was entered as provided in section 2112 of title 28, United States Code. The filing of a review petition shall not stay the order of the Secretary, unless the court orders a stay. Petitions filed under this subsection shall be heard expeditiously, if possible within 10 days after the date of filing of a reply to the petition.

(3) STANDARD AND SCOPE OF REVIEW.—No objection to the order of the Secretary shall be considered by the court unless the objection was specifically urged, in a timely manner, before the Secretary. The review shall be limited to questions of law and the findings of fact of the Secretary shall be conclusive if supported by substantial evidence.

(b) JUDGMENT.—The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The judgment of the court regarding the order shall be final, subject to certiorari review by the Supreme Court as provided in section 1254(1) of title 28, United States Code.

SEC. 378. NONDISCRIMINATION.

(a) PROHIBITED DISCRIMINATION.—

(1) PROHIBITION ON DISCRIMINATION IN FEDERAL PROGRAMS AND ACTIVITIES.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), or on the basis of religion under any applicable provision of Federal law, programs and activities funded or otherwise financially assisted in whole or in part under this title shall be considered to be programs and activities receiving Federal financial assistance, and education programs and activities receiving Federal financial assistance.

(2) PROHIBITION OF DISCRIMINATION REGARDING PARTICIPATION, BENEFITS, AND EMPLOYMENT.—Except as otherwise permitted under title IX of the Education Amendments of 1972, no individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.

(3) PROHIBITION ON ASSISTANCE FOR FACILITIES FOR SECTARIAN INSTRUCTION OR RELIGIOUS WORSHIP.—Participants shall not be employed under this title to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).

(4) PROHIBITION ON DISCRIMINATION ON BASIS OF PARTICIPANT STATUS.—No person may discriminate against an individual who is a participant in a program or activity that receives funds under this title, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant, in carrying out any endeavor that involves—

(A) participants in programs and activities that receive funding under this title; and

(B) persons who receive no assistance under this title.

(5) PROHIBITION ON DISCRIMINATION AGAINST CERTAIN NONCITIZENS.—Participation in programs and activities or receiving funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, other aliens lawfully present in the United States, and other individuals authorized by the Attorney General to work in the United States.

(b) ACTION OF SECRETARY.—Whenever the Secretary finds that a State or other recipient of funds under this title has failed to comply with a provision of law referred to in subsection (a)(1), or with paragraph (2), (3), (4), or (5) of subsection (a), including an applicable regulation prescribed to carry out such provision or paragraph, the Secretary shall notify such State or recipient and shall request that the State or recipient comply. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided to the head of a Federal department or agency under the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964, as may be applicable; or

(3) take such other action as may be provided by law.

(c) ACTION OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient of funds under this title is engaged in a pattern or practice of discrimination in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) JOB CORPS MEMBERS.—For purposes of this section, Job Corps members shall be considered as the ultimate beneficiaries of a program or activity receiving Federal financial assistance and an education program or activity receiving Federal financial assistance.

SEC. 379. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe rules and regulations to carry out this title to the extent necessary to implement, administer, and ensure compliance with the requirements of this title. Such rules and regulations may include provisions making adjustments authorized by section 6504 of title 31, United States Code. All such rules and regulations shall be published in the Federal Register at least 30 days prior to their effective dates. Copies of each such rule or regulation shall be transmitted to the appropriate committees of Congress on the date of such publication and shall contain, with respect to each material provision of such rule or regulation, a citation to the particular substantive section of law that is the basis for the provision.

(b) ACQUISITION OF CERTAIN PROPERTY AND SERVICES.—The Secretary is authorized, in carrying out this title, to accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.

(c) AUTHORITY TO ENTER INTO CERTAIN AGREEMENTS AND TO MAKE CERTAIN EXPENDITURES.—The Secretary may make such grants, enter into such contracts or agreements, establish such procedures, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend such funds under this title, as may be necessary to carry out this title, including making expenditures for construction, repairs, and capital improvements, and including making necessary adjustments in payments on account of overpayments or underpayments.

(d) ANNUAL REPORT.—The Secretary shall prepare and submit to Congress an annual report regarding the programs and activities carried out under this title. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs and activities in meeting the objectives of this title;

(2) a summary of major findings from research, evaluations, pilot projects, and experiments conducted under this title in the fiscal year prior to the submission of the report;

(3) recommendations for modifications in the programs and activities based on analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary determines to be appropriate.

(e) UTILIZATION OF SERVICES AND FACILITIES.—The Secretary is authorized, in carrying out this title, under the same procedures as are applicable under subsection (c) or to the extent permitted by law other than this title, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized, in carrying out this title, to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with the consent of the State or political subdivision.

(f) OBLIGATIONAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary shall have no authority to enter into contracts, grant agreements, or other financial assistance agreements under this title except to such extent and in such amounts as are provided in advance in appropriations Acts.

(g) PROGRAM YEAR.—

(1) IN GENERAL.—

(A) PROGRAM YEAR.—Except as provided in subparagraph (B), appropriations for any fiscal year for programs and activities carried out under this title shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(B) YOUTH ACTIVITIES.—The Secretary may make available for obligation, beginning April 1 of any fiscal year, funds appropriated for such fiscal year to carry out youth activities under subtitle A.

(2) AVAILABILITY.—Funds obligated for any program year for a program or activity carried out under this title may be expended by each State receiving such funds during that program year and the 2 succeeding program years. Funds obligated for any program year for a program or activity carried out under section 367 or 368 shall remain available until expended. Funds received by local areas from States under this title during a program year may be expended during that program year and the succeeding program year. No amount of the funds described in this paragraph shall be deobligated on account of a rate of expenditure that is consistent with a State plan, an operating plan described in section 341, or a plan, grant agreement, contract, application, or other agreement described in subtitle C, as appropriate.

(h) ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT.—The Secretary shall ensure that each individual participating in any program or activity established under this title, or receiving any assistance or benefit under this title, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.

(i) WAIVERS AND SPECIAL RULES.—

(1) EXISTING WAIVERS.—With respect to a State that has been granted a waiver under the provisions relating to training and employment services of the Department of Labor in title I of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–234), the authority provided under such waiver shall continue in effect and apply, and include a waiver of the related provisions of subtitle A and this subtitle, for the duration of the initial waiver.

(2) SPECIAL RULE REGARDING DESIGNATED AREAS.—A State that enacts, not later than December 31, 1997, a State law providing for the designation of service delivery areas for the delivery of workforce investment activities, may use such areas as local areas under this title, notwithstanding section 307(a).

(3) SPECIAL RULE REGARDING SANCTIONS.—A State that enacts, not later than December 31, 1997, a State law providing for the sanctioning of such service delivery areas for failure to meet performance measures for workforce investment activities, may use the State law to sanction local areas for failure to meet State performance measures under this title.

(4) GENERAL WAIVERS OF STATUTORY OR REGULATORY REQUIREMENTS.—

(A) GENERAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary may waive for a State, or a local area in a State, pursuant to a request submitted by the Governor of the State (in consultation with appropriate local elected officials) that meets the requirements of subparagraph (B)—

(i) any of the statutory or regulatory requirements of subtitle A or this subtitle (except for requirements relating to wage and labor standards, worker rights, participation and protection of workers, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility of providers or participants, the establishment and functions of local areas and local partnerships, and procedures for review and approval of plans); and

(ii) any of the statutory or regulatory requirements of sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i) (excluding requirements relating to the provision of services to unemployment insurance claimants and veterans, and requirements relating to universal access to basic labor exchange services without cost to jobseekers).

(B) REQUESTS.—A Governor requesting a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the statewide workforce investment system that—

(i) identifies the statutory or regulatory requirements that are requested to be waived and *the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver;*

(ii) describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;

(iii) describes the goals of the waiver and the expected programmatic outcomes if the request is granted;

(iv) describes the individuals impacted by the waiver; and

(v) describes the process used to monitor the progress in implementing such a waiver, and the process by which notice and an opportunity to comment on such request has been provided to the organizations identified in section 308(c)(2).

(C) CONDITIONS.—Not later than 90 days after the date of the original submission of a request for a waiver under subparagraph (A), the Secretary shall provide a waiver under this paragraph if and only to the extent that—

(i) the Secretary determines that the requirements requested to be waived impede the ability of the State or local area, as appropriate, to implement the plan described in subparagraph (B); and

(ii) the State has executed a memorandum of understanding with the Secretary requiring such State to meet, or ensure that the local area meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability.

SEC. 380. STATE LEGISLATIVE AUTHORITY.

(a) AUTHORITY OF STATE LEGISLATURE.—Nothing in this title shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this title, of the activities assisted under this title. Any funds received by a State under this title shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this title.

(b) INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS.—In the event that compliance with provisions of this title would be enhanced by compacts and cooperative agreements between States, the consent of Congress is given to States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

SEC. 381. WORKFORCE FLEXIBILITY PARTNERSHIP PLANS.

(a) PLANS.—A State may submit to the Secretary, and the Secretary may approve, a workforce flexibility partnership plan under which the State is authorized to waive, in accordance with the plan—

(1) any of the statutory or regulatory requirements applicable under this title to local areas, pursuant to applications for such waivers from the local areas, except for requirements relating to the basic purposes of this title, wage and labor standards, grievance procedures and judicial review, nondiscrimination, eligibility of participants, allocation of funds to local areas, establishment and functions of local areas and local partnerships, review and approval of local plans, and worker rights, participation, and protection;

(2) any of the statutory or regulatory requirements applicable under sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i) to the State, except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to jobseekers; and

(3) any of the statutory or regulatory requirements applicable under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) to State agencies on aging with respect to activities carried out using funds allotted under section 506(a)(3) of such Act (42 U.S.C. 3056d(a)(3)), except for requirements relating to the basic purposes of such Act, wage and labor standards, eligibility of participants in the activities, and standards for agreements.

(b) CONTENT OF PLANS.—A workforce flexibility partnership plan implemented by a State under subsection (a) shall include descriptions of—

(1)(A) the process by which local areas in the State may submit and obtain approval by the State of applications for waivers of requirements applicable under this title; and

(B) the requirements described in subparagraph (A) that are likely to be waived by the State under the plan;

(2) the requirements applicable under sections 8 through 10 of the Wagner-Peyser Act that are proposed to be waived, if any;

(3) the requirements applicable under the Older Americans Act of 1965 that are proposed to be waived, if any;

(4) the outcomes to be achieved by the waivers described in paragraphs (1) through (3); and

(5) other measures to be taken to ensure appropriate accountability for Federal funds in connection with the waivers.

(c) PERIODS.—The Secretary may approve a workforce flexibility partnership plan for a period of not more than 5 years.

(d) OPPORTUNITY FOR PUBLIC COMMENTS.—Prior to submitting a workforce flexibility partnership plan to the Secretary for approval, the State shall provide to all interested parties and to the general public adequate notice and a reasonable opportunity for comment on the waiver requests proposed to be implemented pursuant to such plan.

SEC. 382. USE OF CERTAIN REAL PROPERTY.

(a) IN GENERAL.—Notwithstanding any other provision of law, pursuant to a plan submitted by a Governor of a State and approved by the Secretary, the Governor may authorize a public agency to use, for any of the functions of a one-stop customer service system within the State, real property in which, as of the effective date of this Act, the Federal Government has acquired equity through use of funds provided under title III of the Social Security Act (42 U.S.C. 501 et seq.), section 903(c) of such Act (42 U.S.C. 1103(c)), or the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(b) USE OF FUNDS.—Subsequent to the commencement of the use of the property described in subsection (a) for the functions of a one-stop customer service system, funds provided under the provisions of law described in subsection (a) may only be used to acquire further equity in such property, or to pay operating and maintenance expenses relating to such property in proportion to the extent of the use of such property attributable to the activities authorized under such provisions of law.

SEC. 383. CONTINUATION OF STATE ACTIVITIES AND POLICIES.

(a) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may not deny approval of a State plan for a covered State, or an application of a covered State for financial assistance, under this title or find a covered State (including a statewide partnership or Governor), or a local area (including a local partnership or chief elected official) in a covered State, in violation of a provision of this title, on the basis that—

(1)(A) the State proposes to allocate or disburse, allocates, or disburses, within the State, funds made available to the State under section 302 in accordance with the allocation formula for the type of activities involved, or in accordance with a disbursal procedure or process, used by the State under prior consistent State law; or

(B) a local partnership in the State proposes to disburse, or disburses, within the local area, funds made available to a State under section 302 in accordance with a disbursal procedure or process used by a private industry council under prior consistent State law;

(2) the State proposes to carry out or carries out a State procedure through which local areas use, as fiscal agents for funds made available to the State under section 302 and allocated within the State, fiscal agents selected in accordance with a process established under prior consistent State law;

(3) the State proposes to carry out or carries out a State procedure through which the local partnerships in the State (or the local partnerships, the chief elected officials in the State, and the Governor) designate or select the one-stop partners and one-stop customer service center operators of the statewide system in the State under prior consistent State law, in lieu of making the appointment, designation, or certification described in section 311 (regardless of the date the one-stop customer service systems involved have been established);

(4) the State proposes to carry out or carries out a State procedure through which the persons responsible for selecting eligible providers for purposes of subtitle A are permitted to determine that a provider shall not be selected to provide both intake services under section 315(c)(2) and training services under section 315(c)(3), under prior consistent State law;

(5) the State proposes to designate or designates a statewide partnership, or proposes to assign or assigns functions and roles of the statewide partnership (including determining the time periods for development and submission of a State plan required under section 304), for purposes of subtitle A in accordance with prior consistent State law; or

(6) a local partnership in the State proposes to use or carry out, uses, or carries out a local plan (including assigning functions and roles of the local partnership) for purposes of subtitle A in accordance with the authorities and requirements applicable to local plans and private industry councils under prior consistent State law.

(b) DEFINITION.—In this section:

(1) COVERED STATE.—The term "covered State" means a State that enacted a State law described in paragraph (2).

(2) PRIOR CONSISTENT STATE LAW.—The term "prior consistent State law" means a State law, not inconsistent with the Job Training Partnership Act or any other applicable Federal law, that took effect on September 1, 1993, September 1, 1995, or September 1, 1997.

Subtitle E—Repeals and Conforming Amendments

SEC. 391. REPEALS.

(a) GENERAL IMMEDIATE REPEALS.—The following provisions are repealed:

(1) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(2) Title II of Public Law 95–250 (92 Stat. 172).

(3) The Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.).

(4) Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211).

(5) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.), except section 738 of such title (42 U.S.C. 11448).

(6) Subchapter I of chapter 421 of title 49, United States Code.

(b) SUBSEQUENT REPEALS.—The following provisions are repealed:

(1) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(2) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.), except subtitle B and section 738 of such title (42 U.S.C. 11431 et seq. and 11448).

SEC. 392. CONFORMING AMENDMENTS.

(a) PREPARATION.—After consultation with the appropriate committees of Congress and the

Director of the Office of Management and Budget, the Secretary shall prepare recommended legislation containing technical and conforming amendments to reflect the changes made by this subtitle.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to Congress the recommended legislation referred to under subsection (a).

SEC. 393. EFFECTIVE DATES.

(a) IMMEDIATE REPEALS.—The repeals made by section 391(a) shall take effect on the date of enactment of this Act.

(b) SUBSEQUENT REPEALS.—The repeals made by section 391(b) shall take effect on July 1, 1999.

TITLE IV—WORKFORCE INVESTMENT-RELATED ACTIVITIES

Subtitle A—Wagner-Peyser Act

SEC. 401. DEFINITIONS.

Section 2 of the Wagner-Peyser Act (29 U.S.C. 49a) is amended—

(1) in paragraph (1)—

(A) by striking "or officials"; and

(B) by striking "Job Training Partnership Act" and inserting "Workforce Investment Partnership Act of 1998";

(2) by striking paragraphs (2) and (4);

(3) by redesignating paragraphs (3) and (5) as paragraphs (5) and (6), respectively;

(4) by inserting after paragraph (1) the following:

"(2) the term 'local workforce investment area' means a local workforce investment area designated under section 307 of the Workforce Investment Partnership Act of 1998;

"(3) the term 'local workforce investment partnership' means a local workforce investment partnership established under section 308 of the Workforce Investment Partnership Act of 1998;

"(4) the term 'one-stop customer service system' means a one-stop customer service system established under section 315(b) of the Workforce Investment Partnership Act of 1998;"; and

(5) in paragraph (5) (as redesignated in paragraph (3)), by striking the semicolon and inserting "; and".

SEC. 402. FUNCTIONS.

(a) IN GENERAL.—Section 3 of the Wagner-Peyser Act (29 U.S.C. 49b) is amended—

(1) in subsection (a), by striking "United States Employment Service" and inserting "Secretary"; and

(2) by adding at the end the following:

"(c) The Secretary shall—

"(1) assist in the coordination and development of a nationwide system of public labor exchange services, provided as part of the one-stop customer service systems of the States;

"(2) assist in the development of continuous improvement models for such nationwide system that ensure private sector satisfaction with the system and meet the demands of jobseekers relating to the system; and

"(3) ensure, for individuals otherwise eligible to receive unemployment compensation, the provision of reemployment services and other activities in which the individuals are required to participate to receive the compensation.".

(b) CONFORMING AMENDMENTS.—Section 508(b)(1) of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a(b)(1)) is amended—

(1) by striking "the third sentence of section 3(a)" and inserting "section 3(b)"; and

(2) by striking "49b(a)" and inserting "49b(b)".

SEC. 403. DESIGNATION OF STATE AGENCIES.

Section 4 of the Wagner-Peyser Act (29 U.S.C. 49c) is amended—

(1) by striking ", through its legislature," and inserting ", pursuant to State statute,";

(2) by inserting after "the provisions of this Act and" the following: ", in accordance with such State statute, the Governor shall"; and

(3) by striking "United States Employment Service" and inserting "Secretary".

SEC. 404. APPROPRIATIONS.

Section 5(c) of the Wagner-Peyser Act (29 U.S.C. 49d(c)) is amended by striking paragraph (3).

SEC. 405. DISPOSITION OF ALLOTTED FUNDS.

Section 7 of the Wagner-Peyser Act (29 U.S.C. 49f) is amended—

(1) in subsection (b)(2), by striking "private industry council" and inserting "local workforce investment partnership";

(2) in subsection (c)(2), by striking "any program under" and all that follows and inserting "any workforce investment activity carried out under the Workforce Investment Partnership Act of 1998.";

(3) in subsection (d)—

(A) by striking "United States Employment Service" and inserting "Secretary"; and

(B) by striking "Job Training Partnership Act" and inserting "Workforce Investment Partnership Act of 1998"; and

(4) by adding at the end the following:

"(e) All job search, placement, recruitment, labor market information, and other labor exchange services authorized under subsection (a) shall be provided, consistent with the other requirements of this Act, as part of the one-stop customer service system established by the State.".

SEC. 406. STATE PLANS.

Section 8 of the Wagner-Peyser Act (29 U.S.C. 49g) is amended—

(1) in subsection (a) to read as follows:

"(a) Any State desiring to receive assistance under this Act shall submit to the Secretary, as part of the State plan submitted under section 304 of the Workforce Investment Partnership Act of 1998, detailed plans for carrying out the provisions of this Act within such State.";

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b);

(4) by inserting after subsection (b) the following:

"(c) The part of the State plan described in subsection (a) shall include the information described in paragraphs (9) and (17) of section 304(b) of the Workforce Investment Partnership Act of 1998.";

(5) by redesignating subsection (e) as subsection (d); and

(6) in subsection (d) (as redesignated in paragraph (5)), by striking "such plans" and inserting "such detailed plans".

SEC. 407. REPEAL OF FEDERAL ADVISORY COUNCIL.

Section 11 of the Wagner-Peyser Act (29 U.S.C. 49j) is amended by striking "11." and all that follows through "(b) In" and inserting "11. In".

SEC. 408. REGULATIONS.

Section 12 of the Wagner-Peyser Act (29 U.S.C. 49k) is amended by striking "The Director, with the approval of the Secretary of Labor," and inserting "The Secretary".

SEC. 409. LABOR MARKET INFORMATION.

The Wagner-Peyser Act is amended—

(1) by redesignating section 15 (29 U.S.C. 49 note) as section 16; and

(2) by inserting after section 14 (29 U.S.C. 49l-1) the following:

"SEC. 15. LABOR MARKET INFORMATION.

"(a) SYSTEM CONTENT.—

"(1) IN GENERAL.—The Secretary, in accordance with the provisions of this section, shall oversee the development, maintenance, and continuous improvement of a system of labor market information that includes—

"(A) statistical data from cooperative statistical survey and projection programs and data from administrative reporting systems that, taken together, enumerate, estimate, and project the employment opportunities at the national, State, and local levels in a timely manner, including data on—

"(i) employment and unemployment status of the national, State, and local populations, as such data are developed by the Bureau of Labor Statistics and other sources;

"(ii) industrial distribution of occupations, as well as current and projected employment opportunities and skill trends by occupation and industry, with particular attention paid to State and local employment opportunities;

"(iii) the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings; and

"(iv) employee information maintained in a longitudinal manner and collected (as of the date of enactment of the Workforce Investment Partnership Act of 1998) by States;

"(B) State and local employment information, and other appropriate statistical data related to labor market dynamics (compiled for States and localities with technical assistance provided by the Secretary), which shall—

"(i) be current and comprehensive, as of the date used;

"(ii) assist individuals to make informed choices relating to employment and training; and

"(iii) assist employers to locate, identify skill traits of, and train individuals who are seeking employment and training;

"(C) technical standards (which the Secretary shall make publicly available) for data and information described in subparagraphs (A) and (B) that, at a minimum, meet the criteria of chapter 35 of title 44, United States Code;

"(D) procedures to ensure compatibility and additivity of the data and information described in subparagraphs (A) and (B) from national, State, and local levels;

"(E) procedures to support standardization and aggregation of data from administrative reporting systems described in subparagraph (A) of employment-related programs;

"(F) analysis of data and information described in subparagraphs (A) and (B) for uses such as State and local policymaking;

"(G) wide dissemination of such data, information, and analysis, training for users of the data, information, and analysis, and voluntary technical standards for dissemination mechanisms; and

"(H) programs of—

"(i) research and demonstration; and

"(ii) technical assistance for States and localities.

"(2) INFORMATION TO BE CONFIDENTIAL.—

"(A) IN GENERAL.—No officer or employee of the Federal Government or agent of the Federal Government may—

"(i) use any submission that is furnished for exclusively statistical purposes under the provisions of this section for any purpose other than the statistical purposes for which the submission is furnished;

"(ii) make any publication or media transmittal of the data contained in the submission described in clause (i) that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means; or

"(iii) permit anyone other than a sworn officer, employee, or agent of any Federal department or agency, or a contractor (including an employee of a contractor) of such department or agency, to examine an individual submission described in clause (i);

without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission.

"(B) IMMUNITY FROM LEGAL PROCESS.—Any submission (including any data derived from the submission) that is collected and retained by a Federal department or agency, or an officer, employee, agent, or contractor of such a department or agency, for exclusively statistical purposes under this section shall be immune from the legal process and shall not, without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) CONSTRUCTION.—Nothing in this section shall be construed to provide immunity from the legal process for such submission (including any data derived from the submission) if the submission is in the possession of any person, agency, or entity other than the Federal Government or an officer, employee, agent, or contractor of the Federal Government, or if the submission is independently collected, retained, or produced for purposes other than the purposes of this Act.

"(b) SYSTEM RESPONSIBILITIES.—

"(1) IN GENERAL.—The labor market information system shall be planned, administered, overseen, and evaluated through a cooperative governance structure involving the Federal Government and States.

"(2) DUTIES.—The Secretary, with respect to data collection, analysis, and dissemination of labor market information for the system, shall carry out the following duties:

"(A) Assign responsibilities within the Department of Labor for elements of the system described in subsection (a) to ensure that all statistical and administrative data collected is consistent with appropriate Bureau of Labor Statistics standards and definitions.

"(B) Actively seek the cooperation of other Federal agencies to establish and maintain mechanisms for ensuring complementarity and nonduplication in the development and operation of statistical and administrative data collection activities.

"(C) Eliminate gaps and duplication in statistical undertakings, with the systemization of wage surveys as an early priority.

"(D) In collaboration with the Bureau of Labor Statistics and States, develop and maintain the elements of the system described in subsection (a), including the development of consistent definitions for use by the States in collecting the data and information described in subparagraphs (A) and (B), of subsection (a)(1) and the development of the annual plan under subsection (c).

"(E) Establish procedures for the system to ensure that—

"(i) such data and information are timely;

"(ii) administrative records for the system are consistent in order to facilitate aggregation of such data and information;

"(iii) paperwork and reporting for the system are reduced to a minimum; and

"(iv) States and localities are fully involved in the maintenance and continuous improvement of the system at the State and local levels.

"(c) ANNUAL PLAN.—The Secretary, with the assistance of the States and the Bureau of Labor Statistics, and with the assistance of other appropriate Federal agencies, shall prepare an annual plan which shall be the mechanism for achieving cooperative management of the nationwide labor market information system described in subsection (a) and the statewide labor market information systems that comprise the nationwide system. The plan shall—

"(1)(A) describe the elements of the system described in subsection (a), including standards, definitions, formats, collection methodologies, and other necessary system elements, for use in collecting data and information described in subparagraphs (A) and (B) of subsection (a)(1); and

"(B) include assurances that—

"(i) the data will be timely and detailed;

"(ii) administrative records will be standardized to facilitate the aggregation of the data from local areas to State and national levels and to support the creation of new statistical series from program records; and

"(iii) paperwork and reporting requirements for employers and individuals will be reduced;

"(2) include a report on the results of an annual consumer satisfaction review concerning the performance of the system, including the performance of the system in addressing the needs of Congress, States, localities, employers, jobseekers, and other consumers;

"(3) evaluate the performance of the system and recommend needed improvements, taking into consideration the results of the consumer satisfaction review, with particular attention paid to the improvements needed at the State and local levels;

"(4) describe annual priorities, and priorities over 5 years, for the system;

"(5) describe current (as of the date of the submission of the plan) spending and spending needs to carry out activities under this section, including the costs to States and localities of meeting the requirements of subsection (e)(2); and

"(6) describe the involvement of States in the development of the plan, through formal consultations conducted by the Secretary in cooperation with representatives of the Governors of every State, and with representatives of local partnerships, pursuant to a process established by the Secretary in cooperation with the States.

"(d) COORDINATION WITH THE STATES.—The Secretary and the Bureau of Labor Statistics, in cooperation with the States, shall—

"(1) develop the annual plan described in subsection (c) by holding formal consultations, at least once each quarter, on the products and administration of the nationwide labor market information system; and

"(2) hold the consultations with representatives from each of the 10 Federal regions of the Employment and Training Administration, elected (pursuant to a process established by the Secretary) by and from the State labor market information directors affiliated with the State agencies that perform the duties described in subsection (e)(2).

"(e) STATE RESPONSIBILITIES.—

"(1) DESIGNATION OF STATE AGENCY.—In order to receive Federal financial assistance under this section, the Governor of a State—

"(A)(i) except as provided in clause (ii), shall designate a single State agency to be responsible for the management of the portions of the system described in subsection (a) that comprise a statewide labor market information system; and

"(ii) may assign the State occupational information coordinating committee established under section 422 of the Carl D. Perkins Vocational and Applied Technology Education Act (as in effect on the day before the date of enactment of the Workforce Investment Partnership Act of 1998), the responsibility to carry out the functions of the system relating to labor market information that such committee carried out on the day prior to such date of enactment; and

"(B) shall establish a process for the oversight of such system.

"(2) DUTIES.—In order to receive Federal financial assistance under this section, the State agency shall—

"(A) consult with State and local employers, participants, and local partnerships about the labor market relevance of the data to be collected and disseminated through the statewide labor market information system;

"(B) consult with State educational agencies and local educational agencies concerning providing labor market information in order to meet the needs of secondary school and postsecondary school students who seek such information;

"(C) collect and disseminate for the system, on behalf of the State and localities in the State, the information and data described in subparagraphs (A) and (B) of subsection (a)(1);

"(D) maintain and continuously improve the statewide labor market information system in accordance with this section;

"(E) perform contract and grant responsibilities for data collection, analysis, and dissemination for such system;

"(F) conduct such other data collection, analysis, and dissemination activities as will ensure an effective statewide labor market information system;

"(G) actively seek the participation of other State and local agencies in data collection, analysis, and dissemination activities in order to ensure complementarity, compatibility, and usefulness of data;

"(H) participate in the development of the annual plan described in subsection (c); and

"(I) utilize the quarterly records described in sections 321(f)(2) and 312 of the Workforce Investment Partnership Act of 1998 to assist the State and other States in measuring State progress on State performance measures.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the ability of a State agency to conduct additional data collection, analysis, and dissemination activities with State funds or with Federal funds from sources other than this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999 through 2004.

"(g) DEFINITIONS.—In this section, the terms 'local area' and 'local partnership' have the meanings given the terms in section 2 of the Workforce Investment Partnership Act of 1998.".

SEC. 410. TECHNICAL AMENDMENTS.

Sections 3(b), 6(b)(1), and 7(d) of the Wagner-Peyser Act (29 U.S.C. 49b(b), 49e(b)(1), and 49f(d)) are amended by striking "Secretary of Labor" and inserting "Secretary".

Subtitle B—Linkages With Other Programs

SEC. 421. TRADE ACT OF 1974.

Section 241 of the Trade Act of 1974 (19 U.S.C. 2313) is amended by adding at the end the following:

"(d) To be eligible to receive funds under this section, a State shall submit to the Secretary an application that includes the description and information described in paragraphs (9) and (17) of section 304(b) of the Workforce Investment Partnership Act of 1998.".

SEC. 422. VETERANS' EMPLOYMENT PROGRAMS.

Chapter 41 of title 38, United States Code, is amended by adding at the end the following:

"§4110B. Coordination and nonduplication

"In carrying out this chapter, the Secretary shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation of this Act that includes the description and information described in paragraphs (9) and (17) of section 304(b) of the Workforce Investment Partnership Act of 1998.".

SEC. 423. OLDER AMERICANS ACT OF 1965.

Section 502(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)) is amended—

(1) in subparagraph (O), by striking "; and" and inserting a semicolon;

(2) in subparagraph (P), by striking the period and inserting "; and"; and

(3) by adding at the end the following subparagraph:

"(Q) will provide to the Secretary the description and information described in paragraphs (9) and (17) of section 304(b) of the Workforce Investment Partnership Act of 1998.".

Subtitle C—Twenty-First Century Workforce Commission

SEC. 431. SHORT TITLE.

This subtitle may be cited as the "Twenty-First Century Workforce Commission Act".

SEC. 432. FINDINGS.

Congress finds that—

(1) information technology is one of the fastest growing areas in the United States economy;

(2) the United States is a world leader in the information technology industry;

(3) the continued growth and prosperity of the information technology industry is important to the continued prosperity of the United States economy;

(4) highly skilled employees are essential for the success of business entities in the information technology industry and other business entities that use information technology;

(5) employees in information technology jobs are highly paid;

(6) as of the date of enactment of this Act, these employees are in high demand in all industries and all regions of the United States; and

(7) through a concerted effort by business entities, the Federal Government, the governments of States and political subdivisions of States, and educational institutions, more individuals will gain the skills necessary to enter into a technology-based job market, ensuring that the United States remains the world leader in the information technology industry.

SEC. 433. DEFINITIONS.

In this subtitle:

(1) Business Entity.—The term "business entity" means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) Commission.—The term "Commission" means the Twenty-First Century Workforce Commission established under section 434.

(3) Information Technology.—The term "information technology" has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 (110 Stat. 679).

(4) State.—The term "State" means each of the several States of the United States and the District of Columbia.

SEC. 434. ESTABLISHMENT OF TWENTY-FIRST CENTURY WORKFORCE COMMISSION.

(a) Establishment.—There is established a commission to be known as the Twenty-First Century Workforce Commission.

(b) Membership.—

(1) Composition.—

(A) In general.—The Commission shall be composed of 21 members, of which—

(i) 7 members shall be appointed by the President;

(ii) 7 members shall be appointed by the Majority Leader of the Senate; and

(iii) 7 members shall be appointed by the Speaker of the House of Representatives.

(B) Governmental representatives.—Of the members appointed under this subsection—

(i) 1 member shall be an officer or employee of the Department of Labor, who shall be appointed by the President;

(ii) 1 member shall be an officer or employee of the Department of Education, who shall be appointed by the President; and

(iii) 2 members shall be representatives of the governments of States and political subdivisions of States, 1 of whom shall be appointed by the Majority Leader of the Senate and 1 of whom shall be appointed by the Speaker of the House of Representatives.

(C) Educators.—Of the members appointed under this subsection, 6 shall be educators who are selected from among elementary, secondary, vocational, and postsecondary educators—

(i) 2 of whom shall be appointed by the President;

(ii) 2 of whom shall be appointed by the Majority Leader of the Senate; and

(iii) 2 of whom shall be appointed by the Speaker of the House of Representatives.

(D) Business representatives.—

(i) In general.—Of the members appointed under this subsection, at least 4 shall be individuals who are employed by non-information technology business entities.

(ii) Size.—Members appointed under this subsection in accordance with clause (i) shall, to the extent practicable, include individuals from business entities of a size that is small or average for a non-information technology business entity.

(2) Date.—The appointments of the members of the Commission shall be made by the later of—

(A) October 31, 1998; or

(B) the date that is 45 days after the date of enactment of this Act.

(c) Period of Appointment; Vacancies.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) Initial Meeting.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) Meetings.—The Commission shall meet at the call of the Chairperson.

(f) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) Chairperson and Vice Chairperson.—The Commission shall select a chairperson and vice chairperson from among its members.

SEC. 435. DUTIES OF THE COMMISSION.

(a) Study.—

(1) In general.—The Commission shall conduct a thorough study of all matters relating to the information technology workforce in the United States.

(2) Matters studied.—The matters studied by the Commission shall include an examination of—

(A) the skills necessary to enter the information technology workforce;

(B) ways to expand the number of skilled information technology workers; and

(C) the relative efficacy of programs in the United States and foreign countries to train information technology workers, with special emphasis on programs that provide for secondary education or postsecondary education in a program other than a 4-year baccalaureate program (including associate degree programs and graduate degree programs).

(3) Public hearings.—As part of the study conducted under this subsection, the Commission shall hold public hearings in each region of the United States concerning the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(4) Existing information.—To the extent practicable, in carrying out the study under this subsection, the Commission shall identify and use existing information related to the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(5) Consultation with chief information officers council.—In carrying out the study under this subsection, the Commission shall consult with the Chief Information Officers Council established under Executive Order No. 13011.

(b) Report.—Not later than 6 months after the first meeting of the Commission, the Commission shall submit a report to the President and the Congress that shall contain a detailed statement of the findings and conclusions of the Commission resulting from the study, together with its recommendations for such legislation and administrative actions as the Commission considers to be appropriate.

(c) Facilitation of Exchange of Information.—In carrying out the study under subsection (a), the Commission shall, to the extent practicable, facilitate the exchange of information concerning the issues that are the subject of the study among—

(1) officials of the Federal Government and the governments of States and political subdivisions of States; and

(2) educators from Federal, State, and local institutions of higher education and secondary schools.

SEC. 436. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 437. COMMISSION PERSONNEL MATTERS.

(a) Compensation of Members.—Except as provided in subsection (b), each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Staff.—

(1) In general.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) Compensation.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that

do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 438. TERMINATION OF THE COMMISSION.

The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its report under section 435(b).

SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 to the Commission to carry out the purposes of this subtitle.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. STATE UNIFIED PLAN.

(a) DEFINITION OF APPROPRIATE SECRETARY.—In this section, the term "appropriate Secretary" means the head of the Federal agency who exercises administrative authority over an activity or program described in subsection (b).

(b) STATE UNIFIED PLAN.—

(1) IN GENERAL.—A State may develop and submit to the appropriate Secretaries a State unified plan for 2 or more of the activities or programs set forth in paragraph (2). The State unified plan shall cover 1 or more of the activities set forth in subparagraphs (A) through (C) of paragraph (2) and may cover 1 or more of the activities set forth in subparagraphs (D) through (M) of paragraph (2).

(2) ACTIVITIES.—The activities and programs referred to in paragraph (1) are as follows:

(A) Activities authorized under title I.

(B) Activities authorized under title II.

(C) Activities authorized under title III.

(D) Programs authorized under section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)).

(E) Work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)).

(F) Activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(G) Programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(H) Programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 of such Act (29 U.S.C. 732).

(I) Activities authorized under chapter 41 of title 38, United States Code.

(J) Programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(K) Programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(L) Programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(M) Training activities carried out by the Department of Housing and Urban Development.

(c) REQUIREMENTS.—

(1) IN GENERAL.—The portion of a State unified plan covering an activity or program described in subsection (b) shall be subject to the requirements, if any, applicable to a plan or application for assistance under the Federal statute authorizing the activity or program.

(2) ADDITIONAL SUBMISSION NOT REQUIRED.—A State that submits a State unified plan covering an activity or program described in subsection (b) that is approved under subsection (d) shall not be required to submit any other plan or application in order to receive Federal funds to carry out the activity or program.

(3) COORDINATION.—A State unified plan shall include—

(A) a description of the methods used for joint planning and coordination of the programs and activities included in the unified plan; and

(B) an assurance that the methods included an opportunity for the entities responsible for planning or administering such programs and activities to review and comment on all portions of the unified plan.

(d) APPROVAL BY THE APPROPRIATE SECRETARIES.—

(1) JURISDICTION.—The appropriate Secretary shall have the authority to approve the portion of the State unified plan relating to the activity or program over which the appropriate Secretary exercises administrative authority. On the approval of the appropriate Secretary, the portion of the plan relating to the activity or program shall be implemented by the State pursuant to the applicable portion of the State unified plan.

(2) APPROVAL.—

(A) IN GENERAL.—A portion of the State unified plan covering an activity or program described in subsection (b) that is submitted to the appropriate Secretary under this section shall be considered to be approved by the appropriate Secretary at the end of the 90-day period beginning on the day the appropriate Secretary receives the portion, unless the appropriate Secretary makes a written determination, during the 90-day period, that the portion is not consistent with the requirements of the Federal statute authorizing the activity or program including the criteria for approval of a plan or application, if any, under such statute or the plan is not consistent with the requirements of subsection (c)(3).

(B) SPECIAL RULE.—In subparagraph (A), the term "criteria for approval of a State plan", relating to activities carried out under title I, II, or III, includes a requirement for agreement between the State and the appropriate Secretary regarding State performance measures, including levels of performance.

SEC. 502. DEFINITIONS FOR CORE INDICATORS OF PERFORMANCE.

(a) IN GENERAL.—In order to ensure nationwide comparability of performance data, the Secretary of Labor and the Secretary of Education, after consultation with the representatives described in subsection (b), shall issue definitions for performance measures established under titles I and II and definitions for core indicators of performance for performance measures established under title III.

(b) REPRESENTATIVES.—The representatives referred to in subsection (a) are representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities (as defined in section 2(13)(B)), educators, participants in activities carried out under this Act, State Directors of vocational education, State Directors of adult education, providers of vocational education, providers of adult education, providers of literacy services, individuals with expertise in serving the employment and training needs of disadvantaged youth (as defined in section 302(b)(3)(C)), parents, and other interested parties, with expertise regarding activities authorized under this Act.

SEC. 503. TRANSITION PROVISIONS.

The Secretary of Education or the Secretary of Labor, as appropriate, shall take such steps as such Secretary determines to be appropriate to provide for the orderly transition to the authority of this Act from any authority under provisions of law to be repealed under subtitle E of title I, subtitle B of title II, or subtitle E of title III, or any related authority.

SEC. 504. PRIVACY.

Nothing in this Act shall be construed to supersede the privacy protections afforded parents and students under section 444 of the General Education Provisions Act (20 U.S.C. 1232g), as added by the Family Educational Rights and Privacy Act of 1974 (section 513 of Public Law 93–380; 88 Stat. 571).

SEC. 505. LIMITATION.

None of the funds made available under this Act may be used to carry out activities authorized under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

SEC. 506. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act takes effect on July 1, 1999.

(b) EARLY IMPLEMENTATION.—At the option of a State, the Governor of the State and the chief official of the eligible agencies in the State may use funds made available under a provision of law described in section 503, or any related authority to implement this Act at any time prior to July 1, 1999.

(c) EARLY IMPLEMENTATION AND TRANSITION PROVISIONS.—Section 503 and this section take effect on the date of enactment of this Act.

(d) TWENTY-FIRST CENTURY WORKFORCE COMMISSION.—Subtitle C of title IV takes effect on the date of enactment of this Act.

TITLE VI—REHABILITATION ACT AMENDMENTS OF 1998

SEC. 601. SHORT TITLE.

This title may be cited as the "Rehabilitation Act Amendments of 1998".

SEC. 602. TITLE.

The title of the Rehabilitation Act of 1973 is amended by striking "to establish special responsibilities" and all that follows and inserting the following: "to create linkage between State vocational rehabilitation programs and workforce investment activities carried out under the Workforce Investment Partnership Act of 1998, to establish special responsibilities for the Secretary of Education for coordination of all activities with respect to individuals with disabilities within and across programs administered by the Federal Government, and for other purposes.".

SEC. 603. GENERAL PROVISIONS.

The Rehabilitation Act of 1973 is amended by striking the matter preceding title I and inserting the following:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Rehabilitation Act of 1973'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Findings; purpose; policy.
"Sec. 3. Rehabilitation Services Administration.
"Sec. 4. Advance funding.
"Sec. 5. Joint funding.
"Sec. 7. Definitions.
"Sec. 8. Allotment percentage.
"Sec. 10. Nonduplication.
"Sec. 11. Application of other laws.
"Sec. 12. Administration of the Act.
"Sec. 13. Reports.
"Sec. 14. Evaluation.
"Sec. 15. Information clearinghouse.
"Sec. 16. Transfer of funds.
"Sec. 17. State administration.
"Sec. 18. Review of applications.
"Sec. 19. Carryover.
"Sec. 20. Client assistance information.
"Sec. 21. Traditionally underserved populations.

"TITLE I—VOCATIONAL REHABILITATION SERVICES

"PART A—GENERAL PROVISIONS

"Sec. 100. Declaration of policy; authorization of appropriations.
"Sec. 101. State plans.
"Sec. 102. Eligibility and individualized rehabilitation employment plan.
"Sec. 103. Vocational rehabilitation services.
"Sec. 104. Non-Federal share for establishment of program.
"Sec. 105. State Rehabilitation Council.

“Sec. 106. Evaluation standards and performance indicators.
“Sec. 107. Monitoring and review.
“Sec. 108. Expenditure of certain amounts.
“Sec. 109. Training of employers with respect to Americans with Disabilities Act of 1990.

“Part B—Basic Vocational Rehabilitation Services

“Sec. 110. State allotments.
“Sec. 111. Payments to States.
“Sec. 112. Client assistance program.

“Part C—American Indian Vocational Rehabilitation Services

“Sec. 121. Vocational rehabilitation services grants.

“Part D—Vocational Rehabilitation Services Client Information

“Sec. 131. Data sharing.

“TITLE II—RESEARCH AND TRAINING

“Sec. 200. Declaration of purpose.
“Sec. 201. Authorization of appropriations.
“Sec. 202. National Institute on Disability and Rehabilitation Research.
“Sec. 203. Interagency Committee.
“Sec. 204. Research and other covered activities.
“Sec. 205. Rehabilitation Research Advisory Council.

“TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS

“Sec. 301. Declaration of purpose and competitive basis of grants and contracts.
“Sec. 302. Training.
“Sec. 303. Special demonstration program.
“Sec. 304. Migrant and seasonal farmworkers.
“Sec. 305. Recreational programs.
“Sec. 306. Measuring of project outcomes and performance.

“TITLE IV—NATIONAL COUNCIL ON DISABILITY

“Sec. 400. Establishment of National Council on Disability.
“Sec. 401. Duties of National Council.
“Sec. 402. Compensation of National Council members.
“Sec. 403. Staff of National Council.
“Sec. 404. Administrative powers of National Council.
“Sec. 405. Authorization of Appropriations.

“TITLE V—RIGHTS AND ADVOCACY

“Sec. 501. Employment of individuals with disabilities.
“Sec. 502. Architectural and Transportation Barriers Compliance Board.
“Sec. 503. Employment under Federal contracts.
“Sec. 504. Nondiscrimination under Federal grants and programs.
“Sec. 505. Remedies and attorneys' fees.
“Sec. 506. Secretarial responsibilities.
“Sec. 507. Interagency Disability Coordinating Council.
“Sec. 508. Electronic and information technology regulations.
“Sec. 509. Protection and advocacy of individual rights.

“TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

“Sec. 601. Short title.

“Part A—Projects in Telecommuting and Self-Employment for Individuals With Disabilities

“Sec. 611. Findings, policies, and purposes.
“Sec. 612. Projects in telecommuting for individuals with disabilities.
“Sec. 613. Projects in self-employment for individuals with disabilities.
“Sec. 614. Discretionary authority for dual-purpose applications.
“Sec. 615. Authorization of appropriations.

“Part B—Projects With Industry

“Sec. 621. Projects with industry.
“Sec. 622. Authorization of appropriations.

“Part C—Supported Employment Services for Individuals With the Most Significant Disabilities

“Sec. 631. Purpose.
“Sec. 632. Allotments.
“Sec. 633. Availability of services.
“Sec. 634. Eligibility.
“Sec. 635. State plan.
“Sec. 636. Restriction.
“Sec. 637. Savings provision.
“Sec. 638. Authorization of appropriations.

“TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

“Chapter 1—Individuals With Significant Disabilities

“Part A—General Provisions

“Sec. 701. Purpose.
“Sec. 702. Definitions.
“Sec. 703. Eligibility for receipt of services.
“Sec. 704. State plan.
“Sec. 705. Statewide Independent Living Council.
“Sec. 706. Responsibilities of the Commissioner.

“Part B—Independent Living Services

“Sec. 711. Allotments.
“Sec. 712. Payments to States from allotments.
“Sec. 713. Authorized uses of funds.
“Sec. 714. Authorization of appropriations.

“Part C—Centers for Independent Living

“Sec. 721. Program authorization.
“Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.
“Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
“Sec. 724. Centers operated by State agencies.
“Sec. 725. Standards and assurances for centers for independent living.
“Sec. 726. Definitions.
“Sec. 727. Authorization of appropriations.

“Chapter 2—Independent Living Services for Older Individuals Who Are Blind

“Sec. 751. Definition.
“Sec. 752. Program of grants.
“Sec. 753. Authorization of appropriations.

“FINDINGS; PURPOSE; POLICY

“Sec. 2. (a) Findings.—Congress finds that—

“(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

“(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

“(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

“(A) live independently;

“(B) enjoy self-determination;

“(C) make choices;

“(D) contribute to society;

“(E) pursue meaningful careers; and

“(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

“(4) increased employment of individuals with disabilities can be achieved through implementation of statewide activities carried out under the Workforce Investment Partnership Act of 1998 that provide meaningful and effective participation for individuals with disabilities in workforce investment activities and activities carried out under the vocational rehabilitation program established under title I, and through the provision of independent living services, support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

“(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

“(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

“(A) make informed choices and decisions; and

“(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

“(b) Purpose.—The purposes of this Act are—

“(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

“(A) statewide activities carried out in accordance with the Workforce Investment Partnership Act of 1998 that include, as integral components, comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

“(B) independent living centers and services;

“(C) research;

“(D) training;

“(E) demonstration projects; and

“(F) the guarantee of equal opportunity; and

“(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

“(c) Policy.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

“(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

“(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

“(3) inclusion, integration, and full participation of the individuals;

“(4) support for the involvement of an individual's representative if an individual with a disability requests, desires, or needs such support; and

“(5) support for individual and systemic advocacy and community involvement.

“REHABILITATION SERVICES ADMINISTRATION

“Sec. 3. (a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the 'Commissioner') appointed by the President by and with the advice and consent of the Senate. Except for titles IV and V and part A of title VI and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management. In the performance of the functions of the office, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall *not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this Act to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of the functions of the office under this Act, the Commissioner shall be guided by general policies of the National Council on Disability established under title IV of this Act.*

"(b) The Secretary shall take whatever action is necessary to ensure that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act (29 U.S.C. 31–42), are expended only for the programs, personnel, and administration of programs carried out under this Act.

"(c) The Secretary shall take such action as necessary to ensure that—

"(1) the staffing of the Rehabilitation Services Administration shall be in sufficient numbers to meet program needs and at levels which will attract and maintain the most qualified personnel; and

"(2) such staff includes individuals who have training and experience in the provision of rehabilitation services and that staff competencies meet professional standards.

"ADVANCE FUNDING

"SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

"(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"JOINT FUNDING

"SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act.

"SEC. 7. DEFINITIONS.

"For the purposes of this Act:

"(1) ADMINISTRATIVE COSTS.—The term 'administrative costs' means expenditures incurred by the designated State unit in the performance of administrative functions under the vocational rehabilitation program carried out under title I, including expenses related to program planning, development, monitoring, and evaluation, including—

"(A) expenses for—

"(i) quality assurance;

"(ii) budgeting, accounting, financial management, information systems, and related data processing;

"(iii) provision of information about the program to the public;

"(iv) technical assistance and related support services to other State agencies, private nonprofit organizations, and businesses and industries, except for technical assistance and support services described in section 103(b)(5);

"(v) the State Rehabilitation Council and other entities that advise the designated State unit with regard to the provision of vocational rehabilitation services;

"(vi) removal of architectural barriers in State vocational rehabilitation agency offices and State operated rehabilitation facilities;

"(vii) operation and maintenance of designated State unit facilities, equipment, and grounds;

"(viii) supplies; and

"(ix)(I) administration of the comprehensive system of personnel development described in section 101(a)(7), including personnel administration, and administration of affirmative action plans;

"(II) training and staff development; and

"(III) administrative salaries, including clerical and other support staff salaries, in support of the administrative functions;

"(B) travel costs related to carrying out the program, other than travel costs related to the provision of services;

"(C) costs incurred in conducting reviews of rehabilitation counselor or coordinator determinations; and

"(D) legal expenses required in the administration of the program.

"(2) ASSESSMENT FOR DETERMINING ELIGIBILITY AND VOCATIONAL REHABILITATION NEEDS.—The term 'assessment for determining eligibility and vocational rehabilitation needs' means, as appropriate in each case—

"(A)(i) a review of existing data—

"(I) to determine whether an individual is eligible for vocational rehabilitation services; and

"(II) to assign priority for an order of selection described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

"(ii) to the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make such determination and assignment;

"(B) to the extent additional data is necessary to make a determination of the employment outcomes, and the objectives, nature, and scope of vocational rehabilitation services, to be included in the individualized rehabilitation employment plan of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual, which comprehensive assessment—

"(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized rehabilitation employment plan of the eligible individual;

"(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

"(I) existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection described in section 101(a)(5)(A) for the individual; and

"(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

"(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

"(iv) may include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;

"(C) referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

"(D) an exploration of the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, including experiences in which the individual is provided appropriate supports and training.

"(3) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)), except that the reference in such section to the term 'individuals with disabilities' shall be deemed to mean more than one individual with a disability as defined in paragraph (20)(A).

"(4) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' has the meaning given such term in section 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(3)), except that the reference in such section—

"(A) to the term 'individual with a disability' shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

"(B) to the term 'individuals with disabilities' shall be deemed to mean more than one such individual.

"(5) COMMUNITY REHABILITATION PROGRAM.—The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

"(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

"(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

"(C) recreational therapy;

"(D) physical and occupational therapy;

"(E) speech, language, and hearing therapy;

"(F) psychiatric, psychological, and social services, including positive behavior management;

"(G) assessment for determining eligibility and vocational rehabilitation needs;

"(H) rehabilitation technology;

"(I) job development, placement, and retention services;

"(J) evaluation or control of specific disabilities;

"(K) orientation and mobility services for individuals who are blind;

"(L) extended employment;

"(M) psychosocial rehabilitation services;

"(N) supported employment services and extended services;

"(O) services to family members when necessary to the vocational rehabilitation of the individual;

"(P) personal assistance services; or

"(Q) services similar to the services described in one of subparagraphs (A) through (P).

“(6) CRIMINAL ACT.—The term ‘criminal act’ means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government, which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, or intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

“(7) DESIGNATED STATE AGENCY.—The term ‘designated State agency’ means an agency designated under section 101(a)(2)(A).

“(8) DESIGNATED STATE UNIT.—The term ‘designated State unit’ means—

“(A) any State agency unit required under section 101(a)(2)(B)(ii); or

“(B) in cases in which no such unit is so required, the State agency described in section 101(a)(2)(B)(i).

“(9) DISABILITY.—The term ‘disability’ means—

“(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

“(B) for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII, a physical or mental impairment that substantially limits one or more major life activities.

“(10) DRUG AND ILLEGAL USE OF DRUGS.—

“(A) DRUG.—The term ‘drug’ means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

“(B) ILLEGAL USE OF DRUGS.—The term ‘illegal use of drugs’ means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

“(11) EMPLOYMENT OUTCOME.—The term ‘employment outcome’ means, with respect to an individual—

“(A) entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;

“(B) satisfying the vocational outcome of supported employment; or

“(C) satisfying any other vocational outcome the Secretary may determine to be appropriate (including satisfying the vocational outcome of self-employment or business ownership),

in a manner consistent with this Act.

“(12) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—The term ‘establishment of a community rehabilitation program’ includes the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to community rehabilitation program purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations the Secretary shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of facilities for community rehabilitation programs), and may include such additional equipment and staffing as the Commissioner considers appropriate.

“(13) EXTENDED SERVICES.—The term ‘extended services’ means ongoing support services and other appropriate services, needed to support and maintain an individual with a most significant disability in supported employment, that—

“(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment;

“(B) are based on a determination of the needs of an eligible individual, as specified in an individualized rehabilitation employment plan; and

“(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

“(14) FEDERAL SHARE.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘Federal share’ means 78.7 percent.

“(B) RELATIONSHIP TO EXPENDITURES BY A POLITICAL SUBDIVISION.—For the purpose of determining the non-Federal share with respect to a State, expenditures by a political subdivision thereof or by a local agency shall be regarded as expenditures by such State, subject to such limitations and conditions as the Secretary shall by regulation prescribe.

“(15) GOVERNOR.—The term ‘Governor’ means—

“(A) a chief executive officer of a State; or

“(B) in the case of a State that, under State law, vests authority for the administration of the activities carried out under this Act in an entity other than the Governor, such as 1 or more houses of the State legislature or an independent board, the chief officer of that entity.

“(16) IMPARTIAL HEARING OFFICER.—

“(A) IN GENERAL.—The term ‘impartial hearing officer’ means an individual—

“(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

“(ii) who is not a member of the State Rehabilitation Council described in section 105;

“(iii) who has not been involved previously in the vocational rehabilitation of the applicant or client;

“(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

“(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

“(B) CONSTRUCTION.—An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

“(17) INDEPENDENT LIVING CORE SERVICES.—The term ‘independent living core services’ means—

“(A) information and referral services;

“(B) independent living skills training;

“(C) peer counseling (including cross-disability peer counseling); and

“(D) individual and systems advocacy.

“(18) INDEPENDENT LIVING SERVICES.—The term ‘independent living services’ includes—

“(A) independent living core services; and

“(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

“(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

“(iii) rehabilitation technology;

“(iv) mobility training;

“(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

“(vi) personal assistance services, including attendant care and the training of personnel providing such services;

“(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

“(viii) consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

“(ix) education and training necessary for living in a community and participating in community activities;

“(x) supported living;

“(xi) transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

“(xii) physical rehabilitation;

“(xiii) therapeutic treatment;

“(xiv) provision of needed prostheses and other appliances and devices;

“(xv) individual and group social and recreational services;

“(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

“(xvii) services for children;

“(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

“(xix) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

“(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

“(xxi) such other services as may be necessary and not inconsistent with the provisions of this Act.

“(19) INDIAN; AMERICAN INDIAN; INDIAN AMERICAN; INDIAN TRIBE.—

“(A) IN GENERAL.—The terms ‘Indian’, ‘American Indian’, and ‘Indian American’ mean an individual who is a member of an Indian tribe.

“(B) INDIAN TRIBE.—The term ‘Indian tribe’ means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act).

“(20) INDIVIDUAL WITH A DISABILITY.—

“(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the term ‘individual with a disability’ means any individual who—

“(i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and

“(ii) can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to title I, III, or VI.

“(B) CERTAIN PROGRAMS; LIMITATIONS ON MAJOR LIFE ACTIVITIES.—Subject to subparagraphs (C), (D), (E), and (F), the term ‘individual with a disability’ means, for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII of this Act, any person who—

“(i) has a physical or mental impairment which substantially limits one or more of such person’s major life activities;

“(ii) has a record of such an impairment; or

“(iii) is regarded as having such an impairment.

“(C) RIGHTS AND ADVOCACY PROVISIONS.—

“(i) IN GENERAL; EXCLUSION OF INDIVIDUALS ENGAGING IN DRUG USE.—For purposes of title V, the term ‘individual with a disability’ does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) EXCEPTION FOR INDIVIDUALS NO LONGER ENGAGING IN DRUG USE.—Nothing in clause (i) shall be construed to exclude as an individual with a disability an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) EXCLUSION FOR CERTAIN SERVICES.—Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II, and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) DISCIPLINARY ACTION.—For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities. Furthermore, the due process procedures at section 104.36 of title 34, Code of Federal Regulations (or any corresponding similar regulation or ruling) shall not apply to such disciplinary actions.

"(v) EMPLOYMENT; EXCLUSION OF ALCOHOLICS.—For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with a disability' does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

"(D) EMPLOYMENT; EXCLUSION OF INDIVIDUALS WITH CERTAIN DISEASES OR INFECTIONS.—For the purposes of sections 503 and 504, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

"(E) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF HOMOSEXUALITY OR BISEXUALITY.—For the purposes of sections 501, 503, and 504—

"(i) for purposes of the application of subparagraph (B) to such sections, the term 'impairment' does not include homosexuality or bisexuality; and

"(ii) therefore the term 'individual with a disability' does not include an individual on the basis of homosexuality or bisexuality.

"(F) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF CERTAIN DISORDERS.—For the purposes of sections 501, 503, and 504, the term 'individual with a disability' does not include an individual on the basis of—

"(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

"(ii) compulsive gambling, kleptomania, or pyromania; or

"(iii) psychoactive substance use disorders resulting from current illegal use of drugs.

"(G) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than one individual with a disability.

"(21) INDIVIDUAL WITH A SIGNIFICANT DISABILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), the term 'individual with a significant disability' means an individual with a disability—

"(i) who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

"(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

"(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (B) of paragraph (2) to cause comparable substantial functional limitation.

"(B) INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.—For purposes of title VII, the term 'individual with a significant disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

"(C) RESEARCH AND TRAINING.—For purposes of title II, the term 'individual with a significant disability' includes an individual described in subparagraph (A) or (B).

"(D) INDIVIDUALS WITH SIGNIFICANT DISABILITIES.—The term 'individuals with significant disabilities' means more than one individual with a significant disability.

"(E) INDIVIDUAL WITH A MOST SIGNIFICANT DISABILITY.—

"(i) IN GENERAL.—The term 'individual with a most significant disability', used with respect to an individual in a State, means an individual with a significant disability who meets criteria established by the State under section 101(a)(5)(C).

"(ii) INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES.—The term 'individuals with the most significant disabilities' means more than one individual with a most significant disability.

"(22) INDIVIDUAL'S REPRESENTATIVE; APPLICANT'S REPRESENTATIVE.—

"(A) INDIVIDUAL'S REPRESENTATIVE.—The term 'individual's representative' used with respect to an eligible individual or other individual with a disability, means—

"(i) any representative chosen by the eligible individual or other individual with a disability, including a parent, guardian, other family member, or advocate; or

"(ii) if a representative or legal guardian has been appointed by a court to represent the eligible individual or other individual with a disability, the court-appointed representative or legal guardian.

"(B) APPLICANT'S REPRESENTATIVE.—The term 'applicant's representative' means—

"(i) any representative described in subparagraph (A)(i) chosen by the applicant; or

"(ii) if a representative or legal guardian has been appointed by a court to represent the applicant, the court-appointed representative or legal guardian.

"(23) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(24) LOCAL AGENCY.—The term 'local agency' means an agency of a unit of general local government or of an Indian tribe (or combination of such units or tribes) which has an agreement with the designated State agency to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from arranging to utilize another local public or nonprofit agency to provide vocational rehabilitation services if such an arrangement is made part of the agreement specified in this paragraph.

"(25) LOCAL WORKFORCE INVESTMENT PARTNERSHIP.—The term 'local workforce investment partnership' means a local workforce investment partnership established under section 308 of the Workforce Investment Partnership Act of 1998.

"(26) NONPROFIT.—The term 'nonprofit', when used with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

"(27) ONGOING SUPPORT SERVICES.—The term 'ongoing support services' means services—

"(A) provided to individuals with the most significant disabilities;

"(B) provided, at a minimum, twice monthly—

"(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

"(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

"(C) consisting of—

"(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (2)(B);

"(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

"(iii) job development, job retention, and placement services;

"(iv) social skills training;

"(v) regular observation or supervision of the individual;

"(vi) followup services such as regular contact with the employers, the individuals, the individuals' representatives, and other appropriate individuals, in order to reinforce and stabilize the job placement;

"(vii) facilitation of natural supports at the worksite;

"(viii) any other service identified in section 103; or

"(ix) a service similar to another service described in this subparagraph.

"(28) PERSONAL ASSISTANCE SERVICES.—The term 'personal assistance services' means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

"(29) PUBLIC OR NONPROFIT.—The term 'public or nonprofit', used with respect to an agency or organization, includes an Indian tribe.

"(30) REHABILITATION TECHNOLOGY.—The term 'rehabilitation technology' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"(31) REQUIRES VOCATIONAL REHABILITATION SERVICES.—The term 'requires vocational rehabilitation services', used with respect to an individual with a disability as defined in paragraph (20)(A), means that the individual is unable to prepare for, secure, retain, or regain employment consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual without vocational rehabilitation services, because the individual—

"(A) has never been employed;

"(B) has lost employment;

"(C) is underemployed;

"(D) is at immediate risk of losing employment; or

"(E) receives benefits on the basis of disability or blindness pursuant to title II or XVI of the Social Security Act (42 U.S.C. 401 et seq. or 1381 et seq.), in a case in which the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.

"(32) SECRETARY.—The term 'Secretary', except when the context otherwise requires, means the Secretary of Education.

"(33) STATE.—The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(34) STATEWIDE WORKFORCE INVESTMENT PARTNERSHIP.—The term 'statewide workforce investment partnership' means a partnership established under section 303 of the Workforce Investment Partnership Act of 1998.

"(35) STATEWIDE WORKFORCE INVESTMENT SYSTEM.—The term 'statewide workforce investment system' means a system described in section 301 of the Workforce Investment Partnership Act of 1998.

"(36) SUPPORTED EMPLOYMENT.—

"(A) IN GENERAL.—The term 'supported employment' means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services for the period, and any extension, described in paragraph (37)(C) and extended services after the transition described in paragraph (13)(C) in order to perform such work.

"(B) CERTAIN TRANSITIONAL EMPLOYMENT.—Such term includes transitional employment for persons who are individuals with the most significant disabilities due to mental illness.

"(37) SUPPORTED EMPLOYMENT SERVICES.—The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual to achieve competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized rehabilitation employment plan; and

"(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized rehabilitation employment plan.

"(38) TRANSITION SERVICES.—The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

"(39) UNDEREMPLOYED.—The term 'underemployed', used with respect to an individual with a disability, as defined in paragraph (20)(A), means a situation in which the individual is employed in a job that is not consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.

"(40) VOCATIONAL REHABILITATION SERVICES.—The term 'vocational rehabilitation services' means those services identified in section 103 which are provided to individuals with disabilities under this Act.

"(41) WORKFORCE INVESTMENT ACTIVITIES.—The term 'workforce investment activities' has the meaning given the term in section 2 of the Workforce Investment Partnership Act of 1998 carried out under that Act.

"ALLOTMENT PERCENTAGE

"SEC. 8. (a)(1) For purposes of section 110, the allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that—

"(A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum; and

"(B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be 75 per centum.

"(2) The allotment percentages shall be promulgated by the Secretary between October 1 and December 31 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the October 1 next succeeding such promulgation.

"(3) The term 'United States' means (but only for purposes of this subsection) the fifty States and the District of Columbia.

"(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

"NONDUPLICATION

"SEC. 10. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act, except that this section shall not be construed to limit or reduce fees for services rendered by community rehabilitation programs.

"APPLICATION OF OTHER LAWS

"SEC. 11. The provisions of the Act of December 5, 1974 (Public Law 93–510) and of title V of the Act of October 15, 1977 (Public Law 95–134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.

"ADMINISTRATION OF THE ACT

"SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

"(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations, including assistance to enable such agencies and organizations to facilitate meaningful and effective participation by individuals with disabilities in workforce investment activities;

"(2) provide short-term training and technical instruction, including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches);

"(3) conduct special projects and demonstrations;

"(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

"(5) provide monitoring and conduct evaluations.

"(b)(1) In carrying out the duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

"(2) In carrying out the provisions of this Act, the Commissioner shall appoint such task forces as may be necessary to collect and disseminate information in order to improve the ability of the Commissioner to carry out the provisions of this Act.

"(c) The Commissioner may promulgate such regulations as are considered appropriate to carry out the Commissioner's duties under this Act.

"(d) The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

"(e) Not later than 180 days after the date of enactment of the Rehabilitation Act Amendments of 1998, the Secretary shall receive public comment and promulgate regulations to implement the amendments made by the Rehabilitation Act Amendments of 1998.

"(f) In promulgating regulations to carry out this Act, the Secretary shall promulgate only regulations that are necessary to administer and ensure compliance with the specific requirements of this Act.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"REPORTS

"SEC. 13. (a) Not later than one hundred and eighty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act, including the activities and staffing of the information clearinghouse under section 15.

"(b) The Commissioner shall collect information to determine whether the purposes of this Act are being met and to assess the performance of programs carried out under this Act. The Commissioner shall take whatever action is necessary to assure that the identity of each individual for which information is supplied under this section is kept confidential, except as otherwise required by law (including regulation).

"(c) In preparing the report, the Commissioner shall annually collect and include in the report information based on the information submitted by States in accordance with section 101(a)(10). The Commissioner shall, to the maximum extent appropriate, include in the report all information that is required to be submitted in the reports described in section 321(d) of the Workforce Investment Partnership Act of 1998 and that pertains to the employment of individuals with disabilities.

"EVALUATION

"SEC. 14. (a) For the purpose of improving program management and effectiveness, the Secretary, in consultation with the Commissioner, shall evaluate all the programs authorized by this Act, their general effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, using appropriate methodology and evaluative research designs. The Secretary shall establish and use standards for the evaluations required by this subsection. Such an evaluation shall be conducted by a person not immediately involved in the administration of the program evaluated.

"(b) In carrying out evaluations under this section, the Secretary shall obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

"(c) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds under this Act shall become the property of the United States.

"(d) Such information as the Secretary may determine to be necessary for purposes of the evaluations conducted under this section shall be made available upon request of the Secretary, by the departments and agencies of the executive branch.

"(e)(1) To assess the linkages between vocational rehabilitation services and economic and noneconomic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

"(2) The study shall address factors related to attrition and completion of the program through which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

"(3) The study shall be planned to cover the period beginning on the application of individuals with disabilities for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services.

"(f)(1) The Commissioner shall identify and disseminate information on exemplary practices concerning vocational rehabilitation.

"(2) To facilitate compliance with paragraph (1), the Commissioner shall conduct studies and analyses that identify exemplary practices concerning vocational rehabilitation, including studies in areas relating to providing informed choice in the rehabilitation process, promoting consumer satisfaction, promoting job placement and retention, providing supported employment, providing services to particular disability populations, financing personal assistance services, providing assistive technology devices and assistive technology services, entering into cooperative agreements, establishing standards and certification for community rehabilitation programs, converting from nonintegrated to integrated employment, and providing caseload management.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"INFORMATION CLEARINGHOUSE

"SEC. 15. (a) The Secretary shall establish a central clearinghouse for information and resource availability for individuals with disabilities which shall provide information and data regarding—

"(1) the location, provision, and availability of services and programs for individuals with disabilities, including such information and data provided by statewide partnerships established under section 303 of the Workforce Investment Partnership Act of 1998 regarding such services and programs authorized under such Act;

"(2) research and recent medical and scientific developments bearing on disabilities (and their prevention, amelioration, causes, and cures); and

"(3) the current numbers of individuals with disabilities and their needs.

The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

"(b) The Commissioner may assist the Secretary to develop within the Department of Education a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, individuals with disabilities and their families, professionals in fields serving such individuals, and the general public.

"(c) The office established to carry out the provisions of this section shall be known as the 'Office of Information and Resources for Individuals with Disabilities'.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"TRANSFER OF FUNDS

"SEC. 16. (a) Except as provided in subsection (b) of this section, no funds appropriated under this Act for any program or activity may be used for any purpose other than that for which the funds were specifically authorized.

"(b) No more than 1 percent of funds appropriated for discretionary grants, contracts, or cooperative agreements authorized by this Act may be used for the purpose of providing non-Federal panels of experts to review applications for such grants, contracts, or cooperative agreements.

"STATE ADMINISTRATION

"SEC. 17. The application of any State rule or policy relating to the administration or operation of programs funded by this Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

"REVIEW OF APPLICATIONS

"SEC. 18. Applications for grants in excess of $100,000 in the aggregate authorized to be funded under this Act, other than grants primarily for the purpose of conducting dissemination or conferences, shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

"SEC. 19. CARRYOVER.

"(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law—

"(1) any funds appropriated for a fiscal year to carry out any grant program under part B of title I, section 509 (except as provided in section 509(b)), part C of title VI, part B or C of chapter 1 of title VII, or chapter 2 of title VII (except as provided in section 752(b)), including any funds reallotted under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or

"(2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received,

shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

"(b) NON-FEDERAL SHARE.—Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.

"SEC. 20. CLIENT ASSISTANCE INFORMATION.

"All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals who are applicants for or recipients of the services, or the applicants' representatives or individuals' representatives, of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.

"SEC. 21. TRADITIONALLY UNDERSERVED POPULATIONS.

"(a) FINDINGS.—With respect to the programs authorized in titles II through VII, the Congress finds as follows:

"(1) RACIAL PROFILE.—The racial profile of America is rapidly changing. While the rate of

increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

“(2) RATE OF DISABILITY.—Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be significantly disabled.

“(3) INEQUITABLE TREATMENT.—Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

“(4) RECRUITMENT.—Recruitment efforts within vocational rehabilitation at the level of preservice training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

“(b) OUTREACH TO MINORITIES.—

“(1) IN GENERAL.—For each fiscal year, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research (referred to in this subsection as the ‘Director’) shall reserve 1 percent of the funds appropriated for the fiscal year for programs authorized under titles II, III, VI, and VII to carry out this subsection. The Commissioner and the Director shall use the reserved funds to carry out 1 or more of the activities described in paragraph (2) through a grant, contract, or cooperative agreement.

“(2) ACTIVITIES.—The activities carried out by the Commissioner and the Director shall include 1 or more of the following:

“(A) Making awards to minority entities and Indian tribes to carry out activities under the programs authorized under titles II, III, VI, and VII.

“(B) Making awards to minority entities and Indian tribes to conduct research, training, technical assistance, or a related activity, to improve services provided under this Act, especially services provided to individuals from minority backgrounds.

“(C) Making awards to entities described in paragraph (3) to provide outreach and technical assistance to minority entities and Indian tribes to promote their participation in activities funded under this Act, including assistance to enhance their capacity to carry out such activities.

“(3) ELIGIBILITY.—To be eligible to receive an award under paragraph (2)(C), an entity shall be a State or a public or private nonprofit agency or organization, such as an institution of higher education or an Indian tribe.

“(4) REPORT.—In each fiscal year, the Commissioner and the Director shall prepare and submit to Congress a report that describes the activities funded under this subsection for the preceding fiscal year.

“(5) DEFINITIONS.—In this subsection:

“(A) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term ‘historically Black college or university’ means a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

“(B) MINORITY ENTITY.—The term ‘minority entity’ means an entity that is a historically Black college or university, a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent.

“(c) DEMONSTRATION.—In awarding grants, or entering into contracts or cooperative agreements under titles I, II, III, VI, and VII, and section 509, the Commissioner and the Director, in appropriate cases, shall require applicants to demonstrate how the applicants will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.”.

SEC. 604. VOCATIONAL REHABILITATION SERVICES.

Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) is amended to read as follows:

“TITLE I—VOCATIONAL REHABILITATION SERVICES

“PART A—GENERAL PROVISIONS

“SEC. 100. DECLARATION OF POLICY; AUTHORIZATION OF APPROPRIATIONS.

“(a) FINDINGS; PURPOSE; POLICY.—

“(1) FINDINGS.—Congress finds that—

“(A) work—

“(i) is a valued activity, both for individuals and society; and

“(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in the United States;

“(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

“(C) individuals with disabilities, including individuals with the most significant disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

“(D) reasons for significant numbers of individuals with disabilities not working, or working at levels not commensurate with their abilities and capabilities, include—

“(i) discrimination;

“(ii) lack of accessible and available transportation;

“(iii) fear of losing health coverage under the medicare and medicaid programs carried out under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing private health insurance; and

“(iv) lack of education, training, and supports to meet job qualification standards necessary to secure, retain, regain, or advance in employment;

“(E) enforcement of title V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities;

“(F) the provision of workforce investment activities and vocational rehabilitation services can enable individuals with disabilities, including individuals with the most significant disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities; and

“(G) linkages between the vocational rehabilitation programs established under this title and other components of the statewide workforce investment system are critical to ensure effective and meaningful participation by individuals with disabilities in workforce investment activities.

“(2) PURPOSE.—The purpose of this title is to assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation, each of which is—

“(A) an integral part of a statewide workforce investment system; and

“(B) designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for and engage in gainful employment.

“(3) POLICY.—It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

“(A) Individuals with disabilities, including individuals with the most significant disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

“(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

“(C) Individuals who are applicants for such programs or eligible to participate in such programs must be active and full partners, in collaboration with qualified vocational rehabilitation professionals, in the vocational rehabilitation process, making meaningful and informed choices—

“(i) during assessments for determining eligibility and vocational rehabilitation needs; and

“(ii) in the selection of employment outcomes for the individuals, services needed to achieve the outcomes, entities providing such services, and the methods used to secure such services.

“(D) Families and other natural supports can play important roles in the success of a vocational rehabilitation program, if the individual with a disability involved requests, desires, or needs such supports.

“(E) Vocational rehabilitation counselors that are trained and prepared in accordance with State policies and procedures as described in section 101(a)(7)(A)(iii) (referred to individually in this title as a ‘qualified vocational rehabilitation counselor’), other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment outcomes and objectives of an individual.

“(F) Individuals with disabilities and the individuals’ representatives are full partners in a vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

“(G) Accountability measures must facilitate the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most significant disabilities.

“(b) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—For the purpose of making grants to States under part B to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1998 through 2004, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this paragraph for the immediately preceding fiscal year, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year.

“(2) REFERENCE.—The reference in paragraph (1) to grants to States under part B shall not be considered to refer to grants under section 112.

“(c) CONSUMER PRICE INDEX.—

“(1) PERCENTAGE CHANGE.—No later than November 15 of each fiscal year (beginning with fiscal year 1979), the Secretary of Labor shall publish in the Federal Register the percentage change in the Consumer Price Index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

"(2) APPLICATION.—

"(A) INCREASE.—If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

"(B) NO INCREASE OR DECREASE.—If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1).

"(3) DEFINITION.—For purposes of this section, the term 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.

"(d) EXTENSION.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION OR DURATION OF PROGRAM.—Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

"(i) of the authorization of appropriations for the program authorized by the State grant program under part B of this title; or

"(ii) of the duration of the program authorized by the State grant program under part B of this title;

has passed legislation which would have the effect of extending the authorization or duration (as the case may be) of such program, such authorization or duration is automatically extended for 1 additional year for the program authorized by this title.

"(B) CALCULATION.—The amount authorized to be appropriated for the additional fiscal year described in subparagraph (A) shall be an amount equal to the amount appropriated for such program for fiscal year 2004, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year, if the percentage change indicates an increase.

"(2) CONSTRUCTION.—

"(A) PASSAGE OF LEGISLATION.—For the purposes of paragraph (1)(A), Congress shall not be deemed to have passed legislation unless such legislation becomes law.

"(B) ACTS OR DETERMINATIONS OF COMMISSIONER.—In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this title, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which the extension described in that part of paragraph (1) that follows clause (ii) of paragraph (1)(A) is in effect.

"SEC. 101. STATE PLANS.

"(a) PLAN REQUIREMENTS.—

"(1) IN GENERAL.—

"(A) SUBMISSION.—To be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services that meets the requirements of this section, on the same date that the State submits a State plan under section 304 of the Workforce Investment Partnership Act of 1998.

"(B) NONDUPLICATION.—The State shall not be required to submit, in the State plan for vocational rehabilitation services, policies, procedures, or descriptions required under this title that have been previously submitted to the Commissioner and that demonstrate that such State meets the requirements of this title, including any policies, procedures, or descriptions submitted under this title as in effect on the day before the effective date of the Rehabilitation Act Amendments of 1998.

"(C) DURATION.—The State plan shall remain in effect subject to the submission of such modifications as the State determines to be necessary or as the Commissioner may require based on a change in State policy, a change in Federal law (including regulations), an interpretation of this Act by a Federal court or the highest court of the State, or a finding by the Commissioner of State noncompliance with the requirements of this Act, until the State submits and receives approval of a new State plan.

"(2) DESIGNATED STATE AGENCY; DESIGNATED STATE UNIT.—

"(A) DESIGNATED STATE AGENCY.—The State plan shall designate a State agency as the sole State agency to administer the plan, or to supervise the administration of the plan by a local agency, except that—

"(i) where, under State law, the State agency for individuals who are blind or another agency that provides assistance or services to adults who are blind is authorized to provide vocational rehabilitation services to individuals who are blind, that agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency to administer or supervise the administration of the rest of the State plan;

"(ii) the Commissioner, on the request of a State, may authorize the designated State agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit the agencies to carry out a joint program to provide services to individuals with disabilities, and may waive compliance, with respect to vocational rehabilitation services furnished under the joint program, with the requirement of paragraph (4) that the plan be in effect in all political subdivisions of the State; and

"(iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa.

"(B) DESIGNATED STATE UNIT.—The State agency designated under subparagraph (A) shall be—

"(i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities; or

"(ii) if not such an agency, the State agency (or each State agency if 2 are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit that—

"(I) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, and is responsible for the vocational rehabilitation program of the designated State agency;

"(II) has a full-time director;

"(III) has a staff employed on the rehabilitation work of the organizational unit all or substantially all of whom are employed full time on such work; and

"(IV) is located at an organizational level and has an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency.

"(C) RESPONSIBILITY FOR SERVICES FOR THE BLIND.—If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility for the rest of the plan to another organizational unit of the designated State agency, with the provisions of subparagraph (B) applying separately to each of the designated State units.

"(3) NON-FEDERAL SHARE.—The State plan shall provide for financial participation by the State, or if the State so elects, by the State and local agencies, to provide the amount of the non-Federal share of the cost of carrying out part B.

"(4) STATEWIDENESS.—The State plan shall provide that the plan shall be in effect in all political subdivisions of the State, except that in the case of any activity that, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of individuals with disabilities or groups of individuals with disabilities, the Commissioner may waive compliance with the requirement that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by the Commissioner. The Commissioner may waive compliance with the requirement only if the non-Federal share of the cost of the vocational rehabilitation services is provided from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual).

"(5) ORDER OF SELECTION FOR VOCATIONAL REHABILITATION SERVICES.—In the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the State who apply for the services, the State plan shall—

"(A) show the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services;

"(B) provide the justification for the order of selection;

"(C) include an assurance that, in accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and

"(D) provide that eligible individuals, who do not meet the order of selection criteria, shall have access to services provided through the information and referral system implemented under paragraph (20).

"(6) METHODS FOR ADMINISTRATION.—

"(A) IN GENERAL.—The State plan shall provide for such methods of administration as are found by the Commissioner to be necessary for the proper and efficient administration of the plan.

"(B) EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.—The State plan shall provide that the designated State agency, and entities carrying out community rehabilitation programs in the State, who are in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified individuals with disabilities covered under, and on the same terms and conditions as set forth in, section 503.

"(C) PERSONNEL AND PROGRAM STANDARDS FOR COMMUNITY REHABILITATION PROGRAMS.—The State plan shall provide that the designated State unit shall establish, maintain, and implement minimum standards for community rehabilitation programs providing services to individuals under this title, including—

"(i) standards—

"(I) governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitation services through such programs; and

“(II) providing, to the extent that providers of vocational rehabilitation services utilize personnel who do not meet the highest requirements in the State applicable to a particular profession or discipline, that the providers shall take steps to ensure the retraining or hiring of personnel so that such personnel meet appropriate professional standards in the State; and

“(ii) minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an individual receiving services through such programs.

“(D) FACILITIES.—The State plan shall provide that facilities used in connection with the delivery of services assisted under the State plan shall comply with the Act entitled ‘An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped’, approved on August 12, 1968 (commonly known as the ‘Architectural Barriers Act of 1968’), with section 504, and with the Americans with Disabilities Act of 1990.

“(7) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—The State plan shall include—

“(A) a description, consistent with the purposes of this Act, of a comprehensive system of personnel development for personnel employed by the designated State unit and involved in carrying out this title, which, at a minimum, shall consist of—

“(i) a description of the procedures and activities the designated State agency will implement and undertake to address the current and projected needs for personnel, and training needs of such personnel, in the designated State unit to ensure that the personnel are adequately trained and prepared;

“(ii) a plan to coordinate and facilitate efforts between the designated State unit and institutions of higher education and professional associations to recruit, prepare, and retain qualified personnel, including personnel from culturally or linguistically diverse backgrounds, and personnel that include individuals with disabilities;

“(iii) a description of policies and procedures on the establishment and maintenance of reasonable standards to ensure that personnel, including professionals and paraprofessionals, are adequately trained and prepared, including—

“(I) standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

“(II) to the extent that such standards are not based on the highest requirements in the State applicable to a particular profession or discipline, the steps the State will take to ensure the retraining or hiring of personnel within the designated State unit so that such personnel meet appropriate professional standards in the State;

“(iv) a description of a system for evaluating the performance of vocational rehabilitation counselors, coordinators, and other personnel used in the State, including a description of how the system facilitates the accomplishment of the purpose and policy of this title, including the policy of serving individuals with the most significant disabilities;

“(v) a description of standards to ensure the availability of personnel within the designated State unit who are, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an applicant or eligible individual; and

“(vi) a detailed description, including a budget, of how the funds reserved under subparagraph (B) will be expended to carry out the comprehensive system for personnel development, including the provision of in-service training for personnel of the designated State unit;

“(B) assurances that—

“(i) at a minimum, the State will reserve from the allotment made to the State under section 110 an amount to carry out the comprehensive system of personnel development, including the provision of in-service training for personnel of the designated State unit;

“(ii) for fiscal year 1999, the amount reserved will be equal to the amount of the funds the State received for fiscal year 1998 to provide in-service training under section 302, or for any State that did not receive those funds for fiscal year 1998, an amount determined by the Commissioner; and

“(iii) for each subsequent year, the amount reserved under this subparagraph will be equal to the amount reserved under this subparagraph for the previous fiscal year, increased by the percentage change in the Consumer Price Index published under section 100(c) in such previous fiscal year, if the percentage change indicates an increase; and

“(C) an assurance that the standards adopted by a State in accordance with subparagraph (A)(iii) shall not permit discrimination on the basis of disability with regard to training and hiring.

“(8) COMPARABLE SERVICES AND BENEFITS.—

“(A) DETERMINATION OF AVAILABILITY.—

“(i) IN GENERAL.—The State plan shall include an assurance that, prior to providing any vocational rehabilitation service to an eligible individual, except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a), the designated State unit will determine whether comparable services and benefits are available under any other program (other than a program carried out under this title) unless such a determination would interrupt or delay—

“(I) the progress of the individual toward achieving the employment outcome identified in the individualized rehabilitation employment plan of the individual in accordance with section 102(b); or

“(II) the provision of such service to any individual at extreme medical risk.

“(ii) AWARDS AND SCHOLARSHIPS.—For purposes of clause (i), comparable benefits do not include awards and scholarships based on merit.

“(B) INTERAGENCY AGREEMENT.—The State plan shall include an assurance that the Governor of the State or the designee of the Governor will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between any appropriate public entity, including a component of the statewide workforce investment system, and the designated State unit, in order to ensure the provision of vocational rehabilitation services described in subparagraph (A) (other than those services specified in paragraph (5)(D), and in paragraphs (1) through (4) and (14) of section 103(a)), that are included in the individualized rehabilitation employment plan of an eligible individual, including the provision of such vocational rehabilitation services during the pendency of any dispute described in clause (iii). Such agreement or mechanism shall include the following:

“(i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a description of a method for defining, the financial responsibility of such public entity for providing such services, and a provision stating that the financial responsibility of such public entity for providing such services, including the financial responsibility of the State agency responsible for administering the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), other public agencies, and public institutions of higher education, shall precede the financial responsibility of the designated State unit especially with regard to the provision of auxiliary aids and services to the maximum extent allowed by law.

“(ii) CONDITIONS, TERMS, AND PROCEDURES OF REIMBURSEMENT.—Information specifying the conditions, terms, and procedures under which a designated State unit shall pursue and obtain reimbursement by other public agencies for providing such services.

“(iii) INTERAGENCY DISPUTES.—Information specifying procedures for resolving interagency disputes under the agreement or other mechanism (including procedures under which the designated State unit may initiate proceedings to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism).

“(iv) COORDINATION OF SERVICES PROCEDURES.—Information specifying policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely delivery of vocational rehabilitation services (except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)).

“(C) RESPONSIBILITIES OF OTHER AGENCIES.—

“(i) RESPONSIBILITIES UNDER OTHER LAW.—Notwithstanding subparagraph (B), if any public agency other than a designated State unit is obligated under Federal or State law, or assigned responsibility under State policy or under this paragraph, to provide or pay for any services that are also considered to be vocational rehabilitation services (other than those specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)), such public agency shall fulfill that obligation or responsibility, either directly or by contract or other arrangement.

“(ii) REIMBURSEMENT.—In a case in which a public agency other than the designated State unit fails to fulfill the financial responsibility of the agency described in this paragraph to provide services described in clause (i), the designated State unit may claim reimbursement from such public agency for such services. Such public agency shall reimburse the designated State unit pursuant to the terms of the interagency agreement or other mechanism in effect under this paragraph according to the procedures established pursuant to subparagraph (B)(ii).

“(D) METHODS.—The Governor of a State may meet the requirements of subparagraph (B) through—

“(i) a State statute or regulation;

“(ii) a signed agreement between the respective agency officials that clearly identifies the responsibilities of each agency relating to the provision of services; or

“(iii) another appropriate method, as determined by the designated State unit.

“(9) INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—

“(A) DEVELOPMENT AND IMPLEMENTATION.—The State plan shall include an assurance that an individualized rehabilitation employment plan meeting the requirements of section 102(b) will be developed and implemented in a timely manner for an individual subsequent to the determination of the eligibility of the individual for services under this title, except that in a State operating under an order of selection described in paragraph (5), the plan will be developed and implemented only for individuals meeting the order of selection criteria of the State.

“(B) PROVISION OF SERVICES.—The State plan shall include an assurance that such services will be provided in accordance with the provisions of the individualized rehabilitation employment plan.

“(10) REPORTING REQUIREMENTS.—

“(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will submit reports in the form and level of detail and at the time required by the Commissioner regarding applicants for, and eligible individuals receiving, services under this title.

“(B) ANNUAL REPORTING.—In specifying the information to be submitted in the reports, the Commissioner shall require annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 321(d)(2) of the Workforce Investment Partnership Act of 1998 that are determined by the Secretary to be relevant in assessing the performance of designated State units in carrying out the vocational rehabilitation program established under this title.

“(C) ADDITIONAL DATA.—In specifying the information required to be submitted in the reports, the Commissioner shall require additional data with regard to applicants and eligible individuals related to—

“(i) the number of applicants and the number of individuals determined to be eligible or ineligible for the program carried out under this title, including—

“(I) the number of individuals determined to be ineligible because they did not require vocational rehabilitation services, as provided in section 102(a); and

“(II) the number of individuals determined, on the basis of clear and convincing evidence, to be too severely disabled to benefit in terms of an employment outcome from vocational rehabilitation services;

“(ii) the number of individuals who received vocational rehabilitation services through the program, including—

“(I) the number who received services under paragraph (5)(D), but not assistance under an individualized rehabilitation employment plan; and

“(II) the number who received assistance under an individualized rehabilitation employment plan consistent with section 102(b);

“(iii) the number of individuals receiving public assistance and the amount of the public assistance on the date of application and on the last date of participation in the program carried out under this title;

“(iv) the number of individuals with disabilities who ended their participation in the program and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

“(v) the number of individuals who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

“(I) the number of such individuals who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment;

“(II) the number of such individuals who received employment benefits from an employer during such employment; and

“(III) the number of such individuals whose public assistance was terminated or reduced after such participation.

“(D) COSTS AND RESULTS.—The Commissioner shall also require that the designated State agency include in the reports information on—

“(i) the costs under this title of conducting administration, providing assessment services, counseling and guidance, and other direct services provided by designated State agency staff, providing services purchased under individualized rehabilitation employment plans, supporting small business enterprises, establishing, developing, and improving community rehabilitation programs, and providing other services to groups; and

“(ii) the results of annual evaluation by the State of program effectiveness under paragraph (15)(E).

“(E) ADDITIONAL INFORMATION.—The Commissioner shall require that each designated State unit include in the reports additional information related to the applicants and eligible individuals, obtained either through a complete count or sampling, including—

“(i) information on—

“(I) age, gender, race, ethnicity, education, type of impairment, severity of disability, and whether the individuals are students described in clause (i) or (ii)(II) of paragraph (11)(D);

“(II) dates of application, determination of eligibility or ineligibility, initiation of the individualized rehabilitation employment plan, and termination of participation in the program;

“(III) earnings at the time of application for the program and termination of participation in the program;

“(IV) work status and occupation;

“(V) types of services, including assistive technology services and assistive technology devices, provided under the program;

“(VI) types of public or private programs or agencies that furnished services under the program; and

“(VII) the reasons for individuals terminating participation in the program without achieving an employment outcome; and

“(ii) information necessary to determine the success of the State in meeting—

“(I) the State performance measures established under section 321(b) of the Workforce Investment Partnership Act of 1998 to the extent the measures are applicable to individuals with disabilities; and

“(II) the standards and indicators established pursuant to section 106.

“(F) COMPLETENESS AND CONFIDENTIALITY.—The State plan shall include an assurance that the information submitted in the reports will include a complete count, except as provided in subparagraph (E), of the applicants and eligible individuals, in a manner permitting the greatest possible cross-classification of data and that the identity of each individual for which information is supplied under this paragraph will be kept confidential.

“(11) COOPERATION, COLLABORATION, AND COORDINATION.—

“(A) COOPERATIVE AGREEMENTS WITH OTHER COMPONENTS OF STATEWIDE WORKFORCE INVESTMENT SYSTEMS.—The State plan shall provide that the designated State unit or designated State agency shall enter into a cooperative agreement with other entities that are components of the statewide workforce investment system of the State, regarding the system, which agreement may provide for—

“(i) provision of intercomponent staff training and technical assistance with regard to—

“(I) the availability and benefits of, and information on eligibility standards for, vocational rehabilitation services; and

“(II) the promotion of equal, effective, and meaningful participation by individuals with disabilities in workforce investment activities in the State through the promotion of program accessibility, the use of nondiscriminatory policies and procedures, and the provision of reasonable accommodations, auxiliary aids and services, and rehabilitation technology, for individuals with disabilities;

“(ii) use of information and financial management systems that link all components of the statewide workforce investment system, that link the components to other electronic networks, including nonvisual electronic networks, and that relate to such subjects as labor market information, and information on job vacancies, career planning, and workforce investment activities;

“(iii) use of customer service features such as common intake and referral procedures, customer databases, resource information, and human services hotlines;

“(iv) establishment of cooperative efforts with employers to—

“(I) facilitate job placement; and

“(II) carry out any other activities that the designated State unit and the employers determine to be appropriate;

“(v) identification of staff roles, responsibilities, and available resources, and specification of the financial responsibility of each component of the statewide workforce investment system with regard to paying for necessary services (consistent with State law and Federal requirements); and

“(vi) specification of procedures for resolving disputes among such components.

“(B) REPLICATION OF COOPERATIVE AGREEMENTS.—The State plan shall provide for the replication of such cooperative agreements at the local level between individual offices of the designated State unit and local entities carrying out activities through the statewide workforce investment system.

“(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, the Federal, State, and local agencies and programs that are not carrying out activities through the statewide workforce investment system.

“(D) COORDINATION WITH EDUCATION OFFICIALS.—The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials that are designed to facilitate the transition of students who are individuals with disabilities described in section 7(20)(B) from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—

“(i) consultation and technical assistance to assist educational agencies in planning for the transition of students who are individuals with disabilities described in section 7(20)(B) from school to post-school activities, including vocational rehabilitation services;

“(ii)(I) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities described in clause (i) that facilitates the development and completion of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (as added by section 101 of Public Law 105–17); and

“(II) transition planning and services for students who are eligible to receive services under this title and who will be exiting school in the school year in which the planning and services are provided;

“(iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for the transition services described in clause (ii)(II); and

“(iv) procedures for outreach to and identification of students with disabilities described in clause (ii)(II) who need the transition services.

“(E) COORDINATION WITH STATEWIDE INDEPENDENT LIVING COUNCILS AND INDEPENDENT LIVING CENTERS.—The State plan shall include an assurance that the designated State unit, the Statewide Independent Living Council established under section 705, and the independent living centers described in part C of title VII within the State have developed working relationships and coordinate their activities.

“(F) COOPERATIVE AGREEMENT WITH RECIPIENTS OF GRANTS FOR SERVICES TO AMERICAN INDIANS.—In applicable cases, the State plan shall include an assurance that the State has entered into a formal cooperative agreement with each grant recipient in the State that receives funds under part C. The agreement shall describe strategies for collaboration and coordination in providing vocational rehabilitation services to American Indians who are individuals with disabilities, including—

“(i) strategies for interagency referral and information sharing that will assist in eligibility determinations and the development of individualized rehabilitation employment plans;

“(ii) procedures for ensuring that American Indians who are individuals with disabilities and are living near a reservation or tribal service area are provided vocational rehabilitation services; and

“(iii) provisions for sharing resources in cooperative studies and assessments, joint training activities, and other collaborative activities designed to improve the provision of services to American Indians who are individuals with disabilities.

“(12) RESIDENCY.—The State plan shall include an assurance that the State will not impose a residence requirement that excludes from services provided under the plan any individual who is present in the State.

“(13) SERVICES TO AMERICAN INDIANS.—The State plan shall include an assurance that, except as otherwise provided in part C, the designated State agency will provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the designated State agency provides such services to other significant populations of individuals with disabilities residing in the State.

“(14) ANNUAL REVIEW OF INDIVIDUALS IN EXTENDED EMPLOYMENT OR OTHER EMPLOYMENT UNDER SPECIAL CERTIFICATE PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938.—The State plan shall provide for—

“(A) an annual review and reevaluation of the status of each individual with a disability served under this title who has achieved an employment outcome either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) for 2 years after the achievement of the outcome (and annually thereafter if requested by the individual or, if appropriate, the individual's representative), to determine the interests, priorities, and needs of the individual with respect to competitive employment or training for competitive employment;

“(B) input into the review and reevaluation, and a signed acknowledgment that such review and reevaluation have been conducted, by the individual with a disability, or, if appropriate, the individual's representative; and

“(C) maximum efforts, including the identification and provision of vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist the individuals described in subparagraph (A) in engaging in competitive employment.

“(15) ANNUAL STATE GOALS AND REPORTS OF PROGRESS.—

“(A) ASSESSMENTS AND ESTIMATES.—The State plan shall—

“(i) include the results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State has such a Council) every 3 years, describing the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of—

“(I) individuals with the most significant disabilities, including their need for supported employment services;

“(II) individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program carried out under this title; and

“(III) individuals with disabilities served through other components of the statewide workforce investment system (other than the vocational rehabilitation program), as identified by such individuals and personnel assisting such individuals through the components;

“(ii) include an assessment of the need to establish, develop, or improve community rehabilitation programs within the State; and

“(iii) provide that the State shall submit to the Commissioner a report containing information regarding updates to the assessments, for any year in which the State updates the assessments.

“(B) ANNUAL ESTIMATES.—The State plan shall include, and shall provide that the State shall annually submit a report to the Commissioner that includes, State estimates of—

“(i) the number of individuals in the State who are eligible for services under this title;

“(ii) the number of such individuals who will receive services provided with funds provided under part B and under part C of title VI, including, if the designated State agency uses an order of selection in accordance with paragraph (5), estimates of the number of individuals to be served under each priority category within the order; and

“(iii) the costs of the services described in clause (i), including, if the designated State agency uses an order of selection in accordance with paragraph (5), the service costs for each priority category within the order.

“(C) GOALS AND PRIORITIES.—

“(i) IN GENERAL.—The State plan shall identify the goals and priorities of the State in carrying out the program. The goals and priorities shall be jointly developed, agreed to, and reviewed annually by the designated State unit and the State Rehabilitation Council, if the State has such a Council. Any revisions to the goals and priorities shall be jointly agreed to by the designated State unit and the State Rehabilitation Council, if the State has such a Council. The State plan shall provide that the State shall submit to the Commissioner a report containing information regarding revisions in the goals and priorities, for any year in which the State revises the goals and priorities.

“(ii) BASIS.—The State goals and priorities shall be based on an analysis of—

“(I) the comprehensive assessment described in subparagraph (A), including any updates to the assessment;

“(II) the performance of the State on the standards and indicators established under section 106; and

“(III) other available information on the operation and the effectiveness of the vocational rehabilitation program carried out in the State, including any reports received from the State Rehabilitation Council, under section 105(c) and the findings and recommendations from monitoring activities conducted under section 107.

“(iii) SERVICE AND OUTCOME GOALS FOR CATEGORIES IN ORDER OF SELECTION.—If the designated State agency uses an order of selection in accordance with paragraph (5), the State shall also identify in the State plan service and outcome goals and the time within which these goals may be achieved for individuals in each priority category within the order.

“(D) STRATEGIES.—The State plan shall contain a description of the strategies the State will use to address the needs identified in the assessment conducted under subparagraph (A) and achieve the goals and priorities identified in subparagraph (C), including—

“(i) the methods to be used to expand and improve services to individuals with disabilities, including how a broad range of assistive technology services and assistive technology devices will be provided to such individuals at each stage of the rehabilitation process and how such services and devices will be provided to such individuals on a statewide basis;

“(ii) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program;

“(iii) where necessary, the plan of the State for establishing, developing, or improving community rehabilitation programs;

“(iv) strategies to improve the performance of the State with respect to the evaluation standards and performance indicators established pursuant to section 106; and

“(v) strategies for assisting entities carrying out other components of the statewide workforce investment system (other than the vocational rehabilitation program) in assisting individuals with disabilities.

“(E) EVALUATION AND REPORTS OF PROGRESS.—The State plan shall—

“(i) include the results of an evaluation of the effectiveness of the vocational rehabilitation program, and a joint report by the designated State unit and the State Rehabilitation Council, if the State has such a Council, to the Commissioner on the progress made in improving the effectiveness from the previous year, which evaluation and report shall include—

“(I) an evaluation of the extent to which the goals identified in subparagraph (C) were achieved;

“(II) a description of strategies that contributed to achieving the goals;

“(III) to the extent to which the goals were not achieved, a description of the factors that impeded that achievement; and

“(IV) an assessment of the performance of the State on the standards and indicators established pursuant to section 106; and

“(ii) provide that the designated State unit and the State Rehabilitation Council, if the State has such a Council, shall jointly submit to the Commissioner an annual report that contains the information described in clause (i).

“(16) PUBLIC COMMENT.—The State plan shall—

“(A) provide that the designated State agency, prior to the adoption of any policies or procedures governing the provision of vocational

rehabilitation services under the State plan (including making any amendment to such policies and procedures), shall conduct public meetings throughout the State, after providing adequate notice of the meetings, to provide the public, including individuals with disabilities, an opportunity to comment on the policies or procedures, and actively consult with the Director of the client assistance program carried out under section 112, and, as appropriate, Indian tribes, tribal organizations, and Native Hawaiian organizations on the policies or procedures; and

"(B) provide that the designated State agency (or each designated State agency if 2 agencies are designated) and any sole agency administering the plan in a political subdivision of the State, shall take into account, in connection with matters of general policy arising in the administration of the plan, the views of—

"(i) individuals and groups of individuals who are recipients of vocational rehabilitation services, or in appropriate cases, the individuals' representatives;

"(ii) personnel working in programs that provide vocational rehabilitation services to individuals with disabilities;

"(iii) providers of vocational rehabilitation services to individuals with disabilities;

"(iv) the director of the client assistance program; and

"(v) the State Rehabilitation Council, if the State has such a Council.

"(17) PROHIBITION ON USE OF FUNDS FOR CONSTRUCTION OF FACILITIES.—The State plan shall contain an assurance that the State will not use any funds made available under this title for the construction of facilities.

"(18) INNOVATION AND EXPANSION ACTIVITIES.—The State plan shall—

"(A) include an assurance that the State will reserve and use a portion of the funds allotted to the State under section 110—

"(i) for the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities under this title, particularly individuals with the most significant disabilities, consistent with the findings of the statewide assessment and goals and priorities of the State as described in paragraph (15); and

"(ii) to support the funding of—

"(I) the State Rehabilitation Council, if the State has such a Council, consistent with the plan prepared under section 105(d)(1); and

"(II) the Statewide Independent Living Council, consistent with the plan prepared under section 705(e)(1);

"(B) include a description of how the reserved funds will be utilized; and

"(C) provide that the State shall submit to the Commissioner an annual report containing a description of how the reserved funds will be utilized.

"(19) CHOICE.—The State plan shall include an assurance that applicants and eligible individuals or, as appropriate, the applicants' representatives or individuals' representatives, will be provided information and support services to assist the applicants and individuals in exercising informed choice throughout the rehabilitation process, consistent with the provisions of section 102(d).

"(20) INFORMATION AND REFERRAL SERVICES.—

"(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will implement an information and referral system adequate to ensure that individuals with disabilities will be provided accurate vocational rehabilitation information, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment, and will be appropriately referred to Federal and State programs (other than the vocational rehabilitation program carried out under this title), including other components of the statewide workforce investment system in the State.

"(B) SERVICES.—In providing activities through the system established under subparagraph (A), the State may include services consisting of the provision of individualized counseling and guidance, individualized vocational exploration, supervised job placement referrals, and assistance in securing reasonable accommodations for eligible individuals who do not meet the order of selection criteria used by the State, to the extent that such services are not purchased by the designated State unit.

"(21) STATE INDEPENDENT CONSUMER-CONTROLLED COMMISSION; STATE REHABILITATION COUNCIL.—

"(A) COMMISSION OR COUNCIL.—The State plan shall provide that either—

"(i) the designated State agency is an independent commission that—

"(I) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;

"(II) is consumer-controlled by persons who—

"(aa) are individuals with physical or mental impairments that substantially limit major life activities; and

"(bb) represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the commission is the State agency for individuals who are blind;

"(III) includes family members, advocates, or other representatives, of individuals with mental impairments; and

"(IV) undertakes the functions set forth in section 105(c)(4); or

"(ii) the State has established a State Rehabilitation Council that meets the criteria set forth in section 105 and the designated State unit—

"(I) in accordance with paragraph (15), jointly develops, agrees to, and reviews annually State goals and priorities, and jointly submits annual reports of progress with the Council;

"(II) regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;

"(III) includes in the State plan and in any revision to the State plan, a summary of input provided by the Council, including recommendations from the annual report of the Council described in section 105(c)(5), the review and analysis of consumer satisfaction described in section 105(c)(4), and other reports prepared by the Council, and the response of the designated State unit to such input and recommendations, including explanations for rejecting any input or recommendation; and

"(IV) transmits to the Council—

"(aa) all plans, reports, and other information required under this title to be submitted to the Secretary;

"(bb) all policies, and information on all practices and procedures, of general applicability provided to or used by rehabilitation personnel in carrying out this title; and

"(cc) copies of due process hearing decisions issued under this title, which shall be transmitted in such a manner as to ensure that the identity of the participants in the hearings is kept confidential.

"(B) MORE THAN 1 DESIGNATED STATE AGENCY.—In the case of a State that, under section 101(a)(2), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and designates a separate State agency to administer the rest of the State plan, the State shall either establish a State Rehabilitation Council for each of the 2 agencies that does not meet the requirements in subparagraph (A)(i), or establish 1 State Rehabilitation Council for both agencies if neither agency meets the requirements of subparagraph (A)(i).

"(22) SUPPORTED EMPLOYMENT STATE PLAN SUPPLEMENT.—The State plan shall include an assurance that the State has an acceptable plan for carrying out part C of title VI, including the use of funds under that part to supplement funds made available under part B of this title to pay for the cost of services leading to supported employment.

"(23) ELECTRONIC AND INFORMATION TECHNOLOGY REGULATIONS.—The State plan shall include an assurance that the State, and any recipient or subrecipient of funds made available to the State under this title—

"(A) will comply with the requirements of section 508, including the regulations established under that section; and

"(B) will designate an employee to coordinate efforts to comply with section 508 and will adopt grievance procedures that incorporate due process standards and provide for the prompt and equitable resolution of complaints concerning such requirements.

"(24) ANNUAL UPDATES.—The plan shall include an assurance that the State will submit to the Commissioner reports containing annual updates of the information required under paragraph (7) (relating to a comprehensive system of personnel development) and any other updates of the information required under this section that are requested by the Commissioner, and annual reports as provided in paragraphs (15) (relating to assessments, estimates, goals and priorities, and reports of progress) and (18) (relating to innovation and expansion), at such time and in such manner as the Secretary may determine to be appropriate.

"(b) APPROVAL; DISAPPROVAL OF THE STATE PLAN.—

"(1) APPROVAL.—The Commissioner shall approve any plan that the Commissioner finds fulfills the conditions specified in this section, and shall disapprove any plan that does not fulfill such conditions.

"(2) DISAPPROVAL.—Prior to disapproval of the State plan, the Commissioner shall notify the State of the intention to disapprove the plan and shall afford the State reasonable notice and opportunity for a hearing.

"SEC. 102. ELIGIBILITY AND INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.

"(a) ELIGIBILITY.—

"(1) CRITERION FOR ELIGIBILITY.—An individual is eligible for assistance under this title if the individual—

"(A) is an individual with a disability under section 7(20)(A); and

"(B) requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

"(2) PRESUMPTION OF BENEFIT.—

"(A) DEMONSTRATION.—For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(20)(A), unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

"(B) METHODS.—In making the demonstration required under subparagraph (A), the designated State unit shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, as described in section 7(2)(D), with appropriate supports provided through the designated State unit, except under limited circumstances when an individual can not take

advantage of such experiences. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

"(3) PRESUMPTION OF ELIGIBILITY.—For purposes of this section, an individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be—

"(A) considered to be an individual with a significant disability under section 7(21)(A); and

"(B) presumed to be eligible for vocational rehabilitation services under this title (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual in accordance with paragraph (2).

"(4) USE OF EXISTING INFORMATION.—

"(A) IN GENERAL.—To the maximum extent appropriate and consistent with the requirements of this part, for purposes of determining the eligibility of an individual for vocational rehabilitation services under this title and developing the individualized rehabilitation employment plan described in subsection (b) for the individual, the designated State unit shall use information that is existing and current (as of the date of the determination of eligibility or of the development of the individualized rehabilitation employment plan), including information available from other programs and providers, particularly information used by education officials and the Social Security Administration, information provided by the individual and the family of the individual, and information obtained under the assessment for determining eligibility and vocational rehabilitation needs.

"(B) DETERMINATIONS BY OFFICIALS OF OTHER AGENCIES.—Determinations made by officials of other agencies, particularly education officials described in section 101(a)(11)(D), regarding whether an individual satisfies 1 or more factors relating to whether an individual is an individual with a disability under section 7(20)(A) or an individual with a significant disability under section 7(21)(A) shall be used, to the extent appropriate and consistent with the requirements of this part, in assisting the designated State unit in making such determinations.

"(C) BASIS.—The determination of eligibility for vocational rehabilitation services shall be based on—

"(i) the review of existing data described in section 7(2)(A)(i); and

"(ii) to the extent that such data is unavailable or insufficient for determining eligibility, the provision of assessment activities described in section 7(2)(A)(ii).

"(5) DETERMINATION OF INELIGIBILITY.—If an individual who applies for services under this title is determined, based on the review of existing data and, to the extent necessary, the assessment activities described in section 7(2)(A)(ii), not to be eligible for the services, or if an eligible individual receiving services under an individualized rehabilitation employment plan is determined to be no longer eligible for the services—

"(A) the ineligibility determination involved shall be made only after providing an opportunity for full consultation with the individual or, as appropriate, the individual's representative;

"(B) the individual or, as appropriate, the individual's representative, shall be informed in writing (supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual) of the ineligibility determination, including—

"(i) the reasons for the determination; and

"(ii) a description of the means by which the individual may express, and seek a remedy for, any dissatisfaction with the determination, including the procedures for review by an impartial hearing officer under subsection (c);

"(C) the individual shall be provided with a description of services available from the client assistance program under section 112 and information on how to contact that program; and

"(D) any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed—

"(i) within 12 months; and

"(ii) annually thereafter, if such a review is requested by the individual or, if appropriate, by the individual's representative.

"(6) TIMEFRAME FOR MAKING AN ELIGIBILITY DETERMINATION.—The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless—

"(A) exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or

"(B) the designated State unit is exploring an individual's abilities, capabilities, and capacity to perform in work situations under paragraph (2)(B).

"(b) DEVELOPMENT OF AN INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—

"(1) OPTIONS FOR DEVELOPING AN INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—If an individual is determined to be eligible for vocational rehabilitation services as described in subsection (a), the designated State unit shall complete the assessment for determining eligibility and vocational rehabilitation needs, as appropriate, and shall provide the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, with information on the individual's options for developing an individualized rehabilitation employment plan, including—

"(A) information on the availability of assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the individualized rehabilitation employment plan for the individual, and the availability of technical assistance in developing all or part of the individualized rehabilitation employment plan for the individual;

"(B) a description of the full range of components that shall be included in an individualized rehabilitation employment plan;

"(C) as appropriate—

"(i) an explanation of agency guidelines and criteria associated with financial commitments concerning an individualized rehabilitation employment plan;

"(ii) additional information the eligible individual requests or the designated State unit determines to be necessary; and

"(iii) information on the availability of assistance in completing designated State agency forms required in developing an individualized rehabilitation employment plan; and

"(D)(i) a description of the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsection (c); and

"(ii) a description of the availability of a client assistance program established pursuant to section 112 and information about how to contact the client assistance program.

"(2) MANDATORY PROCEDURES.—

"(A) WRITTEN DOCUMENT.—An individualized rehabilitation employment plan shall be a written document prepared on forms provided by the designated State unit.

"(B) INFORMED CHOICE.—An individualized rehabilitation employment plan shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services, consistent with subsection (d).

"(C) SIGNATORIES.—An individualized rehabilitation employment plan shall be—

"(i) agreed to, and signed by, such eligible individual or, as appropriate, the individual's representative; and

"(ii) approved and signed by a qualified vocational rehabilitation counselor employed by the designated State unit.

"(D) COPY.—A copy of the individualized rehabilitation employment plan for an eligible individual shall be provided to the individual or, as appropriate, to the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or, as appropriate, of the individual's representative.

"(E) REVIEW AND AMENDMENT.—The individualized rehabilitation employment plan shall be—

"(i) reviewed at least annually by—

"(I) a qualified vocational rehabilitation counselor; and

"(II) the eligible individual or, as appropriate, the individual's representative; and

"(ii) amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the designated State agency or a qualified vocational rehabilitation counselor employed by the designated State unit, if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative, and by a qualified vocational rehabilitation counselor employed by the designated State unit).

"(3) MANDATORY COMPONENTS OF AN INDIVIDUALIZED REHABILITATION EMPLOYMENT PLAN.—Regardless of the approach selected by an eligible individual to develop an individualized rehabilitation employment plan, an individualized rehabilitation employment plan shall, at a minimum, contain mandatory components consisting of—

"(A) a description of the specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting;

"(B)(i) a description of the specific vocational rehabilitation services that are—

"(I) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training in the management of such services; and

"(II) provided in the most integrated setting that is appropriate for the service involved and

is consistent with the informed choice of the eligible individual; and

"(ii) timelines for the achievement of the employment outcome and for the initiation of the services;

"(C) a description of the entity chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure such services;

"(D) a description of criteria to evaluate progress toward achievement of the employment outcome;

"(E) the terms and conditions of the individualized rehabilitation employment plan, including, as appropriate, information describing—

"(i) the responsibilities of the designated State unit;

"(ii) the responsibilities of the eligible individual, including—

"(I) the responsibilities the eligible individual will assume in relation to the employment outcome of the individual;

"(II) if applicable, the participation of the eligible individual in paying for the costs of the plan; and

"(III) the responsibility of the eligible individual with regard to applying for and securing comparable benefits as described in section 101(a)(8); and

"(iii) the responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits requirements as described in section 101(a)(8);

"(F) for an eligible individual with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying—

"(i) the extended services needed by the eligible individual; and

"(ii) the source of extended services or, to the extent that the source of the extended services cannot be identified at the time of the development of the individualized rehabilitation employment plan, a description of the basis for concluding that there is a reasonable expectation that such source will become available; and

"(G) as determined to be necessary, a statement of projected need for post-employment services.

"(c) PROCEDURES.—

"(1) IN GENERAL.—Each State shall establish procedures for mediation of, and procedures for review through an impartial due process hearing of, determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services to applicants or eligible individuals.

"(2) NOTIFICATION.—

"(A) RIGHTS AND ASSISTANCE.—The procedures shall provide that an applicant or an eligible individual or, as appropriate, the applicant's representative or individual's representative shall be notified of—

"(i) the right to obtain review of determinations described in paragraph (1) in an impartial due process hearing under paragraph (5);

"(ii) the right to pursue mediation with respect to the determinations under paragraph (4); and

"(iii) the availability of assistance from the client assistance program under section 112.

"(B) TIMING.—Such notification shall be provided in writing—

"(i) at the time an individual applies for vocational rehabilitation services provided under this title;

"(ii) at the time the individualized rehabilitation employment plan for the individual is developed; and

"(iii) upon reduction, suspension, or cessation of vocational rehabilitation services for the individual.

"(3) EVIDENCE AND REPRESENTATION.—The procedures required under this subsection shall, at a minimum—

"(A) provide an opportunity for an applicant or an eligible individual, or, as appropriate, the applicant's representative or individual's representative, to submit at the mediation session or hearing evidence and information to support the position of the applicant or eligible individual; and

"(B) include provisions to allow an applicant or an eligible individual to be represented in the mediation session or hearing by a person selected by the applicant or eligible individual.

"(4) MEDIATION.—

"(A) PROCEDURES.—Each State shall ensure that procedures are established and implemented under this subsection to allow parties described in paragraph (1) to disputes involving any determination described in paragraph (1) to resolve such disputes through a mediation process that, at a minimum, shall be available whenever a hearing is requested under this subsection.

"(B) REQUIREMENTS.—Such procedures shall ensure that the mediation process—

"(i) is voluntary on the part of the parties;

"(ii) is not used to deny or delay the right of an individual to a hearing under this subsection, or to deny any other right afforded under this title; and

"(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

"(C) LIST OF MEDIATORS.—The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title, from which the mediators described in subparagraph (B) shall be selected.

"(D) COST.—The State shall bear the cost of the mediation process.

"(E) SCHEDULING.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

"(F) AGREEMENT.—An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

"(G) CONFIDENTIALITY.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

"(H) CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the parties to such a dispute from informally resolving the dispute prior to proceedings under this paragraph or paragraph (5), if the informal process used is not used to deny or delay the right of the applicant or eligible individual to a hearing under this subsection or to deny any other right afforded under this title.

"(5) HEARINGS.—

"(A) OFFICER.—A due process hearing described in paragraph (2) shall be conducted by an impartial hearing officer who shall issue a decision based on the provisions of the approved State plan, this Act (including regulations implementing this Act), and State regulations and policies that are consistent with the Federal requirements specified in this title. The officer shall provide the decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit.

"(B) LIST.—The designated State unit shall maintain a list of qualified impartial hearing officers who are knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title from which the officer described in subparagraph (A) shall be selected. For the purposes of maintaining such list, impartial hearing officers shall be identified jointly by—

"(i) the designated State unit; and

"(ii) members of the Council or commission, as appropriate, described in section 101(a)(21).

"(C) SELECTION.—Such an impartial hearing officer shall be selected to hear a particular case relating to a determination—

"(i) on a random basis; or

"(ii) by agreement between—

"(I) the Director of the designated State unit and the individual with a disability; or

"(II) in appropriate cases, the Director and the individual's representative.

"(D) PROCEDURES FOR SEEKING REVIEW.—A State may establish procedures to enable a party involved in a hearing under this paragraph to seek an impartial review of the decision of the hearing officer under subparagraph (A) by—

"(i) the chief official of the designated State agency if the State has established both a designated State agency and a designated State unit under section 101(a)(2); or

"(ii) an official from the office of the Governor.

"(E) REVIEW REQUEST.—If the State establishes impartial review procedures under subparagraph (D), either party may request the review of the decision of the hearing officer within 20 days after the decision.

"(F) REVIEWING OFFICIAL.—The reviewing official described in subparagraph (D) shall—

"(i) in conducting the review, provide an opportunity for the submission of additional evidence and information relevant to a final decision concerning the matter under review;

"(ii) not overturn or modify the decision of the hearing officer, or part of the decision, that supports the position of the applicant or eligible individual unless the reviewing official concludes, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the approved State plan, this Act (including regulations implementing this Act) or any State regulation or policy that is consistent with the Federal requirements specified in this title; and

"(iii) make a final decision with respect to the matter in a timely manner and provide such decision in writing to the applicant or eligible individual, or, as appropriate, the applicant's representative or individual's representative, and to the designated State unit, including a full report of the findings and the grounds for such decision.

"(G) FINALITY OF HEARING DECISION.—A decision made after a hearing under subparagraph (A) shall be final, except that a party may request an impartial review if the State has established procedures for such review under subparagraph (D) and a party involved in a hearing may bring a civil action under subparagraph (J).

"(H) FINALITY OF REVIEW.—A decision made under subparagraph (F) shall be final unless such a party brings a civil action under subparagraph (J).

"(I) IMPLEMENTATION.—If a party brings a civil action under subparagraph (J) to challenge a final decision of a hearing officer under subparagraph (A) or to challenge a final decision of a State reviewing official under subparagraph (F), the final decision involved shall be implemented pending review by the court.

"(J) CIVIL ACTION.—

"(i) IN GENERAL.—Any party aggrieved by a final decision described in subparagraph (I), may bring a civil action for review of such decision. The action may be brought in any State court of competent jurisdiction or in a district

court of the United States of competent jurisdiction without regard to the amount in controversy.

"(ii) PROCEDURE.—In any action brought under this subparagraph, the court—

"(I) shall receive the records relating to the hearing under subparagraph (A) and the records relating to the State review under subparagraphs (D) through (F), if applicable;

"(II) shall hear additional evidence at the request of a party to the action; and

"(III) basing the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

"(6) HEARING BOARD.—

"(A) IN GENERAL.—A fair hearing board, established by a State before January 1, 1985, and authorized under State law to review determinations or decisions under this Act, is authorized to carry out the responsibilities of the impartial hearing officer under this subsection.

"(B) APPLICATION.—The provisions of paragraphs (1), (2), and (3) that relate to due process hearings do not apply, and paragraph (5) (other than subparagraph (J)) does not apply, to any State to which subparagraph (A) applies.

"(7) IMPACT ON PROVISION OF SERVICES.—Unless the individual with a disability so requests, or, in an appropriate case, the individual's representative, so requests, pending a decision by a mediator, hearing officer, or reviewing officer under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided for the individual, including evaluation and assessment services and plan development, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual, or the individual's representative.

"(8) INFORMATION COLLECTION AND REPORT.—

"(A) IN GENERAL.—The Director of the designated State unit shall collect information described in subparagraph (B) and prepare and submit to the Commissioner a report containing such information. The Commissioner shall prepare a summary of the information furnished under this paragraph and include the summary in the annual report submitted under section 13. The Commissioner shall also collect copies of the final decisions of impartial hearing officers conducting hearings under this subsection and State officials conducting reviews under this subsection.

"(B) INFORMATION.—The information required to be collected under this subsection includes—

"(i) a copy of the standards used by State reviewing officials for reviewing decisions made by impartial hearing officers under this subsection;

"(ii) information on the number of hearings and reviews sought from the impartial hearing officers and the State reviewing officials, including the type of complaints and the issues involved;

"(iii) information on the number of hearing decisions made under this subsection that were not reviewed by the State reviewing officials; and

"(iv) information on the number of the hearing decisions that were reviewed by the State reviewing officials, and, based on such reviews, the number of hearing decisions that were—

"(I) sustained in favor of an applicant or eligible individual;

"(II) sustained in favor of the designated State unit;

"(III) reversed in whole or in part in favor of the applicant or eligible individual; and

"(IV) reversed in whole or in part in favor of the designated State unit.

"(C) CONFIDENTIALITY.—The confidentiality of records of applicants and eligible individuals maintained by the designated State unit shall not preclude the access of the Commissioner to those records for the purposes described in subparagraph (A).

"(d) POLICIES AND PROCEDURES.—Each designated State agency, in consultation with the State Rehabilitation Council, if the State has such a council, shall, consistent with section 100(a)(3)(C), develop and implement written policies and procedures that enable each individual who is an applicant for or eligible to receive vocational rehabilitation services under this title to exercise informed choice throughout the vocational rehabilitation process carried out under this title, including policies and procedures that require the designated State agency—

"(1) to inform each such applicant and eligible individual (including students with disabilities described in section 101(a)(11)(D)(ii)(II) who are making the transition from programs under the responsibility of an educational agency to programs under the responsibility of the designated State unit), through appropriate modes of communication, about the availability of, and opportunities to exercise, informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice, throughout the vocational rehabilitation process;

"(2) to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services under this title;

"(3) to develop and implement flexible procurement policies and methods that facilitate the provision of services, and that afford eligible individuals meaningful choices among the methods used to procure services, under this title;

"(4) to provide or assist eligible individuals in acquiring information that enables those individuals to exercise informed choice under this title in the selection of—

"(A) the employment outcome;

"(B) the specific vocational rehabilitation services needed to achieve the employment outcome;

"(C) the entity that will provide the services;

"(D) the employment setting and the settings in which the services will be provided; and

"(E) the methods available for procuring the services; and

"(5) to ensure that the availability and scope of informed choice provided under this section is consistent with the obligations of the designated State agency under this title.

"SEC. 103. VOCATIONAL REHABILITATION SERVICES.

"(a) VOCATIONAL REHABILITATION SERVICES FOR INDIVIDUALS.—Vocational rehabilitation services provided under this title are any services described in an individualized rehabilitation employment plan necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including—

"(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

"(2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d);

"(3) referral and other services to secure needed services from other agencies through agreements developed under section 101(b)(11), if such services are not available under this title;

"(4) job-related services, including job search and placement assistance, job retention services, followup services, and follow-along services;

"(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;

"(6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 101(a)(8)(A)), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including—

"(A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

"(B) necessary hospitalization in connection with surgery or treatment;

"(C) prosthetic and orthotic devices;

"(D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;

"(E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

"(F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;

"(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized rehabilitation employment plan;

"(8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;

"(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

"(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;

"(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

"(12) occupational licenses, tools, equipment, and initial stocks and supplies;

"(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided under the statewide workforce investment system, to eligible individuals who are pursuing self-employment or establishing a small business operation as an employment outcome;

"(14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

"(15) transition services for students with disabilities described in section 101(a)(11)(D)(ii)(II), that facilitate the achievement of the employment outcome identified in the individualized rehabilitation employment plan;

"(16) supported employment services;

"(17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and

"(18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

"(b) Vocational Rehabilitation Services for Groups of Individuals.—Vocational rehabilitation services provided for the benefit of groups of individuals with disabilities may also include the following:

"(1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.

"(2) The establishment, development, or improvement of community rehabilitation programs, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized rehabilitation employment plan of any 1 individual with a disability. Such programs shall be used to provide services that promote integration and competitive employment.

"(3) The use of telecommunications systems (including telephone, television, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities.

"(4)(A) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media.

"(B) Captioned television, films, or video cassettes for individuals who are deaf or hard of hearing.

"(C) Tactile materials for individuals who are deaf-blind.

"(D) Other special services that provide information through tactile, vibratory, auditory, and visual media.

"(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.

"(6) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities described in section 101(a)(11)(D)(i) from school to post-school activities, including employment.

"SEC. 104. NON-FEDERAL SHARE FOR ESTABLISHMENT OF PROGRAM.

"For the purpose of determining the amount of payments to States for carrying out part B of this title (or to an Indian tribe under part C), the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of establishment of a community rehabilitation program, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to establishment of such a program.

"SEC. 105. STATE REHABILITATION COUNCIL.

"(a) Establishment.—

"(1) In general.—Except as provided in section 101(a)(21)(A)(i), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Council (referred to in this section as the 'Council') in accordance with this section.

"(2) Separate agency for individuals who are blind.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(2)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

"(b) Composition and Appointment.—

"(1) Composition.—

"(A) In general.—Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

"(i) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

"(ii) at least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17);

"(iii) at least one representative of the client assistance program established under section 112;

"(iv) at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

"(v) at least one representative of community rehabilitation program service providers;

"(vi) four representatives of business, industry, and labor;

"(vii) representatives of disability advocacy groups representing a cross section of—

"(I) individuals with physical, cognitive, sensory, and mental disabilities; and

"(II) individuals' representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

"(viii) current or former applicants for, or recipients of, vocational rehabilitation services;

"(ix) in a State in which one or more projects are carried out under section 121, at least one representative of the directors of the projects;

"(x) at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this title and part B of the Individuals with Disabilities Education Act; and

"(xi) at least one representative of the statewide workforce investment partnership.

"(B) Separate council.—In the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

"(i) at least one representative described in subparagraph (A)(i);

"(ii) at least one representative described in subparagraph (A)(ii);

"(iii) at least one representative described in subparagraph (A)(iii);

"(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

"(v) at least one representative described in subparagraph (A)(v);

"(vi) four representatives described in subparagraph (A)(vi);

"(vii) at least one representative of a disability advocacy group representing individuals who are blind;

"(viii) at least one individual's representative, of an individual who—

"(I) is an individual who is blind and has multiple disabilities; and

"(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself;

"(ix) applicants or recipients described in subparagraph (A)(viii);

"(x) in a State described in subparagraph (A)(ix), at least one representative described in such subparagraph;

"(xi) at least one representative described in subparagraph (A)(x); and

"(xii) at least one representative described in subparagraph (A)(xi).

"(C) Exception.—In the case of a separate Council established under subsection (a)(2), any Council that is required by State law, as in effect on the date of enactment of the Rehabilitation Act Amendments of 1992, to have fewer than 15 members shall be deemed to be in compliance with subparagraph (B) if the Council—

"(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

"(ii) includes at least—

"(I) one representative described in subparagraph (B)(vi); and

"(II) one applicant or recipient described in subparagraph (B)(ix).

"(2) Ex officio member.—The Director of the designated State unit shall be an ex officio, nonvoting member of the Council.

"(3) Appointment.—Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

"(4) Qualifications.—A majority of Council members shall be persons who are—

"(A) individuals with disabilities described in section 7(20)(A); and

"(B) not employed by the designated State unit.

"(5) Chairperson.—

"(A) In general.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) Designation by governor.—In States in which the chief executive officer does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) Terms of appointment.—

"(A) Length of term.—Each member of the Council shall serve for a term of not more than 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) Number of terms.—No member of the Council, other than a representative described in clause (iii) or (ix) of paragraph (1)(A), or clause (iii) or (x) of paragraph (1)(B), may serve more than two consecutive full terms.

"(7) Vacancies.—

"(A) In general.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(B) Delegation.—The Governor may delegate the authority to fill such a vacancy to the remaining members of the Council after making the original appointment.

“(c) FUNCTIONS OF COUNCIL.—The Council shall, after consulting with the statewide workforce investment partnership—

“(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

“(A) eligibility (including order of selection);

“(B) the extent, scope, and effectiveness of services provided; and

“(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes under this title;

“(2) in partnership with the designated State unit—

“(A) develop, agree to, and review State goals and priorities in accordance with section 101(a)(15)(C); and

“(B) evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Commissioner in accordance with section 101(a)(15)(E);

“(3) advise the designated State agency and the designated State unit regarding activities authorized to be carried out under this title, and assist in the preparation of the State plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by this title;

“(4) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

“(A) the functions performed by the designated State agency;

“(B) vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under this Act; and

“(C) employment outcomes achieved by eligible individuals receiving services under this title, including the availability of health and other employment benefits in connection with such employment outcomes;

“(5) prepare and submit an annual report to the Governor and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

“(6) to avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities of other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 612(a)(21) of the Individual with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105–17), the State Developmental Disabilities Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), the State mental health planning council established under section 1914(a) of the Public Health Service Act (42 U.S.C. 300x–4(a)), and the statewide workforce investment partnership;

“(7) provide for coordination and the establishment of working relationships between the designated State agency and the Statewide Independent Living Council and centers for independent living within the State; and

“(8) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

“(d) RESOURCES.—

“(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

“(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor consistent with paragraph (1).

“(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

“(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

“(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

“(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

“(g) COMPENSATION AND EXPENSES.—The Council may use funds allocated to the Council by the designated State unit under this title (except for funds appropriated to carry out the client assistance program under section 112 and funds reserved pursuant to section 110(c) to carry out part C) to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

“(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

“SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—

“(A) ESTABLISHMENT OF STANDARDS AND INDICATORS.—The Commissioner shall, not later than September 30, 1998, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program carried out under this title.

“(B) REVIEW AND REVISION.—Effective September 30, 1998, the Commissioner shall review and, if necessary, revise the evaluation standards and performance indicators every 3 years. Any revisions of the standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. Any revisions of the standards and indicators shall be subject to the publication, review, and comment provisions of paragraph (3).

“(C) BASES.—Effective July 1, 1999, to the maximum extent practicable, the standards and indicators shall be consistent with the core indicators of performance established under section 321(b) of the Workforce Investment Partnership Act of 1998.

“(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate the accomplishment of the purpose and policy of this title.

“(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

“(b) COMPLIANCE.—

“(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

“(2) PROGRAM IMPROVEMENT.—

“(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State, and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

“(B) REVIEW.—The Commissioner shall—

“(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

“(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

“(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

“(d) REPORT TO CONGRESS.—Beginning in fiscal year 1999, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.

“SEC. 107. MONITORING AND REVIEW.

“(a) IN GENERAL.—

“(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

“(A) provide for the annual review and periodic onsite monitoring of programs under this title; and

“(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

“(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

“(A) State policies and procedures;

“(B) guidance materials;

“(C) decisions resulting from hearings conducted in accordance with due process;

"(D) State goals established under section 101(a)(15) and the extent to which the State has achieved such goals;

"(E) plans and reports prepared under section 106(b);

"(F) consumer satisfaction reviews and analyses described in section 105(c)(4);

"(G) information provided by the State Rehabilitation Council established under section 105, if the State has such a Council, or by the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

"(H) reports; and

"(I) budget and financial management data.

"(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

"(A) onsite visits, including onsite reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 101(a)(5)(A);

"(B) public hearings and other strategies for collecting information from the public;

"(C) meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

"(D) reviews of individual case files, including individualized rehabilitation employment plans and ineligibility determinations; and

"(E) meetings with rehabilitation counselors and other personnel.

"(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

"(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) whether the personnel evaluation system described in section 101(a)(7)(A)(iv) facilitates the accomplishments of the program;

"(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission; and

"(E) such other areas of inquiry as the Commissioner may consider appropriate.

"(5) REPORTS.—If the Commissioner issues a report detailing the findings of an annual review or onsite monitoring conducted under this section, the report shall be made available to the State Rehabilitation Council, if the State has such a Council.

"(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

"(1) provide technical assistance to programs under this title regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

"(c) FAILURE TO COMPLY WITH PLAN.—

"(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

"(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

"(d) REVIEW.—

"(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3) STANDARDS OF REVIEW.—

"(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

"(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

"(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).

"SEC. 108. EXPENDITURE OF CERTAIN AMOUNTS.

"(a) EXPENDITURE.—Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part C of title VI, or under title VII.

"(b) AMOUNTS.—The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.

"SEC. 109. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.

"A State may expend payments received under section 111—

"(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

"(2) to inform employers of the existence of the program and the availability of the services of the program.

"PART B—BASIC VOCATIONAL REHABILITATION SERVICES

"STATE ALLOTMENTS

"SEC. 110. (a)(1) Subject to the provisions of subsection (c), for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of—

"(A) the population of the State; and

"(B) the square of its allotment percentage,

bears to the sum of the corresponding products for all the States.

"(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

"(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 100(b)(1) for allotment under this section in excess of the amount appropriated under section 100(b)(1)(A) for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

"(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and

"(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

"(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands) under this subsection for any fiscal year which is less than one-third of 1 percent of the amount appropriated under section 100(b)(1), or $3,000,000, whichever is greater, *shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.*

"(b)(1) Not later than forty-five days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

"(2) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall make such amount available for carrying out the purposes of this title to one or more other States to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes. The Commissioner shall make such amount available only if such other State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

"(3) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

"(c)(1) For fiscal year 1987 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 100(b)(1) for allotment under this section a sum, determined under paragraph (2), to carry out the purposes of part C.

"(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

"(A) not less than three-quarters of 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for fiscal year 1998; and

"(B) not less than 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for each of fiscal years 1999 through 2004.

"PAYMENTS TO STATES

"SEC. 111. (a)(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 101, including expenditures for the administration of the State plan.

"(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a) of section 110 for such year.

"(B) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year.

"(C) The Commissioner may waive or modify any requirement or limitation under paragraphs (A) and (B) if the Commissioner determines that a waiver or modification is an equitable response to exceptional or uncontrollable circumstances affecting the State.

"(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

"(1) The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by the Commissioner, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Commissioner may find necessary.

"(2) The Commissioner shall pay, from the allotment available therefor, the amount so estimated by the Commissioner for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which the Commissioner finds that the estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Commissioner may determine.

"CLIENT ASSISTANCE PROGRAM

"SEC. 112. (a) From funds appropriated under subsection (h), the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this Act, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and services provided under this Act, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this Act and to facilitate access to the services funded under this Act through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

"(b) No State may receive payments from its allotment under this Act in any fiscal year unless the State has in effect not later than October 1, 1984, a client assistance program which—

"(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this Act within the State; and

"(2) meets the requirements of designation under subsection (c).

"(c)(1)(A) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this subparagraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this Act. If there is an agency in the State which has, or had, prior to the date of enactment of the Rehabilitation Amendments of 1984, served as a client assistance agency under this section and which received Federal financial assistance under this Act, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

"(B)(i) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

"(I) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

"(II) individuals with disabilities or the individuals' representatives have timely notice of the redesignation and opportunity for public comment; and

"(III) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.

"(ii) If, after the date of enactment of the Rehabilitation Act Amendments of 1998—

"(I) a designated State agency undergoes any change in the organizational structure of the agency that results in the creation of 1 or more new State agencies or departments or results in the merger of the designated State agency with 1 or more other State agencies or departments; and

"(II) an agency (including an office or other unit) within the designated State agency was conducting a client assistance program before the change under the last sentence of subparagraph (A),

the Governor shall redesignate the agency conducting the program. In conducting the redesignation, the Governor shall designate to conduct the program an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

"(2) In carrying out the provisions of this section, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving individuals with disabilities in the State.

"(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

"(d) The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

"(e)(1)(A) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than $50,000.

"(B) The Secretary shall allot $30,000 each to American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(C) For the purpose of this paragraph, the term 'State' does not include American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed $7,500,000, the minimum allotment shall be $100,000 for States and $45,000 for territories.

"(ii) For any fiscal year in which the total amount appropriated under subsection (h) exceeds the total amount appropriated under such subsection for the preceding fiscal year, the Secretary shall increase each of the minimum allotments under clause (i) by a percentage that shall not exceed the percentage increase in the total amount appropriated under such subsection between the preceding fiscal year and the fiscal year involved.

"(2) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary at appropriate times to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period, and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any such amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

"(3) Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay to the agency designated under subsection (c) the amount specified in the application approved under subsection (f).

"(f) No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

"(g) The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:

"(1) No employees of such programs shall, while so employed, serve as staff or consultants of any rehabilitation project, program, or facility receiving assistance under this Act in the State.

"(2) Each program shall be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.

"(3)(A) Each program shall contain provisions designed to assure that to the maximum extent possible alternative means of dispute resolution are available for use at the discretion of an applicant or client of the program prior to resorting to litigation or formal adjudication to resolve a dispute arising under this section.

"(B) In subparagraph (A), the term 'alternative means of dispute resolution' means any procedure, including good faith negotiation, conciliation, facilitation, mediation, factfinding, and arbitration, and any combination of procedures, that is used in lieu of litigation in a court or formal adjudication in an administrative forum, to resolve a dispute arising under this section.

"(4) For purposes of any periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(h) There are authorized to be appropriated such sums as may be necessary for fiscal years 1998 through 2004 to carry out the provisions of this section.

"PART C—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"VOCATIONAL REHABILITATION SERVICES GRANTS

"SEC. 121. (a) The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of vocational rehabilitation services for American Indians who are individuals with disabilities residing on such reservations. The non-Federal share of such costs may be in cash or in kind, fairly valued, and the Commissioner may waive such non-Federal share requirement in order to carry out the purposes of this Act.

"(b)(1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

"(A) is made at such time, in such manner, and contains such information as the Commissioner may require;

"(B) contains assurances that the rehabilitation services provided under this part to American Indians who are individuals with disabilities residing on a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other individuals with disabilities residing in the State and that, where appropriate, may include services traditionally used by Indian tribes; and

"(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

"(2) The provisions of sections 5, 6, 7, and 102(a) of the Indian Self-Determination and Education Assistance Act shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Education or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

"(3) Any application approved under this part shall be effective for not more than 60 months, except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).

"(4) In making grants under this part, the Secretary shall give priority consideration to applications for the continuation of programs which have been funded under this part.

"(5) Nothing in this section may be construed to authorize a separate service delivery system for Indian residents of a State who reside in non-reservation areas.

"(c) The term 'reservation' includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

"PART D—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

"SEC. 131. DATA SHARING.

"(a) IN GENERAL.—

"(1) MEMORANDUM OF UNDERSTANDING.—The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purposes of exchanging data of mutual importance—

"(A) that concern clients of designated State agencies; and

"(B) that are data maintained either by—

"(i) the Rehabilitation Services Administration, as required by section 13; or

"(ii) the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records.

"(2) LABOR MARKET INFORMATION.—The Secretary of Labor shall provide the Commissioner with labor market information that facilitates evaluation by the Commissioner of the program carried out under part B, and allows the Commissioner to compare the progress of individuals with disabilities who are assisted under the program in securing, retaining, regaining, and advancing in employment with the progress made by individuals who are assisted under title III of the Workforce Investment Partnership Act of 1998.

"(b) TREATMENT OF INFORMATION.—For purposes of the exchange described in subsection (a)(1), the data described in subsection (a)(1)(B)(ii) shall not be considered return information (as defined in section 6103(b)(2) of the Internal Revenue Code of 1986) and, as appropriate, the confidentiality of all client information shall be maintained by the Rehabilitation Services Administration and the Social Security Administration.".

SEC. 605. RESEARCH AND TRAINING.

Title II of the Rehabilitation Act of 1973 (29 U.S.C. 760 et seq.) is amended to read as follows:

"TITLE II—RESEARCH AND TRAINING

"DECLARATION OF PURPOSE

"SEC. 200. The purpose of this title is to—

"(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

"(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the 5-year plan developed under section 202(h);

"(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

"(A) the procurement process for the purchase of rehabilitation technology;

"(B) the utilization of rehabilitation technology on a national basis;

"(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently; and

"(D) the development or transfer of assistive technology;

"(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

"(A) generated by research, demonstration projects, training, and related activities; and

"(B) regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities,

to rehabilitation professionals, individuals with disabilities, and other interested parties, including the general public;

"(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in employment, including employment involving telecommuting and self-employment; and

"(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 201. (a) There are authorized to be appropriated—

"(1) for the purpose of providing for the expenses of the National Institute on Disability and Rehabilitation Research under section 202, which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204, such sums as may be necessary for each of fiscal years 1998 through 2004; and

"(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1998 through 2004.

"(b) Funds appropriated under this title shall remain available until expended.

"NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH

"SEC. 202. (a)(1) There is established within the Department of Education a National Institute on Disability and Rehabilitation Research (hereinafter in this title referred to as the 'Institute'), which shall be headed by a Director (hereinafter in this title referred to as the 'Director'), in order to—

"(A) promote, coordinate, and provide for—

"(i) research;

"(ii) demonstration projects and training; and

"(iii) related activities,

with respect to individuals with disabilities;

"(B) more effectively carry out activities through the programs under section 204 and activities under this section;

"(C) widely disseminate information from the activities described in subparagraphs (A) and (B); and

"(D) provide leadership in advancing the quality of life of individuals with disabilities.

"(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).

"(b) The Director, through the Institute, shall be responsible for—

"(1) administering the programs described in section 204 and activities under this section;

"(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, training, and related activities (referred to in this title as 'covered activities') funded by the Institute, to—

"(A) other Federal, State, tribal, and local public agencies;

"(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(C) rehabilitation practitioners; and

"(D) individuals with disabilities and the individuals' representatives;

"(3) coordinating, through the Interagency Committee established by section 203 of this Act, all Federal programs and policies relating to research in rehabilitation;

"(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

"(A) public and private entities, including—

"(i) elementary and secondary schools (as defined in section 14101 of the Elementary and Secondary Education Act of 1965; and

"(ii) institutions of higher education;

"(B) rehabilitation practitioners;

"(C) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this Act); and

"(D) the individuals' representatives for the individuals described in subparagraph (C);

"(5)(A) conducting an education program to inform the public about ways of providing for the rehabilitation of individuals with disabilities, including information relating to—

"(i) family care;

"(ii) self-care; and

"(iii) assistive technology devices and assistive technology services; and

"(B) as part of the program, disseminating engineering information about assistive technology devices;

"(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology (including advances concerning the selection and use of assistive technology devices and assistive technology services), pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;

"(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title, including dissemination activities;

"(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Health Care Financing Administration, the Social Security Administration, the Bureau of Indian Affairs, the Indian Health Service, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of individuals with disabilities, including information on individuals with disabilities who live in rural or inner-city settings, with particular attention given to underserved populations, and widely disseminating such reports and studies to rehabilitation professionals, individuals with disabilities, the individuals' representatives, and others to assist in the planning, assessment, and evaluation of vocational and other rehabilitation services for individuals with disabilities;

"(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

"(10) conducting research to examine the relationship between the provision of specific services and successful, sustained employment outcomes, including employment outcomes involving self-employment; and

"(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).

"(c)(1) The Director, acting through the Institute or 1 or more entities funded by the Institute, shall provide for the development and dissemination of models to address consumer-driven information needs related to assistive technology devices and assistive technology services.

"(2) The development and dissemination of models may include—

"(A) convening groups of individuals with disabilities, family members and advocates of such individuals, commercial producers of assistive technology, and entities funded by the Institute to develop, assess, and disseminate knowledge about information needs related to assistive technology;

"(B) identifying the types of information regarding assistive technology devices and assistive technology services that individuals with disabilities find especially useful;

"(C) evaluating current models, and developing new models, for transmitting the information described in subparagraph (B) to consumers and to commercial producers of assistive technology; and

"(D) disseminating through 1 or more entities funded by the Institute, the models described in subparagraph (C) and findings regarding the information described in subparagraph (B) to consumers and commercial producers of assistive technology.

"(d)(1) The Director of the Institute shall be appointed by the Secretary. The Director shall be an individual with substantial experience in rehabilitation and in research administration. The Director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Director shall not delegate any of his functions to any officer who is not directly responsible to the Director.

"(2) There shall be a Deputy Director of the Institute (referred to in this section as the 'Deputy Director') who shall be appointed by the Secretary. The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration. The Deputy Director shall be compensated at the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, and shall act for the Director during the absence of the Director or the inability of the Director to perform the essential functions of the job, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be a Senior Executive Service position, as defined in section 3132 of title 5, United States Code.

"(3) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director determines to be necessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions, in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

"(4) The Director may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(e) The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Director considers necessary to procure the assistance of highly qualified research fellows, including individuals with disabilities, from the United States and foreign countries.

"(f)(1) The Director shall, pursuant to regulations that the Secretary shall prescribe, provide for scientific peer review of all applications for financial assistance for research, training, and demonstration projects over which the Director has authority. The Director shall provide for the review by utilizing, to the maximum extent possible, appropriate peer review panels established within the Institute. The panels shall be standing panels if the grant period involved or the duration of the program involved is not more than 3 years. The panels shall be composed of individuals who are not Federal employees, who are scientists or other experts in the rehabilitation field (including the independent living field), including knowledgeable individuals with disabilities, and the individuals' representatives, and who are competent to review applications for the financial assistance.

"(2) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panels.

"(3) The Director shall solicit nominations for such panels from the public and shall publish the names of the individuals selected. Individuals comprising each panel shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review.

"(4) In providing for such scientific peer review, the Secretary shall provide for training, as *necessary and appropriate, to facilitate the effective participation of those individuals selected to participate in such review.*

“(g) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.

“(h)(1) The Director shall—

“(A) by October 1, 1998 and every fifth October 1 thereafter, prepare and publish in the Federal Register for public comment a draft of a 5-year plan that outlines priorities for rehabilitation research, demonstration projects, training, and related activities and explains the basis for such priorities;

“(B) by June 1, 1999, and every fifth June 1 thereafter, after considering public comments, submit the plan in final form to the appropriate committees of Congress;

“(C) at appropriate intervals, prepare and submit revisions in the plan to the appropriate committees of Congress; and

“(D) annually prepare and submit progress reports on the plan to the appropriate committees of Congress.

“(2) Such plan shall—

“(A) identify any covered activity that should be conducted under this section and section 204 respecting the full inclusion and integration into society of individuals with disabilities, especially in the area of employment;

“(B) determine the funding priorities for covered activities to be conducted under this section and section 204;

“(C) specify appropriate goals and timetables for covered activities to be conducted under this section and section 204;

“(D) be developed by the Director—

“(i) after consultation with the Rehabilitation Research Advisory Council established under section 205;

“(ii) in coordination with the Commissioner;

“(iii) after consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Interagency Committee on Disability Research established under section 203; and

“(iv) after full consideration of the input of individuals with disabilities and the individuals' representatives, organizations representing individuals with disabilities, providers of services furnished under this Act, researchers in the rehabilitation field, and any other persons or entities the Director considers to be appropriate;

“(E) specify plans for widespread dissemination of the results of covered activities, in accessible formats, to rehabilitation practitioners, individuals with disabilities, and the individuals' representatives; and

“(F) specify plans for widespread dissemination of the results of covered activities that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs carried out under this Act.

“(i) In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 203, regarding the design of research projects conducted by such entities and the results and applications of such research.

“(j)(1) The Director shall take appropriate actions to provide for a comprehensive and coordinated research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult, through the Interagency Committee established by section 203, with the Director as Chairperson of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

“(2) Any person responsible for administering any program of the National Institutes of Health, the Department of Veterans Affairs, the National Science Foundation, the National Aeronautics and Space Administration, the Office of Special Education and Rehabilitative Services, or of any other Federal entity, shall, through the Interagency Committee established by section 203, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this title.

“(k) The Director shall make grants to institutions of higher education for the training of rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act.

“INTERAGENCY COMMITTEE

“SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Disability Research (hereinafter in this section referred to as the ‘Committee’), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services, the Secretary of Education, the Secretary of Veterans Affairs, the Director of the National Institutes of Health, the Director of the National Institute of Mental Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Director of the Indian Health Service, and the Director of the National Science Foundation.

“(2) The Committee shall meet not less than four times each year.

“(b) After receiving input from individuals with disabilities and the individuals' representatives, the Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of individuals with disabilities.

“(c) The Committee shall annually submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of individuals with disabilities.

“RESEARCH AND OTHER COVERED ACTIVITIES

“SEC. 204. (a)(1) To the extent consistent with priorities established in the 5-year plan described in section 202(h), the Director may make grants to and contracts with States and public or private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to pay part of the cost of projects for the purpose of planning and conducting research, demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most significant disabilities, and improve the effectiveness of services authorized under this Act.

“(2)(A) In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, V, VI, and VII, including projects addressing the needs described in the State plans submitted under section 101 or 704 by State agencies.

“(B) Such projects, as described in the State plans submitted by State agencies, may include—

“(i) medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, including basic research where related to rehabilitation techniques or services;

“(ii) studies and analysis of industrial, vocational, social, recreational, psychiatric, psychological, economic, and other factors affecting rehabilitation of individuals with disabilities;

“(iii) studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized;

“(iv) studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of individuals with disabilities;

“(v) studies, analyses, and other activities related to supported employment;

“(vi) related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of individuals with disabilities and individuals with the most significant disabilities, particularly individuals with disabilities, and individuals with the most significant disabilities, who are members of populations that are unserved or underserved by programs under this Act; and

“(vii) studies, analyses, and other activities related to job accommodations, including the use of rehabilitation engineering and assistive technology.

“(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as ‘research grants’) to pay part or all of the cost of the research or other specialized covered activities described in paragraphs (2) through (18). A research grant made under any of paragraphs (2) through (18) may only be used in a manner consistent with priorities established in the 5-year plan described in section 202(h).

“(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which Centers shall—

“(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

“(ii) serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the individuals' representatives.

“(B) The Centers shall conduct research and training activities by—

“(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities, especially promoting the ability

of the individuals to prepare for, secure, retain, regain, or advance in employment;

"(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

"(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

"(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the individuals' representatives, through conferences, workshops, public education programs, in-service training programs, and similar activities.

"(C) The research to be carried out at each such Center may include—

"(i) basic or applied medical rehabilitation research;

"(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

"(iii) research related to vocational rehabilitation;

"(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

"(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

"(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

"(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

"(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

"(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

"(G) Grants made under this paragraph may be used to provide faculty support for teaching—

"(i) rehabilitation-related courses of study for credit; and

"(ii) other courses offered by the Centers, either directly or through another entity.

"(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

"(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

"(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

"(K) To be eligible to receive a grant under this paragraph, each such institution or provider described in subparagraph (A) shall—

"(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

"(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

"(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(N) In conducting scientific peer review under section 202(f) of an application for the renewal of a grant made under this paragraph, the peer review panel shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the individuals' representatives.

"(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

"(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

"(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

"(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

"(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

"(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

"(ii) demonstrating and disseminating—

"(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

"(II) other scientific research to assist in meeting the employment and independent living needs of individuals with significant disabilities; or

"(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

"(I) consumer responsive and individual and family-centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

"(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with significant disabilities.

"(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with programs established under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the individuals' representatives to—

"(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

"(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

"(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

"(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

"(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

"(I) Early childhood services, including early intervention and family support.

"(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

"(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and title V.

"(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills, and activities of daily living.

"(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the individuals' representatives.

"(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(G) Each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.); and

"(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program of the Center in terms of both short- and long-term impact on the lives of individuals with disabilities, and

such other information as may be requested by the Director.

"(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

"(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the individuals' representatives, and organizations receiving financial assistance under this paragraph;

"(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

"(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

"(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

"(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost-effectiveness of, such a regional system;

"(iii) demonstrate and evaluate existing, new, and improved methods and rehabilitation technology essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

"(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.

"(5) Research grants may be used to conduct a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals with such disease and which will—

"(A) ensure dissemination of research findings;

"(B) provide encouragement and support for initiatives and new approaches by individuals and institutional investigators; and

"(C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts,

in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease. No person shall be selected to participate in such program who is eligible for services for such disease under any other provision of law.

"(6) Research grants may be used to conduct a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of individuals with disabilities in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of individuals with disabilities, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of individuals with disabilities with other nations as a means of increasing the levels of skill of rehabilitation personnel.

"(7) Research grants may be used to conduct a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of individuals with disabilities.

"(8) Research grants may be used to conduct a program of joint projects with the National Institutes of Health, the National Institute of Mental Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Department of Health and Human Services, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

"(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.

"(10) Research grants may be used to conduct a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of individuals with disabilities, including individuals with significant disabilities.

"(11) Research grants may be used to conduct a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to individuals who are deaf or hard of hearing captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programming.

"(12) Research grants may be used to conduct a model research and demonstration program to develop innovative methods of providing services for preschool age children who are individuals with disabilities, including—

"(A) early intervention, assessment, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of children who are individuals with significant disabilities up to the age of five, with a special emphasis on children who are individuals with significant disabilities up to the age of three;

"(B) such physical therapy, language development, pediatric, nursing, psychological, and psychiatric services as are necessary for such children; and

"(C) appropriate services for the parents of such children, including psychological and psychiatric services, parent counseling, and training.

"(13) Research grants may be used to conduct a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and addressing the employment needs of individuals with disabilities, including programs that—

"(A) provide training and continuing education for personnel involved with the employment of individuals with disabilities;

"(B) develop model procedures for testing and evaluating the employment needs of individuals with disabilities;

"(C) develop model training programs to teach individuals with disabilities skills which will lead to appropriate employment;

"(D) develop new approaches for job placement of individuals with disabilities, including new followup procedures relating to such placement;

"(E) provide information services regarding education, training, employment, and job placement for individuals with disabilities; and

"(F) develop new approaches and provide information regarding job accommodations, including the use of rehabilitation engineering and assistive technology.

"(14) Research grants may be used to conduct a rehabilitation research program under which financial assistance is provided in order to—

"(A) test new concepts and innovative ideas;

"(B) demonstrate research results of high potential benefits;

"(C) purchase prototype aids and devices for evaluation;

"(D) develop unique rehabilitation training curricula; and

"(E) be responsive to special initiatives of the Director.

No single grant under this paragraph may exceed $50,000 in any fiscal year and all payments made under this paragraph in any fiscal year may not exceed 5 percent of the amount available for this section to the National Institute on Disability and Rehabilitation Research in any fiscal year. Regulations and administrative procedures with respect to financial assistance under this paragraph shall, to the maximum extent possible, be expedited.

"(15) Research grants may be used to conduct studies of the rehabilitation needs of American Indian populations and of effective mechanisms for the delivery of rehabilitation services to Indians residing on and off reservations.

"(16) Research grants may be used to conduct a demonstration program under which one or more projects national in scope shall be established to develop procedures to provide incentives for the development, manufacturing, and marketing of orphan technological devices, including technology transfer concerning such devices, designed to enable individuals with disabilities to achieve independence and access to gainful employment.

"(17)(A) Research grants may be used to conduct a research program related to quality assurance in the area of rehabilitation technology.

"(B) Activities carried out under the research program may include—

"(i) the development of methodologies to evaluate rehabilitation technology products and services and the dissemination of the methodologies to consumers and other interested parties;

"(ii) identification of models for service provider training and evaluation and certification of the effectiveness of the models;

"(iii) identification and dissemination of outcome measurement models for the assessment of rehabilitation technology products and services; and

"(iv) development and testing of research-based tools to enhance consumer decisionmaking about rehabilitation technology products and services.

"(C) The Director shall develop the quality assurance research program after consultation with representatives of all types of organizations interested in rehabilitation technology quality assurance.

"(18) Research grants may be used to provide for research and demonstration projects and related activities that explore the use and effectiveness of specific alternative or complementary medical practices for individuals with disabilities. Such projects and activities may include projects and activities designed to—

"(A) determine the use of specific alternative or complementary medical practices among individuals with disabilities and the perceived effectiveness of the practices;

"(B) determine the specific information sources, decisionmaking methods, and methods of payment used by individuals with disabilities who access alternative or complementary medical services;

"(C) develop criteria to screen and assess the validity of research studies of such practices for individuals with disabilities; and

"(D) determine the effectiveness of specific alternative or complementary medical practices that show promise for promoting increased functioning, prevention of secondary disabilities, or other positive outcomes for individuals with certain types of disabilities, by conducting controlled research studies.

"(c)(1) In carrying out evaluations of covered activities under this section, the Director is authorized to make arrangements for site visits to obtain information on the accomplishments of the projects.

"(2) The Director shall not make a grant under this section that exceeds $499,999 unless the peer review of the grant application has included a site visit.

"REHABILITATION RESEARCH ADVISORY COUNCIL

"SEC. 205. (a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary.

"(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the 5-year plan required by section 202(h).

"(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the individuals' representatives. At least one-half of the members shall be individuals with disabilities or the individuals' representatives.

"(d) TERMS OF APPOINTMENT.—

"(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

"(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(f) PAYMENT AND EXPENSES.—

"(1) PAYMENT.—Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

"(2) TRAVEL EXPENSES.—Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

"(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.".

SEC. 606. PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS.

Title III of the Rehabilitation Act of 1973 (29 U.S.C. 770 et seq.) is amended to read as follows:

"TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS

"SEC. 301. DECLARATION OF PURPOSE AND COMPETITIVE BASIS OF GRANTS AND CONTRACTS.

"(a) PURPOSE.—It is the purpose of this title to authorize grants and contracts to—

"(1)(A) provide academic training to ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs (including supported employment programs), through independent living services programs, and through client assistance programs; and

"(B) provide training to maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery and rehabilitation technology services;

"(2) conduct special projects and demonstrations that expand and improve the provision of rehabilitation and other services authorized under this Act, or that otherwise further the purposes of this Act, including related research and evaluation;

"(3) provide vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers;

"(4) initiate recreational programs to provide recreational activities and related experiences for individuals with disabilities to aid such individuals in employment, mobility, socialization, independence, and community integration; and

"(5) provide training and information to individuals with disabilities and the individuals' representatives, and other appropriate parties to develop the skills necessary for individuals with disabilities to gain access to the rehabilitation system and workforce investment system and to become active decisionmakers in the rehabilitation process.

"(b) COMPETITIVE BASIS OF GRANTS AND CONTRACTS.—The Secretary shall ensure that all grants and contracts are awarded under this title on a competitive basis.

"SEC. 302. TRAINING.

"(a) GRANTS AND CONTRACTS FOR PERSONNEL TRAINING.—

"(1) AUTHORITY.—The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the cost of projects to provide training, traineeships, and related activities, including the provision of technical assistance, that are designed to assist in increasing the numbers of, and upgrading the skills of, qualified personnel (especially rehabilitation counselors) who are trained in providing vocational, medical, social, and psychological rehabilitation services, who are trained to assist individuals with communication and related disorders, who are trained to provide other services provided under this Act, to individuals with disabilities, and who may include—

"(A) personnel specifically trained in providing employment assistance to individuals with disabilities through job development and job placement services;

"(B) personnel specifically trained to identify, assess, and meet the individual rehabilitation needs of individuals with disabilities, including needs for rehabilitation technology;

"(C) personnel specifically trained to deliver services to individuals who may benefit from receiving independent living services;

"(D) personnel specifically trained to deliver services in the client assistance programs;

"(E) personnel specifically trained to deliver services, through supported employment programs, to individuals with a most significant disability;

"(F) personnel providing vocational rehabilitation services specifically trained in the use of braille, the importance of braille literacy, and in methods of teaching braille; and

"(G) personnel trained in performing other functions necessary to the provision of vocational, medical, social, and psychological rehabilitation services, and other services provided under this Act.

"(2) AUTHORITY TO PROVIDE SCHOLARSHIPS.—Grants and contracts under paragraph (1) may be expended for scholarships and may include necessary stipends and allowances.

"(3) RELATED FEDERAL STATUTES.—In carrying out this subsection, the Commissioner may make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training regarding related Federal statutes (other than this Act).

"(4) TRAINING FOR STATEWIDE WORKFORCE SYSTEMS PERSONNEL.—The Commissioner may make grants to and enter into contracts under this subsection with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training to personnel providing services to individuals with disabilities under the Workforce Investment Partnership Act of 1998. Under this paragraph, personnel may be trained—

"(A) in evaluative skills to determine whether an individual with a disability may be served by the State vocational rehabilitation program or another component of the statewide workforce investment system; or

"(B) to assist individuals with disabilities seeking assistance through one-stop customer service centers established under section 315 of the Workforce Investment Partnership Act of 1998.

"(5) JOINT FUNDING.—Training and other activities provided under paragraph (4) for personnel may be jointly funded with the Department of Labor, using funds made available under title III of the Workforce Investment Partnership Act of 1998.

"(b) GRANTS AND CONTRACTS FOR ACADEMIC DEGREES AND ACADEMIC CERTIFICATE GRANTING TRAINING PROJECTS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Commissioner may make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the costs of academic training projects to provide training that leads to an academic degree or academic certificate.

In making such grants or entering into such contracts, the Commissioner shall target funds to areas determined under subsection (e) to have shortages of qualified personnel.

"(B) Types of Projects.—Academic training projects described in this subsection may include—

"(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

"(ii) projects to train personnel to provide—

"(I) services to individuals with specific disabilities or individuals with disabilities who have specific impediments to rehabilitation, including individuals who are members of populations that are unserved or underserved by programs under this Act;

"(II) job development and job placement services to individuals with disabilities;

"(III) supported employment services, including services of employment specialists for individuals with disabilities;

"(IV) specialized services for individuals with significant disabilities; or

"(V) recreation for individuals with disabilities;

"(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities; and

"(iv) projects to train personnel in the use, applications, and benefits of rehabilitation technology.

"(2) Application.—No grant shall be awarded or contract entered into under this subsection unless the applicant has submitted to the Commissioner an application at such time, in such form, in accordance with such procedures, and including such information as the Secretary may require, including—

"(A) a description of how the designated State unit or units will participate in the project to be funded under the grant or contract, including, as appropriate, participation on advisory committees, as practicum sites, in curriculum development, and in other ways so as to build closer relationships between the applicant and the designated State unit and to encourage students to pursue careers in public vocational rehabilitation programs;

"(B) the identification of potential employers that would meet the requirements of paragraph (4)(A)(i); and

"(C) an assurance that data on the employment of graduates or trainees who participate in the project is accurate.

"(3) Limitation.—

"(A) In general.—Except as provided in subparagraph (B), no grant or contract under this subsection may be used to provide any one course of study to an individual for a period of more than 4 years.

"(B) Exception.—If a grant or contract recipient under this subsection determines that an individual has a disability which seriously affects the completion of training under this subsection, the grant or contract recipient may extend the period referred to in subparagraph (A).

"(4) Required agreements.—

"(A) In general.—A recipient of a grant or contract under this subsection shall provide assurances to the Commissioner that each individual who receives a scholarship, for the first academic year after the date of enactment of the Rehabilitation Act Amendments of 1998, utilizing funds provided under such grant or contract shall enter into an agreement with the recipient under which the individual shall—

"(i) maintain employment—

"(I) with an employer that is a State rehabilitation or other agency or organization (including a professional corporation or practice group) that provides services to individuals with disabilities under this Act, or with an institution of higher education or other organization that conducts rehabilitation education, training, or research under this Act;

"(II) on a full- or part-time basis; and

"(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this subsection was received by the individual, within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in this subclause and 2 additional years;

"(ii) directly provide or administer services, conduct research, or furnish training, funded under this Act; and

"(iii) repay all or part of the amount of any scholarship received under the grant or contract, plus interest, if the individual does not fulfill the requirements of clauses (i) and (ii), except that the Commissioner may by regulation provide for repayment exceptions and deferrals.

"(B) Enforcement.—The Commissioner shall be responsible for the enforcement of each agreement entered into under subparagraph (A) upon the completion of the training involved with respect to such agreement.

"(c) Grants to Historically Black Colleges and Universities.—The Commissioner, in carrying out this section, shall make grants to historically Black colleges and universities and other institutions of higher education whose minority student enrollment is at least 50 percent of the total enrollment of the institution.

"(d) Application.—A grant may not be awarded to a State or other organization under this section unless the State or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require, including a detailed description of strategies that will be utilized to recruit and train individuals so as to reflect the diverse populations of the United States as part of the effort to increase the number of individuals with disabilities, and individuals who are from linguistically and culturally diverse backgrounds, who are available to provide rehabilitation services.

"(e) Evaluation and Collection of Data.—The Commissioner shall evaluate the impact of the training programs conducted under this section, and collect information on the training needs of, and data on shortages of qualified personnel necessary to provide services to individuals with disabilities.

"(f) Grants for the Training of Interpreters.—

"(1) Authority.—

"(A) In general.—For the purpose of training a sufficient number of qualified interpreters to meet the communications needs of individuals who are deaf or hard of hearing, and individuals who are deaf-blind, the Commissioner, acting through a Federal office responsible for deafness and communicative disorders, may award grants to public or private nonprofit agencies or organizations to pay part of the costs—

"(i) for the establishment of interpreter training programs; or

"(ii) to enable such agencies or organizations to provide financial assistance for ongoing interpreter training programs.

"(B) Geographic areas.—The Commissioner shall award grants under this subsection for programs in geographic areas throughout the United States that the Commissioner considers appropriate to best carry out the objectives of this section.

"(C) Priority.—In awarding grants under this subsection, the Commissioner shall give priority to public or private nonprofit agencies or organizations with existing programs that have a demonstrated capacity for providing interpreter training services.

"(D) Funding.—The Commissioner may award grants under this subsection through the use of—

"(i) amounts appropriated to carry out this section; or

"(ii) pursuant to an agreement with the Director of the Office of the Special Education Program (established under section 603 of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105–17))), amounts appropriated under section 686 of the Individuals with Disabilities Education Act.

"(2) Application.—A grant may not be awarded to an agency or organization under paragraph (1) unless the agency or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require, including—

"(A) a description of the manner in which an interpreter training program will be developed and operated during the 5-year period following the date on which a grant is received by the applicant under this subsection;

"(B) a demonstration of the applicant's capacity or potential for providing training for interpreters for individuals who are deaf or hard of hearing, and individuals who are deaf-blind;

"(C) assurances that any interpreter trained or retrained under a program funded under the grant will meet such minimum standards of competency as the Commissioner may establish for purposes of this subsection; and

"(D) such other information as the Commissioner may require.

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2004.

"(h) Provision of Information.—The Commissioner, subject to the provisions of section 306, may require that recipients of grants or contracts under this section provide information, including data, with regard to the impact of activities funded under this section.

"SEC. 303. SPECIAL DEMONSTRATION PROGRAM.

"(a) Authority.—The Commissioner, subject to the provisions of section 306, may award grants or contracts to eligible entities to pay all or part of the cost of programs that expand and improve the provision of rehabilitation and other services authorized under this Act or that further the purposes of the Act, including related research and evaluation activities.

"(b) Eligible Entities and Terms and Conditions.—

"(1) Eligible entities.—To be eligible to receive a grant or contract under subsection (a), an entity shall be a State vocational rehabilitation agency, community rehabilitation program, Indian tribe or tribal organization, or other public or nonprofit agency or organization, or as the Commissioner determines appropriate, a for-profit organization. The Commissioner may limit competitions to 1 or more types of organizations described in this paragraph.

"(2) Terms and conditions.—Awards under this section shall contain such terms and conditions as the Commissioner may require.

"(c) Application.—An eligible entity that desires to receive an award under this section shall submit an application to the Secretary at such time, in such form, and containing such

information and assurances as the Commissioner may require, including, if the Commissioner determines appropriate, a description of how the proposed project or demonstration program—

"(1) is based on current research findings, which may include research conducted by the National Institute on Disability and Rehabilitation Research, the National Institutes of Health, and other public or private organizations; and

"(2) is of national significance.

"(d) TYPES OF PROJECTS.—The programs that may be funded under this section include—

"(1) special projects and demonstrations of service delivery;

"(2) model demonstration projects;

"(3) technical assistance projects;

"(4) systems change projects;

"(5) special studies and evaluations; and

"(6) dissemination and utilization activities.

"(e) PRIORITY FOR COMPETITIONS.—

"(1) IN GENERAL.—In announcing competitions for grants and contracts under this section, the Commissioner shall give priority consideration to—

"(A) projects to provide training, information, and technical assistance that will enable individuals with disabilities and the individuals' representatives, to participate more effectively in meeting the vocational, independent living, and rehabilitation needs of the individuals with disabilities;

"(B) special projects and demonstration programs of service delivery for adults who are either low-functioning and deaf or low-functioning and hard of hearing;

"(C) innovative methods of promoting consumer choice in the rehabilitation process;

"(D) supported employment, including community-based supported employment programs to meet the needs of individuals with the most significant disabilities or to provide technical assistance to States and community organizations to improve and expand the provision of supported employment services; and

"(E) model transitional planning services for youths with disabilities.

"(2) ELIGIBILITY AND COORDINATION.—

"(A) ELIGIBILITY.—Eligible applicants for grants and contracts under this section for projects described in paragraph (1)(A) include—

"(i) Parent Training and Information Centers funded under section 682 of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105–17));

"(ii) organizations that meet the definition of a parent organization in section 682 of such Act; and

"(iii) private nonprofit organizations assisting parent training and information centers.

"(B) COORDINATION.—Recipients of grants and contracts under this section for projects described in paragraph (1)(A) shall, to the extent practicable, coordinate training and information activities with Centers for Independent Living.

"(3) ADDITIONAL COMPETITIONS.—In announcing competitions for grants and contracts under this section, the Commissioner may require that applicants address 1 or more of the following:

"(A) Age ranges.

"(B) Types of disabilities.

"(C) Types of services.

"(D) Models of service delivery.

"(E) Stage of the rehabilitation process.

"(F) The needs of—

"(i) underserved populations;

"(ii) unserved and underserved areas;

"(iii) individuals with significant disabilities;

"(iv) low-incidence disability populations; and

"(v) individuals residing in federally designated empowerment zones and enterprise communities.

"(G) Expansion of employment opportunities for individuals with disabilities.

"(H) Systems change projects to promote meaningful access of individuals with disabilities to employment-related services under the Workforce Investment Partnership Act of 1998 and under other Federal laws.

"(I) Innovative methods of promoting the achievement of high-quality employment outcomes.

"(J) The demonstration of the effectiveness of early intervention activities in improving employment outcomes.

"(K) Alternative methods of providing affordable transportation services to individuals with disabilities who are employed, seeking employment, or receiving vocational rehabilitation services from public or private organizations and who reside in geographic areas in which public transportation or paratransit service is not available.

"(f) USE OF FUNDS FOR CONTINUATION AWARDS.—The Commissioner may use funds made available to carry out this section for continuation awards for projects that were funded under sections 12 and 311 (as such sections were in effect on the day prior to the date of the enactment of the Rehabilitation Act Amendments of 1998).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2004.

"SEC. 304. MIGRANT AND SEASONAL FARMWORKERS.

"(a) GRANTS.—

"(1) AUTHORITY.—The Commissioner, subject to the provisions of section 306, may make grants to eligible entities to pay up to 90 percent of the cost of projects or demonstration programs for the provision of vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers, as determined in accordance with rules prescribed by the Secretary of Labor, and to the family members who are residing with such individuals (whether or not such family members are individuals with disabilities).

"(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under paragraph (1), an entity shall be—

"(A) a State designated agency;

"(B) a nonprofit agency working in collaboration with a State agency described in subparagraph (A); or

"(C) a local agency working in collaboration with a State agency described in subparagraph (A).

"(3) MAINTENANCE AND TRANSPORTATION.—

"(A) IN GENERAL.—Amounts provided under a grant under this section may be used to provide for the maintenance of and transportation for individuals and family members described in paragraph (1) as necessary for the rehabilitation of such individuals.

"(B) REQUIREMENT.—Maintenance payments under this paragraph shall be provided in a manner consistent with any maintenance payments provided to other individuals with disabilities in the State under this Act.

"(4) ASSURANCE OF COOPERATION.—To be eligible to receive a grant under this section an entity shall provide assurances (satisfactory to the Commissioner) that in the provision of services under the grant there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migrant or seasonal farmworkers or their families.

"(5) COORDINATION WITH OTHER PROGRAMS.—The Commissioner shall administer this section in coordination with other programs serving migrant and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), and the Workforce Investment Partnership Act of 1998.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, for each of the fiscal years 1998 through 2004.

"SEC. 305. RECREATIONAL PROGRAMS.

"(a) GRANTS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Commissioner, subject to the provisions of section 306, shall make grants to States, public agencies, and nonprofit private organizations to pay the Federal share of the cost of the establishment and operation of recreation programs to provide individuals with disabilities with recreational activities and related experiences to aid in the employment, mobility, socialization, independence, and community integration of such individuals.

"(B) RECREATION PROGRAMS.—The recreation programs that may be funded using assistance provided under a grant under this section may include vocational skills development, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4–H activities, music, dancing, handicrafts, art, and homemaking. When possible and appropriate, such programs and activities should be provided in settings with peers who are not individuals with disabilities.

"(C) DESIGN OF PROGRAM.—Programs and activities carried out under this section shall be designed to demonstrate ways in which such programs assist in maximizing the independence and integration of individuals with disabilities.

"(2) MAXIMUM TERM OF GRANT.—A grant under this section shall be made for a period of not more than 3 years.

"(3) AVAILABILITY OF NONGRANT RESOURCES.—

"(A) IN GENERAL.—A grant may not be made to an applicant under this section unless the applicant provides assurances that, with respect to costs of the recreation program to be carried out under the grant, the applicant, to the maximum extent practicable, will make available non-Federal resources (in cash or in-kind) to pay the non-Federal share of such costs.

"(B) FEDERAL SHARE.—The Federal share of the costs of the recreation programs carried out under this section shall be—

"(i) with respect to the first year in which assistance is provided under a grant under this section, 100 percent;

"(ii) with respect to the second year in which assistance is provided under a grant under this section, 75 percent; and

"(iii) with respect to the third year in which assistance is provided under a grant under this section, 50 percent.

"(4) APPLICATION.—To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

"(A) the manner in which the findings and results of the project to be funded under the grant, particularly information that facilitates the replication of the results of such projects, will be made generally available; and

"(B) the manner in which the service program funded under the grant will be continued after Federal assistance ends.

"(5) LEVEL OF SERVICES.—Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

"(6) REPORTS BY GRANTEES.—

"(A) REQUIREMENT.—The Commissioner shall require that each recipient of a grant under this section annually prepare and submit to the Commissioner a report concerning the results of the activities funded under the grant.

"(B) LIMITATION.—The Commissioner may not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated the annual report of the recipient under subparagraph (A) for the current year.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1998 through 2004.

"SEC. 306. MEASURING OF PROJECT OUTCOMES AND PERFORMANCE.

"The Commissioner may require that recipients of grants under this title submit information, including data, as determined by the Commissioner to be necessary to measure project outcomes and performance, including any data needed to comply with the Government Performance and Results Act.".

SEC. 607. NATIONAL COUNCIL ON DISABILITY.

Title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.) is amended to read as follows:

"TITLE IV—NATIONAL COUNCIL ON DISABILITY

"ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY

"SEC. 400. (a)(1)(A) There is established within the Federal Government a National Council on Disability (hereinafter in this title referred to as the 'National Council'), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate.

"(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

"(i) organizations representing a broad range of individuals with disabilities; and

"(ii) organizations interested in individuals with disabilities.

"(C) The members of the National Council shall be individuals with disabilities, parents or guardians of individuals with disabilities, or other individuals who have substantial knowledge or experience relating to disability policy or programs. The members of the National Council shall be appointed so as to be representative of individuals with disabilities, national organizations concerned with individuals with disabilities, providers and administrators of services to individuals with disabilities, individuals engaged in conducting medical or scientific research relating to individuals with disabilities, business concerns, and labor organizations. A majority of the members of the National Council shall be individuals with disabilities. The members of the National Council shall be broadly representative of minority and other individuals and groups.

"(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

"(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

"(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

"(b)(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2)(A) No member of the National Council may serve more than two consecutive full terms beginning on the date of commencement of the first full term on the Council. Members may serve after the expiration of their terms until their successors have taken office.

"(B) As used in this paragraph, the term 'full term' means a term of 3 years.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

"(c) The President shall designate the Chairperson from among the members appointed to the National Council. The National Council shall meet at the call of the Chairperson, but not less often than four times each year.

"(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

"DUTIES OF NATIONAL COUNCIL

"SEC. 401. (a) The National Council shall—

"(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;

"(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

"(3) advise the President, the Congress, the Commissioner, the appropriate Assistant Secretary of the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under this Act;

"(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;

"(5) review and evaluate on a continuing basis—

"(A) policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act; and

"(B) all statutes and regulations pertaining to Federal programs which assist such individuals with disabilities;

in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities;

"(6) assess the extent to which such policies, programs, practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);

"(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

"(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies or other Federal entities, respecting ways to better promote the policies set forth in section 400(a)(2);

"(9) provide to the Congress on a continuing basis advice, recommendations, legislative proposals, and any additional information that the National Council or the Congress deems appropriate; and

"(10) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the international, Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.

"(b)(1) Not later than July 26, 1998, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled 'National Disability Policy: A Progress Report'.

"(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

"(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the National Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.

"COMPENSATION OF NATIONAL COUNCIL MEMBERS

"SEC. 402. (a) Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, including travel time, for each day they are engaged in the performance of their duties as members of the National Council.

"(b) Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

"(c) While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"STAFF OF NATIONAL COUNCIL

"SEC. 403. (a)(1) The Chairperson of the National Council may appoint and remove, without regard to the provisions of title 5, United States Code, governing appointments, the provisions of chapter 75 of such title (relating to adverse actions), the provisions of chapter 77 of such title (relating to appeals), or the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates), an Executive Director to assist the National Council to carry out its duties. The Executive Director shall be appointed from among individuals who are experienced in the planning or operation of programs for individuals with disabilities.

"(2) The Executive Director is authorized to hire technical and professional employees to assist the National Council to carry out its duties.

"(b)(1) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive

Service Schedule under section 5382 of title 5, United States Code).

"(2) The National Council may—

"(A) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

"(B) in the name of the Council, solicit, accept, employ, and dispose of, in furtherance of this Act, any money or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and

"(C) enter into contracts and cooperative agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, preparation of reports and other activities necessary to the discharge of the Council's duties and responsibilities.

"(3) Not more than 10 per centum of the total amounts available to the National Council in each fiscal year may be used for official representation and reception.

"(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

"(d)(1) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts made available under subsection (a)(2)(B) as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

"(2) The amounts described in paragraph (1), and the interest on, and the proceeds from the sale or redemption of, the obligations described in paragraph (1) shall be available to the National Council to carry out this title.

"ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

"SEC. 404. (a) The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this title.

"(b) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

"(c) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

"(d) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 405. There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1998 through 2004.".

SEC. 608. RIGHTS AND ADVOCACY.

(a) CONFORMING AMENDMENTS TO RIGHTS AND ADVOCACY PROVISIONS.—

(1) EMPLOYMENT.—Section 501 (29 U.S.C. 791) is amended—

(A) in the third sentence of subsection (a), by striking "President's Committees on Employment of the Handicapped" and inserting "President's Committees on Employment of People With Disabilities"; and

(B) in subsection (e), by striking "individualized written rehabilitation program" and inserting "individualized rehabilitation employment plan".

(2) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(A) in subsection (a)(1), in the sentence following subparagraph (B), by striking "Chairperson" and inserting "chairperson";

(B) in subsection (b)—

(i) in paragraph (9), by striking "; and" and inserting a semicolon;

(ii) in paragraph (10), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(11) carry out the responsibilities specified for the Access Board in section 508";

(C) in subsection (d)(2)(A), by inserting before the semicolon the following: "and section 508(d)(2)(C)";

(D) in subsection (g)(2), by striking "Committee on Education and Labor" and inserting "Committee on Education and the Workforce"; and

(E) in subsection (i), by striking "fiscal years 1993 through 1997" and inserting "fiscal years 1998 through 2004".

(3) FEDERAL GRANTS AND CONTRACTS.—Section 504(a) (29 U.S.C. 794(a)) is amended in the first sentence by striking "section 7(8)" and inserting "section 7(20)".

(4) SECRETARIAL RESPONSIBILITIES.—Section 506(a) (29 U.S.C. 794b(a)) is amended—

(A) by striking the second sentence and inserting the following: "Any concurrence of the Access Board under paragraph (2) shall reflect its consideration of cost studies carried out by States."; and

(B) in the second sentence of subsection (c), by striking "provided under this paragraph" and inserting "provided under this subsection".

(b) ELECTRONIC AND INFORMATION TECHNOLOGY REGULATIONS.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

"SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY.

"(a) REQUIREMENTS FOR FEDERAL DEPARTMENTS AND AGENCIES.—

"(1) ACCESSIBILITY.—Each Federal department or agency shall procure, maintain, and use (unless such procurement, maintenance, or use is not practicable) electronic and information technology that allows, regardless of the type of medium of the technology, individuals with disabilities to have access to and use information and data that is comparable to the information and data that is accessible to and used by individuals who are not individuals with disabilities.

"(2) ELECTRONIC AND INFORMATION TECHNOLOGY STANDARDS.—

"(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Architectural and Transportation Barriers Compliance Board (referred to in this section as the 'Access Board'), after consultation with the Secretary of Education, the Administrator of General Services, the Director of the Office of Management and Budget, the Secretary of Commerce, the Chairman of the Federal Communications Commission, and the head of any other Federal department or agency that the Access Board determines to be appropriate, including consultation on relevant research findings, and after consultation with the electronic and information technology industry and appropriate public or nonprofit agencies or organizations, shall issue and publish standards setting forth—

"(i) for purposes of this section, a definition of electronic and information technology that is consistent with the definition of information technology in section 5002 of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679); and

"(ii) the technical and functional performance criteria necessary to implement the requirements set forth in paragraph (1).

"(B) REVIEW AND AMENDMENT.—The Access Board shall periodically review and, as appropriate, amend the standards required under subparagraph (A) to reflect technological advances or changes in electronic and information technology.

"(3) INCORPORATION OF STANDARDS.—Not later than 6 months after the Access Board publishes the standards required under paragraph (2), the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each Federal department or agency shall revise the Federal procurement policies and directives under the control of the department or agency to incorporate those standards.

"(b) TECHNICAL ASSISTANCE.—The Administrator of General Services and the Access Board shall provide technical assistance to individuals and Federal departments and agencies concerning the requirements of this section.

"(c) AGENCY EVALUATIONS.—Not later than 6 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the head of each Federal department or agency shall evaluate the extent to which the electronic and information technology of the department or agency is accessible to individuals with disabilities, and submit a report containing the evaluation to the Attorney General.

"(d) REPORTS.—

"(1) INTERIM REPORT.—Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Attorney General shall prepare and submit to the President a report containing information on and recommendations regarding the state of electronic and information technology accessibility in the Federal Government for individuals with disabilities.

"(2) BIENNIAL REPORTS.—Not later than 3 years after the date of enactment of the Rehabilitation Act Amendments of 1998, and every 2 years thereafter, the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance with the requirements of this section, including actions regarding individual complaints under subsection (f).

"(e) COOPERATION.—Each head of a Federal department or agency (including the Access Board, the Equal Employment Opportunity Commission, and the General Services Administration) shall provide the Attorney General with such information as the Attorney General determines is necessary to conduct the evaluations under subsection (c) and prepare the reports under subsection (d).

"(f) ENFORCEMENT.—

"(1) GENERAL.—Any individual with a disability, including a Federal employee or a person served by a Federal agency, may file a complaint alleging that a procurement action initiated after the date described in paragraph (4) fails to comply with subsection (a)(1).

"(2) ADMINISTRATIVE COMPLAINTS.—Complaints filed under paragraph (1) shall be filed with the Federal department or agency alleged to be in noncompliance. The Federal department or agency receiving the complaint shall apply the complaint procedures established to implement section 504 for resolving allegations of discrimination in a federally conducted program or activity.

"(3) CIVIL ACTIONS.—The remedies, procedures, and rights set forth in sections 505(a)(2) and 505(b) shall be the remedies, procedures, and rights available to any individual alleging that a procurement action initiated after the date described in paragraph (4) fails to comply with subsection (a)(1).

"(4) APPLICATION.—This subsection shall apply to Federal departments and agencies on the date of publication of the standards issued pursuant to subsection (a)(2)(A).

"(g) Relationship to Other Federal Laws.—This section shall not be construed to limit any right, remedy, or procedure otherwise available under any provision of Federal law (including sections 501 through 505) that provides greater or equal protection for the rights of individuals with disabilities than this section.".

(c) Protection and Advocacy of Individual Rights.—Section 509 (29 U.S.C. 794e) is amended to read as follows:

"SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

"(a) Purpose.—The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

"(1) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 112; and

"(2) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) because the individuals do not have a developmental disability, as defined in section 102 of such Act (42 U.S.C. 6002) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) because the individuals are not individuals with mental illness, as defined in section 102 of such Act (42 U.S.C. 10802).

"(b) Appropriations Less Than $5,500,000.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a).

"(c) Appropriations of $5,500,000 or More.—

"(1) Reservations.—

"(A) Technical assistance.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

"(B) Grant for the eligible system serving the American Indian consortium.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $10,500,000, the Commissioner shall reserve a portion, and use the portion to make a grant for the eligible system serving the American Indian consortium. The Commission shall make the grant in an amount of not less than $50,000 for the fiscal year.

"(2) Allotments.—For any such fiscal year, after the reservations required by paragraph (1) have been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for such individuals.

"(3) Systems within States.—

"(A) Population basis.—Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

"(B) Minimums.—Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than $100,000 or one-third of one percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than $100,000 or one-third of one percent of such remainder shall be increased to the greater of the two amounts.

"(4) Systems within other jurisdictions.—

"(A) In general.—For the purposes of paragraph (3)(B), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

"(B) Allotment.—The eligible system within a jurisdiction described in subparagraph (A) shall be allotted under paragraph (3)(A) not less than $50,000 for the fiscal year for which the allotment is made.

"(5) Adjustment for inflation.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section for the preceding fiscal year, the Commissioner shall increase each of the minimum grants or allotments under paragraphs (1)(B), (3)(B), and (4)(B) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this section between the preceding fiscal year and the fiscal year involved.

"(d) Proportional Reduction.—To provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(3)(B), or to provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(4)(B), the Commissioner shall proportionately reduce the allotments of the remaining systems within States under subsection (c)(3), with such adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under subsection (c)(5)) under subsection (c)(3)(B), or the minimum allotment for a State (as increased under subsection (c)(5)) under subsection (c)(4)(B), as appropriate.

"(e) Reallotment.—Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

"(f) Application.—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

"(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

"(2) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.);

"(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State or the American Indian consortium who are individuals described in subsection (a);

"(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State or the American Indian consortium;

"(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, the individuals' representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

"(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

"(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

"(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system;

"(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided; and

"(8) not use allotments or grants provided under this section in a manner inconsistent with section 5 of the Assisted Suicide Funding Restriction Act of 1997.

"(g) Carryover and Direct Payment.—

"(1) Direct payment.—Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State or the grant for the eligible system that serves the American Indian consortium involved under this section, unless the State or American Indian consortium provides otherwise.

"(2) Carryover.—Any amount paid to an eligible system that serves a State or American Indian consortium for a fiscal year that remains unobligated at the end of such year shall remain available to such system that serves the State or American Indian consortium for obligation during the next fiscal year for the purposes for which such amount was paid.

"(h) Limitation on Disclosure Requirements.—For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(i) Administrative Cost.—In any State in which an eligible system is located within a State agency, a State may use a portion of any allotment under subsection (c) for the cost of the administration of the system required by this section. Such portion may not exceed 5 percent of the allotment.

"(j) Delegation.—The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

"(k) Report.—The Commissioner shall annually prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being

undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

"(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2004.

"(m) DEFINITIONS.—As used in this section:

"(1) ELIGIBLE SYSTEM.—The term 'eligible system' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f).

"(2) AMERICAN INDIAN CONSORTIUM.—The term 'American Indian consortium' means a consortium established as described in section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042).".

SEC. 609. EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.

Title VI of the Rehabilitation Act of 1973 (29 U.S.C. 795 et seq.) is amended to read as follows:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

"SEC. 601. SHORT TITLE.

"This title may be cited as the 'Employment Opportunities for Individuals With Disabilities Act'.

"PART A—PROJECTS IN TELECOMMUTING AND SELF-EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES

"SEC. 611. FINDINGS, POLICIES, AND PURPOSES.

"(a) FINDINGS.—Congress makes the following findings:

"(1) It is in the best interest of the United States to identify and promote increased employment opportunities for individuals with disabilities.

"(2) Telecommuting is one of the most rapidly expanding forms of employment. In 1990 there were 4,000,000 telecommuters and that number has risen to 11,100,000 in 1997.

"(3) It is in the best interest of the United States to ensure that individuals with disabilities have access to telecommuting employment opportunities. It has been estimated that 10 percent of individuals with disabilities, who are unemployed, could benefit from telecommuting opportunities.

"(4) It is in the interest of employers to recognize that individuals with disabilities are excellent candidates for telecommuting employment opportunities.

"(5) Individuals with disabilities, especially those living in rural areas, often do not have access to accessible transportation, and in such cases telecommuting presents an excellent opportunity for the employment of such individuals.

"(6) It is in the best interests of economic development agencies, venture capitalists, and financial institutions for the Federal Government to demonstrate that individuals with disabilities, who wish to become or who are self-employed, can meet the criteria for assistance, investment of capital, and business that other entrepreneurs meet.

"(b) POLICIES.—It is the policy of the United States to—

"(1) promote opportunities for individuals with disabilities to—

"(A) secure, retain, regain, or advance in employment involving telecommuting;

"(B) gain access to employment opportunities; and

"(C) demonstrate their abilities, capabilities, interests, and preferences regarding employment in positions that are increasingly being offered to individuals in the workplace; and

"(2) promote opportunities for individuals with disabilities to engage in self-employment enterprises that permit these individuals to achieve significant levels of independence, participate in and contribute to the life of their communities, and offer employment opportunities to others.

"(c) PURPOSES.—It is the purpose of this part to—

"(1) through the awarding of 1-time, time-limited grants, contracts, or cooperative agreements to public and private entities—

"(A) provide funds, in accordance with section 612, to enable individuals with disabilities to identify and secure employment opportunities involving telecommuting; and

"(B) encourage employers to become partners in providing telecommuting placements for individuals with disabilities through the involvement of such employers in telecommuting projects that continue and expand opportunities for the provision of telecommuting placements to individuals with disabilities beyond those opportunities that are currently facilitated by the telecommuting projects; and

"(2) through the awarding of 1-time, time-limited grants, contracts, cooperative agreements, or other appropriate mechanisms of providing assistance to public or private entities—

"(A) assist individuals with disabilities to engage in self-employment enterprises in accordance with section 613; and

"(B) encourage entities to assist more individuals with disabilities to engage in self-employment enterprises.

"SEC. 612. PROJECTS IN TELECOMMUTING FOR INDIVIDUALS WITH DISABILITIES.

"(a) IN GENERAL.—The Commissioner shall, on a competitive basis, award 1-time, time-limited grants, contracts, or cooperative agreements to eligible entities for the establishment and operation of projects in telecommuting for individuals with disabilities.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a) an entity shall—

"(1) be—

"(A) an entity carrying out a Project With Industry described in part B;

"(B) a designated State agency;

"(C) a statewide workforce investment partnership or local workforce investment partnership;

"(D) a public educational agency;

"(E) a training institution, which may include an institution of higher education;

"(F) a private organization, with priority given to organizations of or for individuals with disabilities;

"(G) a public or private employer;

"(H) any other entity that the Commissioner determines to be appropriate; or

"(I) a combination or consortium of the entities described in subparagraphs (A) through (H);

"(2) have 3 or more years of experience in assisting individuals with disabilities in securing, retaining, regaining, or advancing in employment;

"(3) demonstrate that such entity has the capacity to secure full- and part-time employment involving telecommuting for individuals with disabilities; and

"(4) submit an application that meets the requirements of subsection (c).

"(c) APPLICATION REQUIREMENTS.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall submit to the Commissioner at such time, in such manner, and containing such information concerning the telecommuting project to be funded under the grant, contract, or agreement as the Commissioner may require, including—

"(1) a description of how and the extent to which the applicant meets the requirement of subsection (b)(2);

"(2) with respect to any partners who will participate in the implementation of activities under the telecommuting project, a description of—

"(A) the identity of such partners; and

"(B) the roles and responsibilities of each partner in preparing the application, and if funded, the roles and responsibility of each partner during the telecommuting project;

"(3) a description of the geographic region that will be the focus of activity under the telecommuting project;

"(4) a projection for each year of a 3-year period of the grant, contract, or agreement, of the number of individuals with disabilities who will be employed as the result of the assistance provided by the telecommuting project;

"(5) with respect to any employers that have indicated an interest in offering telecommuting employment opportunities to individuals with disabilities, a description of—

"(A) the identity of such employers; and

"(B) the manner in which additional employers would be recruited under the telecommuting project;

"(6) a description of the manner in which individuals with disabilities will be identified and selected to participate in the telecommuting project;

"(7) a description of the jobs that will be targeted by the telecommuting project;

"(8) a description of the process by which individuals with disabilities will be matched with employers for telecommuting placements;

"(9) a description of the manner in which the project will become self-sustaining in the third year of the telecommuting project; and

"(10) a description of the nature and amount of funding, including in-kind support, other than funds received under this part, that will be available to be used by the telecommuting project.

"(d) USE OF FUNDS.—Amounts received under a grant, contract, or cooperative agreement under subsection (a) shall be used for—

"(1) the recruitment of individuals with disabilities for telecommuting placements;

"(2) the conduct of marketing activities with respect to employers;

"(3) the purchase of training services for an individual with a disability who is going to assume a telecommuting placement;

"(4) the purchase of equipment, materials, telephone lines, auxiliary aids, and services related to telecommuting placements;

"(5) the provision of orientation services and training to the supervisors of employers participating in the project and to co-workers of individuals with disabilities who are selected for telecommuting placements;

"(6) the provision of technical assistance to employers, including technical assistance regarding reasonable accommodations with regard to individuals with disabilities participating in telecommuting placements; and

"(7) other uses determined appropriate by the Commissioner.

"(e) PROJECT REQUIREMENTS.—Telecommuting projects funded under this section shall—

"(1) establish criteria for safety with regard to the telecommuting work space, which at a minimum meet guidelines established by the Occupational Safety and Health Administration for a work space of comparable size and function;

"(2) on an annual basis, enter into agreements with the Commissioner that contain goals concerning the number of individuals with disabilities that the project will place in telecommuting positions;

"(3) establish procedures for ensuring that prospective employers and individuals with disabilities, who are to assume telecommuting placements, have a clear understanding of how the individual's work performance will be monitored and evaluated by the employer;

“(4) identify and make available support services for individuals with disabilities in telecommuting placements;

“(5) develop procedures that allow the telecommuting project, the employer, and the individual with a disability to reach agreement on their respective responsibilities with regard to establishing and maintaining the telecommuting placement; and

“(6) for each year of a telecommuting project, submit an annual report to the Commissioner concerning—

“(A) the number of individuals with disabilities placed in telecommuting positions and whether the goal described in the agreement entered into under paragraph (2) was met;

“(B) the number of individuals with disabilities employed as salaried employees and their annual salaries;

“(C) the number of individuals with disabilities employed as independent contractors and their annual incomes;

“(D) the number of individuals with disabilities that received benefits from their employers;

“(E) the number of individuals with disabilities in telecommuting placements still working after—

“(i) 6 months; and

“(ii) 12 months; and

“(F) any reports filed with the Occupational Safety and Health Administration.

“(f) Limitations.—

“(1) Period of award.—A grant, contract, or cooperative agreement under subsection (a) shall be for a 3-year period.

“(2) Amount.—The amount of a grant, contract, or cooperative agreement under subsection (a) shall not be less than $250,000 nor more than $1,000,000.

“SEC. 613. PROJECTS IN SELF-EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES.

“(a) In General.—The Commissioner shall, on a competitive basis, award 1-time, time-limited grants, contracts, or cooperative agreements to eligible entities for the establishment and operation of projects in self-employment for individuals with disabilities.

“(b) Eligible Entities.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a) an entity shall—

“(1) be—

“(A) a financial institution;

“(B) an economic development agency;

“(C) a venture capitalist;

“(D) an entity carrying out a Project With Industry described in part B;

“(E) a designated State agency, or other public entity;

“(F) a private organization, including employers and organizations related to individuals with disabilities;

“(G) any other entity that the Commissioner determines to be appropriate; or

“(H) a combination or consortium of the entities described in subparagraphs (A) through (G);

“(2) demonstrate that such entity has the capacity to assist clients, including clients with disabilities, to successfully engage in self-employment enterprises; and

“(3) submit an application that meets the requirements of subsection (c).

“(c) Application Requirements.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall submit to the Commissioner at such time, in such manner, and containing such information concerning the self-employment project to be funded under the grant, contract, or agreement as the Commissioner may require, including—

“(1) a description of how and the extent to which the applicant has assisted individuals, including individuals with disabilities, if appropriate, to successfully engage in self-employment enterprises;

“(2) with respect to any partners who will participate in the implementation of activities under the self-employment project, a description of—

“(A) the identity of such partners; and

“(B) the roles and responsibilities of each partner in preparing the application, and if funded, the roles and responsibility of each partner during the self-employment project;

“(3) a description of the geographic region that will be the focus of activity in the self-employment project;

“(4) a projection for each year of a 3-year period of the grant, contract, or agreement, of the number of clients who will be assisted to engage in self-employment enterprises through the self-employment project;

“(5) a description of the manner in which potential clients will be identified and selected to be assisted by the self-employment project;

“(6) a description of the manner in which self-employment enterprises (or market niches) will be identified for the geographic areas to be targeted in the self-employment project;

“(7) a description of the process by which prospective clients will be matched with self-employment opportunities;

“(8) a description of the manner in which the project will become self-sustaining in the third year of the self-employment project; and

“(9) a description of the nature and amount of funding, including in-kind support, other than funds received under this part, that will be available to be used during the self-employment project.

“(d) Use of Funds.—Amounts received under a grant, contract, or cooperative agreement under subsection (a) shall be used—

“(1) for the preparation of marketing analyses to identify self-employment opportunities;

“(2) for the conduct of marketing activities with respect to financial institutions or venture capitalists concerning the benefits of investing in individuals with disabilities who are engaged in self-employment enterprises;

“(3) for the conduct of marketing activities with respect to potential clients who engage in or might engage in self-employment enterprises;

“(4) for the provision of training for clients to be assisted through the project who seek to engage or are engaging in self-employment enterprises;

“(5) to cover the costs of business expenses specifically related to an individual's disability;

“(6) to provide assistance for clients in developing business plans for capital investment;

“(7) to provide assistance for clients in securing capital to engage in a self-employment enterprise;

“(8) to provide technical assistance to clients engaged in self-employment enterprises who seek such assistance in order to sustain or expand their enterprises; and

“(9) for other uses as determined appropriate by the Commissioner.

“(e) Project Requirements.—Self-employment projects funded under this section shall—

“(1) establish criteria for and apply such criteria in selecting clients to be assisted through the project;

“(2) on an annual basis, enter into agreements with the Commissioner that contain goals concerning the number of individuals with disabilities that the project will assist in starting and sustaining self-employment enterprises;

“(3) establish and apply criteria to determine whether an enterprise is a viable option in which to invest project funds;

“(4) establish and apply criteria to determine when and if the project would provide assistance in sustaining an ongoing enterprise engaged in by a client or potential client;

“(5) establish and apply criteria to determine when and if the project would provide assistance in expanding an ongoing enterprise engaged in by a client or potential client;

“(6) establish and apply procedures to ensure that a potential client has a clear understanding of the scope and limits of assistance from the project that will be applicable in such client's case;

“(7) develop procedures, which include a written agreement, that provide for the documentation of the respective responsibilities of the self-employment project and any client with regard to the creation, maintenance, or expansion of the client's self-employment enterprise; and

“(8) with respect to the project, submit a report to the Commissioner—

“(A) for each project year, concerning the number of clients assisted by the project who are engaging in self-employment enterprises and whether the goal described in the agreement entered into under paragraph (2) was met; and

“(B) concerning the number of clients assisted by the project who are still engaged in such an enterprise on the date that is—

“(i) 6 months after the date on which assistance provided by the project was terminated; and

“(ii) 12 months after the date on which assistance provided by the project was terminated.

“(f) Duration of Awards.—A grant, contract, or cooperative agreement under subsection (a) shall be for a 3-year period.

“(g) Definition.—For the purpose of this section, the term ‘client’ means 1 or more individuals with disabilities who engage in or seek to engage in a self-employment enterprise.

“SEC. 614. DISCRETIONARY AUTHORITY FOR DUAL-PURPOSE APPLICATIONS.

“(a) In General.—The Commissioner may establish procedures to permit applicants for grants, contracts, or cooperative agreements under this part to submit applications that serve dual purposes, so long as such applications meet the requirements of sections 612 and 613.

“(b) Amount of Assistance.—In a case described in subsection (a), the minimum amount of a grant, contract, or cooperative agreement awarded under a dual-purpose application may, at the discretion of the Commissioner, exceed the limitations described in section 612(f)(2).

“SEC. 615. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to carry out this part, $10,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2004.

“Part B—Projects With Industry

“PROJECTS WITH INDUSTRY

“Sec. 621. (a)(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

“(2) The Commissioner, in consultation with the Secretary of Labor and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

“(A) provide for the establishment of business advisory councils, that shall—

“(i) be comprised of—

“(I) representatives of private industry, business concerns, and organized labor;

“(II) individuals with disabilities and representatives of individuals with disabilities; and

"(III) a representative of the appropriate designated State unit;

"(ii) identify job and career availability within the community, consistent with the current and projected local employment opportunities identified by the local workforce investment partnership for the community under section 308(e)(6) of the Workforce Investment Partnership Act of 1998;

"(iii) identify the skills necessary to perform the jobs and careers identified; and

"(iv) prescribe training programs designed to develop appropriate job and career skills, or job placement programs designed to identify and develop job placement and career advancement opportunities, for individuals with disabilities in fields related to the job and career availability identified under clause (ii);

"(B) provide job development, job placement, and career advancement services;

"(C) to the extent appropriate, provide for—

"(i) training in realistic work settings in order to prepare individuals with disabilities for employment and career advancement in the competitive market; and

"(ii) the modification of any facilities or equipment of the employer involved that are used primarily by individuals with disabilities, except that a project shall not be required to provide for such modification if the modification is required as a reasonable accommodation under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

"(D) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

"(3)(A) An individual shall be eligible for services described in paragraph (2) if the individual is determined to be an individual described in section 102(a)(1), and if the determination is made in a manner consistent with section 102(a).

"(B) Such a determination may be made by the recipient of a grant under this part, to the extent the determination is appropriate and available and consistent with the requirements of section 102(a).

"(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or the individuals' representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect data and information of the type described in subparagraphs (A) through (C) of section 101(a)(10), as determined to be appropriate by the Commissioner.

"(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

"(A) assist employers in hiring individuals with disabilities; or

"(B) improve or develop relationships between—

"(i) grant recipients or prospective grant recipients; and

"(ii) employers or organized labor; or

"(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities.

"(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

"(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

"(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated nondisabled co-workers of the individual, and that such individuals with disabilities shall not be segregated from their co-workers; and

"(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.

"(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

"(d)(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

"(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations.

"(3) No standards may be established under this subsection unless the standards are approved by the National Council on Disability. The Council shall be afforded adequate time to review and approve the standards.

"(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

"(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(2) The Commissioner shall, to the extent practicable, ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

"(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register, in final form, indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

"(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

"(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

"(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

"(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not an employee of the Federal Government; and

"(ii) has experience or expertise in conducting projects.

"(D) The Commissioner shall ensure that—

"(i) a representative of the appropriate designated State unit shall participate in the review; and

"(ii) no person shall participate in the review of a grant recipient if—

"(I) the grant recipient provides any direct financial benefit to the reviewer; or

"(II) participation in the review would give the appearance of a conflict of interest.

"(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years.

"(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of onsite compliance reviews, identifying individual grant recipients.

"(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

"(1) entities conducting projects for the purpose of assisting such entities in—

"(A) the improvement of or the development of relationships with private industry or labor; or

"(B) the improvement of relationships with State vocational rehabilitation agencies; and

"(2) entities planning the development of new projects.

"(h) As used in this section:

"(1) The term 'agreement' means an agreement described in subsection (a)(4).

"(2) The term 'project' means a Project With Industry established under subsection (a)(2).

"(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 622. There are authorized to be appropriated to carry out the provisions of this part, such sums as may be necessary for each of fiscal years 1998 through 2004.

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES

"SEC. 631. PURPOSE.

"It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most significant disabilities to enable such individuals to achieve the employment outcome of supported employment.

"SEC. 632. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

''(A) no State shall receive less than $250,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

''(B) if the sums appropriated to carry out this part for the fiscal year exceed by $1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than $300,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

''(2) CERTAIN TERRITORIES.—

''(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

''(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made.

''(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

''SEC. 633. AVAILABILITY OF SERVICES.

''Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, or title I, may not be used to provide extended services to individuals who are eligible under this part or title I.

''SEC. 634. ELIGIBILITY.

''An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

''(1) the individual is eligible for vocational rehabilitation services;

''(2) the individual is determined to be an individual with a most significant disability; and

''(3) a comprehensive assessment of rehabilitation needs of the individual described in section 7(2)(B), including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate employment outcome for the individual.

''SEC. 635. STATE PLAN.

''(a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

''(b) CONTENTS.—Each such plan supplement shall—

''(1) designate each designated State agency as the agency to administer the program assisted under this part;

''(2) summarize the results of the comprehensive, statewide assessment conducted under section 101(a)(15)(A)(i), with respect to the rehabilitation needs of individuals with significant disabilities and the need for supported employment services, including needs related to coordination;

''(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

''(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

''(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

''(6) provide assurances that—

''(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

''(B) the comprehensive assessments of individuals with significant disabilities conducted under section 102(b)(1) and funded under title I will include consideration of supported employment as an appropriate employment outcome;

''(C) an individualized rehabilitation employment plan, as required by section 102, will be developed and updated using funds under title I in order to—

''(i) specify the supported employment services to be provided;

''(ii) specify the expected extended services needed; and

''(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized rehabilitation employment plan is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

''(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized rehabilitation employment plan;

''(E) services provided under an individualized rehabilitation employment plan will be coordinated with services provided under other individualized plans established under other Federal or State programs;

''(F) to the extent jobs skills training is provided, the training will be provided onsite; and

''(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities;

''(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

''(8) contain such other information and be submitted in such manner as the Commissioner may require.

''SEC. 636. RESTRICTION.

''Each State agency designated under section 635(b)(1) shall collect the information required by section 101(a)(10) separately for eligible individuals receiving supported employment services under this part and for eligible individuals receiving supported employment services under title I.

''SEC. 637. SAVINGS PROVISION.

''(a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

''(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

''SEC. 638. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1998 through 2004.''.

SEC. 610. INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.

Title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.) is amended to read as follows:

''TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

''CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT DISABILITIES

''PART A—GENERAL PROVISIONS

''SEC. 701. PURPOSE.

''The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

''(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

''(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

''(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 705, State vocational rehabilitation programs receiving assistance under title I, State programs of supported employment services receiving assistance under part C of title VI, client assistance programs receiving assistance under section 112, programs funded under other titles of this Act, programs funded under other Federal law, and programs funded through non-Federal sources.

''SEC. 702. DEFINITIONS.

''As used in this chapter:

''(1) CENTER FOR INDEPENDENT LIVING.—The term 'center for independent living' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

''(A) is designed and operated within a local community by individuals with disabilities; and

''(B) provides an array of independent living services.

''(2) CONSUMER CONTROL.—The term 'consumer control' means, with respect to a center for independent living, that the center vests power and authority in individuals with disabilities.

''SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.

''Services may be provided under this chapter to any individual with a significant disability, as defined in section 7(21)(B).

''SEC. 704. STATE PLAN.

''(a) IN GENERAL.—

"(1) REQUIREMENT.—To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

"(2) JOINT DEVELOPMENT.—The plan under paragraph (1) shall be jointly developed and signed by—

"(A) the director of the designated State unit; and

"(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

"(3) PERIODIC REVIEW AND REVISION.—The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

"(A) the provision of State independent living services;

"(B) the development and support of a statewide network of centers for independent living; and

"(C) working relationships between—

"(i) programs providing independent living services and independent living centers; and

"(ii) the vocational rehabilitation program established under title I, and other programs providing services for individuals with disabilities.

"(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan.

"(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705.

"(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

"(1) receive, account for, and disburse funds received by the State under this chapter based on the plan;

"(2) provide administrative support services for a program under part B, and a program under part C in a case in which the program is administered by the State under section 723;

"(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

"(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

"(d) OBJECTIVES.—The plan shall—

"(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

"(2) explain how such objectives are consistent with and further the purpose of this chapter.

"(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this chapter to individuals with significant disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

"(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this chapter to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

"(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.

"(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, as provided in section 723, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

"(i) COOPERATION, COORDINATION, AND WORKING RELATIONSHIPS AMONG VARIOUS ENTITIES.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

"(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

"(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

"(j) COORDINATION OF SERVICES.—The plan shall describe how services funded under this chapter will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

"(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

"(l) OUTREACH.—With respect to services and centers funded under this chapter, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

"(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this chapter will—

"(1) notify all individuals seeking or receiving services under this chapter about the availability of the client assistance program under section 112, the purposes of the services provided under such program, and how to contact such program;

"(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

"(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this chapter;

"(4)(A) maintain records that fully disclose—

"(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

"(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

"(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

"(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

"(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

"(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

"(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this chapter; and

"(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

"(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.

"SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.

"(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this chapter, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within a State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(2) COMPOSITION.—The Council shall include—

"(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State;

"(B) as ex officio, nonvoting members—

"(i) a representative from the designated State unit; and

"(ii) representatives from other State agencies that provide services for individuals with disabilities; and

"(C) in a State in which 1 or more projects are carried out under section 121, at least 1 representative of the directors of the projects.

"(3) ADDITIONAL MEMBERS.—The Council may include—

"(A) other representatives from centers for independent living;

"(B) parents and guardians of individuals with disabilities;

"(C) advocates of and for individuals with disabilities;

"(D) representatives from private businesses;

"(E) representatives from organizations that provide services for individuals with disabilities; and

"(F) other appropriate individuals.

"(4) QUALIFICATIONS.—

"(A) IN GENERAL.—The Council shall be composed of members—

"(i) who provide statewide representation;

"(ii) who represent a broad range of individuals with disabilities from diverse backgrounds;

"(iii) who are knowledgeable about centers for independent living and independent living services; and

"(iv) a majority of whom are persons who are—

"(I) individuals with disabilities described in section 7(20)(B); and

"(II) not employed by any State agency or center for independent living.

"(B) VOTING MEMBERS.—A majority of the voting members of the Council shall be—

"(i) individuals with disabilities described in section 7(20)(B); and

"(ii) not employed by any State agency or center for independent living.

"(5) CHAIRPERSON.—The Council shall select a chairperson from among the voting membership of the Council.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

“(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

“(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

“(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

“(7) VACANCIES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

“(B) DELEGATION.—The Governor may delegate the authority to fill such a vacancy to the remaining voting members of the Council after making the original appointment.

“(c) DUTIES.—The Council shall—

“(1) jointly develop and sign (in conjunction with the designated State unit) the State plan required in section 704;

“(2) monitor, review, and evaluate the implementation of the State plan;

“(3) coordinate activities with the State Rehabilitation Council established under section 105, if the State has such a Council, or the commission described in section 101(a)(21)(A), if the State has such a commission, and councils that address the needs of specific disability populations and issues under other Federal law;

“(4) ensure that all regularly scheduled meetings of the Statewide Independent Living Council are open to the public and sufficient advance notice is provided; and

“(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

“(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

“(e) PLAN.—

“(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this chapter, and under section 110 (consistent with section 101(a)(18)), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

“(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

“(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

“(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

“SEC. 706. RESPONSIBILITIES OF THE COMMISSIONER.

“(a) APPROVAL OF STATE PLANS.—

“(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 704 that the Commissioner determines meets the requirements of section 704, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

“(2) PROCEDURES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 704.

“(B) APPLICATION.—For purposes of the application described in subparagraph (A), all references in such provisions—

“(i) to the Secretary shall be deemed to be references to the Commissioner; and

“(ii) to section 101 shall be deemed to be references to section 704.

“(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 725.

“(c) ONSITE COMPLIANCE REVIEWS.—

“(1) REVIEWS.—The Commissioner shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funds under section 722 and shall periodically conduct such a review of each such center. The Commissioner shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 723, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 723, centers that receive funding under section 723 in such State. The Commissioner shall select the centers and State units described in this paragraph for review on a random basis.

“(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

“(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

“(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

“(C) ensure that at least one member of a team conducting such a review shall be an individual who—

“(i) is not a government employee; and

“(ii) has experience in the operation of centers for independent living.

“(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards and assurances set forth in section 725. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of onsite compliance reviews, identifying individual centers for independent living and other recipients of assistance under this chapter.

“PART B—INDEPENDENT LIVING SERVICES

“SEC. 711. ALLOTMENTS.

“(a) IN GENERAL.—

“(1) STATES.—

“(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

“(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

“(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

“(2) CERTAIN TERRITORIES.—

“(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

“(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made.

“(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

“(b) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with subsection (a)(1)(B), to provide minimum allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(C), or to provide minimum allotments to States under subsection (a)(2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by subsection (a)(1)(B).

“(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

“SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.

“(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 706. Such

payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 706.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

"SEC. 713. AUTHORIZED USES OF FUNDS.

"The State may use funds received under this part to provide the resources described in section 705(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

"(1) to provide independent living services to individuals with significant disabilities;

"(2) to demonstrate ways to expand and improve independent living services;

"(3) to support the operation of centers for independent living that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 725;

"(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

"(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

"(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

"(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

"SEC. 714. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1998 through 2004.

"PART C—CENTERS FOR INDEPENDENT LIVING

"SEC. 721. PROGRAM AUTHORIZATION.

"(a) IN GENERAL.—From the funds appropriated for fiscal year 1998 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d).

"(b) TRAINING.—

"(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance to eligible agencies, centers for independent living, and Statewide Independent Living Councils for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this part for the fiscal year involved.

"(2) ALLOCATION.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

"(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

"(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

"(c) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—After the reservation required by subsection (b) has been made, and except as provided in subparagraphs (B) and (C), from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

"(i) if such excess is not less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $450,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $450,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts;

"(ii) if such excess is not less than $4,000,000 and is less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $400,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $400,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts; and

"(iii) if such excess is less than $4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts described in clause (ii).

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than one-eighth of one percent of the remainder for the fiscal year for which the allotment is made.

"(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

"(4) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with paragraph (1)(B), to provide minimum allotments to States (as increased under paragraph (3)) under paragraph (1)(C), or to provide minimum allotments to States under paragraph (2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under paragraph (1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by paragraph (1)(B).

"(d) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

"SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

"(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community

and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant proposing to serve such region, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel and the involvement of individuals with significant disabilities;

"(v) budgets and cost-effectiveness;

"(vi) an evaluation plan; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs, consistent with the provisions of the State plan submitted under section 704 regarding establishment of a statewide network of centers for independent living.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

"(g) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

"SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) INITIAL YEAR.—

"(i) DETERMINATION.—The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

"(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

"(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B), making such adjustments as may be necessary to accommodate State funding cycles such as 2-year funding cycles or State fiscal years that do not coincide with the Federal fiscal year.

"(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

"(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to eligible agencies in the State in accordance with section 722.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 725 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with significant disabilities by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

"(g) REVIEW.—

"(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (i), the date of any final decision under subsection (i),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

"(h) ONSITE COMPLIANCE REVIEW.—The director of the designated State unit shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funding under this section in the State. Each team that conducts onsite compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

"(i) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

"SEC. 724. CENTERS OPERATED BY STATE AGENCIES.

"A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) of this section (as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1998) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

"(1) no nonprofit private agency—

"(A) submits an acceptable application to operate a center for independent living for the fiscal year before a date specified by the Commissioner; and

"(B) obtains approval of the application under section 722 or 723; or

"(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

"SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.

"(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter and the objective of providing assistance effectively and efficiently.

"(b) STANDARDS.—

"(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

"(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

"(B) self-help and self-advocacy;

"(C) development of peer relationships and peer role models; and

"(D) equal access of individuals with significant disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

"(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of significant disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of populations that are unserved or underserved by programs under this title). Eligibility for services at any center for independent living shall be determined by the center, and shall not be based on the presence of any one or more specific significant disabilities.

"(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek such assistance by the center.

"(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with significant disabilities.

"(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.

"(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.

"(7) RESOURCE DEVELOPMENT ACTIVITIES.—The center shall conduct resource development activities to obtain funding from sources other than this chapter.

"(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities;

"(3) the applicant will comply with the standards set forth in subsection (b);

"(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;

"(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;

"(6) the applicant will ensure that the majority of the staff, and individuals in decision-making positions, of the applicant are individuals with disabilities;

"(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit, notwithstanding section 7502(a)(2)(A) of title 31, United States Code;

"(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

"(A) the extent to which the center is in compliance with the standards;

"(B) the number and types of individuals with significant disabilities receiving services through the center;

"(C) the types of services provided through the center and the number of individuals with significant disabilities receiving each type of service;

"(D) the sources and amounts of funding for the operation of the center;

"(E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decision-making positions in, the center; and

"(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

"(9) individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

"(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;

"(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

"(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

"(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

"(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

"SEC. 726. DEFINITIONS.

"As used in this part, the term 'eligible agency' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

"SEC. 727. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1998 through 2004.

"CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

"SEC. 751. DEFINITION.

"For purposes of this chapter, the term 'older individual who is blind' means an individual age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

"SEC. 752. PROGRAM OF GRANTS.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR GRANTS.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older individuals who are blind.

"(2) DESIGNATED STATE AGENCY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the agency described in section 101(a)(2)(A)(i).

"(b) CONTINGENT COMPETITIVE GRANTS.—Beginning with fiscal year 1993, in the case of any fiscal year for which the amount appropriated under section 753 is less than $13,000,000, grants made under subsection (a) shall be—

"(1) discretionary grants made on a competitive basis to States; or

"(2) grants made on a noncompetitive basis to pay for the continuation costs of activities for which a grant was awarded—

"(A) under this chapter; or

"(B) under part C, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(c) CONTINGENT FORMULA GRANTS.—

"(1) IN GENERAL.—In the case of any fiscal year for which the amount appropriated under section 753 is equal to or greater than $13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

"(2) ALLOTMENTS.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

"(d) SERVICES GENERALLY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

"(1) providing independent living services to older individuals who are blind;

"(2) conducting activities that will improve or expand services for such individuals; and

"(3) conducting activities to help improve public understanding of the problems of such individuals.

"(e) INDEPENDENT LIVING SERVICES.—Independent living services for purposes of subsection (d)(1) include—

"(1) services to help correct blindness, such as—

"(A) outreach services;

"(B) visual screening;

"(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

"(D) hospitalization related to such services;

"(2) the provision of eyeglasses and other visual aids;

"(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

"(4) mobility training, braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

"(5) guide services, reader services, and transportation;

"(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

"(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

"(8) other independent living services.

"(f) MATCHING FUNDS.—

"(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $9 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) CERTAIN EXPENDITURES OF GRANTS.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

"(h) REQUIREMENT REGARDING STATE PLAN.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.

"(i) APPLICATION FOR GRANT.—

"(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under subsection (j)(4)).

"(2) CONTENTS.—An application for a grant under this section shall contain—

"(A) an assurance that the agency described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the agency operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

"(i) the number and types of older individuals who are blind and are receiving services;

"(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

"(iii) the sources and amounts of funding for the operation of each project or program;

"(iv) the amounts and percentages of resources committed to each type of service provided;

"(v) data on actions taken to employ, and advance in employment, qualified individuals with significant disabilities, including older individuals who are blind; and

"(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

"(B) an assurance that the agency will—

"(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

"(ii) engage in—

"(I) capacity-building activities, including collaboration with other agencies and organizations;

"(II) activities to promote community awareness, involvement, and assistance; and

"(III) outreach efforts; and

"(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 704.

"(j) AMOUNT OF FORMULA GRANT.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

"(A) the amount determined under paragraph (2); or

"(B) the amount determined under paragraph (3).

"(2) MINIMUM ALLOTMENT.—

"(A) STATES.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

"(i) $225,000; or

"(ii) an amount equal to one-third of one percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

"(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000.

"(3) FORMULA.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

"(A) the amount appropriated under section 753 and available for allotments under subsection (a); and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

"(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

"(4) DISPOSITION OF CERTAIN AMOUNTS.—

"(A) GRANTS.—From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) relative to the populations in other States of older individuals who are blind.

"(B) AMOUNTS.—The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

"(i) the failure of any State to submit an application under subsection (i);

"(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

"(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

"(C) CONDITIONS.—The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

"SEC. 753. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1998 through 2004.".

SEC. 611. HELEN KELLER NATIONAL CENTER ACT.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904(a)) is amended by striking "1993 through 1997" and inserting "1998 through 2004".

(b) HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT FUND.—The first sentence of section 208(h) of such Act (29 U.S.C. 1907(h)) is amended by striking "1993 through 1997" and inserting "1998 through 2004".

(c) REGISTRY.—Such Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following:

"SEC. 209. NATIONAL REGISTRY AND AUTHORIZATION OF APPROPRIATIONS.

"(a) REGISTRY.—The Center shall establish and maintain a national registry of individuals who are deaf-blind, using funds made available under subsection (b).

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) such sums as may be necessary for each of fiscal years 1998 through 2004.".

SEC. 612. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

Section 2(2) of the joint resolution approved July 11, 1949 (63 Stat. 409, chapter 302; 36 U.S.C. 155b(2)) is amended by inserting "solicit," before "accept,".

SEC. 613. CONFORMING AMENDMENTS.

(a) PREPARATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary of Education shall prepare recommended legislation containing technical and conforming amendments to reflect the changes made by this title.

(b) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Education shall submit to Congress the recommended legislation referred to under subsection (a).

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House, and the Chair is authorized to appoint conferees on the part of the Senate.

The Presiding Officer (Mr. BROWNBACK) appointed Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY and Mr. REED conferees on the part of the Senate.

Mr. JEFFORDS. Mr. President, I want to thank all my colleagues for their support on this bill. It is an excellent bill. I appreciate Senators having the confidence in us. We hope to move expeditiously in getting to conference.

I yield to Senator DEWINE.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Ohio.

Mr. DEWINE. I thank the Chair. Let me again thank the chairman of the committee, Senator JEFFORDS, for the great work he has done on this bill, as well as Senator WELLSTONE and Senator KENNEDY.

I also thank the staff who worked on this bill. They spent a tremendous amount of time. It was a great effort.

Mr. President, the Workforce Investment Partnership Act represents our commitment to the American people to recreate.

Through State and especially local partnerships with business and industry, the nation's job training system will be able to identify the jobs that exist and the skills needed to fill them.

Through consolidation and reform we establish a truly comprehensive workforce development system that brings together nearly 70 categorical programs and redefines the federal Job Corps program.

By adding The Rehabilitation Act Amendments of 1998, we reauthorize the Rehabilitation Act, link the vocational rehabilitation system to States' workforce development systems and increase and simplify access for individuals with disabilities to job training services.

Mr. President, this legislation is a milestone, and will no doubt prove to be one of our country's economy's greatest assets.

In closing, Mr. President, I would particularly like to thank my colleagues Senators JEFFORDS, KENNEDY, WELLSTONE, FRIST, COLLINS, HARKIN, and DODD as well as the individual members of their staffs who have worked many long hours to make this bill possible: Patricia Morrissey, Sherry Kaiman, Jeff Teitz, Connie Garner, Brian Alhberg, Dave Larsen, Katie Braden, Julian Haynes, Sharon Masling, Jim Fenton, Jenny Saunders, Chas Phillips, Rick Murphy, Robin Bowen, Chad Calvert, Angie Stewart, a special thanks to Ann Lordeman and Rick Apling, from the Congressional Research Service and Liz Aldrige and Mark Sigurski, and finally my own staff—Dwayne Sattler, Aaron Grau, and Yolanda Rogers for their tireless efforts.

I am confident that this bill will provide needed change and opportunities for the millions of Americans, both employers and job seekers, who need this improved job training system to help make our country more prosperous and more prepared for the next century. And I look forward to working with my friends in the House of Representatives in conference.

SENATOR ROBERT C. BYRD CASTS 15,000TH VOTE

Mr. LOTT. Mr. President, Senator DASCHLE and I both want to join in once again commending and recognizing the tremendous record that Senator BYRD of West Virginia has made to the U.S. Senate. Senator BYRD just cast his 15,000th vote—15,000th vote.

(Applause, Senators rising.)

He continues to hold the Senate record of total number of votes cast. Therefore, out of the 1,843 Senators past and present, he is No. 1 in total number of votes cast. He broke the record when he cast his 12,134th vote on April 27, 1990. As an aside, Senator THURMOND is No. 2 on the all-time list at 14,863 votes.

These Senators set a torrid pace that the rest of us probably would not even want to try to replicate.

Thank you, Senator BYRD, for the example and the tremendous record you have set.

Mr. DASCHLE. Mr. President, on behalf of colleagues, both Republican and Democrat, I, too, rise to congratulate our distinguished colleague on this remarkable achievement.

Just to remind Senators, Senator BYRD began building this unsurpassed record more than 39 years ago. On January 8, 1959, Senator BYRD cast his first vote in the U.S. Senate. Fittingly, it was a vote on Senate procedure. On April 27, 1990, Senator BYRD cast his 12,134 vote, earning him the record for greatest number of rollcall votes in Senate history. On July 27, 1995, he became the first Senator in history to cast 14,000 votes, and now he has built on his record number of rollcall votes to be the first person in Senate history to cast 15,000 votes.

To place this record in some historical context, Senator BYRD cast the first of his 15,000 votes with Senators John Kennedy and Lyndon Johnson here in the chamber with him. When he cast his first vote, Hawaii had not yet become a State, and the United States had not yet put a man in space.

Perhaps the most remarkable aspect of this record is Senator BYRD's lifetime attendance record. Over 39 plus years, Senator BYRD has stood in this well or voted from his chair on 98.7 percent of the votes cast.

Every one of my colleagues knows the day-to-day pressures of Senate life. We all attend countless hearings and meetings with constituents. We travel thousands of miles to our States and within our States and sometimes attend overseas fact-finding missions like the one just returned from Bosnia. Sometimes these commitments do not match the uncertain schedule of the Senate.

But for more than 39 years, Senator BYRD has managed to run the Senate as Majority Leader. He has chaired the Senate Appropriations Committee. He has studied and written volumes on the history of the Senate.

He has earned his place as the unrivaled expert on Senate rules. And he has become perhaps the most popular political figure in West Virginia history, all while making nearly 99 out of 100 rollcall votes on the Senate floor. Not just votes on important treaties or landmark legislation, but countless Monday and Friday votes and late night rollcalls on routine procedural motions.

Mr. President, future historians will write about Senator BYRD's remarkable impact on this chamber as an orator, a parliamentary expert, a Senate historian, a legislative tactician, and a remarkable leader.

He has achieved a number of records in both West Virginia and Senate history. He has held more legislative offices than anyone else in the history of his State. He is the longest-serving Senator in the history of his State. And he has held more leadership positions in the U.S. Senate than any other Senator in history.

For all his grand achievements, Senator BYRD has performed the most basic requirement of a Senator more times than any other Senator in history. But we recognize and respect the senior Senator from West Virginia for the quality as well as the quantity of his service in the Senate.

During his 15,000 Senate votes, Senator BYRD has been here observing history, participating in history, and now occupies an important new place in the history of this institution.

Again, I commend him.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I trust that my colleagues will indulge me just for a few minutes. I thank the majority leader and the minority leader. I am grateful to the two leaders, Mr. President, for their generous expressions of praise and affection. I thank all of my colleagues for the many courtesies that they have extended to me over these, now going on, 40 years in this body.

Majorian, who became Emperor of the West in 457 A.D., referred to himself as "a prince who still glories in the name of 'Senator.'" That is the way I feel about it. I am grateful to the good people of West Virginia for trusting me with this honor for nearly 40 years now. I carry this title with great pride.

Sometimes my constituents say to me, "Do you ever get used to it?" as they look about this marvelous building, and the truth of the matter is that I haven't gotten used to it. Each time I walk through these doors, I feel a sense of great pride in being a Member of the United States Senate, and a sense of satisfaction in knowing that I have tried to do my best, and that the people of West Virginia have recognized that, and that they have continually shown their faith and confidence in me.

There have only been 1,843 men and women who have graced these desks, and those in the old Senate Chamber down the hall, those on the floor below, those in Philadelphia, and those in New York City where the first Senate met in 1789—1,843 Senators.

These 15,000 votes that we have just heard about, if we allow 15 minutes per vote, and if we allow the average number of 148 days per session, as has been the case over the past 10 years, and allowing for 8-hour days, it would require constant consecutive votes expanding over 3 years and 24 days to cast these 15,000 votes, back to back, doing nothing other than voting. Three years and 24 days. I am thankful for the opportunity to have cast these votes.

But it isn't the number of votes that really counts so much; it is the substance of each vote and the quality of judgment that is brought to bear in reaching a decision thereon. There have been a few votes that I regret having cast. But, in regard to the overwhelming majority of votes, I would not change them if I had the opportunity to do so.

And so I trust that I can help other Senators from day-to-day to feel great pride in their having been selected by the people of their States to serve in this great body. It is the highest legislative office in the land. I do not consider a Senator as someone who serves under any President. Senators serve with Presidents. The Presidency is the highest office in the executive branch. I respect the Presidency always, whether the holder of the office is a Democrat or Republican. But a United States Senator has no superior in any other office of Government. That is the way we should feel about it. After all, this Senate is the pillar upon which the Constitution really rests, because it was on July 16, 1787, when the Great Compromise occurred, and out of that compromise came the United States Senate—the forum of the States. It is the only forum in the Nation in which the States themselves are recognized on the basis of equality. And each Senator is fortunate that his or her constituents have chosen him or her to represent them in this great forum of the States.

The other night I was proud to look around and see all Senators sitting in their seats as they arose to answer the rollcall. After that rollcall was announced, several Senators came to me and expressed the fact that they had been greatly impressed by the dignity and the performance of the Senate as it voted on that occasion, which was a great occasion, an outstanding one. But I suppose that what touched me most was afterward, when I started to leave the Chamber, a number of these pages came up to me and one said, "Gee, that was cool"; another said, "that was great." Still another said, "I couldn't keep the tears from rolling down my cheek as I watched the Senators cast their votes." The pages were genuinely touched by the dignity and performance of the Senate on that day.

The people of the United States watch this Senate every day. They see us if we are milling around in the well. Legislators in State legislatures are accustomed to voting from their seats. Many of you have been members of the State legislatures. So have I. Those members remain in their seats and they vote there.

We may sometimes forget that the world is watching us. But the people in whom sovereignty resides are watching. They see us.

As the premier legislative body of the Nation, it seems to me that we should all take great pride in this institution and realize that we are the people who, perhaps more than any others in Government, set the standards. Who else sets the standards? Where have all our heroes gone? Babe Ruth used to be my hero. Lou Gehrig was my hero. In 1927, Babe Ruth broke his previous record with 60 home runs. But where do our young people go now to find their heroes? Back in my days the baseball players didn't spit in the face of the umpire, or choke the coach. We looked up to those athletes. We had our heroes. Perhaps we Senators can fill the place of heroes for our young people so they can have someone to whom they can look and emulate.

I am proud of all of my colleagues. I have often remarked about the high intelligence of the Members of the Senate. I hope we will be reinspired to serve with high purpose knowing that we have no particular right to this office except the fact that the people of our States trust us for a limited time with it. And, in that limited time, it is my desire that we do our best, and that we set a high standard of performance so that the American people will regain their confidence in government.

If I might be pardoned for taking a few more minutes, Pyrrhus was a great Greek general. Hannibal said that he was one of the three greatest generals of all time—Pyrrhus. He defeated the

Romans at the Battle of Heraclea in 280 B.C., and he paid a great price, from which we get the term "a Pyrrhic victory." He knew he was going to have to fight the Romans again because they weren't conquered, by any means. So Pyrrhus sent Cineas, the philosopher, to the Roman Senate. And Cineas went with jewelry, and exquisite robes and other gifts, hoping to corrupt the Roman Senate, and, persuade the Romans to become an ally of his.

After Cineas had observed the Roman Senate, he reported to Pyrrhus that the Roman Senate was no mere gathering of venal politicians, no haphazard council of mediocre men, but in dignity and statesmanship, veritably it was an assemblage of kings.

About 175 years later, Jugurtha, a Numidian prince, came to Rome and connived in the assassination of a Roman leader. He was ordered to leave Rome. He walked through the gates of Rome and upon several occasions paused to look back. Suddenly, he exclaimed, "Yonder is a city that is up for sale, and its days are numbered if it finds a buyer." The Roman Senate had deteriorated to that extent in one and three quarters centuries.

I don't believe this Senate's days are numbered. But it is going to depend upon the Members of the body—not the number of votes that they will cast but the quality of the Senators, their high purpose, their dedication.

I salute my colleagues and thank them for all of their kindnesses to me.

Now I am off to my second 15,000.

As Oliver Wendell Holmes said, "The rule of joy and the law of duty seem to me all one."

(Applause, Senators rising.)

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, while Senator BYRD is here, I would like to take this opportunity to make just a few remarks, daring to venture into the lion's den because of the eloquence that Senator BYRD brings to his thought and to his speech.

I have been a long-time admirer of Senator BYRD. I have been here 16 years. As I looked around the room, I noted that there were only six others who had been here as long as I have, which gives me a relative senior status, although the Chamber wasn't filled, and I regret that it wasn't because I know that everybody responds the same way as I do when Senator BYRD speaks. You always learn something of quite an incredible nature, and we are always in awe of his intellect and his memory.

I will never forget my earliest days here when I went in to visit Senator BYRD because I was anxious to serve on the Appropriations Committee. And Senator BYRD gave me a treatise on English kings, reaching back, I think, somewhere before William the Conqueror. I am not going to try to duplicate anything that Senator BYRD said by way of recall, but I remember that that was in the 1000s, I guess. And I listened while Senator BYRD talked about Ethelberht and all of those, and how each one succeeded the other and how each one died and how long each one served. I walked out shaking my head, and I said, "What is there about this man that enables him to remember so much for such a long period of time?"

Senator BYRD cast his 15,000th vote this day, and he is our Babe Ruth, there is no doubt about that, having accomplished things that none other before him ever accomplished. But it is not just the votes. As the Senator said, it is the quality; it is the kind of votes that we are casting.

I asked Senator BYRD before he stood up to make his remarks did he have any regrets. And he repeated publicly what he said to me privately—there were a few. But I think he probably remembers darned near every vote that he has cast. He certainly remembers those that were of major magnitude.

There are a few of us in this room, Senator BYRD, who are not going to cast 15,000 votes. I would like to do it, but I may have to do it from some place on high. Not only do we treasure Senator BYRD's presence here, but for me one of the great honors of having served in this body, and I consider it a tremendous honor; I come from immigrant parents. They came early in the century as little children, but their aspirations were limited, never suspecting, though always believing that it could happen to their son, that I would have the distinction of serving in this body.

Senator BYRD reminds us that only 1,840-some have ever served here since the founding of this country. And when I opened my desk top, I saw that one of the names in there was Truman, Missouri, and wherever I moved, Senator BYRD, I have always taken that desk with me. So there is so much honor and so much grace that falls our way, but one of the great honors for me has been to serve with you, Senator BYRD, master of all about the Senate. I don't think anyone ever loved the body with the same depth of interest, not just affection, as Senator BYRD has shown us in his years here. It is always an uplifting experience to listen to Senator BYRD talk about the Senate and to bring us to our dignity by asking us once in a while to sit down and cast our vote from our seats. It is for me, relatively seasoned, a refresher about the dignity of this body and the removal from the squabble and the hostility that sometimes has occasion to rise here. It doesn't make it any less of a distinction or a privilege to serve here, but every now and then, Senator BYRD, I thank you for bringing us back to our senses about where we are in this great Nation of ours and how fortunate we are to have known one another.

But you, Senator BYRD, have, I think—I come out of the computer business—probably been a model for those who wanted to construct a computer that would have vast memory, quick response, and developed intelligence, not artificial at all but real, and I salute you on this 15,000th vote to say that I know, for as long as I serve in this body, you will continue to inspire and encourage all of us, and I thank you for the contribution you have made to the country and to me as well.

I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New Jersey for his overly gracious and more than charitable remarks. I am grateful for them. I hope that he will never have cause to have a second thought about what he has just said. I hope that I can justify his faith and his confidence and his high estimation of me and my work here. May I say that I won't ever forget his kind words. I am grateful for them. I am glad to be in the Senate with Senator LAUTENBERG. He has been my friend, he is my friend, and he will always be my friend.

I thank the Senator very much.

Mr. LOTT. Mr. President, may I say thank you again, Senator BYRD, for your vote and for your comments. They are always very enlightening.

Mr. BYRD. I thank the Senator.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, Senator DASCHLE and I have been working throughout the day to get an agreement that will allow us to come to a fair and reasonable conclusion to the IRS restructuring and reform bill. We have been able to work out, I think, a fair agreement, and I would like to propound that.

I ask unanimous consent that with respect to H.R. 2676 all amendments be relevant to the bill except amendments to title VI must be both relevant and cleared by both the managers and leaders, one amendment offered by the chairman that pays for the cost of the legislation, with no second-degree amendments in order, one amendment offered by Senator KERREY that also pays for the legislation, with no second-degree amendments, and it not be in order prior to the conclusion of debate on the chairman's "pay for" amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I do not object, but I rise to make a point that I would hope it would be appropriate at this time to reserve the right, but I do not intend to object.

I understand that oftentimes my colleagues work long and hard to craft legislation that they believe is in the best interests of their constituents and the people of this country, and that we do not always have the freedom and luxury for whatever the reason to offer such legislation. Indeed, I have been working with a number of my colleagues, Senator FEINSTEIN and others, on a piece of legislation that I think is absolutely essential and should not be delayed; that every day it is delayed causes anguish for women throughout this country, for families without this country when they are denied basic treatment in terms of their medical needs. And I am talking about those who face cancer, breast cancer in particular, who are forced to leave a hospital because their insurance policy limits the length of stay and/or they are denied basic treatment, reconstructive surgery. And, indeed, just within the past 6 weeks we have had two cases that have come to my attention personally in my State, but it is happening throughout this country, where medical plans deny them these basic rights, the right to reconstructive surgery after a radical mastectomy.

I have taken the time and impinged upon and imposed upon the time of the two leaders here because I feel strongly about this, because this is taking place. I believe it is an unwarranted and unintended consequence that brought this upon us, by passage of the ERISA law, which keeps States from putting on these reasonable conditions. It says, basically, a woman should be entitled to this kind of coverage. Unfortunately, there are some who say we should not have mandates. It is unfortunate that we might have to, and do have to, mandate in this case because there are millions and millions of American women who do not have this basic protection and right.

I am fully intending to, and I said to my colleagues on the Finance Committee that I would, offer this legislative proposal that would see to it that this grievous situation is rectified. I intended to do it here on the IRS reform bill, because this is a bill that will pass. This is a bill that is necessary. This is a bill that my colleagues, Democrats and Republicans, have worked on long and hard. And it will be signed into law.

I also know that if we ever get an opportunity to bring the Women's Health and Cancer Rights Act to this floor it will pass overwhelmingly.

For a number of reasons we have not been able to do that. The two leaders have indicated to me, and have asked me to withhold, because there are other laudable, and I am sure very worthy, amendments that my colleagues have agreed not to put forth. They have assured me they will seek to give us an opportunity—Senator FEINSTEIN and myself and the other 20 cosponsors—to bring up this amendment. It is not a costly amendment but will save lives. It will save families. It will ensure that women get the proper kind of care they can and should be getting. It is unfortunate that we need this kind of legislation. They will attempt to give us an opportunity of some 2 hours this Tuesday to bring forth this legislation.

On that basis, I will not object. But I have to tell my colleagues, it is a year and a half now. There is a lot of pain. A lot of people have been denied that which they should have had. A lot of people have been forced to go to appeals, to appeal through the boards that administer many of these programs, their self-insured programs, to get this basic right. I don't think that we want to, nor should we, continue this nor countenance this any longer.

On the assurance that we are going to attempt and really make a good-faith effort to bring this to the floor Tuesday, I will withdraw any objection and go along. I thank my colleagues for recognizing the plight of families in America in attempting to work with us in a way that collectively we can solve that problem.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. LOTT. Having reached this agreement, there will be no further votes this evening.

After Senator DASCHLE makes his comments, I do want to respond and comment on the fact that, frankly, Senators on both sides of the aisle have had to hold back and be cooperative. This was not easy to reach. But this is a very important piece of legislation that has been crafted in a bipartisan way. If we didn't get this agreement, we could have been working on it for days and weeks and it would have wound up pushing everything down the line, many bills that we do want to do and can do.

So I appreciate the cooperation and I appreciate that Senator DASCHLE has had to work very hard. I could start naming Senators on this side and he can start naming Senators on that side who had good and valid amendments. But I think we did the right thing. After the Senator comments, I would like to respond further to Senator D'AMATO's generosity and very responsible action and talk about what we are going to try to do to be helpful.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, the majority leader has spoken well about the difficulty of this agreement. This was, I told him, one of the more difficult, if not the most difficult we have had in some time. I could name 30 Senators on this side of the aisle who have very important amendments, who are very concerned about the lack of an opportunity to offer these amendments on this bill or on other bills. So I, first, thank them for their cooperation and for their support in allowing us to move forward, as we are tonight. I believe there must come a time when this pent-up demand to offer some of this legislation has to be addressed. I will be speaking with the majority leader about that as we go through the schedule for the next couple of weeks.

I might say, a major factor—and I have indicated this to the majority leader—in our ability to reach this agreement was his assurance that we were also going to take up, in a timely way, some other very critical pieces of legislation this agreement allows us to take up. First and foremost is a crop insurance and research bill that I have assured my colleagues will be taken up, if at all possible, this week. We don't know how long the amendment process will take. But the majority leader has assured me it is the next bill. So I thank him for that and, as I have indicated to him privately and I will say again publicly, that was a major consideration. Another was our strong desire to get on with the consideration of the tobacco bill. The majority leader has assured me that we will do that as well.

So we have an array of matters that must be addressed. It was in keeping with our understanding of the workload this month that a lot of our Democratic colleagues were willing to concede the recognition of the importance of this particular agreement.

Let me address what I hope is not a misunderstanding. I don't know of any particular agreement with regard to the bill referred to by the distinguished Senator from New York, except to say that I am very sympathetic with what he is attempting to do. Many of our colleagues on this side of the aisle will wish to be heard on that bill and will wish to offer amendments. So I will work with the majority leader to schedule some time for us to consider this bill, and we will do our best to accommodate all Senators as they are called upon to debate and offer their amendments. But we will negotiate in good faith and attempt to come up with the best agreement we can.

Mr. KERREY. Will the Democratic leader yield?

Mr. DASCHLE. I am happy to yield.

Mr. KERREY. Just to inform both the Democratic leader and the majority leader, it would be Senator ROTH's intention and my intention at 9:30 to take up both of the funding amendments and to have two back-to-back rollcall votes at 10:30, or close to that, unless we yield time back, so you and other colleagues can plan.

Mr. DASCHLE. I only have two final points, Mr. President. The first is that this is the 6-month anniversary of the passage of this legislation in the House of Representatives. We cannot afford to wait any longer. We must pass this bill. The urgency is recognized by this agreement. I appreciate that very much.

The final point is that there are a number of Senators who, in good faith, will be offering amendments they truly believe are relevant. I don't know how one defines the relevance of amendments, but I hope we can work with our Parliamentarian and with the Presiding Officers to accommodate our colleagues, as relevance is contemplated and defined. This is a very important matter for a lot of Senators. This is a rare vehicle that they will have to offer legislation. I am hopeful we can accommodate as many Senators as possible with relevant amendments.

Again, I thank all cooperating Senators and appreciate, once more, the chance to resolve this matter with the majority leader.

I yield the floor.

Mr. LOTT. Mr. President, I would like to say, before Senator KERREY leaves the floor, that the time that he outlined so both Senators could explain what is in the amendments that would pay for the costs of these corrections at IRS sounds fine. If we could have votes by 10:30 in the morning, I don't see any problem with that, two back to back at 10:30.

Let me say to Senator D'AMATO, once again, I appreciate his cooperation here, and it is not the first time he has cooperated this year on a lot of issues. But on this issue in particular, I know how strongly he feels about it and I am absolutely satisfied that he is going to get a vote on this issue, and he should get a vote on this issue, and I am going to work with him to make that happen in a reasonable way.

I will work with you to try to see if we can get an agreement to bring this up next week. It is going to take work on your part and on my part. Senator DASCHLE has a number of Senators who have views, or amendments even, on this. That is a problem, because it could very easily get totally out of control and have the whole world caving in on it. But we will work on that.

If, for some reason, that does not work out, every bill that comes along will be a prospect for an amendment, for the Senator's amendment.

Mr. D'AMATO. If the majority leader might yield at this point just for an observation? I want my colleagues to understand that we are going to vote on this one way or the other. I am committed to it. I have, on a number of occasions now, so as to provide the opportunity for this body to do its business—no one Senator, including this Senator, should put himself or herself above the interests of the body. I have attempted to respect that. I mean that. I have not attempted to delay.

Mr. LOTT. Let me say, you certainly have. You have been very responsible and you have been very cooperative, but you also made very clear your determination on this amendment. I understand that, and I am going to try to help you find a way to get it done.

Mr. D'AMATO. Good, because I will wait for something all my colleagues want, and we may be here a long time. I don't think that is going to serve anybody's interest. I would like everyone to join in. If they can make this bill a better bill truly in that spirit, then let's do it. If it is just to weight it down and sink it, that is not something I am going to take as being responsible, and we will talk to that.

Everybody has a right to do what they want out here in the open. People can judge whether they are being responsible or not. I hope in that spirit, because we have done a lot of good things together, I remind my colleagues on both sides, it is in that spirit I would like to approach it. I thank the majority leader for understanding and the minority leader. I look forward to working with them both.

Mr. LOTT. Thank you very much. I yield the floor, Mr. President.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, on behalf of our majority leader, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each, with the exception of the Senator from Iowa who requests 11 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, May 4, 1998, the federal debt stood at $5,477,263,228,571.00 (Five trillion, four hundred seventy-seven billion, two hundred sixty-three million, two hundred twenty-eight thousand, five hundred seventy-one dollars and zero cents).

Five years ago, May 4, 1993, the federal debt stood at $4,240,752,000,000 (Four trillion, two hundred forty billion, seven hundred fifty-two million).

Ten years ago, May 4, 1988, the federal debt stood at $2,514,920,000,000 (Two trillion, five hundred fourteen billion, nine hundred twenty million).

Fifteen years ago, May 4, 1983, the federal debt stood at $1,262,026,000,000 (One trillion, two hundred sixty-two billion, twenty-six million).

Twenty-five years ago, May 4, 1973, the federal debt stood at $452,347,000,000 (Four hundred fifty-two billion, three hundred forty-seven million) which reflects a debt increase of more than $5 trillion—$5,024,916,228,571.00 (Five trillion, twenty-four billion, nine hundred sixteen million, two hundred twenty-eight thousand, five hundred seventy-one dollars and zero cents) during the past 25 years.

HONORING THE REDDINGS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Pat and Don Redding of Kansas City, Missouri, who on May 23, 1998, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Redding's commitment to the principles and values of their marriage deserves to be saluted and recognized.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO SUDAN—MESSAGE FROM THE PRESIDENT—PM 119

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on developments concerning the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997, and matters relating to the measures in that order. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c). This report discusses only matters concerning the national emergency with respect to Sudan that was declared in Executive Order 13067.

1. On November 3, 1997, I issued Executive Order 13067 (62 *Fed. Reg.* 59989, November 5, 1997—the "Order") to declare a national emergency with respect to Sudan pursuant to IEEPA. Copies of the Order were provided to the Congress by message dated November 3, 1997.

The Order blocks all property and interests in property of the Government of Sudan, its agencies, instrumentalities, and controlled entities, including the Central Bank of Sudan, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches. The Order also prohibits (1) the importation into the United States of any goods or services of Sudanese origin except for information or informational materials; (2) the exportation or reexportation of goods, technology, or services to Sudan or the Government of Sudan except for information or informational materials and donations of humanitarian aid; (3) the facilitation by a United States person of the exportation or reexportation of goods, technology, or services to or from Sudan; (4) the performance by any United States person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan; (5) the grant or extension of credits or loans by any United States person to the Government of Sudan; and (6) transactions relating to the transportation of cargo. The Order also provided a 30-day delayed effective date for the completion of certain trade transactions.

2. Executive Order 13067 became effective at 12:01 a.m., eastern standard time on November 4, 1997. On December 2, 1997, the Department of the Treasury's Office of Foreign Assets Control (OFAC) issued General Notice No. 1, interpreting the delayed effective date for pre-November 4, 1997, trade contracts involving Sudan if the preexisting trade contract was for (a) the exportation of goods, services, or technology from the United States or a third country that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997, or (b) the reexportation of goods or technology that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997. Such exports or reexports were authorized until 12:01 a.m. eastern standard time, December 4, 1997, and nonfinancing activity by United States persons incidental to the performance of the preexisting trade contract (such as the provision of transportation or insurance) was authorized through 12:01 a.m. eastern standard time, February 2, 1998. If the preexisting trade contract was for the importation of goods or services of Sudanese origin or other trade transactions relating to goods or services of Sudanese origin or owned or controlled by the Government of Sudan, importations under the preexisting trade contract were authorized until 12:01 a.m. eastern standard time, December 4, 1997.

3. Since the issuance of Executive Order 13067, OFAC has made numerous decisions with respect to applications for authorizations to engage in transactions under the Sudanese sanctions. As of March 12, 1998, OFAC has issued 55 authorizations to nongovernmental organizations engaged in the delivery of humanitarian aid and 77 licenses to others. OFAC has denied many requests for licenses. The majority of denials were in response to requests to authorize commercial exports to Sudan—particularly of machinery and equipment for various industries—and the importation of Sudanese—origin goods. The majority of licenses issued permitted the unblocking of financial transactions for individual remitters who routed their funds through blocked Sudanese banks. Other licenses authorized the completion of diplomatic transfers, preeffective date trade transactions, and the performance of certain legal services.

4. At the time of signing Executive Order 13067, I directed the Secretary of the Treasury to block all property and interests in property of persons determined, in consultation with the Secretary of State, to be owned or controlled by, or to act for or on behalf of, the Government of Sudan. On November 5, 1997, OFAC disseminated details of this program to the financial, securities, and international trade communities by both electronic and conventional media. This information included the names of 62 entities owned or controlled by the Government of Sudan. The list includes 12 financial institutions and 50 other enterprises.

5. OFAC, in cooperation with the U.S. Customs Service, is closely monitoring potential violations of the import prohibitions of the Order by businesses and individuals. Various reports of violations are being aggressively pursued.

6. The expenses incurred by the Federal Government in the 6-month period from November 3, 1997, through May 2, 1998, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Sudan are reported to be approximately $425,000, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureaus of Economic and Business Affairs, African Affairs, Near Eastern Affairs, Counsular Affairs, and the Office of the Legal Adviser), and the Department of Commerce (the Bureau of Export Administration and the General Counsel's Office).

7. The situation in Sudan continues to present an extraordinary and unusual threat to the national security and foreign policy of the United States. The declaration of the national emergency with respect to Sudan contained in Executive Order 13067 underscores the United States Government opposition to the actions and policies of the Government of Sudan, particularly its support of international terrorism and its failure to respect basic human rights, including freedom of religion. The prohibitions contained in Executive Order 13067 advance important objectives in promoting the antiterrorism and human rights policies of the United States. I shall exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 5, 1998.*

REPORT ENTITLED "THE STATE ON SMALL BUSINESS"—MESSAGE FROM THE PRESIDENT—PM 120

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Small Business.

To the Congress of the United States:

I am pleased to present my fourth annual report on the state of small business. In short, the small business community continues to perform exceptionally well. For the fourth year in a row, new business formation reached a record high: 842,357 new firms were formed in 1996.

The entrepreneurial spirit continues to burn brightly as the creativity and sheer productivity of America's small businesses make our Nation's business community the envy of the world. My Administration has worked hard to keep that spirit strong by implementing policies and programs designed to help small businesses develop and expand. We have focused our economic strategy on three pillars: reducing the deficit, opening up markets overseas, and investing in our people through education and technology. Our efforts with respect to small business have been concentrated in a number of specific areas, including directing tax relief to more small businesses, expanding access to capital, supporting innovation, providing regulatory relief, opening overseas markets to entrepreneurs, and strengthening America's work force.

A BALANCED BUDGET AND TAXPAYER RELIEF

When I took office, the Federal budget deficit was a record $290 billion. I determined that one of the best things we could do for the American people, including small business, would be to balance the budget. Because of our hard choices, the deficit has been reduced for 5 years in a row. By October 1997, the deficit had fallen to just $22.6 billion—a reduction of $267 billion or 90 percent. These lower deficits have helped to reduce interest rates, an important matter for all small businesses.

Small business owners have long recognized the importance of this issue. At each of the White House Conferences on Small Business—in 1980, 1986, and 1995—small businesses included on their agenda a recommendation to balance the Federal budget. With passage of the Balanced Budget Act of 1997, I signed into law the first balanced budget in a generation. The new budget will spur growth and spread opportunity by providing the biggest investment in higher education since the GI bill more than 50 years ago. Even after we pay for tax cuts, line by line and dime by dime, there will still be $900 billion in savings over the next 10 years.

And at the same time we are easing the tax burden on small firms. My Administration and the Congress took the White House Conference tax recommendations seriously during deliberations that led to the Taxpayer Relief Act of 1997. The new law will direct billions of dollars in tax relief to small firms over the next 10 years. Small businesses will see a decrease in the estate tax, an increase to 100 percent over the next 10 years in the percentage of health insurance payments a self-employed person can deduct, an updated definition of "home office" for tax purposes, and a reduction in paperwork associated with the alternative minimum tax.

Significant new capital gains provisions in the law should provide new infusions of capital to new small businesses. By reducing the capital gains tax rate and giving small business investors new options, the law encourages economic growth through investment in small businesses.

ACCESS TO CAPITAL

For so many small business owners, gaining access to capital continues to be a very difficult challenge. The U.S. Small Business Administration (SBA) plays a key role as a catalyst in our efforts to expand this access. The SBA made or guaranteed more than $13 billion in loans in 1997. Since the end of fiscal year 1992, the SBA has backed more than $48 billion in loans to small businesses, more than in the previous 12 years combined. In 1997, the SBA approved 45,288 loan guarantees amounting to $9.46 billion in the 7(a) guaranty program, a 23 percent increase from 1996, and 4,131 loans worth $1.44 billion under the Certified Development Company (CDC) loan program.

Included in the 1997 loan totals were a record $2.6 billion in 7(a) and CDC loans to more than 10,600 minority-owned businesses and another record $1.7 billion in roughly 10,800 loans to women-owned businesses. Over the last 4 years, the number of SBA loans to women small business owners have more than tripled, and loans to minority borrowers have also nearly tripled.

The Small Business Investment Company (SBIC) program, the SBA's premier vehicle for providing venture capital to small, growing companies, produced a record amount of equity and debt capital investments during the year. The program's licensed SBICs made 2,731 investments worth $2.37 billion. In 1997, 33 new SBICs with combined private capital of $471 million were licensed. Since 1994, when the program was revamped, 111 new SBICs with $1.57 billion in private capital have entered the program.

And in the past year, the SBA's Office of Advocacy developed a promising new tool to direct capital to dynamic, growing small businesses—the Angel Capital Electronic Network, or ACE-Net. This effort has involved refining Federal and State small business securities requirements and using state-of-the-art Internet technology to develop a brand new nationwide market for small business equity.

GOVERNMENT SUPPORT FOR SMALL BUSINESS INNOVATION

As this report documents, small firms play an important role in developing innovative products and processes and bringing them to the marketplace. Federal research and development that strengthens the national defense, promotes health and safety, and improves the Nation's transportation systems is vital to our long-term interests. Our Government has instituted active policies to ensure that small businesses have opportunities to bring their innovative ideas to these efforts.

The Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs help ensure that Federal research and development funding is directed to small businesses. In fiscal year 1996, more than 325 Phase I and Phase II STTR awards totaling $38 million went to 249 small businesses. Also in 1996, the SBIR program invested almost $1 billion in small high technology firms. The program has touched and inspired individuals like Bill McCann, a blind—and once frustrated—trumpet player who used SBIR funding to help start a company that designs software to automatically translate sheet music into braille. Today, Dancing Dots Braille Music Technology is rapidly expanding the library of sheet music available to blind musicians.

Other initiatives include the National Institute of Standards and Technology's (NIST) Advanced Technology Program, enabling small high technology firms to develop pathbreaking technologies, and NIST's Manufacturing Extension Partnership, which helps small manufacturers apply performance-improving technologies needed to meet global competition. Two of the SBA's loan programs—the 7(a) and 504 loan programs—currently assist 2,000 high technology companies. And the SBA's ACE-Net initiative is especially designed to meet the needs of these dynamic high technology firms.

Because they give small firms a footing on which to build new ideas and innovative products, these efforts benefit not only the small firms themselves, but the entire American economy.

REGULATORY RELIEF

A pressing concern often identified by small businesses is unfairly burdensome regulation. My Administration is committed to reforming the system of Government regulations to make it more equitable for small companies. In 1996, I signed into law the Small Business Regulatory Enforcement Fairness Act, which strengthens requirements that Federal agencies consider and mitigate unfairly burdensome effects of their rules on small businesses and other small organizations. A small business ombudsmen and a new system of regulatory fairness boards, appointed in September 1996, give small firms new opportunities to participate in agency enforcement actions and policies. Because agencies can be challenged in court, they have gone to extra lengths to ensure that small business input is an integral part of their rulemaking processes.

Many agencies are conducting their own initiatives to reduce the regulatory burden. The SBA, for example, cut its regulations in half and rewrote the remaining requirements in plain English. All of these reforms help ensure that the Government maintains health, safety and other necessary standards without driving promising small companies out of business.

OPENING OVERSEAS MARKETS

Key in my Administration's strategy for economic growth are efforts to expand business access to new and growing markets abroad. I want to open trade in areas where American firms are leading—computer software, medical equipment, environmental technology. The information technology agreement we reached with 37 other nations in 1996 will eliminate tariffs and unshackle trade in computers, semiconductors, and telecommunications. This cut in tariffs on American products could lead to hundreds of thousands of jobs for our people.

Measures aimed at helping small firms expand into the global market have included an overhaul of the Government's export controls and reinvention of export assistance. These changes help ensure that our own Government is no longer the hurdle to small businesses entering the international economy.

A 21ST CENTURY WORK FORCE

American business' most important resource is, of course, people. I am proud of my Administration's efforts to improve the lives and productivity of the American work force. We know that in this Information Age, we need a new social compact—a new understanding of the responsibilities of government, business, and every one of us to each other.

Education is certainly the most important investment we can make in people. We must invest in the skills of people if we are to have the best educated work force in the world in the 21st century. We're moving forward to connect every classroom to the Internet by the year 2000, and to raise standards so that every child can master the basics.

We're also training America's future entrepreneurs. The SBA, for example, has improved access to education and counseling by funding 19 new women's business centers and 15 U.S. export assistance centers nationwide. And we are encouraging businesses to continue their important contributions to job training. The Balanced Budget Act of 1997 encourages employers to provide training by excluding income spent on education for employees from taxation.

We are taking steps to improve small business workers' access to employee benefits. Last year, I signed into law the Small Business Job Protection Act, which, among other things, makes it easier for small businesses to offer pension plans by creating a new small business 401(k) plan. We make it possible for more Americans to keep their pensions when they change jobs without having to wait before they can start saving at their new jobs. As many as 10 million Americans without pensions when the law was signed can now earn them because this law exists.

Given that small businesses have created more than 10 million new jobs in the last four years, they will be critical in the implementation of the welfare to work initiative. That means the SBA microloan and One-Stop Capital Shop programs will be uniquely positioned to take on the "work" component of this initiative. The work opportunity tax credit in the Balanced Budget Act is also designed as an incentive to encourage small firms, among others, to help move people from welfare to work.

A small business starts with one person's dream. Through devotion and hard work, dreams become reality. Our efforts for the small business community ensure that these modern American Dreams still have a chance to grow and flourish.

I want my Administration to be on the leading edge in working as a partner with the small business community. That is why an essential component of our job is to listen, to find out what works, and to go the extra mile for America's entrepreneurial small business owners.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 5, 1998.*

REPORT CONCERNING THE PREMIGEWASSET RIVER IN NEW HAMPSHIRE—MESSAGE FROM THE PRESIDENT—PM 121

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources.

To the Congress of the United States:

I take pleasure in transmitting the enclosed report for the Pemigewasset River in New Hampshire. The report and my recommendations are in response to the provisions of the Wild and Scenic Rivers Act, Public Law 90-542, as amended. The Pemigewasset River study was authorized by Public Law 101-357.

The study was conducted by the National Park Service with assistance from a local study committee. The National Park Service determined that the 32.5-mile study segment is eligible for designation based upon its free-flowing character and outstanding scenic, recreational, geologic, fishery, and botanic values. However, in deference to the wishes of local adjoining communities, six of seven of whom voted against designation, and the State of New Hampshire, I am recommending that the Congress not consider designation at this time. If the local communities and/or the State should change their position in the future, the question of designation could be reevaluated.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 5, 1998.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4719. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Alyeska Ballast Water Treatment Facility (Alaska); to the Committee on Commerce, Science, and Transportation.

EC-4720. A communication from the Secretary of Transportation, transmitting, drafts of proposed legislation including one entitled "The Federal Aviation Authorization Act of 1998"; to the Committee on Commerce, Science, and Transportation.

EC-4721. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures" (RIN0648-AK98) received on April 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4722. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, a report regarding highly migratory species; to the Committee on Commerce, Science, and Transportation.

EC-4723. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Financial Assistance for Research and Development Projects in the Northeastern Coastal States; Marine Fisheries Initiative" (RIN0648-ZA36) received on April 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4724. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Vessel Monitoring System; Harvest Guideline; Closed Season" (RIN0648-AK22) received on May 1, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4725. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 9" (RIN0648-AH52) received on May 1, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4726. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding FM station allotments in Walhalla, Michigan [MM Docket 97-118) received on April 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC-4727. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of two rules regarding FM Broadcast

Stations (Banks, Corvallis, Redmond, Sunriver, Oregon; Corvallis, The Dalles, Oregon) [MM Dockets 96–7, 96–12) received on April 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4728. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule regarding FM Broadcast Stations (Ironton and Malden, Missouri) [MM Docket 97–136) received on April 22, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4729. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Guides For the Use of Environmental Marketing Claims" received on April 21, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4730. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of seven rules regarding airworthiness directives, including a rule entitled "Airworthiness Directives; Twin Commander Aircraft Corporation 500, 600, and 700 Series Airplanes" (RIN2120–AA64: Docket 95–CE–92–AD, 98–NM–79–AD, 97–CE–130–AD, 97–NM–40–AD, 97–CE–74–AD, 95–CE–71–AD, 98–SW–09–AD) received on April 20, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4731. A communication from the Chairman of the Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled "Rail General Exemption Authority—Nonferrous Recyclables" received on April 27, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4732. A communication from the Associate Deputy Administrator for Government Contracting and Minority Enterprise Development, transmitting, pursuant to law, a report entitled "Minority Small Business and Capital Ownership Development" for fiscal year 1997; to the Committee on Small Business.

EC–4733. A communication from the Director of the Office of Regulations Management, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled "Reporting Health Care Professionals to State Licensing Boards" (RIN2900–AI78) received on April 28, 1998; to the Committee on Veterans' Affairs.

EC–4734. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation entitled "The Tribal Trust Fund Settlement Act of 1998"; to the Committee on Indian Affairs.

EC–4735. A communication from the Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, a report relative to the Red Lake Band of Chippewa Indians judgment funds; to the Committee on Indian Affairs.

EC–4736. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report under the Chemical and Biological Weapons Control and Warfare Elimination Act for the period February 1, 1997 through January 31, 1998; to the Committee on Foreign Relations.

EC–4737. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to danger pay; to the Committee on Foreign Relations.

EC–4738. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a rule entitled "Documentation of Nonimmigrants Under the Immigration and Nationality Act, as amended—Fees For Application and Issuance of Nonimmigrants Visas" received on April 27, 1998; to the Committee on Foreign Relations.

EC–4739. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the reports of eight notices of proposed issuances of export licenses; to the Committee on Foreign Relations.

EC–4740. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Scope of Medicare Benefits and Application of the Outpatient Mental Health Treatment Limitation to Clinical Psychologist and Clinical Social Worker Services" (RIN 0938–AE99) received on April 27, 1998; to the Committee on Finance.

EC–4741. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation to reauthorize the U.S. Automotive Parts Advisory Committee through December 31, 2003; to the Committee on Finance.

EC–4742. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to trade readjustment allowances; to the Committee on Finance.

EC–4743. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to Regular Trade Adjustment Assistance for the period October 1 through December 31, 1997; to the Committee on Finance.

EC–4744. A communication from the Acting Assistant Secretary of Defense (Health Affairs), transmitting, pursuant to law, a report relative to the Medicare subvention demonstration; to the Committee on Finance.

EC–4745. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Customs Service Field Organization; Establishment of Sanford Port of Entry" received on April 23, 1998; to the Committee on Finance.

EC–4746. A communication from the Chief of the Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Abolishment of Boca Grande As a Port of Entry" received on May 1, 1998; to the Committee on Finance.

EC–4747. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of regulations governing book-entry Treasury Bonds, Notes, and Bills; Determination Regarding State Statute; South Dakota; received on April 22, 1998; to the Committee on Finance.

EC–4748. A communication from the Senior Attorney, Federal Register, Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Administrative Wage Garnishment" received on May 1, 1998; to the Committee on Finance.

EC–4749. A communication from the Acting Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the report of the Treasury Bulletin for March 1998; to the Committee on Finance.

EC–4750. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Ruling 98–24 received on April 23, 1998; to the Committee on Finance.

EC–4751. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Ruling 98–25 received on April 27, 1998; to the Committee on Finance.

EC–4752. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of an Action On Decision received May 4, 1998; to the Committee on Finance.

EC–4753. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of property management regulations (RIN1991–AA28) received on April 27, 1998; to the Committee on Labor and Human Resources.

EC–4754. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Mergers and Transfers Between Multiemployer Plans" (RIN1212–AA69) received on May 1, 1998; to the Committee on Labor and Human Resources.

EC–4755. A communication from the Assistant Secretary of Labor for Occupational Safety and Health, trasmitting, pursuant to law, the report of a rule entitled "Respiratory Protection; Correction" (RIN1218–AA05) received on April 28, 1998; to the Committee on Labor and Human Resources.

EC–4756. A communication from the Assistant Secretary of Labor for Mine Safety and Health Administration, transmitting, pursuant to law, a rule entitled "Safety Standards for Roof Bolts in Metal and Nonmetal and Underground Coal Mines" (RIN1219–AB00) received on April 28, 1998; to the Committee on Labor and Human Resources.

EC–4757. A communication from the Assistant Secretary of Labor for Mine Safety and Health Administration, transmitting, pursuant to law, a rule entitled "Criteria and Procedures for Proposed Assessment of Civil Penalties" (RIN1219–AA49) received on April 28, 1998; to the Committee on Labor and Human Resources.

EC–4758. A communication from the Director of Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Status of Certain Additional Over-the-Counter Drug Category II and III Active Ingredients" (RIN0910–AA01) received on April 27, 1998; to the Committee on Labor and Human Resources.

EC–4759. A communication from the Director of Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Polymers" (Docket 92F–0290) received on April 27, 1998; to the Committee on Labor and Human Resources.

EC–4760. A communication from the Director of Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Listing of Color Additives for Coloring Sutures; D&C Violet No. 2" (Docket 95C–0399) received on April 28, 1998; to the Committee on Labor and Human Resources.

EC–4761. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Removal of Regulations" (RIN1820–AB43) received on April 23, 1998; to the Committee on Labor and Human Resources.

EC–4762. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, a report of final priorities received on April 29, 1998; to the Committee on Labor and Human Resources.

EC–4763. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report for calendar year 1997 on the National Institutes of Health AIDS Research Loan Repayment Program; to the Committee on Labor and Human Resources.

EC–4764. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on occupational safety and health for fiscal year 1996; to the Committee on Labor and Human Resources.

EC–4765. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Tobacco Use Among U.S. Racial/Ethnic Minority Groups"; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1618. A bill to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes (Rept. No. 105–183).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 442. A bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes (Rept. No. 105–184).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself and Mr. BREAUX):

S. 2031. A bill to combat waste, fraud, and abuse in payments for home health services provided under the medicare program, and to improve the quality of those home health services; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 2032. A bill to designate the Federal building in Juneau, Alaska, as the "Hurff A. Saunders Federal Building"; to the Committee on Environment and Public Works.

By Mr. ABRAHAM (for himself, Mr. ALLARD, Mr. HATCH, Mr. THURMOND, Mr. ENZI, Mr. HELMS, Mr. GRASSLEY, Mr. COVERDELL, Mr. HAGEL, and Mrs. FEINSTEIN):

S. 2033. A bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes; to the Committee on the Judiciary.

By Mr. DODD:

S. 2034. A bill to establish a program to provide for a reduction in the incidence and prevalence of Lyme disease; to the Committee on Labor and Human Resources.

By Mr. BAUCUS (for himself and Mr. JEFFORDS):

S. 2035. A bill to amend title 39, United States Code, to establish guidelines for the relocation, closing, or consolidation of post offices, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 2032. A bill to designate the Federal building in Juneau, Alaska, as the "Hurff A. Saunders Federal Building"; to the Committee on Environment and Public Works.

HURFF A. SAUNDERS FEDERAL BUILDING

Mr. MURKOWSKI. Mr. President, I rise today to introduce a bill that will dedicate the Juneau, Alaska Federal building in honor of Hurff Saunders who passed away in 1996. Hurff was a lifelong Alaskan who touched the lives of countless people in Southeast Alaska and played an important role in Alaska's history both as a territory and as a state.

Among his many accomplishments, Hurff was a federal government civil engineer in charge of the construction of the Juneau federal building. Typical of Hurff's efforts, the Juneau federal building project was completed on time and under budget. In addition, Hurff helped to correct many of the navigational charts for Southeast Alaska thereby assisting the United States Navy and the Coast Guard in safely carrying out their missions in southeast Alaska during World War II.

I am privileged to have known Hurff and his family quite well. Hurff's wife Florence was one of my teachers as a young boy growing up in Ketchikan. Hurff and Florence were wonderful people, who left a long and lasting impression on those around them.

Mr. President, I have received copies of a number of resolutions, including one passed by the City and Borough of Juneau, all requesting that the Juneau federal building be dedicated in Hurff's memory. Many other Alaskans who also knew Hurff have taken the time to write and to share their support.

Hurff was a dedicated public servant who touched the lives of many Alaskans. Naming the Juneau federal building in his honor would be a fitting and lasting tribute to his memory.

Finally, Mr. President, I ask unanimous consent that a copy of this legislation and supporting resolutions be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2032

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF HURFF A. SAUNDERS FEDERAL BUILDING.

The Federal building in Juneau, Alaska, shall be known and designated as the "Hurff A. Saunders Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Hurff A. Saunders Federal Building".

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Whereas, the late Hurff Saunders was a civil engineer employed by the federal government in Alaska for many years, and

Whereas, Mr. Saunders served his fellow Americans and the people of Alaska with distinction, beginning in world War II, when he played a critical role in the ability of our U.S. Navy and Coast Guard to navigate in North Pacific waters by correcting official charts to show the true latitude and longitude of aids to navigation, and

Whereas, after the war Mr. Saunders worked as a civil engineer for the federal government, supervising the construction of many important projects throughout the territory, then the state of Alaska, and

Whereas, Mr. Saunders was the engineer in charge of constructing the Juneau Federal Building, which, like most of his projects, was completed on time and under budget, and

Whereas, the career of Hurff Saunders exemplifies the best qualities of public service in Alaska: perserverence, efficiency, and a love of community; now therefore,

Be it Resolved by the Assembly of the City and Borough of Juneau, Alaska:

Section 1. That the Alaska Congressional Delegation is respectfully requested to endorse naming the Juneau Federal Building the Hurff A. Saunders Federal Building.

Section 2. That the federal government cause a suitable bronze plaque be affixed in a place of honor in the lobby of the Hurff A. Saunders Federal Building at the time of the dedication ceremony.

Section 3. That the clerk shall distribute copies of this resolution to the Alaska Congressional Delegation.

Section 4. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 2nd day of February, 1998.

RESOLUTION ADOPTED BY THE MEMBERSHIP OF THE JUNEAU ROTARY CLUB HONORING THE MEMORY OF HURFF A. SANDERS

Hurff A. Saunders and Florence Saunders, married for over 70 years, moved from South Dakota to Ketchikan, prior to World War II where he accepted the position of civilian engineer for the United States Coast Guard.

Whereas, Hurff A. Saunders played a critical role in the ability of our U.S. Navy and Coast Guard to navigate in the North Pacific waters by correctly determining the latitude and longitude of various key aids to navigation that were in place, but incorrectly located on official charts at the time.

Whereas, Hurff A. Saunders, in his capacity as civil engineer, supervised the construction of many important public works projects throughout the Territory and now State of Alaska, completing the projects on schedule and within budget.

Whereas, Hurff A. Saunders was invited to become a member of Rotary International, first in Ketchikan, then Juneau, and was very active at all levels, from being elected president of the Juneau Club, Governor of District 5010, and then on to the board of directors of Rotary International.

Whereas, Hurff A. Saunders accompanied by his wife Florence Saunders, most times at their own expense, represented this Rotary District at many Rotary International Conferences throughout the world during his tenure as District Governor and beyond.

Whereas, Hurff A. Saunders led his private and professional life according to his Christian beliefs and Rotary International's highest standards, being recognized as a true and effective leader.

Whereas, Hurff A. Saunders, just before his retirement in 1966, successfully completed his last federal construction project, the Juneau Federal Building, Post Office and Court House, located on 10th Street, again under budget and on time for a cost to the taxpayers of just $33.00 per square foot.

Whereas, Hurff A. Saunders life peacefully ended August 29th, 1996 shortly after his 94th birthday, here at his home in Juneau bringing him back together with his wife Florence who passed on just a little over a year earlier.

Whereas, the officers of the Juneau Rotary Club, and all its members deeply miss the presence of Hurff A. Sanders: Now, therefore be it hereby.

Resolved, That the Board of Directors of the Juneau Rotary Club wish to petition the office of our United States Senator Frank Murkowski, a former student of Florence Saunders in Ketchikan, to assist us in having the Juneau Federal Building, just newly remodeled, dedicated to the memory of Hurff A. Saunders by naming the building the Hurff A. Saunders Federal Building.

Be it further resolved, That the federal government cause a suitable bronze plaque be affixed in a place of honor in the lobby of the Hurff A. Saunders Federal Building at the time of the dedication ceremony.

Signed:

ROBERT REHFELD,
President, Juneau Rotary Club.

PROPOSED RESOLUTION 97-3, ROTARY INTERNATIONAL DISTRICT 5010, CONFERENCE AT GIRDWOOD, ALASKA

To honor fellow Rotarian and Past District Governor (1966-67) Hurff A. Saunders for a life time of dedication and devotion to the Rotary Ideal "Service above Self".

Whereas, the service to Rotary International by Hurff A. Saunders, Past District Governor 1966-67 exemplifies truly outstanding dedication and devotion, and

Whereas, Past District Governor Saunders was a Rotarian for over 50 years with membership first in the Ketchikan Rotary Club and later with the Juneau Club and served as President of both of these clubs, and

Whereas, Past District Governor Saunders was chosen to be District Governor of District 504 during the Rotary Year of 1966-67, and

Whereas Hurff and his late wife continued the Rotary Ideal "Service above Self" by visiting much of the Rotary World as Chairman of Rotary International's World Community Service Committee 1968 to 1970, and

Whereas, Rotary history shows Rotarian Saunders continued his dedication with multiple Paul Harris Fellowships, service as Vice Chairman, RI Extension Committee 1970-71, and Rotary Exchange South Africa 1972; it is hereby

Resolved by Rotary International District 5010 that Past District Governor Hurff A. Saunders truly possessed a full measure of humanitarian attributes recognized not only by Rotary International but also by his fellow Rotarians and his community and that his dedication to "Service above Self" is a credit to his family and friends.

It is further resolved, that we as Rotarians of District 5010 by honoring his devotion and self sacrifice recognize a truly outstanding inspired leader in the Rotary world.

PURPOSE AND EFFECT

To honor Past District Governor Hurff A. Saunders.

Adopted at Conference assembled at Girdwood, Alaska, May 3, 1997.

JUNEAU BRANCH OF THE AMERICAN SOCIETY OF CIVIL ENGINEERS, A RESOLUTION HONORING HURFF A. SAUNDERS, "A COMPETENT MAN", ADOPTED APRIL 29, 1997.

Whereas, Hurff A. Saunders and Florence Saunders, married for over 70 years, moved from South Dakota to Ketchikan prior to World War II to work for the United States Coast Guard as a civilian Civil Engineer; and

Whereas, Hurff A. Saunders played a critical role in the ability of our U.S. Navy and Coast Guard to navigate in the Northern Pacific waters by correctly determining the latitude and longitude of the aids to navigation that were in place, though incorrectly located on official charts at the time; and

Whereas, Hurff A. Saunders, in his capacity as Civil Engineer, supervised the construction of many public works projects throughout the Territory and now State of Alaska, bring in the projects under budget and on time; and

Whereas, Hurff A. Saunders, just before his retirement in 1966, successfully completed his last federal construction project, the Juneau Federal Building, Post Office and Court House, located on 10th Street in Juneau, again under budget and on time for $33.00 per square foot; and

Whereas, Hurff A. Saunders' life peacefully ended August 29, 1996 shortly after his 94th birthday, here in Juneau; and

Whereas, Hurff A. Saunders, the officers of the Juneau Branch of the American Society of Civil Engineers, and all its members deeply miss the presence of Hurff A. Saunders; now, therefore, be it hereby

Resolved, That the Officers of the Juneau Branch of the American Society of Civil Engineers wish to petition the office of our United States Senator Frank Murkowski, a former student of Florence Saunders, to assist in having the Juneau Federal Building, just remodeled, dedicated to the memory of Hurff A. Saunders by naming the building the Hurff A. Saunders Federal Building.

Whereas, Hurff A. Saunders and Florence Saunders, married for over 70 years, moved from South Dakota to Ketchikan, prior to World War II where he accepted the position of a civilian engineer for the United States Coast Guard; and

Whereas, Hurff A. Saunders played a critical role in the ability of our U.S. Navy and Coast Guard to navigate in the North Pacific waters by correctly determining the latitude and longitude of various keys to navigation that were in place, but incorrectly located on official charts at the time; and

Whereas, Hurff A. Saunders, in his capacity as a civil engineer, supervised the construction of many important public works projects throughout the Territory and now State of Alaska, completing the projects on schedule and within budget; and

Whereas, Hurff A. Saunders was invited to become a member of Rotary International, first in Ketchikan, then in Juneau, and was very active at all levels, from being elected president of the Juneau Club, Governor of the District 501, and then on to the board of directors of Rotary International; and

Whereas, Hurff A. Saunders, accompanied by wife Florence Saunders-most time at their own expenses, represented this Rotary District at many Rotary International Conferences throughout the world during his tenure as District Governor and beyond; and

Whereas, Hurff A. Saunders, led his private and professional life according to his Christian beliefs and Rotary International's highest standards, being recognized as a true and effective leader; and

Whereas, Hurff A. Saunders, just before his retirement in 1966, successfully completed his last federal construction project, the Juneau Federal Building, Post Office and Court House, located on 10th street, again under budget and on time for a cost to the taxpayers of just under $33.00 per square foot; and

Whereas, Hurff A. Saunders, life peacefully ended August 29th, 1996 shortly after his 94th birthday, here at his home in Juneau bringing him back together with his wife Florence who passed on just a little over a year earlier; and

Whereas, the officers of the Alaska Society of Professional Engineers and its members deeply miss the presence of Hurff A. Saunders: now therefore be it hereby

Resolved, that the Board of Alaska Society of Professional Engineers—Juneau Chapter wish to petition the office of our United States Senator Frank Murkowski, a former student of Florence Saunders in Ketchikan, to assist us in having the Juneau Federal Building, just newly remodeled, dedicated to the memory of Hurff A. Saunder by naming the building the Hurff A. Saunders Federal Building; and

Be it further resolved, That the federal government cause a suitable bronze plaque be affixed in a place of honor in the lobby of the Hurff A. Saunders Federal Building at the time of the dedication ceremony.

DAVID KHAN,
President, Acting on behalf of the Board of Alaska Society of Professional Engineers—Juneau Chapter.

By Mr. ABRAHAM (for himself, Mr. ALLARD, Mr. HATCH, Mr. THURMOND, Mr. ENZI, Mr. HELMS,, Mr. GRASSLEY, Mr. COVERDELL, and Mr. HAGEL):

S. 2033. A bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes; to the Committee on the Judiciary.

THE POWDER COCAINE MANDATORY MINIMUM SENTENCING ACT OF 1998

Mr. ABRAHAM. Mr. President, I rise to introduce the "Powder Cocaine Mandatory Minimum Sentencing Act," along with Senator ALLARD and other Senators whose names I will be submitting in a moment.

This legislation will toughen sentences for drug dealers caught peddling powder cocaine.

I believe it is crucial, given our continuing struggle in the war on drugs, that we send an unwavering and unambiguous message to all Americans, and our children in particular, that the sale of illegal drugs is dangerous, wrong, and will not be tolerated.

As the father of three young children, I am deeply disturbed by recent trends in drug use. Indeed, since 1992 Washington has been losing important ground in the war on drugs. Let me cite just a few of the alarming facts:

Over the past five years, the average number of federal drug defendants prosecuted has dropped by almost 1500 cases from the 1992 level. And the average number of drug convictions has gone down by a similar amount since 1993.

The drug interdiction budget was cut by 39 percent from 1992 to 1996 and drug surveillance flights were cut in half.

The impact on our kids has been serious. In the last six years, the percentage of high school seniors admitting that they had used an illicit drug has risen by more than half.

Incredibly, 54 percent of the Class of 97 had used an illicit drug by graduation.

For 10th graders during that same time, drug use has doubled.

And—perhaps worst of all—nearly 20 percent of our 8th graders use illegal drugs.

Faced with this bad news, this year the Administration finally submitted a comprehensive long range National Drug Strategy to Congress.

Unfortunately, it took them nearly five years to take this step. And, as the numbers show, our children have been paying the price.

What is more, when it comes to one crucial part of the war on drugs—punishing drug pushers—the Administration wants to move us in the wrong direction. It would make the mandatory minimum prison sentences for crack cocaine dealers 5 times more lenient than they are today.

The President would raise, from 5 to 25 grams—that is, from about 50 to about 250 doses—the amount of crack a person could sell before triggering a mandatory 5 year sentence. And he would raise from 50 to 250 grams the amount of crack a person could sell before triggering a mandatory 10 year sentence.

This would have the effect of lowering sentences for all those who deal crack—even though just 2 years ago the President vetoed a similar proposal, explaining "I am not going to let anyone who peddles drugs get the idea that the cost of doing business is going down."

The President says we need to reduce crack dealer sentences because they are too tough compared to sentences for powder cocaine kingpins. I agree. It doesn't make sense for people who are higher on the drug chain to get lighter sentences than those at the bottom. But going easier on crack peddlers—the dealers who infest our school yards and playgrounds—is in my judgment the solution.

Crack is a cheap drug and highly addictive. Tough sentences for crack dealers has forced many of them to turn in their superiors in the drug trade, in exchange for leniency. Softening these sentences will remove that incentive and undermine our prosecutors.

I might add, in my State of Michigan, if we were to soften these sentences, it would create a considerable disparity between the mandatory minimums under the State law and the mandatory minimums under the Federal law. My prosecutors and local law enforcement officials are very concerned about this because it would, in effect, mean that a lot of drug dealers they are pursuing will begin making deals with and negotiating with Federal prosecutors in order to avoid the tough sanctions the people of Michigan have attempted to put into effect.

I believe there's a better way. We must reject President Clinton's proposal to lower sentences for crack dealers. Instead, let's make the sentences for powder cocaine dealers a lot tougher.

I agree with the Administration's view that the differentiation between crack and powder sentences is too sharp and should be reduced. But I do not agree with its conclusion that therefore we should lower sentences for crack dealers.

We can instead accomplish this entirely by increasing sentences for dealing powder cocaine.

For the sake of our children, I urge President Clinton to abandon his plans to lower sentences for crack dealers and instead support legislation for tougher sentences on powder dealers.

Powder sentences are too low. Powder is the raw material for crack, yet sentences for powder dealers were set before the crack epidemic, without accounting for powder's role in causing it.

Moreover, we occasionally see a large powder supplier get a lower sentence than the low-level crack dealer who resold some powder in crack form, simply because the powder dealer took the precaution of selling his product only in powder form.

That is a genuine disparity that should be remedied, although without eliminating the differential altogether.

That differential should remain, Mr. President, because, as both the President and the Sentencing Commission recognize, crack is more addictive, more available to minors, and more likely to result in violence than is powder cocaine, and hence its sale should continue to be punished more harshly.

That is why today I am introducing the Powder Cocaine Mandatory Minimum Sentencing Act.

This legislation reduces from 500 to 50 grams the amount of powder cocaine a person must be convicted of selling before receiving a mandatory 5 year minimum sentence.

By so doing it changes the quantity ratio for powder and crack cocaine from 100 to 1 to 10 to 1, the same ratio proposed by the Administration and within the range recommended by the Sentencing Commission. But this legislation reduces that ratio by getting tougher on powder dealers, not by giving a break to crack dealers.

We owe it to the thousands upon thousands of families struggling to protect their children from the scourges of drugs and drug violence to stay tough on the criminals who prey on their neighborhoods.

At this critical time it would be a catastrophic mistake to let any drug dealer think the cost of doing business is going down.

More importantly it will be nearly impossible to succeed in discouraging kids from using drugs if they learn we are lowering sentences for any drug dealers.

Protecting our kids means staying tough on those who peddle drugs and sending a clear message to our young people that we will not tolerate crack dealers in our neighborhoods.

President Clinton had it right two years ago when he said:

> We have to send a constant message to our children that drugs are illegal, drugs are dangerous, drugs may cost your life—and the penalties for dealing drugs are severe.

Unfortanately, President Clinton's new plan to reduce sentences for crack dealers does not live up to this obligation. It sends our kids exactly the wrong message and it does not do any favor to anybody except drug pushers.

In contract, the legislation I am introducing today is faithful to this obligation. It achieves a reduction in the disparity between crack and powder cocaine sentencing in the right way, through legislation making the sentences for powder cocaine dealers a lot tougher.

By enacting the Powder Cocaine Mandatory Minimum Sentencing Act we can send our kids the right message. We will not tolerate crack dealers in our neighborhoods, and we will make the sentences on powder cocaine dealers a lot tougher.

Success in the drug war depends above all on the efforts of parents, schools, churches, and medical community, local law enforcement officials and community leaders. And they are doing a great job in the drug fight. But the Federal Government must do its part too.

Washington has to renew the war on drugs. We must provide needed resources, and we must reinforce the message that drugs aren't acceptable and that drug dealers belong in prison—for a long time.

Our kids deserve no less.

I urge my colleagues to support this important legislation.

At this time, I yield to the Senator from Colorado who, under the unanimous consent that we just proposed here, will now take the floor and speak on this subject.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, first of all, I thank my good friend, the Senator from Michigan, for his very hard work on this particular issue. He was working on the issue before I was elected to the Senate and is recognized for his efforts to try to control the use of illegal drugs. His national reputation precedes my meeting him here in the Senate, so the question is, How did I get involved in this particular issue? I got involved in this issue because I do hold a lot of town meetings in the State of Colorado, the State which I represent. In the inner-city areas of the Denver metropolitan area, the issue of discrepancy sentencing between powder cocaine and crack cocaine was brought up by the minority communities. There were a few members who felt the crack cocaine penalties should be less. But, by far, the majority of members in those meetings felt we needed to make tougher powder cocaine penalties because the crack cocaine penalties were working.

I also heard some concern from within the judiciary of the State of Colorado about the discrepancy between crack and powder cocaine. So that is how I got involved in the issue. Then I had introduced some legislation to deal with this issue. I had an opportunity to sit down with the Senator from Michigan and we have worked out a provision in a new bill that I think is the right answer. It does toughen the penalties on powder cocaine, brings it more in line with crack cocaine. It is a position I support. It is a position I believe the voters of Colorado and the people of Colorado, even in the minority communities, do support.

Mr. President, today I rise to address one of the most longstanding and racially sensitive disputes in the criminal justice system. Senators ABRAHAM, HATCH, FEINSTEIN, KYL, and I are introducing a bill to lessen the disparity between criminal penalties of selling crack and powder cocaine.

Under current law, a seller of 5 grams of crack cocaine receives the same mandatory 5-year prison term as a seller of 500 grams of powder cocaine. I believe this is inexcusable.

The disparity between penalties has been scrutinized by the U.S. Sentencing Commission, Congress, and the Clinton administration for the last several years. Recommendations by the administration and U.S. Sentencing Commission have called for lessening the penalties for crack dealers, bringing them closer to the lax penalties applied to powder offenders.

Our legislation rejects the administration's harmful solution. Lowering the penalty for crack to make it equal to powder cocaine penalties goes against our Nation's conviction to send a strong message to drug dealers: If you sell drugs, you are going to have to face serious consequences.

The Powder Cocaine Mandatory Minimum Sentencing Act increases the mandatory penalties for dealing powder cocaine to 50 grams receiving a 5-year minimum sentence, bringing it closer to crack's stiff sentence of 5 grams for a minimum of 5 years.

The disparity ratio of powder to crack cocaine will be a 10-to-1 ratio under our bill instead of the 100-to-1 ratio. This is the same number ratio recommended, by the way, by the commission and by the administration. This correction goes a long way in reforming the unjust disparity that we see now.

Critics of current law remind us that cocaine dealers carry powder cocaine, leaving customers the risk of converting to crack. The very core of the drug crisis in the United States begins with the arrogance of drug traffickers who have found a way to "work the system." Our bill will destroy the ease drug dealers now enjoy as they choose to traffic their drug in powder form alone. No longer will the penalty price for dealing powder be a bargain for drug traffickers. The safe option for dealing cocaine will no longer exist.

During the 1980s, Congress legislated steep consequences for crack cocaine. The crack epidemic was plaguing our Nation with high crime rates and unprecedented statistics of addiction, and it warranted several drastic legal reforms. We saw the destruction wrought on entire communities by this cheap and highly addictive form of cocaine and realized that tough penalties were needed to restrict its availability.

These tougher sentences were needed, but the problem we are seeing today is that powder cocaine sentences were set before the crack epidemic began. They don't reflect the influence powder has had on crime and drug trafficking.

It is time to admit that the penalty for powder cocaine must change. The notion that powder cocaine is not dangerous is simply false. A Rocky Mountain News reporter was killed 2 years ago when an heir to one of Colorado's largest fortunes, high on powder cocaine, plowed his sports car into the reporter's car. Ask the wife and son of this young reporter if they think the penalty for powder cocaine should be 100 times less than that of crack.

Law enforcement officials, including drug enforcement detectives in both Denver and Washington, DC, have encouraged me to pursue passage of this legislation. The National Headquarters for the Fraternal Order of Police issued a statement several weeks ago saying:

> The current disparities in the sentencing are unjust and do not provide law enforcement with the tools they need to restrict the sale of powder cocaine.
>
> The overwhelming majority of violent crime in this country is drug related. We need to do more to get and keep dealers of drugs, whatever the form, off the streets. Your bill will help us do it.

The U.S. Attorney for the District of Colorado, Henry Solano, supports this legislative concept saying:

> The law enforcement community learned years ago that the strong sentences meted out to crack cocaine dealers has had a significant deterrent effect on the production and distribution of crack.
>
> Senator Allard's proposed penalty for powder cocaine will likewise restrict the flow of powder cocaine in this country.

In light of the numerous proposals introduced to correct this problem, I encourage my colleagues to contemplate the alternatives and consider how justice is served in this matter. Maintaining the current ratio is allowing a wrongful disparity in penalties to continue. It is time to act to correct this injustice. I encourage my colleagues to support the powder cocaine mandatory minimum sentence bill.

I yield the remainder of my time to the Senator from Michigan.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I just have one or two additional comments to make before yielding the floor.

In the process of putting together this legislation which we introduce today, I had the occasion to speak to a number of people in the law enforcement community in our State, as well as individuals who have been touched in some way or another by the crack cocaine epidemic. There are two or three points I would like to enter into the RECORD at this point, in conjunction with our legislation, that are drawn from some of the comments I have heard.

One of them I have already mentioned, and that is the concerns local law enforcement people have that if we change the crack minimum mandatory threshold at the Federal level, it will create a problem in our State, and probably in a lot of other States where there are very tough mandatory minimums for crack dealing, because it will give people who are criminal defendants the option of going into the Federal system to avoid tough State-level penalties. I don't think we want to do that.

Second, it was pointed out to me that the 5-gram trigger which currently exists for crack is very appropriate for the simple reason that most drug dealers who at least deal in crack cocaine do so in very small quantities; that there are very, very, very few crack cocaine dealers who are ever dealing in quantities such as 25 grams where they can be found in possession of and dealing at that level. In fact, what happens is that they essentially hide their crack cocaine stash in locations that are very hard to trace to the dealer and carry around quantities in the 5-gram level, which is why the mandatory minimum is, in fact, only appropriate.

A third point that was made to me is the fact that by having this tough mandatory minimum in place at the Federal level, as well as in our State, at the State level, we have been very successful, through the safety valve process that exists in the Federal legislation, in getting people at the lower end of the drug chain, the crack dealer at the 5-gram level confronted with the possibility of a very severe prison sentence, to begin cooperating with authorities in exchange for the benefits to be received under the safety valve, to, in fact, begin to allow law enforcement to pursue people further up the drug chain.

Increasing the threshold for the crack mandatory minimum, as the administration has proposed and consistent with the sentencing commission's recommendations, will affect very dramatically, it is believed by at least the law enforcement people in my State, the level of cooperation people will have, because in individual transactions they will be dealing below that 25-gram level and, therefore, not confronted with the 5-year mandatory minimum threat, consequently, not nearly in the same position of jeopardy as is the case today. It means, in fact, that we might have less cooperation, less ability to pursue the people who are the drug lords rather than those who are at the dealer level.

Finally, again, I want to talk, as I said, about some of the contact we have had with the people who are victims. When we have talked to those people to the extent we have, it doesn't really matter—Senator ALLARD alluded to the racial disparity and it is a very significant issue that we are trying to address with our bill—but I have not found people, regardless of their race, whose children have been touched by a crack cocaine dealer who don't want to see the person responsible suffer consequences.

Their families are suffering consequences, their school yards are suffering consequences, their neighborhoods are suffering consequences. They believe that the people behind it —whether it is the peddler in the school yard or the kingpin selling the powder cocaine—ought to suffer the consequences, as well.

The way to do that, in my judgment, Mr. President, and the reason Senator ALLARD and I are here today, is to make it tougher on the drug kingpins and make it no easier on anybody involved in this heinous activity. We hope our colleagues will join us in this legislation.

We think the arguments for it, as we have attempted to lay it here today, should be ones that are persuasive as they have been persuasive to us.

By Mr. DODD:

S. 2034. A bill to establish a program to provide for a reduction in the incidence and prevalence of Lyme disease; to the Committee on Labor and Human Resources.

THE LYME DISEASE INITIATIVE ACT OF 1998

Mr. DODD. Mr. President, I am pleased to introduce the Lyme Disease Initiative Act of 1998, companion legislation to a bill being introduced today by Representative CHRISTOPHER H. SMITH of New Jersey. The objective of this bill is to put us on the path toward eradicating Lyme disease—a disease that is unfamiliar to some Americans, but one that those of us from Connecticut and the Northeast know all too well.

Almost everyone in my state, including myself, has seen the devastating impact that this disease can have on its victims. Lyme disease can cause serious health problems, both physical and psychiatric, and can ruin a family's life. Some damage due to the disease, especially memory loss and other brain damage, is permanent.

And we have also seen that, in many ways, efforts to educate people about this disease and to find a cure have come up short.

The number of cases reported to the CDC increased from 500 cases in 1982 to 16,000 cases in 1996. And some reports suggest that these cases only represent the tip of the iceberg—that there are in fact tens of thousands more cases that have gone unreported or undiagnosed, due in part to the lack of a standardized diagnostic test.

Studies indicate that long term treatment of infected individuals often exceeds $100,000 per person—a phenomenal cost to society. Because Lyme disease mimics other health conditions, patients often must visit multiple doctors before a proper diagnosis is made. This results in prolonged pain and suffering, unnecessary tests, and costly and futile treatments. But an even greater price is paid by the victims and their families—we can put no price tag on the emotional costs associated with this disease.

But there is hope. We are close to the approval of vaccines to prevent this disease—perhaps as soon as next spring. And combined with a strong commitment to public education, we can hope that the numbers of new families affected by this terrible disease will finally begin to diminish.

But we can't let down our guard. We can't let the promise of a vaccine to prevent Lyme disease distract us from seeking more effective ways to diagnose an treat those individuals who are already infected.

The Lyme Disease Initiative is a $100 million federal initiative which will, for the first time, establish prominent, coordinated, federal role in Lyme disease research, treatment, and education. Various agencies within the federal government have made a good start in addressing Lyme disease concerns. These efforts have been hampered, however, by a lack of interagency coordination, inconsistent funding, and limited agency staff attention. The Lyme Disease Initiative will correct these problems.

First, my bill calls for a 5 year plan to be established by the Secretary of Health and Human and Services, in coordination with the Secretary of Defense and outside experts, to advance the treatment of and a cure for Lyme disease. This legislation also sets out four critical public health goals for advancing Lyme disease research efforts which include: the development of standardized diagnostic tests; a review of current systems for reporting cases; a study on how to improve the accuracy of diagnoses; and a campaign to educate physicians how to properly diagnose and treat Lyme disease.

Other major provisions of the bill include establishing a Lyme Disease Taskforce to provide advice and expertise to Congress and federal agencies on all areas of Lyme disease policy; requiring that annual reports be submitted to Congress on the progress of NIH, CDC, and DoD with respect to the goals and programs funded in this bill; an authorization of $100 million over five years to ensure sufficient resources for critical, scientific research; and a request to the FDA rapidly and thoroughly review pending Lyme disease vaccine applications.

Summer is just around the corner. My hope is that the Lyme Disease Initiative Act of 1998 will help to ensure a future where children and their families can engage in outdoor activities without the fear of contracting this dreaded disease.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lyme Disease Initiative Act of 1998".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) The incidence of Lyme disease in the United States is increasing more rapidly than most other diseases. The Centers for Disease Control and Prevention has determined that, since 1982, there has been a 32-fold increase in reported cases.

(2) For 1996, such Centers determined that 16,455 cases of the disease were reported.

(3) There is no reliable standardized diagnostic test for Lyme disease, and it is therefore likely that the disease is severely underreported. The disease is often misdiagnosed because the symptoms of the disease mimic other health conditions.

(3) Lyme disease costs our Nation at least $60,000,000 a year in direct medical costs for early, acute cases. The costs of chronic cases of the disease, as well as the costs of lost wages and productivity, are many times higher.

(4) Many health care providers lack the necessary knowledge and expertise—particularly in non-endemic areas—to accurately diagnose Lyme disease. As a result, patients often visit multiple doctors before obtaining a diagnosis of the disease, resulting in prolonged pain and suffering, unnecessary tests, and costly and futile treatments.

SEC. 3. PUBLIC HEALTH GOALS; FIVE-YEAR PLAN.

(a) IN GENERAL.—The Secretary of Health and Human Services (acting as appropriate through the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health) and the Secretary of Defense shall collaborate to carry out the following:

(1) The Secretaries shall establish the goals described in subsections (c) through (f) (relating to activities to provide for a reduction in the incidence and prevalence of Lyme disease).

(2) The Secretaries shall carry out activities toward achieving the goals, which may include activities carried out directly by the Secretaries and activities carried out through awards of grants or contracts to public or nonprofit private entities.

(3) In carrying out paragraph (2), the Secretaries shall give priority—

(A) first, to achieving the goal under subsection (c);

(B) second, to achieving the goal under subsection (d);

(C) third, to achieving the goal under subsection (e); and

(D) fourth, to achieving the goal under subsection (f).

(b) FIVE-YEAR PLAN.—In carrying out subsection (a), the Secretaries shall establish a plan that, for the 5 fiscal years following the date of the enactment of this Act, provides for the activities to be carried out during such fiscal years toward achieving the goals under subsections (c) through section (f). The plan shall, as appropriate to such goals, provide for the coordination of programs and activities regarding Lyme disease that are conducted or supported by the Federal Government.

(c) FIRST GOAL: DETECTION TEST.—

(1) IN GENERAL.—For purposes of subsection (a), the goal described in this subsection is the development, by the expiration of the 18-year period beginning on the date of the enactment of this Act, of—

(A) a test for accurately determining whether an individual who has been bitten by a tick has Lyme disease; and

(B) a test for accurately determining whether a patient with such disease has been cured of the disease.

(d) SECOND GOAL: IMPROVED SURVEILLANCE AND REPORTING SYSTEM.—For purposes of subsection (a), the goal described in this subsection is to review the system in the United States for surveillance and reporting with respect to Lyme disease and to determine whether and in what manner the system can be improved (relative to the date of the enactment of this Act). In carrying out activities toward such goal, the Secretaries shall—

(1) consult with the States, units of local government, physicians, patients with Lyme disease, and organizations representing such patients;

(2) consider whether uniform formats should be developed for the reporting by physicians of cases of Lyme disease to public health officials; and

(3) with respect to health conditions that are reported by physicians as cases of Lyme disease but do not meet the criteria established by the Director of the Centers for Disease Control and Prevention to be counted as such cases, consider whether data on such health conditions should be maintained and analyzed to assist in understanding the circumstances in which Lyme disease is being diagnosed and the manner in which it is being treated.

(e) THIRD GOAL: INDICATOR REGARDING ACCURATE DIAGNOSIS.—For purposes of subsection (a), the goal described in this subsection is to determine the average number of visits to physicians that are made by patients with Lyme disease before a diagnosis of such disease is made. In carrying out activities toward such goal, the Secretaries shall conduct a study of patients and physicians in 2 or more geographic areas in which there is a significant incidence or prevalence of cases of Lyme disease.

(f) FOURTH GOAL: PHYSICIAN KNOWLEDGE.—For purposes of subsection (a), the goals described in this subsection are to make a significant increase in the number of physicians who have an appropriate level of knowledge regarding Lyme disease, and to develop and apply an objective method of determining the number of physicians who have such knowledge.

SEC. 4. LYME DISEASE TASK FORCE.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, there shall be established in accordance with this section an advisory committee to be known as the Lyme Disease Task Force (in this section referred to as the Task Force).

(b) DUTIES.—The Task Force shall provide advice to the Secretaries with respect to achieving the goals under section 3, including advice on the plan under subsection (b) of such section.

(c) COMPOSITION.—The Task Force shall be composed of 9 members with appropriate knowledge or experience regarding Lyme disease. Of such members—

(1) 2 shall be appointed by the Secretary of Health and Human Services, after consultation with the Director of the Centers for Disease Control and Prevention;

(2) 2 shall be appointed by the Secretary of Health and Human Services, after consultation with the Director of the National Institutes of Health;

(3) 1 shall be appointed by the Secretary of Defense;

(4) 2 shall be appointed by the Speaker of the House of Representatives, after consultation with the Minority Leader of the House; and

(5) 2 shall be appointed by the President Pro Tempore of the Senate, after consultation with the Minority Leader of the Senate.

(d) CHAIR.—The Task Force shall, from among the members of the Task Force, designate an individual to serve as the chair of the Task Force.

(e) MEETINGS.—The Task Force shall meet at the call of the Chair or a majority of the members.

(f) TERM OF SERVICE.—The term of service of a member of the Task Force is the duration of the Task Force.

(g) VACANCIES.—Any vacancy in the membership of the Task Force shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to carry out the duties of the Task Force.

(h) COMPENSATION; REIMBURSEMENT OF EXPENSES.—Members of the Task Force may not receive compensation for service on the Task Force. Such members may, in accordance with chapter 57 of title 5, United States Code, be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Task Force.

(i) STAFF; ADMINISTRATIVE SUPPORT.—The Secretary of Health and Human Services shall, on a reimbursable basis, provide to the Task Force such staff, administrative support, and other assistance as may be necessary for the Task Force to effectively carry out the duties under subsection (b).

(j) TERMINATION.—The Task Force shall terminate on the date that is 90 days after the end of the fifth fiscal year that begins after the date of the enactment of this Act.

SEC. 5. ANNUAL REPORTS.

The Secretaries shall submit to the Congress periodic reports on the activities carried out under this Act and the extent of progress being made toward the goals established under section 3. The first such report shall be submitted not later than 18 months after the date of the enactment of this Act, and subsequent reports shall be submitted annually thereafter until the goals are met.

SEC. 6. DEFINITION.

For purposes of this Act, the term "Secretaries" means—

(1) the Secretary of Health and Human Services, acting as appropriate through the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health; and

(2) the Secretary of Defense.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL INSTITUTES OF HEALTH.—In addition to other authorizations of appropriations that are available for carrying out the purposes described in this Act and that are established for the National Institutes of Health, there are authorized to be appropriated to the Director of such Institutes for such purposes $9,000,000 for each of the fiscal years 1999 through 2003.

(b) CENTERS FOR DISEASE CONTROL AND PREVENTION.—In addition to other authorizations of appropriations that are available for carrying out the purposes described in this Act and that are established for the Centers for Disease Control and Prevention, there are authorized to be appropriated to the Director of such Centers for such purposes $8,000,000 for each of the fiscal years 1999 through 2003.

(c) DEPARTMENT OF DEFENSE.—In addition to other authorizations of appropriations that are available for carrying out the purposes described in this Act and that are established for the Department of Defense, there are authorized to be appropriated to the Secretary of Defense for such purposes $3,000,000 for each of the fiscal years 1999 through 2003.

SEC. 8. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Food and Drug Administration should—

(1) conduct a rapid and thorough review of new drug applications for drugs to immunize individuals against Lyme disease; and

(2) ensure that the labeling approved for such drugs specifically indicate the particular strains of Lyme disease for which the drugs provide immunization, the duration of the period of immunization, and the reliability rate of the drugs.

By Mr. BAUCUS (for himself and Mr. JEFFORDS):

S. 2035. A bill to amend title 39, United States Code, to establish guidelines for the relocation, closing, or consolidation of post offices, and for other purposes; to the Committee on Governmental Affairs.

THE COMMUNITY AND POSTAL PARTICIPATION ACT OF 1998

Mr. BAUCUS. Mr. President, I rise today to introduce the Community and

Postal Participation Act of 1998. This legislation aims to preserve the fabric of downtown American communities by giving citizens a say in Postal Service decisions to close, relocate or consolidate post offices.

Mr. President, the Postal Service is near and dear to the people of the United States. Since its establishment over 200 years ago with Benjamin Franklin as the first Postmaster General, the Postal Service has dutifully delivered the mail to generations of Americans. In many towns across the U.S., the post office is still the center of the community, the very anchor of what we fondly refer to as “small-town America.” Nowhere is that more true than in my own state of Montana. In Livingston, people meet to collect their mail and talk about what flies are hatching on the Yellowstone River. In Red Lodge, folks come together at the post office not only to collect their mail but to discuss last weekend's track meet. And in Plains, Montana, the place where people receive their mail is as important a meeting-spot as it was when the first post office opened there more than 115 years ago.

But sadly, Mr. President, America has seen a rash of post office closings, relocations and consolidations in recent years. From California to Connecticut, Montana to Maine, the Postal Service has proposed closing post offices located in the very heart of their communities. When the post office goes, often the central business district goes with it. And, more important, the local gathering place disappears.

Mr. President, today Senator JEFFORDS and I are introducing legislation to change that. With passage of the Community and Postal Participation Act, downtown communities will have an increased say in their future. They will have input into Postal Service decisions that affect their communities, and they will be allowed the chance to offer alternatives to Postal Service changes. Under current law, communities have little say when the USPS decides to pull up stakes. Our bill would change that by: allowing those served by a post office to receive at least 60 days' notice before the USPS decides to relocate, close or consolidate a post office; giving those affected by the closing a chance to respond to the proposed changes by offering an alternative to the USPS proposals; providing for a public hearing before a final determination is made; allowing those affected by the relocation, closing or consolidation to appeal to the Postal Rate Commission (PRC); and requiring the USPS to comply with applicable zoning, planning or land use laws.

Mr. President, I believe that with mutual cooperation, the interests of communities and the Postal Service can be served. The nature—indeed the very name—of this legislation is participation. I am confident that with its passage our communities and this important American institution may begin a new era of cooperation for the good of all involved. And we can put the community back in the Postal Service.

Mr. President, I hope my colleagues will join Senator JEFFORDS and I in passing this important legislation. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Community and Postal Participation Act of 1998”.

SEC. 2. GUIDELINES FOR RELOCATION, CLOSING, OR CONSOLIDATION OF POST OFFICES.

Section 404 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

“(b)(1) Before making a determination under subsection (a)(3) as to the necessity for the relocation, closing, or consolidation of any post office, the Postal Service shall provide adequate notice to persons served by that post office of the intention of the Postal Service to relocate, close, or consolidate that post office not later than 60 days before the proposed date of that relocation, closing, or consolidation.

“(2)(A) The notification under paragraph (1) shall be in writing, hand delivered or delivered by mail to persons served by that post office, and published in 1 or more newspapers of general circulation within the zip codes served by that post office.

“(B) The notification under paragraph (1) shall include—

“(i) an identification of the relocation, closing, or consolidation of the post office involved;

“(ii) a summary of the reasons for the relocation, closing, or consolidation; and

“(iii) the proposed date for the relocation, closing, or consolidation.

“(3) Any person served by the post office that is the subject of a notification under paragraph (1) may offer an alternative relocation, consolidation, or closing proposal during the 60-day period beginning on the date on which the notice is provided under paragraph (1).

“(4)(A) At the end of the period specified in paragraph (3), the Postal Service shall make a determination under subsection (a)(3). Before making a final determination, the Postal Service shall conduct a hearing, and persons served by the post office that is the subject of a notice under paragraph (1) may present oral or written testimony with respect to the relocation, closing, or consolidation of the post office.

“(B) In making a determination as to whether or not to relocate, close, or consolidate a post office, the Postal Service shall consider—

“(i) the extent to which the post office is part of a core downtown business area;

“(ii) any potential effect of the relocation, closing, or consolidation on the community served by the post office;

“(iii) whether the community served by the post office opposes a relocation, closing, or consolidation;

“(iv) any potential effect of the relocation, closing, or consolidation on employees of the Postal Service employed at the post office;

“(v) whether the relocation, closing, or consolidation of the post office is consistent with the policy of the Government under section 101(b) that requires the Postal Service to provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns in which post offices are not self-sustaining;

“(vi) the quantified long-term economic saving to the Postal Service resulting from the relocation, closing, or consolidation;

“(vii) whether postal officials engaged in negotiations with persons served by the post office concerning the proposed relocation, closing, or consolidation;

“(viii) whether management of the post office contributed to a desire to relocate;

“(ix)(I) the adequacy of the existing post office; and

“(II) whether all reasonable alternatives to relocation, closing, or consolidation have been explored; and

“(x) any other factor that the Postal Service determines to be necessary for making a determination whether to relocate, close, or consolidate that post office.

“(5)(A) Any determination of the Postal Service to relocate, close, or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (4).

“(B) The Postal Service shall respond to all of the alternative proposals described in paragraph (3) in a consolidated report that includes—

“(i) the determination and findings under subparagraph (A); and

“(ii) each alternative proposal and a response by the Postal Service.

“(C) The Postal Service shall make available to the public a copy of the report prepared under subparagraph (B) at the post office that is the subject of the report.

“(6)(A) The Postal Service shall take no action to relocate, close, or consolidate a post office until the applicable date described in subparagraph (B).

“(B) The applicable date specified in this subparagraph is—

“(i) if no appeal is made under paragraph (7), the end of the 60-day period specified in that paragraph; or

“(ii) if an appeal is made under paragraph (7), the date on which a determination is made by the Commission under paragraph 7(A), but not later than 120 days after the date on which the appeal is made.

“(7)(A) A determination of the Postal Service to relocate, close, or consolidate any post office may be appealed by any person served by that post office to the Postal Rate Commission during the 60-day period beginning on the date on which the report is made available under paragraph (5). The Commission shall review the determination on the basis of the record before the Postal Service in the making of the determination. The Commission shall make a determination based on that review not later than 120 days after appeal is made under this paragraph.

“(B) The Commission shall set aside any determination, findings, and conclusions of the Postal Service that the Commission finds to be—

“(i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

“(ii) without observance of procedure required by law; or

“(iii) unsupported by substantial evidence on the record.

"(C) The Commission may affirm the determination of the Postal Service that is the subject of an appeal under subparagraph (A) or order that the entire matter that is the subject of that appeal be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal.

"(D) The provisions of sections 556 and 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph.

"(E) A determination made by the Commission shall not be subject to judicial review.

"(8) In any case in which a community has in effect procedures to address the relocation, closing, or consolidation of buildings in the community, and the public participation requirements of those procedures are more stringent than those provided in this subsection, the Postal Service shall apply those procedures to the relocation, consolidation, or closing of a post office in that community in lieu of applying the procedures established in this subsection.

"(9) In making a determination to relocate, close, or consolidate any post office, the Postal Service shall comply with any applicable zoning, planning, or land use laws (including building codes and other related laws of State or local public entities, including any zoning authority with jurisdiction over the area in which the post office is located).

"(10) The relocation, closing, or consolidation of any post office under this subsection shall be conducted in accordance with section 110 of the National Historic Preservation Act (16 U.S.C. 470h-2).".

SEC. 3. POLICY STATEMENT.

Section 101(g) of title 39, United States Code, is amended by adding at the end the following: "In addition to taking into consideration the matters referred to in the preceding sentence, with respect to the creation of any new postal facility, the Postal Service shall consider the potential effects of that facility on the community to be served by that facility and the service provided by any facility in operation at the time that a determination is made whether to plan or build that facility.".

Mr. JEFFORDS. Mr. President, I rise today to discuss a bill that my colleague Senator Baucus and I are introducing titled the, "Community And Postal Participation Act of 1998" (CAPPA).

Coming from a small town in Vermont, I understand the importance downtowns or village centers play in the identity and longevity of a community. Downtowns are where people go to socialize, shop, learn what their elected representatives are doing, and gather to celebrate holidays with their neighbors.

One of the focal points of any downtown area is the community's post office. Post offices have been part of downtowns and village centers as long as most cities and towns have existed. These post offices are often located in historic buildings and have provided towns with a sense of continuity as their communities have changed over time. The removal of this focal point can quickly lead to the disappearance of continuity and spirit of a community and then the community itself.

Mr. President, this legislation will enable the inhabitants of small villages and large towns to have a say when the Postal Service decides that their local post office will be closed, relocated, or consolidated. Some of my colleagues may ask why this legislation is necessary. A few stories from my home state of Vermont will answer this question and hopefully lead to quick passage of this important legislation.

A few years ago the general store on the green in Perkinsville, Vermont went bankrupt and the adjacent post office wanted to leave the small village center for a new building outside of town. By the time the community was aware of the project, plans were so far along—the new building had actually been constructed based on the promise of the post office as the anchor tenant—that there was no time to fully investigate in-town alternatives. One elderly resident wrote that in contrast to families now being able to walk to the post office, "we certainly won't be walking along the busy Route 106 two miles or more to get our mail." The State Historic Preservation Officer commented that as people meet neighbors at the post office, the threads of community are woven and reinforced. "It may be intangible, but its real, and such interaction is critically important to the preservation of the spirit and physical fabric of small village centers like Perkinsville."

In 1988, the post office in the Stockbridge Vermont General Store needed to expand. The store owner tried to find money to rehabilitate an 1811 barn next to the store to provide the needed space, but was not successful. In 1990, the post office moved into a new facility located on the outskirts of Stockbridge on a previously undeveloped section of land at the intersection of two highways. People can no longer walk to the post office as they once were able to do when it was located in the village center. The relocation of the Stockbridge post office unfortunately removed one of the anchors of the community.

These are not isolated examples. I ask unanimous consent that a description of Postal Service activities related to the relocation of post offices in the Vermont towns of Fairfax, Ascutney, Taftsville, and Huntington be included for the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

VERMONT

FAIRFAX AND ASCUTNEY

Formerly located in an historic building at the center of Fairfax village, the Postal Service sought larger quarters and moved out of town to a new development known as the "Fairfax Commons Shopping Center." Could the facility have been accommodated in the village center? Possibly, if the Postal Service had worked with the community, but no such steps were taken.

In Ascutney, the Postal Service may vacate its existing site on the village's Main Street to move around the corner toward Exit 8 of the Interstate, to a new building which will share the same floor plan as the Fairfax shopping center facility. Prescription of stock requirements and layouts leaves little room for creative adaptation of spaces in existing buildings in existing village centers.

TAFTSVILLE

When the Postal Service advertised to lease a new, larger space for the Taftsville Post Office, housed for 65 years in the general store, people in town voiced their opposition. One resident wrote a letter to the Editor of the New York Times that focused attention on the issue. In a compromise praised by locals, an addition to the rear of the store was built to house expanded postal facilities. Village residents care about preserving village post offices as centers of community life, and will work to find solutions, if given the chance.

HUNTINGTON

Development plans were well underway to move the post office out of Huntington village to a new building before the general public was aware of the proposal. When residents found out, many voiced objection and they identified a larger, historic building in the village that could serve the Postal Service's need for expanded space. Plans are now being developed to help fund the purchase and rehab of the building for post office and other commercial use. Residents note that lack of early notification polarized the community and slowed progress of the proposed in-town solution.

Mr. JEFFORDS. Mr. President, post office relocations are not only occurring in Vermont, but all across the country. My colleagues will quickly discover similar examples in their own states where the removal of the post office has harmed the economic vitality of the downtown area, deprived citizens without cars of access, and contributed to urban sprawl.

The basic premise for this legislation is to give the individuals in a community a voice in the process of a proposed relocation, closing or consolidation of a post office. This community voice has been lacking in the current process. This bill does not give the citizenry the ultimate veto power over a relocation, closing or consolidation. Instead, the bill sets up a process that makes sure community voices and concerns are heard and taken into account by the Postal Service.

Additionally, this act will require the Postal Service to abide by local zoning laws and the historic preservation rules regarding federal buildings. Because it is a federal entity, the Postal Service has the ability to override local zoning requirements. In some cases this has lead to disruption of traffic patterns, a rejection of local safety standards, and concerns about environmental damage from problems such as storm water management.

Mr. President, post offices in Vermont and across the nation are centers of social and business interaction.

In communities where post offices are located on village greens or in downtowns, they become integral to these communities' identities. I believe that this legislation will strengthen the federal-local ties of the Postal Service, help preserve our downtowns, and combat the problem of sprawl. I urge my colleagues to join Senator BAUCUS and I in support of this important legislation.

ADDITIONAL COSPONSORS

S. 89

At the request of Ms. SNOWE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 356

At the request of Mr. CHAFEE, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 375

At the request of Mr. MCCAIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 375, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 1124

At the request of Mr. KERRY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1124, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 1132

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1132, a bill to modify the boundaries of the Bandelier National Monument to include the lands within the headwaters of the Upper Alamo Watershed which drain into the Monument and which are not currently within the jurisdiction of a Federal land management agency, to authorize purchase or donation of those lands, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1305

At the request of Mr. GRAMM, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1305, a bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and pre-competitive engineering research.

S. 1571

At the request of Mr. MCCAIN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1571, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 1579

At the request of Mr. DEWINE, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1579, a bill to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations for such Act, and for other purposes.

S. 1618

At the request of Mr. MCCAIN, the names of the Senator from Washington (Mr. GORTON) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 1618, a bill to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes.

S. 1723

At the request of Mr. ABRAHAM, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 1723, a bill to amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of the United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers.

S. 1724

At the request of Mr. DEWINE, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1724, a bill to amend the Internal Revenue Code of 1986 to repeal the information reporting requirement relating to the Hope Scholarship and Lifetime Learning Credits imposed on educational institutions and certain other trades and businesses.

S. 1758

At the request of Mr. LUGAR, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

S. 1915

At the request of Mr. LEAHY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1915, a bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes.

S. 1970

At the request of Mr. ABRAHAM, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1970, a bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

S. 1983

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1983, a bill to amend section 991(a) of title 28, United States Code, to require certain members of the United States Sentencing Commission to be selected from among individuals who are victims of a crime of violence.

S. 1992

At the request of Mrs. HUTCHISON, the name of the Senator from Maine [Ms. SNOWE) was added as a cosponsor of S. 1992, a bill to amend the Internal Revenue Code of 1986 to provide that the $500,000 exclusion of a gain on the sale of a principal residence shall apply to certain sales by a surviving spouse.

SENATE JOINT RESOLUTION 30

At the request of Mr. FAIRCLOTH, his name was added as a cosponsor of Senate Joint Resolution 30, a joint resolution designating March 1, 1998 as "United States Navy Asiatic Fleet Memorial Day," and for other purposes.

SENATE RESOLUTION 207

At the request of Mr. FAIRCLOTH, his name was added as a cosponsor of Senate Resolution 207, a resolution commemorating the 20th anniversary of the founding of the Vietnam Veterans of America.

AMENDMENTS SUBMITTED

THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

THOMPSON (AND FRIST) AMENDMENT NO. 2337

(Ordered to lie on the table.)

Mr. THOMPSON (for himself and Mr. FRIST) submitted an amendment intended to be proposed by them to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; as follows:

On page 392, after line 24, add:

SEC. 3714. CLARIFICATION OF STATE AUTHORITY TO TAX COMPENSATION PAID TO CERTAIN FEDERAL EMPLOYEES.

(a) FORT CAMPBELL.—

(1) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"§ 115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky

"Pay and compensation paid to an individual for personal services at Fort Campbell, Kentucky, shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky.".

(b) FACILITIES ON THE COLUMBIA AND MISSOURI RIVERS.—Section 111 of title 4, United States Code, is amended—

(1) by inserting "(a) GENERAL RULE.—" before "The United States" the first place it appears, and

(2) by adding at the end the following:

"(b) TREATMENT OF CERTAIN FEDERAL EMPLOYEES EMPLOYED AT FEDERAL HYDROELECTRIC FACILITIES LOCATED ON THE COLUMBIA RIVER.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

"(1) which is owned by the United States,

"(2) which is located on the Columbia River, and

"(3) portions of which are within the States of Oregon and Washington,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

"(c) TREATMENT OF CERTAIN FEDERAL EMPLOYEES EMPLOYED AT FEDERAL HYDROELECTRIC FACILITIES LOCATED ON THE MISSOURI RIVER.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

"(1) which is owned by the United States,

"(2) which is located on the Missouri River, and

"(3) portions of which are within the States of South Dakota and Nebraska,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pay and compensation paid after the date of the enactment of this Act.

BROWNBACK AMENDMENT NO. 2338

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; as follows:

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Code Termination Act".

SEC. 2. TERMINATION OF INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—No tax shall be imposed by the Internal Revenue Code of 1986—

(1) for any taxable year beginning after December 31, 2001, and

(2) in the case of any tax not imposed on the basis of a taxable year, on any taxable event or for any period after December 31, 2001.

(b) EXCEPTION.—Subsection (a) shall not apply to taxes imposed by—

(1) chapter 2 of such Code (relating to tax on self-employment income),

(2) chapter 21 of such Code (relating to Federal Insurance Contributions Act), and

(3) chapter 22 of such Code (relating to Railroad Retirement Tax Act).

SEC. 3. NEW FEDERAL TAX SYSTEM.

(a) STRUCTURE.—The Congress hereby declares that any new Federal tax system should be a simple and fair system that—

(1) applies a low rate to all Americans,

(2) provides tax relief for working Americans,

(3) protects the rights of taxpayers and reduces tax collection abuses,

(4) eliminates the bias against savings and investment,

(5) promotes economic growth and job creation, and

(6) does not penalize marriage or families.

(b) TIMING OF IMPLEMENTATION.—In order to ensure an easy transition and effective implementation, the Congress hereby declares that any new Federal tax system should be approved by Congress in its final form not later than July 4, 2001.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet to conduct a hearing on Wednesday, May 6, 1998 at 10 a.m. on tribal sovereign immunity, focusing on torts. The hearing will be held in room 106 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing on "Safety of Food Imports."

This hearing will take place on Thursday, May 14, 1998, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Timothy J. Shea of the subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 5, 1998, at 9:30 a.m. on the nomination of Deborah Kilmer to be Assistant Secretary of Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on "SAFE KIDS Campaign" during the session of the Senate on Tuesday, May 5, 1998, at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. ROTH. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled "Nomination of Fred P. Hochberg to be Deputy Administrator of the SBA." The hearing will be held on Thursday, May 14, 1998, beginning at 9:30 a.m. in room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ROTH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, May 5, 1998 at 2:30 p.m. to hold closed meeting on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Acquisition and Technology of the Committee on Armed Services be authorized to meet on Tuesday, May 5, 1998, at 3:15 p.m. in closed session, to mark up the Department of Defense Authorization Act for Fiscal Year 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND FORCES

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces of the Committee on Armed Services be authorized to meet on Tuesday, May 5, 1998, at 9:30 a.m. in closed session, to mark up the Department of Defense Authorization Act for fiscal year 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. ROTH. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources, Subcommittee on Children and Families, be authorized to meet for a hearing on "Community Services Block Grant" during the session of the Senate on Tuesday, May 5, 1998, at 2:00 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, May 5, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Act of 1997.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet on Tuesday, May 5, 1998, at 2:30 p.m. in closed session, to mark up the Department of Defense Authorization Act for fiscal year 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet on Tuesday, May 5, 1998, at 11:00 a.m. in closed session, to mark up the Department of Defense Authorization Act for fiscal year 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet on Tuesday, May 5, 1998, at 6:00 p.m. in closed session, to mark up the Department of Defense Authorization Act for fiscal year 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SENATOR ROBERT C. BYRD RECEIVES 1998 LEADERSHIP AWARD

• Mr. ENZI. Mr. President, the Congressional Awards Foundation recently held their third annual benefit. At that event, several award winners spoke of their dedication to this program that promotes volunteerism, personal development, physical fitness, and active community involvement by our nation's young people.

At the benefit, one of our colleagues, Senator BYRD of West Virginia, was honored. A lifetime of public service and his own commitment to God and Country was noted by the Congressional Awards Foundation with the presentation of their 1998 Leadership Award.

The Congressional Awards are near and dear to many a Wyomingite's heart because our state was the first to present these awards and recognize the importance of our young people's contribution to the effort to make our communities better places to live. The program has since become a great success and recognized the efforts of many special people along the way—like Senator BYRD.

When he was presented with his Leadership Award, Senator BYRD had some important things to say about his youth, his childhood, and about those things that helped to mold him, shape him and make him what he is today. There is a great deal of food for thought there, which is why I wanted to share those remarks with my colleagues.

I was particularly interested in his comments about heroes and about the role models we looked up to when we were youngsters. Unfortunately, as Senator BYRD notes in his speech, the kind of people we drew our inspiration from back then seem to be few and far between nowadays.

Still, there is reason for hope. There are still those people, like Senator BYRD, who exemplify the qualities of leadership, strong personal character, and a sense of values and principles, that inspires others to greatness. These are the kinds of examples we need to provide our children.

As Senator BYRD points out so well in his speech, "Each of us has a chance through our personal example to inspire some youngster to greatness. And that is a gift far too precious to squander."

It is clear from Senator BYRD's many years of public service, and especially from his service in the Senate, that he has not squandered that precious gift. There is no doubt that he has inspired many to greatness by his example.

Mr. President, I ask that Senator BYRD's remarks be printed in the RECORD.

The remarks follow:

STATEMENT OF SENATOR ROBERT C. BYRD, APRIL 29, 1998

I am honored to be here tonight before this very distinguished audience, and delighted to have been selected to be the recipient of the 1998 Leadership Award.

When I was a boy growing up in southern West Virginia, I loved to read history. I think one of the reasons why I loved it so much was that it provided me with heroes. I thought maybe, if I worked hard enough, I could be as brave as Nathan Hale, or as wise and honorable as George Washington. I had other heroes as well. I wanted to play baseball like the Sultan of Swat, Babe Ruth. I dreamed about piloting a plane like Charles Lindbergh.

People in my own small community inspired me too. The old-time fiddle player, who, incidentally, happened to be the father of a pretty blonde girl that I later married, encouraged me to learn more tunes and practice hard. My English teacher instilled in me a desire to learn to write and to speak as well as she. For me, heroes fueled a desire to work on my own personal development—to take whatever talents God gave me and make them better. The fact that there was another person—a great general, a president, an aviator, a good fiddle player, who had achieved something extraordinary—something I wanted to achieve—gave me the confidence to "go for it", and the inspiration to work to polish my own skills.

Sometimes I look around at our country today and I feel sorry for our young people. Where have all the heroes gone? The idols of today's youngsters seem to be rock stars or rap stars who sing lyrics and push messages that are the very antitheses of everything that used to typify our values in this country. Athletes have always been heroes to young people. But the athletes in my day did not strangle their coaches or spit in the face of the umpire. They tried to exhibit the best sort of sportsmanship because they knew that they were heroes to thousands of young fans.

Well, what about public service, then? Are we here in Washington providing our young people with heroes or even role models to inspire them? I think many of us try to do that, at least on a small scale, perhaps within our own states. But in general, on a larger scale, I think we miss the mark. In my view, politics today is often too harshly partisan. Of course, politics has always been, and always will be, partisan. That is nothing new. But, I am talking about the kind of partisan warfare that dominates, and subjugates everything, including the public good, to the goal of political victory for one side or another. It sends a bad message. I wish for less of it.

Public service is an honorable calling, demanding hard work, sacrifice, and dedication from those who shoulder the responsibility. And it is good for us to keep in mind that to those young people whom we hope to involve in public service through programs like the Congressional Award, we are among the heroes they look to for inspiration.

Programs like this one can be enormously successful in encouraging community involvement and a caring attitude about the problems of others in our young people. But, the living examples we set, all of us right here in this room, through our public statements, our demeanor, the way we live our lives, and the respect that we show for each others' views also make a tremendous impact. Each of us has a chance through our personal example to inspire some youngster to greatness. And that is a gift far too precious to squander.•

THE Y2K PROBLEM

• Mr. MOYNIHAN. Mr. President, in yesterday's Wall Street Journal Edward Yardeni, chief economist and managing director of Deutsche Morgan Grenfell, wrote that there is 60 percent chance that the year 2000 (Y2K) computer bug will cause a recession and that the U.S. may experience a $1 trillion drop in nominal GDP and a $1 trillion loss in stock market capitalization. A trillion dollar drop. I do not know if these predictions will come true, but I do know the millennial malady is real.

In his op-ed, Mr. Yardeni encourages States to follow the advice of Bank of England governor Eddie George, who says the British government should freeze all regulatory and legislative changes that would burden the computers of financial institutions already struggling to fix their Y2K problem. In a similar gesture, Commissioner Rossotti has asked that provisions in the IRS restructuring bill be delayed until after the year 2000. This delay would allow the IRS to solve the year 2000 problem before changes to the tax code are implemented. The Commissioner has sent us a six-page letter detailing how he would phase in such changes. Commissioner Rossotti knows what he is talking about, and I hope we will listen to him.

This past Sunday, May 3, 1998, the front page of the Washington Post called attention to another important aspect of Y2K—the legal blame game. At issue: who should pay the cost of the millennium bug. If a date-related computer failure prevents an airline from flying, for example, who will make up the millions of dollars in lost ticket revenue? Should the airline just swallow the cost itself, or are its computer and software suppliers liable? How about individual programmers? Or the insurance companies that cover those parties?

The article states that there are pending lawsuits on Y2K and that the suits are the first in what legal specialists predict could be a wave of litigation that eventually could prove more expensive and time-consuming than the worldwide effort to fix the problem in the first place. According to the article, preliminary estimates for litigation and settlement costs range from $100 billion to $1 trillion. As a member of the recently established Special Committee on the year 2000 technology problem, I hope that we will have the opportunity to take a closer look into the legal issues surrounding the Y2K problem.

These articles illustrate the serious and far-reaching effects of the millennium bug. I have referred to Y2K as the "13th labor of Hercules." People have begun to realize the magnitude of this problem. We must all work together to ensure the proper functioning not only of our Government, but of the economy.

I ask that yesterday's Wall Street Journal op-ed, "Y2K—An Alarmist View" and the Washington Post's story, "Year 2000 Bug Could Bring Flood of Lawsuits" be printed in the RECORD. The material follows:

[From the Wall Street Journal, May 4, 1998]

Y2K—AN ALARMIST VIEW

(By Edward Yardeni)

Concerns about the Year 2000 Problem—often called "Y2K"—have focused on the cost and difficulty of finding and eliminating the software glitch in time. Most older mainframe computer software systems, many personal computers and millions of embedded semiconductor chips could malfunction or even crash on Jan. 1, 2000, simply because they read only the last two digits of the year, and may interpret it as meaning 1900. But I believe most people are not yet aware of the magnitude of the problem we face.

A survey released in March by the Information Technology Association of America indicates that 44% of responding companies have already experienced Y2K-related failures under operating conditions, and 67% report failures under test conditions. The entire Y2K problem will not be solved. We must prepare for the possibility of business failures and the collapse of essential U.S. government services, including tax collection, welfare payments, national defense and air traffic control.

SITUATION WORSENED

I am a Y2K alarmist, having previously predicted a 40% likelihood of recession in the wake of Y2K computer crashes. Despite many warnings, the situation has only worsened: The recession odds are now up to 60% in my estimation, and there is even a possibility of a depression. The time has come to mobilize against Y2K as if for a war. While we work to minimize government and business exposure to Y2K, we must also begin preparing to soften the inevitable disruptions that will occur when the millennium bug bites.

Our global and domestic markets for financial securities, commodities, products and services depend completely on the smooth functioning of the vast information technology infrastructure. Information technology has helped create modern versions of the division of labor, like just-in-time manufacturing, outsourcing and globalization. Imagine a world in which these systems are either impaired or completely broken. Suddenly, people will be forced to do without many goods and services that cannot be produced without information technology.

The likely recession could be at least as bad as the one during 1973–74, which was caused mostly by a disruption in the supply of oil. Information, stored and manipulated by computers, is as vital as oil for running modern economies. If information is harder to obtain, markets will allocate and use resources inefficiently. Market participants will be forced to spend more time and money obtaining information that was previously available at little or no cost.

How much could GDP fall? In the U.S., it dropped 3.7% from peak to trough during 1973–74. We should prepare for a similar fall in 2000. Furthermore, a 2000 recession is bound to be deflationary. The U.S. may experience a $1 trillion drop in nominal GDP and a $1 trillion loss in stock market capitalization.

Why am I so sure that we will fail to have all our information-technology systems ready and that the disruptions will be severe enough to cause a major global recession? Fixing and responding to Y2K requires a cooperative and collective approach, which has yet to be adopted by businesses and nations facing the millennial malady.

There is currently no global Y2K battle plan. Each company and government agency is responsible for fixing Y2K on its own. Even worse, there is no global campaign to increase awareness of Y2K, and very few national efforts to alert the public. Preventing disaster will depend on launching a centralized international effort to direct several crucial damage-control initiatives.

British Prime Minister Tony Blair plans to put the Y2K matter before the Group of Eight at its May meeting in Birmingham, England. This should be an occasion for concerted action. An international Year 2000 Alliance must emerge from the meeting—which should include all 29 members of the Organization for Economic Cooperation and Development—to deal comprehensively with the worldwide Y2K problem.

U.S. government reports indicate that the Pentagon has a "tight schedule for meeting its massive Y2K challenge," and the situation in other nuclear countries is no better. The military leaders of the G–8 states, especially the U.S. and Russia, must jointly assess the risk of an accidental nuclear missile launch or a provocative false alarm. They must rapidly develop a fail-safe joint communication and intelligence network to eliminate any such risks.

The international alliance should establish Y2K "sector alliances" to deal with the bug on an industry-by-industry basis. The top priority should be to ensure the world-wide supply of electricity, water and other utilities. Contingency plans for rationing utility use should be prepared.

Nothing should divert government or business resources from fixing the millennium bug. The Y2K Alliance should encourage states to follow the example of Bank of England governor Eddie George, who says the British government should freeze all regulatory and legislative changes that would burden the computers of financial institutions already struggling to fix their Y2K problem. Canadian Prime Minister Jean Chretien is informing his cabinet that Y2K should be their top priority.

The Y2K Alliance should consider requiring all nonessential employees to stay home during the first week of January 2000. Financial markets might have to be closed during this period. This global Y2K holiday would give information-technology personnel an opportunity to stress-test their systems with a slow "reboot," rather than under peak load conditions. They could first test the integrity of basic utility services. Then they could bring their own systems on-line in a phased sequence that can pinpoint weak links.

The Year 2000 Alliance should further require all members to fund a Y2K emergency budget with an initial minimum balance of $100 billion. This money should be spent on both last-ditch efforts to repair or replace key computer systems around the world and to implement contingency plans once the weakest links have been identified. The funds may also be needed to purchase strategic stockpiles of fuel, food and medicine.

The alliance should direct and supervise current efforts by governments and companies to fix or minimize their Y2K problems. Currently, each organization with a Y2K liability establishes a triage process to identify "mission-critical" systems. But there are no objective standards to determine what is mission-critical. As a result, Y2K fixers are free to reclassify mission-critical systems as noncritical.

For example, the number of U.S. government mission-critical systems dropped from 8,589 to 7,850 in just the three-month period ending Feb. 15; much of the reclassification was done by the Department of Defense. As the deadline approaches, the pressure will only increase for organizations to define down their systems, making it seem they have made greater progress. Only improved monitoring and verification can prevent such dangerous fudging.

COOPERATIVE APPROACH

Those responsible for dealing with Y2K must decide whether to fix their noncritical systems or to let them fail in 2000. But without a cooperative or collective approach, it is likely that some entities will kill supposedly noncritical systems that are actually mission-critical to some of their external, and even internal, dependents.

Therefore we need to know if the products, services, information, incomes and payments we rely on have been doomed by the triage decisions of those who provide them. If so, we might already be toast in 2000 and not know it in 1998 or even in 1999.

[From the Washington Post, May 3, 1998]

YEAR 2000 BUG COULD BRING FLOOD OF LAWSUITS

(By Rajiv Chandrasekaran)

The year 2000 is still 20 months away, but the legal blame game already has begun. At issue: who should pay the costs of the "millennium bug," a glitch that has left computers all over the world unable to recognize dates after Dec. 31, 1999.

Near Detroit, a grocery store is suing a cash register manufacturer whose machines can't accept credit cards that expire in 2000. In Ohio, a firm that makes accounting software is being hauled into court by a Connecticut computer company. And in New York, a well-known law firm is spearheading a class action lawsuit against the developer of popular computer virus-blocking technology.

The suits are the first in what legal specialists predict could be a wave of litigation that eventually could prove more expensive and time-consuming than the world-wide effort to fix the glitch in the first place. The cost of hiring programmers and buying new computers is forecast by industry analysts to be $300 billion to $600 billion. The price tag for lawyers' fees and compensating people for any failures that occur, through no one knows how many there will be, could reach $1 trillion, according to some new estimates.

"We used to think that programmers would be the ones to profit from this," said Lou Marcoccio, a research director at the Gartner Group consulting firm. "Now it's becoming clear that lawyers stand to gain the most here."

Lawyers have started attending seminars on how to bring and defend Year 2000 cases. Law firms eager to get in on the action have set up Internet sites and sent out mass mailings to attract clients.

"There'll be as many, if not more, lawyer-driven cases as there will be customer-driven ones," said Kirk R. Ruthenberg, a partner in the Washington office of Sonnecschein Nath & Rosenthal who teaches a seminar on Year 2000 legal issues.

Corporate executives complain that people already are so afraid of being sued that they can't get a straight answer from their banks, suppliers or vendors on whether their computer systems will be ready to function in the new century. Requests for information about readiness are routed through lawyers—not technicians—who send out boilerplate language saying the company is working hard and is highly confident its systems will be ready.

At the same time, insurance companies are furiously rewriting policies and seeking legislative changes to protect them from what they expect to be a wave of claims—and finger pointing—when computer systems fail.

If a date-related computer failure prevents an airline from flying, for example, who will make up the millions of dollars in lost ticket revenue? Should the airline just swallow the cost itself, or are its computer and software suppliers liable? How about individual programmers? Or the insurance companies that cover those parties?

Preliminary estimates for litigation and settlement costs range from $1200 billion to $1 trillion, a figure advanced by the Lloyds of London insurance company and the Giga Information Group, a consulting firm in Cambridge Mass.

That could rival legal fees and settlements associated with such products as breast implants, asbestos or tobacco. Andrew S. Grove, chief executive of computer chip maker Intel Corp., recently predicted that "this country is going to be tied down in a sea of litigation" over the next decade because of the Year 2000 problem. "It's going to put the asbestos litigation to shame," Grove said.

The big explosion of such suits probably won't start until next year, industry specialist said. But Marcoccio, who monitors Year 2000 work at 375 large law firms, said he knows of about 200 disputes that already have been settled out of court. "Most of them were resolved for substantial sums, between $1 [million] and $10 million per settlement," he said.

No Year 2000 case has yet been decided by a court, but legal observers and technology companies are watching closely the first class action suits, all of which have been brought by the high-profile New York law firm of Milberg Weiss Bershad Hynes & Lerach. A win by Milberg, the nation's most prolific filer of class action suits accusing companies and executives of securities fraud, could lead to quick flood of similar suits experts said. Even a loss wouldn't necessarily dissuade further legal action, they said—only a change in lawyers' litigation strategy.

Milberg's first case was filed in December on behalf of Atlas International Ltd., a New York computer equipment vendor, which charged Software Business Technologies Inc. of San Rafael, Calif, with breach of warranty, fraud and unfair business practices. Milberg alleges that SBT is improperly forcing customers, including Atlaz, to buy a pricey new version of its accompanying software to correct the date glitch instead of providing a free "patch" to fix the problem.

"They knowingly sold them a product that was materially defective and failed to disclose that," said Salvatore J. Graziano, a Milberg lawyer representing Altaz, which is seeking more than $50 million from SBT. "Our position is that the upgrades should be given free."

A lawyer representing SBT said that after the suit was filed, the company started offering a free software "patch" to fix the problem in versions of its software used by Atlaz. But he acknowledged that the repair won't work for other, earlier editions of SBT's software. "The engineering task of going back and altering all the old [software] code is substantial," said David M. Furbush, an attorney representing Atlaz.

Milberg's other two class action suits—one against Ohio accounting software firm Macola Inc. and the other against anti-virus software maker Symantec Corp.—make similar claims for the same reason: The companies are requiring users to pay for new versions of software that are Year 2000-compliant.

Despite the recent lawsuits, software companies don't appear to be backing down from the upgrade charges. In January 1997 only about 1 percent of software vendors were charging for Year 2000 upgrades, Marcoccio said. By this January, 29 percent were, he said. "They see the year 2000 as a way to sell new software, to make money," he said. "It can be a risky strategy."

A spokesman for Symantec, which makes the popular Norton AntiVirus software, said that people who use virus-checking software should be buying updates anyway to get the latest protection. "You need up-to-date products to scan for viruses," said spokesman Richard Saunders, who added that the Milberg suit "is without merit."

In all three of the Milberg cases none of the plaintiffs has yet suffered actual Year 2000-related computing problems.

Produce Palace in Warren, Mich., already knows what that's like. Its cash registers will not accept credit cards that expire in the year "00" or beyond. If a cashier swipes such a card through the magnetic reader on a register, it can cause the store's entire computer system to crash, said Brian P. Parker, the store's lawyer.

"Imagine a Saturday afternoon and the registers go down in all 10 aisles," Parker said. "It's been chaotic for them."

After unsuccessfully trying to fix the problem, the store sued the cash register maker, TEC America Inc., and its distributor, All American Cash Register Inc. Last month Parker said a mediator recommended that the Produce Palace be compensated $250,000. The store has not formally decided whether to accept the settlement; Parker said he expects the case to go to trial. A TEC America spokesman would not comment on details of the suit.

Lawsuits against technology companies may be only the first step in a years-long stream of litigation. Specialists predict that by late 1999, when some businesses start to experience system failures, a second round of chain-reaction lawsuits will ensue among all sorts of companies.

An auto parts maker that fails to get raw material because of a Year 2000 failure at a supplier might sue the supplier. The automaker that relies on the parts maker to stock its assembly line might then sue the parts company, because it has failed to deliver its parts on time and cost the automaker sales.

Investors who see a company's stock price slide because of Year 2000-related expenses and system failures could mount class action suits, claiming that corporate officers failed to adequately inform shareholders of the problem. "Both breach of contract suits between businesses and shareholder suits will be rampant," said Jeff Jinnett, a lawyer with the New York firm of LeBoeuf, Lamb, Greene & MacRae.

Hoping to stem such lawsuits, a coalition of technology firms and other businesses in California have urged the state legislature to pass a bill that would immunize companies from Year 2000 suits if they warn customers of the problem and offer free upgrades. The bill was defeated by a key committee last month after strenuous opposition from the state's trial lawyers.

But state officials across the country are moving quickly to protect themselves against litigation. Bills that would limit state agencies from liability if their computers suffer date-related failures recently have been signed into law in Virginia, New Hampshire and Georgia.

A final wave of litigation, experts said, will begin in 2000 and involve insurance companies, as defendants seek to force their insurers to cover their legal fees and any damages they are ordered to pay. The cost to the insurance industry could reach $65 billion, said Todd A. Muller, an assistant vice president at the Independent Insurance Agents of America, a trade group in Alexandria.

"There's going to be a huge impact on the insurance industry," Muller said. "Because the industry has deep pockets, we expect [trial lawyers] to do everything possible to drag us into these disputes."

Insurance industry executives said they expect businesses to file claims under various types of common corporate policies, including property insurance, general liability insurance, and directors' and officers' liability insurance. Property insurance claims, for example, could result from actual physical damage caused by a Year 2000 malfunction, such as fire sprinklers that accidentally go off, experts said.

The insurance industry is moving quickly to prevent such suits by revising policies to exclude Year 2000-related claims on the grounds the peril wasn't known to exist when the policies were created, and as a result, premiums never were collected for such coverage. The Insurance Services Office Inc., which authors generic policy language used by most large insurers, already has gotten regulators in 40 states to approve such exclusions, said Christopher Guidette, an ISO spokesman.

At the same time, insurers are arguing that the problem was entirely predictable, and therefore isn't coverable, because insurance is only for the unpredictable.

"This is a foreseeable event. People have known for more than 98 years that this was coming. . . . We're not going to be the bank of last resort to pay for this," said Steven Goldstein a spokesman for the Insurance Information Institute, a trade group in New York.

But whatever steps the insurers take, predicts Muller, "when their claims are denied, people are going to go to court."

Lawyers who have gone after companies over asbestos and breast implants already have started preparing litigation strategies for the date glitch.

"Insurance sells itself as a public-service operation," said Eugene R. Anderson of Anderson, Kill & Olick in New York, who has won dozens of cases against insurers. "They are the safe hands, the rock of Gibraltar, the good neighbors. When there's a problem they can't just say, 'Oh well, we don't cover that.' It's contrary to the very idea of insurance."

Unlike in breast implants and asbestos cases, some lawyers said the lack of ordinary human victims in Year 2000 litigation could make it tougher to ask a jury for multi-million-dollar damages. Others caution that the scope of the litigation will rest on the number of systems that actually fail, a figure impossible to determine today.

But there is broad agreement that no matter how severe the glitch eventually proves to be, a cadre of lawyers will find reason to sue. "There's too big of a jackpot here," Marcoccio said.●

"CINCO DE MAYO"

● Mrs. HUTCHISON. Mr. President, I rise to recognize and remember the importance of this day, known as "Cinco de Mayo" to the Republic of Mexico and to millions of Mexican-Americans. Many in this country may not realize it, but after 40 years after achieving independence from Spain, in 1862 Mexico was again subjugated to European colonial domination, this time by the French. In that year, Napoleon sent a massive military force to Mexico to unseat President Benito Juarez to install a Hapsburg, Maximilian, as monarch of Mexico.

After capturing the port city of Veracruz, the French continued their march toward Mexico City. But the proud Mexicans did not give in without a fight. On this day in 1862, on a small battlefield near Puebla, a hastily assembled, ill-equipped Mexican force of predominantly Mestizo and Zapotec Indians bravely battled against a force of Napoleon's renowned professional French Army. Against all odds, the Mexicans actually routed the French, and the "Batalla de Puebla" became a rallying cry and watershed event for eventual Mexican independence.

The Mexicans who fought on that fateful day embodied the spirit of freedom and patriotism that eventually drove Mexico to victory and paved the way for the economic and political advances that continue in that nation to this day. It is in that same spirit that we in the United States, who have our own proud history of achieving independence, celebrate and recognize the Batalla de Puebla and the significance of this day.

In addition to signifying a military victory, the Cinco de Mayo holiday, particularly as recognized in the United States, is also a celebration of Mexican and Mexican-American culture and history. In many cities throughout the U.S., this celebration centers around grand cultural fiestas that include traditional Mexican song, dance, and cuisine. Much as we recognize the Fourth of July not only as an act of independence from Britain, but also as a cornerstone of our cultural identity as Americans, many Mexican-Americans view Cinco de Mayo as a common cultural thread and history that they share.

Mr. President, I would like to join all Americans and all Mexicans in this recognition of a very proud and colorful Mexican history. The Mexicans who fought and died on that battlefield near Puebla in 1862 embodied the ideal to which all human beings, regardless of background or status, aspire—the inalienable right of self-determination. Cinco de Mayo is therefore a chance for communities on both sides of the border to remember how important a gift freedom is, how difficult it is to achieve, and how vigilant we must all be to preserve it.●

TRIBUTE TO JEAN BROWN, UPON HER RETIREMENT AS HEAD OF LEADERSHIP GREENVILLE

● Mr. HOLLINGS. Mr. President, it is my great honor today to salute one of Greenville's most beloved business leaders on her retirement as head of Leadership Greenville: Mrs. Jean Brown.

Mrs. Brown has dedicated the last twenty years of her life to fostering an entrepreneurial environment in the South Carolina Upstate. Since 1979, she has worked with the Greenville Chamber of Commerce to develop the Leadership Greenville program, which today is a model of its kind.

Through Leadership Greenville, Jean Brown has had an influence on the life of her community few individuals can match. Graduates of her ten month program head countless civic associations, philanthropic boards, and volunteer organizations in the Upstate. These leaders possess an unselfish and admirable desire to serve their communities, which Jean Brown encouraged and channeled.

Thanks to her enthusiasm and energy, Leadership Greenville has grown into a Greenville institution. Although Jean Brown is retiring, her legacy will live on for generations in the good works of the Leadership Greenville graduates she trained.

Mrs. Brown defines a leader as "a person who has a passion for what they want to accomplish." If that is true, Mr. President, Jean Brown is a peerless leader. Today I am honored to pay tribute to such a dedicated and unselfish public servant.●

H.R. 3579 CONFERENCE AGREEMENT ON FISCAL YEAR 1998 SUPPLEMENTAL APPROPRIATIONS

● Mr. McCAIN. Mr. President, I voted in favor of the conference agreement on the FY 1998 Supplemental Appropriations Bill which funds the necessary costs of ongoing U.S. military operations in Bosnia and Southwest Asia and provides relief for those affected by the devastating natural disasters which swept through the United States in recent months.

Mr. President, frankly, I have to applaud the conferees on this bill. They did not include in the conference bill much of the pork-barrel spending that was contained in the individual House and Senate bills. In addition, the conferees wisely agreed to the House position to offset the domestic spending in this bill with other non-defense reductions, designating only the $2.8 billion in must-pay defense funding as emergency spending. This defense and disaster supplemental appropriations bill will cost the American taxpayer only $3.6 billion.

Now that is not to say, Mr. President, that this bill is pork-free. In fact, this bill contains $52.3 million in low-priority, wasteful, and unnecessary spending. Even though the bill is a step in the right direction, it still wastes millions of taxpayer dollars.

Eliminating pork-barrel spending is key to realizing the federal budget surpluses that are projected for the next several years. Paying down our national debt is vital to our nation's long-term economic health, and providing greater tax relief to all Americans will improve their quality of life and help sustain our robust economy. In addition, a balanced federal budget coupled with a sustained strong economy will enable us to protect Social Security and Medicare for current and future generations.

If we do not curb pork-barrel spending, future anticipated budget surpluses will not occur, and this historic opportunity to reduce our federal debt will pass us by.

Mr. President, again, the amount of wasteful spending in this bill is less onerous than in most other bills I have seen. However, I still must object strenuously to the inclusion of $52.3 million in earmarks and add-ons in conference agreement. We cannot afford pork-barrel spending, even in the amount contained in this bill, because the cumulative effect of each million wasted is a million dollars in debt on which we must pay interest.

Some of the more egregious items earmarked in this bill include:

$14 million for a tree assistance program. This amount is an increase of $9.3 million and $5.3 million over what was proposed by the House and Senate respectively.

$1 million to conduct "transit investment analysis" in Hawaii.

$4 million for maple sugar producers.

$222,000 for boll weevil eradication loans.

$20 million for the implementation of the Capitol Square perimeter security plan.

$7.5 million for repairs to the Capital Dome.

$1 million to increase the emergency preparedness of the State of Alabama.

$1.5 million for the Grain Inspection, Packers and Stockyards Administration.

Mr. President, I ask unanimous consent to include in the RECORD at this point a list of the projects contained in this measure that meet at least one of the five objective criteria which I have used for many years to evaluate spending bills.

On Friday, May 1, I sent a letter to the President urging him to use his line-item veto authority to eliminate these low-priority, unnecessary, and wasteful programs from the bill.

Mr. President, even the relatively small amount of pork-barrel spending in this bill undercuts our efforts to keep the federal budget in balance and ensure we are spending the taxpayers dollars wisely, as they have entrusted us to do. Pork-barrel spending robs funds from other worthwhile programs and prevents us from further reducing taxes and paying down our national debt.

In the upcoming FY 1999 appropriations season, I look forward to working with my colleagues on the Appropriations Committee to ensure that we do not waste taxpayers' dollars on projects that are low-priority, wasteful, or unnecessary, and that have not been evaluated in the appropriate merit-based review process.•

RECOGNITION OF BOB LENT

• Mr. LEVIN. Mr. President, I rise today to pay tribute to a good friend of mine and of the working men and women of Michigan, Bob Lent. Bob is retiring at the end of June, 1998, from his position as Director of UAW Region 1.

Bob Lent has been a UAW member for nearly 50 years, when he began working in 1949 at the Dodge Main plant in Hamtramck, Michigan. After serving in the U.S. Army from 1951 to 1953, Bob went to work as a millwright apprentice and skilled tradesman at the Chrysler 9 Mile Road Press Plant. It was here, as a member of UAW Local 869, that he began his rise into the leadership of the UAW. He served in a number of leadership positions in Local 869, including alternative chief steward, trustee chairman, vice president and president. From here he was appointed to the Region 1B staff, where he rose to the position of assistant director in 1982. In 1983, Bob was elected Regional Director at the UAW's 27th Constitutional Convention in Dallas, Texas.

Bob is something of a legend in labor circles for his commitment to the working men and women of Region 1. But he is almost equally well-known for his remarkable ability to remember the most minute details of events that happened years before. Of course, in his line of work, a memory like that can be an incredible asset to bring to the bargaining table. But it can also be the source of amusement, and occasionally embarrassment, when Bob relates who said what to whom at a dinner which took place ten or fifteen years ago.

Knowing Bob as I do, I have no doubt that retirement will not slow him down, and that he will continue to serve his community in a number of ways. I am sure that his wife, Earline, will keep him at least as busy as his commitments to the United Way of Pontiac-Oakland County, the Detroit-area United Foundation, the NAACP and the Wayne State University Labor Advisory Committee. And I also know that the men and women of the UAW can count on Bob to continue to stand with them in their ongoing efforts on behalf of the working people of our nation.

Mr. President, I know my colleagues join me in extending congratulations and best wishes to Bob Lent, Director of UAW Region 1, on the occasion of his retirement. •

TRIBUTE TO ANNIE MALONE CHILDREN AND FAMILY SERVICE CENTER

• Mr. BOND. Mr. President, every year in St. Louis, Missouri, May Day is especially important in paying tribute to what can be achieved through collective action. This year, the Annie Malone Children and Family Service Center, as well as, the St. Louis African American community will celebrate May Day on May 17. The first of these celebrations occurred more than eighty years ago and since that time they have continually grown. The celebration serves as a reminder of all that has been endured and the prosperity that it now reflects.

Annie Malone Children and Family Service Center began its service more than 100 years ago. Its predecessor was the St. Louis Colored Orphans' Home and was established in 1888 by a group of prominent women concerned about the welfare of neglected and orphaned children. The president of the Board of Directors from 1919 to 1943 was Annie Malone. In honor of her loyalty and dedication to the goals of the institution, it was renamed for her in 1946. Through the years, the Center has continued to expand its services and programs to meet the needs of a changing society, but the mission, "to improve the quality of life for children, families, and the community utilizing education, social services, and developing positive values and self esteem," has remained the same.

Annie M's has several programs including residential treatment, therapeutic services/family crisis center and its evaluation and diagnostic services. The programs have helped to make the quality of life more complete, fulfilling and successful for African Americans in the St. Louis Community. I salute the contributions made by Annie M's beneficial programs and join the community in paying tribute to the woman that helped in their growth and success, Annie Malone.•

ISRAEL'S 50TH ANNIVERSARY

• Mr. LEAHY. Mr. President, on April 30th the people of Israel celebrated their nation's fiftieth anniversary and people around the world commemorated the realization of a dream of a

Jewish state first envisioned by Theodor Herzl in 1897. Today, with characteristic courage, intelligence and determination, Israelis face the many challenges that lie ahead.

With the collapse of the former Soviet Union and the ethnic violence that has rocked parts of Europe and Africa, the term "nation building" has taken on new significance as we near the end of the millennium. National borders that were static during the Cold War have changed and in some countries the institutions necessary for a functioning government have crumbled. We need only look as far as Israel to realize what can be accomplished with a vision and the will to fulfill it.

In 1948, 600,000 Jews emerged from the Holocaust to forge a nation committed to the ideals of democracy and the prosperity of its people. Having survived the genocide that has since been burned into the world's collective memory, the founders of the Jewish state embarked on a mission to unite a people speaking over 100 languages and dispersed for 2,000 years in 140 countries. At the time it seemed like an impossible challenge, yet today it is a reality that represents one of the greatest, most breathtaking accomplishments of this century.

The founders of Israel did not recognize the obstacles before them as limitations but as opportunities. Prime Minister David Ben-Gurion used to say that a man who does not believe in miracles is not a realistic person. Yet, not even he imagined what could be accomplished in just 50 years.

Despite the toll taken by six wars and innumerable terrorist attacks, despite the difficulties inherent in resurrecting an ancient language and absorbing 2.6 million immigrants, the people of Israel have created a nation at the forefront of technology, industry, art and academics. They have created a nation that embodies democratic principles and practices. They have served as a staunch ally of the United States in the most dangerous region of the world.

On May 15, 1948, when President Truman first declared our nation's support for the free state of Israel, I was eight years old. On that day my father sat me down and, with great emotion, told me what a historic event it was, how important it was to Jews around the world who were struggling to rebuild their lives, reaffirm their identity and heal their communities after years of suffering. His words rang true and they left a lasting impression.

Since then I have traveled to Israel many times. I have had the privilege to know as friends former Prime Ministers Rabin and Perez, two extraordinary courageous leaders. I have seen how the Jewish people have never shied away from adversity, but have faced it fearlessly and with a commitment to overcome. But despite all they have accomplished, much work remains. Many of us will not be here to mark Israel's 100th anniversary. I fervently hope, however, that those who are here to celebrate will be able to recount to their own children and their grandchildren the events that led to a lasting peace for all the citizens of this small but powerful nation.

Mr. President, I offer my congratulations to the people of Israel and reaffirm the bond that President Truman first established in 1948.•

TRIBUTE TO THE HONORABLE CHARLES C. BROWN, JR.

Mr. SANTORUM. Mr. President, I rise today to recognize the outgoing chair of the YMCA of the USA National Board of Public Policy Committee and a fellow Pennsylvanian, Judge Charles C. Brown, Jr.

For the past three years, Judge Brown has steered the public policy initiatives of the YMCA of the USA through good and bad times. As a result, the YMCA of the USA now enjoys a strong and credible standing in the public policy arena. Under Judge Brown's leadership, the YMCA has earned the respect of other nonprofit organizations, administration officials, senators, and congressmen alike. Sadly, this month Judge Brown will step down as chair of the YMCA of the USA National Board of Public Policy Committee.

During his tenure as chairman, Judge Brown was instrumental in shaping a new direction for the YMCA movement. The quintessential professional and team builder, the Judge—as he is respectfully called by his colleagues—was never satisfied to let the nation's largest youth-serving organization remain on the sidelines of public policy advocacy. Through Judge Brown's vision and guidance, the YMCA of the USA developed legislation which was introduced in Congress to expand youth development programs; held three national conferences to educate policy makers on the role and impact of YMCA programs; took the lead in coordinating a national coalition to support school-age child care provided by nonprofit organizations like the YMCA; helped shape and direct national legislation on juvenile justice; and became a leading national resource on the state of America's children, youth and families. Although one of these achievements would have been impressive in and of itself, the Judge insisted on a comprehensive, integrated advocacy role for the YMCA. For these and many other reasons, Judge Brown's leadership will be sincerely missed by the YMCA of the USA National Board of Directors.

Mr. President, I believe it is important to recognize Judge Charles C. Brown's contributions to one of the nation's oldest and most respected organizations, the YMCA. As he prepares to pass the reigns of leadership, I ask my colleagues to join me in extending the Senate's best wishes for continued success to Judge Brown and his family.

CONGRATULATIONS TO THE COLUMBIA UNIVERSITY SCHOOL OF SOCIAL WORK

• Mr. MOYNIHAN. Mr. President, I rise to offer my congratulations, on the occasion of the Centennial of the oldest social work training program in the nation, to the Columbia University School of Social Work. Evolving from a summer program organized by the Charity Organization in New York, the School of Social Work has a long history of pioneering research, informed advocacy, and exceptional professional training.

It is a remarkable accomplishment that social workers have played key roles in every major social reform movement, from settlement houses to labor reform, to the New Deal, to civil rights and voter registration. Many of the things we take for granted today—Social Security, child-labor laws, the minimum wage, the 40-hour work week, Medicare—came about because social workers saw injustice, acted, and inspired others.

Throughout the century, Columbia's faculty, students, and alumni have worked tirelessly to address both the causes and symptoms of our most pressing social problems. National movements, such as the White House Conference on Children and the National Urban League, have emerged from projects undertaken by the School's faculty and administrators in cooperation with professional and community organizations. The entire nation has benefited from the research and work of people such as Eveline Burns (Social Security); Mitchell I. Ginsberg (Head Start); Richard Cloward (welfare rights and voter registration); Alfred Kahn and Sheila B. Kamerman (cross-national studies of social services); and David Fanshel (children in foster care).

As the School, and indeed the social profession, move into their second centuries, they will be challenged to respond to social change, new social problems, family change, and evolving societal commitments. Now more than ever, we will need well-trained and dedicated social workers to work with troubled children and families, organize communities for change, conduct cutting-edge research, administer social programs, and alleviate society's most intractable problems.

It is with appreciation and admiration that I extend my best wishes to the Columbia University School of Social Work on its Centennial and look forward to its future activity and achievement. •

RECOGNITION OF FAMILIES FOR HOME EDUCATION

• Mr. BOND. Mr. President, in observance of Home Education Week, May 3–9, I rise to pay tribute to the eight regions of Families for Home Education (FHE), in my home State of Missouri, for their excellence and continuing efforts to better the home education system. I have always recognized the importance of family involvement in the education of our youth and applaud the efforts of home educators to make a difference in the lives of their families.

In today's complex society it is especially significant to have guidance in the development of our children and their continuing education. Through adult mentors, home schoolers develop, not only a close relationship with their families, but also acquire the much needed interpersonal skills through involvement in civic and community organizations in form of apprenticeship opportunities.

The support home schooling receives helps to cultivate its success through family participation in our communities. My home State of Missouri especially relishes the high quality of home education and the strong family values it teaches. I commend the energies of FHE and the families that help make it possible. I wish FHE continued success and growth in future years. •

TRIBUTE TO DR. JOHN E. SIRMALIS ON RECEIVING THE DISTINGUISHED EXECUTIVE AWARD

• Mr. CHAFEE. Mr. President, this morning here in Washington, Dr. John E. Sirmalis, Commander of the Naval Undersea Warfare Center (NUWC) in Newport, Rhode Island, is receiving the Distinguished Executive Award. Vice President GORE will take part in this ceremony.

Having worked with John Sirmalis for many years, I can say with certainty that he is a most worthy recipient of this prestigious award. Dr. Sirmalis has served our nation and our Navy admirably during a distinguished career. Widely recognized as the Navy's foremost authority on undersea weapons systems, Dr. Sirmalis has helped bring about improvements in methodologies for developing and testing undersea warfare (USW) systems and components. In particular, John has implemented a program to identify submarine technology opportunities for the year 2010, leading the Navy to shift its focus from traditional antisubmarine warfare to find responses to new and more complex military threats.

Dr. Sirmalis' outstanding work at NUWC/Newport has contributed to the evolution of a facility that is widely recognized as a center of excellence within the Navy and the Department of Defense (DoD). NUWC has consistently sustained a high level of technical productivity, as it has become a leader in the use of commercial-off-the-shelf components and open system architecture. These attributes are today more important than ever at a Defense Department that is greatly constrained by tight budgets.

It was certainly no surprise to me that during the defense base realignment and closure (BRAC) process, NUWC/Newport was designated one of the Navy's four principal research "mega-centers." I look forward to NUWC/Newport continuing to maintain its important contribution to our national security under the leadership of Dr. Sirmalis. So my heartiest congratulations to John Sirmalis on receiving the Distinguished Executive Award. All Americans are well-served by the outstanding performance of this genuine public servant.•

HIGHER EDUCATION REPORTING RELIEF ACT

• Mr. McCAIN. Mr. President, I am proud to have become a cosponsor of S. 1724, the Higher Education Reporting Relief Act. As many of my colleagues know, this bill would repeal the reporting requirements imposed on colleges and universities when Congress enacted the HOPE scholarships and the Lifetime Learning Tax credit last year.

The Taxpayer Relief Act of 1997 contained many important provisions for American families, particularly in the area of education. As a part of this bill, Congress created several new initiatives to make college and higher education more affordable for students throughout our country. The Hope and Opportunity for Postsecondary Education (HOPE) scholarship provides students with a 100% tax credit for up to $1,000 of their tuition costs for higher education and a 50% credit for the next $1,000 spent on their tuition. This credit can be claimed by the student, their spouse, or parents if they are still a dependent. Another program created by Congress to ease the financial burden of higher education for our working families is the Lifetime Learning Tax Credit.

Both of these programs are helping make college and postsecondary education more affordable. Unfortunately, when Congress created these new education programs, we inadvertently levied very costly and burdensome reporting requirements on our educational institutions. Beginning in the 1998 tax year, schools are required to compile and issue annual reports on their students for the Internal Revenue Services. Under the new law, schools are now responsible for providing detailed information on all their students, including name, address, Social Security number, attendance records, academic information, tuition data, along with the amount of qualified student aid.

Preliminary studies indicate that the cost to our nation's universities and colleges to comply with the new reporting requirements will range from $125 million to $150 million for just the first year. The three colleges in my home state of Arizona expect that this new requirement will cost them approximately $400,000 to begin the reporting system, which will turn into an annual expense of $200,000 for each of the institutions.

This reporting requirement is costly and counterproductive. At a time when Congress and the Federal government are trying to make college affordable, contain costs, and make higher education more accessible to millions of students, we are subjecting schools to excessive and unnecessary reporting requirements. According to the Commission on the Cost of Higher Education, a primary factor contributing to escalating tuition costs is excessive government regulation and reporting requirements.

This is why I am cosponsoring Senator COLLINS' bill, the Higher Education Reporting Relief Act, which repeals the requirement for schools to report personal information on their students to the IRS. Instead, the new HOPE scholarships and Lifetime Learning Tax Credit will be treated like all other existing tax credits. The individual taxpayer will be responsible for providing the IRS with the pertinent information on their tax returns and maintaining appropriate records to substantiate their claims.

This important piece of legislation prevents the limited resources of our colleges and universities from being wasted on unneccesary administrative costs and allows them to focus on our students and their education.•

TRIBUTE TO DANIEL SMITH

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Daniel Smith, for his unyielding support for and commitment to the Northeast Dairy Compact. With the help of Dan Smith the Dairy Compact has become an instrument of balance that is critical to the needs of both farmers and consumers in the New England region, as well as a model of success for the rest of the country.

A carpenter by trade, Dan Smith, for more than ten years unselfishly committed himself to the crafting and building of the Northeast Dairy Compact Commission. Dan's dedication to the survival of New England's small farms and his desire to finish the job has benefited all those who value the strong agricultural communities in New England. With a bachelors degree from Dartmouth College and a law degree from the University of Wisconsin, Dan served as law clerk to the Honorable Frederic W. Allen, Chief Justice of the Vermont Supreme Court. As legal counsel for the Vermont State Legislature. Dan carefully drafted the Dairy Compact legislation. He then worked as Executive Director for Dairy Compact Committee, nurturing the Compact legislation through each of the six New England state legislatures, resulting in overwhelming support in each of the states. After six years of traveling throughout New England educating legislatures and building support for the Compact, Dan turned his efforts to Washington, D.C. and to the ratification of the Northeast Dairy Compact by the U.S. Congress.

Mr. President, few initiatives in my memory have sparked such a vigorous policy debate as the Dairy Compact. Dan worked closely with me and my staff to develop and execute the many strategies that helped pass the Compact. The passage of the Compact was a long shot in the minds of many, but I knew that with Dan Smith's commitment we would succeed. I am proud to have sponsored the Compact on behalf of all my colleagues from the New England delegation. Adoption of the Compact could not have happened in Congress without the help of Dan Smith, and without the years of dedicated work from a veritable army of Compact supporters throughout New England.

This tribute reflects that with the success of the Dairy Compact we recognize the commitment to and importance of our dairy farmers. The Dairy Compact holds great promise for the New England region to preserve the viability of agriculture and to protect a special way of life.●

TRIBUTE TO COUDERSPORT, PENNSYLVANIA

● Mr. SANTORUM. Mr. President, this year marks the 150th anniversary of Coudersport, PA. Today, I rise to discuss the establishment, growth, and achievements of this town.

Coudersport was named for Mr. Coudere, a European investor in the Ceres Land Company which owned 175,000 acres in this area of Pennsylvania. Established in 1848, the town had only 48 buildings and about 200 residents. After it was approved as the seat of the Potter County government, the village slowly grew. Just before the Civil War, Coudersport's population nearly doubled. Anti-slavery sentiment ran strong in this town. Residents held fundraisers to benefit abolitionist causes. Reminders of the town's rich history still stand. Six of the original 48 buildings are still inhabited. Today, the population of Coudersport stands at 2,854, and it is still the hub of Potter County. Although Coudersport has changed with the times, it never lost its small town charm.

Mr. President, the people of this town are proud of their history and their traditions. I ask my colleagues to join me in congratulating Coudersport on its 150th anniversary.●

INNOVATION AND GLOBAL LEADERSHIP

● Mr. FAIRCLOTH. Mr. President, we talk a lot around here about innovation, competitiveness and global leadership. The vast majority of us agree that these values are important and worthy of concern.

Those of us who see the inherent limitations of government know that promoting innovation and U.S. economic competitiveness is largely about getting government out of the way and letting the free market work its will.

Unfortunately, playing out today is yet another episode of government doing things to business rather than getting out of the way. Microsoft Corporation, one of America's most successful companies, has come under attack by the Clinton Justice Department at the urging of its competitors.

The Justice Department's newly aggressive Antitrust Division is waging a slick, media-intensive antitrust campaign against Microsoft. The Justice Department claims to be acting in the name of promoting competition despite the fact that the computer industry is the most dynamic, open and competitive business sector the U.S. has ever witnessed. Prices are falling, innovation is thriving and consumers are empowered as never before.

But in their wisdom, Clinton antitrust lawyers and bureaucrats have decided that the heavy hand of government will improve innovation and help consumers.

Frankly, I am fearful that this is the government's first attempt to begin regulating America's high tech industry. In my opinion, this would be a disaster.

Despite the artful and high-minded rhetoric coming from Clinton Antitrust lawyers and their few industry cheerleaders, it is inconceivable to me that government regulation will improve innovation and consumer welfare.

And it is clear that the computer industry agrees. On April 30, 1998, for example, twenty-six computer companies wrote to Joel Klein, the Assistant Attorney General, Antitrust Division, expressing their "strongest possible concern" about the effect on the U.S. economy of the government's campaign against Microsoft. The companies who signed the letter ranged from such industry leaders as Intel Corporation, Compaq Computer Corporation and Dell Computer Corporation, to smaller companies such as Insight Enterprises, Inc. of Tempe, Arizona and Elsinore Technologies, Inc. of Raleigh, North Carolina.

I am concerned that, in addition to threatening the freedom to innovate and consumer choice, this aggressive pursuit of Microsoft may threaten U.S. global leadership in the software and computer industry. When Congress crafted the antitrust laws, the world was a different place. Most markets were not global. Capital was not mobile. Our focus was largely domestic. In today's economy we must concern ourselves with the global implications of policy decisions.

I respect that within clear and narrow limits, basic antitrust laws are necessary to preserve free markets. But from where I sit, the track record of the Antitrust Division is hardly stellar.

For example, in 1969 the Justice Department opened a case against IBM that lasted 13 years. But by the time the government dropped the case, IBM had experienced a serious erosion of its market share at the hands of new computer startup companies, including—ironically—Microsoft. The marketplace and consumers had their say, not government.

Mr. President, is this an outcome we want for Microsoft? Is the idea to sap Microsoft's vitality through litigation so that its competitors, whether domestic or foreign can play catch-up?

Another case involved the Schwinn Bicycle Company. Once a proud and successful American manufacturer of bicycles, it found itself the subject of an antitrust prosecution in 1967. The case opened the door to foreign companies, and a weakened Schwinn ultimately declared bankruptcy in 1992. Again, is this the model for Microsoft?

Business historian Alfred D. Chandler attributes an antitrust consent decree against RCA as precipitating the decline of the U.S. electronics industry. The subsequent rise of the Japanese electronics industry is now well known.

The push to regulate the software industry under the guise of antitrust law should concern us all. It is government regulation by any other name; and like the cases above, will prove shortsighted. Who can take comfort in the thought of a federal judge deciding which features will go into software products? We have tried this before and no one should welcome a repeat.

America is the leader in software and computer innovation because government has stayed out of the way. The creative process and innovative genius marked by the software industry is fragile. The heavy hand of government regulation, whether direct or at the hands of antitrust lawyers and judges, threatens the innovations of tomorrow and the U.S. global leadership of today.

Mr. President, somewhere today, there is a 22 year old, working in his garage on a new product. Ten years from now—he or she may be America's richest individual. We don't know. But what I do know is that I don't want to deny him or her the right to be creative. To start a company and to give the big companies a run for their money. But if we go down the road of regulating this industry, I am certain that we will call to a close a very prosperous era for the U.S. I don't think we want our vibrant economy washed away because some people at the Justice Department had nothing else better to do with their time.●

"WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION" STATE OF MAINE COMPETITION WINNERS

● Ms. SNOWE. Mr. President, I rise to congratulate Old Orchard Beach High School of Old Orchard Beach, Maine, for winning first place at the Maine state competition of the "We the People . . . The Citizen and the Constitution" program, and for their strong effort at the national finals which took place here in Washington May 2 through May 4.

I am proud that these outstanding young men and women have represented my home state. Their participation in the national finals is a direct reflection on the tremendous amount of hard work and commitment that the Old Orchard Beach students have invested in this project. The outstanding members of this class are: Lauren Asperschlager, Lucy Coulthard, Chad Daley, Rose Gordon, Krista Knowles, Nathan LaChance, Sarah Lunn, Sandra Marshall, Katie McPherson, Cindy St. Onge, Sam Tarbox, and Sharon Wilson.

Also deserving of recognition is their teacher, Mr. Michael Angelosante, whose dedication to his students has played an integral role in their success. John Drisko, the Congressional District Coordinator, and Maine State Coordinator Pam Beal also each have contributed a great deal of time and effort to help Old Orchard Beach High's team.

Mr. President, I am pleased that these students as well as others who competed from across Maine have increased their knowledge on the topic of our nation's governing document, the Constitution. One of the most critical components of a democracy is a knowledgeable citizenry. If our young people are to grow up to fully participate in their government, they must have a sound understanding of both the rights and responsibilities that come with citizenship in this great country.

This program, "We the People . . . The Citizen and the Constitution", is one innovative way in which we can help provide that understanding. Students, in a simulated Congressional hearing, answer questions, make arguments and defend positions on a variety of contemporary and historical constitutional issues. I am proud that my staff in Maine has been involved in this program over the years.

Again, I am pleased to congratulate the students of Old Orchard Beach High School. They are a credit to Maine and have made us proud.●

TRIBUTE TO MINNESOTA'S REPRESENTATIVES AT THE 1998 "WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION NATIONAL FINALS"

● Mr. GRAMS. Mr. President, I rise today to pay tribute to a group of young Minnesotans whose hard work and dedication earned them the privilege of representing Minnesota at the 1998 "We the People . . . The Citizen and the Constitution National Finals."

Under the guidance of American Government teacher Barbara Hakala, this group of 30 students from Duluth Central High School tirelessly studied the history of our Constitution and the application of its principles in our time. The disciplined study demonstrated by these students helped them prevail in the Minnesota constitution competition, and for the second year in a row, Minnesota was represented in the "We the People . . . The Citizen and the Constitution National Finals" by a team from Duluth Central High School.

Mr. President, I would like to offer my sincerest congratulations to these young Constitutional scholars and recognize each of them individually. They are: Jennifer Anderson, Nicholas Beck, Toby Bjorkman, Annalisa Eckman, Joy Eskola, April Fritch, Thomas Garrett, Jennifer Gilbertson, Alison Gray, Nicholas Hern, Susan Herrick, Amy Houghtaling, Brent Kaufer, Erin Louks, Anthony Luczak, Amanda Masi, Ilona Moore, Dennis Olson, Kristina Olson, Barbara Przylucki, Carrie Rau, Mikel Roe, Amber Sorensen, Amy Steen, Carrie Taylor, Dzung Truong, Brandon Vesel, Stephanie Walczak, Mai Lor Yang, and Eric Zimmerman.

Once again Mr. President, I am pleased to report that Minnesota was represented by a fine group of young people at the "We the People . . . The Citizen and the Constitution National Finals 1998." This group of students gives me, and all Minnesotans, a reason to be proud.●

RECOGNITION OF LLOYD M. PELFREY

● Mr. BOND. Mr. President, today I rise to recognize a truly unique leader and educator for his exemplary service to my home State of Missouri at the time of his retirement. Dr. Lloyd Pelfrey has been President of Central Christian College of the Bible (CCCB) in Moberly, Missouri, for the past twenty-five years. Dr. Pelfrey will be honored this year at the College's Commencement exercise this coming May 8.

CCCB first opened its doors in September of 1957. Lloyd started teaching at CCCB the same day it opened. He has held several positions including Professor of Old Testament, Academic Dean, Dean of Faculty, Executive President, Acting President and President. As the fourth President in the history of the school, he has served the longest of any other President of the College. He became an ordained minister in 1953 and co-founded the Missouri Christian Convention and the Missouri Operation for Vigourous Evangelism (MOVE), an organization which establishes new churches in Missouri. Lloyd serves on the National committee of the North American Christian Convention.

During his tenure at CCCB, Lloyd boasted several accomplishments including construction of the Memorial Building, increased awareness of the need for a Development Department as an integral part of the college, development of an Admissions Department, accreditation of the college with Accrediting Association of Bible College, first fundraising banquet with Paul Harvey as speaker and the implementation of a major capital campaign.

Commending Dr. Pelfrey for his many years of service to CCCB, I am glad to say that the State of Missouri is enriched with his wisdom and leadership. I join the many who congratulate and thank him for his hard work and wish him continued success in future years.●

NATIONAL EATING DISORDERS AWARENESS DAY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 197 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report

The legislative clerk read as follows:

A resolution (S. Res. 197) designating May 6, 1998, as "National Eating Disorders Awareness Day" to heighten awareness and stress prevention of eating disorders.

The Senate proceeded to the consideration of the resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 197) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 197

Whereas over 8,000,000 Americans suffer from eating disorders, including anorexia nervosa, bulimia nervosa, and compulsive eating;

Whereas 1 in 10 individuals with anorexia nervosa will die;

Whereas 1 in 4 college-age women struggle with an eating disorder;

Whereas 80 percent of young women believe they are overweight;

Whereas 52 percent of girls report dieting before the age of 13;

Whereas 30 percent of 9-year-old girls fear becoming overweight;

Whereas the incidence of anorexia nervosa and bulimia has doubled over the last decade, and anorexia nervosa and bulimia is striking younger populations;

Whereas the epidemiologic profile of individuals with eating disorders includes all racial and socio-economic backgrounds;

Whereas eating disorders cause immeasurable suffering for both victims and families of the victim;

Whereas individuals suffering from eating disorders lose the ability to function effectively, representing a great personal loss, as well as a loss to society;

Whereas the treatment of eating disorders is often extremely expensive;

Whereas there is a widespread educational deficit of information about eating disorders;

Whereas the majority of cases of eating disorders last from 1 to 15 years; and

Whereas the immense suffering surrounding eating disorders, the high cost of treatment for eating disorders, and the longevity of these illnesses make it imperative that we acknowledge the importance of education, early detection, and prevention programs: Now, therefore, be it

Resolved, That the Senate designates May 6, 1998, as "National Eating Disorders Awareness Day" to heighten awareness and stress prevention of eating disorders.

ORDERS FOR WEDNESDAY, MAY 6, 1998

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, May 6. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of H.R. 2676, the IRS reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I further ask unanimous consent that at 9:30 a.m., Senator ROTH be recognized to offer the so-called "pay for" amendment to the IRS reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. Mr. President, for the information of all Senators, tomorrow morning at 9:30 a.m., the Senate will resume consideration of H.R. 2676, the IRS reform bill. Senator ROTH will immediately be recognized to offer an amendment relating to offsets. It is hoped that the Senate will be able to make substantial progress on this legislation so that the Senate may finish this bill on Wednesday or Thursday of this week. Senators can, therefore, expect rollcall votes throughout the session on Wednesday.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator AKAKA and my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHEECH AND CHONG DRUG POLICY

Mr. GRASSLEY. Mr. President, I spent much of the recent recess talking to constituents in my state about drug problems. It is clear to me after a field hearing, numerous town meetings, and many conversations that the public is deeply concerned about the drug issue. This impression is confirmed by recent pools. Again and again, the public have indicated an abiding concern about the presence of drugs in our society. Parents, community leaders, and young people have repeatedly indicated that the availability and use of illegal drugs is among the most important issues affecting them. They expect the government to help them in fighting back. They expect our policies and programs to support community efforts to keep drugs off the streets, out of our schools, and away from our kids. But what do they find?

I am sorry to say that the Clinton Administration is simply not making a convincing case that it is serious about the war on drugs. If I had doubts about this before, events of the last several days have removed them. I learned during recess that the Administration was planning to endorse needle exchange programs. I found it hard to believe that this could be true, but I learned otherwise. Indeed, on 20 April, Donna Shalala, the HHS Secretary, issued a statement saying that needle exchange programs were a good thing. That they stopped the spread of AIDS and did not encourage drug use. She encouraged communities to embark on programs giving needles to drug addicts. She did not go so far as to say that the Administration would back up this determination with federal dollars—a small blessing. But she has now put the authority of the Administration behind this idea. Exactly what is this idea? It is startling simple: The Administration has announced that it will now facilitate and promote others to facilitate making drug paraphernalia available to drug addicts in our communities.

It will now use the voice of the Federal Government to facilitate drug use. What next, handing out the drugs themselves to addicts?

This is voodoo science backing up Cheech and Chong drug policy. It is making the federal government a Head Shop.

How does the Administration justify such a decision? It hides its move behind junk science. Secretary Shalala's argument is "The science made me do it." At best, this is a half-truth. While there is science, of a sort, that claims that needle exchange programs work, there is no consensus science that establishes this as remotely the case. Still, we are being asked to endorse this vast experiment on the public based on a trust-me argument. This is not acceptable. It is irresponsible and risky.

In order to understand what is at issue here, let me start at the beginning. One of the most effective delivery systems for illegal drugs is intravenous injection using needles. This is one of the most common methods for taking heroin and it also can be used in taking cocaine and methamphetamine. The addict uses injection because it means getting high quicker. The whole purpose of using needles is to facilitate drug use. Major addiction, which is risky business all by itself, also often leads to other, destructive behaviors. One of these is sharing the needles used for injection.

Basically, what this means is that a number of addicts pass around or get together and share the same needle for numerous injections. In the age of AIDS, this means that if any of the sharing addicts has HIV or AIDS, anyone who shares the needle is at great risk of infection. Now, addicts already know this. It is not a secret. There are also quick and easy ways to disinfect these needles. Addicts know these too. They are not secrets here either.

Despite this, addicts often don't bother with these easy steps. They don't bother even though they can do them with commonly available disinfectants in the comfort of their own preferred environment for injecting. Addicts are not the most rational of people when it comes to life decisions. Their lives are built around and based upon risky behavior. Our decisions on policy, however, should not be so cavalier.

Now we come to the logic of needle exchange. The argument is, that a significant, or overwhelming proportion of HIV-positive cases are the result of using infected needles shared among addicts. Arriving at this conclusion, the next step in the logic is that stopping the use of infected needles will stop the spread of HIV and AIDS. Having reached this point, the next step is to argue that we must, therefore, keep addicts from sharing dirty needles. And now, in this breathless chain of argument, we arrive at this conclusion: To ensure that drug-using addicts only use safe needles, we, that is the government using public money or some similar deep-pocket institution, must hand out clean needles to addicts on demand.

This is what the Secretary of Health and Human Services has now endorsed. But there is more to this story.

Let us start again at the beginning. Drug addicts, particularly heroin users, depend upon syringes as the best vehicle for administering their drug of choice. This means that, for addicts, needles are essential drug paraphernalia. Just like crack pipes or other devices used to administer the drug, needles are part of the necessary equipment.

During our last drug epidemic, one of the things that we learned we needed to do was to close the many "Head Shops" that specialized in selling drug equipment. We realized that pushing drug paraphernalia, making the equipment for drug use readily available, fostered drug use. It encouraged a climate of use. It was an indirect way for advertising drug use. Most states passed laws to prohibit the sale of drug paraphernalia.

Many States included needles as part of this. Doing so was one of the things that helped us stop the drug epidemic. It helped us establish with kids that consistent no-use message that is essential if we are to keep drugs off our streets and out of our schools. Now, enter needle exchange.

The Congress and most of the public have long opposed needle exchange. This is not because anybody wants to promote the spread of AIDS. Let's get that canard out of the way right up front. The concern is for whether or not handing out drug paraphernalia promotes drug use. Our past experience says yes, so it is a reasonable assumption that doing so in the present will cause a similar problem. Hence the opposition in many quarters to handing out needles. Thus, also part two of Secretary Shalala's announcement: Her claim that not only do needle exchanges stop AIDS, handing out needles will not, in her view, encourage drug use. Really?

Just how do we know this? Just how do we know that handing out needles will also stop AIDS? The short answer is, we do not know any such thing.

The response from HHS, from an anonymous source I might add, and from AIDS activists is that the science tells us so. As proof they quote in the HHS press release from Dr. Harold Varmus, Director of the National Institutes of Health, to the effect that needle exchanges can help. Well, so can chicken soup, but this is not the issue and is not what the law calls for.

Being concerned about issues of public policy and public health, the Congress has been concerned not to be stampeded into irresponsible policies.

In this light, it included specific guidance in law on using public money or government support for needle exchange. The intent was fairly clear: No money, no support. Full stop. It did provide for an exception if the science conclusively showed that needle exchange programs stopped AIDS and did not encourage use. That is a fairly high standard. And it should be. Otherwise, what we are doing is experimenting on the public, betting on a hope that things will turn out right. This may be a good strategy at the race track or at the roulette table, but it has no place in major policy.

Yet, this casino mentality is what the Secretary of HHS has now proclaimed. And she is gambling with the public health. Secretary Shalala has announced that, "a meticulous scientific review has now proven that needle exchange programs can reduce the transmission of HIV * * * without losing ground in the battle against illegal drugs."

In doing this, the chief health official of the country has endorsed a policy that is reckless and irresponsible. And she has done so on claims about scientific support for her position that is, at best, inconclusive. At the worst, science contradicts her arguments flatly. In either case, this is poor ground upon which to base such a significant change in public policy.

As Dr. James Curtis notes in an oped piece in the New York Times of 23 April, the idea of handing out needles to stop AIDS is "simplistic nonsense that stands common sense on its head." Dr. Curtis, a professor of psychiatry at Colombia University and the director of psychiatry at Harlem Hospital, goes further. "For the past 10 years," he writes, "as a black psychiatrist specializing in addiction, I have warned about the dangers of needle-exchange policies, which hurt not only individual addicts but also poor and minority communities."

The lack or contradictory nature of the science referred to by Secretary Shalala is also laid bare by Dr. David Murray of the Statistical Assessment Service. In an oped in the Wall Street Journal of 22 April, he notes just how thin the science is and yet how activists try to skip over this fact.

Even the drug czar opposed this decision. Thus, there is not even consensus within the administration on this policy. The reason for this lack of agreement is based on the fact that the science is not there to support the position. And the law is clear. It does not say the science must show that such programs "might reduce", or "can reduce". What it says is the science must show that they in fact do reduce AIDS and do not increase the chances for promoting illegal drug use. Even Secretary Shalala's press release hedges this with a "can reduce" comment.

The only bright spot in the Secretary's announcement, and that light is a pretty dim bulb, is that no federal money will be used to support this policy. But this is a dodge. Even the advocates for exchange programs recognize it as such. This statement puts the authority of the administration behind this program. It does so on the thinnest of evidence.

In my view, this decision is outrageous. I call upon Mr. Clinton to retract it. Whatever the outcome, it is clear that this administration simply doesn't get it when it comes to drug policy.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii, Mr. AKAKA, is recognized.

IRS REFORM

Mr. AKAKA. Mr. President, I am pleased that the Senate is finally taking action to restructure the IRS. As my colleagues know, the IRS supports operations of the Federal Government by collecting approximately $1.5 trillion in taxes each year. With roughly 102,000 employees and a budget of $7.8 billion, the IRS has a wide variety of programs designed to help taxpayers understand and meet their Federal tax obligations.

Given the highly publicized criticism of the agency, let me begin by making a few comments relating to staff of the IRS. I am confident that the majority of the staff at the IRS, whose job it is to enforce federal tax laws, are diligent and competent in their responsibilities. Yet, we need to ensure that this professional staff lives up to a strict code of conduct, especially the supervisors and the regional directors. We must demand that taxpayer complaints about unfair treatment are promptly heard and that abusive IRS employees are dealt with appropriately.

No one disagrees that serious reform is needed at the IRS. We in Congress also need to recognize that the complexity of the tax code and the constant changes by Congress add to the taxpayer burden and compound the difficulty of administering the laws we enact.

The Senate Finance Committee hearings last week again highlighted serious allegations of abuse by the agency. I was pleased that IRS Commissioner Charles Rossotti raised an important issue that deserves Congressional attention—that of tax evasion. Commissioner Rossotti disclosed that the tax gap, or the amount that taxpayers owe to the Federal Government but fail to pay, is $195 billion annually. Previous estimates indicated that the figure was between $70 billion to $140 billion. I agree with many of my colleagues that we must work together to conduct a review of "willful non-compliance." We also need to maintain public confidence in the ability of the IRS to fight tax evasion. This is one example among a host of serious issues that should be a part of IRS reform.

I am presently working with members of the Finance Committee to address an issue which involved IRS noncompliance with provisions of the Internal Revenue Code.

Late last year, I was contacted by an IRS compliance officer who described his efforts to ensure proper enforcement by the IRS of the Foreign Investors Real Property Tax Act. After being assigned in 1990 to a special IRS project involving tax compliance of non-resident aliens, the compliance officer identified an internal IRS recordkeeping problem at the Philadelphia center, which hinders IRS collection and enforcement efforts. The compliance officer tried to resolve the matter using the processes available to him in the IRS, but was unsuccessful. This particular problem stems from the absence of an independent process for redress or complaint at the IRS. This recordkeeping failure prevents proper tax assessment and collection, and has resulted in a significant revenue loss. If these facts are correct, and the revenue loss is so great, then personnel actions should be considered for those who are responsible.

I raise this issue to illustrate the point that we need greater oversight of the agency. As we work to improve service and responsiveness to taxpayers, we must also strive for an IRS that more effectively administers the tax laws.

Mr. President, again, I am pleased that the Senate is moving forward on this critical issue. We must find a way to achieve an effective enforcement agency while ensuring that IRS powers are used responsibly. I believe that the legislation we are considering will move us in this direction.

The bill incorporates many of the recommendations of the National Commission on Restructuring the Internal Revenue Service and is designed to enhance taxpayer rights and make the IRS more customer-friendly. I look forward to the debate in the coming days.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:17 p.m. adjourned until Wednesday, May 6, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 5, 1998:

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

NORMAN Y. MINETA, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY FOR A TERM OF SIX YEARS. (NEW POSITION)

DEPARTMENT OF DEFENSE

HANS MARK, OF TEXAS, TO BE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING, VICE ANITA K. JONES, RESIGNED.

DEPARTMENT OF TRANSPORTATION

CLYDE J. HART, JR., OF NEW JERSEY, TO BE ADMINISTRATOR OF THE MARITIME ADMINISTRATION, VICE ALBERT J. HERBERGER, RESIGNED.

HOUSE OF REPRESENTATIVES—*Tuesday, May 5, 1998*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mrs. EMERSON).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 5, 1998.

I hereby designate the Honorable JO ANN EMERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to 5 minutes.

The Chair recognizes the gentleman from Kansas (Mr. SNOWBARGER) for 5 minutes.

CAMPAIGN FINANCE REFORM

Mr. SNOWBARGER. Madam Speaker, during the last year, many Members of Congress, independent organizations, and other political groups have been in touch with Congress to urge immediate action on reform of our Nation's campaign finance system. Because the Nation's attention has been piqued by ambitious claims that we are going to clean up politics, we face the very real danger of passing a bill, calling it reform, and, as a result, destroying any remaining credibility enjoyed by the Congress of the United States.

During the upcoming debate on campaign finance reform, we will undoubtedly see a great number of different competing plans for reform. Many will be dramatic changes, and some will be modest in scope. If this fair and open debate is to mean anything, we should at least agree on a set of principles with which to judge the various entries.

To my colleagues listening back in their offices, if your plan is to sit on the sidelines during the debate and try to judge this combination dance contest and beauty pageant, I would like to offer you a kind of score card for this event.

Madam Speaker, remember the dance contest and beauty pageants have standards that aid the judges in determining what an ideal candidate should look like. These principles should provide an excellent guide for scoring in the various proposals. The three cardinal principles that should be our guide are transparency, real accountability, and trusting the American people.

First is transparency. Any real reform should make our campaign system easier to understand for the average person. It is hard for voters to know what is going on, to get outraged, or to judge our conduct if we are always playing hide the ball.

Consider the recent Washington Post story about the Democratic National Committee's swapping hard dollars for soft money with their State affiliates. It is difficult for average citizens to be involved in the critique of that system if stunts like this are permitted.

Secondly, we should punish the offenders. The citizens are tired of all this talk about reform. They tar all of us with the same broad brush of accusations, and we need to get serious about granting enforcement authority to the FEC, Federal Election Commission, and the Justice Department.

If all we do is add five more new rules to the 10 that are already not enforced, what have we gained? We will only have succeeded in proving what the public already suspects; namely, that we were never really serious about reform.

The only way for Congress to earn back the trust and the respect of the people is to impose real punishment for breaking the rules.

Lastly, Madam Speaker, we should trust the good judgment of the American people. If we have learned nothing else about political reform since the first go-around in 1974, it is that we should not make Federal bureaucrats the sole watchdog of our electoral system.

Our axiom should be absolutely open campaigns. New technology allows immediate disclosure. So why set arbitrary limits on donations? The public, if informed in a timely manner, will hold elected officials accountable.

The present limits force candidates to spend all their time chasing dollars and far less time serving constituents. We should trust the people. The electorate may decide that $1 from tobacco companies and the Ku Klux Klan is unacceptable, while, at the same time, judging $50,000 from the candidate's parents is perfectly appropriate.

Madam Speaker, I have never taken money from tobacco companies and never would, but my constituents may not believe that because our system hides the donations in this maze of regulations. Why should we continue to tell the people what to do when we so often get it wrong.

It is for this reason I have introduced H.R. 3315, the Fair Elections and Political Accountability Act of 1998. This bill would honor all of the above principles and make progress towards restoring the confidence of the American people.

I will not claim that my bill is the perfect answer to everyone's gripe about our political system. Many of you will find things about it that you do not like. However, this bill represents a comprehensive and meaningful change away from the arcane and mystifying system that we have today. It holds politicians accountable, it eliminates soft money, and it empowers all American voters with the knowledge to discern for themselves who Members of Congress actually represent.

I am confident that the American people will reward candidates that play by the rules. If they do not play by the rules, Madam Speaker, my bill does what no one else has proposed, it sends the crooked politicians to jail.

TRIBUTE TO MICHAEL COLLINS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Michigan (Mr. BONIOR) is recognized during morning hour debates for 5 minutes.

Mr. BONIOR. Madam Speaker, I would like to take this opportunity today to honor a truly wonderful person with whom I was proud to join in a number of important battles, Mike Collins. Michael Collins died in February at the age of 55.

He was the General Secretary-Treasurer of the Pipefitters Union, and he was, indeed, a fighter for working men and women. He fought so strongly because he believed that the labor movement was the most effective way to help working families earn a better life.

At the 35th UA General Convention, Mike reflected on his first elected position in much the same way many of us

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

in Congress have done. Let me quote from his remarks. He said, "My anxiety level was so high, my hands were shaking, and my heart was pounding. I was only 31 years old then, and I was awed by the thought that I had been elected to lead the fine men and women of my local union, and I prayed to God that I would be up to the task."

"The people wanted to know what kind of man they had elected, whether I would have the right stuff or whether I would fumble the ball. I learned a very important lesson that night. I learned that the hard job is not just getting elected, it is what comes later, when the tough decisions have to be made and the inevitable disappointments have to be endured."

It is this sense of dedication and determination and humility that made Mike so special. He never lost his perspective of the broader goals, to help working men and women have a decent quality of life.

Over the next 25 years that followed Mike's first election, not only did he not fumble, he picked up the ball, and he seemingly never stopped running.

After leading Local 5 for a number of years, he was appointed by the international to serve as Legislative Director in the legislative department. That is when I first met him.

We fought many a battle together in these Halls, in this building, and across the streets in the offices where we worked, battles for a decent wage for people, battles for decent health care, battles to make sure that people had pensions, that those pensions were not taken from them, battles for worker safety.

It was not that long ago, Mike remembered this well, that we lost 35,000 people a year to industrial accidents in this country, 35,000 a year; 500,000 maimed. He cared deeply about workers and about their safety and their families.

He eventually rose to the rank of General Secretary-Treasurer where his leadership positioned the UA to continue to grow in the next century.

Mike's public life was devoted to the labor movement, yet the same characteristics that made him successful, his leadership, his loyalty, his moral strength, and his force of character made him truly special to his family and friends.

His twin brother Terry paid Mike the ultimate testimonial at his funeral service when he stated, and I quote, "Kathleen, Brian, Mickey, Kevin, Maggie, and Karen, my heart aches. Kathleen, you were the center point of support on which Mike's life turned. As I mourn him, I celebrate the 34 years of his marriage. He truly had a special partner. He loved you dearly.

"To his children, I'm not sure what to say because I cannot think of anything you do not already know. He was a giant of a man whose imprint has been passed and will be passed on for generations to come. You, along with your mom, were his most precious treasures."

I certainly do not think it could have been said better. I know that Mike cared deeply about his family and his faith, and he had true passion for helping people. He fought many battles. We fought many battles together.

I was honored and proud to join such a tireless fighter who never gave up. Yet, Mike was one of those rare individuals who could fight with dogged tenacity while still being able to laugh and smile, and laugh at himself and not take himself too seriously.

He was such a pleasure to have on your team. He could always make you feel good just by being around him. He truly enjoyed life. Those of us who shared his friendship and his ideals will truly miss him.

To his family, many of whom are here with us today, thank you for all the support you gave Mike throughout the years. Few had his resolve and strength to fight for the working men and women of this country and with the tenacity that Mike Collins brought to that task.

Those who knew him know that his strength came from his family, and for that, we all owe a great deal of thanks to each and every one of you.

So, Mike, if you are listening up there, and I am sure you are, rest assured that you have many loyal fans and people who love you and who will continue to do the good work that you performed in this body and throughout the Halls of this Congress. Your values are the values that we will continue to sustain and maintain and fight for as long as we are in public service. To your family, we wish you all the best. You gave us a real champion in Mike Collins.

YEAR 2000 CENSUS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. MILLER) is recognized during morning hour debates for 5 minutes.

Mr. MILLER of Florida. Madam Speaker, this afternoon, the Subcommittee on the Census of the Committee on Government Reform and Oversight will be meeting for the second time and addressing the issue of a potential failed census in year 2000.

Many people believe that the census in the year 2000 is moving towards failure. This comes from reports from the General Accounting Office, who has said actually in every report, including the most recent one in March, that the risk of a failure has increased.

The Inspector General has talked about the potential of a failed census. This is because this Clinton administration has proposed the largest statistical experiment in history to take place in year 2000.

This is a very dangerous situation, because the census, which is required by our Constitution and by law to be done every 10 years, is the basis, is fundamental to our democratic process of elected government here in the United States.

All Members of Congress, most elected officials in America are elected based upon census information. If we have a census that the people do not trust, we are threatening the entire elective process in America.

So it is absolutely essential that we save the census, that we have a successful census, that we have the most accurate census possible. That is what we need to strive for and work together, Democrats and Republicans.

The hearing today will be focused on what happened in 1990 so we can learn from the experience of 1990 and not repeat the mistakes, but also do what needs to be done to improve the census. There were some problems in the 1990 census. But in 1990, we counted 98.4 percent of the American people; 98.4 percent of the people were counted. That was not a bad census actually. That is a pretty good census, the second most accurate census in history, and some people think it was the most accurate census in history. So it was successful in counting 98.4 percent of the people.

But the way the census took place in 1990 was, after you did the full census, the full enumeration, and counted that 98.4 percent, then a sample was conducted of about 150,000 households. The thought was let us take that sample and adjust the full enumeration.

What happened in 1990 was the failure was on the sample. Sampling was the failure in 1990. That is the concern that we have today because now the Clinton administration only wants to rely on sampling. It was a failure in 1990, and they are going to totally rely on it in year 2000.

What happened in 1990 when they used sampling, Secretary Mosbacher had the choice of, at that time, whether to use sampling and adjust the census. What the recommendation of the Census Bureau was back in 1981 was to adjust the census, take away a congressional seat from Wisconsin, take away a congressional seat from Pennsylvania, give them away based on adjustment, based on statistics.

I mean, how do you explain that to the States that they are saying we counted these people, but the statisticians in Washington think they are not right. Thank goodness Secretary Mosbacher rejected that recommendation, because we found out in 1992 there was a major computer glitch. It was a computer error, and it would have been done by error and by mistake.

What would people in Wisconsin and Pennsylvania say knowing they would have lost a congressional seat because of mistakes by the Census Bureau? So sampling was a failure because what they did with the sampling is they delete people from the census.

There are census tracts and areas all over the country where the Census Bureau would come in because of the computer analysis and said, on average, we do not think all those people are there, so we are going to delete people, not because they double-counted, not because of mistakes, just because of averages and statistics, and we could allow that.

Another thing we found out in analyzing the 1990 census, and the Census Bureau says this, that the numbers are not accurate below 100,000. So the accuracy becomes less accurate when we get to districts of under 100,000.

□ 1245

When we work with the census, we deal with census tracks and census blocks, and those are the building stones, the cornerstones to building a Congressional District, a State Senate district, a State House district, a county commission district, a city council. And the accuracy is less by adjustment than having the full enumeration. So the Census Bureau admits that that is a problem. And now the Clinton administration wants to rely on this potentially inaccurate information.

In fact, the Census Bureau, when they reviewed the 1990 census, decided not to adjust even for the intercentennial census, which is when they adjust between 1990 and 2000, because it was not accurate enough to use, and they did not even use that 150,000 use of sampling.

So what does the Clinton administration propose in the year 2000? They have proposed first, instead of using a full enumeration and counting everybody like they did in 1990, they say oh, no, we are only going to count 90 percent of the people; ninety percent of the people in 60,000 separate samples, because there will be one for each census track.

So we start off without the full data, and then they will do a sample of 750,000 households, five times larger than they used in the sampling experiment back in 1990. But they will do it in half the time, with a less experienced work force.

So they are going to sample five times as many people in half the time, with a less experienced work force, and use that to adjust the sample today data they started with at 90 percent.

So we are moving towards a very complex system that will lead to failure, and it threatens our entire Democratic elections process in this country.

PUERTO RICO IS FISCALLY CONSERVATIVE

The SPEAKER pro tempore (Mrs. EMERSON). Under the Speaker's announced policy of January 21, 1997, the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ) is recognized during morning hour debates for 5 minutes.

Mr. ROMERO-BARCELÓ. Madam Speaker, when the United States was founded, many States severed the previously existing relationship between property ownership and voting rights by granting universal sufferage to white men. Since then, of course, the right to vote has become truly universal, extended to all men and women without regard to race, ethnic origin, or economic considerations.

The point I wish to make today, however, is that early on in the Nation's history, it was established that the right to vote, that is, the right to participate in this democracy, exists independent of an individual's economic well-being. Unfortunately, it is a concept that the opponents of self-determination for the 3,800,000 American citizens in Puerto Rico just do not seem to get. They would deny the U.S. citizens in Puerto Rico the opportunity to vote on status just because they allege that poverty on the island would affect the Nation's pocketbook.

Opponents of Puerto Rican self-determination incorrectly state that a vote for self-determination is a vote for Puerto Rican statehood. And contrary to reality, they also allege the Island's poor will cost the U.S. Treasury many millions of dollars more a year if Puerto Rico becomes a State. Quite the contrary is true.

Puerto Rico is now a welfare Commonwealth. We receive Federal grants but do not pay Federal income taxes. If Puerto Rico were a State today, our tax contribution to the U.S. Treasury would net a positive cash flow of $1.5 billion over and above the additional Federal expenditures in grants and direct payments, which Puerto Rico would receive as a State in addition to what it is now receiving.

In their rush to paint the worst case scenario, opponents of Puerto Rican self-determination overlook the stable investment environment which statehood would bring about, overlook the growth potential of Puerto Rico's many assets and the fiscally conservative underpinnings of the Puerto Rican economy.

It is a fact that the present territorial relationship between Puerto Rico and the rest of the Nation has its economic downside. Tax credit to U.S. corporations designed to stimulate economic development on the Island have actually drained the territory of investment capital. A study by Hex, Incorporated, an international economic policy and development consulting firm based in Cambridge, Massachusetts, reveals that despite an investment of $12.3 billion in Puerto Rico between 1981 and 1994, the Island suffered a net loss of $2.2 billion in investment capital. The repatriation of profits by the U.S. companies which benefit from tax credits accounts for the most of the loss.

Alexander Odishelidze, president of Employee Benefits Associates, Incorporated, which is a consulting firm, is correct when he says, "You cannot build a solid economy when the capital created by the productivity of the workers is shipped out as soon as it is created." Statehood would confer the sense of stability that encourages economic investment. Hex, Inc. projects that statehood would accelerate fiscal and economic growth in Puerto Rico by an annual 2.2 to 3.5 percent.

Chilean economist Fernando Lefort, in a working paper for the International Tax Program at Harvard Law School, calculated if Puerto Rico had become a State in 1955, the average Puerto Rican would have been earning $6,000 a year more by 1994.

The fact is that Puerto Rico has the assets for growth. It boasts a manufacturing base which employs 15.6 percent of the Island's work force; highly educated skilled workers, many of whom are bilingual and experienced users of high-tech equipment in the pharmaceutical, plastics and electronics industry, as well as the scenic beauty and historic landmarks that so much appeal to tourists.

What is more, the value-added per dollar of production wages paid in Puerto Rico is double the national average. These assets alone led one analyst interviewed by the Wall Street Journal to conclude that as a State, Puerto Rico's underlying growth potential would be the strongest in the country, the Nevada of 10 years from now.

In addition, Puerto Rico practices sound fiscal policy. Since adoption of its Constitution in 1952, Puerto Rico has required the government to approve the balanced budget annually. Four years ago tax reform provided $400 million in tax relief to Island residents while generating a government surplus. Puerto Rico has also initiated a privatization strategy, which is expected to save the government $1 billion over a period of 10 years.

It is grossly unjust and undemocratic to bind the people of Puerto Rico to a colonial economy and then deny them the right to self-determination, giving as a reason the fact that the Island territory has not thrived fiscally as well as the equal partners, the 50 States. Let us not revive the practice of democracy for the rich and by the rich, but rather let us extend the right of self-determination to the American citizens of Puerto Rico, no matter the size of their bank accounts.

We discarded the poll tax as unfair and undemocratic. It should not be revived to deprive 4 million U.S. citizens of the right to self-determination.

THE WEED AND SEED PROGRAM WORKS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Madam Speaker, Members often take to the floor to talk about our government, how it is working or not working. In fact, I have done that myself occasionally.

Today, my colleagues, I will talk about a government program that does work. My colleagues will hear about how a little funding in the hands of a caring and committed group of individuals can make a huge difference in the lives of hundreds of young people. I want to share with my colleagues today a story about the Weed and Seed Program that has helped transform the Howard Middle School in my hometown of Ocala, Florida.

In 1993, I contacted the Attorney General, Janet Reno, in support of bringing the Weed and Seed Program to Florida. Since then, communities near and about my district, including Gainesville, Jacksonville, and Ocala have received funding through this program.

The Weed and Seed Program coordinates the use of law enforcement and criminal prosecution to weed out criminal offenders in the targeted neighborhoods and "seeds" the community with housing employment and various social programs. I have long supported the goals of the Weed and Seed Program because, Madam Speaker, it is community based and not an entangling government bureaucracy.

The Howard Middle School in my home town of Ocala, Florida, has nurtured this seed into a wonderful product. The school has developed creative after-school activities that keep the students positively engaged. This is important because, as we all know, Madam Speaker, nearly 5 million school-aged children spend time without adult supervision during a typical week. Research indicates that during these unsupervised hours, children are more likely to engage in at-risk behavior, such as crime and drug use. In fact, the FBI reports that most juvenile crime takes place between the hours of 3 p.m. and 8 p.m.

Unfortunately, 70 percent of all public schools do not offer after-school programs. Howard Middle School is one of the valuable exceptions. Last week I visited this school to witness firsthand the community services it has developed. I was greeted by the principal, Scott Hackmyer; Joan Spainhower, public relations officer; Dan Greer, safe and drug free school specialist; and Ms. Myers, the comprehensive health coordinator.

I was escorted to a small conference room where the principal gave an overview of the program. During this briefing a student, Sharika Palmer, an 8th grader in the Hair and Nails Program, instructed me on how a manicure program is implemented. Miss Sharon Samuels is one of the teacher assistants hired using Weed and Seed money, and she created the Hair and Nails Program. Coach Ron Nealis is another caring individual who was hired using these funds.

The principal has staffed the school with dedicated individuals who give unselfishly with their time and talents, including Barbara Flemming, who coaches "The Steppers," dancers; and Ms. Weaver and Ms. Faso, who coach the cheerleaders. Together they have created an after-school support group, rich with instruction in many studies and activities, and providing supervision during those critical hours when most parents are at work.

There are sports, cheerleading, dancing groups, chess clubs, and the Hair and Nail group. Unique to this program is a "neighborhood mentor," a program designed solely for those children who ride the bus to school and, consequently, must leave school at the normal time. Instead of depriving them of these special programs, arrangements were made with two neighborhood churches to allow a teacher to accompany these children and use the building for these programs. The principal has received a commitment from six churches to participate next year, meaning that after-school mentoring will reach into virtually every student's neighborhood.

The coach told us an example of a young person, a young man, who was getting D's and F's in school until he got into the coach's fitness and basketball program. Now, I am happy to say this student is an honor roll student. This last semester there are 436 students on the honor roll, and that is nearly double the numbers before this after-school program was instituted.

Not only have the students become better students, but vandalism and police calls in the area have greatly diminished. The principal is to be commended and his caring faculty and staff have indeed put the Weed and Seed money to exceptional use. I congratulate him, the staff, the faculty, and, most importantly, the students of Howard Middle School in Ocala, Florida for a job well done. Keep up the outstanding work.

LEADERSHIP OF USPS FUMBLING ONE OPPORTUNITY AFTER ANOTHER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Madam Speaker, I came to Congress as somebody predisposed to support our Postal Service. I believe we have some of the finest men and women in the world delivering the mail, playing an important part in communities in many small and important ways. But the leadership and management of the Postal Service is fumbling one opportunity after another.

One example is their years of insensitivity to relocation issues. Because of the tremendous concern expressed by people in communities across the country, I have introduced legislation to prevent the Postal Service managers from unilaterally abandoning historical buildings and moving to strip malls at the edge of town; that they must obey local land use planning and building codes and give local citizens as much say in how the post office relates to their community as which Elvis stamp we are going to have.

If I ever needed additional evidence that the management of the Postal Service is out of touch with America, the evidence was delivered to my office last week. The Postal Service notified me that it is going to get tough with the Portland Marathon, the largest volunteer marathon in America, which raised over $600,000 last year to benefit the special Olympics, schools, service groups, the Leukemia Society, and many other charities.

By letter, the Postal Service said that it has decided, despite a perfect record on the part of the Portland Marathon, no prior violations or complaints, despite an illegal search of the Marathon files by its postal inspectors; despite the preapproval of all the Marathon's mailings by representatives of the Postal Service, that the Portland Marathon, this group of dedicated volunteers, must pay a $5,000 fine or face Federal trial.

What terrible scheme inspired the Postal Service to clamp down on the Marathon? What scheme so horrible that the Postal Service will pursue a case while paying many times the cost it will ever recover from the Marathon if it wins? What terrible scheme requires the Postal Service to bring down its full force on this dedicated volunteer organization without so much as a warning, with no exceptions or adjustments?

The Portland Marathon offered T-shirts and other memorabilia to some runners without indicating an identification statement in some of its mailings.

□ 1300

Somehow the U.S. Postal Service seems to have adopted the attitude that in its new status as a quasipublic agency, it is free to be dumb, rigid, and engage in behavior which wastes the resources of a dedicated group of volunteers.

In the words of the fabled gentleman from Ohio (Mr. TRAFICANT), "Beam me up, Madam Speaker."

GUAM'S ACTIVITIES COMMEMORATING 100 YEARS UNDER AMERICAN RULE

The SPEAKER pro tempore (Mrs. EMERSON). Under the Speaker's announced policy of January 21, 1997, the gentleman from Guam (Mr. UNDERWOOD) is recognized during morning hour debates for 5 minutes.

Mr. UNDERWOOD. Madam Speaker, this week May 1 commemorates the strike of Admiral Dewey in the harbor of the Philippines in connection with the Spanish-American War.

One of the great misunderstood events of American history has been the Spanish-American War, in which most people assumed that most of the activity occurred in the Caribbean, when in fact immediately after the declaration of war, the first strike took place in the Philippines; and the repercussions of the Spanish-American War were actually felt more in the Pacific part of the world than in the Caribbean.

In commemoration of the 1898 Spanish-American War and Guam's role in that, I would like to inform my colleagues about the various activities my office will be hosting in conjunction with various organizations on Guam and in the continental United States. From exhibits to conferences to commemoration ceremonies, the centennial anniversary of the Spanish-American War promises to be an exciting and educational year not only for Guam, Puerto Rico, and the Philippines, but also for those who wish to learn about America's political, economic, and social campaigns in the Caribbean and Pacific areas at the turn of the century and their repercussions today.

I would like to invite my colleagues to view our upcoming exhibit at the Cannon Rotunda commencing May 18 and ending May 30. In conjunction with the Guam Museum, the Nieves Flores Public Library, the Guam Council on the Arts and Humanities, the Government of Guam, the University of Guam and dedicated individuals, my office will sponsor this event for the main purpose of educating congressional members and staff, as well as Capitol Hill visitors, on the importance of Guam's struggle, which continues today, to attain full membership into the American family.

Each of the 8 panels will illustrate the courageous story of the Chamorros, the indigenous people of Guam, from Guam's pre-European contact days to Spanish rule to the historical and strategic role Guam plays today in the United States and the Asian theatre.

On Guam, from June 18 to 20, my office and the University of Guam will be cosponsoring an academic conference tracing Guam's journey from Spanish to American governance. Participants from the United States, Guam, and Spain will present papers analyzing elements of the Spanish-American War and the eventual colonial steps taken by the United States to acquire its first possessions in the Pacific. This discussion promises to increase our awareness of just how important the Asian-Pacific region played then and, of course, its vital role today in international relations.

I am also involved in helping plan Guam's commemorative activities with the Smithsonian Institution later on this year.

I would also like to highlight Arizona State University's December conference entitled "1848/1898 at 1998: Transhistoric Thresholds." This weeklong conference will involve academic presentations, film viewings, and forums designed to elicit debate and discussion about the effects of the Spanish-American War not only on Guam, Puerto Rico, Cuba and the Philippines, but on the overall American political agenda today.

I emphasize to my colleagues the valuable insight into Asian-Pacific-American affairs which can be obtained from the various events which I have outlined. Whether through print or visual mediums, these activities contain vital information which address issues currently being discussed in Congress today.

For example, the Guam Centennial Cannon Rotunda exhibit in May and the Guam conference in June will not only clarify the Spanish legacy and the American role in Guam today, they will also assist us in understanding Guam's political struggle for self-determination.

The centennial commemorations in 1998, whether they be sponsored by my office or other organizations, certainly deserve a great deal of attention from us. The American family in the Pacific reduced geographically in recent years. However, we must keep in mind that the American role in the Asian-Pacific region has not diminished. And Guam today place a very vital strategic role in the area, an important attribute not overlooked by American leaders at the turn of the century when they chose to acquire Guam.

Again, I invite my colleagues to take advantage of this historic year and participate in the various centennial events with me. Increasing our awareness of the Spanish-American War legacy will only improve our understanding of political, economic, and cultural relations today in the Pacific.

SAFE AND DRUG-FREE SCHOOL INITIATIVE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Texas (Mr. LAMPSON) is recognized during morning hour debates for 3 minutes.

Mr. LAMPSON. Madam Speaker, nothing is more heartbreaking than when a young person turns to drugs. Although the use of drugs by American youth began to level off in 1997, drug-use rates are almost twice as high as they were in 1992.

Research indicates that young people who avoid illegal drugs, alcohol, and tobacco before the age of 18 are likely to avoid chemical dependency problems during the remainder of their lives. This is why it is so important that we all pull together to discourage the distribution, sale, and use of illegal drugs by our Nation's youth.

The real desire is to stop juvenile drug use before it starts by teaching children about the dangers of drugs and demonstrating strong values and giving them opportunities. That is why I am such a strong believer and supporter in the Department of Education's safe and drug-free school initiative.

Through this program, funds are made available to individual school districts to meet their special needs in educating and protecting their students. These funds can pay for additional school security personnel and equipment or increased antidrug education. These funds can also be used to provide supervised after-school activities. The need for these programs is highlighted by the fact that half of all youth crimes are committed during the unsupervised hours between school and dinner time.

Positive parental involvement reduces the likelihood of drug use among children. Parents make the biggest difference in children's attitudes and values—bigger than schools, bigger than community groups, bigger than the government.

As we all know, most families need two incomes in today's economy. There is no substitute for a strong, involved family in a life of a child. But we can all work together to fill the gap for our working families as we work to protect our children from the dangers of illicit drugs. Our future depends on it.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 7 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. NETHERCUTT) at 2 o'clock p.m.

PRAYER

Reverend Richard Lothian III, Community Baptist Church of Somerset,

Somerset, New Jersey, offered the following prayer:

Let us pray. Heavenly Father, known by many names, we thank You for this day and for the lives that You have placed in our care. We come before You with full hearts, mindful that we carry the hope and trust of a Nation. We rejoice in the blessings of mind and spirit which You have freely given us. We understand that these gifts were given for a purpose, that we might know and do Your will on earth through love and service.

As we face the tasks before us, help us to feel Your presence in even the smallest of things, Your voice in every voice, Your hand in every act, Your love in every kindness.

Dear God, we ask that You will be with us in our deliberations and decisions this day. Help us to lead without manipulation, to listen without defensiveness, to challenge without anger, and to change without fear.

And may we serve with wisdom and strength those who trust and rest in our care, even as we trust and rest in Yours.

In Jesus name I pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina (Mr. BALLENGER) come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REVEREND TERRY LOTHIAN III

(Mr. PAPPAS asked and was given permission to address the House for 1 minute.)

Mr. PAPPAS. Mr. Speaker, I am very privileged today in introducing Reverend Terry Lothian who offered the opening prayer of the House this afternoon. He is a graduate of the Eastern Baptist College and Eastern Baptist Theological Seminary, was the chaplain at the Somerset County Jail for many years, and for more than 12 years has been Pastor of the Community Baptist Church of Somerset.

Many times here in Washington I welcomed constituent groups, from school groups to families to senior citizens, and am very happy to be able to welcome Reverend Lothian and his wife Carolyn and others from Community Baptist Church here in Washington, D.C. He has played such a key role in so many peoples' lives, and I am very happy that he was able to be a part of the proceedings of our House this afternoon and certainly wish him well.

CHECK THIS OUT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, foreign aid for Russia, billions for Japan and Germany, missiles for China, citizenship for illegal immigrants, free condoms for school kids, free needles for drug addicts. Now if that is not enough to roast the pork barrel, check this out:

Uncle Sam is now paying the taxes of foreign citizens who work for the International Monetary Fund. Let me say it again. Uncle Sam, with our tax dollars, is paying the taxes for foreign workers. To boot, to make it worse, the White House wants another $18 billion for this slush fund of international welfare, and the experts agree.

Beam me up, my colleagues. I suggest that Congress hire a crew of proctologists to go in and counsel these so-called experts.

I yield back what intelligent life there is left in D.C.

THE BLOATED FEDERAL BUREAUCRACY IS ALIVE AND WELL UNDER THE CLINTON ADMINISTRATION

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, it was just 2 short years ago that the Clinton administration proclaimed that the era of big government was over. My, oh my, how quickly things have changed, Mr. Speaker.

Now judging from his most recent budget proposal, the era of abusive bloated Federal bureaucracy is alive and well under the Clinton administration. What other possible explanation could there be for $128 billion in new taxes in his 1999 budget proposal?

In all fairness to the President, however, he has the right, as he has in the past, to propose all of the tax increases that he desires. Certainly it is his prerogative as the top elected official of this country.

However, Mr. Speaker, I think most people will see through this big government, big tax increase proposal for exactly what it is: a thinly disguised effort by the administration to once again stick its greedy hands into the pockets of every working man and woman in America.

Mr. Speaker, I yield back the balance of any money we all may have left.

THE CONTINUING CAMPAIGN TO DESTROY JUDGE KENNETH STARR

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, a White House official was quoted in the New York Times last month referring to our continuing campaign to destroy Ken Starr.

Now let us do it again. "Our continuing campaign to destroy Ken Starr."

I sincerely appreciate my fair-minded friends on the other side of the aisle if they would defend the White House, which openly acknowledges their strategy to destroy Judge Starr, the special counsel named by a 3-judge panel and the Attorney General to investigate allegations of serious wrongdoing by the President.

Am I to conclude that the Democrat party thinks it is okay to smear the independent counsel? Am I to conclude that the Democrat party does not care that the White House was in possession of 900 FBI files of Republicans, in gross violation of the law and the civil rights of American citizens? Am I to conclude that the Democrat party does not care if the integrity of our judicial system is violated and that obstruction of justice and lying under oath is okay if it is done by a Democrat? Am I to conclude that the President is in fact above the law because the Dow Jones is doing great?

LEWIS AND CLARK INTERPRETIVE CENTER HAS OPENED ITS DOORS IN GREAT FALLS, MONTANA

(Mr. HILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILL. Mr. Speaker, today is the day that dreams of hundreds of Montanans has come true. With their hard work and determination, the Lewis and Clark Interpretive Center in Great Falls has opened its doors to the public. It has taken more than a dozen years, but the work of dedicated community volunteers has paid off.

Mr. Speaker, these Montanans had a vision. They envisioned a place where all Americans could come to learn more about the heroic journey of Lewis and Clark. The reality today is 5,500 square feet of exhibits which tell the story of an exciting adventure from 1804 to 1806 of the journey which opened up the American West.

I want to extend my personal congratulations to the community of Great Falls and a special salute to the 125 volunteers who have signed up to help with the day-to-day work of greeting tourists and providing interpretive talks to visitors, and I want to invite everyone in the Chamber and all those looking in across the Nation to come to Montana and visit us this summer.

It is a place where dreams still can come true.

THE MARRIAGE TAX PENALTY MAKES NO SENSE

(Mr. BRADY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADY. Mr. Speaker, a lot of Americans look at our government and conclude that many of the things it does simply make no sense. The marriage tax penalty certainly falls into that category.

The Federal Government has actually set up the system that taxes people more to marry than for couples who live together.

When people shake their heads about the latest crazy scheme to come out of Washington, this is exactly the kind of thing they have in mind. There is no telling what social engineers were thinking when they created this marriage tax, but Americans with common sense think it is time to change, it is time to get rid of the idea of taxing people more to marry than those who live together.

Mr. Speaker, it is time to support H.R. 3734, the Weller-McIntosh bill to eliminate the marriage tax penalty, because it just makes sense.

SUPPORT H.R. 3734 AND ELIMINATE THE MARRIAGE TAX PENALTY

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, the Republican Party, I think, has shown that they stand for tax relief and tax cuts. We stand for across-the-board tax relief for middle-class Americans. We would like to see the capital gains tax eliminated completely. We would like to see the IRA accounts expanded. We stand for eliminating estate taxes. We want a fair tax system that allows us to fund government at a reasonable level and yet allow Americans to keep more of what they earn.

Now we cannot do all of that at once, but what we can do right now is eliminate the marriage tax penalty from the Tax Code. H.R. 3734 will eliminate the marriage tax penalty and would be an excellent first step in achieving our goals.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE

The SPEAKER pro tempore laid before the House the following resignation as a Member of the Committee on Science:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 30, 1998.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, The U.S. Capitol, Washington, DC.

DEAR MR. SPEAKER: After much thought and consideration, I am tendering my resignation from the Science Committee on which it has been a privilege to serve. As I complete my duties this year, I am necessarily turning my attention to numerous projects that must be completed before the end of my term.

Sincerely,

PAUL MCHALE,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

SALUTING THE DISTINGUISHED CAREER OF BOB LENT OF THE UNITED AUTO WORKERS

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, I rise today to honor Bob Lent of the United Auto Workers, who is retiring after a long and distinguished career serving his country, his union, and his community. I mention these together because they cannot be separated. Bob's personal investment in time and his sweat and loyalty and pride to build a stronger union, to build a stronger community, to build a stronger Nation, reflects the democratic values that I think we all share.

Many people know Bob as the president of UAW Region 1, which includes about 100,000 working men and women in southeastern Michigan and Ontario, but that is only the latest form of his service. As a young man he served as an army paratrooper; later, while working full time, raising a family, and doing union work, Bob volunteered on local political campaigns. He joined the NAACP and became a board member for area charities. His generosity and leadership have made a big difference in our community.

Underlying all of these commitments was Bob's belief in his capacity to contribute to the greater good. It is no understatement to say that for almost half a century Bob has helped to put the small "d" into American democracy.

So, Mr. Speaker, today I salute Bob and thank his wife, Earline, for years of friendship, leadership and community service. Congratulations, Bob.

ELIMINATE THE MARRIAGE PENALTY IN OUR TAX CODE

(Mr. McINTOSH asked and was given permission to address the House for 1 minute.)

Mr. McINTOSH. Mr. Speaker, I rise in support of the marriage penalty elimination bill, H.R. 3734, the Weller-McIntosh bill that will eliminate the marriage penalty in our Tax Code. There are so many reasons why we should eliminate this unfair and immoral tax provision. But I wanted to share with my colleagues an e-mail that I received the other day from a young man who said: Before we set a wedding date, I calculated the tax implications. Since we each earn in the low $30,000, the Federal marriage penalty was over $3,000. What a wonderful wedding gift from the IRS.

Or another e-mail from Wayne in Dayton, Ohio, who says that penalizing for marriage flies in the face of common sense. It is a classic example of government policy not supporting that which it wishes to promote.

These e-mails have been coming by the thousands into our office, and I ask any of those out there who are watching to communicate with me their family situation about the problems with this marriage penalty tax. We are making great progress in Washington, but we need support from the American people to eliminate this tax in our budget in the House, and next fall in our tax bill. It will save Americans $1,400 on their tax bill per family.

☐ 1415

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NETHERCUTT). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

MADRID PROTOCOL IMPLEMENTATION ACT

Mr. COBLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 567) to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes.

The Clerk read as follows:

H.R. 567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Madrid Protocol Implementation Act".

SEC. 2. PROVISIONS TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS.

The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946, as amended (15 U.S.C. 1051 and following) (commonly referred to as the "Trademark Act of 1946") is amended by adding after section 51 the following new title:

"TITLE XII—THE MADRID PROTOCOL

"SEC. 60. DEFINITIONS.

"For purposes of this title:

"(1) MADRID PROTOCOL.—The term 'Madrid Protocol' means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid, Spain, on June 27, 1989.

"(2) BASIC APPLICATION.—The term 'basic application' means the application for the registration of a mark that has been filed with an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(3) BASIC REGISTRATION.—The term 'basic registration' means the registration of a mark that has been granted by an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(4) CONTRACTING PARTY.—The term 'Contracting Party' means any country or inter-governmental organization that is a party to the Madrid Protocol.

"(5) DATE OF RECORDAL.—The term 'date of recordal' means the date on which a request for extension of protection that is filed after an international registration is granted is recorded on the International Register.

"(6) DECLARATION OF BONA FIDE INTENTION TO USE THE MARK IN COMMERCE.—The term 'declaration of bona fide intention to use the mark in commerce' means a declaration that is signed by the applicant for, or holder of, an international registration who is seeking extension of protection of a mark to the United States and that contains a statement that—

"(A) the applicant or holder has a bona fide intention to use the mark in commerce,

"(B) the person making the declaration believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the declaration, to be entitled to use the mark in commerce, and

"(C) no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, firm, corporation, or association, to cause confusion, or to cause mistake, or to deceive.

"(7) EXTENSION OF PROTECTION.—The term 'extension of protection' means the protection resulting from an international registration that extends to a Contracting Party at the request of the holder of the international registration, in accordance with the Madrid Protocol.

"(8) HOLDER OF AN INTERNATIONAL REGISTRATION.—A 'holder' of an international registration is the natural or juristic person in whose name the international registration is recorded on the International Register.

"(9) INTERNATIONAL APPLICATION.—The term 'international application' means an application for international registration that is filed under the Madrid Protocol.

"(10) INTERNATIONAL BUREAU.—The term 'International Bureau' means the International Bureau of the World Intellectual Property Organization.

"(11) INTERNATIONAL REGISTER.—The term 'International Register' means the official collection of such data concerning international registrations maintained by the International Bureau that the Madrid Protocol or its implementing regulations require or permit to be recorded, regardless of the medium which contains such data.

"(12) INTERNATIONAL REGISTRATION.—The term 'international registration' means the registration of a mark granted under the Madrid Protocol.

"(13) INTERNATIONAL REGISTRATION DATE.—The term 'international registration date' means the date assigned to the international registration by the International Bureau.

"(14) NOTIFICATION OF REFUSAL.—The term 'notification of refusal' means the notice sent by an Office of a Contracting Party to the International Bureau declaring that an extension of protection cannot be granted.

"(15) OFFICE OF A CONTRACTING PARTY.—The term 'Office of a Contracting Party' means—

"(A) the office, or governmental entity, of a Contracting Party that is responsible for the registration of marks, or

"(B) the common office, or governmental entity, of more than 1 Contracting Party that is responsible for the registration of marks and is so recognized by the International Bureau.

"(16) OFFICE OF ORIGIN.—The term 'office of origin' means the Office of a Contracting Party with which a basic application was filed or by which a basic registration was granted.

"(17) OPPOSITION PERIOD.—The term 'opposition period' means the time allowed for filing an opposition in the Patent and Trademark Office, including any extension of time granted under section 13.

"SEC. 61. INTERNATIONAL APPLICATIONS BASED ON UNITED STATES APPLICATIONS OR REGISTRATIONS.

"The owner of a basic application pending before the Patent and Trademark Office, or the owner of a basic registration granted by the Patent and Trademark Office, who—

"(1) is a national of the United States,

"(2) is domiciled in the United States, or

"(3) has a real and effective industrial or commercial establishment in the United States,

may file an international application by submitting to the Patent and Trademark Office a written application in such form, together with such fees, as may be prescribed by the Commissioner.

"SEC. 62. CERTIFICATION OF THE INTERNATIONAL APPLICATION.

"Upon the filing of an application for international registration and payment of the prescribed fees, the Commissioner shall examine the international application for the purpose of certifying that the information contained in the international application corresponds to the information contained in the basic application or basic registration at the time of the certification. Upon examination and certification of the international application, the Commissioner shall transmit the international application to the International Bureau.

"SEC. 63. RESTRICTION, ABANDONMENT, CANCELLATION, OR EXPIRATION OF A BASIC APPLICATION OR BASIC REGISTRATION.

"With respect to an international application transmitted to the International Bureau under section 62, the Commissioner shall notify the International Bureau whenever the basic application or basic registration which is the basis for the international application has been restricted, abandoned, or canceled, or has expired, with respect to some or all of the goods and services listed in the international registration—

"(1) within 5 years after the international registration date; or

"(2) more than 5 years after the international registration date if the restriction, abandonment, or cancellation of the basic application or basic registration resulted from an action that began before the end of that 5-year period.

"SEC. 64. REQUEST FOR EXTENSION OF PROTECTION SUBSEQUENT TO INTERNATIONAL REGISTRATION.

"The holder of an international registration that is based upon a basic application filed with the Patent and Trademark Office or a basic registration granted by the Patent and Trademark Office may request an extension of protection of its international registration by filing such a request—

"(1) directly with the International Bureau, or

"(2) with the Patent and Trademark Office for transmittal to the International Bureau, if the request is in such form, and contains such transmittal fee, as may be prescribed by the Commissioner.

"SEC. 65. EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES UNDER THE MADRID PROTOCOL.

"(a) IN GENERAL.—Subject to the provisions of section 68, the holder of an international registration shall be entitled to the benefits of extension of protection of that international registration to the United States to the extent necessary to give effect to any provision of the Madrid Protocol.

"(b) IF UNITED STATES IS OFFICE OF ORIGIN.—An extension of protection resulting from an international registration of a mark shall not apply to the United States if the Patent and Trademark Office is the office of origin with respect to that mark.

"SEC. 66. EFFECT OF FILING A REQUEST FOR EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES.

"(a) REQUIREMENT FOR REQUEST FOR EXTENSION OF PROTECTION.—A request for extension of protection of an international registration to the United States that the International Bureau transmits to the Patent and Trademark Office shall be deemed to be properly filed in the United States if such request, when received by the International Bureau, has attached to it a declaration of bona fide intention to use the mark in commerce that is verified by the applicant for, or holder of, the international registration.

"(b) EFFECT OF PROPER FILING.—Unless extension of protection is refused under section 68, the proper filing of the request for extension of protection under subsection (a) shall constitute constructive use of the mark, conferring the same rights as those specified in section 7(c), as of the earliest of the following:

"(1) The international registration date, if the request for extension of protection was filed in the international application.

"(2) The date of recordal of the request for extension of protection, if the request for extension of protection was made after the international registration date.

"(3) The date of priority claimed pursuant to section 67.

"SEC. 67. RIGHT OF PRIORITY FOR REQUEST FOR EXTENSION OF PROTECTION TO THE UNITED STATES.

"The holder of an international registration with an extension of protection to the United States shall be entitled to claim a date of priority based on the right of priority within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property if—

"(1) the international registration contained a claim of such priority; and

"(2)(A) the international application contained a request for extension of protection to the United States, or

"(B) the date of recordal of the request for extension of protection to the United States is not later than 6 months after the date of the first regular national filing (within the meaning of Article 4(A)(3) of the Paris Convention for the Protection of Industrial Property) or a subsequent application (within the meaning of Article 4(C)(4) of the Paris Convention).

"SEC. 68. EXAMINATION OF AND OPPOSITION TO REQUEST FOR EXTENSION OF PROTECTION; NOTIFICATION OF REFUSAL.

"(a) Examination and Opposition.—(1) A request for extension of protection described in section 66(a) shall be examined as an application for registration on the Principal Register under this Act, and if on such examination it appears that the applicant is entitled to extension of protection under this title, the Commissioner shall cause the mark to be published in the Official Gazette of the Patent and Trademark Office.

"(2) Subject to the provisions of subsection (c), a request for extension of protection under this title shall be subject to opposition under section 13. Unless successfully opposed, the request for extension of protection shall not be refused.

"(3) Extension of protection shall not be refused under this section on the ground that the mark has not been used in commerce.

"(4) Extension of protection shall be refused under this section to any mark not registrable on the Principal Register.

"(b) Notification of Refusal.—If, a request for extension of protection is refused under subsection (a), the Commissioner shall declare in a notification of refusal (as provided in subsection (c)) that the extension of protection cannot be granted, together with a statement of all grounds on which the refusal was based.

"(c) Notice to International Bureau.—(1) Within 18 months after the date on which the International Bureau transmits to the Patent and Trademark Office a notification of a request for extension of protection, the Commissioner shall transmit to the International Bureau any of the following that applies to such request:

"(A) A notification of refusal based on an examination of the request for extension of protection.

"(B) A notification of refusal based on the filing of an opposition to the request.

"(C) A notification of the possibility that an opposition to the request may be filed after the end of that 18-month period.

"(2) If the Commissioner has sent a notification of the possibility of opposition under paragraph (1)(C), the Commissioner shall, if applicable, transmit to the International Bureau a notification of refusal on the basis of the opposition, together with a statement of all the grounds for the opposition, within 7 months after the beginning of the opposition period or within 1 month after the end of the opposition period, whichever is earlier.

"(3) If a notification of refusal of a request for extension of protection is transmitted under paragraph (1) or (2), no grounds for refusal of such request other than those set forth in such notification may be transmitted to the International Bureau by the Commissioner after the expiration of the time periods set forth in paragraph (1) or (2), as the case may be.

"(4) If a notification specified in paragraph (1) or (2) is not sent to the International Bureau within the time period set forth in such paragraph, with respect to a request for extension of protection, the request for extension of protection shall not be refused and the Commissioner shall issue a certificate of extension of protection pursuant to the request.

"(d) Designation of Agent for Service of Process.—In responding to a notification of refusal with respect to a mark, the holder of the international registration of the mark shall designate, by a written document filed in the Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.

"SEC. 69. EFFECT OF EXTENSION OF PROTECTION.

"(a) Issuance of Extension of Protection.—Unless a request for extension of protection is refused under section 68, the Commissioner shall issue a certificate of extension of protection pursuant to the request and shall cause notice of such certificate of extension of protection to be published in the Official Gazette of the Patent and Trademark Office.

"(b) Effect of Extension of Protection.—From the date on which a certificate of extension of protection is issued under subsection (a)—

"(1) such extension of protection shall have the same effect and validity as a registration on the Principal Register, and

"(2) the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.

"SEC. 70. DEPENDENCE OF EXTENSION OF PROTECTION TO THE UNITED STATES ON THE UNDERLYING INTERNATIONAL REGISTRATION.

"(a) Effect of Cancellation of International Registration.—If the International Bureau notifies the Patent and Trademark Office of the cancellation of an international registration with respect to some or all of the goods and services listed in the international registration, the Commissioner shall cancel any extension of protection to the United States with respect to such goods and services as of the date on which the international registration was canceled.

"(b) Effect of Failure To Renew International Registration.—If the International Bureau does not renew an international registration, the corresponding extension of protection to the United States shall cease to be valid as of the date of the expiration of the international registration.

"(c) Transformation of an Extension of Protection Into a United States Application.—The holder of an international registration canceled in whole or in part by the International Bureau at the request of the office of origin, under Article 6(4) of the Madrid Protocol, may file an application, under section 1 or 44 of this Act, for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration. Such an application shall be treated as if it had been filed on the international registration date or the date of recordal of the request for extension of protection with the International Bureau, whichever date applies, and, if the extension of protection enjoyed priority under section 67 of this title, shall enjoy the same priority. Such an application shall be entitled to the benefits conferred by this subsection only if the application is filed not later than 3 months after the date on which the international registration was canceled, in whole or in part, and only if the application complies with all the requirements of this Act which apply to any application filed pursuant to section 1 or 44.

"SEC. 71. AFFIDAVITS AND FEES.

"(a) Required Affidavits and Fees.—An extension of protection for which a certificate of extension of protection has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Commissioner—

"(1) at the end of the 6-year period beginning on the date on which the certificate of extension of protection was issued by the Commissioner, unless within the 1-year period preceding the expiration of that 6-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Commissioner; and

"(2) at the end of the 10-year period beginning on the date on which the certificate of extension of protection was issued by the Commissioner, and at the end of each 10-year period thereafter, unless—

"(A) within the 6-month period preceding the expiration of such 10-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Commissioner; or

"(B) within 3 months after the expiration of such 10-year period, the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with the fee described in subparagraph (A) and an additional fee prescribed by the Commissioner.

"(b) Contents of Affidavit.—The affidavit referred to in subsection (a) shall set forth those goods or services recited in the extension of protection on or in connection with which the mark is in use in commerce and the holder of the international registration shall attach to the affidavit a specimen or facsimile showing the current use of the mark in commerce, or shall set forth that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

"SEC. 72. ASSIGNMENT OF AN EXTENSION OF PROTECTION.

"An extension of protection may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

"SEC. 73. INCONTESTABILITY.

"The period of continuous use prescribed under section 15 for a mark covered by an extension of protection issued under this title may begin no earlier than the date on which the Commissioner issues the certificate of the extension of protection under section 69, except as provided in section 74.

"SEC. 74. RIGHTS OF EXTENSION OF PROTECTION.

"An extension of protection shall convey the same rights as an existing registration for the same mark, if—

"(1) the extension of protection and the existing registration are owned by the same person;

"(2) the goods and services listed in the existing registration are also listed in the extension of protection; and

"(3) the certificate of extension of protection is issued after the date of the existing registration.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date on which the Madrid Protocol (as defined in section 60(1) of the Trademark Act of 1946) enters into force with respect to the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 567, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 567, the Madrid Protocol Implementation Act, and urge the House to adopt the measure.

House Resolution 567 is the implementing legislation for the protocol related to the Madrid Agreement of the Registration of Marks, commonly known as the "Madrid Protocol." The bill is identical to legislation introduced in the preceding two Congresses and will send a signal to the international business community, United States businesses, and trademark owners that the 105th Congress is determined to help our Nation, and particularly our small businesses, become part of an inexpensive, efficient system that allows the international registration of marks.

As a practical matter, Mr. Speaker, ratification of the protocol and enactment of H.R. 567 will enable the American trademark owners to pay a nominal fee to the United States Patent and Trademark Office, which will then register the marks in the individual countries that comprise the European Union, or EU. Currently, American trademark owners must hire attorneys or agents in each individual country to acquire protection. This process, as my colleagues can conclude, is both laborious and expensive and discourages small businesses in particular and individuals from registering their marks in Europe.

The Madrid Protocol took effect in April of 1996 and currently binds 16 countries to its terms, but not the United States. Our participation in the protocol is critical not just for the world community, but for those American individuals and small businesses who otherwise lack the resources to acquire worldwide, country-by-country protection for their trademarks.

Mr. Speaker, opposition to the protocol and the substantive provisions of H.R. 567 is nonexistent, as best I can determine. However, a sticking point to ratification does exist. The State Department has been trying for some time to reconcile differences between the administration and the EU regarding the voting rights of the "intergovernmental" members of the protocol in the assembly established by the agreement. Under the protocol, the EU receives a separate vote in addition to the votes of its member States. The Secretary of State has been working tirelessly to reconcile differences with the EU regarding the voting rights issue and the result has been positive.

Mr. Speaker, I remain confident that the problem will be resolved in the not-too-distant future. Passage of this legislation is intended to encourage a positive outcome in the negotiations.

Mr. Speaker, H.R. 567 is an important and noncontroversial bill that will greatly benefit those American businesses and other individuals who need to register their trademarks overseas in a quick and cost-effective manner. I implore my colleagues to pass the bill today.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I believe that my colleague has explained this matter very adequately, and I urge Members to vote for it.

Mr. Speaker, I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Massachusetts. In closing let me say this, and I am sure the gentleman from Massachusetts will agree with me: I want to reiterate the fact that the Secretary of State and Under Secretary Stu Eizenstat have done yeoman's work in trying to get this difference of opinion resolved, and I feel fairly good about its coming to fruition before too long.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I agree that Mr. Eizenstat has done yeoman's work and that the Secretary of State has done whatever the semantic equivalent of yeoman's work is.

Mr. COBLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 567.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REGARDING AMERICAN VICTIMS OF TERRORISM

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 220) regarding American victims of terrorism, as amended.

The Clerk read as follows:

H. CON. RES. 220

Whereas the traditional policy of the United States, reiterated by this Administration, has been to vigorously pursue and apprehend terrorists who have killed American citizens in other countries;

Whereas numerous American citizens have been killed by Palestinian terrorists, most of them in Israel or the Israeli administered territories, including 9 since the signing of the Oslo Accords in 1993, namely Nachshon Wachsman (New York), Alisa Flatow (New Jersey), Sara Duker (New Jersey), Matthew Eisenfeld (Connecticut), Joan Davenny (Connecticut), David Boim (New York), Yaron Ungar (New York), Leah Stern (New Jersey), and Yael Botwin (California);

Whereas at least 20 of the terrorists suspected in the killings of American citizens in Israel or the Israeli administered territories during 1993–1997 have been identified by Israel as Mohammed Dief, Nabil Sharihi, Nafez Sabih, Imjad Hinawi, Abd al-Majid Dudin, Adel Awadallah, Ibrahim Ghneimat, and Mahmoud Abu Hanudeh, Abd al-Rahman Ghanelmat, Jamal al-Hur, Raid Abu Hamadayah, Mohammad Abu Wardah, Hassan Salamah, Abd Rabu Shaykh 'Id, Hamdallah Tzramah, Abd Al-Nasser Atallah Issa, Hataham Ibrahim Ismail, Jihad Mahammad Shaker Yamur, and Mohammad Abbasm;

Whereas, according to the Israeli Government, 10 of those 20 terrorist suspects are currently believed to be free men;

Whereas the Anti-Terrorism Act of 1987 permits the prosecution, in the United States, of individuals who murder American citizens abroad; and

Whereas the United States has previously acted to bring to justice those responsible for the deaths of American citizens and has established a precedence of United States intervention by demanding that Libyan leader Moammar Qadaffi transfer to the United States the Libyan terrorists suspected of bombing Pan Am flight 103: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States should demand the prosecution of all suspected perpetrators of these attacks against United States citizens;

(2) the United States should seek the cooperation of the Palestinian Authority and

all other appropriate authorities in the prosecution of these cases; and

(3) the suspects should be tried in the United States unless it is determined that such action is contrary to effective prosecution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend our colleague, the gentleman from Pennsylvania (Mr. FOX), for sponsoring H. Con. Res. 220, which expresses the sense of the Congress regarding the murder of U.S. citizens by Palestinian terrorists.

As Secretary of State Albright meets with Israeli Prime Minister Benjamin Netanyahu and PLO Chairman Yassir Arafat, it is critical that security concerns be the basis for any movement in the negotiations. In that vein, H. Con. Res. 220 recognizes that the traditional policy of our Nation is to vigorously pursue and apprehend any terrorists who have killed American citizens in other countries.

Regrettably, even as more Israelis have been killed since the beginning of the Oslo process than at any other time during the Intifada, at least nine American citizens have been killed by Palestinian terrorists since the handshake on the White House lawn in September 1993. They are: Nachshon Wachsman, David Boim, and Yaron Ungar of New York; Alisa Flatow, Sara Duker and Leah Stern of New Jersey; Matthew Eisenfeld and Joan Davenny of Connecticut, and Yael Botwin of California.

At least 20 of the terrorists suspected in these killings have been identified by the Government of Israel, although at least 10 are believed to be free, despite repeated Israeli transfer requests to the Palestinian Authority.

Mr. Speaker, this clearly undermines the process envisaged by the Oslo Accords. Because these families deserve justice, and since the Antiterrorism Act permits the prosecution in our Nation of individuals who murder American citizens abroad, this resolution expresses the sense of Congress that our Nation should demand the prosecution of all suspected perpetrators of these attacks; that we should seek the cooperation of the Palestinian Authority, and all other appropriate authorities in the prosecution of these cases; and unless effective prosecution elsewhere expresses the sense of Congress, that the suspects should be tried in the United States.

Recently, a task force comprised of individuals from the Justice Department and the FBI were in Israel in the Palestinian areas to investigate the death of these American citizens. Cooperation from the Palestinian Authority is critical as investigative authorities attempt to discover and develop evidence for prosecution.

I therefore want to commend the gentleman from Pennsylvania (Mr. FOX), for his leadership on this issue and for his persistence in seeking justice for these American families. I urge my colleagues to support this measure unanimously.

Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from Pennsylvania (Mr. FOX), the original sponsor of this measure, and that he may control the time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of the resolution. I would be glad to have the gentleman from Pennsylvania speak first, if he would like to do so.

Mr. FOX of Pennsylvania. Mr. Speaker, if the gentleman will yield, we would be glad to hear from the ranking member of the committee whose support we accept and for whom our admiration is endless.

Mr. HAMILTON. Mr. Speaker, I support H. Con. Res. 220 and I commend the gentleman from Pennsylvania (Mr. FOX) for introducing it and working very hard to get it approved.

I also appreciate the gentleman from Pennsylvania and the gentleman from New York (Mr. GILMAN), the chairman of the committee, for accommodating several of our suggestions in committee, I think largely to make the resolution more accurate.

These changes included several changes recommended by the administration. They will help ensure that the resolution reflects the current set of facts as best they can be determined.

I certainly agree with the heart of this resolution: namely, that suspects in terrorist attacks against innocent civilians should be brought to justice. Where those attacks involve U.S. citizens, the United States should try to prosecute them in the United States if that serves the interests of justice.

As the headlines in the newspaper suggest almost daily, nothing is easy in the Middle East, and everything becomes very complicated. Several of the cases addressed in this resolution are complicated. The facts are murky. It is unclear in some instances which suspects are in the custody of the Palestinian Authority, which suspects are in Israeli custody, which suspects are still at large in territories controlled by the Palestinian Authority, or controlled jointly by Israel and the Palestinian Authority. It is sometimes difficult to know which suspects Israel has requested the Palestinian Authority to transfer to Israeli jurisdiction, or what Israeli prosecution plans are with regard to various cases.

The Department of State, I am told, cannot vouch for some of the specific information in the resolution. The administration may have a similar list of names to those included in the resolution, but many of these cases are still actively under investigation, and the finalist of suspects may look different. We simply do not know. At this point in time, the Department of State has not indicated that they have all of the names.

In addition, the United States may not have been given all of the evidence against the individuals listed in the resolution that the Israeli Government has or other appropriate authorities have. It is clear that the United States cannot proceed with prosecution until it has all of the relevant evidence.

Mr. Speaker, in the spirit of this resolution, let me urge parties with such evidence to cooperate fully with the United States in sharing information in order to bring the suspects to justice. The United States is currently reviewing a number of the cases mentioned in the resolution. A team from the Departments of Justice and State recently returned from a visit to Israel, and this team is now reviewing evidence in several of these cases with much of that evidence being classified.

□ 1430

The United States is and should be doing everything it appropriately can to pursue information and justice in these terrorism cases. In some cases, that may mean that it is best for Israel to try and to sentence the suspects.

For example, in one case described by the administration, over a dozen Israelis and one U.S.-Israeli dual national were victims of the attack. Clearly, Israeli authorities would be in a better position than the United States to impose the appropriately severe penalties in such a case. Our goal of swift and appropriate justice might be best served then with a prosecution in Israel.

It may not always be in the best interest of justice for the United States to insist on prosecution. I am pleased to see that the resolution makes this distinction. There is no question, though, that suspects in these terrorist incidents, as well as all other incidents leading to the loss of life, should be tried and should be sentenced if convicted.

Mr. Speaker, I commend the gentleman from Pennsylvania (Mr. FOX) and the other sponsors of the resolution for bringing it forward. I urge the adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FOX of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution has moved quickly from its inception in the Committee on International Relations to the floor today under the chairmanship of the gentleman from New York (Mr. GILMAN), our colleague and friend, a testament to the strength and determination of the American people and their representatives to right the wrongs against our countrymen and women.

Mr. Speaker, I also thank the gentleman from Indiana (Mr. HAMILTON), the ranking member, for his assistance in this regard.

H. Con. Res. 220 is a resolution that addresses some specific concerns that I and many of my colleagues have about current U.S. policy regarding terrorism involving American victims, specifically regarding American citizens who have been killed in recent months and years in terrorist attacks in Israel.

Since the beginning of the Oslo Accords in 1993, at least nine American citizens in Israel, and now I understand 11, have been killed by Palestinian terrorists. These are not random or unknown people. These people are our children and citizens.

They include Nachshon Wachsman, Alisa Flatow, Sara Duker, Matthew Eisenfeld, Joan Davenny, David Boim, Yaron Ungar, Leah Stern, and Yael Botwin. Recently, unfortunately, we have had to add two additional names to that list: Ira Weinstein and Dove Dribben.

To add insult to injury, Mr. Speaker, the United States Government in conjunction with the government of Israel knows the location of 10 of the 20 terrorists suspected in the murders of these United States citizens. The Palestinian Authority has not honored Israel's formal requests for the transfer of many of these suspects. Their lack of compliance tremendously undermines the process envisaged by the Oslo Accords. Annex 4, Article 2, paragraph 7(f)(1). The United States must now invoke the Anti-Terrorism Act of 1987, which permits the transfer of individuals accused of murdering Americans abroad.

The time has come for the United States to stand up and fight for the families of victims killed overseas. No longer can we simply assume that American citizens abroad are safe. When unfortunately they are endangered or in this case killed, this Nation must utilize its laws properly to ensure that justice is carried out.

Mr. Speaker, I thank my colleagues for their attention and look forward to their support on the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ROTHMAN. Mr. Speaker, today America has the opportunity to deliver a powerful and poignant message to terrorists: If you murder innocent Americans and tear innocent families apart, the United States of America will demand justice.

Mr. Speaker, as we debate this bill on the Floor of the U.S. House of Representatives, Israeli and PLO leaders are in Great Britain being pressured to come together for a lasting peace.

But since the PLO signed the Oslo Accords, ten Americans have been killed by Arab terrorists—one of them was a constituent of mine. Her name is Sara Duker. And the Palestinian leadership headed by Yassir Arafat has done nothing to bring her terrorist murderers to justice.

When my good friend JOHN FOX and I announced that we were going to fight for her killer's transfer to the United States, Sara's mother Arline came down to Washington to join us for the announcement. All Arline wants to see is justice. Her daughter was taken away from her. She should expect no less from us.

Since giving his word at Oslo, Yassir Arafat has made a total mockery of his written commitment to transfer to Israel for prosecution any terrorist who has killed innocent people. In fact, not one of the accused terrorists that Israeli authorities have identified and requested has been turned over to Israel for justice.

Justice cannot wait any longer. We must seek the terrorists' transfer to the United States before the trail of evidence dries up. To do any less would represent a serious failure of the United States government to safeguard the sanctity of our citizenry.

We cannot let the murder of American citizens anywhere in the world go unanswered. We must have our message heard loud and clear: Terrorists will never win.

Mr. SALMON. Mr. Speaker, this important resolution expresses the sense of the Congress that the United States should demand that Palestinian Authority (PA) Chairman Yasser Arafat transfer the United Stats for prosecution the terrorists who have murdered American citizens. The refusal by the PA to assist American in the fight against terrorism, calls into question its commitment to peace.

At least 10 U.S. citizens have been killed in Israel by Palestinian terrorists since the Oslo Accords were signed in 1993. About 20 Palestinians have been implicated in the attacks. Not a single terrorist implicated in the attacks has been transferred to Israel to stand trial as the Oslo Accords require. And in spite of sufficient evidence to do so, the U.S. Department of Justice has not indicted any of the terrorist involved in the spilling of American blood. The majority of the terrorists are believed to be living freely in territories controlled by Chairman Arafat. In a twist of irony, one terrorist, according to reports, is employed as a jailer at a Palestinian detention facility.

The Resolution continues the bi-partisan congressional effort to secure justice for the murdered Americans. I would briefly note some of the other attempts to prod the Administration to do its job and pressure Chairman Arafat to transfer the Palestinian murders.

On January 20, I drafted a letter with Representative JIM SAXTON, signed by 29 other Members of the House and four Senators, which called on Secretary of State Albright to direct U.S. efforts to obtain the transfer of those who have murdered American citizens.

The State Department's response of February 25 was woefully inadequate. The State Department responded that it would be permissible for the PA to prosecute the murderers of Americans. For the State Department to refer these cases back to the PA is a sad joke. The PA criminal justice system is a circuit of kangaroo courts. Everybody knows it's a revolving door of justice. The Secretary of State has in the past admitted as much. Representative SAXTON and I followed-up the State Department's non-response with a March 25 letter to Secretary Albright. In the letter, we demanded action, noting that: "That failure of the United States to do everything in its power to prosecute Palestinian killers of Americans puts other Americans at risk, and is contrary to longstanding U.S. policy to pursue territories most aggressively. The time has come for results." We also questioned why the U.S. continues to provide aid for the Palestinian Authority, and is not willing to impose economic sanctions against the PA, as it does in the case of Libya for its refusal to transfer the terrorists suspected of bombing Pan Am flight 103.

The State Department's letter was useful, however, in pointing out the role the U.S. Department of Justice and the FBI play in capturing terrorists. U.S. law makes it a capital offense to kill a national of the United States anywhere in the world. On April 28, Representative JIM SAXTON and I sent a letter to Attorney General Janet Reno that has been signed by a group of over 60 Members of the House, including Speaker NEWT GINGRICH (Senator ALFONSE D'AMATO also signed the letter), which states that: "The DOJ should pursue these killers of American citizens abroad with the same vigor it has pursued the murderers of Americans killed in terrorism attacks here in the U.S. Americans traveling or living abroad have often been desirable targets for terrorist attacks. If we are to deter such attacks in the future, it is essential that our law enforcement agencies pursue these cases aggressively and to the fullest extent of the law. It is our view that the DOJ must investigate, indict and prosecute these individuals without further delay."

I will conclude my remarks with an excerpt from a letter that Israeli Prime Minister Benjamin Netanyahu sent to me in February on the importance of punishing terrorists. "That murderers are allowed to go free and live without fear of prosecution in areas ruled by the Palestinian Authority is particularly worrisome. This is not just a travesty of justice but a very strong message to potential terrorists."

The blood of the victims cries from the dust for justice. Killers of Americans must be brought to justice. I commend Representative FOX for his sponsorship of the Resolution, and Chairman GILMAN's leadership in speedily bringing it to the floor.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FOX of Pennsylvania. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. NETHERCUTT). The question on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 220, as amended.

The question was taken.

Mr. FOX of Pennsylvania. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule 1, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SENSE OF THE HOUSE THAT THE UNITED STATES MUST REMAIN COMMITTED TO COMBATING ILLEGAL DRUGS

Mr. SOUDER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 267) expressing the sense of the House of Representatives that the citizens of the United States must remain committed to combat the distribution, sale, and use of illegal drugs by the Nation's youth.

The Clerk read as follows:

H. RES. 267

Whereas recently released statistics demonstrate that America is not winning the battle to keep young Americans drug-free;

Whereas the results of these studies show that 29 percent of high school students state that a student in their school died from a drug-related or an alcohol-related incident in the last year;

Whereas 76 percent of high school students and 46 percent of middle school students claim drugs are kept, used, or sold on their school grounds;

Whereas studies show that 61 percent of high school students claim they can buy drugs within 1 day and 35 percent claim they can buy drugs within 1 hour or less;

Whereas it is reported that the use of heroin is increasing and that 90 percent of new heroin users are under 26 years old;

Whereas the use of drugs at a young age dramatically increases the risk of failure to complete high school, increases the likelihood of committing crimes, and reduces future prospects in education, athletics, and careers;

Whereas it is known that safe, drug-free, and orderly classrooms are key to an effective learning environment;

Whereas parental involvement is critical to helping young Americans resist the temptations of drugs and to establishing a healthy learning environment;

Whereas violent crime rates across the United States have declined due to strong parental involvement and cooperation among local, State, and Federal law enforcement agencies;

Whereas the same unified effort and commitment are needed to fight drugs in our schools, playgrounds, and communities; and

Whereas Congress has the unique ability to provide leadership on this issue by raising awareness of the dangers of drugs in schools in every community across this great Nation: Now, therefore, be it

Resolved, That it is the sense of the Congress that—

(1) all schools should be drug-free;

(2) the distribution, sale, and use of illegal drugs in the Nation's schools is unacceptable;

(3) all Federal, State, and local drug fighting agencies should work together with schools and parents to ensure that a renewed effort is made to fight the distribution, sale, and use of illegal drugs in our schools and to America's youth;

(4) all governmental leaders, educators, and parents share a role in raising the awareness of this issue and offering constructive alternatives to illegal drug use; and

(5) Congress and the President should work to end the distribution, sale, and use of illegal drugs in the Nation's schools and, work with local communities, schools, and parents to implement meaningful policies.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. SOUDER) and the gentleman from California (Mr. MARTINEZ) each will control 20 minutes.

Mr. PAUL. Mr. Speaker, I would like to inquire, is either gentleman opposed to the legislation?

The SPEAKER pro tempore. Is the gentleman from California (Mr. MARTINEZ) opposed to the legislation?

Mr. MARTINEZ. Mr. Speaker, I am not opposed to the legislation.

Mr. PAUL. Mr. Speaker, I would like to claim the time in opposition.

The SPEAKER pro tempore. Under the rule, the gentleman from Texas (Mr. PAUL) will be recognized for 20 minutes.

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that 7 minutes of my 20 minutes be controlled by the gentleman from California (Mr. MARTINEZ).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to be involved with this very important sense of the House resolution. Although this resolution is nonbinding in nature, it is important. It sends a wakeup call to Americans.

By way of background, this resolution was introduced by the gentleman from New Jersey (Mr. PAPPAS), my friend and colleague, last fall. I commend his leadership in bringing this resolution to the floor today.

H. Res. 267 enjoys the bipartisan support of 181 cosponsors, including most of the Republican members of the Committee on Education and the Workforce, which reported out the resolution, as amended by the committee substitute, by voice vote on March 11.

Additionally, this bill has been endorsed by a variety of interest groups: The Partnership for a Drug Free America; the U.S. Chamber of Commerce; Youth to Youth; American Society of Addiction Medicine; National Council on Alcoholism and Drug Dependence; D.A.R.E. America; and the Elks Drug Awareness Program.

Mr. Speaker, this simple resolution addresses a complex problem that plagues modern America: Illicit drug usage and trade. House Resolution 267 is clear and concise. It expresses the sense of the House of Representatives that the citizens of the United States must remain committed to combat the distribution, sale and use of illegal drugs by the Nation's youth. If we fail to convey this vital message, our children's minds and bodies will continue to be poisoned by drugs.

Let me just say up front where I stand on the crisis of illicit drug use in America. I have addressed this body last week to explain my anti-drug amendment to the Higher Education bill and amendment to the underlying language offered by the gentleman from New York (Mr. SOLOMON). In doing so, I challenged Congress to get serious about the epidemic of illicit drugs in this country.

As I emphasized last week on this floor, we have a major drug crisis in this country and the question is are we serious about it or not? It is too easy for us to criticize Mexico and Colombia for their apparent endless supply of poisonous drugs to this country. We must continue to find effective and creative ways to fight the demand problem within our own borders.

House Resolution 267 is a first step in sending a clear and concise message that we are serious about this crisis.

Mr. Speaker, I would like to insert into the RECORD some details of this crisis in particular, and not go into detail at this point.

Mr. Speaker, I am pleased to be involved with this very important sense of the House resolution. Although this resolution is nonbinding in nature, it is important—it sends a wake up call to Americans.

By way of background, this resolution was introduced by my friend and colleague MIKE PAPPAS last fall. I commend his leadership in bringing this resolution to the floor today.

H. Res. 267 enjoys the bipartisan support of 181 cosponsors, including most of the Republican members of the Education and the Workforce Committee, which reported out the resolution, as amended by the Committee substitute, by voice vote on March 11th.

Additionally, this bill has been endorsed by a variety of interest groups: the Partnership for a Drug Free America, the U.S. Chamber of Commerce, Youth to Youth, American Society of Addiction Medicine, National Council on Alcoholism and Drug Dependence, D.A.R.E. America, and Elks Drug Awareness Program.

Mr. Speaker, This simple resolution addresses a complex problem that plagues modern America—illicit drug usage and trade. H. Res. 267 is clear and concise—it expresses the sense of the House of Representatives that the citizens of the United States must remain committed to combat the distribution, sale, and use of illegal drugs by the Nation's youth.

If we fail to convey this vital message, our children's minds and bodies will continue to be poisoned by drugs.

Let me just say up front where I stand on the crisis of illicit drug use in America. I addressed this body last week to explain my anti-drug amendment to the Higher Ed bill. In doing so, I challenged Congress to get serious about the epidemic of illicit drugs in this country.

As I emphasized last week on this floor, we have a major drug crisis in this country, and the question is—are we serious about it or not?

It is too easy for us to criticize Mexico and Columbia for their apparent endless supply of poisonous drugs to this country. We must continue to find creative and effective ways to combat the demand problem within our own borders. H. Res. 267 is a first step in sending a clear and concise message that we are serious about this crisis.

The evidence of the drug crisis is in, and it is quite compelling. Consider these telling statistics:

DRUG AVAILABILITY & USE IS ON THE RISE

A majority of all high school seniors would say "yes," they've used an illegal drug in their short lifetime. In 1992, 40.7% had ever used an illicit drug; by 1997, the number jumped to 54.3%. (Source: December 1997, "Monitoring the Future Study" a.k.a. the "National High School Survey," University of Michigan's Survey Research Center)

Marijuana use is up. In 1992, one-out-of-three high school seniors (32.6%) had tried the drug—a mere six years later in 1997, nearly half of all high school seniors (49.6%) had experimented with pot. (Source: same as above)

The number of 4th–6th graders (9-to-12 year olds) experimenting with marijuana increased 71% from 334,000 in 1993 to 571,000 in 1997. (Source: April 13, 1998, "Partnership Attitude Study," Partnership for a Drug-Free America)

"Children's exposure to marijuana doubled from 1993 to 1997." In 1993, 7% of kids said that they had close friends who "use marijuana sometimes" to 14% in 1997. (Source: same as above)

72% of people in the U.S. and 65% of people in Latin America favor U.S.-imposed sanctions on countries that don't do enough to combat drug production or trafficking. (Source: same as above)

34% see drug interdiction as a top priority foreign policy issue—more than illegal immigration (22%), the threat of terrorism (22%), and free trade (17%). (Source: February 26, 1998, "America Assesses Drug Policy," Family Research Council)

Mr. Speaker, that's what we're up against. As the evidence suggests, we can no longer allow the use and trade of illicit drugs to continue unchecked.

It's time we send an unequivocal message to America that the House unequivocally opposes illicit drugs. If you are a drug user or pusher—beware. We are watching and we will find innovative ways to combat what you are doing.

By the time the average teenager reaches age 18, 68% can buy marijuana within a day—nearly half within an hour. In fact, 42% find marijuana easier to buy than either beer or cigarettes. (Source: September 1997, "Back to School 1997," Center for Addiction & Substance Abuse)

By the time the average child reaches age 13, ONE-in-FOUR have attended a party in the last six months where marijuana was available. (Source: same as above)

Fewer than one-in-three teenagers under 18 say they attend a drug-free school. (Source: same as above)

A third of teenagers (33%) were offered drugs at school in 1997—a significant increase of 44% from 1993 (23%). For children 9-to-12 years old (4th–6th graders), almost three out of ten (28%) were offered drugs in 1997—a 47% increase since 1993 (19%). (Source: April 13, 1998, "Partnership Attitude Study," Partnership for a Drug-Free America)

THE UNTOLD COSTS

Drug abuse killed 14,218 Americans in 1995 at the cost of more than $67 billion. (November 10, 1997, "What America's Users Spend on Illegal Drugs: 1988–1995," Office of National Drug Control Policy)

If this casualty rate should continue, nearly 114,000 Americans—many of them our youth—will die from drug abuse and overdose on President Clinton's watch. These numbers do not take into account deaths from drug-related crime and violence, which the Drug Enforcement Agency estimates would easily top 20,000 Americans per year.

By the time a child reaches age 13, ONE-in-TEN will say they know a schoolmate who has died because of drugs or alcohol. (Source: September 1997, "Back to School 1997," Center for Addiction & Substance Abuse)

American taxpayers footed a $150 billion bill for drug-related criminal and medical costs in 1997 alone. (November 10, 1997, "What America's Users Spend on Illegal Drugs: 1988–1995," Office of National Drug Control Policy)

That's more than what we spent in 1997's federal budget for programs to fund education, transportation improvements, agriculture, energy, space, and all foreign aid combined.

Illegal drug users in the United States spent more than $57 billion on their street poisons in 1995 alone. American consumers could have more wisely used that money to purchase a four-year college education for one million kids; or 22 billion gallons of milk to feed babies; or, one year's worth of child care for 14 million children. (November 10, 1997, "What America's Users Spend on Illegal Drugs: 1988–1995," Office of National Drug Control Policy)

THE CRIMINAL ELEMENT

70% of all hard drugs and illegal narcotics found in the United States originally crossed the U.S./Mexican border. (CRS)

More than 1.5 million people were arrested from drug offenses in 1996 alone. That's more than the number of residents living in Montana and North Dakota COMBINED. (November 10, 1997, "What America's Users Spend on Illegal Drugs: 1988–1995," Office of National Drug Control Policy)

Between 70%–90% of all persons incarcerated in state prisons are there for drug offenses. (November 10, 1997, "What America's Users Spend on Illegal Drugs: 1988–1995," Office of National Drug Control Policy)

Street cops, our foot soldiers in the War on Drugs, say that reducing drug abuse would have the greatest single impact on reducing violent crime. (Source: Fall 1997, "Drug Facts for the Record," House Government Reform & Oversight Subcommittee on National Security, International Affairs & Criminal Justice briefing paper citing a 1995 study conducted by the University of Maryland)

PERCEPTIONS & REALITIES ABOUT DRUGS

Nearly 9 in 10 people (85%) believe solving our drug crisis is more urgent than less urgent. (Source: February 26, 1998, "America Assesses Drug Policy," Family Research Council)

82% oppose drug legalization. (Source: same as above)

Teenagers say drugs (35%) are their most important problem, far ahead of social pressures (19%), crime (12%), sexual issues (8%), academic pressures (8%), or family problems (3%). (Source: September 1997, "Back to School 1997," Center for Addiction & Substance Abuse)

45% of parents believe their son or daughter may have friends who smoke pot. Yet 71% of teens say they have friends who use the drug. (Source: April 13, 1998, "Partnership Attitude Study," Partnership for a Drug-Free America)

Just 21% of parents acknowledged the possibility that their teen might have tried marijuana, significantly lower than the 44% of teens who say they've done so. (Source: same as above)

Some 54% of parents say they talked with their teenagers about drugs at least four times in the last year, yet less than a quarter (24%) of those teens recalled those discussions. (Source: same as above)

Less than one-third of teens (28%) named parents as a source of drug information, while another third (31%) said that in the past year their parents had never talked to them about drugs. (Source: same as above)

A plurality of those surveyed in the U.S. (39%) say the primary objective of U.S. foreign policy toward Latin America should be to decrease drug trafficking. (Source: April 16, 1998, "A Meeting of Minds, From Peoria to Patagonia," The Wall Street Journal)

Mr. Speaker, these facts that we have been hearing about on this floor for the past week are what we are up against. As the evidence suggests, we can no longer allow the use and trade of illicit drugs to continue unchecked.

It is time we send an unequivocal message to America that the House opposes illicit drugs. Drug users and pushers, beware. We are watching and we will find innovative ways to combat what users and pushers are doing in every category of legislation that we are facing.

Mr. Speaker, this resolution is a simple, yet important first step putting the United States Congress on record.

Mr. Speaker, I reserve the balance of my time.

Mr. PAUL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this bill, not so much in any objection to what the goals are. The goals are very laudable. The first time I read this resolution, I was in agreement with everything until the very end. Then I had some disagreements with it.

I have taken this time so I would have adequate time to explain my position and why I oppose this bill. Obviously, this country is facing a serious problem with drugs. As a physician, I can attest to it. We have major problems in this country, something should be done. But I thought it was necessary to take some time to point out that what we have done for 20 to 25 years has not been all that good. And I see this resolution as an endorsement of the status quo, not an introduction of one single new idea about how to approach this problem. And it is for this reason that I have taken this time to try to get people to think about maybe an alternative some day that we might look at, because so far the spending of the money and the abuse of our civil liberties that has occurred with the war on drugs has not accomplished a whole lot.

I object strongly to the Federal approach to law enforcement. That is one of the major issues I have contention with. When we think about when we tried to make a better world in 1919, and we thought we should prohibit certain substances being used in this country, in those days we had enough respect for the Constitution that we actually believed then that we should amend the Constitution, and we did and we had an experiment and after 14 years of a failed program, we repealed that amendment on alcohol.

In 1937, it was decided that possibly we should restrict marijuana, even for medical use, and even then it was not assumed that this was a Federal prerogative. It was not banned, it was not outlawed. It was still assumed that it was the responsibility of the States to deal with problems of drugs and marijuana and law enforcement.

In 1937, and I am sure some of my conservative colleagues might be interested in this because it was the great FDR who decided to impose a great tax on marijuana, putting $100 tax on a pound of marijuana, essentially making it illegal. And even today those States who would like to legalize marijuana even for the sick and dying AIDS patients and the cancer patients are not even permitted to. It is because we have carelessly assumed that all regulation and all controls and all policing activities should be done here in Washington.

I am here just to suggest quite possibly our attack on drugs has not been correct, that we have possibly made some mistakes. Maybe we spent some money that we have not gotten our dollars' worth. Maybe we are going in the wrong direction.

It is estimated that we have spent over $200 billion in the last 25 years fighting drugs. And yet it is the same old thing again. Play on the emotions of the people, condemn drug usage, which I do. As I said as a physician, I know they are horrible. But as a politician and somebody in the legislature, we should think about the efficiency and the effectiveness of our laws.

The evidence quite frankly is not there to show that we are doing a very good job. And even though I commend the individuals who are promoting this legislation, the motivations are there, the desires are there, but I think, in my view, that it is the same old program of the Federal war on drugs that has a lot of shortcomings.

The first "whereas" of this resolution, I strongly agree with. It says, "Whereas recently revealed statistics demonstrate America is not winning the battle to keep young Americans drug-free." This is my point. This is conceded by everyone. We are not winning this fight, so why pursue the same policies over and over again, and especially since there are some shortcomings with the policy. Not only have they not been effective, there are some serious shortcomings, shortcomings on civil liberty and property rights and other things.

☐ 1445

We ought to put the war on drugs in a proper perspective. Yes, it is easy to talk about a heroin addict and a crime committed and people narrowing in on one instance, but we ought to look at this in a proper manner.

There is talk that there are 20,000 deaths with illegal drugs. But that, in the best of my estimates, includes all the violent drugs which, to me, are a consequence of the war on drugs.

I have statistics that say there is about 6,000 people who die from overdosing and taking illegal drugs. A horrible figure. It is horrible. Nobody should be using these drugs. But let us put this in a different perspective.

We lose 37,000 people on highways every year, government-managed highways. And 36,000 people die each year from guns. But we do not take the guns away from the innocent people because there are gun accidents and gun deaths. It is 36,000 in comparison to 6,000.

There is one other figure that is astounding that was in the media, recorded in the media here the last couple of days. The medical profession has a responsibility here. It is estimated that we are losing 106,000 people a year. These are reports from 1994; 106,000 a year from drug reactions, legal prescription drugs coming from doctors.

If we want to go after a problem, let us go after the highways, let us go after the guns, let us go after the drug reaction. What about alcohol? There are 200,000 deaths, approximately, from alcohol. But do we come here and propose that we go back to prohibition? No. We do not. It is a serious problem. It is really the big problem.

Cigarette killing may be up to 400,000 a year. But if we make the suggestion that we want to go after them, then we have a President that says, yes, we will go after the kids that are taking a puff on the cigarette and apply the same rules.

There are 10 million new cases of sexually transmitted diseases diagnosed each year. It is probably higher because most of those cases do not get reported. So that is a serious problem. I mean, look for serious problems.

To dwell on the drug war and casually and carelessly violate civil liberties, as we so often do, and have confiscation and seizure of property that we just blow it off because we are fighting the drug war, I think we are going in the wrong direction. We need some new ideas and new proposals on this drug war. I hope today to have time to make some of these suggestions on what we might do about the drug war.

Former HEW Secretary Joseph Califano said, not too long ago, he was comparing the drug war to the problem of alcohol, he said: The drug war is a grain of sand compared to alcohol.

If we look at the college issue, the overwhelming drug that is a problem on college campuses is alcohol. Yet, 99 percent of our concerns and our expression of horror is directed toward a narrower group of people; that is, on the illegal drugs.

Why might it be that we dwell on the illegal drugs? Alcohol of course is legal, but why would it be that maybe this Congress might not be as aggressive against the abuses of alcohol and the deaths? If we have compassion, should we show less compassion to the 200,000 people dying of alcohol deaths or the 400,000 dying from cigarette deaths? But we do.

It just happens that those who produce alcohol happen to come to Washington quite frequently. They make donations to candidates. They have a lobby. They do have a presence here in Washington. Not only those who make the alcohol, but what about the hotels or the restaurants?

I mean, if we even thought about doing anything or saying anything about alcohol, of course we would hear from the hotels and the restaurants, and maybe rightfully so, if we argue that people have a right to have a glass of wine with their dinner in their hotel or restaurant. But the point I am trying to make is that we dwell on certain things out of proportion to its danger.

Also, one reason why we might not talk about the tremendous abuse with alcohol is the fact that, quite possibly, a few Members of Congress actually participate in using such a thing. There are now probably 13 million people in this United States suffering from abuse or alcoholism, a serious, serious number.

Now, there is a lot more that has to be said, especially if we can someday open up the debate and go in a new direction, have some new ideas dealing with the drug program. But I want to pause here for a minute, and I want to emphasize just one thing; that is, that, constitutionally, it was never intended that the Federal Government fight the war on drug. And they never did until recent years. For 25 years now, we have done it. We have spent $200 billion.

It is failing, and we are not willing to stand up and say, hey, maybe we are doing something wrong. Maybe we ought to have another idea. Maybe we ought to have a new approach.

I think when we talk about not only looking at this outer perspective of other problems that we have in the country, but also the serious consequences of the drug laws which we all should be concerned about because it involves property rights and civil liberty rights, maybe we can get around to the point of saying maybe could there be a new approach.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I want to commend the other side and the gentleman from New Jersey (Mr. PAPPAS) for bringing this resolution, of which I am a cosponsor, to the floor today.

I just want to take a second today to say that all of the "whereases" deal with much of the problem that the previous speaker outlined. But in the end, the resolve is a resolve that he talks about, because Congress, in a unique way, can bring leadership and emphasis to the people in the communities to take an extra effort to combat this horrible disease that exists in our communities today: drugs.

Obviously the extent of drug distribution, sale, or use by our Nation's youth today is extremely troubling. A joint effort by Republicans, Democrats, the President, and the American people really, I believe, is needed to fight this pressing issue.

Too many of our Nation's youth have come to the perils of drugs. And I would not compare alcohol, which is a legal distribution, to drugs, as an illegal distribution, as being necessarily the same thing. They are horses of a different color.

I want to commend the other side, and Representative PAPAS, for bringing this resolution, of which I am a cosponsor, to the floor today. Obviously, the extent of drug distribution, sale, or use by our Nation's youth is extremely troubling and a joint effort by Congress, the President and the American people is needed to combat this pressing problem.

Too many of our Nation's youth succumb to the perils of drugs and this resolution sends a strong message that we must continue to commit ourselves to ending the tragedy caused by illegal drug abuse.

For those who have followed the legislative history of this resolution, you are aware that I offered an amendment during committee consideration of this measure to include language regarding the need to improve the infrastructure of school buildings and their grounds as a component of our efforts to fight drug abuse.

Anyone who has visited the schools in our Nation's worst drug plagued communities realize the impact that deteriorating buildings, lack of proper lighting and unmaintained grounds have on the likelihood of illegal drug sales and use. A well maintained, or newly constructed school is an important tool in the battles waged by local law enforcement and educators against youth drug abuse. In addition, the discussion of school infrastructure is a key component in our efforts both as a Congress, and a nation, to combat drug abuse by our Nation's youth. Unfortunately, my colleagues on the other side of the aisle did not support this amendment.

In closing, I do want to point out to all Members that this resolution is just that—a resolution. We as a Congress should be committing ourselves to providing the assistance and directive to providing the assistance and direction to solve the problems of illegal drug use. I will vote to support this resolution and I urge others to do so as well, but I would hope that this Congress, and the Republican leadership would begin to address the needs of our Nation rather than grandstanding for the purposes of election year politics. Mr. Speaker, very simply, this Congress needs to act upon solutions rather than resolutions.

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Speaker, I want to thank the gentleman from New Jersey (Mr. PAPPAS) for bringing forth this resolution. I strongly support it. It sends a clear, unambiguous message about Congress' commitment to removing drugs from our schools. Never before has this message been more urgently needed. And that includes alcohol.

I believe drugs are the single greatest threat facing our children. Drug usage with the very young is exploding. More kids are trying and using drugs than ever before, and they are starting earlier and earlier. Our schools, which used to be a safe haven, are now becoming a hostile territory because drugs are available there.

I have a granddaughter in fourth grade and granddaughter in eighth grade. It is not a matter of are they going to be exposed to drugs; it is how often and by whom. Because they are there, they have already been exposed.

Students in sixth and seventh grade are deciding to smoke pot before they drink beer. How did we get here? I believe throughout the 1990s, many leaders and role models in the position to set a good example have sent mixed signals about whether drug use is wrong.

Prominent national leaders have trivialized their own drug use as if it matters whether or not one inhales. Hollywood celebrities have glorified drugs, using them in the popular culture. And movies have been sending the wrong message to our young people. The behavior of many professional athletes has suggested that it is okay as long as they can get away with it.

This is why this resolution, and the larger Republican agenda to make America drug free, is so important. With it, we draw a line in the sand.

A couple quick statistics. The proportion of 12-year-olds who reported having a peer on hard drugs increased 12 percent just last year alone. National and State and local leaders must send a strong, clear message to our youth by an example.

Hollywood needs to divert from its glorification of drugs to be against drugs. Professional sport teams need to put a line in the sand that says we are going to make it clear that drug users are not welcome on our teams. It is time that American celebrities set the example, and that includes all leaders, local, State, and national.

Mr. PAUL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I said, in most of our history, the control of drug abuse has never been a Federal issue. This is only very recent. This does not diminish one's concern. It is respecting the Constitution. It is also emphasizing the fact that the more we have centralized our control and the more that we have tried to enforce the thing at the national level, the worse the problem has gotten.

I have many conservatives say we have an educational problem, and all they want to do is throw more money at it. I cannot see how this is different. Yes, we have a major problem. But it gets worse, and all we do is throw more money at it with exactly the same programs.

My goal today is just to suggest, just to bring it to the Congress' attention, that possibly we are not doing the right things. If we would ever come to admitting that, then maybe we will not have to suffer the abuse of how the war on drugs goes awry.

For instance, we have had this war on drugs, and there is no evidence even that we have been able to keep drugs out of our prisons. So maybe there is something we are doing wrong. Maybe we are treating a symptom rather than the cause of the problem. Maybe the cause is not legislatively correctable. That is a possibility. Obviously there is a problem there, but we need to think about it. We need to take a consideration, and not ever to write off those of us who might say we do not endorse the current approach as being one that might not be concerned about the issue.

Obviously I am concerned. I have five children, and I have 13 grandchildren. I am a physician. I have a great deal of concern. But I have also been involved and I have seen people who have suffered, and, therefore, I have probably a slightly different approach to the problem.

But I do think that we ought to look for a minute at the harm done with the war on drugs. So often there are victims from the war on drugs that go unnoticed. How often have we seen on television, how often have we read in our newspaper of a drug bust with hooded FBI agents and hooded DEA agents barging into the wrong apartment and really tearing the place up, confiscating property of people who have never committed a crime?

Why are we at the point now that we permit the war on drugs to be fought without due process of law? All they have to be is a suspect. All we have to do is have cash these days, and the government will come and take it from us. Then we have to prove our innocence. That is not the Constitution. We have gone a long way from the due process.

Our job here is to protect the civil liberties of individuals. Yes, we ought to try to influence behavior. Yes, we ought to make laws against illegal behavior; national, when necessary, but local when the Constitution dictates it. At the rate we are going, we are making very, very little progress.

I have a suspicion that there are motivations behind the invasion of privacy. Because government so often likes to know what people are doing, especially in the financial area, this has been a tremendous excuse to accuse anybody who spends anything in cash of being a drug dealer, because they want to know where the cash is. This is part of the IRS collection agency, because they are worried about collecting enough revenues.

Yet we carelessly say, well, a little violation of civil liberties is okay, because we are doing so much good for the country and we are collecting revenues for the government. But we cannot casually dismiss these important issues, especially, if anything I suggest, that this war on drugs is, or the problem of drugs in perspective is not nearly what some people claim it to be, and that many people are dying from other problems rather than these.

I would like to suggest in closing some of the things that we can consider. First, let us consider the Constitution, for instance. We have no authority to create a Federal police force. That is not in the Constitution. So we ought to consider that. It is a State problem. It is a State law enforcement problem. Most of our history, it was dealt that way.

I think education is very important; people who know what is going on. We should, if anything, be emphasizing the educational process. Possibly my medical background influences me into what I am going to say next; and that is, could we conceive of looking at some of this problem of addiction as a disease rather than a criminal act? We do this with alcohol. Maybe that would help the problem.

□ 1500

Is it conceivable that we are looking at a symptom that the drug problem, the drug craze, is a reflection of moral values in the society?

We cannot get rid of teenage illegitimacy by writing a national law against teenage pregnancy. We are not likely, we have not been able to get rid of drug usage, teenage drug usage, by writing national laws and coming down with the armed might of the Federal Government. So I do not think the current process is going to work.

Kids go on drugs because they are seeking happiness, they are alone, they are in broken families. This is a problem that will not be solved by more laws and a greater war on drugs. We have 80,000 Federal policemen now carrying drugs. Character is what is needed. Laws do not create character. This does not dismiss us from expressing concern about this problem, but let us not make the problem worse.

In 1974, Switzerland passed a law that said that the doctor could prescribe medication for addicts. I, as a physician, if an addict comes into my office and I agree to give him drugs which would support his habit, because I figure for him to go out on the street and shoot somebody for it is a little worse than me trying to talk him into a program by giving him drugs for a while, I am a criminal. I am a criminal today if I decide that somebody should use or could use marijuana if they are dying with cancer or AIDS and they are dying of malnutrition because they cannot eat. There should be a little bit of compassion in this movement.

Again, we cannot distract from the serious problem of the drug war, but I do beg and plead for my colleagues to just look at the truth. Let us read the news carefully, let us look at the Constitution, like we do when it is convenient, and let us consider another option. It cannot be any worse than what we are doing.

We have too many people on drugs, and this resolution makes my point. The war on drugs has failed. Let us do something different. Let us not pursue this any longer.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time.

There is no doubt that we should do everything we can to discourage the sale and use of drugs by our Nation's youth, but we do the youth of our Nation a disservice by suggesting that they alone are responsible for the Nation's drug problem. And we do them an even greater disservice by coming to the floor with an empty political gesture that plays to the worst stereotype of young people, while at the same time the Republican leadership of this Congress refuses to lift a finger on behalf of this Nation's youth.

Today, the Congress will make this simplistic statement about a very complex problem. It will scapegoat our Nation's young people for the problem for which, in reality, we all should be taking responsibility for. It is not a question of America's public commitment to the war against drugs, to the commitment of the parents of our young children to the war against drugs; it is the problem of a very tired, outdated and ineffective war on drugs.

Let me also point out what this resolution and this Congress will fail to do. It will fail to reward the vast majority of youth who stay out of trouble, in many cases overcoming great obstacles, such as poverty or difficult family circumstances; it will fail to promise America's youth improved conditions in their schools, conditions which adults would never tolerate in their own workplaces; it will fail to tell America's youth that we want them to share in the benefits of a boom economy and unprecedented prosperity by expanding their educational and economic opportunities; it will fail to promise them the protection of being victims of violence or abuse, either at the hands of their peers, in their own families or someone much older than themselves; it will fail to provide for after-school programs to make productive use of the time that young people have in the late afternoons.

The number one complaint among young people is there is nothing to do, and yet we see music programs, arts programs, and educational programs all scaled back. No alternatives. No alternatives to people just hanging out.

This Congress will fail to announce a commitment of stopping tobacco companies from targeting our young people by aggressively marketing their product that will ultimately kill more than every illegal drug combined. Instead, the most affluent generation of elders in this Nation's history will scold its youth and tell them they are bad and shirk its responsibility for making things better.

It is easy to bash teens. And while we should not minimize the very real problem of drug use by America's young people, let us make sure the record is straight about the entire drug problem. Teenagers account for less than 1 percent of illegal drug deaths. The adult drug death rate is nearly 10 times higher than that of adolescents.

While the use of illegal drugs by young people actually decreased between 1979 and 1994, for adults over the age of 35 it increased by 28 percent. The top three causes of death among youth are automobile accidents, homicides, and suicides. The drug that is the factor in most of those car crashes is alcohol, but it is not addressed by this resolution.

In fact, just a few short weeks ago we saw the leadership cave to the alcohol lobby. We were not allowed to have an amendment voted on by the gentlewoman from New York (Mrs. LOWEY) to toughen laws against drunk driving.

Mr. Speaker, I will vote for this measure, as I expect all Members will, because I agree with most of what it says. But the things it does not say and the things it fails to do to provide hope and opportunity for this Nation's young people say more about where we are as a Nation and falling short on our responsibilities to our Nation's youth.

Finally, I would like to say that the gentleman from Texas (Mr. PAUL) has raised a whole series of questions this Congress is afraid to debate. My colleagues should ask their constituents, the next time they are in a town hall meeting, if they believe the war on drugs is working. Tell them we have spent $200 billion.

It may be the least effective program we have on the Nation's books. There is no other market in the world where we would spend $200 billion interfering with the market and the price of drugs on the street would never change over a two decade period of time. That is the testimony. The market every day turns in a report on the war on drugs, and the market says the cost of doing business has not gone up one scintilla.

We ought to start thinking about new tools and a new approach and we ought to stop pretending like this is only a problem for young people in this country.

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. HUTCHINSON), who has been a leader in the antidrug effort.

I would like to note also, Mr. Speaker, that I appreciate the support of the gentleman from California, the previous speaker, for this measure.

Mr. HUTCHINSON. Mr. Speaker, I rise in strong support of this resolution, which simply expresses the sense of Congress that we as Americans remain committed to the war on drugs.

Now, I want to commend my friend from New Jersey (Mr. PAPPAS), who has done an excellent job in leading this fight, and also my friend from Texas who has spoken against this resolution, and I want to address a couple of concerns that he has raised.

He says this resolution is an endorsement of the status quo. It is just the contrary. It is saying that the status quo is unacceptable. The present situation, where we have teenage drug use soaring, is not acceptable. We have to get off the dime. We, as a country, have to do something to remain committed.

The gentleman from California that just spoke, he started pointing fingers and being critical of this. Well, the status quo is whenever we take $1 billion away from our efforts for interdiction; whenever Federal drug prosecutions fall 12 percent since 1992; whenever the DEA agents are cut.

How can we fight a war on drugs when we are cutting those types of resources? That is the status quo. We need leadership and we need to go in a different direction. This resolution says we welcome new ideas. We want a different approach. We want to do more, and we, as a Nation, must be committed, and that is the direction that we need to go.

The argument is we do not want to Federalize all law enforcement and make this a Federal issue. Certainly we need to fight this community to community. I have been in Gentry, a town of a thousand in Arkansas; I am going to Waldron, a town of 400 in Arkansas; and we were talking about what we can do as community, fighting this war community by community.

But there is a Federal role. And the argument is, well, the Constitution does not allow this. But the Constitution says that the United States Government must protect itself, it is its responsibility, from enemies, foreign and domestic. And this is an enemy that affects our national security, and it is a very appropriate role for our Federal Government to be involved in this battle.

The Federal Government and the communities have a job to do. We must do it together. We must work together, both Democrats, Republicans, independents, all fighting together to win this. I ask for your support for this resolution.

Mr. PAUL. Mr. Speaker, I yield myself such time as I may consume to point out, once again, that up until just very recently in our history, it was assumed that the Federal Government did not have this authority. To assume that we do have this, I guess that is why we call it a war, to say that this is national defense.

But prohibition, obviously, when they passed that amendment to the Constitution, recognized that the Congress could not pass laws. And like I mentioned in 1937, when Roosevelt decided that we should attack medical marijuana, that he would do it through raising taxes. So it is only in recent history that we have decided that this is a Federal project. The record is just not very clear it has been very successful.

I am concerned not only about the drug usage, obviously, and the fact that the war has failed, but with those things that are so negative when it comes to violation of liberties.

The other day there was a story in the media that said there was a child suffering from an acute attack of asthma. Now, there was another asthmatic in the class, and she did what seemed to come natural to her: She went and gave her a whiff of her nebulizer and the girl immediately came out of her acute asthma attack. She was quickly apprehended under a Federal statute saying that she was disobeying the Federal law on the use of drugs.

Now, it might be advisable to caution a young child about giving medications to another, but this was very obvious and very clear. She happened to have been a hero with the other students and she was certainly a hero for the girl she helped.

Mr. MARTINEZ. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington, D.C. (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me this time.

Drug-free schools should be a redundancy. I regret that the expression is not, and I hope that we are looking for ways to make it a redundancy instead of a slogan.

As it turns out, the best argument for the tobacco bill, or at least a good tobacco bill this year, may not just be tobacco but its role in other drugs. We have struck out so often on drugs, we might well look at tobacco.

Mr. Speaker, it is hard to find a junkie that did not begin with tobacco or alcohol. That is the entryway to marijuana and to hard drugs. A youngster gets to feeling good off of a soft drug, like tobacco or alcohol, and he wants to find out more. Yet we have very little concentration there. And it looks like this Congress may actually go home without a tobacco bill.

I was just at the dedication of the Ronald Reagan Building and International Trade Center and heard very moving remarks by Mrs. Reagan. I am not one of those who made fun of her notion "Just Say No," because I think that there are a significant number of youngsters who will say no if we stand up and say "Just Say No." But we must ask about the rest. What about those who need more; who is going to take responsibility for them? They are, after all, only children. I applaud her for beginning there. It is up to this body to go the rest of the way.

Who really needs our help are parents. They find competition from the media and from the streets often to be overwhelming.

Mr. SOUDER. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

I rise today to underscore one of the greatest unnecessary obstacles to the education of our children: drugs. We all know the word; we all know the problem.

Drugs are a fact of life for America's children and we have to deal with that. Over half of all high school seniors have tried an illegal drug and nearly one in two can buy marijuana within an hour. There is not a community, a school, a family in this Nation that is immune to the destructive pervasiveness of drugs.

□ 1515

We all know it is past time to stop paying lip service and get on with the war on drugs and start with positive and specific action. Stalemate is unacceptable. The administration's effort to curb this trend has been sadly negligent. We know that. It ranges from "no commitment" to "wrong message."

While cocaine and heroin prices have steadily declined and teen drug has skyrocketed, the administration has cut international interdiction by $1 billion and drug arrests have fallen by 12 percent. Let me tell my colleagues, as the chairman of the House Committee on Intelligence, that stopping supply is possible and it matters. We cannot continue to let drugs stand in the way of the safety and education of our children, obviously.

So we are committed to attacking the drug epidemic on all fronts, from production to the school room. Working together, I think we can reduce the flow of drugs in this country by 80 percent in the next few years. And then we are going to go after the remaining 20 percent, because we do not need drugs.

Mr. SOUDER. Mr. Speaker, I yield 30 seconds to myself.

I wanted to clarify a couple of things that were said here earlier. One is, in fact, when the government cut back its interdiction effort, we saw the street prices on cocaine and crack drop and the epidemic swept across America. Another question is whether or not certain rights have been violated unintentionally or even intentionally. They should not be. We need to be careful of that.

But, in fact, the little 2-year-old in Fort Wayne and the 5-year-old who were shot down in a drive-by shooting had their rights violated as well. We have to get control of this drug epidemic in our homes, in our neighborhoods, and in our schools.

The SPEAKER pro tempore (Mr. NETHERCUTT). All time has expired.

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that we have 2 additional minutes, divided equally between the gentleman from California (Mr. MARTINEZ) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SOUDER. Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

It has been said here several times that we have not done enough in the fight on drugs, and certainly that is true. Anyone who has visited, though, the schools in our district realize that a lot of the drug activity in those schools that are plagued with the worst deterioration of their buildings and they lack proper lighting and unmaintained grounds which really are a breeding ground for drug sales and use.

I offered an amendment that would have added that into this resolution. Of course, that was defeated. Regardless, I will support the resolution because where so many of my colleagues have said we have not done enough and we are losing the fight on drugs, that may be true, but that is no reason not to do anything. And what we are trying to do with this resolution, especially in the resolve clauses, is demonstrate that we, as a Nation, feel we should be more committed to that fight.

And the results portion of the resolution talk about the coordination between Federal law enforcement and local law enforcement in the fight against drugs. It tries to bring everybody together, the resolution does. It says, "All Government leaders and parents share a role in raising the awareness of this issue and offering constructive alternatives to illegal drug use."

I urge my colleagues to vote for this resolution.

Mr. SOUDER. Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey (Mr. PAPPAS), who has been a leader on this effort, who serves on the drug task force and who is the sponsor of this resolution.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. PAPPAS) is recognized for 5 minutes.

Mr. PAPPAS. Mr. Speaker, I thank the gentleman from Indiana for yielding, and I thank my colleagues for considering this resolution.

Mr. Speaker, I include the following two letters for the RECORD, one from the Partnership for a Drug-Free America and one from the U.S. Chamber of Commerce, endorsing this resolution:

PARTNERSHIP FOR A
DRUG-FREE AMERICA,
New York, NY, January 29, 1998.

Congressman MICHAEL PAPPAS,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSMAN PAPPAS: The Partnership for a Drug-Free America strongly supports H.Res. 267 and any constructive efforts directed toward the goal of drug-free schools.

The Partnership is currently providing creative development, production, and programmatic support to the anti-drug media campaign being administered by the Office of National Drug Control Policy. The objective of the campaign is simple—to effectively reach young people and parents through media exposure at levels achieved during the late 1980's and very early 1990's—with the goal of reducing drug use in the 9 to 17 year old age group by 50 percent or more.

The media campaign is, of course, one piece of what must be a comprehensive effort to reduce and ultimately eliminate drug use among our young people. Effective programs to remove drugs from our nation's schools will provide yet another key component in creating an environment for youth in which drugs do not play a role.

Your leadership and support on this issue is greatly appreciated. Please let me know if the Partnership may be of any assistance as a resource for the development of school based anti-drug programs.

Sincerely,

RICHARD D. BONNETTE,
President and CEO.

U.S. CHAMBER OF COMMERCE,
Washington, DC, February 3, 1998.

Hon. MICHAEL PAPPAS,
Longworth House Office Building,
Washington, DC.

DEAR REPRESENTATIVE PAPPAS: I was pleased to receive your letter and a copy of your bill H.Res. 267, calling on our country to eliminate illicit drugs from our nation's schools by the year 2000. The U.S. Chamber shares your concern about the use of drugs by students and by those in the workplace. In fact, we recently announced our policy priorities for 1998, including a greater involvement of the business community in efforts to crackdown on crime and drug use in their local communities and places of business. The fear and reality of crime saps the spirit and productivity of workers and is detrimental to the overall well being of all communities.

Therefore, on behalf of the more than three million members of the U.S. Chamber federation I am pleased to announced our support for H.Res. 267 and look forward to working with you to accomplish the goals it establishes.

Sincerely,

THOMAS J. DONOHUE,
President and CEO.

Mr. Speaker, House Resolution 267 expresses the sense of the House of Representatives that the citizens of the United States must remain committed to combat the distribution, sale, and use of illegal drugs by our Nation's youth. We must all remain committed to this cause, all of us.

When it came to the issue of sexual harassment, our society made it clear, "no" meant "no." When it came to reducing drunk driving, we were firm in our resolve that "If you drive drunk and risk the lives of others, you will be punished." So I stand here today with the same determination. When it comes to drugs, "no" means "no."

So let me put the pushers of drugs on alert. When they are caught, they will be arrested and found guilty and they will go to jail, period.

We are all in this together, to protect our schools, streets, neighborhoods and communities. In this fight, I am convinced that it will be local solutions that will solve this national problem. The poison, yes, the poison, that threatens our youth also threatens our Nation's future. We need to continue to push for efforts in this Congress that will deter the demand for drugs and end the supply. Beyond that, I will do whatever I can to highlight the success of local community programs that are on the front lines of this battle in our communities.

I often have the opportunity to meet with school groups visiting Washington, D.C., from my district. I also spend a great deal of time in New Jersey visiting classrooms and speaking with students of all ages. One of the things that I ask them is what is the most important issue facing them. Hands down, the number one issue that they tell me is drugs.

We cannot deny the problem. We cannot look the other way. We must accept its existence and face it head on from the bottom up, from each of our communities to those of us here in Washington, D.C.

Marijuana use among teens, as has been mentioned before, is on the rise because, by many, it is deemed "socially acceptable." Well, it is not acceptable and we need to say it. We all need to say it. The President, the Congress, we all need to say it. But if we work together, parents, public officials, and young people, we can ensure that the lives of our children are safer, more productive, and free of the drugs that cripple the mind and destroy the soul.

Mr. Speaker, I appreciate the indulgence of the House. I urge my colleagues to support this resolution. We are making a statement. Talk is cheap, but I believe if this Congress does not make itself very, very clear that use of drugs among our young people, sale of drugs to our young people is not acceptable, we will not make progress.

This is a war that can be won, but we have to remain committed to do so. We have to speak so very, very clearly in a unified voice. And I certainly believe that this resolution is an important step in that process.

Mr. GILMAN. Mr. Speaker, I rise today in strong support of House Resolution 267, legislation which states congressional support of fighting the effects of illegal drugs on our children.

The threat posed by illegal drugs is one of the major national security threats facing our Nation. This is not empty hyperbole, but the cold truth. The vast majority of the illegal drugs in this country come from overseas. The sooner we realize that drugs are as much a foreign as a domestic problem, the more effective our response will be.

While opponents argue that we spend too much on combating drugs, I contend that we cannot ignore the true cost of drug use on our society. In addition to the costs associated with supply and demand reduction, drug use costs billions each year in health care expenses and lost productivity. Moreover, it has intangible costs in terms of broken families and destroyed lives.

As chairman of our House International Relations Committee, I have long been dedicated to fighting the scourge of illegal drugs. Regrettably of late, this is a battle which as a nation we are losing.

During the 1980's, we made remarkable progress in reducing teenage drug use, and eliminating the view that drugs and drug use were socially acceptance. Between 1979 and 1992, there was a 50 percent drop in "past month" drug users from over 25 million down to 12 million.

Our focus during this period was two-fold, and followed a dual track of reducing both supply and demand. Regrettably, this administration sharply curtailed interdiction funding and placed greater emphasis on demand reduction. The end result has been: a sharp increase in the supply of drugs available on our streets, the highest purity levels ever encountered, and a resurgence of teenage drug use. From 1992 to 1996, teenage marijuana use doubled. More disturbing is the data showing a significant rise in heroin use among our teenagers.

In essence, the Clinton administration's policy of focusing on demand reduction is being overwhelmed by the current state of the drug market. With many of our cities literally awash in heroin, the drug dealers are using supply to create demand.

In order to effectively combat the problem of illegal drug use, we must employ a balanced approach of simultaneously reducing supply and demand. In addition, it requires efforts by all levels of government and society.

This reduction emphasizes this approach and calls for Congress and the administration to work with local communities, schools and parents to develop and implement meaningful anti-drug policies.

Accordingly, Mr. Speaker, I urge my colleagues to support this worthy piece of legislation. For too long we have had a disjointed approach to combating teenage drug use. If, as a nation, we are willing to reduce teenage use of tobacco, surely we can do the same for the use of illegal drugs.

Mr. PORTMAN. Mr. Speaker, this resolution represents an important commitment by the House of Representatives. I am proud that my colleagues on both sides of the aisle are willing to stand up and lead in the fight against drug use among our nation's youth.

Building on this good effort, I will be introducing specific bills that bolster efforts to reduce drug use and I hope my colleagues will join me in those efforts.

I have drafted a resolution to encourage every Member to establish or support an anti-drug coalition in their community. Last year when we passed the Drug-Free Communities Act to provide matching grants to such coalitions, I started an effort to get Members involved in such efforts. Both the Republican Conference and the Democratic Caucus endorsed the idea, and, to date, 76 Members have committed to getting involved. I would like to increase that number to 435.

Later this week, I plan to introduce legislation to promote drug-free workplace programs among small businesses, including special programs for parents in the workplace to help them keep their kids drug-free. Later in the month, I will be introducing legislation to improve treatment in our prisons and jails so that inmates can return as drug-free members of society and, in many cases, set an example for their children. I look forward to working with other Members on their proposals to address this tremendous problem.

Mr. GOODLING. Mr. Speaker, I am pleased to rise today in support of House Resolution 267, a resolution which expresses our commitment to fighting the scourge of illegal drugs in our schools and Nation.

We hear on a regular basis about how drugs are destroying our schools and ripping apart families. Teenage years are hard enough without our children having to face the threat of drugs on a daily basis. A survey conducted for The National Center on Addiction and Substance Abuse at Columbia University (CASA) found that 76 percent of high school students and 46 percent of middle school students say drugs are kept, used or sold on school grounds.

We also know that while marijuana use by 8th, 10th, and 12th graders declined from 1980–1992, from 1992–1996 such use dramatically increased—by 253 percent among 8th graders, 151 percent among 10th graders, and 84 percent among 12th graders.

Mr. Speaker, the survey also shows that 500,000 8th graders began using marijuana in the 6th and 7th grades, and that those who use marijuana are 85 times more likely to use cocaine than those who abstain from marijuana.

Former HEW Secretary and President of the National Center on Addiction and Drug Abuse, Joseph Califano, Jr., recently spoke on the gravity of the problem. He said "While our schools used to be sanctuaries for students, many have become candy stores of dangerous substances—cigarettes, alcohol, inhalants, marijuana, heroin, cocaine and acid—sold or used by classmates on the school grounds."

It is important that we remain committed to eradicating the use of drugs from our schools and making sure that everyone—students, parents, teachers—know that there is zero tolerance when it comes to the use of illegal drugs.

I urge all my colleagues to join in supporting this important resolution.

Mr. RIGGS. Mr. Speaker, I am pleased to rise in support of House Resolution 267, a resolution which expresses our commitment to fighting the plague of illegal drugs.

In a report released by the Office of National Drug Control Policy last December, statistics paint the picture of the extent of the drug problem in this country:

An estimated 12.8 Americans—about 6 percent of the household population aged twelve and older—have used drugs within the past 30 days.

Every year drug abuse kills 14,000 Americans and costs taxpayers nearly $70 billion.

Drug abuse fuels spouse and child abuse, property and violent crime, the incarceration of young men and women, the spread of AIDS, workplace accidents, motor vehicle accidents, and absenteeism.

Drug use among our Nation's youth has, unfortunately, increased 126 percent among eighth graders between 1991 and 1996.

Every day, an average of 6,488 American children and teens try marijuana for the first time; 1,786 try cocaine; and 386 try heroin.

Other surveys show:

More than one-half or 54.3 percent of our high school seniors have tried an illicit drug, and about one in four or 26.2 percent use illicit drugs on a regular or monthly basis.

And the prevalence of the problem cuts across all gender, race, and geographic groups.

As I've mentioned on other occasions, I believe one of the leading causes of the drug scourge in this country is the decline and break-up of the American family. If we can get our families back together, then I believe we will begin to make real progress in the war on drugs. It starts at this most basic unit of society. If we can turn the tide in the family, then we can turn the tide in the nation.

Mr. Speaker, this resolution represents one step in turning the tide. It sends a message that the distribution, sale and use of illegal drugs in schools will simply not be tolerated. It's a message that's much-needed and overdue.

I urge my colleagues to support the resolution.

Mr. ETHERIDGE. Mr. Speaker, I rise today in strong support of this resolution that expresses the sense of the House that all schools should be drug-free and that the sale, distribution and use of illegal drugs at school is unacceptable. I urge my colleagues to join me in passing this important resolution.

As the former Superintendent of North Carolina's public schools, I know firsthand that we cannot expect our children to learn in drug-infested surroundings. We cannot expect our teachers to provide quality instruction in an arena infiltrated by the scourge of drugs. And we cannot expect our families, parents, businesses and communities to support our public education system unless we are doing everything possible to make our schools drug-free.

A recent survey conducted for the National Center on Addiction and Substance Abuse at Columbia University found that seventy-six percent of high school students and forty-six percent of middle school students say drugs are kept, used or sold on school grounds. These appalling statistics are simply unacceptable.

House Resolution 267 also states that all federal, state and local drug fighting agencies should work together with schools and parents to ensure that a renewed effort be made to fight drug use; and that all governmental leaders and parents should share in raising the awareness of this issue. Finally, the resolution states that Congress and the president should set a goal to end the distribution, sale and use of illegal drugs in the Nation's schools by 2000, and to work with local communities and parents to achieve this goal.

I urge all my colleagues—Democrats and Republicans alike—to join me in passing this important resolution.

Mr. PAPPAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and agree to the resolution, House Resolution 267, as amended.

The question was taken.

Mr. SOUDER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 267.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 5 p.m.

Accordingly (at 3 o'clock and 23 minutes p.m.), the House stood in recess until approximately 5 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. NETHERCUTT) at 5 o'clock p.m.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

□ 1700

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NETHERCUTT). Without objection, the minimum time for electronic voting on the first postponed suspension, House Concurrent Resolution 220, may be reduced to 5 minutes if that vote occurs without any intervening business, other than rising of the Committee after the last electronic vote in the Committee of the Whole on H.R. 6.

There was no objection.

HIGHER EDUCATION AMENDMENTS OF 1998

The SPEAKER pro tempore (Mr. NETHERCUTT). Pursuant to House Resolution 411 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6.

□ 1702

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, with Mr. LAHOOD (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, April 29, 1998, title XII was open for amendment at any point.

LIMITING DEBATE ON AMENDMENT NO. 73

Mr. MCKEON. Mr. Chairman, I ask unanimous consent that debate on amendment numbered 73, and all amendments thereto, be limited to 2 hours, equally divided and controlled by Representative RIGGS of California or his designee and Representative CLAY of Missouri or his designee.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

VACATING PROCEEDINGS ON AMENDMENT NO. 54 OFFERED BY MR. ROEMER

Mr. MCKEON. Mr. Chairman, with the concurrence of the gentleman from Indiana (Mr. ROEMER), I ask unanimous consent that the request of April 29, 1998, for a recorded vote on the Roemer amendment numbered 54 be vacated and that proceedings by which the Committee considered and adopted that amendment by voice vote be vacated.

Mr. ROEMER. Mr. Chairman, reserving the right to object, I wanted to discuss with the gentleman from California (Mr. MCKEON) an amendment that we had been working on in committee, starting actually at the subcommittee level and then going into the full committee and then going to the House floor, where I offered amendment to provide more flexibility for students to combine their loans for government subsidized and unsubsidized loans before trying then or being forced to go out into the private lending market, where they would take on added costs and where the rate might be 9 or 10 or 11 percent, but try to keep them at the 8.25 percent rate and thereby reduce costs, provide more flexibility and less regulation to many of the students that are trying to get into these markets and coming out with more and more debt once they graduate from school.

This is exactly what we have heard everywhere in our field hearings throughout the country, where the gentleman from Michigan (Mr. UPTON) and I had a field hearing in South Bend, Indiana, and heard from about 20 different colleges about trying to provide more flexibility to our schools and less regulation.

This is an idea whose time has come, trying to help so many of the students that are coming out of school with debt. But we also realized that there may be a scoring problem here; and because CBO has been busy scoring other bills, we have not been able to finally get a score on this.

I know the gentleman from Michigan (Mr. KILDEE) and the gentleman from California (Mr. MCKEON) have worked hard to try to provide this flexibility and lessen the burden on students. I had asked for a rollcall vote on this loan flexibility amendment. My colleague had agreed to that. And I believe he and the gentleman from Pennsylvania (Mr. GOODLING), as well, had agreed to support the amendment.

However, we still do not have a final scoring on this amendment. And in the interest of trying to make sure that we have bipartisan support for this amendment, I would like to get the feelings of my colleague on his support for this idea, that he has worked very hard on, and engage him in a colloquy.

Mr. MCKEON. Mr. Chairman, will the gentleman yield?

Mr. ROEMER. Further reserving the right to object, I yield to the gentleman from California.

Mr. MCKEON. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Indiana represents that great institution Notre Dame. As I mentioned during committee consideration, I think this loan flexibility agreement has a great deal of merit. I thank my colleague for bringing this to our attention, and I will continue to work with him on this proposal as we move to conference on H.R. 6.

Mr. ROEMER. Mr. Chairman, I appreciate the commitment of the gentleman to do that. I appreciate the commitment of the gentleman to students trying to get a lower rate. And I very much appreciate the hard work of the gentleman on this bipartisan bill to try to reduce regulations and increase flexibility.

Mr. Chairman, I withdraw my reservation of objection.

PARLIAMENTARY INQUIRY

Mr. ROEMER. Mr. Chairman, at this point let me ask a parliamentary inquiry. Is it proper for me to ask unanimous consent at this point to vacate the rollcall vote numbered 54?

The CHAIRMAN pro tempore. That is part of the pending request.

Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. Without objection, the request of the gentleman from California is granted, and the amendment is withdrawn.

There was no objection.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 411, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 3 offered by Mr. PAUL of Texas;

Amendment No. 51 offered by Mr. OWENS of New York;

Amendment No. 44 offered by Mr. MCGOVERN of Massachusetts.

AMENDMENT NO. 3 OFFERED BY MR. PAUL

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. PAUL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. PAUL:

Page 50, line 13, at the end of paragraph (1) add the following new sentence: "The Secretary shall not use the social security account numbers issued under title II of the Social Security Act as the electronic personal identifier, and shall not use any identifier used in any other Federal program as the electronic personal identifier.".

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 112, noes 286, not voting 34, as follows:

[Roll No. 122]

AYES—112

Aderholt
Archer
Armey
Barcia
Barr
Bartlett
Barton
Boehner
Bonilla
Bonior
Brady
Bunning
Callahan
Camp
Cannon
Chabot
Chenoweth
Coburn
Collins
Condit
Cooksey
Crane
Crapo
Deal
DeFazio
DeLay
Doolittle
Duncan
Ehlers
Emerson
Ensign
Everett
Filner
Frank (MA)
Gephardt
Gibbons
Gillmor
Goode
Goodlatte
Hall (TX)
Hastings (WA)
Hayworth
Herger
Hill
Hinchey
Hobson
Hoekstra
Hostettler
Hulshof
Hutchinson
Hyde
Inglis
Johnson, Sam
Kanjorski
Kasich
Kelly
Kingston
Kleczka
Kolbe
Kucinich
Largent
Lewis (KY)
Linder
Livingston
Lofgren
Lucas
Manzullo
McDermott
McIntosh
McKinney
Metcalf
Mica
Moran (KS)
Nethercutt
Ney
Nussle
Obey
Pastor
Paul
Pease
Petri
Pickering
Pombo
Portman
Pryce (OH)
Redmond
Regula
Rogan
Ryun
Salmon
Sanford
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Smith (MI)
Snowbarger
Snyder
Souder
Stearns
Stump
Sununu
Thornberry
Thune
Tiahrt
Wamp
Watkins
Watts (OK)
White
Wicker

NOES—286

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baesler
Baker
Baldacci
Ballenger
Barrett (NE)
Barrett (WI)
Bass
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Bono
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Calvert
Campbell
Canady
Capps
Cardin
Castle
Chambliss
Clay
Clayton
Clement
Coble
Combest
Conyers
Cook
Costello
Cox
Coyne
Cramer
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Foley
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gilman
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastert
Hefley
Hefner
Hilleary
Hilliard
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Hunter
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Klink
Klug
Knollenberg
LaFalce
LaHood
Lampson
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Northup
Norwood
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Paxon
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pickett
Pitts
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Radanovich
Ramstad
Rangel
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Solomon
Spence
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Talent
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thurman
Tierney
Towns
Traficant
Turner
Upton
Velázquez
Vento
Walsh
Watt (NC)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—34

Bateman
Becerra
Blagojevich
Carson
Christensen
Clyburn
Cubin
Davis (IL)
Forbes
Fossella
Furse
Gonzalez
Harman
Hastings (FL)
Kaptur
Lantos
Latham
Lowey
McNulty
Meeks (NY)
Menendez
Mollohan
Neumann
Parker
Rahall
Schaefer, Dan
Skaggs
Smith, Linda
Stokes
Tauzin
Torres
Visclosky
Waters
Waxman

☐ 1730

Ms. GRANGER and Messrs. EVANS, FOX of Pennsylvania, ENGEL and RIGGS changed their vote from "aye" to "no."

Messrs. FRANK of Massachusetts, BONIOR, HOBSON, NETHERCUTT, HYDE, LEWIS of Kentucky, WATKINS, SMITH of Michigan and Ms. MCKINNEY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FORBES. Mr. Chairman, on rollcall No. 122, I was detained due to inclement weather. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. LAHOOD). Pursuant to House Resolution 411, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 51 OFFERED BY MR. OWENS

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on Amendment No. 44 offered by the gentleman from New York (Mr. OWENS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 51 offered by Mr. OWENS:

Page 68, after line 11, insert the following new section (and redesignate the succeeding section accordingly):

SEC. 206. POSTSECONDARY INFORMATION TECHNOLOGY EDUCATION RECRUITMENT

(a) FINDINGS.—The Congress finds the following:

(1) There are more than 200,000 to 400,000 vacancies in various categories of information technology jobs.

(2) From 1996 to 2005, more than 1,300,000 new computer scientists, engineers, and systems analysts will be required in the United States to fill vacant jobs, which equals 136,800 new workers per year.

(3) Systems analysts will experience the largest job growth, accounting for a 103 percent increase in the number of new positions from 1996 (506,000) to 2005 (1,025,000).

(4) The shortage of information technology workers transcends industries, affecting the manufacturing, service, transportation, health care, education, and government sectors. Within each sector, vacancies exist at all levels from aides and mechanics to programmers and designers.

(5) The information technology worker shortage is having an adverse effect on the viability of businesses in the United States and on the Nation's competitiveness. Industry surveys report that half of industry executives cite the lack of workers skilled in technology as the number one obstacle to their company's growth. An additional 20 percent of industry executives identify the lack of information technology workers as a major obstacle to their company's growth.

(6) A major factor affecting the short supply of information technology workers is the mismatch between what universities teach and what industry needs.

(7) It is in the national interest to promote special initiatives which effectively educate and train our domestic workforce to keep pace with these expanding job opportunities.

(8) Institutions of higher education have the capacity and resources to provide a role of oversight and technical assistance to a wide range of local entities, including community-based organizations, participating in a comprehensive education and training program for potential technology workers.

(9) Higher education institutions must be responsive to the digital environment and expand both their outreach efforts and on-campus activities to train and certify individuals to close the information technology worker gap.

(b) AMENDMENT.—Title II is amended by adding at the end the following:

"PART G—INFORMATION TECHNOLOGY EDUCATION RECRUITMENT

"SEC. 281. PARTNERSHIPS FOR POSTSECONDARY INFORMATION TECHNOLOGY EDUCATION RECRUITMENT

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary may make grants under this section, in accordance with competitive criteria established by the Secretary, to institutions of higher education, in order to establish, oversee the operation of, and provide technical assistance to, projects described in paragraph (2).

"(2) PROJECTS.—Projects under this section shall be projects implemented by a community-based organization described in subsection (b), or by the institution of higher education receiving the grant, to provide postsecondary information technology education and employment procurement assistance to eligible individuals described in subsection (c).

"(3) RESTRICTIONS.—An institution of higher education shall be eligible to receive only one grant under this section, but may, subject to the requirements of this section, use the grant to enter into contracts with more than one community-based organization. A community-based organization shall not be eligible to enter into a contract under this section with more than one institution of higher education.

"(4) PERIOD OF GRANT.—The provision of payments under a grant under this section shall not exceed 5 fiscal years and shall be subject to the annual approval of the Secretary and subject to the availability of appropriations for each fiscal year involved.

"(b) COMMUNITY-BASED ORGANIZATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), a community-based organization described in this subsection is an entity that, at the time the entity enters into a contract with an institution of higher education for a project under this section, and throughout the duration of that contract—

"(A) is—

"(i) a governmental agency; or

"(ii) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; and

"(B) is one of the following:

"(i) A local partnership (as defined in section 4 of the School-to-Work Opportunities Act of 1994) receiving a grant under section 302 of such Act.

"(ii) An entity organized and operated for religious purposes.

"(iii) An entity furnishing school-age child care services after school.

"(iv) A community-based college computer recruitment center.

"(v) An entity furnishing adult education.

"(vi) A library.

"(vii) A museum.

"(viii) Any other entity organized and operated for cultural, literary, or educational purposes.

"(2) LIMITATION.—An entity shall not be considered a community-based organization described in this subsection unless, at the time the entity enters into a contract with an institution of higher education for a project under this section, it has demonstrated to the satisfaction of the Secretary that—

"(A) it has the capacity successfully to recruit eligible individuals described in subsection (c) for participation in a project described in subsection (a), consistent with the enrollment requirements in subsection (d)(2)(E);

"(B) it is providing an educational service, social service, or employment procurement service; and

"(C) in the case of an entity that independently manages its own finances, it has been in existence 2 years or more.

"(c) ELIGIBLE INDIVIDUALS.—An eligible individual described in this subsection is an individual who—

"(1) has submitted a satisfactory application to receive postsecondary information technology education recruitment assistance through a project under this section; and

"(2) has a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate.

"(d) DUTIES.—

"(1) INSTITUTIONS OF HIGHER EDUCATION.—An institution of higher education receiving a grant under this section shall use the funds provided under the grant to carry out the following duties:

"(A) Final selection of community-based organizations described in subsection (b) desiring to provide, at one or more sites, in accordance with a contract with the institution of higher education and this section, postsecondary information technology education and employment procurement assistance to eligible individuals described in subsection (c).

"(B) Entering into a contract with each community-based organization selected under subparagraph (A) under which the institution and the organization agree to carry out the duties respectively required of them under this section with respect to each site described in subparagraph (A).

"(C) With respect to each site described in subparagraph (A)—

"(i) design of a process for the recruitment of students from site to enroll in college courses or matriculate in college programs;

"(ii) provision of such funding for the establishment and initial operation of the site as was specified in the grant application submitted by the institution to the Secretary;

"(iii) approval of final site selection and preparation;

"(iv) initial orientation and training of personnel employed to manage and operate the site;

"(v) design and certification of the instructional and academic programs, and oversight of the implementation of the programs;

"(vi) oversight of equipment purchases and contracts for equipment maintenance; and

"(vii) selection of an outside contractor for periodic evaluation of the management and operation of the site.

"(2) COMMUNITY-BASED ORGANIZATIONS.—

"(A) IN GENERAL.—A community-based organization implementing a project under this section with an institution of higher education, at one or more sites, shall carry out the duties described in this paragraph, with respect to each such site, subject to the oversight and guidance of the institution.

"(B) GENERAL DUTIES.—The organization—

"(i) shall undertake final site selection and preparation;

"(ii) shall recruit and hire a site director;

"(iii) shall carry out any supplementary instructional, academic, or educational activities specified in the contract with the institution of higher education that are not described in subparagraph (D);

"(iv) shall assemble an advisory committee composed of individuals residing in the community in which the site is located, as well as industry representatives, who desire to assist the organization in ensuring that the goals of the organization are consistent with the goals and needs of the community population;

"(v) shall provide to the institution other evidence of volunteer support from among individuals residing in the community in which the site is located and industry representatives;

"(vi) shall recruit eligible individuals for enrollment, subject to subparagraph (E);

"(vii) shall maintain waiting lists of eligible individuals desiring to enroll in the project's programs;

"(C) Site requirements.—The organization shall ensure that each site—

"(i) has a minimum of 20 fully functioning computers with sufficient capacity to perform all of the computer operations that are the subject of the curriculum specified in subparagraph (D);

"(ii) in addition to the space for the computers described in clause (i), has—

"(I) a classroom space with the capacity for seating a minimum of 30 students;

"(II) a separate office for the site director;

"(iii) is real property subject to the control of the organization or the institution, through a lease or other legal instrument, for a period of not less than 5 years;

"(iv) is open to enrolled individuals not less than 12 hours per day; and

"(v) is located within walking distance of public transportation.

"(D) Information technology curriculum.—

"(i) In general.—The organization shall ensure that each site offers enrollees a curriculum that includes a broad range of course work in information technology.

"(ii) Courses leading to certification.—Such curriculum shall include course work leading to a certification of competence in areas of information technology recognized by the National Skill Standards Board established under the National Skill Standards Act of 1994.

"(iii) Specific courses.—The computer training offered shall include courses in basic computer competence, on-the-job upgrade assistance, and advanced computer competence.

"(E) Enrollment requirements.—The organization shall ensure that its enrollment of eligible individuals at each site is consistent with the following:

"(i) Not less than 50 percent of the eligible individuals shall be, at the time of enrollment, individuals—

"(I) to whom a credit was allowed under section 32 of the Internal Revenue Code of 1986 for the preceding taxable year;

"(II) who are recipients of assistance under a State program funded under part A of title IV of the Social Security Act;

"(III) who are a member of a household participating in the food stamp program; or

"(IV) who are considered low-income pursuant to regulations promulgated by the Secretary under this section.

"(ii) Not less than 50 percent of the eligible individuals shall be, at the time of enrollment, under 25 years of age.

"(iii) No prerequisite relating to net worth, income, or assets may be applied to any eligible individual who, at the time of enrollment, is over 50 years of age, except that this requirement shall not be construed to supersede clause (i).

"(e) Implementation of Projects Solely by Institutions.—The Secretary may make a grant under this section to an institution of higher education that desires to implement a project under this section without the participation of a community-based organization described in subsection (b), if the institution agrees to carry out all of the duties required of such an organization under this section, in addition to the duties otherwise required of an institution of higher education. The Secretary shall, in awarding grants under this section, give priority to institutions of higher education whose grant application includes an assurance that the institution will contract with one or more community-based organizations in accordance with this section.

"(f) Applications.—To apply for a grant under this section for any fiscal year, an institution of higher education shall submit an application to the Secretary in accordance with the procedures established by the Secretary. The application shall specify the institution's preliminary selections for the community-based organizations (if any) with which the institution proposes to contract, and shall include information with respect to preliminary site selections.

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $100,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(h) Definitions.—For purposes of this section:

"(1) Adult education.—The term ‘adult education’ has the meaning given such term in section 312 of the Adult Education Act.

"(2) Community-based college computer recruitment center.—The term ‘community-based computer center’ means a computer center—

"(A) funded by both the Federal Government and at least one private sector entity;

"(B) located in a low-income community (as determined by the Secretary); and

"(C) organized and operated for the purpose of providing families with access to computer resources that otherwise would not be available to them.

"(3) Food stamp program.—The term ‘food stamp program’ has the meaning given such term in section 3(h) of the Food Stamp Act of 1977.

"(4) Library.—The term ‘library’ has the meaning given such term in section 213 of the Library Services and Technology Act.

"(5) Museum.—The term ‘museum’ has the meaning given such term in section 272 of the Museum and Library Services Act.".

Mr. OWENS. Mr. Chairman in view of the fact that this amendment was debated some time ago, I ask unanimous consent to speak for 5 minutes to explain the amendment before the vote takes place.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. CANADY of Florida. Mr. Speaker, I object.

The CHAIRMAN pro tempore. Objection is heard.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 172, noes 234, not voting 26, as follows:

[Roll No. 123]

AYES—172

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Clay
Clayton
Clement
Conyers
Costello
Coyne
Crapo
Cummings
Danner
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lee
Levin
Lewis (GA)
Lofgren
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—234

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo

McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Sabo
Salmon
Sanford
Saxton
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—26

Bateman
Carson
Christensen
Clyburn
Davis (IL)
Forbes
Fossella
Furse
Gonzalez
Harman
Hastings (FL)
Kaptur
Lantos
Lowey
McNulty
Meeks (NY)
Neumann
Parker
Rahall
Schaefer, Dan
Skaggs
Smith, Linda
Stokes
Tauzin
Visclosky
Waxman

☐ 1742

Messrs. JOHN, MORAN of Kansas and HOBSON changed their vote from "aye" to "no."

Mr. SHAYS and Ms. SANCHEZ changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FORBES. Mr. Chairman, on rollcall No. 123, I was detained due to inclement weather. Had I been present, I would have voted "no."

AMENDMENT NO. 44 OFFERED BY MR. MCGOVERN

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. MCGOVERN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 44 offered by Mr. MCGOVERN:

Page 96, after line 7, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(f) PELL GRANT INCENTIVES.—Subpart 1 of part A of title IV of the Higher Education Act of 1965 is amended by inserting after section 401 (20 U.S.C. 1070a) the following new section:

SEC. 401A. PELL GRANT INCENTIVES.

"(a) PROGRAM AUTHORITY.—From the amounts appropriated pursuant to subsection (d), the Secretary shall establish a program to increase the Pell grant awards under section 401 during their first two academic years of undergraduate education to students who graduate after May 1, 1998, in the top 10 percent of their high school graduating class.

"(b) AMOUNT OF INCREASE.—The additional amount of Pell grant that shall be awarded under this section to any student who qualifies under this section shall be an amount equal to the amount for which the student is eligible under section 401 (determined without regard to the provisions of this section), except that if the amount appropriated pursuant to subsection (d) is less than the amount required to award such additional amounts to all such students, the additional amount awarded to each such student under this section shall be ratably reduced.

"(c) DETERMINATIONS OF ELIGIBILITY.—

"(1) PROCEDURES ESTABLISHED BY REGULATION.—The Secretary shall establish by regulation procedures for the determination of eligibility of students for increased Pell grant awards under this section. Such procedures shall include measures to prevent any secondary school from certifying more than 10 percent of its students for eligibility under this section.

"(2) COORDINATION WITH NEED ANALYSIS.—In prescribing procedures under paragraph (1), the Secretary shall ensure that the determination of eligibility and the amount of the increase in the Pell grant award is determined in a timely manner consistent with the requirements of section 482 and the submission of the financial aid form required by section 483. For such purposes, the Secretary may provide that, for the first of a student's two academic years of eligibility under this section, class rank may be determined prior to graduation, at such time and in such manner as the Secretary may specify in the regulations prescribed under this subsection.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to award increased Pell grants under this section $240,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years."

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 220, noes 187, not voting 25, as follows:

[Roll No. 124]

AYES—220

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Buyer
Campbell
Capps
Cardin
Chenoweth
Clay
Clayton
Clement
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Cummings
Danner
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Fox
Frank (MA)
Frost
Gejdenson
Gephardt
Gilchrest
Goode
Goodlatte
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lazio
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Ramstad
Rangel
Redmond
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—187

Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bereuter
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Dickey
Dingell
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Oxley
Packard
Paul

Paxon
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Regula
Riggs
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Smith (MI)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—25

Bateman
Carson
Christensen
Clyburn
Davis (IL)
Forbes
Fossella
Furse
Gonzalez
Harman
Hastings (FL)
Kaptur
Lantos
Lowey
McNulty
Meeks (NY)
Neumann
Parker
Rahall
Schaefer, Dan
Skaggs
Smith, Linda
Stokes
Tauzin
Visclosky

□ 1751

Mr. GILCHREST changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FORBES. Mr. Chairman, on rollcall No. 124, I was detained due to inclement weather. Had I been present, I would have voted "no."

Mr. McKEON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GUTKNECHT), having assumed the chair, Mr. LAHOOD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6), to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

House Concurrent Resolution 220, by the yeas and nays; and

House Resolution 267, by the yeas and nays.

Pursuant to the order of the House of today, these will both be 5-minute votes.

REGARDING AMERICAN VICTIMS OF TERRORISM

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 220, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 220, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 0, not voting 26, as follows:

[Roll No. 125]

YEAS—406

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Fazio
Filner
Foley
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—26

Bateman
Carson
Christensen
Clyburn
Davis (IL)
Dunn
Fattah
Forbes
Fossella
Gonzalez
Goodling
Harman
Hastings (FL)
Kaptur
Lantos
Lowey
McNulty
Meeks (NY)
Neumann
Parker
Rahall
Schaefer, Dan
Skaggs
Stokes
Tauzin
Visclosky

□ 1803

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider is laid on the table.

PERSONAL EXPLANATION

Mr. FORBES. Mr. Speaker, on rollcall No. 125, I was detained due to inclement weather. Had I been present, I would have voted "yes."

SENSE OF THE HOUSE THAT UNITED STATES MUST REMAIN COMMITTED TO COMBATING ILLEGAL DRUGS

The SPEAKER pro tempore (Mr. GUTKNECHT). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 267, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and agree to the resolution, H. Res. 267, as amended, on which the yeas and nays were ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were— yeas 408, nays 1, not voting 23, as follows:

[Roll No. 126]

YEAS—408

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—23

Bateman
Carson
Christensen
Clyburn
Davis (IL)
Fattah
Fossella
Gonzalez
Harman
Hastings (FL)
Kaptur
Lantos
Lowey
McNulty
Meeks (NY)
Neumann
Parker
Rahall
Schaefer, Dan
Skaggs
Stokes
Tauzin
Visclosky

□ 1814

So, (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1815

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1872, COMMUNICATIONS SATELLITE COMPETITION AND PRIVATIZATION ACT OF 1998

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–507) on the resolution (H. Res. 419) providing for consideration of the bill (H.R. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT REGARDING FURTHER AMENDMENTS ON H.R. 10, FINANCIAL SERVICES COMPETITION ACT OF 1997

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, I rise to inform the House of a schedule change on H.R. 10, and that is the Financial Services Act of 1998.

Out of concern for the scheduling interest of Members on both sides of the aisle, the majority leader has agreed to consider this legislation on the House floor next week instead of this week. As a result, the Committee on Rules will extend the time for filing of amendments from 5 p.m. Tuesday; that is, today, until 5 p.m. on Wednesday, May 6, tomorrow.

The Committee on Rules will then hold a hearing on a rule at 12 noon on Thursday, May 7, the day after tomorrow. The committee will then meet to grant a rule early next week, probably on Tuesday.

Any Member who wishes to offer an amendment should submit 55 copies and a brief explanation of the amendment by Wednesday, May 6, at 5 p.m. to the Committee on Rules in Room H–312 of the Capitol.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2497

Mr. FORBES. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2497, the Medicare Beneficiary Freedom to Contract Act.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from New York?

There was no objection.

DEVELOPMENTS CONCERNING NATIONAL EMERGENCY WITH RESPECT TO SUDAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–247)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on developments concerning the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997, and matters relating to the measures in that order. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c). This report discusses only matters concerning the national emergency with respect to Sudan that was declared in Executive Order 13067.

1. On November 3, 1997, I issued Executive Order 13067 (62 *Fed. Reg.* 59989, November 5, 1997—the "Order") to declare a national emergency with respect to Sudan pursuant to IEEPA. Copies of the Order were provided to the Congress by message dated November 3, 1997.

The Order blocks all property and interests in property of the Government of Sudan, its agencies, instrumentalities, and controlled entities, including the Central Bank of Sudan, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches. The Order also prohibits (1) the importation into the United States of any goods or services of Sudanese origin except for information or informational materials; (2) the exportation or reexportation of goods, technology, or services to Sudan or the Government of Sudan except for information or informational materials and donations of humanitarian aid; (3) the facilitation by a United States person of the exportation or reexportation of goods, technology, or services to or from Sudan; (4) the performance by any United States person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan; (5) the grant or extension of credits or loans by any United States person to the Government of Sudan; and (6) transactions relating to the transportation of cargo. The Order also provided a 30-day delayed effective date for the completion of certain trade transactions.

2. Executive Order 13067 became effective at 12:01 a.m., eastern standard time on November 4, 1997. On December 2, 1997, the Department of the Treasury's Office of Foreign Assets Control (OFAC) issued General Notice No. 1, interpreting the delayed effective date for pre-November 4, 1997, trade contracts involving Sudan if the preexisting trade contract was for (a) the exportation of goods, services, or technology from the United States or a third country that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997, or (b) the reexportation of goods or technology that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997. Such exports or reexports were authorized until 12:01 a.m. eastern standard time, December 4, 1997, and nonfinancing activity by United States persons incidental to the performance of the preexisting trade contract (such as the provision of transportation or insurance) was authorized through 12:01 a.m. eastern standard time, February 2, 1998. If the preexisting trade contract was for the importation of goods or services of Sudanese origin or other trade transactions relating to goods or services of Sudanese origin or owned or controlled by the Government of Sudan, importations under the preexisting trade contract were authorized until 12:01 a.m. eastern standard time, December 4, 1997.

3. Since the issuance of Executive Order 13067, OFAC has made numerous decisions with respect to applications for authorizations to engage in transactions under the Sudanese sanctions. As of March 12, 1998, OFAC has issued 55 authorizations to nongovernmental organizations engaged in the delivery of humanitarian aid and 77 licenses to others. OFAC has denied many requests for licenses. The majority of denials were in response to requests to authorize commercial exports to Sudan—particularly of machinery and equipment for various industries—and the importation of Sudanese-origin goods. The majority of licenses issued permitted the unblocking of financial transactions for individual remitters who routed their funds through blocked Sudanese banks. Other licenses authorized the completion of diplomatic transfers, preeffective date trade transactions, and the performance of certain legal services.

4. At the time of signing Executive Order 13067, I directed the Secretary of the Treasury to block all property and interests in property of persons determined, in consultation with the Secretary of State, to be owned or controlled by, or to act for or on behalf of, the Government of Sudan. On November 5, 1997, OFAC disseminated details of this program to the financial, securities, and international trade communities by both electronic and conventional media. This information included the names of 62 entities owned or controlled by the Government of Sudan. The list includes 12 financial institutions and 50 other enterprises.

5. OFAC, in cooperation with the U.S. Customs Service, is closely monitoring potential violations of the import prohibitions of the Order by businesses and individuals. Various reports of violations are being aggressively pursued.

6. The expenses incurred by the Federal Government in the 6-month period from November 3, 1997, through May 2, 1998, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Sudan are reported to be approximately $425,000, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureaus of Economic and Business Affairs, African Affairs, Near Eastern Affairs, Consular Affairs, and the Office of the Legal Adviser), and the Department of Commerce (the Bureau of Export Administration and the General Counsel's Office).

7. The situation in Sudan continues to present an extraordinary and unusual threat to the national security and foreign policy of the United States. The declaration of the national emergency with respect to Sudan contained in Executive Order 13067 underscores the United States Government opposition to the actions and policies of the Government of Sudan, particularly its support of international terrorism and its failure to respect basic human rights, including freedom of religion. The prohibitions contained in Executive Order 13067 advance important objectives in promoting the antiterrorism and human rights policies of the United States. I shall exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 5, 1998.*

REPORT ON PEMIGEWASSET RIVER IN NEW HAMPSHIRE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Resources:

To the Congress of the United States:

I take pleasure in transmitting the enclosed report for the Pemigewasset

River in New Hampshire. The report and my recommendations are in response to the provisions of the Wild and Scenic Rivers Act, Public Law 90–542, as amended. The Pemigewasset River study was authorized by Public Law 101–357.

The study was conducted by the National Park Service with assistance from a local study committee. The National Park Service determined that the 32.5-mile study segment is eligible for designation based upon its free-flowing character and outstanding scenic, recreational, geologic, fishery, and botanic values. However, in deference to the wishes of local adjoining communities, six of seven of whom voted against designation, and the State of New Hampshire, I am recommending that the Congress not consider designation at this time. If the local communities and/or the State should change their position in the future, the question of designation could be reevaluated.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *May 5, 1998.*

ANNUAL REPORT ON THE STATE OF SMALL BUSINESS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Small Business:

To the Congress of the United States:

I am pleased to present my fourth annual report on the state of small business. In short, the small business community continues to perform exceptionally well. For the fourth year in a row, new business formation reached a record high: 842,357 new firms were formed in 1996.

The entrepreneurial spirit continues to burn brightly as the creativity and sheer productivity of America's small businesses make our Nation's business community the envy of the world. My Administration has worked hard to keep that spirit strong by implementing policies and programs designed to help small businesses develop and expand. We have focused our economic strategy on three pillars: reducing the deficit, opening up markets overseas, and investing in our people through education and technology. Our efforts with respect to small business have been concentrated in a number of specific areas, including directing tax relief to more small businesses, expanding access to capital, supporting innovation, providing regulatory relief, opening overseas markets to entrepreneurs, and strengthening America's work force.

A BALANCED BUDGET AND TAXPAYER RELIEF

When I took office, the Federal budget deficit was a record $290 billion. I determined that one of the best things we could do for the American people, including small business, would be to balance the budget. Because of our hard choices, the deficit has been reduced for 5 years in a row. By October 1997, the deficit had fallen to just $22.6 billion—a reduction of $267 billion or 90 percent. These lower deficits have helped to reduce the interest rates, an important matter for all small businesses.

Small business owners have long recognized the importance of this issue. At each of the White House Conferences on Small Businesses—in 1980, 1986, and 1995—small businesses included on their agenda a recommendation to balance the Federal budget. With passage of the Balanced Budget Act of 1997, I signed into law the first balanced budget in a generation. The new budget will spur growth and spread opportunity by providing the biggest investment in higher education since the GI bill more than 50 years ago. Even after we pay for tax cuts, line by line and dime by dime, there will still be $900 billion in savings over the next 10 years.

And at the same time we are easing the tax burden on small firms. My Administration and the Congress took the White House Conference tax recommendations seriously during deliberations that led to the Taxpayer Relief Act of 1997. The new law will direct billions of dollars in tax relief to small firms over the next 10 years. Small businesses will see a decrease in the estate tax, an increase to 100 percent over the next 10 years in the percentage of health insurance payments a self-employed person can deduct, an updated definition of "home office" for tax purposes, and a reduction in paperwork associated with the alternative minimum tax.

Significant new capital gains provisions in the law should provide new infusions of capital to new small businesses. By reducing the capital gains tax rate and giving small business investors new options, the law encourages economic growth through investment in small businesses.

ACCESS TO CAPITAL

For so many small business owners, gaining access to capital continues to be a very difficult challenge. The U.S. Small Business Administration (SBA) plays a key role as a catalyst in our efforts to expand this access. The SBA made or guaranteed more than $13 billion in loans in 1997. Since the end of fiscal year 1992, the SBA has backed more than $48 billion in loans to small businesses, more than in the previous 12 years combined. In 1997, the SBA approved 45,288 loan guaranties amounting to $9.46 billion in the 7(a) guaranty program, a 23 percent increase from 1996, and 4,131 loans worth $1.44 billion under the Certified Development Company (CDC) loan program.

Included in the 1997 loan totals were a record $2.6 billion in 7(a) and CDC loans to more than 10,600 minority-owned businesses and another record $1.7 billion in roughly 10,800 loans to women-owned businesses. Over the last 4 years, the number of SBA loans to women small business owners has more than tripled, and loans to minority borrowers have also nearly tripled.

The Small Business Investment Company (SBIC) program, the SBA's premier vehicle for providing venture capital to small, growing companies, produced a record amount of equity and debt capital investments during the year. The program's licensed SBICs made 2,731 investments worth $2.37 billion. In 1997, 33 new SBICs with combined private capital of $471 million were licensed. Since 1994, when the program was revamped, 111 new SBICs with $1.57 billion in private capital have entered the program.

And in the past year, the SBA's Office of Advocacy developed a promising new tool to direct capital to dynamic, growing small businesses—the Angel Capital Electronic Network, or ACE-Net. This effort has involved refining Federal and State small business securities requirements and using state-of-the-art Internet technology to develop a brand new nationwide market for small business equity.

GOVERNMENT SUPPORT FOR SMALL BUSINESS INNOVATION

As this report documents, small firms play an important role in developing innovative products and processes and bringing them to the marketplace. Federal research and development that strengthens the national defense, promotes health and safety, and improves the Nation's transportation systems is vital to our long-term interests. Our Government has instituted active policies to ensure that small businesses have opportunities to bring their innovative ideas to these efforts.

The Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs help ensure that Federal research and development funding is directed to small businesses. In fiscal year 1996, more than 325 Phase I and Phase II STTR awards totaling $38 million went to 249 small businesses. Also in 1996, the SBIR program invested almost $1 billion in small high technology firms. The program has touched and inspired individuals like Bill McCann, a blind—and once frustrated—trumpet player who used SBIR funding to help start a company that designs software to automatically translate sheet music into braille. Today, Dancing Dots Braille Music Technology is rapidly expanding the library of sheet music available to blind musicians.

Other initiatives include the National Institute of Standards and Technology's (NIST) Advanced Technology Program, enabling small high technology firms to develop pathbreaking technologies, and NIST's Manufacturing Extension Partnership, which helps small manufacturers apply performance-improving technologies needed to meet global competition. Two of the SBA's loan programs—the 7(a) and 504 loan programs—currently assist 2,000 high technology companies. And the SBA's ACE-Net initiative is especially designed to meet the needs of these dynamic high technology firms.

Because they give small firms a footing on which to build new ideas and innovative products, these efforts benefit not only the small firms themselves, but the entire American economy.

REGULATORY RELIEF

A pressing concern often identified by small businesses is unfairly burdensome regulation. My Administration is committed to reforming the system of Government regulations to make it more equitable for small companies. In 1996, I signed into law the Small Business Regulatory Enforcement Fairness Act, which strengthens requirements that Federal agencies consider and mitigate unfairly burdensome effects of their rules on small businesses and other small organizations. A small business ombudsmen and a new system of regulatory fairness boards, appointed in September 1996, give small firms new opportunities to participate in agency enforcement actions and policies. Because agencies can be challenged in court, they have gone to extra lengths to ensure that small business input is an integral part of their rulemaking processes.

Many agencies are conducting their own initiatives to reduce the regulatory burden. The SBA, for example, cut its regulations in half and rewrote the remaining requirements in plain English. All of these reforms help ensure that the Government maintains health, safety and other necessary standards without driving promising small companies out of business.

OPENING OVERSEAS MARKETS

Key in my Administration's strategy for economic growth are efforts to expand business access to new and growing markets abroad. I want to open trade in areas where American firms are leading—computer software, medical equipment, environmental technology. The information technology agreement we reached with 37 other nations in 1996 will eliminate tariffs and unshackle trade in computers, semiconductors, and telecommunications. This cut in tariffs on American products could lead to hundreds of thousands of jobs for our people.

Measures aimed at helping small firms expand into the global market have included an overhaul of the Government's export controls and reinvention of export assistance. These changes help ensure that our own Government is no longer the hurdle to small businesses entering the international economy.

A 21ST CENTURY WORK FORCE

American business' most important resource is, of course, people. I am proud of my Administration's efforts to improve the lives and productivity of the American work force. We know that in this Information Age, we need a new social compact—a new understanding of the responsibilities of government, business, and every one of us to each other.

Education is certainly the most important investment we can make in people. We must invest in the skills of people if we are to have the best educated work force in the world in the 21st century. We're moving forward to connect every classroom to the Internet by the year 2000, and to raise standards so that every child can master the basics.

We're also training America's future entrepreneurs. The SBA, for example, has improved access to education and counseling by funding 19 new women's business centers and 15 U.S. export assistance centers nationwide. And we are encouraging businesses to continue their important contributions to job training. The Balanced Budget Act of 1997 encourages employers to provide training by excluding income spent on education for employees from taxation.

We are taking steps to improve small business workers' access to employee benefits. Last year, I signed into law the Small Business Job Protection Act, which, among other things, makes it easier for small businesses to offer pension plans by creating a new small business 401(k) plan. We made it possible for more Americans to keep their pensions when they change jobs without having to wait before they can start saving at their new jobs. As many as 10 million Americans without pensions when the law was signed can now earn them because this law exists.

Given that small businesses have created more than 10 million new jobs in the last four years, they will be critical in the implementation of the welfare to work initiative. That means the SBA microloan and One-Stop Capital Shop programs will be uniquely positioned to take on the "work" component of this initiative. The work opportunity tax credit in the Balanced Budget Act is also designed as an incentive to encourage small firms, among others, to help move people from welfare to work.

A small business starts with one person's dream. Through devotion and hard work, dreams become reality. Our efforts for the small business community ensure that these modern American Dreams still have a chance to grow and flourish.

I want my Administration to be on the leading edge in working as a partner with the small business community. That is why an essential component of our job is to listen, to find out what works, and to go the extra mile for America's entrepreneurial small business owners.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 5, 1998.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

NATIONAL DAY OF PRAYER OBSERVED THURSDAY, MAY 7, 1998

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, as America prepares to observe the National Day of Prayer this Thursday, I wish to share a story I heard on the radio recently. It is the story of an exceptional group of young people at Lutheran High School Westland, a Christian school in Westland, Michigan, and their efforts to express their religious beliefs.

Last month, the students at the school, acting on their own initiative, built a display of 2,000 small white crosses on the school's lawn to represent roughly 4,000 abortions that are performed daily in America.

The students peacefully, yet powerfully, wanted to express their opposition to abortion. Shortly after the crosses went up, however, complaints were filed. The display was called tacky and political in an attack printed in the local newspaper.

Fortunately, through community support and true dedication by the students, the cross display remained on the school's lawn for a full week as originally planned.

But we have to pause to ask would the display have been criticized at all if the crosses represented deaths from cancer or drunk driving accidents instead of abortion? I fear, especially as we near the National Day of Prayer, that this story is yet another example of the way in which freedom of religious expression is coming under attack in our Nation.

America was built upon Judeo-Christian values, but this very important element of our culture is now all too often not only ignored but also frowned upon. Children have been barred from bowing their heads in private prayer, from writing of their religious beliefs in school papers, and even from bringing the Bible to school.

I think it is a sad commentary on our Nation that we can have a serious debate on the House floor about using taxpayer dollars to buy hypodermic needles for drug addicts, and, yet, a child cannot read the Bible in his or her school library.

This is the very reason that the Religious Freedom Amendment, introduced by my good friend, the gentleman from Oklahoma (Mr. ISTOOK), is so important to our Nation. The Religious Freedom Amendment protects the freedom of religion which we have enjoyed for so long under our Constitution, but which has been suppressed by recent court actions and trends.

It retains the First Amendment safeguard against official religion and keeps school prayer voluntary, but protects it just as other forms of free speech are protected.

In other words, the Religious Freedom Amendment protects religious expression like school prayer and the students' display at Lutheran High School in Westland, Michigan. It also, of course, retains the right of others to express their disapproval of any such display or to abstain from group prayer.

The key is everyone's rights are protected. Again, I repeat, the key is everyone's rights are protected. This was the case in Westland where, fortunately, the Religious Freedom Amendment was not necessary this year, as the students were not required to remove their display.

The school officials and students are quick to point out that the criticism of their cross display actually turned into a positive by generating publicly an overwhelmingly amount of support for their cause. But it is not always the case, as I indicated earlier. Other displays of religious expression, including private prayer, have been banned by law in locations nationwide.

In my opinion, and in the opinion of 75 percent of Americans polled, it is critical for Congress to pass legislation that ensures the religious liberties once again receive full protection in America. I urge my colleagues to support the Religious Liberties Amendment that has been offered by the gentleman from Oklahoma (Mr. ISTOOK) and others on the House side.

CINCO DE MAYO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MICA) is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, today is Cinco de Mayo, the 5th of May, which is celebrated throughout the Americas. It is a day of celebration for those who have their roots and heart in Mexico. It is a special day in history for Mexican and Mexican-Americans because, on the 5th of May in 1862, a very small, poorly armed band of Mexicans defeated, in an unbalanced contest, their colonial oppressors; as history records, too, that just several years after defeating their oppressors, that Mexican independence was lost and there was oppression in the country.

□ 1830

That is the day we celebrate today.

I come before the House tonight, and I have come many times to talk about the situation in our country relating to illegal narcotics. And I wish I could come here and celebrate the Cinco de Mayo with other Mexican Americans and supporters of Mexico but, in fact, I am not here to praise Mexico but to condemn Mexico on this occasion.

In fact, today, Mexico is a source of 50 percent of the hard narcotics entering the United States of America. Not only are these drugs entering the United States, but they are also corrupting the Mexico that these Mexican individuals fought on the 5th of May in 1862 to free their country and their people. Drugs are oppressing Mexico and they are destroying the United States of America.

We have tried to work with Mexico. I serve on the Committee on National Security of the Congress that deals with our national drug policy. We did not decertify Mexico last year or this year, and we should have. And I have sponsored resolutions and supported them in both instances, but they have not passed, for whatever reasons. But we should have decertified Mexico.

Mexico, to date, has not extradited one drug felon or one drug offender to the United States. And one reason they were not decertified was because we sought their cooperation in these areas such as extradition.

Mexico, to date, has, in fact, refused to allow our agents to arm themselves. Mexico, in fact, has not signed a maritime agreement. And the only other country is Haiti, and they have not done that because they have not organized their government. But Mexico is the only country I know of in the Western Hemisphere to not sign a maritime agreement. And the list goes on and on of failure to cooperate.

So we are not celebrating a happy Cinco de Mayo here in Congress. I am not. I am concerned that, again, that Mexicans who fought for freedom, for independence, for the right of the people to live in an open society and a free society are being oppressed because of drug trafficking within the country of Mexico and the drugs that have come into the United States.

If my colleagues do not think it is a problem, 50 percent of those hard drugs coming into the United States have put 2 million Americans behind bars. We have 20,000 deaths in the United States that are drug related. The cost to the American taxpayer is now $16 billion. And we can lay at the doorstep of the Mexican Government the responsibility for so many of these illegal narcotics coming into the United States.

It is a sad commentary that our neighbors, in fact, are sending chemical weapons into the United States and chemical destruction, which is also destroying that country and its freedom that was fought for by these heroes on May 5th of 1862.

Mr. Speaker, I hope that I can come a year from now, on May 5th, 1999, and say that indeed the Mexicans have cooperated as neighbors, as friends in this hemisphere to gain their own people's freedom from the drug trafficking, from corruption and from the depression that it has brought to their society, and also free our country from the oppression, from the deaths that it has caused and from the drugs that are on our streets, in our schools, and in our communities.

FUNDING FOR THE INTERNATIONAL MONETARY FUND

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from Hawaii (Mr. ABERCROMBIE) is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, today I call on both the Democratic and Republican leaders of the House to pass the $18 billion International Monetary Fund as soon as possible. It is urgent for Hawaii's citizens, workers, and the businesses that I represent.

In early winter 1997, economies in South Korea, Thailand, Malaysia, and Indonesia collapsed. The effects on Hawaii have stifled recovery from the deepest recession the State has experienced in 50 years.

Problems began when the Japanese economy faltered in 1991. Tourism and direct foreign investment plunged. Devaluation of the yen and now other Asian currencies have resulted in the Hawaii recession.

Unemployment is at 6.5 percent. And by the way, Mr. Speaker, the 6.5 percent may not seem very high to some others in the country who have experienced much greater percentages in times past, but for Hawaii that is a very, very high number.

Tourism last month dropped 14 percent from March a year ago. Costs for the Japanese tourist or businessperson are more than 50 percent higher than they were in 1991. Investment decline has resulted in construction contract receipts falling 40 percent since 1991. Business and individual bankruptcy are at record high levels.

Business, labor, industry, and government in Hawaii are working on solutions but cannot provide direct economic aid to Asian countries or restructure Asian economies. Only Congress can and must do that in conjunction with the IMF.

Current funding proposals have been derailed over unrelated issues, such as abortion. There are adequate vehicles for dealing with those issues, and the leadership should drop them and bring an IMF bill to the House floor immediately.

Economists indicate it will take 1 to 3 years for Asian economies to recover, even with IMF aid. Although there is no quick fix, we must start now, because Hawaii and the U.S. economies are being damaged by inaction. And I stress the U.S. economy in general as well as that of Hawaii in particular, Mr. Speaker.

Knowing the relationship between IMF and America's foreign trade, which includes tourism and the movement of investment capital, President Clinton recently said that IMF funding was something "we owe to the future of this country and to our children." That certainly applies to Hawaii.

That is why I wrote today to the Speaker and Democratic leader, the gentleman from Missouri (Mr. GEPHARDT) urging immediate action. I have the letter here, Mr. Speaker, and I will submit it as part of my remarks.

Threat of economic destabilization remains, and delay is only intensifying the problem. The IMF must be allowed to do its job, including helping restructure the economic systems in Asia which resulted in the need for the multibillion-dollar bailout. But the IMF cannot do its job without the funding necessary to stabilize these economies.

Mr. Speaker, we must not put America's economic well-being at risk by ignoring the Asian financial crisis. We must not put Hawaii's economic well-being at risk by ignoring the Asian financial crisis. I urge that the IMF bill, the International Monetary Fund bill, be brought to the House floor immediately.

Mr. Speaker, the letter I earlier referred to is as follows:

NEIL ABERCROMBIE,
1ST DISTRICT, HAWAII,
May 5, 1997.

Hon. NEWT GINGRICH,
U.S. Capitol Building,
Washington, DC.

DEAR MR. SPEAKER: On behalf of the people of Hawaii who have been suffering through the toughest economic times in more than half a century, I urge that the funding bill be brought to the House floor expeditiously. I am deeply concerned about the failure of the House of Representatives to act on the $18 billion in emergency funding for the International Monetary Fund (IMF) to deal with the Asian financial crisis.

As you may know, during the last quarter of 1997, a financial crisis swept through several Asian countries. In response, the IMF came up with proposals to strengthen the economies of Thailand, South Korea, Indonesia and Malaysia and, in the process, reduce the threat of destabilization to the rest of Asia and the Pacific Rim. In this regard, it is vital that Congress provide the IMF with the necessary resources to adequately deal with the Asian financial crisis. Failure to enact IMF funding potentially jeopardizes our nation's ability to sustain economic growth. In Hawaii, the effects are more immediate. The Asian financial crisis, combined with the problems of the Japanese economy, has already had a negative economic impact on the state. Continued neglect by Congress will exacerbate this situation and make it more difficult for Hawaii to deal with its greatest economic challenge since statehood.

Since 1991, Hawaii's economy has been stagnant. Since that time, the bankruptcy rate has skyrocketed and our unemployment rate has grown and now ranks among the highest in the nation. The primary reason for Hawaii's economic problems can be attributed to the decline in travel and tourism from Japan and other Asian countries as well as the consequences of direct foreign capital being withdrawn from investment in the state. In March, the number of visitors to Hawaii was down by 40,000 compared to the same time last year. The most dramatic loss was in the number of East-bound visitors from Asia which declined 14 per cent. Equally profound is the impact of the Yen currency devaluation. Today, it costs a Japanese tourist or businessperson 50 percent more to stay in Hawaii than it did in 1991. No sector of Hawaii's economy has been left untouched. Take for instance the construction industry: contract receipts for construction fell in 1997 to $2.9 billion, down from $3.2 billion in 1996, continuing into a 40 percent decline since 1991.

Emergency funding for the IMF will not provide a quick fix to the Asian financial crisis. The situation in Asia developed over decades and economists have indicated that the IMF-supervised policy adjustments will take one to three years before they take hold. Yet, passage of the $18 billion in emergency financing for the IMF funding is a necessary step in resolving the crisis. I fear that inaction by Congress will only intensify the problem.

I understand there are many members of Congress who hold strong views on issues which have become inextricably and unfairly linked to the IMF funding bill. Congress has many legislative vehicles with which to deliberate issues such as the abortion policies of other nations. Holding the IMF funding hostage to unrelated issues is not fair and runs counterproductive to the efforts of all sectors of Hawaii society—business, industry, labor and government—to resolve our economic problems. Although there are steps that all of those parties can and are taking, it is far beyond their authority to address the need to restructure economies of Asian countries. That is the proper role for the IMF, Congress, and the federal government.

I strongly urge that you and the other members of the Republican leadership take immediate steps to resolve the emergency funding issues for the IMF. We should not put the well-being of our nation's economy at risk by ignoring the Asian financial crisis. Emergency funding for the IMF cannot be held captive to unrelated issues.

Sincerely,

NEIL ABERCROMBIE
Member of Congress

SOUTH DAKOTANS SEND MESSAGE OF ZERO TOLERANCE IN WAR ON DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. THUNE) is recognized for 5 minutes.

Mr. THUNE. Mr. Speaker, I would like to follow up this evening for just a moment on the discussion that the gentleman from Florida started earlier, having to do with the whole war on drugs.

When we discuss the war on drugs in America today, we hear a lot about the phrase "zero tolerance." I think zero tolerance means different things in different places. What I would like to do today is talk a little bit about the definition of zero tolerance in my home State of South Dakota.

We are fortunate in South Dakota to have a relatively low crime rate compared with other parts of the country. In fact, we never really thought that we had a drug problem. Drugs were something that were dealt with in the metropolitan areas of this country and, frankly, we did not think much about drugs in rural America.

But that is changing, due in part to a new drug called methamphetamine, or "meth," or "crank" for short. In 1997, meth seizures in South Dakota doubled. Oftentimes this drug makes it into the Midwest from Mexico via the interstate. It is becoming a heartland epidemic in neighboring States like Iowa and Missouri as well.

Last year South Dakota joined Kansas, Nebraska, Iowa, and Missouri in being designated as part of the high-intensity drug trafficking area. The drug lends itself to rural areas. Manufacturing methamphetamine is a messy and smelly process. Cooking up meth creates a pungent, easily detectable odor.

As a result, many meth manufacturers choose to set up in rural areas. They find an old building on a abandoned Midwestern farmstead and they are in business. If they have access to an interstate highway, they have a way to ship it out. Once they are in business, the rural nature of our communities make it very difficult to catch the dealers. In fact, it is pretty hard. My colleagues can imagine trying to get an undercover narcotics agent slipped into a town of 300 people, unnoticed.

The close-knit neighborliness, which has so long insulated us in rural areas from drug problems, is now working against us as we fight this drug. But we are fighting it. In South Dakota, zero tolerance means zero tolerance.

Just yesterday, drug agents in Lincoln County, South Dakota brought drug dogs in to do an unannounced search of cars parked outside a high school. The drug dogs inspected 21 cars. Officers searched 7. Marijuana or drug paraphernalia were found in 5. All five students are charged in either adult or juvenile court. Now, school administrators said they were not notified in advance about the search, and they say if they had been notified, they would have invited the officers inside to search not just cars but lockers, too.

Law enforcement officials in South Dakota tell me that school officials do not just give lip service to the phrase "zero tolerance." They back it by cooperating with and inviting law officers in for random unannounced searches. As a result, school searches have increased from 43 in 1995 to 103 in 1997.

And school officials are not the only ones who support it. Law enforcement officers tell me that students support it as well. The vast majority of kids in America do not want to be offered drugs in the hallways of their schools. The vast majority of kids want to feel safe, secure, and free from peer pressure when they go to their lockers to get their books. Most kids know it is easier to say no if there are no drugs in school to start with, in the first place, to say no to. And most kids are fully behind the zero tolerance policy.

And so are their parents. When South Dakota law enforcement officers bring those dogs into the school, they know they are doing so with the full support of parents, teachers, and students. That allows them to bring meaning back into the phrase "zero tolerance."

We will not achieve zero tolerance unless we have everyone's cooperation and support. Parents say they want drug free schools, but are they prepared to face up to the fact that their child may be the one who is dealing drugs in school? Are they prepared to look for the signs of drug use and take action when they see them? Are they prepared to lead by example?

Less than a week ago a 24-year-old woman, with four children under the age of 7, was arrested for selling methamphetamine to two 17-year-olds, a 16-year-old and a 15-year-old. She was indicted on eight felony drug charges, including distributing methamphetamine to children while raising four children of her own.

Another law enforcement officer said he recently arrested a 15-year-old girl on drug charges. She was buying the drugs from her boyfriend. She was buying them for her mother. These parents are not sending the right message to the children of America. The message of zero tolerance is the message we ought to be sending.

There is a serious cultural breakdown in America today in the message that we are sending to our young people. Now, students can say they want drug free schools, but are they prepared to stand up to the peer pressure and say no when push comes to shove? Are they prepared to take a stand personally, irrespective and regardless of the consequences?

We are all responsible for ridding our schools and communities of drugs. Parents have to teach kids how to say no. Kids have to put the training to work. And teachers and law enforcement officers have to do everything in their power to keep those drugs from entering our schools in the first place. We need to stop this problem. It is one we have to work together on.

REVISING THE BANKRUPTCY CODE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to turn our attention to an issue that probably has not caught the momentum of the national media or the attention of our constituents back home.

When we first begin to hear about any discussions on revising the bankruptcy code, long yawns begin to come out of those who might want to understand what we are engaged in. Certainly I think when we talk about credit card debt and credit cards and 19 percent, 21 percent, and 30 percent interest rates, most consumers would understand, Mr. Speaker, what we are talking about.

The bankruptcy code and the bankruptcy procedures were used to allow both businesses and consumers to, with dignity, remain in their communities and restructure their debts; in many instances help to keep employees employed, and help to keep people with a roof over their head.

In 1978, the last time we reformed or reviewed or revised the bankruptcy code, we took, Mr. Speaker, some 5 deliberative years. We studied, we assessed, we questioned. Now, unfortunately, as H.R. 3150 moves toward markup in the Committee on the Judiciary, I venture to say that we have looked and given this bill as much attention as we would give a quick hot dog while we are eating it at a baseball game. What I am saying, Mr. Speaker, is that this massive overhaul of the bankruptcy code is too fast, too far, and too soon.

In fact, Mr. Speaker, I am prepared today to ask the President of the United States to veto this bankruptcy bill, which we expect, as I said, to be before the Committee on the Judiciary next week and, yes, to be before the House in the coming weeks and for the President to sign.

Let me share with my colleagues my concerns. First of all, I think it is important that we in America take credit lightly and sometimes frivolously. Maybe it is because we are bombarded with letters from credit card companies time after time after time, from the minute we graduate from high school, the time we are in college, to take this card, take that card, use this credit, use that credit. And, of course, if someone says use it, we will. So I do support educating the public about the responsible use of credit.

But there are certain gaping holes in this credit review or the review of the bankruptcy code: one, less than 10 hearings, less than 20 hours of testimony. And, in fact, let me say to those who have been pushing elevating credit card debt over their mortgages, over providing food for the family, over taking care of their children, the problem is, when we had hearings, only 4 percent of all credit card debt is actually defaulted on.

How many of us have had the frequent "hellos" from the harassing calls from credit card companies. I can venture to say these folks get their money. Only 4 percent default. But yet this bill elevates credit card debt above mortgages, above serious responsibilities, like child support.

In an amendment that I offered in committee last week, which was turned back, I offered to protect, in protected income, child support for our children; those bankrupt petitioners who had to pay child support and those bankrupt petitioners who receive child support. Protected income so that the credit card companies would not take the money that they had for their children.

□ 1845

Was it accepted? No, it was not. And as well, I cannot imagine why tithing and charitable deductions should not be protected income. In the spirit of volunteerism, in the freedom of religion, in protection of religion, why would we not want to protect the bankrupt petitioners from those who believe in tithing and donating, as we would those who want to pay credit card debt?

I simply say that this meager utilization of the process of review gives me shudders as to what kind of bill will come to the floor of the House. Voluminous pages, but with little knowledge; only five hearings, a markup coming up before we had any serious markup in subcommittee. This legislation is moving too quickly.

My objections have been echoed by the National Bankruptcy Conference, the American Conference on Bankruptcy, the National Conference of Bankruptcy Judges, the National Association of Chapter 13 Trustees; and 57 of the Nation's leading professors of bankruptcy law, with over 500 years of experience collectively, have said this is moving too fast. If they revise this bankruptcy code, what they could have rather than having the scales of justice, they will have the unequal weights, the debtors down here and the creditors up here.

Mr. Speaker, that is not a fair way to address the working men and women. This is a drive-by approach to revising the bankruptcy code.

Our Constitution tells us that there is a fair balance between the responsibilities of those in this country with the rights that they have. Mr. Speaker, I would simply say that it is crucial that, one, we protect our children; two, we respect the freedom of religion by tithing; we respect our children by supporting protected income for support contributions.

And finally, Mr. Speaker, let me simply say this bill is moving too fast. Let us support the 24 percent of American women and men who are supported and their children supported by child support. This bill should go back to committee; and, if not, it should be vetoed by the President of the United States.

Mr. Speaker, I want to take a moment this evening to discuss the many troubling issues that are currently swirling around the world of consumer and commercial bankruptcy. And in particular, H.R. 3150, the Bankruptcy Reform Act of 1998, scheduled for full committee mark-up in the Judiciary Committee next week. In general, I must say that I am particularly concerned about the financial impact that on-going abuses of our present bankruptcy system could have on the American taxpayer, and how we, in the Congress, can take action to minimize them. However, I seriously question whether H.R. 3150, as it now stands, is the best means to accomplish this goal. Frankly, in its philosophical approach and legislative function, it appears to unnecessarily burdening the rights of the bankrupt debtor. I believe unequivocally that our reforms must be balanced in their treatment of both debtor and creditor. Sure, some debtors probably do abuse the current bankruptcy system, but let us not pretend that creditors do not do so also.

Many financial institutions just seem to be too loose in their extension of credit to consumers, and it would seem that they continue the practice because it is profitable for them. As Mr. Lloyd Cutler of Wilmer, Cutler and Pickering, shared with us in one of our hearings, only 4 percent of all credit card debt is actually defaulted upon, and therefore, that is not the source of the problem. If this is the case, why are we being urged by the credit industry to change the current bankruptcy laws? Either way you look at this issue, it is definitely a questionable move for Congress to seek to insulate the credit industry from their own questionable lending policies, and H.R. 3150 seems to do this.

But, friends and colleagues, this is not the only problem with this bill. I must openly question Subcommittee Chairman GEKAS' schedule of a total five hearings on this subject over the three weeks before the April recess, and then, a rush to mark-up this bill immediately after. But as if that was not bad enough, the Chairman actually offered two substantial revisions of this bill by way of substitute, within 48 hours of the Subcommittee mark-up of the bill. This process has been more than merely a "rush to judgment", actually, it has been a travesty.

My objections about the swift consideration of this legislation, as I am sure that I can speak for the rest of my colleagues on this side of the aisle, are not well-crafted partisan tactics to delay Chairman GEKAS' legislation, but instead, legitimate and heart-felt concerns about the rapidity of this process. Furthermore, these objections have been echoed by the National Bankruptcy Conference, the American College of Bankruptcy, the National Conference of Bankruptcy Judges, the National Association of Chapter 13 trustees, and 57 of the nation's leading professors of bankruptcy law, amongst others. But despite it all, the spending train called H.R. 3150, continues to rush along. For decades now, bankruptcy legislation in the Congress has been a bi-partisan effort. Our bankruptcy laws traditionally have been carefully shaped by the contrasting views of the two parties; but not now.

Ultimately, I think that the Chairman's brisk "drive-by" approach to the complexities presented to us by bankruptcy reform, will have drastic consequences for our constituencies. Consumer bankruptcy reform, must not be taken lightly. Simply stated, the Congress should not attempt to pass untested legislative policy without first reviewing every reasonable option, possibility, and alternative to radical structural reform. If not, let me say it again, the American people are the ones that will have to deal with the consequences of our hasty choices.

I need not remind anyone that we have not been elected to act as social scientists empowered by the Constitution of this great country to test our ideological theories on this nation's millions of unexpected human subjects. Rather, we are the chosen Representatives of the People of the United States charged to protect and serve their interests to the fullest extent of our powers. But how can we fulfill this sacred responsibility to our constituents if we do not take the necessary time to contemplate serious matters?

I know that there are legitimate merits to this legislative initiative (like its debtor education provisions), but I also know that there are still both detected and undetected deficiencies in it as well. We must take the time to analyze, criticize, contest, debate, consider and then review these measures before taking decisive action. This is why the Congress took five (5) years to pass reforms after the last report by the National Bankruptcy Review Commission; because these weighty matters truly deserve our lasting and full attention. As distinguished as our witnesses were in the hearings on this matter, hearings do not make up the totality of the process of legislative review; in the end, every member must have the necessary time to make up their own mind. Now, all we can do is wonder what could have and what should have been, if this process had worked right.

Another primary issue of concern for me with H.R. 3150, has been its utter disregard for the care and safety of our children. In subcommittee, I offered an amendment to this bill that was "turned back" by the Chair, which would have protected the right of bankrupt parents to continue to make or receive adequate child support payments for their children, even though, they were participating in a Chapter 13 repayment plan. More importantly, however, my amendment allows a parent to pay or receive an amount that exceeds their court-mandated child support contribution. We need parents to give as much as they can to the support of their children.

Listen to the staggering statistics, only 24% of families headed by a woman never married to the father receive regular child support payments, and in addition to the fact that only 54% of the families headed by a woman divorced from the father receive regular and full child support payments. So what is the result on our children? 50% of White children in single parent households, who do not receive regular and full child support, live at or below the poverty line. While 60% of Hispanic children and 70% of Black children in single parent households live at or below the poverty line. And frighteningly, Chairman GEKAS has offered a bill that would seek to widen this poverty gap. Under current law, child support payments are considered a non-dischargeable, priority debt in a bankruptcy proceeding, but under the Gekas bill, our children will be battling with Visa, Mastercard and your local department store, Macy's, Foley's, Hecht's, Hudson's or Neiman-Marcus, to receive their sorely-needed monthly payments.

The answer is as simple as this. I believe that our laws should seek to protect those who can protect themselves, most notably, our children. My amendment to H.R. 3150 would not encourage debtors to evade their financial responsibilities, it merely allows bankrupts to continue to care for their children. Just because an individual files for bankruptcy, that does not mean that they should be forced to abdicate their most essential duties. Often bankrupt debtors are parents, too, and they deserve the same opportunity to care for their children. If not, these funds will be left as prey for the many creditors seeking to take a significant portion of a debtor's available income. If it is a choice between enriching a powerful multi-national conglomerate and the welfare of a child, every day of the week and twice on Sunday, I would choose the child. Thus, I urge you friends, colleagues and those within the sound of my voice, to work diligently with me to care for the truly innocent members of our society, our children. Thank you.

REGARDING RELEASE OF CONFIDENTIAL INFORMATION PROVIDED BY MR. AND MRS. HUBBELL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, it would be useful for us to reflect on some of the matters that have transpired over the last several days in this political thunderstorm that is the continuing efforts by independent counsel Kenneth Starr to get the President.

I find most troublesome the recent conduct of the distinguished chairman of the committee I once chaired, the old Government Operations Committee. I refer to none other than the gentleman from Indiana (Mr. BURTON) and his actions on the day the grand jury returned the indictments against Mr. and Mrs. Webster Hubbell.

Chairman BURTON released private and confidential conversations of Mr. and Mrs. Hubbell, and Mr. Hubbell's attorney, carefully selecting those portions that he believed would be most damaging to the First Lady. This release was designed and calculated to embarrass the Hubbells and, in the bargain, to conceal those portions of the conversation that contradicted the tenor and content of the selected portions of the conversations that were disclosed. In addition, it has been reported that Chairman BURTON and his staff not only withheld information, but they also made mistakes, serious mistakes, in transcription.

At a minimum, these disclosures violated the spirit and, I believe, the letter of the law of the Privacy Act and the privilege any person enjoys when he or she speaks with a spouse or an attorney. The Department of Justice forwarded this information to this Congress with the understanding that any disclosure would be handled with discretion.

I wish I could say that happened here. There has been no shortage of critical commentary about the scope, the timing, and the techniques Mr. Starr has used. By the same token, we in the House of Representatives must carefully consider our responsibilities while we await any report Mr. Starr may be preparing and guard against mimicking his excessive practices.

Clearly, we must guard against bias or inappropriate procedures, including premature and indiscreet disclosures of sensitive information. To do less is to lack the discipline and the judgment necessary to meet this important responsibility.

According to public accounts, the Speaker may well ask the gentleman from Indiana (Mr. BURTON) to participate and consider the product of Mr. Starr's $40 million so-called "independent investigation." The recent actions of the gentleman from Indiana do not bode well for how he might handle secret grand jury information.

Obviously, we already have a barometer of how this senior Republican Member of the House will approach his responsibilities. I cite this as further evidence of the plea I have issued more than once that the Committee on the Judiciary and not Chairman BURTON or any special committee is the only appropriate forum to consider any report if one is ever to be submitted by Mr. Starr. Any effort to assign this task to a special committee should be seen for what it is, an ill-disguised, politically motivated effort to get the President and to protect the majority in the House of Representatives.

As chairman of the former Government Operations Committee, the gentleman from Indiana (Mr. BURTON) is in the singular position of representing and embodying the integrity of his committee's review, as well as the integrity of the process by which it does its work. And while I am confident that he would disagree, I am sure that many of my colleagues on both sides of the aisle have been troubled by disclosures of information which we know to be selective, incomplete and wrong.

We can only hope that any product that might be issued by his committee is not similarly flawed.

SOCIAL SECURITY: WHERE IS IT GOING, WHAT SHALL WE DO?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I would like to do a bipartisan presentation, I think; and that is about Social Security, where are we going, what shall we do.

I suspect a lot of people are going to be tired of hearing about Social Security. But I think it is so important that every American, either retired or somebody that is going to be retired some day, look at the problem of Social Security, what is happening, and at this summer and fall election, talk to their candidates that are running for Congress about what they are doing for preserving Social Security.

I have this chart here that represents the bleak future of Social Security. As my colleagues see, on the top left of this chart that goes from up until about 2013 is the new projection of where there is going to be more tax revenue coming in from the working taxpayers of this country than is needed to pay benefits.

Now, what happens in Social Security since we started in 1935? The existing workers pay in their taxes and immediately it goes out to pay benefits for existing retirees. This chart shows that we are going to have more tax revenue coming in than is required to pay out benefits for the next 12 to 14 years. Dorcas Hardy, by the way, thinks we are going to actually run out of money as early as 2005 or 2006.

Now, in terms of what the excess money is, and that money is approximately $70 billion this year, $80 billion this year, $100 billion the year after next, is being borrowed from Social Security to balance the budget.

Now, when the trustees came out with their report last week, they said, well, really Social Security is not going to go broke until the year 2032. But what does that mean? If there is less money coming in as early as 2005, maybe 2014, maybe 2013, maybe earlier, how is government going to come up with the funds that are necessary to fill our obligation to meet Social Security benefits?

Now, looking at this chart, if we are looking at the year 2018, in terms of today's dollars, there is going to be $100 billion that the general fund is going to have to come up with to pay the existing benefits, to pay back what it is has been borrowing from the Social Security Trust Fund.

In terms of the 2018 dollars, it is going to be approximately $600 billion, $600 billion that is either going to have to be borrowed, have other expenditures of the Federal Government reduced to come up with that money, or increase taxes.

Let me say a word about tax increases that have been used to solve the Social Security dilemmas in the past. Listen to this one: Since 1971, Social Security taxes have been increased 36 times in the rate or the base. More often than once a year we have increased the taxes on American workers in order to solve the shortage problems. Whenever there is less money coming in in Social Security taxes than is required for benefit payments, we have increased taxes.

Over the years, since 1935 when we started the program, any time there are more revenues, what the tendency has been for politicians is to increase benefits. And of course, the largest change to the Social Security program was an amendment to the Social Security Act in 1965 that started our Medicare program, another serious problem that we need to face up to.

But, look, my message today is, let us not put off our efforts to work towards a solution. I have got a couple of bills introduced, in fact, the only bill that has been introduced in the House that has actually been scored by the Social Security Administration to keep Social Security solvent for the next 100 years.

I have got another bill that says, look, if there are any surpluses, let us start using those surpluses coming into the Federal Government. And "surpluses" is defined, if my colleagues will excuse the technical expression, under a unified budget. That means where we are including everything we borrow from Social Security, we consider revenue; and therefore, that is the way we have come up with a definition that there is going to be a surplus this year.

But let us start getting that surplus out of town, using it to set up private retirement investment accounts for everybody that is paying a FICA tax so that they can decide what they want, how they want to invest their money, within limitations. It is going to be required, it can only be used for their retirement. But let us not pretend that the problem is not serious. Let us get at it. Let us take Social Security seriously, and let us look at the solutions; and hopefully, next year we will come up with a legislative solution that will be passed into law.

TRIBUTE TO SENATOR TERRY SANFORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. WISE) is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, recently, on Earth Day, Senator Terry Sanford of North Carolina was buried in Durham, North Carolina; and I deeply regretted that I could not be there.

In many ways, Senator Sanford was responsible for that because of opportunities that he had given me as a young person. I was able to be in my district where the President and the Vice President of the United States were visiting and participating in Earth Day ceremonies.

It was because of Senator Sanford, "Mr. Sanford" as we knew him when we were students at Duke, that I and many like me have had our chances to get ahead in life and to try and participate fully in the political life of this country.

I first came to know Terry Sanford, then a recent governor of North Carolina, in 1970, when he became president of Duke University. And, Mr. Speaker, my colleagues know what the climate was like then on most college campuses. It was a time of emotional turmoil and consternation, great riffs over Vietnam and civil rights; and certainly Duke had seen its share of them. Initially, many of us who were students said, how could someone who has been in political life come to be president of this academic institution?

□ 1900

Mr. Sanford soon showed us wrong and showed us the kind of person he was. We learned how he was able to bring together many disparate elements and get everyone sitting down. I guess there are several incidents that describe how Terry Sanford worked and lived. The one that came most to my mind was one day he had only been in office at Duke for a few months, word came that the gathering of some of our more radical students had gathered out on the campus drive and were getting set to march on the administration building. They had actually blockaded the circle by which all traffic could get into the university. Rather than having them march down, Terry Sanford, new President at Duke, new kid on the block, he marched out to the traffic circle. There he confronted, and I still remember one bearded student looking at him and saying, "Do you know what we're going to do?" President Sanford said, "What is it you propose?" He said, "Well, we're going to march right down and take over Allen Building, the administration building." He stepped back, he looked at them, gave that wry chuckle of his and said, "Well, good luck. I've been trying to take it over for months." Safe to say, that demonstration broke up right there. Indeed President Sanford, then in his true style, invited everyone to come to Allen Building and to meet with him and, of course, as he often did, held regular meetings and hours with students.

Another time in a campaign that I worked in that he was involved in, some of us were being critical of another staff member, a young person, just like us. I still remember him looking at us and saying, "Nobody is ever going to be able to say that I didn't give somebody a chance." That was what his life was all about. It was giving young people, all people, but particularly young people chances.

He gave voice to a number of us who were still students in 1972 when we were looking for a presidential race and a candidate that espoused what we believed in. He took on that dark horse presidential race. It was not an easy one for him. Obviously he did not get the nomination. But on the way to fighting for that nomination, he gave hundreds of us a chance to participate and to become stakeholders in this democratic process. I just wonder how many students he turned from being simply angry and frustrated, turned to being full participants in people making an investment in our system today.

Indeed, you can look at any role of government officials or business officials or people taking an active role in their community and you can find Terry Sanford's handiwork and signature in all of them. He ran for the Senate from North Carolina and he was elected for a term and he represented North Carolina well. This was as someone who at a time when most of us might think of retirement, Terry Sanford was always serving. He fascinated me because no matter what increase in years he might have, he could always communicate directly with young people, in terms that young people related to. You trusted him, he brought you in, he made you part of what you wanted to do. There are thousands of places and thousands of people across this world tonight who are doing something that probably they would not have done had it not been for Terry Sanford. I think that is the highest tribute that can be paid to Mr. Sanford. People, a lot of us, have opportunities today that we never would have had had he not given us a voice and a vehicle by which to express them. And so that is the job that all of us need to dedicate ourselves in his memory.

I would say to Mr. Sanford, you left our Nation much better, you enriched countless lives. Many generations are going to have enhanced opportunities because of you. Thank you, Mr. Sanford.

REFORMING THE INTERNAL REVENUE SERVICE

The SPEAKER pro tempore (Mr. BLUNT). Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise to address the House tonight on important legislation. The American taxpayers are expecting that we will work together in a bipartisan fashion to change the IRS and to scrap the code. The fact is that if you have seen the Senate Finance Committee hearings both recently and in the past, in the fall of 1997, we learned firsthand how the IRS agents, many of them presently employed by the agency, testified under anonymity with cloaks over their head, with scrambled speech, in order to reveal for the first time just how widespread the culture of fear is at an agency which has been out of control for some time, has caused havoc to the American citizens. We know that most employees, the great majority, are doing their job, but the fact is that at the IRS, we have set into circumstances the kind of problems that need to be cured.

Right now we heard about from IRS agents that there are quotas for prosecutions, for audits, for investigations, that in fact there has been a situation where the agency has called for each field office to have a certain number of audits and investigations, much like you would have for a sales organization. That is not how you can run an IRS.

The fact is this agency needs to turn to a taxpayer-oriented, taxpayer-friendly agency, one that is going to be there to help the American public. And so I have introduced, Mr. Speaker, the Taxpayer Bill of Rights III to answer those complaints that were raised at the Senate Finance Committee hearings. My bill will do the following. It will change the burden of proof. Instead of the taxpayer being presumed guilty and the IRS commissioner being presumed to be correct, the taxpayer will be presumed to be innocent and the burden of proof will be on the commissioner to prove otherwise. Under my bill, there will be no more fishing expeditions. There will be expanded probable cause for any investigations by the IRS. And there will be no more quotas. It is no more appropriate for us to have quotas on tickets for law enforcement agencies any more than it is appropriate to have quotas for IRS investigations and audits.

Under my Taxpayer Bill of Rights, the most important feature would be to make sure that the IRS, when they have overreaching and they go beyond the law, that they are responsible for their own business, individual and legal losses that they cause corporations and they cause individuals or any other entities that file taxes with the IRS.

The Taxpayer Bill of Rights would also call for whistle blower protection. If you report wrongdoing at the agency, then you cannot be audited for coming forward to tell the truth.

Finally, if you want to settle a claim that you have with the IRS, then the IRS must appoint a mediator for the purpose of settling that claim. We have in the United States, Mr. Speaker, over 100,000 IRS employees but only 43 taxpayer advocates, less than one per State. We need to change the balance so that we put the "Service" back in the Internal Revenue Service. We can make these changes if we work with the new commissioner, who has expressed an interest in reforming the agency.

We look forward to working with IRS employees to make this a reality and working also with the gentleman from Oklahoma (Mr. LARGENT) and the gentleman from New York (Mr. PAXON) to make sure we scrap the code and replace it with one that is flatter and fairer to the American people.

I thank the Speaker for this time to address these important issues of scrapping the code and reforming the IRS. I look forward to working with my colleagues in a bipartisan fashion to pass these items.

DISCUSSION OF ISSUES AFFECTING NATIONAL SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 60 minutes as the designee of the majority leader.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise to take out this 60-minute special order as we today completed in the Committee on National Security the markup of the 1999 defense authorization bill, the authorization bill that lays out the funding framework for defense spending for the next fiscal year. I will be joined tonight by many of the most distinguished Members of this body as we discuss issues affecting national security in this country and the difficult problem that we are facing. The people of America unfortunately have a misconception. That misconception is in fact that we are spending so much more money today on defense than we have in the past.

Mr. Speaker, just a couple of simple comparisons, if we compare today defense spending to what it was in the 1960s. I pick that time because we were at relative peace. It was after Korea and before Vietnam. John Kennedy was the President. In the 1960s we were spending each year 52 cents of every Federal tax dollar brought to Washington on national defense, 9 percent of our country's gross national product. In this year's defense bill, we are spending 15 cents of the Federal tax dollar on national security, 2.9 percent of our gross national product. In fact, the defense budget is the only area of spending that the White House and the Congress have cut for 13 consecutive years, cut in very dramatic ways. Those have been bipartisan cuts, some of which I have supported, some of which I have concerns with. But while the defense spending in this country has gone down in terms of overall spending authority at the Federal level, we must understand some very important facts, Mr. Speaker.

In the 1960s, we had a draft. Young people were taken out of high school. They served their country for 2 years. They were paid far less than the minimum wage. Today we have an all-volunteer military. No one is drafted. Our young people are well-paid, many are married, they have advanced college degrees, we have housing costs, education costs, health care costs. So quality of life becomes a major part of what we spend our defense dollar on. So today, Mr. Speaker, a much larger portion of that relatively smaller amount of money compared to the 1960s goes for the quality of life of our troops.

In addition, Mr. Speaker, the fastest growing part of defense spending today is environmental mitigation. We are spending $12 billion this year to clean up both nuclear materials as well as materials that are nonnuclear. That is all coming out of our defense budget. On top of all of that, Mr. Speaker, deployments of our troops in this decade are at an all-time high. In fact, in the past 6 and 7 years we have deployed our troops 25 times at home and abroad. That compares to the previous 40 years where our troops were only deployed a total of 10 times. None of those 25 deployments in this decade, Mr. Speaker, were budgeted for. None of them were planned for. So the cost of all those deployments has had to be eaten out of our defense budget, further cutting the available dollars that we have to modernize, to put into new technology.

In fact, Mr. Speaker, the Secretary of Defense has given us a number of $15 billion in contingency costs that we have taken out of DOD spending in the past 6 years to pay for those deployments around the world. Bosnia alone by the end of the next fiscal year will have cost us $9.42 billion. All of that money has come out of the defense budget.

Because of all of those reasons, Mr. Speaker, we are facing a crisis, a crisis in being able to provide the kinds of equipment, readiness and support that our troops need to do the job on behalf of this country. Tonight I invite our colleagues to join with me as we dedicate the next hour to focusing on these difficult issues of how we spend our defense dollar.

To start off that discussion, I would like to yield at this time to the gentleman from South Carolina (Mr. SPENCE), the distinguished chairman of the Committee on National Security, who is in fact a leader working in a bipartisan way with our colleagues on the other side and has been a tireless advocate for the defense needs of this country.

Mr. SPENCE. Mr. Speaker, as the gentleman from Pennsylvania (Mr. WELDON) indicated, as chairman of the Committee on National Security, that committee charged under the Constitution with providing our country with the proper defense, I feel duty bound to report to the Congress and to the American people the status of our national security.

Tonight, and in other sessions to follow, some of my colleagues and myself, members of the Committee on National Security, in a bipartisan manner, will endeavor to call attention to the various threats confronting our country and our ability to defend against these threats.

Mr. Speaker, I have served in Congress for 28 years. I have seen Presidents, Secretaries of Defense, Chairmen of Joint Chiefs of Staff, Senators, and Congressmen come and go. I have seen hot wars, cold wars, contingency operations, budget wars, a hollow military, buildups and builddowns, I have seen all of it. But despite all of this and despite the end of the Cold War, I have never been more concerned about the national security of our country than I am tonight.

I realize that is a strange statement to make, since we are no longer at war. But during the Cold War, the threat was obvious to people. You could see the threat. But since the end of the Cold War, people are unaware of the many serious threats and how unprepared we are to deal with them properly. Many people ask in this day and time, where is the threat? They say the threat is not imminent.

My answer would be to look at today's papers. Look around you. Take your pick. Iran, Iraq, Syria, Libya, China, North Korea, Russia in turmoil, Islamic fundamentalism, terrorism. Take your pick. It is like the former Director of the CIA said, with the end of the Cold War, it is like we have slain a dragon and found the jungles filled with very poisonous snakes of various kinds.

Let me list a few of them for you. ICBMs, intercontinental ballistic missiles with nuclear warheads. Any country which possesses these weapons is a threat to our security. Even though we have an ABM treaty with the Soviet Union, that country does not exist any longer. That is no defense against ICBMs from Russia. What if we had just an accidental launch of an intercontinental ballistic missile? Even if one were launched against this country, contrary to what most people think, we could not defend against that one missile coming into this country killing literally millions upon millions of people, and we are defenseless. You are defenseless against that one accidentally launched missile.

□ 1915

How about China? China has ICBMs targeted on us. We do not have any ABM treaty with China.

You have not got to be a superpower in this day and time to wage the horrors of mass destruction warfare on the rest of the world. You can be a rogue Nation or a terrorist group for that matter; you can put together weapons of mass destruction in laboratories in low-tech, inexpensive ways; you can marry them up with cruise missiles which can be bought across borders; you can launch these cruise missiles from various platforms of various kinds at least, extending the range of these types of missiles to bring everyone within the range of these weapons of mass destruction carried by cruise missiles.

We also have shorter-range ballistic missiles, and we do not have an effective theater missile defense to defend against these types of missiles.

One of the most hideous kinds of weapons of mass destruction I can conceive of is something called anthrax, a bag of which can be released in the winds over, say, Washington, D.C., killing hundreds of thousands of people before we can inoculate, and we have no defense against that terrible thing. Can you visualize trying to defend against that type of a weapon?

And we have something called, our scientists are concerned about, something called the EMP effect, electromagnetic pulse effect. If a terrorist group or someone were to destroy, were to detonate a nuclear weapon up above the United States, without killing anyone, it could shut down all the electrical systems that are not hardened in the United States. Can you imagine what that would do to all of our systems, electronics and defense systems, automobiles even, and all the rest if everything was shut down and we were defenseless from that explosion, without killing anyone?

All these threats exist today and many more, too. These threats are right here today, tonight. And we do not have the defense, a proper defense against these things as we stand here talking about it.

Why?

Because we have made the same mistakes we have made after every war. We cut back too much, too fast, too deep, and we have done to our military what no foreign power has been able to do before.

Many American lives were lost in World War II because we had allowed our forces to be cut back so much after World War I. And then after World War II, we destroyed and cut back the biggest and best military the world has ever known. In a few short years, no intelligence agency ever predicted something called Korea, and again we were unprotected. I call these things that are happening the "end between" war syndrome, and we are going through that right now.

Mr. Speaker, allow me to list a few facts to bear out what I am talking about. As Mr. WELDON said, the administration's request for the fiscal year 1999 defense budget represents the 14th consecutive year of real decline in defense spending. Also, defense spending under the balanced budget agreement falls more than $54 billion short over the next 5 years of keeping pace even with record low inflation.

Again, today's military forces are 32 percent smaller than 10 years ago. In the past decade alone, we have closed over 900 bases around the world and about 97 bases here in this country at home. Our aircraft are being cannibalized. The Army, which conducted 10 operational events outside of normal training and alliance commitments during the 31-year period of 1960 to 1991, has conducted 26 operational events in 7 years since 1991. The Marine Corps, which undertook 15 continuous operations between 1982 and 1989, has conducted 62 since the fall of the Berlin Wall. Training and readiness accounts are being readied to pay for these contingency operations, the smaller forces being asked to do more with less.

And one very telling item, I think: Still, after all the cutbacks we have experienced and the identified readiness shortfalls that we have, our national military strategy provides that we are supposed to be able to fight two nearly simultaneous major regional contingencies at the same time, or near the same time, something like an Iran or Iraq and a North Korea. Many people believe we do not have the force now, since we have cut back so much just since Desert Storm, to even do one of those major regional contingencies.

In fact, Mr. Speaker, in today's edition of the European Stars and Stripes, there was an article entitled "Cohen Takes Aim At Readiness, Leaders Fear Return to the Hollow Force," and in it General Wesley Clark, who heads the United States European Command and is in charge of our troops in Bosnia, was quoted as saying back-to-back peacekeeping or humanitarian operations like the kind we have experienced since 1994 hinder the ability of combat units to maintain their readiness for high-intensity operations.

Mr. Speaker, I would like to include in the RECORD the text of the entire article I was pointing out:

[From the European Stars & Stripes, May 5, 1998]

COHEN TAKES AIM AT READINESS—LEADERS FEAR RETURN TO HOLLOW FORCE DAYS

(By Jon R. Anderson)

WASHINGTON.—Defense Secretary William Cohen is gathering his top brass over concerns about dwindling readiness.

On April 23, Cohen started what will become a series of meetings on readiness issues with Joint Chiefs Chairman Gen. Henry H. Shelton, along with the four service chiefs and a handful of other senior leaders.

One senior Pentagon official said the "tank sessions," as such high-level gatherings are called, are designed to address Cohen's concerns that readiness reporting is not as accurate or predictive as it needs to be.

"There's a lot of anecdotal evidence out there that readiness is slipping. What the secretary is trying to do is get to the bottom of it all and see if we really have a problem," the official said.

The look at readiness began as Congress considered a supplemental budget bill designed to cover $2 billion in unexpected costs for operations in the Middle East and Bosnia and Herzegovina. Congress passed the bill and President Clinton signed it amid warnings from Pentagon officials that training and all nonessential operations would grind to a virtual standstill without the funding.

But it's no secret things are already tight throughout all corners of the military.

Defense spending is at its lowest level in recent memory, and while forces have been cut considerably, much of the remaining funds have been fenced for weapons modernization efforts. That means little is left over for things like training and maintenance.

Everyone from top regional commanders to pilots, platoon leaders and ship drivers out at sea are raising the specter of a return to the hollow force days of the 1970s. Indeed, stories in the press and reports within the military itself suggest cracks are already beginning to show.

A March 20 report from the General Accounting Office, the investigative arm of Congress, said that half of the Army's 10 divisions were suffering from significant manpower shortages.

In 1st Armored Division's 1st Brigade, for example, only 16 out of 116 tanks had full crews and were qualified for combat, the GAO reported. In 1st Infantry Division, two brigades were short almost half of the infantrymen needed to man Bradley fighting vehicles.

During the latest flair in tensions with Iraq, ships deploying to the Persian Gulf were struggling with manpower shortages of their own. The nuclear-powered aircraft carrier George Washington, for example, which is supposed to be manned by as many 6,000 sailors, was staffed with only 4,500. That's 1,000 fewer than it had on its last cruise to the region just two years ago.

All four services are having trouble keeping their aviators from leaving. Despite bonus increases and other incentives, pilots still are leaving in droves.

"The lessons learned about a hollow military after World War I, World War II, the Korean conflict and Vietnam must not be ignored now," the head of the U.S. European Command, Gen. Wesley K. Clark, told the Senate on March 3.

Funding shortfalls, for example, have caused "significant shortages" in spare parts for the F-15E squadrons in Europe, he said. So much, in fact, that the "get-well date is not until May of 1999."

Clark also warned Congress that "back-to-back peacekeeping or humanitarian operations of the kind we have experienced since 1994 hinder the ability of combat units to maintain their readiness for high-intensity combat operations."

The Pentagon is trying to gauge the severity of the problem.

"We're trying to find out what our threshold of pain is. And make sure we're not anesthetized to it," said another top official privy to the content of Cohen's meetings.

At the same time, he said, there is a sense that perhaps some of the military's top leadership may be reluctant to be forthcoming with bad news on readiness.

"No one wants to look like the kid who cried wolf. It's a matter of what point do you say 'I'm concerned' without appearing like you're maneuvering for additional resources."

Another problem, he added, was that "military people are can-do people—they'll make do with what they've got and do whatever it takes to get the job done."

That attitude, he said, is both a virtue and an Achilles' heel. "It really is a strength, but on the other hand, if you don't fix what might just be a small problem early enough, it will just become a real big problem later on."

In that vein, Cohen and Shelton want to see if better management tools can be put in place to provide top commanders with a way to gauge readiness issues before they become a problem.

Currently, the Defense Department uses two systems to monitor readiness.

The Joint Monthly Readiness Review, or "Jammer" in military-speak, is designed to assess how actual forces on the ground in the various regional commands would be distributed if two wars were to break out in different parts of the world. The scenarios alternate each month between a clash with Iraq starting first, followed shortly by combat in Korea, or the reverse, with Korea flaring up first.

The second readiness gauge is the Status of Readiness and Training System, also called SORTS, which tracks how individual units are manned, how much maintenance needs to be done on vehicles and gear, and how training is going.

While both systems provide a good "here and now" perspective, they lack the ability to identify trends.

"There is some frustration that Jammer and SORTS don't give us everything we need," said Navy Capt. Steve Petrepaoli, spokesman for Shelton. "What we want is a way to identify problems before they happen."

For example, he said, Jammer "captured the problems with pilot and infantry shortages, but we got it as it was happening, not ahead of the curve."

Officials say the biggest problem has been managing the readiness levels in units that are not on the first-to-fight roster.

War plans call for some units to be ready to fight at a moment's notice. Those are mostly forward-deployed forces and units in the United States on call for rapid deployment. It's those units that have priority for manning along with training and maintenance funds.

Mr. Speaker, we have already instituted many reforms designed to save funds to allow us to do the things we need to do to have the world's best military and properly defend this country. On broad defense reforms, the national security and this Houses's track record speaks for itself. The committee has pursued forms of various kinds on multiple fronts. We have instituted acquisition reforms, including acquisition work force reductions. We have instituted support services reforms. We have privatized nonessential military jobs, and last year the House passed a Defense Reform Act with 400 votes.

In spite of all these things and against a backdrop of 14 consecutive years of real decline on the defense spending, and confronted with billions of dollars in readiness, quality of life, and modernization shortfalls, we need to do more things. Therefore, in the context of the first Federal budget with a surplus in 3 decades, and also in view of today's strong economy, I am calling on the powers that be, the leadership on both sides of the aisle, the President, to renegotiate the defense caps put on defense on the balanced budget agreement.

We have to provide for the common defense. That is our government's first and most important responsibility. We stand ready to work with anyone to ensure that America maintains the military befitting our Nation's superpower status.

Mr. Speaker, I would like to close with a passage from scripture; this means a lot to me. We have heard before the quote from Isaiah that calls upon people to beat your swords into plow shares and your spears into pruning hooks. But in Joel 3:9 we hear these words: Wake up the mighty men, beat your plow shares into swords and your pruning hooks into spears.

Mr. WELDON of Pennsylvania. Thank you very much for that eloquent statement and for your tireless leadership on behalf of the men and women who serve this country. We deeply appreciate that.

Mr. Speaker, continuing on with this special order, national security has been a bipartisan issue in this body, and we have had many outstanding Members from the other side who have been key leaders in our efforts to provide additional resources for the security of our country and for the support of our men and women.

In fact, over the past 3 years in a bipartisan effort, we have plused-up funding over the President's request for defense by $10 billion, $6 billion, and $9 billion respectively, and one of those champions from the other side who has been at the forefront consistently on these issues and continues that role today as the ranking member of the House Committee on National Security is our good friend, our colleague, and a great American, IKE SKELTON. Congressman, I yield to you.

Mr. SKELTON. Mr. Speaker, I appreciate my friend and my colleague from Pennsylvania taking out this special order, for in my opinion it is one of the most important special orders in which we will participate. So I compliment the gentleman for his foresight in doing this.

Mr. Speaker, in your eye, come with me this past January and helicopter with me with three other Members of Congress from the base camp near Skopje, Macedonia, out to one of the far outposts of Americans keeping watch to see that the potential enemies or potential encroachers will not come into that sad and unhappy country. And come with me as we shake hands with those soldiers after they do their formal inspection of arms for me as the chairman of the small delegation, and stand there while I talk to this young Springfield, Missouri, soldier on what he is doing; see the pride in his eyes; talk to him about how well he likes what he is doing, how he enjoys the Army and the challenges. And yet he is thinking of the folks back home and his family. He is there for 6 months, it is going to be a long 6 months for him, but yet he is doing what he intended to do when he joined the Army.

Now a few months earlier, come with me, Mr. Speaker, and see a United States aircraft carrier as it prepares to leave for 6 months in the Mediterranean, in the Adriatic, then the Persian Gulf. See those families, those young sailors, men and women, climbing aboard that aircraft carrier giving that 3-year-old son a hug. See them wave as the ship is towed out into the harbor by those tugs, and know that those young families that are waving goodbye to the loved ones will not see them for 6 months, and yet you can see pride not only in the sailors that are leaving but in the men and women and the children who are waving farewell.

That is who I wish to speak about tonight, the young men, the young women in all colors of American uniforms, the fine people that they are. And I can say without any hesitation to the gentleman from Pennsylvania (Mr. WELDON) that they are the finest that we have ever had, and yet the ironic and sad situation in which we find ourselves is that we are not able to support them as they should be.

That is sad. That is real sad because they are quality young people, and they are doing their job for America.

We have serious problems overseas. The question is asked, where is the enemy? The enemy, my colleagues, is instability. We are the only superpower in this world. We are the ones whose presence, whose leadership, has brought peace and stability, some places more than others, but we are looked to for that military leadership. And we cannot do it in the future unless we keep that young soldier from Springfield or those young sailors aboard that aircraft carrier happy, challenged, and that we take care of their families.

Oh, we talk about a number of pieces of hardware, and they are important. We talk about modernization; that is very important.

□ 1930

I speak about those young people today that need the support of the people in this Congress.

Recently I sent a letter, with all of the ranking Democrats and Republicans, regarding this very issue: the need for increased spending for our national security. It is no light thing; it is no small thing. If we could only have a predictable percentage of the gross national product, this committee on which I serve, this Congress in which I serve, and the administration which executes what we order here could have some stability, some planning capability. The young people who are in would know that they have a future, that they might want to stay for 20, 25 or 30 years without the fear of reduction in force. These are the things of which I speak.

Mr. Speaker, why is there a problem today? I am convinced there is a problem today because there is a gap, sadly, Mr. Speaker, a growing gap, between civilian America and military America. When the draft was in force, nearly every family had some experience with someone wearing a uniform.

Well, the draft ended, as my colleagues know, back in 1973, as it should have, because we went to an all-volunteer force, and it works. It works extremely well. Quality young people, quality leaders, excellent military education, really proud of them.

Yet, because of the fewer and fewer young people coming from fewer and fewer families across our country, those who normally in the olden days would write their Member of Congress to please look after little Johnny because he is on a submarine in the Pacific; please look after Lucy, my daughter, as she serves at Lackland Air Force Base; please look after my Marine son who is a guard in an embassy in what used to be the old Soviet sphere; we do not get that support, we do not get those letters, because there are fewer and fewer American families that have that experience. I know their heart is with the young people in uniform, but out of sight, out of mind.

There are fewer people to write us, and we in this Chamber are creatures of those we represent in whose shoes we stand, and if they are not contacting us because there are not that many that have families that are serving in uniform, consequently, it is off our screen as well as theirs. It is this gap between civilian America and military America that concerns me.

Well, Mr. Speaker, we have to do something. I will do my best. I know the gentleman from Pennsylvania (Mr. WELDON) is doing his best. And I compliment our chairman, the gentleman from South Carolina (Mr. SPENCE) for his efforts. Others will speak on this issue. I know the gentleman from Hawaii (Mr. ABERCROMBIE) will join in this matter. I thank the gentleman for bringing this to the attention of the American people.

One last thing, Mr. Speaker. I do not want, and I will repeat, I do not want this discussion tonight, as serious as it is and the fact that it should convince people across our country of the need for additional resources to take care of the young people and to take care of our national security, but I do not want this to dampen the spirits of the young people who are in uniform. I say to them, Mr. Speaker, we need them; we need them now more than ever. We need them not just in numbers, but we need their quality.

So wherever we are, whether we are a Member of Congress, whether they are neighbors of ours back in Missouri, or wherever we are from, let us say a good word to the young person that is wearing the uniform; let us tell them we are proud of them, stay the course, because sooner or later they will be called upon to defend the American flag and the American interests.

Again, I thank the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank the gentleman for those eloquent words and for his leadership on national security issues in this Congress. The gentleman is an example of an outstanding member dedicated, as is our chairman, to the issue of providing for the support of our troops at home and abroad.

Mr. Speaker, our special order tonight goes from Pennsylvania to South Carolina to Missouri to Texas. I would now yield to our distinguished member of the Committee on National Security from the great State of Texas, who has been a champion and a leader on issues involving one of the most troublesome situations in the world, and that is the security of nuclear material, nuclear fissile material, especially those materials that are in the former Soviet states.

So, with that, I would yield to our good friend and colleague, an outstanding member of the committee, the gentleman from Texas (Mr. THORNBERRY).

Mr. THORNBERRY. Mr. Speaker, I thank my friend from Pennsylvania (Mr. WELDON) for yielding and for his leadership in keeping our defense at the forefront of the issues we should be talking about in this body.

I thought that the chairman's comments outlining some of the threats we face, and the ranking member's comments emphasizing the importance of people in our military, which are our key asset, were very powerful. I believe, Mr. Speaker, that the first function of this Federal Government is to provide for the defense of the people, and that that job is getting harder and not easier.

We face some enormous challenges, and one of the challenges is we have to transform our military structures and the organizations and cultures and doctrines to meet the challenges that we face in the future, many of which our chairman has outlined. That is a tough job. We also have to make sure that we have the resources necessary in order to keep the American people safe.

Mr. Speaker, I want to go from the broad issues that have been discussed so far to just talk about a little piece of it and how this budgetary constraint is affecting even a small piece, but an important piece of our defense efforts, and that is our nuclear weapons program which is not within the Department of Defense, but within the Department of Energy, yet it is part of the overall defense budget.

Mr. Speaker, I do not think anyone will contest that our nuclear deterrence was absolutely essential and probably the key to winning the Cold War during our struggle with the Soviet Union, and it is still important in deterring others around the world who may wish us ill. As nuclear capability spreads to more and more countries, as our chairman mentioned; as chemical and biological capabilities spread around the world to more and more countries, and other terrorist-like organizations; as the capability to take those horrible weapons and deliver them very quickly with missiles, as that technology spreads, nuclear weapons continue to be the umbrella under which the rest of our defense efforts will fall.

We build our nuclear weapons to last about 20 years. They are fast approaching the end of their design life. They age and change just like other machines do, but they age and change in ways that we do not fully understand. Yet, while all of this aging and changing is going on, we have decided that we are not going to test nuclear weapons anymore. We are going to have to find other ways to make sure they work, to make sure they are safe, to make sure the people who work around them are safe; and that represents an enormous challenge.

Some people have said it is kind of like we have a fleet of cars out there on the parking lot through all the weather and the change that goes on in the conditions year after year, and we can x-ray them and inspect them, but we cannot ever turn them on, we cannot ever turn the key. They have to be in as good shape though that if we do ever need to turn on the key, we can instantly spring out at 100 miles an hour. That is just one way of looking at the enormous challenge we face.

The way we decided to do that is, as I mentioned, not to test, but through a program called stockpile stewardship. That involves our computer capability. It involves testing components, little pieces of the nuclear weapons; it involves new diagnostic machines to x-ray and look at them in various ways to see what is happening on the inside; and all of that has to go on while we are losing the people who built the weapons to begin with as they age and dwindle and leave, many of them leave, the nuclear weapons complex.

Mr. Speaker, the bottom line to all of this is that we face an enormous technological challenge. A number of scientists whom I visited with recently say the only thing this country has ever attempted this difficult is the original Manhattan Project and trying to land a man on the moon. It is that tough technologically and scientifically to make sure these things are safe and reliable without testing.

But it is also expensive. These machines are expensive. It is expensive to conduct these tests. It is expensive to keep the right, knowledgeable scientific talent available there, working on these problems. And while we are doing all that, we have the regular maintenance and upkeep and other things that go along with the nuclear weapons stockpile that have to go along as well.

Now, to do all that, we have received testimony that it takes at least $5 billion a year, and yet the President's request this year was $4.5 billion, and it is tough to come up with that amount. And this job is only going to get tougher as the years go by and these weapons age and we lose more of the people, it is going to be even more expensive. Yet, if we miscalculate slightly, if we shave off a little bit here and a little bit there, and a problem develops, that problem will have enormous consequences for the future of our security, for others' reliance upon our nuclear umbrella. For the safety of the people who work with and around these nuclear weapons, it has tremendous consequences.

That is just a small example of some of the importance, some of the effects that not putting the right resources into these programs can have for our children's future and our children's security. All of the strategic systems upon which our victory in the Cold War was based are aging and becoming more difficult to maintain, and really we are not doing anything in the foreseeable future to replace them at all. We are going to have to put in the spare parts just to keep them going.

It is an enormous challenge. It will require the best minds that we have, but it will also require the dollars necessary to keep this effort going. I think that in a way, the nuclear weapons challenge, even though it is less than 2 percent of the whole defense budget, is an example of the kinds of challenges we face throughout the defense budget and an example of the dangers that my more senior colleagues have talked about so far.

So I thank the gentleman from Pennsylvania (Mr. WELDON), for yielding and giving me the opportunity to contribute.

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank our colleague, an outstanding member of the Committee on National Security, for his leadership, especially in the area of nuclear material, control and security, and our stockpile stewardship.

One of the items that our distinguished colleague did not mention, which is also of great concern both to him and to us, is the security of the Russian nuclear stockpile. It was last year, Mr. Speaker, in May, when I led a delegation to Moscow and we sat in the office of General Alexsander Lebed, who was at one time a key defense advisor to Boris Yeltsin. General Lebed was talking to us about his concerns relative to the security of the Russian nuclear forces, as well as the Russian military in general; and he told us some real horror stories. One of the ones that was really picked up by our national media was that when General Lebed reported to Boris Yeltsin, one of his responsibilities was to account for 132 suitcase-sized nuclear bombs, nuclear devices called Small Atomic Demolition Devices, SADDMs, that both the U.S. and Russia had built at one time, but we destroyed all of ours in the arms control process, he was charged by Yeltsin to account for the 132 devices that Russia built.

And he said, Members of Congress, I could only find 48. And we said, what do you mean, General Lebed? How could you only come up with 48 of the 132? After all, these are devices that have a capacity of one kiloton, which is one-tenth of the capacity of Hiroshima; it could wipe out the entire inner-city area. He said, that is it. We do not know the status of the others.

I came back to Washington and with my colleagues we debriefed the intelligence community. They said, Mr. Congressman, we have no idea about the whereabouts of these devices. Initially, the Russian Government denied they ever existed in the fall of last year, and finally in December, the defense minister, former general of the Soviet command staff, the strategic staff, General Sergeyev, told me in a meeting in Moscow, yes, Mr. Congressman, we built these devices, yes, we have not destroyed them all, but by the year 2000 we will have destroyed them.

The point is, Mr. Speaker, we are just not sure whether or not one of these devices could or has gotten into the wrong hands, and we must understand that even though we would perceive Russia to be all that more stable, one could easily make the case that Russia is more destabilized today than at any point in time in the last 50 years.

□ 1945

And unfortunately, that instability comes while they still maintain a nuclear arsenal that can hit our country and still maintain these kinds of small demolition devices that in the wrong hands could wreak havoc on any American city. That is the kind of concern that we have to address with a very limited and increasingly smaller defense budget.

Mr. Speaker, joining us in this effort is the gentleman from the great State of Hawaii (Mr. ABERCROMBIE) and someone who has become a champion on security issues and a strong advocate and very knowledgeable Member on missile defense and the implications of that.

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding to me. I am delighted to have the opportunity to be here with my colleagues on the Committee on National Security, most particularly with the chairman of our Subcommittee on Military Research and Development, the gentleman from Pennsylvania (Mr. WELDON).

As the gentleman has indicated, our efforts here on the committee and the subcommittees which makes it up are of a bipartisan nature. It has been my honor and privilege over the years to serve under Mr. Aspin and Mr. Dellums and now the gentleman from South Carolina (Mr. SPENCE). During that time, I think that we have grown in our respect for one another and certainly I want to acknowledge the commitment that has been made by all of the Members, regardless of their party and background, to the security interests of this Nation.

Mr. Speaker, there is a popular fashion in political circles these days with respect to the idea of limited service in the Congress. That, I suppose, has its place in the discussions that ensue throughout the Nation as to how we can best serve our country and our national interests. But I can assure my colleagues that with respect to our national security interests and the defense interests of this country, what is required is a commitment and a dedication of years, I might even say decades standing, in order to be able to provide the broadest possible umbrella of knowledge and perspective as we come to these very crucial decisions by our Nation as we enter the next century.

Mr. Speaker, I dare say, not speaking for Chairman SPENCE by any stretch of the imagination, that in his 28 years of service here to the Nation and service to our committee, that even today he feels there is much to be learned, much that we have to share with one another in order to come to a proper perspective. And why? The reason is that we do in fact have 435 votes in this House, 218 votes to make a majority. Those who say that votes do not count, those who say that this is just business as usual, those who denigrate the Congress of the United States, let alone the House, and more particularly those who do not understand that when it comes to the security interests of this Nation, that we have to have knowledgeable, dedicated people who are on a nonpartisan basis going to pursue what those interests are and how to achieve them. If we do not have that understanding, then we are doing a disservice to this Nation.

Now, for the record, I would like to indicate that the Committee on National Security approximates, I would say, approximately 10 percent of the House of Representatives and I think represents a very broad perspective, probably reflecting the ideological and philosophical commitments of the House of Representatives as a whole.

In that context what we have is individuals assigned to committees who then make it their business to immerse themselves into the business of that committee. I am going to focus this evening just particularly on the subcommittee on which I am privileged to serve under the chairmanship of the gentleman from Pennsylvania (Mr. WELDON). That is the Subcommittee on Military Research and Development.

Now, on the surface it sounds pretty simple. We do the research and then we develop from that research. But let me just read a summary of today's action that was taken in committee, a summary of the bill language: Navy mine countermeasures program management; future aircraft carrier transition technologies; the manufacturing technology program; national missile defense policy; limitation on the funding of medium extended air defense systems, the MEAD system that the gentleman referred to; funding for the cooperative ballistic missile defense programs; the counterproliferation support; and the ballistic missile program elements.

Mr. Speaker, I can say these things and they roll off of my tongue and my colleagues are familiar with what they mean. But the implications of this are stunning in terms of the dollar value and, of course, in terms of the strategic value associated with the national interests of this Nation and in fact the security interests of the world.

The gentleman from Pennsylvania, who I would venture to say, I think without contradiction, is the leading exponent and expert, certainly congressional expert, with respect to missile defense, someone who I might say is always prepared, would agree that unless and until we are prepared just in one context that I will mention alone, unless we are prepared to deal with missile testing as well as training associated with the weapons systems that we are acquiring, the weapons systems we are researching, the weapons systems we are developing, unless we are prepared to deal with the missile testing element in that, we will not be prepared to move forward in meeting our strategic national interests. We will be unprepared.

Now, it sounds strange. How can we possibly not be prepared with billions of dollars at stake, with years and years of research, with all kinds of development capabilities, major corporations, in fact international corporations the size of which will almost beggar the imagination of the ordinary citizen contemplating them, how could we not possibly be prepared? The reason is that the technology involved just in the recitation of some of the program elements that I have just outlined, the technology involved is so expensive, the technology involved is so complicated and detailed, the sophistication, Mr. Speaker, is almost beyond comprehension.

I just recently visited the Comanche helicopter development facility in Florida, and asked just to have a briefing, Mr. Speaker, on the capacity of the helicopter not to have information intercepted, on being able to have the communications system, a highly sophisticated system, not be compromised in any way. This is very, very important, Mr. Speaker, because if we do not have this, if there is not a clear understanding of what the technology is and how we can protect the communications interests associated with the Comanche helicopter, it becomes available to those who could do us harm or wish us ill in the future.

Mr. Speaker, we have to deal with questions of technology transfer. As the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from South Carolina (Chairman SPENCE) know, I am, shall we say, an adamant opponent of the transfer of technology for profit's sake, presumed profit's sake, maybe individual dollar profits for some corporations and individuals, but certainly not for the profit of the interests of the United States. I oppose that.

Mr. Speaker, the dollars that have been spent and the time and the energy and the intellectual input that has gone into just the communication system of the Comanche helicopter system is such that a full appreciation for the work of the committee I think would follow from any honest person's evaluation of what we are trying to accomplish.

So as we contemplate research and development, I think that we have to take into account, Mr. Speaker, how are we going to do the funding? How are we going to achieve this?

What is happening right now, and if the gentleman from Pennsylvania would care to engage in a bit of dialogue with me on it at this point, I think can elucidate this a little and illustrate it. Mr. Speaker, I realize the time is short so I will try to make this a summation.

In my service on the committee, in trying to deal with issues, for example, like missile testing, the assumption I think of most Americans is that there is an adequate missile defense right now to meet any challenge that might come to the United States. But the facts are that those systems do not yet exist?

Mr. WELDON of Pennsylvania. The gentleman is absolutely correct.

Mr. ABERCROMBIE. And in order to accomplish this we will have to have a testing and training range. Now, in this instance I happen to be familiar with it because it involves the Pacific Missile Testing Range in Hawaii in the Pacific. The necessity is, is it not, to upgrade these facilities to prepare us for the missile testing that will take place within the context of a Navy and Army and an Air Force which will have next-generation capabilities, not yet in existence but in process of coming on line now?

Mr. WELDON of Pennsylvania. Absolutely.

Mr. ABERCROMBIE. And in this context, in order to provide for this we have to understand, there will be a significant change in the very context within which we will have an Armed Forces. For example, there will be ships in the near future, this is not something that is put off into Star Trek time or some imaginary world of science fiction, but right now we are developing ships, are we not, that will drastically reduce the personnel that will be on those ships, but drastically increase the amount of sophisticated technology necessary to bring these ships on line and into service.

Mr. WELDON of Pennsylvania. Absolutely.

Mr. ABERCROMBIE. Mr. Speaker, in that context, then, I think the gentleman would agree that we have to find a funding mechanism that will not, as the gentleman indicated, cannibalize one program at the expense of another. I am sure he would agree with that. I also think he would agree that what we face right now, perhaps even more importantly, reflecting back on the comments of the gentleman from Missouri (Mr. SKELTON), if we fail to find ways to fund adequately our procurement, our research, our development, our weapons systems and our acquisition of those systems, if we fail that we will hurt readiness. We will hurt the capacity of the individuals and the groups who make up our Armed Services to be able to prepare themselves for the contingencies that they might face, and that in fact is where we find ourselves today.

So I want to conclude, Mr. Speaker, thanking the gentleman from Pennsylvania (Chairman WELDON) and the gentleman from South Carolina (Mr. SPENCE) for the opportunity to participate with them and indicate as a member of the Subcommittee on Military Installations and Facilities and the Subcommittee on Military Research and Development, that I recognize fully the necessity of finding the proper funding mechanism and the proper funding balance in order to provide a defense that we can say with full confidence to the American people we will be able to provide for the security interests of this Nation.

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank the distinguished gentleman from Hawaii (Mr. ABERCROMBIE) for those very pertinent remarks and I would just highlight before I introduce the gentleman from California (Mr. HUNTER) that the gentleman from Hawaii cites the need for robust missile defense programs and testing. The largest loss of military life in this decade was when 28 young Americans were killed in Desert Storm by a low-complexity Scud missile that we could not defend against.

And in January 1995, for those who say we do not need national missile defense, Russia was forewarned of a weather rocket launch by Norway. When that day came for that rocket launch by Norway, the Russian intelligence is so decimated that they misread that as a deliberate launch by American nuclear powered submarine. They put their full offensive system on alert and activated the black boxes controlled by the three top Russian leaders. That gave them 15 minutes to either deactivate or allow to continue an all-out nuclear response against the U.S.

With 7 minutes left, Mr. Speaker, President Yeltsin overruled General Kalashnikov and that response was called off.

That is not a Steven Spielberg movie script. That is what happened in January 1995 that almost brought us to the brink of nuclear war because Russia misread a Norwegian weather rocket that they had been forewarned of.

Mr. Speaker, I would like to introduce the gentleman from California (Mr. HUNTER), my good friend and the chairman of the Subcommittee on Military Procurement, a tireless advocate for this Nation's military.

☐ 2000

Mr. HUNTER. Mr. Speaker, I thank my friend for yielding the time. Let me ask the Speaker how much time we have left in the special order, because I know the chairman of the Subcommittee on Military Personnel wants to talk as well?

The SPEAKER pro tempore (Mr. BLUNT). There are 8 minutes left.

Mr. HUNTER. Mr. Speaker, let me know, I am sure my friends will time me and let me know when we have divided that time equally, and I will then yield back so Mr. BUYER can speak.

Let me just start by thanking my friend for bringing this special order together and the chairman for giving us an historic backdrop with all of the wars that he has seen and the police actions and Presidents coming and going, Secretaries of Defense coming and going, and seeing the backdrop in which we find ourselves right now with this trough of military spending. When I say trough, I mean we are spending $100 billion less in real money than we were spending in the 1980s for national security.

I want to expand a little bit on the statement that was made by my friend, the gentleman from Hawaii (Mr. ABERCROMBIE). We had a focus group in my area in San Diego recently. That is where we sit behind the screen, and we get to see what our constituents really think of us. I think that is quite a lesson also.

But we also get to see what they think about very serious issues. And we are asked that question. The question was asked of our constituents, who are very sophisticated people, do we have a missile defense? Most of them thought we did.

When the moderator said, what is the defense, one of them said, well, I think we scramble the jets. Of course, a jet cannot take down an intercontinental ballistic missile. Another one said, I think we hit them with cruise missiles. Of course, that does not work, because a cruise missile goes exceedingly slow. It is like throwing a rock at a 30.6 bullet.

One other said, I thought Ronald Reagan took care of that. They really did. They thought that his announcements in the 1980s took care of the problem. So the facts are, when the Secretary of Defense was before us, I asked him that lead-off question, can we stop today a single, as Chairman SPENCE said, a single ballistic missile coming into an American city? The answer is no, not one.

Let me just say for the sake of our listeners what the state of defense is today with respect to force structure. Since 1991, we have cut defenses in this way: We have gone from 18 Army divisions to only 10. We have gone from 24 fighter airwings to only 13. So we have cut our air power almost in half.

We have cut our Navy from 546 to 333 ships. So we have cut our Navy by almost 40 percent. We went from 18 divisions to 10. So today we have 10 Army divisions. That is exactly the number of Army divisions we had in 1950 when we felt, like a lot of experts have said today in the administration, that there is no chance of America being involved in a war in the near future because we are the high-tech Nation. We have all these things that nobody will mess with and realizes that we have the ability to do a lot of high-tech things to our adversaries that they cannot respond against.

That was the same theory that prevailed in 1950, in June of 1950 when North Korea swept across the line. We had the atom bomb, so we thought nobody would mess with us. North Korea attacked, almost drove us into the ocean. We threw the 25th Infantry Division into the Osan Pass. It was annihilated. General Dean, the commander of the 25th Infantry Division, was captured. And the United States was almost driven into the sea. We barely held what is known as the Pusan perimeter at the south end of that peninsula.

Later, the Communist Chinese come across the line, so they did not respect the atom bomb either. Even though we had the high-tech, we had a heck of a fight on our hands, and we lost 50,000 Americans because we were not prepared.

So I would just conclude by saying I thank you for this special order tonight. We are approximately 72 percent less in modernization funding then we were a few years ago. It is our job to get on with the job of rebuilding America's defenses. I thank my friend for the time.

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank the gentleman and the distinguished chairman of the Committee on Military Procurement. I yield to the gentleman from Indiana (Mr. BUYER) and then I will yield to the gentleman from New Jersey (Mr. PAPPAS).

Mr. BUYER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise here as the chairman of the Subcommittee on Military Personnel, and I also witnessed a lot of strain on military readiness.

Last year, the gentleman from South Carolina (Mr. SPENCE) released a report on military readiness, which I believe sounded an alarm on the strain of the Armed Forces today. Following his lead, the Subcommittee on Military Personnel held a field hearing at Ft. Riley, Kansas in March to look at the readiness of our late deploying Army divisions.

In addition, we asked the GAO to look into these divisions, and here is what we found. The 10th division, only 138 of 162 infantry squads were fully or minimally manned. At the 2nd and 3rd brigades, the 25th division, 52 out of 162 infantry squads were minimally filled.

At the 1st brigade of the 1st division, only 56 percent of the authorized infantry soldiers for its Bradley fighting vehicles were assigned. At the 4th infantry division, 13 of 54 squads in the engineer brigade had no personnel assigned or had fewer personnel assigned than required.

At the hearing, we heard concerns from a variety of army officers and staff NCOs. The company of the 3rd brigade of the 4th infantry division said, "We are in danger of becoming an Army of privates," as senior NCOs were taken from the line units to fill critical billets in recruiting and drill instructor duty. And peacekeeping missions, we are left with NCOs who do not have senior status leading these squads.

Also, the sergeant major of the 1st brigade, 1st infantry division, stated that "Our shortfall in assigned noncommissioned officers does negatively impact readiness."

We found approximately 330 NCOs are missing out of the brigades of the follow-on divisions. That is very, very serious if we are called upon to use them in a wartime scenario.

Mr. Speaker, I have a GAO report from which I took information, and I would ask unanimous consent to place that into the RECORD.

The report referred to is as follows:

TESTIMONY BEFORE THE SUBCOMMITTEES ON READINESS AND MILITARY PERSONNEL, COMMITTEE ON NATIONAL SECURITY, HOUSE OF REPRESENTATIVES

MILITARY READINESS—OBSERVATIONS ON PERSONNEL READINESS IN LATER DEPLOYING ARMY DIVISIONS

(Statement of Mark E. Gebicke, Director, Military Operations and Capabilities Issues, National Security and International Affairs Division)

Mr. Chairmen and Members of the Subcommittees:

I am pleased to be here to discuss our preliminary finding from our ongoing evaluation of personnel readiness in the Army's five later-deploying divisions. These divisions constitute almost half of the Army's active combat forces and, according to Army officials, are critical to the success of specific war plans and the national military strategy.

This morning; I would first like to summarize our preliminary observations regarding personnel readiness in the later-deploying divisions. Then, I would like to describe in more detail the (1) extent of personnel shortages in the divisions and the extent to which these shortages are reflected in readiness reports, (2) key factors contributing to personnel shortages and the impact such shortages have on readiness, (3) Army's plans for correcting such shortages should these divisions be called upon to deploy, and (4) issues to be considered in dealing with personnel shortages. Unless otherwise indicated, the information provided reflects what we found at the time of our visits to the later-deploying divisions during the period August 1997 through January 1998.

SUMMARY

In the aggregate, the Army's five later-deploying divisions had an average of 93 percent of their personnel on board at the time of our visits. However, aggregate data does not fully reflect the extent of shortages of combat troops, technical specialists, experienced officers, and noncommissioned officers (NCO) that exist in those divisions.

The readiness reporting system that contains the aggregate data on these divisions does not fully disclose the impact of personnel shortages on the ability of the divisions' units to accomplish critical wartime tasks. As a result, there is a disconnect between the reported readiness of these forces in formal readiness reports and the actual readiness that we observed on our visits. These disconnects exist because the unit readiness reporting system does not consider some information that has a significant impact on a unit's readiness, such as operating tempo, personnel shortfalls in key positions, and crew and squad staffing.

The Army's priority in assigning personnel to these divisions, Army-wide shortages of personnel, frequent deployments to peacekeeping missions, and the assignment of soldiers to other tasks outside of their specialty are the primary reasons for personnel shortfalls.

The impact of personnel shortages on training and readiness is exacerbated by the extent to which personnel are being used for work outside their specialties or units. According to commanders in all the divisions, the collective impact of understaffing squads and crews, transferring to other jobs the NCOs from the crews and squads they are responsible for training, and assigning personnel to other units as fillers for exercises and operations have degraded their capability and readiness.

If the Army had to deploy these divisions for a high-intensity conflict, these divisions would fill their units with Individual Ready Reserve Soldiers,[1] retired servicemembers, and newly recruited soldiers. However, the Army's plan for providing these personnel includes assumptions that have not been validated, and there may not be enough trained personnel to fully staff or fill later-deploying divisions within their scheduled deployment times.

Solutions, if any, to these problems will depend upon how the Army plans to use these divisions in the future.

Before I continue, I want to provide you with additional background about the Army's divisions.

BACKGROUND

Today's Army faces an enormous challenge to balance risks and resources in order to meet its many missions. Since 1990, active Army ranks have been reduced from 770,000 to 495,000 personnel, a reduction of about 36 percent. Simultaneously, world events have dictated that forces be trained and ready to respond to potential high-intensity missions in areas such as Korea and the Persian Gulf while conducting peace enhancement operations around the world.

The Army currently has 10 active combat divisions compared to the 18 it had at the start of Operation Desert Storm in 1991. Four of the 10 divisions are considered contingency divisions and would be the first to deploy in the event of a major theater war. These units are the 82nd Airborne, 101st Air Assault, 3rd Infantry, and 1st Cavalry divisions. The 2nd Infantry Division, while not a contingency force division, is already deployed in Korea.

The remaining five divisions, which are the focus of my testimony, are expected to deploy in the event of a second simultaneous or nearly simultaneous major theater contingency or as reinforcements for a larger-than-expected first contingency. These units are the 1st Armor, 1st Infantry, 4th Infantry, 10th Infantry, and 25th Infantry divisions. Also, these divisions have been assigned the bulk of the recent peacekeeping missions in Bosnia and Haiti, and the 4th Infantry division over the last 2 years has been conducting the Army's advanced war-fighting experiment.

Appendix I provides a list of the Army's current active divisions and the locations of each division's associated brigades.

PERSONNEL SHORTAGES ARE SIGNIFICANT IN LATER-DEPLOYING DIVISIONS

In the aggregate, the Army's later-deploying divisions were assigned 66,053, or 93 percent, of their 70,665 authorized personnel at the beginning of fiscal year 1998. However, aggregate numbers do not adequately reflect the condition that exists within individual battalions, companies, and platoons of these divisions. This is because excess personnel exist in some grades, ranks, and skills, while shortages exist in others. For example, while the 1st Armor Division was staffed at 94 percent in the aggregate, its combat support and service support specialties were filled at below 85 percent, and captains and majors were filled at 73 percent.

In addition, a portion of each later-deploying division exists only on paper because all authorized personnel have not been assigned. All these divisions contain some squads, crews, and platoons in which no personnel or a minimum number of personnel are assigned. Assigning a minimum number of personnel to a crew means having fewer personnel than needed to fully accomplish wartime missions; for example, having five soldiers per infantry squad rather than nine, tank crews with three soldiers instead of four, or artillery crews with six soldiers rather than nine. We found significant personnel shortfalls in all the later-deploying divisions. For example:

At the 10th Infantry Division, only 138 of 162 infantry squads were fully or minimally filled, and 36 of the filled squads were unqualified.

At the 2nd and 3rd brigades of the 25th Infantry Division, 52 of 162 infantry squads were minimally filled or had no personnel assigned.

At the 1st Brigade of the 1st Infantry Division, only 56 percent of the authorized infantry soldiers for its Bradley Fighting Vehicles were assigned, and in the 2nd Brigade, 21 of 48 infantry squads had no personnel assigned.

At the 3rd Brigade of the 1st Armor Division, only 16 of 116 M1A1 tanks had full crews and were qualified, and in one of the Brigade's two armor battalions, 14 of 58 tanks had no crewmembers assigned because the personnel were deployed to Bosnia. In addition, at the Division's engineer brigade in Germany, 11 of 24 bridge teams had no personnel assigned.

At the 4th Infantry Division, 13 of 54 squads in the engineer brigade had no personnel assigned or had fewer personnel assigned than required.

The significance of personnel shortfalls in later-deploying divisions cannot be adequately captured solely in terms of overall numbers. The rank, grade, and experience of the personnel assigned must also be considered. For example, captains and majors are in short supply Army-wide due to drawdown initiatives undertaken in recent years. The five later-deploying divisions had only 91 percent and 78 percent of the captains and majors authorized, respectively, but 138 percent of the lieutenants authorized. The result is that unit commanders must fill leadership positions in many units with less-experienced officers than Army doctrine requires. For example, in the 1st Brigade of the 1st Infantry Division, 65 percent of the key staff positions designated to be filled by captains were actually filled by lieutenants or captains that were not graduates of the Advanced Course. We found that three of the five battalion maintenance officers, four of the six battalion supply officers, and three of the four battalion signal officers were lieutenants rather than captains. While this situation represents an excellent opportunity for the junior officers, it also represents a situation in which critical support functions are being guided by officers without the required training or experience.

There is also a significant shortage of NCOs in the later-deploying divisions. Again, within the 1st Brigade, 226, or 17 percent of the 1,450, total NCO authorizations, were not filled at the time of our visit. As was the case in all the divisions, a significant shortage was at the first-line supervisor, sergeant E–5, level. At the beginning of fiscal year 1998, the five later-deploying divisions were short nearly 1,900 of the total 25,357 NCOs authorized, and as of February 15, 1998, this shortage had grown to almost 2,200.

CURRENT READINESS REPORTS DO NOT FULLY DISCLOSE PERSONNEL SHORTFALLS

In recent years, in reports and testimony before the Congress, we discussed the Status of Resources and Training System (SORTS), which is used to measure readiness, and reported on the need for improvements. SORTS data for units in the later-deploying divisions have often reflected a high readiness level for personnel because the system uses aggregate statistics to assess personnel readiness. For example, a unit that is short 20 percent of all authorized personnel in the aggregate could still report the ability to undertake most of its wartime mission, even though up to 25 percent of the key leaders and personnel with critical skills may not be assigned. Using aggregate data to reflect personnel readiness masks the underlying personnel problems I have discussed today, such as shortages by skill level, rank or grade. Compounding these problems are high levels of personnel turnover, incomplete squads and crews, and frequent deployments, none of which are part of the readiness calculation criteria. Yet, when considered collectively, these factors create situations in which commanders may have difficulty developing unit

---

Footnotes at end of article.

cohesion, accomplishing training objectives, and maintaining readiness.

Judging by our analysis of selected commanders' comments submitted with their SORTS reports and other available data, the problems I have just noted are real. However, some commanders apparently do not consider them serious enough to warrant a downgrade in the reported readiness rating. For example, at one engineer battalion, the commander told us his unit had lost the ability to provide sustained engineer support to the division. His assessment appeared reasonable, since company-and battalion level training for the past 4 months had been cancelled due to the deployment of battalion leaders and personnel to operations in Bosnia. As a result of this deployment, elements of the battalion left behind had only 33 to 55 percent of its positions filled. The commander of this battalion, however, reported an overall readiness assessment of C–2, which was based in part on a personnel level that was over 80 percent in the aggregate. The commander also reported that he would be able to achieve a C–1 status in only 20 training days. This does not seem realistic, given the shortages we noted. We found similar disconnects between readiness conditions as reported in SORTS and actual unit conditions at other armor, infantry, and support units.

MANY FACTORS HAVE CONTRIBUTED TO PERSONNEL SHORTFALLS IN LATER DEPLOYING DIVISIONS

Many factors have contributed to shortfalls of personnel in the Army's later-deploying divisions, including (1) the Army's priority for assigning personnel to units, commands and agencies; (2) Army-wide shortages of some types of personnel; (3) peacekeeping operations; and (4) the assignment of soldiers to joint and other Army command, recruiting, and base management functions.

Later-deploying Divisions Receive Low Priority for Staffing

The Army uses a tiered system to allocate personnel and other resources to its units. The Army gives top priority to staffing DOD agencies; major commands such as the Central Command, the European Command, and the Pacific Command; the National Training Center; and the Army Rangers and Special Forces Groups. These entities receive 98 to 100 percent of the personnel authorized for each grade and each military occupational specialty. The 2nd Infantry Division, which is deployed in Korea, and the four contingency divisions are second in priority. Although each receives 98 to 100 percent of its aggregate authorized personnel, the total personnel assigned are not required to be evenly distributed among grades or military specialties. The remaining five later-deploying divisions receive a proportionate share of the remaining forces. Unlike priority one and two forces, the later-deploying units have no minimum personnel level.

Army-wide Shortages of Personnel Have Contributed to Shortfalls

Army-wide shortages of personnel add to the shortfalls of later-deploying divisions. For example, in fiscal year 1997, the Army's enlistment goal for infantrymen was 16,142. However, only about 11,300 of those needed were enlisted, which increased the existing shortage of infantry soldiers by an additional 4,800 soldiers. As of February 15, 1998, Army-wide shortages existed for 28 Army specialties. Many positions in squads and crews are left unfilled or minimally filled because personnel are diverted to work in key positions where they are needed more.

Also, because of shortages of experienced and branch-qualified officers, the Army has instituted an Officer Distribution Plan, which distributes a "fair share" of officers by grade and specialty among the combat divisions. While this plan has helped spread the shortages across all the divisions, we noted significant shortages of officers in certain specialties at the later-deploying divisions.

Peacekeeping Operations Have Exacerbated Shortfalls

Since 1995, when peacekeeping operations began in Bosnia-Herzegovina, there has been a sustained increase in operations for three of the later-deploying divisions: the 1st Armor Division, the 1st Infantry Division, and the 10th Infantry Division. For example, in fiscal year 1997, the 1st Armor Division was directed 89 times to provide personnel for operations other than war and contingency operations, training exercises, and for other assignments from higher commands. More than 3,200 personnel were deployed a total of nearly 195,000 days for the assignments, 89 percent of which were for operations in Bosnia. Similarly, the average soldier in the 1st Infantry Division was deployed 254 days in fiscal year 1997, primarily in support of peacekeeping operations.

Even though the 1st Armor and 1st Infantry Divisions have had 90 percent or more of their total authorized personnel assigned since they began operations in Bosnia, many combat support and service support specialties were substantially understrength, and only three-fourths of field grade officers were in place. As a result, the divisions took personnel from nondeploying units to fill the deploying units with the needed number and type of personnel. As a result, the commanders of nondeploying units have squads and crews with no, or a minimal number of, personnel.

Other Assignments of Soldiers Have Created More Shortfalls of Personnel

Unit commanders have had to shuffle personnel among positions to compensate for shortages. For example, they assign soldiers that exist in the largest numbers—infantry, armor, and artillery—to work in maintenance, supply, and personnel administration due to personnel shortages in these technical specialties; assign soldiers to fill personnel shortages at a higher headquarters or to accomplish a mission for higher headquarters; and assign soldiers to temporary work such as driving buses, serving as lifeguards, and managing training ranges—vacancies in some cases which have resulted from civilian reductions on base.

At the time of our visit, the 1st Brigade of the 1st Infantry Division had 372, or 87 percent, of its 428 authorized dismount infantry. However, 51 of these 372 soldiers were assigned to duties outside their specialties to fill critical technical shortages, command-directed positions, and administrative and base management activities. These reassignments lowered the actual number of soldiers available for training to 75 percent daily.

In Germany, at the 2nd Brigade of the 1st Infantry Division, 21 of 48 infantry squads had no personnel assigned due to shortages. From the remaining 27 squads that were minimally filled, the equivalent of another five squads of the Brigade's soldiers were working in maintenance, supply, and administrative specialties to compensate for personnel shortages in those specialties. The end result is that the brigade only had 22 infantry squads with 7 soldiers each rather than 48 squads with 9 soldiers each.

ARMY OFFICIALS BELIEVE READINESS AND TRAINING HAVE BEEN DEGRADED

According to Army officials, the reduction of essential training, along with the cumulative impact of the shortages I just outlined, has resulted in an erosion of readiness due to the cumulative impact of the shortages I just outlined. Readiness in the divisions responsible for peacekeeping operations in Bosnia has been especially affected because the challenges imposed by personnel shortages are compounded by frequent deployments. Universally, division officials told us that the shortage of NCOs in the later-deploying divisions is the biggest detriment to overall readiness because crews, squads, and sections are led by lower-level personnel rather than by trained and experienced sergeants. Such a situation impedes effective training because these replacement personnel become responsible for training soldiers in critical skills they themselves may not have been trained to accomplish. At one division, concern was expressed about the potential for a serious training accident because tanks, artillery, and fighting vehicles were being commanded by soldiers without the experience needed to safely coordinate the weapon systems they command.

According to Army officials, the rotation of units to Bosnia has also degraded the training and readiness of the divisions providing the personnel. For example, to deploy an 800-soldier task force last year, the Commander of the 3rd Brigade Combat Team had to reassign 63 soldiers within the brigade to serve in infantry squads of the deploying unit, strip nondeploying infantry and armor units of maintenance personnel, and reassign NCOs and support personnel to the task force from throughout the brigade. These actions were detrimental to the readiness of the nondeploying units. For example, gunnery exercises for two armor battalions had to be canceled and 43 of 116 tank crews became unqualified on the weapon system, the number of combat systems out of commission increased, and contractors were hired to perform maintenance.

According to 1st Armor and 1st Infantry division officials, this situation has reduced their divisions' readiness to the point of not being prepared to execute wartime missions without extensive training and additional personnel.

RETIREES, INDIVIDUAL READY RESERVISTS, AND NEW RECRUITS WOULD BE USED TO FILL SHORTFALLS

If the later-deploying divisions are required to deploy to a second major theater contingency, the Army plans to fill personnel shortfalls with retired servicemembers, members of the Individual Ready Reserve, and newly trained recruits. The number of personnel to fill the later deploying divisions could be extensive, since (1) personnel from later deploying divisions would be transferred to fill any shortages in the contingency units that are first to deploy and (2) these divisions are already short of required personnel.

The Army's plan for providing personnel under a scenario involving two major theater contingencies includes unvalidated assumptions. For example, the plan assumes that the Army's training base will be able to quadruple its output on short notice and that all reserve component units will deploy as scheduled. Army officials told us that based on past deployments, not all the assumptions in their plans will be realized, and there may not be sufficient trained personnel to fully man later-deploying divisions within their scheduled deployment times. Finally, if retired personnel or Individual Ready Reserve members are assigned to a unit, training and crew cohesion may not occur prior to deployment because Army officials expect some units to receive personnel just before deployment.

SOLUTIONS DEPEND ON EXPECTATIONS FOR LATER-DEPLOYING FORCES

Finding solutions to the personnel problems I have discussed today will not be easy, given the Army's many missions and reduced personnel. While I have described serious shortfalls of personnel in each of later-deploying divisions, this condition is not necessarily new. What is new is the increased operating tempo, largely brought about because of peacekeeping operations, which has exacerbated the personnel shortfalls in these divisions. However, before any solutions can be discussed, the Army should determine whether it wants to continue to accept the current condition of its active force today, that is, five fully combat-ready divisions and five less than fully combat-capable divisions.

The Army has started a number of initiatives that ultimately may help alleviate some of the personnel shortfalls I have described. These initiatives include targeted recruiting goals for infantry and maintenance positions; the advanced war-fighting experiment, which may reduce the number of personnel required for a division through the use of technology; and better integration of active and reserve forces. Efforts to streamline institutional forces[4] may also yield personnel that could be used to fill vacancies such as these noted in my testimony.

If such efforts do not yield sufficient personnel or solutions to deal with the shortages we have noted in this testimony, we believe it is important that the Army, at a minimum, review its current plans for rectifying these shortfalls in the event of a second major theater war. In particular, if the Army expects to deploy fully combat-capable divisions for such a war, it should review the viability of alleviating shortfalls predominately with reservists from the Individual Ready Reserve.

This concludes my testimony. I will be happy to answer any questions you may have at this time.

FOOTNOTES

---

[1] The Individual Ready Reserve is comprised of officers and enlisted soldiers with prior military service who are completing their 8-year military service obligation or who are not assigned to units. The majority of these personnel have no annual training requirements.

[2] Three of the 18 divisions were composed of 2 active brigades and 1 reserve component brigade. Today, the 10 divisions are composed of all active duty units.

[3] The system assigns each unit a readiness rating from C–1 to C–5. A C–1 unit can undertake the full wartime mission for which it is organized and designed; a C–2 unit can undertake the bulk of its wartime mission; a C–3 unit can undertake major portions of its wartime mission; C–4 and C–5 units are at lower levels of readiness. Each commander reporting readiness may use his/her professional judgment to either upgrade or downgrade the calculated overall C-rating by one level but must provide a written justification in the form of "commander's comments."

[4] The Army's institutional force provides generally nondeployable support to the Army infrastructure, including training, doctrine development, base operations, supply, and maintenance.

APPENDIX I

ACTIVE ARMY DIVISIONS

Contingency Divisions

1st Cavalry Division—headquarters and three brigades at Fort Hood, TX.

3d Infantry Division—headquarters and two brigades at Fort Steward, GA, one brigade at Fort Benning, GA.

82d Airborne Division—headquarters and three brigades at Fort Bragg, NC.

101st Airborne Division—headquarters and three brigades at Fort Campbell, KY.

Forward Stationed Division

2d Infantry Division—headquarters and two brigades in Korea, one brigade at Fort Lewis, WA.

Later Deploying Divisions

1st Infantry Division—headquarters and two brigades in Germany, one brigade at Fort Riley, KS.

1st Armored Division—headquarters and two brigades in Germany, one brigade at Fort Riley, KS.

4th Infantry Division—headquarters and two brigades at Fort Hood, TX, one brigade at Fort Carson, CO.

10th Mountain Division—headquarters and two brigades at Fort Drum, NY.

25th Infantry Division—headquarters and two brigades at Schofield Barracks, HI, one brigade at Fort Lewis, WA.

Mr. WELDON of Pennsylvania. Mr. Speaker, I yield the last 2 minutes of the special order to our friend, the gentleman from New Jersey (Mr. PAPPAS).

Mr. PAPPAS. Mr. Speaker, I take my job as a Member of Congress very seriously. No responsibility is more important than Congress' role to provide for the Senate defense. This responsibility, before all others, is why we are here. Yet, today, we face threats. Our troops face threats. Our allies face threats. Our interests face threats.

The May 1, 1998 Washington Times reported that China has at least 13 intercontinental ballistic missiles aimed at American soil. We cannot defend against an attack because we cannot afford national missile defense. Our troops in Korea and elsewhere have missiles of mass destruction with chemical and biological weapons aimed at them. We cannot protect them either. It is not just missiles.

New technology poses new threats. For example, computer hackers in a rogue nation can break into our computers and cripple our military communications systems.

Mr. REYES. Mr. Speaker, I thank my colleagues for arranging this special order today to focus on the plight of the Department of Defense (DoD) and its ever declining budget. This is the 14th straight year that DoD funding has decreased. Readiness is suffering because DoD does not have enough funds to train its soldiers, sailors, airmen, and Marines. Readiness is suffering because military personnel are leaving the force because they are away from their families too often and when they are home, their quality of life is declining. If the force is not ready, it cannot protect this nation.

Bedsies readiness concerns, the force also cannot protect the nation if its equipment is not the best in the world. The planned budgets do not provide sufficiently to upgrade the military's equipment. How can we send these young men and women to battle without the best equipment?

The Army in particular is suffering greatly under the current and future budget plans. The Army is doing much more with much less. Since the end of the Cold War, the size of the force has shrunk by 300,000. At the same time, however, Army deployments have increased by 300%. Sixty percent of the forces committed to the multiple operations across the world is Army. Even so, the Army receives less than one fourth of DoD's funding. The Army simply does not have the funding necessary to complete all of the missions being required of it.

Due to insufficient budgets planned for the future, the Army is being forced to make cuts that are unacceptable and it is being forced to make these cuts in ways that do not make sense. Just today, I was in a meeting concerning civilian cuts to Army training posts. We were told that cuts have to be made because—bottom line—the budget is too low. At the same time, the Army is looking at ways to privatize some of its activities. The Army is supposed to study which jobs can be outsourced and maintain the personnel for the jobs which cannot be outsourced. Due to budgetary constraints, however, the Army is cutting in a haphazard manner—losing many of those civilians who really may be essential to Army activities.

The vast decline in the national security budget is requiring these cuts to be made in ways that do not make sense. We are eating our seed corn. The average age of a DoD civilian is now close to 50 years old. Within five years, it would seem that all those with experience and knowledge will make it to retirement and leave. This will leave our defense department without individuals with any institutional knowledge.

I urge the President and my colleagues in Congress to increase the defense budget. As a Vietnam veteran, I understand the need for quality equipment. I understand the need for high morale in soldiers. As a former civil servant, I understand the importance of civil servants to running an agency and the need for high morale among their ranks to operate well. If the defense budget is not increased in the outyears, the military's equipment will be insufficient and the personnel—both uniformed and civilian—will continue to be demoralized. And—we will no longer be able to claim to be the best and strongest military in the world.

Without our strong military, we would not be the country that we are today. Remember that we could actually have lost several wars this century and we could all be speaking German.

GENERAL LEAVE

Mr. WELDON of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

RWANDAN GENOCIDE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentlewoman from Georgia (Ms. MCKINNEY) is recognized for 60 minutes as the designee of the minority leader.

Ms. McKINNEY. Mr. Speaker, during World War II, the world stood by and watched as innocent men, women, and children were exterminated for no other reason than their ethnicity. The world said never again.

Well, 50 years later in Rwanda, the world stood by and watched as innocent men, women, and children were exterminated for no other reason than their ethnicity. Knowing that a genocide was about to occur, the world turned away or said this is not my problem. During the genocide, many said this is bad, but they did not act. After the genocide, the world offered reasons and apologies for its inaction.

Mr. Speaker, the world forgot the promise it made right after World War II. Indeed, the promise of "never again" was left tragically unfulfilled. In 1994, close to 1 million people were killed in a planned and systematic genocide.

Today the Subcommittee on International Operations and Human Rights of the Committee on International Relations held an important hearing to begin answering some important questions. How could the world tolerate such violence? Who is responsible? Why did the international community fail to respond? How can we stop the continuing cycle of violence in the Great Lakes region?

I would like to thank the chairman of the subcommittee, my good friend, the gentleman from New Jersey, (Mr. SMITH) for his courage and compassion for addressing this important issue. I think it is important that people understand the history of the relationship between the indigenous peoples of Rwanda.

Prior to the 20th century colonialism, Rwandan Hutus and Tutsis were identified, not by their ethnicity, but by their economic status. For example a Tutsi was considered a wealthy and prominent person in the community, while Hutus were often poor. However, if a Tutsi were to lose his or her wealth, they would then be considered a Hutu. Similarly, a Hutu who had climbed an economic ladder would then be considered a Tutsi. Thus, a distinction was not based on ethnicity but by standing in the community.

However, after centuries of living together in relative peace, Rwandan Hutus and Tutsis were taught to fear and mistrust one another because of disparaging treatment at the hands of Belgian colonialists.

The Belgians treated Tutsis as an upper class, providing them with an education and important government positions, while relegating the majority Hutu population to agricultural work and manual labor. Furthermore, the Belgians began requiring Hutus and Tutsis to carry identification cards, further creating an atmosphere of fear and hatred.

The strong animosity created by the colonialists was maintained after independence as extremist Hutu leaders sought to strike back at Tutsis by removing them from all positions of power and refraining from punishing those who committed acts of violence against Tutsi civilians.

The ethnic cleansing of Tutsis in the early 1960s led to an exile population that was spread across Uganda, Zaire, Burundi, and Tanzania. Persecution and expulsion of minority Tutsis and moderate Hutus continued throughout the 1980s and early 1990s until the tragic events unfolded that led to the 1994 genocide.

I provide this history, Mr. Speaker, to enlighten those who find it convenient to attribute the Rwandan genocide to the irrational, quote, "tribal hatred and bloodthirstiness of Africans." Rather, what subsequent investigations have revealed is that the killings were not spontaneous expressions of inevitable hatred, but a well-orchestrated, patterned genocide planned for and prepared by extremists, indeed, ethnic extremists to be sure, but essentially extremists concerned with holding on to power and wealth that they had come to control after 20 years in power.

The tribal card was played by these extremists who accused any Hutu who did not join in their cause of betraying Hutus and using propaganda and fear, the twin tactics of Nazis and Fascists in Europe, to intimidate many to join them in killing. Those who resisted, many of them being moderate Hutus, were themselves murdered.

What makes the genocide even more tragic, Mr. Speaker, is that the United States, United Nations as well as the United States and its allies, could easily have prevented this slaughter.

After the death of 10 Belgian United Nations peacekeepers at the hands of extremist militias known as Interahamwe, Belgium decided to remove all of their troops. To keep from appearing as if they were acting alone, the Belgian Foreign Minister telephoned U.S. Secretary of State Warren Christopher and asked if the United States would call for the withdrawal of all UNAMIR troops.

The United States agreed, and despite the calls for additional assistance from General Romeo Dallaire, the United Nation's Supreme Commander in Rwanda, the Security Council voted to withdraw all but a few of the peacekeepers.

Most of the Interahamwe were armed with nothing more than machetes and clubs. Thus, a well-armed force of a few thousand strategically placed peacekeepers could have stopped or at least greatly reduced the killing.

Regardless, eventually the truth will be known.

It is interesting that Secretary General Kofi Annan will be in Kigali tomorrow. Perhaps his visit will shed some light on the reasons why the United Nations and the international community abdicated its responsibility in 1994.

Mr. Speaker, there is a definition for the word genocide. However, just as the Holocaust can only be appreciated after viewing the tragic footage taken during and immediately after World War II, I have brought some visual aids that truly define the Rwandan genocide. These photographs are the result of the inaction of the United States, the United Nations, and U.S. allies.

□ 2015

Mr. Speaker, I have personally seen images like the ones that I will show when I traveled to Rwanda. And as disturbing as these photographs are, I assure my colleagues that the effect in person is much greater.

I would like to thank the witnesses that testified in our hearing today, some of whom traveled great distances to be with us. They came because of the tragedy that the world knows as Rwanda. They came because they viewed the hearing as an important step in informing the Congress and the American people of what went wrong in Rwanda and how we can help to make things right. But although these witnesses traveled great distances to be with us, I regret that the United States Department of State deemed the hearing investigating this tragedy, the death of 1 million men, women, and children, unworthy of their traveling just across town.

In the weeks leading up to today, State Department officials telephoned my office on more than one occasion expressing their displeasure with the idea of this hearing. One person actually raised their voice at my staff, asserting that this hearing was completely unnecessary. All of this opposition raises the question as to whether certain State Department officials believe that such efforts are truly unworthy of their participation, or perhaps there is another reason why they did not want the event of today to take place.

Mr. Speaker, I must state that the gentleman from New Jersey (Mr. SMITH) and I, along with the other members of the committee, are not engaging in this exercise simply to embarrass specific leaders and individuals; rather, we proceed with the recognition that to change the future one must first recognize the mistakes of the past.

President Clinton's historic trip to Rwanda was an important first step toward the United States rehabilitating itself for abdicating its leadership and morality in 1994. However, we must go further. We must begin to work in partnership with the Rwandan Government so that its people and the people of central Africa can begin to recover from this horrendous chapter in world history.

Formulating an effective policy can only be accomplished through learning from previous mistakes, from rehabilitation. And so it must be clear that our purpose for asking how and why is not simply to condemn, but rather to ensure that never again really means never again.

The Great Lakes region has vast natural and human resources, offering enormous economic potential. Crafting an effective partnership with this region will benefit the people of central Africa and the United States.

And now, Mr. Speaker, I would like to recognize a colleague of mine who serves on the House Committee on International Relations with myself, the gentleman from the great State of Alabama (Mr. EARL HILLIARD).

Mr. HILLIARD. Mr. Speaker, I wish to thank the gentlewoman from Georgia (Ms. MCKINNEY) for yielding to me.

I am deeply disturbed, and I have been deeply disturbed, about the position and the policy that our country takes as it pertains to certain countries. And I would like to draw a contrast between various countries and just look at the position that our country has taken.

We have spent, since 1945, more than a trillion dollars in the Middle East dealing with the so-called peace or warring situation between basically four or five countries that involve perhaps less than 50 million people. We have spent in the last 5 years more than $200 million in Bosnia. And, once again, we are trying to participate in, I guess, a peace effort. If one looks at the situation as it is occurring now in Ireland, in England, we realize that our country has been involved in trying to work out a peaceful accord.

I applaud the effort of our country in each one of those situations, and I am glad that my country is in a position to make an effort and to be so important that either we can come in and work for peace or be invited to come in and participate in the peace process in each one of those instances.

But I recall, as a member of the Alabama House of Representatives and as a member of the Alabama Senate, when I had to come to Washington, and colleagues who were similarly situated had to come and force our country or to lobby our country, the State Department, and other governmental officials, to get involved, and I am speaking of the very early sixties, in the South Africa situation on the side of democracy and on the side of justice. It took us many years, and even then it was a very difficult situation.

I also recall just recently, in the last 5 years, since I have been in the United States Congress, when the Congressional Black Caucus had to lobby our State Department and our government to get involved with a situation just a couple hundred miles from our shores, in Haiti, on the right side, on the side of democracy and on the side of justice.

And if we look at those two situations and look at the total of five situations that I have mentioned, Bosnia, the Middle East, Ireland, South Africa, and Haiti, we could somewhat draw a contrast and understand why our country did not go to the aid of Rwanda; why we did not get involved and do the right thing.

I will leave it to the viewers to draw what I would consider a logical conclusion, but any time we get involved with countries that are predominantly of the white race, immediately we shower them with all kinds of aid, assistance and money, and we get involved with our Army, our Air Force, and any other type of weapon we have at our disposal. But when it comes to countries that might have any lineage of an African situation, maybe like South Africa or like Haiti or like Rwanda, we have to, those of us who are interested, have to beg our country to come in, even though it might be in its interest.

Now, there are those of us who wish to get away from the old situation that existed in our country a couple hundred years ago, from the situation of segregation that existed a few decades ago, or from the situation of discrimination based on color and race that exists now. Unfortunately, when we have situations that recur, like Rwanda, like Haiti, and when we see what is happening in Bosnia and the Middle East, it is difficult for us to walk away without looking at the contrast.

And I lay the blame on our State Department. First of all, it does not recruit fairly. It does not have diversity. And if we look at the State Department, we can understand why it discriminates continuously against African Americans and against any nation that may have Africa as a base, whether it is Haiti or Jamaica or any other country.

Ms. MCKINNEY. I would just like to draw the gentleman's attention to the fact that the African-American foreign service officers have filed a lawsuit against the State Department, because they have reached a point where they are frustrated with their inability to be promoted and the inability of the State Department to move African Americans up through the system and utilize all of their talents.

As a result of that, unfortunately, rather than trying to settle this lawsuit, the State Department is fighting the lawsuit, is fighting settling the lawsuit. And so that would be one indication of an attitude that may exist at the State Department, that might explain why it is that it is so difficult for certain decisions that would benefit the people, the world, of people of color to be made.

Mr. HILLIARD. The gentlewoman is very kind when she says a situation that "may" exist. I would go further and say a situation of discrimination and still continual segregation that does exist. But even so, let me go back to the Rwanda situation, because that is the one that we are speaking about now.

I have here a letter of May 4, 1994, from the then chairman of the Congressional Black Caucus, the gentleman from New Jersey (Mr. DONALD PAYNE), where he invited our government as a world leader to get involved in the Rwanda situation. And he writes this letter as chairperson of the Congressional Black Caucus. He stated that a vote had been taken and that this not only was the consensus but it was the position of the Black Caucus that our country should intervene, and he outlined things that could be done.

He received, and no other members of the Congressional Black Caucus received a reply. Did not receive a reply. That was May 4, 1994. June 16, 1994 he wrote back and reminded them of the first letter he had sent and he outlined once again the atrocities that were taking place and the need for the help, and that was also cosigned by then Congressperson Kweise Mfume. He did not receive a letter from the State Department. Not even a letter saying we received your letter or any type of notation.

Then, on July 20, 1994, in frustration, the Congressional Black Caucus sent the President a letter, and the State Department, stating our frustration with not being able to get an audience with the President or those persons at the State Department who would have jurisdiction over the matter dealing with Rwanda. So that there was total inaction as it pertained to Rwanda.

Now, let me tell my colleagues something. I do not need people who profit from segregation and discrimination to come and apologize to me for something that was done years ago and something that is continuing to exist.

□ 2030

And it does not benefit the hundreds of thousands of Hutus and the Tutsis that were killed in Rwanda for someone to belatedly go, years later, and say, "I was sorry that we did not get involved." We do not need those type expressions anymore.

I thought that after World War II and after what had been done to the Jews that we were tired of apologizing and that we were interested in action. And we have the means and everything that is necessary to prevent, and we had it in 1994, to prevent genocide; and we failed to act. My colleagues cannot forgive and forget inaction. It was unnecessary.

We should have gotten involved, and there was a request by more than 35 Members of this body to get involved. Our country failed to do so. And excuses now equate to zero as far as I am concerned.

Never again should we permit this to happen. But in order to make sure it does not happen again, we have got to change the policies and the complexion of our State Department. If they are going to be there and not be sensitive to a third of the world's population, then there is no use for them to be there. There is a need for equal treatment throughout this world. And if we are going to set up ourselves, this country, as the world's policemen, then we ought to do it fairly and not like it was done.

Ms. MCKINNEY. Mr. Speaker, we have been joined by our colleague, the gentleman from New York (Mr. OWENS). But before I yield to my colleague, I would like to just point to my map so that we can be clear as to exactly what we are talking about.

The country of Rwanda is a very, very small, densely populated country in the Great Lakes region of Africa, in east central Africa, bordered on the north by Uganda, here on the east by Tanzania, on the south by Burundi, and in the west by the Democratic Republic of Congo.

We have got an active war situation that is going on in Burundi and in Rwanda; and unfortunately, with the instability that is emanating basically from Rwanda, it is spilling over into all of these other countries in the region. We know that the Democratic Republic of Congo, formerly Zaire, sits in the heart of Africa. And, therefore, if we are interested in stability, rehabilitation, democratization in central Africa and the Democratic Republic of Congo, we have got to do our level best to contain the instability in this region. Because it is this instability that caused the instability and the march westward of Laurent Kabila who eventually over took Mobutu in the first place.

So I wanted to point out exactly the area that we are talking about and why this is so important. Because literally all of central Africa depends on peace, stability, rehabilitation, economic development in this area right here and settling this question once and for all.

I now yield to my colleague the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Speaker, I want to thank the gentlewoman from Georgia for sharing this special order. It brings a whole lot of light to a situation that is still very clouded in a lot of minds. Certainly, as a person who does not serve on the Committee on International Affairs and who is not familiar with the details, I found some of her remarks that she made so far very enlightening.

I am very concerned and would like for my colleague to clarify in a few minutes the situation with respect to the fact that when this conflict broke out, there were a lot of people who absolved themselves by saying, this is an internal matter in Rwanda. It is a matter of them establishing law and order. It is their business. Or they would say, it is a civil war between two groups. It is up to them. The sovereign state of Rwanda should be left to solve its own problems, people would say.

But my colleague, in her opening remarks, indicated, and I read a few articles in the past few days, indicated there was involvement already by outside powers to a great extent. First of all, there was involvement by the French on an ongoing basis; and I would like to know just what their role was. There was involvement by the Belgians, as they were the largest part of the peacekeeping force. And the United Nations was there officially to carry out a certain purpose.

This was not just a matter of letting law and order take its course inside the sovereign state of Rwanda. We already had involvement there, whereas, in the final analysis, yes, the people who went out and took the machetes and hacked the people to death or stabbed them to death or shot them to death, God will hold them guilty for that. They are the primary perpetrators of the murder and the genocide.

But let us take a look at what the involvement was, because I am concerned about the judgment that is always passed down on Africa. My colleagues know, "What happened in the Congo was all the Congolese fault. It is the fault of black people not being able to govern themselves," et cetera. And yet we know from history that what happened in the Congo was very much shaped by the interference of outside powers, that Mobutu was maintained by the Central Intelligence Agency of the United States; that Lamumba was not murdered by somebody who was an employee of the Central Intelligence Agency; probably he was murdered probably by an agent of Moey Shumbi. After somebody in Washington made a comment that they did not care about what happened to Lamumba, they made it clear they wanted Lamumba out of the way.

So in the history of these conflicts, repeatedly, even in Somalia, where it is said the Cold War powers were out of it, they did not care what happened in Somalia and there was no interest the United States had, particularly; it turns out Italy and some oil companies based in Italy had some great interest there and some oil companies in this country had some great interests too.

So I think it is important, going back to Rwanda, that we get clear that there was involvement already by powers outside of Rwanda. If my colleague does not mind recapitulating some of the things she alluded to.

Ms. MCKINNEY. Mr. Speaker, throughout the 20th century there has been outside involvement on the continent of Africa; and unfortunately, the African peoples are dealing today with the ramifications and the effects of that outside intervention.

Even the lines that are drawn that represent country boundaries are nothing in relation to the boundaries of the kingdoms that were existent before the arrival of the European colonialists. And, unfortunately, the history of U.S. involvement on the African continent has always been a nod and a wink to our European allies to allow them to work their will, to do whatever they wanted to do on the African continent; and they knew that as long as they were acting in their national interest that they would have the backing of the United States.

That is why the United States, my friend, the gentleman from Alabama (Mr. HILLIARD), was at first on the wrong side in South Africa's fight. They were on the wrong side in Mozambique and in Angola. They were on the wrong side in countless example after example of interaction on the African continent to suppress the voices of those authentic African voices that were struggling for nationalism and liberalization from the colonial yoke and to promote those that would become mere puppets of the colonial empires.

Mr. OWENS. If the gentlewoman would continue to yield for just a minute, the French, I admired their politics domestically, the French people do not let their government push them around right now. They are not allowing themselves to be put in a situation where large numbers of unemployed people are just left out there to suffer. They have got a lot of involvement. And the Government of France is certainly responsive to its people.

How could the French do something dirty or something oppressive in Africa? Were the French in Rwanda responsible for any of this?

Ms. MCKINNEY. Well, absolutely. What the French are doing right now is having an investigation of what their role was.

Mr. OWENS. Of their own foreign policy?

Ms. MCKINNEY. That is right. Because there were members of parliament who did not know, who were uninformed about what the French Government was actually doing on the ground.

And then, of course, we have read in newspaper reports emanating from France that the attitude of the Mitterand government was that these are just black people killing each other and that is what black people do. And so then, of course, it was all right for the French to continue to arm the Rwandans despite the fact that this is the kind of thing that was happening. This is genocide.

Mr. OWENS. The French continued to arm the Hutus after the genocide started?

Ms. MCKINNEY. Yes.

Mr. HILLIARD. Continued to arm them?

Ms. McKINNEY. They continued.

This is an example of what was happening. Here is a baby that was hacked to death, as my colleagues can see, its limbs hacked off. This is one genocide site. And people went to seek shelter and refuge in churches and in schools because they were told that this was a place of safe haven. Even in the churches they were shot to death, macheted to death, hacked to death by the thousands. Here we can see the remaining skulls at one of these genocide sites, obviously a school or a church.

Here is a young woman who has been hacked. This is what was happening on the ground while we in Washington and in Belgium and in Paris looked the other way. This is what was happening on the ground in Rwanda.

Mr. OWENS. Did we really look the other way? If the French were continuing to arm the Hutus, did they not choose sides and consider that they wanted to be on the side of the victim and they really wanted the Hutus to succeed? I am not saying the French Government, knowingly, from Paris, but certainly the representatives of the French Government in Rwanda. And the Belgians, I think they withdrew in order to make it easier for the Hutus to slaughter the people they wanted to slaughter. So they were all choosing the Hutus as the winners, obviously.

Ms. McKINNEY. This was a civil war as well as a genocide.

Mr. HILLIARD. Mr. Speaker, if the gentlewoman will continue to yield, this may have been a civil war. But it was also a civil war in Bosnia. And the European countries got involved, and this country got involved: and we have had troops there, and we still have got troops there.

Mr. OWENS. If the gentlewoman would yield further, we did not just get involved in Rwanda. We were already involved. The United Nations was already there. We did not have to go get involved; we were there already.

Mr. HILLIARD. We did not wait on the United Nations. We took the lead in Bosnia, after the Europeans got involved, before the United Nations made a declaration. And that is what is so ironic about all this.

But let me tell my colleagues this. The United Nations had made a declaration in the Rwanda situation, but yet the Western powers stood back except for France. And after Belgium pulled out, they just left it to those who were powerful. And these pictures my colleague showed, did she realize that they were not of soldiers, they were not of males with guns, that the victims were women and children?

□ 2045

Ms. McKINNEY. Mr. Speaker, I visited Gekangordo, which is a site of genocide at a school. In Gekangordo, the stench of death hangs in the air. This is 3 years after the killing. At Gekangordo, there are 27,000 bodies that have been unearthed thus far. There may be more there. When you go there and you see what happened, it is impossible to walk away from that and not be deeply, deeply affected. Unfortunately, at the hearing today, the New Yorker article that came out, the New Yorker article came out yesterday about the genocide facts. This article was written by Phillip Gorovich, who talks about the fact that General Dallaire, who was the United Nations representative, general on the ground, sent a fax up to the United Nations and said, we have got an informant who only requires safe haven asylum in either France, the United States or Belgium. This informant has told us that there are plans for an extermination of the Tutsi people. I am going to go in and remove the weapons caches within 36 hours. We now know that the chief of staff to Kofi Annan sent a response back to General Dallaire to not go, to not remove those arms caches, and instead go tell the extremist Rwandan government that we know what you are going to do. So the United Nations itself now then becomes complicit because the United Nations had the information.

Mr. HILLIARD. And failed to act.

Ms. McKINNEY. And failed to act. The gentleman is absolutely right.

Mr. HILLIARD. If the gentlewoman will yield, I have some facts. The first one I am going to talk about a minute. It says genocide occurred primarily between April and June of 1994. If you recall, the first letter that the Congressional Black Caucus sent to the President and to the State Department was May 4. We had reported to them what was taking place. We continued to send letters and did not receive any answers. More than 1 million persons were killed. That means during the time that our State Department filed the letters from the Congressional Black Caucus in file 13 probably as many as 300,000 people were killed each month. They failed to even acknowledge that anything was occurring. More than 400,000 women were raped.

Ms. McKINNEY. Further, I would just like to add that the United Nations allowed a general to testify in the Senate and talk about the success of the United Nations in Bosnia. We for our hearing today requested that General Dallaire be allowed to testify at our hearing. General Dallaire was willing to testify at our hearing, but the United Nations declined an acceptance or declined permission for him to testify and so he did not testify at our hearing today. Nor did General Dallaire or Kofi Annan appear before the Belgian parliament and its own inquiry of what happened. They invoked diplomatic immunity.

Mr. HILLIARD. If the gentlewoman will yield, how many more times will this occur? If we are going to use the resources of this Nation to police the world, we ought to do it fairly. If we are going to withdraw from that position, then we ought to do that. But we should not discriminate. And we should fairly participate in every situation whether it directly or indirectly affects us.

There was a slogan that I did not agree with, but it says something that he who has power should use it. I often think that if you use it wisely, then perhaps you would not have to use it. Just the thought that you have power and that it would be used wisely and fairly would prevent situations like Rwanda from occurring. But if you have got it, if you have it and you selectively use it, then you will invite situations like Rwanda, because they always would calculate that we do not have to worry. There is not enough oil in Rwanda for them to be concerned. So we can do that and be successful.

Mr. OWENS. I would just like to say that I agree with 99 percent of what you are saying. But the thrust of us being the policeman to the world, I do not think we want to make it that directly.

Mr. HILLIARD. We have assumed that role.

Mr. OWENS. The power of the United States should be used in concert with other forces, primarily in concert with the United Nations. We should try to strengthen and create the United Nations and create the world order where we do not have to always be the power that serves the function of policeman. We should look at public policy.

Right now we have a United Nations arrears that this Nation owes that it is not paying. For the country that has the largest responsibility with the United Nations not to pay weakens the United Nations a great deal, and we do not create that world order which would send a message to people out there that they should not get involved in this kind of activity. The leaders of Rwanda probably thought they could under the cloak of Rwandan sovereignty get away with it and they probably would have gotten away with it if there had not been a guerilla war force that came in and took over. They may be sitting there right now and justifying the genocide just as Saddam Hussein is sitting there justifying himself in Iraq.

Mr. HILLIARD. What the gentleman says is correct. The United States should react as it deals with world situations through organized bodies, such as the United Nations. However, even as late as one and a half months ago, the United States indicated if Saddam Hussein did not allow the inspectors to come in, it would not wait on any United Nations resolution or any other body. It would take it on its own to intervene. We did that in Korea. We did not wait on the United Nations. We got involved. We did it in Vietnam. We did not wait on the United Nations. We got involved.

When it is in the interest of this country or when the powers to be at the State Department and at the very top decide that they are going to do something, they do not wait on the world body. What you say ought to be the case, that should be our policy, but in actuality it is not our policy.

Mr. OWENS. We should establish a war crimes tribunal so that these people know that they are going to be brought to justice in the end. We want to send a message to people like the dictators in Nigeria right now that we are not going to sit by and tolerate them having sovereign immunity to do whatever they want to do. The whole world should have some kind of standard that is clear out there and we ought to move in the direction of supporting that kind of thing through the United Nations and the World Court and make it clear that you are not going to get away with it. By doing that, we would prevent a lot of the kind of genocides that are taking place, too many have taken place, we have this one that happens to be the biggest one, but we are leaving out Cambodia and Yugoslavia and Serbia. They were about to destroy one of the oldest cultured cities in the world, Sarajevo. So it could break out anywhere. We have got to send a clear message that the world will not tolerate it. Part of the reason that message will be accepted as meaningful is that the United States stands behind it, with its force and its power, stands behind a doctrine which says we will not tolerate sovereign predators wiping out whole groups of people or doing other kinds of things that really are just not acceptable in this civilization.

Ms. McKINNEY. I would like to mention and commend other Members of Congress who at least spoke out on this issue at the time. We know that from the Congressional Black Caucus, the gentleman from New Jersey (Mr. PAYNE) submitted those three letters to the President three times and to the State Department, and three times he received absolutely no response. But the gentleman from Florida (Mr. Mica) also spoke out on this issue and the need for U.S. intervention to stop the genocide, to stop what was happening, to save those innocent lives. The gentleman from Wisconsin (Mr. OBEY) also spoke out against what he saw as inaction on the part of the administration. I would also like to thank the people who came to the hearing today and testified.

Mr. Dick McCall from USAID was the only person who was given authorization to show up at the hearing today. And so the absence of the State Department then raises more questions than it answers. Because as we got testimony from all of the witnesses, we understand that there are some answers that reside within the highest levels of the State Department, and the American people and the Members of Congress and the Congressional Black Caucus and all of the people who did speak out and the countless Americans who were concerned at the time and who are now concerned deserve to know the answers.

We also had Ambassador Shaharyar Khan travel all the way from Pakistan to be with us. Senator Alain Destexhe, who promoted the investigation in Belgium, traveled all the way from Belgium to be with us. Kathi Austin, Holly Burkhalter, Alison Des Forges, Jeff Drumtra and Mr. Francois-Xavier Nsanzuwera all came from various points around the globe to be with us today at today's hearing. Yet the State Department could not emerge from Foggy Bottom to tell us what the heck was going on, what did they know, and when did they know it.

Mr. OWENS. Again, I hope that the committee that the gentlewoman sits on will seriously push for some remedies that would help avoid these situations in the future that they would never happen again with the United States sitting on the sideline, that we would have a clear way to intervene and we send a clear message that President Clinton has called us an indispensable Nation. One reason we are is that we have the economic power and the military power. We will use our power in concert with the rest of the world to guarantee that there will never be any millions of people being killed while the rest of the world sits by and watches without intervening.

Ms. McKINNEY. I would just like to say that we know what happened in Rwanda. I have not made it through all 1,180 pages of this book, Rwanda, Death, Despair and Defiance, which was written by Rakiya Omaar at African Rights in London. I went to London to meet with Rakiya, to hear firsthand what she had to say as she interviewed hundreds and hundreds and hundreds of genocide survivors and of the genocide there in the prisons in Rwanda. We know what happened in Rwanda, thanks to Rakiya Omaar.

□ 2100

Thanks to Senator Alain Destexhe in Belgium we know what happened in Belgium. We know why the Belgian troops withdrew, and he has come to the United States to help us to understand what happened in Belgium. Thanks to French parliamentarians we are beginning to understand what happened in Paris, what motivated Paris French behavior on the ground in Rwanda. Three governments were forewarned, and two of them are now asking themselves why they stood by and let 1 million people be slaughtered. The United States and the United Nations must do the same.

Senator Destexhe delivered a letter to the gentleman from New York (Mr. GILMAN) today and to our committee requesting that the United States hold a similar investigation; since the United States was one of three countries privy to the information that a genocide was about to take place, that the United States ought to look at it in critical self-examination to make sure that never again means never again.

I yield to my colleague from Alabama.

Mr. HILLIARD. Thank you very much. You gave credit to those persons who were properly due; however, you failed to mention one, and that is the Congresswoman from Georgia (Ms. McKINNEY). Let me personally thank you for your hard work and for your forthrightness and for your determination to come forth without any type of political fear of repercussions and let this country know what it should have been doing at the time and even now.

It has been 4 years since about a million persons were killed in 90 days when our country failed to react, and I thank you for not letting this country forget its inaction. Never again, I agree with you, but I thank you.

And I have for the RECORD something that I will submit, but I would like to just read the last paragraph:

I would like to acknowledge the hard work of my good friend from Georgia and thank her for making time for us to speak out on such a horrifying issue. We should not sit idly by while people are being slaughtered. Never ever again.

So I thank you and I commend you for a job well done.

COMMENT ON RWANDAN GENOCIDE

Never . . . again!

Never again!

Those two simple words are used when referring to the Holocaust.

However, I come to the House floor this evening with a heavy heart to speak on something that should have never happened again. I am here to speak on what is the fourth anniversary of the Rwandan genocide.

It has been four years since one million Rwandan people were slaughtered by their former friends and neighbors. I am talking about the loss of one million people in the span of just 90 days.

One million people murdered in 90 days.

To reach this number in 90 days required Hutus (who-toos) to butcher 463 Tutsis (toot-sees) and moderate Hutus every hour of every day for 90 straight days.

The total pre-genocide population of Rwanda was about 7 million people. After only three months, one-seventh of Rwanda's population—men, women and children—lay dead in the streets. To put this massacre in some type of perspective. . . . The killings would be the same as slaughtering every African-American man, woman and child—approximately 37 million people—or one-seventh of the United States population in just 90 days.

We can discuss how terrible it is that this event even took place, but what really must be discussed is whether it ever had to happen at all.

It has been discovered that the international community, including the United States Government, was aware that genocide in Rwanda was imminent. A hearing was held just this morning in the House International Relations Committee on this very issue. And in that hearing, witnesses who were on the front lines in Rwanda reported that the United Nations, and the governments of the United States, France, United Kingdom, Belgium, and other countries, were fully apprised of not only escalating tension between Hutus and Tutsis, but more importantly, the United Nations and these governments were made aware of plans for mass genocide by the Hutus against the Tutsis.

Even with knowledge of the planned genocide, the United Nations peace-keeping troops were reduced from 2,500 to only 270.

I repeat . . . only 270 troops were retained, even with knowledge of a planned mass genocide.

I cannot accept that the State Department and the administration would have knowledge of this situation and not inform members of Congress. I am further angered by the fact that the State Department failed to appear at our hearing this morning, hiding behind ridiculous department rules.

The value of African lives cannot . . . and will not, be so easily cast aside. I will not allow the administration of this country to serve lip service to its commitment to African issues—but more importantly African lives.

I, with other members here tonight, plan to get to the bottom of this issue, and determine exactly who knew what, and when they knew it. Belgium, France, and the United Nations are all currently going through some form of truth-seeking process. It is high time the United States did the same.

We will find out who knew in advance that genocide was imminent. And where there was knowledge of any inaction, we must speak out and hold those people and governments accountable—even those here in the United States.

I would like to acknowledge the hard work of my good friend from Georgia, and thank her for making time for us to speak out on such a horrifying issue. We should not sit idly by while people are being slaughtered.

Never . . . ever . . . again!

Ms. MCKINNEY. Thank you very much.

Mr. Speaker, I appreciate this time to make this presentation to our colleagues and the Congress and to our audience, the American people.

Never again is supposed to mean never again, and we now must demand that we understand fully what happened and why it happened.

Unfortunately, the State Department chose to not show up at a very important hearing. They chose to duck the answers of the people who came to present their questions. And in response to that, then, I have to add my voice to the tens of other people who were at that hearing today who were calling for an investigation.

I now call for an investigation of what happened so that indeed when we say never again the world community will know that never again means never again.

Bruxelles, Belgium, May 5, 1998.

Hon. BENJAMIN GILMAN,
Chairman, House Committee on International Relations, Rayburn Building, Washington, DC.

DEAR CONGRESSMAN GILMAN: I am writing to recommend that the United States Congress undertake an investigation into the events surrounding the 1994 genocide in Rwanda. During that time, I was the Secretary General of Médecins sans Frontières (Doctors without Borders). In this capacity, I visited Rwanda just before and just after the genocide. In 1995, I became a Member of Parliament and initiated the Belgian Senate Committee of Inquiry on the Rwanda genocide.

Our Committee of Inquiry heard testimony from 95 witnesses, including Belgian Ministers, Diplomats and members of the Military. The Committee also consulted all documents from 1993 and 1994 in the Foreign Affairs and Defense Ministries, including all correspondence between Kigali and Brussels.

Two main questions were addressed: Before the genocide, were the Belgian authorities and others aware of the fact that it was under preparation? After the genocide started on 7 April, 1994, why did the UN decide to withdraw almost all its forces from Rwanda?

Concerning the period before the genocide, our Committee concluded that: ". . . at the latest in mid-January 1994, the Belgian authorities had a series of relevant information regarding, if not the preparation of genocide, at least the existence of the preparation of large scale massacres . . . On the other hand, several actors (UN, other states . . .) that had the same type of information did not give it the necessary importance . . . ." (page 506)

Although the Committee decided not to be more specific about the "other states," this is clearly a reference to France and the United States. We based that conclusion on various evidence, in particular documents from the files of the Belgian Ministries of Defense and Foreign Affairs. Among others, we found 19 documents in which there is mention of a Machiavellian plan of destabilization and massacres. There is no reason to believe that similar information was not at the disposal of the American and French Ambassadors and the UN Representatives. Most important is a cable sent on January 11, 1994, almost three months before the genocide, by General Dallaire, the Commander of the UN forces in Rwanda (UNAMIR), to the UN Headquarters in New York, based on information provided to him by a key informer. This cable revealed a fairly detailed plan explaining how the genocide was organized in Kigali. It mentions that the principal aim of Interhamwe (the militia of the President's party) in the past was to protect Kigali from the Rwandan Patriotic Front (RPF). He noted that a campaign was under way by Interhamwe to register all Tutsi in Kigali, he says he suspected that this was for their extermination. He quotes an Interhamwe informant as saying that in twenty minutes his personnel could kill up to 1,000 Tutsi.

This cable's importance cannot be overestimated. How many times has the United Nations received from its Force Commander in a country a warning of a possible, even probable, extermination?

In the cable, General Dallaire announced his intention to take action within 48 hours and requested protection for his informer. UN Headquarters answered that the action he had planned to take was not authorized because it did not fall within the UNAMIR mandate. Dallaire was instructed to contact the three ambassadors from Belgium, France and the United States, and ask them to intervene with President Habyarimana of Rwanda. He was also instructed to request from these countries protection and asylum for his informer.

The contents of the cable shared with the American, French and Belgian Ambassadors in Kigali. According to the special representative of Secretary General Boutros Ghali, "They expressed serious concern and indicated that they would consult with their capital and would act accordingly." On January 13, 1994, all three ambassadors met President Habyarimana and expressed their concern that the Arusha Peace Agreements (which were supposed to bring a peaceful transition in Rwanda) were being violated by his political party and his supporters. Apart from this, very little was done to stop the perpetrators of the genocide. I strongly believe that if General Dallaire's cable had been widely publicized at the time, the genocide could have been avoided.

We should remember that nearly one million people were killed in less than three months in Rwanda in 1994. We should also recall that the Rwandan killings were an attempt to eradicate an entire people, and as such constitute one of very few unequivocal genocides in the twentieth century. A crime of this nature and scale demands full investigation. The Rwandan genocide demonstrated that the lesson of the Holocaust still has not been learned. At the end of the day, everyone is accountable for their actions when genocide crimes against humanity are at stake.

Belgium, France, the United States and the United Nations also share a responsibility for not doing more—indeed, doing almost nothing—to prevent or stop the killings. The genocide of the Tutsi in Rwanda took place in a country where 2,500 UN blue helmets were deployed and supposed to maintain peace and protect human lives. They could have prevented the killings, both before and during the genocide.

The role of Belgium in this tragedy has been fully examined by the Belgian Senate Committee. That of France is currently being investigated in the French Parliament. The victims, but also humanity at large, deserve to know the full truth concerning the two other major international players—the United States and the United Nations.

To conclude, I would first like to note that I fully welcome the initiatives of the Clinton Administration to prevent further genocide and bring justice in the Great Lakes region, initiatives which were taken after the presidential trip to Africa.

However, more needs to be done. A full investigation on the part of the United States can help to improve the chances that such suffering will not be repeated. In attempting to move forward, the past must be taken in account. The 1994 genocide remains a central issue to understanding the situation in the Great Lakes region. It also highlighted the deep inadequacies in the way the international community responds to signs of impending crisis. We cannot prevent future tragedies if we do not come to terms with the past; in the United States as in Belgium, that process must involve examining the role this government played in Rwanda in 1994.

Sincerely,

ALAIN DESTEXHE,
Member of the Parliament of Belgium, President, International Crisis Group

Mr. GILMAN. Mr. Speaker, I would like to thank my colleague, the gentlelady from Georgia, Ms. MCKINNEY, for organizing this Special Order. Her dedication to Africa is exemplary.

Mr. Speaker, four years ago the people of Rwanda suffered unimaginable horror. Up to one million Rwandans were slaughtered by their countrymen in only three months. Radicals associated with the Government of Rwanda organized the killings of Tutsis and moderate Hutus. The killing only stopped when the Rwandan Patriotic Front, now the government of Rwanda, overthrew the genocidal regime.

The atrocious events of 1994 will scar Rwanda for generations. Indeed, the entire world has become a less humane place because of them. Earlier today, the Subcommittee on International Operations and Human Rights of the Committee on International Relations, chaired by our distinguished colleague, CHRIS SMITH, held a hearing on many aspects of the 1994 Rwandan genocide. The genocide remains relevant today, Mr. Speaker, because the conditions in Central Africa make another genocide possible.

Ethnic and cultural rivalries are still deadly in the Democratic Republic of Congo, Burundi and Rwanda. Innocent men, women and children—in all three countries—are being killed today because of the groups to which they belong.

The United States failed to intervene in the 1994 genocide, Mr. Speaker. I hope that by reflecting on the events of those horrible three months, we can do more to avert tragedy next time.

Again, let me thank the gentlelady from Georgia, Ms. MCKINNEY, for organizing this special order, and also the gentleman from New Jersey, Mr. SMITH, for holding his hearing earlier today.

FREEDOM OF RELIGION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Oklahoma (Mr. ISTOOK) is recognized for 60 minutes.

Mr. ISTOOK. Mr. Speaker, I appreciate the opportunity to speak to the House and other citizens about a major issue which we will have on the floor of this body in 1 month.

Mr. Speaker, we have a great reverence and respect in the United States of America, and properly so, for the Constitution that was assembled and ratified by the States some 200 years ago, and the very first liberty that was put in the Bill of Rights, added to the original Constitution, is religious freedom.

The first amendment begins, Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, and with those plain simple words the Founding Fathers intended to establish two basic simple concepts. First, that this land would not have any official church so designated by an act of the Federal Government; secondly, that we would have the maximum of religious liberty in the United States of America.

Why did so many people come to this country if not seeking a land where they could freely exercise their religious beliefs and where they could exercise it right next to someone who might have some differences of faith but who would have not only a tolerance but a respect for those differences; who would say to one another, you may have your belief and I may have mine, and we believe that all men have a God-given right to acknowledge God according to the dictates of their own conscience; worship who, where, or how they may, and we respect that right, and we are not offended by the fact that someone may have a differing religious belief.

But, Mr. Speaker, it started 36 years ago that the Supreme Court took that very plain and simple language, that very plain and simple meaning, and they started to twist it, they started to distort it, they started to make misdirected rulings and basically said that if you are on public property, like a school, if you are on public property and you engage in an act of prayer or other religious expression, that that is the same as if this Congress had said that we are going to select for the American people what their faith must be. They said basically that an individual or a group of people coming together when they are on public property is the same as telling people what their beliefs must be as establishing a national church, an official religion. They are not the same thing at all.

But in 1962 the U.S. Supreme Court ruled that even when, even when students voluntarily choose to recite a prayer together, even when there was no compulsion that was involved, that was unconstitutional. And so began the controversy that has continued for a generation over voluntary prayer in public schools.

It has gotten so bad, Mr. Speaker, that the add-on decisions from the U.S. Supreme Court just made it worse. For example, in 1985, and Mr. Speaker, this was a decision that came from your home State of Alabama; the State of Alabama had passed a law that said, well, the Supreme Court says we cannot have vocal prayers by groups of students in public school, but we will permit students to have a moment of silence. A moment of silence was permitted by the Alabama law, and in 1985 the United States Supreme Court, just across the street from the Capitol building over here, the United States Supreme Court said permitting a moment of silence was unconstitutional because it could be used by students for silent prayer.

Now I thought the Constitution at least guaranteed the right to remain silent, but not if you are using that silence in a school to offer a prayer. That was the U.S. Supreme Court. That is part of the warped rulings that have so twisted the first amendment that people cannot recognize the results that are achieved under it.

In 1992 they said if it is at a public school graduation, if there is a prayer there, that was unconstitutional because, and this case was from Rhode Island and it was a rabbi that was asked to offer the prayer, but because students were expected to be respectful of the prayer, just as they were expected to be respectful of the other things that occurred during the graduation.

Because they were expected to be respectful, the Supreme Court said, oh, no, having a prayer at graduation of school; my goodness, that too is unconstitutional because some students might think that just by being silent, others may think that they are joining in the prayer. And therefore to protect them, no matter what the majority wants, no matter how it steps upon and stomps upon the beliefs and the wishes of other people engaging in free exercise of religion and free speech, the U.S. Supreme Court said the prayer at that graduation was unconstitutional.

And there have been other decisions. In 1980, out of Kentucky, the Supreme Court ruled that to permit the Ten Commandments to be posted in a public school was unconstitutional.

Now, Mr. Speaker, I know the Ten Commandments are the basis of our laws. They are the starting point for the laws not only in the U.S.A. but in so much of the entire world, and they are common to many different cultures and to different faiths. But the U.S. Supreme Court said they cannot be put on the wall of a public school.

And yet here in this House Chamber I see right before me, right before my eyes as I face the opposite wall, Mr. Speaker, is the large bas-relief, the image, of Moses, the great law giver, the one who brought the stone tablets down from Mt. Sinai with the Ten Commandments written with the finger of God.

The walls of the Supreme Court have the Ten Commandments depicted upon them.

We open sessions of this Congress, Mr. Speaker, with prayer.

The U.S. Supreme Court opens with "God save the United States and this honorable Court."

And we have right above your head, Mr. Speaker, the words that we find on currency in America, "In God We Trust." And do you know that is under attack? There are people who want to take that off currency.

And let us take the State of Ohio. Ohio has a State motto, and it is kind of akin to ours, of "In God We Trust." Theirs is, "With God All Things Are Possible." They are being sued right now, Mr. Speaker, to stop that from happening. They are being sued by those who say, oh, you cannot say with God all things are possible in a public setting that involves public property, such as the grounds of the State capital of Ohio or anyplace else where they may want to put their State motto.

And the ACLU is suing in West Virginia to stop prayers at high school football games, and we have communities all over the country that have different suits pending. For example, I was reading one today, a community near Kansas City, Missouri, and in that community one of the emblems on their city seal is a fish, and the ACLU is saying oh, my goodness, that is one of the emblems of the Christian faith, so let us have it taken off.

Where will this intolerance stop? When will it end? When will the faith of the American people be able to be expressed freely? When will the Supreme Court stop things such as this and their rulings against nativity scenes, menorahs? Just came down a number of years ago, came out of Pennsylvania, at the courthouse there, I believe it was Allegheny County in Pennsylvania, and they had, among different holiday displays they had a nativity scene, they had a Jewish menorah, they had other things, too. But the Supreme Court said it is possible to look at that nativity scene and see it by itself and not notice the other secular emblems that might be on display. And they said if you have a display such as that, you have to balance it with Santa Claus, plastic reindeer, Frosty the Snowman. It is what we call the plastic reindeer test, except now the courts, they had a Federal court ruling in New Jersey just this last December saying, well, even though you have balanced a nativity scene with other secular emblems, Santa, Frosty, and so forth, no, the nativity scene still must go because it is too powerful, and it is more powerful than the secular emblems.

I am tired of all that. I am tired of that and so many other cases that I can describe, whether it be from the Supreme Court, the Federal appellate courts or the Federal courts, or whether it be the intimidation that it creates where schools say, my goodness, we have got to really, really stay away from anything, even if it is legal, because we do not want to get sued and we do not want to have these huge legal bills.

And every year, and it is about this time that probably there are letters going out again that the ACLU and their fellow believers, I guess, send out letters to schools saying, "Don't you dare have a prayer at your graduation unless you want to be sued."

I remember the case in Texas, in Galveston, at I believe it was Santa Fe or Santa Fe Ball High School at Galveston where a Federal judge told them, "Well, because of another court ruling, I'll let you have a prayer at graduation if the students insist on it, but I will have a U.S. marshal there, and that U.S. marshal will arrest anyone if they mention the name of Jesus Christ as part of that prayer."

□ 2115

He said that on the record. There is a transcript of it that the Federal judge said that.

Mr. Speaker, I have to come back to the gentleman's home State of Alabama. Alabama is suffering under an order from a Federal judge right now that was issued last year from Judge Ira Dement, and Judge Dement's order has really taken things to a new height.

I want to share some of the words that Judge Dement has written in a ruling that was issued just a few months ago, as requested by people who wanted to stop prayer that they were still having in some schools in Alabama in different settings. And this is what Judge Dement's order says: He said, The schools there are permanently enjoined from "permitting prayers, biblical and scriptural readings and other presentations or activities of a religious nature at all school-sponsored or school-initiated assemblies and events, including, but not limited to, sporting events, regardless of whether the activity takes place during instructional time, regardless of whether attendance is compulsory or noncompulsory, and regardless of whether the speaker or presenter is a student, school official, or nonschool person."

Regardless of the circumstances, at any time, whether it is during class time or not class time, whether it is on the school grounds or off the school grounds, whether one has to be there as a student or one does not have to be there as a student, if there is a prayer from anyone, the judge said, they are going to answer to him.

Mr. Speaker, he is not kidding. He has, at the expense of the school system, hired monitors to patrol the school and the hallways, and they have had student after student after student after student be expelled because they do not believe a Federal judge should have that much control over their freedom of speech and their freedom of religion. And if a group of students want to get together and they want to have a prayer, then why is it that only the opinion of the one that does not like it is the one that counts; and the opinions of those who want to have a prayer, their opinions are ignored?

Mr. Speaker, in addition to prayer, we start sessions of this House with the Pledge of Allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all. And Mr. Speaker, the Supreme Court made a proper ruling in relation to the Pledge of Allegiance. The case came out of West Virginia.

The Supreme Court said, no student can be compelled to say the Pledge of Allegiance, but they did not give a student that did not like it the right to stop their classmates or censor their classmates who wanted to say it.

Mr. Speaker, that is the standard we ought to be applying to school prayer. Nobody should be forced to participate, of course not. But that does not give them the right to show their intolerance by trying to censor their classmates that may want to say it.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. ISTOOK. Mr. Speaker, I will if the gentleman will let me make one point first, and that is simply the point to which I am building, that we have to do something about it.

We are going to be having a vote in this House in a month on doing something about it, and it is called the Religious Freedom Amendment, to make it possible for students to have prayer in public schools, to make it possible for the Ten Commandments to be displayed, to make it possible to have holiday displays, recognizing the religious traditions or heritage or beliefs of the people, and to correct the abuses of our first amendment, the beautiful language of the first amendment which has been corrupted by the Supreme Court.

I would be happy to yield to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding.

As the gentleman knows, I am a cosponsor and have plans to support the gentleman's amendment and congratulate the gentleman who, over the past now, 4 years now, correct?

Mr. ISTOOK. Mr. Speaker, I believe it is 3 years. Well, closer to 4 now, the gentleman is correct.

Mr. KINGSTON. Four years to get this done, and I do not think anyone would ever have anticipated how long it would take to get this to the floor, particularly when we have so many Members of Congress on both sides of the aisle who have sponsored, in some form or the other, school prayer, voluntary school prayer amendments.

I do have a question, though, that has been raised by some people in my district that have expressed some concerns, and I think I mentioned some of them to the gentleman.

In the case of a classroom, as I envision this, say first period in the morning, after rollcall, whatever, should a student lead a school prayer, he or she would have a right to, after the Religious Freedom Amendment is adopted by the requisite number of States, correct?

Mr. ISTOOK. Yes. This would not permit government to tell them that they must pray, it would not permit government to tell them what the content of the prayer would be; but absolutely correct, I say to the gentleman, it would permit students to initiate prayer as part of their school day when they start it. Or it might be the school assembly or it might be a football game or graduation or some other school activity. The point is, it would be a permitted activity, but never compulsory.

Mr. KINGSTON. Mr. Speaker, what would keep a teacher from salting the group for one particular religion over the other or encouraging the favoritism of one religion over the other?

Mr. ISTOOK. Certainly, Mr. Speaker, I think that it is interesting that, of course, people are concerned that we do not use the pressure or influence of government to try to tell them what their faith or what their religion should be. And, of course, government might act through Congress, it might act through a school board, it might act through a principal or a teacher. The key there is to make sure that we reinforce the prohibition on government acting to compel anyone to be engaged in any particular religious activity.

I think the best way that we can focus upon that is by looking at the text of the Religious Freedom Amendment, which is the proposed constitutional amendment. Let me share it. I think the text itself helps to answer your questions.

The text of the Religious Freedom Amendment, which is House Joint Resolution 78, reads as follows:

> To secure the people's right to acknowledge God according to the dictates of conscience, neither the United States nor any State shall establish any official religion. But the people's right to pray and to recognize their religious beliefs, heritage or traditions on public property, including schools, shall not be infringed. Neither the United States nor any State shall require any person to join in prayer or other religious activity, prescribe school prayers, discriminate against religion, or deny equal access to a benefit on account of religion.

So we have, several places in the amendment, placed language meant to safeguard. For example, we have the language, "according to the dictates of conscience," which parallels language that is found in a number of State constitutions, to make it clear that the rights of an individual conscience remain inviolate. We do not want to step upon anyone's. We have the requirement that we do not require any person to join in prayer or any other religious activity, and we do not have a government prescription that a prayer must occur, nor what the content should be.

So it really goes back to the principle that is followed in schools in so many other ways, and that is, they provide students an opportunity to take turns so that it is not just one type of prayer or one particular faith's way of saying a prayer that is heard, but different people will have their opportunities on different occasions.

Mr. KINGSTON. Mr. Speaker, let me ask the gentleman this question, which is less than friendly.

Mr. ISTOOK. Okay.

Mr. KINGSTON. Mr. Speaker, if we have a minority religion in a group, say the predominant members of a class predominantly are Christian, Jewish and Muslim, and we have another child out there who is 7 years old, and we are going around the circle with the Big 3, but he has some obscure religion. I do not know what would be an example; say he is a Zen. How do we keep that 7- or 8-year-old from being proselytized by the other religions because he is going to be a little bit embarrassed to stand up for his religion because of peer pressure? At that age, nobody has the fervency of their convictions, but children know what the majority is doing and in order to fit in, often they want to do what it takes to fit in with the majority.

Mr. ISTOOK. Certainly.

Mr. KINGSTON. So, Mr. Speaker, they do not have that spiritual maturity that would allow them to tolerate it and say, well, let us go ahead and have that person's prayer today.

How would this deal with that?

Mr. ISTOOK. Sure. Certainly we recognize that different children will have different levels of maturity; and it is not something, of course, when we talk about people that may feel sometimes like they are not necessarily part of a group, it may not be religion. It may be how people dress, it may be how people look, it may be how people talk, it may be the shoes they wear, it may be what type of music they choose for listening. It can be all sorts of things.

I think that we do a disservice if we say that we know that children are going to have differences among them in other respects and that part of learning and part of growing is understanding that there are differences and learning to cope with those, but if we set apart religion and say, but if it is a religious difference, that is somehow a threatening topic, and that we must protect children from knowing that there are some differences.

I think we need to look at the words of a Supreme Court Justice, Potter Stewart. I am going to paraphrase him; I have the exact quote, but not in front of me.

When he was talking about this discussion, when he dissented from what the Supreme Court did, from what his fellow justices did, and he said several interesting things. One of them was that we cannot expect children to learn about diversity, to learn that different people will have different beliefs and different faiths, if we try to isolate them and shield them from that knowledge until they are adults, as though it were some type of dangerous activity or something that is reserved for adults. If we do that, he says, we will foster in people the belief that this is something that is threatening, that it is something that needs to be pushed aside and pushed away or kept in a corner, rather than something that should be understood.

Basically, we are teaching intolerance at an early age if we tell people it has to be suppressed rather than respected when they have those differences, and that is where the schools should properly show the proper respect, whether they say, well, different people have had a chance and this person does it a little differently and we ought to respect that and learn from it. That is how we learn tolerance and diversity.

Mr. KINGSTON. Mr. Speaker, on that subject, let us say we have somebody who is a goat worshiper.

Mr. ISTOOK. I am sorry?

Mr. KINGSTON. Mr. Speaker, a goat worshiper, a devil worshiper or a bizarre type of religion. Now, they want to have equal time. Do we want our child in the room when that prayer is taking place? That would probably, it might in a Christian parent cause a little concern, the same way it would cause the goat worshiper's parent to have concern when the Christian prayer is going on.

Now, I only say that to the degree that, as our society gets more and more diverse, it is reasonable to expect in a country of 260 million people some folks who are in a very minority, extreme minority-type religion who pray perhaps in a bizarre way; and by that I mean, maybe they do not bow their heads when they pray, maybe they scream or something. And I am only phrasing this question in a hypothetical right now, but it is still very possible for some fringe religions to get under the Religious Freedom Amendment equal time in the classroom, so to speak, and it is fair, the way the gentleman has bent over backwards to draw this thing so fair that it will happen.

How does the gentleman answer those concerns?

□ 2130

Mr. ISTOOK. Mr. Speaker, I think the first thing of course that we all need is perspective on it, because frequently I find that some people want to construct what they think is a trap. They will first say, oh, the Religious Freedom Amendment is only meant to enthrone the rights and the beliefs of a majority of Americans, and therefore to suppress those who may not be among the majority in their beliefs. They are wrong in what they assert because obviously we are trying to be evenhanded.

Then they take the other side of the argument and they say, oh, well, if that is the case then it is also bad because there may be some people, such as the gentleman described, whose practices are distasteful to others. And, therefore, they say no matter which way we go, they are against it.

The real agenda of course of such persons is they just are not tolerant toward other people's faith in prayer, whether in the minority or majority. But in a situation such as the gentleman described, the perspective to understand is that there may be some very rare and isolated occasions when someone may wish to offer a prayer that others will find distasteful. But should we say that because there will be very, very rare occasions of that, therefore we must suppress and stifle and censor the millions and millions of positive, uplifting prayers of hope, of vision, of seeking for faith and seeking for guidance in the day?

It is sort of like having free speech in our society. In fact, it is a parallel to free speech in our society. We all recognize that part of the price of free speech is there will be occasions when someone does not go into the bounds of pornography, which is illegal, but does get into the bounds of tastelessness and offensive speech that nevertheless we recognize is protected.

The same is true of religious expression. And I would submit that actually the cases such as the gentleman has described of someone who has something that is distasteful to others, and of course they can choose if they wish, if something is that distasteful to them, if they want to leave the room or something that is fine. Like I say, it would be a very, very, very rare occasion.

But those cases usually have already been protected by Supreme Court decisions. There is one, for example, protecting the Santeria religion that involves animal sacrifice. I believe the case involved the City of Hialeah, which said a community could not outlaw the way they were killing animals as part of their sacrificial rituals because that was protected by freedom of religion. That is under the First Amendment as it is now.

But the same Supreme Court does not wish to protect majority faiths. They have ruled against a cross, for example, in a city park in San Francisco that has been there for 65 years. They say that has to come down, a cross being included among numerous symbols on the seal of the City of Edmond, Oklahoma, in my district, similar rulings in Oregon and Hawaii, in Stowe, Ohio, against the inclusion of a Christian emblem among multiple other emblems and they say that is unconstitutional, yet that same Supreme Court has said that a Nazi swastika is constitutionally protected. That was in a case in Skokie, Illinois, where the American Nazis were walking through the street with the swastika and the Court ruled that the symbol of hate is constitutional, but the symbol of hope is unconstitutional.

Mr. KINGSTON. Mr. Speaker, there is no doubt in my mind that there is a special place in hell for a number of Federal court judges, as I am sure there will be for Members of Congress.

Mr. ISTOOK. Let us hope that there are some special places above for many of us as well.

Mr. KINGSTON. Probably plenty of room for judges and congressmen and many others.

Who will decide if the school puts up the Ten Commandments or the Articles of Goat Worship? The reason I ask that, yesterday I was at the dedication of the Coastal Middle School in Savannah, Georgia. I was at the dedication of the Freedom Shrine, which the Chatham County Exchange Club has given to many, many schools, and it is a great thing and it has the Constitution, the Declaration of Independence, George Washington Inaugural Address and all sorts of good documents of American history. And as I was looking at the Freedom Shrine I was wondering how do they decide which documents go? Do you put the Gettysburg Address in there or Lincoln's second inaugural speech?

Mr. ISTOOK. A beautiful, moving document.

Mr. KINGSTON. Yes, so those judgments have to be made, and the Chatham County Exchange Club does that. I do not know how they do that, but they do it. But who decides if the Ten Commandments gets put on the wall or the Articles of Goat Worship?

Mr. ISTOOK. I think this is an interesting question, and I think that the issue is really freedom. Frankly, that it is not our job to make those decisions from Washington, D.C. Those decisions for a local community can be made in a local community, so long as they are not trying to establish or endorse a particular or official religion. So I do not think that the Congress of the United States should even attempt, and I do not think it is our place to try to say court houses in Georgia, in Colorado, in Alabama, in Oklahoma, in California, or any place else for the United States Congress to establish the standards of what can be put on the walls of county court houses or city halls all around the country, nor do I think it is the role of the U.S. Supreme Court.

In other words, we have bodies that make those decisions right now. People made the decision what art work is going to hang in the Chamber of this Congress. That decision included the visage of Moses and there are also the images of a couple of popes, as I am sure the gentleman is probably well aware, among people with legislative or legal significance.

So when we are asked the question who decides, I think that is going to be basically an issue of who is involved in that community or in that State, if it may be a decision that involves the State facility, and of course then when it becomes a national facility, we have the Ten Commandments depicted in the U.S. Supreme Court Chambers, and that is a decision for the U.S. Supreme Court. What is in the Chambers of Congress is a decision for Congress. We have different Federal agencies, State agencies and local ones.

I think what we have to do is get away from this "big brother" notion that says that the Supreme Court is the fount of all wisdom and it should describe standards and everyone else has to follow those standards before they can hang something on the wall. The test should not be whether we have hung something on the wall which everyone likes or some people like and others do not like. The test should be did we actually take some action that truly tries to make people follow a faith selected for them as opposed to choosing to put up something that was significant to the religious traditions, heritage or beliefs of that particular community, which obviously will differ in some places around the country. That is called diversity.

What we have to do is to get away from this terribly false politically correct notion that we cannot do anything unless everybody agrees. If we are told that if we say or do something which may give offense to another, and the problem may be in their thin skin, not in what we set out to do or to express, but if we are told that only if everybody agrees with something that is the only circumstance when we can utter it, that is a totally false standard. That flies in the face of the concept of freedom. It flies in the face of free religion, it flies in the face of free speech, and yet that is increasingly what we are being told that everyone, everyone must stifle and suppress their religious expression and their religious beliefs and accept muzzling and censorship of it just to make sure that there is not one person sitting there that chooses to take offense.

It is about time that we understand that the intolerance frequently is not on the part of someone that is voicing a religious opinion. The intolerance is on the part of the one who wants to shut them up.

Mr. KINGSTON. Well, let me ask the gentleman this question. This is endorsed by a number of Christian groups.

Mr. ISTOOK. And those of many other faiths as well.

Mr. KINGSTON. The gentleman has worked hard with such groups. Can the gentleman tell me the non-Christian groups who are supporting this?

Mr. ISTOOK. I do not have the full list with me, but for example we have an organization of Jewish rabbis which is called Toward Tradition.

Mr. KINGSTON. Is the Jewish rabbi group, is this a large group or an outsider group?

Mr. ISTOOK. I do not know the actual number of how many hundreds or thousands of rabbis are in this particular organization. It is a national organization of rabbis. The American Conference of Jews and Blacks, the American Muslim Network, those are some of the non-Christian groups. And of course there are many that are Christian groups, and we would expect that of course because that is the faith of most Americans.

Mr. KINGSTON. Does this religious freedom amendment have a web page, a freestanding web page?

Mr. ISTOOK. It certainly does.

Mr. KINGSTON. Because I think if people want to have some of these questions answered, and I know the gauntlet the gentleman has gone through in the last four years, having answered just about every question that has ever been raised on this, but not everybody has heard the questions or the answers.

How do they find this out? How do they find out some non-Christian groups that are endorsing it?

Mr. ISTOOK. Mr. Speaker, I very much appreciate the reference there. The web page that we have established for reference is religiousfreedom.house.gov., and I should caution people, do not put a www in front of it, or they will get a totally different web page. But it is religiousfreedom, all one word, religiousfreedom.house.gov.

There, as the gentleman is aware and I appreciate him pointing it out, we have a wealth of information. Detailed legal analysis and going through different Supreme Court decisions and other decisions and citing this. Copies of many of the endorsement letters that we have received. Papers discussing how does this fit in with the notion of separation of church and State. How does it fit in with the claims different people make about well are we a captive audience to this? All of these different questions that are sometimes posed are discussed and answered at that web site. So it is a great resource that people can utilize to get more information. We even have made it easy for people to download and if they want to copy and distribute documents as handouts to other people, it is a very useful place.

Mr. KINGSTON. If they have a particular question, they should first search the web page and then if they cannot find their question and answer they need to contact the office of the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Correct. And we have an e-mail set up on the web page for that.

Mr. KINGSTON. Mr. Speaker, could the gentleman give his address for people who do not have computers.

Mr. ISTOOK. Mailing address? Certainly. They can reach me, and the last name is spelled I-S-T-O-O-K, Congressman Istook at 119 Cannon House Office Building, Washington, D.C. 20515.

I would like to take a moment to mention a couple of other aspects about the religious freedom amendment because as the gentleman from Georgia knows, this has not been a lightly pursued undertaking. It is only because it has been 36 years now since the Supreme Court rendered its original decision suppressing prayer in so many circumstances in public schools and all the other approaches have basically been tried and exhausted and the route of the constitutional amendment is the only one left to be workable.

But we have tried to make sure as we mentioned before, frankly. There is more language here to safeguard against any effort at government control of religion, there is more text in the amendment devoted to those safeguards than there are to express that students should have the right to pray in public schools and that the religious traditions or heritage or beliefs should be something that could be freely expressed.

I, like so many other parents with children in public school, have gotten sick of looking at all the times when we go to school, we think it is going to be a special occasion, maybe it is a special school activity or pageant in December. They have the school choir and we say, well, they are going to sing some different holiday songs. We hear "Here Comes Santa Claus" and "Walking in a Winter Wonderland" and "Rudolph and "Frosty the Snowman," but we do not hear "Silent Night" or "O Come All Ye Faithful" or Jewish Chanukkah songs, and it is because of the fear of lawsuits and in some cases actual court decisions that have gone that far.

The U.S. Post Office a couple of years ago took down the banners that said Happy Chanukkah or Merry Christmas in the Post Office.

□ 2145

They will not let those be displayed anymore. They had to fight with some people to keep issuing the Christmas holiday stamps.

Take the Internal Revenue Service. One of its big offices in California issued an edict to all of their workers saying, on your own desk and in your personal work space, you cannot have any type of religious item or symbol. It might have been a Bible. It could have been a Star of David. It could have been a little nativity scene, a picture of Christ. Whatever it was, they said those were taboo. They cannot be there on your own desk.

I wrote the IRS, and I have said, why have you done this? They sent back a letter to me. They said items which are considered intrusive, such as religious items or sexually suggestive cartoons or calendars must be prohibited. That was their full description of the restricted items, a religious item or something that is sexually suggestive.

Mr. KINGSTON. This was the IRS?

Mr. ISTOOK. This was the Internal Revenue Service.

Mr. KINGSTON. They are doing such a good job on tax simplification and tax clarity that they have enough time to worry about something that is offensive.

Mr. ISTOOK. Yes. The ones that they categorize as offensive, if it is a religious symbol or if it is sexually suggestive or pornographic. But do you see the connection? Why do they lump a religious item or symbol in the category of things that are offensive to people? That is exactly what they have done. They treat it as something that is suspect or something that is dangerous, which is wrong to do.

Mr. KINGSTON. If the IRS is cracking down on people posting things that are offensive to most people, then obviously, you cannot put up an IRS sign, because that is far more offensive than most of the other items that they are talking about.

Mr. ISTOOK. Maybe they should have banned an emblem of the IRS itself since that is, as you point out, offensive to many people.

But that is such a dangerous trend. But you see, it is not only the IRS. If you read the Supreme Court decision in the case of Lee v. Weisman, that is the graduation prayer case, in it, Justice Kennedy, writing on behalf of the Supreme Court, says, Assuming as we must that the prayer which the rabbi offered at the graduation was offensive, so the Supreme Court said we must assume that a prayer at a public school graduation is an offensive act. Four of the justices disagreed. It was a 5 to 4 decision.

Mr. KINGSTON. What year was this?

Mr. ISTOOK. This was 1992. In this particular case, and I would like to read something from the words of the justices who disagreed with what their brethren on the court had done. The four justices who dissented from this were Scalia, Thomas, Rehnquist, and White. Let me read what they said. This goes back to something that the gentleman from Georgia asked before about what happens when we are able to recognize, yes, we have got some differences of opinion among religion, and it is not a threat to anyone.

This is what those four justices, Scalia, Rehnquist, White and Thomas wrote in their dissent in Lee v. Weisman, and I quote now their words: "Nothing, absolutely nothing is so inclined to foster among religious believers of various faiths a toleration, no, an affection for one another than voluntarily joining in prayer together to the God whom they all worship and seek. Needless to say, no one should be compelled to do that. But it is a shame to deprive our public culture of the opportunity and, indeed, the encouragement for people to do it voluntarily. The Baptist or Catholic who heard and joined in the simple and inspiring prayers of Rabbi Gutterman on this occasion was inoculated from religious bigotry and prejudice in a manner that cannot be replicated. To deprive our society of that important unifying mechanism in order to spare the nonbeliever what seems to be the minimal inconvenience of standing or even sitting in respectful nonparticipation is as senseless in policy as it is unsupportable in law."

So they were talking about what we were discussing before, that the act of people of different faiths sharing a common respectful experience creates, as they said, not just a toleration, but an affection for one another and an appreciation of what we have in common, because it emphasizes the things which we share, rather than emphasizing the ways in which we differ.

Mr. KINGSTON. Now, I want to ask another question, though. You say in some of your frequently asked questions that the Religious Freedom Amendment does not permit teachers or any other agent of the government to proselytize or to dictate that any person must join in prayer or to prescribe what prayer should be said. Where is that wording in here?

Then what would keep the teacher from praying?

Mr. ISTOOK. What we have here is a clear requirement, because a teacher, of course, as any person who is part of local government, is considered an agent of State government. That is a binding rule of law. Local government is a subset of State government. So when we say, "Neither the United States nor any State shall require any person to join in prayer or other religious activity," you are saying that no agent of government can dictate to people you have got to pray or we are going to pressure you to participate in some sort of religious activity. That is to avoid just trying to get people to join in the prayer if they may not want to do so, but trying to make sure that you are also not trying to push them into any other type of religious activity. So we have tried to make sure that we cover that as well as other concerns of people with that language.

Mr. KINGSTON. But that would mean you could have prayer which is not student led. You could have teacher-led prayer.

Mr. ISTOOK. You can have the initiative for prayer that must come, not from government, but from the students, because following that, we have the requirement that it says, "Government shall not prescribe school prayers." That means two things. You do not prescribe or dictate that they must occur. Secondly, you do not prescribe or select the content of those prayers.

Is it possible, for example, let us take a case such as the graduation case in Rhode Island, the Lee v. Weisman case, Rabbi Leslie Gutterman was invited to offer the prayer. Should students, on some occasion, invite someone else to join the prayer? Yes. That could be permitted. But the initiative must come from the students, not from government.

Let me tell you a personal story that relates to that, because I recall, in 1963, when I was a student in junior high school in Fort Worth, Texas. That day, our whole school had let out briefly to walk down to the highway to see the motorcade where the President of the United States was passing by as he was going to downtown Fort Worth to Carswell Air Force Base and passing our community to do so to get on to Airforce One and make a quick hop over to Dallas where he was shot and killed. That was November 22nd, 1963. I recall, of course, we had just seen the President that morning, the shock as the first, the rumors and then the confirmation spread through the school.

You can imagine, of course, as from your own experiences, because we are of the generation where everybody knows where they were the day that John F. Kennedy was assassinated, and I recall on that occasion, despite what the Supreme Court had ruled just the year before, and I cannot tell you to this day who offered it, but the whole school shared in the prayer over the school intercom.

If you took the case today and the order that Judge Dement has issued in the State of Alabama, whoever offered that prayer could be put in prison under the judge's order. So we need to recognize that there are extraordinary circumstances, and there are extraordinary deeds, and there are times that we need to reinforce the common bonds, just as these four justices said in their dissent, that we need to reinforce those common bonds.

□ 2200

So that, I think, is the best answer we can give to the question that the gentleman posed when someone says, well, gee, if I cannot do what I want to do and to do it right now, that my constitutional rights are being infringed upon. I do not think we want to teach our kids that and certainly the Religious Freedom Amendment would not do that.

Mr. KINGSTON. Let me ask the gentleman this. Some of the critics feel that right wing Christian extremists are pushing this. And I have seen literature that labels groups who advocate this amendment.

Mr. ISTOOK. And they probably labeled the gentleman, who is one of the cosponsors, as a right wing religious extremist. Of course, they are wrong on that.

Mr. KINGSTON. That would not be the first time. The question, though, this is a constitutional amendment. Therefore, it has to pass this House by 290 votes.

Mr. ISTOOK. Yes, by 290 votes. By two-thirds of those who vote. If everybody votes, it would be 290.

Mr. KINGSTON. Now, the gentleman has 152 co-sponsors.

Mr. ISTOOK. Approximately that number; correct.

Mr. KINGSTON. And there are people who will support this but will not cosponsor it.

Mr. ISTOOK. Correct.

Mr. KINGSTON. But it would appear to me the gap between 152 and 290 is still a large one.

Mr. ISTOOK. That is typical, of course, because most pieces of legislation have far fewer co-sponsors than they do have people who actually vote for them.

Mr. KINGSTON. And if people want to find out if their Representative is a co-sponsor, they can go to that Web page.

Mr. ISTOOK. They can go to the Web page and we have that information for them there.

Mr. KINGSTON. Now, should this pass the House, it has to get 60 votes in the Senate.

Mr. ISTOOK. Here is the requirement, for this or any other constitutional amendment. The requirement that is set forth, in I think either article 5 or 6 of the Constitution, sets up the way that the Constitution is amended.

Now, the way the Supreme Court does it, they issue a ruling which bends or twists or distorts or breaks the Constitution, and then we have to go through this process to correct it. So the way the Founding Fathers intended is, we have to have a vote on a constitutional amendment that is approved by two-thirds of the House and by two-thirds of the Senate and then is ratified by three fourths of the State legislatures.

Now, it is important to note that in the process of ratifying it, we do not need a two-thirds vote within a State legislature. We only need a simple majority. But we have to have the simple majority from three-fourths.

It is also important to note the President of the United States and the governors of the several States do not have any formal or official role in any constitutional amendment. It is something that is done through the legislative bodies, both in the Congress and in the State legislatures. And the Religious Freedom Amendment specifies a period of 7 years for the States to consider ratification of this.

Mr. KINGSTON. Does the gentleman have a similar piece of legislation being introduced and worked in the Senate?

Mr. ISTOOK. Our intent is first to have the House vote, which will create the incentive for the Senate vote. And there are multiple Members of the Senate who are potential principal sponsors in the other body.

Mr. KINGSTON. But the reality is this has a long, long way to go. As far as the gentleman from Oklahoma has gone with it, he is only at the starting gate still.

Mr. ISTOOK. But we are at a key position, because this amendment has been approved by the Subcommittee on the Constitution of the Committee on the Judiciary, and approved by the

House Committee on the Judiciary. That is the first time a committee of this House has ever approved an amendment on voluntary school prayer. Only one other time, in 1971, did we have a vote in this body on such a proposal, and that was done with a mechanism that bypassed the committee process.

So even though, as the gentleman correctly notes, the Constitution establishes a deliberately difficult process for any constitutional amendment, we have come through the necessary stages to bring it to a vote in this House. And it will be the first vote in this body since 1971.

And that is something that, frankly, ought to embarrass the many Congresses that have met year after year since then. Because if we look at public opinion polls since 1962, consistently three-fourths of the American people say we want a constitutional amendment to make it possible to have voluntary prayer in public schools again. Not compulsory, but not with the kind of restrictions they put on efforts to have prayer in public schools today. So it is long overdue for this body to act.

And I want to make note, too, that this is what has happened before, when the U.S. Supreme Court went in one direction and the Congress and the American people said it is the wrong direction. The most prominent of the constitutional amendments that have been adopted to correct the Supreme Court was the 13th amendment to abolish slavery, because the Supreme Court in the Dred Scott decision had said Congress and the States do not have the power and do not have the right to abolish slavery. That took a constitutional amendment.

Mr. Speaker, I appreciate the time and the opportunity this evening to address this important issue to restore the full range of religious freedom that the Founding Fathers intended; that the first amendment in its simple terms was meant to represent before it was twisted, unfortunately, by the court decisions. And I certainly look forward to the vote that we will be having in this House in a month, and I hope that the citizens who are represented by the Members of this Congress will talk to the Members of this Congress and tell them that they need to be supporting the religious freedom amendment.

FEDERAL LANDS AND WATER ISSUES IN THE WEST

The SPEAKER pro tempore (Mr. RILEY). Under the Speaker's announced policy of January 7, 1997, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

Mr. MCINNIS. Mr. Speaker, my district is the Third Congressional District of the State of Colorado. This is a very unique district. First of all, geographically, this district is actually larger than the State of Florida. There is the State of Florida. My district, here, is the State of Colorado. The district that I represent goes from north to south, about like that. This land mass here, or the Third Congressional District, this is geographically larger than the State of Florida.

This evening I want to visit a little while on government lands; the mass of government lands in the West, what the difference is between land in the East and land in the West, what the historical perspective is of how that land was settled under the Manifest Destiny; and then I want to move on to the subject and discuss water in the West, because water in the West is clearly much more complicated than water issues in the East, and an entirely different type of system has been devised to address the uniqueness of water in the West.

So let us start first of all with some statistics. The Federal Government owns about 688 million acres of land. Now, a lot of homeowners out there may have a home on a quarter of an acre of land. Imagine 688 million acres. That is what the Federal Government owns. And 95 percent, 95 percent, of that 688 million acres is in the West.

This map that I have up here is titled "Government Lands." Take a look at the difference between the western half of the United States and the eastern half of the United States. Take a look.

And we should not include Alaska, which on this map, by the way, is shown on half the scale as the other States. So Alaska really would be twice that size.

Now, the key to this land ownership out here is what we would call multiple use. Now, Colorado is not unlike that. In Colorado, as you can see from my district, there are about 20 million acres, 20 million acres in the Congressional District that I represent, that is owned by the Federal Government.

Now, the historical perspective of how this land mass came about was really driven through the Manifest Destiny. We began the acquisition of our lands under that idea to stretch the scope of the Nation. We wanted to go from the Atlantic out to the Pacific. And the district that I represent actually came through several different things. One was the Louisiana Purchase, and that occurred in 1803; the secession from Mexico, which occurred in 1848; and the purchase from Texas in 1850. So there is a good portion of the district that I represent that actually used to belong to the country of Mexico. So the Louisiana Purchase, secession from Mexico, and the purchase from Texas is how a lot of this land was acquired by the United States.

Now, let me step back for a moment. What the agenda was of the government in Washington, D.C. was to go west, young man, go west. They wanted to get into this new land that was acquired through the Louisiana Purchase: They wanted civilization to go out into the West and make it one large unified country. Well, what they did is they did several things. They had the Homestead Act. In the areas like Nebraska, Kansas, and Missouri, there was lots of very, very fertile farmland. And the government decided the best way to persuade people to go out to these States was to give them land grants, or let them homestead; i.e. if people would go out there, if they would work the land for a certain period of time, the government would actually deed the land to them. Maybe 160 acres. Maybe 320 acres.

And that actually, in these States which are very, very fertile, was enough to make a living off of. A family could have a farm off 160 acres. They could farm 320 acres and support a family back then. But what they discovered, first of all, was not a lot of settlers wanted to go up in the mountain terrain of the West. The snows were very, very difficult. The winters were very, very harsh.

And furthermore, the government discovered that when people went to the West, they could not do it on 160 acres. In fact, 160 acres in some areas of the district that I represent, one can hardly run one cow on it. The government believed that they really could not politically give away the thousands of acres that would be necessary for a rancher or a farm family or the settlers to make a living. So what they decided, since there was such a large mass of Federal land, was to go ahead and retain the ownership of this Federal land, keep the ownership in the government's hands but under the doctrine of multiple use.

What is multiple use? Multiple use is simply best defined by a sign that was on all the Federal lands when I grew up, and that sign said welcome, you are now entering, for example, White River National Forest, a land of many uses. They wanted this to be a land of many uses.

Unfortunately, in the last two decades, we have seen people who really, in my opinion, do not know this land, have tried to take away the land of many uses concept and put on a sign that says no trespassing.

Now, I am not speaking from inexperience. My family actually settled in Colorado, down about right there, 1872, up in Boulder. I was born over here on the western slope. So since 1872, and I am proud of the fact I have two daughters that are pioneer daughters, meaning that our family was here before the State of Colorado became a State.

My wife's family, they are up here. They have a ranch. It is 115 years old. Right up there. David and Sue Ann Smith. They still run it. Cattle operation. Takes a lot of land to run a cattle operation.

But what has happened on this multiple use concept is, first of all, especially for my colleagues who are from the East, understand that multiple use is critical for our life-style out there. And when we mention multiple use, or use of the Federal lands, a lot of my colleagues say, well, we are talking about grazing, cattle grazing; we are talking about ski areas. But the picture is much, much broader and much, much more critical than that, although we certainly should not downplay the critical importance of tourism in Colorado and the fundamental foundation of ranching as it is to the West.

But the fact is multiple use has many uses. First of all, water. In my particular district, the district that I represent, water is either stored upon Federal land, it runs across Federal land, or originates on Federal land. In order for the populations in my particular district to get water, we have to depend upon multiple use, or the lands of many uses on the Federal lands, to do that.

If we were to shut off the Federal lands, as many people would like to do, we would shut off the water supply to the population that has elected me to represent them back here in Washington, D.C. Not just water supply. Radio towers. A lot of my colleagues in the East take for granted, for example, States that have very, very little Federal land, take for granted the fact that they can have a cellular telephone tower, or they can have a radio tower or the power lines.

☐ 2215

There are a lot of electrical power lines that the only way we can get electricity to the population that I represent depends on the amount for multiple use of Federal lands. Same thing with microwave. Same thing with cellular telephones. In fact, in the district that I represent, I am not sure that there is a highway out there that at some point is not dependent upon being able to cross Federal lands.

Now, these Federal lands are massive. The Federal Government has designed a management technique to carry out the philosophy of multiple use, and that management technique involves several agencies. It involves, of course, the Forest Service, Bureau of Reclamation, the Bureau of Land Management, National Parks. And they are granted. These Federal agencies are given several different tools under which to manage this large mass of land.

Now, the most obvious on this ranch, the most obvious lack of management is kind of a free-for-all. And frankly, when they settled the West many, many years ago, the government kind of let them go, free for all. "Go out there, conquer the land." And of course, we did not have the environmental technology we have today, but there was a lot of damage done.

In fact, some of our rivers in Colorado still run with some of the mineral that had seeped from the mining back in there. But as time went on, the government became a little better, a little smarter; and so did the population. And let me stress, so did the population. The people that know that land the best are not the governmental bureaucrats, they are not the government employees out there. The people that know that land the best are the people that grew up on that land. And there are a lot of great, long-time families that care about that land as much as they care about their children.

Let us go back to the management tools. So we have got the free-for-all over here, which clearly is an idiotic, frankly, management tool to use. It would never pass today and it should not pass as a management tool for today. And the other tool we have clear over on this extreme is the designation called "wilderness areas."

Now, "wilderness" sounds very fuzzy. It is a very good word. I was in a town meeting, in fact, about a week ago and I asked the people there, "How many people in this room do not like the word 'wilderness?' " Everybody likes the word "wilderness."

But understand what it does. Basically, the word "wilderness" locks up the land. That is the designation of the "no trespassing" sign that I spoke of. There are appropriate areas in the West where the "wilderness" designation, that is what they call it, the "wilderness" designation is appropriate.

For example, I have got a bill myself on the Spanish Peaks that I am a cosponsor on with the gentleman from Colorado (Mr. SKAGGS). Spanish Peaks, we go clear to the very top of the peaks. It is an appropriate designation for wilderness. It is an appropriate area for, in essence, a lockout.

But my colleagues will find many environmental groups, the national Sierra Group for example, that wants to drain Lake Powell, Earth First. They would like to take all of this Federal land or the biggest chunk of this Federal land and put it into wilderness areas. They now are trying to put big chunks of this land in wilderness areas, lock them out, keep the people out of it. Well, that is the most extreme tool.

By the way, if we employ that tool of management, it is totally, totally inflexible and it cannot be changed except under the rarest of circumstances. And I cannot imagine, even if we were at war and we needed the resources off that, I cannot imagine getting the votes necessary that would unlock that wilderness area.

So we have the wilderness area over here as a management tool. We have the free-for-all over here. And in between we have the Forest Service, National Parks, and the BLM that have a number of tools that they can utilize to manage these lands. And with the exception of the Federal Wilderness designation, every other tool that the Forest Service, for example, has or that the BLM has or National Parks has, has flexibility. Remember, wilderness has no flexibility. Once we are in it, we are locked in it forever. But the other management tools have flexibility.

The reason they have flexibility is that, who knows what the future brings. We may find that the technology on how to handle the environment or what to do with the resources out there demands a different management tool than the one we have under it today. But because of our discovery of technology or better management tools, we think we should shift it over here or shift this one over here. We have got that flexibility.

Now, I want to tell my colleagues, I know a lot of employees of the United States Forest Service. I know a lot of employees at the Bureau of Land Management, Bureau of Reclamation, Park Services. If we allow them to do their job, I think they can do a pretty good job. They are a dedicated bunch of people.

But, unfortunately, what happens out there is we have special-interest groups, for example, the national Sierra Club, Earth First, and by the way, most of these are headquartered not in this area, they are headquartered back here in the East, primarily in Washington D.C., who come into this area and try and dictate, not compromise with common sense, but try and dictate the policies of their special interests on the management of these Federal lands. Frankly, they have been pretty successful. What kind of impact has it had? The kind of impact that it has is, it drives our ranching communities.

I tell my colleagues, our ranching community is vital, not just for the State of Colorado, not for the cattle markets, not for the sheep markets, but for the wholesome style of living that that signifies. The West is what the United States is known for. And these families, and again look at my in-laws, David and Sue Ann Smith, we can still see the cabins where their grandparents came and homesteaded in that area. And they are very dependent frankly upon multiple use of Federal land. So is everybody in Meeker, Colorado. So is everybody in Grand Junction. So are the skiers. It is very heavily depended upon.

If we can allow the Federal employees to do their jobs and do them with a little anecdote of common sense, we can protect this land, we can live off this land, and we can preserve this land for everybody's use. But, please, do not be taken in by some of these special interest groups that are going to try and convince us, first of all, that there is gross abuse going on here on these Federal lands, that these Federal lands are being degraded.

They can always find an example here and there. Gosh, I am a Catholic. We can look in the Catholic church and we can find an example of a bad person here or there in our religion. But that does not mean that we revamp the entire system. It is the same thing here.

When somebody talks to us about going to Colorado or we need this wilderness area out here, ask them what the impact would be if we went to New York City and put a wilderness area in Central Park, or if we went out here on the Mall in Washington, D.C., and made the Mall a wilderness area, gave it a wilderness designation.

What would happen to it? Nobody gets to go on it. We want to preserve this for the future. Meaning no one has access to the National Mall. The country would not tolerate that for 2 seconds, and they should not tolerate that for 2 seconds.

Well, we in the West face the same kind of challenges. Let the people in the West live as my colleagues do. Let us enjoy the historical perspective and listen to our opinions on what could help the land, how to preserve the land.

Last week I had an opportunity to speak here and I named several ranchers. Bill Volbraught has got a ranch in Evergreen, Colorado. Al Stroobauts has a farm in Virginia, and he has a ranch in Colorado. The Smiths, they ranch up in Meeker. The Strangs, a former U.S. Congressman, ranches in Carbondale. His brother ranches up in Meeker.

Go out and spend just a few minutes with these people. Go to Golden Bears Ranch out in the Glenwood Canyon, Glenwood Springs, Colorado, near Aspen. A lot of my colleagues know where Aspen is. Spend a few minutes with these people. See how important the concept of multiple use is. But more important than that, see how important the management and love of that land pours out of their hearts.

When they pick up a handful of soil, when they point out an elk, when they take us down and show us the stream, take us trout fishing, or show us how generation after generation has been raised through 4-H, calves or 4-H sheep or at the county fair, we will have a much, much better understanding of how important this area is and the ability to live in this area and the ability to have multiple use, how important that is for the entire United States.

Let me move from Federal land ownership over to something that is important to all of us, and that is water. I think an interesting thing about water is to talk a little about how much water is necessary for each and every one of us to have on a daily basis.

I bet none of my colleagues know that it takes a thousand gallons of water a day, a thousand gallons of water a day, to grow the necessary food to give each person in these Chambers three balanced meals. The average person, when they cook for those meals and drink, 2 gallons a day. A washing machine uses about 20 gallons per load, a dishwasher, 25 gallons per load. Taking a shower, oh, 7 to 9 gallons per shower.

Now, growing food, and by the way, growing foods is the biggest consumption of water in the country. Growing foods, to get one loaf of bread, this is a hard statistic to believe, to get one loaf of bread takes 150 gallons of water for one loaf of bread. One egg to produce, when that egg finally comes out, we have gone through 120 gallons of water. Quart of milk, 123 gallons of water. One pound of tomatoes, just to raise one pound of tomatoes, it takes 125 gallons of water. One pound of oranges, 47 gallons. And one pound of potatoes, 23 gallons.

If we took 50 glasses of water, just to give a comparison, 44 glasses of that 50 glasses of water, so we own 50 glasses of water, 44 of those glasses have to go straight to agriculture. That is how critical water is for our food supply in this country. Three glasses of those 50 glasses would be used by industry. Two glasses would be used by the major cities. And a half a glass of water is used in the country for the smaller population that we have.

Now, water is critical. When we look around the world, we say the world has lots of water. Ninety-seven percent, 97 percent of the water in the world is salt water; less than 3 percent is pure water. Now, if we take a look at the map, and going back again, if we take a look here and we draw a line somewhere between Kansas and Missouri, so we go down about like this, that area right there, we will find that 73 percent of the stream flow, 73 percent of the water in the United States, is here in the East, 73 percent. So that line represents 73 percent.

Over here we are going to find that 12.7 percent of the country's water supply is up here in the Pacific Northwest, and the remaining 13 or 14 Western States over here have 14 percent. So about a percent per State. So 14 States only have 14 percent of the water supply.

Now, in the East, one of their problems with water is how to get rid of it. In the West our problem is how do we save it. Take, for example, the State of Colorado. Colorado is a very arid State. Colorado is the highest State in the country. In fact, the district that I represent is the highest district in the country. It is a mountainous district. We have 54 mountains over 14,000 feet in my district.

But in Colorado we do not get much rainfall. Where we get our water, and by the way they call the State of Colorado "The Mother of All Rivers." Colorado, when we get our water, comes from the melting of the snow on the high peaks. Colorado is the only State in the lower 48, the only State where all of our free-flowing water goes out. We do not have water that flows into the State of Colorado. It is a critical issue.

And the water we get, as I mentioned earlier, comes from the snow melt off the top of the mountain peaks. That is called the spring runoff. But the spring runoff only occurs for a period of time, about 60-to-90 days; and during that 60-to-90-day period of time, if we do not store that water, we lose that water.

Now, the beauty of water is it is the only natural resource that is renewable. For example, if we use a gallon of gasoline, it is gone forever once we burn it up. We use a gallon of water and a gallon of water up here in the mountain range, by the time a gallon of water leaves the headwaters there and gets down here, say, to the Utah border, that gallon of water has the equivalent of 6 gallons of water. And so on, it just goes.

□ 2230

It is the only natural resource that is a renewable resource. It is a critical resource for us. But in the East, there is I think somewhat of a lack of perhaps understanding of how critical water storage is for us to have water outside that 60-to-90-day period of time that we experience the spring runoff. Colorado is a State that is the headwaters for four major rivers, the Arkansas, and the Arkansas flows on into Kansas, goes over to Kansas. Up here in Nebraska it is the Platte, and the Platte flows up that direction. We have a river that originates here and goes up into Nebraska, the Platte. We have the Arkansas that goes down here into Kansas, we have the Rio Grande that goes down here into New Mexico. And we have got the Colorado River. By the way the Colorado River is called the mother of rivers. The Colorado River supplies water for 18 or 19 different States and the country of Mexico. That river goes west, and flows into the State of Utah, eventually makes its way to the Pacific Ocean and down for the country of Mexico. In fact, out of Colorado, to show you how important that water and how important the snowfall is up there, 75 percent of the water in the Colorado River, which again goes about like this, 75 percent of that water comes off those mountain peaks in the congressional district that I represent. As of late, we have seen a lot of effort, again by some special interest groups, who in my opinion do not understand how critical water storage is for our species, how important water storage is for our crops, how important our water storage is for our animals and the whole works. These people do not understand that. Some of these organizations, maybe even more frightening is they do understand it. Some of these special interest organizations cannot wait to take down a dam out in the West.

First of all, we use those dams to store the water, as I mentioned earlier. Second, this statistic is probably, oh, 4 years old, so I do not know if it is still accurate today, I think it is, there is not a gold meadow fishing stream in Colorado that is not below a dam. The other thing is the hydroelectric power that comes off those dams is probably the cleanest type of power you can get, You go to some foreign country and they chuckle when they see that there are people in our country who want to do away with hydroelectric power. They say it is such a clean power.

We know how to take care of these resources. We have got the National Sierra Club, the President of the National Sierra Club named as his top priority to drain Lake Powell. Lake Powell may not mean a lot to you here in the Chambers, but I can tell you it is a critical, critical water resource, not just for the power, not just for the recreation, not just for the drinking but for the environment as a whole. It is a critical body of water out in the West. We need your support. I need your support. This Nation needs your support, to understand how important and how critical water in the West has become and will remain, how just one little innocent bill that goes out of these Chambers addressing either multiple use on Federal lands or impacting the utilization of water in the West, how one little bill out of here can have a major, major impact on the lifestyles of the people that settled the West.

They have a saying in Colorado that water runs as thick as blood. That is true. We used to have a joke out there that you can mess around with a man as long as you leave his water alone and a couple of other things. Certainly water has risen to the top as a critical issue. Let me just recap, because our lesson really tonight or the discussion I wanted to have with my colleagues out here was Federal lands and why we feel in the West sometimes under siege by some of our colleagues here in the East. In fact, it is kind of interesting. You take a look at some of these so-called environmental ratings put out again by these special interest organizations. Take a look. This demonstrates pretty clearly to me the lack of understanding of some of these organizations of the lifestyle in the West, of the needs of the West. Take a look. You will find high environmental ratings over here. Once you come to the West, you will see noticeably lower environmental ratings by these special interest groups. My bet is most of the people putting those kind of charts together have never set foot on a mountain in the district that I represent, have never sat down with a Mike Strang or a David Smith or a Bill Volbraught or an Al Stroobauts or Leslie Volbraught or Kit Strang or Sue Ann Smith and asked these people how important land is, how they take care of the land and would they mind just spending a few hours kind of shadowing them around the ranch so they have some kind of an appreciation of what goes on.

The use of these Federal lands, the management of these Federal lands here is very, very important. I just ask that each of you this evening, before you criticize those of us in the West who feel that we are under attack, who constantly feel that we are being trampled upon because of a lack of understanding, I ask that you take a little time the next time one of these issues comes up and study the issue or come out to the West, not on a vacation to Aspen or Vail, although they are beautiful places to visit, they are in my district, but go out to a small little town like Silt, Colorado or Meeker, Colorado or maybe go out in the east to Sterling, Colorado and just visit with some of those people and see how a Federal policy in Washington, D.C. can devastate a lot of history, a lot of family and a lot of love for that land. The final thing I want to revisit very quickly is this water issue. Remember that most of the water in the country, you have already got here in the East. That in the West for us to have this water, we have to, one, manage it, and I think we do a pretty good job of it, two, we have to have water storage, and we need to use common sense. The way to build water storage projects today has changed from the way we built water projects 20 or 25 years ago. We have more advanced technology. We know how to get a bigger bang for the buck. We know how to get a bigger bang for the environment. We know how to build these projects in such a way that we can minimize, in fact enhance.

The days of mitigation of the environment are over. Now, when you have a project like a dam water storage project, you are not going to be expected just to mitigate the environmental impacts you have. We now expect you to enhance the environment, make it better. We can do that and we are doing that. But to my colleagues here, do not just automatically say any water storage project in the West must be pork, must be disastrous to the environment, because it is our lifeblood. When you come west of the Mississippi, that is our lifeblood. All of this region, we have got to have water.

In conclusion, one of the people that I have enjoyed the most up here learning from, a fellow who is a tugboat captain, who has lived this land, who understands this land, who understands common sense and is under siege by the government ownership of land is the gentleman from Alaska (Mr. YOUNG). Some of these special interest groups write him off, "Oh, my gosh, he's terrible." But not many of them have ever been on a tugboat with him. Not many have ever been up to Alaska to see the kind of wilderness that he is so proud of. Not many of the critics have gone out there and visited with some of the natives or some of the people out in Alaska that live off the land. The same thing in my district, the same thing in Utah, in the district of Mr. HANSEN. The same thing in a lot of others, Mr. ENSIGN in Nevada.

I appreciate your time this evening. I will be back again. As long as I represent the Third Congressional District in this fine body, you can count on me standing up for the rights, not just of the citizens I represent but the rights of the future generations, so that they too, without having to be wealthy, they too can live on the land and enjoy the land as I have been privileged to do.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS of Illinois (at the request of Mr. GEPHARDT) for today, on account of official business in the district.

Ms. CARSON (at the request of Mr. GEPHARDT) for today, on account of official business in the district.

Mr. HASTINGS of Florida (at the request of Mr. GEPHARDT) for today and for the balance of the week, on account of official business.

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today and for the balance of the week, on account of a death in the family.

Mr. SKAGGS (at the request of Mr. GEPHARDT) for today and for the balance of the week, on account of illness.

Mr. BATEMAN (at the request of Mr. ARMEY) for today and the balance of the week, on account of medical reasons.

Mr. NEUMANN (at the request of Mr. ARMEY) for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. SKELTON) to revise and extend their remarks and include extraneous material:

Mr. PALLONE, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

The following Members (at the request of Mr. JONES) to revise and extend their remarks and include extraneous material:

Mr. ISTOOK, for 5 minutes, on May 6.

Mr. JONES, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. THUNE, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes each day, on today and on May 6.

Mr. FOX of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

The following Members (at the request of Mr. SKELTON) and to include extraneous matter:

Mr. KIND.
Mr. FRANK of Massachusetts.
Mr. SHERMAN.
Mrs. MEEK of Florida.
Mr. MILLER of California.
Mr. NADLER.
Mr. STARK.
Mr. PAYNE.
Mr. EDWARDS.
Mr. SAWYER.
Mr. LIPINSKI.
Mr. ACKERMAN.
Mr. MENENDEZ.
Mr. KUCINICH.
Mr. LANTOS.

The following Members (at the request of Mr. JONES) and to include extraneous matter:

Mr. COBLE.
Mr. RADANOVICH.
Mr. WALSH.
Mr. GREENWOOD.
Mr. LEWIS of California.
Mr. GILMAN.
Mr. HYDE.

The following Members (at the request of Mr. McINNIS) and to include extraneous matter:

Mr. PAPPAS.
Mr. SMITH of New Jersey.
Mr. LAZIO of New York.
Mr. REYES.

ADJOURNMENT

Mr. McINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 39 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 6, 1998, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for official foreign travel during the first quarter of 1998 by committees of the House of Representatives, as well as a consolidated report of foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the first quarter of 1998, pursuant to Public Law 95–384, and for miscellaneous groups in connection with official foreign travel during the calendar year 1997 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

FOR HOUSE COMMITTEES
Please Note: If there were no expeditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BOB SMITH, Chairman, Apr. 28, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

FOR HOUSE COMMITTEES
Please Note: If there were no expeditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN R. KASICH, Chairman, Apr. 2, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

FOR HOUSE COMMITTEES
Please Note: If there were no expeditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL GOODLING, Chairman, Mar. 31, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Tom Davis	1/3	1/4	France				8,813.80				
	1/5	1/10	Vietnam		2,736.00				553.07		
	1/11	1/12	Malaysia		162.00						
Hon. John Mica	1/7	1/9	Malaysia		324.00						
	1/9	1/11	Indonesia		494.00						
	1/11	1/19	Austrailia		1,891.00						

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Kevin Long	1/12	1/15	Columbia		529.00		1,508.00				
Hon. Stephen Horn	1/15	1/18	Belgium		692.00						
	1/18	1/20	France		540.00						
	1/20	1/22	Poland		444.00						
Hon. John Shadegg	2/5	2/8	Germany		565.50						
Stephen Scott	3/6	3/10	Singapore		971.56		4,939.00		-		
	3/10	3/21	Taiwan		2,530.00		-		-		
Kristi Remington	3/6	3/10	Singapore		971.56		4,939.00		-		
	3/10	3/21	Taiwan		2,530.00		-		-		
Harold Gussett	3/6	3/10	Singapore		971.56		4,939.00		-		
	3/10	3/21	Taiwan		2,530.00		-		-		
Andrew Su	3/6	3/10	Singapore		971.56		4,939				
	3/10	3/21	Taiwan		2,530.00		-		-		
Gilbert Macklin	3/6	3/10	Singapore		971.56		4,939.00		-		
	3/10	3/21	Taiwan		2,520.00		-		-		
Committee total					25,884.30		33,730.89		563.07		60,168.26

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN BURTON, Chairman, Apr. 21, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

FOR HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DON YOUNG, Chairman, Apr. 21, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RULES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 11 AND JAN. 20, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Tony Hall	1/11	1/15	Russia		1,170.00		4,961.00				6,131.00
Hon. Lincoln Diaz-Balart	1/14	1/18	Belgium		852.00		(3)				852.00
	1/18	1/20	France		598.00		(3)				598.00
Committee total					2,620.00		4,961.00				7,581.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

JERRY SOLOMON, Chairman, Apr. 17, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

FOR HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES V. HANSEN, Chairman, Apr. 3, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

FOR HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL ARCHER, Chairman, Apr. 1, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON TAXATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

FOR HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL ARCHER, Vice Chairman, Apr. 6, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO HUNGARY, BOSNIA, AND ITALY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 5 AND MAR. 9, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Codel Young (Identical itinerary for all Members and employees listed on the attachment except as noted below).		3/5	USA				(3)				
	3/6	3/7	Hungary		197.00		(3)				197.00
	3/7	3/7	Bosnia				(3)				
	3/7	3/8	Italy		258.00		(3)				258.00
	3/8	3/8	Bosnia				(3)				
	3/8	3/9	Italy		258.00		(3)				258.00
	3/9		USA				(3)				
Hon. C.W. Bill Young	3/8	3/8	Macedonia				(3)				
Kevin Roper	3/8	3/8	Macedonia				(3)				
Doug Gregory	3/8	3/8	Macedonia				(3)				
Hon. Tom Sawyer		3/9	Italy				2,776.00				2,776.00
Identical itinerary:											
Hon. C.W. Bill Young					713.00		(3)				713.00
Hon. Henry Bonilla					713.00		(3)				713.00
Hon. Tillie Fowler					713.00		(3)				713.00
Hon. Charles Bass					713.00		(3)				713.00
Hon. George Nethercutt					713.00		(3)				713.00
Hon. Tom Sawyer					713.00		2,776.00				3,489.00
Hon. Neil Abercrombie					713.00		(3)				713.00
Hon. Eddie Bernice Johnson					713.00		(3)				713.00
Hon. David Minge					713.00		(3)				713.00
Hon. Allan Boyd					713.00		(3)				713.00
Kevin Roper					713.00		(3)				713.00
Doug Gregory					713.00		(3)				713.00
Patrick Murray					713.00		(3)				713.00
George Withers					713.00		(3)				713.00
Committee total											

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

BILL YOUNG, Apr 1, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE MEXICO-U.S. INTERPARLIAMENTARY GROUP, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1997

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Jim Kolbe	5/16	5/18	United States		387.38		(3)				387.38
Hon. Benjamin A. Gilman	5/16	5/18	United States		386.63		(3)				386.63
Hon. Joe Barton	5/16	5/18	United States		385.88		353.00				738.88
Hon. Tom Campbell	5/16	5/18	United States		385.88		(3)				385.88
Hon. David Dreier	5/16	5/18	United States		391.88		(3)				391.88
Hon. Sam Gejdenson	5/16	5/18	United States		386.63		(3)				386.63
Hon. Silvestre Reyes	5/16	5/18	United States		388.13		(3)				388.13
Everett Eissenstat	5/16	5/18	United States		386.63		(3)				386.63
Shelly Livingston	2/18	2/22	United States		612.71		316.00				928.71
	4/27	4/30	United States		744.04		346.00		150.12		1,240.16
	5/15	5/18	United States		589.59		170.00				759.59
							(3)				
John Mackey	5/16	5/18	United States		385.88		(3)				385.88
Denis McDonough	5/16	5/18	United States		397.47		(3)				397.47
Fran McNaught	5/16	5/18	United States		385.88		(3)				385.88
Roger Noriega	5/16	5/18	United States		385.88		(3)				385.88
Kimberly Roberts	5/16	5/18	United States		385.88		(3)				385.88
Delegation expenses:											
Representational functions									27,946.23		27,946.23
Translation/Interpreting									3,350.57		3,350.57
Miscellaneous									524.68		524.68
Committee total					6,986.37		1,185.00		31,971.60		40,142.97

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

JIM KOLBE, Chairman, Mar. 26, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE NORTH ATLANTIC ASSEMBLY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN BETWEEN JAN. 1 AND DEC. 31, 1997

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Representational									27,053.51		27,053.51
Translation/Interpretation									3,130.18		3,130.18
Miscellaneous									7,297.93		7,297.93
Committee total									37,481.62		37,481.62

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DOUGLAS BEREUTER, Mar. 27, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE U.S. CONGRESS-EUROPEAN COMMUNITY INTERPARLIAMENTARY GROUP, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1997

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Delegation expenses:											
Representational									27,796.63		27,796.63
Translation									5,265.00		5,265.00
Miscellaneous									197.73		197.73
Committee total									32,759.36		32,759.36

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BEN GILMAN, Chairman, Mar. 27, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE BRITISH-AMERICAN PARLIAMENTARY GROUP, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1997

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

FOR HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DOUGLAS BEREUTER, Mar. 26, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE CANADA-U.S. INTERPARLLIAMENTARY GROUP, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1997

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Doug Bereuter	9/11	9/15	Canada		355.15		(3)				355.15
Hon. Pat Danner	9/11	9/15	Canada		355.15		(3)				355.15
Hon. Phil English	9/11	9/15	Canada		355.15		(3)				355.15
Hon. Porter Goss	9/11	9/15	Canada		355.15		(3)				355.15
Hon. Lee Hamilton	9/11	9/15	Canada		355.15		(3)				355.15
Hon. Alcee Hastings	9/11	9/15	Canada		355.15		(3)				355.15
Hon. Amo Houghton	9/11	9/15	Canada		355.15		(3)				355.15
Hon. Donald Manzullo	9/11	9/15	Canada		355.15		(3)				355.15
Hon. James Oberstar	9/11	9/15	Canada		355.15		(3)				355.15
Hon. Collin Peterson	9/11	9/15	Canada		355.15		(3)				355.15
Hon. Mark Sanford	9/11	9/15	Canada		355.15		(3)				355.15
Hon. Cliff Stearns	9/11	9/15	Canada		355.15		(3)				355.15
Allison Kiernan	9/11	9/15	Canada		354.33		(3)				354.33
Allison Kiernan	9/22	9/25	U.S.		342.20		618.00				960.20
Ken Nelson	9/11	9/15	Canada		354.33		(3)				354.33
Frank Record	9/11	9/15	Canada		354.33						354.33
Bob Van Wicklin	9/11	9/15	Canada		354.33		(3)				354.33
Carl Ek	9/11	9/15	Canada		354.33		(3)				354.33
Delegation expenses:											
Miscellaneous									562.86		562.86
Representational									8,537.50		8,537.50
Committee total					6,375.65		618.00		9,100.36		16,094.01

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currenty is used, enter amount expended.

[3] Military air transportation.

AMO HOUGHTON, Cochairman, Mar. 27, 1998.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, TRAVEL TO BRAZIL, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 28 AND APR. 2, 1998

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Monica Azare	3/28	4/2	Brazil		700.00		1,975.00				2,675.00
Committee total					700.00		1,975.00				2,675.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MONICA AZARE, Apr. 14, 1998.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

8935. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Dried Prunes Produced in California; Undersized Regulation for the 1998–99 Crop Year [Docket No. FV98–993–1 FR] received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8936. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Cantaloupes; Grade Standards [Docket Number FV–98–301] received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8937. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Olives Grown in California; Increased Assessment Rate [Docket No. FV98–932–1 FR] received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8938. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Relaxation of the Minimum Size Requirement for Red Seedless Grapefruit [Docket No. FV98–905–2 FIR] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8939. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Tart Cherries Grown in the States of Michigan, et al.; Temporary Suspension of a Proviso for Exporting Juice and Juice Concentrate; Establishment of Rules and Regulations Concerning Exemptions from Certain Order Provisions; and Establishment of Regulations for Handler Diversion [Docket No. FV97–930–4 FIR] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8940. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Issuance of Grower Diversion Certificates [Docket No. FV97–930–5 FIR] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8941. A letter from the Administrator, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule—United States Standards for Rye [7 CFR Parts 800 and 810] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8942. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Azoxystrobin; Pesticide Tolerances Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5982–6] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8943. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Sulfentrazone; Establishment of Tolerances Correction of Effective Date Under Congresssional Review Act (CRA) [FRL–5983–6] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8944. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Imidacloprid; Pesticide Tolerances for Emergency Exemptions Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5982–3] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8945. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Propiconazole; Pesticide Tolerances for Emergency Exemptions Correction; Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5983–1] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8946. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Vinclozolin; Pesticide Tolerance Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5982–2] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8947. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Myclobutanil; Pesticide Tolerances for Emergency Exemptions Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5982–4] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8948. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Lambda-cyhalothrin; Time-Limited Pesticide Tolerence [OPP–300509; FRL–5728–8] (RIN: 2070–AB78) received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8949. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Cyclanilide; Pesticide Tolerances, Correction; Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5982–7] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8950. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Cymoxanil; Pesticide Tolerance [OPP–300653; FRL–5788–5] (RIN: 2070–AB78) received April 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8951. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Various Inert Ingredients; Tolerance Exemptions [OPP–300649; FRL–5787–9] (RIN: 2070–AB78) received April 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8952. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Safener HOE–107892; Extension of Tolerances for Emergency Exemptions [OPP–300650; FRL–5788–1] (RIN: 2070–AB78) received April 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8953. A letter from the Deputy Executive Director, U.S. Commodity Futures Trading Commission, transmitting the Commission's final rule—Changes in Reporting Levels for Large Trader Reports [17 CFR Part 15] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8954. A letter from the Deputy Executive Director, U.S. Commodity Futures Trading Commission, transmitting the Commission's final rule—Trade Options on the Enumerated Agricultural Commodities [CFR Parts 3, 32 and 33] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8955. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Secretary of the Air Force, transmitting notification that the Commander of Air Education and Training Command is initiating a multi-function cost comparison of the base operating support functions at Maxwell Air Force Base, Alabama, pursuant to 10 U.S.C. 2304 nt.; to the Committee on National Security.

8956. A letter from the Secretary of Defense, transmitting a report on a study of the capacitor and resistor industries in the United States, pursuant to Public Law 105—85; to the Committee on National Security.

8957. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Removal of Regulations (RIN: 1820–AB43) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

8958. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Mergers and Transfers Between Multiemployer Plans (RIN: 1212–AA69) received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

8959. A letter from the Acting Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting a report, "Indicators of Equal Employment Opportunity- Status and Trends," which describes and analyzes statistical information on employment of women and minorities; to the Committee on Education and the Workforce.

8960. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule—Medical Devices; Reports of Corrections and Removals; Lift of Stay of Effective Date [Docket No. 91N–0396] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8961. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Use of Alternative Analytical Test Methods in the Reformulated Gasoline Program; Correction of Effective Date Under Congressional Review (CRA) [FRL–5983–5] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8962. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Approval and Promulgation of Implementation Plans; Wisconsin; Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5980–8] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8963. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Approval and Promulgation of Section 182(f) Exemption to the Nitrogen Oxides (NO) Control Requirements for the Lake Charles Ozone Nonattainment Area; Louisiana; Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5981–8] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8964. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Designation of Areas for Air Quality Planning Purposes; State of New Jersey; Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5987–9] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8965. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Approval and Promulgation of Air Quality Implementation Plans; State of Delaware: Open Burning and Non-CTG RACT Regulations; Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5983–3] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8966. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Significant New Uses of Certain Chemical Substances Correction; Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5982–9] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8967. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to District of Columbia; Final Approval of State Underground Storage Tank Program; Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5981–2] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8968. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Designation of Areas for Air Quality Planning Purposes; Texas; Revised Geographical Designation of Certain Air Quality Control Regions; Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5981–6] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8969. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Oil and Hazardous Substances Pollution Contingency Plan; Involuntary Acquisition of Property by the Government [FRL–5847–9] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8970. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Approval and Promulgation of Implementation Plans; Minnesota; Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5980–9] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8971. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Correction to Heading of Federal Register Publication Announcing Final Authorization of Revisions to Arizona Hazardous Waste Program [FRL–5982–1] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8972. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Technical Amendments to Approval of Section 112(I) Program of Delegation; Wisconsin Correction of Effective Date Under Congressional Review Act (CRA) [FRL–5983–2] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8973. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Acid Rain Program; Nitrogen Oxides Emission Reduction Program [FRL 6006–2] (RIN: 2060–AF48) received April 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8974. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Environmental Services Department [AZ059–0005; FRL–6004–5] received April 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8975. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning [AD-FRL–6007–5] (RIN: 2060–A104) received April 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8976. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—IM Program Requirement-On-Board Diagnostic Checks; Amendments to the Final Rule [AMS-FRL–6007–3] (RIN: 2060–AE19) received April 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8977. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 92F–0290] received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8978. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule—Status of Certain Additional Over-the-Counter Drug Category II and III Active Ingredients [Docket Nos. 75N–183F, 75N–183D, and 80N–0280] (RIN: 0910–AA01) received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8979. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

8980. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

8981. A letter from the Executive Director, District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1—732 and 1—734(a)(1)(A); to the Committee on Government Reform and Oversight.

8982. A letter from the Acting Comptroller General, General Accounting Office, transmitting a list of all reports issued or released in March 1998, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

8983. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule—Correction of Administrative Errors [5 CFR Part 1605] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

8984. A letter from the Chairman, Federal Trade Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1997, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

8985. A letter from the Acting Comptroller General, General Accounting Office, transmitting a monthly listing of new investigations, audits, and evaluations; to the Committee on Government Reform and Oversight.

8986. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—National Forest Exchanges [WO–420–1050–00–24 1A] (RIN: 1004–AC97) received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8987. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting a proposed plan pursuant to the Indian Tribal Judgement Funds Act, pursuant to 25 U.S.C. 1401; to the Committee on Resources.

8988. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Vessel Monitoring System; Harvest Guideline; Closed Season [Docket No. 980415098–8098–01; I.D. 031998A] (RIN: 0648–AK22) received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8989. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Economic Exclusive Zone Off Alaska; Deep-water Species Fishery by the Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 042098A] received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8990. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/"Other Flatfish" Fishery Category by the Vessels Using Trawl Gear in Bering Sea and Aleutian Islands [Docket No. 971208298–8055–02; I.D. 042198A] received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8991. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 9 [Docket No. 970523122–8022–02; I.D. 041897B] (RIN: 0648–AH52) received May 1, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8992. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Eastern Regulatory Area of the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 041498B] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8993. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fisheries by Vessels Using Hook-and-Line Gear in the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 041498A] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8994. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands [Docket No. 971208298–8055–02; I.D. 033098B] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8995. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 041098A] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8996. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Evidence that have been adopted by the Supreme Court, pursuant to 28 U.S.C. 2074; to the Committee on the Judiciary.

8997. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Evidence that have been adopted by the Supreme Court, pursuant to 28 U.S.C. 2074; to the Committee on the Judiciary.

8998. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Evidence that have been adopted by the Supreme Court, pursuant to 28 U.S.C. 2074; to the Committee on the Judiciary.

8999. A letter from the Director, Administrative Office of the U.S. Courts, transmitting the annual report on applications for court orders made to federal and state courts to permit the interception of wire, oral, or electronic communications during calendar year 1997, pursuant to 18 U.S.C. 2519(3); to the Committee on the Judiciary.

9000. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Guidelines Establishing Test Procedures for the Analysis of Pollutants; Application for Approval of Alternate Test Procedures [FRL–5835–9] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9001. A letter from the Office of the Chairman, Surface Transportation Board, transmitting the Board's final rule—Rail General Exemption Authority—Nonferrous Recyclables [STB Ex Parte No. 561] received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9002. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Reporting Health Care Professionals to State Licensing Boards (RIN: 2900–AI78) received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

9003. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend section 2007 of the Social Security Act to provide grant funding for 20 additional Empowerment Zones, and for other purposes; to the Committee on Ways and Means.

9004. A letter from the Chief, Regulations Branch, U.S. Customs Service, transmitting the Service's final rule—Customs Service Field Organization; Establishment of Sanford Port Of Entry [T.D. 98–35] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9005. A letter from the Board of Trustees of the Federal Hospital Insurance Trust Fund, transmitting notification that the assets of the Hospital Insurance (HI) Trust Fund are expected to be exhausted in 2008, pursuant to 42 U.S.C. 401(c)(2), 1395i(b)(2), and 1395t(b)(2); jointly to the Committees on Ways and Means and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1021. A bill to provide for a land exchange involving certain National Forest System lands within the Routt National Forest in the State of Colorado (Rept. 105–506). Referred to the Committee of the Whole House on the State of the Union.

Mr. DREIER: Committee on Rules. House Resolution 419. Resolution providing for consideration of the bill (H.R. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes (Rept. 105–507). Referred to the House Calendar.

Mr. GOSS: Permanent Select Committee on the Intelligence. H.R. 3694. A bill to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; with an amendment (Rept. 105–508). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HYDE (for himself, Mr. McCollum, Mr. Smith of Texas, Mr. Canady of Florida, Mr. Bryant, Mr. Pease, and Mr. Moran of Virginia):

H.R. 3789. A bill to amend title 28, United States Code, to enlarge Federal Court jurisdiction over purported class actions; to the Committee on the Judiciary.

By Mr. THOMAS:

H.R. 3790. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress; to the Committee on Banking and Financial Services.

By Mr. ALLEN (for himself, Mr. Sanders, Mr. Baldacci, Mr. Gutierrez, Mr. Hinchey, Mr. Stark, Mrs. Maloney of New York, and Mr. Rush):

H.R. 3791. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Commerce.

By Mr. BLILEY (for himself, Mr. BOUCHER, Mr. GOODE, Mr. COBLE, Mr. EHRLICH, Mr. DREIER, and Mr. SOLOMON):

H.R. 3792. A bill to require the Secretary of the Treasury to redesign the $1 bill so as to incorporate the preamble to the Constitution of the United States, a list describing the Articles of the Constitution, and a list describing the Articles of Amendment, on the reverse side of such currency; to the Committee on Banking and Financial Services.

By Mr. ETHERIDGE (for himself, Mr. HEFNER, and Mrs. CLAYTON):

H.R. 3793. A bill to require the establishment of research and grant programs to identify and field test methods, practices, and technologies for the efficient, healthful, and environmentally sound disposal of animal waste; to the Committee on Agriculture.

By Ms. HARMAN:

H.R. 3794. A bill to amend title XIX of the Social Security Act to permit children covered under private health insurance under a State children's health insurance plan to continue to be eligible for benefits under the vaccine for children program; to the Committee on Commerce.

By Mr. SMITH of New Jersey (for himself, Mr. MALONEY of Connecticut, Mr. PAPPAS, Mr. GEJDENSON, Mr. SAXTON, and Mr. SHAYS):

H.R. 3795. A bill to establish a program to provide for a reduction in the incidence and prevalence of Lyme disease; to the Committee on Commerce, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Oregon:

H.R. 3796. A bill to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management; to the Committee on Resources.

By Mr. YOUNG of Alaska:

H.R. 3797. A bill to compensate the Wyandotte Tribe of Oklahoma for the taking of certain rights by the Federal Government, and for other purposes; to the Committee on Resources.

By Mr. PALLONE (for himself and Mr. PORTER):

H. Con. Res. 271. Concurrent resolution welcoming His Holiness Karekin I, Supreme Patriarch and Catholicos of All Armenians, upon his visit to the United States, commemorating the 100th anniversary of the Diocese of the Armenian Church in America, and acknowledging the substantial contributions of Armenian-Americans to society and culture in the United States; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 192: Mr. BUNNING of Kentucky.

H.R. 414: Mr. INGLIS of South Carolina and Mr. MCDERMOTT.

H.R. 687: Mr. BROWN of California, Mr. PAYNE, Mr. WAXMAN, Mr. NADLER, and Mr. TORRES.

H.R. 790: Mr. FROST.

H.R. 880: Mr. CANNON.

H.R. 953: Mr. DOOLEY of California, Mr. WAXMAN, Mr. MEEKS of New York, and Mr. SANDLIN.

H.R. 979: Mrs. LOWEY, Mr. REDMOND, Mr. KING of New York, and Mr. RADANOVICH.

H.R. 1362: Mr. SPENCE and Mr. ADERHOLT.

H.R. 1375: Mr. WELDON of Pennsylvania, Mr. MARTINEZ, and Mr. PORTMAN.

H.R. 1401: Mr. BOYD and Mr. HASTINGS of Florida.

H.R. 1505: Mr. ALLEN.

H.R. 1524: Mr. GORDON.

H.R. 1737: Ms. DELAURO.

H.R. 1786: Mr. STRICKLAND.

H.R. 1861: Mr. NEAL of Massachusetts.

H.R. 1995: Mr. WEYGAND.

H.R. 2088: Ms. LOFGREN.

H.R. 2094: Mr. OLVER.

H.R. 2130: Mr. MEEHAN.

H.R. 2257: Mr. LAMPSON and Ms. FURSE.

H.R. 2374: Mr. OLVER.

H.R. 2409: Mr. ENGLISH of Pennsylvania.

H.R. 2499: Mr. HYDE, Ms. WOOLSEY, Mr. REDMOND, Mr. WYNN, Mr. ADAM SMITH of Washington, Mr. EVANS, Mr. OLVER, Mr. HUNTER, Mr. FRANKS of New Jersey, Mr. MCINTOSH, and Mrs. LOWEY.

H.R. 2509: Ms. STABENOW, Mr. EHRLICH, and Mr. SOLOMON.

H.R. 2568: Mr. DICKEY.

H.R. 2670: Mrs. THURMAN.

H.R. 2714: Mr. ALLEN.

H.R. 2754: Mr. CRAMER and Mr. PRICE of North Carolina.

H.R. 2760: Mr. REDMOND.

H.R. 2817: Mr. GOODLATTE.

H.R. 2820: Mr. BARRETT of Wisconsin.

H.R. 2863: Mr. PETERSON of Minnesota.

H.R. 2868: Mr. DUNCAN.

H.R. 2888: Mr. PETERSON of Pennsylvania.

H.R. 2914: Mr. MANTON and Mr. LEWIS of Georgia.

H.R. 2990: Mr. ACKERMAN, Mr. BUNNING of Kentucky, Mr. BAESLER, Ms. LEE, Mr. KING of New York, and Mrs. CHENOWETH.

H.R. 3024: Mr. FROST.

H.R. 3048: Mr. LANTOS and Mr. SPRATT.

H.R. 3050: Mr. MATSUI, Mr. MALONEY of Connecticut, and Ms. LOFGREN.

H.R. 3053: Mrs. MEEK of Florida, Ms. BROWN of Florida, Mr. TORRES, and Mr. LARGENT.

H.R. 3099: Mr. FILNER.

H.R. 3140: Mr. BUNNING of Kentucky, Mr. ORTIZ, Mr. TURNER, and Mr. GRAHAM.

H.R. 3156: Mr. HYDE.

H.R. 3158: Mr. POMBO and Ms. LOFGREN.

H.R. 3181: Ms. LOFGREN.

H.R. 3187: Mr. HILL.

H.R. 3217: Mr. ARMEY and Mr. BOEHNER.

H.R. 3283: Mr. ROMERO-BARCELO, Mr. FRANK of Massachusetts, Mr. FROST, and Mr. NADLER.

H.R. 3382: Mr. CRAMER.

H.R. 3400: Mr. HILLIARD.

H.R. 3433: Mr. BURTON of Indiana and Mr. NETHERCUTT.

H.R. 3438: Ms. LOFGREN.

H.R. 3464: Mr. FARR of California and Mr. HILLIARD.

H.R. 3506: Mr. FRANKS of New Jersey, Mr. PEASE, Mr. BOB SCHAFFER, Mr. KUCINICH, Mr. ARCHER, Mr. HINOJOSA, Mr. PACKARD, and Mr. PICKETT.

H.R. 3510: Mrs. MALONEY of New York.

H.R. 3523: Mr. WATTS of Oklahoma, Mr. MCHALE, Mr. THOMPSON, Mr. MURTHA, Mr. CRAPO, Mr. HUTCHINSON, and Mr. EVERETT.

H.R. 3535: Mr. SAM JOHNSON, Mr. LEWIS of California, and Mr. LARGENT.

H.R. 3550: Mr. TOWNS and Mr. FROST.

H.R. 3567: Mrs. KELLY, Mr. HOSTETTLER, Mr. REDMOND, Mr. STEARNS, and Mr. GREENWOOD.

H.R. 3572: Mr. BLUMENAUER AND Mrs. MINK of Hawaii.

H.R. 3584: Mr. ABERCROMBIE, Mr. SENSENBRENNER, Mr. SNYDER, Mr. FRELINGHUYSEN, Mr. LEWIS of California, Mr. MANZULLO, Mr. PAYNE, and Ms. FURSE.

H.R. 3601: Mr. SOUDER and Mr. SALMON.

H.R. 3605: Ms. ROYBAL-ALLARD.

H.R. 3610: Mr. HEFNER and Mr. HOBSON.

H.R. 3613: Ms. DANNER, Mrs. LOWEY, Mr. DAVIS of Virginia, Mr. RUSH, and Mr. SANDERS.

H.R. 3615: Mr. MATSUI, Mr. TOWNS, Mr. COYNE, and Ms. PELOSI.

H.R. 3636: Mr. PRICE of North Carolina, Mr. MORAN of Virginia, Mr. ABERCROMBIE, and Mr. HYDE.

H.R. 3640: Mr. HASTINGS of Florida and Mr. DOOLEY of California.

H.R. 3661: Ms. LOFGREN, Mr. RUSH, Ms. HOOLEY of Oregon, and Mr. GREEN.

H.R. 3702: Mr. LANTOS.

H.R. 3711: Mr. BARRETT of Wisconsin.

H.R. 3727: Mr. ANDREWS and Mr. ENGLISH of Pennsylvania.

H.R. 3749: Mr. METCALF.

H.R. 3760: Mr. BONIOR, Ms. ROYBAL-ALLARD, and Mr. HILLIARD.

H.J. Res. 64: Mr. ROYCE.

H.J. Res. 99: Mr. NEAL of Massachusetts and Mr. METCALF.

H. Con. Res. 127: Mr. PAPPAS.

H. Con. Res. 175: Mr. DOOLITTLE.

H. Con. Res. 181: Mr. REDMOND, Mr. DIAZ-BALART, Mr. MOAKLEY, Mr. BONIOR, Mr. STOKES, Mr. DREIER, and Mr. CHABOT.

H. Con. Res. 188: Mr. BONIOR.

H. Con. Res. 203: Mr. ALLEN.

H. Con. Res. 220: Mr. FRELINGHUYSEN.

H. Con. Res. 233: Mr. SANDLIN.

H. Con. Res. 239: Mr. HINCHEY and Mr. MILLER of California.

H. Con. Res. 249: Ms. SLAUGHTER, Mr. TRAFICANT, Ms. KAPTUR, and Ms. HOOLEY of Oregon.

H. Con. Res. 264: Mr. MURTHA, Mrs. EMERSON, and Mr. MOAKLEY.

H. Con. Res. 266: Mr. POSHARD, Mr. ROHRABACHER, Mr. BOEHLERT, Mr. JENKINS, Mr. TRAFICANT, and Mr. BROWN of Ohio.

H. Res. 37: Mrs. LOWEY, Mr. COX of California, Mr. ABERCROMBIE, Mr. VENTO, Mr. HALL of Texas, Mr. GREEN, Mr. ANDREWS, Mr. CONDIT, and Mr. ROTHMAN.

H. Res. 392: Mr. KNOLLENBERG, Mr. OXLEY, and Mr. PORTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2497: Mr. FORBES.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6

OFFERED BY: MR. CAMPBELL

AMENDMENT NO. 79: At the end of the bill add the following new title:

TITLE XI—NONDISCRIMINATION PROVISION

SEC. 1101. NONDISCRIMINATION.

(a) PROHIBITION.—No individual shall be excluded from, any program or activity authorized by the Higher Education Act of 1965, or any provision of this Act, on the basis of race or religion.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to preclude or discourage any of the following factors from being taken into account in admitting students to participation in, or providing any benefit under, any program or activity described in subsection (a): the applicants income; parental education and income; need to master a second language; and instances of discrimination actually experienced by that student.

H.R. 6

OFFERED BY: MR. KENNEDY OF MASSACHUSETTS

AMENDMENT NO. 80: At the end of the bill add the following new title:

TITLE XI—ALCOHOL CONSUMPTION

SEC. 1101. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that, in an effort to change the culture of alcohol consumption on college campuses, all college and university administrators should adopt the following code of principles:

(1) For an institution of higher education, the president of the institution shall appoint a task force consisting of school administrators, faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at the institution. The task force will make recommendations for a broad range of policy and program changes that would serve to reduce alcohol and other drug-related problems. The institution shall provide resources to assist the task force in promoting the campus policies and proposed environmental changes that have been identified.

(2) The institution shall provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities.

(3) The institution shall enforce a "zero tolerance" policy on the illegal consumption and binge drinking of alcohol by its students and will take steps to reduce the opportunities for students, faculty, staff, and alumni to legally consume alcohol on campus.

(4) The institution shall vigorously enforce its code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems shall be referred to an on-campus counseling program.

(5) The institution shall adopt a policy to discourage alcoholic beverage-related sponsorship of on-campus activities. It shall adopt policies limiting the advertisement and promotion of alcoholic beverages on campus.

(6) Recognizing that school-centered policies on alcohol will be unsuccessful if local businesses sell alcohol to underage or intoxicated students, the institution shall form a "Town/Gown" alliance with community leaders. That alliance shall encourage local commercial establishments that promote or sell alcoholic beverages to curtail illegal student access to alcohol and adopt responsible alcohol marketing and service practices.

H.R. 6

OFFERED BY: MR. KENNEDY OF MASSACHUSETTS

AMENDMENT NO. 81: At the end of the bill add the following new title:

TITLE XI—DRUG AND ALCOHOL PREVENTION

SEC. 1101. DRUG AND ALCOHOL ABUSE PREVENTION.

(a) GRANTS AND RECOGNITION AWARDS.—Section 111, as redesignated by section 101(a)(3)(E), is amended by adding at the end the following new subsections:

"(e) ALCOHOL AND DRUG ABUSE PREVENTION GRANTS.—

"(1) PROGRAM AUTHORITY.—The Secretary may make grants to institutions of higher education or consortia of such institutions and contracts with such institutions and other organizations to develop, implement, operate, improve, and disseminate programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and their associated violence. Such contracts may also be used for the support of a higher education center for alcohol and drug abuse prevention which will provide training, technical assistance, evaluation, dissemination and associated services and assistance to the higher education community as defined by the Secretary and the institutions of higher education.

"(2) AWARDS.—Grants and contracts shall be made available under paragraph (1) on a competitive basis. An institution of higher education, a consortium of such institutions, or other organizations which desire to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

"(3) ADDITIONAL REQUIREMENTS.—The Secretary shall make every effort to ensure—

"(A) the equitable participation of private and public institutions of higher education (including community and junior colleges), and

"(B) the equitable geographic participation of such institutions,

in grants and contracts under paragraph (1). In the award of such grants and contracts, the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(f) NATIONAL RECOGNITION AWARDS.—

"(1) AWARDS.—For the purpose of providing models of alcohol and drug abuse prevention and education (including treatment-referral) programs in higher education and to focus national attention on exemplary alcohol and drug abuse prevention efforts, the Secretary of Education shall, on an annual basis, make 10 National Recognition Awards to institutions of higher education that have developed and implemented effective alcohol and drug abuse prevention and education programs. Such awards shall be made at a ceremony in Washington, D.C. and a document describing the programs of those who receive the awards shall be distributed nationally.

"(2) APPLICATION.—

"(A) IN GENERAL.—A national recognition award shall be made under paragraph (1) to institutions of higher education which have applied for such award. Such an application shall contain—

"(i) a clear description of the goals and objectives of the alcohol and drug abuse programs of the institution applying,

"(ii) a description of program activities that focus on alcohol and other drug policy issues, policy development, modification, or refinement, policy dissemination and implementation, and policy enforcement;

"(iii) a description of activities that encourage student and employee participation and involvement in both activity development and implementation;

"(iv) the objective criteria used to determine the effectiveness of the methods used in such programs and the means used to evaluate and improve the program efforts;

"(v) a description of special initiatives used to reduce high-risk behavior or increase low risk behavior, or both; and

"(vi) a description of coordination and networking efforts that exist in the community in which the institution is located for purposes of such programs.

"(B) ELIGIBILITY CRITERIA.—All institutions of higher education which are two- and four-year colleges and universities that have established a drug and alcohol prevention and education program are eligible to apply for a National Recognition Award. To receive such an Award an institution of higher education must be nominated to receive it. An institution of higher education may nominate itself or be nominated by others such as professional associations or student organizations.

"(C) APPLICATION REVIEW.—The Secretary of Education shall appoint a committee to review applications submitted under subparagraph (A). The committee may include representatives of Federal departments or agencies whose programs include alcohol and drug abuse prevention and education efforts, directors or heads (or their representatives) of professional associations that focus on prevention efforts, and non-Federal scientists who have backgrounds in social science evaluation and research methodology and in education. Decisions of the committee shall be made directly to the Secretary without review by any other entity in the Department of Education.

"(D) REVIEW CRITERIA.—Specific review criteria shall be developed by the Secretary in conjunction with the appropriate experts. In reviewing applications under subparagraph (C) the committee shall consider—

"(i) measures of effectiveness of the program of the applicant that should include changes in the campus alcohol and other drug environment or climate and changes in alcohol and other drug use before and after the initiation of the program; and

"(ii) measures of program institutionalization, including an assessment of needs of the institution, the institution's alcohol and drug policies, staff and faculty development activities, drug prevention criteria, student, faculty, and campus community involvement, and a continuation of the program after the cessation of external funding.

"(3) AUTHORIZATION.—For the implementation of the awards program under this subsection, there are authorized to be appropriated $25,000 for fiscal year 1998, $66,000 for each of the fiscal years 1999 and 2000, and $72,000 for each of the fiscal years 2001, 2002, 2003, and 2004.".

(b) REPEAL.—Section 4122 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7132) is repealed.

H.R. 6

OFFERED BY: MS. MILLENDER-MCDONALD

AMENDMENT NO. 82: At the end of the bill add the following new title:

TITLE XI—TEACHER EXCELLENCE IN AMERICA CHALLENGE

SEC. 1101. SHORT TITLE.

This title may be cited as the "Teacher Excellence in America Challenge Act of 1998'.

SEC. 1102. PURPOSE.

The purpose of this title is to improve the preparation and professional development of teachers and the academic achievement of students by encouraging partnerships among institutions of higher education, elementary schools or secondary schools, local educational agencies, State educational agencies, teacher organizations, and nonprofit organizations.

SEC. 1103. GOALS.

The goals of this title are as follows:

(1) To support and improve the education of students and the achievement of higher academic standards by students, through the enhanced professional development of teachers.

(2) To ensure a strong and steady supply of new teachers who are qualified, well-trained, and knowledgeable and experienced in effective means of instruction, and who represent the diversity of the American people, in order to meet the challenges of working with students by strengthening preservice education and induction of individuals into the teaching profession.

(3) To provide for the continuing development and professional growth of veteran teachers.

(4) To provide a research-based context for reinventing schools, teacher preparation programs, and professional development programs, for the purpose of building and sustaining best educational practices and raising student academic achievement.

SEC. 1104. DEFINITIONS.

In this title:

(1) Elementary school.—The term "elementary school" means a public elementary school.

(2) Institution of higher education.—The term "institution of higher education" means an institution of higher education that—

(A) has a school, college, or department of education that is accredited by an agency recognized by the Secretary for that purpose; or

(B) the Secretary determines has a school, college, or department of education of a quality equal to or exceeding the quality of schools, colleges, or departments so accredited.

(3) Poverty line.—The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(4) Professional development partnership.—The term "professional development partnership" means a partnership among 1 or more institutions of higher education, 1 or more elementary schools or secondary schools, and 1 or more local educational agency based on a mutual commitment to improve teaching and learning. The partnership may include a State educational agency, a teacher organization, or a nonprofit organization whose primary purpose is education research and development.

(5) Professional development school.—The term "professional development school" means an elementary school or secondary school that collaborates with an institution of higher education for the purpose of—

(A) providing high quality instruction to students and educating students to higher academic standards;

(B) providing high quality student teaching and internship experiences at the school for prospective and beginning teachers; and

(C) supporting and enabling the professional development of veteran teachers at the school, and of faculty at the institution of higher education.

(6) Secondary school.—The term "secondary school" means a public secondary school.

(7) Teacher.—The term "teacher" means an elementary school or secondary school teacher.

SEC. 1105. PROGRAM AUTHORIZED.

(a) In General.—From the amount appropriated under section 1111 and not reserved under section 1109 for a fiscal year, the Secretary may award grants, on a competitive basis, to professional development partnerships to enable the partnerships to pay the Federal share of the cost of providing teacher preparation, induction, classroom experience, and professional development opportunities to prospective, beginning, and veteran teachers while improving the education of students in the classroom.

(b) Duration; Planning.—The Secretary shall award grants under this title for a period of 5 years, the first year of which may be used for planning to conduct the activities described in section 1106.

(c) Payments; Federal Share; Non-Federal Share.—

(1) Payments.—The Secretary shall make annual payments pursuant to a grant awarded under this title.

(2) Federal share.—The Federal share of the costs described in subsection (a)(1) shall be 80 percent.

(3) Non-federal share.—The non-Federal share of the costs described in subsection (a)(1) may be in cash or in-kind, fairly evaluated.

(d) Continuing Eligibility.—

(1) 2nd and 3d years.—The Secretary may make a grant payment under this section for each of the 2 fiscal years after the first fiscal year a professional development partnership receives such a payment, only if the Secretary determines that the partnership, through the activities assisted under this title, has made reasonable progress toward meeting the criteria described in paragraph (3).

(2) 4th and 5th years.—The Secretary may make a grant payment under this section for each of the 2 fiscal years after the third fiscal year a professional development partnership receives such a payment, only if the Secretary determines that the partnership, through the activities assisted under this title, has met the criteria described in paragraph (3).

(3) Criteria.—The criteria referred to in paragraphs (1) and (2) are as follows:

(A) Increased student achievement as determined by increased graduation rates, decreased dropout rates, or higher scores on local, State, or national assessments for a year compared to student achievement as determined by the rates or scores, as the case may be, for the year prior to the year for which a grant under this title is received.

(B) Improved teacher preparation and development programs, and student educational programs.

(C) Increased opportunities for enhanced and ongoing professional development of teachers.

(D) An increased number of well-prepared individuals graduating from a school, college, or department of education within an institution of higher education and entering the teaching profession.

(E) Increased recruitment to, and graduation from, a school, college, or department of education within an institution of higher education with respect to minority individuals.

(F) Increased placement of qualified and well-prepared teachers in elementary schools or secondary schools, and increased assignment of such teachers to teach the subject matter in which the teachers received a degree or specialized training.

(G) Increased dissemination of teaching strategies and best practices by teachers associated with the professional development school and faculty at the institution of higher education.

(e) Priority.—In awarding grants under this title, the Secretary shall give priority to professional development partnerships serving elementary schools, secondary schools, or local educational agencies, that serve high percentages of children from families below the poverty line.

SEC. 1106. AUTHORIZED ACTIVITIES.

(a) In General.—Each professional development partnership receiving a grant under this title shall use the grant funds for—

(1) creating, restructuring, or supporting professional development schools;

(2) enhancing and restructuring the teacher preparation program at the school, college, or department of education within the institution of higher education, including—

(A) coordinating with, and obtaining the participation of, schools, colleges, or departments of arts and science;

(B) preparing teachers to work with diverse student populations; and

(C) preparing teachers to implement research-based, demonstrably successful, and replicable, instructional programs and practices that increase student achievement;

(3) incorporating clinical learning in the coursework for prospective teachers, and in the induction activities for beginning teachers;

(4) mentoring of prospective and beginning teachers by veteran teachers in instructional skills, classroom management skills, and strategies to effectively assess student progress and achievement;

(5) providing high quality professional development to veteran teachers, including the rotation, for varying periods of time, of veteran teachers—

(A) who are associated with the partnership to elementary schools or secondary schools not associated with the partnership in order to enable such veteran teachers to act as a resource for all teachers in the local educational agency or State; and

(B) who are not associated with the partnership to elementary schools or secondary schools associated with the partnership in order to enable such veteran teachers to observe how teaching and professional development occurs in professional development schools;

(6) preparation time for teachers in the professional development school and faculty of the institution of higher education to jointly design and implement the teacher preparation curriculum, classroom experiences, and ongoing professional development opportunities;

(7) preparing teachers to use technology to teach students to high academic standards;

(8) developing and instituting ongoing performance-based review procedures to assist and support teachers' learning;

(9) activities designed to involve parents in the partnership;

(10) research to improve teaching and learning by teachers in the professional development school and faculty at the institution of higher education; and

(11) activities designed to disseminate information, regarding the teaching strategies and best practices implemented by the professional development school, to—

(A) teachers in elementary schools or secondary schools, which are served by the local educational agency or located in the State, that are not associated with the professional development partnership; and

(B) institutions of higher education in the State.

(b) CONSTRUCTION PROHIBITED.—No grant funds provided under this title may be used for the construction, renovation, or repair of any school or facility.

SEC. 1107. APPLICATIONS.

Each professional development partnership desiring a grant under this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

(1) describe the composition of the partnership;

(2) describe how the partnership will include the participation of the schools, colleges, or departments of arts and sciences within the institution of higher education to ensure the integration of pedagogy and content in teacher preparation;

(3) identify how the goals described in section 1103 will be met and the criteria that will be used to evaluate and measure whether the partnership is meeting the goals;

(4) describe how the partnership will restructure and improve teaching, teacher preparation, and development programs at the institution of higher education and the professional development school, and how such systemic changes will contribute to increased student achievement;

(5) describe how the partnership will prepare teachers to implement research-based, demonstrably successful, and replicable, instructional programs and practices that increase student achievement;

(6) describe how the teacher preparation program in the institution of higher education, and the induction activities and ongoing professional development opportunities in the professional development school, incorporate—

(A) an understanding of core concepts, structure, and tools of inquiry as a foundation for subject matter pedagogy; and

(B) knowledge of curriculum and assessment design as a basis for analyzing and responding to student learning;

(7) describe how the partnership will prepare teachers to work with diverse student populations, including minority individuals and individuals with disabilities;

(8) describe how the partnership will prepare teachers to use technology to teach students to high academic standards;

(9) describe how the research and knowledge generated by the partnership will be disseminated to and implemented in—

(A) elementary schools or secondary schools served by the local educational agency or located in the State; and

(B) institutions of higher education in the State;

(10)(A) describe how the partnership will coordinate the activities assisted under this title with other professional development activities for teachers, including activities assisted under titles I and II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq., 6601 et seq.), the Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.); and

(B) describe how the activities assisted under this title are consistent with Federal and State educational reform activities that promote student achievement of higher academic standards;

(11) describe which member of the partnership will act as the fiscal agent for the partnership and be responsible for the receipt and disbursement of grant funds under this title;

(12) describe how the grant funds will be divided among the institution of higher education, the elementary school or secondary school, the local educational agency, and any other members of the partnership to support activities described in section 1106;

(13) provide a description of the commitment of the resources of the partnership to the activities assisted under this title, including financial support, faculty participation, and time commitments; and

(14) describe the commitment of the partnership to continue the activities assisted under this title without grant funds provided under this title.

SEC. 1108. ASSURANCES.

Each application submitted under this title shall contain an assurance that the professional development partnership—

(1) will enter into an agreement that commits the members of the partnership to the support of students' learning, the preparation of prospective and beginning teachers, the continuing professional development of veteran teachers, the periodic review of teachers, standards-based teaching and learning, practice-based inquiry, and collaboration among members of the partnership;

(2) will use teachers of excellence, who have mastered teaching techniques and subject areas, including teachers certified by the National Board for Professional Teaching Standards, to assist prospective and beginning teachers;

(3) will provide for adequate preparation time to be made available to teachers in the professional development school and faculty at the institution of higher education to allow the teachers and faculty time to jointly develop programs and curricula for prospective and beginning teachers, ongoing professional development opportunities, and the other authorized activities described in section 1106; and

(4) will develop organizational structures that allow principals and key administrators to devote sufficient time to adequately participate in the professional development of their staffs, including frequent observation and critique of classroom instruction.

SEC. 1109. NATIONAL ACTIVITIES.

(a) IN GENERAL.—The Secretary shall reserve a total of not more than 10 percent of the amount appropriated under section 1111 for each fiscal year for evaluation activities under subsection (b), and the dissemination of information under subsection (c).

(b) NATIONAL EVALUATION.—The Secretary, by grant or contract, shall provide for an annual, independent, national evaluation of the activities of the professional development partnerships assisted under this title. The evaluation shall be conducted not later than 3 years after the date of enactment of the Teacher Excellence in America Challenge Act of 1998 and each succeeding year thereafter. The Secretary shall report to Congress and the public the results of such evaluation. The evaluation, at a minimum, shall assess the short-term and long-term impacts and outcomes of the activities assisted under this title, including—

(1) the extent to which professional development partnerships enhance student achievement;

(2) how, and the extent to which, professional development partnerships lead to improvements in the quality of teachers;

(3) the extent to which professional development partnerships improve recruitment and retention rates among beginning teachers, including beginning minority teachers; and

(4) the extent to which professional development partnerships lead to the assignment of beginning teachers to public elementary or secondary schools that have a shortage of teachers who teach the subject matter in which the teacher received a degree or specialized training.

(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information (including creating and maintaining a national database) regarding outstanding professional development schools, practices, and programs.

SEC. 1110. SUPPLEMENT NOT SUPPLANT.

Funds appropriated under section 1111 shall be used to supplement and not supplant other Federal, State, and local public funds expended for the professional development of elementary school and secondary school teachers.

SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $100,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003.

H.R. 1872

OFFERED BY: MR. CAMPBELL

AMENDMENT NO. 2: Page 28, line 8, strike "and"; on line 13, strike the period and insert "; and"; and after line 13, insert the following new paragraph:

"(5) to permit COMSAT to offer domestic and international services without restriction utilizing INTELSAT, Inmarsat, and other facilities.

H.R. 1872

OFFERED BY: MR. CAMPBELL

AMENDMENT NO. 3: Page 28, line 8, strike "and"; on line 13, strike the period and insert "; and"; and after line 13, insert the following new paragraph:

"(5) to permit COMSAT to offer domestic services utilizing INTELSAT, Inmarsat, and other facilities, subject to such restrictions as the Commission may impose by regulation as necessary for the protection of the public interest.

H.R. 1872

OFFERED BY: MR. GILMAN

AMENDMENT NO. 4: Page 33, line 5, strike "the Congress"; and insert "the Committees on Commerce and International Relations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate".

Page 33, beginning on line 20, strike "Committee on" and all that follows through "of the Senate" on line 22 and insert the following: "Committees on Commerce and International Relations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate".

H.R. 1872

OFFERED BY: MRS. MORELLA

AMENDMENT NO. 5: Page 6, after line 8, insert the following new subsection:

"(e) TAKINGS PROHIBITED.—In implementing the provisions of this section, and sections 621, 622, and 624 of this Act, the Commission shall not—

"(1) restrict the services that COMSAT may offer utilizing facilities in which it has lawfully invested; or

"(2) otherwise restrict the activities of COMSAT in a manner which would create the liability for the United States under the Fifth Amendment to the Constitution.

Page 11, after line 11, insert the following new subsection:

"(d) TAKINGS PROHIBITED.—In implementing the provisions of this section, the Commission shall not—

"(1) restrict the services that COMSAT may offer utilizing facilities in which it has lawfully invested; or

"(2) otherwise restrict the activities of COMSAT in a manner which would create a liability for the United States under the Fifth Amendment to the Constitution.

H.R. 1872

OFFERED BY: MRS. MORELLA

AMENDMENT NO. 6: Page 6, after line 8, insert the following new subsection:

"(e) TAKINGS PROHIBITED.—In implementing the provisions of this section, and sections 621, 622, and 624 of this Act, the Commission shall not restrict the activities of COMSAT in a manner which would create the liability for the United States under the Fifth Amendment to the Constitution.

Page 11, after line 11, insert the following new subsection:

"(d) TAKINGS PROHIBITED.—In implementing the provisions of this section, the Commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the Fifth Amendment to the Constitution.

H.R. 1872

OFFERED BY: MR. TAUZIN

AMENDMENT NO. 7: Page 28, beginning on line 14, strike section 642 through page 29, line 24, and redesignate the succeeding sections accordingly.

H.R. 1872

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 8: At the end of the bill, add the following new sections:

SEC. 4. COMPLIANCE WITH BUY AMERICAN ACT.

No funds authorized pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 5. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Federal Communications Commission shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 6. PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspensions, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

H.R. 3694

OFFERED BY: MR. SANDERS

AMENDMENT NO. 1: At the end of title I, add the following new section:

SEC. 105. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED.

(a) LIMITATION.—Except as provided in subsection (b), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act (including the amounts specified in the classified Schedule of Authorizations referred to in section 102), there is authorized to be appropriated for fiscal year 1999 to carry out this Act not more than 90 percent of the total amount authorized to be appropriated by this Act (determined without regard to this section).

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund by section 201.

H.R. 3694

OFFERED BY: MR. SANDERS

AMENDMENT NO. 2: At the end of title I, add the following new section:

SEC. 105. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED.

(a) LIMITATION.—Except as provided in subsection (b), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act (including the amounts specified in the classified Schedule of Authorizations referred to in section 102), there is authorized to be appropriated for fiscal year 1999 to carry out this Act not more than 95 percent of the total amount authorized to be appropriated by this Act (determined without regard to this section).

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund by section 201.

EXTENSIONS OF REMARKS

THE COPYRIGHT TERM EXTENSION ACT, H.R. 2589

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. COBLE. Mr. Speaker, I would like to extend my remarks regarding H.R. 2589, the "Copyright Term Extension Act," which was passed by the House on March 25, 1998.

The writers, screen actors, and directors guilds have expressed concern about their inability to obtain residual payments that are due to their members in situations where the producer of the motion picture fails to make these payments, for example where it no longer exists or is bankrupt. The guilds may be unable to seek recourse against the exclusive distributors, transferees of rights in the motion picture, because those parties are not subject to the collective bargaining agreement or otherwise in privity with the guilds. Although the collective bargaining agreements generally require the production company to obtain assumption agreements from distributors that would effectively create such privity, some production companies apparently do not always do so.

Section 5 of H.R. 2589 would address this problem without interfering with the collective bargaining process and the ability of the parties to determine the terms of their relationships. It would, in certain circumstances, impose on distributors the obligations to make residual payments and provide related notices that are currently required by the collective bargaining agreements governing the motion picture. It does so by making the distributor subject to the applicable obligations under the assumption agreements, incorporating the applicable terms into the transfer instrument by operation of law. The provision would not affect broadcast and cable licensees because it excludes transfers that are limited to public performance rights.

The "reason to know" language is intended to be interpreted in light of common sense and industry practice. Because many motion pictures made in the United States are produced subject to one or more collective bargaining agreements, the distributor would ordinarily perform some check on whether the motion picture is subject to such an agreement, for example by inquiring of the producer. The provision would not, however, require a burdensome or exhaustive investigation. Publicly available information that indicates a work's status, such as records of a guild's security interest in the motion picture filed with the Copyright Office, would ordinarily provide "reason to know" within the meaning of the Act. The guilds may wish to provide an easily accessible source of information, such as a World Wide Web Site, that identifies which motion pictures are subject to a collective bargaining agreement. If the existence of such a site is made known in the industry, the listing of a particular motion picture would clearly give reason to know of that picture's status.

In order to protect distributors who have negotiated transfers based on misrepresentations, the provision makes the producer who fails to inform distributors of its collective bargaining agreement obligations liable to those distributors for any resulting damages. Disputes about the application of the provision and claims for damages from misrepresentation would be resolved in federal district court, with the court having discretion to award costs and reasonable attorneys' fees.

TRIBUTE TO EL CAMINO REAL HIGH SCHOOL

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to the students of El Camino Real High School, winners of the National Academic Decathlon title. I would like to take this opportunity to acknowledge this team of champions made up of Taimur Baig, Michael Beatty, Steve Chae, Nancy Fu, Bruce Ngo, Elana Pelman, Carina Yuen and Adi Zarchi, who were led by coaches David Roberson, Mark Johnson and Principal Ron Bauer.

The academic decathlon is the equivalent of an intellectual Olympics. Students are asked to compete in a variety of areas, including analyzing poetry, solving complicated trigonometry problems and answering questions about the lives of great composers. They are also tested on various aspects of global economies, including inflation, interest rates, the North American Free Trade Agreement and the International Monetary Fund.

The El Camino Conquistadors are to be commended for their dedication, hard work and discipline. In preparation for this grueling competition, students have spent 50 hours a week throughout this past year studying everything from music theory to chemical equations. In addition, each student also read "Jane Eyre" five times, and together the team took more than 450 multiple choice practice tests. Their success has been recognized on the front page of every newspaper in the area, by local radio and television stations, and most recently by President Clinton.

President Kennedy once said that we should think of education as the ". . . means of developing our greatest abilities, because in each of us there is a private hope and dream which, fulfilled, can be translated into benefit for everyone and greater strength for our nation." I would like to commend the Conquistadors for going after their dreams, individually and as a team. This commitment to their education and pursuit of their goals is an inspiration to other students, teachers and the rest of the country.

Mr. Speaker, distinguished colleagues, please join me in offering our highest accolades to the students of El Camino Real High School.

ADDRESS OF AMBASSADOR ELIAHU BEN-ELISSAR AT THE NATIONAL CIVIC COMMEMORATION OF THE DAYS OF REMEMBRANCE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. LANTOS. Mr. Speaker, on Tuesday, April 23, Members of Congress joined with representatives of the diplomatic corps, executive and judicial branch officials, and hundreds of Holocaust survivors and their families to commemorate the National Days of Remembrance in the rotunda of the United States Capitol. This moving ceremony featured a stirring address by His Excellency Eliahu Ben-Elissar, Israel's distinguished Ambassador to the United States, who reminded us all of the horrors of the Holocaust and the need to ensure that the suffering of Hitler's victims will never, never be forgotten.

Ambassador Ben-Elissar, a native of Poland, has represented his nation in government and the diplomatic corps for over thirty years. A longtime public servant for his country, he has helped to guide Israel to the outstanding economic, political, and foreign policy accomplishments which have marked its first fifty years as a State. Ambassador Ben-Elissar was a Member of the Knesset for fifteen years, compiling an exemplary record as Chair of the Foreign Affairs and Defense Committee and as a member of Israel's delegations to the United Nations General Assembly and the Madrid Peace Conference in 1991. Prior to this outstanding service he played a significant role in the historic peace agreements with Egypt, first as the Director-General of the Prime Minister's office under Menachem Begin and later as Israel's first Ambassador to Egypt in 1980–81.

Mr. Speaker, I insert Ambassador Ben-Elissar's solemn and dignified remarks for the RECORD, and I urge my colleagues to carefully note the observations of this fine statesman.

AMBASSADOR BEN-ELISSAR'S ADDRESS AT THE ROTUNDA OF THE CAPITOL ON THURSDAY, APRIL 23, 1998

In the late 20s and early 30s of this century no one paid attention to Hitler. In spite of his growing influence over the masses in Germany, no one really cared to take a good look at his ideas and plans described in detail in "Mein Kampf." When the general boycott of the Jews was declared in Germany on

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

April 1, 1933, and subsequently, all Jewish physicians, lawyers, and professionals were prohibited to practice their professions, no one thought it was more than a temporary measure taken by an interim government. No one really reacted when, in 1935, the infamous laws on race and blood were adopted in Nurenberg.

No country in the world declared itself ready, at the Evian Conference on Refugees, in July 1938, to take in a significant number of Jewish refugees from Germany and the recently annexed Austria. The Kristalnacht, in November 1938, opened the eyes of some, but then, when gates to a safe haven were rapidly closing, when for the first time in history Jews were denied even the "right" to become refugees, the world remained silent. The only country to recall its ambassador from Berlin was this country—The United States of America.

There is a lesson to be learned—Whenever a potential enemy wants to kill you—Believe him. Do not disregard his warnings. If he says he wants to take away what belongs to you—Believe him. If he claims he will destroy you—Believe him. Do not dismiss him and his threats by saying he cannot be serious—He can!

In 1945, the world was at last liberated from the yoke of the most evil of empires ever to exist in the annals of human history. But for us it was too late. We were not liberated. By then we already had been liquidated.

In 1948, we actually arose from the ashes. Destruction was at last ending. Redemption was at hand. After two thousand years of exile, wandering and struggle the State of Israel was reborn.

We look back with indescribable pain on the terrible tragedy that has left its mark in us forever Had the State of Israel existed during the 30s, Jews would not have had to become refugees. They could have simply gone home to their ancestral land. They would have not been massacred. They would have had the means to defend themselves.

Yesterday, the general staff of the Israeli army convened in Jerusalem at the Yad Vashem Holocaust memorial. Tough soldiers vowed that the Jewish people will never be submitted to genocide again.

Today, while we are celebrating the 50th anniversary of the State of Israel and commemorating the Holocaust, in the presence of United States senators and representatives, survivors, members of my Embassy and commanders in the Israeli Defense Forces, may I state, that for us, statehood and security are not merely words, for us, they are life itself—and we are determined to defend them.

THE NORTH MIAMI FOUNDATION FOR SENIOR CITIZENS' SERVICES

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mrs. MEEK of Florida. Mr. Speaker, on Wednesday, May 6, 1998, the North Miami Foundation for Senior Citizens' Services will recognize the many volunteers who have provided assistance to the area's elderly for nearly a quarter century. This will be their 20th annual Volunteer Recognition Luncheon.

In 1997, the volunteers donated 18,601 hours of chore service, 34,615 hours of friendly companionship visits, and 60,186 telephone reassurance calls. In addition, 6,750 hours of special projects were conducted by local organizations and schools. Truly a community partnership, these volunteer hours are equivalent to 42 full-time staff positions.

The overwhelming commitment of the Foundation's volunteers is inspiring and should serve as an example of what is possible when a community truly cares. The character of a community is directly reflected in the efforts of its citizens to assist those who are most in need. In this instance, North Miami, Miami Shores, Biscayne Park, and Miami-Dade County have demonstrated their mettle.

As these United States celebrate Older Americans Month during May, I tip my hat to the efforts of the North Miami Foundation. Theirs is a noble commitment.

MONMOUTH COUNTY URBAN LEAGUE FIFTH ANNUAL EQUAL OPPORTUNITY AWARDS DINNER

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. PALLONE. Mr. Speaker, on Thursday, April 30, the Monmouth County Urban League held its Fifth Annual Equal Opportunity Awards Dinner at Gibbs Hall Officers Club at Fort Monmouth, NJ.

This year's Founder's Awards were presented to Dr. Donald Warner, Superintendent of the Red Bank Regional High School, and Mr. Jack Kaye, Vice Chairman of the Shrewsbury State Bank, for their dedicated services over the last five years. The Corporate Award was presented to Monmouth Medical Center and Core States National Bank, in recognition of their strong support for the last five years which has contributed significantly to the Urban League's success. The Community Service Award was presented to The Asbury Park Press for "Crossroads," a weekly column that deals with multi-cultural issues of interest to the people of Monmouth County. Finally, the Youth Award honored three outstanding high school seniors for their achievement and community service: Aaron Rouse of Monmouth Regional High School, Corrine Burton of Long Branch High School, and Laura C. Nieves of Long Branch High School.

Mr. Speaker, the Monmouth County Urban League is a non-profit agency with its headquarters in Red Bank, NJ. It was officially chartered by the National Urban League of July 1995. The Monmouth County Urban League is one of 115 affiliates of the National Urban League, which was founded in 1910 to assist African Americans and other people of color to achieve economic and social self-sufficiency. The mission will be achieved by forming partnerships with other organizations that target the unmet needs and gaps in service with a strategic focus in Health Education and Prevention, Advocacy, Youth, Economic and Community Development along with Community Mobilization.

Mr. Speaker, it is an honor and a privilege to pay tribute to all of these fine award recipients, and to cite the accomplishments of the Monmouth County Urban League in the pages of The CONGRESSIONAL RECORD.

TRIBUTE TO JANET AND HENRY ROSMARIN

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. SHERMAN. Mr. Speaker, I rise to pay tribute to Janet and Henry Rosmarin for their bravery, their commitment to the community, and their dedication to ensuring that our memories of the Holocaust will never be forgotten or silenced. Through all of their hardships they have endured not only to survive, but to live such full lives that their example of love and loyalty to themselves and others is a high standard that the rest of us can only hope to achieve.

Henry was Henryk Rosmarin and Janet was Jadzia Jakubowicz when they met in her father's apartment in the little shtetl of Czeladz in Poland. Henryk was there for High Holiday services that were being held in secret by Jadzia's father because they had been banned by the Nazi administration. She laughed two years later when he proposed that "When this is all over we should find each other and we should get married and make a life together." Just a few weeks after his marriage proposal they were forcibly deported from their homes.

Janet spent years in Auschwitz and Birkenau while Henry was sent to Gross-Rosen and Buchenwald. Henry survived by using his harmonica and his voice to entertain his captors in return for his life. Both of them lost most of their families, but true to his word Henry returned to Czeladz where he searched for months before finding Janet.

That is where a fairy tale would end, but to sum up the following two years of searching and resettlement, and the fifty years thereafter, in a phrase like, "They lived happily ever after," would understate both the Rosmarins and the realities of our times. There have been good times, homes and children, but also a struggle that has followed them through their lives together. Their lives have been tightly bound with the life and history of the Jewish people.

In Southern California they founded a synagogue with Temple Ner Maarav and a life's purpose with the Survivors of the Shoah Visual History Project. Henry contributes to the Temple Choir with the musical talents that allowed him to survive the concentration camps, and uses his music to speak for those who did not. Similarly, for the Shoah foundation, he serves as a goodwill ambassador, speaking on its behalf and reviewing Visual History contributions, especially those recorded in Polish.

Simon Wiesenthal said that, "survival is a privilege which entails obligations. I am forever asking myself what I can do for those who have not survived. The answer that I have found for myself is: I want to be their mouthpiece, I want to keep their memory alive, to make sure the dead live on in that memory," The Rosmarins have formed a new community to replace the one that they lost so many years ago in Poland. They have not allowed their suffering to prevent them from living life and loving God. Their efforts to preserve the testimonies of Holocaust survivors are a service to all of us who can listen so that we may never forget our part, or those who can no longer tell us of their sufferings.

Mr. Speaker, distinguished colleagues, please join me in paying tribute to Janet and Henry Rosmarin. They are an example of strength, love, and devotion to us all.

ADDRESS OF MR. BENJAMIN A. MEED AT THE NATIONAL CIVIC COMMEMORATION OF THE DAYS OF REMEMBRANCE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. LANTOS. Mr. Speaker, on Thursday, April 23, Members of Congress joined with representatives of the diplomatic corps, executive and judicial branch officials, and hundreds of Holocaust survivors and their families to commemorate the National Days of Remembrance in the rotunda of the United States Capitol. The touching words of Mr. Benjamin Meed, one of the most prominent and active survivors in the United States, reflected the emotional and poignant focus of the ceremony: "Children of the Holocaust: Their Memories, Our Legacy." Through poetry and personal reflections, Mr. Meed affected us all.

As a survivor of the Holocaust myself, I was especially moved by Mr. Meed's remarks. He delicately spoke:

> Many survivors became part of this great country that adopted us, and we are grateful Americans. Although we are now in the winter of our lives, we look toward the future, because we believe in sharing our experiences—by bearing witness and educating others—there is hope of protecting new generations of men, women and children—who might be abandoned and forgotten, persecuted and murdered. . . . . Knowing that the impossible is possible, there is the chance that history can be repeated—unless we are mindful.

Mr. Speaker, I share this mission with Mr. Meed. We must never, ever forget.

Benjamin Meed was born in Warsaw, Poland. He worked as a slave laborer for the Nazis, survived in the Warsaw Ghetto and was an active member of the Warsaw Underground with his wife, Vladka. A member of the United States Holocaust Memorial Council since its inception, he chairs the Museum's Days of Remembrance Committee. He is President of the American Gathering of Jewish Holocaust Survivors and a leader of a number of other organizations. Mr. Meed founded the Benjamin and Vladka Meed Registry of Jewish Holocaust Survivors permanently housed at the United States Holocaust Memorial Museum.

Mr. Speaker, insert Benjamin Meed's Days of Remembrance address for the RECORD.

CHILDREN OF THE HOLOCAUST: THEIR MEMORIES, OUR LEGACY

Members of the diplomatic corps, distinguished members of the United States Senate and House of Representatives, members of the United States Holocaust Memorial Council, distinguished guests, fellow survivors and dear friends, welcome to the 19th national Days of Remembrance commemoration.

First, let me take this opportunity to express our gratitude to the members of the United States Congress for their strong support of the Holocaust Memorial Museum. The enormous success of the Museum and its educational and Remembrance programs is due, in large part, to your efforts on our behalf. Thank you.

We gather together again to remember those whom we loved and lost in the pit of hell—the Holocaust. We dedicate this commemoration to all the precious children of the Holocaust, their memories, our legacy. More than a million and a half children—almost all of them Jewish—were struck down without pity. They were murdered simply for who they were, Jews.

The young ones, who were silenced forever, were the hope and future of our people. We will never know the extent of human potential that was destroyed—the scientists, the writers, the musicians—gifted talent burned to ashes by German Nazi hate.

At such tender ages, our children grew old overnight. They quickly learned how to conceal pain and how to cover up fear. More importantly, with natural compassion, they comforted those around them. The writer and educator Itazek Katznelson was so touched by an abandoned little girl caring for her baby brother in the Warsaw Ghetto that he composed a poem about her. And I quote:

> Thus it was at the end of the winter of 1942
> in such a poor house of shelter for children,
> I saw the ones just gathered from the streets.
> In this station, I saw a girl about five years old.
> She fed her younger brother—and he cried.
> The little one was sick.
> In a diluted bit of jam, she dipped tiny crusts of bread
> and skillfully inserted them into his mouth.
> This my eyes were privileged to see see—
> to see this mother of five years, feeding her child
> and to her soothing words.

How can we survivors forget these martyred children? Their lives, their laughter, their gentle love, their strength and bravery in the face of certain death are still part of our daily lives. Their acts of courage and resistance remain a heroic inspiration. Their cries to be remembered ring across the decades. And we hear them. They are always in our thoughts in our sleepless nights, in our pained hearts.

Like all survivors, there are many horrible events that I witnessed, but one particular event deeply troubles me and hounds me. It was in April, fifty-five years ago, almost to this day. Passing as an "Aryan" member of the Polish community, I was in Krasinski Square near the walls of the Warsaw Ghetto. Inside the Ghetto, the uprising was underway. Guns and grenades thundered; the ghetto was ablaze. From where I was standing, I could feel the heat from the fires. There were screams for help from the Jews inside the walls. But the people surrounding me outside the walls went about their daily lives, insensitive and indifferent to the tragedy-in-progress. I watched in disbelief as, across the Square, a merry-go-round spun around and around to the joy of my Polish neighbor's children, while within the Ghetto only a few yards away, our Jewish children were being burned to death. To this day, the scene still enrages me. How can one forget the agony of the victims? How can we explain such moral apathy of the bystanders?

Many of us were children in the Holocaust. Whether by luck or by accident, we survived. Liberation by the Allied Armies restored us to life, and our gratitude to the soldiers will always remain. The flags that stand behind me from the liberating divisions of the United States Army and from the Jewish Brigade are far more than cloth. In 1945 and today, they are the symbols of freedom and hope for us survivors. Today we are bringing history together.

Liberation offered new opportunities and we seized them. The transition was very brief. We helped to create a new nation—the State of Israel, which celebrates its 50th anniversary this year. Our history might have been very different if only Israel had existed 60 years ago. Nevertheless, we are here, and Israel is our response and Remembrance of the Holocaust. Mr. Ambassador Ben Elissar, please convey to the people of Israel our commitment and solidarity with them.

Many survivors became part of this great country that adopted us, and we are grateful Americans. Although we are now in the winter of our lives, we look toward the future, because we believe in sharing our experiences—by bearing witness and educating others—there is hope of protecting new generations of men, women and children—who might be abandoned and forgotten, persecuted and murdered. We remember not for ourselves, but for others, and those yet unborn. Knowing that the impossible is possible, there is the chance that history can be repeated—unless we are mindful.

The task of preserving Holocaust memory will soon pass to our children and grandchildren; to high school and middle school teachers; to custodians of Holocaust centers; and, most importantly to the United States Holocaust Memorial Museum. But monuments of stone and well-written textbooks are not enough. Personal dedication to Remembrance—to telling and retelling the stories of the Holocaust with their lessons for humanity—must become a mission for all humankind, for all generations to come.

In these great halls of Congress, we see many symbols of the ideals that America represents—liberty, equality and justice. It was the collective rejection of such principles by some nations that made the Holocaust possible. Today, let us—young and old alike—promise to keep an ever watchful eye for those who would deny and defy these precious principles of human conduct. Let us remember. Thank you.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. KIND. Mr. Speaker, the partisan rhetoric coming out of the House of Representatives has reached new heights. An overwhelming amount of time, money and energy is being spent by both sides of the aisle on the investigation campaign finance abuses during the 1996 elections. Recent actions by members of the House Government Reform and Oversight Committee has created more cynicism among the public over our ability to do anything about this issue, other than score political points. It is time, Mr. Speaker, to direct attention to fixing the obvious problems in the current system.

The Freshman members of the 105th Congress have made campaign finance reform a top priority for this Congress. Unlike previous classes of Congress, my colleague and I have committed ourselves to working cooperatively to make changes in the system. We have put aside our differences and drafted a bill, H.R. 2183, which enjoys bipartisan support and will address the most obvious abuses in our current campaign finance laws.

Mr. Speaker, it is time for the House of Representatives to follow the lead of the newest members of this body. It is time to put aside the partisan differences and support a campaign finance bill which will begin to take the influence of big money out of the political system, H.R. 2183. The people of my district will not accept "no" for an answer.

NEPTUNE HIGH SCHOOL HALL OF FAME DINNER

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. PALLONE. Mr. Speaker, on Thursday, April 30, the Neptune Township Education Foundation, Inc., and the Neptune Township Board of Education, hosted the Neptune High School Hall of Fame Dinner at Mike Doolan's Restaurant in Spring Lake Heights, New Jersey.

It is a great honor for me to join with the Neptune Township Education Township Foundation and the Board of Education in paying tribute to the distinguished inductees: Patricia Battle, Robert Davis, Jr., Ermon Jones, William King, 2nd, Harry Larrison, Jr., Lawrence Lawson, Joseph Palaia, Haydn Proctor and James Ward. All nine of these exceptional individuals have contributed significantly to our community, in Neptune, in Monmouth County and throughout the State of New Jersey, through their distinct talents and abilities. The nine awardees represent a broad cross-section of the community, a testimony to the diversity that is one of our greatest strengths. But all nine have at least two things in common: a strong record of accomplishment and a sincere desire to give something back to the community. They have all richly earned the honor of being inducted into the Neptune High School Hall of Fame.

Mr. Speaker, I am proud to pay tribute to these fine leaders of the Jersey Shore area in the pages of the CONGRESSIONAL RECORD.

TRIBUTE TO CANTOR NATHAN LAM

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Cantor Nathan Lam for his contribution to the music of Israel.

Geoffrey Latham once wrote that "Music is the vernacular of the human soul." As an internationally renowned musician, Cantor Lam has shared his gift of music with individuals across the world. His outstanding talent was evident from a young age; by his sixteenth birthday he had been engaged by a leading congregation to serve as a cantor for the High Holy Days.

Cantor Lam went on to study privately with several renowned teachers in almost every area of vocal music. As the cantor at the prestigious Midway Jewish Center in New York City, he began his own commissioning program. In 1976, Cantor Lam assumed his post at Stephen S. Wise Temple, which is now the largest synagogue in the world. Over the past 22 years, he has developed numerous musical programs.

At Stephen S. Wise Temple, Cantor Lam has trained a new generation of cantors, sharing with them his love of music and commitment to the Jewish community. The temple has established a scholarship in his name, enabling these exceptional students to follow in his footsteps. Cantor Lam is also a well known voice coach with a national reputation, working with some of the biggest names in the music industry today.

Cantor Lam has performed in concerts across the world, appeared on television both nationally and internationally, performed opera and sung his vast Jewish repertoire in a multitude of public appearances. He has released a number of recordings, including "Legacy," which represents a landmark collaboration between the talents of the National Symphony of Israel and the kind of Jewish musical innovation exemplified by Cantor Lam, and other well known composers. In addition, Cantor Lam has been featured in a multitude of articles and television shows.

As we celebrate the 50th Anniversary of Israel, I would like to take this opportunity to acknowledge the remarkable accomplishments of Cantor Lam, along with his commitment to Jewish life and Israel. Mr. Speaker, distinguished colleagues, please join me in honoring one of the preeminent musicians of our time, Cantor Nathan Lam.

"THE LONG WAY HOME"—ACADEMY AWARD WINNER FOR BEST DOCUMENTARY FEATURE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. LANTOS: Mr. Speaker, I would like to ask my colleagues to join me in congratulating the artists responsible for the Holocaust film "The Long Way Home," which recently won the Academy Award for Best Documentary Feature. This magnificent project, which reflects the splendid talents of some of Hollywood's most brilliant geniuses, approaches the Holocaust from an angle often ignored by historians and storytellers alike, recounting the moving and tumultuous experience of Jewish refugees from the time of Hitler's fall in 1945 to the birth of the State of Israel fifty years ago last week.

It is a history of a three year period marked by the tragedy of its horrific origin and guided by the hope that the suffering of Jews would, at long last, end in the ultimate victory of the Zionist cause. It is an account of a numerically (but not spiritually) depleted people trying to cope with the destruction of its families and lives, struggling to shape its future against the mountainous obstacles of poverty, bigotry, and confusion. Most of all, "The Long Way Home" is a story about the dignity and determination of survivors who refused to surrender their values and ideals, regardless of the costs.

During the Spring of 1945, the Third Reich came to end. Advancing American, British, and Russian forces rolled across Europe, freeing its citizens from years of tyranny and liberating the most notorious centers of Nazi crimes, the concentration camps. One by one they fell, Buchenwald, Dachau, Mauthausen, Bergen-Belsen, providing Allied soldiers with vivid and unfiltered evidence of the atrocities of Hitler's "Final Solution."

Even after the extent of the German crimes became known, however, several questions remained unanswered, most notably: Where could the survivors go? How could they put their lives back together? How would they be accepted by Germans and the rest of the world community?

Many of the persecuted Jews remained in "Displaced Persons Camps" for many months, some to be rehabilitated under the watchful care of American and British doctors and others simply because they had no other place to live. While the conditions were no doubt preferable to the concentration camps, many Jews were left in a continued state of danger, homelessness, and confusion. The barbed wire remained, and overcrowding and destitute living conditions prevailed throughout the DP sites. Former Nazis and other displaced German nationals were often mixed together with the Jewish population, causing violence and bitter bigotry.

For those Jews who attempted to return to their pre-war homes, the situation was even worse. Their families had been murdered by Hitler's thugs; their former neighbors were embittered by years of war and suffering; and, as in Germany during the Depression, the temptation of a Jewish scapegoat was often too great. In a village near Vilna, Lithuania, five Jewish survivors were found murdered. Found in their pockets was a message written in Polish stating that "this will be the fate of all surviving Jews."

While many Holocaust survivors, including myself and my wife, were fortunate to be welcomed into this wonderful country, not all refugees were blessed with this option. Due to xenophobia and fears of Communist infiltration, even the existing legal immigration quotas were not filled. In other nations, outright bigotry prevented Jewish resettlement. Most Jews remained in Europe, locked behind the gates of DP camps or wandering amidst the remains of their pre-war lives, looking beyond the horizon for a land of their own, a homeland where they would be free from the struggles that had so painfully burdened them and their ancestors. They longed to create an independent Jewish state in their biblical mandate of Palestine.

"The Long Way Home" tells the beautiful and inspiring story of the achievement of the Zionist dream. With exceptional archival footage and gripping first-person interviews, it recounts the struggle from the concentration camps to the kibbutz, from Auschwitz to Jerusalem. It stirringly documents the attempts of refugees to enter Palestine, and the unyielding British opposition to the Zionist movement, which showed itself in the Royal Navy's interception of refugee ships and its deportation of their occupants to camps located in the 100-degree heat of Cypress. To the great credit and pride of the American people, it also documents the courageous and unabated support which President Harry S. Truman exhibited in his support of the Jewish people and their future State of Israel. As "The Long Way Home" inspiringly chronicles, this great man rejected anti-Semitic pressures and, guided by his most noble principles, led the fight in the international community for the establishment of a Jewish homeland.

This extraordinary film is a tribute not only to Holocaust survivors and the founders of Israel, but also to the outstanding talents of Hollywood's finest and most creative individuals. Writer-director Mark John Harris possesses an understanding of history matched only by his superior film making talents. Co-producer Richard Trank, cinematographer Don Lenzer, and editor Kate Amend also contributed to this masterpiece, as did the moving score of composer Lee Holdridge. Some of the most celebrated stars of the motion picture industry devoted their time, energy, and prodigious abilities to "The Long Way Home," most notably narrator Morgan Freeman and featured voices Edward Asner, Sean Astin, Martin Landau, Miriam Margolyes, David Paymer, Nina Siemaszko, Helen Slater and Michael York. Together they created, in the words of the Los Angeles Times, "an eloquent saga of historical importance" and "a major accomplishment."

Most of all, I would like to recognize my dear friend Rabbi Marvin Hier, dean and founder of the Simon Wiesenthal Center and the co-producer of "The Long Way Home." Rabbi Hier has devoted his life to ensuring the eternal remembrance of the Holocaust, and it was most appropriate that he accepted the film's Academy Award. As he looked out to the many prestigious guests and the hundreds of millions of worldwide viewers, he let no soul forget the purpose and meaning of his documentary: "This is for the survivors of the Holocaust, who walked away from the ashes, rebuilt their lives, and helped create the state of Israel. G-d bless them."

Mr. Speaker, the Kennedy Center, in cooperation with the Simon Wiesenthal Center, will present a screening of "The Long Way Home" tonight. I encourage my colleagues to attend, and I ask them to join me in celebrating the inspiring men and women to whom "The Long Way Home" is dedicated.

DISTRICT OF COLUMBIA STUDENT OPPORTUNITY SCHOLARSHIP ACT OF 1997

SPEECH OF

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 30, 1998

Mr. STARK. Mr. Speaker, I am opposed to the Republican District of Columbia School Vouchers Act. It was brought to the floor on false logic and ignores the real problems in public education.

Let's take the Republican argument at face value for a minute. If public schools in the District of Columbia are unable to educate our children, as my colleagues claim, is the solution to remove 2,000 of them and place them in private schools? What do we do for the 76,000 students left behind?

In fact, these 75,000 will have to do with less funds available to help their education. It will cost $7 million to educate these 2,000 students in private schools—but this bill does not allow for additional funds to help the remaining children. How else could this $7 million be spent? The money could pay for after-school programs in each and every D.C. public school, 368 new boilers, could rewire 65 schools, upgrade plumbing in 102 schools, or buy 460,000 new textbooks.

The people who live in the District of Columbia do not want this bill. The people of the District of Columbia did get the chance to vote on vouchers when the issue was placed on the ballot. It was defeated by a margin of eight to one.

The residents of our host city do not deserve to be experiments for right-wing think tanks that promote ideas favored by the Christian Coalition and the religious right.

If my colleagues on the other side are truly interested in helping students enrolled in public schools, I offer some suggestions for them. Why don't we increase the funds available for teacher salaries? How about holding teachers to educational standards of their own to make sure that those who teach our children are actually qualified to do so? What about providing a textbook in every core subject for every school child in America?

What about adopting the President's plan to improve our educational infrastructure? We need to make sure that school classrooms are not falling apart and students have the resources they need, whether they be textbooks or access to the Internet, to be able to succeed in today's world.

My Republican friends could make a strong stand for education by adopting these policies. Instead they shower us with rhetoric about helping children, when this is really an attack on public education across the country.

The schoolchildren of the District of Columbia deserve our help and need our assistance. This is the wrong move, the wrong idea, and the wrong time and place. I urge my colleagues to take a real and meaningful stand for children and education.

THE YEAR 2000 PROBLEM

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. PACKARD. Mr. Speaker, by now we have heard about the problems that will ensue in less than two years if computer systems across the nation are not updated. In the past, computers were programmed to assume all years were in the 1900s, so when the year 2000 rolls around, most systems will incorrectly interpret the last two digits and read it as 1900. This could have a profound effect on our daily lives: automatic banking functions may fail, medical systems could malfunction, and power systems might stop working.

If this problem is not remedied, it will most likely have a devastating impact on our economy. Today's Wall Street Journal reports that "the U.S. may experience a $1 trillion drop in nominal GDP and a $1 trillion loss in stock market capitalization." Mr. Speaker, I don't see how our economy could possibly survive these losses.

For years experts have been aware of the Year 2000 Problem, but nothing has been done to remedy the situation. The President and Vice President have ignored this dilemma, despite their claims to make technology a top priority in both terms of their administration. We need leadership in this effort, and we are not seeing it come from the White House.

Imagine the disaster that could result if air traffic control devices simultaneously fail when the clock strikes midnight on January 1, 2000. Clearly this is not an issue that we can take lightly. Mr. Speaker, it is up to us to do our part and make sure that government computers are updated and to educate the public on this potential crisis. I commend the Senate for taking the initiative to form a Special Committee to oversee this transition. It's time the Administration begins doing its part to combat the Year 2000 Problem.

TRIBUTE TO RICHARD AND BARBARA ROSENBERG

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. SHERMAN. Mr. Speaker, I rise to pay tribute to Richard and Barbara Rosenberg for their outstanding commitment to strengthening the Jewish community in the Conejo Valley and for their support of the State of Israel. They will be awarded the Builders of Freedom Award in recognition of their dedication.

We are told in the Talmud that "He who does charity and justice is as if he had filled the whole world with kindness." For over 18 years Richard and Barbara have been dedicated members of Temple Etz Chaim, as well as social activists in the Jewish community. They have each worked to improve our community.

Barbara has served the Temple on the Board of Directors as Vice President of Ways and Means, Social Action and currently Youth

Activities. She also holds positions on the Membership, Ways & Means and Religious Education Committees.

An avid supporter of education, Barbara has served on the Board of the Los Angeles Hebrew High School for the past three years. There she has worked to solidify the Jewish community through a Jewish Federation/Valley Alliance sponsored "Mitzvah Day." This program has brought other Conejo Valley congregations and Jewish organizations together for service to the community. During her two years as president of the Religious School Parent Volunteer Group, Barbara was instrumental in its reorganization so that it could better make a difference in the community.

Richard has served on the Temple Board as Vice President of Development, and was actively involved in both the building process and the solicitation of funds for the new building. He has served on the Men's Club Board, has been an active participant in many of its programs from picnics to sukkah building and has labeled, sorted and mailed the temple bulletin for almost 18 years.

We are told in the Talmud that "When you teach your son you teach your son's sons," and both Richard and Barbara Rosenberg have taken that commitment to education seriously. In addition to their work to fortify the Jewish community as a whole, they have also raised their children with a love of Judaism and a commitment to "make a differnce" in the world. They are strong supporters of the State of Israel and have traveled there on several occasions. For their work they have been awarded the Builders of Freedom Award.

Mr. Speaker, distinguished colleagues, please join me in paying tribute to Richard and Barbara Rosenberg. Their dedication to charity and the strengthening of community makes them role models for us all.

ADDRESS OF PRESIDENT RICHARD C. LEVIN OF YALE UNIVERSITY AT THE NATIONAL CIVIC COMMEMORATION OF THE DAYS OF REMEMBRANCE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. LANTOS. Mr. Speaker, on Thursday, April 23, Members of Congress joined with representatives of the diplomatic corps, executive and judicial branch officials, and hundreds of Holocaust survivors and their families to commemorate the National Days of Remembrance in the rotunda of the United States Capitol. The keynote address at this solemn ceremony was delivered by the distinguished President of Yale University, Dr. Richard C. Levin's meaningful words served to remind us all of our communal responsibility to educate our children and grandchildren.

Dr. Levin is the twenty-second President of Yale University. Prior to his outstanding service in this office, he added to the University's unparalleled reputation through his efforts as the Frederick William Beinecke Professor of Economics at Yale. In addition to teaching a wide variety of courses on subjects ranging from the oil industry to the history of economic thought, President Levin served on dozens of major committees and rose in the administrative ranks to become the chairman of the economics department and the dean of the graduate schools at Yale before his October 2, 1993 inauguration as President of the University.

Mr. Speaker, I insert President Levin's thought-provoking remarks for the RECORD, and I urge my colleagues to take note of their meaning and importance.

"BLESSED IS THE MARCH. . ."

(By Richard C. Levin)

The main camp at Auschwitz was situated, not in remote isolation, but in a densely populated region. To the east, immediately adjacent to the camp, was a pleasant village, complete with a hotel and shops, built to house SS troops and their families. One mile farther east was the town of Auschwitz, intended by the very men who ordered the construction of the camps to be a center of industrial activity, a focus of German resettlement at the confluence of three rivers, with easy access to the coal fields of Upper Silesia.[1]

In his chilling work on the origins of Auschwitz, Robert-Jan van Pelt documents the Utopian vision that drove the systematic planning for German colonization of the East. In December 1941, Hans Stosberg, the architect and master planner, sent his friends a New Year's greeting card. On the front he wished them "health, happiness, and a good outcome for every new beginning." The card's central spread depicted his drawing for a reconstruction of the central market place in Auschwitz. The inscription on the back of the greeting card connected Stosberg's current project with National Socialist mythology;

"In the year 1241 Silesian knights, acting as saviors of the Reich, warded off the Mongolian assault at Wahlstatt. In that same century Auschwitz was founded as a German town. After six hundred years [sic] the Führer Adolf Hitler is turning the Bolshevik menace away from Europe. This year, 1941, the construction of a new German city and the reconstruction of the old Silesian market have been planned and initiated."

To Stosberg's inscription, I would add that during the same year, 1941, it was decided to reduce the space allocated to each prisoner at the nearby Auschwitz-Birkanau camp from 14 to 11 square feet.

How, in one of the most civilized nations on earth, could an architect boast about work that involved not only designing the handsome town center depicted on his greeting card but the meticulous planning of facilities to house the slave labor to build it?

This is but one of numberless questions that knowledge of the Holocaust compels us to ask. In the details of its horror, the Holocaust forces us to redefine the range of human experience; it demands that we confront real, not imagined, experiences that defy imagination.

How can we begin to understand the dehumanizing loss of identity suffered by the victims in the camps? How can we begin to understand the insensate rationality and brutality of the persecutors? How can we begin to understand the silence of the bystanders? There is only one answer: by remembering.

The distinguished Yale scholar, Geoffrey Hartman, tells us, "the culture of remembrance is a high tide. * * * At present, three generations are preoccupied with Holocaust memory. There are the eyewitnesses; their children, the second generation, who have subdued some of their ambivalence and are eager to know their parents better; and the third generation, grand-children who treasure the personal stories of relatives now slipping away.[2]

The tide will inevitably recede. And if there are no survivors to tell the story, who will make their successors remember and help them to understand? Holocaust Memorial Museum in Washington, along with those of sister museums in other cities, are educating the public about the horrors of the Shoah. Museums, university archives, and private foundations are collecting and preserving the materials that enable us to learn from the past, and it is the special role of universities to support the scholars who explore and illuminate this dark episode in human history. Our universities have a dual responsibility: to preserve the memory of the Holocaust and to seek a deeper understanding of it.

This is a daunting and important responsibility. To confront future generations with the memory of the Holocaust is to change forever their conception of humanity. To urge them to understand it is to ask their commitment to prevent its recurrence.

In the words of Hannah Senesh, the 23-year-old poet and patriot executed as a prisoner of the Reich in Budapest, "Blessed is the match that is consumed in kindling a flame." May the act of remembrance consume our ignorance and indifference, and light the way to justice and righteousness.

FOOTNOTES

[1] Robert-Jan van Pelt, "Auschwitz: From Architect's Promise to Inmate's Perdition," Modernism/Modernity, 1:1, January 1994, 80-120. See also Deborah Dwork and Robert-Jan van Pelt, Auschwitz: 1270 to the Present, New York: W.W. Norton, 1996.

[2] Geoffrey Hartman, "Shoah and Intellectual Witness," Partisan Review, 1998:1, 37.

THE CENTENNIAL OF THE COLUMBIA UNIVERSITY SCHOOL OF SOCIAL WORK

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. NADLER. Mr. Speaker, on the occasion of the Centennial of the oldest social work training program in the nation, I hereby offer congratulations to the Columbia University School of Social Work. Evolving from a summer program organized by the Charity Organization Society in New York, the school of Social Work has a long and distinguished history of pioneering research, informed advocacy and exceptional professional training.

It is a remarkable accomplishment that social workers have played key roles in every major social reform movement, from settlement houses to labor reform, to the New Deal, to civil rights and voter registration. Many of the things we take for granted today—Social Security, child labor laws, the minimum wage, the 40-hour work week, Medicare—came about because social workers saw injustice, acted, and inspired others.

Throughout the century Columbia's faculty, students and alumni have worked tirelessly to address both the causes and symptoms of our most pressing social problems. National movements, such as the White House Conference on Children and the National Urban League, have emerged from projects undertaken by the School's faculty and administrators in cooperation with professional and community organizations. The entire nation has benefitted from the work of people like Eveline Burns (Social Security); Mitchell I. Ginsberg (Head Start); Richard Cloward (welfare rights and voter registration); Alfred Kahn and Sheila B. Kamerman (cross-national studies of social services) and David Fanshel (children in foster care).

As your School, and indeed the social work profession, move into their second centuries, they will be challenged to respond to social change, new social problems, family change, and evolving societal commitments. Now more than ever, we will need well-trained and dedicated social workers to work with troubled children and families, organize communities for change, conduct cutting-edge research, administer social programs, and alleviate society's most intractable problems.

It is with appreciation and admiration that I extend my best wishes to the Columbia School of Social Work on its Centennial and look forward to its future activity and achievement.

HONORING DETECTIVE WILLIAM CRAIG, NORTH MIAMI POLICE DEPARTMENT

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mrs. MEEK of Florida. Mr. Speaker, on Friday, May 15, 1998, Detective William E. Craig will retire from the North Miami Police Department after a quarter-century of protecting its citizenry. He has received numerous commendations during his service and is highly regarded by his peers.

Detective Craig, who has been with the Detective Bureau for nearly his entire career, was instrumental in forming North Miami's Major Case Squad when the city began investigating their own major crimes. Detective Craig has investigated all types of cases: burglaries, robberies, sexual batteries, and homicides.

Detective Craig was selected as North Miami's "Officer of the Month" several times during his career and was twice named its "Officer of the Year" in 1984 and 1994. He was chosen as the Dade County Police Benevolent Association's "Officer of the Year" in 1994, when his investigative skills led to the arrest of two separate serial killers.

In addition to his qualities as an investigator, Detective Craig also possesses a genuine concern for victims and their families. His compassion toward elderly victims is especially notable.

For twenty-five years, Detective Bill Craig has been a teacher, comedian, partner, leader and especially, friend to all in the North Miami Police Department. As he moves forward into the next stage of his life, I wish him Godspeed.

TRIBUTE TO RABBI SHIMON AND CAROL PASKOW

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Rabbi Shimon Paskow and his wife Carol for their lifetime support of the State of Israel.

Cicero once observed how "dear, sweet and pleasing to us all is the soil of our native land." Rabbi Shimon and Carol Paskow have served both the United States and Israel with uncompromising loyalty and unending energy. This year, in recognition of their efforts, Rabbi Shimon Paskow and his wife Carol will be awarded the Golden Shofar Award by the State of Israel Bonds. Together, they have led thousands of people to Israel, helping these individuals and their families create a bond to the Jewish homeland that will last a lifetime.

Throughout his exemplary career, Rabbi Shimon has done outstanding work for the Jewish community at home and abroad. In 1960, Rabbi Shimon entered the United States Army and served as a Jewish chaplain in France and Germany and was honored by the Commanding General of the Fourth Logistical Command and the National Jewish Welfare Board. Later, he served as Deputy Command Chaplain in Alaska and the Reserve Jewish Chaplain for Tipler Army Medical Center in Hawaii. In 1993, he was decorated by the United States Army with the Meritorious Service Award.

Returning to California, Rabbi Shimon has enriched the lives of hundreds of teenagers, college students, and young couples through his community involvement. He has served as the spiritual leader of Temple Etz Chaim for almost 30 years, and under his guidance the temple has grown by leaps and bounds, expanding membership from just under 100 families in 1969 to just over 700 families today. But Rabbi Shimon's influence has not been bound by temple walls. He has reached out to Jewish communities in both Ventura County and across the country. As a member of the Community Relations Committee of the San Fernando Valley Area Council, he was appointed by the Mayor to serve on a Community Advisory Committee. He was one of the first activists instrumental in gaining interest in the plight of Russian Jews. Through this effort, Rabbi Paskow has helped thousands of Jews escape Russian persecution and migrate to Israel and other Western countries.

Mr. Speaker, distinguished colleagues, as we near the celebration of Israel's 50th anniversary as a free and independent state, please join me in paying tribute to Rabbi Shimon and Carol Paskow for their volunteerism on behalf of the State of Israel and its people.

NORTHSTARS DANCE ENSEMBLE DAZZLES WASHINGTON, DC

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. WALSH. Mr. Speaker, today I ask my colleagues to join me in congratulating the Northstars Dance Ensemble for wins in the national dance titles of the Marching Auxiliaries of America Southeast Championships and the Showcase America Unlimited State/National Championships.

The Northstars have been competing on a national basis since 1980 and have won many regional and national titles.

This season the Northstars' impressive national titles were coupled with the prestigious honor of being selected by the American Dance/Drill Team to represent them in a performance in front of the Reflecting Pool in Washington, D.C. and to march in the Cherry Blossom Festival Parade on Easter Weekend.

Our Central New York community is proud of the hard work and dedication displayed by the talented members of the Northstars Dance Ensemble. I am equally proud of the support received by their parents and community.

Members of the 1998 Northstars Dance Ensemble are Captain Nicole Proscio, Co-Captains Heather Brownell and Kerri Styn, Stephanie Anderton, Dawn Bombard, Sandra Brewer, Allison Brown, Emily Brown, Laura Buchanan, Micki Downs, Renee Hunt, Stephanie Keiser, Erica Laverne, Lyndsey Ludovici, Cathy Mauro, Cindy McCartney, Melissa Messano, Katie Mulrooney, Karen Russo, Angelina Savinelli, Sara Slifka, Sara Warner, Hilary Woznica, Christine Yott, Director/Choreographer Marian Lillie, Assistant Director Cristine Fix, and Creative Staff Kim Miller, Debra Holden and Barb Keck.

Congratulations to the members of the Northstar Dance Ensemble for their impressive achievements.

ADDRESS OF THE HONORABLE MILES LERMAN AT THE NATIONAL CIVIC COMMEMORATION OF THE DAYS OF REMEMBRANCE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. LANTOS. Mr. Speaker, on Thursday, April 23, Members of Congress joined with representatives of the diplomatic corps, executive and judicial branch officials, and hundreds of Holocaust survivors and their families to commemorate the National Days of Remembrance in the rotunda of the United States Capitol. Miles Lerman, the respected Chairperson of the United States Holocaust Memorial Council and one of America's most distinguished advocates for Holocaust remembrance, delivered a moving speech devoted to the theme of this year's ceremony, "Children of the Holocaust: Their Memories, Our Legacy." Mr. Lerman eloquently and emotionally described the tragic death of 1.5 million children at the hands of Hitler's storm troopers, and, by telling the story of one young victim, conveyed to the audience the extent of our society's void because of their loss.

Miles Lerman has served as Chairperson of the United States Holocaust Memorial Council since 1993. A member of the Advisory Board of the President's Commission on the Holocaust, he was appointed to the first United States Holocaust Memorial Council in 1980 by President Carter. Prior to his appointment to lead the Council, Mr. Lerman directed its International Relations Committee and served as National Chairman of the Campaign to Remember. During the Holocaust, he fought as a partisan in the forests of southern Poland. He and his wife, Chris, a survivor of Auschwitz, rebuilt their lives in the United States; they have two children.

Mr. Speaker, I insert Miles Lerman's thought-provoking address for the RECORD, and I implore my colleagues to read them and appreciate them.

MILES LERMAN'S REMARKS, NATIONAL DAYS OF REMEMBRANCE, CAPITOL ROTUNDA—APRIL 23, 1998

Distinguished Ambassadors, Honorable Members of Congress, ladies and gentlemen.

As the Honorable Ambassador, Eliahu Ben Elissar pointed out to you, the State of Israel is celebrating its 50th anniversary of independence.

The United States Holocaust Memorial Council was pleased to mark this occasion by including the flag of the Jewish Brigade in the presentation of the flags of the American liberating units.

On behalf of the United States Holocaust Memorial Council, I would like to extend our best wishes on this special anniversary to the people of Israel and to the State of Israel.

It is our most fervent hope that the peace negotiations between the State of Israel and the Palestinian Authority will come to an understanding which will bring peace to this troubled region.

Happy anniversary and may your efforts for a permanent peace agreement be crowned with full success.

The theme of this year's National Days of Remembrance is remembering the children and fulfilling their legacy.

So let remembrance be our guide.

One of the expert witnesses called to testify at the trial proceedings of Adolf Eichman in Jerusalem was the world renowned historian Professor Salo Baron.

In his expert testimony, Professor Baron made the case not only for the terrible losses that the Jewish people suffered at the hands of the Nazis but he more specifically underscored the great loss that humankind at large has suffered for having been deprived of the potential talents and brain power of the one and a half million children who perished in the Holocaust.

Professor Baron stressed a point that the world is much poorer today because of these great losses.

He was bemoaning the losses of the future scientists and scholars who did not get to research. He was bemoaning the future composers who did not get to compose; the teachers who did not grow up to teach; and the doctors who never got to heal.

One and a half million murdered children is such a staggering number that it is most difficult to comprehend. This is why I thought that perhaps singling out and remembering the tragedy of one child would symbolize the great loss of all the children who were annihilated by the Nazis.

So today let us remember Deborah Katz.

In the Holocaust archives there is a letter written in 1943 by a Jewish girl by the name of Deborah Katz. She was nine years old when she and her family were taken out of the ghetto and loaded into cattle trains destined for the death camp of Treblinka.

Her parents managed to pry open a small window of the box car and threw the child out hoping that a miracle would happen and she would survive.

A Catholic nun happened to pass by and found the injured child. She brought her to the convent and hid her among the sisters who gradually nursed Deborah back to health.

The child was in comparative safety and she had a good chance to survive.

One morning, however, the nuns woke up and found a letter on Deborah's bed and this is what the nine year old child wrote.

"It's bright daylight outside but there is darkness around me. The sun is shining but there is no warmth coming from it. I miss my mommy and daddy and my little brother, Moses, who always played with me. I can't stand being without them any longer and I want to go where they are."

The following morning Deborah Katz was put by the Gestapo on the next trainload—destination—the gas chambers of Treblinka.

Today, I want to say to little Deborah, if you can hear me, poor child, and I know that you can. I want you to know that there is no more darkness, thank God. The sun is shining again and warming little children like you. And what is most important, dear child, I want you to know that you did not die in vain. You have touched the hearts of many decent people, far far away from the place where you lived and died.

There is a museum in Washington where within the last five years more than ten million visitors came to remember the horrors of those dark days.

You are not forgotten, little Deborah, and you will serve as an inspiration to many children throughout the world to make sure that in years to come, no child of any people, in any country, should ever have to go through the agonies and pains that you have suffered.

DON'T LET FRAUD BLEED MEDICARE: OPPOSE EFFORTS TO GUT THE FALSE CLAIMS ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. STARK. Mr. Speaker, there is a move afoot to re-open Medicare and other federal health care programs to gross waste, fraud and abuse. The legislative Trojan Horse in question is the "Health Care Claims Guidance Act," (H.R. 3523) which would erect huge new barriers to federal prosecution of cases that target claims submitted with reckless disregard, deliberate ignorance or actual knowledge that the claim is false.

I strongly urge my colleagues not to support—or to withdraw their support—for this pernicious legislation.

The False Claims Act is the primary mechanism used by the Department of Justice to recover money paid out for services that Medicare doesn't cover, or that have no medical record to back them up. It's a civil, not a criminal statute, and has been used since Abraham Lincoln's administration to punish contractors who defraud the government. In the 1980's, the False Claims Act was used against defense contractors who overbilled the government by millions of dollars for items like those infamous toilet seats. Last year, the Department of Justice used the law to recover about $100 million in health care actions. Measured against the roughly $100 billion that Medicare pays out every year in hospital claims, that's a relatively modest amount.

But that figure may rise in the future, because the False Claims Act is now being used more effectively to crack down on providers who deliberately overcharge Medicare through upcoding, unbundling, and other rip-off schemes. An alarming book by Harvard economist Malcolm Sparrow, "License to Steal," documents how unscrupulous providers can devise billing strategies that pass muster under Medicare's claims processing system. It is precisely these kind of over-aggressive, sophisticated billing practices that the federal government is trying to stop using the False Claims Act.

That's why the effort by the American Hospital Association to create a "free fraud zone" for providers who wished to overbill Medicare by as much as $11.4 billion every year is so offensive. The kind of cases that are brought under the False Claims Act are NOT innocent billing mistakes. I like to call H.R. 3523 the Columbia/HCA Protection Act, since even AHA admits that if the bill were enacted, it could be used to get the poster child for health care fraud off the hook!

In addition to dismissing pending cases, the bill includes a "material amount" provision that Justice Department officials say would effectively shut down most False Claims Act cases. Simply put, the bill's proposed threshold of 10% would prohibit the government from bringing suit at all—unless the disputed amount exceeded 10% of the hospital's billing to Medicare or Medicaid for the entire year. So in effect, a large provider like Columbia could submit hundreds of millions of dollars in false claims every year—no questions asked. That's a form of immunity that the tobacco industry might well envy.

We must not go down that route. We must not enact legislation like the Health Care Claims Guidance Act that raises the government's burden of proof and makes hospital compliance plans into escape hatches for providers who fraudulently bill. I strongly believe, and I know the Administration does too, that providers who deliberately scam the system must be punished.

On the American Hospital Association's web page is an announcement that AHA is "working with state metropolitan associations to identify a hospital that would be willing to be a plaintiff in a court case against the Justice Department." Let 'em sue. Any decent court will throw out a case that attempts to roll back the legal and proper use of the False Claims Act in recovering taxpayer's money that was inappropriately paid to hospitals for services that have no medical record to back them up. Congress should also throw out H.R. 3523, which Senator GRASSLEY has called a "misguided missile in the war against fraud."

I'd like to make a point about how the False Claims Act is being used to stop patient abuse. In 1996, the law was successfully used to bring suit against three Philadelphia-area nursing homes that were found to be denying wound care and nutrition to three residents. In plain English, the nursing homes were starving the residents and ignoring their very serious skin ulcers, while continuing to submit false claims to Medicare and Medicaid. The amount of claims money involved was not large. But the statute was effectively used to stop the horrendous abuse of helpless, frail people, and to severely punish the nursing home.

Experts say that the Philadelphia nursing home settlements are helping to establish a clear precedent for use of the False Claims Act in poor quality of care cases. But if H.R. 3523 is enacted, the law's present deterrent value against patient abuse would be nullified.

The sheer toll that fraud and overpayment exacts on federal health programs each year makes it imperative that the federal government use every means available to fight back. The False Claims Act is a critical part of our current legislative arsenal, since it harnesses the energies of whistleblowers who are in a position to observe bad billing practices that the best computers can never detect. After all, if a claim looks okay, Medicare requires intermediaries and carriers to pay it within 14 days.

It is perhaps not surprising that just as the federal government steps up its anti-fraud efforts, doctors and hospitals are beginning to complain loudly that they are somehow being "unfairly targeted." This response from providers may even signal a certain level of fear that the federal government's no-questions-asked payment policy is changing. As it must: The latest report from the HHS Inspector General shows hospitals were paid $6 billion too much last year. Physicians were also paid $6 billion too much, and overpayments to home health agencies reached $2.5 billion. Fraud costs Medicare billions every year that it can ill afford to lose, and it must be stopped.

A back-of-the-envelope calculation shows that if fraud ceased today, the five-year savings would amount to more than $100 billion. That's enough to extend the life of the hospital insurance trust fund by an additional seven years, and is nearly equal to what the Balanced Budget Act saved last year! The government's war against Medicare fraud has only begun, and the IG's audit makes it clear that no one who supports a "zero tolerance for fraud" policy can support H.R. 3523.

I've probably introduced more legislation in this area than any other member of Congress—13 bills in the 105th Congress alone. A bill that I will shortly propose would give back to HCFA an authority it used to have—the ability to adjust base payments to Medicare HMOs every year, based on the previous year's documented overpayment or underpayment. Right now, the Congressional Budget Office says Medicare will overpay HMOs by $31 billion over the next 10 years! HCFA has always had the flexibility to adjust payments for Medicare managed care plans—until the Balanced Budget Act took it away last year. That's a legislative mistake that must be fixed soon, or taxpayers will be outraged.

MCCARRICK ELEMENTARY SCHOOL OF FALL RIVER, MA RECOGNIZED FOR EXCELLENCE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. FRANK of Massachusetts. Mr. Speaker, I would like to call to my colleagues' attention the recognition bestowed on McCarrick Elementary School of Fall River, Massachusetts, which was recently chosen as a Title I Distinguished School. McCarrick is located in the second largest city in my Congressional District in an area which unfortunately has high levels of unemployment and other social problems that have often been barriers to educational achievement. However, because of the hard work of the entire McCarrick community, the school has compiled a strong record of achievement over the past few years.

McCarrick has developed an effective curriculum with a heavy emphasis on literacy, professional development partnership with other community institutions, and, above all, commitment to the growth of every student. This focus and commitment has allowed McCarrick to be one of only 109 schools across the country honored this year as a Title I Distinguished School by the National Association of State Coordinators of Compensatory Education in partnership with the U.S. Department of Education. The criteria on which the selections were based are 1) opportunity for all children to meet proficient and advanced levels of performance; 2) professional development; 3) coordination with other programs; 4) curriculum and instruction to support achievement of high standards; 5) partnership among schools, parents and communities; and 6) three years of successful achievement data. A special award ceremony recognizing all the honorees will take place today at the International Reading Association Conference in Orlando, Florida.

Mr. Speaker, it is a paradox of government that those who do the most for others frequently get the least recognition, and I can think of no example of which this is more true than our public schools. All public schools face a constant battle to provide the best possible education they can, more often than not with inadequate financial resources. This is particularly true for schools with high percentages of low income students, where additional instruction in basic academic skills, including English proficiency, is often necessary. So, I think it is particularly appropriate to honor in this fashion the Title I schools that have done such a good job, and I congratulate the staff, students and families who have done so much to make McCarrick a successful institution of learning. Because I believe it is important to both recognize quality public education and to emphasize how important and effective the Title I program is, insert the school's mission statement and some additional background on its curriculum for printing in the RECORD.

MISSION STATEMENT

The McCarrick School is striving to provide a safe, attractive, physical environment that fosters learning. Our aim is to provide an atmosphere of encouragement in which each child can maximize his/her potential. Everyone works to promote a climate that is conducive to the intellectual, social, and emotional growth of each child. We wish to acknowledge the individual learning styles of children, thereby producing students that read, write, compute and critically think to the best of their ability.

In this increasingly technological world the ability to write with organization and clarity is more important than ever. Our goal is to have every child—with no exception—communicate fluently, using the written word.

Our vision is to enhance the curriculum through technology. Every child shall be computer literate, and know how to access information. We want to prepare students to be active well-rounded citizens of the twenty-first century. In order for them to lead productive, fulfilling lives, we must begin the process of making them lifetime learners.

OPPORTUNITY FOR ALL CHILDREN TO MEET PROFICIENT AND ADVANCED LEVELS OF PERFORMANCE

In the Spring of 1996, we decided to adopt a Title One Schoolwide Program. In retrospect, it was the single most important, educational decision in the school's short history. It opened the doors to systemic change. The springboard for this process of change was propelled by our invitation to attend the first New England Conference for Schoolwide Programs. We shared a genuine feeling of mission to use literacy as the integral part of our schoolwide program, both across subject areas and grade levels. In order to accomplish this we needed to better use our available resources. These include: Title One Schoolwide Program, Reading Recovery, First Steps, part time reading teacher, adoption of a new math program, hands-on science kits and two graduate social work interns in the MSW program at Boston University.

CURRICULUM AND INSTRUCTION TO SUPPORT ACHIEVEMENT OF HIGH STANDARDS

The staff of the McCarrick School believe in high standards for all. Our logo is a lighthouse, and our motto is "We Shine!" We have a unified thematic approach which weaves itself into all areas of the curriculum. To help us in this approach we use many programs.

The Title 1 Schoolwide Program enables each child to receive help at his/her level. Because of our school-wide program there is more open dialogue. Teams of teachers meet with the Title 1 teacher and supervisor to coordinate students' writing skills. This reduces fragmented learning and makes us a more cohesive unit.

Reading Recovery is a safety net for first graders at risk. It is a data-based, highly prescribed method of one-on-one tutoring that targets children needing more specific instruction to develop reading strategies.

Our Reading Teacher is on staff for three days a week. She offers instructional support to small groups of children who require intervention to maintain grade level skills.

We have adopted a Hands-on Math program that is proving highly successful. Manipulatives are the key to this innovative approach. The students acquire mathematical concepts and creative problem-solving skills.

Our Science Program is a Hands-on Approach, exercising critical thinking, data based prediction, and utilizes kits of materials sent out and collected by the Office of Instruction. The students participate enthusiastically in the projects and experiments.

The Title 1 nurse will instruct all grades K-5. Focusing on need, areas to be discussed will be hygiene, dental, safety, drug awareness and self-esteem. A contact, by the nurse, has been made to the Fall River Police Department. A safety officer will visit all classrooms and offer additional advice on personal safety and drug awareness.

Our principal, Mary Whittaker, a Licensed Independent Clinical Social Worker is privileged to be a Field Instructor for the Boston University School of Social Work. She supervises the clinical training and field work of two NSW candidates each year, which affords the school a gamut of Social Services not available to most. The graduate interns work with individuals, groups, and families, providing counseling and therapeutic intervention.

The staff of McCarrick believe strongly that an appreciation for the Arts is essential to the education of every student. The principal was appointed to the Executive Board of the Zeiterion Theatre in New Bedford. This enables the school to have free admission to cultural events, and very inexpensive hands-on theatrical/musical workshops given directly at the school.

TRIBUTE TO VICTIMS OF ARMENIAN GENOCIDE

SPEECH OF

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 22, 1998

Mr. RADANOVICH. Mr. Speaker, I would like to have the following testimony inserted into the CONGRESSIONAL RECORD. On May 15, 1996, this testimony on the Armenian Genocide was submitted to the House Committee on International Relations by Levon Marashlian, Professor of History at Glendale Community College, California:

In 1919, a political body called The National Congress of Turkey confirmed the overwhelming American evidence that the Armenians of the Ottoman Empire were victims of a mass destruction during World War I. The National Congress of Turkey declared that the "guilt" of the Turkish officials who "conceived and deliberately carried out this infernal policy of extermination and robbery is patent," those officials "rank among the greatest criminals of humanity."

The official Turkish gazette "Takvimi Vekayi" published the verdict of the post-war Ottoman trials of those officials. The Turkish court ruled that the intention of the Ottoman leaders was "the organization and execution" of the "crime of massacre."

German Ambassador Johann Bernstorff, whose country was allied with Turkey, wrote about "Armenia where the Turks have been systematically trying to exterminate the Christian population." Raphael Lemkin, who coined the word genocide in 1944, specifically cited the "genocide of the Armenians."

Those who today deny the Armenian Genocide are resorting to academically unsound revisionism, in order to prevent the moral act of remembering this crime against humanity. In the process the deniers are doing a disservice to the majority of today's Turkish people. By keeping the wounds open with their stonewalling tactics, by making it necessary to have hearings like this, they force the Turkish people to continue wearing like an albatross the negative image earned by a circle of officials who ruled eight decades ago.

A consideration of House Con. Res. 47, which remembers "the genocide perpetrated by the governments of the Ottoman Empire from 1915 to 1923," would provide a good opportunity to draw a distinction between the guilty and the innocent Turks, to remember also the Turks of decency who oppose their government's policy of inhumanity.

At a time today when so many people in our own society too often shirk their individual responsibility to make personal choices based on principles and values, it is a good lesson for us to recall the years when American witnesses and Turkish civilians made the personal choice to resist a wrong and save human lives, when a few Turkish officials even chose to object, even though doing so could have endangered their own lives.

One was Ottoman Senator, Ahmed Riza. In December 1915 he courageously condemned the policy to destroy and deport Turkey's two million Armenian citizens and expropriate their assets, which authorities were carrying out under the cover of a legislative fig leaf euphemistically called the Abandoned Properties Law.

"It is unlawful to designate" Armenian properties as abandoned, declared Senator Riza, because they did not leave their properties voluntarily. They were "forcibly" removed from their homes and exiled. "Now the government is selling" their possessions. "Nobody can sell my property if I am unwilling to sell it. This is atrocious. Grab my arm, eject me from my village, then sell my goods and properties? Such a thing can never be permissible. Neither the conscience of the Ottomans nor the law can allow it."

Mr. Chairman, during a debate on the Senate floor in February 1990, your colleague Robert Dole championed another resolution commemorating the Armenian Genocide (SJR 212), and declared, "it's finally time for us to do what is right. Right. We pride ourselves in America" for "doing what's right, not what's expedient."

In this case, doing what is right does not exact a big price. The frequently heard argument that a commemorative resolution will harm American-Turkish relations in not credible. It ignores the fact that the relationship is much more in Turkey's favor than America's. Not doing what is right, on the other hand, is tantamount to rejecting mountains of documents in our National Archives, testimonies that refute the denial arguments generated in Ankara and, most disturbingly, promoted in prestigious academic circles here in America.

This denial recently spurred over 100 prominent scholars and intellectuals, including Raul Hilberg, John Updike, Norman Mailer, Kurt Vonnegut, and Arthur Miller, to sign a petition denouncing the "intellectually and morally corrupt . . . manipulation of American institutions" and the "fraudulent scholarship supported by the Turkish government and carried out in American Universities.

A typical example of the powerful evidence in the US Archives is a cable to the State Department from Ambassador Henry Morgenthau: "Persecution of Armenians assuming unprecedented proportions. Reports from widely scattered districts indicate systematic attempts to uproot peaceful Armenian populations and through arbitrary arrests" and "Terrible tortures," to implement "wholesale expulsions and deportations from one end of the Empire to the other," frequently accompanied by "rape, pillage, and murder, turning into massacre . . ."

And the persecutions continued even after World War I ended in 1918. "It was like an endless chain," reported Edith Woods, an American nurse, in 1922. "The children would often be dead before I had taken their names. Forty to fifty of the older women died each day. . . . Their mouths were masses of sores, and their teeth were dropping out. And their feet, those poor feet, bleeding feet. . . . Deportation is sure death—and a far more horrible death than massacre. Unless one sees these things it is difficult to believe that such monstrous cruelty and barbarity exist in the world."

Ms. Woods' testimony ripped to shreds the web of denial being woven by Turkish officials in the early 1920's. She also exposed the new atmosphere of intensitivity at the American Embassy in Istanbul which contradicted the overwhelming sentiment of American public opinion and the spirit of Congressional resolutions in favor of Armenians that were passed during those days. This American woman made the personal choice to speak up against the response at her own Embassy, a policy imposed by acting ambassador Admiral Mark Bristol, who, driven obsessively by commercial interests, was colluding in a cover-up crafted by Turkish authorities.

Allen Dulles, the State Department's Near East Division chief (and later CIA Director), found it hard to keep things under wraps as Bristol requested. "Confidentially the State Department is in a bind," Dulles cautioned in April 1922.

"Our task would be simple if the reports of the atrocities could be declared untrue or even exaggerated but the evidence, alas, is irrefutable and the Secretary of State wants to avoid giving the impression that while the United States is willing to intervene actively to protect its commercial interests, it is not willing to move on behalf of the Christian minorities."

And the evidence mounted. In May 1922, four American relief workers, Major Forrest D. Yowell of Washington DC, Dr. Mark Ward of New York, Dr. Ruth Parmalee of Boston, and Isabel Harely of Rhode Island, were all expelled from their posts in Turkey because they too chose to do what is right, they protested the ongoing persecutions. Major Yowell said Armenians in his district were "in a state of virtual slavery," with "no rights in the courts."

Dr. Ward quoted Turkish officials. One Turk declared: "We have been too easy in the past. We shall do a thorough job this time." Another remarked: "Why do you Americans waste your time and money on these filthy Greeks and Armenians? We always thought that Americans knew how to get their moneys worth. Any Greeks and Armenians who don't die here are sure to die when we send them on to Bitlis, as we always choose the worse weather in order to get rid of them quicker."

Not all Turks were so cruel. A British diplomat reported that another American in Turkey, Herbert Gibbons, knew of prominent Turks who protested the "unparalleled inhumanity:" but they were "beaten and sent away" for intervening. The Mayor of the Black Sea city of Trabzon had no sympathy with the government's policy and did what little he could. The Governor also opposed the "massacres and persecutions," but was powerless to stop it. His predecessor tried and was removed.

Gibbons thought the government's policy was "a calumny upon the good Turks, of whom there are many," Massacres never broke out spontaneously, since "Christians and Moslems ordinarily get along very well." The massacres were ordered, as part of a plan "to make Turkey truly Turkish."

Yet there are "humane and kind hearted Turks," Gibbons stressed, and there are "Mohammedans who fear God and who are shocked by the impious horrors of the extermination policy."

Revisionists today say in that effect Americans like Forrest Yowell, Mark Ward, Ruth Parmalee, Isabel Harley, Edith Woods, Herbert Gibbons, and Ambassador Henry Morgenthau were either liars or misguided.

Remembering the atrocities against the Armenians would show respect for those Americans who spoke up, and respect as well for Turks like Senator Riza who also chose to oppose the injustice. A recognition of the Armenian Genocide by the US Congress would be a step toward helping erase described in 1951 as "this black stain on the forehead of the Turkish people."

Encouraging Turkey to face the facts of its history would help lift the cloud of controversy which haunted it for decades. It would help eliminate the deep roots of Armenian-Turkish enmity, paving the way to normalized relations, and it would give Armenia the sense of security many Armenians feel is necessary if they are to respond to Russia's regional policies with more independence and balance. The prospects for American commerce and regional stability would be strengthened by a recognition of the Armenian Genocide.

Acknowledging the Armenian Genocide also would show that Congress cannot condone the brazen contradiction of its own Archives and the dangerous corruption of America's academic institutions. It would send a strong signal to all deniers of genocide, especially to deniers of the Holocaust. Mr. Chairman taking a stand against the denial of the Armenian Genocide would be entirely consistent with the successful resolution "Deploring Holocaust Deniers" which you so wisely introduced last December, in which you too did what is right, by calling denial efforts "malicious." Such language is applicable to the denial of the Armenian Genocide as well.

Mr. Speaker, when weighing the merits of the arguments on both sides of this issue, it would be useful to keep in mind a letter sent to Secretary of State Charles Evans Hughes in 1924 by Admiral Bristol, a man who was called "very pro-Turk" by Joseph Clark Grew, Washington's first Ambassador to Ankara. Even the pro-Turk Admiral acknowledged "the cruelties practiced upon the Armenians by Turks acting under official orders, and in pursuance of a deliberate official policy." For that policy, wrote Admiral Bristol, "there can be no adequate excuse."

HONORING STUDENTS IN FREE ENTERPRISE

HON. JAMES C. GREENWOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. GREENWOOD. Mr. Speaker, I rise today to pay tribute to an outstanding organization in our country called Students In Free Enterprise.

Students In Free Enterprise (SIFE), is a non-profit organization located on over 500 college campuses across the United States. SIFE has continually encouraged the free enterprise system through educational programs since its inception more than 20 years ago. Students in the organization dedicate their time and resources to helping others. SIFE's mission is to provide college students the best opportunity to develop leadership, teamwork and communications skills through learning, practicing and teaching the principles of free enterprise. SIFE is not only involved with the encouragement of free enterprise, but has also worked closely with international charitable organizations. Students involved in this organization gain valuable leadership, communication and business skills by teaching others, especially at risk youth.

The Students In Free Enterprise organization is a valuable asset to the citizens of our country. In honor of their many charitable and civil contributions, I join my colleagues in the House of Representatives in recognizing May 12, 1998 as National Students In Free Enterprise Day.

I congratulate SIFE as they continue their mission of helping people achieve their dreams through free enterprise education.

A TRIBUTE TO BLUE RIBBON WEEK

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the dedication and fine work of the many peace officers serving the cities and County of San Bernardino in California. To recognize the work they do to protect and serve our citizens, the week of May 11, 1998 has been designated as Blue Ribbon Week. Inland Empire Chapter 67 of the International Footprint Association—an organization made up of police, attorneys, and local business people—is a leading sponsor of this worthy effort.

Blue Ribbon Week has been established to show public confidence for all peace officers and law enforcement agencies and to provide a moral boost for the men and women who display a badge in the name of protecting our local communities. During the week of May 11th, each citizen displaying a blue ribbon will demonstrate support for every police agency now serving both the cities and County of San Bernardino.

Mr. Speaker, I ask you and our colleagues to join me in remembering the brave, devoted peace officers who willingly put their lives on the line every day. Blue Ribbon Week is an appropriate means of recognizing the many law enforcement personnel in San Bernardino County. It is only fitting that the House join Inland Empire Chapter 67 of the International, Footprint Association and the many citizens of California's 40th district in paying tribute today to these dedicated men and women.

IN MEMORY OF AL McNABNEY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. MILLER of California. Mr. Speaker, it was with great sadness that I learned of the passing of Al McNabney last week. I knew Al well, enjoyed our conversations and highly regarded his opinions on local and national concerns. California has lost a tireless leader whose many contributions as an environmental activist will be remembered and revered by the citizens of Contra Costa County and all who knew him.

Al McNabney was an outstanding citizen whose passion for the environment began with an interest in birds and later developed into active memberships with a variety of advisory councils and environmental organizations, including his service as Vice President of Conservation for the Mt. Diablo Audubon Society. Al is remembered as a respected source of information about most conservation issues, and he wrote many letters to me about his personal environmental concerns and pending legislative policy issues. His vision for the development of the Delta Science Center, a state-of-the-art facility for environmental research, education and recreation, will soon become a reality and a valuable resource for the citizens of my district.

My heart goes out to Al's wife Helen, to whom Al was married for 57 years, his family and his friends. Al will be sorely missed, but his contributions toward environmental conservation will be enjoyed for generations to come. I ask that the following article from the Contra Costa Times, "Al McNabney Battled for Nature in East Bay" be printed below in the CONGRESSIONAL RECORD.

[From the Contra Costa Times, May 3, 1998]

AL McNABNEY BATTLED FOR NATURE IN EAST BAY

(By Abby Collins Sears)

WALNUT CREEK.—There may never be another environmentalist like Al McNabney in Contra Costa County, say friends, fellow advocates and even opponents.

The man was synonymous with environmentalism in the East Bay. He died Friday morning of natural causes.

Al belonged to more environmental organizations, projects and advisory councils than Heather Farm Park has trees, the Delta has islands or Mount Diablo has trails, he said in a January interview. He knew because he monitored them for more than two decades.

"He was a great environmental warrior," said Walnut Creek resident Steve Barbata, who knew Al for 12 years after meeting him at an environmental event.

"Even before that, I was always aware of his eminent presence," he said. "He made the environment more tolerable for all life forms."

HEAVILY INVOLVED

Funny thing was, Al rarely got outdoors.

In his later years, the Rossmoor resident used most of his energy to read land-use studies, attend meetings and write letters. On average, he wrote more than 25 letters a week to developers, politicians and public agencies. He also subscribed to 37 conservation publications and would read every page.

When one saw Al in action at a city planning commission or the county Board of Supervisors meeting, you would know that was no exaggeration. He would spew facts and figures at bullet speed—without forgetting to flash a smile.

"He was exceptionally competent and always very thorough," said Martinez resident Ted Radke, a member of the East Bay Regional Park District board. "He earned a great deal of respect from everybody he came into contact with, whether people agreed with him or not."

DEFUSING TENSION

Several people commented that one of Al's greatest talents was infusing dry humor into heated discussions.

"He would defuse steamy or difficult situations with humor," Barbata said. "He knew people learned better through humor than pointed criticism. He was a master of it."

His presentation were often facetious. He often gave a spiel about the bugs and bees, birds and flowers, water and soil, animals and trees—yet steely facts would glint through the friendly fluff.

Al's passion to save the county's natural milieu from eradication began about 30 years ago with a simple affinity for a bird. Every day, he passed the pet shop near his former San Francisco home. Eventually he made regular stops to admire one bird—a green Amazon parrot.

One day the owner suggested Al take it out of the cage. It bit him. But the owner said he handled the bird very well. So he bought that parrot, and soon after, another.

LOVE OF BIRDS

Al then read everything he could about parrots, an interest that expanded to other birds.

He even took a job studying hospital systems in Australia so he and his wife, Helen, could spend their free time studying the country's native species.

Al and Helen were two lovebirds themselves. Even after 57 years of marriage, they still exchanged affectionate glances and coy grins. Helen matched Al's clever witticisms with her own gentle quips.

She said she appreciated numerous qualities about him, but was shy about commenting on her husband out of respect for his humble and private character.

Helen's only half complaint was having to put up with his bird Coco, a talkative African gray parrot that he had for more than 30 years. She and Coco could never hold a conversation.

VOLUNTEERED AFTER RETIRING

After retiring in the late 1970s, Al said he had nothing better to do so he volunteered with the Mt. Diablo Audubon Society. It was the beginning of his environmental work.

"They sounded like they had something to do with birds, and by then I was pretty well steeped into bird life," he had said in the interview earlier this year.

The organization made Al vice president of conservation, and he fought to maintain ecological equilibrium ever after. That involvement sprouted into other environmentally related issues, such as overseeing effects of Tosco refinery emissions, and developing the Delta Science Center, a proposed research, education and recreation facility that became his pet project the past five years.

"He called it a world-class center," said Radke, the park district board member. "He wanted everyone involved with it to think big. It was a dream of his, which will someday soon become a reality."

MANY MEMBERSHIPS

Al was also a member of the Sierra Club, CalFed, Advocates for Bird Conservation, Committee for the American Federation of Aviculture, Commission for Endangered and Exotic Species, Committee on the Conservation on International Trade and Endangered Species, and the Lindsay Wildlife Museum. Al also watched over practically every development plan proposed in Contra Costa, making him the county's environmental conscience.

He said he had lived so long that his many lives all helped in his role as an effective activist. Al was a hospital administrator for medical facilities in San Francisco and Tucson, Ariz., and he was once a labor leader and belonged to the American Arbitration Association.

MODEST ACTIVIST

But when asked about other accomplishments, he was always self-effacing.

"There's not a huge rush of people wanting the job and the environment is going to pot in a hand basket," he said a few months ago. "As long as I can negotiate, talk and walk I'm going to keep doing it."

Helen said there will be no services because her modest husband wouldn't have wanted it. She plans to privately scatter his ashes.

"I thought of doing it in the Delta or Shell marsh or maybe Mount Diablo," Helen said. "I'll have to really think about it because he truly loved all those areas so much."

IN HONOR OF PULASKI POST 30

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor Polish Legion of American Veterans Pulaski Post 30 in Cleveland, OH on its sixty-fifth anniversary.

Founded in 1993, Pulaski Post 30 has served the community as a patriotic, civil, and religious center. These veterans have established themselves as a viable force in the Tremont area, dedicated to public service. Through the years, members of the Pulaski Post have serviced veterans at local veterans hospitals with thousands of hours of assistance. The post is dedicated to community programs, such as encouraging members and others to participate in donating blood to the Red Cross. Pulaski Post 30 has a distinguished uniformed rifle and ritual squad that carries out patriotic ceremonies and performs in parades and funerals. Throughout the years, many of the Pulaski Post's members have succeeded in public service or in the private sector, including distinguished elected officials, judges, doctors, and accountants. This organization has clearly distinguished itself as an important community force in the Tremont area.

My fellow colleagues, join me in saluting a patriotic organization, committed to upholding American values: Pulaski Post 30 of the Polish Legion of American Veterans.

THE LYME DISEASE INITIATIVE OF 1998

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. SMITH of New Jersey. Mr. Speaker, today, I am introducing comprehensive legislation—The Lyme Disease Initiative of 1998—to jump start a world-class, coordinated campaign to fight Lyme Disease. This $100 million federal initiative will, for the first time, establish a prominent, coordinated federal role in Lyme Disease research, treatment, and education. Various agencies within the federal government have done some good work in the Lyme issue, but these short term efforts have been hampered by a lack of interagency coordination, inconsistent funding and limited agency staff attention. The Lyme Disease Initiative changes all that.

Five year plan of action.—First, my bill calls for a 5 year plan to be established by the Secretary of Health and Human Services in coordination with the Secretary of Defense and outside experts to advance the treatment of and a cure for Lyme Disease. The Centers for Disease Control and Prevention, the National Institutes of Health, various agencies within the Defense Department have all worked on Lyme disease. Too often, however, the left hand does not know what the right hand has discovered and true advancement is hampered.

For example, in 1994 I pushed through a provision directing the DOD to conduct $850,000 in Lyme Disease research. Tick borne diseases remain a continuing concern for DOD, particularly with many of our soldiers at risk of tick bites. Regrettably, much of DOD's valuable research under this study never made its way to our other health experts at the Department of Health and Human Services. My new legislation will correct this problem.

Four public health goals.—Sadly much of our Lyme research has been hit and miss with no clear cut goals and no specific purpose for federal expertise and resources. My bill sets out four critical public health goals that will advance the Lyme research efforts:

Goal #1: Develop an objective detection test for Lyme that can determine whether an individual bitten by a tick has Lyme Disease. Designates a reliable detection test as the single most important public health goal.

Goal #2: A review of CDC's reporting and surveillance systems. Among the changes to be considered are (1) a more uniform system of reporting and (2) collecting and analyzing Lyme case data that does not currently meet CDC's strict surveillance criteria.

Goal #3: More accurate and timely Lyme diagnosis. A study shall be initiated to examine patterns of diagnosis and treatment of patients.

Goal #4: Physician Education. A full-scale effort shall be taken to educate treating physicians on how to properly diagnose and treat Lyme Disease.

Other major provisions in the bill include:

Section 4. Establishing a Lyme Disease Task Force to provide advice and expertise to

Congress and federal agencies on all areas of Lyme Disease policy.

Section 5. Requiring Annual Reports be submitted to Congress on the progress of NIH, CDC, and DOD with respect to the goals and programs funded and specified in this bill.

Section 7. $100 Million Over Five Years. An authorization of $100 million over five years is needed to ensure sufficient resources for consistent, critical scientific, medical research. The bill authorizes: $45 million in additional authorization for the National Institutes of Health, $40 million in additional authorization for the Centers for Disease Control, and $15 million in additional authorization for the Department of Defense.

Section 8. Lyme Disease Vaccines. The bill urges the Food and Drug Administration to conduct a rapid and thorough review of new Lyme Disease vaccine applications so that people who are already suffering are given new hope.

I am joined today by Rep. JIM MALONEY (CT), Rep. MIKE PAPPAS, Rep. JIM SAXTON, and Rep. SAM GEJDENSON in urging the relevant Committees to give this bipartisan legislation its due consideration. On the Senate side, I am pleased that Sen. CHRIS DODD will be introducing the companion legislation to my bill.

For too long, Lyme patients have suffered and languished under a medical system that cannot meet their needs because of unreliable diagnostic tests and incomplete physician understanding of this emerging infectious disease. My legislation will turn the tide and enable people to fully enjoy the outdoors once again without the fear of contracting a very serious disease.

THE LYME DISEASE INITIATIVE OF 1998

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. PAPPAS. Mr. Speaker, it is an honor to join Mr. CHRIS SMITH in sponsoring "The Lyme Disease Initiative of 1998."

In my home State of New Jersey, Lyme Disease has increased over 30% since 1996. As you may know, Lyme Disease is an illness that results from a bite from an infected deer tick. Those infected with Lyme Disease experience symptoms ranging from the flu to debilitating arthritis. First identified in Lyme, Connecticut almost two decades ago, there have roughly been 82,000 cases of Lyme Disease reported in 48 states. Between 1995 and 1996 alone, the United States experienced a 13% increase nationwide in this disease. The ticks that carry Lyme, which are about the size of a poppy seed, feed at this time of year.

The State of New Jersey currently ranks third in the nation in cases of reported Lyme Disease. According to statistics compiled by the Centers for Disease Control of counties in the United States, four of the five counties in the Twelfth Congressional District of New Jersey are in the top seventy in terms of reported cases per 100,000 people.

The "Lyme Disease Initiative of 1998" will help to define and solve the growing epidemic of Lyme Disease in the United States. By creating a Lyme Disease Task Force, the accurate diagnosis of Lyme Disease will be encouraged, more cases will be reported and better treatments will be proposed. Additionally, this legislation authorizes additional funding for Lyme research through the National Institutes of Health, the Centers for Disease Control and the Department of Defense.

Mr. Speaker, I am proud to join my colleague, Mr. SMITH, in presenting this bill to the United States House of Representatives. I believe it is an important step in battling the spread of Lyme Disease in our country.

THE CAMPUS OF LEARNERS: BRINGING EDUCATION AND COMPUTER TECHNOLOGY TO PUBLIC HOUSING COMMUNITIES

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. MENENDEZ. Mr. Speaker, I rise today to bring your attention to a revolutionary Department of Housing and Urban Development program—the Campus of Learners Initiative, which is now being implemented in Union City, New Jersey. The mission of the Campus of Learners is to heighten the role of local Public Housing Authorities as a catalyst for residents to become self-sufficient. The initiative is designed so that local housing authorities have the resources to develop their own creative strategic plans to provide for education, job training, and employment opportunities through computer and telecommunications technology in campus setting.

I am proud to announce that the Housing Authority of Union City, New Jersey has responded to HUD's initiative by opening the Hillside Pavilion Campus of Learners Center today, a three-level state-of-the-art building. Union City was one of only 25 PHA's in the United States chosen by HUD to launch the program.

This newly-formed community will serve as an example for other housing authorities wishing to provide high-tech training for their residents. On the campus, residents will learn computer skills to allow them to enter the local job market. This, of course, will greatly benefit local business owners who are in need of skilled employees. The Pavilion will also be a community center where residents can share in recreational and cultural activities.

My colleagues, I urge you to promote the Campus of Learners Program and use Union City as a model in your own communities. This program will transform public housing into a place of opportunity.

HONORING REVEREND NATHANIEL BENGBA LEGAY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. PAYNE. Mr. Speaker, on May 8 there will be a gathering in New Jersey to honor a very special person, Reverend Nathaniel Bengba Legay, who has won deep respect and admiration of all those he serves as pastor of the historic Clinton Memorial AME Zion church in Newark.

Born on the West Coast of Liberia, Reverend Legay came to America in 1970. He spent time in New York City before moving to Jersey City, New Jersey, where he joined Metropolitan A.M.E. Zion Church. He devoted his time and talents to serving as Lay Minister, Trustee, Class Leader, Sunday School Teacher, Youth Minister and Business Manager. Answering the call to ministry, Reverend Legay received his Exhorter's License on October 10, 1984 under the pastoral leadership of the late Reverend Dr. Andrew Wesley Mapp. He then received his Local Preacher's License on September 13, 1986 under the pastoral leadership of Reverend George W. Maize III at the Jersey City District Conference. He was admitted to the New Jersey Annual conference on Trial, at the Annual Conference convening at Metropolitan, Jersey City on May 17, 1987. Reverend Legay was ordained Deacon on May 15, 1988 in the New Jersey Conference and ordained Elder in 1989 at the Pee Dee Conference in South Carolina. Reverend Legay worked with the City of Jersey City Redevelopment Agency from 1974 to 1980 and at the Kislak Mortgage Company from 1980 to 1989. He worked full time while pursing his college degree at Jersey City State College, where he received his Bachelor of Arts Degree in Economics in 1977. He entered Hood Theological Seminary, Livingstone College, Salisbury, North Carolina and received his Master of Divinity Degree in May of 1992.

His first pastoral charge was Drucilla A.M.E. Zion Church, in South Carolina, the City of Chesterfield, where he remained for five years before returning to New Jersey to join New Saint Mark A.M.E. Zion Church, Westwood, New Jersey. It was in March of 1995 that Reverend Legay took his place at the Clinton Memorial A.M.E. Zion Church, where I had the privilege to speak at the 175th Anniversary Celebration. The church was founded in the year that freemen left the U.S. to go to Liberia. Early records indicate that Essex County residents were involved in these early trips.

As a young person, although I belonged to another church, I found great joy in attending the Memorial progressive programs. There were athletic activities, including basketball and other sports, as well as social dancing. During that time, I remember that Reverend Nelson and Reverend Hogard pastored the church. Reverend Legay is a Life Member of the NAACP, the Urban League of Hudson County, a founding Board Member of the Greenville Steering Committee, the Board of Examiners and the Program Committee of the New Jersey Annual Conference, A.M.E. Zion Church. Mr. Speaker, I know that my colleagues here in the U.S. House of Representatives join me in sending our congratulations and best wishes to Reverend Legay and his fine family—his wife Gloria Jean Finnie Legay and their son, Nathaniel, Jr.

TRIBUTE TO HAROLD F. WHITE, U.S. BANKRUPTCY JUDGE—NORTHERN DISTRICT OF OHIO

HON. THOMAS C. SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. SAWYER. Mr. Speaker, I rise today to recognize an outstanding individual from my community of Akron, Ohio, Judge Harold F. White. On May 1, 1998, Judge White celebrated his 40th anniversary of service as a United States Bankruptcy Judge for the Northern District of Ohio.

At the same time, Judge White, after 40 years of uninterrupted service to the court, also achieved the distinction of being the most senior bankruptcy judge in the United States.

Having grown up during the Depression, Judge Harold White first began working as the manager of a paper route in his early teens, and later worked his way through college. He served four years in the Army during World War II and was decorated with the Purple Heart and four Battle Stars. Using the G.I. Bill, he attended the Akron Law School. He continued to serve in the Army Reserve and retired as a Lieutenant Colonel in 1960. Before his appointment in 1958 to the bankruptcy bench he worked as a county and city prosecutor. He also taught for 30 years as an Adjunct Professor of Law at The University of Akron.

Throughout his 40 years on the bench, Judge White has seen the bankruptcy code undergo profound change and has watched as bankruptcy filings increased to the record levels of today. He has presided over more than 60,000 cases ranging from multimillion dollar corporations such as Sun Rubber, Inc., Terex Corporation, and Revco D.S., Inc. to individual wage earning debtors. Regardless of the situation, Judge White recognizes that financial difficulties can happen to anyone and treats all debtors who appear before him with the same respect and dignity. He is, in fact, most satisfied when the honest debtor gets the "fresh start" contemplated by the bankruptcy code.

Hailing from Connecticut, Judge White prides himself on his conservative New England views and frugal nature. This background has suited him well in his career as a bankruptcy judge. He is well known in our community for his habit of clipping coupons and sharing information on where to find a bargain. He frequently encourages his staff to learn to appreciate the wisdom of frugality. He has a sign in his office which reads "Totum Pretrim Pro Cista Frumenti Ne Solveris Umquam". Translated from Latin this means, "You should never pay full price for a box of cereal."

Through his work in the bankruptcy court, Judge White has earned the respect and admiration not only of those who have come before his court, but of our entire community. Although he officially retired in January, 1994, he was recalled for service through January, 1997, and remains on the job to this day.

I am pleased to have this opportunity to commend Judge Harold F. White on four decades of service to the U.S. Bankruptcy Court and to our nation.

IN HONOR OF WILLIAM A. BURGA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to recognize the accomplishments of the current President of the Ohio AFL–CIO, William A. Burga. Mr. Burga has devoted his life to the cause of the American worker.

Mr. Burga's devotion to the labor movement began when he was a steelworker at Jones and Laughlin Steel Corporation in Louisville, Ohio. In Louisville, he organized a local chapter of the United Steelworkers of America. His outstanding leadership skills generated his appointment to the United Steelworkers International Union. Mr. Burga was involved in the Marion area as he served as AFL–CIO president there for two-terms. He also served as Massillon Trades and Labor Council, AFL–CIO, from 1987 until his election to the AFL–CIO presidency of Ohio.

During his tenure in office, Mr. Burga has supported numerous community activities and organized a statewide group against Issue 2, an issue that would have cut benefits for injured workers. Mr. Burga is dedicated to improving the lives of the American worker and we are all grateful for his efforts.

My fellow colleagues, join me in saluting a defender of the American worker, Mr. William A. Burga.

CONGRATULATING KITTY YOUNG ON HER RETIREMENT FROM CIVIL SERVICE

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. EDWARDS. Mr. Speaker, today I rise to recognize Kitty Young. She is retiring after a distinguished career serving her community of Harker Heights which is in my 11th Texas Congressional District.

Kitty Young was born in Rupert, Arkansas, on August 16, 1919. She worked hard as a wife and mother during her husband Bob Young's military career.

Kitty Young was first elected to the Harker Heights City Council to replace her late husband. She served with distinction in that position for 15 years. She has also served as the mayor pro tem and has assumed mayoral duties of Harker Heights during the illness of the then mayor. Her vision has led to impressive city growth through annexation and through incorporation of a Water Supply District. City beautification and high housing standards have always been of great concern to her.

Besides her service on the City Council, Kitty Young was instrumental in establishing the local public library system, securing construction funds and obtaining grants and books.

Kitty Young is a founding member of the Harker Heights Ladies Service Club, a social and benevolent organization of women who live or work in Harker Heights. Under her guidance the annual "Garage Sale" was founded to benefit city charities, volunteer fire and police activities, and local schools.

For many years Kitty Young has opened her home to fundraisers for the CorBell Chapter of the American Cancer Society and helped raise thousands of dollars for research and patient support. She has also supported the Cancer Society by selling tickets and providing prizes and food.

Kitty Young has served on many boards and committees that aid education, health, police, and youth. An asset to her community, church, and country, she is an example of how a can-do spirit makes our communities great.

Members, please join me in recognizing Kitty Young for her distinguished role in the Harker Heights community.

TRIBUTE TO VICTIMS OF ARMENIAN GENOCIDE

SPEECH OF

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 22, 1998

Mr. HOYER. Mr. Speaker, on April 24 we commemorate the massacre of Armenians in Turkey during and after the first World War. In what historians refer to as the first of this century's state-ordered genocides against a minority group, more than 1.5 million people were murdered. We mourn the dead and express our condolences to the descendants of those who perished. We must also reflect upon the meaning and lessons of their suffering and sacrifice.

In the more than eighty years since this unspeakable tragedy, the world has witnessed decades of genocide and ethnic cleansing. Civilian populations, defined by ethnic, racial or religious distinctiveness, have become the objects of persecution and genocide simply because of who they are—Armenian Christians, European Jews, Bosnian Muslims, the Tutsis of Rwanda. The range of victims—geographical, ethnic, religious and political—testifies to the universality of human cruelty and fanaticism. The response of the survivors, however, testifies to the indestructibilty and the resilience of the human spirit, even in the face of the most virulent evil.

Like the phoenix of mythology, the Armenian people survived its bleakest days and arose with renewed vigor. Independent Armenian statehood has been restored to guarantee the security and future of the nation, and serves as a beacon of hope to Armenian people everywhere. It is our fervent hope, Mr. Speaker, that future generations will not have to sacrifice as their ancestors have. It is also our hope that all parties to the conflict in Nagorno-Karabakh will build on the now four-year-old cease-fire and renew their efforts through the OSCE process to reach a negotiated settlement. Nothing could honor the memory of the victims of 1915 more than an independent and flourishing Armenia living in peace with all of its neighbors, and moving and impressing the world with both the spiritual and material products of the unbreakable Armenian spirit.

IN HONOR OF THE ONE-HUNDREDTH ANNIVERSARY OF THE FOUNDING OF THE PAINTERS DISTRICT COUNCIL NO. 6

HON. DENNIS J. KUCINICH

OF OHIO

HON. STEVE C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to commemorate the establishment of the Painters District Council No. 6. This organization has effectively represented employees of the painting, glazing, and allied trades for 100 years. The council represents the ideals of the labor community with the highest standards.

At the turn of the century, as Cleveland began its transition into an industrial hub, the city began to expand at an astounding rate. New buildings rose, and with them rose the need for painters and decorators. The Painters District Council No. 6 that was founded in 1898 met the challenge. Painters, scenic artists, frescoers, and other artisans designed the decor that has graced the exterior and interior of Cleveland architecture for the last one-hundred years. These workers created artistic masterpieces in the Playhouse Square Theaters and the Cleveland Union Terminal. Their union, Painters District Council No. 6 effectively defended these workers' interests and kept their standard of living at the highest level.

Today, the artisans of the concil still contribute to Cleveland landmarks such as Jacobs Field and the Rock and Roll Hall of Fame. The Painters District Council No. 6 continues to defend their interests and upholds the tradition this strong labor union set 100 years ago.

My fellow colleagues, join me in commending the Painters District Council No. 6 for their one-hundred years of service to the labor community.

CONGRATULATING HALF HOLLOW HILLS HIGH SCHOOL EAST

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. LAZIO of New York. Mr. Speaker, yesterday schools from across the country competed in the national finals of the "We the People . . . The Citizen and the Constitution" Program in Washington, D.C. I am proud to announce that the class from Half Hollow Hills, New York ranked among the top ten finalists in this competition.

As part of the rigorous program, students must demonstrate in-depth knowledge of the Constitution and the Bill of Rights. The students must defend their positions on relevant historical and contemporary constitutional issues through oral arguments before a panel of judges.

I commend the students from Hills east for their superior performance in this rigorous competition. The distinguished students on this team—David Abel, Rhea Abraham, Seth Abramowitz, Shriram Bhashyam, Tivona Biegen, Elsie Citrin, Jeff Firman, Jennifer Jenkins, Anne Kuo, Josh Martin, Alex Oren, Dominidor Pascual, Pratiksha Patel, Raquel Reinstein, Melissa Rosenzweig, Becky Rubin, Mike Scheine, Leah Schmelzer, Kathy Schmidt, Meri Shapiro, Ruthie Shek, Chad Silverman, and Lisa Weiser—all deserve heartfelt congratulations for their accomplishment.

I would also like to recognize their teacher, Gloria Sesso, who played a great role in the success of the class.

Administered by the Center for Civic Education, the "We the People" Program has provided curricular materials at upper elementary, middle, and high school levels for more than 75,000 teachers and 26 million students nationwide.

I commend these young constitutional experts for their great achievement. I am proud to represent them here in Congress and to have the opportunity to welcome them to our Nation's Capital.

A TRIBUTE TO AMERICAN NURSES DURING NATIONAL NURSES WEEK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. LIPINSKI. Mr. Speaker, I would like to pay tribute to an outstanding group of dedicated health care professionals—the 2.6 million registered nurses in the United States.

These outstanding men and women, who stand at the forefront of modern medicine, will celebrate National Nurses Week, May 6–12, 1998. As far as this Member is concerned, all Americans who have ever been cared for or comforted by a nurse should celebrate during National Nurses Week.

According to the American Nurses Association, National Nurse Week was first observed October 11–16, 1954, the 100th Anniversary of the founding of modern nursing by Florence Nightingale during the Crimean War. National Nurses Day and Week was eventually moved to May to incorporate Florence Nightingale's birthday, which is May 12.

Registered nurses are in many ways the backbone of our health care system. In many states they now safely prescribe medicine and deliver babies. Studies have shown that higher the ratio of nurse-to-patients in a hospital, the lower the patient death rate. In short, registered nurses provide top-quality, cost-effective health care services for their patients.

Mr. Speaker, I salute America's nurses during the week of May 6–12, 1998 and encourage my colleagues to do the same.

IN HONOR OF THE ST. EDWARD'S DEBATE TEAM AND COACH RICHARD CHUNAT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. KUCINICH, Mr. Speaker, I rise today to honor the accomplishments of the St. Edward's High School Debate Team and its coach, Richard Chunat. For over thirty years, Coach Chunat has led the school's debate team to countless achievements, including recognition for excellence at the local, state, and national levels.

Over thirty years ago, Richard Chunat took the reins of the debate program at St. Edward's and has never looked back. As a teacher of English and speech, Coach Chunat provides a standard of excellence for the debate team. He has led the team to countless local titles, crowding the awards case at St. Ed's with over six hundred trophies. Under his leadership, the students have excelled in speech and debate, earning scholarships for their skills. As a coach, Richard Chunat was elected to the Ohio High School Coaches Hall of Fame for his exemplary service to the St. Edward's debate team.

Recently, two of Coach Chunat's students, Matt Perez-Stable and Jed Ware, continued the proud tradition at St. Edward's by performing remarkably well in the two-person team debate. Perez-Stable has received a full-tuition scholarship to Miami of Ohio; Ware has received a full-tuition scholarship to West Georgia State University. These two students exemplify the excellence that has become a tradition on the St. Edward's debate team.

My fellow colleagues, join me in saluting the St. Edward's High School debate team, Coach Richard Chunat, and students Matt Perez-Stable and Jed Ware for excellence in the field of debate.

HONORING DR. MICHAEL B. WALSH

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents and the students, parents, teachers and administrators in honoring Dr. Michael B. Walsh upon his retirement as superintendent of the Smithtown Central School District. Dr. Walsh personifies that most effective educator who is not only recognized as a scholar in his field of specialization, but also is able to educate others through the effective example he creates in his own behavior.

His educational endeavors typify the true American success story. Beginning as a teacher of mathematics in the Levittown School District, Dr. Walsh quickly advanced through a series of leadership positions. As Chairman of the Mathematics Department of Smithtown Central High School, he introduced and supported several experimental programs that successfully enhanced the school's curriculum and resulted in increased student achievement. It soon became apparent to the leaders of the Smithtown Central School District that Michael Walsh possessed valuable and effective administrative and instructional talents that extended far beyond the area of mathematics and would serve to enhance the comprehensive program that was being offered by the district. Dr. Walsh became a Central Office Administrative Intern and went on to assume the positions of Assistant to the Superintendent for Central Administration and

Administrator for Operations. In 1982, he joined the Amityville School District and, during a ten-year tenure, served as the district's Assistant Superintendent and Superintendent. In 1992, he returned to Smithtown to assume the district's superintendency. Realizing the impact rapidly changing technology would have on our students' lives, he was most instrumental in developing a partnership with Symbol Technology in creating a wireless transmission component that would link the schools in a classroom setting.

Dr. Walsh's talents have been recognized outside the Smithtown District. He serves as an Adjunct Instructor of Educational Administration at the School of Professional Development at the State University of New York at Stony Brook. He is secretary of the Suffolk County School Superintendent's Association and is a member of the House of Delegates of the New York State Committee of School Superintendents.

Mr. Speaker, I ask you and my colleagues to join me in recognizing these honors Dr. Walsh so richly deserves. It is a most effective teacher who can create positive change in a classroom. Dr. Michael B. Walsh has had an impact far beyond the classroom and his great talents have enhanced and fulfilled our community.

THE ST. COLUMBA HEALTH CENTER

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to a project in my home state of New Jersey that deserves recognition: the St. Columba Health Center in Newark.

A pressing problem in our nation's cities is the lack of affordable, accessible health care to the children of working families. Thanks to a quarter of a million dollar grant by the Robert Wood Johnson Foundation of Princeton, the University of Medicine and Dentistry of New Jersey School of Nursing has expanded its Health Center at the St. Columba Neighborhood Club and School.

The St. Columba Health Center serves the needs of the local Hispanic community by acting as a triage that effectively screens and treats less serious injuries and ailments, thus reducing reliance on expensive hospital services. A nurse practitioner provides on-site primary care through a collaborative practice agreement with UMDNJ pediatricians. The local University Hospital provides clinical and administrative support, as well as transportation of local patients who need complex treatments. By advancing primary pediatric and adolescent care at the St. Columba Health Center, the program hopes to expand the definition of urban child health care and serve as a model for future programs.

Education plays a key role at the Health Center, as its members reach out into the school and community with needed information on the treatment and prevention of many health conditions. Examples include asthma, immunizations and domestic violence.

One major education component is the "Baby Think it Over Program,"designed to combat high teenage pregnancy rates. For one week, participating seventh- and eighth-grade girls and boys must care for a computerized baby that is programmed to cry randomly, like a real baby. Only the student is allowed to provide around-the-clock care for the doll, which accompanies them at home, school, and even the mall.

During a recent visit, a past graduate of the program, Maria Rivera, told me how she received $125 in play money—about the amount of a welfare check—and asked to develop a weekly budget for the baby's medical checkups and to purchase diapers, formula, clothing, and other baby needs. In simulating these parental responsibilities, the purpose is to make the teens keenly aware of the consequences of unwanted pregnancies. And it works. As a result of this experience, Maria expressed a more realistic perspective on pregnancy and her intentions to delay having a baby until she is married.

The overall expected outcomes of the expansion of the St. Columba Health Center include better child health care models; decreased school absenteeism, emergency room and hospital admissions; and the reduction of teen pregnancies and STD rates, among many more.

Thank you to the volunteers and employees of the St. Columba Health Center, Neighborhood Club and School and who make a daily difference in the surrounding community. I also commend the Robert Wood Johnson Foundation for providing the vital financial support to this program and others across the nation.

A TRIBUTE TO JOSEPH AND DOROTHY BUCHTA A CELEBRATION OF 50 YEARS OF MARRIAGE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. LIPINSKI. Mr. Speaker, I rise today and would like to extent my warmest congratulations to two dear friends of mine from my district, Joseph and Dorothy Buchta, as they celebrate 50 years of married life.

Joseph and Dorothy Buchta were married on June 12, 1948 at Our Lady of Holy Mount Church in Cicero, Illinois. They will soon be celebrating with their family and friends their 50th wedding anniversary.

As Joseph and Dorothy Buchta celebrate their anniversary, their example of 50 years of married life tells the world and each other that their love has grown deeper and stronger over the years. Their commitment to each other is an inspiration to all of us who will celebrate this happy occasion with them.

I would like to congratulate Joseph and Dorothy Buchta on their success and may their love, friendship and happiness grow more beautiful with every year that they share together.

GOOD WISHES, GOOD NEWS AND A GOOD IDEA

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. HYDE. Mr. Speaker, please permit me to share with my colleagues the delightful story of a Larry McManus and his efforts to bring a small measure of gratitude to our collective conscience. Four years ago, Larry concluded that, as Americans, we fail too often to appreciate the good deeds of others. And so, with little fanfare, but with strong determination, Larry set out to establish National Write a Letter of Appreciation Week. This holiday is a gift free event held annually during the first week in March. I commend to my colleagues excerpts of a wonderful story authored by Chicago Tribune columnist Eric Zorn that captures the essence of Larry's mission.

THOSE WHO SHAPED YOUR LIFE DESERVE A LETTER OF THANKS

In your past, there is someone who was very important to you but may not know it.

Is it a teacher who inspired you to better things? Is it a mentor who pushed you along when you most needed pushing? Is it a former neighbor or lost friend who gave wisdom and support? Is it a boss or a health-care professional or a pastor or a cop or a firefighter? Is it a famous person who took a moment to give you attention and encouragement, or an artist you never met but whose work lifted you?

Whoever it is, chances are good this person either doesn't remember you or have any idea that you remember him or her with such fondness. And chances are also good that it would make this person's day—big time—to hear from across the years: "Thanks for everything. You made a difference."

These are awkward words for all but the most demonstrative among us. They seem to require the excuse of an occasion, a landmark for reflection, yet too often that occasion is death—at which point such expressions, no matter how heartfelt, are tardy.

Larry McManus of suburban McHenry created a more timely occasion: National Write a Letter of Appreciation Week.

Simply, he suggests that you write letters to those who have gone out of their way at some point to brighten your life. He includes in his list of potential recipients notably friendly store clerks, waiters and waitresses, repair workers, bus drivers and dentists.

"Can you imagine how pleased these people would be if you took the time to write a short letter acknowledging their kindness, concern or assistance?" McManus asked in one of his faxes.

"I have a hunch that gratitude and graciousness are connected," he continued. "By extending our feelings of gratitude to another we become, perhaps, by just a little bit, more gracious. I believe that writing a letter of thanks . . . is an antidote to what seems to me the coarsening of our national culture and spirit."

McManus' week, which he hopes will become an annual event, has received the endorsement of Gov. Jim Edgar and McHenry Mayor Steven Cuda. He also has the informal support of many McHenry County school officials, who he says have told him they will encourage students to participate and learn the value of both correspondence and expression of gratitude.

I come from a long line of educators and can report that my parents are always moved when they receive a kind remembrance from an old student—the older the better. It validates what they are doing far more than even the most positive end-of-semester student evaluation. Such a letter is where the echo is louder than the applause.

I wrote one about four years ago to Pete Seeger, the septuagenarian folkie. Dr. Seuss had just died, and I'd been struck by how pleased he would have been to have read and heard all the sentimental slop from grown-ups about how much his books had meant to them.

Seeger recordings gave me pleasure for years and helped inspire me to learn to play, however indifferently, several folk instruments. And I knew someday I'd wake up and read his obituary and regret never having thanked him. So, tactfully not mentioning the inevitability of his demise as my motivation, I wrote him a brief but warm letter of appreciation and received a friendly reply.

And now that Larry McManus mentions it, there are some other people I should probably write to next week. You, too?

IN MEMORY OF MARY STRASSMEYER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor the memory of an exceptional figure in the Cleveland media for nearly forty years, Mary Strassmeyer. Ms. Strassmeyer prided herself on her journalistic talent and her insight into the Cleveland social scene.

As a native of the Old Brooklyn section of Cleveland, Ms. Strassmeyer lived on the same street where she was raised for most of her life. Devoted to the Greater Cleveland area, she attended Notre Dame College in South Euclid, majoring in English and history. Ms. Strassmeyer began her journalistic career in 1956 at the Cleveland News as a reporter. After the paper dissolved in 1960, she joined the Cleveland Plain Dealer, a place she called home for over thirty years.

At first, Ms. Strassmeyer wrote travel pieces for the Plain Dealer and served as beauty editor. She was named Society Editor in 1965. She helped to develop a nationally-syndicated cartoon during this time and wrote articles on teen beauty. Ms. Strassmeyer created her famous social column in 1976 entitled "Today" which was later called "Mary, Mary." She also worked in broadcasting in the early 1980's with shows on radio and television, and received a law degree from the Cleveland-Marshall College of Law in 1981. She retired in 1997 and began to devote her time to her law practice and her travel agency.

My fellow colleagues, join me in saluting the life of a journalistic paragon, a woman who understood the social structure of Cleveland society: Mary Strassmeyer.

A CELEBRATION OF 50 YEARS OF LOVE, HONOR AND RESPECT MR. & MRS. JAMES RUZICKA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. LIPINSKI. Mr. Speaker, I rise today to offer my heartfelt congratulations to a wonderful couple from my district, Mr. & Mrs. James Ruzicka. Mr. & Mrs. Ruzicka celebrate 50 years of devoted love, honor and respect.

As Mr. & Mrs. James Ruzicka celebrate their anniversary, their 50 years of committed love, friendship and respect shows how love grows deeper and stronger through the years.

I would like to extend my warmest congratulations on their love and success to Mr. & Mrs. James Ruzicka as they celebrate their anniversary. May happiness be theirs in everything they do.

SENATE—*Wednesday, May 6, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

Sovereign Lord, help us to see our work here in government as our divine calling, our mission. Whatever we are called to do today, we want to do our very best for Your glory. Our desire is not just to do different things, but to do the same old things differently: with freedom, joy and excellence. Give us new delight for matters of drudgery, new patience for people who are difficult, new zest for unfinished details. Be our lifeline in the pressures of deadlines, our rejuvenation in routines, and our endurance whenever we feel exhausted. May we spend more time talking to You about issues than we do talking to others about issues. So may our communion with You give us deep convictions and high courage to defend them. Spirit of the living God, fall afresh on us so we may serve with fresh dedication today. In the Lord's Name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. ALLARD. Mr. President, this morning the Senate will resume consideration of H.R. 2676, the IRS reform bill. Under the previous order, Senator ROTH will be immediately recognized to offer his so-called "pay for" amendment. It is hoped that after the Roth amendment is offered Senator KERREY will offer his "pay for" amendment and a short-time agreement can be worked out with respect to both amendments.

As a reminder, an agreement was reached yesterday limiting the bill to relevant amendments. Therefore, it is hoped that the Senate will make good progress on the IRS bill today in an effort to finish this important legislation by tonight or Thursday.

Senators should expect rollcall votes throughout today's session on amendments to the IRS bill, or any other legislative or executive items cleared for action.

I thank my colleagues for their attention.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2676

Mr. ALLARD. Mr. President, I ask unanimous-consent that after Senator ROTH offers his amendment regarding offsets, the amendment be temporarily set aside; further, that Senator KERREY then be recognized to offer his amendment regarding offsets and there then be a total of 1 hour equally divided for debate on both amendments.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I wonder if the chairman of the Finance Committee would mind. We don't have the amendment quite prepared. We may need to modify it slightly in order to deal with the difficulty we are having. I wonder if the UC can be modified so we could be allowed to modify our amendment.

Mr. President, I ask unanimous-consent that the unanimous-consent request be modified so that we be allowed to modify our amendments with a relevant modification.

The PRESIDENT pro tempore. Without objection, it is so ordered.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

The Senate resumed consideration of the bill.

Mr. ROTH addressed the Chair.

The PRESIDENT pro tempore. The Senator from Delaware.

Mr. ROTH. Mr. President, I further ask that at the conclusion or yielding back of time the Senate proceed to vote on the Roth amendment followed by a vote on the Kerrey amendment.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

Mr. ROTH. Mr. President, before we begin debate today, I would like to offer some comments about the consent agreement that governs the offering of amendments. Basically, amendments that are to be in order must be relevant to the purpose of the IRS reform legislation, which covers three major areas.

First, it reorganizes, restructures, and re-equips the IRS to make it more customer friendly in its tax-collecting mission.

Second, it protects taxpayers from abusive practices and procedures of the IRS.

Third, it deals with the management and conduct of IRS employees.

These are the main purposes of the bill. While there are provisions dealing with electronic filing and congressional oversight, that is basically what this bill does.

Title 6 of the bill is an entirely different matter. That title contains technical amendments that run the breadth of the tax code. In the House of Representatives, this title was reported by the Ways and Means Committee as a separate bill—which, in fact, it is.

Title 6 is unrelated to IRS reform. It contains only technical corrections to previously enacted tax legislation that meet the following criteria:

First, they carry out the original intent of Congress in enacting the provision being amended.

Second, by definition, the technical correction does not score as a revenue gain or loss.

Third, the policy has been approved by the Treasury Department, the Joint Committee on Taxation, and the majority and minority of both the House Ways and Means Committee and the Senate Finance Committee.

As a consequence, amendments which are relevant because of provisions in title 6 must meet a more difficult standard under the consent agreement. They must not only be relevant, but must be cleared by the two managers and the two leaders. And in clearing provisions that relate to title 6, I will apply the same criteria that the provisions of title 6 had to meet to become part of that title.

I hope this explanation provides a clearer understanding of the application of the consent agreement to possible amendments.

AMENDMENT NO. 2339

(Purpose: To ensure compliance with Federal budget requirements)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes an amendment numbered 2339.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 401, strike line 3, and insert: "beginning after December 31, 1998".

On page 415, between lines 16 and 17, insert:

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

"(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

"(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. MODIFICATION OF AGI LIMIT FOR CONVERSIONS TO ROTH IRAS.

(a) IN GENERAL.—Section 408A(c)(3)(C)(i) (relating to limits based on modified adjusted gross income) is amended to read as follows:

"(i) adjusted gross income shall be determined in the same manner as under section 219(g)(3), except that—

"(I) any amount included in gross income under subsection (d)(3) shall not be taken into account, and

"(II) any amount included in gross income by reason of a required distribution under a provision described in paragraph (5) shall not be taken into account for purposes of subparagraph (B)(i)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2003" and inserting "October 1, 2007".

The PRESIDING OFFICER. Under the previous order, the amendment is now set aside.

Does the Senator from Nebraska wish to offer his amendment?

AMENDMENT NO. 2340

(Purpose: To ensure compliance with Federal budget requirements)

Mr. KERREY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. KERREY) proposes an amendment numbered 2340.

Mr. KERREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments submitted.")

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

The Senator from Delaware has 30 minutes under his control.

AMENDMENT NO. 2339

Mr. ROTH. Mr. President, I yield myself 5 minutes.

Mr. President, under the Senate's budget rules, the first year, first five years, and second five years of revenue losses in a tax bill must be offset with either mandatory savings or revenue increases.

When the Finance Committee marked up the underlying bill, the first five years of revenue loss were offset. The second five years of revenue loss were not fully offset. The IRS Restructuring bill was short in excess of $9 billion in the last five years. During the markup, I indicated that I would work with the Budget Committee to attempt to find offsets so that the bill would be fully paid for over the last five years.

Finding offsets was not an easy task. Every major revenue raiser I considered brought forth opposition from different members. After several weeks of reviewing options, I have developed a package, in consultation with the leadership.

Mr. President, this pay-for package contains three new revenue raisers and a change to a revenue raiser in the underlying bill.

The first revenue raiser comes from the Administration's budget. This proposal would tighten the definition of operating losses that are eligible for a special ten-year carry back. Congress intended this treatment to be limited to a narrow category of activities. This proposal simply clarifies the types of losses eligible for this special treatment. This proposal is noncontroversial.

The second new revenue raiser relates to the rollover rules for Roth IRAs. Under current law, individuals or married couples with adjusted gross income over $100,000 cannot rollover a traditional IRA into a Roth IRA. For purposes of the $100,000 test, minimum distributions which are required when an IRA beneficiary reaches 70½ are counted as income.

This second new raiser would modify current law by excluding minimum distributions from the $100,000 test. The effect of this proposal is to allow more taxpayers, at age 70½ and above, to rollover from a traditional IRA to a Roth IRA. This proposal will enlarge the group of taxpayers who can enjoy the benefits of the Roth IRA.

The third new raiser would extend the current law user fees charge by the IRS for private letter rulings. This extension would be effective for four years.

Let me note that the IRS restructuring bill uses the balance on the pay-go scorecard of $406 million in the last five years as an offset. We have been informed by the Budget Committee staff that the use of the pay-go balance is appropriate in this instance.

Finally, this amendment modifies an effective date of a revenue raiser in the Finance Committee bill. The proposal modified is the proposal to limit the carry back period of the foreign tax credit. Under this amendment, the effective date of the foreign tax credit raiser has been moved out one year to tax years beginning after 1998.

Now, Mr. President, some on the other side may criticize the most significant new revenue raiser in this package. The target of their criticism is the proposal to allow more older taxpayers to convert to Roth IRAs.

As I see it, those criticizing the rollover provision have the objective of limiting retirement savings choices for taxpayers who reach the end of their working years. For taxpayers who reach 70½, the opponents of the rollover provision are saying those taxpayers should fall under a more restrictive rule than those taxpayers under 70½.

If you are over 70½ and you are a middle income person who has a healthy IRA or pension plan, the opponents of the rollover provision are arguing you should not have the choice of a Roth IRA.

Alan Greenspan says America's most important economic problem is its low savings rate. It is a problem that we must address. The rollover provision in this amendment is a small step toward resolving our number 1 economic problem.

Mr. President, I ask unanimous consent that a technical description of this amendment, and a revised revenue table for the IRS restructuring bill, prepared by the Joint Committee on Taxation, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF ROTH FINANCING AMENDMENT TO THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998 AS REPORTED BY THE SENATE COMMITTEE ON FINANCE

A. FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS (SEC. 5002 OF THE BILL)

Under the bill, the provision is effective with respect to credits arising in taxable years ending after the date of enactment. Under the modification, the provision would be effective with respect to credits arising in taxable years beginning after December 31, 1998.

B. RESTRICT SPECIAL NET OPERATING LOSS CARRYBACK RULES FOR SPECIFIED LIABILITY LOSSES

Present law

Under present law, that portion of a net operating loss that qualifies as a "specified liability loss" may be carried back 10 years rather than being limited to the general two-year carryback period. A specified liability loss includes amounts allowable as a deduction with respect to product liability, and also certain liabilities that arise under Federal or State law or out of any tort of the taxpayer. In the case of a liability arising out of a Federal or State law, the act (or failure to act) giving rise to the liability must occur at least 3 years before the beginning of the taxable year. In the case of a liability arising out of a tort, the liability must arise out of a series of actions (or failures to act) over an extended period of time a substantial portion of which occurred at least 3 years before the beginning of the taxable year. A specified liability loss cannot exceed the amount of the net operating loss, and is only available to taxpayers that used an accrual method throughout the period that the acts (or failures to act) giving rise to the liability occurred.

Description of proposal

Under the proposal, specified liability losses would be defined and limited to include (in addition to product liability losses) only amounts allowable as a deduction that are attributable to a liability that arises under Federal or State law for reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore oil drilling platform, remediation of environmental contamination, or payments arising under a workers' compensation statute, if the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year. No inference regarding the interpretation of the specified liability loss carryback rules under current law would be intended by this proposal.

Effective date

The proposal would be effective for net operating losses arising in taxable years beginning after the date of enactment.

C. MODIFICATION OF MINIMUM DISTRIBUTION REQUIREMENTS TO DETERMINE AGI FOR ROTH IRA CONVERSIONS

Present law

Under present law, uniform minimum distribution rules generally apply to all types of tax-favored retirement vehicles, including qualified retirement plans and annuities, individual retirement arrangements ("IRAs") other than Roth IRAs, and tax-sheltered annuities (sec 403(b)).

Under present law, distributions are required to begin no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date means the April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½, or (2) the calendar year in which the employee retires. In the case of an employee who is a 5-percent owner (as defined in section 416), the required beginning date is April 1 of the calendar year following the calendar year in which the employee attains age 70½. The Internal Revenue Service has issued extensive Regulations for purposes of calculating minimum distributions. In general, minimum distributions are includible in gross income in the year of distribution. An excise tax equal to 50 percent of the required distribution applies to the extent a required distribution is not made.

Under present law, all or any part of amounts held in a deductible or nondeductible IRA may be converted into a Roth IRA. Only taxpayers with adjusted gross income ("AGI") of $100,000 or less are eligible to convert an IRA into a Roth IRA. In the case of a married taxpayer, AGI is the combined AGI of the couple. Married taxpayers filing a separate return are not eligible to make a conversion.

Description of proposal

The proposal would modify the definition of AGI to exclude required minimum distributions from the taxpayer's AGI solely for purposes of determining eligibility to convert from an IRA to a Roth IRA. As under present law, the required minimum distribution would not be eligible for conversion and would be includible in gross income.

Effective date

The proposal would be effective for taxable years beginning after December 31, 2004.

D. EXTENSION OF IRS USER FEES

Present law

The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes in the form of ruling letters, determination letters, opinion letters, and other similar rulings or determinations. The IRS is directed by statute to establish a user fee program with respect to such rulings and determinations. Pursuant to this statutory authorization, the IRS establishes a schedule of user fees. The statutory authorization for the IRS user fee program is in effect for requests made before October 1, 2003 (P.L. 104-117).

Description of proposal

The proposal would extend the IRS user fee program for requests made before October 1, 2007.

Effective date

The proposal would be effective on the date of enactment.

ESTIMATED REVENUE EFFECTS OF H.R. 2676, THE "INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998," AS REPORTED BY THE SENATE COMMITTEE ON FINANCE AND MODIFIED BY THE ROTH FINANCING AMENDMENT

[Fiscal Years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	2003–2007
Title I. Executive Branch Governance		*No Revenue Effect*											
Title II. Electronic Filing		*No Revenue Effect*											
Title III. Taxpayer Bill of Rights 3:													
A. Burden of Proof	eca DOE	(1)	-221	-232	-243	-256	-269	-282	-295	-311	-326	-953	-1,483
B. Proceedings by Taxpayers:													
1. Expansion of authority to award costs and certain fees at prevailing rate and CFR rule 68 provision with net worth limitation (includes outlay effects).	180da DOE	....	-14	-15	-16	-17	-20	-21	-22	-23	-25	-62	-111
2. Civil damages with respect to unauthorized collection actions (includes outlay effects).	DOE	-2	-15	-25	-50	-30	-25	-25	-25	-25	-25	-122	-125
3. Increase in size of cases permitted on small case calendar to $50,000.	pca DOE	*No Revenue Effect*											
4. Expand Tax Court jurisdiction to include responsible person penalties.	pca DOE	-11	-15	-13	-7	-7	-7	-7	-8	-8	-8	-53	-38
5. Actions for refund with respect to certain estates which have elected the installment method of payment.	rfa DOE	*Negligible Revenue Effect*											
6. Provide Tax Court jurisdiction to review adverse IRS determination of a bond issuer's tax-exempt status.	pfa DOE	(1)	-5	-2	-2	-2	-2	-2	-2	-2	-2	-11	-10
C. Relief for Innocent Spouses and Persons with Disabilities:													
1. Innocent spouse relief—innocent spouses would be able to elect to be liable only for tax attributable to their income (assumes no interaction with any other proposal; includes anti-abuse rule; not innocent if have actual knowledge of understatement of tax).	iaa & ulb DOE	-58	-350	-288	-273	-346	-480	-608	-773	-910	-1,071	-1,315	-3,842
2. Reports on collection activity against spouses	bi 1999	*No Revenue Effect*											
3. Suspension of statute of limitations on filing refund claims during periods of disability.	(7)	-10	-70	-35	-15	-16	-17.	-18	-19	-20	-21	-146	-95
4 Require the IRS to send separate notification to both spouses by certified mail.	—nma DOE	*No Revenue Effect*											
D. Provisions Relating to Interest and Penalties:													
1, Elimination of interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.	cqba DOE	-(1)	-9	-28	-42	-54	-57	-60	-63	-66	-69	-134	-315
2. Increase refund interest rate to Applicable Federal Rate ("AFR") + 3 for individual taxpayers (includes outlay effects)[3].	cqba DOE	-5	-51	-54	-56	-59	-62	-65	-69	-72	-76	-225	-344
3. Elimination of penalty on individual's failure to pay during installment agreements (for individuals and timely filed returns only).	iapma DOE	-29	-272	-287	-302	-317	-338	-354	-372	-390	-410	-1,207	-1,864
4. Mitigations of failure to deposit penalty cascading (all taxpayers)	dma 180da DOE	....	-47	-64	-64	-65	-66	-66	-67	-68	-68	-240	-335
5. Suspend accrual of interest and penalties if IRS fails to contact taxpayer within 12 months after a timely-filed return (except for fraud and criminal penalties).	tyea DOE	....	....	-358	-428	-482	-514	-609	-615	-622	-628	-1,268	-2,988
6. Notices of interest and penalties must show computation	na 180da DOE	*No Revenue Effect*											
7. Require management to approve non-computer generated penalties (excluding failure to file, pay, or estimate tax payment).	pa 180da DOE	*Negligible Revenue Effect*											
E. Protections for Taxpayers Subject to Audit or Collection:													
1. Due process for IRS collection actions	caia 6ma DOE	....	-45	-1	-1	-1	-1	-1	-1	-1	-1	-48	-5
2. Extend the attorney client privilege to accountants and other tax practitioners for tax advice of accountant and other tax practitioners.	DOE	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(5)	(5)
3. Expand the Taxpayer Advocate's authority to issue taxpayer assistance orders.	DOE	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(4)	(4)
4. Limitation on financial status audit techniques	DOE	*No Revenue Effect*											
5. IRS summons of computer source code	sia DOE & pfsib DOE	....	-26	-32	-39	-45	-53	-61	-66	-72	-74	-142	-326
6. Prohibition on extension of statute of limitations for collection beyond 10 years with estate tax exception.	(6)	-6	-44	-38	-31	-25	-25	-25	-25	-25	-25	-144	-125

ESTIMATED REVENUE EFFECTS OF H.R. 2676, THE "INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998," AS REPORTED BY THE SENATE COMMITTEE ON FINANCE AND MODIFIED BY THE ROTH FINANCING AMENDMENT—Continued

[Fiscal Years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	2003–2007
7. Notice of deficiency to specify deadlines for filing Tax Court petition.	nma 12/31/98	*Negligible Revenue Effect*											
8. Refund or credit of overpayments before final determination	DOE	*Negligible Revenue Effect*											
9. Prohibition on improper threat of audit activity for tip reporting	DOE	*No Revenue Effect*											
10. Codify existing IRS procedures relating to appeal of examinations and collections and increase independence of appeals function.	DOE	*No Revenue Effect*											
11. Appeals videoconferencing alternative for rural areas	DOE	*No Revenue Effect*											
12. Require IRS to notify taxpayer before contacting third parties regarding IRS examination or collection activities with respect to the taxpayer (does not apply for criminal cases).	180da DOE	....	(4)	(4)	(4	(4)	(4)	(4)	(4)	(4)	(4)	(5)	(5)
F. Disclosures to Taxpayers:													
1. Explanation of joint and several liability	180da DOE	*No Revenue Effect*											
2. Explanation of taxpayers' rights in interviews with IRS	180da DOE	....	−13	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(5)	(4)
3. Disclosure of criteria for examination selection	180da DOE	*No Revenue Effect*											
4. Explanations of appeals and collection process	180da DOE	*No Revenue Effect*											
5. Require IRS to explain reason for denial for refund	180da DOE	*No Revenue Effect*											
6. Statement to taxpayers with installment agreements	180da DOE	*No Revenue Effect*											
G. Low-Income Taxpayer Clinics													
H. Other Taxpayer Rights Provisions:													
1. Cataloging complaints of IRS employee misconduct	DOE	*No Revenue Effect*											
2. Archive of records of IRS	DOE	*No Revenue Effect*											
3. Payment of taxes to the U.S. Treasury[3]	DOE	*No Revenue Effect*											
4. Clarification of authority of Secretary relating to the making of elections.	DOE	*No Revenue Effect*											
I. Studies:													
1. Study of penalty and interest administration and implementation	9ma DOE	*No Revenue Effect*											
2. Study of confidentiality of tax return information	1ya DOE	*No Revenue Effect*											
J. Limits on Seizure Authority:													
1. IRS to implement approval process for liens, levies, or seizures	caca DOE	*No Revenue Effect*											
2. Prohibit the IRS from selling taxpayer's property for less than the minimum bid.	Soa DOE	*No Revenue Effect*											
3. Require the IRS to provide an accounting and receipt to the taxpayer (including the amount credited to the taxpayer's account) for property seized and sold.	soa DOE	*Negligible Revenue Effect*											
4. Require the IRS to study and implement a uniform asset disposal mechanism for sales of seized property to prevent revenue officers from conducting sales.	DOE & 2 years	*No Revenue Effect*											
5. Increase the amount exempt from levy to $10,000 for personal property and $5,000 for books and tools of trade, indexed for inflation.	cata DOE	(1)	−5	−5	−5	−5	−6	−6	−6	−6	−6	−21	−30
6. Require the IRS to immediately release a levy upon agreement that the amount is not collectible.	lia DOE	*Negligible Revenue Effect*											
7. Codify IRS administrative procedures for seizure of taxpayer's property.	DOE	*No Revenue Effect*											
8. Suspend collection by levy during refund suit	tyba 12/31/98	*Negligible Revenue Effect*											
9. Require District Counsel review of jeopardy and termination assessments and jeopardy levies.	taa DOE	*Negligible Revenue Effect*											
10. Codify certain fair debt collection procedures	DOE	*No Revenue Effect*											
11. Ensure availability of installment agreements	DOE	*No Revenue Effect*											
12. Increase superpriority dollar limits	DOE	*Negligible Revenue Effect*											
13. Permit personal delivery of section 6672(b) notices	DOE	*No Revenue Effect*											
14. Allow taxpayers to quash all third-party summonses	ssa DOE	*Negligible Revenue Effect*											
15. Permit service of summonses by mail or in person	ssa DOE	*No Revenue Effect*											
16. Provide new remedy for third parties who claim that the IRS has filed an erroneous lien.	DOE	*Negligible Revenue Effect*											
17. Waive the 10% early withdrawal penalty when IRA or qualified plan is levied.	la DOE	−1	−3	−4	−4	−4	−4	−5	−5	−5	−5	−17	−24
18. Prohibit seizure of residences in small deficiency cases	DOE	*Negligible Revenue Effect*											
19. Require the IRS to exhaust all payment options before seizing a business or principal residence.	aa DOE	*No Revenue Effect*											
K. Offers-in-Compromise:													
1. Rights of taxpayers entering into offers-in-compromise	DOE	(1)	(4)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(5)	(4)
2. Prohibit IRS rejection of low-income taxpayer's offer-in-compromise based on amount of offer.	osa DOE	*No Revenue Effect*											
3. Prohibit IRS rejection of an offer-in-compromise solely based on a dispute as to liability because the taxpayer's file cannot be located by the IRS.	osa DOE	*No Revenue Effect*											
4. Prohibit the IRS from requiring a financial statement for offer-in-compromise based solely on doubt as to liability.	DOE	*No Revenue Effect*											
5. Suspend collection by levy while offer-in-compromise is pending	tao/a 60da DOE	*Negligible Revenue Effect*											
6. Rejected offers-in-compromise and requests for installment agreements to be reviewed.	oara DOE	*No Revenue Effect*											
7. Appeals review of rejected offers-in-compromise	osa DOE	*No Revenue Effect*											
L. Additional Items:													
1. Prohibit using tax enforcement results to evaluate IRS employees	DOE	*No Revenue Effect*											
2. IRS notices must contain name and telephone number of IRS employee to contact.	60da DOE	*No Revenue Effect*											
3. Require approval of use of pseudonyms by IRS employees	DOE	*No Revenue Effect*											
4. National Office conferences without field personnel	DOE	*No Revenue Effect*											
5. Require the IRS to end the use of the illegal tax protestor label	DOE	*No Revenue Effect*											
6. Modify section 6103 to allow the tax-writing committees to obtain data from IRS employees regarding employee and taxpayer abuse.	DOE	*No Revenue Effect*											
7. Publish telephone numbers for local IRS offices	1/1/99	*No Revenue Effect*											
8. Alternative to Social Security numbers for tax return preparers	DOE	*No Revenue Effect*											
9. Expand Alternative Dispute Resolution; binding arbitration pilot program.	DOE	*No Revenue Effect*											
10. Treasury cannot implement 98–11 regulations for 6 months, with no inference about transition rules.	DOE	−8	−36	−10	−6	−3	−3	−2	−1	−1	−1	−63	−8
11. Require IRS to notify all partners of any resignation of the tax matters partner that is required by the IRS, and of the identity of any successor tax matters partner who was appointed to fill the vacancy created by such resignation.	tyba 12/31/98	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	−1	−1	
Subtotal of Taxpayer Protections		−137	−1,251	−1,499	−1,592	−1,742	−1,957	−2,225	−2,442	−2,635	−2,849	−6,223	−12,110
Title IV. Congressional Accountability for the IRS		*No Revenue Effect*											
Title V. Revenue Offsets:													
A. Repeal Schmidt Baking with Respect to Vacation and Severance Pay	tyea DOE	603	1,141	1,160	141	148	156	163	172	180	189	3,193	860
B. Allow Taxpayers to use foreign Tax Credits to Reduce Income for 1 Year Back and Carryforward 7 years.	ftcai tyba 12/31/98	....	84	546	487	454	424	394	271	267	263	1,571	1,619
C. Clarify and Expand Math Error Procedures	tyea DOE	....	12	25	26	27	28	29	39	31	32	90	150
D. Freeze Grandfathered Status of Stapled or Paired-Share REITs	tyea 3/26/98	(8)	1	3	6	10	14	19	26	35	45	20	139

ESTIMATED REVENUE EFFECTS OF H.R. 2676, THE "INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998," AS REPORTED BY THE SENATE COMMITTEE ON FINANCE AND MODIFIED BY THE ROTH FINANCING AMENDMENT—Continued

[Fiscal Years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	2003–2007
E. Make Certain Trade Receivables Ineligible for Mark-to-Market Treatment With Spread.	tyea DOE	33	317	500	333	117	70	73	77	81	85	1,300	386
F. Add Vaccines Against Rotavirus Gastroenteritis to the List of Taxable Vaccines ($0.75 per dose).	vpa DOD	....	1	2	3	4	5	6	6	6	7	10	30
G. Authorize the Federal Government to Offset a Federal Income Tax Refund to Satisfy a Past Due, Legally Owing State Income Tax Debt.	rda DOE	2	2	3	3	3	3	3	4	4	4	13	18
H. Restrict Special Net Operating Loss Carryback Rules for Specified Liability Losses.	NOLgi tyba DOE	....	....	15	32	42	43	41	40	41	42	89	207
I. Disregard Minimum Distributions in Determining AGI for IRA Conversions to a Roth IRA.	tyba 12/31/04	....	....	....	....	....	....	....	2,362	2,854	2,812	....	8,028
J. Extend Fee for IRS Letter Rulings	10/1/03	....	....	....	....	....	....	64	67	71	75	....	277
Subtotal of Revenue Offsets		638	1,558	2,254	1,031	805	743	792	3,055	3,570	3,554	6,286	11,714
Title VI. Tax Technical Corrections							*No Revenue Effect*						
Title VII. Pay-Go Surplus[3]		....	....	....	....	....	29	61	93	97	126	....	406
Net total		501	307	755	−561	−937	−1,185	−1,372	706	1,032	831	63	10

[1] Loss of less than $1 million.
[2] Effective for periods of disability before, on or after the date of enactment but would not apply to any claim for refund or credit which (without regard to the proposed provision)
[3] Estimate provided by the Congressional Budget Office
[4] Loss of less than $5 million.
[5] Loss of less than $25 million.
[6] Effective for requests to extend the statute of limitations made after the date of enactment and to all extensions of the statute of limitations on collections that are open 180 days after the date of enactment.
[7] Loss of less than $500,000.
[8] Gain of less than $500,000.

Legend for "Effective" column: aa=actions after; bi=beginning in; caca=collection actions commenced after; caia=collection actions initiated after; cata=collection actions taken after; cqba=calendar quarters beginning after; dma=deposits made after; DOE=date of enactment; eca=examinations commencing after; ftcai=foreign tax credits arising in; iapma=installment agreement payments made after; la=levies after; laa=liability arising after; lia=levies imposed after; na=notices after; NOLgi=net operating losses generated in; nma=notices mailed after; oara=offers and requests after; osa=offers-in-compromise submitted after; pa=penalties after; pca=processings commencing after; pfa=petitions filed after; pfsib=protection for summonses issued before; tia=penalties imposed after; rda=refunds due after; rfa=refunds filed after; sia=summonses issued after; soa=seizures occurring after; Soa=sales occurring after; ssa=summonses served after; taa=taxes assessed after; tao/a=taxes assess on or after; tyba=taxable years beginning after; tyea=taxable years ending after; ulb=unpaid liability before; vpa=vaccines purchased after; 1ya=1 year after; 6ma=6 months after; 9ma=9 months after; 60da=60 days after; and 180da=180 days after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

AMENDMENT NO. 2340

Mr. ROTH. Mr. President, I would now like to turn to the amendment offered by the Senator from Nebraska, Mr. KERREY.

Senator KERREY is offering an alternative pay-for package. I must oppose Senator KERREY's package.

The Kerrey amendment contains revenue raisers similar to the Roth amendment. There are a few additional items that I had considered in crafting my pay-for amendment.

There, is, however, one very controversial revenue raiser in the Kerrey amendment. I think it is important that my colleagues focus their attention on it.

Rather than modifying the rollover rules for Roth IRAs, which would allow more taxpayers to enjoy the benefits of the Roth IRA, the Kerrey amendment would reinstate the expired Superfund taxes.

It is an undisputable fact that the present Superfund program needs immediate, substantial reform. I am a longstanding supporter of the Superfund program. It is critical that Superfund sites be cleaned up. It is a shame that the program has floundered over the past several years. Every Senator should feel the responsibility to get the Superfund program back up and running at full speed.

The Superfund trust fund received its revenues from excise taxes on domestic crude oil and imported petroleum products, certain chemicals and imported derivative products, and a corporate environmental tax.

These taxes expired a couple of years ago. If the taxes are extended, they will provide the necessary resources for Superfund cleanup activities.

It is important to maintain the "connection" between the Superfund taxes and the Superfund program. It is the view of our Senior Republican colleagues on the Environment and Public Works Committee that this connection is important for both the politics and policy of Superfund.

Our distinguished colleagues from the Committee on Environmental and Public Works, in particular, Senator SMITH and Senator CHAFEE, have worked long and hard on Superfund reform legislation.

They produced a bill, passed it out of committee, and have asked me to extend the expired Superfund taxes to cover the authorization period. Senators SMITH and CHAFEE should be commended for moving Superfund forward, not undercut here on the Senate floor.

I intend to support Senators SMITH and CHAFEE's efforts. As they have communicated to me, unless the Superfund taxes are enacted directly in connection with a Superfund reform bill, any hope for the long-needed changes in this environmental program would be dashed.

In deference to Senators SMITH and CHAFEE, the Finance Committee did *not* include an extension of the Superfund taxes in either the IRS Reform bill that passed our committee unanimously or in the Roth amendment. I agree with Senators SMITH and CHAFEE that the appropriate vehicle for extension of the Superfund taxes is their Superfund bill.

As chairman, let me be clear—I pledge to work with Senators SMITH and CHAFEE on Superfund with respect to the issues within Finance Committee jurisdiction.

It is my hope that will move forward with a viable Superfund reform proposal. The recent progress made by the Environment and Public Works Committee is encouraging.

If you are for Superfund reform, as I am, you need to support Senators SMITH and CHAFEE. For this reason, I respectfully urge my colleagues to oppose the Kerrey amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, first of all, the choice that the Senate will be making today really is, the first choice we have to make is do we want to put another $9 billion of spending in this bill. That is what the Finance Committee did. And as a consequence we are now trying to find a pay-for of some kind. I believe it is a perfectly good bill without that $9 billion worth of additional expenditure, but that is the threshold question. Do you want to spend an additional $9 billion? And if you do, the question is, how do you get the money? Where do you get the money to pay for it?

What we have done in our amendment is included two provisions that were included by the chairman of the Budget Committee. The Chairman of the Budget Committee, Senator DOMENICI, has advocated these two provisions as reasonable provisions, and we have included them as a pay-for. The alternative must be described here in a little more detail.

It is essentially an accounting gimmick that will be used by people over the age of 70½ that will basically enable them to pass to their heirs, tax free, assets that they currently own. That is what it is. Members need to know who will be affected by this.

I ask unanimous consent a letter from the Joint Committee on Taxation be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

JOINT COMMITTEE ON TAXATION,
Washington, DC, May 5, 1998.

To: Mark Patterson.

From: Lindy L. Paull.

Subject: Estimated revenue effects of proposal included in Roth financing amendment to modify rules relating to Roth IRA conversions.

Included in the proposed Roth Financing Amendment to the IRS Restructuring bill currently pending on the Senate floor is a proposal to modify the definition of adjusted gross income ("AGI") for purposes of determining the income limitation of conversions of IRA balances to Roth IRAs, effective for taxable years beginning after December 31, 2004. The following describes the analysis of the staff of the Joint Committee on Taxation in preparing estimated revenue effects of this proposal.

DESCRIPTION OF PROPOSAL

Under present law, uniform minimum distribution rules generally apply to all types of tax-favored retirement vehicles, including qualified retirement plans and annuities, IRAs other than Roth IRAs, and tax-sheltered annuities (sec. 403(b)).

Distributions are required to begin no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date means April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½, or (2) the calendar year in which the employee retires. In the case of an employee who is a 5-percent owner (as defined in section 416), the required beginning date is April 1 of the calendar year following the calendar year the employee attains age 70½. In general, minimum distributions are includible in gross income in the year of distribution.

Under present law, all or any part of amounts in a deductible or nondeductible IRA may be converted into a Roth IRA. Only taxpayers with AGI of $100,000 or less are eligible to convert an IRA into a Roth IRA. In the case of a married taxpayer, AGI is the combined AGI of the couple. Married taxpayers filing a separate return are not eligible to make a conversion.

If a taxpayer is required to take a minimum required distribution from an IRA, the amount of the required distribution is includible in gross income, and cannot be rolled over into a Roth IRA.

The proposal would modify the definition of AGI to exclude the required minimum distribution from the taxpayer's AGI solely for purposes of determining eligibility to convert from an IRA to a Roth IRA. As under present law, the required minimum distribution would not be eligible for conversion and would be includible in gross income.

REVENUE ESTIMATION ASSUMPTIONS

The proposal targets a fairly narrow, well-defined taxpaying population who have attained or will attain age 70½ during the budget period. For purposes of the revenue estimate, it is assumed that the proposal would be utilized by a subset of this population. Two classes of taxpayers who become eligible for the conversion to a Roth IRA as a result of the proposal have been identified.

(1) *Taxpayers who are currently over age 70½, are taking a minimum required distribution, and who have AGI in excess of $100,000.* When the proposal becomes effective, some taxpayers whose AGI would fall below $100,000 if the minimum required distributions were disregarded would convert to a Roth IRA. In addition, some taxpayers whose AGI would not fall below $100,000 under the proposal but who have income that could be shifted easily from one tax year to another would convert to a Roth IRA. It is assumed for estimating purposes that some of these taxpayers would utilize this income shifting technique under present law to take advantage of the conversion to a Roth IRA; however, taxpayers whose minimum required distributions are substantial would be less able to utilize this technique under present law.

(2) *Taxpayers whose AGI exceeds $100,000 and who will attain age 70½ during the budget window.* These taxpayers are currently not eligible to convert to a Roth IRA; some of these taxpayers have income which could be shifted easily from one tax year to another and might be expected to do such income shifting in order to make a conversion to a Roth IRA under present law. Other taxpayers would not be able to shift income easily and would not be able to utilize the conversion to a Roth IRA under present law.

Approximately 500,000 taxpayers would be eligible for the conversion under the proposal during the budget years 2005 through 2007. Of those eligible, we estimate that approximately 170,000 taxpayers would convert to a Roth IRA.

Mr. KERREY. The Joint Committee on Taxation said, as we all know, it only affects Americans with retirement income over $100,000 a year. That is who is affected. So ask yourself how many people in your State have incomes over $100,000 a year, because that is who it is going to affect. The Joint Committee on Taxation is saying 170,000 of those individuals—that is what they are saying, 170,000 of those individuals—will convert to a Roth IRA. What does that mean? That means they are going to pay $50,000 each to convert. In order to get $8 million, you have to have an average of $50,000 of taxes paid by each of these 170,000 people to convert.

You ask yourself, why are they doing it? Love America? Love their country? Get teary-eyed when they watch the flag go by? No, sir. What they are doing is saying they would rather pay that extra $50,000 because they know their heirs will not pay any tax on this asset when it is transferred. That is what happens. It is a substantial reduction in tax revenue in the 10- to 15-year period at the very moment that this Senate and this Congress is going to be facing a tremendous problem of growing entitlements. They are going to force us into a situation where we will have to be reducing the cost of entitlement programs. While we are reducing the cost of entitlement programs, the heirs of very wealthy Americans are going to be receiving income on which they are paying no tax. That is what this is all about. This is not about Americans who are under the gun. Remember, of all of the nearly 40 million Social Security beneficiaries, almost 70 percent of them have 50 percent of their income being Social Security only; that is $745 a month.

This is about people over the age of 70½ with retirement incomes over $100,000 taking an IRA, converting it to a Roth IRA, paying, on an average, $47,000 per person for taxes so their heirs don't have to pay any taxes at the very moment that this Senate is going to be facing cutting back on benefits to the middle-income Americans. That is the choice that this proposal presents to us.

We are saying, first of all, on this side we would prefer that we not add to the cost of the bill. We have. Second, if we are saying we are going to add to the cost of the bill, let's find something that is more appropriate than providing a tax break to people right now who, frankly, not only are they not asking for a tax break, I think it is very difficult to justify that they need one. Our offset includes a provision that was recommended by the chairman of the Budget Committee.

In addition, our proposal, our amendment, includes some requests.

I ask unanimous consent a letter sent to the chairman of the Finance Committee from Commissioner Rossotti be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, March 31, 1998.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to provide the Senate Finance Committee information about provisions under consideration as part of the IRS restructuring bill which, in order to implement, will require changes in IRS computer information systems.

As is noted in one of the provisions of the restructuring bill, it is essential that the work needed to make the IRS computer systems comply with the Century Date Change be given priority. If these changes are not made and tested successfully, computer systems on which the IRS directly depends for accepting and processing tax returns and tax payments will cease to function after December 31, 1999. In order to accomplish this change, a massive effort is underway now and will continue through January 2000. This project, one of the largest information systems challenges in the country today, is estimated to cost approximately $850 million through FY 1999 and requires updating and testing of about 75,000 computer applications programs, 1400 minicomputers, over 100,000 desktop computers, over 80 mainframe computers and data communications networks comprising more than 50,000 individual product components. In addition, the data entry system that processes most of the tax returns must be replaced.

Most of the work to repair or replace these individual components must be done prior to the tax season that begins in January 1999, and thus is at its peak during calendar 1998. During this peak period, the IRS must also make the changes necessary to implement the provisions of the Taxpayer Relief Act of 1997 which are effective in tax year 1998. These changes are still being defined in detail but are currently estimated to require about 800 discrete computer systems changes.

The most critical systems to which these changes must be made are systems that were originally developed in the 1960's, 1970's and 1980's, and many are written in old computer languages. A limited number of technical staff have sufficient familiarity with these programs to make changes to them. Furthermore, the IRS suffered attrition of 8% of this staff during FY 97, which attrition has continued at the same or higher rate until recently. In part, this attrition reflected the very tight market for technical professionals as well as a perceived lack of future opportunities at the IRS.

This extraordinary situation has required the IRS to commit every available technical and technical management resource to these critical priorities and to defer most other requests for systems changes at least during calendar year 1998.

For these reasons, it will not be feasible to make any significant additional changes to the IRS systems prior to the 1999 filing season, pushing the start of all additional work to about the second quarter of calendar 1999. Furthermore during 1999, a major amount of additional work will be required to perform the testing to ensure that all the repaired or replaced components work as expected prior to January 1, 2000. Given the magnitude of the changes, it is likely that additional work will be required to repair defects and problems that will be uncovered during the testing in the second half of 1999. Thus, while some capacity to make systems changes is projected to exist in 1999, there is considerable uncertainty about how much capacity will in fact be available even during calendar 1999.

With this context in mind, we have attempted to identify the provisions in the restructuring bill that require significant changes to computer systems and estimate how much staff time would be needed to implement these changes. Based on this very preliminary analysis, we have prepared a list of recommended effective dates if these provisions are adopted. In all cases, we would strive to implement the provisions sooner if possible. In addition, two provisions entail both significant systems and policy issues. For these items, which are discussed first, we suggest an alternative approach.

ALTERNATIVE APPROACH

1. Require that all IRS notices and correspondence contain a name and telephone number of an IRS employee who the taxpayer may call. Also, to the extent practicable and where it is advantageous to the taxpayer, the IRS should assign one employee to handle a matter with respect to a taxpayer until that matter is resolved.

Concern: We agree with the objectives of this proposal, but are concerned because it would entail a total redesign of customer service systems and would actually move the IRS away from the best practices found in the private sector. We do support the proposal that the IRS should assign one employee to handle a matter with respect to the taxpayer where it is both practicable and where it is advantageous to the taxpayer.

The proposal would affect the Masterfile, Integrated Data Retrieval System (IDRS), and any system supported by IDRS (including AIMS and ACS). In addition, the proposal is likely to decrease the customer service we are trying to improve through our expansion of access by telephone to 7 days a week, 24 hours a day. The assignment of a particular employee for a taxpayer contact could actually increase the level of taxpayer frustration as the named employee may be on another phone call, working a diffrent shift, or handling some other taxpayer matter when taxpayers call. In addition, consistent with private sector practices, we are currently installing a national call router designed to ensure that when a taxpayer calls with a question, the call can be routed to the next available customer service representative for the fastest response possible.

Proposal: Require that the IRS adopt best practices for customer service with regard to notices and correspondence, as exemplified by the private sector. Require that the IRS report to Congress on an annual basis on these private sector best practices, the comparable state of IRS activities, and the specific steps the IRS is taking to close any gap between its level and quality of service and that of the private sector. Furthermore, the IRS could be required to put employee names on individual correspondence; it could require all employees to provide taxpayers with their names and employee ID numbers; and, finally, it could record, in the computer system, the ID number of the employee who takes any action on a taxpayer account.

2. The proposal would suspend the accrual of penalties and interest after one year, if the IRS has not sent the taxpayer a notice of deficiency within the year following the date which is the later of the original date of the return or the date on which the individual taxpayer timely filed the return.

Concern: We agree with the objective of the proposal to encourage the IRS to proceed expeditiously in any contact with taxpayers, however, our systems are currently unable to accommodate some of the data requirements with the speed necessary to make this proposal workable. In addition, we are concerned that the proposal could have the perverse incentive of encouraging taxpayers to actually drag out their audit proceedings rather than work with the IRS to bring them to a speedy conclusion. Our administrative appeals process, which is designed to resolve cases without the taxpayer and the government incurring the cost and burden of a trial, could also become a vehicle for taxpayers to delay issuance of a deficiency notice.

Proposal: Require the IRS to set as a goal the issuance of a notice of deficiency within one year of a timely filed return. Mandate that the IRS provide a report to the Congress on an annual basis that specifies: progress the IRS has made toward meeting this goal, measures the IRS has implemented to meet this goal, additional measures it proposes toward the same end, and any impediments or problems that hinder the IRS' ability to meet the goal. In addition, the proposal could reemphasize the requirement that the IRS abate interest during periods when there is a lapse in contact with the taxpayer because the IRS employee handling the case is unable to proceed in a timely manner. The IRS could be required to provide information on the number of cases in which there is interest abatement each year in the report.

EFFECTIVE DATES

We propose the following effective dates for specific provisions. These dates are driven by the capacity of our information technology systems, not the impact of the policy. Some of these provisions would be fairly easy to implement, but in total—and in conjunction with all the other demands on our information technology resources—it is simply not feasible to implement them until the dates proposed. If the situation changes, we will strive to implement the provisions sooner.

The effective date for many of these changes is January 31, 2000. Given that all of these changes must be made compatible with the Century Date Change, we believe we will need the month of January 2000 to ensure all the Century Date Changes are successful before implementing the provisions listed below.

Allow the taxpayers to designate deposits for each payroll period rather than using the first-in-first-out (FIFO) method that results in cascading penalties. Effective immediately for taxpayers making the designation at time of deposit. Effective July 31, 2000 for taxpayers making the designation after deposit.

Overhaul the innocent spouse relief requirements and replace with proportionate liability, etc. Effective date: July 31, 2000. The IRS has no way of administering proportionate liability with our current systems. This provision would require significant complex changes to our systems and is likely to be cumbersome and error-prone for both taxpayers and the IRS.

Require each notice of penalty to include a computation of penalty. Effective date: Notices issued more than 180 days after date of enactment.

Develop procedures for alternative to written signature for electronic filing. The IRS is already preparing a pilot project for filing season 1999. Subsequent roll out of alternatives to written signatures for electronic filing will depend on the success of the pilot.

Develop procedures for a return-free tax system for appropriate individuals. This provision should be interpreted as a study of the requirements of a return-free tax system and the target segment of taxpayers. Actual implementation will be based on the findings and conclusions of the study.

Increase the interest rate on overpayments for non-corporate taxpayers from the federal short-term interest +2% to +3%. Effective date: July 31, 1999.

Do not impose the failure to pay penalty while the taxpayer is in an installment agreement. Effective date: January 31, 2000.

Require the IRS to provide notice of the taxpayer's rights (if the IRS requests an extension of the statute of limitations). Require Treasury IG to track. Effective date: January 31, 2000.

Require IRS to provide on each deficiency notice the date the IRS determines is the last day for the taxpayer to file a tax court opinion. A petition filed by the specified date would be deemed timely filed. Effective date: January 31, 2000.

Require the Treasury IG to certify that the IRS notifies taxpayers of amount collected from a former spouse. Effective date: January 31, 2000.

Require the IRS to provide notice to the taxpayer 30 days (90 days in the case of life insurance) before the IRS liens, levies, or seizes a taxpayer's property. Effective date: 30 days after date of enactment for seizures; January 31, 2000 for liens and levies.

Require the IRS to immediately release a levy upon agreement that the amount is "currently not collectible." Effective date: January 31, 2000.

Waive the 10% addition to tax for early withdrawal from an IRA or other qualified plan if the IRS levies. Effective date: January 31, 2000.

The taxpayer would have 30 days to request a hearing with IRS Appeals. No collection activity (other than jeopardy situations) would be allowed until after the hearing. The taxpayer could raise any issue as to why collection should not be continued. Effective date: January 31, 2000.

IRS to implement approval process for liens, levies, and seizures. Effective date: implement procedures manually 60 days after date of enactment; implement system for IG tracking and reporting January 31, 2000.

The following items were proposed in the Administration's FY 1999 Budget. In conjunction with the other proposals in this bill, they will also require significant systems changes:

Eliminate the interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.

Prohibit the IRS from collecting a tax liability by levy if: (1) an offer-in-compromise is being processed; (2) within 30 days following rejection of an offer; and (3) during appeal of a rejection of an offer.

Suspend collection of a levy during refund suit.

Allow equitable tolling of the statute of limitations on filing a refund claim for the period of time a taxpayer is unable to manage his affairs due to a physical or mental disability that is expected to result in death or last more than 12 months. Tolling would not apply if someone was authorized to act on these taxpayers' behalf on financial affairs.

Ensure availability of installment agreements if the liability is $10,000 or less.

Finally, we would attempt to immediately implement the cataloging of taxpayer complaints of employee misconduct and would stop any further designation of "illegal tax protesters." However, there may be some systems issues with regard to these proposals that could delay certain changes until some time in early 1999.

I look forward to working with you, the Finance Committee, and the Congress as we strive to restructure the Internal Revenue Service.

Sincerely,

CHARLES O. ROSSOTTI.

Mr. KERREY. Our amendment includes something that I urge my colleagues to consider. My hope is Senator MOYNIHAN will offer this as a freestanding amendment later. Mr. Rossotti, quite appropriately, says we have about 600 days before the 31st of December 1999. No one is more eloquent than the Senator from Utah, Senator BENNETT, talking about the problems that the year 2000 is going to create as a consequence of having to rewrite all of our computer codes. The computers will think it is the year 1900 and everything is going to end up getting shut down, a huge problem for the IRS. Mr. Rossotti is very much worried. Right now the IRS is a bit behind. He sent us a letter asking us to delay some of these provisions.

We have not been able to get these scored yet from Joint Tax. I regret that. It takes a little longer out of Joint Tax than we would like. We will get that scored before we are through with this debate and we will be able to reduce some of the offsets in other areas. But I am urging Members have an opportunity to put themselves on the side of honoring the request of Mr. Rossotti, who is saying we are not going to be able to meet that year 2000 problem if a whole series of additional things are imposed upon us that we have to do.

Understand, we pass the law but the IRS has to implement it. We change the law, whether it is a Tax Code or some other area of the tax law, and the IRS is the one that has to organize human beings to get the job done.

We have an offset in here that has been endorsed by the chairman of the Budget Committee. We have an offset that does not have us saying to people with retirement incomes over $100,000 a year here is a way for you to shelter that income for your heirs. And we have a provision in here that enables Senators to say we have taken a step to make certain that at least the IRS is not, in the year 2000, going to cause all kinds of additional hardships to the American taxpayers as a consequence of not having their computer system and their software Y2K compliant.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I thank the distinguished chairman of the Finance Committee, Senator ROTH, No. 1, for recognizing me, but more importantly for supporting the provision that we should not use these environmental income taxes, and oil and chemical excise taxes, for anything but Superfund. I know it was a difficult decision. I support the Senator fully on the IRS reform which he has done such a tremendous job on, and on which he has exerted such great leadership. I commend him for understanding, also, there is another issue here with Superfund.

This, essentially, with the greatest respect to my colleague from Nebraska, will just totally destroy the Superfund reform that we have worked on for some 3½ years. In order to make the things happen that we need to make happen in the Superfund Program, these taxes would have to be reinstituted and used strictly and exclusively for the Superfund Program. So I vehemently oppose the Kerrey amendment.

I am certain the majority of this body, and I think the majority of the American people agree that IRS and Superfund have a similarity. They are both badly broken. They both need to be fixed. But they don't have to go against each other to do that. These are two separate and distinct issues.

I support the IRS reform the distinguished chairman is pursuing and I also support reforming the Superfund Program. It is inappropriate to utilize Superfund taxes to pay for the cost of IRS: Superfund taxes should be used to fix Superfund.

For those who have been anxiously waiting for the reform of the program, help is on the way, I hope, if the Senate will be supportive. Working with the distinguished chairman of the Environment and Public Works Committee who is on the floor, Senator CHAFEE, and through his leadership we were able to pass a bill out of committee. I am hopeful the majority of our colleagues will allow that bill to be brought to the floor and fully debated. Within the next few days the committee's report will be complete. There are differences on the bill. But I think clearly no one should be of the opinion that we should use Superfund taxes; that is, the environmental income tax and the oil and chemical excise tax, for anything other than to reform that program.

I don't want to get into a full debate now on the problems associated with Superfund. I will have that opportunity when we get the bill to the floor. But I just want to say, when Congress established this program in 1980, the consensus was it would take a few billion dollars to clean up what we thought were around 400 sites. In order to fund this program, revenues were collected through these taxes. We reauthorized the program in 1986, extending the taxing authority. What has happened is we spent $20 billion of taxpayers' money and we have only cleaned up about 160 sites; that is 160 sites were removed from the NPL.

These folks who pay the environmental income taxes, who pay the oil and chemical excise taxes, rightfully say this program isn't working. We are paying all this tax money and it is going to lawyers and it is being wasted and we are not cleaning up sites. Our Superfund bill clearly expedites cleanup, gets the money away from lawyers and towards cleanup. To take that money away from this program and provide it for some other use is simply unconscionable. Although maybe well intended, it is a serious mistake in terms of the bipartisan consensus that we have to fix a broken program.

So I am hopeful—I wish the Senator would reconsider his amendment and I hope this will be defeated.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. First of all, as to "unconscionable," we are just following the lead of the chairman of the Budget Committee who apparently is unconscionable as well. He had the same proposal in his budget.

Second, let me say this is not to fund the operation of the IRS. This basically funds a tax cut. That is what we are talking about. We have new innocent spouse provisions in this bill and a burden of proof shift that will result in a reduction of taxes of some American taxpayers. That is what this pay-for is set up to do.

Let me say these taxes are not imposed until the year 2002. This gives the Environment and Public Works Committee nearly 3 additional years. They had 3½ years now already since this bill expired. My presumption is 3 years is plenty. I can find an additional offset, perhaps, and push it back to 2003 if you want an additional year to get this bill authorized.

This takes care of a second 5-year problem. Again, I say to colleagues, we are having to deal with this because the Finance Committee decided to spend $9 billion more, and that $9 billion is being spent to reduce some people's taxes who are going to pay higher taxes as a result of the innocent spouse provision and the burden-of-proof issue.

We are reducing taxes in one area and we have to find an offset. It seems to me, Mr. President, that Senator DOMENICI's recommendation is correct. By delaying this until 2002, we take away the argument the distinguished Senator from New Hampshire had about destroying the Superfund Program. This gives the Environment and Public Works Committee 3½ years to finish their job.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 10 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the distinguished chairman of our Finance Committee for yielding me some time on this matter.

I rise to oppose the amendment offered by the Senator from Nebraska. This amendment offers the Senate an alternative to the Finance Committee's plan to pay for the tax relief provided in the IRS reform bill, but the reality is that the Kerrey amendment would prevent meaningful Superfund reform. The amendment, I believe strongly, should be rejected.

I oppose this amendment, obviously, but let me tell you what I do support. I support reimposition of the Superfund taxes. I also support reasonable Superfund reform. We will need to reimpose the three Superfund taxes—namely, the corporate environmental income tax, the excise taxes on crude oil and the excise tax on chemical feedstock—to provide the revenue to pay for a fairer Superfund Program.

Why do I keep talking about Superfund? Mr. President, the Committee on Environment and Public Works reported a Superfund bill to the floor 6 weeks ago. Just yesterday, the committee received CBO's estimate on the bill. As we expected, we will need to reimpose the Superfund taxes in order to pay for the Superfund reforms and the Superfund reauthorization. In other words, if we gobble up this money now in connection with the IRS reforms, the money won't be there for the Superfund bill which we are moving along now and which has used in the past these very funds; in other words, these are Superfund taxes.

The Kerrey amendment, if adopted, would prevent meaningful reform of the Superfund Program. I could discuss at length the numerous problems that plague Superfund. There is no question it has a lot of difficulties. I am prepared to explain the solutions we propose in our comprehensive Superfund bill that is on the floor now, but it is not necessary to do that today.

While the Environment and Public Works Committee reported our Superfund bill on an 11-to-7 vote—there are 18 members of our committee, 10 Republicans and 8 Democrats—the bill was reported out in really a nearly partisan vote by 11 to 7 with only one Democratic Senator in support. However, there is bipartisan consensus that the Superfund has to be reformed.

There wasn't, obviously, agreement with the way the Republicans on the committee wanted to proceed, but, nonetheless, there is agreement that the Superfund legislation needs to be reformed. Indeed, I see the ranking member of the committee now, and he devoted many hours of his time to this effort for reform.

He also knows it will be necessary to offset the spending in any Superfund reform by reimposing these Superfund taxes. This was the case when Senator BAUCUS chaired the committee and reported a Superfund bill in 1994, and it still remains the case today. If we are going to have Superfund reform, we are going to need these moneys that now are apparently being seized or attempting to be seized by Senator KERREY to use for this other purpose; namely, the IRS changes.

The Kerrey amendment would preclude any meaningful reform of the Superfund Program. In other words, how are we going to pay for the thing? We wouldn't be able to if this Kerrey amendment is adopted.

The real issue before us is whether the Senate wants to abandon Superfund reform. If we do, then go ahead and vote for the Kerrey amendment. If you don't, if you want Superfund to take place and do something about the brownfields redevelopment, for example, we have to have these moneys. There aren't other revenues around that we can use. The Kerrey amendment would preempt reform. The amendment would frustrate any Superfund reform efforts. I believe it is bad public policy to take these taxes and use them to pay for tax relief in the absence of Superfund reform.

Mr. President, I strongly hope this amendment will be rejected and that we can all agree we are saving these Superfund taxes. They will have to be reimposed at some time when we get a reauthorization of the Superfund legislation, but let's save them for that purpose, the purpose they have been used for in the past and the purpose I believe they should be used for in the future.

I thank the Chair, and I urge my colleagues to support the Roth amendment and to reject the Kerrey amendment.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). Who yields time?

Mr. KERREY. I yield such time as necessary to the Senator from Montana.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my friend from Nebraska.

I strongly support the Kerrey amendment for several reasons. First, the funding mechanism provided for in the manager's amendment to the underlying bill, while creative and it meets the technical requirements of the budget rules, it is also very misleading. The rollover provisions in the managers' amendment do raise $8 billion in the first 5 years that the provision will be in effect, but that same provision loses $7 billion in the second 5 years—a clear revenue loss.

Here we are in the underlying amendment saying, "OK, early on, we'll raise the revenue," but we don't tell the rest of the world, particularly the Congress and Senators who are voting on this, that we are going to lose $7 billion in the next 5 years.

Part of our efforts in the Congress, I hope, have been truth in budgeting not just in the first 5 years, but also beyond, in the next 5 years. Too often, this Congress has, unfortunately, hoodwinked people—the President has been part of it, both administrations, in the last 10 to 15 years—by saying, "OK, we will meet the budget requirements in the first 5 years, but we won't tell everybody what we are doing in the next 5 years," and often in the next 5 years, if not disastrous, it is inimical to the American people because it tends to increase deficits rather than decrease. That is a fact. To the credit of this administration, it has tried to be truthful not only in the first 5 years, but also the next 5 years, and so has the Congress.

Here we are with an underlying amendment which goes totally against that effort on the part of good, solid statesmanlike Senators to be truthful not only in the first 5 years, but the next 5 years.

This amendment increases the deficit because it costs $7 billion more in the next 5 years. That is not right. We shouldn't be doing that. That is what this amendment does. This is a gimmick. It is purely and simply a gimmick, and that is why it is a bad idea.

The Kerrey amendment, on the other hand, raises revenue in several ways. One is by postponing some of the effective dates of the provisions. Why is that important? Not only because it raises revenue, that is only of minor importance, but the major reason is because we all know, Mr. President, this country faces a massive problem in the next year or two with the fancy term Y2K. It is computer conversion to the next millennium.

We know that most computers in our country, whether it is in the IRS, whether it is in the companies, have a system where they have two digits for the date, two digits for the month, and two digits for the year. What is today? Today is May 6, 1998. So it would be 05-06-98.

That is how the computers record today's date. All computers do that. So we get to December 1999—12-30-99, 12-31-99, and next is 01-01-00. Now, we like to think that is January 1, 2000, but most computers today will record that as January 1, 1900, because two zeros are treated as 1900, not 2000. Massive problems.

It is going to cost the IRS, to convert these computers just to meet this conversion problem, $1 billion—$1 billion just to convert. That is to say nothing of all the other costs to comply with new changes in the law.

So the Kerrey amendment is very, very logical. It is safe. Maybe a little on the conservative side. It says, let us delay the effective dates of some of these new provisions. Why? Because we do not want to further complicate the conversion problem.

This IRS restructuring bill is going to further complicate the conversion problem—further complicate it—not lessen, but further complicate it. So Senator KERREY says, well, let us not do the gimmick, let us delay the effective date a little bit, and let us also delay the effective date to take care of the Y2K problem, the conversion problem.

The underlying amendment, the manager's amendment—I have the highest regard for my friend from Delaware, the chairman of the committee—does not delay, therefore, further causes a problem for the IRS to convert and is much more expensive. It also comes up with a way to get revenue, which is a gimmick.

Some on the floor have said that extending the Superfund tax will prevent the enactment of Superfund. That is not true, just basically is not true. What is the advantage of using the extension of the Superfund tax? I will give you several.

One, it is not a gimmick. It is straight. It is right there. People know what it is. It is not a gimmick. Second, it is a tax that everybody knows about, is comfortable with. Sure, it expired a couple years ago, but everybody knows who pays the tax, what the tax is; and it would be extended I think to the year 2000, which means that the revenue is there.

Let us say Congress does enact Superfund. And I sure hope it does. I say, Mr. President, we have been working on Superfund for a long time. Let us say we enact Superfund. I hope we do. That does not mean it cannot be enacted because previously we extended the Superfund tax. Not at all. The Superfund tax we talk about here is not offset against the Superfund. It is not offset against—it is there. It is revenue and held in a pot to pay for the bill.

We can still enact Superfund. And, frankly, the underlying tax bill still pays part of Superfund. The Superfund bill will still go to the Finance Committee. The Finance Committee is pretty creative in figuring out ways to find the additional revenue, which will not be very much, basically to pay for the orphan share, the effect of the later date. There is no rocket science in the choice of the standards we have before us.

On the one hand it is the underlying amendment, which is a gimmick, which is deceiving the taxpayers, which will require this body to come up with $7 billion more revenue than otherwise is the case because we are widening the budget deficit, not decreasing it in the second 5 years.

Also, on that amendment—let me say it again. First is the underlying amendment. It further complicates the conversion problem. It is a gimmick. That is one choice. The other choice is to enact a revenue measure which is not a gimmick and which will not further complicate the conversion problem. That is the case.

Mr. President, I think the choice is pretty simple. I think it is pretty straightforward. I think, accordingly, we should put politics aside. I know the majority party is going to vote for the amendment because that is what they are told to do. That is the drill. You vote for that one. But if you step back and think a little bit about what is really going on here, I hope both parties can find a way to come together, find a way not to further complicate the conversion problem and to pass a revenue-raising measure that is not a gimmick.

Believe me, Mr. President, the Kerrey amendment is certainly the beginnings of that. Maybe with further modifications we can come together to finally get this thing passed.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. KERREY. I thank you, Mr. President.

First, I want to make it clear again what we are doing here. We are trying to come up with an offset for $9 billion worth of additional cost that the Senate bill has that the House bill does not. It is $9 billion worth of additional loss of revenue, $9 billion of loss of revenue that occurs as a consequence of changes that we are making in the tax law. Somebody will pay less taxes. That is essentially what this amounts to.

Mr. President, we tried to ascertain who was going to benefit from these changes. I think it is very important as we look at our tax law that we ask ourselves—since the vast majority of our taxes come from middle-income Americans and there is a significant concern on their part as to whether or not they are paying their fair share, we tried to get some distributional analysis on this thing to find out who is going to benefit from the innocent spouse provisions, the burden of proof shifts, and the Tax Court. Not many Americans go to Tax Court. There is a provision in here as well that has to do with interest being accumulated.

Unfortunately, Joint Tax was not able to give us a distributional analysis. So we are flying a little bit blind and not able to describe who is going to benefit from these provisions. The underlying issue for us, though, is we now have to find $9 billion.

We have a proposal. Chairman ROTH has a proposal. I alert colleagues, by the way, what I think will likely happen. My guess is the majority will all vote for the Roth amendment and that will pass. And if it does pass, I will not insist on a rollcall vote on the alternative amendment. There are other alternatives that we can come up with.

The baseline question is going to be for us, after the Roth amendment is accepted: How comfortable do you feel with the provisions in it? So, you will have rejected the alternative amendment, fine. Let us reject the alternative amendment. But remember this: This law now is going to contain a provision in there that is going to do something for certain taxpayers. Approximately 170,000 taxpayers will be affected by this provision in the law.

How will they be affected? That is the question we have to ask ourselves. The answer is, they are going to be entitled to pay more taxes early on, approximately—the estimate is $47,000 per taxpayer. They will pay about $8 billion total. And then they will not pay any taxes in the outyears. When they convert, they will not pay any taxes. We are trying to ascertain what the outyear costs are going to be for this program, Mr. President.

I ask unanimous consent that a response from Joint Tax to this question be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, May 5, 1998.

To: Mark Patterson.
From: Lindy L. Paull.
Subject: Revenue Request.

This is in response to your telephone request of May 5, 1998, for a revenue estimate of a proposal which would expand the eligibility for conversions to Roth individual retirement arrangements ("IRAs")

Under present law, uniform minimum distribution rules generally apply to all types of tax-favored retirement vehicles, including qualified retirement plans and annuities, IRAs other than Roth IRAs, and tax-sheltered annuities (sec 403(b)).

Distributions are required to begin no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date means April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½, or (2) the calendar year in which the employee retires. In the case of an employee who is a 5-percent owner (as defined in section 416), the required beginning date is April 1 of the calendar year following the calendar year the employee attains age 70½, the Internal Revenue Service has issued extensive regulations for purposes of calculating minimum distributions. In general, minimum distributions are includible in gross income in the year of distribution.

Under present law, all or any part of amounts in a deductible or nondeductible IRA may be coverted into a Roth IRA. Only taxpayers with adjusted gross income ("AGI") of $100,000 or less are eligible to convert an IRA into a Roth IRA. In the case of a married taxpayer, AGI is the combined AGI of the couple. Married taxpayers filing a separate return are not eligible to make a conversion.

If a taxpayer is required to take a minimum required distribution from an IRA for a year, the amount of the required distribution is includible in gross income, and cannot be rolled over into a Roth IRA.

The proposal would modify the definition of AGI to exclude the required minimum distribution from the taxpayer's AGI for the year of the conversion for purposes of determining eligibility to convert from an IRA to a Roth IRA. The required minimum distribution would not be eligible for conversion.

The proposal would be effective for years beginning after December 31, 1997. We estimate that the proposal would change Federal fiscal year budget receipts as follows:

Fiscal Years:

	Billions
1998	(*)
1999	$2.6
2000	3.1
2001	3.1
2002	−0.9
2003	−1.0
2004	−1.2
2005	−1.4
2006	−1.5
2007	−1.7
1998–2002	7.8
1998–2007	1.1

(*) Gain of less than $50 million.

Note: Details do not add to totals due to rounding.

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, May 5, 1998.

To: Nick Giordano and Maury Passman.
From: Lindy L. Paull.
Subject: Request for Distributional Effects.

This is in response to your request dated April 23, 1998, for the distributional effects of provisions contained in H.R. 2676, the "Internal Revenue Service Restructuring and Reform Act of 1998" relating to: (1) the burden of proof; (2) innocent spouse relief; and (3) the suspension of accrual of interest and penalties if the Internal Revenue Service ("IRS") fails to contact the taxpayer within 12 months after a timely filed return.

We can not provide analyses of the distributional effects of these types of proposals. In general, the information used to prepare estimates for these types of proposals does not come from statistical samples of taxpayer return information, but from various operational data bases within the IRS collectively referred to as administrative data. Administrative data does not contain the type of taxpayer income information necessary to prepare a distributional analysis. Moreover, often the data are in an aggregate form so that individual taxpayers can not be identified. As a result, there would be an enormous amount of uncertainty involved in characterizing the income distribution of taxpayers contained in this type of data. Should you wish to discuss this request any further, please feel free to contact me.

Mr. KERREY. Mr. President, what happens is that in the first 5 years that this provision is in effect, Joint Tax is estimating there will be $2.6 billion of additional revenue coming in year 1; $3.1 billion in year 2; $3.1 billion in year 3. Americans with incomes over $100,000, who are 70.5 years of age or older, $100,000 of retirement income or more, they will be converting existing accounts into Roth IRA accounts, and paying, on average, $47,000 for the privilege of doing that. In the year 2002, we will lose $1 billion; in 2003, we will lose $1 billion; in 2004, it goes to $1.2 billion we lose; in 2005, we lose $1.4 billion; in 2006, we lose $1.5 billion; and in 2007, we lose $1.7 billion. The trend line is up.

I remind my colleagues, in the year 2010, we will see the beginnings of the retirement of 77 million Americans called baby boomers. If you look at the cost, the outyear cost of our mandatory programs, you can see clearly what is going to happen.

In order to fund a tax cut for Americans who have $100,000 a year of retirement income and up, because their heirs or whoever is converting and not going to pay any taxes on this income, in order to fund a growing tax cut for these individuals, we are going to be cutting programs for middle-income Americans. It is an inescapable thing that we will be facing.

So, again, I want my colleagues to understand, issue No. 1 is, do you want to spend another $9 billion to reduce the taxes of Americans who have been affected by innocent spouses who go to Tax Court or who have other problems that are identified in this bill? If the answer is yes, then you have to find an offset. And what we have is the chairman's proposal to reduce the taxes of upper-income Americans, or more likely their heirs, at some point out in the future, and that point is the very point when our mandatory programs are going to be squeezing all of our discretionary programs even worse than they are today.

My expectation is the majority will come down and vote for the amendment that the Senator from Delaware has offered, the chairman of the Finance Committee. As I said, I will not insist on a rollcall vote on ours.

Colleagues, I hope both Republican and Democrats will look at this payfor. It will not be too late for us to change it. We can still change it on this floor. We can change it in conference. I don't think when you examine the details of this pay-for that you will be very comfortable going home to Nebraska or other States, first of all, finding somebody who has over $100,000 worth of retirement income and saying, "Congratulations, your heirs won't pay any taxes on whatever asset you convert to a Roth IRA."

Mr. DORGAN. Will the Senator yield?

Mr. KERREY. I am happy to yield to the Senator.

Mr. DORGAN. I venture to say most Members of the Senate are not very familiar with this issue because the bill was brought to the floor and a mechanism to pay-for-it is brought to the floor this morning; I guess it was disclosed yesterday.

As I looked at it, it seems to me it is exactly as the Senator from Nebraska described. But even more than that, it is a device by which you bring some money here and say this is really paid for but, in fact, the cost in the outyears is very substantial.

It is just a timing issue, kind of a clever timing issue, but in my judgment not a very thoughtful way to do this bill.

Mr. KERREY. The Senator from North Dakota is exactly right.

I hope colleagues will look at this letter from the Joint Tax Committee. This is the tip of the iceberg. The tax only scores 10 years out. They are saying, yes, Americans with over $100,000 in retirement income converting to a Roth IRA pay $47,000 in taxes each, and that will add to $2.6 billion by year 1, 2, 3, but after that it starts to cost more and more money as the individuals convert and don't pay any tax on their income. That is basically what will happen—and it grows.

I say to the Senator from North Dakota, not only are you exactly right, but in the fourth year it costs $900 million and in the 10th year it is $1.7 billion. It is going up. This is less taxes that upper-income Americans will pay on these retirement accounts. As I said, it is apt to be the heirs.

Who will pick up the slack? We know who will pick up the slack. If this amendment is accepted, which I suspect it will, I hope colleagues will look at the details of it. If you want to spend another $9 million in the second 5 years to pay for all the things that we added in the Senate Finance Committee, most of which are good and reasonable, if you want to add those provisions, the question is how will you pay for it. My hope is that we will find an alternative to this.

Mr. DORGAN. If the Senator will yield, I think I understood the Senator to say you were not able to get any burden tables or distribution tables to determine who gets the benefit of this proposal. That is troublesome because when ideas are brought to the floor as late as this, you are unable to get information about who this is going to benefit and how.

Mr. KERREY. The Senator is right.

Title 3 of the bill is called the taxpayer rights provision. I worked very hard on those provisions. We extended lots of new taxpayer rights. In the bill that Senator GRASSLEY and I introduced in the Finance Committee—and I voted for it—we added some additional rights.

The problem is we don't know who will benefit from those tax reductions. We know three principal provisions cost us money. One is the shifting of burden of proof in Tax Court. For citizens, they need to ask themselves, do they go to Tax Court? If they don't go to Tax Court and don't have the experience on a regular basis in Tax Court, they will not bill.

The second provision is called innocent spouse relief. They have to ask, will that affect me? Seventy percent of Nebraskans do not itemize their deductions. They will not be impacted by the second one.

The third one, the suspension of the accrual of interest and penalties if the IRS fails to contact the taxpayer within 12 months after a timely filed return. Again, ask yourself who will be affected by this? We were unable, I regret, to get from the Joint Tax Committee an answer to that. We don't know who will benefit from those three additional provisions, but that is what is costing us the money. That is why we have to find some kind of an offset.

As I said, I understand the die is likely to be cast and we will probably have 55 votes for the Roth amendment and 45 votes against. I will not ask for a rollcall vote on our alternative, but I appeal both to Republicans and Democrats on the floor to examine what it is we are about to do and ask ourselves, do we want to open up a hole in revenue in the outyears as a consequence of these conversions that will benefit a relatively small number of Americans who have retirement income in excess of $100,000 a year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

AMENDMENT NO. 2339

Mr. ROTH. Mr. President, as I mentioned earlier, Alan Greenspan says that America's most important economic problem is its low savings rate. With that, I agree. As a practical matter, I have done my very best the last several years to try to build the kind of incentives into the tax picture that would promote savings on the part of the American people. The rollover provision in this amendment is a small step toward resolving our No. 1 economic problem.

Just let me point out what we are saying. What we are proposing is letting older people keep the money that they have saved. We are not asking them to do anything that others are not able to do. As a practical matter, the way the system now works, it discriminates against the older people. The problem is that if you are under the age of 70½, there is no requirement that you make withdrawals from your IRA. It is only when you reach 70½ that you are required to do so under the deductible IRA. So there is a built-in discrimination against the senior citizens. I think that is wrong.

Again, let me emphasize what we are talking about. What we are proposing is to treat these older Americans, those that are over 70½, to have the same kind of treatment as those that are younger than 70½. As I said, if you are under 70½ there is no requirement of withdrawals, and of course the basic problem is that if you have income in excess of $100,000 you are not entitled to this benefit.

Let me correct one further point that has been made. My distinguished friend and colleague, Senator KERREY, has said that the purpose of the IRA rollover provision is to allow heirs to escape payment of estate taxes. That is just not the case. If the IRA is part of the estate, then the individual who passes on is subject to the estate tax. If he or she tries to give it during the lifetime to someone else, and it is a permanent irrevocable gift, then it is subject to the gift tax. So there is no escaping of estate taxes by this provision.

Let me just say, as we all know, the Roth IRA has become a very popular savings vehicle. A taxpayer, as I said, who has a regular IRA may convert their regular IRA into a Roth IRA as long as the taxpayer and the taxpayer's spouse have adjusted income of $100,000 or less. Again, let me repeat, older Americans are now required to receive minimum distribution from their regular IRA on an annual basis beginning in the year following the year they attain the age of 70½. Those required distributions must be counted, under current law, as part of the older taxpayer-adjusted gross income, which in some instances will cause these older Americans to become ineligible to roll over their IRAs.

My amendment gives these older taxpayers the opportunity to roll over their IRAs into Roth IRAs by not counting these required minimum distributions toward $100,000 adjusted growth income.

It is only fair, in my judgment, that these older taxpayers are given the same ability to roll over their IRAs and not be penalized because they must take distribution from their regular IRA solely because of their age.

Let's be clear here, the revenue cost by this provision comes from taxpayers who will pay tax on their regular IRA when they convert to the Roth IRA. These conversions are entirely voluntary on the part of the taxpayers.

Mr. President, I ask the Members of this distinguished body to support the Roth amendment because I think it brings equity into the picture and only treats the senior citizens the same as the younger.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, as I said, the die is cast on this thing. This amendment is going to be accepted. The question is, Will we have any reexamination moment? We will reexamine what we are about to do?

Again, this affects people with incomes over $100,000 in retirement income. To get $100,000 in retirement income, I am probably going to have to have a million or more dollars in liquid assets that are earning this income. I would probably have tax-exempt bonds that I own as well. This is a very select group of people. We are not penalizing them; we are treating them like everybody else. I am capable of feeling sympathy for low- and moderate-income seniors who are struggling to pay for health care bills, and about making certain that Americans have the opportunity to save. But we are not helping Americans who are struggling to save with this. These are Americans who have accumulated a substantial amount of wealth.

If we want to help struggling Americans, we ought to cut the payroll tax, as Senator MOYNIHAN is proposing, giving Americans an $800 billion cut in taxes; that would go immediately into savings. That is exciting to me. And 98.5 percent of Americans die with estates under $600,000. We are talking about 1.5 percent of the American people who have estates over $600,000. You have to have an estate over a million dollars in order to generate $100,000 worth of income.

Please don't tell me that tax lawyers and tax advisers can't figure out a way to transfer this to your heirs. If that assertion is made by a colleague, let's bring a tax adviser in before one of our committees and ask them. It darn sure can, and they darn sure will.

This provides a benefit for a very small amount of Americans, and, frankly, it is very difficult to make the case that they need a benefit. They are not treating them in a fashion that is equal; they are treating them unequally with other Americans who are in the workforce and might be looking to retirement accounts as well.

Mr. President, this pay-for ought to be rejected by this body; it is going to be accepted nonetheless. I hope we have some "morning after" doubts about this, after examining whom it is going to benefit and the dilemma it will pose to us down the road. I don't know how many in this body expect to be here 6, 7, 8 years from now, but if you are here, one of the questions you are going to have to answer is: Why did you give away $2 billion a year back in 1998 to less than 1 percent of the American public, who are not struggling, who are not foraging in the alley for food, and they are not trying to figure out how to make ends meet? They will use this change in the law to transfer an asset to heirs, and their heirs won't pay any taxes as a consequence.

Mr. President, as I say, I know when it is time, if not to accept defeat, to acknowledge it. I expect 55 Republican votes for this amendment. I do not intend to ask for a rollcall vote on the substitute, but I hope my colleagues, as they begin to examine what this amendment does, will ask that we come back and revisit the pay-for for the second 5 years.

I yield back whatever time I have.

AMENDMENT NO. 2340, AS MODIFIED

Mr. KERREY. Mr. President, as I indicated earlier, I have to ask for one modification. It is a date on page 2, line 2. In the earlier unanimous consent request, I indicated that I might need to modify our amendment.

I send the modified amendment to the desk, as described.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2340), as modified, is as follows:

Beginning on page 277, line 4, strike all through page 279, line 25.

On page 280, line 1, strike "**3105**" and insert "**3104**".

On page 282, line 11, strike "**3106**" and insert "**3105**".

On page 286, line 1, strike "**3107**" and insert "**3106**".

On page 309, lines 7 and 8, strike "the date of the enactment of this Act" and insert "September 1, 1998".

On page 399, line 24, strike "the date of the enactment of this Act" and insert "December 31, 2001".

On page 400, lines 4 and 5, strike "the date of the enactment of this Act" and insert "December 31, 2001".

On page 415, between lines 16 and 17, insert:

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) In General.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

"(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

"(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year."

(b) Effective Date.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) Repeal of Property Subject to a Liability Test.—

(1) Section 357.—Section 357(a) (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) Section 358.—Section 358(d)(1) (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) Section 368.—

(A) Section 368(a)(1)(C) is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) Clarification of Assumption of Liability.—Section 357(c) is amended by adding at the end the following new paragraph:

"(4) Determination of amount of liability assumed.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

"(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

"(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability."

(c) Application to Provisions Other Than Subchapter C.—

(1) Section 584.—Section 584(h)(3) is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) Assumed liabilities.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) Assumption.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply."

(2) Section 1031.—The last sentence of section 1031(d) is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(c)(4)) a liability of the taxpayer", and

(B) by striking "or acquisition (in the amount of the liability)".

(d) Conforming Amendments.—

(1) Section 351(h)(1) is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) is amended by striking "or acquired".

(4) Section 357(c)(1) is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) is amended by striking "or acquisition (in the amount of the liability)".

(e) Effective Date.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2003" and inserting "October 1, 2007".

SEC. 5010. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) Extension of Taxes.—

(1) Environmental tax.—Section 59A(e) is amended to read as follows:

"(e) Application of Tax.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2001, and before January 1, 2008."

(2) Excise taxes.—Section 4611(e) is amended to read as follows:

"(e) Application of Hazardous Substance Superfund Financing Rate.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2001, and before October 1, 2008."

(b) Effective Dates.—

(1) Income tax.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 2001.

(2) Excise tax.—The amendment made by subsection (a)(2) shall take effect on January 1, 2002.

SEC. 5011. MODIFICATION OF DEPRECIATION METHOD FOR TAX-EXEMPT USE PROPERTY.

(a) In General.—Subparagraph (A) of section 168(g)(3) (relating to tax-exempt use property subject to lease) is amended to read as follows:

"(A) Tax-exempt use property.—In the case of any tax-exempt use property, the recovery period used for purposes of paragraph (2) shall be equal to 150 percent of the class life of the property determined without regard to this subparagraph."

(b) Effective Date.—The amendment made by this section shall apply to property—

(1) placed in service after December 31, 1998, and

(2) placed in service on or before such date which—

(A) becomes tax-exempt use property after such date, or

(B) becomes subject to a lease after such date which was not in effect on such date.

In the case of property to which paragraph (2) applies, the amendment shall only apply with respect to periods on and after the date the property becomes tax-exempt use property or subject to such a lease.

SEC. 5012. EXTENSION OF REPORTING FOR CERTAIN VETERANS PAYMENTS.

The last sentence of section 6103(l)(7) (relating to disclosure of return information to

Federal, State, and local agencies administering certain programs) is amended by striking "September 30, 2003" and inserting "September 30, 2008".

On page 260, line 14, strike "shall develop" and insert "shall, not later than January 1, 2000, develop".

On page 305, lines 3 and 4, strike "the date of the enactment of this Act" and insert "June 30, 2000".

On page 305, lines 10 and 11, strike "the date of the enactment of this Act" and insert "June 30, 2000".

On page 308, line 13, strike "the date of the enactment of this Act" and insert "June 30, 1999".

On page 309, lines 7 and 8, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 310, strike line 19, and insert "December 31, 1999".

On page 312, lines 15 and 16, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 314, lines 3 and 4, strike "the 180th day after the date of the enactment of this Act" and insert "December 31, 2000".

On page 315, line 11, strike "June 30, 2000" and insert "December 31, 2000".

On page 324, strike lines 9 through 12, and insert:

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to collection actions initiated after December 31, 1999.

On page 343, after line 24, insert:

(c) EFFECTIVE DATE.—This section shall apply to collection actions initiated after December 31, 1999.

On page 345, lines 6 and 7, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 348, line 6, strike "December 31, 1998" and insert "December 31, 1999".

On page 351, lines 13 and 14, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 6 and 7, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 9 and 10, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, strike lines 16 and 17, and insert:

(B) December 31, 1999.

On page 362, lines 12 and 13, strike "the 60th day after the date of the enactment of this Act" and insert "December 31, 1999".

On page 370, lines 17 and 18, strike "the date of the enactment of this Act" and insert "January 1, 1999".

On page 371, line 11, insert: "This subsection shall apply only with respect to taxes arising after June 30, 2000, and any liability for tax arising on or before such date but remaining unpaid as of such date." after the end period.

On page 374, lines 4 and 5, strike "180 days after the date of the enactment of this Act" and insert "July 1, 2000".

On page 379, line 15, insert ", on and after July 1, 1999," after "shall".

On page 382, line 2, strike "60 days after the date of the enactment of this Act" and insert "on January 1, 2000".

On page 383, line 14, insert ", except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999" after "Act".

On page 385, lines 7 and 8, strike "the date of the enactment of this Act" and insert "January 1, 2000".

AMENDMENT NO. 2339

The PRESIDING OFFICER. The Senator from Delaware has 4 minutes remaining.

Mr. ROTH. Is the Senator ready to yield the balance of his time?

Mr. KERREY. Yes, sir.

Mr. ROTH. Mr. President, I yield the balance of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. KERREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the ROTH amendment No. 2339.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA) is absent due to a death in the family.

The PRESIDING OFFICER (Mr. FRIST). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—56

Abraham
Allard
Ashcroft
Bennett
Biden
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—42

Baucus
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NOT VOTING—2

Akaka
Helms

The amendment (No. 2339) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2340

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 2340.

The amendment (No. 2340) was rejected.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. May we please have order. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, this request has been cleared with the leaders on both sides.

I ask unanimous consent that the distinguished Senator from Texas, Mrs. HUTCHISON, and I may proceed for not to exceed 35 minutes as in morning business for the purpose of introducing a bill and speaking thereon.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia is recognized.

(The remarks of Mr. BYRD and Mrs. HUTCHISON pertaining to the introduction of S. 2036 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BYRD. Mr. President, I understand that Senator KOHL wishes a few minutes on another matter.

Whatever remaining time remains under our request, I ask that the Senator from Wisconsin, Mr. KOHL, have the remaining time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin is recognized.

Mr. KOHL. Thank you, Senator BYRD.

Mr. President, I rise today in strong support of the IRS Reform bill. There is no doubt that this bill will count among the most important pieces of legislation that we will pass in the 105th Congress. A great deal of thanks and appreciation is due to Senators ROTH and MOYNIHAN for their work sheperding this bill through the Finance Committee, and most especially to my friend from Nebraska, Senator BOB KERREY, whose efforts on the Restructuring Commission and tireless advocacy brought us here today.

We have all been struck by the stories of abuse of taxpayers by overzealous or self-serving IRS employees. And all of us have received calls of concern and outrage from constituents who feel they have been treated unfairly by an agency that wields a tremendous amount of power in the daily lives of Americans.

We have also learned of retaliation against honest IRS employees who worked hard and wanted to do the right thing by speaking out against abuses. This legislation will go a long way towards addressing these problems.

It will also go a long way toward making the agency more effective in its policy mission and more responsive to budget constraints. We have all witnessed the $4 billion debacle of the IRS computer modernization effort and want to ensure resources are allocated responsibly in the future.

As ranking member of the Treasury Appropriations Subcommittee, I have had the opportunity to meet the Commissioner of the IRS, Mr. Rossotti, and am encouraged by his strong background in management and information technology. The legislation before us will provide the Commissioner with tools to put together a high-quality team to run the agency, and award those who do their jobs well.

This bill also includes new sources of outside oversight of the agency, such as the Oversight Board and the new Treasury IG's Office for Tax Administration. Coming from the business world, I know the importance of accountability and constant self-examination. Management and employees should always be looking for ways to do their jobs more effectively and be open to constructive criticism.

But for too long, the IRS has operated as if it were a class by itself, somehow above the standards of efficiency and customer service that any American business must follow to survive.

We have witnessed the effects of this problem in my home state of Wisconsin. For the past two and a half years, we have worked to address allegations of misconduct and discrimination at the Milwaukee-Waukesha IRS Offices. These allegations were discussed at length at the Committee hearings last week, and were so serious that some IRS employees felt the need to sneak into my office in Milwaukee to report on abuses.

Employees feared retaliation and alleged again and again that management was allowing, if not promoting, a hostile work environment. Such a deplorable situation of fear and intimidation is unacceptable, must be stopped, and must be prevented from happening in the future.

This bill sets up a confidential means through which honest employees can report allegations of abuses. In addition, I am offering an amendment with my colleague, Senator FEINGOLD, to ensure that oversight of the Milwaukee office is a top priority of the new IG. This legislation will prevent abuses in the future, but we must also be vigilant in dealing with serious problems that have yet to be resolved in the present.

Mr. President, while taking time to mention only a few of the many important provisions of this bill, I want to urge my colleagues to support this legislation.

We have a historic opportunity to right future wrongs and be party to the creation of a more consumer-friendly, efficient and responsible IRS. Let us seize that opportunity with enthusiasm and without further delay.

Mr. BYRD. Mr. President, I yield back the balance of the time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I will rise to introduce an amendment, but I will defer to my colleague from Delaware if he wishes to ask for a time agreement.

Mr. ROTH. Mr. President, I say to the distinguished Senator that I do want to ask for an agreement on the 40 minutes, but I have to wait for Senator KERREY to return. I will raise that when he comes.

Mr. BOND. Mr. President, I rise in support of the Internal Revenue Service Restructuring and Reform Act that we are now considering. Over the past several months Senator ROTH and his Finance Committee have done an exemplary job of reviewing the legislation sent to us by the House and identifying ways to improve and strengthen that bill. And it's been well worth the wait. I also commend my colleague from Delaware and his committee for including a number of the proposals that I introduced as part of my Putting the Taxpayer First Act, earlier this year. They represent suggestions that I received from Missourians and small business owners across the country, who have called, written, and stopped me on the street to stress the need for IRS reform and greater taxpayer rights.

While I believe we have made substantial progress toward that goal, one aspect of this bill continues to trouble me—the creation of the so-called oversight board. As currently proposed, a majority of this board will consist of six individuals who must split their time between watching over the IRS and running their private-sector businesses—each of which can be more than a full-time job. And even if these individuals can dedicate sufficient time, their ability to make real changes for the benefit of taxpayers amounts to little more than advice to the Commissioner, which he may or may not decide to take.

Despite these issues, the creation of a part-time board has been portrayed by many as the linchpin of solving the problems at the IRS. But when has such a part-time advisory board ever turned around a governmental agency as vast as the IRS and with such a poor record of service to millions of Americans? I have searched for a comparable success story within our government, and came up dry. And while some point to Canada's Revenue Office as an example, Canada's part-time board is still on the drawing board. Consequently, I think we are placing too much reliance on the untested and unproven concept of a part-time board to bring fundamental change to the IRS.

If we are going to create a board to steer the IRS back on course, let's do more than add some window dressing to this troubled agency. America's taxpayers deserve a well-managed agency committed to service. The amendment I offer today establishes the framework to accomplish that goal.

Mr. President, my amendment creates an independent, full-time Board of Governors for the IRS, which will exercise top-level administrative management over the agency. The Board of Governors will have full responsibility, authority, and accountability for the IRS' enforcement activities, such as examinations and collections, which are often at the heart of taxpayer complaints about the IRS. In addition, the Board will oversee the Office of the Taxpayer Advocate and the new independent appeals function required by the bill.

Under my amendment, the Board of Governors will consist of five members appointed by the President and confirmed by the Senate, each with a staggered five-year term. Four of the members will be drawn from the private sector. Overall these members will bring private-sector experience critical to the management of an agency like the IRS. Of equal importance, they will bring the perspective of the diverse group of taxpayers the IRS must serve, including individuals and small and large businesses. The fifth member of the Board will be the Commissioner of Internal Revenue, who will also serve as the Chairman of the Board of Governors.

The board I envision through this amendment corrects the major weaknesses of the bill's part-time advisory board. First, my full-time Board of Governors is a permanent solution to the management difficulties that have plagued the IRS for years. It seems like little more than a token gesture to create an oversight board for the IRS and have it expire after 10 years, as set out in the bill. If a board is expected to turn the IRS around, wouldn't it make sense to continue the reason for that success story?

Second, my full-time Board of Governors will have real authority to make a difference. The Board's direction is to "oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party." The only exception to this broad authority is that the Board will have only a consultative role in developing tax policy.

In contrast, the part-time advisory board recommended by the Finance Committee starts with broad authority but is quickly whittled down essentially to an advisory role. For instance, the part-time board would have no responsibility or authority with respect to tax policy. In my view, good tax policy must take into account more than just revenue and collections; it must consider the burdens that the law imposes on the taxpayers and the corresponding burdens involved in administering and enforcing those laws. A full-time Board of Governors managing the IRS will be uniquely qualified to provide critical perspective and feedback to the Treasury Department in crafting future tax proposals.

Similarly, the bill's part-time board would have no responsibility or authority over specific IRS law enforcement activities or personnel actions.

These restrictions fly in the face of the testimony that the Finance Committee received just last week, not to mention the committee's hearings last fall. Each of us was shocked by the taxpayers and IRS employees who came forward with accounts of poor service and abuse, and many of these cases involved IRS examination or collection activities. Moreover, these horror stories merely echo the countless letters and calls that each of us receives from taxpayers embroiled in disputes with the IRS in our home States.

Can any of us suggest, with a straight face, that creating a part-time advisory board will "fix" the IRS when that board cannot know about or address specific enforcement or personnel problems? While I am not suggesting that the IRS board should address every taxpayer grievance, the board should be able to take action with respect to specific types of examination and collection problems and those that involve IRS personnel.

Some will argue that the expansion of the taxpayer-confidentiality rules addresses this issue. I must disagree. The information that the part-time board will receive under this provision is dependent on the discretion of the Commissioner and the Treasury Inspector General. For too long, "section 6103" has been a convenient shield for the IRS to hide behind, and it will be too easy for that practice to continue leaving the board in the dark about the types of problems described all too clearly in the Finance Committee's hearings. In addition, limited access to taxpayer information won't help the board address personnel problems in the agency, which is critical if we are to restore credibility to the term "service" in its name.

My amendment resolves this problem. As full-time employees, the four members of the Board of Governors drawn from the private sector will have access to the same information available to the Commissioner. Moreover, the Board under my amendment will have authority to address personnel issues. As a result, their hands will not be tied when it comes to restoring taxpayer service and respect in all IRS enforcement activities.

The bill's part-time advisory board also starts out with authority to review and approve reorganization plans for the IRS. Yet tucked away at the end of the effective date section is a provision barring the part-time board from approving the current plan to reorganize the IRS along customer lines. This contradiction simply defies reason.

I am a strong advocate of reorganizing the IRS into divisions that serve particular taxpayers with similar needs, like individual taxpayers and small business owners, and I included such a plan in my Putting the Taxpayer First Act that I introduced. IRS Commissioner Rossotti has also embraced this approach. With so much support, why should we restrict even a part-time advisory board from approving such a fundamental restructuring of the IRS but require its review and approval for all future plans? The full-time Board of Governors under my amendment would be required to evaluate and sign-off on all plans to reorganize the agency—it only makes sense!

Mr. President, besides giving the IRS board real authority to run the agency and make critical changes, my amendment also ensures that the members of the Board of Governors are sufficiently committed to the task. Having been governor of my state of Missouri, I have some appreciation of the time and energy it takes to run a large organization. But I can't begin to imagine how I could have hoped to make a difference if I spent only a few days a year commuting to our capital, Jefferson City, to govern the state, and spent the rest of my time running a successful business or even a not so successful law practice. That is the trap we will create with a part-time advisory board for the IRS.

The IRS has over 100,000 employees spread across the country and around the world. The agency has a budget of over $7 billion, and it collects more than $1 trillion each year from millions of taxpayers. It is an imposing task for even a full-time Board of Governors to reform an institution of this size—common-sense suggests it is an impossible task for a part-time advisory board.

What's more, the proponents of the bill contend that its part-time board will improve accountability within the IRS. But take, for example, a part-time board member who is an executive in a major corporation headquartered on the west coast. He flies to Washington several times a year as part of his IRS oversight responsibilities. How can he be accountable for the daily actions of this enormous organization when he is little more than a hostage to its bureaucracy on his occasional visit to Washington? If we are going to make changes to the IRS' management structure, we should give them a real chance for success and give the taxpayers confidence that reform can be achieved.

Mr. President, while not everyone will agree with my proposal, let's take a moment to look at some arguments I've heard so far. Some have commented that we won't get the best people to serve on the IRS board if they have to leave their private-sector jobs for a tour of government service. As an example that just the opposite is true, I point to our current IRS Commissioner. In my assessment, Commissioner Rossotti has outstanding credentials and has been very successful as a business owner in the private sector. In addition, I think most of my colleagues would agree that he has done an exceptional job during his short tenure at the helm of the IRS.

This criticism also rings rather hollow when we look at the individuals who have served on similar full-time boards and commissions throughout the government, like the Federal Reserve, the Federal Trade Commission, and the Securities and Exchange Commission, to name a few. I've never heard it suggested that we scrape the bottom of the barrel to find people qualified to serve in these full-time positions. Just the opposite is true. As Commissioner Rossotti, Treasury Secretary Rubin, and many others have demonstrated, there are business leaders in this country who are willing to take leave from their private-sector lives to serve the public.

Others have argued that the IRS Commissioner doesn't need a full-time board to run the agency, especially since the bill gives the Commissioner broader authority to bring in senior management talent. If that's true, why do we need a board at all? Why not have just Alan Greenspan run the Federal Reserve or Arthur Levitt oversee the securities markets? Surely the same arguments would apply to those boards and those commissions.

I believe there is value in having a core group of individuals who bring important talents and experience to complement the Commissioner's management of an agency like the IRS. Just as with other boards and commissions throughout the government, these individuals can share the top-level management burdens and allow the Commissioner to focus on the most pressing issues completely and quickly.

A third issue raised by my opponents is that a full-time board with real authority will make the IRS too independent. So what exactly is the problem? Sadly, there have been allegations in recent years that the IRS is being used for politically-motivated audits. Whether true or not, such assertions severely undercut any efforts to instill confidence in our tax-administration system. While I applaud the provision in the bill that prohibits Executive Branch influence over taxpayer audits, we can further ensure that result by establishing a board with representatives of both political parties, as my amendment requires. In the end, there should be nothing partisan about helping taxpayers to comply with the tax laws in the least burdensome manner possible.

Mr. President, my amendment offers a straight forward, common-sense solution for the management of this troubled agency and it cures the inherent weaknesses of the part-time advisory board called for in the bill. With a vast number of agencies across this city, including the city itself, managed under full-time boards and commissions, we have ample evidence that this structure can work for the IRS. In my opinion, if we want more than window dressing on the current management structure, a full-time, full authority, full accountability Board of Governors is the answer.

A part-time advisory board will not make a difference in how the agency is run. If we need a board, we need a full-time board. We don't need a part-time advisory board. Otherwise, if we do not want to have a full-time board, let's leave the agency's management alone, because when has a part-time advisory board ever turned an agency around? I suggest never.

AMENDMENT NO. 2341

(Purpose: To strike the Internal Revenue Service Oversight Board and establish a full-time Board of Governors for the Internal Revenue Service)

Mr. BOND. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. BOND) proposes an amendment numbered 2341.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. ROTH. Mr. President, as I indicated before the distinguished Senator from Missouri spoke, we had a tentative agreement of 40 minutes for this amendment, with 20 minutes to a side. I ask that we unanimously agree to that with the time that the distinguished Senator used to discuss the amendment being deducted from the 20 minutes. I understand that is roughly 13 minutes. Is that satisfactory?

Mr. BOND. I ask for 10 minutes, because there are others on this side who may wish to speak.

Mr. KERREY. Mr. President, I wonder if the Senator from Delaware would agree—Senator REID has an amendment he wants to bring right after this—that we stack these votes, and have a UC to have both of these votes stacked.

Mr. ROTH. That would be fine.

The PRESIDING OFFICER (Mr. BURNS). Is there objection?

Mr. KERREY. We would have to get a time agreement.

Mr. ROTH. Let's agree on the Bond amendment first; the agreement being 40 minutes divided between the two sides, and that Senator BOND would have the remaining 10 minutes.

Mr. BOND. That is correct. Mr. President, 20 minutes for the side in opposition, and 10 minutes.

Mr. ROTH. And no second-degree amendments.

The PRESIDING OFFICER. Could I ask the Senator to restate the unanimous consent request.

Mr. ROTH. Mr. President, what we are proposing for unanimous consent is 40 minutes for consideration of the amendment to be divided between the two sides, that it be agreed that the distinguished Senator has 10 minutes remaining on his side of the 20 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROTH. And I would also add there would be no second-degree amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Could we modify it so we go to Senator REID'S amendment next and have rollcall votes not before 1:15?

Mr. ROTH. Let's wait on the rollcall votes. We can go ahead with the Reid amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BOND. Mr. President, I ask unanimous consent that there be a minute on each side for the proponents and opponents to state their case on the amendment since the vote is going to be stacked later.

Mr. ROTH. That is fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. I yield 10 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 10 minutes.

Mr. GRASSLEY. Mr. President, I, unfortunately, oppose the amendment by the Senator from Missouri. I say "unfortunately" because the Senator from Missouri has good motives in offering his amendment. They come from the fact that he has been an outspoken advocate for small business in the Senate. He has made a career of promoting an environment very good to small business, and obviously we all know that sometimes the Internal Revenue Service is one Government agency that tends to be anti-small business. We had a lot of information coming out of our hearings that IRS agents are told to go after the small people—forget about the bigger, wealthier people—because smaller people do not have the resources to fight.

That is particularly true of small business where you have accumulated some wealth in a small business but you do not necessarily have a lot of income. And so you do not have the resources to fight the IRS. So I do not find fault with the motives behind what Senator BOND is trying to do.

I definitely believe this bill we have before us, including the provisions for an advisory board, has been well thought out. The National Commission on the Restructuring of the IRS created the concept of this Board. We assessed the various pros and cons of separating the IRS from the supervision of the Secretary of the Treasury and making it more independent. We decided that it needed more independence. Next, we had to decide how the independent operation should be governed. To answer this, we came up with the Oversight Board.

So I thank Senator BOND for his advocacy for small business and his concern about this important legislation. But at the same time I think I must rise in opposition to this amendment. The Commission came up with this idea of having an oversight board for the IRS after months and months of discussion and consideration. It was a recommendation that we on the Commission put in our report because we thought it would keep the IRS on track and improving in the right direction. The Senator from Nebraska and I made this board one of the centerpieces of our legislation, S. 1096, which, of course, was the first comprehensive IRS reform legislation introduced in the Senate.

The National Commission on Restructuring of the IRS—Senator KERREY and I, two members of the House of Representatives, and 13 other people served on this Commission. Ten of the members were nongovernmental, private sector people who knew about the problems that the private sector was having with the IRS. We fully considered adopting a full-time oversight board at one time, but we came to the conclusion that it was not an advisable thing to do. We decided that this part-time board would be more effective, and I will give you the reasons for that.

First of all, the purpose of the board is to be advisory, not to manage the IRS. It is meant to function like a corporation's board of directors. It is not intended to get involved in the day-to-day operations of the IRS because the IRS already has a leader—the commissioner. And by the way, this is the first nonlawyer and more specifically nontax lawyer who has been head of the IRS. Mr. Rossotti, or somebody with his background from private sector management, brings to the management of the IRS a person who is consumer oriented, customer oriented.

His own private sector corporation had to satisfy his consuming public for the services that he sold or he would not have been in business. He would not have developed a successful business. So to have a nontax attorney for the first time running the IRS is very, very good because it brings somebody in there who knows that organization ought to serve the taxpayers and not be a master of the taxpayers. He has already led the organization in some important changes and I have great confidence that he will continue to make productive changes. He will do a better job because of this legislation.

In addition, it seems to me that a full-time board would not attract the people who we want to attract to this board. A full-time board too often in this town attracts inside-the-beltway, Washington career people. That is not the type of person we want on the board.

What the IRS needs is guidance from people who come from the real world of work, people outside the beltway, people who are real Americans. It needs experts in business, management and customer service. It needs people who are willing to take the time in the name of public service to help guide the IRS, through this recovery period it is now in. The IRS does not need people who consider the full-time job of being on the IRS board a good career move. The fact is the people we want to serve on this board will not give up their full-time jobs to do it.

This bill is not intended to create more bureaucracy. We have too much bureaucracy already. This is generally true throughout Government. But we found it is definitely the case in the IRS. A full-time board would just be one more layer in an organization with way too many layers of bureaucracy already. For these reasons, I ask my colleagues to join me in opposing this amendment. If we want the IRS to be customer friendly, like a corporation must be, we must give it a corporate-like board.

I thank the Chair. I yield back the remainder of my time to be reserved.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, let me first do as the Senator from Iowa did, Senator GRASSLEY, and compliment the intent of the distinguished Senator from Missouri. I started out exactly where the Senator from Missouri is, considering that a full-time board would be best. What I have concluded is that over time, examining what this board is going to be doing—and let nobody doubt, by the way, this board has substantial powers. This is not an advisory board. There are a number of things that we specifically say they cannot do, in order to avoid conflict of interest with procurement and with personnel and with confidentiality, but this board oversees the IRS in its administration, its management, its conduct, its direction, and its supervision of the execution and application of the IRS law.

It has substantial powers in making recommendations to the President as to who the Commissioner ought to be and has the power to recommend the Commissioner ought to be terminated. I urge colleagues to look at section 1102 of the proposed legislation.

I share the conclusion Senator GRASSLEY has just iterated in his opposition to this amendment; that is, that a full-time board would actually restrict our capacity to go out and get the people with the kind of talent that we need to be on this board in the first place. There are an awful lot of Americans who have expertise in management, have expertise in computers, have expertise in the operation of a large organization. They especially have expertise in restructuring, which is going to be a very, very important piece of work that Mr. Rossotti will have the authority to do, restructuring and changing the nature of an organization.

We need people with all those kinds of expertise. And if you require the individual to serve full time, my conclusion, strongly felt, is you will exclude large numbers of citizens who would say: If it is part time, I'm prepared to sit on this Board as a consequence of my desire to improve the way this IRS is operated. My desire to improve it is strong enough to serve part time, but I can't possibly do it full time. We are going to reduce the list if we make it full time, of citizens who could serve in this way.

In addition, I point out this board sunsets in 2002; thus, Congress would have the opportunity to revisit and make a determination as to whether or not, as a result of the experience that we have had, this board needs to be full time.

So I urge those who were concerned about this board being part time, on the one hand to consider we are going to restrict our ability to get the kind of expertise that is needed on this board, and, second, we will have an opportunity, after 5 years, to revisit this issue. If the experience of this board is that they are recommending to us that full time would be better than part time, we will have ample opportunity to make that judgment.

I urge my colleagues, with great respect to the Senator from Missouri and his intent, to vote against this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I yield myself such time as I may require. I thank my colleagues from both Iowa and Nebraska for their very thoughtful comments. As I said earlier, I appreciate so much the excellent work the Finance Committee has done on restructuring of the IRS. Truly, it is a very important issue.

Primarily, I hear them raising the point that we can't get people to serve if we have a full-time board. We are making it a small board. We need four individuals who want to serve.

Some say you can have part-time people who can come in and get the big picture authority. The problem is, we need them to work on specific law enforcement activities and personnel actions. We are not talking about somebody giving them the big picture; we are talking about somebody taking management responsibility. If individuals would serve, is their question. They say we can't get good individuals to serve.

We have the Commissioner of the IRS. He came from the private sector. He was willing to move in. Private-sector individuals have served, and have served with great distinction, in related areas, where they do an excellent job. Why should we think it is harder to get people to serve on the IRS board than it would be to serve on the FTC board or on the SEC? These are issues that I think are very closely related. If we can't get good people to serve on that board, I would be very much surprised. We would not see a part-time advisory board dealing with actual cases of taxpayer abuse. They would have to do so only when the Commissioner or the Treasury Inspector General said they could.

Let's just take an example—the alarming revelation last week that former Secretary Howard Baker and former Congressman James Quillen were the targets of a vendetta by a rogue IRS agent. Even more troubling, more troubling is that the agent's activities were covered up by numerous officials in the IRS district office.

This case clearly demonstrates a pattern of bad behavior in one office, but it may be indicative of structural or procedural defects throughout the agency. Are we really going to tie the hands of the IRS board and only permit it to review such problems as the Commissioner or the Treasury IG permit it? I say not. If we are going to do the job, we ought to do it right. Without this authority, the board will only find out about the problems like the rest of us—when the press points them out or when we have to go through a congressional hearing.

The problems of the IRS are well known. Now we need to make sure we fix them, not just tinker around the edges. The Bond amendment replaces the IRS management structure of a Commissioner plus a part-time limited authority board with an independent full-time board of governors, including the Commissioner. It is not an accident, as I have said earlier, that the

SEC, the FTC, the Federal Reserve, are all run by boards or commissions. These agencies carry out sensitive regulatory and enforcement duties, and they must be insulated from political motives. Insulation from political motives is one of the objectives we must achieve in this IRS restructuring. The American taxpayer deserves the same level of protection as the people who are governed by and are subject to the rules and regulations of the SEC and the FTC and the FCC.

Who has not heard of the allegations that the IRS has targeted out-of-favor groups or those who seem to have nothing in common but their opposition to various White House policies? No American should have the enforcement powers of the IRS unleashed on them because they don't agree with the White House on an issue. I think that is simply why my amendment is so necessary. Under the current bill, the only way the part-time board would have known about the abuses we learned about last week is the same way the rest of us did when we watched Senator ROTH's hearing on television. That is how limited the authority of the part-time board is.

We need real reform of how the IRS does its business. I believe putting a full-time, independent board in place to run the agency is the best way to do that. I say to those people who really want reform, if you really believe a board is essential to restructuring the IRS, then I say let's get out and run with the big dogs; let's get a full time, independent board. Otherwise, get back up on the porch, because a part-time advisory board is not going to even have a large bark; it will have a minor meow.

If we are going to put some teeth into it, we need to have the teeth that a full-time, independent board governing the IRS can give to managing the agency, to make sure it does not abuse taxpayers.

Mr. President, I reserve the remainder of my time and yield the floor.

Mr. SHELBY. Mr. President, I rise in support of Senator BOND's amendment to establish a full-time IRS Board of Governors. I firmly believe that oversight of an agency with the equivalent of 100,000 full-time employees, a requested fiscal year 1999 budget of almost $8.2 billion, and a history of wasting $4 billion in an attempt to modernize the tax collection system, is, without question, a full time job.

Furthermore, rigorous oversight will be critical to ensuring that the reforms that Congress has in store for the agency will be carried out effectively and expeditiously. I think the prudent strategy is to keep the agency on a very short leash given the shocking stories that have come to light from the recent Finance Committee hearings. I have my own ideas as to how to liberate the taxpayer from the IRS—namely the implementation of my flat-tax proposal. But short of comprehensive tax simplification, I strongly support Senator BOND's efforts.

Mr. President, the IRS is a very troubled agency that demands the highest level of scrutiny. I strongly urge my colleagues to support this amendment. I feel we owe it to the American taxpayer.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Delaware has 10 minutes.

Mr. ROTH. Mr. President, I yield myself such time as I may use.

Mr. President, I, too, join my colleagues in paying my respects to the distinguished Senator from Missouri. He brings a wealth of background and experience, so his comments are always welcomed and listened to with great care. While I completely agree that the IRS oversight board must be adequately structured, I respectfully urge my colleagues to oppose this amendment which would make the IRS oversight board a full-time board.

In my judgment, the board should be a part-time board. The purpose of the board is to provide "big picture" oversight over the IRS, provide specific expertise to IRS management to ensure accountability at the IRS, as well as to ensure that taxpayers are being treated and served properly.

The purpose of the board is not to micromanage the IRS. Commissioner Rossotti is a management expert, unlike his predecessors who were experts in tax law. As I have said many times on the floor, I think we are very fortunate in having an individual of his qualifications, his expertise, not only in management but high tech as well. I believe we should support the manager and provide a board that will help him turn the troubled agency around.

It is my judgment a full-time board would destroy the delicate balance we tried to include in this legislation. The Commissioner, not the board, should manage the IRS.

A full-time board would bog down in details, diffuse accountability, and I fear very much probably not include the type of individuals, the experts, the background, and vision that are necessary on the board. Also, I have to say that I would doubt that Commissioner Rossotti might remain with the IRS if the board were full time.

The very basic question is what would be the point? While I agree with my colleague's objectives, I do not believe that a full-time board would enhance the prospect of turning this agency around. In fact, making the board full time could very well undermine the purpose of this legislation.

As my distinguished colleague, the Senator from Nebraska, has pointed out, the board is sunsetted. There will be an opportunity in the future to see how this board is functioning, whether it is working in the manner that we hope and believe it will.

I urge my colleagues, Mr. President, to vote against the full-time board. I reserve the remainder of my time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I, again, commend my colleague from Delaware for his outstanding leadership. I will only say that Commissioner Rossotti is going to leave sometime. I think it is important for us to make a structure which gives us the possibility of real reform in the IRS. An advisory board, in my experience in dealing with advisory boards, cannot and will not make a difference in the day-to-day management, the selection of IRS audits and the running of the agency which is the issue on the minds of American taxpayers. We need to do the job right, and I believe we need to make the change now.

Mr. President, if the distinguished manager of the bill has no further people wishing to speak—the ones who wanted to speak in support of the amendment are otherwise occupied—I am prepared to yield back the remainder of my time. We have 1 minute on each side prior to the vote. If the manager is finished with his speakers, I will join him in yielding back whatever time remains.

Mr. ROTH. Yes, Mr. President, I am pleased at this time to yield back the remainder of our time.

Mr. BOND. I yield back the remainder of time on our side. I thank the distinguished Senator from Delaware.

The PRESIDING OFFICER. All time has been yielded back.

Mr. ROTH. Mr. President, I ask unanimous consent that following the expiration or yielding back of time on the pending Bond amendment, it be temporarily set aside and a vote occur on, or in relation to, the Bond amendment at 1:15 p.m. today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. REID. I also ask unanimous consent that a congressional fellow, Alan Easterling, be allowed privileges of the floor during this issue that is now before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2342

(Purpose: To amend the Internal Revenue Code of 1986 to eliminate payments for detection of underpayments and fraud)

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2342.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle H of title III, add the following:

SEC. . ELIMINATION OF PAYMENTS FOR DETECTION OF UNDERPAYMENTS AND FRAUD.

(a) IN GENERAL.—Subchapter B of chapter 78 is amended by striking section 7623.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 78 is amended by striking the item relating to section 7623.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

Mr. REID. Mr. President, as Members of this body know, I have worked long and hard with other Members of this body to change how the IRS functions. The first speech I gave on the Senate floor after being elected in 1986, was on the Taxpayer Bill of Rights. As I presented my remarks that day, presiding was Senator David Pryor of Arkansas. At the time, he was chairman of the Subcommittee on Finance that dealt with the Internal Revenue Service. Also, that same day in the Chamber was CHARLES GRASSLEY of Iowa, a longtime proponent of changes within the Internal Revenue Service.

I received a note from Senator Pryor after I finished my remarks that a page delivered to me, indicating he wanted to work with me on the legislation that I talked about. That same day, I received word from Senator GRASSLEY he wanted to work with me.

This was bipartisan legislation. The bill that I wrote, the Taxpayer Bill of Rights—because of these two Senators; the Senator from Arkansas, the Senator from Iowa; a Democrat and a Republican—we were able to move this bill through the Senate. It passed in 1988 and became law. It was really a significant change. The Taxpayer Bill of Rights changed the way the taxpayers dealt with the tax collectors. It put the taxpayer on a more equal footing with the tax collector. It was the beginning of some major changes in the way we deal with the Internal Revenue Service.

The Taxpayer Bill of Rights No. 2, in 1996, was also a change. But we are here now because of H.R. 2676, the IRS Restructuring and Reform Act of 1997. I say to the chairman of the full committee, the senior Senator from Delaware, I appreciate his working hard on this issue. I think the hearings have been informative to the American public and indicate that we need to do more. The Taxpayer Bill of Rights No. 1 and No. 2 were important, but we need to go further.

I was one of those initial sponsors of this legislation in the Senate. Senator KERREY of Nebraska, Senator GRASSLEY of Iowa, and I held a press conference where we talked about this legislation. At that time we didn't have a lot of support. But the support has built, and now we have support from the administration, and it is once again bipartisan legislation.

I look forward to the opportunity to speak in favor of the speedy passage of this much needed and long overdue reform.

What I want to talk about today in my amendment is one of the things that leads to the bad press, the bad feelings that the American public has about the IRS. What I want to prohibit the IRS from doing in the future is continuing with a program that I refer to as the "Reward for Rats Program." This is a program where the IRS, in effect, has a contingent fee, much like a lawyer gets in a personal injury case. They say, "If you have somebody who will snitch on a neighbor, an ex-wife, or business partner, and this will lead to our collecting money, then we will give you part of that money."

I believe anyone who owes money to the Internal Revenue Service should pay it. But I think it should be collected in a way that is in keeping with the American system, not go into people's personal lives, where you have a wife—former wife or former husband who just completed a long divorce, and the IRS contacts one of them and says, "Hey, if you can give us a little information on your ex-spouse, then we will give you part of the money we collect."

I think this is wrong, and I think we should stop it. There is nothing specifically in the statute which allows this. The problem is, there is nothing that disallows it. That is what this amendment would do. It is a practice which, if it isn't corrected, will be permitted under this legislation now before the body.

Last week, the Senate Finance Committee, under the leadership of the senior Senator from Delaware, conducted hearings in the cases of abusive practices by employees of the IRS. Witnesses before that committee provided testimony which describes an organization prepared, I am sorry to say, to use virtually any means to collect this Nation's taxes.

Again, I think the taxes should be collected but it should be in a fair way. An organization apparently prepared to take advantage of individual greed or desire for revenge to identify, rightly or wrongly, citizens who have failed to pay their taxes is something we need to do away with.

Last week, we learned of a restaurant owner whose life was ruined on the basis of no more than a tip from a vengeful informant. As recently reported in the press, we learned of a tax accountant who snitched on a client, motivated only by the expectation of payment for betraying a confidential relationship. In both cases that I have just provided, the information was false.

Such informants, most of the time, are not acting in some sense of civic duty. They don't act from a selfless interest in the Nation's well-being. They act against friends, relatives, employers, and associates because the IRS pays them to do so.

Under section 7623 of the Internal Revenue Code of 1986, they are authorized to pay sums, as required, to informants in order to bring to trial violators of Internal Revenue laws. In plain English, the IRS pays snitches to act against associates, employers, relatives, and others—whether motivated by greed or revenge—in order to collect taxes. I find this activity unseemly, distasteful, and just wrong.

Under the current IRS program, these informants are paid up to 15 percent of the money recovered as a result of their tips, but no less than $100. In a recent change to the so-called Snitch Program, the Service increased the maximum allowable reward to $2 million—a powerful incentive to anyone interested in becoming rich at the expense of a neighbor, former business associates or business associate, former wife, former husband.

As if the desire for revenge alone hasn't been responsible enough for ruined lives, the Service has a $2 million jackpot to sweeten the payoff. For the nosy neighbor, the alienated spouse, or the wronged partner, the odds of seeing that payday may appear better than anything the State can offer. This program is unethical, it is contrary to taxpayer privacy, and inconsistent with the spirit of the Taxpayer Bill of Rights.

Let's assume that someone comes to an accountant with a tax problem—under the present law, there is no confidentiality; we are trying to change that, of course—comes to an accountant with a tax problem, thinking, of course, you have to get this thing worked out with your accountant; and the accountant walks out after the meeting and calls the IRS and says, "I have somebody you can get a real good chunk of money from, but of course I get 15 percent of it."

I think that is wrong. It is contrary to taxpayer privacy and inconsistent with the spirit of the Taxpayer Bill of Rights which was passed previously.

The IRS would have you believe that these programs—this snitch program is warranted because of the millions of dollars it is able to collect through the snitches. This simply demonstrates that the IRS is relying upon others to do its work. It shouldn't be up to friends, families, coworkers, and neighbors to ensure taxes are being paid; it is up to the IRS. We should not be paying private citizens to perform the job the IRS employees are expected to carry out.

I think this program should come to an end. To that purpose, I propose this amendment, which will eliminate the payments for detection of underpayment and fraud. The amendment to eliminate the reward of greed and invasive action against honest taxpayers should pass.

I propose that in the process of reforming and restructuring the Internal Revenue Service, we join together to eliminate the "Reward for Rats Program." It is time that this snitch program be eliminated and that we restore greater civic order to the manner in which the IRS conducts itself.

The amendment is considered important because it reforms the IRS, it fundamentally overhauls the manner in which they conduct business, and it serves the customers and also allows a more orderly way of collecting money. This amendment addresses an unethical and destructive program employed by the IRS in the collection of revenues. In that the amendment eliminates the program, it must be considered consistent with the spirit of this bill.

I ask unanimous consent to have printed in the RECORD a story from the Los Angeles Times dated April 15, 1998, entitled "Rewards-for-Snitches Program Comes Under Fire," which illustrates what the problem is we are trying to correct.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Apr. 15, 1998]

IRS "REWARDS-FOR-SNITCHES" PROGRAM COMES UNDER FIRE

(By Ralph Vartabedian)

WASHINGTON.—Americans voluntarily hand over most of the $1.3 trillion owed to the Internal Revenue Service each year, but a tiny fraction of tax collections depends on an obscure and increasingly controversial IRS program of using paid informants.

Motivated by a combination of greed and revenge, informants are typically business associates, employees, acquaintances, neighbors or ex-spouses of tax cheats. Many experts say the program is one of the most unseemly parts of the U.S. tax system.

However, IRS officials say they exercise great care in handling the informants, weeding spurious allegations, and that the rewards play an important role in the nation's tax enforcement system.

The IRS pays the informants up to 15% of the taxes it recovers from their tips—up to a maximum of $2 million—though the vast majority of informants end up empty-handed.

After a series of recent congressional disclosures about widespread taxpayer abuses, watchdog groups are growing concerned about the ethics of the agency's informant reward program.

"We should refocus our efforts on good citizenry, not bribing people to answer questions," said John Berthoud, president of the nonpartisan National Taxpayers Union, who called on the IRS to end the program in an interview with The Times.

The program has been sharply criticized by individuals who say they were victimized by bogus allegations, and even by informants, such as Mary Case of Sherman Oaks, who say the IRS has stiffed them on their rewards.

The Senate Finance Committee, which has been broadly investigating IRS abuses over the last year, is expected to unveil new evidence later this month that taxpayers have been devastated by aggressive IRS investigations based on phony information from snitches.

ONE TAX ACCOUNTANT SNITCHED ON HIS CLIENT

Tax attorneys and accountants generally decry the informant reward system, asserting that the government is on thin ice in offering money to taxpayers to turn each other in. They argue that a cornerstone of the U.S. tax system is the protection of taxpayer privacy and that the IRS is wrong to encourage people to breach confidential business or family relationships. In one case, a St. Louis tax accountant informed on his own client.

"It smacks of communism, turn in your parents if you catch them cheating," said San Francisco tax attorney Frederick Daily, author of the book "Stand up to the IRS."

Bruce Hockman, a top Los Angeles tax attorney whose clientele includes the rich and famous, refuses to help clients snitch to the IRS. "I have had people come in and ask me to take them downtown to IRS district headquarters," Hockman said. "I say no way. The Nazis did it, turn people in. It is unseemly."

Of course, Congress authorized the IRS to create the informant reward program in the first place. Former IRS historian Shelley Davis says her research indicates that informant rewards date back to the Civil War era.

Tipsters are one of the important parts of the IRS toolbox for enforcing tax compliance, says Thomas J. Smith, assistant IRS commissioner for examination and chief of the agency's informant reward program.

93% OF SNITCHES' TIPS END UP IN TRASH CAN

IRS figures for 1996, the last year for which data are available, show that 9,430 Americans sought rewards. Of those, the IRS acted on just 650—meaning that 93% of the tips ended up in the IRS garbage can. The IRS paid out about $3.5 million in rewards and recovered $103 million in taxes.

"If you look at the last three years, we have had 2,000 cases closed, resulting in taxes of $797 million," Smith said. "So, in terms of dollars, most people would judge that as reasonably significant. It does supply a very useful source of information for us."

The IRS has a national informant hotline (1–800–829–0433), though many informants walk in or call in to the IRS' 33 district offices or 10 regional service centers, Smith said.

With little fanfare and with no explanation, the IRS last year decided to substantially boost the maximum allowable award to $2 million from $100,000. It also set a minimum reward of $100, eliminating a lot of penny ante payments.

In 1996, the agency's largest award was a jackpot-size $1.06 million. (The agency does not disclose who gets the awards or what cases they involve.) The agency's smallest was just $18—less than the typical reward advertised in newspapers for lost dogs.

Under the new guidelines, rewards range from 1% to 15% of the tax recovered, depending on the assistance provided by the informer. But all awards are at the "discretion" of IRS officials, who make their decisions behind closed doors. Of course, the rewards are taxable income.

The IRS takes a low-key approach, not seeking to send the message that the federal government is actively recruiting paid stool pigeons. The agency does not make Form 211, which informants must fill out to claim a reward, widely available. It isn't even kept in the IRS national headquarters lobby, where the agency has almost every form on display.

Asked if the IRS encourages Americans to inform on others, Smith said he could offer no advice and suggested that individuals do what they feel is right. But former IRS officials are more blunt.

GARBAGE INFORMATION COMES STREAMING IN

"Informants rewards are pretty distasteful to everybody except the person who gets one," said Phillip Brand, a tax expert at KPMG Peat Marwich LLP and former IRS chief of compliance. "People have a different feeling about informing when they do it as good citizens."

Another problem with paying for information is that the IRS gets a lot of garbage information. Brand recalled a tipster once sought a reward for the disclosure that a secretary of State was dealing drugs to Queen Elizabeth II and not reporting the sales on his taxes.

But week allegations are less humorous when the IRS pursues them against innocent taxpayers. That apparently happened to John Colaprette of Virginia Beach, Va., whose home and two restaurants were raided in 1994 by armed IRS agents after his bookkeeper, Deborah A. Shofner, made phony allegations.

The bookkeeper was later arrested and charged with stealing from a Colaprette restaurant, the Jewish Mother. She was sentenced to 6 years and 11 months in Virginia.

"This case was investigated for just one and a half days before they obtained a search warrant, which was then executed 12 hours later," said Colaprette, who is expected to testify this month before the Senate Finance Committee's hearings on IRS abuses.

Although the committee is saying little about its planned hearings, it is expected to focus on the IRS' criminal investigation division, which handles most of the paid informants and conducts a wide range of undercover operations.

Since the raid on the Jewish Mother, the IRS has never assessed any back taxes or made any changes to his tax returns, Colaprette said. He has a $20-million suit against the IRS.

"Why do we have an agency that nobody controls?" Colaprette asked.

It isn't unusual for the IRS to deal with informants who violate confidential relationships. Like Colaprette's bookkeeper, when St. Louis tax accountant James Checksfield informed on his own client in 1989, he was discredited. The government dropped its tax evasion case against the client and the accountant lost his license.

Smith, the IRS chief of exams, said he could not discuss any specific cases because of privacy laws. But he said the IRS carefully screens allegations and is mindful of the potential for bogus information.

"It is a concern that we take very seriously," Smith said. "We absolutely try to be very careful about looking at returns with the greatest probability of error." Smith added that 89% of the returns examined as a result of a tip end up with changes.

While it isn't surprising that the targets of allegations feel abused, informants also are often frustrated over how the agency treats their claims.

IF CASE ISN'T CLOSED, NO REWARD IS PAID

Case, the Sherman Oaks woman, tipped the IRS in 1985 to Stanley D. Hexom, a San Jose real estate broker later accused of swindling millions of dollars from elderly California investors in fraudulent real estate deals. She has never received a reward from the IRS, but neither has the agency closed her case.

As Hexom's bookkeeper, Case provided IRS agents boxes of evidence, including copies of doctored tax returns and locations of bank accounts, as well as testifying to a federal grand jury.

Under IRS guidelines, an informant who provides such specific information is supposed to get 15% of the back taxes. But a big caveat is that the IRS has to actually collect the back taxes. So, if the agency comes up empty-handed, so does the informant.

There is no doubt that the IRS went after Hexom, who was convicted on two counts of bank fraud and one count of preparing a false tax return. IRS agents tried to collect from Hexom's wife, though she may have escaped assessment by claiming she was an innocent spouse, said Richard Blos, Hexom's attorney in San Jose.

Hexom was released from prison in 1993 and is currently living in the Phoenix area. He could not be reached for comment.

Smith acknowledged that the agency is often criticized for taking too long time to pay rewards, but he added that 13 years is an abnormally long time for an informant to be kept waiting.

Other informants say the agency's criminal investigation division takes all the credit for big money cases and undermines the role played by informants.

Joseph Pinnavaia, an Oceanside gemstone expert, helped the IRS crack a tax fraud ring in the early 1980's, in which worthless stones were being donated to museums for big tax write-offs.

Pinnavaia died last November, but not before completing a manuscript, entitled, "The Most Corrupt Agency in the Federal Government: The Internal Revenue Service," which detailed how the agency mishandled his case.

With Pinnavaia's help, the IRS went after a doctor in Florida who had donated an allegedly worthless blue topaz gem to the Smithsonian Institution. By 1979, the IRS was receiving 10,000 tax returns a year with deductions for gemstones, it was later discovered.

Though Pinnavaia was awarded $11,000 for his help in the case, he asserted that the IRS cheated him by claiming it already knew about the larger nationwide fraud ring. The manuscript, a copy of which was provided to The Times, includes a variety of internal IRS documents, in which criminal division agents downplayed his role in the case.

"He felt the $11,000 didn't even cover his expenses," said Mathew D. Pinnavaia, his son. "They tried to deny he played any role."

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. First of all, let me say to the Senator from Nevada, long before I got on this issue of taxpayer rights, the Senator was there, working on Taxpayer Bill of Rights 1 and Taxpayer Bill of Rights 2. This legislation in title III is a continuation of your work. And I appreciate very much your early support of this bill that enabled us to fashion this legislation in a bipartisan way, which I think allows us to make certain that we can extend the rights and power and authority to the taxpayer and stop abuses that we see within the IRS's capacity to collect money that this Congress authorizes is to be collected.

I appreciate, specifically, the problem you are identifying with your amendment. It is a problem that, thanks to Chairman ROTH, we heard before our committee. We saw the problems that can occur when you offer somebody, essentially, a reward to inform; you can get abuse from that. As the Senator knows, as I have heard him talk about this as well, the dilemma is, how far do you go? We have this mechanism being used throughout law enforcement and there are many times when it works and when it is not abuse.

I am wondering if the Senator would allow to us modify his amendment so it can require the commissioner to do a thorough analysis of this problem. Commissioner Rossotti has had this brought to his attention. It would require him to do a thorough analysis of this problem and then come back to us and say, how can we change the law so as to make certain that you are able to use this system when appropriate, but we can get rid of some of the abuses that are quite obviously not the intent of this Congress.

Mr. REID. Mr. President, I say to my friend from Nebraska that I appreciate the kind comments about my work on the Internal Revenue Service tax issues generally in the past. I also want to say that but for the Senator from Nebraska, we would not be on the floor today. The people of Nebraska should understand, as I am sure they do, the tenaciousness of the senior Senator from Nebraska. The work that he has done on this issue—when the history books are written about tax reform in this country, one of the chapters has to be dedicated to him. I personally appreciate, on behalf of my constituents from the State of Nevada, the work that you have done on this issue. I also think the work done on the underlying legislation, giving the commissioner of the Internal Revenue Service the power to do some things for a change will allow the commissioner to take a good look at this program and make some suggestions, which in the past fell on deaf ears because he had no power and authority to do anything. So I think we have a good commissioner. I am willing to have my amendment modified. I think it is a step in the right direction. There may be some things that I don't understand having only gotten——

Mr. ROTH. Mr. President, if the Senator will yield. I find it very difficult to hear what the distinguished Senator is saying.

Mr. REID. Mr. President, I am happy to talk a little louder. I say to my friend from Delaware that this has always been one of my habits. I can remember when I first started trying cases, there was a judge named Marshall—and Las Vegas only had 3 or 4 judges at the time—and he was hard of hearing. I would get up and talk to the jury and he could not hear what I was saying, so he would get upset at me. He thought I was saying things I didn't want him to hear. That wasn't the case then and it's not the case now. I will try to be more direct to the Senator from Delaware.

What I was saying is that I think this underlying legislation gives the commissioner of the IRS power he didn't have before, which is good. One of the problems we have had in the past is that the commissioner of the IRS has had no power to make changes in the way the Service operates. This legislation certainly gives him power to do that.

So, as I said to my friend from Nebraska, and I say again, I am willing for my amendment to be modified to have the commissioner report back to us within a reasonable time as to whether or not this program should be terminated in its entirety, or whether it should be modified. There may be instances when there may be a need for some type of a contingent fee. I am not aware of any, but there may be. I have enough confidence in the underlying legislation, which will be in effect in a few weeks, we hope, and in the commissioner of the IRS that I am willing to allow my amendment to be modified.

Mr. ROTH. Mr. President, I say to the distinguished Senator from Nevada that that is a very positive step, a very sound way of addressing the problem. It has been the practice in Government, as he well knows, that contingent fees are sometimes made available, not only in the IRS, but I believe in other areas of activity as well. As we all witnessed last week, this practice was used in an extremely abusive manner—a manner that should be dealt with. So I can understand the Senator's concern and interest in this matter.

I appreciate it and would find it acceptable, as far as I am concerned, if he would modify this to make a study, and within a limited time come back. I think we do have a new commissioner that is very effective and is bringing about change. This would help give him direction, and we think this is a matter of critical importance.

Mr. REID. If the Senator from Delaware will yield. I say to the manager of the bill, I think also that we focused attention, through the hearings that you have held, newspaper articles written, and through this amendment, on this practice that I am sure the commissioner will have enough information to come back to us as to whether or not this practice should be continued, modified in some way or, as I said, eliminated. So I would be happy to modify this amendment so that the commissioner could report back to us within a reasonable period of time.

Mr. ROTH. Mr. President, I think I will make a point of order that a quorum is not present and try to reach agreement on the specific language.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I rise today in strong support of H.R. 2676, the Internal Revenue Service Restructuring and Reform Act. We have waited too long for the opportunity to debate this issue and move this legislation. Senate action is coming six months after the House overwhelmingly passed this legislation and almost a year after the Kerrey/Portman Commission issued their recommendations for improving and reforming the IRS.

It is no wonder the American taxpayer is frustrated and angry. What kind of penalty or interest would the IRS levy against a taxpayer who was six months late in filing their taxes?

Mr. President, the IRS is an agency out of control. I hear this from people all across my state. They want the IRS reformed. And they want it done now.

What has this six month delay meant to taxpayers? Since November 5, 1997 the date the House voted on H.R. 2676, more than 17 million taxpayers have received a collection notice from the IRS; more than 34 million Americans have contacted the IRS to request assistance or information—of these calls, more than 16 million did not go through and close to 2 million Americans did not get correct answers.

This is unacceptable. Had we acted back in November, the impact on these families would have been dramatically different. We did not need more hearings, we needed action.

Since November 1997 I have heard from close to 1,200 taxpayers from my state who have written in support of systemwide reforms at the IRS. They have told me of their experiences and frustrations—and I have to say, some are quite disturbing.

Mr. President, I want to read some excerpts from a few of these letters—which have come from every corner of my state. They really highlight the abuses taking place by the IRS.

This comes from a constituent in Moses Lake, Washington. She says:

> We are people who obey the law. If there were things on our tax return which were in error or were questionable, we have no problem with being called to account for it. Nor do we take issue with paying more taxes if we legitimately owed more. However, the way we were treated by a representative of the IRS should never be allowed in any country, let alone ours, which is supposed to be based on presumption of innocence.

Another letter comes from a constituent in Seattle:

> In 1993, my husband and I bought a franchise and opened our business as sole proprietors. (If we had incorporated, our suffering would be over now). My husband, Craig, had plenty of knowledge and experience in carpentry and built a strong, thriving closet remodeling business. He did not, however, have business tax and accounting training, and he made mistakes in the paying of taxes and filling our paperwork to the IRS. As soon as he recognized his mistake, he alerted the IRS and began to try to make amends.
>
> It seemed he had awakened a vicious sleeping dog.

He goes on to say:

> Along with everything else, the IRS randomly cleaned out our bank accounts, as well as those of our children.
>
> It seems the IRS has an incentive program for their employees which persuades them to take quick, harsh action, trying to "get what they can" and ask questions of the "customer" later.

Finally, from a constituent in Kirkland, WA:

> For the past seven years both my husband and I have lived our lives under the tormenting cloud of the IRS.
>
> We had a lien put on our home and the letters began to come of companies wanting to help us with our troubles with the IRS. This was so devastating as we were just starting what we thought would be a beautiful life together. One day I came home to 12 different notices from the IRS I needed to sign for at the Post Office. That is a great way to spend taxpayers' money, don't you think?

These heavy-handed tactics by the IRS are not acceptable.

But this is not the first time I have heard from constituents about problems with the IRS. I knew reform was long overdue. It was not until the release of the Kerrey/Portman Commission report that I realized that it was not just a few bureaucrats abusing their position, but rather an agency out of control. An agency with management practices that encouraged abuse of taxpayers; managers who rewarded the most aggressive and unbending employees; and an agency that viewed taxpayers as the enemy.

Why is it so critical to enact IRS reform? We can all name many reasons why reform is necessary and important, but I think we all have to remember that taxpayers are only trying to meet their responsibilities in a democratic society. They are not turning to the IRS to apply for benefits or for assistance. They are attempting to honor their financial obligation and commitment to a democratic and progressive society. They are not asking for anything in return but to be treated fairly.

Unfortunately, this is not the experience of most taxpayers. This frustration with the IRS jeopardizes compliance with the Tax Code and undermines the faith taxpayers have in our system.

Currently, honest taxpayers and businesses pay an average of $1,600 per person for those who do not meet their financial obligations. An estimated $120 billion a year goes uncollected. We do not need to add to this by encouraging more taxpayers to give up.

The great thing about this legislation is that it keeps the taxpayer's interest in mind. It simply levels the playing field between the taxpayer, both large and small, and the IRS. What's more effective than forcing the IRS to work in a more fair and even-handed manner?

I am particularly pleased this legislation provides relief for "innocent spouses" who find themselves liable for taxes, interest, or penalties because of actions by their spouse. This has become a severe problem for many women and children. Following a divorce many women are left to fight the IRS to save their homes and their children's future. Spouses who engaged in illegal activities or misrepresented their income to the IRS simply flee and leave. The IRS then attempts to collect from the innocent spouse—who is often easier to locate—as she has custody of the children. It is a little difficult to hide when you have children.

The IRS then aggressively pursues these innocent spouses for a debt that they never knew about. If only we could be as aggressive in tracking down the billions of dollars in uncollected child support.

I urge the Senate to do the right thing today and pass this legislation. No more delays and no more excuses. The American taxpayer deserves better.

Thank you, Mr. President. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GREGG). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2343

(Purpose: To provide electronic access to Internal Revenue Service information on the Internet)

Mr. KERREY. Mr. President, I send an amendment to the desk, an amendment offered by Senator LEAHY and Senator ASHCROFT. It has been cleared on both sides. I ask that this amendment be agreed to.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

> The Senator from Nebraska [Mr. KERREY], for Mr. LEAHY, for himself and Mr. ASHCROFT, proposes an amendment numbered 2343.

Mr. KERREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 262, after line 14, add the following new paragraph:
>
> "In the case of taxable periods beginning after December 31, 1998, the Secretary of the

Treasury or the Secretary's delegate shall establish procedures for all Tax Forms, Instructions, and Publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database not later than the date such records are available to the public in printed form. In addition, in the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database not later than the date such guidance is available to the public in printed form."

Mr. LEAHY. Mr. President, I commend Chairman ROTH and Senator MOYNIHAN for their outstanding work on legislation to reform the Internal Revenue Service (IRS). It is time for the IRS to deliver better service to the American people. Our nation's taxpayers deserve no less.

Today, Senator ASHCROFT and I are offering an amendment to H.R. 2676 based on the Taxpayers Internet Assistance Act of 1998, S. 1901. Our bipartisan legislation requires the IRS to provide taxpayers with speedy access to tax forms, publications and other published guidance via the Internet.

Mr. President, I want to praise the Senate Finance Committee, Chairman ROTH, Senator MOYNIHAN, Senator KERREY and Senator GRASSLEY for their leadership in moving the IRS reform legislation to the full Senate. I strongly support the bill approved by the Finance Committee.

As the Senate prepares to debate IRS reforms, we must use technology to make the IRS more effective for all taxpayers. What better way to do that than to require the IRS to maintain online access to the latest tax information. Every citizen in the United States, no matter if he or she lives in a small town or big city, should be able to receive electronically the latest published tax guidance or download the most up-to-date tax form.

The IRS web page at >http://irs.ustreas.gov< provides timely service to taxpayers by increasing electronic access to some tax forms and publications. I commend the IRS for its use of Internet technology to improve its services. More information and services should be offered online and not just as a passing fad. Our legislation is needed to build on this electronic start and lock into the law for today and tomorrow comprehensive online taxpayer services.

For Tax Forms, Instructions and Publications, our legislation provides for online posting of documents created during the most recent five years, the same period of time that the IRS now keeps these documents on CD-ROM for Congressional offices. With these common sense requirements, the IRS will be able to enhance its web page with comprehensive tax guidance in a matter of days at little cost to taxpayers under our bipartisan bill. In fact, the Congressional Budget Office has scored our legislation as adding no new direct spending.

Thomas Jefferson observed that, "Information is the currency of democracy." Let's harness the power of the information age to make the IRS a truly democratic institution, open to all our citizens all the time. We strongly believe that the IRS must prepare itself for the next millennium now.

I thank Senator ASHCROFT for his support and urge my colleagues to support our amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2343) was agreed to.

Mr. KERREY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2342, AS MODIFIED

Mr. REID. Is the Reid amendment still the pending business?

The PRESIDING OFFICER. The Reid amendment is the pending business.

Mr. REID. I send a modification to the desk.

The PRESIDING OFFICER. The amendment will be modified.

The amendment (No. 2342), as modified, is as follows:

At the end of subtitle H of title III, add the following:

SEC. . STUDY OF PAYMENTS MADE FOR DETECTION OF UNDERPAYMENT AND FRAUD.

Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall conduct a study and report to Congress on the use of section 7623 of the Internal Revenue Code of 1986 including—

(1) an analysis of the present use of such section and the results of such use, and

(2) any legislative or administrative recommendations regarding the provisions of such section and its application.

Mr. KERREY. Mr. President, this amendment addresses a very important problem that we saw in the oversight hearings that the chairman conducted, and that is sometimes the payment made to induce an individual to provide evidence against a taxpayer who is violating the law becomes an incentive to provide evidence that is faulty and the taxpayers end up being abused as a consequence. Normally, a request for a study would not necessarily go very far. In this case, Commissioner Rossotti has already launched an investigation by the Criminal Investigation Division, using Mr. Webster, former FBI Director, as the lead who has indicated he wants to get to the bottom of this problem as well. So I believe this modification is a good modification. I am prepared to accept it on this side.

Mr. ROTH. Mr. President, we have reviewed the proposed change in this amendment. As I understand it, it requires a study to be made on informant payment, that the study must be completed within a year. As I said earlier, we found there are some serious problems in this area, and the modified amendment is satisfactory to this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2342), as modified, was agreed to.

AMENDMENT NO. 2341

The PRESIDING OFFICER. The question recurs on the BOND amendment with 2 minutes equally divided.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, we all know the problems of the IRS. They are well known. This is a troubled agency. It needs to be turned around. This is a good bill, but I think we need to do one thing to make it better. When has a part-time board ever turned around a troubled agency? A part-time board will not do the job. We need a full-time board if they want to change the culture of the agency. A full-time board such as the FTC, the SEC, even the Federal Reserve, can draw the people from all walks of life across the country to make sure the culture of the IRS is changed.

If you want to do something about the IRS, you have to put into the field a big dog that can back up his bark. Otherwise you have a little puppy on the porch that is meowing with the cats. It is not going to change the IRS to put a toothless puppy in as an advisory board. I believe a full-time board can give us the strength we need for vital reform. I ask for support of my amendment.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I was concerned as to where that animal analogy was going to go. Again, I appreciate very much what the Senator from Missouri is trying to do. I think the intent is shared both by myself and the chairman of the committee. We believe very strongly that this amendment would actually reduce the President's ability to find qualified people to come and bring their considerable expertise to assist the Commissioner who will be granted new authority to manage the Internal Revenue Service to restructure and improve customer service, improve the use of technology, and increase the satisfaction that customers of the IRS get.

So although it is well intended—I actually started out where the Senator from Missouri is—I believe it will make it more difficult for us to get the kind of people the Commissioner needs to serve on this board.

The PRESIDING OFFICER. The question is on agreeing to the Bond amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA) is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 25, nays 74, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—25

Abraham
Ashcroft
Bond
Burns
Campbell
Coverdell
Craig
D'Amato
DeWine
Faircloth
Frist
Gramm
Hollings
Hutchinson
Inhofe
Kempthorne
Kyl
McCain
McConnell
Nickles
Shelby
Smith (NH)
Stevens
Thomas
Thurmond

NAYS—74

Allard
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Brownback
Bryan
Bumpers
Byrd
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Daschle
Dodd
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Smith (OR)
Snowe
Specter
Thompson
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Akaka

The amendment (No. 2341) was rejected.

Mr. ROTH. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I know there are a number of Members who wish to speak, so I will keep my comments brief. But first I want to congratulate the chairman of the committee, Chairman ROTH, for bringing forward this really excellent bill to try to address what have been some extraordinary abuses which have been testified to before his committee and testified to in other arenas.

In my own case, I held a meeting in New Hampshire—a number of meetings, and found that we have had over 75 cases involving complaints involving the Internal Revenue Service since I have been in the Senate, which is an extremely high percentage.

We held a number of meetings. In one of the meetings, we had a presentation that was really disturbing—two presentations, in fact. The first was a fellow who practiced tax law and tax preparation for over 27 years who brought in a memo, an actual memo that he had taken off the desk of an agent. And the memo stated very bluntly that the IRS agents in that arena, in that area, were to collect a specific amount of dollars. Not only were they to collect a specific amount of dollars, but they were to collect a specific amount of dollars every month. In fact, it went further. It said how much they were supposed to collect every day, almost down to every hour—how much money the agents in that area were supposed to collect. It was not collection on the basis of people who legitimately owed taxes; it was collection on the basis of a quota system. It was outrageous that such a memo should exist or such direction should occur with this agency.

The second instance, which was even more disturbing because it led to a death, involved a fairly well known case now in New Hampshire of Mrs. Barron and Mr. Barron. Mrs. Barron's husband was essentially driven to suicide as a result of the abusive and totally inappropriate tactics that the Service, and a specific member of the Service, used in pursuing Mr. Barron for collection of taxes that were owed.

It was so terrible and so outrageous that it did lead to Mr. Barron's death and has disrupted and destroyed really Mrs. Barron and her family. As of today—in fact, I believe it will be announced today—Mrs. Barron has now finally received, after 5 or 6 years, some slight recompensation from the Internal Revenue Service in that they have dropped all action against her and against her husband's estate, and stated that they will no longer pursue the liability which they originally alleged was due and which drove this family into such despair. The manner of the collection was just horrific. The way in which they proceeded was horrific.

Of course, we have seen testimony before the Senate committee on which Chairman ROTH has been holding hearings which reflected agents coming into slumber parties and forcing young children to get dressed in front of them, at gunpoint essentially, and throwing a household into chaos in that manner.

Even a former majority leader of this Senate, Senator Baker, was subject to what amounted to extortion as a result of the activities of what I think was then a rogue agent pursuing Senator Baker.

The instances go on and on. And almost every Member of this Senate, I suspect, has cases in their home State of abuse, of action taken by specific agents which went beyond anything which we in a democracy should tolerate.

Thus, this bill is absolutely appropriate because this bill puts the taxpayer back on a level playing field. Instead of treating the taxpayers as if they are guilty until proven innocent—just the exact opposite of the way our culture proceeds—this bill puts the burden back on the Internal Revenue Service, where the taxpayer can present a reasonable case.

In addition, this bill says to the spouse, who is just a bystander, that they will not end up being treated unfairly or abused as a result of the misdeeds of their husband. And in most instances where the spouse simply signs the return, the innocent spouse language in this bill is very, very appropriate. And the chance to recover from the IRS for damages which are caused as a result of excessive activity on the part of agents who may act outside the reasonable course of collection of taxes is also very appropriate in this bill.

So this is truly a strong bill. It is dedicated to the purpose of trying to rein in the Internal Revenue Service management activities and make the Internal Revenue Service a more responsible agency as it deals with our citizenry. Because the bottom line, quite honestly, in our tax collection service, in our tax collection system as a democracy, is that people have to have confidence; they have to have confidence in the system. They have to have confidence that when they pay their taxes, they are paying, No. 1, their fair share and, No. 2, they are going to get fair treatment in the manner in which their taxes are reviewed. And as people lose that confidence, we will lose compliance.

What we have seen basically is that people have lost their confidence in the manner in which the Internal Revenue Service pursues the collection of taxes in this country. This bill will hopefully move a large step down the road towards reestablishing faith in the collection process that we pursue in this Nation for our tax obligations.

It does not get to the underlying problem, of course, which is that the tax laws have become far too complex, far too intricate, have gotten to a point of legal mumbo jumbo that very few people can understand what the tax laws actually say or can even comply with them without the assistance of professionals. That issue we also need to address as a Congress.

We need to simplify, make fairer, make flatter our tax system; make it a more comprehensible and understandable tax system. Pending doing that, which I hope we will do in the next year or so, this bill is a major stride forward in giving the taxpayers fairer and better treatment under the Internal Revenue Service procedures and allowing taxpayers to be treated like citizens of a democracy rather than citizens of a police state.

Mr. President, I yield back such time as I may have.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I ask Senator ALLARD, do you want to proceed with your comments?

Mr. ALLARD. Thank you, Mr. Chairman.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I rise in support of H.R. 2676.

Mr. President, I also want to talk about reform of the Internal Revenue Service. The Senate Finance Committee examined this issue last year, and they recently conducted a careful reexamination. I commend my colleagues, particularly the chairman of the Finance Committee, for their vigilance on this issue.

They have worked very hard to identify problems with the Internal Revenue Service and to craft legislation to correct the problems that were pointed out during committee hearings.

As we saw in the hearings last fall, the IRS has lacked accountability for years. The most recent hearings remind us of the importance of reforming this institution.

No one can dispute the fact that we must end business as usual at the IRS.

We must bring accountability and integrity back to the IRS.

American citizens should not live in fear of their government.

Certainly most IRS employees work diligently and honestly to insure that they administer the nation's tax laws accurately and fairly.

But as we have seen, the IRS as an institution has fostered a culture that tolerates and at times even encourages those few who operate outside the law.

We desperately need reforms to bring to justice those agents and elements within the IRS that have so far flauted the law.

The best way to curtail the power of the IRS is to simplify our nation's tax laws.

Congress is the principal entity responsible for the tax code.

Frankly, I believe Congress should scrap the current tax system and start fresh with a simple and fair system.

The federal tax burden on hard working Americans is excessive and overly intrusive, and reform is long overdue.

By striking at the heart of the problem with a fairer, flatter tax system, Congress will put an end to abusive IRS practices.

Until Congress is able to pass substantive changes to the nation's tax system that the President is willing to sign, we must reform the IRS.

Senator ROTH's bill would create an independent oversight board that would redefine IRS accountability.

The board would provide desperately needed oversight of the management and operation of the IRS, as well as its enforcement and collection activities.

Taxpayers have a right to expect honesty and integrity in their dealings with the IRS.

In fact, the mission statement of the IRS calls on its employees to perform in a manner warranting the highest degree of public confidence in their integrity, efficiency, and fairness. Let me repeat that. The mission statement of the IRS calls on its employees to perform in a manner warranting the highest degree of public confidence in their integrity, efficiency, and fairness.

When this fundamental trust is breached, taxpayers must have adequate recourse.

The Senate IRS reform bill gives them the necessary recourse.

Taxpayers would have expanded ability to collect damages and expenses when they are the target of improper IRS actions.

Also, agents who take improper actions, such as improper seizures we have heard on this floor, false statements under oath, which was heard in the committee, falsifying documents, we heard those before, violation of taxpayer confidentiality, and even harassing a taxpayer, would be terminated under the Senate bill.

While it is important to make whole those who have been injured by the IRS, it is even more important to prevent abuses from ever happening.

Senator ROTH's bill would provide this important protection for taxpayers.

Innocent spouses could no longer be held liable for the tax debts of their spouse, and spousal liability would be limited on joint returns.

Thanks to this bill, taxpayers will finally receive due process in their dealings with the IRS, which I think is a significant part of this bill.

IRS agents would have to follow specific procedures before seizing assets or filing liens, and they would be prevented from seizing someone's home for a minor tax liability.

The IRS would also be subject to the same Fair Debt collection standards that all other bill collectors in America are required to follow.

This year I have met with citizens in all 63 counties of Colorado.

In many of those meetings I had, I constantly heard about how frustrating and intimidating it can be to deal with the IRS. The Senate IRS reform bill would make it easier for citizens to communicate with the IRS.

The bill would require all IRS notices and correspondence to include the name, phone number, and address of an IRS employee that the taxpayer should contact regarding the notice.

It would also be easier to contact the IRS with general questions since they would finally be required to publish local phone numbers and addresses in the phone book.

Unfortunately a few agents have elected to use the IRS as their personal weapon, but the abuse of taxpayers must stop.

The IRS must recommit itself to serving the taxpayers.

The Senate IRS reform bill is a significant step towards that goal.

According to Judge William Downes,

> The conduct of our Nation's affairs always demands that public servants discharge their duties under the Constitution and the laws of this Republic with fairness and a proper spirit of subservience to the people whom they are sworn to serve. Respect for the law can only be fostered if citizens believe that those responsible for implementing and enforcing the law are themselves acting in conformity with the law.

I conclude by saying Congress must pass this legislation to end abusive practices and restore American confidence in the IRS.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 2344

(Purpose: To examine the transfer pricing enforcement efforts of the Internal Revenue Service)

Mr. DORGAN. Mr. President, I rise to offer an amendment on behalf of myself and Senator REID from Nevada. I believe the amendment has been worked out.

Let me describe it briefly. As I describe this amendment, let me say that the issue that is addressed in this bill dealing with the behavior of the Internal Revenue Service is an important issue. Stories with respect to hearings that have been held here in recent months, stories of abuse and taxpayer harassment, are stories that reflect horrible mismanagement, in my judgment, at the Internal Revenue Service.

This bill serves notice that that kind of behavior will not ever be tolerated at the Internal Revenue Service. This piece of legislation gives taxpayers some muscle to fight back when and if this occurs, and this piece of legislation makes some management changes at the Internal Revenue Service, some structural changes, to make sure the mismanagement does not occur again.

Now, there is another issue, however, that is important and this issue has not been the subject of hearings. That is the issue of enforcement. You must have a tax system to collect the money to do the things we need to do as a country—provide for our common defense, to pay for roads, to pay for health research, to pay for food safety, to pay for environment protection. So who pays those taxes? What kind of agency collects them and who pays the taxes?

We want to make sure our tax laws are enforced sufficiently so that some of the largest economic interests are not getting by paying zero taxes while the working families, who get out, go to work and work all day, and have a salary or a wage and have withholding taken out of their check, pay their taxes because they have no choice and no flexibility.

A recent study done by the GAO says foreign-controlled corporations doing business in the United States and not paying taxes equal 73 percent of all foreign corporations doing business here. Let me say that another way. If you think of the brand names of foreign products that you purchase in this country, just the most common brand names of companies who sell billions of dollars' worth of products in this country, and make billions of dollars in net income in this country, you can be sure that some of those names you just thought of are part of this 73 percent who do business here, make money here, and pay no taxes here—none, none at all. Seventy-three percent of foreign-controlled corporations doing business in the United States pay zero in Federal income taxes.

Now when they come here and compete against a U.S. corporation that does business only here and must pay taxes only here, they are engaged in unfair competition because they do business here tax free while our domestic business pays a tax to our country. This deals with tax enforcement.

The reason I offer this amendment is I want to just describe in a moment how tax avoidance occurs in this area and why it is important to have an Internal Revenue Service that is making sure these corporations pay their fair share of taxes in this country as well.

There have been a number of studies—a GAO study, a Treasury study, an IRS study, a study by two professors from Florida, Pak and Zdanowicz. Let me show Members what these studies have told us. Corporations, in this case foreign corporations doing business in this country, can simply inflate the cost of what they are selling to their U.S. subsidiary that they wholly own, and when they inflate the cost of the product they are selling to their wholly owned subsidiary, their subsidiary in the United States ends up doing a lot of business but ends up paying no taxes because they say they made no profits.

Let me give you an example of pricing. Tweezers. A pair of tweezers for $218. You have been to a drugstore or a grocery store and bought tweezers. Did you pay that for tweezers? I don't think so. Tweezers are priced at $218 so that a foreign corporation can overcharge to the domestic subsidiary and, therefore, take all the profit out of that subsidiary and claim they made no profit in the United States.

How about safety pins for $29 each? That is $29 for a safety pin. That is another way to price your profit out of the United States and show no income and pay no taxes to the United States.

How about a toothbrush imported into the United States from France for $18 apiece? Has anybody here bought a toothbrush for $18 apiece lately?

There is another way to do this, by the way, which is that corporations can have a foreign subsidiary in another country and they underprice their export to that foreign subsidiary, and that tends to move profits away from the United States as well.

Let me tell you what they do there. How about a piano, selling a piano to a company in Brazil for $50? Or what about tractor tires, selling a tractor tire to France for $7.69? Do you think U.S. farmers are able to buy a tractor tire for $7.69? How about a bulldozer for $551? You all know what a bulldozer looks like. Do you think you can buy that for $551? How about a missile-rocket launcher for $58? That is the way you move income around and end up not paying income tax to the United States of America, when all the rest of the taxpayers here pay the tax.

My point is very simple. How do you enforce what is called arms-length transactions between related corporations? Well, you take all their transactions and try to put them back together and measure whether they are priced in a way that would represent fair market prices. That is like taking two plates of spaghetti and trying to attach the ends of the spaghetti. It cannot be done. The result is billions and billions and billions of dollars—some estimates are over $40 billion a year—are lost to the U.S. Treasury through massive tax avoidance, while we are worried about whether people who go to work every day pay their taxes—and they do pay them because they don't have any flexibility; they can't get out of it and they can't overprice tweezers to $18 and tractor tires to $7.60. They pay their tax.

I want the IRS to worry about enforcement of our tax laws with respect to those who are doing business here to the tune of tens of billions of dollars, earning income here to the tune of tens of billions of dollars, and paying zero to this country in taxes. American firms that do business here must pay taxes; so too should foreign companies.

The amendment I offered is very simple. It simply requires the Internal Revenue Service Oversight Board that we are creating to conduct a study of whether the IRS has the resources needed to prevent the tax avoidance by these companies. In other words, do they have the resources to enforce in this area, No. 1; and No. 2, to analyze how much we are losing in this area of tax avoidance.

It is, in my judgment, scandalous. I refer anybody who is interested to the study by Pak and Zdanowicz, released not long ago. They are two Florida doctors who say that the U.S. Government was cheated out of $42.6 billion in tax revenues in 1997. That is a huge area.

I heard all this discussion on the floor about the IRS targeting low-income folks. That represents a different sort of enforcement. That deals with the earned-income tax credit. That is why that is happening. What about targeting the folks doing business here and not paying taxes here, who are earning billions of dollars every year in the United States in profits and using price transfers to price their income out of this country and shield it from the U.S. taxpayer? Shouldn't they have to pay income tax on their profit as well?

My amendment requires the oversight board to do certain things and report back to Congress within a year. I hope that perhaps this will stimulate some activity to take a look at this area and to see if we can't get the taxes that are owed this country by foreign corporations doing business in this country, making a great deal of money and paying nothing—literally zero—in Federal income taxes. My understanding is that this amendment has been cleared on both sides and, if so, I would only need a voice vote.

Mr. KERREY. Mr. President, we are prepared to accept this amendment. It requires a study to be done. I think it is a very important amendment. I appreciate the Senator bringing it onto this bill and bringing it to our attention. There is a problem with noncompliance; it is a big problem. Indeed, there is a problem in the IRS with noncompliant taxpayers, and Americans believe a problem with the IRS is that people who are complying are being harassed by the IRS. We have spent a lot of time, as is appropriate, dealing with the second category. I appreciate what the Senator is asking for very much.

Mr. ROTH. Mr. President, likewise, I am willing to accept the amendment of the Senator from North Dakota.

The PRESIDING OFFICER (Mr. HUTCHINSON). Will the Senator call up his amendment?

Mr. DORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. REID, proposes an amendment numbered 2344.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 394, between lines 15 and 16, insert:

SEC. 3803. STUDY OF TRANSFER PRICING ENFORCEMENT.

(1) IN GENERAL.—The Internal Revenue Service Oversight Board shall study whether the Internal Revenue Service has the resources needed to prevent tax avoidance by companies using unlawful transfer pricing methods.

(2) ASSISTANCE.—The Internal Revenue Service shall assist the Board in its study by analyzing and reporting to the Board on its enforcement of transfer pricing abuses, including a review of the effectiveness of the current enforcement tools used by the Internal Revenue Service to ensure compliance

under section 482 of the Internal Revenue Code of 1986 and to determine the scope of nonpayment of United States taxes by reason of such abuses.

(3) REPORT.—The Board shall report to Congress, not later than 12 months after the date of enactment of this act, on the results of the study conducted under this subsection, including recommendations for improving the Internal Revenue Service's enforcement tools to ensure that multinational companies doing business in the United States pay their fair share of United States taxes.

Mr. DORGAN. Mr. President, I urge adoption of my amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2344) was agreed to.

Mr. REED. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERREY. I wonder if the Senator would specify an amount of time. Senator GRAHAM of Florida is going to offer an amendment, and we would like to keep moving on the bill. Do you have a period of time in mind?

Mr. REED. I will finish within 10 minutes, or maybe much less.

Mr. KERREY. Fifteen minutes is fine with me.

Mr. REED. Mr. President, it will be way under that.

MANAGED CARE

Mr. REED. Mr. President, today we are engaged in a very important debate about the reform of the IRS, but there is another very crucial debate that we also must consider and recognize, and that is the debate about the future of our health care system in the United States—particularly the managed care health care system, which is becoming so prominent in America today.

I am particularly concerned that children should also be part of this debate and that they deserve the same consumer protections that many have talked about in the context of adult health care plans. Managed care, as we all recognize, plays a very important and critical role in our health care delivery system and has provided many benefits. But we also hear repeatedly about instances in which patients—particularly children—are not served as well as they should be by managed care.

I recall one child who was brought to my attention in Rhode Island. A young child, Morgan Smith, was born in Rhode Island November of 1993. Shortly after her fourth birthday, Morgan was diagnosed with Rhabdomyosarcoma, a cancer that attacks any smooth muscle in the body, including blood vessels. They detected this cancer in Morgan's brain. She was indeed faced with a critical, life-threatening brain tumor.

We are fortunate in Rhode Island because we have an excellent children's hospital, Hasbro Children's Hospital in Providence, which is the hospital where Morgan was diagnosed. The pediatric oncologists there determined that the best treatment for Morgan would be to go to the New England Regional Medical Center in Boston for specialized chemotherapy. Now, her mother, obviously, was willing to do anything to treat her child and have the best benefits for her child.

At that point, the insurance company denied her the ability to bring her child to Boston and requested that they get a second opinion. They got that second opinion; it was the same as the first opinion. However, the HMO still refused to authorize the treatment necessary for that 4-year-old child to receive life-saving therapy in Boston.

Mrs. Smith literally had to wage war against the HMO to make her point. At the time, she was absolutely crushed by the prospect of her young child being stricken with a life-threatening brain tumor. She determined on her own to go to Boston regardless of the consequences, risking her financial future, risking all of the resources that she had, while also having to provide for her other children. Nevertheless, she was bound and determined to provide for Morgan.

Fortunately, this story has a happy ending. About a month after pleading by Mrs. Smith, and by others, the insurance company relented and she was granted permission to have the treatment conducted in Boston. And the child is doing very well.

That is merely one example of the stories we are hearing constantly about managed care and its inability at times to provide the kind of care that most parents think they should get when they pay good money, or their employer pays good money, for these managed care plans.

There have been studies in parts of the country suggesting that the managed care plans are not best suited, in many cases, for children. A study in California by Elizabeth Jameson at the University of California compared managed care plans with the State's Medicaid plan for children. Medicaid plans are sometimes stereotyped as the low-cost and, by inference, low-quality health care. This study, however, found that in many respects children in California's Medicaid Program were getting better pediatric care than those enrolled in managed care plans in the State.

The study found, for example, that some of the managed care plans imposed restrictions on referrals to pediatric specialists. They also found that many plan providers were attempting to deal with very complicated pediatric conditions with which they had little experience.

As a result of the anecdotal evidence, as a result of the statistical studies and surveys that have been done in parts of the country, I have introduced S. 1808, the Children's Health Insurance Accountability Act. It is designed to provide an opportunity for children's health to be considered and focused on in a managed care plan. This act would provide common sense protections for children in managed care plans—protections, for example, that would ensure that a family has access to necessary pediatric services; that they would have appeal rights and special conditions with respect to children; that they would have quality programs that measure outcomes with respect to children and not just to adults; that there would be utilization review rules that be geared toward children and not just to adults; that there would be child-specific information in terms of the sale of these plans on care provided to children.

There are so many parents who buy plans and think they have coverage for their kid, only to discover in a time of crisis that the coverage is not what they thought it was. My legislation would put that information up front.

What I have done with respect to children is consistent with a much broader class of legislation that is attempting to reform managed care for the entire population of patients. The Health Care Bill of Rights, for example, introduced by my Democratic colleagues, is one such plan. My legislation is consistent with this overall thrust to ensure that managed care continues to operate for the benefit of patients, that operates by allowing physicians to provide advice, and not accountants, to control the diagnosis and the application of health care.

With respect to children, again, the American people are strongly supportive of proposals to give better access through managed care for pediatric services. In a February 1998 poll by the firm of Lake, Sosin, Snell, Perry and Associates and the Tarrance Group—two pollsters, one Democrat and one Republican—it was found that 89 percent of adults surveyed favored having "Congress require HMOs and other insurance companies to allow parents to choose a pediatrician as their child's primary care physician." And 90 percent favored having "Congress require HMOs and other insurance companies to allow parents of children with special care needs, like cerebral palsy, cystic fibrosis, or severe asthma, to choose a pediatric specialist to be their child's primary care physician."

There is overwhelming public support for these provisions that will allow parents to truly and wisely choose coverage for their children and have the ability to have pediatric specialists care for their children.

Again, this is consistent with a theme, a message, and a responsibility that we all have; that is, to move in this time decisively, with determination, to ensure that we reform the managed care system, that we provide the benefits of managed care in terms of preventive services; in terms of access to physicians, that we do it in a way that physicians know they are providing the best care for their patients and that the consumers of health care know that they can have access to good-quality care.

The time to act is now. I join many of my colleagues on an almost daily basis in urging that we take up this matter quickly and that we move forward decisively and pass comprehensive managed care for all of our citizens, but particularly for our children.

I thank you, Mr. President. I yield my time.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2347

(Purpose: To require 1 member of the Internal Revenue Service Oversight Board to be a representative of small business)

Mr. GRAHAM. Mr. President, I rise for the purpose of offering an amendment on behalf of myself and Senator BOND.

Yesterday, I spoke at some length about the issue of small business and the Internal Revenue Service. In that statement I pointed out that small business is a peculiarly affected part of the American economy as it relates to the Internal Revenue Service.

Small business, as we know, is the fastest growing sector of our economy. Typically, management has multiple responsibilities and does not have the kind of access to a panoply of expertise in accounting and law as a larger business would have. Oftentimes the small businessperson and those associated with the small business are in their own learning curve as to what requirements of compliance might be.

Therefore, it is my feeling as we look at this reform of the IRS that we should pay some special attention to how this will evolve in terms of its application to small businesses. As we know, one of the principal elements of this reform is the establishment of an IRS Oversight Board. This oversight board has the responsibility of being both the window of the Government onto the taxpayer, and the taxpayer back to the Government. So it serves an especially important role of understanding and communication.

The legislation is written so that three of the members of the nine-member oversight board are ex officio—the Secretary of the Treasury, the IRS Commissioner, and a representative of IRS employees. The other six appointees are Presidential appointments, and according to the current draft of the legislation these six appointees must possess expertise in the following areas: management of large service organizations, customer service, Federal tax laws, information technology, organization development, and needs and concerns of taxpayers.

The amendment that I am offering will add an additional category of expertise to be represented among the six Presidential appointees and that is the needs and concerns of small business. It is the expectation that the President would appoint six individuals, and his responsibility would be to assure that those six had a sufficient range of backgrounds that they would be able to cover the six and, if this amendment is added, the seventh requirement.

I think it is extremely important that among the six people who are appointed as Presidential appointees to the oversight board for the Internal Revenue Service there be represented in that six one or more individuals who understand the needs and concerns of small businesses of America and can assure that those concerns are effectively communicated to the management and administration of the Internal Revenue Service and, if necessary, the Congress, for appropriate changes in law.

The distinguished chairman of the Small Business Committee, Senator BOND, joins me in this effort. I want to commend him for his thorough analysis of the IRS bill as it affects small business and for including this provision in his legislation.

So, Mr. President, I send to the desk an amendment which would add to the requirements for those persons who are serving on the IRS Oversight Board that there be included expertise in the needs and concerns of small business.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 2347:

On page 176, between lines 4 and 5, insert the following:

"(vii) The needs and concerns of small businesses.

Mr. GRAHAM. I thank the Chair.

I ask for immediate consideration of this amendment.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Nebraska.

Mr. KERREY. Mr. President, we would be prepared on this side to accept what I consider to be a very, very good amendment. The idea of this board is to give the President authority to select from a wide range of experiences that will assist the Commissioner of the Internal Revenue Service in managing the agency, and the Commissioner has already indicated—indeed, we are going to help him follow through—his preference to manage the IRS much differently than it currently is.

The IRS is currently managed using a three-tiered system that we adopted in 1952. There are regional and district offices, multiple offices, and you have all different kinds of taxpayer needs taken care of in each one of these district offices.

What the Commissioner has indicated he wants to do is reorganize along functional lines. Function No. 1 is large business of which I believe there are 7- or 800,000, individual taxpayers would be function No. 2, small business No. 3, and nonprofits No. 4.

So what the Commissioner is already attempting to do, and this law would direct him, is to entirely or completely eliminate the three tiers in favor of this kind of functional organization. But what he is already recognizing is that taxpayer needs vary not according to their geography but according to the category of the taxpayer. One of the largest and most important categories of radically different needs than the other three is small business.

So what the Senator from Florida is doing is adding to the list of requirements the President would have to consider when making a selection, and that would be some small business experience which reinforces very much the other section of this bill, which directs the Commissioner to eliminate, as much as possible, the three-tier system in favor of this functional system of organization.

So I think it is a very good amendment. It is one of these amendments that just has a few words in it. There is a lot more to this amendment than meets the eye. I think with the addition of a small business experience, this board is much more likely to be able to carry out its function, and that is to provide the kind of consistent oversight and advice the Commissioner needs to manage this very important agency.

Mr. ROTH. Mr. President, I think we are all in agreement as to the importance of small business. Certainly, the current success of our economy has depended in large part on the contribution of small business. For that reason, from this side I agree that we should accept the amendment, and so do.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2347) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Montana.

Mr. BAUCUS. Mr. President, during the last couple of months, in every household across the country, Americans went through an annual rite. They sat down at the kitchen table, pulled all their financial records together, and figured out what they owed the Government in taxes.

Nobody likes doing their taxes. And people dislike paying them even more. Yet the vast majority of our citizens do pay their taxes. And they pay them honestly.

In short, Americans expect their money to be used to pay for all of the things that help make this nation great. In return, though, the American people want their Government to do two things.

First, the American people want their Government to treat them with respect and dignity as the revenue is being collected. They expect to have their privacy respected, and to be treated fairly.

Second, Americans expect that everyone else who enjoys the benefits taxes pay for will shoulder their share of the burden. That their neighbor down the street isn't hiding part of his income, and thus avoiding paying his fair share of the tax. That everyone is filing returns, and that the amounts claimed on those returns are accurate and true.

Mr. President, I truly believe the American people have the right to have both of these expectations met. And I believe we here in the Senate shoulder a great deal of the responsibility for making sure of it.

Chief Justice John Marshall said: "The power to tax involves the power to destroy." It is our duty as Senators to make sure this country does not use its power in that fashion.

Running the IRS is a study in careful balances. And I believe that the IRS has somehow lost its ability to maintain one side of the equation over the years.

Many tax collectors, in their zeal to catch those among us who don't pay their taxes, seem to have lost sight of the most important truth about our tax system—that citizens have rights that must be protected.

Anything less undermines our ability to make a system of voluntary taxation work.

Here's a graphic example of how the system has gotten out of whack. It's contained in a recent letter from one of my constituents. It's a plea for help:

> The problem with the IRS started in 1997. John [not his real name] and I had just bought a house. I was a semester away from graduating from college, and we thought the [failed] business was behind us. The last week in July 1997, I returned home after a day of working at my part-time job to find a nasty note on my front door from [an IRS agent] stating that he had 'tracked' us down and expected a phone call or action would be taken. I promptly called him to find out the reasoning behind the note. He was very rude and reluctant to give me any information, because I [was not my husband]. I explained that I was his wife and he began talking to me in a degrading manner. He said, "Your husband owes tax, and I expect to collect it in full." When I asked him to explain, he very quickly said it was for [my husband's failed business] and began treating me as a criminal who was running from the IRS.
>
> We feel we have not been treated fairly in this situation. We have attempted to make good on all other situations regarding this [failed] business and have not been hiding from the IRS. [The IRS agent] has been extremely rude and unsympathetic toward us. He has put a tax lien on everything we own. He has also made comments to our accountant indicating that he has been tracking our personal lives and mentioning purchases and other personal matters. In [the IRS agent's] eyes we are criminals cheating the government. In our eyes the government is cheating us by never giving us a fair chance to make good. This whole situation has cost us over $700 in accounting fees and is still unresolved. We are turning to you as a final attempt to resolve this problem. We hope you can help us in making the government work for the people not against them.

That letter sums up this issue in a nutshell: Make the Government work for the people, not against them. Make Government responsive to taxpayers' needs. Make service the priority of the Internal Revenue Service. Make the IRS treat taxpayers fairly—and with respect. That's what my constituent wants. And that's what I want.

We certainly don't want to tie IRS's hands so much that tax cheats are encouraged. The rest of us end up picking up the tab when someone cheats. At the same time, we also can't have IRS harassing innocent citizens, assuming everyone is guilty the minute they walk in the door.

I believe this legislation will help IRS find its way back to the reasonable balance that our tax system requires.

The IRS has suffered from years of neglect and lack of focus. The spotlight that has been turned on the Service, by the IRS Restructuring Commission and by the series of hearings we have held in the Senate Finance Committee, has already had a positive effect on the IRS.

The Service is expanding hours and people for its telephone answering service. Taxpayers got 13 million fewer busy signals this year when they called IRS to ask questions about their taxes. Toll-free calls are being answered 91% of the time—a huge improvement. Last year callers only got through 66% of the time, and only 39% of the time the year before. This year, phone lines are being answered 18 hours a day. And for the first time, the IRS is open on Saturdays.

People answering the phones are also getting better. One group of Baltimore IRS workers gave correct advice to 100% of recent random test calls. Nationally, accuracy scores are up to 93% this year, from only 63% as recently as 1989.

So more taxpayers are able to get through to the IRS when they have a question, and more of the answers they will get will be the right ones.

IRS has a webpage where taxpayers can download documents and forms. Now taxpayers don't have to run all over town just to find the right paperwork.

And the Service has had a series of "Problemsolving Days" around the country, where taxpayers can come in and get their problems taken care of. The last "Problemsolving Day" in my home state of Montana was in Billings in January. More than half of all the taxpayers who participated walked out with their problems taken care of on the spot. Many of the rest have been resolved in the succeeding weeks.

But there are still problems at the IRS, as our hearings—and my constituent's letter and plea for help—have clearly identified. And many of the improvements planned by our new IRS Commissioner, Charles Rossotti, require legislative action in order to go forward.

The bill before us is a very good beginning. It addresses the first expectation the American people share—making sure the Government treats them with respect and dignity as the revenue is being collected. It does this through a series of provisions.

First, the bill creates a board, made up chiefly of private citizens, to oversee the direction the IRS is going. The Board will keep an eye on the Service's budget, to make sure enough resources are being dedicated to customer service. It will help define long-term goals, and make sure the Service stays on track to meet those goals. The Board will ferret out problems at the IRS, and help craft solutions to those problems.

The bill creates significant new personnel flexibilities to make it easier for Commissioner Rossotti to get his own team on board and reward employees who are doing well. It requires the IRS to submit an employee training plan to Congress, to help employees improve the quality of their work. The bill requires IRS to tell Congress about taxpayer complaints of misconduct by employees, and to take disciplinary action against "bad apples". The bill also makes it easier for IRS employees to provide confidential information to the Finance and Ways and Means Committees to report allegations of employee misconduct or taxpayer abuse.

The bill will reorganize the IRS, much as IBM was reorganized when they realized they couldn't compete against newcomers like Microsoft. Right now, IRS is organized horizontally, by function. This means every time a taxpayer has a question or a problem that crosses the Services' functional lines, they are handed off to a different person in an entirely different department. No one has final responsibility to getting the taxpayer's problem solved.

There is no accountability.

This bill reorganizes the agency by type of taxpayer. There will be a separate division for individuals, one for small businesses, one for large corporations, and one for tax exempt organizations. Employees within these divisions will be responsible for just about every type of problem their assigned group of taxpayers could have. They will stick with the taxpayer until his problem is solved.

No more passing the buck.

The bill also adds important new taxpayer protections to the law, to help protect citizens against arbitrary actions of IRS agents.

The bill will allow taxpayers to sue for negligent actions by IRS agents. Today they must meet a very high treshold by proving any abuse was intentional.

The bill expands the offers-in-compromise program. It makes it harder for IRS to turn down legitimate offers. The bill also requires IRS to leave taxpayers with more money to live on when they enter into repayment agreements.

In our hearings, taxpayers complained about the difficulty of using innocent spouse protections. The House and Senate bills take different approaches to solving this problem. Both make it easier for truly innocent spouses to be protected from the tax debts their guilty spouses have accumulated.

These are only a few examples of the taxpayer protections built into the legislation.

Finally, the bill before us today takes a first step toward addressing what may be the biggest contributor to taxpayer problems with our Tax Code—Congress itself. Witness after witness at our hearings complained about the complexity of the Code. Witness after witness complained about how hard it is to keep up with frequent changes we make in the law. And they are right.

This bill requires that every tax bill in the future be accompanied by an analysis of whether it will further complicate the Code. How hard it will be for taxpayers to comply with the new law. As we strive to achieve fairness in our Tax Code, we sacrifice simplicity. With this bill, we will be able to clearly understand the extent of that sacrifice.

I believe that one of the hardest things to do when restructuring any agency, and particularly one as sensitive as this one, is to find that delicate balance between giving the Government too much power and giving it too little.

Give it too much power, and innocent citizens will be abused. This is, obviously, unacceptable in a civilized society. Even one single instance of taxpayer abuse is one too many.

Law abiding taxpayers should not fear the taxman.

But clipping the Government's wings too closely presents its own dangers. Americans expect us to make sure everyone is sharing the burden of paying for the services our Government provides. And it is clear some of us are not. IRS estimates the "tax gap", which is the measure of tax avoidance, now is almost $200 billion a year. This amounts to more than $1,600 per year for every tax return filed by the rest of us.

This, too, must stop. Our entire system of collecting revenue would unravel if taxpayers stop paying their fair share because they believe everyone else is cheating.

The bill before us today is not perfect.

It does not address the problem of tax non-compliance. We have left that challenge for another day.

There are provisions in it that may seem good at first blush, but may cause more harm than good. We should try to fix these as the bill goes through the legislative process.

But I firmly believe we must not let the perfect be the enemy of the good. We must not let yet another tax season go by without the taxpayer protections this bill provides.

Passing a solid restructuring bill will do more to get the IRS on track than a hundred hearings where we sit, posture, pontificate and play politics.

It is our responsibility to the American people to get this job done quickly, and to get it done right. I want to be able to go back to the constituent who wrote me that letter and say, Yes, we fixed your problem. And, Yes, the Government works for you, not against you.

Thank you, Mr. President.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise today to speak briefly about IRS reform and overall reform of the tax system.

Paramilitary-style raids, attempted frame-ups, retaliation against whistle blowers, harassment of innocent individuals, all carried out by a Government agency oftentimes operating outside the bounds of the law and with seemingly limitless authority. A premise played out within the pages of the latest popular novel? Not exactly. These examples, unearthed during recent hearings here in the Senate, are taken directly from the playbook of the Internal Revenue Service.

The hearings, and the abuses they highlighted, have focused the nation's attention on the "IRS Restructuring and Reform Act" that is now before the Senate. Included within the legislation are many good provisions that would protect taxpayer rights and restrict the power of the agency. Key provisions would limit interest and penalties on delinquent taxes and shift the burden of proof from the taxpayer to the IRS in tax disputes.

Before I continue, Mr. President, I would like to take this opportunity to commend Senator ROTH, the Chairman of the Finance Committee, for his tremendous efforts to reform the IRS and his leadership on tax relief.

I also commend the Chairman for holding the series of oversight hearings that exposed the abuses upon taxpayers carried out by the IRS. All of us are greatly indebted to Senator ROTH for that. He has done an outstanding job to formulate a sound and responsible IRS restructuring plan.

If enacted, these reform provisions before us today would improve IRS service, make the agency more accountable, and provide better protections for the taxpayers. I fully agree with Senator ROTH that the goal of IRS reform should be to make the IRS "a service-oriented agency instead of a law-enforcement agency."

Still, Mr. President, a fundamental question remains: can the IRS really be fixed by reform without scrapping the Tax Code? To answer this, we need to take a closer look into the problems with the IRS.

The passage in 1913 of the 16th amendment to the Constitution granted Congress the power to impose an income tax. A tiny division of the Bureau of Internal Revenue Service was created to collect the taxes. Eighty-five years later, this division, now known as the IRS, has grown to become the most powerful agency in the entire Federal Government.

The IRS today employs more investigative agents than the FBI and the CIA combined, and boasts a total workforce of more than 100,000. It is hard to believe, but more employees work at the IRS than in all but the 36 largest corporations in this country. The decisions its bureaucrats make daily affect every American who takes home a paycheck.

The agency's job is to administer and enforce the Nation's tax laws and collect tax revenue for the Government. To ensure that all Americans pay their taxes, Congress has given the agency almost unlimited power—power that goes beyond the authority granted to any other agency in the Federal Government.

By law, the IRS can audit individuals or businesses. It can impose penalties and impose a lien on a taxpayer's property or bank accounts, or seize them altogether. Average taxpayers and small business owners have few little administrative or legal remedies against such a powerful agency.

Its unlimited power has made the IRS a wasteful, arrogant, incompetent, intrusive, and abusive agency. The IRS is driven by illegal quotas and collection goals. It has targeted the underprivileged for audits. It has mistreated hundreds of thousands of innocent taxpayers. Clearly, this is an agency out of control, an agency in need of a complete overhaul.

But let us not forget how the IRS reached this troubled point. Congress deserves much of the blame for the present state of our hostile tax system, for it is Congress that created the IRS in the first place.

Congress grants the IRS its unlimited power. Congress writes the complicated Tax Code that taxes Americans' income over and over and provides loopholes to thousands of special groups, making the Tax Code too complicated for even most attorneys and tax accountants to fully understand. Congress requires the IRS to squeeze more tax money out of the taxpayers so that Congress has more to spend. On top of that, Congress does not have time to fully exercise its IRS oversight responsibilities. Even while it talks reform, Congress is making the Tax Code ever more burdensome—since last year, Congress has added 185 new sections and 824 changes to the Tax Code.

Most IRS employees are decent, hardworking people who face an impossible task: interpreting and applying the hundreds of thousands of pages of the Tax Code and its related regulations. A recent study shows that more than 8 million Americans each year receive incorrect bills or refunds due to IRS errors. Each year, Money magazine hires 50 professional tax preparers to calculate a return for a sample family. No two preparers have ever had the same result; answers can vary by thousands of dollars. It just shows that the Tax Code is confusing and arbitrary, and this in turn encourages waste, harassment, corruption and abuse.

Tinkering with the system by merely restructuring the IRS will not solve its fundamental flaws. It is clear that the real problem with the IRS is not management, or administration, but the Tax Code on which all IRS decisions are based. This is such an ugly agency it is hard to make it pretty by reforms.

We can replace the IRS management, we can improve its service, crack down on abuses, increase its efficiency, and reduce its waste, but the fundamental problems will not go away. Reorganizing the IRS without real reform of the Tax Code will send a false signal to the American people that once we restructure the IRS, all its problem will be solved and there will be no need to reform our tax system. Unfortunately, as the history books reveal, it is not that easy.

We have tried to overhaul the IRS in the past, and somehow the agency always comes back more powerful and more abusive than ever before. At least two versions of a "taxpayer bill of rights" previously enacted into law have had little effect in taming the IRS. Even after last year's IRS abuse hearings, which resulted in promised reforms, the abuses continue.

Mr. President, let me make this clear: it is vitally important that we continue our efforts to reform the IRS, and I strongly support Chairman ROTH's work and his legislation. My point is that we should not let this debate delay or derail real tax reform—to delay us from carrying out the demands of the taxpayers to scrap the Tax Code and replace it with one that is simpler, flatter, fairer, and friendlier.

This Chamber already passed a resolution to sunset the Tax Code. Now we should set a date to establish a new tax system. Once we have eliminated the Tax Code, there will be little, if any, need for the IRS and its playbook or its abuses.

Thank you very much, Mr. President. I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I ask unanimous consent to be able to speak as in morning business for 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I certainly would not object, but I ask the chairman if I might be able to speak for 8 minutes by unanimous consent following Senator CONRAD.

Mr. ROTH. A total of 20 minutes then. The manager has no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. I thank the Chair.

THE FARM CRISIS IN NORTH DAKOTA

Mr. CONRAD. Mr. President, I rose 2 days ago to alert my colleagues to the economic disaster that is befalling North Dakota with a dramatic drop in farm income. And I showed this chart; the headline: "North Dakota Farm Incomes Washed Away In 1997," that showed from 1996 to 1997 farm income dropped 98 percent in North Dakota.

In fact, in 1997, the total farm income in the entire State of North Dakota, one of the most agricultural States in the Nation, was down to only $15 million—$15 million—of farm income spread among 30,000 farmers. That was a farm income per farm of only $500.

Mr. President, the Wall Street Journal yesterday had a front page article entitled "Off the Land," and they confirmed the basic outlines of the story that I ve been telling for the last 2 days on the Senate floor. And in their front page story, they pointed out, "On the Northern Plains, Free-Market Farming Yields Pain, Upheaval. After Deregulation, Drop In Wheat Prices Compels Many Growers to Quit. The Effect Spreads South."

Mr. President, the article in the Wall Street Journal goes on to report that:

> Cheap wheat and bad weather are doing to Nathan Johnson what they couldn't do to three preceding generations of his farming family.
>
> They are defeating him.

Mr. President, this is a story from northwestern Minnesota, but it is identical to what is happening right across the border in northern North Dakota.

This story goes on to say:

> Last year, a disease called scab wiped out half the wheat [that Mr. Johnson] planted on the land around his family's 1887 homestead near the Canadian border. And now, a glut of foreign wheat is pushing down the grain's price at the local elevator to an unprofitable $3 a bushel. These days, Mr. Johnson is trying to rent out his land and looking for work in the city.

Mr. President, the article goes on to say:

> Across the Northern Plains, the long migration away from agriculture is turning into a stampede. From Montana to Minnesota, thousands who made their living growing wheat are quitting the prairie. A blizzard of barnyard auctions is sending chills down the Main Streets of the towns that live off farmers.

One man is quoted as saying:

> "We're doing a sale every day," says Brad Olstad of Steffes Auctioneers Inc. in Fargo, N.D. "Wheat is a dying crop."

And wheat, of course, is the commodity that goes to make bread, to make pasta; and they are talking here about it being a dying commodity.

> Bad years are nothing new around here. Wheat prices were lower in 1990, when a similar coincidence of bumper harvests around the globe swamped the market. The drought of 1988 destroyed wheat fields. But none of that was as deadly to farmers as what is happening now: deregulation.
>
> Two years ago, Uncle Sam began withholding from the decades-old business of protecting farmers against the vagaries of weather and markets. Grain and cotton farmers no longer receive "deficiency" payments when prices are below target levels. Shelved, too, was the disaster-aid program that pumped $18 million into Kennedy—

This is a small town in Minnesota that is being reported on in the Journal article—

> and the rest of Kittson County after the 1988 drought.

* * * * * *

> The bottom line: Many of Kittson County's farmers are suffering their biggest financial losses ever. "Deregulation is turning into a disaster for us," says Duane A. Lyberg, president of the Northwestern State Bank.

Now, that tells you something about the depths of this disaster. It is not just farmers reporting on it, not just, as I reported yesterday, implement dealers or other suppliers to farmers; but now the bankers are reporting to us what a financial disaster they are facing.

In fact, I just completed 2 weeks of meetings across the State of North Dakota. And in every small town where I went, the bankers took me aside and said, "Senator, there is something radically wrong in agriculture. Our farmers are not cash flowing. And they're not going to cash flow."

In North Dakota, the Journal article reports:

> So many are throwing in the towel that state officials got a federal grant last month to retrain hundreds of growers for other jobs. "I've never seen it as bad as this," says Roger Johnson, North Dakota Commissioner of Agriculture.

They go on in this article to quote the former Secretary of Agriculture of the United States, and he says the following:

> Unless the bankers get worried, nothing will get changed in Congress, says Bob Bergland, Agriculture Secretary during the Carter administration, who lives in nearby Roseau, where his family grows wheat. "The hourglass is running out for a lot of farmers around here."

That is the truth. We are in desperate trouble in the northern plains.

Let me just conclude with a final paragraph from the Wall Street Journal article.

> Jim Tunhelm, the state legislator here, sits at his dining-room table, pointing all around him, in the direction of farmers he knows who are quitting. "Arnold, Lamar, Troy," he says. He stops at eight. "They should have called it 'Freedom to go broke.' [As he referred to the so-called Freedom to Farm bill we passed here in Congress in 1996.] We're going to disappear at this rate," [he concludes.]

That is the hard reality of what is happening in my home State. A 98-percent reduction in farm income in 1 year. Thousands of farmers leaving the land.

I started this series of reports 3 days ago. I pointed out that North Dakota had experienced this enormous drop in farm income. Yesterday, I reported on what others are saying who are close to the farm economy. Today, I am able to report the Wall Street Journal is confirming, in this front page story, precisely what I have been saying.

The fact is, we have a stealth disaster in North Dakota. It is brought on by low prices, by disease, and by weak Federal policy, a farm bill that does not sustain farmers in the bad times, or at least allow them to continue, and the lack of disaster program. The only disaster program we have now is low-interest loans.

So the Federal Government is saying to those farmers, those family farmers who dot the countryside, "If you are in trouble, go deeper into debt." That can't be the answer. We must do better.

I urge my colleagues to pay attention because this isn't just a matter for North Dakota. Yes, we are in the first trench, but it is just a matter of time before others experience what we are experiencing now.

I thank the chair.

Mr. BAUCUS. I very much thank the Senator from North Dakota for drawing the Senate's attention to the Wall Street Journal article, and, more importantly, to the plight of our farmers in the northern Great Plains.

The article mentioned Montana and Minnesota. The Senator is absolutely correct. I have never seen it this bad. Just last weekend when I was home a banker pulled me aside and said virtually what you said, Senator; namely, it is getting so bad the bankers are getting worried about their loans and whether they will be repaid. It is true, the farmers can't cash flow. It is grim.

I urge farm organizations to dig down deep, put their heads together and come up with a solution that we, the Congress, can help with.

We passed Freedom to Farm. Most farmers in my State supported it at the time because the wheat price was high and the initial payments were high. We all knew the day would come when we would be paying the price for adopting that bill but it has come a lot earlier. It has come this year rather than a couple, 3 years from now and with much more strength. It is hurricane force and will drive more farmers off the land. Small towns in eastern Montana are drying up. People are leaving. You see shops on the main street boarded up. It is because the price of wheat, barley, and durum is so low and has been so low at a time when our Government has not done what it should be doing.

This is true of all administrations—to open up foreign markets, get those countries to reduce their barriers so we can sell more overseas. I am thinking particularly of China. China does not take Pacific Northwest wheat. It has not for years because of a bogus claim. That is one of the many examples of countries erecting trade barriers that make it difficult for us to sell a product.

I very much thank the Senator for raising this issue. I urge Senators to listen to the Senator's statement because we are going to be facing this issue here in the Senate fairly soon. I hope this is constructive in addressing the problems that the Senator mentions. It is happening in spades, today, in Montana, particularly eastern Montana.

I thank the Senator and I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). Under the previous order, the Senator from North Dakota, Senator DORGAN, is recognized.

Mr. DORGAN. Madam President, Senator CONRAD has raised the farm issue the last several days on the floor of the Senate, and I appreciate the comments he has made, as well as the comments of the Senator from Montana.

This is not just about dollars and cents. And it is not just a lesson in economics. My great-grandmother homesteaded in North Dakota when her husband died. She took six kids and homesteaded on the prairie, pitched a tent, homesteaded 160 acres, and began to run a farm. It was a hard, tough life, I am sure. Farming is not easy. They live out in the country. They have a yard light burning at night. Farmers get up in the morning to do chores, and they work all day. If they have enough money to put in a spring crop and plant some seeds, they wonder whether the grasshoppers will come, whether crop disease will come, whether it will hail and wipe out their crop. Maybe none of that will happen and they will raise a crop and that crop will come out of the ground. Then they will combine it in the fall and they wonder, will there be a price so they can sell the crop at something more than it cost to produce.

The answer, sadly, except for one year in the past 20 years has been no. There is no price for your crop above the full economic costs of production. You do what you love to do and you lose money.

The article in the Wall Street Journal referenced today by Senator CONRAD talks about these farmers who decide they can't do this anymore. They just quit. They have to quit.

I had a banker call me about two hours ago and he said, "You know we only call when there are real problems, and you know I have one of the most conservative banks in the state." He said, "The fact is I am now turning away good farmers. Year after year after year I have given them operating loans to go into the field in the spring. I can't do it this year because they can't cash flow. And they will have to quit farming." He said, "That is what is happening out here in rural America."

One might ask, why does it matter? And some people in this Chamber think it doesn't matter who farms. Why does it matter that we have a family farmer out on the land? Well, you can have corporate agrifactories gassing up their big tractors and farming coast to coast and you won't have anybody living out in rural America.

Is there a difference between having a network of family farms, and farm families that dot the landscape of this country, versus having corporate agrifactories that gather up land by the sections and the townships and the counties and then farm as far as the eye can see forever? Is there a difference? It seems to me there is a huge difference for this country.

For social and economic reasons, this country ought to care about having a network of families out on the farms in this country being able, year after year, to produce food for this country. If we continue to go in the direction we are headed, we will see thousands and thousands of family farmers leaving the land. It is because we have a farm policy that says you can't make a living out there. It tells family farmers you can't make it. Then this country will have lost something significant.

The seedbed of family values in this country that we hear so much about has always been the family farm. These values roll in from the seedbed of the family farm into small towns and into America's cities. We will lose something important in this country if we do not decide family farms are important and that we will do something to try to protect them.

Some say in this Chamber, let farmers operate in the free market. Well, there is no free market. Do you think farmers can raise a cow and ship it to China? I think not. Can they raise a pig and sell it in China? I don't think so. Do you think farmers can compete against Canada, which sends unfairly subsidized durum into our markets? Can farmers compete against the European communities that subsidize their commodities at 8, 10, and even 12 times the level of U.S. subsidies in recent years in trying to get foreign markets for European wheat? Is that fair? Is that free? I don't think so. Yet, we tell our farmers, you just go ahead and operate in that marketplace. We will just call it free.

What happens in this free marketplace? What happens is that the people who haul the grain make record profits.

The people who process the grain make record profits. The people who trade the grain make record profits.

The only people who suffer the losses year after year, sufficient so that they are now going out of business in record numbers, are the people who buy the tractors, get up in the morning and plant the seed in the ground, harvest the crop in the fall, and try to sell it. Those are the people who are losing money.

You go to your grocery store and ask yourself a question. When the price of wheat was $4.50 or $5.50 a bushel and it plummeted to $3.30 a bushel, ask yourself what happened to the price of a loaf of bread in the grocery store. Did you see that price come down? I don't think so. How about when the price of beef plummeted? Did you go to the meat counter in your grocery store and see that the price of beef came down? I don't think so.

What does it say about this economic system of ours when we say to the people who do the hard work, the people who wear the work clothes, and start the tractor, and plow the ground, and plant the seed, and harvest: "You can't make any money. It is everybody else in this process who can make record profits. But if you grow the seed, you lose money."

When they take that wheat into a processing plant and puff it up and sell it on the grocery store shelf as puffed wheat breakfast food, they can charge more for the puff than the farmer is going to get from the wheat. One suffers and goes out of business, and the other makes a record profit.

If this Congress and this country doesn't start caring a bit about whether we have family farmers in our future, this country is going to lose something very important. When we talk about this subject around here, everybody talks about economics and dollars and cents. This isn't just about dollars and cents. This is not about knowing the cost of something. This is about knowing the value of something. We need to know the true value of family farmers in this country.

I am enormously frustrated. This article in the Wall Street Journal chronicles what we see and what we know every day in the streets of North Dakota, in our small towns, and out on the country roads, and the same is true in Montana. We have heard it farmers who come to our meetings and stand up. One farmer comes to mind who came to a meeting of mine. He was a big, burly guy and had kind of a beard. It was not a long beard, but kind of a short beard. He had friendly eyes. He stood up. He was a tall fellow. He said, "My granddad farmed, my dad farmed, and I have farmed for 23 years." And then his chin began to quiver. He got tears in his eyes, and he said, "But I have to quit this year because I don't have the money to continue. I'm out of business."

He was the third generation in the family to farm. He was going out of business because this country has a farm policy that says we are going to pull the safety net out from under family farmers. Now, we had better reconnect that safety net if this country cares about having a family farmer left in its future.

Senator CONRAD, myself, Senator BAUCUS, Senator DASCHLE, Senator WELLSTONE, and so many others on both sides of the aisle, care about the future of family farmers. We must, it seems to me, convince the rest of this Congress that this current approach is an approach that leads to failure.

Let me read a paragraph in the Wall Street Journal article:

> The situation in Kittson County suggests that deregulation—

Which is the description of the current farm policy, which I voted against proudly—

> is staying, and for a grim reason: Farmers are giving up. Nobody is organizing the type of protests that attracted national attention the last time so many farmers here were in trouble. That was in the mid-1980s debt crisis, when Randy Swenson would travel from his Kittson County farm to Fargo and Bismarck to join demonstrators demanding a federal bailout. Now, the 46-year-old grower is just quitting.

I say to those out there on the family farm who have struggled, who risk everything in trying to make a living every single day—and I hope my colleagues will join me in this—that they ought not to give up hope. There are plenty of us in Congress who understand that family farming is a way of life that this country ought to nurture and protect and help in its future.

I hope, as we proceed to discuss this in the coming weeks, that we can impress the need for a change upon those who were the architects of this farm program. The current program puts farmers into the marketplace, whatever that marketplace happens to be. There are those who think this is fine, because after all they think it is a free marketplace. I hope they come to understand that the marketplace is not free. It has never been free.

We can't have farmers compete against unfair trade. We can't have farmers compete in a marketplace dominated by millers who want low prices in the marketplace and grocery manufacturers who want lower prices in the marketplace. We can't ask them to compete against scab disease that will wipe out the crop yield and crop quality. We can't ask them to compete against a railroad that will haul their grain to market but charge them 20 or 30 or 40 percent more than is justifiable.

If somebody thinks that is a free marketplace, then somebody doesn't know what "free" or "marketplace" really means. We can do better than that. There are enough of us here to raise enough dust to require that we do better, so that in the coming days some of this policy can change to be helpful to family farmers.

Mr. CONRAD. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. CONRAD. I don't know if the Senator noticed in the Wall Street Journal article, former Secretary of Agriculture Bob Bergland said, "Unless the bankers get worried, nothing will get changed in Congress."

Isn't it the case that you and I just met yesterday morning with the bankers from our State and those bankers are worried? We had banker after banker from across the State of North Dakota tell us they are going to wind up farming. We just got a report that, for the first time in anyone's memory, land in the Red River Valley of North Dakota, which is the richest farmland in the world, will not be farmed this year; it will not be farmed.

Isn't it the case, Senator DORGAN, when we talked to our bankers, they told us they anticipate thousands of farmers leaving the land this year in North Dakota and a much more serious situation next year unless we take action?

Mr. DORGAN. That is exactly the case. I just hope that as we finish these comments now, we will all understand that there is work to do. When you see reports like this—reports that don't surprise us because we have been hearing it for some long while—we should understand that while part of this country is doing quite well and there is a lot of good economic news, there are also troubled spots in our economy that are causing enormous hurt and pain to people who don't deserve it.

America's family farmers are wonderful people. They are the people in this country who work, who grow, who risk, who come together, neighbor to neighbor, to help each other. But they can't help each other when they go to the market and discover that the price of wheat is $3 or $3.30, or when they go to the field and discover that scab wiped out half the quantity of their grain, or when they go to the railroad and discover that the price to haul the wheat to market is vastly inflated, or when they go to the border up in Canada and discover unfair shipments of grain that undercut their prices, or when they say, I would like to sell my wheat to China, or my beef to China, but you can't get wheat or meat into China in any meaningful quantity because we don't have open markets overseas.

It is not fair to put farmers in that position, and we should not. It seems to me that we have a responsibility to provide a basic safety net if we want to protect a network of family farmers to be present in this country's future. I think we ought to do that. I think it is a priority for us in this Congress, and I hope that a number of us can work together on a bipartisan basis to see that this occurs in the coming weeks and months.

Madam President, I yield the floor.

Mr. HUTCHINSON. Madam President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 2676, the IRS reform legislation.

Mr. HUTCHINSON. Madam President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator is recognized for 10 minutes.

ASTHMA INHALERS

Mr. HUTCHINSON. Madam President, today, as you may be aware, is Asthma Awareness Day. I rise to discuss the issue of CFC-propelled asthma inhalers.

CFC-propelled inhalers are a necessary tool for proper management of asthma and other respiratory illnesses. Over 30 million Americans depend on these inhalers in order to function normally in their daily lives. In many cases, they are literally the difference between life and death.

I recently joined my colleague, Senator DEWINE, in introducing S. 2026, the Asthma Inhaler Protection Act. This bill is a revised version of legislation that I introduced last year in response to the Food and Drug Administration's announcement of its plans to issue a rule that will phase out the production of CFC-propelled inhalers.

The FDA's announcement to phase-out metered-dose inhalers was prompted by the Montreal Protocol agreement to eliminate ozone depleting chemicals, including CFCs. In the U.S., the manufacture of CFCs was discontinued in January of 1996. CFCs may still be used, however, as long as their use qualifies as an "essential use." Currently, inhalers are considered as "essential use" and are exempt from the CFC ban.

As the United States contemplates total elimination of CFCs and removal of the essential use designation for inhalers, we face several issues.

First of all, how fast should we phase out CFC inhalers and will patients' health be jeopardized? It is my understanding that the amount of CFCs released by metered-dose inhalers accounts for less than 1.5 percent of the total amount emitted into the atmosphere. Is the environmental benefit of phasing out inhalers without taking into account the full needs of patients worth placing lives in danger?

As a member of the Senate Environment and Public Works Committee and the Senate Labor and Human Resources Committee, I support the goal of ridding our environment of ozone depleting chemicals.

However, from a patient perspective, any transition to CFC-free alternatives that does not take into account the needs of all patients will do more harm than good.

Under the FDA's initial proposal, a whole class of inhalers could be removed from the market if only three alternatives exist. The method by which the FDA has grouped inhaler medications into classes assumes that they are medically and therapeutically equivalent. I suggest to my colleagues this is FALSE.

Inhalers vary in terms of formulation, dosage strength, delivery of medication, and their effectiveness for patients. Patients frequently test several inhalers under physician supervision before they find the inhaler that works best for them. To deny patients their inhaler without a suitable range of alternatives could potentially put their lives at risk.

Another concern that cannot be overlooked is how the removal of existing products and their generic counterparts will influence the marketplace. A decrease in competition has obvious consequences in terms of cost and the availability of drugs on the shelf.

Finally, the FDA should take into account other countries' strategies for phasing out CFCs in inhalers in order to ensure that the U.S. takes the best and most responsible approach. I know that Canada, for example, has rejected the class approach taken by the FDA and proposed a policy that will require a proper range of alternatives to exist for each medication type. It also provides for a transition period so patients can ease off of their current medication and make sure that there is a new product that accommodates their needs.

The Asthma Inhaler Protection Act addresses all of these issues by including three requirements. First, before any further rulemaking, the FDA must conduct assessments and report to Congress on the health and environmental risks associated with its initial proposal. It must also consider whether any measures adopted by the meeting of the Montreal Protocol this November will facilitate the United States' transition away from CFC inhalers.

Second, the FDA is required to develop criteria by which "essential use" allowances for CFC-propelled inhalers will be removed. These criteria shall require that a range of alternatives are available for each medication type, and that they are comparable in terms of dosage strength, delivery systems and safety and efficacy. Furthermore, the alternatives must be available in sufficient numbers to meet consumer demand.

Finally, the Asthma Inhaler Protection Act includes steps to ensure that manufacturers will begin to transition away from inhalers that employ CFCs. Under the bill, no new applications for products containing CFCs will be considered by the FDA after 1998 unless they represent a significant advance in technology. Any new approvals, however, will be subject to the same criteria as I described earlier.

Madam President, the transition to non-CFC propelled inhalers in the United States must be well-planned and take into account both patient and environmental concerns. It is clear that the FDA needs to rethink its approach. We knew this last year after the FDA published its proposal and was flooded by more than 10,000 comments from concerned patients, providers, state medical boards, and advocacy groups. These concerns were again raised last month during a Senate Labor and Human Resources Committee hearing which Chairman JEFFORDS held at my request.

The Asthma Inhaler Protection Act will ensure that the FDA balances patients needs with environmental concerns, and above all, does not jeopardize the lives of millions of Americans who depend on CFC metered-dose inhalers.

It is simply a matter of ensuring that the 30 million Americans currently dependent upon these inhalers—and all of us have seen them; these little canisters that asthmatics carry with them every day everywhere they go—we simply must ensure that as the FDA moves forward that they will do so in a way that ensures that patients all across this country are not allowed to go without medical care that they so desperately need; and that the policy of the FDA will be such that these patients will know that they are not going to have less choice than they have now; that the particular peculiar medical needs that asthmatics and others of respiratory diseases have will be met; that they will be assured that the needs that they have can be addressed; and, that the FDA will take those concerns into account as they move forward.

I believe the FDA will be responsive. This legislation, though, is there, and I am looking forward to working with Senator DEWINE, Congressman PATRICK KENNEDY and Congressman MARK FOLEY on the House side to ensure that as the FDA moves forward with its rulemaking that it will do so in a way that is going to ensure that 30 million Americans are cared for and are not left in the lurch worried that their very lives might be in danger.

I hope all of us on this day, the first Asthma Awareness Day, will do our part to educate the American people about the serious health impact, particularly upon our children, that asthma is having, and the dramatic increase that we have seen in asthma in this country, and that the FDA in their, I think, well-motivated goal of removing these chemicals from our environment will do so in a way that the health and safety of the American people is protected.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Madam President, I ask unanimous consent for 5 minutes to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Madam President, I thank my colleagues for their graciousness, and I especially thank Senator GRAMM of Texas. I appreciate it.

FARM CRISIS

Mr. WELLSTONE. Madam President, my colleagues from North Dakota, Senator CONRAD and Senator DORGAN, said it well moments ago when they were speaking about the Wall Street Journal piece that came out yesterday, Tuesday, May 5 regarding what has to be described as a farm crisis. In this piece, former Secretary of Agriculture Bob Bergland is quoted. Jim Tunheim, a State legislator from northwest Minnesota, is also quoted.

I want to talk about what is happening in my State of Minnesota because I believe it will be incumbent upon all of us here in the Senate and in the House of Representatives as well to take some action.

I was at a gathering in Crookston, MN some weeks ago. As I walked into the school, there was a sign posted outside that said, "Farm Crisis Meeting". It brought back awful memories of the mid-1980s when I went to probably hundreds of farm crisis meetings. What I saw then all across Minnesota were foreclosures; people being driven off their farms where they not only lived but where they worked as well. I saw a lot of broken dreams and a lot of broken lives and a lot of broken families. This is now happening again.

This very fine piece in the Wall Street Journal talks about this farm crisis in very personal terms.

I want to say to colleagues that I know of no other way to say it. Some 2 years ago, when we passed what was called the Freedom to Farm bill, I called it then the Freedom to Fail bill. And I think that is exactly what is happening. All of the discussion about the market presupposes that we have Adam Smith's invisible hand in agriculture. But what we have instead is a food industry where the conglomerates have muscled their way to the dinner table exercising raw economic power over farmers, consumers, taxpayers, and family farmers. Wheat farmers, corn growers and other farmers—vis-a-vis these large companies that they deal with don't have very much clout at all.

This was a good bill for some of the big grain companies. There are only a few. But it was not a good bill for family farmers.

Now, in northwest Minnesota, a combination of dealing with scab disease, wet weather over the last several years, and, most important of all, this Freedom to Farm bill, which has driven prices down, which doesn't give the farmers a loan rate to have some leverage in the market, which doesn't give them a safety net, is driving farmers off the land.

We need to take some action. The Secretary of Agriculture supports lifting the cap on the loan rate. And we can legislatively try to raise that loan rate so that we can give farmers a price in the marketplace.

I just want to say to my colleagues, I told you so. That is the way I will put it. I told you so. And northwest Minnesota is just a harbinger of what is going to happen across this country. Prices are low. Farmers are being driven off the land. There is a tremendous amount of economic pain. And it is not just the farmers. It is the communities where they live, where they go to church or to synagogue, where they buy their products, where they send their kids to school.

We have a serious crisis in northwest Minnesota. I am hearing from farmers in other parts of my State as well. I think rural America is going to go through some economic convulsions as a result, in part, of this legislation that we passed. We have to give farmers a fair price in the marketplace. We secured them some loan funding in the disaster appropriations bill we passed last week, which gives them at least some loan assistance for spring operations. But it doesn't make that much difference long-term. It can keep them going for awhile, but if they don't get a decent price in the marketplace, they don't have a prayer.

That is what this piece in the Wall Street Journal is about. That is why I come to the floor of the Senate. I look forward to working with my colleagues, Democrats and Republicans alike, who come from farm States. We have to do something. We are here to try to do well for people. We have to do better for family farmers in Minnesota and across our country.

I thank my colleague from Texas again for his graciousness, and I yield the floor.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate resumed consideration of the bill.

UNANIMOUS CONSENT AGREEMENT

Mr. ROTH. Madam President, I ask unanimous consent that the following list of amendments that I send to the desk be the only remaining first-degree amendments in order to H.R. 2676, and that they be subject to relevant second-degree amendments.

I further ask unanimous consent that following the final vote on the bill, the Senate insist on its amendment, request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. I checked with the minority side. It is my understanding this has been agreed to by both sides, and his request is consistent with the understanding on this side as well.

Mr. ROTH. That is correct.

The PRESIDING OFFICER. If there is no objection, without objection, it is so ordered.

The list of amendments follow:

REPUBLICAN AMENDMENTS TO IRS REFORM

Roth—Effective Dates.

Roth—Relevant.

DeWine—Tech. Correction to Sec. 1059 of the Code.

DeWine—Tax Payer Compliance.

Collins—Reporting Requirements for Universities.

Thompson—Relevant.

Sessions—IRS Oversight Board.

B. Smith—Upward Reviews of Employees.

Stevens—Modify tools of trade exemption.

Craig—Taxpayer notification.

Craig—Taxpayer notification.

Craig—Taxpayer notification.

Ashcroft—Electronic verification.

Coverdell—Random Audits.

Coverdell—Tax Clinics.

Coverdell—Tax Clinics.

Coverdell—Employees.

Coverdell—Mathematical and Clerical Errors.
Domenici—Spanish IRS Help Line.
Domenici—Live Person Help Line Option.
Domenici—Suspend Interest in Penalties.
Gramm—Lawsuit Waivers.
Gramm—Burden of Proof.
Gramm—Relevant.
Enzi—Charitable Contribution Technical Corrections.
Burns—Income Averaging for Farmers.
Bond—Electronic Filing.
Mack—Tip Reporting.
Mack—Treasury Secy.
Grams—Disasters.
Lott—Relevant.
Faircloth—Relevant.

DEMOCRATIC AMENDMENTS TO IRS RESTRUCTURING

Moynihan—Delay effective dates of certain provisions to allow IRS to address Y2K problems, per Rossotti request.
Kerrey—Require annual meeting between Finance and Oversight Board chair.
Kerrey—Authorize Treasury Secretary to waive signature requirement for electronic filing.
Kerrey—Require study of willful tax noncompliance by Joint Tax, Treasury, and IRS Commissioner.
Kerrey—Require IRS to review certain stats on success rate of Criminal Investigation Div.
Kerrey—Require report on fair debt collection provisions.
Kerrey—Encourage private/public sector cooperation, not competition, on electronic filing.
Graham/Nickles—Interest netting.
Graham—Innocent spouses.
Bingaman—Relevant.
Daschle—Reduce potential for tax compliance problems.
Daschle—Relevant.
Bumpers—Taxpayer protection.
Kohl—Prioritizing cases in Treasury IG.
Feingold—Milwaukee office of IRS.
Durbin—Relevant.
Feinstein—Relevant.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, since no one is here to speak, I thought I would go ahead and say a few words. I have several amendments I am going to be offering, and I will, obviously, speak at that time. But I wanted to let my colleagues know about a story that ran on the 4th of this month, which was 2 days ago, on KTVT, Channel 11, a CBS affiliate in Dallas.

What struck me about this story is how symptomatic the story is of what we saw consistently in our hearings before the Finance Committee and how consistently this kind of thing is happening all over the country.

The story was the lead story on the 10 o'clock news on the 4th of May. The story is about tax collectors who aren't paying taxes. Basically, what happened is an investigative reporter asked the Internal Revenue Service for records related to tax collectors who themselves were violating the Tax Code, and did this ever happen, and, if so, what did the IRS do about it and what kind of records were kept. It is the kind of request that government at all levels gets every day from the media. Government officials do not always like to produce the requested information but, nonetheless, it is produced.

Well, the bottom line is, as you might have guessed, the Internal Revenue Service stated that it has no such data. Then an IRS employee slipped a document to the TV reporter, and the document showed that last year nearly 4,000 IRS employees did not file or pay taxes.

Collectively, according to reporter O'Connor in this story, they owe Uncle Sam more than $10 million. And this reporter said that this information coming into their hand forced the IRS to break this down into local numbers. The reporter then says, "We have learned that in north Texas, between 1993 and 1996, 137 IRS employees did not file or pay their taxes. Last year alone, 14 IRS agents owed $400,000" in unpaid taxes in north Texas.

Then what I wanted to call to my colleagues' attention is an extraordinary, at least in my mind, interview which sounds exactly like the testimony our committee heard over and over and over again. Listen to this. The reporter is asking Mary Durgin, who is Chief of Tax Compliance for the IRS—the reporter is asking the Chief of Tax Compliance for the IRS the following questions and let me just read the transcript.

> Reporter O'CONNOR. You know of no Federal liens ever being filed against an IRS employee?
>
> Ms. DURGIN. Um, I'm not aware of any.

The reporter asks the next question.

> Reporter O'CONNOR. Do you know how many reprimands have been given in the last year?
>
> Ms. DURGIN. I don't.
>
> Reporter O'CONNOR. Do you know how many employees have been suspended?
>
> Ms. DURGIN. I don't.
>
> Reporter O'CONNOR. Fired?
>
> Ms. DURGIN. I don't. We don't keep those statistics.
>
> Reporter O'CONNOR. Why would you not know that if you're the head of—

Before she can say "tax compliance," Ms. Durgin says, "because I don't count them."

Now, I intend to send this to the Internal Revenue Service this afternoon and ask them to check this out, but this is exactly the kind of answer that we have gotten over and over and over from the Internal Revenue Service. And I intend to offer an amendment, probably tomorrow, that will give the head of the Internal Revenue Service the power to terminate any employee of the Internal Revenue Service who fails to file a tax return that should be filed or who willfully violates the tax laws of this country.

Now, I don't know what is behind this story. I have obviously not verified what has been said by this reporter. But I would have to say that if 4,000 IRS employees last year either didn't file a return or didn't pay taxes, that is a very, very serious charge. And I think the head of the IRS ought to have the ability to terminate the employment of somebody whose job it is to collect taxes from other people and at the same time they don't pay their own taxes.

Now, as you can imagine, this story interviews a businessperson who had their assets frozen, had all kinds of problems because there was a charge that he had not paid his taxes, and that is contrasted against the assertion that 4,000 IRS agents last year either didn't file a tax return or didn't pay their taxes.

I think this is a very serious matter. We ought to have a provision in the new law that says without regard to any other provision of law, if you work for the Internal Revenue Service and you willfully violate the Tax Code, you ought to lose your job.

I think that is something that is needed. I think it is a provision that we were already looking at, but I wanted to make my colleagues aware of this story on the CBS affiliate in Dallas night before last and about this extraordinary interview with Mary Durgin who, although she is the Chief of Tax Compliance at the IRS, doesn't know if any action has ever been taken at any time, in any place, under any circumstances, against any agent who violated the Tax Code.

That seems to me to be extraordinary, and, quite frankly, I would have trouble believing it had we not had exactly the same thing and the same answers given to very similar questions before our committee where, in fact, with all of the concerns that were raised last year, with all of the statements that were made about wrongdoing, little evidence exists that any individuals who had accusations made against them in those hearings or related to those hearings has had any corrective action taken.

As I said at the hearing, and it is something that I will certainly repeat tomorrow in offering this and other amendments, my concern with the Internal Revenue Service is not that you get some bad people when you hire 100,000 people. I mean, people are humans. They make mistakes. Some people seem to be more prone to them than others. And very smart people from time to time do very dumb things. With the IRS employing 100,000 people we ought not to be surprised that we have some people who do bad things and some people who do dumb things. But that is not what alarms me about our current situation at the Internal Revenue Service.

What alarms me is we seem to have a system where people who do bad things never have bad things happen to them. We have a system where, when people do good things like going to their supervisors and saying that other people are violating the law or violating the procedures of the Internal Revenue Service, bad things tend to happen to those good people. The difference between a good system and a bad system is not that under the good system you don't have people who do bad things. You do. But under a good system, people who do bad things end up being punished; people who do good things end up being rewarded, and as a result, people learn from rewards and penalties and so you get more good behavior and you get less bad behavior. That is the hallmark of a good institution.

Looking at all the abuses that we heard about during the Finance Committee hearings, the amazing thing to me was not that these things happened. The amazing thing is it doesn't appear that bad things ever happened to the people who did the bad things. It doesn't appear that people who violated the law, violated procedures, abused taxpayers, abused their fellow employees, were penalized. It appeared as if—based on the testimony that we heard—the IRS system was set up to protect its senior people or to provide an environment in which you reward unproductive and undesirable behavior. You would have to conclude that the structure has historically been one aimed at protecting its own versus protecting the taxpayer instead of creating a system that tries to reward productive behavior.

I think this is something we need to deal with. I think the bill that is before us is a dramatic improvement over the bill in the House. I congratulate Chairman ROTH. I think he has done an outstanding job. I think when we started these hearings many people were skeptical about them. I certainly was skeptical. But I think the hearings have brought to light real abuses. And the important thing, obviously, for a legislative body, is not just to find out what is wrong but to try to do something about it.

I think we have a good bill before us. I don't think it solves all the problems. I would have to say I am very skeptical about this advisory board. I don't understand an advisory board that is supposed to advise the Secretary of the Treasury and the IRS Director, and the Secretary of the Treasury is a member of the advisory board. I don't understand how you advise yourself. It seems to me that gives the Secretary of the Treasury two bites out of the apple, and that is probably a mistake.

There are very real ethical problems that have been raised by the relevant agencies of Government that deal in ethics in having the head of the Treasury Employees Labor Union as a member of this advisory board, since that member, by the very nature of his job and source of employment, has a constant conflict of interest. I don't understand how you can change the ethics rules of the Government to put people in a position where they constantly have a conflict of interest and expect much to come out of this advisory board. So, frankly, I know many people are talking about the advisory board. I know they have high hopes for it. I have very little in the way of high hopes that we are going to get much out of this advisory board.

But what I think we are doing in this bill that will dramatically change behavior is, No. 1, we are shifting the burden of proof in disputes between taxpayers and the IRS. We are going to have some people who will say that in doing so we are jeopardizing our ability to collect taxes because the taxpayer is the only person who has access to the financial data and records that substantiate the claims made on the individual tax return. I think we have come up with an innovative way of resolving this. Let me give you the argument for shifting the burden of proof, and then describe the innovation that I think answers those concerns.

If you commit a crime, the police come out and investigate the crime, they gather evidence, they turn the evidence over to the prosecutor, the prosecutor evaluates the evidence, and in doing so, evaluates not only whether a crime was committed but evaluates the work of the police department and any abuse it might have committed along the way. And if the prosecutor is convinced there might be a case, he takes it before a grand jury that evaluates the work of the police, the work of the prosecutor, and the facts. Then, if the grand jury indicts a person for a crime, they go into court where people have a jury of their peers, they generally have an elected judge or an appointed judge, and they have an independent prosecutor.

Our problem with the Internal Revenue Service is that we are dealing with one agency that is literally investigator, prosecutor, judge, and jury all wrapped into one so that we have no effective checks and balances. As the ancient Greeks once observed, power corrupts. That is basically our problem in the Internal Revenue Service.

We have not fixed that problem, in my opinion. But the way we tried to get at it is to at least give you one thing you have if you are accused of being a common criminal, basically saying if you are a taxpayer you ought to have rights at least equivalent to a common criminal in dealing with your Government. The right that we want to guarantee is that the burden of proof is on the IRS to prove that you did something wrong, whereas now it is literally true that if you are accused by the Internal Revenue Service of violating the Code, the burden of proof is on you.

Here is the innovative way we have tried to protect our ability to collect taxes and guarantee this right as well. I thank Senator ROTH for working with me on this and for the solution that he and his staff have come up with.

The way the bill works is, if the Internal Revenue Service accuses you of violating the law or violating the rules with regard to the collection of taxes, if you present to them on a timely basis the financial data that a reasonable person could be expected to have kept, if you turn it over to them when requested, at the point that the taxpayer has demonstrated compliance with those requirements, and only then, the burden of proof shifts from the taxpayer to the Internal Revenue Service.

I think that answers all the concerns that were raised by IRS, all the legitimate concerns that were raised by law professors around the country about shifting the burden of proof. There were other concerns that this would produce endless hearings and rulings before courts. But we have dealt with that concern.

Another reform contained in the bill and which I think is very important, and is something that I have been a champion of along with our chairman, is strengthening the principle that if you are audited, either in your family's tax return or your business tax return, and you had to go out and hire lawyers and accountants to defend yourself—and you may spend thousands of dollars defending yourself—that at the end of the day if you are found to have complied with the law, that the IRS is responsible for reimbursement of the costs you have incurred in defending yourself.

So if I am an honest taxpayer and I paid my taxes and the IRS audits me and I have to go out and hire an accountant and a lawyer to defend myself, and we go through 18 months of contention, and finally there is a ruling that says I didn't violate the law, under our bill now, the Internal Revenue Service will now find it more difficult to avoid having to compensate me for my cost of hiring a lawyer and hiring accountants and defending myself.

Not only is that fair, but that is going to change behavior, because we are going to make this data public, we are going to list publicly and report to the Congress on the instances where the IRS has had to pay people these costs. We are going to force the Internal Revenue Service to make better judgments about whom to go after and whom not to go after.

A final wrinkle on this, which I think is very, very helpful, is that if you offer to settle with the Internal Revenue Service and you, say, offer to pay $15,000 to settle this dispute, and the IRS says, "No, we won't take your $15,000; we are going to take you to court," if at the end of the proceedings you are found to owe less than $15,000, not counting penalty and interest built up during the time where the dispute exists, then the IRS will have to pay your legal and accounting costs from the time you made the offer until a final settlement is eventually reached.

This is a long way from the checks and balances we have in the criminal justice system. I would like to go further in separating the functions of the IRS so that we have more checks and balances, but I think our bill is a dramatic improvement over the House bill. I am very proud of what we have done. I hope we can do more. I congratulate our chairman.

I understand that Senator THOMPSON is here, so I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

AMENDMENT NO. 2356

(Purpose: Striking the exemptions from criminal conflict laws for board member from employee organization)

Mr. THOMPSON. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Tennessee (Mr. THOMPSON), for himself and Mr. SESSIONS, proposes an amendment numbered 2356.

On page 180, beginning with line 7, strike all through page 181, line 17.

Mr. THOMPSON. Madam President, the amendment I am offering, with Senator SESSIONS and with the support of Chairman ROTH, strikes the provision of title I of the bill which provides for a special waiver of the criminal conflict of interest laws for the employee organization representative on the newly organized oversight board.

As chairman of the Governmental Affairs Committee, I have a specific interest in the application of Government ethics laws and any waivers of these criminal statutes which might be granted to Federal employees.

During markup of the measure, the Finance Committee adopted an amendment adding a member to the oversight board who would be a representative of an employee organization representing substantial numbers of IRS employees. However, because of the inherent conflict of interest in the new member's position, the committee adopted a subsequent amendment waiving four essential ethics laws as they would apply to this particular board member.

It is this specific provision that I propose to strike. Under the waivers as granted, the employee organization representative would not be subject to the same ethics rules as the other members of the oversight board and would not be subject to the same ethics that apply to other public employees. The bill, as reported, exempts the employee organization representative from key ethics laws when the representative is acting on behalf of his or her organization.

The Office of Government Ethics reviewed these waivers and found them very troubling. In a letter addressed to the majority leader, Senator LOTT, minority leader Senator DASCHLE, and the floor managers of this bill, the Director of the Office of Government Ethics, Stephen Potts, described these conflict of interest waivers as unprecedented and inadvisable and antithetical to sound Government ethics policies and, thus, to sound Government.

I ask unanimous consent to have printed in the RECORD the referenced letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. OFFICE OF GOVERNMENT ETHICS,
Washington, DC, May 1, 1998.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: This Office has reviewed H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998, as it has been reported by the Finance Committee and, we understand, is soon to be taken up by the Senate. At the request of both the majority and minority, we provided technical assistance to the Finance Committee staff with regard to drafting the language of provisions setting forth the ethical considerations for the Members of the Internal Revenue Service Oversight Board. We believe those provisions are written in a clear and technically correct manner.

However, one provision of the bill, the proposed 26 U.S.C. §7802(b)(3)(D), provides for waivers of applicable conflict of interest laws for one Member of that Board. We believe that this provision is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable.

We understand and agree that the employees of the Internal Revenue Service should have an opportunity to be heard in any decisions that may affect them. As we stated in a letter to the Finance Committee, there are standard ways of allowing input from interested parties without allowing the interested party to be the actual decision-maker in a Governmental matter. It is the latter role that is fundamentally at odds with the concept that Government decisions should be made by those who are acting for the public interest and not those acting for a private interest. The one private interest that is being waived in each case for this Board Member is the one most fundamentally in conflict with his or her duties to the public.

On the other hand, we cannot recommend that the waivers be eliminated for the individual appointed to such a position. That elimination would leave this individual extremely vulnerable to charges of criminal conduct for carrying out many Oversight Board actions or for carrying out his or her private duties for the employee organization. The fact this vulnerability exists exposes the pervasiveness of the conflicts for an officer or employee of an employee organization to serve on the Oversight Board.

Rather, we recommend the elimination of the position on the Board that creates such inherent conflicts. The elimination of the position could be coupled with a requirement that the Board consult with employee organizations. While we think a reasonable Board would consult without that requirement, requiring consultation might provide some assurance to the various employee organizations that they will be heard.

The criminal conflict of interest laws should not be viewed as impediments to good Government. They are there for a purpose and should not be waived for mere convenience. Some may point out that certain provisions of these laws are waived by agencies quite frequently. That is true. Some of the laws anticipate circumstances where a restriction could be waived and set forth the standards that must be met to issue waivers. Agencies can and do issue such waivers, but the waivers must meet the tests set forth in the statutes. For those conflicts laws that do provide for waivers (not all do), we believe that it would be extremely difficult for a reasonable person to determine that the interests this individual Board Member will undoubtedly have through his or her affiliation with the organization could meet those waiver tests.

In order to meet our recommendation, we believe the provisions of Subtitle B, sec. 1101(a) should be amended to eliminate proposed sections 7802(b)(1)(D), (b)(3)(A)(ii) and (b)(3)(D). All other references to an individual appointed under section 7802(b)(1)(D) should be removed and wherever a number of members of the Board is indicated (such as a Board composed of nine members or five members for a quorum) that number should be altered to reflect the elimination of this position.

We appreciate the opportunity to express our concerns and our recommendations. These are the views of the Office of Government Ethics and not necessarily those of the Administration. We are available to answer any questions you or any other Member of the Senate may have with regard to this letter or the conflict of interest laws. We are sending identical letters to Senators Daschle, Roth and Moynihan.

Sincerely,

STEPHEN D. POTTS,
Director.

Mr. THOMPSON. Madam President, waiving these conflict of interest statutes establishes a very bad precedent. We have an opportunity here to avoid a serious conflict of interest pitfall, and I hope all Senators will agree and approve adoption of this amendment.

Thank you, Madam President.

Mr. KERREY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERREY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Madam President, I would like to speak for a minute on the amendment just offered by the Senator from Tennessee and the Senator from Alabama striking the provision in title I concerning the oversight board and specifically concerning the employee representative on that board, and even more specifically the language that will enable that board member to function on the board; that is to say, language which, by the way, is not precedent setting.

There are many other cases where people have been given protection from very specific areas of conflict of interest in order to be able to do their work. In this case, the only protection against conflict of interest charges is postemployment, since the individual selected from the Department of Treasury is working for the IRS.

Certainly, we want the law to be written so they are able to go back to work with the IRS or do whatever work they had in connection with the employee's representative association without being prevented from doing so. So that is the only protection that this language provides.

There are really three sort of threshold questions that Members have to both ask and answer as they deliberate this particular amendment. The first is one that the Senator from Texas just raised a minute ago, which is skepticism about the nature of this board.

Is this board going to be able to get the job done? I believe strongly it is. It is not an advisory board. It is a board with a considerable amount of power and authority to guide the Commissioner of the Internal Revenue Service. It is a board that has been put together, under statute, to have the skills necessary to be able to advise the Commissioner on a variety of different things and to give the Commissioner input. The board will be making a budget recommendation to the Treasury Secretary. That is a considerable amount of power.

The board will forward three names to be Commissioner of the Internal Revenue Service to the President. The board can also instruct the President they believe the Commissioner should be removed from office. There are other powers enumerated in title I. Certainly one can be skeptical, as one always needs to be with any kind of a board. I may be proven wrong. I think this board will provide a substantial amount of guidance and assistance to the Commissioner. I think the powers that we have given this board are right.

I believe it is as well important to remember that what this legislation is attempting to do is create some balance in oversight. The executive oversight organization, this new board, should give taxpayers a sense that the IRS is more accountable, along with the taxpayer advocate provisions that are also contained in title I. However, it is important for us to make certain that Congress has the right amount of oversight.

The Restructuring Commission that met for over a year—Senator GRASSLEY and I were both on that Commission—we heard time after time after time the taxpayers, and the providers that are assisting the taxpayers, saying that the biggest problem is Congress. There is inconsistent oversight. There are six committees to whom the Commissioner must come to report. The IRS is not Sears and Roebuck; they have 535 elected Members who are the board of directors.

One of the great tests to discover whether or not we understand what the IRS is doing is asking yourself the question: Do we know what the IRS budget is? Do you know how much we appropriate on an annual basis? It is about $7 billion this year, against about $1.6 trillion of tax revenue. They collect 95 percent of all the revenue that this Congress authorizes. We authorize the moneys that are to be spent and we specify with our tax laws how that money is to be collected and who is to be exempted.

I made the point many times that we talk a great deal on this floor about the need for simplification. One of the most powerful witnesses that the Finance Committee had before us was an individual, a tax lawyer who helps taxpayers, who was pointing out some abuse in our Tax Code. He was saying to us, as long as you tax income, as long as you have a tax on income, it is likely, as income becomes more and more complicated, and more and more complex, it is likely the IRS is going to become more and more involved in making determinations whether or not an individual has voluntarily reported the right amount of income.

And we change our Tax Code. I guess 2 or 3 weeks ago, when the Coverdell IRS bill was passed—I do not want to reargue that bill, but no one can argue that that increased not only the complexity of the Code and requires the IRS to work harder, but we have asked them to now rewrite the Code. That is the 63rd change since 1986.

In addition to that, the IRS is going to have to make certain that people who claim that deduction, claim to be able to use that educational IRA, they are going to have to provide receipts. Because the law says that you can use the education IRA for any expense that is connected to the education of the child in the school, and thus we are going to have to have the IRS out there if something is claimed and they can be audited and have to produce all those records and produce proof. They are not being required to produce the proof and records by accident, Mr. President. They are being asked to produce the records and proof because we wrote a law that said they had to do it.

So one of the things we are trying to get with this oversight board is some balance and get to a point where both the executive branch and the legislative branch can reach agreement on what we want the mission of the IRS to be so they can make good investments in tax system modernization.

The Senator from Alabama is on the floor. He and I started this thing back in 1995 with our oversight efforts in appropriations. We saw that nearly $4 billion had been wasted in the tax system modernization. Every witness, public and private, that came before the Restructuring Commission said the reason, No. 1, is you do not know what you want to use the technology for. You do not get shared consensus. You do not get to a point where you agree—the Congress and the executive branch—what the purpose of the technology is going to be. And as the man said, "If you don't know where you're going, any road will take you there."

That is exactly what the IRS has been doing. They have been deploying technology in a very dysfunctional organization, and as a consequence the technology will not do what they promised us it was going to do.

So threshold question No. 1 is, do you think this new oversight board is going to get the job done? I think it will. I think it will dramatically change the kind of accountability taxpayers get, and especially if we combine that with new oversight requirements on the part of the Congress. I am confident that oversight board—in combination with new oversight requirements of the Congress—I am confident that oversight board will increase the accountability and the operating efficiency and provide the Commissioner the kinds of guidance that the Commissioner needs.

Threshold question No. 2 is, who do you want to be on the board? What sort of composition? What sort of makeup? There is very little disagreement. As I hear from colleagues, we ought to have people with private sector expertise. The Senator from Florida earlier came to the floor and asked for some change in the bill to put somebody with small business experience on this board. I think it is very important that we do so. Both Chairman ROTH and I agreed to accept that. That has been altered, accepted, incorporated into the language.

But in addition, Mr. President, we also heard from people who have gone through the restructuring that the IRS is going to go through. And make no mistake about it, Mr. Rossotti, with the new powers that Chairman ROTH has written into this bill that he will have, Mr. Rossotti has a lot of work to do. He is going to go from a three-tier geographical system that has 10 regional centers and 33 district offices—I mean a tremendously complicated geographical organization that started in 1952—he is going to go from that to an organization that is along functional lines: Small business, individual business, large taxpayer and nonprofit; four different functional categories.

There is going to be a lot of personnel decisions to be made and a lot of personnel changes that have to be made. In addition, if he deploys the technology correctly, as we insist he do, and as the electronic filing section of this title of this bill allows him to do, there is going to be a lot of personnel decisions that have to be made.

As we heard in the Restructuring Commission, if you are going to make that kind of tough Restructuring Commission, you are better off having a personnel representative on the board.

That is why the employee representative is on the board. We are not putting an employee representative on the board for political reasons, but putting one on the board to make sure you have an individual who can sell and who can persuade and can help get these kinds of restructuring decisions implemented and make certain that there is going to be a minimal amount of resistance on the employees' side.

We heard most eloquently from the new tax authorities in Australia that went through a very similar restructuring as we are doing here. And we took their example, as well as many other private sector people who talked about what happens when you restructure, to say that we ought to have an employee representative on the board.

Now remember, this board lasts for 10 years. It sunsets after 10 years. Congress may decide that it does not need the board at all anymore, may revisit threshold question No. 1 and threshold question No. 2. The composition of the board can be revisited at that time as well. We may, after these restructuring decisions are made, after you have the IRS reorganized along functional lines, and after the technology has been fully invested in and implemented, this Congress may decide that there is no need to have the representative of the employees' association on this board. I feel very strongly going in that we need it. That is a threshold question.

You may find you don't want it. You may have a legitimate belief that, no, that ought not to happen. Fine. But if you are going to have that person on the board—and I believe a majority of this Senate wants an employee representative on the board—if you are going to have an employee representative on the board, make it possible for that individual to do the job.

Why would you put somebody on the board and then neuter him with a statute that says there will be a conflict of interest? That is what this conflict of interest language does. It does not remove this representative from all the other conflict of interest laws in every one of the other private sectors that people have to abide by. It is not a precedent. There are hundreds of individuals throughout Government who have been given similar kinds of protection in order to be able to do their job.

I urge colleagues, as they come down and consider this, because it will be one of the complicated legal, constitutional issues, you have to walk yourself through three questions:

No. 1, do you think this oversight board will do the job? If you don't support the oversight board, it almost doesn't matter what the composition is.

No. 2, do you think you ought to have an employee representative on there to be able to get the support needed to do the tough personnel decisions that this Commissioner will have? Look seriously at new authorities we are giving the Commissioner. They are almost unprecedented. We are giving this Commissioner of the Internal Revenue Service, I think quite appropriately, new authorities to be able to hire, new authorities to be able to fire.

The distinguished Senator from Texas earlier indicated he was going to offer an amendment adding to the list of reasons that an employee can be fired. There are specific lists—I think it is five or six items—that if an employee of the IRS does something, they can be fired for cause. You don't have to go through the normal personnel procedures. Just on the face of it, say if an employee does something like that, they ought to be terminated.

The Commissioner has substantial new authority. They will need the full participation and cooperation of the employees of the IRS in order to be able to get it done.

I come to the threshold question No. 2 and say absolutely yes, we ought to have an employee representative on this board. If you answer that question yes, you have to make certain that the laws are written so the individual can do the job.

What we will have, unfortunately, is a debate about the conflict of interest stuff before we have done whether or not the person ought to be on the board. It is far better for us to take up the amendment that will be offered by some that we not have a Treasury employee representative on the board at all.

If that is your position, if that amendment is successful, we strike the employees representative, the conflict of interest thing is irrelevant. But if we end up with an employee representative on the board—to pass this amendment, which would make it impossible for that representative to do their job—it seems to me to put the cart before the horse and do something I think no Member wants to do, which is basically creating something that will not be able to do the job that we wanted to do.

I hope Members will vote against the Thompson-Sessions amendment. I hope they will listen to the arguments that will be offered in detail by many people who have great experience with conflict of interest law. Listen to the arguments of Senator LEVIN. Listen to the arguments of Senator GLENN. Listen to the arguments of those who understand how it is that we deal with conflicts of interest. We deal with them all the time.

This language is in response to the Office of Government Ethics concerns about this position. They, frankly, take the position they don't want an employee representative on there under any circumstances, no matter what you do. Take that position, but that is a policy decision that we have to make. We have to decide, Do you want an employee representative on? I say yes. Once you have the employee rep, we write the law so the individual is able to do the job. That is what we are attempting to do with the language that the distinguished Senator from Tennessee and the distinguished Senator from Alabama are proposing to strike.

I hope this amendment is defeated. I yield the floor.

Mr. SHELBY. What is the pending business?

The PRESIDING OFFICER (Mr. FAIRCLOTH). The amendment proposed by the Senator from Tennessee and the Senator from Alabama.

Mr. SHELBY. Mr. President, just for a few minutes I will also talk about the IRS reform legislation and a suggestion that I have that I think would improve it. I am at this point in time well aware that the pending business is another amendment, so I will only speak on this subject if I can.

I think perhaps the most important power given to Congress in the Constitution is bestowed to Congress in article I, section 8, the power to tax. This authority is vested in Congress, as the President and Senate know, because as elected representatives, Congress remains accountable to the public, and when they determine tax policy, this should be more so.

Unfortunately, the Internal Revenue Service effectively has the power to raise taxes through the use of its interpretive authority. Therefore, what I want to talk to the Senate and my colleagues about this afternoon for a few minutes is an amendment, which I am not offering now but I will in a future time, which will build upon past legislative initiatives that afforded protections to taxpayers from attempts by the Internal Revenue Service to bypass Congress and raise taxes through the regulatory decrees.

In 1996, Congress passed the Congressional Review Act, which provides that when a major agency rule takes effect, Congress has 60 days to review it. During this time period, Congress has the option to pass what we call a disapproval resolution. The Stealth Tax Prevention Act would expand the definition of a "major rule" to include any IRS regulation which increases Federal revenue.

For example, if the Office of Management and Budget finds that the implementation and the enforcement of a rule has resulted in an increase of Federal revenues over current practices for revenues anticipated from the rule on the date of the enactment of the statute under which the rule is promulgated, the rule will be found to be major in scope. Therefore, the amendment, or the legislation that I would like to see us adopt, sooner rather than later, would be to allow Congress to review the regulation and to prevent back-door tax increases on hard-working Americans.

An excellent example of this occurred last year when the Internal Revenue Service attempted to increase taxes through the regulatory process. In this instance, the IRS disqualified a taxpayer from being considered a limited partner if they "participated in the partnership's business for more than 500 hours during the taxable year." The effect of this redefinition would have been to make these individuals subject to a 2.9 percent Medicare tax. President Clinton had included the identical provision in his universal health care legislation in 1994. When the administration's plan failed, the IRS attempted to subject limited partnerships to the same tax increase by using its regulatory powers.

I believe the intent of the Founding Fathers was to put the power to lay and collect taxes in the hands of the elected Members of Congress and no one else—not in the hands of the bureaucrats who are shielded from public accountability, but in the hands of Congress, who is accountable to the American people.

The proposed Stealth Tax Prevention Act that I want to see become law would be particularly helpful in lowering the tax burden on small business, which suffers disproportionately from IRS regulations. I believe Americans are paying a higher share of their income to the Federal Government currently than at any time since the end of World War II. Allowing bureaucrats to increase taxes even further at their own discretion through the regulatory process, through interpretation of the Tax Code, I believe is intolerable.

I believe this legislation is right and should be passed, and it is clearly in the spirit of the IRS reform legislation. This type of legislation would help rein in the power of the Internal Revenue Service and would leave the tax policy where it belongs, to elected Members of Congress, not unelected and not unaccountable IRS bureaucrats. I strongly urge my colleagues to get with me, to join me in the future in an effort to join the National Federation of Independent Business, NFIB, and the National Taxpayers Union, as well as a lot of my colleagues who would be supporting this type of legislation.

The bottom line is that the stealth tax legislation that I have been talking about would improve accountability and it would put it where it belongs—in the hands of Congress and not bureaucrats. I think it is something we have to consider and I believe we will consider in the future. I have talked to the chairman of the Finance Committee about this, as well as other members of the Finance Committee, and they seem to be very interested in this. I am going to try to work with them in the future.

I yield to the chairman.

Mr. ROTH. Mr. President, I say to the distinguished Senator from Alabama that I appreciate the fact that he is not raising it on this legislation before us, because it is not relevant. But I also sympathize very much with the problem he has identified. I, indeed, would be happy to work with him because I do not think it is appropriate to legislate by regulation. I think that is what he seeks, and that is what I would be pleased to work with him on in the future.

Mr. SHELBY. Mr. President, I appreciate the chairman's statement. I have worked with him before. I just think it is very, very important for the American people that we, as Members of the U.S. Senate and House, should be the people who lay taxes, or reduce taxes, according to the Constitution. But that is not what is happening. The Internal Revenue Service is doing it through the back door. We should do things through the front door because that is the American way, and I think it is accountable. I have worked with the distinguished Senator from Nebraska on this for several years and got some of this going at his suggestion.

I yield to the Senator from Nebraska.

Mr. KERREY. Mr. President, I agree with Senator ROTH. This is a very important matter and issue, and I pledge my full cooperation to work with the distinguished Senator from Alabama as well.

I call to your attention, with the National Taxpayer Advocate, I think, we are going to get pretty close to this issue. In addition, by organizing—and the law requires it—the IRS along functional lines, we will now have small business organized as a single category.

One of the things Mr. Rossotti has already indicated is that he is likely to take some of the secondary recommendations that our Commission made. We have large numbers of relatively small businesses out there who expend a lot of money and don't pay any taxes at all. They have to comply with the code. He believes there may be some opportunity for us to significantly relieve a number of individuals—millions, in his words—that might otherwise have to fill out a form. So I think what the Senator has brought to our attention is a very important problem; it is taxation without representation. It is frustrating. I think we are going to get more accountability with this law, and we are going to have vehicles through the taxpayer advocate to do the very thing the Senator is talking about. I appreciate it, and I pledge my full cooperation to work with him on this.

Mr. SHELBY. Mr. President, I will wrap it up on this point at this time. I am certainly not going to wrap up this issue. I think this issue is just now becoming ventilated here and shared with my colleagues here in the Senate. A lot of us have known this for a long time. But the IRS reform bill that Senator ROTH and Senator KERREY have been pushing here is about, among other things, the agency overstepping its authority and, in a lot of instances, there are horror stories of abusing taxpayers. But I can't think of a worse way to abuse taxpayers than when the IRS raises taxes through the back door, by the regulatory process, and then we think, how did they do this or why did they do this? Why did we give them the authority to do this? Yet, ultimately, Mr. President, we are accountable to the voters, as we should be.

I think this is relevant. I am not going to offer it now in deference to the chairman and the Senator from Nebraska. But I want to make it clear that this is just the beginning of this fight because this makes a lot of sense to the American people.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Iowa.

Mr. GRASSLEY. Mr. President, I would like to speak to the point that the Senator from Alabama just raised. That point would be one of agreement. It would be to say that I have had the experience myself of having to get corrective legislation through. People would be surprised to know that a certain tax law that was in place legally for a long period of time was changed by a faceless bureaucrat, who increased the revenue and taxed somebody in a way where they hadn't been taxed before. And then we have a situation where those of us who want to correct what this faceless bureaucrat did find ourselves not only getting the bill written, finding all of the cosponsors that one needs, but also, then, when you actually get to the point of offering the amendment, you have to come up with an offset because there is supposedly a cost, not from the original legislation, but because some faceless bureaucrat is reinterpreting a tax law, which reinterpretation brings more revenue in; and then, if we want to go back to where Congress originally was, we have to dig up revenue and have an offset to correct something that Congress never intended in the first place.

So you can see that what the Senator from Alabama is trying to do is just to bring a little common sense to the Washington nonsense. I applaud him for doing it and also applaud him for not doing it on this bill. I commit myself to working with him. I would like to, at this point, ask him to see that I am added as a cosponsor to the original bill he put in, which has a number already.

Mr. SHELBY. Will the Senator yield?

Mr. GRASSLEY. Yes.

Mr. SHELBY. I would be glad to add you as a cosponsor. I believe we are going to pick up a lot of Senators on both sides of the aisle, I hope.

Mr. GRASSLEY. Mr. President, we are just talking about common sense. In other words, Congress passes a law. We want to tax at a certain level and a certain group of people. A lot of times those laws have been in place for a long period of time. Congressional intent was followed for a long period of time. And then there is somebody sitting in some bureaucracy—in this case, the Treasury Department—that says, oh, no, that is not what Congress intended; this is what they intended. Then he changes it. We don't have a process for reviewing that. This legislation will give a process for that review. But we will not find ourselves in a position of having to correct something that is contrary to congressional intent, but also with the idiotic situation that we somehow have to come up with revenue to offset a change of policy that we never intended in the first place.

So I applaud the Senator and thank him for not bringing it up at this point.

I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Alabama.

Mr. SESSIONS. Mr. President, first, I would like to say that I appreciate very much Senator SHELBY's suggestion for reform of the unilateral ability of IRS to increase taxes. I would like to ask my fellow Senator from Alabama if he would allow me to be a cosponsor of that.

Mr. SHELBY. Will the Senator from Alabama yield to the other Senator from Alabama?

Mr. SESSIONS. Yes.

Mr. SHELBY. I would be happy to do that. I think what we need to do in the next few weeks, working together with some of my colleagues like Senator KERREY and others on the other side of the aisle, is to let our colleagues know what this is and what it does. If we pass this legislation in the future, it is going to be another step toward accountability for us with the American people. I think it is very possible. I will be glad to add the Senator on.

Mr. SESSIONS. I thank the Senator very much.

Mr. President, I would like to first congratulate Senator ROTH and his committee on their effort to reform the Internal Revenue Service. I think they have made great progress, and the bill is to be greatly praised, is long needed, and I am delighted to see where we are discussing this matter.

I do, however, feel that it is important to join with Senator FRED THOMPSON of Tennessee, who spoke earlier this afternoon on his proposal to not waive applicable conflicts of interest laws with regard to individuals who sit on the IRS Oversight Board. I do not believe this is the appropriate thing to do. I believe we need to deal with this forthrightly. It should not be allowed to happen.

Mr. President, I spent almost 15 years as a Federal prosecutor. I prosecuted criminal cases on a regular basis. I personally tried judges and public officials for fraud and corruption. My office did many of those cases. It was an insidious thing as it occurred.

We have crafted over the years a series of laws that are designed in such a way that those laws protect the public from conflicts of interest and other types of unhealthy relationships that would put that person in office in a position in which his total fidelity is to anything other than the government which he represents. That is what we are looking for. Somewhere in the Book of Ecclesiastes the preacher said "A bribe corrupts the mind." A conflict of interest corrupts the mind. The person is torn. You cannot serve two masters. You can only serve one master. A member of a board of the oversight of the Internal Revenue Service ought to have a clear mind with one motive, and that is to improve and enhance the effectiveness of that institution which is fundamentally necessary. At least under the present Tax Code it is necessary.

So I believe this is an important matter. I would like to share with the Members of this body the Code sections of the law that would apparently be violated and could potentially clearly be violated by an appointment of the kind suggested here; that is, a member of the Internal Revenue Service Union on the oversight board.

This is suggested in this fashion: It follows under the rubric of bribery, graft, and conflict of interest in the United States Code. It is title 18 U.S. Code, section 203. It makes it a crime to seek himself or agree to receive any compensation as an agent or attorney for a third party when a person is working as an officer for the Federal Government.

We are talking about appointing a member to the board representing the Federal Government helping us to develop an effective Internal Revenue Service while at the same time receiving compensation as a union official in an organization that may well have a conflict of interest with the Internal Revenue Service. They are advocates. There is nothing wrong with that. Union members are advocates. Their commission, their heart and soul is committed to getting the maximum return for their members. It is not the same interest as a member of the board should have, which is in the public interest. You can't serve two masters.

I suggest that is a potential violation of the law if this member were to be on the board. It is not theoretical. We are talking about real conflict.

Section 205 of title 18 of the Criminal Code makes it a crime for any Federal employee to appear as an agent or attorney on behalf of anyone in a proceedings to which the United States is a party.

In other words, you can't have a Federal employee of the Government appearing in an action against the Government. Frequently the union is contesting with the Government. So now we have a person on one side of the lawsuit supposedly having his responsibilities solely to the best interest of the public of the United States at the same time being paid to represent his union members who may well be standing against what that interest is.

Title 18 of section 207 makes it a crime to make certain communications to an official of the Federal Government on behalf of any other person if the communications are made with intent to influence.

It makes it a crime to make certain communications to an official of Government on behalf of any other person if they are made with the intent to influence. This section is a dangerous section for any board member who is an officer of the union. It was designed really to deal with post-employment communications. But in this instance he would obviously be making communications both ways.

Title 18, section 208, is the general conflict of interest provision for the United States. It makes it a crime for a Federal employee to participate "personally and substantially" in any way in a matter where he himself, his family, a partner or others have "a financial interest."

This individual is paid by the union. It is in his financial interest to do the best bargaining he can, the most money and benefits he can for his union members. Yet he is serving on the offer side, the board, that is supposed to be protecting the public interest.

I would say, first of all, that I see there is a real danger that this member, if appointed as suggested, would in fact be in violation of any one or perhaps all four of those criminal statutes. If any of these violations are committed—and there are penalties of up to 1 year in jail for violation of them, and if any of them were done willfully the penalties go up to 5 years in jail, and are a felony. What is willful? It is knowingly and with intent to violate the law. I would say, first of all, we have four potential violations of criminal law by this appointment.

The Finance Committee to its credit recognized there was a problem. Well, they should have. There is a problem. And it is not theoretical. It is very real because the member they want to put on this board has a conflict of interest.

They say, "Well, let's just change this law. Let's pass as part of our bill a proposal to exempt them from it, and just say it won't apply to this nominee to the board. And that would solve all of our problems." Well, I wish it were so simple that we could do that. You can call a cat a dog but it is still a cat. You can say there is no conflict of interest but it is still there under these circumstances. That is what the law was passed for.

I think we need to give some real credit to the Office of Government Ethics.

Mr. President, I serve on the Senate Ethics Committee. We hear complaints periodically. Many of them are not well founded at all. But we go over them one by one. Staff people analyze them. We read the Code and we see if we have a conflict of interest. If we do, we deal with that. A lot of Senators have been severely damaged because of founded ethics complaints against them over the years.

But I would just say to you that it is important for this institution to make sure that what we are doing is consistent with the highest possible standards of ethics and law in this nation.

The Office of Government Ethics took the extraordinary step on May 1st of writing a letter dealing with this special project; this very special thing. This is what they said.

First of all, they said the criminal conflict of interest laws should not be viewed as impediments to good government. What does that mean? Criminal conflict of interest laws should not be viewed as an impediment to good government. In other words, what they are saying is the criminal ethics laws are for good government. They are not trying to stop good government. They are trying to stop conflicts of interest that lead people in the position that they cannot effectively carry out their duties.

They go on to say—I am quoting directly—these laws "are there for a purpose and should not be waived for mere convenience."

Mr. President, I totally agree. I know it sounds like, well, we just have a problem. This is just a technical thing. We can just pass this law and exempt this board member from it, and that will be the only board member on the Commission exempt from the ethics law, the only one, but we will just do that because, well, it is convenient. We would like him to be on the Board, and we will just waive the ethics law. But you can't do that and expect it to go away. There is a conflict of interest that the law legitimately was set up to prohibit to make sure that we have an uncorrupted individual on that board. A member who does not have influences on them financially or otherwise that would cause them to do acts that are not in the public interest. I believe very sincerely that we have to deal with this issue and that it will not go away.

We must not do this. It would be a downward slope, a retreat from high standards of ethics—actually, a retreat from basic ethics. This isn't some gray area; this is flatly prohibited by present criminal law for which you can get 5 years in the slammer. U.S. attorneys are prosecuting people who do these kinds of things with these kinds of conflicts. To pass a law to say everybody else has to adhere to them except for one individual because he or she is special is a big mistake.

I can see how people may have not thought it through. I hope all Members of this body will give it most serious thought. It would be a mistake for us to blithely go along and think this waiver of the ethics law is just a mere technicality and see it as somehow an impediment to good Government. As the Government Ethics Office said, it is not an impediment to good Government; it is good Government. And it is put there for a purpose and should not be waived for mere inconvenience.

Mr. President, I certainly know that the members of this committee, the Finance Committee, who worked so hard, are determined to reform the Internal Revenue Service. I know they want to do what they can. I know they want the influence of the IRS's members who have insight into how this enterprise ought to be operated. They have some good insight, and they have made some good, constructive comments to this legislation. But there are other ways, as the Government Ethics Office suggested, to allow them to have input. There are other ways to allow them to be able to shape any kind of rules, regulations or reforms that are made. There are ways to do this without giving up the fundamental principle that a man or woman can only serve one master, not two, and should not be holding public office with a clear conflict of interest.

I thank the Chair. I urge my fellow Senators to vote against this proposal.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Iowa.

Mr. GRASSLEY. Mr. President, I find myself this afternoon speaking against a lot of my friends with whom I generally agree most of the time, and so I am somewhat chagrined that I have to oppose my good friend from Alabama and the position he has just taken as he spoke in favor of the Thompson amendment. I rise in opposition to it.

This amendment is not about conflict of interest laws. That is not its intent. It is about having an employee representative serve on the oversight board. I believe very strongly that we must have the employee representative on this oversight board. As you have already heard Senator KERREY say, he agrees with that. We both had the honor of serving on this National Commission on the Restructuring of the IRS. We were the only two Senators to do so. I think our year's experience there taught us something, and that is the value of having people who speak for and work with the employees, other than in a management capacity, to show their good intent, that they want Government to function in an efficient manner and to serve the customers well.

That would be true of Rob Tobias, who is the current President of the National Treasury Employees Union. He served with us on this Commission. I was very impressed with him and with his work. With his hard work and support, the Commission, by a very strong majority—we probably would have had a majority otherwise, but such a slim majority that I don't feel we would be here with such a strong piece of legislation as we do now—issued a report that calls for far-reaching reforms at the IRS. The employees organization and their representative contributed substantially to this report and to making sure there were strong, substantive recommendations.

I believe that he or another employee representative will have the same effect while serving on the IRS Oversight Board. He and the members of his organization want real change at the IRS. The IRS employees care about where they work and how they serve the people. They want the IRS to run smoothly and their customers to be happy with the service they receive. They are caught up today in this culture of intimidation, a culture that says, "We don't care anything about the taxpayers, we don't care how we treat the taxpayers," whether as a taxpayer or just as an American citizen who is doing business with them. I believe they want to take pride in where they work and the actions of the Internal Revenue Service. The employee representative will help ensure that the oversight board makes this happen.

For this reason, Senator KERREY and I included an employee representative on the IRS Oversight Board when we introduced the first IRS restructuring bill last July, S. 1096. For this reason, we offered the amendment that put the employee representative back on the oversight board during the Finance Committee debate because the chairman's mark did not have this in it.

Now, remember, the House of Representatives passed their bill by a vote of 426 to 4—426 to 4—and that bill in the House had an employee representative serving on the oversight board. We have strong support for this principle. If we are going to have an employee representative then on the oversight board, we need to let him do more than just serve the coffee while the meetings are going on, because if we do not have this language in the bill that the Thompson amendment wants to take out, he would not have the same power that we give to other members of that oversight board. Otherwise, we lose the benefit of that expertise. Otherwise, we lose the benefit of the enthusiasm of the organization and its representative to make real change at the Internal

Revenue Service. Let me say, in short, otherwise, we are just simply wasting our time. This is a part-time advisory board. Consequently, it is a good place to use his advice.

The bill before us, as drafted, sets up additional requirements that the employee representative must meet. I would like to read from the committee report.

> The employee representative is subject to the same public financial disclosure rules as a private life board member. In addition, the employee organization is required to provide an annual financial report with the House Ways and Means Committee and the Senate Finance Committee. Such report is required to include the compensation paid to the individual employee by the employee organization and membership dues collected by that organization.

In addition, this person must have been confirmed by the Senate of the United States before serving on the IRS Oversight Board. These laws have been waived for similar purposes before. This is not new; it is not landmark. The point being made— that everybody should abide by the same laws—albeit true, but remember, as Senator KERREY said, we make those laws. We are making this policy to make this person an effective member of the IRS Oversight Board.

I conclude by saying that the conflict of interest laws are designed to alleviate hidden conflicts of interest. Now, this employee representative has no hidden agenda. We know who he works for. And guess what. The employee representative on the board works for an organization that represents employees. Again, the issue is not waiver of laws. The issue is having an employee representative being able to serve, and effectively serve, on the oversight board. This, of course, is a back-door way, if this amendment were to be adopted, to get rid of the employee representative. Or, if he wasn't gotten rid of, it would be making him an ineffective member of the oversight board, gutting the main intent that we have of his inclusion on the board, because we think there can be a contribution, a real contribution, made.

So, in my opinion, if my colleagues would accept my year's work on this issue, being a member of this IRS Restructuring Commission, I ask my colleagues to vote against the Thompson amendment. After my work on the National Commission on Restructuring, I think, regarding the bill we have, and even a much stronger bill that we have now because of the work of the Senator from Delaware on the legislation, improving it very much as a result of the committee hearings, we need to move forward. This would really cause problems if this person is not able to serve on this board.

So I emphasize again, this was in the House Ways and Means bill. It was approved by the House of Representatives by 426 to 4, to have an employee representative on the board.

I think all the arguments are very strong. I make no apologies for those arguments and would want to have this amendment defeated, the Thompson amendment.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. ROTH. Mr. President, first, I would like to say I regret I cannot agree, on this particular issue, with my distinguished friend from Iowa, for whom I have the greatest respect. We are, more often than not, on the same side of an issue. But, because of the overwhelming arguments, at least in my judgment, to the contrary, I must rise in strong support of the amendment offered by the Senators from Tennessee and Alabama.

This amendment would strike the special waiver of all the criminal conflict of interest laws that were necessary to accommodate having an IRS employee representative on the IRS oversight board. Let me say that what I say today in no way is in disrespect to the individual who would probably be the employee representative, Mr. Tobias. By all reports, he is a most dedicated, informed man. But, as I said, the problem is that this amendment would strike the special waiver of all the criminal conflict of interest laws that were necessary to accommodate having such a representative, and waiving all the conflict of interest laws is bad policy. It establishes very bad precedent.

When this issue was debated during the Finance Committee markup session, the Deputy Director of the Office of Government Ethics, the office that was set up and created to ensure that conflicts of interest do not arise in the Government, testified that she was not aware of any case where all the criminal conflict of interest laws have been statutorily waived for a single person.

Last Friday, the Director of the Office of Government Ethics, in identical letters to the majority leader, the minority leader, Senator MOYNIHAN, the ranking member, and myself, said that waiving the conflict of interest laws for one board member, "is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable."

Let me repeat, this statement that it is inadvisable comes from the Office of Government Ethics.

I ask unanimous consent a copy of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. OFFICE OF
GOVERNMENT ETHICS,
Washington, DC, May 1, 1998.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: This Office has reviewed H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998, as it has been reported by the Finance Committee and, we understand, is soon to be taken up by the Senate. At the request of both the majority and minority, we provided technical assistance to the Finance Committee staff with regard to drafting the language of provisions setting forth the ethical considerations for the Members of the Internal Revenue Service Oversight Board. We believe those provisions are written in a clear and technically correct manner.

However, one provision of the bill, the proposed 26 U.S.C. §7802(b)(3)(D), provides for waivers of applicable conflict of interest laws for one Member of that Board. We believe that this provision is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable.

We understand and agree that the employees of the Internal Revenue Service should have an opportunity to be heard in any decisions that may affect them. As we stated in a letter to the Finance Committee, there are standard ways of allowing input from interested parties without allowing the interested party to be the actual decision-maker in a Governmental matter. It is the latter role that is fundamentally at odds with the concept that Government decisions should be made by those who are acting for the public interest and not those acting for a private interest. The one private interest that is being waived in each case for this Board Member is the one most fundamentally in conflict with his or her duties to the public.

On the other hand, we cannot recommend that the waivers be eliminated for the individual appointed to such a position. That elimination would leave this individual extremely vulnerable to charges of criminal conduct for carrying out many Oversight Board actions or for carrying out his or her private duties for the employee organization. The fact this vulnerability exists exposes the pervasiveness of the conflicts for an officer or employee of an employee organization to serve on the Oversight Board.

Rather, we recommend the elimination of the position on the Board that creates such inherent conflicts. The elimination of the position could be coupled with a requirement that the Board consult with employee organizations. While we think a reasonable Board would consult without that requirement, requiring consultation might provide some assurance to the various employee organizations that they will be heard.

The criminal conflict of interest laws should not be viewed as impediments to good Government. They are there for a purpose and should not be waived for mere convenience. Some may point out that certain provisions of these laws are waived by agencies quite frequently. That is true. Some of the laws anticipate circumstances where a restriction could be waived and set forth the standards that must be met to issue waivers. Agencies can and do issue such waivers, but the waivers must meet the tests set forth in the statutes. For those conflicts laws that do provide for waivers (not all do), we believe that it would be extremely difficult for a reasonable person to determine that the interests this individual Board member will undoubtedly have through his or her affiliation with the organization could meet those waiver tests.

In order to meet our recommendation, we believe the provisions of Subtitle B, sec. 1101(a) should be amended to eliminate proposed sections 7802(b)(1)(D), (b)(3)(A)(ii) and (b)(3)(D). All other references to an individual appointed under section 7802(b)(1)(D) should be removed and wherever a number of members of the Board is indicated (such as a Board composed of nine members or five members for a quorum) that number should be altered to reflect the elimination of this position.

We appreciate the opportunity to express our concerns and our recommendations. These are the views of the Office of Government Ethics and not necessarily those of the Administration. We are available to answer any questions you or any other Member of the Senate may have with regard to this letter or the conflict of interest laws. We are sending identical letters to Senators Daschle, Roth and Moynihan.

Sincerely,

STEPHEN D. POTTS,
Director.

Mr. ROTH. Senators note importantly, I think, how we are a nation of laws and we are, indeed, a nation of laws. When it comes to Government service, perhaps the most important set of laws is the criminal conflict of interest laws. Many of these laws trace their origins back to the Civil War era. They were enacted in the 1860s in response to misconduct in the procurement process. These laws embodied the principle that a Government servant, even a part-time servant, has an overriding responsibility to serve the best interests of the American public. The punishment for violating this public trust includes imprisonment of up to 5 years and penalties of up to $250,000. The severity of the penalties reflects the critical importance that these laws play in our Government. They serve to protect the public's trust in Government employees and the laws are designed to prevent Government employees from taking actions that could jeopardize this public trust.

Let me give a few real-life examples of what could happen if the conflict of interest laws are waived for the IRS employee representative. Just suppose that a representative of the IRS employees union serves on the oversight board and the union files a lawsuit against the oversight board. If the conflict of interest laws are waived, the union representative could work with the union in preparing the lawsuit and at the same time—at the same time—work with the oversight board in defending against the lawsuit. Taxpayers would be outraged by this conduct, and rightfully so.

Just suppose the union is asked to make a formal presentation to the oversight board. The union representative can make the formal presentation and then participate in the oversight board's deliberations with respect to the presentation. What message does this send to the taxpayer? What does this do to the public trust in Government employees and in what Congress is trying to do to improve the IRS?

Let me quote again from the letter by the Office of Government Ethics:

> The criminal conflict of interest laws should not be viewed as impediments to good Government. They are there for a purpose and should not be waived for mere convenience.

Mr. President, the criminal conflict of interest laws should not and must not be waived for a single individual. To do so would seriously erode the sacred trust that the public has placed in its employees to do what is in the Nation's best interests. For these reasons, I strongly support this amendment and I urge my colleagues to do the same.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Nebraska.

Mr. KERREY. Mr. President, again, I say to colleagues there is a three-part test that one has to go through in this regard: A, do you want an oversight board; B, who do you want on the board; and, C, how are you going to deal with apparent conflicts of interest?

The conflict of interest issue is a very serious issue and, indeed, our committee, in order to confirm Mr. Rossotti, had to deal with that. We wrote an agreement, a letter, I believe, of understanding between Mr. Rossotti, a private sector individual with significant private sector interests who was willing to come in and serve his country in the Government.

I talk to colleagues all the time about one of the problems we have in Government today is it is getting harder and harder to get anybody to serve. Why? Because there is a perception that as soon as you come in and work for the Government that somehow you are going to be the crook.

I would be real careful with some of the rhetoric on this particular issue. We made an exception with Mr. Rossotti as a consequence and concerns about conflict of interest, and we didn't ask the Office of Government Ethics to comment on him, but we did on this one because many in the committee don't like this idea of having an employee representative on the board, nor does Government Ethics.

Let me talk about this idea of conflict of interest. According to the Office of Government Ethics, at least 609 exemptions under section 208(d)(1) were granted in 1997. Why? It is very important to understand. Why did we grant an exemption? The answer is because we have an interest. There is an important interest involved here, something that we want to do. So we find ourselves saying the interest is not so substantial as to be deemed likely to affect the integrity of the services which a government may expect from such officer or employee. That is the standard we use.

There were 609 exemptions granted because we have an interest in making certain that something gets done. That is what we have here. One of the worst excuses—I used to be in business before I got into politics. One of the reasons I got into politics is I got worn out listening to people say, "I know what you are asking for is right, but, gosh, if I have to do it for you, then I have to do it for everybody."

There is nothing more frustrating than to have somebody say, "I don't want to set a dangerous precedent here."

We need to decide what is right. Is it in the Nation's interest in an effort to restructure the IRS that is going to require significant and, I argue, traumatic personnel decisions, to have a representative of the Treasury employees' association on there? They represent 95 percent of over 100,000 employees. And we answered yes. The House answered yes. The Restructuring Commission answered yes, because there is an interest that we have.

Do we waive all conflict of interest requirements? Members should remember, every member of this board has to be recommended by the President and confirmed by the Senate. We all know around here, you can file a hold on anybody for any reason you want. If there is a conflict of interest, file a hold. That individual is likely never to get confirmed. In addition, for cause this individual can be removed at any time. The President can remove the individual from the board as a consequence of something they see they don't like, something they see they view as a perception of a conflict of interest, let alone a real conflict of interest.

Lastly, I will say if this individual is guilty of a conflict of interest, there will be charges filed against him or her and, indeed, every single member of this board is going to have to file an annual report indicating what their financial holdings are in order to avoid a conflict of interest.

Again, we all understand it is getting increasingly difficult to get people to serve because of the invasive nature of the examination. Talk to a friend of yours who has had an FBI background investigation. Gosh, they are out there talking to people you knew in the fourth grade. You wouldn't want to talk to people I knew in the fourth grade to find out whether I am going to be able to serve on some board or commission.

Let me just list for colleagues who are worried about this conflict of interest—we decided there is an overriding interest to have an employee representative on there as a consequence of the tremendous and traumatic changes that are going to occur over the next couple of years as the new authorities of this Commissioner are used to reorganization and restructure the IRS.

In addition, this representative is going to be required to have full, public, financial disclosure by the employee organization represented. All members of this oversight board will be required to do that. In addition, the employee organization is required to file detailed financial information with the House Ways and Means Committee and the Senate Finance Committee. The information would include membership dues and compensation of all employees.

In addition, it requires the employee representative to be subject to all the conflict of interest statutes applicable to special Government employees, except to the extent they apply to the employee organization.

Mr. President, as Members no doubt know, we have a bill and a thing called a report. It says, "The Internal Revenue Service Restructuring and Reform Act of 1998, April 22, 1998.—Ordered to be printed: Mr. ROTH, from the Committee on Finance, submitted the following Report."

This report describes the rationales and reasons for doing all these things. Let me read to colleagues who are wondering about this thing and really whether or not you want an employee representative on this board. As I said, if you do, you have to give that individual the authority and power to be able to do something, and we have made a judgment as a consequence of that overriding interest that we are going to write language in here that deals with apparent conflict. It doesn't waive all other conflicts, as I have just tried to address. But even the report does that. Let me read it to you:

> In general, the bill provides that the employee representative or Board member is subject to the same ethical conduct rules as private-life Board members.

Let me repeat this, because there is an inference in some of the statements down here that somehow we are waiving all conflict of interest rules. Not true. This individual is going to be subject to the same ethical conduct rules as private-life board members.

> However, the bill modifies the otherwise applicable ethical conduct rules so that they do not preclude the employee representative from carrying out his or her duties as a Board member and his or her duties with respect to the employee organization.

That is all we are doing. We say there is an overriding interest. We have to make sure the employee can carry out their job, so we provide specifically language in here that enables them to do it. Otherwise, why put them on the board?

> In particular, the employee representative is not prohibited from (1) representing the interests of the employee organization before the Federal Government; (2), acting on a Board matter because the employee organization has a financial interest in the matter.

They are precluded from conflicts dealing with procurements. They are precluded from taking bribes. They are precluded from all the other things that other board members are precluded from doing. All the rest of the things that all the board members are precluded from doing, this individual will be as well. Indeed, in the footnote, it says:

> Certain limitations to this exception to the otherwise applicable ethical rules would apply.

The rules pertaining to bribery would continue to apply. In addition, the representative would be acting on a matter in which he or she has a financial interest.

If some U.S. attorney, some prosecutor wants to bring charges against any member of this board for violating conflict of interest statutes, they are going to be able to do it. Everybody who has asked, whether it is by this President or future Presidents, "Gee, Mr. and Mrs. Jones, would you be willing to serve on this board?" They understand what is at stake. They understand the nature of American politics today. They understand if you walk into the arena willing to serve your country, you may find yourself saying, "God, I wish I never said yes. All of a sudden I am more miserable than I thought I ever would be, because somebody has an ax to grind or grudge to fulfill is going after me all of a sudden."

We have made a decision that we think as a result of the tremendous decisions that are going to have to be made by the Commission to restructure an organization that has 100,000 human beings—these are family people; these are people who have good jobs and are trying to get the job done. All they are doing is trying to execute our law.

One of the most amusing things down here is to hear people talk about the IRS as if they think it is a Sears and Roebuck or some private organization. It is like the kiss of the Spider Woman. We are the creator of the IRS. We write the laws here.

In response to the OGE's concerns, we put language in here, and even OGE says we have adequately taken care of it. They just don't want an employee representative on there at all, no matter what you do with the law. No matter what you do with the language of the law, they are going to take the position that an employee representative shouldn't be on there.

Fine, let them take that decision. We made the decision we want that employee representative on there, and once we made that decision, we have to make certain we deal in a reasonable way so that with the law, that individual can do what we have asked them to do.

I have great respect for the Senator from Alabama and the Senator from Tennessee and, obviously, the distinguished chairman of our committee. I hope this amendment will be rejected.

I ask if the chairman—we have had two votes today, and we have, I think, somewhere in the neighborhood of 50 amendments that we are likely to deal with. The majority leader indicated he would like to wrap this up tomorrow night. I am wondering if we can get a time agreement. We have a couple others that are fairly contentious that it seems to me we need to get down here.

I would hazard the guess that nothing I have just said is going to persuade anybody one way or the other. This is one where everybody has pretty well made their minds up. Maybe they will be persuaded because of the eloquence and the logical manner of the chairman, but I think this is one where people have made up their minds. So let us insert our statements in the RECORD and go to a rollcall vote so we can get to the final passage of the bill, as the majority leader wants to, by tomorrow night.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Delaware.

Mr. ROTH. Let me say, on this question of completion of consideration of this legislation, I strongly agree that we want to move as expeditiously as possible. It is my intent that we will complete the legislation tomorrow, staying as late as may be necessary.

Mr. President, I would like to respond to some of the earlier comments made on the granting of waivers to the conflict of interest laws. I would like to point out that the waiver granted Mr. Rossotti was made by the same Office of Ethics that made a very persuasive argument here that we should not waive the criminal conflicts of interest as has been done under the legislation.

Let me point out that there is a major difference between receiving a specific agency waiver under section 208 of the ethics law, which is what the Senator was referring to, and a wholesale statutory waiver of all the conflict of interest laws, which is what is contemplated in the IRS bill.

Again, what Mr. Rossotti got was a specific agency waiver under section 208. To get a specific agency waiver under section 208, the employee must disclose the situation which gives rise to the conflict, and the agency need only to determine that the conflict—and I quote—"is not so substantial to affect the integrity of the services which the Government may expect from the employee."

The problem with the IRS employee representative is that the conflicts are so substantial and pervasive that the representative would almost never qualify for a waiver. And that is not my conclusion, that is the conclusion of the Office of Government Ethics. Quoting from their letter dated March 27, 1998, the director wrote:

> While section 208 does contain a waiver provision, it applies only where the financial interest involved is "not so substantial" as to be deemed likely to affect an employee's service. We believe that it would be almost impossible for an officer of a union to legitimately meet the test set forth in the statute because of his own and the union's financial interest that would be affected by the matters before the Board.

The director repeated this point in his letter dated May 1, 1998, saying:

> For those conflicts laws that do provide for waivers (not all do), we believe that it would be extremely difficult for a reasonable person to determine that the interests this individual Board Member will undoubtedly have through his or her affiliation with the organization could meet those waiver tests.

The quoted language also raises a second important point, which is that some of the conflict of interest laws do not provide for waivers at all.

Mr. President, the bottom line is this: A statutory waiver of all the criminal conflict of interest laws for one person is simply wrong, it is very bad policy, and it establishes a dangerous precedent.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. ROTH. Yes. I will be happy to.

Mr. SESSIONS. I say to the chairman, do you see what we are doing here, as a matter of principle, any different than if this body were to pass a law to exempt an individual from the bribery laws?

Mr. KERREY. I hope the answer is no, for gosh sakes. We understand what the nature of bribery is.

Mr. ROTH. Yes. A bribery law is part of the criminal code. I would not exempt it.

Mr. SESSIONS. This is a criminal provision. We have been using the word "ethics," but it is really a criminal provision, isn't that right, Mr. Chairman?

Mr. ROTH. That is correct.

Mr. SESSIONS. Criminal law of the United States. And I can see, therefore, why the Ethics Committee would suggest it was unprecedented that the U.S. Congress would pass a law to exempt someone from the criminal law of the United States. I hope that is unprecedented. And my complaint, I say to the chairman, just simply is this—to say that I understand what the Senators have been trying to do. I understand their good intent. But I think we are confusing ourselves with the law of the United States. This is a very bad thing. It is a very bad policy. It should not happen. And we need to vote on it. I appreciate the chairman yielding.

Mr. KERREY. Mr. President, I don't know on what basis the distinguished Senator from Delaware answers the question that, yes, it is like giving an exemption to bribery law. In our own report, we say the rules related to bribery would continue to apply. I mean, that is a red herring, raising the issue of bribery. Look, I feel like I am arguing the red queen here.

We made a decision as a consequence of an overriding interest that we want a Treasury employee representative on this board. Why? What is the interest? Do you want to get the restructuring done or not? No? You are opposed to it? Fine. Say no. But our Commission heard from people, both in the private sector and the public sector, that have done this sort of thing. They said, "Folks, if you want to get the job done"—understand we're talking about traumatic changes in how people work. You can imagine, we would want a Senate representative on a board that was going to be restructuring this place. Do you think anybody would say, "Gee, we've got a conflict. We can't sit on a board that might reduce the number of people here from 100 to 80"? I don't think so. I think one of us would want to be on that board. And we would write to the Office of Government Ethics and say, "To heck with you. We'll figure out a way to get it done."

That is what we are talking about here. The employee representative will enable us to get the job done. We have to have a substantial reduction in forces as a consequence of this restructuring. It is going to be traumatic. It is going to be difficult. And over and over I have said we heard from both public and private sector people: Get somebody who's going to have to sell this thing on this board.

So now you are left with the question, how do I do that? Obviously, they still represent the employee's union. Obviously, they still have a job responsibility out there in some fashion. Well, we have to deal with that specific conflict. It is not a carte blanche, broad-based waiver that includes such things as bribery. Come on.

If you do not want a Treasury representative on there, don't put him on there. If you think the law is going to produce a conflict, well then, file a complaint, and go down to the Government Ethics Office and say this individual has a conflict. Any citizen is going to have the opportunity to do that.

But I caution Members. That is why we are having a tough time getting anybody to serve. We go through this nominating process all the time around here, and we find ourselves with friends saying, "My gosh, I don't want to serve in that capacity. Look at all the things I've got to go through in order to be a public servant today."

Mr. Rossotti is a very good case in point—a very good case in point. A strict interpretation of the ethics rules would have caused us to say, "Mr. Rossotti, I understand that you are willing to say yes to the President, but we have to respectfully say no. We are just not going to do it. We're not going to allow you. You have all this private sector experience, all this management experience, but it's a conflict. You've got ownership of stock in a company that does business with the IRS, therefore, you're disqualified."

That is what we are dealing with here. The Commissioner of the IRS has a company that does business with the IRS. Now, can we deal with that? The answer is absolutely yes, because it is a compelling interest to get it done. Likewise, there is a compelling interest as a result of the traumatic change.

I ask any Member here, again, if there was a board out there that was going to make a decision that could reduce in force the number of people in the Senate from 100 to 80, would we say, "Well, we don't need to have a representative on there because we have a conflict"? I don't think so.

We asked to be on the board, and we deal with the Office of Government Ethics, and we figure out a way to make certain that conflict is narrowly drawn, because of the overriding interest of the employee representative on the board who will make these decisions.

If you don't want the board, fine; I understand that. The Senator from Texas is skeptical about the board. Skepticism in many ways is deserved. You never know if the board will be great or not. I think it will be great. If you don't want an employee representative, fine; say so. But please don't get down here and say that we are doing something comparable to waiving the bribery statute. That is not what we are doing.

We are going to have a very, very difficult time if this degenerates into a debate about loosening up our ethics law to allow all kinds of criminal conduct. We are not doing that. It is a narrowly drawn exception to enable the individual to do a job we want the individual to do.

Mr. BAUCUS. Essentially, the amendment offered by the Senator from Tennessee is an amendment to take an employee off the board. That is the point. The real question we have to ask ourselves is: Do we want this restructuring to work or not? We create a Board, give the Board certain powers, and the Restructuring Commission, led by Senator GRASSLEY from Iowa and Senator KERREY of Nebraska, concluded there should be among board members an employee representative. That was their conclusion. They believed that would help restructuring work.

Why? Because so many of the problems that we have with the IRS, most of the problems that were documented at the Finance Committee hearings, are employee problems—that is, rogue employees, employees who were covering up, employees doing this or that. Also problems with managers—some of them were doing their job, some were not.

Obviously, an employee who is on the Board will be able to tell the Board what is going on, what is not going on, what the views of the employees are, and so forth.

Now some suggest that the Board should just consult with employees. That will not work. You need somebody there on the Oversight Board who will be able to not only report to the employees what is going on, but be able to send back to employees what board policy is if we are going to get restructuring to work.

We need teamwork here. We don't need an adversarial relationship. We are not talking about Board versus employees. We are talking about a Board which will make restructuring work. Just think about it. An employee on the Board will help make this work.

If you want an employee, you want a good employee; right? You want a good representative on the Board. How do you make sure you get a good, solid employee on the Board? First, you have the President appoint the employee. That is the what the bill provides. Obviously, the President will appoint somebody he or she thinks is a person who will do a very good job because it is in his interest to make IRS restructuring work.

What is another check? Confirmation by the Senate. I say to my colleagues, if you don't like the employee representative that the President nominates to the Board, you can vote against him or her. During the confirmation process, you have an opportunity to check into the background of this appointee. You can check to see whether this is a good or bad person. That is a real good check which will enable you to get a sense whether this is a person who has conflicts or who will be a public servant—who will be narrowly representing his or her private interests or his or her organization. You can get a sense of these matters through the confirmation hearings.

In addition to that, the President can remove any Board member, including the employee representative, at will—that is, without cause, at will.

Finally, the employee representative is subject to the same restrictions as the private life Board members; examples are the disclosure requirements and the 1-year restriction after service on the board.

Now, the main point here is: If you are going to have an employee on the Board, how do you make sure that there are no conflicts of interest? I remind my colleagues, when this bill passed the House 426-4, there were no restrictions; there was no waiver provision in the bill. They just said, OK, have an employee. Well, we have improved the bill by rewriting this provision.

I remind my colleagues, all the conflict of interest statutes apply to the employee representative, except for the very narrowly tailored situation where conflicts arise because of his status as employee representative. That is, because the employees he represents work for the IRS and he or she is compensated by the employee organization. Otherwise, all conflict of interest statutes apply.

The comparison was raised about these waivers being like waiving violations for bribery, a criminal offense. Of course, bribery is a criminal offense. That is irrelevant. Murder is a criminal offense too. There are all kinds of criminal offenses in our criminal law. That is totally irrelevant to what we are talking about here.

The narrow, technical question here is: Are the provisions and the safeguards that are written into this statute, in the committee report, sufficient to make sure that the employee representative does a good job and represents the public interest? Of course, that assumes you want an employee on the Board in the first place.

Frankly, I do believe that most of those who are arguing to remove the waiver are really arguing to remove the employee. It is a back-door way to get the employee off the Board. That is what is going on here. That is what the argument is really all about. It is just a back-door way to accomplish an objective instead of dealing with it frontally, instead of saying, "We don't want an employee representative on the Board."

I feel very strongly that if we want this restructuring Board to work, it makes sense to have an employee representative on it. There are lots of checks to make sure this employee is performing public service instead of some private interest.

The amendment before the Senate, if it passes, will make it very, very difficult for any employee to serve on the Board. I don't think that is what we want to do. It is not good for the country.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. It seems the criticism of the amendment, first of all, is that there is no conflict anyway with regard to these employees serving on this board. Of course, if that is the case, there was no reason for the exemption. So by having the exemption in there, it is an open admission there is an inherent and obvious conflict of interest.

The question is whether we want to do something about it. Do we want to single out this particular individual and say, "With regard to you—nobody else, but with regard to you—these conflict of interest provisions will not apply; we don't care if you have a clear and obvious conflict of interest"?

Secondly, it is said that this is very, very narrow as far as the exemption is concerned, but the bill, as reported, exempts a union representative from four key ethic laws when the representative is acting on behalf of his or her union. Those four laws are a part of chapter 11, title 18, United States Code, entitled "Bribery, Graft, and Conflicts of Interest."

What are those provisions that we are exempting here? Generally speaking, title 18, section 203, makes it a crime to "demand, seek, receive, accept, or agree to receive or accept" any compensation as an agent or attorney for a third party when a person is working as an officer or employee of the Federal Government.

That is one of the things we would be exempting this employee from.

The other section, section 205 of title 18, which is the criminal title, makes it a crime for any Federal employee to appear as an agent or attorney on behalf of anyone in a proceeding to which the United States is a party.

So that is the second thing we would be exempting this particular member from.

Thirdly, section 207, makes it a crime to make certain communications to an official of the Federal Government on behalf of any other person if the communications are made "with the intent to influence."

This is the third exemption that would apply.

Lastly, section 208, which is a general conflict-of-interest provision which makes it a crime for a Federal employee to participate "personally and substantially" in any way in a matter where he, himself, his family, a partner, or certain others have "a financial interest."

So, one just has to make a decision as to whether or not you feel that this particular employee on this particular board—whether or not you feel the employee ought to be on the board or not; we are not taking them off the board by this amendment; presumably, there are some things that this member could decide that would not present a conflict of interest—but you simply have to decide whether or not you want to take this particular employee and treat him or her differently than anybody else in the Government. This is the sort of thing that we have spent substantial time in Governmental Affairs on with regard to the ethics provisions and their applicability to employees.

I do not think it would be a good policy to have this exemption. As I say, if there is no particular conflict with regard to any particular matter that is before the board, all this is irrelevant anyway. There is no need for the exemption anyway. But if, in fact, they are on the board and they are seeking compensation from a third party while working for the Federal Government, or if they are appearing as an agent on behalf of anybody else who has a matter before the board, or if they are making communications with intent to influence when they are on the payroll of somebody else, this basically has to do with whether or not it is a good idea to put somebody on the board to make decisions with regard to themselves and their fellow employees, who they represent. Certainly, they would have the ability to give their input in lots of different ways.

But as far as decisions are concerned, we have seen the problems that we have had with regard to IRS employees. Do we think we should place a representative of the IRS employees on this board to make decisions as to what to do with the people with the problem? Certainly they should be heard, but should they be on the board? Number one, OK, put them on the board; number two, should we exempt them from all of the ethical rules, or these four particular ethical conflict of interest provisions? I think we should not.

I yield the floor.

Mr. KERREY. Mr. President, first of all, let me once again say that we make exceptions in order to accomplish something that we believe is important to accomplish. We accommodate the exception in order to stay within the guidelines of the Office of Government Ethics. We did that for Mr. Rossotti. He would not be the commissioner of the IRS if we took a strict interpretation of the conflict of interest law. We just would not do it. He would be disqualified, as would anybody with any real private sector interest or any real private sector experience.

It is ridiculous, it seems to me, to suggest that we never make exceptions. This is an exceptional case. We make them all the time. We measure it carefully, and we take care to make certain that the other applicable parts of the conflict of interest law are still enforced. That is what we have done here. The Senator from Tennessee is quite right when he says, gee, you are making an exception of this individual. Yes, we are. Why? He is the only employee representative. If there were 7 employee representatives on the board, we would be doing the same thing for everybody. That is what is going on. We have one representative because there are going to be traumatic changes in the IRS as a result of new authorities we are granting the commissioner in title I. Look at the new authorities we are granting.

I draw a parallel to this body. If we were granting some board authority to make reductions around here, we would want to be on that board. We would want to participate in that decision. And somebody would say we have a conflict, but we would figure out a way to deal with that, rest assured, if that were the case. That is what we have done here. We have not exempted this individual. Just look at the statute. We have not exempted this individual from all other conflicts of interest—only the conflict that deals with the fact that he works for the IRS. That is what we are trying to deal with here. If you have some specific ways you want to deal with that so you can get the job done, we can do it. To stand out here and say, gee, we are making an exception, as if that is remarkable, yes, we are and we are trying to deal with an exceptional circumstance, as we did with Mr. Rossotti in the first place.

So, again, I say to colleagues that there is a threshold decision here. Do you want an IRS representative on the board at all? If you do, you have to deal with the concerns OGE has raised. That is what we have done.

Mr. THOMPSON. Mr. President, I refer to the position of the Office of Government Ethics on this. They have considered this matter and wrote to the minority leader. One provision of the bill provides for waivers of applicable conflict of interest laws for one member of that board. I am quoting now:

> We believe that this provision is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable.

So the comparisons to Mr. Rossotti, who formerly had a position in the private sector, are inapplicable. As far as this body is concerned, we spent a great deal of time answering to perceived conflict of interest situations. I doubt if we would ever be in a situation of exempting ourselves from any of those considerations here.

So this is a very narrowly tailored provision. I understand the sentiment of having some input, having as broad an input as possible. Hopefully, there would be a way to have that kind of input from the employees on perhaps a less formalbasis. But there is an overriding issue here, Mr. President. I don't think we can willy-nilly say that any time we want to make an exception to the ethics rules because we want to get the thing done. We can say that in almost every situation.

So I must agree with the ethics letter that has been made part of this RECORD, which says it is unprecedented and antithetical to good Government ethics policy and therefore to good Government.

I yield the floor.

Mr. KERREY. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside so we can deal with an amendment to be offered by the Senators from Wisconsin, Mr. KOHL and Mr. FEINGOLD, who have an amendment that both sides have agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object, briefly. I wanted to clarify something.

The PRESIDING OFFICER. Objection is heard. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I ask unanimous consent that the Senator from New York be able to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object. I would like to have 2 minutes.

The PRESIDING OFFICER. Has the Senator from Nebraska yielded the floor?

The Senator from Alabama——

Mr. D'AMATO. Mr. President, I have never objected to a person going forward for a minute or 2 minutes, but there is a way to try to accomplish this.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, with regard to my raising the question of bribery as being the same in principle as what we are discussing here, I would like to make a statement. Maybe I was misunderstood. I would like to just say that, fundamentally, we are waiving the applicability of sections 203, 205, 207 of the United States Criminal Code. The bribery section is section 201 1.

As a matter of principle, I just wanted to make the point that what we are being asked to do here is to waive the criminal law of the United States with regard to this particular individual, and the Ethics Committee has said it is unprecedented. That means this body has never done this in its entire history. This is a legal mistake. I am not here concerning myself with the individuals who make up the board. I am here because it was called to my attention that this problem existed. I am a former Federal prosecutor and a member of the Ethics Committee of this body, and I believe this is a legal mistake—a legal mistake we should not make. That is why I am making my comments now. I am very sorry to interrupt the Senator from New York, but it was important to clarify the record, I thought.

Mr. BAUCUS. How long will the Senator from New York speak?

Mr. D'AMATO. No longer than 5 minutes.

(By unanimous consent, the remarks of Mr. D'AMATO are printed in today's RECORD under "Morning Business.")

Mr. SARBANES. Mr. President, while I support H.R. 2676, the Internal Revenue Service restructuring bill that is now before the Senate, I would like to express my opposition to any amendment that would seek to remove an IRS employee representative from the citizens oversight board established in that legislation.

Mr. President, the idea of having an employee representative on the oversight board is hardly a novel one. In fact, that idea has been incorporated into virtually every IRS reform proposal that has been made in the last couple of years, including:

The recommendation of the bipartisan Commission to Restructure the Internal Revenue Sérvice;

H.R. 2676, the House IRS reform bill that passed that body by a vote of 426–4.

The Senate Finance Committee's version of the IRS bill, which we are now considering; and

The recommendation of the Administration.

That an employee representative has been deemed an essential part of the proposed oversight board in particular—and IRS reform in general—should not be surprising.

The IRS is an enormous agency of over 100,000 employees. The IRS reform bill we are now considering gives the proposed oversight board significant authority to review and approve plans for this agency's operation—its strategic plans, its reorganization plans, its budget requests, and other fundamental operational matters.

Without the cooperation and input of the IRS' employees in this process, how can we possibly expect the board's responsibilities to be discharged in a manner that will make the oversight board an effective instrument of reform?

Let us not forget that IRS employees have been instrumental in bringing to light much of the information that has caused Congress to undertake the reform efforts before us now.

Let us also recall that IRS employees have expertise in the operation of the agency that is unique and irreplaceable. This expertise is absolutely integral to effecting the kinds of changes that we in Congress—and more important, the American people—want and expect.

Mr. President, the idea of having employee input in the basic management decisions of major enterprises is not a novel one. In fact, the placement of an employee representative on the IRS oversight board mirrors similar steps taken in several private sector businesses. For example:

Northwest Airlines has a union representative on its Board of Directors;

Similarly, the steelworkers union holds a position on the Boards of Directors of several of our nation's biggest steel companies.

Thus, both the private sector and—in this legislation—the public sector have recognized the value of having employee input and participation in the management of major enterprises.

Those who seek to eliminate employee participation on the oversight board charge that a union representative on the board will have conflicting interests that will hinder the board's effectiveness. Mr. President, my colleagues should note that this union representative:

Is subject to nomination by the President and confirmation by the Senate;

Must make full financial disclosure in accordance with current laws, like all other board members;

Is, unlike other board members, subject to additional disclosure requirements, including requirements to file financial disclosure information with the Senate Finance and House Ways and Means Committees.

Will receive a waiver of conflict of interest laws along the lines of those granted in over 1,000 cases a year, where the public benefit of the individual's participation in government decisionmaking outweighs the potential benefit arising out of that participation.

In short, Mr. President, the union representative will face greater scrutiny than any other member of the board; such scrutiny will ensure that this representative will discharge his or her duties diligently and responsibly. Moreover, the House and the Senate Finance Committee have determined that the public benefit of having an employee representative on the board outweighs the potential conflict by having him or her on the board. I think this determination is indisputably correct, and should not be disturbed by the full Senate.

In closing, let me make a few remarks about Federal employees in general.

It has become all too fashionable in recent years for Congress to berate federal employees and to denigrate the many contributions they make to our nation.

Federal employees render invaluable service to this nation. They work hard and are proud of that work. Many of them are highly educated and skilled. In short, they bring a great deal of expertise and dedication to their roles as civil servants.

Such dedication ought to be recognized, applauded, and, most important in this context, utilized to help the government's efforts become more responsive to our constituents. We are now engaged in such an effort. To remove Federal employees from the oversight board would be shortsighted and a disservice to the nation. I therefore urge my colleagues to preserve the current composition of the oversight board and to defeat any amendment that would change that composition by removing the employee representative.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2357

(Purpose: To provide for an independent review of the investigation of the equal employment opportunity process of the Internal Revenue Service offices located in the area of Milwaukee and Waukesha, Wisconsin, and for other purposes)

Mr. KERREY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. KERREY), for Mr. KOHL, and Mr. FEINGOLD, proposes an amendment numbered 2357.

Mr. KERREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 229, insert between lines 15 and 16 the following new section:

SEC. 1106. REVIEW OF MILWAUKEE AND WAUKESHA INTERNAL REVENUE SERVICE OFFICES.

(a) IN GENERAL.—

(1) REVIEW.—The Commissioner of Internal Revenue shall appoint an independent expert in employment and personnel matters to conduct a review of the investigation conducted by the task force, established by the Internal Revenue Service and initiated in January 1998, of the equal employment opportunity process of the Internal Revenue Service offices located in the area of Milwaukee and Waukesha, Wisconsin.

(2) CONTENT.—The review conducted under paragraph (1) shall include—

(A) a determination of the accuracy and validity of such investigation; and

(B) if determined necessary by the expert, a further investigation of such offices relating to—

(i) the equal employment opportunity process; and

(ii) any alleged discriminatory employment-related actions, including any alleged violations of Federal law.

(b) REPORT.—Not later than July 1, 1999, the independent expert shall report on the review conducted under subsection (a) (and any recommendations for action) to Congress and the Commissioner of Internal Revenue.

Mr. KERREY. Mr. President, this amendment has been cleared on both sides. We believe it is a good amendment.

I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If there is no objection, the amendment is agreed to.

The amendment (No. 2357) was agreed to.

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN THIS TIME OF HOT AIR, TOBACCO FARMERS SHOULD KEEP COOL

Mr. HELMS. Mr. President, it's fair to say that the so-called tobacco "debate"—and I characterize most of the rhetorical chatter as "so-called" because it (1) has amounted to little more than posturing, and (2) has created enormous uncertainty and unease for the thousands of fine Americans who earn their living in the tobacco industry.

The public health community (and its "Amen corner" in Congress) would delight in putting the tobacco companies out of business rather than seriously and honestly addressing the issues facing the hundreds of communities in North Carolina and other states that are economically dependant on the tobacco industry. Mr. President, it's unfortunate that this issue has become so politicized that usually rational Members of Congress have been totally irrational in their exaggeration of the entire situation.

Moreover, Mr. President, it is not anywhere in recorded history that anyone ever began smoking because a gun had been leveled at his or her head with orders to smoke, or else. There is no Senator who doesn't support efforts to curtail youth smoking, and not one parent has come forward asserting that Joe Camel and the Marlboro Man have more control over their children than they do.

But all the pious, exaggerated political nonsense aside, farmers must continue to grow their legal crop in order to provide for the livelihood of their families.

Sometime back, I promised the farm leaders of North Carolina that I would meet with the chief executives of all tobacco companies to encourage them to buy the maximum amount of U.S. tobacco possible in 1998. I have kept that commitment. I have indeed met with the leaders of all companies, one by one. Their concern for tobacco farmers, and for all other citizens who earn their livings "in tobacco", was immediate, impressive and sincere.

There is no doubt in my mind, as a result of these meetings, that leaders of the tobacco companies do indeed intend to purchase as much U.S. tobacco as possible this marketing season.

In fact, some CEOs assured me that they plan to purchase more U.S. tobacco this marketing season than they purchased in 1997. One company leader emphasized his company's plans to increase its purchases of U.S. leaf every year through 2002.

The tobacco companies understand the need to purchase at least this year's effective quota in order to prevent another substantial decrease in quota next year. There will be a lot of personal bankruptcies in North Carolina if our farmers are faced with another 10- to 17-percent reduction in quota. But I am confident—and I do expect—that the tobacco companies will honor their commitment to me and the tobacco farmers of this country to purchase U.S. tobacco this marketing season.

Mr. President, everyone in the tobacco community—particularly the tobacco companies—realizes that the tobacco farmers should have been included in the so-called "National Tobacco Settlement" in the first place.

Tobacco farmers and manufacturers are at a crossroads that may very well define their destiny. They can either choose to work in good faith, or they can choose not to. If they choose to harbor ill-will and mistrust, the destruction rampant in this industry will be far greater than anything Congress could ever levy by politics or legislation.

Mr. President, during these obviously difficult times in tobacco country, squadrons of politicians in Washington and elsewhere are eager for headlines back home at the expense of the farmers. No one knows what will happen with the McCain bill, nor with any other tobacco legislation that may come forward. But I can promise you this: there will continue to be a number of special interest groups that will try to exploit the fears of the tobacco farmer for their own gain.

I can counsel our folks back home to avoid being disillusioned. If we work together and in good faith, the tobacco farmers of America will continue to have a future, no matter the threats and pleadings from the political chorus—which is becoming a little more discordant with every passing day.

Mr. President, I thank the Chair.

Mr. KERREY. Mr. President, I want to say to the Senator from North Carolina, independent of the subject matter to which he just spoke, that I see him and the way he lives, and he is one tough bird. I admire his courage and I admire the way he keeps after it.

I just wish him the best of health.

Mr. HELMS. I thank the Senator.

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2343

Mr. ASHCROFT. Mr. President, I thank Senator ROTH and Senator MOYNIHAN for having accepted the Leahy-Ashcroft amendment which will provide electronic access to the IRS information on the Internet. This amendment will require the IRS to maintain its web site with current forms, instructions and publications so people anywhere with access to the Internet can have access to those forms.

To allow the public to have easy, efficient electronic access to all the IRS information that may be needed to adequately prepare a tax filing is a real benefit to the people, and I thank Senator ROTH and Senator MOYNIHAN for accepting the Leahy-Ashcroft amendment which will provide electronic access to the IRS information on the Internet. And I thank Senator LEAHY for his involvement in that measure.

Mr. President, I am pleased that the bipartisan amendment introduced by Senator LEAHY and me has been adopted into the current legislation. This amendment will give individuals the ability to access a great deal of material from the IRS. Revenue rulings, treasury regulations, internal revenue bulletins, and IRS general counsel memorandum are just a few of the documents that will routinely be made available in an easy to use format. This information should provide for an easier and more understandable approach to tax planning and preparation. Individuals will be able to see rulings that may be similar to a situation they are in currently and plan accordingly.

A central idea that I have carried from the time I was elected as a U.S. Senator was that the Federal Government be open and accessible to the public. I spent time traveling around Missouri, and visited every county, to demonstrate to students how they could access information about the federal government through my website. To rural and urban areas the power of the Internet is tremendous—so much that was far from reach is now accessible. This amendment moves IRS information closer to the public in an orderly educational way.

As has been mentioned here, the tax code has become increasingly complex and onerous. My wife is a tax attorney, she even teaches tax law at Howard University, and we do not even prepare our own tax forms. My hope is that this modest effort will provide the public with timely, reliable information that may assist in their efforts to prepare their taxes.

The effort is clearly a first step, that along with the rest of the provisions of this piece of legislation should provide the taxpayer with much more protection than they currently enjoy. Again, I thank the Finance Committee for its work, and Senator LEAHY for his advocacy on this issue.

Mr. President, I ask that the pending amendment be set aside and that I be allowed to send an amendment to the desk for consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2348

(Purpose: Striking the presumption that electronic verifications are treated as actually submitted and subscribed by a person)

Mr. ASHCROFT. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Missouri [Mr. ASHCROFT], for himself and Mr. LEAHY, proposes an amendment numbered 2348.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 261, strike lines 4 through 7, and insert "and subscribed".

Mr. ASHCROFT. Mr. President, the amendment which I have just sent to the desk, known as the Ashcroft-Leahy amendment, would strike a one-sentence provision that holds taxpayers as guilty until proven innocent. The IRS would deem a minimum level of security of a personal identification number code assigned each taxpayer for purposes of electronic filing as actually more binding than an analog signature.

Let me just sort of put that in ordinary language. Ordinarily, it is the responsibility of the IRS in seeking to act upon a tax return to prove that the signature is actually the signature of the person who purportedly signed it. For those individuals signing electronically, this provision would be reversed so that a person who signs electronically would be discriminated against as compared to an individual who signs in analog form.

That is a problem, but it is really not nearly the problem that comes when you just open the door to the legal nightmare for taxpayers who might be victims of electronic identity theft, where their identity is stolen electronically, whose pin codes or real electronic signature is fraudulently used. And secondly, not only does it subject people to that kind of risk, but it makes very bad technology policy. As we begin to welcome the use of technology to alleviate the kind of burden that is both on taxpayers and on the individuals in the bureaucracy, it is time for us to welcome the kind of technology which would provide valid authentication but not to switch to individuals who provide their tax returns via the Internet or via electronic filing a kind of discrimination which would be a disincentive for them to use the program.

The IRS is wedded to technology that is decades old. The kind of things they are talking about, the PIN code system would only make matters worse. A PIN code that anyone can type is not a secure means of authenticating documents. As we proceed into the future of electronic signatures with the use of a wide variety of technologies that will provide for authentication, it is important that we not, in the law, place this prejudice against the use of technology.

Currently, the Internal Revenue Service plans to implement electronic filing by means of a taxpayer PIN code that would actually be more authoritative than a written signature, so the person filing with a written signature would not undertake some of the responsibilities and liabilities people do with the electronic filing. That disparity in the way people are treated is not reasonable, it is not appropriate, and it is counterproductive. The IRS should use the best technology available for protection of such sensitive information and help to ensure the future of electronic commerce.

So we offer this Ashcroft-Leahy amendment which simply would strike the one-sentence provision that reverses, in terms of signatures on the Internet, the normal burdens of proof and the normal responsibility of the person proving up the document to prove the authenticity of the signature. To change in this respect for those who file electronically would be to repudiate hundreds of years of legal tradition, in terms of those seeking to prove up documents, that they prove the signature when they prove up the document.

Madam President, the Finance Committee version of this bill would establish a presumption against taxpayers filing electronically signed tax returns which does not exist for paper returns and which could have devastating consequences. Unless the Senate strikes this presumption, and opposes a similar provision in the House-passed version of this legislation, we will be leaving open the very real possibility that taxpayers who have been the victims of electronic identity theft will find themselves presumed guilty. Do we really want the innocent victim of a malicious computer hacker, forging spouse, a conniving business partner, or an embezzling accountant, to be confronted with a potentially insurmountable evidentiary hurdle when they assert that they either did not sign a tax document, or that the document has been materially altered since they signed it? What is worse is that this provision only places this burden on those who file electronically—another bias against technology.

Electronic tax filing is clearly the wave of the future and is the best method for both the IRS and taxpayers. For tax year 1997 24.2 million returns—one in five—were filed electronically, up from 19 million in the preceding year. Electronic filing is more efficient and accurate for all parties, but taxpayers should not be asked to give up rights in order to use this better technology. Certainly we did not ask for a greater burden to be placed on taxpayers who use a typewriter instead of a pen to prepare their taxes.

This language in the IRS bill is the first federal statutory language dealing with the authentication of electronic interaction between citizens and the Federal Government. It is very important that we set the right precedent. But this presumption is completely at odds with the view of legal experts on electronic commerce and evidence and would set precisely the wrong precedent. If this presumption becomes law inevitable "horror stories" will result. For many Americans, electronic authentication of their tax returns will be their first experience with an all-electronic transaction. We must be careful that we do not permit situations to occur which will cause the public to feel that electronic commerce and transactions should be avoided if they want to preserve their rights.

This presumption is antithetical to the jurisprudence developing in the area of cyberlaw. There are several measures being considered in Congress dealing with broad issues of electronic signatures, and none of them proposes to set such an adverse evidentiary standard against those who employ electronic authentication. The drafting committee of the National Conference of Commissioners on Uniform State Laws, which is laboring to produce a model Electronic Authentication Act for consideration by state legislatures, has just voted to delete any presumptions pertaining to electronic signatures from that civil law measure. The Committee on Cyberspace Law of the American Bar Association's Business Law Section discussed this IRS presumption at their last meeting and voted to authorize communications to the Senate opposing the provision. Additionally, the Working Groups on Evidence and on Law and Regulation of the Information Security Committee of the ABA's Science and Technology Section recommended that no presumptions as to identity and intent should attach to an electronic signature.

With many of the experts in this developing legal area reaching consensus that presumptions should not operate against electronic signatories even in a civil law context, how can we justify establishing one which can be utilized against taxpayers in criminal prosecutions?

Let's be clear on what this legislation does in its present form. It authorizes the IRS to develop procedures for the acceptance of signatures in digital and electronic form so that electronically filing taxpayers no longer have to send a signed paper form 8453 to the IRS. That is good policy. It establishes the principle that an electronically signed tax document shall be treated for all civil and criminal purposes as a paper document. And that too is good policy. But it permits the IRS to provide for alternative means of subscribing to electronic documents until it adopts procedures for digital and electronic signatures. And it would allow any IRS-authorized method of subscription to create a presumption that the taxpayer actually submitted and subscribed to the tax document—a presumption in both civil and criminal cases.

Worse yet, the legislative history of this provision, in both the House and Senate bills, is silent as to the minimum standards for authentication technologies that can be adopted by the IRS as well as to the evidentiary burden which must be overcome by taxpayers who allege that they have been victims of identity theft. What, in fact, is the IRS planning to use for authentication of electronic tax documents? Their plans are public, and they consist of issuing a PIN number to taxpayers and relying on that as the primary means of electronic authentication through the year 2007. A PIN number is not generally recognized as an electronic or digital signature for electronic commerce purposes, and it is certainly not secure or reliable.

The Finance Committee recently held hearings on the plight of innocent spouses, many of whom were caught up in tax disputes when their spouse forged their name on a fraudulent tax return. This provision would make it easier for such a fraud to be perpetrated in the future, as the malicious spouse would simply have to type their marriage partner's PIN number on an electronic return rather than forge their signature on paper. And the victimized spouse would be worse off, because they would have to overcome an evidentiary presumption which does not exist for an ink signature. This presumption is dangerous.

We have not only failed to require that the IRS utilize only secure and reliable authentication methodologies, but we have also given it carte blanche to determine what burden a taxpayer must bear to overcome this evidentiary hurdle. This is completely at odds with other provisions of the bill which seek to alter the burden of proof in tax disputes in favor of taxpayers. It has been observed that proving a negative can be an impossible task. Yet this provision would let the IRS require taxpayers to somehow prove that they did not place their PIN number, not a digital signature, on a tax document which they may well have never seen.

Striking this presumption will in no way diminish the ability of the IRS to rapidly implement an all-electronic tax system. It will simply compel the IRS to choose secure and reliable authentication technologies and associated procedures for signing tax documents which create strong evidence of identify and intent. Electronic signatures do not require any assist from an evidentiary presumption to meet the legal requirements of a binding signature. To the contrary, electronic and digital signature technologies are already available which provide better evidence than an ink signature on paper. Further, these technologies not only provide superior authentication, but they also accomplish something that no pen on ink signature can—they provide irrefutable evidence as to non-repudiation by demonstrating that not a single word on a document has been altered, added, or deleted since the time it was signed. With such technologies readily available at reasonable cost, why should we permit the use of insecure and unreliable methodologies coupled to an anti-taxpayer presumption? After striking this presumption an electronic tax document will still have the same legal standing as a paper document. It will still constitute prima facie evidence as an authentic and reliable writing. But, if questions arise regarding the genuineness of an electronic signature, or under the current IRS plan a mere PIN number, and the intent with which it was attached, they will be resolved on the basis of the available evidence and will not be prejudged by a presumption against a taxpayer.

This amendment is already supported by several groups, including the Electronic Frontier Foundation, Americans for Tax Reform, Eagle Forum, Citizen's For A Sound Economy, National Taxpayer's Union, the Chamber of Commerce, the Association of Concerned Taxpayers, Black America's PAC, Citizens Against Higher Taxes, Regulatory Policy Center, and the Seniors Coalition. These are groups that have had the vision to look to the future of electronic commerce and electronic interaction with our government and have seen that bad precedent now will severely damage efforts in the future. I also want to thank Senator LEAHY and his staff for their quick response and solid work on this important provision.

This may seem like an esoteric issue. It is an evidentiary concern within a tax bill regarding procedures and technologies with which most of us are not yet very familiar. But a massive shift to electronic commerce, transactions, authentication and evidence is underway which will soon revolutionize the manner in which the public and private sectors conduct their business. That is why it is so important that we take the correct first steps. I urge my colleagues to join me and act to delete this dangerous presumption from the IRS bill. This legislation will only fulfill our goal of enhancing taxpayer rights if we adopt the principle that those rights should be identical regardless of whether taxpayers file physical or virtual documents.

I want to especially thank the Senator from Vermont, Senator LEAHY, for his involvement in these issues and his sensitivity to the need to have a forward-looking, future-oriented policy expressed towards electronics, electronic data transmission, the filing electronically of tax returns. I personally thank Senator BURNS of Montana, who has asked that he be added as an original cosponsor of the Ashcroft-Leahy amendment.

I ask unanimous consent that Senator BURNS be included as an original cosponsor of the amendment.

The PRESIDING OFFICER (Mrs. HUTCHISON). Without objection, it is so ordered.

Mr. ASHCROFT. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I strongly support the amendment offered by my friend from Missouri and commend the Senator from Missouri for what he has just said.

I am proud to cosponsor this effort. It strikes the one sentence in this IRS reform bill that I believe takes away the rights of a taxpayer. I know that is not the intent of the sponsors of this legislation. They have done a very good job trying to reform the IRS. I think we can correct this error.

The bill as currently written would create a rebuttable presumption by the Internal Revenue Service that any tax return which has been signed by electronic or digital means has actually been submitted by the person associated with the virtual signature. That is a rebuttable assumption that is unnecessary. It is adverse to the taxpayers' interests. But worse, it is likely to deter taxpayers from accepting all-electronic tax filing.

More and more things are being done online, more and more things are being done electronically, and more and more taxpayers are getting used to doing a lot of their commercial transactions electronically. And they should be able to do the same with the one thing that every one of us has to do at least once a year, and that is file a tax return. We may or may not order from an electronic catalog, we may or may not buy things over the Internet, but sometime during the year we have to pay our taxes. If we are used to using things electronically, we should be able to file our tax return electronically.

But unless the sentence we are talking about is removed from this bill, a taxpayer filing an all-electronic tax document will face a greater evidentiary burden in any subsequent dispute with the IRS than a taxpayer who signed a paper return with pen and ink. An electronic signature should have no less and no greater status in the tax context than a physical signature.

The presumption would provide unintended assistance to perpetrators of tax frauds, forgeries, and electronic identity thefts such as the "innocent spouse" cases recently reviewed by the

Finance Committee. It could even reverse the presumption of innocence and due process of taxpayers in criminal prosecutions by the IRS. None of us want to do that.

We have laws regarding authentication of electronic and digital signatures, but they are in their infancy. Several States, including my home State of Vermont, are crafting legislation to promote secure and reliable digital signatures. Senator ASHCROFT and I, by working together to craft bipartisan Federal legislation on digital signatures, are trying to do precisely that. Congress should not be giving the Internal Revenue Service unrestricted authority in this emerging area of cyberspace law.

If you adopt the Ashcroft-Leahy amendment, then, if you have an electronically authenticated tax document, it will still be treated under the bill, for all civil and criminal purposes, the same as a paper return. That principle of equality is the correct standard. Citizens should not be required to forfeit rights to use new technology.

If somebody is used to using the Internet, if they are used to using their computers in electronic commerce, they should not suddenly have a roadblock go up to say, "But not on your tax returns. You have to go the old-fashioned way." If people are going into the computer and digital age, they ought to be able to do that for their tax returns, too.

I commend what Senator ROTH, the distinguished chairman of the Finance Committee, and Senator KERREY and Senator MOYNIHAN and Senator GRASSLEY have done here to bring us into the electronic age and to bring us to a more modern system with the IRS. What the Senator from Missouri, Mr. ASHCROFT, and I are trying to do is to make sure we go even further into the modern age. Our amendment is supported by such diverse groups as the U.S. Chamber of Commerce, the Electronic Frontier Foundation, and Americans for Tax Reform.

So I hope my colleagues will support the Ashcroft-Leahy-Burns amendment.

Madam President, I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I congratulate my colleagues, Senator ASHCROFT and Senator LEAHY. Senator LEAHY and I have been on many issues with regard to the Internet. I think Senator LEAHY, whenever we talk about this issue, what we want to do with it, also understands another issue called encryption and how important security is. We have been around to see this thing grow and blossom. They go hand in hand, basically, as we use this technology more.

My friend from Missouri being very interested in this, as chairman of the Subcommittee on Communications, we will continue to work on these kind of issues. This should be an easy amendment for this body to support—in fact, for this Congress to support. If you want to continue to use the same burdensome and bureaucratic methods that we have used in the past, then don't support this amendment. Don't support this amendment if you like the status quo. If we, as a voice of our constituents, are truly interested in IRS reform for taxpayers, then we need to support it. More and more Americans are becoming Internet savvy, and the day is not far off when most of the business and personal transactions will take place on the Internet. We are already banking; we are handling financial transactions on the Internet. So why should this not be one that we can use, at least once a year?

The Internet is just not for surfing anymore. If you want to surf, I guess you can go to California. But in Montana and rural areas, our connection to these kinds of services is going to come through that medium.

We need electronic commerce. It is going to be the future of the new way, and we have to accept that and learn to use it.

Adopting this amendment will encourage the American taxpayer that we are interested in reforming the way the IRS does business. There is no reason to treat electronic tax filers any different than taxpayers using the traditional filing methods.

The deployment of electronic commerce will ultimately save American taxpayers not only time, but it will save them money. Such discriminating treatment makes no sense and has a far-reaching negative impact in delaying the benefits to both the U.S. Government and citizens in conducting business electronically.

The amendment at issue is a perfect example of that. What possible justification is there in placing the presumption upon the taxpayer improving a case simply because he chose to file his tax return electronically instead of putting it in an envelope? It is just unproductive.

If we are not supposed to look to the future, then what are we supposed to be doing around here? Are we not supposed to make our Federal Government friendlier and more accessible to the taxpayer? I would say yes, we are. Are we not supposed to have a visionary agenda regarding the IRS? I say we should.

We in Congress should strive for a consistent treatment for functionally equivalent transactions, and I believe this will be one of our most significant challenges as we move into the next century.

More and more businesses, and communications generally, will be transacted over the Internet. That is why I am a cosponsor of this amendment. It will level the playing field for all taxpayers, regardless of the method they choose in filing their taxes.

The Internet offers unlimited opportunity to both business and personal transactions. We need to foster those opportunities. We need to make it easier for taxpayers to file their taxes.

Our antiquated understanding of how transactions have to be treated historically is not the way we can do things in the future. This is why I am an advocate of a variety of different measures that would foster and encourage commerce and communication over the Internet, including the Internet Tax Freedom Act. And the use of encryption comes into this also, because the technology itself will never bloom until we can have some confidence in the security of the information that we send over the Internet. We have to work on that just as much. The continuing buildout of broadband infrastructure is very important. We will continue to develop that to make sure that it is accessible to every American and not just a chosen few, regardless of geographic location.

Madam President, I ask support of this amendment because I think it is very important if we are really serious about changing the way the IRS does business.

I thank the Chair. I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Madam President, in spite of what the Senator from Montana just said, I continue to support his amendment. There is no rebuttable presumption on my part. I believe it is a good amendment, and I am prepared to accept it.

I want to comment before the distinguished chairman of the committee rises to accept the amendment. I call to your attention that this title I consider to be one of the most important ones in the bill. I appreciate this may be the only amendment on this title. Congressman Portman and I put a lot of time and attention into it. I call to your attention that it starts off by saying:

> It is the policy of the Congress that—
>
> (1) paperless filing should be the preferred and most convenient means of filing tax and information returns, and
>
> (2) it should be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007.

The House actually mandates 80 percent. This just says the goal. Later, I will try to get an amendment, and I urge you to look at it—I will get you copies of it—which will add a third item which would say "the Internal Revenue Service should work cooperatively and not competitively with the private sector to increase electronic filing of such returns consistent with the Office of Management and Budget Circular A–76."

If this is going to develop correctly, I believe the IRS has to manage the competition with the private sector. We have to write the rules so the private sector can be called upon to answer the questions of how to use the technology correctly. I hope we can get an amendment adopted which will instruct the IRS not to compete but to work cooperatively with the private sector to get this done.

Mr. ROTH. Madam President, as my distinguished colleague indicated, this matter has been cleared with both sides. The amendment is acceptable.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 2348) was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROTH. Madam President, I ask unanimous consent that notwithstanding the previous consent agreement, the following amendments also be considered in order to H.R. 2676, the IRS reform bill, with all other provisions of the previous agreement still in effect: Grassley, refund offset; Grassley, Iowa pilot project; Grassley, taxpayer advocate council; Nickles, relevant. I ask unanimous consent for these additions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that at 9:30 a.m. on Thursday, the Senate resume consideration of the Thompson amendment No. 2356, and that the time until 10 o'clock a.m. be equally divided in the usual form. I further ask unanimous consent that at 10 o'clock a.m., the Senate proceed to a vote on, or in relation to, the Thompson amendment, and that no amendments be in order to the Thompson amendment prior to its disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Madam President, the distinguished chairman of the Finance Committee, Senator ROTH, and I will try to manage this bill so we can get it done tomorrow. There are what, 15 amendments approximately now on both sides. In order to get it done, Members who have amendments, I hope after we have our vote tomorrow morning, will stay on the floor and offer them so we can finish this bill. If we don't, it is likely there will be an extremely late session tomorrow night. Most of the controversial items on this piece of legislation really have been dealt with. We have the Treasury employees representative amendment to be dealt with tomorrow. We have the Treasury Secretary to be dealt with tomorrow. Most of the controversial stuff has already been resolved. I hope Members who have amendments will come down here with them as quickly as possible so we can finish this important piece of legislation tomorrow.

Mr. ROTH. I want to underscore what the distinguished Senator just said. It is important that we complete consideration of this legislation tomorrow. But in order to do so, it is of critical importance that those with amendments come down early so that we can dispose of them expeditiously.

MORNING BUSINESS

Mr. ROTH. Madam President, I ask unanimous consent there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL EATING DISORDER AWARENESS DAY

Mr. REID. Mr. President, I want to extend my appreciation to every Member of this Senate for unanimously passing a resolution that dedicates today to be National Eating Disorder Awareness Day.

The purpose is to raise awareness and educate others so that we can end the silence that has shrouded eating disorders for so long. The reason this is important is, this affects 8 million people. Eight million people in this country have eating disorders; the vast majority of them are women.

A recent study of a group of fourth graders reveals that 50 percent of these little students believed they were overweight. Eighty-one percent of the girls in the same group reported that they had already been on diets. These are 9-year-old kids.

Today, younger and younger children are adopting restrictive eating procedures and patterns. What begins as abnormal behavior toward food and weight control may develop into anorexia, bulimia, and other forms of disordered eating.

As with any illness, I believe it is wise to invest in resources and programs working toward prevention. By heightening awareness and increasing education, we can save many young children before they become trapped in a life-threatening cycle of an eating disorder.

I extend my appreciation to the entire Senate for allowing this resolution to pass. It sends a message to the country that we care about the 8 million people who have eating disorders.

URGING PRESIDENT CLINTON TO RETRACT ULTIMATUM TO ISRAEL

Mr. D'AMATO. Mr. President, the reason I rise at this time is because certain matters have come to my attention and they are disturbing. Today, I have sent a letter to the President of the United States in regard to this.

Mr. President, Israel is our closest ally, it is our most trusted friend among the nations of the Middle East. We have a long history of working together and supporting one another for the benefit of both nations and all of our people.

Now as we celebrate the 50th anniversary of Israel's independence, we should reaffirm our commitment to their peace and security and our support for their continuation as a strong, reliable, independent nation.

I am proud of what Israel has accomplished over 50 years. I am proud of their commitment to freedom and justice. Israel should be praised for what it has accomplished and for doing so over a very long period of time in which it has faced terrorism from within and without its own borders.

Israel has always fought its own battles. Its young have shed much blood to protect their freedom and they continue to this day to defend their right to exist. And their very right to exist is being threatened. Nations hostile to Israel throughout the region are a continuing threat to Israel's existence. And the Palestinian Authority to this day has yet to recognize Israel's legitimate right to exist.

It is wrong for the Clinton administration to pressure Israel to forgo its own security needs at this critical time. It is just wrong. It is counterproductive. It is dangerous to a legitimate peace effort. The brave Israeli citizens who stand ready to defend their nation should be supported by us in every fashion. To place an ultimatum on Israel at this time undermines the peace process and it denies a good friend the right to determine its own security needs. It is not just bad policy; it is wrong.

I urge President Clinton in the strongest terms to retract his ultimatum to Israel and to return America to our proper role as a friendly mediator in the search for peace and security for all nations in the Middle East.

Mr. President, I yield the floor.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING APRIL 24TH

Mr. HELMS. Mr. President, the American Petroleum Institute's report for the week ending April 24, that the U.S. imported 8,287,000 barrels of oil each day, an increase of 304,000 barrels over the 7,983,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 56.3 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Politicians had better give consideration to the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 8,287,000 barrels a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 5, 1998, the federal debt stood at $5,486,129,027,438.95 (Five trillion, four hundred eighty-six billion, one hundred twenty-nine million, twenty-seven thousand, four hundred thirty-eight dollars and ninety-five cents).

One year ago, May 5, 1997, the federal debt stood at $5,332,472,000,000 (Five trillion, three hundred thirty-two billion, four hundred seventy-two million).

Five years ago, May 5, 1993, the federal debt stood at $4,243,813,000,000 (Four trillion, two hundred forty-three billion, eight hundred thirteen million).

Ten years ago, May 5, 1988, the federal debt stood at $2,516,506,000,000 (Two trillion, five hundred sixteen billion, five hundred six million).

Fifteen years ago, May 5, 1983, the federal debt stood at $1,255,471,000,000 (One trillion, two hundred fifty-five billion, four hundred seventy-one million) which reflects a debt increase of more than $4 trillion—$4,230,658,027,438.95 (Four trillion, two hundred thirty billion, six hundred fifty-eight million, twenty-seven thousand, four hundred thirty-eight dollars and ninety-five cents) during the past 15 years.

"YOUTH HEALTH ISSUES"

Mr. LEAHY. Mr. President, I rise today to recognize a commendable group of Vermont teens. Oftentimes, society shortchanges teenagers by placing unfair stereotypes upon them and by not listening to what they have to say. The eighth grade students of Barton Academy have written an article to prove that they, as teens, are vital members of their community and of society as a whole. I was particularly impressed with not only the message but with the eloquence of this article. I ask unanimous consent that the article be printed in the CONGRESSIONAL RECORD so that all Senators may read the words of these fine teenagers.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the 1997 Vermont Kids Count]

YOUTH HEALTH ISSUES

The following article, written by a class of Barton eighth graders, introduces this section on youth health issues. It provides the much-needed perspectives of teenagers, drawing attention to not only their daily lives but to the heart of many teen issues—the adult society in which they live and grow.

TEENS DEFEND THEMSELVES AGAINST STEREOTYPES

We present ourselves not as problems to society, but as we really are, 32 teens looking at themselves and society. Not statistics, but the real thing, us. We would like to present what we do that we are proud of, feel we have accomplished, and what we have given to others. We come from all social and economic backgrounds and come together each day in our town school. We have our ups and downs with each other, but get along more often than we do not. Life is not perfect, but neither is yours.

If you knew us, lived with us, celebrated and grieved with us there would be no need for this response. However, it is our experience that most adults simply ignore, disregard or fear teens. How many adults can you see in any given line at a movie even nod recognition of a teen's humanity, much less start a short conversation? We want to start that conversation.

Hey Mister, did you know that some of us do barn chores before we even go to school every morning. We do evening chores, too. In between, we go to school, make honor roll on occasion, play sports, participate in band and chorus and ride the roller coaster of adolescence.

Some of us have part-time jobs to earn the money we want for things. We shovel snow, mow lawns, baby-sit and clean houses for less than minimum wage. We've saved our money for a few years to get what we wanted. We also earn money to buy some of our own clothing, sports equipment and entertainment. Some of us even earn money to contribute to family necessities. Imagine that.

We have a sense of community. Who do you see picking up the trash along our roads and fields during Green Up Day? Who is collecting bottles for a class trip? Who are the crossing guards so younger children won't get hit by cars? Whose clothes have thoughtfully been gone through and chosen with care to give to clothing centers, or victims of fires? We have given our clothes, our bicycles, games, money and music to others in need just because we were asked.

We, the 32 teens of the eighth grade of Barton, have volunteered to carry elders' grocery bags just because we saw them struggling. We also volunteer to shovel out our grandparents' dooryards, and even accept the money they insist we take because we know it makes them feel good, too. We march and play our musical instruments in Memorial Day and Veterans Day parades in honor of those who served. Sometimes we go to local nursing homes and play our instruments or sing. Sometimes we go just to share and talk.

Most of us have family responsibilities that we honor. We split wood and stack it; and move it from one place to another. We trudge through snow and mud to gather sap and help sugar. We do the laundry for the family, set the table, cook some meals, and clean up afterward and empty the trash. We grumble, but we do the chores. We watch our younger brothers and sisters. For the most part, we think we are pretty helpful. Some of us were even responsible for bringing the possibility of recycling into our homes.

Did you know that teens in our community volunteer to tutor younger children? Some of the teens at Lake Region Union High School coach our junior hoop program and referee our games. Most of us would gladly lend a hand if we were asked.

Society says that our job is school. Mandatory. We do that, too. We go, learn, try to learn, and try to learn again. Sometimes we give up but not too often. The dropout rate at Lake Region union High School is less than 2 percent, according to Lake Region Annual Report, Jan. 15, 1997. We might not be in the top 10 percent of the world's smartest kids, but do we really need to be? Society is a problem to us sometimes, too. If you want to separate society into parts, we, as teens and citizens, are not responsible for the pollution of the world, the genocide in most corners, poverty, houseless people, pornography, gridlock and the corruption of our national leaders. Drugs are everywhere. Do we manufacture them or smuggle them into the country? Society has taught us from the first time we viewed a sporting event that beer is where it's at. How are we to sort out the mixed messages we are bombarded with? We listen weekly to the adults in the news who compare us unfavorably with the test scores of other countries. We do not make the movies rated PG–13 that include more profanity than we would ever think of using. Where are the everyday role models that you would like us to emulate?

Our advice—get to know a teen up front and personal. We don't like the word scapegoat for anyone. It makes it too easy to cast the first stone.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND UKRAINE CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 122

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the text of a proposed Agreement for Cooperation Between the United States of America and Ukraine Concerning Peaceful Uses of Nuclear Energy, with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with Ukraine has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States. The agreement provides a comprehensive framework for peaceful nuclear cooperation between the United States and Ukraine under appropriate conditions and controls reflecting our common commitment to nuclear nonproliferation goals.

The proposed new agreement with Ukraine permits the transfer of technology, material, equipment (including reactors), and components for nuclear research, and nuclear power production. It provides for U.S. consent rights to retransfers, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or major critical components of such facilities. In the event of termination, key conditions and controls continue with respect to material and equipment subject to the agreement.

Ukraine is a nonnuclear weapon state party to the Treaty on the Non-proliferation of Nuclear Weapons (NPT). Following the dissolution of the Soviet Union, Ukraine agreed to the removal of all nuclear weapons from its territory. It has a full-scope safeguards agreement in force with the International Atomic Energy Agency (IAEA) to implement its safeguards obligations under the NPT. Ukraine was accepted as a member of the Nuclear Suppliers Group in April 1996, and as a member of the NPT Exporters Committee (Zangger Committee) in May 1997.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123b. and 123d. of the Atomic Energy Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session provided for in section 123d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 6, 1998.*

MESSAGES FROM THE HOUSE

At 3:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker appoints the following Members as additional conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; and appoints additional conferees from the Committee on Ways and Means, solely for consideration of title XI of the House bill and title VI of the Senate amendment and modifications committed to conference: Mr. NUSSLE, Mr. HULSHOF, and Mr. RANGEL.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 567. An act to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 220. Concurrent resolution regarding American victims of terrorism.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 567. An act to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes; to the Committee on the Judiciary.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 220. Concurrent resolution regarding American victims of terrorism; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4766. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1997–98 Marketing Year" (Docket FV98–905–2 IFR) received on May 4, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4767. A communication from the Acting Assistant Secretary of Defense for Reserve Affairs, transmitting, pursuant to law, notice of the delay of the report on military technical positions; to the Committee on Armed Services.

EC–4768. A communication from the Secretary of Defense, transmitting, notices of military retirements; to the Committee on Armed Services.

EC–4769. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "Authority to Fund Inspector Expenses From the Organization for the Prohibition of Chemical Weapons"; to the Committee on Armed Services.

EC–4770. A communication from the Executive Director of the Civil Air Patrol, transmitting, pursuant to law, the annual report of the Civil Air Patrol for fiscal year 1997; to the Committee on the Judiciary.

EC–4771. A communication from the Chairman of the Sentencing Commission, transmitting, amendments to the sentencing guidelines, policy statements, and official commentary; to the Committee on the Judiciary.

EC–4772. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of amendments to the Federal Rules of Appellate Procedure; to the Committee on the Judiciary.

EC–4773. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of amendments to the Federal Rules of Evidence; to the Committee on the Judiciary.

EC–4774. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of amendments to the Federal Rules of Civil Procedure; to the Committee on the Judiciary.

EC–4775. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of amendments to the Federal Rules of Criminal Procedure; to the Committee on the Judiciary.

EC–4776. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, the wiretap report for calendar year 1997; to the Committee on the Judiciary.

EC–4777. A communication from the Director of Operations and Finance, the American Battle Monuments Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1997; to the Committee on the Judiciary.

EC-4778. A communication from the Attorney General, transmitting, pursuant to law, a report on the U.S. Parole Commission for 1998; to the Committee on the Judiciary.

EC-4779. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Amendment of the Definition of Arriving Alien" (RIN1115-AE87) received on April 22, 1998; to the Committee on the Judiciary.

EC-4780. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Screening Requirements of Carriers" (RIN1115-AD97) received on April 29, 1998; to the Committee on the Judiciary.

EC-4781. A communication from the Acting Assistant Attorney General (Office of Legislative Affairs), transmitting, pursuant to law, the report of settlements (Property Damage and Personal Injury) for calendar year 1997; to the Committee on the Judiciary.

EC-4782. A communication from the Associate Attorney General, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1997; to the Committee on the Judiciary.

EC-4783. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of two rules: "Texas Regulatory Program and Abandoned Mine Land Reclamation Plan (Recodification)" (TX-040-FOR), "Pennsylvania Regulatory Program (Coal refuse disposal)" (PA-112-FOR) received on April 21, 1998; to the Committee on Energy and Natural Resources.

EC-4784. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Maryland Regulatory Program (Bond liability for remined lands)" (MD-042-FOR) received on April 16, 1998; to the Committee on Energy and Natural Resources.

EC-4785. A communication from the Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, the report of a rule entitled "National Forest Exchanges" (RIN1004-AC97) received on April 28, 1998; to the Committee on Energy and Natural Resources.

EC-4786. A communication from the Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, the report of a rule entitled "Royalties on Gas, Gas Analysis Reports, Oil and Gas Production Measurement, Surface Commingling, and Security" (RIN1010-AC23) received on May 1, 1998; to the Committee on Energy and Natural Resources.

EC-4787. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a modification report relative to the safety of dams; to the Committee on Energy and Natural Resources.

EC-4788. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a report on threatened national historic landmarks; to the Committee on Energy and Natural Resources.

EC-4789. A communication from the Acting Deputy Chief of Operations, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities" received on April 20, 1998; to the Committee on Energy and Natural Resources.

EC-4790. A communication from the Acting Associate Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Smith River National Recreation Area" (RIN0596-AB39) received on April 20, 1998; to the Committee on Energy and Natural Resources.

EC-4791. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of Financial Assistant Letter 98-02 received on April 16, 1998; to the Committee on Energy and Natural Resources.

EC-4792. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of an administrative directive regarding In-House Energy Management received on April 21, 1998; to the Committee on Energy and Natural Resources.

EC-4793. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of an administrative directive regarding suspect and counterfeit items received on April 21, 1998; to the Committee on Energy and Natural Resources.

EC-4794. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "A Role for Federal Purchasing in Commercializing New Energy-Efficient and Renewable-Energy Technologies"; to the Committee on Energy and Natural Resources.

EC-4795. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Building Energy Efficiency Standards Activities"; to the Committee on Energy and Natural Resources.

EC-4796. A communication from the Secretary of Energy, transmitting, pursuant to law, the report under the Metal Casting Competitiveness Research Act for fiscal year 1997; to the Committee on Energy and Natural Resources.

EC-4797. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Strategic Petroleum Reserve for calendar year 1997; to the Committee on Energy and Natural Resources.

EC-4798. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report relative to the uranium industry for calendar year 1997; to the Committee on Energy and Natural Resources.

EC-4799. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "International Energy Outlook 1998: With Projections Through 2020"; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following report of committees was submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2037. An original bill to amend title 17, United States Code, to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, to provide limitations on copyright liability relating to material online, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BYRD (for himself and Mrs. HUTCHISON):

S. 2036. A bill to condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces from the Republic of Bosnia and Herzegovina; to the Committee on Foreign Relations.

By Mr. HATCH:

S. 2037. An original bill to amend title 17, United States Code, to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, to provide limitations on copyright liability relating to material online, and for other purposes; from the Committee on the Judiciary; placed on the calendar.

By Mr. CHAFEE (for himself, Mr. BAUCUS, and Mr. WARNER) (by request):

S. 2038. A bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 2039. A bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. Res. 223. A resolution commending the Prince William Sound Community College on twenty years of education service; to the Committee on the Judiciary.

By Mr. STEVENS (for himself, Mr. COCHRAN, Mr. CHAFEE, Mr. HOLLINGS, Mr. INOUYE, and Mr. MURKOWSKI):

S. Res. 224. A resolution expressing the sense of the Senate regarding an international project to evaluate and facilitate the exchange of advanced technologies; considered and agreed to.

By Mr. ABRAHAM (for himself and Mr. LIEBERMAN):

S. Con. Res. 94. A concurrent resolution supporting the religious tolerance toward Muslims; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BYRD (for himself and Mrs. HUTCHISON):

S. 2036. A bill to condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces from the Republic of Bosnia and Herzegovina; to the Committee on Foreign Relations.

THE BOSNIA FORCE REALIGNMENT ACT

Mr. BYRD. Mr. President, the bill that I introduce today, on behalf of the distinguished Senator from Texas, Mrs. HUTCHISON, and myself, is an attempt to reduce the American portion of the NATO deployment to Bosnia and Herzegovina. It does so in a carefully staged manner over the next 2 years, going from the administration-planned force size of 6,900 ground troops at the end of this June, to 2,500 troops in February, 2000. In the interim, the amendment calls for a force size of 5,000 U.S. troops to be arrived at by February 1999, and 3,500 by July 1999.

This is a gradual drawdown to a level which more accurately approximates the size of the forces of France and Germany at this time. The United States would continue to honor its commitment to NATO to play an appropriate role in the Bosnia stabilization force, but the amendment provides crucial leverage on our allies in Europe to assume the leadership role that is appropriate for them in an operation near their borders in Europe.

The current plan by the administration, including the requirement for meeting a series of general benchmarks in the areas of democratization, an independent press and judiciary, and other reforms, could keep the United States with the leading force in Bosnia for an indefinite period. I do not believe the American people will support the proposition of a semi-permanent deployment with no end-game. Nevertheless, this year, for the first time, the President has said that there is no definite end-game, or exit schedule which he would propose. Thus, the pressure is off our allies to pick up more of the leading role, and our allies are perfectly content to keep the United States spending some $1.8 billion per year on this operation, in addition to the funds we contribute to NATO on an annual basis.

My good friend from the state of Michigan, the ranking member of the Armed Services Committee, Mr. LEVIN, has also been concerned over the permanent nature of the American deployment and the lack of leadership being displayed by our European partners. He has offered a proposal, as a provision in the supplemental appropriations bill, which was approved by the conference committee on that bill, to urge the President to reach an agreement on the deadlines for closure on the various benchmarks in the President's report. This is a good amendment by Mr. LEVIN, and it is a very good starting point, and I am supportive of it, but I am afraid that it does not contain the kind of pressure that would cause the administration to act decisively with our allies on the matter of sharing the burden of leadership in Bosnia. I do not think that the Levin amendment, which, as I say, I strongly support, goes far enough.

The administration seems not to work very effectively, except under the pressure of explicit deadlines and an explicit schedule with specific numbers, dates, and goals. This specificity is provided by the amendment which Mrs. HUTCHISON and I presently intend to offer to the fiscal year 1999 Department of Defense authorization bill when it comes to the floor. I hope that my colleagues will have a careful look at the details of the amendment. I believe that it deserves strong bipartisan support. It is a responsible approach, and it provides the time and the impetus for our allies to get their acts together and begin to take responsibility for the peace of the European Continent. The United States will continue to play an important supporting role in this effort, but I hope we will begin to wean our allies from the overdependence upon the United States that they currently exhibit.

Reports over the last few days on the very disturbing developments in the Serbian province of Kosovo need the focus of the Senate and the administration and of all Americans. These events demonstrate my point. We may well have a catastrophe in the making, and the question of heading off, or at least containing ethnic unrest in Kosovo must be addressed by the administration, as well as by NATO. I don't see any evidence that the administration is moving in the direction of providing that kind of address. There may be steps that we need to take right now to prepare for worst-case eventualities. The administration needs to inform the Senate in detail on its policy regarding the possible scenarios involving the situation in Kosovo.

The amendment offered by Senator HUTCHISON and myself does provide that the forces which we move out of Bosnia proper can be redeployed to the periphery of that troubled region—into Hungary, for instance, and particularly into Macedonia, in an effort to demonstrate to the Serbs and other parties that NATO will not stand for the spreading of the ethnic conflict beyond the borders of Bosnia and Serbia. But the spread of the ethnic conflict in Kosovo is a separate issue which must be addressed by the administration, and I hope that the administration will get busy and give us just such an address. Everything possible should be done to forestall a spread of the ethnic conflict in Kosovo. Bosnia and its violent disposition must be contained and must not be allowed to infect the rest of Europe. We cannot countenance the spread of the ethnic violence into the southern Balkans, and we must do everything that we can to forestall the involvement of Greece and Turkey in future instabilities caused by the Bosnia and Kosovo situations.

The reduction in U.S. forces over a two-year period arranges a sure but gentle glidepath during which a reconfiguration of the composition of allied forces can be accomplished without opening up vulnerabilities for U.S. forces or causing uncertainties on the part of Serbian elements as to the staying power of NATO, while Bosnian unrest remains a threat to the peace of the continent. Yet, history must move in Europe, and the role of leadership on the ground, through the presence of American armies, must transition to one where a healthier balance of responsibility is created. This transition is especially important in light of the recent developments in Kosovo. In the long run, in an era where new states are being incorporated into NATO, and new practices of consensus-building and peacekeeping must be developed among the states of the alliance, Europe must begin to get a surer grasp of its own destiny through a spirit of close cooperation among its European NATO partners.

Mr. President, I hope that my colleagues will review the details of the amendment, and will choose to cosponsor it.

Mr. President, I send the bill to the desk on behalf of the distinguished Senator from Texas, Mrs. HUTCHISON, and myself and I ask that the title be stated.

The PRESIDING OFFICER. The clerk will state the title.

The bill clerk read as follows:

> A bill to condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces from the Republic of Bosnia and Herzegovina.

Mr. BYRD. Mr. President, the distinguished Senator from Texas and I expect this bill to be referred to the appropriate committee.

The PRESIDING OFFICER. The bill will be appropriately referred.

Mr. BYRD. As of now, Mr. President, I yield the remainder of whatever time I would have had to Mrs. HUTCHISON, that she may add it to the amount of time that she would have had under the request.

Let me express my appreciation for her cosponsorship of this amendment. She will work hard on its behalf as I will, and I feel honored and fortunate to have her as cosponsor of the bill. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, how much time is left on our amendment?

The PRESIDING OFFICER. Twenty-four minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I want to say how pleased I am to be working with my colleague, the senior Senator from West Virginia, who was honored last night on the Senate floor for having cast the most number of votes of any Senator in the history of our country—

15,000. It was quite awesome. I am pleased to have someone of his stature and experience to take the lead on this very important act that we hope the Senate will pass in the form of an amendment to the defense authorization bill, or failing that, the appropriations bill, because it is time that Congress step up to the line and fulfill its constitutional responsibility for allocating the military dollars.

Mr. President, as the senior Senator from West Virginia has stated, our bill will begin the orderly and honorable withdrawal of U.S. ground forces from the Republic of Bosnia and Herzegovina.

U.S. forces in Bosnia have accomplished the military mission assigned to them. They were sent to enforce the Dayton peace accords by keeping the warring factions separated. We all owe our troops a debt of gratitude for having done this with no combat loss of life to any American.

I have just returned this weekend from my seventh trip to the Balkans. I saw a well-trained professional force capable of performing any mission that we would give them as long as we give them the support they need. But I also saw a force on a mission with no clear direction and certainly no exit strategy. It has no end date. These troops have been spending more and more time away from home than at any other point in their careers.

The continuing and open-ended commitment of U.S. ground forces in Bosnia is subject to the oversight authority of Congress. When we narrowly voted to support this mission in 1995, I voted against it because I was afraid what would happen is exactly what is happening. We are now in an open-ended mission. This was not supposed to be an open-ended mission. It was supposed to be a 1-year commitment. That deadline was missed and the next deadline was missed.

It is very important that we have an exit strategy. The Secretary of Defense, and the Chairman of the Joint Chiefs, have said an exit strategy and an exit date is most important if we are not going to have mission creep. But, in fact, what I fear is that we do have mission creep in Bosnia, and as a matter of fact, we also have deadline creep.

NATO forces have increased their participation in police activities, something for which they are not trained. General Joulwan has said our military forces are not trained for police missions, and yet that is what they are doing more and more.

U.S. commanders in NATO have stated on several occasions that, in accordance with the Dayton peace accords, the principal responsibility for law enforcement rests with the parties to the Dayton agreement—the Serbs, the Croats, and the Muslims.

In a recent letter to Congress, President Clinton identified a host of additional missions that seem to go well beyond the peacekeeping scope of the U.S. forces in Bosnia and are aimed really at nation-building. These include—and I quote from his letter—"supporting * * * the conduct of elections and the installation of elected officials," and "supporting * * * media reform efforts."

During our recent trip we were briefed that establishing a rule of law and a judiciary were also among the criteria that must be established prior to our troops' withdrawal.

Mr. President, these are goals that could take 50 years to achieve, and they define a mission without an exit strategy. I would just say that the distinguished Senator who is presiding at this moment was also in the meetings we had in Bosnia this weekend. I think I speak for all of us who were there in saying that what we were told about an end date is a recipe for a mission with no exit strategy. Congress has had little to say, as the President has authorized an ever-longer commitment of troops for an ever-growing number of missions.

I believe that exceeds the war power authority of the President, although this is debatable and I cannot say that it is totally clear. But while the Constitution leaves some issues unsettled regarding war powers, there is no such conflict over the power of the purse. The Congress alone has the power. We have the responsibility to provide the money for our military and to look at the big picture.

The big picture, Mr. President, is that our troops are being flung around the world in police missions and peacekeeping missions, and we are losing the edge that a superpower must have to be able to act when no one else can or no one else will.

Senator BYRD and I do not want Congress to ever shrink from its constitutional responsibility. And it is Senator BYRD who understands the Constitution better than anyone on this floor. But I, as a new Member, am trying to see things in a way that our Founding Fathers intended and to remain true to the balance of power that they attempted to create.

Our bill is aimed at getting our European allies to start taking a greater share of the responsibility for their own regional security matters. This will free the United States to respond where our allies cannot or will not and where the United States is the only power that is capable of doing so.

It is in the interest of our allies that we maintain the capability to keep the world safe from threats that would endanger our mutual security. The United States has nearly twice the number of troops on the ground as our next closest ally, Great Britain. We have three times more than the French and German allies.

Our bill provides for a gradual-phased timetable of reduction of the level of U.S. troops so that by February in the year 2000 the American ground combat level would not exceed 2,500. This timetable is consistent with the stated objectives of the Clinton administration.

In a recent letter to several Senators, President Clinton said, "The deployment will not be open-ended . . . SFOR will be progressively reduced.

Mr. President, the Senator from West Virginia and I hope to aid the administration by offering a credible and orderly timetable for such reductions so that we can provide the ability to finance the mission with some sense that we will know what to expect.

Our bill provides 6,900 troops by June 30, 1998; 5,000 by February 2, 1999; 3,500 by June 30, 1999; and 2,500 by February 2, 2000.

Our bill exempts from these totals those forces that are needed to protect the U.S. troops as the drawdowns proceed. We also exempt those forces necessary to protect U.S. diplomatic facilities. Most important, we exempt any U.S. ground forces which may be deployed as part of NATO containment operations in regions surrounding the Republic of Bosnia and Herzegovina.

It is my belief that one of our principal objectives in the Balkans should be to prevent the conflict in Bosnia from spilling over into neighboring European countries. Should the President propose to establish a NATO containment perimeter around Bosnia, our bill would permit that.

Why is our legislation needed? What does it have to do with military readiness? Just last week this Congress approved adding a half a billion dollars to the Bosnia operation. This brings our total to $8 billion. The President has asked for another $2 billion for the next year. That makes a $10 billion operation, five times the original estimate this administration gave Congress.

Where is this money coming from? It is coming from future readiness. We are borrowing from the future to pay for a mission that is clearly capable of being performed by countries other than the world's only superpower. If they can do this, the United States can be ready to respond in other areas where we have mutual security threats with our allies, such as the Middle East and Asia.

There are ample indications that our readiness has begun to suffer as we have drawn forces and resources off to support regional conflicts. In the U.S. Pacific Command, the commander in chief testified before Congress that some forces required for long-term commitments in the Asia-Pacific area of responsibility are now positioned in the Persian Gulf. He further reports that the Pacific fleet is short over 1,900 sailors in key technical ratings.

In the Pacific Air Forces, the F–16 cannibalization rate is 12.8 percent—a more than 100 percent increase since 1995 due to lack of spare parts.

The Army faces similar shortfalls. A recent Army Times report revealed that while the 1st Armored Division was staffed at 94 percent, its combat support and service support specialties were filled at below 85 percent, and captains and majors were filled at 73 percent. Noncommissioned officers are also in short supply in the divisions, particularly sergeants. In the 10th Division, 24 of 162 infantry squads were not fully or only minimally filled.

According to Major General Carl Ernst, commanding general of the Army's premier infantry training post at Fort Monroe, VA, this is having a serious negative impact on the Army. General Ernst recently told a congressional panel at Fort Monroe, "We are now dangerously close to the breaking point."

What about the Air Force? In the Air Force, only 29 percent of the pilots eligible for a $60,000 bonus to sign up for 5 more years signed up. That is half the number that took that bonus last year.

Our military is stretched to the breaking point. Our military cannot continue to provide peacekeeping operations all over the world. This causes them to lose the skills for which they have been trained and dulls their fighting edge. We are letting it happen because the operations tempo is too high and the amount of money we have is finite.

What is suffering is the quality of life of our military. We are losing our most experienced people. Also our modernization suffers as we try to keep our best planes in the air, with the parts that they need to function, and, perhaps most important, the systems that we will need to meet the future security risks of our country and those of all of our allies. This includes the threat of an incoming ballistic missile with a nuclear, chemical, or biological weapon. We know that 30 countries in the world have ballistic missile capabilities, yet we are not deploying as quickly as possible any defenses.

What the Senator from West Virginia and I are asking is that our allies, who are perfectly capable of performing these peacekeeping missions as well as anyone can, take that responsibility. Let the United States build our forces through modernization and technology and develop missile defense systems so that we can be there if there is a real threat to our mutual security. We cannot have a military that is unable to respond. We must not have a military that is not respected by our allies, nor our adversaries.

The Senator from West Virginia has stood for the constitutional responsibility of Congress. I hope to follow in his footsteps in always reminding our Senate of the importance that we uphold our one-third of the balance of power in our Government. Our one-third is that we must be the stewards of the funds. Only Congress was empowered to declare war. I do not believe that our Founding Fathers intended for us to be sending troops abroad in operations other than war. They intended it to be a tough decision, to put our troops in harm's way.

Mr. President, I am going to stand for the U.S. Senate's responsibility to assure that we do not fling our troops around the world in operations other than war and dissipate our resources and our readiness. I am proud to cosponsor with the Senator from West Virginia the bill that will begin the orderly and responsible exit from Bosnia, with our allies, as a team, coming together and sharing this burden in a way that meets the regional test and meets our responsibility in the world to do that which no one else can.

I thank the Senator from West Virginia for his leadership in this area. I hope we will have the strongest bipartisan support for our bill so that we can make this law, so that our allies will know that when we say we are going to do something—whether it is something they like or don't like—that we will keep our word. That is in their best interests as well as ours.

I yield the floor.

Mr. BYRD. How much time remains?

The PRESIDING OFFICER. Six and a half minutes.

Mr. BYRD. I thank the distinguished Senator from Texas for a very knowledgeable and forceful statement, well articulated, and one which shows a great deal of wisdom with respect to the impact upon the readiness of our military forces, the impact caused by having our forces in Europe under the circumstances which we have described.

Mr. President, in order that Senators may be well informed as to the substance of the bill which the Senator from Texas and I are introducing, I ask unanimous consent it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bosnia Force Realignment Act".

SEC. 2. FINDINGS.

(a) The Congress finds the following:

(1) United States Armed Forces in the Republic of Bosnia and Herzegovina have accomplished the military mission assigned to them as a component of the Implementation and Stabilization Forces.

(2) The continuing and open-ended commitment of U.S. ground forces in the Republic of Bosnia and Herzegovina is subject to the oversight authority of the Congress;

(3) Congress may limit the use of appropriated funds to create the conditions for an orderly and honorable withdrawal of U.S. troops from the Republic of Bosnia and Herzegovina;

(4) On November 27, 1995, the President affirmed that United States participation in the multinational military Implementation Force in the Republic of Bosnia and Herzegovina would terminate in about one year.

(5) The President declared the expiration date of the mandate for the Implementation Force to be December 20, 1996.

(6) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff expressed confidence that the Implementation Force would complete its mission in about one year.

(7) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff expressed the critical importance of establishing a firm deadline, in the absence of which there is a potential for expansion of the mission of U.S. forces;

(8) On October 3, 1996, the Chairman of the Joint Chiefs of Staff announced the intention of the United States Administration to delay the removal of United States Armed Forces personnel from the Republic of Bosnia and Herzegovina until March 1997.

(9) In November 1996 the President announced his intention to further extend the deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina until June 1998.

(10) The President did not request authorization by the Congress of a policy that would result in the further deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina until June 1998.

(11) Notwithstanding the passage of two previously established deadlines, the reaffirmation of those deadlines by senior national security officials, and the endorsement by those same national security officials of the importance of having a deadline as a hedge against an expanded mission, the President announced on December 17, 1997 that establishing a deadline had been a mistake and that U.S. ground combat forces were committed to the NATO-led mission in Bosnia for the indefinite future;

(12) NATO military forces have increased their participation in law enforcement, particularly police, activities;

(13) U.S. Commanders of NATO have stated on several occasions that, in accordance with the Dayton Peace Accords, the principal responsibility for such law enforcement and police activities lies with the Bosnian parties themselves.

SEC. 3. LIMITATIONS ON THE USE OF FUNDS.

(a) Funds appropriated or otherwise made available for the Department of Defense for any fiscal year may not be obligated for the ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina except as conditioned below;

(1) The President shall continue the ongoing withdrawal of American forces from the NATO Stabilization Force in the Republic of Bosnia and Herzegovina such that U.S. ground forces in that force or the planned multi-national successor force shall not exceed:

(i) 6900, by June 30, 1998;

(ii) 5000, by February 2, 1999;

(iii) 3500, by June 30, 1999, and;

(iv) 2500, by February 2, 2000.

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply—

(1) to the extent necessary for U.S. ground forces to protect themselves as the drawdowns outlined in sub-paragraph (a)(1) proceeds;

(2) to the extent necessary to support a limited number of United States military personnel sufficient only to protect United States diplomatic facilities in existence on the date of the enactment of this Act; or

(3) to the extent necessary to support noncombat military personnel sufficient only to advise the commanders North Atlantic Treaty Organization peacekeeping operations in the Republic of Bosnia and Herzegovina; and

(4) to U.S. ground forces that may be deployed as part of NATO containment operations in regions surrounding the Republic of Bosnia and Herzegovina.

(c) CONSTRUCTION OF SECTION.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

(d) LIMITATION ON SUPPORT FOR LAW ENFORCEMENT ACTIVITIES IN BOSNIA.—None of the funds appropriated or otherwise made available to the Department of Defense for any fiscal year may be obligated or expended after the date of the enactment of this Act for the:

(1) Conduct of, or direct support for, law enforcement and police activities in the Republic of Bosnia and Herzegovina, except for the training of law enforcement personnel or to prevent imminent loss of life.

(2) Conduct of, or support for, any activity in the Republic of Bosnia and Herzegovina that may have the effect of jeopardizing the primary mission of the NATO-led force in preventing armed conflict between the Federation of Bosnia and Herzegovina and the Republika Srpska ('Bosnian Entities').

(3) Transfer of refugees within the Republic of Bosnia and Herzegovina that, in the opinion of the commander of NATO Forces involved in such transfer—

(A) has as one of its purposes the acquisition of control by a Bosnian Entity of territory allocated to the other Bosnian Entity under the Dayton Peace Agreement; or

(B) may expose United States Armed Forces to substantial risk to their personal safety.

(4) Implementation of any decision to change the legal status of any territory within the Republic of Bosnia and Herzegovina unless expressly agreed to by all signatories to the Dayton Peace Agreement.

SEC. 4. PRESIDENTIAL REPORT.

(a) Not later than December 1, 1998, the President shall submit to Congress a report on the progress towards meeting the drawdown limit established in section 2(a).

(b) The report under paragraph (a) shall include an identification of the specific steps taken by the United States Government to transfer the United States portion of the peacekeeping mission in the Republic of Bosnia and Herzegovina to European allied nations or organizations.

By Mr. HATCH:

S. 2037. An original bill to amend title 17, United States Code, to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, to provide limitations on copyright liability relating to material online, and for other purposes; from the Committee on the Judiciary; placed on the calendar.

DIGITAL MILLENNIUM COPYRIGHT ACT

Mr. LEAHY. Mr. President, the Digital Millennium Copyright Act, which the Senate Judiciary Committee is reporting today, is important for our economy, for our creative industries and for the future of the Internet. This legislation is based on the WIPO implementing legislation, S. 1121, recommended by the Administration and introduced last year by the Chairman, Senators THOMPSON and KOHL and me.

Following intensive discussions with a number of interested parties, including libraries, universities, small businesses, online and Internet service providers, telephone companies, computer users, broadcasters, content providers and device manufacturers, the Committee was able to reach unanimous agreement on certain modifications and additions incorporated into the bill and making this bill a product of which we can all be proud.

Significant provisions were added to the bill in Title II to clarify the liability for copyright infringement of online and Internet service providers. These provisions set forth "safe harbors" from liability for ISPs and OSPs under clearly defined circumstances, which both encourage responsible behavior and protect important intellectual property rights. In addition, during the Committee's consideration of this bill, an Ashcroft-Leahy-Hatch amendment was adopted to ensure that computer users are given reasonable notice of when their Web sites are the subject of infringement complaints, and to provide procedures for computer users to have material mistakenly taken down put back.

This bill contains a number of provisions designed to help libraries and archives. First, libraries expressed concerns about the possibility of criminal sanctions or potentially ruinous monetary liability for actions taken in good faith. This bill makes sure that libraries acting in good faith can never be subject to fines or civil damages. Specifically, a library is exempt from monetary liability in a civil suit if it was not aware and had no reason to believe that its acts constituted a violation. In addition, libraries are completely exempt from the criminal provisions.

Second, the bill contains a browsing exception for libraries. Libraries have indicated that in an online environment dominated by encrypted works it may be impossible for them to gain access to works to decide whether or not to acquire them. The current version of the bill permits libraries to circumvent access prevention technologies in order to make a good faith determination of whether or not it would like to buy a copy of a work. If the library decides that it wishes to acquire the work it must negotiate with the copyright owner just as libraries do today.

Third, the Chairman, Senator ASHCROFT and I crafted an amendment to provide for the preservation of digital works by qualified libraries and archives. The ability of Libraries to preserve legible copies of works in digital form is one I consider critical. Under present law, libraries are permitted to make a single facsimile copy of works in their collections for preservation purposes, or to replace lost, damaged or stolen copies of works that have become commercially unavailable. This law, however, has become outmoded by changing technology and preservation practices. The bill ensures that libraries' collections will continue to be available to future generations by permitting libraries to make up to three copies in any format—including in digital form. This was one of the proposals in the National Information Infrastructure Copyright Protection Act of 1995, which I sponsored in the last Congress. The Register of Copyrights, among others, has supported that proposal.

In addition, the bill would permit a library to transfer a work from one digital format to another if the equipment needed to read the earlier format becomes unavailable commercially. This change addresses a problem that should be familiar to anyone whose office has boxes of eight-inch floppy disks tucked away somewhere.

These provisions go a long way toward meeting the concerns that libraries have expressed about the original bill, S. 1121, introduced to implement the WIPO treaties.

Another issue that the bill addresses is distance learning. When Congress enacted the present copyright law it recognized the potential of broadcast and cable technology to supplement classroom teaching, and to bring the classroom to those who, because of their disabilities or other special circumstances, are unable to attend classes. At the same time, Congress also recognized the potential for unauthorized transmissions of works to harm the markets for educational uses of copyrighted materials. In the present Copyright Act, we struck a careful balance and crafted a narrow exemption. But as with so many areas of copyright law, the advent of digital technology requires us to take another look at the issue.

I recognize that the issue of distance learning has been under consideration for the past several years by the Conference on Fair Use (CONFU) that was established by the Administration to consider issues relating to fair use in the digital environment. In spite of the hard work of the participants, CONFU has so far been unable to forge a comprehensive agreement on guidelines for the application of fair use to digital distance learning. The issue is an important one, and I commend Senator ASHCROFT for his attention to this matter.

We made tremendous strides in charting the appropriate course for updating the Copyright Act to permit the use of copyrighted works in valid distance learning activities. The Chairman, Senator ASHCROFT and I joined together to ask the Copyright Office to facilitate discussions among interested library and educational groups and content providers with a view toward making recommendations that could be incorporated into the DMCA at the

April 30 mark up. The Copyright Office did just that, once again providing a valuable service to this Committee.

Based on the Copyright Office's recommendations, we incorporated into the DMCA a new Section 122 requiring the Copyright Office to make broader recommendations to Congress on digital distance education within six months. Upon receiving the Copyright Office's recommendations, it is my hope that the Senate Judiciary Committee will promptly commence hearings on the issue and move expeditiously to enact further legislation on the matter. I know that my fellow members on this Committee are as anxious as I am to complete the process that we started in Committee of updating the Copyright Act to permit the appropriate use of copyrighted works in valid distance learning activities. This step should be viewed as a beginning—not an end, and we are committed to reaching that end point as quickly as possible.

Senator FEINSTEIN had sought to clarify when a university would be held responsible for the actions of its employees in connection with its eligibility for the safe harbors spelled out in title II of the bill. Chairman HATCH, Senator ASHCROFT and I agreed with Senator FEINSTEIN that the best way to address this issue is to have the Copyright Office examine this issue in a comprehensive fashion, because of its importance, complexity, and implications for other online service providers, including libraries and archives.

Amendments sponsored by Senators ASHCROFT, HATCH and I were also crafted to address the issues of reverse engineering, ephemeral recordings and to clarify for broadcasters the use of copyright management information in the course of certain analog and digital transmissions.

Legislative language was incorporated into the bill to clarify that the law enforcement exemptions apply to all government agencies which conduct law enforcement and intelligence work, as well as to government contractors engaging in intelligence, investigative, or protective work.

Chairman HATCH, Senator ASHCROFT and I agreed to language to assuage the concerns of the consumer electronics manufacturers, and others, that the bill might require them to design their products to respond to any particular technological protection measure. We also agreed to incorporate provisions into the bill clarifying that nothing in the bill will prevent parents from controlling their children's access to the Internet or individuals from protecting personal identifying information.

By reaching agreement on this bill, this Committee is helping to create American jobs, protect American ingenuity, and foster an ever more vibrant Internet. In short, the WIPO treaties and this implementing legislation are important to America's economic future. The bill addresses the problems caused when copyrighted works are disseminated through the Internet and other electronic transmissions without the authority of the copyright owner. By establishing clear rules of the road, this bill will allow electronic commerce to flourish in a way that does not undermine America's copyright community.

In a recent letter about the DMCA, Secretary Daley said, "The United States must lead the way in setting a standard that will protect our creative industries and serve as a model for the rest of the world. And we need to act as quickly as possible."

This bill is a well-balanced package of proposals that address the needs of creators, consumers and commerce well into the next century. I urge all of my colleagues to support the Digital Millennium Copyright Act and work for its prompt passage.

Mr. KOHL. Mr. President, I rise to express my support for the Digital Millennium Copyright Act of 1998. In my view, we need this measure to stop an epidemic of illegal copying of protected works—such as movies, books, musical recordings, and software. The copyright industry is one of our most thriving businesses. But we still lose more than $15 billion each year due to foreign copyright piracy, according to some estimates.

This foreign piracy is out of control. For example, one of my staffers investigating video piracy on a trip to China walked into a Hong Kong arcade and bought three bootlegged computer games—including "Toy Story" and "NBA '97"—for just $10. These games normally sell for about $100. Indeed, the manager was so brazen about it, he even agreed to give a receipt.

Illegal copying has been a long-standing concern to me. I introduced one of the precursors to this bill, the Motion Picture Anti-Piracy Act, which in principle has been incorporated into this measure. And I was one of the original cosponsors of the original proposed WIPO implementing legislation, the preliminary version of this measure.

In my opinion, this bill achieves a fair balance by taking steps to effectively deter piracy, while still allowing fair use of protected materials. It is the product of intensive negotiations between all of the interested parties—including the copyright industry, telephone companies, libraries, universities and device manufacturers. And every major concern raised during that process was addressed. For these reasons, it earned the unanimous support of the Judiciary Committee. Of course, as with any legislation, some tinkering may still be needed.

I am confident that this bill has the best approach for stopping piracy and strengthening one of our biggest export industries. It deserves our support.

By Mr. CHAFEE (for himself, Mr. BAUCUS, and Mr. WARNER) (by request):

S. 2038. A bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance; to the Committee on Environment and Public Works.

THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Mr. CHAFEE. Mr. President, today I am introducing the John F. Kennedy Center for the Performing Arts Authorization Act. I am introducing this bill at the request of the Kennedy Center Board of Trustees, in my capacity as Chairman of the Committee on Environment and Public Works. Joining me as cosponsors of the bill are the chairman and ranking member of the Subcommittee on Transportation and Infrastructure, Senators WARNER and BAUCUS.

The concept of a national center for the performing arts originated during the administration of President Dwight D. Eisenhower. President Eisenhower envisioned a national cultural center in the nation's capital, and in 1958, with the support of Congress, he signed into law the National Cultural Center Act, which established the Center as an independently administered bureau of the Smithsonian Institution. Following the death of President Kennedy, the Congress in 1964 renamed the Center in honor of the late president.

The Kennedy Center was opened to the public in September 1971. The response was overwhelming—so much so that the Center's Board of Trustees requested help from Congress in maintaining and operating the Center, for the benefit of the millions of visitors. In 1972, Congress authorized the National Park Service to provide maintenance, security, and other services necessary to maintain the facility. For the next two decades, the Park Service received federal appropriations for the maintenance and operation of the Presidential monument.

In the early part of this decade, however, it became clear that the Kennedy Center facility—which had not seen comprehensive capital repair since its opening—had deteriorated significantly due to both age and intensive public use. Those repairs that had taken place—such as the 1977 repair of the leaking roof—were undertaken in response to threatening conditions. The Board of Trustees, with the support of the Park Service, therefore set out to achieve a more effective long-term approach to management of the facility, with one entity responsible for both the care of the physical plant and the staging of performance activities.

In 1994, therefore, Congress approved and the President signed the John F. Kennedy Center Act Amendments

(Public Law 103-279). That Act authorized the transfer of all capital repair, operations, and maintenance of the facility from the Park Service to the Board of Trustees.

The Act also directed the Board to develop a comprehensive, multi-year plan for the restoration and ongoing maintenance of the Kennedy Center. In 1995, the Board delivered the Comprehensive Building Plan, which set forth a long-term, two-stage program for the remediation of substandard building conditions, as well as continuous maintenance for the future. Phase I, scheduled for Fiscal Years 1995 through 1998, has concluded successfully. During this time, several major projects were completed, including the installation of a new, energy-efficient heating and cooling system, replacement of the leaking roof and roof terrace, and the major renovation of the Concert Hall. Phase II is scheduled to take place over the next eleven fiscal years, through Fiscal Year 2009. This stage will involve the massive "Center Block" project, during which the Opera House will be overhauled, as well as projects to make improvements to the plaza, improve accessibility to the theaters, install fire and other safety technology, and make a host of other repairs designed to ensure that the facility meets life safety standards.

That brings us to the legislation I am introducing today. For the major Phase II projects to get underway, Congress must revise the 1994 Act to authorize appropriate funding for the next several fiscal years. The bill I am introducing today authorizes significant funding levels for the next eleven fiscal years for maintenance as well as capital repair work.

Over the next several weeks, I and other members of the Committee on Environment and Public Works intend to review carefully the planned repair activities and the authorization request. The Kennedy Center is a living Presidential memorial and a national monument, and as such demands a high standard of maintenance and upkeep. As an ex-officio member of the Board, and Chairman of the authorizing Committee, I am dedicated to the appropriate restoration and preservation of the facility, which millions of Americans have enjoyed for more than a quarter of a century. Nevertheless, it is Congress' duty on behalf of the taxpayers to scrutinize this request closely. I look forward to working with my colleagues in the Senate, the Administration, and the Kennedy Center Board to ensure that we allocate federal resources in an effective and responsible manner.

By Mr. BINGAMAN:

S. 2039. A bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail; to the Committee on Energy and Natural Resources.

THE EL CAMINO REAL DE TIERRA ADENTRO NATIONAL TRAIL ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail. This legislation is important to New Mexico and contributes to the national dialogue on the history of this country and who we are as a people.

In history classes across the country, children learn about the establishment of European settlements on the East Coast, and the east to west migration which occurred under the banner of Manifest Destiny. We in New Mexico, however, also know the story of the northward exploration and settlement of this country by the Spanish, a little known but important piece of America's history.

My legislation recognizes a proud chapter in American history; the northward exploration and settlement of the Southwest by the Spanish. Building upon a network of trade routes used by the indigenous Pueblos along the Rio Grande, Spanish explorers established a migration route into the interior of the continent which they called "El Camino Real de Tierra Adentro," the Royal Road of the Interior. My bill will amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail, and give the National Park Service a mandate to develop interpretive displays explaining the importance of the trail during the Spanish settlement of the southwest United States.

This legislation is especially appropriate in this year of the Cuartocentenario, which commemorates the 400th anniversary of the establishment of the first Spanish capital at San Juan Pueblo, the first terminus of the El Camino Real de Tierra Adentro.

In 1598, almost a decade before the first English colonists landed at Jamestown, Virginia, Don Juan de Oñate led a Spanish expedition which established the northern portion of El Camino Real de Tierra Adentro. The road was the main route for communication and trade between the colonial Spanish capital of Mexico City and the Spanish provincial capitals at San Juan de Los Caballeros, San Gabriel and then Santa Fe, New Mexico.

From 1598 to 1821 El Camino Real de Tierra Adentro facilitated the exploration, conquest, colonization, settlement, religious conversion, and military occupation of the borderlands. The Spanish influence from that period can still be seen today in the ethnic and cultural traditions of the southwestern United States.

In the 17th century, caravans of wagons and livestock struggled for months to cross the desert and bring supplies up El Camino Real to missions, mining towns and settlements in New Mexico. On one section known as the Jornada del Muerto, or Journey of Death, they traveled for 90 miles without water, shelter, or firewood. Wagons heading south carried the products of New Mexico to markets in Mexico.

El Camino Real became an integral part of an international network of commerce between Europe, the United States, New Mexico and other provinces of the Mexican republic. The route is a symbol of the commercial exchange and cultural interaction between nations and diverse ethnic groups that led to the development of the southwestern United States. It is also a proud symbol of the contributions of Hispanic people to the development of this great country.

As we enter the 21st century, it's essential that we embrace the diversity of people and cultures that make up our country. It is the source of our dynamism and strength. I look forward to helping to advance our understanding of our rich cultural history through this initiative.

Mr. President I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "El Camino Real de Tierra Adentro National Historic Trail Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) El Camino Real de Tierra Adentro (the Royal Road of the Interior), served as the primary route between the colonial Spanish capital of Mexico City and the Spanish provincial capitals at San Juan de Los Caballeros (1598–1600), San Gabriel (1600–1609) and Santa Fe (1610–1821);

(2) the portion of El Camino Real in what is now the United States extended between El Paso, Texas, and present San Juan Pueblo, New Mexico, a distance of 404 miles;

(3) El Camino Real is a symbol of the cultural interaction between nations and ethnic groups and of the commercial exchange that made possible the development and growth of the borderland;

(4) American Indian groups, especially the Pueblo Indians of the Rio Grande, developed trails for trade long before Europeans arrived;

(5) in 1598, Juan de Oñate led a Spanish military expedition along those trails to establish the northern portion of El Camino Real;

(6) during the Mexican National Period and part of the United States Territorial Period, El Camino Real facilitated the emigration of people to New Mexico and other areas that were to become part of the United States;

(7) the exploration, conquest, colonization, settlement, religious conversion, and military occupation of a large area of the borderland was made possible by El Camino Real, the historical period of which extended from 1598 to 1882;

(8) American Indians, European emigrants, miners, ranchers, soldiers, and missionaries used El Camino Real during the historic development of the borderland, promoting cultural interaction among Spaniards, other Europeans, American Indians, Mexicans, and Americans; and

(9) El Camino Real fostered the spread of Catholicism, mining, an extensive network of commerce, and ethnic and cultural traditions including music, folklore, medicine, foods, architecture, language, place names, irrigation systems, and Spanish law.

SEC. 3. AUTHORIZATION AND ADMINISTRATION.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended—

(1) by designating the paragraphs relating to the California National Historic Trail, the Pony Express National Historic Trail, and the Selma to Montgomery National Historic Trail as paragraphs (18), (19), and (20), respectively; and

(2) by adding at the end the following:

"(21) EL CAMINO REAL DE TIERRA ADENTRO.—

"(A) IN GENERAL.—El Camino Real de Tierra Adentro (the Royal Road of the Interior) National Historic Trail, a 404 mile long trail from the Rio Grande near El Paso, Texas to San Juan Pueblo, New Mexico, as generally depicted on the maps entitled 'United States Route: El Camino Real de Tierra Adentro', contained in the report prepared pursuant to subsection (b) entitled 'National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de Tierra Adentro, Texas-New Mexico', dated March 1997.

"(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

"(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior.

"(D) LAND ACQUISITION.—No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

"(E) VOLUNTEER GROUPS; CONSULTATION.—The Secretary of the Interior shall—

"(i) encourage volunteer trail groups to participate in the development and maintenance of the trail; and

"(ii) consult with affected Federal, State, and tribal agencies in the administration of the trail.

"(F) COORDINATION OF ACTIVITIES.—The Secretary of the Interior may coordinate with United States and Mexican public and non-governmental organizations, academic institutions, and, in consultation with the Secretary of State, the government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.".

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. GRAMS, his name was withdrawn as a cosponsor of S. 10, a bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 263

At the request of Mr. McCONNELL, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 831

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 1002

At the request of Mr. ABRAHAM, the name of the Senator from Arizona (Mr. McCAIN) was added as a cosponsor of S. 1002, a bill to require Federal agencies to assess the impact of policies and regulations on families, and for other purposes.

S. 1141

At the request of Mr. JOHNSON, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1141, a bill to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes.

S. 1180

At the request of Mr. KEMPTHORNE, the name of the Senator from Kentucky (Mr. McCONNELL) was added as a cosponsor of S. 1180, a bill to reauthorize the Endangered Species Act.

S. 1252

At the request of Mr. DODD, his name was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

At the request of Mr. GRAHAM, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1252, supra.

S. 1283

At the request of Mr. BUMPERS, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1283, a bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the "Little Rock Nine" on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas.

S. 1334

At the request of Mr. BOND, the names of the Senator from Nebraska (Mr. KERREY) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1525

At the request of Mr. SPECTER, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from New York (Mr. D'AMATO) were added as cosponsors of S. 1525, a bill to provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty.

S. 1679

At the request of Mr. SARBANES, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1679, a bill to modify the conditions that must be met before certain alternative pay authorities may be excerised by the President with respect to Federal employees.

S. 1693

At the request of Mr. THOMAS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1693, a bill to renew, reform, reinvigorate, and protect the National Park System.

S. 1929

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes.

S. 1959

At the request of Mr. COVERDELL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1959, a bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs.

S. 1981

At the request of Mr. HUTCHINSON, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Missouri (Mr. ASHCROFT) were added as cosponsors of S. 1981, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 1985

At the request of Mr. HATCH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1985, a bill to amend Part L of the Omnibus Crime Control and Safe Streets Act of 1968.

SENATE CONCURRENT RESOLUTION 75

At the request of Mr. FEINGOLD, the names of the Senator from Montana (Mr. BURNS), the Senator from California (Mrs. BOXER), the Senator from Hawaii (Mr. AKAKA), the Senator from Ohio (Mr. DEWINE), the Senator from North Carolina (Mr. HELMS), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Georgia (Mr. CLELAND), the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from Nebraska (Mr. KERREY), the Senator from Rhode Island (Mr. REED), the Senator from Florida (Mr. GRAHAM), the Senator from Montana (Mr. BAUCUS), and the Senator from Kentucky (Mr. FORD) were added as cosponsors of Senate Concurrent Resolution 75, a concurrent resolution honoring the sesquicentennial of Wisconsin statehood.

SENATE RESOLUTION 216

At the request of Mr. LIEBERMAN, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Oklahoma (Mr. INHOFE), the Senator from Hawaii (Mr. INOUYE), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of Senate Resolution 216, a resolution expressing the sense of the Senate regarding Japan's difficult economic condition.

SENATE CONCURRENT RESOLUTION 94—SUPPORTING RELIGIOUS TOLERANCE TOWARD MUSLIMS

Mr. ABRAHAM (for himself and Mr. LIEBERMAN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 94

Whereas the American Muslim community, comprised of approximately 5,000,000 people, is a vital part of our Nation, with more than 1,500 mosques, Islamic schools, and Islamic centers in neighborhoods across the United States;

Whereas Islam is one of the great Abrahamic faiths, whose significant contributions throughout history have advanced the fields of math, science, medicine, law, philosophy, art, and literature;

Whereas the United States is a secular nation, with an unprecedented commitment to religious tolerance and pluralism, where the rights, liberties, and freedoms guaranteed by the Constitution are guaranteed to all citizens regardless of religious affiliation;

Whereas Muslims have been subjected, simply because of their faith, to acts of discrimination and harassment that all too often have led to hate-inspired violence, as was the case during the rush to judgment in the aftermath of the tragic Oklahoma City bombing;

Whereas discrimination against Muslims intimidates American Muslims and may prevent Muslims from freely expressing their opinions and exercising their religious beliefs as guaranteed by the first amendment to the Constitution;

Whereas American Muslims have regrettably been portrayed in a negative light in some discussions of policy issues such as issues relating to religious persecution abroad or fighting terrorism in the United States;

Whereas stereotypes and anti-Muslim rhetoric have also contributed to a backlash against Muslims in some neighborhoods across the United States; and

Whereas all persons in the United States who espouse and adhere to the values of the founders of our Nation should help in the fight against bias, bigotry, and intolerance in all their forms and from all their sources: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) Congress condemns anti-Muslim intolerance and discrimination as wholly inconsistent with the American values of religious tolerance and pluralism;

(2) while Congress respects and upholds the right of individuals to free speech, Congress acknowledges that individuals and organizations that foster such intolerance create an atmosphere of hatred and fear that divides the Nation;

(3) Congress resolves to uphold a level of political discourse that does not involve making a scapegoat of an entire religion or drawing political conclusions on the basis of religious doctrine; and

(4) Congress recognizes the contributions of American Muslims, who are followers of one of the three major monotheistic religions of the world and one of the fastest growing faiths in the United States.

Mr. ABRAHAM. Mr. President, I rise today to introduce S. Con. Res. 94, which encourages religious tolerance toward Muslims in America. I am proud to join my colleague, Senator JOE LIEBERMAN, in co-sponsoring this legislation. S. Con Res. 94 calls upon Congress to lead the effort in condemning anti-Muslim intolerance and discrimination.

Many may ask why a resolution such as this needs to be introduced in Congress. The answer is, unfortunately, that some Muslims in America have been subjected to discrimination and harassment based simply upon their religious beliefs. This, Mr. President, is inimical to the protections of our Constitution, and to our long-held, fundamental beliefs concerning religious tolerance and pluralism.

It is important to note that Islam is one of the three great monotheistic religions based upon the teachings of Abraham. The American Muslim community, numbering close to 5 million, is a vibrant part of our nation. The many mosques, Islamic schools and centers across America serve to remind us all that Islam has contributed to advancements in the fields of mathematics, science, medicine, law, philosophy, art and literature. Furthermore, many Americans of the Muslim faith are leaders in their communities, and successes in their professions.

It is my sincere hope that our colleagues will join us in taking a stand against anti-Muslim intolerance and discrimination by co-sponsoring this legislation.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I am proud to join Senator ABRAHAM in submitting this resolution recognizing the need—indeed the obligation—for our nation to show greater tolerance towards Americans of Muslim faith. Tolerance for people of all faiths was among the founding principles of our nation. Since the early 17th Century, when the Puritans fled to America seeking the religious freedom that was denied them in England, our nation has cherished religious pluralism and ingrained in its people the value of allowing every person to worship according to the dictates of his or her own conscience. When the Framers drafted the Constitution, they saw this principle as so important, so sacrosanct, that they enshrined religious freedom not once, but twice, in the Bill of Rights' very first Amendment. Perhaps because of this constitutional mandate, or perhaps because of the resulting tolerance the First Amendment has engendered in our society, our nation has in the more than 200 years since it began become a haven for those seeking both refuge from religious persecution and a society accepting and nurturing of a pluralism in religious beliefs.

Indeed, like millions of their coreligionists, my own grandparents came to the United States from Central and Eastern Europe early this century, in part to escape the discrimination they suffered on account of their Jewish faith and heritage. They and those of us who descended from them ultimately found an acceptance in this country that is virtually unparalleled in history. As a result of this country's continued willingness to welcome people of different faiths like my grandparents, both we and American society have been enriched.

Unfortunately, the traditional American values of religious tolerance and acceptance thus far too often have been denied to a more recent group of arrivals and their descendants. Despite the tremendous contributions Muslim Americans are making to American society, and despite the fact that Islam shares a common origin—and common values—with America's two other predominant monotheistic religions, Americans of Islamic faith have been subjected to harassment and discrimination solely on account of their religion and heritage. This must end. It is time for us to reaffirm our commitment to religious pluralism and tolerance. It is time for us to loudly proclaim that a diversity of religious beliefs and traditions enriches rather than diminishes our society because religion—including Islam—is a great source of values and good deeds in our democracy. It is time for us to extend to our Muslim citizens in practice the promise of our nation's ideals: tolerance of and gratitude for their religious beliefs. I hope the resolution we are submitting today puts us one step closer to achieving that ideal.

SENATE RESOLUTION 224—EXPRESSING THE SENSE OF THE SENATE REGARDING AN INTERNATIONAL PROJECT TO EVALUATE AND FACILITATE THE EXCHANGE OF ADVANCED TECHNOLOGIES

Mr. STEVENS (for himself, Mr. COCHRAN, Mr. CHAFEE, Mr. HOLLINGS, Mr. INOUYE, and Mr. MURKOWSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 224

Whereas currently in the post Cold-War world, there are new opportunities to facilitate international political and scientific cooperation on cost-effective and advanced innovative nuclear waste technologies;

Whereas there is increasing public interest in monitoring and remediation of nuclear wastes; and

Whereas it is in the best interest of the United States to explore and develop options with the international community to facilitate the exchange of evolving advanced nuclear waste technologies: *Now, therefore, be it*

Resolved, That it is the sense of the Senate that—the President should instruct the Secretary of Energy, in consultation with the Secretary of State, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and other officials as appropriate, to consider the Advanced Technology Research Project (known as "ATRP") and report to the Committee on Energy and Natural Resources of the Senate on:

(1) whether the United States should encourage the establishment of an international project to facilitate the evaluation and international exchange of data (including cost data) relating to advanced nuclear waste technologies, including technologies for solid and liquid radioactive wastes and contaminated soils and sediments;

(2) whether such a project could be funded privately through industry, public interest, and scientific organizations and administered by an international non-governmental, nonprofit organization, with operations in the United States, Russia, Japan, and other countries that have an interest in developing such technologies; and

(3) any legislation that the Secretary believes would be required to enable such a project to be undertaken.

AMENDMENTS SUBMITTED

THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

ROTH AMENDMENT NO. 2339

Mr. ROTH proposed an amendment to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; as follows:

On page 401, strike line 3, and insert: "beginning after December 31, 1998".

On page 415, between lines 16 and 17, insert:

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

"(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

"(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. MODIFICATION OF AGI LIMIT FOR CONVERSIONS TO ROTH IRAS.

(a) IN GENERAL.—Section 408A(c)(3)(C)(i) (relating to limits based on modified adjusted gross income) is amended to read as follows:

"(i) adjusted gross income shall be determined in the same manner as under section 219(g)(3), except that—

"(I) any amount included in gross income under subsection (d)(3) shall not be taken into account, and

"(II) any amount included in gross income by reason of a required distribution under a provision described in paragraph (5) shall not be taken into account for purposes of subparagraph (B)(i)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2003" and inserting "October 1, 2007".

KERREY AMENDMENT NO. 2340

Mr. KERREY proposed an amendment to the bill, H.R. 2676, supra; as follows:

Beginning on page 277, line 4, strike all through page 279, line 25.

On page 280, line 1, strike "**3105**" and insert "**3104**".

On page 282, line 11, strike "**3106**" and insert "**3105**".

On page 286, line 1, strike "**3107**" and insert "**3106**".

On page 309, lines 7 and 8, strike "the date of the enactment of this Act" and insert "   , 1998".

On page 399, line 24, strike "the date of the enactment of this Act" and insert "December 31, 2001".

On page 400, lines 4 and 5, strike "the date of the enactment of this Act" and insert "December 31, 2001".

On page 415, between lines 16 and 17, insert:

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

"(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

"(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a) (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) SECTION 358.—Section 358(d)(1) (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) SECTION 368.—

(A) Section 368(a)(1)(C) is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—Section 357(c) is amended by adding at the end the following new paragraph:

"(4) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

"(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

"(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability."

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply."

(2) SECTION 1031.—The last sentence of section 1031(d) is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(c)(4)) a liability of the taxpayer", and

(B) by striking "or acquisition (in the amount of the liability)".

(d) Conforming Amendments.—

(1) Section 351(h)(1) is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) is amended by striking "or acquired".

(4) Section 357(c)(1) is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) is amended by striking "or acquisition (in the amount of the liability)".

(e) Effective Date.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2003" and inserting "October 1, 2007".

SEC. 5010. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) Extension of Taxes.—

(1) Environmental tax.—Section 59A(e) is amended to read as follows:

"(e) Application of Tax.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2001, and before January 1, 2008."

(2) Excise taxes.—Section 4611(e) is amended to read as follows:

"(e) Application of Hazardous Substance Superfund Financing Rate.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2001, and before October 1, 2008."

(b) Effective Dates.—

(1) Income tax.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 2001.

(2) Excise tax.—The amendment made by subsection (a)(2) shall take effect on January 1, 2002.

SEC. 5011. MODIFICATION OF DEPRECIATION METHOD FOR TAX-EXEMPT USE PROPERTY.

(a) In General.—Subparagraph (A) of section 168(g)(3) (relating to tax-exempt use property subject to lease) is amended to read as follows:

"(A) Tax-exempt use property.—In the case of any tax-exempt use property, the recovery period used for purposes of paragraph (2) shall be equal to 150 percent of the class life of the property determined without regard to this subparagraph."

(b) Effective Date.—The amendment made by this section shall apply to property—

(1) placed in service after December 31, 1998, and

(2) placed in service on or before such date which—

(A) becomes tax-exempt use property after such date, or

(B) becomes subject to a lease after such date which was not in effect on such date.

In the case of property to which paragraph (2) applies, the amendment shall only apply with respect to periods on and after the date the property becomes tax-exempt use property or subject to such a lease.

SEC. 5012. EXTENSION OF REPORTING FOR CERTAIN VETERANS PAYMENTS.

The last sentence of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "September 30, 2003" and inserting "September 30, 2008".

On page 260, line 14, strike "shall develop" and insert "shall, not later than January 1, 2000, develop".

On page 305, lines 3 and 4, strike "the date of the enactment of this Act" and insert "June 30, 2000".

On page 305, lines 10 and 11, strike "the date of the enactment of this Act" and insert "June 30, 2000".

On page 308, line 13, strike "the date of the enactment of this Act" and insert "June 30, 1999".

On page 309, lines 7 and 8, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 310, strike line 19, and insert "December 31, 1999".

On page 312, lines 15 and 16, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 314, lines 3 and 4, strike "the 180th day after the date of the enactment of this Act" and insert "December 31, 2000".

On page 315, line 11, strike "June 30, 2000" and insert "December 31, 2000".

On page 324, strike lines 9 through 12, and insert:

(e) Effective Date.—The amendments made by this section shall apply to collection actions initiated after December 31, 1999.

On page 343, after line 24, insert:

(c) Effective Date.—This section shall apply to collection actions initiated after December 31, 1999.

On page 345, lines 6 and 7, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 348, line 6, strike "December 31, 1998" and insert "December 31, 1999".

On page 351, lines 13 and 14, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 6 and 7, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 9 and 10, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, strike lines 16 and 17, and insert:

(B) December 31, 1999.

On page 362, lines 12 and 13, strike "the 60th day after the date of the enactment of this Act" and insert "December 31, 1999".

On page 370, lines 17 and 18, strike "the date of the enactment of this Act" and insert "January 1, 1999".

On page 371, line 11, insert: "This subsection shall apply only with respect to taxes arising after June 30, 2000, and any liability for tax arising on or before such date but remaining unpaid as of such date." after the end period.

On page 374, lines 4 and 5, strike "180 days after the date of the enactment of this Act" and insert "July 1, 2000".

On page 379, line 15, insert ", on and after July 1, 1999," after "shall".

On page 382, line 2, strike "60 days after the date of the enactment of this Act" and insert "on January 1, 2000".

On page 383, line 14, insert ", except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999" after "Act".

On page 385, lines 7 and 8, strike "the date of the enactment of this Act" and insert "January 1, 2000".

BOND AMENDMENT NO. 2341

Mr. BOND proposed an amendment to the bill, H.R. 2676, supra; as follows:

Beginning on page 174, strike line 10 and all that follows through page 192, line 25, and insert the following:

SEC. 1101. INTERNAL REVENUE SERVICE BOARD OF GOVERNORS.

(a) In General.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. INTERNAL REVENUE SERVICE BOARD OF GOVERNORS.

"(a) Establishment.—There is established within the Department of the Treasury the Internal Revenue Service Board of Governors (in this title referred to as the 'Board').

"(b) Membership.—

"(1) Composition.—The Board shall be composed of 5 members, of whom—

"(A) 4 shall be individuals who are appointed by the President, by and with the advice and consent of the Senate, and

"(B) 1 shall be the Commissioner of Internal Revenue.

Not more than 2 members of the Board appointed under subparagraph (A) may be affiliated with the same political party.

"(2) Qualifications.—Members of the Board described in paragraph (1)(A) shall be appointed solely on the basis of their professional experience and expertise in 1 or more of the following areas:

"(A) The needs and concerns of taxpayers.

"(B) Organization development.

"(C) Customer service.

"(D) Operation of small businesses.

"(E) Management of large businesses.

"(F) Information technology.

"(G) Compliance.

In the aggregate, the members of the Board described in paragraph (1)(A) should collectively bring to bear expertise in these enumerated areas.

"(3) Terms.—Each member who is described in paragraph (1)(A) shall be appointed for a term of 5 years, except that of the members first appointed—

"(A) 1 member who is affiliated with the same political party as the President shall be appointed for a term of 1 year,

"(B) 1 member who is not affiliated with the same political party as the President shall be appointed for a term of 2 years,

"(C) 1 member who is affiliated with the same political party as the President shall be appointed for a term of 3 years, and

"(D) 1 member who is not affiliated with the same political party as the President shall be appointed for a term of 4 years.

A member of the Board may serve on the Board after the expiration of the member's term until a successor has taken office as a member of the Board.

"(4) Reappointment.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Board.

"(5) Vacancy.—Any vacancy on the Board—

"(A) shall not affect the powers of the Board, and

"(B) shall be filled in the same manner as the original appointment.

Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

“(6) REMOVAL.—

“(A) IN GENERAL.—A member of the Board may be removed at the will of the President.

“(B) COMMISSIONER OF INTERNAL REVENUE.—An individual described in paragraph (1)(B) shall be removed upon termination of employment.

“(c) GENERAL RESPONSIBILITIES.—

“(1) IN GENERAL.—The Board shall oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

“(2) CONSULTATION ON TAX POLICY.—The Board shall be responsible for consulting with the Secretary of the Treasury with respect to the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions.

“(d) SPECIFIC RESPONSIBILITIES.—The Board shall have the following specific responsibilities:

“(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

“(A) mission and objectives, and standards of performance relative to either, and

“(B) annual and long-range strategic plans.

“(2) OPERATIONAL PLANS.—To review and approve the operational functions of the Internal Revenue Service, including—

“(A) plans for modernization of the tax system,

“(B) plans for outsourcing or managed competition, and

“(C) plans for training and education.

“(3) MANAGEMENT.—To—

“(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,

“(B) recommend to the Secretary of the Treasury 3 candidates for appointment as the National Taxpayer Advocate from individuals who have—

“(i) a background in customer service as well as tax law, and

“(ii) experience in representing individual taxpayers,

“(C) recommend to the Secretary of the Treasury the removal of the National Taxpayer Advocate,

“(D) oversee the operation of the Office of the Taxpayer Advocate and the Internal Revenue Service Office of Appeals,

“(E) review and approve the Commissioner's selection, evaluation, and compensation of Internal Revenue Service senior executives who have program management responsibilities over significant functions of the Internal Revenue Service,

“(F) review and approve the Commissioner's plans for reorganization of the Internal Revenue Service, and

“(G) review and approve procedures of the Internal Revenue Service relating to financial audits required by law.

“(4) BUDGET.—To—

“(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

“(B) submit such budget request to the Secretary of the Treasury, and

“(C) ensure that the budget request supports the annual and long-range strategic plans of the Internal Revenue Service.

“(5) TAXPAYER PROTECTION.—To ensure the proper treatment of taxpayers by the employees of the Internal Revenue Service.

The Secretary shall submit, without revision, the budget request referred to in paragraph (4) for any fiscal year to the President who shall submit, without revision, such request to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

“(e) BOARD PERSONNEL MATTERS.—

“(1) COMPENSATION OF MEMBERS.—Each member of the Board who is described in subsection (b)(1)(A) shall be compensated at an annual rate equal to the rate for Executive Schedule IV under title 5 of the United States Code. The Commissioner shall receive no additional compensation for service on the Board.

“(2) STAFF.—The Chairperson of the Board shall have the authority to hire such personnel as may be necessary to enable the Board to perform its duties.

“(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

“(f) ADMINISTRATIVE MATTERS.—

“(1) CHAIR.—

“(A) TERM.—The Commissioner of Internal Revenue shall serve as the chairperson of the Board.

“(B) POWERS.—Except as otherwise provided by a majority vote of the Board, the powers of the Chairperson shall include—

“(i) establishing committees,

“(ii) setting meeting places and times,

“(iii) establishing meeting agendas, and

“(iv) developing rules for the conduct of business.

“(2) MEETINGS.—The Board shall meet at least once each month and at such other times as the Board determines appropriate.

“(3) QUORUM; VOTING REQUIREMENTS; DELEGATION OF AUTHORITIES.—3 members of the Board shall constitute a quorum. All decisions of the Board with respect to the exercise of its duties and powers under this section shall be made by a majority vote of the members present and voting. A member of the Board may not delegate to any person the member's vote or any decisionmaking authority or duty vested in the Board by the provisions of this section.

“(4) REPORTS.—The Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives, and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

“Members, Internal Revenue Service Board of Governors.”

(2) Section 7701(a) (relating to definitions) is amended by inserting after paragraph (46) the following new paragraph:

“(47) BOARD.—The term ‘Board’ means the Board of Governors of the Internal Revenue Service.”

(3) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

“Sec. 7802. Internal Revenue Service Board of Governors.”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INITIAL NOMINATIONS TO INTERNAL REVENUE SERVICE BOARD OF GOVERNORS.—The President shall submit nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act.

(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF BOARD OF GOVERNORS.—Nothing in this section shall be construed to invalidate the actions and authority of the Internal Revenue Service prior to the appointment of the members of the Internal Revenue Service Board of Governors.

On page 194, line 14, strike “Oversight”.

On page 195, line 2, strike “Oversight”.

On page 197, lines 11 and 12, strike “Oversight”.

On page 202, line 2, strike “Oversight”.

On page 212, line 13, strike “Oversight Board” and insert “Board of Governors”.

On page 217, line 10, strike “Oversight Board” and insert “Board of Governors”.

On page 217, lines 22 and 23, strike “Oversight Board” and insert “Board of Governors”.

On page 220, line 12, strike “Oversight Board” and insert “Board of Governors”.

On page 220, line 17, strike “Oversight Board” and insert “Board of Governors”.

On page 235, line 2, strike “Oversight Board” and insert “Board of Governors”.

On page 258, line 8, strike “Oversight Board” and insert “Board of Governors”.

REID AMENDMENT NO. 2342

Mr. REID proposed an amendment to the bill, H.R. 2676, supra; as follows:

At the end of subtitle H of title III, add the following:

SEC. . ELIMINATION OF PAYMENTS FOR DETECTION OF UNDERPAYMENTS AND FRAUD.

(a) IN GENERAL.—Subchapter B of chapter 78 is amended by striking section 7623.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 78 is amended by striking the item relating to section 7623.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

LEAHY (AND ASHCROFT) AMENDMENT NO. 2343

Mr. KERREY (for Mr. LEAHY, for himself and Mr. ASHCROFT) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 262, after line 14, add the following new paragraph:

“In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures for all Tax Forms, Instructions, and Publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database not later than the date such records are available to the public in printed form. In addition, in the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database not later than the date such guidance is available to the public in printed form.”

DORGAN (AND REID) AMENDMENT NO. 2344

Mr. DORGAN (for himself and Mr. REID) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 394, between lines 15 and 16, insert:

SEC. 3803. STUDY OF TRANSFER PRICING ENFORCEMENT.

(1) IN GENERAL.—The Internal Revenue Service Oversight Board shall study whether the Internal Revenue Service has the resources needed to prevent tax avoidance by companies using unlawful transfer pricing methods.

(2) ASSISTANCE.—The Internal Revenue Service shall assist the Board in its study by analyzing and reporting to the Board on its enforcement of transfer pricing abuses, including a review of the effectiveness of the current enforcement tools used by the Internal Revenue Service to ensure compliance under section 482 of the Internal Revenue Code of 1986 and to determine the scope of nonpayment of United States taxes by reason of such abuses.

(3) REPORT.—The Board shall report to Congress, not later than 12 months after the date of enactment of this Act, on the results of the study conducted under this subsection, including recommendations for improving the Internal Revenue Service's enforcement tools to ensure that multinational companies doing business in the United States pay their fair share of United States taxes.

DEWINE AMENDMENTS NOS. 2345–2346

(Ordered to lie on the table.)

Mr. DEWINE submitted two amendments intended to be proposed by him to the bill, H.R. 2676, supra; as follows:

AMENDMENT NO. 2345

On page 291, between lines 6 and 7, insert:

SEC. 3108. PROCEEDINGS TO REDUCE COMPLIANCE BURDENS RELATING TO NET OPERATING LOSSES.

(a) ADMINISTRATIVE PROCEEDINGS.—Section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended—

(1) by striking "Every" and inserting "(a) IN GENERAL.—Every", and

(2) by adding at the end the following new subsection:

"(b) SPECIAL RULE FOR RECORDS RELATING TO NET OPERATING LOSSES.—

"(1) IN GENERAL.—If, within 5 years of filing, the Secretary has not examined any return of tax for a taxable year in which a net operating loss (as defined in section 172(c)) arises, the taxpayer may request the Secretary to—

"(A) enter into a formal record retention agreement with respect to records relating to such taxable year, or

"(B) if an agreement under subparagraph (A) cannot be mutually agreed upon, conduct an examination of such return.

"(2) TIME FOR ACTION.—

"(A) IN GENERAL.—The Secretary shall have 90 days from receipt of a request to enter into the agreement under paragraph (1)(A). If an agreement cannot be reached within such 90-day period, the Secretary shall immediately schedule the date for the examination under paragraph (1)(B).

"(B) EXAMINATION.—Any examination under paragraph (1)(B) shall be completed within 1 year of the close of the 90-day period under subparagraph (A) unless the taxpayer and the Secretary mutually agree to an extension of the 1-year period.

"(C) EFFECT OF FAILURE.—If the Secretary fails to meet any deadline under this paragraph, the net operating loss for the taxable year at issue shall be the amount included on the return of tax.

"(3) PAYMENT.—The Secretary may assess a fee of up to $10,000 on any taxpayer filing a request under this subsection in order to defray the Secretary's expenses under this subsection."

(b) DECLARATORY JUDGMENT PROCEEDING.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 is amended by adding at the end the following new section:

"SEC. 7480. DECLARATORY JUDGMENT INVOLVING NET OPERATING LOSS DEDUCTION.

"(a) CREATION OF REMEDY.—In a case of actual controversy involving a determination by the Secretary of the correctness of a net operating loss under section 172(c) under an examination (or administrative appeal thereof) pursuant to section 6001(b), upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to the correctness of such deduction. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by a taxpayer who filed a request under section 6001(b).

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines the petitioner has exhausted all administrative remedies within the Internal Revenue Service. A petitioner shall be deemed to have exhausted its administrative remedies as of the close of the period described in section 6601(b)(2)(B).

"(3) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this section unless it is filed before the 91st day after the last day of the period under section 6601(b)(2)(B)."

(2) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter C of chapter 76 is amended by adding at the end the following new item:

"Sec. 7480. Declaratory judgment involving net operating loss deduction."

AMENDMENT NO. 2346

On page 312, strike lines 1 through 6 and insert:

(b) AMENDMENT RELATED TO SECTION 1011 OF 1997 ACT.—Subsection (d) of Section 1059 of the 1986 Code is amended by adding at the end the following paragraph:

"(7) EXCEPTION FOR EXCESS LOSS ACCOUNTS.—Except as provided in regulations prescribed by the Secretary after March 26, 1998, subsection (a) shall not apply to any extraordinary dividend to the extent that the regulations prescribed under section 1502 require the creation or increase of an excess loss account.

GRAHAM AMENDMENT NO. 2347

Mr. GRAHAM proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 176, between lines 4 and 5, insert the following:

"(vii) The needs and concerns of small businesses."

ASHCROFT (AND LEAHY) AMENDMENT NO. 2348

Mr. ASHCROFT (for himself and Mr. LEAHY) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 261, strike lines 4 through 7, and insert "and subscribed".

COVERDELL AMENDMENTS NOS. 2349–2353

(Ordered to lie on the table.)

Mr. COVERDELL submitted four amendments intended to be proposed by him to the bill, H.R. 2676, supra; as follows:

AMENDMENT NO. 2349

At the appropriate place insert the following:

SEC. . FAIRNESS WHEN COLLECTING A TAX DUE TO MATHEMATICAL AND CLERICAL ERRORS.

(a) IN GENERAL.—Section 6404(d) of the Internal Revenue Code of 1986 (relating to abatements) is amended to read as follows:

"(d) ABATEMENT OF INTEREST, PENALTY, ADDITIONAL, AMOUNT, AND ADDITION TO TAX ATTRIBUTABLE TO CERTAIN MATHEMATICAL, OR CLERICAL ERRORS.—In the case of an assessment of additional tax attributable to a mathematical or clerical error (as defined in section 6213(g)(2)), the Secretary shall abate any interest, penalty, additional amount, and addition to tax with respect to such assessment if, within 60 days after notice of such assessment is sent under section 6213(b)(1) by certified mail or registered mail, the taxpayer pays, or files a request for an abatement of, such assessment.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to notices filed after the date of the enactment of this Act.

AMENDMENT NO. 2350

After "misconduct." on page 252, line 18, insert:

"Such a terminated employee shall be barred from employment in the Federal service."

AMENDMENT NO. 2351

On page 376, strike lines 3 through 15, and insert:

"(B) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(ii)(I) if at least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

AMENDMENT NO. 2352

Beginning on page 377, line 20, strike all through page 378, line 14, and insert:

"(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary—

"(A) shall consider—

"(i) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

"(ii) the existence of other low income taxpayer clinics serving the same population,

"(iii) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low income taxpayers, and

"(iv) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic, and

"(B) shall give preference to any clinic in existence on the date of the enactment of this section.

COVERDELL (AND OTHERS) AMENDMENT NO. 2353

(Ordered to lie on the table.)

Mr. COVERDELL (for himself, Mr. COCHRAN, Mr. FRIST, Mr. HAGEL, and Mr. INHOFE) submitted an amendment intended to be proposed by them to the bill, H.R. 2676, supra; as follows:

On page 342, after line 24, add:

SEC. 3418. PROHIBITION OF RANDOM AUDITS.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses), as amended by section 3417, is amended by adding at the end the following new subsection:

"(f) LIMITATIONS ON AUTHORITY TO EXAMINE.—

"(1) IDENTIFICATION OF PURPOSE AND BASIS FOR EXAMINATION REQUIRED.—In taking any action under subsection (a), the Secretary shall identify in plain language the purpose and the basis for initiating an examination in any notice of such an examination to any person described in subsection (a).

"(2) RANDOM AUDITS PROHIBITED.—The Secretary shall not base, in whole or in part, the initiation of an examination of a return under subsection (a) on the use of a statistically random return selection technique from a population or subpopulation."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to examinations initiated after April 29, 1998.

STEVENS AMENDMENT NO. 2354

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by them to the bill, H.R. 2676, supra; as follows:

On page 344, strike lines 7 through 9 and insert in lieu thereof the following:

(b) BOOKS, ETC.—Section 6334(a)(3) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,250 in value" and inserting "$5,000 in value, and any permits issued by a State and required under State law for the harvest of fish or wildlife in the trade, business, or profession of the taxpayer".

SHELBY (AND SESSIONS) AMENDMENT NO. 2355

Mr. SHELBY (for himself and Mr. SESSIONS) proposed an amendment to the bill, H.R. 2676, supra; as follows:

At the appropriate place in the bill insert the following new section:

SEC. . CONGRESSIONAL REVIEW OF INTERNAL REVENUE SERVICE RULES THAT INCREASE REVENUE.

(a) SHORT TITLE.—This section may be cited as the "Stealth Tax Prevention Act".

(b) IN GENERAL.—Section 804(2) of title 5, United States Code, is amended to read as follows:

"(2) The term 'major rule'—

"(A) means any rule that—

"(i) the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

"(I) an annual effect on the economy of $100,000,000 or more;

"(II) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

"(III) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; or

"(ii)(I) is promulgated by the Internal Revenue Service; and

"(II) the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds that the implementation and enforcement of the rule has resulted in or is likely to result in any net increase in Federal revenues over current practices in tax collection or revenues anticipated from the rule on the date of the enactment of the statute under which the rule is promulgated; and

"(B) does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.".

THOMPSON (AND OTHERS) AMENDMENT NO. 2356

Mr. THOMPSON (for himself, Mr. SESSIONS, and Mr. FAIRCLOTH) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 180, beginning with line 7, strike all through page 181, line 17.

KOHL (AND FEINGOLD) AMENDMENT NO. 2357

Mr. KERREY (for Mr. KOHL, for himself, and Mr. FEINGOLD) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 229, insert between lines 15 and 16 the following new section:

SEC. 1106. REVIEW OF MILWAUKEE AND WAUKESHA INTERNAL REVENUE SERVICE OFFICES.

(a) IN GENERAL.—

(1) REVIEW.—The Commissioner of Internal Revenue shall appoint an independent expert in employment and personnel matters to conduct a review of the investigation conducted by the task force, established by the Internal Revenue Service and initiated in January 1998, of the equal employment opportunity process of the Internal Revenue Service offices located in the area of Milwaukee and Waukesha, Wisconsin.

(2) CONTENT.—The review conducted under paragraph (1) shall include—

(A) a determination of the accuracy and validity of such investigation; and

(B) if determined necessary by the expert, a further investigation of such offices relating to—

(i) the equal employment opportunity process; and

(ii) any alleged discriminatory employment-related actions, including any alleged violations of Federal law.

(b) REPORT.—Not later than July 1, 1999, the independent expert shall report on the review conducted under subsection (a) (and any recommendations for action) to Congress and the Commissioner of Internal Revenue.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROTH. Mr. President, I ask unanimous consent that the full Committee on Armed Services be authorized to meet on Wednesday may 6, 1998, and Thursday May 7, 1998, at 10 a.m. in closed session, to mark up the Department of Defense Authorization Act for Fiscal Year 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet to conduct a hearing on Wednesday, May 6, 1998 at 10:00 a.m. on Tribal Sovereign Immunity, focusing on torts. The hearing will be held in room 106 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ROTH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 6, 1998 at 11:30 am to hold closed mark-up on the FY 99 Intelligence Authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. ROTH. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on May 6, 1998 at 2:00 p.m. for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. ROTH. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 6, 1998, at 9:30 a.m. on oversight of the Common Carrier Bureau.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs be authorized to meet during the session of the Senate on Wednesday, May 6, 1998 at 2:00 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 6, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to receive testimony on S. 94, a bill to provide for the orderly disposal of Federal lands in Nevada, and for the acquisition of certain environmentally sensitive lands in Nevada, and for other purposes; and H.R. 449, a bill to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO BRUCE BOHNSACK

• Mr. CONRAD. Mr. President, I rise today to give a brief tribute to Mr. Bruce Bohnsack from my home state of North Dakota. Mr. Bohnsack operates a grain and soybean farm which has been in his family for more than 100 years. As a producer, Bruce has a keen interest in farm policy issues and has been active in the affairs of a farmer owned credit cooperative—the Farm Credit System.

Bruce's active involvement in Farm Credit has been on various levels. He is a member of the Federal Land Credit Association of Fargo and has served as director of that association for 18 years. Bohnsack joined the board of the St. Paul Farm Credit Bank in 1987—at a time of crisis for the bank and the Farm Credit System as a whole.

The Farm Credit System of the mid-1980s was fighting a battle for survival. One of the things that saved the System was the leadership of Farm Credit board members like Bruce Bohnsack. Bruce and his colleagues in St. Paul made a number of sound business decisions of critical importance to the institutions and the farmers they serve. One such decision was to combine the St. Paul and St. Louis Farm Credit Banks to create AgriBank, FCB. This first voluntary merger of Farm Credit banks in the history of the System helped to ensure the efficiency and effectiveness of the wholesale bank while retaining local accountability at the association level.

Bruce and other farmer elected lenders in the System also provided helpful input to the Committee on Agriculture when we drafted the Agricultural Credit Act of 1987. The 1987 Act is one of the great success stories in recent years for which Congress and the Farm Credit System can both be justifiably proud. Since 1987 the Farm Credit System has experienced a remarkable turn around. It is now better capitalized and better positioned to serve farmers than ever before in its history. Congress played a role in this turn around by providing Farm Credit with a loan not a grant. The principal and interest on the loan made possible under the 1987 legislation is being repaid by the System several years ahead of schedule.

Bruce Bohnsack's interest in farm policy issues is also reflected in his service on the St. Paul District Farm Credit Council and national Farm Credit Council boards of directors. As chairman of these two boards, Bruce was as an advocate for Farm Credit in the halls of Congress and in North Dakota. While he no longer serves on these boards, you can bet he will continue to be active in North Dakota Farmers Union, North Dakota State Township Officers Association, his local Lutheran church and other farm and community groups.

On behalf of North Dakota farmers, I would like to thank Bruce Bohnsack for his years of service to the Farm Credit System and American agriculture. We wish him well in the years ahead.•

FIRST LIEUTENANT JOSEPH VAN OOSTERHOUT RETIRES FROM MICHIGAN STATE POLICE

• Mr. ABRAHAM. Mr. President, I rise today to honor First Lieutenant Joseph Van Oosterhout, Post Commander of the Michigan State Police. He is retiring from the State Police after 23 years and 9 months of dedicated service.

First Lieutenant Van Oosterhout joined the Michigan State Police after serving in the United States Navy during the Vietnam War from 1967 to 1971. After serving in the military, he attended Western Michigan University where he worked towards the Bachelor's Degree he later earned while with the State Police. He was enlisted in the Michigan State Police in 1974, first stationed at the Benton Harbor Post and later to the Detroit Post and White Pigeon Post. In 1982, Van Oosterhout was promoted to Sergeant in the Traffic Services Division in Lansing. In 1987, he was assigned as Assistant Post Commander at the Ypsilanti Post. In 1992, he was promoted to Post Commander at the Iron Mountain Post. Also in 1992, he was transferred to the Negaunee Post as Post Commander where he has served ever since.

Throughout his career, First Lieutenant Van Oosterhout has received a great deal of recognition for his excellent service. In 1988, he was recognized as being the police officer in Michigan who had contributed most to traffic safety. He received one Departmental Award for breaking a crime ring and another for making a drug bust that had ties to several states.

Van Oosterhout, husband to Becky and father to Leah, Sarah, Joe and Andrew, will be remembered for his excellent service and dedication to the Department of State Police, friendly demeanor and concern for those he worked with. I extend my warmest congratulations to him on his retirement.•

MICHIGAN SPORTS HALL OF FAME INDUCTEES

• Mr. ABRAHAM. Mr. President, I rise today to honor five men who have been newly elected to the Michigan Sports Hall of Fame. Earvin "Magic" Johnson, one of basketball's all time greatest players who began his career with Michigan State University and gained further fame as a Los Angeles Laker; Leonard "Red" Kelly, one of the Red Wings greatest players who was recently named one of the 50 greatest players in NHL history; Bob Reynolds, the legendary sports broadcaster at the radio station WJR in Detroit; Isiah Thomas, possibly the greatest Detroit Piston of all time; and George Webster, All American linebacker from Michigan State University.

In addition to the inductees, Peter Karmanos, Jr., Chairman of the Compuware Corporation and owner of the Carolina Hurricanes of the National Hockey League will receive the Gerald R. Ford Sports Person of the Year Award. All of these men will be honored at the 44th Annual Induction Dinner of the Michigan Sports Hall of Fame on Wednesday evening, May 20, 1998 at Detroit's Cobo Center.

I want to extend my sincerest congratulations to all of these men. I am confident that the event will be a great success.•

COVERDELL A+ SAVINGS ACCOUNTS BILL—EXPLANATION OF VOTES

• Mr. ABRAHAM. Mr. President, the Senate recently voted on an important piece of legislation, the Coverdell A+ Savings Account bill. I believe it is important to clarify my position on several amendments offered to this bill.

In general, I believe the best way to ensure effective education policy is to direct as many dollars and resources as possible to the local level. By giving localities the resources and flexibility they need, I am confident that communities and parents will best direct those funds to meet the unique and diverse needs of their children. For this reason, I support the Coverdell A+ Savings Account bill. This legislation, puts resources at the most local level: with parents. Parents will now have the ability to save for and meet the educational needs of their children. Whether it means hiring a tutor for their child, buying a home computer, finding an alternative educational setting, or saving for college, parents will be in the position to take positive steps towards providing a positive educational future for their children.

For similar reasons, I supported an amendment offered by Senator GORTON to give states the option of (1) continuing to receive federal education programs under the current funding system; (2) receiving federal education programs as a block grant going directly to the state without federal regulations; or (3) receiving federal education programs in a block grant going directly to the local education agency without federal regulations. By allowing local education agencies to receive federal resources without federal red tape and bureaucracy, we will be putting more power and flexibility in the hands of the people most closely involved with educating children. As a safe-guard to ensure that an appropriate level of federal funding continues, Senator GORTON's amendment insists that if future funding dips below the current level of funding, the programs would be forced back into the current categorical funding.

I also supported an amendment offered by Senators MACK and D'AMATO which would allow states to use existing block grant funds under the Elementary and Secondary Education Act to fund teacher testing and merit pay programs in the state. I believe this amendment would allow states to develop important programs to help ensure quality teachers in the classroom and to pay those teachers accordingly.

Finally, I supported an amendment that was offered by Senator KAY BAILEY HUTCHISON which clarified the federal position on same-sex schools. This amendment would allow same-sex classrooms and schools to be eligible to receive federal funding as long as comparable education opportunities are offered for students of both sexes. I believe the federal government must allow states and communities to find creative solutions to meeting the educational needs of their children.

Again, I support the philosophy behind the Coverdell bill and the Gorton amendment which places control, resources, and decision making with parents and local communities. Unfortunately, most of the amendments offered by Democrats, while noble ideas, fund their programs by eliminating the education savings accounts and by focusing the programs and power at the federal level. While there were many interesting ideas debated, such as the amendment offered by Senator LEVIN which would increase the lifetime learning education credit for teachers or the amendment offered by Senator LANDRIEU to provide incentive grants for Blue Ribbon Schools, each proposal was paid for by defunding the A+ Savings Accounts. For that reason, I could not support these weakening amendments.

Senator GLENN offered an amendment which would eliminate the ability of parents to use their tax-free savings to pay for private school tuition or homeschooling expenses. The provision included in the A+ bill is identical to the provision supported by President Clinton and the Democrats in the Balanced Budget Act which allows parents to save $500 a year for college expenses. The Balanced Budget Act, which was signed into law by the President, does not differentiate between private and public colleges. It is inconsistent to subsidize a more limited number of college students and not offer the same benefit in K–12 education.

Senator MOSELY-BRAUN offered an amendment to eliminate the Coverdell A+ Savings accounts and to use the money instead to create a federal school construction program. While I recognize the need for adequate school construction, I believe the Coverdell bill more adequately addresses the needs for school construction through a provision included in the legislation offered by Senator GRAHAM. This provision fosters public private partnerships for school construction and maintains the function of school construction at the local level. The bill provides for $3 billion in tax-exempt bond funding for school construction.

I voted against an amendment offered by Senator KENNEDY which would forgive a maximum of $8,000 in student loans for teachers entering "high need areas or subjects" and would pay for this provision by eliminating the A+ Savings Accounts. I opposed this amendment because the Higher Education Reauthorization Act approved by the Senate Labor Committee contains similar incentives of student loan forgiveness for teachers entering inner-city or rural teaching environments.

I opposed an amendment offered by Senator BOXER which would create a new $250 million federal after-school program. While I support after-school mentoring and tutoring programs for children, I believe these programs should be operated at the local level. In addition, the federal government already funds 4 after-school care programs and 19 existing federal programs that provide tutoring and mentoring for students on a one-on-one basis.

I am encouraged by the Senate's action on the Coverdell A+ Savings bill and the amendment offered by Senator GORTON. I look forward to additional debate on education issues and new and innovative proposals to place greater control and resources at the local level.●

REGARDING INTERNATIONAL PROJECT EVALUATING AND FACILITATING INTERNATIONAL EXCHANGE OF ADVANCED TECHNOLOGIES

Mr. ROTH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 224, submitted earlier by Senator STEVENS and others.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 224) expressing the sense of the Senate concerning an international project to evaluate and facilitate the international exchange of advanced technology.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Madam President, last spring, the Duma Chairman of the Committee on the Problems of the Russian North, Vladimir Goman, met with Senator COCHRAN and myself to ask us for our participation in a new project which would help facilitate Russia's efforts in the remediation of nuclear wastes.

Since that meeting, the Russian Duma has passed a Resolution pledging funding and infrastructure for the Advanced Technology Research Project (ATRP). In Europe, industry and key decision makers of the European Parliament, the German Bundestag, the Union of European Labor Parties, and several national nuclear waste management and research and development institutions, including the Swiss NAGRA, have all pledged their support for the ATRP.

This ATRP, originally proposed by the Russian Duma, with participation from academia, private industry and governmental and public organizations, is a privately funded, neutral organization. It will facilitate information exchange on nuclear waste management technologies, and the development of a worldwide nuclear waste management technology marketplace. It is the goal of this project to advance self sufficiency in nuclear waste management in Russia and to globally provide advanced and affordable solutions to nuclear waste.

ATRP will be entirely privately funded through private industry, public interest, and scientific organizations. This Private-Public Partnership will be implemented through ATRP's global nuclear waste technology clearinghouse, database, conferences, workshops, and trade shows worldwide. The objective is advanced, safer, and efficient nuclear waste management at the lowest possible cost.

The management of nuclear waste is one of the world's most pressing concerns and perhaps Russia's greatest ecological threat. ATRP will help Russia help itself by developing an international market for technology exchange. It will also benefit United States and all other nuclear nations by making nuclear waste management technology more readily available in the international market place.

I hope that my colleagues will join me in supporting this Resolution which will help us all work toward an international solution to this very pressing issue of nuclear wage management.

Mr. ROTH. Madam President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 224) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 224

Whereas currently in the post Cold-War world, there are new opportunities to facilitate international political and scientific cooperation on cost-effective and advanced innovative nuclear waste technologies;

Whereas there is increasing public interest in monitoring and remediation of nuclear wastes; and

Whereas it is in the best interest of the United States to explore and develop options with the international community to facilitate the exchange of evolving advanced nuclear waste technologies: Now, therefore, be it

Resolved, That it is the sense of the Senate that—the President should instruct the Secretary of Energy, in consultation with the Secretary of State, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and other officials as appropriate, to consider the Advanced Technology Research Project (known as "ATRP") and report to the Committee on Energy and Natural Resources of the Senate on:

(1) whether the United States should encourage the establishment of an international project to facilitate the evaluation and international exchange of data (including cost data) relating to advanced nuclear waste technologies, including technologies for solid and liquid radioactive wastes and contaminated soils and sediments;

(2) whether such a project could be funded privately through industry, public interest, and scientific organizations and administered by an international non-governmental, nonprofit organization, with operations in the United States, Russia, Japan, and other countries that have an interest in developing such technologies; and

(3) any legislation that the Secretary believes would be required to enable such a project to be undertaken.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the following Senators as members of the Senate Delegation to the Canada-U.S. Interparliamentary Group during the Second Session of the 105th Congress, to be held in Nantucket, Massachusetts, May 14–18, 1998: The Senator from Iowa (Mr. GRASSLEY); the Senator from Minnesota (Mr. GRAMS).

ORDERS FOR THURSDAY, MAY 7, 1998

Mr. ROTH. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, May 7, 1998. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate then resume consideration of the Thompson-Sessions amendment No. 2356 to H.R. 2676, the IRS reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROTH. Madam President, for the information of all Senators, tomorrow morning at 9:30 a.m., the Senate will resume consideration of the Thompson-Sessions amendment to H.R. 2676, the IRS reform bill. Under the previous order, the time between 9:30 and 10 will be equally divided for debate on the Thompson-Sessions amendment. Following the conclusion or yielding back of the time, the Senate will proceed to vote on or in relation to the amendment.

Senators are reminded that a unanimous consent agreement was reached limiting amendments to the IRS bill. It is hoped that following the 10 a.m. vote, Senators will come to the floor to offer their amendments under short time agreements. The cooperation of all Members will be necessary in order for the Senate to complete action on this very important piece of legislation. Therefore, rollcall votes will occur throughout Thursday's session with respect to the IRS reform bill or any other legislative or executive items cleared for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ROTH. Madam President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:21 p.m., adjourned until Thursday, May 7, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 6, 1998:

CENTRAL INTELLIGENCE AGENCY

L. BRITT SNIDER, OF VIRGINIA, TO BE INSPECTOR GENERAL, CENTRAL INTELLIGENCE AGENCY, VICE FRDERICK PORTER HITZ, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

JOHN P. ABIZAID, 6229
JOSEPH W. ARBUCKLE, 1975
BARRY D. BATES, 4112
WILLIAM G. BOYKIN, 5846
CHARLES C. CAMPBELL, 6999
JAMES L. CAMPBELL, 9858
GEORGE W. CASEY, JR., 1204
DEAN W. CASH, 1289
DENNIS D. CAVIN, 8558
JOSEPH M. COSUMANO, JR., 4186
PETER M. CUVIELLO, 4052
ROBERT F. DEES, 5138
JOHN C. DOESBURG, 2908
JAMES E. DONALD, 4190
BENJAMIN S. GRIFFIN, 5044
DENNIS K. JACKSON, 1213
JAMES T. JACKSON, 4979
WILLIAM J. LENNOX, JR., 1093
ALBERT J. MADORA, 4210
DAVID D. MCKIERNAN, 8864
GEOFFREY D. MILLER, 7650
WILLIE B. NANCE, JR., 9605
ROBERT W. NOONAN, JR., 6884
KENNETH L. PRIVRATSKY, 8131
HAWTHORNE L. PROCTOR, 9888
ROBERT J. ST. ONGE, JR., 1736
ROBERT L. VAN ANTWERP, JR., 8468
DANIEL R. ZANINI, 1319

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

GEORGE P. NANOS, JR., 1992

HOUSE OF REPRESENTATIVES—*Wednesday, May 6, 1998*

The House met at 10 a.m.

The Reverend Dr. George Docherty, Pastor, Retired, Alexandria, Pennsylvania, offered the following prayer:

Let us pray. God of the ages, before even the mighty nations of the world have had their hour and now are part of history, we begin this new day invoking Thy blessings upon all our deliberations. Help us to see beyond the thrust and cut of debate and the issues that divide us, to behold again the all embracing unity of our people. Help us to regard the sacred phrase "one Nation, under God, with liberty and justice for all," to regard this sacred phrase as more than a noble sentiment from a historic declaration.

Grant to these men and women gathered here today strength in their demanding duties, clarity of purpose. Help them to see the ultimate vision of justice and that love that transcends all differences. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey (Mr. PALLONE) come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

> H.R. 1385. An act to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1385) "An Act to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, and Mr. REED, to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 15 one-minute speeches on each side.

APPRECIATION FOR DR. GEORGE DOCHERTY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I simply want to share with my colleagues what a wonderful thing it is today to have Dr. George Docherty back sharing with us and leading us in prayer. He grew up and attended public school in Scotland; in Glasgow, to be exact. At the age of 20, he heard his calling to become a minister.

In 1949, the Washington religious community was shocked by the death of Dr. Peter Marshall, the Scottish preacher, who was both Chaplain of the U.S. Senate and Pastor of the New York Avenue Presbyterian Church.

Dr. Marshall had identified a minister to preach in his church in his absence: George Docherty. In 1950, the congregation chose as its new pastor George Docherty. He held the congregation together and led the church into an active ministry for the underprivileged which continues to this day. He worked with Reverend Billy Graham on the Washington crusades and arranged for Reverend Graham's first crusade to Scotland.

For all of us this week, we should think about the notion, as we contemplate prayer and a National Day of Prayer, that Dr. Docherty convinced President Eisenhower and the Congress to add the words "under God" to the Pledge of Allegiance. He is an example of why this is a great country, filled with good people who do amazing things.

The fact is that we all owe Dr. George Docherty a thanks for reminding us that the only true America is an America which recognizes that its blessings come from the Creator who endows it with its unique rights.

APPEAL MEANS STONEWALL

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, yesterday, Judge Norma Holloway Johnson threw out President Clinton's claim of executive privilege regarding the latest crime or scandals in the White House.

No wonder. The President has been taking indecent liberties with the concept of executive privilege. He has hidden behind executive privilege in order to keep the American people from knowing the truth.

According to press accounts, the White House may even appeal this decision. There is only one reason to appeal this decision, and that is to keep the American people from learning the truth.

Mr. Speaker, no man is above the law. Judge Johnson's decision affirms that basic American principle. No matter what strategy the White House decides to employ, the American people have the right to know the truth. An appeal by the President on this case would amount to one more effort to stonewall the Starr investigation and keep the truth away from the American people.

CAMPAIGN FINANCE INVESTIGATION

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute.)

Mr. GUTIERREZ. Mr. Speaker, I am shocked by the new discoveries that have been made by the editors of the gentleman from Indiana (Mr. BURTON) in his so-called investigation. Just listen to this: It turns out that when Franklin Delano Roosevelt rallied our country during the Depression, what he really said was, "The only thing we have is fear itself." At John F. Kennedy's stirring inaugural, what he actually said was, "Ask not what you can do for your country."

Most shocking of all, the gentleman from Indiana (Mr. BURTON) has discovered that Republicans as well as Democrats have been misquoted through the years. Even George Bush, if the skillful editors of the gentleman from Indiana (Mr. BURTON) were around in 1988, they may have changed history. In Burtonland, George Bush actually said, "Read my lips: New taxes."

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Hard to believe? No harder to believe than the distorted, dishonest, and discredited tapes Mr. BURTON tried to fool the American people with. This deceit is shameful.

I guess the only thing the gentleman's committee's multimillion-dollar spending spree cannot buy is fairness and honesty. Do all Americans a favor and stop this charade.

MISSILE TECHNOLOGY TRANSFER TO CHINA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, a news account last week detailed a Clinton administration proposal to begin space cooperation with China. Shockingly, the administration's proposal would permit the transfer of missile technology with the potential of enhancing Chinese nuclear weapon strategy, weapons of mass destruction.

Mr. Speaker, according to experts, China has already supplied missile test equipment to Iran and other nations that have a clear vendetta against the United States. Why is the Clinton administration allowing transfer of weapons technology to China? Are they naively believing this information is secure? Who are they kidding?

Constructive engagement with China is one thing, but providing technology for computer guidance systems, for ICBMs is not only outrageous, it is a direct threat to our national security.

This should be investigated. Although we should constructively engage China, our first and foremost concern should be protecting America's interest and prohibiting transfer of weapons technology which could threaten the Nation's security.

CAMPAIGN FINANCE INVESTIGATION

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, when someone takes on the job to be chairman of the House Committee on Government Reform and Oversight, in this case, the gentleman from Indiana (Mr. BURTON), they have an obligation to be impartial in conducting the investigation.

The gentleman from Indiana (Mr. BURTON) has totally abrogated that responsibility, in particular this last week, in the way that he released the Hubbell tapes. The gentleman from Indiana carefully edited and rearranged the tapes, releasing them with errors and omissions so as to be damaging to the President.

I ask, how can the gentleman's committee's investigation possibly be fair when the chairman acts in this fashion? The public is tired of this investigation. It is expensive. It has cost over $6 million so far. It takes away from the real issues that the House of Representatives should be addressing. But at least if the gentleman from Indiana is going to do the investigation, he should do it fairly. Since he cannot, he should be removed as the chairman in charge of the investigation.

IRS GETS A RAISE

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, tucked away deep inside the $128 billion in new Federal taxes in President Clinton's new budget proposal is a $529 million increase in the salaries for the Internal Revenue Service. That is right, Mr. Speaker. The IRS, the same out-of-control rogue Federal agency that has trampled the constitutional rights of millions of American citizens, is getting a pay raise.

We are all familiar with the saying, "if it is not broke, do not fix." However, someone needs to introduce this administration and my liberal colleagues to the concept that if it is broke, do not reward them with a half a billion dollar pay raise out of the pockets of the American taxpayers.

In light of recent reports of taxpayer abuse by IRS agents, the President promised swift action. If a half a billion dollar pay raise is swift action, I would hate to see just what his long-range corrective action would entail.

Thomas Sowell, a noted economist, once said, "It is easy to be wrong, and to persist in being wrong, when the costs of being wrong are paid for by others."

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER. The Chair announces as additional conferees from the Committee on Ways and Means to the conference on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes:

Mr. NUSSLE and

Mr. HULSHOF.

Further conferees will be announced later.

The Clerk will notify the Senate of the change in conferees.

CAMPAIGN FINANCE INVESTIGATION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the gentleman from Indiana (Mr. BURTON), chairman, has seriously threatened the integrity of the House and its ability to conduct a fair investigation. First, the gentleman released tapes which, as the Washington Post states today, mainly deal with "highly personal matters of no conceivable relevance to any public inquiry."

We discover that the gentleman from Indiana (Mr. BURTON), chairman, is so determined to smear the President that he doctored those tapes and he altered the content to suit his own purposes.

We have a responsibility to investigate any wrongdoing, but the gentleman from Indiana (Mr. BURTON) and Speaker GINGRICH have a responsibility to conduct that investigation fairly and impartially.

The gentleman from Indiana (Mr. BURTON) and Speaker GINGRICH have proven themselves incapable of being either fair or impartial. I call on them to remove themselves immediately from this investigation. Stop diverting attention away from the real issues, the issues that the American people want this House to consider: managed care reform, improving our public schools, and enacting real campaign reform. Let us put an end to this partisan investigation and let us get to work.

□ 1015

MANY UNANSWERED QUESTIONS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I am really disturbed by the allegations against our colleague that he altered tapes. The gentleman from Indiana has not altered any tapes.

But I guess what I am also very, very concerned about is why are the Democrats worried about why Web Hubbell was awarded $100,000 from the Indonesian Government after he left the White House? Was it hush money? Why did Revlon Corporation give him $63,000?

Why, on these unaltered tapes, did he say I have to roll over for the White House one more time? Why did his wife say here comes the White House squeeze again?

Why did 19 members of the Committee on Government Reform and Oversight, 19 Democrat members, refuse to give immunity to four witnesses that the Democrat Department of Justice has already given immunity to? Why are the Democrats not interested in getting to the truth?

Why did Monica Lewinsky visit the Oval Office 37 times? Quite a file clerk, huh, Mr. President?

Why are these things going on? Why does Ms. McDougal not speak, Mr.

Speaker? Why are the Democrats not curious?

Mr. Speaker, I have these questions.

SUPPORT MAINTAINING CURRENT DOMESTIC SOURCING STANDARDS

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, as we envision the American soldier of the future, we imagine that soldier with state-of-the-art equipment, weapons, and training. Would it surprise us to see that soldier wearing a uniform made of Chinese fabric assembled in Taiwan? Would it trouble us to imagine him in the trenches wearing a helmet cast from German steel and eating rations imported from Sweden? Does it shock us to learn that the Department of Defense wants Congress to allow the purchasing of foreign materials and food for American soldiers?

With apologies to my fellow Ohioan, let me say, Mr. Speaker, we should all be beamed up on this one.

I plan to see that American soldiers are not clothed and fed by foreign companies and that the Department of Defense's Buy American laws are not circumvented with slick legislative language. I urge every Member of this body to join me and my colleague from New Jersey (Mr. LoBiondo) in cosponsoring the Strickland-LoBiondo resolution to maintain current domestic sourcing standards.

APPOINTMENT OF ADDITIONAL CONFEREE ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER pro tempore (Mr. Shimkus). Without objection, the Chair announces the Speaker's appointment of an additional conferee from the Committee on Ways and Means on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes:

Mr. Rangel.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

KYOTO TREATY SHOULD BE DEALT WITH IN LIGHT OF DAY

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, the U.N. treaty on climate change that was negotiated in Kyoto, Japan last December is a bum deal for this country. If ratified, this overreaching agreement would result in fewer American jobs, higher prices, a lower standard of living, and it will not reduce emissions.

Fortunately, there is strong opposition to this treaty in Congress, and the Clinton administration does not have the votes to win ratification in the Senate. However, faced with this dilemma, it appears the President will attempt to implement his policy objectives through regulatory fiat, executive orders and stealth tactics; regulatory end runs.

Congress must not allow this to happen. We must fight to defend our economic interests and we must fight to protect the integrity of the legislative process. To do anything less would be a grave disservice to the American people.

In yesterday's Investor's Business Daily, there is an editorial which highlights the Clinton administration's attempt to circumvent the will of Congress. Mr. Speaker, I urge my colleagues to read it and join in the effort to ensure that the Kyoto treaty is dealt with in the appropriate manner: in the light of day.

MR. BURTON SHOULD STEP ASIDE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, these are not my words: "If Republican leaders hope to preserve any shred of credibility in this House investigation, they must make it clear now that Mr. Burton must go. Must go now." The Albany Times Union, New York. Albany, New York. May 5, 1998.

The real question, Mr. Speaker, is would we want this to happen to us? Yes, the United States House of Representatives has the legal right to take the tapes that were taped of Mr. Hubbell in his conversations between his wife and attorney. The question is do they have the legal right to distort the truth before the American people? Do they have the right to selectively issue the transcripts? No, not distort the tapes, but selectively issue the transcripts.

Would we, as American citizens, want this to happen to us? Would we want our rights violated, our privacy destroyed and distorted? I believe not. And so the question becomes for this investigation to have any credibility, this person who leads out of this committee must step aside for us to be able to rise up and represent the American people.

THIS ADMINISTRATION NOT THE MOST ETHICAL

(Mr. PETERSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Pennsylvania. Mr. Speaker, for one minute let us say out loud what Republicans and Democrats on Capitol Hill are saying privately about what they are reluctant to say in public: The emperor has no clothes.

It is obvious that the people who came to Washington, promising the most ethical administration in history, is nothing of the sort. The nearly $3 million the Democratic National Committee returned after the 1996 election, because it came from foreign sources, was not raised by accident. White House assertions that they do not know how the White House ended up with 900 FBI files on Republicans are not true. And the assertion that no one knows who hired Craig Livingston is not only a lie, it is a laughable one. White House denials that the Lincoln bedroom was not sold or the White House coffees have nothing to do with fund-raising are lies.

Just more examples of an almost pathological inability to be honest with the American public. The latest scandals are simply more of the same, and they are popping up everywhere.

Mr. Speaker, why sugarcoat what everyone knows to be true. The emperor has no clothes.

CONGRESS IS SELLING ITS FISCAL SOUL

(Mr. MINGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINGE. Mr. Speaker, we have embarked on an era of political cronyism, plantation politics. This body recently passed a transportation bill that is $35 billion over budget. The bill did not pass on its merits but on the basis of 1,400 especially identified projects to garner the support of the Members of this body.

What does this mean? We are selling our fiscal soul; we are returning to the era of deficit spending. Or are we going to use the projected budget surplus for new programs as opposed to deficit reduction or for tax cuts as opposed to deficit reduction? Are we going to handicap our ability to address the problems of the Social Security System; or are we going to gut programs for veterans, agriculture, education, health care, seniors and our Nation's defense?

Mr. Speaker, we must not let the biggest pork barrel spending bill in the history of our Nation pass conference committee.

SUPPORT THE NATIONAL RIGHT TO WORK ACT

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I rise today to speak for 80 percent of Americans who support the National Right to Work Act, H.R. 59.

The National Right to Work Act repeals those sections of Federal law that give union officials the power to force workers to pay union dues as a condition of employment.

Compulsory unionism violates employers' and employees' constitutional rights of freedom of contract and association. Congress has no constitutional authority to force employees to pay union dues to a labor union as a condition of getting or keeping a job.

Passage of the National Right to Work Act would be a major step forward in ending Congress' illegitimate interference in the labor markets and liberating America's economy from heavy-handed government intervention. Since Congress created this injustice, we have the moral responsibility to work to end it, Mr. Speaker.

The 80 percent of Americans who support right-to-work deserve to know which Members of Congress support worker freedom. I, therefore, urge the congressional leadership, the majority of which have promised to place a National Right to Work Act on the floor, to fulfill their promise to the American people and schedule a time certain for a vote on H.R. 59.

RAISE LEGAL PURCHASE AGE FOR TOBACCO TO 21

(Ms. DEGETTE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DEGETTE. Mr. Speaker, if my colleagues pick up any copy of Rolling Stone or Sports Illustrated, they are certain to see tobacco advertisements dominating the pages. Why? Because these publications are aimed at college-aged kids, and tobacco companies know they must aggressively seduce this age group into smoking if they are to survive as an industry.

That is why R.J.R. has invested millions of dollars in its Camel Club Program in cities like Cleveland and in Denver, where college-aged kids hand out free cigarettes and R.J.R. paraphernalia to their peers.

Most minors under 21 who pick up smoking as a casual habit will become addicted to cigarettes for a lifetime. In fact, there is a less than 10 percent chance of becoming addicted to cigarettes if a smoker does not first light up before his or her first 21st birthday.

The only way to stop the tobacco industry from luring kids under 21 into using this deadly product is to make the sale of tobacco illegal to this age group. By raising the age to 21, we can stop this deadly practice.

REASONS FOR RELEASING THE HUBBELL TAPES

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, I rise today on the occasion of being a member of the Committee on Government Reform and Oversight and the disagreements that have occurred between the minority and the majority.

I think it is vitally important to understand what some of the major issues are, and one of the issues being the tapes. I want all the American people to know that we believe that under the law, the committee is entitled to have the tapes. In fact, a subpoena was issued last July, and that subpoena was responded to by the Justice Department by providing our committee with all of the tapes of Mr. Hubbell's discussion with his family and friends while he was institutionalized in a Federal institution for conviction of a crime unrelated to Whitewater or anything that we are investigating.

The problem was should these tapes be released to the public and whether or not it in any way impeded what the committee was doing. The fact is we had the tapes for more than 6 months.

STOP KEYCHAIN GUN FROM BEING IMPORTED OR MANUFACTURED IN UNITED STATES

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, the front page today of the New York Times documents a new horrible device that has just been found. It is a gun that looks like a keychain, and its only purpose is to be smuggled through metal detectors at our airports. This is a dangerous device that could allow terrorists, criminals, drug dealers, and others to get guns through airports and into airplanes and in our country.

I am writing the President and asking that he administratively block the importation of this device. If that is not possible, then we should introduce and quickly pass legislation that would stop this so-called keychain gun from being imported or manufactured in the United States.

Mr. Speaker, abolishing this awful device with the only purpose of helping terrorists is something that even Charlton Heston could agree on.

□ 1030

SOCIAL SECURITY TRUST FUND

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Michigan. Mr. Speaker, I would like to call to the attention of my colleagues a bipartisan bill that we will be introducing. It deals with Social Security, the money that we are borrowing from the Social Security Trust Fund.

It does two things. It says, in the future when we borrow money from the Social Security Trust Fund, they will not be blank IOUs, as they are today, but they will be marketable Treasury notes that the trustees of the Social Security Administration can walk around the corridor and cash in when they need them.

The second thing this bill does is that it says, in the future, when CBO and OMB, the Congressional Budget Office and the Office of Management and Budget, issue projections of deficits or balanced budgets, they will not include the money that is borrowed from the Social Security Trust Fund. I invite my colleagues to cosponsor that bill with us.

It seems very important that we move ahead honestly and that we achieve a real, honest budget. Even though we have made great progress over the last several years, cutting down the deficit by $300 billion, let us move ahead.

MARRIAGE PENALTY TAX

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, as Mother's Day approaches, we should all remember that when a couple stands at the altar and says, "I do," they are not agreeing to higher taxes. Yet, under our current Tax Code, that is precisely what is happening to millions of married couples each and every year.

According to a recent report by the Congressional Budget Office, an estimated 42 percent of all married couples, some 21 million couples nationwide, incurred a Federal marriage penalty tax in 1996. The average marriage penalty that year approached an astounding $1,400.

Addressing this inequity in our tax law must be one of the top priorities of this Congress as we work to provide the American people further tax relief in 1998. This Mother's Day, I would urge all of my colleagues on both sides of the aisle to give the gift of tax fairness by supporting our efforts to eliminate the marriage penalty tax.

SCHOOL CHOICE

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, we have been having a debate here on the floor of the Congress about school choice and particularly here in the Washington district.

Jonathan Rauch writes on this issue in the last November 10 edition of the New Republic. He says he has always found it odd that the liberals have handed the issue to the Republicans rather than grabbing it for themselves. He writes, "It's hard to get excited about improving rich suburban schools. However, for poor children, trapped, the case is moral rather than merely educational. These kids attend schools which cannot protect them, much less teach them. To require poor people to go to dangerous, dysfunctional schools that better-off people fled and would never tolerate for their own children, all the while intoning pieties about 'saving' public education, is worse than unsound public policy. It is repugnant public policy."

Mr. Speaker, we agree.

RECOGNIZING PUBLIC SERVICE BY WASHINGTON STATE BROADCASTERS

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NETHERCUTT. Mr. Speaker, I rise today to call attention to the outstanding public service work being done by broadcasters across America and especially in my district in eastern Washington.

The Washington State Association of Broadcasters recently completed a survey of its membership and the results were extremely encouraging about the level and types of public service rendered on a daily basis by radio and TV stations in my State.

I want to particularly praise the fine work done by stations in my district, the fifth of Washington. KXLY-TV created a school attendance award that helped decrease truancy in Spokane middle schools. KHQ-TV spent hundreds of thousands of dollars for the "Success by Six" program that is helping children throughout Spokane middle schools learn to read by the time they are 6 years old. KREM-TV recently raised more than $166,000 for programs benefiting women and children, such as the YWCA Transitional School for Homeless Children. And KAYU-TV is teaching kids lessons about fire safety with PSAs throughout their children's programming.

There are many more examples of this kind of public service provided on a daily basis by local broadcasters in Washington State and across the Nation. We should thank these outstanding broadcasters who truly share the spirit of outstanding public service.

REFUSAL TO GRANT IMMUNITY TO FOUR KEY WITNESSES

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, what can Congress do to break a stone wall? Many of the key witnesses in congressional investigations have either fled the country or taken the fifth amendment. Others have hidden behind phony claims of executive privilege.

And if that is not enough, now we have Democrats on the House Government Reform and Oversight Committee who refuse to grant immunity to four key witnesses; even their own Justice Department consents to the granting of immunity to those four key witnesses.

What is Congress to do? Well, Congress can go to the courts and, thus, delay investigations for many more months, while listening to the White House and other defenders of this sleaze and obstruction to cry with indignation that the investigation is taking too long.

Mr. Speaker, why is this story not being told? Why cannot everyone, Democrats and Republicans alike, agree that no one is above the law and that the American people have a right to truthful answers?

Mr. Speaker, no amount of stonewalling should stand between the truth and the American people any longer.

CLARIFICATION TO APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER pro tempore (Mr. SHIMKUS). Without objection, the Chair announces that the Speaker's appointment of additional conferees today from the Committee on Ways and Means were solely for consideration of title XI of the House bill and title VI of the Senate amendments and modifications committed to conference on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

COMMUNICATIONS SATELLITE COMPETITION AND PRIVATIZATION ACT OF 1998

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 419, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 419

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Commerce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Printed amendments shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my very good friend, the gentleman from South Boston, MA (Mr. MOAKLEY), pending which, I yield myself such time as I may consume.

Mr. Speaker, this modified open rule provides for consideration of H.R. 1817, the Communications Satellite Competition and Privatization Act of 1998. The rule provides for 1 hour of general debate equally divided between and controlled by the chairman and ranking minority member of the Committee on Commerce.

The rule makes in order as an original bill for the purpose of amendment the amendment in the nature of a substitute recommended by the Committee on Commerce now printed in the bill, which shall be considered as read.

The rule further provides for consideration of only those amendments that have been preprinted in the CONGRESSIONAL RECORD. The rule also allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill and reduce voting time to 5 minutes on a postponed question if the vote follows a 15-minute vote. And finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, the United States is the leader of the international information-based economy. My home State of California is home to many industries that create and exploit the core technologies of the information economy, including telecommunications and satellite producers.

The goal of this legislation is to bring satellite communications into a new era of competition. We get there by encouraging an international cartel of largely government-run national telecommunications monopolies to undergo a process of competitive privatization. The winners will be the consumers of international telecommunications services, who will enjoy lower prices, better services, and technological innovation.

Without question, there are very legitimate areas of debate regarding the best means of moving to a private, free market in international satellite communications. Because of the complex nature of the international satellite cartel, this is a modified open rule that does not block any germane amendment from being considered by the full House as long as the amendment has been preprinted in the Record.

Mr. Speaker, this rule is deserving of bipartisan support, as is the bill. I look forward to the House working its will on the amendments submitted that have been printed in the Record, with the hope that the final product is something that can be signed into law so that we more fully enjoy the fruits of our information-based economy.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

I thank my colleague, my dear friend the gentleman from California (Mr. Dreier), my chairman in waiting, for yielding me the customary half-hour. It might be a longer wait than he anticipates.

Mr. Speaker, I rise in support of this open rule, although I do not understand the need for the preprinting requirement. There were only two recorded votes in committee. There is nothing in the bill that could not be handled in a totally open rule.

Today's rule will make in order the Communications Satellite Competition and Privatization Act, which will end the COMSAT monopoly.

In 1962, Mr. Speaker, President Kennedy established an international satellite system which gave rise to two huge satellite cooperatives, INTELSAT and Inmarsat.

Since these cooperatives are so big and so powerful, they completely had the entire market on satellite programs. Right now, any communications company that wants to use the INTELSAT or the Inmarsat to transit into or out of the United States has to buy access through the COMSAT Corporation.

This bill will open competition in the international communications satellite system by encouraging INTELSAT and Inmarsat to privatize. It would help level the playing field and allow competing satellite companies to get into the business. Since the United States is such a leader in satellite technology, this privatization should be very good news for us.

COMSAT can continue to provide any service it wishes. It will just have to be subject to competition from other private-sector companies. So people who depend upon international communications, especially for international calls, the Internet, cellular phones, and video, can expect to see lower prices and much more choice in services.

So I urge my colleagues to support this rule.

□ 1045

Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. Markey), the ranking minority member on the Subcommittee on Telecommunications, Trade, and Consumer Protection, the person who has all the questions and all the answers.

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. Moakley) for yielding me this time, and I thank everyone who has participated in this enormously important debate.

As has been pointed out by the gentleman from Massachusetts, back in 1962, largely in response to the challenge from the Soviet Union with the launch of Sputnik and the paranoia which overtook the West, the United States not only began a process of putting a man on the Moon and developing intercontinental ballistic missiles at a pace that had not yet been matched in our country, but it also helped to organize something which would create an international satellite consortium using government-based entities to launch these satellites, because there was no private sector capacity within the West in order to accomplish these goals.

This consortium, INTELSAT, later matched by another group called Inmarsat for satellite-based maritime communications, became the basis for, the foundation for, international satellite competition. It served us very well, as did most monopolies, in electricity, in local telephone, in long distance telephone, in cable in the initial stages of these industries. But over time it became clear that private sector competition in each one of these industries was possible. In each case, of course, the incumbent monopolist argued that it would be a takings, it would be illegal to take away this monopoly which had been granted by the government. But the reality was that the government had made a decision initially in order to grant to one entity the ability to be the first into the field, in order to establish it, but always retain the right to be able to break up the monopoly when private sector competition arrived.

Today we are going to debate the last frontier of monopolies, this one in outer space, this one where INTELSAT and Inmarsat, with its American signatory, COMSAT, seeks to retain its monopoly access to this satellite communication internationally. What our legislation does is break it up. It says to COMSAT, it says to INTELSAT, it says to Inmarsat, "You must privatize. You must move to the private sector. You must give access to every other private sector company to that which you have." That is the objective of this legislation.

The gentleman from Virginia (Mr. Bliley), the chairman of the full committee, has been the leader on this issue, driving it as an important final stage of our efforts to have privatized this international telecommunications industry.

Now, these two entities, INTELSAT and Inmarsat, two international orbiting cartels, are not going to simply wake up one day and say, "Fine, take back our monopoly," because we have been waiting for the last 20 years for them to do that. It is not going to happen. They are not going to shed themselves of their privileged access to international frequency spectrum. They are not going to voluntarily give up their immunity from antitrust law. They are not going to compete against American-based satellite companies on an even ground, simply because we ask them to do so politely.

This legislation and the rule which accompanies it is a fair set of recommendations for the debate, and then for the substantive decision-making here on the floor. I hope that the Members today understand how historic this debate is. It really will help to revolutionize the way we communicate on this planet.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I rise in strong support of this very fair and balanced modified open rule and urge my colleagues to join in supporting it and to support the legislation that will follow.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. Shimkus). Pursuant to House Resolution 419 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1872.

The Chair designates the gentleman from Kansas (Mr. SNOWBARGER) as Chairman of the Committee of the Whole, and requests the gentleman from Illinois (Mr. LAHOOD) to assume the chair temporarily.

□ 1050

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization of satellite communications, and for other purposes, with Mr. LAHOOD (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act of 1998. Today I ask that all Members support this bill and oppose all amendments.

Let us ask a question, if we had it all to do over again, would we want to use the model of the United Nations for supplying international communications? Would we trust an important part of the information age to intergovernmental organizations? Or instead would we rely on the free market? If the last three decades have taught us anything, Mr. Chairman, it is the failure of central planning and the inefficiency of government-run industry. If we have learned anything, it is that we should trust the marketplace.

The international satellite communications market is dominated by INTELSAT for fixed services like voice and video, and Inmarsat for mobile services like maritime and aeronautical. These intergovernmental organizations want to use their market power to expand into advanced services that the private sector is chomping at the bit to provide, like Internet access, direct broadcast services and hand-held phones. These intergovernmental organizations, or IGOs, are run by a combination of the world's governments and owned by a consortium of national telecommunications monopolies. By government monopolies, for government monopolies, of government monopolies. Their supporters call them a cooperative. Where I come from, that is called a cartel. Either way, it is high time for them to be privatized.

On that there is little disagreement. But more than just privatized, they must be privatized in a pro-competitive manner, in a manner that fosters competition. A privatized monopoly is still a monopoly nonetheless, and in a manner that relies on the marketplace, not on governments. In the current structure, the owners of the IGOs are the foreign telecom monopolists that often control licensing decisions and almost always control market access. Thus they have the ability and the incentive to keep U.S. satellite competitors from coming into their countries and competing against INTELSAT and Inmarsat. If we remove these distorting incentives, our communications satellite and aerospace industries, the most competitive in the world, will have a fair shot at breaking into foreign markets. But if we are to bring technology of modern telecommunications to all parts of the globe, if we are to make international telecommunications truly affordable, then we have to muster the courage to privatize the cartels and force them to compete on a level playing field, putting our faith in the private sector and the free market.

The gentleman from Massachusetts (Mr. MARKEY) and I have introduced this legislation to do just that. It encourages privatization of the IGOs in a way that fosters competition rather than snuffing it out. It provides for privatization of INTELSAT by 2002 and Inmarsat by 2001, more than enough time for these organizations to privatize. More importantly, it requires privatization in a way that fosters competition. If they do not privatize in a pro-competitive manner, the bill limits these organizations' access to American markets for non-core services. Moreover, if they do not make progress towards privatization, they cannot provide under new contracts highly advanced services better left to the private sector.

The only effective way to get the IGOs to move is to use access to the U.S. market as leverage. The IGOs are immune and privileged treaty-based organizations. You cannot sue them, you cannot tax them nor can you regulate them. We have to use the only lever that we have, market access. The bill's mechanisms are akin to telling the Japanese that they cannot bring in all the cars they want unless they allow imports of American products. COMSAT, the U.S. signatory, and IGO reseller, is like the Isuzu dealer in Bethesda. The Isuzu dealer is a U.S. company but they are selling a foreign product. Here COMSAT is selling a foreign, intergovernmental product. By the way, our bill expressly permits COMSAT to sell any service it chooses if it does so over a system independent from the IGOs. Only where they choose to use the IGO facilities and if the IGOs do not progress toward a pro-competitive privatization would market access be threatened. The threatened restriction is on IGO services, so it could apply to any distributor of IGO services whether that is COMSAT or a new competitor after COMSAT's monopoly is eliminated.

Our legislation will eliminate COMSAT's monopoly by permitting competition for access to the IGOs. Such competition is called direct access. According to the FCC, COMSAT's average margin in reselling INTELSAT service is an amazing 68 percent. Not bad if you can get it, but very bad if you happen to be a consumer. Every cent of COMSAT's high prices comes from the pockets of American consumers. But COMSAT has used its position as the monopoly provider of IGO services to force users to sign long-term take-or-pay contracts so they will not be able to take advantage of the competition direct access will permit. Thus the bill provides what is called "fresh look," which allows consumers to have a one-time chance to renegotiate monopoly take-or-pay contracts.

During the committee process, we defeated an amendment that would have eliminated using access to the U.S. market as a lever. We defeated an amendment to eliminate the potential restrictions on expansion if progress is not made toward privatization. We defeated an amendment to strike out fresh look. We accepted amendments which went a long way toward meeting concerns some Members and COMSAT had raised, and made other changes to accommodate their concerns. And the bill passed by voice vote.

The bill has been endorsed by every private satellite services company from GE to Motorola, TRW to Boeing, Teledesic to PanAmSat. It has also been endorsed by major users of the systems, AT&T, MCI and Sprint, maritime users and a variety of ethnic groups because of consumer cost savings that will come with the bill. Over 40 endorsements and counting. The U.S. signatory to the IGOs, COMSAT, of course, opposes it and they will oppose any effort at reform. It ends their monopoly and would force the IGOs to give up their special advantages when they privatize. A level playing field is not welcome when you have been the government-backed monopolist. They will use every tactic they can to trip up reform. We will have amendments that may sound reasonable, but in effect remove any incentives for the IGOs to privatize. I urge Members to ignore the rhetoric and oppose all amendments.

H.R. 1872 is, in the words of one industry coalition, a moderate and balanced approach. Consumers and taxpayers will benefit from the lower prices it will bring, and businesses and their employees will benefit from the new markets it will open.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield my time to the gentleman from Michigan (Mr. DINGELL), and I ask unanimous consent that he be permitted to control that time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. DINGELL. Mr. Chairman, I yield myself 6½ minutes.

☐ 1100

Mr. Chairman, I want to express affection and respect for my good friend, the chairman of the committee, the gentleman from Virginia (Mr. BLILEY) and I also want to express the same good feelings towards my friend from Massachusetts (Mr. MARKEY). They are fine Members, and the fact we have a difference here does in no way diminish my respect or affection for either of these fine gentleman.

The simple fact of the matter, however, is this is a bad piece of legislation. It is unfair, it subjects the taxpayers of the United States to large liability under the Tucker Act, and I am talking about billions of dollars. This Congress has learned before that this is a risk, but it appears that we have to relearn the unfortunate lessons that we learned when we wrote the legislation on Conrail and when we did away with the unfortunate New York Central Railroad, and the bankruptcy and the reorganization by statute. We subjected the taxpayers to about $6½ billion in liabilities because we interfered with the contracts, we interfered with the business, and we interfered with the goodwill and the going value of the corporation, and it cost the taxpayers dearly. This is not a mistake which we should repeat today.

Mr. Chairman, H.R. 1872 has laudable goals. Unfortunately this legislation is going to fail. It is anticompetitive, it is anticonsumer and, worse, it is unconstitutional. The bill would impose draconian measures which would limit not only INTELSAT or Inmarsat, but it would also limit their U.S. customers. The bill unilaterally dictates complete privatization by legislative edict. If it were that simple, these treaty organizations could have long since been privatized.

I would point out these are treaty organizations. The United States cannot unilaterally impose its will on better than 141 sovereign nations who are party to these treaties. The bill disregards the cold hard fact that the United States has but one vote in the governance of INTELSAT and Inmarsat. Congress cannot change that unfortunate international reality.

It should be clear to anyone that this approach has no chance of success. If any foreign country wants to scuttle privatization efforts, this train will be immediately derailed and vital American interests will suffer.

The interesting thing is that foreign countries cannot only hurt Inmarsat and INTELSAT in this process, but, very frankly, they can hurt American corporations and American competitiveness and American business going well beyond these two entities.

I for one cannot support a bill that holds American interests hostage to the whims of 141 countries and that makes American carriers, innocent of wrongdoing, who have been held to be nondominant carriers just recently by the FCC, be at the mercy of foreign competitors.

When service restrictions contained in this bill kick in, hundreds of millions of dollars in American investments in satellite equipment will be made obsolete overnight.

If this were not bad enough, COMSAT, which is a private corporation publicly traded on the U.S. stock markets, will be ruined financially. Congress made a policy decision to fund these international satellite systems by putting private capital at risk instead of taxpayers' money, and when those private taxpayers' moneys and those stockholders' moneys are lost, the Federal Government will have a liability under the Tucker Act.

It should be noted that the United States Government encouraged and in many instances required COMSAT to invest in these systems in exchange for the responsibility and the opportunity to earn a reasonable return. That would be taken away from COMSAT.

And the practical result of this is again liability on the part of American taxpayers because of an unconstitutional action and an unconstitutional taking by this Congress of property belonging to private American citizens, which subjects this government immediately to redress under the Tucker Act.

For the government to breach this bargain, obliterating the value of this investment, then serious constitutional concerns are raised under the takings clause of the fifth amendment. The report can tell my colleagues until the committee is blue in the face that this is not going to be the fact, but be assured that it will be, and my colleagues are playing fast and loose with the taxpayers' money if they vote for this legislation. This provision alone will subject American taxpayers to claims for damages running to billions of dollars.

It should also be noted that this claim will fail. There is no reason to believe this, given the clear Supreme Court's precedents on these matters. And I would note that American users, as well as Inmarsat and INTELSAT, will suffer and will face the severe adverse impact that will flow from an unwise, unconstitutional, and unnecessary governmental action.

In any event, this Congress should not be willing to throw away billions of taxpayers' dollars on a litigation strategy that at best is no more than a crap shoot.

In sum, H.R. 1872 is a bad bill. It is in desperate need of radical surgery. It contains more constitutional law problems than a first year law school exam.

I urge my colleagues to join in defeating what is here, an ill-conceived budget-breaking bill that is going to waste taxpayers' moneys without any benefit to the taxpayers or to the country; and it will subject, I reiterate, our constituents to claims for billions of dollars in damages, with no hope or expectation of gain for the country, for competitiveness, or anything else.

Mr. Chairman, I urge the rejection of the bill, and I urge the adoption of the amendment which will shortly be offered by my good friend from Louisiana (Mr. TAUZIN).

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, let me first tell my colleagues that there is good news and bad news today. The good news is that this bill in this form will never see the light of day; it will not get through this Congress. It will not see the light of day in the Senate and should not in its current form. The bad news is the same; that this bill could fail, it could not become law because of its current form.

What I am rising today to ask this House to consider are amendments to this bill to put it in the shape so that it can become good law, the Senate and the other body can in fact take it up, and we might accomplish the goals of this legislation.

Let me first commend the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for the goals of this legislation. It is indeed on target. It is designed to privatize these treaty organizations and encourage that process as rapidly as possible.

Unfortunately, the bill is weighed down with several provisions which, as the gentleman from Michigan (Mr. DINGELL) pointed out, are clearly takings under the fifth amendment of the United States Constitution and which clearly will subject the Federal Government to the possibility of huge settlements and huge lawsuits against this government for taking private property without compensation.

Later on in this debate, the gentlewoman from Maryland (Mrs. MORELLA) and I will be offering amendments to deal with those sections of the bill. If those amendments are adopted, this bill will be put into shape, and then it should become law, and maybe it will have a chance on the other side. If those amendments fail, then I predict this bill will never see the light of day and will never become law in this Congress, and that is a shame. I should hope we have the good sense to pass those two amendments.

In the course of this debate, I will point out to my colleagues that in this bill is a provision that abrogates private contracts. In this bill Congress will be changing private contracts and allowing people to get out of contracts they signed. In the course of this debate, I will show my colleagues that one of the competitors to COMSAT took this issue to court and lost; lost in Federal district court and in their request to have these contracts abrogated. And now in this bill we are being asked as a Congress to change that Federal court decision and to permit the abrogation of those long-term contracts.

Just on April 24, our FCC ruled that those COMSAT contracts were not monopolistic contracts, were entitled to the respect of law, and yet this bill will permit those contracts to be abrogated. By congressional action it will say that customers who signed the contract can get out of it when they want to, when the time comes in just a couple of years for them to do so.

In short, we will be presenting to our colleagues in this debate today several ways in which this bill can be improved so that it can go forward and hopefully become law. Without those changes, this bill will amount to congressional authorization of taking of private property from an American private corporation, will damage the facility of that corporation to provide service to American customers, and will in fact deny those American customers the right to use that American corporation in the facilitation of services for their customer base.

In short, this bill as it is currently written is going down, if not here, somewhere in this process.

Today we will have an opportunity to fix it in two very important aspects: to remove those private takings of private property without compensation, to protect the American taxpayer from these lawsuits and to protect the customers of a private American company from abrogation of their contract rights.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I am pleased to rise in support of H.R. 1872, legislation which will bring about the privatization of INTELSAT and Inmarsat.

When Neil Armstrong took the first steps on the surface of the Moon in 1969, the world was able to watch each step because of a successful Cold War collaboration known as INTELSAT. It was a network of three satellites at the time, just enough to provide global coverage of the Moon landing. It is now a network of 24 satellites offering voice, data, and video services around the world. Combined with Inmarsat's eight satellites, these ventures should be viewed as two of the most important successful international cooperation efforts ever undertaken.

The United States demonstrated great leadership when it helped create INTELSAT. I think we must demonstrate our leadership once again in making the changes necessary to fit our times by privatizing INTELSAT and Inmarsat. There is agreement on the goal of privatization, but how we get there is the key question. During subcommittee and full committee consideration of the bill, sponsors sought to address many of the concerns raised.

I commend the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) on their efforts to bring us closer to a consensus. I realize some still have reservations about the bill, but it is important to recognize that compromises and concessions have been made.

Concerns were raised about service restrictions on COMSAT. Those provisions were moderated. Concerns were raised about so-called fresh-look provisions. Those provisions were moderated. At some point, we need to ask whether those seeking further compromise are asking for changes to improve the bill or to kill it.

In closing, I want to bring to the attention of my colleagues my concerns with INTELSAT's current plan to spin off a private entity. Ever since the Subcommittee on Telecommunications, Trade, and Consumer Protection of the Committee on Commerce held a hearing on competition in the satellite industry over a year and a half ago, I have consistently raised concerns that any privatized spinoffs from INTELSAT or Inmarsat must be pro-competitive. The process of privatization we are supporting today is undermined if the privatized entity is created with unfair competitive advantages.

I look forward to moving this bill today, and I ask my colleagues to keep in mind whether those that are opposed are doing it to kill the bill or really to improve it.

With that, Mr. Chairman, I urge my colleagues to support H.R. 1872.

□ 1115

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. GILLMOR).

Mr. GILLMOR. Mr. Chairman, I thank the Chairman for yielding, and I rise in support of H.R. 1872. This bipartisan bill, of which I am a cosponsor, is intended to bring competition to the intergovernmental satellite organizations, INTELSAT and Inmarsat. It will also remove COMSAT's monopoly over access to these organizations.

Fundamentally, this bill is a major policy decision that commercial satellite services should be provided by the private sector worldwide and not by the government. The government consortia may have been needed to run an international satellite system in the 1960s, but after almost 40 years, things change. We need to update our laws and our regulations to reflect the current marketplace.

In addition, increasing the competitive nature of the international satellite marketplace is very important to ensure that private American satellite companies can compete on a level playing field. And today, the playing field is tilted toward INTELSAT and Inmarsat. These organizations are owned by monopoly providers of telecommunications services worldwide. Working in cartel fashion, they have tried to keep competition from developing.

There are two other important provisions in this bill providing for "direct access" and "fresh look," and I presume my time has expired.

Mr. DINGELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I thank the gentleman from Michigan (Mr. DINGELL) for yielding me this time, and for his leadership on this issue.

Mr. Chairman, I rise today in strong opposition to H.R. 1872, and also in strong support of the Tauzin and the Morella amendments which are to come. This legislation, should it pass without these amendments, will set back 3 decades of American leadership in international satellite communications and reverse the trend toward increasing competition in the satellite industry.

The legislation before us today establishes unrealistic timetables and conditions for the privatization of INTELSAT and Inmarsat, prohibits any organization from being used to provide critical noncore satellite services to customers in the United States if the bill's rigid privatization deadlines are not met, and that is just not right.

Now, this legislation has laudable goals, and I appreciate its intent. Unfortunately, its approach is somewhat bludgeon-like, and the sponsors have taken a somewhat misguided and punitive approach, an approach that is so unfair that it has been denounced in publications as ideologically diverse as the Washington Times and the Boston Globe.

They would have us believe that COMSAT is a monopoly. They would have us believe that COMSAT is in fact the Microsoft of the satellite industry.

COMSAT is a United States company that is going to be punished by this bill. It is a publicly traded, U.S. company. It is not true that it is a monopoly. In fact, there are currently more than 20 competitors for COMSAT with more than $14 billion in investments and $40 billion in stock. If this is not competition, I do not know what is.

If we look a little further, in 1988 COMSAT controlled 70 percent of the market. That is not true today; they only control 21 percent. In fact, on April 28 of this year, the FCC declared that COMSAT is nondominant in most of its market. This effectively eliminates arguments that we will hear that we are trying to get rid of some terrible monopoly. The monopoly does not exist.

What we have is a United States company that is going to be severely punished as a result of this legislation.

COMSAT has represented the United States' interests in international satellite communications for 30 years. The company has played a leading role in moving toward privatization. The plans that are adopted currently by INTELSAT reflect the involvement of COMSAT.

Since its inception, COMSAT has never wavered from its mandate to provide satellite communications to some of the most remote parts of the world. It has done outstanding work. But now, they are faced with an unprecedented legislative attack that will put this U.S. company out of business, this company that hires over 1,000 American citizens.

What does this bill do? It imposes some very un-American things on an American company. It imposes service restrictions on the new satellite communications service that COMSAT could offer to its customers. This would include high-speed data services, Internet access services, and land mobile communication; basically, taking the heart out of COMSAT's business. But even worse, it would abrogate contracts; that is, existing contracts could be set aside under the terms of this legislation to the detriment of COMSAT, all supposedly to promote privatization. In fact, this approach would undercut active efforts that are going on today to move toward privatization by imposing these unrealistic timetables.

Mr. Chairman, I think we do need to take a stand for privatization, but we need to be careful where we stand. We should not punish U.S. companies, we should not punish U.S. employees for actions by international organizations that they cannot control. We need to take a look at amendments that could help this bill, amendments we will hear about from the gentleman from Louisiana (Mr. TAUZIN) and from my colleague, the gentlewoman from Montgomery County, Maryland (Mrs. MORELLA). I think if we add these amendments, we can improve this bill. But as it stands, this bill is an unconstitutional taking from a U.S. company. It is punitive, it is unfair, and I hope this House will reject it.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS), a member of the committee.

Mr. STEARNS. Mr. Chairman, I rise in support of H.R. 1872.

I do not think there is anybody in this House that disagrees that we have to deregulate, and I am glad that the former speaker indicated he also agrees that we need to deregulate. So the goal of this legislation is to privatize INTELSAT and Inmarsat satellite systems, of which COMSAT is the U.S. representative; and even COMSAT itself agrees that we need to deregulate.

I am glad to point out that I have worked hard to ensure that the results will be INTELSAT and Inmarsat and their spin-offs will be healthy, private companies able to compete in the competitive satellite marketplace. Working with the chairman of the committee, the gentleman from Virginia (Mr. BLILEY), we were able to improve the bill in the committee process to make it more equitable and measure up to the approach of privatizing systems.

The original text of the bill inserted a retroactive date of May 12, 1997 in certain sections of the bill and, in effect, would have hurt COMSAT from making use of the significant investments in replacement satellites and in satellites for new orbital slots which they made since May 12, 1997. We were able to compromise and used the date of our Committee on Commerce markup of March 25, 1998 as the date of cutoff for replacement satellites in orbital slots. This change will allow COMSAT, as a U.S. representative to the INTELSAT and Inmarsat system, the use of hundreds of millions of dollars in investment. I bring that to the attention of my colleagues who are not in favor of this bill, because that amendment moved forward to give more equitableness to the COMSAT deregulation portion here.

Mr. Chairman, I am also sympathetic to the comments of the gentleman from Louisiana (Mr. TAUZIN), and I welcome the debate on this about the "fresh look" provisions in the bill and the debate in which we will be talking about what will be raised in the amendments. I think we need to look at all of the problems and make this the best bill possible to ensure that the potential financial liability to the U.S. taxpayer is resolved.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Chairman, I rise in support of this legislation. I am going to focus on two issues that several of my colleagues have raised. The first is whether or not there is an existing monopoly in satellite telecommunications internationally. The facts are, contrary to what the gentleman from Maryland (Mr. WYNN) has mentioned, I guess it is in the eyes of the beholder how we look at it, but let me talk specifically about facts.

If one is in the United States of America and he wants to make a phone call or receive video from a location overseas that is serviced through a satellite system, the only way to do it, the only way, is through COMSAT. That is a statutory monopoly that this Congress had granted and has granted and is the existing law. That is a fact; there is a statutory monopoly in terms of communications through the INTELSAT system.

There are alternative ways, but in some locations there are not. In fact, if one wants to call Africa or Asia, or if one wants to send video from Iran back to America, there is just no other alternative. So that is the first issue. There is a statutory monopoly.

Let me also respond, we are going to have several amendments on this, but I think it is going to be the heart of a lot of the debate that is going to take place this morning, the issue of whether we are abrogating contracts and what that means. Since there is an existing monopoly, that monopoly had the power to have contracts, essentially forced contracts, monopoly contractual terms on a variety of consumers throughout the United States of America. And just as has been done previously in telecommunications issues, specifically regarding when AT&T broke up in terms of long-distance service, in a monopoly situation which did exist and does exist today, when we are breaking up the monopoly, which is appropriate in terms of service and price for our economy and every citizen of the United States, we have to view how those contracts were established, and those contracts were established in a monopoly situation. So it is clearly appropriate for us to make that change which is not precedent-making, which we have done previously on several occasions in telecommunications in addressing monopoly situations.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I rise today to commend the gentleman from Virginia (Mr. BLILEY), the chairman of the committee, and the gentleman from Massachusetts (Mr. MARKEY) for the fine work that they have done on this bill, and to urge my colleagues to support H.R. 1872.

This base bill aims to eliminate the last statutory monopoly in the U.S. telecommunications market by subjecting COMSAT to competition and taking steps to privatize INTELSAT and Inmarsat. Monopolies and organizations like international consortia may have made sense back in the 1960s when Congress first passed the Satellite Act, but they do not make sense today.

Having said that, I do think we need to examine thoroughly the Tauzin and Morella amendment. But the world has changed dramatically in the years since Congress enacted the Satellite Act. Technology and the economy have evolved to the point that it is possible for private companies to do what once we thought only governments could do.

So I rise in support of this bill.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I would like to thank my good friend from Michigan, our ranking member (Mr. DINGELL) for allowing me to speak for 2 minutes.

I rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act. In committee several modifications were indicated to accommodate the concerns that I had, as well as other Members, and we believe that we have addressed the legitimate issues, and I urge my colleagues to support the bill.

I want to thank the gentleman from Virginia, (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for addressing the issues of the maritime concerns. Mr. Chairman, I would like to ask unanimous consent to place into the RECORD a letter to the Chairman of the committee, the gentleman from Virginia (Mr. BLILEY) from the Chamber of Shipping of America in support of the bill, in support of the changes that were made, both in the committee and in the chairman's mark.

H.R. 1872 will start the privatization of both INTELSAT and Inmarsat. These global satellite network systems help provide services such as telephoning long distance and maritime safety services. The maritime industry plays an important role in my district, particularly because of the Port of Houston.

During committee consideration, concerns were expressed about the impact of this privatization effort on maritime safety services. I am particularly concerned with the Global Maritime Distress and Safety Service which is provided by COMSAT using the Inmarsat satellite system. Currently, the GMDSS that is connected to a ship's communication systems allows a vessel to reach maritime rescue services at the push of a button. The modifications made in committee and supported by the letter that I will put into the RECORD will take positive steps to maintain and assist and improve the GMDSS.

These modifications ensure that maritime safety devices and services will always be available to our shipping industry. For example, a provision was added which clarifies that the United States will not oppose the registration of orbital locations for Inmarsat replacement satellites.

H.R. 1872 also requires the FCC to consider equipment cost and design change and design life of maritime communications equipment when making a licensing decision. This provision, added, makes sure that the maritime industry's investments in communications equipment are not rendered useless or become too costly because of competition. This bill will help increase marketplace choice, and again, I urge passage of this bill. Mr. Chairman, at this time I include for the RECORD the letter previously referred to.

CHAMBER OF SHIPPING OF AMERICA,
Washington, DC, April 29, 1998.

Hon. THOMAS J. BLILEY,
Chairman, House Commerce Committee, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN BLILEY: The purpose of this letter is to express our appreciation for your willingness to respond to our concerns outlined in our letter of February 26, 1998, with regard to the Communications Satellite Competition and Privatization Act, H.R. 1872.

As we indicated previously, our members are the end users of these systems and, as such, generally support the concept of privatization since, if properly done, will ultimately result in better service at a lower cost to the end user.

As you recall, our concerns related to continuity of service of the GMDSS and commercial maritime functions, as well as the need to mitigate substantial investments in new equipment by users who have recently made expenditures for equipment which interfaces with existing systems.

On review of the substitute bill and amendments as reported out of your Committee, we are pleased to find provisions that address our concerns, specifically as follows:

Section 601(b)(3), Clarification: Competitive Safeguards relating to the existence of non-core services at competitive rates, terms, or conditions.

Section 624 (2) and (7) relating to preservation, maintenance and improvement of the GMDSS.

Section 681(a) (11) and (21), Definitions relating to non-core services and GMDSS.

We understand these considerations to be several of many which the FCC will consider in future action. We urge you to include in the record language that reemphasizes these issues which are so critical to the continued safety of mariners worldwide and the continued reliability of the U.S. maritime industry.

Mr. Chairman, we know this has been a challenging issue for all involved and we truly appreciate your leadership in assuring the concerns of the maritime industry are adequately addressed. We look forward to continued work with you and your Committee in the future.

Sincerely,

KATHY J. METCALF,
Director, Maritime Affairs.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I want to commend the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for authoring this legislation.

Two years ago we passed historic legislation that has put us well down the road towards bringing telecommunications competition to all markets within the United States. With H.R. 1872, we take another major step towards reaching the same objective in the provision of international satellite services.

As we take this step, I want to draw attention to one of the bill's most important features, a provision called "fresh look." "Fresh look" is a tool that is intended to accelerate the transition from monopoly to competition by giving purchasers of service a window of opportunity to renegotiate long-term contracts entered into under the assumption that the seller was and would continue to be the sole provider of service. It is a tool that has been used by the Federal Communications Commission in several proceedings. It has also been used by State public utility commissions in California, Colorado, Michigan and Ohio.

□ 1130

While the "fresh look" tool should not be abused, it is useful when employed, as it would be under this bill, to ensure that consumers are ready to realize near-term benefits from the opening of the market to competition.

Mr. Chairman, I support the bill and most particularly the open "fresh look" provisions.

The CHAIRMAN pro tempore (Mr. LAHOOD). The Chair would advise both sides they each have 13 minutes remaining.

Mr. DINGELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman from Michigan (Mr. DINGELL) very much for yielding me this time.

Mr. Chairman, in 1945, a visionary, Arthur C. Clarke, began this international space odyssey in writing an article which pointed out that by the positioning of satellites at a point over the Earth's equator, it would be possible to create an international telecommunications satellite-driven system for all the entire world.

Now, this vision of Arthur C. Clarke was one that only really began to be implemented in 1962 with the creation of INTELSAT, a government-driven organization, necessarily because of the need for the missiles to shoot the satellites up and the government contracts to construct the satellites.

However, as the years have gone by, it has become clear that private sector companies as well can compete in this marketplace, and there have been dozens of companies, many of them successful, which have begun the process of entering these marketplaces. And so now the test for American and international policymakers is to match the vision of Arthur C. Clarke with the philosophy of Adam Smith. That is roofless, Darwinian capitalism. We must ensure that we have made a full injection into this international satellite cartel of the reality that they are competing for business with other companies.

Now, America has the lead in this field. We are number one, looking over our shoulders at number two and number three. The major obstacle to us leaping out into an almost insurmountable lead is this international cartel; government-granted, government-sanctioned, and 30 years old. It is time for us to end this cartel and allow these American-based satellite companies to get out and into international markets.

Now, why is this important? It is because as this Congress has voted for NAFTA, for GATT, for the WTO, we are essentially saying as a country that we are going to allow our low-end jobs to go to Third World countries. That is what we are saying. But in turn what we are saying, quite self-confidently, is that we believe that we can capture the lion's share of the high-end jobs, the technology-based jobs, the jobs that relate to the high education in our country.

We cannot allow an international cartel to continue to wall out American companies from the marketplaces of this planet because that is where our great high-tech education-based opportunities lie.

Otherwise, we have the worst of all worlds. Our low-end jobs go as Third World countries produce these manual labor products, but we do not gain access to the markets in these countries around the world where we can market our high-end products.

This bill telescopes the time frame that it will take for America to have its companies gain access to every single country in the world with the satellite-based services, and in every one of the service areas. That is why we bring this bill to the floor today.

And it is not to put COMSAT out of business. COMSAT will remain in business. It will remain competitive. It will remain with the capacity to enter into any one of these markets, but only at the point at which it is privatized, only at the point at which COMSAT, with INTELSAT, has given up its monopoly.

Mr. Chairman, I again thank the gentleman from Michigan (Mr. DINGELL) for the time that he has yielded to me, and I hope that this legislation passes.

Mr. OXLEY. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from Ohio (Mr. OXLEY) for yielding me this time. I appreciate the time and effort to discuss something that I find myself in agreement with.

And I congratulate the gentleman from Virginia (Chairman BLILEY) on his good works in this, and it is a pleasure for me to follow the gentleman from Massachusetts (Mr. MARKEY), my friend. It is not often that we agree, and it is great to hear the gentleman have discussions about Adam Smith.

Mr. Chairman, it is a pleasure to ask all of my colleagues to support H.R. 1872, a long overdue piece of legislation. The law we seek to amend here today is about as outdated as rotary dial telephones, and as obsolete as rabbit ears on a television set.

When the Satellite Act was written, a government-run consortium made sense. Today it simply does not. Private companies across the globe can now offer competitive, high-quality international satellite service, but only if we empower them to do so by passing this legislation, H.R. 1872, and eliminating the competitive advantages enjoyed by INTELSAT and Inmarsat.

A recent study prepared by the Satellite Users Coalition documented that passage of H.R. 1872 would produce cost savings reaching as high as $2.9 billion for the American consumers over the next 10 years. Additionally, this study went on to say and calculated that through the expected competition brought about by meaningful reform, consumers around the world could expect savings of $6.9 billion over that same period.

The most important consumer benefit, though, Mr. Chairman, however may not be the savings but rather the wealth of new innovation that competition will invariably bring to the satellite industry. More than 30 years ago, governments around the world had the best intentions when they took a risk and created an international satellite system. Back then, the goal was to push technology forward and expand the reach of the communication industry. Today it is clear that INTELSAT and Inmarsat have served their purpose.

Therefore, I urge my friends and colleagues to support H.R. 1872 and help us bring real competition to the market for satellite communications as soon as possible.

Mr. OXLEY. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I rise in support of H.R. 1872 and commend the gentleman from Virginia (Chairman BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for their strong leadership in bringing this issue to the floor.

There can be no doubt that the time has come for privatizing and restructuring the intergovernmental satellite organizations. While there may be some differences of opinion on the components as we move forward, there is certainly unanimity about the fact that privatization and increased competition in satellite communications are best for the marketplace and best for the consumer.

To illustrate this point, it is worth noting that a significant development has occurred since the Committee on Commerce acted on the bill. The international government organization INTELSAT, consisting of 142 member countries, agreed on March 30 of this year to move toward privatization by creating a private company separate from INTELSAT to compete in the commercial satellite marketplace. The member countries of INTELSAT, after a lengthy negotiation process heavily influenced by the United States, came to a unanimous agreement to voluntary spin off assets and create a new competitive entity.

While some may question whether this privatization effort is sufficiently procompetitive, it strongly demonstrates the recognition around the globe of the need to privatize and enhance competition in the international satellite market.

Mr. Chairman, I also believe that it clearly demonstrates the extent to which the leadership of the gentleman from Virginia (Mr. BLILEY) has garnered the attention of the industry and the markets, and for that the courage and leadership shown by the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Virginia (Mr. BLILEY) are to be commended.

Mr. Chairman, I encourage all Members to support this legislation.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. FORBES).

Mr. FORBES. Mr. Chairman, I thank the gentleman from Virginia for yielding me this time.

Mr. Chairman, I rise today in support of H.R. 1872, a much-needed measure which will provide improved and cost-effective international communications by allowing dozens of private sector companies to compete in the marketplace.

As we look to the global marketplace and we can think about the many people who have come to contribute to the greatness of this land, we know that there is a great need out there for many Americans, American consumers, to take advantage of lower cost in international communications. This measure provides for that in a different time in a different place. This measure is now greatly needed to replace the government-sponsored corporation that had a lock on this marketplace.

This is about real people needing to communicate in a cost-effective manner. Not about multinational corporations, real people who believe that this measure is long overdue: The Polish American Congress, the Hispanic Council on International Relations, the National Association of Latino and Appointed Elected Officials, the Armenian National Committee of America, the Cuban American Council, the National Council of La Raza and the Puerto Rican Legal Defense and Education Fund. These are real people who want to take advantage of lower cost communications and I urge adoption of the Bliley-Markey bill.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I thank the gentleman from Virginia (Mr. BLILEY) for this time, and also commend the gentleman from Massachusetts

(Mr. MARKEY) for their bill and rise in strong support.

Mr. Chairman, I believe in real competition and meaningful choice, and this bill offers that.

Today the House will be considering important legislation designed to bring satellite communications technology into the modern age. I would like to commend the Chairman of the Commerce Committee, Mr. BLILEY, and his original cosponsor, Mr. MARKEY, for introducing H.R. 1872, the bill to privatize the intergovernmental satellite organizations. It has been endorsed by every private satellite services company and the major users of satellite services.

Two intergovernmental organizations dominate international satellite communications. They are called INTELSAT and Inmarsat. They are owned by a cartel like structure of all the world's state telephone companies. The same companies that control access to national markets, and thus keep out American companies that want to compete with these organizations.

H.R. 1872 privatizes the intergovernmental satellite organizations, and even more, does so in a pro-competitive manner. Now, they will never privatize pro-competitively on their own—they like either the status quo or a privatized monopoly. That is why the bill uses access to the U.S. market for advanced services as a lever to make sure they are privatized pro-competitively.

Comsat has a monopoly over sales of intergovernmental organization services in the U.S.—over 90 other countries permit competition for access to these organizations, and this bill brings us into line with the rest of the world. It also allows customers to renegotiate long-term "take or pay" contracts they were forced to sign by the COMSAT monopoly. Of course the monopoly wants to keep them locked in so consumers do not get the benefits of competition. But the bill, through the very important "fresh look" provision allows customers to get the benefits of competition. I urge members to vote for the bill and oppose amendments designed to eliminate fresh look or the bill's market access leverage.

Supporters of the status quo will try to divert the issue with rhetoric about takings or punishment of the monopoly, but these arguments are just a smokescreen for protecting the incumbent. Support H.R. 1872 today—reform is long overdue. Customers need lower prices, and new, American, competitors need access to foreign markets.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentlemen from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, we are dealing with a structure today that is a dinosaur and H.R. 1872 remedies that. Thirty-five years is a long time since the original act and in the communications industry it is even a longer time. And since the act was passed originally, technology, the worldwide industry structure have changed dramatically. A monopoly structure might have been required at the time to develop a global network, but today it has become a problem, a dinosaur keeping rates far above the costs and limiting the service and facility innovation that we would otherwise get.

This legislation solves that problem. It opens up the international satellite markets to facilities-based competition, and it properly restricts the activities of the international satellite organizations until this goal is well on its way.

It permits providers other than COMSAT to directly access INTELSAT and Inmarsat so that rates for end users can go down more immediately. It allows customers to take advantage of these lower rates by permitting them to renegotiate contracts agreed upon when only a monopoly existed before.

As for COMSAT and the international organizations, it allows them to move ahead in this new competitive environment so long as they operate in the best interest of a competitive marketplace.

Mr. Chairman, if we want the 21st century to be America's century, we need to continue to restructure our competitive environment so that we can compete and maintain our edge globally and this legislation does that. This opens up tremendous potential for U.S. consumers and industry. I think that it is particularly good for the end users, the consumers around the globe.

And just as we have seen in the domestic telecommunications market, competition brings lower rates, better services, and increased technological innovations.

□ 1145

The very same benefits are going to come from this important bill in the international satellite marketplace. I think it deserves the support of everyone in this Chamber.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Chairman, I rise today in support of H.R. 1872, the Communications Satellite and Privatization Act of 1998.

I believe this legislation will speed the transformation of two international satellite governmental bodies into competitive commercial organizations. The bill will bring competition to the international satellite industry and ultimately, in my judgment, lead to lower telephone rates on long distance international calls and improved services.

Long distance companies use satellites to complete many of their calls so the rates they pay for satellite time directly affects the rates consumers pay for international calls. More to the point, our constituents who have family members and friends serving in the military, the foreign service, or simply doing business overseas, will be able to reduce their long distance bills.

When the satellite technology was in its infancy in the early 1960s, it made sense for our government and many partnering governments to get together and boost the satellite industry. Today, though, it makes sense, with so many potential competitors, to open competition within this market in an effort to speed the benefit of lower international phone bills.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Chairman, I rise in support of the effort to bring competition to this very important effort in communications and satellites. In my home State of Mississippi, WorldCom, who would have believed the number one provider of Internet services would come from a rural State like Mississippi? This is what we have been trying to do since the telecommunications bill.

If we look at our efforts since 1994 to bring competition and deregulation in market after market, whether it is agriculture or telecommunications, and this is one more important area where we can make a difference by supporting this very important piece of legislation that will bring more competition, more choice, lower prices, and technology and innovation to the marketplace.

So with great honor, I rise in support of the efforts today of the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) and look forward to supporting this very important legislation.

Mr. DINGELL. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, this is a most remarkable piece of legislation. It is a wonderful solution. It is a wonderful solution seeking most actively for a problem. As a matter of fact, it is rushing wildly from point to point to find some problem that it can solve.

In the process, it is knocking over the crockery and going to create enormous damage for the people of this country, for American industry, and for American telecommunications industries. It also is going to create enormous problems for the taxpayers of this Nation by subjecting them to enormous liability for an unconstitutional taking under the Tucker Act.

The allegation is made that COMSAT is a monopoly. The simple fact of the matter is that within the last week, on April 24, as a matter of fact, the FCC declared that the COMSAT Corporation is a nondominant telecommunications carrier.

As reported in the Wall Street Journal, FCC has found that COMSAT does not wield market power in 130 countries where it offers telephone services, 54 countries where it transfers occasional use of video, and in all countries where it offers long-term video needs.

COMSAT has better than 20 major competitors. It is the major competitors of COMSAT who are around here whining for relief. Who are these unfortunate, penniless, downtrodden competitors of COMSAT? They are PanAmSat, and this bill has been described as a PanAmSat relief bill by Wall Street.

PanAmSat just merged with Hughes and expects, if we pass this legislation, that they are going to cut a fat hog which will be paid for by the taxpayers, because we are expropriating, by the enactment of this legislation, property which belongs to COMSAT, Loral and AT&T which just merged, poor downtrodden, barefoot telecommunications giants; and Orion and Columbia, plus a wide array of others.

There is no real problem with monopoly here. Indeed, the market share of COMSAT has been declining. Another interesting thought, COMSAT is spinning off now its satellite services in which it invested its shareholders' money. Those are going into competition.

Talk about INTELSAT. INTELSAT is not a monopoly. It has a number of other competitors who are up there providing telecommunications services. This curious piece of legislation, I want to observe, is going to have virtually no consequences in terms of real increase in competition because, first of all, the competition that we are supposed to be trying to enforce is not being imposed on U.S. companies, but rather, we are trying to impose it on other companies in other countries around the world. A most remarkable set of circumstances, to assert the long reach of the arms of the United States Congress, to impose on other countries and on their industries' deregulation, a most curious practice.

But the last thing to which I want my colleagues to devote their attention is the simple fact that under the Tucker Act, the United States Congress is here engaging in an unlawful, unconstitutional, and improper and wrongful taking of assets belonging, not to the government, and not to a wrongdoer, but simply to a U.S. corporation, COMSAT, and also an interference in the contract rights of companies which are subscribers and purchasers of service from COMSAT.

This action alone will subject the United States to billions of dollars in lawsuits and probably billions of dollars in compensation that we will have to pay, because we have interfered with the contract rights, not just of COMSAT, but in the contract rights of people who do business with COMSAT. We have interfered in a way which diminishes the value of the stock of the stockholders and the assets of COMSAT. Apart from the fact that this is wrong, it is also something which is protected by the Constitution.

Some of my friends have said, well, the Congress reserved to itself the right to amend the statute. We always do that. But we cannot, under the Constitution, reserve to ourselves the right to take the property of an American corporation.

The Congress did this a while back. Not many of my colleagues remember the time that we passed the Penn Central reorganization. But because we took property from Penn Central, the American taxpayers wound up having to pay $6.5 billion.

Penn Central is no longer a railroad. They are a holding company. They are listed on the New York Stock Exchange. They are making fine earnings on the basis of investments that they made with the money by which the Congress mistakenly enriched them because they did an unlawful taking; and under the Tucker Act, they are able to sue.

Let us just look at some of the liabilities that we are absorbing. I asked the staff to inquire to find out what it is that we will be looking at in terms of additional liability for the taxpayers. I remind my colleagues, these are American taxpayers who are going to have to pay.

I would tell my colleagues that over $3 billion is the potential liability for INTELSAT's business. That includes revenue from restriction on additional services, direct access, and "fresh look," $623 million for restriction on replacement satellites carrying noncore services and a number of other items.

In addition to that, there will be over $4 billion in liabilities potential to Inmarsat from business losses there, over $157 million from restriction on additional services, $327 million from the "fresh look" provisions of the legislation, and other liabilities that this Congress is assuming on behalf of a bunch of fat cats who, I reiterate, are seeking to cut a fat hog at the expense not just of COMSAT, but at the expense of the American taxpayers.

When, in a few years, my colleagues observe that a lawsuit has been filed, get a hold of our wallet and be prepared to defend what we have done today, because we will have dissipated billions of dollars of the taxpayers' assets, and we will have imposed upon the United States an extortionate, unsatisfactory, and outrageous liability for serious constitutional misbehavior and for improper taking of property belonging to American citizens.

We are not playing games. We are not playing with foreigners. We are beating American citizens for the benefit of just a few fat cats who are doing splendidly and who, in terms of their earnings and their market share, are growing at an extraordinary rate.

Ask yourself, my colleagues, is this the way that this Congress should spend the budget surplus? Do we want to dissipate money because we have done something egregiously stupid today?

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY) has 4 minutes remaining, and the gentleman from Michigan (Mr. DINGELL) has 1 minute remaining.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. COX).

Mr. COX of California. Mr. Chairman, I am pleased to rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act, which will bring a notable and lasting achievement for the current Congress.

I would particularly like to commend the work of the gentleman from Virginia (Mr. BLILEY), the chairman of the Committee on Commerce, whose diligent efforts have made it possible for us to bring this important privatization initiative to the floor. It has significant bipartisan support.

The law that we are amending today, the Satellite Communications Act, was enacted in 1962. That was less than 5 years after the launch of Sputnik. We have to remember that, at that time, it was widely assumed that no private company could ever assume the financial burden of putting a satellite into orbit.

It should not have come as a surprise, therefore, that the 1962 Satellite Communications Act gave COMSAT and INTELSAT, the intergovernmental treaty organization which COMSAT helped create, a virtual monopoly on the world's international satellite business. It remains a profitable monopoly.

We have come a long way since 1962, and the myth that no private company could afford to get in the satellite business has long since been shattered. This is the right bill. I urge support for H.R. 1872. There is no longer any defensible reason for governments to be in the business of providing commercial satellite services.

□ 1200

Mr. DINGELL. Mr. Chairman, could the Chair tell us how much time is remaining?

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) has 1 minute remaining. The gentleman from Virginia (Mr. BLILEY) has 3 minutes remaining and the right to close.

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time on the understanding the gentleman from Virginia is going to close.

I have made such good speeches, I am sure they will benefit the gentleman in his closing remarks.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time, and the first thing I would like to do is read a list here of who is supporting this bill:

AMSC, Boeing, Columbia Communications, Constellation Communications, Echostar, Final Analysis, GE Americom, ICG Satellite Services, Iridium LLC, Loral, Leo One USA, MCHI, Motorola, Orbital Communications, Orion Network Systems, PanAmSat, Sky Station International, Stratus Mobile Networks, Teledesic, TRW Space and Electronics Group, World Space Management Corporation.

Satellite users in support of the bill: AT&T, Coalition of Service Industries, General Electric Company/NBC, MCI, Sprint, Telecommunications Industry Association, World Com.

Ethnic groups: Americans For Tax Reform, Republican National Hispanic Assembly, Armenian National Committee of America, ASPIRA, Cuban American National Council, Hispanic Council on International Relations, National Association of Latino Elected and Appointed Officials, National Council of La Raza, Polish American Congress, Puerto Rican Legal Defense Fund.

I would also like to speak about the so-called "taking." This bill does not, does not, result in an unconstitutional taking of COMSAT's property. Our bill does not take COMSAT's property in its contracts. We merely give customers the right to renegotiate. This type of economic regulation is constitutional.

The FCC has used "fresh look" four times in the past and no one claimed takings. We are not like the Penn Central Railroad. That was track and other equipment. We do not take any of their equipment.

In 1962, Congress reserved the right to regulate satellites at any time and to change the deal. COMSAT has no reasonable expectation amounting to a property right that the regulatory regime would not be altered. The Supreme Court in 50 years has not ruled on a "fresh look" case. Not in 50 years.

The share of the market for international satellite-based public switch network service, voice and facsimile, 90 percent of it, is held by COMSAT and INTELSAT. AT&T, MCI and Sprint, yes, they have cables, but they have to have a contract with COMSAT for redundancy in case the cable gets severed so they do not lose their customers.

I urge all Members to resist amendments and to support the bill as reported by voice vote out of the committee.

Mr. TOWNS. Mr. Chairman, I rise today in support of H.R. 1872, the Communications Satellite Competition and Privatization Act. This legislation will serve to create a competitive, free enterprise environment in both the domestic and international satellite marketplace.

As our global economy moves towards a more competitive marketplace, H.R. 1872 would also bring lower prices, increase competition, and spur technological innovation. Although I applaud the goals of H.R. 1872, I believe that certain provisions within the bill are misguided and punitive.

Specifically, H.R. 1872 contains restrictions that will limit the services that Comsat can offer using its satellite services. The current language provides that if certain rigid milestones are not met, Comsat would be forced to stop marketing certain services offered. If adopted, this provision would give rise to a "takings" claim under the Constitution, and would result in tremendous tax liabilities for consumers. As a supporter of fair and open competition, I cannot condone such punitive measures, and will support the amendment offered by the gentlelady from Maryland, Representative CONNIE MORELLA, which would permit Comsat to continue to use its property and prohibit the FCC from implementing the service restriction in a manner that would result in a government "takings".

H.R. 1872 also contains a provision that would severely limit Comsat's ability to engage in binding contractual agreements. Proponents of the measure argue that "Comsat has 'locked up' the market with long-term contracts" and, therefore, customers of Comsat should be afforded the opportunity to unilaterally breach their contracts so that they make them a "fresh look" at any available competitor in the marketplace. While I agree that every business should be given an opportunity to compete on a level playing field, I also believe that the stability of our global marketplace depends on maintaining fairly bargained contractual agreements. To date, there has not been any evidence to prove any anti-competitive contractual negotiations by any of the satellite companies. The strength of the U.S. economy, and even the world economy, depends on contractual stability. This overarching principle secures my support for the amendment offered by the gentleman from Louisiana, Representative BILLY TAUZIN (R–LA).

Let me be clear. I believe that H.R. 1872 will promote fair and open competition in the global satellite industry. Moreover, I believe H.R. 1872 will create jobs for all of our communities. At the end of the day, the most important question we must ask ourselves is what did we do to benefit the citizens of this great country.

Mr. Chairman, I urge my colleagues to vote Yes on the Morella and Tauzin amendments and Yes on the final passage of H.R. 1872.

Mr. DINGELL. Mr. Chairman, I would like to call my colleagues' attention to the extraordinary discrepancies between the black-letter law of the statutory text and the contents of the Committee Report. If any of my colleagues would like to know why the judiciary pays little attention to the legislative history when attempting to interpret the statutes we write, the Report to accompany this bill provides a magnificent example. The Committee Report on H.R. 1872 is as accurate a reflection of intentions of the Committee when it considered H.R. 1872 as was yesterday's Washington Post, although I think that the Post made better reading.

While this is unfortunate, and will contribute to the decline in the importance of committee reports as legislative history, I am particularly concerned about the way in which the Report treats the Committee's work with respect to proposed Section 641, and in particular those dealing with "Direct Access."

During the Telecommunications Subcommittee's consideration of H.R. 1872, I offered an amendment to proposed Section 641 which made significant revisions in the "Direct Access" provisions. After I offered and explained my amendment, it was accepted by the Chairman of the Committee and approved without dissent.

The provisions in the Committee Report do not reflect the plain text of my amendment, nor my intentions as its author.

Legislative History of Section 641

Section 641 is entitled "Direct Access; Treatment of COMSAT at Nondominant Carrier." This Section requires the Commission to take those actions that may be necessary to permit providers and users of telecommunications services to obtain direct access to INTELSAT and Inmarsat telecommunication services. Section 641 also requires the Commission to act on Comsat's petition to be treated as a non-dominant carrier, and to eliminate any of its regulations on the availability of direct access to INTELSAT or Inmarsat, or to any successor entities, after a pro-competitive privatization of this intergovernmental treaty organizations ("IGOs") is achieved consistent with this statute.

Subsection 641(1) addresses direct access to INTELSAT telecommunications service through either purchases of space segment capacity in accordance with subsection 641(1)(A) or through investment in INTELSAT in accordance with subsection 641(1)(B).

Specifically, Subsection 641(1)(A) provides that providers or users of tele communications service may purchase space segment capacity from INTELSAT, as of January 1, 2000, if the Commission determines that (i) INTELSAT has adopted a usage charge mechanism that ensures fair compensation to INTELSAT signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime (for example, costs for insurance, administrative, and other operations and maintenance expenditures); (ii) the Commission's regulations ensure that no foreign signatory, nor any affiliate of a foreign signatory, is permitted to order space segment directly from INTELSAT in order to provide any service subject to the Commission's jurisdiction; and (iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority.

Subsection 641(1)(B) requires that providers or users of telecommunications service may obtain direct access to INTELSAT telecommunications services through investment in INTELSAT as of January 1, 2002, if the Commission finds that such investment will be attained under procedures that assure fair compensation to INTELSAT signatories for the market value of their investments.

Subsection 641(2) addresses direct access to Inmarsat telecommunications services through either purchases of space segment capacity in accordance with subsection 641(2)(A), or through investment in Inmarsat in accordance with subsection 641(2)(B).

Specifically, subsection 641(2)(A) provides that providers or users of telecommunications service may purchase space segment capacity from Inmarsat, as of January 1, 2000, if the Commission determines that (i) Inmarsat has adopted a usage charge mechanism that ensures fair compensation to Inmarsat signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime (for example, costs for insurance, administrative, and other operations and maintenance expenditures); (ii) the Commission's regulations ensure that no foreign signatory, nor its affiliate, is permitted to order space segment directly from Inmarsat in order to provide any service subject to the Commission's jurisdiction; and (iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority.

Subsection 641(2)(B) requires that providers or users of telecommunications service may obtain direct access to Inmarsat telecommunications services through investment in Inmarsat as of January 1, 2001, if the Commission finds that such investment will be attained under procedures that assure fair compensation to Inmarsat signatories for the market value of their investments.

Subsection 641(3) requires the Commission to act on Comsat's petition to be treated as a non-dominant carrier for the purposes of the Commission's regulations according to the provisions of section 10 of the Communications Act of 1934 (47 U.S.C. §160).

Subsection 641(4) requires the Commission to eliminate any regulation on the availability of direct access to INTELSAT or Inmarsat or to any successor entities after a pro-competitive privatization of those intergovernmental satellite organizations is achieved.

CRITIQUE OF LEGISLATIVE HISTORY

The language contained in the Committee Report is replete with instances in which the report is substantially more punitive to Comsat than the text of the legislation adopted by the Committee. As discussed below, the portion of the Report describing Section 641 is filled with inconsistencies and descriptions of provisions that neither appear in the text nor were discussed by the Committee. Not only are there numerous internal inconsistencies, but when the description in the Report is compared with the actual text of H.R. 1872, the factual misrepresentations become apparent.

The first sentence of this portion of the Report says that: "New sections 641(1) and 641(2) require the Commission to permit competitors to offer services through direct access to the INTELSAT and Inmarsat systems." The legislation requires the Commission to permit providers and users of telecommunications services to obtain telecommunications services directly for INTELSAT and Inmarsat.

The Report also states that if "the Inmarsat Operating Agreement is terminated, former signatories, including COMSAT for the provision of services in the United States, should not be the exclusive distributors of Inmarsat services." The Report continues: "the U.S. Administration and the Commission should, in the public interest, ensure that any Inmarsat privatization plan includes direct access until full privatization is fully implemented." Neither of these provisions are contained in the text of the bill, nor were they discussed when my amendment was accepted.

In its description of sections 641(1)(A)(i) through (iii), the Report again misrepresents the requirements of the statute. First, the Report states that these sections "describe the circumstances which the Commission should determine are present when the Commission implements direct access through purchases of space segment capacity from INTELSAT." First, the provisions of the bill do not require the Commission to implement direct access. Rather, the bill requires the Commission to ensure that it is possible for carriers and users to obtain direct access. Additionally, this statement suggests that the Commission's analysis will be conducted simultaneously with the occurrence of direct access, when in fact the plain language of the legislative text requires that the Commission determine if the conditions set forth in sections 641(1)(A)(i) through (iii) are met prior to permitting direct access.

The Report's description of the conditions for ensuring direct access is possible is also inaccurate. In particular, sections 641(1)(A)(ii) and (2)(A)(ii) require that no foreign signatory or its affiliate are permitted to provide INTELSAT or Inmarsat services from the United States. The text of the Report incorrectly limits this condition to foreign signatories. Moreover, the Report claims that sections 641(1)(A)(iii) and (2)(A)(iii) require the Commission to ensure that carriers pass savings through to end-users. The statute, however, requires only that the Commission have "in place a means to ensure" that carriers will be required to pass savings through to end-users.

The description of sections 641(1)(A)(i) and (2)(A)(i) also diverges from the text of the bill. In particular, the text of H.R. 1872 does not contain the limitations on "unavoided costs" that the Report suggests. For example, the Report provides that "the only costs covered by this section are those unavoidable signatory expenses in excess of all payments to signatories from the IGOs." This limitation is not present in the legislative text. Rather, the text of H.R. 1872 only refers to "support costs that such signatories would not otherwise be able to avoid . . ." Moreover, the Report states that: "If such costs are in excess of or not covered by the IUC or by other payments to INTELSAT or Inmarsat, then this section shall be satisfied if INTELSAT or Inmarsat has in place or create a mechanism or other methodology or legal regime which permits (or does not preclude) parties . . . to adopt means to ensure that such unavoidable, excess signatory costs are covered by payments from other direct access providers or otherwise covered or fairly compensated." Again, there is no such provision in the statute.

The Report contains a requirement that the Commission implement new subsections 641(1)(a)(ii) and 2(a)(ii) in a manner consistent with U.S. obligations in World Trade Organization ("WTO") and to consult with Executive Branch agencies in this regard. Again, the text of the statute contains no such provision. Moreover, direct access itself appears to be inconsistent with the United States' Schedule of Specific Commitments agreed to in the WTO Basic Telecom Agreement.

In particular, the U.S. Schedule of Specific Commitments limits, *inter alia*, direct access to INTELSAT and Inmarsat to Comsat, the U.S. Signatory to those IGOs, for the provision of basic telecommunications services. As the Commission noted in implementing the WTO, this Schedule makes no distinction with respect to international service and U.S. domestic services. Rather, it maintains access to INTELSAT and Inmarsat satellites through Comsat for the provision of any service, domestic or international. Thus, any action by the U.S. Government permitting carriers to have direct access to space segment from INTELSAT will conflict with this Schedule of Specific Commitments because it will permit carriers to circumvent Comsat.

In describing subsections 641(1)(A)(iii) and (2)(A)(iii), the Report states that: "The Committee does not intend for the Commission to implement any form of carrier regulation or reporting requirement that would reinstate or be tantamount to dominant carrier regulation on carriers found to be non-dominant before the Committee's consideration of H.R. 1872 . . . [however] [t]he foregoing sentence does not apply to COMSAT . . ." This provision penalizes Comsat by name even in those markets where the Commission has determined it is non-dominant. Needless to say, there is no basis for the provision contained in the Committee Report, either in the text of the legislation or in the Committee debate when the provision was adopted.

In its description of subsections 641(1)(A)(iii) and (2)(A)(iii), the Report states that the requirement that the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of direct access authority will be met "if the Commission finds that competition resulting from direct access will result in savings to consumers over what they might pay in the absence of direct access." Thus, if one were to rely on the description in the Report one would assume that the Commission has an affirmative obligation to undertake an analysis of whether competition will result in savings to consumers. By contrast, the text of the legislation requires only that the Commission have a means in place to ensure that cost savings are passed on to end users. Once again, the text of the bill contradicts the description of that provision in the Report.

Finally, the Report describes subsection 641(4) as requiring "the Commission to sunset any regulation providing for direct access to INTELSAT or Inmarsat when these organizations fully privatize . . . "It is unclear how the Commission would "sunset" a regulation. Actually, the statute requires the Commission to "eliminate" any regulation on the availability of direct access. Moreover, the Report limits the scope of this provision to INTELSAT and Inmarsat and neglects the fact that "any successor entities" of INTELSAT and Inmarsat are included in the statute.

The legislative history contained in this Committee Report constitutes a monument to those who would dismiss committee reports as legitimate expressions of Congressional intent. This legislative history is fraught with factual inconsistencies and would lead even the staunchest defender of statutory construction to cringe. It is a blatant attempt to rewrite a bill through its legislative history. As a member of Congress, I am, quite frankly, offended by this, although I cannot say that I am surprised by it. We should aspire to have as our legacy statutes of major importance that speak to the public in plain and ordinary terms. As an integral part of those statutes, the legislative history should enhance, not attempt to redefine, the fruits of our efforts. As the Supreme Court has held: "In ascertaining the meaning of a statute, a court cannot, in the manner of Sherlock Holmes, pursue the theory of the dog that did not bark." See *Harrison* v. *PPG Industries, Inc.*, 446 U.S. 578, 592, 64 L.Ed. 2d 525, 100 S. Ct. 1889 (1980).

Ms. DELAURO. Mr. Chairman, I rise in support of the Communications Satellite Competition and Privatization Act.

This bill will privatize the two Intergovernmental Satellite Organizations, Intelsat and Inmarsat—opening the international satellite market to the wide range of American firms eager to compete in it. American ideas and ingenuity have made this country great. It is our responsibility, as members of Congress, to encourage these values, not stifle them.

Passage of this bill also will represent a victory for average American consumers. Privatization of this market will save consumers as much as $2.9 billion over the next decade. At a time when American men and women work hard every day to find new ways to make ends meet for their families, it is essential that we help them in their search.

We need a modern satellite market that provides America and the world with high-quality products at affordable prices. We need to continue to encourage the hard work and innovation that has made this nation a world leader. Support the Communications Satellite Competition and Privatization Act.

Mr. WATTS of Oklahoma. Mr. Chairman, I rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act of 1998. In 1962, the U.S. became part of the international satellite communications organizations. These monopoly organizations are a relic of an earlier time when there were only a few network television stations and rotary phones were the norm. The telecommunications industry changes rapidly each year and we are over a generation away from 1962.

It was not too long ago that cellular phones were cutting edge technology and the Internet was used exclusively by university professors. Now millions of Americans are enjoying these telecommunications services as markets are deregulated in this country. H.R. 1872 continues this trend which will potentially create thousands of new jobs, save U.S. consumers billions of dollars, and create new markets for U.S. businesses.

I commend the work of Commerce Committee Chairman TOM BLILEY and Congressman MARKEY for their work in crafting this important bi-partisan bill.

Mr. ADERHOLT. Mr. Chairman, I rise today in support of H.R. 1872 which would open the international satellite market to full competition and encourage the long-overdue privatization of Intelsat and Inmarsat.

H.R. 1872 is a good bill, and it has been endorsed by a wide variety of concerned citizen groups, including Americans for Tax Reform, which notes that "this bill will lower the costs of satellite communications to government—money that would otherwise come out of the pockets of hard-working Americans."

And if saving the American taxpayer money is not in and of itself sufficient reason to vote for H.R. 1872, Americans for Tax Reform also correctly notes that we should be trying to expand the reach of the free market, not letting United Nations-like organizations and state-owned foreign telephone companies keep U.S. firms from gaining access to foreign markets. H.R. 1872 would solve these problems and get the government out of the way so that America's telecommunications and aerospace industries can provide new and innovative services to consumers around the world.

I urge my colleagues to join me in supporting H.R. 1872.

Mr. DAVIS of Florida. Mr. Chairman, as a co-sponsor of this important legislation, I rise today in strong support for H.R. 1872, the Communications Satellite Competition and Privatization Act. In short, this bill will reform our 1960's era satellite telecommunications policy and promote competition in satellite services and technology.

Over thirty-five years ago, when Congress passed the 1962 Communications Satellite Act, it was believed that only governments could finance and manage a global satellite system. Today, the rapid advances and growth within the telecommunications industry far surpass anything we could have imagined in the early 1960's. Today, there is no longer a need for a privileged international organization to provide satellite communications services in competition with private commercial services. Passage of this legislation will break up the last lawful telecommunications monopoly in the United States and bring greater competition, innovation, and efficiency to the international satellite industry.

This bill embodies the belief that open competitive markets will result in greater benefits to the industry, the economy, and most importantly, the consumers. While over 85 other nations have allowed direct access to INTELSAT and Inmarsat services, the United States market remains monopolized by COMSAT. The result is that U.S. satellite consumers pay inflated prices. A recent study showed that the privatization called for under H.R. 1872 would save consumers $2.9 billion over the next ten years. Furthermore, this legislation will save U.S., taxpayers $700 million by cutting the costs of government communications.

Mr. Chairman, the bill before us today will finally bring satellite communications policy into the modern era. It recognizes that the current system distorts the marketplace and takes reasonable and modest steps to ensure competition bringing lower prices and higher quality services for satellite users. This bill is good for consumers, good for businesses and workers, and good for the United States taxpayer. I urge all of my colleagues to support H.R. 1872.

Mr. HASTERT. Mr. Chairman, we all know satellite technology is moving at light-year speed, and that our manufacturers are the best in the world. However, the 30-year-old law under which they operate needs to be updated for the twenty-first century.

Private companies like Motorola, PanAmSat and Teledesic are planning ventures that would have been unthinkable three decades ago. Consider Motorola for a moment—Its network of more than 60 satellites, known as Iridium, will soon begin providing voice and paging services. Further down the road is its proposal to complete a network of more than 70 satellites, known as Celestri, in order to provide high-speed data and video services worldwide.

Mr. Chairman, I believe the effect of this legislation will be a boon to consumers as they benefit from the increased efficiency and lower costs that competition brings. Although IntelSat and InMarSat have served us well, we all know it's time for these organizations to join other cold war relics on the scrap heap of history.

Mr. LUCAS of Oklahoma. Mr. Chairman, I rise today in support of H.R. 1872, the Communications Satellite Competition and Privatization Act of 1998.

When Congress set up a satellite monopoly with the Satellite Act of 1962, few people could imagine a day when you could warm up dinner in 60 seconds with a microwave or put a plastic card into an automatic teller machine to get money 24 hours a day. And Congress did not think that private industry could afford to put satellites up into space. With that 1960's logic, Congress created a satellite monopoly to ensure the United States would not be left behind.

Clearly, my friends, times have changed since then, and now we have many private businesses that are ready to invest in the satellite industry. In short, the private sector is ready for competition in this industry. But the major roadblock to competition is an outdated Federal law that needs to be brought into the 1990's and bridge us to the next Millennium. That's why I'm supporting H.R. 1872, a bill that breaks down decades-old barriers to competition by eliminating the bottleneck that has kept satellite rates artificially high. It's time for government to get out of the way and let competition bring its benefits of lower rates and enhanced technology to the satellite industry.

Mr. BLILEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1872

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Communications Satellite Competition and Privatization Act of 1998".

SEC. 2. PURPOSE.

It is the purpose of this Act to promote a fully competitive global market for satellite communication services for the benefit of consumers and providers of satellite services and equipment by fully privatizing the intergovernmental satellite organizations, INTELSAT and Inmarsat.

SEC. 3. REVISION OF COMMUNICATIONS SATELLITE ACT OF 1962.

The Communications Satellite Act of 1962 (47 U.S.C. 101) is amended by adding at the end the following new title:

"TITLE VI—COMMUNICATIONS COMPETITION AND PRIVATIZATION

"Subtitle A—Actions To Ensure Procompetitive Privatization

"SEC. 601. FEDERAL COMMUNICATIONS COMMISSION LICENSING.

"(a) LICENSING FOR SEPARATED ENTITIES.—

"(1) COMPETITION TEST.—The Commission may not issue a license or construction permit to any separated entity, or renew or permit the assignment or use of any such license or permit, or authorize the use by any entity subject to United States jurisdiction of any space segment owned, leased, or operated by any separated entity, unless the Commission determines that such issuance, renewal, assignment, or use will not harm competition in the telecommunications market of the United States. If the Commission does not make such a determination, it shall deny or revoke authority to use space segment owned, leased, or operated by the separated entity to provide services to, from, or within the United States.

“(2) CRITERIA FOR COMPETITION TEST.—In making the determination required by paragraph (1), the Commission shall use the licensing criteria in sections 621 and 623, and shall not make such a determination unless the Commission determines that the privatization of any separated entity is consistent with such criteria.

“(b) LICENSING FOR INTELSAT, INMARSAT, AND SUCCESSOR ENTITIES.—

“(1) COMPETITION TEST.—The Commission shall substantially limit, deny, or revoke the authority for any entity subject to United States jurisdiction to use space segment owned, leased, or operated by INTELSAT or Inmarsat or any successor entities to provide non-core services to, from, or within the United States, unless the Commission determines—

“(A) after January 1, 2002, in the case of INTELSAT and its successor entities, that INTELSAT and any successor entities have been privatized in a manner that will not harm competition in the telecommunications markets of the United States; or

“(B) after January 1, 2001, in the case of Inmarsat and its successor entities, that Inmarsat and any successor entities have been privatized in a manner that will not harm competition in the telecommunications markets of the United States.

“(2) CRITERIA FOR COMPETITION TEST.—In making the determination required by paragraph (1), the Commission shall use the licensing criteria in sections 621, 622, and 624, and shall not make such a determination unless the Commission determines that such privatization is consistent with such criteria.

“(3) CLARIFICATION: COMPETITIVE SAFEGUARDS.—In making its licensing decisions under this subsection, the Commission shall consider whether users of non-core services provided by INTELSAT or Inmarsat or successor or separated entities are able to obtain non-core services from providers offering services other than through INTELSAT or Inmarsat or successor or separated entities, at competitive rates, terms, or conditions. Such consideration shall also include whether such licensing decisions would require users to replace equipment at substantial costs prior to the termination of its design life. In making its licensing decisions, the Commission shall also consider whether competitive alternatives in individual markets do not exist because they have been foreclosed due to anticompetitive actions undertaken by or resulting from the INTELSAT or Inmarsat systems. Such licensing decisions shall be made in a manner which facilitates achieving the purposes and goals in this title and shall be subject to notice and comment.

“(c) ADDITIONAL CONSIDERATIONS IN DETERMINATIONS.—In making its determinations and licensing decisions under subsections (a) and (b), the Commission shall take into consideration the United States obligations and commitments for satellite services under the Fourth Protocol to the General Agreement on Trade in Services.

“(d) INDEPENDENT FACILITIES COMPETITION.—Nothing in this section shall be construed as precluding COMSAT from investing in or owning satellites or other facilities independent from INTELSAT and Inmarsat, and successor or separated entities, or from providing services through reselling capacity over the facilities of satellite systems independent from INTELSAT and Inmarsat, and successor or separated entities. This subsection shall not be construed as restricting the types of contracts which can be executed or services which may be provided by COMSAT over the independent satellites or facilities described in this subsection.

“SEC. 602. INTELSAT OR INMARSAT ORBITAL LOCATIONS.

“(a) REQUIRED ACTIONS.—Unless, in a proceeding under section 601(b), the Commission determines that INTELSAT or Inmarsat have been privatized in a manner that will not harm competition, then—

“(1) the President shall oppose, and the Commission shall not assist, any registration for new orbital locations for INTELSAT or Inmarsat—

“(A) with respect to INTELSAT, after January 1, 2002, and

“(B) with respect to Inmarsat, after January 1, 2001, and

“(2) the President and Commission shall, consistent with the deadlines in paragraph (1), take all other necessary measures to preclude procurement, registration, development, or use of new satellites which would provide non-core services.

“(b) EXCEPTION.—

“(1) REPLACEMENT AND PREVIOUSLY CONTRACTED SATELLITES.—Subsection (a) shall not apply to—

“(A) orbital locations for replacement satellites (as described in section 622(2)(B)), and

“(B) orbital locations for satellites that are contracted for as of March 25, 1998, if such satellites do not provide additional services.

“(2) LIMITATION ON EXCEPTION.—Paragraph (1) is available only with respect to satellites designed to provide services solely in the C and Ku, for INTELSAT, and L, for Inmarsat, bands.

“SEC. 603. ADDITIONAL SERVICES AUTHORIZED.

“(a) SERVICES AUTHORIZED DURING CONTINUED PROGRESS.—

“(1) CONTINUED AUTHORIZATION.—The Commission may issue an authorization, license, or permit to, or renew the license or permit of, any provider of services using INTELSAT or Inmarsat space segment, or authorize the use of such space segment, for additional services (including additional applications of existing services) or additional areas of business, subject to the requirements of this section.

“(2) ADDITIONAL SERVICES PERMITTED UNDER NEW CONTRACTS UNLESS PROGRESS FAILS.—If the Commission makes a finding under subsection (b) that conditions required by such subsection have not been attained, the Commission may not, pursuant to paragraph (1), permit such additional services to be provided directly or indirectly under new contracts for the use of INTELSAT or Inmarsat space segment, unless and until the Commission subsequently makes a finding under such subsection that such conditions have been attained.

“(3) PREVENTION OF EVASION.—The Commission shall, by rule, prescribe means reasonably designed to prevent evasions of the limitations contained in paragraph (2) by customers who did not use specific additional services as of the date of the Commission's most recent finding under subsection (b) that the conditions of such subsection have not been obtained.

“(b) REQUIREMENTS FOR ANNUAL FINDINGS.—

“(1) GENERAL REQUIREMENTS.—The findings required under this subsection shall be made, after notice and comment, on or before January 1 of 1999, 2000, 2001, and 2002. The Commission shall find that the conditions required by this subsection have been attained only if the Commission finds that—

“(A) substantial and material progress has been made during the preceding period at a rate and manner that is probable to result in achieving pro-competitive privatizations in accordance with the requirements of this title; and

“(B) neither INTELSAT nor Inmarsat are hindering competitors' or potential competitors' access to the satellite services marketplace.

“(2) FIRST FINDING.—In making the finding required to be made on or before January 1, 1999, the Commission shall not find that the conditions required by this subsection have been attained unless the Commission finds that—

“(A) COMSAT has submitted to the INTELSAT Board of Governors a resolution calling for the pro-competitive privatization of INTELSAT in accordance with the requirements of this title; and

“(B) the United States has submitted such resolution at the first INTELSAT Assembly of Parties meeting that takes place after such date of enactment.

“(3) SECOND FINDING.—In making the finding required to be made on or before January 1, 2000, the Commission shall not find that the conditions required by this subsection have been attained unless the INTELSAT Assembly of Parties has created a working party to consider and make recommendations for the pro-competitive privatization of INTELSAT consistent with such resolution.

“(4) THIRD FINDING.—In making the finding required to be made on or before January 1, 2001, the Commission shall not find that the conditions required by this subsection have been attained unless the INTELSAT Assembly of Parties has approved a recommendation for the pro-competitive privatization of INTELSAT in accordance with the requirements of this title.

“(5) FOURTH FINDING.—In making the finding required to be made on or before January 1, 2002, the Commission shall not find that the conditions required by this subsection have been attained unless the pro-competitive privatization of INTELSAT in accordance with the requirements of this title has been achieved by such date.

“(6) CRITERIA FOR EVALUATION OF HINDERING ACCESS.—The Commission shall not make a determination under paragraph (1)(B) unless the Commission determines that INTELSAT and Inmarsat are not in any way impairing, delaying, or denying access to national markets or orbital locations.

“(c) EXCEPTION FOR SERVICES UNDER EXISTING CONTRACTS IF PROGRESS NOT MADE.—This section shall not preclude INTELSAT or Inmarsat or any signatory thereof from continuing to provide additional services under an agreement with any third party entered into prior to any finding under subsection (b) that the conditions of such subsection have not been attained.

“Subtitle B—Federal Communications Commission Licensing Criteria: Privatization Criteria

“SEC. 621. GENERAL CRITERIA TO ENSURE A PRO-COMPETITIVE PRIVATIZATION OF INTELSAT AND INMARSAT.

“The President and the Commission shall secure a pro-competitive privatization of INTELSAT and Inmarsat that meets the criteria set forth in this section and sections 622 through 624. In securing such privatizations, the following criteria shall be applied as licensing criteria for purposes of subtitle A:

“(1) DATES FOR PRIVATIZATION.—Privatization shall be obtained in accordance with the criteria of this title of—

“(A) INTELSAT as soon as practicable, but no later than January 1, 2002, and

“(B) Inmarsat as soon as practicable, but no later than January 1, 2001.

“(2) INDEPENDENCE.—The successor entities and separated entities of INTELSAT and Inmarsat resulting from the privatization obtained pursuant to paragraph (1) shall—

“(A) be entities that are national corporations; and

“(B) have ownership and management that is independent of—

“(i) any signatories or former signatories that control access to national telecommunications markets; and

“(ii) any intergovernmental organization remaining after the privatization.

“(3) TERMINATION OF PRIVILEGES AND IMMUNITIES.—The preferential treatment of INTELSAT and Inmarsat shall not be extended to any successor entity or separated entity of INTELSAT

or Inmarsat. Such preferential treatment includes—

"(A) privileged or immune treatment by national governments;

"(B) privileges or immunities or other competitive advantages of the type accorded INTELSAT and Inmarsat and their signatories through the terms and operation of the INTELSAT Agreement and the associated Headquarters Agreement and the Inmarsat Convention; and

"(C) preferential access to orbital locations, including any access to orbital locations that is not subject to the legal or regulatory processes of a national government that applies due diligence requirements intended to prevent the warehousing of orbital locations.

"(4) PREVENTION OF EXPANSION DURING TRANSITION.—During the transition period prior to full privatization, INTELSAT and Inmarsat shall be precluded from expanding into additional services (including additional applications of existing services) or additional areas of business.

"(5) CONVERSION TO STOCK CORPORATIONS.—Any successor entity or separated entity created out of INTELSAT or Inmarsat shall be a national corporation established through the execution of an initial public offering as follows:

"(A) Any successor entities and separated entities shall be incorporated as private corporations subject to the laws of the nation in which incorporated.

"(B) An initial public offering of securities of any successor entity or separated entity shall be conducted no later than—

"(i) January 1, 2001, for the successor entities of INTELSAT; and

"(ii) January 1, 2000, for the successor entities of Inmarsat.

"(C) The shares of any successor entities and separated entities shall be listed for trading on one or more major stock exchanges with transparent and effective securities regulation.

"(D) A majority of the board of directors of any successor entity or separated entity shall not be subject to selection or appointment by, or otherwise serve as representatives of—

"(i) any signatory or former signatory that controls access to national telecommunications markets; or

"(ii) any intergovernmental organization remaining after the privatization.

"(E) Any transactions or other relationships between or among any successor entity, separated entity, INTELSAT, or Inmarsat shall be conducted on an arm's length basis.

"(6) REGULATORY TREATMENT.—Any successor entity or separated entity shall apply through the appropriate national licensing authorities for international frequency assignments and associated orbital registrations for all satellites.

"(7) COMPETITION POLICIES IN DOMICILIARY COUNTRY.—Any successor entity or separated entity shall be incorporated and headquartered in a nation or nations that—

"(A) have effective laws and regulations that secure competition in telecommunications services;

"(B) are signatories of the World Trade Organization Basic Telecommunications Services Agreement; and

"(C) have a schedule of commitments in such Agreement that includes non-discriminatory market access to their satellite markets.

"(8) RETURN OF UNUSED ORBITAL LOCATIONS.—INTELSAT, Inmarsat, and any successor entities and separated entities shall not be permitted to warehouse any orbital location that—

"(A) as of March 25, 1998, did not contain a satellite that was providing commercial services, or, subsequent to such date, ceased to contain a satellite providing commercial services; or

"(B) as of March 25, 1998, was not designated in INTELSAT or Inmarsat operational plans for satellites for which construction contracts had been executed.

Any such orbital location of INTELSAT or Inmarsat and of any successor entities and separated entities shall be returned to the International Telecommunication Union for reallocation.

"(9) APPRAISAL OF ASSETS.—Before any transfer of assets by INTELSAT or Inmarsat to any successor entity or separated entity, such assets shall be independently audited for purposes of appraisal, at both book and fair market value.

"(10) LIMITATION ON INVESTMENT.—Notwithstanding the provisions of this title, COMSAT shall not be authorized by the Commission to invest in a satellite known as K–TV, unless Congress authorizes such investment.

"SEC. 622. SPECIFIC CRITERIA FOR INTELSAT.

"In securing the privatizations required by section 621, the following additional criteria with respect to INTELSAT privatization shall be applied as licensing criteria for purposes of subtitle A:

"(1) NUMBER OF COMPETITORS.—The number of competitors in the markets served by INTELSAT, including the number of competitors created out of INTELSAT, shall be sufficient to create a fully competitive market.

"(2) PREVENTION OF EXPANSION DURING TRANSITION.—

"(A) IN GENERAL.—Pending privatization in accordance with the criteria in this title, INTELSAT shall not expand by receiving additional orbital locations, placing new satellites in existing locations, or procuring new or additional satellites except as permitted by subparagraph (B), and the United States shall oppose such expansion—

"(i) in INTELSAT, including at the Assembly of Parties,

"(ii) in the International Telecommunication Union,

"(iii) through United States instructions to COMSAT,

"(iv) in the Commission, through declining to facilitate the registration of additional orbital locations or the provision of additional services (including additional applications of existing services) or additional areas of business; and

"(v) in other appropriate fora.

"(B) EXCEPTION FOR CERTAIN REPLACEMENT SATELLITES.—The limitations in subparagraph (A) shall not apply to any replacement satellites if—

"(i) such replacement satellite is used solely to provide public-switched network voice telephony or occasional-use television services, or both;

"(ii) such replacement satellite is procured pursuant to a construction contract that was executed on or before March 25, 1998; and

"(iii) construction of such replacement satellite commences on or before the final date for INTELSAT privatization set forth in section 621(1)(A).

"(3) TECHNICAL COORDINATION AMONG SIGNATORIES.—Technical coordination shall not be used to impair competition or competitors, and coordination under Article XIV(d) of the INTELSAT Agreement shall be eliminated.

"SEC. 623. SPECIFIC CRITERIA FOR INTELSAT SEPARATED ENTITIES.

"In securing the privatizations required by section 621, the following additional criteria with respect to any INTELSAT separated entity shall be applied as licensing criteria for purposes of subtitle A:

"(1) DATE FOR PUBLIC OFFERING.—Within one year after any decision to create any separated entity, a public offering of the securities of such entity shall be conducted.

"(2) PRIVILEGES AND IMMUNITIES.—The privileges and immunities of INTELSAT and its signatories shall be waived with respect to any transactions with any separated entity, and any limitations on private causes of action that would otherwise generally be permitted against any separated entity shall be eliminated.

"(3) INTERLOCKING DIRECTORATES OR EMPLOYEES.—None of the officers, directors, or employees of any separated entity shall be individuals who are officers, directors, or employees of INTELSAT.

"(4) SPECTRUM ASSIGNMENTS.—After the initial transfer which may accompany the creation of a separated entity, the portions of the electromagnetic spectrum assigned as of the date of enactment of this title to INTELSAT shall not be transferred between INTELSAT and any separated entity.

"(5) REAFFILIATION PROHIBITED.—Any merger or ownership or management ties or exclusive arrangements between a privatized INTELSAT or any successor entity and any separated entity shall be prohibited until 15 years after the completion of INTELSAT privatization under this title.

"SEC. 624. SPECIFIC CRITERIA FOR INMARSAT.

"In securing the privatizations required by section 621, the following additional criteria with respect to Inmarsat privatization shall be applied as licensing criteria for purposes of subtitle A:

"(1) MULTIPLE SIGNATORIES AND DIRECT ACCESS.—Multiple signatories and direct access to Inmarsat shall be permitted.

"(2) PREVENTION OF EXPANSION DURING TRANSITION.—Pending privatization in accordance with the criteria in this title, Inmarsat should not expand by receiving additional orbital locations, placing new satellites in existing locations, or procuring new or additional satellites, except for specified replacement satellites for which construction contracts have been executed as of March 25, 1998, and the United States shall oppose such expansion—

"(A) in Inmarsat, including at the Council and Assembly of Parties,

"(B) in the International Telecommunication Union,

"(C) through United States instructions to COMSAT,

"(D) in the Commission, through declining to facilitate the registration of additional orbital locations or the provision of additional services (including additional applications of existing services) or additional areas of business, and

"(E) in other appropriate fora.

This paragraph shall not be construed as limiting the maintenance, assistance or improvement of the GMDSS.

"(3) NUMBER OF COMPETITORS.—The number of competitors in the markets served by Inmarsat, including the number of competitors created out of Inmarsat, shall be sufficient to create a fully competitive market.

"(4) REAFFILIATION PROHIBITED.—Any merger or ownership or management ties or exclusive arrangements between Inmarsat or any successor entity or separated entity and ICO shall be prohibited until 15 years after the completion of Inmarsat privatization under this title.

"(5) INTERLOCKING DIRECTORATES OR EMPLOYEES.—None of the officers, directors, or employees of Inmarsat or any successor entity or separated entity shall be individuals who are officers, directors, or employees of ICO.

"(6) SPECTRUM ASSIGNMENTS.—The portions of the electromagnetic spectrum assigned as of the date of enactment of this title to Inmarsat—

"(A) shall, after January 1, 2006, or the date on which the life of the current generation of Inmarsat satellites ends, whichever is later, be made available for assignment to all systems (including the privatized Inmarsat) on a non-discriminatory basis and in a manner in which continued availability of the GMDSS is provided; and

"(B) shall not be transferred between Inmarsat and ICO.

"(7) PRESERVATION OF THE GMDSS.—The United States shall seek to preserve space segment capacity of the GMDSS.

"SEC. 625. ENCOURAGING MARKET ACCESS AND PRIVATIZATION.

"(a) NTIA DETERMINATION.—

"(1) DETERMINATION REQUIRED.—Within 180 days after the date of enactment of this section, the Secretary of Commerce shall, through the Assistant Secretary for Communications and Information, transmit to the Commission—

"(A) a list of Member countries of INTELSAT and Inmarsat that are not Members of the World Trade Organization and that impose barriers to market access for private satellite systems; and

"(B) a list of Member countries of INTELSAT and Inmarsat that are not Members of the World Trade Organization and that are not supporting pro-competitive privatization of INTELSAT and Inmarsat.

"(2) CONSULTATION.—The Secretary's determinations under paragraph (1) shall be made in consultation with the Federal Communications Commission, the Secretary of State, and the United States Trade Representative, and shall take into account the totality of a country's actions in all relevant fora, including the Assemblies of Parties of INTELSAT and Inmarsat.

"(b) IMPOSITION OF COST-BASED SETTLEMENT RATE.—Notwithstanding—

"(1) any higher settlement rate that an overseas carrier charges any United States carrier to originate or terminate international message telephone services, and

"(2) any transition period that would otherwise apply,

the Commission may by rule prohibit United States carriers from paying an amount in excess of a cost-based settlement rate to overseas carriers in countries listed by the Commission pursuant to subsection (a).

"(c) SETTLEMENTS POLICY.—The Commission shall, in exercising its authority to establish settlements rates for United States international common carriers, seek to advance United States policy in favor of cost-based settlements in all relevant fora on international telecommunications policy, including in meetings with parties and signatories of INTELSAT and Inmarsat.

"Subtitle C—Deregulation and Other Statutory Changes

"SEC. 641. DIRECT ACCESS; TREATMENT OF COMSAT AS NONDOMINANT CARRIER.

"The Commission shall take such actions as may be necessary—

"(1) to permit providers or users of telecommunications services to obtain direct access to INTELSAT telecommunications services—

"(A) through purchases of space segment capacity from INTELSAT as of January 1, 2000, if the Commission determines that—

"(i) INTELSAT has adopted a usage charge mechanism that ensures fair compensation to INTELSAT signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime, such as insurance, administrative, and other operations and maintenance expenditures;

"(ii) the Commission's regulations ensure that no foreign signatory, nor any affiliate thereof, shall be permitted to order space segment directly from INTELSAT in order to provide any service subject to the Commission's jurisdiction;

"(iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority;

"(B) through investment in INTELSAT as of January 1, 2002, if the Commission determines that such investment will be attained under procedures that assure fair compensation to INTELSAT signatories for the market value of their investments;

"(2) to permit providers or users of telecommunications services to obtain direct access to Inmarsat telecommunications services—

"(A) through purchases of space segment capacity from Inmarsat as of January 1, 2000, if the Commission determines that—

"(i) Inmarsat has adopted a usage charge mechanism that ensures fair compensation to Inmarsat signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime, such as insurance, administrative, and other operations and maintenance expenditures;

"(ii) the Commission's regulations ensure that no foreign signatory, nor any affiliate thereof, shall be permitted to order space segment directly from Inmarsat in order to provide any service subject to the Commission's jurisdiction;

"(iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority; and

"(B) through investment in Inmarsat as of January 1, 2001, if the Commission determines that such investment will be attained under procedures that assure fair compensation to Inmarsat signatories for the market value of their investments;

"(3) to act on COMSAT's petition to be treated as a nondominant carrier for the purposes of the Commission's regulations according to the provisions of section 10 of the Communications Act of 1934 (47 U.S.C. 160); and

"(4) to eliminate any regulation on the availability of direct access to INTELSAT or Inmarsat or to any successor entities after a pro-competitive privatization is achieved consistent with sections 621, 622 and 624.

"SEC. 642. TERMINATION OF MONOPOLY STATUS.

"(a) RENEGOTIATION OF MONOPOLY CONTRACTS PERMITTED.—The Commission shall, beginning January 1, 2000, permit users or providers of telecommunications services that previously entered into contracts or are under a tariff commitment with COMSAT to have an opportunity, at their discretion, for a reasonable period of time, to renegotiate those contracts or commitments on rates, terms, and conditions or other provisions, notwithstanding any term or volume commitments or early termination charges in any such contracts with COMSAT.

"(b) COMMISSION AUTHORITY TO ORDER RENEGOTIATION.—Nothing in this title shall be construed to limit the authority of the Commission to permit users or providers of telecommunications services that previously entered into contracts or are under a tariff commitment with COMSAT to have an opportunity, at their discretion, to renegotiate those contracts or commitments on rates, terms, and conditions or other provisions, notwithstanding any term or volume commitments or early termination charges in any such contracts with COMSAT.

"(c) PROVISIONS CONTRARY TO PUBLIC POLICY VOID.—Whenever the Commission permits users or providers of telecommunications services to renegotiate contracts or commitments as described in this section, the Commission may provide that any provision of any contract with COMSAT that restricts the ability of such users or providers to modify the existing contracts or enter into new contracts with any other space segment provider (including but not limited to any term or volume commitments or early termination charges) or places such users or providers at a disadvantage in comparison to other users or providers that entered into contracts with COMSAT or other space segment providers shall be null, void, and unenforceable.

"SEC. 643. SIGNATORY ROLE.

"(a) LIMITATIONS ON SIGNATORIES.—

"(1) NATIONAL SECURITY LIMITATIONS.—The Federal Communications Commission, after a public interest determination, in consultation with the Executive Branch, may restrict foreign ownership of a United States signatory if the Commission determines that not to do so would constitute a threat to national security.

"(2) NO SIGNATORIES REQUIRED.—The United States Government shall not require signatories to represent the United States in INTELSAT or Inmarsat or in any successor entities after a pro-competitive privatization is achieved consistent with sections 621, 622 and 624.

"(b) CLARIFICATION OF PRIVILEGES AND IMMUNITIES OF COMSAT.—

"(1) GENERALLY NOT IMMUNIZED.—Notwithstanding any other law or executive agreement, COMSAT shall not be entitled to any privileges or immunities under the laws of the United States or any State on the basis of its status as a signatory of INTELSAT or Inmarsat.

"(2) LIMITED IMMUNITY.—COMSAT and any other company functioning as United States signatory to INTELSAT or Inmarsat shall not be liable for action taken by it in carrying out the specific, written instruction of the United States issued in connection with its relationships and activities with foreign governments, international entities, and the intergovernmental satellite organizations.

"(3) PROVISIONS PROSPECTIVE.—Paragraph (1) shall not apply with respect to liability for any action taken by COMSAT before the date of enactment of the Communications Satellite Competition and Privatization Act of 1998.

"(c) PARITY OF TREATMENT.—Notwithstanding any other law or executive agreement, the Commission shall have the authority to impose similar regulatory fees on the United States signatory which it imposes on other entities providing similar services.

"SEC. 644. ELIMINATION OF PROCUREMENT PREFERENCES.

"Nothing in this title or the Communications Act of 1934 shall be construed to authorize or require any preference, in Federal Government procurement of telecommunications services, for the satellite space segment provided by INTELSAT, Inmarsat, or any successor entity or separated entity.

"SEC. 645. USE OF ITU TECHNICAL COORDINATION.

"The Commission and United States satellite companies shall utilize the International Telecommunication Union procedures for technical coordination with INTELSAT and its successor entities and separated entities, rather than INTELSAT procedures.

"SEC. 646. TERMINATION OF COMMUNICATIONS SATELLITE ACT OF 1962 PROVISIONS.

"Effective on the dates specified, the following provisions of this Act shall cease to be effective:

"(1) Date of enactment of this title: Sections 101 and 102; paragraphs (1), (5) and (6) of section 201(a); section 301; section 303; section 502; and paragraphs (2) and (4) of section 504(a).

"(2) On the effective date of the Commission's order that establishes direct access to INTELSAT space segment: Paragraphs (1), (3) through (5), and (8) through (10) of section 201(c); and section 304.

"(3) On the effective date of the Commission's order that establishes direct access to Inmarsat space segment: Subsections (a) through (d) of section 503.

"(4) On the effective date of a Commission order determining under section 601(b)(2) that Inmarsat privatization is consistent with criteria in sections 621 and 624: Section 504(b).

"(5) On the effective date of a Commission order determining under section 601(b)(2) that INTELSAT privatization is consistent with criteria in sections 621 and 622: Paragraphs (2) and (4) of section 201(a); section 201(c)(2); subsection (a) of section 403; and section 404.

"SEC. 647. REPORTS TO THE CONGRESS.

"(a) ANNUAL REPORTS.—The President and the Commission shall report to the Congress

within 90 calendar days of the enactment of this title, and not less than annually thereafter, on the progress made to achieve the objectives and carry out the purposes and provisions of this title. Such reports shall be made available immediately to the public.

"(b) Contents of Reports.—The reports submitted pursuant to subsection (a) shall include the following:

"(1) Progress with respect to each objective since the most recent preceding report.

"(2) Views of the Parties with respect to privatization.

"(3) Views of industry and consumers on privatization.

"SEC. 648. CONSULTATION WITH CONGRESS.

"The President's designees and the Commission shall consult with the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate prior to each meeting of the INTELSAT or Inmarsat Assembly of Parties, the INTELSAT Board of Governors, the Inmarsat Council, or appropriate working group meetings.

"SEC. 649. SATELLITE AUCTIONS.

"Notwithstanding any other provision of law, the Commission shall not have the authority to assign by competitive bidding orbital locations or spectrum used for the provision of international or global satellite communications services. The President shall oppose in the International Telecommunication Union and in other bilateral and multilateral fora any assignment by competitive bidding of orbital locations or spectrum used for the provision of such services.

"Subtitle D—Negotiations To Pursue Privatization

"SEC. 661. METHODS TO PURSUE PRIVATIZATION.

"The President shall secure the pro-competitive privatizations required by this title in a manner that meets the criteria in subtitle B.

"Subtitle E—Definitions

"SEC. 681. DEFINITIONS.

"(a) In General.—As used in this title:

"(1) INTELSAT.—The term 'INTELSAT' means the International Telecommunications Satellite Organization established pursuant to the Agreement Relating to the International Telecommunications Satellite Organization (INTELSAT).

"(2) Inmarsat.—The term 'Inmarsat' means the International Mobile Satellite Organization established pursuant to the Convention on the International Maritime Organization.

"(3) Signatories.—The term 'signatories'—

"(A) in the case of INTELSAT, or INTELSAT successors or separated entities, means a Party, or the telecommunications entity designated by a Party, that has signed the Operating Agreement and for which such Agreement has entered into force or to which such Agreement has been provisionally applied; and

"(B) in the case of Inmarsat, or Inmarsat successors or separated entities, means either a Party to, or an entity that has been designated by a Party to sign, the Operating Agreement.

"(4) Party.—The term 'Party'—

"(A) in the case of INTELSAT, means a nation for which the INTELSAT agreement has entered into force or been provisionally applied; and

"(B) in the case of Inmarsat, means a nation for which the Inmarsat convention has entered into force.

"(5) Commission.—The term 'Commission' means the Federal Communications Commission.

"(6) International Telecommunication Union.—The term 'International Telecommunication Union' means the intergovernmental organization that is a specialized agency of the United Nations in which member countries cooperate for the development of telecommunications, including adoption of international regulations governing terrestrial and space uses of the frequency spectrum as well as use of the geostationary satellite orbit.

"(7) Successor entity.—The term 'successor entity'—

"(A) means any privatized entity created from the privatization of INTELSAT or Inmarsat or from the assets of INTELSAT or Inmarsat; but

"(B) does not include any entity that is a separated entity.

"(8) Separated entity.—The term 'separated entity' means a privatized entity to whom a portion of the assets owned by INTELSAT or Inmarsat are transferred prior to full privatization of INTELSAT or Inmarsat, including in particular the entity whose structure was under discussion by INTELSAT as of March 25, 1998, but excluding ICO.

"(9) Orbital location.—The term 'orbital location' means the location for placement of a satellite on the geostationary orbital arc as defined in the International Telecommunication Union Radio Regulations.

"(10) Space segment.—The term 'space segment' means the satellites, and the tracking, telemetry, command, control, monitoring and related facilities and equipment used to support the operation of satellites owned or leased by INTELSAT, Inmarsat, or a separated entity or successor entity.

"(11) Non-core.—The term 'non-core services' means, with respect to INTELSAT provision, services other than public-switched network voice telephony and occasional-use television, and with respect to Inmarsat provision, services other than global maritime distress and safety services or other existing maritime or aeronautical services for which there are not alternative providers.

"(12) Additional services.—The term 'additional services' means Internet services, high-speed data, interactive services, non-maritime or non-aeronautical mobile services, Direct to Home (DTH) or Direct Broadcast Satellite (DBS) video services, or Ka-band services.

"(13) INTELSAT agreement.—The term 'INTELSAT Agreement' means the Agreement Relating to the International Telecommunications Satellite Organization ('INTELSAT'), including all its annexes (TIAS 7532, 23 UST 3813).

"(14) Headquarters agreement.—The term 'Headquarters Agreement' means the International Telecommunication Satellite Organization Headquarters Agreement (November 24, 1976) (TIAS 8542, 28 UST 2248).

"(15) Operating agreement.—The term 'Operating Agreement' means—

"(A) in the case of INTELSAT, the agreement, including its annex but excluding all titles of articles, opened for signature at Washington on August 20, 1971, by Governments or telecommunications entities designated by Governments in accordance with the provisions of the Agreement, and

"(B) in the case of Inmarsat, the Operating Agreement on the International Maritime Satellite Organization, including its annexes.

"(16) Inmarsat convention.—The term 'Inmarsat Convention' means the Convention on the International Maritime Satellite Organization (Inmarsat) (TIAS 9605, 31 UST 1).

"(17) National corporation.—The term 'national corporation' means a corporation the ownership of which is held through publicly traded securities, and that is incorporated under, and subject to, the laws of a national, state, or territorial government.

"(18) COMSAT.—The term 'COMSAT' means the corporation established pursuant to title III of the Communications Satellite Act of 1962 (47 U.S.C. 731 et seq.)

"(19) ICO.—The term 'ICO' means the company known, as of the date of enactment of this title, as ICO Global Communications, Inc.

"(20) Replacement satellites.—The term 'replacement satellite' means a satellite that replaces a satellite that fails prior to the end of the duration of contracts for services provided over such satellite and that takes the place of a satellite designated for the provision of public-switched network and occasional-use television services under contracts executed prior to March 25, 1998 (but not including K–TV or similar satellites). A satellite is only considered a replacement satellite to the extent such contracts are equal to or less than the design life of the satellite.

"(21) GMDSS.—The term 'global maritime distress and safety services' or 'GMDSS' means the automated ship-to-shore distress alerting system which uses satellite and advanced terrestrial systems for international distress communications and promoting maritime safety in general. The GMDSS permits the worldwide alerting of vessels, coordinated search and rescue operations, and dissemination of maritime safety information.

"(b) Common Terminology.—Except as otherwise provided in subsection (a), terms used in this title that are defined in section 3 of the Communications Act of 1934 have the meanings provided in such section.".

The CHAIRMAN. No amendment to the committee amendment is in order unless printed in the Congressional Record. Those amendments shall be considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the Congressional Record. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a demand for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for the voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to the bill?

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the purpose, of course, would be to engage the chairman of the full committee, my good friend from Richmond, Virginia, in a colloquy.

I would like to personally thank the gentleman from Virginia (Mr. Bliley) for his work in moving this very important bill forward and his leadership on this issue over the past number of years.

We can all agree that government should not be providing commercial services, especially in advanced telecommunications. We can likewise agree that the intergovernmental satellite organizations should be privatized in a manner that creates a level field for all competitors.

Now, given that all these organizations are intergovernmental organizations, the United States must inevitably engage with our global partners as we move forward to privatization. We operate in a global interconnected world today, with a complex web of economic undertakings binding us to countries around the world. We all know that.

For instance, the United States and approximately 100 other countries that participate in INTELSAT and Inmarsat are members of the World Trade Organization, the WTO. We, therefore, have obligations to these countries, as they do to us, pursuant to agreements in the WTO. With respect to satellite services, we have an obligation to our WTO partners under the Fourth Protocol of the General Agreement on Trade and Services, which governs basic telecommunications services.

Now, I would like to ask the chairman, is the bill intended to be consistent with U.S. obligations under WTO on the provisions of the basic telecommunications services?

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. DAN SCHAEFER of Colorado. I yield to the gentleman from Virginia.

Mr. BLILEY. The gentleman is correct. My bill is intended to be consistent with the WTO.

As the gentleman may know, I was a strong supporter of the WTO basic telecommunications agreement, which will open the world's markets to other telecommunications companies. For the price of improved access to the global market for our telecom companies, the U.S. Government has to permit foreign investment in this market. Given the competitiveness of our telecom companies, that is a good bargain.

I support playing by the rules and I believe this bill is consistent with our obligations. But nothing in the WTO agreement says we cannot protect competition in our market. We are permitted to do so under the WTO services agreement. If necessary, we will vigorously fight for our beliefs and rights within the WTO and protect the integrity of U.S. competition policy.

So my bill uses an entry test of not causing competitive harm. As long as the IGO's privatized entities meet the criteria and will not cause competitive harm, and their entry is otherwise in the public interest, the FCC may authorize their use. A competition entry test in the public interest is consistent with our WTO obligations.

Mr. DAN SCHAEFER of Colorado. Reclaiming my time, Mr. Chairman, I appreciate the gentleman's remarks. As the gentleman knows, I am very interested in seeing that the commission, when making its determination whether to license or authorize the use of privatized entities, act in a manner consistent with U.S. obligations under the WTO agreement on basic telecommunications.

Now, I would ask the gentleman one final question. Is this legislation intended to ensure that the FCC not only take notice but, as much as practicable, act in a manner consistent with the WTO agreement on basic telecommunication services?

Mr. BLILEY. If the gentleman will continue to yield, we intend by this legislation that the FCC will implement this satellite reform legislation in a manner consistent with our obligations under the WTO basic telecommunications agreement.

However, the bill does not mandate that, because foreign parties may differ with the FCC's reading of the public interest or whether the future structure of an IGO spin-off or successor entity will harm competition in this market. If it did mandate that the FCC act consistently with our WTO obligations, then that privatized entity or, more precisely its government, could go off to Geneva and petition the WTO for a panel against the United States due to the FCC finding.

While I support the principles of the WTO and believe the U.S. should live up to its obligations, I do not wish to invite WTO panels. I do not want our bill to become an avenue for a recovering monopolist, to use a phrase of my cosponsor, to slow down reform by causing trouble for the United States in Geneva. Rather, the bill relies on a perfectly acceptable "measure," to use WTO parlance, a competition test, as the entry standard that should guide the FCC in making decisions on the section 601.

Mr. Chairman, I thank the gentleman for addressing this important issue.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I thank the chairman of the full committee.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

I simply want to commend the gentleman from Colorado for what it is he has done. This treaty violates the INTELSAT agreement and the basic telecom agreement of the World Trade Organization.

It also would have the practical effect of insisting on specific results and would impose sanctions on INTELSAT in violation of that treaty if those results are not achieved. The sanctions would violate that treaty further by expelling INTELSAT from the U.S. market in violation of that treaty agreement.

In addition to that, it would violate the Inmarsat agreement by preventing COMSAT and Inmarsat from providing certain specifically required, economically viable service to U.S. consumers. It also punishes COMSAT in the event foreign participants do not meet the privatization criteria and time schedule, something which is, again, in violation of that treaty.

Now, in addition to that, COMSAT would be barred from providing many services to American and foreign participants under the treaties requiring those actions, to which this Nation is a signatory. It also imposes requirements for spin-offs which do not, I believe, comply with the requirements of the treaty.

It also violates the WTO basic telecom agreements' open market requirements because, in point of fact, it tends to close rather than to open markets and reduce rather than increase competition. It would, in fact, imperil the entire future of the WTO agreement entered into with 68 other countries.

The comments of the gentleman from Colorado were appropriate and should be considered as my colleagues prepare to vote against this outrageous bill.

AMENDMENT NO. 6 OFFERED BY MRS. MORELLA

Mrs. MORELLA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mrs. Morella:

Page 6, after line 8, insert the following new subsection:

"(e) TAKINGS PROHIBITED.—In implementing the provisions of this section, and sections 621, 622, and 624 of this Act, the Commission shall not restrict the activities of COMSAT in a manner which would create the liability for the United States under the Fifth Amendment to the Constitution.

Page 11, after line 11, insert the following new subsection:

"(d) TAKINGS PROHIBITED.—In implementing the provisions of this section, the Commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the Fifth Amendment to the Constitution.

Mrs. MORELLA. Mr. Chairman, I had submitted two amendments for H.R. 1872, and so I want to clarify for my colleagues that I am only offering one of those amendments, the one that deals only with the question of takings under the fifth amendment.

My amendment addresses a fundamental problem with H.R. 1872. As reported by the Committee on Commerce, the bill contains service restrictions which, when implemented, will constitute an unconstitutional taking of COMSAT's property, and so my amendment just very simply cures that problem.

I know that the gentleman from Virginia, my good friend and chairman of the committee, contends these restrictions do not constitute a taking, but I must respectfully disagree. Quite frankly, if it does not constitute a taking, then this amendment is completely in order. Why not put it into the bill?

Mr. Chairman, the United States induced private investors to fund COMSAT by offering the company an opportunity to earn a profit by helping to serve the communications needs of the United States and other countries. That is a quote.

The United States also instructed COMSAT to sign the INTELSAT and Inmarsat operating agreements, which are binding on the parties. COMSAT's investments were made in reliance on existing law.

The United States cannot take COMSAT's property by deliberately destroying its value without paying compensation. This is particularly true where, as here, the investments were compelled by Federal law. And in accordance with that law and with government approval, COMSAT has acquired an investment interest in satellites, orbital positions and spectrum, as well as other costs associated with the establishment, operation, and maintenance of a global satellite system.

☐ 1215

And yet this Federal law statute would prohibit COMSAT from using or earning a return on those investments. Putting a company in such a position would be a compensable taking, and the liability for this taking is massive.

COMSAT has invested billions of dollars in its space-based assets and millions more on the ground. Unless my amendment is adopted, the U.S. Treasury and, ultimately, the taxpayers will have to foot the bill.

These are not opinions that I cooked up myself. They are shared by many, including some of our colleagues on the Committee on Commerce. They are also shared by Nancie Marzulla. She is the president of Defenders of Property Rights. In a recent column in the Washington Times, Ms. Marzulla addressed the takings aspect of H.R. 1872. She said, "Some in Congress and elsewhere seem to have forgotten the Constitution's fifth amendment prohibition against uncompensated takings." She notes correctly that "The Government would have to compensate COMSAT for taking the company's property in violation of the fifth amendment's guarantee against uncompensated takings. The U.S. is liable for just compensation not just when it physically seizes real or personal property, but also, as Justice Holmes said in 1922, 'If regulation goes too far, it will be recognized as a taking.'"

I also want to point out the Washington Legal Foundation that the chairman of the committee admires so, and many of us do, agrees that these provisions are an unconstitutional taking of COMSAT's property. In an analysis prepared at my request, WLF has concluded that H.R. 1872 would indeed effect a compensable taking of private property belonging to COMSAT, as well as a material breach of the terms of the compact between the United States and COMSAT.

Mr. Chairman, I include the following for the RECORD:

WASHINGTON LEGAL FOUNDATION,
2009 MASSACHUSETTS AVENUE, N.W.,
Washington, DC, April 29, 1998.

Hon. CONSTANCE A. MORELLA,
U.S. House of Representatives, 2228 Rayburn House Office Bldg., Washington, DC.

Re H.R. 1872—The Communications Satellite Competition and Privatization Act of 1998

DEAR REPRESENTATIVE MORELLA: In response to your written request for counsel, the Washington Legal Foundation (WLF) has undertaken a legal analysis of H.R. 1872, "The Communications Satellite Competition and Privatization Act of 1998." In particular, we have considered whether H.R. 1872 in its present form would constitute a "taking" by the federal government (subject to just compensation under the Fifth Amendment to the United States Constitution) or a breach of compact between the United States and COMSAT Corporation.

After careful consideration of H.R. 1872, WLF has concluded that H.R. 1872 would indeed effect a compensable taking of private property belonging to COMSAT, as well as a material breach of the terms of the compact between the United States and COMSAT. WLF's conclusion should not be construed as endorsement or opposition to H.R. 1872. WLF is a nonprofit group organized under 26 U.S.C. §501(c)(3) and does not engage in any lobbying activity.

Background. The current wave of telecommunications reform comes from a shift in how the economics of communications networks are generally understood. Whereas it was once assumed that these networks were natural monopolies, experts in the field now believe that these facilities can be provided (and are best provided) by multiple competitors. Nowhere is this shift more clear than in satellite communications. In the 1960s and 1970s, it was universally believed that the establishing and maintaining a network of satellites was so complicated and expensive that only a global consortium could do it. Thus, the United States spearheaded the formation of two treaty-based international satellite organizations (ISOs), INTELSAT and Inmarsat, to carry out this mission.

Since that time, private companies such as PanAmSat, Loral, Motorola, and Teledesic have launched (or made plans to launch) their own satellite networks. The success of these companies has demonstrated that government involvement is no longer needed to ensure the provision of satellite services. Accordingly, the United States has begun the delicate process of negotiating with other countries—most of whom do not fully share the U.S.'s faith in the marketplace—to privatize the ISOs. These efforts have already borne fruit; INTELSAT has agreed to spin off six of its satellites to a private company, and Inmarsat has agreed to privatize all but its public-safety services.

Several members of Congress, believing that privatization cannot be achieved unless mandated by the U.S., have introduced legislation intended to force the ISOs to privatize. H.R. 1872 would close the U.S. market to INTELSAT and Inmarsat, their privatized spin-offs and successors, and all U.S. entities that use their facilities, unless the ISOs meet the bill's rigid criteria, and do so by dates certain. H.R. 1872 has been criticized by some for hamstringing the government's ability to negotiate with other countries, and for adopting—allegedly for the purpose of enhancing competition—a protectionist strategy that benefits certain U.S. satellite companies by excluding their most likely international rivals from the market. What has received less attention is that H.R. 1872 would effect the largest confiscation of private property in recent times, exposing the U.S. to billions of dollars in claims for compensation.

The problem is this: The United States actually does not hold any investment in the ISOs. Private investors have committed massive amounts of capital to fund the ISOs, and they have done so at the behest of the U.S. government, in furtherance of declared national policy. When Congress passed the Communications Satellite Act of 1962, 47 U.S.C. §§701 *et seq.*, it determined that "United States participation in the global system shall be in the form of a private corporation, subject to appropriate regulation." 47 U.S.C. §701(c). Congress therefore authorized the creation of a new company, COMSAT, to be the sole operating entity in INTELSAT. In 1978, Congress also made COMSAT the sole U.S. participant in Inmarsat.

By statute, COMSAT is a "corporation for profit" and not "an agency or establishment of the United States government." 47 U.S.C. §731. It has never been funded or otherwise subsidized by the United States. Rather, Congress authorized and expected COMSAT to raise capital by selling shares of voting capital stock "in a manner to encourage the widest possible distribution to the American public," 47 U.S.C. §634(a), and by selling its securities to private investors. See 47 U.S.C. §§721(c)(8), 734(c). COMSAT's stock trades on the New York Stock Exchange, and its current market capitalization is over $2 billion.

The INTELSAT and Inmarsat Operating Agreements (which COMSAT was directed by the U.S. government to sign) obligate COMSAT to meet periodic capital calls. At the end of 1997, COMSAT owned roughly 18% of INTELSAT, with a carrying value of approximately $402 million, and roughly 23% of Inmarsat, with a carrying value of approximately $223 million. COMSAT is pledged to invest another $332 million in INTELSAT. In addition, it has invested hundreds of millions in shareholder capital outside the ISOs in order to provide INTELSAT and Inmarsat services to the U.S. public.

H.R. 1872 could substantially impair, or perhaps destroy, that investment. The bill sets conditions for privatization that the State Department concedes are too onerous for other countries to accept. The entity that INTELSAT recently agreed to privatize would not qualify, nor would the privatized Inmarsat. Some have argued that the bar has intentionally been set too high, at the request of U.S. companies seeking protection for competition, so that the market-closing sanctions that accompany a failure to meet the criteria will be triggered.

During the transition to privatization, H.R. 1872 would effectively bar the ISOs from deploying satellites to new orbital locations or replacing obsolete satellites at the end of their lives. Moreover, H.R. 1872 declares that if "substantial and material progress" is not made, year by year, toward meeting the bill's conditions, COMSAT will be barred from providing high-speed data, Internet, and land mobile service—even though it relies on such services now for significant portions of its revenue. In addition, COMSAT would be frozen in time while the rest of the marketplace moved forward; it could not provide additional services, or additional applications of existing services.

If privatization is not achieved in exactly the time and manner specified, the bill would limit COMSAT to the provision of so-called "core" services, defined as force telphony and occasional use services for INTELSAT, and emergency services (now provided at no charge) for Inmarsat. But the refuge of these "core" services may well be illusory, because changes in technology are causing these markets to disappear. Voice traffic, for example, is migrating rapidly from satellites to fiber-optic cables, and a voice-only provider likely would see its market slip away in a world of converging voice and data services.

Moreover, H.R. 1872 imposes further sanctions that could cripple COMSAT *whether or not the ISOs privatize*. Most significantly, the bill would give *every one* of COMSAT's customers the unilateral right to abrogate its contracts with the company. Such sweeping Congressional abrogation of the private contract rights of a single company—without any judicial determination of wrongdoing—may be unprecedented in U.S. history .

Constitutional Analysis. WLF has concluded that, if adopted, H.R. 1872 would effect a substantial compensable taking of private property. The bill would impair COMSAT's substantial investments in and for INTELSAT and Inmarsat, thus imposing on COMSAT's shareholders virtually the entire cost of a congressional policy change. The Takings Clause of the Fifth Amendment is "designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole." Armstrong v. United States, 364 U.S. 40, 49 (1960). Congress may not induce a company to invest its private capital, and then turn around and declare that policy changes have made the investment unnecessary, without compensating that company for the assets dedicated to public use.

WLF has concluded that if H.R. 1872 passes, COMSAT may have legitimate claims for compensation for its taken investments. Government's regulation of the uses to which private property may be put can "take" that property, just as if the government had seized the property. See Lucas v. South Carolina Coastal Council, 505 U.S. 1003, 1017–18 (1992); Webb's Fabulous Pharmacies, Inc. v. Beckwith, 449 U.S. 155, 163–64 (1980). The Supreme Court has articulated three factors that determine whether usage regulation goes so far as to constitute a taking: "the economic impact of the regulation on the claimant," the "extent to which the regulation has interfered with distance investment-backed expectations," and "the character of the governmental action." Penn Central Transp. Co. v. City of New York, 438 U.S. 104, 124 (1978).

H.R. 1872 bears all the indicia of a regulation that, in Justice Holmes's words, goes "too far." Pennsylvania Coal v. Mahon, 260 U.S. 393, 415 (1922). Based on WLF's understanding of the situation, the bill would have a devastating economic impact on COMSAT, immediately stranding hundreds of millions of dollars of investments made to provide (and useful solely for providing) banned services, and ultimately relegating the company to providing an ever-shrinking core of services with ever-more-obsolete technologies. Moreover, H.R. 1872 appears to interfere with COMSAT's investment-backed expectations. If COMSAT had not legitimately expected that it would be allowed to pursue a profit on its INTELSAT and Inmarsat investments, it would have been irrational for COMSAT to have made them, and for its shareholders to have contributed capital to the company.

Nor does H.R. 1872 merely "adjust the benefits and burdens of economic life to promote the common good," with only an incidental effect on COMSAT. Connolly v. Pension Benefit Guaranty Corp., 475 U.S. 211, 225 (1986). It is true that COMSAT's actions have always been subject to regulation, cf. id. at 226–227. But H.R. 1872 goes well beyond the ordinary regulatory adjustment that such an actor must' expect. It rejects the most basic premise of COMSAT's existence: that a global "commercial communications satellite system," built "in conjunction and cooperation with other countries," will best "serve the communications needs of the United States and other countries." 47 U.S.C. §701(a). In light of this language, the backers of H.R. 1872 cannot reasonably maintain that COMSAT should have expected that the U.S. would seek to exclude INTELSAT and Inmarsat from the market altogether. See Ruckleshaus v. Monsanto Co., 467 U.S. 986, 1010–11 (1984) (where company submits trade secrets to EPA upon statutory assurance that EPA will not disclose them, later amendment of statute to permit disclosure works a taking); United Nuclear Corp. v. United States, 912 F.2d 1432 (Fed. Cir. 1990) (where mining company invested $5 million to explore for uranium on tribal lands in reliance on Interior Department approval, company could not be expected to foresee Interior's decision six years later to allow tribe to cancel the land claims, and decision worked a compensable taking).

Finally, H.R. 1872 does not "substantially advance" its stated regulatory goal: securing the privatization of INTELSAT and Inmarsat. See Lucas, 505 U.S. at 1016. To the contrary, by setting the bar as high as it does, the bill guarantees that privatization will fail and that COMSAT will be expelled from the U.S. market. Congress may legitimately decide that it no longer wants COMSAT to serve its historic role. But if it does so, it is required by the Fifth Amendment to compensate COMSAT's shareholders for the capital they have put in public service at the government's request.

Please let us know if you seek further legal counsel from WLF on this issue.

Sincerely,

DANIEL J. POPEO,
General Counsel.

[From the Washington Times, Apr. 27, 1998]

DEREGULATION OR PLAIN OLD THEFT?

(By Nancie G. Marzulla)

More than 30 years ago, hundreds of Americans invested in an idea: that communications satellites could benefit their nation and the world. The result was COMSAT, a Maryland-based shareholder-owned company that successfully launched the United States to the apex of the satellite industry.

Today, however, if a bill now being considered in Congress passes, these investments will be in jeopardy. Some in Congress and elsewhere seem to have forgotten the Constitution's Fifth Amendment prohibition against uncompensated "takings." In their quest for deregulation, they've proposed federal legislation that could end up costing the U.S. Treasury hundreds of millions, if not billions, of dollars to cover COMSAT's takings claims.

In the process, these "takers" would be sending a clear message to current and future investors: Risk your money, but don't expect the government to play by the rules if your investment pays off. With that kind of federal attitude, what sane investor would risk their hard-earned capital on today's fledgling companies that take huge financial and technological risks at the request of the government, as COMSAT did in the 1960s.

In the Communications Satellite Act of 1962, Congress commissioned COMSAT to "establish in conjunction and in cooperation with other countries, as expeditiously and practicable, a commercial communications satellite system." At the time, this task was recognized to be a risky financial and technological undertaking. Congress's mandate led to the creation of the International Telecommunications Satellite Organization (INTELSAT), an international consortium that now includes some 140-member countries. A similar international organization, the International Mobile Satellite Organization, or "Inmarsat" was formed in 1978.

As the U.S. representative to INTELSAT and Inmarsat, COMSAT has been bound by those organizations' operating agreements which (among other things) obligate COMSAT to meet all of INTELSAT and Inmarsat's capital investment calls. Moreover, COMSAT must seek FCC approval for every investment.

In exchange for living within these constraints, COMSAT was afforded an opportunity to earn a reasonable return on its investments. It also was given exclusive franchise in selling services using INTELSAT and Inmarsat satellites for communications to and from the United States. Access has never been a problem for customers: these services are energetically offered to all at non-discriminatory rates.

During the 1960s and 1970s, INTELSAT and Inmarsat satellites were the only "birds" in the sky American telephone companies and television networks needing satellite services had to purchase them from COMSAT. But since the early 1980s other companies have been allowed to launch competing communications satellite systems. These systems have been extremely successful.

In addition to the growth of new, rival service providers, new technologies also have created more competition for satellites. For example, higher capacity fiber-optic undersea cable has become the favored mode of transmitting phone calls internationally. Today, 117 countries are directly connected to the United States by fiber-optic cable.

As a result of these technological and marketplace development, COMSAT now has only 21 percent of the market for international voice communications and about 42 percent of the market for international video transmission.

There are still those who inexplicably view COMSAT, a relatively small player in the communications marketplace, as a monopoly despite the fact that numerous suppliers serve the market today. Believers in the "monopoly power" of COMSAT have introduced a bill in Congress that would, among other things:

Authorize customers to abrogate their existing contracts with COMSAT;

Require the immediate surrender of allocated orbital slots (essentially a parking place for a satellite in outer space) not in actual commercial use, despite the millions of dollars COMSAT, INTELSAT, and Inmarsat have invested in satellites intended for those slots;

Terminate existing services that COMSAT is providing to customers, as well as restricting the company's participation in new services (such as Internet access, high-speed data and interactive services) thus depriving Americans of advanced computer and video technologies.

Maybe some in Congress believe that this is the definition of progressive, fair and pro-competition legislation, but COMSAT and its shareholders aren't laughing about a bill that would knock this competitor out of the market in the name of competition.

This bill would breach COMSAT's implicit but enforceable regulatory compact with the federal government. As the Supreme Court recently said when enforcing promises made by bank regulators to savings and loans institutions, Congress is free to change its policies and, as a result, to break a pledge to a private party. But if Congress does so, it must "insure the promise against loss arising from the promised condition's nonoccurrence."

The government also would have to compensate COMSAT for taking the company's property in violation of the Fifth Amendment's guarantee against uncompensated takings. The U.S. is liable for just compensation not just when it physically seizes real or personal property but also, as Justice Holmes said in 1922, "if regulation goes too far it will be recognized as taking."

Clearly, it is going "too far" to require COMSAT and its investors to bear the burden of a congressional decision to reverse course and exclude treaty organizations and their signatories from almost the entire field of satellite communications. If Congress were to order this, it would have to compensate companies for investments they made at the government's behest and approval—investments made specifically to solidify the U.S. as the satellite industry leader.

The provision that would invalidate existing contracts is even a more obvious and aggressive taking of private property. It is well recognized that contract rights are property rights, protected by the Constitution. Congress can no more abrogate existing contracts than it can take away tangible personal property without just compensation. Yet this bill would void current and future agreements negotiated between COMSAT and other parties.

Of course, deregulation must be pursued with vigor. At the same time, promises governments made to private companies, and on which investors based their investment, must be kept. Deregulation cannot be an excuse for the uncompensated confiscation of private property.

Mr. Chairman, the service restrictions of H.R. 1872 are not only unconstitutional, they are anticompetitive and they are anticonsumer. They will remove a competitor from the marketplace, and therefore, they will then deny consumers, including the U.S. Government, an alternative service provider. COMSAT's competitors will have succeeded in ejecting a major player from the communications marketplace. They are the only beneficiaries of these provisions.

So, Mr. Chairman, we also put satellite reform, but we must proceed in a way that is fair to the customers, fair to COMSAT, and above all else consistent with the Constitution. We must avoid enacting a law that is found to be unconstitutional and that exposes the Treasury to a multibillion-dollar liability for damages.

Mr. Chairman, I ask my colleagues to support this amendment.

Mr. BLILEY. Mr. Chairman, I rise in opposition to the amendment of my good friend, the gentlewoman from Maryland (Mrs. MORELLA).

Before I begin, let me share with my colleagues an interesting bit of history. The phrase "red herring" comes from the practice of dragging a smoked and, thus, red herring across the path of a track of dogs trying to follow a scent. The idea was to use the scent to distract them from that prey.

In this case, the taking issue is being used in an attempt to distract Members from the real issue, which is that without incentives that could cost the intergovernmental satellite organizations money, they will never privatize in a procompetitive manner.

The amendment is an attempt to tie down the FCC through litigation. Currently, if COMSAT has a takings claim, it can sue the FCC. Just like anyone else, if there were a taking, they could go to court. Why do they want this amendment? To tie the bill in knots through litigation, that is why.

The amendment offered in committee by the gentleman from Maryland (Mr. WYNN), the colleague of the gentlewoman, was offered which also sought to cause fundamental problems for the bill. The gentleman from Maryland (Mr. WYNN) failed by a vote of 37-to-8. This one dresses the knife up in takings clothing possibly in the hope that many of my conservative colleagues who care about takings will join the gentlewoman in attacking our carefully crafted legislation.

I have to tell my colleagues that I do not think the amendment of the gentlewoman from Maryland (Mrs. MORELLA) is designed to fix the takings problem. It is designed to protect her constituent COMSAT. And it does that well. It says that the FCC shall not restrict the activities of COMSAT in a manner which would create liability for the U.S. under the fifth amendment, which would mean COMSAT could go to the courts as soon as the FCC issued a decision and tie the bill up for years. COMSAT's whole strategy is to delay reform. This would play right into their hands.

What the amendment does not take into account is that we already have a Constitution with the fifth amendment that protects against takings. There is also a remedy. Under current law, if they think there is a taking, they can sue, but under the same laws applicable to any other company.

Once again, the intergovernmental satellite organizations and the U.S. affiliate, COMSAT, want to continue the special advantages they have always had.

Now, I thought I would take a moment to address the takings issue itself. The committee has thoroughly analyzed that there are no takings. CRS has looked at the issue. They found that "a review of the bill's text reviews no provisions likely to cause constitutional takings." The committee's analysis, which quotes at length from the CRS, is available in the committee report.

I would now like to read a letter dated May 5 from the Washington Legal Foundation to me.

> Dear Chairman Bliley, this is in response to your letter requesting a clarification of WLF's views regarding the Communications Satellite Competition and Privatization Act in light of concerns that WLF's views had been mischaracterized.
>
> I want to make it very clear that the Washington Legal foundation does not in the any way oppose your bill or in any manner support amendments to your bill. WLF does not engage or partner in any lobbying activity whatsoever. In fact, some members of the WLF's own advisory boards disagree with the WLF's legal analysis of the takings clause in connection with this legislation.
>
> Unfortunately, when we sent our analysis to Members who requested it, we did not anticipate that it would be used as the basis for any legislative tactics or strategy which would oppose your satellite reform bill. We take no legislative position whatsoever. We are grateful for your leadership on free enterprise issues and appreciate the opportunity to clarify this matter for you. Sincerely, Daniel J. Popeo, General Counsel.

Mrs. MORELLA. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Chairman, if in fact there is no takings problem, then what is wrong with the amendment?

Mr. BLILEY. Reclaiming my time, the gentlewoman must not have been listening. They have the right under the Constitution now by the fifth amendment. What this does is it puts a chill on the FCC. As soon as they do anything, they will can run into court and tie them up for years. That is what the strategy of COMSAT is, delay, delay, delay, hold their monopoly, get those 68 percent profits as long as they possibly can; and if we are forced to privatize, set it up in such a way that all we have done is change the name, but we still have the monopoly.

Mr. WYNN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to thank my colleague, the gentlewoman from Montgomery County, Maryland, (Mrs. MORELLA) for her leadership on this issue. It is a very important issue to one of our own companies, COMSAT.

The question that is posed by this amendment is simply this: deregulation or plain old theft? This the question was posed by Nancie Marzulla, president of the Defenders of Property Rights, in an op-ed piece in the April 27, 1998, edition of the Washington Times.

In her piece they state clearly that the sponsors in the quest for deregulation have proposed Federal legislation that could end up costing American citizens hundreds of millions, if not billions, of dollars to cover COMSAT's takings claims. That is right, takings claims.

As reported by the Committee on Commerce, this legislation contains restrictions that will limit the services that COMSAT can offer using its satellite assets. The restrictions take effect if rigid milestones are not met for privatization. The critical point, however, is that these milestones are not milestones within the control of COMSAT; they are milestones beyond their control, in fact, in the control of international organizations.

COMSAT is urging and helping move toward privatization, but they cannot control the pace of privatization. Nonetheless, they would be subject to unfair restrictions if our imposed milestones are not met. And I do not believe that this is fair.

I know we have constitutional scholars in this body, and I call upon them today. This is an unconstitutional taking. COMSAT is a private, investor-owned company. COMSAT's contract rights are property; and under the fifth amendment of the Constitution, the government simply cannot take this property, which is what this legislation does, without paying for it; and I fully expect that COMSAT will be filing claims on this issue.

Should this occur, the money the U.S. taxpayers will have to pay as a result of litigation will far exceed anything we are contemplating now in the context of our tobacco concerns. The amendment being offered by my colleague today will significantly reduce our liability and that of our constituents by eliminating the takings provisions for the bill's restrictions on COMSAT. The amendment does the right thing by allowing COMSAT to continue to use its property, and I urge our Members to support this amendment.

Now, I applaud the purpose of the chairman with this legislation, and I think the intent is laudable and he has worked very hard. However, the underlying theory of this legislation is quite flawed. The sponsors of this bill would have us believe that COMSAT is a huge, untenable monopoly. This is simply not true.

In fact, there are more than 20 current competitors to COMSAT, with more than $14 billion in investments and $40 billion in stock value. If this is not competition, I do not know what is. I do not think we can ask for much more. But let us consider further.

In 1998, COMSAT controlled 70 percent of the international voice traffic. Today they have only a 21 percent share. Significantly, COMSAT's market share has declined. In 1993, COMSAT controlled 80 percent of the video market; today it controls 42 percent. Clearly, competition is emerging under our present structure. We do not need this piece of legislation to promote competition.

But finally and most telling, on April 28 of this year, the FCC declared that COMSAT is nondominant in most of its market, thus authoritatively eliminating the argument that we have to get rid of COMSAT or punish COMSAT because it is an egregious monopoly.

Despite these facts, however, the sponsors of the legislation, so intent on privatizing this industry, would subject our constituents to potentially billions of dollars in liability as a result of litigation.

I think Ms. Marzulla put it best in her op-ed piece when she said, "Deregulation must be pursued with vigor. At the same time, promises governments made to private companies and on which investors based their investment, must be kept. Deregulation cannot be an excuse for the uncompensated confiscation of private property." And that is what we are debating here today.

I urge my colleagues to support and adopt the Morella amendment. I believe that this is a proper move and an appropriate step to making this bill something that we can support.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I too oppose the amendment offered by the gentlewoman from Maryland (Mrs. MORELLA). The Morella amendment is premised on the notion that H.R. 1872, as reported out of the committee, would work a taking of COMSAT's property. This proposition seems to me to be entirely unfounded.

To begin with, I am at a loss to see any property that would be impacted by the bill. The term "property" has a particular legal meaning. It is not just a unilateral expectation, as the opponents of this bill have suggested, but rather an entitlement based upon a mutually explicit understanding.

The fact that COMSAT or its shareholders may have made investments with the expectation that COMSAT would continue to operate as the monopoly provider of INTELSAT and Inmarsat's services in the United States does not give them a property interest in those investments. Half the equation is missing.

To constitute property protected by the fifth amendment, COMSAT would need to show that these expectations were based upon a mutuality of understanding sufficiently well-grounded to create an entitlement protected at law. Of course, any such claim would collide headlong with the reality that when Congress established COMSAT in the 1962 Satellite Act, it expressly reserved the right to modify COMSAT's role in the market at any time.

□ 1230

To the extent that COMSAT and its shareholders made investments based on the provisions of the Satellite Act, they did so presumably knowing of the risk that Congress might some day do so. It is absolutely baffling to me that COMSAT could think that Congress created an entitlement, a property interest, by the terms of the Satellite Act. In any event, even if COMSAT had identified a protected property interest that would be impacted by H.R. 1872, the legislation hardly would reach the level of a regulatory taking, quote-unquote, under the Supreme Court's cases.

The bill will without a doubt adjust the benefits and burdens of economic life, quote-unquote, and end one of the last government protected monopolies in the telecommunications field. It would not, however, take any tangible property or vitiate any specific right or assurance conferred by the government. I therefore urge the Members to oppose this amendment.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, the amendment gets to the nub of the question. It says this, and I can understand why the opponents of the amendment are so distressed about it, because it says,

> In implementing the provisions of this section, the Commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the Fifth Amendment to the Constitution.

What is wrong with that amendment? All it says is that the Commission has to respect the Constitution and cannot create a liability on the taxpayers because we have engaged in an unconstitutional taking or because we have violated the provisions of the Tucker Act.

I want my colleagues to listen to what the Washington Legal Foundation said. By the way, the gentleman from Virginia (Mr. BLILEY) is a major contributor to that agency and has sent them a wonderful letter in which he told them how he wanted to support the good work of that foundation. Here it is. This is what they had to say:

> In response to your written request for counsel, the Washington Legal Foundation has undertaken a legal analysis of H.R. 1872. After the consideration of H.R. 1872, WLF has concluded that H.R. 1872 would indeed effect a compensable taking of private property belonging to COMSAT, as well as a material breach of the terms of the compact between the United States and COMSAT. WLF's conclusion should not be construed as endorsement or opposition to H.R. 1872.

They are giving you a clear warning. The amendment says that the Commission cannot subject your constituents and mine to that kind of liability. I would want to observe something else. What this bill does is to impair contract rights of COMSAT and to impair the value, the good will and the corporate assets of that corporation.

The Supreme Court has been very clear on this point. They have said that the most significant factor in determining whether economic regulation constitutes a taking is the extent to which, and I quote now from the Supreme Court, "the regulation has interfered with the owner's reasonable investment-backed expectations." That is from the Penn Central case, *Penn Central Transportation Company* v. *The City of New York*, 438 U.S. 104, 124, dated 1978.

They went on to say some other things which I think are important. They went on to say, "The simple words," and I am now interpolating, the Supreme Court said "that Congress may at any time alter, amend and repeal this act * * * cannot be used to take away property already acquired * * * or to deprive" a private "corporation of the fruits already reduced to possession of contracts lawfully made."

We are here with considerable diligence in this legislation interfering in the contract rights of COMSAT. COMSAT's officers are, at the proper responsibility and under the insistence of their shareholders, most assuredly going to file suit under the Tucker Act. I can offer my colleagues firm assurances that the judgment that will be awarded to COMSAT will be most generous and it will be done at the expense of your constituents unless this body has the wisdom to adopt the amendment offered by the gentlewoman from Maryland.

It should be observed, this does not do anything, the amendment, except to assure that there will be no liability imposed on our constituents because of an unconstitutional taking by this body. I urge my colleagues to keep that thought in mind. You have a responsibility to pass legislation in this body which observes the Constitution, but which also does not subject our taxpayers to a liability for wrongful acts taken by this Congress.

I would urge my colleagues to keep carefully in mind that the sums here are not piddling. They amount to billions of dollars. My question to my colleagues, Mr. Chairman, is, do you want the responsibility on your soul and on your conscience of having dissipated this enormous sum of money and subjected your taxpayers to that kind of liability?

Mr. COX of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we have just heard from the ranking member on the Committee on Commerce that he is prepared to accept as a norm for debate and decision in the House in futuro the decisions of the Washington Legal Foundation. I think that will actually help us a great deal here in our deliberations in the House. I think he is quite right, the Washington Legal Foundation is a fine outfit. I will look forward to holding the ranking member to his new principle.

But the Washington Legal Foundation, which he sings the praises of, has written us a letter subsequent to the one that he is describing that says, "I want to make it very clear, the Washington Legal Foundation does not in any way oppose this bill or in any manner support amendments to this bill." Specifically, the letter was written so that we would all know that they oppose this amendment. That is the position of the Washington Legal Foundation.

Furthermore, the Congressional Research Service has written us on the same point telling us that it is their legal analysis that the impacts described in the gentleman's presentation are not likely to support successful takings claims. That is the view of the Congressional Research Service.

So the question is not whether we are going to expose taxpayers to spending huge amounts of money because Congress did something wrong. This amendment would expose taxpayers to huge expenditures of their hard-earned money because Congress did something right, which is to take away the monopoly powers that this bill in fact takes away from COMSAT. This is not a Fifth Amendment taking.

Private actors can be disadvantaged in any number of ways by governmental action. A private landowner can discover that the value of her real estate is reduced to zero because of the land being declared essential habitat. That is an example of governmental action that ought to be considered a taking and the landowner in that case ought to be fairly compensated. But here our private actor is not some innocent landowner trying to recover from government regulation. This is a private company seeking to compel continued government protection for the unique monopoly powers, the privileges and benefits that flow from those monopoly powers that it enjoys. This is an anticompetitive policy that is in fact hostile to true property rights. In fact, current law unfairly restricts the ability of private companies to compete. Instead it guarantees to COMSAT's investors monopoly-sized returns on their investments.

What property does COMSAT have that it alleges is being taken? It suggests that takings claims are raised by the "fresh look" provisions of this bill. That is the language that enables the FCC beginning in 2000 to permit users or providers of telecommunications services to renegotiate contracts they signed with COMSAT prior to the repeal of its statutory monopoly as the only U.S. company authorized to sell INTELSAT services. In other words, COMSAT wants to retain its monopoly powers and anything less would be considered a taking.

The United States Supreme Court has repeatedly ruled that persons doing business in a regulated marketplace should expect the legislative scheme to change from time to time, even in ways that might be unfavorable to their interests. This principle was most recently reiterated by the Supreme Court in its unanimous 1993 decision in Concrete Pipe, which quoted from the Court's 1958 decision in FHA v. The Darlington. Here is what the Court said. "Those who do business in the regulated field cannot object if the legislative scheme is buttressed by subsequent amendments to achieve the legislative end."

Even if COMSAT were to pretend that it is not a participant in a heavily regulated marketplace, and, that would be a tough argument for COMSAT to make because they testified before Congress just last year that their company is hamstrung by a burdensome regulatory regime, Congress took special care when it created COMSAT in 1962 to let investors know that there would be no guaranteed return on their investment. These days COMSAT gets an 18 percent guaranteed rate of return. These days INTELSAT gets immunity from antitrust lawsuits. There is no doubt that H.R. 1872 will impair COMSAT's ability to obtain monopoly rents in the international satellite marketplace, and that is the purpose of the bill.

While the bill does end an obsolete and outdated international monopoly, it does not deprive COMSAT of the right to compete in the new competitive marketplace. Instead, COMSAT will be forced to compete. Nor will H.R. 1872 bar COMSAT from providing service to the same customers to whom it presently provides service. But apparently in COMSAT's view, the company should be compensated by U.S. taxpayers if it is not guaranteed anything less than the absolute right to sell its services at inflated monopoly prices. That is a bad idea. Therefore, this amendment is a bad idea. I urge my colleagues to reject it.

Ms. ESHOO. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, this amendment is searching for a problem that does not exist. The argument that takings is an issue seems tenuous at best. The gentleman from California (Mr. COX) I think has done a superb job of rolling out the case in detail on this issue because it defines contracts as property, which I think is a new twist. I have not heard of that one before.

I would congratulate those that are offering the amendment and supporting it for coming up with such a unique take on this. But the argument that takings is defined as property I think is faulty. Furthermore, removing the FCC's ability to apply service restrictions, or a fresh look, actually cuts out the heart of the bill. These provisions are incentives to privatization and they are necessary incentives and need to be retained. I would like to believe that COMSAT and INTELSAT will act in all of our best interests without any prodding, but that does not seem to be the case, nor does it seem to be realistic.

As I warned in my opening statement, this amendment is designed to kill the bill, not to amend it or to improve it. If Members of the House wish to support and protect a monopoly, then they should vote for this amendment. If they are in fact pro-competition and pro-privatization, they should vote to oppose the amendment.

Mr. KLINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Morella amendment. The previous speaker, a dear friend of mine, had mentioned, and I, like her, am not an attorney but I think it is very clear that contracts are property. I think that the Supreme Court made that decision about a century ago. Beyond that, this legislation may or may not lead to privatization and competition in international communications. I do not think that we are all very sure if exactly that is going to happen. I have my doubts whether it will or not.

I think the approach has been backwards. But whether or not this legislation succeeds in its goal, one thing is clear, that your constituents will end up footing the bill. We could pass this bill, it may fail to open up telecommunication markets in foreign lands, and still could end up spending billions of dollars of your taxpayers' money.

□ 1245

We could end up with a very extensive status quo in telecommunications.

Many of the investment decisions that COMSAT has made over the years have been made at the urging of the United States Government, and if we look at comments made by Nancie Marzulla, who is the President of Defenders of Property Rights, she said that Congress would have to compensate companies for investments they made at the government's behest and approval, investments made specifically to solidify the U.S. as the satellite industry leader.

Similarly, if we take a look at comments made by the Washington Legal Foundation, if adopted, H.R. 1872 would effect a substantial compensable taking of private property, and yet this legislation will take away COMSAT's business, will force them to renegotiate contracts that do reduce the value of their investments and really open up the United States Government to liability for damage for takings of COMSAT property. Those contracts are real property.

Now I am reminded a little bit in this legislation of an old movie. I do not know how many of us in here remember the old movie "Blazing Saddles." They had a sheriff in there, Clevon Little, who held a gun to his own head and said, as my colleagues know, "If you don't let me out of here, I'm going to shoot myself." That is really what this bill does. If my colleagues view this as a United Nations of satellites, we are holding a gun to our dear friend, Billy Richardson's head. And I refer to him as "Billy" only because I have great affection and friendship for the U.N. Secretary. It is like us holding a gun to his head and saying to the other countries, if they do not do what we want them to do, we are going to shoot our own representative.

Mr. Chairman, that would be foolish, and I think that that is what this amendment tries to correct.

While the sanctions imposed by this bill may not work, they will cost money.

My colleagues should support the Morella amendment, block the sanctions that really do amount to a taking of property, try to save our constituents money, try to keep the United States satellite industry viable and competitive.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. KLINK. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I just want to ask a question to my colleagues on the other side.

They said there is no taking here, and so we need to have no fear on that. The gentlewoman from Maryland offers an amendment which says there can be no taking. Well, if they do not intend to do a taking, if the amendment says there is no taking, if in fact there is no taking, what is wrong with the amendment?

I would think those who say there is going to be no taking here would accept this amendment with vast enthusiasm and would be speaking for it, not against it. I am curious. What is it that they are trying to tell us; that there is a taking and so they do not want the amendment, or that there is not a taking so the amendment is not needed? I do not know.

But I do know one thing. If there is a possibility of the taking, we better doggone well see to it that we adopt the amendment so that we do not impose upon our constituents $6 or $7 billion of liability because of the unwise action in this Chamber today.

Mr. KLINK. Mr. Chairman, I thank the gentleman from Michigan.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. KLINK. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Let me first commend the gentleman on his statement. I cannot think of a better metaphor than the one he gave us that we are literally telling a U.S. company, "We're going to shoot you and your customers if these international organizations don't do what we want."

Do my colleagues know that in the bill is a provision that says even if they do what we want, they still have to shoot themselves? I will talk to my colleagues about that one in a minute.

Mr. KLINK. Mr. Chairman, I thank the gentleman for his insight, and I thank the gentleman for his leadership on this issue.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first let me say that I am pleased that the Washington Legal Foundation sent a letter of clarification to the chairman, the gentleman from Virginia (Mr. BLILEY). They should have because they are 503(c), they cannot lobby on a bill, they did not mean their letter to the gentlewoman from Maryland (Mrs. MORELLA) to be a lobbying effort. But notice they have not repudiated what they said. They have not said, we change our mind, we change our opinion.

Here is what they said this bill does, and Members who are listening in their offices or wherever they may be, I hope they pay close attention to this. This is what the Washington Legal Foundation said this bill does without the Connie Morella amendment:

It says that this bill provides that if INTELSAT and Inmarsat do not privatize quickly enough, as this bill hopefully gets them to do, this bill will punish COMSAT by telling COMSAT, this U.S. private company, that they no longer can offer new services to their customers. All they can offer them is the old services they used to give them.

Well, as the Washington Legal Foundation points out, those core services are illusory because there are changes in technology causing those markets to disappear. If they cannot offer the new services, who the heck wants to do business with them?

This bill literally says to COMSAT and its customers, "Quit doing business, shoot yourself in the head because you can't offer the new services that all the other companies will be offering its customers." Why? Because Inmarsat and INTELSAT did not move fast enough to privatize, even though they could not control that.

But it gets even worse. The bill also says that even if INTELSAT and Inmarsat privatize at the speed of light, if they are faster than a speeding bullet and stronger than a locomotive, and they get to this world of privatization faster than the chairman wants; even if they do that, this bill says that COMSAT's customers no longer have to keep their contracts. They can renegotiate them with whenever they want. They can leave doing business with COMSAT anytime they want.

Now put these two provisions together, and we really get the sense of what this is all about. This bill says in effect that COMSAT may not be able to offer its customers new services and, by the way, they can get out of their current contracts. Now what do my colleagues think is going to happen? If this bill passes without the Morella amendment, in fact, COMSAT is going to lose those customers.

Why? One, we just abrogated their contracts; and, number 2, they just found out that COMSAT may not be able to offer them any new services. Why would someone stay with a company that came out with new services when Congress just told them they do not have to keep their word, they do not have to live up to the terms of their contract? Why would one stay? They would leave.

And guess what? That is exactly what the people who are behind these two provisions want. Why? Because they are competitors of COMSAT. They would like to have those customers, and so they are asking us in Congress to rearrange the customer base, to send customers away from COMSAT and to send them to their competitors. That is exactly what is behind these two amendments.

And if we do that, if we do that, the Washington Legal Foundation warns us, warns us very clearly, that such sweeping congressional abrogation of the private contract rights of a single company, without any judicial determination of wrongdoing, may be unprecedented in U.S. history. What an awful taking. We do not even get to go to court. Congress says, "Your property is gone." Congress says, "Your contracts are no good." Congress says, "The company can't give you any more services." Congress destroys a U.S. company. What an unprecedented taking in U.S. history.

And the Washington Legal Foundation concludes by saying,

> Congress may legitimately decide it no longer wants COMSAT to serve its historic role, but if it does so, it is required by the fifth amendment to compensate COMSAT's shareholders for all the immense capital they have put in public service at the government's request.

In short, we, the taxpayers and the citizens of this country, will have an enormous legal bill to pay because we in Congress incurred that debt, we in Congress abrogated contracts, we in Congress took away private property without providing compensation.

I suggest to my colleagues if there is going to be no taking under this bill, why not pass an amendment? If there is not going to be taking under this "fresh look" approach under this restricted service provision, if these contracts really will not get abrogated, if none of this will really happen, then what is wrong with the Morella amendment which says do not do it if it takes property under the fifth amendment. Do it only if, and only if, we are not taking property without compensation as a violation of the fifth amendment.

This amendment makes this a good bill. I urge my colleagues to adopt it for the sake of the taxpayers and the citizens of this country; more importantly, for those of us in Congress who have never been asked to vote to abrogate private contracts.

Mr. KLUG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment and I want to, if I can, address issues that have been raised by the last three speakers, the gentleman from Pennsylvania (Mr. KLINK), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Louisiana (Mr. TAUZIN).

Now for everybody who is sitting back home, in their office, in the Chamber, and really do not understand what we are arguing about in terms of satellite communication, let us make it very simple. There is a monopoly today, and today we are trying to end the monopoly. That is what this entire debate is all about.

Now contracts are not in perpetuity. The United States over the course of time makes lots of contracts. We buy everything from airplanes to railroad tracks to nuclear weapons and paper clips and staplers and cars and everything else in the world. We do not go to General Motors, say we are only going to buy cars from General Motors for the rest of our lifetime. We make a deal, the deal ends, and we move on. And that is essentially the principle we are discussing today: Can we end the deal with COMSAT?

Now everybody has said for the last 5, 6, 7 years that the monopoly should be reformed, and guess who leads the opposition today to this amendment? It is the monopoly itself because it wants to hold onto power, it wants to eliminate competition, and it wants to keep all the money for itself. Very simple rule in economics.

Now the gentleman from Pennsylvania (Mr. KLINK) said, the last phrase that he used was to say to keep the U.S. satellite industry viable and competitive. There is no competition today. There is only one guy who calls all of the shots. That is why every private satellite company that wants to compete supports this bill, and it is why every major user of satellite communications, the folks who buy stuff from COMSAT, want the bill; because they want a choice. They understand this, anybody who is listening to this debate today.

There are choices about what television stations to watch, what newspapers to buy, where to buy groceries, where to fill up the car with gasoline. And today, people who use satellite communication services, the purchasers, do not have any competition; it is a monopoly.

Now as to the heart of the amendment that this constitutes a taking, keep in mind that the fifth amendment of the United States already provides protection against anybody who thinks that their property has been unjustifiably seized and who wants compensation from the United States Government. There is a takings protection, and obviously everything that Congress does has to abide by the Constitution, and therefore COMSAT and anybody else we pass legislation affecting today has the ability to appeal back to the fifth amendment.

Now, if the fifth amendment already protects them, then they do not need this takings provision. If they need a takings provision, then it is not applied to in the fifth amendment. And they are essentially asking us to pass something that is already redundant and in fact is enshrined in the basic document that this body has to live by.

So that raises the question who wants the takings provision in here? And open up the mystery box, and reach inside, and who is inside there with a business card? It is COMSAT; because what they want to say is, "You can't pass go, you can't force competition in the industry unless the FCC thinks it will do so." And so they can delay, by essentially saying there cannot be a taking; so the FCC has to go to court to prove that it is not a taking, and if it is not a taking, then we can go forward.

It is a delaying tactic. It is legal jargon thrown out there, with no sense of seriousness, and we have got one opinion that says there may be a remote chance that there is a taking.

Now the Congressional Research Service that does work for Congress to essentially figure out legal issues has said there is no taking, and our best legal experts inside Congress itself say that there is absolutely no reason for this taking provision because they are protected by the fifth amendment; and secondly, because there is no takings here whatsoever. We are simply saying, "You've had an exclusive deal for decades, you're the only people who run the satellite business in this country, and we're saying in Congress it comes to an end. It's over."

The only way we are ever going to have competition for satellite providers and purchasers of satellite services is by making sure that COMSAT's monopoly comes to an end. And when monopolies come to an end anyplace, in the railroads, in the steel industry, the kind of debate we are now having about the computer industry in this country, the basic underlying economic theory is that competition drives prices down, it does not raise them.

And so if we take the argument of the gentleman from Pennsylvania (Mr. KLINK) to its logical conclusion, the only way we can have competition and lower prices in the marketplace is if the government gives everybody a monopoly, and then not only do we give them a monopoly, we give them a monopoly for eternity. They can never have any competition because that is a bad thing.

So for those of us in this body who are interested in competition, who are interested in fundamental economics, the choice that is good for the American consumer, then I urge the defeat of this amendment because it is only a delaying tactic to make sure that a monopoly can preserve its power as long as possible.

□ 1300

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, this is not a debate about takings. This is a debate about givings. The givings of the American people for 35 years to a single company and a single orbiting cartel. The American people gave this company a domestic monopoly over resale of INTELSAT and Inmarsat services. The American people gave to COMSAT and Inmarsat and INTELSAT immunity from antitrust law. The American people gave them privileged access to orbital slots and to spectrum. The American people gave them access to all of these privileges because there were no other companies, there was no other way of doing it; only by using this mechanism could we create this industry.

Over the years, the American people have granted the same opportunities to electric monopolies, to local telephone monopolies, to long-distance monopolies, to cable monopolies. But we always reserve the right, when technological change makes it possible, to introduce competition. In fact, within the legislation that was passed in 1962, the Congress expressly reserved the right to repeal, to alter, or to amend the provisions of the 1962 COMSAT-INTELSAT Act. We reserved to ourselves this right, as we always have.

Now, we can go back in history, all the way back to 1602 when Queen Elizabeth had granted to one individual and one company a monopoly on playing cards in England. Now, the Parliament ruled, after a point in time, that other companies should be able to get into the business of selling playing cards in England. It is the famous monopolies case. Now, the courts in England ruled that the Parliament had the right to have other companies sell playing cards, notwithstanding the original monopoly.

Standard Oil, 1911 in the United States, says, we have got a monopoly; the Congress has no right to break up our monopoly. The Supreme Court of the United States in 1911 ruled, the Congress has a right to break up monopolies, the Antitrust Division of the Justice Department has the right to break up monopolies. And every electric company, every telephone company, every cable company, every monopoly for time immemorial has argued that it is a takings. It is not. It is a givings. We gave it to them, and we have the right to take it back with reasonable economic regulation, which does not put them out of business.

We are not putting COMSAT out of business. We are allowing other companies to get into business, because the reality is that for at least the last 15 years, that taking has been COMSAT, INTELSAT and Inmarsat blocking other American company's ability to get into these markets.

The taking goes on every day when dozens of companies across America do not create jobs because they are denied the opportunity. They have had this right taken from them. The consumers do not have lower prices because that opportunity has been taken from them. That is what this legislation is all about. It is ending the giving, that we have been undertaking for 35 years, to a monopoly. That is the privilege of the Congress. We have always had this right and we will always retain that right.

So I say to my colleagues, we have a choice. Support for the Morella amendment is for a continuation of monopoly, of a global economic cartel with COMSAT as its American subsidiary, its American affiliate continuing on this tradition of denying American companies and American workers the ability to get into these industries the way we shoot to dominate the global marketplace.

I urge a very strong "no" on this amendment. For those of us who believe in competition, for those of us who believe in opening up markets, for those of us who believe that America is going to be the dominant telecommunications leader, a vote "no" here guarantees that we enter this world as its dominant power.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to a lot of the debate, and I am concerned about the giving as well, and sometimes we just give a little bit too much of the rock away.

With that, I yield to the distinguished subcommittee chair, the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

Let me point out that this is not about monopoly, it is not about monopoly. COMSAT owns a franchise right to deliver services over these international satellites, but they do not have a monopoly. That is totally wrong. If COMSAT were a monopolist in this world of international telephone and other data services, then there would not be a Hughes or a PanAmSat Corporation, another private satellite corporation. There would not be a Loral, there would not be a Teledesic, a Columbia, Meridian, ELLIPSO, all private satellite companies just like COMSAT, providing communication services in this country and around the world. There would not be an undersea cable taking so much business across the oceans and delivering communications services across the world.

In fact, COMSAT's percentage of voice services right now is 22 percent. Does that sound like a monopoly? And have they signed monopoly contracts? Well, here is what the FCC said on April 24, 1998, just a couple of weeks ago, on that very point. It said that we conclude the contracts that COMSAT has signed, the long-term contracts to AT&T and MCI, actually permit AT&T and MCI to choose COMSAT's competitors for services. Does that sound like a monopoly, where one signs a contract that allows a company to use other competitors for services?

What I am trying to tell my colleagues is that this is not about a monopoly, as much as my colleague may want to make it about a monopoly. It is about whether or not one of these companies, COMSAT, which happens to be the government franchisee on these international satellite systems, which competes with all kinds of other private companies: PanAmSat, Loral, Teledesic, Columbia, Meridian, ELLIPSO and Cable Undersea, whether this one company and its customers are going to be hammered with unconstitutional takings. That is what the issue is all about.

Finally, let me make one other point. If any one of these companies, PanAmSat included, thinks that COMSAT has an anticompetitive contract, they have a remedy today. They can go to the FCC, they can go to the Federal court and they can demand that that contract be abrogated.

In fact, PanAmSat took a case to the district court just recently. Here is what the court said. Nothing in the record suggests that COMSAT secured any of the contracts by means of anticompetitive acts against PanAmSat. They threw PanAmSat out of court, and yet we in Congress are going to overturn that court decision and abrogate those contracts.

No. The amendment protects against this taking, and my colleagues ought to vote for it.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, listen to the language of the amendment. This is what it says: Takings prohibited. In implementing the provisions of this section, the commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the fifth amendment to the Constitution.

That is all it says. It does not say the commission is supposed to allow monopolies. It simply says, we are not going to subject the taxpayers of the United States to a $6 billion or $7 billion liability by taking property from

COMSAT. If there is no taking under this amendment, I say to my friends who oppose it, there is nothing for them to fear. If there is a taking, by God, my colleagues better pray that this is in the bill, because if it is not, my colleagues are going to be trying to defend through our Constitution why they dissipated $6 billion or $7 billion of your constituents' and your taxpayers' money.

I thank the gentleman.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me summarize by pointing out that the Morella amendment simply says, do not do anything that is going to take private property that the taxpayers of America are going to end up having to pay for.

Now, the opponents say, well, the fifth amendment already protects them. It protects the company by making taxpayers liable.

That is not a good protection for us. If we want to protect the American taxpayers, we tell this bill and we tell the FCC, do not do anything that takes private property that American taxpayers are going to end up having to compensate for. That is why we need to pass this good amendment.

Mr. TRAFICANT. Mr. Chairman, in closing, I think the interpretation of the Constitution has been so perverted I think we had better be very specific on this takings issue.

Mrs. MORELLA. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Chairman, I know there are some differences of opinion in this Chamber and they are well founded, but all of us feel that there should not be improper takings.

We have had a number of opinions on it. Therefore, this amendment should be right in order and right in accord with what we have been saying. So put this amendment in the bill, it will make a difference, and this bill will then become law ultimately. Without it, there will be problems.

Mr. PITTS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I thank the gentleman for yielding.

The fifth amendment already addresses this; that is why we have a Constitution, to protect us. Here, once again, COMSAT wants special privileges. The Constitution is not good enough for COMSAT. They want special protection for a reason to be able to stop the FCC from implementing my bill, by tying it up in court. COMSAT's strategy is to delay because they make a monopoly of profits under the status quo at the expense of our constituents.

Let me say a couple of words about monopoly. COMSAT claims its share of the market for all switch voice and private line services is 21 percent. The figure is irrelevant. International satellite delivered services constitute a separate submarket within the larger market for international telecommunication services, because satellites provide more cost-effective service for thin traffic paths and because most carriers prefer to use a mix of cable and satellite facilities, international carrier 102 FCC.

COMSAT has virtually the entire market for international satellite delivered telephone onto itself. Separate satellite systems generally have not been able to carry public switch telephoning, which accounts for less than 1 percent of PanAmSat's revenues, Economists Incorporated, Market Power, Market Foreclosure and INTELSAT, February 16, 1998. By the time INTELSAT permitted separate systems to offer any meaningful quantity PSN service in November of 1994, COMSAT had already locked up the largest carriers to long-term contracts.

This amendment is a red herring; it is just a way for COMSAT to tie up the FCC in court for years and to preserve their monopoly. I hope my colleagues will vote the amendment down. I thank the gentleman.

Mr. DEUTSCH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, hopefully, Members are listening to the debate and listening carefully, because there have really been a lot of red herrings, as my Chairman has stated previously.

The facts of the monopoly issue of COMSAT are just a fact. We have heard numbers thrown out: 20 percent of the market, 22 percent of the market. In the specific area of international satellite communications, it is 100 percent of the market. It is a monopoly. There is no way around it. It is a monopoly, that is, a statutory monopoly that this Congress granted for good reason many years ago.

But that monopoly that exists is a monopoly. If we are trying to communicate with a phone call from here, Washington, D.C., to Africa, to Asia, there is only one path to complete that phone call, and it is through COMSAT, through INTELSAT, 100 percent.

There is no option to that whole aspect, and if one does not accept that the monopoly exists, I guess if one wants to convince oneself that it does not exist, I do not see how one can, but I guess if one wants to, one can, then the next logical step I could understand one saying, well, there is a taking going on in terms of saying that some of the existing contracts need to be modified.

□ 1315

I guess if we accept that there is not a monopoly, then there is a logical step that we could take. But, again, I find it very, very difficult even to perceive that argument.

But let me follow up though really with the fact that the monopoly exists in terms of the issue of the taking. What has been spoken about before, and I think from a Member perspective to completely understand, is that those people who have contracts with COMSAT entered into those contracts in an environment of dealing with a monopoly, a monopoly in terms of the monopoly power that they had in terms of those contract negotiations. This is not the first time this type of situation has existed.

What I have pointed out previously and I think is absolutely appropriate as an analogy is when AT&T was broken up for long distance service, AT&T was a monopoly. It was broken up. When it was broken up, the existing contracts were able to be modified. That is exactly what is being done here.

It is not unprecedented. It has been done in other areas as well. That is the policy implication behind what we are doing.

Mr. Chairman, I urge Members to oppose the amendment and support the bill.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland (Mrs. MORELLA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 304, answered "present" 2, not voting 15, as follows:

[Roll No. 127]

AYES—111

Andrews
Archer
Baker
Barcia
Barrett (NE)
Bartlett
Berry
Blagojevich
Boehlert
Boehner
Bonior
Boucher
Brown (FL)
Calvert
Campbell
Chenoweth
Clayton
Clyburn
Condit
Conyers
Cummings
Davis (IL)
DeLay
Dingell
Dooley
Doolittle
Doyle
Ehrlich
Ensign
Farr
Fazio
Filner
Foley
Fowler
Frost
Furse
Gekas
Gilchrest
Goss
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hilliard
Horn
Hoyer
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kaptur
Kilpatrick
Klink
Kucinich
Livingston
Maloney (NY)
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McIntosh
Meek (FL)
Meeks (NY)
Menendez
Minge
Mink
Morella
Nethercutt
Northup
Nussle
Oberstar
Owens
Oxley
Pascrell
Paul
Payne
Peterson (MN)
Petri
Pombo
Pryce (OH)
Rangel
Redmond
Regula
Riley
Rivers
Rohrabacher
Royce
Sabo
Salmon
Scarborough
Schaefer, Dan
Schumer
Sensenbrenner
Sessions
Skelton
Stark
Stearns
Stenholm

Stokes
Tauzin
Taylor (NC)
Thomas
Thompson
Torres
Towns
Traficant
Upton
Watt (NC)
Wynn
Young (AK)

NOES—304

Abercrombie
Ackerman
Aderholt
Allen
Armey
Bachus
Baesler
Baldacci
Ballenger
Barr
Barrett (WI)
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Bonilla
Bono
Borski
Boswell
Boyd
Brady
Brown (CA)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Camp
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Clay
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Graham
Green
Greenwood
Gutierrez
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (WI)
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Markey
Matsui
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Ney
Norwood
Obey
Olver
Ortiz
Packard
Pallone
Pappas
Parker
Pastor
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Reyes
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sanchez
Sanders
Sandlin
Sanford
Saxton
Schaffer, Bob
Scott
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Taylor (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Turner
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Yates
Young (FL)

ANSWERED "PRESENT"—2

Cardin
Sawyer

NOT VOTING—15

Bateman
Carson
Christensen
Fossella
Gonzalez
Hastings (FL)
Hutchinson
McCollum
McNulty
Neumann
Pelosi
Radanovich
Riggs
Rogan
Skaggs

□ 1340

Mrs. KENNELLY of Connecticut, Ms. MILLENDER-McDONALD and Messrs. HEFLEY, MILLER of California, SPRATT, CASTLE, LEVIN, and FOX of Pennsylvania changed their vote from "aye" to "no."

Mrs. JOHNSON of Connecticut, Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. DOOLEY of California, CLYBURN, OWENS, and STOKES changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. TRAFICANT:

At the end of the bill, add the following new sections:

SEC. 4. COMPLIANCE WITH BUY AMERICAN ACT.

No funds authorized pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–30c, popularly known as the "Buy American Act").

SEC. 5. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Federal Communications Commission shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 6. PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspensions, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

MODIFICATION TO AMENDMENT NO. 8 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that the amendment be modified with the language at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 8 offered by Mr. TRAFICANT:

In lieu of the matter proposed to be inserted by the amendment, on page 33 after line 17, add the following:

(4) Impact privatization has had on U.S. industry, U.S. jobs and U.S. industry's access to the global marketplace.

The CHAIRMAN. Is there objection to the modification offered by the gentleman from Ohio (Mr. TRAFICANT)?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, I support this legislation. I want to commend the gentleman from Virginia (Mr. BLILEY), the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Louisiana (Mr. TAUZIN) regardless of how they feel on the issue.

The time has come for this legislation. I have some concerns. In this legislation is a section that requires annual reports to the Congress of the United States. The contents of those reports are listed to include the following progress with respect to each objective since the most recent preceding report. You see, these reports are to measure whether or not this legislation is meeting the objectives and is carrying out the provisions of its intent.

The first thing the bill calls for is the progress it makes to do that; the second is the views of the respective parties with respect to the privatization issue; finally, the views of the industry and consumers on privatization.

Quite frankly, although I am concerned about the views, my biggest concern is not about anybody's views, my big concern is about the impact this legislation will have on jobs, the United States industry, United States competitiveness, and our access to the global marketplace from a competitive spirit.

The Traficant amendment simply says that there would be another section in this report language that will ask for each year from the President and the Commission to update us on the impact that privatization has had on U.S. industry, United States jobs, and United States industry's access to the global marketplace.

I would hope that the legislation would be accepted. It makes, in my opinion, good sense.

Mr. Chairman, I yield to the distinguished gentleman from Virginia (Mr. BLILEY).

□ 1345

Mr. BLILEY. Mr. Chairman, this gentleman has reviewed the amendment and finds it acceptable and urges Members to vote for it.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentleman very much and I want to congratulate him on his amendment. I think he is adding substantially to the nature of this bill, in the change which is taking place internationally, its impact upon the United States, and how fully we should understand it. I thank the gentleman very much.

Mr. TRAFICANT. Mr. Chairman, reclaiming my time, I appreciate the gentleman's comments, and I am hoping that impact is going to be favorable.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I wanted to thank my friend for offering the amendment, congratulate him on it, and suggest that not only do we not have any opposition to the amendment, but we gratefully and warmly embrace it, and I would urge all Members to support it.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment, as modified, was agreed to.

The CHAIRMAN. The committee will rise informally.

The SPEAKER pro tempore (Mr. DUNCAN) assumed the chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

COMMUNICATIONS SATELLITE COMPETITION AND PRIVATIZATION ACT OF 1998

The Committee resumed its sitting.

AMENDMENT NO. 4 OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. GILMAN:

Page 33, line 5, strike "the Congress"; and insert "the Committees on Commerce and International Relations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate".

Page 33, beginning on line 20, strike "Committee on" and all that follows through "of the Senate" on line 22 and insert the following: "Committees on Commerce and International Relations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate".

Mr. GILMAN. Mr. Chairman, I commend the gentleman from Virginia (Mr. BLILEY) for taking up this complicated issue of international satellite policy. Furthermore, I support the basic purpose of this measure, which is to move ahead with privatizing the intergovernmental satellite organizations. It is an important undertaking to meet the current telecommunications marketplace.

However, in consultation with the distinguished ranking minority member of the House Committee on International Relations, the gentleman from Indiana (Mr. HAMILTON), I am offering an amendment to make a simple change to the bill before us. It merely adds the House and Senate Committees on International Relations to the committees required to be consulted prior to the meetings of the INTELSAT or Inmarsat Assembly of Parties, and revises the annual reporting requirement to also include these committees.

We are interested in this legislation because changing international communication satellite policy has foreign policy implications. I want to be clear we are not seeking to interfere with the Committee on Commerce's jurisdiction to determine telecommunications policy, but the State Department is the lead agency in the negotiations with the intergovernmental satellite organizations.

State traditionally has had the lead in multiagency teams negotiating with any international organizations. Inclusion of the Committee on International Relations in the reporting and consultative process allows the committees to perform their fundamental oversight responsibilities.

I hope the chairman will be willing to accept this amendment. This bill raises other concerns, which were flagged in testimony by the administration last fall. These issues, such as including specific directives on the conduct of the negotiations, deserve further consideration.

I have a concern about the expanded responsibilities given to the Federal Communications Commission in this bill for the multilateral negotiations aimed at privatizing INTELSAT. The President should have the discretion of ensuring that our State Department, and any other relevant government agency, plays a role in this process.

I look forward to continuing to work with the Committee on Commerce as the bill proceeds through the process.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I have reviewed the amendment and think it is a fair proposition. The State Department plays an important role in international negotiations, including regarding the intergovernmental satellite organizations.

My understanding is that this amendment is not intended to and in no way does affect the jurisdictional interests of our committees in the bill. Does the gentleman agree?

Mr. GILMAN. Mr. Chairman, reclaiming my time, this amendment has no impact nor is it intended to have an impact on our committees' jurisdictional interest.

Mr. BLILEY. Mr. Chairman, if the gentleman will continue to yield, with that understanding, I think we are prepared to accept the amendment.

Mr. GILMAN. I thank the chairman for his considerable consideration.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment. It is amendment No. 7.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. TAUZIN:

Page 28, beginning on line 14, strike section 642 through page 29, line 24, and redesignate the succeeding sections accordingly.

Mr. TAUZIN. Mr. Chairman, let me first apologize for the complexities in this bill. There is no way for us to deal with satellite policy and the extraordinary nature by which this highly technical industry has developed without some very technical provisions.

Let me secondly again compliment the chairman and the gentleman from Massachusetts (Mr. MARKEY) for the bill. It is a good attempt at accomplishing something which must be accomplished very soon, and that is the privatization of the government organizations, INTELSAT and Inmarsat, which service telecommunications needs across the world.

Let me thirdly point out that the amendment I offer is in no way, shape, or form designed to gut this bill. It does not. It is a very targeted amendment which deals with a single provision in the bill, which many of us believe ought not be in the bill if we want a bill passed to accomplish its good purposes.

Now, what is the provision that this amendment deletes? It is a very simple provision. It is a provision that says that the contracts that COMSAT has negotiated with companies like AT&T and MCI, those contracts to provide services over their network, could be abrogated by those customers unilaterally, at their own will, within a couple years. In effect, the provision in this bill is a grant of right by Congress to companies that have executed willfully, freely, contracts with COMSAT to then decide they will no longer keep those contracts and move their business to another company.

Now, is it our business to be abrogating contracts? Well, my colleagues will hear from the opponents of my amendment that this concept called "fresh look" is something that is often employed when monopolies are regulated and competitive market places are established. That is true, "fresh look" is a concept employed. "Fresh look" is available today to any competitor who wants to go to the FCC or to the courts and argue that it has a contract with COMSAT that was entered into in an anti-competitive mode.

Companies have done that. In fact, PanAmSat, one of COMSAT's competitors, went to the FCC and argued that the contracts that COMSAT had signed with some customers were, in fact, anti-competitive contracts and the FCC ought to order them abrogated. They lost that case. They took it to the district court and the district court ruled against them.

The district court ruled, in effect, that the contracts we are talking about here, signed by AT&T and MCI with COMSAT, were contracts that were willfully negotiated; that, in fact, contracts they signed on a long-term basis with COMSAT after turning down offers by PanAmSat and other competitors, willfully signed; and contracts that even allowed MCI and AT&T, indeed, to reroute their services when they wanted over their competitors. They were not anti-competitive contracts at all. The court ruled in favor of COMSAT that its contracts were valid, not anti-competitive, and that they should be honored.

Now, this bill does something very strange. This bill does not say that PanAmSat and others have a right to go and challenge these contracts. They now have that right. This bill overturns the district court, overturns the FCC, and gives to AT&T and MCI and the other customers the right unilaterally not to honor their contracts anymore, without any finding that COMSAT has done anything wrong or that these contracts are anti-competitive to any extent.

In effect, this bill asks my colleagues and myself, as Members of Congress, to vote to abrogate private contracts that the courts have already determined were freely and willfully entered into. This bill asks my colleagues and I to abrogate contracts that should be honored by the parties to that contract.

Now, why does it do that? Does it do it to punish COMSAT for bad behavior? No. The bill says that whether or not COMSAT does a good job in deregulating INTELSAT and Inmarsat, whether or not INTELSAT and Inmarsat do a great job of privatizing and deregulating their operations, if everything goes right, this bill still abrogates COMSAT's contracts with these people.

Now, why would we want to do that? Are we just mean? Are we interested in special interest kind of laws that gives customers to one company instead of another? Has COMSAT done anything that requires us to take away their contract rights and to let their customers out? To all of these things I hope the answer is no, and I hope my colleagues will vote for this amendment which takes this single provision out of the bill and protects contracts that deserve protection in the free market.

Mr. BLILEY. Mr. Chairman, I rise in opposition to the amendment.

While I appreciate my colleague's support of the general goals of the bill, I cannot support his amendment. "Fresh look" is a policy used by the FCC in the past to foster competition in a market previously characterized as noncompetitive. Once the FCC removed a barrier to competition and enabled others to compete, in none of the previous instances did a court find the FCC's use of "fresh look" amounted to a taking, nor does our bill.

First, our bill does not abrogate private contracts; it merely gives consumers who entered into contracts with COMSAT, when it was the monopoly, the opportunity to renegotiate those contracts once that monopoly has ended. Most customers will probably stay with COMSAT if it provides quality service at a reasonable rate.

We have public statements of support for "fresh look" from a number of users, including the long-distance companies and the maritime users who have benefitted in the past when the FCC required "fresh look" in other instances.

The gentleman notes that "fresh look" will enable the long-distance carriers to get out of their contract obligations with COMSAT. Those contracts for INTELSAT capacity were entered into when COMSAT was a monopoly for such capacity.

To claim that these contracts were entered into voluntarily and, therefore, Congress should not permit their renegotiation, reminds me of a story I heard from a member of Parliament from another country. He was telling how he had flown to the States with his own country's government-owned airline instead of taking a U.S. carrier like he usually does. He asked the flight attendant if there was a choice for dinner that night. She paused for a moment and said, yes, there is a choice; you can either have dinner or not. Well, he voluntarily chose to take what was offered.

And the carriers voluntarily entered into contracts with the monopoly distributor of INTELSAT services. They could have chosen voluntarily not to have satellite redundancy, and, if there was a failure on their own cables, risk losing their customers; but they chose instead to contract with the monopolist rather than risk losing their customers during cable outages.

But that is not the kind of choice our bill is after. Under our bill, in January 2000, when direct access or competition to COMSAT for IGO access is permitted and COMSAT's monopoly is thereby terminated, then users will be able to negotiate with new interest. What is wrong with letting users negotiate lower rates? Their consumers will benefit from carriers' lower costs.

Second, the provision in the bill would not result in an unconstitutional taking of COMSAT's property. Takings are most often found with real estate. COMSAT has no property right in its FCC licenses. While it may argue it has a property right in its service contracts, the frustration of contracts due to economic regulation by Congress is not a permissible taking of property.

□ 1400

Frustration of contracts is not unconstitutional, but I do not think a court would even find frustration or abrogation. A "fresh look" merely gives COMSAT's customers a chance to renegotiate once competitors are available.

Third, COMSAT has no reasonable expectation in the status quo that would be tantamount to a property right, since COMSAT has been operating in a heavily regulated environment since we created it back in 1962, under a statute in which we expressly reserve the right to alter the regulatory landscape governing COMSAT at any time.

Moreover, the provisions would not subject the U.S. Government to any liability under the Tucker Act or any other statute, because they do not result in an unconstitutional taking.

Moreover, COMSAT still has a monopoly for INTELSAT and Inmarsat services. It makes eminent sense and is consistent with FCC precedent to enable COMSAT's customers to take advantage of the presence of new competitors once COMSAT's monopoly is eliminated under the bill. Without "fresh look," the elimination of COMSAT's monopoly will have less of a competitive impact, since customers will be unable to take advantage of new opportunities if they are locked into long-term commitments entered into when COMSAT was the only game in town.

There has been a lot of double-speak that COMSAT does not have a monopoly because of fiber optic and satellite competitors, and this Congress should not be adjudicating whether COMSAT has a monopoly but should leave it to the courts to decide. That is a whole lot of nonsense.

Congress' action, in passing the Satellite Communications Act of 1962 resulted in COMSAT obtaining a monopoly. And the FCC implemented that act so that today COMSAT and COMSAT alone may offer INTELSAT and Inmarsat services. Sure, COMSAT has competition from the long distance providers on their fiber-optic cables on certain routes and from some private systems with video and other services, but that does not mean they do not have a monopoly for INTELSAT and Inmarsat services. And only INTELSAT and Inmarsat have a global, ubiquitous reach that gives them a special place in the international market.

I urge defeat of the amendment.

Mr. DINGELL. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I would like my colleagues to listen to the language of the bill that the amendment would strike. And it begins with the fact that every year everyone who has a contract with COMSAT may do something under this legislation which says, "permit users or providers of telecommunications services that previously entered into contracts under a tariff commitment with COMSAT to have an opportunity at their discretion for a reasonable period of time," and I note each year they may do this, "to renegotiate those contracts or commitments on rates, terms, and conditions or other provisions, notwithstanding any term or volume commitments or early termination of charges in any such contracts with COMSAT."

What we are literally doing is saying that COMSAT has no contract which will stand for more than 1 year and will be constantly subject to repudiation by every provider or by every customer.

Now, if that is not a violation of the contract clauses of the Constitution or of the fifth amendment provisions with regard to the protection of property rights, then I am the Queen of the May. And I would remind all of my colleagues that this is going to subject the United States to enormous liability for being sued for having interfered with the rights under contract and for having interfered with the property rights of COMSAT. Imagine how we would run a corporation if we were afflicted with that kind of provision. Let me just read something else.

PanAmSat, one of the well-known fat cats that is at the bottom of this mess and which is a major pusher of this legislation, sued COMSAT. A Federal judge considered all the pleadings, all the facts, and he decided in favor of COMSAT. Why? He said, and this is a quote from the judge, "Moreover, although the record does not reflect that COMSAT entered into long-term contracts with many common carriers, nothing in the record suggests that COMSAT secured any of the contracts by means of any anticompetitive act against PAS. On the contrary, the record suggests that, for their own reasons, the common carriers elected to secure long-term deals with COMSAT only after considering and rejecting offers from PAS."

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I am confused. I just heard from the chairman of the committee that this was like that meal on the British airlines, he either had to eat or not eat; there was no other option.

Is my colleague telling me that the people who signed these contracts had other options to sign with PanAmSat and turned them down?

Mr. DINGELL. Mr. Chairman, reclaiming my time, the answer to the question is yes. The answer to the question is also that the Federal judge involved here considered the questions in a much more thoughtful, careful, and responsible way after hearing all the pleadings than did my beloved friend, the chairman of the committee, who has not apparently been privy to the kind of information that the judge was.

Here we had a fair hearing. Everybody had a chance to have their say, not something which we have seen here.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I know the gentleman would not want to mislead the committee.

On page 28, section 642 of the bill, it says that they have a fair opportunity at their discretion for a reasonable period of time to renegotiate those contracts, a one-time deal.

Mr. DINGELL. Mr. Chairman, reclaiming my time, every year.

Mr. BLILEY. Mr. Chairman, If the gentleman would further yield, no, not every year.

And on page 62 of the report it repeats it again, a one-time opportunity to renegotiate contracts of commitments on rates, terms, and conditions.

Mr. DINGELL. Mr. Chairman, the staff of this committee has been very good in changing the language of the bill in the report, something which regrettably they are not capable of doing.

What we have here before us is a very simple matter. They are interfering here under this legislation with the rights of contract. They are interfering here with property rights. And they are going to have a liability for the taxpayers of this country under the Tucker Act, and it is going to be billions of dollars.

They also have before them a case where the matters have been considered by a Federal judge, having heard from PAS, having heard from COMSAT, having heard all the facts. He said, people go to COMSAT after they have heard from the others and given them a full opportunity to compete.

Ms. ESHOO. Mr. Chairman, I move to strike the last word, and I rise in opposition to the Tauzin amendment.

Mr. Chairman, first I think that, for all of our House colleagues, there was a statement that was made earlier that this is a very complex issue, and we owe it to our colleagues that were not part of the debate on the Committee on Commerce to offer them some clarity.

What is this amendment about? This amendment is about a provision in the bill entitled "fresh look," and what it would do is strike it; it would take it out of the bill. Now, why did the committee pass the bill out to the floor with this particular component, this element of the bill, and why did we find it important?

First of all, "fresh look" is a critical component of the bill. Why? Because it is what will help consumers realize the benefits of competition and doing away with a monopoly. The service providers are going to have to be able to take full advantage of direct access to INTELSAT so that the bill provides consumers what we are promising them, and that is competition.

It does not do any good to say to companies, "Okay, go ahead, negotiate the best deal possible" if, in fact, they are still locked into something that they agreed to when they were still a monopoly. And so "fresh look" is a provision in the bill that will allow companies, one time only in the year 2000, to take a "fresh look" and to move on from there into a procompetitive environment and leaving the monopolistic environment behind.

"Fresh look" will enable companies to take advantage of privatization, which is really what the underpinnings of this legislation are all about. So again, if my colleagues support privatization and procompetition, then they will vote "no" on this provision.

"Fresh look" is necessary. We must be able to take a fresh look in order to be competitive. I urge my colleagues to vote "no" on the Tauzin amendment.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in very strong support of the Tauzin amendment. I was also supportive of the amendment offered by my colleague, the gentlewoman from Maryland (Mrs. MORELLA).

I rise in support of this amendment because I believe that a contract should have the highest regard by this body. In fact, the Constitution prohibits us from abrogating contracts.

The fact of the matter is, as the gentleman from Michigan (Mr. DINGELL) and as the gentleman from Louisiana (Mr. TAUZIN) and others have pointed out, the judge found that there were alternatives. In other words, there were parties with whom the parties dealing with COMSAT could have dealt with alternatively.

The judge found that for economic reasons, obviously of their choosing, they did not do so. In fact, they made an independent judgment to enter into a contract. They may not like that contract now. This is not an unusual circumstance.

On the Subcommittee on Treasury, Postal Service, and General Government, for instance, on the telephone contract that the Federal Government had, we were constantly looked to to abrogate the contract and allow new competition prior to the term of the contract expiring. So this is not unusual. Parties to contracts often come to the Congress or to the legislatures and seek for a new deal or, as this amendment says, a "fresh look."

Well, "fresh looks" are nice. "I liked the contract a year ago, but I do not like it now. So how about a fresh look, troops? Let us look at it one more time, freshly." Well, the person that does not like the contract may think that is very nice, but the other person with whom the contract was made may think to themselves that is a jaundiced look, not a fresh look; it is a look that they have taken advantage of the contract for as long as they determined was advantageous to them, but now, "Guess what? I want to change the deal."

Mr. Chairman, I would hope my colleagues would support the Tauzin amendment. This "fresh look" provision that is contained in the bill is not fair. It is not fair because it says that the contracts that were entered into freely, as the judge said, do not need to be honored.

It is my understanding from the gentleman from Louisiana (Mr. TAUZIN), and I do not purport to be an expert on the technical nuances of this particular piece of legislation, but I am informed that in fact these contracts have a term. They are not unlimited. These parties are not bound by these contracts in perpetuity.

In point of fact, the contracts have a term that will end; and at that time, under the contract, as is fair and every American understands, at that time the parties will have the opportunity to have a fresh look, not legislatively mandated but mandated by the agreement of these two parties in their contract.

The sanctity of contracts is critical to the free market system in which we flourish. The sanctity of contracts is one of the things, as a lawyer, we learn to honor from the very beginning, which is why it is so important to make sure that a contract was in fact entered into, because once entered into, it cannot be abrogated by either party without damages occurring.

Again, that is another reason, Mr. Chairman, we ought to adopt the Tauzin amendment and reject the provision of the bill. Why? Because these are private stockholders, who have invested their money, who are going to sustain a loss if these contracts are abrogated; and, if so, we may well subject the Government to over a billion dollars in damages I am informed. Think of that, over a billion dollars in damages. Why? Because this contract sought to give relief to parties who voluntarily entered into a contract and who now want a fresh look.

☐ 1415

Mr. Chairman, we can change the policy, but we ought to change it prospectively. We ought to say we are going to change the rules and when the contract is over, you are going to play under these new set of rules. But the parties that entered into a contract under a set of rules will play under those rules for the term of the contract. That is elementary, my Dear Watson, if I can coin a phrase.

I would hope that this amendment would pass, that it would pass handily, and we would send a message to those who enter into contracts. As long as those contracts are entered into freely, they will be honored by this legislative body.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I rise in opposition to the Tauzin amendment regarding fresh look. H.R. 1872 holds much promise for expanding consumer choices and lowering consumer costs of international satellite communications. This amendment would jeopardize all of that. A key reason H.R. 1872 will benefit consumers is that it will end the current monopoly that COMSAT enjoys by statute as the sole reseller of INTELSAT and Inmarsat services in the United States. Currently users of these satellite systems have no choice but to go through COMSAT to purchase INTELSAT and Inmarsat services. In some cases, such as some telephone and television services, there are few or no choices except to use the INTELSAT and Inmarsat satellites.

A recent study estimated that U.S. customers would save $1.5 billion over 10 years once monopoly access to INTELSAT and Inmarsat ends. H.R. 1872, the bill before us, permits COMSAT's customers to renegotiate their contracts once the monopoly is ended. Fresh look is an established way to transition from a monopoly market to a competitive market. The FCC has applied the fresh look policy before when new competitive choices were made available to customers. It has allowed customers to renegotiate long-term contracts entered into when no competition existed.

Today COMSAT is the sole U.S. reseller or distributor of INTELSAT and Inmarsat services. Each and every user of those satellite systems in the United States has no choice but to enter into a contract with COMSAT for these services. These are long-term contracts. The bill will end this monopoly. Thus, it is critical to creating the new competitive environment that customers be given the opportunity to renegotiate, take a fresh look at the long-term contracts they entered into when the statutorily created monopoly was in force. Without fresh look, these customers will be locked into long-term contracts and denied the benefits of the new competitive choices. Competition will truly be meaningless if all customers are locked into long-term contracts.

I know there has been a lot of smoke generated about this and how this would operate as a taking of property. I do not believe that giving customers an opportunity for a fresh look at their contracts would result in such a taking. This is not a new policy. The FCC has applied it successfully in several occasions.

Moreover, the courts have never accorded contracts the status of protected property because contract rights are subject to changes in the law. COMSAT is a creature of Congress and Congress expressly retained broad rights over COMSAT and the right to change the 1962 law.

Fresh look does not punish COMSAT. COMSAT and its customers are free to continue their contracts. As long as COMSAT provides high quality services at competitive rates, underlying competitive rates, it has nothing to fear. Customers will be the real winners here and whether they stay with a newly competitive COMSAT or choose a new alternative will be their choice.

Fresh look is pro-consumer. It gives users the right, not the obligation, to renegotiate their contracts in light of the new competitive choices. It is essential to end the monopoly. I urge my colleagues to vote against this amendment.

Let me just add. I was very pleased to see this, a letter from one of the satellites users, CSX and its subsidiary Sea-Land, a large maritime shipping company, recounting its use of fresh look regarding 800 number portability. When fresh look was implemented for 800 numbers, CSX saved $4.5 million per year. CSX wrote the gentleman from Virginia (Mr. BLILEY) stating, "We look forward to using the similar opportunity as provided for under H.R. 1872 so that we can pay competitive prices, rather than monopoly prices, for satellite services."

Any claim that users do not want fresh look is false. All Members should vote against this amendment. It will harm consumers and prevent competition from developing.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I rise in very strong support of the Tauzin amendment. It is fair, it makes sense, and it may well save us over a billion dollars; that is, the taxpayers.

Fresh look really is not fresh look. It is really a fresh theft, as has been stated, because it is going to abrogate those contracts that had been willfully signed by an American company and its customers, I really believe, and others have felt the same way, legal authorities, that it is going to subject the U.S. Government to a successful takings claim.

The opponents of COMSAT have said that it has locked up the market with long-term contracts and so therefore the customers should be afforded an opportunity unilaterally to breach their contract to take a fresh look at any available competitor in the marketplace. This is not a sound idea. It is wrong. Therefore, the Tauzin amendment will eliminate the unconstitutional provisions that would abrogate COMSAT's contracts, which are property, and it would preserve the integrity of COMSAT's carrier contracts. Those contracts were entered into voluntarily by COMSAT and the largest international carriers. The government may not nullify the express terms of a company's contractual obligations without compensation. This amendment with these provisions makes sense, it is appropriate, and it will save taxpayers money.

Mr. Chairman, I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me point out that this notion of fresh look is already in the law. The notion of fresh look is already in the law. It is a remedy that already exists for the parties. If they think they have a contract that was entered into where they did not really have a choice, like some of these proponents of the bill have pointed out, then they can go to the FCC, go to court and have that contract abrogated. They can do that today. In fact, as I said, PanAmSat tried. PanAmSat is a private satellite corporation owned by Hughes Satellite. They went to court and argued that some of the contracts that COMSAT had signed were in fact entitled to a fresh look. The court threw them out on summary judgment. They did not even have a trial. The court threw them out on summary judgment and said, "There are no facts here to indicate that your contracts ought to be abrogated. In fact if you signed it, you ought to live by it and you ought to honor it."

Why should we in this Congress overturn that court now and say it is okay for people to get out of their contracts? Did they have other choices? Yes. The court so ruled that they actually rejected other choices before signing up with COMSAT. Did they sign it willfully for their own reasons? The court so ruled. Were there other companies they could have gone to?

In 1996, the FCC ruled that there was sufficient competition in the space segment service market and ruled in fact that "we find substantial competition in that marketplace with the introduction of satellite cable systems that compete with INTELSAT." The companies who signed these contracts had other choices. They rejected them. They signed with COMSAT. Now they would like to get out of them. They went to court to say, "Let us out of these contracts." The court threw them out on their ear and said, "You're not even entitled to a trial. You're out on summary judgment. Your contracts are going to be honored by this court." But not by this Congress? Your contract is your word, your bond, you are going to live by it. But not by this Congress? What right do we have under our Constitution tc tell some people it is okay to get out of your contracts? When you sign a contract to get some services for your company, would you like it if I told those people who signed up with you they can get out whenever they want? You would think I am out of bounds, and I would be. And Congress would be out of bounds if we in fact abrogated these contracts. I urge my colleagues to adopt this amendment.

Mr. DINGELL. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, what happens every time this provision comes into play is that the competitors, the providers, the suppliers and the customers of COMSAT then get together and they renegotiate the contract, and COMSAT has got to constantly reduce rates, reduce rates, reduce rates.

As the distinguished gentlewoman has said and as the gentleman from Louisiana has said, COMSAT now is subject to fresh look. The FCC about a week or 10 days ago took a look at this. What did they find? First of all, they found that COMSAT is not a dominant carrier. They are a nondominant carrier.

The CHAIRMAN. The time of the gentlewoman from Maryland (Mrs. MORELLA) has expired.

(On request of Mr. DINGELL, and by unanimous consent, Mrs. MORELLA was allowed to proceed for 1 additional minute.)

Mrs. MORELLA. Mr. Chairman, I continue to yield to the gentleman.

Mr. DINGELL. Mr. Chairman, they also did something else. They looked at whether or not the Commission should utilize this extraordinary remedy of fresh look. They said it was not necessary. They said it was not proper. They said it was not justified. Yet here we in the Congress, with no hearings, with no information, simply with power for prejudice and enormous lobbying effort by COMSAT's competitors are going to simply put into place this fresh look provision. And we are going to subject our constituents and the taxpayers to billions of dollars in liability for our stupidity.

I thank the gentlewoman for yielding.

Mrs. MORELLA. Mr. Chairman, I agree with the two speakers that just preceded me on my time, and I urge this body to vote for the Tauzin amendment.

Mr. DEUTSCH. Mr. Chairman, I move to strike the requisite number of words. I think this is a personal record. I do not think I have ever spoken on a bill on the floor of this House three times in one afternoon, but I am going to do that because some of the debate, some of the comments by other Members have done it at least three times as well.

Just going through what the bill does and the present reality in the market I think is critical for everyone to have a very keen understanding before they vote. The legislation absolutely provides that people who have entered into a contract in 2000 would have an ability, a one-time ability to renegotiate that contract.

Let us talk about why people entered into those contracts. They entered into those contracts because they had no choice. Today if you want to call from Washington, D.C. to Africa, there is only one way to do it, and that is through COMSAT. I do not know what definition of monopoly my colleagues are using, but that is a definition of monopoly. We keep hearing the fact, we have two sides of this debate, some saying there is a monopoly, some saying there is not a monopoly. Let me again talk in specifics. There are locations where there is underground cable. For instance, if you want to call from here to England, you can actually go through an underground cable. So in that market there is competition. But for a significant part of this market there is no competition at all but a government-granted monopoly that we as the United States Congress granted.

Let me talk about abrogating contracts. It is a very serious thing that we ought to think about. In the State of Florida that I represent, there are only two times in the Florida judicial system that there is a 12-person jury, when the death penalty is a possibility or when you are going to be taking someone's property. If someone has a potential penalty in Florida of life imprisonment, it is a six-person jury. But in Florida if we are going to take one foot of your property, it is a 12-person jury.

□ 1430

So let me tell my colleagues something. I come from a State where we take property rights very, very, very seriously. This is not an issue about property rights and taking. It is an issue of how are we going to implement a new competitive paradigm in telecommunications. And again the facts are that we have done this before. And for the third time, I am going to mention what we have done before; that when AT&T was broken up, the exact same procedure was used. Contracts that were in place were allowed to be renegotiated because of why and how those contracts were implemented.

Mr. Chairman, I urge the defeat of the amendment and passage of the bill.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. DEUTSCH. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I just want to point out to the gentleman that not only can someone call Athens by many other providers other than COMSAT, COMSAT is not even a dominant carrier to Athens.

Mr. DEUTSCH. I said Africa.

Mr. TAUZIN. Africa?

Mr. DEUTSCH. Africa.

Mr. TAUZIN. To Africa, to many countries in Africa. They have fiberoptic services to many countries that compete with the satellite services.

Mr. DEUTSCH. As my colleague knows, again my understanding is that on thin routes to Africa they are not classified as nondominant.

Mr. OXLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, while I appreciate the rationale behind the "fresh look" provisions of this bill and I agree that the privatization we seek must be pro-competitive, it is my view that the abrogation of private contracts called for by this bill is simply not justified by the admittedly worthy goal of accelerating the transition to a more competitive marketplace. It is not appropriate in my opinion for this Congress to allow corporations to simply walk away from legal contracts because we believe that there may have been better deals for them in the offing. With privatization the transition to a competitive market will come soon enough, and these contracts will expire and be renegotiated in the normal course of business without the kind of congressional interference in the process.

My sense is that we should go very, very slowly when Congress is dealing with the issue of abrogating contracts. This is a very serious issue. Those of us who studied contracts in law school learned, probably on the first day, that contracts have a particularly meaningful role in our business world and that those contracts and particularly the breaking of those contracts should be taken very, very seriously and with a great deal of caution, particularly by the national legislative body, the Congress of the United States.

We should allow the marketplace to work its will in due course without resorting to heavy-handed tactics. After all, the bill is premised on the idea that competition will cause market participants to realize new efficiencies and alternate ways of doing business. The incentives are already there for telecommunication firms to seek out the most efficient access to international communications. And while it may be tempting, Mr. Chairman, to try to jump start the competitive process through these "fresh look" measures, I think we are getting a little ahead of ourselves. We should allow the private sector to work its will and without abrogating the privacy of these contracts.

Mr. Chairman, we can argue as to whether or not free agency has ruined baseball, but the truth is that telecommunication companies today are already free agents without "fresh look."

I encourage support for the amendment to remove these provisions.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I just wanted to congratulate the vice chairman of the Subcommittee on Telecommunications, Trade, and Consumer Protection for his excellent statement just now, not only in support of the motion that will not abrogate contract rights, indeed that is something we learned in law school, but to point out that the opinion of the Washington Legal Foundation went on to say that if we did that in this bill, that would amount to the most sweeping congressional abrogation of private contract rights of a single company without any judicial determination of wrongdoing.

That is unprecedented in U.S. history. Not only are we doing something that I think we learned is wrong in law school, but Congress would be doing something, according to this report, that is unprecedented in terms of its sweep, in terms of how many contracts we would abrogate and declare illegal when the courts have upheld those contracts up until this date.

I want to thank the vice chairman for his excellent statement and encourage him in support of this amendment.

Mr. OXLEY. Mr. Chairman, I thank the gentleman from Louisiana for his comments and would simply point out that in this kind of area, we ought to walk very, very softly before we consider these kinds of abrogation of contracts. This is very serious business, and I would caution that, in fact, the marketplace is working, that those telecommunication companies out there will be able to renegotiate, will be able to sign new contracts in the due course of business. We ought not to interfere with that right of contract. It would be a serious mistake on the part of this Congress.

Mr. HASTERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as my colleagues know, one of the things, I just recently came back from a trip to Chile.

Now we think Chile is a Third World nation stuck down the end of the Western Hemisphere. Mr. Chairman, one of the interesting things was we went to make a phone call in Chile. If we wanted to call the United States, we could call the United States cheaper from Chile then we could from the United States back to Chile.

Now we always thought we had the best competition, the best system, the best service and the cheapest rates. If we wanted to call Japan from Chile, we have the best rates from Chile to Japan instead of Japan to Chile. If we wanted to call Argentina, which is right across the mountains maybe 45 miles away from Santiago into Argentina, rates were cheaper if we called from Chile into Argentina. Why? Because there are eight telephone companies, all with individual contracts. If we sign up for one phone company and somebody got a better price, we can arbitrate that contract and we can get with the next company. Why? Because they have the ability to hook up with those satellites, there is competition up there, and they go for the best price.

Now we may want to protect some entities that made contracts before this system changed, but the system has changed. Competition is there. The world is opening up. And all we are saying is those companies that were tied into the old contracts under the old system before the universe changed, let them step back, let them take a fresh look, let them renegotiate, and let consumers win, because when we come down to it, "fresh look" is a simple concept.

I say let consumers, that is right, consumers, negotiate their contracts with COMSAT once competition is permitted. It is a commonsense system, it is a situation that we ought to reject this amendment and stay with the good work of the chairman of the committee.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I want to correct a statement the gentleman from Michigan in his previous statement said, that we had no hearings on "fresh look." We had a hearing on September 30, 1997, in the Subcommittee on Telecommunications Trade, and Consumer Protection, and indeed Mr. Jack Gleason from NTIA testified for the administration, testified in favor of "fresh look."

Now let us talk about "fresh look." "Fresh look" gives a customer the choice to renegotiate that contract once they have alternative providers to choose from. Now sure, AT&T has a cable, Sprint has a cable, MCI has a cable, but they have to sign up with COMSAT to get to INTELSAT because of redundancy. If anything happens to their cable, they have to have a backup, and the FCC has used "fresh look" on several occasions, most recently when implementing the Telecommunication Act of 1996, and no one ever thought of taking suit against them when they did.

We had "fresh look" occurring annually in one version of this bill, but to accommodate the concerns of the gentleman from Louisiana (Mr. TAUZIN) we revised the "fresh look" provision to tie it to the date of direct access. Direct access means allowing, for the first time, competition for access to INTELSAT and Inmarsat in the U.S., and if there is not the opportunity to take advantage of it, direct access does not mean much. "Fresh look" will allow customers locked into those long-term take-or-pay contracts, when they had no choice if they wanted to play in the game but to sign those contracts, the advantage of new competitors. And COMSAT will have the opportunity to renegotiate with them, and I suspect that will keep most of them.

It is the job of elected representatives, not the FCC, to make sure that this happens. Moreover, the FCC may decide it is not worth fighting COMSAT in court, and since COMSAT sues at the drop of a hat, they may be able to fend it off. It is up to the FCC to implement it, but we need to tell them to do so.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Louisiana and really congratulate him because, as my colleagues know, together with the chairman and this gentleman, he brought an important issue before us, something that needs to be moved forward and talked, and I think we have to do it with a balance, and I would be happy to hear what the gentleman has to say.

Mr. TAUZIN. Mr. Chairman, I wanted to point out the gentleman from Michigan merely said that we did not have hearings on these contracts that we are abrogating, not on the issue of "fresh look"; and secondly, to point out when the administration did testify on "fresh look," here is what they said.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. HASTERT) has expired.

(On request of Mr. TAUZIN, and by unanimous consent, Mr. HASTERT was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Mr. Chairman, here is what the administration said. It said that even if a fresh look at INTELSAT and Inmarsat services, ordered hypothetically, were to allow the signatures and direct users to get a better deal, it is unlikely that consumers would benefit; and they said for the same reason that competition already exists at "fresh look" at INTELSAT and Inmarsat contracts, in those countries, is unlikely to benefit consumers significantly. It seems to me they were testifying against the use of "fresh look," not for it.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is a very important amendment. We have to understand that the whole field of telecommunications has been revolutionized since the early 1980s. We all operated in the United States and around the globe under the presumption that a monopoly was natural, that there was only one place we could go for everything that we expect as services in the telecommunications field. All of that has changed since the early 1980s.

For example, in 1982 when AT&T was broken up, it was the largest company not only in the United States but in the world. We had one telephone company. There was no Bell South, there was no NYNEX. MCI and Sprint were tiny little companies. No U.S. West, no Southwestern Bell; it did not exist. We had one company, one-stop shopping. We all thought it was a natural monopoly.

When the Justice Department broke it up even as Congress was beginning to move to break it up, we said to every customer in America, part of that consent decree, we can choose another long distance telephone company if we want, we can have a fresh look. We do not have to be tied into any long-term contracts we had with AT&T. We are starting a new world, one in which we are encouraging competition in the marketplace.

Now this phenomenon manifests itself over and over again as we break down these monopolies. It happens in all kinds of service areas. And the FCC has taken the precaution where necessary in other areas in order to accomplish this goal. For example, when the FCC in 1992 ordered expanded interconnection rules and allowed local telephone competitors greater ability to compete for special access services, the FCC allowed customers who typically had signed contracts for 6, 7, 8 or more years the opportunity to renegotiate their terms or switch to new competitors in the marketplace without termination penalties, because there was now competition in this marketplace. And maybe something that is even more familiar or typical in ordinary American life; that is, when people dial 1–800 The Card for American Express or 1–800 Flowers, and a customer has ever dealt with them over the years, they might have said, well, that is a good service; but what if I switch from AT&T over to MCI? Well, what we said through the FCC was they could take their number with them. There was portability. They were not going to be locked into AT&T. We had to create some means by which the newer companies could compete against the old monopoly.

Now that is really intended to open up opportunities for dozens, for hundreds of new companies to get in and to compete, to break down the old models. We are not the Soviet Union, we are not Japan, we are not Germany. We wanted to be number one, and we wanted dozens, hundreds of companies out into these fields.

□ 1445

That is what is making us special in the world right now.

As a matter of fact, if we look back at the 1980s, after the tearing down of the Berlin Wall, the breakup of AT&T might be looked back at historically as maybe the greatest and most important decision that was made in our country, because we were opening up opportunities for customers to have different choices and for more competitors to get into the marketplace. And the core, central part of looking at this "fresh look" issue is that because COMSAT has been a monopoly, that when the monopoly goes away, the customers should be freed up to look for better opportunities, once. Take their one-time-only opportunity to look around, shop around.

However, here is what we know: that because competitors to COMSAT have never had direct access to INTELSAT, according to the Federal Communications Commission, there has been a 68 percent markup in the price charged by INTELSAT, 68 percent. Now, when direct access is allowed, should not these customers who have been locked into the old monopoly have the freedom of going out and getting the best deal in the marketplace? Do we not want every company in the United States to have the lowest possible cost in all of their telecommunications services, so whatever they do inside of their company is much more competitive as they sell their product around the world.

That is what this is all about, after all, lower energy prices, lower electricity prices, lower telecommunications prices; it is the cost of hundreds of thousands of companies in America in terms of the product they are trying to make. We are trying to lower the cost here.

Give them a fresh look, let them go out. If NBC or CNN or any other company in the America that buys their telecommunications services wholesale who wants to get a fresh look, why should they not be allowed to get the benefit of this policy?

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. MARKEY) has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 1 additional minute.)

Mr. MARKEY. Mr. Chairman, this is a one-time-only, free-agency ability.

Mr. Chairman, for many years, major league baseball did not allow players to go out and contract with other clubs. Players were locked in. They might have signed a contract with the team they were with, like the Red Sox or the Yankees, in the 1930s and 1940s, the 1950s or the 1960s, but they were tied to them. A player could not sign with another team. But when free agency came around, you were free to look around; then a player signed a new contract and was bound to that contract.

We have to have one-time-only free agency for all of these companies in America that have been tied into the monopoly. Then we can say to the rest of the world, tear down those barriers to the entry of American companies into free competition across the globe. This is the other wall that has been up to Americans going across the globe. The Berlin Wall came down; so too must these telecommunications barriers, because that is the area where America has to be number one if we are going to get the benefits of the post-Cold War era.

Mr. STEARNS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, not withstanding all of the grand rhetoric that my colleague, the gentleman from Massachusetts (Mr. MARKEY), just gave us, this issue comes down to perhaps two major points.

Do we believe that COMSAT is today monopolizing the industry? Mr. Chairman, I want to include for the RECORD the FCC ruling of April 24, 1998 that says, "The commission declares COMSAT nondominant in competitive markets." The commission says, it "granted the request of COMSAT Corporation for a reclassification as a nondominant carrier in five product markets, which account for 85 percent of COMSAT's INTELSAT revenues."

Now, will my colleague from Massachusetts agree that what is being done here is the equivalent of Congress going back and looking at Microsoft and saying, oh, Microsoft, you are a monopoly, and then mandating that any contract that Microsoft would sign would be open to renegotiation. I do not think Members of the Congress would agree to do that. I believe no United States court would allow the abrogation of Microsoft's private contracts, and I believe the U.S. courts will not let stand the abrogation of COMSAT's private contracts.

We took an oath. When we came into Congress, we took an oath to abide by the Constitution. We are talking about the fifth amendment here.

I can show my colleagues example after example where COMSAT is not the monopoly that my good friend from Massachusetts portrays it to be. But let me say in all deference now to the chairman, I am on his bill, his original bill. I think he is making a courageous stand to deregulate an industry that should have been deregulated some time ago. But notwithstanding that, this bill can be improved by the Tauzin amendment, and that is why I stand in support of it.

Mr. Chairman, I include for the RECORD the FCC ruling of April 24, 1998:

COMMISSION DECLARES COMSAT NON-DOMINANT IN COMPETITIVE MARKETS

The Commission has granted the request of Comsat Corporation for reclassification as a non-dominant common carrier in five product markets, which account for approximately 85% of Comsat's INTELSAT revenues. Specifically, the Commission found Comsat non-dominant in the provision of INTELSAT switched voice, private line, and occasional-use video services to markets that it determined to be competitive. It also found Comsat non-dominant in the provision of full-time video and earth station services in all markets. In the markets where Comsat has been reclassified as non-dominant, Comsat will be allowed to file tariffs on one day's notice, without economic cost support, in the same form as filed by other non-dominant common carriers, and the tariffs will be presumed lawful. By virtue of finding Comsat non-dominant in these markets, the Commission is eliminating rate of return regulation in these markets.

The Commission also indicated it expeditiously would initiate a proceeding to explore the legal, economic and policy implications of enabling users to have direct access to the INTELSAT system. Approximately 94 other countries permit direct access to the INTELSAT system.

The Commission denied Comsat's non-dominant reclassification request with respect to switched voice, private line and occasional-use video services to non-competitive markets where it found that Comsat remains dominant. It also denied Comsat's request that the Commission forbear under Section 10 of the Communications Act from enforcing the Commission's dominant common carrier tariff rules in non-competitive markets. The Commission considered but rejected Comsat's three-year "price cap" and "uniform pricing" proposals for these markets, and found that Comsat did not satisfy the statutory requirements for forbearance relief under the circumstances. The Commission indicated, however, that it would favorably consider in its analysis of any forbearance request a commitment by Comsat to (a) allow U.S. carriers and users to obtain Level-3 direct access to the INTELSAT system and (b) make an appropriate waiver of its INTELSAT derived immunity from suit and legal process. Such actions would promote competitive market conditions in the INTELSAT markets in which Comsat remains dominant.

The Commission also indicated that it will consider replacing rate of return regulation for Comsat's dominant markets with an alternative form of incentive-based regulation and, as part of its reclassification decision, the Commission issued a Notice of Proposed Rulemaking seeking public comment on its tentative conclusions that any alternative incentive-based regulation plan to be adopted should (a) enable users on non-competitive routes to benefit from competitive rates; (b) remain in effect indefinitely; and (c) allow users to benefit from reduced rates due to increases in efficiency and productivity. Comsat will be subject to alternative incentive-based regulation once such regulation is adopted in this proceeding.

Finally, the Commission found that Comsat's continued dominance in the provision of switched voice, private line and occasional-use video services to non-competitive markets was an insufficient basis for continuing to require structural separation between Comsat's INTELSAT services and other activities. It concluded that the costs of imposing such a requirement would exceed any potential benefits to competition. The Commission granted Comsat's request for the elimination of structural separation for its INTELSAT services because structural separation is no longer necessary to safeguard Comsat's competitors from Comsat leveraging its monopoly jurisdictional services to gain an advantage in competitive markets in which it is operating.

The 63 countries in which Comsat will continue to be considered dominant for switched voice and private line services are: Algeria, American Samoa, Angola, Armenia, Azerbaijan, Benin, Bolivia, Bosnia & Herzegovina, Botswana, Burkina, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Cote d'Ivoire, Estonia, Ethiopia, French Polynesia, Gabon, Ghana, Guinea, Iran, Iraq, Jordan, Kenya, Lesotho, Libya, Lithuania, Malawi, Mali, Maritime-Atlantic, Maritime-Pacific, Mauritania, Mauritius, Federated States of Micronesia, Midway Atoll, Moldova, Mozambique, Namibia, Nauru, New Caledonia, Nicaragua, Niger, Northern Mariana Islands, Pacific Islands (Palau), Paraguay, Rwanda, Saint Helena, Senegal, Sierra Leone, Somalia, Sudan, Suriname, Swaziland, Tanzania, Togo, Tonga, Turks and Caicos Islands, Uganda, Western Samoa, Zaire, and Zambia.

The 142 countries in which Comsat will continue to be considered dominant for occasional-use video service are:

South America: Columbia, Grench Guiana, Guyana, Paraguay, Suriname, and Trinidad & Tobago.

Central America/Caribbean: Anguilla, Antigua, Aruba, Bahamas, Belize, Bermuda, British Virgin Islands, Cayman Islands, and Chagos Archipelago, Costa Rica, Dominica, Dominican Republic, El Salvador, Gibraltar, Grenada, Guadeloupe, Guatemala, Haiti, Honduras, Martinique, Montserrat, Netherlands Antilles, Panama, Saint Kitts & Nevis, Saint Lucia, Saint Vincent, and Turks & Caicos.

Western Europe: Cyprus, Greenland, Iceland, Malta, and Norway.

Eastern Europe: Albania, Belarus, Bulgaria, Czech Republic, Estonia, Lithuania, Macedonia, Moldova, Russia, Serbia, and Slovenia.

Middle East: Bahrain, Iran, Israel, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, and Yemen.

Africa: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Dem Rep Congo, Djibouti, Egypt, Eq. Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Ivory Coast, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Saint Helena, Sao Tome, Senegal, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zaire, Zambia, and Zimbabwe.

Central Asia: Afghanistan, Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgystan, Mongola, Myanmar, Tajikistan, Turkmenistan, and Uzbekistan.

South Asia: Bangladesh, India, Maldives, Nepal, Pakistan, and Sri Lanka.

Far East: Brunei, Cambodia, Laos, Malaysia, North Korea, South Korea, Thailand, and Vietnam.

Pacific Rim: American Samoa, Fiji, French Polynesia, Macau, Marshall Islands, Micronesia, Midway Islands, Nauru, New Caledonia, New Zealand, Palau, Papua New Guinea, Tonga, Vanatu, and Western Samoa.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank my friend for yielding and I thank him for his comments.

Mr. Chairman, let me say too, this is not about whether we want to break up the old monopoly of INTELSAT and Inmarsat, these multination, governmentally owned cartels. This is not about that. We all agree that that ought to happen. This is not about that.

This is simply about whether we in Congress are going to order the abrogation of contracts to an American company that have been tested in court and found to be voluntarily entered into when the people who entered those contracts had other options.

There are several questions we ought to ask: Did they have other options? The answer is yes. The court found in summary judgment, they could have signed with PanAmSat, they could have signed with Loral, Teledesic, Columbia, Meridian, ELLIPSO. They could have signed with many cable companies that offer fiberoptic cable across the Atlantic. They chose to sign with COMSAT voluntarily.

The second question that we should answer is, is, in fact, the "fresh look" applicable to these contracts? The answer is yes, it is already the law. Anybody can go test them in court.

The third question we should answer is, once they have been tested in court and found to be valid, voluntary contracts, should we in Congress substitute our judgments for the court's without a hearing on these contracts even, and declare that they can be abrogated? I suggest the gentleman put his finger on it.

We took an oath. If there is something that makes us special, I say to the gentleman from Massachusetts, it is that we took an oath to live by a Constitution that sets the rules for all of us, and the rules are that when one signs a contract voluntarily, one has other options, one was not coerced, then that person ought to live by that contract. It is called honor. And we in Congress ought to have enough honor to let the contracts signed in America be honored by the parties who signed them and not abrogate those contracts by congressional fiat. That is what this is all about, our oath under the Constitution, and the honor of the contracts and the parties who signed them, voluntarily, tested in court, proven in court to be voluntary, whether or not those contracts will be honored.

This is a good bill, but this amendment improves a good bill by taking out a feature that I think is horrible, and my colleagues ought to think is horrible. No Member in Congress ought to go down to this floor today and vote to abrogate private contracts that have already been tested in court and proven to be honest and honorable and voluntary, and if my colleagues vote to abrogate contracts, I suggest that my colleagues have violated their oath to uphold the Constitution.

Mr. STEARNS. Mr. Chairman, let me conclude by saying, I think if we listen to this debate, we will realize that COMSAT faces significant competition, competition from underseas fiberoptic lines for voice, video and data service. In fact, many argue that fiberoptic lines are a more productive infrastructure than satellites because of their reliability and because of their greater capacity.

So after making these points, I think the Members have to decide if they think COMSAT is a monopoly, that is fine, but many of us have researched this and we do not think COMSAT is a monopoly any longer, and so that is why I support the Tauzin amendment.

Mr. KLINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise really in support of the Tauzin amendment. If we go back to 1984, at that point the marketplace opened up. If we wanted to go pre-1984 and say we really need to take a fresh look, then perhaps this bill, as written, would make some sense.

But the point is that in 1984, competition was arrived at. Other satellites were out there, there were other opportunities. So the concept of "fresh look" may make sense in some situations, but it does not make sense in 1998 in this instance.

The idea that COMSAT should now be forced to renegotiate its contracts might make sense if COMSAT were a true monopoly, but as some have spoken before today, and I would like to add to it, they are not a monopoly. In fact, the FCC has declared COMSAT is a nondominant carrier in 85 percent of the business they do. Furthermore, there are a lot of competitors to INTELSAT satellites. COMSAT now carries 21 percent of the voice traffic. That is down from 70 percent just a few years ago, and it does not qualify as a monopoly. In video, COMSAT has only 42 percent of the market share. Again, hardly monopolistic when, a few years ago, they had almost 90 percent of the video marketplace.

In addition, if we were to require COMSAT to reopen all of its contracts, contracts that were legally negotiated in good faith, remember, we are then opening the Federal Government up to what I think are substantial damages. Now, do we want to send this bill before the taxpayers in our districts? Do we want to make them liable for the decision that we make here today? We should not try to privatize an international body, we should not try to privatize a communications industry in other countries by holding a gun to the head of an American company, a company that negotiated these contracts, that made business decisions based on requests of this Federal Government.

We asked them to do this. Imposing harsh sanctions on a U.S. company in order to get other countries to do what we want them to do does not make any sense at all.

I would go back to my comments a little earlier today about Cleavon Little holding a gun to himself in the movie "Blazing Saddles." That is what we are doing. We are holding a gun to the head of an American company and telling the rest of the world, if you do not do what we want you to do, we are going to pull the trigger.

"Fresh look" is a harsh sanction on a U.S. company. I say that we should support the Tauzin amendment and strike "fresh look" from this bill.

The CHAIRMAN (Mr. SNOWBARGER). The question is on the amendment offered by the gentleman from Louisiana (Mr. TAUZIN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TAUZIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 80, noes 339, answered "present" 2, not voting 11, as follows:

[Roll No. 128]

AYES—80

Baker
Barcia
Barrett (NE)
Bartlett
Berry
Bilirakis
Boehner
Bonior
Boucher
Brady
Brown (OH)
Cannon
Chambliss
Clyburn
Collins
Condit
Conyers
Crapo
Cubin
Cummings
Davis (IL)
DeLay
Dingell
Doolittle
Doyle
Emerson
Ford
Furse
Gekas
Gilchrest
Hall (TX)
Hamilton
Hansen
Horn
Hoyer
John
Johnson, E. B.
Johnson, Sam
Jones
Klink
Kucinich
Lazio
Levin
Linder
Livingston
Martinez
Mascara
McCrery
McInnis
Meeks (NY)
Menendez
Mink
Morella
Nussle
Obey
Oxley
Pascrell
Peterson (MN)
Petri
Pombo
Redmond
Rivers
Rush
Sabo
Sandlin
Schaefer, Dan
Sensenbrenner
Sessions
Smith (MI)
Smith, Linda
Snowbarger
Stearns
Tauzin
Thompson
Towns
Traficant
Upton
Watt (NC)
Wynn
Young (AK)

NOES—339

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baldacci
Ballenger
Barr
Barrett (WI)
Barton
Bass

Becerra
Bentsen
Bereuter
Berman
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Castle
Chabot
Chenoweth
Clay
Clayton
Clement
Coble
Coburn
Combest
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDade
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Oberstar
Olver
Ortiz
Owens
Packard
Pallone
Pappas
Parker
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sanders
Sanford
Saxton
Scarborough
Schaffer, Bob
Schumer
Scott
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Turner
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Yates
Young (FL)

ANSWERED "PRESENT"—2

Cardin
Sawyer

NOT VOTING—11

Bateman
Carson
Christensen
Fossella
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Riggs
Skaggs

□ 1518

Messrs. CLAY, SPRATT, GALLEGLY, WATKINS and STOKES, and Mrs. CLAYTON and Mrs. MYRICK changed their vote from "aye" to "no."

Mr. YOUNG of Alaska changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RIGGS. Mr. Chairman, on Rollcall No.'s 127 and 128 I was unavoidably detained on other congressional business and unable to be present to vote. Had I been present, I would have voted "no" on both rollcall votes.

Mr. BLILEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the Members for the debate. I want to thank the Members for their support of the bill. I particularly want to thank the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Louisiana (Mr. TAUZIN), and the others who took part in the debate.

I would also especially like to thank my satellite team who labored very hard to open up the schools: Patricia Paoletta, Michael O'Reilly, Cliff Riccio, and Ed Hearst.

The CHAIRMAN. Are there other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. EWING) having resumed the chair, Mr. SNOWBARGER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes, pursuant to House Resolution 419, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BLILEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 403, noes 16, answered "present" 2, not voting 11, as follows:

[Roll No. 129]

AYES—403

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden

Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Yates
Young (AK)
Young (FL)

NOES—16

Berry
Conyers
Dingell
Hamilton
Hoyer
John
Klink
Kucinich
Martinez
Menendez
Morella
Oberstar
Pascrell
Peterson (MN)
Taylor (MS)
Wynn

ANSWERED "PRESENT"—2

Cardin
Sawyer

NOT VOTING—11

Bateman
Carson
Chenoweth
Christensen
Fossella
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Skaggs

☐ 1542

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 1872, the bill just passed.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Virginia?

There was no objection.

PROPOSED AGREEMENT FOR COOPERATION BETWEEN UNITED STATES AND UKRAINE CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. No. 105–248)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the text of a proposed Agreement for Cooperation Between the United States of America and Ukraine Concerning Peaceful Uses of Nuclear Energy, with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with Ukraine has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States. The agreement provides a comprehensive framework for peaceful nuclear cooperation between the United States and Ukraine under appropriate conditions and controls reflecting our common commitment to nuclear nonproliferation goals.

The proposed new agreement with Ukraine permits the transfer of technology, material, equipment (including reactors), and components for nuclear research, and nuclear power production. It provides for U.S. consent rights to retransfers, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or major critical components of such facilities. In the event of termination, key conditions and controls continue with respect to material and equipment subject to the agreement.

Ukraine is a nonnuclear weapon state party to the Treaty on the non-proliferation of Nuclear Weapons (NPT). Following the dissolution of the Soviet Union, Ukraine agreed to the removal of all nuclear weapons from its territory. It has a full-scope safeguards agreement in force with the International Atomic Energy Agency (IAEA) to implement its safeguards obligations under the NPT. Ukraine was accepted as a member of the Nuclear Suppliers Group in April 1996, and as a member of the NPT Exporters Committee (Zangger Committee) in May 1997.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123b. and 123d. of the Atomic Energy Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session provided for in section 123d. shall commence.

WILLIAM J. CLINTON,

THE WHITE HOUSE, *May 6, 1998.*

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3694,. INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 105–511) on the resolution (H. Res. 420) providing for consideration of the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

HIGHER EDUCATION AMENDMENTS OF 1998

The SPEAKER pro tempore (Mr. EWING). Pursuant to House Resolution 411 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6.

□ 1545

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for further consideration of the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, with Mr. EWING (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose on Tuesday, May 5, 1998, title VII was open for amendment at any point.

LIMITING DEBATE ON AMENDMENT NO. 75 AND ALL AMENDMENTS THERETO

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that debate on the amendment numbered 75, and all amendments thereto, be limited to 1 hour, equally divided and controlled by Representative HASTERT of Illinois or his designee and Representative ROEMER of Indiana or his designee.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to title VII?

If not, the Clerk will designate title VIII.

The text of title VIII is as follows:

TITLE VIII—ADDITIONAL PROVISIONS

SEC. 801. STUDY OF TRANSFER OF CREDITS.

(a) STUDY REQUIRED.—The Secretary of Education shall conduct a study to evaluate policies or practices instituted by recognized accrediting agencies or associations regarding the treatment of the transfer of credits from one institution of higher education to another, giving particular attention to—

(1) adopted policies regarding the transfer of credits between institutions of higher education which are accredited by different agencies or associations and the reasons for such policies;

(2) adopted policies regarding the transfer of credits between institutions of higher education which are accredited by national agencies or associations and institutions of higher education which are accredited by regional agencies and associations and the reasons for such policies;

(3) the effect of the adoption of such policies on students transferring between such institutions of higher education, including time required to matriculate, increases to the student of tuition and fees paid, and increases to the student with regard to student loan burden;

(4) the extent to which Federal financial aid is awarded to such students for the duplication of coursework already completed at another institution; and

(5) the aggregate cost to the Federal Government of the adoption of such policies.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit a report to the Chairman and Ranking Minority Member of the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate detailing his findings regarding the study conducted under subsection (a). The Secretary's report shall include such recommendation with respect to the recognition of accrediting agencies or associations as the Secretary deems advisable.

SEC. 802. STUDY OF MARKET MECHANISMS IN FEDERAL STUDENT LOAN PROGRAMS.

(a) STUDY REQUIRED.—The Comptroller General, in consultation with interested parties, shall conduct a study of the potential to use auctions or other market mechanisms in the delivery of Federal student loans in order to reduce costs both to the Federal Government and to borrowers. Such study shall include an examination of—

(1) the feasibility of using an auction of lending authority for Federal student loans, and the appropriate Federal role in the operation of such an auction or other alternative market mechanisms;

(2) methods for operating such a system to ensure loan access for all eligible borrowers, while maximizing the cost-effectiveness (for the Government and borrowers) in the delivery of such loans;

(3) the impact of such mechanisms on student loan availability;

(4) any necessary transition procedures for implementing such mechanisms;

(5) the costs or savings likely to be attained for the Government and borrowers;

(6) the feasibility of incorporating income-contingent repayment options into the student loan system and requiring borrowers to repay through income tax withholding, and the impact of such an option on the willingness of lenders to participate in auctions or other market mechanisms and on the efficiency of Federal management of student loan programs;

(7) the ability of the Department of the Treasury to effectively auction the right to make student loans; and

(8) other relevant issues.

(b) RECOMMENDATIONS.—Within 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the study required by subsection (a) and shall include with such report any legislative recommendations the Comptroller General considers appropriate.

SEC. 803. IMPROVEMENTS IN MARKET INFORMATION AND PUBLIC ACCOUNTABILITY IN HIGHER EDUCATION.

(a) IMPROVED DATA COLLECTION.—

(1) DEVELOPMENT OF UNIFORM METHODOLOGY.—The Secretary shall direct the Commissioner of Education Statistics to convene a series of forums to develop nationally consistent methodologies for reporting costs incurred by postsecondary institutions in providing postsecondary education.

(2) SEPARATION OF UNDERGRADUATE AND GRADUATE COSTS.—Such consistent methodologies shall permit the Secretary to collect and disseminate separate data with respect to the costs incurred in providing undergraduate and graduate postsecondary education.

(3) REDESIGN OF DATA SYSTEMS.—On the basis of the methodologies developed pursuant to paragraph (1), the Secretary shall redesign relevant parts of the postsecondary education data systems to improve the usefulness and timeliness of the data collected by such systems.

(b) DATA DISSEMINATION.—The Secretary shall publish, in both printed and electronic form, of the data collected pursuant to subsection (a). Such data shall be available in a form that permits the review and comparison of the data submissions of individual institutions of higher education. Such data shall be presented in a form that is easily understandable and allows parents and students to make informed decisions based on the following costs for typical full-time undergraduate or graduate students—

(1) tuition charges published by the institution;

(2) the institution's cost of educating students on a full-time equivalent basis;

(3) the general subsidy on a full-time equivalent basis;

(4) instructional cost by level of instruction;

(5) the total price of attendance; and

(6) the average amount of per student financial aid received, including and excluding assistance in the form of loans.

SEC. 804. DIFFERENTIAL REGULATION.

(a) GAO STUDY.—The Comptroller General shall conduct a study of the extent to which unnecessary costs are imposed on postsecondary education as a consequence of the applicability to postsecondary facilities and equipment of regulations prescribed for purposes of regulating industrial and commercial enterprises.

(b) REPORT REQUIRED.—Within one year after the date of enactment of this Act, the Comptroller General shall submit a report to the Congress on the results of the study required by subsection (a).

SEC. 805. ANNUAL REPORT ON COST OF HIGHER EDUCATION.

(a) GAO REPORT REQUIRED.—The Comptroller General shall conduct an on-going analysis of the following:

(1) The increase in tuition compared with other commodities and services.

(2) Trends in college and university administrative costs, including administrative staffing, ratio of administrative staff to instructors, ratio of administrative staff to students, remuneration of administrative staff, and remuneration of college and university presidents or chancellors.

(3) Trends in (A) faculty workload and remuneration (including the use of adjunct faculty), (B) faculty-to-student ratios, (C) number of hours spent in the classroom by faculty, and (D) tenure practices, and the impact of such trends on tuition.

(4) Trends in (A) the construction and renovation of academic and other collegiate facilities, and (B) the modernization of facilities to access and utilize new technologies, and the impact of such trends on tuition.

(5) The extent to which increases in institutional financial aid and tuition discounting have affected tuition increases, including the demographics of students receiving such aid, the extent to which such aid is provided to students

with limited need in order to attract such students to particular institutions or major fields of study, and the extent to which Federal financial aid, including loan aid, has been used to offset such increases.

(6) The extent to which Federal, State, and local laws, regulations, or other mandates contribute to increasing tuition, and recommendations on reducing those mandates.

(7) The establishment of a mechanism for a more timely and widespread distribution of data on tuition trends and other costs of operating colleges and universities.

(8) The extent to which student financial aid programs have contributed to changes in tuition.

(9) Trends in State fiscal policies that have affected college costs.

(10) Other related topics determined to be appropriate by the Comptroller General.

(b) ANNUAL REPORT TO CONGRESS.—The Comptroller General shall submit to the Congress an annual report on the results of the analysis required by subsection (a).

SEC. 806. REPEALS OF PREVIOUS HIGHER EDUCATION AMENDMENTS PROVISIONS.

(a) HIGHER EDUCATION AMENDMENTS OF 1986.—Title XIII of the Higher Education Amendments of 1986 (20 U.S.C. 1091 note, 1121 note, 1221e–1 note, 1011 note, 1070a note, 1071 note, 1221–1 note, 1091 note) is repealed.

(b) HIGHER EDUCATION AMENDMENTS OF 1992.—

(1) TITLE XIV.—Title XIV of the Higher Education Amendments of 1992 (20 U.S.C. 1071 note, 1080 note, 1221e note, 1070 note, 1221e–1 note, 1070a–21 note, 1134 note, 1132a note, 1221–1 note, 1101 note) is repealed.

(2) TITLE XV.—Parts A, B, C, D, and E of title XV of the Higher Education Amendments of 1992 (29 U.S.C. 2401 et seq., 20 U.S.C. 1452 note, 1101 note, 1145h, 1070 note) are repealed.

SEC. 807. LIMITATION.

None of the funds appropriated under the Higher Education Act of 1965 or any other Act shall be made available by any Federal agency to the National Board for Professional Teaching Standards.

AMENDMENT NO. 70 OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 70 offered by Mr. MILLER of California:

Page 334, after line 19, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 806. EDUCATIONAL MERCHANDISE LICENSING CODES OF CONDUCT.

It is the sense of the Congress that all American colleges and universities should adopt rigorous educational merchandise licensing codes of conduct to assure that university and college licensed merchandise is not made by sweatshirts and exploited adult or child labor either domestically or abroad and that such codes should include at least the following:

(1) public reporting of the code and the companies adhering to it;

(2) independent monitoring of the companies adhering to the code by entities not limited to major international accounting firms;

(3) an explicit prohibition on the use of child labor;

(4) an explicit requirement that companies pay workers at least the governing minimum wage and applicable overtime;

(5) an explicit requirement that companies allow workers the right to organize without retribution; and

(6) an explicit requirement that companies maintain a safe and healthy workplace.

Mr. MILLER of California. Mr. Chairman, today all across America, consumers are taking a closer look at how products that they buy are made. There are some things consumers have always wanted to know: How much does it cost? Where is it made? What is it made of? And was it made with union labor? Was it made with recycled products?

For many years, there have been labels on these products to provide consumers this information. Today, however, on the heels of a number of embarrassing incidents involving high-profile personalities and well-known companies, consumers want to know more about the products they buy. They want to know under what conditions were these products made. They want to know, for example, whether the T-shirts, the baseball caps, the sweatpants, and the soccer balls they buy for themselves and for their children were made by children. They want to know if the products they are buying with their hard-earned money were made by workers who were exploited in sweatshops or by child labor. There are no labels to tell consumers that kind of information.

Until there is a better way to inform consumers about labor practices, about the methods of production, we think that one of the best ways to do this is for purchasers of these items to engage in voluntary codes of conduct, codes of conduct that are backed up by independent monitoring.

We now have some of these voluntary codes of conduct with members of the apparel industry. Some of the big names in the apparel industry, the designer labels, have agreed to voluntary codes of conduct to monitor under what conditions their garments are made, how they are made, who made them, and whether or not it is exploited labor.

What we now see on our university and college campuses is that many goods are sold on college campuses in the bookstores, sports memorabilia, college educational memorabilia items, such as this, a baseball cap. A simple baseball cap that might be sold on the university campus, it turns out that it is made in a sweatshop. It is made by exploited labor. In some cases it is made by child labor.

Some universities, when they have learned this information, have immediately taken the items off of their shelves. They refuse to sell them. Cornell University just did this. Other universities have said, if we had known that, we would never have purchased them. Duke University and Brown University have just entered into voluntary codes of conduct for the purchasing of these materials.

Duke University and Brown University sell a lot of this memorabilia. Alumni go there, the students go there, they buy it for gifts for their brothers and sisters. They have no way of knowing it was made with exploited labor or made with child labor. So now they have a voluntary code of conduct to protect the purchasers, to protect their student body from this kind of condition.

The code stipulates that the companies must certify, if they are going to sell to these universities, that this is not made with child labor, that this is not made in sweatshops, that the minimum wage in the area was paid. Different universities have different approaches, but it is to try to raise the awareness and to make sure that the university could protect its consumers.

This is a market that is over $2 billion. Over $2 billion of these sweatshirts and sweatpants and T-shirts and baseball caps and other paraphernalia are purchased. Some universities sell a huge amount of this, Harvard University, Duke University, University of Southern California, Notre Dame, and others. Duke University estimates that it sells about $20 million of this licensed merchandise. Cornell says it receives about $15,000 in royalties.

What my amendment does is express the sense of Congress to encourage the adoption of these voluntary codes of conduct by colleges and universities governing the merchandise that they license for manufacture. By passing this measure, Congress will lend a helping hand to a growing private sector movement to restore a sense of integrity and decency to our marketplace.

As one indication of the growing importance of this issue, the Association of Collegiate Licensing Administrators will convene their annual meeting later this month, and this topic of discussion is on their agenda to discuss such codes as were adopted by Duke University and Brown.

In addition, the Collegiate Licensing Company, which represents 160 schools, including Cornell, is in the process of writing a code of conduct for its clients. When we asked Duke, which had adopted its code in March, "Why did you do so?" they said for two reasons: One, on moral grounds, it was absolutely the right thing to do; and it was also smart economically.

The universities have come to recognize, as pointed out both again by people at Duke and by the provost of Harvard University, that the university has to protect the integrity of its name. If its name is associated with sweatshop merchandise, if its name is associated with child labor, exploited labor, it cheapens the name and integrity of the university.

So they have a reason to do this, and yet, these very same universities in a recent report found that a company named BJ&B is running sweatshops in the Dominican Republic making baseball caps for leading American universities, Harvard, Cornell, Notre Dame, Georgetown, Duke, and others and they did not know it. So now they are moving in this direction.

I would hope that the Congress would support this effort with this sense of Congress resolution for these voluntary codes of conduct. These are baseball caps that sell for about $20, for about $20. The university gets about $1.50 in royalty and licensing fee. The worker gets 7 cents. So, obviously, there is improvement that can be made here in terms of compensating the people who are making these products.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Many of these workers work up to or in excess of 56 hours a week. Very often they are not compensated for overtime, they are not paid the minimum wage that is required by law in the country, and very often they are hired for short periods of time and they are forced out of the job because they prefer to have younger workers and they force people out after the age of 25.

Many of the workers are given quotas that are almost unachievable. It means that they then have to come in and work off of the clock so they can start their new day of work.

Mr. Chairman, I want to applaud Duke University and Brown University and Cornell University, who is now in the process of considering these codes of conduct and those who have already passed codes of conduct, because I think that they are returning to the roots of the university system and demanding the excellence and integrity and dignity of their name and of those things that are associated with them. I would hope that all schools of higher education would support this effort.

Let me also make it clear that I do not believe that code of conduct is enough to ensure honest wages and safety from exploitative workplaces. But our committee has a number of those topics under discussion and those are topics for another time. These voluntary code of conducts, finally let me say, do work.

Over 2 years ago an effort was started in both the public and private sector to ask questions about soccer balls. Soccer balls were made in Malaysia, Indonesia, Bangladesh and elsewhere using very, very young children because they had tiny hands that could sew the soccer ball; and they used them until they could no longer do it, and then they were thrown out on the streets.

We started a campaign that was started by young children, a school-aged boy from Canada, a young boy from India that started this campaign. And today, today the International Soccer Federation will not give its consent to its name being put on a soccer ball if it is made with child labor.

Nike and Reebok, when they learned of this, completely reorganized how they construct these balls. They brought it in house. They do not allow labor to be exploited.

So a voluntary effort can make a big difference, as we are starting to see in some parts of the apparel industry, as we saw in the Soccer Federation, and I hope we will start to see on the university campuses. I would urge all of my colleagues to support this.

I would like to thank so many of the students across the country who have taken up this effort, have brought this to the attention of the university administrations. And I would hope that we would soon have a university-wide voluntary code of conduct with respect to the purchase of this.

Mr. Chairman, I would like to submit for the RECORD several additional items, including: my complete floor statement; the list of the members of the Apparel Industry Partnership; a copy of the report of the Apparel Industry Partnership to President Clinton that includes the code of conduct that has become the basis for codes being used by other universities and colleges; and, three editorials on the Apparel Industry Partnership's report.

Participants in the Apparel Industry Partnership include: Liz Claiborne Inc.; Nike; Phillips-Van Heusen; Reebok; L.L. Bean; Patagonia; Tweeds; Nicole Miller; Karen Kane; UNITE; the Retail, Wholesale, Department Store Union; Business for Social Responsibility; the Interfaith Center on Corporate Responsibility; the International Labor Rights Fund; Lawyers Committee for Human Rights; the National Consumers League; and the RFK Memorial Center for Human Rights.

REPORT OF APPAREL INDUSTRY PARTNERSHIP

The members of the Apparel Industry Partnership hereby report to the President and to the public on:

The announcement of the attached "Workplace Code of Conduct" as a set of standards defining decent and humane working conditions;

The individual determination of each company participating in the Partnership to adhere to the Code and to implement as soon as reasonably practicable a monitoring program consistent with the attached "Principles of Monitoring," by adopting an internal monitoring program consistent with such Principles and utilizing an independent external monitor that agrees to conduct its monitoring consistent with such Principles; and

The Partnership's commitment to work together to form, during a six-month transition period, a nonprofit association that would have the following functions intended to provide the public with confidence about compliance with the Code:

To determine the criteria for company membership in the association and for companies to remain members in good standing of the association;

To develop criteria and implement procedures for the qualification of independent external monitors;

To design audit and other instruments for the establishment of baseline monitoring practices;

To continue to address questions critical to the elimination of sweatshop practices;

To develop means to maximize the ability of member companies to remedy any instances of noncompliance with the Code; and

To serve as a source of information to consumers about the Code and about companies that comply with the Code.

The association would be governed by a board whose members would be nominated by companies, labor unions and consumer, human rights and religious groups. The Partnership would work together during this transition period to further determine the governance of the association.

WORKPLACE CODE OF CONDUCT

The Apparel Industry Partnership has addressed issues related to the eradication of sweatshops in the United States and abroad. On the basis of this examination, the Partnership has formulated the following set of standards defining decent and humane working conditions. The Partnership believes that consumers can have confidence that products that are manufactured in compliance with these standards are not produced under exploitative or inhumane conditions.

Forced Labor. There shall not be any use of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise.

Child Labor. No person shall be employed at an age younger than 15 (or 14 where the law of the country of manufacture[1] allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.

Harassment or Abuse. Every employee shall be treated with respect and dignity. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse.

Nondiscrimination. No person shall be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.

Health and Safety. Employers shall provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employer facilities.

Freedom of Association and Collective Bargaining. Employers shall recognize and respect the right of employees to freedom of association and collective bargaining.

Wages and Benefits. Employers recognize that wages are essential to meeting employees' basic needs. Employers shall pay employees, as a floor, at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and shall provide legally mandated benefits.

Hours of Work. Except in extraordinary business circumstances, employees shall (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime, or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country do not limit the hours of work, the regular work week in such country plus 12 hours overtime and (ii) be entitled to at least one day off in every seven day period.

Overtime Compensation. In addition to their compensation for regular hours of work, employees shall be compensated for overtime hours at such premium rate as is legally required in the country of manufacture or, in those countries where such laws do not exist, at a rate at least equal to their regular hourly compensation rate.

Any company that determines to adopt the Workplace Code of Conduct shall, in addition to complying with all applicable laws of the country of manufacture, comply with and support the Workplace Code of Conduct in accordance with the attached Principles of Monitoring and shall apply the higher standard in cases of differences or conflicts. Any company that determines to adopt the Workplace Code of Conduct also shall require its contractors and, in the case of a retailer, its suppliers to comply with applicable local laws and with this Code in accordance with the attached Principles of Monitoring and to apply the higher standard in cases of differences or conflicts.

PRINCIPLES OF MONITORING

I. Obligations of Companies[2]

A. Establish Clear Standards

Establish and articulate clear, written workplace standards;[3]

Formally convey those standards to company factories as well as to contractors and suppliers;[4]

Receive written certifications, on a regular basis, from company factories as well as contractors and suppliers that standards are being met, and that employees have been informed about the standards; and

Obtain written agreement of company factories and contractors and suppliers to submit to periodic inspections and audits, including by independent external monitors, for compliance with the workplace standards.

B. Create An Informed Workplace

Ensure that all company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis.

C. Develop An Information Database

Develop a questionnaire to verify and quantify compliance with the workplace standards; and

Require company factories and contractors and suppliers to complete and submit the questionnaire to the company on a regular basis.

D. Establish Program to Train Company Monitors

Provide training on a regular basis to company monitors about the workplace standards and applicable local and international law, as well as about effective monitoring practices, so as to enable company monitors to be able to assess compliance with the standards

E. Conduct Periodic Visits and Audits

Have trained company monitors conduct periodic announced and unannounced visits to an appropriate sampling of company factories and facilities of contractors and suppliers to assess compliance with the workplace standards; and

Have company monitors conduct periodic audits of production records and practices and of wage, hour, payroll and other employee records and practices of company factories and contractors and suppliers.

F. Provide Employees With Opportunity to Report Noncompliance

Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable company employees and employees of contractors and suppliers to report to the company on noncompliance with the workplace standards, with security that they will not be punished or prejudiced for doing so.

G. Establish Relationships with Labor, Human Rights, Religious or Other Local Institutions

Consult regularly with human rights, labor, religious or other leading local institutions that are likely to have the trust of workers and knowledge of local conditions and utilize, where companies deem necessary, such local institutions to facilitate communication with company employees and employees of contractors and suppliers in the reporting of noncompliance with the workplace standards;

Consult periodically with legally constituted unions representing employees at the worksite regarding the monitoring process and utilize, where companies deem appropriate, the input of such unions; and

Assure that implementation of monitoring is consistent with applicable collective bargaining agreements.

H. Establish Means of Remediation

Work with company factories and contractors and suppliers to correct instances of noncompliance with the workplace standards promptly as they are discovered and to take steps to ensure that such instances do not recur; and

Condition future business with contractors and suppliers upon compliance with the standards.

II. Obligations of independent external monitors

A. Establish Clear Evaluation Guidelines and Criteria

Establish clear, written criteria and guidelines for evaluation of company compliance with the workplace standards

B. Review Company Information Database

Conduct independent review of written data obtained by company to verify and quantify compliance with the workplace standards

C. Verify Creation of Informed Workplace

Verify that company employees and employees of contractors and suppliers have been informed about the workplace standards orally, through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and through other educational efforts.

D. Verify Establishment of Communications Channel

Verify that the company has established a secure communications channel to enable company employees and employees of contractors and suppliers to report to the company on noncompliance with the workplace standards, with security that they will not be punished or prejudiced for doing so.

E. Be Given Independent Access to, and Conduct Independent Audit of, Employee Records

Be given independent access to all production records and practices and wage, hour, payroll and other employee records and practices of company factories and contractors and suppliers; and

Conduct independent audit, on a confidential basis, of an appropriate sampling of production records and practices and wage, hour, payroll and other employee records and practices of company factories and contractors and suppliers.

F. Conduct Periodic Visits and Audits

Conduct periodic announced and unannounced visits, on a confidential basis, of an appropriate sampling of company factories and facilities of contractors and suppliers to survey compliance with the workplace standards.

G. Establish Relationships with Labor, Human Rights, Religious or Other Local Institutions

In those instances where independent external monitors themselves are not leading local human rights, labor rights, religious or other similar institutions, consult regularly with human rights, labor, religious or other leading local institutions that are likely to have the trust of workers and knowledge of local conditions; and

Assure that implementation of monitoring is consistent with applicable collective bargaining agreements and performed in consultation with legally constituted unions representing employees at the worksite.

H. Conduct Confidential Employee Interviews

Conduct periodic confidential interviews, in a manner appropriate to the culture and situation, with a random sampling of company employees and employees of contractors and suppliers (in their local languages) to determine employee perspective on compliance with the workplace standards; and

Utilize human rights, labor, religious or other leading local institutions to facilitate communication with company employees and employees of contractors and suppliers, both in the conduct of employee interviews and in the reporting of noncompliance.

I. Implement Remediation

Work, where appropriate, with company factories and contractors and suppliers to correct instances of noncompliance with the workplace standards.

J. Complete Evaluation Report

Complete report evaluating company compliance with the workplace standards.

Endnotes:

[1] All references to local law throughout this Code shall include regulations implemented in accordance with applicable local law.

[2] It is recognized that implementation by companies of internal monitoring programs might vary depending upon the extent of their resources but that any internal monitoring program adopted by a company would be consistent with these Principles of Monitoring. If companies do not have the resources to implement some of these Principles as part of an internal monitoring program, they may delegate the implementation of such Principles to their independent external monitors.

[3] Adoption of the Workplace Code of Conduct would satisfy the requirement to establish and articulate clear written standards. Accordingly, all references to the "workplace standards" and the "standards" throughout this document could be replaced with a reference to the Workplace Code of Conduct.

[4] These Principles of Monitoring should apply to contractors where the company adopting the workplace standards is a manufacturer (including a retailer acting as a manufacturer) and to suppliers where the company adopting the standards is a retailer (including a manufacturer acting as a retailer). A "contractor" or a "supplier" shall mean any contractor or supplier engaged in a manufacturing process, including cutting, sewing, assembling and packaging, which results in a finished product for the consumer.

[From the San Francisco Examiner, Apr. 17, 1997]

"NO SWEAT" REQUIRES SWEAT EQUITY

A CODE OF CONDUCT PLEDGED BY NIKE, REEBOK AND OTHERS IS ONLY A FIRST STEP TOWARD ENDING INTERNATIONAL SWEATSHOP ABUSES

With strong caveats, we endorse the creation of a code of conduct to fight sweatshop practices around the world. It is a good first step if the participating shoe and apparel manufacturers are serious about making it work.

Agreement was announced Monday by several companies—including Nike, Reebok, Liz Claiborne, Patagonia and L.L. Bean—along with human rights and labor groups that joined together as members of a presidential task force. Some critics, however, said the code would only lead to "kinder, gentler sweatshops."

Required under the new code are the elimination of child labor, a guarantee of pay at the minimum wage prevailing in the country of manufacture, a maximum 60-hour week, the end of abusive working conditions and protection of workers' right to organize. Unsettled are details of inspections and sanctions, which are critical to success of the code.

In exchange, companies that comply will be able to emblazon merchandise with a "No Sweat" label, a signal to buyers that sweatshop labor was not used in its manufacture.

The responsibility of American manufacturers toward workers in their foreign plant—in Indonesia, Vietnam, Haiti and other countries—has been a controversial issue. Now, at least, the companies are publicly pledged to uphold minimum standards and to fight abusive conditions.

"This is a breakthrough agreement that really stands to benefit workers around the world," said Michael Posner, a task force member and executive director of the Lawyers Committee on Human Rights.

To prevent the code of conduct from becoming merely a public relations device—a coverup for continued sweatshop activity—we beleive two additional steps are necessary.

First, manufacturers must agree to factory inspections carried out by truly independent groups, not just auditors hired by the companies. Inclusion of internationally respected groups such as Amnesty International or Human Rights Watch would clinch the effort's credibility.

Second, violations must be announced publicly and quickly. This carries two beneficial effects: Consumers will be resurred that the inspections aren't a sham, and companies will be prodded to correct deficiencies without delay. Companies that don't must be stripped of their "No Sweat" logos.

The code will not solve all the world's problems. Nor should it be expected to do so. No realistic, economically sophisticated person should expect Nike or Reebok to pay workers far above their country 's prevailing wage, no matter how "just" that may seem to U.S. critics.

What's more important is halting abuses such as those reported by USA Today earlier this year in plants run by Nike subcontractors in Vietnam. One factory floor manager was convicted of beating Vietnamese workers with a shoe. Another Nike subcontractor was cited for making 58 Vietnamese women employees run laps as punishment until some dropped from exhaustion and had to be taken to a hospital.

Such revelations are not good news for Nike or any other manufacturer that basks in an all-American image. Self-interest, if not humanitarian zeal, ought to be an impetus to just do the right thing.

American companies that manufacture abroad are sometimes portrayed as economic pirates. Left unsaid is that they benefit hundreds of thousands of foreign workers, who, after all, are not coerced to work for Nike or Reebok but line up for the chance. They know that a job that pays even a few dollars a day is better than no job.

Nothing should absolve American companies of their wider social responsibilities. The code is a beginning. The debate will continue.

As long as it's sincere, this joint effort by companies and human rights groups can accomplish more than rhetorical campaigns to improve the lot of international workers. But the "No Sweat" labels must mean a real commitment and not a public relations gimmick. Over time, cheaters never win.

[From the Los Angeles Times, Apr. 16, 1997]

A Big No to Sweatshops

CLINTON PLAN FOR A CODE AND "NO SWEAT" LABEL ON CLOTHING IS LAUDABLE

The president of the United States has the ability to do many things but so far not to erase sweatshop labor practices in American and overseas clothing factories. Bill Clinton, however, at least is trying.

This week he proposed a voluntary code under which U.S. clothing companies would accept the presence of independent auditors to monitor compliance with a minimum set of workplace labor laws. The code would apply whether the work was done in the United States or abroad. Companies that pay at least the legal minimum wage in the country where the work is being done, use no child labor, have a workweek of no more than 60 hours and give workers at least one day off each week would be permitted to apply a "No Sweat" label to their clothes. Cute, and potentially effective.

Some critics will argue that the code merely sets forth standards that every company in the world should be observing anyway. But in fact few companies in the clothing industry or, for that matter, in some other handwork industries adhere to these minimum legal standards.

Another objection to the presidential initiative deals with the composition of the independent panel that would monitor compliance. Some American union leaders insist that non-governmental, religious and human rights organizations, plus union representatives, perform the process. Employers who have agreed to the code want an international firm of auditors to do that job.

This should not be an issue. As long as the auditors do not have any conflict of interest, there should be no problem. The program should have a grievance procedure, however. And there is no doubt that under a grievance process the workers would use their voice to complain about any injustice, whether covered in the code or not.

The real test for the presidential initiative will be whether consumers make the "No Sweat" label the decisive element when they go shopping for clothes. That will make all the difference.

[From the New York Times, Apr. 16]

A Modest Start on Sweatshops

A newly proposed code of conduct for domestic and overseas sweatshops makes useful pledges to improve the appalling working conditions of apparel workers around the world. But the code is so littered with loopholes its impact will probably be limited unless public and press attention remains fixed on the problems of sweatshop workers.

The Presidential task force that developed the code included industry giants like Nike, Reebok, L.L. Bean and Liz Claiborne, as well as representatives of labor and human rights groups. It got industry pledges to provide abuse-free factories, hire children at least 15 years old, limit workweek to 60 hours and protect the right of workers to organize without fear of retaliation by their employers. The code also calls for companies to hire independent monitors that would work with local human rights groups. This provision is vital, since in oppressive societies workers would only voice discontent to groups that have gained their trust.

Identifying and publicizing abuses is essential to improving conditions. The coverage of inhumane conditions at Central American factories turning out clothes for Wal-Mart under the name of Kathie Lee Gifford led to creation of the task force. Two years ago, the industry would have brushed off any proposal to monitor its third-world factories.

The weakness of the code is its lack of precise commitments. The accord suggests but does not require local independent monitoring of working conditions or public disclosure of infractions. The 60-hour limit on the workweek can be waived for what are called "extraordinary" circumstances.

Even if a follow-up commission strengthens the wording, the code cannot work unless American consumers penalize non-participants. Some companies will not sign the code. Warnaco, which makes Hathaway shirts, withdrew from the task force because the company fears that the public disclosure of monitors' reports will reveal trade secrets to competitors. If consumers flock to lower-priced clothes produced by companies that ignore the code, the effort will fail.

The task force correctly rejected the idea of imposing a "living" wage, calling instead for companies to pay only the locally prevailing minimum wage. An externally determined wage would almost surely victimize the world's worst-paid workers. Manufacturers would close shop in countries like Haiti and Vietnam where workers produce too little to cover the higher wage employers would be required to pay, and reopen somewhere else where factories are more productive. The more humane course is to rely on competition to drive up productivity and wages, as has happened in South Korea and other Asian economies.

At best, a voluntary accord that includes industry can only accomplish so much. The task force may help reduce the political heat on Mr. Clinton, labor unions and industry to deal with the working conditions in faraway factories. Whether third-world workers will ever see a benefit depends on sharpening the code and intensifying disclosure of companies that violate its provisions.

Mr. GOODLING. Mr. Chairman, I move to strike the last word.

I do not plan to oppose the Miller amendment. It is a sense of Congress resolution. But I do want to make a couple of comments about it.

First of all, I appreciate the willingness of the gentleman from California (Mr. MILLER) to delete from his original amendment the list of findings that I think were problematic both from a germaneness point of view and in terms of some of the specific items that were included.

Secondly, I have a concern that the amendment urges American colleges and universities to do something that neither they nor we have much guidance on what is intended.

It is my understanding there are some universities that have adopted some type of codes of conduct for their licensed apparel. But we do not know how well these codes work at this particular time. It is unclear since it is a rather limited experience.

I understand the resolution basically says that codes of conduct are generally a good idea. Beyond that, we really do not have much information on how they work in the context of colleges' and universities' licensed apparel. I would particularly make the point with regard to the issue of monitoring. This has obviously been the most difficult issue with regard to voluntary codes of conduct.

On the one hand, there are those who believe that only independent monitoring is effective; on the other hand, there are always questions about who would do the monitoring, who would choose the monitors, what would the monitors use as a baseline, and so on. Because these questions remain, I believe it would be premature to endorse independent monitoring in terms of any direction we give to colleges and universities.

A few weeks ago, the gentleman from Michigan (Mr. HOEKSTRA) and I traveled to New York City and saw firsthand some of the most horrendous working conditions I have ever seen and certainly conditions that I did not expect ever to see in this country. And I know that sweatshops exist not just in other parts of the world but in this country.

So I do not oppose this amendment. I think it is important to emphasize that what it is saying basically, is that we think codes of conduct may be a good idea in helping to deal with them; and what we recognize is that it is much more difficult to actually implement a code of conduct and have it make a difference than it is to pass the resolution.

So we accept the Miller amendment.

Mr. BONIOR. Mr. Chairman, we all like to cheer for our favorite teams, and a lot of us proclaim our loyalty by wearing T-shirts and caps with the team logo.

Unfortunately, millions of these items are being produced overseas using child labor, in unsafe factories and at slave wages.

Take those baseball caps for example, the ones sporting names of major universities. They sell for $20 apiece all across America.

A lot of them are made in the Dominican Republic by people who get paid 8 cents a cap.

That's right—for each $20 cap a person sews, they get paid 8 cents.

Eight cents.

According to the New York Times, these hats are marketed under famous brand names such as Champion and Starter.

Well, I say it's time we start to champion a basic code of conduct.

A code of conduct to ensure that unscrupulous contractors are not exploiting people while profiting off the prestige of our great universities.

A code of conduct that enables fans to buy these shirts and caps and wear them with absolute pride.

A code of conduct that puts a premium on our principles, not just profit.

A code of conduct that will make a real difference in the daily lives of thousands of people—people we will never meet, but people whose only desire is the chance to make a decent living for their families.

The idea of a code of conduct is both creative and concrete.

It is a practical idea already in place at Duke University. Brown University is not far behind. Today I call on the universities in my state to follow their lead, especially the University of Michigan and Michigan State University.

This amendment will send a strong message that we oppose sweatshops, and that we urge this nation's colleges and universities to do their part to eradicate such abhorrent conditions.

Fans and consumers have a right to support their favorite schools without supporting sweatshops, and I strongly urge my colleagues to support this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 411, further proceedings on the amendment offered by the gentleman from California (Mr. MILLER) will be postponed.

The point of no quorum is considered withdrawn.

Are there any further amendments to title VIII?

☐ 1600

AMENDMENT NO. 58 OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. EWING). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 58 offered by Mr. KILDEE:

Page 334, after line 19, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 806. STUDY OF CONSOLIDATION OPTIONS.

No later than 2 years after the date of enactment of this Act, the Secretary shall report to Congress on the desirability and feasibility of possible new Federal efforts to assist individuals who have substantial alternative student loans (other than direct student loans and federally guaranteed student loans) to repay their student loans. The report shall include an analysis of the extent to which the high monthly payments associated with such loans deter such individuals from jobs (including public-interest and public-service jobs) with lower salaries than the average in relevant professions. The report shall include an analysis of the desirability and feasibility of allowing the consolidation of alternative student loans held by such individuals through the Federal student loan consolidation program or the use of other means to provide income-contingent repayment plans for alternative student loans.

Mr. KILDEE. Mr. Chairman, I offer this amendment on behalf of the gentleman from Colorado (Mr. SKAGGS), who unfortunately is hospitalized with an emergency appendectomy. I know that everyone in the House wishes him a very speedy recovery.

The Skaggs amendment would require the Secretary of Education to examine the very serious and substantial debts that students are amassing because of loans, other than those authorized in this legislation, they must obtain in order to pay for a college education. Specifically, the Secretary would be charged with the responsibility of determining the desirability and feasibility of new Federal efforts to assist such individuals repay these loans.

I understand this amendment has been agreed to by the other side. I would urge its adoption.

Mr. MCKEON. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from California.

Mr. MCKEON. I thank the gentleman for yielding. Mr. Chairman, we do support this amendment. Likewise, we wish the best to the gentleman from Colorado (Mr. SKAGGS) and hope he is able to join with us quickly. This amendment will improve the bill.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. KILDEE).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. STUPAK:

Page 334, strike lines 20 and 21 and insert the following:

SEC. 806. REPEALS AND EXTENSIONS OF PREVIOUS HIGHER EDUCATION AMENDMENTS PROVISIONS.

Page 335, line 7, strike "D, and E" and insert "and D"; and after line 7, insert the following:

(3) OLYMPIC SCHOLARSHIPS.—Section 1543(d) of the Higher Education Amendments of 1992 is amended by striking "1993" and inserting "1999".

Mr. STUPAK. Mr. Chairman, today I am offering an amendment which reauthorizes the Olympic Education Scholarship program. This valuable program was first authorized in the 1992 Higher Education Act. It is designed and its purpose is to assist Olympic athletes continue their pursuit of education while training at the various Olympic training and education centers by authorizing up to $5 million for college scholarships.

Olympic athletes train at four Olympic centers in the United States, Marquette, Michigan; Lake Placid, New York; Colorado Springs, Colorado; and San Diego, California. More than 450 athletes train full time at all of the training sites to prepare for the Olympic games and thousands more train there part time. Many of these athletes participated in the Nagano games just 3 months ago.

Last week the President hosted our Winter Olympic athletes from the 1998 games at the White House. Except for a very few sports, there is no post-Olympic professional athletic career for most Olympians. As a result, Mr. Chairman, education becomes a critical factor in the lives of these young people. But as so many of our American Olympians will attest, too often they must postpone or even forgo an education in order to prepare to represent the United States in the Olympic games. Many of the athletes would have greater access to college because of the Olympic scholarship, and the education they receive while training provides them with an excellent opportunity to prepare them for post-Olympic life.

Some athletes currently attend college while training. Many others, however, do not have the resources to pay for tuition and are unable to take classes. Unlike college athletes, many Olympic athletes spend thousands of dollars annually on equipment and travel to major events. The only way they can attend school is if scholarships are provided. That is why we need to reauthorize the Olympic scholarship program.

One example of this need of the Olympic education scholarship is Mark Lenzi, a gold medal winner diver at the Barcelona games in 1992. Mr. Lenzi announced on network television that he would sell his Olympic gold medal to help him pay for his college tuition.

Mr. Chairman, I am tremendously impressed with the dedication, determination and work ethic of our Olympic hopefuls. Given the opportunity, they apply the same dedication to their academic endeavors. Balancing a schedule of rigorous training and education is very difficult for any person. We should not, however, put our Olympic athletes in a position where they have to sacrifice an education in order to represent our country in the Olympic games.

Last week we had the Olympic dinner. Many of us attended and many of us patted the athletes on the back for a job well done. But what about an education? Last week when we were here, many Members had their photograph taken with the Olympic athletes. In fact, I was walking over on the other side and there were many of them out on the steps of the Capitol taking their picture with the Olympic athletes. But more than photo opportunities with congressional representatives and more than a dinner and more than a pat on the back, they need a helping hand and not a handout.

This is an opportunity to compete in the education field. Each Member in this House can help each Olympic athlete by reauthorizing this invaluable program. I know that there will be the other side who may say, well, we are not going to authorize new programs. This is a reauthorization of an old program. I know our job is only half done, that we still have to go to the Committee on Appropriations to get appropriations. Olympians know how to fight, they know how to compete. What we are asking for is to give them the opportunity to compete to reauthorize the Olympic Education Scholarship Program.

This amendment will simply give us a chance to continue the Olympic education scholarship to provide a commitment to our Olympic athletes beyond their performances in the games. I urge my colleagues to vote with me to reauthorize the Olympic Education Scholarship Program.

Mr. MCKEON. Mr. Chairman, I move to strike the last word. Mr. Chairman, one of the good things that we have done in this bill is we have eliminated 45 unfunded programs and 11 studies and commissions. This is an attempt to bring one of these programs back before we have even finally moved final passage.

This program is unfunded and repealed in H.R. 6 along with all of the other unfunded programs I mentioned. This is pursuant to an agreement between the chairman and ranking member of the subcommittee with jurisdiction. We have worked this out in a bipartisan way. We are happy with the product that we have produced. We think we are doing the best for students and for the most possible people with the money available.

Students pursuing a postsecondary education may receive Federal student aid if they qualify under the Higher Education Act. There is no need for a separate program and the increased administrative costs associated with the new program when student athletes are already eligible just like any other student.

In this reauthorization we have tried to eliminate unfunded programs and limit the number of new programs created so that the appropriators have a clear understanding of the priorities of the committee when it comes to funding the higher education programs. Available funds should be committed to the programs which will work and serve the largest number of students. I urge a no vote on this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. STUPAK).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. STUPAK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 411, further proceedings on the amendment offered by the gentleman from Michigan (Mr. STUPAK) will be postponed.

The point of no quorum is considered withdrawn.

Are there further amendments to title VIII?

If not, the Clerk will designate title IX.

The text of title IX is as follows:

TITLE IX—AMENDMENTS TO OTHER LAWS

PART A—EDUCATION OF THE DEAF ACT

Subpart 1—Gallaudet University

SEC. 901. BOARD OF TRUSTEES MEMBERSHIP.

Section 103(a)(1) of the Education of the Deaf Act of 1986 (20 U.S.C. 4303(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "twenty-one" and inserting "twenty-two";

(2) in subparagraph (A), by striking "and" at the end;

(3) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(C) the liaison designated under section 206, who shall serve as an ex-officio, nonvoting member.".

SEC. 902. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 104(b)(3) of the Education of the Deaf Act of 1986 (20 U.S.C. 4304(b)(3)) is amended by striking "intermediate educational unit" and inserting "educational service agency".

(b) ADDITIONAL REQUIREMENTS.—Section 104(b)(4)(C) of such Act (20 U.S.C. 4304(b)(4)(C)) is amended by striking clauses (i) through (iv) and inserting the following:

"(i) Paragraph (1) and paragraphs (3) through (6) of subsection (b).

"(ii) Subsections (e) through (g).

"(iii) Subsection (h), except the provision contained in such subsection that requires that findings of fact and decisions be transmitted to the State advisory panel.

"(iv) Paragraphs (1) and (2) of subsection (i).

"(v) Subsection (j), except that such subsection shall not be applicable to a decision by the University to refuse to admit or to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days notice to the child's parents and to the local educational agency in which the child resides.

"(vi) Subsections (k) through (m).".

SEC. 903. AGREEMENT WITH GALLAUDET UNIVERSITY.

Section 105(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4305(a)) is amended—

(1) in the first sentence, by striking "within 1 year after enactment of the Education of the Deaf Act Amendments of 1992, a new" and inserting "and periodically update, an"; and

(2) by amending the second sentence to read as follows: "The necessity of the periodic update referred to in the preceding sentence shall be determined by the Secretary or the University.".

Subpart 2—National Institute For The Deaf

SEC. 911. AGREEMENT FOR THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.

Section 112 of the Education of the Deaf Act of 1986 (20 U.S.C. 4332) is amended—

(1) in subsection (a)(2), by striking "under this section" and all that follows and inserting the following: "under this section—

"(A) shall periodically assess the need for modification of the agreement; and

"(B) shall also periodically update the agreement as determined to be necessary by the Secretary or the institution."; and

(2) in subsection (b)(3), by striking "Committee on Education and Labor" and inserting "Committee on Education and the Workforce".

Subpart 3—General Provisions

SEC. 921. DEFINITIONS.

Section 201 of the Education of the Deaf Act of 1986 (20 U.S.C. 4351) is amended—

(1) in paragraph (1)(C), by striking "Palau (but only until the Compact of Free Association with Palau takes effect),"; and

(2) in paragraph (5)—

(A) by inserting "and" before "the Commonwealth of the Northern Mariana Islands"; and

(B) by striking ", and Palau" and all that follows and inserting a period.

SEC. 922. AUDITS.

Section 203(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4353(b)) is amended in the first sentence by inserting before the period at the end the following: ", including the national mission and school operations of the elementary and secondary programs".

SEC. 923. REPORTS.

Section 204 of the Education of the Deaf Act of 1986 (20 U.S.C. 4354) is amended in the matter preceding paragraph (1) by striking "Committee on Education and Labor" and inserting "Committee on Education and the Workforce".

SEC. 924. MONITORING, EVALUATION, AND REPORTING.

Section 205(c) of the Education of the Deaf Act of 1986 (20 U.S.C. 4355(c)) is amended by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1999 through 2003".

SEC. 925. RESPONSIBILITY OF THE LIAISON.

Section 206 of the Education of the Deaf Act (20 U.S.C. 4356) is amended—

(1) in subsection (a), by striking "Not later than 30 days after the date of enactment of this Act, the" and inserting "The"; and

(2) in subsection (b)—

(A) in paragraph (2), by striking "and" at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) serve as an ex-officio, nonvoting member of the Board of Trustees under section 103; and".

SEC. 926. FEDERAL ENDOWMENT PROGRAMS.

(a) FEDERAL PAYMENTS.—Section 207(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4357(b)) is amended—

(1) in paragraph (2) to read as follows:

"(2) Subject to the availability of appropriations, the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources during the fiscal year in which the appropriations are made available (excluding transfers from other endowment funds of the institution involved)."; and

(2) by striking paragraph (3).

(b) WITHDRAWALS AND EXPENDITURES.—Section 207(d)(2)(C) of such Act (20 U.S.C. 4357(d)(2)(C)) is amended by striking "Beginning on October 1, 1992, the" and inserting "The".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 207(h) of such Act (20 U.S.C. 4357(h)) is amended by striking "fiscal years 1993 through 1997" each place it appears and inserting "fiscal years 1999 through 2003".

SEC. 927. SCHOLARSHIP PROGRAM.

Section 208 of the Education of the Deaf Act of 1986 (20 U.S.C. 4358) is hereby repealed.

SEC. 928. OVERSIGHT AND EFFECT OF AGREEMENTS.

Section 209 of the Education of the Deaf Act of 1986 (20 U.S.C. 4359) is amended—

(1) in subsection (a), by striking "Committee on Education and Labor" and inserting "Committee on Education and the Workforce"; and

(2) by redesignating such section as section 208.

SEC. 929. INTERNATIONAL STUDENTS.

(a) ENROLLMENT.—Section 210(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4359a(a)) is amended to read as follows:

"(a) ENROLLMENT.—A qualified United States citizen seeking admission to the University or NTID shall not be denied admission in a given year due to the enrollment of international students.".

(b) CONFORMING AMENDMENT.—Section 210 of such Act (20 U.S.C. 4359a) is amended by redesignating such section as section 209.

SEC. 930. AUTHORIZATION OF APPROPRIATIONS.

Section 211 of the Education of the Deaf Act of 1986 (20 U.S.C. 4360) is amended—

(1) in subsection (a), by striking "such sums as may be necessary for each of the fiscal years 1993 through 1997" and inserting "$83,480,000 for fiscal year 1999, $84,732,000 for fiscal year 2000, $86,003,000 for fiscal year 2001, $87,293,000 for fiscal year 2002, and $88,603,000 for fiscal year 2003";

(2) in subsection (b), by striking "such sums as may be necessary for each of the fiscal years 1993 through 1997" and inserting "$44,791,000 for fiscal year 1999, $46,303,000 for fiscal year 2000, $50,136,000 for fiscal year 2001, $50,818,000 for fiscal year 2002, and $46,850,000 for fiscal year 2003"; and

(3) by redesignating such section as section 210.

PART B—EXTENSION AND REVISION OF INDIAN HIGHER EDUCATION PROGRAMS

SEC. 951. TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.

(a) EXTENSION TO COLLEGES AND UNIVERSITIES.—The Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) is amended—

(1) by striking "community college" each place it appears and inserting "college or university";

(2) by striking "community colleges" each place it appears and inserting "colleges and universities";

(3) by striking "COMMUNITY COLLEGES" in the heading of title I and inserting "COLLEGES AND UNIVERSITIES";

(4) by striking "community college's" in section 2(b)(5) and inserting "college's or university's";

(5) by striking "the college" in sections 102(b), 113(c)(2), and 305(a) and inserting "the college or university";

(6) by striking "such colleges" in sections 104(a)(2) and 111(a)(2) and inserting "such colleges and universities";

(7) by striking "COMMUNITY COLLEGES" in the heading of section 107 and inserting "COLLEGES AND UNIVERSITIES";

(8) by striking "such college" each place it appears in sections 108(a), 113(b)(2), 113(c)(2), 302, 303, 304, and 305 and inserting "such college or university";

(9) by striking "such colleges" in section 109(b) and inserting "such college or university";

(10) in section 110(a)(4), by striking "Tribally Controlled Community Colleges" and inserting "tribally controlled colleges and universities";

(11) by striking "COMMUNITY COLLEGE" in the heading of title III and inserting "COLLEGE AND UNIVERSITY";

(11) by striking "that college" in sections 302(b)(4) and 305(a) and inserting "such college or university"; and

(12) by striking "other colleges" in section 302(b)(4) and insert "other colleges and universities".

(b) TITLE I ELIGIBLE GRANT RECIPIENTS.—Section 103 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1804) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) has been accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority as to the quality of training offered, or is, according to such an agency or association, making reasonable progress toward such accreditation.".

(c) ELIGIBILITY AND ACCREDITATION.—Section 106 of such Act (25 U.S.C. 1806) is amended—

(1) in the section heading, by inserting "AND ACCREDITATION PROGRAM" after "STUDIES";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection:

"(c) The Secretary of Education shall assist tribally controlled colleges and universities in the development of a national accrediting agency or association for such colleges and universities.".

(d) AMOUNT OF TITLE I GRANTS.—Section 108(a)(2) of such Act (25 U.S.C. 1808(a)(2)) is amended by striking "$5,820" and inserting "$6,000".

(e) CLERICAL AMENDMENT.—Section 109 of such Act (25 U.S.C. 1809) is amended by redesignating subsection (d) as subsection (c).

(f) AUTHORIZATION OF APPROPRIATIONS FOR TITLE I.—Section 110 of such Act (25 U.S.C. 1810) is amended—

(1) by striking "1993" each place it appears and inserting "1999"; and

(2) in subsection (a)(2), by striking "$30,000,000" and inserting "$40,000,000".

(g) AUTHORIZATION OF APPROPRIATIONS FOR TITLES III AND IV.—Sections 306 and 403 of such Act (25 U.S.C. 1836, 1852) are each amended by striking "1993" and inserting "1999".

SEC. 952. REAUTHORIZATION OF PROVISIONS FROM HIGHER EDUCATION AMENDMENTS OF 1992.

Title XIII of the Higher Education Amendments of 1992 (25 U.S.C. 3301 et seq.) is amended by striking "1993" each place it appears in sections 1348, 1365, and 1371(e), and inserting "1999".

SEC. 953. REAUTHORIZATION OF NAVAJO COMMUNITY COLLEGE ACT.

Section 5(a)(1) of the Navajo Community College Act (25 U.S.C. 640c–1) is amended by striking "1993" and inserting "1999".

AMENDMENT NO. 22 OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. FOLEY:

Page 346, after line 24, insert the following new part (and conform the table of contents accordingly):

Part C—General Education Provisions Act

SEC. 961. ACCESS TO RECORDS CONCERNING CRIMES OF VIOLENCE.

Section 444(h) of the General Education Provisions Act (20 U.S.C. 1232g(h)) is amended to read as follows:

"(h) DISCIPLINARY RECORDS.—(1) Nothing in this section shall prohibit an educational agency or institution from—

"(A) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or

"(B) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

"(2) Nothing in this section shall prohibit any post-secondary educational agency or institution from disclosing disciplinary records of any kind which contain information that personally identifies a student or students who have either admitted to or been found to have committed any act, which is a crime of violence (as that term is defined in section 16 of title 18, United States Code), in violation of institutional policy, either as a violation of the law or a specific institutional policy, where such records are directly related to such misconduct.".

Mr. FOLEY. Mr. Chairman, I rise in full support of the Higher Education Amendments of 1998, H.R. 6, and want to commend the fine work of the gentleman from Pennsylvania (Mr. GOODLING) for his efforts and labor of love on this important issue facing Americans, and that is higher education. This legislation will certainly go a long way to ensure that higher education remains an affordable option for our Nation's families.

I also want to commend the members of the Committee on Education and the Workforce for including in H.R. 6 important provisions of a bill that I cosponsored, the Accuracy in Crime Reporting Act. These provisions in H.R. 6 will improve the accuracy of information that parents and students receive about the dangers that exist on many of our college campuses.

I would like to take a moment to read from my hometown newspaper's editorial, the Sun-Sentinel, which appeared April 10, 1998. The editorial is titled Demand Accurate Crime Statistics From Colleges in Return for Funds.

> College campuses are supposed to be sanctuaries of vigorous inquiry and quiet contemplation where truth and knowledge can be pursued in an atmosphere of security, dignity and mutual respect. But that academic ideal has become the exception rather than the rule at far too many contemporary colleges and universities, where the current epidemic of drug abuse, underage drinking, illegal gambling, sexual assault and violent crime have been one of the best-kept secrets in American society. Statistics compiled by Security on Campus, Inc., a nonprofit organization dedicated to making institutions of higher learning more accountable to the public, indicate that nationwide, 65 percent of fraternity members and 55 percent of sorority sisters can be characterized as binge drinkers, 15 percent to 20 percent of all students are recent users of illegal drugs and student-on-student offenses account for 80 percent of campus crime. Many, if not most, of these crimes never make it onto the police blotter or into the news media because of college officials' overly expansive definition of student privacy and law enforcement authorities' reluctance to infringe on the tradition of academic freedom. Increasingly, however, campus violence is reaching a point where it cannot easily be ignored or swept under the rug by the colleges' internal disciplinary systems. Students are dying of drug abuse, overdose and alcohol poisoning at an alarming rate. Rapes and murders on campuses are growing national problems.

However, by providing this amendment, I do want to clarify certain provisions of the Family Educational Rights and Privacy Act, known as FERPA. By preventing postsecondary institutions from disclosing education records to the public without the consent of students, FERPA guarantees that student academic and financial information remains confidential. This important protection should continue. However, the Department of Education has wrongly concluded that FERPA prevents universities from releasing to the public the results of campus disciplinary actions or proceedings. Under this interpretation of FERPA, student criminal activities like aggravated assault and rape are protected along with legitimately protected grade and financial aid information. This interpretation is wrong.

Escalating violence on college campuses across the Nation require that Congress clarify the intent of FERPA. I fully believe, Mr. Chairman, that every student has the right to privacy. But when a university finds through its own disciplinary proceedings that a student has committed an act of violence, such as sexual assault, the university community has a right to know about it. While I believe that campus disciplinary proceedings should be open to the public, I can appreciate the concerns many have raised against such a course of action.

Therefore, the amendment I am offering today simply removes the FERPA protection of disciplinary records that personally identifies a student who has either admitted to or been found to have committed any act of violence either as a violation of law or specific institutional policy. My amendment does not require any new obligation to disclose these records. On the contrary, it deregulates the issue from Federal purview and allows State public record law and common sense to take over.

When violence occurs on campuses, the university community needs to know about it. Only then will students be able to take appropriate precautions. I appreciate the leadership's willingness to work with us on this issue. I offer the amendment in the spirit of allowing parents, children and students to have access to this very vital and important information.

Mr. GOODLING. Mr. Chairman, I rise in support of the amendment. The Clery family from Pennsylvania lost a beautiful daughter some years ago who competed in tennis against my daughter because of a violent crime on the campus of Lehigh University. They have dedicated the rest of their lives to preventing other families from suffering the same tremendous loss. This is our continuing effort to help the Clerys in their fight to make college campuses crime-free.

The amendment continues the longstanding policy of protecting personally identifiable information included in a student's education record. However, it does not protect disciplinary records of students who have admitted to or been found to have committed any act that is a crime of violence. Information related to crimes of violence should not be protected from disclosure if we truly want our college campuses to be safe environments for all students. If students do not know about violent offenders in their college community, how will they know how to protect themselves? The records which may be disclosed under the gentleman's amendment are those which are directly related to a crime of violence which the offender has admitted to or been found to have committed. A crime of violence means an offense that has as an element the use, attempted use or threatened use of physical force against the person or property of another; or any other felony offense that by its nature involves a substantial risk that physical force against the personal property of another may be used in the course of committing the offense.

We should not be protecting these acts of violence simply because they occur on our Nation's college campuses. I support the gentleman's amendment. As I have said many times, up until recent years, I always thought that this violence was perpetrated by those who were coming from the town or community around onto the college campus, only to find out that drugs and alcohol are causing many violent crimes, particularly against women, on college campuses. I support the amendment.

□ 1615

Mr. SOLOMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me say that I rise today in strong support of the Foley amendment as well as H.R. 6, the Higher Education Amendments Act of 1998. I want to commend the gentleman from Florida (Mr. FOLEY) and the gentleman from Pennsylvania (Mr. GOODLING) for bringing this legislation to the floor and this amendment to the floor, as well as my colleagues on the Committee on Education and the Workforce for their fine work on this very, very important issue.

The amendment before us today will strengthen this higher education bill by rectifying an extremely troublesome situation regarding campus crime reporting.

As my good friend from Florida has explained, in 1974 the Family Educational Rights and Privacy Act was passed to protect the privacy rights of students and their educational records. Unfortunately, colleges and universities are using this law to hide violent crimes statistics from their student body as well as prospective students and parents. This is outrageous. By hiding this information, students are put at risk because they do not know when a violent crime has been committed by a student or if that student remains even on campus. We need to give parents and students the information that accurately measures the dangers that are present on many college campuses today.

We tried to solve some of this last year when we passed my legislation which made it a felony crime and threw the book at those that would use the drug Rohypnol against unsuspecting female students on campuses, and that bill has made a lot of difference. I do not think anyone is naive enough to believe that their campus is devoid of all crime. However, by trying to avoid bad publicity and hiding violent crime statistics, colleges and university administrators are playing a deadly game with the safety of their students.

The Foley amendment lessens the danger on campuses by doing away with the Federal prohibition on informing the public when a student has committed a violent crime. By supporting this amendment we can make our colleges and universities a safer place for students. Mr. Chairman, I urge all my colleagues to join me in supporting the Foley amendment.

Before I close, Mr. Chairman, I would just like to say that I would like to commend my colleagues for supporting the Souder amendment, passed last night by a voice vote. This amendment strengthens the provision based on legislation that I had introduced which suspends Federal financial funds to students who have been convicted of any Federal or State drug use. The amendment offered by my good friend, the gentleman from Indiana (Mr. SOUDER) reinforces this language by requiring that along with rehabilitation, a student must test negative for two unannounced drug tests to be eligible for Federal education benefits. I supported this additional language and appreciate his invaluable support on this important issue to identify those students with drug problems and put them on the road to recovery.

Mr. Chairman, as my colleagues know, a number of years ago we passed the Solomon amendment which suspended the drivers' licenses of all people who were convicted of drug felonies, either selling or using drugs. As my colleagues know, that legislation now has swept the Nation. In New Jersey alone, they have revoked 10,000 drivers' licenses, which means we removed 10,000 drug users from the highways. Many of those people have been rehabilitated now because that license meant so much to them, and now they are obeying the law, they are drug-free, and they have their licenses back. This is the kind of legislation that we need to focus these young men and women on to make sure we are going to have a drug-free society.

Again I commend the gentleman from Florida (Mr. FOLEY) and the gentleman from Pennsylvania (Mr. GOODLING) for the excellent legislation. I hope we all come over and vote for the Foley amendment, and then let us pass this great bill.

Mr. FOX of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thank the gentleman from Florida (Mr. FOLEY) for offering this important amendment to the reauthorization of the Higher Education Act.

When a student makes the decision of what college or university to attend, this is one of the most important decisions in their lives. Unfortunately, our Nation's students are not able to make an informed decision about what college to attend because they do not have all the facts regarding each and every institution.

The Family Education Rights and Privacy Act provides institutions of higher education a method in which they may hide crime statistics from the public. Criminal misconduct can be filed away in confidential student grade and financial records.

The Foley amendment would seek to rectify this most serious abuse of the Family Education Rights and Privacy Act by permitting colleges and universities to tell their student bodies the names of students found to have committed violent crime. This knowledge would then be incorporated into the campus crime statistics. This will provide students with much needed information about the colleges they are attending or may choose to attend. Students and parents require this important information in order to make an informed decision about an institution as well as to empower them to make the necessary safety precautions when attending an institution.

In Pennsylvania, this initiative has been led and championed by the Cleary family, whose daughter was tragically murdered on a campus in Pennsylvania. We certainly do not want to see a repeat of this, and I compliment the Cleary family and the gentleman from Florida (Mr. FOLEY) for their leadership in moving this forward nationally.

The Foley amendment will not in any way expose victims or innocent students to the public. I believe that this is a well-balanced solution to the problem. The provisions will only apply to those who are found guilty by a university's plenary committee to have committed a conduct-code infraction involving a violent crime. When a violent act is committed, the campus community and indeed the community in general have a right to know. This amendment will provide this knowledge to the community.

Again I would like to thank the gentleman from Florida (Mr. FOLEY) for his leadership in offering this amendment and to the gentleman from Pennsylvania (Mr. GOODLING), and I urge my colleagues to adopt the amendment.

Mr. NETHERCUTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am here today in support of the amendment offered by the gentleman from Florida (Mr. FOLEY), but I was troubled by a comment that was made, a statistic, even though it may be true, about a high number of incidents of fraternities and sororities engaged in drinking and drug use on campus. While I know there are incidents that happen on campuses today, as they did when I was in college, and I know they probably always will with regard to alcohol and abuse of alcohol, but I do not want the impression left, Mr. Chairman, that all sororities and all fraternities and all students on all campuses engage in this kind of activity unlawfully. There are a number of national fraternity organizations, national sorority organizations, and nonfraternity and sorority organizations, the dorm leadership, employees and others who are very concerned about the alcohol problem, and they are making a very concerted effort in a very proper way to stop this kind of abuse on campus.

So while I do commend the gentleman for his amendment and realize that we need to have some statistical information that is appropriate under the circumstances I think we also have to recognize that on campuses today there is a very large group of students, Greek and non-Greek alike, who care very deeply about good conduct on campus and an anti-alcohol and anti-drug abuse program. So I do not want the impression left that all Greeks and all, as my colleagues know, non-Greeks alike are abusive of alcohol and drugs, because they are not. And we have incidents around the country that show that there are problems with alcohol abuse and drug abuse, but there are an awful lot of good kids and an awful lot of good fraternities and sororities who are making a very strong effort to stop this kind of activity and speaking out very forcefully in favor of an anti-drug abuse and anti-alcohol policy.

So with that, I would be happy to support the amendment.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. NETHERCUTT. I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Chairman, I appreciate the gentleman from Washington making those notations, and I think it is important to note when college fraternities and sororities have taken it upon themselves to change some of the behaviors among their peers, and I think it is laudable that we signal that there is a change on campuses now in that direction.

And I also wanted to, if I could, intrude on your time just to thank a school board member from Palm Beach County, Diane Heinz, Security on Campus, Howard and Connie Cleary, and my own staffer, Shawn Gallagher, who have worked very, very tirelessly on bringing this amendment to the floor and including it in the bill.

Mr. DUNCAN. Mr. Chairman, I rise in support of the Foley Amendment which would amend the federal academic privacy laws to exclude criminal actions.

I think that most people would think that matters like grades and financial aid records should be private matters between a student and his or her parents and their college or university. These records should not be released to the public. However, I think it is wrong that some students and colleges use these privacy laws to hide criminal acts.

This amendment is based on provisions of my bill H.R. 715, the Accuracy in Campus Crime Reporting Act. Both USA Today and the New Republic have supported my bill in full length stories. Both publications especially liked this bill because it amended the academic privacy laws. They do not think that federal law should be used to protest murderers and rapists.

At this time, the Department of Education is suing Miami University of Ohio to prevent them from obeying a Ohio Supreme Court ruling which ordered such criminal records to be released.

USA Today summarized the issue of federal law being used to protect and hide criminal activity:

> The government argues that university criminal records constitute 'academic records' and therefore should be as private as student grades.
>
> This outrage is just the [Education] Department's latest attempt to protect colleges' reputations at the expense of student safety. . . .
>
> The Education Department is supporting a last-ditch effort by some universities to bury information about campus crimes. Students involved in criminal acts are commonly encouraged to use a college's private disciplinary board instead of the public criminal justice system.

USA Today concluded:

> . . . it's a sad state of affairs when an act of Congress is necessary for the Education Department to protect students' safety.

I have been concerned about this issue for a long time and have been happy to work with Congressman FOLEY on this issue. I believe that this amendment will do a lot to make our campuses safer places by making students, their parents, and the general public aware of the dangers that exist on many college campuses.

Mr. SCHUMER. Mr. Chairman, as a supporter of H.R. 6, I'd like to draw your attention to part of the bill I helped author—the campus crime provisions.

Despite our best efforts with the 1990 Campus Crime bill, parents and students still don't know how safe their campuses are.

Colleges' typical reports of 3 or 4 burglaries, sexual assaults and alcohol violations are far too small to be believed by anyone—even the colleges themselves.

The bill we're considering today will bring us one step closer to our goal of making sure that parents have the information they need about campus safety.

The bill expands the people obligated to report crimes, expands the types of crime to be reported and, for the first time, opens up campus crime reports to the public through a campus crime log.

The log documents where, when and what crimes occur on campus.

Making these crime reports public will hold schools accountable for their accuracy.

Parents deserve to know how safe their children's campus is. And the campus security provisions of this bill will help them make that determination.

I want to thank the U.S. Students' Association, Chairman GOODLING and Representative DUNCAN for all their hard work on this issue.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentleman from Florida (Mr. FOLEY).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there any further amendments to title IX?

If not, the Clerk will designate title X.

The text of title X is as follows:

TITLE X—FACULTY RETIREMENT PROVISIONS

SEC. 1001. VOLUNTARY RETIREMENT INCENTIVE PLANS.

(a) IN GENERAL.—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end the following:

"(m) Notwithstanding subsection (f)(2)(B), it shall not be a violation of subsection (a), (b), (c), (e), or (i) solely because a plan of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) offers employees who are serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) additional benefits upon voluntary retirement that are reduced or eliminated on the basis of age, if—

"(1) such institution does not implement with respect to such employees any age-based reduction or elimination of benefits that are not such additional benefits, except as permitted by other provisions of this Act; and

"(2) with respect to each of such employees who have, as of the time the plan is adopted, attained the minimum age and satisfied all non-age-based conditions for receiving a benefit under the plan, such employee is not precluded on the basis of age from having 1 opportunity lasting not less than 180-days to elect to retire and to receive the maximum benefit that would be available to a younger employee if such younger employee were otherwise similarly situated to such employee.".

(b) CONSTRUCTION.—

(1) APPLICATION.—Nothing in the amendment made by subsection (a) shall be construed to affect the application of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) with respect to—

(A) any employer other than an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965); or

(B) any plan not described in subsection (m) of section 4 of such Act (as added by subsection (a)).

(2) RELATIONSHIP TO PROVISIONS RELATING TO VOLUNTARY EARLY RETIREMENT INCENTIVE PLANS.—Nothing in the amendment made by subsection (a) shall be construed to imply that a plan described in subsection (m) of section 4 of such Act (as added by subsection (a)) may not be considered to be a plan described in section 4(f)(2)(B)(ii) of such Act (29 U.S.C. 623(f)(2)(B)(ii)).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on the date of enactment of this Act.

(2) EFFECT ON CAUSES OF ACTION EXISTING BEFORE DATE OF ENACTMENT.—The amendment made by subsection (a) shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 prior to the date of enactment of this Act.

The CHAIRMAN pro tempore. Are there any amendments to title X?

If not, the Clerk will designate title XI.

The text of title XI is as follows:

TITLE XI—OFFSETS REQUIRED

SEC. 1101. ASSURANCE OF OFFSETS.

(a) DECLARATION.—None of the provisions in this Act should take effect unless it contains the mandatory offsets set forth in subsection (b).

(b) ENUMERATION OF OFFSETS.—The offsets referred to in subsection (a) are provisions that—

(1) change the definition of default contained in section 435(l) to extend the period of delinquency prior to default by an additional 90 days;

(2) capitalize the interest accrued on unsubsidized and parent loans at the time that the borrower enters repayment;

(3) recall $65,000,000 in guaranty agency reserves, in addition to the amount required to be recalled pursuant to the amendments in section 422 of the Higher Education Act of 1965 contained in this Act;

(4) eliminate the dischargeability in bankruptcy of student loans made after the date of enactment of this Act for the cost of attendance for a baccalaureate or advanced degree, and for which the first payment was due more than seven years before the commencement of the bankruptcy action; and

(5) sell sufficient commodities from the National Defense stockpile to generate receipts of $80,000,000 in fiscal year 1999 and $480,000,000 over five years.

The CHAIRMAN pro tempore. Are there any amendments to title XI?

If not, are there any amendments to the end of the bill?

AMENDMENT NO. 80 OFFERED BY MR. KENNEDY OF MASSACHUSETTS

Mr. KENNEDY of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 80 offered by Mr. KENNEDY of Massachusetts:

At the end of the bill add the following new title:

TITLE XI—ALCOHOL CONSUMPTION

SEC. 1101. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that, in an effort to change the culture of alcohol consumption on college campuses, all college and university administrators should adopt the following code of principles:

(1) For an institution of higher education, the president of the institution shall appoint a task force consisting of school administrators, faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at

the institution. The task force will make recommendations for a broad range of policy and program changes that would serve to reduce alcohol and other drug-related problems. The institution shall provide resources to assist the task force in promoting the campus policies and proposed environmental changes that have been identified.

(2) The institution shall provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities

(3) The institution shall enforce a "zero tolerance" policy on the illegal consumption and binge drinking of alcohol by its students and will take steps to reduce the opportunities for students, faculty, staff, and alumni to legally consume alcohol on campus.

(4) The institution shall vigorously enforce its code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems shall be referred to an on-campus counseling program.

(5) The institution shall adopt a policy to discourage alcoholic beverage-related sponsorship of on-campus activities. It shall adopt polices limiting the advertisement and promotion of alcoholic beverages on campus.

(6) Recognizing that school-centered policies on alcohol will be unsuccessful if local businesses sell alcohol to underage or intoxicated students, the institution shall form a "Town/Gown" alliance with community leaders. That alliance shall encourage local commercial establishments that promote or sell alcoholic beverages to curtail illegal student access to alcohol and adopt responsible alcohol marketing and service practices.

Mr. KENNEDY of Massachusetts. Mr. Chairman, first of all, I want to express my thanks and gratitude to the chairman of the committee, the gentleman from California (Mr. MCKEON) and as well as to the gentleman from Michigan (Mr. KILDEE) who has done a tremendous job on this committee for so many years.

This amendment should not take long, because of the agreements between both sides of the aisle on the important issue of binge drinking that continues to plague college students. A recent Harvard study found that more than 40 percent of college students are binge drinking these days. As far-fetched as it may sound, in 1991 students spent more money on alcohol, over $5 billion, than on books. In colleges all across this country, alcohol abuse has become the unofficial college sport, sometimes with deadly consequences.

Alcohol is one of the leading causes of death, in fact the No. 1 cause of death of young people under the age of 24. Students at schools with high levels of binge drinking are three times more likely to be victims of sexual assault and violence. In the latest report, the Chronicle of Higher Education found that alcohol-related arrests on college campuses jumped 10 percent in 1996 alone.

Mr. Chairman, I ask that my colleagues join me in offering an amendment expressing the sense of the House that college administrators should adopt a code of principles and practices to first offer alcohol-free alternatives for students in terms of dorms, dances, concerts, and other kinds of activities; second, to work with local merchants to prevent alcohol sales to minors; third, to enforce a zero-tolerance policy for illegal alcohol and drug use on campus; and fourth, to provide alcohol and drug education and prevention and treatment on campuses and to discourage and limit alcohol sponsorship of on-campus events.

With that I want to thank again the gentleman from Indiana (Mr. SOUDER) who worked very hard with us on the committee for his hard work and his diligence, and I look forward to rapid movement on this amendment.

Mr. GOODLING. Mr. Chairman, I rise in support of the gentleman's amendment.

Mr. Chairman, I want to thank the gentleman for bringing the program to our attention. Although it currently exists in the Elementary and Secondary Education Act, it is appropriate that we include it in the Higher Education Act.

□ 1630

Combating illegal drug and alcohol use on our college campuses is vital to the well-being of our Nation's college students.

During the committee's consideration of H.R. 6, we adopted the amendment offered by the gentleman from Indiana (Mr. SOUDER) and long championed by the gentleman from New York (Mr. SOLOMON) to prohibit students convicted of drug offenses from receiving Federal student aid until they have completed a rehabilitation program and get the help they need to fight their abuse problem.

Encouraging institutions of higher education to develop and implement drug and alcohol abuse prevention programs should serve to help combat the ongoing problems this country faces related to drug and alcohol abuse and the violence often associated with both.

Mr. Chairman, I support the gentleman's amendment.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentleman from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

AMENDMENT NO. 64 OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 64 offered by Mr. LIVINGSTON:

Add at the end the following new title (and conform the table of contents accordingly):

TITLE XI—PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS

SEC. 1101. PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS.

(a) PROTECTION OF RIGHTS.—It is the sense of the House of Representatives that no student attending an institution of higher education on a full- or part-time basis should, on the basis of protected speech and association, be excluded from participation in, be denied the benefits of, or be subjected to discrimination or official sanction under any education program, activity, or division directly or indirectly receiving financial assistance under the Higher Education Act of 1965, whether or not such program, activity, or division is sponsored or officially sanctioned by the institution.

(b) SANCTIONS FOR DISRUPTION PERMITTED.—Nothing in this section shall be construed to discourage the imposition of an official sanction on a student that was willfully participated in the disruption or attempted disruption of a lecture, class, speech, presentation, or performance made or scheduled to be made under the auspices of the institution of higher education.

(c) DEFINITIONS.—For the purposes of this section:

(1) PROTECTED SPEECH.—The term "protected speech" means speech that is protected under the 1st and 14th amendments to the United States Constitution, or would be so protected if the institution of higher education were subjected to those amendments.

(2) PROTECTED ASSOCIATION.—The term "protected association" means the right to join, assemble, and reside with others that is protected under the 1st and 14th amendments to the United States Constitution, or would be protected if the institution of higher education were subject to those amendments.

(3) OFFICIAL SANCTION.—The term "official sanction"—

(A) means expulsion, suspension, probation, censure, condemnation, reprimand, or any other disciplinary, coercive, or adverse action taken by an institution of higher education or administrative unit of the institution; and

(B) includes an oral or written warning made by an official of an institution of higher education acting in the official capacity of the official.

Mr. LIVINGSTON. Mr. Chairman, a number of colleges throughout this country are vigorously attacking their students' constitutionally protected right of free speech and association. The controversy centers on a decision by some private schools to ban all single-sex organizations like fraternities and sororities and restrict any student involvement with them, even if it is off campus and on their own time. Punishments for such offenses range from possible suspension to expulsion.

Mr. Chairman, disciplining students for attending a fraternity or sorority dinner, or a women's Bible study, or a YMCA event is obviously clearly a violation of the constitutionally protected rights of association and free speech. Public institutions are strictly prohibited from violating these rights, and they cannot bar single-sex organizations like fraternities and sororities without just cause.

Private colleges argue that they are not subject to the same constitutional statutory restrictions as public institutions. The colleges cite court rulings dating back to the Supreme Court's Dartmouth College case in 1819. Unfortunately, though, unlike the Dartmouth College case of 1819, many of the private colleges are today not truly private.

For example, many of these institutions receive State and Federal funding. Donations to them are exempt from taxation and, likewise, their property and income are often provided tax advantages, even though many private colleges own and operate businesses dealing directly with the public.

The right of association is well established, Mr. Chairman, in the Constitution. In *Healy* v. *James*, the Supreme Court said that the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools. The college classroom and its surrounding environment is the marketplace of ideas, and there is no new constitutional ground broken by reaffirming this Nation's dedication to safeguarding academic freedom.

Now, this amendment will simply express the sense of the House on this matter. It does not force schools to officially recognize student organizations. However, it will put Congress on record defending the rights of students who face expulsion and other severe consequences by daring to enjoy their most basic constitutional freedoms of speech and association, often off campus and on their own time.

This amendment of mine has the support of a number of organizations which reach across the political spectrum, including the Coalition for Freedom of Association, the Traditional Values Coalition, the ACLU, the National Interfraternity Conference, the U.S. Public Interest Research Group, the National Panhellenic Association, the Fraternity Executives Association, the Christian Coalition, and hundreds of local sororities and fraternities nationwide.

Mr. Chairman, our Nation has, since its inception, held that individuals have the right to associate and speak freely. In addition, our Nation has long recognized single-sex organizations, and we value their important contribution to our society. Students attending private colleges have the right to enjoy the same freedoms of association and speech that all of us hold everywhere else as American citizens. We owe it to them and to all of those who sacrifice so much for those freedoms to adopt my amendment.

Mr. Chairman, I urge the adoption of this amendment.

Mr. McKEON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON), the chairman of the Committee on Appropriations, would express the strong sense of this body that colleges and universities which accept Federal funds under the Higher Education Act should not restrict their students' rights to free speech or association, as protected under the first and the fourteenth amendments to the Constitution.

Recently, Members of this body have become concerned over efforts by some colleges and universities to restrict the actions of certain groups on these campuses. These efforts have included restrictions being placed on certain groups. In at least one instance, a school took action against students simply for wearing Greek letters on their clothing.

Throughout the reauthorization process, we have tried to reduce the regulatory burden placed on institutions of higher education, and we have attempted to avoid leveling mandates from Washington on schools. The gentleman's amendment sends a strong signal to schools which participate in programs funded under the Higher Education Act that we intend for them to honor the rights of their students under the Constitution, but it does so in a way that does not create a new mandate or pit the rights of the institution against those of the students.

Mr. Chairman, I urge a "yes" vote on this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT NO. 81 OFFERED BY MR. KENNEDY of massachusetts

Mr. KENNEDY of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 81 offered by Mr. KENNEDY of Massachusetts:

At the end of the bill add the following new title:

TITLE XI—DRUG AND ALCOHOL PREVENTION

SEC. 1101. DRUG AND ALCOHOL ABUSE PREVENTION.

(a) GRANTS AND RECOGNITION AWARDS.—Section 111, as redesignated by section 101(a)(3)(E), is amended by adding at the end the following new subsections:

"(e) ALCOHOL AND DRUG ABUSE PREVENTION GRANTS.—

"(1) PROGRAM AUTHORITY.—The Secretary may make grants to institutions of higher education and consortia of such institutions and contracts with such institutions and other organizations to develop, implement, operate, improve, and disseminate programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and their associated violence. Such contracts may also be used for the support of a higher education center for alcohol and drug abuse prevention which will provide training, technical assistance, evaluation, dissemination and associated services and assistance to the higher education community as defined by the Secretary and the institutions of higher education.

"(2) AWARDS.—Grants and contracts shall be made available under paragraph (1) on a competitive basis. An institution of higher education, a consortium of such institutions, or other organizations which desire to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

"(3) ADDITIONAL REQUIREMENTS.—The Secretary shall make every effort to ensure—

"(A) the equitable participation of private and public institutions of higher education (including community and junior colleges), and

"(B) the equitable geographic participation of such institutions,

in grants and contracts under paragraph (1). In the award of such grants and contracts, the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection **$5,000,000** for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(f) NATIONAL RECOGNITION AWARDS.—

"(1) AWARDS.—For the purpose of providing models of alcohol and drug abuse prevention and education (including treatment-referral) programs in higher education and to focus national attention on exemplary alcohol and drug abuse prevention efforts, the Secretary of Education shall, on an annual basis, make 10 National Recognition Awards to institutions of higher education that have developed and implemented effective alcohol and drug abuse prevention and education programs. Such awards shall be made at a ceremony in Washington, D.C. and a document describing the programs of those who receive the awards shall be distributed nationally.

"(2) APPLICATION.—

"(A) IN GENERAL.—A national recognition award shall be made under paragraph (1) to institutions of higher education which have applied to such award. Such an application shall contain—

"(i) a clear description of the goals and objectives of the alcohol and drug abuse programs of the institution applying.

"(ii) a description of program activities that focus on alcohol and other drug policy issues, policy development, modification, or refinement, policy dissemination and implementations, and policy enforcement;

"(iii) a description of activities that encourage student and employee participation and involvement in both activity development and implementation;

"(iv) the objective criteria used to determine the effectiveness of the methods used in such programs and the means used to evaluate and improve the program efforts;

"(v) a description of special initiatives used to reduce high-risk behavior or increase low risk behavior, or both; and

"(vi) a description of coordination and networking efforts that exist in the community in which the institution is located for purposes of such programs.

"(B) ELIGIBILITY CRITERIA.—All institutions of higher education which are two- and four-year colleges and universities that have established a drug and alcohol prevention and education program are eligible to apply for a National Recognition Award. To receive such an Award an institution of higher education must be nominated to receive it. An institution of higher education may nominate itself or be nominated by others such as professional associations or student organizations.

"(C) APPLICATION REVIEW.—The Secretary of Education shall appoint a committee to review applications submitted under subparagraph (A). The committee may include representatives of Federal departments or agencies whose programs include alcohol and drug abuse prevention and education efforts, directors or heads (or their representatives) of professional associations that focus on prevention efforts, and non-Federal scientists who have backgrounds in social science evaluation and research methodology and in education. Decisions of the committee shall be made directly to the Secretary without review by any other entity in the Department of Education.

"(D) REVIEW CRITERIA.—Specific review criteria shall be developed by the Secretary in conjunction with the appropriate experts. In reviewing applications under subparagraph (C) the committee shall consider—

"(i) measures of effectiveness of the program of the applicant that should include changes in the campus alcohol and other drug environment or climate and changes in alcohol and other drug use before and after the initiation of the program; and

"(ii) measures of program institutionalization, including an assessment of needs of the institution, the institution's alcohol and drug policies, staff and faculty development activities, drug prevention criteria, student, faculty, and campus community involvement, and a continuation of the program after the cessation of external funding.

"(3) AUTHORIZATION.—For the implementation of the awards program under this subsection, there are authorized to be appropriated $25,000 for fiscal year 1998, $66,000 for each of the fiscal years 1999 and 2000, and $72,000 for each of the fiscal years 2001, 2002, 2003, and 2004.

(b) REPEAL.—Section 4122 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7132) is repealed.

Mr. KENNEDY of Massachusetts. Mr. Chairman, again, let me thank the gentleman from Pennsylvania (Mr. GOODLING), chairman of the Committee on Education and the Workforce, and the gentleman from California (Mr. MCKEON), as well as the gentleman from Michigan (Mr. KILDEE) for their support of this amendment.

A recent Harvard study found that 95 percent of all violent crimes and 90 percent of all rapes on college campuses are alcohol-related. Alcohol on campuses is a factor in 40 percent of all academic problems, and almost one-third of all college dropouts.

This should not come as any surprise to someone who has visited a college campus lately. From the very first day of school, students are bombarded with messages and promotions and peer pressure that encourage binge drinking. Local bars aggressively promote special offers like "ladies drink free" or "dollar pitchers" or "bladder bust." But, Mr. Chairman, colleges and universities around the country are trying to figure out how to deal effectively with excessive alcohol use.

There are some terrific programs that should serve as models. For example, at Northern Illinois University in the district of the gentleman from Illinois (Mr. HASTERT), binge drinking has dropped by 30 percent as a result of a program that includes alcohol-free housing. Nonetheless, we need to ensure that every college and university can offer comprehensive and effective drug and alcohol programs.

The amendment I am offering would provide grants for colleges to establish alcohol and drug treatment counseling and drug education and alcohol education. Secondly, this amendment authorizes the Secretary of Education to confer national recognition awards each year to 10 schools that successfully address alcohol and drug abuse on campus.

Binge drinking robs the best and brightest of our children's futures, their health and too often their lives. Let us give parents and students and colleges the resources they need to effectively combat alcohol and drug abuse on campus.

Mr. Chairman, as the gentleman from Michigan (Mr. KILDEE) once said to me, "Do not keep chasing a streetcar that you are already on," and in that regard, I will keep my remarks short.

Mr. GOODLING. Mr. Chairman, we rise in support of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT NO. 77 OFFERED BY MRS. MEEK OF FLORIDA

Mrs. MEEK of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:.

Amendment No. 77 Offered by Mrs. MEEK of Florida:

Page 349, after line 9, insert the following:

TITLE XI—EQUAL OPPORTUNITY FOR INDIVIDUALS WITH LEARNING DISABILITIES

SEC. 1101. DEMONSTRATION PROJECTS ENSURING EQUAL OPPORTUNITY FOR INDIVIDUALS WITH LEARNING DISABILITIES.

Subpart 2 of part A of title IV, as amended by section 405, is further amended by adding at the end the following:

CHAPTER 6—DEMONSTRATION PROJECTS ENSURING EQUAL OPPORTUNITY FOR INDIVIDUALS WITH LEARNING DISABILITIES

"SEC. 412A. PROGRAM AUTHORITY.

"(a) IN GENERAL.—The Secretary may award grants to, and enter into contracts and cooperative agreements with, not more than 5 institutions of higher education that are described in section 412B for demonstration projects to develop, test, and disseminate, in accordance with section 412C, methods, techniques, and procedures for ensuring equal educational opportunity for individuals with learning disabilities in postsecondary education.

"(b) AWARD BASIS.—Grants, contracts, and cooperative agreements shall be awarded on a competitive basis.

"(c) AWARD PERIOD.—Grants, contracts, and cooperative agreements shall be awarded for a period of 3 years.

"SEC. 412B. ELIGIBLE ENTITIES.

"Entities eligible to apply for a grant, contract, or cooperative agreement under this chapter are institutions of higher education with demonstrated prior experience in meeting the postsecondary educational needs of individuals with learning disabilities.

"SEC. 412C. REQUIRED ACTIVITIES.

"A recipient of a grant, contract, or cooperative agreement under this chapter shall use the funds received under this chapter to carry out each of the following activities:

"(1) Developing or identifying innovative, effective, and efficient approaches, strategies, supports, modifications, adaptations, and accommodations that enable individuals with learning disabilities to fully participate in postsecondary education.

"(2) Synthesizing research and other information related to the provision of services to individuals with learning disabilities in postsecondary education.

"(3) Conducting training sessions for personnel from other institutions of higher education to enable them to meet the special needs of postsecondary students with learning disabilities.

"(4) Preparing and disseminating products based upon the activities described in paragraphs (1) through (3).

"(5) Coordinating findings and products from the activities described in paragraphs (1) through (4) with other similar products and findings through participation in conferences, groups, and professional networks involved in the dissemination of technical assistance and information on postsecondary education.

"SEC. 412D. PRIORITY.

"The Secretary shall ensure that, to the extent feasible, there is a national geographic distribution of grants, contracts, and cooperative agreements awarded under this chapter throughout the States, except that the Secretary may give priority, with respect to one of the grants to be awarded, to a historically Black college or university that satisfies the requirements of section 412B.

"SEC. 412E. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter $10,000,000 for each of the fiscal years 1999 through 2001.".

Mrs. MEEK of Florida. Mr. Chairman, I thank the committees and the people who helped to bring this piece of legislation and this amendment to the floor. I want to thank the gentleman from Michigan (Mr. KILDEE); I want to thank the gentleman from California (Mr. MCKEON); and I want to thank the gentleman from Missouri (Mr. CLAY), who has sort of mentored me since I have been here; also, the gentleman from Pennsylvania (Mr. GOODLING); and of course my colleague, the gentlewoman from Kentucky (Mrs. NORTHUP) and her staff, who have been very helpful in putting this amendment together.

Mr. Chairman, what we are doing here is trying to help college students who have learning disabilities, and this amendment will bring that help to college students which now is already being received by students in K through 12.

According to the National Institutes of Health, and I must cut this short because the gentleman from Missouri

(Mr. CLAY) said they would take away the votes if I did not cut this discussion, but according to the National Institutes of Health, more than 39 million Americans have some type of learning disability. People really do not understand the impact of this disability, these disabilities.

The gentlewoman from Kentucky (Mrs. NORTHUP) and I cochair the Reading Caucus. Thanks to the gentlewoman, we are working on many of these problems, and this particular amendment, added to the Higher Education Act, will certainly focus the attention of the Nation on the need of helping college students with learning disabilities.

Many of these college students are very, very bright. They make excellent mathematicians, excellent academicians, but they do not read that well due to learning disabilities. Some of these learning disabilities are very well-known and others are not.

What we are saying here is that there are many, many things that colleges and universities can be doing, Mr. Chairman, in the area of auditory and visual kinds of learning devices, helping teachers learn how to teach these students better; being sure that the whole universe of education and higher education will understand the kinds of modalities and the types of learning techniques that can be utilized in helping these students. We feel that the Federal Government, to a great extent, is going to help in doing this by providing free and appropriate education for students who are in higher education.

Rather than break my vow, Mr. Chairman, I would like to say that when we get this in the Higher Education Act, it will mean a lot to many students. Think of them. Either we help them now, or we help them later. Many of the students who come into college with poor reading ability never get anyplace, even though they are very bright students, but because of their lack of reading ability, they have a problem.

So I appreciate so much the committee and the Members who have helped us put this together. It is a problem, and it is a modest step toward filling the gap. But we do know we are making a start here, the gentlewoman from Kentucky (Ms. NORTHUP) and I, and we are encouraged by this inclusion in the Higher Education Act.

MODIFICATION TO AMENDMENT NO. 77 OFFERED BY MRS. MEEK OF FLORIDA

Mrs. MEEK of Florida. Mr. Chairman, I ask unanimous consent to modify my amendment with the modification that is already at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification to the amendment offered by the gentlewoman from Florida (Mrs. MEEK).

The Clerk read as follows:

Modification to amendment No. 77 offered by Mrs. MEEK of Florida:

In the matter proposed to be added to the Higher Education Act of 1965 by the amendment, strike proposed section 412D and redesignate proposed section 412E as section 412D.

The CHAIRMAN pro tempore. Is there objection to the modification to the amendment offered by the gentlewoman from Florida (Mrs. MEEK)?

There was no objection.

Mr. GOODLING. Mr. Chairman, we accept the amendment of the lovely lady from Miami (Mrs. MEEK).

Mrs. NORTHUP. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to speak in favor of this amendment and to thank the gentlewoman from Florida (Mrs. MEEK) for bringing it to the attention of this body.

As the mother of six children, I understand the frustration of trying to ensure that one's child receives the very best education available. If one's child has a learning disability, we know the frustration and the hopelessness of searching for the answers to provide one's son or daughter with the tools necessary for him or her to succeed in this world.

The gentlewoman from Florida (Mrs. MEEK) and I have had an opportunity to work closely together to ensure that children that have learning disabilities have a better opportunity to receive early in their education an opportunity to learn to read and learn to read well, so that they can achieve at every level in their education.

□ 1645

But unfortunately, some children today do not receive that intervention and some children have gone through the early years of their schooling without having the opportunity to fully develop their talents in school in some areas in which they are disabled. But that does not mean that they may not be very talented and students that can do very well in college.

Many colleges have struggled with giving these children better opportunities. They have set up programs for learning disabled kids and they are struggling to help them achieve at the highest level.

What this bill does is create five demonstration projects so that schools can look to the best examples of remediation in areas that children are weak so that in areas in which they are strong they can still be high achievers. We need every talent in our workplace today. We need for every child to be able to realize their dreams and their goals and their talents.

What this bill does is make sure that those children who have special needs and special talents receive the best opportunity at higher education levels so that they can become the chemists and the teachers and the people that are leaders in their areas tomorrow.

Mr. Chairman, I want to thank the gentlewoman from Florida (Mrs. MEEK) for all the time and energy she has put into this bill. She has been a leader on it. She has brought to the attention of many people in this Congress the problem of our talented children who are in higher education that have learning disabilities.

I believe this will not only help those kids that are being educated in these five institutions, but those other institutions around the country that are looking for the best examples so that they can pattern within their schools the best ways to help kids who are talented but struggling. I think this is good for a lot of children.

Mr. Chairman, I join the gentlewoman from Florida (Mrs. MEEK) in hoping that the Department of Education will seek out an institution that primarily serves minority students, since they are disproportionately represented in this population and ensure that one of those institutions will serve as an example.

Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GOODLING) for his willingness to accept this amendment.

Ms. ROS-LEHTINEN. Mr. Chairman, I move to strike the requisite number of words.

Unfortunately for many who suffer from a learning disability, there exists no cure. These serious impediments are a lifelong disorder for many and 15 percent of our population must learn to live with this disability. It is time that all of us as responsible Members of Congress address those 15 percent whose future in education depends on our actions here.

The amendment offered by the gentlewoman from Florida (Mrs. MEEK) and the gentlewoman from Kentucky (Mrs. NORTHUP) does just that. It will authorize the Secretary of Education to award grants, contracts, and cooperative agreements to institutions of higher education which competitively demonstrate methods, techniques and new approaches in educating students with learning disabilities.

Mr. Chairman, passing this amendment will be the first step in ensuring equal opportunities in post-secondary education for individuals with learning disabilities. Serious disorders such as dyslexia and attention hyperactivity disorder are currently affecting 2.6 million children who are diagnosed as learning disabled under the Individuals with Disabilities Education Act in elementary and secondary education.

Congress has already found that "2 percent of all undergraduate students nationwide report having a learning disability." In fact, we have already recognized that different teaching strategies are needed to enable those students to develop their talents and performance up to their capabilities.

Let us help those students by passing the Meek-Northup amendment. Mr. Chairman, I also thank the gentleman from Pennsylvania (Chairman GOODLING), who has been very supportive and very cooperative on this serious issue.

Ms. BROWN of Florida. Mr. Chairman, I agree with my distinguished colleagues and support their groundbreaking initiative to offer legislation which will provide continued support for college and university students with learning disabilities and this includes students who are attending community colleges as well.

The most recent survey of college freshmen with disabilities reported that the number of students with learning disabilities is increasing and the percentage is now at 32% for college freshmen.

These non-traditional college students deserve a chance, and we have the legislative strength to make a difference in their lives today, tomorrow, and in the future.

Support for this amendment will send a message to America, that Members of Congress care and believe education is key for our nation.

Mr. TOWNS. Mr. Chairman, I rise today in strong support of the Meek-Northup learning disabilities amendment to H.R. 6, the Higher Education Reauthorization Act.

According to the National Institute of Health, there are 39 million Americans with learning disabilities. This amendment would ensure that young people with the ability to be high achievers can accomplish their goals to be doctors, engineers, lawyers, and teachers.

While there are Federal programs to help elementary and secondary school students with learning disabilities, there are none for college students. This vital legislation authorizes $10 million a year for five demonstration projects at colleges or universities. Each institution would be responsible for developing programs, strategies, and approaches for teaching individuals with learning disabilities at the college level. It would also ensure that teachers and institutions across this nation have access to a national repository of information on teaching the learning disabled student.

As our global economy moves toward the 21st century, such efforts would create a level playing field for all children of this great nation. Our children are our future. It is our responsibility to ensure that their future is bright. There must not be any children left behind.

Mr. Chairman, I urge my colleagues to vote "YES" on the Meek-Northup amendment.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment, as modified, offered by the gentlewoman from Florida (Mrs. MEEK).

The amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT NO. 75 OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 75 offered by Mr. ROEMER:

At the end of the bill add the following new title:

TITLE XI—SPECIAL PROVISION

SEC. 1101. TERMINATION OF EFFECTIVENESS.

Notwithstanding section 4 of this Act, subparagraph (K) of section 485(g)(1) of the Higher Education Act of 1965, as amended by this Act, shall cease to be effective on October 1, 1998.

The CHAIRMAN pro tempore. Pursuant to the order of the Committee of today, the gentleman from Indiana (Mr. ROEMER) and the gentleman from Illinois (Mr. HASTERT) each will control 30 minutes.

The Chair recognizes the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I offer this amendment in a bipartisan spirit with the gentleman from California (Mr. RIGGS), my friend, and I offer it to eliminate language in the bill that is a Federal mandate to our colleges and universities that is an intrusion into the way they conduct their business on a day-to-day basis and micromanages from Washington, D.C., schools across the country telling them how they should run their sports programs.

Now, we have heard constantly through the last couple of years that Washington, D.C. does not know best. Why is there language in this bill telling colleges and universities throughout the country the Washington way of running their sports programs?

Now, I encourage my colleagues and their staffs to read the language in the bill on page 246, and I quote from that language:

> We are requiring in this language a statement of any reduction that may or is likely to occur during the next four academic years in the number of athletes that will be permitted to participate in any collegiate sport or in the financial resources that the institution will make available to any such sport, and the reasons for any such reduction.

So we are saying they have to tell the Federal Government any reduction that may or may be likely to occur and the reasons for that reduction.

Mr. Chairman, we have received letters from all over the country from universities and colleges from all over the country saying this is a Federal mandate. We do not want this language in the bill. We have received letters from the National Collegiate Athletic Association that I will enter into the RECORD. This says from the NCAA, and I quote, "this provision represents an unparalleled federal intrusion into the decision-making process of our nation's colleges and universities." An unparalleled Federal intrusion.

Now, I have, however, even with all of this, I have, I think, some understanding of why the language was put in the bill. When athletes and scholars at universities enroll in a university and then that wrestling program or that swimming program may be canceled, that leaves that scholar and that athlete in a very untenable situation and I have sympathy for that. But it is not sweeping the country. It is not something that is causing athletic departments and schools to shut down. And I point to the graph on my right where we have had a steady growth in the number of both men and women's programs, each of the ensuing academic years, more women participating, more men participating.

In addition to that, Mr. Chairman, here in 1996 and 1997, the number of programs added in that academic year in men and women's programs, added, 360 programs; dropped, 114. Added 360, dropped 114. Again, a steady growth in the number of men and women participating.

So I think that the need for this amendment is just simply not there. I empathize and I sympathize with those athletes at schools that close or shut down a particular athletic program. But the Federal Government should not be telling each and every university in the country you have got to do a four-year report ahead of time if it is likely or may occur. I do not think that that is the way we should be running this country with a Federal mandate. I strongly oppose that.

Mr. Chairman, I said I offered this in the spirit of bipartisanship with the gentleman from California (Mr. RIGGS), my friend. I offer this in the spirit of arguing against micromanaging our programs, against Federal intrusion, against "Washington knows best" and telling Indiana, Kentucky, California, Florida, Connecticut, telling all of those States and all of those schools how they should report to the Federal Government.

But, Mr. Chairman, I think one of the most compelling arguments is this. When we take the serious step in this country of shutting down a plant and employees lose their job, there is a 30-day notice for those employees that may lose their job. In this bill this language requires 4 years, 4 years ahead of time if colleges are thinking of changing an athletic program.

This is the higher education bill. We do not even say in this bill if they are going to shut down a French program, an abroad study program, or a mathematics computer program that they have to report to the Federal Government. But in this bill we say if they are thinking about canceling an athletic program they better report it. They better report it.

Mr. Chairman, we did the Contract for America and everything in that bill said, "No more Federal mandates." I encourage my colleagues to vote to strike this Federal mandate out of this bill.

Mr. Chairman, I include for the RECORD the letter from the NCAA referred to earlier.

THE NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION,
Washington, DC, April 28, 1998.

DEAR MEMBER OF CONGRESS: On behalf of the 933 NCAA member colleges and universities, I am writing to urge your support for an amendment to be offered by Representatives Riggs and Roemer to the Higher Education Act Amendments of 1998 (H.R. 6). The

Riggs/Roemer amendment will strike a provision that was recently added by the Committee on Education and the Workforce related to institutional program decisions, specifically in the area of college athletics programs.

The provision of H.R. 6 would require all postsecondary institutions to report annually any changes that "may or are likely to occur" in any intramural or intercollegiate athletics program over the next four years and justify the decision. This provision was added without the benefit of hearings, discussion with the Committee's members or consultation with the higher education community. In order for institutions to continue to be eligible for federal student assistance, the provision requires the impossible—it asks institutions to predict the future. In addition, this provision represents an unparalleled federal intrusion into the decision-making process of our nation's colleges and universities.

NCAA member colleges and universities have added thousands of sports teams for men and women over the past 20 years. During the same time period, relatively few teams have been dropped. When a sports team is dropped, the welfare of the student-athlete is the first priority. Although the sponsors of the provision may have well-intended motives, this provision will have the unintended consequence of actually hastening the elimination of the very men's non-revenue sports it is intended to protect. By placing them on a list for possible elimination, it will serve as an early death notice to those teams.

The NCAA urges you to support the Riggs/Roemer amendment related to collegiate sports teams. Please contact Doris Dixon, NCAA director of federal relations (202-293-3050), if you have any questions about this provision or the NCAA's position.

Sincerely,

CEDRIC W. DEMPSEY.

Enclosure.

Mr. HASTERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana (Mr. ROEMER).

Mr. Chairman, it is interesting to listen to rhetoric. In fact, we need to understand what this provision in the bill really does. It is one of the foundations of our educational system that our kids should be taught the difference between right and wrong. Should we not teach our kids to be honest and forthright? And should we not teach our kids that rules apply equally to everyone?

Answering these questions is what today's debate and the Roemer amendment is all about. The Roemer amendment says that it is basically okay for colleges and universities not to tell prospective students that they plan to eliminate or reduce the funding for sports programs that kids plan to participate in once they enroll.

Mr. Chairman, I view this as a matter of honesty and simple fairness. I would ask anyone, should schools be able to hide from students the fact that they are planning to terminate their competitive sport, a sport that weighed heavily in their life decision about which school they should attend in the first place? And let me be clear, nothing in this provision prevents schools from eliminating sports programs nor does it require them to give 4-years' notice before they do so. I repeat, it does not require them to give 4-years' notice before they do so.

All this language requires is that once a school knows it is going to eliminate a team, they must notify the affected athletes by giving notice; not notice to the Federal Government, just notice in a yearly report.

□ 1700

In effect, this notification could take place 1 or 2 or 3 years before the actual termination. The key point is, once they decide, they need to disclose.

Colleges and universities enjoy a special position in this country. As parents, we entrust them with the education of our children. In return, we should expect that they act in a manner that justifies this trust, and that certainly does not include making decisions which affect our kids' lives without honestly disclosing those decisions to them.

I, for myself, cannot believe that Congress will send the message to college students that it is all right for schools to knowingly not tell them and the athletes and students and prospective students about the status of the sport which they care about. If we allow this to happen, it would certainly send the wrong message that right and wrong does not apply if you are a college or a university.

Mr. Chairman, in 2 short years, between 1994 and 1996, nearly 200 colleges and universities canceled sports programs. That is thousands of kids who will never again have the opportunity to participate at the collegiate level, opportunities that many of us once enjoyed.

I wonder how many of the kids who played on these teams were warned that their teams were slated for elimination? I wonder if any of them would have chosen a different school if they had known in advance that the school was planning to drop their sport?

Many universities are doing the right thing, and I applaud them. But in some cases, the affected students are the last to know about the plans to drop their team.

Mr. Chairman, let me tell my colleagues about the experiences of Scott Gonyo and his teammates. In 1993, Drake University decided to eliminate one of its, not a major sport, so it was either wrestling or track or soccer or swimming. When they eliminated their teams in 1993, did the school take the time to notify the team that they were being dropped? No. Did the athletic director take the time to notify them of the cancellation of their sport? No. Scott Gonyo and his teammates found out when the members of the media called them for reaction.

I do not know about anyone else, but I think this sends a terrible message about how some colleges and universities are treating the very kids they are supposed to serve.

What the Roemer amendment seeks to strike from this bill is the right of students to be informed about decisions which affect their lives, and that is all. We all know that kids and parents consider a number of factors before deciding which school to attend. Among these factors is the ability to participate in sports, for some students.

I cannot believe that anyone would support a college's effort to keep pertinent information out of a student's hands. The fact that a school has decided to drop a sport is important information that kids and parents have a right to know before they decide which college they invest their time and their talents in.

I would certainly prefer that the NCAA deal with this matter by seeking the voluntary cooperation of their member institutions. In my office last week, I met with representatives of the American Council on Education, ACE, the NCAA, and the small colleges. We agreed in that meeting that I would support removal of this provision in conference if the NCAA would simply urge members to embrace voluntary notification requirements.

The next day, I received a letter from the president of the NCAA, the ACE, confirming that agreement, and was prepared to come to the floor and enter into a colloquy with the distinguished Member from California (Mr. MCKEON) to that effect. But sadly, on Tuesday I received a letter from the NCAA actually breaking the deal. They simply want this Congress to go away and let them do whatever they please.

Mr. Chairman, if the NCAA were a real estate agent trying to sell a house without disclosing leaky roofs or a used car salesman trying to sell flood-damaged cars without disclosure to the consumers, I dare say colleagues on both sides of the aisle would demand action.

A college education is one of the most important purchases any student and their parents will ever make. What is wrong with asking these universities and NCAA to simply tell the truth?

A "yes" vote on this amendment is a vote against kids knowing what their future will be and the families' right to know. I urge my colleagues to defeat the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from the State of California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, as Members of Congress, we are constantly asked to make decisions on what is the appropriate role of the

Federal Government. Today I rise in support of the Roemer amendment because I think it is absolutely clear that the Federal Government has no role in mandating and micromanaging the affairs of the universities and the higher institutions of education in our country.

I find it ludicrous that we would even ask our universities, and by imposing on them a mandate, that they would have to notify people 4 years in advance of a decision that they might have to make in order to eliminate or reduce an athletic program.

This provision is absolutely insane in that it is, in fact, going to reduce the ability of our universities to allocate their resources, to ensure that they are going to be investing those funds in the most cost-effective manner.

We would be hamstringing the board of regents in California and the admission of our universities that have been appointed to make the decision to ensure that they can create the academic experience and the college experience which is in the best interest of the students that are going to be attending.

As I was listening to the last speaker, I thought it was somewhat interesting that he feels it so important that we provide students and families with the information about a potential reduction in an athletic program, but there is absolutely no attention being given to a potential decision that might result in the reduction of an academic program.

I also find it somewhat ironic that many of the people who are some of the strongest proponents of asking for this 4-year notification were some of the same people that were opposed to giving the working men and women of this country a 30-day notification of a potential plant closure.

When we have working men and women and their families whose livelihoods, whose ability to keep a roof over their heads, whose ability to provide food for their families, when we are opposed to giving them 30 days' notification, and yet we think it is appropriate to give 4 years' notification on a university decision to reduce an athletic program, that is just wrong and it is irresponsible.

Mr. HASTERT. Mr. Chairman, I yield as much time as she may consume to the gentlewoman from Kentucky (Mrs. NORTHUP).

Mrs. NORTHUP. Mr. Chairman, I rise to speak against this amendment. First of all, I think it is so amazing that the people that are sponsoring this amendment wish to talk about mandates on colleges and universities across this country. The fact is, almost all decisions being made about college sports today have everything to do with the Department of Education interfering and mandating on colleges about what sports requirements they are under. This is not something that will be initiated; this is something that is going on right now.

We all believe that sports are great for women and for men that are in college. They serve a wonderful purpose. They provide these young people, first of all, an opportunity for scholarships, provide many of them an opportunity at institutions of education that they would not have if they were not able to receive these athletic scholarships. It also gives them an opportunity to compete on a higher level.

Many of these students are very talented in athletics. Many will have opportunities to use these talents in other arenas. They go on and become our Olympic stars. They go on and compete internationally. They represent this country around the world. Many of them have careers if professional careers are available in their sports.

Those opportunities are growing for women, as they have been for men for many years. That is all great, and a great opportunity for some very talented young people in this country.

Athletics also teach us a lot of other things. It teaches kids about hard work. It teaches kids about sportsmanship. It teaches kids about learning to lose and to start over again, to pick themselves up when they are down. Those are lessons that help all of us for all of our lives. So when we look at athletics, I am thrilled to see colleges looking for the best ways to provide the most opportunities for the most students.

Because of the Department of Education's accelerated or new pressure that they are applying on many athletic programs, there are an increased number of programs that are being jeopardized today. Many times, because the colleges have little time to act, they are being forced to eliminate men's teams and to add women's teams in order to try to equalize the opportunities.

All of us applaud the new opportunities for women. It has made a wonderful difference in a couple of my daughter's lives.

It has not made such a wonderful difference in my son's life, though. This year he is a junior in college. He is a champion swimmer. At one point, he was the second fastest swimmer in the butterfly in the country. Next year, it looks as though his school may not have swimming, so he loses his opportunity to ever go on and an opportunity to ever be the top in the country, ever be in the Olympics.

So why does he not go to the another school? Because all of his credits are in one school. He loves that school. He has invested a lot of time, a lot of energy, a lot of effort in that team. The fact is that that school has no time to adjust because of the Department of Education.

I am so sorry that our colleagues that are sponsoring this bill are not screaming about that sort of intrusion in colleges today. If we had a little more time, we could probably grow better women's sports opportunities and not endanger men's sports. But since we have this intrusion that exists today, and because nobody on the other side has talked about that, I think it is better, very important to understand why some teams are being eliminated.

In the meantime, what my colleague is proposing is that students who are trapped at a school, who love that school dearly, they at least be informed as early as the school knows that it is about to drop a particular sport. That is the least we can do so that they have an opportunity to consider what this means in their lives, so that they have an opportunity to fulfill their talents and their dreams, even if changing schools is the only way to do it.

This is, by no means, criticism of my son's school. They have treated him more than fairly, informed the students on that team of the crushing news that they are going to drop swimming next year.

I think it is important that this body know that just 4 years ago, they built a $14 million swimming and athletic complex to accommodate this team that now they are being forced to drop. Is that a waste or what? What does the Department of Education think about that?

In the meantime, let us leave the language in the bill. Let us get this bill to the conference committee. Let us see if between the Senate and the House we can figure out a way to make things better for all women athletes and all men athletes.

Mr. ROEMER. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Palo Alto, California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I would like to start out today obviously in strong support of the Roemer amendment, a proposal to restore the ability of colleges and universities to carefully design and budget their own athletic programs.

I would like to add this for the record, because some of my colleagues on the other side of this issue are talking about NCAA sports: In 1996–1997, this represents men's and women's sports. I do not know where all of this is coming from of what has been dropped. Look at what has been added, 360, this is what has been dropped. I think that this is a very provocative number and something that our colleagues should pay close attention to.

Without the Roemer amendment, H.R. 6 would force institutions to make irrevocable decisions about which programs will receive funding far in advance of current requirements. The Roemer amendment strikes a provision which represents, in unparalleled Federal intrusion, Federal micromanagement and Federal mandates.

The NCAA supports this amendment. Their statistics further reveal that the original provision is unnecessary. I am very, very proud to represent Stanford University whose outstanding academic and athletic accomplishments can be matched by few.

The university sponsors 17 varsity women's sports, and their list of championships is stunning. National volleyball champions 3 of the last 4 years, national tennis championships 10 times in the last 20 years. In 20 years, the varsity women's swimming, they have won eight national titles.

The Stanford women's basketball team has been in the final four six times in the 1990s and national champions in 1991 and 1992. Stanford's record offers compelling proof that women's success does not harm a college's athletic program.

□ 1715

Is the Congress going to require that universities and colleges submit to us in a report as to whether they are going to drop their Japanese overseas programming? This is ludicrous. This is not being applied to anything that is academic but only that which is athletic.

The Roemer amendment would ensure that Stanford University and the rest of our Nation's colleges and universities have the necessary flexibility to continue to develop such strong athletic and academic programs free of Federal intrusion, free of Federal micromanagement, and free of Federal mandates. I urge my colleagues on both sides of the aisle to vote for the Roemer amendment.

Mr. HASTERT. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to say, Mr. Chairman, that the previous speaker spoke about the rise of women's sports. And as the father of two daughters, and someone who enjoys watching my girls participate in soccer, basketball, or whatever, I am glad that there will be a lot more opportunities for them. But I also want to say, as I look at this bill, this is not a matter of what is convenient for Stanford University or for the University of Virginia or the University of Georgia or Berkeley or whatever. This is a matter of putting the kids before the system, putting the kids before the faceless institution.

Think about the private sector a minute. We have so many people in our body who talk about disclosure in all aspects of the private sector; worker safety, materials used on job sites, what we eat, what is in the water. Whatever it is. What is in the air. What is being discharged. All of this has to be disclosed, and yet this body, who so readily puts such disclosure mandates on the private sector, now has Members saying let us not put that on the public sector.

What is this horrible mandate that we are putting on the public sector? And let me clarify, it is not all public universities. There are private universities. But most of them get some sort of Federal funding in one place or another. Think about this, though. Here is a student who is 17, 18 years old; young boy or girl. They are going off to college. They have worked real hard to get in the school of their choice. Maybe they are going to play baseball, maybe wrestling, maybe lacrosse, maybe swimming, maybe volleyball. They have that opportunity and they are excited about it. And then they get there and find out that they are phasing out the volleyball program or the wrestling program. That was one reason that student chose university A over university B. And now we are saying that our kids are not important enough just to tell them that?

Somebody had said, well, we cannot give them a 4-year warning. If my colleagues will read the Hastert proposal, what he is saying is all they have to do is notify the students once they make the decision to phase out a certain athletic program.

This, as I said, maybe it is not pro-university, maybe it is not pro-institution, maybe it is not pro-system, but it does become pro-child, pro-student, pro-athlete and, therefore, I think it is pro-sports.

The gentlewoman from Kentucky (Mrs. NORTHUP) talked with great pride about what sports meant to her six children, and the positive impact that sports programs can have to all of our children is very, very important. So why not be fair to America's kids; that if they enroll in a college or a university that has a sports program, should they not be notified when the college or university has made the decision to phase out that program? That is the only thing that the gentleman from Illinois is trying to get in the bill.

I urge my colleagues to vote against the Roemer amendment and vote for the children of the United States of America.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from the State of Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time, and I do rise in support of his amendment.

I have a lot of sympathy with what the gentleman from Illinois (Mr. HASTERT) is trying to do, and I have a lot of sympathy for those who played sports through high school and college. I did a little bit. I was not very good, but it was a great thing to do.

I have listened to what others have said, but I do not know why we are getting involved with this and, hopefully, we can work it out some other way. I do not think this should be in our legislation, and I think the Roemer amendment should pass.

For example, what if a college changes its academic courses? Do they have to give 4 years' notice of that, if someone is majoring in something? What if a college like mine becomes coeducational in the middle of it all? Is that something we should have to give notice for? My college got rid of fraternities. Believe me, fraternities were big deals at Hamilton College when I went there, and that was a major change, but nobody had to give notice then.

A lot of things happen in colleges, and I do not think that we should be out there interfering with their right to govern themselves. As a matter of fact, I would think that would be a Republican principle that we would want to follow; that we should simply let them make their own decisions.

I have read the language of this, which is part of the Student Right to Know Act, and it states: "A statement of any reduction that may or is likely to occur during the ensuing 4 academic years and the number of athletes that will be permitted to participate in any collegiate sport or in the financial resources that the institution will make available to any such sport and the reasons for any such reduction." That is a tremendous burden and requirement to place on our colleges. I happen to think it goes too far. The gentleman from Illinois and I have talked about this.

I have heard from the University of Delaware president. Used to be president of the University of Kentucky. And David Roselle writes and says,

> It is demeaning for the Congress of the United States to be mucking about in the management of intercollegiate athletics.

I happen to totally agree with that particular statement.

Why are we getting involved in micromanaging decisions at the college and university level? Do we not have better things to do here in this Congress?

And then he went on to make the point,

> Schools simply do not know, and neither does the Congress, what forces will come into play in the next 4 years that would make program reductions on campus both necessary and appropriate.

Again, I could not agree more with that particular point. It absolutely hits the nail on the head. Four years is a long time.

I think for all these reasons, while the intent is good, this is not good to have in this legislation. We ought to take it out and we should pass the Roemer amendment.

Mr. HASTERT. Mr. Chairman, I yield myself such time as I may consume to remind my good friend from Delaware that the language says anytime within that 4-year period. So the interpretation is if they decide in 1 year, or 2 years, or 3 years, or 4 years, whenever that decision is, they just ought to come forward and let kids know.

It does not say they cannot do this. It does not restrict them in any way. It just says there should be notice given, not a restriction of the Federal Government. And this is really kind of a red herring to cross this path. We are just saying notice ought to be given.

Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. CLEMENT), a former university president who will speak to this issue.

Mr. CLEMENT. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise today in strong support of the Roemer-Riggs amendment to H.R. 6. The Roemer-Riggs amendment would eliminate the bill's language requiring higher education institutions to report 4 years in advance the planned elimination of college sports.

Schools in my district have expressed their concern that the bill's current language poses an overreaching Federal intrusion in the way they operate their sports programs. As a former college president, I understand the importance of long-range planning, but it is just that; planning. Who knows what new budget constraints might face a school from year to year? Forcing colleges and universities to formulate such far-reaching micromanaging of the athletic policies is simply shortsighted and surely not in the best interest of our colleges and universities.

The chairman of the Committee on Education and the Workforce, the gentleman from Pennsylvania (Mr. GOODLING), got a letter not long ago from the president of Belmont University, which happens to be in my Congressional District in Nashville, Tennessee. Dr. Troutt, who also had the opportunity to serve as chairman of the National Commission on the Cost of Higher Education, says this, and he says it so well:

> This type of congressional action is inconsistent with the commission's recommendations that colleges intensify their efforts to control costs and increase institutional productivity. Because the commission stressed the need for colleges and universities to consider questions of cost effectiveness and efficiency within academic programs, it would be inappropriate for Congress to ask schools to exempt sports programs from similar rigorous scrutiny. I recommend you eliminate this or any other related provision.

That is why we all need to join forces and I encourage a "yes" vote on the Roemer-Riggs amendment and firm support for our Nation's colleges and universities.

Mr. Chairman, I provide for the RECORD a copy of the letter I just referred to.

OFFICE OF THE PRESIDENT,
BELMONT UNIVERSITY,
Nashville, TN, April 24, 1998.
WILLIAM F. GOODLING,
Chairman, House Committee on Education and the Work Force, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GOODLING: As you know, I was privileged to serve as the Chair of The National Commission on the Cost of Higher Education. Although we completed our work and submitted our final report to Congress in January of this year, I continue to work hard to ensure that college presidents throughout the nation take the Commission's recommendations seriously. I am pleased to report that many institutions have committed to redoubling their efforts to keep college affordable for all Americans.

I am also following with interest Congress' reauthorization of the Higher Education Act. Both the House and Senate authorizing committees have reported fine bills that deserve support. However, I would like to bring to your attention several issues that are of particular interest to me as former Chair of the Cost Commission. I hope you will find these comments useful as you proceed in the process of putting final legislation together.

1. INFORMATION ON COLLEGE COSTS

One of the strong messages that the Cost Commission sought to communicate is the need for greater clarity about the basic financial structure of colleges and universities. University administrators need better data to guide their efforts to contain costs; the public needs better data to make informed choices about obtaining a college education; and policymakers at all levels need better data as they make basic decisions regarding student aid, and regulation and oversight of the nation's colleges and universities. I am pleased that both the House and Senate bills have added provisions to their reauthorization bills that recognize the importance of achieving greater financial transparency. Based on our experiences in attempting to gather and analyze data for the Commission, however, I would caution against expanding unduly the government's role in the information-clarification process. To the extent that the Senate bill assumes a more limited and focused approach, I think it is the stronger of the two measures. The process of developing a better understanding of university finance includes, but is not limited to, improved reporting to the federal government, beginning with consistent definitions of cost, price, and subsidy. The Commission, therefore, recommended measures to strengthen IPEDS reporting and improve analysis by the Department of Education of the relationship between tuition and institutional expenditures. But we also took pains to make clear that much of the clarification and communication that needs to take place should take place through existing non-governmental channels—between institutions and their constituent families and students directly, through a public awareness campaign sponsored by the higher education community, through national accounting standards bodies such as FASB (the Financial Accounting Standards Board) and GASB (the Government Accounting Standards Board), and through the reports and handbooks that are already widely distributed in the higher education "market."

Both the House and Senate bills adopt our recommendation that IPEDS reporting be strengthened. To the extent that the House bill goes beyond this and directs the Secretary to develop a uniform cost reporting methodology outside of IPEDS, I would question whether that is a productive step to take. If any such effort is undertaken, it should involve extensive, formal consultation with the higher education community. Likewise, I question seriously the wisdom of asking the General Accounting Office annually to recapitulate the comprehensive study that the Commission was asked to conduct on a one-time basis. As our report indicates, we were not able to obtain meaningful data in many of the categories listed as the focus of an annual GAO report in the House bill. Under the circumstances, I would urge Congress to focus on improving the data through an NCES study, as recommended in the Senate bill.

Whatever the process for developing improved reporting, I urge you to consider two substantive points in particular. Any redesign of reporting categories should include the replacement value of capital assets, as the level of an institution's general subsidy cannot be calculated without taking that into account. Equally important, Congress should not impose a requirement that the cost of educating graduates and undergraduates be counted separately. Any such disaggregation would be completely arbitrary, inaccurate, and destructive of the organic education process that occurs on campuses where undergraduates and graduates are taught together.

Mr. HASTERT. Mr. Chairman, I yield myself such time as I may consume to ask the gentleman from Tennessee a question. I have great respect for the gentleman from Tennessee and I would ask him if this was a decision that was made in a year, or 2 years, or maybe 4 years, up to 4 years, and the gentleman had students at the University of Tennessee, or some other university, would it not be proper to notify those students when that decision was made to drop the sport? It would not mean the gentleman would have to hold that sport.

Mr. CLEMENT. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Tennessee.

Mr. CLEMENT. I tell the gentleman that I was at a small college university and I had a tough time balancing that budget. If the gentleman were to put me in a stringent situation such as that, where I had to look 4 years out, and I could not adjust my budget, the gentleman would put me in a terrible predicament.

Mr. HASTERT. Reclaiming my time, Mr. Chairman, the bill does not say 4 years. Whenever the gentleman makes the decision, up to 4 years. So if the gentleman were to do it 6 months from now or 1 year from now, 2 years from now, or 3 years from now, all I am saying is when the gentleman were to make that decision, is it not fair to notify that student that the gentleman or school has made that decision?

Mr. CLEMENT. If the gentleman will continue to yield, I would say to him that I love sports, but I think we are sending our students for academic purposes more than we are sports. That is the paramount importance.

Mr. HASTERT. Mr. Chairman, I appreciate the gentleman's statement, but the fact is a lot of kids make that life decision on where they go to school based on things like athletics and other extracurricular activities. Here we are looking at athletics, but that is a major decision on young men and young women when they decide to go to school. If they made that decision based on that premise, then they should be notified of that decision or if that premise is going to change.

Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), a valuable member of the Committee on Education and the Workforce.

Ms. WOOLSEY. Mr. Chairman, I rise in strong support of the Roemer amendment.

These new requirements are misguided at best. I ask the gentleman on the other side of the aisle if a college does not drop a particular course if not enough people have enrolled in it after people have already started their school year?

The reporting requirements added in H.R. 6 are nonsense. Hearings in the Committee on Education and the Workforce have clearly shown that men's minor college sports do not need this protection. Not only are reporting requirements not needed, they also will not work.

Dr. Ruben Arminana, the president of Sonoma State University in my district, tells me that these requirements will have just the opposite effect. President Arminana says that by forcing colleges to announce 4 years in advance when they plan to reduce or eliminate funds for a sport, we will restrict a school's flexibility in decision-making.

I quote President Arminana's response to this provision. He said:

> Sports teams will suffer irreparable damage, and institutions will be unable to retain the program should circumstances change at a later date.

These reporting requirements place unreasonable and inappropriate demands on institutions of higher education. It is an unwarranted Federal intrusion in college and university affairs and ignores efforts to curb college costs. Colleges and universities do not budget for 4-year cycles, they budget 1 year at a time. They need the flexibility to make decisions that are in the best interests of their students and campuses that year.

Who are we, here in this Congress, to insist that colleges justify their budget decisions to us?

□ 1730

Mr. Chairman, I urge my colleagues to vote for the Roemer amendment.

Mr. HASTERT. Mr. Chairman, how much time is remaining?

The CHAIRMAN pro tempore (Mr. EWING). The gentleman from Illinois (Mr. HASTERT) has 11½ minutes remaining. The gentleman from Indiana (Mr. ROEMER) has 13½ minutes remaining.

Mr. HASTERT. Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to my very good friend, the gentleman from the State of New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank my friend and classmate, the gentleman from Indiana, for yielding. I rise in support of the Roemer amendment.

Tomorrow, my 5-year-old daughter Jacqueline is going to enroll for kindergarten, and when my wife and I look at the cost of paying for an education, we really have our fingers crossed that some day she will earn an athletic scholarship to play lacrosse or soccer or field hockey or some other sport. We are going to need it.

The day that her mother started college, there were far fewer opportunities for women to play intercollegiate sports. When her grandmother was growing up, very few women went to college at all. There has been a lot of progress in opportunities for women over the years, and I believe that we should do nothing to turn back the clock on that progress. It is very important that we reaffirm our support for title IX, as I believe this amendment does.

I also believe that no one on the other side of this question wants to downgrade women's sports, and I understand that. I believe that we have gotten in an unfortunate box where, somehow or another, we believe that we are choosing between men and women in intercollegiate sports opportunities, and we should not.

I happen to believe that the record does show, particularly in the case of some sports like men's wrestling, that there have been some unjustifiable decisions made that have hurt student athletes. And I, for one, am looking for a tool to try and remedy those injustices.

With all due respect to its author, who I know is very well-advised and well-intentioned, I do not believe this is the right tool because of the expanded time window that is in it. I do share his conviction, however, that there ought to be some guarantee that before an institution chooses to terminate a sport that it ought to say exactly how much money it is going to save, justify those numbers so that the dynamic of the campus-based, decision-making community can look at that argument and see whether it is true or false.

So I will support the Roemer amendment tonight, but I will offer my willingness to cooperate in trying to find a way to resolve this very serious problem.

Mr. HASTERT. Mr. Chairman, I yield myself such time as I may consume.

It is interesting from time to time to take the floor. We try to reason out an issue and we try to decipher what is right and what is wrong, what is right and wrong for kids, what is right and wrong for our system of education, whether it be private or public, and what is the best course to take. And usually the common denominator when it comes down to it, especially in the area of education, is what is right for kids.

I appreciate the gentleman on the other side, because easily we try to get into a battle between men's sports and women's sports. That certainly is not my intent, and that is not the intent of this legislation. What we really want to do is to treat kids fairly.

Let me say that in my experience, and as most people know, I spent 16 years as a public school teacher and a coach, and before that participated in football and wrestling and other sports both in high school and college, part of probably the opportunity to participate in athletics gave me the opportunity to get out from behind stoves of a restaurant or behind the dishwasher because it gave me an opportunity to participate, it gave me a little help along the way.

I was in a private school; that was not a lot of glory, was not a lot of headlines. And contrary to my good friend, the gentleman from Michigan (Mr. BONIOR), the whip over on the other side, I was not a quarterback, I was just in the line. So I did not get any glory at all. But it changed my life and it put me in public education, certainly something I did not intend when I was in high school, but the opportunity to do that.

Now, today when I go back to a State tournament in Illinois and I look down on the floor of the tournament and I see coaches there that graduated from Southern Illinois University or graduated from Illinois State University or graduated from Western Illinois University. Those guys were never stars, they were never the quarterbacks, they were never the national champions, but they are guys or men at that time that pursued the sport because they loved the sport, and that sport changed their lives and they became teachers and coaches and people who have participated and have provided generations of leadership for young people who certainly need that leadership.

Also, I, as my colleagues know, have tried to take the lead in some areas on drug issues. One of the things, I met with the mayor of Chicago and the new superintendent of schools for the City of Chicago, and he says, "We cannot find enough people to be the role models for these kids."

One of the new innovations that they have done there and I think has been somewhat successful is to take students who are at risk, students that are ready to be bounced out of the public school system and keep them after school from 3:00 in the afternoon until 6:00 in the afternoon. Instead of suspending those kids, they have decided to keep those kids on Saturday instead of turning them loose on the streets.

What they found out is that the incidence of success for those kids has increased, but they also have found out that the crime rate has gone down because the crime rate was after school. The highest incidence of teenage crime was the hours right after school and on Saturdays. So they have given those kids direction.

Do my colleagues know who they depend on? They depend on the coaches to come in, the people who have the ability to be the role models, the people who have the ability to connect with these kids. They are not just exclusively coaches. Some of them are science teachers and some are art teachers, and some of them are English teachers. But they have given those kids hope.

What we do and what has happened, and I have seen the charts up here; the story is, though, the people who have gained are women's sports, and that is great. The sports that have lost are men's sports. Two hundred universities across this country in 1996 and 1997 have dropped sports; almost all of those sports are men's sports. We are just saying, if they are going to do that, give those kids a chance to reclaim their lives, give those kids a chance to find another university or another program to get into if that is their wish.

Now, we are not saying we cannot do it. I understand certainly the constraints of universities and colleges. I know the budget problems. I know that we do not want extra interference from the Federal Government in these schools. But we are just saying, give these kids a chance. If they are going to drop the program, let them know. Give them a chance to change.

Last week we had the roll-out of the For a Drug-Free America Act. That was an interesting experience. But one of the most interesting speakers that we had was a young lady from northern Illinois who was the goalie on the women's hockey team that won the gold medal in Nagano. The young lady is a premed student at Dartmouth University. She took 2 years out of her training to take the challenge to try to make the Olympic team. She did that.

She had a great message for the kids of this Nation. The message is, "You can do anything you want with your life. You can do anything you want. If you put your mind to it and your will to it, you can do it." But do my colleagues know what? She also had a great message that "If you get messed up with drugs, it probably is going to negate that." We need to have people's messages out there for our kids.

Do my colleagues know where she got her experience? She was the only girl on the men's hockey team that won the State championship in Illinois, but she earned that spot. The next year, that hockey team was no longer a school sport.

I am saying, when we take those opportunities for kids to excel, to try and reach out and get their dreams and some may be to be an Olympic champion or to be a State champion or to be a coach, when we drop those programs, we take away generations of leadership, leadership that we need to help our kids, boys and girls, to help our future, and to set the tone of what this country should be about.

All I am saying in this amendment, in this notice, is that if we are going to take that opportunity away from those kids, tell them, tell them on a timely basis. If it is 4 years ahead of time that decision is made, tell them in 4 years. If it is 3 years, tell them in 3 years. If it is 2 years, tell them in 2 years. If it is 1 year, tell them in 1 year. Give them a chance to make their own decision and to follow their goal in life.

Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, how much time is remaining?

The CHAIRMAN pro tempore. The gentleman from Indiana (Mr. ROEMER) has 11½ minutes remaining. The gentleman from Illinois (Mr. HASTERT) has 4 minutes remaining.

Mr. ROEMER. Mr. Chairman, I yield myself such time as I may consume.

I would just say that the gentleman from Illinois has given a very eloquent and passionate statement about mentoring and after-school programs and leadership programs for children, but not a Federal mandate or intrusion into our sports programs on the part of Washington to every university in the country.

Mr. Chairman, I yield 1¼ minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I rise in support of the Roemer-Riggs amendment.

I think it would be an almost impossible challenge and task for universities and institutions of higher learning to be required to predict 4 years in advance changes that might be anticipated in their athletic program. We have enough problems here in Congress in trying to predict what is going to happen next year.

Under the provision in the bill that has been included in H.R. 6, schools could lose their eligibility to receive Pell grants and higher education loans if they fail to predict and justify their decisions. This provision is intrusive, as has been mentioned, and I think it goes way beyond the limits of the Federal role in the development of higher education policy.

In addition to the absurdity of having to prophesy future changes, I am also concerned that this provision would tend to weaken title IX. And I am concerned that this reporting requirement will lead colleges and universities to blame reductions in men's nonrevenue sports, such as wrestling, on compliance with title IX.

I wanted to say, I also introduced that goalie and I introduced the captain of that winning hockey team in my district, and we were very proud of what they have done. And the gentleman from Illinois (Mr. HASTERT) is quite correct, but I just want to emphasize, the ultimate goal of title IX is to provide equal opportunities for boys as well as girls, men as well as women, and this is what we should do.

Mr. HASTERT. Mr. Chairman, I yield myself 1 minute.

I would like to remind the gentlewoman from Maryland (Mrs. MORELLA), a good friend of mine, I think, that there is no penalty in this bill. It does not take away or threaten universities with their Pell grants or anything.

There is no penalty in the bill. It just says, within a period of 4 years, up to 4 years, that if they decide in 4 years or 3 years or 2 years or 1 year or 6 months from now that they are going to do away with a sport, they ought to tell the kids they are going to do that so they have some time to plan.

So I understand that this is the understanding that my colleague has. It is wrong. We do not take away. There are no penalties in this bill. That is how benign this is. We are just saying, give kids a chance.

Mr. Chairman, I reserve the balance of my time.

Mr. ROEMER. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. DAVIS), the very talented freshman.

□ 1745

Mr. DAVIS of Florida. Mr. Chairman, I rise in support of the Riggs-Roemer amendment and against the mandate we are debating here this afternoon. This is a well-intended provision in the bill. It has, as its sponsor has mentioned, the goal of encouraging students to participate in intercollegiate athletics, team sports that teach teamwork, individual sports that teach self-esteem and confidence. But the provision does not have the intended effect and indeed it will have the opposite effect; that is, it will risk hurting students.

As has been mentioned, if enrollment were to drop at an institution, if student interest in participating in a particular sport were to decline and the budget dropped for that particular sport, this bill could have the effect of eliminating Federal funding that is needed to run that university or college and eliminating sorely needed financial aid.

Let us focus on what the real issue here is. The real issue is that we should adequately fund our universities and colleges, not just intercollegiate athletics for women but for men as well. They should not have to compete against each other.

Secondly and most importantly, as the sponsor of this provision alluded to, we need to strongly fund financial aid, because the greatest threat to participation in intercollegiate athletics is the time of our students who are increasingly being forced to work, as the sponsor was, and attend school and are robbed of the opportunity for extracurricular activities outside the classroom. By funding financial aid to meet these rising tuition increases around our country, by freeing our students up to have time to participate, this is what we should be focused on. This is why I would urge the adoption of the amendment.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, the reporting provisions in the Higher Education Act represent a highly inappropriate Federal intrusion into the affairs of our Nation's colleges and universities. I rise in support of the Roemer amendment to strike those provisions. Congress should not be in the business of interfering in the budgeting decisions of our Nation's colleges.

The Higher Education Act contains important provisions to help our students pay for the rapidly rising costs of college. Yet the reporting provisions in the bill would make it even more difficult for schools to make the tough decisions that will help them to keep tuition costs down. That is why the NCAA supports the Roemer amendment. These reporting provisions are an attempt to force colleges and universities to blame any reductions in men's sports on increases of women's sports. This is a backdoor attempt to weaken Title IX. This is not about men's teams versus women's teams. We are all on the same team here. We all win when our young women have the opportunity to challenge themselves, to strive to succeed to improve their confidence.

I urge my colleagues to allow our colleges and universities the autonomy to make their own decisions. Vote for the Roemer amendment.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. ETHERIDGE), a freshman Member working hard on education problems.

Mr. ETHERIDGE. Mr. Chairman, I rise in strong support of the Roemer-Riggs amendment to correct a serious flaw in this bill. This provision is wrong. I urge my colleagues to support this amendment to remove it from the bill.

Last week I met in my office with the president of the North Carolina Association of Independent Colleges and Universities. She explained to me her concerns about the harmful effect that this provision of the bill would have on the institutions of higher education in our State. Without passage of the Roemer-Riggs amendment, this bill would usurp the administrative flexibility of colleges and universities that they absolutely need to run their universities in the most effective manner, a mandate that has been given to them by this Congress through a commission that they set up.

The Federal Government should not be in the business of micromanaging our universities of higher education. But we should not as a process of trying to do it pit our academic institutions against the athletics and their struggle for resources. This provision would handicap colleges and subject them to a burdensome, restrictive and contentious process and send the wrong message to our Nation's schools.

This provision is unnecessary, and the Roemer-Riggs amendment is supported by the NCAA and other major higher education organizations.

My Congressional District contains several small colleges and universities. These institutions would be particularly hard hit by this bill. We must preserve the flexibility of these schools to continue to provide the excellent educational opportunities they are providing today.

Mr. Chairman, as the first member of my family to graduate from college, I know firsthand that higher education holds the key to the American Dream. This provision of H.R. 6 would have very serious, negative consequences for our nation's colleges and universities. As the former Superintendent of my state's schools, I urge my colleagues to join me in voting for the Roemer-Riggs amendment.

Mr. HASTERT. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. GOODLING), the chairman of the full committee.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding time. I just wanted to indicate that there is certainly a happy side to this debate this evening because as the new majority we certainly are making converts over there. I have heard so many times in this discussion from that side of the aisle, "We should not be mandating, we should not micromanage." That is music to my ears. We are really making progress here as a new majority. I thank you for joining us.

Mr. ROEMER. Mr. Chairman, we are delighted to get that endorsement from the chairman of the committee.

Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from North Carolina (Mr. PRICE), again from a university.

Mr. PRICE of North Carolina. Mr. Chairman, as a Member whose career has been in higher education, I would like to offer some observations in support of the Roemer amendment, which would strike the bill's provision requiring institutions to report annually and justify their reasons for any reduction in funding or in participation rates of any sports teams that might occur over the next 4 years.

I understand the intent of the gentleman from Illinois (Mr. HASTERT). We do need to use common sense in the implementation of Title IX, and the interests of all students in all sports need to be given consideration. But I think the Hastert provision is unwise policy for a couple of reasons.

The provision does represent a micromanagement of the budgeting practices of colleges and universities. Colleges and universities must be able to manage their budgets, set their priorities, and make their plans with the maximum amount of flexibility and freedom. These are hard times at many colleges and universities. Managing these institutions is a difficult task. An unreasonable Federal burden such as this one strikes me as simply unwise. Simply put, universities do not and should not be required to initiate 4-year budgeting plans. They need far more flexibility than that would permit, which leads me to my second point.

This provision might actually lead colleges to make hard and fast longterm decisions that would have the opposite effect of the intent of the bill. A requirement to announce decisions 4 years in advance could actually lead a college to signal the termination of a sports program, undermining its ability to recruit athletes, when in fact the program might be salvageable if circumstances change. It is hard to see any benefit in that for student athletes or for anybody else.

I urge my colleagues to vote in favor of the Roemer amendment in order to preserve the maximum amount of independence and flexibility in the operation of our Nation's colleges and universities.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. BONIOR), our minority whip.

Mr. BONIOR. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise with great reluctance to oppose the language in the bill of the gentleman from Illinois (Mr. HASTERT), who has really spent a good deal of his life in behalf of young people. I have listened carefully to his remarks and the sincerity and the passion in which he delivered them earlier.

When I look at the bill, two things that stand out to me is what the gentleman from Pennsylvania (Mr. GOODLING), the chairman of the committee referred to, and that is our concern about the micromanaging on our campuses, but also the issue that I want to address on the floor here is the question of Title IX and the great work that we have done over the years to get where we are, and that has been championed by the gentlewoman from Hawaii (Mrs. MINK).

Title IX is the landmark civil rights legislation which has done so much to advance equality for women. Thanks to 25 years of it, we are experiencing a tremendous boom in women's sports. When I was at the University of Iowa in 1963, on an athletic scholarship, I might add, to my friend from Illinois, I did not receive much glory either as I spent too much time on the bench, there was not a woman in the university who was on an athletic scholarship. Only the men had athletic scholarships. Before Title IX, only one in 27 girls competed in high school sports. Today it is one in three. Back then, only 300,000 young women took part in interscholastic athletics nationwide. Today it is 2.25 million.

This past winter, as has been said, we added women's hockey to the growing list of U.S. women's teams that are Olympic gold medal winners. We see young women turn out for NBA basketball games and they have got heroes like Rebecca Lobo and Lisa Leslie and soccer heroes like Mia Hamm. We should be proud of these new opportunities for our daughters.

This provision that is in the bill would, I think, take a step backwards by pitting men's programs against women's programs. It is important to understand that we have had no court order that has ever forced a school to reach proportionality to comply with Title IX. Mr. Chairman, I urge my colleagues not to pit small men's sports programs against struggling women's programs. I urge them to vote for the Roemer-Riggs-Mink amendment.

Mr. ROEMER. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Hawaii (Mrs. MINK), the champion of equality and fairness.

Mrs. MINK of Hawaii. I thank the gentleman for yielding me this time.

Mr. Chairman, we have heard some very eloquent statements this afternoon arguing about the inability of institutions of higher learning to respond to this mandate to forecast 4 years in advance where they are going to eliminate or reduce athletic programs or cut funding. More particularly, if you look at the language of the provision in the bill, it says, "and to give reasons therefor." So while I fully subscribe to the arguments about university autonomy and what this provision will do to the universities, expecting them to be able to forecast 4 years in advance, I want to address those last four words of the amendment, "and to give reasons therefor."

Arguments have been made on the floor this afternoon that one of the reasons, perhaps, that men's nonrevenue sports have had to be eliminated in a number of instances is because women's sports have been gaining. If you look at the statistics and you study the record, such accusations are absolutely, totally false. Twenty-five years ago when I had the privilege of serving in the Congress and advocating for the passage of Title IX, women were totally excluded. Now for the first time, they are coming up and participating in major sports, gaining the support of wide audiences, becoming in some cases even a revenue sport. It seems to me it is wholly unfair to now try to cause the universities to single out Title IX as a reason for having to cut back on nonrevenue sports in the men's area. I believe sincerely that this is what it is all about.

I certainly agree with the gentleman from Illinois' argument that if we allow young people to participate in sports, it is going to change their lives entirely. That is exactly what has happened to women. It has changed their lives entirely. Title IX after 25 years has finally opened up opportunity in higher education, and one of the opportunities is in the sports area. It has given them the opportunity to find out what it is to be a competitor.

Women have been winning, have been coming home with the gold medals. I never had that opportunity. I could not even get into the profession that I wanted to when I was going to college. I yearned for the opportunity to have that chance, to seek my chosen career opportunities.

Title IX has opened up the way for women into law school, medical schools and all the professions. They have done well in the sports. Let us not add this language and compound the pressures upon Title IX and cause it to become the scapegoat for further accusations and further litigation.

Mr. Chairman. I urge the support of the Roemer amendment.

Mr. Chairman, I rise today in strong support of the Roemer amendment to strike the onerous reporting requirement included in this bill which will force schools to report on potential reductions in athletic programs.

This provision was included in the Committee bill at the 11th hour. Most Committee Members had no knowledge of the provision and there was no appropriate debate on the consequences or the practicality of what we are requiring schools to do in this provision.

There are many reasons to oppose the reporting requirement, many of which have been outlined by my colleagues—it is extraordinarily intrusive in the decision making process of colleges and universities; it is impractical—it will be virtually impossible for colleges to know if they are going to cut or reduce certain athletic programs four years in advance and it will force colleges to make decisions prematurely about their athletic programs. Furthermore, this reporting requirement could actually prompt colleges to close the very programs the proponents of this provision are seeking to save.

I oppose this provision for all these reasons, but most of all, I stand today with my colleague TIM ROEMER urging the House to strike this reporting requirement because of the potential for severe adverse impact on the enforcement of Title IX.

The reporting requirement in the bill was included by opponents to Title IX who want to force colleges to blame reductions in smaller, non-revenue men's sports on Title IX. They are hoping that colleges will say in their reports that compliance with Title IX is the reason they have to reduce men's sports, which is simply not true!

Title IX of the Education Act Amendments of 1972 prohibits all schools receiving federal funds from discriminating against women, including women's athletic programs.

The success of Title IX in increasing athletic opportunities for girls and women is indisputable. We have all seen the success of Title IX through the increased strength and popularity of women's collegiate sports, the record number of U.S. women athletes winning Olympic medals, and the establishment of two professional women's basketball leagues.

Thanks to Title IX, 110,000 college women and 2.2 million high school girls now compete in intercollegiate and interscholastic sports.

Women who participate in sports now reap the benefits that men have enjoyed for decades—new economic opportunities, building team work and leadership skills that translate into marketable jobs skills. Girls and women who participate in sports are also healthier and involvement in team sports also reduces the potential for involvement in juvenile crime and teen pregnancy.

Blaming women's sports for reductions in non-revenue men's sports is pitting the have-nots against the have-nots. While women's athletic programs have been increasing, female athletes still get the short end of the stick. Women still have only 37% of the opportunities to play intercollegiate sports, 38% of athletic scholarships, 23% of athletic operating budgets and 27% of the dollars spent to recruit new athletes.

While women's athletics has been inceasing, so have men's athletic budgets—at an even greater pace. Since 1972 (passage of Title IX) for every new dollar spent on women's intercollegiate sports, two new dollars were spent on men's intercollegiate sports.

From 1992–1997, men's athletic operating budgets have increased by 139%. The increase in women's budgets was much less at 89%.

The real problem is that the lion's share of total athletic resources goes to male athletes, but these resources are inequitably distributed among men's sports. Football and men's Basketball consume 73% of the total men's athletic operating budget at Division I–A institutions, leaving other men's sports to compete for the remaining funds.

Of the $1.37 million average increase in expenditures for men's Division I–A sports programs during the past five years, 63% of this increase went to football.

Minor men's sports that are threatened should turn their attention to the other major men's sports, and not take away from women's sports which only have 37% of the funds.

Title IX should not be used as a scapegoat for decisions made by institutions because of fiscal difficulties, or their decisions to inequitably distribute funds among men's sports.

We have come too far, we cannot turn our back on women athletes. Support Title IX and vote for the Roemer Amendment.

Mr. ROEMER. Mr. Chairman, how much time remains?

The CHAIRMAN pro tempore (Mr. EWING). The gentleman from Indiana (Mr. ROEMER) has 30 seconds and the gentleman from Illinois (Mr. HASTERT) has 2½ minutes.

Mr. ROEMER. Mr. Chairman, who has the right to close?

The CHAIRMAN pro tempore. The gentleman from Indiana (Mr. ROEMER) has the right to close.

PARLIAMENTARY INQUIRY

Mr. HASTERT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. HASTERT. Mr. Chairman, the committee position holds the right to close. The gentleman from Indiana opened debate.

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. HASTERT) is not on the committee. The gentleman from Indiana (Mr. ROEMER) has the right to close.

Mr. HASTERT. Mr. Chairman, I yield myself the balance of my time.

Certainly I want to thank the gentleman from California (Mr. MCKEON), who has worked with me to try to structure this language that made sense. I like to fish. I wish I had my pole here today because we have a lot of red herrings that have been floating around this place.

Let me be very, very honest and straight. The gentlewoman from Hawaii talked about title IX. This is not about title IX. Some people say it takes 4 years' notice. It is not 4 years' notice. It is notice when a school decides up to 4 years to give notice to kids who are not going to have the opportunity to participate.

□ 1800

But let me talk a little bit about what has arisen here as far as men versus women, certainly not the intent of this gentleman to talk about that. As my colleagues may know, my wife started teaching about the same time I did. She is a women's athletic coach. At that time the only opportunity that women had was GA, Girl's Athletics; it was an intramural thing. Today women have all types of opportunities; as many in girl sports in this high school as there are in boy sports, and that is great because it has changed the way.

All we are saying in this amendment is let us be decent, let us be honest, and let us tell our kids when their opportunities are gone that they have the chance to go someplace else if that is the case. That is what we are asking about.

But let me just say one more thing. As my colleagues may know, I had worked with the universities and small colleges, independent colleges and the NCAA. We had an agreement. An agreement was when this bill goes to conference let us work to make sure that this is a voluntary system.

Now the Congress is going to work their will today, one way or another, but those who so vociferously stood up and said let us not do mandates, let us then talk to the NCAA and make sure that this does, win, lose, or draw, become something that is voluntarily encouraged by the NCAA to its members. That is the bottom line. Let us let kids have the understanding and the knowledge when their sport is terminated that they have the ability to make a choice. Let their parents have the ability to make their choice.

Now, unfortunately, a lot of these kids are going to be vested in these schools, they are going to have hours. Maybe there will be sophomores or juniors and they cannot afford to change. What we are asking them, if they can, if they want to, if they are following their life's dream and this is part of what they want to accomplish with a college education, they need to have the opportunity of the knowledge, the same knowledge that the school has. It is not going to change their ability or their budgeting or anything else. It is common sense.

Mr. Chairman, let us vote on the side of common sense in this Congress for a change.

Mr. ROEMER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in conclusion this side, in efforts to strike this language in the bill, we are for the students' right to know. We just think that the universities should do it in a voluntary fashion, not from a mandate from the Federal Government in Washington, D.C.

If we were to bring a small business bill to the floor and have a provision in that bill saying that every small business in the country has to let us in the Federal Government know 4 years in advance if they are going to lay anybody off, that would be voted down.

Vote down this provision. Do not put a half nelson of regulations on every university in the country. Vote for the Roemer-Riggs amendment.

Ms. KILPATRICK. Mr. Chairman, I rise today in strong support of a bi-partisan amendment offered by my colleagues, Congressmen TIM ROEMER and FRANK RIGGS. This amendment would eliminate a provision in H.R. 6, the Higher Education Act of 1998, that would require colleges to report four years in advance the possible elimination of athletics programs. This onerous provision would, in effect, gut the purpose of equality in athletics for men and women. It is my hope that the wisdom of Congress prevails in adopting this amendment.

As the team leader for the Congressional Caucus for Women's Issues—Title IX task force, I am often asked whether the Women's Caucus has a position on the elimination of sports opportunities for men as a method of complying with Title IX of the Education Amendments of 1972. Over the past five years, no less than 55 institutions nationwide have eliminated or downgraded to club status men's varsity intercollegiate sports or placed squad size limits on men's teams. Most schools cite, as the reason for their decision, the need to reduce expenditures in order to provide opportunities for women.

The Women's Caucus is not in favor of reducing opportunities for men as the preferred method of achieving Title IX compliance. Title IX is one section of the Education Amendments of 1972. Though it is commonly associated with college athletic programs, it is, in fact, a wide-ranging sex discrimination law that also applies to high schools and elementary schools. It states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the participation in an educational activity."

The reporting requirement in H.R. 6 was included by opponents to Title IX who want to force colleges to blame reductions in smaller, non-revenue men's sports on Title IX. They are hoping that colleges will say in their reports that compliance with Title IX is the reason they have to reduce men's sports, which is not true. Since the passage of Title IX, in 1972, for every one new dollar spent on women's intercollegiate sports, two new dollars were spent on men's intercollegiate sports. From 1992–1997, men's athletic operating budgets have increased by 139%. The increase in expenditures for women's sports during this time period, 89% pales in comparison. Football and men's basketball consume 73% of the total men's athletic operating budget at Division 1–A institutions, leaving other men's sports to compete for remaining funds. Of the $1.37 million average increase in expenditures for men's Division 1–A sports programs during the past five years, sixty-three percent of this increase went to football.

Blaming women's sports for reductions in non-revenue sports is pitting the have-nots against the have-nots. The lion's share or resources goes to male athletes, which are inequitably distributed among men's sports. Title IX should not be used as a scapegoat for decisions made by institutions because of fiscal difficulties, or because of decisions to inequitably distribute funds among men's sports.

Instead of developing an acrimonious environment between men's non-revenue sports and women's sports, we as legislators should be looking for solutions that will allow opportunities for all students to participate in activities. We need to explore the options of moving college athletic programs to a lower level of competitive division and using tuition waiver savings to athletics budgets to fund gender equity.

Equality has always benefited all Americans. If we intended to compete on a global level academically and athletically, we need a strong Title IX. I urge my colleagues to support this bi-partisan amendment to H.R. 6, the Higher Education Act.

Mrs. MALONEY of New York. Mr. Chairman, I rise in support of this amendment to H.R. 6.

H.R. 6 contains a provision which requires colleges to report on any potential reduction in athletic programs four years in advance and the reasons for that proposed reduction.

This provision is just another attempt to get colleges and universities to blame Title IX for reductions in smaller, non-revenue men's sports.

Title IX has been very successful in increasing the visibility and strength of women's collegiate sports. Its success can be seen in the two newly formed professional women's basketball leagues.

Title IX has been very important program, and it should not become a scapegoat for fiscal difficulties affecting the institution.

Title IX is not the only problem with this bill.

Congress should not restrict a college or universities ability to decide on its programs and budget.

Colleges and universities do not set their budgets four years in advance, yet this provision would force them to make decisions while just guessing at what the future may hold.

In a time when the cost of college is rising much faster than the cost of living, we must find ways to help colleges decrease costs; not create obstacles to suspending programs that the college or university can no longer afford.

This provision intrudes into the decision making policies of universities and colleges, and it would force colleges to make decisions prematurely about their athletic programs.

I urge my colleagues to join me in voting yes to this amendment to delete this provision from the bill.

Mr. BENTSEN. Mr. Chairman, I rise in support of this amendment.

This amendment strikes a provision of this bill that would have the federal government oversee and mandate the decisions of our nation's institutions of higher learning. I support this amendment because I believe it is inappropriate for Congress to interfere in a college or university's design of its own athletic programs or preparation of its own budget.

The provision in question would require institutions to file annual reports with the federal government that specify and justify any planned reductions in funding or participation rates of any athletic programs that may occur over the following four years. This is a costly, unnecessary and unfunded mandate that would undermine Congress' previous efforts to ensure the affordability of higher education.

The National Commission on the Cost of Higher Education, which Congress created, allowed institutions to make their own decisions about the best means for slowing the growth of college costs. This bill, however, would take away this authority and require postsecondary institutions to justify their budgets and long-range planning decisions. Most, if all, colleges and universities do not budget in four year cycles. This bill would require these institutions to revise budgetary practices and foresee the rise or decline in athletic programs several years in advance. This action will not only have an immediate, negative impact on the identified program, but it would severely restrict an institution's ability to recruit student athletes and take steps to save troubled programs.

There is simply no need for this provision. In fact, NCAA data shows no evidence of a nationwide trend of eliminating college athletic programs. In the 1995–96 academic year, only two sports experienced a reduction in their team totals, with a net loss of only six teams. That is only six teams out of 15,141 men's and women's sports teams, with 322,763 student-athletes, in NCAA member-sponsored institutions. In fact in 1995–96, 1,166 new sports teams were added.

I am also concerned that this provision would force institutions to reduce participation in smaller, non-revenue Title IX sports programs, which are designed to expand opportunity for women in college athletic programs. The bill contains burdensome reporting requirements that would pit sports programs for men against those for women. If institutions are forced to forecast profitability when determining the future of athletic programs, I am concerned that less established, revenue-neutral womens programs will be easy targets for termination. The end result will be diminished level of opportunity for women athletes and diminished participation by women in intercollegiate athletics.

I urge all of my colleagues to support the Riggs-Roemer amendment.

Mr. WATTS of Oklahoma. Mr. Chairman, I rise today to urge my colleagues to support the Riggs-Roemer Amendment to H.R. 6, the Higher Education Act Amendments of 1998. Currently, H.R. 6 contains language that would require universities to give at least four years of advance notice if they plan to discontinue any sports programs. The Riggs-Roemer Amendment would remove this language from H.R. 6, and prevent the federal government from micro-managing college sports in this dangerous manner.

Once a college announces that one of their sports teams is being disbanded, immediately, that team becomes a lame duck. The program permanently loses its fan base, any potential recruits and also the support of its financial boosters. The potential thus becomes a reality.

It would be a shame if a college were forced by law to announce the discontinuation of a sport four years early, only to find enough money to keep the program afloat a year later. By then, that program will have suffered irreparable and unnecessary damage to its reputation and viability.

The government should not force colleges to announce four years in advance that they plan to discontinue a sports program. That rule would limit a college's options when it comes to possibly saving a struggling sport. I urge my colleagues to support the Riggs-Roemer Amendment to H.R. 6, so we can save college athletics from government over-regulation.

Mr. MORAN of Virginia. Mr. Chairman, I rise in strong support of the Riggs-Roemer Amendment.

I agree with my colleagues about the importance of ensuring autonomy for university administrators for their own athletic programs. I am astounded at the thought of the compliance issues associated with the provision in the bill this amendment proposes to strike. I am also concerned that this is a thinly veiled attempt to undermine the gains that we have made through the Title IX program.

The provision in H.R. 6 that the Riggs-Roemer amendment would eliminate would force recipients of Higher Education Act funds to justify cuts in college athletic programs.

Forcing an institution to maintain a failed program for four years after they report the cut is ludicrous. Imagine if this requirement were imposed on Congress. We would not be able to cut a program even if an emergency demanded it. We would never accept such a restriction and should not impose one on university administrators.

This provision is an attempt to allow colleges and universities to use Title IX as a scapegoat for cuts to other athletic programs.

No one understands better the difficult decisions that balancing a budget brings than we do in Congress. Title IX, which creates equal access to important programs for young men and women, should not suffer because of painful budgetary decisions. Last year Title IX celebrated its 25th anniversary. Since that time, women's participation in school athletic programs has increased dramatically. This increase has benefited young women in many aspects of life. Young women who play sports are more likely to graduate from high school, and less likely to use drugs or have an unintended pregnancy. They reap multiple health benefits from athletic participation, including a 40%–60% decrease in their risk of breast cancer. In addition, athletic participation helps improve self-esteem and discipline.

I urge my colleagues to support Title IX and preserve autonomy in decisions at institutions of higher education. Please support the Riggs-Roemer amendment.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentleman from Indiana (Mr. ROEMER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ROEMER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 411, further proceedings on the amendment offered by the gentleman from Indiana (Mr. ROEMER) will be postponed.

Are there further amendments?

AMENDMENT NO. 82 OFFERED BY MS. MILLENDER-MCDONALD

Ms. MILLENDER-McDONALD. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 82 offered by Ms. MILLENDER-McDONALD:

At the end of the bill add the following new title:

TITLE XI—TEACHER EXCELLENCE IN AMERICA CHALLENGE

SEC. 1101. SHORT TITLE.

This title may be cited as the "Teacher Excellence in America Challenge Act of 1998".

SEC. 1102. PURPOSE.

The purpose of this title is to improve the preparation and professional development of teachers and the academic achievement of students by encouraging partnerships among institutions of higher education, elementary schools or secondary schools, local educational agencies, State educational agencies, teacher organizations, and nonprofit organizations.

SEC. 1103. GOALS.

The goals of this title are as follows:

(1) To support and improve the education of students and the achievement of higher academic standards by students, through the enhanced professional development of teachers.

(2) To ensure a strong and steady supply of new teachers who are qualified, well-trained,

and knowledgeable and experienced in effective means of instruction, and who represent the diversity of the American people, in order to meet the challenges of working with students by strengthening preservice education and induction of individuals into the teaching profession.

(3) To provide for the continuing development and professional growth of veteran teachers.

(4) To provide a research-based context for reinventing schools, teacher preparation programs, and professional development programs, for the purpose of building and sustaining best educational practices and raising student academic achievement.

SEC. 1104. DEFINITIONS.

In this title:

(1) ELEMENTARY SCHOOL.—The term "elementary school" means a public elementary school.

(2) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means an institution of higher education that—

(A) has a school, college, or department of education that is accredited by an agency recognized by the Secretary for that purpose; or

(B) the Secretary determines has a school, college, or department of education of a quality equal to or exceeding the quality of schools, colleges, or departments so accredited.

(3) POVERTY LINE.—The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(4) PROFESSIONAL DEVELOPMENT PARTNERSHIP.—The term "professional development partnership" means a partnership among 1 or more institutions of higher education, 1 or more elementary schools or secondary schools, and 1 or more local educational agency based on a mutual commitment to improve teaching and learning. The partnership may include a State educational agency, a teacher organization, or a nonprofit organization whose primary purpose is education research and development.

(5) PROFESSIONAL DEVELOPMENT SCHOOL.—The term "professional development school" means an elementary school or secondary school that collaborates with an institution of higher education for the purpose of—

(A) providing high quality instruction to students and educating students to higher academic standards;

(B) providing high quality student teaching and internship experiences at the school for prospective and beginning teachers; and

(C) supporting and enabling the professional development of veteran teachers at the school, and of faculty at the institution of higher education.

(6) SECONDARY SCHOOL.—The term "secondary school" means a public secondary school.

(7) TEACHER.—The term "teacher" means an elementary school or secondary school teacher.

SEC. 1105. PROGRAM AUTHORIZED.

(a) IN GENERAL.—From the amount appropriated under section 1111 and not reserved under section 1109 for a fiscal year, the Secretary may award grants, on a competitive basis, to professional development partnerships to enable the partnerships to pay the Federal share of the cost of providing teacher preparation, induction, classroom experience, and professional development opportunities to prospective, beginning, and veteran teachers while improving the education of students in the classroom.

(b) DURATION; PLANNING.—The Secretary shall award grants under this title for a period of 5 years, the first year of which may be used for planning to conduct the activities described in section 1106.

(c) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall make annual payments pursuant to a grant awarded under this title.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (a)(1) shall be 80 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (a)(1) may be in cash or in-kind, fairly evaluated.

(d) CONTINUING ELIGIBILITY.—

(1) 2ND AND 3D YEARS.—The Secretary may make a grant payment under this section for each of the 2 fiscal years after the first fiscal year a professional development partnership receives such a payment, only if the Secretary determines that the partnership, through the activities assisted under this title, has made reasonable progress toward meeting the criteria described in paragraph (3).

(2) 4TH AND 5TH YEARS.—The Secretary may make a grant payment under this section for each of the 2 fiscal years after the third fiscal year a professional development partnership receives such a payment, only if the Secretary determines that the partnership, through the activities assisted under this title, has met the criteria described in paragraph (3).

(3) CRITERIA.—The criteria referred to in paragraphs (1) and (2) are as follows:

(A) Increased student achievement as determined by increased graduation rates, decreased dropout rates, or higher scores on local, State, or national assessments for a year compared to student achievement as determined by the rates or scores, as the case may be, for the year prior to the year for which a grant under this title is received.

(B) Improved teacher preparation and development programs, and student educational programs.

(C) Increased opportunities for enhanced and ongoing professional development of teachers.

(D) An increased number of well-prepared individuals graduating from a school, college, or department of education within an institution of higher education and entering the teaching profession.

(E) Increased recruitment to, and graduation from, a school, college, or department of education within an institution of higher education with respect to minority individuals.

(F) Increased placement of qualified and well-prepared teachers in elementary schools or secondary schools, and increased assignment of such teachers to teach the subject matter in which the teachers received a degree or specialized training.

(G) Increased dissemination of teaching strategies and best practices by teachers associated with the professional development school and faculty at the institution of higher education.

(e) PRIORITY.—In awarding grants under this title, the Secretary shall give priority to professional development partnerships serving elementary schools, secondary schools, or local educational agencies, that serve high percentages of children from families below the poverty line.

SEC. 1106. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Each professional development partnership receiving a grant under this title shall use the grant funds for—

(1) creating, restructuring, or supporting professional development schools;

(2) enhancing and restructuring the teacher preparation program at the school, college, or department of education within the institution of higher education, including—

(A) coordinating with, and obtaining the participation of, schools, colleges, or departments of arts and science;

(B) preparing teachers to work with diverse student populations; and

(C) preparing teachers to implement research-based, demonstrably successful, and replicable, instructional programs and practices that increase student achievement;

(3) incorporating clinical learning in the coursework for prospective teachers, and in the induction activities for beginning teachers;

(4) mentoring of prospective and beginning teachers by veteran teachers in instructional skills, classroom management skills, and strategies to effectively assess student progress and achievement;

(5) providing high quality professional development to veteran teachers, including the rotation, for varying periods of time, of veteran teachers—

(A) who are associated with the partnership to elementary schools or secondary schools not associated with the partnership in order to enable such veteran teachers to act as a resource for all teachers in the local educational agency or State; and

(B) who are not associated with the partnership to elementary schools or secondary schools associated with the partnership in order to enable such veteran teachers to observe how teaching and professional development occurs in professional development schools;

(6) preparation time for teachers in the professional development school and faculty of the institution of higher education to jointly design and implement the teacher preparation curriculum, classroom experiences, and ongoing professional development opportunities;

(7) preparing teachers to use technology to teach students to high academic standards;

(8) developing and instituting ongoing performance-based review procedures to assist and support teachers' learning;

(9) activities designed to involve parents in the partnership;

(10) research to improve teaching and learning by teachers in the professional development school and faculty at the institution of higher education; and

(11) activities designed to disseminate information, regarding the teaching strategies and best practices implemented by the professional development school, to—

(A) teachers in elementary schools or secondary schools, which are served by the local educational agency or located in the State, that are not associated with the professional development partnership; and

(B) institutions of higher education in the State.

(b) CONSTRUCTION PROHIBITED.—No grant funds provided under this title may be used for the construction, renovation, or repair of any school or facility.

SEC. 1107. APPLICATIONS.

Each professional development partnership desiring a grant under this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

(1) describe the composition of the partnership;

(2) describe how the partnership will include the participation of the schools, colleges, or departments of arts and sciences within the institution of higher education to ensure the integration of pedagogy and content in teacher preparation;

(3) identify how the goals described in section 1103 will be met and the criteria that will be used to evaluate and measure whether the partnership is meeting the goals;

(4) describe how the partnership will restructure and improve teaching, teacher preparation, and development programs at the institution of higher education and the professional development school, and how such systemic changes will contribute to increased student achievement;

(5) describe how the partnership will prepare teachers to implement research-based, demonstrably successful, and replicable, instructional programs and practices that increase student achievement;

(6) describe how the teacher preparation program in the institution of higher education, and the induction activities and ongoing professional development opportunities in the professional development school, incorporate—

(A) an understanding of core concepts, structure, and tools of inquiry as a foundation for subject matter pedagogy; and

(B) knowledge of curriculum and assessment design as a basis for analyzing and responding to student learning;

(7) describe how the partnership will prepare teachers to work with diverse student populations, including minority individuals and individuals with disabilities;

(8) describe how the partnership will prepare teachers to use technology to teach students to high academic standards;

(9) describe how the research and knowledge generated by the partnership will be disseminated to and implemented in—

(A) elementary schools or secondary schools served by the local educational agency or located in the State; and

(B) institutions of higher education in the State;

(10)(A) describe how the partnership will coordinate the activities assisted under this title with other professional development activities for teachers, including activities assisted under titles I and II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq., 6601 et seq.), the Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.); and

(B) describe how the activities assisted under this title are consistent with Federal and State educational reform activities that promote student achievement of higher academic standards;

(11) describe which member of the partnership will act as the fiscal agent for the partnership and be responsible for the receipt and disbursement of grant funds under this title;

(12) describe how the grant funds will be divided among the institution of higher education, the elementary school or secondary school, the local educational agency, and any other members of the partnership to support activities described in section 1106;

(13) provide a description of the commitment of the resources of the partnership to the activities assisted under this title, including financial support, faculty participation, and time commitments; and

(14) describe the commitment of the partnership to continue the activities assisted under this title without grant funds provided under this title.

SEC. 1108. ASSURANCES.

Each application submitted under this title shall contain an assurance that the professional development partnership—

(1) will enter into an agreement that commits the members of the partnership to the support of students' learning, the preparation of prospective and beginning teachers, the continuing professional development of veteran teachers, the periodic review of teachers, standards-based teaching and learning, practice-based inquiry, and collaboration among members of the partnership;

(2) will use teachers of excellence, who have mastered teaching techniques and subject areas, including teachers certified by the National Board for Professional Teaching Standards, to assist prospective and beginning teachers;

(3) will provide for adequate preparation time to be made available to teachers in the professional development school and faculty at the institution of higher education to allow the teachers and faculty time to jointly develop programs and curricula for prospective and beginning teachers, ongoing professional development opportunities, and the other authorized activities described in section 1106; and

(4) will develop organizational structures that allow principals and key administrators to devote sufficient time to adequately participate in the professional development of their staffs, including frequent observation and critique of classroom instruction.

SEC. 1109. NATIONAL ACTIVITIES.

(a) In General.—The Secretary shall reserve a total of not more than 10 percent of the amount appropriated under section 1111 for each fiscal year for evaluation activities under subsection (b), and the dissemination of information under subsection (c).

(b) National Evaluation.—The Secretary, by grant or contract, shall provide for an annual, independent, national evaluation of the activities of the professional development partnerships assisted under this title. The evaluation shall be conducted not later than 3 years after the date of enactment of the Teacher Excellence in America Challenge Act of 1998 and each succeeding year thereafter. The Secretary shall report to Congress and the public the results of such evaluation. The evaluation, at a minimum, shall assess the short-term and long-term impacts and outcomes of the activities assisted under this title, including—

(1) the extent to which professional development partnerships enhance student achievement;

(2) how, and the extent to which, professional development partnerships lead to improvements in the quality of teachers;

(3) the extent to which professional development partnerships improve recruitment and retention rates among beginning teachers, including beginning minority teachers; and

(4) the extent to which professional development partnerships lead to the assignment of beginning teachers to public elementary or secondary schools that have a shortage of teachers who teach the subject matter in which the teacher received a degree or specialized training.

(c) Dissemination of Information.—The Secretary shall disseminate information (including creating and maintaining a national database) regarding outstanding professional development schools, practices, and programs.

SEC. 1110. SUPPLEMENT NOT SUPPLANT.

Funds appropriated under section 1111 shall be used to supplement and not supplant other Federal, State, and local public funds expended for the professional development of elementary school and secondary school teachers.

SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $100,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003.

Ms. MILLENDER-McDONALD. I offer this amendment, Mr. Chairman, because we must improve the quality of teachers teaching our children. As a former educator in the Los Angeles Unified School District, I know the discouragement and despair that saps the morale and inspiration of our teachers, which directly impacts our children. I believe that we must restore the stature and importance of the profession of teaching. We must have the best-trained teachers if we expect our children to be the best.

This is why I have offered the Teacher Excellence Amendment which will change the way teachers are trained and improve the quality of teaching in America's classrooms. The language implements some of the recommendations from the National Commission on Teaching in America's Future, of which I am the only Member of Congress who serves on that commission.

My amendment, Mr. Chairman, will directly connect our teacher preparation system to our schools by establishing a competitive grant program for professional development partnership consisting of colleges, public schools, State and local educational agencies, teacher organizations, professional education organizations and others. If we are to make sure or to ensure that teachers are professionally trained, Mr. Chairman, we must make sure that we then have the type of professional development that will not just be weekend professional development but will be ongoing professional development.

The amendment also provides for the continuing development and professional training of veteran teachers, and it also provides for mentorship of prospective and beginning teachers by veteran teachers. We recognize that beginning teachers must have pre-induction and post-induction training and support systems. Therefore, this bill and this amendment would allow for that type of professional development of veteran teachers.

The amendment also increases recruitment to outreach for more diverse students toward teacher discipline. It prioritizes awarding of grants to programs serving low-income areas. It promotes the use of teachers of excellence, who have master teaching techniques in subject areas, to come back and teach those beginning teachers, as well as teachers that are certified by the National Board of Professional Teaching Standards, to assist prospective and beginning teachers.

Now some of the weaknesses of the underlying bill: It prohibits a national system of teaching certification, and we from the National Commission of Teaching in America's Future recognize it is the fact that we must have a national system of teacher certification so that we will ensure that teachers are certified to teach in those prospective disciplines.

This amendment also authorizes $100 million as opposed to the 18 million that the present bill has. We see this as a need, if we are going to encourage more professional development, that is sorely needed for qualified teachers.

It also mandates governors to submit grant applications instead of allowing individual professional development partnerships to submit their own grant applications.

Mr. Chairman, I do urge that my colleagues support this teacher excellence amendment as it ensures America's teachers be the best trained they can be to educate our children for the world of work; and for that, Mr. Chairman, I ask for the approval of the amendment.

Mr. GOODLING. Mr. Chairman, will the gentlewoman yield?

Ms. MILLENDER-McDONALD. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, as I understand it, we are working with the gentlewoman between now and conference time to see what we can do with her desires.

Ms. MILLENDER-McDONALD. Mr. Chairman, I do hope that we can work together because there are a lot of provisions in my amendment that are not in the present bill, and I think it is critical that we include these provisions if we are going to indeed talk about professional training for teachers and ensure that teachers are qualified to teach in that discipline. And for that reason, I sure hope that I have the understanding from the gentleman that we will work with the provisions that I have in concert with what the gentleman has.

For that reason, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The CHAIRMAN pro tempore. The amendment offered by the gentlewoman from California (Ms. MILLENDER-McDONALD) is withdrawn.

AMENDMENT NO. 31 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 31 offered by Ms. JACKSON-LEE of Texas: at the end of the bill, add the following new title:

TITLE XIII—EARLY DYSLEXIA DETECTION

SEC. 1202. EARLY DYSLEXIA DETECTION.

Directs the Secretary to conduct a study and submit a report to the Congress on methods for identifying students with dyslexia early in their educational training, and conduct such study in conjunction with the National Academy of Sciences.

MODIFICATION TO AMENDMENT NO. 31 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to modify my amendment with the modification at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 31 offered by Ms. JACKSON-LEE of Texas: in lieu of the matter proposed to be added at the end of the bill, add the following:

TITLE XI—SENSE OF THE HOUSE OF REPRESENTATIVES REGARDING DETECTION OF LEARNING DISABILITIES, PARTICULARLY DYSLEXIA, IN POSTSECONDARY EDUCATION

SEC. 1101. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that colleges and universities receiving assistance under the Higher Education Act of 1965 shall establish policies for identifying students with learning disabilities, specifically students with dyslexia, early during their postsecondary educational training so they may have the ability to receive higher education opportunities.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentlewoman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The modification is agreed to.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I do want to thank the gentleman from Pennsylvania (Mr. GOODLING) the chairperson, for both cooperating with me on this sense of Congress, but as well acknowledging the many efforts that we have offered and constructed dealing with learning disabilities and, in particular, dyslexia. Let me thank the gentleman from Missouri (Mr. CLAY) for his kindness and cooperation as well, the gentleman from California (Mr. McKEON), and the gentleman from Michigan (Mr. KILDEE) for their sensitivity to this issue.

Fifteen percent of the U.S. population, about 1 of 7 or 39 million Americans, have some form of learning disability according to the National Institutes of Health. While some students come to college already identified as having learning disabilities, others may not be recognized or begin to understand their difficulties until they reach college, and in particular because the pace changes.

Despite greater awareness of learning disabilities in elementary and high schools, children still slip through the cracks. Parents and teachers are understanding the reluctance to characterize their children's problems as disabilities, and therefore people with learning disabilities come as intelligent human beings and are as intelligent as the rest of the population, but a gap begins. Students with learning disabilities come to college with the same motivations as other students.

An article that appeared in the New England Journal of Medicine said, "A treatment of reading disorder, dyslexia, demands a life-span perspective. Why do you say that we have not detected it in the earlier years?" Well, sometimes that does not occur. Students go all the way through high school, come to college and find out at the moment when they are looking for their career, they cannot function.

Mr. Chairman, this is destructive and devastating. If an adult has a learning disability, they may experience many problems, but they no longer spend their day in school and cannot turn to the public school system for evaluation and special instruction. Our colleges do have this ability.

According to Dr. Sally Shaywitz, developmental dyslexia is characterized by an unexpected difficulty in reading in children and adults who otherwise possess the intelligence, motivation, and schooling considered necessary for accurate and fluent reading in order to be able to succeed. I could call off the roll, Mr. Chairman, of so many people of excellence throughout this Nation who will tell my colleagues, both quietly and publicly, "I have dyslexia," only discovered, however, late in life. Dyslexia is the most common and most carefully studied of the learning disabilities, affecting 80 percent of all those identified as learning disabled. Many become aware of dyslexia later in life because of the more rigorous pace of college.

So it is very important that this sense of Congress does acknowledge that education means excellence, and because of excellence we are going to work with the chairperson and demand that we focus on this very important element.

Let me also say, Mr. Chairman, if I might step briefly aside to say as the Riggs amendment comes to the floor of the House, it has not yet come, but because I think these are so much intertwined and related, I simply want to acknowledge my strong opposition to the Riggs amendment and will revise my remarks; for it is evident that in Houston when we defeated Proposition A, it is very clear that in defeating proposition A, we in Houston and in Texas have said no to eliminating affirmative action.

The Riggs amendment would propose to eliminate affirmative action in higher education. It is the same thing as holding someone back, not giving them the opportunity. We have seen the evidence of diminishing applications for Hispanics and African-Americans in California and the devastation of Hopwood in Texas.

I would simply say, Mr. Chairman, that it is important that we create opportunities at all levels. Vote down the Riggs amendment. And I hope that my sense of Congress on the issue of dyslexia dealing with learning disabilities will see more highlight and more light on this issue of making sure that those very bright and intelligent individuals with learning disorders and dyslexia be treated in such a way that our colleges detect it and give them the opportunity to succeed and have an effective and positive career.

With that, Mr. Chairman, I would ask the gentleman from Pennsylvania (Mr. GOODLING just for a moment, and I will yield on the dyslexia sense of Congress; I would appreciate it if we could work together on this idea of making sure that everyone who has a learning disability has an opportunity to learn.

☐ 1815

Mr. GOODLING. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we accept the gentlewoman's sense of Congress resolution.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Pennsylvania.

Mr. Chairman, I rise to offer a Sense of Congress Amendment to H.R. 6, the Higher Education Amendment of 1998. This amendment directs the Secretary of Education to conduct colleges and universities to create policies for identifying students with dyslexia early in their college or university training.

Fifteen percent of the U.S. population-about one of seven-or 39 million Americans have some form of learning disability, according to the National Institutes of Health.

While some students come to college already identified as having learning disabilities, others may not recognize or begin to understand their difficulties until they reach college. Despite greater awareness of learning disabilities in elementary and high schools, children still slip through the cracks; parents and teachers are understandably reluctant to characterize a child's problems as "disabilities."

People with learning disabilities are as intelligent as the rest of the population. Their learning disability, however, creates a gap between ability and performance.

Students with learning disabilities come to college with the same motivations as other students: to explore interests, broaden knowledge and understanding, satisfy curiosity, and prepare to contribute to the working world and to society.

An article that appeared in the New England Journal of Medicine says the treatment of the reading disorder dyslexia demands a life-span perspective. Adults who have trouble reading or learning usually have had these problems since they were children. Their problems may stem from having a learning disability that went undetected or untreated as a child.

If an adult has a learning disability they may experience many problems, but they no longer spend their day in school and cannot turn to the public school system for evaluation and special instruction.

According to Dr. Sally E. Shaywitz, developmental dyslexia is characterized by an unexpected difficulty in reading in children and adults who otherwise posses the intelligence, motivation, and schooling considered necessary for accurate and fluent reading.

Dyslexia is the most common and most carefully studied of the learning disabilities, affecting 80 percent of all those identified as learning disabled.

The need to better understand the source of learning disabilities in adults is extremely important. Persons with learning disability may exhibit several of many behaviors.

They may demonstrate difficulty in reading, writing, spelling, and/or using numerical concepts in contrast with average to superior skills in other areas. They may have poorly formed handwriting. They may have trouble listening to a lecture and taking notes at the same time. The person may be easily distracted by background noise. They may have trouble understanding or following directions. Confuses similar letters such as "b" and "d" or "p" and "q". Confuses similar numbers such as 3 and 8, 6 and 9 or changes sequences of numbers such as 14 and 41. This is only a short list of those things which may indicate dyslexia in an adult.

The diagnostic process for adults with learning disabilities is different from diagnosis and testing for children. While diagnosis for children and youth is tied to the education process, diagnosis for adults is more directly related to problems in employment, life situations, and education.

Adults becoming aware of dyslexia later in their educational career can be due to the change of pace that is found in colleges and universities as well as the volume of work required to compete in higher education.

Policies by colleges and universities creating methods for identifying students with dyslexia early in their college or university training can allow us to provide assistance to the learning disabled as they work to obtain degrees or specialized training for careers.

Mr. Chairman, I rise today to speak against the Riggs Amendment to H.R. 6, the Higher Education Amendments of 1998. Plainly stated, the Riggs Amendment, if passed, would end all affirmative action measures directed toward creating more ethnically diverse student bodies in our Nation's institutions of higher learning. The issue here is very clear, the Riggs Amendment is a threat to the very kind of inclusiveness that we Americans say that we unequivocally cherish. Currently, as it has been repeatedly clarified by the highest Court in the land, any higher education admissions program that takes into account "race, sex, color, ethnicity or national origin", can only do so in a narrowly tailored fashion to remedy a specific art of discrimination (Adarand v. Pena, O'Connor) or as a "plus factor" to a college or university seeking to create a culturally and ethnically diverse student body (Bakke v. California Board of Regents, Powell). Simply stated, affirmative action admissions programs in this country do not operate without clear legal constraints. Blind preferences are not given to women and minorities in our nation's higher education admissions programs; essentially, affirmative action is a means to an end. The end of making our colleges and universities resemble the beautiful multi-ethnic diversity of our proud nation.

There is no doubt that without the active participation of the federal government in promoting affirmative action programs, the ability of minorities and women to effectively compete and matriculate into institutions of higher learning will be dramatically reduced. According to information released by Boalt Hall at the University of California, Berkeley, the elimination of affirmative action has produced a substantial drop in the number of offers of admission made to minority applicants other than Asians for fall 1997 at UC Berkeley's school of law. Boalt Hall made 815 offers of admission last year; 75 were made to African-Americans and 78 were made to Hispanics/Latinos. However, under the elimination of affirmative action at Boalt Hall, of the 792 offers of admission, only 14 were made to African-Americans and only 39 were made to Hispanics/Latinos.

In response to these dismal numbers, Boalt Hall dean Kay Hill stated, "this dramatic decline in the number of offers of admissions made to non-Asian minority applicants is precisely what we feared would result from the elimination of affirmative action at Boalt." In Texas the numbers are no better. In the class that began at the University of Texas Law School last fall, of the 791 students admitted, only 5 African-Americans and 18 Hispanics were admitted. This is a striking contrast to the 65 African-Americans and 70 Mexican Americans admitted last year.

Additionally, undergraduate enrollment has dropped as well. 421 African-Americans and 1,568 Hispanics were admitted to the University of Texas in 1996. However, in 1997, only 314 African-Americans and 1,333 Hispanics received offers for admittance. The total enrollment at the four University of Texas medical schools has dropped from 41 African-Americans in 1996 to only 22 for 1997. The assault on affirmative action will have dramatic results in the number of doctors, lawyers, individuals holding advanced degrees in the African-American and minority communities.

There is no doubt that these dismal numbers in Texas are a direct result of the decisions in Hopwood versus Texas. Four white rejected applicants to the University of Texas school of law sued in Federal court, claiming that the law school's 1992 affirmative action program violated the U.S. Constitution. The court held that the state university's law school admission program which discriminated in favor of minority applicants by giving substantial racial preferences in its admission program violated equal protection.

The panel of justices in Hopwood ruled that any consideration of race or ethnicity by the University of Texas law school for the purpose of achieving a diverse student body is not a compelling interest. The court reasoned that the use of race for diversity purposes was grounded in racial sterotyping and stigmatized individuals on the basis of race. Additionally, the court in Hopwood rejected consideration of race as a remedy for the present effects of past discrimination. The court refused to include prior discrimination by the undergraduate school of the university or discrimination within Texas' elementary and secondary schools as a reason for the law school to use a remedial racial classification.

We seek affirmative action today because we are still suffering from the history of affirmative racism in this county. Even the court in Adarand acknowledged that the government has a compelling interest in remedying the "unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country." I vehemently disagree with the court in Hopwood in saying that diversity is not a compelling interest. It is evident that the justices in Hopwood have not had the pleasure and experience of participating in a diverse setting. As Jonathan Alger of the American Association of University Professors wrote, "diversity is not a dirty word."

Regents of the University of California versus Bakke is the law of the land. In the 1978 Bakke decision, Justice Powell found that a diverse student body in a university setting enhances the learning environment for all students and therefore is a compelling interest in support of affirmative action. The court held that the rigid reservation of 16 places on the basis of race was unconstitutional. However, Bakke concluded that the flexible consideration of race, as one of many factors used to obtain a highly qualified, diverse entering class as permitted by the constitution.

Therefore, we must continue our commitment to prioritize diversity as an important and worthy necessity in achieving the goal of true racial inclusion in this country. As the great civil rights activist and former national director of the Urban League, Whitney Moore Young, Jr. Wrote in his 1964 book To Be Equal, "only hopelessly insecure, tragically immature people need to surround themselves with sameness. People who are secure and mature, people who are sophisticated, want diversity. One doesn't grow by living and associating only with people who look like oneself, have the same background, religion, and interests." So please join with me and vote down the Riggs Amendment of H.R. 6.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

AMENDMENT NO. 63 OFFERED BY MR. HALL OF TEXAS

Mr. HALL of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Did the gentleman from Texas have his amendment printed in the RECORD?

Mr. HALL of Texas. Mr. Chairman, it is my understanding that it was.

The CHAIRMAN pro tempore. The Clerk has already read title VIII. Does the gentleman request unanimous consent for his amendment to be considered?

Mr. HALL of Texas. Mr. Chairman, I ask unanimous consent that my amendment be considered at this point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 63 offered by Mr. HALL of Texas: At the appropriate place in the bill to Title VIII insert the following new section:
>
> **SEC. TEXAS COLLEGE PROVISION.**
>
> The Secretary may not consider audit deficiencies relating to record keeping with respect to qualifying students for financial aid at Texas College, located in Tyler, Texas, for academic years prior to and including academic year 1994–1995 in determining whether Texas College complies with the financial responsibility and administrative capacity standards under Section 498 of the Higher Education Act of 1965, if Texas College has filed an affidavit with the Department of Education stating that it has made a good faith effort to furnish records to the Department with respect to such audits.

Mr. HALL of Texas. Mr. Chairman, this amendment would preclude the U.S. Department of Education from imposing audit deficiencies on Texas College that result from records not maintained or retained by the college administrators for academic years 1990–1991 to the arrival of the current administration at the college in 1994.

Although a very diligent effort has been made and is continuing to be made by the staff of the current administration to locate these records, it is to no avail due to failures of previous personnel. There has been an effort made to produce these records, and they are just not available.

They produced a number of answers to the questions, inquiries submitted by the Department of Education, I think enough to allow the department some leeway, and we are working with the department at this time in order to work this matter out.

Texas College's current application for participation in the title IV student assistance programs is being, I think, needlessly delayed based on the absence of records and assertions that failure to produce such records means the current administration is financially irresponsible and administratively incapable.

That is just not the situation. We have Texas College, which is a black college founded in 1894, affiliated with the Christian Methodist Episcopal Church. Bishop Gilmore serves as the Episcopal bishop in Texas. We have had a new president, Dr. Strickland, at Texas College since November of 1994.

The members of the board and their associations have put millions of dollars into this college in order to keep it open. They have, against great odds, kept it open since the funds were cut off in 1994. We intend to keep on doing that. Although Texas College may be liable for certain deficiencies associated with the absence of these records, their absence should not bear on the present capacity to administer title IV funds with personnel, new personnel, new administrative policies, and new financial aid procedures.

Mr. Chairman, this amendment simply relieves Texas College, if they make a good-faith effort to furnish such records, from having to produce records that may no longer exist as it seeks to reestablish its title IV eligibility.

Mr. SESSIONS. Mr. Chairman, will the gentleman yield?

Mr. HALL of Texas. I yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Chairman, we are discussing this issue because this has been an ongoing dialogue that the gentleman from Texas (Mr. HALL) and I have had with the Department of Education. We believe that our work on behalf of Texas College is not only very deserving, but what we are attempting to do here this evening is to reinforce to the Department of Education that we believe that Texas College is making every single effort that they can to comply with the Department of Education and, further, to make sure that they have provided to the Department of Education those things that are necessary for certification.

The reason that we are here is because this discussion is taking place today about education, and we would wish at this time to make sure that the Department of Education knows that we are attempting to work with them; and that the gentleman from Texas (Mr. HALL) and I, while we are offering this amendment, I believe that at this time we would wish not to go further with this amendment.

Mr. HALL of Texas. Mr. Chairman, reclaiming my time, I thank the gentleman.

Most of the issues have already been addressed by Texas College and the subject of repayment agreements have been satisfied by the college and are the subject of an appeal that is filed with the Department of Education. The Department of Education is working with us.

I thank the Chairman and I thank my colleagues for their time.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 411, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 75 offered by Mr. ROEMER of Indiana;

Amendment No. 70 offered by Mr. MILLER of California;

Amendment No. 5 offered by Mr. STUPAK of Michigan.

AMENDMENT NO. 75 OFFERED BY MR. ROEMER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. ROEMER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

The vote was taken by electronic device, and there were—ayes 292, noes 129, not voting 11, as follows:

[Roll No. 130]

AYES—292

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Bachus
Baesler
Baker
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Becerra
Bentsen
Bereuter
Berman
Berry
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Calvert
Camp
Campbell
Capps
Cardin
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Combest
Conyers
Costello
Cox
Coyne
Cramer
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Goode
Goodlatte
Gordon
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hefley
Hefner
Hilleary
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Shays
Sherman
Sisisky
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Spence
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thune
Thurman
Tierney
Torres
Towns
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates

NOES—129

Archer
Armey
Ballenger
Barr
Bass
Bilbray
Bliley
Boehlert
Boehner
Brady
Bunning
Burr
Burton
Callahan
Canady
Cannon
Chambliss
Chenoweth
Coble
Coburn
Collins
Condit
Cook
Cooksey
Crane
Crapo
Cubin
Davis (VA)
DeLay
Diaz-Balart
Doolittle
Dunn
Ehrlich
Everett
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodling
Goss
Granger
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hobson
Hoekstra
Hunter
Hutchinson
Hyde
Inglis
Johnson, Sam
Kasich
Kelly
Kim
Kingston
Knollenberg
Kolbe
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McDade
McInnis
McIntosh
McKeon
Metcalf
Miller (FL)
Mollohan
Ney
Northup
Norwood
Nussle
Packard
Parker
Petri
Pickering
Pitts
Pombo
Pryce (OH)
Redmond
Regula
Riley
Rogan
Ros-Lehtinen
Ryun
Sabo
Schaefer, Dan
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith, Linda
Snowbarger
Solomon
Souder
Stump
Sununu
Thomas
Thornberry
Tiahrt
Traficant
Weller
Wicker
Young (AK)
Young (FL)

NOT VOTING—11

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Skaggs
Spratt

□ 1844

Messrs. HOEKSTRA, REDMOND, SKEEN, DAVIS of Virginia, GILMAN, FOLEY and ROGAN changed their vote from "aye" to "no."

Messrs. McDERMOTT, DUNCAN, CALVERT, JOHNSON of Wisconsin, BLUMENAUER, QUINN, McHUGH, DICKEY, PAXON, McCRERY, SALMON, BROWN of California, ADERHOLT, BAKER, MARTINEZ and SPENCE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 411, the Chair announces the he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 70 OFFERED BY MR. MILLER OF CALIFORNIA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. MILLER), on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 393, noes 28, not voting 11, as follows:

[Roll No. 131]

AYES—393

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor

Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thune
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—28

Barr
Bonilla
Cannon
Coburn
Collins
Cubin
Dickey
Doolittle
Hall (TX)
Herger
Johnson, Sam
Kolbe
Largent
Miller (FL)
Packard
Paul
Pombo
Rohrabacher
Sanford
Sensenbrenner
Sessions
Shadegg
Smith (MI)
Stump
Taylor (NC)
Thornberry
Tiahrt
Wicker

NOT VOTING—11

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Skaggs
Spratt

□ 1855

Mr. FRELINGHUYSEN and Mr. ROYCE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 5 OFFERED BY MR. STUPAK

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. STUPAK) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 219, noes 200, not voting 13, as follows:

[Roll No. 132]

AYES—219

Abercrombie
Ackerman
Andrews
Bachus
Baesler
Baker
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blagojevich
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Clay
Clayton
Clyburn
Coburn
Conyers
Coyne
Cramer
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Fox
Frost
Furse
Ganske
Gejdenson
Gephardt
Gillmor
Gilman
Gordon
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Largent
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schumer
Scott
Serrano
Sherman
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thurman
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Wamp
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates
Young (FL)

NOES—200

Aderholt
Allen
Archer
Armey
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Goode
Goodlatte
Goodling
Goss
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McDade
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Nethercutt
Ney
Northup
Norwood
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Taylor (NC)
Thornberry
Thune
Tiahrt
Tierney
Upton
Walsh
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)

Weller
White
Whitfield
Wicker
Wolf
Young (AK)

NOT VOTING—13

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
McNulty
Myrick
Neumann
Radanovich
Shaw
Skaggs
Spratt

□ 1902

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. GOODLING. Mr. Chairman, I move to strike the last word in order to announce what the proceedings will be for this evening.

We now have a 2-hour window where there is a 2-hour debate on the Riggs amendment. We will then vote on the Riggs amendment. Then we will have the Campbell amendment. And then we will vote on the Campbell amendment. Then we will have final passage.

So everybody knows, the next 2 hours will be general debate. We will finish the bill this evening.

AMENDMENT NO. 73 OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 73 offered by Mr. RIGGS:

Add at the end the following new title (and conform the table of contents accordingly):

TITLE XI—DISCRIMINATION AND PREFERENTIAL TREATMENT

SEC. 1001. PROHIBITION AGAINST DISCRIMINATION AND PREFERENTIAL TREATMENT.

(a) PROHIBITION.—No public institution of higher education that participates in any program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) shall, in connection with admission to such institution, discriminate against, or grant preferential treatment to, any person or group based in whole or in part on the race, sex, color, ethnicity, or national origin of such person or group.

(b) EXCEPTION.—This section does not prohibit preferential treatment in admissions granted on the basis of affiliation with an Indian tribe by any tribally controlled college or university that has a policy of granting preferential treatment on the basis of such affiliation.

(c) AFFIRMATIVE ACTION ENCOURAGED.—It is the policy of the United States—

(1) to expand the applicant pool for college admissions;

(2) to encourage college applications by women and minority students;

(3) to recruit qualified women and minorities into the applicant pool for college admissions; and

(4) to encourage colleges—

(A) to solicit applications from women and minority students, and

(B) to include qualified women and minority students into an applicant pool for admissions,

so long as such expansion, encouragement, recruitment, request, or inclusion does not involve granting a preference, based in whole or in part on race, color, national origin, or sex, in selecting any person for admission.

(d) DEFINITION.—As used in this section, the term "public institution of higher education" means any college, university, or postsecondary technical or vocational school operated in whole or in part by any governmental agency, instrumentality, or entity.

The CHAIRMAN. Pursuant to the order of the Committee of Tuesday, May 5, 1998, the gentleman from California (Mr. RIGGS) and the gentleman from Missouri (Mr. CLAY) will each control 1 hour.

The Chair recognizes the gentleman from California (Mr. RIGGS).

Mr. RIGGS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, let me say that I hope we can approach debating this issue with open minds and open hearts, and that we can stipulate at the beginning of this debate that we are people of good will who can have genuine disagreements at times but who, because of the high elective offices and the public trust that we hold, have an obligation to debate issues such as the one that I put before the House this evening.

I want to say at the beginning of my comments that I acknowledge that discrimination continues to exist in our society and that it is morally wrong, but I believe we will never end discrimination by practicing discrimination, and I believe it is time for the United States Congress to end preferences once and for all.

Now, let me, at the beginning of the debate, explain what my amendment does and does not do. First of all, I should explain that my amendment is substantively different from the amendment of the gentleman from California (Mr. CAMPBELL), which will follow mine. And not to preempt that gentleman, but I am very pleased to have his support of my amendment and intend to reciprocate by supporting his amendment.

My amendment is very simple and straightforward. In a way, I guess it would have been good for the Clerk to actually have read it, because it is concise enough. My amendment is patterned after California's Proposition 209, the California civil rights initiative, and it is intended to bring an end to racial preferences in college admissions.

My amendment very specifically, very succinctly bans public, I say again, public colleges and universities that accept Federal funding under the Higher Education Act from using racial or gender preferences in admissions. My amendment does not in any way, though, impinge on minority outreach programs or minority scholarships for qualified individuals.

I am very proud of the fact that a couple of years ago I was recognized and honored by the TRIO organization for my efforts to expand the funding for TRIO, which is a minority outreach and minority scholarship program that encourages institutions of higher learning, 4-year colleges and universities, to establish partnerships with secondary institutions of learning, high schools.

So I want to say that I strongly believe in affirmative steps to expand the pool of qualified minority applicants at every public college or university as long as, as long as the school admission decision is not made on the basis of race or sex. I believe that we can achieve the twin goals of diversity in minority outreach without the need for preferences that favor one minority group over another, as has been the case in California, and as I will elaborate as the debate proceeds tonight.

Now, I believe I have a chart here, and maybe we will get it up with the help of one of the pages. I would like to, as this chart goes up, tell my colleagues of some recent polling data that demonstrates, I think unequivocally, that Americans overwhelmingly support legislation to make hiring, contracting, and college admissions race and gender neutral.

Here are the highlights of that polling data. Seven in 10 voters believe that California's Proposition 209 should not be overturned. But more importantly, nearly 9 out of 10, 87.2 percent of Americans, said race should not be a factor in admission to a public college or university. And that included more than 3 out of 4, 75.7 percent, of African-American voters who were surveyed and who said that race should not be a factor in admission to a public college or university. So I believe the time has come for this body to act.

I realize that there are a lot of people who wish that this debate would go away or at least could be held for another date, preferably beyond this election cycle. But as our friend, my friend and colleague, the gentleman from Oklahoma (Mr. J.C. WATTS), told me the other day, there is never a wrong time to do the right thing.

I want to make it very, very clear that I intended to offer this amendment last year to the annual spending bill, the appropriations bill for the Department of Education, but waited for this debate and this day to offer this amendment so that it could be more appropriately discussed in the context of reauthorizing the Federal/taxpayer-funded higher education programs.

I do not want my colleagues to be misled about my amendment. I have made modifications to this amendment to make it more acceptable to more Members of this body. First of all, with some reservation, I excluded private colleges and universities, even though almost all private colleges and universities receive substantial Federal-taxpayer funding for student financial aid under this legislation.

Secondly, as I will point out in a later colloquy with our colleague, the gentleman from Arizona (Mr. HAYWORTH), I specifically excluded tribally-run institutions, colleges and universities on tribal reservations, or Indian lands, even though most of them are public, and my bill now applies only to public colleges and universities. But I did that because of the concerns that I heard, loud and clear, about treaty obligations, tribal sovereignty, and the government-to-government relationship enjoyed between the United States of America, the Federal Government, and tribal governments around the country.

My amendment does not ban single-sex schools. In fact, it expressly allows them. It does not prevent courts from fashioning remedies to actual discrimination. There is ample authority for such action under current civil rights law dating back to the 1964 Federal Civil Rights Act.

My amendment does not, as I said earlier, prevent schools from minority recruitment outreach or scholarships, and it does not, and I say this to my Republican brethren, my more conservative colleagues, it does not increase the role of the U.S. Department of Education in admissions oversight. In fact, it would stop the Department of Education's Office of Civil Rights' practice of telling public colleges and universities to grant admission preferences even where courts have expressly ruled against them, as in the case of the University of Texas Law School and the Hopwood case.

So I want to make clear that people should not be dissuaded from doing what is right under the Constitution by erroneous arguments that opponents to my amendment may make during the debate a bit later.

As the author of California's civil rights initiative, Proposition 209, Ward Connerly pointed out, who is an African-American businessman who serves on the University of California's Board of Regents, granting an individual preference based on their race or gender means another individual has been discriminated against based on their race or gender. And that is as succinct and compelling an argument as I can make for my amendment this evening.

□ 1915

I think we all know that different groups suffer under affirmative action in admissions the way it operates in America today. Minority group members suffer because when they are admitted under lower standards; they oftentimes perform less well. They need remedial help. They are at risk of dropping out. Many of them do not complete a 4-year college education and obtain a college degree. And unfortunately, other people on that campus and in the college community all too often make that link between subpar performance and someone's skin color.

That is wrong. That is as discriminatory in thought as racial preferences are in practice. Stereotypes are reinforced, not diminished.

Secondly, individuals who are not members of minority groups but are otherwise academically qualified students are oftentimes excluded in order to admit individuals with lesser credentials.

Let me just tell my colleagues one of the arguments that is being made here. I want to make reference to a recent article in the New Republic by a man, Nathan Glazer, who wrote a book back in 1975 titled, provocatively enough, "Affirmative Discrimination," and who is now apparently reconsidering his position and comes to the conclusion that affirmative action is bad but banning it is worse.

In the context of this article he says, "I have focused on the effects of affirmative action, or its possible abolition, on African-Americans. But of course, there are other beneficiaries. Asian Americans and Hispanics are also given affirmative action." Then he goes on to say, and I wonder if these words strike my colleagues as discriminatory as they strike me, "But Asian Americans scarcely need it." He and others contend that most Asian Americans, most young people of Asian ancestry come from affluent communities and therefore have some sort of socioeconomic advantage that most African-Americans do not have.

Well, have my colleagues ever been to a Chinatown in a big city in America? Would we consider that to be an affluent community? Do we lump all Asian Americans together, including Cambodians, Laotians, the Mung population, all the recent immigrants to America, many of whom have struggled to obtain American citizenship, of Asian American ancestry?

Those kinds of words are inherently discriminatory. We cannot, we should not allow a practice that pits one racial group against another. That is what has happened in California. That is part of the genesis, if you will, for Proposition 209. Asian Americans were being excluded from consideration for admissions because the University of California was practicing a policy that gave preference to other minority groups, namely African-Americans and Hispanic Americans.

Is that fair? Is it right? Will someone come down to the well tonight and argue that that practice should be continued? What would my colleagues say to those Asian American young people and to those families in California that have been blatantly discriminated against as a result of these practices?

I also want to point out that colleges and universities are lessened by the hypocrisy of ostensibly being in favor of equal opportunity, but actually practicing discriminatory policies. And, colleagues, it is going on all over the country.

Here is an article from USA Today dated November 28, 1997. It says how Michigan admittance standards differed.

Now, there is a chart here. My colleagues have to understand the background of this chart. This chart came to light through a Freedom of Information request filed by philosophy professor Dr. Carl Cohen, who is a former, and I quote from the article, former board member of the ACLU, American Civil Liberties Union, and the author of a 1995 book called "Naked Racial Preferences: The Case Against Affirmative Action."

Here is the chart, and this is the basis for current litigation filed by two students against the university, two white students charging bias by the University of Michigan. I quote from the article with respect to this chart.

I just want to tell the young lady here, the page, that she will not find that chart in the charts we prepared. But I will make it available and I will make sure it is inserted later, when we rise from the Committee of the Whole and go back into the House, into the RECORD.

But I quote from the article. At the heart of the lawsuit filed by these students is what opponents of affirmative action call "the smoking gun." A chart, this chart, my colleagues, right here, and would I love to share this with my colleagues if they would like to come up and take a closer look, a chart that, according to the USA Today article is used by the university's admissions office to decide who gets in and who does not. This chart clearly, indisputably demonstrates that whites and minorities with identical grades and test scores meet different fates. The white applicants are rejected or deferred while minorities are automatically admitted. That is what this chart shows.

And as Dr. Cohen points out, the point I just tried to make a moment ago, and he can make it better, I quote Dr. Cohen. "I want the university," referring to the University of Michigan, "to be a place, to live up to its ideals, not betray them to accomplish a short-range objective. Constitutions are designed to prevent taking shortcuts."

And lastly, the community as a whole suffers under affirmative action the way it now operates because the different or disparate treatment of racial groups breeds mistrust. The time has come to put an end to affirmative action. And while I say that as it is being practiced in college admission policies, I hasten to add that I have worked long and hard to try and create more opportunity, better opportunity, I hope some day equal opportunity for every American.

And as the gentleman from Oklahoma (Mr. WATTS) said to me, if we want affirmative action in American society, and I know he signed on to a Dear Colleague with our good friend, the gentleman from Georgia (Mr. LEWIS), but as my colleague told me the other day, if we want affirmative action, we have to start by approving the quality of primary and secondary education in America. That is where affirmative action begins, not in higher education. It starts in ensuring that every child in every elementary school around the country has the opportunity to receive a first-class, a world-class education. That is the very point that the gentleman from Pennsylvania (Mr. GOODLING) has made in supporting my amendment.

I want to quote from the statement that he sent out. He said that he supports my amendment and said, "The continued use of preferences in admissions does nothing but pit one minority group against another, while building a society of legal and ethnic divisions. It is time to put a stop to this discriminatory practice."

He goes on to say that my amendment embodies the idea of a color-blind society. Well, I am not the one that advanced the idea of a color-blind society. In modern times, that vision is the vision of Dr. Martin Luther King, Jr. I think everybody knows that. He was the one that talked about a day when someone would be judged by the content of their character, not the color of their skin.

But the chairman and I have, and I hope most Members of this body on a bipartisan basis, can agree that the best way to help women and minorities succeed in college and later in the workplace is by giving them a sound education at the primary and secondary level. Quality education is the key, not some system as has evolved at too many public colleges and universities around the country of contrived admission preferences or quotas for particular groups.

Mr. LEWIS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from Georgia.

Mr. LEWIS of Georgia. Mr. Chairman, I say to my colleague, the gentleman from California (Mr. RIGGS), I knew Martin Luther King, Jr., very well. I worked with him for many years. He was my friend, my leader, my hero, my brother. If he was standing here tonight, I tell my colleagues, he would say he believes in a color-blind society, but he would tell us that we are not there yet, and he would not be supporting the Riggs amendment.

So I think that it is not right to use Martin Luther King in this manner.

Mr. RIGGS. Mr. Chairman, reclaiming my time, I respect the opinion of the gentleman from Georgia.

Mr. Chairman, I will continue for just a moment to say that Martin Luther King, I think we can agree on this, he dreamed of the day, he spoke of the day, he preached of the day when all Americans would participate freely in the American dream.

I cannot see how continuing institutionalized discrimination, or if we want to go one step further, institutionalized racism, and I do not use that word lightly because I know it is an explosive word, I cannot see how that moves us towards the realization of Dr. King's vision. Because I believe institutionalized discrimination is inherently unfair, it is undemocratic, and I think ultimately it is anti-American.

With all due respect to the gentleman from Georgia (Mr. LEWIS), who obviously knew Dr. King well and worked with him, I would like to believe that Dr. King would agree that as we approach the dawn of a new millennium, now is the time to try to move our country in the direction of a post-affirmative action era where we really can build, working as individuals and human beings and as American citizens and as children of God, a color-blind society.

Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I yield myself such time as I may consume.

First of all, Mr. Chairman, I would like to correct the RECORD. The previous speaker referred to the TRIO program as a minority outreach program, but it is not. It is a disadvantaged outreach program, and the majority of students enrolled in TRIO are white.

Mr. Chairman, I rise in opposition to the amendment being offered by the gentleman from California (Mr. RIGGS). His attempt to ban the use of affirmative action efforts by colleges and universities is nothing more than a scheme to return the system of higher education to the bad old days of racial segregation. If we follow that direction, our schools will again become a bastion of white, male, good old boys.

In addition, this amendment completely shatters the bipartisan nature of H.R. 6, which has been successfully developed by the members of the Committee on Education and the Workforce. It is a cruel hoax, Mr. Chairman, to declare that we live in a color-blind society in which only merit counts. Merit is only one criterion for college admissions.

Children of alumni have always received special treatment. Children of wealthy donors have always been shown preferential treatment. Athletic ability and musical talents have always been major considerations when deciding whom to admit to colleges and universities. Colleges routinely seek to have classes which reflect geographical differences and other kinds of diversity in the belief that diversity is good educationally.

Affirmative action was not designed to deny rights unjustly to those qualified, but to provide remedies for those qualified who are unjustly denied. For this Congress to now prohibit efforts by university leaders to correct centuries of inequitable admission practices is an arrogant abuse of Federal power. It has taken the Nation's colleges nearly 3 decades to develop and implement admission policies which have begun to close the educational gap existing between minorities, women, and their white male counterparts.

Mr. Chairman, this amendment is identical to Proposition 209, passed by California voters, and its effects on minority admission to institutions of higher learning will be just as devastating. Admissions of African-American, Latino, and American Indian students for next fall's classes have plunged by more than half at the University of California at Berkeley; and admissions of minorities to the University of California's three law schools have dropped 71 percent for blacks and 35 percent for Latinos.

Mr. Chairman, there is no validity to the argument that enrollment declines are indicative of previously ineligible students being admitted to these institutions of higher learning. The fact is that over 800 minority students with grade point averages of 4.0 and SAT scores of over 1,200 were denied admission to the University of California at Berkeley.

The simple fact is that some believe women, blacks, and Latinos should not be afforded a higher education. The Riggs amendment would embody that belief in Federal law. It was bad policy during the awful period of Jim Crow laws in America, and it is bad policy now.

Mr. Chairman, measured by any benchmark, access to equal educational opportunity remains a distant dream for racial minorities. I strongly urge a "no" vote on the Riggs antiaffirmative action amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Chairman, I did not go to Harvard. I did not attend Yale. I could not. I could not even attend Troy State University, just a few miles from my home, because of the color of my skin.

For 200 years, millions of African-Americans could not go to college. The doors of higher education, of opportunity, were shut simply because of the color of our skin.

□ 1930

Today African-Americans and other minorities are attending Troy State, Harvard, Yale, and nearly every institution of higher learning because of merit and because of affirmative action. Affirmative action opens the door for those who grew up with less hope and less opportunity, because of the color of their skin, because their parents did not go to college, because their family has yet to overcome 200 years of government-sanctioned discrimination.

Opponents of affirmative action say they want a colorblind society, but ending affirmative action is not colorblind. It is blind to centuries of discrimination, blind to the racism that is still deeply embedded in our society, blind to the barriers that continue to confront generation upon generation of African-American and other minorities.

Mr. Chairman, we have fought too long and too hard and come too far. We cannot let affirmative action be destroyed. People have gone to jail. People have been beaten. People have lost their lives. Now we must fight one more time against those who wave the banner of fairness but really want to slam the door of opportunity in the face of young people across our Nation.

Mr. Chairman, I urge our colleagues to stand up for diversity, hope and opportunity by defeating this amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. I thank the gentleman for yielding me this time. Mr. Chairman, I urge my colleagues to defeat the Riggs amendment.

I want to talk for a moment about some truths and some myths, because here is the truth. When the door of opportunity is opened to students who are called special admits or affirmative action, they perform equally well to the other students. They perform equally well. The Chronicle of Higher Education recently published a study which compared the graduation rates of special admit medical students with non-special admit medical students. Ninety-eight percent of the non-special admit students graduated. Ninety-four percent of the special admit students graduated, an insignificant statistical difference. Once you open the door, everyone who is willing and able can walk through it equally.

This amendment slams the door. Let us talk about the myth of merit. Let us perfect this amendment to make sure it does not perpetuate that myth. Let us have merit. Let us have a Federal law that says if your mother or father is on the board of trustees of the university, you do not get special treatment. Let us have merit. Let us say if your aunt or your uncle or your grandparents gave a lot of money to the school, you do not deserve special admission. Let us have merit. Let us say if you are the son or daughter of the member of the State legislature or the mayor or a Member of the United States Congress, you do not deserve special admission. Let us have merit. Let us say that if you are not someone from a special geographic region of the country or state of the world you do not deserve special treatment. Let us have merit. Let us say that if you are not someone from a different ethnic group that is not fully represented, you do not deserve special admission or special treatment.

Merit is a concept that lives only in mythology. It does not live in the admissions offices. This amendment should be defeated for that reason.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. I thank the gentleman for yielding me this time.

Mr. Chairman, legislative language similar to the proposed amendment has been enacted in Texas and California. After the adoption of those policies, educational opportunities for minorities plummeted to their lowest levels since the 1960s and in some schools those opportunities disappeared altogether. You cannot change the known impact of this amendment by using glorious rhetoric or a misleading title or results of a slanted poll. We know what this amendment will do.

Mr. Chairman, the admissions policies have never been totally fair. Those who are children of alumni get preferences, children of large contributors get preferences, those who can afford to pay tuition without a scholarship get preferences, those who can perform well on a culturally biased test get preferences.

Mr. Chairman, affirmative action serves as a counterbalance to those disadvantages that minorities suffer. Without affirmative action we will return to the unlevel playing field and turn the clock back to the 1960s.

Mr. Chairman, the Supreme Court has limited the use of affirmative action to policies which are narrowly tailored to address the compelling State interest. So as the need for affirmative action drops, so will the practice of affirmative action.

This amendment, however, will prohibit the use of affirmative action even in cases where there is a need to remedy proven cases of racial discrimination. Mr. Chairman, you can quote Martin Luther King, you can talk about dreams, but we know what this amendment will do. Minority opportunities will plummet if this amendment is adopted. That is why those of us who celebrate diversity in America are opposing this amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Chairman, I rise in opposition to the Riggs amendment. This amendment would involve an unprecedented Federal intrusion into the admissions practices of colleges and universities. It would require an extensive apparatus to monitor admissions policies nationally. This seems monumentally unwise.

Twenty years ago, the Bakke decision developed a careful and delicate balance for college admissions. Quotas were declared unconstitutional, as they should be. Gender and race can never be the sole or decisive factor in the admissions process. This made sense then and it makes sense now. But colleges and universities should be able to reach out to widen their pool of applicants, to bring previously deprived or disenfranchised people into higher education without fear of legal retribution.

I know how this works from my years of experience as an admissions officer in a graduate department of a large university. Affirmative action offers a way of taking into account the backgrounds from which students come, assessing their true potential, and opening the doors of opportunity. For the Federal Government to interject itself into these decisions, to reduce flexibility, to force the use of overly narrow or rigid criteria, would be most unwise.

Affirmative action, Mr. Chairman, is about fairness and equal opportunity for individuals. But it is also about community: about the academic community itself, diversifying that community to make education a broadening and enriching experience. And it is about serving the wider community, recruiting a student body that reflects the society being served, and training doctors and lawyers and teachers and business people and others to serve all elements of that community.

The Riggs amendment ignores this experience and threatens these values. For those reasons, it ought to be rejected.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, we have worked hard in this country to create the best colleges and universities in the world. I have actually devoted much of my time in Congress to expanding access to higher education for every student in America. In fact, is that not what this higher education bill is supposed to be about, expanding education to every student in America?

I rise in strong opposition to the amendment offered by the gentleman from California (Mr. RIGGS). Quite simply, this amendment, which was modeled after California's Proposition 209, blocks opportunity to higher education for women and minority students across the country. It is not a mystery that dismantling affirmative action destroys needed opportunity for America's college campuses.

Look at my own State and the State of Mr. RIGGS, California, where the rollback has already begun. The University of California Boalt Law School, one of the best public law schools in America, enrolled only one African-American student in its freshman class last fall. Also at UC-Berkeley African-American admissions have plummeted by 66 percent. Latino enrollment fell by 53 percent. At UCLA, African-American admissions in the freshman class dropped by 43 percent while Latino enrollment fell by 33 percent. At California graduate schools, where the clock has already begun ticking and been turned back, both medical schools and law schools experienced a significant decline. This is what I call stepping backward in our goal, our goal to make higher education accessible to all Americans.

Mr. Chairman, women and minorities in America simply cannot afford to have this crucial support chipped away. Let me review a few simple facts with my colleagues. Women earn 71 cents for every dollar compared to a man. Mr. Chairman, I ask my colleagues to please not vote to roll back affirmative action.

Mr. RIGGS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of this amendment. This is not repealing affirmative action. It is reforming it and making a giant step forward while preserving all civil rights requirements.

Mr. Chairman, I rise in support of this amendment to the Higher Education Act. This amendment eliminates arbitrary quotas and set asides and erases the reverse discrimination that has grown over the years.

This amendment reaffirms our encouragement of affirmative action through expansion of the applicant pool and active recruitment of qualified women and minorities. At the same time this amendment makes it clear that such encouragement and recruitment does not involve granting a preference, or fulfilling a quota.

This amendment has been changed from its initial form, in such a way that positively reaffirms our nation's commitment to affirmative action's goals and ideals.

In other words we are reforming affirmative action as we know it, while protecting civil rights for all people.

Current Admissions

We all know, admissions to colleges now involve preferences and quotas.

Reverse Discrimination

This amendment reafffirms the original concept of affirmative action through vigorous and systematic outreach, recruitment and marketing efforts among qualified women and minorities.

This amendment seeks to restore the colorblind principle to federal law by higher education institutions from granting any preference to any person based in whole or in part on race, color, national origin, or sex.

When affirmative action and nondiscrimination were first enacted, through Kennedy's executive order in 1963 (establishing the President's Committee on Equal Employment Opportunity) and through the Civil Rights Act of 1964, the goals were: promotion and assurance of equal opportunity without regard to race, creed, color or national origin; encouragement of positive measures toward equal opportunity for all qualified people, and expansion and strengthening of efforts to promote full equality of employment opportunity.

Maintains Current Antidiscrimination Laws

Before opponents of this amendment raise their voices, let me also add that this legislation absolutely maintains this nation's existing antidiscrimination laws. If it did not, I would not be here.

This amendment maintains existing Civil Rights Laws, which are there to remedy individuals who are victims of discrimination.

Further, it is consistent with Civil Rights Laws by prohibiting discrimination.

Over the course of time, I have been a strong supporter of affirmative action. Its goals of equal opportunity, diversity and a "colorblind" society are laudable and supported by the vast majority of thinking Americans.

However, over the course of my career, I have watched the implementation of affirmative action amount to the use of discriminatory quotas, set asides, preferences and timetables based on sex and race. This is evidence of the "law of unintended consequences."

We should be reforming comprehensively affirmative action. But we have not been able to do that.

If we have to, we will do this one bill at a time, one amendment at a time.

Race and sex should not matter in college admission, but higher education institutions make it matter by counting, labeling and, ultimately, dividing Americans.

Today's affirmative action is flatly inconsistent with our national commitment to the principle of nondiscrimination. Our founding principles, and I might add, our current laws, require that the government treat all of its citizens equally and without regard to race and sex.

I know that discrimination exists in today's America. There's no denying it. But we cannot attack discrimination with a different style of discrimination. Discrimination in the name of equal treatment is a modern-day oxymoron.

Mr. Chairman, affirmative action did its job in its day.

But the day it became more quotas than opportunity is the day it became part of the problem and not part of the solution.

Equal opportunity has always been at the core of the American spirit. It's time we return it to the core of federal law and practice.

With the understanding of the recent court costs as Rep. CANADY has annotated—the handwriting is on the wall. Tonight let us take this major step toward reform while maintaining affirmative action.

I urge your support of this amendment.

Mr. RIGGS. Mr. Chairman, I yield myself 3 minutes to respond to the last speaker on the other side, my friend and northern California colleague who represents an adjacent district to me.

She spoke a moment ago about the University of California's law school. I would like to refer her to an article in today's newspaper that is very timely to this evening's debate headlined Boalt Minority Admissions Up 30 Percent. I quote from the first paragraph of the article: "In the school's second year of colorblind admissions, offers to black and Hispanic students are up 30 percent, Boalt Hall School of Law announced on Tuesday." It goes on to quote the dean of Boalt Hall as saying, "I think the increase had to do with the efforts made at outreach that we were very welcoming of minority applicants."

Furthermore, I want to put to rest this misinformation regarding the University of California system. First of all, I will go ahead and quote from John Leo's column in U.S. News and World Report of April 27. He says, "There is no white-out, closing of doors, or Caucasian University. In the eight-college University of California system, only two of five students are white. At the University of California at Berkeley, the figure is one in three." Then he goes on to quote in the article the provost of the University of California, Judson King, who says, and I quote right from the article, "In fact, the drive to raise minority numbers at the top two colleges in the system, Berkeley and the University of California at Los Angeles, UCLA, had the effect of creating racial imbalances at the other six. Judson King, provost of the University of California, acknowledged this by saying that the end of preferences was 'evening out' diversity across the entire University of California system of all eight campuses."

Ms. WOOLSEY. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentlewoman from California.

Ms. WOOLSEY. Mr. Chairman, I would just like to remind my colleague that what I referred to is one African-American enrolled in Boalt Law School in the fall. One thing. There is a difference between inviting admissions and enrollment, because there are a lot of steps in between. Part of that step is feeling welcome.

Mr. RIGGS. Mr. Chairman, I have to disagree with the gentlewoman. It says, "The school admitted 32 African-Americans for the fall of 1998, almost twice as many as 1997, but less than half the number accepted in 1996, the last class admitted under affirmative action." Looking at how the pendulum now swings back, "The number of Latino students held steady at 19, but Chicano, or Mexican-American students rose 34 percent, to 41." It says, "In 1996, a total of 78 Latino and Chicano students were admitted."

So here is a university that is focusing on outreach, affirmative steps to expand, as I said earlier, the pool of minority applicants. That is why we have included language in our bill suggested by the gentleman from California (Mr. COX) and the gentlewoman from New Jersey (Mrs. ROUKEMA) that very specifically spells out the recommended steps, the affirmative steps that public colleges and universities can do to expand the pool of minority applicants. We strongly encourage them to pursue these outreach efforts as the University of California Law School at Boalt Hall is doing.

□ 1945

Mr. Chairman, I yield 4 minutes to the gentleman from Florida (Mr. CANADY) the leader to end racial preferences and discrimination in Federal Government programs and policies.

Mr. CANADY of Florida. Mr. Chairman, I appreciate the time to discuss this important issue, and I am pleased to rise in support of the amendment offered by the gentleman from California (Mr. RIGGS). This is an important amendment, an amendment which deals with a fundamental question of justice in our society.

In 1871, in the course of the debate over a civil rights bill designed to outlaw segregation in public accommodations, Senator Charles Sumner said this:

Any rule excluding a person on account of his color is an indignity, an insult, and a wrong.

Senator Sumner was right. It is wrong to classify individuals on the basis of race. If our history as Americans teaches us anything, it should teach us that any such practice is inherently pernicious. It is a violation of our fundamental principle as Americans to classify students by race; then to tell some students that they will be admitted to a school because they belong to a preferred group, and to tell other students that they will be denied admission because they belong to a nonpreferred group. Such a policy is discrimination, pure and simple, and it is wrong.

It is wrong for many reasons. It is wrong because it imposes an unfair burden on innocent individuals on account of their race. Students who have worked diligently, including many students who have fought to overcome serious social and economic disadvantages, are denied admission to the school of their choice because other less qualified students gained admission based on a racial preference. Students are excluded not because of any wrong they have done, but as a part of an effort to redress historic wrongs. In the process, unfortunately, the fundamental requirements of justice are forgotten while the dreams and aspirations of the innocent are trampled underfoot.

It is wrong because it sets students up for failure. In the name of providing opportunity, preferential admission policies produce disappointed hopes. Students who could have been successful in less competitive institutions are put in programs for which they are not prepared and in which they do not succeed. The evidence is clear. Dropout rates at competitive universities are in many cases 200 to 300 percent higher among students admitted from preferred groups than among groups admitted from nonpreferred groups.

At the University of California at Berkeley, for example, the undergraduate dropout rate among one preferred group has reached as high as 42 percent. Thus the effort to provide assistance to students through preferential admissions policies often backfires and harms the very students they were supposed to benefit.

The law of unintended consequences has rarely been illustrated more clearly. It is wrong to utilize preferential admissions policies because it reinforces prejudice and discrimination in our society. Whenever public institutions of higher education sort, divide, and classify applicants for admission into racial groups, they send a powerful and perverse message that we should judge one another on the basis of race.

Now that is exactly the wrong message for us to send. Colleges and universities should deal with students as individuals on the basis of their individual qualifications. Students should not be reduced to the status of mere representatives of various racial groups. Schools that employ racial classifications and preferences tell students in the preferred groups that they will be judged by a lower standard and will not be expected to meet the same standard that other students must meet. That sends a message that is corrosive of the respect owed to all students. It is a message that increases divisions and causes untold harm. It is a message that should not be supported by Federal tax dollars.

Now the Members of this House should not be diverted from the truth by the barrage of attacks made against this amendment. There is nothing novel or radical about this amendment. On the contrary, this amendment reaffirms with respect to public universities and colleges the provisions of Title VI of the historic Civil Rights Act of 1964. That act provides in section 601 as follows:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of", and I think it is important for Members to focus on this, "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Now that is the right policy; it was the right policy when the Congress adopted it in 1964, and it is the policy that this House should support this evening. Unfortunately, those plain words of the 1964 Civil Rights Act have been ignored in a process of administrative change and in the courts. We need to reaffirm that policy tonight and get back to the fundamental principle of nondiscrimination in this country.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Chairman, how sweet it would be if what my colleague, who just spoke, said were true; that we are a society based on equality of the laws and application of those laws. But the reality is we are not yet there, and if my colleagues do not believe it, just talk to those FBI agents.

Not too long ago, African-Americans who sat down at a fast food restaurant to get some food never got served.

Or talk to the two young ladies in California who went to an ice cream parlor not too long ago and asked for ice cream, and were asked for ID before they would get any service whatsoever because they looked Hispanic.

We are not there yet, and that is the truth about it. It would be nice to base something on merit, but numbers do not give merit. And if my colleagues have seen our public schools and they see where most minorities and poor people are, they will understand why we cannot just base things on merit, because someone can have a 4.0 in some of our inner-city schools and they cannot compete with a 3.5 from some of the suburban schools.

That is where we are today. But worse than that, the amendment does not cure a real problem we have. My wife happens to be a physician, a professor of medicine at a university here, and if she stays there long enough, our three children, who are very young right now, will have an opportunity to go to that university, even if there are other children who grow up and get better grades and get better scores than my children do. Because my wife happens to work at that university, she will get her kids in. Great for me and my wife because now she is a professor there. But my parents and her parents were never professors. They were farm workers. My father was a laborer, my mother was a clerk typist; they could not have said that.

We do not have the justice in this world that allows the children of everyone else to have parents who will be professors who can get their children into school. And as my father used to tell me when he was younger, that sign outside that restaurant that would not let me come in with the dogs, because it said "No Mexicans or dogs allowed," and, by the way, my father was born an American citizen, are not there anymore, but they still affect us all. In the same way that he could not walk into a restaurant not long ago, we cannot still walk into some of those universities.

Defeat this amendment.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Oregon (Ms. FURSE).

Ms. FURSE. Mr. Chairman, I thank the gentleman for yielding this time to me.

Let us not stoop to nonsense in this, the people's House. Affirmative action was put in place to right historical wrongs, wrongs of sexism and racism. This amendment turns the clock back 30 years. Women and minorities were not underrepresented in colleges because we were stupid. We knew that we were underrepresented because of sexism and racism. And today we are not stupid. We know what this amendment does. It turns the clock back; back to a day that we should all have been quite ashamed of.

We understand this issue: women and minorities, we know. We know why this amendment was put in place, and I urge my colleagues to vote no on this amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise in opposition to the Riggs amendment which attempts to deny the existence of racial and gender history in this country. It overlooks the reality of discrimination and pretends that this country has made more progress than what it has actually experienced.

The fact of the matter is that this amendment is a bold, unadulterated attempt to turn back the clock of inequity before there has been ample opportunity and ample time to experience the benefits of some modicum of affirmative action.

I heard the gentleman earlier speak and talk about dreaming and mentioned Dr. King in his deliberations, and I thought to myself that if Dr. King had been dreaming about this amendment, he would have awakened quickly with a terrible nightmare.

The fact of the matter is that amendments like this one provoked Langston Hughes to ask the question: What happens to a dream deferred? Does it dry up like a raisin in the sun? Fester like a sore and then run?

We cannot allow the dreams to dry up, we cannot allow the clock to be turned back. We must defeat the Riggs amendment, and I urge all of my colleagues to vote against it.

Mr. CLAY. Mr. Chairman, I yield myself 30 seconds just to correct the record.

Mr. RIGGS, the gentleman from California, stated that it was a great increase at 30 percent of blacks and Hispanics at Boalt Law. Let me explain to my colleagues what that increase was. It was an increase of 14 students, black and Hispanics, from 37 to 51, out of a total of 857 students that Boalt admitted.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Chairman, if there is a single Member of this House that believes that racial discrimination is nonexistent in America today, then I will vote for the Riggs amendment.

That is what I thought.

Mr. Chairman, I hope and pray that I will live long enough to see racial discrimination ended in this country. Unfortunately, I doubt that I will live that long, and certainly that day has not yet arrived. Until that day has arrived, affirmative action is a necessary limited means of using, of ensuring that equal opportunity is more than a hollow phrase in a high school civics textbook.

The fact is, the Supreme Court has limited affirmative action to be a tool to ensure equal opportunity where discrimination has been proven. That is a vital tool in today's society where the problem is hardly that we have too many minorities in our public and private universities and colleges of America.

Under the Riggs amendment, if Mark Furman had been an admissions director at a major public university, the wrongs of discrimination could not be righted by affirmative action.

In the name of ending affirmative action, the Riggs amendment would institutionalize discrimination; and that, Mr. Chairman, is wrong.

If there is a single Member of this House who believes that minorities living in the third ward of inner-city Houston receive an equal education with children of the privileged families of Highland Park in the Dallas area, then perhaps I could understand why some would vote to end affirmative action.

Mr. Chairman, it is interesting to me that some of the same people who want to use tax dollars to subsidize elite private prep schools would also argue against leveling the playing field of opportunity for children attending low-income public schools. Where is the fairness in that?

Mr. Chairman, until the 1960s, many colleges and universities excluded minorities for one reason and one reason alone: the color of their skin. Where is the fairness in allowing those same colleges to give privileges of legacy to the white children and grandchildren of those former white students, while legacy preferences simply do not exist for minorities? The doors were not open to them.

Mr. Chairman, when Republicans took charge of this House, they appointed dozens and dozens of high school interns from all over America. And know what? Not a single one, not a single one was African-American. And if that is the future vision of equal opportunity under Republican leadership, then I want no part of it.

And finally, it is interesting to me that some of the very people supporting the Riggs amendment, the same people who have voted to cut spending month after month for the enforcement of laws in America against discrimination; where is the fairness in that?

Rather than quoting Dr. Martin Luther King today, I wish some of the proponents of the Riggs amendment would fight every day for the ideal of equal opportunity for which Dr. King lived and died.

Vote no on the Riggs amendment.

Mr. RIGGS. Mr. Chairman I yield myself 1½ minutes to respond to the last speaker.

The gentleman should not be throwing stones in his glass house. If we are going to examine our own internal practices in the United States House of Representatives, perhaps we could look at 40 years of control by the Democratic Party of this institution; how many female Members of Congress currently hold places in the Democratic Party leadership in the House of Representatives, versus the example that we have tried to set for America by advancing female Members in our ranks.

But I want to specifically go to the comment of the gentleman from Texas (Mr. EDWARDS). He said if one person, one person could convince him that affirmative action, racial preferences in colleges admissions is wrong, that he might reconsider and vote for my amendment.

□ 2000

Well, let me suggest to the gentleman from Texas (Mr. EDWARDS) that that one person is none other than the Attorney General of the State of Texas, the top Democrat.

Mr. EDWARDS. Mr. Chairman, would the gentleman yield since he is quoting me?

Mr. RIGGS. Mr. Chairman, I am not going to yield.

The State's top Hispanic elected official. Now, what did the United States 5th Circuit Court of Appeals decide in the Hopwood case? Hopwood v. The University of Texas, I quote: "The 5th circuit ruled that diversity does not justify preferential admissions based on race."

Mr. EDWARDS. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. The ruling effectively ended racial preferences in admissions to the University of Texas.

So, what do university leaders do now, according to two articles, the San Antonio Express News and another Texas newspaper furnished to me by our colleague, the gentleman from Texas (Mr. LAMAR SMITH). I quote from the San Antonio newspaper:

> Attorney General Dan Morales spurned a plea Tuesday of last week by State university leaders to fight to restore affirmative action. Morales said that he denied the request by the University of Texas leaders on legal and policy grounds.

Now I quote to the gentleman from Texas (Mr. EDWARDS):

> Racial quotas, set-asides and preferences do not, in my judgment, represent the values and principles which Texas should embrace. I strongly believe that decisions based upon individual merit and qualification are far preferable to decisions based on race or ethnicity.

Mr. Chairman, I yield to the gentleman from Arizona (Mr. HAYWORTH) for the purposes of engaging in a colloquy.

Mr. EDWARDS. Mr. Chairman, will the gentleman yield? Since the gentleman used my name and misquoted me, will the gentleman yield?

Mr. HAYWORTH. Regular order, Mr. Chairman.

The CHAIRMAN. Regular order has been called for.

The gentleman who has the floor has yielded time to the gentleman from Arizona (Mr. HAYWORTH).

Mr. RIGGS. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. HAYWORTH) for the purposes of engaging in a colloquy with the chairman of the full committee, the gentleman from Pennsylvania (Mr. GOODLING).

Mr. HAYWORTH. Mr. Chairman, I thank the Chairman of the Committee of the Whole House, and I thank the gentleman from California (Mr. RIGGS), my friend and the chairman of the subcommittee; and I am pleased to join my friend, the chairman of the full committee, the gentleman from Pennsylvania (Mr. GOODLING) to discuss how this amendment may have been modified.

Mr. Chairman, it is my understanding the Riggs amendment has been modified to exempt tribal colleges. Could the gentleman confirm that for me?

Mr. GOODLING. Mr. Chairman, if the gentleman will yield, my good friend from Arizona (Mr. HAYWORTH) is correct. The deference to Native American sovereignty in the Riggs amendment was modified to alleviate concerns that Members had raised about tribal colleges and how the amendment would have affected Native American students seeking admission to those colleges. This applies as well to facilities operated by the Bureau of Indian Affairs for Native Americans.

Mr. HAYWORTH. Mr. Chairman, reclaiming my time, I thank the gentleman for his help in making this important change. I know the gentleman realizes how important our constitutional and treaty obligations are to Native Americans, and I believe with the changes that have been made, this amendment now protects the unique nature of tribal colleges, a unique nature reaffirmed in Article I, Section 8 of our Constitution and in subsequent treaties.

Accordingly, I urge adoption of this amendment.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Chairman, I would like to make three points in response to the gentleman's comments.

First, he misquoted my statement on the floor. Secondly, what has happened in Texas with the ending of affirmative action is a perfect example of why we should oppose the Riggs amendment.

Thirdly, if the gentleman wants to quote minorities on affirmative action, I would point out for the RECORD that the only African-American Member of the House, who is also a Republican, happens to be opposing the Riggs amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

I rise today in strong opposition to the Riggs amendment. It is an extreme measure designed to deny access to higher education to members of minority groups and women.

The fact of the matter is that education is fundamental to social advancement in our society. The difference in income is tremendous. Those with higher education, men make $16,000 on average more than men without higher education. For women, it is almost double when we compare women with a college education to those without.

Affirmative action has served over the last 20 years to create opportunity for large numbers of African-Americans, Latinos, Asians and women, to gain access to higher education, and in turn, to gain access to economic prosperity. However, the proponents of this amendment would deny that opportunity to these folks in minority groups.

Why? Because they want to propagate to the American public that somehow we have reached a level playing field and that discrimination does not exist. On its face, that is ridiculous, but tonight I would like to look at this so-called level playing field.

I think what we find is that, in fact, it is not level. According to EEO, there have been 80,000 discrimination complaints filed over the last 2 years. According to crime statistics, over 10,000 hate crimes were committed, including 12 murders of members of minority groups. The report of the Glass Ceiling Commission says that women occupy only 3 to 5 percent of senior executive positions, and in Federal procurement, where hundreds of billions of dollars are spent, minorities and women get only about 5 to 7 percent.

Clearly, the playing field is not level. That is why we need affirmative action; that is why it is worth it to address the problems of discrimination that exist today.

Before I conclude, let me say this. I am tired of the patronizing by these folks who come up and say that this will allow unqualified people to gain admission to higher education. The fact of the matter is, even with affirmative action, the criteria for graduation remains unchanged. So anyone that comes in under a program such as this would not be unqualified or would not be compromising the quality of their education.

I hope we address the reality of today's world, and that is that affirmative action is needed because discrimination continues to exist.

Mr. CLAY. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the gentleman.

I would like to just clarify that we are exempting Native American colleges out of a unanimous consent request to modify the amendment to also exempt historically black colleges and universities and Hispanic institutions. I ask unanimous consent to do so.

The CHAIRMAN. The Chair would entertain such requests only from the sponsor of the amendment.

Mr. ANDREWS. Mr. Chairman, I ask unanimous consent to ask the sponsor of the amendment to offer this modification.

The CHAIRMAN. Who yields time?

Mr. RIGGS. Mr. Chairman, I yield myself 40 seconds to respond to several of the previous speakers on the other side.

I just want to say again, from my heart, I believe affirmative action is outdated. Affirmative action, contrary to what several speakers have suggested, is no longer a black and white issue, certainly not in California, the largest, most diverse State in our Union. Because the cultural makeup of America is changing, the argument that affirmative action serves as some sort of reparation for past wrongs, as I think the gentleman from Maryland (Mr. WYNN) and others have suggested tonight, no longer stands. Indeed, often, those most hurt by affirmative action are not white males, but rather Asian women.

Mr. WYNN. Mr. Chairman, will the gentleman yield?

The gentleman referred to me by name. Mr. Chairman. Will the gentleman yield?

Mr. RIGGS. I do not yield, Mr. Chairman, and I ask for regular order so that I might complete my comments.

I was about to say, those most hurt by affirmative action, as has been the case in California, are not white males, but rather Asian women. Again, I hear the comment made aloud over there, but I do not believe that is justice, and I do not believe that is the kind of society we want in this country.

Mr. Chairman, I yield 6½ minutes to the gentleman from California (Mr. COX), my friend and colleague.

Mr. COX of California. Mr. Chairman, I would like to focus us, if I might, on the text of what is before us because, frankly, I find it difficult to disagree with much of what has been said on the Democratic side. I, too, like my colleagues on the Democratic side, support affirmative action. I certainly want to lead the fight, as we always have here in the Congress, against discrimination.

A higher percentage of Republicans, in fact, than Democrats voted for the historic 1964 Civil Rights Act, and for every landmark civil rights act this Congress has passed. This is a bipartisan effort, and it always has been in our Congress.

Let us take a look at the language that is before us. Section A is titled Prohibition. What is prohibited? "No public institution of higher education shall, in connection with admission to such institution, discriminate against or grant preferential treatment to, any person or group, based in whole or in part, on the race, sex, color, ethnicity or national origin of such person or group."

It also says this: "Affirmative action encouraged," not abolished, not done away with, encouraged. "It is the policy of the United States," reading from the language of the amendment, "1, to expand the applicant pool for college admissions; 2, to encourage college applications by women and minority students; 3, to recruit qualified women and minorities into the applicant pool for college admissions."

If we can focus ourselves on what the amendment actually says and does, I think we can quickly see that this vindicates the very purpose of the Civil Rights Act of 1964, which its chief Democratic sponsors were careful to point out, never, ever, ever was meant to require quotas.

The Democratic floor manager of the Civil Rights Act of 1964 was the Senator from Minnesota, Hubert Humphrey. He told a critic of the legislation, which as I said was supported by more Republicans than Democrats, "If you can find anything in this legislation that would require people to hire on the basis of percentages or quotas, I will start eating the pages of the bill, one after another." Quotas, preferences, set-asides, are the antithesis of what the 1964 Civil Rights Act is all about and what affirmative action is all about.

The use of racial preferences, moreover, is today in America, and has been for years, unconstitutional. The Supreme Court and the Federal courts of appeal have struck them down in virtually every contest, in contracting, in voting rights, and most certainly in education.

Recently three Federal courts of appeal have struck down racial preferences in education, including the 5th Circuit in Hopwood v. Texas, the 4th Circuit in Podberesky v. Kirwan, and the 3d Circuit in Taxman v. Piscataway. In fact, the Taxman case was appealed to the Supreme Court, which was so clearly prepared to strike down these preferences nationwide that supporters of the preferences and set-asides and quotas settled the case rather than risk certain defeat.

All of these decisions had one thing in common: They all followed from the argument that Thurgood Marshall made to the Supreme Court when he argued Brown v. The Board of Education for the NAACP in 1955. He said that "Distinctions by race are so evil," evil, "so arbitrary and so invidious, that a State bound to defend the equal protection of the laws must not invoke them in any public sphere."

Now, many of my colleagues, many people of goodwill, are troubled by racial preferences, set-asides, and gender preferences and set-asides. But they want to know, nonetheless, what would be the practical effects of returning to a policy of affirmative action, the most aggressive possible outreach and recruitment combined with merit-based admissions decisions. Fortunately, we now have some answers to that question.

This amendment is very closely modeled on the California Civil Rights Act, the California Civil Rights Initiative which, in 1996 was passed by a significant majority of voters in the most populous State in our country; and CCRI, the California Civil Rights Initiative, is helping to make admissions at the University of California, which we have discussed here on the floor, color blind.

□ 2015

We have had some discussion and debate on the floor about what has happened in the UC system in the wake of the passage of CCRI. The number of African-American admissions after the passage of CCRI increased 34 percent at the University of California Riverside. The number of Asian-American admissions increased at four University of California campuses. The number of American Indian admissions increased at two University of California campuses. The number of Filipino admissions increased at three University of California campuses. The number of Hispanic admissions increased at two University of California campuses.

This shift of students among the campuses of the University of California is good news because graduation rates are expected to increase significantly. When colleges accept students who are best prepared for the level of academic intensity required at the institution, the probability that the students will graduate increases exponentially. In the University of California system, graduation rates are expected to increase by almost 20 percent for blacks and Hispanics. UCLA Chancellor Albert Carnesale stated in the Orange County Register that UCLA has admitted the academically strongest class in its history. Students in the UC system are now being judged by their qualifications, by their own merits as individuals, not as members of a class.

Mr. Chairman, that is the purpose of this amendment. Let us return to the purpose of affirmative action. Let us redouble our efforts against discrimination and let us vote indeed for this amendment.

Mr. CLAY. Mr. Chairman, I yield 2¼ minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I had a chance like my colleagues to read the amendment and I thank the gentleman from Missouri (Mr. CLAY), my colleague on the Committee on Economic and Educational Opportunities, for yielding me this time.

Mr. Chairman, I find it amazing that in the amendment that takes away the ability to have fairness, we have on page 2 that the gentleman from California quoted that it is the policy of the United States to do these things, but without any teeth in the amendment we might as well just throw it all away, and that is what should be done with this amendment.

Mr. Chairman, as a Member of Congress, I believe it is my duty to make sure that all Americans are served, and I believe that education for everyone is a key to our Nation's continuing success. That is why I rise in strong opposition to the amendment offered by the gentleman from California (Mr. RIGGS).

This amendment is an attack on the efforts to educate everyone in our Nation. In my home State of Texas we have a very diverse population, a population that is becoming more diverse with each generation. We cannot afford to implement a law that makes educating this diverse population more difficult.

I heard tonight the quote from our Attorney General, who is not running for reelection in our State of Texas, saying that should not be done. We are not talking about reparations; we are talking about fairness. We are talking about making sure that the America of the future will have that opportunity for education no matter what color of the skin.

In Texas, we have witnessed a dramatic decline in the number of Hispanic and black admissions to Texas higher education institutions after the Federal court ruling against affirmative action in the Hopwood case. We do not need to see a bleaching of America's higher education institutions. I do not need our college graduates to look like me. I want them to look like America. I do not want them to all be white Anglo-Saxon protestants. I want them to look like Americans.

We must advance educational opportunity, not limit it. If the Riggs amendment only had the second part, then maybe all of us could vote for it because that is the policy of the United States: To educate everyone, no matter where they come from or what their ethnicity.

The Riggs amendment would roll back the progress we are making. Affirmative action needs to be amended but not ended. I remember hearing Dr. King in 1963 say he had a dream. That dream has not come true. That is why this amendment needs to be defeated.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Guam (Mr. UNDERWOOD).

Mr. UNDERWOOD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong opposition to the amendment proposed by the gentleman from California (Mr. RIGGS) to ban the use of affirmative action in colleges and universities. The purpose of affirmative action is to remedy past discrimination endured by many sectors of our society. Gender, racial, and ethnic discrimination in education is outlawed under the 1964 Civil Rights Act and the 1974 Education Amendments.

Affirmative action is necessary to enforce these laws and to level the playing field for minorities. As an academic administrator and former professor, I know that colleges and universities are in the business of education and consequently in the business of creating opportunities for our young adults.

Institutions of higher education diversify their student populations through affirmative action programs and, in fact, practice affirmative action for a number of purposes, including geographical balance and promoting international scholarship. Affirmative action gives students the opportunity to join their peers in intellectual discussions, in informed and broad debate, and these are the necessary ingredients for institutions of higher education to be fountains of knowledge.

Higher education professionals understand this and use affirmative action to not only extend opportunities but to advance the institutions themselves.

The Riggs amendment would effectively stifle university actions to create campus diversity. Passing the Riggs amendment means that college admissions would be based almost entirely on statistically insignificant differences in test scores, grades, and possibly connections.

As an educator, I believe this proposal is preposterous with the experience our Nation has had, with the marginalization of certain sectors of our society. It is important to distinguish between affirmative action and past discrimination, a distinction which supporters of this amendment blur and avoid. Past discrimination made it impossible for otherwise qualified students to go to universities. Affirmative action gives qualified students a chance to go to a university. One says they could not go, no matter what their abilities were. Affirmative action says if they are qualified, we will give them a chance. It is as simple as that.

Mr. RIGGS. Mr. Chairman, may I inquire as to how much time is remaining on both sides?

The CHAIRMAN. The gentleman from California (Mr. RIGGS) has 24¼ minutes remaining, and the gentleman from Missouri (Mr. CLAY) has 30¾ minutes remaining.

Mr. RIGGS. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GOODLING).

LIMITING DEBATE ON AMENDMENT NO. 79, AND ALL AMENDMENTS THERETO

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that all debate on Amendment No. 79, if offered and all amendments thereto, be limited to 30 minutes, equally divided and controlled by myself, or my designee, and the gentleman from Missouri (Mr. CLAY) or his designee.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for allowing me to speak on this subject. I did not come prepared to speak on this subject, but my life is preparation for this subject.

Mr. Chairman, I decided I would speak out in strong opposition to the Riggs amendment, which is another verification of a dying system. The system is in its death throes. I thought that once it was lethally killed, but now I see that there are many who believe that by turning the clock back, that they may bring a change in America which they were unable to bring before.

Mr. Chairman, I want to share something. My colleagues will not be able to bring that change. They will not be able to bring it by glibly reciting laws one by one. Many have quoted case law, Martin Luther King, Thurgood Marshall, and any number of people and incidents have been quoted.

But, Mr. Chairman, my colleagues will be unable to turn this America back. This America is not the America that they knew or their forefathers knew. This is a different America. This is the America that is proud to have all races, ethnicities and creeds and sexes and everyone participate in this great manner which we have here in this country.

So I want my colleagues to talk as much as they want to talk, speak in rhetorical terms as much as they want to speak, because it does them good. But I want to give my colleagues some reality, some reality therapy. And I will go back to the time when I was a very, very young girl and I want my colleagues to put themselves in my place. Then they will see why I know America will not be that America again.

Mr. Chairman, I wanted to go to college. I could not go to the college of my hometown because I was black. I could not go to high school because I was black. I could not live where I wanted to live because I was black. I could not go to any State university. By the statutes of the State of Florida, I was eliminated from higher education.

But guess what? It did not stop me and it is not going to stop any black person. It is not going to stop any Hispanic person. What my colleagues are saying now, I would say what they are doing is bringing up the insides of the hatreds which their forefathers set there. But it is not going any place. There is no one in this House that is going to allow this to happen, so they may as well fold up their papers, fold their little tents and go home because this is not going to pass.

Mr. RIGGS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the first thing I want to say is my daughter attends a public elementary school in Northern Virginia where she is a minority. She is a minority as an Anglo at that particular school.

Secondly, I want to say, as I tried to stress earlier, that Anglos, Caucasian Americans are in the minority at the University of California. Two out of five students in the University of California system are white. That makes them minorities. At the University of Berkeley the figure is one in three.

Mr. Chairman, I can honestly say to my colleagues on the other side of the aisle, particularly the gentlewoman from Florida who just spoke, I really do not believe I have a racist bone in my body. And when I hear people talk about turning the clock back, I wonder if those who support race-based college admissions or racial preferences in college admissions, or really believe that that should be the primary if not sole factor considered in admissions, if they realized that they are talking about turning the clock back to before 1954 and the Brown v. Board of Education case, because that is exactly what they are advocating.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I do not think there will be peace in the Middle East or Ireland or in Bosnia in my lifetime, and I do not believe that racism will be dead in the United States of America in my lifetime. I truly believe that.

But I also believe that affirmative action creates a lot of negatives and that it is detrimental just like I think bilingual education is detrimental. And I agree with the gentleman from California (Mr. RIGGS) that the best thing we can offer to all children and to all Americans is an equal opportunity, especially by focusing on kindergarten through 12th grade.

A large portion of our Hispanic population drops out of school. That is wrong. And what chance do they have at the American dream? A large portion of the African-Americans that attend college are in remedial education, so in both groups the best thing we can do is offer all children the best we can in K through 12. But yet in this country we do not do that good a job, even though we have good teachers and good schools. My wife is one of those. I was one of those.

My dad, who died three years ago, he was a Democrat, and he said:

> Son, my ideal of the American dream is getting a good education and working hard. And if you have those tools, you can pursue happiness. It is not guaranteed. But if you pursue happiness and you have those tools, not every day but most days you can make tomorrow better than it is today.

And I truly believe that.

But I think turning the clock backwards, which many of my colleagues are trying to do, is wrong also. No, we are not to where we want to be, but I think the focus is on equality. Look at our colleges. Most of them are thick and strongly populated by the Asian community because they focus on education at a very young age. I have a large Asian population in my district and they focus on the family. They focus on education from the day that they are in kindergarten and those kids volunteer for every single event that will foster them an opportunity to go to school.

And as I look at our inner cities, what chance do they have at the American dream, Mr. Chairman? Almost none, because of the welfare system that was set up, because of the problems that they had, and the lack of values, and the crime and the drugs, and on and on and on.

So if we really want to help all children, let us do away with affirmative action and I truly believe that. The gentleman knows I worked with him on the committee. And I believe that if we do that, that then we are going to help this country, not hurt it. Is it a perfect country? Absolutely not.

□ 2030

But most of us, believe it or not, will work with you in that direction.

Mr. CLAY of Missouri. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, affirmative action is not a perfect policy. In an ideal world, we would not need affirmative action; we would not even want it. We would admit everyone, regardless of past practices of discrimination, regardless of the need to promote diversity in higher education, regardless of anything but merit.

We do not live in a perfect world. We live in a society and in an economy that has been shaped by our history. That history includes an economy that was based upon slavery. It includes, at one time, a definition of African-Americans as being worth only a fraction of the value of white Americans. It is a history that includes an official policy of school segregation. It includes a denial of voting rights, of Jim Crow laws.

In my own State of Virginia, it is a history that includes, in our own time, in our lifetimes, an official policy of massive resistance to integrated classrooms.

The closest correlation with academic success of any student is the educational experience of their parents. But what if parents and grandparents and great grandparents were denied access to a decent education as the official policy of the government? Our government denied African-American children access to a decent education. We cannot pretend that did not happen.

While it may not be the fairest way, affirmative action is still probably the most effective way to overcome these official policies of denial of access. Even with the help of affirmative action policies, twice as high a percentage of whites have college degrees as African-Americans, and only 9 percent of Hispanics have college degrees. Prohibiting affirmative action policies, as the Riggs amendment would, only worsens this disparity.

The reverse of affirmative action policies in California and Texas public universities led to a dramatic decrease in the enrollment of African-American students. All of those students that would have been admitted had high grades and were all fully qualified for admittance.

Someday, we will not need affirmative action, but that is not this day. I urge that we oppose this amendment.

Mr. CLAY of Missouri. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, here we go again. The gentleman from California (Mr. RIGGS) and his extreme right-wing friends are attempting to polarize and divide this Nation by pitting citizens of this country one against another.

The gentleman from California would have Members believe that somehow whites are being disadvantaged by affirmative action and African-Americans and Latinos and others are at a great advantage, and they are getting all of the slots in these schools.

Let me give the actual numbers that we have not heard for the University of California. In 1997, out of 44,393 students on nine campuses, guess how many were African-Americans? 1,509. There were 5,685 Latino students out of these 44,393. In 1988, 1,243 are African-American, and 5,294 are Latino students. This is with affirmative action, nine campuses.

He gave some figures, and he told us about UC Riverside, but what he did not tell us was this: that black undergraduate admissions dropped 66 percent in UC Berkeley, 43 percent at UCLA, 46 percent at UC San Diego, and 36 percent at UC Davis. These are the prestigious campuses. Latino undergraduate admissions dropped by 40 percent at UC Berkeley, 33 percent at UCLA, 20 percent at UC San Diego, and 31 percent at UC Davis.

The gentleman from California (Mr. RIGGS) and his supporters mischaracterized the admissions process and its reliance on race. Colleges and universities have always looked at a variety of factors, test scores, race, out-of-classroom experience, percentage achievement, and life challenges to determine who to admit to their institutions.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I rise today in opposition to this amendment. As a graduate of the University of California at Berkeley, as a woman who never would have had access to a higher education in California's public universities had it not been for affirmative action policies and programs, and who, as a child, upon entering school, was not allowed to attend public schools or public facilities due to segregation, I urge Members to vote no on this amendment. Eliminating affirmative action denies equal opportunities to many of our qualified young people who deserve to have equal access to a college education.

When the University of California Board of Regents considered ending the affirmative action program several years ago, as a member of the legislature, I pleaded with them not to take such a drastic action because of the fact that affirmative action, not quotas, which have been illegal since the Bakke decision, but actually affirmative action was the primary mechanism in place to assure that qualified students of color and women were afforded a public university education.

Many of us, myself included, predicted that minority admissions, which what we have heard today in terms of the decline of the minority admissions, would be very stark, and it is more stark than what we had imagined.

For example, this decline overall of 61 percent, that is outrageous. Only 191 black students were admitted out of a total of 8,034 into the University of California at Berkeley. Medical school admissions are equally alarming. There are no African-American students and very few Latinos entering medical schools at several of our campuses.

It has been shown, time and time again, that a large percentage of persons of color will return to provide medical services for underserved communities. We condemn these underserved communities to remain underserved when we do not provide admission to qualified applicants who have as their goal to provide health care services to these communities.

In 2 years of the Regents' policy, we have begun to see the unraveling of 30 years of progress. Why would we want to subject the rest of the country to this ill-conceived experiment? Conventional wisdom says that as California goes, so goes the rest of the country. I ardently advise my colleagues to learn from the mistakes of my home State and vote no on this amendment.

Mr. Chairman, I rise today in opposition to the Riggs amendment. This amendment will prohibit any institution of higher education that participates in any Higher Education Act program from using race, gender, ethnicity or national origin in its admissions process. Namely, the Riggs amendment seeks to eliminate affirmative action policies throughout the higher education system of this country.

As a graduate of the University of California at Berkeley, as a woman who never would have had access to a higher education at California's public universities had it not been for affirmative action policies and programs, who as a child, upon entering school, was not allowed to attend public schools and public facilities due to segregation, I urge you to vote no on this amendment.

America never has been nor is it a color blind society. Thirty years of affirmative action have helped change the landscape of our universities and colleges. However, it has not changed so much that we are in a position to abandon our efforts. While African-Americans, Latinos, and Native Americans comprise 30% of the college-age population in the U.S., they only comprise 18% of college students. The percentage of women receiving doctorate degrees is 39%. However, in male-dominated fields like mathematics, engineering, and physical science, the percentage falls to 22%, 12% and 12% respectively. The percentages of African-Americans receiving PhDs is 4%; Latinos and Asian Americans with PhDs are 2% and 6% respectively. These figures are dismal and while some progress has been made, now is not the time to impede this progress. It is inconceivable to me that individuals are arguing that we no longer need affirmative action programs. Eliminating affirmative action denies equal opportunities to many of our qualified young people who deserve equal access to a college education.

When the University of California Board of Regents considered ending affirmative action programs several years ago, as a member of the California legislature, I pleaded with them not to take such a drastic action because affirmative action was the primary mechanism in place to insure that qualified students of color and women were afforded a public university education. Many of us, myself included, predicted that minority admissions and enrollment would decline precipitously. Results have been even more stark than we imagined. Let me tell you what has happened in California since the demise of affirmative action.

The Fall 1998 class on the University of California's undergraduate campuses will be the first to have been admitted based on the new Regent's policy. Only 652 out of 3675 African-American, Latino and Native American applicants were offered enrollment for next year—a decline of 61% from last year. A 61% decline in one year. African-American enrollment fell by 66% and Latino enrollment fell by 53%. At UCLA African-American enrollment fell by 43%, while Latino enrollment fell by 33%. One of my constituents was recently included in an article in the San Francisco Chronicle about the effects of the new policy. Jamese LaGrone is a 17-year-old senior at Oakland's Holy Names High School. LaGrone was the junior class president, an athlete, worked on the yearbook and took a number of advanced placement courses. She has a 4.0 grade point average and scored 1390 on the SAT. Clearly, she is a well-rounded teenager who has worked in and out of the classroom to make the grade. I defy anyone to say that this student is not qualified to attend the University of California, Berkeley. Yet, she was rejected by the University of California, Berkeley. She is among 800 African-American, Latino and Native American applicants with 4.0 averages and a median SAT score of 1170 rejected by the University of California, Berkeley.

Medical school admissions are equally alarming. Only 3 Chicanos are registered at the University of California at Davis, one at the University of California at Irvine, and two at the University of California at San Diego. These numbers are only slightly better at the University of California at Los Angeles and the University of California at San Francisco. There is only one Puerto Rican registered in the entire University of California system. There are no African-Americans among the freshman classes of medical school at either the University of California at San Diego or the University of California at Irvine. These admission numbers have implications for the delivery of health care services to underserved communities. It has been shown time and time again, that it is primarily persons of color who will return to provide medical services for these communities. We condemn these underserved communities to remain underserved when we do not provide admission to potential, qualified applicants who have as their goal to provide health care services to these communities.

Only one year after the Regents decision to ban all affirmative action policies, the acceptance rate at Boalt Hall law school at Berkeley dropped 81%; at UCLA, the rate fell 80%. The message being sent to students of color is that they are not welcomed in the University of California system, so that even those few offered admission choose to go elsewhere. For example, no African-American students who received admissions to Boalt Hall chose to attend; only 7 of the Latino students who received admission elected to attend; the two Native American students accepted also declined admission.

In two years of the Regent's policy, we have begun to see the unraveling of thirty years of progress. Why would we want to subject the rest of the country to this ill-conceived experiment?

I have heard my colleagues on so many occasions talk about how the Department of Education should have less influence on education policy. Yet, here we are on the verge of putting the Department of Education in the business of dictating admission policy for our higher education community. Sixty-two presidents of the country's most prestigious universities have come out in opposition to the elimination of affirmative action policies. These presidents have attested to the importance of diversity in fostering a rich educational environment and how affirmative action policies play a key role in achieving this diversity. This amendment directly contradicts what the majority of educators throughout the country have said that they need. We cannot tie their hands on how they can achieve their mission.

I cannot stress enough what a devastating effect and far reaching implications the Riggs amendment will have for the future of this country. It will only further widen the disparities in education and income between men and women, and whites and people of color.

I cannot believe that Members of this House want to see the resegregation of America's colleges and universities. I urge a no vote on this measure to ensure that those qualified students, regardless of their race or gender, have an equal opportunity to pursue their dreams.

Conventional wisdom says that as California goes, so goes the rest of the country. I ardently advise my colleagues to learn from the mistakes of my home state. I hope that in this case, that conventional wisdom is wrong. I yield back the balance of my time.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I rise in opposition to the Riggs amendment, and I do so after numerous conversations with institutions of higher learning in my district.

There are a lot of folks around that complain regularly that the Federal Government, specifically the Department of Education, exercises too much control over the education of our children. They claim that they are for local control in autonomy and education.

My friends, this amendment promotes expanded authority for the Federal Government and takes away decision-making power from States and localities, as read by those who are responsible for education in my district.

My office has been in discussion with university presidents from across my district. They represent a broad spectrum of schools, small, large, public, and private, those who are affected by this amendment, and those who are not immediately affected.

In spite of the differences in their schools, though, all of the university presidents in my district that we spoke with were unified in their opposition to this amendment. They are worried about this latest potential intrusion by the Federal Government in instructing schools on ways in which they must conduct their business. They foresee an impact far more draconian and extreme than Proposition 209 and the Hopwood decision.

The last thing that these folks and their universities that have done such a fine job educating young people of west Texas want is more intrusion and regulation from the Federal Government.

I urge my colleagues to listen to these voices, to vote no on the Riggs amendment, and help prevent a broad-based, far-reaching, intrusive Federal prohibition that universities do not support and students do not want.

Mr. RIGGS. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I just again want to, for the benefit of all my colleagues, put matters in perspective in terms of what is taking place in the University of California system.

The latest systemwide data released by the University of California shows that this fall's freshman class will contain 675 fewer non-Asian minority students spread over the entire eight campuses. So the new freshman admissions are 15.4 percent non-Asian minority, interesting that they actually exclude Asians from the minority classification, compared with 17.6 percent for the 1997 freshman class. That is a decline of 2.2 percentage points.

The drop may be even smaller since the university does not know the ethnicity of the huge number of admitted students, 6,346, who declined to list their ethnicity on application forms this year.

So I want to suggest to my colleagues we have to treat these numbers that people are throwing around with a little bit of caution. The decline of black and Hispanic freshman enrollment in the 2 percent range is a lot smaller than many people predicted, a lot smaller, of course, than those who are quite up in arms, even hysterical over the passage and implementation of Proposition 209.

As I said earlier, what we have seen now is a spreading effect, more minority students at the other campuses in the University of California system, to the point where, as I quoted earlier, Judson King, the provost of the University of California, is acknowledging that we are actually achieving more diversity, better balance by the end of preferences in the University of California system.

Mr. Chairman, I yield 2½ minutes to the gentleman form California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Chairman, I think that we are all talking about the fact that we want to address the fact that everyone who is disadvantaged should have access to their educational opportunities.

California is a very progressive State. We have been way ahead of the curve so many times in America that now people have just basically expected us to do this. I would ask that we talk about working together on this issue.

Californians have recognized that we are not talking about turning the clock back. We are talking about moving forward. The fact is, the days of trying to justify fighting prejudice by being prejudiced is a thing of the past. The assumption that there are only certain groups, by the color of their skin or their gender, who are disadvantaged when it comes to educational opportunities is an antiquated concept.

Mr. Chairman, if you walked in my neighborhood, a community in south San Diego, along the Mexican border called Imperial Beach, we could walk down, and I could show you where there was a Latino, an African-American, a Pan Asian, an Anglo. You could not tell me that this person's children are advantaged, this person's children are disadvantaged.

The fact is that the great disadvantages in our society today follow more economic-social lines than any other single denomination; and that happens to have a large, large impact to those who are people of color. I agree with that. I think there are opportunities for us to have affirmative action.

In my county, we had affirmative action, and it was declared constitutional because we did not have quotas and set-asides. We did not judge men and women based on their gender or people based on the color of their skin, but we did address the issue.

There are a lot of people that are disadvantaged and need help. That does not necessarily always follow based on the color of someone's skin or somebody's gender.

Mr. Chairman, I think that we can work together on this, but we need to leave the old race-baiting approach and the gender baiting. We do not fight racism by being a racist. We are not going to end sexism by being sexist.

Mr. Chairman, as somebody who has worked on affirmative action for over 20 years, we can do better. We do not need to deny a Filipino girl in San Diego access to the UC system because there happen to be so many more Asian Americans who qualify.

I have three daughters and two sons who are alive. I hope to God that some day in the next century we can stand up and say that our daughters and our sons, no matter what their gender, no matter what their race, no matter their economic opportunities, will have equal rights under the Government of the United States.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I rise in strong opposition to the Riggs amendment. This amendment would forbid public colleges and universities from considering race, color, national origin, ethnicity, or gender at all in the admission of students.

□ 2045

Now, I oppose quotas and reverse discrimination, but this amendment will not eliminate quotas or reverse discrimination because they are already illegal. And that is the point. This amendment would eliminate diversity in our Nation's public colleges and universities.

We have seen what happens when affirmative action in higher education is eliminated. Minority enrollment plummets, plain and simple. For example, since the Hopwood case and the passage of Proposition 209, the number of racial minorities admitted to public universities in Texas and California has decreased dramatically.

At the University of Texas Law School, admissions of Hispanic students is down 64 percent. Admission of African-American students is down 88 percent. And when minority admissions decrease so dramatically, there are so few minority students that those who are admitted do not choose to attend. At Boalt Law School last year, not one of the African-Americans admitted elected to attend.

Even minority applications are plummeting. Last year minority applications at the University of California at San Francisco Medical School fell from 722 to 493. Berkeley Chancellor Robert Berdahl has said, "We have got to take this seriously. Our future as a university and the future of the State of California is at stake."

The Association of American Medical Colleges has said of this amendment: "HMOs and other large health care organizations are calling for greater numbers of physicians who reflect the diversity of the patient populations they serve. Today, black, Hispanic, and Native American doctors are a crucial source of care for the Nation's burgeoning minority communities as well as its poor populations. Ultimately this legislation will undermine decades of progress our Nation has made in educating underrepresented minorities for all trades and professions."

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. BONIOR), the distinguished minority whip.

Mr. BONIOR. Mr. Chairman, America has always been about opportunity: the opportunity to work hard, the opportunity to get ahead, and the opportunity to achieve everything that our talent and our toil will allow. And in today's competitive economy, the key to that opportunity is a good education.

That is what we are talking about this evening, ensuring that all Americans have an opportunity for a good education, even those who have traditionally been denied access to our colleges and universities.

Most colleges and universities seek out students of various talents, perspectives, and backgrounds precisely because that diversity makes them stronger. They admit students on the basis of many subjective criteria. Some students are admitted because they are top scholars, some because they are good athletes, some because they are children of wealthy alumni, some because they are in-State students, some because they help create geographic diversity.

Factoring in an applicant's race and gender in the admissions process is no different except its purpose, ensuring equal opportunity for all Americans, is a whole lot more important than recruiting a winning football team or boosting donations of alumni. Student bodies that include men and women of all backgrounds help produce the diversity that we need in America.

Now, there are those who argue that affirmative action is no longer necessary. And to them I say, let us look again, once again this evening, at the evidence.

One year after the University of California prohibited all affirmative action programs, enrollment for African-Americans dropped 66 percent, Hispanic enrollment dropped 53 percent. The end of affirmative action at the University of Texas Law School caused Hispanic admissions to drop 64 percent and African-American admissions to drop and to fall by 88 percent.

So what do these statistics tell us? That not all Americans are getting equal access to educational opportunities.

Affirmative action is an effective tool to remedy this. The Riggs amendment would take this tool away from us. It would undermine opportunity. I strongly urge, Mr. Chairman, I strongly urge my colleagues to oppose it.

Mr. RIGGS. Mr. Chairman, one more inquiry as to how much time is remaining on both sides.

The CHAIRMAN. The gentleman from California (Mr. RIGGS) has 16¼ minutes; and the gentleman from Missouri (Mr. CLAY) has 16½ minutes remaining.

Mr. RIGGS. Mr. Chairman, I yield myself such time as I may consume.

I want to say to my colleagues that we have to look at the results of affirmative action as has been practiced by many institutions of higher learning around the country. That is why we have gotten the court ruling in the Hopwood case; that is why the courts upheld the legality and constitutionality of the California civil rights initiative.

In fact, the Ninth Circuit Federal Court of Appeals said in upholding Prop. 29 in California, and I quote, "Where a State denies someone a job, an education, or a seat on the bus because of her race or gender, the injury to that individual is clear. The person who wants to work, study, or ride but cannot because she is black or a woman is denied equal protection" under the law. "Where, as here," and referring to the case of Proposition 209 in California, "a State prohibits race or gender preferences at any level of government, the injury to any specific individual is utterly inscrutable."

Inscrutable. That is the word of the appellate court.

No one contends individuals have a constitutional right to preferential treatment solely on the basis of their race or gender. I will turn the earlier argument of the gentleman from Texas (Mr. EDWARDS) on its ear. Is there anyone on the other side of the aisle who is willing to stand up tonight, in fact, I think this is the argument the gentleman from California (Mr. COX) made as well, and contend that any individual American citizen has a constitutional right to preferential treatment solely on the basis of their race or gender? If so, I will hear from them now. I will yield to them.

The court is clear. What has evolved is an unfair system.

The court goes on to say quite the contrary. "No individual citizen has that constitutional right to preferential treatment." And they go on to conclude and say, "What then is the personal injury that members of a group suffer when they cannot seek preferential treatment on the basis of their race or gender?"

So that, I think, is the crux of the legal argument. And I guess that is as good a segue as any, Mr. Chairman, to introducing my good friend and fellow Californian.

Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, what do we say, what do we say to the young Asian-American woman who received a letter in 1989 from the University of California Boalt Hall Law School. I saw the letter. It said that she was on the waiting list, and there was a blank, and the word "Asian" was written in; that she was on the lower third of the "Asian" waiting list. What do we say to an individual who is told that her race is going to determine whether she has a good, better, or worse chance of getting into the law school of her State, the University of California? (The University agreed to stop this practice.)

People of good will are on both sides of this issue tonight, Mr. Chairman. I recognize that. Every intelligent person does. And I cannot dispute that affirmative action, as practiced in this country, has done good for many people. I just cannot accept the price of the harm it does to those who are kept out. And that is what happens. We cannot logically include somebody, giving preference on the basis of their race, without saying that somebody else is excluded because they were not of that race.

The University of California has been the subject of a lot of the debate tonight. Statistics about the test scores there were reported in the Wall Street Journal in April of this year. They say that the SAT for math was 750 for Asian students; for white students, 690; for Hispanic, 560; and for black, 510. What do we say to an Asian American who scores 740 on the SAT math and is told she cannot get into Berkeley, but that if her race were white, she could?

The danger is, once the State begins to use race, it is very, very hard to do it right, to do it in a fair way, to do it in a constitutional way.

I want to tell my colleagues something that happened to me personally. First of all, some background: Asians now are about 38 percent of those admitted to Berkeley, 41 percent of those admitted to UCLA. They are the largest ethnic group at those two campuses. And if we look at people as members of groups, we could say, well, that is high enough. That group's percentage is high enough. But that is just not fair to the individual who is told that we have reached the limit of "your type."

I had this personal experience, Mr. Chairman. When I was a member of the California State Senate, a high administration official of the University of California came to see me in my office. And he said, we need affirmative action at Berkeley because, otherwise, "there would be nothing but Asians there." He said that to me, in my office. I said to him, what is wrong with that? They would be Americans. Not Asian Americans, not Caucasian Americans, not African-Americans. Americans. But this university official was concerned that there would be too many of one particular race at the University of California.

When California abolished the use of race in the admissions policy at the University of California, the group that increased in admissions was Asian. At the law school at UCLA, the numbers of Asians admitted grew 81 percent.

During the time when affirmative action was practiced (and I know this because I interrogated the administration officials at the University of California) people of higher income were admitted over Asian-Americans of lower income. There was no affirmative action for Vietnamese, though they came to this country with nothing. No affirmative action for them.

And the university actually argued that because they would admit students of lower income if they abolished affirmative action, they would have lower academic performance, because academic performance was correlated with income. That, to me, is so wrong, to say to somebody whose income is lower, that nevertheless they are just the wrong race, so they cannot come in.

Mr. Chairman, I had a distinct honor to be law clerk to Justice White in 1978, when *Bakke* was decided. And I read every word of the civil rights history of the 1964 Act, and I read the briefs in the case. And I will never forget that the Sons of Italy and B'nai Brith submitted briefs in that case saying it is not just a generic Caucasian that we would be taking places from, it is us; in the two instances I gave, persons whose interests were represented by B'nai Brith and the Sons of Italy would be losing places in the class admitted to medical school.

Four justices in that case ruled that there was no difference to the individual whether they are told they cannot get in because there is an absolute quota, or they cannot get in because they do not have the racial plus factor of those who were admitted. Two of those four were Justice Stevens and Justice Stewart, nobody's far right wing members of the Supreme Court.

The numbers at the University of California are not as good as we would all like. I admit that. But the University of California has not tried the alternative. What they should have done, from the start, is consider people who are willing to work in low-income neighborhoods upon graduation. Let us admit people to medical school who are willing to go into the neighborhoods that need them. Let us admit students taking into account a promise to do that; not on the basis of their race.

We should consider income. We should consider whether your parents graduated from college. We should consider how many from your high school went on to college. The University of California never tried those factors. They used race because it was the most convenient; and, hence, the numbers now are as bad as they are. I suggest that it is time to try the alternatives, because using race has led to unfairness to people in my State.

□ 2100

I conclude with this. This is a matter of shame to me that my State kept Chinese from owning property at the beginning of this century; told Chinese they could not even litigate in civil courts up until the Second World War. They took Japanese Americans and said, "Because you are Japanese, you will be deported from the State of California; your property and business will be seized." It is just not right for my State to tell them now, "You are on the Asian waiting list."

Mr. Chairman, we cannot do good by doing bad. Let us do good and consider people as individuals, not as members of a class.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Chairman, I mourn for the Chinese who were denied the right to own property. I mourn for the Japanese who were put in concentration camps. But I also mourn much more for those descendants of African slaves who were descendants of people who were not allowed to own property for 232 years. They were not even recognized in marriage. They could not get married. Laws were made to prohibit the teaching of reading to African-Americans.

All those injustices do not matter, I suppose. If we start with a set of wrong assumptions, we can make a profound argument about simple-minded matters. But let us lay this aside for a moment and not discuss the need for affirmative action as a matter of justice that is long overdue. Let us just talk about how do we deal with the present situation and some of the things the previous speaker said.

Why do we not let all high school graduates who qualify to go to college go to college? Why do we not open up the slots. Why do we not have open admission and have the Federal Government have a program where we expand the Pell grants and we expand all the Federal aid to the point where open admission would mean that every student graduating from high school who can reach a threshold can go on to college.

Because the facts are that those students who have the lower SAT scores in the minority community, once they go to college, the results, the studies that are done about results in the medical schools and results in the law schools, they get the same results. They come out at the same level as everybody else.

If we want an America which is meeting its needs for a large number of educated professional people, and we are missing the boat here, we have no vision as to what is coming. We have a great shortage of teachers right now. We do not seem to recognize what that means. We have a great shortage of information technology workers.

Practically every profession is facing the shortage just to meet our domestic needs. Yet we are the indispensable nation that offers all kinds of assistance to the rest of the world, and our leadership in the world will have a lot to do with our prosperity; and we do not have the educated people in the hopper, in the pipeline, to do that.

This amendment is going backwards. It is all wrong.

The CHAIRMAN. The Chair would advise, the gentleman from Missouri (Mr. CLAY) has 14½ minutes remaining, and the gentleman from California (Mr. RIGGS) has 7¼ minutes remaining.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding the time.

I rise in opposition to the Riggs amendment. The amendment, although it has been altered, is still extreme. It is going to create a two-tiered system at our Nation's institutions of higher education. Our private colleges and universities can continue their affirmative action programs, creating diverse and inclusive environments on their campuses nationwide. But students in public colleges and universities will be deprived of all of those benefits and enrichment that diversity brings to the educational experience.

While the Riggs amendment would encourage the recruitment of women and minority students, there is little indication that this language would be implemented. Women and minorities have been historically underrepresented in many critical fields: science, engineering, technology. I could cite the statistics to indicate that among technology jobs computer programming attracts the most women, and that is 29 percent of female. Only 12 percent of physics doctorates and 22 percent of mathematics doctorates are awarded to women. For minorities, it's an even more bleak picture.

Two-thirds of the new entrants into the workforce in the year 2000 are going to be women and minorities. Let us train them. Let us give them the opportunity. Let us embellish affirmative action in terms of what our Nation stands for. The battle for equal rights is not yet won. I urge a "no" on the Riggs amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FATTAH).

Mr. FATTAH. Mr. Chairman, let me thank the gentleman for yielding. And let me also concur that there are, I am sure, well-meaning people on both sides of this debate. But I think that this amendment would move this country in the wrong direction.

Harvard University was founded for the sons of landowners, white male landowners, and sons of the clergy. And when we look at the circumstances of higher education in this country and we know that the greatest predictor whether a kid would go to college is the education of one's parents, and then we already have heard the history of how certain groups have been excluded, then we know by mere fact that therefore others would be in a deficit position in order to go forward and matriculate at a higher education institution.

We know that income is a secondary factor, and we know where minority groups fall in the income distribution scale in this country. We also know that the third factor is the K-to-12 education. And everywhere we look in this country, we will see that minority students are in underfunded public education systems that disproportionately put them in a situation where they cannot compete adequately in some of these standardized tests.

So if we look at those three factors that on their face are nonracial in their characteristics, they have in fact an impact. The other thing that is important is that the Riggs amendment, my colleague from the Committee on Education and the Workforce, his amendment would allow a university like Penn State, where I served on the board of trustees, or Temple University, to admit, as many do now, foreign students based on preferences and all kinds of other considerations, giving them points in the admissions process, giving them headway over and above native-born American students who come from groups of Americans who have been left out of the picture.

Now, here in this Capitol, we have some 300 pictures, artistic pieces, renderings about our history. Not one picture is of an African-American or a Hispanic American, a Latino. Is the kind of America we want to paint where we lock other people out? Do we want to return to the day when in law school and medical school it is all males and no females?

What does that suggest for this country as we would go forward into the 21st century?

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Attack. Attack. Attack. Mr. Chairman, I rise before my colleagues today to express my opposition to this amendment.

In fact, I am sick and tired of being sick and tired. Why is it that minorities in this country are constantly on attack? One year after the passage of Proposition 209, California's most select universities admit 50 percent fewer African-Americans and Latin American applicants? Why is it that every time we talk about affirmative action in education we are talking about race?

What about the football player who gets affirmative action or the alumnus because of the family's connection? How about the banker who has influence with the admissions board? This amendment is a blatant attempt to keep minorities out of our colleges and universities so that they will never have the opportunity to be successful.

Affirmative action has never been about favoritism. It is merely one tool to make sure that everybody in this country has an opportunity for education.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, I thank the gentleman for yielding me the time.

I rise in strong opposition to this amendment. I am very sorry that this amendment is before us today. It is really very divisive. It moves the country in the wrong direction. I do not think we want to go back to the good old days, which were not so good to begin with.

I am really amazed because our Republican colleagues have traditionally said that the Federal Government ought not to intrude in the matter of education as far as the States go, and here we are mandating, intruding, and saying that the States cannot even have the ability to decide for themselves what is best for their universities. It makes no sense to me.

If we do not believe that the Federal Government should come in with a sledgehammer, then why are we mandating this on States? The States are intelligent enough. They know what kind of programs they want and what kind of programs are best for their States. We ought to leave it alone.

I was educated at public universities in my State. I think we do very, very well. I am not interested in theories. In the real world, this country moves forward when people of goodwill work together. We need to stop dividing people. We need to bring people together. People are benefited when they go to school with other types of people. That is best for the society as a whole.

It is good for children to get to know other children, not only children of the same background, but children of different backgrounds. And what the Riggs amendment would do is it would resegregate public universities in this country. I do not see how that is good for America.

I think it is good that we have all types of people getting to know each other so we can have a brighter future. It does not make sense. Private colleges, as many of our colleagues have stated, could continue to be diversified, whereas public universities would have a stranglehold.

Let us not dictate to the States and tell them what they ought to do or what is best for them. We do not need Big Brother. The States know what is best for themselves. This amendment has constantly been worked and reworked and reworked and reworked, which means there has been a terrible problem with it.

I wish it would be withdrawn. We have seen what happened in California and in Texas with Proposition 209. This slides the country backwards. Let us move forward and reject the Riggs amendment.

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the distinguished minority leader, the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I rise in opposition to this amendment, and I hope that it will be defeated.

This amendment would travel us down the retrograde road of racial divisiveness by offering legislation that would deny educational opportunity to minorities and women. The Members who support this amendment wanted America to end the era of diversity and integration in our public institutions of higher learning.

The Riggs amendment would destroy the years of effort and commitment that this country has made to expand educational opportunity. All the progress that we have made, and it is considerable, could be lost and reversed with this one vote.

The Riggs amendment is described by its proponents as an effort to eliminate preferential treatment and discrimination in admissions in public institutions that receive funding under the Higher Education Act. But make no mistake, the Riggs amendment is not about eliminating preferences and not about eliminating discrimination. It is about limiting the ability of public institutions to make their own choices about how to reach out to qualified students in their application process.

Like its model, California's Proposition 209, supporters of this amendment know that the majority of American people support affirmative action remedies that seek to be inclusive and remedy past discrimination, that aim to increase the attendance of minorities and women at our universities and colleges. They use terms such as "preferential treatment" and "reverse discrimination" in order to obscure what is really at stake here.

I know that the American people support affirmative action. I have heard stories of countless individuals who have been benefited, who have been helped, who have been given an opportunity that they would not have had but for these programs. These are the success stories of affirmative action which we have not talked enough about.

These people who had this chance overcame odds, surmounted the obstacles of discrimination, and they were allowed to fulfill their hopes and realize their potential, which they would not have been able to do without this help.

The Riggs amendment will create a crisis, educational inequality on a scale which we thought we had left behind us when we passed the civil rights laws in this country. We need only to look at California's experience to know what happened when this new policy came into being.

Under Proposition 209, the California State system has experienced the most significant drop in minority enrollment in its freshman classes in the past 2 decades. Proposition 209 has had such a devastating impact on educational opportunity for minorities in California, it has caused even longtime opponents of affirmative action to rethink their position.

I remember what it was like in America before we had this kind of affirmative action that really brought people into opportunity. I graduated from the University of Michigan Law School in 1965. And in my class, there was one, one, African-American student. In fact, he was the only African-American in the entire law school when I attended law school at the University of Michigan.

That classmate was Harry Edwards, who is now Chief Judge Edwards of the U.S. Circuit Court of Appeals for the District of Columbia.

□ 2115

Last year in the entering class of the University of Michigan Law School, there were 25 African-Americans, and

22 percent of the entering class was comprised of students of color. Look how far we have come. Do we want to go back to 1965 when there was one African-American student in the entire law school at the University of Michigan Law School? Or do we want to continue what has been happening today because of affirmative action?

I think I know the answer. I think I know the best answer for America and for our people. Let us not go back into the past, which was not successful. Let us stay with the present. Let us keep affirmative action. Let us keep America the land of opportunity. Vote against the Riggs amendment.

PARLIAMENTARY INQUIRY

Mr. RIGGS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RIGGS. Mr. Chairman, just confirming that the gentleman from Missouri (Mr. CLAY) has the right to close debate.

The CHAIRMAN. As a member of the reporting committee opposing change in the committee position, the gentleman from Missouri (Mr. CLAY) will have the right to close.

Mr. RIGGS. I would also like to confirm how much time is remaining on both sides.

The CHAIRMAN. The gentleman from California (Mr. RIGGS) has 7¼ minutes remaining and the gentleman from Missouri (Mr. CLAY) has 5½ minutes remaining.

Mr. RIGGS. Mr. Chairman, I yield myself 3 minutes. I just want to say, let us not get too hysterical about this debate. I go back for the third time in the course now of about 2 hours, I want to quote Judson King, provost of the University of California, who acknowledged that the passage and the implementation of Proposition 209 has evened out diversity across the University of California system, all eight campuses, or nine if we include the University of California at San Francisco Medical School. John Leo, who quoted Mr. King, goes on to say in this commentary, "Though there is no real shortage of hysterical commentary about the end of preferences," and we have certainly heard and seen that here tonight, Mr. Chairman, "very few people have bothered to talk about the strong positive aspects. For one thing, a great burden has been lifted from the shoulders of the University of California's black and Hispanic students. No longer can anybody patronize them or stigmatize them as unfit for their campuses. From now on, all students in the system make it solely on the basis of brains and effort and everybody knows it. The end of preferences will help make campuses far more open and honest places. The deep secrecy that surrounds the campus culture of racial preferences," whether we are talking about the University of California, the University of Texas, the University of Michigan or for that matter any other public college or university that engages in racial preferences in making their admissions, setting their policies and in making their admissions decisions today, "has compromised many officials and led to much deceit and outright lawbreaking. Martin Trow, a Berkeley professor, spoke at a recent academic convention about all the coverups and lying that preferences have spawned, citing as one minor example an Iranian student at Berkeley who said he had been encouraged to list himself as Hispanic in order to qualify for a preference." You have academics themselves, Professor Trow at Berkeley, Professor Cohen at Michigan speaking up and saying this is deeply wrong. It is, as I said earlier, anti-American.

Mr. Chairman, the other thing I want to say to the speakers on the other side of the aisle, they seem to be referring, if I understand their argument, to the continued existence of racial prejudice in our society as a justification for racial preferences. I find that argument utterly baffling. I cannot follow the reasoning there, because I do not understand how State-based, State-enforced discrimination based on race, which is exactly what my amendment is intended to ferret out and end, I do not understand how that State-based, State-enforced discrimination can help end discrimination and racism. I do not think the other side has addressed that argument tonight.

The evidence is unmistakably clear. After 25 years of preference, racial preferences continue to be a powerful source of racism and racial resentment in our society. As I said just a moment ago, they have poisoned racial relations at universities and schools across this country. It is time for us to admit to ourselves, to our fellow Americans that race conscious State action is not a cure for racism. It is simply a reinforcement of it.

Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Chairman, I serve on the Committee on Education and the Workforce. I strongly oppose the Riggs amendment. The elimination of affirmative action programs in California had a devastating effect on new minority student enrollment in the University of California's graduate and professional school programs in 1997. Equally devastating was the effect on the enrollment of the two flagship universities in my own State of Texas. Affirmative action policies have enabled colleges and universities to champion access and equal opportunity for a postsecondary experience for a generation of students. Achieving diversity on college campuses does not require quotas, nor does diversity warrant admission of unqualified applicants. However, the diversity colleges seek does require that colleges and universities continue to be able to reach out and make a conscious effort to build healthy and diverse learning environments appropriate for their missions and communities.

The Nation cannot afford a citizenry unequipped to participate in the educational, social, political, cultural and economical processes of society. Until equity for all students is reached, these opportunities created through affirmative action must continue. It is vital that the reauthorization of the Higher Education Act ensure access to postsecondary education for qualified applicants. The Riggs amendment would effectively shut the doors of higher education to large numbers of minority students.

In conclusion, Mr. Chairman, I urge all my colleagues to vote no on the Riggs amendment.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. I thank the gentleman for yielding me this time.

Mr. Chairman, I am in complete opposition to the Riggs amendment that brings affirmative action to a screeching halt in the admission offices in colleges and universities across this Nation. Although the language of this amendment sounds bland and nonthreatening, nevertheless the intent of this amendment is to end affirmative action, those actions which would overcome past discrimination. The sponsors of this amendment talk about affirmative action as if they are quotas, which is not the case. The goal we are trying to reach is equality of opportunity, not based on race. How can we reach this goal when we fail to give opportunities to women and minorities to overcome past discrimination?

I submit, Mr. Chairman, that in order to achieve equality, we must not quit our past endeavors. California and Texas both enacted laws that prohibit universities and colleges from using affirmative action as a legal remedy in cases of discrimination, to use affirmative action to increase campus diversity. Mr. Chairman, this amendment is counterproductive. It puts us further away from the goal we are trying to achieve, equality. I urge my colleagues to oppose this amendment, because discrimination does indeed exist.

Mr. RIGGS. Mr. Chairman, I yield myself 15 seconds, to simply say that as the gentlewoman herself has said, we must guarantee equality of opportunity in our society. But we cannot guarantee equality of results.

Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. ARMEY), the majority leader, for the purposes of closing debate on our side. No one has worked harder to create educational opportunity for minority children in this country than the majority leader, and he shares my concern, our concern, that we as a country cannot afford to lose another generation of urban school children.

The CHAIRMAN. The gentleman from Texas is recognized for 4 minutes.

Mr. ARMEY. I thank the gentleman for yielding me this time. Mr. Chairman, let me begin by appreciating the gentleman from California (Mr. RIGGS) for bringing this amendment to the floor. It is not a debate that most of us would want to join. It is a difficult subject, there is no doubt about it, but yet it is so important. To bring this subject out as the gentleman has done leaves him open to be easily misunderstood, even more easily misjudged and frankly more likely to be mischaracterized. His courage and commitment to fairness is to be appreciated.

This has been an unusual opportunity for me. In these days I rarely get to listen to an entire debate on any subject. But I did get to hear this whole debate. It is important to me. You see, I do not believe there is anything that we can do as a culture of civilization that can be as important as educating our children. In that task, I believe there is no institution that is more important than the university, because the university gives us our final product and gives us all our inputs as it trains our teachers.

Indeed, I labored in the university for 20 years, so I retain a great interest in it. Of all the things that I heard in this debate this evening, the thing that I found most unfair were the characterizations of American universities made by those in opposition of this amendment. I repeatedly heard people say, "Oh, we can't do this, because universities will not be fair in their admissions policies." Do we think so little of our universities? Do we think so little of our professors? Do we think so little of our admissions officers that we think they will not be fair? Without this, it was argued, the universities will not pursue a policy of diversity.

Well, I have been there. The universities invented diversity. They are committed to it intellectually and emotionally, and they are not going to walk away from it. I also heard a very discouraging assessment of this. How little is our imagination? How little is our courage? We have seen some testimony. Yes, there is progress. There is change. Things are better in America than they were. We have got shame, we have got embarrassment about the way we have treated one another in this Nation in the past, and things are changing.

Now I think the time has come in this great Nation, can we dare, can we dare to move forward? I think this is what the gentleman from California (Mr. RIGGS) is asking us to address. It is not a retrograde road. Do you have so little faith in the goodness of the American people as exhibited in the discussions of your lack of faith in American universities that you believe we will go back to the days of Jim Crow? Or maybe, maybe, America is a Nation that has grown enough in its goodness that the road that we are about to take may be a better road?

The question I think that the gentleman from California is asking us to address, is America a Nation where we believe it is right and a Nation that is capable of living by the idea that every person, every person in this Nation, deserves to be treated the same as everybody else?

One of my great privileges as a Member of Congress is to assist young people in obtaining appointments to the military academies. That is often misunderstood. I can appoint no one, but I can nominate. Repeatedly throughout that process to all the young men and women who come to me, I emphasize that I want them to know, and they need to know that if they get an appointment, they got it on their merits. There is no politics involved in this, no preference, nothing special. Why did they need to know that? Because it is a daunting task for a young person. They need to go to that task knowing that they will be respected by the others at the academy and that they have already proven in the selection process they have the ability and they can therefore go with the courage and the confidence they can succeed.

Does not every young person in America that gains admission to any college, any university, any program deserve the right to know that not he nor anyone else can doubt that he did it on the basis of their own merit, their own intelligence, their own accomplishment? Or must they live with the shadow of worry and doubt that even if they themselves can get beyond it that others will not recognize these things and others will think you got it because somebody in the government defined you arbitrarily as a person in a class to be given preference?

□ 2130

No. A government that can give a child a preference in consideration of matters extraneous to that child's virtue and merit is a government that can give a child prejudicial treatment. Is America ready to have a government that will insist that each child is judged by the quality and the character the child has and the child has exhibited?

I believe what the gentleman from California (Mr. FRANK RIGGS) has asked us to do now is to come to a fork in the road, a fork in the road that says: "Mr. and Mrs. America, we have faith in your goodness. We believe that you are ready to travel the higher road, the road of fairness, decency, and respect; and we don't believe that we in Washington are either qualified or able to dictate to you the terms by which you should travel that road."

Let us vote yes for this out of consideration for the young people's right to be treated with decency and out of respect for the goodness that we find in the American people.

Mr. CLAY. Mr. Chairman, I yield the balance of time to the distinguished gentleman from Indiana (Mr. ROEMER) a member of the Committee on Education and the Workforce, to whom we have reserved the right to close debate on this very critical and important issue.

The CHAIRMAN. The gentleman from Indiana is recognized for 2½ minutes.

Mr. ROEMER. Mr. Chairman, I rise in opposition to the Riggs amendment, and I do so even in respect to the gentleman from California (Mr. RIGGS) who I work with on a host of issues.

I would like to tell a more personal story, a personal story about growing up in Indiana where I am born and raised, a story about my mom and dad raising me and teaching me values, values about God and faith, values about giving back to the community and, therefore, my public service, and values about equality. And my mom and dad always said to me, "Everybody pulls their pants on the same way, and you better treat people equally."

That was a value and a principle in my household.

Now growing up in predominantly white Indiana in a rural community, I went to a predominantly white high school. But then I went to the University of California at San Diego where they value diversity, where most of the class was made up of people of color and different religions. And while I got a great academic experience, maybe the best experience was the exposure to this beautiful country, people from all different backgrounds and religions and races. And coming from rural Indiana, one of the best experiences of my lifetime.

Now the UC system has declined its enrollment for African-Americans by 65 percent; Hispanics, by 59 percent. As the U.S.A. is getting more diverse, some of our colleges are getting less diverse.

Affirmative action, Mr. Chairman, should never be about quotas, it should never be about reverse discrimination, but it should be about what my dad and mom told me: equal opportunity for all. We should make this a value and a principle in this great country of ours.

As the civil rights struggle in the 1960s was about protests, it was about changing laws, the struggle in the new century is going to be about access to education. Savage inequality exists in education in our inner cities. Colleges that consider race for admission should be a value and a principle in this great country.

And let me close, Mr. Chairman, by this. "E pluribus unum" is written all over this great Capitol; from the many, one United States of America; from the many, blacks, Asians, Hispanics, one United States of America; from Catholics and Protestants and Jews; from the many, one United States of America for men, women, and children; from the many, one United States of America.

Let us hold affirmative action that puts principle and value on diversity, on equality, on justice as a principle that is so vital to this great country. Let us defeat the amendment offered by the gentleman from California (Mr. RIGGS). Let us continue to reform and make affirmative action a value that works for all people in the United States of America.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to the modified Riggs amendment. This anti-diversity bill would dismantle affirmative action policies in higher learning—by eliminating the ability of public colleges and universities to use gender and race as factors in their admissions decisions.

It would also overturn the Supreme Court's Bakke decision, which allowed postsecondary institutions to use race as one of the factors considered in an admissions decision.

Another impact of the Riggs amendment would be the resegregation of public universities across the country. And, the development of a two-tiered higher education system that would override the authority of states to decide admissions policy. As a consequence, large numbers of, otherwise qualified minority students, would be denied access to higher education.

Despite the clever machinations of affirmative action opponents, affirmative action policies are not simple preferences based on race, sex, and ethnicity. Nor are they social engineering policies intended to artificially create a color-blind society. Rather, affirmative action policies are specifically tailored to remedy the compounded effects of discrimination and privilege—which have had a profoundly negative impact on minority communities. The elimination of these policies in higher learning would further exacerbate disparities which already plague disadvantaged minority communities.

Affirmative action has allowed minorities and women to break through the many barriers of discrimination that have contributed to keeping them undereducated, unemployed, underpaid, and in positions of limited opportunity for advancement.

The Riggs amendment serves no purpose for higher education beyond exacerbating existing wrongs while maintaining the illusion of true equality. We have already begun to witness what the dismantling of affirmative action policies can do. The precipitous decline in minority admissions and enrollment experienced by the California higher educational system after the passage of Proposition 209, is a good example of what can happen. As such, UCLA's law school has seen an 80 percent drop in the number of African-American students offered admission for next fall. This is the lowest number since 1970. And, of the 8,000 students offered admission to the University of California at Berkeley for next fall, only 191 were African-Americans and 434 were Hispanic. This is in comparison to 562 African-American and 1,045 Hispanic students, respectively, last year.

Eliminating affirmative action policies serves no purpose beyond fostering the development of a society based on privilege. Those privileged enough to have access to superior academic institutions are those deemed to have merit. Those who do not, are not. Disadvantaged minorities—due to a long history of systemic discrimination—are more likely not to have access to these structures. Ending affirmative action would simply assure the perpetuation of this already unfortunate system.

Mr. Chairman, I strongly urge my colleagues to vote "no" on the modified Riggs "Anti-Discrimination in College Admissions" amendment. The passage of this extreme measure would threaten the reauthorization of the Higher Education Act, as the President has indicated that he will veto H.R. 6 if this amendment passes. Support for the Riggs amendment would do more harm than good.

Mr. BENTSEN. Mr. Chairman, I rise in strong opposition to this amendment. This amendment would severely undermine efforts to provide opportunity for women and minorities, and its language is so broad and vague that it could even prohibit remedial action in cases of proven discrimination.

This amendment goes beyond what even the courts have said on this issue. It would overturn the 1978 Supreme Court decision in Bakke versus California Board of Regents, which found it constitutional for schools to use affirmative action to advance diversity in education. It would even go beyond the 1996 Fifth Circuit Court of Appeals ruling in Hopwood versus Texas by prohibiting the use of affirmative action where there is proven discrimination on the basis of race, sex, color, ethnicity, or national origin.

This amendment's language is so vague and poorly-defined that the only safe course for colleges or universities would be to make no effort whatsoever to achieve a student body which mirrors the demographics of the communities they serve. The amendment fails to define "preferential treatment", leaving in doubt whether basic efforts such as recruitment, outreach, targeted financial assistance, mentoring, and counseling would be legal. This is not only bad social and educational policy, but a recipe for endless and costly legal wrangling.

Recent experience in my state of Texas underscores how harmful this amendment would be to minority access to higher education. In the 1996 Hopwood decision, the Fifth Circuit Court of Appeals ruled that race could no longer be used as the basis for affirmative action in admission to the University of Texas at Austin. Subsequently, the Texas Attorney General ruled that no colleges in the state could use race as a factor in admissions or financial aid programs.

The result has been a devastating decrease in enrollment by minority students. Undergraduate enrollment by African-American freshman has fallen by 14 percent at the University of Texas at Austin and by 23 percent at Texas A&M University. Hispanic enrollment has dropped by 13 percent at the University of Texas and 15 percent at Texas A&M. At the University of Texas Law School, African-American and Hispanic enrollments have decreased by 87 percent and 46 percent respectively. Medical school enrollment for African-Americans has fallen by 40 percent.

Mr. Chairman, these dramatic declines are harmful not only to minority students, but to our society as a whole. African-Americans currently comprise 11.5 percent of the Texas population, and Hispanics comprise 27.7 percent. In contrast, African-Americans and Hispanics number only 9 percent and 18.8 percent, respectively, of the student bodies of state colleges and universities in Texas. Alarmingly, only 2.9 percent of students accepted for undergraduate studies at the University of Texas in Austin for the 1998–99 school year are African-American.

Clearly, a large segment of society would be left behind if efforts to equalize opportunity and diversify the composition of student bodies are eliminated. When opportunity is eliminated, all students are denied the benefits of learning in a diverse environment, which is critical to succeeding in a diverse workplace and society. Minorities are already under represented in professions such as medicine and law. In an increasingly diverse society and global economy, we ignore this problem at our own peril.

Like other Americans, I want a color and gender blind society. However, we cannot close our eyes and pretend that we live in a perfect world. Discrimination still persists. Too often, individual or institutional discrimination, intentional or not, precludes minorities and women from participating in many levels of our society. Not only is that detrimental to the individuals affected, it hurts our nation and our economy.

Like most things in life, the battle against discrimination has sometimes resulted in reverse discrimination. This is counterproductive. I welcome the Administration's continuing review of existing affirmative action statutes. Government should always be willing to review existing laws. However, we must not reverse efforts toward achieving equality and advancement over the last 25 years.

The Hopwood decision in Texas, as well as Proposition 209 in California, have slammed the door of opportunity for minorities. The Riggs amendment would only compound the damage that has already been done. The Congress of the United States should be working to create and expand opportunity, not to deny it. I urge a no vote on the Riggs amendment.

Mr. RIGGS. Mr. Chairman, fundamentally this debate is about the refusal of my colleagues on the other side to give up their Band-Aid—their fig leaf—their placebo for the failure of their great society social programs and the failure of the public education system in America. The poor in this country, white and black and Hispanic and Asian, were trapped for forty years in a dismal and dysfunctional welfare system that we have only now begun to dismantle. They are still trapped in a public school system that is betraying our nation's children—a public education system that we on this side of the aisle have tried again and again to reform. We've tried with education savings accounts, with parental choice in education, with shifting power and responsibility and accountability from Washington bureaucracy and powerful teachers unions to states and localities and families. And every one of our efforts—every one—has been resisted tooth and nail by my colleagues on the other side of the aisle, and by the Clinton administration. They will do nothing to reform primary and secondary education: They did worse than nothing for twenty years to reform welfare. What they will do, is defend to the death the right of government to discriminate based on race and sex. Because that is their Band-Aid, their fig leaf, their placebo for a public education system that traps hundreds of thousands of young children in unsafe and underperforming schools. Our children deserve better. And this amendment is part of doing better for them and by them. Support my amendment.

Mr. FAZIO of California. Mr. Chairman, today my colleagues and I have the opportunity to increase access to higher education for all Americans by supporting H.R. 6.

However, a proposed amendment by Congressman RIGGS promises to have the opposite effect by eliminating affirmative action and closing the window of opportunity that higher education offers.

As Americans, we are committed to equal opportunity for all, and special treatment for none.

All of us should have the opportunity to perform and prove our capabilities.

Proponents of anti-affirmative action believe that we lower standards when we support these particular programs.

On the contrary, I believe that we raise the standard by admitting individuals from diverse backgrounds.

They in turn, will provide the role models to enrich and properly reflect the American fabric.

We level the playing field by allowing the under represented population to compete in arenas historically closed to them.

I am concerned about any legislation that eliminates state and local efforts which are designed to increase opportunities for women and minorities—services like counseling and recruiting programs to boost enrollment among minority youth, and math and science programs developed to help girls in secondary school.

Higher education is filled with preferences. According to the Riggs amendment, it's OK to grant preferential treatment to sons and daughters of alumni, to athletes, to other special talents or one based on geography—they are considered legitimate areas for preferential treatment.

But the Riggs amendment says that race, sex, color, and ethnicity are not legitimate.

Eliminating affirmative action sends the wrong message.

UC Davis, a university in my district, is seeing an alarming decline in enrollment from well qualified minority students.

The campus now scrambles for outreach to properly reflect California.

Meanwhile, private colleges in my state are more engaged than ever in seeking to diversify their student body.

The Republicans preach local control—but only when it's to their advantage. Today they want Congress to be the Admissions Office for all of America's public colleges.

Let's let educators decide what students they want, not politicians.

Vote no on the Riggs Amendment.

Mrs. MALONEY of New York. Mr. Chairman, I rise in opposition to the Riggs amendment which would ban colleges and universities that consider race and gender in the application process from receiving Higher Education Act funding.

Many of America's educational institutions try to correct past discrimination or to achieve the benefits of a diverse student body by taking race and gender into consideration in admissions. This amendment would force these colleges and universities to choose between abandoning these important policies or their participation in any Higher Education Act Program.

In the year after the University of California's Board of Regents approved a policy prohibiting all affirmative action measures in public universities, the number of African-Americans admitted to UCLA law school dropped by 80%, and at UC-Berkeley law school by 81%.

Next fall's UC-Berkeley incoming class has dropped 66% for African-Americans and 53% for Hispanics.

When affirmative action is done right it is fair and it words.

It is not quotas.

It is not, and I do not favor, rejection or selection of any person solely on the base of gender or race without considering merit and qualifications.

I believe there will be a day when we do not need affirmative action, but we are not there yet. The statistics show that the job of ending discrimination in this country is not over.

Mr. PAYNE. Mr. Chairman, I would like to voice my adamant opposition to Mr. Riggs' amendment. Congressman Riggs and his supporters believe that the days when affirmative action policies are needed are over. I suppose they believe that equality has been reached when only 18 percent of those enrolled in colleges are minorities but African-Americans, Hispanics and Native Americans make up 30 percent of the college age population. I guess they believe that diversity is reached when only 33 percent of all African-American high school graduates attended college in 1993 compared to nearly 42 percent of whites.

Affirmative action is still needed and without it the composition of our colleges and university campuses will be reminiscent of what they looked like 30 years ago. We have seen this very thing happen in States such as California and Texas where minority admissions have declined because of anti-affirmative action laws.

This year the University of California campuses report they received more minority applications with stronger academic credentials than ever before. At the same time, UCLA's law school saw an 80 percent drop in the number of African-American students offered admissions for next fall which is the lowest number since 1970.

This is a clear indication of how crippling anti-affirmative action laws can be to the education of minority populations. Many minority students in California are viewing this anti-affirmative action law as evidence that the University of California system does not value diversity on their campuses.

Therefore, they are starting to consider going out of state for school which is much more expensive. By passing the Riggs amendment we will send the same message to all minority students nationwide. Additionally, the loudest battle cry I hear from opponents of affirmative action is that the practice of using quotas and set asides is wrong and needs to be eliminated.

Congressman RIGGS has chosen the wrong area to combat such a belief because under the Supreme Court *Bakke* (back-ee) decision, schools are not allowed to use quotas and set asides in their admissions process.

They may, however, exercise their right to consider race and gender as ONE of the factors in their admissions decisions. This is not discrimination. This is not preferences. This ruling simply allows colleges and universities to have the freedom to choose the students who become part of their institutions.

I believe that if this amendment passes it will have a dramatic and adverse effect on the minority student population at our colleges and universities. And that, Mr. Chairman, would be one of the biggest tragedies I can imagine. I ask my colleagues to consider this when they cast their vote on this amendment.

Mr. RODRIGUEZ. Mr. Chairman, I rise today in opposition to the Riggs amendment. Even after being redrafted by its sponsor, this measure punishes minority students and shortchanges institutions of higher learning.

The amendment assumes we are in a society that is free from discrimination, and that Hispanic and African-American students have equal opportunity. The fact of the matter is that discrimination is alive in our society and that while much lip service is paid to equality—for minority students it is far from a reality.

This is why our colleges and universities across the country have turned to affirmative action.

Our institutions of higher education take race and sex into consideration because they know that a diverse student body benefits everyone and provides an educational setting for our students that mimics the real world.

I think everyone in this chamber would agree that students learn as much from each other as they do from their professors and books—and this is all the more true when students are fortunate enough to be in a richly diverse campus.

We must not revert to the days of the educational 'haves' and 'have nots' and keep some of our brightest minds from seeking out public colleges.

If this ill-willed amendment is adopted, some students may be able to take the road to private campuses. But, what is most distressing is that many minority students may have no option at all—and that the cleavages in our society will continue to expand.

The problem here is that the Riggs amendment does not really address the problem of discrimination or equality. What it really does is prohibit our public colleges from using the most effective tools to help remedy past discrimination.

Surprisingly the Riggs amendment would dramatically expand the federal role of education in an area where states and localities should have control. We preach about limiting the federal government's role in education—but what we are doing here is in fact grossly expanding it.

In a recent letter to members of Congress, both Attorney General Reno and Secretary Riley promised to call for a presidential veto to HR 6 if the Riggs amendment is included.

Let us not be fooled by the new Riggs amendment. I urge my fellow colleagues to take a close look at the fine print in this amendment and see how detrimental it will be to our schools and to students.

In my home state of Texas, where affirmative action has been killed, the University of Texas law school now has only four entering African-American students, where former classes had more than thirty. The same holds true for the California schools where a similar proposal has been adopted—there has been a significant drop in the number of minority admissions. This is a step backwards and it must be stopped!

We are talking about the future of an entire generation of students. We must offer our FULL support and help them pursue their educational dreams.

I urge my colleagues to reject this measure and stand up for diversity and strength.

Mrs. KENNELLY of Connecticut. Mr. Chairman, I rise in strong opposition to the Riggs Amendment to eliminate affirmative action in higher education. This amendment would have a devastating effect on efforts to correct past discriminations on our college campuses and I would urge my colleagues to oppose this amendment.

The landmark Supreme Court decision Bakke v. California Board of Regents recognized the use of affirmative action as a constitutional means to advance diversity in higher education. The Riggs amendment would eliminate affirmative action even if the courts ordered it as a remedy where there is proven discrimination on the basis of race, sex, or ethnicity.

I have been contacted by Yale University and the University of Connecticut in my home state, as well as many other academic associations, religious organizations and civil rights organizations from across the country who have joined together to express their strong opposition to the Riggs amendment. It is intrusive and would dictate college admissions policies to public and private institutions by limiting their ability to select students based on the needs of those institutions. Our institutes of higher learning strive to provide the best educational experience possible for America's students. We should not hinder this effort by restricting a school's ability to promote a strong and diverse student body.

The devastating impact of the Riggs amendment on minority enrollment is already evident in the California school system where enrollment by minorities has dropped significantly. As we move into the 21st century with a increasingly diverse and global economy we must ensure that access to higher education is not closed off to the young people of this nation. Rather we should welcome the talents of all our citizens.

I urge my colleagues to oppose the Riggs amendment.

Mr. MCINTOSH. Mr. Chairman, I support the Riggs amendment to Title XI of H.R. 6, the Higher Education Reauthorization Bill, because I believe that it will make America a more fair country.

I believe that America should be a place where people of merit can get ahead based upon their own capabilities, and "not be judged by the color of their skin but by the content of their character" in the words of the great Reverend Martin Luther King, Jr.

The American people overwhelmingly oppose the use of racial quotas in higher education. Surveys show that 87% of all Americans, and a full 75% of African-Americans, feel that race should not be a factor in admission to a public university.

Federal appellate courts, including the U.S. Supreme Court, have repeatedly struck down racial preference systems used by college admission offices as unconstitutional.

People of color deserve to be proud of their academic credentials. Racial quotas only diminish the significance of their accomplishments.

The statutory law as it currently stands automatically presumes that a person of color grew up in disadvantaged circumstances, and deserve a "leg up" in the admissions process. This is a hard message to accept for many of the voters in my district who come from families of modest means.

I would like America to be a color blind society. Unfortunately, this is simply impossible when America's young adults are forced to confront the differences that the color of their skin bears upon whether they'll get into the college of their choice or not.

This is a period in their lives when they form the opinions which they will carry with them throughout adulthood. I am afraid that the frustrations caused by racial quotas causes too many of them to be conscious of race in every setting.

Racial preferences in college admissions violate the principles of freedom and equality on which the civil rights struggle is based. Racial preferences are both immoral and legally unconstitutional.

The field should be level in college admissions. Race should not be a factor.

For these reasons and others, I support the passage of the Riggs amendment.

Ms. PELOSI. Mr. Chairman, I rise in strong opposition to the Riggs amendment to H.R. 6, which would prohibit public institutions of higher education from receiving federal funding if they use race or gender in making admissions decisions.

The status of admissions in California in the wake of Proposition 209 illustrates the harmful way in which the Riggs amendment would impact the nation. Statistics already show a drop of over 50% in undergraduate admissions at UC Berkeley for African-Americans, Latinos and Native Americans.

Acceptance by students is not the only place where the elimination of affirmative action has had a crushing impact. It has an impact on acceptances by students as well. Many of the highest-scoring African-American students are turning down the University of California in favor of private universities. African-American faculty at the university are discouraging prospective African-American students from enrolling because the faculty regard Berkeley as a divisive areas and a national laboratory for the dismantling of affirmative action programs in higher education. Enrollment of African-Americans at UC Berkeley has dropped 66 percent this year, and enrollment of Latinos has dropped 53 percent at that university. At the UC Berkeley Boalt Hall law school, none of the African-American students accepted into the class of 1997 chose to enroll.

Affirmative action programs are part of a larger commitment to student diversity which enriches the educational experience, strengthens communities, enhances economic competitiveness, and teaches our students how to be good leaders. This amendment is another opportunity to erode decades of progress in ensuring that diversity in higher education for all Americans. It is just another extreme effort, as we saw in the transportation bill, to eliminate federal programs that provide opportunity for women and minorities.

This bipartisan Higher Education bill has many benefits for our nation's students. The Riggs amendment most certainly is not one of them. It will have a crushing effect on diversity in higher education. I urge my colleagues to support educational opportunity for all Americans and oppose the Riggs amendment.

Mr. DIXON. Mr. Chairman, I rise in strong opposition to the Riggs amendment to H.R. 6 which would ban the use of affirmative action in admissions for public colleges and universities that receive funding under the Higher Education Act.

The House should reject this amendment. It is another step down the road of educational segregation led by California Proposition 209, the University of California affirmative action ban, and the Hopwood decision in the U.S. Court of Appeals for the Fifth Circuit. The Riggs amendment overturns the U.S. Supreme Court's ruling in Regents of the University of California v. Bakke, which for twenty years has allowed America's universities to provide opportunities for many disadvantaged minorities. This amendment is an unfair federal intrusion into the college and university admissions process and its passage will likely result in a veto of this important reauthorization legislation.

Mr. RIGGS says in his Dear Colleague letter that he wants to "ban all preferences and quotas in college admission[s]." My question is what quotas and preferences? His amendment fails to define them. Is the mere consideration of race as one factor in a complex admissions process considered a preference, even when there is no specific numerical goal for admission of a particular group? There have been "preferences" for white Americans since this country was founded. It is only when universities engage in legal, valid attempts to provide a level playing field for minorities that people see a preference problem.

Consider that while African-Americans, Latinos, and Native Americans make up 28 percent of the college-age population, they account for only 18 percent of all college students. Only 33 percent of African-American and 36 percent of Hispanic high school graduates ages 18–24 attended college in 1993, compared to 42 percent of whites in this age group.

Recent evidence suggests that the anti-affirmative action initiatives of the past few years will only make this situation worse. A year after the UC Regents' decision to ban affirmative action in the UC system, the number of African-Americans admitted to the UCLA law school dropped by 80 percent and the number admitted to the Berkeley campus dropped by 81 percent. The fall 1997 semester at Boalt Law School of UC Berkeley witnessed the matriculation of only one Black student in a class of 268. Out of the 468 students in the first-year University of Texas Law School class, only four are African-American.

Statistics on UC undergraduate admissions for the fall 1998 class—the first class which will suffer the full brute force of Prop. 209—are equally startling. The number of African-Americans admitted to UC Berkeley and UCLA dropped 66 percent and 43 percent, while the number of Latinos dropped 53 percent and 33 percent.

Supporters of the Riggs amendment may be quick to cite today's Los Angeles Times, which reports that Boalt Law School at Berkeley has admitted more than twice the number of African-Americans—32—for fall 1998 than were admitted last year. This is great news. However, it does not obviate the need to defeat this amendment. The numbers throughout the UC system are still paltry, and adoption of the Riggs amendment would replicate the UCLA and Berkeley minority undergraduate admissions decline nationwide.

The UC admissions statistics provide incontrovertible evidence that the Riggs amendment would jeopardize educational gains for minorities made in the aftermath of the Bakke decision. In Bakke, the Court held that in certain instances a college or university may consider race in admissions. Examples include the consideration of race to remedy an institutional history of discrimination and the promotion of a university's mission to create a diverse student population. If passed, the Riggs amendment would force public colleges and universities to choose between providing opportunities for minorities and women and receiving funds under the Higher Education Act.

The many schools across the nation that would be affected by this amendment generally have admissions processes based on an array of complex factors. These factors measure not only an applicant's potential for individual academic success but also an applicant's ability to contribute positively to the institution overall. The Riggs amendment represents an unfair federal intrusion into those processes. We cannot afford to tie the hands of America's universities at a time when minorities still lag behind the rest of America in educational attainment.

The Kerner Commission Report thirty years ago stated that "Our Nation is moving toward two societies, one black, one white—separate and unequal." A new report by the Milton S. Eisenhower Foundation, "The Millennium Breach," suggests that the prediction has become a reality with minorities disproportionately represented among the poor and an ever-increasing gap between rich and poor. If, as I believe it is, education is the key to economic empowerment, then the Riggs amendment will only continue America's progress toward economic and social segregation.

I urge a "no" vote on the Riggs amendment.

Mr. LANTOS. Mr. Chairman, I rise today to support affirmative action programs in this nation and to oppose strongly this unfortunate amendment that the House is considering. This amendment is an outrageous assault upon the Constitutional responsibilities of American colleges and universities. If Amendment 73 is adopted, we would face debilitating nationwide consequences which would destroy the years of progress our higher education system has made in compensating for past and present discrimination against women and minorities.

Affirmative action programs are still needed. Years of past discrimination coupled with continued discrimination have deprived many women and minorities of equal access to higher education. The long shadow of historical legal discrimination is still visible in our country; this discrimination was propagated and enforced by the federal government.

President Clinton has reminded us that there is still no level playing field for women and people of color. Mr. Speaker, now is not the time to forget that bigotry, inequality, and economic barriers still close doors everywhere for women and minorities. Mr. Riggs' amendment (Amendment 73) would prevent educational institutions from providing disadvantaged students with scholarships, financial aid, support programs, and outreach programs are essential if students from disadvantaged communities are to have access to higher education, which is the prerequisite to their economic and social advancement.

In the Bakke decision, the Supreme Court upheld the use of affirmative action to advance diversity in education. Colleges and universities voluntarily administer affirmative action programs to comply with their statutory and Constitutional obligations to end discrimination in higher education. Certain institutions would be placed in the absurd position of being cut off from federal funding while attending to court-ordered desegregation plans. This legislation would create a serious backlash against current legal redress for past discrimination.

Mr. Chairman, if affirmative action admission programs are banned, we would lose a valuable tool for combating the existence of ignorance and prejudice. Attending a diverse campus gives students the opportunity to confront face-to-face the stereotypes and harmful assumptions about difference in our country. The college experience is one of peer exchange. There are few better ways to break down stereotypes of race, ethnicity, and gender in this country than allowing students to live and study together in a community of mutual respect and understanding.

We cannot have an effective dialogue on racism and bigotry in this country unless everyone is given an equal chance to attend college and obtain a college degree. The economic divisions in this country are linked to education levels within any given group. It is not a tragedy of circumstance that those minorities with the lowest levels of higher education attainment are also the poorest people in our country. This ill-conceived amendment would not only re-segregate our colleges and universities, it would have a chilling effect upon the larger society.

As a proud alumni of the University of California at Berkeley, I am appalled by the plunge in undergraduate admissions of minority students since the ban on affirmative action in California was approved in a state referendum. That unfortunate California referendum is the fundamental idea behind this amendment that we are considering, and its consequences in California have demonstrated why we must oppose it. In California, admissions of Chicano, Latino, and African-American students for the coming freshman class have dropped by more than half. In the recent fall class of the Boalt Law School at Berkeley only seven African-American students were admitted, and only one chose to enroll.

Mr. Chairman, this ill-conceived amendment by Mr. RIGGS sends a message to women and minorities that they are not welcome in institutions of higher learning. This bill proclaims loudly that we do not want a just society, that we would rather turn our backs and not accept the existence and legacy of discrimination.

I am not alone in decrying the effect of eliminating affirmative action. Mr. Speaker, sixty-two of our country's most prominent university presidents oppose this legislation and have placed advertisements in national papers to emphasize the importance of racial, ethnic, and gender diversity in contributing to a strong entering class.

The students of the University of California, Berkeley, one of the finest public universities in this country and my alma mater, have taken it upon themselves to speak out against H.R. 3300 and to speak in support of affirmative action. H.R. 3300, introduced by Mr. RIGGS, is the stand-alone version of Amendment 73 which we are now considering.

Mr. Chairman, on Wednesday, April 22, the Associated Students of the University of California (ASUC) unanimously approved a resolution opposing these provisions. I am proud that the students stand firmly united against this harmful measure. Mr. Speaker, I ask that the statement be included in the RECORD. Let us learn from them.

A BILL OF THE ASSOCIATED STUDENTS OF THE UNIVERSITY OF CALIFORNIA IN OPPOSITION TO THE "ANTI-DISCRIMINATION IN COLLEGE ADMISSIONS ACT OF 1998" (HR 3330)

Authored and sponsored by: ASUC External Affairs Vice-President Sanjeev Bery

Whereas: The misnamed "Anti-Discrimination in College Admissions Act of 1998" (HR 3330) would prohibit colleges and universities from using affirmative action in college admissions if they receive any federal funds; and

Whereas: If any student at a university receives federal loan money or Pell grant funds, the university would be prohibited from using affirmative action in admissions; and

Whereas: Representative Frank Riggs is the author of this resolution, and is almost certain to offer it as an amendment to the Higher Education Act when it is reauthorized on April 22, and

Whereas: Affirmative action programs establish equal opportunity for women and people of color, redress gender, racial, and ethnic discrimination, and encourage diversity in the workplace and educational institutions; therefore, be it

Resolved: that the Associated Students of the University of California oppose Congressman Riggs' "Anti-Discrimination in College Admissions Act of 1998" and urge all California members of the Congress to oppose this resolution.

Mr. THOMPSON. Mr. Chairman, I rise today in opposition of Representative FRANK RIGGS' H.R. 3330, the "Anti-Discrimination in College Admissions Act of 1998" which will be offered as an amendment during the House consideration of H.R. 6, The "Higher Education Authorization Act" of 1998. This amendment would prohibit colleges and universities that take race, sex, color, ethnicity, or national origin into account in connection with admission(s) from participating in, or receiving funds under any programs authorized by the Higher Education Act of 1965 (HEA).

This amendment will not only have a devastating impact on post secondary admissions at both public and private institutions, but also discourages institutions from considering race, even in instances where the purpose is focused on remedying past discrimination. This piece of legislation is far more sweeping than California's Proposition 209 in that H.R. 3330 aims to eliminate affirmative action in private, as well as public, colleges and universities. It will also constrain an institution's ability to satisfy constitutional and statutory requirements to eliminate discrimination in post secondary education.

There is now evidence of what happens when universities are forced to drop their affirmative action programs. The University of California's Board of Regents banned all affirmative action and the acceptance rate of African-Americans to UCLA Law School fell by eighty percent. After the Hopwood decision, admission of African-Americans to the University of Texas School of Law dropped by eighty-eight percent. It is clear that with the passage of this amendment, there will be a re-segregation of colleges and universities.

In Mississippi the percent of the population 25 years and older who have a college degree is 14.7%. Moreover, Mississippi ranks 47th out of fifty states in relation to the percent of the population having a college degree and 47th out of fifty in comparison to other African-Americans in the fifty states.

The Riggs amendment is an unnecessary, regressive, and dangerous bill that would destroy the progress that has been achieved in the last thirty years. This amendment will merely serve as a tool to increase the disparities in education and income between men and women and whites and blacks. Affirmative action in higher education has clearly established significant advances in the area of equal opportunity for ethnic minorities and women in admissions to colleges and universities and the workforce. I will continue to support programs which strengthen not tear apart equal opportunity. If the Higher Education Authorization Act (H.R. 6) contains the "Anti-Discrimination in College Admissions Act of 1998", I will vote against H.R. 6.

Ms. CHRISTIAN-GREEN. Mr. Chairman, I rise in strong opposition to the Riggs amendment. It is an extreme, vindictive political ploy which will serve only to prevent innocent children from seeking a better quality of life through the pursuit of higher education—and it should be voted down!

My colleagues, the Riggs amendment would say to Black and Latino taxpayers that even though you, because of these very same programs, help to pay for the cost of public education in your state, college administrators cannot design outreach programs to maximize opportunities for your children to attend their institutions. This is wrong.

As an African-American physician, I want you to know that the passage of this ill-conceived amendment would serve to reduce the already existing shortage of African-American physicians in this country.

In an article entitled, "Can Black Doctors Survive", Dr. Jennifer C. Friday of the Joint Center for Political and Economic Studies, points out that even despite affirmative action programs instituted by medical schools in the 1960's and 1970's African-Americans comprised only 3.1 percent of all the nations physicians in 1980 and still are only 3.6 percent of the total today. This is unacceptable.

We all know that there is a shameful gap in the health status of minorities in this country. Increasing the number of minority physicians is critical to closing this gap.

I am sure there are those among us who would say that the action by the Board of Regents of the University system in California and the ruling in the Hopwood case in Texas could have been mitigated by other policies that could be and were put in place in these two states.

My colleagues, I want to make sure that you know that this has not been the case. The numbers of African-Americans and Hispanic admissions in the California and Texas University system, as predicted, have dropped precipitously.

I am totally confounded that anyone could think that discrimination no longer exists, or that educational opportunities are now equal for all races and ethnic groups in this country.

This is clearly and unfortunately not the case. America's children who live in predominantly minority communities do not receive the same level of funding per student and their education is consequently shortchanged. That is why some of us are frequently on the floor arguing for repair, construction and support for our public school system.

My colleagues, the Riggs amendment should be defeated because it would: result in the re-segregation of public universities across the country; prevent public universities and colleges from remedying past discrimination; produce a two-tiered higher education system which would override the authority of state governments to decide admissions policy; and endanger targeted outreach and recruitment programs for women and minorities.

This proposal is an outrage and flies in the face of all that America stands for. It is as was said in last Thursday's Washington Post, nothing more than political "grandstanding" which "demeans the House" and should be defeated. I urge my colleagues to vote no on this amendment.

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from California (Mr. RIGGS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. RIGGS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 249, not voting 13, as follows:

[Roll No. 133]

AYES—171

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bono
Brady
Bryant
Bunning
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Deal
DeLay
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
Kingston
Knollenberg
Kolbe
Latham
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Matsui
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Nethercutt
Northup
Norwood
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Ramstad
Riggs
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Young (FL)

NOES—249

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Buyer
Capps
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Ehlers
Engel
English
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson

John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Rangel
Redmond
Regula
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith, Adam
Snowbarger
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Wexler
Weygand
White
Wise
Wolf
Woolsey
Wynn
Young (AK)

NOT VOTING—13

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Schaefer, Dan
Shuster
Skaggs
Yates

☐ 2156

Mrs. MYRICK, and Messrs. GILCHREST, SNYDER, STUPAK and RUSH changed their vote from "aye" to "no."

Messrs. COBURN, THUNE and GREENWOOD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 2200

PERSONAL EXPLANATION

Mr. MATSUI. Mr. Chairman, I ask that the RECORD reflect that I voted the wrong way on the Riggs amendment. I intended to vote no. I made a mistake and voted the wrong way.

LIMITING DEBATE TIME ON AMENDMENT NO. 79

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that all debate on Amendment No. 79 and all amendments thereto be reduced to 10 minutes, equally divided and controlled by myself or my designee and the gentleman from Missouri (Mr. CLAY), or his designee, with an additional 90 seconds on each side for a wrap-up.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. CAMPBELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CAMPBELL. Is it not customary to have the Reading Clerk read the amendment first?

The CHAIRMAN. Under the rule, the amendment will be considered as read. The gentleman is offering the amendment at this point?

AMENDMENT NO. 79 OFFERED BY MR. CAMPBELL

Mr. CAMPBELL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 79 offered by Mr. CAMPBELL:
>
> At the end of the bill add the following new title:
>
> TITLE XI—NONDISCRIMINATION PROVISION
>
> **SEC. 1101. NONDISCRIMINATION.**
>
> (a) PROHIBITION.—No individual shall be excluded from any program or activity authorized by the Higher Education Act of 1965, or any provision of this Act, on the basis of race or religion.
>
> (b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to preclude or discourage any of the following factors from being taken into account in admitting students to participate in, or providing any benefit under, any program or activity described in subsection (a): the applicants income; parental education and income; need to master a second language; and instances of discrimination actually experienced by that student.

The CHAIRMAN. Pursuant to the order of the Committee today, the gentleman from Pennsylvania (Mr. GOODLING), or his designee, and the gentleman from Missouri (Mr. CLAY), or his designee, will each control 6½ minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, this is what my amendment provides. I would like to ask my colleagues' indulgence so I can read it, and I am also going to ask the gentleman from California (Mr. HORN) to make the copies available over to the Democratic side so that they actually have the text, if he might assist me in that, or the gentleman from New Hampshire (Mr. BASS).

Mr. Chairman, it reads: No individual shall be excluded from or have a diminished chance of acceptance to any program or activity authorized by the Higher Education Act of 1965, or any provision of this act, on the basis of race or religion.

Mr. Chairman, there is a second clause which says that no one shall be excluded from a program or their chances of getting into the program diminished on the basis of their race or their religion. I list other things which might be considered as an alternative.

Existing law prohibits exclusion of anybody on the basis of their race. And I want to say "thank you" to several colleagues on the Democratic side with whom I almost had an agreement that this be accepted. At the last minute it was not possible, but I want to thank the good faith that went into the effort on that behalf.

The existing law says we may not exclude on the basis of race. I am saying that we may not exclude or have the chance of acceptance diminished on the basis of race. And I suggest this at least is what all of us could agree on is what good affirmative action is.

Mr. CLAY. Mr. Chairman, I rise in opposition to the amendment, and I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, I too rise in opposition to this amendment. I would point out to our colleagues, I believe this is essentially the same issue we just defeated on the last vote and I would encourage them to do the same on this vote.

I also oppose this because I believe it is a breeder of litigation. I believe that this amendment will not breed equality; I believe it will breed litigation. To understand why, imagine the case of a student who applies for a job under a Federal Work Study program, which is a program authorized under the act, and the student alleges that he or she has been denied the job on the basis of race. This amendment does not answer the following questions:

One, must the student prove that there was discriminatory effect or discriminatory intent? Secondly, who has the burden of proof under this amendment? Does the student have to prove that he or she has been the victim of discrimination or is the burden on the institution to show that the student was not the victim of discrimination? And finally, what is the quantum of proof? Does the person carrying the burden have to prove this to a preponderance of the evidence? To a substantial degree? Beyond a reasonable doubt?

Those are all questions that I believe are not satisfactorily answered in the amendment. I believe it captures the same spirit of the amendment we just defeated, but I also believe it breeds litigation and would cause considerable chaos in higher education programs.

Mr. Chairman, I urge its defeat on that basis.

Mr. GOODLING. Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, we have 3 minutes remaining, and I reserve the balance of my time.

The CHAIRMAN. Just to clarify for the Clerk, the gentleman from California (Mr. CAMPBELL) is offering Amendment No. 79 or Amendment No. 76?

Mr. CAMPBELL. Mr. Chairman, I do not know the number. I am offering the amendment whose text I read and which was preprinted. Mr. Chairman, it is 76, I am informed. I am informed it is 76.

The CHAIRMAN. For the benefit of all Members, it is the Chairs' impression that amendment intended to be considered now is Amendment No. 76 as preprinted.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. CAMPBELL).

The CHAIRMAN. Without objection, the time limit previously agreed to by unanimous consent will apply to this debate.

Mr. GOODLING. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, I am prepared to close in less than a minute. Existing law answers all of the questions that were put by the gentleman from New Jersey (Mr. ANDREWS), my good friend and colleague. Existing law says that no person in the United States shall on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

My proposal says, in addition, it does not repeal that. It says no individual shall be excluded from or have a diminished chance of acceptance to any program or activity authorized by the Higher Education Act of 1965 or any provision of this act on the basis of race or religion.

It then goes on to say that nothing in that subsection I just read shall be construed to preclude or discourage any of the following factors from being taken into account and admitting students to participation in or providing any benefit under any program or activity described in subsection A: Applicant's income, parental education and income, need to master a second language, an instance of discrimination actually experienced by that student.

Mr. Chairman, I conclude by saying there is no one, I think, in this body who wants to exclude anyone from a Federal program on the basis of that person's race. That is what this amendment makes clear. It should have been noncontroversial. I am hoping that it is when the vote comes.

Mr. Chairman, I yield back the balance of my time.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, this amendment is really no different than the amendment that we have already defeated. It goes to the very heart of this country's obligation to people who have not had the same opportunities in education, to open up their opportunities by allowing them entry into our universities.

The Riggs amendment said we could not take into account the necessity of diversity in our campuses by giving an advantage to some group, some racial group, national origin group, so that they could create a much more diverse community in our universities.

What this amendment offered by the gentleman from California (Mr. CAMPBELL) says is not the question of admitting but excluding. We cannot exclude. What does exclude mean? We already have definitions in the law under Title VI of the Civil Rights Act that call for nondiscriminatory action. The gentleman is asking this House to interpret exclusion perhaps from a program as per se discrimination. That is wrong.

If Members voted against the Riggs amendment, they must vote against this amendment also. It is much more mischievous. It creates a great confusion on Title VI of the Civil Rights Act, and I hope that Members will defeat this amendment.

I know that my colleague in speaking earlier on the Riggs amendment broke my heart when he talked about Asian Americans scoring very high, not being able to get into the university. I feel for those individuals. But I as a human being, as an American citizen, I have an obligation to make sure that our public universities have an opportunity for everyone. This means to create a diverse university with the ability to create this we have to have an affirmative action program.

So to adopt this amendment, to say that if we exclude someone it is a per se act of discrimination, we are creating a whole new legion of law and having to bring in the lawyers to interpret this. This is very bad. This is mischievous. I urge my colleagues to defeat this amendment.

The CHAIRMAN. The Chair seeks one last clarification. The Chair and the Parliamentarian are convinced that the author intended to offer and read to the Committee his Amendment No. 79 as preprinted; is that correct?

Mr. CAMPBELL. That is correct, Mr. Chairman.

Mr. CLAY. Mr. Chairman, we are now debating Amendment No. 79?

The CHAIRMAN. The Committee has been debating Amendment No. 79 since it was offered.

Mr. CLAY. Mr. Chairman, I yield the balance of our time to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, this started out as a bipartisan bill designed to expand opportunities and I hope it ends up that way if we defeat this divisive amendment.

Mr. Chairman, this language either means nothing because Title VI already prohibits discrimination or it is different from Title VI and that will take years of litigation to interpret what it means. There is one interesting legal point in terms of discrimination on religion. We do not know whether that would mean that religious schools could or could not discriminate or prefer those of its religion.

But there is one thing that we know, and that is we could not remedy notorious discrimination if this amendment would pass. Whatever it means, it would attack valuable programs designed to address woeful underrepresentation of minorities in certain fields. There are only a handful of minority Ph.D.'s granted in science every year and outreach initiatives to address this woeful underrepresentation aimed at minorities, such as the Ronald E. McNair program to encourage minorities to pursue doctorates in science. Those programs would be in jeopardy.

Let us keep opportunity open. I urge Members to defeat this amendment just like we defeated the last amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the unanimous consent agreement, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) will each be recognized for 1½ minutes to wrap up.

The gentleman from Pennsylvania (Mr. GOODLING) is recognized for 90 seconds.

Mr. GOODLING. Mr. Chairman, I yield myself 45 seconds.

Mr. Chairman, I merely want to thank everyone for their patience. I think we are probably completing one of the most important pieces of legislation that we will deal with this year. Millions of Americans, young people and old, who are going to colleges and postsecondary schools will certainly benefit dramatically.

□ 2215

I want to thank members of the staff.

First of all, I want to thank the gentleman from California (Mr. MCKEON) and the gentleman from Michigan (Mr. KILDEE) for their effort to bring this bipartisan legislation before us. I want to thank Vic Klatt, Sally Stroup, George Conant, Sally Lovejoy, Jo Marie St. Martin, Jay Diskey, Pam Davidson, Darcy Phillips, David Evans, Mark Zukerman, and Marshall Grisby for the tremendous job they have done.

Mr. Chairman, I yield 45 seconds to the gentleman from California (Mr. MCKEON), the subcommittee chairman, who worked long and hard to put this legislation together.

Mr. MCKEON. Mr. Chairman, I would like to join the gentleman from Pennsylvania (Mr. GOODLING), the chairman, in thanking the members of the staff. He named all of the ones I was going to name. I want to thank all of you, plus my personal staff, Bob Cochran and Karen Weiss, for the great work they have done, for all of you for being patient with us throughout this day.

This has been a real bipartisan effort. The underlying principle in all that we have done has been for students and their parents to see that they get a full, equal opportunity to get a college education. I think that is good for America, and I think we passed a good bill. I want to thank all of my colleagues for working to make this such a good effort.

Mr. KILDEE. Mr. Chairman, I yield myself the balance of our time.

Mr. Chairman, as we conclude debate on this, I would like to recognize the very hard work of the staff on this legislation over the last 16 months.

On the Republican side, I want to acknowledge the excellent work of Bob Cochran and Karen Weiss, the personal staff of the gentleman from California, and Vic Klatt, Sally Lovejoy, Lynn Selmser, David Frank, D'Arcy Phillips, George Conant, and Pam Davidson of the committee staff.

But most importantly, I want to recognize the absolutely superb efforts of Sally Stroup who spearheaded this work on this legislation. She is a gracious, thoughtful, and very competent staff person. Everyone in this Chamber owes her a great debt of gratitude.

On the Democratic side, I want to express my appreciation to Chris Mansour and Callie Coffman of my own personal staff, and Gail Weiss, Mark Zukerman, Marshall Grigsby, Alex Nock, and Peter Rutledge of the committee staff, as well as Broderick Johnson, the former committee counsel, now at the White House.

Further, while she has moved to the Institute of Museum and Library Services, I also want to thank Margo Huber, who, as a member of the committee staff, did exceptionally fine work in helping formulate this bill.

Perhaps most important, I thank David Evans. For 19 years, David served Senator Pell, on the Senate Education Subcommittee, and I persuaded him over a year ago to come here and work on this important reauthorization bill. He and I have worked closely together, and I value very, very much the contributions he has made and the friendship we have forged.

Finally, we are all grateful for the hard work of Steve Cope in the Legislative Counsel's office, Deb Kalcevic at the Congressional Budget Office, and the staff of the Congressional Research Service, particularly Margot Schenet, Jim Stedman, and Barbara Miles.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to the Campbell amendment. This measure is legal minutia that erodes existing statutes already established to address concerns about discrimination in higher education.

In fact, in many ways, the Campbell amendment mimics Title VI of the Civil Rights Act—which already prohibits institutions of higher education that participate in programs, receiving Federal financial assistance from the Department of Education, from discriminating against students on the basis of race, color, or national origin. As such, discrimination against individual students in the administration of Higher Education Act programs is already forbidden by law.

The Campbell amendment takes an additional step in that it extends this "anti-discrimination" policy to include religion. The need for this added dimension is rather confusing since there are no programs under the Higher Education Act in which religion is a consideration. Another issue of concern is that this amendment would prohibit religious educational institutions, which participate in Higher Education Act programs, from considering an applicant's religion in admission.

Mr. Chairman, I am very concerned about the nature and purpose of this initiative. It is extremely ambiguous and very confusing. My concerns about the extent of its impact raises questions about institutions that receive Higher Education Act funding will be prohibited from participating in affirmative action at any level where race or religion is an issue, including admissions.

Mr. Chairman, I urge my colleagues to vote "No" on the Campbell "nondiscrimination provision" amendment. This is an obscure measure that serves only to raise more questions and puts current statutes at risk.

Mr. KILDEE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. CAMPBELL).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CAMPBELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 227, not voting 16, as follows:

[Roll No. 134]

AYES—189

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Bartlett
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bono
Brady
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
Everett
Fawell
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Latham
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Northup
Norwood
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—227

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Barton
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Capps
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Ehlers
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lampson
Lantos
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley

Mollohan
Morella
Murtha
Nadler
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Rangel
Redmond
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith, Adam
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Watts (OK)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—16

Bateman
Carson
Christensen
Dickey
Doyle
Gonzalez
Hastings (FL)
Hilliard
Largent
McNulty
Neumann
Radanovich
Schaefer, Dan
Shuster
Skaggs
Yates

□ 2236

Mr. ENSIGN and Mr. GIBBONS changed their vote from "aye" to "no."

Messrs. GREENWOOD, SOLOMON, HYDE and UPTON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

Mr. VENTO. Mr. Chairman, I rise today in support of the Higher Education Reauthorization Act. As a longtime advocate of educational opportunities for Americans, I have advocated and fought to ensure that access to quality education and solid job training skills is more than a pipedream for working families. Although there are several facets of this legislation, there are a few issues in particular that I would like to highlight. As we prepare to enter the 21st Century, America needs smart tools, smart technology and most of all a very smart workforce to maintain our competitive edge.

As we approach the turn of the century, it is more important than ever to ensure that students have access to the resources they need to pursue a postsecondary education. I worked my own way through college years ago, it was hard then and is more difficult today. I know that today times have changed and without adequate assistance through programs like work study, grants, and loans most students would not be able to complete their college education no matter their willingness to work full time as many did in a previous experience. Added to this is the fact that today most entry-level jobs barely pay a living wage, which is not enough anymore to fund today's higher tuition rates, the costs of books, and living expenses. This legislation could and should ensure that monetary aid would be available to keep the doors open to all students who otherwise would not have the resources to fund higher education opportunities.

The Pell grants increases and special loan programs included in this measure H.R. 6 are the vehicles which and have demonstrated their effectiveness and help to meet the need of today's and tomorrow's students. Another special aspect to highlight and which I feel is crucial to the competitiveness of our nation is technology training. H.R. 6 speaks specifically to this goal by providing funding for programs designed to promote such initiatives. As technology advances and touches so many areas of our lives—from the workplace to the marketplace to the classroom—it is increasingly imperative that today's teachers receive the training to effectively teach students not only rudimentary computer skills, but how to employ these skills effectively in accessing educational resources.

According to the Education Testing Service Assessment, most teachers have been in the workforce since before the computer age. Shockingly, 90 percent of new teachers, the majority of whom one might assume have grown up with computers—particularly during their years of higher education—do not feel prepared to use or effectively teach technology skills in their classrooms. Just as a dictionary may not be used as a resource by someone who is unable to read, computers in our classrooms are only useful when teachers are able to understand how they work and confidently apply this know-how in the classroom. The Higher Education Act recognizes this problem and provides for programs designed to implement the integration of technology into teaching and learning. I'm pleased to have helped initiate this policy in legislation which I've co-sponsored this session.

I specifically voice my opposition to the Riggs amendment which attempts to eliminate affirmative action. This amendment overreaches and would bar any legal initiative to achieve diversity in our higher education institutions, it's wrong and ought to be defeated. The bottom line is that Americans must have education and training they can afford, for the jobs and futures they merit and it must embrace the diversity of our US populace. Without educational opportunities, America's children face a future of lower employment, lower productivity, lower aspirations, and ultimately, a lower standard of living. This is certainly no way to prepare for a new Century. The federal government, prompted by Congress, can and will make a difference in meeting the challenge of change. By supporting higher education, we are investing in people, our nation's most valuable natural resource.

Mr. PAUL. Mr. Chairman, Congress should reject HR 6, the Higher Education Amendments of 1998 because it furthers the federal stranglehold over higher education. Instead of furthering federal control over education, Congress should focus on allowing Americans to devote more of their resources to higher education by dramatically reducing their taxes. There are numerous proposals to do this before this Congress. For example, the Higher Education Affordability and Availability Act (HR 2847), of which I am an original cosponsor, allows taxpayers to deposit up to $5,000 per year in a pre-paid tuition plan without having to pay tax on the interest earned, thus enabling more Americans to afford college. This is just one of the many fine proposals to reduce the tax burden on Americans so they can afford a higher education for themselves and/or their children. Other good ideas which I have supported are the PASS A+ accounts for higher education included in last year's budget, and the administration's HOPE scholarship proposal, of which I was amongst the few members of the majority to champion. Although the various plans I have supported differ in detail, they all share one crucial element. Each allows individuals the freedom to spend their own money on higher education rather than forcing taxpayers to rely on Washington to return to them some percentage of their tax dollars to spend as bureaucrats see fit.

Federal control inevitably accompanies federal funding because politicians cannot resist imposing their preferred solutions for perceived "problems" on institutions dependent upon taxpayer dollars. The prophetic soundness of those who spoke out against the creation of federal higher education programs in the 1960s because they would lead to federal control of higher education is demonstrated by numerous provisions in HR 6. Clearly, federal funding is being used as an excuse to tighten the federal noose around both higher and elementary education.

Federal spending, and thus federal control, are dramatically increased by HR 6. The entire bill has been scored as costing approximately $101 billion dollars over the next five years; an increase of over $10 billion from the levels a Democrat Congress authorized for Higher Education programs in 1991. Of course, actual spending for these programs may be greater, especially if the country experiences an economic downturn which increases the demand for federally-subsidized student loans.

Mr. Chairman, one particular objectionable feature of the Higher Education Amendments is that this act creates a number of new federal programs, some of which where added to the bill late at night when few members where present to object.

The most objectionable program is "teacher training." The Federal Government has no constitutional authority to dictate, or "encourage," states and localities to adopt certain methods of education. Yet, this Congress is preparing to authorize the federal government to bribe states, with monies the federal government should never have taken from the people in the first place, to adopt teacher training methods favored by a select group of DC-based congressmen and staffers.

As HR 6 was being drafted and marked-up, some Committee members did attempt to protect the interests of the taxpayers by refusing to support authorizing this program unless the spending was offset by cuts in other programs. Unfortunately, some members who might have otherwise opposed this program supported it at the Committee mark-up because of the offset.

While having an offset for the teacher training program is superior to authorizing a new program, at least from an accounting perspective, supporting this program remains unacceptable for two reasons. First of all, just because the program is funded this year by reduced expenditures is no guarantee the same formula will be followed in future years. In fact, given the trend toward ever-higher expenditures in federal education programs, it is likely that the teacher training program will receive new funds over and above any offset contained in its authorizing legislation.

Second, and more importantly, the 10th amendment does not prohibit federal control of education without an offset, it prohibits all programs that centralize education regardless of how they are funded. Savings from defunded education programs should be used for education tax cuts and credits, not poured into new, unconstitutional programs.

Another unconstitutional interference in higher education within HR 6 is the provision creating new features mandates on institutes of higher education regarding the reporting of criminal incidents to the general public. Once again, the federal government is using its funding of higher education to impose unconstitutional mandates on colleges and universities.

Officials of the Texas-New Mexico Association of College and University Police Departments have raised concerns about some of the new requirements in this bill. Two provisions the association finds particularly objectionable are those mandating that campuses report incidents of arson and report students referred to disciplinary action on drug and alcohol charges. These officials are concerned these expanded requirements will lead to the reporting of minor offenses, such as lighting a fire in a trash can or a 19-year-old student caught in his room with a six-pack of beer as campus crimes, thus, distorting the true picture of the criminal activity level occurring on campus.

The association also objects to the requirement that campus make police and security logs available to the general public within two business days as this may not allow for an intelligent interpretation of the impact of the availability of the information and may compromise an investigation, cause the destruction of evidence, or the flight of an accomplice. Furthermore, reporting the general location, date, and time for a crime may identify victims against their will in cases of sexual assault, drug arrests, and burglary investigations. The informed views of those who deal with campus crime on a daily basis should be given their constitutional due rather than dictating to them the speculations of those who sit in Washington and presume to mandate a uniform reporting system for campus crimes.

Another offensive provision of the campus crime reporting section of the bill that has raised concerns in the higher education community is the mandate that any campus disciplinary proceeding alleging criminal misconduct shall be open. This provision may discourage victims, particularly women who have been sexually assaulted, from seeking redress through a campus disciplinary procedures for fear they will be put "on display." For example, in a recent case, a student in Miami University in Ohio explained that she chose to seek redress over a claim of sexual assault "* * * through the university, rather than the county prosecutor's office, so that she could avoid the publicity and personal discomfort of a prosecution * * *" Assaulting the privacy rights of victimized students by taking away the option of a campus disciplinary proceeding is not only an unconstitutional mandate but immoral.

This bill also contains a section authorizing special funding for programs in areas of so-called "national need" as designated by the Secretary of Education. This is little more than central planning, based on the fallacy that omnipotent "experts" can easily determine the correct allocation of education resources. However, basic economics teaches that a bureaucrat in Washington cannot determine "areas of national need." The only way to know this is through the interaction of students, colleges, employers, and consumers operating in a free-market, where individuals can decide what higher education is deserving of expending additional resources as indicated by employer workplace demand.

Mr. Chairman, the Higher Education Amendments of 1998 expand the unconstitutional role of the federal government in education by increasing federal control over higher education, as well as creating a new teacher training program. This bill represents more of the same, old "Washington knows best" philosophy that has so damaged American education over the past century. Congress should therefore reject this bill and instead join me in working to defund all unconstitutional programs and free Americans from the destructive tax and monetary policies of the past few decades, thus making higher education more readily available and more affordable for millions of Americans.

Mrs. MINK of Hawaii. Mr. Chairman, I rise today in support of H.R. 6 which reauthorizes the Higher Education Act of 1965.

Like the G.I. bill which provided a college opportunity to the returning WWII vets, the Higher Education Act has done more to expand post-secondary education than any other factor in our educational system or in society. The decision by the Congress in 1965 to make a college education a national priority has contributed to the economic success of our nation. Literally millions of students have been able to attain a college degree because of the federal grant and student loan programs authorized by the Higher Education Act. Most importantly these programs are targeted to disadvantaged students who would have no alternative means of paying for a college education.

H.R. 6 continues the goal of expanding educational opportunity for all students, it lowers the cost of borrowing under the student loan program, expands early intervention efforts and includes provisions to address the special needs of women students.

The cornerstone of the Higher Education Act is the Pell Grant program which provides up to $3,000 to help low-income students pay for college. The bill continues the commitment to the Pell Grant program by raising the authorized level of the maximum Pell Grant award from $3,000 in the school year 1998–99 to $5,100 by the year 2002.

The agreement reached on the student loan interest rate assures that the cost of borrowing student loans will be greatly reduced for students. The new interest rate will be around 5.83% in 1998 for a student in school and a rate of around 7.43% for a student in repayment. The agreement also assures that financial institutions will continue to participate in the student loan program so that students will have access to student loans through a variety of lenders.

Early intervention is also a key component of this legislation. We all know the benefits of existing programs such as TRIO, which assists at-risk high school students in achieving the academic tools necessary to attend college and providing support services such as tutoring and mentoring once they are in college to assure that they will stay in school.

H.R. 6 includes a strong commitment to the TRIO program by increasing the authorization to $800 million. Currently TRIO programs are funded at $530 million. We now have a goal to fund this program at its full $800 million authorization level, so that we can expand programs to reach those areas that do not have the benefit of TRIO.

We also added an important component to our early intervention efforts in the adoption of the High Hopes program, a Clinton Administration initiative which will fund a variety of early intervention efforts in middle schools in low income areas. This program will help close the gap between college enrollment among higher income families and low income families.

H.R. 6 also includes provisions designed specifically to address the needs of women students. The bill increases the allowance for child care expenses in a student's cost of attendance from $750 to $1,500. This provision recognizes the high cost of child care and the impact it has on the overall resources a parent has to attend school.

In another effort to assist students with young children, the bill authorizes $30 million for a new program to establish child care centers on college campuses. Also, I understand the Chairman of the Committee has agreed to include in his manager's amendment a grants for campus crime prevention. Unfortunately, women on college campuses are victims of violent crimes all to often. It is the responsibility of the institution to assist in making college safe for women. This grant program will assist in that effort.

Of particular concern to the University of Hawaii is the International Education programs in Title VI of this bill. I am pleased we were able to work out a compromise on the issue of including both the International Education and Graduate Education programs in the same Title. The International Programs appear in a separate Part to make clear that there is no intention of consolidation of these programs. International education plays an increasingly important role in our society and we must prepare our students to work in a global society.

Though I am in support of this bill, there are provisions that cause grave concern—specifically the elimination of the Patricia Roberts Harris Fellowship which is designed to give women and minorities with significant financial need opportunities in graduate education, particularly in the fields of study that women and minorities have traditionally been under represented such as the engineering and sciences.

Although the committee intends this program to be consolidated in the Graduate Assistance Areas of National Need or GAANN program, I note that the GAANN program as amended by this bill has no component which assists women and minorities in fields in which they are under represented. The GAANN program if focused on provided assistance to those individuals who pursue fields of study in which there is a national need for more students. It has no focus on women or minority students. This is something I hope we can work out in conference.

Mr. Chairman, this bill moves us forward in expanding educational opportunities for our students. There has been much effort to make this a bi-partisan bill that everyone can be proud of. I urge my colleagues to support the reauthorization of the Higher Education Act.

Mr. BLUMENAUER. Mr. Chairman, I rise today in support of the Higher Education Amendments of 1998, H.R. 6, and the tremendous help this bill will provide to our nation's higher education system. The students of today will be the leaders of tomorrow, and we owe it to them to provide the best possible opportunities for furthering their education beyond high school. In the global economy of today, our children will need more and better skills to compete with their counterparts from around the world. Congress can significantly help this effort by providing low-cost loans, more scholarship opportunities, and programs that encourage partnerships among all levels of government and educational institutions.

There are a few provisions in H.R. 6 I would like to mention specifically that relate to the third district of Oregon which I represent. First is the Urban Community Service Grant program. Under this program, funds are made available to institutions to help link the assets of institutions such as Portland State University, attended by many of my constituents, to the needs of urban communities. This program is the only one in the Department of Education that speaks directly to urban institutions and has made a real difference for those institutions throughout the country.

PSU's project is community-based and focuses on urban ecosystems. It serves more than 1,000 schoolchildren and demonstrates that learning the basics about mathematics, science, and social studies can involve "real work" experiences through community service learning. In this project, curriculum topics arise from real issues identified by people in the community. As a result, students perceive their classroom experiences as relevant and are more motivated to participate in educational activities.

Some examples of the work students performed include:

Building and monitoring bird boxes for the Oregon Department of Fish and Wildlife;

Discussing Portland's infamous combined sewage overflow problem with residents and disconnection of downspouts to help alleviate the problem; and

Planting and maintaining a butterfly and bird garden.

Parents, the business community, local government, and nonprofit organizations are involved in and contribute to the program's success. Volunteers work with students in an urban ecosystems environment to apply the fundamentals of science and math to projects that make a difference to the community. This program is unique because it addresses middle school children—those who are at an age when they will either succeed or fail in school—and their families.

Second, I strongly support the Federal Financial aid provisions in the bill. I am pleased the bill "fixes" the independent student eligibility for Pell Grant issue. Last year's revisions to the tax code made one thing clear—access to higher education is key to the nation's ability to maintain economic competitiveness. Even more needs to be done to encourage those without financial resources to attend college. As Oregon's primary urban university, Portland State University serves many students who are independent or who have little or no family resources for a college education. At PSU, Federal financial aid means access. About 8,000 of our students receive financial aid, that's more than half of the student population. Clearly, more financial aid will mean more students will attend college.

I also support the bill's position on lowering the interest rate on Student loans. PSU students are increasing their indebtedness to get a college degree. Since 1986–87, student borrowing at PSU has increased from $7.7 million to $43.9 million. This is due to a number of factors—the cost of education has risen, funding for grants has not keep pace with inflation, and loans are now available primarily to middle and upper income students. Although loans are made available to families who don't have savings or other resources for higher education, soaring amounts of debt are still placed on our students. The high level of indebtedness now associated with attending college is of concern to both myself and my constituents.

I also support continued funding of the State student Incentive Grants (SSIG) program. This program is important because it provides needed financial aid dollars to low and working class students and it leverages state funds. While the Federal SSIG funds have declined, the Federal match is needed to help states maintain their commitment to providing state aid for students. At a time when states are facing tight budgets, the Federal match has prevented cuts in the states' share of financial aid. It has often made the difference to state legislatures around the country looking for ways to trim budgets.

However, I am concerned about any provision added to the bill which would have the Federal Government interfere with the ability of colleges and universities to choose students as they see fit, regardless of their racial or ethnic heritage. The Congress should take every precaution to not interfere into policies of this nature. Admission policies that take into account racial, ethnic and gender factors have widely been recognized as constitutional by the Supreme Court, and should not be subject to further congressional meddling. I am hopeful this bill is passed without such harmful provisions.

Mr. Chairman, this bill will go a long way toward addressing many students' needs in their pursuit of a college degree. It is the least we can do to prepare our children for the demands they will face in the real world. I urge my colleagues to support H.R. 6, and hope for the bill's speedy passage by the House.

The CHAIRMAN. Under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GILCHREST) having assumed the chair, Mr. GUTKNECHT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, pursuant to House Resolution 411, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GOODLING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 4, not voting 14, as follows:

[Roll No. 135]

YEAS—414

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon

Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—4

Campbell
Crane
Paul
Schaffer, Bob

NOT VOTING—14

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
Lewis (CA)
McNulty
Neumann
Radanovich
Schaefer, Dan
Shuster
Skaggs
Yates

□ 2255

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 6, HIGHER EDUCATION AMENDMENTS OF 1998

Mr. McKEON. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 6, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. McKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 6.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER pro tempore. Without objection, the Chair announces the Speaker's appointment of the following conferees on H.R. 2400.

As additional conferees from the Committee on the Budget, for consideration of title VII and title X of the House bill and modifications committed to conference:

Messrs. PARKER, RADANOVICH, and SPRATT.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

PERSONAL EXPLANATION

Mr. DAVIS of Illinois. Mr. Speaker, I was unavoidably detained in my district yesterday, May 5, due to official business. As a result, I missed rollcall vote numbers 122 through 126.

However, had I been present, I would have voted no on rollcall 122; aye on rollcall number 123; aye on rollcall number 124; aye on rollcall number 125; and aye on rollcall number 126.

□ 2300

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. GILCHREST). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

AFFIRMATIVE ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think it is important after the conclusion of today's debate on the Higher Education Act and specifically the debate that we had on both the Riggs and Campbell amendment to assess where we are and what that means. I am very pleased that the debate was not acrimonious but it was truthful. It expresses, I think, the overall commitment of this House to what really is equal opportunity and particularly in higher education.

Many times as we have debated the questions of affirmative action and equal opportunity, many voices would raise in citation of the words of Dr. Martin Luther King, that we should be judged not by the color of our skin but by the character within. Those words distort the value and the purpose of affirmative action and equal opportunity. For there is no doubt that we all strive to an even playing field. That even playing field has not arrived, for those who would argue that an amendment that would eliminate the ability to outreach and affirmatively act upon recruiting and soliciting minority students and women to institutions of higher learning deny the existence of past discrimination and existing discrimination.

The Riggs amendment and the Campbell amendment were likewise misdirected and distorted. My good colleague from California rose to the floor of the House and cited an example of the SAT scores. He started with a score in an Asian student that may have had a score of 760. He cited the score of a white student, an Hispanic student, and he concluded with a score of an African-American student of 510 on the SATs. With that pronouncement, he proceeded to discuss the fact of why there should be any extra special effort to ensure that those students who did not have the higher scores be able to attend institutions of higher learning. I have an answer for him. What is the high moral ground? What does this country stand for? Does it suggest that students who do not have the money to pay to go to institutions of higher learning should become or remain uneducated, foolish, untrainable, the door of opportunity should be closed? Does it mean those students who live in rural America who might have a hard time getting transportation to institutions of higher learning, the door should be closed? In every instance, we reach out to try to help those who need the extra help, to get the promise of what America stands for. Both the Riggs amendment and the Campbell amendment missed the boat on what is right and what is the high moral ground.

We will continue to have these debates. We have an election in Seattle. We recently had an election in Houston, Texas where they were attempting to eliminate the affirmative action provisions in minority and small and women-owned businesses. We have had one in California. Unfortunately it was, I think, misconstrued by the voters and Proposition 209 passed. But the tragedy of Proposition 209 is evidenced by the sizable diminishing of those students from Hispanic and African-American backgrounds going to institutions of higher learning. We defeated Proposition A in Houston recognizing that once you understood what affirmative action actually stands for, affirmatively acting, affirmatively reaching out, affirmatively ensuring equal opportunity, that most Americans will join hands united in recognizing that this is the right way to go. I, too, join in the words of Dr. Martin Luther King. I wish for a society in which all of us are judged by the content of our character. But I do not believe that because you come from a Hispanic background, an African-American background, because you are a woman, because you come from a rural background and you need an extra measure of help that that in any way diminishes your character, suggests that you are not being judged by your character but in fact the color of your skin is negative and so you are being reached out to because of something negative rather than something positive.

Mr. Speaker, I simply hope that time after time these kinds of amendments reach the floor of the House, we will recognize that the right way to go is to some day to reach a point in America where there is no discrimination against Native Americans and Hispanics, African-American, Asians, whites, women, but we have not reached that point.

These amendments take away from what the full promise of this country stands for. I will always stand against them, I will argue with my colleagues and respect them for their difference, but each day I will demand that this House do the right thing.

As I do that, Mr. Speaker, let me also simply conclude by saying I want to join very briefly the gentleman from Michigan (Mr. CONYERS) in his opposition and concern finally for what I think have been misguided efforts and directions in investigations dealing with both Webb Hubbell, Ms. McDougal and the whole proceedings investigating the President.

CHANGES IN MEDICARE DECIMATE KANSAS HOME HEALTH CARE PROVIDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, I rise this evening to address an issue of critical importance to people of Kansas and really the entire country. Several provisions buried in last year's Medicare bill are decimating home health care providers in Kansas and jeopardizing access to critical health care services to the sick and elderly in rural America.

Last year, in the effort to reduce spending, Congress made three crippling changes to Medicare reimbursement rates and regulations for home health care providers. First, the new interim payment system has slashed reimbursements to all agencies and is particularly discriminatory to agencies who have historically been the lowest cost, most efficient providers.

Second, the unrealistic requirements that all agencies, regardless of size, obtain $50,000 surety bond has been devastating. These bonds are expensive for many agencies and generally unavailable in most parts of the country. Even the Small Business Administration has acknowledged that there are great difficulties that many small agencies are experiencing in obtaining these bonds.

Finally, the loss of venipuncture reimbursement has added to the financial difficulties resulting in the closure of many agencies across the country, including Kansas. In our efforts to curtail fraud and wasteful spending, Congress went too far. Surely Congress did not intend to close down reputable and efficient providers of home health care services.

In rural Kansas, health care is not just a quality of life issue. It is a matter of survival. A home health care agency in a rural community is often the sole provider of services, the critical link between hospitals and independent personal recovery. These agencies give seniors the opportunity to recover in their own homes with their own families and save the Medicare program costly hospital or nursing home stays following each illness or injury.. Rural providers and their patients are especially hurt by cuts in payments due to the high cost of providing these services in a rural setting. These cuts threaten to leave seniors without adequate care and without independence of home care.

I wholeheartedly support the goal of reforming Medicare. Unfortunately, the budget agreement penalized the very efficiency that Congress should be encouraging. Last year I was one of only a handful of Members to vote against the Medicare budget provisions, not because I opposed meaningful reforms in the Medicare program, but because, among other reasons, I opposed a payment system which rewarded waste and punished efficiency.

I urge my colleagues in the House to join me in calling for an immediate review of the home health care provisions in the Balanced Budget Act and to take action necessary to remedy this crisis. Yesterday legislation was introduced in the Senate to limit the surety bond requirements to new agencies while strengthening protection and oversight for fraud, waste and abuse, and legislation has been introduced in both Houses to modify the interim payment system and provide needed relief for home health care providers.

Mr. Speaker, these are the real reforms that the Medicare home health care program desperately needs. I urge my colleagues to reconsider this issue.

□ 2310

CHAIRMAN BURTON APOLOGIZES FOR HANDLING OF HUBBELL TAPES BUT REFUSES TO ADMIT ERROR

The SPEAKER pro tempore (Mr. GILCHREST). Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, today we have learned that the Chairman of the House Committee on Government Reform and Oversight has fired his chief investigator and apologized to his fellow Republicans for any embarrassment caused by his actions in releasing distorted summaries of telephone conversations between Mr. Hubbell and his wife.

If the chairman now recognizes that the actions taken by his committee were wrong, the gentleman from Indiana (Mr. BURTON) also owes an apology to Mr. and Mrs. Hubbell as well as the President and the First Lady. The release of those summaries as well as the tapes themselves represents something that may be truly unprecedented in the House of Representatives: the elevation of partisanship over the sanctity of the privacy of cônversations between a husband and wife.

This is such a profound affront to most people's sensibilities and the values that we hold dear that it raises new questions about whether the gentleman from Indiana (Mr. BURTON) can or ought to continue to lead that committee's investigation into alleged campaign finance violations.

Chairman BURTON's continuing release of the private telephone conversations of Mr. Hubbell, including conversations with his wife and his attorney, appear to represent a serious abuse of government power intended to humiliate Mr. Hubbell because of his prior association with the Clinton administration.

Have we really reached the point where we think it is appropriate to publicly broadcast intimate conversations, most of which have nothing to do with the allegations of campaign finance violations, between a man and his wife? If we are concerned about family values, Congress should support the privacy of marital relationships, not make them public.

Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. I would say to the gentleman from Michigan, we know that in prior Congresses you had the occasion to chair this committee of the House. Can you tell us from your personal experience of having served in the Congress more than 30 years any recollection on your part of the conduct of this particular chairman of this committee in the investigation of such a serious matter?

Mr. CONYERS. Well, we do not have enough time to discuss the conduct of the chairman of the committee, but I can tell you that never in any committee can I recall to the Members of the body that we went into privacy and violated the spirit of privacy laws in the way that they have been done now. And there was a curious coincidence between the release of information from the special prosecutor and the release of these tapes. The chairman, a friend, his own chief counsel, advised him not to release the tapes, but he did so anyway. The Speaker of the House of Representatives publicly stated that a third party should screen the tapes for privacy issues before further releases were made. What did the committee do? It continued to release more tapes.

So almost daily, the impression continues to grow that the gentleman from Indiana (Mr. BURTON) or his committee is simply out of control. If the chairman's goal is simply to get at the truth, then there was no need to doctor the tapes.

Considering all of this, along with the chairman's recent public statement that he was after, quote-unquote, the President, President Clinton, how can the important investigative work of the committee lead to any findings that will be accepted as legitimate by the public?

I would appeal to the higher instincts of the gentleman from Indiana (Mr. BURTON) to apologize to the Hubbells and to the President and to the First Lady.

HIGHLIGHTS OF THE HIGHER EDUCATION AMENDMENTS OF 1998

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to discuss the very important legislation which was just adopted in the House, speaking of the Higher Education Amendments of 1998 which we passed this evening. This will reverse the current trend where it has been more difficult for many students to get into college because of financial reasons, and this is because college will be more affordable under our new amendments. It will simplify the student aid system and improve academic quality. In doing so, our bill enhances the freedom of Americans to live the American dream, rewards Americans who are willing to take responsibility for themselves in the future and restores accountability to the Nation's higher education programs.

Higher education amendments make college more affordable by rescuing the student loan program and, in turn, providing students with the lowest interest rate in 17 years. Specifically, this provision ensures that private banks stay in the student loan program. Without it the student loan program would eventually collapse and college students would be left without the borrowing power which they need to finance their education.

The higher ed bill makes college more affordable for students from disadvantaged backgrounds. It expands the Pell grant program which provides higher education vouchers for needy students and improves campus-based aid programs like the supplemental education opportunity grants, work-study and the Perkins loans, and strengthens international and graduate education.

Mr. Speaker, it also brings much needed reforms to the TRIO program to help disadvantaged children prepare for college while still in their teens. Specifically the bill increases the maximum allowable Pell grant for students from the current $3,000 to $4,500 per student for academic year 1999, and the grants gradually increase to $5,300 in the year 2003 to 2004.

Furthermore, the bill acknowledges sacrifices rendered by making college more affordable for those who serve in the U.S. Armed forces. Specifically it exempts veterans' benefits from being counted against students when they apply for financial aid.

This legislation holds colleges and universities accountable for tuition increases. Under the bill, colleges and universities are required to develop clear standards for reporting college costs and prices for both undergraduate and graduate education.

It also simplifies the student aid system. The Higher Education Amendments of 1998, which we just voted upon, offers students a way out by making the student aid process more user-friendly, incorporating sales management principles into student aid programs, and cutting red tape and bureaucracy.

One of the most important parts of this bill, Mr. Speaker, was the Foley amendment which requires that crime statistics be available to those who apply to colleges. I have in my own district a heroine, Connie Cleary, who has been working for many years to make sure that colleges report such security information. Her daughter was tragically murdered on a college campus. She and her husband have dedicated their lives to making sure that every college parent and student knows exactly what the security situation is at each university, so that together we can make our campuses safer and to make sure that individuals who attend schools have every piece of knowledge they should know about the campus in making an informed choice.

This bill is a positive bill. I believe it is going to help more students attend college and be able to financially afford to achieve their dream and then go on to get the job which best suits the academic challenges they have met.

□ 2320

FAULTY PROCEDURES OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. KANJORSKI) is recognized for 5 minutes.

Mr. KANJORSKI. Mr. Speaker, I know the hour is late. It is a pleasure to follow my good friend from Michigan (Mr. CONYERS), the former chairman of the House Operations Committee, now the Committee on Government Reform and Oversight of the House of Representatives.

On the same issue that the gentleman from Michigan (Mr. CONYERS) recently addressed the House on, I would just like to spell out some of my thoughts in regards to the exercise of the authority of the committee and the chairing of the committee, particularly in the last several months.

Mr. Speaker, the House of Representatives, in passing the resolution directing the Committee on Government Reform and Oversight to examine the election practices in the presidential and congressional elections of 1996, invested in the Committee on Government Reform and Oversight a very unusual power and instruction. I dare say, although this was a political issue from the standpoint it involved political campaigns and supposedly both parties that were engaged in the campaign of 1996, my observations were that both on the majority and the minority side, originally there was some expression of intent to do a serious, credible investigation and examination; not a persecution or a politically motivated investigation, but something that would give insight to the Members of this House and to the American people of a very serious problem, and that problem is the prostitution of the American political system and campaigns, which is fast overwhelming this Nation as experienced in 1996.

As we met to organize and to identify our mission, it seemed that very early on many of us on the minority side of the committee were fast realizing that there was an extraordinary power, the power of subpoena that was going to be vested in the Chairman without the need for clearing a subpoena through the ranking member or to going to the full committee that would normally have some input in the exercise of the issuance of a subpoena. I thought that was strange, and to my own mind and to others I remarked at the time that as a result of this unusual power being vested in the chairman, he would become the most powerful American citizen in the United States. No other individual in the United States could, by merely signing a subpoena, command the presence, the records, the examination of all of the personal papers of any American citizen.

We cautioned the chairman that it may be wise to carry on prior practices, both of the Committee of Oversight and Investigation, and the experiences of the Watergate committee, the Thompson committee in the Senate, and that was that when an individual is going to be issued a subpoena, it should come to the full committee to be disclosed, or at least to the ranking member so that a discussion can be had; and when agreement was reached, the subpoena would issue. If there was disagreement, it would come to the full committee and the full committee would cast a vote with the majority of the committee controlling the outcome as to whether the subpoena should issue.

Instead of doing that, the chairman received, without limitation, by vote of the majority of the committee, that he in his own right, without consultation and without consent from the committee, and without contest by the rest of the committee, could issue at will subpoenas to many citizens in the country.

Mr. Speaker, I think nearly 1,000 such subpoenas were issued. Some of them were so grossly and improperly issued that because the surname of the individual who was named in the subpoena was of Chinese American origin, there was a professor at the University of Georgetown that had his bank records seized, even though he had nothing to do with the campaign and was, in fact, an entirely different person. We called that very strongly to the attention of the chairman and he dismissed that.

About 5 months ago, we had a vote to immunize six witnesses before the committee. At that time we were assured that they would offer testimony that was necessary to the committee. In fact, that immunization of those witnesses allowed an individual to escape prosecution by getting immunity from that committee

---

ROLE OF PAKISTAN IN THE TRANSFER AND PROLIFERATION OF NUCLEAR WEAPONS AND DELIVERY SYSTEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I want to stress my concern this evening over the continued role of Pakistan in the transfer and proliferation of nuclear weapons and delivery systems.

Last month, the U.S. State Department determined that sanctions should be imposed on Pakistan pursuant to the Arms Export Control Act, and this decision comes in the wake of a determination that entities in Pakistan and North Korea have engaged in missile technology proliferation activities.

According to the notice published in the Federal Register on May 4 of this year, Khan Research Laboratories in Pakistan and the North Korean Mining Development Trading Corporation are subject to sanctions, including denial of export licenses, a ban on U.S. Government contracts with these entities, and a ban on importation to the U.S. of products produced by these two entities. The sanctions are in effect for 2 years.

Now, although these sanctions seem relatively modest, I still want to applaud the Clinton administration for imposing the sanctions on these companies. I hope that enforcement efforts against these and other firms involved in the proliferation of missile technology will remain strong.

As if this recent disclosure, though, about Pakistani nuclear missile technology with North Korea was not shocking enough, there are reports this week that the International Atomic Energy Agency, or the IAEA, is investigating whether a leading Pakistani scientist offered Iraq plans for nuclear weapons. The information, first reported in Newsweek Magazine, has been confirmed by the IAEA. According to the report, in October of 1990, prior to the Persian Gulf War, but after the Iraqi invasion of Kuwait, while our troops were massing in Saudi Arabia under Operation Dessert Shield, a memorandum from Iraqi's intelligence service to its nuclear weapons directorate mentioned that Abdul Qadeer Khan, the Pakistani scientist, offered help to Iraq to "manufacture a nuclear weapon." The document was among those turned over by Iraq after the 1995 defection of Saddam Hussein's son-in-law, Lieutenant General Hussein Kamel, who ran Iraq's secret weapons program.

The Pakistani Government has denied the report and the IAEA has not yet made any determination, but this report is part of a very troubling pattern involving Pakistan in efforts to obtain nuclear weapons and delivery systems or to share this technology with unstable regimes.

Recently, Pakistan tested a new missile known as the Ghauri, a missile with a range of 950 miles, sufficient to pose significant security threats to India and to launch a new round in the south Asian arms race. I am pleased that the recently elected Government of India has demonstrated considerable restraint in light of this threatening new development.

While I welcome the sanctions against North Korea, I remain very concerned that China is also known to have transferred nuclear technology to Pakistan. Our administration has certified that it will allow transfers of nuclear technology to China, a move I continue to strongly oppose.

Mr. Speaker, for years many of our top diplomatic and national security officials have advocated a policy of appeasement of Pakistan, citing that country's strategic location. But I think the time has long since passed for us to reassess our relationship with Pakistan. The two developments I cite today are only the latest developments. North Korea, the last bastion of Stalinism, is also one of the most potentially dangerous nations on Earth and the U.S. has been trying to pursue policies to lessen the threat of nuclear proliferation from North Korea, but now we see that Pakistan is cooperating with North Korea on missile technology.

Mr. Speaker, we do not need to be reminded of American concerns over Saddam's regime in Iraq. Now credible reports have surfaced suggesting the possibility of nuclear cooperation between Iraq and a top Pakistani scientist. Concerns about Pakistani nuclear weapons proliferation efforts have been a concern for U.S. policymakers for more than a decade. In 1985 the Congress amended the Foreign Assistance Act to prohibit all U.S. aid to

Pakistan if the President failed to certify that Pakistan did not have nuclear explosive devices.

□ 2330

This is known as the Pressler amendment. And it was invoked in 1990 by President Bush when it became impossible to make such a certification. The law has been in force since, but we have seen ongoing efforts to weaken the Pressler amendment, including a provision in the fiscal year 1998 Foreign Operations Appropriations Bill that carves out certain exemptions to the law.

Several years ago, $370 million worth of U.S. conventional weapons to Pakistan, which had been tied up in the pipeline since the Pressler amendment was invoked, was shipped to Pakistan. There is also the specter of U.S. F–16s, the delivery of which were also held up by the Pressler amendment, being delivered to Pakistan.

Mr. Speaker, in conclusion, I want to say that Pakistan has continued to take actions that destabilize the region and the world. Providing and obtaining weapons and nuclear technology from authoritarian, often unstable regimes, is a pattern of Pakistani policy that is unacceptable to U.S. interests and the goal of stability in Asia.

Pakistan is a country that faces severe development problems and really they should not be involved in this continued proliferation of nuclear weapons.

Its people would be much better served if their leaders focused on growing the economy, promoting trade and investment and fostering democracy. U.S. policy needs to be much stronger in terms of discouraging the continued trend toward destabilization and weapons proliferation that the Pakistani government continues to engage in.

ACTIONS TAKEN BY THE BURTON COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. BARRETT) is recognized for 5 minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, the hour is late. There has been much fanfare this week in Washington over the Burton committee, and the actions that were taken by the chairman of that committee. I just want to reflect on those actions and reflect on that committee which I have served on for the last 5½ years.

My first two years, I served under the gentleman from Michigan (Mr. CONYERS), who is here with us tonight and who has spoken about this issue earlier. For two years Mr. CLINGER headed the committee and the gentleman from Indiana (Mr. BURTON) has headed this committee for the last year and a half.

Earlier this week and late last week there was much criticism of the 19 Democrats on that committee who had voted against immunity. I was one of those Democrats and I am 100 percent comfortable with my vote. There are many times when it is difficult when legislators have to think about whether they are doing the right thing or the wrong thing, and believe it or not, legislators sometimes actually think about this and they are concerned about whether they are doing the right thing or the wrong thing.

I am very confident that what we did on that committee was the right thing to do. And I just want to take a minute to explain the concerns that I and other Members of that committee have had.

First, I have to go back a year and a half when the committee was formed and started this investigation. We argued that there were problems, and that there are problems, but those problems did not occur exclusively on the Democratic side of the aisle and if we were going to have a true investigation, it should be an investigation in the fund-raising practices of both the Democrats and the Republicans.

We were realistic because we realized that the gentleman from Indiana (Mr. BURTON), who had a reputation of being highly partisan, would not go along with that. And we recognized that he was the man who held the gavel and that he could do what he wanted, so we had to live with that. And I understand that and I accept that.

But I expected and I think that the other committee members expected the one thing that is imperative for any committee chairman in this building, and that is that the person is fair. And that is where this committee has failed miserably because I do not think that the chairman or the committee have run a fair investigation.

We have had other complaints over the last year and a half, but time and time again the chairman said, well, this is the way that I am going to run the committee, and basically squashed the complaints of the minority. Again, we lived with that because we understand the rules.

But it was two weeks ago when the chairman made a statement in his home town that was the straw that broke this camel's back, because he used a phrase in describing the President that I frankly am not comfortable in mentioning in public. And he said, "That is why I am out to get the President."

Now, when someone is a member of the committee and walks into that committee room and knows that the chairman's goal is to get the President, they lose all belief in the system that he is running because he has basically publicly said that he is not interested in running an investigation to look for truth. What he is interested in is getting the President.

Back in October before he made those statements, I and every other Member of that committee, every other Democrat on that committee, had voted for immunity for several witnesses. As it turned out, one of those witnesses should not have received immunity because of other legal problems that he had. But we went along with the committee chairman because we felt that we had to be acting in good faith and we had to act fairly.

But when the committee chairman says that he is out to get the President, from the perspective of this Member all the credibility of that committee is gone. It is impossible for me to have confidence in this committee, when I know that the goal of this committee chairman is to get the President.

It is not an attempt to find the truth, it is not an attempt to be fair, it is not an attempt to listen to all Members, and I think what we have seen with some of the committee staff reflects that.

Last year one of the leading employees on that committee left because of the tactics of the committee. As was mentioned earlier, the head legal counsel of the committee earlier this week advised Chairman BURTON not to release the tapes, the Hubbell tapes and he did. I respect Mr. Bennett, who is the lead counsel, and I think he was trying to do the right thing.

But any doubts that anyone could have over whether we did the right thing in voting against immunity I think had to be really put to the side when we talk about the actions that took place this last weekend. When Chairman BURTON released portions of tapes and only those portions that tended to incriminate the President or tried to incriminate the President, but did not release portions of the tapes that would have showed the other side of the story, he showed not only to the committee members, not only to the members of this body, but he showed to the entire American public that this is not a search for the truth because if it were a search for the truth he would have released all relevant parts of those telephone conversations. He would not have excluded those portions of the conversations that tended to exonerate the President. But again that was not the purpose and that has never been the purpose of this committee, and that is why I feel comfortable with what we are doing.

RELIGIOUS FREEDOM THREATENED BY PROPOSED CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Texas (Mr. EDWARDS) is recognized for half the time between now and midnight as the designee of the minority leader.

Mr. EDWARDS. Mr. Speaker, I am here tonight to discuss an issue that is of critical importance to our Nation and to every American family. The issue is religious freedom. Specifically, I want to comment on Federal legislation that I believe will do great damage to our Bill of Rights and to the cause of religious liberty.

The gentleman from Oklahoma (Mr. ISTOOK) has introduced a constitutional amendment that, if passed into law, would for the first time in our Nation's history amend our cherished Bill of Rights, which has for over 200 years protected Americans' religious, political and individual rights.

The House could vote on this amendment as early as next month. The gentleman from Oklahoma has mislabeled his work the Religious Freedom Amendment. More appropriately, it should be called the Religious Freedom Destruction Amendment.

That is why so many religious organizations such as the Baptist Joint Committee, the American Jewish Congress and the United Methodist Church are strongly opposing the Istook amendment. In fact, these and many other religious organizations and education groups, known as the Coalition to Preserve Religious Liberty, are opposing the Istook amendment because it will harm religious freedom in America.

In my opinion, Mr. Speaker, the Istook amendment is the worst piece of legislation that I have seen in 15 years in public office. It is dangerous because it threatens our core religious rights and literally tears down its 200-year-old wall that our Founding Fathers built to protect religion from intrusion by government.

That is why I have been active and will continue to be active in the bipartisan coalition of House Members and religious leaders to defeat this ill-designed measure.

Mr. Speaker, the Istook amendment would allow satanic prayers, it would allow animal sacrifices to be performed in public schoolrooms, even in elementary schools with small children. It would step on the rights of religious minorities and allow government facilities to become billboards for religious cults.

Mr. Speaker, America already has a religious freedom amendment. It is called the First Amendment to the U.S. Constitution. It is the first pillar of the Bill of Rights. It is the sacred foundation of all our freedoms.

The first amendment begins with these cherished words: Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

For over two centuries that simple but profound statement has been the guardian of religious liberty, which is perhaps the greatest single contribution of the American experiment in democracy.

□ 2340

To tamper with the First Amendment of our Bill of Rights has profound implications. In the name of furthering religion, the Istook amendment would harm religion. In the name of protecting religious liberty, it would damage religious freedom.

With no disrespect intended, if I must choose between Madison, Jefferson, and our Founding Fathers versus the gentleman from Oklahoma (Mr. ISTOOK) on the issue of protecting our religious liberty, I shall stand with Madison, with Jefferson, and our Founding Fathers. I shall stand in the defense of our Bill of Rights.

Mr. Speaker, if history has taught us nothing else, it has taught us that the best way to ruin religion is to politicize it. Our Founding Fathers did not mention God in our Constitution, not out of disrespect, but out of total reverence. It is that same sense of reverence that should move us in this House to protect the First Amendment, not dismantle it.

Some have suggested that the Istook amendment is necessary because they allege that "God has been taken out of public places and schoolhouses." I would suggest those people must not share my belief that no human has the power to remove an all-powerful ever-present God from any place on this Earth.

The fact is that there is no law in America that prohibits all prayers in our school. It has been said that "as long as there are math tests, there will be prayers in school." I agree. Under present law, schoolchildren may pray silently in school or even out loud, as long as they do not disturb the class work of others or participate in government-sanctioned prayer.

Children can say grace over their school lunches and, if they wish, pray around the flagpole before and after school. In fact, before and after school, prayer groups have been established at hundreds of schools all across America, and these numbers are increasing every day.

The April 27 copy of Time Magazine of this year documents that voluntary prayer is alive and well in American schools. Mr. Speaker, I include that article in the record this evening.

Under the Bill of Rights, as it should be, government resources cannot be used to force religion upon our schoolchildren against the wishes of their parents or against the wishes of the students themselves. What the Bill of Rights does prohibit is government-sponsored prayer, and thank goodness it does.

Our Founding Fathers were wise to separate church and State in the very First Amendment, in the very first words of the Bill of Rights. Religious freedom flourishes in America today precisely because of our wall of separation between church and State.

Islamic fundamentalism seen in the Middle East today is a clear example of how religious rights are trampled upon when government gets involved in religion.

In the weeks ahead, I urge Americans to look beyond the sound bite rhetoric of the Istook amendment and to ask yourselves this question: Should prayer be an individual right or a government program?

Whether I am in office for 2 more years or 10 more years, there never has been and never will be an issue more important to me than protecting religious liberty by defeating the Istook amendment.

Our Bill of Rights is one of the greatest political documents in the history of the world. We cannot allow the gentleman from Oklahoma (Mr. ISTOOK) in sound bite politics or anything else, for that matter, to dismantle it.

First, let me say, too, that there should be an enormous burden of proof placed upon anyone wanting to amend the first words of the First Amendment of our Bill of Rights. The document has not been amended even a single time since its adoption, as I said, over two centuries ago.

There can be no more sacred freedom than the freedom of religion. To tamper with it is a grave undertaking. Frankly, I would have hoped that, prior to any vote on amending the Bill of Rights, this Congress would have had hearings more extensive than any other hearings past or present in the history of the Congress.

Unfortunately, that has not happened. In fact, in 1998, and this is hard to believe, in 1998, there has only been one day of hearings on the Istook amendment to amend the Bill of Rights for the first time in our country's history.

Regardless of one's view on the Istook amendment to have a vote changing the Bill of Rights with less review than Whitewater, campaign finance, or even the Branch Davidian hearings I believe would be an injustice to our Bill of Rights, our Founding Fathers, and all who cherish religious liberty.

It would be tragic to set a precedent in this House that amending the Bill of Rights deserves a less careful review than any other issue before this Congress or any Congress.

As Mr. ISTOOK and his supporters try to meet their burden of proof in arguing that the Bill of Rights is flawed, I hope they will follow the Ninth Commandment.

For example, many proponents of this measure have failed to point out the Ellen Pearson school bus story about a student who was told that she could not read a Bible or bring a Bible on the school bus. They use that as a reason to amend the Bill of Rights, but yet they forget to point out that that problem was solved with one phone call to a school principal in 1989, hardly a reason to amend a bill of rights in 1998.

Mr. Speaker, I believe the American people have the right to know that, under the Istook amendment, seven, eight, nine, ten-year-old schoolchildren could be subjected to satanic prayers in their public schools.

Let me read an example of what our children could be exposed to under the Istook amendment, a satanic prayer:

> I am a born satanist. I am a happy little blob of custard and you cannot nail me to any wall; in fact, I would pull those nails out and aim them at you. Tell me how negative I am. Tell me how I am filled with hate. You are not just stupid. You are wrong. Dracula loved his bride. Dr. Frankenstein loved his monster. My satanic love burns fiercely. It is perfect and uncompromising.

Maybe Mr. ISTOOK would not mind his children being exposed to that satanic prayer and others like it in our public schools, our tax-supported schools, but I would be offended if my two young sons someday are exposed to witchcraft, satanic, or cult prayers in the public schools of Waco, Texas.

Therein lies the unanswered dilemma, the unanswerable, in fact, dilemma of the Istook amendment that allows student-initiated prayer. Either you expose young impressionable children in first and second and third and fourth and fifth grades in public school classrooms to satanic and all other types of prayers from thousands of religious sects and cults, or, on the other hand, you allow 10-year-old children in elementary schools to be the censors and selectors of permissible prayers and the guardians of America's religious rights.

Under the Istook amendment, would 10-year-olds set up prayer selection committees? Would 10-year-olds create prayer appeals committees? Would eight, nine, and 10-year-olds be expected to balance majority views with minority rights as written in our Constitution through the Bill of Rights?

What if one's religion, such as the Santerias, involves animal sacrifices? Would that be allowed, cutting off the heads of chickens in the classrooms as part of a prayer ritual? Which 10-year-olds would be forced or allowed to make that decision in our public schools? Could school administrators be allowed to override that 10-year-old student's decision? If so, where do we then draw the line on government officials reviewing what is and is not a permissible prayer?

Mr. Speaker, until these and hundreds of other questions are answered concerning the Istook amendment, I would suggest we would do well to follow the wisdom of Jefferson, Madison, and our Founding Fathers and protect, not dismantle, the First Amendment to our Bill of Rights.

I think Thomas Jefferson said it better than I could ever imagine when he said this in his letter to the Danbury Baptists, "Religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or worship; that the legislative powers of government reach actions only and not opinions."

I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion or prohibiting the free exercise thereof, thus building a wall of separation between church and State."

Mr. Speaker, I think it is interesting that the other day the gentleman from Oklahoma (Mr. ISTOOK) in supporting his constitutional amendment that, in my opinion would destroy an important part of the Bill of Rights, he suggested that those who were opposing his amendment of the Bill of Rights were "demagogues".

Let me suggest, I do not know about whom the gentleman from Oklahoma was suggesting, but if you want to call those demagogues opposing the Istook amendment, you are going to have to include the Baptists, you are going to have to include the Methodists, you are going to have to include Jewish organizations across America, and dozens and dozens of other devout religious organizations who oppose the Istook amendment specifically because of their belief in the reverence of religious liberty in America.

☐ 2350

On April 22, just a few days ago, the Baptist Standard said this: "The Baptist Standard remains a strict advocate of the separation of church and State. The first amendment has served us well. We don't need the Religious Freedom Amendment."

Finally, Mr. Speaker, and there are so many other issues that I hope we can discuss on the floor of this House in the weeks leading up to a vote on the Istook amendment, and I would urge the other side to agree to our recommendation or request that we have an open debate, it seems to me the least we owe, the Congress to the American people, is to have an open dialogue, an open discussion and not just one person's debate in the late hours of the evening, which the other side has been doing recently to discuss the pros and cons of amending the first 16 words of the Bill of Rights.

My concern about this Istook amendment, among many other things, goes to a statement that was made right here on the floor of this House last evening when the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Georgia (Mr. KINGSTON) were discussing this amendment. The gentleman from Oklahoma had listed a series of Federal Court decisions where he disagreed with the judge's opinion that we should, in Thomas Jefferson's words, have separation of church and State in America. The gentleman from Georgia (Mr. KINGSTON) then replied in this way. He said, "Mr. Speaker, there is no doubt in my mind that there is a special place in hell for a number of Federal court judges, as I am sure there will be for Members of Congress."

I hope the gentleman from Georgia will come to the floor of this House and explain that statement, because it appears to me that in the context in which it was given, he was suggesting that because certain Federal judges happen to disagree with the gentleman from Oklahoma and the gentleman from Georgia, and happen to agree with Thomas Jefferson and James Madison, that somehow there would be a special place in hell reserved for not only those Federal judges but perhaps for Members of Congress that would agree with our Founding Fathers that the best way to protect religion is to keep government out of religious affairs.

Mr. Speaker, I think it is this kind of thinking that will create divisive debate around this country if the proponents of the Istook amendment would continue to suggest, as they did last night, that if we agree with certain views of church and State issues, somehow we have a special place in heaven; and somehow if we disagree with those people's opinions, somehow we will have a special place in hell reserved for us.

I do not think this country needs that kind of religious divisiveness, and I would suggest, Mr. Speaker, that kind of divisiveness that was part of the debate on the floor of this House last night will be replicated in thousands of schoolhouses across America as we have fights over who gets how many minutes to give which prayer in 1st grade classrooms and 5th grade classrooms and 12th grade classrooms, public classrooms in America's schools.

So for those reasons, Mr. Speaker, and for many, many more that I will have the privilege to discuss in the weeks ahead, I would urge the Members of this Congress and the American people to think carefully before we buy into the sound-bite rhetoric of the Istook constitutional amendment; that we should think seriously before we change what our Founding Fathers carefully designed as the very first 16 words of our Bill of Rights, to defend religious freedom.

I think this will be the most important debate of this Congress, and I hope this Congress will give it serious consideration and ultimately the defeat that it deserves.

[From Time, Apr. 27, 1998]

SPIRITING PRAYER INTO SCHOOL

(By David Van Biema)

On an overcast afternoon, in a modest room in Minneapolis, 23 teenagers are in earnest conversation with one another—and with the Lord. "Would you pray for my brother so that he can raise money to go [on a preaching trip] to Mexico?" asks a young woman. "Our church group is visiting juvenile-detention centers, and some are scared to go," explains a boy. "Pray that God will lay a burden on people's hearts for this."

"Pray for the food drive," says someone.

"There's one teacher goin' psycho because kids are not turning in their homework and stuff. She's thinking of quitting, and she's a real good teacher."

"We need to pray for all the teachers in the school who aren't Christians," comes a voice from the back.

And they do. Clad in wristbands that read W.W.J.D. ("What Would Jesus Do?") and T shirts that declare UPON THIS ROCK I WILL BUILD MY CHURCH, the kids sing Christian songs, discuss Scripture and work to memorize the week's Bible verse, *John 15: 5* ("I am the vine and you are the branches"). Hours pass. As night falls, the group enjoys one last mass hug and finally leaves its makeshift chapel—room 133 of Patrick Henry High School. Yes, a public high school. If you are between ages 25 and 45, your school days were not like this. In 1963 the Supreme Court issued a landmark ruling banning compulsory prayer in public schools. After that, any worship on school premises, let alone a prayer club, was widely understood as forbidden. But for the past few years, thanks to a subsequent court case, such groups not only have been legal but have become legion.

The clubs' explosive spread coincides with a more radical but so far less successful movement for a complete overturn of the 1963 ruling. On the federal level is the Religious Freedom amendment, a constitutional revision proposed by House Republican Ernest Istook of Oklahoma, which would reinstate full-scale school prayer. It passed the Judiciary Committee, 16 to 11, last month but will probably fare less well when the full House votes in May. One of many local battlefields is Alabama, where last week the state senate passed a bill mandating a daily moment of silence—a response to a 1997 federal ruling voiding an earlier state pro-school prayer law. Governor Fob James is expected to sign the bill into law, triggering the inevitable church-state court challenge.

But members of prayer clubs like the one at Patrick Henry High aren't waiting for the conclusion of such epic struggles. They have already brought worship back to public school campuses, although with some state-imposed limitations. Available statistics are approximate, but they suggest that there are clubs in as many as 1 out of every 4 public schools in the country. In some areas the tally is much higher: evangelicals in Minneapolis-St. Paul claim that the vast majority of high schools in the Twin Cities region have a Christian group. Says Benny Proffitt, a Southern Baptist youth-club planter: "We had no idea in the early '90s that the response would be so great. We believe that if we are to see America's young people come to Christ and America turn around, it's going to happen through our schools, not our churches." Once a religious scorched-earth zone, the schoolyard is suddenly fertile ground for both Vine and Branches.

The turnabout culminates a quarter-century of legislative and legal maneuvering. The 1963 Supreme Court decision and its broad-brush enforcement by school administrators infuriated conservative Christians, who gradually developed enough clout to force Congress to make a change. The resulting Equal Access Act of 1984 required any federally funded secondary school to permit religious meetings if the schools allowed other clubs not related to curriculum, such as public-service Key Clubs. The crucial rule was that the prayer clubs had to be voluntary, student-run and not convened during class time.

Early drafts of the act were specifically pro-Christian. Ultimately, however, its argument was stated in pure civil-libertarian terms; prayers that would be coercive if required of all students during class are protected free speech if they are just one more after-school activity. Nevertheless, recalls Marc Stern, a staff lawyer with the American Jewish Congress, "there was great fear that this would serve the base for very intrusive and aggressive proselytizing." Accordingly, Stern's group and other organizations challenged the law—only to see it sustained, 8 to 1, by the Supreme Court in 1990. Bill Clinton apparently agreed with the court. The President remains opposed to compulsory school prayer. But in a July 1995 speech he announced that "nothing in the First Amendment converts our public schools into religion-free zones or requires all religious expression to be left at the schoolhouse door." A month later Clinton had the Department of Education issue a memo to public school superintendents that appeared to expand Equal Access Act protections to include public-address announcements of religious gatherings and meetings at lunchtime and recess.

Evangelicals had already seized the moment. Within a year of the 1990 court decision, prayer clubs bloomed spontaneously on a thousand high school campuses. Fast on their heels came adult organizations dedicated to encouraging more. Proffitt's Tennessee-based organization, First Priority, founded in 1995, coordinates interchurch groups in 162 cities working with clubs in 3,000 schools. The San Diego-based National Network of Youth Ministries has launched "Challenge 2000," which pledges to bring the Christian gospel "to every kid on every secondary campus in every community in our nation by the year 2000." It also promotes a phenomenon called "See You at the Pole," encouraging Christian students countrywide to gather around their school flagpoles on the third Wednesday of each September; last year, 3 million students participated. Adult groups provide club handbooks, workshops for student leaders and ongoing advice. Network of Youth Ministries leader Paul Fleischmann stresses that the resulting clubs are "adult supported," not adult-run. "If we went away," he says, "they'd still do it."

The club at Patrick Henry High certainly would. The group was founded two years ago with encouragement but no specific stage managing by local youth pastors. This afternoon its faculty adviser, a math teacher and Evangelical Free Church member named Sara Van Der Werk, sits silently for most of the meeting, although she takes part in the final embrace. The club serves as an emotional bulwark for members dealing with life at a school where two students died last year in off-campus gunfire. Today a club member requests prayer for "those people who got in that big fight [this morning]." Another asks the Lord to "bless the racial-reconciliation stuff." (Patrick Henry is multiethnic; the prayer club is overwhelming white.) Just before Easter the group experienced its first First Amendment conflict: whether it could hang posters on all school walls like other non-school-sponsored clubs. Patrick Henry principal Paul McMahan eventually decreed that putting up posters is off limits to everyone, leading to some resentment against the Christians. Nonetheless, McMahan lauds them for "understanding the boundaries" between church and state.

In Alabama, the new school-prayer bill attempts to skirt those boundaries. The legislation requires "a brief period of quiet reflection for not more than 60 seconds with the participation of each pupil in the classroom." Although the courts have upheld some moment-of-silence policies, civil libertarians say they have struck down laws featuring pro-prayer supporting language of the sort they discern in Alabama's bill. In the eyes of many church-club planters, such fracases amount to wasted effort. Says Doug Clark, field director of the National Network of Youth Ministries: "Our energy is being poured into what kids can do voluntarily and on their own. That seems to us to be where God is working."

Reaction to the prayer clubs may depend on which besieged minority one feels part of. In the many areas where Conservative Christians feel looked down on, they welcome the emotional support for their children's faith. Similarly, non-Christians in the Bible Belt may be put off by the clubs' evangelical fervor; members of the chess society, after all, do not inform peers that they must push pawns or risk eternal damnation. Not everyone shares the enthusiasm Proffitt recently expressed at a youth rally in Niagara Falls, N.Y.: "When an awakening takes place, we see 50, 100, 1,000, 10,000 come to Christ Can you imagine 100, or 300, come to Christ in your school? We want to see our campuses come to Christ." Watchdog organizations like Americans United for the Separation of Church and State report cases in which such zeal has approached harassment of students and teachers, student prayer leaders have seemed mere puppets for adult evangelists, and activists have tried to establish prayer clubs in elementary schools, where the description "student-run" seems disingenuous.

Nevertheless, the Jewish committee's Stern concedes that "there's been much less controversy than one might have expected from the hysterical predictions we made." Americans United director Barry Lynn notes that "in most school districts, students are spontaneously forming clubs and acting upon their own and not outsiders' religious agendas." A.C.L.U. lobbyist Terri Schroeder also supports the Equal Access Act, pointing out that the First Amendment's Free Exercise clause protecting religious expression is as vital as its Establishment Clause, which prohibits government from promoting a creed. The civil libertarians' acceptance of the clubs owes something to their use as a defense against what they consider a truly bad idea: Istook's school-prayer amendment. Says Lynn: "Most reasonable people say, 'If so many kids are praying legally in the public schools now, why would you possibly want to amend the Constitution?' "

For now, the prospects for prayer clubs seem unlimited. In fact, the tragic shooting of eight prayer-club members last December in West Paducah, Ky., by 14-year-old Michael Carneal provided the cause with matyrs and produced a hero in prayer-club president Ben Strong, who persuaded Carneal to lay down his gun. Strong recalls that the club's daily meetings used to draw only 35 to 60 students out of Heath High School's 600. "People didn't really look down on us, but I don't know if it was cool to be a Christian," he says. Now 100 to 150 teens attend. Strong has since toured three states extolling the value of Christian clubs. "It woke a lot of kids up," he says. "That's true everywhere I've spoken. This is a national thing."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILCHREST). In the absence of a designee of the majority leader, the gentleman from Texas was permitted to continue.

CONGRESS MUST ELIMINATE MARRIAGE TAX PENALTY NOW

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, why is it so important that we pass the Marriage Tax Elimination Act of 1998? I think a series of questions best illustrates why.

Do Americans feel that it is fair that the average working married couple pays higher taxes just because they are married? Do Americans feel that it is fair that 21 million married working couples pay on the average $1,400 more just because they are married? Do Americans feel that it is right that our Tax Code actually provides an incentive to get divorced?

Of course not. Americans recognize that the marriage tax penalty is unfair. Twenty-one million married working couples pay on the average $1,400 more just because they are married. That is real money for real people. One year's tuition at Joliet Junior College in the south suburbs of Chicago equals $1,400. Fourteen hundred dollars is 3 months of child care at a local day care center in Joliet as well. That is real money for real people.

Let us make elimination of the marriage tax penalty our number one priority in this year's budget. Let us eliminate the marriage tax penalty. Let us eliminate it now.

Mr. Speaker, I rise today to highlight what is arguably the most unfair provision in the U.S. tax code: the marriage tax penalty. I want to thank you for your long term interest in bringing parity to the tax burden imposed on working married couples compared to a couple living together outside of marriage.

In January, President Clinton gave his State of the Union Address outlining many of the things he wants to do with the budget surplus.

A surplus provided by the bipartisan budget agreement which: Cut waste, put America's fiscal house in order, and held Washington's feet to the fire to balance the budget.

While President Clinton paraded a long list of new spending totaling at least $46—$48 billion in new programs—we believe that a top priority should be returning the budget surplus to America's families as additional middle-class tax relief.

This Congress has given more tax relief to the middle class and working poor than any Congress of the last half century.

I think the issue of the marriage penalty can best be framed by asking these questions: Do Americans feel its fair that our tax code imposes a higher tax penalty on marriage? Do Americans feel its fair that the average married working couple pays almost $1,400 more in taxes than a couple with almost identical income living together outside of marriage? Is it right that our tax code provides an incentive to get divorced?

In fact, today the only form one can file to avoid the marriage tax penalty is paperwork for divorce. And that is just wrong!

Since 1969, our tax laws have punished married couples when both spouses work. For no other reason than the decision to be joined in holy matrimony, more than 21 million couples a year are penalized. They pay more in taxes than they would if they were single. Not only is the marriage penalty unfair, it's wrong that our tax code punishes society's most basic institution. The marriage tax penalty exacts a disproportionate toll on working women and lower income couples with children. In many cases it is a working women's issue.

Let me give you an example of how the marriage tax penalty unfairly affects middle class married working couples.

For example, a machinist, at a Caterpillar manufacturing plant in my home district of Joliet, makes $30,500 a year in salary. His wife is a tenured elementary school teacher, also bringing home $30,500 a year in salary. If they would both file their taxes as singles, as individuals, they would pay 15%.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School teacher	Couple
Adjusted gross income	$30,500	$30,500	$61,000
Less personal exemption and standard deduction	6,550	6,550	11,800
Taxable income	23,950	23,950	49,200
Tax liability	3,592.5	3,592.5	8,563
Marriage penalty			1,378

But if they chose to live their lives in holy matrimony, and now file jointly, their combined income of $61,000 pushes them into a higher tax bracket of 28 percent, producing a tax penalty of $1400 in higher taxes.

On average, America's married working couples pay $1,400 more a year in taxes than individuals with the same incomes. That's serious money. Everyday we get closer to April 15th more married couples will be realizing that they are suffering the marriage tax penalty.

Particularly if you think of it in terms of: A down payment on a house or a car, one years tuition at a local community college, or several months worth of quality child care at a local day care center.

To that end, Congressman DAVID MCINTOSH and I have authored the Marriage Tax Elimination Act.

It would allow married couples a choice in filing their income taxes, either jointly or as individuals—which ever way lets them keep more of their own money.

Our bill already has the bipartisan cosponsorship of 238 Members of the House and a similar bill in the Senate also enjoys widespread support.

It isn't enough for President Clinton to suggest tax breaks for child care. The President's child care proposal would help a working couple afford, on average, three weeks of day care. Elimination of the marriage tax penalty would give the same couple the choice of paying for three months of child care—or addressing other family priorities. After all, parents know better than Washington what their family needs.

We fondly remember the 1996 State of the Union address when the President declared emphatically that, quote "the era of big government is over."

We must stick to our guns, and stay the course.

There never was an American appetite for big government.

But there certainly is for reforming the existing way government does business.

And what better way to show the American people that our government will continue along the path to reform and prosperity than by eliminating the marriage tax penalty.

Ladies and Gentlemen, we are on the verge of running a surplus. It's basic math.

It means Americans are already paying more than is needed for government to do the job we expect of it.

What better way to give back than to begin with mom and dad and the American family—the backbone of our society.

We ask that President Clinton join with Congress and make elimination of the marriage tax penalty—a bipartisan priority.

Of all the challenges married couples face in providing home and hearth to America's children, the U.S. tax code should not be one of them.

Lets eliminate The Marriage Tax Penalty and do it now!

THE AIDS ACCOUNTABILITY PROJECT

(Mr. COBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBURN. Mr. Speaker, with the availability of powerful new drug therapies, many with HIV infection now have hope. The cost of that hope is anywhere from $10,000 to $40,000 a year. I believe it is unconscionable to deny drugs to this group of people who are living with HIV, and I commend this body for the money that we have raised and allocated for this purpose.

However, I have been shocked to learn that many AIDS organizations pay their executives excessive salaries at the expense of those living with HIV. Medically necessary care is being severely curtailed while these executives line their pockets with Federal dollars.

I would advise the Members of this body and the public in general to look at www.accountabilityproject.com. to look at how this money is spent. I welcome AIDS patients to discuss this with this body.

Mr. Speaker, I submit for the RECORD the following article from the April 26 San Francisco Examiner about the accountability project.

[From the San Francisco Examiner, April 26, 1998]

TRACKING THE FUNDS FOR AIDS

(By Erin McCormick)

Michael Petrelis wants to know what happened to the $1.5 billion the United States spent on AIDS last year.

The 39-year-old AIDS patient, and a growing number of activists like him, have been willing to bang on locked boardroom doors, rifle through file cabinets and generally raise hell to make sure money raised for AIDS goes to fight the deadly disease and not to overhead expenses and high salaries for charity executives.

Now they are taking their crusade public with an Internet Web site that will allow donors and people with AIDS to follow the money that goes to the dozens of charity relief efforts around the country.

"There's a new phenomenon of people with AIDS living longer, which means we're asking more questions about services," Sid Petrelis, who said since he started prodding organizations for financial information he has been banned from receiving full services at three Bay Area AIDS charities.

"We're now questioning where the money goes from the AIDS Walk, the AIDs Ride and the AIDS Dance-athon because we would like to have services like hot meals and housing," he said.

The Accountability Project Web site (www.accountabilityproject.com), which reveals IRS tax filings and other financial information about major U.S. AIDS charities and other nonprofits, makes it possible for internet surfers to get instant information about how they spend their money.

The project, an offshoot of the in-your-face AIDS activist group, ACT UP Golden Gate, is also pushing for laws to require open board meetings, democratic management and greater financial scrutiny for the nation's rapidly growing nonprofit sector.

"Nonprofits are a trillion-dollar industry in the U.S.," said project member Jeff Getty, who has lobbied to get City Hall to pass laws requiring more public accountability from nonprofits that get city funds. "Our country is creating a [p.8] huge sector that's sometimes replacing government and is spending government money, but has no elected officials and no taxpayer accountability."

TAX RETURNS IN PUBLIC EYE

So far, the Accountability Project Web site has published the tax returns of 28 nonprofits from around the nation, ranging from the San Francisco AIDS Foundation and New York's Gay Men's Health Crisis to Walden House, a substance abuse recovery program that devotes only a portion of its resources to people with AIDS.

And while, on the whole, the documents show a vast array of lifesaving work being done on behalf of AIDs patients, Petrelis says, they also raise questions about some charities' priorities.

For instance, the reports show that 21 executives who worked at 10 of the charities, had pay packages exceeding $100,000.

The highest salary and benefits package went to Walden House Executive Director Alfonso Acamporo, who made $186,000 in 1996. Jerome Radwin, a director of the American Foundation for AIDS Research in New York, received the second highest, $181,000, followed by Pat Christen of the San Francisco AIDS Foundation, whose total compensation was $162,000.

The tax information also shows some executives getting large pay increases at a time when, Petrelis says government funding for AIDS is increasingly scarce.

In the case of the Washington, D.C., meal program, Food and Friends, tax returns show that Executive Director Craig Schniderman got a 62 percent raise in 1996, from $63,000 to $102,000.

JUDGING THE COMPENSATION

Dan Langen of the National Charities Information Bureau, which monitors tax-exempt organizations, said the issue of how much they should pay their executives is often controversial.

On one hand, he said, if a multimillion-dollar charity hires a manager who doesn't know how to handle money, it may see revenues—and services—disappear fast. But "there should be a difference between for-profit compensation and nonprofit. These people might be able to make a lot of money on Wall Street, but when they choose to work for a charity, they have chosen a different lifestyle."

The National Charities Bureau says nonprofits should spend at least half of their budgets on the charity mission, not on fund raising or administrative costs. It's a goal exceeded by all groups on the Web site.

That doesn't satisfy Petrelis.

He questions spending by Visual Aid, a small charity that helps artists suffering from devastating diseases by providing art supplies and organizing exhibitions. Petrelis noted that the group reported spending only 21 percent of its $159,000 budget on grants for artists' supplies, while much of the rest went to salaries and overhead.

Visual Aid Executive Director Jim Fisher said without its two staff members, the organization would be unable to put on exhibits, solicit donations of supplies or do any fund raising.

"We're about motivating people with illnesses to start working again," he said. "The Michael Petrelises of the world like to yell at us tiny people, who are just trying to build a base."

Petrelis said his pet peeve is the campaign for a $3.7 million Memorial AIDS Grove in Gold Gate Park, which solicited donors to pay $10,000 to sponsor a boulder and $15,000 for a park bench.

Petrelis said he doesn't understand how, at a time when people are still dying of AIDS, groups can be raising $10,000 for a boulder.

But project director Tom Weyand said the grove serves a vital purpose for those who have lost loved ones to AIDS and is not meant to compete with programs helping those fighting the disease. "It's about memories," he said.

While no nonprofit groups protest having their IRS reports on the Accountability Project Web site, some recoil at the group's efforts to get them to make public all financial records and board meetings.

The San Francisco AIDS Foundation said it's happy to have its tax filings posted but opposes measures that would require additional paperwork.

Petrelis said the cooperative treatment program run by the AIDS Foundation, the San Francisco AIDS Health Project and the Shanti Project barred him from group therapy sessions and group events after he got another piece of information and put it on the Web site; a transcript of an AIDS Foundation focus group in which patients were interviewed about the quality of services.

Petrelis said the foundation charged he had stolen the transcripts and banished him from group sessions as punishment for compromising the confidentiality of survey participants.

The AIDS Foundation and the Shanti Project said confidentiality rules barred them from commenting on Petrelis' status as a client.

But, while Petrelis and other Accountability advocates are criticized for being confrontational, the movement to require more scrutiny of nonprofits has caught fire.

"The bigger nonprofits get, the more chance they get out of touch with their constituencies," said Supervisor Tom Ammiano, who plans to introduce legislation Monday requiring more openness from nonprofits getting city money.

"We need to make sure the accountability is there so we aren't kept in the dark about what these organizations are doing to earn their keep," Ammiano said.

TOP-EARNING CHARITY EXECUTIVES

These executives earned the highest compensation packages of the 28 AIDS charities and other nonprofits that have so far provided IRS information to Project Accountability.

AIDS Healthcare Foundation-Los Angeles, $30 million annual budget: Michael Weinstein, President, $126,548.

AIDS Project Los Angeles, $16 million annual budget: James Earl Loyce Jr., Executive director, $144,227; William Misenhimer, Chief financial officer, $114,321; Allen Carrier, Director, $109,915.

American Foundation for AIDS Research-New York, $17 million annual budget: Jerome Radwin, Chief operating officer, $181,443; John Logan, General counsel, $104,391; Ellen Cooper, MD MPH, Vice president, $157,597; Sally Morrison, Vice president, $100,186.

Food and Friends, Washington DC meal program, $4 million annual budget: Craig Shniderman, Executive director, $102,125.

Gay Men's Health crisis-New York, $28 million annual budget: Mark Robinson, Executive director, $153,565; Addie Guttag, Deputy director, $139,337; Michael Isbel, Deputy director, $139,337.

Lambda Legal Defense and Education Fund-New York, $4 million annual budget: Kevin Cathcart, Executive director, $138,591.

Los Angeles Gay and Lesbian Community Services, $17 million annual budget: Name not provided, Executive director, $127,803.

San Francisco AIDS Foundation, $16 million annual budget: Pat Christen, Executive director, $162,294; Jane Breyer, Development director, $117,633; Lance Henderson, Finance director, $110,465; Rene Durazzo, Program director, $100,362.

Walden House-San Francisco substance abuse program, $14 million annual budget: Alfonso Acampora, Chief executive officer, $185,810.

Whitman-Walker Clinic-Washington DC, $16 million annual budget: James Graham, Executive director, $141,548; Harold Hawley, Medical director, $117,860.

Source: summaries of charities' most recent IRS 990 forms posted on the Accountability Project Web site. Some charities' reports cover the fiscal year 1995–96, while others cover calendar year 1996.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON (at the request of Mr. GEPHARDT) for today, on account of official witness.

Mr. DOYLE (at the request of Mr. GEPHARDT) for today after 6:00 p.m., on account of family business.

Mr. RADANOVICH (at the request of Mr. ARMEY) for today and the balance of the week, on account of the birth of a child.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EDWARDS) to revise and extend their remarks and include extraneous material:)

Mr. RUSH, for 5 minutes, today.

Ms. JACKSON LEE of Texas, for 5 minutes, today.

Mr. GREEN, for 5 minutes, today.

Mr. BENTSEN, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. KANJORSKI, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. BARRETT of Wisconsin, for 5 minutes, today.

(The following Members (at the request of Mr. McCrery) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. COBURN, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EDWARDS) and to include extraneous matter:)

Mr. KIND.
Mr. GEJDENSON.
Mr. ROTHMAN.
Mr. VISCLOSKY.
Mr. HILLIARD.
Mr. FRANK of Massachusetts.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. BLUMENAUER.
Mr. KUCINICH.
Mr. TOWNS.
Mr. MARKEY.
Mr. BARRETT of Wisconsin in two instances.
Mr. MOAKLEY.
Mr. STARK.
Mr. BROWN of California.
Mr. BLAGOJEVICH.
Mr. GREEN.
Mr. PALLONE.
Mr. BORSKI.
Mr. RAHALL.

(The following Members (at the request of Mr. MCCRERY) and to include extraneous matter:)

Mr. GILMAN.
Mr. WELLER.
Mr. ARMEY.
Mr. PITTS.
Mr. MCHUGH.
Mr. WALSH.

(The following Members (at the request of Mr. EDWARDS) and to include extraneous matter:)

Mr. SCHUMER during consideration of H.R. 6 in the Committee of the Whole today.

Mr. YATES.
Mr. WEYGAND in two instances.
Mr. KUCINICH in two instances.
Mrs. TAUSCHER in two instances.
Ms. DUNN.
Mr. VISCLOSKY.
Mr. PACKARD.
Mr. MCDERMOTT.
Mr. FOSSELLA.
Mr. GREEN.
Mr. KIND.
Mr. BARRETT of Wisconsin.

ADJOURNMENT

Mr. CONYERS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Thursday, May 7, 1998, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 2217. A bill to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes (Rept. 105–509). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2841. A bill to extend the time required for the construction of a hydroelectric project (Rept. 105–510). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee on Rules. House Resolution 420. Resolution providing for consideration of the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 105–511). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 262. Resolution authorizing the 1998 District of Columbia Special Olympics Law Enforcement Torch Run to be run through the Capitol Grounds; with an amendment (Rept. 105–512). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 265. Resolution authorizing the use of the East Front of the Capitol Grounds for performances sponsored by the John F. Kennedy Center for the Performing Arts (Rept. 105–513). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 263. Resolution authorizing the use of the Capitol Grounds for the seventeenth annual National Peace Officers' Memorial Service: with an amendment (Rept. 105–514). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MENENDEZ:

H.R. 3798. A bill to amend section 258 of the Communications Act of 1934 to protect telephone consumers against "cramming" of charges on their telephone bills; to the Committee on Commerce.

By Mr. MICA (for himself, Mr. PORTMAN, Mr. HASTERT, Mr. SOUDER, Mr. MCCOLLUM, Ms. ROS-LEHTINEN, and Mr. GOSS):

H.R. 3799. A bill to establish programs designed to bring about drug free teenage driving; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS:

H.R. 3800. A bill to amend the Foreign Assistance Act of 1961 to require that assistance provided to a foreign country under part I of that Act, other than assistance provided on a cash transfer basis, shall be in the form of credits redeemable only for the purchase of United States goods and services; to the Committee on International Relations.

By Mr. ANDREWS:

H.R. 3801. A bill to amend title 11 of the United States Code to modify the application of chapter 7 relating to liquidation cases; to the Committee on the Judiciary.

By Mrs. LOWEY (for herself, Mr. EVANS, Mr. KENNEDY of Rhode Island, Mrs. MORELLA, Mr. FRANK of Massachusetts, Mr. OLVER, Ms. WOOLSEY, Mr. MCGOVERN, Mr. KUCINICH, Mrs. MALONEY of New York, Mr. SANDERS, Mr. HALL of Ohio, Mr. WAXMAN, Ms. SLAUGHTER, Mr. TOWNS, Mr. VENTO, Mr. BLAGOJEVICH, Mr. YATES, Ms. ROYBAL-ALLARD, Mr. LUTHER, Mr. STUPAK, and Mr. SERRANO):

H.R. 3802. A bill to prohibit the provision of defense services and training under the Arms Export Control Act or any other Act to foreign countries that are prohibited from receiving international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961; to the Committee on International Relations.

By Mr. REYES:

H.R. 3803. A bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail; to the Committee on Resources.

By Mr. SCARBOROUGH:

H.R. 3804. A bill to require that any amounts appropriated in a fiscal year for the House of Representatives for members' representational allowances which remain unexpended after all payments are made under such allowances for the fiscal year shall be used to repay amounts borrowed from the old-age, survivors, and disability insurance programs under title II of the Social Security Act; to the Committee on House Oversight.

By Mr. ARMEY:

H. Con. Res. 272. Concurrent resolution expressing the sense of the House on health care quality; to the Committee on Commerce.

By Mr. BRADY (for himself, Mr. GILMAN, Mr. GALLEGLY, Mr. ACKERMAN, Mr. SMITH of New Jersey, Mr. MENENDEZ, Mr. BALLENGER, Mr. MARTINEZ, Mr. SANFORD, and Mr. DAVIS of Florida):

H. Res. 421. A resolution expressing the sense of the House of Representatives deploring the tragic and senseless murder of Bishop Juan Jose Gerardi, calling on the Government of Guatemala to expeditiously bring those responsible for the crime to justice, and calling on the people of Guatemala to reaffirm their commitment to continue to implement the peace accords without interruption; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 339: Mr. Greenwood.

H.R. 530: Mrs. Johnson of Connecticut and Mr. Solomon.

H.R. 538: Mr. Frost.

H.R. 628: Mr. Kennedy of Rhode Island.

H.R. 633: Mr. Houghton.

H.R. 678: Mr. Burton of Indiana, Mr. Fossella, Mr. Hansen, Mrs. Kelly, Mr. Parker, Mr. Tiahrt, Mr. Herger, Mr. McKeon, Mr. Dickey, Mrs. Chenoweth, and Mr. Reyes.

H.R. 696: Mr. Moran of Virginia.

H.R. 814: Mr. Martinez.

H.R. 859: Mr. Jenkins.

H.R. 944: Mr. Largent.

H.R. 950: Mr. Meeks of New York.

H.R. 953: Mr. Hilliard and Mr. Schumer.

H.R. 979: Mr. Hayworth, Mrs. Capps, and Mr. Barrett of Nebraska.

H.R. 1126: Mr. John and Mr. Sabo.

H.R. 1173: Mr. Scott, Mr. Jefferson, and Mr. Gutierrez.

H.R. 1219: Mrs. Capps.

H.R. 1231: Ms. Danner.

H.R. 1289: Mr. Diaz-Balart and Mr. Shaw.

H.R. 1376: Mrs. Capps and Mr. Lampson.

H.R. 1492: Mr. Rogan.

H.R. 1524: Mr. Sanders.

H.R. 1628: Mr. Shaw and Mr. Nadler.

H.R. 1671: Ms. Pelosi.

H.R. 1706: Mr. Barrett of Wisconsin.

H.R. 1766: Mr. Bass, Ms. Brown of Florida, Mr. Cooksey, Mr. Crapo, Mr. Ford, Mr. Gilman, Mr. Jones, Mrs. McCarthy of New York, Mr. McCrery, Mr. Meeks of New York, Mr. Oberstar, Ms. Pryce of Ohio, and Mr. Thune.

H.R. 1813: Mr. Gonzalez and Ms. Furse.

H.R. 1913: Mr. Bentsen.

H.R. 2077: Mr. Hinchey and Mr. Markey.

H.R. 2183: Mr. Tauzin.

H.R. 2273: Mr. Mollohan, Mr. Barcia of Michigan, Mr. Holden, Mr. Snyder, Mr. Campbell, Mr. Lewis of Kentucky, Mr. Underwood, Mr. Leach, Mr. Bilirakis, Mr. Coyne, Mrs. Capps, Mr. Deutsch, Mr. Kanjorski, and Mr. Moakley.

H.R. 2275: Mr. Rush, Mrs. Maloney of New York, Mr. Rangel, and Mr. Baldacci.

H.R. 2313: Mr. King of New York.

H.R. 2377: Mr. Coble, Mr. Gilchrest, Mr. McCrery, Mr. Pickett, Mrs. Thurman, and Mr. Metcalf.

H.R. 2408: Mr. Sherman and Mrs. Tauscher.

H.R. 2409: Mr. Rush.

H.R. 2454: Mr. Meeks of New York.

H.R. 2457: Mr. Meeks of New York.

H.R. 2500: Mr. Aderholt.

H.R. 2504: Mr. Filner.

H.R. 2523: Mr. Bonior.

H.R. 2547: Mr. Olver.

H.R. 2593: Mr. Rothman and Mr. Wynn.

H.R. 2733: Mrs. Maloney of New York, Mr. English of Pennsylvania, Mr. Bereuter, Mr. Kildee, Ms. Stabenow, Mr. Ortiz, Mr. Bonior, Mr. Gekas, Ms. Slaughter, Mr. Rogers, and Mr. Etheridge.

H.R. 2748: Mr. Jenkins and Mr. Boehlert.

H.R. 2804: Mr. Rush, Mr. Faleomavaega, Mr. Etheridge, and Mr. Stupak.

H.R. 2898: Ms. Slaughter and Mrs. Lowey.

H.R. 2935: Mr. Lewis of Georgia.

H.R. 2938: Mr. LaTourette.

H.R. 2942: Mr. Hilleary, Mr. Ensign, Mr. Watts of Oklahoma, Mr. Foley, Mr. Ortiz, Mr. Deal of Georgia, and Mrs. Myrick.

H.R. 2951: Mr. Jefferson, Mr. Manzullo, Mr. Weygand, Mr. Upton, Mr. McGovern, Mr. Wynn, Mr. Barrett of Nebraska, and Mr. Kildee.

H.R. 2960: Mr. Stenholm.

H.R. 3000: Mr. Thomas and Mr. Hall of Texas.

H.R. 3001: Mr. Greenwood, Mr. Waxman, Mr. Bachus, and Ms. Millender-McDonald.

H.R. 3048: Mr. Blunt.

H.R. 3067: Mr. Traficant and Mr. Kildee.

H.R. 3099: Mr. Kleczka and Mr. McHugh.

H.R. 3110: Mrs. Emerson, Mr. Murtha, and Mr. Peterson of Pennsylvania.

H.R. 3131: Mr. Torres and Mr. Hobson.

H.R. 3176: Mr. Inglis of South Carolina.

H.R. 3189: Mr. Baker, Mr. Stump, Mr. Canady of Florida, and Mr. Riggs.

H.R. 3206: Mr. Norwood.

H.R. 3234: Mr. Armey.

H.R. 3284: Mr. Moran of Kansas and Mr. Canady of Florida.

H.R. 3304: Mr. Dreier, Ms. Ros-Lehtinen, and Mr. Bliley.

H.R. 3342: Mr. Clay.

H.R. 3351: Mrs. Emerson.

H.R. 3396: Mr. Pastor, Mr. Stearns, Mrs. Fowler, Mr. Ballenger, Mr. Regula, Mr. Solomon, Ms. Pryce of Ohio, Mrs. Chenoweth, Mr. Manzullo, Mr. Nussle, Mr. Fazio of California, Mrs. Johnson of Connecticut, Mr. Smith of New Jersey, Mr. LaTourette, and Mr. Nethercutt.

H.R. 3400: Mr. Lantos.

H.R. 3410: Mr. Metcalf, Mr. Pickett, Mr. Nethercutt, Mr. Barrett of Nebraska, Mr. Bishop, Mr. Boyd, Mr. Bryant, Mr. Calvert, Mr. Canady of Florida, Mr. Chambliss, Mr. Coble, Mr. Condit, Ms. Dunn of Washington, Mrs. Emerson, Mr. Foley, Mrs. Johnson of Connecticut, Mr. McCrery, Mr. McHugh, Mr. Norwood, Mr. Paxon, Mr. Pickering, Mr. Pombo, Mr. Solomon, and Mr. Smith of Michigan.

H.R. 3433: Mr. Houghton, Mr. Nussle, Mr. Weller, Mr. McDermott, and Mr. Levin.

H.R. 3466: Mr. Hinchey, Mrs. Maloney of New York, and Mr. Hilliard.

H.R. 3475: Mr. Shays, Mr. Maloney of Connecticut, Mr. Nadler, and Mr. Hyde.

H.R. 3494: Mr. Hastert and Ms. Lofgren.

H.R. 3504: Mr. Duncan.

H.R. 3517: Mr. English of Pennsylvania, Mr. LaFalce, Mr. Hilliard, Mr. DeFazio, Mr. Underwood, Mr. Faleomavaega, Mr. Gekas, Mrs. Clayton, and Ms. Eshoo.

H.R. 3523: Mr. Young of Alaska, Mr. Christensen, Mrs. Capps, Mr. Weller, Mr. Abercrombie, Mr. Pomeroy, Mr. LaHood, and Mr. Lucas of Oklahoma.

H.R. 3524: Mr. Engel.

H.R. 3531: Mr. Evans, Mr. Sanders, and Ms. Furse.

H.R. 3534: Mr. Riley, Mr. Aderholt, Mr. Hobson, Mr. McHugh, Mr. Blunt, Mr. Sensenbrenner, Mr. Gillmor, Mr. Barr of Georgia, Mr. McIntosh, Mr. Lewis of Kentucky, Mr. Hayworth, Mr. Thornberry, Mr. Manzullo, Mr. LaHood, Mr. English of Pennsylvania, Mr. Rogan, Mr. Sununu, and Mr. Bereuter.

H.R. 3547: Mr. Goode and Mr. Wamp.

H.R. 3561: Ms. Slaughter.

H.R. 3566: Mr. Franks of New Jersey.

H.R. 3567: Mrs. Emerson, Mr. Kildee, and Mr. Allen.

H.R. 3570: Mr. Kennedy of Massachusetts, Mr. Meehan, and Ms. Lee.

H.R. 3577: Mr. Engel and Ms. Pelosi.

H.R. 3604: Mr. Dooley of California, Ms. Pelosi, Mr. Sherman, Mr. Filner, Mr. Berman, Mrs. Tauscher, and Mr. Farr of California.

H.R. 3613: Mr. Lewis of California and Mr. Stupak.

H.R. 3624: Mr. Lantos and Mrs. Clayton.

H.R. 3626: Mr. Bonilla.

H.R. 3629: Mr. Jones.

H.R. 3632: Mr. Diaz-Balart, Mr. Solomon, Mr. LaTourette, Mr. King of New York, Mr. McHugh, Mr. Ney, Mr. LoBiondo, Mr. LaHood, Mr. Kildee, Mr. Blumenauer, Mr. Andrews, Ms. Furse, and Mr. Forbes.

H:R. 3636: Ms. Norton, Mr. Stark, and Mr. Petri.

H.R. 3644: Mr. Matsui.

H.R. 3682: Mr. Aderholt.

H.R. 3686: Mrs. Capps, Ms. Slaughter, and Mrs. Maloney of New York.

H.R. 3707: Mr. McIntosh, Mr. Lewis of Kentucky, Mr. Bartlett of Maryland, Mr. Herger, Mr. Hostettler, Mr. Doolittle, Mr. Archer, Mr. Royce, Mr. Shadegg, Mr. Sessions, Mr. Brady, Mr. Combest, Mr. Smith of Texas, Mr. DeLay, Mr. Paul and Mr. Kasich.

H.R. 3713: Mr. Becerra.

H.R. 3734: Mrs. Emerson, Mr. LoBiondo, Mr. King of New York, Mr. Combest, Mr. Blunt, Ms. Pryce of Ohio, Mr. Inglis of South Carolina, Mr. Redmond, Mr. Jones, Mr. Doolittle, Mr. Sessions, Mr. Royce, Mr. Talent, Mr. Goode, Mr. Forbes, Mr. Souder, Mr. Pombo, Mr. Burton of Indiana, Mr. Franks of New Jersey, Mrs. Linda Smith of Washington, Mr. Brady, Mr. DeLay, and Ms. Dunn of Washington.

H.R. 3775: Mr. Livingston.

H.R. 3783: Mr. Lazio of New York.

H.J. Res. 108: Mr. Luther.

H. Con. Res. 65: Mrs. Capps.

H. Con. Res. 203: Mr. Stupak.

H. Con. Res. 229: Mrs. Lowey and Mr. Packard.

H. Con. Res. 239: Ms. Kaptur.

H. Con. Res. 249: Mr. Abercrombie.

H. Con. Res. 254: Mr. Bartlett of Maryland.

H. Con. Res. 258: Mr. Luther, Mr. Kucinich, Mr. Menendez, Mr. Evans, Mr. Dixon, Ms. Lofgren, Mrs. Maloney of New York, Mr. Sabo, Mr. Hobson, Mr. Hyde, Mr. Kennedy of Massachusetts, Ms. Pelosi, Mr. Delahunt, Mr. Hoyer, Mr. Stupak, and Mr. Serrano.

H. Con. Res. 267: Mr. Bateman and Mr. Wexler.

H. Con. Res. 271: Mr. Kennedy of Massachusetts, Mr. Meehan, Mr. McGovern, Mrs. Maloney of New York, Mr. Torres, Mrs. Kennelly of Connecticut, Mr. Rush, Mr. Bonior, Ms. Pelosi, Mr. Fox of Pennsylvania, and Mr. Sherman.

H. Res. 212: Mr. Blumenauer, Mr. Brown of California, Mr. Bonior, Mrs. Capps, Mr. Cunningham, Mr. Engel, Ms. Furse, Mr. Gejdenson, Mr. Gordon, Mr. Jefferson, Mr. Jenkins, Mrs. Myrick, Mr. Norwood, Mr. Pomeroy, Mr. Sabo, Mr. Adam Smith of Washington, Mr. Smith of New Jersey, Mr. Thompson, and Mr. Torres.

H. Res. 392: Mr. Faleomavaega and Mr. Royce.

H. Res. 418: Mr. Obey, Mr. Bonior, Mr. Kildee, Mr. Levin, Mr. English of Pennsylvania, Ms. Kilpatrick, Mr. Sawyer, Mr. McHugh, and Mr. LaTourette.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3694

Offered By: Mr. Trafficant

Amendment No. 3: In title III of the bill, add at the end the following new section:

SEC. 305. ANNUAL REPORT ON INTELLIGENCE COMMUNITY COOPERATION WITH DOMESTIC FEDERAL LAW ENFORCEMENT AGENCIES.

Not later than 90 days after the end of each fiscal year ending after the date of the enactment of this Act, the Director of Central Intelligence shall submit a report to the Congress that describes the level of cooperation and assistance provided to domestic Federal law enforcement agencies by the intelligence community during such fiscal year relating to the effort to stop the flow of illegal drugs into the United States through the United States-Mexico border and the United States-Canada border.

H.R. 3694

OFFERED BY: MS. WATERS

AMENDMENT NO. 4: At the end of title IV, add the following new section:

SEC. 404. REVIEW OF 1995 MEMORANDUM OF UNDERSTANDING REQUIRING THE CIA TO REPORT TO THE ATTORNEY GENERAL INFORMATION REGARDING DRUG TRAFFICKING INVOLVING ITS FORMER OR CURRENT OFFICERS, STAFF EMPLOYEES, CONTRACT EMPLOYEES, ASSETS, OR OTHER PERSON OR ENTITY PROVIDING SERVICE TO OR ACTING ON BEHALF OF ANY AGENCY WITHIN THE INTELLIGENCE COMMUNITY.

(a) REVIEW OF 1995 MEMORANDUM OF UNDERSTANDING REGARDING REPORTING OF INFORMATION CONCERNING FEDERAL CRIMES.—The Attorney General shall review the 1995 "Memorandum of Understanding: Reporting of Information Concerning Federal Crimes" between the Attorney General, Secretary of Defense, Director of Central Intelligence, Director of National Security Agency, Director of Defense Intelligence Agency, Assistant Secretary of State, Intelligence and Research, and Director of Office of Non-Proliferation and National Security, Department of Energy. This review shall determine whether the 1995 Memorandum of Understanding requires:

(1) REPORT TO THE ATTORNEY GENERAL.—Whenever the Director of Central Intelligence has knowledge of facts or circumstances that reasonably indicate any former or current officers, staff employees, contract employees, assets, or other person or entity providing service to, or acting on behalf of, any agency within the intelligence community has been involved with, is involved with, or will be involved with drug trafficking or any violations of U.S. drug laws, the Director shall report such information to the Attorney General of the United States.

(2) DUTY OF INTELLIGENCE EMPLOYEES TO REPORT.—Each employee of any agency within the intelligence community who has knowledge of facts or circumstances that reasonably indicate any former or current officers, staff employees, contract employees, assets, or other person or entity providing service to, or acting on behalf of, any agency within the intelligence community has been involved with, is involved with, or will be involved with drug trafficking or any violations of U.S. drug laws, shall report such information to the Director of Central Intelligence.

(b) PUBLIC REPORT.—Upon completion of review, the Attorney General shall publicly report its findings.

H.R. 3694

OFFERED BY: MR. WELDON OF PENNSYLVANIA

AMENDMENT NO. 5: At the end of title III, add the following new section:

SEC. 305. PROLIFERATION REPORT.

(a) ANNUAL REPORT.—The Director of Central Intelligence shall submit an annual report to the Members of Congress specified in subsection (d) containing the information described in subsection (b). The first such report shall be submitted not later than 30 days after the date of the enactment of this Act and subsequent reports shall be submitted annually thereafter. Each such report shall be submitted in classified form and shall be in the detail necessary to serve as a basis for determining appropriate corrective action with respect to any transfer within the meaning of subsection (b).

(b) IDENTIFICATION OF FOREIGN ENTITIES TRANSFERRING ITEMS OR TECHNOLOGIES.—Each report shall identify each covered entity which during the preceding 2 years transferred a controlled item to another entity for use in any of the following:

(1) A missile project of concern (as determined by the Director of Central Intelligence).

(2) Activities to develop, produce, stockpile, or deliver chemical or biological weapons.

(3) Nuclear activities in countries that do not maintain full scope International Atomic Energy Agency safeguards or equivalent full scope safeguards.

(c) DEFINITIONS.—For the purposes of this section:

(1) CONTROLLED ITEM.—(A) The term "controlled item" means any of the following items (including technology):

(i) Any item on the MTCR Annex.

(ii) An item listed for control by the Australia Group.

(iii) Any item listed for control by the Nuclear Suppliers Group.

(B) AUSTRALIA GROUP.—The term "Australia Group" means the multilateral regime in which the United States participates that seeks to prevent the proliferation of chemical and biological weapons.

(C) MTCR ANNEX.—The term "MTCR Annex" has the meaning given that term in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(D) NUCLEAR SUPPLIERS' GROUP.—The term "Nuclear Suppliers' Group" means the multilateral arrangement in which the United States participates whose purpose is to restrict the transfers of items with relevance to the nuclear fuel cycle or nuclear explosive applications.

(2) COVERED ENTITY.—The term "covered entity" means a foreign person, corporation, business association, partnership, society, trust, or other nongovernmental organization or group or any government entity operating as a business. Such term includes any successor to any such entity.

(3) MISSILE PROJECT.—(A) The term "missile project" means a project or facility for the design, development, or manufacture of a missile.

(B) The term "missile" has the meaning given that term in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(d) SPECIFIED MEMBERS OF CONGRESS.—The Members of Congress referred to in this subsection are the following:

(1) The chairman and ranking minority party member of the House Permanent Select Committee on Intelligence.

(2) The chairman and ranking minority party member of the Senate Select Committee on Intelligence.

EXTENSIONS OF REMARKS

INTRODUCING A HEALTH QUALITY RESOLUTION

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. ARMEY. Mr. Speaker, today I am introducing a resolution on health-care quality. It expresses the sense of the House that Congress not pass any legislation that: Makes health insurance unaffordable; swells the ranks of the uninsured; diverts scarce health resources to lawyers and bureaucrats; or imposes political considerations on medical practice, such as so-called body-part mandates.

The resolution is needed to remind us our first duty is to "do no harm," and thus not to pass any so-called "quality" bill that would in fact do serious harm to the quality of patient care. I am thinking of bills like the White House-Democrat Leadership "Patient Bill of Rights Act," a bill that would have the perverse effect of eliminating every kind of managed-care plan except restrictive HMOs, enable nurses and doctors to go on strike, and drive up premiums and drive down coverage by letting trial lawyers sue health plans for malpractice. Worst of all, this liberal dream bill would let HHS bureaucrats define "medical necessity," which is as good as giving them power over life and death. It is an audacious step toward Clintoncare.

I am the first to acknowledge the serious flaws in today's health-care system. While America leads the world in excellent medical drugs, devices, and doctors, and while insurance plans are improving every day thanks to market forces, the fact is we have real problems in our health system.

Government policy, both state and federal, makes insurance unaffordable for millions.

The tax break for health insurance discriminates against the unemployed and small-business workers.

Many employers offer their workers no real choice of plans or doctors.

And of course we have all heard about the bad health plans, the ones that deny service in violation of contract, or that let remote bureaucrats with cook books impose medical decisions over the advice of trained, on-site health professionals. I do not know how many of these accusations are true, but even one is too many if it is true and preventable. So this problem demands our serious attention.

But in trying to improve, we have an obligation not to destroy. We should serve the good of patients and consumers, and not the financial interests of certain industries or trade associations. Above all, we should not assist President Clinton in his openly acknowledged scheme to socialize our health system step by step.

In passing this resolution, the House would be going on record in favor of legislation that promotes rather than degrades quality. It is identical to a resolution by Senator NICKLES of Oklahoma that recently passed the Senate by a vote of 98 to zero. Even Senator KENNEDY voted for it, reluctantly. I want us to approve the Nickles resolution in the House, so that we may not be outdone in our zeal for good by our distinguished colleagues across the Rotunda.

REMEMBRANCE OF ANNA M. SULLIVAN

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. WEYGAND. Mr. Speaker, today I rise to mark the passing of Mrs. Anna M. Sullivan of Cranston, Rhode Island, a dear friend and dedicated public servant. Anna has been a leader in her church and her community, an inspiration to her family and friends, and has left behind a legacy of public service.

Music was a large part of her life. At the age of 13, Anna began to play the organ and direct the choir for her church. Through 53 years and five children that devotion never changed. Mrs. Sullivan was also the elementary music supervisor for the Warwick public school system for many years.

If Anna is to be remembered for one issue, it is her strong, lifelong fight in opposition to abortion and support of the family. Anna's work as a right to life advocate began in 1970, when she and others organized a group to oppose the attempts by some lawmakers to make abortion legal.

They originally called themselves the Constitutional Right to Life Committee, but later changed the name to Rhode Island State Right to Life. In 1979, Anna founded Right to Life Services, which provides baby clothes and equipment to as many as two thousand needy families each year.

Anna lobbied legislators on a number of topics she felt passionately about. Anna led the fight against assisted suicide in Rhode Island. Another issue of particular concern to Anna was increasing nutritional support for pregnant women. She helped underprivileged people and young women who were pregnant. While she met many people she disagreed with, she always treated them with respect.

In 1982, she received the Monsignor Charles W. McConnell Memorial Award from the Diocese of Providence's Catholic Youth Organization. In 1985, she became the first woman to receive the Hope Award from the Rhode Island State Council for the Knights of Columbus. In 1989, in a ceremony at the Cathedral of SS Peter and Paul, she was awarded the Papal Cross, "Pro Ecclesia et Pontifice".

Anna, who leaves behind ten children and nine grandchildren, never forgot her family despite her many public service activities. Anna will be missed by her friends, family, and community. I ask my colleagues to join me in extending our deepest sympathies to her family at this time.

PERSONAL EXPLANATION

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. VISCLOSKY. Mr. Speaker, yesterday, I was in my district to participate in Indiana's primary elections. As a result I was unable to vote on roll call votes #122–126. If I had been present, I would have voted "no" on roll call #122, and "yes" on roll call #123–126.

PRAISE FOR MS. ELEANOR EPSTEIN, SPRING HONOREE OF THE UNITED JEWISH APPEAL OF BERGEN COUNTY, NEW JERSEY

HON. STEVE R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. ROTHMAN. Mr. Speaker, I rise today to honor a truly generous and caring woman in my community in Bergen County, New Jersey—Ms. Eleanor Epstein of Englewood Cliffs. Eleanor Epstein has carved a place for herself as an energetic and forceful advocate for children and the elderly. She appreciates her heritage and understands that being part of a community is about giving others a hand up so that each of us has the tools to succeed.

This month, Ms. Epstein is being honored by the United Jewish Appeal for her many years of outstanding service to the community. Her list of accomplishments leave no doubt of her position as the consummate community leader. She helped found the United Jewish Community Center on the Palisades while also serving on the Women's Division of the former United Jewish Fund of Englewood, New Jersey, the United Jewish Appeal's Dor L'Dor Society and as a Ruby Lion of Judah.

Through these organizations, she reached out to the entire community, providing family activities, support, and aid to the entire citizenry of North Jersey. It is through the passions and drive of people like Eleanor Epstein that empower hometowns across America to evolve beyond simple houses and businesses into vibrant, caring communities. She brings with her an enormous strong civic pride and a deeply ingrained sense of service and concern for fellow human beings that spreads to all those with whom she comes in contact.

Ms. Epstein learned the value of community and service from her parents during her childhood in Brooklyn, New York. From those

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

strong spiritual and family roots, she not only gave to the community, she dedicated herself to a strong marriage of 50 years to her husband Edward, another devoted and beloved figure in our community. Together they raised four loving, caring and equally philanthropic sons who have given them eleven grandchildren that they cherish beyond words.

Mr. Speaker, all of this being said, I wish to take a moment and wish Ms. Epstein all the best and continued success with her endeavors in Bergen County. A simple 'thank you' cannot convey what our entire community owes to Ms. Epstein; however, I hope that all of my colleagues have individuals in their respective districts like Eleanor Epstein because it is people like her that make the United States of America a more caring, safer and more wonderful place to live.

TRIBUTE TO GOODLOE SUTTON

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. HILLIARD. Mr. Speaker, I rise today to offer my congratulations to one of Alabama's finest and most ethical journalists, Mr. Goodloe Sutton of Linden, Alabama.

Mr. Sutton's series on police corruption in Marengo County, Alabama was recently entered into the competition for the prestigious Pulitzer Prize . . . the Academy Award of journalism.

I am personally *very proud* for Mr. Sutton, but I am equally proud for the citizens of Marengo County because they have such a brave and fearless man of letters to look after their interests.

Mr. Sutton's series of articles uncovered rampant law enforcement corruption, the misuse of public funds, and the uncovering of one of the largest drug rings ever revealed in the county's history.

Because of Mr. Sutton's public integrity, he suffered many, many injustices at the hands of the Sheriff's Department, as well as many death threats.

His story is a shining example of the best and the brightest which occurs in America when a single citizen has the bravery to stand alone, in the face of mounting pressure and odds, and stands up for justice and equality.

Mr. Sutton's quest for both the truth, as well as for the principle of equal justice under the law is both laudable and meritorious.

Mr. Sutton should be commended by the Congress and the American people for his truly American heroism and dedication to the truth. Well done, Goodloe Sutton.

NATIONAL NURSES WEEK

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to honor the work of America's 2.6 million registered nurses to save lives and maintain the health of millions of individuals in the United States.

May 6–12 is National Nurses Week. Using the theme "Nursing: Healthcare With a Human Touch," the American Nurses Association and its 53 consitutent associations will spend this week highlighting the diverse ways in which registered nurses, the largest health care profession, are working to improve health care.

From acute bedside nursing to long term care, the depth and breadth of the nursing profession is rising to meet the challenges of the different and emerging health care needs of the American population in a whole new range of settings. Registered nurses' education and holistic approach is especially suited to meet the renewed emphasis on primary and preventive health care in the managed care environment. And with an aging American population, the demand for registered nursing services in the home care field will be greater than ever.

National Nurses Week begins on May 6, marked as RN Recognition Day, and ends on May 12, the birthday of Florence Nightingale, the founder of nursing as a modern profession. Nurses, as a rule, do not work in plush or serene environments. Indeed, they often work long hours at relatively low pay, and with far fewer thanks for their dedicated work.

During this week, I would like to ask all my colleagues to join me in honoring the registered nurses who care for all of us and, further, celebrate the registered nursing professions' continuing commitment to improve the safety and quality of patient care and availability of health care services for all in our health care system.

In closing, Mr. Speaker, I note that as a registered nurse myself, I am proud to be associated with a group of individuals who exemplify the highest qualities of selflessness, compassion and concern for others.

AMERICAN VICTIMS OF TERRORISM

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Ms. DUNN. Mr. Speaker, while I missed rollcall vote 125, I would have voted in support of House Concurrent Resolution 220.

This sense of the Congress demanding that Yasir Arafat and the Palestinian Authority transfer to the United States, for prosecution, those residents of its territory who are suspected in the killings of American citizens is sensible and just. The harboring of suspected terrorists who attack Americans at home and abroad is deplorable, and measures to punish these terrorists must be taken.

Again, for the record, I join my colleagues in support of this sense of the Congress regarding American victims of terrorism.

TRIBUTE TO THOMAS P. MONDANI

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. GEJDENSON. Mr. Speaker, I rise today to note with great sorrow the passing of Thomas P. Mondani, a man who will long be remembered for his dedication and commitment to Connecticut public schools.

For two decades Mr. Mondani served as the director of the Connecticut Education Association (CEA) and became a champion, and friend, for Connecticut public school teachers. He worked tirelessly to achieve improvements in both the professional rights and benefits of educators.

In 1979, he fought for the passage of a binding arbitration law for teachers, which ended the threat of teacher strikes in Connecticut. In 1986, Mr. Mondani helped pass the Education Enhancement Act, which lifted teachers' salaries to a level comparable to those in other professions. With the enactment of these two important pieces of legislation and various other contributions, the CEA Board of Directors voted unanimously in 1994 to grant Mr. Mondani the CEA Friend of Education Award. As a lasting tribute, the CEA even renamed the award in his honor.

Mr. Mondani began his career in public education as a teacher in Moodus in 1959. He joined the CEA staff in 1963 as a research consultant and later was promoted to director of research. From 1965 to 1971, he served in the state legislature as a Representative and a Senator. On July 1, 1971, he became the CEA's fifth full-time executive director since its 1848 founding. He continued as director until March 1, 1994 holding the position longer than any previous director. In 1991, he was appointed Vice Chairman of the State Board of Governors for Higher Education by Governor Lowell P. Weicker Jr. He was reappointed in 1997 to a third term by Governor John Rowland. Since October 1997 he had been serving a six month appointment as the interim executive director of the Georgia Association of Educators.

Mr. Mondani was a remarkable man. Connecticut is most certainly a better place as a result of his work for children, teachers, schools and higher education. He knew how to deal with tough questions concerning education and did so with a sense of humor and goodwill.

Mr. Speaker, Thomas P. Mondani was a rare kind of man, a man who devoted his whole life to a cause that has changed so many lives for the better. I have lost a good friend, and the State of Connecticut, its teachers, students and families, have lost one too. He will surely be missed by all of us who had the pleasure to know him. I am sure the House will join me in expressing our most sincere sympathy to Mr. Mondani's family.

RECOGNITION OF RHODE ISLAND'S SMALL BUSINESS ADMINISTRATION

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. WEYGAND. Mr. Speaker, I rise today to commend the Rhode Island branch of the Small Business Administration. Last year the Rhode Island District Office set a record for the number of loans they issued. 511 different loans were issued totaling $101.7 million approved for Fiscal Year 1997.

The Small Business Administration provides financial, technical and management assistance to help Americans start, run and grow their businesses. With a portfolio of business loans, loan guarantees and disaster loans, the SBA is the nation's largest single financial backer of small businesses. The SBA offers management and technical assistance to small business owners as a complement to the financial services it provides. The Small Business Administration is committed to providing financial support to entrepreneurs in order to continue the economic recovery and viability of Rhode Island. Access to capital and sound business advice are critical to growth and are often cited as a major factor in business success.

The hundreds of thousands of small businesses across this country provide the majority of jobs to Americans. These loans have allowed entrepreneurs to start their own businesses, given small businessmen the capital needed to expand existing companies, and have created jobs for thousands of people in the State of Rhode Island alone. The additional investment in the future of small business will help keep the economy strong.

Mr. Speaker, I ask my colleagues to join me in commending the Rhode Island branch of the Small Business Administration. Without the dedication and hard work of all those involved, business in America would not be what it is today.

PRAISE FOR MS. JACQUELINE KEMPNER, SPRING HONOREE OF THE UNITED JEWISH APPEAL OF BERGEN COUNTY, NEW JERSEY

HON. STEVE R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. ROTHMAN. Mr. Speaker, I rise today to honor one of the great women of my community in Bergen County, New Jersey—Ms. Jacqueline Kempner. Jackie Kempner has spent her life distinguishing herself as a cornerstone of both the local Jewish and secular communities. She has spent thousands of hours of hard work and dedication constructing a solid network among local Jewish and neighborhood organizations.

Jackie is being honored this year by the United Jewish Appeal for her years of service to the Jewish community. She founded the future leaders of the Northern Jersey Jewish community. She has served on the UJA Federation's Young Women's and Women's Divisions, eventually becoming the Young Women's Division's chair. And she is a member of the prestigious group of donors called the Lion of Judah.

During her many years of service, Jackie's passion has been the cultivation of our young people, specifically preparing young women from across North Jersey to assume the mantles of leadership, community and responsibility. She is passing on the lessons her parents taught her to a new generation of Americans. Without individuals with the drive and dedication of Jacqueline Kempner, the torch of leadership and the wisdom of those who went before us would be lost to the generations to come.

Jackie Kempner is a friend, not just to me, but to everyone with whom she comes in contact. She is the kind of person who brightens the day and makes things work. The UJA, the Federation and the various other civic and religious organizations that she has touched would not be as active and vibrant today without her tireless efforts. She truly is an inspiration to us all.

One of the characteristics I personally respect about Jackie Kempner is that she knows that charity starts in the home. She has been just as giving and caring to her own family as she has been to her community. She and her husband Michael have raised two beautiful and intelligent children in Zachary and Melissa.

Mr. Speaker, all of this being said, I wish to take a moment and wish Jackie Kempner all the best and continued success with her endeavors in Bergen County and throughout the world. A simple "thank you" cannot convey what we and future generations owe to Ms. Kempner; however, I hope that all of my colleagues have individuals in their respective districts like Jacqueline Kempner because it is people like her that ensure that the United States of America will continue to be a wonderful place to live for generations and generations to come.

TRIBUTE TO OUTSTANDING EDUCATORS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to commend eight dedicated teachers from Northwest Indiana, who have been voted outstanding educators for the 1997–98 school year. These individuals, Mary Czapko, Donna Dowty, Marilynn Edwards, Bill Gresh, Peter Hedges, Nancy Mills, Judith Musselman, and Mary Tanis, will be presented the Crystal Apple Award at a reception at the Radisson Hotel at Star Plaza in Merrillville, Indiana, today, May 6, 1998. Mary Czapko will also receive the torch of Knowledge Award for being selected the outstanding member of this distinguished group of educators.

Mary Czapko has been a first grade teacher at Lincoln Elementary School in Roselawn, Indiana for 22 years. She is known as a dedicated teacher by her colleagues, since she puts so much time into planning her lessons and developing special projects for the school and her surrounding community. Mary has since handedly organized such programs as "Green Eggs to Hamlet", which involved convincing community members to read to young children in all three of the public libraries in her area. She was also active in "Read Across America" family reading night on Dr. Seuss' birthday, and was instrumental in developing the "Math Their Way" program in the North Newton School Corporation. An individual with a strong commitment to early childhood education, Mary has even used her own money to purchase books to create a resource library for all teachers in the North Newton School Corporation.

Donna Dowty, a teacher described by her colleagues as someone who puts the needs of children first, has also taught within the North Newton School Corporation for 22 years. Donna began her career as a kindergarten teacher at Lincoln Elementary School, where her development of a kindergarten graduation program has remained a tradition for 23 years. Over the years, she has taught kindergarten, first, and second grade at Morocco Elementary School, and she has become well-known for working with parents for the betterment of their children's education, as well as doing whatever it takes to get a child to succeed. Donna participates in a variety of programs and committees, including the Parent Teacher Organization and technology committee. One of her most noteworthy accomplishments was obtaining a 4R grant for mini-computer labs in Morocco Elementary School's kindergarten and first grade.

Marilynn Edwards has been a science teacher with Taft Middle School for over 20 years. During this time, she has become known for making the success of her students her top priority. A strong belief in cooperative learning has marked her career. Hands-on learning methods are used in her own classroom, and she has been instrumental in integrating lab activities into the school's curriculum. Some organizations to which Marilynn belongs include: the Indiana Science Assessment Teachers' Association; the Indiana Science Teachers' Association; and the National Science Teachers' Association. Locally, she serves on the Crown Point and Taft Professional Development Committees, and she is a member of Taft School's Improvement Team, which guided the staff's transition from a junior high school to a middle school. Marilynn is described by those who know her as a professional, caring, and hard-working teacher who has improved education at all levels.

Bill Gresh, who has worked at Lowell High School for 12 years, has made his mark on education by placing the school's Media Center at the forefront of technology and innovation. Bill changed the Lowell High School Library into a Media Center, beginning with the installation of an electronic card catalog and CD ROMs, and culminating with the current online services in place. Over the years, Bill's focus has remained clear. to make available a plethora of current resources available to students, faculty, and staff. Bill's colleagues describe him as a professional who is available, approachable, and accommodating. If a new teaching idea is being considered, Bill is known to work with the necessary individuals to make worthwhile projects a reality. As a 20-year veteran of the teaching profession, Bill remains devoted to securing for teachers the tools they need to deliver state of the art instruction to their students.

Peter Hedges has been a science teacher at Highland Middle School for the past 34 years. Peter is known by his students and colleagues, alike, for his enthusiastic and good-humored approach to teaching. His wit makes his presentations entertaining and informative for his students, and encourages them to become excited about the subject matter. Those who work with Peter describe him as being a voice of reason, as he often reminds them that the reason for being a teacher is to educate children. His colleagues agree that they are better people for having known and worked with him.

Nancy Mills has been a devoted Spanish teacher for 25 years, 19 of which she has spent teaching at Lowell High School. For many years, Nancy has successfully taught the fourth year Spanish class at Lowell. According to Purdue University, 56 of the 76 credits, college credits Lowell students accumulated through Advanced Placement (AP) testing last year, were granted to Spanish students. Indeed, every member of Nancy's 1997 Spanish class earned college credit.

Judith Musselman has been a Speech and English teacher at Highland High School for 34 years. Throughout her career, Judith has a reputation among her colleagues for working to advance the expertise, knowledge, and preparedness of the students she has instructed. She has done so, not only through classroom instruction, but also through participation in various extracurricular endeavors. Judith has worked to improve the departmental curriculum, participating in departmental meetings, becoming involved in various training programs, and holding an active role in major committees, such as the technology committee. Over the years, Judith has worked to provide her students within an excellent education, and she has been rewarded as many of her students return to thank her for the work ethic she instilled in them.

Mary Tanis has been a Social Studies and English teacher at Kahler Middle School in Dyer, Indiana for 24 years. Throughout her career, Mary has designed a variety of creative projects in her classroom, which have sparked the interest of her students and fellow teachers. She has, for instance, implemented Arbor and Earth Day projects in her classroom. 16 years ago, she created a genealogy project, which is still used to teach children about their different heritages. Mary has also been a forerunner in keeping students apprised of technological resources available to them, and she was one of the first teachers in her school corporation to use the Internet as a classroom tool for instilling in students an interest in current events, history, and the weather. Mary's efforts to focus her young students on current affairs has led several of her former students to run for political office.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending these outstanding educators on their receipt of the 1998 Crystal Apple Award. The years of hard work they have put forth in shaping the minds and futures of Northwest Indiana's young people is a true inspiration to us all.

BANKBOSTON SHOWS HOW DIVERSITY SHOULD WORK

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. FRANK of Massachusetts. Mr. Speaker, I was very pleased to receive from Chairman Charles Gifford of BankBoston an excellent report on the diversity program of the bank. BankBoston shows beyond dispute how an intelligent, supportive approach to diversity is fully compatible with a successful business in America today. Because the inclusion of gay and lesbian workers in diversity programs is unfortunately not yet as wide spread as it should be, I was especially pleased to note the recognition Mr. Gifford and BankBoston have given to this important aspect of a comprehensive diversity program. Given the prejudice against gay men and lesbians that still exist in many areas of our economy and society, I am grateful to Mr. Gifford and BankBoston for taking a leading role in this area. When a highly successful and very well respected institution such as BankBoston steps forward in this way, the lessons for society as a whole are profound. Because of this, I ask that the page from that diversity report illustrating the importance of inclusion of gays and lesbians in diversity programs be printed here. I do so not to suggest that the other aspects of the diversity program are unimportant, but because BankBoston is particularly deserving of praise for its willingness to take on this one prejudice which so many other entities fear to confront.

OUR COMMITMENT TO DIVERSITY: A STATEMENT FROM CHAD AND HENRIQUE

We are deeply committed to building a diverse workforce, and are confident that we can and must effectively manage our diversity. But, when BankBoston chose diversity as one of Our Values, many of us in executive management immediately foresaw some challenges.

First, we need to educate our workforce, so we all recognize diversity as the critical business issue that it is. Second, we need to use that understanding and appreciation to leverage diversity as an integral instrument in providing value for customers and shareholders. And third, we must hold ourselves accountable and determine whether we have achieved this vital goal.

Like most business people, we live by the motto that "what gets measured gets managed." This focus on measuring performance quantitatively encourages structure, discipline and accountability. At BankBoston, we use many processes to measure our performance against goals. We survey customers to see how well we are meeting their expectations. We chart our financial performance to determine whether we are hitting our Managing for Value targets. We even use a detailed Performance Development Process to ensure that we manage employees' development.

Some goals, however, do not lend themselves as easily to numbers and graphs. In fact, when you try to measure success in managing diversity through only numerical means, you risk missing the broader and deeper picture. For example, if you meet your targets at hiring more people of color, but you don't create a safe and supportive environment in which their talents and abilities flourish, you will ultimately fail. Even if employees don't physically leave the organization, they may fall short of their potential without sufficient recognition and development.

Diversity is also a moving target. As cultures and demographics shift, diversity itself takes on new meaning. Just 20 years ago, diversity was seen as the need to hire and promote more women and people of color. Today, it is commonly accepted that we must think more broadly than race and gender. We must harness the diverse talents and perspectives of all employees, in our efforts to meet our business goals. This includes changing the way we manage and interact as team members with people who have different styles of learning and working, and managing diversity as a key business advantage in our increasingly multicultural markets. In an evermore diverse and competitive marketplace, we cannot afford to exclude any perspectives.

The costs of not managing workforce diversity are well documented—high turnover, high absenteeism and low productivity. The benefits of managing diversity are also well established—increased creativity and innovation, greater productivity, increased employee satisfaction and loyalty, larger market share and, ultimately, enhanced shareholder value.

This report—focusing on three critical areas of diversity for BankBoston (i.e., investing in our employees, customers and community)—is an example of our sincere commitment. It is one more step in our ongoing journey. We re publishing it to educate our workforce on the value of diversity, to share our successes thus far and to hold ourselves, as an institution, accountable for our progress.

CHAD GIFFORD,
Chairman and Chief Executive Officer.
HENRIQUE MEIRELLES,
President and Chief Operating Officer.

BRIAN BUSH: SETTING THE RECORD STRAIGHT ON GAYS AND LESBIANS

It's the moment of truth for many gay and lesbian employees, the moment you "come out" and be yourself. For Brian Bush, it happened almost two years ago.

The reaction from colleagues and management? "I've received nothing but support," says the head of BankBoston Connecticut's Gay & Lesbian Resource Group. "To know and work with someone who's gay dispels stereotypes. We've very much the same as others. We work hard, care about our careers and have committed relationships."

An assistant vice president in Corporate Lending, Brian can attest to the value of having employees free to focus on their jobs instead of covering up who they are. "Most gays and lesbians wear masks in the workplace and try to act like heterosexuals," he continues. "How do you respond when you receive a personal call at work? What do you say when people talk about their family and social activities? It seems unfriendly not to share details with your coworkers. It takes away from the concept of teamwork. Since coming out, I can focus all my energy on my job."

Brian expects it will be easier for the Bank to generate new business and attract more highly qualified employees, once people learn how supportive the Bank is regarding diversity. "We're very fortunate to have a CEO who has gone out of his way to offer support," he observes. "The Bank's ongoing commitment will show people that our corporate value of diversity is here to stay."

Brian says the recently introduced extended family benefits, which includes domestic partners, "is the icing on the cake. We've made a lot of progress in the last two years, and are way ahead of most companies."

RECOGNITION OF THE PROVIDENCE PUBLIC HOUSING AUTHORITY

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. WEYGAND. Mr. Speaker, I rise today to commend the Public Housing Authority of Providence, Rhode Island. In ten short years they have managed to turn around some of the most depressing public housing projects in the city, and create a rejuvenated community full of hope and promise for its residents.

In 1986 the board of the Providence Housing Authority had to make some tough choices. At that time the agency was plagued by many problems. Housing residents complained of the poor conditions of their buildings. Stairs within the buildings were crumbling creating safety hazards. Garbage pickup had been neglected. Local banks no longer trusted the agency's checks. The U.S. Department of Housing and Urban Development threatened to cut off funding if the agency's problems were not solved.

When President Franklin D. Roosevelt launched public housing in 1937, the intent was to provide temporary housing for families in financial straits. Screening was strict; tenants had to be employed. After World War II, the character of public housing gradually changed. Currently, a typical tenant must rely on public housing as permanent housing, and receives public assistance. Public housing projects in recent years have been plagued by a downward spiral of public assistance, lack of job training, and high crime rates.

The Providence Housing Authority decided to face the problem head on. Existing units within the system have been modernized. Repairs have been undertaken ranging from complete rehabilitation to emergency repairs of rotting roofs. Maintenance repair orders are completed swiftly rather than languishing unfinished for months. Security in the Providence properties has improved, allowing residents to build a community. The agency has built up its cash reserves, improving the financial management of the housing authority. Perhaps most important, the Providence Housing Authority has introduced high caliber non-housing services for residents, such as job training, life skills, and youth recreation programs. They have developed after-school programs for children, and self-sufficiency programs for adults.

In recent years, the Housing Authority, which is monitored by HUD, has consistently received higher grades in its annual report-card-type ratings. Since 1991, when HUD started their rating system, the Providence Housing Authority has improved its scores every year. And recently the Housing Authority has achieved "high performer" status, by scoring 97 out of a possible 100 points.

This turn around would not have been possible without the leadership and support of the eleven member Board of Directors of the Providence Housing Authority. These men and women, led by Stephen O'Rourke, have worked hard and persevered in turning around a crumbling system. I ask my colleagues to join with me in congratulating the Providence Housing Authority of a truly remarkable turnaround.

IN MEMORY OF GABE PAUL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor the memory of a remarkable man in Cleveland Indians baseball history, Gabe Paul.

Born in Rochester, N.Y., Mr. Paul had a penchant for baseball as a young boy. He was a bat boy for the minor league Rochester Red Wings in 1920 and witnessed the early days of baseball history. His love for the sport grew and he decided to devote his life to it. He joined the Cincinnati Reds as publicity director in 1937 and advanced his way through the Reds' management until he became General Manager in 1949, the youngest GM in baseball history at the time. Paul showed his true passion for the sport when he married his wife Mary on Opening Day, 1939.

Mr. Paul arrived in Cleveland to the posts of general manager, president, and treasurer in 1961. Through 1972 and from 1978 to 1984, he led the Indians through good times and bad times. He maintained until the end of his term that the Cleveland Indians were a "sleeping giant" and would one day emerge from their losing streak as a contender in baseball. Mr. Paul was right and with the construction of Jacobs Field, the team began its current success.

My fellow colleagues, join me in saluting the life of a giant in the baseball industry and a true fan of the game, Gabe Paul.

PERSONAL EXPLANATION

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. WELLER. Mr. Speaker, last night, during the Rollcall vote on Mr. MCGOVERN's amendment to H.R. 6 (No. 124), the Higher Education Amendments of 1998, I inadvertently voted "no" when I wished to vote "aye."

VISIT OF MEMBERS OF THE IRISH DAIL TO THE U.S. CONGRESS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. GILMAN. Mr. Speaker, last night at the Library of the Congress both you and I were honored to welcome members of the Irish Dail here to the Congress, as we opened the second session of the Irish American Inter-parliamentary exchange, you so wisely reinitiated two years ago.

The relations between Ireland and its warm and generous people and our great nation are long, historic and very close. The remarks of the Speaker of the Dail, the Ceann Comhairle Seamus Pattison of Kilkenny which were delivered at the Library were particularly important, and best summarize this long and very important relationship between Ireland and the United States.

At this important moment in Irish history, I believe my colleagues would be particularly interested in the Speaker of the Dail's comments on the U.S./Ireland relationship, and I insert his full and important remarks for the RECORD.

REMARKS BY MR. SEAMUS PATTISON, T.D., CEANN COMHAIRLE AT DINNER HOSTED BY MR. NEWT GINGRICH, SPEAKER, U.S. HOUSE OF REPRESENTATIVES

Mr. Speaker, Ambassador ÓhUiginn, parliamentary colleagues both Irish and American, friends.

I am delighted to respond to your kind remarks and would wish, at the outset, to thank you most sincerely for hosting this dinner in honour of the visit by Irish Parliamentarians. It is a great honour to have dinner here at the Library of Congress and I would like if I may introduce the other members of the delegation: Mr. Desmond J. O'Malley, T.D., Chairman, Joint Committee on Foreign Affairs, Mr. Michael P. Kitt, T.D., Mr. Michael Noonan, T.D., Mr. Alan Shatter, T.D., Mr. Matt Brennan, T.D., Mr. Dinny McGinley, T.D., Dr. Pat Upton, T.D., Mr. Brendan Smith, T.D., and Mr. Thomas Gildea, T.D.

As you know Mr. Speaker, official contacts between the Oireachtas and the U.S. Congress were put on a more formal footing in the early 1980s. The Friends of Ireland group was established in Congress in 1981 and the Ireland/United States Parliamentary Group in the Houses of the Oireachtas in 1983. Under the auspices of those groups a number of exchange visits took place with delegations from the Friends of Ireland visiting Dublin in 1982 and 1985, with Irish delegations visiting here in 1983 and 1985. Official links between the two groups lapsed, however, by the mid 1980s but contacts did continue on a more informal basis. The question of re-establishing these links were raised on a number of occasions in the early 1990s. My predecessor Seán Treacy raised the issue with you Mr. Speaker leading to a congressional delegation visiting Ireland in February 1997 to confirm our Parliament's interest in reviving formal links.

The formal announcement of the re-launch of the Ireland-U.S. Inter Parliamentary Group was made by you at the St. Patrick's Day lunch in honour of the then Taoiseach John Bruton. We in Ireland were delighted to hear that you had asked two very distinguished Congressmen Ben Gilman and Jim

Walsh to co-chair the U.S. side. I want to pay a very special tribute to both of them whom I got to know during the very successful visit to Ireland in November last year for the work they have put into the work of the group since its re-launch last year. I look forward to co-chairing the first session of our meetings tomorrow when we discuss the Irish peace process.

The people of Ireland deeply appreciate the tireless efforts of both the Friends of Ireland and the Ad Hoc Committee on Irish Affairs to bring about a just and lasting peace in Northern Ireland. As Speaker of the Irish House of Representatives and on behalf of the delegation I too wish to express my appreciation for those efforts which has led to the Good Friday peace agreement. The agreement offers a truly historic opportunity for a new beginning within Northern Ireland. It is balanced fair and comprehensive. All parties will find aspects to their liking but will have difficulties with others. However, the reality is that people on the island of Ireland want peace. It is my belief that the requirements of the people have been met and it is my expressed hope that confirmation of this will be a resounding yes vote in the referenda being held on 22 May.

During the current peace process we have had enormous encouragement and goodwill not only from the international community but especially so from the United States. President Clinton and his administration has taken a deep personal interest in the search for a lasting and just peace in Northern Ireland. That commitment was demonstrated through his visit to Belfast in November 1995. He was the first sitting U.S. President to undertake such a visit.

Congress too has played a very important part. A number of those leading Congressmen I have referred to earlier but I also want to include the other co-chairmen of the Ad Hoc, Peter King, Richard Neal and Tom Manton and many others who have been good friends to Ireland and have been active on a range of political and economic issues over the years. Senator Ted Kennedy too has been a true friend of Ireland and I look forward to meeting with him on Thursday morning. I cannot emphasize enough the key role played by Senator George Mitchell, the independent chairman of the talks whose patience and dedication helped to bring the talks to their successful conclusion.

I also want to mention, Mr. Speaker, how much we value your own personal interest and support. I know that your concern is year round, but your generous hospitality in hosting the annual St. Patrick's Day Speaker's lunch on Capitol Hill has been especially welcome. The event in recent years has brought together the main political leaders from north and south. There is no doubt that the opportunity for dialogue which this year's Washington programme afforded the political leaders greatly helped in laying the ground work for their eventual historic agreement on Good Friday.

I look forward to meeting with you when you visit Ireland next summer. I can assure you of a hearty cead mile failte, and repaying the generous hospitality you have offered to us this evening.

On the day the talks were concluded (Good Friday) I was attending the spring conference of the Inter Parliamentary Union in Namibia. I was delighted to receive the best wishes from international parliamentarians on the successful outcome of the talks. It was pleasing that during the conference the Inter Parliamentary Council congratulated all concerned on the outcome of the talks and a letter expressing those congratulations, signed by the president of the council, Señor Miguel Angel Martinez of Spain, was forwarded by me to the Taoiseach, Bertie Ahern.

As Irish politicians, it encourages us greatly to know that we can count on U.S. support. The two groups in Congress with a strong interest in Ireland—the Friends of Ireland and the Ad Hoc Committee on Irish Affairs demonstrates to us the interest of the United States to hearing of the happenings in Ireland. One of the practical ways in which this is shown by Congress is through the support for the International Fund for Ireland. Your desire to address the economic impact of the troubles through voting each year economic assistance to the fund assists its efforts to bring economic hope to the most disadvantaged areas. Since its inception the fund has supported in excess of 3,400 individual projects involving expenditure of over $350m. These projects have helped to create in excess of 29,000 jobs. Total investment related to expenditure to the fund amounts to over $900m as public and private sectors sources also contribute to the fund. The delegation visiting Ireland last year availed of the opportunity to visit some of the projects which have been assisted by the fund.

We in Ireland identify with the success of our Emigrant communities around the world but especially here in the United States where, I believe, some 44 million claim some Irish ancestry. It is hardly surprising therefore that many of the households in Ireland have American cousins. Our emigrants here in the United States have played a huge role in making it the most powerful nation in the world. We in Ireland owe a great deal of gratitude to countries like America. Just over one hundred and fifty years ago, the Great Irish famine was at its worst. Ireland was devastated as over one million people died of starvation with another one million emigrating in its immediate aftermath. The majority of those emigrating came to the United States in conditions of incredible hardship with nothing to sustain them when they got there, except a willingness for hard work and an overwhelming desire to succeed. Most Americans can identify with the quintessential story of the emigrant. The U.S. has continued to provide a home from home for Irish people ever since those dark days of famine.

In more recent years the United States has become the adopted home for many of our young emigrants. We are particularly grateful for the role played by our friends in Congress in securing visas for them under the Donnelly, Morrison and Schumer Schemes. As our economy has bounded ahead in recent years, the nature of emigration has changed. Many of our emigrants now return home to Ireland bringing vital skills learned in America, having made a real contribution while they are here. We know these are difficult issues, but we strongly urge you, in both our interests, to continue to make provision for our young people to come to the U.S. and to learn the American way.

The strong presence of foreign investment has been one of the keys to our recent economy success. Therefore it goes without saying that the United States, with over 500 companies, is the largest single investor in Ireland and has played a critical role in the growth of our economy. These U.S. firms are not coming to Ireland out of altruism. They are coming for a variety of reasons, not least of which is that, according to the U.S. Department of Commerce, Ireland is the most profitable location for U.S. investment in Europe.

A number of U.S. companies have announced several major projects in job creation—Boston Scientific Expansion plans of 40m with over 2,050 jobs being created, Oxford Health Plans—500 jobs in insurance claims processing, Bausch and Lomb—650 jobs and Hewlett Packard's announcement of a second investment at its Leixlip plant with an expected 2,000 employees by 1997 to mention but a few.

While there are no official figures available on the value of Irish investment in the U.S., several of our major Irish companies including Smurfit, Masstock, James Crean, Bank of Ireland, AIB, Kerry Group, Avonmore and Bord Bainne have already acquired substantial interests here.

There are a myraid of historical connections that bind our two countries. One of the areas that stands out is our common interest in the democratic process and politics in general. Irishman and women have distinguished themselves right across the U.S. in Federal, State and local politics. As you know a number of Irishmen were signatories to the Declaration of Independence. I have earlier referred to Senator Ted Kennedy whose great-grandfather came from New Ross which is located just a stone's through from my own constituency of Carlow-Kilenny, a constituency I have had the honour of representating for nearly 37 years. I am therefore the only sitting member who was present in the House to hear the addresses of the 3 American presidents during joint sittings of the Houses of the Oireachtas—President John F. Kennedy was the first distinguished guest to address the Houses when he visited Ireland in 1963, President Reagan did so in 1984 and more recently we had the address of President Clinton.

I am looking forward to our working sessions here in Washington over the next few days. It may be that we may only manage to scratch the surface on a number of issues but we will try to cover as much ground as possible. I wish all the participants in the sessions every good wish.

I will conclude now Mr. Speaker by thanking you once again for hosting this dinner in our honour. It has been a privilege to meet with you and to discuss with you matters of mutual interest.

I would ask you all to raise your glass to the continued success of Ireland/U.S. parliamentary friendship.

"BREAKING THE RULES"

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. YATES. Mr. Speaker, among the outstanding civil servants working for the people of Chicago is my good friend, Lois Weisberg. As Commissioner of Cultural Affairs, Lois has sponsored a series of cultural events which have brought a glow to the City of Chicago and to Mayor Richard Daley.

Today, an article appears in The Chicago Sun Times which truly delineates the warm active personality and character of Lois Weisberg. I am sure my colleagues will enjoy reading this perceptive account of her life and activities:

[From the Chicago Sun-Times, May 6, 1998]

BREAKING THE RULES

RENEGADE ARTS MAVEN ADORES HER JOB

(By Lori Rotenberk)

Her movements and the rapidity of her speech defy age. Both are nonstop.

So, too, her brain. And so, too, the puffs on her cigarette ("I'm quitting!") sending a snake of smoke from her ruby lips.

Every little thing about her seems to travel at the speed of sound. Even her black city-issued car, as it pulls out of a downtown alley and into the Chicago night.

The cops wouldn't dare.

Lois Weisberg, the city's renegade Commissioner of Cultural Affairs, turns 73 today. In her eighth decade, she is still a woman who treads the fringe.

"Ugh. I can't work where everybody follows the rules," Weisberg says, "My whole life has been about breaking rules."

This attitude has helped her leave a dramatic mark on the city—even if you don't know her, you know the programs she has created over the years, Blues Fest, Gospel Fest, many ethnic fests, the watchdog group Friends of the Park.

A typical idea: She put a birthday hat on the Picasso at Daley Center to celebrate the statue's birthday. "Everyone thought I was crazy when I suggested it. They didn't know how to do it. I didn't know how to do it. Then I found a group of Mexican nuns who made papier-mache. They delivered it in a big truck. And that's when I began to learn how to get around all of the bureaucracy."

Last month, Weisberg received an award from the Illinois Arts Council for her contribution to city arts and culture. Soon, one of her favorite programs, Gallery 37, the nationally recognized student summer art program in the Loop, will raise its tent along State Street.

Weisberg is the scratch to Mayor Daley's itch.

What he dares to imagine, she's damned to create.

To say she loves her work is a mistake. Weisberg adores it, lives it. She stays awake until 3 a.m., answering all of her own correspondence. "Everything I see, hear and do gives me an idea," she says.

Acquaintances and friends alike speak of her huge and good heart. Weisberg admits she can't say no to anyone. "I try to do something for everyone who asks me for help," she says.

"Lois Weisberg is one of those unique people who can think very creatively and very practically at the same time," Daley says. "I can call Lois with an idea and know without a doubt that she will find a way to make it happen."

Born on this day in 1925, Weisberg grew up in Chicago's Austin neighborhood. She walked the streets with her nose always dug into a book, the odd child "of two perfectly normal parents." Later, she briefly attended the University of Illinois, then transferred to Northwestern, where she graduated with a degree in radio. "Right at the end of its golden age," Weisberg says accusingly. "I couldn't find a job anywhere because television was coming in. So I got a job writing a TV program called 'Baby Talk,' a simply horrible program."

She winces at the memory. She wears eyeglasses studded with rhinestones, lighting up that Muppet face like the Chicago Theatre marquee, and clatters around the mosaic floor of the Cultural Center in white leather boots, faux fuzzy fur around their ankle-high tops.

Friends say Weisberg, a widow for several years, sorely misses her late husband, Bernard, who was her best friend. She has two grown sons, Jacob and Joseph.

But she doesn't lack for interests.

"Would you like to know the things I really love doing?" she asks, "Riding the Broadway and Clark Street buses, just to keep in touch with humanity. And I like to sit up in the front with a bunch of grocery bags." An avid gardener, Weisberg also likes country music and collects egg cups and frogs.

Since she so dislikes rules, what is the last she may have broken?

"I can't tell you," Weisberg jokes. "But I do drink martinis or straight vodka, and that makes me a drinking, smoking, horrible person."

Hardly. There was a time, too, when Weisberg was an antsy housewife who preferred to keep her hands in the arts rather than the dishwater.

Having always had a yen to direct, she pulled together actors to form the Chicago Drama Quartet.

Weisberg combed books for plays to perform and one day came across George Bernard Shaw's Back to Methuselah. "I didn't know a thing about Shaw," she says.

The Burgess Meredith dropped in on a performance. Assuming Weisberg was a Shaw scholar, he asked her to speak to a group of fellow actors about the great Irish playwright. She found a book about him and learned Shaw had been born exactly 100 years before.

"I read the first page and never read past that," Weisberg explains. "It said Bernard Shaw was born on July 26, 1856. I had never heard anything about this man, this great writer who was having a 100th anniversary and no one knew it."

So she made sure everyone would know.

Weisberg invited guests from around the world to celebrate Shaw. She made the papers worldwide with stories about the Glencoe housewife who was so good as to remember Shaw when everyone else forgot. The New York Times wrote an editorial, and Chicago became the Shaw capital. The Sherman Hotel, at the request of Weisberg, created the Bernard Shaw Room, and his plays were performed there for several years. In it was born the Bernard Shaw Society, then the Shaw newsletter.

Around that time, Weisberg received a call from a friend at the University of Chicago. The campus magazine, Big Table, was being censored, and its writers had invited the beat poets of the era to town to raise money for the publication. Would she lend a hand?

Weisberg gave them the Shaw room, where Allen Ginsberg would give the first public reading of "Howl." She advertised that anyone with a beard would get in free. The line of bearded men would around the block. The beats were front-page news for days.

Ginsberg stayed in touch with her.

"Allen would send postcards from all his travels." Weisberg recalls. "I have postcard on the wall somewhere here that says, 'Lois, you have to try this LSD.' I didn't even know what it was."

Then she began an underground newspaper called the Paper, in which she interviewed jazz and literary greats. Dizzy Gillespie was one of her great friends.

From there it was on to head the department of public affairs for the Rehabilitation Institute of Chicago. Then on to a public interest law firm and later the executive director of the Chicago Council of Lawyers.

Paid political life began in the 1980's when she joined the administration of Mayor Harold Washington and became head of special events. Discouraged to be working with a 'zero budget,'', she informed fans of Venetian Night that there would be no fireworks that summer. "But come out anyway," she urged at a speech, "and enjoy the air. It's free."

So was she until Daley recruited Weisberg as his special assistant. Since then, the city hasn't been quite the same.

Last year, when Illinois poet laureate Gwendolyn Brooks turned 80. Weisberg made sure Brooks' poems were handed out at L stops and passed out by patrol officers on bikes along the lakefront.

Oh, and there's plenty more. Weisberg promises. And the ideas spill and spill. Are you going to stay forever, until you are way up there in your 70's? Weisberg is asked. "I love, love my work," is all she will answer.

THE 23D ANNIVERSARY OF THE FALL OF SOUTH VIETNAM TO COMMUNISM

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. McHUGH. Mr. Speaker, I rise today to remind my colleagues of an important anniversary. Last week marked the 23rd anniversary of the fall of South Vietnam to Communism and the end of the Vietnam War. I was reminded of this date by a newspaper column written by the Army's 10th Mountain Division and Fort Drum, New York, Commander, Major General Lawson W. Magruder III. He marked the occasion by sharing his personal reflections on his time and service in Vietnam. I would like to share his column with our colleagues so that we may also remember the brave men and women who served this country in Vietnam.

[From the Fort Drum Sentinel, Apr. 30, 1998]

(By Maj. Gen. Lawson W. Magruder III)

April 30 marks the 23rd anniversary of the fall of South Vietnam to Communism and the end of the Vietnam War. For this reason, April has always been a month of reflection about what the Vietnam War meant to me. It is a time for me to recall the lesson I learned over 27 years ago when I returned from Vietnam. I'd like to share some thoughts with you:

My last day in Vietnam evoked many emotions as I waited for the big "freedom bird" to wing me back to Texas and a reunion with my wife, Gloria, and 15-month old daughter, Shannon. It was a day filled with sadness, anticipation, relief, hope, excitement, and pride. Sadness over the soldiers I had led and grown to love in a special way who were never to return to their families; anticipation over my future and the future of our Army as we both transitioned to a period of peace; relief that my separation from my loved ones had gone without serious injury or illness; hope that our lives would quickly return to normal and that our nation would soon withdraw from the war without major casualties and that South Vietnam would succeed on its own against Communism; excitement about returning to Gloria and Shannon and closing out an important chapter in my young career and returning to the 82d Airborne Division to command a company; and pride in having served my soldiers, my Army, and my country honorably in the toughest environment. With the exception of my feeling of sadness, it was a composite of so many of the same emotions I had felt previously in my life on the day of a major event: the first day at a new school, "season openers," graduation from high school and college, commissioning day, reporting to my first unit, and my departure one year earlier from Austin Airport for Vietnam.

Aside from the already described feelings, on my last day in Vietnam I took stock of the four most important lessons I learned during the year—lessons that I have carried with me over the past 27 years of my career. First, it magnified for me the words from my oath of commission: ". . .to obey the orders of the President and the officers appointed over me. . ." and my father's advice (a veteran of three wars) to obey orders no matter how distasteful they may be unless they are illegal or immoral. I learned quickly as an infantry rifle platoon leader in combat that my job was not to question the prosecution of an unpopular war but to obey legal orders and lead my soldiers to the best of my ability in the accomplishment of difficult tasks. The second lesson learned was that a leader should only focus on his "piece of the Army" and make it the most professional team in the organization. I saw to many leaders in combat worry about "higher" at the expense of readiness and caring for their soldiers. Third, the basics that leaders demand in training work in combat and result in winning engagements and the saving of lives. I learned that even with the most dynamic tactics you will fail without adherence to the basics. Leaders must set and demand high standards from their subordinates to win! The last lesson that I took away from Vietnam was the importance of faith and family in one's life. Combat magnified for me the frailty of human life and the absolute importance of having a "true azimuth" in your life. Because I was at peace with the Lord and knew that I was supported on the "homefront" by a loving and supportive wife and family, I never worried about not coming home. Consequently, then and today I am able to devote myself totally to the leadership of America's finest Light Fighters.

We are all "defined" by our past experiences. My experiences in Vietnam is an important part of my makeup and being. It will always be with me, and even though many view the Vietnam War as a "lost cause," I, along with thousands of other vets, am proud of our service many years ago in that sad country in Southeast Asia. May we never forget those brave men and women who fought for democracy in Vietnam. Let me close with this special quote that I've kept under my desk glass for the past 26 years:

> "If you are able, save for them a place inside of you. . . and save one backward glance when you are leaving for the places they can no longer go. . . Be not ashamed to say you loved them, though you may or may not have always. . . Take what they have left and what they have taught you with their dying and keep it with your own. . . And in that time when men decide and feel safe to call the war insane, take one moment to embrace those gentle heroes you left behind. . . ."—Maj. Michael Davis O'Donnell, Springfield IL, 1 January 1970.

IN HONOR OF THE CONGREGATION OF SAINT JOSEPH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to commend the Congregation of Saint Joseph on the 125th anniversary of their service to the Greater Cleveland community. The Saint Joseph Congregation is dedicated to the improvement and education of the community.

Originally founded in 1650 in Le Puy, France, the Congregation of the Sisters of St. Joseph devoted themselves to God and to their fellow citizens. They minister to school children, the sick, and others in need. After enduring hardship in the Reign of Terror in France that nearly sent some of the sisters to the guillotine, the Congregation rebuilt themselves and was committed to developing a ministry in America.

Six sisters came to America in 1836 intent on serving God through service to the people. After establishing fifteen houses, the Congregation of St. Joseph staffed St. Mary's School in Painesville in 1872. The sisters then went on to serve at Saint Therese, Nazareth, and Saint Joseph Academies. In their tradition of education and service, the sisters effectively labored for the institutions of the Cleveland Diocese.

My fellow colleagues, join me in congratulating the Congregation of Saint Joseph for their 125 years of service in Greater Cleveland.

PRISON CAMP TORTURE IN NORTH KOREA

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. PITTS. Mr. Speaker, today I would like to insert for the record information on some of the most disturbing news that I have heard recently about the egregious torture which was a reality to thousands of prison camp residents in North Korea.

I recently met with Mrs. Soon-Ok Lee and Mr. Chul-Hwan Kang, survivors of the horrifying prison camps of North Korea. The two survivors now live in South Korea and desire to share with the world the truth about North Korea. Both Mrs. Lee and Mr. Kang are willing, at some risk to their safety, to testify before this body about their treatment while in the prison camps and about the general situation of the people of North Korea. It is vital that their information is shared with the world.

Mrs. Soon-Ok Lee described the torture she endured at the hands of prison authorities. After severe beatings in which she lost many teeth and suffered partial paralysis in her face, she was subject to water torture. North Korean authorities forced her to lie down on her back and then they inserted a special kettle sprout into her mouth. The spout was made so that it expanded in her mouth and she could not breathe without swallowing water. The guards then poured gallon upon gallon of water into the spout thereby forcing it into Mrs. Lee's body. Due to the incredible amount of water flowing into her body, she became unconscious and her stomach became distended. When it was clear that her body could hold no more, the guards stopped, waited for her to awake, laid a board on her stomach and jumped on it. This forced the water back out of her mouth and caused her excruciating pain. She again lapsed into unconsciousness. Prison officials repeated this scenario a number of times both to Mrs. Lee and other prisoners.

Mr. Chul-Hwan Kang witnessed similar egregious violations of human dignity. He was in prison from age nine to nineteen. Authorities imprisoned Mr. Kang at such a young age, because North Korean authorities arrest three generations of family members if a person is accused of a crime against the state or public order. When Mr. Kang's grandfather was arrested for spying, they also arrested and imprisoned the 9-year-old boy. While in the prison camp, Mr. Kang, along with most other prisoners, suffered from extreme malnutrition. In order to survive, he ate snakes, rats, and frogs. In addition to suffering from malnutrition, he watched countless executions carried out either by hanging or by firing squad. Inmates were forced to watch all executions. When guards completed some executions such as hanging, prisoners were forced to stone the dead bodies until they were no longer recognizable as human.

Mr. Speaker, horrors such as this do not continue indefinitely when the international community is educated, outrages, and spurred to action. The American public must become aware of these egregious human rights violations. It is of the utmost importance that we begin the process of disseminating the information as widely as possible so that peoples of our nation and others can act on behalf of the suffering North Koreans.

BUDGET SURPLUS HIGHER THAN EXPECTED

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. PACKARD. Mr. Speaker, just yesterday the Congressional Budget Office (CBO) released new figures that show that the budget surplus for this year will be between $43 and $63 billion—drastically higher than the $18 billion surplus that was predicted after last summer's historic balanced budget agreement. This is one more indication of what we can achieve with a Republican-led Congress that is dedicated to ending wasteful and irresponsible government spending.

As a member of the House Appropriations Committee, I would like to applaud my colleagues for making the balanced budget and this substantial surplus a reality. Appropriations is the only committee with a direct impact on spending and the federal budget. Under Chairman BOB LIVINGSTON's (R–LA) leadership, we have fundamentally changed the way Washington spends its money. Since taking control of Congress, Republicans have effectively eliminated 307 outdated and unneeded programs, streamlining government and making it more accountable to the American taxpayer.

Fueled by the American entrepreneurial spirit, our growing economy has been a fundamental partner in this accomplishment. Mr. Speaker, I take pride in the new figures for the budget surplus and applaud those Americans, from homemakers to small business owners, who have helped make it happen. These individuals are the ones who know best what to do with surplus dollars, not bureaucrats in Washington. I urge the Administration and my colleagues in Congress to do the right thing with the surplus: send it back to the public through tax relief and debt reduction.

A TRIBUTE TO NANCY SMITH

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. WALSH. Mr. Speaker, I rise today to pay tribute to Mrs. Nancy S. Smith, a longtime employee of the Library of Congress.

Nancy is retiring from the federal government after over 43 years of service—all of those years at the Library of Congress. She has spent her entire career in the budget office at the Library. Her most recent assignment was as an assistant to the budget officer.

All who know and worked with Nancy came to appreciate and admire her steadfast professionalism and her attention to the detail that characterizes the work of federal budget making. Nancy was the authoritative "number cruncher" in the Library's budget shop and all three Librarians of Congress for whom she worked were the beneficiaries of her skills and diligence.

The House Appropriations Committee, in particular, has been grateful for all the work and care Nancy put into preparing the variety of tabulations and explanations needed to review the budget program of the Library of Congress. In addition to being on call throughout the normal workday, Nancy was often called upon to spend evenings and weekends in preparing the analysis necessary for congressional oversight. She was always there when needed.

We will all miss Nancy. After these 43 years she has certainly earned a rewarding retirement.

She can now devote her time to travel and her love of opera and classical music.

Well done, Nancy. And—Bon Voyage!

THE "RUPTURED DUCK" GETS A RIDE ON THE SPACE SHUTTLE

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. TAUSCHER. Mr. Speaker, I rise today to recognize Ms. Kitty Kelly, a constituent from Livermore, California and the daughter of Mr. Wilfred John Kelly, who was an Electricians Mate Second Class in the United States Coast Guard.

Mr. Wilfred Kelly entered into military service in July of 1942 at a time when our country was in terrible conflict. He joined the U.S. Coast Guard, served abroad the USS *Gloucester*, and was Honorably Discharged from service in 1946. Upon leaving active duty, Mr. Kelly was awarded the Honorable Discharge Lapel Pin, nicknamed the "Ruptured Duck", as recognition for his honorable service. The "Ruptured Duck" is awarded to all members of the U.S. Coast Guard who have served with honor and distinction, and who have been discharged honorably.

Mr. Kelly always had a great respect and personal admiration for the space industry. He believed in the necessity of space exploration and was fascinated by our country's ability to expand its pioneering spirit into the reaches of outer space. Sadly, Mr. Kelly passed away on May 28, 1995 and carried with him his admiration for space exploration. Ms. Kelly contacted my office requesting assistance in immortalizing her father's memory. She asked that I contact NASA Operations and forward her request to have her father's lapel pin flown on the space shuttle. After a month of corresponding between NASA and my office, the dream of Ms. Kelly and her father was about to be realized.

On April 17, 1998 the Space Shuttle Columbia launched from NASA's Kennedy Space Center and on board was Mr. Kelly's lapel pin. Space Shuttle Commander Richard Searfoss agreed to carry the pin in his personal affects bag. Upon return of the shuttle, Mr. Kelly's pin will be returned to the family with a lasting memorial to Mr. Wilfred Kelly.

The opportunity to facilitate such a rare privilege is one that I will cherish as a Member of this distinguished body.

IN HONOR OF THE FAIRVIEW PARK WOMEN'S CLUB

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor the Fairview Park Women's Club of Fairview Park, Ohio for fifty years of dedicated service, friendship, and education.

Chartered in December 1948, the Fairview Park Women's Club is committed to the improvement of the community. This club was founded by over three-hundred women and continues its strong membership today. The club sponsors many events such as refreshments for council meetings and fundraising for its scholarship fund. The Women's Club also is committed to the Hunger Center and makes an effort to donate food to the center at every meeting. The friendship these women have developed over the years through service is truly a lasting hallmark of this organization.

My fellow colleagues, join me in saluting the Fairview Park Women's Club and their accomplishments in the community.

RWANDA GENOCIDE

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Ms. BROWN of Florida. Mr. Speaker, each of us has a moral obligation to remember the past, to tell our children, to leave a written record, and to work towards a brighter future. A few days ago, the Prime Minister of the interim government that directed the 1994 slaughter of hundreds of thousands of ethnic Tutsis in Rwanda pleaded guilty to genocide and agreed to testify against others accused of planning the massacres. We have been told that the Rwanda genocide of 1994 was the worst massacre of human life since the World War II holocaust. Nearly 1 million people were killed in less than 100 days. The world knew the genocide was going to occur. Despite advanced warnings, the world community did not mobilize to stop the horror.

Today, we must ask: What are we doing to help build Rwanda? As legislators, we need to share our expertise with new governments and young democracies in a sincere effort to build peaceful, civil societies. Today, the task at hand for Rwanda is to help Rwandans live together again. The country and its people are trying to endure after being cruelly torn apart. We must help Rwanda survive and build a democratic, free nation.

SIKHS FORM CITIZENS COMMISSION TO INVESTIGATE GENOCIDE IN PUNJAB

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. TOWNS. Mr. Speaker, when the Akali government in Punjab was elected, they promised to appoint a commission to investigate the genocide against the Sikhs since 1984. They have not kept that promise. As a result, Justice Kuldip Singh, the President of the World Sikh Council, announced that he will be appointing a citizens' commission to conduct this investigation, according to an article that ran on April 10 in the "Times of India."

Justice Kuldip Singh said that the commission will be chaired by a retired Supreme Court justice, that it will begin work next month, and that it will submit its report by the end of the year. It will investigate atrocities by militants as well as those by the state and central governments. Since the Akali government took power in Punjab in March 1997, more than 100 atrocities by the state government have been documented.

We should take this opportunity to congratulate Justice Kuldip Singh and all the human-rights activists who provided the impetus for this commission. It is well past time for the truth about Indian genocide in Punjab, Khalistan to come out. This commission is the beginning of that process. Just as the world has begun to learn the truth about the genocide in Armenia over eighty years ago and the Holocaust more than 50 years ago, it is critically important that the world learn the truth about India's genocide against the Sikhs and the other minorities of South Asia, such as the Christians of Nagaland, the Muslims of Kashmir, the Dalit Untouchables, and others.

Why has the Akali-BJP government in Punjab resisted this probe? The only people who resisted exposure of these other genocide campaigns were those who would be hurt by the revelation. One has to wonder why the Akali government would make itself part of the coverup. In that light, the Citizens Commission is a great step forward. We await their report so that the truth about the genocide in Punjab, Khalistan will come out. I urge the other minorities under Indian rule to create similar commissions to bring out the truth about India's treatment of them as well.

I would like to submit the "Times of India" article as well as the excellent press release on the Commission from the Council of Khalistan. I urge my colleagues to read them.

[From the Times of India, Apr. 10, 1998]

SIKH COUNCIL PANEL TO PROBE PUNJAB VIOLENCE

CHANDIGARH. The World Sikh Council (WSC), headed by former Supreme Court judge Kuldip Singh, has decided to set up a "people's commission" to probe violence in Punjab during the militancy period.

Mr. Singh told reporters that the commission, to be headed by a retired chief justice of the Supreme Court, would start functioning from next month. It is expected to submit its findings by the year end. He said the commission would probe "human rights violation by militants and also the state".

Mr. Singh said the people had the right to know the truth and those who were oblivious to it were likely to repeat history. A constitutional body could not probe this problem, hence the need for setting up such a commission.

Interestingly, the Akali Dal-BJP combine had promised to set up a similar commission on the eve of the assembly elections last year. After coming to power in the state, it abandoned the plan saying such a commission would only open old wounds.

CITIZENS COMMISSION FORMED TO INVESTIGATE GENOCIDE IN PUNJAB

STATE TERRORISM, POLICE BRUTALITY WILL FINALLY BE EXPOSED

Washington, D.C.—The World Sikh Council will appoint a Citizens' Commission to investigate the genocide in Punjab, according to today's edition of The Times of India. Retired Supreme Court Justice Kuldip Singh, President of the World Sikh Council, announced the formation of the commission, which will begin its work next month and is expected to report on its findings by the end of the year, according to the article.

The Punjab state government under Akali Dal Chief Minister Parkash Singh Badal had promised to set up a commission to investigate the genocide, but it broke that promise and now boasts that it has not prosecuted even a single police officer. The Akali Dal is a political ally of the ruling Bharatiya Janata Party (BJP) and currently has two positions in India's central government.

"The Sikh Nation welcomes the formation of this commission," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, the government *pro tempore* of Khalistan. Khalistan is the sovereign, independent Sikh homeland, which declared its independence on October 7, 1987. The Council of Khalistan leads the peaceful, democratic, nonviolent struggle to liberate Khalistan from Indian rule.

"I would like to congratulate Justice Kuldip Singh, as well as General Narinder Singh, Inderjit Singh Jaijee, Dr. Kharak Singh Mann, Dr. Gurdarshan Singh Dhillon, Dr. Sukhjit Kaur Gill, Bibi Baljit Kaur Gill, the Movement Against State Repression (MASR), the Punjab Human Rights Organization (PHRO), and the entire human-rights community in Punjab, Khalistan for maintaining the pressure that led to the formation of this commission," Dr. Aulakh said. "I request the blessing of the Jathedar of the Akal Takht, Bhai Ranjit Singh Ji, and his support for the work of this commission," he said. "The time has come for the full truth about Indian genocide against the Sikh Nation to come out. It is time for the Sikh Nation to unite in support of this effort," Dr. Aulakh said.

Since the Akali Dal government took over in March 1997, over 100 atrocities by Punjab police have been documented, including rape, torture, abductions, and murders. "Disappearances" continue to occur. The state government's own human-rights commission reported that it has received over 200 complaints. Since 1984, the Indian regime has murdered more than 250,000 Sikhs.

"The Armenian community is working hard to get the U.S. Congress to recognize the genocide against the Armenians 80 years ago," Dr. Aulakh pointed out. "The Jewish community has made sure the world never forgets the Holocaust over 50 years ago. The Cambodian genocide in the 1970s is still remembered," he noted. "The only people who resisted exposure of these brutal events were the people who were involved," he said. "The resistance of the Akali government to exposure of the genocide against the Sikh Nation on the flimsy excuse that it would reopen old wounds raises the question of whether they are hiding their own culpability."

RECOGNITION OF SAN BERNARDINO COUNTY SCHOOLS COMMUNITY COALITION PARTNERS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. BROWN of California. Mr. Speaker, I rise today to recognize the hard work and dedication of the teachers, staff and partners involved in the San Bernardino County Schools Community Coalition projects. It is all too infrequent that we take the opportunity to acknowledge and commend those who help improve the lives of our students.

Those who have spent the past several years in Community Coalition projects have contributed a great deal to our community and to the futures of our children. County students benefit from excellent programs in the areas of early literacy, technology, school safety, and career preparation.

It is an honor and privilege for me to recognize the following Community Coalition partners, and to thank them for their dedication and commitment to the children of San Bernardino County. They serve as an example for us all.

Early Literacy: Diane Harlan, Adelanto School District; Celeste Danjou, Apple Valley Unified; Dawn Fletcher, Apple Valley Unified; Sue Rhoades, Apple Valley Unified; Mary Gee, Barstow Unified; Terry Rogers, Barstow Unified; Audrey Howard, Bear Valley Unified; Tina Pelletier, Bear Valley Unified; Donna Libutti, Central School District; Luanne Rhodes, Central School District; Patty DiPaolo, Chino Unified; Audrey Folden, Chino Unified; Helen Rockett, Chino Unified; Hester Turpin, Colton Joint Unified; Ava Gonick, Cucamonga School District; Susan Birrell, Hesperia Unified; Vickie Holman, Hesperia Unified; Aleen Massey, Hesperia Unified; Liz Fragua, Lucerne Valley Unified; Cathy Richardson, Morongo Unified; Joan Carey, Ontario-Montclair School District; Sue Cornell, Ontario-Montclair School District; Lynne Merryfield, Ontario-Montclair School District; Arlene Mistretta, Ontario-Montclair School District; Janie Pierson, Ontario-Montclair School District; Darwin Ruhle, Ontario-Montclair School District; Iris Tramp, Ontario-Montclair School District; Denise Cates, Darnell-Redlands Unified; Caroleen Cosand, Redlands Unified; Jean Fenn, Rim of the World Unified; Carol Besser, San Bernardino City Unified; Londa Carter, San Bernardino City Unified; Denise Dugger, Snowline Joint Unified; Cynthia Freymueller, Snowline Joint Unified; Rachael Emergy, Upland Unified; Judy Lowrie, Upland Unified; Marge Ruffalo, Upland Unified; Laura Chapman, Victor Elementary School District; Luis Iabrra, Victor Elementary School District; Chris Richards, Victor Elementary School District; and Melody Davidsmeier, Yucaipa-Calimesa Joint Unified.

Technology: Jim Roller, Apple Valley Unified; Steve Bailey, Barstow Unified; Cindy Robinson, China Unified; Ruthetta Brandt, Fontana Unified; Leandra Pearson, Hesperia Unified; Kathy Gilbert, Ontario-Montclair School District; Jim Evans, Redlands Unified; Noelle Kreider, Rialto Unified; Alexis Carlson, San Bernardino City Unified; John Patten, San Bernardino City Unified; Bob Watson, San Bernardino City Unified; and Linda Jungwirth, Yucaipa-Calimesa Joint Unified.

Focus on the Future: Judith Pratt, Chaffey Joint Union High School District; Michele Beutler, Fontana Unified; Dr. Bill Clark, Fontana Unified; Carrie Childress, Hesperia Unified; Jeff Drozd, Morongo Unified; Patricia Merriam, Morongo Unified; Skip Brown, Redlands Unified; Laura Brundige, Redlands Unified; Jerry Bennett, San Bernardino City Unified; Geri Kubanek, York-San Bernardino City Unified; Jere Lloyd, San Bernardino City Unified; Leslie Rodden, San Bernardino City Unified; and Pam Stockard, San Bernardino City Unified.

School Safety: Norma Ashworth, Apple Valley Unified; Robert Martinez, Chaffey Joint Union High School District; David Mann, Colton Joint Unified; Beth Henry, Fontana Unified; Sally Foster, Hesperia Unified; Marc Divine, Redlands Unified; Cathy Magana, San Bernardino City Unified; Tim Kelleghan, San Bernardino City Unified; Tina Maeda, San Bernardino City Unified; and Jimmie Jimenez, Yucaipa-Calimesa Joint Unified.

Community Coalition Verbal Judo Instructors: Richard Laabs, Redlands Unified; Michael Vance, San Bernardino County Schools; Debbie Fairfax, Upland Unified; and Joe Kaempher, Victor Valley Union High School District.

CELEBRATING LISA KAPLAN'S BAT MITZVAH

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. BLAGOJEVICH. Mr. Speaker, I rise today to send a special congratulations to Lisa Kaplan, who will celebrate her Bat Mitzvah on Friday, May 8. The ceremony marks a culmination of religious study and community work that is a point of pride for her parents, James and Allin, as well as the many friends of the Kaplan family.

Lisa is an outstanding young woman with a very bright future ahead. Lisa attends Daniel Wright Junior High School in Lake Forest, Illinois. She's involved in many varied activities including student council, performing trumpet in the band, and playing on the baseball team. Lisa has distinguished herself academically by making the honor roll and being named to the National Junior Honor Society. Outside of school, Lisa has committed herself to being a regular participant in her synagogue and is an active student of Jewish tradition. And in her home, Lisa has been a loving daughter to her parents and a loving sister to her siblings.

The Bat Mitzvah ceremony will be just the first step in Lisa's coming of age and the assumption of adult responsibilities. This is deservedly a proud moment for the Kaplan family, and I welcome Lisa's increased involvement in our schools, church, and community.

REAUTHORIZATION OF THE NATIONAL ORGAN TRANSPLANT ACT

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. MOAKLEY. Mr. Speaker, I rise today to support the reauthorization of the National Organ Transplant Act (NOTA). On behalf of the thousands of American patients currently awaiting a lifesaving organ, the many dedicated physicians, surgeons and scientists actively engaged in the research and practice of transplantation, I ask my colleagues to support the reauthorization of NOTA.

As many of my colleagues know, two and a half years ago I underwent a successful liver transplant that saved my life and literally gave me a second chance. However, there are others that are not as fortunate as I was. Currently, there are over 58,000 people waiting for a lifesaving donor organ and an estimated eight people a day die waiting for an organ transplant. These alarming statistics translate into an increase of 255 percent over the last ten years. Although there have been many new scientific advances in the field of solid organ transplantation over the last eight years, the major obstacle continues to be that the demand for donor organs remains far less than the supply.

Given the rapid scientific advancements and increasing numbers of patients requiring organ transplants, I believe that it is imperative to reexamine and update the nation's system for organ donation and transplantation. Over the last 30 years, transplantation of solid organs has moved from experimental to accepted therapy, with over 20,000 transplants performed in 1997 alone. I am living proof that transplantation works, it saves lives and it improves the quality of people's lives. The success of this procedure has improved greatly over the last few years with almost all solid organ recipients enjoying an 83 to 97 percent survival rate at one year. However, despite improved survival rates there still remains a serious donor shortage in this country and we must do more to increase awareness as to the importance of organ donation.

Mr. Speaker, I ask my colleagues to support the reauthorization of the National Organ Transplant Act. More importantly, I would urge my colleagues to talk to their families and loved ones about organ donation and make their intentions known so that someone can receive the "gift of life."

SUBMITTED IN SUPPORT OF H.R. 3605, "THE PATIENTS' BILL OF RIGHTS ACT"

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. MARKEY. Mr. Speaker, today I join with Representatives JOHN DINGELL and GREG GANSKE, Leader DICK GEPHARDT, Leader TOM DASCHLE, Senator TED KENNEDY, Senator BARBARA BOXER, and the many patient and health groups, in support of H.R. 3605, the Patients' Bill of Rights Act. We all owe a debt of gratitude to Congressman DINGELL for his strong and sure leadership on this issue; Mr. DINGELL got involved early, pulled the key players together and produced an excellent bill which will, in fact, protect patients once enacted. I want to say a special word of thanks to Representative GREG GANSKE, with whom I have been working closely for some time on the Patient Right to Know Act (H.R. 586) which would ban gag clauses from managed care plans. His power of persuasion over some of his Republican colleagues to join him in cosponsoring the Patients' Bill of Rights Act will be very helpful in passing a managed care reform bill this year.

Representative GANSKE and I have been involved for quite some time in putting together a bill which would prohibit managed care plans from restricting the medical communications between doctors and patients based on what the plan did and did not cover. Our bill was based on a very simple premise: when you're a patient, What you don't know can hurt you. And our anti-gag clause bill, which now has 300 co-sponsors, is included in the Patients' Bill of Rights Act.

The Patients' Bill of Rights Act expands on that principle. It says: What you don't know and don't have access to and aren't protected from can hurt you.

That's why the Patients' Bill of Rights Act makes it possible for people to have some choice of plans, access to specialty and emergency care, and direct access to OB/GYN care and services for women.

That's why the Patients' Bill of Rights Act makes it possible for patients to get more information about their health plans, and have greater faith that the confidentiality of their medical records will be protected.

And that's why the Patients' Bill of Rights Act recognizes that patients are also health care consumers and establishes strong consumer protection standards, internal and external grievance procedures, and measures which respect and protect the provider-patient relationship.

When President Clinton delivered his State of the Union speech on January 27—99 days ago—one of the single most sustained waves of applause followed the President's call to action for Congress: to pass a consumer bill of rights and responsibilities for America's patients. Well, tomorrow, we will hit Day 100 of total inaction. The American people are demanding that Congress fill their managed care reform prescription—the Republican leadership should fill that prescription with the Patients' Bill of Rights Act.

Once again, I'd like to thank Congressman DINGELL, Senator KENNEDY, our Leaders and all of my colleagues who are working so hard to move this legislation forward.

MEDICARE: THE NEED FOR ADMINISTRATIVE FUNDS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. STARK. Mr. Speaker, Members constantly decry the problem of fraud, waste, and abuse in Medicare—and constantly underfund the agency that is responsible for administering Medicare.

It is Congressional hypocrisy at its height. No one should criticize the administration of Medicare who does not support more resources for the beleaguered Health Care Financing Administration.

Following is an excellent article by Julie Rovner of the National Journal's Congress Daily, entitled Congress v. HCFA: Bureaucracy Bashing 101.

I would just add to Ms. Rovner's article that when HCFA sought $16 million this spring it paid for it by offering to slash $16 million from another Medicare-related account—but even that was denied by the micro-managing Congress.

Medicare beneficiaries should know who to blame when they are unable to get their questions answered from HCFA: it is the Congress that should be blamed.

[From the National Journal's Congress Daily, Apr. 23, 1998]

CONGRESS V. HCFA: BUREAUCRACY BASHING 101

(By Julie Rovner)

Frustrated politicians like to point out how hard it can be to please constituents who simultaneously demand contradictory things—like those voters who all at once want increased spending, tax cuts, and no new additions to the deficit. But sometimes, the politicians themselves behave just as inconsistently.

Take the Health Care Financing Administration, known—and almost universally derided—as HCFA (pronounced Hickfa). The HHS subunit that oversees Medicare, Medicaid, and, since last year, the new children's health insurance program, HCFA is the agency politicians most love to hate. In 1992, when he was running for president, candidate Clinton in his "Putting People First" manifesto vowed to "scrap [HCFA] and replace it with a health standards board made up of consumers, providers, business, labor and government."

In short, anybody except bureaucrats.

During the heated Medicare debate of 1995, Speaker Gingrich claimed he never meant to suggest Medicare would "wither on the vine" under the GOP's budget plan, merely HCFA.

But Congress' second favorite pastime, after beating up on HCFA, seems to be giving the agency even more work to do. Since 1996, three different bills have increased HCFA's responsibilities exponentially.

"It's the greatest workload in the history of the agency," said Harvard Professor Joseph Newhouse, vice chairman of the Medicare Payment Advisory Commission.

And it is not like HCFA was a sleepy bureaucratic backwater: Running Medicare and Medicaid already required it to supervise the healthcare programs that will serve nearly 75 million Americans in 1998 and cost the federal government $300 billion in 1997, 18 percent of the entire federal budget.

HCFA's latest onslaught began in 1996, with passage of the Health Insurance Portability and Accountability Act. Not only did HIPAA give the agency broad new responsibility to root out fraud and abuse in Medicare (the accountability part), it also made HCFA the fallback enforcement agency for states that failed to pass their own laws to implement the portability part. As of now, that includes five states: Rhode Island, Massachusetts, Missouri, Michigan, and California.

Later that fall, Congress ordered HCFA to implement provisions tacked onto the VA-HUD appropriations bill barring "drive through" baby deliveries and requiring limited parity for mental health coverage.

But that was only an appetizer. Last year's Balanced Budget Act, according to HCFA Administrator Nancy-Ann Min DeParle, gave the agency about 300 new tasks.

In Medicare alone, the agency is expected to devise new payment systems for home health, hospital outpatient, and nursing home care; a new "risk adjuster" and new payment methodologies for managed care plans; and rules for new "provider-sponsored organizations." And that is not to mention devising how to inform Medicare's 39 million beneficiaries about a vast array of new "choices" available to them this fall.

At the same time, HCFA is responsible for approving each state's new children's health insurance program, and for helping states locate and enroll the millions of children eligible but not yet signed up for Medicaid.

With that much more to do, you might think Congress would also give HCFA more money to do it with. But it is so easy to bash the bureaucracy that the Senate could not resist striking HCFA's request for an additional $16 million for FY98 during consideration of the supplemental appropriations bill last month.

HCFA officials said $6 million of that request was to hire workers to enforce HIPAA in states that have yet to pass their own legislation. The states in question contain a total of 54 million citizens. "The work requires knowledge and expertise in the area of health insurance regulation at the state level," said the agency in its supplemental request. "The nature of this work is totally unlike that performed by HCFA's workforce."

But that plea fell on deaf ears. "Do we want to turn that much additional bureaucracy over to HCFA, that much more money, or can't they borrow some more of those employees that they now have who are probably reading through reports that are obsolete and maybe not doing so much good?" asked Senate Majority Whip Nickles on the floor March 25.

Evidently they can, according to the Senate. Members adopted Nickles' amendment to strip the funding from the bill after defeating, 51–49, an attempt by Senate Labor and Human Resources ranking member Edward Kennedy, D-Mass., to keep only half the money.

The result of all this, says former CBO Director Reischauer, is "setting HCFA up" for failure. "It's classic Congress," he said. "There's no way HCFA can accomplish the changes Congress has asked [it] to do. Then [Congress] will be back in two years having oversight hearings about how HCFA failed to do its job."

Mark your calendars now.

CONGRATULATIONS TO PRESIDENT LEE-TENG-HUI OF CHINA ON TAIWAN

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. McDERMOTT. Mr. Speaker, I would like to congratulate and extend my best wishes to President Lee Teng-hui and Vice President Lien Chin of the Republic of China on Taiwan on their second anniversary in office on May 20, 1998.

In the last few years, Taiwan has continued to prosper, having survived the latest financial crisis. As the world's fourteenth largest economic entity, Taiwan plays a significant part in global trade and Asian economies. Taiwan's per capita income of 13,000 U.S. dollars, one of the highest in Asia, provides a rich market for U.S. consumer goods.

Alongside its economic success, Taiwan has embarked upon a course of full democratization, including the free and direct election of the president, political pluralism, press liberalization, island-wide elections and a full constitutional reform.

The Republic of China on Taiwan is a showcase of free enterprise and democracy at work. Much of Taiwan's success is directly attributable to its leadership.

Congratulations to our friends in Taiwan.

PERSONAL EXPLANATION

HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. FOSSELLA. Mr. Speaker, I wanted to take this opportunity to inform you that I was unable to attend the session of the House of Representatives on May 5, 1998 and for a portion for May 6, 1998. My absence was due to the fact that my son Dylan Fossella was hospitalized and had to undergo surgery.

I would like the RECORD to reflect that I would have voted in favor of the passage of H.R. 1872, H. Res. 267 and H. Con. Res. 220.

50TH WEDDING ANNIVERSARY OF MR. AND MRS. LUKIEWSKI

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. BORSKI. Mr. Speaker, I rise today to congratulate and honor a truly remarkable couple from my Congressional district, Mr. and Mrs. Edward and Stella Lukiewski. On May 8th, the couple will celebrate their Golden Anniversary—fifty years of marriage. Their story begins when the young couple grew up just two blocks from one another in the Port Richmond section of Philadelphia. They even attended the same grade school, but would not meet until after their graduation. The couple first encountered one another when Mr. Lukiewski returned for a brief time during the second World War. Unfortunately, Mr. Lukiewski returned to the Pacific and would have to wait quite sometime before they would once again see each other.

Soon after Mr. Lukiewski's return the couple began to date and on May 8, 1948 they were wed in St. Adalbert's Church in Philadelphia, Pennsylvania. It was the same church that they had both received all of their sacraments while growing up. Immediately after their marriage, Mr. and Mrs. Lukiewski moved into a humble apartment across from St. Adalbert. They would live here until it was time to start a family. The couple then moved to the Mayfair section of Northeast Philadelphia where they would spend the next twenty years. Mr. and Mrs. Lukiewski are the proud parents of seven children, and eleven grandchildren, three of them being a group of triplets.

Mr. Lukiewski has been a retired Army Reserve Colonel for the past ten years. He served in Europe and the Pacific during the World War II and is an actual veteran of the Normandy invasion. For the past three years he has also been actively retired after twenty-five years of service as President and C.E.O. of the Polonia Bank, of Philadelphia. Mr. Lukiewski now spends one day a week working for the St. Joseph's Villa retirement home where he helps in the daily responsibilities of the home. Whether it is supplying the patients with ice water, supplies, or just friendly conversation, Mr. Lukiewski is always available for help.

Mrs. Lukiewski is the devout and yet easy going mother of the couple's seven children. She is quite active in their local church, St. James' Parish in Cheltenham, and in the Retired Officer's Association of the Willow Grove Naval Air Station. Mrs. Lukiewski was also the president of the Woman's Club, and still remains a member of that organization. The couple has been in their present Cheltenham home now for fifteen years.

On May 9th the couple is renewing their vows in the same church in which they were wed in, fifty years ago. Several members of the original wedding party will attend the celebration, as well as numerous friends and relatives. A number of the couple's grandchildren will be offering the gifts and performing the readings for the ceremony. Monsignor Francis Ferret will be officiating the mass, accompanied by Monsignor Lee Korda, and Reverend Raymond Himsworth.

Mr. Speaker, I am more than honored to congratulate this beautiful couple on their outstanding fifty years of marriage. I hope that the love shared between these two people is a model for us all, let us all share equal success and happiness that this couple has endured. I wish Mr. and Mrs. Edward and Stella Lukiewski fifty more years of utter happiness and marriage.

WELCOMING CLYDE DREXLER AS THE NEW BASKETBALL COACH FOR THE UNIVERSITY OF HOUSTON COUGARS

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. GREEN. Mr. Speaker, I would like to welcome the new basketball coach for the Cougars at the University of Houston—Clyde Drexler.

Clyde Drexler is truly a coach who not only understands the game but understands basketball in Houston—both collegiate—the Houston Cougars and national—the Houston Rockets.

A perennial All-Star and a member of the 1992 Olympic Dream Team, Drexler twice led the Blazers to the NBA finals. It wasn't until he joined the Houston Rockets midway through his 12th campaign, however, that he finally earned a championship ring.

He has been a leading scorer at 18.5 points per game for the Rockets. The 10-time All-Star missed six games in January with an injured shoulder.

He spent the first 11½ seasons of his career with the Portland Trail Blazers before getting traded to the Rockets on February 14, 1995.

As a forward in college, Drexler along with fellow current Rocket teammate and All-Star Hakeem Olajuwon, formed a front line that took the University of Houston's "Phi Slama Jama" team to two straight trips to the NCAA Final Four in the early 80s.

Drexler starred at the University of Houston from 1980–1983. He currently ranks 13th on the school's all-time scoring list with 1,383 points.

As a player in the NBA, Clyde has always been recognized for his character and poise in the public spotlight. Now he will have the opportunity to teach a new generation of basketball players how to conduct themselves with dignity and professionalism both on and off the court.

Drexler will provide young basketball players with the determination and guidance needed to succeed in basketball both at the collegiate and national level.

I am glad to welcome him as the coach for the Houston Cougars. But more importantly, I wish him and the team good luck on Drexler's first season as coach.

PAKISTANI ROLE IN NUCLEAR PROLIFERATION

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. PALLONE. Mr. Speaker, I rise to bring to the attention of the members of this House, and of the American people, some recent, disturbing information about the continued role of Pakistan in the transfer and proliferation of nuclear weapons and delivery systems.

Last month, the U.S. State Department determined that sanctions should be imposed on Pakistan, pursuant to the Arms Export Control Act. This decision comes in the wake of the determination that entities in Pakistan and North Korea have engaged in missile technology proliferation activities. According to the notice published in the Federal Register of May 4, 1998, Khan Research Laboratories in Pakistan, and Changgwang Sinyong Corporation, also known as the North Korea Mining Development Trading Corporation, are subject to sanctions including denial of export licenses, a ban on United States Government contracts with these entities, and a ban on importation into the U.S. of products produced by these two entities. The sanctions are in effect for two years.

Although the sanctions seem relatively modest, I still want to applaud the Clinton Administration for imposing the sanctions on these companies. I hope that enforcement efforts against these and other firms involved in the proliferation of missile technology will remain strong.

As if this recent disclosure about Pakistani nuclear missile technology with North Korea were not shocking enough, there are reports this week that the International Atomic Energy Agency (IAEA) is investigating whether a leading Pakistani scientist offered Iraq plans for nuclear weapons. The information, first reported in Newsweek magazine, has been confirmed by the IAEA. According to the report, in October 1990, prior to the Persian Gulf War—but after the Iraqi invasion of Kuwait, while our troops were massing in Saudi Arabia under Operation Desert Shield—a memorandum from Iraq's intelligence service to its nuclear weapons directorate mentioned that Abdul Qadeer Khan, the Pakistani scientist, offered help to Iraq to "manufacture a nuclear weapon," according to Newsweek. The document was among those turned over by Iraq after the 1995 defection of Saddam Hussein's son-in-law, Lt. Gen. Hussein Kamel, who ran Iraq's secret weapons program.

The Pakistani Government has denied the report, and the IAEA has not yet made any determination. But this report is part of a very troubling pattern involving Pakistan and efforts to either obtain nuclear weapons and delivery systems, or to share this technology with other unstable regimes.

Recently, Pakistan test-fired a new missile, known as the Ghauri, a missile with a range of 950 miles, sufficient to pose significant security threats to Pakistan's neighbors, including India, and to launch a new round in the South Asian arms race. I am pleased that the recently elected Government of India has demonstrated considerable restraint in light of this threatening new development, a view echoed by the U.S. Delegation that travelled to the region recently with our U.N. Ambassador Bill Richardson.

While I welcome the sanctions against North Korea, I remain very concerned that China is also known to have transferred nuclear technology to Pakistan. Our Administration has certified that it will allow transfers of nuclear technology to China—a move I continue to strongly oppose.

Mr. Speaker, for years, many of our top diplomatic and national security officials have advocated a policy of appeasement of Pakistan, citing that country's strategic location and cooperation in Afghanistan. I think that the time has long since passed for us to reassess our relationship with Pakistan. The two developments I cited today—sanctions over missile technology proliferation with North Korea and allegations of efforts to provide nuclear weapon technology to Iraq—are only the latest developments. North Korea, a closed society, the last bastion of Stalinism, is also one of the potentially most dangerous nations on Earth. The U.S. has been trying to pursue policies to lessen the threat of nuclear proliferation from North Korea. Now we see that Pakistan is cooperating with North Korea on missile technology.

And, Mr. Speaker, I don't need to remind you and the American people of American concerns about Saddam's regime in Iraq. Yet, now credible reports have surfaced suggesting the possibility of nuclear cooperation between Iraq and a top Pakistani scientist.

Concerns about Pakistani nuclear weapons proliferation efforts have been a concern for U.S. policy makers for more than a decade. In 1985, the Congress amended the Foreign Assistance Act to prohibit all U.S. aid to Pakistan if the President failed to certify that Pakistan did not have a nuclear explosive device. Known as the Pressler Amendment, for the former U.S. Senator who sponsored the provision, it was invoked in 1990 by President Bush when it became impossible to make such a certification. The law has been in force since, but we have seen ongoing efforts to weaken the law, including a provision in the FY 98 Foreign Operations Appropriations bill that carves out certain exemptions to the law. Several years ago, $370 million worth of U.S. conventional weapons to Pakistan, which had been tied up in the pipeline since the Pressler Amendment was invoked, was shipped to Pakistan. And there is the ever-present specter of U.S. F–16s, the delivery of which was also held up by the Pressler Amendment, being delivered to Pakistan.

Mr. Speaker, Pakistan has continued to take actions that destabilize the region and the world. Providing and obtaining weapons and nuclear technology from authoritarian, often unstable regimes is a pattern of Pakistani policy that is unacceptable to U.S. interests and the goal of stability in Asia. Pakistan is a country that faces severe development problems. Its people would be much better served if their leaders focused on growing the economy, promoting trade and investment and fostering democracy. U.S. policy needs to be much stronger in terms of discouraging the continued trend toward destabilization and weapons proliferation that the Pakistani government continues to engage in.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. KIND. Mr. Speaker, here we go again. The Republican leadership of the House of Representatives have repeatedly broken their promise to the people of this country about campaign finance reform. First the leadership refused to allow any vote on campaign finance to come to the floor. Next they brought forward a series of sham bills that, through the use of parliamentary tricks were destined to fail. Then, under pressure from a discharge petition, they finally relented and agreed to allow a vote before May 15. Now we hear that the leadership is going to delay a vote on campaign reform until mid-June. How many more times will the Republican leadership break their word to the public?

I am outraged by the leadership's continued effort to stall on this crucial issue and I rise today to demand that we vote on campaign finance reform next week. This issue has been debated extensively, there is an excellent bill, H.R. 2183, which is ready to be voted on, and any further delay is unnecessary. It is time for the Republican leadership to finally keep their word and allow a vote on campaign finance reform. The people of my district will not accept "no" for an answer.

ST. ROSE RESIDENCE: 150 YEARS OF CARING

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. BARRETT of Wisconsin. Mr. Speaker, on May 9th, friends of St. Rose Residence are gathering in Milwaukee to celebrate the program's sesquicentennial anniversary. I appreciate the opportunity to share with my colleagues the story of this exceptional residential care program.

A few weeks before President Polk enacted legislation admitting Wisconsin to the Union, the Daughters of Charity accepted the responsibility of caring for a young girl whose parents had died during the family's long voyage from Ireland to Milwaukee. The Sisters recognized that the need for shelter, care and education for parentless girls would grow as the City of Milwaukee developed. With the support of the Catholic Diocese of Milwaukee, the order constructed a building in what is now downtown Milwaukee and, in 1850, incorporated the organization under the name St. Rosa's.

During the latter half of the 19th Century, the Sisters constructed a new home on Milwaukee's east side with room to shelter over 100 girls. Under the administration of the Archdiocese of Milwaukee and with the support of the United Way of Milwaukee, St. Rose brought onboard a staff of social workers, child care workers, teachers and other professionals. During the 1970s, St. Rose was incorporated as an independent agency and moved to its present home on Milwaukee's west side. The addition of an activity center in 1988 and a school in 1995 allowed St. Rose to expand and enhance the recreational and educational opportunities available to the girls under its care.

The spirit of community and shared purpose runs deep in my home state, and when Wisconsinites find a need unmet, they work together and find a way to meet it. St. Rose Residence is a remarkable example of this spirit. That spirit—the commitment to serve the community by uplifting its most helpless—gives Wisconsin, and St. Rose Residence, cause to look back on the last 150 years with pride and to look forward to the next 150 years with confidence.

Mr. Speaker, I ask that the House join me in congratulating St. Rose Residence on 150 years of caring service to Wisconsin children and families.

TRIBUTE TO SENATOR ROBERT C. BYRD OF WEST VIRGINIA ON THE CASTING OF HIS 15,000TH VOTE IN THE UNITED STATES SENATE

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. RAHALL. Mr. Speaker, I rise to recognize and to commend West Virginia's senior Senator, ROBERT C. BYRD, on the occasion of having cast his 15,000th vote in the United States Senate.

Having cast that 15,000th vote on May 5, 1998 marks consistent voting by Senator BYRD for over 40 years, giving him a voting average of 98.7 percent for his entire tenure, and earns for him the title of most votes cast by any Senator in the history of the United States Senate.

I believe it is only fitting to note that his 15,000th vote was cast in favor of the "Workforce Investment Partnership Act of 1998", because no Member of the U.S. Senate has done more to provide for the training and education of this nation's workforce than Senator ROBERT C. BYRD. His understanding and devotion to the needs of his West Virginia constituents, and particularly his well documented efforts to ensure a strong economy in our State, has included his enormously successful efforts on behalf of securing jobs for the unemployed.

Senator ROBERT C. BYRD has been setting voting records in the Senate since he was sworn in early in 1959. On January 8, 1959, Senator BYRD cast his first vote in the U.S. Senate. Fittingly, it was a vote on Senate procedure. On April 27, 1990, the Senator cast his 12,134th vote, earning him the record for greatest number of rollcall votes in Senate history. On July 27, 1995, he became the first Senator in history to cast 14,000 votes, and he has now built on his record number of rollcall votes to be the first person in Senate history to cast 15,000 votes.

In a historical context, Senator BYRD cast the first of his 15,000 votes with Senators John Kennedy and Lyndon Johnson, both of whom were there in the Chamber with him. When he cast his first vote, Hawaii was not yet a State, and the United States had not yet put a man in space.

For 40 years, Senator BYRD has managed to run to Senate as Majority Leader, chaired the Senate Appropriations Committee, and has studied and written volumes on the history of the Senate, earning his place as the unrivaled expert on Senate rules.

In the future, scholars and historians will write about Senator BYRD's remarkable impact on the Senate, as an orator, a parliamentary expert, a Senate historian, a legislative tactician, and an outstanding leader.

Most certainly, he is all of those things.

But more than that, he is the most revered, most beloved, most respected, member of Congress that his proud State of West Virginia has ever sent to Washington to represent them.

As a historian himself, Senator BYRD is now a part of history, and will be always remembered for both the quantity and quality of his work, his service to his fellow Senators, and his unstinting service to West Virginians for nearly half a century.

Certainly, no man or woman who has ever served in that body has ever loved the Senate, as an institution, more than Senator ROBERT C. BYRD, nor shared in the great esteem and honor the title of Senator has given to him. On May 5, 1998, as he made history in the Senate, he referred to himself as ". . . a prince who still glories in the name of "Senator." To him, it is and has always been a position of trust—a trust he has honored all of his life.

Congratulations, Senator BYRD, on the occasion of casting your 15,000th vote, and for having been the only U.S. Senator in the life of the Senate to achieve that pinnacle.

But more, I congratulate you for inspiring others, and encouraging both young and old alike to aspire to dignity, to knowledge, to trust and to honor whether they are your colleagues in the U.S. Senate, or a young student somewhere wondering whether he or she should think of becoming a public servant.

I had the high honor of serving on Senator BYRD's staff before returning to West Virginia and running for public office. I know first-hand of Senator BYRD's example that encourages and inspires others to also serve their country by seeking public office.

On May 5, 1998, Senator BYRD wondered where today's heroes are—who, he wondered will the youth of today look up to as their heroes.

Well, one of today's hero's resides in the United States Senate where, by example, he inspires and encourages all within the sound of his voice, and his name is ROBERT C. BYRD.

I wish to convey to my friend, my mentor, my colleague Senator BYRD, my highest esteem, my deepest personal respect, and my overwhelming pride in him as a strong and most distinguished man, as a loving husband, father and grandfather, and as a greatly honored and trusted United States Senator from West Virginia.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 7, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 8

9:30 a.m.
Joint Economic
To hold hearings to examine the employment-unemployment situation for April.
1334 Longworth Building

MAY 11

2:00 p.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense.
SD-192

MAY 12

9:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense BRAC environmental programs.
SD-138

9:30 a.m.
Indian Affairs
To hold hearings on proposed legislation to revise the Indian Gaming Regulatory Act of 1988, focusing on lands into trust for purposes of gaming.
Room to be announced

2:00 p.m.
Foreign Relations
To hold hearings on S. 1868, to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide, to authorize United States actions in response to religious persecution worldwide, to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council.
SD-419

MAY 13

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense.
SD-192

Foreign Relations
To hold hearings on the Montreal Protocol No. 4 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air (Ex. B, 95th Cong., 1st Sess.), the International Convention for the Protection of New Varieties of Plants (Treaty Doc. 104-17), the Grains Trade Convention and Food Aid Convention (Treaty Doc. 105-4), the Convention on the International Maritime Organization (Treaty Doc. 104-36), and the Trademark Law Treaty (Treaty Doc. 105-35).
SD-419

2:00 p.m.
Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to examine the economic and political situation in India.
SD-419

MAY 14

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the Department of Agriculture's Year 2000 compliance.
SR-332

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to examine the safety of food imports.
SD-342

Small Business
To hold hearings on the nomination of Fred P. Hochberg, of New York, to be Deputy Administrator of the Small Business Administration.
SR-428A

1:30 p.m.
Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to examine United States policy toward Iran.
SD-419

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on titles IX and X of S. 1693, to renew, reform, reinvigorate, and protect the National Park System, and S. 1614, to require a permit for the making of motion picture, television program, or other forms of commercial visual depiction in a unit of the National Park System or National Wildlife Refuge System.
SD-366

MAY 18

2:00 p.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the role of faith-based charities in the District of Columbia.
SD-342

MAY 19

10:00 a.m.
Labor and Human Resources
To hold hearings to examine grievance procedures in the health care industry.
SD-430

MAY 20

10:00 a.m.
Indian Affairs
Business meeting, to mark up S. 1691, to provide for Indian legal reform.
SR-485

MAY 21

10:00 a.m.
Labor and Human Resources
To hold hearings on genetic information issues.
SD-430

2:00 p.m.
Energy and Natural Resources
Energy Research and Development, Production and Regulation Subcommittee
To hold hearings on S. 1141, to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and S. 1418, to promote the research, identification, assessment, exploration, and development of methane hydrate resources.
SD-366

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

CANCELLATIONS

MAY 7

9:30 a.m.
Labor and Human Resources
To hold hearings on organ allocation and the Organ Procurement Transplant Network (OPTN) regulation.
SD-430

HOUSE OF REPRESENTATIVES—*Thursday, May 7, 1998*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LATOURETTE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

> WASHINGTON, DC,
> *May 7, 1998.*
>
> I hereby designate the Honorable STEVE LATOURETTE to act as Speaker pro tempore on this day.
>
> NEWT GINGRICH,
> *Speaker of the House of Representatives.*

PRAYER

Reverend Kenneth G. Wilde, Senior Pastor, Capital Christian Center, Meridian, Idaho, offered the following prayer:

Let us pray together. Lord God of heaven, You are a great and awesome God, You who keep Your covenant and always observe Your commandments. We come to You on this National Day of Prayer in deep humility and with a broken and contrite heart. We turn to You as a people who have sinned and ask forgiveness for those times when our Nation has been unfaithful to You. We recognize our inability to act righteously outside of Your divine enablement. Give us now a national resolve to seek You with all of our heart, to love Your commandments, and to follow hard after You. Once again, ignite our Nation with hope as we pursue Your purposes for which we have been established. May righteousness be our byword. May peace be in our homes, our streets, and our cities. Lord, restore unto us the joy of our salvation.

Lord, You have placed in this room great leaders to whom You desire to pour out wisdom and direction. In this difficult and challenging place of leading this Nation, give them divine guidance and keep them from the evil one. Inspire them with a heart for our Nation. Sanctify them with Your truth, for Your word is truth. May they know Your love and see Your glory. May they all understand, as Esther did, that just very possibly they have been brought to the Kingdom for such a time as this.

Now, as Daniel prayed, we also pray. Oh, Lord, hear. Oh, Lord, forgive. Oh, Lord, listen and act. Do not delay for your own sake, my God, for Your city and Your people who are called by Your Name. We humbly offer these things to you in Your precious name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Nevada (Mr. GIBBONS) come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize 10 one-minutes per side following the recognition of the gentlewoman from Idaho (Mrs. CHENOWETH) for the purposes of welcoming the guest pastor, Reverend Wilde.

PASTOR KENNETH G. WILDE

(Mrs. CHENOWETH asked and was given permission to address the House for 1 minute.)

Mrs. CHENOWETH. Mr. Speaker, it is indeed an honor and a privilege for me to welcome to this House of Representatives my pastor from Boise, Idaho, Ken Wilde. Pastor Wilde is the senior pastor of the Capital Christian Center, a church that has a membership of about 2,000 and is growing very quickly in Boise, Idaho.

Pastor Wilde is not only the senior pastor of our church, but also a very strong community leader. I am so deeply grateful for pastors such as Pastor Wilde who will involve themselves, not just in the very heavy responsibilities of shepherding their people, but also influencing them into government and into active participation in politics.

It has been, indeed, my honor and privilege to welcome to this great House Pastor Ken Wilde.

NATIONAL DAY OF PRAYER

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, in 1861, Abraham Lincoln signed a proclamation that recommended

> * * * a day of public humiliation, prayer, and fasting to be observed by the people of the United States with religious solemnities, and the offering of fervent supplications to Almighty God for the safety and welfare of these States, His blessings on their arms, and a speedy restoration of peace.

Then, strife and war were tearing apart the United States, and to many Americans, prayer was the only way to survive those difficult times.

Times in America are better now. We are at peace. Our economy is booming, and things seem to be going pretty well. But, Mr. Speaker, today we need the power of prayer more than ever. Despite the appearance of good times, many Americans feel that there is a moral crisis in our Nation.

Today is the National Day of Prayer, a time when all Americans can come together and reflect on our Creator and the blessings He has bestowed on this Nation. I think it is altogether fitting and appropriate that we continue the traditions of Abraham Lincoln and join together in this National Day of Prayer.

CAMPAIGN FINANCE INVESTIGATION

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, yesterday the gentleman from Indiana (Mr. BURTON), the chairman of the House Committee on Government Reform and Oversight apologized to his Republican colleagues for the uproar over his release of the Hubbell tapes.

The gentleman from Indiana also announced the removal of his chief investigator. However, it is not enough for the gentleman from Indiana to fire his chief staff person. He should have removed himself from any further role in this investigation. The staff person did not release the tapes; the gentleman from Indiana did. The staff person did not change and edit the tapes, the gentleman from Indiana did.

The gentleman from Indiana claims immunity from prosecution because he is a Congressman. If an ordinary person had released or changed the tapes, it would be a crime, obstruction of justice, and they would go to jail. The gentleman from Indiana uses his position as a Congressman to assert immunity, claiming, in effect, that he is above the law.

At a minimum, the gentleman from Indiana should be removed from any further role in this investigation. He clearly cannot operate as chairman in a fair manner. Neither he nor any other Member of this House is above the law.

TAX FREEDOM DAY

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, this weekend, Americans will celebrate Mother's Day and pay tribute to mothers all across our Nation for the care, love, and strength that they provide for their families and children.

How distressing it is that this day should fall on the same date that hardworking Americans celebrate another day, Tax Freedom Day, the day we finally quit working to pay the burden of government and start working for the benefit of our own families.

National Tax Freedom Day is, in fact, May 10 this year, the latest date it has ever been. Every year, Tax Freedom Day moves later and later. Soon we are going to be celebrating Tax Freedom Day on Father's Day at the rate we are going.

Most Americans want us to move Tax Freedom Day back to the tax payment day, which is April 15, as we well know. Those two dates have not coincided for over 30 years.

Despite last year's tax relief provided by this Republican-led Congress, the average family still pays 38 percent of their income to taxes, and that is way too high, as we all know. So let us make last year's tax cut the first step, but not the last step, toward giving Americans control over their own incomes, and commit to stopping the Tax Freedom Day creep.

Meanwhile, happy Mother's Day.

MODIFIED ASSAULT WEAPONS

(Mrs. CAPPS asked and was given permission to address the House for 1 minute.)

Mrs. CAPPS. Mr. Speaker, today I am releasing a bipartisan letter to the President in support of his recent ban on the import of modified assault weapons and pledging to oppose any legislative efforts to overturn it. This is a commonsense, moderate approach to fighting gun-related crime.

I fully support the rights of hunters, but these modified assault weapons are not for sport or hunting. They are manufactured for killing people. They are used on our streets for committing crimes. These firearms put our children and the public at great risk.

James Guelff, the brother of my constituent Lee Guelff, was killed by an assault weapon while serving on the San Francisco Police Department. These modified weapons are really just assault weapons that have been cosmetically altered when they are imported. The result is violence in our communities, on our streets. We must not allow the ban on assault weapons to be overturned.

PROHIBIT TRANSFER OF TECHNOLOGY TO ENHANCE CHINA'S MISSILE PROGRAM

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, has the White House gone fishing, or are they just somewhere out there, lost in space?

I know I should not be surprised, but quite frankly, I am shocked that the Clinton administration is giving classified American missile technology to China. While this administration publicly pats itself on the back for nurturing relations with China, China is spreading this missile technology around the world, including rogue and terrorist nations.

The space cadets in this administration are trying so hard to push a bad policy that they just approved the transfer of classified missile technology to China's Great Wall Industries.

In case you did not know, Great Wall Industries supplies and builds components for China's nuclear missiles. Americans are asking: Is this administration trying to inhale in the vacuum of space, or is this just plain ignorance on their part?

It is time we sent a clear message to these space balls that Congress will not reward bad behavior or bad policy. It is time for us to prohibit the transfer of nuclear technology that can be used to enhance China's missile program.

NATIONAL DAY OF PRAYER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, today is the National Day of Prayer. There will be prayer in hospitals, prisons, State legislatures, the House of Representatives, United States Senate, the White House, and even prayer to open the Supreme Court, but there will be no prayer in our schools.

Think about it. A Supreme Court that opens each session with "God, save the United States and this honorable court" on one hand forbids prayer in our schools on the other hand. This is a Supreme Court that must be challenged by the Congress of these United States.

A school without prayer is a school without God. Members know it. I know it. The American people know it. Deep down, even the Supreme Court knows it. We do not just need a National Day of Prayer for political purposes. We should overrule the Supreme Court and pass a law to allow prayer in our schools. In America, the people govern, not the courts.

MARRIAGE PENALTY RELIEF

(Mr. HOSTETTLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOSTETTLER. Mr. Speaker, the Declaration of Independence asserts that "all men are created equal and that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and pursuit of happiness."

Governments are then instituted to preserve these rights for mankind. But today, our American Government is in grave violation of that principle to treat each man and woman equally. Married men and women bow under a heavier tax burden than singles, a tax burden on average as great as $1,400.

Why does our Nation's tax law discriminate against those who participate in the institution of marriage and even discourage their participation through an annual charge of $1,400?

The Tax Foundation has reported that 60 tax provisions handle married couples differently than singles. A married couple's income is taxed under the higher 28 percent bracket at a lower point than a single's income. Married couples receive a lower standard deduction than two singles. Even tax provisions regarding Social Security, capital gains, and the Earned Income Tax Credit are subject to this disparity.

This unfair treatment, inconsistent with the principles on which this Nation was founded and on which we base our congressional service, must stop. I ask my colleagues to join in marriage penalty relief.

CAMPAIGN FINANCE REFORM

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, when it seemed they had no promises left unbroken, the Gingrich Republicans have apparently decided to break yet another promise on cleaning up this Congress.

As over 200 Members of this House stood strong outside this door signing a petition, demanding that campaign finance reform be debated here on the floor of the Congress in a fair and bipartisan manner, Speaker GINGRICH grew desperate, and he came forward and said, if you will not have that kind of reform, we will vote on campaign finance reform no later than May 15.

On my calendar, that is next week. Yet, word is circulating that the Gingrich Republican leadership, which has done practically nothing in this entire Congress on anything, has decided to do absolutely nothing on campaign reform in the entire month of May.

Mr. Speaker, when it comes to the matter of cleaning up corruption, they know that each day of delay will assure the death of real reform.

HUBBELL TAPES SHOW EVIDENCE OF CRIMES

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, while the other side is becoming increasingly hysterical every time evidence is unearthed, I would ask my Democratic friends a few questions. What do you suppose Webster Hubbell meant when he said on tape, so I need to roll over one more time?

□ 1015

Again, for the benefit of those on the other side who may be too busy attacking and smearing everyone whose job it is to uncover the truth, I ask them, what do they think convicted felon Webster Hubbell meant when he said, "So I need to roll over one more time." Or, "I will not raise those allegations that might open it up to Hillary." What about Mrs. Hubbell's statements about overbilling that, "That would be one area Hillary would be vulnerable." Is this not evidence of crime? Is this not relevant to the investigation now ongoing?

Can we not agree that our citizens deserve the truth and that no citizen is above the law?

BURTON COMMITTEE HAS BECOME PAPARAZZI OF AMERICAN POLITICS

(Mr. EDWARDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS. Mr. Speaker, Harry Truman would not be impressed. "The buck stops here" has now been amended by Republicans in Congress to say, "The buck stops with staff; don't blame me."

The gentleman from Indiana (Mr. BURTON) has released private conversations between husband and wife. He released edited tapes that misrepresented those conversations. He has said he is "out to get President Clinton."

When the gentleman is supposed to be leading an impartial investigation, when public outrage forced action, what did Republicans do? They fired a staff person. Harry Truman would not buy that and neither will the American people.

Republicans have changed the principle of innocent until proven guilty to guilty before the facts are heard. Republicans have changed the principle of limited government to the injustice of government, forcing mothers to testify against their daughters and the injustice of intruding into marital conversations.

The Burton committee has become the paparazzi of American politics, and that is a sad day for our country.

SOME WANT TO DIVERT ATTENTION FROM SCANDAL IN WHITE HOUSE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, let me see if I have got this straight. The same White House that hired private investigators to look into the private lives of Judge Starr and his deputies now is offended that the privacy rights of his victim friend, Web Hubbell, has been violated.

The same White House that releases documents, subpoenaed documents, no less, one drip at a time, now is complaining that the Committee on Government Reform and Oversight is not being forthcoming in release of documents.

The same White House which collected 900 FBI files, just all happened to be Republicans, is a defender now of privacy rights.

The same Democrats who took the criminal intercept of a private conversation on a cellular phone last year and then released it to the press is now upset that the perfectly legal and routinely taped conversation of a convicted prisoner has been exposed for all the world to see.

Maybe all these people simply wish to divert attention from the greatest scandal of them all: the one in the White House.

BURTON INVESTIGATION IS AN EMBARRASSMENT

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, the Burton investigation is an embarrassment. I know; I am a member of the committee.

Yesterday, the Republican leadership apologized to the Republican Members of this House. They should apologize to the American people. Millions of taxpayer dollars are being wasted on a partisan, unprofessional, indeed, inept investigation.

White House personnel like Marsha Scott and Maggie Williams have been deposed for days and forced to incur thousands of dollars in legal fees to answer questions asked by other investigators. Apologize to them.

The Federal budget, a patient's bill of rights, improved education, more support for child care, all are being neglected while Republican staffers listen to taped conversations between Webster Hubbell and his wife and pour over Democratic documents. For all that, apologize to the American people.

Let us get on with the business of American families. Replace the gentleman from Indiana (Mr. DAN BURTON) not just his staff.

TRIBUTE TO DR. JAMES D. STRAUSS

(Mr. REDMOND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REDMOND. Mr. Speaker, today I rise to pay tribute to one of America's living treasures, Dr. James D. Strauss of Lincoln Christian Seminary.

Dr. Strauss has committed his life to the training of Christian ministers who today circle the globe in their service to people of many ethnic and racial groups.

Dr. Strauss is no ordinary professor. For 40 years his sharp mind has ignited sleeping minds. His commitment has influenced great accomplishments in others. His servant's heart has moved others to service. His profound grasp of reality has inspired others in such a way that they understand their place in the universe.

Today, the honor of professor emeritus will be conferred upon Dr. James D. Strauss, an honor that in his humility, he would deny that he has earned. Yet his vigor and quest for his service to God will no doubt give new meaning to the word "emeritus."

Dr. Strauss, your servants have seen and bear witness that you have presented your life as a living sacrifice, holy and acceptable before our Creator.

Mr. Speaker, I am honored to be able to pay tribute to one of America's greatest living treasures, Dr. James D. Strauss.

HELP STAMP OUT HUNGER

(Mr. HALL of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, I just want to say that this Saturday the largest 1-day food drive in our Nation will be conducted by mail carriers in more than 10,000 cities throughout America.

The members of the National Association of Letter Carriers will add another burden to their already heavy loads, the burden of trying to help the 21 million Americans who regularly go hungry. They will do this heroic work by picking up donations of nonperishable food from almost every home in America. The contributions will stay in local communities, helping food banks that are straining to meet a blooming demand for their help.

Last year this extraordinary effort yielded 73 million pounds of food. They collected in 1 day as much as the combined efforts of hundreds of food banks yield in an entire month.

The U.S. Postal Service is lending a hand, as are local United Way agencies and Campbell's Soup. All that remains is a strong response from the public.

I urge my colleagues to do all they can to join the letter carriers and help stamp out hunger.

SUPPORT THE AMERICAN ECONOMY PROTECTION ACT

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, today I am joined by my colleagues, the gentlewoman from Missouri (Mrs. JO ANN EMERSON) and the gentleman from Pennsylvania (Mr. RON KLINK), to introduce a bill to protect our strong and growing economy. The bill, entitled The American Economy Protection Act, would prevent the Clinton administration from spending taxpayer dollars to implement the Kyoto treaty until it has been ratified by the Senate.

This overreaching treaty poses a direct threat to the American economy. If implemented, American jobs would flow overseas and the American people would be saddled with regulations that will diminish the quality of life in this country.

Lacking the votes to win ratification in the Senate, the administration wants to circumvent the will of Congress and implement the Kyoto treaty by regulatory fiat. As Members of Congress, we have an obligation to ensure that this does not happen.

And again, I want to repeat, our bill would prohibit, prohibit, the funds for any implementation of the Kyoto protocol unless it is ratified by the Senate.

I urge my colleagues on both sides of the aisle to join in supporting this important bill. It will protect the jobs of our constituents and defend the integrity of the Constitution.

CHAIRMAN BURTON'S OVERSIGHT COMMITTEE HAS NO CREDIBILITY

(Mr. BARRETT of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Wisconsin. Mr. Speaker, this morning we learned that the gentleman from Indiana (Mr. BURTON) apologized to the Republicans yesterday for his behavior on the committee. We also saw in this morning's paper where Speaker Gingrich criticized the gentleman from Indiana and his staff for embarrassing Republicans, and that he apologized to Republicans on the gentleman's behalf.

Mr. Speaker, this misses the entire point. It is not the Republicans that deserve an apology, it is the American people; because the American people are the ones that have paid the million-dollar bill for this circus.

The American people want one thing from this committee: They want fairness. And time and time again, the chairman of the Committee on Government Reform and Oversight and his staff have shown that the last thing they are interested in in this committee is fairness.

The apology was given to the Republicans because it has messed up the entire attack plan. How can they attack the President if they have no credibility? But the fact of the matter is, Mr. Speaker, this committee has no credibility, because from day one there has never been an attempt to find the truth; it has been nothing more than an attempt to smear the President.

DO NOT LET ADMINISTRATION REGULATE OUR ECONOMY DOWN THE TUBE

(Mrs. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. EMERSON. Mr. Speaker, I am proud to join my colleagues, the gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Pennsylvania (Mr. KLINK), in cosponsoring the American Economy Protection Act, which will block the use of any Federal funds to implement the so-called Kyoto Treaty on Global Climate Change unless the Senate ratifies the agreement.

I say "so-called" because there is absolutely no scientific consensus that global warming has occurred, and yet the administration continues to push its implementation of this treaty through the back door. As policymakers, we have an obligation to know first that a problem exists before we try to fix it.

I have to ask why we would agree to a treaty when our international competitors, like Brazil, Mexico, Indonesia, India, and Communist China would be free to continue doing business as usual? Are they any less responsible for the Earth's climate than the United States? I do not think so.

Let us not let the administration regulate our economy down the tubes. I ask my colleagues to join the three of us in cosponsoring this legislation and giving the American people a voice in whether or not this flawed treaty should go forward.

WHAT EDITORIAL BOARDS ARE SAYING ABOUT BURTON INVESTIGATION

(Mr. WAXMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAXMAN. Mr. Speaker, nothing alarms the American people more than an abuse of power and an invasion of people's privacy. The gentleman from Indiana (Mr. DAN BURTON) has grossly abused the most unprecedented power that any Congressman has ever had in the history of this institution in violating the privacy of an American citizen.

These complaints are not just the complaints of Democrats. I want to read from the Hartford Courant:

> Who could have anticipated that a renegade congressional committee chairman would subpoena the tapes and release them to the public, disregarding Federal prison policy and provisions of the Privacy Act? People have much to fear from an elected official who takes such liberties and abuses his power.

And the USA Today said:

> Republican leaders will only compound the impression of partisanship if they fail to turn the fund-raising over to a committee with a less biased leader.

Mr. Speaker, we must ask the Republican leadership to fix this problem, not just to apologize to their own Members.

WHO IS THE VICTIM?

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, who is the victim here? Webster Hubbell, who was President Clinton's third highest ranking official in the Clinton Justice Department, embezzled nearly half a million dollars from his law partners.

This is the kind of person that the President appointed to be the third ranking official within the Department of Justice:

Webster Hubbell, whom Clinton donors gave more than $700,000 after he was forced to resign from office. Webster Hubbell, who paid less than $30,000 in taxes after receiving more than $1 million in income in 1994. And we note that there is evidence that he did not actually even earn this income. Webster Hubbell, who plea bargained with Judge Starr and then refused to cooperate with Judge Starr and who then took the fifth amendment before the Committee on Government Reform and Oversight.

Now the Democrats are trying to portray him as the victim.

Mr. Speaker, the Democratic Party has long been the victimization party, but this is the mother of all misplaced victimhood.

Why does the other side not address instead their hero's jailhouse comments: needing to roll over one more time?

BURTON APOLOGIZES TO GOP

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I would like to share with this House a headline from the front page of this morning's Washington Post: "Burton apologizes to GOP." It seems that the gentleman from Indiana (Mr. DAN BURTON) has told his Republican colleagues that he is sorry for bungling the investigation meant to score political points against the President.

How about an apology to all of the Members of this body for subverting the investigative process and tarnishing the integrity of this House? How about an apology to the American people for violating their trust, for an abuse of power and distortion of the truth? The gentleman from Indiana has put himself above the law. No one is above the law.

I would like to quote the Hartford Courant, who editorialized this week, and I quote:

> People have much to fear from an elected official who takes such liberties and abuses his power. The gentleman is a poor excuse for a public servant.

It is time for the chairman of the Committee on Government Reform and Oversight to step down.

☐ 1030

RETURNING TO THE SENATE S. 414, OCEAN SHIPPING REFORM ACT OF 1998

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that the request of the Senate to return the Senate bill (S. 414) to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes, be agreed to.

The SPEAKER pro tempore (Mr. LATOURETTE). The Clerk will report the Senate message.

The Clerk read as follows:

S. RES. 215

Resolved, That the Secretary of the Senate is directed to request the House of Representatives to return to the Senate the official papers on S. 414, entitled "An Act to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes".

SEC. 2. Upon the return of the official papers from the House of Representatives, the Secretary of the Senate is directed to make the following change in the text of the bill, viz:

In the amendment of section 8(f) of the Shipping Act of 1984 by section 106(e) of the bill, insert a comma and "including limitations of liability for cargo loss or damage," after "practices".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

AUTHORIZING USE OF EAST FRONT OF CAPITOL GROUNDS FOR PERFORMANCES SPONSORED BY JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Mr. KIM. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 265) authorizing the use of the East Front of the Capitol Grounds for performances sponsored by the John F. Kennedy Center for the Performing Arts.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. TRAFICANT. Mr. Speaker, reserving my right to object, I would ask the gentleman from California (Mr. KIM) to give an explanation of the resolution at this point.

Mr. KIM. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. KIM. Mr. Speaker, I thank the gentleman for yielding.

House Concurrent Resolution 265 authorizes the use of the East Front of the Capitol for performances of the Millennium Stage of John F. Kennedy Center for the Performing Arts. The performances are to take place on Tuesdays and Thursdays when Congress is in session, beginning on May 12 and running through September 30, 1998.

The performances will be open to the public free of charge, and the sponsors of the event, the Kennedy Center and the National Park Service, will assume responsibility for all liabilities associated with the event. The Architect of the Capitol will be responsible for some of the expenses associated with the event. The resolution expressly prohibits sales, displays, and solicitation in connection with the event.

This is a unique event for use of Capitol grounds, as it will take place over a period of time with the Architect's assistance. However, these arrangements are warranted due to the unique mission of the Kennedy Center to provide leadership in the national performing arts education policy and programs and to conduct education and community outreach. By permitting these performances on the East Front, the Congress is assisting the Kennedy Center, a Federal entity, in fulfilling this mission.

Mr. TRAFICANT. Mr. Speaker, further reserving my right to object, these concerts will be free of charge, open to the public. And the Kennedy Center is well known throughout the world now, especially in our country, for the great contributions they make.

Mr. Speaker, I urge support of the resolution, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 265

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZING USE OF EAST FRONT FOR PERFORMANCES SPONSORED BY KENNEDY CENTER.

In carrying out its duties under section 4 of the John F. Kennedy Center Act (20 U.S.C. 76j), the John F. Kennedy Center for the Performing Arts in cooperation with the National Park Service (in this resolution jointly referred to as the "sponsor") may sponsor public performances on the East Front of the Capitol Grounds at such dates and times as the Speaker of the House of Representatives and Committee on Rules and Administration of the Senate may approve jointly.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—Any performance authorized under section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) ASSUMPTION OF LIABILITIES.—The sponsor shall assume full responsibility for all liabilities incident to all activities associated with the performance.

SEC. 3. PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—In consultation with the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate, the Architect of the Capitol shall provide upon the Capitol grounds such stage, sound amplification devices, and other related structures and equipment as may be required for a performance authorized under section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board may make such additional arrangements as may be required to carry out the performance.

SEC. 4. APPLICABILITY OF PROHIBITIONS.

Nothing in this resolution may be construed to waive the applicability of the prohibitions established by section 4 of the Act of July 31, 1946 (40 U.S.C. 193d; 60 Stat. 718), concerning sales, displays and solicitations on the Capitol Grounds.

SEC. 5. EXPIRATION OF AUTHORITY.

A performance may not be conducted under this resolution after September 30, 1998.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 265.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RESIGNATION FROM COMMITTEE ON EDUCATION AND WORKFORCE

The Speaker pro tempore laid before the House the following resignation from the Committee on Education and the Workforce:

> HOUSE OF REPRESENTATIVES,
> *Washington, DC, May 6, 1998.*
>
> Speaker NEWT GINGRICH,
> *Republican Steering Committee, The Capitol, Washington, DC.*
>
> DEAR SPEAKER GINGRICH, This is to officially request a temporary leave of absence from the Education and Workforce Committee, effective immediately.
>
> Because of my additional two Committee assignments and other pressing commitments, I have determined that this temporary change is necessary for the balance of the 105th Congress. Chairman Hoekstra and I have discussed this at length, and I understand one of our colleagues has expressed an interest in being appointed to the Education and Workforce Committee, with an assignment being made to the Oversight & Investigation Subcommittee.
>
> I would ask that my seniority be preserved so that, should I chose to be reappointed to the Education and Workforce Committee at the beginning the 106th Congress it would be to my current position.
>
> Thank you for consideration of this matter.
>
> Sincerely,
> JOE SCARBOROUGH.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2646, EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

Mr. ARCHER. Mr. Speaker, pursuant to clause 1 of rule XX, and by the direction of the Committee on Ways and Means, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agreed to a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. RANGEL moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 2646, the Education Savings Act for Public and Private Schools, be instructed to agree to provisions relating to tax-favored financing for public school construction consistent, to the maximum extent possible within the scope of conference, with the approach taken in H.R. 3320, the Public School Modernization Act of 1998.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) will be recognized for 30 minutes, and the gentleman from Texas (Mr. ARCHER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, nearly all Americans know that the most important issue facing us today is educating our young people to meet the challenges of tomorrow, especially as we move into the next century. It is going to be an era that, with all of the inventions and all of the wonders that we have accomplished in this century, will be absolutely nothing compared to what we have to face in the next century.

It is really so painful to see my Republican friends, instead of stepping up to the bar and asking, "What can we do in a bipartisan way to make certain that our children are not used as ammunition in this great political fight that we have," so that at least we know, when the dust has settled, that we have a sound public school system that would train our kids and help our kids to be able to meet these challenges.

Instead of that, we have before us a bill that tells people, "Save your money, enjoy tax-free benefits; and this is what we, as the majority party, have to offer you."

Thank God we have people that can read in this country, that can see through the farce that is before us. If everything works the way the authors of the bills work, then in the period of a year, those who are fortunate enough to be able to send their kids to private school will have savings of $37. And because they want to make it abundantly clear that this is not restricted to the private sector, there should be savings of $7 a year for the kids in the public school.

How short our memory is when the millions of people who came to this country, so many without training, seeking a better way of life, looking for religious freedom, but better than that, wanting to make life better for their children, where we had a public school system that was there for them. Instead of reaching out, trying to destroy the system and substituting it with vouchers and tax loopholes, we should be saying that in this country of ours, every kid should be able to get a decent education.

It is absolutely disgraceful to think that we are just giving interest-free money when what we do have in the motion to instruct is an opportunity to vote for that motion to tell the conferees to come up with a bill that would modernize our schools and provide the funds that are there tax free for construction of decent public schools in this great country of ours.

What a shame it is that we have prisoners locked up in jails and locked up in penitentiaries that have better quarters than the kids have in our schools. I have visited schools throughout my district and throughout the country where kids cannot be in a classroom when it rains, where kids are in overcrowded situations. And these are the public schools.

They may not like them because the common man and the common woman have to send their kids there, but 90 percent of American youngsters go to these public schools. How can they be ignored? And what benefits can they get from this bill? We cannot take the money out of an individual savings account and rebuild a school or provide adequate space for the kids. It is a farce to do this, and it is even worse if we relate it to education.

So we have to be appreciative of two things: one, that our colleagues on the other side of the aisle are not serious, and that is good because it means that they do not want to do harm; one, they have allocated the money to pay for this bill with every bill they think the President is going to veto. And so, they are not serious, but it is a terrible, political thing to do.

And second, they know that the President is serious about the education of our children and will veto this farce so that the tax burden will not be on the American people.

So I ask my colleagues, please, when the appropriate time comes, let us instruct the conferees to come up with something decent, something that would improve our school system; and then we by agreement with our voters, Republicans and Democrats alike, will say that we have differences, but those differences are not so great that we are going to sacrifice the education of the American children.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the education of our children is one of the most important issues that our Nation faces. Part of our educational system is outstanding; it is competitive with the world, if not better than the rest of the world. But there are other parts of our educational system that are falling behind.

Every day our moral and social fabric is strengthened when our children receive strong educations. As children learn and grow, we as a Nation are enriched.

Unfortunately, the state of education in America today is not as good in some areas as it should be, and it is time to give our schools and our teachers and our children a helping hand. The House and the Senate have both passed strong measures to enhance the education of children. Now we must meet in conference, reconcile the differences between our bills, and send our plan to the President.

The House education plan is the best thing to happen to education in years. It is good for the public schools; it is good for private schools; it is good for parochial schools. And it is good for those parents who are more and more educating their children in their own homes. But most importantly, it is good for students everywhere; and that is good for America's future.

Our plan creates educational savings accounts that allow parents and children to deposit up to $2,500 a year into these vehicles for better learning. The money will grow tax-free, and it can be used for a variety of educational purposes. Parents can use it to pay for tutors, to buy books, supplies, and uniforms and can use it for tuition and special-needs services for the disabled.

Mr. Speaker, the time has come for us to put our children and our schools first. Although I know there are some who are under heavy pressure from special interests to oppose this bill.

□ 1045

Mr. President, do not veto this bill. Do not put the needs of the special interests ahead of the needs of our children and our schools. If you support Federal money through HOPE scholarships for public and private universities, why would you oppose Federal money for public and private secondary schools? If HOPE scholarships do not destroy public universities, why will educational savings accounts harm public high schools? The answer, Mr. President, is they will not.

Join me in putting our children and our schools first. Let us set partisanship aside. Let us do what is right for our children. There has been bipartisan support for this approach, both in the House and in the Senate.

Mr. Speaker, let me speak briefly to the motion to instruct. The gentleman from New York's heart is in the right place. He cares about children, too, and about education. But he wants a tenfold expansion of a program that was included in the Taxpayer Relief Act of 1997. That is impossible within the scope of this conference. The objectionable features to the gentleman from New York that are in this bill are actually not in his motion to instruct. His motion to instruct, if passed, would not change his opposition to the rest of the bill as he articulated in his comments.

But perhaps most importantly what he asks for in the motion to instruct is impossible within the scope of conference. It is not in either the House or the Senate bill. But his motion to instruct lives within the technical rules because he says do it within the scope of conference, knowing full well the scope of conference will not permit it to occur.

Very simply, this is an ill-conceived, ill-devised motion to instruct that will have no practical effect on the conference and should be voted down.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume. I really enjoy working with the chairman of the Committee on Ways and Means. If he sincerely believes that the motion to instruct is outside the scope of the conference, I want to thank him for not raising a point of order. It saves me a little time in debating that and winning that issue on the floor.

I also would want to say that I really do hope that we all yield to special interests today, because our young people are very special. They deserve better than what is being offered to them in this bill. If there is anyone on the other side of the aisle that has enough imagination that they can tell this House how the public schools benefit under the bill, then I hope they research that issue and raise that question given the opportunity.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, the bill we are about to send to conference is yet another attempt by the Republican leadership to drain precious dollars away from our public schools and put them into private schools. In fact, an analysis by the Treasury Department found that 70 percent of the benefits of the Private School Expense Act would go to families making $93,000 a year or more. The average middle-class family would find itself with a measly $10 benefit a year, not nearly enough to cover the costs of a private high school, which is typically about $4,500. We need to focus on improving the schools that serve 90 percent of America's children, the public schools.

We need to invest in technology and put computers in the classroom. We need to modernize and rewire all school buildings so that they can support the technology that is so essential for success in the 21st century. We need to invest in laboratories so that students have hands-on experience with science and have the chance to experiment and challenge themselves with new opportunities. We need to let public education do what it has always done in this great Nation of ours, be the great equalizer, allowing children in this country to succeed despite what their race, their creed, their gender or their economic status is.

We need to improve our public schools. Let us get to work on legislation that is going to help America's children, not just the token few. I urge my colleagues to vote yes on the Rangel motion to instruct.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume to briefly respond to the gentlewoman who just spoke and the gentleman from New York, who clearly both object to the fundamental issues in this bill. The motion to instruct will not touch any of the issues that they oppose and I daresay would not bring about their vote for final passage, although I cannot presume to know how they would vote, but clearly does not go to any of the issues that were mentioned by the gentlewoman who just spoke.

But let me set one thing straight. This bill does not take any dollars away from public schools in this country. The gentlewoman misspoke about that. I think that she knows she misspoke. It does not drain dollars away from public schools. But what it does do is give parents an opportunity to save so that they can help to offset the costs of education for their children in elementary and secondary schools and to get some degree of tax incentive to do that. It is a very positive program that hurts no one and can only help.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GOODLING), the chairman of the Committee on Education and the Workforce.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding time. I have spent my entire life trying to make sure that every child has an equal opportunity for a quality education. But there has been nothing more frustrating than sitting here in the Congress of the United States to try to make that a reality. It is frustrating because over and over again year after year all I ever hear is if we have another program, if we have something else from the Federal level, if we do something more from the Federal level, things will improve. Well, they have not.

Now, this is the wrong approach. Why is it the wrong approach? For 20 years, sitting in the minority, I tried to get the former majority to please put your money where your mandate was in special education. If you put your money where your mandate is in special education, do you realize how many millions of dollars extra each year the Member from New York who spoke would get? Let me give my colleagues a good example of what he would get in his district. The York City School District is a district of 49,000 people. The mandate from the Federal level for special education costs that district $6 million. That is a little city, York City. This gentleman represents 600,000 who would be in that school district. My district, if they would get 40 percent of the excess cost that the majority of years ago promised they would get when they gave them a 100 percent mandate would get an additional $1 million, an additional $1 million to reduce class size, an additional $1 million to construct schools, to remodel schools. The gentleman from New York would get millions of dollars. All they have to do is help us put their money where their mandate was.

As I served in the minority, two-to-one minority, serving on the Committee on the Budget, the gentleman from Michigan (Mr. KILDEE) and I tried in a bipartisan fashion to do something about that. When I became chairman, you were sending them 6 percent of the 40 percent you promised them. In my third year as chairman, we are going to be up to about 11 percent. But that is a long, long way from the 40 percent that you promised. If you got that money to them, as I said before, they can do everything they need to do in remodeling schools and building schools, they can do everything they need, as a matter of fact, to deal with pupil-teacher ratio.

I tried to impress upon the President. If he wants to be known as an education President, and each one seems to want to be known as an education President, I am not quite sure why, but they do, all he has to do if he wants to win the hearts and the minds of all of the constituents in all of our districts is to help us get the funding for special ed that the local school district now has to pay. What did he do in his budget? He cut the appropriation for special education. We worked so hard in 3 years to get from 6 percent to 10 or 11 percent. But we have to get to 40 percent. Then I can look the gentleman from New York in the eye and say, "Here is an extra 5, 6, $8 million each year your school district will get." If little York will get $1 million, his district has to get probably $10 million. I have not run his district yet. I have run many of them.

Let us approach it in the right manner. Let us get the mandate that we have sent from the Federal level, which is special ed; that is the only curriculum mandate. If anybody tells you we sent others, that is not true. But that one curriculum mandate is costing the local school district every opportunity to deal with pupil-teacher ratio, costing that local school district every opportunity to deal with crumbling buildings.

All we have to do, Mr. speaker, is put our money where the mandate was 24 years ago, and the local districts will take care of everything else. Let us not go in an opposite direction until we positively deal with that 40 percent of excess costs, because that local district cannot carry them. States are not helping them. We are not putting our money where our mandate was. And so what do they have to do? They have to take money from every other student, from every other project they want to do to fund the Federal Government mandate.

Please, let us once and for all have an all-out war to pay the 40 percent of excess costs. It was not done when you had a two-to-one majority. I am trying to do it with a slim majority, and that is not easy, but we need to work together to do it. We do not need any other new attempts to handle the problem. We just have to deal with the problem that we created from the Federal level, and then they will take care of everything on the local level.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman and honor and respect the dedication that he has given to the education of our American youth and promise in the future as in the past to try to work more closely with him in a bipartisan manner. I regret that he had so little to say about this legislation before us, but I can understand that, too.

Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, this is not about special ed or school construction. We should be doing both. Yes, education is a priority, should be a priority, and I would hope it could be a bipartisan priority. I rise to support this motion because, Mr. Speaker, schools are crumbling across this country. Classrooms are literally overflowing. Students are learning in hallways, but the leadership of this Congress just sits idly by. Yes, this is the public mandate. It should be a public mandate. We have a responsibility to rebuild our schools and make sure that every youngster has the opportunity to learn.

Last year nearly 120 Members of Congress showed their commitment to America's children by cosponsoring H.R. 1104, the Partnership to Rebuild America's Schools. This session we have a similar proposal led by the gentleman from New York (Mr. RANGEL), the dean of the New York delegation. It is called the Public School Modernization Act. Our program will make interest-free loans available to school districts across the country through the Tax Code. Under the bill, school districts will be able to issue special bonds at no interest to fund the construction or renovation of school buildings. The Federal Government will pay the interest on these bonds through a tax credit to bondholders.

Mr. Speaker, we simply cannot ignore the poor physical condition of our schools any longer. The GAO found that $112 billion is needed nationwide just to bring our schools into adequate condition. Rural, suburban, urban districts all face serious problems. It is common sense. Children cannot learn in severely overcrowded schools or when classroom walls are falling down around them.

□ 1100

In New York, where the gentleman from New York (Mr. RANGEL) and I come from, a survey in any office conducted found that 25 percent of New York City public schools hold classes in bathrooms, locker rooms, hallways, cafeterias, and storage areas. Almost half of our school buildings have roof, floors, and walls in need of repairs. A report by the New York City Commission on School Facilities revealed the following:

Nearly half of New York City schoolchildren are taught in severely overcrowded classrooms. Two hundred seventy schools need new roofs. Over half of the city's schools are over 55 years old. And approximately one-fourth still have coal-burning boilers.

Congress just passed with overwhelming support $218 billion to rebuild, maintain our Nation's highways, and I support this investment. But should we not also be investing in the future of our children?

The Republican leadership has time and time again refused to support efforts to rebuild our schools. I urge them to support this motion, and I invite them to come join us. The gentleman from New York (Mr. RANGEL) and I would be delighted to travel around to some of the schools. We brought Secretary Riley and our superintendent of schools, Rudy Crew, to see some of these schools. They tried to wire these buildings. They could not even wire them internally; they had to wire outside. And if we cannot provide this for our children, then what are we doing here?

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume, simply to briefly respond to the gentlewoman. So many things are said on the floor of the House that just are not accurate, and that is unfortunate; probably well-intended, but spoken before adequate thought is given to the accuracy of what is said. Clearly the Republicans worked with the gentleman from New York (Mr. RANGEL) in the tax bill last year to put in a provision that he very strongly wanted to see put in. The Republicans have shown over and over again concern for our schools and quality education.

But the reality is that in this bill, neither the House bill nor the Senate bill has the proposal that has been supported on the floor today by the Democrats relative to an incentive to build more schools. It is not in either bill. It is not within the scope of conference; and yet the gentleman from New York's motion to instruct says that whatever we have to do must be within the scope of conference.

So clearly this motion is without any effectiveness in reality, but it has given them a basis to speak about something that they strongly believe in, and that is part of democracy. But we should not be given any illusion that there is any way that effectively this can be done in this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with all due respect, if this bill is going to be vetoed, then whatever we are saying is mute, and we can depend on the veto. By the same token, it is not unusual to waive points of order, and the conferees can do what they think is in the best interests of the Congress and the country, and to that extent I am willing to work with the gentleman and work out these differences of opinion.

Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY of Connecticut. Mr. Speaker, what the ranking member just said is the reason I rise in support of the motion to instruct. As this bill stands right now, it becomes an empty gesture because the President has already said he will veto it.

So, Mr. Speaker, if my colleagues really want to do something about the state of education in America today, they will vote for the motion to instruct.

The President has a very good reason why he is vetoing this bill: because it will spend virtually billions of dollars and end up not doing anything. The Joint Committee on Taxation tells us that if the provisions were converted to a tax credit for all taxpayers with children to qualify for educational expenses, the credit would be $15 per child.

Mr. Speaker, that is 15 hard-earned honest dollars, but we really know that that is not going to make much of a difference in the education of a child in today's world. The same money could be used to provide $7.2 billion in interest-free funds for school construction.

Mr. Speaker, I stand here today because my State of Connecticut desperately needs school construction money, so I urge my colleagues to support this motion to instruct and get on with doing what we have to do to make education better in these United States.

Mr. ARCHER. Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from the State of North Carolina (Mr. ETHERIDGE), an outstanding educator who brings a great contribution in this area.

Mr. ETHERIDGE. Mr. Speaker, I thank the ranking member for allowing me this time.

Mr. Speaker, I rise in support of this motion to instruct. As a former State superintendent of my schools in North Carolina, I call on this House to reject the Coverdell voucher bill and instead invest the very precious resources that we have to help our States and communities build schools. At this very moment across America, 52 million children are attending classes. For too many of these children, their class is taking place in a trailer, in a closet, in an overstuffed or rundown classroom, and as we have already heard, yes, even in bathrooms.

Mr. Speaker, no student in America should be forced to attend classes in a substandard facility. No teacher should have to struggle to teach in these kind of facilities, nor in an unsafe and undisciplined environment. And no parent should be forced to condemn their children to these kind of facilities. And they should not have schools that are trailers.

We have heard talk about special interests. Special interest is about young people that are here in the galleries today. They cannot get on this floor and speak for themselves; we must do it, and it is time that we did something about it. Instead of doing something for a few, we ought to do it for many and all of our children.

For the past few weeks, I have toured schools all across my district. I met with parents, I met with children, I met with teachers and community leaders, and not a one of them have asked me where the money was coming from. They were just grateful to know there might be resources to make sure that they had quality schools for their children.

And I drafted legislation, with many of my colleagues joining, to make sure that growth States get an opportunity to have the quality facility that every child in America ought to have. And I am here to tell my colleagues that quality facilities will translate into quality education and make a difference for every child in America. We have an opportunity to do it, and the bill that I drafted will provide $436 million for the State of Florida, $840 million for the State of Texas, and $2.3 billion for the State of California.

I urge my colleagues to vote for this motion to instruct.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume to respond.

Mr. Speaker, once again, I mean, this is a broken record. The gentleman should be well aware that under the rules of the House, what he just said can never happen in this bill. It is not in the House bill, it is not in the Senate bill, it is not within the scope of conference and cannot comply with the motion to instruct. Nor is it offset, as required under the pay-go provisions of the Budget Act.

So the Members from the other side can keep speaking to this issue, and that is fine, they are entitled to speak. But the other Members of the House should be made aware that it all is going to come to naught; it cannot happen in this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we think it is very important that we point out that in this bill before the House, there is not one nickel there for the public school system, and in the motion to recommit is an opportunity to have tax-free bonds there to rebuild our schools.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, I rise to say a few words in support of the motion to instruct, and in spite of what has been said by the sponsor of the bill in chief, I think that it is very appropriate for us to be talking about the need for funding for modernization of our schools and construction of new schools. I do not question the motivation of the sponsor of the bill, but the fact of the matter is that he is ignoring the primary need of education in our country.

More than 90 percent of our students attend the public schools. Two-thirds of schools across this country, and it is true in New York, two-thirds of the schools are in need of major repair or rehabilitation or rebuilding. In the district that I represent in New York, 60 percent of the schools are in such need.

Every day, children from kindergarten through the 12th grade are walking into schools where the paint is falling off the walls, the ceiling is falling in in some instances, lavatories are not working, chalkboards are so old that they cannot accept the chalk from the teacher. These schools are in bad need of rehabilitation.

Mr. Speaker, when a child walks into a school like that day after day, week after week, they begin to get the message, and the message is we do not care about them. And pretty soon they ask themselves, why should I care about them? That is why there are 1.7 million people in prison in this country; one of the reasons at least.

We need to pay attention to our schools. This country was built on the idea of free elementary and secondary education. We pioneered that idea. We were the first country in the world to invent that idea. We are falling far behind in educating our elementary and secondary schoolchildren, and one of the reasons is that our school buildings are falling apart.

Mr. Speaker, they cannot accept wiring for the Internet they are so old. Our kids cannot take advantage of new technology because the building that they are going to school in cannot accept the wiring for the Internet.

This is a scandal. The bill does nothing to deal with this problem; the motion to instruct does. We need to pay attention to our public schools.

Mr. ARCHER. Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, is the gentleman from Texas (Mr. ARCHER) certain nobody wants to speak on this on the other side this time?

Mr. Speaker, I yield 2 minutes to the gentleman from the sovereign State of Georgia (Mr. LEWIS), the deputy minority whip.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend and colleague, the gentleman from New York (Mr. RANGEL) for yielding this time to me.

Mr. Speaker, so-called private savings accounts do nothing to improve our public schools. They are a way of using the Federal Tax Code to undermine public education. Private saving accounts drain resources from our public schools and hurt the vast majority of our students.

Our public schools need help. One out of every 3 schools need major repair and reconstruction; 90 percent of our students attend public schools; private savings accounts do nothing to help these students. Instead they deny the many and reward the privileged few.

Instead of draining our public schools of resources, we should be devoting our resources to improve public schools for every student.

In the words of Thomas Jefferson, education is the foundation of our democracy. Education is the great equalizer.

I urge all of my colleagues to vote yes on the motion to instruct offered by the gentleman from New York (Mr. RANGEL). Vote for school construction and modernization. Repair our crumbling school buildings. Support an education system in America that all of our Nation's children can use.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. ROYBAL-ALLARD).

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong support of the motion to instruct offered by the gentleman from New York (Mr. RANGEL).

Mr. Speaker, it is unconscionable that this body has agreed to spend $1.6 billion over 10 years to help children to attend private schools when thousands of our public schoolchildren are trying to learn in schools that are overcrowded and in desperate need of repair. We should be spending this money where it is truly needed, to repair and to rebuild our public schools.

The need for new schools is staggering. We currently have the highest number of students in the history of this country, and according to the Department of Education, enrollment will continue to grow at a considerable rate for the next 10 years.

□ 1115

In order to keep pace with this growth, we will need to build 6,000 new schools over the next 10 years just to maintain current class size.

Further, many of our existing schools are in desperate need of repair. According to a 1998 report by the American Society of Civil Engineers, United States schools are in worse shape than any other part of our Nation's infrastructure, including roads, bridges and mass transit.

Studies have produced strong evidence of the link between academic achievement and the condition of our schools. Leaky roofs, buildings in disrepair, and overcrowded classrooms are not merely annoyances or inconveniences; they are barriers to learning, and this is simply not acceptable.

As the new millennium approaches, it is more important than ever to ensure that our children have safe, modern physicians in which they can acquire the education necessary to compete in our high-tech economy. This vote is a small step to help our schools accomplish this goal. I urge my colleagues to vote in favor of the Rangel motion to instruct.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume simply to again correct the gentlewoman as to the factual content of her statement. There is nothing in this bill that sends money to private schools in this country, and they can say it as often as they wish.

She said, we should not be sending Federal dollars to private schools. Nothing in this bill does that. This bill gives an incentive to parents to save for their children's education. That is all it does. If a parent elects to send their child to a public school, they can use this money for innumerable efforts to improve their child's chance to get a better education in a public school. For tutors, for extra books, for computer equipment, for special help for the special needs of a disabled child going to a public school.

That is what this bill does. So I regret that there is so much misinformation that has been put in the record today about what this bill does not do.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself 1 minute.

It is true that there is no direct benefit to the private school as a result of this, but it does take away from revenues as a result of the tax credit that can be used by parents who do send their children to private school. And while it is not much individually, collectively, with all of the people that gain the benefit that never asked for it, it runs into billions of dollars.

This money could be used for taxi cabs, for private cars, for baby-sitters, for relatives who come in, anything one wants to use it for. Talk about simplifying the Tax Code. This thing ought to be pulled up by its roots, because it allows for anybody with a little imagination that sends their kid to private school to deduct anything that they can think of without a disability for the kid. Books, any kind of books. There is not going to be any audit as to what was done.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts, (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL), for yielding me this time.

Let me just simply say, Mr. Speaker, that it is clear that this bill provides an opportunity for people who have this tax credit to use that money not only for private school, but for other matters also. But the fact remains, private schools will see the benefit of this money, and families that are already able to send their children to private schools will be able to use it for that.

As the gentleman says, the individual benefit is almost minuscule, $7 to $37. The fact is, the aggregate amount is going to be deferred for the use of public schools. As public officials, we have the responsibility to use tax money for the public benefit for the largest amount of people possible. Ninety percent of this Nation's children go to public schools. That is how we ought to use the money.

Time and again I hear people take the floor, deploring the conditions in some of our public schools, wishing that they were as good as the very good public schools that we do have out there. If we were to spend some of that money on the condition of those schools, the rehabilitation and the reconstruction of these schools, we would be moving in that direction.

Why are we talking about something else when we should be talking about making it possible for every child to go to school in an environment where they can learn? Some of the public schools have been neglected, and people here would not send their children, would not go to work in a building like that. The fact of the matter is, when I go out to the schools in my district, and I visit several every week, the mayors and the school committee people, the councilmen and the select people say, can the Federal Government not do something to help us with the huge construction costs for the rehabilitation and reconstruction of our schools? The answer is yes, we can, if we have the will. Unfortunately, the majority does not have the will to do that.

Mr. ARCHER. Mr. Speaker, I am compelled again to yield myself such time as I may consume to respond to the gentleman's emotional statement to the House, and to say that there is a time and a place to debate this issue. This bill is not the time or the place.

This motion to instruct cannot be implemented within the rules of the scope of conference, and yet the motion to instruct, by its own terms, says that it must live within the rules of the scope of conference. So all of the emotion, all of the debate on this issue should be saved for another time when this issue is truly before the House of Representatives and would be appropriate at that time.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, how much time do we have remaining on this side?

The SPEAKER pro tempore (Mr. DUNCAN). The gentleman from New York (Mr. RANGEL), has 7 minutes remaining; the gentleman from Texas (Mr. ARCHER) has 14 minutes remaining.

Mr. RANGEL. Mr. Speaker, it is my understanding that there are not going to be any other speakers on the other side of the aisle, and I would like to close the debate, if there is not going to be another speaker. Is there?

Mr. ARCHER. Mr. Speaker, I would say to the gentleman, unless there are more nonfactual comments made from his side, there is no need for any further discussion on my side.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it would seem to me that under the rules of the House that if we did receive overwhelming support for the motion to instruct, and since the gentleman and I have worked so closely together in the past, we could waive the points of order and adopt what is in the motion to instruct and get on with the people's business.

Mr. ARCHER. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Speaker, as I read the gentleman's motion to instruct, it says that whatever is accomplished must be accomplished within the scope of the conference, and I think the gentleman is aware that that cannot occur irrespective of how strongly we might wish to work together.

So a motion to instruct would be nonoperative, no matter what comity, and that is spelled C-O-M-I-T-Y, might exist between the gentleman and the chairman in the conference committee.

Mr. RANGEL. Well, Mr. Speaker, the chairman well knows that there was a time that both the gentleman and I thought that we could not accomplish things in conference that we were able to do. While it is true that we had to look at a potential veto that the President had in the last tax bill, nevertheless it motivated us to do things we never thought we would be able to accomplish, and I think the same situation exists here today.

Mr. ARCHER. Mr. Speaker, if the gentleman would yield further, I just would reiterate that the motion to instruct, by its own terms, would prevent us from being able to do what the gentleman would like.

I thank the gentleman for giving me an opportunity to have this exchange with him.

Mr. RANGEL. Mr. Speaker, I appreciate the feeling of the chairman, and I know the gentleman would want to improve the legislation if he felt that he could, and I think if we can see that the House would work its will, that we could do something.

Meanwhile, Mr. Speaker, I yield the remainder of my time to the gentleman from Michigan (Mr. BONIOR), the minority whip, to close the debate on this very important bill, and especially to support the motion to instruct.

Mr. BONIOR. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL), my dear friend.

Let me just begin my remarks by suggesting to my friend from Texas (Mr. ARCHER), for whom I have a deep amount of respect and with whom I have enjoyed serving here for many, many years, that as a former member of the Committee on Rules, someone who is on sabbatical from the Committee on Rules, I can assure him, and he knows this already, and I can assure all those who are listening, that we can do almost anything we want in conference around here with the proper amount of will and desire.

Secondly, the other point I want to suggest here is that it is always time to talk about education in this body. There is no more important issue that we can engage in on the floor of this House than education and the future of our children who are our most precious resources.

As parents, we need to take responsibility for their education. We need to take the time to read to them, help them with their homework, to work with their teachers, to get involved in their schools and in their communities, and the overwhelming majority of these schools are public schools. In fact, nine out of ten children in America attend public schools, and it is the quality of these public schools today that will determine the strength and the prosperity of our Nation tomorrow. We cannot forget that. We can never forget that nine out of ten of our children go to the public schools.

That is why we on our side of the aisle believe we must renew and deepen, as often as we can, our commitment to public schools by reducing class size, by improving discipline, which is key, it is key to everything in life, but it is certainly key to education, and by investing in the technologies, the new classroom technologies that are opening up vistas and horizons for our students to prepare them for the challenges of this next century.

Now, Mr. Speaker, studies show that children learn better in smaller classes, and that their success in the classroom at an early age can have a direct impact on their economic success later in life. We have an obligation to offer them all the educational opportunities that we possibly can so that they can reach the potential and achieve their own dreams.

Now, reducing class size and modernizing our schools should be one of our top priorities. We all know what a terrible message we send our children if they go to a school where the plaster is falling in, the roof is leaking, where the toilets do not work in the lavatories, where there are not enough facilities to do the work that is necessary in the school, there are not enough supplies. We also understand that in this modern age that we are living in, this swift technology age that we are living in, it is important that we make the investments that we can in our future for the education of our children.

But quality instruction, safe classrooms, challenging course work and universal Internet access is not going to happen if we just wish it is going to happen. It is only going to happen if we make it a priority, our number one priority in this Congress, and send the message not only from this body, but to the local and State levels, that this is where we want our resources invested. It will take a determined commitment from all of us, parents, legislators, teachers, business community to make this happen. That is why I am happy to stand here late this morning with my dear friend from New York (Mr. RANGEL).

I am confident we can and will make it happen. Our children's education and America's economic future depend on our public schools, depend on our public schools. They put a premium, our public schools should put a premium on excellence.

So today we have an opportunity to promote such excellence by reducing class size, by making sure that we have the discipline that is important in our schools, and by modernizing our schools, getting them up to code, getting them up to standard, making sure they are wired so our children have access to the greatest opportunities that are out there in their learning experience.

Vote for the Rangel motion to modernize our schools.

Mr. HINOJOSA. Mr. Speaker, I rise today in support of the motion to instruct conferees offered by my colleague CHARLES RANGEL to the Private School Expense Act, H.R. 2646. I do so for the very simple reason that to support his motion makes good sense. By supporting his motion we are saying we support funding for school modernization and construction. Quite honestly, I do not see how anyone in good conscience could oppose this.

I am someone who believes that the quality of our public school facilities reflects the value that we place on our children and their education. In my state, Texas, high school enrollment alone is projected to experience a 19% increase over the next decade. Given this significant increase in the student population, we, in Congress, must jump-start efforts at the local level to repair and modernize school structures.

A February 1995 General Accounting Office (GAO) report entitled School Facilities: Condition of America's Schools estimated that it would cost about $112 billion in capital improvements to restore America's multi-billion dollar investment in schools to good overall condition. This same report expresses continuing concerns about the ability of schools to provide adequate instructional programs with inadequate buildings and equipment.

Building and renovating public schools must be a national priority. We can't expect young minds to develop into great minds unless we provide them with good school infrastructure. Leaky roofs, busted pipes, non-functioning restroom facilities, lack of cafeteria access, etc., leave our children with a sense of hopelessness. We need to lift our children up in mind and body, and encourage them to be the best that they can be. We can do so by ensuring that the school buildings they enter every weekday of the year meet the same exacting standards as our own workplace environments.

Mr. Speaker, I support the Rangel motion to instruct and I encourage my colleagues do likewise.

□ 1130

Mr. ARCHER. Mr. Speaker, as I understand it, the gentleman from New York (Mr. RANGEL) has yielded back the balance of his time and although there is much that I would like to say, in accordance with the spirit that exists between us, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DUNCAN). All time has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from New York (Mr. RANGEL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ARCHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 192, nays 222, not voting 18, as follows:

[Roll No. 136]

YEAS—192

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Frank (MA)
Furse
Gejdenson
Gilman
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Klink
Kucinich
LaFalce
Lampson
Lantos
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Tanner
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weller
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NAYS—222

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Sabo
Salmon
Sanford
Saxton
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—18

Baesler
Bateman
Christensen
Dixon
Doyle
Dunn
Frost
Gephardt
Gonzalez
Hastings (FL)
Hefner
McNulty
Neumann
Parker
Radanovich
Schaefer, Dan
Skaggs
Stupak

□ 1151

The Clerk announced the following pairs:

Mrs. CUBIN changed her vote from "yea" to "nay."

Mr. LIPINSKI and Mr. WELLER changed their vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. DUNCAN). Without objection, the Chair appoints the following conferees:

For consideration of the House bill and Senate amendment and modifications committed to conference:

Messrs. ARCHER; GOODLING; ARMEY; RANGEL; and CLAY.

There was no objection.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 420 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 420

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence now printed in the bill, modified by striking section 401 (and redesignating succeeding sections accordingly). That amendment in the nature of a substitute shall be considered by title rather than by section. Each title shall be considered as read. Points of order against that amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI or clause 5(b) of rule XXI are waived. No amendment to that amendment in the nature of a substitute shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Printed amendments shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. Goss) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to my friend, the gentlewoman from New York (Ms. Slaughter), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 420 is a modified open rule providing for the consideration of H.R. 3694, the Fiscal Year 1999 Intelligence Authorization Act. What makes this rule modified open instead of fully open is a preprinting requirement for amendments, whose purpose is to ensure that the Permanent Select Committee on Intelligence has an opportunity to work with Members seeking to offer germane amendments to ensure that important issues are addressed without threatening disclosure of sensitive, classified information. This preprinting requirement has become standard procedure for consideration of the annual intelligence authorization and has not been controversial.

Because the leadership sought to have this bill on the floor today, the rule also includes a waiver of points of order against the consideration of the bill for failure to comply with the clause 2(1)(6) of rule XI, which requires a three-day layover of a committee report.

The committee's report was properly filed on Tuesday of this week, and Members have had notice of availability of classified portions of the authorization measure since late last week when public announcements were, indeed, made from the floor.

It is my understanding that there is no objection to this slight speeding up of the schedule to accommodate changes stemming from the unrelated scheduling matters and to accommodate Members' travel plans.

The rule provides for 1 hour of general debate on the bill, time equally divided between the chairman and ranking member of the Permanent Select Committee on Intelligence.

In addition, the rule makes in order as an original bill for the purpose of an amendment the committee amendment in the nature of a substitute now printed in the bill, modified by striking section 401 of the bill.

That modification, a self-executing change accomplished through the rule, is designed to address a Budget Act technicality relating to a provision of the bill extending the early-out retirement program for the CIA.

We were advised that, due to the fact that we still await this year's budget resolution, the early-out provision found in title IV of the bill causes a Budget Act problem, and so the provision is being removed from the bill with the understanding that the substance of the issue will be addressed at a later stage of legislative process of H.R. 3694.

□ 1200

The rule further provides that the amendment in the nature of a substitute shall be considered by title and that each title shall be considered as read.

The rule also waives points of order against the committee amendment for failure to comply with clause 7 of rule XVI prohibiting nongermane amendments or clause 5(b) of rule XXI, prohibiting tax or tariff provisions in a bill not reported by a committee with jurisdiction over revenue measures. Both of these waivers apply to a section of H.R. 3694 regarding the application of sanctions laws to intelligence activities in title III of the bill. That provision is nongermane to the introduced version of H.R. 3694, and it deals with subject matter falling within the jurisdiction of the Committee on Ways and Means.

Based on an exchange of letters between the two committees, there is no controversy on this matter. However, these waivers are necessary under the rules of the House. And during general debate, I will introduce into the Record that correspondence between the two committees.

I would also point out for the record the Committee on National Security has, by letter, discharged itself from consideration of the matters in this bill that fall within its purview.

Mr. Speaker, the rule permits the Chairman of the Committee of the Whole to postpone the vote on any amendment and reduce voting time to 5 minutes on any series of questions provided that the first vote shall not be less than 15 minutes.

Finally, the rule provides for the traditional motion to recommit with or without instructions.

Mr. Speaker, that was a long explanation of a rule that is, in fact, straightforward, simple, and traditional for this piece of legislation. I know of no controversy about this rule. I urge Members to support this rule.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Florida for yielding to me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I do not oppose this rule. It allows amendments that are germane to be offered. However, H. Res. 420 does include one waiver of a House rule that troubles me. The rule waives clause 2(L)(6) of rule XI that provides for a 3-day layover of the committee report accompanying the bill.

This House rule allows Members time to study the report and decide whether they would like to offer or support amendments. The 3-day opportunity to study the bill and report is particularly important in this case because many provisions of the intelligence bills are classified and, if a Member wishes to review those portions, a Member must make arrangements with the Permanent Select Committee on Intelligence. To cut short the standard review time under these circumstances is unfortunate.

And while I understand that the majority and the minority on the Permanent Select Committee on Intelligence had no objection to the waiver, we should note that it is not the committee's rights but the rights of Members not on the committee that the House rule is designed to protect.

The gentleman from Florida (Mr. Goss), the chairman of the committee, is to be commended for avoiding the need for waiver of the Budget Act by self-executing in this rule an amendment striking the offending section of the bill.

The Permanent Select Committee on Intelligence also worked with the Committee on Ways and Means to gain its acquiescence to a violation of a House rule designed to protect the jurisdiction of the Committee on Ways and Means.

While I often question the need for a requirement for preprinting in the Congressional Record, the sensitivity and the complexity of the intelligence authorization bill justifies the requirement in this case. Mr. Speaker, this rule allows the full House to consider germane amendments offered by any Member. Under the rule, the House will be able to debate important questions, such as whether to reduce the overall size of the intelligence budget.

Mr. Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I rise in support of the rule.

I think it is a fair rule. Among other things, it, in fact, allows this Congress to begin debating major priorities as to whether or not we are going to increase spending for the intelligence budget, despite the end of the Cold War and despite the fact that while we increase funding for the intelligence budget, we have cut spending in Medicare for our senior citizens, cut spending for veterans' programs, cut spending in a dozen different areas that the middle-class and low-income people of this country need.

So I applaud the chairman for bringing forth this rule. It is a fair rule and it is going to allow us to have a serious debate on what we want this Congress to be doing for the American people.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume to address the concerns of the gentlewoman from New York about the notice given and accommodating Members' schedules today.

I am happy to report that several Members did take advantage of the opportunity to come to the Permanent Select Committee on Intelligence and participate in review of materials that were of interest to them. So I think the word has gotten out and I think we have done our job properly.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. DUNCAN). Pursuant to House Resolution 420 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3694.

□ 1205

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, with (Mr. THORNBERRY) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida (Mr. GOSS) and the gentleman from Washington (Mr. DICKS) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to bring the fiscal year 1999 intelligence authorization to the floor today. As a strong believer in the congressional oversight process, I hope Members have taken the opportunity to examine this year's bill, including its classified annex and, indeed, I know several Members have come upstairs to do just that.

The annual intelligence authorization, and its exhaustive review of intelligence activities and capabilities that accompanies it, form the cornerstone of our oversight process. This is truly a valuable exercise for the Permanent Select Committee on Intelligence, for Congress as a whole, and I think it is beneficial to the intelligence community as well.

I want to take this opportunity to thank the members and staff of the Permanent Select Committee on Intelligence from both sides of the aisle whose hard work and long hours have enabled us to produce a responsible, nonpartisan bill that was unanimously approved in committee.

I would also like to thank the gentleman from South Carolina (Mr. FLOYD SPENCE), chairman of the Committee on National Security, and the gentleman from Florida (Mr. BILL YOUNG), chairman of the Subcommittee on National Security of the Committee on Appropriations, for their input and able assistance with this legislation.

H.R. 3694 authorizes funds for the fiscal year 1999 intelligence and intelligence-related activities of the United States Government. That is a big order. The National Security Act requires Congress specifically to authorize all intelligence spending. That is unique.

As Members are aware, many of the details of the intelligence budget are classified, including the total fiscal year 1999 budget request, or top line. I can say, however, that H.R. 3694's top line is substantially in line with the President's request. The committee came in a mere one-tenth of 1 percent above the President's level.

I would like to take a moment to explain the process by which the committee arrived at this recommended spending level. What we did not do was adopt an arbitrary number and fill in the blanks until we reached our goal. Instead, the Permanent Select Committee on Intelligence looked at each line of every program, examined its effectiveness and how it fit in with the overall U.S. intelligence requirements and priorities in today's world. Then we made our decisions based on the merit and value of each program.

Mr. Chairman, throughout the committee's review of U.S. intelligence capabilities, whether we were looking at satellite reconnaissance or human intelligence, one fact stood out. The threats that face our Nation demand that the intelligence community maintain a worldwide vigilance and the resources to deal with a multitude of challenges and new challenges.

The Cold War is over and the threat of nuclear war has been reduced. Or has it? Unfortunately, the world still is a dangerous place for the United States and its citizens, as we read in papers almost daily about concerns about political stability in places like Russia, the chain of command in Russia over the nuclear weapons, or perhaps even the Chinese intercontinental ballistic missiles which we read in the newspapers are targeted against U.S. cities, what they call city-buster bombs and an ICBM capability.

To demonstrate this, we need look no further than our continuing struggles with Iraq. Earlier this year the United States came to the brink of military confrontation with Saddam Hussein; yet we did so without all of the information necessary to support a serious campaign. There were serious shortfalls in our ability to support policymakers and military commanders at this critical time. Such gaps endanger U.S. lives and interests and are not acceptable, tolerable, or necessary in today's world.

We should not ignore Iraq or Iran or Libya or North Korea or other rogue nations that are striving for and, in many cases achieving, the means to threaten the United States. The risk that a terrorist group or a rogue country will use a chemical, biological, or nuclear weapon against the U.S. or an American citizen or American interests here or abroad is increasing. Despite this fact, U.S. intelligence capabilities have dwindled since the end of the Cold War. In effect, we are asking the intelligence community for more and we are giving them less to do it. And we are counting on them more.

The intelligence community needs to change the way it does business to address these new threats. This year's authorization identifies five areas that deserve particular attention.

One, our signals intelligence capabilities are in serious need of modernization to keep up with the fast pace of communications and technology improvement. I think it is fair to say that the golden days of SIGINT may, in fact, be behind us, and we have been enjoying the benefits of a very good SIGINT activity for many years. That may be over because of technology. We need to deal with that.

Two, our clandestine espionage, or human intelligence as it is called, that infrastructure needs to be rebuilt and refocused on current priorities. It is fair to say, I think, that the cupboard is nearly bare in the area of HUMINT. We are badly outnumbered by hostiles in a lot of dangerous places in the world. That is intolerable, unacceptable, and unnecessary.

The intelligence community needs to increase its analytical capability in order to absorb and accurately gauge the immediate and long-term implications of an ever-increasing volume of information. We have stuff on hand we have not reviewed. We have not exploited it. And it is stuff that would be useful to our decision-makers. We do not have as much analytical capacity as we need. That can be fixed.

Covert action capabilities need to be restructured. I said capabilities. Nobody is calling for covert action. We are calling for more arrows in the quiver in case we do need it to suit the needs of today's world and how to deal with problems we come against.

Fifth, and last, we need to ensure we maintain an active research and development program in all intelligence areas.

H.R. 3694 addresses each of these priorities, in some cases by providing additional funding; in others by redirecting existing programs, resources, or restructuring ongoing programs.

In addition, the committee's review raised some fundamental questions that the committee will review over the coming year. These include, what are the proper priorities for our future overheads systems? How can we manage the cost of a national reconnaissance program and yet meet other critical requirements? Is the intelligence community striking the right balance between our capacity to collect intelligence and our capacity to analyze what is collected? Is the intelligence community prepared to face the challenges of information and operations, or cyber-warfare?

The future of our intelligence programs depends on finding the answers to these and other questions. But for today. today we understand very well our needs. We have provided for them in this legislation. I think we have achieved an excellent balance. Mr. Chairman, I urge all members to support H.R. 3694 today.

Mr. Chairman, I submit the following:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, May 4, 1998.

Hon. PORTER GOSS,
Chairman, House Permanent Select Committee on Intelligence, House of Representatives, Washington, DC.

DEAR PORTER: I am writing in response to your letter of April 29, 1998, which addresses H.R. 3694, as reported by the House Committee on Intelligence (Permanent Select) on April 29, 1998. H.R. 3694 would amend Section 905 of the National Security Act of 1947 by striking out "January 6, 1998" and inserting in lieu thereof "January 6, 1999". The bill contains an extension of application of sanctions laws to intelligence activities.

As your letter notes, this provision falls within the jurisdiction of the Committee on Ways and Means. Accordingly, the Committee would ordinarily meet to consider the bill. However, because the bill, as reported, extends for one year an already existing application of sanctions laws to intelligence activities, I do not believe that a markup of the bill is necessary.

I appreciate your consultation with the Committee in advance. I request your full support in joining me to prevent any other expansion or changes to the application of sanctions laws for intelligence activities other than the one year extension agreed to here. I would further appreciate your consultation with respect to this provision on any future Intelligence Authorization bills, including a mere reauthorization for additional periods of time. Of course, if an agreement cannot be reached, the provision would be subject to a point of order pursuant to Clause 5(b) of House Rule XXI.

I would ask that a copy of our exchange of letters on this matter be included in the record during floor consideration.

Thank you for your cooperation and assistance on this matter. With best personal regards.

Sincerely,
BILL ARCHER,
Chairman.

HOUSE OF REPRESENTATIVES, PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, April 28, 1998.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR BILL: I am writing to you concerning the planned inclusion of a provision in the "Intelligence Authorization Act for Fiscal year 1999" (H.R. 3694), which we expect to mark up on Wednesday, April 29, 1998, and report to the House early next week. I have included a copy of the proposed section for your consideration.

As you know, this provision relates to the application of sanctions laws to intelligence activities and simply extends the life of the provision for one additional year. As you will recall during last year's consideration of the Intelligence Authorization Act for Fiscal Year 1998, and based upon our mutual understanding and agreement as to your Committee's jurisdiction over matters relating to taxes and tariffs, this provision was included in the Authorization Act for Fiscal Year 1998 as section 304 of that Act. A copy of that provision, as enacted (P.L. 105-107), is also included for your review.

I hope that we can, consistent with the agreement reached last year, once again agree that this provision may be included in H.R. 3694, and any resulting Conference Report, without objection from the Committee on Ways and Means.

There is no doubt that this provision falls squarely within the scope of Clause 5(b) of House Rule XXI, which provides that no tax or tariff provision may be considered by the House that has not been considered by the Committee on Ways and Means.

This provision is of critical importance to the protection of intelligence sources and methods whenever a proliferation violation has been identified and sanctions are deemed to be the appropriate method of discipline. This provision supplies the President with the necessary flexibility to address the competing interests of punishing the violators and protecting our national security interests at the same time. I appreciate your recognition of this important aspect of this section of our bill.

I would also offer that any modification of this provision in future Intelligence Authorization bills, beyond a mere reauthorization for additional periods of time, will be subject to consultation between our Committees, and, if agreement cannot be reached, subject to points of order pursaunt to Clause 5(b) of House Rule XXI.

Thank you for your cooperation in this regard and I look forward to your support for H.R. 3694.

With all best wishes, I remain
Sincerely yours,
PORTER J. GOSS,
Chairman.

"(b) BENEFITS, ALLOWANCES, TRAVEL, INCENTIVES.—An employee detailed under subsection (a) may be authorized any benefit, allowance, travel, or incentive otherwise provided to enhance staffing by the organization from which the employee is detailed.

"(c) ANNUAL REPORT.—Not later than March 1, 1999, and annually thereafter, the Director of Central Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report describing the detail of intelligence community personnel pursuant to subsection (a) during the 12-month period ending on the date of the report. The report shall set forth the number of personnel detailed, the identity of parent and host agencies or elements, and an analysis of the benefits of the details.".

(b) TECHNICAL AMENDMENT.—Sections 120, 121, and 110 of the National Security Act of 1947 are hereby redesignated as sections 110, 111, and 112, respectively.

(c) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the items relating to sections 120, 121, and 110 and inserting in lieu thereof the following:

"Sec. 110. National mission of National Imagery and Mapping Agency.
"Sec. 111. Collection tasking authority.
"Sec. 112. Restrictions on intelligence sharing with the United Nations.
"Sec. 113. Detail of intelligence community personnel—intelligence community assignment program.".

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to an employee on detail on or after January 1, 1997.

SEC. 304. EXTENSION OF APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking out "January 6, 1998" and inserting in lieu thereof "January 6, 1999".

SEC. 305. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.

SEC. 306. SENSE OF CONGRESS ON RECEIPT OF CLASSIFIED INFORMATION.

It is the sense of Congress that Members of Congress have equal standing with officials of the Executive Branch to receive classified information so that Congress may carry out its oversight responsibilities under the Constitution.

SEC. 307. PROVISION OF INFORMATION ON CERTAIN VIOLENT CRIMES ABROAD TO VICTIMS AND VICTIMS' FAMILIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) it is in the national interests of the United States to provide information regarding the killing, abduction, torture,

---

(2) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking out the following item: "Assistant Directors of Central Intelligence (3).".

(b) EXPANSION OF DUTIES OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT.—Subsection 102(d)(2) of the National Security Act of 1947 (50 U.S.C. 403(d)(2)) is amended by striking out subparagraph (B) through (D) and inserting in lieu thereof the following new subparagraphs:

"(B) Carrying out the responsibilities of the Director under paragraphs (1) through (5) of section 103(c).

"(C) Carrying out such other responsibilities as the Director may direct.".

SEC. 304. APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking out "January 6, 1999" and inserting in lieu thereof "January 6, 2000.".

SEC. 305. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible

Mr. Chairman, I reserve the balance of my time.

Mr. DICKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Permanent Select Committee on Intelligence strives to report an authorization bill each year which is free of partisan division. While we have been generally successful in that effort, from time to time we have been divided on significant issues of substance.

This year, I am pleased to report that we have produced legislation which is not only bipartisan but without major substantive disagreement as well.

□ 1215

Credit for that result goes to the gentleman from Florida (Mr. GOSS) who has worked tirelessly to ensure that the views of all Members are reflected in the work of the committee. I commend him for the leadership he has exhibited as chairman and for his willingness to work with committee Democrats on matters of importance to us.

For two of the Democratic Members, the gentleman from Colorado (Mr. SKAGGS) and the gentlewoman from California (Ms. HARMAN), this will be the final intelligence authorization bill they will bring to the floor. Although I look forward to working with them to get a conference report enacted, I want to thank them for their many contributions to the work of the committee.

The willingness of the gentleman from Colorado (Mr. SKAGGS) to tackle issues like declassification and the need to make greater use of intelligence in nontraditional ways has been invaluable. And the efforts of the gentlewoman from California (Ms. HARMAN) to encourage development of the complex systems through which intelligence will be collected in the future were also of great assistance.

This will be my last authorization bill, as well. I have enjoyed my 8 years of service on the committee and look forward to keeping up with intelligence issues when they come before the Committee on Appropriations. I have been impressed tremendously by not only the importance of intelligence to our Nation's security, but by the dedication, often under circumstances of great hardship and danger, of the men and women who work in our intelligence agencies.

The authorization bill for fiscal year 1999 will make improvements in intelligence capabilities that need to be modernized either because of technological advances or because they require greater emphasis to respond to changing threats. The bill is only marginally more, in the aggregate 0.1 percent, than the amount requested by the President. Although the committee chose to place a different spending priority on certain items than did the administration, I do not believe that we have done harm to any initiative or activity which the Director of Central Intelligence or the Secretary of Defense consider crucial.

Generating public support for spending on intelligence programs, given their classified nature, is never going to be easy. Although it should be common sense that the possession of information in advance about the military plans of an enemy, the bottom-line position of another government in a diplomatic negotiation, the location of a terrorist cell, or the scientific and technical capability of someone trying to develop a weapon of mass destruction should be invaluable, we sometimes forget that the acquisition of access to that kind of information is time consuming and expensive. I do not believe we need to justify intelligence spending on the basis of some esoteric calculation about whether our national security is more or less at risk than when the Soviet Union was in place.

We will always have threats to our security. Some will be predictable, some will not. Dealing with them requires accurate and timely information, some of which can be provided only by intelligence agencies. There is a cost to maintaining the capability to provide that information when required, and that cost is significant. The cost if the information is not available, however, is potentially far greater.

Our job on the committee is to ensure that the means necessary to provide intelligence on matters which demonstrably affect national security are available at a cost which is not excessive relative to their importance. I believe the 21-year record of the committee in this effort, including the bill now before the House, has been exceptional.

Besides recommending spending levels, an authorization bill and accompanying report also make judgments about the manner in which programs are being managed. I believe that one of the chief responsibilities of an oversight committee is to monitor the activities of the agencies under its jurisdiction in a manner which is both aggressive and thorough. I also believe that oversight should be constructive and fair. I am concerned about the tone of some of the recent criticism of the work of two agencies, the National Reconnaissance Office, (NRO), and the National Imagery and Mapping Agency (NIMA).

The United States has an intelligence capability second to none in the world. Much of that preeminence is due to the performance of the systems acquired and operated by the NRO. These systems are extraordinarily complex and expensive. We are now in the midst of an effort to modernize these systems. When the need for modernization was made clear several years ago by then-Director of Central Intelligence Jim Woolsey, and Congress agreed to embark on a plan to accomplish it, it was with the understanding that substantial amounts of money would have to be expended in the short term to produce savings in the future.

We have spent much of the intervening years altering in sometimes significant ways the components of the plan, which has added to the costs that have to be met in the near term and delayed the realization of the expected long-term savings as well. It is disingenuous to have been a part of this practice and then to complain about the effects it has produced on the NRO's budget.

NIMA is a new agency created less than 2 years ago through the merger of the Defense Mapping Agency and the imagery analysis elements of the CIA and DIA. Like most mergers, this one, which I strongly supported, was not without problems, but I believe that NIMA personnel are committed to having the agency fulfill its important mission successfully.

Earlier this year I wrote to NIMA's customers to ask for an evaluation of their performance. Secretary of Commerce Daley responded that "After working through some initial confusion regarding authority and responsibility for certain products and services, support to civilian agencies is now better than before the individual components were combined into NIMA."

James L. Witt, the Director of the Federal Emergency Management Agency, wrote, "The support and service provided by NIMA to support disaster response activities have been and continue to be outstanding." Sandy Berger, the President's National Security Advisor, complimented NIMA on making a strong effort to provide high-quality analysis and pronounced himself "generally satisfied" with the results.

I do not believe that these comments reflect an agency that is failing to do its job or one that is ignoring the needs of nonmilitary consumers to concentrate on those of the military, as some had feared. Any enterprise involving human beings can be made better, but I think it is not helpful to make final judgments, pro or con, about an agency in its infancy. I offer these thoughts in the hope that they will provide perspective in evaluating the performance of the NRO and NIMA in the days ahead.

Mr. Chairman, H.R. 3694 is a good bill which will advance the interest of military and civilian consumers of intelligence. I urge that it be approved by the House.

I would also like to compliment both the majority staff and the Democratic minority staff. I think this committee has been blessed over the years with an outstanding staff. And I want to particularly thank Mike Sheehy and the Democratic staff members whom I have had the privilege of working with for the last 4 years.

Mr. Chairman, I reserve the balance of my time.

Mr. GOSS. Mr. Chairman, I yield myself such time as I may consume.

I simply want to say that I am very proud to have worked with and learned from the gentleman from Washington (Mr. DICKS) as the ranking member. He has been an extraordinary asset of the United States of America in his capacity as a manager of the portfolio. He brings wisdom, judgment and knowledge about military intelligence and equipment to the table in our committee to the extent that I think no other member has or can at this time. I hope he is not going to leave. But if it turns out that way, we will miss him.

I also hope we are not going to lose anybody else. And for the gentleman from Colorado (Mr. SKAGGS) and the gentlewoman from California (Ms. HARMAN), I share that view with all the other members. I happen to feel that we have got an extraordinary committee and staff, we are doing our job timely and well.

Mr. Chairman, I yield 2½ minutes to the gentleman from New York (Mr. BOEHLERT) to allow him to demonstrate what I have just said.

Mr. BOEHLERT. Mr. Chairman, we find ourselves in both a fiscal and political environment in which we simply cannot fund every system and program we would like. This applies whether intelligence or not intelligence.

However, it is important for the American people to understand just how critical intelligence is to the very survival of our Nation and our way of life. On the way over to the Capitol this morning, I heard a radio announcer refer to this bill as "the bill to authorize America's cloak-and-dagger operation." That sort of a label is correct in a way, but unfortuantely, I believe it unintentionally misrepresents what this bill is all about.

What this bill is about is the wise and prudent funding and oversight of those intelligence collection analysis and dissemination function necessary to provide for the security of our Nation, its interests, and its citizens around the world. We are talking about what I refer to as "counterprograms." We are not engaged in a world war, but we have some very important counterprograms, counterterrorism, counternarcotics, counterproliferation. These are all very important activities, and this bill funds them.

Mr. Chairman, I would like to point out a couple of funcational intelligence areas of particular interest in this bill. The first is the emphasis this bill places on rebuilding leading-edge technology, research and development. It is the basic research and development of new technologies that are the easiest to cut in lean fiscal times. But it is precisely these efforts that our future depends on and that we must pay particular attention to and fund properly.

This bill puts great emphasis on future capabilities, albeit sometimes imprudently at the expense of older so-called legacy systems. Also, this bill emphasizes the need for a strong, well-trained and funded reserve intelligence component.

Mr. Chairman, there are a lot of things I could say about this bill, and I do not have the time to say them. Just let me say that as someone who tried to be very attentive to my important responsibilities on this committee, I admire the way the chairman and ranking member have worked cooperatively. I admire the seriousness of purpose of all of the members. I admire the product that we are producing, and I commend it to the attention of all my colleagues and the American people.

We are doing the people's business in a wise and prudent manner.

Mr. DICKS. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Chairman, I thank the distinguished gentleman from Washington (Mr. DICKS), the ranking member, for yielding this time to me and for his leadership on this important committee.

I rise, Mr. Chairman, to engage the gentleman from Florida (Mr. GOSS), the distinguished chair of the Permanent Select Committee on Intelligence, in a colloquy concerning section 303 of the bill.

Before doing so, I want to commend our chairman for his leadership also and to thank him for including full funding for the environmental program in this legislation before us today, the recognition that new issues need to be addressed, not that the environment is a new issue, but new compared to its being a priority on the Permanent Select Committee on Intelligence and in the intelligence authorization bill. In any event, I rise to engage the gentleman in a colloquy.

As the chairman knows, this section of the bill extends for 1 year the authority of the President to delay the imposition of a sanction upon a determination that to proceed with the sanction would risk the compromise of an ongoing criminal investigation or an intelligence source or method.

My first question, Mr. Chairman, is whether the legislative history of this provision, enacted in 1995, would be applicable to the extension of the authority for 1 more year?

Mr. GOSS. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Florida.

Mr. GOSS. I would assure the gentlewoman from California that is the intent of the committee, that the legislative history of this provision, as it was developed in the debate in 1995, is applicable to the exercise of this authority. Indeed, the report to accompany H.R. 3694 reaffirms the joint explanatory statement of the committee of conference on the Intelligence Authorization Act of Fiscal Year 1996 to make completely clear that the original legislative history of this provision continues to govern its implementation.

Ms. PELOSI. Mr. Chairman, is it then the case that the committee intends that the provision will be narrowly construed and used only in the most serious of circumstances when a specific sensitive intelligence source or method or criminal investigation is at risk?

Mr. GOSS. If the gentlewoman would further yield, that is certainly the intent of the committee.

Ms. PELOSI. Is it also the case that the law requires the intelligence source or method or law enforcement matter in question must be related to the activities giving rise to the sanction and the provision is not to be used to protect generic or speculative intelligence or law enforcement concerns?

Mr. GOSS. That is also the case.

Ms. PELOSI. Finally, Mr. Chairman, does the committee expect that reports concerning a decision to stay the imposition of a sanction shall include a determination that the delay in the imposition of a sanction will not be seriously prejudicial to the achievement of the United States' nonproliferation objectives or significantly increase the threat or risk to U.S. military forces?

Mr. GOSS. Yes, it does.

Ms. PELOSI. Mr. Chairman, I thank the distinguished chairman of our committee for engaging in this colloquy and for his confirmation of the understanding that we had when this provision was first enacted.

Mr. DICKS. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I am pleased to yield to the gentleman from Washington.

Mr. DICKS. I wanted just to say that I concur in all the statements made by the chairman. This is also the understanding that I have of this provision.

Ms. PELOSI. I thank the ranking member for his cooperation and concurrence in the view of the chairman.

Mr. DICKS. And I want to compliment the gentlewoman for her diligence on this important matter.

□ 1230

Mr. GOSS. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. YOUNG), chairman of the Appropriations Subcommittee on National Security.

Mr. DICKS. Mr. Chairman, I yield 30 seconds to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I rise in strong support of this intelligence authorization bill. I want to compliment the gentleman from Florida (Mr. GOSS). He has done an outstanding job. I have had the privilege of working on the Permanent Select Committee on Intelligence for 14 years now, two different terms. I have to say that the gentleman from Florida has been outstanding in the leadership that he provides for the committee and also to the gentleman from Washington (Mr. DICKS), we have worked together for so many years, he is a member of our subcommittee. We have the unusual relationship of being members of the Permanent Select Committee on Intelligence as well as members of the appropriations subcommittee that provides the funding for the Permanent Select Committee on Intelligence. The gentleman from Washington does a really good job. He is very dedicated to a good intelligence bill.

That is what this is. This is a good intelligence bill. It provides not as much as we would like to have provided for our intelligence activities, but it provides the best that we can with the budget constraints that we are faced with today.

There are those of us who believe that we are not making a strong enough investment in our national security, at any part of our national defense structure, whether it be the operational military forces or the intelligence community. But the intelligence community is the eyes and ears of our national capabilities. We have to have information, we have to know what is happening in the world, we have to know what threats there might be out there.

The intelligence community does an outstanding job, I might say. I might be criticized for that statement because all you ever hear is the bad news. If an intelligence agent happens to go bad, which does happen on occasion, or if a mistake is made, you hear about that but you do not hear about the good things that the intelligence community brings to our overall national security effort. I wish we could talk about some of those on the floor in open session today, but obviously we cannot because it is essential that the sources that we use for developing our own intelligence information and the methods that we use and the people who are involved in this have to be protected. Their mission is extremely important and their lives could very well be at risk if we went into a lot of detail.

I know that there will probably be some amendments offered to reduce the authorized level of funding in this bill. I would urge the Members not to support this. This bill does not provide enough authorization for funding to do the things that we ought to be doing in our national security effort, but it is the best we could do with the budget constraints.

I suggest that we defeat any amendments that would tend to reduce the investment in our intelligence capability and let us pass this good bill and get it on to the Senate so we can get it to the President.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I just want to compliment the gentleman for his statement and I want to concur in it. Sometimes I think there is a question out there about whether intelligence is really that important. I think it is our ace in the hole. I think it is what gives America an extraordinary advantage over any potential foe. Our human intelligence, our national technical means, are remarkable assets to this country. In every conflict we have been in in recent years, they have given us a tremendous advantage. I think the work of the defense subcommittee and the authorization committee to come up with a good bill that keeps that going is essential to the future of the country.

Mr. YOUNG of Florida. Mr. Chairman, I appreciate the gentleman's comments. He is right on track.

Mr. DICKS. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on National Security.

Mr. SKELTON. Mr. Chairman, I rise in support of H.R. 3694. I have a rather unique position and opportunity. As ranking member of the Committee on National Security and as a member of this Permanent Select Committee on Intelligence, I can personally testify to the importance of intelligence to our military commanders in the field, to our troops who are daily supporting our peacekeeping efforts in places like Iraq, in Macedonia and to our pilots in the Iraqi no-fly-zone.

Cicero once said that gratitude is the greatest of all virtues. I am not sure we say thank you enough to the members of the intelligence community. What they do so often is not known. Yet it pays off in knowledge to the commanders in chief in the field, to the President, to the Secretary of Defense, to the Secretary of State, and, of course, to this body.

Intelligence is critical to successful operations and to the safety of our men and women in uniform. Intelligence also plays a crucial role in the Joint Chiefs of Staff's plan for the 21st century, Dominant Battlespace Awareness, which hinges on our intelligence investment.

Critical to the Joint Chiefs' plan, as well as to daily air, sea, and ground operations, are the mapping products created by the National Imagery and Mapping Agency. Although I support this bill, I am frankly concerned with the reductions in the operations and maintenance funds for the National Imagery and Mapping Agency. I think the cuts are unjustified and excessive. I fear that they will have an unacceptable impact on the production of products for the unified commands and for the State Department peacekeeping negotiations. I am also concerned that these cuts will result in the unwarranted elimination of jobs from an agency that does not have sufficient staffing to meet military requirements today.

Mr. GOSS. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from New Hampshire (Mr. BASS).

Mr. BASS. Mr. Chairman, as a member of the Permanent Select Committee on Intelligence, I welcome the opportunity to speak in support of H.R. 3694, the Intelligence Authorization Act for Fiscal Year 1999. I would also like to associate myself with the very good comments of the gentleman from Florida (Mr. YOUNG) and the gentleman from Washington (Mr. DICKS) concerning the strategic importance of intelligence. I would only add to that by saying that intelligence is also more than military and tactical in nature. There are civilian aspects to intelligence that are very important to the national security of this country that go beyond support to our military and provide the kind of protection for the citizens of the United States, not only domestically but abroad, that we all need and cherish.

This is one of the safest countries in the world in which to live. Part of the reason for that is the fact that we know what our enemies are doing and we know what their plans and intentions are better perhaps than anybody else in the world.

I would like to address if I could for a second the budget itself. The legislation before us today refocuses the President's request upon four major priorities for intelligence in the next century. Firstly, it accelerates the recapitalization of a signals intelligence program that has produced invaluable information against the new transnational targets of the post-Cold War world.

Secondly, our bill begins the process, after years of drawdowns and reductions, of rebuilding a clandestine human intelligence program that has provided much of our intelligence on the plans and intentions of terrorists, traffickers and other adversaries.

Thirdly, our bill continues the strengthening of the analysis part of intelligence collection that provides both assessment to our policymakers and guidance to the collectors.

Finally, our bill enhances the capability of the President to direct and accomplish covert actions when he deems such actions necessary to U.S. foreign policy and our national security. The purpose of our mark in each of these areas is to strengthen the capabilities that will provide policymakers with the intelligence that they will need in the next century.

Mr. Chairman, there were also strategic cuts in the budget, made after much investigation and on a line-by-line basis, on programs that will mostly be effective in the 21st century. The intelligence community has for the most part moved forward effectively against new and difficult issues. There are some areas where we can make some reductions and do so in a prudent fashion.

Once again, Mr. Chairman, I am happy to rise in support of this bipartisan authorization bill. I want to commend both the gentleman from Florida and the gentleman from Washington for having done an excellent job working together to produce this important bill.

Mr. DICKS. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN), a good solid member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Chairman, I thank the gentleman for yielding me this time and congratulate both the gentleman from Florida and the gentleman from Washington for bringing forward a product that deserves the support of this House. I have said before that whenever an intelligence authorization or appropriations is before us, the proponents are at a disadvantage because people can attack the intelligence community. A lot of this is confidential. They do not have the opportunity sometimes to defend themselves.

The United States has the most sophisticated intelligence apparatus in the world. We have the best trained professionals in the world. Yet we have the most difficult challenges of any nation in this world. We work in a bipartisan manner in order to provide authorization and appropriations for our intelligence agencies. I really do applaud the leadership of this House for doing that. For the security of our country and for the manner in which this has been handled in the House, it deserves our support.

I must tell my colleagues, though, that I was somewhat disappointed by some of the tone in the language as it related to some of our intelligence agencies. But I am very pleased to see that the report acknowledges that we must invest in the recapitalization and modernization of our SIGINT capacities. I think that is very important for this country.

I have visited NSA on numerous occasions and know the dedication of the men and women in public service for our country. They represent some of our brightest minds in our Nation. But if we are going to be able to attract the best from our universities and colleges so that we can maintain that capacity in the future, it is important that we authorize adequate funds and appropriate adequate funds for our intelligence operation.

Mr. Chairman, I am pleased that we were able to bring this product forward in a bipartisan manner. I hope that this body will support the work of the committee, support the authorization and later support the appropriation.

Mr. GOSS. Mr. Chairman, I appreciate the distinguished gentleman from Maryland's remarks. We have worked together on many things. His support is very important.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. HASTERT), the chairman of the task force to counter the drug problem.

Mr. HASTERT. Mr. Chairman, I appreciate the fine work of the Permanent Select Committee on Intelligence. I am pleased to join my colleagues from the Permanent Select Committee on Intelligence in support of H.R. 3694, the fiscal year 1999 intelligence authorization bill. As chairman of the Committee on Government Reform and Oversight, Subcommittee on National Security, and the Task Force for a Drug-Free America, I have had an opportunity to visit a wide range of counternarcotic programs in this country and overseas during the past few years. I have seen the effectiveness of the information produced by our intelligence community in identifying and tracking major narcotics trafficking activities. This intelligence information is essential to facilitating the law enforcement community's effort to slow the flood of cocaine and heroin that is pouring into our country. I have been particularly impressed by the growing coordination between the intelligence community and the law enforcement agencies to jointly target major narcotrafficking groups.

Despite this good news, I regret to report that we are stopping no more than 15 to 20 percent of the drugs flowing from the source countries of Colombia, Peru and Bolivia. We have the best intelligence organization in the world, but we lack the capability to act effectively on the information that we collect against narcotraffickers. It is clear that the administration's current source zone strategy is having only a very limited impact on cocaine and opium production in the source countries. We need to provide sufficient political will, sufficient resources and sufficient personnel to this effort.

Equally, the transit zone strategy is undermined by an unwillingness to seek sufficient air, ground and maritime resources to track, pursue and stop narcotrafficking moving through Central America, the Caribbean and Mexico. Based on numerous meetings with foreign narcotics officials and U.S. Government personnel serving in the field, I am quite persuaded that much more could be achieved if we would be willing to come forward and seek the necessary resources to step up the eradication and interdiction of cocaine and heroin.

Mr. Chairman, this is an important piece of legislation. Intelligence is the key to stopping narcotics traffic in this country and this hemisphere. I support this legislation.

Mr. DICKS. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP. Mr. Chairman, I rise in strong support of H.R. 3694, the Intelligence Authorization Act for Fiscal Year 1999. Let me first congratulate the gentleman from Florida (Mr. GOSS) and the gentleman from Washington (Mr. DICKS) for their tireless efforts in producing a bipartisan bill that addresses the needs of the intelligence community. There is arguably no greater consumer of intelligence than our Nation's Armed Forces. Despite the end of the Cold War, the requirements of our military for better and more timely intelligence has actually increased rather than decreased.

This is the result of a number of factors, including transitional issues such as terrorism and the proliferation of weapons of mass destruction. Perhaps no incident better illustrates the threat that terrorism poses to the men and women of our armed services than the cowardly and callous terrorist bombing of Khobar Towers in Saudi Arabia.

□ 1245

Our forces in Bosnia remain exposed to the threat of terrorism, and it is the intelligence that is collected, processed, analyzed and disseminated that continues to aid in shielding our sons and daughters against this deadly threat.

Additionally, our military has drawn down significantly in the aftermath of the Cold War. In fact, the military has experienced more cutbacks than any other Federal agency, and quite frankly in my view the reductions have gone too far.

Despite these reductions, the missions have increased as has the tempo of operations associated with those missions. Today we have members of our services in Europe, Africa, the Middle East, and Asia conducting missions ranging from peacekeeping to enforcement of United Nations sanctions to defense of nations.

Intelligence is a force multiplier, and if we are to continue on a downward path of funding our Nation's armed services, then we definitely need to take every step we can to ensure that our intelligence capabilities are sufficient to provide the policymakers with the information needed to make key decisions affecting national security. This bill provides the necessary resources to ensure that our intelligence capabilities are sufficient to meet the contingencies of the next generation.

Mr. Chairman, last January I traveled to Southeast Asia to review our intelligence activities and our operations in that region of the world, and I focused my attention specifically on efforts aimed at achieving a full accounting of Americans that are still unaccounted for as a result of the Vietnam war. I want to ensure our Nation's veterans and the families of those soldiers, airmen, and sailors that are still unaccounted for that the bill that is being considered today contains the necessary resources to permit the intelligence community to continue its efforts to determine the fate of those who have yet to come home.

Mr. Chairman, the intelligence community historically has had a poor record in maintaining a diverse work force. In fact, the intelligence community as a whole lags far behind the Federal labor sector in its representation of minorities and women. This committee recognizes the difficulty faced by intelligence agencies, that of competing with the private sector for minority applicants possessing high technical skills that are critical to intelligence missions. The fact of the matter is that these agencies cannot match the financial incentives and rewards offered by the private sector firms that attract individuals with skills of importance to the intelligence community.

This committee has been a supporter of a number of recruitment and training programs aimed at ensuring equal employment opportunity within the intelligence community agencies and developing and retaining personnel that are trained in the skills essential to the effective performance of intelligence missions. I am pleased to report that this bill continues this committee's commitment to those programs, specifically including the Stokes program.

I also want to note that I intend to review these programs in the succeeding years to ensure that the desired goals are being achieved and that the programs are being administered in an effective manner.

Mr. Chairman, the Intelligence Authorization Act for this year, for 1999, provides critical support to all facets of our intelligence community. Resources are authorized that permit the sustainment of the intelligence community's efforts to assist in providing force protection intelligence to our troops and to assist in the collection and analysis of critical intelligence bearing on such challenging issues as counterproliferation, counternarcotics, and counterterrorism.

I am proud to support this bill, and I urge my colleagues to do the same.

Mr. GOSS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the Commonwealth of Pennsylvania (Mr. SHUSTER), Chairman of the Committee on Transportation and Infrastructure, and a valued member of the Permanent Select Committee on Intelligence as well.

Mr. SHUSTER. Mr. Chairman, when General Schwarzkopf came back from the Gulf War, he told us that he had better intelligence than any battlefield commander in the history of the world. He also was asked by the media if there were any improvements that could be made, and he said yes, there were, and he went on to outline what further improvements could be made. The headlines then became "Schwarzkopf Criticizes Intelligence," rather than the emphasis on his tremendous complimentary comments about the extraordinarily good intelligence which he had during that war.

Mr. Chairman, I think that there is a pervasive feeling across this country somehow, at least in some quarters, that criticizing intelligence is the thing to do. Indeed there has been a drum beat of criticism of intelligence rather than the kind of support which I believe it deserves. And it is largely as a result of that, I believe, that there has developed, particularly in the clandestine service, what might be called a culture of timidity, and I do not fault the clandestine service for that at all. I think it is a rational response, if each time someone raises their head they get a shot taken at it, they learn to keep their head down. Unfortunately, by its very nature, the clandestine service must be a careful but bold risk-taking service, and I think we are losing that in this country, and I think it is a very, very serious matter, and it is going to take years to rebuild it.

And so I would urge all of us to be aware of that and to be supportive where we can.

And finally with regard to the so-called drug war, this is something which deserves much, much more attention, much more funding, and I would urge support for the blueprint of the gentleman from Florida (Mr. MCCOLLUM) to wage war on drugs. We need to focus and spend more funds on this important issue.

Mr. DICKS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. STOKES) who has served as chairman of this committee and in many important assignments in this House, and he is going to be one of the Members that next year we are going to miss the most. He has done an outstanding job for his district and an outstanding job for this country.

Mr. STOKES. Mr. Chairman, I thank the distinguished ranking member for yielding this time to me and also for his very kind remarks. I also want to express my appreciation to the gentleman from Florida (Mr. GOSS) for the work that he does with this committee.

I want to address the House on an area of this legislation which is of particular concern to me. That area is the undergraduate training program. I rise as a former member and chairman of the House Permanent Select Committee on Intelligence. When I served on the committee, I was struck by the lack of minorities employed in ranking and policymaking positions throughout the intelligence community. In questioning area agency directors about this, I was told that they were unable to find qualified minorities who were interested in employment in the intelligence community.

The solution to this problem took the form of legislation which is included in the intelligence authorization bill of 1987, creating the undergraduate training program. We were able to secure the cooperation of the Central Intelligence Agency and the National Security Agency, to become the first intelligence agencies to include in their budgets the funds to provide full scholarships for minority and disadvantaged students.

Mr. Chairman, through the UTP program, students have their undergraduate education fully funded and, following completion of college, are placed in mid-level positions at the agencies. To date, more than 150 individuals have participated in the undergraduate training program at the National Security Agency. The Central

Intelligence Agency has graduated 135 students from the program. Many of these students have 4.0 averages at top universities around the nation. Some of them have 4.1 averages.

I am proud that the undergraduate training program is changing the face of America's work force, particularly in the intelligence field. Mr. Chairman, when I met with these graduates, they have expressed how this program has provided them with challenging career choices, helped them to realize their full potential. The success of this initiative has resulted in its adoption now in other agencies, including the DIA, the FBI, the National Institutes for Health and other agencies.

It is my strong belief that the undergraduate training program represents our commitment to diversity in the workplace and equal employment opportunity. It has proven successful, and I want to thank the gentleman from Florida (Mr. GOSS) and the gentleman from Washington (Mr. DICKS) and all the members of the committee on both sides of the aisle for their efforts in maintaining this initiative, which I think is a credit to both the Congress and to our Nation.

Mr. GOSS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Washington (Mr. DICKS) about the gentleman from Ohio (Chairman STOKES). He has always been Chairman STOKES to me. He was chairman of the Committee on Standards of Official Conduct when I started out, and the vision and contribution he has made to this institution are immeasurable. That is all I can say, and I thank the gentleman for his words.

Mr. Chairman, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS) a distinguished veteran of the Gulf War, an Air Force officer and a member of our committee.

Mr. GIBBONS. Mr. Chairman, I thank the distinguished gentleman and chairman of the committee for an opportunity to speak today.

Mr. Chairman I rise to join my colleagues today in strong support of H.R. 3694, the intelligence authorization bill for fiscal year 1999.

Mr. Chairman, I have the distinct pleasure of being able to serve on both the House Permanent Select Committee on Intelligence and the House Committee on National Security. This allows me the opportunity to look across both operation military and defense issues as well as the intelligence functions that not only support but in fact participate in those various defense operations.

I can tell my colleagues, Mr. Chairman, this is a very prudent bill. It is a bill that not only sustains currently required capabilities but, importantly, begins to rebuild critical intelligence capabilities lost as a result of security changes brought about by the end of the bipolar cold war. It is a bill that provides our military forces with the information resources necessary to build our fighter confidence and perhaps even to keep them out of harm's way. It also seeks to provide them with the indications and warnings intelligence to allow them the advantage in a conflict.

Let there be no mistake Mr. Chairman. Contrary to arguments that will be made today, this is not a more secure world since the end of the cold war. While it is true that we do not face the imminent threat of nuclear annihilation today from the former Soviet Union, the threats posed by international terrorism, transnational threats such as narcotics trafficking, organized international crime, the proliferation of weapons of mass destruction, any use of chemical and biological weapons by rogue nation states are more pressing and considerably more dangerous than they ever have been before. The problems associated with collecting and understanding information about today's risks are in many ways more difficult because formal government boundaries are not limiting the threats to our peace and security.

Mr. Chairman, I would like to note that the chairman of the Joint Chiefs of Staff has stated that information dominance is one of the most important characteristics of his Joint Vision 2010 strategy.

Intelligence, intelligence, Mr. Chairman, is the bedrock for that information dominance. This bill provides our intelligence community with military forces, the infrastructure necessary to give United States that information dominance.

And finally, Mr. Chairman, I need to point out that this bill provides a fiscally sound increase of less than one-tenth of 1 percent to the President's request for intelligence. This increase reflects the proper emphasis on the information gathering, exploitation and dissemination activities necessary to ensure the security of the United States. And that is the bottom line: the security of the United States.

Mr. DICKS. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. TRAFICANT), my good friend, who every year has offered a Buy America amendment. This year we just put it in the bill because we thought it was the right thing to do, and the gentleman has made a very important contribution, and we appreciate his interest in the intelligence bill.

Mr. TRAFICANT. Mr. Chairman, I want to commend the chairman of the committee and the ranking member for this bill, and I will vote for it. And I am for the first time going to vote against any cuts in their bill because I believe they deserve the chance, as stated by the gentleman from Ohio (Mr. STOKES), the chairman and one of the great Members in the body, that there is some hope here.

But I would like to give one observation specifically on this business about the war on drugs. See, I am one that believes that the CIA is not as bad as the critics proclaim, but I also believe the CIA is certainly not as good as its proponents proclaim, and I think there must be some improvement. Certainly the war on drugs is a good example.

Mr. Chairman, our intelligence community should know the source of drugs. They should know the land that grows them, the farmers that tend to those crops and harvest those crops. They should know the cartels that take those rough products and manufacture them into a finished product. They should further know the networking system that arranges for the export of those narcotics to our borders where 100 percent of all heroin and cocaine comes into this country across our borders, and Congress keeps philosophically debating the war on drugs.

□ 1300

I also believe the CIA should know who arranges for the importation of these drugs, what groups in America are also a part of the distribution, marketing and networking of making these drugs available; and finally, which international politicians not only turn their backs, but help to make these narcotics available.

Now, here is what I am saying: If the intelligence community does not know that, we should save the money and throw it all out. Now, I am offering an amendment today that is a very little, safe amendment. It calls for a report from the CIA as to their networking and coordination of efforts with law enforcement agencies in this country relative to the dynamics of this war on drugs.

But let me say this. I believe the time will come where Congress should mandate that the CIA should network and cooperate with domestic law enforcement and international law enforcement specifically on this war on drugs. I believe we have failed in the war on drugs.

Networking and coordination are very important. Oftentimes, agencies compete against one another for funds, and Congress at times takes stands and plays and takes sides on the floor for appropriations. We must have better coordination, better networking, and the intelligence community must be the heart of this success. Quite frankly, I do not think they are.

I am willing to give it a chance; I think that focus needs to be taken.

Mr. GOSS. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Delaware (Mr. CASTLE), former Governor of the State of Delaware and a member of our committee.

Mr. CASTLE. Mr. Chairman, I also rise in strong support of H.R. 3694, the intelligence authorization bill, and I offer my congratulations to the ranking member and to the chairman of this committee, both of whom are extraordinarily dedicated to this and, I think, do a wonderful job in performing this function.

Mr. Chairman, I do share the chairman's concerns about the current state of the intelligence community, and I do fully support his recommendations within this legislation for finding its deficiencies. Like my chairman, I believe that we must invest sufficient resources toward the development of the intelligence community's all-source analytical infrastructure. United States policymakers must have the most comprehensive, responsive and timely strategic perspective on major global changes.

During the Cold War, the wide-ranging nature of the Soviet threat simplified the analytical tasks faced by the intelligence community. Since the collapse of the Soviet Union, the unpredictability of emerging global challenges such as those of Bosnia, Haiti, Somalia and Iraq, requires the development of a national analytical capability that can provide policymakers with sufficient warning and with a range of policy options.

The failure of the Clinton administration's efforts to contain Saddam Hussein may, in part, reflect the inadequacy of our government's analysis of Iraqi internal dynamics, as well as gaps in our understanding of Iraq's policies and economy. Like other rogue states, Iraq demands a rigorous and aggressive analytical posture on the part of our intelligence community. We must do a better job of analyzing trends within such hard targets.

As a member of both the Permanent Select Committee on Intelligence and the Committee on Banking and Financial Services, I am quite aware of the intelligence community's role and performance in analyzing significant global economic trends for policymakers, as well as its efforts to respond to the emerging threat of global organized crime.

I must confess that I have heard that the intelligence community may not be as capable of assessing global economic trends as a number of private sector firms. Economic and banking specialists and such government entities as the Federal Reserve, the Treasury Department and the U.S. Trade Representative's Office, have not been shy in criticizing the value of the community's economic intelligence reporting. While some of this criticism may not be justified, I believe that a prudent approach would be to initiate some sort of interagency review process to evaluate the quality and relevance of the community's economic intelligence reporting.

In response to emerging national security threats, such as money laundering by global criminal organizations, efforts should be made to clarify the respective roles of the intelligence community and law enforcement agencies. The nature and scope of the threat posed to our national security by money laundering groups is apparently large, but not well defined.

Numerous U.S. agencies have some responsibility for monitoring and responding to the global money-laundering threat, but no single agency takes the lead in tracking illicit financial flows and tracking down major launderers. I believe we can do it here. I urge members to support H.R. 3964.

Mr. DICKS. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont (Mr. SANDERS), who has been very diligent over the years in reviewing the intelligence budget. We do not always agree on this, but I certainly want to yield to him to present his perspective.

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding, and I do not know that I will take the 2 minutes.

Let me just say this: We have heard a lot of discussion about the bipartisan nature of support for the intelligence budget, and that may well be on the Permanent Select Committee on Intelligence; I do not think it is in the general House.

Last year, when we offered an amendment to lower the intelligence budget by 5 percent, we had 142 Members who said, no, those do not reflect our priorities. And I think, Mr. Chairman, that when we go out on Main Street and we go to rural America and we go to urban America and we say to the folks there, many of whom, I should add, no longer vote, by and large have given up on the political process because they do not believe that this Congress represents their interests, and we say to them, should we increase funding for the intelligence budget and cut funding for Medicare, should we allow a situation to continue where millions of elderly people in this country cannot afford their prescription drugs or should we build more spy satellites, I say to my colleagues, those people will tell us, in my view, and tell us overwhelmingly, they will say, Congress, get your priorities right. This is an intelligence budget, so let us talk about how we can improve intelligence in America.

Let us make sure that the little kids are able to get into the Head Start program. Let us make sure that millions of kids in this country who would like to go to college, but today cannot afford to go to college, have that opportunity by significantly increasing the appropriations for Pell grants. That is what we are talking about.

Now, nobody here is saying this is a peaceful world, that there are no problems. Nobody here is saying, let us cut the intelligence budget to zero. Nobody here is saying that the intelligence agencies do not serve a useful purpose. What we are saying is, get your priorities right.

The Cold War is over. The middle class, the working families of this country are hurting. Do not cut programs for them in the name of deficit reduction and increase funding for the intelligence budget.

Mr. DICKS. Mr. Chairman, I yield myself 1 minute and 55 seconds.

I would just like to remind my colleague that if we subtract 142 from 435, we come up with 293, or a better than 2-to-1 ratio of the members of the House who voted in favor of the intelligence bill as reported by the committee.

I would just say this. We have to look at this in perspective. The intelligence bill is part of the defense bill. We have cut defense over the last 14 years every single year. The Director of the Central Intelligence Agency and the Secretary of Defense decide how much of the defense budget, which has been cut for 14 straight years, will be allocated to intelligence. We are not going to take money out here and put it over in Health and Human Services. That is just not what we are talking about.

If we cut the money out of intelligence, it is going to go to some other aspect of the defense bill, because it is part of the 050 function. I support all of these programs that the gentleman from Vermont is talking about.

We were here last night in support of education, and I agree with him that we need to protect Medicare and Social Security and the safety net. But we also have to protect our national security, and that is the foremost responsibility of the Federal Government.

I think the bill this year provides a prudent amount. There were 16 members of this committee, and from the most liberal to the most conservative, every single one of them present in the committee voted to approve this bill.

I urge my colleagues to support this bill. We have done a responsible, balanced job, and I think this bill deserves the support of the House.

Mr. GOSS. Mr. Chairman, I just want to gather an understanding of where we are on the time left on the floor on either side.

The CHAIRMAN. The gentleman from Florida (Mr. GOSS) has 5 minutes remaining; the gentleman from Washington (Mr. DICKS) has 1 minute remaining.

Mr. GOSS. Mr. Chairman, does the distinguished gentleman from Washington have any other speakers?

Mr. DICKS. Mr. Chairman, I am prepared to yield back at this time.

Mr. GOSS. Mr. Chairman, I would just yield myself such time as I may consume to present a closing thought.

I would like to point out that the United States is a pioneer in legislative oversight in intelligence. I think the gentleman from Washington (Mr.

DICKS) and I can both attest to the fact that we have met with parliamentarians from around the world whose countries are just beginning to take the first tentative steps toward independent oversight of intelligence activities. They are very interested to learn how our system works. I think we have the best system, the safest system, and a system where we can absolutely assure the citizens of the United States of America that things are under control.

I thank the gentleman from Washington (Mr. DICKS) for assisting in that, and if the gentleman is willing to yield back at this time, I am as well.

Mr. FARR of California. Mr. Chairman, I rise today in support of the Sanders Amendment to the Intelligence Authorization Act for FY 1999.

In the name of reducing deficit spending, Congress has slashed hundreds of billions of dollars from programs for education, health care, the elderly, and veterans. These cuts have left millions of the neediest Americans in even greater need. Yet when it comes to the intelligence budget, we are willing to spend tens of billions of dollars every year without meaningful reductions.

H.R. 3694 provides $28 billion dollars for national intelligence programs. This enormous amount represents $3 billion more than what we spend on food stamps, over 50% more than what we spend on medical care for veterans, and more than the total amount spent on child nutrition, special education, and Pell Grants combined.

We need to keep our budget priorities straight. The welfare of the American taxpayer should be more important than funding secret operations overseas. This amendment would reduce the intelligence budget by 5%; although a modest cut, it would at least ensure that the intelligence budget does not escape the same budget-cutting axe that has cut so many other government programs. I urge my colleagues to support this amendment.

Ms. MILLENDER-McDONALD. Mr. Chairman, I rise to express my support for H.R. 3694, the Intelligence Authorization for FY 1999. However, my support is not without serious reservations, for I remain deeply concerned about allegations that have been raised regarding CIA involvement in drug trafficking in South Central Los Angeles and elsewhere. While I applaud Chairman PORTER GOSS, Ranking Member NORM DICKS, and the rest of the House Permanent Select Committee for convening a public hearing following release of Volume One of the Central Intelligence Agency Inspector General's report in response to the San Jose Mercury News' series "Dark Alliance", I have made my views about the shortcomings in this report known to the Committee and to the Agency. I am aware that Volume Two of the Inspector General's report, which deals with the more substantive issues regarding the extent of the relationship between the intelligence community and the Nicaraguan Contra resistance, has been provided to the Select Committee in classified form. I understand that it is being reviewed by the Central Intelligence Agency to determine whether any or all of it may be declassified. And, we are still awaiting release of Inspector General Michael Bromwich's report on the allegations of wrongdoing that may have occurred within branches of the U.S. Department of Justice.

However, I would like to take this opportunity to strongly urge CIA Director John Tenet and Chairman GOSS to do everything possible to declassify as much information in the report as possible as its subject matter goes to the heart of the issues raised by my constituents in the public meetings I convened following publication of the San Jose Mercury News series. I also urge Attorney General Janet Reno to release the I.G.'s report at the earliest possible opportunity. Failure to make this information public feeds the skepticism of the hundreds of constituents in my District who still want answers and who are encouraged by the Committee's expressed commitment to make public as much information as possible.

Furthermore, to fully appreciate our government's efforts to fight the scourge of narcotics, the public must understand its intricacies, including the role of interdiction and intelligence. Public release of the reports, followed by public hearings, and ultimately the conduct by the Committee of its own inquiry, will assist my constituents to evaluate the role of the Central Intelligence Agency played in balancing competing national priorities. Such a process will also give Members of Congress, as policy makers, the information necessary to make informed decisions about handling such issues in the future.

Consequently, I and my constituents continue to eagerly await the public release of the reports by the Inspectors General of Justice and CIA. I reiterate my hope that the Select Committee will give their content, methodologies and findings the scrutiny they deserve and in a similar spirit of openness, make themselves available to my constituents to respond to any questions these reports generate. I believe such openness is critical to restoration of the credibility and public trust necessary to allow intelligence gathering activities, which by their nature are secretive, to coexist with democracy.

Mr. CONYERS. Mr. Chairman, I want to take a few minutes to talk about some of the things that aren't being talked about enough. The war on drugs has come up several times today. I think there's some compelling evidence to show how the culture of obsessive secrecy that is part of covert action cultivates an actual and implied climate of impunity.

The CIA's Inspector General, Fred Hitz, undertook a massive study into the CIA ties to drug traffickers. Upon completion of the first volume of the 600 page report, Hitz declared that they found "no evidence . . . of any conspiracy by the CIA or its employees to bring drugs into the United States." Then he announced that hardly any of his findings would be publicly available, casting a long shadow of doubt as to the scope and conclusions of the investigation. A second volume is still in the works.

The CIA's credibility when it comes to investigating itself was further brought into question when Hitz disclosed during recent testimony before the House Intelligence Committee that in 1982, the CIA and Attorney General William French Smith had an agreement that the CIA was not required to report allegations of drug smuggling by non-employees. Non-employees was explicitly interpreted to include unpaid and paid assets of the CIA, such as pilots and informants. The memorandum, dated February 11, 1982, states "no formal requirement regarding the reporting of narcotics violations has been included in these procedures", referring to the procedures relating to non-employee crimes. I want to compliment the gentlelady from California, Ms. WATERS, for her hard work on this topic and for obtaining this and other relevant memoranda. I ask you, though, is this the war on drugs that President Reagan launched?

Nobody here who advocates cuts to the intelligence budget or reforming this intelligence system gone haywire doubts for one second that the U.S. needs reliable information about exports of Russian missile technology or the trade in bacteriological warfare technology. I am a veteran and I know how important intelligence is. But doesn't the above information illustrate why the integrity of our intelligence system is in doubt?

The historical record shows that this culture of secrecy too often undermines our foreign and domestic interests.

In 1989, the Senate Subcommittee on Terrorism, Narcotics and International Communications, headed by Senator JOHN KERRY, found that "there was substantial evidence of drug smuggling through the war zone on the part of individual Contras, Contra suppliers, Contra pilots, mercenaries who worked with the Contra supporters throughout the region." Moreover, U.S. officials "failed to address the drug issue for fear of jeopardizing the war efforts against Nicaragua."

In other words, the drug war was subordinated to the cold war. This is right in line with what we've learned about the memorandum of understanding described above. I am inserting into the RECORD a list, compiled by the Institute for Policy Studies, which goes through other examples of the troubling history of our intelligence agencies.

A TANGLED WEB: A HISTORY OF CIA COMPLICITY IN DRUG INTERNATIONAL TRAFFICKING

WORLD WAR II

The Office of Strategic Services (OSS) and the Office of Naval Intelligence (ONI), the CIA's parent and sister organizations, cultivate relations with the leaders of the Italian Mafia, recruiting heavily from the New York and Chicago underworlds, whose members, including Charles "Lucky" Luciano, Meyer Lansky, Joe Adonis, and Frank Costello, help the agencies keep in touch with Sicilian Mafia leaders exiled by Italian dictator Benito Mussolini. Domestically, the aim is to prevent sabotage on East Coast ports, while in Italy the goal is to gain intelligence on Sicily prior to the allied invasions and to suppress the burgeoning Italian Communist Party. Imprisoned in New York, Luciano earns a pardon for his wartime service and is deported to Italy, where he proceeds to build his heroin empire, first by diverting supplies from the legal market, before developing connections in Lebanon and Turkey that supply morphine base to labs in Sicily. The OSS and ONI also work closely with Chinese gangsters who control vast supplies of opium, morphine and heroin, helping to establish the third pillar of the post-World War II heroin trade in the Golden

Triangle, the border region of Thailand, Burma, Laos and China's Yunnan Province.

1947

In its first year of existence, the CIA continues U.S. intelligence community's anticommunist drive. Agency operatives help the Mafia seize total power in Sicily and it sends money to heroin-smuggling Corsican mobsters in Marseille to assist in their battle with Communist unions for control of the city's docks. By 1951, Luciano and the Corsicans have pooled their resources, giving rise to the notorious "French Connection" which would dominate the world heroin trade until the early 1970s. The CIA also recruits members of organized crime gangs in Japan to help ensure that the country stays in the non-communist world. Several years later, the Japanese Yakuza emerges as a major source of methamphetamine in Hawaii.

1949

Chinese Communist revolution causes collapse of drug empire allied with U.S. intelligence community, but a new one quickly emerges under the command of Nationalist (KMT) General Li Mi, who flees Yunnan into eastern Burma. Seeking to rekindle anticommunist resistance in China, the CIA provides arms, ammunition and other supplies to the KMT. After being repelled from China with heavy losses, the KMT settles down with local population and organizes and expands the opium trade from Burma and Northern Thailand. By 1972, the KMT controls 80 percent of the Golden Triangle's opium trade.

1950

The CIA launches Project Bluebird to determine whether certain drugs might improve its interrogation methods. This eventually leads CIA head Allen Dulles, in April 1953, to institute a program for "covert use of biological and chemical materials" as part of the agency's continuing efforts to control behavior. With benign names such as Project Artichoke and Project Chatter, these projects continue through the 1960s, with hundreds of unwitting test subjects given various drugs, including LSD.

1960

In support of the U.S. war in Vietnam, the CIA renews old and cultivates new relations with Laotian, Burmese and Thai drug merchants, as well as corrupt military and political leaders in Southeast Asia. Despite the dramatic rise of heroin production, the agency's relations with these figures attracts little attention until the early 1970s.

1967

Manuel Antonio Noriega goes on the CIA payroll. First recruited by the U.S. Defense Intelligence Agency in 1959, Noriega becomes an invaluable asset for the CIA when he takes charge of Panama's intelligence service after the 1968 military coup, providing services for U.S. covert operations and facilitating the use of Panama as the center of U.S. intelligence gathering in Latin America. In 1976, CIA Director George Bush pays Noriega $110,000 for his services, even though as early as 1971 U.S. officials agents had evidence that he was deeply involved in drug trafficking. Although the Carter administration suspends payments to Noriega, he returns to the U.S. payroll when President Reagan takes office in 1981. The general is rewarded handsomely for his services in support of Contras forces in Nicaragua during the 1980s, collecting $200,000 from the CIA in 1986 alone.

MAY 1970

A Christian Science Monitor correspondent reports that the CIA "is cognizant of, if not party to, the extensive movement of opium out of Laos," quoting one charter pilot who claims that "opium shipments get special CIA clearance and monitoring on their flights southward out of the country." At the time, some 30,000 U.S. service men in Vietnam are addicted to heroin.

1972

The full story of how cold war politics and U.S. covert operations fueled a heroin boom in the Golden Triangle breaks when Yale University doctoral student Alfred McCoy publishes his ground-breaking study, The Politics of Heroin in Southeast Asia. The CIA attempts to quash the book.

1973

Thai national Puttapron Khramkhruan is arrested in connection with the seizure of 59 pounds of opium in Chicago. A CIA informant on narcotics trafficking in northern Thailand, he claims that agency had full knowledge of his actions. According to the U.S. Justice Department, the CIA quashed the case because it may "prove embarrassing because of Mr. Khramkhruans's involvement with CIA activities in Thailand, Burma, and elsewhere."

JUNE 1975

Mexican police, assisted by U.S. drug agents, arrest Alberto Sicilia Falcon, whose Tijuana-based operation was reportedly generating $3.6 million a week from the sale of cocaine and marijuana in the United States. The Cuban exile claims he was a CIA protégé, trained as part of the agency's anti-Castro efforts, and in exchange for his help in moving weapons to certain groups in Central America, the CIA facilitated his movement of drugs. In 1974, Sicilia's top aide, Jose Egozi, a CIA-trained intelligence officer and Bay of Pigs veteran, reportedly lined up agency support for a right-wing plot to overthrow the Portuguese government. Among the top Mexican politicians, law enforcement and intelligence officials from whom Sicilia enjoyed support was Miguel Nazar Haro, head of the Direccion Federal de Seguridad (DFS), who the CIA admits was its "most important source in Mexico and Central America." When Nazar was linked to a multi-million-dollar stolen car ring several years later, the CIA intervenes to prevent his indictment in the United States.

APRIL 1978

Soviet-backed coup in Afghanistan sets stage for explosive growth in Southwest Asian heroin trade. New Marxist regime undertakes vigorous anti-narcotics campaign aimed at suppressing poppy production, triggering a revolt by semi-autonomous tribal groups that traditionally raised opium for export. The CIA-supported rebel Mujahedeen begins expanding production to finance their insurgency. Between 1982 and 1989, during which time the CIA ships billions of dollars in weapons and other aid to guerrilla forces, annual opium production in Afghanistan increases to about 800 tons from 250 tons. By 1986, the State Department admits that Afghanistan is "probably the world's largest producer of opium for export" and "the poppy source for a majority of the Southwest Asian heroin found in the United States." U.S. officials, however, fail to take action to curb production. Their silence not only serves to maintain public support for the Mujahedeen, it also smooths relations with Pakistan, whose leaders, deeply implicated in the heroin trade, help channel CIA support to the Afghan rebels.

JUNE 1980

Despite advance knowledge, the CIA fails to halt members of the Bolivian militaries, aide by the Argentine counterparts, from staging the so-called "Cocaine Coup," according to former DEA agent Michael Levine. In fact, the 25-year DEA veteran maintains the agency actively abetted cocaine trafficking in Bolivia, where government official who sought to combat traffickers faced "torture and death at the hands of CIA-sponsored paramilitary terrorists under the command of fugitive Nazi war criminal (also protected by the CIA) Klaus Barbie.

FEBRUARY 1985

DEA agent Enrique "Kiki" Camerena is kidnapped and murder in Mexico. DEA, FBI and U.S. Customs Service investigators accuse the CIA of stonewalling during their investigation. U.S. authorities claim the CIA is more interested in protecting its assets, including top drug trafficker and kidnapping principal Miguel Angel Felix Gallardo. (In 1982, the DEA learned that Felix Gallardo was moving $20 million a month through a single Bank of America account, but it could not get the CIA to cooperate with its investigation.) Felix Gallardo's main partner is Honduran drug lord Juan Ramon Matta Ballesteros, who began amassing his $2-billion fortune as a cocaine supplier to Alberto Sicilia Falcon. (see June 1985) Matta's air transport firm, SETCO, receives $186,000 from the U.S. State Department to fly "humanitarian supplies" to the Nicaraguan Contras from 1983 to 1985. Accusations that the CIA protected some of Mexico's leading drug traffickers in exchange for their financial support of the Contras are leveled by government witnesses at the trials of Camarena's accused killers.

JANUARY 1988

Deciding that he has outlived his usefulness to the Contra cause, the Reagan Administration approves an indictment of Noriega on drug charges. By this time, U.S. Senate investigators had found that "the United States had received substantial information about criminal involvement of top Panamanian officials for nearly twenty years and done little to respond."

APRIL 1989

The Senate Subcommittee on Terrorism, Narcotics and International Communications, headed by Sen. John Kerry of Massachusetts, issues its 1,166-page report on drug corruption in Central America and the Caribbean. The subcommittee found that "there was substantial evidence of drug smuggling through the war zone on the part of individuals Contras, Contra suppliers, Contra pilots, mercenaries who worked with the Contras supporters throughout the region." U.S. officials, the subcommittee said, "failed to address the drug issue for fear of jeopardizing the war efforts against Nicaragua." The investigation also reveals that some "senior policy makers" believed that the use of drug money was "a perfect solution to the Contras' funding problems."

JANUARY 1993

Honduran businessman Eugenio Molina Osorio is arrested in Lubbock Texas for supplying $90,000 worth of cocaine to DEA agents. Molina told judge he is working for CIA to whom he provides political intelligence. Shortly after, a letter from CIA headquarters is sent to the judge, and the case is dismissed. "I guess we're all aware that they [the CIA] do business in a different way than everybody else," the judge notes. Molina later admits his drug involvement was not a CIA operation, explaining that the agency protected him because of his value as a source for political intelligence in Honduras.

NOVEMBER 1996

Former head of the Venezuelan National Guard and CIA operative Gen. Ramon Gullien Davila is indicted in Miami on charges of smuggling as much as 22 tons of cocaine into the United States. More than a ton of cocaine was shipped into the country with the CIA's approval as part of an undercover program aimed at catching drug smugglers, an operation kept secret from other U.S. agencies.

Mr. DICKS. Mr. Chairman, I yield back the balance of my time.

Mr. GOSS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill, modified by striking section 401 and redesignating the succeeding sections, shall be considered as an original bill for the purpose of amendment under the 5-minute rule. Consideration shall proceed by title, and each title shall be considered read.

No amendment to the committee amendment is in order unless printed in the Congressional Record. Those amendments shall be considered read.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment, and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device, without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1999".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Community management account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Application of sanctions laws to intelligence activities.
Sec. 304. Sense of Congress on intelligence community contracting.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Extension of the CIA Voluntary Separation Pay Act.
Sec. 402. Enhanced protective authority for CIA personnel and family members.
Sec. 403. Technical amendments.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Extension of authority to engage in commercial activities as security for intelligence collection activities.

The CHAIRMAN. Are there amendments to section 1?

If there are no amendments to section 1, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The National Reconnaissance Office.

(11) The National Imagery and Mapping Agency.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) Specifications of Amounts and Personnel Ceilings.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1999, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the bill H.R. 3694 of the 105th Congress.

(b) Availability of Classified Schedule of Authorizations.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) Authority for Adjustments.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1999 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) Notice to Intelligence Committees.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) Authorization of Appropriations.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1999 the sum of $139,123,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee shall remain available until September 30, 2000.

(b) Authorized Personnel Levels.—The elements within the Community Management Account of the Director of Central Intelligence is authorized 283 full-time personnel as of September 30, 1999. Personnel serving in such elements may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) Classified Authorizations.—

(1) Authorization of Appropriations.—In addition to amounts authorized to be appropriated for the Community Management Account by subsection (a), there is also authorized to be appropriated for the Community Management Account for fiscal year 1999 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a).

(2) Authorization of Personnel.—In addition to the personnel authorized by subsection (b) for elements of the Community Management Account as of September 30, 1999, there is authorized such additional personnel for such elements as of that date as is specified in the classified Schedule of Authorizations.

(d) Reimbursement.—Except as provided in section 113 of the National Security Act of 1947, during fiscal year 1999, any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) National Drug Intelligence Center.—

(1) In General.—Of the amount appropriated pursuant to the authorization in subsection (a), the amount of $27,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, test, and evaluation purposes shall remain available until September 30, 2000, and funds provided for procurement purposes shall remain available until September 30, 2001.

(2) Transfer of Funds.—The Director of Central Intelligence shall transfer to the Attorney General of the United States funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) Limitation.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403-3(d)(1)).

(4) Authority.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

(f) Transfer Authority for Funds for Security Requirements at Overseas Locations.—

(1) In General.—Of the amount appropriated pursuant to the authorization in subsection (a), the Director of Central Intelligence may transfer funds to departments or other agencies for the sole purpose of supporting certain intelligence

community security requirements at overseas locations, as specified by the Director.

(2) LIMITATION.—Amounts made available for departments or agencies under paragraph (1) shall be—

(A) transferred to the specific appropriation;

(B) allocated to the specific account in the specific amount, as determined by the Director;

(C) merged with funds in such account that are available for architectural and engineering support expenses at overseas locations; and

(D) available only for the same purposes, and subject to the same terms and conditions, as the funds described in subparagraph (C).

AMENDMENT NO. 2 OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. SANDERS:

At the end of title I, add the following new section:

SEC. 105. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED.

(a) LIMITATION.—Except as provided in subsection (b), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act (including the amounts specified in the classified Schedule of Authorizations referred to in section 102), there is authorized to be appropriated for fiscal year 1999 to carry out this Act not more than 95 percent of the total amount authorized to be appropriated by this Act (determined without regard to this section).

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund by section 201.

Mr. SANDERS. Mr. Chairman, this amendment is also being offered by the gentleman from Oregon (Mr. DEFAZIO); the gentleman from New York (Mr. OWENS); and the gentleman from California (Mr. STARK).

Mr. Chairman, this amendment cuts the intelligence budget by 5 percent from the level authorized for fiscal year 1999, while still protecting the CIA retirement and disability fund. Although this year's amount authorized by the bill is classified, we do know that last year's budget was $26.7 billion, which means that this amendment would cut approximately $1.3 billion from the intelligence agencies.

Mr. Chairman, this amendment truly speaks to what we are as a Nation and who we are as a people. It speaks to whether the Congress of the United States is here to represent the ordinary people of America, the middle class, the working families, the children, the veterans, the seniors, or whether we are here to continue representing very powerful special interests within the military-industrial complex, the force that President Dwight D. Eisenhower warned us about 40 years ago.

Mr. Chairman, it is no secret that the United States today is becoming two very separate nations. On the top we have people who are enjoying incredible wealth. In fact, the wealthiest 1 percent is today better off than at any time in the modern history of this country. We have people like Bill Gates, himself, alone, who owns more wealth than the bottom 40 percent of households in America. One man owns more wealth than the bottom 40 percent of our households.

In recent years, we have seen a proliferation of millionaires and billionaires, but Mr. Chairman, there is another reality in America today, and that is that the middle class continues to shrink, that the wages of the average American worker are 15 percent less than they were 25 years ago, that 40 million Americans have no health insurance, that millions of senior citizens cannot afford the prescription drugs they desperately need.

□ 1315

That millions of our families cannot afford to send their kids to college. That food shelters and emergency shelters are seeing a large increase in the hungry and the homeless who come to them for help. That is the issue that we are talking about today.

We are not just talking about the intelligence budgets. We have to put that into the context of the needs of all the people in this country.

Mr. Chairman, how can we increase funding for an already bloated intelligence budget at exactly the same time as some propose major cuts for millions of low- and moderate-income citizens? How is it okay to say more for the intelligence budget at the same time as this Congress cut $115 billion from Medicare? Tell the senior citizens of this country whose benefits we have cut back on.

How can we look our veterans in the face when in last year's balanced budget agreement we cut funding for veterans programs by 19 percent; when we cut the administration of Social Security by 23 percent; when just last week we cut $2.3 billion in affordable housing, despite the housing crisis experienced by so many Americans.

Mr. Chairman, even in Washington the $1.3 billion that we cut from the intelligence budget is a lot of money, and let me tell my colleagues what we can purchase with that $1.3 billion if we get our priorities straight.

In Vermont and throughout this country, seniors are finding it difficult to pay for their prescription drugs. Legislation has been offered which would provide up to $500 each in prescription drug assistance for seniors. This $1.3 billion that we cut from a bloated intelligence budget could provide 2,600,000 seniors up to $500 each in their prescription drug assistance.

Are my colleagues going to go back to their districts and tell their senior citizens who are struggling to ease their pain that we cannot cut $1.3 billion from the intelligence budget when we can provide 2.6 million of them help for their prescription drugs?

Mr. Chairman, there are 808,000 homebound seniors who receive the excellent Meals on Wheels program supported widely in this Congress. This $1.3 billion could double the number of seniors who receive this help. These are elderly people at home, long waiting list for the Meals on Wheels program. We could double the number.

The CHAIRMAN. The time of the gentleman from Vermont (Mr. SANDERS) has expired.

(By unanimous consent, Mr. SANDERS was allowed to proceed for 3 additional minutes.)

Mr. SANDERS. Mr. Chairman, nearly 1 million college students could receive Pell Grants to assist them going to college. Just yesterday we passed the education bill. I voted for it, but remember the authorization is nowhere near equal to the appropriation.

We have millions of middle-class families in this country who cannot afford to send their kids to college. And are my colleagues so sure that it makes sense for the security of this country, for the intelligence of this country, that it is more important to vote another $1.3 billion than it is to provide nearly a million kids in this country with Pell Grants?

Nine hundred sixty-nine thousand families could benefit from Section 8 housing programs if we cut that $1.3 billion. In the State of Vermont, we have a long waiting list for Section 8. That is true all over this country. Two hundred forty thousand more children could attend the Head Start program if we cut this $1.3 billion.

So, Mr. Chairman, what I would just like to say at this point is that the Cold War is over. We do need an intelligence budget, but there is very ample evidence that the budget that we are being asked to support today is bloated.

I would say to my friends who are the deficit hawks who get up here every day and who say cut, cut, cut, if they are going to cut Medicare, if they are going to cut Medicaid, if they are going to cut veterans programs, if they are going to cut housing, take a look at the intelligence budget.

Mr. SPENCE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Vermont made reference to getting our priorities straight. What is a higher priority than defending the lives of all the people of this great country? We are talking about cutting today. I would like to remind the gentleman that the defense budget, which includes the intelligence budget, has taken all the cuts in recent years. Spending has gone up for everything else except defense.

Let me dwell on that for a minute. I do not think people realize the extent to which we have cut back on our military and our intelligence- gathering agencies, the impact these cuts have had on our national defense. And yes, in a world where the Cold War is over, but in many ways a more dangerous world today than it was during the Cold War. And I will tell my colleagues why. Because people do not realize what we have done to ourselves. We have done to our military and to our intelligence agencies what no foreign power has been able to do. We have been decimating our own defenses.

That is unforgivable, Mr. Chairman. In this dangerous world in which we are living, when not tomorrow but tonight, today, at any minute, this whole world could explode for us. It is just that serious. And here we are fat, dumb, and happy going about our merry ways, not concerned about what could happen to us. Let me tell my colleagues what could happen to us.

In this day and time you do not have to be a superpower to raise the horrors of mass destruction warfare on people. It could be a Third World country, a rogue nation, or a terrorist group for that matter. They can put together weapons of mass destruction in laboratories in inexpensive low-tech ways. They can marry these weapons of mass destruction with cruise missiles, which can be bought across borders. They can launch them from various platforms, airplanes, submarines, ships, tugboats, extending the range to the extent that it brings everyone under the threat of weapons of mass destruction.

These weapons of mass destruction are chemical, biological, bacteriological. Can my colleagues imagine having to defend against these kinds of weapons, hideous weapons? Anthrax could be released in the air over Washington, D.C. in a simple way, killing hundreds of thousands of people, and we could not inoculate people fast enough to prevent anything happening to them. That could happen at any time and people are talking about cutting back on our ability to defend against these things or to prevent them from happening. It is unconscionable to even think about it. It borders on leaving our country defenseless when confronting the enemy and all the dangers that we are facing as a country.

Aside from those weapons of mass destruction, we face all kinds of threats from various sources. This is a very dangerous world. We have to do more instead of less in defending our country and our people.

Mr. Chairman, I would urge my colleagues to let reason come to this debate. Think it through. Vote down overwhelmingly this senseless amendment.

Mr. DEFAZIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment. The gentleman from South Carolina (Mr. SPENCE) made some excellent points. The whole world, it is a dangerous world. It could explode at any moment. The question, given the past performance of our intelligence agencies is whether they could tell us about the world exploding before or after the fact or even recognize it after the fact. The disintegration of the Soviet Union, they could not predict that. The invasion of Kuwait with the Iraqis massed on the border, they could not predict that. Even the horrible tragedy which was mentioned earlier of the killing by terrorists of our troops, that was not prevented and it certainly was not predicted.

These are horrible things that have happened and the intelligence agencies have not exactly been ahead of the curve. They are engaged in acquiring ever greater technology at ever greater expense and more and more money, as opposed to becoming more efficient and more effective, finely honed, leaner and meaner, getting the intelligence we really need and our Armed Services really need to defend our people.

The gentleman talked about defending our people against chemical-biological attack. We just had an assessment about that. There is no preparation in this country. We are not investing in the civilian law enforcement agencies, the emergency response, the vaccines, and the other things we should be stockpiling to respond. But we are spending money on incredible satellite systems and the satellite systems are gathering so much data that 60 percent of it is never analyzed.

Mr. Chairman, we wonder if they have got up to the point yet of analyzing the data that shows whether or not there is still a Berlin Wall. Just a couple of years ago, the National Security Agency, in doing a cursory review of its books, found that it had an extra $4 billion in accounts which it had secreted around, more than the annual budget perhaps, but that is a classified number so we do not know. But probably more than its annual budget, they had secreted it in various accounts and no one knew anything about it.

So that speaks to me, and I think to other Members of Congress, that perhaps there is a little bit too much money washing around over there if they can misplace $4 billion. We are investigating misappropriations of hundreds of dollars or thousands of dollars regularly, and rising to those issues.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, the gentleman has always been accurate. He said the NSA. He meant the NRO, and I ask him to correct that.

Mr. DEFAZIO. Mr. Chairman, reclaiming my time, excuse me. I thank the gentleman for correcting me. I meant the NRO, not the NSA. That is part of the problem with this debate. This is not a debate which really takes place very often on the floor of the House, and does not take place in full light with full accountability to the public. We know last year's number. We know how much money we spent last year. But we cannot talk about how much money we are going to spend this year. We cannot talk about the number which we are debating here on the floor today. We cannot talk about whether it is an increase or decrease from last year's number because we have last year's number.

It used to be at least we could talk about the percentage increase of the secret number, but now since we know what the number was, we cannot even talk about what percentage increase or decrease it might be in this year's budget. But we are debating it here on the floor and we do have some confusing acronyms, NRO, NSA, DIA, CIA, and others which we cannot even mention which are involved.

The point that I am trying to make, and I think others here are, no, we do want to have a robust intelligence service, but we want to have one that is reorganized, that is not territorial, oriented towards preserving their own separate bureaucracies, but one which is better integrated, one which is more efficient, more effective, and provides realtime data that is of use both to our military services, our civilian law enforcement agencies, and in the defense of the people of the United States of America.

I believe we could do that with more scrutiny instead of having this absurd debate every year where we do not know what we are debating. Let us talk about the individual components of this budget and what they are spending it on. There is no one in the world who can benefit from knowing that. In fact, our potential enemies already know it, but the American people cannot know it and the elected officials cannot know it and they cannot speak about it and debate it on the floor.

Mr. Chairman, that is an absurdity and that is what the debate is about today. If they could defend their numbers and defend them category by category as we do every other department of the United States of America, including the Pentagon and the Defense Department, then there would be a fair debate and the numbers that the gentleman cited in support of that budget would be fair numbers. But those are numbers where the Members did not even know what they were voting on. That happens fairly often around here, but this is one for sure that they did not know what they were voting on.

So I would urge my colleagues to support this amendment to cut the amount of money, whatever it is, by 5 percent and make these agencies more efficient, more effective, and better protect the people of the United States.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the previous speaker talked about a lot of complaints that he had about our intelligence community and I think we would all admit they are not perfect. As he was speaking, it reminded me of a trip that I made driving home to Florida one time. I came upon a group of young kids that were on a hay ride. And the hay ride wagon had red, white, and blue bunting and American flags and the kids were having a good time packed up on the bales of hay.

□ 1330

It had this big banner across the back of the wagon, and it said "America, we ain't perfect, but we ain't through yet." I would apply that to the argument that the gentleman just made.

Our intelligence community is not perfect. There are problems. This bill directs itself to many of those problems, to solve many of those solutions. That is what we intend to do with this bill.

What I really wanted to mention is that I listened to the comment of my friend, the gentleman from Vermont (Mr. SANDERS) about senior citizens. He listed a lot of things that we could do if we did not do something else. You could make that argument about anything that we do in here.

Let me tell you this. I represent one of the largest groups of senior citizens of anybody in this body. And those senior citizens are old enough to remember a time in our history that was devastating to us, that was devastating to our morale, and that killed an awful lot of young Americans.

I am talking about a lack of intelligence, poor preparation for intelligence, lack of information that we needed when Pearl Harbor was attacked in 1941. That was a long time ago, and a lot of people do not remember that, but those senior citizens that the gentleman from Vermont (Mr. SANDERS) talks about, they remember that.

I hear it on a regular basis when I am home in my district talking about defense issues and veterans issues; and that is, let us do not ever get ourselves in a position where we are not prepared to either know about an attack of that type or be prepared to do something about it.

The world is different today in 1998 than it was in 1941. In 1941, we did not have intercontinental ballistic missiles aimed at each other across the oceans. We did not have submarines carrying nuclear warheads within range of the United States of America, any city in the United States of America. We did not have satellites, and we did not have space shuttles and things of this nature.

In 1941, we had a little time to put it back together. Although we lost thousands and thousands of young Americans, we lost in the beaches of the Pacific and the frozen battle grounds of Europe; and, finally, we turned the tide, and we came back to life, and we defeated the enemy, and we prevailed, and freedom prevailed.

Just think, had our intelligence been adequate then, we might not have had to suffer the terrible tragedy of Pearl Harbor. Let us not let that happen again. Let us keep our eyes and ears as sharp as they can possibly be. Let us be prepared in the event someone is determined to do something that would be adverse to us and our national interest and, more importantly, the people of our great Nation.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. Yes, I am happy to yield to my friend, the gentleman from Washington.

The CHAIRMAN. The time of the gentleman from Florida (Mr. YOUNG) has expired.

(On request of Mr. DICKS, and by unanimous consent, Mr. YOUNG of Florida was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Mr. Chairman, if the gentleman will continue to yield, the gentleman makes an important point in that we have to be prepared with what we have today. We are not going to have time to go out and build all the things that we may need in our next conflict.

My colleague, the gentleman from Oregon said that in the Gulf War, we had an intelligence failure. That simply is not true. The President said after the invasion of Kuwait was that he had 2 days of actionable warning from the intelligence community; and that is a fact.

The problem was, and this is what happens sometimes in these crises, we did not act on that intelligence, because we were told by other people who were allies in that region that Saddam would not invade. But there was, in fact, warning there; and I want to make that point. Part of the reason why we had the warning is because we had our intelligence apparatus in place.

I would also say, in very general terms, we had a tremendous military victory because we had an intelligence advantage in the Gulf War that allowed that victory to occur quickly, decisively, saving American lives, saving the lives of the allies, and saving money, actually, for the taxpayers.

By having intelligence superiority, as Colin Powell said, you can provide overwhelming military force and end the conflict rapidly. That is why I have always believed that having a strong defense is the right thing to do; because, as you go back and look in our history, look at Korea, another example where we were unprepared, did not have the right training, did not have the people ready to go, and we almost got run off the peninsula. That was another problem where we were both militarily weak and did not have good intelligence. It would be a mistake of vast proportions to undermine the intelligence community, to undermine the defense of this country.

We have already cut defense and national security by $115 billion.

The CHAIRMAN. The time of the gentleman from Florida (Mr. YOUNG) has again expired.

Mr. DICKS. Mr. Chairman, I ask unanimous consent that the gentleman from Florida (Mr. YOUNG) have an additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. OWENS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words.

My view of this is that we have already cut defense by $115 billion from the high point back in 1985. That means that we have reduced that overall budget from about $365 billion a year to $250 billion a year. We are not even keeping up with inflation.

There has been a judgment made by the Secretary of Defense and the Director of Central Intelligence about how much of that roughly $250 billion is going to go into intelligence.

This committee, 16 Members; 9 Republicans, 7 Democrats, have held exhaustive hearings into every aspect of that budget. We have a highly professional staff that looks into it all. We have come to a unanimous conclusion that the amount that has been requested by the chairman in his markup is the right amount.

Let us fight in other venues to take money and use it for what the gentleman from Vermont talked about. I am for all those programs. But I do not think we should try to cut it out here. If it was taken out of the authorization for intelligence, all it would do is wind up being spent for other defense items. That is the reality of this. It is a nice idea, but it simply will not work.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I want to make a brief statement just on that. You are aware that just last week when we voted for disaster relief, which virtually everybody supported, suddenly out of nowhere came an offset from disaster relief to cut $2.2 billion in housing.

It seems to me that if this Congress has the capability of cutting affordable housing for disaster relief, we also have the capability of working together and making sure that when we cut intelligence spending, it goes to people in need, middle-class and working families.

Mr. DICKS. Mr. Chairman, what I say to my good friend is this, we have cut defense over the last 15 years by $115 billion. That is how we balanced this budget. Defense has already been cut. I think there are a lot of other parts of this budget that ought to be looked at.

Mr. SANDERS. I suggest to my friend, the gentleman from Washington, we are spending $267 billion this year on defense in addition to our NATO allies and all their expenditures in addition to the intelligence. That is a lot of money.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to my friend, the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for yielding. He pointed out that there has been a reduction from what seemed to me a greatly swollen budget under Secretary Weinberger, but it is down about 30 percent. At the same time, we have had the collapse of the Soviet Union.

The defense is to deal with our enemies. I wonder if he believes that we are, in fact, facing less of a military threat today than we were in 1985? I wonder if he would quantify that.

Mr. DICKS. If the gentleman would give me a chance, I would respond to that. I say yes, we are facing less of a ground-based military threat from the Soviet Union.

Mr. FRANK of Massachusetts. Only ground-based? Does the gentleman think the Soviet air and sea power is the same?

Mr. DICKS. Sea power and air power, yes, basically the threat from conventional forces has been reduced.

That is one reason why we have cut the defense budget, because we think we can go to a lower level. But I would say to my friend, the gentleman from Massachusetts, that there are other problems out there.

We have got Iran. We have got Iraq. We have got North Korea. We have got the problems of China. We have got instability in Russia today that I worry about. They still possess thousands of nuclear weapons. We are taking some risk here in cutting back on our defenses.

Mr. FRANK of Massachusetts. Mr. Chairman, would the gentleman yield?

Mr. DICKS. Mr. Chairman, I only have a little bit of time here, but I yield again to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, let me say to the gentleman, the basic point I want to make is it seems to me very much a partial picture to talk about the reduction in the defense spending without talking about the concomitant reduction in the need for defense spending.

I have to say that if you look at the Soviet Union today, not just in conventional, but you have got the defection of the nuclear parts that were in Ukraine and Belarus, the Soviet Union today is far less than two-thirds as threatening to us as it was in 1985. There has been, I believe, a diminution in the external threat we faced greater than the diminution in the defense budget.

Mr. DICKS. Mr. Chairman, I would say to the gentleman from Massachusetts I think there are still areas in the defense budget that can be cut; that is why I have supported BRAC.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman will yield, let us get out a news flash.

Mr. DICKS. I know.

Mr. FRANK of Massachusetts. I think we may get an extra here.

Mr. DICKS. Mr. Chairman, there are some areas in base closure where we can do some other cuts. I would like to take that money, frankly, and put it into modernization where the chairman of the Joint Chiefs and all the service chiefs have written a letter to the Secretary of Defense saying we should be, instead of being at $43 billion a year, be at $60 billion. We are not there.

We went through this before, after the Vietnam War, when we created a hollow force, and then it opened the door for Mr. Reagan to come in and say we have to vastly increase defense spending because we did not handle this properly. We did not develop an adequate force.

Mr. Chairman, I am not going to ask for any additional time because I know my colleagues will not appreciate it.

Mr. FRANK of Massachusetts. We wish you would not ask for additional money.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not want to be redundant. It has been well said by many Members here in defense of the budget and in opposition to the well-intentioned but I think unwise amendment of the gentleman from Vermont (Mr. SANDERS).

I think the thing to remember is that we have a Permanent Select Committee on Intelligence in the House and in the Senate. It is peopled by sensitive, patriotic, intelligent, budget-minded people. They have done their job. They have looked at the budget, program by program by program.

We are not dealing with the CIA. We are dealing with the intelligence community, including the CIA, the FBI, the DIA, et cetera, et cetera, et cetera. There are a myriad of programs, all requiring some study to understand if they are cost-effective or not.

They have done their job. The Senators will do their job. The conferees will do their job. But to come in and try to perform brain surgery with a croquet mallet, with an across-the-board 5 percent cut, makes a political statement but it does real damage to the defense of our country.

Yes, a lot of seniors, a lot of children can benefit by increased domestic spending, but we all benefit, including children, including seniors, from a secure and peaceful world.

Yes, the Cold War is over, but let me suggest to you the bear is only sleeping. The forest is full of snakes and other dangerous animals. There are 13 ICBMs trained on us from the People's Republic of China. I have not heard that all of the intercontinental nuclear missiles are disabled in the former Soviet Union. Narco-terrorism, terrorism, technological developments have made this a much more complicated world in terms of staying ahead of the curve.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for his disquisition of what the bear is doing in the forest, but I do have a question.

Mr. HYDE. Was the gentleman not interested in the snakes either?

Mr. FRANK of Massachusetts. No, that is not under our committee's jurisdiction as I last looked, Mr. Chairman.

Mr. HYDE. I thought you were an expert on the subject.

Mr. FRANK of Massachusetts. My question was this: You said that because we have a committee composed of intelligent, patriotic Americans, we should not be for an across-the-board cut. My recollection is that in the past, the gentleman from Illinois has voted for across-the-board cuts. Did that reflect his lack of respect for the members of those committees?

Mr. HYDE. Not at all. I think sometimes it is important to make a statement and sometimes it is not. This is not the time to make a statement. This is a time to recognize the sensitivity, the importance, the significance, and the intention which the Permanent Select Committee on Intelligence of both bodies give to this issue and to prefer that looking at these things in depth, understanding the consequences of emasculating them by across-the-board cuts, I think that is so important and I think it is the right way to do it.

Mr. Chairman, I yield, again, to my friend from Massachusetts for whatever illumination he chooses to give us.

Mr. FRANK of Massachusetts. Mr. Chairman, I appreciate the gentleman's point, and I think it is important to remember he apparently dismisses the notion of across-the-board cuts as simply making statements. I think we ought to have that down on the record, that his view is that an across-the-board cut is simply for the purpose of making a political statement and is apparently never a serious legislative answer.

□ 1345

Mr. HYDE. No, sir, not at all. My position is sometimes it is appropriate and sometimes it is not. This is inappropriate.

So I simply suggest that we trust our committee. And, by the way, when we talk about cutting defense, I heard the other day there are soldiers and their families on food stamps. We ought to be ashamed of ourselves if that is true.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Vermont. Beautiful Vermont. Not that Massachusetts is so bad.

Mr. SANDERS. I would, by the way, agree with the gentleman about the shame of having our soldiers on food stamps, and maybe we should put more money into their needs and less into B-2 bombers. But that is another story.

The point I want to make is the gentleman raised China as a potential threat. I am not here to be on an anti-China kick. But I would point out to the gentleman that this Congress voted MFN status for China; that corporate America is putting tens of billions of dollars into bolstering the China economy rather than reinvesting in America.

Mr. HYDE. Reclaiming my time, Mr. Chairman, I would say to the gentleman that some of us did and some of us did not. I stand with those who did not.

I thank the gentleman for his kind attention.

Mr. OWENS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in favor of the amendment, and I want to thank my colleague from Vermont (Mr. BERNARD SANDERS) for leading this annual dialogue with the American voters. Unless we raised these questions, one would never know that the CIA budget is about $30 billion, and there are no questions raised outside of the very closed circle of the people on the Permanent Select Committee on Intelligence.

The Permanent Select Committee on Intelligence represents one of those command and control operations of the type which brought down the Soviet Union. There is a close circle of people who have a vested interest in keeping something going. They have no outside criticism. Nobody even knows what they are doing.

Other intelligence communities have opened up, even the Soviet Union has opened up information about its intelligence operations, but we still have a secret operation which perpetuates itself.

I want to thank the gentleman from Vermont for offering the American people 130 schools. We can build a state-of-the-art school for $10 million. $1.3 billion would give us 130 schools. Why not take the $1.3 billion out of the budget of this organization, which clearly has far more money than it needs at this time? The budget is about the same level it was at the time of the evil empire of the Soviet Union.

They clearly do not know what to do with all the money because, and nobody ever explains this to us from the committee, they had a petty cash problem. They lost $2 billion in their bookkeeping. Found they had $2 billion more than they knew they had a few years ago. A couple of years ago. Actually, it was $4 billion. After the first announcements were made, nobody noticed that later on they came and said, well, actually we found $4 billion. Four billion dollars, and nobody on the Permanent Select Committee on Intelligence has ever bothered to explain that to us or to the American voters. What happened to $4 billion? How can you lose $4 billion? That is a lot of schools.

So we have an agency that probably is very much needed. Nobody says we want to get rid of it. All we are talking is a 5 percent cut, a 5 percent cut to say discipline yourself, take care of your petty cash better and build 130 schools.

We can break this circle of closed decision-making, the command and control operation, that whole spirit of cloak-and-dagger operation where they will not let us see the whole budget. If a Member of Congress goes to look at this budget, he is duty bound never to speak about it again. What kind of cloak-and-dagger operation is that, that we need at this time in the life of the globe?

There are some people who know the secrets of the CIA because they get it from the members of the CIA. All the people that Aldridge Ames, remember Aldridge Ames? They do not talk about him very much, but he was a top-ranking CIA person in charge of the Soviet Union and Eastern Europe, and he turned out to be a guy who was a hustler. For a few dollars, a few million dollars, he was telling the enemy everything they needed to know. We cannot find out here, but Aldridge Ames was telling them.

Now they have a mentally unstable ex-policeman. An ex-policeman who his colleagues, in the former police department where he came from, said this guy was a nut. How did he ever get in the CIA? He is divulging our code secrets. He has divulged. He is now arrested, and there is a lot being said about him and a lot not being said about him. So we do not know what damage he has done. But he has divulged the codes and the whole cryptology and a whole bunch of very secret things the enemy knows, because the CIA is so incompetent it allows these kinds of things to get out.

So we are dealing with wasteful spending and a closed circle of Permanent Select Committee on Intelligence members who are determined to perpetuate wasteful spending. It is part of their religion. It is a dogma. They go on and on and not looking closely at what they are spending the money for.

There is big spending and there is wasteful spending. Democrats often get accused of being big spenders. Big spenders are the people who want to keep the Social Security system going. Big spenders are the people who want to spend money for Medicare, Medicaid, Title I. Big spenders are people who want to use the American resources for the greatest number of people.

Blind spenders, wasteful spenders, are the kind of people on the Republican majority that say we should spend $10 billion for an investigation that is going nowhere in the case of campaign finance reform. They do not want to talk about campaign finance reform, they just want to dig up dirt, play around and release tapes.

Ten billion dollars. That is one whole school that will be taken away as a result of wasteful spending for an investigation. The CIA and its continued big budget represents the same kind of wasteful spending.

Republican wasteful spending is one thing that the voters need to take a hard look at. Do not listen to people who talk about big spending. If we ask them what they are spending the money for, we will find out whether it is big spending, blind spending, or wasteful spending.

We are, Democrats as well as Republicans, very much conscious of the label of being big spenders. A lot of Democrats who are labeled as big spenders, if they do not want to stay with the label, here is an opportunity for my fellow colleagues, Democrats and Republicans. Here is an opportunity to send a message to our constituents. We can send a message to the voters that we will not be a wasteful spender. We will not go on and perpetuate the budget of the CIA, the secret budget that nobody can really know. We will not go on. We will at least cut it 5 percent and give America 130 schools. One hundred thirty schools to America.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have had a lot of interesting rhetoric here, and I think that, in a charitable mood, generous mood, maybe, that this kind of debate each year is salutary, because it is an opportunity for members who do not serve on the Permanent Select Committee on Intelligence to ask questions of those who do.

I think, despite what the gentleman said, perhaps in a little bit of overblown rhetoric, the gentleman from New York, this is not a command and control operation of the Soviet Union. The kind of oversight that the House and Senate give to the intelligence operations of the United States is the best among all the parliamentary bodies in the world.

Mr. OWENS. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from New York.

Mr. OWENS. Would the gentleman take time to tell us about the $4 billion in petty cash funds that were lost? Could the gentleman tell us about the unstable ex-policeman who has now been arrested? Can the gentleman expound on these subjects?

Mr. BEREUTER. Reclaiming the balance of my time, the gentleman had his 5 minutes.

Mr. OWENS. Well, the gentleman should not waste his on rhetoric. Give us some information.

Mr. BEREUTER. I am not a member of the Permanent Select Committee on Intelligence. I do not expect to respond to the gentleman's questions.

My understanding, Mr. Chairman, is the money has been recovered. It is not lost.

In any case, what I want to say is that countries from around the world send their parliamentary bodies to try to understand how we conduct oversight of the intelligence functions of our government, and they do that because of the quality of what is done by the people appointed by the minority leader and the Speaker of this House.

Now, they choose people who they think will give the interest, the competence, the time, and have the intense focus necessary to give oversight to these important functions of the Federal Government.

We have a limitation. First 6 years, now 8 years, like the other body, on the length of time that Members can serve on the intelligence committees, and that is so that these Members do not become co-opted by the agencies over which they conduct oversight. That is a protection for all of us.

Now, I have been a member of the Permanent Select Committee on Intelligence. I do not serve there any longer because of that term limitation. I spend a lot of my time on foreign policy and trade issues, and I want to speak to my colleagues from that perspective today.

Mr. Chairman, our policymakers, from the President on down, depend upon accurate and timely intelligence when making their most critical decisions. The Secretary of State relies on the information to assist her in crafting foreign policy, to judge the performance of that policy and, as added ammunition, during crucial international negotiations. It is true of the STR, it is true of the Treasury Secretary, it is true of the Department of Defense.

In fact, the Secretary of Defense needs political and military intelligence in order to deploy troops and plan for future military needs. And the list goes on. For all these leaders, intelligence is a vital tool that enables them to respond to crises and to anticipate future needs. A broad cut to our intelligence capabilities would hamper our government's abilities in these areas.

The sponsors of this amendment argue that the intelligence budget should come down. After all, the Cold War is over. Well, intelligence spending has declined, along with other defense spending. But the world is still a very dangerous place, as many of my colleagues have pointed out, and new threats to our Nation's security and the safety of its citizens have emerged. Terrorism, weapons of mass destruction, international organized crime, and drug trafficking all pose increased risk to the United States. We need to collect information about these new threats if we are going to combat them and combat them successfully.

The gentleman from Oregon raised some interesting points a few minutes ago. He talked about some areas he felt that we had not had adequate intelligence. First of all, policymakers have to make use of the intelligence that is provided. I sat in that Permanent Select Committee on Intelligence during the dissolution of Yugoslavia. Nothing could have been better than the intelligence given to our policy leaders during that period of time. But European nations and our leadership, from President Bush to President Clinton, had to act upon that intelligence to have its effect. That was not done adequately.

Secondly, I would say when it comes to the terrorist activities that took place in Saudi Arabia, we were not blind in intelligence, but action has to be taken.

Finally, I want to say as a person who follows trade, we have disarmed ourselves in certain parts of this world. We disarmed ourselves on economic intelligence in southeast and east Asia, and it is no wonder we had no intelligence adequate to take steps to avoid the kind of monetary fiscal crises that took place in Thailand, the Republic of Korea and Indonesia. That is because, in part, I suggest, we disarmed ourselves.

The same is true in parts of Latin America, where we have devastated our human intelligence by disarmament, not conducted by this body, but conducted by the executive branch over a period of time.

Finally, Mr. Chairman, I oppose this cut on the basis that it is not good government. As a former member of this committee, I believe it is fair to say that I know firsthand the process that is required to develop an annual intelligence authorization. And I can attest to the scrutiny and to the rigorous oversight that the members of this committee, chosen by the leadership of the House, give to this budget. They have done a particularly good job this year. And I would say that the staff that assists them is always among the best in the House. I have great confidence in their recommendation.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this debate is not what I would like, I say to the floor managers and chairman and ranking member of the Permanent Select Committee on Intelligence, because in this 5 minutes back and forth, usually we do not get answered.

Let us understand that the Central Intelligence Agency's relationship with drug pushers has not even been mentioned here. It is as if we are in a universe where nobody knows about this except we read it in the paper or we get a GAO study every now and then, or somebody writes about Los Angeles and the introduction of cocaine, which creates a momentary flak. And then we come here to the annual ritual and what do we have? We have people saying the Permanent Select Committee on Intelligence is one of the most respected bodies in the world system, not the Congress. It is studied all over the world because these are sensitive people, understand. They are very sensitive about this subject. It is all secret. We do not know what is going on.

We do know that there was $26.7 billion appropriated. And then somebody snuck into the emergency supplemental appropriation, fiscal year 1998, an unknown amount of money.

□ 1400

Rumored, "Oh, never heard of that before." Okay. Rumored, $260 million. Suspected a lot more. But nobody knows. And then this discussion my colleagues have passed off as an open, fair debate on this subject. Now, if I hear that the CIA is not perfect one more time, I am going to excuse myself from these proceedings. Of course it is not perfect. It is awful.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I will not yield to the gentleman from California. I will excuse myself from the proceedings after the debate on this measure is concluded.

But look, we know the CIA is not perfect. But that is not the question. The question is, how bad are they? "Oh, wow, that is an insult. We cannot talk like that." They are not perfect. Why, any amateur historian knows that we had perfect knowledge that the Japanese were coming to Pearl Harbor. And a respected Member of this body gets up and says, well, it was military intelligence, if it had been stronger. Pearl Harbor is a perfect example of our intelligence system at work.

Now, the intelligence community failed in Iraq. I mean, for anyone to suggest that we won the war on intelligence, really they have not even been listening to the military much less to anybody else.

This committee has done us a great disservice, and then to fight hard to keep a 5 percent reduction from occurring. Let us really show them by a two-to-one margin that the American people want to keep this secret budget going full blast, whatever it is, and that the American people are approving of this.

Well, I think this does the body a disservice. I do not think that we should do it. I refer my colleagues to the GAO news release. "CIA kept ties with alleged traffickers." And then we come here and debate about how they have got to do some more about drugs and we hear, "Let's give them another chance." Did I hear that last year, the last year, the year before the year before, the year before, the year before? Of course. "Let us give them one more chance."

Well, I think this is not the way to debate. There is a tangled web of the CIA's complicity in drug international trafficking that not one member of the Select Committee on Intelligence has even alluded to in debate, even referenced. It does not exist. We are here to get this secret budget through and that is it.

Mr. WELDON of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the actions of the committee and to praise the Members on both sides of the aisle for the very deliberate effort they have made in, I think, crafting the best budget we could in a very difficult budget environment. I am not a member of the committee, never have been, although one day that is something perhaps I would like to serve on behalf of my colleagues on this side of the aisle, and that is a role on the committee itself.

In fact, Mr. Chairman, over the past several years I have been very critical of the agencies, both the CIA and DIA. I have reviewed their NIEs. From time to time I have disagreed. I asked for backup and I have challenged them publicly and privately.

But I will say this to my colleagues, Mr. Chairman, in response to those who say that the CIA and the committee operates in a closed environment, I have been in this Congress for 12 years, I have interacted with the intelligence agencies on a regular, ongoing basis in my office. From time to time I have gone over to meet with them in this building. They have been fully accessible to answer questions that I have asked them about emerging threats around the world. So I would say to my colleagues that any Member of this body that wants to get access to what the intelligence community is doing only has to ask and they will find that they are more than happy to respond. In fact, I am very pleased with the current leadership of the Director of the CIA. I think he is putting a new era of management and control in terms of the way the agency is being operated.

But why am I so interested in the intelligence budget and the intelligence agency? My job in this body, Mr. Chairman, is to oversee approximately $36 billion a year of defense spending that is being put forth to protect our people and our allies against emerging threats. I would like to be able to know that we are spending that money on threats that are real, on threats that we understand from our best intelligence sources may be those threats that our young people have to face in the future. And only through good, solid intelligence can we get that data.

We heard debate on the floor; in one case I heard someone say that Russia is two-thirds less than what it was. Well, I do not know where people base their opinions, but let me give my colleagues my perception.

I guess I am one of the few Members of Congress who speaks the language. I have been there 15 times. In fact, next week I will be hosting all the major members of the state Duma. I work with Russia on a regular, ongoing, weekly basis.

I would make the case publicly that Russia is more destabilized today than at any point in time under Communism. I do not just make that statement radically. In fact, Mr. Chairman, I had General Lebed testify before my committee. If my colleagues do not know who General Lebed is, he is a Russian general, two star, who ran against Boris Yeltsin and then became Boris Yeltsin's chief defense advisor.

Along with members on both sides of the aisle last May, in one of my visits to Moscow last year, we sat in General Lebed's office and he told us the story about one of his responsibilities to account to Boris Yeltsin for 132 suitcase-size nuclear devices that Russia built and he was able to account for only 48 of them. And we said to him, "General, where are the rest?" He said, "I have no idea." He said, "They could be under control or they could be in terrorists' hands." He said, "They could be in somebody's basement. We just do not know where they are."

I came back and interacted with our intelligence community and got an update on what they are doing to try to ascertain whether or not Russia does have control of these devices. Now, Russia, the government, denied they even built them for the following 4 months after General Lebed made the statement.

Finally, when I met with the defense minister, General Sergeyev, in December, he admitted to me that, yes, they built them and they hoped to have them all destroyed by the year 2000.

Mr. Chairman, we are not talking about some pie-in-the-sky Steven Spielberg movie plot. We are talking about real-life situations. What about the situation in January 1995, when because of Russia's deterioration and their intelligence assets, they responded to a Norwegian weather rocket by activating their all-out nuclear capabilities, which meant that Russia, which they publicly acknowledged, was within 15 minutes of an all-out nuclear response against the U.S. to a weather rocket that Norway had forewarned them of a month earlier?

That is reality, Mr. Chairman. These are the kinds of threats that we have to have assets to help us understand. If we talk to the intelligence community because of the shift in focus in this country to the Far East, what are we doing in the case of Russia? To meet the declining budgets, the limitations, we are taking away assets that we used to have to understand the former Soviet Union. So at a time when Russia becomes more of a risk, where we do not understand what is happening there, we are decreasing our ability to understand the situation.

Let me tell my colleagues what else General Lebed said in a public hearing here in this country. And by the way, he just is in the process of winning the governorship of one of the largest regions in Russia, Krasnoyarsk. This is what he said. He said, "You know, Congressman, one of our biggest problems? All of those most competent admirals and generals in the Soviet military have been forced out of service because of our economic problems." And we have heard members talk about that. But he said, "Here is the problem. These most competent generals and admirals have not been given housing, they have not been given pensions. So what are they doing?"

Mr. WELDON of Pennsylvania. Mr. Chairman, I ask unanimous consent for an additional 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. OWENS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Ms. WATERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the amendment that is being offered for a meager 5 percent cut from the intelligence budget. I rise to support it because it makes eminently good sense.

First of all, no matter what my colleagues say, those who are opposed to this amendment, those who can appear and rant and rave about why we should not only support the budget but be for more money for that budget, first of all, it has been said over and over again, the Cold War is over; the Soviet Union is no more.

Where is this great threat to our country? Who can identify anybody in the world who is prepared to take on the United States of America? Someone alluded to Iran and alluded to China. Well, I can talk a lot about

China. And if we feel they are such a great threat, why are we chasing them down, embracing them, running after them to do business with them, to be involved in trade activities with them?

Let me tell my colleagues where the threat is. The real war that is being waged on America today is the drug war. Where is our great intelligence to tell us who the drug lords are and how they manage to continue day in and day out, week in and week out, to dump tons of drugs into this Nation that finds its way into our cities and our rural communities, addicting our children, creating more crimes, with people who get addicted and are looking for ways to support those habits.

Why cannot this intelligence community tell us who these drug lords are? Why is it these cartels can continue to operate without any interference? It is so embarrassing to have our own Drug Czar go down to Mexico and wrap his arms around General Gutierrez Rebollo. And just a few days after he is down there talking about how great he is, this is our own drug czar, the drug czar was busted because he is connected to the Juarez cartel.

Now, our Drug Czar was in the service. He is a general. He knows about the DIA, the CIA, and everybody else. But he goes down there, wraps his arms around him, talks about how great he is, he has known him for years; and he is the dope dealer. He is the one that is connected to the drug cartel. This is outrageous. It is embarrassing.

And do not tell me how good the intelligence community is. It does not matter whether we are talking about Mexico or Peru or Colombia. Why cannot our intelligence community tell us about the heads of government and the leadership of those countries who are involved in trafficking drugs, at the same time we are giving support to them, we are showing up with them in every kind of cockamamie scheme, talking about we are helping to eliminate drugs, when the fact of the matter is, it is getting worse.

If this intelligence community was about the business of dealing with any war, it would be the war on drugs. That is the war that is being waged on America. I am sick and tired of hearing that we cannot streamline, we cannot cut, we cannot do anything about the intelligence community. And there are those who just romanticize the intelligence community, those who think we cannot ask any questions, we cannot cut them, we cannot dare challenge them.

It is outdated, long overdue for cuts and being streamlined. And yet we come to the floor, person after person, talking about how great it is, how we should continue to support it.

Well, my colleagues know that I have been involved in this drug war for a long time, and they understand that the number one priority of the Congressional Black Caucus is to get rid of drugs in our society. We do not have any help from the CIA. As a matter of fact, we are still investigating the CIA and their involvement in drug trafficking.

As my colleagues know, we just had a hearing, and I would like to thank our ranking member for embracing some of the ideas that I have, and in that hearing we are investigating what was the CIA doing when all the drugs were being trafficked in South Central Los Angeles and profits were going to fund the contras? Where were they?

Well, I will tell my colleagues where they were. They were at the same place they were when they were in Southeast Asia, turning their backs on drug trafficking, even being involved in it, to have additional money. They like slush funds. It is not enough that we give them over $30 billion in this intelligence community.

If we want an intelligence operation that is dealing with the real war, turn their attention to the drug war and maybe we will want to support them in the future.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on one area I agree with the gentlewoman from California (Ms. WATERS). Mexico has a problem with drugs, and it is a problem in America.

But I tell my colleagues, the White House cutting all the drug responses, from interdiction right down the line, that we Republicans had to restore, is the answer, not cutting them. Telling our children that it is okay to inhale or that he would if he could is not the proper message to send to our children in antidrug programs.

□ 1415

Liberal trial lawyers that get the drug dealers and kingpins off and yet we cannot get through in this body stiff penalties for those druggers, that is wrong as well.

Let me speak to the issue at hand on intelligence. First of all, it is amazing. I would almost let the other side of the aisle speak up here for 2 days on this issue. People that have never set foot in a military uniform, people that have never had to direct intelligence units, people who have never had to go in and plan the defense of major countries but yet they are, quote, the experts. "There is no Cold War. The Cold War is over." But yet what they do not tell you is the threat that is out there. I tell my colleagues, you state your own opinion as fact and you are factually challenged.

First of all, there are over 14,000 nuclear warheads in Russia alone. Because the Russian head said that they are not pointed at the United States, do you know how long it takes to change those targeting data? About 2 minutes. Fourteen thousand of them. Russia in the last 2 years built six nuclear class red October submarines and deployed them. Built them. But there is no threat. Russia this week, a nuclear ship, the largest missile cruiser in the world, launched a missile cruiser out of Russia. But the Cold War is over. Russia is building today the size of the Beltway here in Washington, D.C. under the Ural Mountains a first strike nuclear site. Why? "Oh, the Cold War is over. There is no threat." There is one to the northeast half its size. But there is no threat. We are dealing with 1970s technology in our military, with the F–14 and the F–15 and the F–16, but yet they deploy the SU–35 and the SU–37 that uses vectored thrusts that outclass our fighters and they have an AA–10 and an AA–12 missile that outclasses our AMRAAM. But there is no threat. You are the experts. You would send our troops 300 percent increase in deployments over Vietnam and kill them and not provide for the services that they need and cut the defense budget and cut procurement by 67 percent for your great social programs because there is no threat.

Give me a break, Mr. Chairman. We talk about intelligence and military and foreign policy all to protect this country. Poor foreign military policy does not help, either. Haiti. Haiti could sit there for another 200 years and not be a threat to this country. But yet a political move. And guess what? Aristide is still there. There is still poverty and it costs us billions of dollars. Somalia, the extension of Somalia in which the majority then under the Democrats extended Somalia. Guess what? Aideed died but Aideed's son is there and we got 22 rangers killed because the White House would not give armor to protect them. Twenty-two of our people, billions of dollars.

The gentleman from Vermont (Mr. SANDERS) talks about hurting veterans. Sixteen billion dollars for Haiti and Bosnia. And we have a bill that we cannot get a billion dollars for for FEHP for veterans, which I think he would probably support. But $16 billion and guess what? That comes out of our military and kills us, and kills any chance of helping the veterans. Yet you are the experts and you say there is no Cold War. I have got a tape here of 16 SAMs fired in pairs. Mr. Chairman, I lost three good friends because we did not have the intelligence to know they were there. I am sick and tired of self-proclaimed experts on intelligence and defense standing up and saying, "Oh, look. Look at those that support defense. Look at those that support intelligence."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of the proceedings or other audible conversation is in violation of the rules of the House.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, after the previous speaker, I think I should rise to the defense of some Republicans. He said people who had not been in uniform should not be involved in this debate. I do not think that the Speaker of the House, the majority leader of the House or any of the rest of us who were not able to serve for one reason or another ought to be disqualified. I have never found that the Speaker, because he had never served in the military, was somehow incompetent to discuss military affairs.

I also thought it was rather unkind to Ronald Reagan. We dedicated a building to him yesterday. I had previously thought that people, including former President Reagan, considered ending the Cold War in the way that it ended to be one of his accomplishments. But we learned today that apparently that was a mistake. Indeed, the previous speaker denigrated the notion that the Cold War ended, so I guess that is a claimed accomplishment of President Reagan that is not really real. I am rather more sympathetic to President Reagan in that regard.

Some people suggested, one of the previous speakers, that we are even worse off, that Russia is more dangerous today. Maybe we ought to ask the Communists to come back. Maybe we should see if we can get at least Mr. Gorbachev back in power, Mr. Zyuganov. In fact, what we have heard today is some of the worst history I have ever heard.

I want to, by the way, differ with some of my colleagues who support this amendment. I think the intelligence community does an excellent job on the whole. They have a very difficult job. The reason they sometimes do not know the answer is we cannot know the answer. We cannot know the unknowable. People who are planning to do bad things do not always cooperate by tipping their hand. I do not criticize them for not having known everything that was going to happen. I think they have, in fact, done a pretty good job.

What we are experts in here, by the way, is not military expertise. We are the experts so empowered by the American people at dividing up the resources of this country. We made a decision a couple of years ago about how much we were going to spend. We are not, I think, spending to the fullest, to the extent that we need to in any one area. We then have the job of allocating scarce resources. That is what we have the democratic mandate to do.

The suggestion that somehow this impinges unfairly on the expertise of the committee, no one really seriously believes that. In fact, when people get up and defend the committee on one day, they are the people who would criticize a different committee on a different day.

Let me say, in addition to the Permanent Select Committee on Intelligence, I also have respect for the committee. Indeed I have respect for, I was about to say all the committees of the House but let me say today I have respect for all the committees but one and I hope we can soon resume respect for that one.

The question is how do we allocate our resources. There are a couple of erroneous historical arguments. People have made the analogy to 1941. That is about the worst history I have ever heard. In the 1930s, America was one of the weaker powers in the world. We are not remotely comparable to 1941. We are not, as the United States, anywhere near where we were 55 and 60 years ago vis-a-vis Germany and Japan. Today the United States is by far the strongest Nation in the world. We are stronger than all of our potential opponents, and everyone agrees we should stay that way.

One of my friends said we were emasculating the Defense Department. We are not emasculating. We are saying that maybe in this world, we can taper off on the Viagra dose that they have been on for many years, but nobody is talking about America being anything less than overwhelmingly the strongest Nation in the world. Fifteen years ago, when we peaked in defense spending, we had not just the Soviet Union but its satellite nations. Remember what we all believe, you do not look at the enemy's intentions, you look at the enemy's capability. The defense budget we had 15 years ago assumed that East Germany and Hungary and Czechoslovakia and Poland could be part of a Soviet assault. There has been a very substantial diminution in the capacity of the Soviet bloc to damage us.

Yes, it is still a dangerous world. That is why we are still going to be, if this amendment passed three times over, by far the strongest Nation in the world. The question is, let us look at where we are in America. Many of us believe that there has been a greater diminution in the external threat, which is still there. People posturing about saying, "Well, there is no threat," no one has said there is no threat. There is a threat. The question is, is it now with the collapse and dismantlement of the Soviet Union, the denuclearization of Belarus, the denuclearization of Kazakhstan and the Ukraine, the freeing of the satellite nations so they are now in NATO as opposed to opposing NATO, has there been a diminution? I think the argument is overwhelmingly that there has been.

Many of us believe that while we should still be the strongest Nation in the world militarily, the time has come to shift some resources into domestic crime fighting, into fighting cancer, into dealing with some of our domestic problems. We believe that in the current world, the average American faces more domestic threats than international ones. No one is suggesting that we should have anything less than by far the strongest military and intelligence in the world. We are saying that too much is no longer defensible.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 120, noes 291, not voting 21, as follows:

[Roll No. 137]

AYES—120

Abercrombie
Allen
Baldacci
Barcia
Barrett (WI)
Becerra
Blumenauer
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Camp
Capps
Carson
Chabot
Clay
Clayton
Coble
Conyers
Costello
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Doggett
Duncan
Ensign
Eshoo
Evans
Farr
Fattah
Filner
Fox
Frank (MA)
Furse
Gephardt
Green
Gutierrez
Gutknecht
Hill
Hilliard
Hinchey
Hooley
Jackson (IL)
Jackson-Lee (TX)
Johnson (WI)
Kanjorski
Kaptur
Kilpatrick
Kind (WI)
Kingston
Kleczka
Kucinich
Lee
Lewis (GA)
Lipinski
Lofgren
Luther
Maloney (CT)
Markey
Mascara
McCarthy (MO)
McDermott
McGovern
McKinney
Meehan
Meeks (NY)
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pastor
Paul
Payne
Peterson (MN)
Petri
Porter
Poshard
Ramstad
Rangel
Rivers
Rodriguez
Roemer
Rohrabacher
Roybal-Allard
Royce
Rush
Sanchez
Sanders
Schumer
Sensenbrenner
Shays
Slaughter
Stabenow
Stark
Stearns
Strickland
Thompson
Tierney
Torres
Upton
Velázquez
Vento
Waters
Watt (NC)
Woolsey
Yates

NOES—291

Ackerman
Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Campbell
Canady
Cannon
Cardin
Castle
Chambliss
Chenoweth
Clement
Clyburn
Coburn
Collins
Combest
Condit
Cook
Cooksey

Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Etheridge
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King (NY)
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lowey
Lucas
Maloney (NY)
Manton
Manzullo
Matsui
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McInnis
McIntosh
McIntyre
McKeon
Meek (FL)
Menendez
Mica
Miller (FL)
Mollohan
Moran (KS)
Myrick
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Pascrell
Paxon
Pease
Pelosi
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Redmond
Regula
Reyes
Riggs
Riley
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Ryun
Sabo
Salmon
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stenholm
Stokes
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—21

Bateman
Christensen
Dingell
Dixon
Doyle
Gonzalez
Hastings (FL)
Hefner
LaFalce
Martinez
McHugh
McNulty
Murtha
Nethercutt
Neumann
Parker
Radanovich
Skaggs
Solomon
Stupak
Taylor (NC)

☐ 1445

Messrs. PALLONE, SMITH of New Jersey, and PICKERING changed their vote from "aye" to "no."

Mr. SCHUMER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1999 the sum of $201,500,000.

The CHAIRMAN. Are there amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking out "January 6, 1999" and inserting in lieu thereof "January 6, 2000".

SEC. 304. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.

The CHAIRMAN. Are there amendments to title III?

AMENDMENT NO. 5 OFFERED BY MR. WELDON OF PENNSYLVANIA

Mr. WELDON of Pennsylvania. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. WELDON of Pennsylvania:

At the end of title III, add the following new section:

SEC. 305. PROLIFERATION REPORT.

(a) ANNUAL REPORT.—The Director of Central Intelligence shall submit an annual report to the Members of Congress specified in subsection (d) containing the information described in subsection (b). The first such report shall be submitted not later than 30 days after the date of the enactment of this Act and subsequent reports shall be submitted annually thereafter. Each such report shall be submitted in classified form and shall be in the detail necessary to serve as a basis for determining appropriate corrective action with respect to any transfer within the meaning of subsection (b).

(b) IDENTIFICATION OF FOREIGN ENTITIES TRANSFERRING ITEMS OR TECHNOLOGIES.—Each report shall identify each covered entity which during the preceding 2 years transferred a controlled item to another entity for use in any of the following:

(1) A missile project of concern (as determined by the Director of Central Intelligence).

(2) Activities to develop, produce, stockpile, or deliver chemical or biological weapons.

(3) Nuclear activities in countries that do not maintain full scope International Atomic Energy Agency safeguards or equivalent full scope safeguards.

(c) DEFINITIONS.—For the purposes of this section:

(1) CONTROLLED ITEM.—(A) The term "controlled item" means any of the following items (including technology):

(i) Any item on the MTCR Annex.

(ii) An item listed for control by the Australia Group.

(iii) Any item listed for control by the Nuclear Suppliers Group.

(B) AUSTRALIA GROUP.—The term "Australia Group" means the multilateral regime in which the United States participates that seeks to prevent the proliferation of chemical and biological weapons.

(C) MTCR ANNEX.—The term "MTCR Annex" has the meaning given that term in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(D) NUCLEAR SUPPLIERS' GROUP.—The term "Nuclear Suppliers' Group" means the multilateral arrangement in which the United States participates whose purpose is to restrict the transfers of items with relevance to the nuclear fuel cycle or nuclear explosive applications.

(2) COVERED ENTITY.—The term "covered entity" means a foreign person, corporation, business association, partnership, society, trust, or other nongovernmental organization or group or any government entity operating as a business. Such term includes any successor to any such entity.

(3) MISSILE PROJECT.—(A) The term "missile project" means a project or facility for the design, development, or manufacture of a missile.

(B) The term "missile" has the meaning given that term in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(d) SPECIFIED MEMBERS OF CONGRESS.—The Members of Congress referred to in this subsection are the following:

(1) The chairman and ranking minority party member of the House Permanent Select Committee on Intelligence.

(2) The chairman and ranking minority party member of the Senate Select Committee on Intelligence.

Mr. WELDON of Pennsylvania. Mr. Chairman, I offer this amendment on behalf of myself and the gentleman from Massachusetts (Mr. MARKEY). This is a bipartisan initiative and one that I think gets at the heart of our concerns involving proliferation around the world.

This amendment is a very simple amendment, Mr. Chairman. It requires the Director of Central Intelligence each year to give a report to the Select Committee on Intelligence in the House and the Senate involving any proliferating activity from any entity around the world that this Congress needs to know about.

Now, we have heard a lot of debate over intelligence and a lot of debate over how we should stop proliferation, but let us get to the heart of the matter.

Mr. Chairman, the fact is that we have good intelligence assets that tell us when proliferation is occurring. After all, 2 years ago, working with the Jordanians and Israelis, we caught the Russians transferring accelerometers and gyroscopes to Iraq to improve their Scud missiles. In fact, we have 120 sets of those right now with Russian markings on them.

Last year, last summer, we caught the Iranians being assisted again by a Russian entity to develop a medium-range missile that we think within 12 months will threaten all of Israel, all of our Arab friends, and 25,000 of our troops in that theater. We caught the Chinese transferring ring magnets to Pakistan, and M-11 missiles to Pakistan.

Mr. Chairman, the problem is not our ability to detect when technology is being transferred. In fact, Mr. Chairman, I would at this time insert into the RECORD detailed examples of 21 specific cases of China transferring technology in violation of every major arms control agreement that we are a signatory to, including the MTCR, the Chemical Test Ban Treaty, the Chemical Weapons Treaty, the Nuclear Test Ban Treaty, the Arms Control Export Act, and every other arms control agreement that is the basis of this administration's security arrangements.

Mr. Chairman, I also would like to insert in the record detailed examples of 16 instances of Russia transferring technology. In each of these cases, Mr. Chairman, the problem was not the intelligence community, it was not having the assets upon which to make an intelligent decision.

Date of transfer or report	Reported Russian transfers that may have violated a regime or law	Possibly applicable treaties, regimes, and/or U.S. laws	Administration's reponse
Early 1990's	Russians sold drawings of a sarin plant, manufacturing procedures, and toxic agents to a Japanese terrorist group.	AECA sec. 81; EAA sec. 11C	No publicly known sanction.
1991	Transferred to China three RD–120 rocket engines and electronic equipment to improve accuracy of ballistic missiles.	MTCR; AECA sec. 73; EAA sec. 11B	No publicly known sanction.
1991–1995	Transferred Cryogenic liquid oxygen/hydrogen rocket engines and technology to India	MTCR; AECA sec. 73; EAA sec. 11B	Sanctions against Russia and India under AECA and EAA imposed on May 6, 1992; expired after 2 years.
1992–1995	Russian transfers to Brazil of carbon fiber technology for rocket motor cases for space launch programs.	MTCR; AECA sec. 73; EAA sec. 11B	Sanctions reportedly secretly imposed and waived.
1992–1996	Russian armed forces delivered 24 Scud B missiles and 8 launchers to Armenia	MTCR; AECA sec. 73; EAA sec. 11B	No publicly known sanction.
June 1993	Additional Russian enterprises involved in missile technology transfers to India	MRCR; AECA sec. 73; EAA sec. 11B	Sanctions imposed on June 16, 1993 and waived until July 15, 1993; no publicly known follow-up sanction.
1995–present	Construction of 1,000 megawatt nuclear reactor at Bushehr in Iran	IIANPA sec. 1604 and 1605; FOAA; NPPA sec. 821; FAA sec. 620G.	Refused to renew some civilian nuclear cooperation agreements; waived sanctions on aid.
Aug. 1995	Russian assistance to Iran to develop biological weapons	BWC; AECA sec. 81; EAA sec. 11C; IIANPA sec. 1604 and 1605; FAA sec. 620G and 620H.	No publicly known sanction.
Nov. 1995	Russian citizen transferred to unnamed country technology for making chemical weapons	AECA sec. 81; EAA sec. 11C	Sanctions imposed on Nov. 17, 1995.
Dec. 1995	Russian gyroscopes from submarine launched ballistic missiles smuggled to Iraq through middlemen.	United Nations Sanctions; MTCR; AECA sec. 73; EAA sec. 11B; IIANPA sec. 1604 and 1605; FAA sec. 620G and 620H.	No publicly known sanction.
July–Dec. 1996	DCI reported Russia transferred to Iran "a variety" of items related to ballistic missiles	MTCR; AECA sec. 73; EAA sec. 11B; FAA sec. 620G and 620H; IIANPA sec. 1604 and 1605; FOAA.	No publicly known sanction.
Nov. 1996	Israel reported Russian assistance to Syria to build a chemical weapon plant	AECA sec. 81; EAA sec. 11C; FAA sec. 620G and 620H.	No publicly known sanction.
1996–1997	Delivered 3 Kilo diesel-electric submarines to Iran	IIANPA sec. 1604 and 1605; FAA sec. 620G and 620H.	No publicly known sanction.
Jan.–Feb. 1997	Russia transferred detailed instructions to Iran on production of the SS-4 medium-range missile and related parts.	MTCR; AECA sec. 73; EAA sec. 11B; FAA sec. 620G and 620H; IIANPA sec. 1604 and 1605; FOAA.	No publicly known sanction.
April 1997	Sale of S–300 anti-aircraft/anti-missile missile system to Iran to protect nuclear reactors at Bushehr and other strategic sites.	IIANPA sec. 1604 and 1605; FAA sec. 620G and 620H.	No publicly known sanction.
Oct. 1997	Israeli intelligence reported Russian technology transfers for Iranian missiles developed with ranges between 1,300 and 10,000 km. Transfers include engines and guidance systems.	MTCR; AECA sec. 73; EAA sec. 11B; IIANPA sec. 1604 and 1605; FAA sec. 620G and 620H; FOAA.	No publicly known sanction.

Regimes:

BWC—Biological Weapons Convention.
MTCR—Missile Technology Control Regime.

U.S. Laws:

AECA—Arms Export Control Act.
EAA—Export Administration Act.
FAA—Foreign Assistance Act.
FOAA—Foreign Operations Appropriations Act.
IIANPA—Iran-Iraq Arms Non-Proliferation Act.
NPPA—Nuclear Proliferation Prevention Act.

Date of transfer or report	Reported transfer by China	Possible violation	Administration's response
Nov. 1992	M–11 missiles or related equipment to Pakistan (The Administration did not officially confirm reports that M–11 missiles are in Pakistan.).	MTCR; Arms Export Control Act; Export Administration Act.	Sanctions imposed on Aug. 24, 1993, for transfer of M–11 related equipment (not missiles); waived on Nov. 1, 1994.
Mid-1994 to mid-1995	Dozens or hundreds of missile guidance systems and computerized machine tools to Iran	MTCR; Iran-Iraq Arms Nonproliferation Act; Arms Export Control Act; Export Administration Act.	No sanctions.
2d quarter of 1995	Parts for the M–11 missile to Pakistan	MTCR; Arms Export Control Act; Export Administration Act.	No Sanctions.
Dec. 1994 to mid–1995	5,000 ring magnets for an unsafeguarded nuclear enrichment program in Pakistan	NPT; Export-Import Bank Act; Nuclear Proliferation Prevention Act; Arms Export Control Act.	Considered sanctions under the Export-Import Bank Act; but announced on May 10, 1996, that no sanctions would be imposed.
July 1995	More than 30 M–11 missiles stored in crates at Sargodha Air Force Base in Pakistan	MTCR; Arms Export Control Act; Export Administration Act.	No sanctions.
Sept. 1995	Calutron (electromagnetic isotope separation system) for uranium enrichment to Iran	NPT; Nuclear Proliferation Prevention Act; Export-Import Bank Act; Arms Export Control Act.	No sanctions.
1995–1997	C–802 anti-ship cruise missiles and C–801 air-launched cruise missiles to Iran	Iran-Iraq Arms Nonproliferation Act	No sanctions.
Before Feb. 1996	Dual-use chemical precursors and equipment to Iran's chemical weapon program	Arms Export Control Act; Export Administration Act.	Sanctions imposed on May 21, 1997.
Summer 1996	400 tons of chemicals to Iran	Iran-Iraq Arms Nonproliferation Act[1]; Arms Export Control Act; Export Administration Act.	No sanctions.
Aug. 1996	Plant to manufacture M–11 missiles or missile components in Pakistan	MTCR; Arms Export Control Act; Export Administration Act.	No sanctions.
Aug. 1996	Gyroscopes, accelerometers, and test equipment for missile guidance to Iran	MTCR; Iran-Iraq Arms Nonproliferation Act; Arms Export Control Act; Export Administration Act.	No sanctions.
Sept. 1996	Special industrial furnace and high-tech diagnostic equipment to unsafeguarded nuclear facilities in Pakistan.	NPT; Nuclear Proliferation Prevention Act; Export-Import Bank Act; Arms Export Control Act.	No sanctions.

Date of transfer or report	Reported transfer by China	Possible violation	Administration's response
July–Dec. 1996	Director of Central Intelligence (DCI) reported "tremendous variety" of technology and assistance for Pakistan's ballistic missile program.	MTCR; Arms Export Control Act; Export Administration Act.	No sanctions.
July–Dec. 1996	DCI reported "tremendous variety" of assistance for Iran's ballistic missile program	MTCR; Iran-Iraq Arms Nonproliferation Act; Arms Export Control Act; Export Administration Act.	No sanctions.
July–Dec. 1996	DCI reported principal supplies of nuclear equipment, material, and technology for Pakistan's nuclear weapon program.	NPT; Nuclear Proliferation Prevention Act; Export-Import Bank Act; Arms Export Administration Act.	No sanctions.
July–Dec. 1996	DCI reported key supplies of technology for large nuclear projects in Iran	NPT; Iran-Iraq Arms Nonproliferation Act; Nuclear Proliferation Prevention Act; Export-Import Bank Act; Arms Export Administration Act.	No sanctions.
July–Dec. 1996	DCI reported "considerable" chemical weapon-related transfers of production equipment and technology to Iran.	Iran-Iraq Arms Nonproliferation Act; Arms Export Control Act; Export Administration Act.	No sanctions.
Jan. 1997	Dual-use biological items to Iran	BWC; Iran-Iraq Arms Nonproliferation Act; Arms Export Control Act; Export Administration Act.	No sanctions.
1997	Chemical precursors, production equipment, and production technology for Iran's chemical weapon program, including a plant for making glass-lined equipment.	Iran-Iraq Arms Nonproliferation Act; Arms Export Control Act; Export Administration Act.	No sanctions.
Sept. to Dec. 1997	China Great Wall Industry Corp. provided telemetry equipment used in flight-tests to Iran for its development of the Shahab-3 and Shabab-4 medium range ballistic missiles.	MTCR; Iran-Iraq Arms Nonproliferation Act; Arms Export Control Act; Export Administration Act.	No sanctions.
Nov. 1997/April 1998	May have transferred technology for Pakistan's Ghauri medium-range ballistic missile that was flight-tested on April 6, 1998.	MTCR; Arms Export Control Act; Export Administration Act.	No sanctions.

[1] Additional provisions on chemical, biological, or nuclear weapons were not enacted until February 10, 1996.

BWC—Biological Weapons Convention.
MTCR—Missile Technology Control Regime.
NPT—Nuclear Nonproliferation Treaty.

Mr. Chairman, the problem was, we did not have the will to impose sanctions. In fact, in only two of those 37 instances were sanctions imposed.

The problem is a simple one. The Congress is not brought into the process until after the State Department has made a ruling that they are not going to impose sanctions. The Congress is not brought into the process until after the proliferating action has taken place.

My amendment is simple. My amendment asks the Director of Central Intelligence, and I know they collect this data anecdotally, to each year submit to the chairmen of the House Select Committee on Intelligence and the Senate Select Committee on Intelligence an unsanitized listing of all of those occasions that we should know about, unsanitized by the State Department, involving proliferation of technology, involving weapons of mass destruction. In that way, we can play our rightful role in saying that we want arms control agreements enforced.

Mr. Chairman, we know what happened last November. This Congress voted overwhelmingly in favor of a bipartisan bill to force the administration to impose sanctions on Russia because of transferring of technology to Iran. This Congress has spoken unequivocally, in fact, in that case, with 400 Members voting in the affirmative that we want arms control agreements enforced. That is the problem, Mr. Chairman. It is not the intelligence collection, it is not the analysis of the data, although I disagree from time to time with NIE, it is the use of that data by the State Department and by the administration where they have not imposed sanctions.

Mr. Chairman, we are not trying to incite a conflict with Russia. I happen to believe in the Ronald Reagan philosophy: Trust, but verify.

I am engaged with Russia. Next week I will host a group of senior Russian leaders in this city. I want to help Russia stabilize itself. I want to help them have a middle class.

However, I understand one very important fundamental thing about Russia and China: We must be consistent, we must be candid, and we must be strong, and when we fail to follow through on any one of those three areas, we send the wrong signal to entities that cannot be controlled in those countries.

That is why, after Russia transferred the accelerometers and gyroscopes 2 years ago, I was not surprised this past summer when we found they were transferring technology to Iran; because we have been sending the wrong signal.

I ask my colleagues to support this very simple amendment.

Mr. MARKEY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, for 40 years our country, this planet operated under a doctrine of mutually assured destruction, meaning that both the United States and the Soviet Union stockpiled nuclear weapons in vertical proliferation, 5,000, 10,000, 15,000 nuclear weapons apiece, when only 200 apiece would be necessary in order to destroy totally the populations of both the United States and the Soviet Union. It was important for the Cold War to come to an end, because there was a very slight likelihood that either country would ever use these weapons, because the other country would have guaranteed their sure and certain total destruction.

The greater threat has always been horizontal proliferation. The spread of weapons from country to country to country, to subgroups, to terrorist groups, to other parties around the globe who do not live under this threat of mutually assured destruction.

The problem is that we in the United States do not on a consistent basis get enough information about this threat so that we can formulate policies, sanctions, that will guarantee that those around the world who are intent on gathering these technologies to themselves and then using them against their enemies or against the American people, know that we have a strong policy of deterrence against their use.

The Weldon-Markey amendment, as it was originally formulated, ensured that we would desubsidize any country, any company in the world that was identified as one which was trafficking in materials which could be used for proliferation purposes. That is putting real teeth, financial teeth into the American policy towards these issues.

Unfortunately, in negotiating with the intelligence community and others who are not yet ready to embrace that policy, we are unable to bring that full amendment with all of the power of the American purse string to this floor here today. But what we do is we ensure that there will be a report made to the Intelligence Committees.

I believe it should go to other committees as well so that there is a broader understanding of the importance of this issue. In the post-Cold War period, there are only two great agendas for our country. One is ensuring that the American people finally get the full benefits of the prosperity which is being created in this world and that our people benefit from it, and secondly, that we deal with the aftermath of the Cold War in terms of these national rivalries that manifest themselves both in human rights violations, religious violations, and in proliferation threats spreading across this planet.

This is a good first step. I hope that the House adopts this amendment. It will at least begin the process of giving us the information which we need, and hopefully, the gentleman from Pennsylvania (Mr. WELDON) and I, and the gentlewoman from California (Ms. HARMAN) and others can come back here next year and we can ensure that there are teeth which are built into this system so that the Congress votes to deny any financial assistance to any country or any company which sells these technologies into the hands of those who are not abiding by the nonproliferation safeguards which this world has to have in the 21st century.

So I thank the gentleman from Pennsylvania (Mr. WELDON), for his leadership. I thank the gentlewoman from California (Ms. HARMAN) and all of those who have worked on this issue, and I hope that the House, in its wisdom, adopts this very important first step here today.

Ms. HARMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first let me say that as a member of the Permanent Select Committee on Intelligence, I have learned an enormous amount from its leaders, the gentleman from Florida (Mr. GOSS), chairman of the committee, and its ranking member, the gentleman from Washington (Mr. DICKS); and I want to thank them for their nice words about me because, as my colleagues know, I will be leaving the Congress after this term.

I intend to support this bill in full. It is a good bill that was developed with broad, bipartisan support, and as I have said for many years, intelligence spending is intelligent spending.

I rise in support now of this excellent amendment by the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from Massachusetts (Mr. MARKEY), because it deals with part of a subject that has concerned many of us for some time, and that is technology transfer from Russia and China to rogue regimes.

□ 1500

We know from published reports that that transfer is continuing. It is continuing in spite of laws on the books in the United States that could cause our government to invoke sanctions against those firms which we have identified as aiding Iran's missile program, and which are doing business with the United States.

I authored a concurrent resolution last fall and the same resolution was offered in the other body, both passed by overwhelming margins, to direct the administration to impose sanctions on firms we have identified as transferring technology to Iran to build its indigenous missile industry. Sanctions have not been imposed.

From what we know, some list of firms is circulating and people are being encouraged not to do business with those firms, but sanctions on the proliferators have not been imposed.

Mr. Chairman, I am a cosponsor and strong supporter of the measure authored by the gentleman from New York (Mr. GILMAN), which has passed this body. An identical measure authored by Senator LOTT is likely to pass the other body very soon. Hopefully then a strong majority of the United States Congress will have expressed its will to make certain that strong sanctions are imposed on firms that are proliferating.

Meanwhile, we do what we can. And in this case, this amendment makes clear that we want to develop the most complete list of proliferators, and we want our intelligence agencies to share that list with our Permanent Select Committee on Intelligence.

Mr. Chairman, I want that list. I think it will be very helpful. But more than the list, I want the technology transfers stopped. The United States can do this if it has the will. I call on the administration, despite its multiple agendas with Russia, to act now against proliferation that has been publicly identified by Russia to Iran. It is dangerous. It threatens our national security. We cannot wait any longer.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank the gentleman from Pennsylvania (Mr. WELDON) for his comments, as well as the comments of the gentleman from the Commonwealth of Massachusetts (Mr. MARKEY) and the gentlewoman from California (Ms. HARMAN).

I understand with regard to the gentleman from Pennsylvania that it is his decision to withdraw this amendment at this time. But I also want to quickly say, I want to make sure that he knows and the others that we will work closely with him. In fact, we have already started that process to make sure that we do have the necessary information so that Congress does have the unfettered truth about the proliferation issue. Certainly the Permanent Select Committee on Intelligence wants to have it on both sides. The goal is great and we will get the goal done.

The gentleman is very well respected for his commitment to our Nation's security. I have heard him speak many times. He speaks with knowledge and conviction, a great deal of information, and he certainly has an extraordinary list of contacts. His concern regarding whether our intelligence community is free to deliver the bad news that it sometimes must is very relevant.

Mr. Chairman, the gentleman's efforts on the Committee on National Security are obviously very much appreciated by our committee and by myself personally. We share the same jurisdiction on many programs, and I think we work together very well and I want to continue that and in fact enhance it.

The gentleman's views and concerns on the most difficult and important problem of proliferation of weapons of mass destruction are indeed respected and have been a great trigger in this effort.

Mr. WELDON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Pennsylvania.

Mr. WELDON of Pennsylvania. Mr. Chairman, I thank the gentleman from Florida (Mr. GOSS), my friend and colleague, for yielding and I am not here to disrupt the proceedings of the Permanent Select Committee on Intelligence, as both Members know, the ranking member and the chairman. I have the highest respect for their leadership and for their commitment.

Mr. Chairman, my concern is with our State Department and with our ability in this institution to get access to relevant data when it occurs in a timely manner.

Mr. Chairman, because of the commitment of the gentleman from Florida (Chairman GOSS) and the distinguished gentleman from Washington (Mr. DICKS), the ranking member, to work with me and with the gentleman from Massachusetts (Mr. MARKEY) and the gentlewoman from California (Ms. HARMAN) and others on this issue, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there further amendments to title III?

AMENDMENT NO. 3 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. TRAFICANT:

In title III of the bill, add at the end the following new section:

SEC. 305. ANNUAL REPORT ON INTELLIGENCE COMMUNITY COOPERATION WITH DOMESTIC FEDERAL LAW ENFORCEMENT AGENCIES.

Not later than 90 days after the end of each fiscal year ending after the date of the enactment of this Act, the Director of Central Intelligence shall submit a report to the Congress that describes the level of cooperation and assistance provided to domestic Federal law enforcement agencies by the intelligence community during such fiscal year relating to the effort to stop the flow of illegal drugs into the United States through the United States-Mexico border and the United States-Canada border.

Mr. TRAFICANT. Mr. Chairman, the threat of nuclear proliferation is real and it must be curtailed. But while we keep worrying about missiles from without, narcotics are destroying America from within. I believe that we are losing the war on drugs and it is not because of the money that we are not spending. It is not because of the effort that Congress makes. I believe there is one simple major reason for it. There is not a concentrated, cooperative network effort by our entire intelligence and law enforcement community.

Mr. Chairman, that is the weakness. I do not know if we can solve that in this legislation. I guess I have turned around and voted for this measure and voted against the cut, which is the first time since I have been here. I do have faith in the leaders of this committee and I did say earlier that we deserve in the Congress the chance to see how we can pool efforts to network because I believe our intelligence community should know where these narcotics are grown, who is growing them, who is processing them, who is arranging for their export to America, who here in America is arranging to accept and receive these imports, who is distributing them and what political figures around the world are aiding and abetting the narcotraffickers. I think we must do something about it.

So, Mr. Chairman, my modest effort is very simple. I want to read the salient points of this amendment.

It would require the CIA and the Director of the CIA, through a report to the Congress, to describe the level of cooperation and assistance provided to domestic Federal law enforcement by our intelligence community. These agencies cannot be separate and apart. This jurisdictional haggling must be resolved. And our intelligence network, if we are going to do anything on 100 percent import of heroin and cocaine, is going to have to work with our domestic people.

Mr. Chairman, I ask for a report at this point. I think it makes good sense, and I would hope that it would be adopted.

Mr. GOSS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, I appreciate the gentleman from Ohio (Mr. Traficant) for yielding to me. Let me assure the gentleman that I take very seriously the necessity of intelligence support for fighting and winning the war on drugs.

There is no question that global narcotics trafficking does require intelligence and it requires a close and good working handoff to law enforcement. I am aware of that. Progress has been made. I think that the gentleman's contribution to this, requiring this report, is very beneficial and I am prepared to accept his amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I compliment my friend, the gentleman from Ohio (Mr. Traficant) again for another amendment that I find completely acceptable. This cooperation must exist and we must do better in this effort. I concur with my chairman that this is a national priority and one that will be aided by this report. I urge that the Committee accept the amendment.

Mr. TRAFICANT. Mr. Chairman, reclaiming my time, I urge an "aye" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Traficant).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. ENHANCED PROTECTIVE AUTHORITY FOR CIA PERSONNEL AND FAMILY MEMBERS.

Section 5(a)(4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(4)) is amended by striking out "and the protection of Agency personnel and of defectors, their families" and inserting in lieu thereof "and the protection of current and former Agency personnel and their immediate families, and defectors and their immediate families".

SEC. 402. TECHNICAL AMENDMENTS.

(a) Central Intelligence Agency Act of 1949.—(1) Section 5(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(1)) is amended—

(A) by striking out "subparagraphs (B) and (C) of section 102(a)(2)" and inserting in lieu thereof "paragraphs (2) and (3) of section 102(a)";

(B) by striking out "(c)(5)" and inserting in lieu thereof "(c)(6)";

(C) by inserting "(3)," after "403(a)(2),";

(D) by inserting "(c)(6), (d)" after "403–3"; and

(E) by inserting "(a), (g)" after "403–4".

(2) Section 6 of such Act (50 U.S.C. 403g) is amended by striking out "(c)(5)" each place it appears and inserting in lieu thereof "(c)(6)".

(b) Central Intelligence Agency Retirement Act.—Section 201(c) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011(c)) is amended by striking out "(c)(5)" each place it appears and inserting in lieu thereof "(c)(6)".

The CHAIRMAN. Are there amendments to title IV?

AMENDMENT NO. 4 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. Waters:

At the end of title IV, add the following new section:

SEC. 404. REVIEW OF 1995 MEMORANDUM OF UNDERSTANDING REQUIRING THE CIA TO REPORT TO THE ATTORNEY GENERAL INFORMATION REGARDING DRUG TRAFFICKING INVOLVING ITS FORMER OR CURRENT OFFICERS, STAFF EMPLOYEES, CONTRACT EMPLOYEES, ASSETS, OR OTHER PERSON OR ENTITY PROVIDING SERVICE TO OR ACTING ON BEHALF OF ANY AGENCY WITHIN THE INTELLIGENCE COMMUNITY.

(a) Review of 1995 Memorandum of Understanding Regarding Reporting of Information Concerning Federal Crimes.—The Attorney General shall review the 1995 "Memorandum of Understanding: Reporting of Information Concerning Federal Crimes" between the Attorney General, Secretary of Defense, Director of Central Intelligence, Director of National Security Agency, Director of Defense Intelligence Agency, Assistant Secretary of State, Intelligence and Research, and Director of the Non-Proliferation and National Security, Department of Energy. This review shall determine whether the 1995 Memorandum of Understanding requires:

(i) Report to the Attorney General.—Whenever the Director of Central Intelligence has knowledge of facts or circumstances that reasonably indicate any former or current officers, staff employees, contract employees, assets, or other person or entity providing service to, or acting on behalf of any agency within the intelligence community has been involved with, is involved with or will be involved with drug trafficking or any violations of U.S. drug laws, the Director shall report such information to the Attorney General of the United States.

(ii) Duty of Intelligence Employees to Report.—Each employee of any agency within the intelligence community who has knowledge of facts or circumstances that reasonably indicate any former or current officers, staff employees, contract employees, assets, or other person or entity providing service to, or acting on behalf of, any agency within the intelligence community has been involved with, is involved with, or will be involved with drug trafficking or any violations of U.S. drug laws, shall report such information to the Director of Central Intelligence.

(b) Public Report.—Upon completion of review, the Attorney General shall publicly report its findings.

Mr. GOSS. Mr. Chairman, I reserve a point of order against this amendment.

The CHAIRMAN. The gentleman from Florida (Mr. Goss) reserves a point of order.

The gentlewoman from California (Ms. Waters) is recognized for 5 minutes.

Ms. WATERS. Mr. Chairman, this amendment would call for a review of the 1995 memorandum of understanding that currently exists between the Director of Central Intelligence and the intelligence community and the Department of Justice regarding reporting of information concerning Federal crimes.

This amendment is very simple and noncontroversial. It calls for a review of the current memorandum of understanding to ensure that drug trafficking and drug law violations by anybody in the intelligence community is reported to the Department of Justice. Specifically, the review would examine any requirements for intelligence employees to report to the Director of Central Intelligence and any requirements for the Director to report this information to agencies.

This information would be reported to the Attorney General. The review would be published publicly. This simple amendment fits well with the recent calls for a reinvigorated war on drugs. The need for this amendment, however, cannot be understated.

One of the most important things that came out of the hearing of the House Permanent Select Committee on Intelligence was an understanding about why we did not know about who was trafficking in drugs as we began to investigate and take a look at the allegations that were being made about the CIA's involvement in drug trafficking in south central Los Angeles and the allegations that profits from that drug trafficking was going to support the Contras.

We discovered that for 13 years the CIA and the Department of Justice followed a memorandum of understanding that explicitly exempted the requirement to report drug law violations by CIA non-employees to the Department of Justice. This allowed some of the biggest drug lords in the world to operate without fear that the CIA would be required to report the activity to the DEA and other law enforcement agencies.

In 1982, the Attorney General and the Director of Central Intelligence entered into an agreement that excluded the reporting of narcotics and drug crimes by the CIA to the Justice Department. Under this agreement, there was no requirement to report information of drug trafficking and drug law violations with respect to CIA agents, assets, non-staff employees and contractors. This remarkable and secret agreement was enforced from February 1982 to August of 1995. This covers nearly the entire period of U.S. involvement in the Contra war in Nicaragua and the deep U.S. involvement in the counterinsurgency activities in El Salvador and Central America.

Senator KERRY and his Senate investigation found drug traffickers had used the Contra war and tie to the Contra leadership to help this deadly trade. Among their devastating findings, the Kerry committee investigators found that major drug lords used the Contra supply networks and the traffickers provided support for Contras in return. The CIA, of course, created, trained, supported, and directed the Contras and were involved in every level of their war.

The 1982 memorandum of understanding that exempted the reporting requirement for drug trafficking was no oversight or misstatement. Previously unreleased memos between the Attorney General and Director of Central Intelligence show how conscious and deliberate this exemption was.

On February 11, 1982, Attorney General French Smith wrote to DCI William Casey that, and I quote, this is what he said:

> I have been advised that a question arose regarding the need to add narcotics violations to the list of reportable non-employee crimes . . . no formal requirement regarding the reporting of narcotics violations has been included in these procedures.

On March 2, 1982 William Casey responded:

> I am pleased these procedures which I believe strike the proper balance between enforcement of the law and protection of intelligence sources and methods will now be forwarded to other agencies covered by them for signing by the heads of those agencies.

My colleagues heard me correctly.

The CHAIRMAN. The time of the gentlewoman from California (Ms. WATERS) has expired.

(By unanimous consent, Ms. WATERS was allowed to proceed for 3 additional minutes.)

Ms. WATERS. Mr. Chairman, the fact that President Reagan's Attorney General and Director of Central Intelligence thought that drug trafficking by their assets agents and contractors needed to be protected has been long known. These damning memorandums and the resulting memorandum of understanding are further evidence of a shocking official policy that allowed the drug cartels to operate through the CIA-led Contra covert operations in Central America.

This 1982 agreement clearly violated the Central Intelligence Agency Act of 1949. It also raises the possibility that certain individuals who testified in front of congressional investigating committees perjured themselves.

Mr. Chairman, every American should be shocked by these revelations. Given the shameful history of turning a blind eye to CIA involvement with drug traffickers, this amendment seeks to determine whether the current memorandum of understanding closes all of these loopholes to the drug cartels and narcotics trade.

At this time I know that there is a point of order against my amendment. The chairman of the committee is going to oppose this amendment, and so I am going to withdraw the amendment. But I wanted the opportunity to put it before this body so that they could understand that we had an official policy and a memorandum of understanding that people could fall back on and say I did not have to report it. Yes, I knew about it.

We have a subsequent memorandum of understanding of 1995 that is supposed to take care of it. I am not sure that it does.

Mr. Chairman, I submit for the RECORD the following correspondence between William French Smith and William J. Casey:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, February 11, 1982.

Hon. WILLIAM J. CASEY,
Director, Central Intelligence Agency, Washington, DC.

DEAR BILL: Thank you for your letter regarding the procedures governing the reporting and use of information concerning federal crimes. I have reviewed the draft of the procedures that accompanied your letter and, in particular, the minor changes made in the draft that I had previously sent to you. These proposed changes are acceptable and, therefore, I have signed the procedures.

I have been advised that a question arose regarding the need to add narcotics violations to the list of reportable non-employee crimes (Section IV). 21 U.S.C. §874(h) provides that "[w]hen requested by the Attorney General, it shall be the duty of any agency or instrumentality of the Federal Government to furnish assistance to him for carrying out his functions under [the Controlled Substances Act] . . ." Section 1.8(b) of Executive Order 12333 tasks the Central Intelligence Agency to "collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking." Moreover, authorization for the dissemination of information concerning narcotics violations to law enforcement agencies, including the Department of Justice, is provided by sections 2.3(c) and (i) and 2.6(b) of the Order. In light of these provisions, and in view of the fine cooperation the Drug Enforcement Administration has received from CIA, no formal requirement regarding the reporting of narcotics violations has been included in these procedures. We look forward to the CIA's continuing cooperation with the Department of Justice in this area.

In view of our agreement regarding the procedure, I have instructed my Counsel for Intelligence Policy to circulate a copy which I have executed to each of the other agencies covered by the procedures in order that they may be signed by the head of each such agency.

Sincerely,
WILLIAM FRENCH SMITH,
Attorney General.

THE DIRECTOR OF
CENTRAL INTELLIGENCE,
Washington, DC, March 2, 1982.

Hon. WILLIAM FRENCH SMITH,
Attorney General, Department of Justice, Washington, DC.

DEAR BILL: Thank you for your letter of 11 February regarding the procedures on reporting of crimes to the Department of Justice, which are being adopted under Section 1–7(a) of Executive Order 12333. I have signed the procedures, and am returning the original to you for retention at the Department.

I am pleased that these procedures, which I believe strike the proper balance between enforcement of the law and protection of intelligence sources and methods, will now be forwarded to other agencies covered by them for signing by the heads of those agencies.

With best regards,
Yours,
WILLIAM J. CASEY.

Enclosure.

REPORTING AND USE OF INFORMATION CONCERNING FEDERAL CRIMES

I. SCOPE

Section 1–7(a) of Executive Order 12333 requires senior officials of the Intelligence Community to:

Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures.

These procedures govern the reporting of information concerning possible federal crimes to the Attorney General and to federal investigative agencies acquired by agencies within the Intelligence Community in the course of their functions. They also govern the handling and use of such information by the Department of Justice and federal investigative agencies in any subsequent investigations or litigation. These procedures are promulgated under the authority of 28 U.S.C. §535 and Executive Order 12333, §1–7(a).

II. DEFINITIONS

A. "Agency" means those agencies within the Intelligence Community, as defined in Executive Order 12333, §3–4(f) except for the intelligence elements of the Federal Bureau of Investigation and the Department of the Treasury.

B. "Department" means the Department of Justice.

C. "Employee" means:

1. A staff employee or contract employee of an Agency;

2. Former officers or employees of an Agency, for purposes of offenses committed during their employment; and

3. Former officers or employees of an Agency, for offenses involving a violation of 18 U.S.C. §207.

D. Except as specifically provided otherwise, "General Counsel" means the general counsel of the Agency or the department of which it is a component or a person designated by him to act on his behalf.

III. GENERAL CONSIDERATIONS

A. These procedures govern the reporting of information which the Agency or its current employees become aware of in the course of performing their functions. They do not authorize the Agency to conduct any investigation or to collect any information not otherwise authorized by law.

B. These procedures require a current employee of the Agency to report to the General Counsel facts or circumstances that appear to the employee to indicate that a criminal offense may have been committed. Reports to the Department of Justice or to a federal investigative agency will be made by the Agency as set forth below.

C. When an Agency has received allegations, complaints or information [hereinafter "allegations"] tending to show that an employee of that agency may have violated any federal criminal statute, or another person may have violated a federal criminal statute contained within one of the categories listed in Section IV below, the Agency shall within a reasonable period of time determine through a preliminary inquiry whether or not there is any basis to the allegations (that is, are clearly not frivolous or false). If the allegations can be established as without basis, the General Counsel will make an appropriate record of his findings and no reporting under these procedures is required. If the allegations cannot be established as without basis, the reporting procedures set forth below will be followed. A preliminary inquiry shall not include interviews with persons other than current employees of the Agency or examination of premises not occupied by the Agency without the prior notification and approval of the Department of Justice, except that the Agency may interview a non-employee for the sole purpose of determining the truth of a report that such non-employee has made an allegation or complaint against an Agency employee. The foregoing provisions shall neither limit the techniques which the Agency may otherwise be authorized to use, nor limit the responsibility of the Agency to provide for its security functions pursuant to Executive Order 12333.

D. Allegations shall be reported pursuant to the procedures in effect at the time the allegations came to the attention of the Agency.

E. Allegations that appear to involve crimes against property and involve less than $500 need not be reported pursuant to the procedures set forth below. The General Counsel will, however, make an appropriate record of his findings.

F. In lieu of following the procedures set forth below, the General Counsel may orally report periodically, but at least quarterly, to the Department concerning those offenses which, while subject to these reporting requirements, are in the opinion of the General Counsel of such a minor nature that no further investigation or prosecution of the matter is necessary. If an oral report is made, the General Counsel will meet with the Assistant Attorney General or a designated Deputy Assistant Attorney General of the Criminal Division, Department of Justice to obtain his concurrence or nonconcurrence with the General Counsel's opinion. If such concurrence is obtained, no further reporting under these procedures is required. If concurrence is not obtained, the reporting procedures set forth below will be followed.

IV. NON-EMPLOYEE REPORTABLE OFFENSES

A. Allegations concerning offenses in the following categories are reportable, if they pertain to a person other than an employee.

1. Crimes involving intentional infliction or threat of death or serious physical harm. Such crimes may include:

Assault—18 U.S.C. §§111–113(A).

Homicide—18 U.S.C. §§1111–14, 1116, 2113(e).

Kidnapping—18 U.S.C. §1201.

Presidential assassination, assault or kidnapping—18 U.S.C. §1751.

Threats against the President and successors to the President—18 U.S.C. §871.

2. Crimes likely to impact upon the national security, defense or foreign relations of the United States. Such crimes may include:

Communicating classified information—50 U.S.C. §783(b).

Espionage—18 U.S.C. §§793–98.

Sabotage—18 U.S.C. §§2151–57.

Arms Export Control Act—22 U.S.C. §2778.

Atomic Energy Act—* * * U.S.C. §§2077, 2092, 2111, 2122.

Export Administration Act—50 U.S.C. App. §2410.

Neutrality offenses—18 U.S.C. §§956–60.

Trading with the Enemy Act—50 U.S.C. App. §§5(b), 16.

Agents of foreign government—18 U.S.C. §951.

Government employee acting for a foreign principal—18 U.S.C. §219.

Communication, receipt or disclosure of restricted data—42 U.S.C. §2274–77.

Registration of certain persons trained in foreign espionage systems—50 U.S.C. §§851.

Foreign Agents Registration Act—22 U.S.C. §618(a).

Unlawfully entering the United States—8 U.S.C. §1325.

Any other offense not heretofore listed which is contained within Chapter 45 of Title 18 U.S.C.

3. Crimes involving foreign interference with the integrity of United States governmental institutions or processes. Such crimes may include, when committed by foreign persons:

Bribery of public officials and witnesses—18 U.S.C. §§201–208.

Conspiracy to injury or impede an officer—18 U.S.C. §372.

Election contributions and expenditures—2 U.S.C. §§441a–j, 599–600.

4. Crimes which appear to have been committed by or on behalf of a foreign power or in connection with international terrorist activity. Such crimes may include:

Aircraft piracy—49 U.S.C. §1472(i).

Distribution, possession, and use of explosives—18 U.S.C. §§842(a)–(i).

Unlawful electronic surveillance—18 U.S.C. §§2511(1), 2512(1), 50 U.S.C. §1809.

Passport and visa offenses—18 U.S.C. §§1541–44, 1546.

Distribution, possession, transfer, and use of firearms—18 U.S.C. §922, 924; 26 U.S.C. 5861.

Transporting explosives on board aircraft—49 U.S.C. §1472(h).

Conspiracy to injure or impede an officer—18 U.S.C. §372.

Counterfeiting U.S. obligations—18 U.S.C. §471–74.

False statements and false official papers—18 U.S.C. §§1001–02, 1017–18.

Obstruction of justice—18 U.S.C. §§1503–06, 1508–10.

Perjury—18 U.S.C. §1621–23.

B. Any conspiracy or attempt to commit a crime reportable under this section shall be reported if the conspiracy or attempt itself meets the applicable reporting criteria.

C. The General Counsel will make an appropriate record of any matter brought to his attention which he determines is not reportable under this section.

D. Notwithstanding any of the provisions above, the General Counsel may report any other possible offense when he believes it should be reported.

V. REPORTING PROCEDURES—FORMAT

The fact that a referral has been made pursuant to these procedures shall be reflected in a letter or memorandum sent by the Agency to the entity designated to receive the referral under these procedures. In each instance that a referral is required, information sufficiently detailed to allow the Department of Justice to make informed judgments concerning the appropriate course of subsequent investigations or litigation shall be transmitted, either orally or in writing, to the Attorney General, the Assistant or a designated Deputy Assistant Attorney General, Criminal Division, Department of Justice, or the Assistant Director, Criminal Investigative or Intelligence Division, Federal Bureau of Investigation. The Agency shall supplement its referral when any additional information relating to the original referral comes to its attention.

VI. REPORTING PROCEDURES—NO SECURITY CONSIDERATIONS INVOLVED

A. Where the Agency determines in accordance with these procedures that a matter must be reported, and where the Agency further determines that no public disclosure of classified information or intelligence sources and methods would result from further investigation or prosecution, and the security of ongoing intelligence operations would not be jeopardized thereby, the Agency will report the matter to the appropriate federal investigative agency, or to the appropriate United States Attorney for an investigative or prosecutive determination. In each such instance, the Agency shall also notify the Department of Justice, Criminal Division of the referral.

B. The Agency will inform the entity receiving such report that, unless notified otherwise by the Agency or by the Department, the security and consulting requirements set forth in Section VII of these procedures need not be followed.

C. A federal investigative agency or United States Attorney receiving information from the Agency pursuant to Section VI of these procedures is required promptly to advise the Agency of the initiation and conclusion of any investigation or prosecution involving such information.

VII. REPORTING PROCEDURES—SECURITY CONSIDERATIONS INVOLVED

A. Where the Agency determines in accordance with these procedures that a matter must be reported, and where the Agency also determines that further investigation or prosecution of the matter would or might result in a public disclosure of classified information or intelligence sources or methods or would jeopardize the security of ongoing intelligence operations, the Agency will report the matter to the Assistant Attorney General or a designated Deputy Assistant Attorney General, Criminal Division, Department of Justice or Assistant Director, Criminal Investigative or Intelligence Division, Federal

Bureau of Investigation, in the manner described in section V, above. In any instance in which a matter is reported to the Federal Bureau of Investigation, the Agency shall also notify the Department of Justice, Criminal Division of the referral. Upon request, the Agency will explain the security or operational problems that would or might arise from a criminal investigation or prosecution.

B. Persons who are the subject of reports made pursuant to this section may be identified as John Doe in any written document associated therewith. The true identities of such persons will be made available when the Department of Justice determines that they are essential to any subsequent investigation or prosecution of the matter reported.

C. Information contained in Agency reports will be disseminated to persons other than the Assistant or Deputy Assistant Attorney General or the Assistant Director, Criminal Investigative or Intelligence Division, FBI, only as follows:

1. No Department or Federal investigative employee will be given access to classified information unless that person has been granted appropriate clearances, including any special access approvals. The Assistant or Deputy Assistant Attorney General or the Assistant Director, Criminal Investigative or Intelligence Division, FBI, will ensure that access by an employee is necessary for the performance of an official function and that access is limited to the minimum number of cleared persons necessary for investigative or prosecutorial purposes. The Department will provide the head of the Agency with a detailed report regarding any disclosure not authorized by these procedures and will take appropriate disciplinary action against any employee who participates in such a disclosure.

2. With regard to information reported to the Criminal Division, Department of Justice, which the general counsel of an Agency designates in writing as particularly sensitive and for which special dissemination controls are requested pursuant to this provision, dissemination will only occur after consultation with the General Counsel of the Agency. The designation of information as particularly sensitive may be made only by the general counsel or acting general counsel of an Agency.

3. Except as permitted by these procedures, classified information which has been received by the Department, the FBI, or other federal investigative agency pursuant to these procedures may not be disseminated outside of that entity without the advance written consent of the General Counsel or the head of the Agency.

D. When it becomes apparent to the Department or federal investigative agency that any investigative or legal action may result in the disclosure of classified information or intelligence sources or methods, the Department or federal investigative agency will, at the earliest possible time, fully advise and consult with the Agency to determine the appropriate course of action and the potential harm to intelligence sources and methods by the contemplated use or disclosure of the classified information. Except in exigent circumstances no investigative or legal action will be taken without such advance notice and consultation.

1. "Exigent circumstances" means situations in which a person's life or physical safety is reasonably believed to be in imminent danger, or information relating to the national security is reasonably believed to be in imminent danger of compromise, or expiration of a statute of limitations is imminent, or loss of essential evidence in any of these cases is imminent, or a crime is about to be committed, or the opportunity to arrest a person is about to be lost where there is probable cause to believe that the person has committed a crime.

2. If, due to exigent circumstances, any investigation or significant contemplated action in any legal proceeding is taken without advance notice or consultation, the Department or federal investigative agency, within twenty-four hours of taking such action, will provide the reporting agency an explanation of the circumstances requiring that action. Thereafter, there will be full adherence to the notification and consultation requirements of these procedures.

3. For purposes of this provision, consultation will include the specific investigative and legal actions the Department or federal investigative agency purposes to take and a specification of legal and investigative issues involved. The purpose of the consultation is to assure an opportunity for the Agency to provide its judgment to the Department or federal investigative agency regarding the potential damage, if any, to the national security of the disclosure or use of the information at issue. During this process, the Agency will promptly provide as detailed an identification and analysis as is possible at the time of the potential consequences for the intelligence sources or methods and for the national security from the contemplated disclosure or use of the classified information. The Agency will also provide any changes to or elaborations of this analysis as soon as they become evident.

4. If the Agency and the Department or federal investigative agency agree that the risk of the use or disclosure and any resulting consequences are acceptable, the contemplated investigative or legal action may commence or proceed.

5. If the Agency and the Department of Justice or federal investigative agency are unable to agree as to the appropriate use of classified information provided pursuant to these procedures by the Agency, each entity will be responsible for pursuing timely resolution of such issues as may exist through appropriate channels within their respective organizations. Each entity will provide notice to the other entity if it intends to seek a resolution of the issues by a higher authority in the other entity's department or agency. Where issues remain, they shall be referred to the Attorney General for final determination after appropriate consultation with the head of the Agency, and, where appropriate, the Director of Central Intelligence. The decision of the Attorney General may be appealed to the President with prior notice to the Attorney General and the Director of Central Intelligence. While such an appeal is pending, no action will be taken that would render moot the President's decision.

E. When security considerations warrant such action, any matter may be reported directly by the head of the Agency to the Attorney General or the Acting Attorney General, in the manner described in section V above. In considering such reports, the Attorney General or the Acting Attorney General may consult with any person whose advice he considers necessary and who has the required security clearance, provided that the Attorney General or the Acting Attorney General will consult with the head of the reporting agency or the General Counsel thereof concerning dissemination of material designated "Eyes Only."

F. If requested by the Agency, classified information provided by the Agency to the Department or a federal investigative agency will, to the maximum extent possible and consistent with investigative and prosecutive requirements, be stored by the Agency.

VIII. RELATION TO OTHER PROCEDURES AND AGREEMENTS

A. If the Agency for administrative or security reasons desires to conduct a more extensive investigation into the activities of its employees relating to any matter reported pursuant to these procedures, it will inform the Department or federal investigative agency, as is appropriate. The Agency may take appropriate administrative, disciplinary, or other adverse action at any time against any employee whose activities are reported under these procedures. However, such investigations and disciplinary action will be coordinated with the appropriate investigative or prosecuting officials to avoid prejudice to any criminal investigation or prosecution.

B. Nothing in these procedures shall be construed to restrict the exchange of information among the Agencies in the Intelligence Community or between those Agencies and law enforcement entities other than the Department of Justice.

C. If the subject of a referral is an employee of another agency other than a person subject to the Uniform Code of Military Justice, the Criminal Division may refer the matter to that agency for preliminary investigation and possible administrative action. The employing agency will report the results of any such preliminary investigation under the procedures for reporting possible crimes by agency employees.

D. Notwithstanding the November 23, 1955, Memorandum of Understanding between the Department of Defense and the Department of Justice, notice of crimes which violate both federal criminal statutes and the Uniform Code of Military Justice shall be given to the Department of Justice as provided. Thereafter, the handling of matters relating to individuals subject to the Uniform Code of Military Justice shall be coordinated by the Criminal Division with the appropriate military service in accordance with existing agreements between the Departments of Justice and Defense.

WILLIAM FRENCH SMITH,
Attorney General.
WILLIAM J. CASEY,
Director of Central Intelligence.

REPORTING OF FEDERAL CRIMES COMMITTED BY OFFICERS OR EMPLOYEES OF AGENCIES IN THE INTELLIGENCE COMMUNITY

Executive Order 12036, §1–706, requires senior officials of the intelligence community to:

> Report to the Attorney General evidence of possible violations of federal criminal law by an employee of their department or agency . . .

These procedures govern the reporting of possible federal crimes committed by officers or employees of the intelligence agencies. They are promulgated under the authority of 28 U.S.C. §535 and E.O. 12036, §§1–706, 3–305. Except to the extent indicated in paragraph G, *infra*, they supersede all previous agreements or guidelines.

A. DEFINITIONS

1. "Officer or employee" shall mean:

a. All persons defined as employees in E.O. 12036, §4–204;

b. former officers or employees when the offense was committed during their employment; and

c. former officers or employees when a basis for referral exists with respect to violation of 18 U.S.C. §207.

3. "Basis for referral" shall mean allegations, complaints, or information tending to show that any officer or employee may have violated a federal criminal statute that the agency cannot establish as unfounded within a reasonable time through a preliminary inquiry.

B. DETERMINING BASIS FOR REFERRAL

1. When an agency has received allegations, complaints, or information tending to show that any officer or employee may have violated a Federal criminal statute, it shall determine whether a basis for referral exists.

2. In determining a basis for referral, an agency will not attempt to establish that all elements of the possible violation have occurred or that a particular employee is responsible before referring the matter to the Department of Justice.

3. When the allegations, complaints, or information received are not sufficient to determine whether a basis for referral exists, an agency shall conduct a preliminary inquiry, limited to the following methods:

a. Interviews with current employees;

b. Examination of the records of the agency;

c. Examination of the records of other agencies;

d. Examination of premises occupied by the agency not constituting a physical search, physical surveillance, or electronic surveillance; or

e. Under procedures approved by the Attorney General and in conformity with other legal requirements, physical search, electronic surveillance, or physical surveillance of officers and employees of the agency on premises occupied by the agency.

A preliminary inquiry shall not include interviews with persons who are not current employees of the agency or examination of premises not occupied by the agency, except that the agency may interview a non-employee for the sole purpose of determining the truth of a report that such non-employee has made an allegation or complaint against an agency employee.

C. REFERRAL TO THE DEPARTMENT OF JUSTICE

Referrals shall be made in the following manner:

1. (a) In cases where no public disclosure of classified information or intelligence source and methods would result from further investigation or prosecution, and the security of ongoing intelligence operations would not be jeopardized thereby, the agency will report the matter to the cognizant office of the Federal Bureau of Investigation, other appropriate United States Attorney or his designee for an investigative or prosecutive determination. Cases involving bribery or conflict of interest will be reported to the Criminal Division.

(b) A record of such referrals and any subsequent agency action to dispose of the matter shall be maintained by the agency, and on a quarterly basis, a summary memorandum indicating the type of crime, place and date of referral and ultimate disposition will be forwarded to the Assistant Attorney General, Criminal Division, or his designee. Referrals made by covert facilities to the United States Attorney, the FBI or other Federal investigative agencies will also be included in the quarterly report with due regard for protection of the security of said installations.

2. In cases where preliminary investigation has failed to develop an identifiable suspect and the agency believes that investigation or prosecution would result in public disclosure of classified information or intelligence sources or methods or would jeopardize the security of ongoing intelligence operations, the Criminal Division will be so informed in writing, following which a determination will be made as to the proper course of action to be pursued in consultation with the agency and the FBI.

3. (a) In cases where preliminary investigation has determined that there is a basis for referral of a matter involving an identifiable agency officer or employee to the Department of Justice, the future investigation or prosecution of which would result in the public disclosure of classified information or intelligence sources or methods or would jeopardize the security of ongoing intelligence operations, a letter explaining the facts of the matter in detail will be forwarded to the Criminal Division. The agency will also forward to the Criminal Division a separate classified memorandum explaining the security or operational problems which would arise from a criminal investigation or prosecution, including, but not limited to:

(1) Public disclosure of information needed to prove the offense or to obtain a search warrant or an electronic surveillance order under chapter 119 of Title 18, United States Code;

(2) Disclosure required by a defense request for discovery of information under Rule 16 of the Federal Rules of Criminal Procedure, 18 U.S.C. 3500, or *Brady* v. *Maryland*, 373 U.S. 83 (1963); and

(3) Interference with the voluntary provision of cover or other services necessary for intelligence operations by persons other than employees.

(b) In reporting such matter, the agency shall inform the Criminal Division of the steps it has taken to prevent a recurrence of similar offenses, if such action is feasible, as well as those administrative sanctions which may be contemplated with respect to the prospective criminal defendant.

(c) The Criminal Division, after any necessary consultation with the agency and the FBI, will make a prosecutive determination, informing the agency in writing of such determination.

4. Officers or employees who are the subject of such referrals to any component of the Department of Justice may be identified as John Doe in any written document associated with the initial referral. The true identities of such persons will be made available when the Department determines that they are essential to any subsequent investigation or prosecution of the matter referred.

D. FURTHER ACTION BY AGENCIES

If, as a result of the preliminary inquiry, the agency desires to conduct a more extensive investigation for administrative or security reasons, it will inform the Department of Justice component to which the matter is referred. The agency may take appropriate administrative, disciplinary, or other adverse action at any time against any officer or employee whose activities are reported under these procedures. However, internal agency investigations and disciplinary action in referred matters will be coordinated with the appropriate investigative or prosecuting officials to avoid prejudice to any criminal investigation or prosecution.

E. FORMAT OF REFERRALS

All referrals required by these procedures shall be in writing and in such detail as the Department of Justice component receiving the referral shall determine.

F. DIRECT REPORTS TO THE ATTORNEY GENERAL

When the head of an agency within the intelligence community believes that circumstances of security warrant it, he may directly report to the Attorney General in writing any matter required to be referred by these procedures, in lieu of following the reporting procedures of paragraphs C–E, *supra*.

G. RELATION TO OTHER PROCEDURES AND AGREEMENTS

1. Notwithstanding the November 25, 1955 Memorandum of Understanding between the Department of Defense and the Department of Justice, notice of crimes committed by an officer or employee which violate both federal criminal statutes and the Uniform Code of Military Justice shall be given to the Department of Justice as provided herein. Thereafter, the investigation and prosecution of individuals subject to the Uniform Code of Military Justice shall be conducted as provided by the 1955 Memorandum of Understanding.

2. These procedures do not affect the reporting of possible offenses by regular, permanent FBI employees to the Office of Professional Responsibility, Department of Justice.

3. Nothing in these procedures shall be construed to restrict the exchange of information between agencies in the intelligence community required by other procedures or agreements made under E.O. 12036.

GRIFFIN B. BELL,
Attorney General.

PROCEDURES FOR REPORTING FEDERAL CRIMES BY NON-EMPLOYEES UNDER E.O. 12036 §1–706

Section 1–706 of Executive Order 12036 requires senior officials of the intelligence community to:

Report to the Attorney General evidence of possible violations of federal criminal law by an employee of their department or agency, and report to the Attorney General evidence of possible violations by other persons of those federal criminal laws specified in guidelines adopted by the Attorney General.

These guidelines specify the violations of federal criminal statutes by non-employees which must be reported and provide reporting procedures.

A. DEFINITIONS

1. "Agency" shall mean:

a. The Central Intelligence Agency;

b. the National Security Agency;

c. the Defense Intelligence Agency;

d. offices within DoD for the Collection of specialized national foreign intelligence through reconnaissance programs;

B. POLICY AND INTERPRETATION

1. These procedures govern the reporting of information of which the agency or its employees become aware in the course of performing their lawful functions. They do not authorize an agency to conduct any investigation or to collect any information not otherwise authorized by law.

2. These procedures require an employee of an agency in the intelligence community to report to the general counsel of his department or agency facts or circumstances that appear to the employee to indicate that a criminal offense has been committed. Reports to the Department of Justice will be made by the general counsel of the department or agency or his delegate only as set forth below.

C. REPORTABLE OFFENSES

Information or allegations showing that the following federal offenses may have been committed shall be reported:

1. Crimes involving intentional infliction or threat of death or serious physical harm. Pertinent federal offenses include:

Assault—18 U.S.C. §§111–113(a).

Homicide—18 U.S.C. §§1111–14, 1116, 2113(e).

Kidnapping—18 U.S.C. §1201.

Congressional assassination, assault or kidnapping—18 U.S.C. §1751.

Threatening the President—18 U.S.C. §871.

2. Crimes that impact on the national security, defense or foreign relations of the United States. Pertinent federal offenses include:

Communicating classified information—50 U.S.C. §783(b).

Espionage—18 U.S.C. §§793–9.

Sabotage—18 U.S.C. §§2151–57.

Arms Export Control Act—22 U.S.C. §1778.

Export Control Act—50 U.S.C. §2405.

Neutrality offenses—18 U.S.C. §§956–60.

Trading with the Enemy Act—50 App. U.S.C. §§5(b), 16.

Acting as an unregistered foreign agent—18 U.S.C. §951.

Communicating classified information—50 U.S.C. §783(b).

Government employee acting for a foreign principal—18 U.S.C. §219.

Communicating restricted data—42 U.S.C. §2274–77.

Espionage—18 U.S.C. §§793–98.

Failure to register as foreign espionage trainee—50 U.S.C. §§851–55.

Foreign Agents Registration Act—22 U.S.C. §618(a).

Sabotage—18 U.S.C. §§2151–57.

Unlawful entering the United States—8 U.S.C. §1325.

The general counsel of the agency, by agreement with the Criminal Division, may develop categories of specific crimes which need not be reported because that Particular category could have no significant impact on national security, defense or foreign relations.

3. Any crime meeting any of the following criteria:

a. The crime is committed in circumstances likely to have a substantial impact on the national obstruction of justice—18 U.S.C. §§1503–06, 1508–10.

Perjury—18 U.S.C. §1621–23.

4. The general counsel may report any other possible offense when he believes it should be reported to the Attorney General.

5. Any conspiracy to commit a reportable offense shall be reported.

6. The general counsel shall keep records of any matters referred to him which contain information or allegations of a felony in violation of federal law which the general counsel determines is not reportable under these provisions.

D. REPORTING PROCEDURES

When information or allegations are received by an agency that a subject has committed or is committing a reportable offense, the agency shall transmit the information or allegations to the Department of Justice in the following manner:

1. In a case where no public disclosure of classified information or intelligence sources and methods would result from further investigation or prosecution, and the security of ongoing intelligence investigations would not be jeopardized thereby, the agency will report the matter to the cognizant office of the Federal Bureau of Investigation, other appropriate Federal investigative agency, or to the appropriate United States Attorney or his designee for an investigative or prosecutive determination.

2. In a case where further investigation or prosecution would result in the public disclosure of classified information or intelligence sources and methods or would jeopardize the conduct of ongoing intelligence operations, a letter explaining the facts of the matter in detail will be forwarded to the Criminal Division. The agency will also forward to the Criminal Division a separate classified memorandum explaining the security or operational problems which would arise from a criminal investigation or prosecution, including, but not limited to:

a. Public disclosure of information needed to prove the offense or to obtain a search warrant or an electronic surveillance order under chapter 119 of Title 18, United States Code;

b. disclosure required by a defense request for discovery of information under Rule 16 of the Federal Rules of Criminal Procedure, 18 U.S.C. §3500, or *Brady* v. *Maryland*, 373 U.S. 83 (1963); and

c. interference with the voluntary provision by the subject or persons associated with the subject of cover or other services necessary for intelligence operations.

The Criminal Division, after necessary consultation with the agency, will determine whether to further investigate or prosecute. The agency will be informed of such determination in writing.

E. If the subject of a referral is an employee of another agency other than a person subject to the Uniform Code of Military Justice, the Criminal Division may refer the matter to that agency for preliminary investigation and possible administrative action. The employing agency will report the results of any such preliminary investigation under the procedures for reporting possible crimes by agency employees.

F. If the subject of the referral is a person subject to the Uniform Code of Military Justice, the Criminal Division will coordinate the handling of the matter with the appropriate military service in accordance with existing agreements between the Departments of Justice and Defense.

G. All referrals required by these proceedings shall be in writing and in such detail as the Department of Justice component receiving the referral shall determine.

H. When the head of an agency believes that circumstances of security warrant it, he may directly report to the Attorney General in writing any matter required to be reported by these procedures in lieu of following the procedures of paragraphs D–G.

I. Nothing in these procedures shall be construed to restrict the exchange of information among agencies in the intelligence community required by other procedures or agreements made under E.O. 12036.

GRIFFIN B. BELL,
Attorney General.

MEMORANDUM OF UNDERSTANDING: REPORTING OF INFORMATION CONCERNING FEDERAL CRIMES

I. INTRODUCTION

Section 1.7(a) of Executive Order (E.O.) 12333 requires senior officials of the Intelligence Community to—

Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures.

Title 28, United States Code, Section 535(b) requires that—

[a]ny information, allegation, or complaint received in a department or agency of the executive branch of the Government relating to violations of title 18 involving Government officers and employees shall be expeditiously reported to the Attorney General by the head of the department or agency, unless—

(1) the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of law; or

(2) as to any department or agency of the Government, the Attorney General directs otherwise with respect to a specified class of information, allegation, or complaint.

This Memorandum of Understanding (MOU) sets forth the procedures by which each agency and organization within the Intelligence Community shall report to the Attorney General and to federal investigative agencies information concerning possible federal crimes by employees of an intelligence agency or organization, or violations of specified federal criminal laws by any other person, which information was collected by it during the performance of its designated intelligence activities, as those activities are defined in E.O. 12333, §§1.8–1.13.

II. DEFINITIONS

A. "Agency," as that term is used herein, refers to those agencies and organizations within the Intelligence Community as defined in E.O. 12333, §3.4(f), but excluding the intelligence elements of the Federal Bureau of Investigation and the Department of the Treasury.

B. "Employee," as that term is used herein, means:

1. a staff employee, contract employee, asset, or other person or entity providing service to or acting on behalf of any agency within the intelligence community;

2. a former officer or employee of any agency within the intelligence community for purposes of an offense committed during such person's employment, and for purposes of an offense involving a violation of 18 U.S.C. §207 (Conflict of interest); and

3. any other Government employee on detail to the Agency.

C. "General Counsel" means the general counsel of the Agency or of the Department of which it is a component or an oversight person designated by such person to act on his/her behalf, and for purposes of these procedures may include an Inspector General or equivalent official if agency or departmental procedures so require or if designated by the agency or department head.

D. "Inspector General" or "IG" means the inspector general of the Agency or of the department of which the Agency is a component.

E. "Reasonable basis" exists when there are facts and circumstances, either personally known or of which knowledge is acquired from a source believed to be reasonably trustworthy, that would cause a person of reasonable caution to believe that a crime has been, is being, or will be committed. The question of which federal law enforcement or judicial entity has jurisdiction over the alleged criminal acts shall have no bearing upon the issue of whether a reasonable basis exists.

III. SCOPE

A. This MOU shall not be construed to authorize or require the Agency, or any person or entity acting on behalf of the Agency, to conduct any intelligence not otherwise authorized by law, or to collect any information in a manner not authorized by law.

B. This MOU ordinarily does not require an intelligence agency or organization to report crimes information that was collected and disseminated to it by another department, agency, or organization. Where, however, the receiving agency is the primary or sole recipient of that information, of if analysis by the receiving agency reveals additional crimes information, the receiving agency shall be responsible for reporting all such crimes information in accordance with the provisions of this MOU.

C. This MOU does not in any way alter or supersede the obligation of an employee of an intelligence agency to report potential criminal behavior by other employees of that agency to an IG, as required either by statute or by agency regulations, nor affect any protections afforded any persons reporting such behavior to an IG. Nor does this MOU affect any crimes reporting procedures between the IG Offices and the Department of Justice.

D. This MOU does not in any way alter or supersede any obligation of a department or agency to report to the Attorney General criminal behavior by Government employees not employed by the intelligence community, as required by 28 USC §535.

E. This MOU does not affect the obligation to report to the Federal Bureau of Investigation alleged or suspected espionage activities as required under Section 811(c) of the Intelligence Authorization Act of 1995.

F. The following crimes information is exempted from the application of this memorandum if the specified conditions are met:

1. Crimes information that has been reported to an IG;[1]

2. Crimes information received by a Department of Defense intelligence component concerning a Defense intelligence component employee who either is subject to the Uniform Code of Military Justice or is a civilian and has been accused of criminal behavior related to his/her assigned duties or position, if (a) the information is submitted to and investigated by the appropriate Defense Criminal Investigative Organization, and (b) in cases involving crimes committed during the performance of intelligence activities, the General Counsel provides to the Department of Justice a report reflecting the nature of the charges and the disposition thereof;

3. Information regarding non-employee crimes listed in Section VII that is collected by the intelligence component of a Department also having within it a law enforcement organization where (a) the crime is of the type that the Department's law enforcement organization has jurisdiction to investigate; and (b) the Department's intelligence organization submits that crimes information to the Department's law enforcement organization for investigation and further handling in accordance with Department policies and procedures;[2]

4. Crimes information regarding persons who are not employees of the Agency, as those terms are defined in Section II, that involve crimes against property in an amount of $1,000 or less, an amount of $500 or less. As to other relatively minor offenses to which this MOU would ordinarily apply, but which, in the General Counsel's opinion, do not warrant reporting pursuant to this MOU, the General Counsel may orally contact the Assistant Attorney General, Criminal Division, or his/her designee. If the Department of Justice concurs with that opinion, no further reporting under these procedures is required. The General Counsel shall maintain an appropriate record of such contacts with the Department. If deemed appropriate by the General Counsel, he/she may take necessary steps to pass such information to the appropriate law enforcement authorities; or

5. Information, other than that relating to homicide or espionage, regarding crimes that were completed more than ten years prior to the date such allegations became known to the Agency. If, however, the Agency has a reasonable basis to believe that the alleged criminal activities occurring ten or more years previously relate to, or are a part of, a pattern of criminal activities that continued within that ten year interval, the reporting procedures herein will apply to those activities.

F. The procedures set forth herein are not intended to affect whether an intelligence agency reports to state or local authorities activity that appears to constitute a crime under state law. In the event that an intelligence agency considers it appropriate to report to state or local authorities possible criminal activity that may implicate classified information or intelligence sources or methods, it should inform the AAG, or the designated Deputy AAG, Criminal Division, in accordance with paragraph VIII.C, below; the Criminal Division will consult with the intelligence agency regarding appropriate methods for conveying the information to state or local authorities. In the event that an intelligence agency considers it appropriate to report to state or local authorities possible criminal activity that is not expected to implicate classified information or intelligence sources or methods, it should nevertheless provide a copy of such report to the AAG, or to the designated Deputy AAG, Criminal Division.

IV. GENERAL CONSIDERATIONS: ALLEGATIONS OF CRIMINAL ACTS COMMITTED BY AGENCY EMPLOYEES

A. This Agreement requires each employee of the Agency to report to the General Counsel or IG facts or circumstances that reasonably indicate to the employee that an employee of an intelligence agency has committed, is committing, or will commit a violation of federal criminal law.[3]

B. Except as exempted in Section III, when the General Counsel has received allegations, complaints or information (hereinafter allegations) that an employee of the Agency may have violated, may be violating, or may violate a federal criminal statute, that General Counsel should within a reasonable period of time determine whether there is a reasonable basis to believe that a federal crime has been, is being, or will be committed and that it is a crime which, under this memorandum, must be reported. The General Counsel may, as set forth in Section V, below, conduct a preliminary inquiry for this purpose. If a preliminary inquiry reveals that there is a reasonable basis for the allegations, the General Counsel will follow the reporting procedures set forth in Section VIII, below. If a preliminary inquiry reveals that the allegations are without a reasonable basis, the General Counsel will make a record, as appropriate, of that finding and no reporting under these procedures is required.

V. PRELIMINARY INQUIRY INTO ALLEGATIONS AGAINST AN AGENCY EMPLOYEE

A. The General Counsel's preliminary inquiry regarding allegations against an Agency employee will ordinarily be limited to the following:

1. Review of materials submitted in support of the allegations;

2. review of Agency indices, records, documents, and files;

3. examination of premises occupied by the Agency;

4. examination of publicly available federal, state, and local government records and other publicly available records and information;

5. interview of the complainant; and

6. interview of any Agency employee, other than the accused, who, in the opinion of the General Counsel, may be able to corroborate or refute the allegations.

B. Where criminal allegations against an Agency employee are subject to this MOU, an interview of that employee may only be undertaken in compliance with the following conditions:

1. Where the crime alleged against an Agency employee does not pertain to a serious felony offense,[4] a responsible Agency official may interview the accused employee; however, such interview shall only be conducted with the approval of the General Counsel, the IG, or, as to Defense and military employees, the responsible military Judge Advocate General or the responsible Defense Criminal Investigative Organization.

2. Where the crime alleged against an Agency employee is a serious felony offense, the Agency shall ordinarily not interview the accused employee, except where, in the opinion of the General Counsel, there are exigent circumstances[5] which require that the employee be interviewed. If such exigent circumstances exist, the General Counsel or other attorney in the General Counsel's office may interview the accused employee to the extent reasonably necessary to eliminate or substantially reduce the exigency.

3. In all other cases of alleged serious felonies, the General Counsel, or the General Counsel's designee, may interview the accused employee only after consultation with the Agency's IG, a Defense Criminal Investigative Organization (for Defense and military employees), or with the Department of Justice regarding the procedures to be used during an interview with the accused employee.

Any interview of an accused employee that is undertaken shall be conducted in a manner that does not cause the loss, concealment, destruction, damage or alteration of evidence of the alleged crime, nor result in the immunization of any statements made by the accused employee during that interview. The Agency shall not otherwise be limited by this MOU either as to the techniques it is otherwise authorized to use, or as to its responsibility to provide for its security functions pursuant to E.O. 12333.

VI. GENERAL CONSIDERATIONS: ALLEGATIONS OF CRIMINAL ACTS COMMITTED BY NON-EMPLOYEES

A. This MOU requires each employee of the Agency to report, to the General Counsel or as otherwise directed by the Department or Agency head, facts or circumstances that reasonably indicate to the employee that a non-employee has committed, is committing, or will commit one or more of the specified crimes in Section VII, below.

B. When an Agency has received information concerning alleged violations of federal law by a person other than an employee of an intelligence agency, and has determined that the reported information provides a reasonable basis to conclude that a violation of one of the specified crimes in Section VII has occurred, is occurring, or may occur, the Agency shall report that information to the Department of Justice in accordance with Sections VIII or IX, below.

---

*Footnotes appear at end of Memorandum of Understanding.

VII. REPORTABLE OFFENSES BY NON-EMPLOYEES

A. Unless exempted under Section III, above, allegations concerning criminal activities by non-employees are reportable if they pertain to one or more of the following specified violations of federal criminal law:

1. Crimes involving intentional infliction or threat of death or serious physical harm. These include but are not limited to homicide, kidnapping, hostage taking, assault (including sexual assault), or threats or attempts to commit such offenses, against any person in the United States or a U.S. national or internationally protected person (as defined in 18 U.S.C. §1116 (b)(4)), whether in the United States or abroad.

2. Crimes, including acts of terrorism, that are likely to affect the national security, defense or foreign relations of the United States. These may include but are not limited to:

a. Espionage; sabotage; unauthorized disclosure of classified information; seditious conspiracies to overthrow the government of the United States; fund transfers violating the International Emergency Economic Powers Act; providing material or financial support to terrorists; unauthorized traffic in controlled munitions or technology; or unauthorized traffic in, use of, or contamination by nuclear materials, chemical or biological weapons, or chemical or biological agents; whether in the United States or abroad;

b. Fraudulent entry of persons into the United States, the violation of immigration restrictions or the failure to register as a foreign agent or an intelligence trained agent;

c. Offenses involving interference with foreign governments or interference with the foreign policy of the United States whether occurring in the United States or abroad;

d. Acts of terrorism anywhere in the world which target the U.S. government or its property, U.S. persons, or any property in the United States, or in which the perpetrator is a U.S. person; aircraft hijacking; attacks on aircraft or international aviation facilities; or maritime piracy;

e. The unauthorized transportation or use of firearms or explosives in interstate or foreign commerce.

3. Crimes involving foreign interference with the integrity of U.S. governmental institutions or processes. Such crimes may include:

a. Activities to defraud the U.S. government or any federally protected financial institution, whether occurring in the United States or abroad;

b. Obstruction of justice or bribery of U.S. officials or witnesses in U.S. proceedings, whether occurring in the United States or abroad;

c. Interference with U.S. election proceedings or illegal contributions by foreign persons to U.S. candidates or election committees;

d. Perjury in connection with U.S. proceedings, or false statements made in connection with formal reports or applications to the U.S. government, or in connection with a formal criminal or administrative investigation, whether committed in the United States or abroad;

e. Counterfeiting U.S. obligations or any other governmental currency, security or identification documents used in the United States, whether committed in the United States or abroad; transactions involving stolen governmental securities or identification documents or stolen or counterfeit non-governmental securities.

4. Crimes related to unauthorized electronic surveillance in the United States or to tampering with, or unauthorized access to, computer systems.

5. Violations of U.S. drug laws including: the cultivation, production, transportation, importation, sale, or possession (other than possession of user quantities) of controlled substances; the production, transportation, importation, and sale of precursor or essential chemicals.

6. The transmittal, investment and/or laundering of the proceeds of any of the unlawful activities listed in this Section, whether committed in the United States or abroad.

B. Any conspiracy or attempt to commit a crime reportable under this section shall be reported if the conspiracy or attempt itself meets the applicable reporting criteria.

C. The Attorney General also encourages the Agency to notify the Department of Justice when the Agency's other routine collection of intelligence in accordance with its authorities results in its acquisition of information about the commission of other serious felony offenses by non-employees, *e.g.*, violations of U.S. environmental laws relating to ocean and inland water discharging or dumping, drinking water contamination, or hazardous waste disposal, and crimes involving interference with the integrity of U.S. governmental institutions or processes that would not otherwise be reportable under Section VII.A.3.

VIII. PROCEDURES FOR SUBMITTING SPECIAL CRIMES REPORTS

A. Where the Agency determines that a matter must be the subject of a special report to the Department of Justice, it may, consistent with paragraphs VIII.B and VIII.C, below, make such a report (1) by letter or other, similar communication from the General Counsel, or (2) by electronic or courier dissemination of information from operational or analytic units, provided that in all cases, the subject line and the text of such communication or dissemination clearly reflects that it is a report of possible criminal activity. The Department of Justice shall maintain a record of all special crimes reports received from the Agency.

B. Where the Agency determines that a matter must be the subject of a special report to the Department of Justice; and where the Agency further determines that no public disclosure of classified information or intelligence sources and methods would result from further investigation or prosecution, and the security of ongoing intelligence operations would not be jeopardized thereby, the Agency will report the matter to the federal investigative agency having jurisdiction over the criminal matter. A copy of that report must also be provided to the AAG, or designated Deputy AAG, Criminal Division.

C. Where the Agency determines that further investigation or prosecution of a matter that must be specially reported may result in a public disclosure of classified information or intelligence sources or methods or would jeopardize the security of ongoing intelligence operations, the Agency shall report the matter to the AAG or designated Deputy AAG, Criminal Division. A copy of that report must also be provided to the Assistant Director, Criminal Investigations or National Security Divisions, Federal Bureau of Investigation, or in the event that the principal investigative responsibility resides with a different federal investigative agency, to an appropriately cleared person of equivalent position in such agency. The Agency's report should explain the security or operational problems that would or might arise from a criminal investigation or prosecution.

D. Written documents associated with the reports submitted pursuant to this section may refer to persons who are the subjects of the reports by non-identifying terms (such as "John Doe "). The Agency shall advise the Department of Justice or relevant federal investigative agency of the true identities of such persons if so requested.

E. It is agreed that, in acting upon information reported in accordance with these procedures, the Agency, the Department of Justice and the relevant federal investigative agencies will deal with classified information, including sources and methods, in a manner consistent with the provisions of relevant statutes and Executive Orders, including the Classified Information Procedures Act.

IX. WHEN ROUTINE DISSEMINATION MAY BE USED IN LIEU OF A SPECIAL CRIMES REPORT

A. Except as set forth in IX.B, below, the Agency may report crimes information regarding non-employees to the Department of Justice by routine dissemination, provided that:

1. the crimes information is of the type that is routinely disseminated by the Agency to headquarters elements of cognizant federal investigative agencies;

2. the criminal activity is of a kind that is normally collected and disseminated to law enforcement by the Agency (*e.g.*, drug trafficking, money laundering, terrorism, or sanctions violations); and

3. the persons or entities involved are members of a class that are routinely the targets or objects of such collection and dissemination.

If all three of these conditions are met, the Agency may satisfy its crimes reporting obligation through routine dissemination to the Department of Justice, Criminal Division, and to all cognizant federal law enforcement agencies, which shall retain primary responsibility for review of disseminated information for evidence of criminal activity. In all other cases, the special reporting procedures in Section VIII shall apply. As requested by the Department of Justice, the Agency will coordinate with the Department to facilitate the Department's analytical capabilities as to the Agency's routine dissemination of crimes information in compliance with this MOU.

B. Routine dissemination, as discussed in IX.A, above, may not be used in lieu of the special reporting requirements set forth herein as to the following categories of criminal activities:

1. Certain crimes involving the intentional infliction or threat of death or serious physical harm (VII.A.1, above);

2. Espionage; sabotage; unauthorized disclosure of classified information; and seditious conspiracies to overthrow the government of the United States (VII.A.2.a, above); and

3. Certain crimes involving foreign interference with the integrity of U.S. governmental institutions or processes (VII.A.3.b and c, above).

X. OTHER AGENCY RESPONSIBILITIES

A. The Agency shall develop internal procedures in accordance with the provisions of Sections VIII and IX for the reporting of criminal information by its employees as required under Sections IV.A and VI.A.

B. The Agency shall also establish initial and continuing training to ensure that its employees engaged in the review and analysis of collected intelligence are knowledgeable of and in compliance with the provisions of this MOU.

XI. RELATION TO OTHER PROCEDURES AND AGREEMENTS

A. If the Agency desires, for administrative or security reasons, to conduct a more extensive investigation into the activities of an employee relating to any matter reported pursuant to this MOU, it will inform the Department of Justice and the federal investigative agency to which the matter was reported. The Agency may also take appropriate administrative, disciplinary, or other adverse action at any time against any employee whose activities are reported under these procedures. However, such investigations or adverse actions shall be coordinated with the proper investigative or prosecuting officials to avoid prejudice to any criminal investigation or prosecution.

B. Nothing in these procedures shall be construed to restrict the exchange of information among the Agencies in the Intelligence Community or between those Agencies and law enforcement entities other than the Department of Justice.

C. This MOU supersedes all prior crimes reporting memoranda of understanding executed pursuant to the requirements of E.O. 12333. To the extent that there exist any conflicts between other Agency policies or directives and the provisions herein, such conflicts shall be resolved in accordance with the provisions of this MOU. However, this MOU shall not be construed to modify in any way the August 1984 Memorandum of Understanding between the Department of Defense and the Department of Justice relating to the investigation and prosecution of certain crimes.

D. The parties understand and agree that nothing herein shall be construed to alter in any way the current routine dissemination by the Agency of intelligence information, including information regarding alleged criminal activities by any person, to the Department of Justice or to federal law enforcement agencies.

XII. MISCELLANEOUS

A. This MOU shall become effective as to each agency below as of the date signed by the listed representative of that agency.

B. The Intelligence-Law Enforcement Policy Board, within one year of the date of the effective date hereof, and as it deems appropriate thereafter, will appoint a working group consisting of an equal number of representatives from the intelligence and law enforcement communities, including the Criminal Division. That working group shall do the following:

1. review the Agency's implementation of Sections III.F and IV.B, hereof;
2. consider whether the crimes reporting requirements of E.O. 12333 and other authorities are being met through the operation of this MOU;
3. review each of the provisions of this MOU and determine what, if any, modifications thereof should be recommended to the Policy Board, or its successor; and
4. issue a report to the Policy Board of its findings and recommendations in each of the foregoing categories.

C. The Policy Board in turn shall make recommendations to the Attorney General, the Director of Central Intelligence, and the heads of the affected agencies concerning any modifications to the MOU that it considers necessary.

JANET RENO,
Attorney General.
JOHN DEUTSCH,
Director of Central Intelligence.
MICHAEL F. MUNSON,
(For Director, Defense Intelligence Agency).
KENNETH E. BAKER,
Director, Office of Non-Proliferation and National Security, Department of Energy.
WILLIAM J. PERRY,
Secretary of Defense.
J.M. MCCONNELL,
Director, National Security Agency.
TOBY T. GATI,
Assistant Secretary of State, Intelligence and Research.

FOOTNOTES

---

[1] If, however, the IG determines that the reported information is not properly subject to that office's jurisdiction, but that such information may be reportable pursuant to this MOU, the IG may forward the information to the DOJ in compliance with these procedures. Alternatively, the IG may transmit the information to the Agency's General Counsel for a determination of what response, if any, is required by this MOU.

[2] This MOU does not affect the crimes reporting obligations of any law enforcement and other non-intelligence components of a department, agency, or organization.

[3] When a General Counsel or IG has received information concerning alleged violations of federal law by an employee of another intelligence community agency, and those violations are not exempted under section III.E.4, hereof, the General Counsel shall notify in writing the General Counsel of the accused employee's agency. The latter General Counsel must then determine whether this MOU requires the allegations to be reported to the Department of Justice.

[4] A "serious felony offense" includes any offense listed in Section VII, hereof, violent crimes, and other offenses which, if committed in the presence of a reasonably prudent and law-abiding person, would cause that person immediately to report that conduct directly to the police. For purposes of this MOU, crimes against government property that do not exceed $5,000 and are not part of a pattern of continuing behavior or of a criminal conspiracy shall not be considered serious felony offenses.

[5] "Exigent circumstances" are circumstances requiring prompt action by the Agency in order to protect life or substantial property interests; to apprehend or identify a fleeing offender; or to prevent the compromise, loss, concealment, destruction, or alteration of evidence of a crime.

□ 1530

The CHAIRMAN. The time of the gentlewoman from California (Ms. WATERS) has expired.

(On request of Mr. DICKS, and by unanimous consent, Ms. WATERS was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Mr. Chairman, if the gentlewoman would yield to me, I appreciate very much the hard work that the gentlewoman from California has put into this, an enormous effort on her part.

I regret that, because of a technicality, the amendment will not be accepted. I guarantee the gentlewoman we will work with her to make certain that we do everything we can to come up with a strategy to be certain that the understanding that is now in place with the Attorney General is strengthened, so that, in cases where there has been illegal activity or problems, that they must be reported to the Attorney General.

I know that is the thrust of your amendment. As you know, our committee is still involved in our investigation. It may well be one of the conclusions of our investigation that we need to strengthen this area.

I pledge to the gentlewoman from California that I will work with her to get a satisfactory solution. Again, I appreciate the gentlewoman's endeavors and hard work here.

Ms. WATERS. Mr. Chairman, I would like to thank the gentleman from Washington (Mr. DICKS).

Mr. GOSS. Mr. Chairman, will the gentlewoman from California yield?

Ms. WATERS. Yes, I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, I echo what the ranking member has said. I think the gentlewoman from California is right on in an area of critical importance; there is no doubt about that.

We are in the middle of the investigation, as the gentlewoman knows. We are going to have recommendations. Certainly this is an area of concern. I do not know what those recommendations will be, but I assure the gentlewoman that her thoughts and her input on this are being accepted, listened to, and we will be considering them as we go forward with the other information we get in our investigation.

Ms. WATERS. Mr. Chairman, I would like to thank the chairman and our ranking member and say to our ranking member that I really appreciate the fact that he has at least been able to listen to some of the ideas that I have brought to that committee.

I know that the gentleman is, by far, one of the most knowledgeable in this area and that some of the things that I am raising are things that challenge conventional wisdom. But the gentleman has been very cooperative, and I appreciate it.

Mr. DICKS. Mr. Chairman, I appreciate the gentlewoman's kind remarks.

Ms. WATERS. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Are there further amendments to title IV?

The Clerk will designate title V.

The text of title V is as follows:

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. EXTENSION OF AUTHORITY TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES.

Section 431(a) of title 10, United States Code, is amended by striking out "December 31, 1998" and inserting in lieu thereof "December 31, 2001".

The CHAIRMAN. Are there amendments to title V?

Are there further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. NEY) having assumed the chair, Mr. THORNBERRY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, pursuant to House Resolution 420, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3694, the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3694, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. GOSS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3694, the Clerk be authorized to make such technical and conforming changes as may be necessary to correct such things as spelling, punctuation, cross-referencing, and section numbering.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ANNOUNCEMENT OF FILING DEADLINE FOR H.R. 2431, FREEDOM FROM RELIGIOUS PERSECUTION ACT

(Mr. GOSS asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore. Without objection, the gentleman from Florida is recognized for 1 minute.

There was no objection.

Mr. GOSS. Mr. Speaker, I take this time for the purpose of making an announcement.

Mr. Speaker, the Committee on Rules is planning to meet during the week of May 11 to grant a rule which may restrict amendments for consideration of H.R. 2431, the Freedom From Religious Persecution Act.

Any Member contemplating an amendment should submit 55 copies of the amendment and a brief explanation to the Committee on Rules at H–312 of the Capitol no later than 5 p.m. Tuesday, May 12.

Amendments should be drafted to the text of the H.R. 3806, a new bill introduced today, which consists of H.R. 2431 as reported by the Committee on International Relations, the Committee on the Judiciary, and the Committee on Ways and Means, a copy of which is now available for review at the Committee on International relations.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the Rules of the House.

ANNOUNCEMENT OF FILING DEADLINE FOR H.R. 3616, FISCAL YEAR 1999 DOD AUTHORIZATION BILL

(Mr. GOSS asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore. Without objection, the gentleman from Florida is recognized for 1 minute.

There was no objection.

Mr. GOSS. Mr. Speaker, I take this time for the purpose of making an additional announcement.

Mr. Speaker, the Committee on Rules is planning to meet early in the week of May 18 to grant a rule which may restrict amendments for consideration of H.R. 3616, the Defense Authorization Bill for Fiscal Year 1999.

Any Member contemplating an amendment should submit 55 copies of the amendment and a brief explanation to the Committee on Rules in H–312 of the Capitol no later than 2 p.m. on Thursday, May 14.

Amendments should be drafted to the text of the reported version of the bill, a copy of which will become available during the day tomorrow at the Committee on National Security. The report will be filed early next week.

Members should use the Office of Legislative Counsel to ensure that the amendments are properly drafted and should check with the Office of the Parliamentarian to be certain that amendments comply with the Rules of the House.

ADJOURNMENT TO MONDAY, MAY 11, 1998

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

HOUR OF MEETING ON TUESDAY, MAY 12, 1998

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, May 11, 1998, it adjourn to meet at 12:30 p.m. on Tuesday, May 12, 1998 for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, MAY 13, 1998

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, May 12, 1998, it adjourn to meet at 9 a.m. on Wednesday, May 13, 1998 for the purpose of receiving in this Chamber former Members of Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON WEDNESDAY, MAY 13, 1998, FOR THE PURPOSE OF RECEIVING FORMER MEMBERS OF CONGRESS

Mr. GOSS. Mr. Speaker, I ask unanimous consent that it may be in order on Wednesday, May 13, 1988 for the Speaker to declare a recess, subject to the call of the Chair, for the purpose of receiving in this Chamber former members of this Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I take this time for the purpose of inquiring about the schedule for the rest of the week and the schedule for the following week.

Let me just pose the question, are we waiting for one of the leaders to come out to the floor?

Mr. STENHOLM. Mr. Speaker, will the minority whip yield for a question?

Mr. BONIOR. Mr. Speaker, I am happy to yield to my friend from Texas.

Mr. STENHOLM. Mr. Speaker, I have been here for the purposes of hoping to hear in the schedule for next week that we were going to have campaign finance reform up, since that was sort of agreed to here when we had a discharge petition that was pulled down, and we had the indication that we were going to have this bill up. I had hoped to be over here to hear that colloquy between you and the majority. I guess they are not here.

Mr. BONIOR. I am still hoping that they will come. That was one of my main concerns on the schedule for next week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. Mr. Speaker, I am happy to yield to the gentleman from Florida.

Mr. FOLEY. Mr. Speaker, I have just been informed, obviously we did not have a rollcall, and the leaders have been off campus, and we will be publishing next week's schedule in the RECORD.

Mr. BONIOR. Does the gentleman from Florida know if campaign finance will be brought up next week?

Mr. FOLEY. That is all I know. That is all the information I have at this time.

Mr. BONIOR. Mr. Speaker, I really have tried to be very reasonable about these discussions this year. I am a little concerned here. Forgive me for getting into this issue, but we have had so many miscommunications, delays, and, if you will pardon me, broken promises on this that I am disturbed by this.

There was a handshake by the President and the Speaker that we would have campaign finance reform. Nothing happened for a long period of time. Then, in March, we had this procedure that really locked out a lot of the issues that people wanted to talk about on this floor, especially the Meehan-Shays proposal and other very good proposals.

Then we had a discharge petition, and it looked like it was going to get discharged. There were some comments made that we are going to have a vote on this in May, and now we hear reports that we are not going to vote in May. We are going to vote after May when we come back from the May recess.

It is very, very disturbing, and I would like some answers. I would like to hear from the Republican leadership what is going on and why these broken promises continue, Mr. Speaker

Mr. Speaker, I yield to my friend, the gentleman from Kentucky (Mr. BAESLER) and my other friend from Texas on this issue because it is something we need an answer on.

Mr. BAESLER. Mr. Speaker, as we all know, the leadership, the Speaker, made a commitment that we are going to vote on this issue in May. We are hearing rumors now that we are not going to vote in May and maybe vote after Memorial Day.

We also are hearing rumors that maybe Shays-Meehan may not be proper. That was also a commitment made by the Speaker and the leadership to encourage those Republicans and others to withdraw the names from the discharge petition.

It is our position, those of us who originated the petition, those of us who signed, if we do not have an answer on this within the next day or two, we are going to try and reinitiate the petition because we feel like we are getting the runaround.

Somebody said a while ago in this chamber we are going to trust to verify. That is what we said. So far, we have trusted, but it had not been verified by the leadership.

Now to avoid the discussion today, I think this is the height of arrogance. That is what got us here in the first place is arrogance.

We would like to know what is going to be debated. We don't have but 2 or 3 more weeks in May. I think we all, not only the membership, but the public as a whole are entitled to know whether or not the commitment is going to be maintained by the Speaker or whether, once again, they are going to run from this issue which obviously they are afraid of.

□ 1530

Mr. DOGGETT. Mr. Speaker will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. DOGGETT. The gentleman may be aware that the Speaker has answered this question.

Back on April 22, Congress Daily reported that Speaker GINGRICH himself told Congress Daily that we would have a fair and open debate on campaign finance not just during May, not just before the Memorial Day recess, but by May 15. By my calendar, that is next Friday.

We have the tentative schedule that the Republican leadership has put out for next week and there is not any reference to campaign finance reform on it and, apparently, they are afraid to come out here and tell the American people that.

I wonder if the gentleman has been advised anything to the contrary? I thought they had broken all the promises there were to break on campaign finance reform, but they have found yet another promise to break with the Speaker having promised and said in print that it will be done by May 15, next Friday. They have misrepresented to the American people. They do not have any intention to do it and do not have the courage to come out here and tell the American people that.

Mr. BONIOR. I am hopeful we can get an answer from the Speaker, from the gentleman from Texas (Mr. ARMEY) or the gentleman from Texas (Mr. DELAY) or someone on the other side of the aisle as to what the disposition will be on this important issue. I am waiting, and when they come I will be delighted to hear their answers.

But the gentleman is absolutely right; this was the promise made, and we will wait to see if it is going to be broken or not. I am still hopeful that they will bring it up before we leave.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. STENHOLM. I thank the gentleman for yielding to me. My colleague from Texas adequately pointed out that the tentative schedule for next week does not include the mention of campaign finance reform, and that is what brought me to the floor of the House to inquire.

Timing could not possibly be a problem, because here it is 3:30 on Thursday afternoon. We have adjourned for the week. There will be no votes tomorrow, on Friday, no votes on Monday, and no votes on the next Friday. There was a promise made. And back where I come from, your word is your bond and a handshake is as good as a contract.

This is very disturbing, particularly since we were at the verge of having a discharge petition that would have discharged a very fair rule; that would have allowed all ideas. And I think it is incredibly important that when we do eventually get to campaign finance reform, and hopefully next week, that we will allow a clean up-and-down vote on the freshman bill and a clean up-and-down-vote on the Shays-Meehan bill, and then allow any Members of this body that have any constructive ideas of what should be included in campaign finance reform to be included.

That is what we worked awfully hard to do, and there was bipartisan support for that. There were promises made if they would just remove their names from the discharge petition, that we would get just exactly what we were asking for. And now these rumors that are circulating are very, very disturbing to many of us who, again, believe that our word is our bond.

Mr. KIND. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Speaker, I thank the minority whip for yielding to me. I, too, have a question with regard to the schedule as relates to campaign finance reform. I am one of the freshman Members that participated in the bipartisan task force for the better part of a year and a half now, and it is going to be our base bill that is brought up eventually. But we are hearing these rumors as well that the guarantee, the promise that was made just a couple of short weeks ago, may be backed off from recently.

We have the gentleman from Maine (Mr. ALLEN), who is one of the cochairs of the bipartisan task force in attendance as well, and we were just wondering, because promises have been made in the past, agreements have been reached in regards to having a fair, open, and honest debate on campaign finance reform on this floor, handshakes have been given, and we are wondering whether or not this agreement that was reached just a couple of weeks ago is just another empty handshake in regards to one of the more important issues that we should be dealing with and debating honestly and fairly on the floor of the House of Representatives.

I am wondering if my friend from across the aisle has some information that can clarify some of the concerns that we have right now based on the rumors that we are hearing that this finance reform bill may not come up this month and might possibly come up during the month of June.

We would like to have some information so that we have a way of preparing for this very important debate, a debate that I think that the people across this country desperately want this institution to have.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Speaker, I can assure the gentleman there will be a fair and open debate on the question. There are negotiations ongoing. I think if the gentleman will give us some time, we will release the details of the scheduling for that particular matter.

Mr. BONIOR. Mr. Speaker, may I ask of my friend who the negotiations are with?

Mr. FOLEY. If the gentleman will continue to yield, the Members that have the amendments to, apparently, the reference of the freshman bill.

Mr. BONIOR. I am not familiar that our colleagues have been involved in these negotiations, nor am I familiar that the gentleman from Massachusetts (Mr. MEEHAN) has been involved in these negotiations, nor am I familiar with the fact that the gentleman from California (Mr. FARR), or others who have legitimate concerns on this bill, have been involved. We are not involved in this. That is my problem.

Mr. KIND. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Wisconsin.

Mr. KIND. Speaking again as a member of the freshman task force that has been working on this issue, I can certainly state for the record that we have not been party to any negotiations as far as a schedule, as far as the form in which the legislation will be brought up.

It is my understanding that the gentleman from Maine (Mr. ALLEN), who is one of the cochairs of our task force, has not been privy to any discussions with the majority leadership on this important issue as well. So if negotiations are ongoing, we would certainly request to be included, since it is our bill that will be the base bill when this eventually does get taken up.

Mr. BONIOR. We understand that we are in the minority and that the other side will make the call on this. They have the votes to do it. But I think just common courtesy dictates that those who have been deeply involved in this issue for a number of years, and who care very deeply about this, be a part of how we are going to manage this very complex difficult and very long debate, I hope, on this issue.

We are just kind of left in the dark. We do not know what is happening. And I hope the other side can understand our concern, because we have had promises broken on this, we believe promises broken on three separate occasions. And now, as the gentleman from Texas (Mr. DOGGETT) pointed out, May 15 was going to be the date. We get a tentative schedule; nothing on here reflecting a decision to go forward and discuss this bill next week.

And then, of course, rumors are floating around the Capitol this will not be voted on until June. First June, then July, and pretty soon we are into an election season and the American people do not have a visual or a record of how this Congress feels about changing a system that I think everybody on both sides of the aisle will agree is a system that is not good, it is not healthy for the country, it is a system that demeans our process, uses much of our time, and really takes cynicism to a low level in our country in terms of people's participation.

So all we want is to be part of the discussion. And that is why I am concerned and disturbed this afternoon, at a reasonable hour, 3:30, that we cannot get a member of the leadership of the other side to come out and give us an answer as to where we are with this, when we will have a decision, when we will do it, and under what form we will do it.

Under what form is very critical in terms of giving people the chance to express themselves. As the gentleman from Texas (Mr. STENHOLM) pointed out, I think accurately and fairly, what he and the gentleman from Kentucky (Mr. BAESLER) and others did with the discharge petition was to lay out a very open and fair rule in which everyone had a chance to put his or her amendments forward and to have a full debate on this issue.

But now we are hearing, well, we are not going to have that chance; that it is going to be narrowed and the Committee on Rules will craft it in such a way that we may not even get a clean shot on the Meehan-Shays bill; or that the freshman bill may not actually have a chance to play itself out; or the ideas of the gentleman from California (Mr. FARR) or fellow individuals on the other side who have ideas will not be able to express their views; or there may be a poison pill with respect to labor and gag rule issues, that we have dispensed with, by the way, on another occasion here, injected into this debate, which will screw up the works and we will not be able to move forward on this important issue.

Those are our concerns. I think they are legitimate. I do not think we are being petty or unfair in raising them this afternoon, and we would hope that we could get them addressed before the weekend.

Mr. KIND. If the gentleman will continue to yield, I think the form and the timing of this important piece of legislation is very important.

The feedback I am getting back home in western Wisconsin, in my district, are the people are engaged in this issue. They want us to take action on it. I think the indication of that occurred during the Easter recess, when all the Members went back to their home districts and got feedback from their constituents. And that is why there was a rush to sign the discharge petition in order to get a fair and honest debate on bipartisan campaign finance reform to the House floor.

It is very evident that the American people want us to take action on it. They want to be engaged in this, and I think they deserve some answers as far as the timing and the form of this legislation as well. So if they want to weigh in on the issue, if they want to personally contact their representatives and let them know how they feel on the issue of getting the big money and the influence of money out of our political system, they will have that opportunity.

Thus far, we are hearing nothing from the majority leadership who is in control of the schedule here. They are not communicating with the freshman group that has worked long and hard on this important piece of legislation.

And I just hope that we will get included in this as soon as possible so that we have some clarification on where we are going with this legislation.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. DOGGETT. I would express the same concern as our colleague from Wisconsin. First, that the American people have a legitimate concern about the need to reform our whole tax collection system. I have been hearing a lot about that. But in order for that to be a fair process, we have to take the money out of the system that is corrupting the system that really stands in the way of our getting real legitimate tax reform.

I want to bring to the gentleman's attention the fact that another member of the Republican leadership who was not willing to come out this afternoon has also spoken on this issue. "House majority leader ARMEY indicated Tuesday that campaign finance reform legislation could be on the House floor before the end of this session." This is a Congress Daily article dated September 17, 1997.

The credibility of the suggestion that there are private negotiations or that this is about to come up is tested by the fact that we have had these promises now ever since, I guess, the first day of the Republican revolution on January of 1995, that this issue would come up. And each of these promises each time either gets broken or changed.

Is the whip advised as to whether, in anticipation, this last promise of action by May 15 was relied upon by public interest groups not affiliated with either the Democratic or the Republican Party, and whether or not Common Cause and literally dozens of religious and public interest groups came together in anticipation of our voting next week, by May 15, to present some type of bipartisan proposal for us to consider that would not advantage either party but might advantage the American people?

Mr. BONIOR. Well, that was our hope, that we would be able to move in that direction, and I think that was the hope of those organizations.

I think if anything is clear in this debate with respect to where those organizations are coming from, so to speak, it is that they are coming from a very nonpartisan approach to this. And they deserve, I think, the fairness of knowing just exactly what the next step is in this drama that we are playing out here on this very critical issue.

And by not having an answer today, I think we do a disservice not only to ourselves and the American people but to the people who care the most about this issue and who have really staked out a good part of their social activism on reforming this very sad system that we have in our society.

So the gentleman is absolutely right. If they know, they certainly have not told me. I think the only folks that know are the leadership on the other side, and they have refused to share these discussions with us, and it is disturbing.

Let me yield one other time, the Chair has been generous with time, and then I will end this discussion.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Maine.

Mr. ALLEN. Mr. Speaker, I will be very brief. As one of the cochairs of the bipartisan freshman effort, the freshmen on both sides of the aisle have been working on this for a very long period of time, and the Democrats, in particular, have over 30 freshmen on this bill.

What we are concerned about is the commitment made in the press release issued by the leadership on April 22, 1998, which said, "Campaign finance reform will be brought to the floor in May and fully debated under an open rule." One of our concerns about any delay, any slippage in that schedule, is that delay here means there is less time for the Senate to take up whatever we do if we are successful in passing reform here.

That is why this is not just an academic issue. It is not just an issue that matters here in the House, but matters to the success or failure of campaign reform this year. I thank the gentleman for yielding.

Mr. BONIOR. I thank my colleagues for their comments and I hope they will be noted by the majority.

Mr. ARMEY. Mr. Speaker, I am pleased to announce we have concluded legislative business for the week.

The House will next meet on Monday, May 11, at 2:00 p.m. for a pro forma session. There will be no legislative business and no votes that day.

On Tuesday, May 12, the House will meet at 12:30 p.m. for morning hour and at 2:00 p.m. for legislative business.

On Tuesday, we will consider a number of bills under suspension of the rules, a list of which will be distributed to Members' offices. Members should note that we do not expect any recorded votes before 5:00 p.m. on Tuesday, May 12.

On Wednesday, May 13, and Thursday, May 14, the House will meet at 10:00 a.m. to consider the following legislation:

H.R. 3494—The Child Protection and Sexual Predator Punishment Act of 1998;

H.R. 3534—The Mandates Information Act of 1998;

H.R. 10—The Financial Services Competition Act of 1997; and

H.R. 2431—The Freedom from Religious Persecution Act of 1998; and

H.R. 512—The New Wildlife Refuge Reauthorization Act.

Mr. Speaker, we hope to conclude legislative business for the week on Thursday, May 14. The House will not be in session on Friday, May 15.

I would like to take this opportunity to note that we will have a lot of important legislation on our plate next week. It may be necessary to work late on Wednesday evening in order to ensure a reasonable getaway time on Thursday.

☐ 1545

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. NEY). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO CHARLES PETER THOBAE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BRADY) is recognized for 5 minutes.

Mr. BRADY of Texas. Today Mr. Speaker, America lays to rest an excellent journalist and a better father. It was with great sadness that the friends of Charles Peter Thobae learned that he had passed away Monday, May 4, in Houston, Texas.

A journalism graduate of Boston University, Charles was a reporter with the Houston Chronicle for 11 years and an editor of the Texas Churchman for 25. Believing in faith and his community, he served on various charitable boards and was a very active member of Palmer Memorial Episcopal Church.

During his 40 years in public relations, he did free-lance writing, including traveling, writing, and op-ed pieces for both the Houston Post and the Chronicle. Recently, Charles Thobae also reviewed books for the Chronicle, specializing in contemporary history, military affairs, and sometimes thrillers.

David Langworthy, who is the Chronicle's Outlook editor, remarked, "He had an eye for the human and the personal. He was able to put those personalities into prose that brought our readers insights that were valuable."

His family is a special one. He was born December 9, 1930, in New Rochelle, New York, to Kathryn and Albert Thobae. He is survived by his beloved wife, Miriam Banks Thobae; his beloved daughters, Frances Kathryn, Sarah Banks, and Carol Ellen Thobae. He is also survived by his mother, Kathryn Thobae of Dennis, Massachusetts.

His daughter, I have had the pleasure of working with her in my congressional office. She recently said of her father, "He remained dedicated to people, the literary world, and religion his whole life. Everybody who knew him loved him, and he made a profound impact on everyone's life."

We celebrate his life and mourn his passing today.

NATIONAL DAY OF PRAYER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, today is the National Day of Prayer. This Nation and each of us individually would be far better off if we all spent more time in prayer. There are very few people in this country who would disagree with that.

Certainly our Founding Fathers believed in prayer. Most of them came here in large part to get freedom of religion, not freedom from religion. Yet, beyond a belief in prayer, many other issues of faith are very contentious. But there is more common ground than the vocal minority sometimes would have us believe.

Three or four years ago, William Raspberry, the great Washington Post columnist, wrote a really outstanding column on some of these issues. He asked a very important question, Mr. Speaker, when he wrote, "Is it not just possible that antireligious bias, masquerading as religious neutrality, is costing this Nation far more than we have been willing to acknowledge?" Let me repeat that quote from William Raspberry, "Is it not just possible that antireligious bias, masquerading as religious neutrality, is costing this Nation far more than we have been willing to acknowledge?"

In this same column, Mr. Raspberry then told of a Jewish talk show host who had said that for those who thought there was no place for God in the public life of this Nation, he wished they would ask themselves this question: If they were walking late one night in the roughest section of one of our Nation's largest cities and they heard footsteps approaching rapidly from behind and they turned and saw four strapping, well-built young men, would they not be relieved to know that these young men were just returning from a Bible study?

We open up every session of the House and Senate with prayer; and we have rabbis, priests, ministers from all faiths and there has never been a problem about it. Yet, for some reason, we do not allow our schoolchildren the same privilege. And the problems of the schools have grown much worse over the last 25 or 30 years.

A really fine column on religious tolerance, Mr. Speaker, was written a few weeks ago by nationally syndicated columnist Charley Reese. I would like to read this column into the RECORD at this point.

This is what Mr. Reese wrote:

> Want to know the definition of a stone-cold bigot? It is anybody who is offended by the sight and sound of someone practicing, expressing, or proclaiming his religious faith. Such people are not only bigots, they are the south end of a horse traveling north. Their intolerance is exceeded only by their ignorance of the Constitution.
>
> The first amendment forbids the establishment of an official church or religion. Period. Nothing else. To establish an official church or religion would require legislation so designating it, and taxes and appropriations to subsidize it. That's all THOMAS Jefferson meant when he said there was a wall of separation between church and state.

Mr. Reese continued:

> But when a private individual or a public official prays in a school or any other public place, he is not establishing an official church. For someone to say that the mere sight of a Christian proclaiming his faith in a public place is offensive is to indict himself as a vicious bigot and an inconsiderate, self-centered boor. These boors apparently have no conception of civility and respect for others. They act as if religious faith were an infectious disease.
>
> One of the most touching sights I saw—

Mr. Reese continued,

> . . . in the Middle East was a poor man, a Muslim, in shabby clothes, kneeling on a newspaper, the only prayer rug he could afford, on the tarmac of the airport in Amman, Jordan, and saying his evening prayers. His example of simple faith in his God touched my heart.
>
> Truthfully, I cannot conceive how any decent human being could say that such a sight is offensive. People who find other people's religion offensive are demonstrating their hatred, not their interest in liberty.
>
> The only way a free society can work is for everyone to respect everyone else. There is no respect when someone says, 'Your religion is offensive to me, so keep it out of my sight.' That is hate speech. Nor is it being disrespectful to practice your own religion or to pray as your particular religion teaches you to pray.

Mr. Reese said,

> I don't know about you, but I've had a bellyful of rude, self-centered people. It's time to teach some people in this country some simple manners.
>
> Good manners are based on reciprocity. Respect for respect. Tolerance for tolerance. There are some people who use Orwellian doublespeak and practice bigotry while proclaiming their support for tolerance. We should expose such people for what they are, bigots.
>
> If you are a nonbeliever and are present when believers are praying, don't pray. But out of respect and courtesy for them as human beings, do not be rude or make ugly remarks about them. Respect people as people, even if they practice a different religion. And respect their religion.

Mr. Reese concluded this column by saying,

> I am fed up with seeing religious people browbeaten and insulted by bullies packing lawyers. We have too many mean-spirited tails trying to wag our dog in this country. It may be time to bob some tails.

Mr. Speaker, I think this is a great column by Charley Reese, and I include the column for the RECORD:

RESPECT PEOPLE REGARDLESS OF RELIGION

(By Charlie Reese)

MARCH 30.—Want to know the definition of a stone-cold bigot?

It's anybody who is "offended" by the sight and sound of someone practicing, expressing or proclaiming his religious faith.

Such people are not only bigots, they are the south end of a horse traveling north. Their intolerance is exceeded only by their ignorance of the Constitution.

The first amendment forbids the establishment of an official church or religion. Period. Nothing else. To establish an official church or religion would require legislation so designating it, and taxes and appropriations to subsidize it. That's all Thomas Jefferson meant when he said there was a wall of separation between church and state.

You would have to be an idiot to conclude otherwise because the same people who wrote and passed the First Amendment also provided for tax-paid chaplains to pray in Congress. The problem the founders of the country dealt with is nonexistent today in America. It was the common practice of governments in their day to adopt a church and tax everyone to subsidize it. The practice had been brought from Europe to the colonies.

But when a private individual or a public official prays in a school or any other public place, he is not establishing an official church. For someone to say that the mere sight of a Christian proclaiming his faith in a public place is "offensive" is to indict himself as a vicious bigot and an inconsiderate, self-centered boor. These boors apparently have no conception of civility and respect for others. They act as if religious faith were an infectious disease.

One of the most touching sights I saw in the Middle East was a poor man, a Muslim, in shabby clothes, kneeling on a newspaper (the only prayer rug he could afford) of the tarmac of the airport in Amman, Jordan, and saying his evening prayers. His example of simple faith in his God touched my heart.

He was as oblivious to the crowd of people and soldiers as he was to the cold wind and hard tarmac. He had a beautiful expression on his grizzled face. Clearly, there was man communing with a God he loved, and God must surely love such a man.

Truthfully, I cannot conceive how any decent human being could say that such a sight is "offensive." People who find other people's religion offensive are demonstrating their hatred, not their interest in liberty.

The only way a free society can work is for everyone to respect everyone else. There is no respect when someone says, "Your religion is offensive to me, so keep it out of my sight." That is hate speech. Nor is it being disrespectful to practice your own religion or to pray as your particular religion teaches you to pray.

I don't know about you, but I've had a bellyful of rude, self-centered people. It's time to teach some people in this country some simple manners.

Good manners are based on reciprocity. Respect for respect. Tolerance for tolerance. There are some people who use Orwellian doublespeak and practice bigotry while proclaiming their support for tolerance. We should expose such people for what they are—bigots.

If you are a nonbeliever and are present when believers are praying, don't pray. But out of respect and courtesy for them as human beings, don't be rude or make ugly remarks about them. Respect people, as people, even if they practice a different religion. And respect their religion.

I'm fed up with seeing religious people browbeaten and insulted by bullies packing lawyers. We have too many mean-spirited tails trying to wag our dog in this country. It may be time to bob some tails.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

Ms. CARSON. Mr. Speaker, due to official business in my district, I was unavoidably absent on Tuesday, May 5, and Wednesday, May 6, and, as a result, missed rollcall votes 125–135.

Had I been present, I would have voted no on rollcall 122, yes on rollcall 123, yes on rollcall 124, yes on rollcall 125, yes on rollcall 126, no on rollcall 127, no on rollcall 128, yes on rollcall 129, yes on rollcall 130, yes on rollcall 131, yes on rollcall 132, no on rollcall 133, no on rollcall 134, and finally, yes on rollcall 135.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. STENHOLM) is recognized for 5 minutes.

Mr. STENHOLM. Mr. Speaker, I take this 5 minutes to further clarify some of the discussions that we had a moment ago concerning the question of campaign finance reform.

I want to make it very clear for those who are negotiating on what the rule shall look like and how we shall proceed what the Blue Dog Coalition suggested in the discharge petition that was filed, that was getting very close to having the required number of votes in which we could have had a free and open debate and which we have now been promised that we will have a clean and open debate.

There are some general principles allowing clean up-or-down votes on all major campaign finance plans. The freshman bill, the Shays-Meehan bill, and the Doolittle bill, and any alternatives the leadership might come up with on either side of the aisle and wishes to offer as substitutes at the beginning of the amendment process, this is key to the discharge petition that we filed. It is exactly the same discharge petition that was used to successfully bring the balanced budget amendment up in 1992. It is a very fair process if it is allowed to proceed in this manner.

All major proposals deserve a vote. The freshmen, bipartisanly, have worked awfully hard; and they worked in an environment in which they believed that there was not going to be campaign finance reform unless there was a compromise reached, and they reached that compromise internally. They worked awfully hard. They deserve to have a chance to have their idea voted upon as they wish it to be voted upon, not as the leadership or any other individual wishes. The same is true with the Shays-Meehan; it deserves to be voted upon on its merits.

And then we use what is called the queen-of-the-Hill rule. Let the freshman bill be voted upon. If it gets the majority vote, it becomes the base bill. Then let us vote on Shays-Meehan. If it gets a majority vote and more votes than the freshman bill, it becomes the base bill; whichever one gets the most votes, as ascertained by a majority on both sides, becomes the base bill. And then allow the perfecting amendments to be offered. Let any one of the 435 of us who have an idea that they believe is important to the campaign issues before us be offered.

I have one interest, one major interest, that I want to see addressed. It is the soft money question. A lot of people do not know what we are talking about by "soft money." But to me it means unlimited amounts of money given by individuals or corporations for which there is no real reporting therein.

I am a great believer in the first amendment, and I have been chagrined to be attacked by many of my so-called friends, people whom I agree with in the special interest, the issue advocacy organizations that believe that somehow, some way, that by having public disclosure of who is in fact contributing to the ads that they are responsible for offering, that somehow that is against their constitutional right. I fail to understand that.

Anybody that wants to run ads against me, as they will between now and November, that is a first amendment right. I just believe very strongly that the people of the 17th District deserve the right to know who is paying for those ads, called public disclosure. This is a debate that I hope we will spend some considerable time on, because I think there is a little misunderstanding about this.

No one is talking about doing away with individual rights to express themselves under the first amendment of the Constitution, but we are talking about something which we are seeing live and in living color played out on both sides of the aisle, tremendous expenditures of dollars in which accusations are occurring on both sides.

□ 1600

In conclusion, Mr. Speaker, let me just say again to those who are negotiating the rule in which we are going to consider this, it is extremely important, and we ask of you in a very respectful way, to go back and look at the discharge petition and to make sure when that rule comes to the floor of the House you are truly going to allow the will of the House to be followed in allowing the Members to express themselves in a free and unhindered manner.

AMENDMENT TO ADDRESS CAMPUS CRIME

The SPEAKER pro tempore (Mr. NEY). Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I am delighted to rise first to take a moment to thank the gentleman from Tennessee (Mr. DUNCAN). Shawn Gallagher, my legislative assistant, and I in working on our amendment yesterday that we offered to H.R. 6 thanked a number of people that were extremely helpful and valuable in this process. We neglected to mention the gentleman from Tennessee (Mr. DUNCAN). I wanted to take a moment to thank him for his work on the Accuracy in Crime Reporting Act and particularly an amendment that I offered and we successfully passed that dealt with the releasing or potential releasing of names of those who commit violent offenses on campuses.

At times in this process, we in politics all think we have created and have this original, unique idea that is so vitally important to the Nation's interest that we forget to share some of the credit. I wanted to do that in a public way, because this is a collaborative process. We are all in this business of helping and serving the public together. You hate to let time go by and not pay a special moment of thanks to those that have helped you achieve a significant victory.

I would like to talk just a moment about the amendment because it is very, very important. It has to deal with the Family Educational Rights and Privacy Act that was passed in 1974 that basically has allowed universities, Federal universities, to withhold the release of names of students found by disciplinary proceedings to have committed crimes of violence. I believe there should be a balance between one student's right of privacy to another student's right to know about a serious crime in his or her college community. The Foley amendment to the Higher Education Amendments Act of 1998 provides a well-balanced solution to the problem. It would remove the Federal protection that disciplinary records enjoy and make reporting subject to the State laws that apply. Campus law enforcement records, Mr. Speaker, are not included as part of a student's educational record and therefore are open to public scrutiny. But many colleges and universities have learned to circumvent crime reporting requirements by channeling felonies and misdemeanors into their confidential disciplinary committees which continue to be protected by FERPA.

According to a number of college newspapers, like the Daily Tar Heel in Chapel Hill, North Carolina, colleges have been expanding the jurisdiction of these secret courts to shield violent crime. While the amendment that I offered would not require campus disciplinary hearings to be open to the public, it would remove FERPA protection of disciplinary records which contain information that personally identifies a student or students who have committed or admitted to or been found to have committed any violent act which is a crime or a violation of institutional policy.

Why is this important? Because I think parents and community leaders and others deserve to know the statistical problems that are being experienced on our Nation's campuses. Whether it is date rape, whether it is sexual assault or physical violence, these types of incidents should not be held under seal. They should be open to the public so that parents can make decisions appropriate for their children. As they head off to college, which is supposed to be a learning environment, they should not be feeling threatened, they should not have to be scared being on campuses, and many newspapers around the country have in fact editorialized in support of our amendment.

It did pass yesterday. We hope the Senate will consider the amendment. We hope it will be included in the conference report, because I think it is vitally important in this day and age that we have all the facts about student behavior on campus, that we do our best to try and minimize and change the dangers that are involved in campuses and that by illuminating some of the statistics and problems we may, in fact, be able to change behavior on campuses. As I say, colleges by and far the most part have complied and been very cooperative in these efforts, but there are some that have chosen to seal the records in order not to have a black eye in the community, not to have enrollment drop off or not lose alumni support.

But again in this era of openness and accountability, I think it is important that we make certain that all families and other members of society have access to this information and then to make appropriate judgments accordingly.

Again I would like to thank my staffer Shawn Gallagher and I would like to thank the committee and the gentleman from Pennsylvania (Mr. GOODLING), and, of course, as I mentioned, the gentleman from Tennessee (Mr. DUNCAN) for their leadership on this issue.

ILLEGAL DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MICA) is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come once again before the House this afternoon to talk about the issue of illegal drugs and narcotics, its impact on our Nation and on our community and on our children. I have probably spoken more than any other Member in the last 5 years on this issue and I intend to speak every opportunity I can get about what drugs are doing to the lives of our young people.

I always like to review what took place when I came into Congress and the other party controlled the House, other body and the White House. In fact, their first steps under the Clinton administration were to cut the positions in the drug czar's office from almost 150 down to about 25. The next thing that the new President did, and I was a freshman and protested it here on the floor, was to cut the interdiction, to end the military involvement in the war on drugs, to stop and really cut the drug interdiction and eradication programs, to cut the Coast Guard, to dismantle all kinds of enforcement programs, and then the ultimate insult to the American people was to appoint a Surgeon General, Joycelyn Elders, who adopted the policy that I entitled "just say maybe to our young people," not to mention that the leader of the free world, the highest office in our land, said to our children, "If I had it all to do over again, I would inhale."

That set a tremendous pattern. It changed the whole dynamics where drug use and abuse by our children had gone down, down, down from 1981 under Reagan and Bush, it began a steady climb. We have seen the dramatic results.

Let me tell you what the results are. 1.5 million Americans were arrested in 1996 for violating drug laws. We have over 2 million Americans behind bars and our law enforcement officials tell us more than 70 percent of those individuals are there because of a drug-related or drug involvement offense. Since 1992, overall drug use among 12 to 17-year-olds has jumped 78 percent. A study by the Partnership for a Drug-Free America shows the number of fourth to sixth graders experimenting with marijuana increased a staggering 71 percent between 1992 and 1997. What is the cost to this Congress? The cost to this Congress and the Federal Government is $16 billion out of your taxpayer money. The total cost to the American economy is approaching $67 billion a year in lost jobs and opportunities and again cost to our economy.

During this President's tenure in office, if we continue at the pace we have been at, 114,000 will die under President Clinton's tenure from drug-related problems. We are now killing our Americans at the rate of 20,000 a year. That is the toll. The story goes on and on.

But I must say that the Republican Congress has tried to turn that around in the last 36 months. We in fact have restored money to bring our military back into the war on drugs. We have restored money and funding for interdiction programs because we know it is most cost effective to stop drugs at their source and when they get to our streets and schools and our communities it is very difficult. And then we passed tough enforcement, and we know tough enforcement works. Look at New York City, look at what Rudy Giuliani has done with tough enforcement. Tough enforcement works. New York City has seen a 30 percent decrease in crime.

This week the Republicans, and we have tried in a bipartisan effort to bring our colleagues from the other side of the aisle in, have announced programs and extensive legislation which we will be introducing every week for the next 6 weeks to combat illegal drugs, to provide funding and programs that work and assistance to our local communities and our schools for education, for enforcement, for interdiction and also for treatment programs that work. This is one of the most critical issues, social issues, before this Congress and before the American people. I am committed to this and I think that if we have the cooperation of the administration now, the cooperation of my colleagues on the other side of the aisle, that we can come together, that we can make a difference, that we can reduce the drugs coming into this country, into our streets and into our schools. I reach out and ask all of my colleagues to join us in that effort.

WHITE HOUSE SILENCE: AMERICAN PEOPLE WANT TRUTH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Texas (Mr. DELAY) is recognized for 20 minutes as the designee of the majority leader.

Mr. DELAY. Mr. Speaker, I find it unfortunate that I have to come down to the floor again to try to put things in perspective about what is going on around the White House and now is infecting the House of Representatives and its committees. There is a lot of spin out there. The spinmeisters of the President are trying to keep the American people from the right to know the truth. We keep asking the question, is the President of the United States above the law? Yet the spinmeisters are pushing hard and pushing often with a concerted strategy. We all know what the strategy is. The strategy, Mr. Speaker, is basically to stonewall, drag your feet, hide documents, claim executive privilege, hide behind your lawyers. But the bottom line is that it is the spin, the whole spin and nothing but the spin to block the American people's right to know the truth.

I took the well of the House not too long ago and asked for the President to tell the American people the truth. I guess he did not hear my speech and he did not want to do it. But it now has boiled over into the House of Representatives. I will talk about that in a minute, and the Committee on Government Reform and Oversight.

Mr. Speaker, I just ask the question, why are the Democrats trying to change the subject when it comes to the problems in the White House? Why are the House Democrats trying to cover up for the administration? Why do they not want a real investigation of the facts surrounding illegal foreign money in the Clinton campaign and possible charges of obstruction of justice in the Clinton administration?

Mr. Speaker, earlier this week, Judge Norma Holloway Johnson threw out President Clinton's claim of executive privilege regarding the latest scandal in the White House. No wonder. The President had been taking indecent liberties with the concept of the executive privilege. He has hidden behind executive privilege in order to keep the American people from knowing the truth. According to press accounts, the White House may even appeal this decision, which fits into their strategy of use the courts and the system to stall, delay and stonewall. There is only one reason that the President would want to appeal this decision and that is to keep the American people from learning the truth. Why else would you claim executive privilege if you did not want the American people to know the truth? The whole idea of executive privilege is you do not want to tell the truth.

So, Mr. Speaker, I just said no man is above the law. Judge Johnson's decision reaffirms that basic American principle. No matter what the strategy that the White House decides to employ, the American people have a right to know the truth. An appeal by the President on this case would amount to one more effort to stonewall the Starr investigation and to keep the truth away from the American people. What is that truth? Nobody knows for certain. But bits and pieces of the truth continue to leak out. The Committee on Government Reform and Oversight recently released transcripts of conversations between Webster Hubbell and his wife that were recorded when Mr. Hubbell was in prison for a lying and fraud conviction, that he finally, after many months of claiming that he was innocent, finally admitted and pleaded guilty. He was in prison. Make no mistake about it. Mr. Hubbell knew that his conversations were being recorded. That is common practice in prison. There is a very large sign that is posted from the jail cell where he made the phone call that says that your phone conversations are being recorded. But even though he knew his conversations were being recorded and said so on the tapes, he made some statements that lead to some very serious questions.

□ 1615

Now the Washington Post, certainly not a fan of House Republicans, had this to say about those conversations, and I quote:

> That said, however, the accurate transcripts are also damming and very nearly so. They make clear that Mr. Hubbell and his wife had a sense of themselves as being held on a kind of string by the White House to which they were beholden for badly needed income; that if Mr. Hubbell's silence was not being bought in the White House case, as the independent counsel's office suspects, at the very least he and his wife were sensitive to how their remarks and behavior were being received by the President and Mrs. Clinton, were anxious to please, and were carefully kept in that state of anxiety by the White House emissaries.

The Washington Post goes on to conclude that the tapes still raise real questions. The President's use of executive privilege, for instance, also raises serious questions that need to be answered by this administration:

Why did the President invoke this privilege when national security was not at issue?

Was it an abuse of power?

Does the President's use of the executive privilege now mean that the President of the United States believes that he is above the law?

Now the New York Times, Mr. Speaker, a surprising new member of the vast right-wing conspiracy, has this to say about the President's use of executive privilege, and I quote:

> Properly construed, the doctrine of executive privilege exempts only a narrow band of presidential activities from the reach of legal inquiry. To invoke that privilege in a broad and self-serving way, as the Clinton White House has done to shield itself from Ken Starr's inquiry, is to abuse it.
>
> But this White House is not easily embarrassed. It has tried to invoke the hallowed attorney-client privilege, even when the attorneys are servants of the public, not the President's private lawyers. And in the past few weeks it has trotted out a brand new privilege, the doctrine of protective function to insulate President Clinton's Secret Service detail from questions about the behavior patterns of Monica Lewinsky, the former White House intern. All this legal inventiveness carries the implicit assertion that Mr. Clinton is somehow uniquely above the law and thus raises the kind of constitutional questions that ought to be exposed to public debate.

That is the New York Times writing that.

But where is this public debate, Mr. Speaker? When will the President come clean on the issue of executive privilege?

In his press conference last week the President maintained his incredible public silence responding to question after question, and he responded to the question on this particular issue by saying, and I quote:

"I cannot comment on those matters because they are under seal," close quote.

The only seal they are under is the presidential seal. He has employed the executive privilege as a defensive tactic to keep the American people from knowing the truth. That is a very troubling precedent, a precedent that I think should trouble the Democrat Party. But an eerie silence has emanated from the Democrat minority. When it comes to the President's use of executive privilege, the Democrats hear no evil, see no evil, and speak no evil, Mr. Speaker.

Where is the outrage from the Democrats about this abuse of power? Do they honestly think that the President of the United States is right to cite executive privilege in these cases? If Ronald Reagan or George Bush had even dared to use executive privilege in this manner, I guarantee you that the Democrats would be out here on this floor every day demanding a full explanation, if not a resignation.

Mr. Speaker, no man is above the law. This is a proposition that we hold very sacred in our representative democracy. The President does not have the divine right of a king. He must follow the law even if it may sometimes be uncomfortable for him, and his use of executive privilege is an affront to that concept.

The American people also have the right to know the truth about the activities in the White House. The longer that the President's men stonewall this investigation and deploy the tactics such as executive privilege, the more damage that is done to our democracy. The longer that these allegations fester, the more damage is done to the office of the presidency.

If our friends on the other side of the aisle think that the President's use of executive privilege is proper, then I urge them to speak up.

Speak up, speak up.

Silence, silence.

Let us have a public debate on this very important issue. Let us hear from the President's allies about their reasons for supporting this very troubling precedent.

Mr. Speaker, next week I plan to introduce legislation that will put some limits on the President's ability to claim executive privilege. Now my legislation is pretty simple. It has a reporting requirement. Anytime the President decides to invoke executive privilege, he must make a formal report to Congress. Now this would mean that Congress, the press, and the general public would be aware of executive privilege claims instead of wondering like they do now.

My legislation also says that there is no Secret Service privilege for criminal proceedings involving the President's conduct. Because it deals with criminal proceedings and the President's conduct, it does not reflect on the security role of the Secret Service.

Now, Mr. Speaker, no matter how many times the President tries to invoke executive privilege, this Nation holds dear these two principles: No man is above the law, and the American people have the right to know the truth.

And let me just speak about the new strategy, actually it is not new, the strategy that is going on in the Committee on Government Reform and Oversight; the strategy of attack your accuser, change the subject, because if you do, it will become old news. That is what is going on here, and the American people know it, they understand it, they can see it. In order to keep us from getting to the truth, in order to keep us from getting the American people the truth because they have the right to know the truth, the Democrats and the administration are attacking the gentleman from Indiana (Mr. BURTON). And why should we be surprised? Because it is their typical defense tactic; attack your accuser.

We have seen this in the past. Who else have they attacked? Senator THOMPSON in the campaign finance investigation, Senator D'AMATO in the Whitewater investigation, the gentleman from Iowa (Mr. LEACH) in Whitewater, Representative CLINGER back during the Travelgate and FBI Filegate incidents, Ken Starr; they are attacking Ken Starr over Whitewater, FBI files, travel office and the Lewinsky matter. They are attacking FBI Director Freeh when he recommended an independent counsel for the campaign finance matter, some investigations. And they do all this so that they can change the subject, because by attacking their accuser the Democrats can change that subject.

And what do they want to change the subject from? Put it back into perspective, Mr. Speaker. This is not a sex scandal. These are not scandals; these are crimes we are talking about investigating: Whitewater; the travel office affair; having over 900 FBI files on Republicans in the White House; the foreign campaign contributions to the DNC and others; Webster Hubbell who is also a convicted felon now indicted again; and it goes on and on. They are trying to make it old news, because once they have attacked the accuser and changed the subject, the original problem becomes old news and they do not need to address old news.

But let us get back to the matter at hand, the investigation going on in the Committee on Government Reform and Oversight. What is going on here is we are trying to get to the bottom of the truth of what appears to be campaign finance abuses, and we are trying to get to the truth. You know, Mr. Speaker, there are over 92 witnesses that have either claimed the fifth, left the country, or refused to cooperate with this committee. I think the American people need to know that. Mr. Speaker, 92 witnesses; not 1, not 2, not 3; 92 witnesses that have either taken the fifth amendment, fled the country, or refused to cooperate.

On April 23, the committee Democrats voted 19 to zero against immunizing four witnesses who had taken the fifth before the committee. Now these are witnesses that the Justice Department, the Clinton Justice Department, had okayed for immunity and it was all right to accept their testimony.

Irene Wu. Wu was Johnnie Chung's office manager and has firsthand knowledge of Chung's fund-raising activities and ties to foreign nationals. Wu has already received immunity from the Department of Justice. Nancy Lee. Lee also worked for Johnny Chung and allegedly solicited conduit contributions that were made to the DNC. Lee has also received immunity from the Department of Justice. Larry Wong. Wong was a close associate of Nora and Gene Lum and has knowledge of the Lums' illicit fund-raising activities. And Kent La. La is the President of a company that distributes Chinese cigarettes and is a close associate of Ted Siong, a major figure in the committee's investigation.

Now why? Why the Democrats' opposition to immunity? It is outrageous, Mr. Speaker. The President's own Department of Justice informed the committee that it does not oppose the granting of immunity to these witnesses. Some of the committee Democrats have admitted that they are opposed to immunity solely to punish the gentleman from Indiana (Mr. BURTON). Granting immunity is often the only way that the congressional investigations can get to the truth.

And many times witnesses are granted immunity. They were granted immunity in Watergate, they were granted immunity by Republicans in Iran Contra, and even Senator THOMPSON's fund-raising investigation granted immunity to witnesses.

But by opposing immunity to these four witnesses, the committee Democrats have made it very clear that they would rather engage in political infighting than to get to the truth about foreign money in American elections.

So, in conclusion, Mr. Speaker, we know what this is all about. What this is all about is to cover up the truth, to keep the American people from knowing the truth, and if we can just keep putting it off after each election, sooner or later they think it will go away.

Well, sooner or later the American people are going to know the truth, whether they want them to have it or not. And sooner or later, either the media of this country or the Republicans of this House will get to the bottom of the truth, Mr. Speaker, because no man is above the law and the American people have the right to know the truth.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. BLUNT).

THE MARRIAGE TAX PENALTY

Mr. BLUNT. Mr. Speaker, I am here today to talk about one of the great injustices in our tax system. We have in our tax system a penalty on the very institution that we should be doing everything we can to encourage, the institution of the family. No American that you ask about this thinks that we ought to have a marriage tax penalty, but that is exactly what we have in the system now.

If two people are married and they are both working, they almost inevitably pay more taxes than if they were both working and decided not to be married. And, in fact, I saw somebody in my district early this year who had gotten married in January because their accountant had advised them that if they got married in December it would cost them $3,600. Twenty-one million American couples pay an average marriage tax penalty of $1,400 a year just because they are married.

□ 1630

Nobody thinks that is right; we need to eliminate that from the penalty. Today I am going to be joined by two of my colleagues who have really been leaders in this fight, and they are the gentlemen from Indiana (Mr. MCINTOSH) and the gentleman from Illinois (Mr. WELLER), who have introduced a bill that I am cosponsoring along with them.

This bill eliminates the marriage penalty; it eliminates the marriage penalty by raising the brackets, by doubling the brackets, the individual brackets so that if the standard deduction is $4,150 now for a single person, for two people who are married, the deduction now is only $6,900.

MARRIAGE PENALTY ELIMINATION ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Indiana (Mr. MCINTOSH) is recognized for 40 minutes.

Mr. MCINTOSH. Mr. Chairman, today the gentleman from Illinois (Mr. WELLER) and I would like to talk to our colleagues and those watching at home about this issue of the marriage penalty that the gentleman from Missouri (Mr. BLUNT) mentioned in his earlier discussion.

This first came to my attention in a very serious way when two of my constituents, Sharon Mallory and Dale Pierce, wrote me a letter last February that moved me to investigate what exactly was happening in our Tax Code. Sharon explained that they wanted to get married. They went to H&R Block and found out that although they both worked at about $10-an-hour jobs at a factory, they would be penalized $2,800 if they got married. She would have to give up her $900 refund and pay those additional taxes, simply because they got married. She went on to write that they could not afford it, and it broke her heart that they could not get married.

This marriage penalty is one of the most immoral provisions in our Tax

Code. It says to young people, older folks, anybody who is married in this country, you are eligible to pay more taxes simply because you are married. It is wrong; it is something that needs to be eliminated in the Tax Code.

I have teamed up with my very good colleague, the gentleman from Illinois (Mr. WELLER), and we have introduced a bill, the Marriage Penalty Elimination Act that is gaining more and more support every day in Congress, here in the House and in the Senate, because Members realize on the Democratic side and on the Republican side that this is the wrong way to treat families in our country.

We have all suddenly begun to realize in this country that families are indeed the centerpiece of our society. They are the ones that bring up our children. The family unit is the one that helps our communities to grow. Why should the government penalize people who are married, simply because they are married, in the Tax Code?

Mr. Speaker, let me now yield to my colleague to explain the legislation that we have cosponsored and describe the efforts that he and I have undertaken to address this problem, and take it to the American people so that they are aware of the problem in the Tax Code.

Mr. WELLER. Mr. Speaker, I want to thank the gentleman from Indiana; I want to thank him for the partnership we have had to eliminate what we all consider to be not only the most unfair, but really immoral provision in our Tax Code, which is the marriage tax penalty.

I represent a pretty diverse district. I represent the South Side of Chicago, the south suburbs in Cook and Will Counties, a lot of bedroom and farm communities, and I find that some pretty simple questions come forward which I really believe illustrate why elimination of the marriage penalty should be the number one priority of this Congress when it comes to the tax provisions in this year's budget agreement.

Some questions that I have been asked as a legislator, when I have had town meetings, or at the local VFW or the local union hall or the local plant, folks just say that Americans do not feel that it is fair that our Tax Code punishes marriage with a higher tax. Do Americans feel that it is fair that a working married couple with two incomes who are married happen to pay higher taxes just because they are married, in comparison to a couple that lives together outside of marriage in an identical income bracket?

I say to my colleagues, if we think about it, our Tax Code actually provides an incentive to get divorced, because for 21 million married, working couples, they pay on the average $1,400 more just because they are married. In the district that I represent, the south side of Chicago, the south suburbs, $1,400 is one year's tuition at Joliet Junior College; it is 3 months of day care at a local child care center in Joliet as well. That is real money for many people.

Let me give an example here. Of course we have all had so many constituents who have shared with us and written us some pretty heartfelt letters regarding the marriage tax penalty and how the marriage tax penalty hurts them. But let me give an example right here in the district that I represent, outside of Chicago; Joliet is the largest community that I represent.

Take an example of a machinist who works at Caterpillar. Caterpillar is a major manufacturer in the district that I represent; they make the real heavy earth-moving equipment, the bulldozers and earth-scrapers and other things, and folks work hard there. We have a case of a machinist who works at Caterpillar, and this machinist makes $30,500 a year. If this machinist is single with this $30,500 a year income, if we take into consideration the standard deduction and exemption, he falls in the 15 percent tax bracket, if he is single.

Now, say he meets a gal in Joliet and they decide to get married, and the gal he wants to marry is a school teacher, a tenured school teacher in the Joliet public schools. She makes an identical income of $30,500. Well, under our current Tax Code, if they are married, they file jointly and when they do, their combined income is $61,000. Even after you take into consideration the standard deductions and exemptions, they actually are pushed into the 28 percent tax bracket. And by being pushed into the 28 percent tax bracket, just because they are married under our Tax Code, that produces an almost $1,400 marriage tax penalty.

Now, is it right that when this machinist who works hard every day at Caterpillar in Joliet, Illinois, marries a school teacher who works hard every day at the Joliet public schools, just because they are married, they are punished under our Tax Code and required to pay almost $1,400 more just because they are married?

Now, if they chose to live together outside of marriage they would save almost $1,400. I think that is just amazing that our Tax Code actually does that, because for this machinist or school teacher, if they would choose to go to Joliet Junior College and decide to go back to school, that $1,400 would pay for 1 year's tuition at Joliet Junior College. That really illustrates why I think it is so important that the marriage tax penalty be eliminated. Because when we think about it, 21 million married, working couples suffer the marriage tax penalty. That is 42 million taxpayers.

April 15, of course, was the day that everyone had their taxes be due, and 21 million couples, if they were not aware of it before, discovered they were paying the marriage tax penalty. That is why I believe that elimination of the marriage tax penalty should be our number one priority this year.

Mr. Speaker, I want to thank so many in the profamily groups that have worked with us and a lot of our colleagues in both the House and Senate who have come together, of course, with essentially a compromise bill that we put together, legislation called the Marriage Tax Penalty Elimination Act of 1998, legislation that will eliminate the marriage tax penalty in a very simple way.

Of course, we double the tax brackets. Right now, under, say, the 15 percent tax bracket, if one is making $24,650, one is in the 15 percent tax bracket, but if one gets married, one can only make about $42,000 and stay in the 15 percent tax bracket. We double it from 24,650 to 49,300. It is very simple. We also double the standard deduction which this machinist and school teacher would be able to enjoy. It is simple legislation.

The other thing I want to point out, as well, there is no unintended consequence from our legislation. The marriage tax penalty resulted from unintended consequences as the Tax Code was changed over the last 30 years. No one sought to create it, but unfortunately, it was created because our Tax Code, a progressive Tax Code, has become more complicated over the years. But we can help this machinist at Caterpillar and this school teacher in Joliet with passage of the Marriage Tax Elimination Act.

I think it is important legislation. I want to commend the gentleman from Indiana (Mr. MCINTOSH) and the gentleman from Missouri (Mr. BLUNT), and all of those who have been working so hard who have been putting together this legislation.

Mr. MCINTOSH. Mr. Speaker, I will yield to the gentleman from Missouri (Mr. BLUNT) in a moment to further explain our legislation.

Let me mention, first, to emphasize the point the gentleman was making, if two people are working and suddenly they become married, they get hit with higher taxes simply because they are married, and that is because the tax brackets do not recognize that two people earning twice as much money should be paying the same amount of taxes. Instead, what they do is they have what is called, I guess we would call it "bracketry," but essentially they lower that higher bracket for the married couple, make them pay more taxes, and the reason that that has happened over the last 30 years is that people here in Washington want the extra money to grow government, for more spending programs.

Even President Clinton said the marriage penalty is indefensible, but, and when he starts to say "but," we have to listen carefully; I am not sure we can afford the give up the money. That has been the mentality around this place for 30 years.

Well, I am happy to say that today, I talked with our Committee on Budget chairman, the gentleman from Ohio (Mr. KASICH), who is working on a budget this week that will cut back on the growth of government, reduce the ever-expanding spending, and set aside that money so that we can eliminate the marriage penalty. I was delighted, because I think it is important that we all get behind Chairman KASICH's effort and say, yes, we will hold back just a little bit of extra money, we do not have to keep expanding government ever faster and faster, we will hold it back just a little bit, and then we will do what is right for the families in this country and eliminate the marriage penalty.

Let me now recognize the gentleman from Missouri (Mr. BLUNT) to describe in even more detail how our legislation would work.

Mr. BLUNT. Mr. Speaker, I think the gentleman's points are well made there, particularly the point about the idea that we cannot afford to give back this money. I think the real question is, can we afford to keep this money? Can we afford to continue to make marriage financially a penalty? It is just wrong to do that, and I think if this Congress needs to set any standard, that standard needs to be that every time one can leave money with American families, rather than take that money from them and bring it to Washington, American families and America is going to be better off.

Last year we passed the tax bill that created real tax relief for families with children, and if somebody has three kids at home today who are 17 or younger, that person should be paying $100 less in Federal taxes every month this year than you paid last year; and if you are not, you had better go down to the employment office at work and ask what form you need to get filled out to get your taxes straightened back out, because what this Congress decided was that families could spend that $100 a month on their three kids, 17 or younger, better than some bureaucrat in Washington could spend that $100 a month on those same kids.

Here is another chance to not do what, hopefully, we can ultimately do, which is get rid of this complex Tax Code that nobody understands and start all over toward a fairer, simpler Tax Code, but in the interim, we need to remove these inequities.

The gentleman from Illinois (Mr. WELLER) said a minute ago about that couple he was talking about, that they are almost exactly the average of the 21 million American couples that are penalized by this, almost exactly at the $1,400 per year level. Is this fair? Of course it is not fair. Could that family do better with that $120 or so a month, better than the Federal Government would do with it? You bet they would do better with it for their family than the Federal Government would do with it for their family. And even if they would not, is it fair to take it from that family simply because they have chosen to be married, and suddenly have this penalty kick in?

In this new and improved version of eliminating the marriage tax penalty, again I think the gentleman and Mr. WELLER have worked hard, and hopefully, I have been part of that discussion, to make sure that we do not unintentionally do something that we did not mean to do.

So, simply, we have gone in and we have doubled the brackets if you are a married couple. We have doubled the standard deduction from $4,150 to double that, $8,300. We have doubled the threshold where one goes from the 15 percent bracket to the 20 percent bracket, and in every other case where there was a figure that should be doubled for a couple that had not been in the past, that is what this does. It is very simple. It is very easy to understand. It is not going to produce any unintended consequences; it is just going to have people who are married and both working paying the same taxes as people who are not married and both working.

☐ 1645

What could be fairer than that? The pro-family groups, the Christian Coalition, the Family Research Council, the Concerned Women of America, the Eagle Forum, the Traditional Values Coalition have all endorsed this bill. They have all said this is a giant step forward for American families.

Mr. Speaker, I think it needs to be our number one tax priority. This should not be allowed to go through another April 15. That is good news about the budget, that this Congress is going to create a budget where we do not have to ask the question of whether we can afford not to have this money, this $1,400 times 21 million. That is the amount of money we are talking about. We do not have to have this money to balance the budget.

We are going to balance the budget on principles of fairness and on principles that are pro-family and principles that encourage marriage. That is exactly what this bill does.

I hear more and more talk in the halls of the Capitol that more and more people think this should be the first thing we do in tax reform this year. And hopefully we can do even more tax reform than this, but this should be job one when it comes to tax reform this year.

Mr. MCINTOSH. Mr. Speaker, let me point out that one group that is particularly punished by this marriage penalty are women. One of our colleagues said to us, we could actually call this the Working Women's Tax Relief Act of 1998, because what happens is that the marriage penalty discriminates against women who throughout their career sometimes are working, sometimes they are staying at home to raise their children, sometimes when the children are old enough, going back and continuing that career.

What happens is that when they enter back into the workforce, they are immediately taxed at the higher rate because of their spouse. If we consider the Federal income taxes, the FICA taxes, the State and local taxes, women pay an astounding 50 percent marginal tax on their income simply because they are married and entering into the workforce.

Now, working women are wholeheartedly against this marriage penalty tax. Teri Ness, the CEO and founder of the National Association of Women Business Owners testified before the Committee on Small Business, and she said 95 percent of her members said Congress should eliminate the marriage penalty. It is simply a matter of fairness.

Now, the marriage penalty also discriminates against those women who decide to stay home and take care of their families because without doubling the brackets, they are penalized because they are married. And they are penalized as a stay-at-home mom because of this marriage penalty tax.

H.R. 3734 is a bill that helps all married couples by doubling the brackets, doubling the personal exemption, and allowing us to say once and for all we are going to go on record being in favor of families.

Mr. Speaker, let me turn now to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I thank the gentleman for yielding. What is really interesting, the gentleman from Indiana and I were elected in 1994 and of course we were part of the class of freshmen in 1994 and we made a commitment to the people and the people who elected us that we were going to change the way Washington works. One of the most fundamental changes that we made was not only to balance the budget for the first time in 28 years, and my colleagues know darned well that if it had not been for the freshmen in 1994 that we would not have a balanced budget today, but we gave the middle-class working families the first tax cut in 16 years.

Our philosophy when we came in in 1994 was that we want families to keep more of what they earn because they work so hard. And of course they can better spend their dollars back home in Illinois and Indiana and North Carolina than we can here in Washington.

It was interesting, when the President was asked by Washington reporters what he thought about eliminating the marriage penalty, as was pointed out earlier, he said well, gee, it is a problem but basically indicated we need the money to spend. That is unfortunate because think about it. Those who object to eliminating the marriage penalty always say, gee, it is going to cost Uncle Sam. Think about it: $1,400, that is real money for real people. And think how much $1,400 costs middle-class working couples.

One thing the President has said earlier this year, he had an idea which frankly it is a pretty good one. He talks about expanding the already existing child care tax credit. He thinks maybe that is a better idea than eliminating the marriage penalty. My staff and I did the numbers. We figured how much tax relief this machinist and school teacher that I referred to in Joliet, Illinois, would enjoy if they have a child who goes to the day care center.

Under the President's proposal the average married couple that would qualify for the child care tax credit would see an extra $358 a year. That pays in Joliet, Illinois, less than three weeks of day care. If we eliminate the marriage penalty for this working married couple in Joliet, this machinist at Caterpillar and a school teacher, we save them $1,400. In Joliet, that is almost 11 weeks of child care at this child care center.

Mr. Speaker, which is better? Three months of day care with eliminating the marriage tax penalty or three weeks of day care under the President's proposal? Clearly, by eliminating the marriage penalty we can help married couples with children in a much bigger way.

Mr. McINTOSH. Mr. Speaker, I yield to the gentleman from New York (Mr. SCHUMER), who I understand has to catch a plane.

FIRST LADY'S REMARKS ON PALESTINIAN STATE WERE A MISTAKE

Mr. SCHUMER. Mr. Speaker, I thank the gentleman from Indiana (Mr. McINTOSH) for being gracious.

Mr. Speaker, I take the White House at its word that the First Lady's comments on a Palestinian State were a mistake and not the White House position.

But this is what the White House should have said loud and clear: For there to be peace, Yassir Arafat should renounce violence and stop turning a blind eye to those under his authority who terrorize Israel.

Israelis want peace, but they are skeptical about the Palestinian will and ability to thwart terrorism. Israelis will not and should not accept a state that is a base for terror or for war, and the First Lady, I hope, will realize that she was mistaken in believing that such a State would be in furtherance of peace. It will not.

When voices in the White House say there ought to be a Palestinian State before there are guarantees of security, they do not set the peace process forward. They set it back.

Mr. Speaker, I thank the gentleman from Indiana for his courtesy.

Mr. McINTOSH. Mr. Speaker, let me say that I agree with the remarks of the gentleman wholeheartedly.

Mr. Speaker, let me turn now to another one of our colleagues in the class of 1994. She has represented our class at the leadership table and been a true leader in our class in trying to bring about the revolution that the gentleman from Illinois talked about in changing the way Washington does business, the gentlewoman from North Carolina (Mrs. MYRICK).

Mrs. MYRICK. Mr. Speaker, I thank both of my colleagues for bringing this bill forward. The gentleman from Illinois (Mr. WELLER) was talking earlier about the child care credits and what a difference it would make for families who are struggling to make ends meet. That is just one good example of what we are talking about.

When I go home, people say to me, "Y'all do some dumb things up there." All the time I hear that. And they say, "There is no common sense, where is the common sense that we have back here at home? You do not do it." And one of the most frequent complaints I get that on is the Tax Code. People say it makes no sense to them. I think we probably would have to be completely out of touch with the world today to in any way defend our Tax Code as reasonable or common sense.

Mr. Speaker, any one of us could send our tax forms to eight different accountants and we would get eight different examples of how we could do our taxes because nobody really knows. We have complicated the dickens out of the code. It does not make sense to any of us and even the experts have a heck of a hard time trying to figure it out.

One of the things I think that is especially stupid is the marriage tax penalty; I mean, penalizing people for getting married. And many young couples do not have a clue that this is going to hit them until after they have been married and file their first joint tax return. Then they find out that all the sudden, good grief, we owe a bunch of money we did not think we owed.

So in looking at it from common sense like we do back home in North Carolina, we say why in the world are we encouraging as a Federal Government young people to live together instead of getting married because we tax them more if they get married? I mean, that does not make sense to anybody back in North Carolina. It certainly does not make sense to us.

That is why I am so glad my colleagues brought it forward. There is no rationale to this when we think about why they are doing this. Why? Other than to put more money in the government coffers. Taxes put more money in the government, and the government just spends it instead of letting the hard working Americans keep their own money in their own pocket, which is what this is about.

So I am just real encouraged that my colleagues brought the bill forward and I hope that everybody is going to support this so that we can get rid of this dumb idea that taxes people because they married.

Mr. McINTOSH. Mr. Speaker, I thank the gentlewoman very much for her comments. And she mentioned young people who suddenly discover they are hit with a penalty. That reminded me of an episode two weeks ago when we were back home over the Easter recess. A young man came up to me after one of my talks and he said let me tell you what happened to me and my wife. We were just married last fall. We had to postpone our honeymoon and we were getting ready to take it this year and all of a sudden on April 15 we realized that we had to pay about $2,200 more in taxes. That was the money they had been saving up to go on their honeymoon. He said it just broke their hearts. They had to pay the taxes they owed because of this marriage tax in the Tax Code. Now they are going to have to postpone their honeymoon once again.

Time and time again I hear from young people who do not expect it. One of my staffers said it is almost as if when they say "I do," Uncle Sam says "fork it over," and that is unfortunate in this marriage penalty tax and what it is doing to our families today.

Let me turn to one of our colleagues who has served with us actually before our class, a forerunner of the class of 1994, but is with us in spirit. And he is someone I turn to often to seek wisdom and guidance about how we can pursue these legislative objectives. I yield to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, I thank the gentleman from Indiana (Mr. McINTOSH) for yielding to me. As a former tax manager, there are so many things wrong with the current Tax Code that I could stand here all day and night talking about them. But there is one aspect of that Tax Code that in my view is the most unfair of all, and that is the marriage penalty.

Under the current Tax Code, married couples usually pay more Federal taxes than single taxpayers, everyone knows this. We can ask any recently married couple about the shock that they received when they got their first tax bill. And it is wrong. It is wrong that the IRS charges a family more based on their marital status than they would when two single people are individually paying those taxes.

The marriage penalty is essentially a tax on working wives, because the joint filing system compels married couples to identify a primary earner and a secondary earner and usually the wife falls into this latter category. This works out to be a tax on working women who become married. And therefore from an accountant's point of view, the wife's first dollar of income is taxed at the point where her husband's income has left her. And if the husband is making more money than the wife, then the couple may even conclude that it is not worth it for the wife to earn income. In fact, a woman working part-time may be working just to pay the tax man after the marriage.

We need to instruct the IRS to be fair and not penalize married couples just for making the decision to get married, and the way to do this is to make married people equal to single people in the eyes of the Tax Code. And I am proud to be a cosponsor of this bill with the gentleman from Illinois (Mr. WELLER) and the gentleman from Indiana (Mr. MCINTOSH).

This bill would benefit married couples regardless of whether they have children. Its ideas are simple. It allows families to decide how they file their income tax, either individually or jointly, whichever gives them the greatest benefit. And according to a recent Congressional Budget Office study, 21 million married couples paid an average of $1,400 in additional taxes last year because they had to file jointly, $1,400 in additional taxes.

Mr. Speaker, I know all families have a better use for $1,400 than giving it to the IRS as a marriage penalty. Whether it is to be spent for a mortgage or extra groceries or kids, married couples should be allowed to keep that extra money they earn. They should not be penalized just because they made the decision to get married.

The Republican Party stands for tax cuts, tax relief, and the marriage penalty should be one of the first things to go. Actually, this unfair excessive tax should have been removed years ago, but the Democrats who controlled Congress for 40 years raised taxes instead of cutting them.

The marriage penalty slams middle-class workers. Economist Bruce Bartlett says that most of the people affected by the marriage penalty have incomes under $30,000 a year.

So why does this marriage penalty exist? That is an easy one, because for years it has brought in a lot of money that the IRS would not normally have collected. And because big government is fueled by money, extra money provides even more government, more bureaucratic jobs, and therefore government does not have an incentive to eliminate the marriage penalty.

☐ 1700

They actually have an incentive to keep it in place. Make no mistake about it. Anyone who supports the marriage tax penalty and votes against this bill is simply saying they do not care if married people pay more taxes than necessary or than is fair.

They are saying they do not care that an average married couple pays an additional $1,400 in taxes to the government when they make that decision to get married. They are saying they want a bigger government at the extra expense of working couples.

We need to do everything we can to keep families together and to encourage marriage. Furthermore, we need to do everything we can to reduce the size and scope of government in our lives and reduce taxes on working Americans.

The time has come to divorce ourselves from the marriage tax penalty. We need to pass the Marriage Tax Penalty Elimination Act. I encourage all of my colleagues to vote for this outstanding and much-needed legislation. I want to thank my fellow coauthors for their presentation here today.

Mr. MCINTOSH. Mr. Speaker, let me share with the gentleman from California some good news that I mentioned earlier before he arrived on the floor.

In talking to the gentleman from Ohio (Mr. KASICH), chairman of the Committee on the Budget, he has indicated to me that it is his desire in the budget that we stop the growth of government that the gentleman from California talked about, and say we, by just holding back that growth to a reasonable level, we can make sure to have the funds available to pass the Marriage Tax Elimination Act and do that this year so that never again in this country will couples be suffering under the marriage penalty.

I applaud the gentleman from Ohio (Mr. KASICH) for putting that in his budget. We now have to work with him and show that there is public support for that budget, to convince all of our colleagues that just a little bit of restraint on that spending side of the equation will let us eliminate this marriage penalty tax.

Let me mention, also, I have been opening up my web site and inviting people all over the country to write to me about how the marriage penalty has affected them. I have received hundreds of letters. The web site, by the way, is www.house.gov/mcintosh.

I wanted to share with you a couple of those E-mails that I received. One of them is from a fellow named Tom Smith from Columbus, Ohio. He writes, "Thank you for addressing this issue. I am engaged to be married, and my fiancée and I have discussed the fact that we will be penalized financially. We have postponed the date of our marriage in order to save up and have a "running start." in part because of this nasty, unfair tax structure."

Then T.D. who is from Alberton, Montana, she writes to me, "My husband and I both work. We are 50 and 55 years old. This is a second marriage for both of us. We delayed our marriage for a number of years because of the tax consequences." Let me repeat that. "We delayed our marriage for a number of years because of the tax consequences. It caused a great deal of stress, lots of anguish among our families. We finally took the tax hit and married to make my family happy. This marriage penalty is awful." That is T.D. from Montana. Those are the type of responses we have been getting from hundreds of Americans who suffer from this marriage penalty tax.

Sometimes the policy analysts here in Washington come up to me and say, oh, Mr. Congressman, you cannot tell me that it really makes a difference for anybody because they have to pay $1,400 more in taxes. I share with them these E-mails, and I say we may be able to afford it. My colleagues and I may not be affected by that, or we may tighten our belts, but there are a lot of people in this country who are living on the margin. Every dollar matters.

They are trying to save for their children to give them a chance to have a good education, to put food on the table, to have a better future. For us to tell them we are going to penalize you because you are married is outrageous and must be eliminated.

Mr. WELLER. Mr. Speaker, will the gentleman yield?

Mr. MCINTOSH. I yield to the gentleman from Illinois.

Mr. WELLER. Mr. Speaker, I, too, have also been receiving letters and E-mails as well as those who have been suffering from the marriage penalty. Like our friend, the gentleman from California (Mr. ROYCE), I have been written by a number of tax preparers who have shared examples.

One gentleman, a Robert Eckert of Jacksonville, Florida, in a letter that he shared with us, he says, "As a seasonal tax preparer and enrolled agent, I find the marriage penalty can be very significant; 12 percent of after-tax income or 33 percent increase in tax liability for many couples. This marriage penalty hits all ages and all incomes."

He has several examples here; I will mention a couple of them. One is a retired couple and the other is a low income couple. The retired on Social Security couple, he says this couple got married midyear, each with about $20,000 in company pension income and $12,000 in Social Security payments. As singles, they would pay no tax on the Social Security income; but as married, $16,000 of combined Social Security payments become taxable for a penalty of $2,400. Think about that. A married, retired couple paying $2,400 just because they are married.

Another example that he shares is of a low income couple, and he says, this is really the saddest event of his 7 years of preparing tax returns. Mr. Eckert says, a cemetery grounds keepers and his county clerk spouse, one making $16,000, the other making

$11,000, are married, and they have twin 6-year-old boys.

They also have neighbors, an unmarried couple, with twin 5-year-old girls working at the same cemetery and county office building and have similar incomes who not only pay $460 less in taxes, but receive a $2,563 in earned income tax credit check.

The married couple, the cemetery grounds keeper and his county clerk, pay over $3,000, 12 percent of their after-tax income just because they are married. There are several other examples.

Mr. Speaker, I include these letters for the record.

The text of the letters are as follows:

October 1, 1997.

Representative Jerry Weller,
U.S. House of Representatives, House Office Building, Washington, DC.

Dear Representative Weller: As a seasonal tax preparer and Enrolled Agent, I find the marriage penalty can be very significant, 12% of after tax income or 33% increase in tax liability. The marriage penalty hits all ages and all incomes. Some examples:

Retired on Social Security: This couple got married mid year, each with $20,000 company pension income and $12,000 social security payments. As single, they pay no tax on the social security income, as married $16,000 of combined social security payments become taxable for a penalty of $2,400.

High Income Executives: Two spouses with $80,000 and $50,000 incomes pay $1,584 more in taxes than if, as an unmarried couple they filed single returns.

High School Teachers: Two $40,000 a year public school teachers, each a single parent of a teenage son, got married New Year's Eve. They felt very strongly their sons would have a better chance of staying away from drugs with the emotional support and economic stability of a married two parent family. More important, they believed boys in single parent environment are six times more likely to become involved with the juvenile justice system. They became "very emotional" when I determined their tax liability increased from $4500 each, $9000, to $12,434—a 35% increase for getting married and trying to help their sons to a better life.

Low Income: This is the saddest event of my seven years preparing tax returns. A cemetery grounds keeper and his county clerk spouse, $16,000 and $11,000 incomes, are married with twin six year old boys. They have a neighbor, an unmarried couple with twin five year old girls, working at the same cemetery and county office and similar incomes who not only pay $460 less taxes but receive $2563 in earned income tax credit. My married couple pay over $3000, 12% of their after tax income for being married!!!

Sincerely,

Robert Eckert, E.A.

January 18, 1998.

Congressman Weller: I recently heard that you were sponsoring a bill to not have tax penalty on married couples as it now exists. Our beloved Congressman is no longer with us but he was a personal friend and I also worked on all his campaigns. I remember discussing things with him. We talked about how the government having things backwards sometimes and rewarding people that are not working and penalizing the working and somehow sending the wrong message. I totally support your bill and will be praying for you also as you undertake this.

Best wishes,

Pam Mann and family.

September 15, 1997.

Hon. Jerry Weller,
House of Representatives, Cannon House Office Building, Washington, DC.

Dear Mr. Weller: Last week our local newspaper ran an article about the marriage tax penalty bill that you and Representative McIntosh are co-sponsoring. I wholeheartedly support you in your efforts to have this unfair tax code eliminated. Since I have a dog in this fight, I want to see this inequity straightened out.

Why should we punish the people who enter into marriage over the people who choose to just live together? I think all married couples should be allowed to file their taxes either as single individuals or jointly as a couple. If filing jointly is a benefit to the married couple, that's just a plus to being married; the single couples could marry and receive the same tax benefit. As the tax code is now, in most instances, it is advantageous to be able to file taxes as a single individual. I am a 61 year old grandmother, still holding down a full time job, and I remarried three years ago. I had to think long and hard about marriage over staying single as I knew it would cost us several thousand dollars a year just to sign that marriage license. Marriage has become a contract between two individuals and the federal government. Why should the IRS be able to dictate my filing status when filing jointly is not in my best interest?

I want to write my own congressmen to ask them to support you and Mr. McIntosh. Please send me the number of the marriage tax penalty bill. Also I would like to receive more information about the specifics of the bill if you have that available.

I would be interested in helping get this bill established at the grass roots level. Do you have any suggestions on how I could help in bringing this bill to a favorable conclusion?

Sincerely,

Mary A. Hottel.

Congressman Jerry Weller,
Congress of the United States, House of Representatives, Washington, DC.

Dear Congressman Weller: We support your change to the "so-called marriage tax penalty".

We are prime examples of this. My husband and I work for Motorola-CSS in Libertyville, Illinois. We both work the same schedule. We generally work 40 hours a week. But, when there is overtime it is mandatory! We cannot say no! We then work a 54 hour week, 6 days, with 1 day a week off. The money is nice but all that overtime drives up our incomes into a higher tax bracket, when we file jointly.

When we filed our taxes for 1996 we owed (paid) the IRS $1391.00. At that time we decided to have extra money withheld from my husbands check to be paid to the IRS. We thought this would balance out what we would owe for 1997. We had an extra $120.00 a month withheld. Of course it didn't cover what we owe for 1997. With all that overtime it pushed us into an even higher tax bracket. If we hadn't had that extra $120.00 a month taken out we would owe the IRS almost $2200.00.

We have figured our taxes for 1997 married filing jointly, married filing separately, and single. As you can see we would benefit filing single.

We have no deductions. We are DINKS, Dual Income No Kids. We cannot write off anything. I would be happy to pay the difference that is owed to the IRS filing singly. That would be $127.12, versus $1003.17, married filing jointly or $996.17 filing married/separately. Which would you choose?

We have told family and friends our dilemma. Everyone has said maybe we should get a divorce. I do not want that!

This is not fair to couples with no children or other deductions. Please do something to change that rule! Thank you for your concern.

Sincerely,

Steven and Kathleen Hines.

Unfairness in Tax Code: Marriage Tax Penalty

Mr. Speaker: I rise today to highlight what is arguably the most unfair provision in the U.S. Tax Code: the marriage tax penalty. I want to thank you for your long term interest in bringing parity to the tax burden imposed on working married couples compared to a couple living together outside of marriage.

In January, President Clinton gave his State of the Union Address outlining many of the things he wants to do with the budget surplus.

A surplus provided by the bipartisan budget agreement which: cut waste, put America's fiscal house in order, and held Washington's feet to the fire to balance the budget.

While President Clinton paraded a long list of new spending totaling at least $46–48 billion in new programs—we believe that a top priority should be returning the budget surplus to America's families as additional middle-class relief.

This Congress has given more tax relief to the middle class and working poor than any Congress of the last half century.

I think the issue of the marriage penalty can best be framed by asking these questions: Do Americans feel it's fair that our tax code imposes a higher tax penalty on marriage? Do Americans feel it's fair that the average married couple pays almost $1,400 more in taxes than a couple with almost identical income living together outside of marriage? Is it right that our tax code provides an incentive to get divorced?

In fact, today the only form one can file to avoid the marriage tax penalty is paperwork for divorce. And that is just wrong!

Since 1969, our tax laws have punished married couples when both spouses work. For no other reason than the decision to be joined in holy matrimony, more than 21 million couples a year are penalized. They pay more in taxes than they would if they were single. Not only is the marriage penalty unfair, it's wrong that our tax code punishes society's most basic institution. The marriage tax penalty exacts a disproportionate toll on working women and lower income couples with children. In many cases it is a working women's issue.

Let me give you an example of how the marriage tax penalty unfairly affects middle class married working couples.

For example, a machinist, at a Caterpillar manufacturing plant in my home district of Joliet, makes $30,500 a year in salary. His wife is a tenured elementary school teacher, also bringing home $30,500 a year in salary. If they would both file their taxes as singles, as individuals, they would pay 15%.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinst	School Teacher	Couple	Weller/McIntosh II
Adjusted Gross Income	$30,500	$30,500	$61,000	$61,000
Less Personal Exemption and Standard Deduction	$6,550	$6,550	$11,800	$13,100 (Singles x2)
Taxable Income	$23,950	$23,950	$49,200	$47,900
	(x .15)	(x .15)	(Partial x .28)	(x .15)
Tax Liability	$3592.5	$3592.5	$8563	$7,185
		Marriage Penalty	$1,378	Relief $1378

Weller-McIntosh II Eliminates the Marriage Tax Penalty

But if they choose to live their lives in holy matrimony, and now file jointly, their combined income of $61,000 pushes them into a higher tax bracket of 28 percent, producing a tax penalty of $1400 in higher taxes.

On average, America's married working couples pay $1400 more a year in taxes than individuals with the same incomes. That's serious money. Millions of married couples are still stinging from April 15th's tax bite and more married couples are realizing that they are suffering the marriage tax penalty.

Particularly if you think of it in terms of: a down payment on a house or a car, one years tuition at a local community college, or several months worth of quality child care at a local day care center.

To that end, Congressman DAVID MCINTOSH and I have authorized the Marriage Tax Penalty Elimination Act.

The Marriage Tax Penalty Elimination Act will increase the tax brackets (currently at 15% for the fist $24,650 for singles, whereas married couples filing jointly pay 15% on the first $41,200 of their taxable income) to twice that enjoyed by singles; the Weller-McIntosh proposal would extend a married couple's 15% tax bracket to 49,300. Thus, married couples would enjoy an additional $8,100 in taxable income subject to the low 15% tax rate as opposed to the current 28% tax rate and would result in up to $1,053 in tax relief.

Additionally the bill will increase the standard deduction for married couples (currently $6,900) to twice that of singles (currently at $4,150). Under the Weller-McIntosh legislation the standard deduction for married couples filing jointly would be increased to $8,300.

Our new legislation builds on the momentum of their popular H.R. 2456 which enjoyed the support of 238 cosponsors and numerous family, women and tax advocacy organizations. Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It taxes the income of families' second wage earner—often the woman's salary—at a much higher rate than if that salary was taxed only as an individual. Our bill already has broad bipartisan cosponsorship by Members of the House and a similar bill in the Senate also enjoys widespread support.

It isn't enough for President Clinton to suggest tax breaks for child care. The President's child care proposal would help a working couple afford, on average, three weeks of day care. Elimination of the marriage tax penalty would given the same couple the choice of paying for three months of child care—or addressing other family priorities. After all, parents know better than Washington what their family needs.

We fondly remember the 1996 State of the Union address when the President declared emphatically that, quote "the era of big government is over.

We must stick to our guns, and stay the course.

There never was an American appetite for big government.

But there certainly is for reforming the existing way government does business.

And what better way to show the American people that our government will continue along the path to reform and prosperity than by eliminating the marriage tax penalty.

Ladies and Gentleman, we are on the verge of running a surplus. It's basic math.

It means Americans are already paying more than is needed for government to do the job we expect of it.

What better way to give back than to begin with mom and dad and the American family—the backbone of our society.

We ask that President Clinton join with Congress and make elimination of the marriage tax penalty . . . a bipartisan priority.

Of all the challenges married couples face in providing home and hearth to America's children, the U.S. tax code should not be one of them.

Lets eliminate The Marriage Tax Penalty and do it now!

Thank you Mr. Speaker.

WHICH IS BETTER?

Note: The President's Proposal to expand the child care tax credit will pay for only 2 to 3 weeks of child care. The Weller-McIntosh Marriage Tax Elimination Act, H.R. 2546, will allow married couples to pay for 3 months of child care.

WHICH IS BETTER, 3 WEEKS OR 3 MONTHS?

CHILD CARE OPTIONS UNDER THE MARRIAGE TAX ELIMINATION ACT

	Average Tax Relief	Average Weekly Day Care Cost	Weeks Day Care
Marriage Tax Elimination Act	$1,400	$127	11
President's Child Care Tax Credit	358	127	2.8

Do Americans feel that it's right to tax a working couple more just because they live in holy matrimony?

Is it fair that the American tax code punishes marriage, our society's most basic institution?

WELLER-MC INTOSH II MARRIAGE TAX COMPROMISE

Weller-McIntosh II, H.R. 3734, the Marriage Tax Penalty Elimination Act presents a new, innovative marriage penalty elimination package which pulls together all the principle sponsors of various legislative proposals with legislation. Weller-McIntosh II will provide equal and significant relief to both single and dual earning married couples and can be implemented immediately.

The Marriage Tax Penalty Elimination Act will increase the tax brackets (currently at 15% for the first $24,650 for singles, whereas married couples filing jointly pay 15% on the first $41,200 of their taxable income) to twice that enjoyed by singles; the Weller-McIntosh proposal would extend a married couple's 15% tax bracket to $49,300. Thus, married couples would enjoy an additional $8,100 in taxable income subject to the low 15% tax rate as opposed to the current 28% tax rate and would result in up to $1,053 in tax relief.

Additionally the bill will increase the standard deduction for married couples (currently $6,900) to twice that of singles (currently at $4,150). Under the Weller-McIntosh legislation the standard deduction for married couples filing jointly would be increased to $8,300.

Weller and McIntosh's new legislation builds on the momentum of their popular H.R. 2456 which enjoyed the support of 238 cosponsors and numerous family, women and tax advocacy organizations. Current law punishes many married couples who file jointly by pushing them into higher tax brackets. It taxes the income of the families' second wage earner—often the woman's salary—at a much higher rate than if that salary was taxed only as an individual.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School Teacher	Couple	Weller-McIntosh II
Adjusted Gross Income	$30,500	$30,500	$61,000	$61,000
Less Personal Exemption and Standard Deduction	6,550	6,550	11,800	13,100 (Singies2)
Taxable Income	23,950	23,950	49,200	47,900
	(.15)	(.15)	(Partial.28)	(.15)
Tax Liability	3592.5	3592.5	8563	7,185
		Marriage Penalty	1378	Relief 1378

Weller-McIntosh II Eliminates the Marriage Tax Penalty.

The repeal of the Marriage tax was part of the Republican's 1994 "Contract with America," but the legislation was vetoed by President Clinton.

Mr. Speaker, If the gentleman from Indiana will yield further, I will share one other letter.

Mr. MCINTOSH. Please do.

Mr. WELLER. Mr. Speaker, there is a letter from Palm Springs, California. Sonny Bono was such a dear friend to all of us, and of course he was a cosponsor of our original legislation. We are now joined by his wife, who is going to do a terrific job in representing the area that was represented by her late husband.

But Pam Mann of Palm Springs, California says, "I recently heard that you are sponsoring a bill to not have tax penalty on married couples as it now exists. Our beloved Congressman is no longer with us but he was a personal friend, and I also worked on all of his campaigns. I remember discussing things with him. We talked about the government having things backwards sometimes and rewarding people that are not working and penalizing the working people and somehow sending the wrong message."

She supports our legislation. She says she is praying for this legislation. She thinks it is important that we do something and do the right thing; that is, eliminate the marriage tax penalty.

If you think about it, 21 million married working couples pay an average $1,400 more just because they are married. Frankly, not only is it not right, but it is wrong that our tax code actually punishes marriage. $1,400. That is a year's tuition at Joliet Junior College. That is three months' daycare at a local child care center. That is why I am pleased this legislation is gaining such strong support. It deserves bipartisan support.

Mr. McINTOSH. Mr. Speaker, let me just close very briefly by saying thank you and thank you to all of my colleagues on both sides of the aisle for supporting this bill. We have a long way to go. We have to pass a budget that allows us to eliminate the marriage penalty and stay on track for a balanced budget, and we have to pass a tax bill this fall.

With the help of the American people, I am convinced that 1998 can be an historic year where we eliminate the marriage penalty tax.

Mr. SALMON. Mr. Speaker, I commend Representatives McINTOSH, WELLER, HERGER and RILEY for reintroducing the Marriage Penalty Elimination Act. One of the most indefensible aspects of our current tax code is that over 40 percent of married couples pay more in taxes filing jointly than they would if husband and wife each filed individually. This long-overdue legislation will end this discriminatory practice.

While I cosponsored the previous version of this legislation, I did not believe it was the best way to eliminate the marriage penalty. Although it eliminated the marriage penalty for the 40 percent of couples who pay more filing jointly than they would separately, it upset the important principle, embedded in current law, that different families with the same total income should be treated equally for tax purposes. Moreover, it did not treat families in which one parent either stays at home or works part-time the same as families in which both parents work full time. At a time when the President is proposing billions of dollars for commercial day care we should be offering credible alternatives that make it easier for working families to keep one parent at home.

That's why Representative RILEY and I introduced H.R. 3104, the Marriage Protection and Fairness Act. This legislation would permit married couples to use "income splitting" on their returns, and would increase the standard deduction for married couples. These changes would: offer almost all married couples a tax cut; eliminate the tax penalty on marriage that exists under current law; and continue the current policy that different families with the same total income should be treated equally for tax purposes. Not surprisingly, this legislation quickly garnered 85 cosponsors.

I am pleased to see that the concerns addressed in our legislation have been addressed in H.R. 3734. By doubling the standard deduction for married couples and doubling the income thresholds for married couples in all tax brackets, this legislation ensures that one-earner families will not be treated unfairly as a result of efforts to eliminate the marriage penalty. In addition, this legislation respects the principle that all married couples with the same income should be treated equally by the IRS.

One income families often have the toughest time making ends meet, particularly if they are raising children. This latest version of the Marriage Penalty Elimination Act will allow us to eliminate the marriage penalty without penalizing stay-at-home parents. I encourage all of my colleagues to support it.

Mr. McINTOSH. Mr. Speaker, I yield to my colleague, the gentleman from Oklahoma (Mr. COBURN), who has a tribute to pay.

TRIBUTE TO THE LATE JOHN SAXON

Mr. COBURN. Mr. Speaker, we recently learned that our high school student's math and science skills rank near the bottom of the world. As we discuss how to reverse this alarming trend, we should take a moment to reflect on the legacy of a math-education pioneer who foresaw our present crisis, the late John Saxon of Oklahoma.

Saxon gained national notoriety for his revolutionary Saxon method of teaching and for waging a war against the mathematics education establishment over their failed theories. Saxon was praised by President Reagan and featured by most major news outlets.

Stanley Hartzler, a leading authority on algebra textbooks, credits him with a truly major advance. Commentator William F. Buckley predicts that Saxon will figure as prominently in the history of math education as Hyman Rickover did in the development of nuclear submarines.

In 1995, Saxon said, "America is on the road to becoming a follower in technology and science rather than a leader. Our captains of industry tell us that they are at a disadvantage in worldwide competition because our labor pool is mathematically incompetent. The time has come to question the math experts."

The type of math experts Saxon criticized were the proponents of touchy-feely new math theories. One such theorist has said it is downright dangerous to teach students basic computational math skills such as 6 times 7 equals 42 because students who have difficulty with these concepts will be cast aside and experience a terrible psychic toll measured by loss of self-esteem.

Saxon first became aware of the pending crisis in math education in the 1970s during his first teaching job at Rose State College in Oklahoma City, after retiring from an exemplary and distinguished career of 27 years in the Air Force. Saxon discovered that his students were neither comprehending nor retaining the material they were learning from their textbook.

At a student's suggestion, Saxon wrote out some problems for his class. When the students were successful from learning from his writings, Saxon decided to write a college level algebra textbook.

Saxon was then a man on a mission. Publishers told Saxon he lacked the credentials to write a textbook. However, Saxon believed so strongly in his method that he mortgaged his house, spent his savings, and borrowed money from his four children to launch his own publishing company.

Early results showed that students who learned using the Saxon method outscored those who did not by a margin of two to one. Across the Nation, C and D students were now getting A's and B's. Classes who used his K through 12 math series routinely doubled enrollment and raised college board scores by greater than 50 percent.

Despite the mounting evidence supporting the Saxon method, the math establishment considered him to be a pariah. One journal of the profession dismissed his method as meaningless, while others accused him of turning back the clock on math education.

The cornerstone of Saxon's method is to train students in the fundamentals. Saxon was the Vince Lombardy of math education. He understood the importance of constantly drilling his pupils in the fundamentals like blocking and tackling.

Saxon said that algebra is the basic language of all mathematics beyond arithmetic. He believed higher math skills could not be taught or comprehended by students who were not thoroughly drilled in the basics. To Saxon, the math establishment was like a coach. He was trying to teach his players trick plays before they knew how to run a sweep.

As we consider how to improve math education in this country, we should reconsider what the so-called math education experts have been telling us. The education experts in society ought to be determined by the results that they produce, the impact that they have in the lives of the children, not by the titles or by their degrees that adorn their offices. Saxon's success was due to the power of his ideas, not by the prestige of any position.

Today, Saxon Publishing is growing like crazy, according to the company president Frank Wang. All 50 States and 20,000 schools nationwide use Saxon books, and company sales have quadrupled since 1991. The Washington Post ran a column this week by Wang. He said that, Saxon was in Washington picketing the annual meeting of the National Council of Teachers of Mathematics for their recommendation that calculators be integrated into classrooms. Wang said Saxon would have been surprised that at last month's council meeting Wang was invited to participate in a panel discussion on the role of the basics.

John Saxon is no longer a voice in the wilderness. Today, his legacy is on the bridge of revolutionizing math education in America. As we continue to discuss how to improve math and science education, I encourage my colleagues to let the Saxon legacy lead the way.

CONGRESS MUST ACT ON CHILD CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. McGOVERN) is recognized for 5 minutes.

Mr. McGOVERN. Mr. Speaker, it is time for this Congress to act and provide early childhood development, quality child care and after-school programs for the children of this country.

In January, President Clinton announced his child care initiative and asked the Congress to provide $20 billion over the next 5 years in support of the largest single investment in child care in this Nation's history. The President's proposal would help working families pay for child care, build the number of quality after-school programs, improve the safety and quality of care, and promote early childhood learning and early childhood development.

I am proud of the fact and proud of the President's initiative to establish an early learning fund, to strengthen early childhood development and support for parents, is based on legislation introduced in this House by myself and my colleagues, the gentlewoman from Connecticut (Ms. DELAURO) and the gentlewoman from Maryland (Mrs. MORELLA).

☐ 1715

Last month, President Clinton again asked the Congress to put aside partisan differences and act on his call for new investments in child care but, sadly, the Republican leadership in this House has done nothing, absolutely nothing, to respond to that call.

Mr. Speaker, today, more than ever, America's parents are working. Three out of 5 mothers with children under age 6 work outside the home. Fathers and mothers must spend more hours at the workplace than past generations of parents, putting greater strain on the family to provide quality child care, especially for infants and toddlers 3 years and younger. Yet somehow this Congress last failed to act and, in my opinion, has neglected the needs of American working families.

Now, we are always told that money cannot be found, but over one-third of the funds required to fund the President's entire initiative was to be provided by comprehensive tobacco legislation. That funding was targeted to include not only the strengthening of child care and early childhood programs but investments in medical research and the education and training of quality child care providers. But the leadership in this Congress has rejected these initiatives time and time again and turned their backs on America's children and working families. Instead they chose to embrace big tobacco companies and the campaign funding they pour into Republican coffers.

Last month, a new Rand study found money spent to give children from modest-income and disadvantaged families a good start results in greatly reduced government costs later for remedial education, welfare, health care, and incarceration. In February, more than 170 police chiefs, sheriffs, and prosecutors called on the Federal Government to increase support for quality child care and education for preschoolers, as well as after-school programs for older children. These American law enforcement officials endorsed the President's child care initiative and described its approval as one of the most important steps Congress could take to fight crime.

The message is clear: The benefits to government and society of comprehensive child care, parent training, and early learning and development programs are measurable and far cheaper to provide than trying to rehabilitate young people who have gone astray. Simply put: An ounce of prevention can prevent tons of costly cures later on. Yet the Republican leadership in this Congress remains callous and indifferent to these urgent calls for action.

Mr. Speaker, on Tuesday, just 2 days ago, OMB Director Franklin Raines stated clearly that the administration would not be able to find alternative sources of funding for these initiatives if Congress failed to enact comprehensive tobacco legislation. In spite of bipartisan bills awaiting action in both bodies of Congress that would provide comprehensive tobacco legislation and funding for these critical initiatives, the Republican leadership in the House, in particular, has rejected any tobacco legislation that would channel funds toward child care.

The Republican leadership has turned its back on children, on working families, on the struggles confronting the mothers and fathers of this country, and it is a very ugly gift for this Sunday's Mother's Day.

I want the President to know that there are many Members in this Congress who believe that it is critical to enact tobacco legislation and to target part of those revenues for child care and after-school programs, and I call upon the Speaker and the leadership of this House to listen to the voices of mothers and fathers, community leaders, and child care providers that Congress must act on child care today.

BANKRUPTCY REFORM

The SPEAKER pro tempore (Mr. MILLER of Florida). Under the Speaker's announced policy of January 7, 1997, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 60 minutes as the designee of the minority leader.

Ms. JACKSON-LEE of Texas. As I listened to my colleagues, Mr. Speaker, discussing issues regarding the family, I cannot help but comment as well on an issue as important as the marriage penalty under the IRS code, and agree with my colleagues that we need to move quickly and expeditiously to really do for families rather than talk about families.

I offered in 1997 the Taxpayers Justice Act, which, among other things, had a provision to eliminate the marriage penalty, along with creating a taxpayers' advocacy board simplifying the Tax Code and making sure that those IRS employees who abuse their position were handled appropriately, recognizing that there are many good hardworking Federal employees. But I think it is important that when we talk about family issues, we need to do for the families. And I believe that in many instances, it is important to do it in a bipartisan fashion.

I want to thank my colleague as well, the gentleman from Massachusetts (Mr. McGOVERN), for his comments on the very vital and important issue of child care. For he is right; the President has presented a very extensive response to the needs of our working families on child care.

Whenever I go to my district, if there is anything that is talked about more heartily, it is the needs of our children, working women, working men, working families, and single parents. If there is anything that creates a greater degree of panic and frustration, it is the inability to have safe and secure child care. And so the child care tax credit is extremely important.

Flexibility in child care hours, likewise, are part of the necessity of the new work style with so many single parents and different shifts. That is important.

And, clearly, a safe and nurturing environment is a key element to the concept of ensuring child care.

Access. All parents with children should have the ability to be able to pay for child care, to access child care. In many instances, some of the concerns that have been expressed by some of my constituents is the enormous burden, the enormous number of dollars that it takes to provide for their children.

So I rise to the floor, Mr. Speaker, to add another aspect of our concerns for families, for consumers, and something that I think we can do a lot about; and that is, as we move into next week, for the first time since 1978, we will be looking to do a major overhaul of the bankruptcy code.

Now, Mr. Speaker, when we started this discussion just a few short months ago, we had hoped, many of us serving on the Committee on the Judiciary, that this would be not only a bipartisan discussion but, as we waited upon the bankruptcy commission's final review, we really had hoped that it would bring about bipartisan solutions.

I do not know if any were aware of the process of 1978, but it was a serious process: 60 days of hearings over a 5-year period. It was intended to be instructive as well as lasting, long-lasting, in fact, and to bring about consensus. I think that should be the direction of this overhaul. To my sad dismay, we have not had the full hearing or airing of the many different aspects, the many needs that face individuals who find themselves unfortunately entangled in debt so much that they are required to file for bankruptcy.

Now, I think it is important for us to recognize that bankruptcy is not a new concept. And, frankly, most consumers are not so much aware of their neighbor's bankruptcy as they are aware of the savings and loans debacle, the major corporations, real estate companies who folded, and many other large corporations who have taken advantage of bankruptcy through restructuring and reordering their debts.

We know the airline industry faced dire times, and many of those companies went bankrupt. Some famous names that we used to fly; we wondered about their demise. Because of the excess of debt versus assets, they filed bankruptcy. And we do well know that they filed bankruptcy. They filed it and managed to save at least the shirts on the backs of the shareholders. They were able to consolidate debt. They were able to balance debt off of assets. Fair enough. Some people might have disagreed with that. They might have said those big corporations need to pay their bills. I would simply say that has been the American way.

But the tragedy comes now that the brunt of this revision of the bankruptcy code falls on the backs of the consumers, hardworking Americans embarrassed by being overwhelmed with debt, looking to pay back their responsibilities. Now, this is not to say that there are not improvements that all of us should join in. In fact, it is also to acknowledge that it is important for the dialogue that has been going on with credit card companies, credit unions, banks, and landlords.

This is an important and needed debate; what happens when a person files bankruptcy. But it cannot be the overriding factor in determining what the legislation will ultimately be.

Why do I say that? One very prominent lawyer, representing the credit card industry in testimony in our hearings, admitted that the credit cards actually see only 4 percent of their debt go into default. Imagine that, Mr. Speaker. I think that many of us would want those odds. Four percent of the debt going into default at the same time when interest rates on credit cards are 19 percent, 17 percent, 21, 22. How high can I go? Many consumers complain about that; that they paid over and over the actual debt by way of paying the interest rates.

So I believe that we are misdirected and misguided by the very fast and what I would think is a nondeliberative manner in which this legislation will be in markup and then moved to the floor of the House.

Bankruptcy is not a new concept. We have applied the complex provisions of the bankruptcy code to thousands of bankruptcy cases filed by individual debtors. And I would like to share with my colleagues a letter from some of the experts in bankruptcy, the bankruptcy court judges. One hundred ten of them, Mr. Speaker. One hundred ten; many who have been bankruptcy judges for more than 10 years. They have seen the downward trend of our economy. They now see the good times of our economy. They have no axe to grind. They are bipartisan. They are not elected, they are appointed. They have been appointed by circumstances that have input from Republicans and Democrats alike.

They come from different political, intellectual, and economic perspectives and represent every Federal judicial circuit, but they share one common concern: that the legislation presently before Congress would make fundamental changes in bankruptcy for individual debtors that have not been sufficiently considered. Since 1898, the letter goes on to say, an individual's debt has been discharged upon surrender of the individual's nonexempt property and the property has been liquidated to pay the individual creditors.

What does that mean? An individual takes what they have, they liquidate it, they pay off what they can, and they get a fresh start. Fair enough. They do not dodge, they do not run away from the community. They are ashamed, yes. Many people are. For these are people who have grown up in their neighborhoods. These are doctors and lawyers, small business persons, small banks. They have been contributors to their community. They are not scoundrels, criminals, and derelicts.

This proposed legislation would deny this basis for discharge in many cases, listen to this, Mr. Speaker, requiring instead that individuals make payment out of their future earnings for as much as 7 years.

Mr. Speaker, what does that mean? Shackled with their hands behind their back. Forever shackled to the tragedy of their life. Terrible medical conditions, downturn in the economy, tragedy in their family, loss of employment, collapse of their business, bad times. How many of us have not faced bad times?

□ 1730

And yet, rather than taking their assets, as I have seen so many people go through bankruptcy and cry at the loss of heirlooms and special items, or maybe it is just something simple like a bicycle or an old car, but yet those assets have been taken and the debts have been discharged, that person with barely nothing, maybe the roof over their head, can now start anew.

Maybe they have learned a new lesson, to go on and to begin to put their life together again. This bankruptcy revision will say no to that. It will take the mother and the father, the children, maybe they are planning for their college education, they have now learned their lesson and it will shackle them for 7 years.

All that says, Mr. Speaker, is that they will be back in bankruptcy again, maybe through a broken home, a family torn apart through money problems, children not able to go on to college, distressed and distraught.

These bankruptcy judges go on to say that this bill is important, but the changes are too sweeping to be acted upon without thorough consideration. They are alarmed by how little study appears to have been given to the pending bills. They believe and they know that they are on the verge of going to the floor, and they recount that fewer than a dozen hearings have been held on all of the bills combined.

The oldest bill that has been offered, H.R. 2500, was introduced a little more than 6 months ago. The haste with which these bills are being processed can be seen by comparison, as I said, with the Bankruptcy Code of 1978, where we took 5 years.

We have been discussing the IRS. Mr. Speaker, outrageous claims have been made of abuse of power. But this Congress has held several hearings; legislation is just now coming to the floor of the House in magnitude. I would venture to say that we will be discussing those bills for a long time. But they came out of great ire and frustration and people crying out.

No one has heard from the general public on bankruptcy. No one is claiming that they have been taken advantage of by bankruptcy judges or trustees in large measure. In fact, Mr. Speaker, let me say, I do hear of disgruntled persons who filed bankruptcy and have thought that our trustees or judges have been unfair to them versus someone else. But the system overall does work, and it provides people with a second chance to come back, again to be part of the community.

These judges go on to say that the proposed bills will fail to fully accomplish their intended purpose. Already they are a failure. They will generate unnecessary litigation over unclear terms. How many times have we heard, "Washington, leave it alone. Leave it alone. Do not make anymore trouble"? We are going to generate more litigation and then impose excessive costs on all of the participants in the bankruptcy system.

Those charged with responsibility for applying the bankruptcy laws, they are urging us, Mr. Speaker, they are urging us to pull the reins on our horse, hold up just a little bit more time, do not rush to the finish line. And they come from so many different parts of our community. The Southern District of California; the Districts of Oregon, of Ohio, Illinois, Arizona, and the Northern District of Georgia; the Northern District of Ohio; the Western District of Oklahoma; the District of Massachusetts; the Southern District of California; the Western District of Washington, Louisiana, North Carolina; the Western District of Texas; the Southern District of Florida; the District of Puerto Rico; the Western District of Kentucky; Wisconsin, New York, Pennsylvania, Kansas; the Western District of Arkansas; the District of New Jersey, Maine; the District of Indiana, Michigan, and Idaho, Iowa, Michigan, Connecticut. They come from so many different parts. Montana, as well, is noted, Mr. Speaker.

That does not seem like a small outcry of reckless and unknowledgeable persons. Those individuals represent the depth of our experience, the individuals that implement the Bankruptcy Code; and they have asked us, Mr. Speaker, to not move this bill ahead. They have asked us to hold up the time and to recognize that we do not have the solutions.

Mr. Speaker, let me share with my colleagues some additional excerpts, because I think it is important to realize that there are those who are speaking on behalf of the voiceless, probably bankruptcy persons who are filing bankruptcies who are in need and do not even realize that within moments the laws will change, totally throw askew the ability to fairly file for bankruptcy.

Mr. Speaker, I draw to the attention of my colleagues a letter from 57 academics who are, likewise, concerned about the proposed legislation. There are 875 years of experience combined in these 57 professors who teach bankruptcy law, who understand what the tool was to be utilized for. They remind us again in 1978, 60 days and 5 years. They express their concern about the quality of information presented at the few hearings which we have held. Sitting through some of those hearings, I too recognized that much of what was said seemed to be focused specifically on those who are in the credit business.

Mr. Speaker, I would think an immediate solution would be to acknowledge several things. Americans are bombarded by credit offers. Americans, starting at the age of a high school student, can probably get a credit card sooner than they can get their driver's license.

Mr. Speaker, what about those letters that come in the mail and say, with a printed, look-alike check with someone's name on it preprinted, "Take this to your bank and you have got $10,000." That is a credit offer, Mr. Speaker.

What about the many credit cards that come in through many different affiliations? Some of us get them from our alma maters. Of course, we take pride in those. But it is nothing more than credit, nothing more than free, loose credit.

What we really need, Mr. Speaker, is a stand-alone bill that educates the consumers, educates the consumers about how to use credit effectively and responsibly. I would imagine, Mr. Speaker, that we would have all of these bankruptcy judges whom I have just alluded to, all of these academics whose letters I am about to share with my colleagues, joining us in saying, if nothing else, that is the right step. Teach the single parent, the divorced parent, the single person, the senior citizen, teach them, the small business owner, how to effectively use credit.

Now, I am not charging that credit is not an important aspect of our financial infrastructure in America. In fact, it is well-known, and let me thank them, that many small businesses who are now successful today started with a credit card loan of $1,000 or $2,500. Might I add, as an additional insight, many of my constituents African Americans, Hispanics, and women who have had a tough time getting actual, traditional bank loans have started their businesses with credit cards; and they in fact have benefited, paid it back, and their businesses have grown.

So this is not to undermine or to eliminate access to credit or credit cards. But I do not think there would be much disagreement that the overuse of credit cards, the bombarding of credit card offers have been some of the real reasons why we have seen in many instances the utilization of the Bankruptcy Code and process and why many of our citizens have fallen upon hard times, along with other items that might contribute.

These particular academics said again that they are concerned about the kind of information that we got at the hearings. The studies that have been the driving force behind many proposed reforms appear to have been inadequate and to have emphasized the interest of institutional creditors. To date, virtually no one has spoken for those Americans who have declared bankruptcy or who may one day be forced into that position.

In fact, Mr. Speaker, we were very short on persons who were there and who had filed for bankruptcy. How can we bring about a consensus by not having those true partakers of all shapes and sizes that can literally tell us what they went through, what would help them, what would help them not file again, how the code or the process worked for them? Are we ashamed of people who own up they just did not have the financial ability to pay their debts, help them out, and find a way to make sure that whomever they could pay, they would? I find it disappointing.

How difficult it was that we as Democrats attempted to make the point, slow down, where are the other witnesses? But yet, our voices were unheard. We made the record. We will have the record to stand on. But, Mr. Speaker, I am here to get solutions. And I will be looking to draft legislation that stands alone, that speaks directly to the question of educating consumers responsibly about using credit. That is where we can get bipartisan support and help. And let the rest of these major revisions, which cause an imbalance on the scales of justice, creditors high up and debtors low down, let that be stalled until we can hear from a broader cross-section of Americans about this Bankruptcy Code.

"Aside from the Tax Code," the letter goes on to say, "and the Social Security laws, no other Federal law affects more Americans." I think that is the point that I am trying to make, Mr. Speaker. Bankruptcy is not a popular discussion. April 15, everyone knows the IRS, the Internal Revenue Service. They are filling out those papers, willingly or unwillingly.

Social Security has been the lifeblood of many in our community. They know those words, Social Security.

Bankruptcy, albeit utilized quite frequently, the very reason why we should go slow is because many people do it under duress, unwillingly, because they are still struggling to try and pay those bills on their own.

Just recently one of the talk shows had the youngest bankrupt filers, and I remember an excerpt in particular where a youngster, maybe a young woman or a teenager, used a credit card to buy something for 25 cents.

Mr. Speaker, credit is rampant in this country, and that is what we really need to be talking about. This is what this Congress needs to be, a problem solver, not a creator of problems. And that is what we are doing with this Bankruptcy Code, Mr. Speaker. Bankruptcy brings about shame, but yet it is equated with the Tax Code and Social Security.

My colleagues would not see us overhaul the Tax Code. In fact, in my bill, the Taxpayers Justice Act that calls for the simplification of the Tax Code, I know that there is a long journey for that legislation to follow.

We know that the Tax Code is enormous. But we are not going to do it with meager hearings. It is going to take a while.

This whole question of preserving the Social Security Trust, now that we know that 2032 is when we will see it faltering, it is going to take an enormous number of years. We are committed to preserving Social Security. But what about bankruptcy and the procedures that keep this country going? Few people talk about it because they file in the dark of night, in silence, because, Mr. Speaker, people are not filing recklessly or they are not filing to abuse the system.

They are not filing happily. They are filing, Mr. Speaker, because they have come upon hard times that any one of us could face, any one of us with catastrophic illnesses, children with catastrophic diseases requiring transplants, or long illnesses of a loved one who is tragically injured, personally injured or disabled, maybe the breadwinner, and that family now has to turn to other resources.

Are we, Mr. Speaker, going to apply these new revisions raising the cap on who can apply, taking their earned income 7 years down the road?

□ 1745

For some of those families caring for a loved one, that is taking all of their money. You might literally be putting those families out on the street because they cannot clear their debts.

It is very evident, Mr. Speaker, that most, as the letter goes on to say, individuals who file bankruptcy are average middle-class Americans focusing on one interest, that of creditors, and in particular creditors who hold credit card debt. But focusing on this one interest tends to mute the voices of the millions of other Americans affected by bankruptcy law. This imbalance affects more than debtors. When debt institutions hold the stage and suggest the changes, noninstitutional creditors such as former spouses with support claims stand to lose. Do you know who stands to lose? Children. Children of these individuals who have maybe gone a little bit over their head.

These law professors as well come from all manner of political philosophies. Creighton University, the University of Kansas Law School, Rutgers, the University of Chicago, Emory Law School, the University of Iowa College of Law, Seton Hall, Indiana University, the University of Arizona, Cornell Law School, Emory again, Georgia State, University of California at Los Angeles, Creighton University, University of Memphis, the College of William and Mary, California Western School of Law, Northwestern University School of Law, Capital University, the University of Tulsa, Arizona State, the University of Connecticut. The University of North Carolina at Chapel Hill, the University of Pittsburgh, Franklin Pierce, Boston College Law School, Duke University, Indiana, New York University, University of California again at L.A., Florida State University, the University of Missouri Columbia, the University of Tennessee. So many. The University of Wisconsin, San Francisco, Harvard, University of Wyoming, University of Texas, Columbia University, George Washington University, University of Michigan, Tulane, Santa Clara, University of Miami, Washington & Lee, Gonzaga University, University of Baltimore.

Mr. Speaker, this collective thought should be an overwhelming statement that we are going just too far. And so, Mr. Speaker, I think it is important that the facts be put on the table. We need to be able to understand that in order to address the question, you have also got to have the facts. I would add along with the facts, let us have a little compassion. In works done by Elizabeth Warren, Leo Gottlieb Professor of Law at Harvard Law School where she summarizes her research, she provides for us information that about 1.4 million families will file for consumer bankruptcy, a rise of about 400 percent since 1980.

> Virtually all independent academic study and all government studies of the increase in bankruptcy demonstrate that the rise in bankruptcy filings follows equally sharp rises in the amount of consumer debt per household.

So there it is. I would like to see someone refute the fact that this enormous amount of consumer debt has contributed to the upward climb in bankruptcy that rose sharply in 1986, dipped in the 1990s, and a steeper rise since 1994.

"Families carry short-term high interest credit card debt and they are more at risk for failure." Because what happens, Mr. Speaker, is when you have got that credit card debt, no savings, any setback such as a job loss or uninsured medical loss, catastrophic illnesses, divorce, death can bring about this debt. I know it full well. Houston, Texas in the 1980s suffered an oil bust that we never thought we would see. Texas is an oil State. We are proud of it. Much happiness and wealth came about through the speculation and the exploration of domestic oil deposits. We had people who were wildcatters and proud of it. As a lawyer in Houston, small energy companies proliferated, some successfully, some not. But when the oil bust hit, I can assure you, Mr. Speaker, tragedies befell our community. Many of those persons were the backbone of our charitable giving. We saw major layoffs. Similar to the defense fall in California, when people just walked away from their homes, when neighborhoods became valleys of desperation, that is what happened in Houston. Suburban communities became desolate. People in their frustration had to walk away. That was not a pretty sight. I can assure you those individuals who had the wherewithal to use the bankruptcy process were not doing it willingly.

"New academic research," Professor Warren says,

> demonstrates that as a group the debtors who file for bankruptcy in the mid-1990s are worse off than their counterparts who filed in the 1980s. Their incomes are lower, their debts are higher. These data suggest that as a group Americans are less willing to declare bankruptcy. They file when they are so pressed financially that they have no alternative.

I think it is important, Mr. Speaker, to realize, maybe that is what will slow this down. Maybe if we could stop the name-calling and the belief that everyone is trying to run away from the credit debt that they have, the car loans that they have. Here it is right here. The data suggest that it is the last resort. Are we, Mr. Speaker, going to take the last lifeline from a drowning man or woman, this bankruptcy code, and tell them, "You drown"? That is what this bill does.

> Bankrupt debtors are a cross-section of America. People who file for bankruptcy have educational levels on par with all other middle-class Americans. They work in the same occupations and in the same industries as other middle-class Americans. They are employed and they own homes in roughly similar proportions to all other Americans.

By every social measure, they are middle class. But, Mr. Speaker, the real point is they are decent Americans. We have got them, holding them up to ridicule, to embarrassment and now we are going to do the final blow. "We will get you, we will change the requirements so you won't have any opportunity to save dignity, to remain in your community, to send your children to college."

Mr. Speaker, let me give you the roll call of the consumer bankruptcies as Professor Warren outlays for us. Let me give you the enemies list that this bill is going after. Older Americans. I tell you, they fight it tooth and nail. But because they take on less consumer debt per household, older Americans end up in bankruptcy less frequently than their younger counterparts. But when they do file, a larger fraction, 40 percent, explain that they are driven to bankruptcy by medical debts they cannot pay. Medicare does not pay it, insurance does not pay it. Older Americans also suffer from job losses and job erosion so that two-thirds of the debtors age 50 to 65 cite either a medical reason or a job reason for their bankruptcy filings.

The next culprit, the next one on the roll call list, the next enemy, women raising families. In fact, both men and women, the report goes on to say, file bankruptcy following a divorce. Collectively, the bankruptcy sample has 300 percent more divorced people than the population generally. I can attest to the many women who are divorced and who I have interacted with who have indicated the real difficulty of getting their financial situation in place. Texas is a community property State. But in many instances in a divorce, much is lost, the sharing of assets, many of it is debt. The women are left with limited assets. They may not have worked, they may have been homemakers caring for the children. They have to scramble to get employment. That employment does not pay the share of the debts left for them. Families already laden with consumer debt cannot divide their income to support two households and survive economically.

Mr. Speaker, the real victim who is added to the enemies list now is and will be the child, the children of that family. This is outrageous. We have a bankruptcy bill, Mr. Speaker, that does not even protect child support as protected income when you file bankruptcy.

Mr. Speaker, that is why I will offer amendments and, if need be, a freestanding bill to protect child support as protected income for the receiver of the child support and the renderer of the child support. How outrageous can we get? So that if you pay child support right now, as this bill proceeds you would have the opportunity, if you will, to lose it, because it goes into the pot that pays all the credit card companies, the car loan, and other debts while those children waiting for the monthly stipend to help pay for clothing and food and medical expenses goes untaken care of. And the payer of the child support, who is well-meaning and well-intended and the one who wants to escape, for there is no doubt that it is well-known of the enormous numbers of women and the custodial male parent who needs child support who do not get it because one parent escapes to another part of the country, that is one of the most serious problems that we are facing in many of our communities, children untaken care of, because the parent who is not the custodial parent does not provide support.

Mr. Speaker, do we want to add more to the rolls? I would hope that everyone, women who receive child support, will join me in their ire but also their advocacy for ensuring that whatever happens, that we do not destroy the protection of child support, join me in support of this legislation and this effort to ensure a bill that is broken and should not proceed at least does not destroy the remaining remnants of a family trying to take care singularly of children who are in need.

I already mentioned the oil bust, the defense bust, if you will, in California, many other busts throughout the country, farmers who we have worked with, particularly the black farmers who are facing strife in dealing with trying to be compensated for ills that this government perpetrated against them. Many had to file bankruptcy, many had to lose their property, many became unemployed, so the next culprit on the roll call list, unemployed workers. I did not say, Mr. Speaker, workers who never worked. I never said those who cast about in our community as some people allege, never looking to be responsible. I said unemployed workers, union workers, working men and women, defense contractors, workers who work for the government, local government, county government, and they have been laid off. More than half the debtors who file for bankruptcy report a significant period of unemployment preceding their filings. For single-parent households, a period of unemployment can be devastating. Of course, married couples may fare a little better than or slightly better than, but they still have the harshness of one person being unemployed. And you will find, as Professor Warren goes on to say, that many times the wife is unemployed before bankruptcy is filed.

Just yesterday we addressed the question of the Riggs amendment about affirmative action and the question of whether it was needed in higher education. I want to thank the House of Representatives for, in a bipartisan manner, voting against eliminating affirmative action across this Nation. They took the high moral ground.

Let me give you another population of persons that are uniquely placed on the bankruptcy rolls. Here is another group to add to the enemies list. African-American and Hispanic families are overrepresented in bankruptcy. Now, someone who wants to give a negative taint to this, Mr. Speaker, would simply say, "Here they go again." But they don't go again. That is not accurate. They face job loss and medical debts as their counterparts in the larger community. But what happens is, is that in the African-American and Hispanic communities, their home represents their greatest asset. Their savings are limited. They do not have as much in savings as the larger community.

□ 1800

The deep pockets are not there. They do not have a lot of retirement plans and portfolios, stock portfolios and other real estate investment. So a larger fraction of the African-American and Hispanic filers are in position to lose their homes, and so they are reaching out for a lifeline in order to be able to save their home. Debt secured by home mortgage or home equity line of credit cannot be stripped down or reduced any way in bankruptcy. And most families will also continue to make car payments. They need their cars, and they will lose them if they do not pay.

That goes to the answer of why people file bankruptcy, and what does it do. Chapter 7 discharges all its short-term, high-interest debt, principally credit card and finance company debt, along with some medical debts. However, after that, the bankrupt person must make all payments on the family home, including interest, late charges, and penalties or they will lose their homes. They must also pay off any second or third mortgages plus any home equity lines of credit or risk losing the house.

They will do that, Mr. Speaker. The families will continue to make that effort. But they sure cannot do it if you going to take their future income for 7 years. They sure cannot get to work if you take their car because they are taking the money to pay off debts rather than having discharged it on the assets that they would have.

Let me remind you again, Mr. Speaker, I gave you a number. Four percent of the credit card debt in America is defaulted. Thus, in fact, for people who believe that Chapter 7, Professor Warren says, is a get-by type of relief, I got you, I got you; it is not, for families are still paying off debt. But what they can do is they can concentrate more effectively on the moneys that keep the roof over their head to pay the alimony and child support to take care of back taxes and education loans and the heavy burden of other debt, yes, that they mistakenly took, is off their shoulders. They can raise their head up a little bit, they can be part of the community, they can become more stable. They can possibly take classes that teach them how to be more responsible in the utilizing of credit.

You will find that the mortgage company and the ex- spouse and the IRS and the child are more likely to collect, and to the extent that these debtors are thrown out of the bankruptcy system, they will not stabilize financially, this report goes on to say, they will just crumble and collapse. They will become nonentities, disappearing from the formal community structure, possibly going on public assistance and, as well, Mr. Speaker, going back rather than going forward.

It is extremely important, Mr. Speaker, that we recognize that to destroy the bankruptcy system that has not cried out for major change, there has not been a public outcry or uprising, and here we are trying to fix something in Washington; here we go again, seeking to have people pay 7 years in the future, taking literally the roof off over their head, the car out of their driveway, telling them that you just need to crumble.

In the instance of Chapter 13; that is, as Professor Warren notes, these are people who volunteer to pay some portion of their debts over 3 to 5 years. For over 15 years, however, two out of three of the debtors who filed for Chapter 13 do not make it through a repayment plan. Why? Many face unemployment; it is just too long. For many, however, the reason is simple; they do not earn enough money.

So Chapter 13 repayment plans fail and they leave the system and they disappear, whereas Chapter 7 takes the debt away from them, gets them back into paying those most vital and important bills that they have to pay.

I hope to be home this weekend, Mr. Speaker, and listen to the voices of my constituents. I have already listened, and I have not heard a major outcry of the consumers who use debt. I have not seen evidence of the need for the complete overhaul as expeditiously as we are doing it, Mr. Speaker. I do believe that more deliberative hearings, more balanced hearings, can answer the questions of the community of credit card companies, the community of retailers, the community of credit unions, all good people. In fact, quietly one might find that they know what filing bankruptcy means. It is not a respecter of persons, Mr. Speaker. But it does, it does help a drowning man or woman.

Why would we want to be in the United States Congress and be the very articulators, if you will, the very implementors of legislation that would take away the lifeline of hardworking Americans?

I want to take a moment, Mr. Speaker, to really focus on women as creditors, because I think that women need to realize that this quiet legislation working its way through the process like the bionic minute, going against time, traveling at the speed of light, really is going to hurt women.

In Bankruptcy and Single Parents, again Professor Warren notes that current law gives women priority in collection. During 1997, an estimated 300,000 bankruptcy cases involved child support and alimony orders. In about half of these cases, Mr. Speaker, the woman was the creditor trying to collect alimony and child support. And, Mr. Speaker, as I have said, now we want to pass legislation that heightens credit cards and others and lowers women and children.

Alimony and support obligations are not dischargeable. The pending legislation largely supported, as I said, by many of the credit card companies, would put credit card charges on the same footing as support obligations.

Now what does that mean, Mr. Speaker?

It simply says that the big guns will get that poor and despondent filer of bankruptcy over the ex-wife or the child, because when you have to enforce the order and you are equal, then I would simply say that the person with the deep pockets is going to be able to get that money first and faster.

Currently, alimony and child support, past taxes and educational loans survive a Chapter 7 bankruptcy. Recipients of child support and alimony are benefited with their financially troubled ex-spouses, can discharge their own debts and get their finances in order so they can make the payment on their nondischargeable debts including their alimony and support payments.

So what happens now is you get rid of those debts and you begin to pay those, where others are depending upon you for their actual survival. But now, if these changes are made, whereas right now we have a shot at getting that money, if the changes are made, you can be sure that the ex-spouse, the mother, the father who has custodial care, who needs those support payments or in fact alimony payments for that divorced person who has no other means of support, will be out there swimming with the sharks, if you will. They will be fighting with others, trying to get the few pennies that will keep the roof over their head, bread on their table, a doctor seeing them for their medical ailments.

Mr. Speaker, if I sound dire and distressed, I am; because this bankruptcy revision is wrongheaded and misdirected.

Even today in Chapter 13, ex-spouses currently enjoy a preference in repayment. Typically, past-due alimony and child support can be paid on an accelerated schedule in Chapter 13. The proposed amendments would force debtors to pay all unsecured debt in pro rata installments with nondischargeable debts, cited by Professor Warren in Bankruptcy and Single Parents.

Mr. Speaker, what it would do is it would certainly draw the curtains down on the survival of many families in America.

Mr. Speaker, this Congress rises to the floor of the House so many times, and it speaks about family values, protecting the family, the sanctity of the family. Well, I am ashamed to tell you, Mr. Speaker, that this bankruptcy revision, or revisionist bankruptcy activities, does not even protect our tithe.

I offered an amendment there as well, Mr. Speaker. There are many in our communities, our religious communities, whose biblical teachings instruct them to tithe, to separate out moneys to give to the One that they believe in. We have always spoken, Mr. Speaker, of the separation of church and State. This Congress has also raised its voice about how important religion is, even to the extent where I disagree, where they have intruded upon religions by certain amendments forcing different religion on persons of different religions. I am a believer in the separation of church and State and the freedom of religion, and hold with high degree of respect and reverence the right for all Americans to practice their faith. I believe in that. But do you mean to tell me that we would have the audacity to pass legislation, Mr. Speaker, that would announce that a tithe is illegitimate?

How can that be true; tithe is now illegitimate? And that means, Mr. Speaker, that I would be assessing your religious beliefs that tithe would not be protected income.

Now, Mr. Speaker, I am not asking that this be allowed with no documentation. I am simply saying to you, Mr. Speaker, that there is all manner of ways to document that tithe has been given over to the religious institution. The religious institution can provide the receipt, certainly documentation on behalf of the debtor; but the important factor, Mr. Speaker, is that we need to acknowledge that we have no business in taking money from those who cannot pay their other bills.

I want to simply show you, Mr. Speaker, so that we can set the record straight about those individuals who apply for bankruptcy so that no one will have any impression again that these people are rolling in money.

I think I heard testimony in one of the few hearings that we had: Well, you know it is these rich professionals that are running off and using the bankruptcy code recklessly and unfairly, and we are being burdened by their debt.

Again I remind you that on the credit card debt we are paying high interest rates. I would imagine that many have paid that debt over and over again, over and over again.

But this chart shows us, and that tall pole there that you might be seeing shows us, that the median income in filing for bankruptcy in 1997 dollars, you have got $42,000; in 1981, $23,000; 1991, $18,000; 1995, $17,000; and then 1997.

□ 1815

It shows, Mr. Speaker, that it is not the rich person that tries to take advantage on the consumer end, but it is the hard-working, struggling, taxpaying citizen of this country with a number of children who is trying to make ends meet.

This proposed legislation would burden larger families. Again, I refer my colleagues, Mr. Speaker, to whole concept of the sanctity of families, preserving families. In fact, this legislation that would be revised, Mr. Speaker, would hurt families who are struggling to stay together.

Mr. Speaker, I hope this evening that some eyes have been opened, that although the Bankruptcy Code does not ring special, does not have the ring of Social Security or the IRS, does not ring a bell, that what we have laid out this evening will certainly speak to the issue, hold it up.

Do not mark it up and certainly do not bring this bill to the floor of the House, for if we talk about a revamping of the financial services industry, which has taken some time, but within minutes we are talking about overhauling the bankruptcy structure, which, Mr. Speaker, will undermine the infrastructure of this country, will have people fleeing their communities. Tragedies will befall families who are overwhelmed with debt and are only looking for a lifeline to renew their commitment to this system and to begin to pay their bills, child support, not protected; alimony, not protected; older citizens, violated and cannot file on the basis of this legislation; unemployed persons now unable to do so; people with catastrophic illnesses.

My call, Mr. Speaker, is to make sure we protect our children, and I am working on the support legislation and the alimony legislation to make it protected income. But most importantly, Mr. Speaker, I am calling for this bill not to be brought to the floor of the House, and if it does come here, that ultimately it is vetoed by the President of the United States. I am standing on behalf of hard-working Americans to ensure, Mr. Speaker, that we have a deliberative process that balances the needs of businesses with the needs of consumers, and educates consumers against credit use and abuse, and educates the credit-givers against bombarding America with all kinds of miscellaneous credit.

Mr. Speaker, I think if we can do that, we can find a way for the bell to ring on the bankruptcy revisions in a consolidated manner that has consensus, Mr. Speaker, and speaks on behalf of the American people.

BETRAYAL OF AMERICANS BY AMERICANS

The SPEAKER pro tempore (Mr. PEASE). Under the Speaker's announced policy of January 7, 1997, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes.

Mr. ROHRABACHER. Mr. Speaker, today I rise again to discuss one of the most disturbing issues with which I have had to deal since being elected to Congress 10 years ago. The facts are still being uncovered, but it appears now that America has been betrayed, betrayed by several large, high-technology corporations and by the Clinton administration.

I do not use the word "betrayal" lightly. When Bill Clinton was elected President of the United States 5 years ago, we could confront wrongdoing on the part of the Red Chinese with little direct threat to the United States. This, unfortunately, is no longer true. In the future, should we confront the Communist Chinese over an act of aggression, perhaps against our friends in the Philippines, for example, where the Communist Chinese are trying to occupy some of the Spratly Islands by force, and the Filipinos have no ability to defend themselves, but in the future when the Communist Chinese commit these acts of aggression, they will have the capability of launching a missile from the mainland of China and landing a nuclear weapon in the United States. This puts every man, woman and child in our country in jeopardy.

How is it that the Communist Chinese have improved their missile capability? You better sit down, Mr. and Mrs. America, because it appears that several large American high-tech corporations, in collusion with the Clinton administration, provided technology to the Communist Chinese that perfected their nuclear weapons delivery systems, and you can read that, "missiles." American technology is being used to upgrade the capability of the Communist Chinese to launch a nuclear strike against the United States. It takes the wind right out of your lungs, does it not, just to think about it? If this is true, it is the worst technological betrayal of the American people since the Rosenbergs. This is nothing less than a catastrophe for the security of our Nation and the safety of our people.

So if it did happen, which there seems to be evidence that it did, how did such a thing happen? First and foremost, pushed by corporate leaders eager for profit and liberal foreign policy polls, America has been walking down a dangerous and counterproductive road with the Communist Chinese for a decade. Yes, reasonable people can disagree. Even I was optimistic before Tiananmen Square. I was optimistic that China would evolve out of its Communist dictatorship and perhaps evolve into a freer society, perhaps even a democracy. And, in the late 1980s, when there were clear signs of an evolution in the right direction, a policy of goodwill, sincerity, and on building the Chinese economy through trade made sense, even if it meant at the time that the trade between us was a little bit unequal; and was unequal, certainly.

But all that changed, Mr. Speaker, on June 4, 1989. What happened in Tiananmen Square was not just a massacre of several thousand unarmed Chinese students, it was an internal declaration of war against democracy and human rights and all of those decent people in China who advocate more humane and democratic government.

All those who claim that doing business with China will make that country a more open and free society have been proven wrong. That trend, which we saw in the 1980s, was reversed. That trend for the last 10 years has been in the opposite direction, even as massive investments have been made in these last 10 years since Tiananmen Square in China.

Ten years ago there was a reform movement in China. There was hope for an evolution in Tibet; there was the growth of Christianity. Today, all the reformers have fled or are in jail or are dead. Christians, Tibetan Buddhists, Muslims, all of the religious believers alike, are being persecuted with increased and renewed intensity.

Even as the Chinese regime shoots its prisoners and sells their body organs in order to make money from this gruesome task, during these last 10 years, the investment in China from the United States has accelerated, even as we continue to go in the wrong direction, totally disproving this theory that all we have to do is trade with these people.

It is the idea that if we just trade more with Hitler and interact with him socially, we are going to make Hitler into a nice, fuzzy, warm liberal instead of a Nazi. That, of course, was stupid. Hitler and Germany at that time, as well as Italy, were economically advanced countries. The same with Japan, an economically advanced country, yet they had vicious dictatorships in the 1930s. Our businessmen traded with these people. They did their best to establish economic ties with these people. Yet the Japanese militarists, the Nazis and the Fascists, they just drove their tanks right over the hopes and dreams of all of these people who were wishful thinkers.

China today is the worst abuser of human rights on this planet. It maintains a 30 to 40 percent tariff on all U.S. imports, while at the same time the Chinese consumer products are flooded into our market with a 3 or 4 percent tariff. So here we have a country that is the worst human rights abuser in the world today, a dictatorship, a country that is belligerent towards the West and has been giving technological secrets to the Iranians and other terrorist states, yet we have given this country the right to import with a flood of imports into the United States of America consumer goods at only 3 or 4 percent tariffs, while their tariffs are 30 or 40 percent at times on American goods.

Who negotiated that treaty? Who was watching out for our interests?

The Communist Chinese continue to enjoy a $40 to $50 billion trade surplus with us because of this unfair trade relationship. No wonder, when we permit that to keep an unfair trade relationship, to keep a situation where they can charge us tariffs on our goods and they get to flood theirs in here and they make $50 billion a year, no wonder they do not take us seriously when our leaders talk about human rights.

They must know that when Bill Clinton, as President of the United States, is talking about human rights, he is only doing it for domestic consumption, because if he really meant it, he would do something that would threaten this $50 billion trade surplus that they have.

And what are they doing with their trade surplus? They are building weapons. They are building ships and missiles and military weapons that will someday threaten the United States, and in fact, their missiles already threaten the United States.

President Clinton, reversing an election commitment to oppose Most Favored Nation status for China has strenuously pushed Most Favored Nation status for China every year, even though supposedly, we are concerned about human rights and the human rights situation like in Tibet and elsewhere continues to decline.

Well, what does MFN really mean, by the way, if there are a lot of free traders in this country who believe that if one is against Most Favored Nation status for China, that means one is against any trade with China? Well, that is just not the truth. That is not what Most Favored Nation status is about. People are perfectly free to trade with a country that does not have Most Favored Nation status. In fact, one is free to do so, but one has to do so at one's own risk.

What Most Favored Nation status means is that the taxpayers of this country will guarantee investments made in Communist China and in other countries like Vietnam where we just gave them Most Favored Nation status through the Export-Import Bank or the World Bank or OPIC or many of these other institutions that were set up to utilize American taxpayers' dollars, the IMF and others, so that investments could be made in these brutal dictatorships to build factories there, and they would be guaranteed or they would be subsidized in some way by American tax dollars. That is what goes on when we are talking about Most Favored Nation status.

Mr. Speaker, this, in itself, is a betrayal of the American people, using our tax dollars to set up companies overseas that will put our own people out of work. Because those companies then produce products with slave labor, and they are brought into the United States, and they put out of work the same people who pay the taxes to secure the investment made overseas. That is an economic betrayal of our people.

Now, this result that our country is in jeopardy today from nuclear weapons is also a result of the blurring of the distinctions that permitted us to have this sort of crazy, unfair trading relationship with a dictatorship. And with us providing taxpayer guarantees for people who want to invest in dictatorships, there has been a blurring in our country of the distinction between what is a free country and what is a dictatorship.

Every time we turn around, when we try to condemn Adolf Hitler or Joseph Stalin, we have these people, and I might say they are modern-day people who are equivalent of the Hitlers and Stalins, we have people who say, yes, but you have race problems in the United States; or how about this or this or that unjustice that exists in this or that democratic country?

□ 1830

As if there is no difference between democratic countries and dictatorships. Well, there is a difference and we have our faults. But we are trying to do our best to correct them and we have made major strides in correcting our imperfections. But America at its most imperfect was better than any of these dictatorships and our President, of course, has blurred the distinction between right and wrong.

What is morality? What is right and wrong? What is giving your word? These things today with the scandal going on in the White House, and I will not go into any of that because what I am talking about tonight is far worse than that, but the distinctions of right and wrong have been blurred; of truth and honesty on one side, of lies and dishonesty on the other. There is a difference.

When people talked about character, that is what we talked about. At the same time, when someone gives their word and pledges they are against Most Favored Nations status for China and asks for a vote and then reverses himself immediately after the election, this creates something in people's mind that says even the President of the United States when giving his word it means nothing. At the same time that we have had these moral distinctions blurred we have been barraged in our country with talk about a global economy.

We are not just talking about our economy anymore and the well-being of our people, we are talking about a global economy, about a new world order, and about multinational corporations. Not companies, not American companies anymore. Not what is good for the American people, not policies aimed at building our standard of living, but instead the idea that we have got to go out and work for a global economy. We have got to have a system of stability around the world with economic interchange that the net result is the United States ends up propping up dictators and ends up creating stability for people who live under tyranny, which to them means keeping their tyrants in power and establishing trade relationships that provide those tyrants with weapons and the means to oppress their own people.

All of this has blurred, all of these things have blurred the concept of patriotism and loyalty and truth and justice and all of those things that America is supposed to stand for. But, of course, that is old fashioned and to stand for things, they say there is a single standard instead of a subjective standard, that is passe. Well, there are consequences to the blurring of morality. There are consequences to telling people there is no right and wrong and anyone can make an agreement and break it. There is a consequence when the level of patriotism in our society declines.

This is what has happened when American businessmen, some very high-tech businessmen, have gone overseas and made decisions that put not only our economic well-being at risk, not only selling out the economic well-being of the American working people who they tax in order to get a guarantee to build their factory in Vietnam or some other dictatorship in China. But some businessmen now we find are making decisions that are putting all of us at risk in order to bolster a business relationship with a communist dictatorship.

This story, it is a sad story, and here we are in a different world in which every man, woman, and child may well be in greater risk of nuclear annihilation because American technology was taken by an American citizen and given to the communist Chinese regime.

This story started a few years ago which several American aerospace companies pushed to have permission to launch their satellites on foreign rockets. This happened while I was a Member of Congress, and the arguments these companies made were legitimate arguments. They said that there were not enough launchers in the United States. Furthermore, if their satellites could be sold, some countries would demand that their satellites be launched on other rockets, cheaper rockets than could be afforded in the United States.

Well, knowing the different rockets and missiles that were available around the world, I agreed with that strategy, because our satellite industry is just as important as our missile industry in southern California. It is part of our aerospace industry. And satellite producers, they hire many, many thousands of people, just as rocket builders do. And so we could not jeopardize our satellite industry, which is in the forefront of technological development, could not sacrifice them because our rocket people were being left behind somewhat. And in fact in the years since then, I might add as chairman of the Subcommittee on Space, I have moved to ensure, and we had a pretty wide coalition behind this, to make sure that America's space delivery systems will outcompete any in the world and we are well on our way to developing new space transportation systems that will leave the old systems and our competitors overseas in the dust. But that is a few years down the road. But even then I might add when our systems are better, we will still be in jeopardy from a missile launched from China at the United States.

Mr. Speaker, later, after the satellite manufacturers were able to receive the permission to launch on foreign launchers, they went to what is called the Long March Rocket in China when they wanted to launch in China. The Long March Rocket is the mainstay of the Chinese rocket industry. Unfortunately, the Long March Rocket blew up often.

Mr. Speaker, I would like to just ask for one moment. I have been struck with some hay fever or a cold in the last two days and it seems to be getting to my throat so I will try to get through this text.

The Long March Rocket was being looked at by the satellite manufacturers of the United States as a way to put up their satellites, but this Long March Rocket blew up; three out of four Long March Rockets ended up blowing up. In fact it blew up more than it went up, as we like to say. And the insurance cost on putting a satellite that costs tens of millions of dollars on a Long March Rocket became prohibitive because the satellite makers could see that the chances of it blowing up were rather high.

By the way, those of us in Congress who approved of the idea of launching on foreign rockets understood this when that approval was given. There was never a hint anywhere along the line or in any legislation or by anyone that an American company had a right to transfer technology to the Chinese in order to improve the Long March Rocket. No one had suggested that. Everyone knew that was crossing the line. Yet American satellite manufacturers were faced with that dilemma. If they did not use the Long March, they would have to use the American rockets. The Chinese government supposedly did not want the American rockets and there were not enough American rockets around supposedly. But in my district they make the Delta rocket system. The only thing we are really talking about here is that if the Long March could not be used because it was too unreliable, it meant the cost of a launch would go up because there were more launches bidding for fewer missiles.

Well, instead of letting the cost go up, what it appears is that at least one, if not more, U.S. aerospace firms, instead of going to the United States and hiring American aerospace workers to do the job and to provide the rockets, these American companies passed on to the communist Chinese the know-how and the technology they needed to perfect their Long March Rocket.

Let us make this very clear. The alternative was using rockets that were produced in the United States, it would cost more money because American aerospace workers have a better product. They work harder. They are more equipped and they have got a better product. But yet instead of choosing the better product built by American workers at a higher price, these several companies, or maybe even just one company, but Americans, it appears may have chosen to perfect the Long March Chinese rocket rather than going with the Americans.

Thus, by making the Long March a more reliable space transportation system, these Americans at the same time were making the Chinese more capable of launching and delivering a nuclear weapon to the United States. The Long March Rocket has a history of misfires, explosions and unreliability. Today it is all different. Today there is an advertisement being run by the Chinese in Space News saying use the Long March Rocket and bragging about its reliability. That did not just happen. It was not a gift of the Tooth Fairy that permitted the Chinese to perfect the Long March. They did not just think of it because a ray of wisdom just shown down into their heads from above.

The Chinese engineers and rocket builders were not struck with some brilliance that they did not have before. What likely happened was an American, probably an American from a large American aerospace company, helped them upgrade their missile even though that left the people of the United States vulnerable to an attack by a communist Chinese nuclear weapon.

I cannot think of anything more despicable. I cannot think of anything in my 10 years in this office, or even before when I was a journalist, that matches this. I cannot believe that an American would dream of doing such a thing. But we have to live with that now because the Chinese rockets now, there is a new generation coming out and we can guess whether or not they are equipped with this same new technology that was transmitted to the Long March. We do not know, but we are going to get what really went on, who made this transfer, we are going to get to the bottom of it.

Hughes Electronics denies that it transferred any technology to the communist Chinese, even though Hughes Electronics is involved with launching satellites over China and was involved with one satellite that blew up on top of a rocket. So Hughes Electronics totally denies this and we have to give them the benefit of the doubt until we find out otherwise.

Loral Space, however, it appears that they may well have been deeply engaged in this situation. Loral may have, because Loral makes satellites and was involved in this satellite launch in China that blew up, Loral engineers may have just rolled up their sleeves and just looked at it and said to themselves, well, this is an engineering project and looked at it as just an engineering project to help the Chinese and not even thinking about the national security interests of the United States. I hope that no one at Loral thought of the national security interest of the United States when this was done. Because if they did, if it even crossed their mind that the people of the United States might be put in jeopardy, what they were saying to themselves was, to hell with the people of the United States, I do not care if every man, woman and child is in greater danger because of what I am doing. We are going to make sure this project is successful and we are going to make our profit on this Chinese satellite missile deal.

So I hope they did not think that way. I hope it never crossed their mind. I hope they just coldly and calculatedly went forward on an engineering project.

Of course, and we can be happy for this, this did not escape the attention of American watchdogs when they noticed that the Chinese were being given new technology that enhanced their capability to deliver nuclear weapons. I mean, after all, we have got some Americans whose job it is to see that this does not happen in our government.

Well, this is where the story gets really ugly. It even gets worse if we think it could get worse. It appears that an investigation into this illegal transfer was thwarted when permission was granted by the President, that is President Bill Clinton, to export some of the technology in question. Again, we have got to confirm this. We have got to see whether or not that is actually the case. But it appears in short, that our President may have knocked the legs out from under an investigation of this high tech betrayal by an action that, in effect, was retroactively permitting the transfer of this technology by saying that it no longer is illegal to transfer the technology.

□ 1845

Again, this has to be confirmed. We need to know if this can be verified or not. Whether it is verified or not or whether Motorola or Loral or any other company transferred this technology, we are going to have to find that out, too. This is something that calls out for clarification.

This President may have made it impossible for our people to intervene to prevent the Chinese in the future, prevent them from acts of aggression without risking our entire population. What are we talking about now? The risk to our population.

A Chinese missile system before that was antiquated and blew up on the launch pad equipped with American technology, equipped with American guidance systems, control technology, staged separation technology, and even perhaps MIRV technology.

MIRV technology. Do you know what MIRV technology is? MIRV technology is a rocket that has gone into space, and our aerospace companies may have said we can get it into space, but it cannot spit out a satellite. So we are going to give them an MIRV technology that, once the rocket is in space, it can spit out the satellite.

MIRV technology. It is exactly the same technology that permits a rocket to go into space and spit out a nuclear warhead; not just one nuclear warhead, but multiple nuclear warheads.

This is technology built in the United States of America for our protection and to deter war for the Soviet during the Cold War, that may have been given to the Communist Chinese to facilitate the launching of satellites for profit by that company; and, in the end, we find out that it has given them the ability not just to launch the missile to the United States, but launch a missile carrying multiple warheads. We need to know this.

One engineer described it to me. He said, Congressman, the Chinese missiles were going up, this launch was going up, and it would explode. It would explode because they did not have the stage separation technology they needed.

I looked at him, and I said, you mean it would go up and just explode before it goes into space? He said, that is right. And I looked at him and said, Red Chinese rockets exploding is a good thing. We like that. We like Communist rockets to explode before they get to their target. But I guess it is something that just no one had thought of in these companies, or whoever was giving this technology.

Now, this is the same administration, I might add, that thwarted the investigation into this or may have thwarted it; we will see about that. This is the same administration that thwarts our efforts right now to build a missile defense shield so that the United States can shoot down a missile that is launched at our country.

The Republicans and I do not want to be political here about it, because there are some Democrats that support an SDI missile shield as well, but Republicans have been trying to do this. This is Reagan's vision: Let us not build more missiles that carry rockets, that carry nuclear weapons.

Let us build a system instead, use the money that will build the system that will protect us against incoming rockets and incoming nuclear weapons. That makes all the sense in the world. Let us buy a shield rather than buy a sword. Now it is even more so that we even have a greater chance; it took a little longer than Ronald Reagan thought to build this thing, but we now have the capability.

If the Chinese would launch a rocket towards us, we would then have a way of stopping that rocket. Today, because this administration has put its thumb on missile defense time and time again, we do not have the ability to protect ourselves should the Chinese launch a rocket toward the United States.

To put this in perspective, there was a conflict about a year and a half ago in the Taiwan Straits, and the Red Chinese were shooting short-range rockets in the area of Taiwan. We took several carrier battle groups down there.

A noted Chinese general commented, well, the American people are someday going to have to decide between Taiwan and Los Angeles. His meaning was clear. That statement was never repudiated by the Chinese Government. They could launch one rocket to the United States and blow up Los Angeles, kill millions of people.

We do not have the ability to stop that now because the President will not let us build an adequate missile shield. Do you know what we would have to do? We would be faced with a choice of either retaliating and murdering, through a nuclear attack, millions of Chinese, most of whom love, probably love the United States and think of us as a good country, because their Chinese leadership is a dictatorship and holds them in a grip of tyranny. We would end up having to kill, we are going to wipe out Shanghai and all those millions of people because Los Angeles was bombed? That would be our option? That is a terrible option.

Number one, the Chinese should not have the capability of hitting us with nuclear weapons. But number two, we should have a shield so that we can defend ourselves so we are not faced with that choice. Yet, the same administration that thwarts our investigation into the Communist Chinese, perfection of Communist Chinese rockets, now prevents us from building a system to protect ourselves against missiles.

We are going to face this situation, and this issue will grow and will do nothing but grow until we get these questions answered. But it should not escape the attention of the American people that President Clinton will be visiting Communist China, will be visiting Communist China at the end of June.

What has just been announced by the White House? What have they just announced that the President is going to bring to China and offer to the Communist Chinese dictatorship? He is going to offer them a new package of space cooperation.

Well, my colleagues, I am the chairman of the Subcommittee on Space in this body. It is my job to oversee American space policy. There is nothing that the United States will benefit from by establishing a cooperative relationship with China over space. They have nothing to share with us.

I believe that this is nothing more than an attempt by this administration to hide the fact that there has been even more technological transfers to the Communist Chinese that we do not even know about now. Why else are we going to China to cooperate with them in space? Space missiles, missiles launched that will launch satellites, can launch nuclear weapons to the United States.

Who paid for this technology, by the way, that the President wants to share with the Communist Chinese? Who invented it? The American people are being betrayed when their tax dollars are being used to build competing companies overseas. That is to say, the same truth as they are being betrayed when we give somebody who hates us a missile or technology for a missile that is aimed at us and armed with a nuclear weapon.

Most people who have been following these late-night speeches know that for 3 years, I have fought to prevent our patent laws in the United States from being changed in a way that would open up our country to wholesale theft. Multinational corporations during this fight that I had, because they were trying to change our patent law, these multinational corporations were lined up in favor of that change.

That change in the patent law would have exposed each and every one of our new technological secrets to our economic adversaries, whether it is the Chinese or the Japanese or whoever, even before the patent to our inventors was issued.

After 18 months of someone that applied for a patent, his patent was going to be exposed to the whole world, even if he had not been issued the patent. I call it the Steal the American Technologies Act.

But do you know what? The American people rose up and we defeated that in this House. When it came to the floor, we were able to stop the worst provisions of that bill from becoming law, and we amended it with the amendment of the gentlewoman from Ohio (Ms. KAPTUR).

It went on to the Senate where it stuck in the Senate. Thank goodness it stuck over there. I do not know how we were able to do that. As the American people understand, it is technology that has given America the edge over the years to preserve the peace and to establish a place where people can prosper.

Ordinary working people can build lives of decency and clean homes and food, and people know that. They understand that it is technology, our technological lead that permits us, because people all over the world work hard. But it is here with technology and freedom that the average man can prosper and live a decent life.

In fact, there is no hope for anyone in the world, anyone who suffers under tyranny or deprivation unless America stands tall and America is strong. It is upon our shoulders that the future of mankind depends. We must have strong shoulders. We must have bright minds and strong shoulders. We must use our minds and use our strength to build a great Nation that will be the hope of all mankind, because there is no hope for others unless America stands tall.

But the American people, these people on whom we rely and everything, everyone in the world relies, they have been taken for granted, and their interests have been ignored so many times in these last 10 and 20 years.

Our economic and government elite in this country act as if they do not have to care about the American people, because after all, we are a prosperous people, and they are the Americans, you know; and they buy into these arguments that we cause all the problems in the world. If we did not exist, the Hitlers and the Stalins and the rest of the petty dictators that still control China would be in charge of this whole planet.

Now our economic and government elite are building a new world order, a global economy, a perfect planet run by multinational organizations like the United Nations and the World Trade Organization, et cetera, et cetera. These are the people who should be watching out for our interests but, instead, are building this global vision.

For one reason or another, it does not make any sense to me, and I do not think it makes any sense to most people. Count me as a patriot. Our goal should not be to make America like the rest of the world. Our goal should be to stand out from the rest of the world as an example of freedom and justice and opportunity and progress, an example that the rest of the world would want to follow.

The last thing, like in the patent law, what do they want to do to the patent law? They wanted to take the high American standards that protect the average person out there when he invents something and lower that standard to the world standard. That is what they wanted to do.

They wanted to make lower the American standard so that our people, our people then will see their rights diminished in order to harmonize the rights of all mankind. That is baloney. It is baloney. We should not be lowering our standards. We should be proud of our standards and proud of what we have accomplished as Americans.

We should not be signing treaties and trade agreements that let a country, a Communist country in particular, a dictatorship in particular like China, have an unfair trade advantage which yields them $50 billion every year because they flood their goods into our market at a lower tariff and our goods come in at a very high tariff. Who is watching out for our people?

It was the commitment to freedom of the American people that saved this planet throughout this century. If people want to talk about globalism, let them start talking about globalism and realize that the foundation of globalism has to be a strong United States of America and a citizenry of our country that is proud of liberty and justice and American traditions and will fight for the right when necessary; not an America, instead, where the American people are stooped and made to believe that our government is secondary to some other world body.

World War I, World War II, and the Cold War, if it was not for the Americans who stepped forward during these challenges to mankind, our planet, as I say, would be dominated by tyrants and despots and petty little gangsters.

The Cold War and what permitted us to win those wars, yes, it was the courage of our people, the faith that we had, our determination, our belief in freedom, and it was also won, especially the Cold War, was won by American technology and, yes, by the American aerospace worker.

We did not take the Communists on man for man. No one ever dreamed of taking the Communists on man for man. We would have lost hands down. We would have been unnerved. But we were technologically superior, not only in the weapons area, but in the production of wealth.

I will never forget when I visited the Soviet Union in 1986. I worked for Ronald Reagan in the White House. It was the first thaw during the time when Gorbachev took power in Russia.

☐ 1900

And I went there and I could not figure out what I wanted to bring, but I decided that I would bring a jar of peanut butter because I found out that they do not manufacture peanut butter in the Soviet Union. Imagine that. We were afraid of a country that could not even make peanut butter.

At the right moment, there were a group of young people there, and I took the jar out and I asked them if they would like to have a taste of America; see what America really tastes like. A couple of them stuck their fingers in. Now think about it; they had never tasted peanut butter before. And they said, oh, peanut butter. America is wonderful. Wonderful.

Then one came up to me after they huddled and they said, what are those marks on the side of the peanut butter jar? I said, well, that is the bar code. That is where the computer at the food store gives the customer a bill that is itemized, the price of the products on the customer's bill, and then notifies the inventory that an item has been sold. They huddled back up and talked about it, and then the Russian kid came up and said to me, that is why we do not trust Americans. They are always lying. Computers at a food store? Who are you kidding?

Well, at the Russian food stores they were using abacuses. They probably still are. And all the computers were used by the military. All of their computers were left for the military use, and that society was going down because they could not produce the wealth that was necessary to sustain after modern technological society. We won the Cold War when those people realized they were going to be left in the dust.

Now, the aerospace workers that gave us the edge in weaponry and built the weapon systems that deterred war, well, those people who are still in the aerospace business making rockets to send things into orbit are part of a very honorable profession. They are not building rockets to drop nuclear weapons; they are building rockets to send things into space. And for our companies just to try to bypass them and to go over and use some sort of slave labor in China is again a betrayal of those aerospace workers who saved us during the Cold War. These people build the best product. They do not deserve to be taxed and have our technology given to their adversary.

That is exactly what is going on here. This has been a betrayal, however, that does more than put aerospace workers' jobs in jeopardy; it puts us all in harm's way. And as I say, this is the same President who, perhaps, has thwarted, and we are going to find out if he did or not, this investigation into giving away of America's technology. This is the same President that has been thwarting our efforts to build a weapon shield.

Well, what we gave China—what we gave? What those people. Not "we" anymore. If they gave this away and put us in jeopardy, no American should call them "we" anymore, because they put themselves outside this family of people who believe in freedom and democracy if they have done something like that. We will move to protect ourselves. We will build a nuclear shield, because we can never take back this technology that we gave to technology.

Technology and freedom are two of our mainstays, and with technology and freedom we will live the dream of our Founding Fathers. We will continue to be the world's greatest democracy. We will continue to live in prosperity, and we will continue to live secure in our homes and families from the threats of foreign tyrants.

Now, let me summarize, as I come to a close tonight, and this is coming to the close of my hour, so I will discuss just what have we discussed tonight.

It appears that at least one American company, perhaps more, have transferred technology to the Communist Chinese that now permits them to hit the United States with nuclear weapons. President Clinton may have undercut an investigation or a prosecution into this betrayal.

The word is getting out, but the American people need to know the facts about this and we need to know the facts about this before the President's upcoming visit to China. The President should not stand in Tiananmen Square and make a joke of human rights by mentioning it at the same time that he completely ignores the massive violations of that regime and pushes for more and more trade and more giveaways to the Communist Chinese.

We must put the President on notice that, in his relationship with China, first and foremost he must be consistent with our American ideals of freedom and democracy and human rights. And even beyond that, he must make sure that he is watching out for the safety of our people, for the safety of the people of the United States of America.

I know all of what I have said is unnerving, and I can guarantee that there are people in this town who are committed to setting this situation right. I believe and am assured, and others can be assured as well, that the patriots who love this country will prevail.

OMISSION FROM THE CONGRESSIONAL RECORD

A portion of the following was omitted from the CONGRESSIONAL RECORD of Tuesday, May 5, 1998 at pages 8139–40 during the special order of the gentleman from Oklahoma (Mr. ISTOOK).

FREEDOM OF RELIGION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Oklahoma (Mr. ISTOOK) is recognized for 60 minutes.

Mr. ISTOOK. Mr. Speaker, I appreciate the opportunity to speak to the House and other citizens about a major issue which we will have on the floor of this body in 1 month.

Mr. Speaker, we have a great reverence and respect in the United States of America, and properly so, for the Constitution that was assembled and ratified by the States some 200 years ago, and the very first liberty that was put in the Bill of Rights, added to the original Constitution, is religious freedom.

The first amendment begins, Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, and with those plain simple words the Founding Fathers intended to establish two basic simple concepts. First, that this land would not have any official church so designated by an act of the Federal Government; secondly, that we would have the maximum of religious liberty in the United States of America.

Why did so many people come to this country if not seeking a land where they could freely exercise their religious beliefs and where they could exercise it right next to someone who might have some differences of faith but who would have not only a tolerance but a respect for those differences; who would say to one another, you may have your belief and I may have mine, and we believe that all men have a God-given right to acknowledge God according to the dictates of their own conscience; worship who, where, or how they may, and we respect that right, and we are not offended by the fact that someone may have a differing religious belief.

But, Mr. Speaker, it started 36 years ago that the Supreme Court took that very plain and simple language, that very plain and simple meaning, and they started to twist it, they started to distort it, they started to make misdirected rulings and basically said that if you are on public property, like a school, if you are on public property and you engage in an act of prayer or other religious expression, that that is the same as if this Congress had said that we are going to select for the American people what their faith must be. They said basically that an individual or a group of people coming together when they are on public property is the same as telling people what their beliefs must be as establishing a national church, an official religion. They are not the same thing at all.

But in 1962 the U.S. Supreme Court ruled that even when, even when students voluntarily choose to recite a prayer together, even when there was no compulsion that was involved, that was unconstitutional. And so began the controversy that has continued for a generation over voluntary prayer in public schools.

It has gotten so bad, Mr. Speaker, that the add-on decisions from the U.S. Supreme Court just made it worse. For example, in 1985; and Mr. Speaker, this was a decision that came from your home State of Alabama; the State of Alabama had passed a law that said, well, the Supreme Court says we cannot have vocal prayers by groups of students in public school, but we will permit students to have a moment of silence. A moment of silence was permitted by the Alabama law, and in 1985 the United States Supreme Court, just across the street from the Capitol building over here, the United States Supreme Court said permitting a moment of silence was unconstitutional because it could be used by students for silent prayer.

Now I thought the Constitution at least guaranteed the right to remain silent, but not if you are using that silence in a school to offer a prayer. That was the U.S. Supreme Court. That is part of the warped rulings that have so twisted the first amendment that people cannot recognize the results that are achieved under it.

In 1992 they said if it is at a public school graduation, if there is a prayer there, that was unconstitutional because, and this case was from Rhode Island and it was a rabbi that was asked to offer the prayer, but because students were expected to be respectful of the prayer, just as they were expected to be respectful of the other things that occurred during the graduation.

Because they were expected to be respectful, the Supreme Court said, oh, no, having a prayer at graduation of school; my goodness, that too is unconstitutional because some students might think that just by being silent, others may think that they are joining in the prayer. And therefore to protect them, no matter what the majority wants, no matter how it steps upon and stomps upon the beliefs and the wishes of other people engaging in free exercise of religion and free speech, the U.S. Supreme Court said the prayer at that graduation was unconstitutional.

And there have been other decisions. In 1980, out of Kentucky, the Supreme Court ruled that to permit the Ten Commandments to be posted in a public school was unconstitutional.

Now, Mr. Speaker, I know the Ten Commandments are the basis of our laws. They are the starting point for the laws not only in the U.S.A. but in so much of the entire world, and they are common to many different cultures and to different faiths. But the U.S. Supreme Court said they cannot be put on the wall of a public school.

And yet here in this House Chamber I see right before me, right before my eyes as I face the opposite wall, Mr. Speaker, is the large bas-relief, the image, of Moses, the great law giver, the one who brought the stone tablets down from Mt. Sinai with the Ten Commandments written with the finger of God.

The walls of the Supreme Court have the Ten Commandments depicted upon them.

We open sessions of this Congress, Mr. Speaker, with prayer.

The U.S. Supreme Court opens with "God save the United States and this honorable Court."

And we have right above your head, Mr. Speaker, the words that we find on currency in America, "In God We Trust." And do you know that is under attack? There are people who want to take that off currency.

And let us take the State of Ohio. Ohio has a State motto, and it is kind of akin to ours, of "In God We Trust.", Theirs is, "With God All Things Are

Possible." They are being sued right now, Mr. Speaker, to stop that from happening. They are being sued by those who say, oh, you cannot say with God all things are possible in a public setting that involves public property, such as the grounds of the State capital of Ohio or anyplace else where they may want to put their State motto.

And the ACLU is suing in West Virginia to stop prayers at high school football games, and we have communities all over the country that have different suits pending. For example, I was reading one today, a community near Kansas City, Missouri, and in that community one of the emblems on their city seal is a fish, and the ACLU is saying oh, my goodness, that is one of the emblems of the Christian faith, so let us have it taken off.

Where will this intolerance stop? When will it end? When will the faith of the American people be able to be expressed freely? When will the Supreme Court stop things such as this and their rulings against nativity scenes, menorahs? Just came down a number of years ago, came out of Pennsylvania, at the courthouse there, I believe it was Allegheny County in Pennsylvania, and they had, among different holiday displays they had a nativity scene, they had a Jewish menorah, they had other things, too. But the Supreme Court said it is possible to look at that nativity scene and see it by itself and not notice the other secular emblems that might be on display. And they said if you have a display such as that, you have to balance it with Santa Claus, plastic reindeer, Frosty the Snowman. It is what we call the plastic reindeer test, except now the courts, they had a Federal court ruling in New Jersey just this last December saying, well, even though you have balanced a nativity scene with other secular emblems, Santa, Frosty, and so forth, no, the nativity scene still must go because it is too powerful, and it is more powerful than the secular emblems.

I am tired of all that. I am tired of that and so many other cases that I can describe, whether it be from the Supreme Court, the Federal appellate courts or the Federal courts, or whether it be the intimidation that it creates where schools say, my goodness, we have got to really, really stay away from anything, even if it is legal, because we do not want to get sued and we do not want to have these huge legal bills.

And every year, and it is about this time that probably there are letters going out again that the ACLU and their fellow believers, I guess, send out letters to schools saying, "Don't you dare have a prayer at your graduation unless you want to be sued."

I remember the case in Texas, in Galveston, at I believe it was Santa Fe or Santa Fe Ball High School at Galveston where a Federal judge told them, "Well, because of another court ruling, I'll let you have a prayer at graduation if the students insist on it, but I will have a U.S. marshal there, and that U.S. marshal will arrest anyone if they mention the name of Jesus Christ as part of that prayer."

□ 2115

He said that on the record. There is a transcript of it that the Federal judge said that.

Mr. Speaker, I have to come back to the gentleman's home State of Alabama. Alabama is suffering under an order from a Federal judge right now that was issued last year from Judge Ira Dement, and Judge Dement's order has really taken things to a new height.

I want to share some of the words that Judge Dement has written in a ruling that was issued just a few months ago, as requested by people who wanted to stop prayer that they were still having in some schools in Alabama in different settings. And this is what Judge Dement's order says: He said, The schools there are permanently enjoined from "permitting prayers, biblical and scriptural readings and other presentations or activities of a religious nature at all school-sponsored or school-initiated assemblies and events, including, but not limited to, sporting events, regardless of whether the activity takes place during instructional time, regardless of whether attendance is compulsory or noncompulsory, and regardless of whether the speaker or presenter is a student, school official, or nonschool person."

Regardless of the circumstances, at any time, whether it is during class time or not class time, whether it is on the school grounds or off the school grounds, whether one has to be there as a student or one does not have to be there as a student, if there is a prayer from anyone, the judge said, they are going to answer to him.

Mr. Speaker, he is not kidding. He has, at the expense of the school system, hired monitors to patrol the school and the hallways, and they have had student after student after student after student be expelled because they do not believe a Federal judge should have that much control over their freedom of speech and their freedom of religion. And if a group of students want to get together and they want to have a prayer, then why is it that only the opinion of the one that does not like it is the one that counts; and the opinions of those who want to have a prayer, their opinions are ignored?

Mr. Speaker, in addition to prayer, we start sessions of this House with the Pledge of Allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all. And Mr. Speaker, the Supreme Court made a proper ruling in relation to the Pledge of Allegiance. The case came out of West Virginia.

The Supreme Court said, no student can be compelled to say the Pledge of Allegiance, but they did not give a student that did not like it the right to stop their classmates or censor their classmates who wanted to say it.

Mr. Speaker, that is the standard we ought to be applying to school prayer. Nobody should be forced to participate, of course not. But that does not give them the right to show their intolerance by trying to censor their classmates that may want to say it.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. ISTOOK. Mr. Speaker, I will if the gentleman will let me make one point first, and that is simply the point to which I am building, that we have to do something about it.

We are going to be having a vote in this House in a month on doing something about it, and it is called the Religious Freedom Amendment, to make it possible for students to have prayer in public schools, to make it possible for the Ten Commandments to be displayed, to make it possible to have holiday displays, recognizing the religious traditions or heritage or beliefs of the people, and to correct the abuses of our first amendment, the beautiful language of the first amendment which has been corrupted by the Supreme Court.

I would be happy to yield to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding.

As the gentleman knows, I am a cosponsor and have plans to support the gentleman's amendment and congratulate the gentleman who, over the past now, 4 years now, correct?

Mr. ISTOOK. Mr. Speaker, I believe it is 3 years. Well, closer to 4 now, the gentleman is correct.

Mr. KINGSTON. Four years to get this done, and I do not think anyone would ever have anticipated how long it would take to get this to the floor, particularly when we have so many Members of Congress on both sides of the aisle who have sponsored, in some form or the other, school prayer, voluntary school prayer amendments.

I do have a question, though, that has been raised by some people in my district that have expressed some concerns, and I think I mentioned some of them to the gentleman.

In the case of a classroom, as I envision this, say first period in the morning, after rollcall, whatever, should a student lead a school prayer, he or she would have a right to, after the Religious Freedom Amendment is adopted by the requisite number of States, correct?

Mr. ISTOOK. Yes. This would not permit government to tell them that they must pray, it would not permit government to tell them what the content of the prayer would be; but absolutely correct, I say to the gentleman, it would permit students to initiate prayer as part of their school day when they start it. Or it might be the school assembly or it might be a football game or graduation or some other school activity. The point is, it would be a permitted activity, but never compulsory.

Mr. KINGSTON. Mr. Speaker, what would keep a teacher from salting the group for one particular religion over the other or encouraging the favoritism of one religion over the other?

Mr. ISTOOK. Certainly, Mr. Speaker, I think that it is interesting that, of course, people are concerned that we do not use the pressure or influence of government to try to tell them what their faith or what their religion should be. And, of course, government might act through Congress, it might act through a school board, it might act through a principal or a teacher. The key there is to make sure that we reinforce the prohibition on government acting to compel anyone to be engaged in any particular religious activity.

I think the best way that we can focus upon that is by looking at the text of the Religious Freedom Amendment, which is the proposed constitutional amendment. Let me share it. I think the text itself helps to answer your questions.

The text of the Religious Freedom Amendment, which is House Joint Resolution 78, reads as follows:

> To secure the people's right to acknowledge God according to the dictates of conscience, neither the United States nor any State shall establish any official religion. But the people's right to pray and to recognize their religious beliefs, heritage or traditions on public property, including schools, shall not be infringed. Neither the United States nor any State shall require any person to join in prayer or other religious activity, prescribe school prayers, discriminate against religion, or deny equal access to a benefit on account of religion.

So we have, several places in the amendment, placed language meant to safeguard. For example, we have the language, "according to the dictates of conscience," which parallels language that is found in a number of State constitutions, to make it clear that the rights of an individual conscience remain inviolate. We do not want to step upon anyone's. We have the requirement that we do not require any person to join in prayer or any other religious activity, and we do not have a government prescription that a prayer must occur, nor what the content should be.

So it really goes back to the principle that is followed in schools in so many other ways, and that is, they provide students an opportunity to take turns so that it is not just one type of prayer or one particular faith's way of saying a prayer that is heard, but different people will have their opportunities on different occasions.

Mr. KINGSTON. Mr. Speaker, let me ask the gentleman this question, which is less than friendly.

Mr. ISTOOK. Okay.

Mr. KINGSTON. Mr. Speaker, if we have a minority religion in a group, say the predominant members of a class predominantly are Christian, Jewish and Muslim, and we have another child out there who is 7 years old, and we are going around the circle with the Big 3, but he has some obscure religion. I do not know what would be an example; say he is a Zen. How do we keep that 7- or 8-year-old from being proselytized by the other religions because he is going to be a little bit embarrassed to stand up for his religion because of peer pressure? At that age, nobody has the fervency of their convictions, but children know what the majority is doing and in order to fit in, often they want to do what it takes to fit in with the majority.

Mr. ISTOOK. Certainly.

Mr. KINGSTON. So, Mr. Speaker, they do not have that spiritual maturity that would allow them to tolerate it and say, well, let us go ahead and have that person's prayer today.

How would this deal with that?

Mr. ISTOOK. Sure. Certainly we recognize that different children will have different levels of maturity; and it is not something, of course, when we talk about people that may feel sometimes like they are not necessarily part of a group, it may not be religion. It may be how people dress, it may be how people look, it may be how people talk, it may be the shoes they wear, it may be what type of music they choose for listening. It can be all sorts of things.

I think that we do a disservice if we say that we know that children are going to have differences among them in other respects and that part of learning and part of growing is understanding that there are differences and learning to cope with those, but if we set apart religion and say, but if it is a religious difference, that is somehow a threatening topic, and that we must protect children from knowing that there are some differences.

I think we need to look at the words of a Supreme Court Justice, Potter Stewart. I am going to paraphrase him; I have the exact quote, but not in front of me.

When he was talking about this discussion, when he dissented from what the Supreme Court did, from what his fellow justices did, and he said several interesting things. One of them was that we cannot expect children to learn about diversity, to learn that different people will have different beliefs and different faiths, if we try to isolate them and shield them from that knowledge until they are adults, as though it were some type of dangerous activity or something that is reserved for adults. If we do that, he says, we will foster in people the belief that this is something that is threatening, that it is something that needs to be pushed aside and pushed away or kept in a corner, rather than something that should be understood.

Basically, we are teaching intolerance at an early age if we tell people it has to be suppressed rather than respected when they have those differences, and that is where the schools should properly show the proper respect, whether they say, well, different people have had a chance and this person does it a little differently and we ought to respect that and learn from it. That is how we learn tolerance and diversity.

Mr. KINGSTON. Mr. Speaker, on that subject, let us say we have somebody who is a goat worshiper.

Mr. ISTOOK. I am sorry?

Mr. KINGSTON. Mr. Speaker, a goat worshiper, a devil worshiper or a bizarre type of religion. Now, they want to have equal time. Do we want our child in the room when that prayer is taking place? That would probably, it might in a Christian parent cause a little concern, the same way it would cause the goat worshiper's parent to have concern when the Christian prayer is going on.

Now, I only say that to the degree that, as our society gets more and more diverse, it is reasonable to expect in a country of 260 million people some folks who are in a very minority, extreme minority-type religion who pray perhaps in a bizarre way; and by that I mean, maybe they do not bow their heads when they pray, maybe they scream or something. And I am only phrasing this question in a hypothetical right now, but it is still very possible for some fringe religions to get under the Religious Freedom Amendment equal time in the classroom, so to speak, and it is fair, the way the gentleman has bent over backwards to draw this thing so fair that it will happen.

How does the gentleman answer those concerns?

□ 2130

Mr. ISTOOK. Mr. Speaker, I think the first thing of course that we all need is perspective on it, because frequently I find that some people want to construct what they think is a trap. They will first say, oh, the Religious Freedom Amendment is only meant to enthrone the rights and the beliefs of a majority of Americans, and therefore to suppress those who may not be among the majority in their beliefs. They are wrong in what they assert because obviously we are trying to be evenhanded.

Then they take the other side of the argument and they say, oh, well, if that is the case then it is also bad because there may be some people, such as the gentleman described, whose practices are distasteful to others. And, therefore, they say no matter which way we go, they are against it.

The real agenda of course of such persons is they just are not tolerant toward other people's faith in prayer, whether in the minority or majority. But in a situation such as the gentleman described, the perspective to understand is that there may be some very rare and isolated occasions when someone may wish to offer a prayer that others will find distasteful. But should we say that because there will be very, very rare occasions of that, therefore we must suppress and stifle and censor the millions and millions of positive, uplifting prayers of hope, of vision, of seeking for faith and seeking for guidance in the day?

It is sort of like having free speech in our society. In fact, it is a parallel to free speech in our society. We all recognize that part of the price of free speech is there will be occasions when someone does not go into the bounds of pornography, which is illegal, but does get into the bounds of tastelessness and offensive speech that nevertheless we recognize is protected.

The same is true of religious expression. And I would submit that actually the cases such as the gentleman has described of someone who has something that is distasteful to others, and of course they can choose if they wish, if something is that distasteful to them, if they want to leave the room or something that is fine. Like I say, it would be a very, very, very rare occasion.

But those cases usually have already been protected by Supreme Court decisions. There is one, for example, protecting the Santeria religion that involves animal sacrifice. I believe the case involved the City of Hialeah, which said a community could not outlaw the way they were killing animals as part of their sacrificial rituals because that was protected by freedom of religion. That is under the First Amendment as it is now.

But the same Supreme Court does not wish to protect majority faiths. They have ruled against a cross, for example, in a city park in San Francisco that has been there for 65 years. They say that has to come down, a cross being included among numerous symbols on the seal of the City of Edmond, Oklahoma, in my district, similar rulings in Oregon and Hawaii, in Stowe, Ohio, against the inclusion of a Christian emblem among multiple other emblems and they say that is unconstitutional, yet that same Supreme Court has said that a Nazi swastika is constitutionally protected. That was in a case in Skokie, Illinois, where the American Nazis were walking through the street with the swastika and the Court ruled that the symbol of hate is constitutional, but the symbol of hope is unconstitutional.

Mr. KINGSTON. Mr. Speaker, there is no doubt in my mind that there is a special place in hell for a number of Federal court judges, as I am sure there will be for Members of Congress.

Mr. ISTOOK. Let us hope that there are some special places above for many of us as well.

Mr. KINGSTON. Probably plenty of room for judges and congressmen and many others.

Who will decide if the school puts up the Ten Commandments or the Articles of Goat Worship? The reason I ask that, yesterday I was at the dedication of the Coastal Middle School in Savannah, Georgia. I was at the dedication of the Freedom Shrine, which the Chatham County Exchange Club has given to many, many schools, and it is a great thing and it has the Constitution, the Declaration of Independence, George Washington Inaugural Address and all sorts of good documents of American history. And as I was looking at the Freedom Shrine I was wondering how do they decide which documents go? Do you put the Gettysburg Address in there or Lincoln's second inaugural speech?

Mr. ISTOOK. A beautiful, moving document.

Mr. KINGSTON. Yes, so those judgments have to be made, and the Chatham County Exchange Club does that. I do not know how they do that, but they do it. But who decides if the Ten Commandments gets put on the wall or the Articles of Goat Worship?

Mr. ISTOOK. I think this is an interesting question, and I think that the issue is really freedom. Frankly, that it is not our job to make those decisions from Washington, D.C. Those decisions for a local community can be made in a local community, so long as they are not trying to establish or endorse a particular or official religion. So I do not think that the Congress of the United States should even attempt, and I do not think it is our place to try to say court houses in Georgia, in Colorado, in Alabama, in Oklahoma, in California, or any place else for the United States Congress to establish the standards of what can be put on the walls of county court houses or city halls all around the country, nor do I think it is the role of the U.S. Supreme Court.

In other words, we have bodies that make those decisions right now. People made the decision what art work is going to hang in the Chamber of this Congress. That decision included the visage of Moses and there are also the images of a couple of popes, as I am sure the gentleman is probably well aware, among people with legislative or legal significance.

So when we are asked the question who decides, I think that is going to be basically an issue of who is involved in that community or in that State, if it may be a decision that involves the State facility, and of course then when it becomes a national facility, we have the Ten Commandments depicted in the U.S. Supreme Court Chambers, and that is a decision for the U.S. Supreme Court. What is in the Chambers of Congress is a decision for Congress. We have different Federal agencies, State agencies and local ones.

I think what we have to do is get away from this "big brother" notion that says that the Supreme Court is the fount of all wisdom and it should describe standards and everyone else has to follow those standards before they can hang something on the wall. The test should not be whether we have hung something on the wall which everyone likes or some people like and others do not like. The test should be did we actually take some action that truly tries to make people follow a faith selected for them as opposed to choosing to put up something that was significant to the religious traditions, heritage or beliefs of that particular community, which obviously will differ in some places around the country. That is called diversity.

What we have to do is to get away from this terribly false politically correct notion that we cannot do anything unless everybody agrees. If we are told that if we say or do something which may give offense to another, and the problem may be in their thin skin, not in what we set out to do or to express, but if we are told that only if everybody agrees with something that is the only circumstance when we can utter it, that is a totally false standard. That flies in the face of the concept of freedom. It flies in the face of free religion, it flies in the face of free speech, and yet that is increasingly what we are being told that everyone, everyone must stifle and suppress their religious expression and their religious beliefs and accept muzzling and censorship of it just to make sure that there is not one person sitting there that chooses to take offense.

It is about time that we understand that the intolerance frequently is not on the part of someone that is voicing a religious opinion. The intolerance is on the part of the one who wants to shut them up.

Mr. KINGSTON. Well, let me ask the gentleman this question. This is endorsed by a number of Christian groups.

Mr. ISTOOK. And those of many other faiths as well.

Mr. KINGSTON. The gentleman has worked hard with such groups. Can the gentleman tell me the non-Christian groups who are supporting this?

Mr. ISTOOK. I do not have the full list with me, but for example we have an organization of Jewish rabbis which is called Toward Tradition.

Mr. KINGSTON. Is the Jewish rabbi group, is this a large group or an outsider group?

Mr. ISTOOK. I do not know the actual number of how many hundreds or thousands of rabbis are in this particular organization. It is a national organization of rabbis. The American Conference of Jews and Blacks, the American Muslim Network, those are some of the non-Christian groups. And of course there are many that are Christian groups, and we would expect that of course because that is the faith of most Americans.

Mr. KINGSTON. Does this religious freedom amendment have a web page, a freestanding web page?

Mr. ISTOOK. It certainly does.

Mr. KINGSTON. Because I think if people want to have some of these questions answered, and I know the gauntlet the gentleman has gone through in the last four years, having answered just about every question that has ever been raised on this, but not everybody has heard the questions or the answers.

How do they find this out? How do they find out some non-Christian groups that are endorsing it?

Mr. ISTOOK. Mr. Speaker, I very much appreciate the reference there. The web page that we have established for reference is religiousfreedom.house.gov., and I should caution people, do not put a www in front of it, or they will get a totally different web page. But it is religiousfreedom, all one word, religiousfreedom.house.gov.

There, as the gentleman is aware and I appreciate him pointing it out, we have a wealth of information. Detailed legal analysis and going through different Supreme Court decisions and other decisions and citing this. Copies of many of the endorsement letters that we have received. Papers discussing how does this fit in with the notion of separation of church and State. How does it fit in with the claims different people make about well are we a captive audience to this? All of these different questions that are sometimes posed are discussed and answered at that web site. So it is a great resource that people can utilize to get more information. We even have made it easy for people to download and if they want to copy and distribute documents as handouts to other people, it is a very useful place.

Mr. KINGSTON. If they have a particular question, they should first search the web page and then if they cannot find their question and answer they need to contact the office of the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Correct. And we have an e-mail set up on the web page for that.

Mr. KINGSTON. Mr. Speaker, could the gentleman give his address for people who do not have computers.

Mr. ISTOOK. Mailing address? Certainly. They can reach me, and the last name is spelled I-S-T-O-O-K, Congressman Istook at 119 Cannon House Office Building, Washington, D.C. 20515.

I would like to take a moment to mention a couple of other aspects about the religious freedom amendment because as the gentleman from Georgia knows, this has not been a lightly pursued undertaking. It is only because it has been 36 years now since the Supreme Court rendered its original decision suppressing prayer in so many circumstances in public schools and all the other approaches have basically been tried and exhausted and the route of the constitutional amendment is the only one left to be workable.

But we have tried to make sure as we mentioned before, frankly. There is more language here to safeguard against any effort at government control of religion, there is more text in the amendment devoted to those safeguards than there are to express that students should have the right to pray in public schools and that the religious traditions or heritage or beliefs should be something that could be freely expressed.

I, like so many other parents with children in public school, have gotten sick of looking at all the times when we go to school, we think it is going to be a special occasion, maybe it is a special school activity or pageant in December. They have the school choir and we say, well, they are going to sing some different holiday songs. We hear "Here Comes Santa Claus" and "Walking in a Winter Wonderland" and "Rudolph" and "Frosty the Snowman," but we do not hear "Silent Night" or "O Come All Ye Faithful" or Jewish Chanukkah songs, and it is because of the fear of lawsuits and in some cases actual court decisions that have gone that far.

The U.S. Post Office a couple of years ago took down the banners that said Happy Chanukkah or Merry Christmas in the Post Office.

□ 2145

They will not let those be displayed anymore. They had to fight with some people to keep issuing the Christmas holiday stamps.

Take the Internal Revenue Service. One of its big offices in California issued an edict to all of their workers saying, on your own desk and in your personal work space, you cannot have any type of religious item or symbol. It might have been a Bible. It could have been a Star of David. It could have been a little nativity scene, a picture of Christ. Whatever it was, they said those were taboo. They cannot be there on your own desk.

I wrote the IRS, and I have said, why have you done this? They sent back a letter to me. They said items which are considered intrusive, such as religious items or sexually suggestive cartoons or calendars must be prohibited. That was their full description of the restricted items, a religious item or something that is sexually suggestive.

Mr. KINGSTON. This was the IRS?

Mr. ISTOOK. This was the Internal Revenue Service.

Mr. KINGSTON. They are doing such a good job on tax simplification and tax clarity that they have enough time to worry about something that is offensive.

Mr. ISTOOK. Yes. The ones that they categorize as offensive, if it is a religious symbol or if it is sexually suggestive or pornographic. But do you see the connection? Why do they lump a religious item or symbol in the category of things that are offensive to people? That is exactly what they have done. They treat it as something that is suspect or something that is dangerous, which is wrong to do.

Mr. KINGSTON. If the IRS is cracking down on people posting things that are offensive to most people, then obviously, you cannot put up an IRS sign, because that is far more offensive than most of the other items that they are talking about.

Mr. ISTOOK. Maybe they should have banned an emblem of the IRS itself since that is, as you point out, offensive to many people.

But that is such a dangerous trend. But you see, it is not only the IRS. If you read the Supreme Court decision in the case of Lee v. Weisman, that is the graduation prayer case, in it, Justice Kennedy, writing on behalf of the Supreme Court, says, Assuming as we must that the prayer which the rabbi offered at the graduation was offensive, so the Supreme Court said we must assume that a prayer at a public school graduation is an offensive act. Four of the justices disagreed. It was a 5 to 4 decision.

Mr. KINGSTON. What year was this?

Mr. ISTOOK. This was 1992. In this particular case, and I would like to read something from the words of the justices who disagreed with what their brethren on the court had done. The four justices who dissented from this were Scalia, Thomas, Rehnquist, and White. Let me read what they said. This goes back to something that the gentleman from Georgia asked before about what happens when we are able to recognize, yes, we have got some differences of opinion among religion, and it is not a threat to anyone.

This is what those four justices, Scalia, Rehnquist, White and Thomas wrote in their dissent in Lee v. Weisman, and I quote now their words: "Nothing, absolutely nothing is so inclined to foster among religious believers of various faiths a toleration, no, an affection for one another than voluntarily joining in prayer together to the God whom they all worship and seek. Needless to say, no one should be compelled to do that. But it is a shame to deprive our public culture of the opportunity and, indeed, the encouragement for people to do it voluntarily. The Baptist or Catholic who heard and joined in the simple and inspiring prayers of Rabbi Gutterman on this occasion was inoculated from religious bigotry and prejudice in a manner that cannot be replicated. To deprive our society of that important unifying mechanism in order to spare the nonbeliever what seems to be the minimal inconvenience of standing or even sitting in respectful nonparticipation is as senseless in policy as it is unsupportable in law."

So they were talking about what we were discussing before, that the act of people of different faiths sharing a common respectful experience creates, as they said, not just a toleration, but an affection for one another and an appreciation of what we have in common, because it emphasizes the things which we share, rather than emphasizing the ways in which we differ.

Mr. KINGSTON. Now, I want to ask another question, though. You say in some of your frequently asked questions that the Religious Freedom Amendment does not permit teachers or any other agent of the government to proselytize or to dictate that any person must join in prayer or to prescribe what prayer should be said. Where is that wording in here?

Then what would keep the teacher from praying?

Mr. ISTOOK. What we have here is a clear requirement, because a teacher, of course, as any person who is part of local government, is considered an agent of State government. That is a binding rule of law. Local government is a subset of State government. So when we say, "Neither the United States nor any State shall require any person to join in prayer or other religious activity," you are saying that no agent of government can dictate to people you have got to pray or we are going to pressure you to participate in some sort of religious activity. That is to avoid just trying to get people to join in the prayer if they may not want to do so, but trying to make sure that you are also not trying to push them into any other type of religious activity. So we have tried to make sure that we cover that as well as other concerns of people with that language.

Mr. KINGSTON. But that would mean you could have prayer which is not student led. You could have teacher-led prayer.

Mr. ISTOOK. You can have the initiative for prayer that must come, not from government, but from the students, because following that, we have the requirement that it says, "Government shall not prescribe school prayers." That means two things. You do not prescribe or dictate that they must occur. Secondly, you do not prescribe or select the content of those prayers.

Is it possible, for example, let us take a case such as the graduation case in Rhode Island, the Lee v. Weisman case, Rabbi Leslie Gutterman was invited to offer the prayer. Should students, on some occasion, invite someone else to join the prayer? Yes. That could be permitted. But the initiative must come from the students, not from government.

Let me tell you a personal story that relates to that, because I recall, in 1963, when I was a student in junior high school in Fort Worth, Texas. That day, our whole school had let out briefly to walk down to the highway to see the motorcade where the President of the United States was passing by as he was going to downtown Fort Worth to Carswell Air Force Base and passing our community to do so to get on to Airforce One and make a quick hop over to Dallas where he was shot and killed. That was November 22nd, 1963. I recall, of course, we had just seen the President that morning, the shock as the first, the rumors and then the confirmation spread through the school.

You can imagine, of course, as from your own experiences, because we are of the generation where everybody knows where they were the day that John F. Kennedy was assassinated, and I recall on that occasion, despite what the Supreme Court had ruled just the year before, and I cannot tell you to this day who offered it, but the whole school shared in the prayer over the school intercom.

If you took the case today and the order that Judge Dement has issued in the State of Alabama, whoever offered that prayer could be put in prison under the judge's order. So we need to recognize that there are extraordinary circumstances, and there are extraordinary deeds, and there are times that we need to reinforce the common bonds, just as these four justices said in their dissent, that we need to reinforce those common bonds.

Mr. KINGSTON. Okay. So let us say under an order, a typical American schoolroom right now, the difference that this would make is that, at some point in the day, the students could ask to pray, be it at the homeroom, or would they have to go to a separate room and take the time off of recess or whatever, because it would appear to me there could be scheduling problems, something mundane and routine.

Mr. ISTOOK. That is not the job or the responsibility of the Congress of the United States or the Supreme Court to decide what should be the scheduling of a public school if a school chooses to make an opportunity during homeroom time or at school assemblies or whatever it may be, depending upon what are the wishes of the people that are involved there.

You see, unfortunately some people have gotten so accustomed to a system where people say Washington, D.C. is going to tell us how to do everything, that we have to get all the details and all the instructions and all the fine print out of Washington, D.C. That is contrary to the notion of freedom. It is contrary to the notion of federalism that says the Federal Government is intended to be a government of limited powers.

So it is not for us to decide or dictate how a particular school or State may implement different things. It is merely for us to enunciate the standards. That is the purpose of the Constitution.

Mr. KINGSTON. But should a child go to see the teacher and say, all right, I would like to say a prayer, my dad is in the hospital right now; the teacher says, that is fine, Johnny, but we are going to call roll, and we are going to go to our math class, and we are going to follow that with English and social studies and lunch, and then we are going to go home. There is no time.

So what does Johnny do, say you are infringing on my religion? The teacher may say, no, you can pray, but we do not have time. The constitutional amendment does not require that I give you a set time. Now, Ms. Jones down the hall, it is okay with her to have 30 seconds out in the morning.

Mr. ISTOOK. I think that the dissent into that minutia or trivia is not the intent of any constitutional amendment. For example, we have many rights that the U.S. Constitution expresses in absolute terms. Let us take free speech. The Constitution says that we have the right to free speech. It is in the First Amendment. It does not say there are any limits whatsoever on it.

But right now, if a student does not like what is going on in social studies, they can not insist, oh, I am going to start talking about math or English or some other topic. You still have requirements for orderly behavior, whether it be free speech or whether it be someone that might be wishing an opportunity to have a prayer at public school.

The courts have recognized that there are time, place, and circumstance requirements of reason. By the same token, free speech is not absolute, because obscenity, pornography are not protected by free speech. The right of free speech does not give someone the right to libel or slander someone without bearing legal responsibility for the results of that act.

Mr. KINGSTON. Even in this Chamber, we cannot say everything that we sometimes want to.

Mr. ISTOOK. We have rules in this Chamber, you are correct. I was going to mention another important one.

Free speech does not give someone the ability to incite people to engage in violent acts or to overthrow of the government. Yet, the First Amendment says simply that we have free speech, that Congress shall not abridge free speech. Those things are not considered abridgements.

So, too, when you say the people, under the Religious Freedom Amendment, have the right to pray, it does not mean that a child has the ability to interrupt a class whenever they may want to because they say, I can only interrupt regardless of the time or place or circumstance to offer a prayer. You have the same reasonable requirements to keep things orderly that are understood as the courts have clearly held in a multitude of decisions that relate to public schools.

□ 2200

So that, I think, is the best answer we can give to the question that the gentleman posed when someone says, well, gee, if I cannot do what I want to do and to do it right now, that my constitutional rights are being infringed upon. I do not think we want to teach our kids that and certainly the Religious Freedom Amendment would not do that.

Mr. KINGSTON. Let me ask the gentleman this. Some of the critics feel that right wing Christian extremists are pushing this. And I have seen literature that labels groups who advocate this amendment.

Mr. ISTOOK. And they probably labeled the gentleman, who is one of the cosponsors, as a right wing religious extremist. Of course, they are wrong on that.

Mr. KINGSTON. That would not be the first time. The question, though, this is a constitutional amendment. Therefore, it has to pass this House by 290 votes.

Mr. ISTOOK. Yes, by 290 votes. By two-thirds of those who vote. If everybody votes, it would be 290.

Mr. KINGSTON. Now, the gentleman has 152 co-sponsors.

Mr. ISTOOK. Approximately that number; correct.

Mr. KINGSTON. And there are people who will support this but will not cosponsor it.

Mr. ISTOOK. Correct.

Mr. KINGSTON. But it would appear to me the gap between 152 and 290 is still a large one.

Mr. ISTOOK. That is typical, of course, because most pieces of legislation have far fewer co-sponsors than they do have people who actually vote for them.

Mr. KINGSTON. And if people want to find out if their Representative is a co-sponsor, they can go to that Web page.

Mr. ISTOOK. They can go to the Web page and we have that information for them there.

Mr. KINGSTON. Now, should this pass the House, it has to get 60 votes in the Senate.

Mr. ISTOOK. Here is the requirement, for this or any other constitutional amendment. The requirement that is set forth, in I think either article 5 or 6 of the Constitution, sets up the way that the Constitution is amended.

Now, the way the Supreme Court does it, they issue a ruling which bends or twists or distorts or breaks the Constitution, and then we have to go through this process to correct it. So the way the Founding Fathers intended is, we have to have a vote on a constitutional amendment that is approved by two-thirds of the House and by two-thirds of the Senate and then is ratified by three fourths of the State legislatures.

Now, it is important to note that in the process of ratifying it, we do not need a two-thirds vote within a State legislature. We only need a simple majority. But we have to have the simple majority from three-fourths.

It is also important to note the President of the United States and the governors of the several States do not have any formal or official role in any constitutional amendment. It is something that is done through the legislative bodies, both in the Congress and in the State legislatures. And the Religious Freedom Amendment specifies a period of 7 years for the States to consider ratification of this.

Mr. KINGSTON. Does the gentleman have a similar piece of legislation being introduced and worked in the Senate?

Mr. ISTOOK. Our intent is first to have the House vote, which will create the incentive for the Senate vote. And there are multiple Members of the Senate who are potential principal sponsors in the other body.

Mr. KINGSTON. But the reality is this has a long, long way to go. As far as the gentleman from Oklahoma has gone with it, he is only at the starting gate still.

Mr. ISTOOK. But we are at a key position, because this amendment has been approved by the Subcommittee on the Constitution of the Committee on the Judiciary, and approved by the House Committee on the Judiciary. That is the first time a committee of this House has ever approved an amendment on voluntary school prayer. Only one other time, in 1971, did we have a vote in this body on such a proposal, and that was done with a mechanism that bypassed the committee process.

So even though, as the gentleman correctly notes, the Constitution establishes a deliberately difficult process for any constitutional amendment, we have come through the necessary stages to bring it to a vote in this House. And it will be the first vote in this body since 1971.

And that is something that, frankly, ought to embarrass the many Congresses that have met year after year since then. Because if we look at public opinion polls since 1962, consistently three-fourths of the American people say we want a constitutional amendment to make it possible to have voluntary prayer in public schools again. Not compulsory, but not with the kind of restrictions they put on efforts to have prayer in public schools today. So it is long overdue for this body to act.

And I want to make note, too, that this is what has happened before, when the U.S. Supreme Court went in one direction and the Congress and the American people said it is the wrong direction. The most prominent of the constitutional amendments that have been adopted to correct the Supreme Court was the 13th amendment to abolish slavery, because the Supreme Court in the Dred Scott decision had said Congress and the States do not have the power and do not have the right to abolish slavery. That took a constitutional amendment.

Mr. Speaker, I appreciate the time and the opportunity this evening to address this important issue to restore the full range of religious freedom that the Founding Fathers intended; that the first amendment in its simple terms was meant to represent before it was twisted, unfortunately, by the court decisions. And I certainly look forward to the vote that we will be having in this House in a month, and I hope that the citizens who are represented by the Members of this Congress will talk to the Members of this Congress and tell them that they need to be supporting the religious freedom amendment.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DIXON (at the request of Mr. GEPHARDT) for today, on account of medical reasons.

Mr. DOYLE (at the request of Mr. GEPHARDT) for today, on account of family illness.

Mr. MCHUGH (at the request of Mr. ARMEY) for today after 2 p.m., on account of official business.

Mr. PARKER (at the request of Mr. ARMEY) for today and the balance of the week, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STENHOLM) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.
Mr. BENTSEN, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Mr. MCGOVERN, for 5 minutes, today.
Ms. CARSON, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.
Mr. DOGGETT, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.

(The following Members (at the request of Mr. PAPPAS) to revise and extend their remarks and include extraneous material:)

Mr. BRADY of Texas, for 5 minutes, today.
Mr. MICA, for 5 minutes, today.
Mr. DUNCAN, for 5 minutes, today.
Mr. GUTKNECHT, for 5 minutes, today.
Mr. FOLEY, for 5 minutes, today.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. STENHOLM) and to include extraneous matter:)

Mr. KIND.
Mr. ORTIZ.
Mr. MILLER of California.
Mr. BAESLER.
Mr. MCGOVERN.
Mr. BENTSEN.
Mr. BOYD.
Mr. CUMMINGS.
Mr. LIPINSKI.
Mr. KUCINICH.
Mr. LEVIN, in two instances.
Ms. STABENOW.
Mr. ALLEN.
Mr. TOWNS.
Ms. LOFGREN.
Mr. BLAGOJEVICH.
Mr. MANTON.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mrs. MCCARTHY of New York.

(The following Members (at the request of Mr. PAPPAS) and to include extraneous matter:)

Mr. GEKAS.
Mr. DAVIS of Virginia, in two instances.
Mr. WATTS of Oklahoma.
Mr. COLLINS.
Mr. EHRLICH.
Mr. JOHNSON of Texas.
Mr. BONILLA.
Mr. SMITH of Michigan.
Mr. BOB SCHAFFER of Colorado.
Mr. KNOLLENBERG.

(The following Members (at the request of Mr. ROHRABACHER) and to include extraneous matter:)

Mr. HAMILTON.
Mr. MATSUI.
Mr. PACKARD.
Mr. GINGRICH.
Mr. LANTOS.
Ms. MILLENDER-MCDONALD.
Mr. GORDON.
Mr. CRANE.
Mr. GEKAS.
Mr. BLAGOJEVICH.
Mr. FOX of Pennsylvania.
Mr. SMITH of Oregon.
Mr. LOBIONDO.
Mr. CONYERS.
Mr. ALLEN.

ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 7 minutes p.m.), under its previous order the House adjourned until Monday, May 11, 1998, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9006. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1997–1998 Marketing Year [FV98–985–2 IFR] received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9007. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Pine Shoot Beetle; Quarantined Areas [Docket No. 97–100–2] received May 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9008. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Peroxyacetic Acid; Exemption From the Requirement of a Tolerance [OPP–300654; FRL–5789–3] (RIN: 2070–AB78) received May 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9009. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Hydrogen Peroxide; Exemption from the Requirement of a Tolerance [OPP–300655; FRL–5789–4] (RIN: 2070–AB78) received May 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9010. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Post Bankruptcy Loan Servicing Notices (RIN: 0560–AE62) received May 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9011. A letter from the Assistant Secretary, Special Education and Rehabilitative Services, Department of Education, transmitting notice of the Final Funding Priorities for Fiscal Years 1998–1999 for four Rehabilitation Research and Training Centers and two Disability and Rehabilitation Research Projects, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

9012. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Notice of Final Funding Priorities for Fiscal Years 1998–1999 for Certain Centers and Projects—received May 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9013. A letter from the Director, Office of Regulatory Managemetn and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Conditional Limited Approval of the Pennsylvania VOC and NORACT Regulation; Correction [PA041–4069; FRL–6009–3] received May 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9014. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans: Oregon [OR–67–7282, OR–70–7285; FRL–5976–5] received May 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9015. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Indian Springs, Nevada, Mountain Pass, California, Kingman, Arizona, and St. George, Utah) [MM Docket No. 96–171 RM–8846 RM–9145] received May 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9016. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Ashdown and DeQueen, Arkansas) [MM Docket No. 97–223 RM–9014] received May 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9017. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule— Listing of Color Additives for Coloring Sutures; D&C Violet No. 2 [Docket No. 95C–0399] received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9018. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule— Lipase Enzyme Preparation From Rhizopus Niveus; Affirmation of GRAS Status as a Direct Food Ingredient [Docket No. 90G–0412] received May 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9019. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule— Radiology Devices; Classifications for Five Medical Image Management Devices [Docket No. 96N–0320] received May 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9020. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report of political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

9021. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9022. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12–331, "Juvenile Curfew Amendment Act of 1998" received May 1, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9023. A letter from the Executive Director, Federal Labor Relations Authority, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1997, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

9024. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Vermilion Snapper Size Limit [Docket No. 970804190–7190–01; I.D. 070997A] (RIN: 0648–AJ89) received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9025. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Recreational Red Snapper Component [Docket No. 970730185–7206–02; I.D. 111297D] received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9026. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component [I.D. 040998A] received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9027. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder and Scup Fisheries; Readjustments to 1998 Quotas; Commercial Summer Period Scup Quota Harvested for Maryland [Docket No. 971015246–7293–02; I.D. 041398A] received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9028. A letter from the Senior Attorney, Federal Register Certifying Officer, Financial Management Service, transmitting the Service's final rule— Administrative Wage Garnishment (RIN: 1510–AA67) received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9029. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Falcon 2000 Series Airplanes [Docket No. 98–NM–130–AD; Amendment 39-10507; AD 98–09–26] (RIN: 2120–AA64) received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9030. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Diamond Aircraft Industries Models H–36 "Dimona" and HK 36 R "Super Dimona" Sailplanes [Docket No. 97–CE–134–AD; Amendment 39–10505; AD 98–09–24] (RIN: 2120–AA64) received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9031. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone; Greenwood Lake Powerboat Classic, Greenwood Lake, New Jersey [CGD01–98–015] (RIN: 2115–AA97) received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9032. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 1998 [Notice 98–27, 1998–18 I.R.B.] received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9033. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Golden Belt Telephone Cooperative v. Commissioner [T.C. Docket No. 21677–95] received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9034. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 98–26] received May 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 1 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. H.R. 1023. A bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes; with amendments (Rept. 105–465 Pt. 2). Ordered to be printed.

Mr. SOLOMON: Committee on Rules. H.R. 3534. A bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes; with an amendment (Rept. 105–515). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2416. A bill to provide for the transfer of certain rights and property to the United States Forest Service in exchange for a payment to the occupant of such property, and for other purposes; with an amendment (Rept. 105–516). Referred to the Committee of the Whole House on the State of the Union.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2730. A bill to designate the Federal building located at 309 North Church Street in Dyersburg, Tennessee, as the "Jere Cooper Federal Building" (Rept. 105–517). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2225. A bill to designate the Federal Building and United States Courthouse to be constructed on Las Vegas Boulevard between Bridger Avenue and Clark Avenue in Las Vegas, Nevada, as the "Lloyd D. George Federal Building and United States Courthouse" (Rept. 105–518). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3453. A bill to designate the Federal Building and post office located at 100 East B Street, Casper, Wyoming, as the "Dick Cheney Federal Building" (Rept. 105–519). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3295. A bill to designate the Federal Building located at 1301 Clay Street in Oakland, California, as the "Ronald V. Dellums Federal Building" (Rept. 105–520). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 255. A resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; with an amendment (Rept. 105–521). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1965. Referral to the Committees on Ways and Means and Commerce extended for a period ending not later than, June 19, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. FRANKS of New Jersey, and Mr. WISE) (all by request):

H.R. 3805. A bill to authorize activities under the Federal railroad safety laws for fiscal years 1999 through 2002, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. WOLF:

H.R. 3806. A bill to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes; to the Committee on International Relations, and in addition to the Committees on the Judiciary, Banking and Financial Services, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KNOLLENBERG (for himself, Mrs. EMERSON, and Mr. KLINK):

H.R. 3807. A bill to prohibit the use of Federal funds to implement the Kyoto Protocol to the United Nations Framework Convention on Climate Change unless or until the Senate has given its advice and consent to ratification of the Kyoto Protocol and to clarify the authority of Federal agencies with respect to the regulation of the emissions of carbon dioxide; to the Committee on Commerce.

By Mr. UPTON (for himself, Ms. RIVERS, Mr. EHLERS, Mr. DINGELL, Mr. CAMP, Mr. LEVIN, Mr. KILDEE, Mr. KNOLLENBERG, Mr. BONIOR, Mr. SMITH of Michigan, Ms. KILPATRICK, Mr. BARCIA of Michigan, Ms. STABENOW, Mr. HOEKSTRA, Mr. CONYERS, Mr. STUPAK, Mr. COBLE, and Mr. BLILEY):

H.R. 3808. A bill to designate the United States Post Office located at 47526 Clipper Drive in Plymouth, Michigan, as the "Carl D. Pursell Post Office"; to the Committee on Government Reform and Oversight.

By Mr. CRANE (for himself, Mr. SHAW, and Mr. HASTERT):

H.R. 3809. A bill to authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes; to the Committee on Ways and Means.

By Mr. FRANKS of New Jersey:

H.R. 3810. A bill to designate the United States Post Office located at 202 Center Street in Garwood, New Jersey, as the "James T. Leonard, Sr. Post Office"; to the Committee on Government Reform and Oversight.

By Mr. HYDE (for himself and Mr. HOYER):

H.R. 3811. A bill to establish felony violations for the failure to pay legal child support obligations, and for other purposes; to the Committee on the Judiciary.

By Mr. BLUNT (for himself and Mr. COBURN):

H.R. 3812. A bill to amend title 49, United States Code, to permit State and local governments to adopt or continue in force speed limits for trains lower than Federal speed limits; to the Committee on Transportation and Infrastructure.

By Mr. CLAY (for himself, Mr. MARTINEZ, Mr. FORD, Mr. SAWYER, Mr. RUSH, Mr. DELAHUNT, Ms. LOFGREN, Ms. DELAURO, Mr. CONYERS, Mr. FATTAH, Mr. CUMMINGS, Mr. PAYNE, Mr. ANDREWS, Ms. WOOLSEY, Mr. KILDEE, Ms. WATERS, Mr. TOWNS, Mr. ROMERO-BARCELO, Mr. SCOTT, Mr. PASTOR, Mrs. MINK of Hawaii, and Mr. KUCINICH):

H.R. 3813. A bill to assist certain urban and rural local educational agencies that have a high concentration of children from low-income families; to the Committee on Education and the Workforce.

By Mr. EWING:

H.R. 3814. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of insulin pumps as items of durable medical equipment; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAM JOHNSON (for himself, Mr. LEVIN, Mr. ENGLISH of Pennsylvania, Mr. HOUGHTON, Mr. PRICE of North Carolina, Ms. LOFGREN, Mr. DOOLEY of California, and Mr. BENTSEN):

H.R. 3815. A bill to amend the Internal Revenue Code of 1986 to provide for a medical innovation tax credit for clinical testing research expenses attributable to academic medical centers and other qualified hospital research organizations; to the Committee on Ways and Means.

By Mr. LIPINSKI:

H.R. 3816. A bill to amend the Internal Revenue Code of 1986 to allow the deduction for contributions to medical savings accounts, and the deduction for health insurance costs, to employees of small employers that do not offer any group health plan to their employees; to the Committee on Ways and Means.

By Mr. MEEHAN (for himself and Mr. BRYANT):

H.R. 3817. A bill to exempt professional sports leagues from liability under the antitrust laws for certain conduct relating to the relocation of their respective member teams; to establish procedures and remedies applicable to such leagues with respect to the relocation of such teams, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MICA:

H.R. 3818. A bill to provide additional compensation for certain World War II veterans who survived the Bataan Death March and were held as prisoners of war by the Japanese; to the Committee on Veterans' Affairs.

By Ms. MILLENDER-MCDONALD:

H.R. 3819. A bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mrs. MALONEY of New York, Mr. DEFAZIO, Mr. MARKEY, Mr. OLVER, Mr. HINCHEY, Mr. UNDERWOOD, Mr. NADLER, Mr. HILLIARD, Ms. PELOSI, and Mr. FARR of California):

H.R. 3820. A bill to repeal a limitation on use of appropriations to issue rules with respect to the valuation of crude oil for royalty purposes; to the Committee on Resources.

By Mr. PORTMAN (for himself, Mr. GOSS, Mr. HAMILTON, Mr. SKELTON, Mr. ARCHER, Mr. DIXON, Mr. GINGRICH, Ms. PRYCE of Ohio, Mr. DICKS, Mr. HOBSON, Mr. STENHOLM, Mr. FROST, Mr. MURTHA, Mr. SMITH of Oregon, Mr. SISISKY, Mr. LAZIO of New York, Mr. PICKETT, Mr. LEACH, Mr. HALL of Texas, Mr. SUNUNU, Mr. TRAFICANT, Mr. CANNON, Mr. PICKERING, Mr. EDWARDS, Mr. BONILLA, Mr. COX of California, Mr. DELAY, Mr. ORTIZ, Mr. LATOURETTE, Mr. REGULA, Mr. THORNBERRY, Mr. DUNCAN, Ms. GRANGER, Mr. SAM JOHNSON, Mr. SMITH of Texas, Mr. BASS, Mr. BOEHLERT, Mr. CASTLE, Mr. GIBBONS, Mr. LEWIS of California, Mr. MCCOLLUM, Mr. SHUSTER, Mr. YOUNG of Florida, Mr. OXLEY, Mr. WOLF, and Mr. LIVINGSTON):

H.R. 3821. A bill to designate the Headquarters Compound of the Central Intelligence Agency located in Langely, Virginia, as the George H.W. Bush Center for Central Intelligence; to the Committee on Intelligence (Permanent Select).

By Mr. SMITH of Michigan (for himself and Mr. MINGE):

H.R. 3822. A bill to amend title II of the Social Security Act to require investment of the Social Security trust funds in marketable securities, and for other purposes; to the Committee on Ways and Means.

By Mr. ROYCE:

H. Con. Res. 273. Concurrent resolution expressing the sense of the Congress that the annual rate at which the International Monetary Fund charges interest on loans should be comparable to the average annual rate of interest in financial markets for loans of comparable maturity, adjusted for risk; to the Committee on Banking and Financial Services.

By Mr. YOUNG of Florida (for himself, Mr. STOKES, Mr. SPENCE, Mr. GEKAS, Mr. COBURN, Mr. MCDADE, Mr. SHAW, Mr. CALLAHAN, Mr. ENSIGN, Mr. GOODE, Mrs. MINK of Hawaii, Mr. PASTOR, Mr. RAHALL, Mr. HASTINGS of Florida, Mr. DOOLEY of California, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MARTINEZ, Mr. PETERSON of Pennsylvania, Ms. SLAUGHTER, Ms. WATERS, Mr. HOYER, Mr. MCDERMOTT, and Ms. PELOSI):

H. Con. Res. 274. Concurrent resolution recognizing the 50th anniversary of the National Heart, Lung, and Blood Institute, and for other purposes; to the Committee on Commerce.

By Mr. BURTON of Indiana (for himself, Mr. ARMEY, Mr. BOEHNER, Mr. DELAY, Mr. SOLOMON, Mr. HYDE, Mr. LIVINGSTON, Mr. ARCHER, Mr. GILMAN, Mr. GOODLING, Mr. BLILEY, Mr. GOSS, Mr. SPENCE, Mr. STUMP, and Mr. TALENT):

H. Res. 422. A resolution expressing the sense of the House of Representatives that law enforcement officers who have died in the line of duty should be honored, recognized, and remembered for their great sacrifice; to the Committee on the Judiciary.

By Mr. HASTERT (for himself, Mr. HUTCHINSON, Mr. GINGRICH, Mr. ARMEY, Mr. DELAY, Mr. BOEHNER, Ms. DUNN of Washington, Ms. PRYCE of Ohio, Mr. PORTMAN, Mr. LINDER, Mr. MCCOLLUM, Mr. GILMAN, Mr. GOODLING, Mrs. MYRICK, Mr. BARR of Georgia, Mr. BARTON of Texas, Mr. WATTS of Oklahoma, Mr. LEWIS of Kentucky, Mr. NETHERCUTT, Mr. LUCAS of Oklahoma, Mr. FRANKS of New Jersey, Mr. SNOWBARGER, Mr. DOOLITTLE, Mr. WAMP, Mr. BONILLA, Mr. MICA, Mr. ADERHOLT, Mr. HAYWORTH, Mr. BLUNT, Mr. SHADEGG, Mr. WELLER, Mr. FORBES, Mr. SMITH of New Jersey, Mr. BASS, Mr. BURR of North Carolina, Mrs. KELLY, Mr. WATKINS, Mrs. BONO, Mr. WICKER, Mr. COLLINS, Ms. ROS-LEHTINEN, Mr. LAHOOD, Mr. PORTER, Mrs. FOWLER, Mr. EWING, Mrs. NORTHUP, and Mr. PAPPAS):

H. Res. 423. A resolution expressing the sense of the House with respect to winning the war on drugs to protect our children; to the Committee on Commerce.

By Mr. HAMILTON (for himself, Mr. COX of California, Mr. VISCLOSKY, and Mr. CAMPBELL):

H. Res. 424. A resolution requiring members, officers, and employees of the House of Representatives to submit reports on travel to the Clerk of the House which include information on the source of funds used to pay for such travel, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. METCALF:

H. Res. 425. A resolution expressing the sense of the House of Representatives regarding the policy of the United States at the 50th Annual meeting of the International Whaling Commission; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GILLMOR introduced A bill (H.R. 3823) to authorize conveyance of a National Defense Reserve Fleet vessel to the Ohio War Memorial, Inc., for use as a memorial to Ohio veterans; which was referred to the Committee on National Security.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 165: Mrs. THURMAN.

H.R. 306: Mr. DUNCAN and Mr. MCINTOSH.

H.R. 598: Mr. MCHUGH.

H.R. 678: Mr. YOUNG of Florida, Mrs. MYRICK, Mr. SENSENBRENNER, and Mr. KOLBE.

H.R. 902: Mr. ARMEY, Mr. REDMOND, and Mr. GOODLATTE.

H.R. 953: Ms. KAPTUR, Mr. CUMMINGS, and Mr. SNYDER.

H.R. 981: Mrs. KENNELLY of Connecticut.

H.R. 986: Mr. LARGENT.

H.R. 1054: Mr. SKEEN.

H.R. 1126: Mr. TOWNS, Mr. QUINN, and Mr. CALLAHAN.

H.R. 1147: Mr. COBURN.

H.R. 1302: Mr. MALONEY of Connecticut.

H.R. 1375: Mr. MILLER of California and Mr. REDMOND.

H.R. 1415: Ms. KILPATRICK.

H.R. 1539: Mr. STOKES.

H.R. 1572: Ms. SLAUGHTER.

H.R. 1730: Ms. LOFGREN.

H.R. 1891: Mr. MCDERMOTT.

H.R. 1984: Mr. SHADEGG.

H.R. 2094: Mrs. ROUKEMA.

H.R. 2198: Mr. BURTON of Indiana and Mr. WALSH.

H.R. 2202: Mrs. CAPPS and Mr. BERMAN.

H.R. 2330: Mr. ENGEL.

H.R. 2431: Mr. CAMP and Mr. COOK.

H.R. 2450: Mr. FROST, Ms. LOFGREN, Ms. PELOSI, and Mr. KOLBE.

H.R. 2642: Mr. LEWIS of Georgia.

H.R. 2670: Mr. HINCHEY.

H.R. 2695: Mrs. TAUSCHER.

H.R. 2708: Mr. WELLER, Mrs. JOHNSON of Connecticut, Mr. JOHN, Mr. MINGE, Mr. PRICE of North Carolina, and Mr. FAWELL.

H.R. 2721: Mr. SKEEN, Mr. COBURN, and Mr. ENSIGN.

H.R. 2829: Mr. LATOURETTE and Mr. SNYDER.

H.R. 2888: Mr. SAM JOHNSON, Mr. SANDLIN, Mr. MCHUGH, Mr. HALL of Texas, Mr. GRAHAM, Mr. HOEKSTRA, Mr. SHAW, Mr. TALENT, Mr. DAVIS of Florida, Mr. BOYD, Mr. MCINTOSH, Mr. LEWIS of California, and Mr. UPTON.

H.R. 2908: Mr. HINCHEY, Mr. DAVIS of Illinois, Mr. MALONEY of Connecticut, Mr. SANDERS, Mr. CRAPO, Mr. LATHAM, and Mr. TRAFICANT.

H.R. 2912: Mr. GILCHREST.

H.R. 2921: Mr. LAMPSON and Mr. FARR of California.

H.R. 2931: Mr. MILLER of California, Mr. LAFALCE, and Mr. MASCARA.

H.R. 2936: Mr. SUNUNU.

H.R. 2949: Mr. TALENT.

H.R. 2987: Mr. KING of New York, Mr. MCNULTY, Mr. GORDON, and Mr. MORAN of Virginia.

H.R. 2990: Mrs. CAPPS, Ms. VELÁZQUEZ, Mr. PICKETT, and Mr. WOLF.

H.R. 3048: Mr. HALL of Texas, Mr. KUCINICH, and Mr. BLUMENAUER.

H.R. 3050: Mr. PICKETT, Mr. SCHUMER, and Mr. KENNEDY of Massachusetts.

H.R. 3097: Mr. FOSSELLA.

H.R. 3099: Mr. BARRETT of Wisconsin.

H.R. 3129: Mrs. TAUSCHER.

H.R. 3140: Mr. RADANOVICH, Mr. MURTHA, Mr. COOK, Mr. POMBO and Mr. SHAW.

H.R. 3156: Mr. EDWARDS, Mr. KIND of Wisconsin, Mr. TURNER, Mr. MURTHA, Mr. ORTIZ, Mr. HOLDEN, Mr. RODRIGUEZ and Mr. WATKINS.

H.R. 3166: Mr. HOSTETTLER.

H.R. 3177: Mr. PICKERING.

H.R. 3207: Ms. ROYBAL-ALLARD and Mr. POMEROY.

H.R. 3216: Mr. SCOTT and Mr. EDWARDS.

H.R. 3240: Ms. KAPTUR.

H.R. 3243: Mr. WELDON of Florida.

H.R. 3279: Ms. RIVERS.

H.R. 3290: Mr. PICKETT, Ms. VELÁZQUEZ, and Mr. LEWIS of Georgia.

H.R. 3292. Mr. LEWIS of Georgia.

H.R. 3400. Mrs. TAUSCHER.

H.R. 3470. Mr. LIPINSKI and Ms. SLAUGHTER.

H.R. 3499. Mr. WYNN, Mr. LEWIS of Georgia, and Mr. TOWNS.

H.R. 3506. Mr. BAKER, Mr. COLLINS, Mr. DICKEY, Mrs. EMERSON, Mr. FRELINGHUYSEN, Mr. GALLEGLY, Mr. GEKAS, Mr. GILLMOR, Mrs. JOHNSON of Connecticut, Mr. LATHAM, Mr. LAZIO of New York, Mr. MCDADE, Mr. MCHUGH, Mr. NORWOOD, Mr. PETRI, Mr. PICKERING, Mr. PITTS, Mr. RILEY, Mr. SKEEN, Mr. SMITH of New Jersey, Mr. SMITH of Oregon, Mr. SOLOMON, Mr. TAUZIN, Mr. THUNE, Mr. WICKER, Ms. NORTON, and Mr. BARRETT of Nebraska.

H.R. 3514. Mr. HOYER.

H.R. 3526. Mr. GEJDENSON.

H.R. 3540. Mr. BARRETT of Wisconsin, Mr. BARCIA of Michigan, Mr. ENGLISH of Pennsylvania, and Mr. LIPINSKI.

H.R. 3541. Mr. HILL, Mrs. MORELLA, Mr. BRYANT, Mr. BILIRAKIS, Mr. GREEN, Mr. NEUMANN, Mrs. EMERSON, Mr. ANDREWS, Mr. BOYD, Mrs. CHENOWETH, Mr. WELDON of Florida, Ms. HARMAN, Mr. HALL of Texas, and Mr. ROTHMAN.

H.R. 3553. Mr. MOAKLEY, Mr. PAYNE, Mr. ROMERO-BARCELO, Ms. PELOSI, Mr. SANDERS, Mr. DIAZ-BALART, Mr. OWENS, Mr. STARK, Mr. FROST, Mr. BONIOR, Mr. MARTINEZ, Mr. MENENDEZ, Mr. ORTIZ, Mr. UNDERWOOD, Mr. PASTOR, Mr. REYES, Mr. HINOJOSA, Ms. VALAZQUEZ, Mr. TORRES, and Mr. RODRIGUEZ.

H.R. 3567. Mr. GOSS.

H.R. 3584. Mr. PASCRELL.

H.R. 3605: Mr. BARRETT of Wisconsin, Mr. COSTELLO, and Mr. TIERNEY.

H.R. 3613: Mr. SCARBOROUGH and Mr. BROWN of California.

H.R. 3615: Mr. FARR of California and Mrs. THURMAN.

H.R. 3629: Mr. DEFAZIO.

H.R. 3636: Ms. CHRISTIAN-GREEN.

H.R. 3648: Mr. SOLOMON, Mr. STEARNS, Mr. QUINN, Mr. FOSSELLA, Ms. PRYCE of Ohio, Mr. HASTINGS of Washington, and Mr. GILMAN.

H.R. 3654: Mr. FOLEY, Mr. WELLER, and Mrs. EMERSON.

H.R. 3659: Mr. MCINTOSH, Mr. MURTHA, Mr. JENKINS, Mr. METCALF, Mr. MANZULLO, Mr. MCHUGH, Mr. FROST, Mr. SNYDER, and Mr. BERRY.

H.R. 3661: Mr. DAVIS of Virginia and Mr. BISHOP.

H.R. 3666: Mr. RUSH, Mr. POSHARD, Mr. MEEKS of New York, Ms. SLAUGHTER, Mr. RAHALL, Mr. HASTINGS of FLorida, Mr. OLVER, Mr. UNDERWOOD, Mr. MENENDEZ, Mr. WAXMAN, and Mr. MANTON.

H.R. 3690: Mr. WHITFIELD, Mr. ADERHOLT, Mr. HOSTETTLER, Mr. GILLMOR, Mr. JENKINS, Mr. HOBSON, and Mr. SKELTON.

H.R. 3729: Mr. FRANKS of New Jersey, Mr. CHABOT, Mr. FOLEY, Mr. OXLEY, and Mr. ENGLISH of Pennsylvania.

H.R. 3734: Mr. LARGENT, Mr. MANZULLO, Mr. WATTS of Oklahoma, Mr. BOB SCHAFFER, Mr. BARTON of Texas, Mr. HAYWORTH, Mr. KOLBE, and Mr. GRAHAM.

H.R. 3743: Ms. WOOLSEY, Mrs. MALONEY of New York, Mr. LIPINSKI, Mr. TIERNEY, Mr. FRANKS of New Jersey, Mr. BORSKI, Mrs. MINK of Hawaii, Mr. POSHARD, and Mr. LINDER.

H.R. 3749: Mr. KLECZKA, Mr. HUTCHINSON, Mr. SKEEN, Mrs. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. BOEHLERT, Mr. HORN, Mrs. JOHNSON of Connecticut, and Mr. GILCHREST.

H.R. 3768: Mr. FROST, Ms. LOFGREN, Mr. THOMPSON, and Ms. NORTON.

H.R. 3775: Mr. LEWIS of California.

H.R. 3779: Mr. WAXMAN, Mr. OLVER, Mr. HAYWORTH, Mr. CUMMINGS, Mrs. MCCARTHY of New York, Mr. BARRETT of Wisconsin, Mr. BALDACCI, Mr. NADLER, Mr. KING of New York, Mrs. MEEK of Florida, Mr. HASTINGS of Florida, Mr. GILCHREST, Mr. WEYGAND, Mr. OBERSTAR, Mr. SMITH of New Jersey, Mr. PAYNE, Mr. ABERCROMBIE, Mr. MEEHAN, Mr. MATSUI, Mr. LEWIS of Georgia, Mr. FILNER, Mr. SISISKY and Ms. PELOSI.

H.R. 3785: Mr. NEY, Mr. BRYANT, Mr. ENGLISH of Pennsylvania, Mr. YOUNG of Florida, Mr. COX of California, Mr. ROHRABACHER, and Mr. BARTLETT of Maryland.

H.R. 3792: Mr. GINGRICH, Mr. DELAY, Mr. HASTERT, Mr. WOLF, Mr. DAVIS of Virginia, Mr. SAXTON, Mrs. CHENOWETH, Mr. BILIRAKIS, Mr. SHAYS, Mr. HAYWORTH, Mr. ROYCE, and Mr. BURR of North Carolina.

H.J. Res. 113: Mr. GILMAN.

H.J. Res. 114: Mr. PASCRELL and Mr. WELDON of Florida.

H. Con. Res. 181: Mr. GUTIERREZ, Mr. HALL of Ohio, Mr. LIPINSKI, Mr. MCINTYRE, and Mr. SCOTT.

H. Con. Res. 214: Mr. GOODE, Mr. MORAN of Virginia, and Mr. FORD.

H. Con. Res. 219: Mr. DAVIS of Illinois, Ms. RIVERS, Mrs. LOWEY, Mr. BARTON of Texas, Mr. LIPINSKI, Mrs. CLAYTON, and Mr. BAKER.

H. Con. Res. 233: Mr. RANGEL.

H. Con. Res. 250: Mr. TOWNS.

H. Con. Res. 267: Ms. STABENOW.

H. Con. Res. 268: Mr. GREEN, Mr. SCHUMER, and Mr. LANTOS.

H. Con. Res. 271: Mr. THOMAS, Ms. ESHOO, and Mr. MCKEON.

H. Res. 399: Mr. BARR of Georgia.

H. Res. 401: Ms. DELAURO.

H. Res. 404: Mr. ROYCE, Mr. CAMP, and Mr. UNDERWOOD.

SENATE—*Thursday, May 7, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign God, and ultimate Ruler of this Nation and the One to whom we are accountable, we join with millions of Americans across this land in humble repentance on this National Day of Prayer. We know that repentance is confessing our need and returning to You. In so many ways, we have drifted from You, Holy Father. Forgive us when we neglect our spiritual heritage as a Nation. Help us when we become dulled in our accountability to You and the moral absolutes of Your commandments. Without absolute righteousness, morality, honesty, integrity, and faithfulness, our society operates in frivolous situational ethics, while the prosperity of our time camouflages the poverty in the soul of our Nation.

May this day of prayer be the beginning of a great spiritual awakening. Bring us to the realization that all we have and are is Your gift. Draw us back into a relationship of grateful trust in You that will make our motto, "In God We Trust," more than a slogan, but the profound expression of our dependence on You to guide and bless this Nation. We confess our false pride and express our full praise. Today, we renew our commitment to You as Lord of this land and of our personal lives. Hear the urgent prayers of Your people and bring us back home to Your heart where we belong. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, the Senate will resume consideration of the Thompson-Sessions amendment to H.R. 2676, the IRS reform and restructuring bill. Under the previous order, the time between approximately 9:30 and 10 a.m. will be equally divided for debate on the amendment. At the conclusion or yielding back of the time, the Senate will proceed to vote on or in relation to the Thompson-Sessions amendment. I repeat, that will be around 10 o'clock, maybe slightly after. Or, of course, some time could be yielded back.

As a reminder, we have reached an agreement limiting amendments to the bill. However, there are almost 50 amendments on the list. I had hoped maybe there would be a dozen. I assume, even though some of these, or most of them, would qualify as relevant amendments, Senators will decide that they can offer them on some other legislation or some of them, hopefully, will be accepted after working with the managers of the legislation. I hope those who do want to offer amendments will come forward and do that this morning.

We need to begin to get a lineup of which amendments will be debated and voted on and a time that will be used. I see no need to debate these amendments for 2 or 3 hours. Most of them we ought to talk about 30 or 40 minutes and have a vote, because a lot of work has already been done on this legislation. We have two or three contentious issues we need to flesh out and have a debate and vote on, but even those amendments I don't think are going to be critical at this point if either side wins. We still can work further on this once we get to conference, even though I hope the conference will be short. I think it is incumbent upon the Congress to complete this legislation before we go home—I mean in its entirety—for the Memorial Day recess.

We need the cooperation of all Senators in order to complete action on this important bill today, and we all have assumed it will be done today. It should be done today. We don't need to, and should not, drag it over until next week because if it does it will bump everything else. We have high tech, crop insurance, and Department of State authorization, just next week. Higher education is pending out there. We need to act on that.

There will be a lot of work during the next 10 days to see if we can get an understanding of how to proceed, if we are going to proceed, on the tobacco bill. We need to get this done. For those who think I am huffing and puffing here, we can replicate last Thursday night if the Members want to. We can be sitting right here at 11 o'clock finishing up this bill or we can get going. Progress was made yesterday because we got an agreement to limit amendments, but I didn't feel the sense of urgency.

So I say to the managers of the legislation, let's get going. Let's get the amendments racked up and be prepared to tell Senators that if they are not going to come to the floor and offer their amendments they will be shoved off at the end and they will get 5 minutes or 2 minutes to describe their amendments.

Again, we don't want to stifle the Senate being able to work its will, but I think we have to be reasonable and be prepared to complete our work.

I thank my colleagues for their attention. I yield the floor.

UNANIMOUS-CONSENT AGREEMENT—S. 1502

Mr. LOTT. Mr. President, I ask unanimous consent Senator COATS be permitted to sign S. 1502 as Acting President pro tempore.

The PRESIDING OFFICER. (Mr. BROWNBACK). Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 2676, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Thompson/Sessions amendment No. 2356, to strike the exemptions from criminal conflict laws for board member from employee organization.

AMENDMENT NO. 2356

The PRESIDING OFFICER. Under the previous order, the time until 10 a.m. shall be equally divided on the Thompson-Sessions amendment No. 2356.

The Senator from Tennessee.

Mr. THOMPSON. Mr. President, we brought this amendment up yesterday and had a brief discussion. My understanding is we have 30 minutes equally divided; is that correct?

The PRESIDING OFFICER. There are 12 minutes on each side and the time is equally divided until 10 a.m.

Mr. THOMPSON. Mr. President, as you know, part of the IRS reform bill has to do with the creation of an IRS Oversight Board. One of the new members of the IRS Oversight Board is delineated as a representative of an IRS

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

employees union. However, because of the inherent conflict of interest in this new member's position, the union representative was exempted from four essential ethics laws in the criminal code. That is what our amendment addresses, because the ethics experts in the Office of Government Ethics say these provisions are unprecedented and inadvisable and antithetical to sound Government ethics policy; thus, to sound Government.

In an era in which we seem to receive an awful lot of very general and hazy messages from the bureaucracy, we are getting a quite definitive, clear-cut opinion out of the Office of Government Ethics with regard to this exemption, and that is that these provisions are unprecedented and, therefore, inadvisable.

I think it makes common sense. I must say that my primary interest in this as chairman of the Governmental Affairs Committee has to do with the rules under which our Federal employees operate. We do have an Office of Government Ethics. We do have ethics provisions. They are for good reason. We could talk about these provisions in some detail, but, generally speaking, one of the main things they try to address is to keep people from being compensated by outside entities and outside groups while they are on the Federal Government's payroll. In other words, if an employee is going to be on the Federal Government payroll, they should not be compensated by some outside group when they come and lobby the Federal Government. That is just sound common sense.

I understand that an agreement was reached, or at least it was voted on in the committee, to have this representative on this nine-member board. We could debate back and forth whether or not that is a good idea. But this amendment does not say that a person of this kind cannot be on the board. All it says is that this person is going to be treated like every other member of the board, and that is that they will not be exempt from the ethics laws. The private members who are on this board are certainly going to have to live under the ethics laws.

For example, the day after appointment of the board, the private board member could not meet with representatives of the IRS or Treasury on behalf of a client or the board members' corporate employer with respect to proposed tax regulations. These prohibitions apply across the board to all members. It said that it creates somewhat of a hardship on the union representative. Perhaps in all cases there will not be a conflict.

As I look at some of the provisions that were discussed in committee in terms of the reasons for the creation of the board and the various functions that the board will have, I see where part of the function is to review and approve IRS strategic plans; for example, including the establishment of mission and objectives and long-range plans. I can see an argument being made that this union representative would not have a conflict of interest regarding that particular function of this board. Another function is to review the operational functions of the IRS. Another is to recommend to the President candidates for the Commission.

I can see an argument being made that this would not create a conflict of interest. So it is indeed arguable that there will be certain functions in which this board member could participate. It is not our position to sit and factually delineate every possibility that might come up. Quite frankly, it is going to be primarily on the board member to determine that themselves. I see other functions where, to me, there is a clear conflict of interest, and that is, to review the operation of the IRS to ensure the treatment of taxpayers, to review procedures of IRS relating to financial audits.

I can see where someone representing the IRS employees union —a paid employee of the employees union would have a real problem in sitting on this board and trying to determine what the rules ought to be with regard to those employees concerning the way they conduct their audits. That is just common sense.

Now, there is one thing I think we need to keep in mind. We all know that we have many—certainly the great majority—IRS employees who are loyal, dedicated public servants. But let's not forget the reason why we have this IRS reform bill on the floor to start with; and that is, we saw an absolutely appalling, unprecedented array of rogue activities, which you would not see in a lot of good police states, conducted by some of these IRS agents out in the field. We saw people like Howard Baker and Former Congressman Quillen, who were actually targeted, and they attempted to set up these individuals. These are the kinds of things that are part of the reason that we have the bill and part of the reason that we have this oversight board.

So in order to say that a union member is going to have some problem some time about sitting on this board as they represent those very employees—the ones that are good, bad and indifferent—is no reason to carve them out and exempt them from these ethics provisions.

So I think it is a bad step, Mr. President, if the very first thing we do in starting out and trying to reform IRS is to say that with regard to some of these employees we are going to exempt them from the ethics laws. I might point out also that as I read the bill, it doesn't seem to me like it necessarily has to be a paid employee, a paid union official of the IRS employees union. In other words, I would think that a member could serve on this board who would simply be a union member and could be a representative. If they were not taking payment and compensation from the union, as a professional union representative, then perhaps a lot of these conflicts would be alleviated.

So we are trying to work out something reasonable here on the front end. But make no mistake about it, it would be a terrible mistake in the face of the clear advice of the Office of Government Ethics to say the first thing we are going to do is exempt these people who are, in some cases the source of their problem, from the ethics laws under which everybody else is going to have to live.

I yield the floor.

Mr. KERREY. Mr. President, I would like to ask the Senator from Tennessee if he would answer a question. For the purpose of engaging in this debate, does he support having a union rep on the board, an employee rep on the board? That would be an amendment that will come up, I believe, later on, trying the individual on the board.

Mr. THOMPSON. I do not think it is wise to have such a representative on the board. That is another question. In fact, I think the Office of Government Ethics has the same opinion. They do not think it is wise to have a union member on the board. My position is that if there is a union member on the board, they should not be exempt from the ethics laws.

Mr. KERREY. I appreciate the Senator's conclusion. However, I have reached the opposite conclusion. That really is the question for the body. Do you think an employee representative needs to be on this board?

Let me tell you why the Restructuring Commission reached the conclusion "yes," and why the Finance Committee reached the conclusion "yes." We heard from private sector individuals, as well as public sector people, who have gone through the sorts of things IRS is likely to go through. Let me be clear what the IRS is going to be going through. This is not about some cosmetic changes.

In this law, we give the Commissioner of the IRS new authorities to restructure the IRS, and we direct the Commissioner to restructure to eliminate the old three-tier system. I don't know how familiar everybody is with the three-tier system. There is a national, regional, and a district office. It is a system that was established in 1952. It means that if taxpayers move or decide they want to move from Salina, KS, to Grand Island, NB, which I think would be a sound thing for anybody to do—but if they decide they want to go from Kansas to Nebraska, they are OK. But if they move from, let's say, Chattanooga, TN, to Salina or Grand Island, they are going to be under a new district and regional office. As a consequence, their taxes are going to be handled by entirely different people.

What the law directs the Commissioner to do and gives him authority to do is organize along functional lines. There is going to be traumatic change for employees—traumatic change. We may have few numbers of people. This kind of restructuring is very difficult to get done. From people both in the public and private sector, individuals who have gone through this, we heard strong advice that an employee representative should be on the Commission.

For members, the board itself sunsets in 10 years. We may decide we don't need a board in 10 years. We might need a different composition for the board. That is the first question. Do you believe that as a consequence of what the Commissioner has been given—the authority to dramatically restructure this agency—there ought to be an employee representative on the board? The authors of this amendment don't; neither does the Office of Government Ethics. They sent a letter indicating some problems which they had with having a representative on. We accommodated those concerns by putting this language in here. Now the language is being attacked. But the question really is not do you support the language, but do you want a rep on there? If you do, you have to have that representative able to participate in the decisionmaking.

To be clear, they are not given blanket ethics waivers. They are still under all the same ethics requirements of every other member of the board; indeed, somewhat higher. The annual disclosure requirements of this individual will be greater than for other members of the board. All board members are appointed by the President and confirmed by the Senate. If for some reason a member of this Chamber thinks that person should not be confirmed, they can put a hold on it and likely make it impossible for that person to be confirmed. And if the President believes, for any reason at all, this individual is not doing a good job, he or she can be removed by the President.

So there are lots of checks against problems this individual might have for any reason, including some ethical problems, as I said. All other ethics statutes still fall against this individual. Indeed, we are requiring this individual to disclose more. We have all kinds of situations. We asked the Office of Government Ethics about acceptance and they have made over 600 of them, including the Commissioner of the IRS. The Commissioner, Mr. Rossotti, has private sector holdings, private sector business experience, and does business with the IRS. So the question for us is, oh, my gosh, is he excluded or precluded from serving? The answer is no. We reached a conclusion that we have an overriding interest to have him serve as Commissioner. And so we draft very carefully an agreement that has him doing a certain number of things in order to be able to comply with our ethics laws.

So I urge colleagues, as they examine this amendment, to understand that no blanket exemption is being granted.

The authors of the amendment do not want a Treasury employee representative on the board. If you want a Treasury employee representative on the board, you have to have language in there that satisfies the ethical concerns about what will happen when an issue comes up that has an impact upon the people he represents.

Mr. President, we are granting the Commissioner the authority to reorganize and restructure and get the IRS to operate in a much more efficient fashion, and that will cause traumatic changes inside of the ranks of the IRS. For those who wonder whether or not an employee rep ought to be on there, imagine if we had an oversight board that was going to be making a decision to restructure the Senate and one of the possibilities was, instead of having 100 Members, we have 80. Would we ask to have Members on the board? Obviously, we would. And it would be right to do, and we would have to draft some sort of language to make certain that we wouldn't violate ethics laws as well.

I hope the Members will reject this amendment.

I see the distinguished Senator from Michigan is on the floor. I am pleased to yield 2 minutes for him to speak against this amendment as well.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I oppose the amendment. I think the effect of this amendment will be to make it impossible for an employee representative to sit on the board. The Commission should have that representation, according to the recommendation of the Commission that is recommending this Commission. If we want an employee representative to sit on this board, as a practical matter there is no way to do it without exempting that person from these laws. There is an inherent conflict which that person will have. And we might as well be very open about it, and face it, and say, "Yes, providing it is disclosed." And it is known that the benefits of having that perspective on the board outweighs any precedent that would be set by this kind of a waiver.

The IRS Oversight Board itself is unprecedented. I don't know of a board quite like this that we have in the Government.

So to suggest that as we are creating a new board like this that we cannot, with our eyes open, make an exemption from our conflict of interest laws in order to permit a very critical person to serve on the board it seems to me is unduly restricting our options and, more importantly, is making this board less useful. This oversight board will be more useful with an employee representative on it. There is a certain perspective, an important experience, which that person can bring to this board.

So we have to weigh the value, the benefit, of that against the precedent we would be setting. It is like a cost-benefit analysis which we recommend that others do. We have to look at the precedent and the value, and we are the policymakers.

I have great respect for the Office of Government Ethics. They enforce and implement the law. But we make policy. When we decide, with an unprecedented new board, that we will permit a representative of the employees to sit there because we want that experience, we want that perspective, we then are making a policy judgment that we want an effective IRS oversight board and that the effectiveness of that board is to rein in the IRS to overcome the abuses which have disgusted us which we have all heard about for so many years which outweighs any precedent we might be setting.

I oppose the amendment and hope we will defeat it.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I want to congratulate the Senator from Nebraska, Senator ROTH, and others for introducing an outstanding bill. I know they have worked hard and dealt with a number of difficult issues. This is, I am sure, a good-faith effort to involve the union in the process. But the truth is, as we have had a chance to look at the law, it just won't work. Senator FRED THOMPSON has made the point eloquently and clearly. His amendment is the only way we can handle this circumstance. We should not, and must not, agree to allow a clear conflict of interest to be waived, according to the Office of Government Ethics. If the Office of Government Ethics were to decide this issue, a waiver would not be granted. It is because such a fundamental conflict exists that we should not expect it to.

The truth of the matter is that if you sit on the Government Oversight Board and are also a paid union representative, you are being paid by two masters. You can't serve two masters. That is a paid position. It is not a union member serving on the board but a person whose salary is paid by an outside group who is not part of the process.

I know many people would like to involve an employees union representative in the IRS restructuring effort. I support this idea. There are many ways a union representative could be involved in the process. I have had many friends over the years who have been members of the Treasury Union. I think they do a good job and help to contribute positively to our Nation's Government. But this is a powerful board that sets administrative rules and principles throughout the agency.

I would suggest that the waiver is not of some ethics rule, it is a waiver of the Criminal Code of the United States of America. At least four sections are implicated. It is quite possible that if this union member were to participate as a board member, he would be in violation of perhaps four different criminal codes—statutes. To ask us in this legislation to just blithely waive these statutes, would be a mistake and unwise and would undermine the Office of Government Ethics ability to effectively manage and uphold ethics in government.

I was a Federal prosecutor for almost 15 years. I serve on the Senate Ethics Committee. I understand what my colleagues are trying to accomplish. But this waiver is unprecedented, according to the Office of Government Ethics. That means that this has never been done before—that the U.S. Senate, in a legislative act, has never granted exemption to one person from the Criminal Code of the United States. It is something we ought not to do.

I urge my colleagues in this body to vote yes on this amendment.

I yield what time is remaining.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Tennessee controls 40 seconds, and the Senator from Nebraska controls 2 minutes.

Mr. THOMPSON. Mr. President, very briefly, it is not unusual to have an oversight board or an agency or a panel that does not have on it the subjects of that panel's inquiry; in other words, the comparable situation with regard to this oversight board would be U.S. taxpayers. That is whose lives we are really affecting. We don't have any taxpayer members on this particular board.

I would also point out, as the Senator from Alabama did, that these are criminal laws. We are waiving four primary criminal laws of title 18 of the United States Code with regard to one individual who represents some of those who have caused the problem.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, briefly, we are doing something that is unprecedented. The distinguished Senator from Alabama says that the Office of Government Ethics is unprecedented. It is the only venture that is unprecedented; never in the history of Government have we created an oversight board with these kinds of powers. And we are doing it in order to be able to restructure the IRS in a relatively short period of time. The implications would be rather traumatic for the employees of the IRS. Every private sector person whom we asked the question of—when you go through restructuring—and every public person we asked the advice of said put the rep on the board.

This board sunsets in 10 years. We may decide we don't want the board and have another composition. We can revisit it, if you don't want a Treasury employee rep on the board. The Office of Ethics said there are problems here. We have corrected those problems, but they don't want a rep on the board under any circumstances. If you want a rep on the board, you have to vote no on this amendment. Otherwise, this individual is not going to be able to do the job. If you don't have the rep on the board, I think this venture is likely to run aground and not be as successful as all of us want it to be.

Mr. President, I yield the remainder of my time. I urge the defeat of this amendment.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA) is absent due to a death in the family.

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—42

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Gregg
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Sessions
Shelby
Smith (NH)
Smith (OR)
Thomas
Thompson
Thurmond

NAYS—57

Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Campbell
Cleland
Collins
Conrad
D'Amato
Daschle
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Grassley
Hagel
Harkin
Hatch
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Santorum
Sarbanes
Snowe
Specter
Stevens
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Akaka

The amendment (No. 2356) was rejected.

Mr. KERREY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERREY. Mr. President, we are down on the Democratic side to just one or two amendments that may require rollcall votes, and those we may be able to work out. We have a longer list on the Republican side.

Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. KERREY. Mr. President, I am hopeful that on the Republican side, Members will come down and start talking to us or, if we can't work them out, get them offered. Senator FAIRCLOTH has an amendment which he is going to offer just as soon as I get two accepted that we have worked out with the chairman. I think we can run through this relatively rapidly.

The previous amendment that was just defeated is one of the controversial ones. Senator FAIRCLOTH has one that is controversial. I think Senator MACK does. There are a few others. After that, most of the controversy is out of this bill. I am hopeful we can get Members to come down here so we don't end up, as the majority leader said, staying here longer than is warranted, given the general agreement that is on the legislation.

AMENDMENTS NOS. 2358 AND 2359, EN BLOC

Mr. KERREY. Mr. President, I send two amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, the clerk will report the amendments en bloc.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. KERREY] proposes amendments numbered 2358 and 2359, en bloc

Mr. KERREY. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2358

(Purpose: To require a study on the willful noncompliance with internal revenue laws by taxpayers to be conducted jointly by the Joint Committee on Taxation, Secretary of the Treasury, and Commissioner of Internal Revenue)

On page 394, between lines 15 and 16, insert the following:

SEC. —. WILLFUL NONCOMPLIANCE WITH INTERNAL REVENUE LAWS BY TAXPAYERS.

Not later than 1 year after the date of enactment of this Act, the Joint Committee on Taxation, the Secretary of the Treasury, and the Commissioner of Internal Revenue shall conduct jointly a study of the willful noncompliance with internal revenue laws by taxpayers and report the findings of such study to Congress.

AMENDMENT NO. 2359

(Purpose: To amend the Internal Revenue Code of 1986 to require the Inspector General for Tax Administration to report to Congress on administrative and civil actions taken with respect to fair debt collection provisions)

On page 369, strike line 1 and insert the following:

"(c) ANNUAL REPORT.—The Inspector General for Tax Administration shall report annually to Congress on any administrative or civil actions with respect to violations of the fair debt collection provisions of section 6304 of the Internal Revenue Code of 1986, as added by this section, including—

"(1) a summary of such actions initiated since the date of the last report, and

"(2) a summary of any judgments or awards granted as a result of such actions.

"(d) EFFECTIVE DATE.—The amendments made by this".

Mr. KERREY. Mr. President, these are two amendments on which I worked very closely with the chairman. They deal with two problems, one of which is a longstanding problem that we have had with the Internal Revenue Service, and that is how to deal with taxpayers who are willfully noncompliant. This requires the Commissioner to do a study of this issue and report back to the Finance Committee. Members need to understand, approximately the average for all taxpayers is nearly $1,600 per taxpayer for noncompliance, with penalty for willful noncompliance.

The second amendment came as a consequence of a witness that we had in the hearings that the chairman held, Mr. Earl Epstein of Philadelphia. He was talking about putting teeth in the provision dealing with violations of fair debt collection practices. And at the chairman's suggestion, what we have asked for in this study is that the new Treasury inspector general for tax administration also look at this and provide Congress with a report, an annual report outlining any violations of the fair debt collection practices that we have included in this bill.

Mr. Epstein notes, this is likely to result in better attention being paid to collection abuses as "no Commissioner would be happy to report significant abuses, to say nothing of awards for damages [or] for failures to enforce proper authority over collection agents." It is an important amendment. I appreciate the source of it was the chairman's hearings, and I appreciate a chance to work with the chairman to get this worked out.

Mr. ROTH. Mr. President, I say that both of these amendments are acceptable to the majority side. We have worked with Senator KERREY on them and we think they are acceptable.

So I urge that they be accepted by voice vote.

Mr. FORD. En bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments (Nos. 2358 and 2359) were agreed to en bloc.

Mr. FORD. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, I want to echo what was just said by Senator KERREY. We do intend to complete this legislation today. So it is critically important that those who have amendments, if they want to have them offered, that they do so promptly because time is slipping by. We will stay here until we complete the legislation.

It is my understanding that Senator FAIRCLOTH wants to go next. We would like to get a time agreement. I mentioned that to Senator KERREY, as well as to Senator FAIRCLOTH. I would like to have 30 minutes divided equally between the two sides.

Mr. FAIRCLOTH. That will be fine. I will not need 15.

Mr. ROTH. Shall we make it 20 minutes?

Mr. FAIRCLOTH. That is fine.

Mr. ROTH. Twenty minutes.

Mr. KERREY. Mr. President, I have not seen the amendment yet. Can we get a copy of the amendment before we agree to a time limitation?

May I ask the Senator, this strikes several lines, inserts several lines. It is not clear to me from the amendment what it does. Can you just——

Mr. FAIRCLOTH. Yes, what the amendment does, I say to Senator KERREY, is it prohibits putting union men on the——

Mr. KERREY. Strikes the union representative from the board?

Mr. FAIRCLOTH. Strikes the union representative from the control panel.

Mr. KERREY. I thank the distinguished Senator from North Carolina, and I do not object to the time agreement.

Mr. ROTH. Mr. President, I ask unanimous consent that for the Faircloth amendment there be a time limit of 20 minutes equally divided between the two sides and no second-degree amendments.

Mr. KERREY. Reserving the right to object, Mr. President, I momentarily suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I ask unanimous consent that the unanimous consent be modified so no second-degree amendments be in order. Is that in the UC?

Mr. ROTH. That is part of the proposal.

Mr. KERREY. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 2360

(Purpose: To strike the representative of Internal Revenue Service employees from the Internal Revenue Service Oversight Board)

Mr. FAIRCLOTH. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. FAIRCLOTH], for himself and Mr. SMITH of New Hampshire, proposes an amendment numbered 2360.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 174, line 23, strike "9" and insert "8".

On page 175, strike lines 8 through 13.

On page 176, line 10, strike "or (D)".

On page 177, strike lines 7 and 8, and insert the following:

"(A) FINANCIAL DISCLOSURE.—During the entire—

On page 177, line 10, strike "or (D)".

Beginning on page 177, strike line 19 and all that follows through page 178, line 5.

On page 178, line 10, strike "or (D)".

On page 182, line 1, strike "or (D)".

On page 182, line 11, strike "or (D)".

On page 190, line 12, strike "or (D)".

Mr. KERREY. Mr. President, I wonder if the Senator would yield and the time not be charged to either side.

Mr. FAIRCLOTH. Sure.

Mr. KERREY. I have a question. The distinguished Senator from West Virginia has an annual speech he gives on Mother's Day. And I wonder if the Senator from North Carolina wants a rollcall vote on this amendment. And, second, if you want a rollcall vote, can we do it after the Senator from West Virginia delivers his remarks?

Mr. FAIRCLOTH. I will want a rollcall vote. And we can certainly do it after the Senator from West Virginia gives his speech.

Mr. KERREY. I thank the Senator.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President. I ask unanimous consent that two letters from the Office of Government Ethics, dated March 27 and May 1, 1998, and one letter from the Senior Executives Association, dated April 17, 1998, be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FAIRCLOTH. Mr. President, the amendment I am offering today corrects a flaw in an otherwise fine bill that was offered by Senator ROTH, and that is to reform the Internal Revenue Service. And no organization ever needed reforming more.

My amendment, which is supported by Chairman ROTH, would remove the union representative for the IRS employees from the oversight board established by this reform bill.

The reason for establishing the oversight board was that the union was out of control. That is very simply the reason we did not put it up there, that it is composed of private citizens—the oversight board—and not to be run by the union and the IRS bureaucracy. That is the problem we have been facing.

If ever there was a case of hiring Willie Sutton to guard the bank, when we put a union representative on the board that is exactly what we have done.

I just want to take a minute—and I will do it quickly—to explain why it would be difficult, if not impossible, for the IRS Oversight Board to accomplish its intended task of reforming the IRS as long as you have a union representative on the board.

Mr. President, it was said in hearings last fall again and again, and last week, where we heard shocking and terrible testimony about abuses of taxpayers at the hands of IRS employees. These have been well documented, and the American people are outraged at what they have seen. I hear it on a daily basis.

The American people are calling and telling the Congress that the IRS is an agency out of control and it must be reined in. Control must be established. And several of my colleagues, I have heard, have come up with the same thing.

An oversight board, if it is truly a private citizen oversight board, could go a long way to rooting out the problems that are plaguing the IRS and will ultimately destroy it if they are not corrected.

But the same employees who have been abusing taxpayers are certainly not going to like changes proposed by the oversight board, because it is going to change the way they have been doing business, and they do not want to change the way they have been doing business. That is the reason we are creating the oversight board, to change the way that the IRS union has been operating.

Can you imagine what would happen if any decision which was opposed by the union IRS employees could be vetoed by the representative of the union? In effect, that is what we will have if a union representative is appointed a member of the board. You are going to negate the effects of the board.

Some have suggested that unless a union representative is a member of the board, there will be no one to persuade the employees to go along with the reforms. All I can say is that anybody who says that has never run a business. I think that is the most foolish argument I have ever heard. I do not think IRS reform should be held hostage to what the union members like.

If employees resist reform, and we have heard time after time in hearings about the abuses of these employees, then those employees should be removed from the IRS. We should not put the new oversight board in the position of begging the IRS employees, through their union, to agree to a change. If that is the way we are going to do it, there will be no change. It will be business as usual.

Furthermore, it is common sense that the union representative should not be in a position to argue the case of the employees who pay his salary. I cannot think of anything more ludicrous than putting in an oversight board and then putting on it the man who works for the people who have created the abuses that the oversight board is intended to correct. It goes round and round. The union representative would be voting on issues which affect his own pocketbook—a clear conflict of interest.

As Senator SESSIONS and Senator THOMPSON have already pointed out, putting the union representative on the oversight board does not just violate common sense, it violates Federal criminal law. Whether those laws are waived or not, we should not go down the road of disregarding criminal laws that are inconvenient for one person. We are waiving criminal laws because one person, a union representative, wants them waived.

Let me share with my colleagues what the Office of Government Ethics had to say on the matter of including the IRS employee union representative on the oversight board. In a letter to the Senate Finance Committee, Chairman ROTH and the ranking member, Senator MOYNIHAN, dated March 27, the Office of Government Ethics said the following: "We recommended that the IRS reform bill not include an individual who is a representative of an organization," which represents a substantial number of the IRS employees.

Now, that is a nice way of saying don't put the union boss on the board. If you do, you might as well not create the board.

The Office of Government Ethics, in another letter to the majority leader, dated May 1, 1998, said that putting the union representative on the oversight board is, "Fundamentally at odds with the concept that government decisions should be made by those who are acting for the public interest and not those acting for a private interest." The private interest being referred to is the IRS employees union. So it is clear that the union representative will be in a position of violating criminal laws concerning conflict of interest if he or she serves on the oversight board, unless those criminal statutes are waived, and that is what we just did.

Some of my colleagues who support including the IRS employee union representative on the board have tried to fix it by waiving the criminal laws, but we should not have waived a criminal law for one union representative. Both the Senior Executives Association and the Office of Government Ethics recommended removing the union boss rather than removing the waiver. I agree.

On April 9, 1998, the Senior Executives Association, a nonpartisan, nonprofit organization which represents career executives throughout the Federal Government, wrote to me to express their serious concerns about including an IRS employee union representative on the oversight board. The Senior Executives believe as long as the union representative is on the board, it will be impossible for IRS managers, the Commissioners, and the oversight board, and even the President, to implement the personnel reforms affecting IRS employees. In other words, as long as their "boss man" is sitting on the board, he isn't going to do anything to allow any reform. He will, in effect, veto the actions of the board.

To quote the Senior Executives Association: "The inclusion of the union representative on the IRS Oversight Board threatens the ability of IRS management to manage and control the IRS workforce."

It would seem to me the last thing that Congress should do is make IRS employees even less accountable for their actions than they currently are. That would be hard to do.

In summary of my amendment, take some good advice of the Office of Government Ethics and the Senior Executives Association and remove the union representative from the oversight board. I urge my colleagues to support the amendment.

EXHIBIT NO. 1

U.S. OFFICE OF GOVERNMENT ETHICS,
Washington, DC, March 27, 1998.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

Hon. DANIEL PATRICK MOYNIHAN,
Ranking Minority Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR CHAIRMAN ROTH AND SENATOR MOYNIHAN: We understand that your Committee is reviewing the provisions of H.R. 2676 in anticipation of developing a Senate bill, regarding the Internal Revenue Service (IRS). As Commissioner Rossotti indicated in his testimony before your Committee earlier this year, the Administration believes that the conflict of interest and financial disclosure provisions that section 101 of that bill would make applicable to the Members of the newly created IRS Oversight Board are in need of technical revision and, we believe, should be made more consistent with the standard ethics systems applicable within the executive branch. We recognize that this part-time Board is being given far more than advisory duties, and we believe that conduct and compensation restrictions and financial disclosure requirements should be commensurate with those additional duties. Because time is of concern, we have chosen to set forth the type of requirements we believe would be most appropriate and consistent with sound ethics policies. We would be happy to work with your staff and the legislative counsel in developing the exact legislative language.

1. Status of the private sector members. The House bill specifies that the private sector members, other than the individual representing the union, are to be special Government employees "during the entire period" each individual holds appointment. We believe this language will cause unnecessary hardships on the Members of the Board and will substantially inhibit the Government in attracting the types of individuals you might wish to serve on the Board. Briefly, this will occur because more onerous criminal conflict of interest restrictions (particularly those applying to private compensation arrangements and matters unrelated to tax or IRS issues or policies) will apply to Members after 60 days of service. Under the House language, those restrictions will apply 60 calendar days after appointment, not after 60 days of actual service as is ordinarily the case for special Government employees.

We recommend that the bill be silent as to the status of the Members as special Government employees. We understand that it is not expected that these individuals will actually serve more than 60 days in a 365-day period, so that the regime for less than 60 days of service would apply. Then the bill can include additional restrictions and requirements that are tailored specifically to service on this Board rather than simply service anywhere in the executive branch as a special Government employee. Recommendations for those restrictions and requirements are in points 2 and 3.

2. Additional conflict restrictions. Given the duties of the Board anticipated by the House bill, we would recommend that Board Members be subject to the following restrictions in addition to the standard criminal conflict of interest provisions applicable to special Government employees.

In addition to the restrictions in 18 U.S.C. §§203 and 205, members of the Board should be prohibited from representing anyone before the IRS or the Department of the Treasury on any matter involving the management or operations of the Internal Revenue Service or the internal revenue laws (or more narrowly, tax matters) or before the Board or the IRS on any particular matter.

In addition to the restrictions in 18 U.S.C. 207(a)(1) and (2), members of the Board should be prohibited from representing anyone before the IRS (or possibly the entire Department of the Treasury as are former IRS Commissioners) for one year following termination of Board service. We would not suggest that there is any need to apply the restrictions of section 207(f) to the members of the Board who do not serve more than 60 days.

In drafting these additional restrictions, we recommend that all of the exemptions and procedural mechanisms presently in sections 203, 205 and 207 apply to these additional restrictions.

3. Financial disclosure requirements. Given the substantial authorities of the board as set forth in the House bill, we recommend that the statute be drafted clearly to reflect that the Members of the Board are required to file new entrant, annual and termination public financial disclosure statements regardless of the number of days in a calendar year that the individual actually serves. If the Senate determines that the Board should be purely advisory, we recommend that the bill be silent so that the standard nomination form which can be made public by the confirming committee and the annual nonpublic financial disclosure forms will be required.

4. Union member. We recommend that the bill not include an individual who is a representative of an organization which represents a substantial number of IRS employees. Given the duties of the Board, this individual cannot serve as a "representative"—a status recognized in applying conflicts laws to certain individuals carrying out purely advisory duties. We believe that the basic criminal financial conflict of interest statute, 18 U.S.C. §208, will be applicable to this individual and will substantially limit that individual's ability to carry out any meaningful service on the Board. More importantly to the individual, such service will expose him or her to constant scrutiny for even the smallest official acts. While section 208 does contain a waiver provision, it applies only where the financial interest involved is "not so substantial" as to be deemed likely to affect an employee's service. We believe that it would be almost impossible for an officer of a union to legitimately meet the test set forth in the statute because of his own and the union's financial interests that would be affected by the matters before the Board. In addition, we believe that such a member will also be substantially inhibited from carrying out his or her duties on behalf of the union by the restrictions of 18 U.S.C. §203. There are no applicable waivers for these restrictions.

As an alternative, we suggest that the Board be directed by statute to consult with, but not seek the approval of, representatives of organizations which represent substantial numbers of IRS employees when the matters before the Board would have a substantial effect upon IRS employees. It is crucial to sound government ethics policy that those who have approval authority be accountable to the public for their actions. Those who only provide the views of interested parties for the decision makers' consideration need not be subject to an array of ethics restrictions.

5. Pay. We recommend that the pay for the members of the Board be rewritten so that it references some standard Government pay schedule. Since many ethics statutes make reference to those schedules for purposes of applying provisions, this would be much simpler under the present system and most probably for any future restrictions or regulations that might be enacted or promulgated. We suggest that the reference be made to the Executive Level Schedule, which is typical for advise and consent appointees. However, we would not recommend a reference to Level I of that Schedule because positions listed at that Level (Cabinet-level positions) have unique post-employment restrictions that would not be appropriate for these members.

We believe that this Board is a very important Government body and that the ethics and conflicts of interest restrictions applicable to the Board should be clear, correct and appropriate. We look forward to working with your staff to address the changes to the language of the House bill that we believe are necessary to clearly meet the obvious intent of the House as well as our recommendations.

Sincerely,

STEPHEN D. POTTS,
Director.

U.S. OFFICE OF GOVERNMENT ETHICS,
Washington, DC, May 1, 1998.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: This Office has reviewed H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998, as it has been reported by the Finance Committee and, we understand, is soon to be taken up by the Senate. At the request of both the majority and minority, we provided technical assistance to the Finance Committee staff with regard to drafting the language of provisions setting forth the ethical considerations for the Members of the Internal Revenue Service Oversight Board. We believe those provisions are written in a clear and technically correct manner.

However, one provision of the bill, the proposed 26 U.S.C. §7802(b)(3)(D), provides for waivers of applicable conflict of interest laws for one Member of that Board. We believe that this provision is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable.

We understand and agree that the employees of the Internal Revenue Service should have an opportunity to be heard in any decisions that may affect them. As we stated in a letter to the Finance Committee, there are standard ways of allowing input from interested parties without allowing the interested party to be the actual decision-maker in a Governmental matter. It is the latter role that is fundamentally at odds with the concept that Government decisions should be made by those who are acting for the public interest and not those acting for a private interest. The one private interest that is being waived in each case for this Board Member is the one most fundamentally in conflict with his or her duties to the public.

On the other hand, we cannot recommend that the waivers be eliminated for the individual appointed to such a position. That elimination would leave this individual extremely vulnerable to charges of criminal conduct for carrying out many Oversight Board actions or for carrying out his or her private duties for the employee organization. The fact this vulnerability exists exposes the pervasiveness of the conflicts for an officer or employee of an employee organization to serve on the Oversight Board.

Rather, we recommend the elimination of the position on the Board that creates such inherent conflicts. The elimination of the position could be coupled with a requirement that the Board consult with employee organizations. While we think a reasonable Board would consult without that requirement, requiring consultation might provide some assurance to the various employee organizations that they will be heard.

The criminal conflict of interest laws should not be viewed as impediments to good Government. They are there for a purpose and should not be waived for mere convenience. Some may point out that certain provisions of these laws are waived by agencies quite frequently. That is true. Some of the laws anticipate circumstances where a restriction could be waived and set forth the standards that must be met to issue waivers. Agencies can and do issue such waivers, but the waivers must meet the tests set forth in the statutes. For those conflicts laws that do provide for waivers (not all do), we believe that it would be extremely difficult for a reasonable person to determine that the interests this individual Board Member will undoubtedly have through his or her affiliation with the organization could meet those waiver tests.

In order to meet our recommendation, we believe the provisions of Subtitle B, sec. 1101(a) should be amended to eliminate proposed sections 7802(b)(1)(D), (b)(3)(A)(ii) and (b)(3)(D). All other references to an individual appointed under section 7802(b)(1)(D) should be removed and wherever a number of members of the Board is indicated (such as a Board composed of nine members or five members for a quorum) that number should be altered to reflect the elimination of this position.

We appreciate the opportunity to express our concerns and our recommendations. These are the views of the Office of Government Ethics and not necessarily those of the Administration. We are available to answer any questions you or any other Member of the Senate may have with regard to this letter or the conflict of interest laws. We are sending identical letters to Senators Daschle, Roth and Moynihan.

Sincerely,

STEPHEN D. POTTS,
Director.

SENIOR EXECUTIVES ASSOCIATION,
Washington, DC, April 17, 1998.

In re: S. 1096, the IRS restructuring and reform bill.

Hon. LAUCH FAIRCLOTH,
U.S. Senate, Attn: David Landers, Legislative Counsel, Hart Senate Office Bldg, Washington, DC.

DEAR SENATOR FAIRCLOTH: The Senior Executives Association (SEA) is a non-partisan, non-profit, professional association representing the interests of career members of the Senior Executive Service and other career executives in equivalent positions in the federal government.

As you know, the Senate Finance Committee reported out S. 1096, the IRS Restructuring and Reform Bill. In the Chairman's mark that was considered by the committee, Chairman Roth had excluded from membership on the IRS Oversight Board both the Secretary of Treasury and the representative of the National Treasury Employees Union, the union that represents many IRS employees.

In response, Senator Robert Kerry (D-Neb) sponsored an amendment to put the union representative and the Secretary of Treasury back on the Oversight Board, and that amendment passed the Committee. Senator Kerry's amendment was proposed in the face of an opinion from the U.S. Office of Government Ethics (copy attached) that having the union representative occupy a position on the IRS Oversight Board would place that individual in a position of potentially violating two criminal statutes which apply to all persons occupying similar positions in the federal government. Senator Kerry dismissed this opinion, stating that the union representative could simply be exempted from coverage of these two criminal provisions in S. 1096. Senator Kerry's amendment was passed by the full committee.

The Senior Executives Association strongly opposes inclusion of both the union representative and the Secretary of Treasury on an IRS Oversight Board for the reasons stated below.

BACKGROUND

The Internal Revenue Service plays a unique and important role in the federal government. It is one of the few federal agencies whose employees interact on a daily basis with tens of thousands of U.S. citizens. It is the law enforcement agency which, in contrast to other law enforcement agencies, must often deal with citizens who are neither criminals nor accused of crimes. However, it is a law enforcement agency forced to deal with negligent or willful refusal by 15%–20% of citizens to comply with Internal Revenue laws. The complaints of some taxpayers, and the alleged actions of some IRS employees, must be viewed against the background of the frustration of dealing, for example, with wrongdoers who have spent the withholding dollars belonging to their employees for their own purposes, rather than paying them into the Social Security Trust Fund or the Treasury Department for their employees' portion of payroll withholding taxes.

This is not to say that there are no examples of abuse by individual IRS employees. In an agency of over 100,000 employees who deal with tens of thousands of citizens on a daily basis, even when they are correct 99.9% of the time, the 1/10th of 1% of mistakes or abuses of authority are enough to ensure headlines. We agree that perpetrators of the small numbers of abuses of authority and power by IRS employees should be seriously dealt with, and the guilty employees disciplined or discharged.

IRS employees are deeply imbued with a few principles from the time they are first hired, during their training, and continuing throughout their employment. These principles include (1) the absolute integrity required of all IRS employees; (2) the fair, nonpolitical, and non-partisan enforcement of the tax laws; (3) the fair treatment of all taxpayers; and (4) the equality of treatment of all similarly situated taxpayers.

In the 1950's, major reorganizations took place within the Internal Revenue Service because the principles stated above were violated. At that time, political appointees were appointed by each Administration as chief collectors in each state. These political appointees, it was found, were sometimes involved in partisan political enforcement of the tax laws and, as a result, corruption of the tax system, as well as personal corruption of some IRS employees, was found to be a major problem throughout the Internal Revenue Service. Hearings were held in Congress, and legislation was enacted reforming the IRS, establishing only two political appointees to provide leadership of the IRS (the IRS Commissioner and the IRS Chief Counsel) and creating of the "Inspection Service" within the agency, which performed both internal audit and internal security functions in the agency to ensure the integrity of IRS operations and its employees.

The IRS was also separated in large part from the control of the Department of the Treasury, under the theory that the Department, with its numerous politically appointed officials, should not be involved in the day-to-day administration and enforcement of the tax laws. Of course, Treasury continued as a major player in the establishment of federal tax policy, as well as other areas. But Congress intentionally divorced the Department of the Treasury from interpretation, implementation, and enforcement of the Internal Revenue laws enacted by Congress.

THE SECRETARY OF THE TREASURY ON THE IRS OVERSIGHT BOARD

Against this background and the principles first enumerated (of ensuring the non-partisan administration of the tax laws) must be weighed the advantages and disadvantages of the Secretary of the Treasury being on the IRS Oversight Board. The citizens of this nation must believe that the tax laws are being fairly enforced for everyone, and that similarly situated taxpayers are being treated equally. In large part, our government depends on the voluntary compliance by citizens with the tax laws. If the appearance or the reality of partisan politics ever crept, once again, into the nation's perception of the enforcement of tax laws, it could destroy belief in the integrity and fairness of the tax system that has been developed in the IRS by its largely career workforce over the last forty years. Our concern is that placing the Secretary of the Treasury on the IRS Oversight Board could once again breach the appearance and the reality of the wall of impartiality that has been so carefully constructed.

We recognize that Secretary of the Treasury Rubin (and this Administration) would take great pains to ensure that the perception or reality of political interference in the enforcement of tax laws would not occur. However, federal government policies should not depend on individuals who serve in particular positions, but on the laws enacted by Congress. This is, after all, a nation of laws, not of men.

While Secretary Rubin and even his immediate successors might never abuse their power or authority, it is not to say that some such abuse might not occur in the future. In recent history, the Nixon Administration, in the 1970's, established an enemies list and sought to have the IRS audit particular individuals and organizations for political purposes. The nation became outraged by these allegations, and it was one of the reasons that President Nixon ultimately resigned from office. In the current Administration, the allegation that a number of FBI files on previous Republican appointees were being retained in the White House became an issue of extreme concern. Again, even if this was, indeed, an innocent mistake, the perception created in the public's mind becomes the reality of the public's attitude.

For the above reasons, we believe that it is imperative that the Treasury Department continue its arms-length dealings with the Internal Revenue Service, and that the Secretary not be provided a seat on the IRS Oversight Board. Obviously, the Secretary of the Treasury has line authority over the Commissioner and Chief Counsel of the Internal Revenue Service, who are appointed by the President and the Secretary. If the Secretary believes that these officials are not properly performing their jobs or that improper policy decisions are being made, the Secretary can seek removal of these officials by the President. This kind of Power gives the Secretary of the Treasury sufficient authority to ensure that his opinions or policy positions are seriously considered and, in most cases, followed. The Secretary does not need to be on the IRS Oversight Board to have appropriate influence on the agency. We believe that the possibility of an appearance of partisan political influence that could be engendered by the Treasury Department's deeper penetration into the operations of the IRS clearly outweighs the benefits of having the Secretary of the Treasury on the IRS Oversight Board. Our conversations with, and surveys of, IRS employees reinforce this belief. The consensus of career officials is that they would much rather have the intrusion of an independent IRS Oversight Board into their management decision making processes than they would have the additional intrusion of the Treasury Department.

INCLUSION OF THE NTEU REPRESENTATIVE ON THE IRS OVERSIGHT BOARD

From the outset of the proposal by the Kerry-Portman Commission (which studied the IRS) to include the IRS union president on the IRS Oversight Board, we have been inundated with objections from managers of the Internal Revenue Service and throughout the federal community.

IRS supervisors, managers and executives must deal with union stewards and unionized employees at the IRS in thousands of different situations each work day. In many instances, these dealings are extremely cooperative. In others, they are not. The labor management provisions of law that were enacted by Congress in 1978 for the federal government struck a careful balance between the union's rights and management responsibilities in the labor-management context (see Chapter 71, Title 5, U.S. Code). The law sets forth the rights of employees to union representation, the subjects of bargaining, and establishes the Federal Labor Relations Authority and the Impasses Panel to decide various disputes between the labor and management positions when negotiations cannot solve the issues. It is a carefully constructed process which has served the federal community well for over 20 years.

However, the placement of the IRS employee union president on the Oversight Board, and the provision in the House and Senate bills which gives the union absolute veto power over any attempt by the Oversight Board, the Commissioner, IRS manager, or even the President, to implement personnel reforms which would affect bargaining unit employees represented by the union stands this law on its head.

First, the placement of the union president on the Oversight Board would alter the balance of power between labor and management. A supervisor or a district director at an IRS district office trying to negotiate with the local union could be totally bypassed, and the union's position conveyed to the IRS Oversight Board by the union president in such a way that distorted the merits of management's position at the district office. This would prevent the entire IRS management structure from being able to negotiate on an equal basis with the union. The House and Senate bills give the Oversight Board the authority to oversee the selection, evaluation, and compensation of IRS career executives. The union's presence on this Board, and its resultant ability to influence the selection, evaluation, and compensation of IRS managers is a direct conflict of interest, one which would eviscerate the IRS executive's ability to deal with the union on any but a subservient basis.

In addition, the union's participation on the Board, which will prepare and present a recommended budget for IRS to Congress puts the union in a position to be able to benefit itself as an organization, as well as the IRS employees which it represents, in violation of current criminal law. As the attached opinion from the Office of Government Ethics explains:

"Given the duties of the Board, this individual [union representative] cannot serve as a 'representative'—a status recognized in applying conflicts laws to certain individuals carrying out purely advisory duties. We believe that the basic criminal financial conflict of interest statute, 18 U.S.C. §208, will be applicable to this individual and will substantially limit that individual's ability to carry out any meaningful service on the Board. . . . In addition, we believe that such a member will also be substantially inhibited from carrying out his or her duties on behalf of the union by the restrictions of 18 U.S.C. §203. There are no applicable waivers for these [two] restrictions."

Even in the face of the opinion of the Office of Government Ethics (the interpreter of the application and enforcement of ethics laws in the Executive Branch), the Administration and Senator Bob Kerry continued to insist that the IRS union representative be placed on the Oversight Board. Senator Kerry directed the Committee staff (at the time he sponsored his amendment before the Senate Finance Committee) to work with the Office of Government Ethics to provide in S. 1096 for waivers of these two criminal statutes as applied to the union representative on the IRS Oversight Board.

In our view, this would be an outrageous action by the Congress. To exempt a specific individual who is serving as a union representative from the application of two criminal laws for which there are no waivers available in law, is unprecedented, so far as we can determine. At the very least, the waiver of the application of criminal laws should at least have full consideration by the United States Senate, and, we believe, should require hearings by the Senate and House Judiciary Committees before being enacted. We cannot believe that the American people would be willing for Congress to selectively exempt a union representative from the application of criminal laws which apply to other citizens. If anything, these two criminal statutes should be repealed for all, rather than providing immunity from prosecution for one individual.

SUMMARY

For the reasons stated above, we strongly urge that you sponsor an amendment in the Senate to strike the provision from S. 1096 authorizing and/or requiring that the representative of the IRS employees union and the Secretary of the Treasury be placed on the IRS Oversight Board. The placement of the Secretary of the Treasury on the Oversight Board threatens, in our view, to erode the necessary confidence of the American people in the non-partisan administration and enforcement of the tax laws. The inclusion of the union representative on the IRS Oversight Board threatens the ability of IRS management to manage and control the IRS workforce. In addition, the provision granting the union representative immunity from two criminal laws which apply to every other citizen threatens not only the appearance but the actuality of the integrity and non-partisan impartiality of the Internal Revenue Service.

Sincerely,

CAROL A. BONOSARO,
President.
G. JERRY SHAW,
General Counsel.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, on behalf of Mr. KERREY, who is the manager, the ranking manager on this side, I have been asked by him to state that the vote on the Faircloth amendment is a vote, in essence, quite similar to the vote that has already occurred on the amendment by Mr. FRED THOMPSON of Tennessee. Mr. KERREY asked me to state that he would suggest, or even urge, Members to vote against the Faircloth amendment, the case already having been made, and in accordance with the request by Mr. KERREY, I am authorized to yield back the time on this side.

Mr. FAIRCLOTH. If I have time remaining, I yield it back.

Mr. KERREY. I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. I yield back our time.

Mr. FAIRCLOTH. I am ready to call for the yeas and nays, but I understood that Senator BYRD was going to speak.

Mr. KERREY. Earlier we did request that. We have some Members who will leave at 11 o'clock, so I asked Senator BYRD if he would speak after the rollcall vote.

Does the Senator still want a rollcall vote on this amendment?

Mr. FAIRCLOTH. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll. The yeas and nays have been ordered.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA) is absent because of a death in the family.

The PRESIDING OFFICER (Mr. GRAMS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 64, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—35

Allard
Ashcroft
Bond
Brownback
Chafee
Coats
Cochran
Coverdell
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Gregg
Helms
Hutchinson
Inhofe
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Sessions
Shelby
Smith (NH)
Smith (OR)
Thomas
Thompson
Thurmond

NAYS—64

Abraham
Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Cleland
Collins
Conrad
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Grassley
Hagel
Harkin
Hatch
Hollings

Hutchison
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Santorum
Sarbanes
Snowe
Specter
Stevens
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Akaka

The amendment (No. 2360) was rejected.

Mr. KERREY. Mr. President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the manager of the bill for the purpose of transacting three amendments, after which I be again recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. I thank my esteemed colleague for his courtesy as it is very helpful in moving this legislation forward. I first yield to Senator KERREY to offer one amendment.

AMENDMENT NO. 2361

(Purpose: To express the policy of Congress that the Internal Revenue Service should work cooperatively with the private sector to increase electronic filing)

Mr. KERREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. KERRY] proposes an amendment numbered 2361.

Mr. KERREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 256, line 15, strike "and".

On page 256, line 18, strike "2007." and insert "2007, and".

On page 256, between lines 18 and 19, insert the following:

(3) the Internal Revenue Service should cooperate with the private sector by encouraging competition to increase electronic filing of such returns, consistent with the provisions of the Office of Management and Budget Circular A-76.

Mr. KERREY. Mr. President, this amendment has been agreed to on both sides. It strengthens the electronic filing section, title II of this bill. I appreciate very much the Chairman's support.

Mr. ROTH. As Senator KERREY indicated, this amendment is acceptable to us, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2361) was agreed to.

Mr. ROTH. I now yield to Senator GRASSLEY.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENTS NOS. 2362 AND 2363, EN BLOC

Mr. GRASSLEY. Mr. President, I send two amendments to the desk and ask that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes amendments numbered 2362 and 2363, en bloc.

The amendments are as follows:

AMENDMENT NO. 2362

(Purpose: To add a counsel to the Office of the Taxpayer Advocate who reports directly to the National Taxpayer Advocate)

On page 203, line 5, strike "and".

On page 203, line 10, strike the period and insert ", and".

On page 203, between lines 10 and 11, insert:

"(III) appoint a counsel in the Office of the Taxpayer Advocate to report directly to the National Taxpayer Advocate."

AMENDMENT NO. 2363

(Purpose: to authorize the Secretary of the Treasury to provide a combined employment tax reporting demonstration project)

At the end of subtitle H of title III, insert the following:

SEC. . COMBINED EMPLOYMENT TAX REPORTING DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of the Treasury shall provide for a demonstration project to assess the feasibility and desirability of expanding combined Federal and State tax reporting.

(b) DESCRIPTION OF DEMONSTRATION PROJECT.—The demonstration project under subsection (a) shall be—

(1) carried out between the Internal Revenue Service and the State of Iowa for a period ending with the date which is 5 years after the date of the enactment of this Act,

(2) limited to the reporting of employment taxes, and

(3) limited to the disclosure of the taxpayer identity (as defined in section 6103(b)(6) of such Code) and the signature of the taxpayer.

(c) CONFORMING AMENDMENT.—Section 6103(d)(5), as amended by section 6009(f), is amended by striking "project described in section 976 of the Taxpayer Relief Act of 11997." and inserting "projects described in section 976 of the Taxpayer Relief Act of 1997 and section —— of the Internal Revenue Service Restructuring and Reform Act of 1998.".

Mr. GRASSLEY. Mr. President, the first amendment that I am offering today will simply place a counsel—a lawyer—in the National Taxpayer Advocate's office.

The purpose of doing this is to give the Taxpayer Advocate ready access to legal opinions and legal judgments, Currently, the Taxpayer Advocate must put requests into the Office of Chief Counsel.

In order to make the Taxpayer Advocate more independent, which is what this bill does, it logically follows that the Taxpayer Advocate should have its own legal counsel. This will guarantee it fast, confidential legal advice to help those taxpayers in greatest need. Because it is the taxpayers in greatest need who go to the Taxpayer Advocate.

The second amendment should not be controversial. It applies only to Iowa. It is only a pilot project. We created an identical pilot project in Montana last year. A nationwide project like this was recommended by the IRS Restructuring Commission. My amendment is only a pilot program and it is only for Iowa.

This project would simplify reporting for some Iowa businesses. It would give a try to a program that would allow them to report taxes on one form. This gives businesses more time to conduct business, and spend less time on paperwork.

Mr. President, these amendments have been cleared by the other side, and I ask that they be adopted by consent.

The PRESIDING OFFICER. Is there further debate on the amendments? If not, the question is on agreeing to the amendments.

The amendments (Nos. 2362 and 2363) were agreed to.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

MOTHER'S DAY 1998

Mr. BYRD. Mr. President, I refer to the third chapter of Genesis, verse 20, "And Adam called his wife's name Eve; because she was the mother of all living."

This coming Sunday, May 10, is Mother's Day. And, upon awaking that morning, some mothers will be treated to a lovingly prepared culinary surprise, and a glue-streaked—but treasured—handmade card. Others will be invited to brunch or to lunch or to dinner with their children and, perhaps, grandchildren, many of whom may have traveled long miles, some perhaps from one edge of the continent to the other, to help honor their mothers and grandmothers on this very special day, a day that originated in West Virginia, Mother's Day.

In my own case, and that of my wife, we will be visited by our two daughters, Mona Carol and Marjorie Ellen, and their husbands, Mohammad and Jon, respectively. And we will also be visited by our five grandchildren. I will name them in the order of their ages: Erik Byrd Fatemi, and then Mona Byrd Moore, Darius James Fatemi, Mary Anne Moore, Fredric Kurosh Fatemi. They will all come to our house, the

Lord willing, this coming Sunday, and they will bring flowers to my wife Erma. And we will sit and talk for awhile, and then we will have those beautiful flowers and those beautiful thoughts and those beautiful memories that will be with us for—in the case of the flowers, all summer; in the case of the thoughts and memories, as long as we live. Others of my colleagues will experience the same visits from their daughters and granddaughters. And this will go on all over the country, with children coming back home, the family circle again coming together.

This weekend will be one of the busiest weekends of the year, one of the busiest for florists who deliver baskets and bouquets of long-distance love. As for telephone lines, they will be busy also, carrying the loving voices of sons and daughters, unable to make the long journey home. Some will be calling from foreign lands, but they will make those calls to mother.

This annual outpouring of affection and appreciation gives me hope that the strength of family feeling in this Nation has really not diminished all that much, but ever how much, is too much. Yet, those feelings are still strong. Despite the afternoon hate-fests on television that sometimes pass for talk shows, in which high ratings are garnered by mother-daughter rivalries or mother-son conflicts that devolve into circus sideshows, caring and affection are still widespread among ordinary families like mine, and like the families of others here.

I cannot adequately describe how proud I am that the strength, the character, and the devotion that my wife Erma instilled in our daughters have carried through their families and are manifested in the fine families that my grandchildren are building. And I know that other Senators are just as proud of their families as I am of mine. I have said many times that the love and confidence and support of my family have helped me through the hardest moments of my life—I have had some pretty tough moments—and have sweetened every victory, and there have been some victories.

"Simply having children does not make mothers," someone has said, but a good mother is a pearl without price, for a mother's role in maintaining a civil and decent society is incalculable.

I say mothers here, not to denigrate the active role played by many fathers in the lives of their children today, but in recognition of that fundamental tie between a mother and her child—between a mother and her children. It is mother who wakes first at night to soothe the fevered brow. It is mother whose kisses are better than Bactine at taking the sting out of the tender skin. It is mother whom you call when things are really, really bad, no matter your age. It is mother who teaches us love. Mothers are our first and our best role models, whose wisdom and training guide us through our headstrong teenage years and comfort us when we are older.

Napoleon Bonaparte said, "The future destiny of the child is always the work of the mother." To raise children to become good citizens is a challenge, and it seems that today there are so many more malign influences out there, working to bend that childish twig into a blighted and twisted tree. "As the twig is bent, the tree is inclined," it has been said. And, so, as I have stated, there are so many more malign, malignant influences out there everywhere, working today, than there were when I was a child, working to bend that childish twig into a blighted and twisted tree.

When I was younger—I will not say when I was young, I am still young, as young in spirit as ever—but when I was a boy, there was no television, thank God; no television, and only very limited radio programming. That was back in the days when radio was good. We had an old Philco radio, just a little radio that sat on a shelf on the wall.

Of course, during the years when I lived as a country boy "out in the sticks," as we sometimes are prone to say, we had no radio at our house. We had no electricity in the house. No radio, no running water, no electric lights. But we moved later to a coal camp where we did have a radio, the Philco that sat on the wall shelf.

A trip to the movie theater was rare. I remember that the strong man in the old silent movies was Joe Bonomo, and the cowboys were Tom Mix, Hoot Gibson, Jack Hoxie, and William Desmond. But there was no Internet and no video, not even a school library in the two-room schools that I attended. But later on when I was in high school, there was a school library. Then there was Bible class on Sunday. It was, in many ways, an easier time, a simpler time in which to rear children; it was much more easy to protect children against corrupting material.

I am no Luddite opposing technology and progress. Isaiah said that we would have progress. He said:

> Prepare ye the way of the Lord, make straight in the desert a highway for our God.
>
> Every valley shall be exalted, and every mountain and hill shall be made low: and the crooked shall be made straight, and the rough places plain:
>
> And the glory of the Lord shall be revealed, and all flesh shall see it together. . .

So Isaiah foresaw the diesel motor train, the submarine, the underocean cable. He foresaw television. He foresaw that wonderful nuisance, the telephone, and all of these inventions, of course, would level the hills and all flesh would see the glory of the Lord together. That was Isaiah.

I am no Luddite opposing technology; I am for it. And progress, of course, I am for that, too.

With the bad comes the good, and with the good comes the bad. Children, unfortunately, have access to pornography on the Internet, but they also have access to Shakespeare and to Milton and to Carlyle. They have access to their Government and to many other sources of useful and intellectually stimulating information.

With television and with videos, our children can visit the world and see history in the making. But a parent's job, the mother's job or the father's job, is harder. It is more difficult to protect your children from material that may be too seamy or too misleading. It is more difficult to shield your children from language that is profane, offensive, vulgar. It is more difficult to demonstrate acceptable behavior when aggressive drivers, offensive song lyrics and violent behavior are present on the streets, in the air and on television, therefore, right in your living room. Seemingly everywhere, everywhere.

When sports heroes spit in the face of the umpire or choke their coaches, their fans—some of them—may think it is all right, because one will probably also notice that not enough of a penalty was attached. When the news is full of lawyers or politicians or commentators throwing out slurs and wild allegations, youngsters may think that courtesy and respect are not needed in business or public life. By the way, John Locke wrote a constitution in 1669 for the government of the Carolinas. In John Locke's constitution, there could be no lawyers. No fees could be charged in John Locke's constitution. Every law would sunset at the end of 100 years. That was John Locke's constitution.

Hence, when the kind of language that I have been discussing, when the kind of behavior permeates the schoolyard and the neighborhood, it soaks into youngsters like water into a dry sponge.

When I see children of all ages celebrating their mothers on Mother's Day, I am encouraged. It means that many mothers and fathers are overcoming the difficult challenges placed before them. They are succeeding in building families. They are strong enough, caring enough, supportive enough to fend off the disrespect that surrounds them and who see no shame—no shame—in following the dictate of the Bible to honor thy mother and thy father. "Honor thy father and thy mother." These surely are families that spend time together around the dinner table.

I am overjoyed when I see my grandchildren come into my home. They are really, grown men and women.

They still kiss me on the cheek. It does not make any difference how many people are around, they still kiss me on the cheek—that demonstration of heartfelt, genuine love and affection that can only come from children. Oh, as an aside, I might add, not altogether jokingly, but also from my little dog "Billy."

These are families that spend time around the dinner table. These are families in which the children do their homework, in which parents know their children's teachers and their friends, families in which the members help and encourage and support each other through triumph and tragedy.

We spend a lot of time in the Senate talking about children, what priceless treasures they are, and the things we ought to do or ought not to do to help them. I am happy today to look past those young gems in our national treasury, to recognize and honor the mother lode from which they issue, the ore that shapes them—clear, flawless, and true in all of their colors—their mothers. I hope that the mothers on my staff enjoy their Mother's Day festivities, and that they, and my wife Erma, the mother of my daughters, who are the mothers of my grandchildren, and all mothers around the Nation, know that I salute them, encourage them, and honor them this Sunday and every day.

I salute the mothers on my staff. It is very difficult for them and for mothers on the staffs of other Senators. They have to be dedicated, and they do make a sacrifice in order to serve. And it is a sacrifice that can never be retrieved or recouped. My admiration and respect go out to all of the young mothers who work in this great Senate family.

Now, I lost my mother when I was 1 year old. She died in the great influenza epidemic in 1918. She died on Armistice Day. And I had what I thought were three brothers and one sister. Only about a month ago, I found that I had another brother, a fourth brother, who had died at childbirth. I did not know that until about a month ago.

In 1918, times were very hard. My father worked in a factory that manufactured furniture. The Spanish flu killed 500,000 people in this country, and, according to estimates, more than 20 million people around the world. My mother knew that she might not recover, and so she asked my father to give me, the baby, to his sister Vlurma. I believe he had 10 sisters. And my other brothers were to be farmed out to others of his sisters.

But I was given to my father's sister Vlurma and her husband, Titus Dalton Byrd, and they raised me. They did not have much of an education, but they gave me their love and they urged me to do right. They had the Holy Bible in the house. They could barely read, but the example that they set was a shining example of a couple who revered God. They did not wear their religion on their sleeves. They were not of the religious left or the religious right or anything of that nature; they were just good persons, trying to make an honest living and according to God's will.

I can imagine my own mother, had she lived; I have no recollection of ever having seen her, naturally, by virtue of her having gone away when I was just a year old. But the woman who raised me gave me tenderness and love and affection. I can see her wearing her bonnet and her apron. She was a hard worker. I can see her, as others in this Chamber can see their own mothers, I am sure, especially as most Americans who are perhaps not as old as I am, can remember their mothers, especially those who lived out in the country, out on the farm, wearing their bonnets and their aprons as they worked in the kitchen.

Those were old-fashioned mothers. We picture them in our minds. My mom, I used to watch her as she cooked the meals when I was a little boy. And I would hear her sing. And I would hear her use an expression: "Well, you put in a pinch of this and a pinch of that." They did not have cookbooks. And my mom probably could not have read a cookbook, in any event. But I often heard her use that expression: "A pinch of this, a pinch of that." They did not use recipes; they just knew about how much of this ingredient to put in, how much of that to put in, and how long to cook it. By experience, they learned to cook. They were great cooks—great cooks.

Well, as I think of that woman who raised me, I think of the old-fashioned mother that most of us can remember. And I will close with a few lines that take off on my mom's expression, "a pinch of this, a pinch of that." Now, I did not write this poem. I do not remember the name of the author. It is a fitting poem:

When Mother use to mix the dough,
Or make a batter—long ago;
When I was only table high,
I used to like just standing by
And watching her, for all the while,
She'd sing a little, maybe smile,
And talk to me and tell me—What?
Well, things I never have forgot.

I'd ask her how to make a cake.
"Well, first," she'd say, "Some sugar take
Some butter and an egg or two,
Some flour and milk, you always do,
And then put in, to make it good—"
This part I never understood
And often use to wonder at—
"A pinch of this, a pinch of that."

And then, she'd say, "my little son,
When you grow up, when childhood's done,
And mother may be far away,
Then just remember what I say,
For life's a whole lot like a cake;
Yes, life's a thing you have to make—
Much like a cake, or pie, or bread;
You'll find it so," my Mother said.

I did not understand her then,
But how her words come back again;
Before my eyes my life appears
A life of laughter and of tears,
For both the bitter and the sweet
Have made this life of mine complete—
The things I have, the things I miss,
A pinch of that, a pinch of this.

And, now I think I know the way
To make a life as she would say:
"Put in the wealth to serve your needs,
But don't leave out the lovely deeds;
Put in great things you mean to do,
And don't leave out the good and true.
Put in, whatever you are at,
A pinch of this, a pinch of that."

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Kansas is recognized.

Mr. BROWNBACK. What a stirring speech from the Senator from West Virginia on such a fitting time and occasion, on Mother's Day. I just did my note to my mother this morning for Mother's Day. I sent a poem—not orally delivered; I think orally is much better than in writing.

As you reflect and talk of the essence of motherhood, it seems it is the essence of love you are talking about. It reminds me of what we are called to do. We are called to love—to love our Lord, our God, with all our heart, mind, soul, and flesh, and to love our neighbor as ourselves. Mothers seem to exemplify that perhaps better than anybody does.

How fitting, on National Day of Prayer, when we are praying for our Nation, why not add a prayer for your mother, too, and pray for the mothers of the country who rock the cradle, who lead us in many places, in many facets.

I can see my own wife, today, with our three children, leading them and leading us and leading our family—that central unit of the Republic, the family.

I am very touched by the Senator's speech.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with consideration of the bill.

Mr. BROWNBACK. I am afraid, Mr. President, my speech is far more pedestrian. It is about taxes. When you think of it in the context next to motherhood, it pales substantially, yet it is the business of this body.

The bill we are on today is about taxes, and it is about reforming the IRS. I think the chairman of the Finance Committee has done extraordinary work on bringing this topic to the floor, and I am going to support it. I think it is an important measure to us and for the Republic.

I rise to speak for a few minutes on the need not only to reform the Internal Revenue Service but to change the way our Government is financed. During consideration of the budget resolution, just a short month ago, the Senate voted not only for the need to make some basic changes in the IRS but also the need to sunset the Tax Code.

It is a sad and easily recognizable fact that big government advocates have socially engineered our culture into the ground through the use—and abuse, I might add—of the power to tax. To save our culture, we must at once not only recognize and support those entities in the culture that help us, but also remove the ability of Government to discriminate against institutions that help us, as well. For instance, the marriage penalty; we have a tax on being married. If you are married, you get taxed more than if you just live together. That is wrong. That is harmful to society. It is harmful to the culture and needs to be removed. We promote, also, gambling in the Tax Code.

In short, we must cut back on Government's micromanagement of our lives, and particularly those areas that create vice and hinder and hurt our Republic and our Nation and our culture. This is a Tax Code that we have today that will go down in history as one of the most onerous burdens ever placed on the American people. I am convinced that we cannot have another American century with this Tax Code. It is antifamily. It is antigrowth. It cannot be saved. It must be scrapped.

But in the meantime, we must try to correct for some of the well documented cases of abuses that were given life by this Tax Code and were brought to light by the Senate Finance Committee. The IRS needs to be reformed as much as the code that has given it unprecedented power needs to be put to rest. Americans demand reform of our Tax Code as well as the agency charged with enforcing it. We have promised that reform. Now, during the course of this bill, we must begin to deliver on that promise to the American people.

I believe we need to stay focused on where the problem really lies.

In order to make this point, I have a horror story from Kansas—not that everybody doesn't have one from their home State, actually many of them coming forward—that involves an older couple—the husband is nearly 70 years old—running a small business from their home. In the mid-1980s, they were selected for an IRS audit that focused heavily on home office deductions and related expenses and resulted in the assessment of additional taxes, penalties, and interest. The constituents have made payments on the back taxes, but in so doing, they limited their ability to make their current estimated tax payments. So the IRS said, "Stop making your back tax payments and let's get caught up on your current estimated taxes." The constituents told them they would do that. But they were told, as well, that the IRS would put a hold on the collection of their back taxes until they were caught up on their current estimated taxes. The IRS said, "OK, we will put a hold on collecting your back taxes. You get caught up on the estimated current taxes." However, the IRS failed to inform the constituents that interest on the back taxes would continue to accrue.

Now, the outstanding principal balance my constituents owed was $18,000. However, when the penalty and accrued interest are added, the amount balloons to $46,000—from an $18,000 back tax to $46,000 in interest and penalties. My constituents have offered to pay $18,000. They believe that they might be able to come up with that with loans from friends and relatives. However, the IRS cites the constituents' equity in their home as a source of income that could be used to settle the entire debt, but they need to sell their home or otherwise refinance in order to be able to get the equity to pay off this bad tax debt.

Unfortunately, because of the situation with the IRS, the IRS has put a lien on their home. And, in fact, in this era of declining interest rates, my constituents have been forced to pay over 10 percent interest rates because the lien precludes them from refinancing at lower rates, possibly as low as 7 percent. Therefore, again, my constituents are making very high house payments, which squeezes their budget even tighter, which limits their ability to pay their back taxes and interest due to the IRS or the current estimated taxes due to the IRS.

If my constituents were to sell their home, their age would likely preclude them from generating enough income to purchase another home. The IRS has even garnished their Social Security retirement income. Social Security benefits comprise the bulk of their income. They are still trying to reach a settlement with the IRS. In trying as hard as they can to make this payment, they are getting squeezed and boxed in by this IRS and by this code. This is just another horrible example of the IRS in the Catch-22 situation that is forced upon many Americans. It must be put to a stop. This cannot continue.

The underlying problem, though, along with the IRS enforcement, is the Tax Code. Not only does our Tax Code undermine the basic building blocks of our society, the family, it also punishes good investment decisions and distorts the labor market as well as our rates of national savings are distorted by this Tax Code. It manipulates behavior by adding an incentive to do one thing while punishing those who would do something else.

A quick look at some of the inadequacies in our code should make the case for reform clear. For example, if you are a gambler, you can deduct your gambling losses against your winnings. But if you are a homeowner and you happen to make a bad home investment, and the value of your home declines, you have no recourse in the Tax Code because you cannot claim a deduction for the capital loss. Now the question really is—think about this—should we allow for a bad game of blackjack to be deducted but not a bad home investment which you were building a family around? Does this make sense to anybody? I don't think so.

The code is full of these inconsistencies, like the one I just mentioned. Sure, we can try to fix the problems within our Tax Code, and we should, but the fact of the matter is, our Tax Code is riddled with these inconsistencies. It is micromanagement to the greatest degree, which leads to the conclusion that we cannot reform this code. We have to sunset it and go to one that is simpler, better, and fairer. We must move to a tax system where individuals are not punished for getting married, for saving for their children's education, or for other investments, where the national rate of savings is not distorted by these unintended consequences. This current Tax Code doesn't make sense. It is unintelligible. It has 10 million words and it has to be gotten rid of.

We should go to a tax system that does not discriminate against the components of growth in our economy or the family. Some will disagree. But this is the precise issue upon which we must focus our debate. We must decide where we want the tax to be imposed; and further, we must understand what effect the imposition of the tax will have on the health of the economy. We need to go to a progrowth, profamily taxation system.

Mr. President, we are soon going to have a debate on replacing this Tax Code. I have spoken with the majority leader and he agrees with the need to bring this up during the Treasury-Postal debate. We will have a full debate about replacing and sunsetting this Tax Code and going to one that is simpler, fairer, and better.

It is time to have this debate. We voted previously in the Senate on a sense-of-the-Senate resolution to sunset this Tax Code by the end of the year 2001 and start the great national debate now about what we should replace this riddled code with. That is what we should do—figure out what we are going to replace it with and set the time line that by this date we will have a new code. It may take 15 years to implement it. We are going to have to do some phasing in doing it. But it is time to start the great debate on this. Reform is important. Reforming the IRS is critical. The next step is reforming the IRS code, the law. We will vote on sunsetting it and start this great national debate of going to a different system so that we can have another American century, an unlimited America. We can't with this code. We can and we must do better.

With that, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, first, I thank the Senator from Idaho for allowing me to break in here to give a 5-

minute speech dealing also with what Senator BROWNBACK is talking about, which is really the unfairness of the current Tax Code that we have.

Mr. President, I am usually not one to quote poetry here on the Senate floor, but I rise today and ask my colleagues' indulgence as I broach a serious subject with a not-so-serious bit of rhyme.

> Abracadabra, thus we learn
> The more you create, the less you earn.
> The less you earn, the more you're given,
> The less you lead, the more you're driven,
> The more destroyed, the more they feed,
> The more you pay, the more they need,
> The more you earn, the less you keep,
> And now I lay me down to sleep.
> I pray the Lord my soul to take
> If the tax-collector hasn't got it before I wake.

Mr. President, it was 1935 when poet Ogden Nash took up his pen to warn of the dangers of a tax system run amuck. Then, the federal tax rate topped out at less than 4 percent.

Sixty-three years later, Washington now demands 28 percent of every paycheck; the additional burden of state and local taxes boosts the total tax load to nearly 40 percent of every worker's paycheck.

I cannot say with certainty what sort of poem Mr. Nash might produce on the subject were he alive today, but it would not surprise me if it could not be repeated here on the Senate floor.

There exists no other date the American people await with such dread as April 15, tax filing day. Rightfully so. Oppressive taxes, coupled with abuses the Internal Revenue Service routinely carries out upon taxpayers—abuses exposed during the recent hearings of the Senate Finance Committee—certainly highlight the reasons why.

Yet, taxpayers face another annual event they should look upon with equal disdain, an event that reveals a great deal about the federal, state, and local tax burden working families are expected to bear: Tax Freedom Day.

As it does every year, the nonpartisan Tax Foundation has calculated the date average American stops working just to pay their share of the tax burden and begin working for themselves and their families.

In 1998, Tax Freedom Day falls on Sunday, May 10. That means taxpayers must work 129 days before they can count a single penny of their salary as their own—that is a full day later than 1997, and marks the latest-ever arrival of Tax Freedom Day.

By the time Tax Freedom Day arrives, the American people will have spent the last 129 days imprisoned by their own tax system. And that is not the whole picture, because if the cost of complying with the tax system itself were included in the calculations, Tax Freedom Day would be pushed forward another 13 days. As proof of just how far we have traveled—in the wrong direction—Tax Freedom Day in 1925 arrived on February 6.

Taxpayers are now working more than an entire week longer to pay off their taxes than they were when President Clinton first took office in 1993. Calculate the tax load in hours and minutes, instead of days, and Americans spend fully two hours and 50 minutes of each eight-hour workday laboring to pay their taxes.

While May 10th marks the arrival of Tax Freedom Day for taxpayers in an average state, many Americans are forced to wait longer. My home state of Minnesota, for example, is the third highest-taxed state, and our taxpayers will not mark Tax Freedom Day until May 16, nearly a week later. If you live in Wisconsin or Connecticut, you will wait even longer.

After 16 major tax increases over the past 30 years, the need for tax relief has never been more pressing.

Congress and the President moved toward the taxpayers in 1997 by enacting the "Taxpayer Relief Act" with its $500 per-child tax credit. In 1998, Congress and the President can and must do more, beginning with fundamental reform of the entire tax system. Merely tinkering around the edges of the Internal Revenue Service won't reduce the burden on overtaxed Americans, though. Real reform means creating a more sensible way to pay for the services of government through a system that is flatter, simpler, fairer, and treats the taxpayers with respect. Meaningful tax relief—relief that leaves more dollars in the hands of working Americans to spend on child care, health insurance, clothing, and groceries—will quickly follow.

Instead of serving as yet another occasion for tabulating the high cost of government, Tax Freedom Day must become a national call to action. How far will it go if the taxpayers do not step forward? To paraphrase Mr. Nash: Abracadabra, thus we say Just where is the "freedom" in Tax Freedom Day? I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Idaho is recognized.

AMENDMENTS NOS. 2364, 2365, AND 2366, EN BLOC

Mr. CRAIG. Mr. President, I send three amendments, en bloc, to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes amendments numbered 2364, 2365, and 2366, en bloc.

Mr. CRAIG. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2364

(Purpose: To require advance notification to taxpayers before disclosure of their income tax return information to state and local governments)

Insert in the appropriate place in the bill the following:

SEC. . TAXPAYER NOTICE.

Section 6103(d) of the Internal Revenue Code of 1986 is amended by adding at the end thereof a new paragraph to read as follows:

"(6) TAXPAYER NOTICE.—No return information may be disclosed under paragraph (1) to any agency, body, or commission of any State (or legal representative thereof) unless the Secretary determines that such agency, body, or commission (or legal representative) has first notified each person for whom such return or return information was filed or provided by, on behalf of, or with respect to, personally in writing that the request described in paragraph (1) has been made by such agency, body, or commission (or legal representative) and the specific reasons for making such request.".

AMENDMENT NO. 2365

(Purpose: To limit the disclosure and use of federal tax return information to the States to purposes necessary to administer State income tax laws)

Insert in the appropriate places in the bill the following:

SEC. . DISCLOSURE NECESSARY IN THE ADMINISTRATION OF STATE INCOME TAX LAWS.

(a) Section 6103(b)(5)(A) of the Internal Revenue Code of 1986 is amended by inserting after "Northern Mariana Islands," the following: "if that jurisdiction imposes a tax on income or wages,".

(b) The first sentence of Section 6103(d)(1) is amended by inserting the word "income" after "with responsibility for the administration of State" and before "tax laws".

The first sentence of Section 6103(d)(1) is further amended by inserting "State's income tax" after "necessary in, the administration of such", and before "laws".

AMENDMENT NO. 2366

(Purpose: To require disclosure to taxpayers concerning disclosure of their income tax return information to parties outside the Internal Revenue Service)

Insert in the appropriate place in the bill the following:

SEC. . DISCLOSURE TO TAXPAYERS.

Section 6103(d) of the Internal Revenue Code of 1986 is amended by adding at the end thereof a new paragraph to read as follows:

"(6) DISCLOSURE TO TAXPAYERS.—The Secretary shall ensure that any instructions booklet accompanying a general tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms) shall include, in clear language, in conspicuous print, and in a conspicuous place near the front of the booklet, a complete and concise description of the conditions under which return information may be disclosed to any party outside the Internal Revenue Service, including disclosure to any State or agency, body, or commission (or legal representative) thereof.".

AMENDMENT NO. 2364, AS MODIFIED

Mr. CRAIG. Mr. President, I ask unanimous consent that amendment 2364 be modified, and I send that modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2364), as modified, is as follows:

AMENDMENT NO. 2364, AS MODIFIED

(Purpose: To require advance notification to taxpayers before disclosure of their income tax return information to state and local governments)

On page 394, after line 15, add new item 5 to read as follows:

"(5) Whether return information should be disclosed under Section 6103(d) of the Internal Revenue Code of 1986 to any agency, body, or commission of any State (or legal representative thereof) unless the Secretary determines that such agency, body, or commission (or legal representative) has first notified each person for whom such return or return information was filed or provided by, on behalf of, or with respect to, personally in writing that the request described in section 6103(d) of the Internal Revenue Code of 1986 has been made by such agency, body, or commission (or legal representative) and the specific reasons for making such request.".

Mr. CRAIG. Mr. President, before I discuss these three amendments en bloc, let me say, as so many of us have on the floor over the last several days, how proud we are of Senator BILL ROTH for the very statesmanlike approach he has taken toward major reform of the Internal Revenue Service. His committee, the Finance Committee of this Senate, and the hearings he has held with the full participation of Democrats and Republicans alike in most instances, is producing the first significant reform in the IRS in its history in well over 200 years. We are reversing a trend that over 200 years progressively took away from the average citizen, the taxpayer, more and more of their rights as individuals, their personal power upon themselves, and their own financing. So what we do here today and what we have been doing for several days is phenomenally significant. I am tremendously proud of our chairman, BILL ROTH, and the statesmanlike approach he has taken.

Let me also say that the leadership of our majority leader, TRENT LOTT, has also helped to cause this to happen. He has supported our chairman and insisted that we move this along in a timely fashion. Of course, I am pleased that the American public is supportive of what we are doing. They know more than anyone else the importance of the reforms that we are debating.

While this is a major step taken forward, my three amendments touch on an area that really has not gone overlooked but is very seldom talked about; that is, taxpayer privacy and disclosure of taxpayer information. It is probably one of the more important areas. And it is something that a lot of our citizens simply don't know a great deal about. They assume, and you and I assume, Mr. President, that our information, our forms, our files at the IRS are very, very private. They are not. For the next few moments let me explain why they are not, and why my three amendments would make a major effort to correct that.

While the citizens of our country believe that the agencies of the Federal Government responsible for collecting and administering our tax laws will hold their information confidential—and I think they have been led to believe that over the years—it just simply is not the case.

I was stunned when I found out that under the Internal Revenue Code and the IRS regulations all it takes is one simple letter from State tax officials to get the IRS to turn over to thousands of officials across the Nation millions of pages of citizen returns. Those citizens have no way of finding out that their returns have been passed on in whatever manner. Does the IRS tell them? No. It doesn't. Does it state to them that at least they have been turned over to the State? Or does the State notify them that they are in possession of their Federal tax records? Again the answer is no. It doesn't tell them. You and I, Mr. President, would like to think that those are our private records. We know, as every citizen knows, that they are the most disclosing of all financial information that any citizen ever provides. And it is all considered, at least by the citizen, confidential.

The evidence is very clear that there could be abuse. We don't know at this moment whether there has been State or local abuse. I say local abuse because we know that cities that have income taxes also can have made available to them those citizens' Federal IRS returns referenced. So what we don't know is where the abuse is occurring. What we do know is that these are released.

More than 60 jurisdictions under section 6103 of the Internal Revenue Code are allowed to have access, all 50 States, the District of Columbia, Commonwealth and territories, plus all of the cities with income taxes and with populations of over 150,000. It is true that section 6103 of the code prohibits sharing tax return information—Watergate style, that is—with Governors and mayors. Or shall I say political individuals? But then you and I know, Mr. President, that in some of our States there still lurks and there always will lurk the "good ole boy" system.

Who appoints the tax commissioner in the State? Very few are elected. The Governor does. Who has access to all of these files? The tax commissioner does. If I want to know something about an individual, and I am a Governor, or I am a mayor of the so described cities, is it impossible to get that information? Let me tell you. There is a law against doing that. But we know that law has not been enforced, or we know that in many instances. Who would ever find out? Do we have Federal agents at State collection agencies ensuring the security and the confidentiality of those thousands of records they have passed forward? No. Absolutely not. We couldn't afford it if it were the right thing to do.

So what I am suggesting in my amendments is that we change the behavior, change the attitude. Drug dealers, child molesters, and organized crime individuals have more protection outside of the Tax Code than the average citizen has inside the Tax Code.

Frankly, I am amazed that this type of sharing of confidential tax information has not been found to be an unreasonable search under the fourth amendment of the Constitution.

I want to stress that this information is not passed along only in cases in which an individual is under investigation by a State or a local tax agency. One routine request will provide detailed computer tapes on virtually all of the taxpayers in that State. Then computers can be used to scan the tapes for any item of information that the State or the local officials think may indicate "fishy behavior," or the tax return information of selected individuals may be accessed. And the taxpayer, again, let me repeat, is never told that his or her records are being passed around in the character and in the nature which I have described.

What kind of confidential taxpayer information can be passed around so freely? I was astounded to find out how much. The kind of confidential tax information being handed out includes the taxpayer's annual tax returns, information returns, declarations of estimated taxes, claims for refunds, amendments, supplements, and supporting schedules and attachments. Worse yet, many types of information can be passed around simply because they are called return information. This can include the taxpayer's identity, the nature, the source, and the amount of income, any payments or receipts in the IRS files, and any deductions you may have taken. From that type of information it is possible to figure out what kind of house the taxpayer lives in, the amount of the debt that taxpayer has, if you are sick, if you are not sick. The confidential taxpayer information being passed around includes your net worth, your tax liability, any deficiencies in tax payments you have and the like. It gets worse. It doesn't get better because there are a lot of things in those files.

The confidential information shared includes any data received or prepared by the IRS regarding a return deficiency, penalties, interest, offenses, and the like. It includes any information regarding actual or possible investigation of a return. And it also includes any part of an IRS written determination or background file document not opened to public inspection.

Now, remember, I just said information not open to public inspection that can be sent out across the country to any lesser tax collecting agency. It may even include an incorrect or an unfavorable credit report, a report which under any other circumstance you could access, dispute, and correct.

Generally, however, taxpayers do not have access to their own IRS files. Therefore, you, the taxpayer, have no way of checking the accuracy of the information or refuting incorrect information that may be passed back and forth freely amongst several levels of government.

The bundle of amendments I have offered today does several things. My first amendment would advance the idea of not allowing this kind of confidential information to flow forward. I understand that States that have income taxes use the IRS code and its information to shape and define their own taxpayers, and I understand that if we were to stop that immediately it could cause grave impact on State tax collecting agencies. So what I have asked in this amendment, in the modification that I sent to the desk, is that we review through the study within the proposed law that we are debating now of 6103, that we look at this as a part of a study to see how we can shape the assurance of confidentiality, as information in some instances probably must flow to other tax collecting agencies. And I hope we can accept that. It is a study to begin to look at assuring confidentiality in an area that, very frankly, the committee did not take a lot of time looking at.

The second amendment would limit the sharing of tax return information with States or local governments to circumstances in which its disclosure and use is necessary to administer a State or local income tax. So we are talking exclusively of an income tax calculation, not, if you will, the broad search for information.

Under careful examination of section 6103, I noticed that large cities, as I mentioned, would receive confidential tax information only if they impose their own city income tax. So we want to limit it to just those cities that have an income tax. But States, the District of Columbia, territories, and Commonwealths could receive detailed, voluminous information on income tax returns as long as they assure the IRS that the information is somewhat related to State tax law; in other words, we want to make it specific: States, governments, local jurisdictions that have income taxes as a part of their revenue collecting and therefore to be very specific so that States that do not, cities, large cities of over 225,000 that do not, cannot request it because the law would deny, or allow the IRS to deny that kind of request of these very large volumes of confidential information.

Amendment two would shape that and limit it. In short, this amendment simply says income tax information should only be shared for a relevant purpose—for income tax purposes, period. It would treat States and other jurisdictions the way the Tax Code already treats the larger cities. This amendment represents a modest first step toward better protection for taxpayer privacy.

The third amendment requires the IRS to publish a reasonable disclosure to all taxpayers in the instruction booklets already accompanying the basic Federal income tax returns. This would simply be an explanation to the taxpayer in clear language, in conspicuous print, one page, in the front of the information booklet, the conditions under which the taxpayer's tax return information may be shared with any other party outside the IRS.

In other words, it puts the taxpayer on notice that here is the limit and this is information they simply did not know before. I firmly believe that virtually none of America's taxpayers realize just how public their private tax records are. The very least we owe them is to disclose up front the circumstances under which their information will be shared. This would also assure them of the extent, however limited, to which their privacy is protected. This disclosure also should result in increased compliance with State and local tax laws since taxpayers will be reminded up front as they prepare their Federal return that the same information may be shared for State or local compliance purposes. Surely, the IRS can do this for its taxpayers. Taxpayers who will send $1.7 trillion this year to the Treasury of this country deserve to have a clear, one-page explanation of the extent to which their privacy is protected.

Let me repeat that. One page of information, that is all it takes, in the front of the information book that goes out to every taxpayer. I do not want the regulators downtown to decide that it takes an entirely new book with multiple pages saying blah-blah-blah, blah-blah-blah. We want the taxpayer to know the circumstances and those who can receive this very private and very confidential information. So that is what should happen, and I believe these are amendments Congress should accept as we move to reform the IRS code.

Mr. President, I urge adoption of amendment 2364, as modified, and I ask to set aside for the time being amendments 2365 and 2366.

The PRESIDING OFFICER. Is there an objection? Without objection, it is so ordered.

The amendment (No. 2364), as modified, was agreed to.

Mr. CRAIG. Mr. President, again, I applaud my chairman, BILL ROTH, for the leadership he has brought on this most significant of issues. As I say, it is fun to be a part of rolling back 200 years of accumulation of assault on the American taxpayer that clearly this Senate is acting upon now in this major reform of the IRS. Of course, to our majority leader, and to all who have joined in the Finance Committee, it is especially important that we do this.

So I hope that the disclosures I am talking about, the limitations as they relate to privacy and the confidentiality of this information can become a part of that reform. And then, of course, the other, an intense study to understand how far we can go and how we can work with income-tax-collecting State agencies and cities to assure even greater confidentiality is so very important.

With those comments, I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. I ask unanimous consent to speak for 6 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

Mr. THOMAS. Thank you, Mr. President.

A SPECIAL MOTHER—DOROTHY B. ENZI

Mr. THOMAS. Mr. President, I want to take some time while we are in a pause here to talk about something that all of us are aware of, and that is Mother's Day, which is on Sunday, but I also want to talk a little bit about a special mother, a lady from Sheridan, WY.

This lady was selected to be Mother of the Year in Wyoming a short time ago. Just last week, she participated in the National Mother of the Year event, American mothers event. She is a lady who has done all of the things that people want to do.

She had a long and happy marriage, a career with her husband in a small business, a leader in her church. She continues to be an elder of the Sunday school, superintendent of a Presbyterian Church, first woman president of the Sheridan County Chamber of Commerce, a scout leader, director of the National Miss Indian Pageant for 12 years, twice Worthy Matron of Eastern Star. Currently, she is serving on the boards of the Sheridan County Senior Center, Salvation Army, Lifelink and Camp Story. She is a busy, busy lady. She also has two children.

Her name is Dorothy Enzi, and one of her children is Senator MIKE ENZI from Wyoming, my associate, who went, by the way, last weekend to this national event.

I want to take a moment to recognize this lady for all that she does, not only because she is my friend's mother and my friend as well, but because this is the time to celebrate motherhood, a time to celebrate families, a time to celebrate things that we think are so important.

I was struck by the homey sort of poem that was written by her daughter, the other child of Dorothy Enzi. I am going to share it with you.

A WOMAN AHEAD OF HER TIME

(By Marilyn Koester)

Dorothy Enzi has always worked hard all her life
With a wholesome work ethic, whatever the strife.
A woman who was always ahead of her time
A 90's woman of each era—a role model of mine.
In the 40's a grocery store she did run
With her husband, yet still had time for her son.
Then I came along and she handled that too
This 90's woman of the 40's knew just what to do.
In the 50's she ran the Thermop Trailer Court
While Dad sold shoes on the road for his family's support.
Then to Sheridan they moved and worked side by side
At their very first shoe store—a real source of pride.
Mom always made time for Mike's and my needs
As Den Mother, Scout Leader, she did many deeds.
She always worked hard—often into the night
A 90's woman of the 50's she knew what was right.
In the 60's more shoe stores were opened elsewhere
And Mom worked just as hard as anyone there.
She was active in clubs and the Chamber as well
As their first woman President she served them quite swell.
Whatever the challenge, she took it in stride
But her family remained a great source of pride.
As we both entered college we knew what it took
The 90's woman of the 60's had written the book.
In the 70's Mom was still going strong
She and Dad worked hard and the hours were long.
But they took time to golf and oft headed south
When the winters up north got them down in the mouth.
Her kids were now grown and both married as well
Grandchildren now made her feel pretty swell.
She cuddled and coddled and to them she did tend
This 90's woman of the 70's came full circle again.
In the 80's the shoe stores were now changing hands
And Mom still was strong when alone she did stand.
Dad passed on to a place where Mom could not go
But she cherished the memories whene're she felt low.
She kept loving life and worked hard at all tasks
And volunteered time to all groups that did ask.
Still active and busy, not once standing still
This 90's woman of the 80's thought life was a thrill.
Now the 90's have come, and Mom still shows us how
You can work hard, enjoy life and do it all now.
Life's never dull if you give it your best
And God's blessed us with a Mother above all the rest.
On this great occasion Mike and I say
Congrats Mom, we love you, let's make this your day.
Mother of the Year we salute you and say
You're a woman ahead of your time to this day.

So I rise to salute Dorothy Enzi, and all the mothers in this country, and particularly the good bringing up that our good Senator from Wyoming has had from his mother.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. ROTH. Mr. President, I point out that it is almost 5 minutes to 1, and we still have a great deal of territory to cover if we are going to complete this legislation today. And it is my intent to stay here until we do so.

The question of restructuring IRS is a matter of great importance. It is important that we get on with the job. So I want everyone in the Senate to know that it is my full intent to complete consideration of this bill today. That means we have to get on with the job. And we are sitting here waiting for amendments to be brought to the floor.

So I say to each of my colleagues, if you have any intention of bringing up an amendment, now is the time to do it, because time is moving rapidly and I know many of you want to get out of here this evening.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. INHOFE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I ask unanimous consent to speak for 4 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MANAGED CARE

Mr. DORGAN. Mr. President, one of the issues that we think is very important and needs to be addressed by this Congress is the issue of managed care. A number of us have, every day the Senate has been in session recently, brought to the floor stories of what is happening in health care in this country and examples why a Patients' Bill of Rights, which we would like to see the Congress enact, would be beneficial to the American people.

Today I want to tell you about a man named Frank Wurzbacher of Alexandria, Kentucky. Fred received monthly injections of a drug called leupron as treatment for his prostate cancer. Under his retiree health plan, that treatment, which cost $500 per injection, was fully covered.

When a different insurance company took over as the plan administrator, however, the new company notified Mr. Wurzbacher that his coverage for this treatment was reduced from 100 percent to only two-thirds of the total cost. In other words, rather than paying the full $500 for the shot, the company would pay only $320.

At the time, Mr. Wurzbacher was a 66-year old retiree. He didn't have the extra $180 a month for the leupron injections, so he asked his physician what his alternatives were. The physician said the aggressiveness of the cancer suggested that the only other alternative was the removal of the patient's testicles. The surgery was approved. Mr. Wurzbacher had that surgery and then returned home from the hospital to find a letter from the insurance company notifying him that it had made a mistake and that his plan would, in fact, pay the full $500 for the monthly leupron injection. But by then, of course, it was too late; the surgery had been done.

That should not have happened to Mr. Wurzbacher and would not happen if the Patients' Bill of Rights were law. Under the Patients' Bill of Rights, there would have been an appeal of the new plan administrator's decision and that appeal, perhaps, would have then disclosed that the coverage for leupron was in fact fully available. Mr. Wurzbacher would not have had to go through his operation. Of course, no one can turn back the clock, and Mr. Wurzbacher is just one more victim of decision-making by those who all too often see medical care as a function of dollars and cents and the bottom line, rather than as a function of saving someone's life.

The Patients' Bill of Rights simply says that those 160 million Americans who are now herded into managed care organizations for their health care have certain rights. One of those rights ought to be the right to be told all of your medical options for the treatment of your disease, not just the cheapest option.

You also ought to have a right to appeal an adverse decision that is made about your health care by your managed care plan. Such an appeal may very well have prevented the kind of tragedy that was visited on Frank Wurzbacher of Alexandria, KY.

Mr. President, we hope very much that Republicans and Democrats together this year will agree that the issue of managed care and the issue of a Patients' Bill of Rights should be brought to the floor of the Senate and addressed not only in the Senate, but also by legislation enacted by Congress this year. We will continue to discuss on the floor of the Senate the stories of the problems people face, one by one across this country, with managed care when managed care organizations view health care as a function of someone's profit and loss statement.

Let me conclude by describing, as I have on previous occasions, an interesting front-page story in the New York Times about a woman who had suffered a severe brain injury and was being transported by ambulance to a hospital. She had the presence of mind, as her brain was swelling from this injury, to tell the ambulance driver she wanted to be transported to the hospital farthest away. She said this because she knew that the closer hospital, which was affiliated with her health care plan, had a reputation for treating emergency room care as a function of the bottom line. She wanted to go to an emergency room in which someone looked at her and did what needed to be done in every circumstance, against all odds, to save her life. She was fearful enough of going to a hospital where she would be viewed as a function of someone else's bottom line that she wanted to be transported to the hospital farther away.

That relates to this issue. Should health care that relates to a specific patient's condition be practiced in a doctor's office or a hospital, or should decisions about a patient's health care be made in an insurance office 2,400 miles away by some accountant? The American people understand what the answer to that question should be. The answer is embodied in a proposal called the Patients' Bill of Rights. That proposal has been introduced here in the Senate, and I hope very soon that we can bring a proposal of this type to the floor of the Senate and discuss these central questions about health care in this country.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2368

(Purpose: To amend the provision regarding offset of past-due legally enforceable State income tax obligations against overpayments to apply to debts for which an administrative hearing has determined an amount of State income tax to be due, and for other purposes)

Mr. KERREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. KERREY], for Mr. GRASSLEY, for himself and Mr. KERREY, proposes an amendment numbered 2368.

Mr. KERREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 386, lines 17 and 18, strike "return for such taxable year" and insert "Federal return for such taxable year of the overpayment".

On page 387, line 23, insert "by certified mail with return accept" after "notifies".

On page 388, strike lines 17 through 25, and insert the following:

"(A)(i) which resulted from—

"(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of State income tax to be due, or

"(II) a determination after an administrative hearing which has determined an amount of State tax to be due, and

"(ii) which is no longer subject to judicial review, or

"(B) which resulted from a State income tax which has been assessed but not collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

Mr. KERREY. Mr. President, this amendment offered by Senator GRASSLEY and I will fix a problem having to do with Federal tax refunds and State offsets. For those of us that have State income tax, there is a problem of some considerable proportion. I thank Chairman ROTH for being willing to work with Senator GRASSLEY and me on this one. There was confusion. We answered incorrectly when the chairman asked us about whether or not judicial judgments would solve this. I appreciate very much the chairman working with us to accept this amendment.

Mr. ROTH. Mr. President, I believe the amendment in its present form is satisfactory. I did initially have some serious concerns—some concern that an innocent taxpayer might find money owed him that would be offset by the State under situations where that would not be appropriate. But we have worked together and have come up with an amendment that takes care of that concern. The majority is willing to accept the proposed amendment.

Mr. KERREY. Mr. President, the distinguished Senator from Iowa, Senator GRASSLEY, is not on the floor, but I am certain he is going to want to speak on this. However, I think it will be fine if we urge adoption of the amendment at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2368) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I rise in strong support of the IRS Reform and Modernization Act. It is now over six months since the House passed this reform measure. I am pleased that at last we are taking this bill up here in the Senate, and that we will be voting on this today.

Let me tell you why I think this bill is so important.

Others have spoken on the new projections that this bill will provide for taxpayers. I agree that they are very important.

As my colleagues have noted, this bill will provide taxpayers with important new rights and protections. It shifts the burden of proof in many tax court cases from the taxpayer to the Secretary of the Treasury. It gives taxpayers an expanded ability to recover costs if they win their cases. It protects "innocent spouses".

The bill also will help taxpayers by changing the framework for interest and penalties and improving due process in matters regarding audits and collections. These are all important reforms. They will help ensure fairness for taxpayers.

Mr. President, I really want to get to the heart of why I am for this bill.

First, the Senate should know that I am very, very proud of the fact that the IRS will have its headquarters in Maryland. I want to salute the devoted men and women at the IRS who have worked under a very difficult set of conditions. They have often worked under a lack of leadership and often with a lack of technology. I hope that as we move ahead with the IRS reform package, we really remember and reward the dedicated and faithful civil servants who follow the laws that Congress passes.

I must tell why I am so enthusiastic about this bill. It provides not only a new legislative framework, but a new culture and a new attitude at the top that then says to the agent at the grassroots level what is expected of him. Let me tell you why I think this new culture and new attitude is so important. I believe there is no doubt that the IRS has engaged in many inappropriate management practices. I know from my conversations with Maryland constituents that too many of them have been outright harassed by the IRS.

I want to talk about two constituencies: the veterans of the State of Maryland and the firefighters in Frederick County. I think it is outrageous that IRS singled out these veterans of Maryland, and actually even stalked them over what they were doing in their VFW halls and their American Legion posts. The IRS wanted to penalize them because they had a little beer and a little bingo on a Friday night.

Over the past several years IRS has targeted a number of veterans posts in Maryland. Veterans of Foreign Wars and American Legion posts have been subjected to audits, harassment and threats. What is their crime? They sell drinks and food to their post members and their guests; a little bingo and a little beer and a lot of IRS. Let me tell you, that has got to end.

Every member of this Senate has veterans' posts in their state. We know that these neighborhood meeting places offer veterans a place for fellowship, entertainment and an affordable meal for their families and friends. The IRS believes that posts should have to pay taxes on these sales. Maryland veterans' posts report that IRS has confiscated their sign-in books. People have been subpoenaed. One post, the Dundalk post in the State of Maryland, was even threatened the loss of their nonprofit status.

Ladies and gentlemen of the Senate, these are the men and women who fought to save America, and I am willing to stand up today to save America's veterans from the Internal Revenue Service. And that is why I am going to be an enthusiastic voter for the final passage of this bill.

What did our veterans have to do? They had to hire attorneys, they had to hire CPAs. Amazingly, the American Legion was told by the IRS they could not use post funds to provide this legal help. Then instead of offering to work cooperatively with the post to help them come into compliance, the IRS went after them in the most heavy-handed manner. They also said, "If you go to any Member of your Congress, we will get you." I am not out to get anybody. But what I am here to be sure of is that our Tax Code is a workable one and that the people who work at IRS follow the law.

Let me give you another example—our volunteer firefighters. Underline that, Mr. President. Volunteer firefighters, who put themselves, their lives on the line to save us and our families.

One of the ways that they get money to be able to purchase a firetruck or other equipment is something called a tip jar. It is just a big glass jar which they have in taverns or other places; voluntary contributions to help a volunteer fire department. But, oh, no. Along comes the IRS and says even though you risk your lives, even though you do not have the backing of big city technology, we are going to make sure we are going to tax you for what you have done.

To help the firefighters, the Frederick County Commissioners passed a local gaming law making it legal and less bureaucratic for the fire company to have tip jars in local taverns. The new law eliminated the need for the county tax processors to get involved in a voluntary philanthropic activity. But, no, the IRS had other ideas. They had to come after our firefighters. They audited the fire company. They informed the volunteers that they owed $29,000 in back Federal taxes because the money was not funneled through some local tax authority.

What comes next? Are they going to be after the Girl Scouts when they sell their cookies?

I believe an agency culture that identifies America's veterans and America's volunteer firefighters as the enemy is a culture in desperate need of change.

So that is why this bill is important. I believe that we are not only changing the law, but it will change the culture of IRS.

The Oversight Board this bill provides will work to ensure the best use of agency resources. It will help the IRS focus its priorities where they should be—stopping flagrant tax cheats and tax evaders, not going after veterans and volunteers who have made innocent mistakes.

The National Taxpayer Advocate, and the system of local taxpayers advocates will help these groups navigate their way through an often intimidating and complex dispute resolution process. The special customer group dedicated to working with members of the tax-exempt sector will also be a big help. This division will be able to work with the non-profits to ensure they understand their responsibilities under the law, and to help them comply.

Mr. President, before closing, I want to pay tribute to the devoted men and women who work at the IRS, often under difficult circumstances, inadequate and dated technology, and often poor leadership or supervision. I believe this bill will help them too. They have chosen to devote their careers to our government and to public service. They receive little recognition and little thanks. I want them to know I value their work. And I am delighted that the Oversight Board will include an employee representative. No one knows more about how to change the culture of the IRS than the employees themselves. This bill recognizes the importance of ensuring that they have a place at the table.

I do want the IRS to focus on collecting the taxes in the most efficient way, and I want them to go after tax cheats, tax evaders, and drug dealers so that we can use the IRS to stop real crime in our country. There is no crime going on in the VFW or in the volunteer fire companies of America.

I know this bill and hopefully now the new Commissioner will interact with different customer groups by working with them in a different type of way.

I look forward to the fact that with the new leadership and the new legislation that we will really back the dedicated civil servants with this new framework and that we will be able to help them. But today I vote for reform of IRS. I stand here on the Senate floor in my own modest way to fight as hard for the veterans as they have fought for us and to stand up for protecting our volunteer firefighters.

Certainly in the United States of America a little beer and a little bingo should not be penalized.

Mr. President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President.

Mr. FEINGOLD. Mr. President, as we approach so-called Tax Freedom Day, I rise to offer some comments about the IRS Reform measure before us, and to address some more general issues on the state of our tax code.

Mr. President, let me begin by especially commending the senior Senator from Nebraska, Mr. KERREY, for his efforts to bring IRS reform before the body. His long involvement in this issue, and his unflagging efforts to bring these reforms before us deserve our highest praise.

This bill is very much the product of Senator KERREY's work, and American taxpayers are fortunate to have his gifted advocacy.

Mr. President, there are many significant reforms included in the bill before us, but one that I was especially interested to see included mirrors legislation I was pleased to join in introducing with the senior Senator from Vermont (Mr. LEAHY).

Our measure would extend the protections of the Equal Access to Justice Act to taxpayers who have had actions brought against them by the IRS.

Mr. President, for those who are not familiar with this important Act, it was established in response to the dilemma individuals and small businesses face when the government brings an unjustified action against them that may be relatively expensive to contest.

Even though they may feel very strongly that they are right and they did nothing wrong, they feel they cannot pay the costs associated with it.

Too often, an individual or a small business may feel forced to forgo contesting the government's action, feeling that any potential fine or forfeiture would be less expensive than the cost of fighting the government in court.

Mr. President, I saw this long before I entered the political world as an attorney representing small business people who faced this frustration and feeling that they really couldn't fight the Government in these cases because of the problems with fines, and especially attorneys' fees.

Under the Equal Access to Justice Act, those individuals and small businesses are entitled to recover their court costs if they are successful in fighting the government action.

Mr. President, as a member of the Wisconsin State Senate, I worked to establish an Equal Access to Justice law for Wisconsin, and since coming to this body, I have offered measures to further strengthen the Federal law in this regard.

This bill, the IRS bill, is a golden opportunity for us to improve this law by including in large part the provisions of the bill Senator LEAHY and I introduced that would make the IRS have to play by these rules as well.

I also want to thank the managers of the bill for accepting the amendment my colleague from Wisconsin, Senator KOHL, and I offered regarding the equal employment opportunity problems that were brought to our attention by IRS employees in Wisconsin.

This matter came to the attention of the Finance Committee at a recent hearing, and I very much hope the action we are taking in this legislation will help resolve those problems.

Mr. President, the IRS reform bill before us is by and large a good response to many of the problems with our current tax collection system. The tax collection system is a vitally important issue, and it certainly contributes to the larger issue surrounding the Tax Code itself. Of course, the problems with the Tax Code are likely to be much thornier to address, and as we approach what has been called Tax Freedom Day, I want to offer a few comments on the challenges we face in taking the next step beyond this bill in reforming the Tax Code itself.

We have all heard about this Tax Freedom Day. There is some dispute about when it really is, but it is supposed to be the day by which we have worked enough to pay our taxes for the year. The Tax Foundation maintains that the date is May 10. Other organizations question that and point to other dates. One says Tax Freedom Day is really April 22. Looking just at the Federal personal income tax, some say Tax Freedom Day for the typical taxpayer is really January 20. So it may be interesting to examine all of these estimates and compare the differences in the way we calculate Tax Freedom Day. But without trying to argue which day is the right day, I think we can at least agree there probably is not anyone who, if told their own tax freedom day was this Sunday, wouldn't prefer that it was Saturday instead. No one likes to pay taxes and everyone would like to pay less than they do now. For most people this would be a key part of tax reform, and I think they are right.

Although we may not be voting on a significant overhaul of the Tax Code this year, I really hope that serious debate of various tax reform proposals can begin. This was something that was identified as one of the very top four or five priorities after the 1994 election, to have a debate about tax reform. But we have never had that debate over the past 4 years. The work that has gone into the IRS reform bill, and especially the leadership of Senator KERREY, shows how much can be done if this body actually works toward reform. And I think the same would be true if we really dedicated ourselves to tax reform legislation.

While we may not be voting on tax reform this year, we are certainly likely to be taking actions, including apparently passing tax bills, that will have a direct bearing on tax reform when it does finally come before us.

With this in mind as we take actions that are likely to have this downstream effect on tax reform, I hope we keep various principles in mind. We should promote equity and fairness; we should resist complexity; and we should insist on fiscal responsibility.

An aspect of the current Tax Code that really strains each of these principles, and which contributes to our having a later Tax Freedom Day for most of us, is, in fact, the huge number of special interest provisions that appear throughout the Tax Code. It is riddled with them. These provisions, often called tax expenditures, have been enacted over the years to help specific groups of taxpayers but they have come at a cost. They come at a cost of lost revenue, and that ends up being a burden that other taxpayers are left to bear through higher taxes.

While some tax expenditures are justified, many are not. And they can combine to produce significant tax avoidance by some of the biggest and most profitable financial interests in the world.

One example related to me recently concerned one of our largest automakers, a firm that is obviously one of the largest and most successful corporations in our Nation's history. This enormous corporation reportedly had billions in U.S. profits for 1995 and 1996. But they didn't pay one penny of Federal income tax. In fact, they actually got refunds totaling over $1 billion. In a case like this, for a company like this, Tax Freedom Day isn't in May or April or March or even January 1. It must be last December because they were getting a refund. That is a real freedom from taxation.

This kind of special treatment is, unfortunately, all too common, and while Tax Freedom Day may not be in the previous tax year for all of these interests as in the example I gave, it is certainly the case that while many of us have to work until the flowers are blooming to pay our taxes for the year, many special interests get their tax freedom at least by Groundhog Day. Thousands and thousands of interests have been able to slip special provisions into the Tax Code over the years, increasing the tax burden for the rest of us and further complicating the Tax Code.

I am sorry to say that in the past few years Congress has not stopped this trend. It has not slowed this trend. Congress has continued down this path. On an almost annual basis, Congress passes more and more of these special provisions. And these special provisions not only add to the Tax Code's complexity while shifting a greater tax burden on the rest of us, they actually also undermine our ability to get to that genuine tax reform that all of us are talking about. Again, sorry to say, although I believe it is correct, last year's so-called tax cut bill was a prime example of this sort of abuse.

First and foremost, it was premature. It was not fiscally responsible. Despite all of our recent good economic news and the windfalls to the Government's bottom line, according to the most recent CBO estimate, we are still nearly $100 billion short of a truly balanced budget. We have not balanced our books, unless you are somehow willing to again and again, as has been done for far too many years, use the Social Security trust fund balances to, in effect, mask the currently existing deficit. The real budget is still in deficit, and last year's tax cut bill has made it harder to finish our most important task, and that is to actually balance the Federal budget.

Making matters worse, the cost of that tax bill was heavily back loaded, putting even more pressure on our budget just when the baby boomers begin to retire. That tax bill, of course, added even more layers of complexity to a Tax Code that was already thick with it, and that complexity was not only to the entire code, it reached down to the level of the individual taxpayer. Anyone who had to fill out some of the tax forms that were changed because of the 1997 tax bill knows just how much more complex taxes became because of last year's legislation.

Mr. President, I use last year's tax bill as an example only because I want to make the point that these problems not only are reason to fault that specific legislation, they also, again, undermine our ability to get anywhere near genuine tax reform. Tax reform inevitably creates winners and losers. But we have a better chance of enacting reform if at the time of doing the reform we can increase the number of winners and decrease the number of losers by cutting taxes at the same time that you enact reform. Do not do the complex and all the things that mess it up first and then expect the resources to be available when we have to do tax reform. We have to link the effort to simplify the Tax Code and give some people tax relief.

Simply put, if you could lower taxes while you reformed the code, you sure would have a better chance of enacting real reform. Unfortunately, what last year's tax bill did was commit hundreds of billions of dollars that could have gone to help us achieve true tax reform. It also, unfortunately, created several new classes of winners under the current system, groups that will benefit from the specific provisions in the bill. Why do I say "unfortunately"? Because these winners, and these winners were only a very few among us—there were far more losers than winners—these few winners now have a bigger stake in the current tax system and they will now be less likely to want to give up their gains or will again require greater tax cuts to allow us to move to a new system. We keep creating our own inertia against reform by giving out more of these tax break goodies. And, as the history of our Tax Code has shown, special tax provisions lead to even more special tax provisions.

So, as we approach what I hope is a real effort to achieve significant tax reform, and as we consider those tax bills that will work their way to us prior to that larger debate, I hope we will, again, keep three principles in mind: We should use our Tax Code to promote equity and fairness, we should resist complexity in the Tax Code, and we should insist on fiscal responsibility when we are taking actions with respect to the Tax Code. Adhering to these three principles will not only result in better tax bills, it will also pave the way for truly significant tax reform, tax reform that will move Tax Freedom Day back for all American families.

I yield the floor.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Nebraska.

Mr. KERREY. Mr. President, in response to the statement of the distinguished Senator from Wisconsin, might I say, first of all, I appreciate very much his constructive involvement in this legislation, improving it and making it a better piece of legislation. The Senator's voice was heard by the Finance Committee on several key points.

I would like to give some additional information that my colleague probably already has, so I am being redundant about it, on this issue of tax simplification. Today, it is estimated that taxpayers spend about—somewhere, actually, between $70 billion and $100 billion to comply with the Tax Code, $70 to $100 billion a year to comply with the Tax Code. The IRS budget is about $7 billion, so we spend about $7 billion on the IRS to have them collect our taxes.

There is another side to the coin of this complexity. Again, I don't want to revisit this education IRA that just passed on the Senate floor; I don't want to argue that specific objective. But, in order to implement that, the other side of the coin is, the IRS actually becomes more invasive. So a lot of the horror stories that we have heard came as a consequence of the IRS insisting that the taxpayer do X, Y, and Z. They are insisting that they do X, Y, and Z because we passed a law here that will require it, a specific one, which is the 64th change in the tax law since 1986—64 times. Last year, after the Balanced Budget Act of 1997—ask anybody what schedule D looks like out there in the country as to capital gains and they will tell you how complicated and how costly and how difficult it is to comply.

On the education piece, the IRS, in order to make certain that the taxpayer is following the law, will have to insist that the taxpayer produce documents, insist the taxpayer produce receipts to be able to demonstrate that the expenditures are going to education-related purposes; not only education-related purposes, but purposes that have been required by the school in which the child is enrolled. It is going to be a very difficult set of compliance requirements, A, that the taxpayer is going to have to do, and that the IRS is going to have to make certain the taxpayer has done in order to make certain that they qualify for this tax credit. In addition to the cost, anywhere from $70 to $100 billion annually the taxpayers spend to comply, in addition to that, there is the other side of the coin, which is the IRS. As a consequence of us using income as a basis of determining what the tax is going to be, the IRS has to come out and request the receipts and the documentation and all sorts of other things. That produces the invasive mood that many people on this floor have talked about over and over and over as one of the problems with the IRS.

So I would just say to the Senator from Wisconsin, he is dead right; the next debate has to be, How do we organize this Tax Code to begin with? I am excited that some of the provisions the Senator has added to this bill will increase the likelihood that this debate will go forward. The Taxpayer Advocate that is in title I is going to change the dynamic, because not only are they a Taxpayer Advocate, they are a National Taxpayer Advocate and they will have a tremendous amount of independence. They will be a National Taxpayer Advocate in the State of Wisconsin, of Nebraska, of Ohio. They will have a separate phone number, a separate fax; they will not be operated by the IRS, they will be independent. They are told by this law that they are to come back to this Congress and say: "Here are items that are repetitive problems with the taxpayer, causing us problems every single year, and they are part of the law. We recommend you change the law."

Second, as the Senator from Wisconsin knows, because he strengthened the provision, the Commissioner of the IRS will be at the table when tax laws are written. Unlike the education IRA, unlike the Balanced Budget Act last year, where the tax commissioner is silent—the best test of this is, ask yourself, when is the last time you heard an IRS Commissioner say, "Mr. President that's a great tax idea but here's what it's going to cost the taxpayers to collect"? When is the last time you heard the tax commissioner say, "Senator Blowhard, that's a great tax idea, but here is what it's going to cost the taxpayers to comply"?

We, under this law, say to the Commissioner, you are empowered to tell the American people and to tell us what it is going to cost and we, as well, require, as a result of the simplicity index, some kind of evaluation, as we do with regulation, as we do with all regulation—some kind of evaluation to inform the Congress as to the cost to comply.

Last, I would say one of the reasons that I felt very strongly about having an employee representative on this board is that the Commissioner is granted, under this legislation, the authority—indeed, directed—to reorganize the IRS along functional lines. I can tell you, of all the things in this bill, I would put that in the top five things that I think taxpayers will notice immediately. Today, what you have is a three-tiered system: National, regional, and district organization. It is very complicated and very difficult for the taxpayer to figure out how this organization occurs. Under the new organization, what you will have is taxpayers organized by category: Individual payers, small business, large business, and nonprofit, all with special problems, all with different needs. The Commissioner has already said that he intends to follow up on some of the suggestions the National Restructuring Commission made, which is that it may be that for both the individual and especially small business, there will be entire categories where the

Commissioner will say: "The small business community spends $2 billion a year complying with this particular provision of the code. We generate, with $2 billion worth of cost, nothing. All we have is cost. There is no revenue coming in. We recommend that large categories of people actually be exempt from having to go through all the compliance requirements."

I believe what you will see as a consequence of this is a lot of exciting changes being proposed by the Commissioner of the IRS to this Congress that will enable the taxpayer, with its individual small business, large business, or nonprofit, to say, "I still may not like paying my taxes. I still may think they are too high. But it has gotten a heck of a lot easier. You have gotten rid of some of the things that don't make any sense at all." As a consequence, the customer satisfaction is going to increase.

So I applaud the distinguished Senator from Wisconsin. His amendments, his suggestions, his input have improved this bill. And I especially point out that he is right on target, talking about simplification. Not only is there a cost but there is also an invasion that occurs as a consequence of the complexity of the code.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have two amendments that I understand are going to be acceptable, but they are being drafted in a manner to comply with the wishes of the committee. I will refer to the two. Then I understand that, in due course, the chairman and ranking member will be introducing amendments and mine will go in as one of their en bloc amendments, but I will have spoken to two of them for just a minute, and then for a couple of minutes on the overall bill.

The first one of my amendments is cosponsored by Senator D'AMATO and Senator MCCAIN and anybody else who would like to join. I welcome them cosponsoring it. The IRS already provides forms and instructions in the Spanish language. I commend them for that. Obviously, we are now being told that, while the Hispanic population in America is very large, it will soon be the largest minority by far. And by middle of the next century, one out of every four Americans will be of Hispanic origin—which will be the largest by far.

This first amendment, that is currently sponsored by Senators D'AMATO and MCCAIN, would have the telephone help line mandated to provide communications in Spanish to those who can more easily communicate in Spanish.

I indicated that we already have forms in Spanish. I am for English-plus, in America, which is English—clearly, we should all learn, but I think that instead of talking about English only, we should talk about plusing it up with other languages. That would mean that English and Spanish would be very much appreciated and used in many parts of the country as we educate our young people.

That is one of the amendments. I understand neither the floor manager nor the minority opposes this amendment. Again, I ask if anyone would like to join in cosponsoring that amendment. It is going to be offered by the floor manager as one of the en bloc amendments in the not-too-distant future here on the floor.

Second, I don't know how many Senators have participated in making enough of their own telephone calls these days to find that large institutions have an automated system when you call.

Let's say you want to call, I say to the occupant of the Chair, Sears and Roebuck. Understand, it used to be 25 years ago you would call up and say, "I'd like the sporting department." They would say, "Just a moment, sir." And the next person answering would be somebody in the sporting department.

If you made that phone call today, the answering voice would likely be a recording. "If you want somebody in the merchandising, punch 1. If you want somebody in"—this area—"punch 2." And when they get on, they say, "If you are looking for this department"—or that department—"punch 4."

The IRS has a similar system. If you want information on withholding press 1; If you want information about filing separately press two; If you want information about the new child credit press three. Too often, unfortunately, there isn't a number to press for the question you want answered. My amendment would correct that problem.

I am told as of yesterday in the State of New Mexico, my home State, if you are trying to get a voice to respond to you, believe it or not, in the State of New Mexico, if you want a voice to answer you at the IRS, it now takes 45 minutes for that event to occur. That means you are going through telephones one after the other: Punch this one, then you wait and you tell them what you want; punch another one.

All this amendment says is, if you are going to have these automated lines with press 1, press 2, press 3, you have to have one early on in the numbering system that says, "Press if you want to speak to a person who can either answer your question or direct you to a person who can."

I think the American people calling the IRS would be thrilled to death if sooner, rather than later, it did not take you 45 minutes of going through the press 1, press 3, press 28, and you could press something that would give you a live IRS person to talk to you. That is the second amendment.

It is obvious to me that this bill is telling the IRS how to manage things, but it is pretty obvious that those of us who have constituents and go home and ask our office staff what the constituents are saying, they are saying the kind of things that I am telling Senators right now really bug them.

They lose hope when they are 35 minutes on the line and haven't gotten a person yet, so they hang up. I don't think we want that. That isn't good government.

I am hopeful that the new management and the person in charge, who is a manager and businessman, will not see this as trying to micromanage, but sees it is obviously as something they ought to be doing. I don't want to take a chance and not put it in this bill and, in 4 years, when we have oversight, find we are still where we are.

These two amendments, in addition to those other provisions crafted by the committee make up a good bill. The Committee incorporated a number of the recommendations that came from our State as I went through my offices asking what kind of things were not working in dealing with the IRS.

Having said that, I would like to speak for a few moments on the bill.

There are more than 168 ways that this bill makes the IRS more service oriented, and taxpayer friendly. It cracks down on abuses highlighted in the hearings. It corrects some problems called to my attention by constituents. Chairman ROTH and the Finance Committee should be commended for the fine job they did on this bill.

Often when we pass legislation, I ask the question: Who cares?

I can assure you that this is one piece of legislation that everyone cares about. No agency touches more Americans than the IRS. Yet one out of two Americans said they would rather be mugged than be audited by the IRS. This bill should reverse that prevailing view.

Among the key provisions the bill strives for better management; better use of technology; reinstatment of a checks and balances system so that the IRS will no longer be the judge, jury and excutioner; discipline for rogue IRS agents; taxpayer protections including the right to a speedier resolution of a dispute with the IRS; fundamental due process and a long overdue reorganization. Hopefully, these reforms will change the environment and change the culture at the IRS.

The bill prohibits the IRS from contacting taxpayers directly if they are represented by a lawyer or an accountant. The IRS called this practice of bypassing the tax professional and visiting the taxpayer at work or at dinner "aggressive collection" techniques, my constituents called it harrassment.

The bill attempts to make the IRS employees more accountable for their actions by putting their jobs on the line when they deal abusively with taxpayers.

The bill requires the IRS to terminate an employee if any of the following conduct relating to the employees official duties is proven in a final administrative or judicial determination:

Failure to obtain the required appproval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets.

Falsifying or destroying documents to conceal mistakes made by the employee with respect to a matter involving a taxpayer.

Assault or battery on a taxpayer or other IRS employee.

Under the bill, the IRS will no longer be allowed to send out tax bills with huge penalties compounded with interest and cascading penalties just because the IRS was years behind in its work.

If the IRS does not provide a notice of additional taxes due (a deficiency) within 1 year after a return is timely filed, then interest and penalities will not start to be assessed and compounded until 21 days after demand for payment is made by the IRS. (This excludes penalties for failure to file, failure to pay, and fraud) It isn't fair for the IRS to wait years before contacting a taxpayer who honestly believes he has paid the correct amount, only to deliver to him years later a tax bill with interest and penalites that dwarfs the original underpayment. I had a constituent who was told he owed an additional dollar—one dollar—in taxes but owed more than $2,500 in penalties and interest! The IRS agent's response when asked about it was, "Well, I guess we gotch ya good."

Small businesses have been the target of some of the worst abuses. I will always remember the day a good friend, a restaurant owner in New Mexico called my office, justifiably hysterical. The IRS had just padlocked her restaurant! What was she to do? What could I do?

This bill codifies the proposition that all men and women, even if they work for the IRS, shall follow fundamental due process requirements. Padlocks and raids should be a last resort under this bill.

The bill requires the IRS to provide notice to taxpayers 30 days (90 days in the case of life insurance) before the IRS files a notice of Federal tax lien, levies, or seizes a taxpayer's property.

The bill gives taxpayers 30 days to request a hearing. No collection activity would be allowed until after the hearing.

The bill requires IRS to notify taxpayers before the IRS contacts or summons customers, vendors, and neighbors and other third parties.

The bill requires the IRS to implement a review process under which liens, levies, and seizures would be approved by a supervisor, who would review the taxpayer's information, verify that a balance is due, and affirm that a lien, levy, or seizure is appropriate under the circumstances.

The bill requires the IRS to provide an accounting and receipt to a taxpayer including the amount credited to the taxpayer's account when the IRS seizes and sells the taxpayer's property. It seemed ironic that an agency that requires a receipt if a taxpayer is claiming a $5 business lunch wouldn't provide a receipt to a taxpyaer when it seized and sold all of a taxpayer's earthly belongings.

The bill legislates common sense. It prohibits the IRS from seizing a personal residence to satisfy unpaid liabilities less than $5,000, and provides that a principal residence or business property should be seized as a last resort.

In addition, the bill expands the attorney client privilege to acountants and other tax practioners.

Under this bill, the IRS could no longer insist that a taxpayer waive his rights. In particular, the IRS could no longer insist that a taxpayer waive the statute of limitations before the IRS would settle a case. The bill requires the IRS to provide taxpayers with a notice of their rights regarding the waiver of the statute of limitations on assessment.

The bill makes it easier for a taxpayer to settle his or her liability with the IRS.

If the IRS cannot locate the taxpayer's file, the bill prohibits the IRS from rejecting the taxpayer's offer-in-compromise based upon doubt as to the taxpayer's liability. I have known constitutents who are left in an IRS twilight zone because the IRS lost their file. I know of one constitutent who had his file lost five times. Fortunately, he kept a copy of the file himself, and worked next door to a Kinko's copying center.

This bill allows for a prevailing taxpayer to be reimbursed for his or her costs and attorney's fees if the IRS is found not to be "substantially justified." The substantially justified standard is consistent with the little-guy-can-fight-the-federal-government-and-win philosophy. I am glad this standard is being expanded, and incorporated into this bill. Originally, the notion that a citizen should be able to recoup attorney's fees and costs when the federal government was not substantially justified was a concept in the Equal Access to Justice Act which I authored in the early 1980s. It is historically interesting to note, and perhaps prophetic, that the IRS lobbyied very hard to be exempt from that law. In fact, the IRS was exempt when the bill was first enacted. When the Equal Access to Justice was reauthorized five years later, Senator GRASSLEY and I worked to include the IRS. It was a big fight but Congress prevailed and got the IRS under the Equal Access to Justice Act's umbrella. The federal government with its deep pockets shouldn't be allowed to simply "outlast" the average American taxpayer. That isn't what our justice system is about.

The bill also clarifies that attorney fees may be recovered in a civil action in which the U.S. is a party for unauthorized browsing or disclosure of taxpayer information. I have heard a lot about this abuse both from constituents and from the witnesses in the Campaign Finance investigation.

If a taxpayer makes an offer to settle his or her tax bill and the IRS rejects it and the IRS ultimately obtains a judgment against the taxpayer in the amount equal to, or less than the amount of the taxpayer's statutory offer, the IRS must pay the taxpayer's fees and costs incurred from the date of the statutory offer. I am pleased this provision is included in this bill. The offer and settlement provisions are patterned after the Securities Litigation Reform bill which Senator DODD and I authored last Congress.

I can't believe we have to pass a federal statute to accomplish this next task but apparently we do.

The bill requires all IRS notices and correspondence to include the name, phone number and address of an IRS employee the taxpayer should contact regarding the notice. To the extent practicable and if advantageous to the taxpayer, one IRS employee should be assigned to handle a matter until resolved.

In New Mexico, a notice can come from the Albuquerque, Dallas, Phoenix, or Ogden IRS center. Taxpayers are often left with no option but to contact my office asking for help in simply identifying who they should talk to at the IRS to settle their tax matter. The caseworkers are experts, but it would take them two days to track down the right IRS office so that the constituent could try and solve their problem. It was so commonly befuddling to constituents that my caseworkers asked that this identification provision be included in this bill.

Movie stars, rock singers and hermits like, and need unlisted phone numbers. The same is not true for federal agencies. The bill also requires the IRS to publish their phone number in the phone book along with the address. We have a beautiful new IRS building in Albuqueruque, but the only phone number for the IRS is the toll free number that is too frequently busy. If you didn't know the IRS building in Albuquerque existed, you wouldn't find a clue of its location in the telephone book.

We experienced a lot of complaints about the IRS toll free numbers. I am glad that an amendment that I authored to this bill includes a provision requiring that automated phone lines include the option to talk to a real, knowledgable person who can answer the taxpayers' questions. This would be an option in addition to merely listening to a recorded message.

I am pleased that the Senate was willing to accept a Domenici amendment, cosponsored by Mr. D'AMATO and Mr. MCCAIN that requires IRS helplines to include the capability for taxpayers to have their questions answered in Spanish.

In addition, the bill establishes a toll free number for taxpayers to register complaints of misconduct by IRS employees and publish the number.

The bill requires the IRS to place a priority on employee training and adequately fund employee training programs. The IRS is making progress. The accuracy of the advice that taxpayers received when they called the IRS was very bad. For example, in 1989, the advice was correct only 67 percent of the time. The accuracy has fortunately improved. Training is the key.

The bill requires the Treasury to make matching grants for the development expansion or continuation of certain low-income taxpayer clinics.

The bill requires at least one local taxpayer advocate in each state who has the authority to issue "Taxpayer Assistance Order" when the taxpayer Advocate believes it is appropriate.

Mr. President, many, in fact most, IRS employees work very hard and do a good job. Perhaps the best way to reform the IRS is to reform the code to make it simpler. The doubling from $100 billion to $195 billion of the tax gap—the difference between the amount of taxes owed and the amount actually paid—is evidence that the system is breaking down.

The last point I would like to make is that I was going to offer an amendment to provide for a biennial budget and appropriations cycle because if Congress took this step, it would give us more time to do adequate and more aggressive oversight. If we had biennial budgeting the Finance Committee would have more time to focus on keeping an eye on the IRS. Senator MOYNIHAN is a distinguished student of history and he told the Senate that the IRS was created in 1862, but it wasn't until 1997 that the full Finance Committee exercised its oversight jurisdiction. Other committees could, likewise, exercise better oversight of all federal agencies if we had biennial budgeting. We would have better run programs and an opportunity for a truly more efficient federal government.

The Majority Leader has agreed to schedule time for the Senate to debate this bill in the near future. I am pleased that we were able to reach that agreement. Thank you Mr. President.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 2369

(Purpose: To clarify the actual knowledge standard of the innocent spouse provision)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. D'AMATO and Mrs. FEINSTEIN, proposes an amendment numbered 2369.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 293, strike lines 3 through 10, and insert:

"(C) ELECTION NOT VALID WITH RESPECT TO CERTAIN DEFICIENCIES.—If the Secretary demonstrates that an individual making an election under this section had actual knowledge, at the time such individual signed the return, of any item giving rise to a deficiency (or portion thereof) which is not allocable to such individual under subsection (c), such election shall not apply to such deficiency (or portion). This subparagraph shall not apply where the individual with actual knowledge establishes that such individual signed the return under duress.

Mr. GRAHAM. Mr. President, the amendment that I am offering, joined by our colleagues, Senator D'AMATO and Senator FEINSTEIN, makes two modifications to the innocent spouse provision which is in this legislation.

Background: Under the current tax law, if a husband and wife jointly sign a return, they are jointly responsible for any deficiency that might subsequently be found to have been the result of that filing.

A typical case is that after a husband and wife have had marital discord and are divorced, the husband may have left town and is difficult to find, the IRS locates the custodial parent, typically the wife, who is more easily accessible, and then she becomes responsible for 100 percent of the tax deficiency that was the result of a filing while the marriage was in place.

Under the current law, there is a provision called "innocent spouse" in which a spouse can theoretically avoid that responsibility. I emphasize the word "theoretically," because the testimony we heard before the Finance Committee was that it is virtually impossible for the standards of that innocent spouse provision to be met and that, in fact, there are some 50,000 women, generally ex-spouses, who are caught up in this 100-percent responsibility for a tax return.

In the Finance Committee hearings, we were impressed with a recommendation made by the American Bar Association as to a different approach to this issue. That approach was essentially an accounting approach which said that instead of using joint and several responsibility, it would be an individual responsibility.

If, for instance, the husband was responsible for 60 percent of the income, which went into the tax return, and the wife, 40 percent, then those percentages would define responsibility in a subsequent deficiency.

That basic approach was adopted by the Finance Committee, but there were some exceptions to that filing for proportional responsibility. The primary exception was that if the Secretary of the Treasury could demonstrate—and the burden is on the Secretary of the Treasury to demonstrate—that an individual making this election to be taxed only for their proportional share of the deficiency of the return, that if they had actual knowledge of the conditions within that return which led to this deficiency, then they would be 100 percent responsible. So actual knowledge would override the ability to elect only partial responsibility.

This amendment makes two modifications to that provision. The first is the question of when is that knowledge relevant. The language that we are inserting into the legislation which is currently before the Senate is that the actual knowledge has to be "at the time such individual"—that is, the individual who is seeking to pay only a proportionate share of a deficiency—"signed the return." So the key question is what did you know at the time you signed the return.

The second issue is an unfortunate reality where we had testimony that some spouses signed the joint return, and may even have had actual knowledge of its contents, but did so under duress, including under physical duress. So we have provided a second provision which says that even if you had actual knowledge at the time you signed the return, that you would not be denied the right to apply for this proportioning of responsibility if you, the individual, can establish that the return was signed under duress.

The burden of proof is on the taxpayer to establish that even though they had actual knowledge of the circumstances in the return that led to the deficiency, but still want to secure the benefits of less than joint and several responsibility, because they were under duress, coerced into signing, it is their responsibility to carry the burden of proof that, in fact, those circumstances existed.

Mr. President, I apologize for having taken the time of the Senate, but I thought it was important since this is a very significant part of the provision of taxpayer relief which is in this legislation. And it is a fairly expensive provision in terms of the potential for lost revenue. But that expense is one that we believe is a just expense because it will lift from the responsibility of taxpayers who were ignorant of circumstances but were entrapped by conditions that were often beyond their control and certainly beyond their knowledge and in some cases the result of actual duress and coercion, that we should recognize that and not require them to be responsible for more than their proportional share of the deficiency.

So, Mr. President, I appreciate the joinder in this amendment by Senator D'AMATO and Senator FEINSTEIN and ask for the amendment's immediate consideration.

Mr. D'AMATO. Mr. President I am pleased to join my colleague Senator GRAHAM on this very important amendment.

Senator GRAHAM and I recently introduced S. 1682, the Innocent Spouse Tax Relief Act of 1998, to bring long overdue relief to innocent spouses, predominately women, who become responsible for the tax liabilities of their spouses merely because they happened to sign a joint return.

I am pleased that the distinguished Chairman of the Finance Committee agrees that the current law innocent spouse provisions are weak at best, and needs dramatic change. I commend him for his leadership in making that change.

There were concerns, and rightly so, that some taxpayers may try to abuse the innocent spouse rules by knowingly signing false returns, or transferring assets for the purpose of avoiding the payment of tax, and then claim to be innocent. Obviously, no one would want to open the door to that type of fraud. As such, language was included in the bill that would prevent an individual from electing the innocent spouse provision if they had "actual knowledge of any item giving rise to a deficiency."

However, this language raised concern for Senator GRAHAM and myself because the IRS or the courts could deny relief to an innocent spouse simply because he or she had "actual knowledge" after the fact.

Our amendment will correct what would have been an unintended consequence. It will clarify that the "actual knowledge" standard be based on knowledge of an item at the time the return was signed, and that it was not signed under duress.

I urge my colleagues to vote for this amendment and provide relief to the 50,000 innocent spouses each year who are unfairly pursued by the IRS.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Delaware.

Mr. ROTH. I say to my distinguished friend from Florida that his amendment has been cleared on both sides of the aisle. Accordingly, I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CONRAD. Mr. President, I just say, we see this amendment as valuable on this side, as well. And we have no objection to it.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 2369) was agreed to.

Mr. GRAHAM. I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAHAM. Thank you, Mr. President.

AMENDMENTS NOS. 2370 AND 2371, EN BLOC

Mr. ROTH. Mr. President, I send two amendments to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, they will be considered en bloc. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes amendments numbered 2370 and 2371, en bloc.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2370 and 2371), en bloc, are as follows:

AMENDMENT NO. 2370

(Purpose: To require on all IRS telephone helplines an option for questions to be answered in Spanish)

On page 381, after line 25, insert:

(c) TELEPHONE HELPLINE OPTIONS.—The Secretary of the Treasury or the Secretary's delegate shall provide on all telephone helplines of the Internal Revenue Service an option for any taxpayer questions to be answered in Spanish.

On page 382, strike lines 1 and 2, and insert:

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall take effect 60 days after the date of the enactment of this Act.

(2) SUBSECTION (C).—Subsection (c) shall take effect on January 1, 2000.

AMENDMENT NO. 2371

(Purpose: To require on all IRS telephone helplines an option to talk to a live person in addition to hearing a recorded message)

On page 382, before line 1, insert:

(d) TELEPHONE HELPLINE OPTIONS.—The Secretary of the Treasury or the Secretary's delegate shall provide on all telephone helplines of the Internal Revenue Service an option for any taxpayer to talk to a live person in addition to hearing a recorded message. The person shall direct phone questions of the taxpayer to other Internal Revenue Service personnel who can provide understandable information to the taxpayer.

On page 382, after line 2, insert:

(3) SUBSECTION (D).—Subsection (d) shall take effect on January 1, 2000.

Mr. ROTH. Mr. President, I point out these two amendments are the amendments discussed by my good friend, Senator DOMENICI, the Senator from New Mexico, as modified. And these amendments, as modified, have been cleared on both sides of the aisle.

I urge their adoption.

Mr. CONRAD. Mr. President, we, too, on this side, agree to these amendments, find them useful and constructive.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendments, en bloc, are agreed to.

The amendments (Nos. 2370 and 2371) were agreed to.

Mr. ROTH. I move to reconsider the vote.

Mr. CONRAD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I rise to speak in support of the bill before us. The Finance Committee bill is a dramatic improvement over the bill that was passed in the other body last year. This legislation will make the IRS far more accountable.

I want to take this moment to thank the chairman of the committee, Senator ROTH, and thank the ranking member, Senator MOYNIHAN. I also thank my colleague, Senator KERREY, because they have really all participated in this effort.

This is a significant advance. As a former revenue commissioner myself, elected in my home State, I can say, based on my own experience, that these provisions are going to make a positive difference. The bill not only addresses the administrative structure of the Internal Revenue Service, but also makes substantive changes in the law that will improve taxpayers' rights and protections.

The Commissioner of the IRS will get new tools to deal quickly and firmly with misbehavior by IRS personnel. We certainly heard in the Finance Committee's hearings of that kind of misbehavior. We want to send a clear and unmistakable signal that those actions and those behaviors are unacceptable and will not be permitted to continue.

Mr. President, taxpayers, under the legislation, will receive greater protections, particularly in the areas of innocent spouse relief, interest and penalties, and audit and collection activities. These areas, too, as we heard repeatedly in the hearings, are areas that require improvement. And Congress, too, will share in the increased accountability as it will have to assess the complexity of tax law changes before they occur.

Under the legislation, the IRS will undergo restructuring. I think we all understand that the fundamental obligation of the IRS is to serve the public. And that has been overlooked for too long, at least by some. I think we should also readily acknowledge that the vast majority of employees of the IRS are honest, are hard working, and have provided good service. But it is also clear that the Internal Revenue Service is not well structured to meet the requirement to provide the service that the public expects.

Overseeing the IRS should not be a game just for Government insiders. That is why the bill mandates an IRS Oversight Board dominated by private sector representatives.

We took a hard look at the offices of the Treasury Inspector General and the IRS Chief Inspector—the offices which, under current law, carry out the bulk of IRS oversight activities. We concluded that the current arrangement is not working. The Office of the Chief Inspector does not have the autonomy it needs to perform objective and credible oversight. The Treasury Inspector General does not devote enough of its resources to IRS oversight.

Consequently, the bill would establish an independent Inspector General within the Treasury Department, which would have as its primary responsibility auditing, investigating, and evaluating IRS programs.

When IRS agents step over the line, the Commissioner has to be able to respond swiftly and firmly. This legislation will give the IRS Commissioner that authority and that power. The bill requires termination for IRS employees who commit gross violations of the law in connection with the performance of their official duties.

There are also other provisions—the innocent spouse protections—that I think are a real advance for taxpayers in this country. In our recent hearings, the Finance Committee heard stories from women who were being pursued by the IRS for tax liabilities, often including enormous penalties and interest, that arose as a result of the wrongful actions of their spouses. These were acts about which the women knew nothing. Yet because they were married, they wound up being responsible for bills that they had absolutely no idea were being incurred. The current law's test for spousal innocence does not work. It needs to be simplified, and the bill does just that.

Interest and penalty reform are also provided for in the legislation. If a taxpayer comes to terms with the IRS to pay his or her taxes under an installment agreement, current law can still impose a penalty. This makes no sense. The legislation we are advancing eliminates this irrational penalty for any taxpayer who is, in fact, paying taxes under an installment agreement.

The Finance Committee considered the provision which allows accrual of interest and penalties for unpaid taxes even when the taxpayer is unaware that there is a tax due. It is only fair that the IRS notify taxpayers promptly whenever it detects a deficiency or an amount due. Consequently, the bill provides that accrual of interest will be suspended if the IRS has not sent a notice of deficiency within a year.

There are additional audit and collection protections which I think taxpayers around the country, when they become more aware of them, will applaud. Taxpayers who need to seek outside guidance to comply with the tax laws should not have the Internal Revenue Code influencing their decision as to the type of tax practitioner they employ. The common law privilege of attorney-client confidentiality extends to tax matters when a taxpayer goes to an attorney for tax assistance. There is no compelling reason why a taxpayer who chooses another option should be deprived of that privilege of confidentiality. This bill addresses that question.

The bill would also strengthen the IRS's approval process for liens, levies, and seizures by requiring every such action to be approved by an agent's supervisor, and only after careful review that verifies the amount of the balance due and the appropriateness of the proposed enforcement action.

We also know of taxpayers who had their business assets—and in some extreme cases, even their homes—seized, to satisfy relatively small tax liabilities. These types of seizures can have a significant impact not only on the taxpayer, but on his or her family and on a business' employees and customers. So steps have been taken in this legislation to prevent those abuses. The IRS must exhaust all other payment options before seizing either a taxpayer's principal residence or business.

The legislation also provides for fuller disclosures to taxpayers. The tax return, obviously, is one of the most important legal documents an individual ever has to sign. Doing so establishes a variety of rights and responsibilities that affect the behavior of the taxpayer towards the IRS, and vice versa. Too often the taxpayers are at a disadvantage when it comes to knowing about these rights and responsibilities. As a result, this legislation imposes a number of new requirements on the IRS.

First, the IRS must alert married taxpayers to the ramifications of signing and filing a joint return. Second, the IRS must let taxpayers know that they are entitled to be represented, and to have that representative present, when the IRS wants to conduct an interview with the taxpayer. Third, the IRS must let taxpayers know that, when they receive a letter of proposed deficiency, they can request a review of that action in the IRS Office of Appeals.

These are fairminded changes to give taxpayers a fair hearing and a fair process. I think these will be welcome changes as we move forward.

Now, there is also the question of congressional responsibility, because, very frankly, we here in Congress are responsible for the complexity of the Tax Code itself. Without question, the single most persistent complaint about tax law that I receive is that the tax laws are too complex.

One reason I am in the U.S. Senate is that, when I was tax commissioner of the State of North Dakota, I adopted a dramatically simplified tax system for our State. I instituted a postcard return. You could just take a percentage of the Federal liability and pay that to the State of North Dakota and not have to have a separate tax return at all. That was well received by the people of North Dakota. It saved literally hundreds of thousands of hours of tax preparation time and gave us a dramatically simplified tax system. We should strive for that magnitude of simplification nationally. We have that opportunity.

At the very least, we ought to make clear that the Congress has a responsibility to simplify this tax system. We all understand that we live in a complicated economy, and that creates complicated tax situations for more and more taxpayers. This means that any tax system, based on income, is going to have a certain amount of irreducible complexity. But all too often, we in Congress have changed the Internal Revenue Code without even taking the complexity question into consideration.

Consequently, the bill would, for the first time, require a formal analysis of the complexity issues related to pending tax legislation. Not only will this analysis be an important tool for members of the tax-writing committees, but its presence on the public record will heighten awareness of pending tax law changes and their possible future consequences.

There are other important provisions that are in this legislation. I will not enumerate them all here this afternoon. Suffice it to say, I believe the Finance Committee, of which I am a member, has done a good job of taking initial steps to dramatically reform the Internal Revenue Service. We are going to restructure it. We are going to provide new protections to taxpayers so that they are more fairly treated. We are going to remind the Internal Revenue Service that they have an affirmative obligation to treat our taxpayers with respect.

Again, I want to conclude by saying the vast majority of people at the IRS are responsible, honest, decent and hard working. But we have some problems there that very clearly need to be addressed. We need to say loudly and clearly that we simply will not accept any mistreatment or abuse of America's taxpayers. That is unacceptable. It will not be permitted to continue. This legislation is an excellent first step.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I rise to withdraw an amendment that I had on this bill, but I want to make a short statement. Although this amendment will be ruled as not relevant to this piece of legislation, it is very relevant to the field of agriculture.

I have submitted S. 1879, which would make income averaging for farmers permanent in the Tax Code.

Last year, I offered an amendment to the Revenue Reconciliation Act of 1997 which extended to farmers the ability to average their income over a 3-year period. That amendment was included and made part of the U.S. Tax Code, but only after further negotiations will we have to extend it beyond 2001 because it sunsets in the year 2001.

I don't think many of my colleagues really understand what is going on in agriculture today. There are a few. If there is one way we can affect change regarding farm income, it would be through how we treat it regarding taxes. We will consider the agriculture research, and we will consider crop insurance later on this month. It is really in the best interest of this Government to pass that piece of legislation so that it is enforced with this year's crop. It won't be long until we are coming into harvest time.

This business of farming and ranching is difficult at best; we know that. There are no monthly checks. There is not much reward in the financial field for those who participate in it. And it is not getting any easier. Today we are seeing more and more family farms fade from the landscape of middle-income America, where this country has been. Corporate farms become more and more of a factor every day. Those of us who grew up in the farming communities understand the frustrations of the business. Of course, we are trying to do something right now at a time when just about all parts of agriculture, if you are in the business of producing a raw product, are in trouble. We cannot make it selling our farm commodities below what they were selling for in 1948 and still expect to provide the abundance of food that we provide for this country.

I will make one point. It is hard for me to understand, and it is hard for our farmers to understand why if you go into a grocery store and you look down and find out you are paying $2.75 for a pound of Wheaties, and we can't get $2.75 for a 60-pound bushel of wheat. America must understand that. And if this is allowed to happen, there will be no wheat, because it will just be beyond the cost of production to produce it.

Market forces are funny. Right now, we have a situation in the Pacific rim where you have four, maybe five economies that are in desperate trouble and could not buy even if they wanted to. When you live in a State where the biggest share of your production goes to the Pacific rim, that means we are in big trouble.

Last fall, we had the fiasco in the rail business in Houston. A lot of grain didn't get moved, or they took advantage of a higher market that cost us a lot of money—out of the control of the farmers. Yet, they are the ones that pay the costs.

So we are going to consider this. And I hope that this will be made part of the permanent law of the Tax Code. I would like to get some kind of commitment from this committee and the Finance Committee that it will be considered because it is very, very important. We had income averaging at one time, and we lost it in 1986.

The bill, last year, received overwhelming support in the U.S. Senate, and I understand that it will be ruled irrelevant now by the Parliamentarian, so I plan to withdraw the amendment. Before I do, I want to emphasize to this body that we have a situation not only in the grain industry, but the livestock industry, and it is in areas where the producer has little or no control. They are at the end of the line. They sell wholesale, they buy retail, they pay the transportation and the taxes both ways. We have to do something in the middle to at least give them some relief.

This bill has very little impact on our Federal budget. The American people would look at this as an insurance policy. We must pay to insure our cars or our lives. How much would you pay to ensure that the grocery store is full every time you go there? There are a lot of us that know about the front end of the grocery store; very few of us know anything about the back end. So I think America has a stake in this—all the citizens that live in this country.

I will agree to withdraw the amendment, but I want to reaffirm my commitment to the American farmer that this Congress will act, and this will become a permanent part of the Tax Code before we end the 105th Congress.

Mr. President, I ask unanimous consent that this amendment be withdrawn from consideration. I thank the managers of the bill and yield the floor.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. ROTH. Mr. President, I ask unanimous consent that when Senator MACK offers his amendment, there be 1½ hours equally divided for debate on the amendment; further, that at expiration or yielding back of time, the Senate proceed to a vote on or in relation to the Mack amendment, and no amendments are in order.

I further ask as part of the unanimous consent request that Senator MACK be permitted to offer his amendment upon the conclusion of the statement of the Senator from California.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the chairman and the Senator from Florida for allowing me a few moments to make a statement.

I wish to begin by indicating my support for this bill. I believe it will be very helpful to every taxpayer throughout the Nation. I am very happy to support the bill, Mr. President.

Mr. President, I ask unanimous consent to speak as in morning business for a few minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

A CRUCIAL MOMENT IN THE MIDDLE EAST PEACE PROCESS

Mrs. FEINSTEIN. Mr. President, I come to the floor of the Senate because I was very concerned in reading this morning's newspaper about criticism of the administration in the Middle East peace process. As a strong supporter of Israel and its security, I want to take this opportunity to commend President Clinton and Secretary Albright for their current effort to preserve the peace process.

About a month ago, 81 Senators sent a letter to the President of the United States in which they expressed concern about the negotiations between Israel and the Palestinians. They, in effect, were concerned about a proposal for land redeployment going public, about security cooperation, and final status talks.

I was not one of those 81 Senators. In fact, a few days later, I sent a letter of my own expressing my support for the current course. In that letter, I mentioned that I have great faith in what the administration is doing, and I still believe that.

I ask unanimous consent that my letter be printed in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 9, 1998.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: At a time of considerable urgency in the Middle East peace process. I write to express my support for your ongoing efforts to help achieve a diplomatic resolution of the Arab-Israeli conflict. The success of these efforts is crucial to the fulfillment of the United States' commitments to ensure Israel's security, to enhance regional stability, and to protect U.S. strategic interests in the Middle East.

Progress on the Israeli-Palestinian track is clearly the most urgent need. The stalemate that has defined these talks for the past year poses great dangers for all sides. Your approach to moving this process forward has included a healthy combination of urging the parties to uphold their commitments, discouraging unilateral acts that undermine confidence, facilitating ongoing contacts and negotiations, helping each side understand the other's needs, and presenting ideas intended to help bridge gaps between the parties.

As you and Secretary of State Albright have repeatedly stressed, an all-out Palestinian effort to combat terrorism, and the full commitment of both sides to Israeli-Palestinian security cooperation, are absolutely essential for further progress to occur. Without these, the region could easily descend into violence, ending the chances for a peace settlement in the foreseeable future.

In addition, you have consistently urged the parties to approach their negotiations with a sense of realism and restraint, while understanding the needs of the other side, and avoiding unilateral steps that call into question the parties' commitment to achieving a settlement.

While you understand that U.S. diplomacy may be essential to bridge some of the gaps between the two sides, you have remained keenly aware that only the parties themselves can make the difficult, but necessary, decisions required to move toward a final agreement. We cannot do this for them.

America's longstanding and unshakeable commitment to Israel's security, which you have faithfully upheld, is fully consistent with your efforts to move the peace process toward a successful outcome. Without a peaceful permanent resolution to the Israeli-Palestinian conflict, Israel's security—which is undoubtedly a vital U.S. interest—can never be guaranteed.

I have great faith in your Administration's efforts to move the peace process forward without undue micromanagement from Congress. I believe that you, Secretary Albright, Special Middle East Coordinator Dennis Ross, and Assistant Secretary of State for Near Eastern Affairs Martin Indyk have great ability and credibility in this effort. As you continue to pursue this vital mission, you will continue to have my support.

Sincerely,

DIANNE FEINSTEIN,
U.S. Senator.

Mrs. FEINSTEIN. Mr. President, in view of the attacks leveled against the administration's efforts by leaders of the other body, I felt it necessary to come to the floor today to respond. As a concerned American, who cares deeply for the State of Israel, its future and its security—as I think my statement in the RECORD on Israel's 50th anniversary will reflect—and as a member of the Senate Foreign Relations Committee, and the relevant subcommittee for the past 4 years, I have watched these negotiations go up and down.

What I have never forgotten is the importance of Israel's survival as a Jewish, democratic state with safe and secure borders. I have never forgotten a meeting I had with Yitzhak Rabin in the mid-1980s, when I was the Mayor of San Francisco and he was Israel's Minister of Defense. He explained to me how the demographics of Israel and the West Bank and Gaza showed that, over time, the Jewish majority in these areas would be eroded.

He showed me even then, as we stepped out on the Knesset balcony and looked out and saw how close Jordan really is to the capital, how Israel could return some land, which accomplished the goal of preserving Israel's security from a military and strategic view while also preserving a strong Jewish majority. I have never forgotten that. That is the reason why success in this peace process is so important—because peace is the ultimate guarantor of Israel's security.

No one ever thought it would be easy to achieve peace between Israel and the Palestinians. If it were easy, peace would have already been achieved. It is almost 20 years now since the end of the Camp David accords. But criticizing the administration at this particular point in time, I strongly believe, is counterproductive. In many cases these criticisms are driven by politics—not by the urgent desire for peace and Israel's security. And I find that deeply troubling.

It is a responsibility of the executive branch to conduct these negotiations, not the Congress. That is provided for in the United States Constitution. So, in my view, it would be prudent for all of us who care about Israel and the search for peace to give these negotiations a chance to succeed before rushing to criticize.

There is no more knowledgeable or respected negotiator that I know of than Ambassador Dennis Ross, who is leading the American effort. The State Department has an institutional knowledge of these talks going back 20 years—all the way to the Camp David Accords—which deserves a certain amount of respect as well. And President Clinton's own commitment to Israel and its security cannot seriously be called into question.

For months, now, the President has been urged—by many of the same people who are now criticizing him—to put forth a strong effort to rescue what has been a crumbling peace process.

In that time, the Secretary of State and the Middle East peace team have shuttled back and forth to the Middle East trying to find a formula that would advance the talks. President Clinton has been personally engaged in the details of these talks, and has met on several occasions with Prime Minister Netanyahu, Chairman Arafat, and other regional leaders.

After months with no progress, the issues that divide the two sides have crystallized into a clear few dominant issues. So our negotiators have tried to help the two sides identify possible solutions that would allow them to move on to the next stage of the talks.

Like any mediator, having reached this point, the United States now faces two choices: Either identify the terms it feels the parties can move ahead on, or walk away from the talks. Frankly, I would expect them to be criticized whatever they would do.

But what the President and Secretary Albright are doing is not trying to impose a solution on either side—they are simply trying to create the conditions that allow for progress by proposing the ideas they believe can bridge the gaps between the two sides. Ultimately, only the parties themselves can decide if these ideas are acceptable.

To the best of my knowledge, the terms being discussed are quite favorable to Israel: The Palestinians originally sought Israeli redeployment from 30 percent of the West Bank, and Israel offered 8 percent. On the table now is 13 percent, which many security officials maintain could isolate two or three settlements, but would not jeopardize Israel's security.

In addition, the current proposal would result in final status talks beginning immediately, and tough requirements on Palestinian security cooperation—both of which Prime Minister Netanyahu has been seeking for many months.

And the Administration is still working hard to address Israel's concerns. Ambassador Ross, who just arrived back from London last night, is flying out to Israel tonight for further talks.

President Clinton made clear what he is trying to do yesterday in a press conference. He said:

> I have tried to find a way actually to do what [Prime Minister Netanyahu] suggested. I have done my best for a year now to find the formula that would unlock the differences between them to get them into those final status talks. That's all I am trying to do. There is no way in the world that I could impose an agreement on them or dictate their security to them even if I wished to, which I don't.

If the current peace process fails, the deadlock will likely lead to unilateral acts by both sides, an escalation of violence, the further unraveling of Israel's relations with its neighbors. If the United States is committed to Israel's security, we cannot allow that to happen.

So I want to express my support for the Administration's efforts. I think they are principled, worthy efforts, and are the best hope at the moment of saving the peace process from disaster. They are also grounded in a deep commitment to Israel's security.

So I would ask my colleagues to please give these talks a chance to succeed, to please refrain from attempts to micromanage the Administration's conduct of these negotiations, and to please recognize that Israel's security depends on their success.

Thank you. I yield the floor.

Mr. MACK addressed the chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I ask unanimous consent to have 2 minutes to speak as if in morning business and then to proceed to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MACK. Mr. President, it was not my intention, frankly, to speak on the issue of Israel. But Senator FEINSTEIN and I have a difference of opinion on this, and I feel compelled, frankly, to make a comment.

I strongly believe the administration has made a major mistake in publicly tabling and publicly pressuring the Government of Israel in this particular set of circumstances. The administration knew at the time that the plan that was being proposed would be accepted by Arafat and rejected by Prime Minister Netanyahu. I, again, think it is fundamentally wrong for one democracy to try to impose on another democracy what it should be doing. The people of Israel have chosen its government. They have chosen this government based on what they perceive to be their No. 1 priority, which is security, and that government should not be pressured by the ally, the United States. It is fundamentally wrong. And I personally believe that to do that could end up with a forced agreement, which, in fact, would be a false peace. That would endanger the Middle East.

Again, Mr. President, I appreciate the opportunity to express those feelings.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2372

(Purpose: To strike the Secretary of the Treasury from the Internal Revenue Service Oversight Board)

Mr. MACK. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. MACK], for himself, Mr. FAIRCLOTH, and Mr. MURKOWSKI, proposes an amendment numbered 2372.

Mr. MACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 174, line 23, strike "9" and insert "8".

On page 175, strike lines 3 through 5.

On page 175, line 6, strike "(C)" and insert "(B)".

On page 175, line 8, strike "(D)" and insert "(C)".

On page 176, line 10, strike "(D)" and insert "(C)".

On page 177, line 10, strike "(D)" and insert "(C)".

On page 177, line 21, strike "(1)(D)" and insert "(1)(C)".

On page 178, line 10, strike "(D)" and insert "(C)".

On page 180, line 11, strike "(1)(D)" and insert "(1)(C)".

On page 180, line 18, strike "(1)(D)" and insert "(1)(C)".

On page 181, line 14, strike "(1)(D)" and insert "(1)(C)".

On page 182, strike lines 3 through 7, and insert the following:

"(B) COMMISSIONER.—The Commissioner of Internal Revenue shall be removed upon termination of service in the office."

On page 182, line 11, strike "(D)" and insert "(C)".

Mr. MACK. I thank the Chair.

Last week, thanks to the leadership of Finance Committee Chairman ROTH, Congress resumed the first meaningful IRS oversight hearings we have conducted in decades. The testimony we heard reinforced the impression of a rogue agency that is literally out of control. As was the case when the oversight hearings began in September, some of what we heard was shocking, much of it was saddening, and all of it was angering. Witnesses testified to incidents of IRS abuse and of blatant misuse of IRS power that are simply unacceptable.

I recall in particular the story of one taxpayer who could not be at the hearings in person but was represented by his former attorney. The reason the taxpayer could not attend was that he was literally hounded to death by the IRS. The 61-year-old taxpayer had been suffering from severe health problems. He had heart disease and was weakened by cancer. The IRS revenue officer assigned to his case was informed that the taxpayer could not physically withstand stressful situations but, with the support of his supervisor and the chief of collections, persisted in aggressive and intimidating tactics.

I want to make this clear now about the IRS being well aware of the health conditions of the taxpayer. They had a letter, I believe, from the physician that was sent to them informing them of the condition of the taxpayer, and yet they persisted in aggressive and intimidating tactics. The IRS, disregarding this humanitarian appeal, sent the taxpayer a notice of intent to levy.

By the way, let me back up for a moment as well. Notice I talked about that taxpayer going to his attorney. The request on the part of the attorney was that further contacts in this case be with the attorney, not the taxpayer, again because of the health condition. They totally ignored that request. And so 2 days after this levy, the man died from a heart attack.

This story highlights, perhaps better than any other we heard, the fundamental and disgraceful problems at the IRS, an agency which never seems to consider the interests and perspective of the taxpayer. This attitude is entirely unacceptable and cannot be tolerated. The IRS Criminal Investigations Division has apparently learned from the FBI and the DEA criminal investigative techniques that are appropriate for dealing with violent and dangerous criminals and now uses these in routine criminal tax investigations of taxpayers who are neither dangerous nor violent. Taxpayers have had their businesses raided by armed agents, their lives turned upside down, and their reputations ruined.

In listening to hours of compelling testimony, members of the Finance Committee could not help but wonder how in the world could such things be happening. Why would the IRS send 10 special agents to a woman's home at 7:30 in the morning to serve a search warrant and spend 8 hours in her home not to search for drugs or illegal contraband but, instead, so that a furniture appraiser could value items from her grandmother's estate? Who could have approved such a blatantly intrusive act? Why would the IRS send 64 agents to raid a man's family business with 35 employees at the home office? The taxpayer was not a violent or dangerous criminal. What purpose could be served by the use of 64 agents in this raid other than to intimidate and oppress the taxpayer?

The villains of the horror stories that were presented to the Finance Committee last week were not just frontline, low-level employees of the IRS. None of these abuses could have taken place without either the approval of management or of failure in supervision. Last week's hearings exposed a corrupt culture permeating IRS management which will require a major housecleaning at the Service.

The current oversight of the Service is just not working. The Treasury inspector general has the power to investigate IRS operations, but we learned last week that the inspector general is being ignored by the IRS. The inspector general investigated and substantiated allegations of travel fraud, abuse of subordinates, sexual harassment, fraudulent performance appraisals, and others to cover up illegal actions, all against IRS executives. Yet in each and every one of these cases the report from the inspector general was sent to the Deputy Commissioner's desk and no disciplinary action was taken. In other cases, the IRS has hindered oversight by keeping information from the inspector general.

Now, this particular problem of inspector general oversight is addressed in the IRS reform bill that we have before us through the creation of a new inspector general for tax administration. But the problem underscores the corrupt culture at the IRS, a culture in which the decent, honest IRS employees who report abuses of their coworkers receive not thanks but retaliation.

At the IRS, an individual who sexually harasses his subordinates can end up being the National Director of Equal Employment Opportunity. At the IRS, midlevel managers can decide to close the audits of major corporations and determine that no extra taxes are owed even when the corporation concedes that it owes more taxes. At the IRS, a renegade special agent with a drinking and substance abuse problem can fabricate allegations of political corruption and be protected rather than punished by his supervisors.

This culture must change, and it is not happening. We heard last week that some IRS managers have been bragging that they have no regard for the Finance Committee's oversight hearings and that they intend to go back to business as usual once the spotlight is off. Even after we exposed the illegal use of enforcement statistics to evaluate IRS employees and offices, it seems that the southern region is still ranking their district offices based on property seizures.

Many IRS bureaucrats appear to have concluded that we are not serious about oversight and that we are not serious about reform. We in the Congress must prove them wrong and send a strong message to the IRS and to the taxpayer that business as usual will not be tolerated.

Since our hearings last September exposed numerous instances of taxpayer abuse, it seems that not one person has been fired at the IRS. It is my hope that the provisions in the IRS reform bill that require the termination of employees who commit certain acts such as taxpayer abuse will help correct this problem.

Commissioner Rossotti has made a number of positive moves since taking office. He has ordered an independent review of the IRS Inspection Service, and now he has enlisted Judge William Webster for a much needed review of the Criminal Investigations Division. In order to change the corrupt culture at the IRS, it is necessary that outside people with a perspective different from that of the IRS bureaucracy be given a prominent role.

It is for this reason that I have offered this amendment. My amendment, cosponsored by Senator FAIRCLOTH and Senator MURKOWSKI, would move us closer to Chairman ROTH's vision of a private sector oversight board by removing the Secretary of the Treasury from this board.

The purpose of the oversight board is to reform the IRS from the outside. The board will be composed of people from the private sector, people with management and information systems expertise, people who still have the interest of the taxpayer in mind. To change the culture of the IRS, we need to replace the law enforcement mentality with a customer service mentality. The independent oversight board will play a vital role in changing this culture. There is no place on such a board for a Government official, such as the Secretary of the Treasury. The board must be the voice of the taxpayer, not the voice of the status quo. For this new board to have any credibility with the public, it must not be under the influence of the Cabinet Member who already has responsibility for the agency.

We must prove that we are serious about reform of the IRS. Making the oversight board a private sector check on the IRS is essential for reform. Otherwise, it is just Washington business as usual with another Washington-controlled commission. That is not what we need. We need an oversight board of the taxpayers, by the taxpayers, and for the taxpayers.

Mr. President, I want to make it clear, because I realize that in these kinds of situations the impression could be drawn that I am focusing my concerns personally at the Secretary of the Treasury. That is not the point at all. The Secretary of the Treasury is, frankly, reflecting the views of the bureaucracy. I find it troubling that we would have changed the legislation from the markup document that we began with, which Senator ROTH proposed, which did not include members other than private sector individuals. Again, I want to stress this point. This is not directed personally at the Secretary of the Treasury, but it is a response in essence to an attempt by the bureaucracy to protect itself.

Here is what the Secretary has said in the past with respect to this issue. In the Cincinnati Inquirer, on September 17, 1997, Secretary Rubin said:

> The fact that the agency was being run by private sector individuals would almost surely have what lawyers call a chilling effect on IRS employees and influence audit policy, enforcement policy, and the like.

You bet it would. I think that is exactly the reason we had called for a board in which there were only private sector representatives on that oversight board.

The ultimate concern that I have here is that if we are going to make a change, it should not be business as usual. It should not be a commission dominated by Washington insiders. Why do I say it would be dominated when this is a board that would be, under its present organization, nine members, six from the private sector, three not? The six private sector members, as I recall, are part-time members of this commission, this oversight board. When you add the Secretary of the Treasury, the Commissioner of the IRS, and a representative of the employees at IRS, what you have done is totally changed the makeup in this sense. There are huge bureaucracies that the Secretary of the Treasury and the other members from Government can call on who will dominate, in my opinion, the six individuals who are serving from the private sector on a part-time basis with very limited staffs.

I want to conclude my comments by saying to those Members of the Senate who participated in hearings, not just in the Senate but also in the process outside the committee, in no way do I try to lessen the significance of the work that you have done. But this is not an issue of what we hear at hearings. This is an issue of how Washington works and how the bureaucracy will do whatever is necessary in order to protect itself. And to put the Secretary of the Treasury and a representative of the employees on this board is just business as usual, Washington protecting itself.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I compliment my good friend from Florida relative to this particular issue concerning the IRS evaluation and the oversight board, in particular the position of the Secretary on this board.

First of all, in this amendment that my friend from Florida has proposed, we would give the IRS Advisory and Oversight Board a far greater capacity to exercise its oversight and advisory functions, ensuring taxpayers are treated fairly. That is the object of this entire exercise.

Our friends on the Finance Committee, and I am a member of that committee, as we discussed in the makeup of the nine-member board, we reflected on the debate yesterday where the Senate rejected the idea of making the board a full-time board consisting exclusively of private citizens. However, in my view, this board will have a very, very hard time fulfilling its oversight and advisory functions because, I think, as does the Senator from Florida, that its composition is basically unbalanced.

First of all, let's examine the board. We have six private sector members to be selected based on their expertise in such areas as management, customer service, information technology, and, most important, the needs and concerns of the taxpayer. If those were the only members of the board, the board would be basically free to take an unbiased and objective view of how to improve the operations of this agency, with the goal of ensuring the proper treatment of the American taxpayer and the efficient and courteous delivery of services.

But let's look at it realistically. Unfortunately, the board is not made up that way. As the board has emerged, it will likely be dominated by three additional people who are required to be members. First of all, we have added the Internal Revenue Service Commissioner. A representative of the employees of the IRS is the second member. And third, the Secretary of the Treasury.

Does anyone in this body really believe that this board, consisting of three of the most important people—these are policy people—most important people involved in the operation of the IRS, will be free to exercise real oversight of the IRS? Why do we even need an advisory board to make recommendations to the Secretary of the Treasury and the Commissioner of the IRS when these two individuals already serve on the board? What kind of advisory group are we talking about here? You have insiders on the advisory group. These insiders are very powerful—the Commissioner of the Internal Revenue Service, a union employee representative of the Internal Revenue Service, and the Secretary of the Treasury. So where is the objectivity? These people will control the direction and policy of this board. So where does this advisory board stand independently? It does not. That is the fallacy in the makeup. That is why I encourage my colleagues to consider the amendment offered by the Senator from Florida, which I wholeheartedly support.

We have heard the horror stories of taxpayer abuse described in the Finance Committee last September and at last week's hearings. Mind you, Mr. President, this occurred on the watch of the Treasury Secretaries appointed by both Republican and Democratic Presidents. What kind of oversight did these Treasury Secretaries perform on the IRS during their tenure in office? It appears there was very little, if any, oversight. Why? We would like to think because we don't have an independent board. But, if you put the insiders on the board, you don't have objectivity. If we allow the Secretary of the Treasury to participate on this board, along with the IRS Commissioner, I fear we will have business as usual in the IRS. That is what the Finance Committee attempted to address: no longer business as usual.

I assume many of my colleagues are out there now making their sound bites, appealing to the folks back home that this is a major step forward, this legislation, in making the IRS accountable. But it is not. It is business as usual. You have the same insiders, only this time they are on the board that is supposed to oversee the IRS.

Mr. President, let's stop kidding ourselves around here. The Secretary has a staff of thousands of people. They can provide him with any number of reasons to dissuade the board from recommending and implementing significant changes to the Internal Revenue Service. The Secretary and the IRS Commissioner work together. They have to. They work together on a regular basis and will form a powerful team that could prevent real and meaningful changes at the IRS.

I have seen it in my own business career, where people of knowledge and responsibility who are insiders direct the activities of an objective group of outsiders simply because they have the power and influence of their position. This board should have as its No. 1 goal finding ways to improve services by the Internal Revenue Service to the American taxpayer. If the Treasury Secretary who oversees the IRS is on this board, I fear the interests of the bureaucracy—and I noted my friend from Florida mentioned time and again in his presentation "don't underestimate business as usual"—and the power of the bureaucracy. And, don't kid yourself, it is in the Internal Revenue Service as well.

So I fear the interests of the bureaucracy and the Government are simply going to be put ahead of the interests of the taxpayers because it has always been that way in the past. It is inherent in the nature of his high position and his large and sophisticated staff that the Secretary of the Treasury will dominate this board and the interests of the taxpayer will not be adequately represented.

I have the utmost respect and admiration for the Treasury Secretary, Bob Rubin. He has done, and is doing, an admirable job as Secretary of the Treasury. I differed with him on the Mexican bailout, but he proved to be right. He has done, and is doing, an admirable job as Secretary of the Treasury. My support for this amendment has nothing to do with Mr. Rubin, in the interests of full disclosure. But it is my concern that the official in charge of Treasury and the IRS operations cannot bring an objective view to oversight of his own operations. I urge the adoption of the Mack amendment.

Finally, I have been in the business community for 25 years. Many of my colleagues here have not. I can tell you how it works in that kind of environment, where you have insiders with positions of influence, not that they are not well meaning, but it is the very nature of the beast that you lose the objectivity that you are going to have if you have this board set up without considering the implications of the influence of the Secretary of the Treasury.

I encourage my colleagues to consider the merits of this amendment and act accordingly. Mr. President, I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I have very much appreciated listening to the arguments for this amendment. However, I think it is important for us to step back a little bit and look at this issue a little more broadly. The first point I would make is to remind my colleagues that the IRS Restructuring Commission recommended that the Treasury Secretary serve on the Board, as well as recommend there be a representative of an employee organization.

The Restructuring Commission spent a lot of time thinking about this. This is not something they willy-nilly recommended to the Congress. Just as we in the Senate voted to honor the Restructuring Commission's inclusion of a representative of an employee organization, I submit it makes sense for us to honor the Restructuring Commission's recommendations to continue to include the Treasury Secretary. The Restructuring Commission spent a lot of time thinking about this, and they did conclude that the Treasury Secretary should be a member of the Board.

Why did they do that? I think for a number of reasons. First, the Treasury Secretary has responsibility for the IRS. After all, that is a large part of his job. In fact, 80 percent of Treasury's resources and people are in the IRS—over 100,000 employees.

Second, there is an analogy with corporations. Corporate boards include chairmen. Corporate boards include CEOs. Why do they do so? Because they want communication between the governing board on the one hand, and the operation management on the other. You have to have direct communication; you have to have guidance. If the Treasury Secretary is not on the Board, that certainly diminishes communication between the Board and the Treasury Secretary. It is just obvious and also does something else which is the exact opposite of what we are trying to do here. It tends to create an adversarial relationship between the Treasury Secretary and the Board.

The analogy which someone alluded to earlier of having 'the fox guard the chicken coop' to have the Treasury Secretary on the Board, is totally inapplicable. Why? Simply because the other board members, the six private board members, are going to be pretty strong-willed people if they are going to agree to serve on this Board. Any President who wants to make IRS restructuring work is going to get pretty strong people. These are not people who are going to roll over willy-nilly at the insistence of the Treasury Secretary.

First of all, they don't work for the Treasury Secretary. These are private sector people. The only working relationships between the Secretary and Board members is with the Commissioner, Mr. Rossotti, and in some indirect way, the employees representative. There are six private sector people on the Board who are going to be strong-willed, strong-minded people. They are not going to roll over and play dead.

In addition, the Treasury Secretary is going to want to be a two-way messenger, both to and from the Board, to the President's Cabinet, to the President himself. If we want IRS restructuring to work, we want him to participate in the Board's deliberations. He will be able to share information with the other members of the Board that they might not otherwise know about, and that no one else would know. At the same time, he would learn things about the IRS by serving on the Board that he might not otherwise discover.

Another way to see that we have ensured independence of the Board is that each of the six private sector members is subject to the confirmation process in the Senate. When we are talking to these nominees as they go before our committees in the Senate, we have ample opportunity to insist upon the independence of these board members. We have ample opportunity for commitment from these nominees. They are not going to kowtow to any Secretary.

To sum up, Mr. President, the Restructuring Commission recommended the Treasury Secretary. It makes sense to keep the communication flowing between the Board and the Treasury Department and the President's Cabinet. The private sector Board members are going to be strong-willed people. They are not going to just acquiesce to the suggestions of the Treasury Secretary. In fact, there are provisions in this legislation to help assure that independence. One is having the Board send a separate budget to the Congress, for example, independent of the Treasury Secretary. It makes good sense to follow the recommendations of the Restructuring Commission on this matter. I urge my colleagues to keep the Treasury Secretary on the Board.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 22 minutes 56 seconds for the Senator from Florida and 39 minutes 38 seconds for the Senator from New York.

Mr. McCAIN. I ask to be recognized for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I rise in support of this legislation. Again, I thank the chairman and other members of the Finance Committee for their work in crafting this measure.

The vast majority of Americans comply with our country's tax laws. In the same vein, most IRS workers do their jobs in a conscientious fashion.

We have heard numerous accounts of abuses and mismanagement at the IRS. We have had months of hearings and hours of debate. Some of the reported incidents of taxpayer abuse have been so outrageous that it is hard to believe that they actually took place. Clearly, the system that guides and directs workflow at the IRS needs to be overhauled.

Today, we are poised to go beyond talking about IRS reform. We are actually doing something about IRS abuse of innocent individuals.

The reforms in this bill are carefully crafted structural reforms. They are reforms that will not only change the practices and procedures of the IRS, but its fundamental culture as well. These reforms will ensure that the IRS treats taxpayers fairly and with the respect they deserve.

As with any proposal, there are improvements that can be made. Our colleagues have sponsored several amendments to make this bill even better.

I am a strong advocate of IRS initiatives which provide increased customer service, fiscally responsible computer modernization, management and employee accountability and overall protection of citizens' rights. I support measures that would remove the union representative and the Secretary of the Treasury from the IRS Oversight Board, as well as a measure to create a full-time oversight board for the IRS.

I also support a measure that would establish a Spanish-language help line at the IRS to ensure that all citizens can get needed assistance in paying the taxes they owe.

I support an amendment that would greatly reduce unnecessary and onerous reporting requirements on colleges and universities that were imposed in last year's Taxpayer Relief Act in support of two new educational tax credits.

I support an amendment to suspend interest and penalties on deferred taxes due from individuals who are in officially declared disaster areas.

In addition, I support amendments to protect innocent spouses from undue harassment in an effort to collect taxes from their spouse.

Finally, Mr. President, I am a cosponsor of a Coverdell amendment to this bill which outlaws random audits. Numerical quotas and random audits are inherently unfair. A culture that permits and encourages such practices is counterproductive to overall fairness and accountability. It is difficult to find another area of American society where you become subject to such intense Government scrutiny based solely on a random selection process.

It is fundamentally unfair to impose the burden of a tax audit on an individual taxpayer for no reason other than his or her name was randomly selected.

Reforming the tax collection and enforcement agency is only part of the solution of reducing the burden of excessive taxation on Americans. We still must continue our efforts to simplify the existing Tax Code and provide additional tax relief to all Americans.

I am an original cosponsor of the Coverdell-McCain Middle Class Tax Relief Act of 1998, which is a step toward a simpler, flatter, fairer Tax Code. The Middle Class Tax Relief Act would deliver sweeping tax relief to lower- and middle-income taxpayers by increasing the number of individuals who pay the lowest tax rate, which is 15 percent. In 1998 alone, this bill will place approximately 10 million taxpayers, now in the 28 percent tax bracket, into the 15 percent tax bracket. Preliminary estimates by the Tax Foundation indicate that 23 million taxpayers would benefit from this broad-based middle-class tax relief in 1998 alone.

Mr. President, I supported the Middle Class Tax Relief Act because it is a step forward to further reform, it helps ordinary middle-class families who are struggling to make ends meet without asking the Government to help out, and it promotes future economic prosperity by increasing the amount of money taxpayers have available for their own savings and investments.

In addition, this bill significantly lessens the effect of one of the Tax Code's most inequitable provisions—the marriage penalty. Our current Tax Code taxes a married couple's income more heavily than it taxes a single individual earning the same amount of income as the married couple. This bill reduces this inequity by taxing a married couple's joint income and a single individual earning the same income as the married couple at essentially the same effective rates.

It is essential that we provide American families with relief from the excessive rate of taxation that saps job growth and robs them of the opportunity to provide for their needs and save for the future.

Mr. President, I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. This measure permits individuals to keep more of the money they earn. This extra income will allow individuals to save and invest more. The increased savings and investment are key to sustaining our current economic growth.

In sum, the Coverdell-McCain measure is a win for individuals and a win for America as a whole. The Middle Class Tax Relief Act is a good bill, and I am hopeful that we can move forward on this bill during this Congress.

Mr. President, regarding action taken yesterday on the IRS reform bill, let me note that I supported the chairman's amendment to fully offset the costs of implementing these reforms. However, I do have some concerns about one of the funding sources. Specifically, the relaxed IRA rollover rule may create greater long-term revenue losses than anticipated. Because we cannot accurately score a bill beyond 10 years, it is difficult to determine how much additional revenue we may lose in the future as more individuals take advantage of the relaxed IRA rollover rules and make tax-free withdrawals from their accounts. I raise this concern simply to bring it to the attention of the managers of the bill as an item to be considered in conference with the House.

Mr. President, let me close by saying that the IRS Restructuring Act of 1998 illustrates our continuing effort to change the way we collect our taxes and, on a larger note, the role of Government in our everyday lives. This bill reinstates the principles of fundamental fairness and overall efficiency to the operation of the IRS.

We should pass this bill today and move forward to provide additional tax relief to all Americans.

Mr. President, I yield back the remainder of my time.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in support of the bill which, of course, creates the IRS Oversight Board and follows exactly the proposal made by the report of the National Commission on Restructuring the Internal Revenue Service: "A Vision for the New IRS." This exceptional document is the work of an extraordinarily able public and private group, including the distinguished Senator from Iowa and the Senator from Nebraska, who is managing this legislation today. Their report called for the inclusion of the Secretary or Deputy Secretary on the board.

The Secretary of the Treasury is not a bureaucrat, sir. He is the second-ranking member of the American Government; third if you want to include the Vice President. At any given moment there is the Secretary of State and the Secretary of the Treasury. Their predecessors begin with Thomas Jefferson and Alexander Hamilton, and the sequence since has been extraordinary.

Now, I speak from personal experience. I have known every Secretary of the Treasury since the Honorable C. Douglas Dillon of New Jersey, who served President Kennedy so well and then stayed on with President Johnson—Secretary Dillon; Henry Fowler; Joseph Barr; David Kennedy; John Connally; George Shultz; William Simon; Michael Blumenthal; William Miller; Donald Regan; James A. Baker, III; Nicholas Brady; Lloyd Bentsen—our own Lloyd Bentsen—and now Robert E. Rubin.

They have been among the principal officers of the American Government. And a board that includes such is an important institution. Absent that, sir, it is inevitably one of the myriad advisory commissions which do useful work but are never and cannot be central to the concerns of the American Government.

The House of Representatives voted 426–4 for a bill that included the Secretary for the obvious reason that absent his membership or her membership on the board, nothing comes back to the Secretary with the force of his or her own endorsement. The board does not know what only the Secretary can know. If you prefer the model of a corporate board and the chief executive officer, do so. I prefer the model of American Government with a Cabinet officer chosen in a two-century succession, chosen by an elected President, confirmed by the U.S. Senate, responsible for this high and solemn responsibility.

If the Secretary is on the board, the board will know things it cannot otherwise learn. And the Treasury Department in turn will have the advice and counsel of persons, we hope, not next year but 50 years from now and will continue to think of this as a public service of importance and consequence.

The Secretary of the Treasury is a world figure. This very moment our Secretary is on his way to London to again engage in the increasingly institutionalized international economic deliberations which are so important to the world. If he is on this board, it becomes an important one; if he is not, it becomes a marginal advisory committee.

The idea that there are concerns that a board might have, that private members might have, which the Secretary would not have, does not speak well to our understanding of the centuries of occupants of this high office.

Nor, sir, does it address a slight matter, but little noted in this debate, which is the information we received from the Treasury Department that in a given year there are some $195 billion in taxes owed but not paid. Anyone who wishes to describe ours as a tyrannical, unfeeling, and ruthless tax collection administration might ponder how it comes about that $195 billion a year—$2 trillion a decade—of legitimately owed taxes go unpaid.

That will be a part of the responsibility of this panel as well, and properly so, so let us do what the wise judgment of the Commission proposed that we do. We are here in response to that effort. Let us do what clearly is in the interests of this institution and include the Secretary, as the Finance Committee did in the measure now before the Senate.

I see my friend from Florida. Is there any Member wishing to speak in favor of the amendment?

Mr. MACK. I say to the Senator, I do not know if there are additional Senators who wish to speak in favor. I ask the Senator the same question, whether there are others who wish to speak.

Mr. MOYNIHAN. There is on the floor now Senator DORGAN, and I yield 5 minutes to my friend.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Let me associate myself with the remarks just made by the Senator from New York, and let me also say that the work that has been done by Senator ROTH and Senator MOYNIHAN to bring this legislation to the floor is work that will benefit all of America. I think this legislation has a great deal to commend it to the Congress and the American people.

It is true that in recent hearings evidence of misconduct and mismanagement, and, yes, in some cases the abuse of taxpayers by the Internal Revenue Service by a few employees of the Internal Revenue Service, has cast a shadow over that organization.

A recent speaker indicated, I believe it was Senator MCCAIN, that he was certain—and I share that view—that by far the majority of the men and women who work in the Internal Revenue Service are good people who do good work and try to do the best job they can. But because of the abuse by some few agents in the Internal Revenue Service, we must take steps to make sure it never happens again.

This piece of legislation brought to the floor of the Senate creates a nine-member oversight board. The purpose of that board and its duties is to oversee the administration, the management, the conduct, to provide some assistance and some guidance and some additional management, to make certain that we never again convene a hearing and hear of abuses by IRS agents of the American taxpayers. In short, this legislation, in many ways, is an attempt to restore credibility by restructuring the Internal Revenue Service and creating an oversight board.

The two goals, it seems to me, are: One, to make the changes necessary to make certain that this behavior never again occurs, and to prevent this kind of taxpayer abuse from surfacing again, because we want to prevent it from ever happening again; No. 2, to enforce the tax laws so that the many citizens in America who pay their taxes will have some confidence that the few who try to avoid them will be required to meet their responsibility. Those are the two elements that are important here.

The amendment offered by the Senator from Florida would strike from the nine-member oversight board the Treasury Secretary. I agree with the Senator from New York, who says that this board will not be a significant and important board unless it has as part of its membership the Secretary of the Treasury. Part of it is about accountability, but part of it is about whether or not this will be a significant oversight board. I believe very strongly that the membership on this board is going to contribute to the effective workings of the Internal Revenue Service, but it must include the Treasury Secretary.

For all of the reasons I think that have been articulated by others who have spoken before, let me just again say that I hope we will defeat this amendment and I hope we will pass this underlying piece of legislation with a very significant vote today.

I must say as well, I regret opposing an amendment offered by my friend from Florida, for whom I have the greatest respect. I know he supports the purpose of this bill, to give assurance to the American people that we have an agency that can do what we expect a tax collection agency ought to do, while at the same time protecting the rights of all the American people.

I will vote against this amendment but will be pleased to vote for the underlying bill.

Again, I commend Senator ROTH and Senator MOYNIHAN for the work they have done to bring this to the floor of the Senate.

I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, my friend will not mind adding Senator GRASSLEY and Senator KERREY, whose work on the original Commission brings us here today.

Mr. MACK. Mr. President, my intention now is to make a few closing remarks, and then I am prepared to yield back the remainder of my time and go to a vote.

Mr. KERREY. How much time remains on this side?

The PRESIDING OFFICER. 27 minutes 28 seconds.

Mr. KERREY. I think I will go for about 27 minutes and yield back 28 seconds.

Mr. President, 30 seconds, and then I will yield it all back.

Likewise, I have great respect for the Senator from Florida. I believe his amendment is well intended but, if it is accepted, it will significantly weaken this board. This board needs to be more than advisory; it needs to have a sufficient amount of authority and power when it meets with Congress and we pay attention to it. If it advises and works with the IRS Commissioner, the IRS Commissioner, as well, listens and pays attention.

So, this amendment will weaken the board. I understand what the Senator from Florida is trying to do, but I hope this amendment will be defeated.

I yield back the remaining time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. I appreciate the kind comments that my colleagues have made in their disagreement over the amendment I offer today.

Let me go to the heart of the matter as I see the argument that the Senators are making. What they are saying is that this oversight board, in essence, has no authority without the Secretary of the Treasury. I fundamentally disagree with that. The power comes from the law, not the presence of the Secretary. The authority is written into the legislation that is before the Senate today. Having the Secretary of the Treasury on that Commission does not add power. In fact, I say it reduces the power of the taxpayer, which is the intention behind, at least from my perspective, the oversight board.

The reason we need an oversight board is because there have been decades of inadequate oversight by the people empowered to oversee the IRS—Commissioners, Secretaries, Presidents, and Congresses. The entire purpose of the oversight board is to provide to private citizens, to taxpayers, some power over the IRS. If the Secretary of the Treasury is on the board, his oversight power is not enhanced but the power of the private citizens on the board will be diluted.

There is no guarantee that the staff of the board will be of any size at all. My fear would be that they might be detailees from the IRS and from the Treasury.

It is not very realistic to assume that the private sector members of the oversight board can escape the dominance of the Treasury Secretary.

There is one last argument I will respond to and then yield the floor. Should the Secretary be on the board so the board has the advantage of his knowledge and access to information? Nothing prevents the Treasury Secretary from submitting his views to the oversight board. It should be expected that the oversight board will consult with the Treasury Secretary. Input from within the Treasury Department is already guaranteed by the Commission's representation on the board.

I think the amendment that I have offered and the perspective that I have argued, frankly, have great power. I hope my colleagues on both sides of the aisle will support this amendment.

I yield back the remaining time. I believe the yeas and nays have been called for.

The PRESIDING OFFICER. They have not been ordered.

Mr. MACK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), is absent because of a death in the family.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—40

Abraham
Allard
Ashcroft
Bond
Brownback
Burns
Campbell
Coats
Coverdell
Craig
DeWine
Enzi
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Sessions
Shelby
Smith (NH)
Smith (OR)
Thomas
Thompson
Thurmond

NAYS—59

Baucus
Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Cochran
Collins
Conrad
D'Amato
Daschle
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Hagel
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Santorum
Sarbanes
Snowe
Specter
Stevens
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Akaka

The amendment (No. 2372) was rejected.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 2373

(Purpose: To improve electronic filing of tax and information returns)

Mr. BOND. Mr. President, I rise today to offer an amendment which I offer for myself and my colleague, Senator MOSELEY-BRAUN, to improve electronic filing of tax and information returns. Working with the manager of the bill, I believe we have an agreement on the amendment.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. If there is no objection, the pending amendment will be set aside and the clerk will report.

The legislative clerk read as follows:

> The Senator from Missouri [Mr. BOND], for himself and Ms. MOSELEY-BRAUN, proposes an amendment numbered 2373.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 256, strike line 11 and all that follows through line 18, and insert the following:

"(a) IN GENERAL.—It is the policy of Congress that—

"(1) paperless filing should be the preferred and most convenient means of filing Federal tax and information returns,

"(2) electronic filing should be a voluntary option for taxpayers, and

"(3) it should be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007."

On page 258, line 12, strike "and Government Reform and Oversight" insert "Government Reform and Oversight, and Small Business".

On page 258, line 14, strike "and Governmental Affairs" insert "Government Affairs, and Small Business".

On page 258, line 19, strike "and".

On page 258, line 21, strike "such goal." and insert "such goal; and".

On page 258, line 21, insert the following:

"(4) the effects on small businesses and the self-employed of electronically filing tax and information returns.".

Mr. BOND. Mr. President, I rise today with an amendment, which I offer for myself and my colleague, Senator MOSELEY-BRAUN, to improve electronic filing of tax and information returns. After working with the managers, I believe we now have an agreement on this amendment, and I send that amendment to the desk.

The bill we are now considering contains far-reaching provisions that will encourage the Internal Revenue Service to expand the use of electronic filing. My amendment improves those provisions in two ways. First, my amendment makes it absolutely clear that electronic filing of tax returns should be voluntary—not another burdensome government mandate on American taxpayers. While the bill calls on the IRS to make electronic filing the "preferred and most convenient means for filing," it also establishes a goal of 80 percent electronic filing of tax returns by 2007. Without a clear statement of congressional intent, it will be too easy for the IRS to interpret those provisions as requiring electronic filing by certain taxpayers or in certain circumstances.

As the Chairman of the Committee on Small Business, I have heard over the past 2 years from hundreds of small businesses about a similar government mandate—the Electronic Federal Tax Payment System or EFTPS. Under the statute establishing this system, the Treasury is required to collect certain percentages of tax electronically each year. To implement that requirement, the IRS established thresholds based on a business' past employment tax deposits. Regrettably, the IRS established the thresholds to serve its convenience rather than the taxpayer's. As a result, it now appears that far more taxpayers are required to pay their taxes electronically than the law requires.

While EFTPS deals with electronic payment of taxes, as opposed to filing of tax returns as we are addressing in this bill, it is a clear example of how the intent of Congress can be misinterpreted and result in an onerous mandate, in this case on America's small businesses. My amendment cuts that misunderstanding off at the pass. As the IRS develops new programs and procedures for electronic filing, they must not be forced down the throats of the country's taxpayers. If they are truly convenient and cost effective, taxpayers will volunteer in droves to file their tax returns electronically, just as they have with the IRS' TeleFile program. And those taxpayers who, for one reason or another, decide that electronic filing is not practical, should be permitted to continue filing paper returns.

Second, my amendment expands the reporting requirements under the bill to ensure that the IRS pays particular attention to electronic-filing issues pertaining to small business. The bill currently requires that the Treasury Secretary, the IRS Commissioner, and the advisory group on electronic filing to report annually to the Congress on the progress made in expanding the use of electronic filing.

I commend the distinguished Chairman of the Finance Committee for including representatives of small business on the advisory group as I proposed. My amendment capitalizes on that small business voice, by requiring that the report to Congress include an analysis of the effects of electronic filing on small enterprises. If we are to prevent another burdensome program like EFTPS, I believe we must require the IRS to focus on how electronic-filing programs will affect small business. It will be of little benefit to the government if new electronic-filing programs include new requirements, like a substantial investment in new equipment, since most small businesses will not be able to participate. In addition, if the IRS pays particular attention to the issues facing small businesses in this areas, the agency will be better equipped to market and promote the benefits of electronic filing—a 100 percent improvement over the agency's initial efforts to encourage small firms to use EFTPS.

I fully endorse the intent of this legislation to make electronic filing widely available, cost effective, and an attractive option. My amendment fine tunes the bill to ensure that the intent becomes a reality. With the continuing advances in technology, we have an enormous opportunity to make all taxpayers' lives easier. But with technological advances comes the risk of imposing even more burdens on taxpayers, and Congress must make sure that these improvements are not implemented at the expense of the taxpayers, and especially the small businesses, who are expected to benefit from them. My amendment is designed to achieve that goal.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I congratulate the distinguished Senator on his amendment. It has been cleared on both sides of the aisle. I think it better states the policy of Congress and I urge its adoption.

The PRESIDING OFFICER. Are there further remarks? The Senator from Nebraska.

Mr. KERREY. Mr. President, the amendment has been cleared on this side as well. It is a good amendment and I appreciate the fine work of the distinguished Senator from Missouri.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2373) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 2374

(Purpose: To expand the shift in burden of proof from income tax liability to all tax liabilities)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. If there is no objection, the pending amendment will be set aside. The clerk will report the amendment of the Senator from Texas.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2374.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 265, between lines 21 and 22, insert:

"(4) EXPANSION TO TAX LIABILITIES OTHER THAN INCOME TAX.—In the case of court proceedings arising in connection with examinations commencing 6 months after the date of the enactment of this paragraph and before June 1, 2001, this subsection shall, in addition to income tax liability, apply to any other tax liability of the taxpayer."

Mr. GRAMM. Mr. President, this is a very simple amendment. We have a provision in the bill, a very important provision, that sets up a set of criteria where, if the taxpayer meets a test of keeping prudent records and of turning those records over to the IRS on a timely basis, that once that transfer of records has occurred and the other requirements have been met, then the burden of proof shifts to the Internal Revenue Service when someone is accused of having violated the IRS code by not being in compliance on their income taxes.

This was a provision that was included in the bill under the leadership of the chairman. We, I think, generally wanted to extend it to all tax cases but because of revenue constraints we were unable to do it. I have constructed this amendment in a fashion which does permit the expanded burden of proof transfer. It delays the expansion for 6 months and sunsets it at the end of 5 years, so it fits within the revenue cap we have.

I believe that once we provide this protection that we will end up not taking it back or allowing it to expire. I think this is an important protection, because on gift and estate issues, we have the same problem as income taxes, where the Internal Revenue Service enters into a dispute with the taxpayer and, in a system unlike any other system in American society, under existing law, you are guilty until you prove yourself innocent.

This amendment would simply say that if you keep all the records that a prudent person could be expected to keep, and if you turn those substantiation records over to the Internal Revenue Service so there is no question about the fact that you have shared the information you have with them, at that point the burden of proof shifts from the taxpayer to the IRS not only in cases dealing with income tax disputes but in all other types of tax cases as well.

I hope this amendment will be accepted. I have discussed it with both sides of the aisle. I believe it is strongly supported. It does fit within the budget constraint we have in the bill, so I commend this to my colleagues.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, both of these amendments are good amendments. I urge their adoption. I appreciate very much the burden of proof amendment. I think it is very important it apply to all income, and I appreciate the fine work the distinguished Senator from Texas has done.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I, too, congratulate the distinguished Senator from Texas for this amendment. It was our desire that this burden of proof be extended to all types of taxes. I urge the adoption of the amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2374) was agreed to.

Mr. KERREY. Mr. President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 2375

(Purpose: To prohibit Government officers and employees from requesting taxpayers to give up their rights to sue)

Mr. GRAMM. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside, and the clerk will report the amendment of the Senator from Texas.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2375.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 370, between lines 18 and 19, insert:

SEC. 3468. PROHIBITION ON REQUEST TO TAXPAYERS TO GIVE UP RIGHTS TO BRING ACTIONS.

(a) PROHIBITION.—No officer or employee of the United States may request a taxpayer to waive the taxpayer's right to bring a civil action against the United States or any officer or employee of the United States or any action taken in connection with the internal revenue laws.

(b) Exceptions.—Subsection (a) shall not apply in any case where—

(1) a taxpayer waives the right described in subsection (a) knowingly and voluntarily or

(2) the request by the officer or employee is made in person and the taxpayer's attorney or other federally authorized tax practitioner (within the meaning of section 7525(c)(1)) is present, or the request is made in writing to the taxpayer's attorney or other representative.

Mr. GRAMM. Mr. President, in the hearings that we held in the Finance Committee, over and over again taxpayers, who made compelling cases that they had been abused by the IRS, told us that in response to their efforts to try to stop what they considered to be unfair treatment—whether it was seizure of their home or their business or being accused of things they claim not to have done—one thing that they were consistently required to do by the IRS in order to end the dispute, even though the Internal Revenue Service may have turned up no wrongdoing, was to sign a statement whereby the taxpayers gave up their right to sue the IRS for the abuses that had been imposed on them.

I have talked to Commissioner Rossotti. He has said that he has no objection to this amendment. In addition, my staff has met with the staff of the Treasury Department, and they have suggested some changes which we have made.

Basically, what this says is that if I am in a dispute with the Internal Revenue Service, they can't force me, as part of that dispute, to give up my rights. At the end of the process, if I have done nothing wrong, they can't force me to give up my right to sue them if I feel my rights have been violated.

They can notify my attorney that this is something that could be part of the negotiation. I can voluntarily propose that if we can settle the case today, for example, I would be willing to pay so much and give up this right. But what this amendment does is prohibit the Internal Revenue Service from forcing this provision as part of any settlement. I think it is an important protection.

With these changes, it is my understanding it is supported by my colleagues and I hope it can be accepted at this point.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, again, I congratulate the Senator from Texas for offering the amendment. This addresses a question that became very clear in our hearings last week that it was a serious problem.

It is my understanding this has been cleared by both sides of the aisle. I urge its adoption.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I also support this amendment. The Senator from Texas has carefully drafted this amendment to make certain that the waiver of the right to sue can still be granted. It is a very important provision in all kinds of negotiations, not just with the IRS. The Senator from Texas drafted it so that right is still preserved, but it just can't be coerced. It can't be coerced.

The IRS supports this amendment. They do not believe it is going to have any impact on the capacity to reach agreements with taxpayers or get noncompliant taxpayers to comply. I urge its adoption.

The PRESIDING OFFICER. Is there any further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2375) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERREY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. POLICY AND THE MIDDLE EAST PEACE PROCESS

Mr. BYRD. Mr. President, I commend the courage and decisiveness displayed by President Clinton and the Secretary of State, Ms. Albright, in attempting to get the Arab-Israeli negotiations back on track. The attacks by some in the other body are disappointing and not helpful. If there has been coercion and strong-arming or unreasonable tactics on the matter of negotiations between Israel and the Palestinians over the last year or so, Mr. President, in my judgment, it has not been on the part of the United States.

The unfortunate reality as I view it, is that the Israeli Prime Minister has pursued a policy of paralysis in the peace process. I think it is unwise for any responsible American leader to suggest that this practice should continue, and the United States should not intervene to get the negotiations underway again in a meaningful way. The Israeli Prime Minister has traveled to Washington before, totally empty-handed, with no proposal for moving the negotiations forward. In so doing, he has catered to the forces working against progress. He has embarrassed the United States, and all who have supported a peaceful constructive resolution of the issues on the table regarding Israeli and the Palestinians. It is no wonder, given his track record on the negotiations since he became Prime Minister, that the administration has seen fit to require some assurance that another visit to Washington will produce something more than empty rhetoric and more stonewalling. I cannot support more strongly the position of Secretary Albright, that if the Israeli Prime Minister is unwilling to accept some moderate specific American proposals for progress on the West Bank that there is not much point in another fruitless trip to Washington, which might further inflame the situation in the Middle East.

As to the Israeli Palestinian problem, Mr. President, it has always taken three to tango. All parties, the United States, the Palestinians and the Israelis must want the negotiations to move forward, and it is only through compromise that success can be achieved. The United States has used its good offices to broker the negotiations and has burnished substantial financial resources to ensure the stability of Israeli on an unstinting basis. Any one of the parties can derail the negotiations and so it is a measure of the tremendous difficulty the United States has had with the Netanyahu government that the administration has felt it necessary to take specific steps to get the negotiations back on track.

Therefore, Mr. President, I commend the President for this initiative in the interests of getting the negotiations jump-started. I hope that cooler heads will prevail and that all Americans will see the wisdom of supporting a reasoned but decisive approach to the negotiating effort.

Mr. President, I yield the floor.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 2376

(Purpose: To provide for the termination of employment of IRS employees for willful failure to file income tax return or threatening an audit for retaliatory purposes)

Mr. GRAMM. Mr. President, I have one final amendment. I am a little bit hesitant to consume further time so I shall be brief.

I remind my colleagues, we held hearings in the Finance Committee after we wrote the initial bill, and issues arose in those hearings that we want to address in this amendment. I understand that it has been approved by both sides of the aisle.

Basically, we have in the bill a list of offenses for which an employee of the Internal Revenue Service may be terminated. In light of concerns that have arisen since we had the bill before the committee, I want to add two offenses to the list.

One has to do with testimony we heard where members of the Internal Revenue Service were said to be threatening to audit people for personal gain. We heard an assertion that a police officer had stopped an IRS agent and was going to write him a ticket, and the IRS agent allegedly had told the officer that if he wrote the ticket, he was going to get audited.

The second provision has to do with a knowing and willful failure of an IRS agent to file a tax return or pay taxes or declare income. Both of these fit, I think, perfectly into the list of very strong offenses that we have in the bill.

I send the amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report the amendment of the Senator from Texas.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2376.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 253, line 13, strike "and".

On page 253, line 17, strike the end period and insert a comma.

On page 253, between lines 17 and 18, insert:

(8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect,

(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect, and

(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, again, this amendment addresses a serious problem that came out during the hearings held by the Finance Committee last week.

It is an important change in the law. And I compliment the Senator for propounding it. At the appropriate moment I will urge its adoption.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, the National Restructuring Commission included this provision in our bill. It is in the House bill, or at least provisions in it that dictate that an employee who does a number of things would be automatically terminated.

What the Senator from Texas has done is identified some additional things that ought to be on the list and once again has carefully drawn it—I believe the language is "willful" and—what was the other word, I ask the Senator? "Willful" and "intentionally."

This would not be a situation where an individual accidentally underpays taxes or misses a deadline or something like that. This is a much higher standard, a much more difficult standard. And I think it is a quite reasonable provision to add to the list of things that would force and require automatic termination.

In general, this legislation is attempting to change the culture by saying here are some things that, if you do it, there are going to be severe penalties. This is obviously a severe penalty. Punitive damages for damages, we have an expanded right for legal fees.

What we are trying to do is change the culture so that there is a new seriousness given to actions taken by the IRS. And all of us understand the penalty needs to be sufficient to meet the offense. I think the amendment of the distinguished Senator from Texas is a reasonable one and I urge its adoption.

Mr. GRAMM. I thank you.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment No. 2376.

The amendment (No. 2376) was agreed to.

Mr. GRAMM. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I have two amendments that have already been discussed by the senior Senator from Idaho, Senator CRAIG. Both amendments have been cleared on both sides of the aisle.

AMENDMENT NO. 2377

(Purpose: To require disclosure to taxpayers concerning disclosure of their income tax return information to parties outside the Internal Revenue Service)

Mr. ROTH. The first amendment I will offer would require disclosure to taxpayers concerning disclosure of their income-tax return information to parties outside the Internal Revenue Service.

The PRESIDING OFFICER. Is the amendment at the desk?

Mr. ROTH. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment. And by unanimous consent, the pending amendment is set aside.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] for Mr. CRAIG, proposes an amendment numbered 2377.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert in the appropriate place in the bill the following:

SEC. . DISCLOSURE TO TAXPAYERS.

Section 6103(d) of the Internal Revenue Code of 1986 is amended by adding at the end thereof a new paragraph to read as follows:

"(6) DISCLOSURE TO TAXPAYERS.—The Secretary shall ensure that any instructions booklet accompanying a general tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms) shall include, in clear language, in conspicuous print, and in a conspicuous place near the front of the booklet, a concise description of the conditions under which return information may be disclosed to any party outside the Internal Revenue Service, including disclosure to any State or agency, body, or commission (or legal representative) thereof.".

Mr. ROTH. As I indicated earlier, this amendment has been cleared on both sides of the aisle.

Mr. KERREY. Mr. President, it is a good amendment, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is adopted.

The amendment (No. 2377) was agreed to.

AMENDMENT NO. 2378

(Purpose: To limit the disclosure and use of federal tax return information to the States to purposes necessary to administer State income tax laws)

Mr. ROTH. Mr. President, the second amendment of Senator CRAIG would limit the disclosure and use of Federal tax return information to the States to purposes necessary to administer State income-tax laws.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment. By unanimous consent, the pending amendment is set aside.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] for Mr. CRAIG, proposes amendment numbered 2378.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 394, before line 16, add a new item (6) to read as follows:

"(6) the impact on taxpayer privacy of the sharing of income tax return information for purposes of enforcement of state and local tax laws other than income tax laws, and including the impact on the taxpayer privacy intended to be protected at the federal, state, and local levels under Public Law 105–35, the Taxpayer Browsing Protection Act of 1997."

Mr. ROTH. I further note that this amendment has been cleared on both sides of the aisle. It is a good amendment. I urge its adoption.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, this is a good amendment, and I also urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

The amendment (No. 2378) was agreed to.

Mr. KERREY. I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2365 AND 2366, WITHDRAWN

Mr. ROTH. Mr. President, I ask unanimous consent to withdraw amendment No. 2365 and amendment No. 2366.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2365 and 2366) were withdrawn.

Mr. LEAHY. Mr. President, I ask unanimous consent to be able to proceed for up to 4 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO ARTHUR GIBB

Mr. LEAHY. Mr. President, I have come to the floor of the Senate many times to speak about my native State of Vermont and to say how very special it is. One of the reasons that it is so special is not only the people who are born there but some of the extraordinary people who come to Vermont and have made Vermont their home and have improved Vermont while there.

One person who we revere in Vermont is Arthur Gibb. Art Gibb served as a leader in the State legislature, one of the strongest voices in the Republican Party for environmental concerns in Vermont, and he is well respected by Republicans and Democrats alike for all he has given to the State.

Recently, Christopher Graff, chief of the Vermont Associated Press Bureau, wrote an article about Art Gibb as he turned 90. Mr. Graff says things about Art Gibb far better than I. But it is such a good profile of such a special Vermonter that I ask unanimous consent the article about my good friend, Art Gibb, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, Apr. 12, 1998]

ART GIBB: A SPECIAL STATE LEADER, LAW MAKER

(By Christopher Graff)

Take a stroll through the Statehouse and peek at the portraits lining the walls. Governors, lieutenant governors, military leaders.

Among all the paintings in the Statehouse collection are just three portraits of legislators.

One is of Edna Beard of Orange, the first woman to serve in the House. She was also the first to serve in the Senate.

The second is of Reid LeFevre of Manchester, a House member starting in the 1940s who was the most colorful lawmaker of all times. LeFevre was chairman of the House Ways and Means Committee and in his off time ran King Reid Shows, a traveling carnival that he once brought to the House chamber.

The third portrait is of Art Gibb, a legend in his own time.

Gibb's large portrait fills part of a wall off the House chamber. He is shown sitting outside and most of the painting is a wonderful, colorful landscape, with flowers, fields and mountains.

It is revealing that the portrait is more about Vermont's beauty than about Gibb.

The Weybridge Republican turns 90 this week, still bustling with energy and a passion for keeping Vermont special.

Gibb sits on the state Environmental Board, settling the sticky questions of who gets to build what where.

It is a fitting place for him. He fathered the pioneering state law that created the Environmental Board and the process of keeping development in check.

It is a great story, one that serves as a reminder of the special breed of leaders Vermont has enjoyed and the state's ability to meet head-on the problems that destroy others.

Gibb was elected to the House in 1962. He was serving on the tax-writing committee of the House when a vacancy opened in the chairmanship of the House Natural Resources Committee.

Gibb asked House Speaker Richard Mallary if he could have it—and Mallary agreed.

The outdoors enthusiast was placed in a critical role at a critical time.

A few years later newly elected Gov. Deane Davis realized southern Vermont was under siege from eager developers who cared solely about profit.

Davis turned to Gibb—the governor later described Gibb as "a man of great personal charm . . . (who) was well-known for his judicial and fair-minded temperament"—and asked him to lead a special commission to examine the problem. Out of the Gibb Commission came the framework for Act 250, passed in 1970 and still a vital part of Vermont.

Gibb says the issues that come to the board these days are ones no one imagined when Act 250 was drawn up, like snowmaking for ski areas and the siting of communications towers.

Gibb says he has seen and done a lot in his years, but of one thing he has never had any doubts. Act 250 has played a crucial role in saving what makes Vermont special.

"It leads to responsible development," he says. "When you think of the irresponsible development we had in 1969 . . . Thank God for Act 250."

As Art Gibb turns 90, we thank him for Act 250 and thank God for Art Gibb.

TRIBUTE TO JOHN ADAMS

Mr. LEAHY. Mr. President, many of the times I have spoken about Vermont, I have talked about the fact that in small cities and towns everybody knows everybody else. We are a State of neighbors, from the stores on the corner to the places of worship and our town squares.

Recently, the Burlington Free Press wrote an article about John Adams. He has spent 40 years fitting shoes and boots and footwear for the people of Burlington, VT, and its surrounding areas.

When they were writing this article, it brought back to my wife and myself the memories of going into that same store with John Adams with our young children, lining them up, getting their shoes. Those children are all grown now. And John Adams is still there. He is still one of the reasons why I love my home in Burlington and why Vermont always has been and always will be home.

I ask unanimous consent that an article from the Burlington Free Press, dated Sunday, April 19, 1998, entitled "Shoe Biz" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, Apr. 19, 1998]

SHOE BIZ

(By Melissa Garrido)

John Adams remembers when Oldsmobiles rolled down Church Street. He recalls the days when ladies strolled by the shops in matching handbags, hats and high heels. And he can't forget the time Abernethy's department store gave away mink scarves for its 105th anniversary in 1951.

Burlington's main drag has changed since then. One thing hasn't changed: People are still wearing the wrong shoes.

"You could see where the wrinkle is on his shoe. It's in the wrong spot—he's wearing his shoe too big," said John Adams, peering over his square glasses at a man in clunky sneakers hoofing past his store, Adams Boots & Shoes.

Adams, 73, has been selling shoes on upper Church Street for more than four decades. To him, the street is the heart of Vermont. He made his best friends and found prosperity here. He watched Abernethy's endure a fire and remembers when expensive leather shoes cost $15.

As businesses came and went, Adams' customers grew out of Stride Rites into Florsheim Royal Imperials. He has outlasted almost every other entrepreneur on Church Street.

"I've had the privilege of going from the old days to the new days," Adams said in his raspy voice. A quiet man, Adams sometimes winds up when he tries to make a point, and uses his hands to recount a story.

"I saw . . . (Church Street) transform into the Marketplace," he said. "Every time they put a brick down, it was a step toward another year."

FIRST STEPS

Adams' shoe career began in the 1950s, when he quit his job installing radio and television towers around the United States for a construction company. He felt the job was too dangerous a way for a husband and father to earn a living.

In the late 1950s, he landed a position as a shoe clerk with the Massachusetts-based Dennis Shoe Company, which rented retail space at Abernethy's, the old Vermont landmark on the corner of Church and Pearl streets.

"I didn't ask how much it paid," he said. "I just came up to work."

Adams had no clue he would remain in the foot business until the turn of the century.

In 1983, a year after Abernethy's closed, Adams relocated the Dennis Shoe Co.'s operation to Almy's in the University Mall. In 1984, the shoe company moved back downtown into the Gladstone building, but went out of business the same year. Adams bought the small store and renamed it Adams Boots & Shoes.

"I was excited about it," Adams said. "But I still wasn't my own boss. The customers were the boss; they still are."

In 1996, he moved across the street, back into the original Abernethy's building on upper Church Street, to make room for the Eddie Bauer store.

"The store has been his life," said Adams' 46-year-old son David, a senior vice president at Vermont National Bank. "It's what keeps him going."

"All he does is talk about the store," he said.

PERSONAL TOUCH

With a shiny shoe horn tucked in his back pocket, Adams bent down and pressed the outer edge of Alex Brett's foot to feel the girth of a shoe. He tugged on the tongue, poked at the space between the 11-year-old's big toe and the tip of the shoe, and squinted as he examined the vamp.

"I like the way this one feels better," Adams told Alex's father as he squeezed the sides of the left 8½ oxford.

"Which one feels better?" he asked the boy.

"The left."

Adams tossed his hands in the air and grinned: "I might be old, but I can still tell the difference."

The shoe store owner still runs his business the old-fashioned way.

He special-orders shoes, calls his elderly female customers "young gals," and he never lets customers put on and take off their own shoes.

"There's nothing that irritates me more than a clerk who watches a customer put on a shoe," said Adams, who calls himself a shoe fitter, not a shoe salesman. Unlike the average part-time shoe clerk, he brings a formal education in fitting shoes to his trade.

Decade after decade, his customers return, first with their children, then with their grandchildren. They come for his personal service and his expertise in fitting children's shoes.

For Sen. Patrick Leahy, the shoe fitter is part of his fondest memories from his days as a Burlington prosecutor in the 1960s. Leahy used to buy shoes from Adams for his children when they were in grade school. Leahy remembers when Adams would line the three up and measure their feet with a cold, metal Brannock, a device used to gauge the size and width of a foot. "He never lost his patience even when the youngest one was squirming," Leahy said.

"In an impersonal world, it's kind of nice to walk in somewhere and not only do you know the person in the store, but they know you and actually care," he said, "We still have places like this in Vermont, and that's why it will always be home."

SLOWER PACE

These days, Adams is trying to stay in business as the mom and pop shops are replaced by franchises. The four blocks of Church Street between Main and Pearl Streets have become a melange of tourists toting shopping bags, students in backpacks heading into bars, and downtown employees grabbing a quick bite to eat.

"I have no intentions of giving up, and I don't intend to retire," Adams said.

Business trends do not shock the entrepreneur.

"Everyone is concerned about Wal-Mart and the other stores. I'm not a lover of the big-box stores, but they do bring in an extra 5,000 people.

"That just means we have to work a little bit harder," he said.

Like the business in his store, Adams is slowing down.

A couple of years ago, he was diagnosed with cancer. Though he says he has "licked it," he doesn't like to talk about the ailment that keeps him away from his customers about one day a week—not even to his employees.

"I can't wait to go to work the next morning, because you have your mind on other people," Adams said. "You forget the aches and pains."

Aches and pains brought Jan Lawrence of Williston to Adams about 30 years ago. Her daughter was having foot problems, and a Barre doctor suggested she take her to Adams to have her feet fitted properly.

"You spend anything you want on clothes," said Lawrence, 52, "but never gyp on a shoe, because you'll have foot problems later on in life."

Today, Lawrence buys her shoes from only Adams.

"You are important to John at all times," she said. "Even when he is not feeling well, he does his best to serve you and your needs."

As Adams moves toward the millennium, he is adamant about remaining a part of Church Street. The shop owner is eager to see new stores like Filene's sprout in downtown and lure customers. He hopes a new department store might rekindle the heyday of Abernethy's.

"It was a lot more fun in those days than it is today," Adams said. "It was a slower pace back then. Everyone is always in a rush today."

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Delaware for his usual courtesy. I see the Senator from Iowa, so I will not suggest the absence of a quorum. I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to have the floor to speak for a few minutes as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

HOME HEALTH INTEGRITY PRESERVATION ACT OF 1988

Mr. GRASSLEY. Mr. President, yesterday, I introduced Senate Bill 2031, the Home Health Integrity Preservation Act of 1998. I am pleased that Senator BREAUX cosponsored this bill. This legislation will be an important tool in combating the waste, fraud and abuse that has threatened the integrity of the Medicare home health benefit.

Although the majority of home health agencies are honest, legitimate, businesses, it is clear that there have been unscrupulous providers. Last July, the Senate Special Committee on Aging, which I chair, held a hearing on this topic. The hearing exposed serious rip-offs of the Medicare trust fund, and highlighted areas that need more stringent oversight.

In response to the hearing, Senator BREAUX and I followed up with a roundtable discussion on home health fraud. The roundtable brought together key players with a variety of perspectives. Participants included law enforcement, the Administration, and the home health industry.

The roundtable yielded a number of proposals which were shaped into draft legislation and circulated to a wide variety of stakeholders. In response to comments, the draft was changed to address legitimate concerns that were raised. The result is a balanced piece of legislation that includes important safeguards against fraud and abuse of the system, but does not stifle the growth of legitimate providers.

The Home Health Integrity Preservation Act of 1998 would do the following: It would modify the surety bond requirement in the BBA so that only new agencies need to obtain surety bonds. Because HCFA's surety bond rule goes far beyond Congress's intention to keep bad providers from entering Medicare, many existing agencies with no history of fraud have been unable to obtain bonds. This provision would force HCFA to return to Congress's original intention. It also reduces the amount of the bond needed to $25,000.

It would heighten scrutiny of new home health agencies before they enter the Medicare program, and during their early years of Medicare participation.

It would improve standards and screening for home health agencies, administrators and employees.

It would require audits of home health agencies whose claims exhibit unusual features that may indicate problems, and improve HCFA's ability to identify such features.

It would require agencies to adopt and implement fraud and abuse compliance programs.

It would increase scrutiny of branch offices, business entities related to home health agencies, and changes in operations.

It would make more information on particular home health agencies available to beneficiaries.

It would create an interagency Home Health Integrity Task Force, led by the Office of the Inspector General of Health and Human Services.

It would reform bankruptcy rules to make it harder for all Medicare providers, not just home health agencies, to avoid penalties and repayment obligations by declaring bankruptcy.

This legislation is an important step in ensuring that seniors maintain access to high quality home care services rendered by reputable providers. I urge my colleagues to join me in this effort by cosponsoring this important legislation.

FINDING THE FUDGE FACTOR

Mr. GRASSLEY. Mr. President, based on recent remarks by the President, I don't know whether to laugh or cry. If the story as reported is true, it is an unfortunate commentary. In a recent meeting with religious leaders, Mr. Clinton asked them to withdraw their support for a legislative effort to hold countries to account that engage in religious persecution. Mr. Clinton, it seems, does not like legislation that imposes sanctions. Well, that's not precisely right. What he does not like is sanctions that he didn't think of. When he wants sanctions on Iraq, for example, he is all for sanctions. But when it comes to other issues he cares less about, well, suddenly he finds them unwelcome.

What are some of these? Well, he doesn't like mandatory sanctions for violations of human rights. He objects to sanctions to stop the spread of nuclear weapons. He is not partial to sanctions on countries that persecute people for their religious beliefs. And he finds the idea of sanctions on countries that do not do enough to stop the traffic of illegal drugs to the United States burdensome. In a flight of candor with the religious leaders, he allows as how it is difficult to be honest in assessing another country's behavior if sanctions might be involved. "What always happens," he says, "if you have automatic sanctions legislation is it puts pressure on whoever is in the executive branch to fudge an evaluation of the facts of what is going on."

That is refreshingly frank. It is also disturbing. When I look up "fudge" in the dictionary, this is what it tells me the word means: to fake; to falsify; to exceed the proper bounds or limits of something; to fail to perform as expected; to avoid commitment.

If I am to believe these remarks, what the President is saying is that his Administration finds it necessary to falsify the facts; to avoid commitment; to fake information. His Administration finds it difficult to be honest when it comes to telling the Congress and the public what other countries are doing on critical issues. I guess the question we need to ask now is, what is the fudge factor in the various reports this Administration has submitted on these issues? We need to know this for past reports. And we need to know what this factor is in order to properly evaluate future assessments.

The reason we need to know this is for what the President's comments suggest. If we believe this report, the President is telling us that his Administration finds it necessary to be less than candid when it comes to enforcing the law. Now, I know that many Administrations do not like the idea that Congress also has foreign policy responsibilities. Many Administrations have fought against sanctions for this or that issue they did not think of.

They have also fought for sanctions when it was their idea. What is of concern here is the admission that this Administration fights shy of telling the truth in situations where it does not approve of the sanctions. It fudges the facts, presumably, even though the President has the discretion, in law, to waive any sanctions for national security reasons. This then is a candid admission that it enforces the laws it likes and fudges those it does not. I find this disturbing.

Perhaps the Administration could explain just why it needs to fudge the facts on drug certification, for example. What drug certification requires is that the President assess what other countries are doing to help stop the production and traffic of illegal drugs. This means assessing what they are doing to comply with international law. To make a judgment about what they are doing to live up to bilateral agreements with the United States.

And to account for what these countries are doing to comply with their own laws. The certification law gives the President considerable flexibility in determining whether these activities meet some minimally acceptable standards. He is not required to impose sanctions unless he determines, based on the facts, that a country is not living up to reasonable standards. And he can waive any sanctions. This gives the Administration a great deal of latitude. I have defended this flexibility. I have argued that just because the Congress and the Administration disagree, honestly, over an assessment, it does not mean that the facts are not honest. Or that the judgment is dishonest. But these recent remarks open up another concern. If the facts are fudged, however, just how are we to determine what to make of the judgment that follows?

And what is the occasion for employing the fudge factor? What is it being avoided or dodged? What the certification law and many of these others that require sanctions ask for is not terribly complicated or outlandish. They express the expectation of the Congress and of the American public that countries live up to certain responsibilities. And more, that failure to do so involves consequences. This is, after all, the expectation of law and of behavior in a community of civilized nations. The want of such standards or the lack of consequences reduces the chances for serious compliance with international law or the rules of common decency. Are we really to believe that respect for these standards and consequences are to be discarded because their application is inconvenient? Because they reduce some notion of flexibility? That we only have to enforce or observe the laws we like? What a principle.

I for one do not intend to live by such a notion. I will also from now on be far more interested in knowing just what the fudge factor is in assessments from the Administration. I hope my colleagues will also be more demanding.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, as a member of the Senate Finance Committee, I rise in strong support of this legislation which is going to overhaul the agency that is probably more feared by Americans than any other single agency—the IRS.

Mr. President, at the Finance Committee hearings that began last September and ended last week, the American public heard some chilling testimony—testimony of an agency that is simply out of control and an agency that is unaccountable. Some say it was designed that way. Well, in a democracy, there is no place for the type of Gestapo tactics that we have seen. We have seen in the hearings and in the testimony that harassment, retribution, and abuse apparently have been condoned in some areas of the IRS for some time.

Mr. President, when the GAO attempted to audit the IRS last year, it found that the systems the IRS had put in place were designed to ensure that there is no way—no way—for IRS personnel to be held accountable for their erroneous actions. There is no way to determine how many times the Internal Revenue Service has made a mistake in sending out a collection notice, and there is no way to determine how many complaints have been received. In effect, the managers at the IRS set up the system so that no one can trace improper behavior. There are no paper trails, there are no records.

Mr. President, there is simply no accountability. The lack of accountability and the arrogance among some that pervades the IRS was best summed up last week when Tommy Henderson, a special agent and former group manager of the IRS's Criminal Investigation Division office in Knoxville, testified. He told the committee:

> IRS management does what it wants, to whom it wants, when it wants, how it wants, and with almost complete immunity. Each district director and chief appears to operate from his own little kingdom.

Well, there are no kingdoms in this country, Mr. President. Anyone at the Internal Revenue Service who thinks he or she is above the law ought to be summarily fired. No one enjoys paying taxes, but no one in this country should fear the agency that is charged with the collection of taxes. Yet, we have learned that frightening taxpayers is certainly a tactic that is often used by the Internal Revenue Service.

Last week, Robert Edwin Davis, a former Deputy Assistant Attorney General in the Tax Division at the Justice Department, told the committee that IRS criminal agents use violent and sometimes fearful tactics against nonviolent taxpayers. He told the committee of a raid by 10 armed IRS agents on the home of a woman at 7:30 in the morning. The 10 armed agents came into her house and searched throughout the house. What were they looking for? Illegal drugs? Firearms? Unreported cash? No. Well, then, why were 10 armed agents searching her home? They were trying to appraise the value of the furnishings in the house because the Internal Revenue Service believed the executor of the woman's deceased grandmother's estate had undervalued the furnishings for estate tax purposes. Can you believe that, Mr. President?

The person who ordered that armed raid should have been fired. This is America, not Nazi Germany.

Mr. President, several current IRS employees had the courage to come forward during the hearings held in the Finance Committee. I want to commend Senator ROTH for calling those hearings. As a member of that committee, I was deeply moved by the testimony of the witnesses that he and the staff had generated.

Again, several current IRS employees did have the courage to come forward. They described situations where revenue officers, with management approval, used enforcement to "punish" taxpayers instead of trying to collect the appropriate amount of money for the Government. One told the committee that IRS officials browse tax data on potential witnesses in Government tax cases and on the jurors sitting on those Government tax cases.

We learned last week that one rogue agent, trying to make a reputation for himself, tried to frame a former Republican leader of this body, Senator Howard Baker—at that time, he was a sitting Senator from Tennessee and the majority leader—and when a responsible IRS manager tried to stop the agent, the agency retaliated, not against the agent, but against the manager.

Those are the types of actual situations the committee focused on.

Mr. President, lest I be overcritical, I am well aware of the dedicated people in the Internal Revenue Service who are doing an appropriate job in carrying out the duties that they must perform in service to the IRS as well as the country.

Mr. President, Commissioner Rossotti has a tough job. If he is going to change the culture of the IRS, he is going to have to have some new tools and support by the Congress. This bill will give him some of those tools that he needs to get that job done. For example, the bill gives him the authority to fire an IRS employee if he fails to obtain required approval for seizing a taxpayer's home or business asset. Further, an IRS agent will be fired for providing a false statement or destroying documents to conceal mistakes.

The bill creates an independent board to review and recommend changes to enforcement and collection activities of the IRS. I believe the committee made a mistake in placing the Treasury Secretary and the IRS employee representative on this board, and I am disappointed that the Senate did not remove those two individuals from that board. This should be a board that is made up of people who can act with real independence on behalf of honest taxpayers. It should not represent the interests of the Government or the employees of this agency.

We have set up a truly independent Taxpayer Advocate to resolve taxpayer disputes with the IRS. This is a much-needed change, since we learned last year that the current Taxpayer Advocate, in reality, faces a conflict of interest because the people who rotate through this office are often called upon to make judgments on the people in the agency who can promote the individual after he rotates out of the advocate's office.

Now, in the area of computer-generated property seizures, like we had in my State of Alaska, some 800 permanent fund dividend seizure notices that were issued last September should never, ever happen again, because IRS employees are going to have to have signed approvals before attempting to seize property.

And for the first time, a taxpayer will be able to appeal seizures all the way into Tax Court.

We've made sure that IRS won't be able to harass the divorced woman for her ex-husband's cheating. I want to express my concern that it appears the Administration does not support the proportional liability provision we've included for innocent spouses.

Last week, Assistant Secretary for Tax Policy, Donald Lubick was quoted as saying the Administration cannot support our plan to provide innocent spouse relief. When I read the story about this comment, I asked my staff to obtain a copy of Mr. Lubick's speech but was informed there was no text for the speech. It is my hope that Mr. Lubick was not speaking for the Administration, since according to one study, there are 35,000 innocent women who must contend with attempts by IRS to collect on debts that they are not responsible for.

In addition, we've added a rule suspending interest and penalties when the IRS does not provide appropriate notice to taxpayers within one year of filing. This ensures that delays by IRS, which can sometimes go on for years, will not benefit IRS by stacking penalties and interest on taxpayers who may have unwittingly made a mistake on their returns.

Finally, we've changed the burden of proof in cases coming before the Tax Court. This is a long overdue change. When American citizens go into a court, they should be presumed innocent, not guilty until they can prove their innocence. That principle is enshrined in our Constitution and must apply in tax cases as well as any other cases.

Mr. President, as I said earlier, the culture at the IRS must change. This bill makes very important changes that should give the American public more confidence that if they make a mistake on their tax returns, they will be treated fairly by their government and not subjected to threats and harassment.

But this bill is just a first step. As I have indicated, there are certain portions with which I am not satisfied. I think it is incumbent on the Finance Committee to hold the agency accountable for implementing what is in this bill. More oversight is needed because it is only through oversight that we can hold this agency accountable to the American public.

Mr. President, I thank the Chair. I yield the floor.

Seeing no other Senator, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I ask unanimous consent to be able to speak as if in morning business to introduce legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. I thank the Chair.

(The remarks of Mr. KERREY and Mr. KENNEDY pertaining to the introduction of S. 2049 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. NICKLES. Mr. President, I wish to thank the Chairman of the Senate Finance Committee and his staff for working closely with Senator BAUCUS, Senator HUTCHISON, and me on language in this bill to protect the trade secrets and confidential information of software publishers and their customers. The Senate IRS bill is far stronger than the House bill on these issues, and we appreciate the Chairman's efforts. To ensure fair and adequate implementation of this legislation, I would like to clarify our intent with regard to some of its provisions.

First, this bill confirms that, in an IRS summons enforcement proceeding involving software, courts have the authority to issue "any order necessary to prevent the disclosure of trade secrets and other confidential information" with respect to software. I believe this authority is inherent in the existing powers of the judiciary in summons enforcement proceedings, and that our legislation simply reaffirms this authority with respect to the proceedings involving software. Mr. President, this clarification would make clear that the court can also issue orders to protect confidential taxpayer information associated with the software.

Secondly, the legislation currently provides that "the Secretary will make a good faith and significant effort to ascertain the correctness of an item" prior to issuance of a summons for software source code. It is my belief that a good faith and significant effort requires that the IRS conduct a thorough review of the taxpayer's books, records, and other data, including the issuance of Information Document Requests and following-up those requests appropriately. This clarification would make certain that source code should be summoned as a last resort only.

Mr. ROTH. Mr. President, I appreciate and concur with the comments of the Senator from Oklahoma.

Mr. BAUCUS. Mr. President, I too thank the Chairman for his work on these issues. I am concerned that the Senate bill contains a provision, Section 7612(b)(3) that makes it easier for the IRS to gain access to software source code in the event that a taxpayer refuses to provide his own financial data to the IRS. Since the sofeware publisher can neither provide this data themselves, nor compel a taxpayer to provide it, I believe this provision is unnecessary. The bill should not punish a third-party software company when the IRS fails to use those tools against an uncooperative taxpayer. I hope the Chairman will reconsider this issue in conference.

Mrs. HUTCHISON. Mr. President, I agree with my colleagues that the Senate Finance Chairman has produced an excellent bill which will help protest software companies and their customers from intrusive IRS audits.

I would ask the Chairman to consider the issue of whether or not to extend the same requirements for non-disclosure and non-complete agreements to IRS employees as this bill requires of outside consultants.

Mr. ROTH. I thank the Senator from Montana and the Senator from Texas for their comments, and I will certainly look at these issues as this legislation moves to conference with the House.

Mr. REED. Mr. President, I rise in support of H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998. This bill is the product of an extensive examination of the IRS that began with the June 1997 release of a report by the National Commission on Restructuring the Internal Revenue Service, and ended with recent Finance Committee hearings on taxpayer abuse by the Internal Revenue Service (IRS).

I am pleased that H.R. 2676 incorporates a number of key recommendations from the National Commission's report, such as IRS restructuring and the establishment of an Oversight Board. I believe restructuring the IRS will enable the agency to meet the particular needs of taxpayers such as individuals, small businesses, large businesses, and tax-exempt organizations, and be more responsive to each group's particular concerns.

In addition to incorporating recommendations from the Commission report, the bill includes provisions to address taxpayer abuse and mismanagement practices by IRS that came to light during the Finance Committee's hearings. I was, along with most other Americans, very disturbed by the anecdotes of taxpayer abuse that were presented at the hearings. To the extent that H.R. 2676 will address these problems, I am very pleased to support the bill.

Notwithstanding my strong support for many of this bill's provisions, I do have concerns about its projected cost of $19.3 billion over 10 years. Mr. President, this is triple the cost of the House-passed version of H.R. 2676. Although the bill includes offsets which purport to make the bill revenue-neutral, these offsets are a ticking time bomb that will explode beyond the 10 year budget window. For example, a provision modifying IRA rollover rules will raise $8 billion between 2003 and 2007. However, this provision will cost the Treasury a yet-to-be determined amount of revenue after 2007. I find it difficult to vote on a proposal that we know will be costly in the long-term, without having a definitive sense of its budgetary impact.

When coupling the rollover provision with provisions included in the Taxpayer Relief Act that are phased-in through 2007, such as capital gains tax cuts, "back loaded" IRAs, and estate tax cuts, it becomes clear that there will be significant pressures on the federal budget after 2007. I believe that these provisions could seriously compromise maintenance of a balanced budget. In addition, these provisions could greatly complicate our efforts to address the long-term solvency issues associated with the Social Security and Medicare Trust Funds.

Finally, Mr. President, I have concerns that the bill could compromise the ability of the IRS to carry out its core mission—enforcement of the Internal Revenue Code. For example, the enhanced appeal provisions in the bill may unintentionally make it easier for noncompliant taxpayers to avoid paying the appropriate taxes. Similarly, I am concerned that shifting the burden of proof in certain circumstances will undermine enforcement efforts and have the unintended consequence of making audits more intrusive.

Mr. President, while I am supportive of H.R. 2676, I am hopeful that we can work in Conference to address the concerns that I have raised, which are share by the Administration. Ultimately, I believe it is possible to pass a strong IRS restructuring bill that can address taxpayer concerns, without busting the budget or undermining the mission of the IRS.

Mrs. BOXER. Mr. President, I support the IRS Restructuring and Reform Act of 1998. This bill, when fully implemented, will achieve 3 important objectives:

First, it will greatly benefit the American taxpayer who, all too often, has been the victim of overzealous and rogue IRS agents, has been caught, through no fault of his own, in a nearly impenetrable bureaucratic morass, or has received poor and discourteous service from IRS employees.

Second, the bill will significantly reorganize IRS management and provide the IRS Commissioner with new authority over IRS employees.

Third, the bill establishes an IRS Oversight Board, comprised of private citizens, the Secretary of the Treasury and a union representative, which will oversee the IRS in administration, management, conduct, and direction. I believe, however, those provisions which most directly benefit the American taxpayer are the real crux of this bill.

We need effective reforms which restore public confidence in an agency which touches the lives of more people in this country than any other agency. I believe the establishment of a "National Taxpayer Advocate" will provide a significant step toward restoring such confidence.

The National Taxpayer Advocate, who will have a background in customer service and tax law, as well as have experience representing individual taxpayers, will be one of the most important and critical links between taxpayers and the IRS. Significantly, the National Taxpayer Advocate will not be an IRS employee and cannot have been an IRS employee within two years of his or her appointment. This two year limitation will help ensure the independence that taxpayers who avail themselves of the Advocate's Office expect and deserve.

As I travel through my home state of California, the most frequent complaints I hear from Californians regarding the IRS are: (1) the difficulty they have receiving assistance resolving problems with the IRS, and (2) the difficulty they have receiving guidance from the IRS relative to their specific tax question or concern. I believe the establishment of a National Taxpayer Advocate, as well as the creation of a system of local taxpayer advocates, will greatly enhance the ability of taxpayers, in my home state and around the country, to receive the assistance and guidance they seek.

Innocent Spouse relief is another provision of the bill that will directly benefit taxpayers. An "innocent spouse" is one—usually a wife—who signs a joint tax return not knowing that the information contained therein, provided by the other spouse, is erroneous. While relief from liability for tax, interest and penalties is currently available for innocent spouses, that relief is only available in certain limited and narrow circumstances.

The bill before us, however, would directly impact taxpayers by modifying current law to permit a spouse to elect to limit his or her liability for unpaid taxes on a joint return to the spouse's separate liability amount. I believe this change will greatly enhance the ability of an innocent spouse to establish his or her innocence.

The final "taxpayer friendly" provision of the bill I will mention is the creation of low-income taxpayer clinics. This provision will ensure that low-income taxpayers, and taxpayers for whom English is a second language, receive tax services at a nominal fee. Such clinics are essential if low-income taxpayers, and taxpayers who have minimal English proficiency are to be represented in controversies with the IRS.

This provision is particularly important in my home state. According to the 1990 Census, California is home to approximately 2.7 million individuals who speak little or no English. Thus, about 35 percent of all individuals in the U.S. who are non-English speaking reside in California—almost twice the percentage of those non-English speaking persons that reside in Texas and almost three times the number that reside in New York. In addition, California is home to more immigrants—2 million—than any state in the country. It is important, therefore, that we provide these taxpayers with the help they need to be tax compliant.

Mr. President, taxpayers that come into contact with the IRS, whether they are merely asking questions or whether they are attempting to resolve a disputed claim, should be treated in a fair, respectful and courteous manner. Unfortunately however, we have heard all too often over the past months, of many instances in which IRS employees treated taxpayers rudely, abruptly, and yes, at times so abusively that the offending employee's action could only be called criminal.

While such actions cannot and should not be imputed to all IRS employees, the overwhelming majority of whom are honest and hardworking, it is important to weed out any employee, even if it is only one, who engages in abusive behavior toward law abiding taxpayers. Taxpayers deserve better.

In closing, Mr. President, I am very pleased to support this bill today and I hope that it is only the beginning of Congress' commitment to making the IRS more user friendly, improving the management of the IRS and streamlining an overly complex tax code.

Mr. KEMPTHORNE. Mr. President, no longer is there any doubt that Congress must audit the Internal Revenue Service.

The hearings that have recently been held in the Senate Finance Committee have brought out under the glare of public scrutiny what many taxpayers already know from personal experience: the IRS needs reform. We have been made aware of incidents of flagrant, unbridled abuse of government authority which until now were known only to the victims of an agency that has expanded far beyond its intended size and scope and is clearly guilty of violating the public's trust.

While these problems have been successfully highlighted by the Finance Committee, I would like to take just a moment to reiterate some of the more glaring examples of IRS abuse:

Former Senate Majority Leader Howard Baker was victimized by an IRS agent in Tennessee who, in an attempt to advance his own bureaucratic career, tried to frame Baker of money-laundering and bribery charges. After the agent was exposed, IRS authorities, rather than engaging in a reform effort to root out similar abuses in the future, tried to cover up for the rogue official.

IRS agents, armed with automatic weapons and attack dogs, raided John Colaprete's business after a former bookkeeper, who had embezzled $40,000, leveled bizarre and unsubstantiated allegations. Again, the charges were completely unfounded and none were filed.

Robert Gardner was subjected to a 33 month investigation that involved the IRS engaging in activities including the seizure of his office property, feeding lies to a grand jury, and attempts to compel Mr. Gardner's clients to wear hidden microphones.

I know from personal experience the problems the IRS can pose for hardworking Americans. For an agency that the American people give a significant portion of their money over to, customer service is not a top priority. In February of 1996, for example, Mr. and Mrs. Robert Wiester of Orofino lost their home and outbuildings when Big Canyon Creek flooded. On their federal income tax return, they justly claimed a casualty loss, although their tax preparer put the loss on the wrong line of their 1040 form. The IRS then refigured their return and, instead of the $1,206 refund the Wiesters were due, the IRS claimed that they owed the government $15,885 in tax, interest, and penalties. Within five months, the IRS contacted Mr. and Mrs. Wiester saying that a levy was going to be placed on their property. After numerous fruitless calls to the IRS, the Wiesters contacted my office, and after I wrote the IRS six times, the Wiesters' problem was finally rectified, nearly ten months after the simple error on the 1040 form was made.

This type of behavior is no longer acceptable. The Senate will shortly pass the IRS Restructuring and Reform Act, which will fundamentally overhaul the agency and make comprehensive, meaningful steps toward reform. The bill: creates an IRS oversight board to oversee every aspect of IRS operations; holds IRS employees accountable for their actions by requiring the agency to terminate employees who violate rules; suspends interest and penalty payments when the IRS does not provide appropriate notice to taxpayers; shifts the burden of proof from the taxpayer to the IRS in legal proceedings; makes it illegal for Executive Branch officials, such as the President, to audit people; creates new performance standards for IRS employees so that they are no longer ranked on collection goals; expands awards for attorney's fees and civil damages to taxpayers; expands attorney-client privilege to accountants; and requires a greater notification process for the IRS to place liens, levies, or seizures on taxpayers's property.

I believe that this legislation is a meaningful step to reform the tax culture in Washington. Once the new majority took control of Congress in 1994, a three-step process has been implemented to fundamentally change the Washington tax culture: (1) Reduce the collection, (2) reform the collector, and (3) replace the complexity. I am proud to say that this Congress has passed the largest tax cut in American history as part of the first balanced budget in a generation. I have supported all of these measures, and will look forward to supporting legislation that will substantially "reform the collector" and provide the American people with a fair, just, and responsive IRS.

Mr. ABRAHAM. Mr. President, I rise today in strong support of reforms to our Internal Revenue Service.

As I'm sure my colleagues are aware, recent Senate Finance Committee Hearings have brought to our attention the harrowing stories of American citizens victimized by over-zealous IRS agents.

These agents, often on the flimsiest of evidence, have bent and sometimes broken rules intended to protect citizens from abuse—rules that clearly must be strengthened and more effectively enforced in order to protect Americans' freedom and peace of mind.

In my view, Mr. President, the most harrowing stories related during Finance Committee hearings are made all the more troublesome because of clear evidence that they are horrible examples of widespread practices.

As one agent testified last fall, "Abuses by the IRS * * * are indicative of a pervasive disregard of law and regulations designed to achieve production goals for either management or the individual agent."

The use of quotas and statistics used as performance standards for advancement within the IRS pit agents against taxpayers at great risk to individual liberties and good order.

It is time to put an end to the adversarial relationship between the IRS and the taxpayer. And there is only one way to properly accomplish that task: by reforming and restructuring the IRS to make it more service oriented and to ensure that it no longer disregards the fundamental rights of American citizens.

I would like today to give special attention to one situation I believe has caused a great deal of undue hardship to many Americans: I mean IRS regulations holding innocent people responsible for the tax liabilities of their ex-spouses.

In this regard, Mr. President, I would like to relate one all-too-telling anecdote: Elizabeth Cockrell came to this country from Canada over 10 years ago, when she married an American. Unfortunately, her marriage, to a stockbroker, lasted only 3 years. Since the marriage broke up, she has concentrated on raising her child while holding down a job and strengthening her roots in the community.

Imagine Ms. Cockrell's surprise when, 9 years after she and her husband had been divorced, the Internal Revenue Service informed her that she owned it $500,000.

It seems Ms. Cockrell's ex-husband had taken some deductions for tax shelters that the IRS had disallowed. This made him initially liable for $100,000. But time had passed and the IRS had been unable to collect from him. So Ms. Cockrell, who had nothing to do with her husband's business and did not help figure out the taxes, was now being hounded for $500,000. Why? Because she signed a joint tax return.

And it turns out that even $500,000 is not enough for the IRS. With new interest and penalties, the IRS now wants $650,000.

Ms. Cockrell has fought and tried to settle, all to no avail. But she is not alone.

Take for example the case of Karen Andreasen. Ironically, Ms. Andreasen was married to a former IRS employee.

Imagine her surprise, after their divorce, when she found out that her ex-husband, who had handled all of their financial affairs, had been forging her signature on joint returns.

Imagine her shock and dismay when, even though she had no income for the years in question, the IRS came after her for her husband's tax liability. Ms. Andreasen has now been paying off the debt for years, and still has a tax lien on her house.

Mr. President, cases like these are all too common. The General Accounting Office estimates that every year 50,000 spouses, 90 percent of them women, are held liable in the same way as Ms. Cockrell and Ms. Andreasen.

These women, most of them working moms struggling to make ends meet, for the most part had nothing to do with the income or accounting over which the IRS is pursuing them. And, as of now, they have no legal resource.

The Supreme Court just recently dismissed Ms. Cockrell's legal appeal, in which she claimed that innocent spouses should not be held liable for income they did not earn.

We cannot let this decision stand. That is why I support a provision in this legislation that would say clearly a person can only be held liable for the income that he or she has earned and failed to properly report.

Under this provision, every American would remain liable for his or her own taxes. No tax cheats would be let off the hook. But innocent parties, men and especially women who had no part in filing any false claims with the IRS beyond signing their name to a joint return, would no longer be held liable.

No longer would ex-wives be made to pay for the mistakes and/or misdeeds of their ex-husbands.

No longer would the IRS be allowed to victimize innocent people merely on account of a former marriage.

There are hundreds of thousands of women out there just like Elizabeth

Cockrell and Karen Andreasen. They deserve our support and protection against an over-reaching IRS.

This is a crucial provision, in my view Mr. President. But it is only one of a number of provisions that must be taken to stop the IRS from pushing its agents to pursue cases to the detriment of American's fundamental rights.

It is my hope that all of my colleagues will see the necessity of protecting the people from federal employees who are hired to provide a needed service to the public, but who have been given no license to intimidate or violate their rights.

This legislation is an important step in our attempt to bring the IRS under control. However, I think it is crucial to note that we will not be able to put an end to our problems with the IRS unless we reform and simplify the tax code.

Only by making the code simpler, flatter and more fair can we reduce the role of the IRS in the taxpaying process. We must keep in mind, in my view, that many of our current problems are the predictable results of decades of bad tax policy, and that it is up to us to reverse these policies as soon as possible.

Mr. President, a recent USA Today poll found that 69 percent of Americans believe the IRS "frequently abuses its powers." Fully 95 percent believe the tax code isn't working and must be changed. And who can blame them? The current tax code is 5.5 million words long, it includes 480 tax forms, and 280 publications explaining those forms.

By instituting fundamental tax reform, establishing one low marginal rate with fewer loopholes, by designing a tax form the size of a postcard, we can eliminate the huge IRS bureaucracy and many of the headaches people experience in filing their taxes every year.

Once we take the necessary steps toward IRS reform included in this bill, Mr. President, I urge my colleagues to move on to fundamental reform of our tax code in the name of fairness, of efficiency, and of the rights of the people of the United States.

Mr. HATCH. Mr. President, today we will cast one the most important votes of the 105th Congress. We will vote on reforming the Internal Revenue Service.

Of all the powers bestowed upon a government, the power of taxation is the one most open to abuse. As the agency responsible for implementing and enforcing the tax laws that we here in Congress pass, no other agency touches the lives of American citizens more completely than the IRS.

I believe that Americans understand and appreciate that they have to pay taxes. Without their tax dollars, there would be no defense; no Social Security, Medicare, or Medicaid; no environmental protections; no assistance for education or job training; no national parks, food inspection, or funds for highway and bridges.

But, everywhere I go in Utah, I hear from my constituents about their frustrations. My office receives numerous letters each month detailing taxpayer interactions with the IRS. It seem that everyone has had, or knows someone who has had, a bad experience with the IRS.

The stories range from small annoyances such as unanswered phones or long periods of time spent on hold to shocking abuses such as unwarranted seizures of assets or criminal investigations being based on false information for the purpose of personal revenue. It is small wonder that the taxpayers are scared and frustrated. These stories illustrate a disturbing trend. They are dramatic reminders of the failure of Congress to exercise adequate oversight over a federal agency.

I have been here long enough to know that we are never going to be able to achieve a system where people do not get frustrated about paying their taxes—both the process of paying taxes and the amounts. Let's face it: paying taxes is not something we will ever enjoy doing.

We must, however achieve a system of collection that is efficient, fair, and, above all, honest. Unfortunately, throughout the hearings we have held over the last several months and in the letters my office has received from constituents from my state of Utah and all over the country, we know that the current system often fails on these counts.

We have heard several horror stories from taxpayers, innocent spouses, IRS employees, and those who have been the subjects of criminal raids and investigations. While these are the minority of the cases dealt with by the IRS, they still illustrate that serious abuses are occurring.

We are not talking about appropriate enforcement of the law. We are talking about heavy-handed abuses of enforcement powers. At best, such tactics are counterproductive; at worst, it is reprehensible behavior by big government. It must stop.

The bill before us today gives the IRS Commissioner great flexibility to carry out a fundamental reorganization of the agency. But, it also places the IRS under an independent, most private-sector board to oversee the big picture of operations at the agency. These are two very important elements to creating a new culture of the IRS: responsible leadership and accountability.

I commend the new Commissioner for the steps he has taken so far to rectify these problems at the IRS, and I encourage him to keep going. And, I hope he will not feel constrained by "business as usual" attitudes among those who have an interest in maintaining the current methods. I hope the new Commissioner will shake any dead wood out of the tree.

But Mr. Rosotti needs to know that Congress will hold him and the agency accountable. And, our expectations—and the expectations of the American people—are not hard to fathom.

We do not expect tax delinquents or cheats to go undetected or unpenalized. But, we do expect the IRS to enforce our tax laws appropriately. We expect the IRS to assist taxpayers to understand and comply with complicated laws and regulations. We expect taxpayers to be treated courteously . We expect taxpayers' questions to be answered promptly and their returns processed efficiently. And, we expect any penalties to fit the crime.

Today, we will vote on a bill that takes a leap forward in eradicating a culture that has allowed corruption and abuse to occur over and over again and to taint the efforts of honorable IRS employees. There has been a lot of talk about changing the IRS into a service-oriented agency, and the bill before us goes a long way towards doing just that. We cannot stop there, however.

While customer service is an important part of the equation, we must go further and address taxpayer rights. The bill before us goes one more step forward and will reform the penalty system, provide taxpayer more protections from unwarranted seizures, and make the IRS more accountable for the actions of its agents.

This bill goes further than the legislation passed by our counterparts in the House last fall. The Senate legislation expands key aspects to grant taxpayers additional protections. The Senate bill adds protections that allow spouses to choose proportional liability, award attorney's fees in more cases, require that the IRS specify to an individual the details of any penalty imposed and suspend interest and some penalties if the IRS does not provide notice of liability within one year after a return is filed.

The bill would add several provisions dealing with the due process of taxpayers including a requirement that the IRS notify taxpayers 30 days before a notice of federal lien, levy, or seizure is filed; a guarantee that the taxpayer has 30 days to request a hearing by IRS Appeals; and the opportunity for the taxpayer to petition the Tax Court to contest the Appeals decision.

The bill also permits an issuer of tax-exempt bonds to appeal the decision of the IRS through the tax court system. This will help protect the individual taxpayers from having to go to court on an individual basis to fight the IRS determination that a bond issue is not tax-exempt. This is extremely important to those municipalities that issue these bonds. These bonds are issued for tax-exempt purposes, such as to construct schools or build hospitals and universities. This is a good provision to provide an avenue of appeals for these bond issuers.

The legislation before us today will fundamentally change how the IRS works. It is a necessary and bold set of initiatives. But, we cannot just declare victory and bask in the glow of a job well done. We must remember how we got to this point in the first place.

The IRS was not born evil, and it is not an inherently bad organization. Rather, it has suffered from decades of neglect and inadequate oversight. Once we have set the agency on the road to recovery and given it the tools it needs to move forward, we must continue to guide it and ensure that the agency continues down the right road. We must continue to responsibly exercise our oversight responsibility. We must have continued hearings, reviews, and cooperation. Left alone, any entity with power and authority will lose its way. Without continued oversight and cooperation, we will soon see this debate repeated on the Senate floor.

This legislation can be summed up in one word—accountability. For too long, the IRS and its employees have operated in an environment with little or no accountability. This bill changes all that. The legislation before us makes individual IRS employees accountable for their actions. It makes management more accountable for the treatment given taxpayers and other employees. Finally, it makes the agency as a whole more accountable to the Congress and the American taxpayer.

This debate has focused on the negative—on the abuses and misdeeds that are the exception and not the rule. Just as a vast majority of the taxpayers are honestly trying to comply with the tax code, the vast majority of IRS employees are honest and hard working individuals doing their best in a very difficult and unpopular job.

Yes, abuses do occur, and we must reform the system to prevent improper activities. At the same time, we must make sure that we acknowledge those employees who are doing their jobs with competence and integrity. These employees are the reason that most taxpayers today, even if frustrated by the forms and irritated with the amount of their tax bill, continue to comply.

Is this bill perfect? No. There are some things I would like to see changed. For example, I have some serious concerns about the creation of an accountant-client privilege in this context. I am concerned that we are using the Internal Revenue Code to effectively amend the Federal Rules of Evidence. We have a clear procedure for amending these rules already set out. Changing these rules is no simple matter. It should only be done through careful, deliberate evaluation of the change and the effect it will have on the judicial system. It should only be done with input from the Judicial Conference of the United States and others.

Despite these misgivings, Mr. President, I want to reiterate the importance of the bill before us today. The IRS touchers more taxpayers in more aspects of their lives than probably any other agency. It is an important bill, and we must pass it.

The ultimate goal of reforming the IRS is to protect both the honest taxpayer trying to comply with our complex tax laws and those honest employees struggling to enforce an almost incomprehensible set of tax laws with integrity. The bill before us today makes significant progress toward that goal.

I want to commend Senator ROTH, Senator MOYNIHAN, and my colleagues on the Finance Committee for seeing this bill through. I urge my colleagues to support this legislation.

Mr. JEFFORDS. Mr. President, under the leadership of Chairman ROTH, during this Congress the Finance Committee undertook in-depth oversight of the workings of the Internal Revenue Service. With a week of hearings last year, followed by more hearings just last week, the Senate brought the IRS under scrutiny, and revealed a side of the agency not seen before.

What the Committee found at these hearings was alarming. We heard numerous stories of outrageous action by the IRS, including:

A criminal agent who sought to "make a name" for himself by fabricating charges against prominent public officials;

IRS supervisors who gave preferential treatment to taxpayers represented by former co-workers and to taxpayers represented by accounting firms where the supervisors hoped to work;

IRS reviewers who reversed auditors' recommended tax increases when taxpayers had competent, well-heeled representation, but allowed similar recommendations to go forward when a taxpayer didn't have a representative; and IRS agents who conducted armed raids on businesses, even though there was no reason whatever to suspect violence or resistance.

When an organization has over one hundred thousand employees, I suppose it is not surprising that some people are going to make mistakes. However, the abuses that came to light in the Finance Committee hearings struck a responsive chord with the public. From the mail and phone calls I received, I worry that the problems we heard about are not isolated incidents, but are symptomatic of an agency with real management problems.

The bill adopted by the Finance Committee takes several approaches to address some of these problems. The measure calls for new ways of structuring, managing and overseeing the agency. The bill will ease some of the burdens imposed on taxpayers and gives taxpayers important new rights and protections to assert in their dealings with the IRS. The legislation will help assure that taxpayers understand their rights and that they understand how the tax collection system works. Finally, it makes continued oversight by Congress easier.

One of the most important aspects of this bill is its provision for independent review of IRS actions throughout the examination and collection processes. A recurring complaint heard during the hearings was that the IRS serves as police, prosecutor, judge and jury. This legislation attempts to address that problem by calling for increased review of IRS actions and by erecting walls between the various players in the tax collection process to assure that those reviews are truly independent and not merely a rubber-stamp approval.

Under this measure IRS officers will not be able to seize assets without previous independent review by their supervisors, and taxpayers can even request additional review of collection efforts. To assure the independence of the appeals unit reviewing proposed changes to a person's tax liability, the bill prohibits the appeals officer from having ex parte contact with the tax examiner who proposed the changes. When there are allegations of misconduct, the IRS will no longer investigate itself. Instead, inspections of alleged misconduct will be performed by the Treasury Department. Together with a newly independent Taxpayer Advocate, and a new Oversight Board composed primarily of outsiders, these provisions will assure that actions adverse to taxpayers are not taken without first having a fresh review by an unbiased eye.

New taxpayer rights will also ensure that the IRS conducts reviews to make certain that the positions the agency takes are reasonable. The bill expands the situations in which taxpayers can recover costs incurred in defending themselves against the IRS. Under this bill, if taxpayers hire a lawyer or accountant to represent them before the IRS, and the agency takes an unjustified position that results in no change in tax liability, the taxpayer will be able to recover the costs incurred to fight the IRS, including costs incurred in administrative proceedings. The bill also provides that if the IRS rejects a taxpayer's offer to compromise a tax deficiency, continues to pursue the taxpayer, and ends up recovering less than the taxpayer's offer, the taxpayer can recover costs incurred after the time of the offer.

The IRS has the power to destroy people's lives. These provisions will assure that this power is no longer concentrated in the hands of a single person and make more employees accountable for the agency's actions. The bill will also help ensure that proposed actions are reviewed for reasonableness.

IRS employees will be forced to take their new responsibilities seriously; negligence in the exercise of their duties could be the basis for a new kind of taxpayer lawsuit.

I want to commend Chairman ROTH for his historic hearings on the IRS. I also want to commend him for not capitulating to calls for quick action on the House-passed bill, when the Finance Committee hearings made it apparent that more sweeping changes were needed. I believe that this bill will go far to restore public confidence in the IRS.

Mr. HELMS. Mr. President, I am grateful to the able Chairman of the Finance Committee (Mr. ROTH), and to the distinguished ranking member (Mr. MOYNIHAN) for their hard work and perseverance in bringing this IRS Reform legislation before the full Senate.

For a very long time, it has been obvious that the Internal Revenue Service has a warped view of its intended role in the lives of Americans. The IRS exists, of course, not to harass any taxpayer or to find new and creative ways to abuse its authority, but to serve the American people who, each year, fill the coffers of the U.S. Treasury.

The recent hearings held by the Finance Committee have made it crystal clear that the Internal Revenue Service is an abysmal failure in carrying out its mission. Frankly, I don't know whether to be more horrified by out-of-control IRS agents pursuing innocent taxpayers out of personal spite or double-dealing senior IRS managers trying to cover up such malicious conduct.

It hardly matters which is worse, because even one abuse of taxpayer rights at and by the IRS is one abuse too many. So I am pleased that Congress is taking this modest action to make sure the worm turns. For the first time in a long time, the Senate appears ready to put the interests of the taxpayer above the demands of the federal bureaucracy for more and more revenue.

And while I support this measure as a first step in the long road toward a more respectful treatment of the hapless American taxpayer, I trust that it is indeed only the beginning, because the root cause of all of the shenanigans at the IRS is the byzantine complexity of a U.S. tax code crying out for reform.

Some years ago—in March of 1982, to be exact— I introduced my initial proposal for a flat tax on income. This proposal, and other flat tax proposals that have followed, would eliminate the huge bureaucracy of the IRS—a bureaucracy whose size and scope make the abuses uncovered by Senator ROTH and the Finance Committee as predictable as they are inevitable.

I believe in the flat tax, and so do, Mr. President, the American people. A Money magazine poll released in January of this year indicated nearly two-thirds of Americans prefer a flat tax to our current system. I salute my colleagues, especially my distinguished friend from Alabama (Mr. SHELBY), for their courage in continuing to make the case for tax simplification.

And lest you think I'm overstating the absolute travesty that is the United State Tax Code, Mr. President, there's something that you and every other American should read. Dan Mitchell, one of the bright young economists who works around the corner at The Heritage Foundation, recently released a paper entitled "737, 734, 941, 858 Reasons. . . and Still Counting: Why a Flat Tax Is Needed To Reform the IRS."

Mr. President, I do not exaggerate in saying that the statistics contained in this paper boggle the mind. Take note with me of just a couple of examples Mr. Mitchell has compiled to detail the economic cost of the tax code:

The private sector spends $157 billion dollars to comply with income tax laws.

The federal government spends $13.7 billion in, yes, taxpayer money to collect—what else?—taxpayer money.

It takes an estimated 5.4 billion hours for Americans to comply with federal tax forms. In fact, the IRS itself estimates that it takes almost 11 hours to fill out a 1040 form.

Then there's the sheer amount of paperwork required every time the law changes. Mr. Mitchell reports the following:

There are 5,557,000 words in the income tax laws and regulations. That's 17,000 pages of paper. And get this: 820 additional pages were added to the tax code by the 1997 budget act.

The IRS sends out an estimated 8 billion pages of forms and instructions to taxpayers annually. For my colleagues who are particularly interested in the environment, they should know that 293,760 trees were needed to supply the paper.

It goes on and on, Mr. President. And I ask unanimous consent that the full text of Mr. Mitchell's paper be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit 1.)

Mr. HELMS. Mr. President, the pending legislation in the Senate is obviously not a panacea for everything that is wrong at the Internal Revenue Service. But, as the saying goes, a journey of a thousand miles begins with a single step.

I believe this IRS reform bill is that first step, and I hope that its swift passage by the Senate will help spark the serious debate on tax policy the American people are waiting for. It is my hope—and my belief—that the Senate will begin in the very near future to respond to Americans' desire for real tax relief and real tax simplification.

EXHIBIT 1

[From the Heritage Foundation Backgrounder, April 15, 1998]

737,734,941,858 Reasons...and Still Counting: Why a Flat Tax Is Needed to Reform the IRS

(By Daniel J. Mitchell)

Last year, The Heritage Foundation released a publication, "577,951,692,634 Reasons * * * And Counting: Why a Flat Tax Is Needed to Reform the IRS." Since that time, calls to reform the Internal Revenue Service have led to unprecedented hearings in Congress and outcry among the public. In 1997, however, Congress moved away from reform and approved a tax bill that adds even more complexity to the tax code. Because of that bill, as well as Heritage's continued research into the myriad nooks and crannies of the current tax code, 159,783,249,224 new reasons that the Internal Revenue Code should be replaced with a flat tax have come to light, bringing the total number of reasons to 737,734,941,858.

The Internal Revenue Service (IRS) frequently is cited as the most hated of all government agencies. This aversion goes well beyond a simple dislike of paying taxes. Many Americans feel the IRS uses its vast power capriciously to enforce a tax code that is unfair and incomprehensible. Indeed, a 1997 national voter survey finds that the majority of respondents would prefer to undergo a root canal than be audited by the IRS. And a 1990 magazine survey finds that the most frightening words people could imagine hearing when they answer the phone are "This is the IRS calling." Although Americans have every right to be upset by the oppressive tax system, their anger should not be directed at the IRS. The vast majority of problems with the current tax system are the inevitable result of bad tax policy.

The way to reduce the intense popular aversion to the IRS is to enact a flat tax. By wiping out all the complicated, obscure, and convoluted provisions of the current tax code, a flat tax will reduce compliance costs and ease the uncertainty and anguish that make April 15 everyone's least favorite day of the year. In the words of former IRS Commissioner Shirley Peterson, who directed the agency in 1992, "We have reached the point where further patchwork will only complicate the problem. It is time to repeal the Internal Revenue Code and start over." As reported in The Wall Street Journal last year, "A recent survey of 275 IRS workers around the nation, done by a national IRS restructuring commission headed by Senator Kerrey of Nebraska and Representative Portman of Ohio, found overwhelming support within the IRS for simplifying the law."

As the following enumeration demonstrates, almost all the reasons cited for frustration with the IRS really constitute arguments against the tax laws approved by politicians over the past 80 years—and for a fair, simple, flat, tax.

THE FEDERAL GOVERNMENT AS A TAX GOLIATH

The IRS is not only the most feared of government agencies, it also is one of the biggest and most expensive. The agency has more employees than the Central Intelligence Agency, Federal Bureau of Investigation, and Drug Enforcement Agency combined, and its budget makes it a bigger consumer of tax dollars than the Departments of Commerce, State, or the Interior.

THE NUMBERS SPEAK FOR THEMSELVES

New Evidence

12,000=The number of additional IRS employees needed to answer phone inquiries from confused taxpayers during tax filing season. Because taxpayers will need to know only the amount of their wages and size of their families under a flat tax, additional personnel are not needed.

$1,000=The hourly collection quota placed on IRS agents auditing individual taxpayers in the San Francisco office. Although collection quotas violate the law, the current system is so complex that the IRS assumes mistakes will be found on every return. Errors will be very few under a simple and transparent flat tax.

62,000,000=The number of lines of computer code required by the IRS to manage the current tax code. A simple flat tax will ease the IRS's ongoing computer problems dramatically.

1,420=The number of appraisals of works of art that an IRS panel performed in order to tax the assets of dead people. Because double taxation under a flat tax does not exist, the absurdity of having the IRS value art would disappear with the death (estate) tax.

3,200=The number of threats and assaults IRS agents experience over a five-year period. A fair and simple tax system will reduce taxpayers' frustrations dramatically.

What We Already Knew

136,000=The number of employees at the IRS and elsewhere in the government who are responsible for administering the tax laws. Because the number needed is dictated by the complexity of the tax code, fewer personnel will be needed under a flat tax, and the downsizing of the IRS will save taxpayers a significant amount of money.

13,700,000,000=The amount of tax money spent by the IRS and other government agencies to enforce and oversee the tax code. Both taxpayers and the economy will benefit from the spending reductions made possible by a flat tax.

17,000=The number of pages of IRS laws and regulations, not including tax court decisions and IRS letter rulings. This page count would be reduced significantly by a flat tax.

5,557,000=The number of words in the income tax laws and regulations. With a flat tax, there will be no need for a tax code that is nearly seven times longer than the Bible.

THE IRS PAPER MACHINE

With so many employees, so much money, and such a cumbersome tax code, it should come as no surprise that the IRS is one of the country's biggest paper-pushers.

New Evidence

820=The number of pages added to the tax code by the 1997 budget act. A flat tax will slash it to a fraction of its current size.

250=The number of pages needed to explain just one paragraph in the Internal Revenue Code. A simple flat tax will avoid needless IRS regulation.

271=The number of new regulations issued by the IRS in 1997. By putting an end to constant social engineering, a flat tax will halt the IRS's constant rewriting of the tax rules.

261=The number of pages of regulations needed to clarify the tax code's "arms-length standard" for international intercompany transactions.

569=The number of tax forms available on the IRS Web site. Only two postcard-size forms will be necessary under a flat tax: One for wages, salaries, and pensions, the other for business income.

What We Already Knew

31=The number of pages of fine print in the instructions for filing out the "easy" 1996 1040EA individual tax form. By contrast, individuals will need just one page of instructions to fill out a flat tax postcard.

8,000,000,000=The number of pages in the forms and instructions the IRS sends out every year. Under a flat tax, the postcard-sized forms are virtually self-explanatory.

36=The number of times the paperwork the IRS receives would circle the earth each year. Complexity and paperwork will all but vanish under a simple flat tax that treats all citizens equally.

293,760=The number of trees it takes each year to supply the 8 billion pages of paper used to file income taxes in the United States. A flat tax using two simple postcards obviously will be more friendly to the environment.

1,000,000,000=The number of 1099 forms sent out each year to help the IRS track taxpayers' interest and dividend income. Under a flat tax, business and capital income taxes will be collected at the source, thereby eliminating this paperwork conundrum.

THE IRS BRIAR PATCH

Much to the chagrin of taxpayers, the IRS does not focus solely on generating paperwork. Tasked with enforcing the cumbersome tax code, the agency has numerous unwelcome contacts with taxpayers every year.

New Evidence

33,984,689=The number of civil penalties assessed by the IRS in 1996. Because a flat tax will be so fair and simple, the IRS will have little reason to go after taxpayers.

10,000=The number of properties seized by the IRS in 1996. Part of this problems is caused by the government's trying to take too much money from people, and part is caused by complexity. A flat tax will reduce the government's take and eliminate complexity.

750,000=The number of liens issued by the IRS against taxpayers in 1996. A simple, low flat tax will result in fewer fights between the government and taxpayers.

2,100,000=The number of IRS audits conducted in 1996. Without all the complex provisions in the code under a flat tax, the IRS will have few returns to audit.

85=The percentage of taxpayers selected by the IRS for random audits who had incomes less than $25,000. A complicated tax code benefits the wealthy, who can fight back. A flat tax will be good news for those with more modest incomes.

47=The percentage of taxpayers living in just 11 southern states subject to random audits. Because audits will decline dramatically under a flat tax, so will discriminatory audit patterns like this one.

What We Already Knew

10,000,000=The number of corrections notices the IRS sends out each year. With a simple and fair tax system like a flat tax, mistakes will become rare.

190,000=The number of disputes between the IRS and taxpayers in 1990 that required legal action. In a flat tax environment, there will be few potential areas of disagreement, and legal action will become scarce.

3,253,000=The number of times the IRS seized bank accounts or paychecks in 1992.

33,000,000=The number of penalty notices the IRS sent out in 1994. Because a flat tax will eliminate complex parts of the tax code, the number of disagreements between taxpayers and the agency will plummet.

DO AS THEY SAY, NOT AS THEY DO

The IRS is quite strict with taxpayers who make mistakes, but the following examples illustrate that it would have a hard time living up to the standards imposed on taxpayers.

New Evidence

15=The number of years the IRS believes it will need to modernize its computer system. A simple, flat tax will not require complex computer systems.

1,000,000=The number of Americans who received tax forms with erroneous mailing labels in 1998.

20=The percentage error rate at the IRS for processing paper returns. Even children would be able to process postcard returns under a flat tax.

6,400=The number of computer tapes and cartridges lost by the IRS. Once a flat tax is implemented, these tapes and cartridges could remain lost.

22=The percentage of times reporters for Money magazine received inaccurate or incomplete information in 1997 when calling the IRS's toll-free hot line. To file a return under a flat tax, Americans will need to know only the size of their families and the amount of their wages, salaries, and pensions; they will not need to call the IRS.

40=The percentage of times Money magazine reporters received wrong answers in 1997 in face-to-face visits at IRS customer service offices. A flat tax will be so simple that such mistakes will become almost non-existent.

$800,000,000=The estimated cost to update the IRS's computers for the year 2000. Scrapping the tax code for a flat tax will allow the government to institute a simpler computer system.

500,000=The number of address changes made to correct the master file by IRS employees each year.

78=The percentage of IRS audit assessments on corporations that eventually are disqualified. A flat tax will replace the onerous corporate tax with a simple, postcard-based system.

What We Already Knew

8,500,000=The number of times the IRS gave the wrong answer to taxpayers seeking help to comply with the tax code in 1993 (taxpayers still are held responsible for errors that result from bad advice from the IRS). A flat tax will be so simple that taxpayers rarely—if ever—will need to call the IRS.

47=The percentage of calls to the IRS that resulted in inaccurate information, according to a 1987 General Accounting Office study. A flat tax will free IRS personnel from the impossible task of deciphering the convoluted tax code.

5,000,000=The number of correction notices the IRS sends out each year that turn out to be wrong. An error rate of 50 percent will be impossible under a flat tax.

40=The percentage of revenue that is returned when taxpayers challenge penalties. Under a flat tax, penalties will become rare, so fewer penalties will be assessed incorrectly.

$500,000,000=The amount of money that taxpayers were overcharged for penalties in 1993. After a flat tax goes into effect, such injustice will all but disappear.

3,000,000=The number of women improperly fined each year because they have divorced or remarried. Taxing income at the source under a flat tax will eliminate such travesties.

10,000,000=The number of taxpayers who will receive lower Social Security benefits because the IRS failed to inform the Social Security Administration about tax payments. A simple flat tax is likely to free enough IRS time and resources to fix this problem.

$200,000,000,000=The amount of misstated taxpayer payments and refunds on the books of the IRS. The IRS is no more able to administer tax laws that defy logic than is the average taxpayer. A flat tax will rectify this problem.

64=The percentage of its own budget for which the IRS could not account in 1993, according to an audit by the U.S. General Accounting Office.

$8,000,000,000=The amount the IRS spent to upgrade its computer system unsuccessfully. Under a flat tax, this money will be saved because the IRS no longer will need to track an impossibly complex and unfair tax system.

$23,000,000,000=The total proposed price for the IRS's computerization and modernization plans by 2008.

BEING COMPLIANT AND MISERABLE ON APRIL 15

Sending huge amounts of tax money to Washington, DC, is never pleasant. Having to incur huge compliance costs for the privilege of paying taxes, however, really rubs salt in the tax wound.

New Evidence

6,400,000=The number of taxpayers who visited IRS customer service centers seeking answers to their tax questions in 1996. With a flat tax, few taxpayers will need help.

99,000,000=The number of taxpayers trying to comprehend the tax system who called IRS hotlines in 1996. So long as a taxpayer knows his income and the size of his family under a flat tax, he will have nothing to worry about.

30 years=The number of years a dispute can last between the IRS and a corporation. Even one-year disputes will be rare under a flat tax.

8,000,000=The increase in the number of taxpayers who will be subject to the alternative minimum tax by 2007. This absurd provision forces taxpayers to calculate their income two ways and then pay the government the higher of the two amounts. It will disappear under a flat tax.

$134,347,500,000=The Clinton Administration's estimate of private-sector compliance costs. If the defenders of the status quo admit compliance costs are this high, the actual costs may well be even higher.

653=The number of minutes the IRS estimates it takes to fill out a 1040 form. A flax tax postcard can be filled out in five minutes.

72=The number of inches of height of the stack of tax forms in the Chrysler Corporation's tax return. A postcard return is only a fraction of one inch in height.

6,000,000=The number of unanswered phone calls made to the IRS in January and February 1998. Considering that answered calls frequently result in mistakes, taxpayers who fail to get through probably should feel lucky.

2,400,000=The number of phone calls to the IRS that resulted in busy signals in January and February 1998. A busy signal is better than a wrong answer because the IRS holds taxpayers liable for mistakes even if they are following IRS advice.

56=The percentage of calls to the IRS in 1997 that went unanswered. Again, no answer is better than a wrong answer.

What We Already Knew

$157,000,000,000=The amount spent by the private sector to comply with income tax laws. Under a flat tax, these costs will drop by more than 90 percent.

$7,240=The average compliance cost incurred by all but the biggest 10 percent of corporations for every $1,000 of taxes paid in 1992. The radical simplification brought about by a flat tax will be a boon for small businesses that cannot maintain legal and accounting staffs to comply with the tax code.

50=The percentage of taxpayers who feel compelled to obtain assistance in filling out their taxes each year.

5,400,000,000=The number of hours it takes Americans to comply with federal tax forms. With only two postcard-sized forms, compliance under a flat tax will require minutes, not hours.

2,943,000=The number of full-time equivalent jobs spent on compliance. In the flat tax world, the cost of tax compliance will fall by more than 90 percent.

$3,055,680,000=The market value of the tax preparation firm H&R Block, Inc., which opposes a flat tax. The company's opposition is understandable because a flat tax will allow anyone to fill out a tax return without paying an expert.

EVEN EXPERTS CAN'T FIGURE OUT THE FORMS

Jumping through all the tax hoops might not be so painful if taxpayers at least could be confident that the effort led to accuracy. The ultimate insult added to their injury, however, is that even "expert" advice is no guarantee of receiving correct answers to tax code questions.

New Evidence

$24,000,000,000=The difference between what corporations said they owed and what the IRS said they owed in 1992—a gap the government admits is due to ambiguity and complexity in the code. A flat tax will eliminate the confusion embedded in the current system.

46=The number of wrong answers Money magazine received in 1998 when it asked 46 different tax experts to estimate a hypothetical family's 1997 tax liability. Professional assistance will not be necessary with a simple, flat tax.

$34,672=The difference in liability between the highest and lowest incorrect answers among the 46 professionals who failed to calculate the tax liability of Money magazine's hypothetical family. Such responses will be all but impossible under a flat tax.

$610=The amount the hypothetical family would have overpaid on its 1997 taxes if it had used the answer that came closest to the actual tax liability (assuming, of course that Money magazine's expert had filled out the tax return correctly). Any mistakes, especially large ones, will be unlikely under a flat tax.

45=The number of professional tax preparers who came up with different answers when asked by Money magazine in 1997 to fill out a hypothetical family's 1996 tax return.

45=The number of professional tax preparers who came up with wrong answers when asked by Money magazine in 1997 to fill out a hypothetical family's 1996 tax return.

76=The percentage of professional tax preparers who missed the right answer by more than $1,000. This kind of result will be impossible under a flat tax.

$58,116=The difference between the lowest estimate of the family's tax bill and the highest estimate in Money's survey of tax professionals. Because the complexities in the tax code will disappear under a flat tax, mistakes like this will, too.

$81=The average hourly fee charged by the professional preparers who came up with the 45 wrong answers. Taxpayers will pay nothing to calculate their own taxes on postcards under a flat tax.

What We Already Knew

50=The number of different answers that 50 tax experts gave Money magazine in 1988 when asked to estimate a hypothetical family's tax liability. Under a flat tax, taxpayers will not need to consult tax preparers, much less run the risk of paying penalties for wrong answers.

50=The number of different answers Money magazine received in 1989 when it asked 50 different tax experts to estimate a hypothetical family tax liability.

48=The number of wrong answers Money magazine received in 1990 when it asked 50 different tax experts to estimate a hypothetical family's tax liability.

49=The number of different answers Money magazine received in 1991 when it asked 50 different tax experts to estimate a hypothetical family's tax liability.

50=The number of wrong answers Money magazine received in 1992 when it asked 50 different tax experts to estimate a hypothetical family's tax liability.

41=The number of wrong answers Money magazine received in 1993 when it asked 50 different tax experts to estimate a hypothetical family's tax liability (9 of the original volunteers did not bother even to respond).

THE NEVER-ENDING SHELL GAME

The needless complexity of the current tax code helps explain the reasons that both the IRS and private tax experts frequently make mistakes. Another reason that taxpayers have a problem complying with the law is that politicians have made the tax code a moving target.

New Evidence

824=The number of changes in the tax code accompanying the 1997 tax cut. A flat tax will put an end to constant social engineering.

285=The number of new sections in the tax code created by the 1997 budget act. A flat tax will eliminate most of the tax code.

3,132=The number of pages needed by the Research Institute of America to explain the changes in the tax law in 1997. Flat tax postcards needed just one page of instructions.

11,410=The number of tax code subsection changes between 1981 and 1997. A flat tax will eliminate most of those subsections.

160=The percentage increase in the stock value of tax preparation firms in the three-month period during and after enactment of the 1997 budget.

54=The number of lines on the new capital gains form, up from 23 before the 1997 budget deal. Because double taxation will end under a flat tax, the capital gains form will disappear.

What We Already Knew

878=The number of times major sections of the tax code were amended between 1955 and 1994. A flat tax will eliminate today's confusingly complex tax code and replace it with a simple system that does away with constant tinkering and social engineering.

100=The increase in the number of forms between 1984 and 1994. A flat tax will eliminate all 100 forms.

9,455=The number of tax code subsections changed between 1981 and 1994. Under a flat tax, politicians will not be able to use the tax code to micromanage economic or social behavior.

578=The percentage increase in the number of tax code sections between 1954 and 1994 that deal with major segments of tax law. Endless changes in tax law will grind to a halt under a flat tax.

5,400=The cumulative number of changes in tax law since the 1986 Tax Reform Act. Most, if not all, of these changes add compliance costs to the economy—costs that a flat tax will reduce substantially or eliminate.

$20,500,000,000=The amount of lost income the economy suffered in 1993 as a result of the economic uncertainty in the business community caused by the constant manipulation of the tax code. To help prevent politicians from undermining business planning by constantly changing the tax laws, a flat tax law should include a supermajority provision blocking such tax rate increases.

THE AUGEAN STABLES

The problem is not the IRS, but the politicians who created the incomprehensible tax code and those who refuse to reform the system. Politicians also are practically the only people in the country who benefit from a complex and constantly changing tax code.

New Evidence

$400,000,000=The amount of the special tax break for one corporation inserted in the tax code in 1986 at the urging of Dan Rostenkowski (D-IL), then chairman of the House Ways and Means Committee. A flat tax will wipe out provisions for special-interest groups.

What We Already Knew

$413,072=The average amount of political action committee contributions received by members of the House of Representatives tax-writing committee during the 1994 election cycle. A flat tax will reduce special-interest corruption and eliminate the ability of politicians to use the tax code to reward friends and punish enemies.

12,609=The number of special-interest organizations officially represented by congressional lobbyists. A flat tax will wipe out all special preferences, loopholes, deductions, credits, and tax shelters.

$3,200,000,000=The total amount earned by Washington, D.C., lobbyists in 1993. By taking away the playing field for special-interest tinkering, a flat tax will clean up political pollution.

2=The number of IRS offices in Washington, D.C., made available to Members of Congress and their staffs. With someone else doing their taxes—free—it is little wonder that Members of Congress do not understand the public support for a flat tax.

WHY JOHNNY REFUSES TO PAY

There comes a point at which taxpayers simply give up. Some are driven into the underground economy by the sheer complexity of the system. Others conclude that an unfair tax code has no moral legitimacy and simply refuse to comply.

What We Already Knew

$127,000,000,000=The amount of taxes not paid as a result of tax evasion. A fair, simple, flat tax will reduce tax evasion.

10,000,000=The number of people who unlawfully do not file tax returns. By reducing both the tax burden and compliance costs, a flat tax will bring people out of the underground economy.

3,500,000=The number of people who do not file who would be eligible for refunds. Perhaps more than any other number, the millions of people who fail to file in order to claim their tax refunds reveals just how intimidating the tax code has become.

4=The number of times a single dollar of income can be taxed under the current system, counting the capital gains tax, corporate income tax, personal income tax, and death (estate) tax. By eliminating double taxation, a flat tax will make sure the government treats all income equally and will end one of the biggest causes of tax evasion and complexity in the current tax code.

100,000=The number of Internet sites found by one search engine when queried for the phrase "tax shelter." Because a flat tax will eliminate all discrimination in the tax code and allow people to keep a greater share of their income, tax shelters will almost vanish after reform.

ENOUGH IS ENOUGH

The damage caused by the current tax code, both to the economy and to the body politic, is reaching crisis proportions. Insulated from the effects of their own handiwork, however, politicians are very likely to be the last ones to understand just how indefensible the system has become. Perhaps these real examples of IRS abuse will help them to understand the problem:

New Evidence

$3,500=The amount one woman was forced to pay twice, even though the IRS eventually admitted the debt had been owed—and paid—by her former husband.

$210,260=The amount the IRS tried to garnish from the wages of a woman for the back taxes her husband had owed before their marriage.

$26=The amount the IRS seized from a 6-year-old's bank account because her parents owed money.

$70,000=The amount demanded by an IRS agent who was threatening to send a couple to jail in a case that the tax court subsequently dismissed because the IRS's claim "was not reasonable in fact or in law."

$50,000=The amount the IRS was forced to pay a taxpayer after engaging in a vendetta against him, including putting the innocent man in jail for four months.

$6,484,339=The amount demanded by the IRS from the family of a victim of Pan Am flight 103, based on the assumption of a future settlement.

$900,000=The amount a small businessman was fined after being entrapped by his accountant, a paid informer for the IRS.

$5,300,000=The amount the IRS paid its informants in 1993.

25=The percentage of households with incomes over $50,000 that would pay an inaccurate assessment from the IRS rather than fight.

What We Already Knew

$46,806=The amount of tax penalty imposed on one taxpayer in 1993 for an alleged underpayment of 10 cents.

$1,300=The number of IRS employees investigated and/or disciplined for improperly viewing the tax returns of friends, neighbors, and others.

$155=The amount of penalty imposed on a tax-payer in 1995 for an alleged underpayment of 1 cent.

50=The percentage of top IRS managers who admitted they would use their position to intimidate personal enemies.

$14,000=The amount allegedly owed by a day-care center that was raided by armed agents, who then refused to release the children until parents pledged to give the government money.

80=The number of IRS agents referred for criminal investigation on charges of taking kickbacks for fraudulent refund checks.

$3,000,000,000=The dollar assets of Princeton/Newport, an investment company that was forced into liquidation after 40 armed federal agents raided the company on suspicion of tax evasion—only to have the IRS later conclude that Princeton/Newport actually had overpaid its taxes.

$10,000=The fine imposed on one taxpayer for using a 12-pitch typewriter to fill out his tax forms instead of a 10-pitch typewriter.

109=The number of envelopes containing unprocessed information found in the trash at the IRS's Philadelphia Service Center.

Grand Total: More than 737 billion incredible-but-true reasons to simplify the tax code with a flat tax.

WHAT THESE NUMBERS REALLY MEAN

These horror stories and statistics are not necessarily evidence that individual IRS agents are bad people, or that tax administrators want to violate people's rights. Although examples of unwarranted behavior are included in this discussion, the key problem they illustrate is that current tax law is so arbitrary and incomprehensible that even government agents in charge of enforcing the law cannot make sense of it.

The only way to address these problems is through fundamental reform. A flat tax will reduce the power of the IRS dramatically by eliminating the vast majority of possible conflicts. In a system in which the only information individuals are obligated to provide is their total income and the size of their families, much of the uncertainty and fear regarding paying taxes will disappear.

Most individuals never have to experience the greater complexities of paying corporate income taxes; still, they can appreciate the fact that a flat tax will generate dramatic savings for business. Under a flat tax, the money that businesses now spend to comply with the tax code will become available instead for higher wages and increased investment, thereby helping the United States to become more competitive.

Although the key principle of a flat tax is equality, it turns out that a system based on taxing all income just one time at one low rate also promotes simplicity. To understand the reasons that introducing a flat tax would lead to such a dramatic reduction in both tax code complexity and compliance costs, consider the following numbers:

0=The number of taxpayers under a flat tax who will have to calculate depreciation schedules.

0=The number of taxpayers under a flat tax who will have to keep track of itemized deductions.

0=The number of taxpayers under a flat tax who will need to reveal their assets to the government.

0=The number of taxpayers under a flat tax who will lose their farms or businesses because of the death (estate) tax.

0=The number of taxpayers under a flat tax who will have to pay a double tax on their capital gains.

0=The number of taxpayers under a flat tax who will have to compute a phase-out of their personal exemption because their incomes are too high.

0=The number of taxpayers under a flat tax who will be subject to the alternative minimum tax—those forced to calculate their tax bill two different ways and then to pay the government the greater of the two amounts.

0=The number of taxpayers under a flat tax who will have to pay taxes on overseas income that already was taxed by the government of the country in which the income was earned.

0=The number of taxpayers under a flat tax who will have to pay taxes on dividend income that already was taxed at the business level.

0=The number of taxpayers under a flat tax who will be taxed on interest income that already was taxed at the financial institution level.

CONCLUSION

Those who urge policymakers to "fix" the IRS should realize that condemning the agency itself will not solve the intractable problems of the current tax code. Furthermore, enacting a "taxpayer bill of rights" will accomplish little if provisions of the tax code that constitute the underlying problem are left in place. At least two versions of a "taxpayer bill of rights" previously enacted into law have had little effect.

Americans rapidly are approaching the level of anger toward unfair, capricious, and oppressive taxation that gave rise to the American Revolution in 1776. This anger is directed at an immense and impersonal government agency that often operates outside the standards it imposes on taxpayers. Americans should be angry, but not at the IRS: They should direct their anger toward the Members of Congress responsible for enacting the laws that created today's tax code.

The only effective way to enhance compliance and slash compliance costs while protecting the rights and freedoms of individual taxpayers is to scrap the current system and replace it with a fair, simple, flat tax.

CONSOLIDATED RETURN REGULATIONS

Mr. DEWINE. Mr. President, I would like to take a moment to discuss an important economic development matter for the people of Ohio. Currently included in the Internal Revenue Service Restructuring and Reform Act of 1998 is a technical correction that would attempt to resolve an apparent conflict that exists between consolidated return regulations and section 1059 of the Internal Revenue Code of 1986. It is very important that this area of the tax code and regulations be clarified so that it does not create an impediment to the expansion of businesses in the State of Ohio and throughout the country.

While the technical correction that was included in the IRS reform bill is a good start toward resolving this conflict of the consolidated return regulations and section 1059, further clarification is needed. I am hopeful that as the IRS reform bill proceeds to conference that the conferees will take another look at the technical correction and work toward correcting this conflict.

Mr. ROTH. I thank the Senator for bringing this to my attention and I can assure the Senator that we will take a look at this in conference.

Mr. COATS. "The power to tax involves the power to destroy."

Mr. President, this famous quote by Chief Justice John Marshall, from the landmark Supreme Court case McCullough versus Maryland, rings as true today as it did in 1819. The Internal Revenue Service, through its unchecked powers of taxation, has been destroying the lives of honest, hardworking, Americans for many years. This systemic abuse has been well documented in the recent oversight hearings on the IRS conducted by the Senate Finance Committee. I rise today to support the IRS Reform and Restructuring Legislation unanimously approved by the Finance Committee. This bill will effectively end this agency's reckless disregard of taxpayer rights.

We have all heard the horror stories of taxpayer mistreatment inflicted by the IRS. From armed IRS agents raiding innocent taxpayers homes to Americans being subjected to years of harassment and unsubstantiated audits. A few years back one such incident of ineptitude occurred in my own State of Indiana. One of my constituents—who gave me permission to tell his story, but asked that I not disclose his name for fear of retribution from the IRS—was getting ready to buy Christmas dinner for himself and his family. This gentleman was shocked to learn that he had no money in his bank account. His entire savings account had been wiped clean by the IRS for "Back Taxes and Penalties." Upon calling the IRS, he was told that his tax form from 1987 was missing and he had not answered any of the registered letters sent to him.

Of course, the IRS sent the registered letters to the address he had lived at in 1987, not his current address—the address from which he correctly filed his taxes (and got returns) for the five subsequent years!!!

This outrageous tale of mismanagement does not end there. A few months later—after some paper shuffling at the IRS—this gentleman was told that based on the information that he provided the IRS actually owned him a refund of $1500!!!! However, the statute of limitations on refunds had run out and he would not be getting his check. My constituent was not happy with this recent development, but considered the matter over. Of course, ten days later a check for $1500 arrived on his doorstep. Only at the IRS!!!!

The stories of abuse and mismanagement have come not only from taxpayers, but from IRS employees as well. Past IRS employees describe an agency rife with ineptitude and misconduct. They detail scenarios in which agents were told to target lower-income individuals or those of modest education for audits. One agent testified that "Abuses by the IRS are indicative of a pervasive disregard of law and regulations designed to achieve production goals for either management or the individual agent." Further, auditors have testified of favoritism being extended to wealthy individuals and powerful corporations. It is obvious that we are dealing with an agency that is out-of-control.

Throughout history, tax collectors that overtaxed or abused taxpayers were treated with much disdain. In ancient Egypt, a corrupt tax collector who exploited the poor had his nose cut-off. During the French Revolution, tax collectors kept their noses, but lost their heads to the guillotine. But in America, we have a different, innovative method for treating overzealous tax collectors—we reward them with promotions and bonuses!! One particular corrupt agent stole 20 cars and was able to retire with full benefits!! Other agents and divisions were evaluated solely on whether they had achieved certain quotas. The message given from management to the agents was that the ends always justify the means.

It is disgraceful that an agency of the greatest democracy in the world could have attributes that would be better associated with a paramilitary wing of a despotic regime. It is high time we passed this legislation and urged the new commissioner of the IRS, Mr. Charles Rossotti, to conduct a thorough house-cleaning.

The IRS exists to serve the American people—not the other way around. There must be more accountability for the IRS and more protection for the taxpayer. Efficiency and honesty should be twin goals for the IRS. H.R. 2676—the Internal Revenue Service Restructuring and Reform Act of 1998—is a first step towards achieving this end.

Mr. President, I will end with another quote from a Supreme Court Justice, Oliver Wendell Holmes, Jr. This quote has substantial meaning in this debate because it adorns the wall of the IRS building here in Washington.

"Taxes are what we pay for civilized society."

If that is in fact the case, it is time we demand that the Internal Revenue Service act in a civilized manner.

Mrs. FEINSTEIN. Mr. President, I rise in support of the legislation to reform the Internal Revenue Service. The Finance Committee deserves tremendous credit for leading the reform effort and conducting hearings to illustrate the tremendous concerns. The legislation will help restore public confidence in a very troubled agency.

Last summer, the National Commission on Restructuring the Internal Revenue Service, under the leadership of Senator BOB KERRY and Representative PORTMAN, issued its report to reform the agency, The Finance Committee conducted several days of hearings, receiving compelling testimony, regarding a variety of concerns with the activities of the IRS. It's clear that these problems transcend any single administration, but reflect years of neglect, improper incentives, inadequate training and mismanagement.

This legislation, along with the appointment of the agency's new Commissioner, Charles Rossotti, will help provide a "fresh start" for the troubled agency.

I support the legislation, which adopts important reform steps:

Creates an IRS Oversight Board: The bill creates a new entity, the IRS Oversight Board, drawing on private sector individuals as well as the Treasury Secretary, the IRS Commissioner and a representative of the IRS employees. The Commission will have the authority to review and approve major issues of policy, such as IRS strategic plans, IRS operations and recommend candidates for important positions, like the IRS Commissioner and the National Taxpayer Advocate.

Adopt important protection, including more disclosure to taxpayers and enhanced protection for the "innocent spouse": The bill requires the IRS to better inform taxpayers about their rights, potential liabilities when filing joint returns, as well as the IRS process for auditing, appeals, collections and the like. The bill would expand the protections provided to "innocent spouses" who find themselves liable for taxes, interest, or penalties because of a spouse's action taken without their knowledge.

End bureaucratic overlap: The legislation allows the IRS Commissioner to move forward to eliminate the current national, regional and district office structure of the IRS. The Commissioner has proposed a plan to replace the antiquated 1950s structure, with a new management model, operating to serve specific groups of taxpayers. This can ensure greater professionalism in the agency and more uniformity across the nation.

Strengthens and streamlines the role of the Inspector General: The bill creates a new office of the Treasury Inspector General for Tax Administration. Regional and district Inspectors General would report to the IRS Inspector General, rather than district offices, strengthening their independence and enhancing their oversight role.

Strengthens the Office of the National Taxpayer Advocate: The bill strengthens the office of the National Taxpayer Advocate, to represent the interests of taxpayers in the IRS policy process, proposing legislation, changes in IRS practice and assisting taxpayers in resolving problems. The National Taxpayer Advocate is also supplemented by local taxpayer advocates around the country. These local advocates will report to the national advocate, rather than local officials, which might undermine the independence and public credibility of the local taxpayer advocate.

Prepares for the future: The bill encourages more taxpayers to file tax returns or tax information electronically, expediting the process for taxpayers and employers filing payroll tax information.

The bill adopts important reforms. As a previous supporter of efforts to strengthen taxpayers' rights, I am pleased to extend my support.

I acknowledge the IRS, which includes thousands of diligent, conscientious employees, has an extraordinarily difficult challenge. Each year the Service receives: nearly 210 million tax returns in 1997; collects and accounts for well in excess of one trillion dollars; generates nearly 90 million refunds; and receives millions of calls, letters and visits from taxpayers in need of help.

The vast majority of these taxpayers are dealt with fairly and effectively, but no excuse can be made for some of the experiences and horror stories described during Finance Committee hearings.

As Senators know, last September, the Finance Committee began to hold a series of hearings identifying heartrending stories from taxpayers, identifying specific tax problems. One of the witnesses, Kristina Lund of California, described the tax problems linked to IRS enforcement action following her divorce. Ms. Lund was stuck with the tax bill, frustrated by an unresponsive IRS, as a tax debt ballooned from $7,000 in 1983, to $16,000, as a result of delayed notification and confusion between Ms. Lund and her former husband. The burden of correcting the problems were enormous for Ms. Lund, a newly hired bank employee earning approximately $15,000, and her 14 year old daughter. This bill incorporates some reform for the "innocent spouse," preventing more individuals from falling into Ms. Lund's circumstances. The bill would expand the protections provided "innocent spouses" who find themselves liable for taxes, interest, or penalties because of actions by their spouse of which they did not know and had no reason to know. The bill will ensure that more women are treated fairly.

I am pleased the Senate was able to add, with my support, Senator GRAHAM's amendment to clarify that coercion or duress cannot void an innocent spouse's claim for protection. I share Senator GRAHAM's concern with the bill, which provided that an innocent spouse, who had knowledge of the under-reported income, was denied "innocent spouse" protection. Without the Graham amendment, a spouse could be coerced or pressured to go along with a tax scam, and suffer the tax consequences for years. I am pleased we could add the Graham amendment, providing an extra layer of protection for innocent spouses.

We have heard a great deal of frustration with the IRS, but Congress deserves its fair share of the blame for taxpayer frustration with the complex and confusing tax code. Over the years, the IRS Tax Code has become more complicated, not less so. Despite the best of intentions, Congress has helped to make the taxpayers and tax collectors responsibilities more difficult.

The Finance Committee received the testimony of the Certified Public Accountants, noting that from 1986 to 1997, there have been eight years with significant changes to the tax laws, including the 1997 Taxpayer Relief Act. The witnesses noted the Taxpayer Relief Act of 1997, which I supported, alone contains: 36 retroactive changes; 114 changes that became effective on August 5, 1997; 69 changes that became effective January 1, 1998; and 5 changes that became effective on another date.

No wonder taxpayers and tax professionals are so confused and frustrated!

Congress needs to be certain we are providing the IRS with the resources needed to get the job done. Tax professionals noted the Treasury Department also has a significant backlog in producing IRS regulations to provide guidance for taxpayers. Tax complexity increases the IRS' challenge to administer the tax system fairly, and compounds the taxpayers' problems in meeting their tax obligations.

Congress also needs to ensure we are providing adequate resources to the IRS, to permit adequate training and ensure the skills of the IRS employees are current and up to date. During the hearings, the Finance Committee listened to the testimony of Darren Larsen, a Southern California attorney, in which she described conduct that was simply contrary to federal law. Ms. Larsen described the use of some "on-the-job instructors" who lacked an understanding of some of the legal fundamentals and passed their errors on to newer revenue officers. I am sure the vast majority of IRS enforcement officers work diligently to implement the laws, but even occasional errors are unacceptable.

I am pleased to support the Committee's legislation. However, one area of reform the Committee declined to implement deals with the "marriage penalty." I will continue to follow the committee's work on this issue closely, which is an important issue for women.

Marriage penalties arise because a couple filing a "joint return" face tax brackets and standard deductions that are less than twice the level of those for single filers. As a result, the marriage of two individuals who pay taxes in the same tax bracket, receive a smaller standard deduction and may be forced into a higher bracket than they would if they filed their taxes as individuals. While more couples receive marriage "bonuses" than marriage "penalties," the issue deserves closer review.

Senator HUTCHISON has introduced S. 1314, legislation to address this issue, proposing to allow married couples to file "combined" returns, in which family income is allocated to both individuals, taxing each spouse at the single taxpayer rate. The legislation would allow couples to file as either joint, single, or head-of-household. This would eliminate those taxpayers who receive a marriage penalty, while leaving marriage bonuses in place.

However, by getting rid of the "marriage penalty," Congress could find itself unfairly increasing taxes for single tax filers. Further, the proposal could cause substantial revenue losses, perhaps as much as $40 billion per year, and would complicate the tax system. Taxpayers would be required to perform tax calculations, both, as an individual and as a couple, choosing whichever tax was lower. In this legislation to simplify the tax code, Congress should be very concerned with a proposal which could require additional steps and additional tax calculations for taxpayers.

I am interested in the approach taken by S. 1989, legislation introduced by our colleague, Senator FORD. This approach would widen the tax brackets and raise the standard deduction for joint filers to a level twice that of the single tax filer. This approach would also eliminate the marriage penalty, while providing added tax relief for families. I am anxious to follow the Committee's progress.

The Senate Finance Committee has taken very important steps to reform the IRS and I am pleased to support the legislation. I have previously supported efforts to provide more protection for taxpayers, including the earlier "Taxpayer Bill of Rights" and this bill makes similar progress. The administration also deserves support and IRS Commissioner Rossotti also deserves our support. Taxpayers want and deserve better information and a more fair process. I am pleased to support these efforts to set a new course for the IRS.

Mr. SMITH of New Hampshire. Mr. President, I rise in support of H.R. 2676, the IRS reform bill that is now under consideration on the floor. This bill, which is the product of extensive oversight hearings, is much needed and long overdue. I applaud Chairman ROTH and the other Finance Committee members for reviewing the legislation sent to us by the House, for their efforts to strengthen the bill, and for their persistence in moving this bill to the Senate floor.

As taxpayers testified at the Finance Committee hearings, the abuses fostered by the IRS are intolerable. Innocent taxpayers are suffering under an out-of-control agency.

We have witnessed this problem in my own state of New Hampshire. Shirley Barron of Derry, New Hampshire has suffered greatly since her husband's death in 1996, and she claims that the IRS's collection tactics are the cause. The Barrons' problems with the IRS began in the mid-1980s when they lost an $80,000 investment. The couple's accountant advised them that they could get a tax deduction, but the IRS informed the Barrons two years later that they had to pay. Mrs. Barron said that she and her husband were unable to pay the IRS immediately, so interest and penalties mounted. According to Mrs. Barron, her husband took his own life just after learning that creditors were to foreclose on the couple's Derry home because the IRS had placed a lien on it. Even after Mr. Barron died, the agency continued their collection efforts against Mrs. Barron: They foreclosed on the family's Cape Cod vacation home, they took her tax refunds, and they placed claims against the life insurance of her late husband. The IRS recently agreed to cancel Mrs. Barron's entire tax debt, thus ending her long ordeal. While this is a welcome development, it won't bring her husband back. No one should have to go through an ordeal like that again.

Last week, the Senate Finance Committee heard similarly disturbing accounts of IRS intimidation from agency employees. Auditors and agents voiced their frustration with field office managers and high level management. Some reported that almost no one at the agency listens to them when they report discrimination or wrongdoing. For example:

Ginger Garvis, a District auditor in New York City, said that she uncovered a multimillion-dollar tax evasion and money-laundering case which her supervisors refused to pursue. Ms. Garvis testified that the IRS often forgives tax debts by large firms with the resources to fight back in court. Instead, it focuses on smaller companies that cannot fight back.

Michael Ayala, a thirty-year IRS employee, testified that he has observed "a broad range of misconduct by high level managers." He said that "such abuses are generally known to a large percentage of the IRS workforce but are perpetuated by management's intimidation and punishment of anyone within the agency who objects to or reports such misconduct."

A former IRS criminal investigation agent, Patricia Gernt, reported that her supervisors did little or nothing to help her stop another IRS agent who tried to frame former U.S. Senator Howard Baker.

Perhaps for these reasons, another District auditor in New York City testified: "before there is a taxpayer victim there is first an employee victim."

Such an atmosphere of fear and intimidation is deplorable and must be stopped. The American taxpayers deserve better.

H.R. 2676 will help us change the culture at the IRS to which so many are objecting. This bill establishes many new taxpayer rights; it calls for the IRS to revise its mission statement to focus on taxpayer service; and it provides for increased oversight of agency activities by a citizens' advisory board. At the same time, the bill gives the new IRS Commissioner, Charles Rossotti, broad flexibility to better manage the agency.

I urge my colleagues to support this legislation. We have an historic opportunity to restore accountability to the IRS and change how the agency functions. Let us seize this opportunity by promptly passing H.R. 2676.

Thank you, Mr. President.

Mr. CRAIG. Mr. President, I rise in support of the IRS Reform Act. I would like to begin by congratulating Chairman ROTH for holding the recent IRS hearings. The Finance Committee's historic hearings have made it possible for us to consider this bill, and they have made the Senate version of the bill improved and stronger than the House-passed version of H.R. 2676.

However, I'm disappointed by the recent remarks by the Minority Leader, who said the Chairman's hearings were "sensationalistic." These hearing were not "sensationalistic," but were instead about getting at the truth. They exposed sensationally bad news about how a powerful arm of government has treated individual taxpayers. Indeed, given the stories that emerged, even holding these hearings was a brave act.

Without these hearings there would have been no appointment of William Webster to review the IRS Criminal Investigation Division; no announcement of a special internal task force; the public would not have known that even a Senate Majority Leader is not protected from bizarre, apparently criminal, targeting; the bill might not have been as strong as it is; and, after a brief flurry of attention, the IRS would assume it was safe to return to business as usual.

There are many causes to the problems that these hearings exposed. The culture which pervades the IRS is arrogant, powerful, and a law unto itself—it is unaccountable to anyone else. The tax law, too, is to blame. After forty years of liberal Congresses encouraging and empowering the IRS, it seems as if their only goal is to get the money and that the ends justify the means. We also must not forget that individual IRS agents also overstep the law. We still want to believe most IRS employees are conscientious civil servants. However, the hearings show the IRS has not disciplined its own. In fact, the IRS culture has rewarded rogue activity, punished whistle blowers, and carried out retribution against innocent taxpayers. The problem of "rogue agents" is really more a problem of a rogue agency. Today, in law and in practice, drug dealers, child molester, and organized crime have more legal rights than the average taxpayer whom the IRS suspects may owe a few dollars in back taxes.

The IRS abuses are part of a bigger problem. There is a culture of big government, growing like a cancer on the body politic for two generations, that says the money you earn isn't yours, it's the government's; that says freedom isn't the individual's unalienable right, it's the government's to give or take away; that promises compassion and support, but demands control and dependence. It may all be relative, but it's becoming more like Big Brother and less like Uncle Sam.

Now is the time to turn that tide. A Republican Congress has started already. We enacted the welfare reform law of 1996, which expects individual responsibility and encourages individual and community initiative. We also passed the Balanced Budget and Taxpayer Relief Acts of 1997 which said we will put limits on the appetite of government.

Now we must take the next step with IRS reform. More Americans come into contact with their government through the IRS than through any other means. This bill is the first significant step to reminding everyone that the taxpayer is the boss—not the IRS, not the government.

But this bill is only the first step. We need continued and increased oversight of the IRS through more hearings. From calls and letters from our own constituents, Senators know the first few hearings only scratched the surface of the tip of the iceberg. Sunlight is the best protection the people have. We also need to look at more reforms, especially protecting due process and privacy rights and increasing accountability for wrongful actions. Continued, aggressive committee activity are also a must.

The ultimate IRS reform will be abolishing the current tax code and starting over with a new, fairer system. Later this year we will take the next step—voting to sunset the tax code. This would underline our commitment to ending the tax code and the IRS as we know them; guarantee the American taxpayer we will build a new, fairer system, from the ground up; and force Congress and the President to come to terms on creating a new system.

Of course, President Clinton and others will fight to preserve the status quo. For a while, they tried to block IRS reform, but saw the American people wouldn't stand for it. Now President Clinton wants to dress up as First Drum major and get out in front of the parade Congress started. Mr. President, we welcome your help, however belated, if it's sincere and substantial. But, Mr. President, at least have the honesty to say, "me, too" instead of, "my idea." President Clinton and his allies still say sunsetting the tax code would create uncertainty, but a sunset creates no more uncertainty than the status quo, which has perpetuated uncertainty for decades with a major new tax bill about every two years. Opponents don't want major tax reform—they like the current code and the way it shakes down the taxpayer. They will use divide and delay tactics, pretending to support reform but making sure no one proposal breaks out of the pack. But the American people know better, tax reform will be debated thoroughly across the country between now and 2000.

Now and in the future, the American people are demanding change. They want an IRS that is fair, courteous, and respects their rights of due process and privacy. Congress is committed to creating a new culture at the IRS, serving the taxpayer, not treating them like a criminal class; treating taxpayers with respect and dignity; pursuing criminals, not quotas; and upholding the Constitutional principle of "presumed innocent until proven guilty."

For the future, the American people demand fundamental change—a new tax code that is simple, fair, efficient, and allows working Americans and their families to keep more of the fruits of their labors. Republicans in Congress are committed to creating that completely new system.

Mr. HAGEL. Mr. President, the time has arrived to put some accountability and common sense into one of the most out of control federal agencies in the Federal Government, the Internal Revenue Service.

Over the past nine months we have heard volumes of testimony regarding the many problems associated with the Internal Revenue Service—lack of leadership, an unresponsive agency and abusive employees. But the most important issue that we must not forget is accountability. No one is being held accountable at the IRS. This must change.

If federal agencies and their employees are not held accountable for their actions, we have lost control. The American people send billions and billions of dollars of their hard-earned money to Washington, D.C. each year in taxes, to fund a government that most Americans see as too big, too intrusive, and unaccountable.

Congress is taking a good first step at bringing accountability to the IRS through the Internal Revenue Service Restructuring and Reform Act. This legislation would create an IRS oversight board to oversee the IRS in every aspect of its administration of the tax laws. The Act also replaces the many levels of bureaucracy at the IRS—district offices, regional offices and national office—with offices that are trained to handle groups with specific concerns—individual taxpayers, small business, large business and tax-exempt entities.

The Act also creates and enhances many taxpayer rights and protections. The burden of proof in court proceedings would be reversed from the taxpayer to the IRS when the taxpayer produces credible evidence that is relevant. The Act extends the attorney-client privilege to accountants and other tax practitioners. Finally, the Act overhauls the "innocent-spouse" relief provision. A spouse would be allowed to limit their tax liability for a joint-return to the spouse's separate liability attributable to the spouse's income.

These are just a few examples of where and how the IRS Restructuring and Reform Act will bring the IRS back to reality. If there is accountability there is control.

Mr. KERRY. Mr. President, I join many of my colleagues in support of the IRS Restructuring and Reform Act of 1998. This legislation is a victory for taxpayers, a victory for small businesses, and a victory for the American family. I applaud the work of my colleagues, Senators ROTH, BOB KERREY, GRASSLEY, and others, who have demonstrated such determination, vision and leadership on this issue.

I believe that the average American taxpayer is fundamentally honorable, willing to play by the rules and carry his or her fair share of public obligations. Most public servants at the Internal Revenue Service (IRS) perform their jobs responsibly. But, sadly, there are exceptions on both sides of this equation, and those exceptions lead to contentious circumstances which must receive careful IRS management attention. Regrettably, that has too often not been forthcoming. Along with most Americans, I watched the recent Senate Finance Committee oversight hearings on the Internal Revenue Service. A number of witnesses told of economic and emotional hardship at the hands of abusive IRS agents. Unfortunately, while the facts of a number of these cases were shocking, the fact that there are such cases was not surprising. During my 13 years in the Senate, I have assisted many taxpayers in Massachusetts who have protested similar treatment by IRS employees. Most recently here the widow of a well-respected lawyer filed suit, charging that her husband was literally hounded to death by IRS collection agents. He committed suicide on Cape Cod, leaving behind a note which complained that the IRS "sits, does nothing and then watches you die."

While we must be careful not to presumptuously conclude that all problems that arise between the taxpayers and the IRS are the result of inappropriate actions or demeanor by the IRS and its employees, the evidence indicates this is the cause with sufficient frequency that the Congress is compelled to address this problem. It is clear that the Internal Revenue Service is subject to some difficult challenges. After downsizing in recent years, the remaining IRS agents are strained as they try to meet the demands of increased audit and collection work. The management structure within the IRS has made these problems even more difficult to solve. Regardless of the reason, the abusive and humiliating tactics about which we all heard during the Finance Committee hearings are intolerable and must be stopped. This legislation is an important step in the process of reinstituting controls at the IRS that should rectify these problems.

Our system of taxation is based on voluntary compliance. And we have the best record of paying our taxes in the industrialized world. For at least part of the last two decades, 95 percent of wage-earners in this country paid their taxes accurately and on time. And while a recent study found that nearly 12 percent of our economic output evades taxation, this number is dwarfed by the noncompliance rates of our international competitors.

I have previously supported reform efforts that were intended to make tax collection fairer, and the IRS more accountable. In 1988, I cosponsored the Taxpayers Bill of Rights which expanded the procedural and disclosure rights of taxpayers when dealing with the IRS, prohibited the use of collection results in IRS employee evaluations, and banned revenue collection quotas. During the 104th Congress, I cosponsored the Senate version of the Taxpayers Bill of Rights II, which created the Office of Taxpayer Advocate, allowed installment payments of tax liabilities of less than $10,000, and imposed notification and disclosure requirements on the IRS. Last year, we enacted the Taxpayer Browsing Protection Act, which imposes civil and criminal penalties on Federal employees who gain unauthorized access to tax returns and other taxpayer information.

The Internal Revenue Service Restructuring and Reform Act of 1998 before the Senate today will restructure and reorganize the Internal Revenue Service. It will create a new IRS Oversight Board to review and approve strategic plans and operational functions which are crucial to the future of the agency. The Oversight Board, consisting of six citizens, the Secretary of the Treasury, the Commissioner of the IRS and a representative of the IRS employees' union, will reestablish control of the IRS by reviewing operations and ensuring the proper treatment of taxpayers by the IRS. It will shift the burden of proof from the taxpayer to the IRS in court if the taxpayer complies with the Internal Revenue Code and regulations, maintains required records and cooperates with IRS requests for information.

I do have some concerns that this provision could give comfort to a small number of Americans who will do anything to avoid paying their taxes and may make the system of tax collection even more complicated. But I think the benefits for the great majority of taxpayers who are trying to do the right thing required support for the bill.

The bill also would allow taxpayers to sue the IRS for up to $100,000 in civil damages caused by negligent disregard of the law. It also expands the ability of taxpayers to recover costs, including the repeal of the ceiling on hourly attorneys' fees.

Finally, it expands the protections provided to "innocent spouses" who find themselves liable for taxes, interest, or penalties because of actions by their spouse about which they did not know and had no reason to know.

This bill makes positive changes that will foster continued growth and cooperation by the American people. If we were to do nothing, and the IRS were to continue on its present course, it is likely that there would be a continued slide in the public's faith in the tax collection system.

Americans merit an efficient and a respectful government. In the course of history, we have fought for freedom from despotic bureaucracies. At the essence of our democracy is our right to alter any public institution which fails significantly to deal respectfully and competently with American citizens. I believe the changes this legislation will make will regain the balance that has been lost in the relationship of the taxpayers to the IRS while permitting the IRS to do the difficult job it was created to do. That job is vital to our government's ability to provide the essential services on which virtually every American depends to some extent: Social Security benefits, our armed forces, law enforcement, Medicare and Medicaid, air traffic control, administration of our national parks and forests, etc. This is a good bill that will help taxpayers and the IRS. I will support its passage and implementation and look forward to its results.

Ms. SNOWE. Mr. President, I rise today to speak in favor of the legislation before the Senate—H.R. 2676, the IRS Restructuring and Reform Act. I beieve it is vital that this critically-needed legislation be passed by the Congress and enacted by the President as rapidly as possible.

Mr. President, Congress has been working to reform many aspects of the Federal government and its programs over the past several years, including welfare, Medicare, and telecommunications laws. And now, with April 15—the deadline for filing tax returns—only a few weeks past, I can think of no better time for Congress to continue its reform efforts than with a substantial overhaul of the IRS.

While reforming our tax system is an idea that has been bandied about for years—and will likely continue to be a topic of great interest in the months and years ahead—at the very least we have an obligation in this Congress to address the abuse of our nation's citizens by the agency that is responsible for enforcing federal tax laws: the Internal Revenue Service.

Mr. President, the hearings that were conducted in the Senate Finance Committee over the past nine months have provided a chilling reminder of how government power can run amok. Tax files are used for information on boyfriends of IRS employees. IRS managers are trained that it is permissible to lie or mislead the public. Employees are evaluated on statistics based on seizures of personal property and finances. Some business owners are allowed to make monthly payments on delinquent employment taxes while others are forced into bankruptcy—the decision is arbitrary and up to IRS management. And IRS agents that seek to report improper tactics and practices fa̧ce demotion or outright replacement.

While I wish that the horror stories told by the Finance Committee witnesses were isolated incidents, the real-life stories I have heard from constituents in Maine only reinforce the fact that these problems are occurring nationwide.

Take for example the family in Lebanon, Maine, who was audited for the year 1993 after they saw their convenience store, home, and all their financial records destroyed by a 1994 fire. While they originally had no problem with the audit and anticipated a relatively brief process, it is now four years later and the IRS has finally just completed the 1993 audit. One can only imagine how long—and at what cost—the 1994 and 1995 audits they are being subjected to will last.

Or consider the story of a sheet metal company employee in Maine who was taking money on the side for jobs—which meant that his employer wasn't being paid for the contracts that they thought were outstanding. As a result, when it came time for the business to pay their taxes, they didn't have the funds.

Negotiations between the IRS and the company broke down, one thing led to another, and the company was behind to the point where the IRS took everything from the company's bank account. The result: the company was unable to pay its employees, it was seized by the IRS, and it was sold at auction to cover the taxes.

Finally there is the waitress who, over the years, didn't pay all the taxes she should have on the tips she made. She was reported, found guilty, and it was estimated that she owed more than $100,000 in back taxes, penalties and interest payments. Fair enough, you might say, except for one twist: her husband never had a clue that his wife was cheating the IRS. But he's been paying the price ever since.

He lost his home, his vehicles, and his camp in order to help pay his wife's debt. In the meantime, they divorced—and to this day the wife does not work because, if she did, she would still owe the IRS. Instead, she has remarried and is supported by her new husband, while the ex-husband remains responsible for the debt he never knew a thing about.

Now, I'm not saying that the IRS doesn't do a good job in many—if not most—cases. They have a difficult and unpopular task, and the law must be enforced. The delays, unfair treatment, and—in some cases—improper actions that have occurred with the IRS have undoubtedly been the result of a variety of factors, and the complexity of the tax code only compounds the problems for taxpayers who must interact with the IRS.

In fact, to test the difficulty of the current income tax system, Money magazine had 45 different tax accountants prepare a tax return for the same family—and the result was 45 different returns that varied by 160 percent! When considering that there are 555 million words in the tax code, 480 different tax forms, and IRS employees give the wrong answers to taxpayers 30 percent of the time, it's no wonder the experts can't even agree on what a taxpayer owes!

Therefore, although we won't be eliminating the complexity of the tax code today, I am pleased that the Senate is now considering comprehensive reform legislation that will attempt to end the abuse of already confused taxpayers by the IRS, and ensure that the enforcer of the tax law is no longer one of its greatest abusers.

Mr. President, this legislation—which builds on the restructuring bill that was overwhelmingly passed by the House of Representatives this past November—includes a variety of critical reforms that will dramatically improve the oversight and management of the IRS. And, most importantly, the bill will make this agency more accountable to the very individuals they were intended to serve: the American taxpayer.

Specifically, to improve the oversight and administration of the IRS, this legislation will establish an oversight board including the IRS Commissioner and six members from the private sector, which would have broad authority to review and approve strategic plans. In addition, it will establish local taxpayer advocates in every state, and strengthen the internal auditing of the agency.

To create a more level playing field between the IRS and taxpayers, the bill will modify the practice of considering taxpayers guilty until they prove their innocence by shifting the burden of proof to the IRS in cases where the taxpayer is cooperative in providing information. It will also provide for greater taxpayer protection against interest assessments and penalties.

To streamline congressional oversight of the IRS, it provides a means for ensuring that the IRS and Congress are aware of the most complicated aspects of the tax code that are generating the greatest compliance problems for taxpayers, and provide clear accountability to specific committees in the Congress.

To be more responsive to taxpayers, this legislation provides critically needed relief to an "innocent spouse" who has no knowledge of the improper tax filings of his or her husband or wife; ensures that a taxpayer who has entered into an installment agreement to settle an outstanding tax bill will no longer be forced to pay "failure to pay" penalties during the period of repayment—which has never made any sense; and gives taxpayers more time to dispute IRS claims.

And finally, to create a better IRS from the inside out, the bill provides increased flexibility for the IRS to recruit and retain the best agents possible, while establishing new performance measures that ensure agents are not ranked based on enforcement results or collections.

Mr. President, the issue comes down to trust. The people of this nation must be able to trust that their government will be fair, will be discreet, will be responsive. Taxpayers should not fear the very institutions that are supposed to be serving them. We must ensure that government works for people, not against them. We must end the abuses at the IRS.

The bill before us today will help restore taxpayer confidence in the system and rebuild the trust that has been eroded through years of egregious abuse. I commend the chairman of the Finance Committee for crafting and championing this legislation, and I urge my colleagues to join me in supporting it.

Mr. GORTON. Mr. President, like many of my colleagues who have spoken on the floor this week, I rise in strong support of the IRS Restructuring and Reform Act of 1998.

The Senate Finance Committee hearings about IRS agents and supervisors that are completely out-of-control, and who sometimes try to set up honest taxpayers in order to advance their own careers, has made it absolutely clear to every American that the structure and standard operating procedures of the IRS must be corrected—which is exactly what this comprehensive reform legislation will accomplish.

This bill creates an oversight board consisting of a majority of private sector members to set IRS policy and strategy, and a new independent Inspector General for Tax Administration in the Treasury Department who will be appointed by the President and confirmed by this Senate. The Taxpayer Advocate position, created in the Taxpayer Bill of Rights II in 1996, is expanded into a system of local Taxpayer Advocates that guarantees at least one advocate for each state in the union.

This legislation reverses the burden of proof from the taxpayer to the IRS, and allows for the awarding of attorney's fees and civil damages to taxpayers when they have been wronged by the IRS. Relief is also provided to "innocent spouses" who find themselves liable for taxes incurred by their spouse during a marriage.

Mr. President, this is by no means a comprehensive list of the reforms included in this legislation—it would not be possible to describe them all in the time I have to speak today. It has, in fact, been calculated that there are over 160 reforms to the IRS included in this bill—all with the goal of making the IRS more service oriented and friendly to American taxpayers. It is for the twin goals of IRS structural reform and the protection of innocent taxpayers that I will be voting in favor of this legislation.

Before concluding Mr. President, I must state that while I hail the Senate's consideration and certain passage of this IRS reform legislation, I believe that it only deals with the symptoms and not with the fundamental disease. The fundamental disease is the Internal Revenue Code written by Congress. The current code is so long, so complicated and so full of loopholes that it is literally out-of-control.

To deal with the disease, Congress is going to have to deal with the Code. We must either dramatically simplify it or, and this is my preferred course of action, we must repeal the Code lock, stock and barrel and start all over again. We must develop a tax system that is fair, easy for Americans to understand, requires far less money to enforce so that we can have a dramatically smaller IRS, and requires far less money to comply with in fees paid to lawyers and accountants.

I am absolutely convinced fundamental reform of the Code should be the primary goal of Congress. It is certainly the goal to which I have dedicated and will continue to dedicate my energy and attention.

Mr. BYRD. Mr. President, we have heard much in recent years of the horrors and abuses inflicted by the Internal Revenue Service (IRS) on the American taxpayer. I have little cause for doubt, Mr. President, that there lies a certain degree of verisimilitude in these allegations and, further, that the pending legislation represents a necessary and overdue effort to ameliorate these abuses. Certainly, a portion of the criticism directed at the IRS has been justly earned by the officials and employees who administer and work at the agency. If but half of the concerns raised during the Finance Committee's recent hearings on these IRS abuses are true, there is indeed an immediate and overwhelming need to reform and restructure the IRS. However, let us remember, Mr. President, that the task to which the Congress has assigned the IRS has never been nor will ever be a popular one. The simple fact that few people enjoy paying taxes leads logically to the presumption that they will not embrace the very agency charged with collecting their taxes.

Having said that, Mr. President, let me now turn my focus to the bill before us. As reported to the Senate by the Finance Committee, H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998, would significantly alter the management, oversight, and basic structure of the IRS as we know it. By creating an IRS Oversight Board, this legislation aims to provide the strategic oversight and guidance that has been deficient or lacking at the IRS in previous years.

As the National Commission on Restructuring the Internal Revenue Service concluded in its report to the Congress last year, the "problems throughout the IRS cannot be solved without focus, consistency and direction from the top. The current structure, which includes Congress, the President, the Department of the Treasury, and the IRS itself, does not allow the IRS to set and maintain consistent long-term strategy and priorities, nor to develop and execute focused plans for improvement."

Clearly, the drafters of H.R. 2676 have sought to provide the very "focus," "consistency," and "direction" that the IRS Commission concluded was necessary. I hope that the nine-member Board, as proposed, will be able to carefully and diligently clear a new path on which the IRS can tread the challenges that the 21st Century will bring as a more responsive, less intrusive federal agency that works for—not against—the millions of honest American taxpayers to whom we are all accountable.

With regard to the composition of this Oversight Board, I voted against two amendments this morning that would have either directly or indirectly removed the union representative from this Board because I believe that such representation is crucial on a Board that will have so much influence in the actual workings of the IRS and the 100,000-odd actual workers who carry out its many tasks. I also opposed an amendment to remove the Treasury Secretary from this Board because I believe that, for any such Board to be truly taken seriously and command attention, the chief executive officer of the Treasury Department—the Secretary—must be able to offer his or her unique perspective on various IRS issues through a position on the Board. Furthermore, by serving on this Board, the Treasury Secretary will help ensure that the recommendations thus produced are not ignored or disregarded by officials of the IRS.

Mr. President, I also want to convey my support for a number of other provisions of H.R. 2676. Specifically, I applaud the provisions of the bill providing for a National Taxpayer Advocate and an independent Treasury Inspector General for Tax Administration. The former office should help to better protect the interests of individual taxpayers who are often outmatched in their disputes with the IRS, while the latter will ensure that the office with responsibility for overseeing the IRS is independent of the agency itself. I further support the provisions of this legislation calling for increased use of electronic filing in the next ten years—the advent of electric filing technology cannot be ignored as we seek to find ways to make the IRS more responsive to the American taxpayer.

Mr. President, the bill contains many other taxpayer protections that I believe will improve the way the IRS works. However, let me express my concern about a provision in the funding offset amendment agreed to by the Senate yesterday, without my support. Last night, the Joint Committee on Taxation produced calculations predicting that, while this provision will raise approximately $10 billion in the next ten years and thus protect this bill from a PAYGO point of order, it will lose a net $47 billion in revenues over the next twenty years. Clearly, this is an attempt to back-load the true cost of a tax provision to circumvent a budgetary point of order, and I hope that it will be dropped in conference negotiations with the House.

Mr. President, my reservations about this particular provision of H.R. 2676 notwithstanding, I am prepared to support Senate passage of this important and much-needed legislation. As the elected officials of the people of the United States, it is our duty to ensure that the IRS—the very agency to which we have delegated authority to implement and enforce our constitutional prerogative to "lay and collect" taxes—does not harass, abuse, or otherwise place unnecessary burdens on the millions of honest, hard-working taxpayers to whom we are each accountable. This legislation, as a whole, represents a positive step in the direction of a more responsive, more accountable, and more efficient Internal Revenue Service that better serves the American people.

Mr. KERREY. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I had an amendment earlier that I had withdrawn that would increase the amount of oversight, or actually create in statute a requirement for annual hearings by the Finance Committee, and I would prefer to merely in a colloquy with the chairman of the Finance Committee get this matter settled without having to put it into law.

I would like to express again my concern and interest in making certain that congressional oversight is increased. I think it is a little bit like preaching to the choir here, asking this particular chairman to do it, but I would like to declare that I think we should be having a yearly hearing hosted by the Senate's Finance Committee with the IRS Commissioner, with the chair of the new oversight board created in this new law, the National Taxpayer Advocate, and the new Treasury Inspector General for Tax Administration; as the four witnesses. The purpose of the hearing would be to review overall progress by the IRS in serving the needs of taxpayers.

I would simply ask as part of this colloquy whether or not the chairman would be willing to hold such a hearing on a yearly basis?

Mr. ROTH. I say to the distinguished Senator from Nebraska that one of my real concerns has been that there has not been adequate oversight of IRS as well as other agencies. That is one of the things that got me moving a year ago, because I think, as the Senator, it is critically important that we assure the agency is functioning as the President and Congress intend it to function. That has not been the case with IRS.

So I can assure the good Senator that it is my intention to have continuing oversight hearings. I think it is important now that we are involved in this massive reorganization opportunity to change culture that we do have at least once a year, if not more often, the kind of hearing the Senator is talking about. We are all very pleased to have this new Commissioner. We think we have an individual with the type of qualifications and background that will really make a major change. At the same time, I think it is our responsibility to continue from time to time to hold hearings to see if progress is being made. So I assure the Senator that as long as I am chairman of the committee we will continue to do so.

Mr. KERREY. I thank the distinguished chairman of the Finance Committee.

Mr. President, I do believe in this kind of oversight where we ask four key people, three of whom are new creations under this law, to come and tell the oversight committee how well this new law is doing and if there is any additional changes in the law that are necessary.

Again, I appreciate very much the Senator's comments in this regard and will, once again, state my appreciation for the Senator's diligence and perseverance in making certain that IRS does the job the American taxpayers want it to do.

Mr. ROTH. Let me say, as long as the two of us are members of that committee, I am sure it will happen.

Mr. KERREY. I thank the Senator.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 2379

(Purpose: To provide interest payment exemption for disaster victims in the Presidentially declared disaster areas)

Mr. GRAMS. Mr. President, I would like to send an amendment to the desk that has been sponsored on our side by Senator COVERDELL and also my colleague from Minnesota, Senator WELLSTONE, and Senator BOXER of California. It is my understanding it has been cleared on both sides. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. GRAMS], for himself, Mr. COVERDELL, Mr. WELLSTONE, and Mrs. BOXER, proposes an amendment numbered 2379.

Mr. GRAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SECTION . ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 of the Internal Revenue Code of 1986 (relating to abatements) is amended by adding at the end the following:

"(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

"(1) IN GENERAL—If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

"(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996, with respect to taxable years beginning after December 31, 1996.

(c) EMERGENCY DESIGNATION.—

(1) For the purposes of section 252(e) of the Balanced Budget and Emergency Deficit Control Act, Congress designates the provisions of this section as an emergency requirement.

(2) The amendments made by subsections (a) and (b) of this section shall only take effect upon the transmittal by the President to the Congress of a message designating the provisions of subsections (a) and (b) as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act.

Mr. GRAMS. Mr. President, I want to say a couple words about the amendment and then also be joined by my colleague from Minnesota, Senator WELLSTONE, on this amendment.

It is very simple. It applies to residents or individuals, or I should say victims who live in disaster areas, those areas that have been declared disaster areas by a Presidential decree, either through flooding or tornadoes or whatever mishap it might be.

The basics of this amendment say that those people who have been granted an extension to file their income taxes, but under current law the IRS must still assess an interest payment on those taxes. This is adding insult to injury. These people who have no opportunity due to no fault of their own to file their taxes on time have been granted an extension period to get their taxes filed in good faith, and yet under current law we come back and say, well, that's fine and dandy, but we now have to assess you an interest on this. These individuals who are trying to rebuild and repair their lives need every dollar. Every dollar counts.

So the basic part of this amendment is very simple. It is that also we would, along with granting them an extension in order to file their income taxes, make an exemption for interest on those tax payments as well. So I hope that the Senate will consider this and give it its full support.

I would like now to defer to my colleague from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, let me ask unanimous consent that Senator CLELAND be also listed as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I am pleased to work with Senator GRAMS on this amendment. I thank both the chairman of the committee, Senator ROTH, and Senator KERREY for all of their help. This is very important to people. If you visit people in communities that have been devastated by tornadoes in our State, to be able to have forgiveness of interest on late payment of taxes is extremely important. It seems to be a little thing, but it is real important to people in our State.

It has been a pleasure working with Senator GRAMS on this. I think we have done well. This will help people in our State. We thank all of our colleagues for their assistance.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, this is a good amendment, and I urge its adoption.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I concur and urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2379) was agreed to.

Mr. KERREY. Mr. President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I commend both the chairman and the Democratic manager for their work on this bill over the last couple of days. I commend them for all that they have done. I think we will see a very strong vote as final passage is recorded this afternoon. It is largely to their credit.

I particularly want to commend my colleague Senator KERREY for the tremendous job that he has done over the course of now more than 12 months of work in an effort that has led to the point where we will pass what has been, at times, a very controversial issue. To see the overwhelming vote today is a tribute to him and to the leadership that he showed on the Commission and on the floor, and certainly in the committee.

While I have made no reservations about the difficulty many of us have with regard to the offset, an offset that I hope can be addressed in conference, an offset that will cost the Treasury and U.S. taxpayers some $46 billion—if it is possible to say "except for that," I will say: Except for that, this legislation is a major accomplishment that deserves the support on both sides of the aisle.

The other day, I was visiting on the Capitol steps with a group of high school students from Spearfish, SD. When I told them the Senate would vote this week on IRS reform, they actually burst into wild applause. That is not the usual reaction I get when I talk with people back home about what Congress is up to. So, today they will be pleased to learn that their cheers were heard and that we are changing the IRS as we know it.

Fortunately, the students didn't ask about the history of the IRS reform bill, because they already knew from their studies how a bill is supposed to become law. It might have been difficult to explain why this bill has taken such an unusual route.

We could have and should have passed IRS reform 6 months ago. The House did. They passed it 426 to 4 last November. The IRS reform legislation was the last thing we attempted to pass in the Senate last year and the first bill Democrats tried to pass when we reconvened in January. But in the last 6 months, between the time the House passed the bill and now, 120 million Americans filed tax returns without the benefit of the protections of this bill, 2 million taxpayers received audit notices, many millions more received collection notices, and not one of them had the protections of this bill either. That is unfortunate and, in my view, unnecessary.

But that is behind us. Despite the slow road this bill has traveled, I am glad that we are finally able to vote on it today. So are those high school students from Spearfish, whom I talked to out on the Capitol steps on Tuesday. So are America's 120 million taxpayers.

The bill fundamentally changes the management and operation of the IRS. I will support this bill because it will make the IRS more accountable to, and respectful of, taxpayers. It will help transform the culture of the IRS to make customer service a top priority, the same as it is in the best-run private businesses.

Charles Rossotti, the new IRS Commissioner, has created a plan to do all of that. This bill gives him the tools he needs to carry out that plan and really begin shaking things up within that very troubled agency. This bill creates an outside board of directors for the IRS, who will ensure that the agency adopts practices that restore the balance of power between law-abiding taxpayers and the IRS employees. It explicitly bans the use of tax collection quotas as a tool for evaluating the effectiveness both of individual IRS employees and of whole divisions within the agency. This is a big step in the right direction. From now on, tax auditors will now be judged by the quality of the service they provide, not the quantity of money they collect.

Make no mistake, tax cheaters cheat us all, and the IRS should enforce our laws to the letter. But the sort of heavyhanded tactics that have been used by the IRS against some private citizens and businesses should absolutely never be tolerated. Under this bill, they will not be.

One of the ironies about the 6-month delay is that, while we have more answers about some things, we are now faced with a bigger question that didn't exist back in November. Last year, the Congress made a stand for fiscal responsibility by enacting a plan that would balance the Federal budget for the first time in 30 years. Speeches extolling the virtues of fiscal restraint echoed through this Chamber. And I ask my colleagues, is this bill consistent with the spirit of last year's historic balanced budget agreement? Is it consistent with our commitment to use the budget surplus to save Social Security first? Regrettably, the answer, as I noted a moment ago, is no.

Since this bill left the House, its price tag has more than tripled, and instead of paying for the added costs, the Senate has chosen, as it did so often in the days before the balanced Budget Act, to fudge it. This bill plugs the deficit hole in the first 10 years by creating an even bigger one—an estimated $46 billion hole in the second 10 years. As if this were not irresponsible enough, it creates that deficit by providing a new tax break that can only be used by people making more than $100,000 a year.

We know from recent experience how hard it is to balance the budget. We know there is no free lunch. So, who is it that will end up paying for this smoke-and-mirrors gimmick? The 95 percent of Americans making less than $100,000 a year? That is who, unfortunately, will be left paying that bill—the same people who are depending upon these budget surpluses to preserve their Social Security and Medicare benefits in the next century. This bill was supposed to be about protecting taxpayers, not fleecing them when they are not looking or before they are even born.

I will vote for this bill because the IRS is in dire need of reform. We have kept the new Commissioner waiting long enough for the authority he needs to do the job. More to the point, we have kept the American people waiting long enough for a new and better IRS. But I implore our conferees, don't ignore the funding problem in this bill. Fix it, so that the bill provides protection for taxpayers in the fullest sense of the word.

The American people want us to make the IRS more accountable. This bill will do that. At the same time, we must remember there is another important issue the American people want us to address. That is: What are we going to do to help families earn more money and keep more of the money they earn? That is why those high school students from Spearfish cheered. They assumed that, by passing an IRS reform bill, we are doing something that will improve the financial circumstances of working families. That is what the people in South Dakota and across the country really want Congress to do. If we don't do that, any "bounce" we get from this bill will be very short-lived.

Last year, we agreed on a 5-year plan to balance the Federal budget and at the same time invest in the citizens and the future of this great Nation. We are now in the process of crafting a budget that is the first real test of our ability to live within that agreement. In the coming weeks, as we debate the budget, let us keep our word on education and on child care and on health care. Last year we lightened the tax load on middle-class families by creating a new $500 child tax credit and a $1,500 tax credit for college expenses. In the coming weeks, as we debate the budget, let us further that commitment to tax fairness, not walk away from it.

This year, for the first time in 30 years, we will actually have a balanced Federal budget. In the coming weeks, as we debate the budget, let us remember how hard it has been to eliminate the deficit and what good has come from this fiscal discipline. Let us do nothing that would send us back to where we were 5 years ago, when we were looking at $300-billion-a-year deficits for as far as the eye could see.

The IRS bill is long overdue, but it is only a start. What the American people also want us to do is, they want us to provide them with some assurance that if they work hard and play by the rules, they will be able to make a decent life for themselves and their families. So let us pass this bill. And, in what little time we have remaining in this Congress, let us work together to keep the commitment we made last year to the issues and the matters and the priorities that really can make a difference in people's lives.

If we do that, the next time one of us is visiting on the steps of the Capitol with some young people from our State, we will be able to tell them something else they can cheer a lot about.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator from Nebraska.

Mr. KERREY. Let me congratulate the Democratic leader for an excellent statement. I couldn't have said it better myself. He is right; we have an excellent piece of legislation here. The law, as we are proposing it, will dramatically improve the kind of service that taxpayers get, make the IRS much more efficient, and give people much more confidence in Government of, by, and for the people. But it does have a funding flaw. I intend to vote for this bill myself. I pledge to do what I can to make certain that we find a correction of that funding flaw.

Mr. President, 177,000 people, according to the Joint Tax Committee, will pay $50,000.

These are individuals who are 70 years of age or older who make over $100,000 in mostly retirement income. So they have to have well over $1 million in liquid assets and earning assets that are producing that kind of income.

What they are going to do is pay $50,000 per person in order to convert a current IRA that produces taxable income into an IRA that has no taxation on that income. What is very likely to happen is they will have their estates transfer it to their heirs who will not pay tax at all.

These are not people struggling to save money. There is no social benefit you can calculate here. As the distinguished Democratic leader said, it does provide $8 billion in the first 3 or 4 years. We are doing it in the second 5, so there is time to correct this problem.

As you get into the outyears, at the very time we are looking at the baby boomers retiring, what we are going to do about Medicare and Social Security, that is going to be the dominant question around here at that particular time. The cost of this program will widen up $2 billion, $3 billion, $4 billion a year. It is one of the things that looks good going in, because it looks cost free, but it certainly is not.

I appreciate very much the distinguished Democratic leader's statement. It is exactly what we need to be worried about as we head towards final passage of this legislation.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise today in support of this legislation. I compliment Senator ROTH and Senator MOYNIHAN, for having the most significant oversight hearings that we have had in this Congress, indeed for the last several Congresses. A lot of us have said we need to do better oversight, and we talked about it but we didn't do it. This is the case where the Finance Committee had the first serious oversight of the IRS in our history. It is long overdue, and it uncovered a lot of things. It uncovered ugly examples of Government abuse of power, Government abuse of power which should never have happened, which was exposed, and I believe with this legislation, we are going to help correct it and make sure it doesn't happen again.

I compliment Senator ROTH and Senator MOYNIHAN for those hearings. Those hearings were initially held in September, and then we had follow-up hearings just last month. Each additional set of hearings kept showing abuses that were even more outlandish than the ones before, culminated by the fact that one disgruntled IRS agent actually had tried to set up Senator Howard Baker, and a Congressman and a district attorney. Unbelievable; unbelievable abuse of power. I compliment our colleagues for the oversight hearings.

I also compliment Senator KERREY and Senator GRASSLEY for their work on a commission that helped give us some material to produce good reform. We had the hearings, and we also had legislative oversight and some work done through their commission to produce recommendations for a positive legislative overhaul. I compliment both Senator GRASSLEY and Senator KERREY for their fine work in doing that.

Also, I compliment our colleagues in the House. We had the hearings in the Senate in September, and our colleagues in the House passed IRS reform legislation on November 5. I disagree with my colleagues on the Democratic side who said, "We should have passed the House bill." Senator ROTH and some of us said we can do better than the House, and I think we have. The House bill was a giant step in the right direction, but we have done a lot more than the House did. The House did not have legislation to deal with innocent spouse issues, which we also had hearings on and which showed a lot of innocent spouses were abused by the IRS system. We are correcting that in this legislation.

We had a hearing in Oklahoma. It was the first IRS field hearing that we have had. It was one I found very interesting. We had Oklahomans who testified about some of the problems they had. As a result of their testimony, we made this legislation better. I will give a couple of examples.

We had Lisa New, who is a young lady from Guthrie, OK, testify. She was a pet groomer. She groomed pets. She was a school bus driver, and she was a single mother. She owed the IRS $4,000 in 1986. She found out about it and went to the IRS. She said, "I owe you this money. I would like to pay it off $100 a month." IRS said, "No, we want it all immediately." She couldn't pay it, so the IRS put a lien on her home.

Her debt to the IRS, as of last month, totaled about $30,000 of interest and penalties on an original $4,000 debt back in 1986.

In this legislation, we say that penalties and interest will not accrue to the deficiency if the IRS does not notify the taxpayer within 1 year. We also say the IRS will be required to adopt a liberal acceptance policy for offers in compromise. They clearly did not do that in this case. We also say liens would not be allowed if the original tax debt was less than $5,000. So we make some changes.

We had another case where an individual, whom a lot of people in this room might recognize—he is somewhat of a well-known Olympic athlete coach—Steve Nunno. He was coach of the U.S. Olympic gymnastics team, coach of Shannon Miller, a great all-American coach. He had a problem with the IRS. His business grew a lot, and he was making quarterly payments for payroll taxes. Then his business grew some more. Suddenly, he was supposed to make payroll tax payments monthly. He got a little bit behind. He recognized that. He said he was willing to work it out, and he worked it out with an agent. They signed an agreement that if he makes these payments of so much per month over this period, that would be acceptable.

Then the IRS changed agents. A new agent came in and said, "No, we want to be paid immediately, and if you don't pay up immediately, we're going to put a padlock on your business and put a lien on your business." He was traveling in Europe with the U.S. Olympians and his team, and he had an IRS agent threatening to close down his gymnastics business. It is absolutely absurd. He borrowed the money. He was able to pay it off.

We put in provisions to make sure that would not happen again. We now say that a taxpayer will be given the opportunity of a court hearing before liens, levies or seizures. He is going to have a chance to have a hearing. He is going to have an appeals process. Not a single agent is going to be able to come in and say, "I disagree with you; if you don't pay up by"—such and such a date—"we are going to padlock your business." We protect that taxpayer. We say the IRS can only seize the taxpayer's business or home as a last resort.

Unfortunately, we found out in Oklahoma and Arkansas as a result of our investigation that we had seizure rates in this district about eight times the national average, and we even found that there were incentives for employees to close those cases. "We don't care if you seize the assets, close those cases," and people would receive financial benefits. We stopped that in this legislation.

We also say that notices to taxpayers must include the name and phone number of the IRS contact. They will know somebody to call. They are not going to get the runaround and talk to 15 different agents when they are trying to deal with a case. We have that in this legislation.

None of that, I might add, was in the House bill. None of it was in the House bill. I can mention a couple others.

We had Dr. Jim Highfill of Ponca City testify. He is a dentist. He had IRS agents come into his office and announce that he was under investigation. We put provisions in this bill that says the IRS will be reorganized so that small businesses will only work with IRS employees specializing in small business issues. That will help solve some of these problems.

We also say IRS employees who disclose taxpayer information, such as notices of summons, will be subject to termination. The IRS agents came into his office and said, "We've got a summons for this dentist," in front of his patients to embarrass him, to intimidate him. We now make those agents subject to termination.

We found abuse after abuse, and we found IRS agents were not terminated. I will mention that most of the 102,000 IRS agents and employees are outstanding civil servants, but some have abused their power, and they should be terminated for that abuse of power. In almost every case we listened to, they were not terminated.

We also say that advice from a CPA to a taxpayer will be privileged the same as advice from a tax attorney. I could go on.

We put a lot of provisions in the Senate bill that were not in the House bill. We made it better. I wouldn't say it is perfect, but I think it is a lot better. There was a reason for the Senate to be a little more deliberate. It was the Senate that had the initial hearings. The House marked up the bill, and, again, my compliments to the House. Sometimes they do things a little more quickly, but sometimes we do them a little bit better.

This is a more thorough bill. This is a bill that has been researched better. We are solving more problems for taxpayers in this bill.

Finally, at the hearings that we had in the last couple of weeks, we heard different cases. In Texas, there was a business that had 32 employees, and 64 IRS agents raided the business. Their intent was to intimidate and abuse their power.

Or the case in Virginia Beach where an individual had a restaurant, a dozen or so IRS agents broke into his restaurant, his home, and his partner's home, broke his door down. They certainly abused their power. Agents who abuse their power should be terminated.

Or for example the investigation of Senator Baker and others, that was certainly abuse of power. Those people who supervised that IRS agent are also responsible, not just the bad apple in this case. He was eventually terminated because he was arrested for having cocaine in his car, not for the abuse of the investigation of a Senator, a Congressman, and a district attorney.

So not only should he have been disciplined, but his supervisor who did not corral him, after some very honest and good employees said, "Wait a minute; this investigation is going too far," and tried to stop it. Their supervisors did not discipline the person who was responsible. They should have been terminated. They should have felt the penalties for not reining in the IRS.

The IRS has been out of control. In many, many cases they abuse their power. So this bill is going to try to rein in the IRS, make the IRS more accountable to taxpayers, make sure that they understand the "S" in "Internal Revenue Service" stands for "service," that they are servants, that they work for the people, not the other way around, and that the people who are God-fearing and are willing to pay their taxes have nothing to fear of the IRS. They may have some disputes because of the complexity of the law, but if they are willing to pay their fair share of taxes, they are not trying to cheat the system, they should not fear the IRS gestapo-type tactics that we have heard about in recent weeks.

So I again want to compliment Senator ROTH and Senator MOYNIHAN, Senator GRASSLEY, Senator KERREY, and other people, who have worked to put together, I think, a very good bill, a positive bill, one that will be of real benefit to taxpayers and one that we can say, yes, we have done something positive, and we have worked together to make it happen.

I am pleased that now the President is supporting this bill. I might mention—I look at a statement from the Washington Post dated October 1, 1997. It says: President Clinton opposes legislative reform of the IRS saying, "I believe the IRS is functioning better today than it was 5 years ago."

He was speaking in reference to the Republican reform proposals. "We should not politicize it and we should not do anything that will in any way call into question whether it is evenhanded or fair in the future."

Originally, President Clinton was against this bill. Originally, Secretary Rubin was against this bill. I am glad they decided they would support the House bill. I am glad they have decided they would support the Senate bill. Both are good pieces of legislation. Both need to pass. Both need to become law.

Mr. President, again, I thank the sponsors and look forward to this becoming the law of the land. I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I gather we are waiting for one of our additional colleagues to complete one more item on this bill. I want to take the opportunity, if I can, to join my colleague from Oklahoma in commending the chairman of the committee—I see him now entering the Chamber here—and Senator ROTH, Senator MOYNIHAN, Senator KERREY, Senator GRASSLEY, and others from the Finance Committee who have been involved in producing this piece of legislation. I think this is going to carry overwhelmingly, maybe even unanimously. That is something we do not do that often around here. And that is a tribute to what I think more Americans want to see, and that is a sense of bipartisanship on issues like this.

This could have become highly controversial. But the fact that there has been such comity between the majority and minority I think has allowed us to produce the kind of legislation that we will be voting on shortly.

I am going to in a minute ask for the attention of the chairman of the Finance Committee because I want to raise an issue. And I will raise it and talk a little bit about it. Maybe he is going to go through his notes a little bit.

As our colleagues are aware, Senator BENNETT of Utah and I are chair and vice chair of this new special committee on the year 2000 problem, Mr. President. This is to deal with the computer glitch that now has received widespread publicity over the last number of weeks and is an issue that some raised several years ago in this country warning us of the problem we would face if we did not take care of the problems where on January 1, 2000, computer programs, instead of reading, "January 1, 2000," would read, "January 1, 00," and that would be computed by many to be "1900," not "2000."

It has been estimated that costs nationally and internationally could run anywhere from $300 billion to close to $2 trillion for this fix. Bob Rubin, the Secretary of the Treasury, has indicated that the fix at that Department alone, excluding, I believe, the Internal Revenue Service costs, is $1.4 billion just to become compliant with the year 2000 problem by September of next year, which is when the systems ought to be on line to be tested for 2 or 3 months before January 1, 2000, occurs.

There is an issue here that I believe the committee has tried to resolve. And my colleague from Nebraska, I know, is involved in this. And Senator MOYNIHAN, certainly, who is a member of our special committee, has also been involved in this. And that is so we don't find our reform efforts here running into the date problem of January 1, 2000. I would argue that that all of the problems consumers could face if the IRS were not compliant by January 1, 2000 are just as critical in many ways as the problems we are addressing today. That effort has been made in this bill to try to make sure that does not happen. And I gather further from talking with Senator BENNETT of Utah that provisions would be included that would allow for the Joint Taxation Committee to analyze what we are doing and that if, through the good efforts of the committee, it does not quite meet the needs, in conference we may have to move some dates a little bit.

I am not sure I am stating this very well at all. And I see the distinguished—either one of my two colleagues might want to respond, Mr. President.

Mr. KERREY. If the Senator would yield for a statement.

The Senator is exactly right. There is a tremendous problem with this Y2K issue, and that is going to be felt by taxpayers who are not going to get returns. They are not going to get refunds and not going to be able to deal with the IRS because the computers are not going to be able to function unless the Y2K problem is solved. And there is no margin for error; you cannot have it 99 percent, you have to have it 100 percent, or there will be far greater problems with the IRS than anything our oversight hearings and the Restructuring Commission hearings have identified.

I call to the Senator's attention—in fact, I think I should read it into the RECORD. Mr. Rossotti has, by the way, sent the Finance Committee a letter. Senator MOYNIHAN has an amendment that instructs us to delay some of the implementation, and I believe he is going to offer it later, and I think we have agreed to accept that amendment. I am not sure that solves the problem entirely. We have to talk to Mr. Rossotti about it. But let me read to the Senator what Mr. Rossotti said today, the IRS Commissioner said today, to the Ways and Means Committee. He said:

Finally, the Administration has serious concerns of the IRS restructuring legislation that require changes to IRS computer systems in 1998 and 1999. Mandating these changes according to schedule currently in the bill would make it virtually impossible for the IRS to ensure that its computer systems are Year 2000 compliant by January 1, 2000, and would create a genuine risk of a catastrophic failure of the Nation's tax collection system in the year 2000.

Mr. President, I say to the Senator from Connecticut, my hope is that the changes that we are going to make in a few minutes, that Senator MOYNIHAN and Senator ROTH and you and Senator BENNETT have called to our attention, I hope that gets the job done.

I think in conference we are going to have to listen to Commissioner Rossotti very, very carefully, because there is no question, if we do not get this thing fixed right, the problems that will be created by not being Y2K compliant will be much, much greater than any of the problems we currently have with the IRS.

Mr. DODD. I thank immensely my colleague from Nebraska for his comments. I do not know if I phrased this in the form of a question—sort of a statement I have made about my concerns about this.

I know the Senator from Delaware, Mr. President, shares these concerns. And he has been working with Senator MOYNIHAN, his ranking Democrat on this committee, to try to address this. And maybe he would care to comment as well as to where we stand with this.

Mr. ROTH. I think, I say to the distinguished Senator, that we are all very concerned about this problem of the year 2000. We must solve it. We have no alternative. We have no choice. So we are all going to work to accomplish that.

At the same time, it is critically important that we move ahead, bringing about the kind of reforms we have been debating and talking about this week. Neither one has to take a back seat. We want to move forward together. I assure you that we have been working with Senator MOYNIHAN, with Commissioner Rossotti, as well as Joint Taxation. And Senator MOYNIHAN will be offering an amendment that will address some of the concerns you are raising.

This is going to be an ongoing process. As time moves on, we may have to adjust, because we are going to make certain, as the committee with oversight responsibility, that this agency meets its obligations.

Mr. DODD. Mr. President, I thank my colleague and distinguished chairman of the committee for that point. I say we have just begun this special committee's work. We have not even had our first meetings yet. This body only authorized the expenditure of funds for this committee a few weeks ago. And there are seven of our colleagues, seven of us, who will serve on this select committee—four members from the majority and three from the minority, with Senator BENNETT of Utah chairing the effort.

We think it is an important issue that must be resolved. This committee obviously has to go forward with its reform package. And I just wanted to make sure we are on record here as saying this is a very critical issue, as the Senator from Nebraska has pointed out. This is one where you can't say we will fix it the second week in January or we will fix it in February of the year 2000. The IRS will have to be compliant and the Treasury will have to be compliant or we will have a huge mess on our hands.

AMENDMENT NO. 2380

(Purpose: To provide effective dates which allow the Internal Revenue Service to implement changes to the tax code and to meet the year 2000 computer conversion deadline)

Mr. DODD. Mr. President, if it is appropriate, I send an amendment to the desk to be offered by Senator MOYNIHAN, and I will send it on his behalf. Senator KERREY and I leave it open for others. Maybe Senator ROTH and Senator BENNETT may want to be part of it. I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. MOYNIHAN, for himself, Mr. ROTH, Mr. BENNETT, Mr. KERREY, and Mr. DODD, proposes an amendment numbered 2380.

Mr. DODD. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 308, line 12, insert "the 2nd and succeeding" before "calendar quarters".

On page 309, lines 7 and 8, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 343, line 24, insert:

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except for automated collection system actions initiated before January 1, 2000.

On page 345, lines 6 and 7, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 351, lines 13 and 14, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 6 and 7, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 9 and 10, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 16 and 17, and insert:

(B) December 31, 1999.

On page 362, lines 12 and 13, strike "the 60th day after the date of the enactment of this Act" and insert "December 31, 1999".

On page 382, line 2, strike "60 days after the date of the enactment of this Act" and insert "January 1, 2000".

On page 383, line 14, insert ", except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999" after "Act".

Mr. DODD. Mr. President, the distinguished majority and minority have worked on this over the last number of days. I will let them speak for themselves as to their endorsement of it.

I appreciate the chairman's efforts in this regard. I am heartened by his comments that we will have to watch this, our little committee will, and we will keep the Finance Committee well informed. If we discover something, we will let you know very promptly if some other remedial legislative action may be necessary for us to respond to this issue. This will be true of other committees, as well, I say. This is a tremendously serious issue.

I see my colleague from Georgia has arrived on the floor, and I know Members want to move along. I am deeply grateful to the chairman and to the ranking minority member and to others for allowing us to offer this amendment. We think it will solve the problem raised here, that will minimize the dangers to the Treasury Department and the IRS noncompliance as we push reforms forward and find a crashing of the system, which, as the Senator from Nebraska has pointed out, would be, frankly, far more injurious than any of the problems we presently have. As bad as the current problems are, a total system crash would be an equally serious problem.

I will also offer some overall remarks about the bill, which the distinguished manager and others have presented with us this afternoon. I intend to support it, and I thank them for their efforts. As soon as I have concluded those remarks, I will yield the floor and allow the distinguished chairman and ranking member here, and others, to offer whatever comments they want on this amendment and thank them.

Mr. President, I commend my colleagues on the Senate Finance Committee, especially Chairman ROTH, Senator MOYNIHAN, and Senator KERREY of Nebraska for bringing this bill to the floor. It takes an important step forward in the effort to protect the rights of our nation's taxpayers.

The IRS is an agency under widespread, deeply felt, and entirely justified criticism. In my view, the bill before us today is perhaps one of the most critical the Senate will vote on this session.

It is no secret that the IRS has come under fire lately from taxpayers who, in their dealings with the agency, have experienced anger, frustration, and despair.

The hearings conducted by the Senate Finance Committee have highlighted some of the problems at the IRS, including shoddy management, poor taxpayer service, and in some cases, reports of taxpayer abuse by IRS employees.

No one likes to pay taxes, but taxes are a fact of life in a civilized society. Most Americans accept that fact.

What really gets people, however, is when personnel at the agency that collects their taxes treats them with disrespect and carelessness.

No one deserves such treatment.

I have heard from many Connecticut constituents about what they feel is unhelpful, unreasonable, and sometimes downright unpleasant treatment by officers of the IRS.

I've heard stories from them about calls that aren't answered, and about calls that are bounced from one person to the next, so that they never find a real answer to their questions, or receive any type of guidance or support.

I've heard about the nightmare of the IRS losing taxpayer's checks, and then charging them interest and penalties on the very funds that the agency lost.

The list goes on and on, Mr. President, and the more people you talk to, the more nightmares you hear.

Every citizen who pays taxes has a right to be treated fairly, and treated as innocent until proven liable for failing to meet their legal responsibilities. Although we have taken several steps in this regard in the last few years, there is still more that can be done, and that is why I support the bill before us today.

This legislation aims to transform this agency into an institution that provides efficient and fair service, yet still has the ability to effectively collect revenues.

The bill includes a number of important provisions to help America's taxpayers.

First, the legislation would shift the burden of proof away from the taxpayer, and expand the ability of taxpayers to recover costs and litigation fees. These provisions will help ensure that the IRS exercises appropriate caution and consideration prior to commencing enforcement action against any taxpayer. For too long we've seen a "shoot now, ask questions later" approach to enforcement by the IRS. These provisions are designed to see that the agency does its homework before taking any action.

Secondly, it would establish a new IRS Oversight Board made up of six members from the private sector, the IRS Commissioner, the Secretary of the Treasury, and a member from an employee organization that represents a substantial number of IRS employees. This board would, among other things, review the operations of the IRS to ensure that our nation's taxpayers are properly treated.

Third, this bill would establish the position of the National Taxpayer Advocate who would have a background in customer service and tax law, as well as experience representing individual taxpayers to further ensure that taxpayers are treated fairly and that their rights are not violated. In addition, the bill would create a system of local taxpayer advocates thereby making the IRS more accessible and responsive to taxpayers on a local level.

Fourth, this legislation would provide so-called innocent spouses with a measure of relief by allowing taxpayers to elect to limit their liability to the tax attributable to their income only. I'm sure that many of my colleagues have heard stories similar to those I've heard in Connecticut, about people who have become financially wiped out when they find themselves liable for taxes, interest, and penalties because of actions by their spouse of which they were unaware. The innocent spouse provisions would help prevent such scenarios from occurring in the future.

Fifth, this bill would require the IRS to provide taxpayers with better information regarding taxpayer rights, potential liabilities when filing joint returns, and the appeals and collections process, and would extend the attorney-client privilege confidentiality to any individual authorized to practice before the IRS, including certified public accountants, and enrolled agents and actuaries.

This legislation also includes a number of provisions designed to give the IRS Commissioner flexibility to make structural and personnel decisions in order to attract expertise from the private sector, redesign its salary and incentive structures to reward employees who meet objectives, and hold non-performing employees accountable. Furthermore, it requires the IRS to terminate employees for certain proven violations, chief of which are actions that mistreat taxpayers.

Finally, while this bill gives a degree of flexibility to the IRS to make reforms internally, it also makes sure that there remains a measure of Congressional accountability by requiring the IRS Commissioner to report annually to Congress.

Obviously, Mr. President, the IRS is in need of dire reform and we must hold it to the highest standards of efficiency and competence.

And, while I acknowledge and applaud the good work Commissioner Rossotti has already put forth to turn this agency around, it is clear that there is much left to be done.

The legislation before us today, which enjoys broad, bipartisan support, is a tremendous step forward in our effort to protect the rights of our nation's taxpayers, and we owe it to them to pass this bill favorably. I urge my colleagues to join me in supporting the IRS Restructuring and Reform Act of 1998.

Mr. MOYNIHAN. Mr. President, January 1, 2000 is just over 600 days away. The century date change, or Y2K for short, is a matter of large and serious consequence. In testimony before the Senate Commerce, Committee, Federal Reserve Board Governor Edward Kelley Jr. estimated that U.S. businesses will spend at least $50 billion on Y2K conversion, with the worldwide repair cost potentially exceeding $300 billion.

The century date change is also an issue of surpassing difficulty for the Internal Revenue Service. IRS Commissioner Charles Rossotti recently stated in a USA Today interview:

> The most compelling thing by far is fixing the computers so they don't stop working on Jan. 1, 2000. . . . If we don't fix (them), there will be 90 million people 21 months from now who won't get refunds. The whole financial system of the United States will come to a halt. It's very serious. It no only could happen, it will happen if we don't fix it right.

In testimony before the Finance Committee last year, Linda Willis of the General Accounting Office suggested that "the IRS [may be] the largest civilian year 2000 conversion, at least in the country, and possibly in the world." She also testified that the Y2K problem could be "catastrophic" if not addressed.

The century date change is the highest technology priority at the IRS; more than 550 employees are at work on Y2K conversion-related activities. The IRS will spend approximately $1 billion to become Y2K compliant.

Unfortunately, the IRS has begun to experience complications in its Y2K conversion efforts. On January 23, the Associated Press reported that "about 1,000 taxpayers who were current in their tax installment agreements were suddenly declared in default," caused by "an attempt to fix a Year 2000 issue in one of the IRS computers."

In addition, last year's Taxpayer Relief Act included hundreds of changes in the tax laws, requiring diversions of scarce IRS computer programming resources and causing a 3 month delay in the Agency's Y2K efforts.

The Y2K problem is more complex than it may seem. The IRS computers are outdated; the reprogramming must be done in obsolete computer languages that are no longer taught in schools.

Mr. President, it was with these challenges in mind that Senator KERREY and I offered this amendment to briefly delay some of the effective dates in the Finance Committee's IRS Restructuring legislation in order to allow time for the Y2K conversion to be completed. This amendment has been drafted based on Commissioner Rossotti's recommendations, and has been modified after consultations with the Majority.

The amendment would delay the effective date on a list of provisions from date of enactment until after the century date change.

Regrettably, we were unable to reach agreement with the majority on additional effective date delays that Commissioner Rossotti has recommended. I fear we will come to regret this.

Mr. President I hope that in conference we will examine these effective dates again, and that we will agree to change those that risk interfering with Commissioner Rossotti's Y2K conversion program. I thank the chair and yield the floor.

Mr. ROTH. Mr. President, I rise in order to accept this amendment—which deals with the effective dates of many of the provisions in the IRS Restructuring Bill.

As I have stated before, this legislation has three main purposes—first, to reorganize, restructure, and re-equip the IRS to make it more customer friendly in its tax-collecting mission; second, to protect taxpayers from abusive practices and procedures of the IRS. And third, to deal with the management problem and misconduct of some IRS employees.

In order to accomplish these goals—to bring about fundamental reform, we are enacting numerous provisions. Some of those provisions will require the IRS to undergo significant reprogramming of its systems; some of them can be accomplished with little burden.

I recognize that the IRS needs to continue to function at the same time that it makes these important changes. The IRS also needs to deal with massive computer reprogramming brought about by the century date change—the so called "year 2000 problem."

It is not my intention to impose unreasonable effective dates on the IRS. At the same time, I recognize that sometimes we need to push the IRS, to prompt it to make changes. We should not simply defer to their assessment that they will be unable to accomplish the goals we have set.

On April 23, Commissioner Rossotti expressed his concern that the effective dates in our bill could severely impact the ability of the IRS to deal with the year 2000 computer problem. I understood his position.

Nevertheless, I believed then, and I believe now, that justice delayed is justice denied. Many of the reforms in our bill are long overdue. Taxpayers have already been waiting for them for a long time. Innocent spouses should not have to wait any longer for relief. Taxpayers in installment agreements should not have to wait any longer for reduction of their failure to pay penalty. Taxpayers subject to IRS audits should not have to wait any longer for the IRS to complete its business.

To find a middle ground, I asked the staff of the Joint Committee on Taxation to meet with representatives of the IRS in order to discuss the impact of the effective dates. Joint Tax did so, and on Tuesday, May 5, they provided Senator MOYNIHAN and me with their recommendations.

Joint Tax recommended that many of the effective dates remain the same, but that some others be delayed.

This amendment adopts most of the recommendations made by Joint Tax. Specifically, the amendment does not delay the effective date for the major taxpayer protections in the bill.

The amendment does not delay innocent spouse relief—in other words, as of the date of enactment of this bill, innocent spouses will no longer suffer under the burden of paying for their spouse's tax fraud.

The amendment also does not delay due process for taxpayers—meaning that among other things, taxpayers will receive rights of appeal and rights of notice before their property is seized. These are fundamental rights that we should get to taxpayers as soon as possible.

The amendment also does not delay what we have referred to as the one year rule. This means that effective next tax year—1998—taxpayers will know that the IRS has one year to tell them whether they owe any additional tax. If the IRS is delinquent, all interest and penalties on that additional tax will be suspended until the IRS gets its act together and notifies the taxpayer of the deficiency.

The amendment also does not delay what we refer to as cascading penalties. That means that taxpayers can designate which period their deposits are applied to, and can avoid the situation where a taxpayer is making payments, but nevertheless, accruing penalties even faster.

I have said already, these reforms are long overdue. Our guiding principle should be rapid relief for American taxpayers—for the individuals who have suffered long enough because of the practices and procedures of the IRS. This bill is all about taxpayer protections. We should deliver those protections to taxpayers as soon as possible.

I note that President Clinton recently stated that these reforms should be enacted as soon as possible. I assume that he did not mean that the law should go into effect two years from now.

Mr. President, this bill is also about changing the culture of the IRS. Under Chairman Rossotti's leadership, that had already begun. We expect that to continue. The fact that we are accommodating some of the IRS' requests and delaying certain effective dates should not be taken as a sign that we are not serious about reforming the agency. On that subject, let there be no mistake. This bill will bring about fundamental change at an agency that is in dire need of such change. We expect the IRS to improve its service—to change its culture—to be more responsive to taxpayers—at the same time that it implements its system changes.

For those reasons, Mr. President, I will accept this amendment.

Mr. DODD. I have been informed by my colleague from Utah, Senator BENNETT, chairman of the select committee of the year 2000 problem, would like to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, the amendment is acceptable on this side. It was Senator MOYNIHAN's amendment initially. I urge its adoption.

Mr. ROTH. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2380) was agreed to.

Mr. DODD. I move to reconsider the vote.

Mr. KERREY. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. I ask unanimous consent when Senator COVERDELL offers an amendment regarding random audits, there be 15 minutes equally divided for debate on the amendment. I further ask unanimous consent following the expiration or yielding back of time, the Senate proceed to vote on or in relation to that Coverdell amendment. Further, that no amendments be in order to the Coverdell amendment prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, reserving the right to object, does this proposal preclude the consideration of any further amendments before third reading?

Mr. ROTH. Senator COLLINS has an amendment.

Mr. COCHRAN. I withdraw my reservation.

Mr. KERREY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. I do not object to the unanimous consent request of the Senator from Delaware, Mr. ROTH.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

The Senator from Georgia is recognized.

AMENDMENT NO. 2353

(Purpose: To amend the Internal Revenue Code of 1986 to prohibit the use of random audits, and for other purposes)

Mr. COVERDELL. I call up amendment 2353, which I believe is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL], for himself, Mr. COCHRAN, Mr. FRIST and Mr. HAGEL, proposes an amendment numbered 2353.

Mr. COVERDELL. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 342, after line 24, add:

SEC. 3418. PROHIBITION OF RANDOM AUDITS.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses), as amended by section 3417, is amended by adding at the end the following new subsection:

"(f) LIMITATIONS OF AUTHORITY TO EXAMINE.—

"(1) IDENTIFICATION OF PURPOSE AND BASIS FOR EXAMINATION REQUIRED.—In taking any action under subsection (a), the Secretary shall identify in plain language the purpose and the basis for initiating an examination in any notice of such an examination to any person described in subsection (a).

"(2) RANDOM AUDITS PROHIBITED.—The Secretary shall not base, in whole or in part, the initiation of an examination of a return under subsection (a) on the use of a statistically random return selection technique from a population or subpopulation."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to examinations initiated after April 29, 1998.

Mr. COVERDELL. Mr. President, I am going to be brief. This amendment is designed to end random audits. The IRS said they did not do them. I was suspicious. GAO says they do.

The GAO tell us 95 percent of the random audits today are focused on poor people, and there are a disproportionate number of them in the South and in my State. I don't believe it is the American way to have random audits. There is nothing in the return that suggests anything wrong and yet, bang, you spin a roulette wheel and out you come and they are in your face. It is unconscionable that they are in the face of poor people who are least equipped to deal with it.

The GAO says to end these random audits would deny the Federal Government a precious $2.8 million. Late this afternoon, the Joint Tax Committee has said it would cause revenues of $1 billion a year.

This is why people are so upset with this city, the gamesmanship that has to be played in order to correct something that is absolutely wrong. The rules are working against me tonight but I will be back. This GAO report shows conclusively that something needs to be done. We will have our vote tonight. In deference to everybody's time, I won't belabor it.

I believe the Senator from Mississippi would like to speak on this from our time, and I yield to the Senator from Mississippi.

Mr. COCHRAN. Mr. President, when the distinguished Senator from Georgia brought this problem up and I had a chance to look at some of the information, the GAO audit showed there are 3,000 audits of this kind performed each year. Of those audits, the report showed that 47 percent of them took place in Southern States.

I looked further and saw that the GAO found that there were more random audits that took place in my State of Mississippi than in all of the States of New England combined. I couldn't believe that. I wondered why on Earth is that and then we find out that it is the working poor who are being targeted by these random audits.

The numbers are just startling. Between 1994 and 1996, 94 percent of random audits were performed on individual taxpayers who earned less than $25,000 per year. If you think about that, these are people who probably don't normally retain a lawyer or maybe even a CPA or other tax advisor in the preparation of their audits.

So what the amendment would do, which I cosponsor with the Senator from Georgia, is to require the IRS to give notice of why they are conducting an audit of taxpayers like this. It raises a question of just obvious unfairness. On its face, it is unfair and it ought to be changed.

Mr. KERREY. Mr. President, I think the distinguished Senators from Georgia and Mississippi have identified a problem, a dilemma we all face from time to time. We sometimes get a score back from Joint Tax that seems much higher than is logical, and that is what happened in this case. So there will be a point of order that will have to be urged against this amendment as a consequence of violating the pay-go provisions of the Budget Act, section 202.

I regret that because I believe the Senators from Georgia and Mississippi have identified a legitimate problem. I am frustrated myself in not being able to deal with it in a more orderly fashion. It is something the Finance Committee needs to take up and hold hearings on, ask the IRS to come and tell us what they are doing in this case.

It seems to me that both the Senator from Georgia and the Senator from Mississippi have identified a problem, and it is very difficult to defend the IRS behavior in this case. I appreciate them bringing it to our attention. I regret that you find yourselves, as many of us have before, in the situation where you get a score back from the Joint Tax Committee that seems, to say the least, a bit higher and that provokes, as a consequence, a point of order.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I had not intended to speak on this amendment, but I did want to speak in wrap-up on the bill itself, and also to notify the Members of what the schedule would be. This seems like a good time to do all of them because I have been inspired to want to speak on this amendment.

I want to associate myself with the remarks of the Senator from Georgia, and especially my colleague from Mississippi. This is totally outrageous that this kind of random audit is going on, and the people who are getting the brunt of it are the people at the low end of the scale, from a poor State like my own State of Mississippi.

As a matter of fact, I believe we first got the inkling that this was going on at hearings last fall when we had hearings in the Finance Committee, because I remember being struck by the fact that States like Mississippi and Idaho were the ones that had a disproportionate share of these random audits.

I think a great job has been done on this bill, and there has been bipartisan input. But this is an unfairness that cannot be allowed to go on. I am going to support this amendment. I realize it is going to be difficult, under the circumstances. But I plead now with the chairman and the ranking member to get into this because we cannot allow this to continue. It is just another example of the type of thing going on at the IRS that I think Senators and the American people, frankly, as a group, have been shocked to learn from the hearings that we had, and as we are finding out more information. I commend the Senator for his amendment. I call upon the committee to do more on this and to work to make sure the IRS stops this kind of conduct.

ORDER OF PROCEDURE

Mr. President, for the information of all Senators, so they will have a feel for what is going to be happening in the next few minutes, I believe this will be the last vote on an amendment. Shortly, we will be going to final passage on the IRS restructuring and reform bill—hopefully, within the next few minutes. That will be the last vote of the day when we get to final passage. The Senate will be in session tomorrow for morning business speeches, confirmation of some Executive Calendar nominations, and the entering into of several time agreements with respect to energy legislation. However, no votes will occur during Friday's session of the Senate.

On Monday, May 11, the Senate will consider a conference report, along with, hopefully, at least three of the so-called high-tech bills. We are working through the process now to clear those. The three we are looking at on Monday are the S. 1618, an antislamming bill; S. 1260, a uniform standards bill; S. 1723, skilled workers legislation. The Senator in the Chair has been encouraging that. We are "hotlining" to get those clear.

However, because of a particular problem with one of our Senators who has had a death in the family, we will not have any recorded votes during Monday's session of the Senate. But there will be business on probably at least four major items. The Senate will also begin consideration of Calendar No. 345, S. 1873, the missile defense bill, which will be offered by the Senator from Mississippi, Senator COCHRAN.

On Tuesday, the Senate will attempt to reach a time agreement on the D'Amato bill regarding in-patient health care for breast cancer, and resume and complete action on any of the high-tech bills not completed on Monday. Any votes ordered Monday will be postponed, to occur on Tuesday, May 12, at approximately noon. The latter part of next week, we expect to call up the DOD authorization bill.

I want to thank my colleagues for their cooperation in lining up this schedule. Senator DASCHLE has been very helpful. Also, I thank our colleagues for the cooperation they have given us on the important legislation that is before us. I thank Senator ROTH for his determined leadership on this very important effort of reform and restructuring of the IRS. Others were prepared to rush to judgment, but he said, no, there is more to be done, there is more to know and more work that we need to do on this important legislation. He persisted and he was right. We have learned more and we have a better bill. I appreciate the cooperation of Senator MOYNIHAN. Senator KERREY has been very much involved, and I am glad that we have reached a conclusion. The American people expect this. There is no issue now. I find, when I go to my State, or others, nothing gets people more upset than what they have experienced in dealing with the IRS.

Do they have an important job to do? Yes. Are there a lot of IRS agents who do good work and don't like the intimidation and threats and coverups going on there because of the misconduct? Yes, there are good people there. But we have to stop the culture of intimidation, and we have to shift the burden to the IRS, away from the taxpayer. We have to stop some of the payments that they are having thrust upon them. We have to stop a system that protects workers at IRS that misbehave.

I think this bill will be a major step in that direction. It may not be enough. This may be just the third in the Taxpayer Bill of Rights. There may have to be a fourth and a fifth. But the Senate, the Congress cannot let up. So I am pleased that we are going to bring this to a conclusion this afternoon. I thank all the Senators who have been involved in this effort.

I yield the floor.

Mr. KERREY. Mr. President, does the Senator from Georgia have any final statements?

Mr. COVERDELL. No.

Mr. KERREY. According to the Joint Tax, as a consequence of the broad nature of the prohibition of random audits, I believe this may end up being the language:

> The Secretary shall not use, in whole or in part, in the initiation and examination of a return, under subsection (a), the use of a statistically random selection technique for the population of subpopulation.

Random audits can work. In this case, the Senator from Georgia and the Senator from Mississippi have identified a problem with random audits, and the problem is, if you throw them all out, it is a big cost—Joint Tax says a billion dollars a year. So when all time is yielded back, I am prepared to make a point of order against the amendment.

Mr. COVERDELL. Mr. President, let me simply say that the incongruity cannot be more clear that the agency says it doesn't do random audits; yet, if they are prohibited, it would cost a billion dollars a year. We have a problem we have to iron out here. As I said, GAO said it is $2.8 million. In deference to everybody's schedule here, I am prepared to respond to the motion from the Senator from Nebraska.

Mr. KERREY. Mr. President, to be clear, so Members understand, the IRS uses random audits for noncompliant taxpayers. We heard this problem a bit as well during the National Commission on Restructuring. A lot has to do with the ITC, and the effort we have had underway for several years is appropriate. But the effort that we have had to go after fraud under the ITC is producing a tremendous amount of problems. We regard noncompliance to be noncompliance, whether it is high income, middle income, or low income. If you have a noncompliant person in ITC, you are doing a random audit. So I believe that may be the problem.

Again, I pledge to the Senators from Georgia and Mississippi that this is something our committee needs to follow up on. It needs to follow up and find out what the details are. As I said, I regret that at some point, when time is yielded back, I will make a budget point of order.

Mr. COVERDELL. I yield back all time.

Mr. KERREY. Mr. President, I make a budget point of order that the amendment violates the pay-go provisions of the budget resolution.

Mr. COVERDELL. Mr. President, I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that the pending motion be laid aside and a vote occur on or in relation to the amendment at a time to be determined by the majority manager after notification of the Democratic manager, with no amendments in order.

Mr. COVERDELL. Mr. President, will the Senator explain to me the consequence of the unanimous consent? In other words, when will the vote on the motion to waive the point of order occur?

Mr. ROTH. We have one further amendment that I am aware of and some close-up business. But then we would have the vote on the motion as the final vote.

Mr. COCHRAN. Mr. President, reserving the right to object.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, may I ask the manager of the bill whether or not this unanimous consent request would preclude raising another amendment other than the one that the distinguished Senator from Maine is going to raise prior to third reading?

Mr. ROTH. The answer is no.

Mr. COCHRAN. I withdraw my reservation.

Mr. KERREY. Mr. President, may I ask the distinguished Senator from Mississippi is he referencing an amendment that was included in the earlier unanimous consent, or is he talking about adding an amendment that was not included in the unanimous consent.

Mr. COCHRAN. Mr. President, my purpose is to raise an issue that I gave to the managers of the bill earlier. It relates to an amendment that I proposed to offer and was hoping that the managers would be able to accept.

Mr. KERREY. Mr. President, we have a problem here then, because this would require a unanimous consent to add an additional amendment that was not on the earlier unanimous consent request.

The PRESIDING OFFICER. There is a unanimous consent request before the body. The Chair asks if there is objection raised?

Mr. KERREY. Is the unanimous consent request to add an additional amendment?

Mr. ROTH. No.

The PRESIDING OFFICER. The unanimous consent is to set aside the motion to waive for the consideration of another amendment prior to the vote.

Is there objection?

Mr. ROTH. In other words, the purpose is to stack the votes.

Mr. KERREY. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. ROTH. Mr. President, I think the distinguished Senator from Maine now seeks recognition.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 2381

(Purpose: To amend the Internal Revenue Code of 1986 to modify the reporting requirements in connection with the education tax credit)

Ms. COLLINS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine (Ms. COLLINS), for herself, and Mr. DEWINE, proposes an amendment numbered 2381.

Ms. COLLINS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle H of title III, add the following:

SEC. . REPORTING REQUIREMENTS IN CONNECTION WITH EDUCATION TAX CREDIT.

(a) AMOUNTS TO BE REPORTED.—Subparagraph (C) of section 6050S(b)(2) is amended—

(1) in clause (i), by inserting "and any grant amount received by such individual and processed through the institution during such calendar year" after "calendar year",

(2) in clause (ii), by inserting "by the person making such return" after "year", and

(3) in clause (iii), by inserting "and" at the end.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed with respect to taxable years beginning after December 31, 1998.

Ms. COLLINS. Mr. President, Senator DEWINE and I are offering an amendment to reduce some of the burdensome reporting requirements placed on educational institutions by the Hope Scholarship and Lifetime Learning Tax Credits.

These education tax incentives, which Congress created last year, are of great benefit to students and their families. Unfortunately, our attempt to expand educational opportunities has had the unintended effect of imposing a burdensome and costly reporting requirement on our post-secondary schools.

Beginning with tax year 1998, every college, university, and proprietary school will have to provide the IRS with an array of information that will do little, if anything, to assist in tax collection. Not only will these schools have to report Social Security numbers and the amount of qualified tuition and aid for each student, the schools will also have to report to the IRS on the students' attendance status and program level.

But that is not all, and the reporting requirements do not stop there, Mr. President. The schools will also be required to report either a taxpayer ID number or Social Security number for the person who will claim the tax credit—generally a parent or a guardian—for all students who do not claim the tax credit themselves.

This administrative nightmare translates into real money.

The American Council on Education has estimated that this reporting requirement will cost our colleges and universities $115 million in 1998 and $136 million in 1999.

Mr. President, I ask unanimous consent that a letter from the American Council on Education relating to the results of its cost survey be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN COUNCIL ON EDUCATION,
Washington, DC, April 22, 1998.

Hon. SUSAN M. COLLINS,
U.S. Senate, Washington, DC.

DEAR SENATOR COLLINS: Thank you for your leadership in addressing the reporting requirements imposed on colleges and universities by the education tax provisions established by the Taxpayer Relief Act of 1997.

The benefits of the Hope and Lifetime Learning tax credits to individual taxpayers and to the nation's human capital will be enormous. However, the costs imposed on colleges and universities to collect and report data to the federal government on the estimated 25 million individuals who are eligible for the credits will be exorbitant.

As you may recall, the higher education community formed a task force comprised of campus officials and staff from nine associations to analyze and document the full extent of the burden these regulations pose. Chaired by James E. Morley Jr., president of the National Association of College and University Business Officers (NACUBO), this task force asked institutions to prepare cost estimates for compliance with the reporting requirements based on a standard template prepared by NACUBO.

Our initial estimates indicate that the aggregate costs to colleges and universities of complying with the Taxpayer Relief Act reporting requirements will be approximately $115 million for tax year 1998 and $136 million for tax year 1999. The average cost of compliance increases in tax year 1999 because of an increase in the number of students benefiting from the tax credits.

When broken down on a per student basis, these costs translate into $3.41 per student record for 1998, and $2.90 per student record for 1999. These costs account for resources required to obtain student data, file information returns, integrate student data, respond to questions, and for 1999, to obtain, process, and maintain information on individuals certified by students as taxpayers who will claim a tax credit.

The per student average camouflages the tremendous variation in compliance costs among the nation's 6,000 institutions of higher education. The per student cost is estimated to be as low as $1.40 at one research university and as high as $21.00 at another institution. These variations are attributable to the number of students enrolled and the sophistication of campus information systems. The California Community College system, for example, which is comprised of 107 colleges and services over 2.4 million students, estimates it will cost $20 million just to develop a system to comply with the reporting requirements. Ongoing costs of complying with the requirements are estimated to be $12.6 million per year.

We will continue to gather information to refine these estimates in the weeks ahead. Nonetheless, the preliminary figures highlight the challenges colleges and universities are confronting as they develop systems to comply with reporting requirements introduced by the Taxpayer Relief Act of 1997.

Thank you again for your leadership and commitment to reducing this burden. We look forward to continuing to work closely with you to address this issue.

Sincerely,

TERRY W. HARTLE,
Senior Vice President.

Ms. COLLINS. Mr. President, we should not delude ourselves about who will end up paying the cost and price of these requirements. Ultimately, the cost of compliance will be shifted from the schools to the students and their families. As a result, the value of the Hope Scholarship Program and Lifetime Learning Tax Credit will be diminished.

Mr. President, the IRS has complained that eliminating these reporting requirements will be too expensive, essentially arguing that too many people who are not entitled to claim the exemption will do so. I find this logic curious because with the other exemptions and credits in the code, we require the taxpayers to report the necessary information on their tax returns and maintain records of their expenses to support any tax credit or deduction that they claim. It seems to me that the education tax credits should receive the same treatment.

But let's assume that the IRS is correct, Mr. President, and that the education tax credits should be treated differently—if that is the case, why should the burden fall on our nation's colleges and universities?

The fact is that the IRS already collects much of the information needed to verify the validity of the tax credits.

Mr. President, I would like to ask the chairman of the committee and the distinguished ranking minority member to join with Senator DEWINE and me in a request to the Joint Committee on Taxation to study this issue and to look specifically at what the cost would be to the IRS to develop a system to ensure compliance based on information that it already requires taxpayers to file. For example, taxpayers are already required to file the name and the Social Security number for their dependents. Many experts maintain that the IRS already has much of the information that it needs. It simply needs to modify its software to allow it to conduct matches to verify the information.

Mr. President, it certainly is worth determining whether the cost to the IRS would be less than or more than the $115 million that it will cost our universities and colleges each year to comply with the paperwork associated with these credits.

Mr. President, the rationale for the Hope and Lifetime Learning credits was to make postsecondary education more affordable, and thus more accessible to lower- and middle-income families. Unfortunately, what Congress has given with one hand it has taken away at least in part with its regulatory hand. It is within our power to fix this problem. We should do so soon.

Tonight, pending the resolution of the larger issue, we can take one small step to alleviate some of the burden imposed upon our colleges and universities. The amendment that Senator

DEWINE and I are offering will change the requirement for reporting the tuition and grant aid pertaining to each student in a manner that will make it somewhat easier for our postsecondary institutions to comply. The Joint Committee on Taxation has scored the cost impact of the change as being negligible, but the revision will help our colleges and universities.

I urge adoption of the amendment. I hope to have the cooperation of the chairman and ranking minority member in addressing the larger issue.

Now I would like to yield to my colleague from Ohio and my cosponsor, Senator DEWINE.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I want to take a minute to speak on behalf of an amendment that Senator COLLINS and I have introduced to H.R. 2676, the IRS Reform bill.

Our amendment is common-sense legislation that will repeal certain reporting requirements placed upon colleges and universities under Section 6050 S of the Internal Revenue Code.

Here is the problem: Current law relating to the Hope Scholarship and the Lifetime Learning tax credit requires all colleges and universities to comply with burdensome and costly regulations. The Taxpayer Relief Act of 1997 contained a provision requiring colleges, universities and trade schools to begin issuing annual reports to students and the Internal Revenue Service detailing the students' tuition payments in case they apply for the new education tax credits. Preliminary analysis shows the reporting requirements will cost the 6,000 colleges in America more than $125 million to implement, and tens of millions of dollars annually to maintain.

In realistic terms, if the new reporting requirement is not lifted off the backs of colleges and universities, those schools will be forced to raise tuition costs to cover the unfunded mandate. In effect, students and families will not benefit from the passage of the Hope Scholarship—because the money received from the tax credit will have to be used to pay the higher tuition.

Mr. President, our amendment is simple, fair legislation that will greatly benefit any persons who want to obtain an education.

In fact, similar legislation has already been introduced in the House of Representatives by Congressman DONALD MANZULLO (R-IL). The House bill is supported by a bipartisan coalition comprised of 89 Members of the House.

Senator COLLINS and I originally wanted to introduce the entire text of our legislation, S. 1724, as an amendment to the IRS Reform bill. Under current regulations, schools are required to report information to the IRS on 100 percent of their students, even though only a minority of students are expected to be eligible for the tax credit. S. 1724 would repeal this requirement. S. 1724 has been endorsed by the American Association of State Colleges and Universities, the American Association of Community Colleges, the National Association of State Universities and Land Grant Colleges, the American Council on Education, and a bi-partisan group of 19 Senators.

However, because of concerns which have been raised, we have modified our amendment. While this amendment does eliminate a regulatory burden placed on universities, it is only one part of what we want to accomplish. I want to assure everyone that is concerned about the increasing costs of higher education, that we will continue to fight to eliminate unnecessary costs.

Mr. President, I ask my colleagues to support our amendment. It is commonsense, effective legislation. I also want to thank Senator ROTH for his leadership on this issue and I appreciate his work with us on this amendment.

Mr. President, I ask unanimous consent that letters from Cuyahoga Community College, Columbus State, North Central Technical College, Shawnee State University, Cleveland State University, Bowling Green State University, Belmont Technical College, and the Ohio Association of Community Colleges in support of our legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SHAWNEE STATE UNIVERSITY,
Portsmouth, OH, January 29, 1998.

Hon. MIKE DEWINE,
Russell Senate Building, Washington, DC.
Re: Higher Education Reporting Relief Act of 1998.

DEAR SENATOR DEWINE: I am writing to you to solicit your support of the Higher Education Reporting Relief Act of 1998 which Representative Donald A. Manzullo intends to introduce in Congress. This Act will repeal Section 6050S of the Internal Revenue Code, which was added last year as part of the Hope Scholarships and Lifetime Learning tax credits.

While I was very supportive of the Hope Scholarship and Lifetime Learning tax credit, the burden placed on universities to report the data required in Section 6050S IRC to taxpayers and families increases the cost of higher education, dilutes the benefit, and is unnecessary for the implementation of these tax benefits.

Most other tax credits and deductions do not place such a data collection and reporting requirement on the provider of service. This should be made a "self-reporting" requirement subject to substantiation by records of college attendance maintained by the taxpayer. For a smaller university like Shawnee State, this new reporting requirement has a bigger impact on our operations than some of the larger land grant institutions.

I urge your support of Representative Manzullo's legislation to relieve higher education from this burdensome reporting requirement.

Sincerely yours,

CLIVE C. VERI,
President.

BOWLING GREEN STATE UNIVERSITY,
Bowling Green, Ohio, February 5, 1998.

Hon. R. MICHAEL DEWINE,
U.S. Senate, Russell Senate Building, Washington, DC.

DEAR SENATOR DEWINE: I am writing to encourage your support of the "Higher Education Reporting Relief Act" being introduced by Representative Donald A. Manzullo (R-IL). The purpose of this legislation is to repeal the portion of the "Taxpayer Relief Act of 1997" requiring colleges and universities to submit information to the Internal Revenue Service (IRS). If passed, the amendment will make individuals claiming education tax credits responsible for providing requisite information.

As you may recall, the Lifetime Learning and Hope Scholarship tax credits represented an important part of the "Taxpayer Relief Act of 1997." However, as a result of this legislation, there are new reporting requirements for Bowling Green State University (BGSU) and all institutions of higher education in Ohio and across the country.

These requirements place schools in an unfamiliar intermediary position between students, tax filers and the IRS and require the collection of information that schools would not otherwise gather. In addition, the new reporting requirements will cause BGSU to expend thousands of dollars in both start up and on-going costs to comply. This expenditure will place a significant burden on an already limited institutional budget and detract from BGSU's primary purpose—the education of citizens who seek to better themselves and our country.

Passage of the Manzullo amendment would move the tax credit reporting requirements from colleges and universities to those individuals claiming the tax benefits. This system of "self-reporting" requisite information is an approach which is successful for many other tax benefits. The change will facilitate enforcement by the IRS, eliminate the need for an unnecessary new and costly linkage between institutions and the IRS, and better serve families and students.

Once again, I urge your support of the "Higher Education Reporting Relief Act" which will alleviate a potentially significant financial and human resource burden on colleges and universities. Thank you for your interest and attention to this matter.

Sincerely,

SIDNEY A. RIBEAU,
President.

BELMONT TECHNICAL COLLEGE,
St. Clairsville, OH, March 18, 1998.

Senator MICHAEL DEWINE,
Russell Senate Building, Washington, DC.

DEAR SENATOR DEWINE: I recently received notice that you have introduced legislation to relieve the burden of potential costs imposed on colleges and universities by the Hope Scholarship provisions of the Taxpayer Relief Act of 1997. Thank you for your support of this very important issue. The failure to repeal this requirement will cause many colleges and universities, including Belmont Technical College, to cut important services in order to fund this additional mandate.

Thank you again for your efforts to keep higher education affordable for the residents of Appalachian Ohio. If I can provide information to assist with this cause, please contact me.

Sincerely,

JOHN F. CLYMER,
Interim President.

CLEVELAND STATE UNIVERSITY,
Cleveland, OH, February 2, 1998.

Hon. MIKE DEWINE,
Senate Russell Office Building, Washington, DC.

DEAR SENATOR DEWINE: Last July as part of the Taxpayer Relief Act of 1997, Congress passed a tax credit known as the Hope Scholarship, for students in their first and second years of higher education. As it currently stands, Universities will be required under this law to provide new and additional information on students to the U.S. Treasury Department, placing us in the awkward position of middleman between our students and the IRS.

In addition to the bad will such a requirement would create between the University and our students, the law is a expensive unfunded mandate on higher education. As you know, unfunded mandates drive up tuition and take our attention from our primary goal of educating our students.

We ask that you support the Higher Education Reporting Relief Act of 1998, sponsored by Representative Manzullo of Illinois, which would repeal section 6050S of the Internal Revenue Code. Section 6050S is the section that would place us in the position of data provider to the IRS. The Higher Education Reporting Relief Act of 1998 will make tax returns, the normal case for other tax benefits.

We will greatly appreciate your support of this effort and hope you will keep us informed of the progress of the legislation in Congress. Thank you.

Sincerely,

THOMAS A. LYNCH,
Special Assistant to the President for Governmental Relations.

OHIO ASSOCIATION OF COMMUNITY COLLEGES,
Columbus, OH, March 11, 1998.

Hon. R. MICHAEL DEWINE,
U.S. Senate, Washington, DC.

DEAR SENATOR DEWINE: Thank you very much for introducing a bill to repeal the institutional reporting requirements for the Hope Scholarship and Lifelong Learning Tax Credits. As you know, the Higher Education Reporting Relief Act (HERRA) would repeal the requirements, included in the Taxpayer Relief Act Congress passed last year, that higher education institutions collect and report information on all eligible students to the Internal Revenue Service. The bill would allow taxpayers to claim the education tax credit on their income tax forms, similar to the way other tax deductions are now reported. If the IRS questions a taxpayer's return, then the IRS could audit the taxpayer, as it does now, and require the taxpayer to produce the relevant documentation (receipts or canceled tuition payment checks).

Putting the onus on the taxpayer, rather than the institution, to report on the tax credit would save colleges millions of dollars, simplify the process for students seeking to claim the credit, and enable colleges to expend more funds on programs rather than administrative costs.

Your support of the Higher Education Reporting Relief Act is greatly appreciated.

Sincerely,

TERRY M. THOMAS,
Executive Director.

CUYAHOGA COMMUNITY COLLEGE,
Cleveland, OH, March 5, 1998.

Hon. MICHAEL DEWINE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DEWINE: Thank you for the opportunity for two of the College's trustees, Trustee Chairperson Nadine Feighan and Trustee Stanley Miller, along with the College's Executive Vice President, Dr. Frank Reis, to meet with Mr. John Connelly of your legislative staff on February 24, 1998 to provide you with some insight into community college priorities within the second session of the 105th Congress. As you know, community colleges provide access to a broad spectrum of quality educational opportunities and life experiences. Consistent with this role, any proposed legislative language that promotes the concept of open access, which is the cornerstone of the community college mission, would be well received by Cuyahoga Community College and, for that matter, all community colleges throughout the nation.

Specifically, the priorities that were highlighted during our recent discussion included the following:

Pell Grants—The Pell Grant is the foundation of federal student financial aid programs, and is instrumental in providing access to colleges for needy students. At Cuyahoga Community College, nearly one-half of all aid ($9.5 million) provides access for more than 6,000 of our students. We believe that Pell Grants currently work well for community college students.

Currently, the Administration is proposing to limit Pell Grant eligibility to 150 percent of the length of a student's program. We view this as a flexible access issue particularly in light of many of our students being part-time requiring developmental and remedial preparation before engaging in degree level studies, and as such, we oppose the proposal to limit eligibility during consideration of the reauthorization of the Higher Education Act.

Cuyahoga Community College requests a Pell Grant maximum of greater than $3,100, the amount requested by the Administration. In response to the question raised by Mr. Connelly regarding how much more the Pell Grant should be raised we indicated that our preference would be to see a $3,200 maximum grant level be implemented.

Vocational Education/Tech Prep—Community colleges are requesting $120 million (a $17 million increase over FY98) for the Tech Prep program, which provides for collaboration between secondary and postsecondary institutions with low-income students in their vocational education programs. Currently, CCC is participating in the North Coast Tech Prep Consortium along with area joint vocational schools. Our Consortium success has earned it State performance-based funding of $915,011 for FY99 when it will serve over 940 students. That number is projected to double the number of students served within the next few years. Not only do we support the proposed increase but also would like to see the Tech Prep monies kept separate from other grant monies.

Tax Issues Regarding HOPE and Lifelong Learning Tax Credits—In general, community colleges are pleased with the Taxpayer Relief Act that contains a number of tax provisions that greatly expand student access to the nation's community colleges. Although Cuyahoga Community College, along with most of the nation's community colleges, support the HOPE and Lifelong Learning tax credits, there are concerns regarding the reporting requirements necessitated by the statute. Therefore we support H.R. 3127 that was introduced by Representative Dan Manzullo (R–IL) to repeal the reporting requirements associated with the credits while maintaining the financial support those tax credits would provide to students.

Senate Provision to extend eligibility for Perkins funds to proprietary schools—Currently, Perkins funds are restricted to non-profit educational institutions. H.R. 1983 maintains this restriction. However, S. 1186 would extend eligibility for Perkins funds to proprietary institutions. Nowhere in federal workforce education or higher education policy do for-profit institutions directly receive federal funds. In addition, expanding the universe of eligible institutions for limited federal vocation education dollars will drain funding for long-standing community college vocational education programs. Currently, Cuyahoga Community College uses its $180,000 in Perkins funds to serve approximately 175 disabled vocational students. Therefore the College, as well as the community colleges across the country, oppose the provision to extend eligibility for Perkins funds to for-profit proprietary institutions.

The four summary positions in this letter represent the priority areas to Cuyahoga Community College. If you should have any questions regarding any of these positions or for that matter, the listing of College federal grants requested provided to your office during our visit, please call either myself or Dr. Frank Reis, Executive Vice-President, Human Resources and Administration (216–987–4776). Again, thank you for your advocacy efforts in the U.S. Senate on behalf of Cuyahoga Community College as well as the 1,100 community colleges across the nation.

Sincerely,

JERRY SUE THORNTON,
President.

COLUMBUS STATE COMMUNITY COLLEGE,
Columbus, OH, March 6, 1998.

Hon. R. MICHAEL DEWINE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DEWINE: I want to thank you for taking time from your busy schedule to meet with Pieter Wykoff and me to discuss issues regarding the Reauthorization of the Higher Education Act and the 1999 budget appropriations and tax issue.

As we mentioned to you, the Pell grants are working well for our students. However, the new reporting of the Hope Scholarship tax credit is burdensome, and we do incur costs to comply with all the reporting requirements. We urge you to simplify this system as much as possible as it is being proposed by Rep. Manzullo from Illinois.

Please let me know if there is any information we can provide you or anything else that Columbus State can do to facilitate your work. We enjoyed our visit with you and look forward to seeing you again.

Sincerely,

M. VALERIANA MOELLER,
President.

NORTH CENTRAL TECHNICAL COLLEGE,
Mansfield, OH, January 30, 1998.

Senator MIKE DEWINE,
Russell Senate Building, Washington, DC.

DEAR SENATOR DEWINE: As you are aware, with the enactment of the Hope Scholarship and Lifetime Learning tax credits, institutions of higher education will be required to provide extensive and detailed data to the Internal Revenue Service on all currently enrolled students. While North Central Technical College is a supporter of these educational tax credits, the proposed reporting requirements will place an overwhelming burden on its resources in order to maintain compliance with the regulations.

Currently, NCTC, like all colleges and universities, is faced with a myriad of mandated federal and state reporting requirements. The addition of the Hope Scholarship and Lifetime Learning tax credit program will only further stretch already over-extended student and financial information reporting systems. It would be terribly unfortunate if colleges and universities were forced to redirect resources, now aimed at providing direct services to students, in order to comply with these new regulations.

Given the seriousness of this situation, I am asking that you support the legislation "Higher Education Reporting Relief Act" to be introduced next week by Representative Donald A. Manzullo. This legislation will repeal Section 6050S of the Internal Revenue Code, thus alleviating institutions from the responsibility of being a data provider for individual students to the IRS.

Please be assured that, whatever the outcome of this legislation, North Central Technical College will continue to meet all the reporting requirements that are mandated, while providing the best possible educational experiences that its resources allow. However, since education is our purpose and mission, I hope that the College will be able to direct its resources to those that deserve them the most, our students.

Your consideration and support in this matter will be greatly appreciated by the entire College community.

Sincerely,

DR. RONALD E. ABRAMS,
President.

Mr. DEWINE. Mr. President, let me briefly state that the amendment offered by myself and Senator COLLINS fixes parts of the problem. It does not fix all of the problem. If we do not deal with the entire problem, this is something that every Member of the Senate is going to hear about. It is going to come back and you are going to hear about it from every college and university in your State. We need to fix the overall problem.

I appreciate Chairman ROTH's willingness to work with us on this.

I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, if there are no further speakers on this, I would say that this amendment is acceptable to both sides, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2381) was agreed to.

Ms. COLLINS. Mr. President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2382

(Purpose: To provide a managers' amendment)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 2382.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 202, between lines 5 and 6, insert the following:

"(iv) COORDINATION WITH REPORT OF TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—To the extent that information required to be reported under clause (ii) is also required to be reported under paragraph (1) or (2) of subsection (d) by the Treasury Inspector General for Tax Administration, the National Taxpayer Advocate shall not contain such information in the report submitted under such clause.

On page 204, line 1, strike "directly".

On page 206, line 23, strike "(2)" and insert "(3)(A)".

On page 207, line 9, insert "by the Internal Revenue Service or the Inspector General" before "during".

On page 207, line 20, strike "(B)" and insert "(A)".

On page 207, lines 24 and 25, strike "not less than 1 percent" and insert "a statistically valid sample".

On page 252, line 25, insert "or taxpayer representative" after "taxpayer".

On page 253, line 1, insert ", taxpayer representative," after "taxpayer".

On page 253, line 5, insert "or taxpayer representative" after "taxpayer".

On page 253, line 6, insert ", taxpayer representative" after "taxpayer".

On page 253, line 12, insert ", taxpayer representative" after "taxpayer".

On page 254, lines 14 and 15, strike "and their immediate supervisors".

On page 254, lines 17 and 18, strike "individuals described in paragraph (1)" and insert "such employees".

On page 322, line 11, strike "subsection" and insert "section".

Mr. ROTH. Mr. President, this amendment consists of a number of technical changes and has been cleared with the minority. I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2382) was agreed to.

AMENDMENTS NOS. 2383, 2384, AND 2385, EN BLOC

Mr. ROTH. Mr. President, I send three amendments to the desk, one by Senator GRAHAM of Florida, one by Senator STEVENS of Alaska, and one by Senator BINGAMAN. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes amendments numbered 2383 through 2385, en bloc.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2383

(Purpose: To apply the interest netting provision to all Federal taxes and to open taxable periods occurring before the date of the enactment of this Act, and for other purposes)

Beginning on page 307, line 6, strike all through page 308, line 3, and insert:

SEC. 3301. ELIMINATION OF INTEREST RATE DIFFERENTIAL ON OVERLAPPING PERIODS OF INTEREST ON TAX OVERPAYMENTS AND UNDERPAYMENTS.

(a) IN GENERAL.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end the following new subsection:

"(d) ELIMINATION OF INTEREST ON OVERLAPPING PERIODS OF TAX OVERPAYMENTS AND UNDERPAYMENTS.—To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by this title, the net rate of interest under this section on such amounts shall be zero for such period.".

(b) CONFORMING AMENDMENT.—Subsection (f) of section 6601 (relating to satisfaction by credits) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to the extent that section 6621(d) applies.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided under paragraph (2), the amendments made by this section shall apply to interest for periods beginning after the date of the enactment of this Act.

(2) SPECIAL RULE.—Subject to any applicable statute of limitation not having expired with regard to either a tax underpayment or a tax overpayment, the amendments made by this section shall apply to interest for periods beginning before the date of the enactment of this Act if the taxpayer—

(A) reasonably identifies and establishes periods of such tax overpayments and underpayments for which the zero rate applies, and

(B) not later than December 31, 1999, requests the Secretary of the Treasury to apply section 6621(d) of the Internal Revenue Code of 1986, as added by subsection (a), to such periods.

SEC. 3301A. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a) (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) SECTION 358.—Section 358(d)(1) (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) SECTION 368.—

(A) Section 368(a)(1)(C) is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—Section 357(c) is amended by adding at the end the following new paragraph:

"(4) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

"(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

"(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability."

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply."

(2) SECTION 1031.—The last sentence of section 1031(d) is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(c)(4)) a liability of the taxpayer", and

(B) by striking "or acquisition (in the amount of the liability)".

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) is amended by striking "or acquired".

(4) Section 357(c)(1) is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) is amended by striking "or acquisition (in the amount of the liability)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

AMENDMENT NO. 2384

On page 355, insert after line 19 the following:

(d) STATE FISH AND WILDLIFE PERMITS.—(1) With respect to permits issued by a State and required under State law for the harvest of fish or wildlife in the trade or business of an individual taxpayer, "other assets" as used in section 3445 shall include future income that may be derived by such taxpayer from the commercial sale of fish or wildlife under such permit.

(2) The preceding paragraph may not be construed to invalidate or in any way prejudice any assertion that the privilege embodied in such permits is not property or a right to property under the Internal Revenue Code.

Mr. STEVENS. Mr. President, I have a reasonable amendment to this bill relating to a very unique "tool of the trade" in the fishing industry of Alaska. the bill already would increase the cap for the value of tools of the trade exempted from IRS levy to $5,000, up from $1,250.

My amendment addresses a class of tools—State-issued permits that give their holder the privilege to commercially harvest fish or game in our State.

The State of Alaska has never conceded that these permits are property that may be seized by IRS. Yet, the IRS seizes them, without giving any consideration to the unique circumstances in Alaska, particularly western Alaska.

In those villages, commercial fishing is the only industry. If you don't have a fishing job, you do not have a job.

When a fisherman in that area fails to pay taxes on time, the IRS never gives any consideration to the fact that without the fishing permit, the taxpayer would have no way to pay back taxes.

In addition, he or she will then have no way to support their children, their family, pay child support, or buy heating oil for their house, or face other problems.

We do have a problem in western Alaska—the IRS estimates that commercial fishermen owe over $20 million in back taxes. That is not much, nationally. But as one IRS agent visiting rural Alaska pointed out, they have in some cases been trying to collect taxes from people who did not even know the IRS existed.

There are positive changes, in the bill with respect to IRS collection procedures, but the language and cultural barriers, and isolation of vast areas of Alaska still lead to results that people in the rest of the country find hard to believe.

Instead of exempting State permits entirely from IRS levies, I have accepted a compromise. Under section 3445 of the bill, the IRS will be required, before seizing the assets of a small business, to first determine that the business owner's "other assets" are not sufficient to pay the back taxes and expenses of IRS proceedings.

My compromise would require the IRS to consider future income from State-issued fish and game permits as "other income" in its determination before making a levy on such permits. This means the IRS must consider whether the future income from the permit would allow the fishermen to pay the tax debt and procedural expenses before the maximum time possible for repayment under law has occurred.

In treating these permits as an asset used in a trade or business, Congress does not intend to determine whether such permits are property or a right to property. We only mean to say that as long as the IRS asserts that the permits are property or a right to property, the holder should have the added protection of having future income considered.

AMENDMENT NO. 2385

(Purpose: Relating to the report ont ax complexity and low-income taxpayer clincs)

On page 375, line 11, strike the period and insert ", including volunteer income tax assistance programs, and to provide funds for training and technical assistance to support such clinics and programs."

On page 375, line 22, strike "or".

On page 376, line 2, strike the period and insert

", or".

On page 376, between lines 2 and 3, insert:

"(III) provides tax preparation assistance and tax counseling assistance to low income taxpayers, such as volunteer income tax assistance programs."

On page 376, line 20, strike "and".

On page 376, line 25, strike the period and insert "and".

On page 376, after line 25, insert:

"(C) a volunteer income tax assistance program which is described in section 501(c) and exempt from tax under section 501(a) and which provides tax preparation assistance and tax counseling assistance to low income taxpayers."

On page 377, line 9, strike "$3,000,000" and insert "$6,000,000".

On page 377, line 11, after the end period, insert "Not more than 7.5 percent of the amount available shall be allocated to training and technical assistance programs."

On page 377, line 15, insert ", except that larger grants may be made for training and technical assistance programs" after "$100,000".

On page 378, line 16, insert "(other than a clinic described in paragraph (2)(C))" after "clinic".

On page 396, strike lines 18 through 20, and insert "Finance of the Senate. The report shall include any recommendations—

(A) for reducing the complexity of the administration of Federal tax laws, and

(B) for repeal or modification of any provision the Commissioner believes adds undue and unnecessary complexity to the administrator of the Federal tax laws.

Mr. ROTH. Mr. President, these amendments have been cleared on both sides of the aisle. I urge their adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments (Nos. 2383, 2384, and 2385) were agreed to en bloc.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. There are no further amendments.

Mr. President, there are no further amendments.

AMENDMENT NO. 2353—MOTION TO WAIVE THE BUDGET ACT

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to waive the Budget Act made by the Senator from Georgia. The yeas and nays have been ordered. The clerk will call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that we shorten the vote to 10 minutes on the second amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote yea.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN), is necessarily absent. I announce that the Senator from Hawaii (Mr. AKAKA) is absent because of a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 37, nays 60, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—37

Abraham
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Enzi
Faircloth
Frist
Grams
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Santorum
Smith (NH)
Smith (OR)
Thomas
Thompson
Warner

NAYS—60

Allard
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Conrad
Daschle
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Gorton
Graham
Gramm
Grassley
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Sarbanes
Sessions
Shelby
Snowe
Specter
Stevens
Torricelli
Wellstone
Wyden

NOT VOTING—3

Akaka
Glenn
Thurmond

The PRESIDING OFFICER. On this vote, the yeas are 37, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The amendment of the Senator from Georgia would result in a loss of $9 billion——

Mr. BYRD. Mr. President, we cannot hear what is being said. The Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

The amendment of the Senator from Georgia would result in a loss of $9 billion in revenues during the fiscal years covered by the Concurrent Resolution on the Budget without any offset. Therefore, it violates the pay-as-you-go provisions contained in section 202 of H. Con. Res. 67 of the 104th Congress.

(Subsequently the following occurred.)

CHANGE OF VOTE

Mr. GRAMS. Mr. President, on rollcall vote 125, I was recorded as voting "no." I voted "aye." I ask unanimous consent the official RECORD be directed to accurately reflect my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. GRAMM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from South Carolina (Mr. THURMOND), is necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND), would vote yea.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN), is necessarily absent.

I also announce that the Senator from Hawaii (Mr. AKAKA), is absent because of a death in family.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—97

Abraham
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—3

Akaka
Glenn
Thurmond

The bill (H.R. 2676), as amended, was passed, as follows:

The text of H.R. 2676, as amended, will be printed in a future edition of the RECORD.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, as we bring these deliberations on IRS restructuring to a close, I want to express my appreciation to everyone who has strongly supported this necessary legislation. I am particularly proud of the fact that it was unanimously supported on the floor of the Senate this evening. I again want to reiterate my belief that the Internal Revenue Service—with its 102,000 employees—is filled with hardworking, service-oriented, honorable men and women.

The problem, Mr. President, is that the agency, itself, has too much power and not enough sunshine.

It is marked by an environment where even a few overly aggressive, vindictive, arrogant, or power-hungry individuals can get away with trampling the rights of honest Americans. It is an environment where honesty can be met by retaliation, where employees are frightened to come forward to report and correct abuses, and where the taxpayer is often perceived as the enemy and not the customer.

The legislation we have passed today will go a long way towards correcting these problems. Will it do everything we would like it to do? No. There needs to be a cultural shift inside the agency itself.

This legislation will provide a catalyst for that shift. Is this bill a good start toward long-term reform? Absolutely.

This legislation will allow Commissioner Rossotti to implement the necessary reforms and restructuring that need to be done to bring the agency into the 21st century. It is a strong bill, building on what the House passed last November. It is what the American people need to strengthen fundamental protections. However, Congress must not see this as the be-all-and-end-all of offering taxpayers the protection and service they need when it comes to the IRS.

We need to continue our oversight efforts. We need to make sure that the provisions we have included in our legislation are taken seriously by the agency and embraced in the manner in which they are intended.

Mr. President, this thorough and comprehensive piece of legislation is the product of a collective effort. It represents the best work and thinking from both sides of the aisle.

I express my sincere appreciation to my colleagues, particularly Senator MOYNIHAN, as well as Senators CHARLES GRASSLEY and BOB KERREY, both of whom worked on the National Restructuring Commission with Congressman ROB PORTMAN. I'm grateful to Chairman ARCHER and those on the Ways and Means Committee who provided a solid foundation upon which we built this legislation, and to my colleagues on the Finance Committee who diligently sat through our extensive oversight and restructuring hearings and voted this legislation out of committee unanimously.

I am also grateful to those who have spoken so eloquently as proponents of this legislation here on the floor.

I also appreciate the hard work our staffs have put in. I'm grateful to our investigators—Eric Thorson, Debbie McMahon, Kathryn Quinn, Anita Horn, and Maureen Barry. I'm grateful to Frank Polk, Joan Woodward, and Mark Patterson, to Tom Roesser, Mark Prater, Sam Olchyk, Brig Pari, Bill Sweetnam, Jeff Kupfer, Nick Giordano, and Ann Urban. I also want to thank Jane Butterfield, Mark Blair, and Darcell Savage.

I believe the future will remember the work we have done here. The history of the Internal Revenue Service is marked by aggressive tax collecting tactics and consequent Congressional efforts to reform the agency. Those reforms, however, often did not go far enough, and they were not accompanied by a dedication to sincere oversight. These reforms, Mr. President, do go far.

They are the most extensive reforms ever made to balance power and responsibility inside what can only be characterized as one of America's most powerful agencies. And, as we have heard over the past few days here on the floor, this Congress is dedicated to continued oversight.

In closing, I am pleased to work with Senator KERREY, the floor manager for the Democrats. I think it has been a great collective effort.

Mr. KERREY. "The barriers are crumbling; the system is working."

Mr. President, those are the words of David Broder. He wrote them in a Washington Post op-ed on October 21, 1997 as he commented on the progress being made on IRS reform.

Mr. Broder was commenting at the time that in an increasingly partisan climate on Capitol Hill, the work of Representatives PORTMAN, CARDIN, Senator GRASSLEY, and I and how this legislation is moving along was a classic example of how our democratic system can work and that by "beating the odds" we were on the verge of giving the Internal Revenue Service "the shake-up it clearly needs."

Mr. President, good news comes to the American taxpayers today. The Senate is about to pass historic IRS reform legislation that will touch the lives of hundreds of millions of Americans.

This is a long, detailed bill, Mr. President, but I can summarize its intent in a simple well known phrase: of, by and for the people. That is the kind of government we have—of, by and for the people. The premise of our effort from the beginning was that the IRS works for the taxpayer, not the other way around. The impact, I hope, will be equally simple. When you call the IRS, you should get a helpful voice, not a busy signal. That helpful voice should have the resources to help you answer the simple question: "How much do I owe?" If one of the rare bad apples in the IRS abuses a taxpayer, the Commissioner should be able to fire him. The vast majority of IRS employees who are capable and committed public servants should be empowered to do their jobs—helping the equally vast majority of American taxpayers who want to comply with the law to do so.

This bipartisan, bicameral effort dates back to 1995, when Senator SHELBY and I, in our roles on the Appropriations Committee, wrote language into the law creating the National Commission on Restructuring the IRS.

It continued with Representative ROB PORTMAN and Senator GRASSLEY and I with our work on the commission after we issued our report in June 1997, and moved forward again when we introduced legislation in the House, with Representative BEN CARDIN, and in the Senate by July 1997.

It progressed to Chairman ROTH and Senator MOYNIHAN when the Finance Committee began our hearings in September 1997, as well as with House Ways and Means Chairman ARCHER in the House. And along the way we received the critical support of Speaker GINGRICH, Secretary Rubin, the President and Commissioner Rossotti.

I am proud to have been a part of this effort. We are a nation of laws, Mr. President. As legislators we are given the charge by the American people to write effective laws, as well as change those that are not. While this debate has sometimes been contentious, in the end the finished product—the law that we will have written—will be an effective one because in the end Congress's efforts have been about doing what is right and what is best.

In the beginning, many members of Congress and our commission were shocked to hear that before these efforts, there had been no real reform to the IRS in 50 years and no oversight hearings by the Senate Finance Committee ever.

That was Congress's fault.

During our deliberations in the Senate this week, we have been mindful of the fact that Congress has had a critical role in allowing the IRS to become the mess we now have decided to clean up.

We have acknowledged that the IRS is not Sears & Roebuck—and that we are its Board of Directors. We write the tax laws, we are responsible for the oversight and we are the ones who can make the necessary changes.

I am not an IRS apologist. I would not have embarked on this mission nearly four years ago if I thought all was well with the agency. And while I always knew the IRS was acting in a damaging fashion toward American taxpayers and in need of reform, my learning over the years solidified the notion that the need for reform was dire.

As we move toward enacting this legislation into law, we should be proud of the fact that we are changing the culture at the IRS so that the agency will serve taxpayers and not treat them as if it is the other way around, that we are giving Commissioner Rossotti the statutory authority he needs to do his job effectively, that we are creating legislation that will make it easier for all Americans to file their taxes and get information, that we are going to make sure the IRS has the ability to do the job Congress has told them to, and that we are changing the way tax laws are written so that never again will a provision pass without a cost analysis of compliance and administration.

Mr. President, more Americans pay taxes than vote. The perception of how our government treats us—its citizens—is rooted more in our contact with the IRS than with any other U.S. agency or entity.

How we are treated by the IRS—and our tax laws—effects our perception of whether or not we believe we have a fair shot at the American Dream and whether or not we are a government of, by and for the people.

We have taken great strides today to change that perception.

I thank my colleagues for their efforts on this important and historic piece of legislation and I am very hopeful we will have a swift and effective conference with the House so that the President can sign this bill into law before June 1.

Mr. President, I add my thanks to the Democratic staff and the Republican staff, all of whom were listed by the distinguished chairman of the Finance Committee, Senator ROTH. It has been a pleasure working with Senator ROTH. I want to also thank Congressman ROB PORTMAN. I especially thank the ranking Democrat on the Finance Committee, Senator MOYNIHAN, for giving me the opportunity to manage this bill.

STAFF OF THE NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE

Mr. President, I would like to take a moment to thank the staff of the National Commission on Restructuring the Internal Revenue Service for their devotion to the cause of reforming the IRS. We would not have the strong reform legislation before us today without the hard work and patience of these individuals. They staffed 12 public hearings, 3 town-hall meetings, hundreds of hours of closed-door sessions with Restructuring commissioners, and interviewed many hundreds of present and former IRS officials, practitioner groups, and average taxpayers. They drafted and redrafted many times the Commission report, "A Vision for a New IRS."

But, most importantly, they worked with the many staff members and Members of Congress to help facilitate the bipartisan bill that we are about to vote on today. The U.S. Senate owes them a debt of gratitude for their year long effort. They are: Jeffery Trinca, Chief of Staff; Anita Horn, Deputy Chief of Staff; Douglas Shulman, Senior Policy Advisor and Chief of Staff from June to September of 1997; Charles Lacijan, Senior Policy Advisor; Dean Zerbe, Senior Policy Advisor; Armando Gomez, Chief Counsel; George Guttman, Counsel; Lisa McHenry, Director of Communications and Research; James Dennis, Counsel; John Jungers, Research Assistant; Andrew Siracuse, Research Assistant; Damien McAndrews, Research Assistant; Margie Knowles, Office Manager; and Janise Haman, Secretary.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

MORNING BUSINESS

Mr. SPECTER. Mr. President, on behalf of the majority leader I ask unanimous consent that there now be a period for the transaction of routine morning business until 7:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I would like to start that morning business, but I will first yield to Senator WARNER, without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

(The remarks of Mr. WARNER pertaining to the introduction of S. 2051 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LAUTENBERG. Mr. President, parliamentary inquiry. The Senator from Pennsylvania has the floor and didn't relinquish it. But I understood in the earlier request the Senator from Pennsylvania made that people would be permitted to speak for 10 minutes in morning business. The yielding of time to other Senators, I would assume, has to come off of that 10 minutes, if we are to follow the unanimous consent agreement as laid out.

The PRESIDING OFFICER (Mr. SESSIONS). I believe the Senator from Pennsylvania, by unanimous consent, requested that the other Senators be recognized and there having been no objection at the time, it is not to be counted against his time.

The Senator from Pennsylvania is recognized.

THE FLAT TAX

Mr. SPECTER. Mr. President, if I might comment to my colleague from New Jersey, I don't intend to be very long. Perhaps it will all be incorporated.

If I may have the attention of our distinguished majority leader for a moment, I compliment the managers of the bill that just passed, and the few brief remarks I would like to make on the tax issue relate to a bill that I have introduced on the flat tax.

At the request of the distinguished majority leader, I did not press it a few weeks ago on the Coverdell bill, nor did I press it on the legislation that has just been enacted. But I have a very strong view, having pressed for this legislation since March of 1995, the so-called postage card flat tax, devised by two very distinguished professors from Stanford, Hall and Rabushka, that really this is the way we ought to go on legislation on taxation.

When I discussed this matter with our majority leader, he said to me that there would be legislation coming down the pike soon where there would be an opportunity for the flat tax to be considered. We informally agreed that we would have a brief colloquy on that. I yield to Senator LOTT, again without losing my right to the floor, for the balance of 10 minutes.

Mr. LOTT. Mr. President, let me say to the distinguished Senator from Pennsylvania that we have discussed this on two or three occasions, and he is absolutely correct; he has been cooperative and has not insisted on offering this important amendment on a couple of bills where he could have done that, because at the time it would have caused problems with those bills and made it more difficult for us to finish them in a timely way. This is the Senate and I think the Senator is entitled to be able to offer his amendment soon. Frankly, it is an amendment that I find very attractive, personally. So I would like to be able to be on record having voted for it. So I will work with the Senator to find a vehicle and a time that he is comfortable with later on this month, or in June, where this amendment can be offered and we can have a reasonable discussion and a vote.

Mr. SPECTER. I thank the majority leader for those comments.

SENATOR SANTORUM'S 40TH BIRTHDAY

Mr. SPECTER. This Sunday, May 10, 1998, the U.S. Senate will lose its last 30-something Member—that is someone who is in the thirties—because our colleague, Senator RICK SANTORUM will turn 40.

Already, in a few short years, Senator SANTORUM has distinguished himself by building a solid record of legislative achievement in both the House of Representatives and in the U.S. Senate.

As Senator SANTORUM passes this personal milestone, I would like to make a comment or two about him. He was born on May 10, 1958, in Winchester, VA, the son of an Italian immigrant. In 1965, the family moved to Butler, PA.

He had a distinguished career at Penn State, worked for Senator John Heinz, then moved on to the University of Pittsburgh where he earned his M.B.A., and then to the Dickinson School of Law where he earned a J.D.

He served six years as a top aide in the Pennsylvania State Senate, and then worked four years as an associate at the Pittsburgh law firm of Kirkpatrick and Lockhart.

In 1990, Senator SANTORUM took on a campaign for the Congress and defeated a seventh-term incumbent at the age of 32. Then in the House his legislation was very noteworthy on fiscal responsibility, health care, creative medical savings accounts, which was incorporated as a pilot project in the Health Insurance Portability and Accountability Act of 1996. He has distinguished himself in the U.S. Senate with important legislation on welfare reform, managing debate on legislation based largely on a bill which he had introduced in the House of Representatives.

I have worked very closely with Senator SANTORUM on a personal basis. The Pittsburgh Post-Gazette wrote that when Senator SANTORUM won election in November of 1994 he "cautiously" invited me to accompany him on a victory swing the next day in Scranton and Philadelphia.

The Pittsburgh Post-Gazette reported accurately, "If you want me to go, Rick, I'll be there." And then the Post-Gazette noted, "It was just another display of what has become one of the more unusual U.S. Senate alliances and odd pairing of politicians from opposite poles in the Republican Party . . .''

Senator SANTORUM and I have more in common than one might imagine.

We are both children of immigrants. We both appreciated the value of education, and have been able to participate in the American dream because of our education. We agree on many, many items. We both support welfare reform, the balanced budget, the line-item veto, and the death penalty. On the issue of pro-choice and pro-life, Senator SANTORUM and I try to find ways to bring people together.

It is a pleasure for me to salute Senator SANTORUM on one of the last remaining days of his 39 years. He will not be able to say, like Jack Benny, very much longer that he is 39.

One of the items, in closing, that I would like to note is that the sky is the limit for Senator SANTORUM, and if he decides to stay in the U.S. Senate, he could be elected in the year 2000, the year 2006, the year 2012, the year 2018, the year 2024, the year 2030, the year 2036, the year 2042, and the year 2048 and at that point would be just as old as our distinguished President pro tempore, Senator STROM THURMOND, is today.

I thank the Chair and yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President.

MICROSOFT AND THE DEPARTMENT OF JUSTICE

Mrs. MURRAY. Mr. President, I am compelled to address the Senate this evening because one of our country's most dynamic, innovative, and successful companies, Microsoft, has been the subject of an unfair and prejudicial target by anonymous sources in the Department of Justice.

I am concerned that every time I pick up a newspaper I am informed of new information about the ongoing, supposedly confidential proceedings involving Microsoft and the Department of Justice. I ask only for fairness and that whatever verdict is derived, is argued through proper judicial channels and not played out through our nation's media.

Some of you in this Chamber may say that Microsoft can speak for itself, that is has a voice loud enough to be heard. To that, I answer that no single voice is ever enough to speak over the Department of Justice and those anonymous few employees who are seemingly abusing its formidable power. When the integrity of such a profound legal proceeding is in jeopardy, however, no one should remain silent.

In the Antitrust Division's extended, intense scrutiny of Microsoft, the company has faithfully worked to comply with each of the Division's request. Microsoft has fully cooperated with the seemingly endless requests for documents and depositions of top executives. Microsoft has operated under the assumption that if it works with the Justice Department in a fair manner and complies with its requests, then the Justice Department will proceed with its investigation fairly. But, I question whether the Justice Department is indeed playing fair.

Over the past several months, the Antitrust Division appears to have repeatedly and continually disclosed to the media information uncovered during its investigation, and floated anonymous opinions regarding the likelihood of a new government antitrust case against the company.

To me, putting America's technological leader on trial in the press—before the prosecutor even decides if a trial in our court system should proceed—is wholly unfair.

The Justice Department's own ethics manual says that, I quote: "It is the policy of the DOJ and the Antitrust Division that public out-of-court statements regarding investigations, indictment, ongoing litigation, and other activities should be minimal, consistent with the Department's responsibility to keep the public informed. Because charges that result in an indictment or a civil action should be argued and proved in court, and not in a newspaper or broadcast, public comment on such charges should be limited out of fairness to the rights of individuals and corporations and to minimize the possibility of prejudicial pre-trial publicity."

Based on their comments to the media, however, attorneys at the Justice Department apparently disagree with their own ethics manual. For example in a February 9, 1998 New York Times article entitled "Microsoft Case May Be Prelude to Wider Antitrust Battle" a "senior Justice Department official" who "spoke on condition that he not be identified" said, "licensing arrangements and the pricing of deals that Microsoft strikes . . . for placement on the front screen of its Windows operating system or its Internet Explorer browser" are an "area of antitrust concern" for the Antitrust Division.

The Wall Street Journal has apparently been given similar exclusive insight into a possible case. On April 6, 1998, the Wall Street Journal published an article entitled "U.S. Closes in on Microsoft: Officials Think Evidence Supports a Broad Charge on Extending Monopoly." In it, the author quotes "people close to the probe" who stated that "investigators believe they have enough evidence to bring a new antitrust case against Microsoft." Those sources are so familiar with the investigation that they told the reporter that an antitrust complaint would "repeat an existing charge that Microsoft violated a 1995 antitrust settlement . . . extending to Windows 98 last fall's charge that Microsoft uses Windows as a weapon against business rivals."

I regret to say this, and sincerely hope I turn out to be wrong, but I expect that the Justice Department will deny that one of its own lawyers is the source "close to the probe." I say "expect" because Attorney General Reno does not appear to be looking into this matter, nor has she informed me that the matter has been resolved. In fact, the Practicing Law Institute has advertised that a senior Justice Department counsel would speak about "[the Antitrust Division position . . . on the ongoing Microsoft matter" at an upcoming Intellectual Property Antitrust conference currently scheduled for July 22–23, 1998.

Mr. President, how does this public speaking engagement by a DOJ attorney square with the Department of Justice's own ethics manual, which states, and I quote again, "public out-of-court statements regarding investigations, indictments, ongoing litigation, and other activities should be minimal?" How does it square with the ethics policy that says, "public comment on . . . charges should be limited out of fairness to the rights of individuals and corporations and to minimize the possibility of prejudicial pre-trial publicity." I sincerely hope that DOJ staff has been advised against this by Attorney General Reno, but I cannot be sure.

Just yesterday, I learned that on May 8th, Business Week plans to publish on its website an article with the quote, "sources familiar with the Justice Department case have laid out a detailed plan of attack against [Microsoft]." Who would be able to lay out such a detailed plan about the Department's expected action in the case other than the DOJ itself?

It is of utmost importance that the Justice Department end this media trial of Microsoft, and restore a thorough and fair process. Today, I have again asked the Attorney General to explain her failure to resolve this matter.

Microsoft's innovations benefit thousands of companies, employees, shareholders and millions of consumers. With so much innovation and economic growth, and with so many jobs lying in the balance, the least the Department of Justice can do if it proceeds with its investigation is to do so in a fair, professional and ethical manner.

Mr. President, I yield the floor.

IRS REFORM

Mr. LAUTENBERG. Mr. President, first just a brief commentary, if I might, to say that Senator ROTH and Senator KERREY did the country a wonderful service by the reform measure that was put through to try to assure the public that Congress listens, the Government listens, that people should be treated fairly at all times; that there is no excuse for rudeness and inappropriate pressure on those people who pay their taxes. They are the constituents and we are here to serve them. I commend both Senators, the managers on both sides, Senators ROTH and KERREY, for a job well done.

UNITED STATES-ISRAEL RELATIONS

Mr. LAUTENBERG. Mr. President, I rise to discuss a matter that is triggered by something I read in the newspaper this morning. I saw it in the Washington Post and I saw it in the New York Times, a statement that House Speaker GINGRICH made when he held a press conference in which he criticized the Clinton administration's handling of the peace process.

Now, he, like any one of us in the Congress, has a right to disagree with the administration on policy, but I think it is dangerous, destructive, certainly demagogic, to say that "America's strong-arm tactics would send a clear signal to the supporters of terrorism that their murderous actions are an effective tool in forcing concessions from Israel."

That is an outrageous statement to make because it accuses President Clinton. Further in his statement, and I quote him here:

> Now it's become the Clinton administration and Arafat against Israel, Gingrich said at a Capitol news conference. He also released a letter he sent to President Clinton saying that "Israel must be able to decide her own security needs and set her own conditions for negotiations without facing coercion from the United States." As Israel celebrates its 50th anniversary, Speaker Gingrich said the Clinton administration says, "Happy birthday. Let us blackmail you on behalf of Arafat."

In his letter he gave the quote that I just read about America's strong-arm tactics, sending "a clear message that terrorism was an acceptable tool in forcing concessions from Israel."

Mr. President, I know Israel very well. I had the good fortune over a 3-year period to serve as chairman of the United Jewish Appeal. That is the fundraising arm that helps local institutions within the Jewish community, as well as Israel. This was over 20 years ago when Israel was getting on its feet. I know lots of people there. I know many people who have lost a son, lost a daughter. I know many people who visit in the hospitals regularly where their children or their friends or their loved ones are in a condition that keeps them hospitalized because of wounds they received during the wars.

I was able to visit Israel within a couple of days after the 1973 war was concluded while they were still searching for bodies on both sides, Egypt and Israel, in the Sinai desert, and I talked to people who regret so much that they are forced at times to inflict pain on their neighbors to protect themselves.

The Israelis have lost some 20,000 soldiers in wars since that country was founded—50 years. That is a short period of time. In the whole of the 20th century, the United States will have lost less than 400,000 soldiers in combat. I was in Europe during the war. I served in the Army in World War II. Mr. President, 20,000 Israelis is the equivalent of 1 million soldiers, 1 million fighters lost in the United States on a comparative basis—1 million. Could you imagine the heartbreak in this country that would exist if we lost a million soldiers in a period of 50 years? It would tear us apart.

Mr. President, I make this point. I served here under President Reagan, I served here under President Bush, and I knew President Carter very well because I had tried to help them at times when I was running a company in the computer business. They have been good friends to Israel because Israel and the United States have many common interests—the strength of a democracy, the ability to withstand adversity and come up providing freedom at all times for their citizens. But there has never been a better friend in the White House among the four Presidents I just mentioned than President Clinton. President Clinton has approached Israel from the mind as well as the heart. He understands what the relationship of Israel to the civilized world, to the democratic world, means. And he insists that they be permitted to negotiate on their own.

But as the President and the administration and the State Department tried to permit the Israelis and the Palestinians to negotiate their own terms, we were called back; we were called in to act as a go-between. I don't even want to use the term "as a negotiator" because it is up to the parties to negotiate. But we have been called on to try to facilitate the negotiations. And that has been the mission.

And so, Mr. President, I think it is outrageous that President Clinton, that this administration be declared as someone alongside terrorists, encouraging Arafat, encouraging those who would destroy Israelis. It is an outrage, it is demagoguery at its worst, and I don't think that kind of debate ought to be used, whether it is to gain votes or whatever else one can gain from those kinds of statements. It doesn't further the cause of peace, and it doesn't help our friendship with any of the countries in the area. It is the wrong way to go.

Mr. President, I believe—and I know that people in Israel believe—they have to have peace because it is unlike some other parts of the world where the absence of peace doesn't necessarily mean violence or war. There are tense relations in many parts of the world with one country alongside the other where there is no killing between them. It doesn't mean that there is affection. It doesn't mean that there is necessarily diplomatic or economic pursuits between these places. But in that area, I think most people are convinced that if it is not peace, it is violence, it is war. That is a condition that every one of us wants to see avoided. And so I hope we can take some comfort in the fact that we, the United States, are trying to be helpful to all parties there. We have worked very hard to make sure that Israel has the ability to call upon us when she needs a friend in world forums.

We are friendly and supportive of Egypt and Jordan and even attempt to try to get the Palestinian Authority to renounce parts of their covenant that says they want to destroy Israel. Yes, we don't like that. But to suggest, on the other hand, that President Clinton is someone who wants to send Israel a threatening message that comes from the terrorist side of the equation is unfair and, again I say, outrageous.

So I hope the Israelis and the Palestinians will be able to pursue a peaceful discourse. No one—no one—knows what Israel needs by way of its security better than the people of Israel. They have to make that decision. It is not going to be made in Washington, it is going to be made in Jerusalem. It is going to be made between the parties, and we have to let them do that, but recognize that they want us to play a role.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

MOTHER'S DAY

Mr. ENZI. Mr. President, it is a pleasure to be in these Chambers on such a historic day. Many out there might think that I am referring to this final passage of the tax reform bill, and that is truly historic and very significant and allows the American people to be removed from the fear of their own Government. And that is significant, but it is not the most significant historical thing happening.

Earlier today, there was a speech in here that recognized something very important that is happening. Last year, I was presiding when Senator BYRD gave his speech about mothers. Today, he spoke about mothers. On Sunday, we will be recognizing mothers. Mothers are probably the most significant historical thing that happen each and every day in this country. "Mother" has to be the world's most special word.

I want to add to his comments and those of Senator THOMAS earlier today. Of course, the person we get to know the best—or at least, probably more correctly worded, who knows us the best—is our mother. That gives them a very special place in our lives. They always set expectations for us. I will have to relate this in terms of my mother. I know it is done by mothers all over the country. I will tell you a little bit about my mother, and you can relate that to your mother and the other mothers in this country who are making a difference and raising families.

My mom set expectations. It is one of those jobs of a mom. I remember coming home from a PTA meeting when I was in kindergarten, and they had talked about college, and from that point on she talked about "when" I went to college. They had talked about Massachusetts Institute of Technology, MIT, so at that point she was sure I would be an engineer and go to MIT. But it is that expectation of college that sticks, and the other expectations of mom's, for me.

She made deals for learning, for education. I remember once an encyclopedia salesman came to the house—the "Book of Knowledge"—and I got to look at all those dream pages in there on all of those topics. I kind of pleaded with her to have an encyclopedia, and she asked me, if she got the encyclopedia, if I would give up comic books. This was in about second grade. Well, I wound up with the encyclopedia, and she worked hard to make sure we could pay for that encyclopedia. I still have that outdated encyclopedia, and it still gives the same excitement, the same feelings of mystery and adventure, that it did then.

And mothers give time. Sometimes they give it in a formal way to service organizations. My mom was a Cub Scout leader, she was my sister's Brownie and Girl Scout leader, and was very active in Sunday school and church, and just did a lot of things that involved us. But all mothers give time, and a lot of times we don't think about the time that they are giving when they are doing the things they are expected to do—organizing schedules, getting the meals together, doing the laundry, sewing a button on, putting a Band-Aid on—all those little things that we come to take for granted. That is time that mothers give—extra time that mothers give.

They give encouragement. They dream those dreams for us, and then they help us to fulfill them. It was my mom who encouraged me to be an Eagle Scout. "Encourage" is a word for "insist," I think. Without some insistence, sometimes we don't get quite to the place that their vision includes. And they hear about other dreams and visions for each one that we are able to accomplish, and they move us to another level of envisioning.

Of course, moms are the chief people for traditions, too. We have oyster stew on Christmas Eve, play instruments around a Christmas tree, have chicken on Sunday. In fact, to this day it isn't Sunday unless I get fried chicken. Nights with popcorn, playing games, listening—I am old enough that we used to sit down and listen to the radio together. "Fibber McGee and Molly" was one of the most popular shows. Making sauerkraut, and canning, all of the kinds of meals that mother put together.

Of course, the mothers are the ones who really establish that firm foundation of family. They are the ones who watch out for the parents and the grandparents and the kids and the grandkids, and think of the little events that are happening that ought to be special celebrations, and they make them special celebrations, often, by being there.

Of course, another part that mothers play is an educational role, passing on the lessons from their moms, and often in very succinct phrases. I have in my Washington office the mission statement that we came up with by which we measure everything that is done in the office. It is a series of phrases that my mom used to use when we were growing up, just so that we knew what we were supposed to be doing. The three easy rules are: Do what is right. Do your best. Treat others as you want to be treated. Even here in the U.S. Senate, if it doesn't fit those criteria, we are not going to do it.

Earlier today, Senator THOMAS made some comments about my mom. I deeply appreciated those. My mom was selected as Wyoming's Mother of the Year this year. She is 75 years young and still involved in many things, probably most principally still involved in being a mother. I still get the regular lessons, the hopes, the expectations, the dreams. But last weekend I got to go to Atlanta to see the special celebration for the mothers of the year from each of the States in the Nation. I have to tell you, that was a very spectacular collection of women who have done some very unusual things, way beyond the call of duty. And they do that as a celebration of all mothers and the unusual things that mothers do, often without credit.

I have to tell you that a lady named Diane Matthews was given the honor of being the Nation's Mother of the Year, and she will spend the next year traveling around at her own expense, helping out mothers' organizations across this country to deliver a message. I wish that I had the time to run through the special attributes that all of these women who were mothers of the year had. They deserve it. But, so does your mother deserve some special accolades, and that is what Sunday is going to be about, making a special day of saying, "Thanks, mom," and maybe mentioning a few of those things that we forget to mention some of the times.

I have to tell you a little bit about this organization that does this nationwide thing for promoting mothers, because that is what will change this country more than what we do in this body. Laws will not make the difference in the end—or in the beginning. Mothers are there at the beginning, and they start to form our lives right at that point. I have to tell you that this organization tries to improve motherhood, something that is already excellent. They know that it can be better. They know that if they work together, they can make this country better. I want to pass on to you a few of the suggestions they have for the homes of America.

They have a pledge that mothers who join sign on to. It covers some very basic things. They recognize that there are no quick fixes to problems facing families, but they suggest: Pray each day. Establish family traditions; share history. Inspire respect, a sense of belonging, a feeling of gratitude and responsibility. They suggest a daily devotion and having a family meeting once a week. That is included with eating together as a family at least once a day for a chance to compare notes; play together, learn, teach and model life skills, such as time management; love and nurture family members; monitor television viewing; promote patriotism; teach values; plan and spend time with your spouse; and learn the parenting skills.

They have some community goals: Reestablish the dignity and importance of being a mother; encourage community-wide needs assessment to identify and solve problems. They recognize that the moms can see the problems in the community, they can identify those needs and get people busy solving them.

They suggest implementing a mentor mothers program: Get the mothers who have some experience to help those who don't have experience yet to learn what the jobs are, and that can be done in a neighborhood sort of way.

They have a number of suggestions for the neighborhood: Create a nurturing neighborhood; community watch and safe neighborhoods; community cleanliness and beautification; recycling; emergency preparedness; gardens for the hungry; and neighborhood parties to create a sense of belonging. In this country, we have lost the sense of belonging as we get so busy and wrapped up in our jobs, and that is something to which mothers will bring us back.

They are emphasizing family time together, mothers helping other mothers, sharing the peace and power of prayer and providing quilts for at-risk babies—they go to hospitals all over the country and give quilts to babies who might otherwise be at risk—and also showing the appreciation of the role of mothers everywhere.

It was a tremendous adventure to attend their convention and see all of the different activities in which they are involved, things we ought to have more people involved in all over this country.

I encourage everyone to make Mother's Day special this year. Mothers help us to have celebrations. They are cheerleaders for all of the events of our lives. Sunday is a good day to be a cheerleader for the events in their lives. Take a few moments and write down some of the fond memories of your mother and share those with your mother. It will be a pleasant experience for both of you. After all, your mother had the dreams and did the work that makes your day, today, a reality.

In a speech I saw once, there were some lines that go something like this: For 9 long months, your mother carried you next to her heart. There is nothing that you will ever be able to do that will exceed her secret expectations of you. And even if your actions sink to the lowest depths of human behavior, you can't possibly sink beneath the love of her for you.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING MAY 1ST

Mr. HELMS. Mr. President, the American Petroleum Institute's report for the week ending May 1, that the U.S. imported 8,773,000 barrels of oil each day, an increase of 667,000 barrels over the 8,106,000 imported daily during the same week a year ago.

Americans relied on foreign oil for 57.7 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Politicians had better give consideration to the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 8,287,000 barrels a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, May 6, 1998, the federal debt stood at $5,485,513,178,742.02 (Five trillion, four hundred eighty-five billion, five hundred thirteen million, one hundred seventy-eight thousand, seven hundred forty-two dollars and two cents).

One year ago, May 6, 1997, the federal debt stood at $5,337,029,000,000 (Five trillion, three hundred thirty-seven billion, twenty-nine million).

Five years ago, May 6, 1993, the federal debt stood at $4,244,490,000,000 (Four trillion, two hundred forty-four billion, four hundred ninety million).

Ten years ago, May 6, 1988, the federal debt stood at $2,517,049,000,000 (Two trillion, five hundred seventeen billion, forty-nine million).

Fifteen years ago, May 6, 1983, the federal debt stood at $1,255,688,000,000 (One trillion, two hundred fifty-five billion, six hundred eighty-eight million) which reflects a debt increase of more than $4 trillion—$4,229,825,178,742.02 (Four trillion, two hundred twenty-nine billion, eight hundred twenty-five million, one hundred seventy-eight thousand, seven hundred forty-two dollars and two cents) during the past 15 years.

COMMEMORATING THE LIFE OF RONALD E. WYNN

Mr. FRIST. Mr. President, I rise today to commemorate the life of Ronald E. Wynn, who died Friday, May 1, 1998. I first met Ron as a patient in 1987. He bears the distinction of being the first African-American to receive a heart transplant at Vanderbilt University Medical Center, and I had the honor of performing his surgery. While our relationship was initially that of doctor/patient, it later evolved into something deeper. Ron's wife describes him as someone who "always had a smile on his face" and who "always tried to help other people." These characteristics, along with our shared desire to promote the need for organ donation, caused our friendship to grow.

Several of my transplant patients came to me in 1987 with the idea of bicycling across the state of Tennessee to promote organ donation awareness. My initial thought was they were crazy. I told them, "It's one thing to go swimming and riding and jumping running around at a controlled event, where help is just around the corner. But to go pedaling across a state with nobody around to help and no place to go if you get in trouble—it's not twenty-five miles, with people standing cheering you on; it's five hundred miles, with long stretches of deserted road, and huge hills, and cars zipping past. It's too risky." Ron was one of those courageous souls who sought to publicize this worthwhile goal by participating in this event, and he, along with several others, eventually persuaded me that it could be done in a safe and effective manner. Because of their influence, I, too, became an advocate for this program and took an active role in publicizing and promoting this event. "Transplant Bikers Across Tennessee" became a phenomenal success which helped increase donor awareness across our state and our country.

Ron's contributions to our state spanned a wide range of achievement and service. One of our local papers, The Tennessean, chronicled Ron's life in its May 5, 1998 edition. Ron graduated from Pearl Senior High School in 1965 and from Fisk University in 1969 with a degree in physics. He then continued his education by doing graduate work at Fisk in physics and mathematics, and put that education to practice by working as a health physicist reviewing radioactive material applications. Ron also served as a reserve officer in the Navy and was the first African-American on the amphibious assault carrier the USS *Francis Marion*. While these achievements are impressive and commendable, his family stated that he "will be remembered most of his generous spirit."

As hard as you try not to become too attached to your patients, it happens all the same. As a physician or a nurse, you will pull for them, you cheer them on, you attend to their needs—physically and emotionally, and in the end, they make an impression on you that isn't erased just because the surgery is completed. Ron's passing is a great loss to so many people. It is also a personal loss for me. His loyalty to organ donor awareness is to be commended, and, as a tribute to this man who sought to help others who depend on organ donation for life, we should carry on this work in his memory.

At the successful completion of the "Transplant Bikers Across Tennessee" event, Ron and the other participants were engulfed by the media. Ron responded by saying, "A lot of people have called us heroes this week, but the real heroes are those people, the ones who donate their organs so that out of their tragic deaths people like me can have a life." Ron will be sorely missed by his family, friends, and community. I have made it a goal to continue efforts to increase public awareness and to ensure that we are doing all we can to save lives through organ donation.

MESSAGES FROM THE HOUSE

At 12:02 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1872. An act to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 265. Concurrent resolution authorizing the use of the East Front of the Capitol Grounds for performances sponsored by the John F. Kennedy Center for the Performing Arts.

The message further announced that the Speaker appoints the following Members as additional conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; and appoints as additional conferees from the Committee on the Budget, for consideration of titles VII and X of the House bill and modifications committed to conference: Mr. PARKER, Mr. RADANOVICH, and Mr. SPRATT.

The message also announced that the Clerk be directed to return to the Senate the bill (S. 414) to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes, in compliance with a request of the Senate for the return thereof.

At 2:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints for the consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. ARCHER, Mr. GOODLING, Mr. ARMEY, Mr. RANGEL, and Mr. CLAY, as the managers of the conference on the part of the House.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 1502. An act entitled the "District of Columbia Student Opportunity Scholarship Act of 1998."

Under the authority of the order of today, May 7, 1998, the enrolled bill was signed subsequently by the Acting President pro tempore (Mr. COATS).

At 7:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6. An act to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes.

H.R. 3694. An act to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 6. An act to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 1872. An act to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3694. An act to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Select Committee on Intelligence.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 3717. An act to prohibit the expenditure of Federal funds for the distribution of needles or syringes for the hypodermic injection of illegal drugs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4800. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–275 adopted by the Council on January 6, 1998; to the Committee on Governmental Affairs.

EC–4801. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–316 adopted by the Council on March 3, 1998; to the Committee on Governmental Affairs.

EC–4802. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–317 adopted by the Council on March 3, 1998; to the Committee on Governmental Affairs.

EC–4803. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–318 adopted by the Council on March 3, 1998; to the Committee on Governmental Affairs.

EC–4804. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–319 adopted by the Council on March 3, 1998; to the Committee on Governmental Affairs.

EC–4805. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–322 adopted by the Council on March 3, 1998; to the Committee on Governmental Affairs.

EC–4806. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–323 adopted by the Council on March 3, 1998; to the Committee on Governmental Affairs.

EC–4807. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–324 adopted by the Council on March 3, 1998; to the Committee on Governmental Affairs.

EC–4808. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–326 adopted by the Council on March 17, 1998; to the Committee on Governmental Affairs.

EC–4809. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–331 adopted by the Council on April 7, 1998; to the Committee on Governmental Affairs.

EC–4810. A communication from the Executive Director of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the report on the Second Quarter Obligations and Expenditures of Non-Appropriated Funds for fiscal year 1998; to the Committee on Governmental Affairs.

EC–4811. A communication from the Manager of Benefits Communication, Farm Credit Bank of Wichita, transmitting, pursuant to law, a report entitled "Plan Year Ending December 31, 1996"; to the Committee on Governmental Affairs.

EC–4812. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports for March 1998; to the Committee on Governmental Affairs.

EC–4813. A communication from the Chairman of the Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting, pursuant to law, the reports under the Inspector General Act and on the system of internal accounting and financial controls; to the Committee on Governmental Affairs.

EC–4814. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1997; to the Committee on Governmental Affairs.

EC–4815. A communication from the General Counsel of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a rule entitled "Correction of Administrative Errors" received on April 27, 1998; to the Committee on Governmental Affairs.

EC–4816. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report entitled "Utilization and Donation of Federal Personal Property" for fiscal years 1995 through 1996; to the Committee on Governmental Affairs.

EC–4817. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1997; to the Committee on Governmental Affairs.

EC–4818. A communication from the Director of the Office of Government Ethics, transmitting, a draft of proposed legislation entitled "The Office of Government Ethics Authorization Act of 1998"; to the Committee on Governmental Affairs.

EC–4819. A communication from the Director of the Office of Government Ethics, transmitting, the report on the activities of OGE and the executive branch ethics program during the calendar years of 1996 and 1997; to the Committee on Governmental Affairs.

EC–4820. A communication from the Executive Director, Committee for Purchase From People Who are Blind or Severely Disabled, transmitting, pursuant to law, a rule relative to additions to the procurement list, received on April 24, 1998; to the Committee on Governmental Affairs.

EC–4821. A communication from the Executive Director, Committee for Purchase From People Who are Blind or Severely Disabled, transmitting, pursuant to law, a rule relative to additions to the procurement list, received on April 29, 1998; to the Committee on Governmental Affairs.

EC–4822. A communication from the General Counsel of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a rule entitled "Freedom of Information Act" (RIN0348–AB42) received on May 1, 1998; to the Committee on Governmental Affairs.

EC–4823. A communication from the Director of the Office of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Logistics Agency Privacy Program" received on April 20, 1998; to the Committee on Governmental Affairs.

EC–4824. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "Extended Medical Care Coverage for Officer Program Participants"; to the Committee on Governmental Affairs.

EC–4825. A communication from the Human Resources Manager, CoBank, transmitting, pursuant to law, the report of the ABC Retirement Plan for fiscal year 1996; to the Committee on Governmental Affairs.

EC–4826. A communication from the Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the annual report for fiscal year 1996 and 1997; to the Committee on Governmental Affairs.

EC–4827. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1997; to the Committee on Governmental Affairs.

EC–4828. A communication from the General Counsel of the Department of Defense, transmitting, drafts of four proposed items of legislation that address several management concerns of the Department of Defense; to the Committee on Commerce, Science, and Transportation.

EC–4829. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a certification regarding the incidental capture of sea turtles in commercial shrimping operations; to the Committee on Commerce, Science, and Transportation.

EC–4830. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule to close the commercial fishery for red snapper in Federal waters of the Gulf of Mexico received on May 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4831. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule to close the recreational fishery for red snapper in Federal waters of the Gulf of Mexico (Docket 970730185–7206–02) received on May 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4832. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule to increase the minimum size limit for vermilion snapper in Federal waters of the Gulf of Mexico (RIN0648–AJ89) received on May 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4833. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of twenty rules including a rule entitled "Safety/Security Zone Regulations; Santa Barbara Channel, CA" [RIN2115–AA97 (1998–0010 through 1998–0013); RIN2120–AE71; RIN2120–AA66 (Dockets 98–AWP–5/4–20, 98–AWP–2/4–23, 97–ASO–16, 97–AWP–17, 97–ACE–39, 98–ACE–1, 97–ACE–38); RIN2120–AA64 (Dockets 98–NM–114–AD, 97–CE–42–AD, 97–SW–52–AD, 97–CE–46–AD, 97–CE–88–AD, 96–CE–54–AD, 97–CE–108–AD, 97–CE–98–AD)] received on April 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4834. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of three rules including a rule entitled "Safety Zone; Greenwood Lake Powerboat Classic, Greenwood Lake, New Jersey" [RIN2115–AA97; RIN2120–AA64 (Dockets 97–CE–134–AD, 98–NM–130–AD)] received on May 4, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4835. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of seventeen rules including a rule entitled "Special Flight Rules in the Vicinity of the Grand Canyon National Park; Final rule-correcting amendment" [RIN2120–ZZ12; RIN2120–AA64 (Dockets 98–NM–127–AD, 98–NM–124–AD, 97–CE–91–AD, 97–CE–118–AD, 97–CE–97–AD, 98–NM–125–AD, 98–NM–126–AD, 96–NM–186–AD, 97–NM–226–AD, 97–NM–135–AD, 97–NM–337–AD, 97–NM–263–AD); RIN2120–AA66 (Dockets 98–AGL–1, 98–AGL–4, 98–AGL–3); RIN97–ASW–27] received on April 23, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4836. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of thirty-one rules including a rule entitled "Parts and Accessories Necessary for Safe Operation; Antilock Brake Systems" [RIN2125–AD42; RIN2105–ZZ02; RIN2130–AB22; RIN2130–AA96; RIN2115–AE82; RIN2115–AA97; RIN2115–AE47; RIN2115–AA98; RIN2115–AA97 (1998–0014 and 1998–0015); RIN2115–AE46; RIN2120–AA64 (Dockets 96–NM–59–AD, 95–NM–143–AD, 96–NM–199–AD, 97–NM–217–AD, 96–NM–248–AD, 97–NM–303–AD, 97–CE–68–AD, 97–CE–132–AD, 97–CE–104–AD, 97–CE–124–AD, 97–CE–48–AD); RIN2120–AA65 (Dockets 29162, 29163, 29164, 29198, 29199); RIN2120–AA66 (Dockets 98–ACE–2, 98–ACE–6, 98–ACE–3, 98–ACE–4)] received on May 1, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4837. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of twenty-two rules including a rule entitled "Drawbridge Regulations: Anacostia River, Washington D.C." (RIN 2115–AE47; RIN2115–AD35; RIN2115–AA97; RIN2120–ZZ11; RIN2120–AF95; RIN2120–AA66 (Dockets 98–AWP–8/4–13, 97–AWP–20/4–13, 96–ASW–30, 96–AWP–3/4–13); RIN2120–AA65 (Dockets 29186, 29185, 29187); RIN2120–AA64 (Dockets 90–CE–65–AD, 97–NM–267–AD, 94–ANE–39, 97–NM–93–AD, 97–NM–291–AD, 98–NM–83–AD, 97–NM–69–AD, 97–NM–97–AD); RIN2120– (Dockets 97–ANM–15, 97–ANM–16)] received on April 21, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SHELBY, from the Select Committee on Intelligence, without amendment:

Mr. THURMOND. Mr. President, pursuant to section 3(b) of Senate Resolution 400, I ask that, S. 2052, the Intelligence Authorization Act for fiscal year 1999, be referred to the Committee on Armed Services.

S. 2052: An original bill to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Retirement and Disability System, and for other purposes.

Referred to the Committee on Armed Services for a period not to exceed 30 days of session, pursuant to section 3(b) of Senate Resolution 400 of the 94th Congress to report or be discharged.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1525: A bill to provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Con. Res. 75: A concurrent resolution honoring the sesquicentennial of Wisconsin statehood.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

William P. Dimitrouleas, of Florida, to be United States District Judge for the Southern District of Florida.

Stephan P. Mickle, of Florida, to be United Sates District Judge for the Northern District of Florida.

Chester J. Straub, of New York, to be United States Circuit Judge for the Second Circuit.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAUCUS (for himself, Mr. GRAHAM, Mr. BREAUX, Mr. REID, Mr. GRASSLEY, Ms. MIKULSKI, and Mr. JOHNSON):

S. 2040. A bill to amend title XIX of the Social Security Act to extend the authority of State medicaid fraud control units to investigate and prosecute fraud in connection with Federal health care programs and abuse of residents of board and care facilities; to the Committee on Finance.

By Mr. SMITH of Oregon:

S. 2041. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the

Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FAIRCLOTH:

S. 2042. A bill to provide for a program to improve commercial motor vehicle safety in the vicinity of the borders between the United States and Canada and the United States and Mexico; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself, Mr. BUMPERS, and Mr. DURBIN):

S. 2043. A bill to repeal the limitation on use of appropriations to issue rules with respect to valuation of crude oil for royalty purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mrs. MURRAY, Mr. LEVIN, Mr. INOUYE, Mr. DODD, Mr. KERRY, Mr. DASCHLE, Mr. BINGAMAN, and Mr. GLENN):

S. 2044. A bill to assist urban and rural local education agencies in raising the academic achievement of all of their students; to the Committee on Labor and Human Resources.

By Mr. FAIRCLOTH:

S. 2045. A bill to amend title 10, United States Code, to permit certain beneficiaries of the military health care system to enroll in Federal employees health benefits plans, and for other purposes; to the Committee on Armed Services.

By Mr. ASHCROFT:

S. 2046. A bill to ensure that Federal, State and local governments consider all nongovernmental organizations on an equal basis when choosing such organizations to provide assistance under certain government programs, without impairing the religious character of any of the organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such programs, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 2047. A bill to suspend temporarily the duty on the personal effects of participants in, and certain other individuals associated with, the 1999 International Special Olympics, the 1999 Women's World Cup Soccer, the 2001 International Special Olympics, the 2002 Salt Lake City Winter Olympics, and the 2002 Winter Paralympic Games; to the Committee on Finance.

By Mr. SANTORUM:

S. 2048. A bill to provide for the elimination of duty on Ziram; to the Committee on Finance.

By Mr. KERREY (for himself, Mr. BOND, Mr. DURBIN, Mr. KENNEDY, Mr. DEWINE, and Mr. MOYNIHAN):

S. 2049. A bill to provide for payments to children's hospitals that operate graduate medical education programs; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2050. A bill to amend title 10, United States Code, to prohibit members of the Armed Forces from entering into correctional facilities to present decorations to persons who commit certain crimes before being presented such decorations; to the Committee on Armed Services.

By Mr. WARNER:

S. 2051. A bill to establish a task force to assess activities in previous base closure rounds and to recommend improvements and alternatives to additional base closure rounds; to the Committee on Armed Services.

By Mr. SHELBY:

S. 2052. An original bill to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Retirement and Disability System, and for other purposes; from the Select Committee on Intelligence; to the Committee on Armed Services, pursuant to the order of section 3(b) of S. Res. 400 for a period not to exceed 30 days of session.

By Mr. WARNER:

S. 2053. A bill to require the Secretary of the Treasury to redesign the $1 bill so as to incorporate the preamble to the Constitution of the United States, the Bill of Rights, and a list of Articles of the Constitution on the reverse side of such currency; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FAIRCLOTH (for himself and Mr. HELMS):

S. Res. 225. A resolution expressing the sense of the Senate regarding the 35th anniversary of the founding of the North Carolina Community College System; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS (for himself, Mr. GRAHAM, Mr. BREAUX, Mr. REID, Mr. GRASSLEY, Ms. MIKULSKI, and Mr. JOHNSON):

S. 2040. A bill to amend title XIX of the Social Security Act to extend the authority of State medicaid fraud control units to investigate and prosecute fraud in connection with Federal health care programs and abuse of residents of board and care facilities; to the Committee on Finance.

THE SENIOR CITIZEN PROTECTION ACT OF 1998

Mr. BAUCUS. Mr. President, today I rise to introduce the Senior Citizen Protection Act of 1998. The legislation aims to protect our nation's seniors from patient and elder abuse. The bill also protects our federal health care programs, most notably Medicare, from fraud.

In the past two years, we have made great strides against fraud and abuse by passing new initiatives. These initiatives include closing loopholes, improving coordination between Federal, State, and local law enforcement programs, and enhancing the powers of the Inspector General of the Department of Health and Human Services to combat fraud and recover lost money.

These measures are helping, but there is another vision which I think will help us stay ahead of those who endlessly scheme to defraud our health care programs. The Senior Citizen Protection Act deputizes Medicaid investigators and enables them to weed out fraud and abuse in our federal health program.

Currently, when a Medicaid Fraud Control Unit investigates a state Medicaid fraud case and finds a similar violation in Medicare, the Unit cannot investigate the Medicare infraction. Common sense will tell you that an unscrupulous actor defrauding Medicaid will likely do the same to federal health programs.

In Montana, for example, the Medicaid Fraud Control Unit routinely finds co-existing cases of Medicaid and Medicare fraud in patient records. While the Unit has the documents right in front of them, they can not pursue the Medicare abuses.

Federal authorities must conduct a new and separate investigation. Unfortunately, these violations may be too small to justify a federal investigation. The majority of health care fraud recoveries, 62%, are more than a million dollars. Even more striking, only 6% of federal fraud recoveries are in an amount lower than $100,000. Thus, the Federal Government is doing a good job of weeding out the big actors in the anti-fraud war, but the smaller actors—which still cost money—continue to ride scot-free.

That is where our legislation can help. If a fraud Unit is investigating a fraudulent doctor, for example, and finds some Medicare claims that look false, currently the investigator has to call the Inspector General's office and report their suspicions.

In many cases, however, they hear back from Washington that the claims may be fraudulent, but the fraud is not widespread enough to justify the expense of a federal investigation. Under our legislation, the Units will now be able to wrap the Medicare case into their own investigation and the Federal Government will be able to continue spending their resources on larger fraud operations.

The Senior Citizen Protection Act allows state Fraud Control Units to investigate federal violations which come to their attention during an existing state Medicaid investigation. By giving the Units this discreet authority, we can take another step toward reducing fraud and abuse.

While most fraud cases are the result of overbilling, false billing, or a provider performing unnecessary services, almost 25% of health care fraud cases are due to poor quality of care or care not provided. And that is when these problems cross over from health care fraud to actual patient abuse and neglect. It alarms all of us when we hear stories of older individuals being harmed by unscrupulous persons. What upsets me so much about elderly abuse is how vulnerable these victims are, especially since they depend so much on their health care providers for actual daily activities.

Some Senators may have heard about the egregious case in Arizona where two defendants pled guilty to three counts of aggravated assault for sexually assaulting, intimidating and abusing patients: Their crimes included spitting at and kicking patients, and threatening to give a pill to a patient so he would never wake up. Some patients were so afraid they would not eat or drink. This is a modern tragedy.

Other stories include incidents of physical abuse, verbal ridicule and mockery, and neglect, such as depriving patients of food, water and the opportunity for communication.

Under current law, state Medicaid Fraud Control Units can only investigate and prosecute cases of elder abuse in state-funded facilities. However, more and more seniors are moving into assisted living and residential treatment settings that receive no state funds. Let me be clear: I support this trend, as it gives seniors more choices about the type of long-term care they receive. I am concerned, however, that assisted living facilities have little oversight to prevent patient neglect and abuse. Local authorities often lack the resources and skill to investigate health care cases.

In Montana, our state Medicaid Fraud Control Unit routinely receives calls from local law enforcement agencies, local public health departments, and even Adult Protective Services requesting assistance with elder abuse cases. However, the Fraud Unit's hands are tied; they lack the jurisdictional authority to offer help.

The Senior Citizen Protection Act will enable state Medicaid Fraud Control Units to investigate cases of patient abuse and neglect in residential facilities that do not receive state reimbursement. Medicaid investigators have the experience and expertise to assist local authorities with this job. Allowing the Medicaid Fraud Control Units to lend their expertise to cases in non-Medicaid facilities makes good sense and is right for our seniors.

Mr. REID. Mr. President, I rise in support of S. 2040 the Senior Citizens Protection Act introduced by Senator BAUCUS earlier this morning.

I am pleased to be an original cosponsor on this important legislation.

There are 47 federally certified Medicaid Fraud Control Units across the country. Since the program began in 1978, more than 8,000 cases have been prosecuted. They do an excellent job.

Millions of dollars have been returned as a result of their work.

The "Senior Citizens Protection Act of 1998" makes two very simple changes to Medicaid Fraud Control Unit authority.

First it gives MFCU's the authority to investigate violations in our federal health programs—primarily Medicare in addition to their current authority to investigate violations in Medicaid.

Secondly, the bill would enable MFCU's to investigate patient abuse and neglect in residential health care facilities that do not receive Medicaid reimbursement.

In short the bill has two goals: to stop health care fraud and to protect vulnerable seniors.

As the face of long-term care changes, local authorities need the resources to investigate claims of patient and elder abuse.

Rather than create new bureaucracies, this bill allows us to build upon the expertise of an existing entity—the state Medicaid Fraud Control Units.

During two Aging Committee field hearings that I held in Las Vegas and Reno in January 1998, I heard first hand from the Nevada Attorney General, Frankie Sue Del Papa, how important this legislation was.

She made it very clear to me that her Medicaid Fraud Control Unit has the expertise to investigate these cases. They simply need the authority.

The MFCU's have the know how and experience to protect seniors in residential health care facilities. They merely lack the authority to get involved in non-Medicaid cases.

This legislation will give them the needed authority. That is why this bill is endorsed by the National Association of Attorneys General, the Department of Justice, the American Association of Retired Persons and the Department of Health and Human Services Office of the Inspector General.

Simply put, it is the right thing to do.

It is unfortunate that when MFCU investigators involved in a case of Medicaid fraud discover evidence that this fraud may also be happening in the Medicare program, or other federally funded health care programs, they are restricted from taking action. This bill will change that.

Under current law, the MFCU can only investigate patient abuse in medical facilities which receive Medicaid funds.

In 1996 and 1997, the Nevada MFCU received 120 referrals but only opened 20 investigations due in part to limited jurisdiction.

Although many of these cases are referred to local law enforcement, they may never be criminally investigated or prosecuted due to lack of expertise or available resources.

State MFCUs are able to conduct these investigations and this bill will give them the needed authority.

In Nevada 47 nursing homes and 54 adult group homes receive Medicaid funding.

When abuse or neglect occurs in such facilities, the state MFCU can investigate.

However, we also have approximately 265 residential facilities for groups and 321 registered homes which could fall within the definition of "board and care facilities" set forth in this bill.

With the passage of this bill, seniors and other residents in these facilities would be protected regardless of whether the facility receives Medicaid funding or not.

This bill would give the state MFCU the authority to investigate allegations of abuse and neglect in these facilities.

As we collectively strive to reduce fraud and abuse in our Medicare and Medicaid programs, we cannot overlook any opportunity to make a difference.

This bill is a welcome weapon in our arsenal to fight abuse.

I commend Senators BAUCUS of Montana and GRAHAM of Florida for their sponsorship of this bill and Senators MIKULSKI, GRASSLEY, JOHNSON, and BREAUX for their original cosponsorship of this important legislation.

We need all the ammunition possible in the war against health care fraud and in assuring the protection of our nation's most vulnerable seniors in the spectrum of long-term care facilities.

The bill introduced by my colleagues today is a major step in the right direction.

I am pleased to join them in sponsoring this important legislation.

Ms. MIKULSKI. Mr. President, I am pleased to be an original cosponsor of the Senior Citizens Protection Act of 1998, introduced by Senator BAUCUS. I support this legislation for two reasons—it fights fraud and protects seniors.

Fraud and abuse pose a serious threat to Medicare and Medicaid. We cannot afford to tolerate any more abuse of the system. The job of Medicaid Fraud Control Units (MFCUs) is to investigate and prosecute Medicaid fraud in state programs. MFCUs have prosecuted thousands of cases and recovered hundreds of thousands of Medicaid dollars. Every dollar saved by MFCUs is another dollar we can use to provide quality service to those who need it.

This legislation expands the authority of Medicaid Fraud Control Units in two ways. It allows MFCUs to investigate federal fraud violations discovered during a state Medicaid investigation. Currently, MFCUs cannot investigate Medicare fraud or other federal fraud violations. Under the Senior Citizens Protection Act, MFCUs will be able to investigate federal fraud, and return recovered funds to the federal government.

I am firmly committed to protecting seniors from elder abuse. This legislation protects seniors by authorizing to MFCUs to investigate patient abuse in residential health care facilities that do not receive Medicaid reimbursement. The number of residential facilities is growing, but local authorities often lack the resources to investigate elder abuse. MFCUs are already investigating elder abuse in facilities that receive Medicaid funding. But under the Senior Citizens Protection Act, MFCUs will be able to protect all of our senior citizens living in residential facilities.

I want to let those who depend on Medicaid and Medicare know that we are fighting to stop fraud and waste. We have done an outstanding job in protecting Medicaid-covered seniors from fraud and abuse. It is now time to extend that protection to all of our senior citizens.

By Mr. SMITH of Oregon:

S. 2041. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes; to the Committee on Energy and Natural Resources.

THE WILLOW LAKE PROJECT ACT

Mr. SMITH of Oregon. Mr. President, today I am introducing legislation to authorize the Secretary of the Interior to participate in the design planning and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water by the city of Salem, Oregon. This project is an innovative approach to an ongoing sewer overflow problem. It will not only provide environmental benefits for the city and the Willamette Valley, but could also provide irrigation water for the local farming community.

This natural treatment system is one component of the city's recently adopted Wastewater Master Plan. Currently, the city has a combined sanitary sewer system. Unfortunately, each winter season during the wet weather, sewer overflows spill into Salem-area creeks and streams, as well as the Willamette River.

The proposed natural treatment system, working in conjunction with the city's wastewater treatment plant, will provide Salem with the ability to meet regulatory requirements by storing and treating all wastewater from Salem's sewer system and significantly reducing wet weather sewer system overflows. The finished system will meet Oregon Department of Environmental Quality (DEQ) standards, and be fully operational by 2010. Although the specific site has not yet been selected, I am hopeful that any land needed for the project will be acquired on a willing buyer-willing seller basis.

The natural treatment system proposed includes both overland flow treatment and constructed wetlands treatment. The overland flow system will include grassy swales and poplar trees to provide a high level of wastewater treatment. The constructed wetlands will include shallow ponds with wetland-type vegetation, and provide both treatment and storage. This system will be capable of producing between 10 and 20 million gallons per day of high quality effluent during the summer months that could potentially be used as a source of irrigation water for the farming community in the area. A separate feasibility study will have to be conducted before a determination is made on whether to use this water for irrigation purposes. Any application of this water would have to be in accordance with state water quality standards and the requirements of the food processing industry.

This bill would authorize the Secretary to participate in this project under the Bureau of Reclamation's existing Title XVI water reuse program. This program requires a feasibility study for all projects authorized, and caps the federal cost-share of the construction costs. Under the Title XVI program, the city would have title to the project, and be responsible for all operation and maintenance costs.

This project will provide multiple benefits for the environment. It will naturally treat wastewater, provide habitat for fish and wildlife, improve water quality in Salem-area streams and the Willamette River, and reduce wintertime sewer system overflows. As water supplies tighten throughout the western United States, we need to look at innovative, cost-effective programs such as this to reuse water as efficiently as possible.

I urge my colleagues to support enactment of this legislation, and will ask for its timely consideration by the Committee on Energy and Natural Resources. Mr. President, I ask unanimous consent to have the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. WILLOW LAKE NATURAL TREATMENT SYSTEM PROJECT.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating sections 1631, 1632, and 1633 as sections 1632, 1633, and 1634, respectively; and

(2) by inserting after section 1630 the following new section 1631:

"SEC. 1631. WILLOW LAKE NATURAL TREATMENT SYSTEM PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Salem, Oregon, is authorized to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project to reclaim and reuse wastewater within and without the service area of the City of Salem.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of a project described in subsection (a).".

(b) CONFORMING AMENDMENTS.—That Act is further amended—

(1) in section 1632 (43 U.S.C. 390h–13) (as redesignated by subsection (a)(1)), by striking "section 1630" and inserting "section 1631";

(2) in section 1633(c) (43 U.S.C. 390h–14) (as so redesignated), by striking "section 1633" and inserting "section 1634"; and

(3) in section 1634 (43 U.S.C. 390h–15) (as so redesignated), by striking "section 1632" and inserting "section 1633".

(c) CLERICAL AMENDMENT.—The table of contents in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 is amended by striking the items relating to sections 1631 through 1633 and inserting the following:

"Sec. 1631. Willow Lake Natural Treatment System Project.
"Sec. 1632. Authorization of appropriations.
"Sec. 1633. Groundwater study.
"Sec. 1634. Authorization of appropriations.".

By Mr. FAIRCLOTH:

S. 2042. A bill to provide for a program to improve commercial motor vehicle safety in the vicinity of the borders between the United States and Canada and the United States and Mexico; to the Committee on Commerce, Science, and Transportation.

THE SAFE HIGHWAYS ACT OF 1998

Mr. FAIRCLOTH.

Mr. President, I rise to introduce the Safe Highways Act.

This bill authorizes $20 million per year over the next five years for enforcement activities to prevent unsafe foreign trucks from rolling across our borders under NAFTA. This bill will fund inspections at our borders to keep these Mexican and Canadian trucks off our roads unless they meet our tough truck safety standards. Our standards are higher than in Mexico and Canada, and, certainly, I do not want these trucks rumbling down our roads and threatening the safety of our families.

Mexican trucks are already permitted to operate in limited areas in the United States and, in fact, they have been doing so for two decades. We can enforce these standards at the border, but it will take training and an increased effort to handle the additional traffic from NAFTA, so we need to step up and put this money aside. These foreign trucks will soon roam more of our roads under NAFTA. We need to be ready. This is literally a matter of life and death for American families who share the road with these trucks.

By Mrs. BOXER (for herself, Mr. BUMPERS, and Mr. DURBIN):

S. 2043. A bill to repeal the limitation on use of appropriations to issue rules with respect to valuation of crude oil for royalty purposes; to the Committee on Energy and Natural Resources.

TAX LEGISLATION

Mrs. BOXER. Mr. President, today Senator DURBIN and Senator BUMPERS join me in introducing legislation to repeal a special-interest rider attached to the emergency supplemental appropriations bill last week. Representatives CAROYLN MALONEY and GEORGE MILLER are introducing companion legislation in the House.

This rider is a taxpayer rip-off. It blocks the Interior Department from implementing a proposed rule to ensure that oil companies pay a fair royalty for oil drilled on public lands. These royalties are shared between the federal government and the state.

California law requires that all royalty payments be credited directly to the State Schools Fund. So every penny the oil companies fail to pay is stolen directly form our state's classrooms and our children's education.

If allowed to stand, this special interest rider will cost American taxpayers an estimated $5.5 million per month, approximately $25 million by the end of this fiscal year. California's share of this lost revenue could be used to hire new teachers, help rebuild crumbling schools, or put dozens of computers in our classrooms.

When oil companies drill on public lands, they pay a royalty to the federal government, which in turn sends a share of these royalties to the states. The royalty is calculated as a percentage of the value of the oil drilled.

Here is where the problem lies. The oil companies currently understate the value of the oil drilled, and as a result, they underpay their royalties. Now, and after years of study and Congressional prodding, the Department of the Interior has finally decided to do something about it.

The Department of the Interior has billed 12 major oil companies over $260 million for back royalty payments. It will have to sue to collect because the current system is so fraught with ambiguity.

To guarantee taxpayers a fair royalty payment in the future, the Interior Department proposed a simple and common sense solution: pay royalties based on actual market prices, not estimates the oil companies themselves make up. The rule was first proposed 2½ years ago. It has held 14 public workshops and published 5 separate requests for industry comments. And now it has been stopped cold in the dead of night.

This is one of the clearest examples of a special interest taxpayer rip-off I have ever seen. It saves the wealthiest oil companies in the world millions of dollars while shortchanging taxpayers and California schoolchildren. What does this say about our nation's priorities? This action must not stand, and my colleagues and I will fight it to the end.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF LIMITATION ON ISSUANCE OF RULES REGARDING VALUATION OF CRUDE OIL FOR ROYALTY PURPOSES.

Section 3009 of the 1998 Supplemental Appropriations and Rescissions Act is repealed.

By Mr. KENNEDY (for himself, Mrs. MURRAY, Mr. LEVIN, Mr. INOUYE, Mr. DODD, and Mr. KERRY):

S. 2044. A bill to assist urban and rural local education agencies in raising the academic achievement of all of their students; to the Committee on Labor and Human Resources.

THE EDUCATIONAL OPPORTUNITY ZONES ACT OF 1998

Mr. KENNEDY. Mr. President, it is an honor to introduce President Clinton's Education Opportunity Zones bill to strengthen urban and rural public schools where the need is greatest. Congress needs to do more to improve teaching and learning for all students across the nation, and that means paying close attention to school districts and children with the greatest needs.

Too many schools now struggle with low expectations for students, high dropout rates, watered-down curricula, unqualified teachers, and inadequate resources. This legislation will lead to the designation of approximately 50 high-poverty urban and rural school districts as "Education Opportunity Zones," and help them to implement the effective reforms needed to turn themselves around.

These school districts will become models of system-wide, standards-based reform for the nation. They must agree to specific benchmarks for improved student achievement, lower dropout rates, and other indicators of success. Schools in these districts will also be eligible for greater flexibility in the use of federal education funds.

Our goal is to increase achievement, raise standards, upgrade teacher skills, and strengthen ties between schools, parents, and the community as a whole. Under this proposal, schools can use effective reform measures such as ending social promotion, increasing accountability, improving teacher recruitment and training, and providing students and parents with school report cards.

We know that this approach can work. Last fall, I visited the Harriet Tubman Elementary School in New York City, where 95 percent of the pupils are from low-income families. Before 1996, it was one of the lowest achieving schools in the city. In September, 1996, the principal, the superintendent, teachers, and parents worked together to reorganize the school. They put extra resources into training teachers to teach reading. They upgraded the curriculum to reflect high standards. They created a parent resource center to increase family and community involvement. These and other reforms worked.

Each day, many parents are at the school too, helping maintain discipline and at the same time expanding their own education.

Each morning, teachers stop their regular classwork and teach reading to their students for 90 minutes. Since 1996, scores on statewide reading exams have risen by 20 percent.

In Boston, under the leadership of Superintendent Tom Payzant, schools are making significant progress by creating new curriculum standards, setting higher achievement standards, and expanding technology through public and private sector partnerships. They are focusing on literacy, after-school programs, and school-to-career opportunities.

These successes are not unusual. Public schools can improve even when facing the toughest odds. We need to do all we can to help such schools get the resources they need, so that they can implement the changes they know will work and help children learn more effectively.

Under the Education Opportunity Zone approach, urban and rural school districts can apply for funds to implement a wide range of reforms. School districts will apply to the Secretary of Education for three-year grants. The Secretary will ensure a fair distribution of grants among geographic regions, and among various sizes of urban and rural schools districts.

In determining the amount of each grant, the Secretary will consider factors such as the scope of activities in the application, the number of students from poor families in the school district, the number of low-performing schools in the district, and the number of low-achieving children in the district.

This legislation proposes funding of $200 million in fiscal year 1999 and $1.5 billion over the next 5 years to support these grants.

I commend President Clinton for developing this worthwhile initiative, and I look forward to its enactment. Investing in students, teachers, and schools is one of the best investments America can make. For schools across the nation, help can't come a minute too soon.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2044

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

* * * * *

FINDINGS

SEC. 2. The Congress finds as follows:

(1) Students in schools that have high concentrations of poor children begin school academically behind their peers in other schools and are often unable to close the gap

as they progress through school. In later years, these students are less likely than other students to attend a college or university and more likely to experience unemployment.

(2) Many children who attend these high-poverty schools lack access to the challenging curricula, well-prepared teachers, and high expectations that make better achievement possible. More specifically, they are often educated in over-crowded classrooms and by teachers who are assigned to teach in subject areas outside their areas of certification.

(3) Data from the National Assessment of Educational Progress consistently show large gaps between the achievement of students in high-poverty schools and those in other schools. High-poverty schools will face special challenges in preparing their students to reach high standards of performance on national and State assessments, such as voluntary national tests and the assessments States are developing under the Goals 2000 and ESEA, Title I programs.

(4) Recent reports have found that students in urban districts are more likely to attend high-poverty schools; more frequently taught by teachers possessing only an emergency or temporary license; and less likely to score above the basic level on achievement tests than are nonurban students.

(5) High-poverty rural schools, because of their isolation, small size, and low levels of resources, also face particular challenges. For example, teachers in rural districts are nearly twice as likely as other teachers to provide instruction in three or more subjects.

(6) Notwithstanding these general trends, some high-poverty school districts have shown that they can increase student achievement, if they adopt challenging standards for all children, focus on improving curriculum and instruction, expand educational choice among public schools for parents and students, adopt other components of systemic educational reform, and hold schools, staff, and students accountable for results.

(7) Districts that have already established the policies needed to attain widespread student achievement gains, and have attained those gains in some of their schools, can serve as models for other districts desiring to improve the academic achievement of their students. The Federal Government can spur more districts in this direction by providing targeted resources for urban and rural districts willing to carry out solid plans for improving the educational achievement of all their children.

PURPOSE

SEC. 3. The purpose of this Act is to assist urban and rural local educational agencies that: (1) have high concentrations of children from low-income families; (2) have a record of achieving high educational outcomes, in at least some of their schools; (3) are implementing standards-based systemic reform strategies; and (4) are keeping their schools safe and drug-free, to pursue further reforms and raise the academic achievement of all their students.

DEFINITIONS

SEC. 4. As used in this Act, the following terms have the following meanings:

(1) the term "central city" has the meaning given that term by the Office of Management and Budget.

(2) the term "high-poverty local educational agency" means a local educational agency in which the percentage of children, ages 5 through 17, from families with incomes below the poverty level is 20 percent or greater or the number of such children exceeds 10,000.

(3) The term "local educational agency"—

(A) has the meaning given that term in section 14101(18)(A) and (B) of the Elementary and Secondary Education Act of 1965; and

(B) includes elementary and secondary schools operated or supported by the Bureau of Indian Affairs.

(4) the term "metropolitan statistical area" has the meaning given that term by the Office of Management and Budget.

(5) the term "rural locality" means a locality that is not within a metropolitan statistical area and has a population of less than 25,000.

(6) The term "urban locality" means a locality that is—

(A) a central city of a metropolitan statistical area; or

(B) any other locality within a metropolitan statistical area, if that area has a population of at least 400,000 or a population density of at least 6,000 persons per square mile.

ELIGIBILITY

SEC. 5. (a) ELIGIBLE LEAS.—(1) A local educational agency is eligible to receive a grant under this Act if it is—

(A) a high-poverty local educational agency; and

(B) located in, or serves, either an urban locality or a rural locality.

(2) Two or more local educational agencies described in paragraph (1) may apply for, and receive a grant under this Act as a consortium.

(b) DETERMINATION OF ELIGIBILITY.—The Secretary shall determine which local educational agencies meet the eligibility requirements of subsection (a) on the basis of the most recent data that are satisfactory to the Secretary.

APPLICATIONS

SEC. 6. (a) APPLICATIONS REQUIRED.—In order to receive a grant under this Act, an eligible local educational agency shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(b) CONTENTS.—Each application shall include evidence that the local educational agency meets each of the following conditions:

(1) It has begun to raise student achievement, as measured by State assessments under title III of the Goals 2000: Educate America Act, title I of the Elementary and Secondary Education Act of 1965, or comparably rigorous State or local assessments; or it has shown significant progress on other measures of educational performance, including school attendance, high school competition, and school safety. Student achievement evidence shall include data disaggregated to show the achievement of students separately by race and by gender, as well as for students with disabilities, students with limited English proficiency, and students who are economically disadvantaged (compared to students who are not economically disadvantaged), throughout the district or, at a minimum, in schools that have implemented a comprehensive school improvement strategy.

(2) It expects all students to achieve to challenging State or local content standards, it has adopted or is developing or adopting assessments aligned with those standards, and it has implemented or is implementing comprehensive reform policies designed to assist all children to achieve to the standards.

(3) It has entered into a partnership that includes the active involvement of representatives of local organizations and agencies and other members of the community, including parents, and is designed to guide the implementation of the local educational agency's comprehensive reform strategy.

(4) It has put (or is putting) into place effective educational reform policies, including policies that—

(A) hold schools accountable for helping all students, including students with limited English proficiency and students with disabilities, reach high academic standards. The application shall describe how the agency will reward schools that succeed and intervene in schools that fail to make progress;

(B) require all students, including students with disabilities and students with limited English proficiency, to meet academic standards before being promoted to the next grade level at key transition points in their careers or graduating from high school. The application shall describe the local educational agency's strategy for providing students with a rich curriculum tied to high standards, and with well-prepared teachers and class sizes conducive to high student achievement;

(C) identify, during the early stages of their academic careers, students who have difficulty in achieving to high standards, and provide them with more effective educational interventions or additional learning opportunities such as after school programs, so that the students are able to meet the standards at key transition points in their academic careers;

(D) hold teachers, principals, and superintendents accountable for quality, including a description of the local educational agency's strategies for ensuring quality through, among other things—

(i) development of clearly articulated standards for teachers and school administrators, and development, in cooperation with teachers organizations, of procedures for identifying, working with, and, if necessary, quickly but fairly removing teachers and administrators who fail to perform at adequate levels, consistent with State law and locally negotiated agreements;

(ii) implementation of a comprehensive professional development plan for teachers and instructional leaders, such as a plan developed under title II of the Elementary and Secondary Education Act of 1965; and

(iii) encouraging excellent teaching, such as by providing incentives for teachers to obtain certification by the National Board for Professional Teaching Standards; and

(E) provide students and parents with expanded choice within public education.

(5) It is working effectively to keep its schools safe, disciplined, and drug-free.

(c) DESCRIPTION OF PROPOSED PROGRAM.—The application shall also include a description of how the local educational agency will use the grant made available under this Act, including descriptions of—

(1) how the district will use all available resources (Federal, State, local, and private) to carry out its reform strategy;

(2) the specific measures that the applicant proposes to use to provide evidence of future progress in improving student achievement, including the subject areas and grade levels in which it will measure that progress, and an assurance that the applicant will collect such student data in a manner that demonstrates the achievement of students separately by race and by gender, as well as for

students with disabilities, students with limited English proficiency, and students who are economically disadvantaged (compared to students who are not economically disadvantaged); and

(3) how the applicant will continue the activities carried out under the grant after the grant has expired.

SELECTION OF APPLICATIONS

SEC. 7. (a) CRITERIA.—The Secretary shall, using a peer-review process, select applicants to receive funding based on—

(1) evidence that—

(A) the applicant has made progress in improving student achievement or the other measures of educational performance described in section 6(b)(1), in at least some of its schools that enroll concentrations of children from low-income families;

(B) the applicant has put (or is putting) into place effective reform policies as described in section 6(b)(4); and

(C) the applicant is working effectively to keep its schools safe, disciplined, and drug-free; and

(2) the quality of the applicant's plan for carrying out activities under the grant, as set forth in the application.

(b) EQUITABLE DISTRIBUTION.—In approving applications, the Secretary shall seek to ensure that there is an equitable distribution of grants among geographic regions of the country, to varying sizes of urban local educational agencies, and to rural local educational agencies, including rural local educational agencies serving concentrations of Indian children.

PRESIDENTIAL DESIGNATION; TECHNICAL ASSISTANCE

SEC. 8. (a) DESIGNATION AS EDUCATION OPPORTUNITY ZONE.—The President shall designate each local educational agency selected by the Secretary to receive a grant under this Act as an "Education Opportunity Zone".

(b) TECHNICAL ASSISTANCE.—The President may instruct Federal agencies to provide grant recipients with such technical and other assistance as those agencies can make available to enable the grantees to carry out their activities under the program.

AMOUNT AND DURATION OF GRANTS; CONTINUATION AWARDS

SEC. 9. (a) GRANT AMOUNTS.—In determining the amount of a grant, the Secretary shall consider such factors as—

(1) the scope of the activities proposed in the application;

(2) the number of students in the local educational agency who are from low-income families;

(3) the number of low-performing schools in the local educational agency; and

(4) the number of children in the local educational agency who are not reaching State or local standards.

(b) DURATION OF GRANTS.—(1) Each grant shall be for three years, but may be continued for up to two additional years if the Secretary determines that the grantee is achieving agreed-upon measures of progress by the third year of the grant.

(2) The Secretary may increase the amount of a grant in the second year, in order to permit full implementation of grant activities, except that—

(A) the amount of a second-year award shall be no more than 140 percent of the award for the first year;

(B) the amount of a third-year award shall be no more than 80 percent of the second-year award;

(C) the amount of a fourth-year award shall be no more than 70 percent of the second-year award; and

(D) the amount of a fifth-year award shall be no more than 50 percent of the second-year award.

(c) EXPECTED ACHIEVEMENT LEVELS AND CONTINUATION AWARDS.—(1) Before receiving its award, each grantee shall develop and adopt, with the approval of the Secretary, specific, ambitious levels of achievement that exceed typical achievement levels for comparable local educational agencies and that the local educational agency commits to attaining during the period of the grant.

(2) The agreed-upon levels shall—

(A) reflect progress in the areas of—

(i) student academic achievement;

(ii) dropout rates;

(iii) attendance; and

(iv) such other areas as may be proposed by the local educational agency or the Secretary; and

(B) provide for the disaggregation of data separately by race and by gender, as well as for students with disabilities, students with limited English proficiency, and students who are economically disadvantaged students (compared to students who are not economically disadvantaged).

USES OF FUNDS

SEC. 10. (a) IN GENERAL.—Each grantee shall use its award only for activities that support the comprehensive reform efforts described in its application or that are otherwise consistent with the purpose of this Act.

(b) AUTHORIZED ACTIVITIES.—Activities that may be carried out with funds under this Act include—

(1) implementing school-performance-information systems to measure the performance of schools in educating their students to high standards, maintaining a safe school environment, and achieving the anticipated school-attendance and graduation rates;

(2) implementing district accountability systems that reward schools that raise student achievement and provide assistance to, and ultimately result in intervention in, schools that fail to do so, including such intervention strategies as technical assistance on school management and leadership, intensive professional development for school staff, institution of new instructional programs that are based on reliable research, and the reconstitution of the school;

(3) providing students with expanded choice and increased curriculum options within public education, through such means as open-enrollment policies, schools within schools, magnet schools, charter schools, distance-learning programs, and opportunities for secondary school students to take post-secondary courses;

(4) implementing financial incentives for schools to make progress against the goals and benchmarks the district has established for the program;

(5) providing additional learning opportunities, such as after-school, weekend, and summer programs, to students who are failing, or are at risk of failing, to achieve to high standards;

(6) providing ongoing professional development opportunities to teachers, principals, and other school staff that are tailored to the needs of individual schools, and aligned with the State or local academic standards and with the objectives of the program carried out under the grant;

(7) implementing programs, designed in cooperation with teacher organizations, to provide recognition and rewards to teachers who demonstrate outstanding capability at educating students to high standards, including monetary rewards for teachers who earn certification from the National Board for Professional Teaching Standards;

(8) implementing procedures, developed in cooperation with teacher organizations, for identifying ineffective teachers and administrators, providing them with assistance to improve their skills and, if there is inadequate improvement, quickly but fairly removing them from the classroom or school, consistent with State law and locally negotiated agreements;

(9) establishing programs to improve the recruitment and retention of well-prepared teachers, including the use of incentives to encourage well-prepared individuals to teach in areas of the district with high needs;

(10) designing and implementing procedures for selecting and retaining principals who have the ability to provide the school leadership needed to raise student achievement;

(11) strengthening the management of the local educational agency so that all components of management are focused on improving student achievement;

(12) carrying out activities to build stronger partnerships between schools and parents, businesses, and communities; and

(13) assessing activities carried out under the grant, including the extent to which the grant is achieving its objectives.

FLEXIBILITY

SEC. 11. (a) ELIGIBILITY FOR SCHOOLWIDE PROGRAMS UNDER ESEA, TITLE I.—Each school operated by a local educational agency receiving funding under this authority that is selected by the agency to receive funds under section 1113(c) of the Elementary and Secondary Education Act of 1965 shall be considered as meeting the criteria for eligibility to implement a schoolwide program as described in section 1114 of that Act.

(b) CARRYING OUT SCHOOLWIDE PROGRAMS.—All schools in the local educational agency that qualify for eligibility for a schoolwide program based solely on the agency's receiving funding under this Act and that wish to carry out a schoolwide program shall—

(1) develop a plan that satisfies the requirements of section 1114(b)(2) of the Elementary and Secondary Education Act of 1965; and

(2) develop a program that includes the components of a schoolwide program described in section 1114(b)(1) of that Act.

PARTICIPATION OF PRIVATE SCHOOL STUDENTS AND TEACHERS

SEC. 12. (a) REQUIREMENTS.—(1)(A) If a local educational agency uses funds under this Act to provide for training of teachers or administrators, it shall provide for the participation of teachers or administrators from private nonprofit elementary or secondary schools, in proportion to the number of children enrolled in those schools who reside in attendance areas served by the local educational agency's program under this Act.

(B) A local educational agency may choose to comply with subparagraph (A) by providing services to teachers or administrators from private schools at the same time and location it provides those services to teachers and administrators from public schools.

(C) The local educational agency shall carry out subparagraph (A) after timely and meaningful consultation with appropriate private school officials.

(2) If the local educational agency uses funds under this Act to develop curricular materials, it shall make information about those materials available to private schools.

(b) WAIVER.—If, by reason of any provision of law, a local educational agency is prohibited from providing the training for private school teachers or administrators required by subsection (a)(1)(A), or if the Secretary determines that the agency is unable to do so, the Secretary shall waive the requirement of that subsection and shall use a portion of the agency's grant to arrange for the provision of the training.

EVALUATION

SEC. 13. The Secretary shall carry out an evaluation of the program supported under this Act, which shall address such issues as the extent to which—

(1) student achievement in local educational agencies receiving support increases;

(2) local educational agencies receiving support expand the choices for students and parents within public education; and

(3) local educational agencies receiving support develop and implement systems to hold schools, teachers, and principals accountable for student achievement.

NATIONAL ACTIVITIES

SEC. 14. The Secretary may reserve up to five percent of the amount appropriated under section 15 for any fiscal year for—

(1) peer review activities;

(2) evaluation of the program under section 13 and measurement of its effectiveness in accordance with the Government Performance and Results Act of 1993;

(3) dissemination of research findings, evaluation data, and the experiences of districts implementing comprehensive school reform; and

(4) technical assistance to grantees.

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. For the purpose of carrying out this Act, there are authorized to be appropriated $200 million for fiscal year 1999, and such sums as may be necessary for each of the four succeeding fiscal years.

By Mr. FAIRCLOTH:

S. 2045. A bill to amend title 10, United States Code, to permit certain beneficiaries of the military health care system to enroll in Federal employees health benefits plans, and for other purposes; to the Committee on Armed Services.

THE IMPROVED MILITARY MEDICAL PLAN ACT

Mr. FAIRCLOTH. Mr. President, today I am introducing the Improved Military Medical Plan Act, IMMPACT for short, to ensure that military retirees and their families will continue to be given proper medical care. This past May 1, the Defense Department implemented its new health care program, known as TRICARE, in two more regions of the country, including in North Carolina. As the number of TRICARE enrollees increases and as the Military Health Services System is downsized, military retirees will have an even harder time finding space available at military facilities.

Effectively, those military retirees over 65 are left with no military medical benefit, since they are unlikely to get into military facilities.

Mr. President, this is a far cry from the promise that our government made to these retirees when they put in a full career in uniform risking their lives for our freedom. They were promised medical care for life, and everyone believed that it would be at base medical facilities. It just is not right to renege on that promise after all that these men and women have done for our country.

We can and must do better. IMMPACT will allow Medicare-eligible military retirees, their dependents, and their survivors to participate in the Federal Employees Health Benefits program. It will also provide a very strong incentive for the Department of Defense to ensure that TRICARE is offering active duty personnel and younger retirees and their families a medical benefit equivalent to the federal civilian program.

IMMPACT sets up a three-year demonstration. Ideally, the demonstration would be conducted on a nationwide basis, but I realize that such a broadly geographical demonstration could be difficult to manage. So the bill directs the Administration to have as expansive a demonstration as practicable, as long as at least six sites around the country are selected.

The IMMPACT demonstration is simple. Medicare-eligible retirees of the uniformed services as well as their dependents and survivors at the selected demonstration sites will be able to apply for enrollment in the health care plans of the Federal Employees Health Benefits program. Every year, the Administration will report to Congress on the value of this health care option, how many eligible beneficiaries want to enroll, how much the demonstration is costing, how it compares to other health care options available to the beneficiaries, to name just a few of the metrics.

The IMMPACT demonstration is only open to Medicare-eligible retirees. But, as I mentioned earlier, IMMPACT provides strong incentives for the Department of Defense to make TRICARE as comprehensive as FEHBP. The fine men and women now serving in the Armed Services and those who went before them deserve to be treated at least as well as civilian federal employee and retirees.

This is very important to me. We have all heard of, or even experienced, health care plans where "cost" is a more important factor than "service." Two health care plans could appear equivalent on the surface—their premiums could be about the same, they could have many locations for treatment, etc. But, if one plan is more bureaucratic than another, or it delays payments to doctors, or it is too tight on the definition of what is a "reasonable and customary charge," eventually, the best doctors are going to drop out. In the Federal Employees Health Benefits program, civilian employees and retirees can opt out of a bad plan because they have a choice of many plans. But, in TRICARE, there is no real choice. There are no competitive pressures to keep TRICARE equivalent to the better civilian plans.

IMMPACT will fix that. Within six months after the passage of IMMPACT, the Administration must submit a report to Congress that sets forth a plan to enhance TRICARE, if necessary, so that it is at least as comprehensive as the plans used by civilian federal employees and retirees.

IMMPACT is independent of other demonstration programs. Some may argue that IMMPACT is not needed because we are running a Medicare Subvention demonstration. But, there is no reason why IMMPACT should wait for that program to be completed and evaluated. In fact, I want IMMPACT to be offered to the same retirees that could chose the Medicare Subvention plan. In this manner, we will have some clear market signals about the value of each of these options within the same customer community.

At the end of the IMMPACT demonstration program, the Administration will advise the Congress of the need to extend the eligibility of participation in the Federal Employees Health Benefits program, first nationwide to all Medicare-eligible retirees, and then to all retirees or active duty personnel, if TRICARE proves to be inferior to the civilian health care benefit.

Mr. President, some may complain that this program will increase the Defense Department's cost of delivering medical benefits. Perhaps it will. But, I think our military men and women and their families deserve a better health care program than they are being offered now. Clearly, if we can find the money to fund our extravagances in the arts and entertainment, we can find funding for medical care for those who have been willing to risk their own lives in defense of our liberty and freedom.

Mr. President, I urge my colleagues to support IMMPACT.

By Mr. ASHCROFT:

S. 2046. A bill to ensure that Federal, State and local governments consider all nongovernmental organizations on an equal basis when choosing such organizations to provide assistance under certain government programs, without impairing the religious character of any of the organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such programs, and for other purposes; to the Committee on Governmental Affairs

THE CHARITABLE CHOICE EXPANSION ACT OF 1998

Mr. ASHCROFT. Mr. President, for years, America's charities and churches have been transforming shattered lives by addressing the deeper needs of people—by instilling hope and values which help change behavior and attitudes. By contrast, government social programs have failed miserably in moving recipients from dependency and despair to responsibility and independence.

Successful faith-based organizations now have a new opportunity to transform the character of our welfare system under the "Charitable Choice" provision contained in the 1996 welfare reform law. Charitable Choice allows—but does not require—states to contract with charitable, religious or private organizations, or, to create voucher systems, to deliver welfare services within the states. The provision requires states to consider these organizations on an equal basis with other private groups once a state decides to use nongovernmental organizations.

The Charitable Choice legislation provides specific protections for religious organizations when they provide services. For example, the government cannot discriminate against an organization on the basis of its religious character. A participating faith-based organization retains its independence from government, including control over the definition, development, practice, and expression of its religious beliefs.

Additionally, the government cannot require a religious organization to alter its form of internal governance or remove religious art, icons, or symbols to be eligible to participate. Finally, religious organizations may consider religious beliefs and practices in their employment decisions.

The Charitable Choice legislation also provides specific protections to beneficiaries of assistance. A religious organization can't discriminate against a beneficiary on account of religion. And if a beneficiary objects to receiving services from a religious organization, he or she has a right to an alternate provider.

Finally, there is a limitation on use of government funds. Federal contract dollars cannot be used for sectarian worship, instruction, or proselytization.

I would like to give a couple of examples of how the Charitable Choice provision of the welfare law is currently working.

Last fall, Payne Memorial Outreach Center, the non-profit community development arm of the 100-year-old Payne Memorial African Methodist Episcopal Church, in Baltimore, received a $1.5 million state contract to launch an innovative job training and placement program. In a matter of only five months, over 100 welfare recipients successfully obtained employment through their participation in Payne's program. A brochure from this dynamic faith-based institution describes why Payne is successful: "The Intensive Job Service Program reaches out in love to Baltimore's most disenfranchised, helping them to identify and strengthen their God-given talents—releasing and developing their human possibilities."

Another example of Charitable Choice at work is in Shreveport, Louisiana, where the "Faith and Families" program, under a contract with the state, is running a successful job placement program. Faith and Families offers job-readiness classes in northwestern Louisiana, helps set up job interviews, and opens doors into the workplace.

The program also links welfare families with faith communities. Churches are asked to adopt a family and provide assistance—possibly child care, transportation, work experience, tutoring, and encouragement—that will help them make the transition from welfare to work.

I spoke with the director of Faith and Families in Shreveport just last week, and he told me that his organization has helped 400 people get off welfare and find jobs.

These examples demonstrate that under the Charitable Choice provision of the welfare law, caring, faith-based organizations are providing effective services that help individuals move from dependency to independence, from despair to dignity.

With this in mind, today I am introducing "The Charitable Choice Expansion Act of 1998," which expands the Charitable Choice concept to all federal laws which authorize the government to use non-governmental entities to provide services to beneficiaries with federal dollars.

The substance of the Charitable Choice Expansion Act is virtually identical to that of the original Charitable Choice provision of the welfare reform law. The only real difference between the two provisions is that the new bill covers many more federal programs than the original provision.

While the original Charitable Choice provision applies mainly to the new welfare reform block grant program, the Charitable Choice Expansion Act applies to all federal government programs in which the government is authorized to use nongovernmental organizations to provide federally funded services to beneficiaries. Some of the programs that will be covered include: housing, substance abuse prevention and treatment, juvenile services, seniors services, the Community Development Block Grant, the Community Services Block Grant, the Social Services Block Grant, abstinence education, and child welfare services.

The legislation does not cover elementary and secondary education programs—except it does cover GED programs—or higher education programs. Further, the bill does not affect the Head Start program or the Child Care Development Block Grant program, both of which already contain certain provisions regarding the use of religious organizations in delivering services under those programs.

We have taken measures to strengthen the bill by providing more protections to both beneficiaries and religious organizations. For example, the government must ensure that beneficiaries receive notice of their right under the bill to object to receiving services from a religious organization. Additionally, religious organizations must segregate their own private funds from government funding.

This proposal is necessary because while some areas of the law may not contain discriminatory language towards religious organizations, many government officials may assume wrongly that the Establishment Clause bars religious organizations from participating as private providers.

The Charitable Choice Expansion Act embodies existing case precedents to clarify to government officials and religious organizations alike that it is constitutionally allowable, and even constitutionally required, to consider religious organizations on an equal basis with other private providers. It is my hope that these protections in the law will encourage successful charitable and faith-based organizations to expand their services while assuring them that they will not have to extinguish their religious character when receiving government funds.

I am pleased to say that there is broad-based support for the Charitable Choice Expansion Act. Some of the organizations supporting the concept of this legislation include Agudath Israel, American Center for Law and Justice, Call to Renewal, Center for Public Justice, Christian Coalition, Christian Legal Society, the Coalition on Urban Renewal and Education, National Association of Evangelicals, the National Center for Neighborhood Enterprise, the Salvation Army, Teen Challenge International USA, and World Vision.

America's faith-based charities and nongovernmental organizations, from the Salvation Army to Catholic Charities, have moved people successfully from dependency and despair to the dignity of self-reliance. Government alone will never cure our societal ills. We need to find ways to help unleash the cultural remedy administered so effectively by charitable and religious organizations. Allowing a "charitable choice" will help transform the lives of those in need and unleash an effective response to today's challenges in our culture.

By Mr. KERREY (for himself, Mr. BOND, Mr. DURBIN, Mr. KENNEDY, Mr. DEWINE, and Mr. MOYNIHAN):

S. 2049. A bill to provide for payments to children's hospitals that operate graduate medical education programs; to the Committee on Finance.

THE CHILDREN'S HOSPITALS EDUCATION AND RESEARCH ACT OF 1998

Mr. KERREY. Mr. President, I am pleased to submit this proposal to provide critical support to teaching programs at free-standing children's hospitals. I am also honored to be joined by Senators BOND, DURBIN, KENNEDY, DEWINE and MOYNIHAN on this bill.

Children's hospitals play an important role in our nation's health care system. They combine high-quality clinical care, a vibrant teaching mission and leading pediatric biomedical research within their walls. They provide specialized regional services, including complex care to chronically ill children, and serve as safety-net providers to low-income children.

Teaching is an everyday component of these hospitals' operations. Pediatric hospitals train one-quarter of the nation's pediatricians, and the majority of America's pediatric specialists. Pediatric residents develop the skills they need to care for our nation's children at these institutions.

In addition, pediatric hospitals combine the joint missions of teaching and research. Scientific discovery depends on the strong academic focus of teaching hospitals. The teaching environment attracts academics devoted to research. It attracts the volume and spectrum of complex cases needed for clinical research. And the teaching mission creates the intellectual environment necessary to test the conventional wisdom of day-to-day health care and foster the questioning that leads to breakthroughs in research. Because these hospitals combine research and teaching in a clinical setting, these breakthroughs can be rapidly translated into patient care.

Children's hospitals have contributed to advances in virtually every aspect of pediatric medicine. Thanks to research efforts at these hospitals, children can survive once-fatal diseases such as polio, grow and thrive with disabilities such as cerebral palsy, and overcome juvenile diabetes to become self-supporting adults.

Through patient care, teaching and research, these hospitals contribute to our communities in many ways. However, their training programs—and their ability to fulfill their critical role in America's health care system—are being gradually undermined by dwindling financial support. Maintaining a vibrant teaching and research program is more expensive than simply providing patient care. The nation's teaching hospitals have historically relied on higher payments—payments above the cost of clinical care itself—in order to finance their teaching programs. Today, competitive market pressures provide little incentive for private payers to contribute towards teaching costs. At the same time, the increased use of managed care plans within the Medicaid program has decreased the availability of teaching dollars through Medicaid. Therefore, Medicare's support for graduate medical education is more important than ever.

Independent children's hospitals, however, serve an extremely small number of Medicare patients. Therefore, they do not receive Medicare graduate medical education payments to support their teaching activities. In 1997, Medicare provided an average of $65,000 per resident to all teaching hospitals, compared to an average of $230 per resident in total Medicare GME payments at independent children's hospitals.

This proposal will address, for the short-term, this unintended consequence of current public policy. It will provide time-limited support to help children's hospitals train tomorrow's pediatricians, investigate new treatments and pursue pediatric biomedical research. It will establish a four-year fund, which will provide children's hospitals with a Federal teaching payment equal to the national average per resident payment through Medicare. Total spending over four years will be less than a billion dollars.

All American families have great dreams for their children. These hopes include healthy, active, happy childhoods, so they seek the best possible health care for their children. And when these dreams are threatened by a critical illness, they seek the expertise of highly-trained pediatricians and pediatric specialists, and rely on the research discoveries fostered by children's hospitals. All families deserve a chance at the American dream. Through this legislation, we will help children's hospitals—hospitals such as Children's Hospital in Omaha, Boys' Town, St. Louis Children's Hospital, Children's Memorial Hospital in Chicago, Children's Hospital in Boston and others—train the doctors and do the research necessary to fulfill this dream. Through this legislation, Congress will be doing its part to help American families work towards a successful future.

Mr. President, this legislation will address a short-term problem—actually a problem that is a short-term solution to a problem that we have with graduate medical education for pediatricians. Pediatric hospitals perform a very important part of the teaching and the training of our pediatricians. But because they see very few Medicare patients, which is obvious, they don't receive Medicare graduate education payments to support their teaching activities. What that means is there is a huge difference in Federal support across teaching hospitals—about $65,000 per resident in Medicare GME payments to all teaching hospitals, compared to an average of $230 per resident in total Medicare GME payments to independent children's hospitals.

It is a very big problem as we increasingly pay attention to the need for good pediatric health care for our children. We have to make sure that we solve this problem. This is a short-term solution.

I mentioned the short-term solution. The Presidential Commission on Medicare will be making its recommendation next year. One of its responsibilities is to deal with the question of graduate medical education—coming up with a solution of how we can fund it in an environment where more and more health care is going into managed care. That will be an especially difficult problem for us to solve.

But inside of that overall problem is an even more compelling problem, as I think Members will see when they look at the differential in reimbursement for teaching costs in pediatric hospitals versus all residents nationwide.

Thank you, Mr. President. I ask that the complete text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Hospitals Education and Research Act of 1998".

SEC. 2. PROGRAM OF PAYMENTS TO CHILDREN'S HOSPITALS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.

(a) PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make payment under this section to each children's hospital for each hospital cost reporting period beginning after fiscal year 1998 and before fiscal year 2003 for the direct and indirect expenses associated with operating approved medical residency training programs.

(2) CAPPED AMOUNT.—The payment to children's hospitals established in this subsection for cost reporting periods ending in a fiscal year is limited to the extent of funds appropriated under subsection (d) for that fiscal year.

(3) PRO RATA REDUCTIONS.—If the Secretary determines that the amount of funds appropriated under subsection (d) for cost reporting periods ending in a fiscal year is insufficient to provide the total amount of payments otherwise due for such periods, the Secretary shall reduce the amount payable under this section for such period on a pro rata basis to reflect such shortfall.

(b) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—The amount payable under this section to a children's hospital for direct and indirect expenses relating to approved medical residency training programs for a cost reporting period is equal to the sum of—

(A) the product of—

(i) the per resident rate for direct medical education, as determined under paragraph (2), for the cost reporting period; and

(ii) the weighted average number of full-time equivalent residents in the hospital's approved medical residency training programs (as determined under section 1886(h)(4) of the Social Security Act) for the cost reporting period; and

(B) the product of—

(i) the per resident rate for indirect medical education, as determined under paragraph (3), for the cost reporting period; and

(ii) the number of full-time equivalent residents in the hospital's approved medical residency training programs for the cost reporting period.

(2) PER RESIDENT RATE FOR DIRECT MEDICAL EDUCATION.—

(A) IN GENERAL.—The per resident rate for direct medical education for a hospital for a cost reporting period ending in or after fiscal year 1999 is the updated rate determined under subparagraph (B), as adjusted for the hospital under subparagraph (C).

(B) COMPUTATION OF UPDATED RATE.—The Secretary shall—

(i) compute a base national DME average per resident rate equal to the average of the per resident rates computed under section 1886(h)(2) of the Social Security Act for cost reporting periods ending during fiscal year 1998; and

(ii) update such rate by the applicable percentage increase determined under section 1886(b)(3)(B)(i) of such Act for the fiscal year involved.

(C) ADJUSTMENT FOR VARIATIONS IN LABOR-RELATED COSTS.—The Secretary shall adjust for each hospital the portion of such updated rate that is related to labor and labor-related costs to account for variations in wage costs in the geographic area in which the hospital is located using the factor determined under section 1886(d)(3)(E) of the Social Security Act.

(3) PER RESIDENT RATE FOR INDIRECT MEDICAL EDUCATION.—

(A) IN GENERAL.—The per resident rate for indirect medical education for a hospital for a cost reporting period ending in or after fiscal year 1999 is the updated amount determined under subparagraph (B).

(B) COMPUTATION OF UPDATED AMOUNT.—The Secretary shall—

(i) determine, for each hospital with a graduate medical education program which is paid under section 1886(d) of the Social Security Act, the amount paid to that hospital pursuant to section 1886(d)(5)(B) of such Act for the equivalent of a full twelve-month cost reporting period ending during the preceding fiscal year and divide such amount by the number of full-time equivalent residents participating in its approved residency programs and used to calculate the amount of payment under such section in that cost reporting period;

(ii) take the sum of the amounts determined under clause (i) for all the hospitals described in such clause and divide that sum by the number of hospitals so described; and

(iii) update the amount computed under clause (ii) for a hospital by the applicable percentage increase determined under section 1886(b)(3)(B)(i) of such Act for the fiscal year involved.

(c) MAKING OF PAYMENTS.—

(1) INTERIM PAYMENTS.—The Secretary shall estimate, before the beginning of each cost reporting period for a hospital for which a payment may be made under this section, the amount of payment to be made under this section to the hospital for such period and shall make payment of such amount, in 26 equal interim installments during such period.

(2) FINAL PAYMENT.—At the end of each such period, the hospital shall submit to the Secretary such information as the Secretary determines to be necessary to determine the final payment amount due under this section for the hospital for the period. Based on such determination, the Secretary shall recoup any overpayments made, or pay any balance due. The final amount so determined shall be considered a final intermediary determination for purposes of applying section 1878 of the Social Security Act and shall be subject to review under that section in the same manner as the amount of payment under section 1886(d) is subject to review under such section.

(d) LIMITATION ON EXPENDITURES.—

(1) IN GENERAL.—Subject to paragraph (2), there are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for payments under this section for cost reporting periods beginning in—

(A) fiscal year 1999 $100,000,000;

(B) fiscal year 2000, $285,000,000;

(C) fiscal year 2001, $285,000,000; and

(D) fiscal year 2002, $285,000,000.

(2) CARRYOVER OF EXCESS.—If the amount of payments under this section for cost reporting periods ending in fiscal year 1999, 2000, or 2001 is less than the amount provided under this subsection for such payments for such periods, then the amount available under this subsection for cost reporting periods ending in the following fiscal year shall be increased by the amount of such difference.

(e) RELATION TO MEDICARE AND MEDICAID PAYMENTS.—Notwithstanding any other provision of law, payments under this section to a hospital for a cost reporting period—

(1) are in lieu of any amounts otherwise payable to the hospital under section 1886(h) or 1886(d)(5)(B) of the Social Security Act to the hospital for such cost reporting period, but

(2) shall not affect the amounts otherwise payable to such hospitals under a State medicaid plan under title XIX of such Act.

(f) DEFINITIONS.—In this section:

(1) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term "approved medical residency training program" has the meaning given such term in section 1886(h)(5)(A) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(A)).

(2) CHILDREN'S HOSPITAL.—The term "children's hospital" means a hospital described in section 1886(d)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(iii)).

(3) DIRECT GRADUATE MEDICAL EDUCATION COSTS.—The term "direct graduate medical education costs" has the meaning given such term in section 1886(h)(5)(C) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(C)).

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

Mr. BOND. Mr. President, I am pleased to rise today as an original cosponsor with Senator BOB KERREY of the "Children's Hospitals Education and Research Act of 1998." This bill seeks to address an unintended inequity in federal support for graduate medical education. If not addressed, this inequity will jeopardize the future of the pediatric health care work force as well as the pediatric biomedical research enterprise for our nation's children.

Specifically, this bill will provide capped, time-limited, interim commensurate federal funding for the nearly 60 independent children's teaching hospitals, including the children's hospitals in Kansas City and St. Louis, which are so important to the training of the nation's physicians who serve children. They are equally important to the conduct of research to benefit children's health and health care.

Let me illustrate the magnitude of the inequity in federal investment in graduate medical attention (GME). In 1977, the federal Medicare program reimbursed teaching hospitals, on average, more than $76,000 for each resident trained. In contrast, Medicare reimbursed independent children's teaching hospitals—children's hospitals that do not share a Medicare provider number with a larger medical institution—less than $400 per resident, because children's hospitals care for children, not the elderly, and therefore do not serve Medicare patients, except for a small number of children with end stage renal disease.

Until recently, this inequity was not a problem as long as all payers of health care were willing to reimburse teaching hospitals enough for their patient care to cover the extra costs of GME. As the health care market has become increasingly competitive, it has become harder and harder for all teaching hospitals to generate patient care revenues to help cover their GME costs. But only independent children's teaching hospitals face these competitive pressures without the significant federal GME support, which the rest of the teaching hospital community relies upon.

This is more than a problem for the financial well-being of the education programs of a small number of children's hospitals—less than one percent of the nation's hospitals. It is a problem for our entire pediatric workforce and pediatric research enterprise, because these institutions play such a disproportionately large role in academic medicine for children. On average, their education programs are equal in size to the GME programs of all teaching hospitals, but they train twice as many residents per bed as do other teaching hospitals.

As a consequence, independent children's teaching hospitals train about 5 percent of all physicians, 25 percent of all pediatricians, and the majority of many pediatric subspecialists who care for children with the most complex conditions, such as children with cancer, cystic fibrosis, cerebral palsy, and more.

Recommendations to address the inequity in federal GME support for children's teaching hospitals are supported by the National Association of Children's Hospitals as well as the American Academy of Pediatrics and the Association of Medical School Pediatric Department Chairs. Last month, the American Academy of Pediatrics wrote to President Clinton, to express support for the establishment of interim federal support for the GME program of freestanding, independent children's hospitals. The AAP said, "(w)e regard the education programs of independent children's hospitals as important to our pediatric workforce and therefore to the future health of all children, because they educate an important proportion of the nation's pediatricians."

Last year, many members of the Senate, including myself, recommended that any comprehensive reform of graduate medical education financing should include commensurate federal GME support for children's teaching hospitals. Instead of enacting GME reform, Congress directed the Bipartisan Commission on the Future of Medicare and the Medicare Payment Assessment Commission to prepare recommendations for the future of GME financing, including for children's teaching hospitals.

Since it will be at least another year before Congress receives those recommendations and potentially several years before Congress is able to act on them, the "Children's Hospitals Education and Research Act" will provide interim funding for just four years. It will be commensurate to federal GME support for all teaching hospitals. Specifically, the bill provides, in a capped fund, $100 million in FY 1999 and $285 million in each of the three succeeding fiscal years, for eligible institutions. It will be financed by general revenues, not Medicare HI Trust Funds.

I know what a critical role children's hospitals play in the ability of families and communities to care for all children, including children with the most complex conditions and children on families with the most limited economic means. Through their education and research programs, they are also devoted to serving future generations of children, too. Certainly, the children of Missouri as well as Kansas and Southern Illinois, depend vitally on the services and research of independent children's teaching hospitals such as Children's Mercy in Kansas City, St. Louis Children's Hospital, and Cardinal Glennon Children's Hospital, and the care givers they educate.

Children's hospitals are places of daily miracles. Healing that we would never have thought possible a few years ago for children who are burn victims, or trauma victims, or even cancer victims now occurs daily at these hospitals. And while I am sure divine intervention plays a role in this healing, it is also due to the very hard work of skilled doctors, nurses, and dedicated staff that is second to none. We must therefore ensure that these facilities have the resources to continue their noble mission of saving children from the clutches of death and disease.

I know trustees, and medical and executive leaders of these institutions. All are committed to controlling the cost of children's health to the best of their ability. But their future ability to sustain their education and research programs will also depend on commensurate federal GME support for them. I urge my colleagues to join me in supporting the enactment of the "Children's Hospital Education and Research Act."

Mr. KENNEDY. Mr. President, I am honored to join my colleagues Senator KERREY, Senator BOND, Senator DURBIN, and Senator DEWINE in sponsoring this legislation to assure adequate funding for resident training in independent children's teaching hospitals.

These hospitals, such as Children's Hospital in Boston, have 60 pediatric training programs. They represent less than 1 percent of the training programs across the country, yet these hospitals train 5 percent of all physicians, 25 percent of all pediatricians, and the majority of many pediatric subspecialist.

Too often today, these hospitals are hard-pressed for financial support. Medicare is the principal source of federal funds that contributes to the costs of graduate medical education for most hospitals, but independent children's hospitals have few Medicare patients, since Medicare coverage for children applies only to end-stage kidney disease. Medicaid support is declining, as the program moves more and more toward managed care.

No hospital in the current competitive marketplace can afford to shift these costs to other payers. As a result, many children's hospitals find it very difficult to make ends meet.

In 1997, all teaching hospitals relieved a $76,000 in Medicare graduate medical education support for each medical resident they trained, but the average independent children's teaching hospital received only $400.

Last year, Children's Hospital in Boston lost over $30 million on its patient operations. Two-thirds of this loss was directly attributable to the direct costs of graduate medical education. With limited resources and increasing pressure to reduce patient costs, such losses cannot continue.

The academic mission of these hospitals is vital. Since its founding as a 20-bed hospital in 1869, Children's Hospital in Boston has become the largest pediatric medical center and research facility in the United States, and an international leader in children's health. It is also the primary teaching hospital for pediatrics for Harvard Medical School. For eight years in a row, it has been named the best pediatric hospital in the country in a nationwide physicians' survey conducted by U.S. News and World Report.

Clinicians and investigators work together at the hospital in an environment that fosters new discoveries in research and new treatments for patients. Scientific breakthroughs are rapidly translated into better patient care and enhanced medical education. We must assure that market pressures to not interfere with these advances.

Independent children's hospitals deserve the same strong support that other hospitals receive for graduate medical education. The current lack of federal support is jeopardizing the indispensable work of these institutions and jeopardizing the next generation of leaders in pediatrics.

Congress needed to do all it can to correct this inequity. This legislation we are introducing will provide stopgap support, stabilize the situation while we develop a fair long-run solution to meet the overall needs of all aspects of graduate medical education. I look forward to early action by the Senate on this important measure.

Mr. MOYNIHAN. Mr. President, I am pleased to join Senators BOB KERREY, BOND, KENNEDY, DURBIN and DEWINE in introducing the "Children's Hospital Education and Research Act of 1998." This legislation recognizes the value of supporting medical training. it establishes an interim source of funding for financing residency training expenses for free-standing children's hospitals until a permanent source of funding for all medical education is developed.

Medical education is one of America's most precious public resources. It is a public good—a good from which everyone benefits, but for which no one is willing to pay. As a public good, explicit and dedicated funding for residency training programs must be secured so that the United States will continue to lead the world in the quality of its health care system. This legislation provides for such dedicated funding for residency training programs in children's hospitals.

I have introduced legislation—S. 21—which creates a medical education trust fund to support all accredited medical schools and teaching hospitals. Additionally, I requested that specific language be inserted in the Balanced Budget Act of 1997 charging the National Bipartisan Commission on the Future of Medicare to:

> . . . make recommendations regarding the financing of graduate medical education (GME), including consideration of alternative broad-based sources of funding for such education and funding for institutions not currently eligible for such GME support that conduct approved graduate medical residency programs, such as children's hospitals.

Children's hospitals have a vitally important mission providing patient care, medical training and research in the face of an increasingly competitive health system. I am pleased to support Senator KERREY's bill and look forward to working with him and other members of the National Bipartisan Commission on the Future of Medicare as we seek stable and sufficient funding for medical education.

By Mrs. FEINSTEIN:

S. 2050. A bill to amend title 10, United States Code, to prohibit members of the Armed Forces from entering into correctional facilities to present decorations to persons who commit certain crimes before being presented such decorations; to the Committee on Armed Services.

THE MILITARY HONORS PRESERVATION ACT

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Military Honors Preservation Act of 1998 which will ensure that those who have served this nation with distinction will not see their service medals devalued by the crimes of others.

This bill simply states that a member of the United States armed forces may not enter a federal, state, or local penitentiary for the purpose of presenting a medal to a person incarcerated for committing a serious violent felony. My hope is that this bill will be seen as it is intended: an attempt to secure the well deserved sense of honor of those who have served in our nation's armed forces. Service to our nation and the opportunity to receive recognition for that service is a duty and a privilege not to be taken lightly.

I decided that this legislation was necessary when I heard of the unbearable pain suffered by the family of Leah Schendel, a 78-year old woman who was attacked in her Sacramento, California home just before Christmas in 1980. Mrs. Schendel was brutally beaten and sexually assaulted. This vicious attack caused a massive heart attack that killed her. The man who perpetrated this horrific crime, Manuel Babbitt, was convicted and sentenced to die—he is currently sitting on death row in San Quentin Prison.

This past March, the suffering of Mrs. Schendel's family was renewed when they learned that the man who had so viciously brutalized their loved one was being honored by the United States Marine Corps, in San Quentin! In a ceremony at the prison, Mr. Babbitt was awarded a Purple Heart for injuries he suffered during the Vietnam War. For Mrs. Schendel's family, this medal ceremony was a slap in the face. It said to them that the government was more concerned with honoring a convicted criminal than respecting the feelings of his victims.

I believe that there is no higher calling for an American than to serve our nation. I have worked hard to make sure that California veterans, who have been overlooked or fallen through the cracks of the system, get the recognition and benefits they deserve. However, I believe that someone who, in his or her post-service life, shows such a blatant disregard for the laws of this nation and makes a mockery of the high standards of the United States military should not be accorded recognition.

Just like the right to vote, or the right to a military burial in Arlington Cemetery, I believe anyone who has committed a heinous crime forfeits the right to be honored by the American people. Please join me in supporting this bill for the sake of Leah Schendel, and for every American veteran who should rightly feel that they are a hero.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON ENTRY INTO CORRECTIONAL FACILITIES FOR PRESENTATION OF DECORATIONS TO PERSONS WHO COMMIT CERTAIN CRIMES BEFORE PRESENTATION.

(a) PROHIBITION.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following:

"§ 1132. Presentation of decorations: prohibition on entering into correctional facilities for certain presentations

"(a) PROHIBITION.—No member of the armed forces may enter into a Federal, State, or local correctional facility for purposes of presenting a decoration to a person who has been convicted of a serious violent felony.

"(b) DEFINITIONS.—In this section:

"(1) The term 'decoration' means any decoration or award that may be presented or awarded to a member of the armed forces.

"(2) The term 'serious violent felony' has the meaning given that term in section 3359(c)(2)(F) of title 18.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by adding at the end the following:

"1132. Presentation of decorations: prohibition on entering into correctional facilities for certain presentations.".

By Mr. WARNER.

S. 2051. A bill to establish a task force to assess activities in previous base closure rounds and to recommend improvements and alternatives to additional base closure rounds; to the Committee on Armed Services.

BASE CLOSURE TASK FORCE LEGISLATION

Mr. WARNER. Mr. President, during this past week, I and my colleagues have been working in committee on the defense authorization bill for the upcoming fiscal year. We have debated a host of issues of significant import to the national security of this great nation, among them the future of the BRAC process.

Mr. President, a decade ago, I worked with my good friend from Georgia, Senator Sam Nunn, to formulate legislation that would guide this nation through the base closure process. We understood then that this would be a difficult and, for many communities across this country, a painful process.

In this decade, each of us in this chamber has come to know how communities in our states had come to rely on the military as the mainstay of their economic livelihood. For many communities, a base closure would impart significant economic impact. In some communities a positive result, in others a negative impact. No two communities are the same. The challenge to these communities after a base closure was then to reorient their goals and to plan for continued growth and well-being, or plain survival.

I learned a great deal from Senator Nunn during our discussions on planning for base closures. He is a man of great intellect and keen foresight and fully understood the possibility that this process could become politicized. Under our leadership, the committee went to great lengths to legislate the appropriate direction, responsibilities and necessary safeguards that might preclude either the executive or legislative branch from manipulating the process for political gain, rather than the collective gain of the national security of this country.

The BRAC rounds in 1991 and 1993 were basically free from challenge, but 1995 was a different story—one with which we are all familiar. Like many of you, I was truly disappointed that we have come so far with such a degree of success only to have the process, under such a dark cloud, break down with confidence lost.

So, it is under this cloud that we attempt to continue a discussion on the necessity of future base closures. The citizens of the Commonwealth and my colleagues in this chamber, know my position on this. Like Secretary Cohen and other experts on national security policy, I believe we still have work to do to reduce base infrastructure if we are to continue to meet the rising costs of national security challenges of the coming millennium, particularly modernization.

The shadow cast on the process continues to grow—seemingly unabated by our remarks, and probably the counsel of Secretary Cohen. I am severely distressed by a recent Defense Department memo which, once again, puts in question the BRAC process.

To get this process back on track, I am proposing legislation today to form a task force to revise these issues. This task force will be composed of experts chosen by both the majority and minority from both chambers in bipartisan spirit. The charter of the task force will be to investigate and report to the Congress by March of next year how we might efficiently achieve, without manipulation, the continued reduction in military infrastructure.

I believe it is important that we assure the American people that a future base closure can be maintained in the spirit in which I and Senator Nunn and our colleagues on the committee has originally intended those few years ago. I invite members to join me on this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TASK FORCE ON BASE CLOSURE REFORM.

(a) Establishment.—There is hereby established a commission to be known as the "Task Force on Base Closure Reform" (in this Act referred to as the "Task Force").

(b) Purpose.—The purpose of the Task Force is to review the base closure process (including the recommendation and approval of installations for closure and the closure of installations) under the 1990 base closure law in order to recommend improvements, and potential alternatives, to the base closure process under that law.

SEC. 2. MEMBERSHIP.

(a) Membership.—(1) The Task Force shall be composed of 10 members, appointed from among individuals described in paragraph (2) as follows:

(A) Three members shall be appointed by the Majority Leader of the Senate.

(B) Two members shall be appointed by the Minority Leader of the Senate.

(C) Three members shall be appointed by the Speaker of the House of Representatives.

(D) Two members shall be appointed by the Minority Leader of the House of Representatives.

(2) Members of the Task Force shall be appointed from among retired members of the Armed Forces, or other private United States citizens, who have one or more of the following qualifications:

(A) Past membership on a commission established under the 1990 base closure law or under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(B) Past service on the staff of a commission referred to in subparagraph (A).

(C) Experience with military force structure planning and strategic planning.

(D) Financial management experience.

(E) Past membership in the legislative branch or service on the staff of the legislative branch.

(b) Appointment.—(1) All members of the Task Force shall be appointed not later than 45 days after the date of enactment of this Act.

(2)(A) Members of the Task Force shall be appointed for the life of the Task Force.

(B) A vacancy in the membership of the Task Force shall not affect the powers of the Task Force, but shall be filled in the same manner as the original appointment.

(c) Chairman.—The members of the Task Force shall choose one of the members to serve as chairman of the Task Force.

SEC. 3. DUTIES.

(a) In General.—The Task Force shall—

(1) carry out a review of the base closure process under the 1990 base closure law in accordance with subsection (b);

(2) carry out an assessment of the impact of the number of base closure rounds on the base closure process under that law in accordance with subsection (c);

(3) carry out a comparative analysis of various means of disposing of excess or surplus property in accordance with subsection (d); and

(4) make recommendations in accordance with subsection (e).

(b) Review.—In carrying out a review of the base closure process under subsection (a)(1), the Task Force shall—

(1) review the activities, after action reports, and recommendations of each commission established under the 1990 base closure law in the 1991, 1993, and 1995 base closure rounds under that law;

(2) review the activities and after action reports of the Department of Defense and the military departments with respect to each such base closure round under that law, which shall include an assessment of the compliance of the military departments with the provisions of that law in each such round; and

(3) assess the effectiveness of the provisions of that law in providing guidance to each such commission, the Department of Defense, and the military departments with respect to subsequent closures of military installations.

(c) Assessment.—In carrying out an assessment of the impact of the number of base closure rounds on the base closure process under subsection (a)(2), the Task Force shall—

(1) review the activities of the Department of Defense and the military departments in preparing for and carrying out the closure of installations approved for closure in each base closure round under the 1990 base closure law, including—

(A) the capacity of the Department of Defense and the military departments to process the data required to make recommendations with respect to the closure of installations in each such round; and

(B) the effectiveness of the activities undertaken by the Department of Defense and the military departments to dispose of property and equipment at such installations upon approval of closure; and

(2) assess the impact of the number of installations recommended for closure in each such round on—

(A) the accuracy of data provided by the Secretary of Defense to the commission established under that law in such round;

(B) the capacity of such commission to process such data; and

(C) the ability of such commission to consider fully the concerns of the communities likely to be effected by the closure of the installations recommended for closure.

(d) Comparative Analysis.—In carrying out a comparative analysis under subsection (a)(3), the Task Force shall—

(1) compare the law and experience of the United States in disposing of surplus and excess property with the law and experience of similar nations in disposing of such property; and

(2) compare the law (including any regulations, policies, and directives) of the United States relating to the closure of military installations with the law of similar nations relating to the closure of such installations.

(e) Recommendations.—In making recommendations under subsection (a)(4), the Task Force shall—

(1) recommend such modifications to the 1990 base closure law as the Task Force considers appropriate in light of its activities under this section;

(2) compare the merits of requiring one additional round of base closures under that law with the merits of requiring more than one additional round of base closures under that law; and

(3) recommend any alternative methods of eliminating excess capacity in the military installations inside the United States that the Task Force considers appropriate in light of its activities under this section.

SEC. 4. REPORT.

(a) Report.—Not later than March 15, 1999, the Task Force shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on its activities under this Act.

(b) Elements.—The report shall include the results of the activities of the Task Force under section 3, including the recommendations required by subsection (e) of that section.

SEC. 5. TASK FORCE MATTERS.

(a) Meetings.—(1) The Task Force shall hold its first meeting not later than 30 days after the date on which all members have been appointed.

(2) The Task Force shall meet upon the call of the chairman.

(3) A majority of the members of the Task Force shall constitute a quorum, but a lesser number may hold meetings.

(b) Authority of Individuals To Act for Task Force.—Any member or agent of the Task Force may, if authorized by the Task Force, take any action which the Task Force is authorized to take under this section.

(c) Hearings.—The Task Force may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Task Force considers advisable to carry out its duties.

(d) Availability of Government Information.—The Task Force may secure directly from the Department of Defense and any other department or agency of the Federal Government such information as the Task Force considers necessary to carry out its duties. Upon the request of the chairman of the Task Force, the head of a department or agency shall furnish the requested information expeditiously to the Task Force.

(e) Postal Services.—The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 6. TASK FORCE PERSONNEL MATTERS.

(a) Pay and Expenses of Members.—(1) Each member of the Task Force who is not an employee of the Government shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in performing the duties of the Task Force.

(2) Members and personnel of the Task Force may travel on aircraft, vehicles, or other conveyances of the Armed Forces when travel is necessary in the performance of a duty of the Task Force except when the cost of commercial transportation is less expensive.

(3) The members of the Task Force may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Task Force.

(4)(A) A member of the Task Force who is an annuitant otherwise covered by section 8344 or 8468 of title 5, United States Code, shall not by reason of membership on the Task Force be subject to the provisions of such section with respect to such Task Force.

(B) A member of the Task Force who is a member or former member of a uniformed service shall not be subject to the provisions of subsections (b) and (c) of section 5532 of such title with respect to membership on the Task Force.

(b) Staff and Administrative Support.—(1) The chairman of the Task Force may, without regard to civil service laws and regulations, appoint and terminate an executive director and up to three additional staff members as necessary to enable the Task Force to perform its duties. The chairman of the Task Force may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51, and subchapter III of chapter 53, of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay may not exceed the maximum rate of pay for grade GS-15 under the General Schedule.

(2) Upon the request of the chairman of the Task Force, the head of any department or agency of the Federal Government may detail, without reimbursement, any personnel of the department or agency to the Task Force to assist in carrying out its duties. A detail of an employee shall be without interruption or loss of civil service status or privilege.

SEC. 7. SUPPORT OF TASK FORCE.

(a) Temporary Services.—The chairman of the Task Force may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of such title.

(b) Department of Defense Support.—The Secretary of Defense shall furnish to the Task Force such administrative and support services as may be requested by the chairman of the Task Force.

SEC. 8. TERMINATION.

The Task Force shall terminate 30 days after the date on which it submits the report required by section 4.

SEC. 9. FUNDING.

Upon the request of the chairman of the Task Force, the Secretary of Defense shall make available to the Task Force, out of funds appropriated for the Department of Defense, such amounts as the Task Force may require to carry out its duties.

SEC. 10. DEFINITION.

In this Act, the term "1990 base closure law" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

By Mr. WARNER:

S. 2053. A bill to require the Secretary of Treasury to redesign the $1 bill so as to incorporate the preamble to the Constitution of the United States, the Bill of Rights, and a list of Articles of the Constitution on the reverse side of such currency; to the Committee on Banking, Housing, and Urban Affairs.

LIBERTY DOLLAR BILL ACT

Mr. WARNER. Mr. President, I rise today to introduce the Liberty Dollar Bill Act.

Recently, the eighth grade students of Liberty Middle School in Ashland, Virginia came up with an idea. The measure I introduce today simply implements their vision. This bill directs the Treasury to place on the back of the one dollar bill the actual language from the Constitution of the United States.

Our founding fathers met in 1787, to write what would become the model for all modern democracies—the Constitution.

Our Constitution is a beacon of light for the world. Shouldn't all people be able to hold up our one dollar bill as a symbol of there freedom of modern democracy worldwide.

Washington, Madison, Franklin, Hamilton and many other great Americans met for four months in 1787 to ignite history's greatest light of government.

They argued, fought, and compromised to create a lasting democracy, built on a philosophy found in the preamble of the constitution. And they protected this philosophy and these ideals by creating three branches of government and divisions of power between the federal and state governments found in the articles and the amendments of the Constitution.

Three of the men mentioned are on our United States currency, but not the document they put their lives into—not the document they then asked Americans to ratify.

While our currency celebrates the men who first wrote the constitution, it doesn't celebrate their most noble achievement, the living document that has been so ably protected while it continues to evolve with each new generation.

Shouldn't this greatest of American achievements be in the hands of all Americans?

All Presidents, likewise all public officers, swear to "preserve, protect and defend" the constitution.

No country can survive if it looses its philosophical moorings. The freedoms and liberties we enjoy give substance, value and meaning to the laws by which we live. Our Nation's philosophy can be taken for granted in the daily business of lawmaking. Yet we can hear in John F. Kennedy's inaugural address that we do not defend America's laws, we defend its philosophy—a philosophy embodied in the Constitution.

Seventy-five percent of Americans say that "The Constitution is important to them, makes them proud, and is relevant to their lives."

So important is this document that we built the Archives in Washington to house and safeguard it. Hundreds of thousands go there each year to see it. However, ninety-four percent of Americans don't even know all of the rights and freedoms found in the First Amendment.

Sixty-two percent of Americans can't name our three branches of government.

Six hundred thousand legal immigrants come to America each year. Often their first sight of America is the Statute of Liberty, holding high her torch, symbolizing our light and our freedom. Many of these immigrants become American citizens by the naturalization process and learn more about the Constitution than many natural born citizens

If America's most patriotic symbol—the Constitution—were on the back of the one dollar bill, wouldn't we all know more about our Government? And shouldn't we?

Shouldn't it be where all Americans can readily read it. Shouldn't the Constitution be on the back of the one dollar bill?

Today, I am proud to join my colleague in the House, Chairman Tom Bliley, and introduce the companion legislation in the Senate. The Liberty Dollar Bill Act directs the Secretary of the Treasury to incorporate the preamble to the Constitution of the United States, the Bill of Rights, and a list of the Articles of the Constitution on the reverse side of the one dollar bill.

Mr. President, I agree with the students of Liberty Middle School. The Constitution belongs to the people. It should be in their hands.

I want to commend the eighth grade students of Liberty Middle School and their teacher, Mr. Randy Wright for their contribution to our Nation. I hope all my colleagues in the Senate will see the wisdom of these students and join me as a cosponsor of this legislation. Let the nation hear that the younger generation can provide ideas that become the laws of our land.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2053

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Liberty Dollar Bill Act".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Many Americans are unaware of the provisions of the Constitution of the United States, one of the most remarkable and important documents in world history.

(2) A version of this important document, consisting of the preamble, a list of the Articles, and the Bill of Rights, could easily be placed on the reverse side of the $1 Federal reserve note.

(3) The placement of this version of the Constitution on the $1 Federal reserve note, a unit of currency used daily by virtually all Americans, would serve to remind people of the historical importance of the Constitution and its impact on their lives today.

(4) Americans would be reminded by the preamble of the blessings of liberty, by the Articles, of the framework of the Government, and by the Bill of Rights, of some of the historical changes to the document that forms the very core of the American experience.

SEC. 3. REDESIGN OF REVERSE SIDE OF THE $1 BILL.

(a) In General.—Section 5114 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) Liberty Dollar Bills.—

"(1) In general.—In addition to the requirements of subsection (b) (relating to the inclusion of the inscription 'In God We Trust' on all United States currency) and the eighth undesignated paragraph of section 16 of the Federal Reserve Act, the design of the reverse side of $1 Federal reserve notes shall incorporate the preamble to the Constitution of the United States, a list of the Articles of the Constitution, and a list of the first 10 amendments to the Constitution.

"(2) DESIGN.—Subject to paragraph (3), the preamble to the Constitution of the United States, the first 10 amendments to the Constitution, and the list of the Articles of the Constitution shall appear on the reverse side of the $1 Federal reserve note, in such form as the Secretary deems appropriate.

"(3) AUTHORITY OF SECRETARY.—The requirements of this subsection shall not be construed as—

"(A) prohibiting the inclusion of any other inscriptions or material on the reverse side of the $1 Federal reserve note that the Secretary may determine to be necessary or appropriate; or

"(B) limiting any other authority of the Secretary with regard to the design of the $1 Federal reserve note, including the adoption of any design features to deter the counterfeiting of United States currency.".

(b) DATE OF APPLICATION.—The amendment made by subsection (a) shall apply to $1 Federal reserve notes that are first placed into circulation after December 31, 1999.

ADDITIONAL COSPONSORS

S. 261

At the request of Mr. DOMENICI, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 261, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 597

At the request of Mr. BINGAMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 597, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 831

At the request of Mr. SHELBY, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 882

At the request of Mrs. BOXER, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 882, a bill to improve academic and social outcomes for students by providing productive activities during after school hours.

S. 990

At the request of Mr. FAIRCLOTH, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 990, a bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging.

S. 1392

At the request of Mr. BROWNBACK, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1392, a bill to provide for offsetting tax cuts whenever there is an elimination of a discretionary spending program.

S. 1422

At the request of Mr. MCCAIN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1422, a bill to amend the Communications Act of 1934 to promote competition in the market for delivery of multichannel video programming and for other purposes.

S. 1461

At the request of Mr. LAUTENBERG, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1461, a bill to establish a youth mentoring program.

S. 1525

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1525, a bill to provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty.

S. 1618

At the request of Mr. MCCAIN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1618, a bill to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes.

S. 1647

At the request of Mr. BAUCUS, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1758

At the request of Mr. LUGAR, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

S. 1875

At the request of Mr. DASCHLE, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1875, a bill to initiate a coordinated national effort to prevent, detect, and educate the public concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect and to identify effective interventions for children, adolescents, and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effect, and for other purposes.

S. 1915

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1915, a bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes.

S. 1973

At the request of Mr. BUMPERS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1973, a bill to amend section 2511 of title 18, United States Code, to revise the consent exception to the prohibition on the interception of oral, wire, or electronic communications.

S. 2022

At the request of Mr. DEWINE, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2022, a bill to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

S. 2030

At the request of Mr. BUMPERS, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Vermont (Mr. LEAHY), the Senator from Iowa (Mr. HARKIN), the Senator from North Dakota (Mr. CONRAD), the Senator from Nevada (Mr. BRYAN), the Senator from South Dakota (Mr. DASCHLE), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 2030, a bill to amend the Federal Rules of Civil Procedure, relating to counsel for witnesses in grand jury proceedings, and for other purposes.

SENATE CONCURRENT RESOLUTION 75

At the request of Mr. FEINGOLD, the names of the Senator from New York (Mr. D'AMATO) and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of Senate Concurrent Resolution 75, a concurrent resolution honoring the sesquicentennial of Wisconsin statehood.

SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from Delaware (Mr. ROTH), the Senator from Kentucky (Mr. FORD), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

SENATE RESOLUTION 220

At the request of Mr. DORGAN, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of Senate Resolution 220, a resolution to express the sense of the Senate that the European Union should cancel the sale of heavily subsidized barley to the United States and ensure that restitution or other subsidies are not used for similar sales and that the President, the United States Trade Representative, and the Secretary of Agriculture should conduct an investigation of and report on the sale and subsidies.

AMENDMENT NO. 2353

At the request of Mr. COVERDELL, the names of the Senator from North Carolina (Mr. FAIRCLOTH) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of amendment No. 2353 proposed to H.R. 2676, a bill to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

SENATE RESOLUTION 225—EXPRESSING THE SENSE OF THE SENATE REGARDING THE 35TH ANNIVERSARY OF THE FOUNDING OF THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

Mr. FAIRCLOTH (for himself and Mr. HELMS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 225

Whereas the General Assembly of North Carolina adopted the first Community College Act and provided funding for community colleges in 1957;

Whereas Governor Terry Sanford appointed a Governor's Commission on Education Beyond the High School in 1962, that brought about the unifying of industrial education centers and community colleges into 1 system;

Whereas the General Assembly of North Carolina enacted legislation in 1963 establishing a State Department of Community Colleges, under the State Board of Education;

Whereas in the early 1970's, the growth rate of community colleges exceeded 10 percent annually, and in 1974 the growth rate reached 33 percent;

Whereas the General Assembly of North Carolina reestablished the State Department of Community Colleges in 1979, and made the department independent of the State Board of Education, effective on January 1, 1981;

Whereas in 1983, the North Carolina Community College System celebrated the system's 20th anniversary, having emerged as the Nation's third largest State network of community colleges;

Whereas the North Carolina Community College System began with 6 community colleges and has grown to include 59 post-high school learning institutions;

Whereas in 1997 Congress passed the Taxpayer Relief Act of 1997 that established the Hope Scholarship Credits which provided a $1,500 tax credit for community college students to help defray the cost of their education, thus allowing many more students the opportunity to attend classes;

Whereas by attracting more students to community colleges with the Hope Scholarship Credits, a larger number of students are being taught valuable job skills;

Whereas by improving the training and skills of our Nation's workers in community colleges, our Nation is creating better jobs in manufacturing and technology throughout the United States, thus keeping our Nation competitive in the global marketplace;

Whereas by recruiting businesses to locate or expand their operations in North Carolina with the promise that North Carolina community colleges will train their workforce, hundreds of thousands of jobs in North Carolina have been created;

Whereas 1 out of every 6 adults enrolls at a community college each year;

Whereas enrollment in community colleges is expected to exceed 800,000 students by the end of the year 2000;

Whereas community colleges train 95 percent of North Carolina's firefighters and more than 80 percent of North Carolina's law enforcement officers;

Whereas basic law enforcement training students from community colleges show a 98 percent passing rate on North Carolina licensing and certification exams;

Whereas community colleges educate 65 percent of North Carolina's registered nurses, and since 1990, community college nursing graduates have achieved a nearly 95 percent passing rate on the North Carolina licensure exam;

Whereas the North Carolina Community College System has created a world-class workforce, with almost 297,000 adults trained in 1997 through occupational extension classes and in-plant training courses;

Whereas The Wall Street Journal, the Associated Press, Business Week magazine, and Fortune magazine all recognized the excellent business and industry services in the North Carolina community colleges in 1997;

Whereas North Carolina's community colleges confer 1 out of every 5 of North Carolina's high school diplomas;

Whereas more than 127,000 adults in North Carolina enroll annually in various basic skills programs in community colleges;

Whereas nearly 13,000 literacy classes are offered annually by North Carolina community colleges at approximately 2,000 community sites; and

Whereas more than 13,600 of North Carolina's community college students increased their income by millions of dollars last year and saved North Carolina $450,000 in welfare payments: Now, therefore, be it

Resolved, That it is the sense of the Senate that the people of the United States should celebrate the 35th anniversary of the founding of the North Carolina Community College System, and all that this great system has done to educate and train the people of North Carolina.

AMENDMENTS SUBMITTED

THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

KERREY AMENDMENTS NOS. 2358–2359

Mr. KERREY proposed two amendments to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; as follows:

AMENDMENT NO. 2358

On page 394, between lines 15 and 16, insert the following:

SEC. . WILLFUL NONCOMPLIANCE WITH INTERNAL REVENUE LAWS BY TAXPAYERS.

Not later than 1 year after the date of enactment of this Act, the Joint Committee on Taxation, the Secretary of the Treasury, and the Commissioner of Internal Revenue shall conduct jointly a study of the willful noncompliance with internal revenue laws by taxpayers and report the findings of such study to Congress.

AMENDMENT NO. 2359

On page 368, strike line 1 and insert the following:

(c) ANNUAL REPORT.—The Inspector General for Tax Administration shall report annually to Congress on any administrative or civil actions with respect to violations of the fair debt collection provisions of section 6304 of the Internal Revenue Code of 1986, as added by this section, including—

(1) a summary of such actions initiated since the date of the last report, and

(2) a summary of any judgments or awards granted as a result of such actions.

(d) EFFECTIVE DATE.—The amendments made by this

FAIRCLOTH (AND SMITH) AMENDMENT NO. 2360

Mr. FAIRCLOTH (for himself and Mr. SMITH of New Hampshire) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 174, line 23, strike "9" and insert "8".

On page 175, strike lines 8 through 13.

On page 176, line 10, strike "or (D)".

On page 177, strike lines 7 and 8, and insert the following:

"(A) FINANCIAL DISCLOSURE.—During the entire

On page 177, line 10, strike "or (D)".

Beginning on page 177, strike line 19 and all that follows through page 178, line 5.

On page 178, line 10, strike "or (D)".

On page 182, line 1, strike "or (D)".

On page 182, line 11, strike "or (D)".

On page 190, line 12, strike "or (D)".

KERREY AMENDMENT NO. 2361

Mr. KERREY proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 256, line 15, strike "and".

On page 256, line 18, strike "2007." and insert "2007, and".

On page 256, between lines 18 and 19, insert the following:

(3) the Internal Revenue Service should cooperate with the private sector by encouraging competition to increase electronic filing of such returns, consistent with the provisions of the Office of Management and Budget Circular A–76.

GRASSLEY AMENDMENTS NOS. 2362–2363

Mr. GRASSLEY proposed two amendments to the bill, H.R. 2676, supra; as follows:

AMENDMENT NO. 2362

On page 203, line 5, strike "and".

On page 203, line 10, strike the period and insert ", and".

On page 203, between lines 10 and 11, insert:

"(III) appoint a counsel in the Office of the Taxpayer Advocate to report directly to the National Taxpayer Advocate.

AMENDMENT NO. 2363

At the end of subtitle H of title III, insert the following:

SEC. . COMBINED EMPLOYMENT TAX REPORTING DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of the Treasury shall provide for a demonstration project to assess the feasibility and desirability of expanding combined Federal and State tax reporting.

(b) DESCRIPTION OF DEMONSTRATION PROJECT.—The demonstration project under subsection (a) shall be—

(1) carried out between the Internal Revenue Service and the State of Iowa for a period ending with the date which is 5 years after the date of the enactment of this Act,

(2) limited to the reporting of employment taxes, and

(3) limited to the disclosure of the taxpayer identity (as defined in section 6103(b)(6) of such Code) and the signature of the taxpayer.

(c) CONFORMING AMENDMENT.—Section 6103(d)(5), as amended by section 6009(f), is amended by striking "project described in section 976 of the Taxpayer Relief Act of 1997." and inserting "projects described in section 976 of the Taxpayer Relief Act of 1997 and section of the Internal Revenue Service Restructuring and Reform Act of 1998.".

CRAIG AMENDMENTS NOS. 2364–2366

Mr. CRAIG proposed three amendments to the bill, H.R. 2676, supra; as follows:

AMENDMENT NO. 2364

Insert in the appropriate place in the bill the following:

SEC. . TAXPAYER NOTICE.

Section 6103(d) of the Internal Revenue Code of 1986 is amended by adding at the end thereof a new paragraph to read as follows:

"(6) TAXPAYER NOTICE.—No return information may be disclosed under paragraph (1) to any agency, body, or commission of any State (or legal representative thereof) unless the Secretary determines that such agency, body, or commission (or legal representative) has first notified each person for whom such return or return information was filed or provided by, on behalf of, or with respect to, personally in writing that the request described in paragraph (1) has been made by such agency, body, or commission (or legal representative) and the specific reasons for making such request.".

AMENDMENT NO. 2365

Insert in the appropriate places in the bill the following:

SEC. . DISCLOSURE NECESSARY IN THE ADMINISTRATION OF STATE INCOME TAX LAWS.

(a) Section 6103(b)(5)(A) of the Internal Revenue Code of 1986 is amended by inserting after "Northern Mariana Islands," the following:

"if that jurisdiction imposes a tax on income or wages,".

(b) The first sentence of Section 6103(d)(1) is amended by inserting the word "income" after "with responsibility for the administration of State" and before "tax laws".

The first sentence of Section 6103(d)(1) is further amended by inserting "State's income tax" after "necessary in, the administration of such", and before "laws".

AMENDMENT NO. 2366

Insert in the appropriate place in the bill the following:

SEC. . DISCLOSURE TO TAXPAYERS.

Section 6103(d) of the Internal Revenue Code of 1986 is amended by adding at the end thereof a new paragraph to read as follows:

"(6) DISCLOSURE TO TAXPAYERS.—The Secretary shall ensure that any instructions booklet accompanying a general tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms) shall include, in clear language, in conspicuous print, and in a conspicuous place near the front of the booklet, a complete and concise description of the conditions under which return information may be disclosed to any party outside the Internal Revenue Service, including disclosure to any State or agency, body, or commission (or legal representative) thereof.".

BOND AMENDMENT NO. 2367

(Ordered to lie on the table.)

Mr. BOND submitted an amendment intended to be proposed by him to the bill, H.R. 2676, supra; as follows:

Beginning on page 256, strike line 9 and all that follows through page 258, line 21, and insert the following:

SEC. 2001. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.

(a) IN GENERAL.—It is the policy of Congress that—

(1) paperless filing should be the preferred and most convenient means of filing Federal tax and information returns,

(2) electronic filing should be a voluntary option for taxpayers, and

(3) it be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the "Secretary"), in consultation with the Internal Revenue Service Oversight Board and the electronic-filing advisory group described in paragraph (4), shall establish a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days.

(2) PUBLICATION OF PLAN.—The plan described in paragraph (1) shall be published in the Federal Register and shall be subject to public comment for 60 days from the date of publication. Not later than 180 days after publication of such plan, the Secretary shall publish a final plan in the Federal Register.

(3) IMPLEMENTATION OF PLAN.—The Secretary shall prescribe rules and regulations to implement the plan developed under paragraph (1). Notwithstanding any other provision of law, the Secretary shall—

(A) prescribe such rules and regulations in accordance with subsections (b), (c), (d), and (e) of section 553 of title 5, United States Code, and

(B) in connection with such rules and regulations, perform an initial and final regulatory flexibility analysis pursuant to sections 603 and 604 of title 5, United States Code, and outreach pursuant to section 609 of title 5, United States Code.

(4) ELECTRONIC-FILING ADVISORY GROUP.—

(A) IN GENERAL.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), not later than 60 days after the date of enactment of this Act, the Secretary shall convene an electronic-filing advisory group that includes—

(i) at least one representative of individual taxpayers subject to withholding,

(ii) small businesses and self-employed individuals,

(iii) large businesses,

(iv) trusts and estates,

(v) tax-exempt organizations,

(vi) tax practitioners, preparers, and other tax professionals,

(vii) computerized tax processors, and

(viii) the electronic-filing industry.

(B) PERSONNEL AND OTHER MATTERS.—

(i) COMPENSATION.—Each member of the electronic-filing advisory group described in subparagraph (A) shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in performance of duties as members of the advisory group.

(ii) DETAILEES.—Any Federal Government employee may be detailed to the advisory group without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) TERMINATION.—The advisory group shall terminate on December 31, 2008.

(c) PROMOTION OF ELECTRONIC FILING AND INCENTIVES.—Section 6011 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) PROMOTION OF ELECTRONIC FILING.—

"(1) IN GENERAL.—The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

"(2) INCENTIVES.—The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns."

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1997 and before 2009, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary of the Treasury, and the Chairperson of the electronic-filing advisory group established under subsection (b)(4) shall report to the Committees on Ways and Means, Appropriations, Government Reform and Oversight, and Small Business of the House of Representatives, the Committees on Finance, Appropriations, Governmental Affairs, and Small Business of the Senate, and the Joint Committee on Taxation, on—

(1) the progress of the Internal Revenue Service in meeting the goal of receiving 80 percent of tax and information returns electronically by 2007,

(2) the status of the plan required by subsection (b),

(3) the legislative changes necessary to assist the Internal Revenue Service in meeting such goal, and

(4) the effects on small businesses and the self-employed of electronically filing tax and information returns, including a detailed description of the forms to be filed electronically, the equipment and technology required for compliance, the cost to a small business and self-employed individual of filing electronically, implementation plans, and action to coordinate Federal, State, and local electronic filing requirements.

GRASSLEY (AND OTHERS) AMENDMENT NO. 2368

Mr. GRASSLEY (for himself, Mr. KERREY, Mr. HATCH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. D'AMATO, Mr. JEFFORDS, Mr. ROCKEFELLER, Mr. BREAUX, Mr. CONRAD, Mr. GRAHAM, Ms. MOSELEY-

Braun, Mr. Bryan, Mrs. Boxer, Mr. Bennett, Mr. Dorgan, Mr. Akaka, and Mrs. Feinstein) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 386, lines 17 and 18, strike "return for such taxable year" and insert "Federal return for such taxable year of the overpayment".

On page 387, line 23, insert "by certified mail with return receipt" after "notifies".

On page 388, strike lines 17 through 25, and insert the following:

"(A)(i) which resulted from—

"(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of State income tax to be due, or

"(II) a determination after an administrative hearing which has determined an amount of State tax to be due, and

"(ii) which is no longer subject to judicial review, or

"(B) which resulted from a State income tax which has been assessed but not collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

GRAHAM (AND OTHERS) AMENDMENT NO. 2369

Mr. GRAHAM (for himself, Mr. D'Amato, Mrs. Feinstein, and Mr. Johnson) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 293, strike lines 3 through 10, and insert:

"(C) Election not valid with respect to certain deficiencies.—If the Secretary demonstrates that an individual making an election under this section had actual knowledge, at the time such individual signed the return, of any item giving rise to a deficiency (or portion thereof) which is not allocable to such individual under subsection (c), such election shall not apply to such deficiency (or portion). This subparagraph shall not apply where the individual with actual knowledge establishes that such individual signed the return under duress.

DOMENICI (AND OTHERS) AMENDMENT NO. 2370

Mr. ROTH (for Mr. Domenici, for himself, Mr. D'Amato, Mr. McCain, Mr. Bingaman, and Mrs. Hutchison) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 381, after line 25, insert:

(c) Telephone Helpline Options.—The Secretary of the Treasury or the Secretary's delegate shall provide on all telephone helplines of the Internal Revenue Service an option for any taxpayer questions to be answered in Spanish.

On page 382, strike lines 1 and 2, and insert:

(e) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, this section shall take effect 60 days after the date of the enactment of this Act.

(2) Subsection (c).—Subsection (c) shall take effect on January 1, 2000.

DOMENICI AMENDMENT NO. 2371

Mr. ROTH (for Mr. Domenici) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 382, before line 1, insert:

(d) Telephone Helpline Options.—The Secretary of the Treasury or the Secretary's delegate shall provide on all telephone helplines of the Internal Revenue Service an option for any taxpayer to talk to a live person in addition to hearing a recorded message. The person shall direct phone questions of the taxpayer to other Internal Revenue Service personnel who can provide understandable information to the taxpayer.

On page 382, after line 2, insert:

(3) Subsection (d).—Subsection (d) shall take effect on January 1, 2000.

MACK (AND OTHERS) AMENDMENT NO. 2372

Mr. MACK (for himself, Mr. Faircloth, and Mr. Murkowski) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 174, line 23, strike "9" and insert "8".

On page 175, strike lines 3 through 5.

On page 175, line 6, strike "(C)" and insert "(B)".

On page 175, line 8, strike "(D)" and insert "(C)".

On page 176, line 10, strike "(D)" and insert "(C)".

On page 177, line 10, strike "(D)" and insert "(C)".

On page 177, line 21, strike "(1)(D)" and insert "(1)(C)".

On page 178, line 10, strike "(D)" and insert "(C)".

On page 180, line 11, strike "(1)(D)" and insert "(1)(C)".

On page 180, line 18, strike "(1)(D)" and insert "(1)(C)".

On page 181, line 14, strike "(1)(D)" and insert "(1)(C)".

On page 182, strike lines 3 through 7, and insert the following:

"(B) Commissioner.—The Commissioner of Internal Revenue shall be removed upon termination of service in the office.

On page 182, line 11, strike "(D)" and insert "(C)".

BOND (AND MOSELEY-BRAUN) AMENDMENT NO. 2373

Mr. BOND (for himself and Ms. Moseley-Braun) proposed an amendment to the bill, H.R. 2676, supra; as follows:

Beginning on page 256, strike line 11 and all that follows through line 18, and insert the following:

"(a) In General.—It is the policy of Congress that—

(1) paperless filing should be the preferred and most convenient means of filing Federal tax and information returns,

(2) electronic filing should be a voluntary option for taxpayers, and

(3) it should be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007."

On page 258, line 12, strike "and Government Reform and Oversight" insert "Government Reform and Oversight, and Small Business".

On page 258, line 14, strike "and Governmental Affairs" insert "Governmental Affairs, and Small Business".

On page 258, line 19, strike "and".

On page 258, line 21, strike "such goal." and insert "such goal; and".

On page 258, after line 21, insert the following:

"(4) the effects on small businesses and the self-employed of electronically filing tax and information returns.".

GRAMM AMENDMENTS NOS. 2374–2376

Mr. GRAMM proposed three amendments to the bill, H.R. 2676, supra; as follows:

Amendment No. 2374

On page 265, between lines 21 and 22, insert:

"(4) Expansion to tax liabilities other than income tax.—In the case of court proceedings arising in connection with examinations commencing after the date of the enactment of this paragraph and before June 1, 2001, this paragraph shall, in addition to income tax liability, apply to any other tax liability of the taxpayer."

Amendment No. 2375

On page 370, between lines 18 and 19, insert:

SEC. 3468. PROHIBITION ON REQUESTS TO TAXPAYERS TO GIVE UP RIGHTS TO BRING ACTIONS.

(a) Prohibition.—No officer or employee of the United States may request a taxpayer to waive the taxpayer's right to bring a civil action against the United States or any officer or employee of the United States for any action taken in connection with the internal revenue laws.

(b) Exceptions.—Subsection (a) shall not apply in any case where—

(1) a taxpayer waives the right described in subsection (a) knowingly and voluntarily, or

(2) the request by the officer or employee is made in person and the taxpayer's attorney or other federally authorized tax practitioner (within the meaning of section 7525(c)(1)) is present, or the request is made in writing to the taxpayer's attorney or other representative.

Amendment No. 2376

On page 253, line 13, strike "and".

On page 253, line 17, strike the end period and insert a comma.

On page 253, between lines 17 and 18, insert:

(8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect,

(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect, and

(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

CRAIG AMENDMENT NO. 2377

Mr. ROTH (for Mr. Craig) proposed an amendment to the bill, H.R. 2676, supra; as follows:

Insert in the appropriate place in the bill the following:

SEC. . DISCLOSURE TO TAXPAYERS.

Section 6103(d) of the Internal Revenue Code of 1986 is amended by adding at the end thereof a new paragraph to read as follows:

"(6) Disclosure to taxpayers.—The Secretary shall ensure that any instructions booklet accompanying a general tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms) shall include, in clear language, in conspicuous print, and in a conspicuous place near the front of the booklet, a concise description of the conditions under which return information may be disclosed to any party outside the Internal Revenue Service, including disclosure to any State or agency, body, or commission (or legal representative) thereof.".

CRAIG AMENDMENT NO. 2378

Mr. ROTH (for Mr. CRAIG) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 394, before line 16, add a new item (6) to read as follows:

"(6) the impact on taxpayer privacy of the sharing of income tax return information for purposes of enforcement of state and local tax laws other than income tax laws, and including the impact on the taxpayer privacy intended to be protected at the federal, state, and local levels under Public Law 105–35, the Taxpayer Browsing Protection Act of 1997."

GRAMS (AND OTHERS) AMENDMENT NO. 2379

Mr. GRAMS (for Mr. COVERDELL, Ms. BOXER, Mr. WELLSTONE, and Mr. CLELAND) proposed an amendment to the bill, H.R. 2676, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 of the Internal Revenue Code of 1986 (relating to abatements) is amended by adding at the end the following:

"(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

"(1) IN GENERAL.—If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

"(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996, with respect to taxable years beginning after December 31, 1996.

(c) EMERGENCY DESIGNATION—

(1) For the purposes of section 252(e) of the Balanced Budget and Emergency Deficit Control Act, Congress designates the provisions of this section as an emergency requirement.

(2) The amendments made by subsections (a) and (b) of this section shall only take effect upon the transmittal by the President to the Congress of a message designating the provisions of subsections (a) and (b) as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act.

MOYNIHAN (AND OTHERS) AMENDMENT NO. 2380

Mr. DODD (for Mr. MOYNIHAN, for himself, Mr. ROTH, Mr. BENNETT, Mr. KERREY, and Mr. DODD) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 308, line 12, insert "the 2nd and succeeding" before "calendar quarters".

On page 309, lines 7 and 8, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 343, after line 24, insert:

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except for automated collection system actions initiated before January 1, 2000.

On page 345, lines 6 and 7, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 351, lines 13 and 14, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 6 and 7, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 9 and 10, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, strike lines 16 and 17, and insert:

(B) December 31, 1999.

On page 362, lines 12 and 13, strike "the 60th day after the date of the enactment of this Act" and insert "December 31, 1999".

On page 382, line 2, strike "60 days after the date of the enactment of this Act" and insert "on January 1, 2000".

On page 383, line 14, insert ", except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999" after "Act".

COLLINS (AND OTHERS) AMENDMENT NO. 2381

Ms. COLLINS (for herself, Mr. DEWINE, Mr. SESSIONS, and Mr. MCCAIN) proposed an amendment to the bill, H.R. 2676, supra; as follows:

At the end of subtitle H of title III, add the following:

SEC. . REPORTING REQUIREMENTS IN CONNECTION WITH EDUCATION TAX CREDIT.

(a) AMOUNTS TO BE REPORTED.—Subparagraph (C) of section 6050S(b)(2) is amended—

(1) in clause (i), by inserting "and any grant amount received by such individual and processed through the institution during such calendar year" after "calendar year",

(2) in clause (ii), by inserting "by the person making such return" after "year", and

(3) in clause (iii), by inserting "and" at the end.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed with respect to taxable years beginning after December 31, 1998.

ROTH AMENDMENT NO. 2382

Mr. ROTH proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 202, between lines 5 and 6, insert the following:

"(iv) COORDINATION WITH REPORT OF TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—To the extent that information required to be reported under clause (ii) is also required to be reported under paragraph (1) or (2) of subsection (d) by the Treasury Inspector General for Tax Administration, the National Taxpayer Advocate shall not contain such information in the report submitted under such clause.

On page 204, line 1, strike "directly".

On page 206, line 23, strike "(2)" and insert "(3)(A)".

On page 207, line 9, insert "by the Internal Revenue Service or the Inspector General" before "during".

On page 207, line 20, strike "(B)" and insert "(A)".

On page 207, lines 24 and 25, strike "not less than 1 percent" and insert "a statistically valid sample".

On page 252, line 25, insert "or taxpayer representative" after "taxpayer".

On page 253, line 1, insert ", taxpayer representative," after "taxpayer".

On page 253, line 5, insert "or taxpayer representative" after "taxpayer".

On page 253, line 6, insert ", taxpayer representative," after "taxpayer".

On page 253, line 12, insert ", taxpayer representative," after "taxpayer".

On page 254, lines 14 and 15, strike "and their immediate supervisors".

On page 254, lines 17 and 18, strike "individuals described in paragraph (1)" and insert "such employees".

On page 322, line 11, strike "subsection" and insert "section".

GRAHAM (AND OTHERS) AMENDMENT NO. 2383

Mr. ROTH (for Mr. GRAHAM, for himself, Mr. NICKLES, and Ms. MOSELEY-BRAUN) proposed an amendment to the bill, H.R. 2676, supra; as follows:

Beginning on page 307, line 6, strike all through page 308, line 3, and insert:

SEC. 3301. ELIMINATION OF INTEREST RATE DIFFERENTIAL ON OVERLAPPING PERIODS OF INTEREST ON TAX OVERPAYMENTS AND UNDERPAYMENTS.

(a) IN GENERAL.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end the following new subsection:

"(d) ELIMINATION OF INTEREST ON OVERLAPPING PERIODS OF TAX OVERPAYMENTS AND UNDERPAYMENTS.—To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by this title, the net rate of interest under this section on such amounts shall be zero for such period.".

(b) CONFORMING AMENDMENT.—Subsection (f) of section 6601 (relating to satisfaction by credits) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to the extent that section 6621(d) applies.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided under paragraph (2), the amendments made by this section shall apply to interest for periods beginning after the date of the enactment of this Act.

(2) SPECIAL RULE.—Subject to any applicable statute of limitation not having expired with regard to either a tax underpayment or a tax overpayment, the amendments made by this section shall apply to interest for periods beginning before the date of the enactment of this Act if the taxpayer—

(A) reasonably identifies and establishes periods of such tax overpayments and underpayments for which the zero rate applies, and

(B) not later than December 31, 1999, requests the Secretary of the Treasury to apply section 6621(d) of the Internal Revenue Code of 1986, as added by subsection (a), to such periods.

SEC. 3301A. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) Repeal of Property Subject to a Liability Test.—

(1) Section 357.—Section 357(a) (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) Section 358.—Section 358(d)(1) (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) Section 368.—

(A) Section 368(a)(1)(C) is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) Clarification of Assumption of Liability.—Section 357(c) is amended by adding at the end the following new paragraph:

"(4) Determination of amount of liability assumed.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

"(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

"(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability."

(c) Application to Provisions Other Than Subchapter C.—

(1) Section 584.—Section 584(h)(3) is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) Assumed liabilities.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) Assumption.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply."

(2) Section 1031.—The last sentence of section 1031(d) is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(c)(4)) a liability of the taxpayer", and

(B) by striking "or acquisition (in the amount of the liability)".

(d) Conforming Amendments.—

(1) Section 351(h)(1) is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) is amended by striking "or acquired".

(4) Section 357(c)(1) is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) is amended by striking "or acquisition (in the amount of the liability)".

(e) Effective Date.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

STEVENS AMENDMENT NO. 2384

Mr. ROTH (for Mr. Stevens) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 355, insert after line 19 the following:

(d) State Fish and Wildlife Permits.—(1) With respect to permits issued by a State and required under State law for the harvest of fish or wildlife in the trade or business of an individual taxpayer, "other assets" as used in section 3445 shall include future income that may be derived by such taxpayer from the commercial sale of fish or wildlife under such permit.

(2) The preceding paragraph may not be construed to invalidate or in any way prejudice any assertion that the privilege embodied in such permits is not property or a right to property under the Internal Revenue Code.

BINGAMAN (AND CHAFEE) AMENDMENT NO. 2385

Mr. ROTH (for Mr. Bingaman, for himself and Mr. Chafee) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 375, line 11, strike the period and insert ", including volunteer income tax assistance programs, and to provide funds for training and technical assistance to support such clinics and programs."

On page 375, line 22, strike "or".

On page 376, line 2, strike the period and insert ", or".

On page 376, between lines 2 and 3, insert:

"(III) provides tax preparation assistance and tax counseling assistance to low income taxpayers, such as volunteer income tax assistance programs."

On page 376, line 20, strike "and".

On page 376, line 25, strike the period and insert "and".

On page 376, after line 25, insert:

"(C) a volunteer income tax assistance program which is described in section 501(c) and exempt from tax under section 501(a) and which provides tax preparation assistance and tax counseling assistance to low income taxpayers."

On page 377, line 9, strike "$3,000,000" and insert "$6,000,000".

On page 377, line 11, after the end period, insert "Not more than 7.5 percent of the amount available shall be allocated to training and technical assistance programs."

On page 377, line 15, insert ", except that larger grants may be made for training and technical assistance programs" after "$100,000".

On page 378, line 16, insert "(other than a clinic described in paragraph (2)(C))" after "clinic".

On page 396, strike lines 18 through 20, and insert "Finance of the Senate. The report shall include any recommendations—

(A) for reducing the complexity of the administration of Federal tax laws, and

(B) for repeal or modification of any provision the Commissioner believes adds undue and unnecessary complexity to the administration of the Federal tax laws.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet to conduct a hearing on Tuesday, May 12, 1998, at 9:30 a.m. on Indian gaming focusing on lands taken into trust for purposes of gaming. The hearing will be held in room 106 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, May 7, 1998 at 9:00 a.m. in SR–328A. The purpose of this meeting will be to examine U.S. Agricultural Trade Policies in preparation for the World Trade Organization talks.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, May 7, 1998, at 10:00 a.m., off the floor in the Mansfield room S–207, of the Capitol Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, May 7, 1998, at 10:00 a.m., in room 226 of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on "Teacher Education" during the session of the Senate on Thursday, May 7, 1998, at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 7, 1998 to hold closed mark-up on the FY99 Intelligence Authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 7, 1998, at 2:15 pm on Aviation Repair Station.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING OPPORTUNITY AND COMMUNITY DEVELOPMENT

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Subcommittee on Housing Opportunity and Community Development of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, May 7, 1998, to conduct a hearing on issues relating to the implementation of the Department of Housing and Urban Development's "HUD 2020 Management Reform Plan".

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Foreign Relations and the Subcommittee on International Economic Policy, Export and Trade Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 7, 1998, at 10 a.m. and 2:30 p.m. to hold hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, May 7, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on titles VI, VII, VIII and XI of S. 1693, the Vision 2020 National Parks Restoration Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEDICATION OF THE GILBERT M. GROSVENOR CENTER OF GEOGRAPHIC EDUCATION

• Mrs. HUTCHISON. Mr. President, I rise today to bring to my colleagues' attention the dedication of the Gilbert M. Grosvenor Center of Geographic Education at Southwest Texas State University.

Located near the Texas Hill Country in San Marcos, Texas, Southwest Texas opened its doors 95 years ago to 330 students. Today, Southwest Texas is a major, innovative university with a growing student population of over 21,000. During its history, Southwest Texas graduates have distinguished themselves in numerous career fields, including research and teaching. Today, Southwest Texas builds upon this legacy of success and commitment to higher education by dedicating the new Grosvenor Center.

The university has distinguished itself nationally in the area of geographic research and education. In fact, Southwest Texas's Department of Geography and Planning has been recognized as the best undergraduate geography program in the nation by the Journal of Geography, the Association of American Geographers, and a national Program Effectiveness survey. Southwest Texas has the largest geography department in the country with 590 undergraduate and 165 graduate students.

Southwest Texas is the home of the Texas Alliance for Geographic Education, which is one of the premier geography alliances in the nation, according to the National Geographic Society. The Alliance has more than 5,000 teachers as members. It has sponsored numerous geography institutes and workshops for educators and has led efforts to generate participation in Geography Awareness Week. The Alliance is a strong supporter of the Texas Geography Bee, which is a statewide competition for young people to test their geographic knowledge before advancing on to the national contest.

Not surprisingly, Southwest Texas has chosen to name its new Center for Geographic Education after Gil Grosvenor, Chairman of the Board of Trustees of the National Geographic Society. With this decision, Southwest Texas salutes Mr. Grosvenor's outstanding leadership in the drive to improve education in the field of geography. His pioneering work to advance Geography Awareness Week, the Geography Bee, and state geography alliances, has dramatized the need for quality geography education in America's classrooms.

I want to commend Mr. Grosvenor for his lifetime commitment to the advancement and dissemination of geographic knowledge and understanding. Under the leadership of Gil Grosvenor, National Geographic has done more to make geography alive and interesting than any other organization. We all owe Mr. Grosvenor and the National Geographic Society a huge debt of gratitude for their tremendous contributions over the years.

Mr. President, hundreds of geographers from across the country will converge on the Southwest Texas campus today to inaugurate the new Center. Lady Bird Johnson is also an expected guest, along with elected officials and many alumni from the Department of Geography and Planning. In the evening, Mr. Grosvenor will serve as a special guest at a dinner in the ballroom of the LBJ Student Center. On Friday, Mr. Grosvenor will have the honor and distinction of delivering the 1st Annual Grosvenor Lecture at the Alkek Library Teaching Theater on campus. Mr. Grosvenor is expected to focus his address on the critical importance of providing quality geography education in America's schools.

It is with great pleasure that I join in the celebration of the dedication of Southwest Texas's new Grosvenor Center. I congratulate all those involved in making this effort a reality and ensuring that geography education plays an important and integral role in the classrooms of today, as well as tomorrow.•

L.F. "TOW" DIEHM

• Mr. BINGAMAN. Mr. President, I rise today and ask my colleagues to join me in extending condolences to the family and loved ones of one of New Mexico's most outstanding citizens, L.F. "Tow" Diehm, who died last week. Mr. Diehm leaves a proud and indelible legacy for his family, profession, and community. He spent his professional life dedicated to athletics in New Mexico, and while he will be missed, his reputation will live on.

Tow came to the University of New Mexico in 1957 and held the job of athletic trainer for 31 years. As friends and family will attest, Tow was a man who never forgot that the young student athletes in his charge were people. Throughout his 31 years, not a day went by when Tow did not touch the lives of the people around him. As a gesture to Tow of respect and affection, the University of New Mexico named its new athletic complex after him when it was completed in 1997. Indeed, the honors that were bestowed on Tow throughout his life were numerous: he is a member of the University of New Mexico Athletic Hall of Honor, the Helms Trainers Hall of fame, and in 1980, he became the first person, who was not an athlete or a coach, ever inducted into the Albuquerque Hall of Fame.

Whether generating funding for the athletic department or acting as a confidante to the many student athletes he helped every day, Mr. Diehm did everything in his life, personal and professional, with honor and integrity. His influence on athletes, his colleagues and friends, to say nothing of his family, is immeasurable. The standard of excellence that he embodied will live on in each life that he touched.•

DISABLED HIKERS FROM IDAHO ATTEMPT MT. EVEREST CLIMB

• Mr. CRAIG. Mr. President, I would like to take a few minutes to share a story about an extraordinary group of Idahoans.

As I drove into work this morning, my thoughts were with this group of my constituents in Nepal, very far away from home and even farther away from Washington, D.C. These Idahoans are attempting to climb Mt. Everest. Only a handful of people have climbed the mountain over the years and succeeded. Others have failed in their attempt, but very few people have ever tried to climb the mountain at all. It is a challenge that could mean death at every turn. For this group of Idahoans, however, the climb means life around every corner.

The climbers are all physically disabled. These disabled trekkers are affiliated with the Cooperative Wilderness Handicapped Outdoor Group at Idaho State University, affectionately known as HOGs. This group's philosophy is, "Hey, just because you're disabled, it doesn't mean that your life is over." And they are proving exactly that. The group's journey is being documented on the internet, so that updates on their progress can be found frequently. On their website they write, "Disabled people are ignored, not really discriminated against, but ignored. I've seen families where a relative is newly disabled and they didn't let him do anything. This at first is a well-meaning attitude, but later it effectively takes a disabled person's power away to make choices. We're making a choice with this Everest Trek. It's going to be really hard, but we are going to give it our best."

Disability comes in different forms for the participants. Kyle Packer, an Idaho State University student of the year, has Cerebral Palsy. Isaac Gayfield set many Idaho State University track records. He now has Degenerative Bone Disease. Tom McCurdy is an Idaho State University student who happens to be a paraplegic. Steve DeRoche is a weight lifting coach and a double amputee. Sheila Brashears lost a leg to cancer. Carla Yustak, who has Cerebral Palsy, is an Olympic trainee for cycling when she isn't climbing mountains.

And then there is Tom Whittaker. The founder of the CW-HOG organization, Tom lost his foot in an automobile accident in 1979, shortly after finishing his Masters degree at Idaho State University. An avid outdoor adventurer, Tom felt as if his life had come to an end—but he overcame his disability, and then some. Now a professor of adventure education at Prescott College in Arizona, Tom is poised to become the first amputee to stand on the summit of Everest. While the rest of the team plans to end its journey upon reaching the base camp of the summit, Tom will travel the final stage to the peak as the sole disabled participant.

I want to personally congratulate this group for their efforts so far. They are expected to reach the base camp today and Tom is set to reach the summit later this month. It is indeed a defining moment for disabled people in America and around the world.

Mr. President, let me share what was written about Tom Whittaker in his online profile: "* * * [he] reminds us, when setbacks occur in our personal and professional lives, it is not the falling down, but the getting back up that matters. The essence, in the heart of the American Dream, is not money, status or power, but the freedom to dream and the courage to embrace those dreams—for all people. As a people, we love to compete and we love to win. But more than anything, Americans applaud the grit and spirit it takes to get back up and finish the race."

In closing, I want to recognize their spirit today. It is my hope that everyone who hears their message might be inspired to face and conquer their own challenges, and by so doing, become not only better persons but better Americans.•

NATO ENLARGEMENT

• Mr. WYDEN. Mr. President, last week, the Senate engaged in a particularly important debate about the expansion of the North Atlantic Treaty Organization.

I particularly want to commend the leadership and dedication of my colleague from Oregon, Senator GORDON SMITH. Senator SMITH managed this important legislation on the floor with great competence, and the people of Oregon should be proud of how he handled this difficult assignment. Despite my colleague's persuasive efforts, however, I have decided to oppose this treaty.

Mr. President, a new era in world affairs demands new forms of international cooperation. There is indeed a clear and immediate imperative to bring the new democracies of Eastern Europe into the family of freedom-loving nations.

What is less clear is that the best way to do this is through the new military alliance proposed by this treaty. My reservations about this treaty are three, and I would like to outline them briefly.

First, the treaty redefines NATO's fundamental mission from protecting against a known threat into something much more nebulous. The initial purpose of this alliance was to contain communism and staunch the threat of the Soviet Union spreading its sphere of influence over the entire continent. With four decades of sound leadership, consistent vision, and unflinching strength, the alliance succeeded in that endeavor, bringing the West safely through the Cold War, and allowing the people of Eastern Europe to finally reassert their long-suppressed desire for freedom.

But what is NATO's role in a new environment, with the Soviet Union relegated to history? I don't think that question has been sufficiently debated, or an answer sufficiently defined, for us to be rushing into this expansion. Is there really some strategic end that would be served by the United States pledging to treat any conflagration in the turbulent realm of Eastern Europe as an attack against our own sovereignty?

It may well be that there are circumstances in which the cause of world peace and security would be best served by an American commitment to turn back an aggressor or defend a fragile democracy. But in the absence of a well-defined threat or clearly articulated strategic mission, it is hard to see how this expansion of NATO is anything other than a gamble that an institution created for one purpose is equally suited for the yet-to-be-determined purposes of a new time.

Second, I believe that this expansion will have a deleterious effect on our relationship with Russia. At this critical time—when what was once our most formidable adversary stands at a delicate point between the continued climb toward democracy and freedom on the one side, and a fall backwards into heavily-armed nationalism on the other—I'm especially troubled that this proposed NATO expansion will push future Russian leaders in the wrong direction.

As the end of this century approaches, Russia is still in possession of one of the world's most powerful military arsenals. A Russia with reborn territorial designs on her neighbors is the greatest imaginable potential threat to European stability and security.

That is why it is so vital that we seek ratification and implimentation of the START II treaty with Russia, which would actually reduce the size of its nuclear arsenal. The Russian Duma has so far refused to take this step, but appears to be moving in that direction. If they interepret this expansion, however, as a hostile gesture in their direction, they may well refuse to ratify, leaving us all less safe than we might otherwise have been.

The United States has made tremendous strides in our relationship with Russia since the fall of the Soviet system. American diplomacy now should be focused on consolidating those gains, and finding ways to help Russia complete its transition to democracy. Many experts in our own country, as well as many of the most credible pro-Western leaders in Russia itself, have warned us that expanding NATO could inflame nationalist passions, and lead to a turning away from the path of democracy and peaceful relations. That would be the most disastrous of unintended consequences, and must give us pause as we consider this step.

Third, the cost of this initiative is anyone's guess, and must compel us to caution as well, particularly considering that the United States already pays a disproportionate share of NATO's costs. If NATO expansion were vital to our national security, then our country would be resolved to pay any price, in President Kennedy's timeless phrase. But we live in a fundamentally different time, one in which each country's security is determined as much by the quality of its schools and the cleanliness of its air and water than by the might of its armies and navies. Committing to an expanded military alliance which may entail far greater costs than the Administration has estimated could diminish our ability to make the investments that will make us safer and stronger.

The Senate had an opportunity, through the amendment offered by Senator HARKIN, to gain a better sense of the size of this financial commitment. I strongly supported that effort. Unfortunately, it did not prevail, and we are left with burning questions about the size of the financial commitment entailed by this treaty, and the effect that will have on our ability to address those domestic priorities which make us stronger as a nation.

What is true for us is true for these struggling new democracies as well. As Senator MOYNIHAN has pointed out so wisely, these countries are under no immediate threat. Their most pressing challenge is the development of growing economies, and the institutions of democracy. But if they join NATO, these struggling nations will be required to spend billions on the latest in military hardware instead of making critically needed investments in areas that lead to long-term benefit: infrastructure, education, environmental health, and many others.

Decades of a failed communist system left these countries in economic ruin. I believe it is a testament to their energy and determination that they are slowly overcoming this legacy and building up new, vibrant free market economies. We should, in the name of international security, be doing everything possible to help them through this transition.

I do not believe that anyone has properly assessed the impact that joining NATO, and making the necessary investments to participate in that military alliance, will have on our Eastern European friends' ability to continue a successful transition to market economics. And I do not believe we should jump pell-mell into such an enlargement until we have done so.

The democratization of Eastern Europe is an exciting and hopeful development. As a child of the Cold War, I am awed by the transitions we have seen. The United States has a special responsibility to nurture freedom wherever it is seeking to plant its roots. But in the final analysis, it is not clear that extending NATO membership to Poland, Hungary, and the Czech Republic is the best way to do it.

In this case, the burden of proof is on the proponents. We should not take so solemn a step as committing American lives to the protection of another country unless we are absolutely certain, beyond any doubt, that it is the wisest of possible courses. I remain unconvinced, and so I opposed the measure.•

RECOGNIZING PRINCE WILLIAM SOUND COMMUNITY COLLEGE

• Mr. MURKOWSKI. Mr. President, I rise today in support of S. Res. 223, which I introduced yesterday on behalf of myself and Senator STEVENS. Our resolution recognizes the Prince William Sound Community College and its celebration of its twentieth anniversary this Sunday, May 10, 1988.

This is a notable milestone for the College and for the people of the Copper Basin Area. Prince William Sound Community College was established in 1976 as a Learning Center set up by the University of Alaska. It earned community college status just two years later. In 1987, the University of Alaska merged all community colleges in the state into the university system; however, due to overwhelming support from the local community of Valdez, Prince William Sound Community College remained the only individually accredited community college in the University of Alaska system.

Today, after 20 years, the student body of the college has grown to nearly 2,000 students, and the college is a recognized leader in the University of Alaska system.

Mr. President, I commend the Prince William Sound Community College for its 20 years of exceptional service to the people of Alaska and look forward to many more years of growth and contributions to the culture and economy of Alaska.•

• Mr. STEVENS. Mr. President, I join Senator Murkowski as a co-sponsor of this Senate resolution commending the Prince William Sound Community College, which is located in Valdez, Alaska, as it celebrates its twentieth anniversary.

In 1971, concerned citizens of Valdez and in the neighboring town of Cordova petitioned the University of Alaska to establish extension offices in each of these communities. In 1976, a Learning Center was established in this area. Community college status was granted in 1978 and the centers officially became known as Prince William Sound Community College.

In 1989, the College received accreditation from the Commission on Colleges of the Northwest Association of Schools and Colleges and has maintained that status. Since that date, the College has established several new programs, such as the Prince William Sound Community College Theater Conference, which attracts nationally-known dramatists; the Industrial Safety/Marine Response Training Department; a wellness center; and a television station.

The University of Alaska merged all community colleges into the university system in 1987. Prince William Sound Community College has remained the only individually-accredited community college in the system because of the continuing strong support from the City of Valdez. The University of Alaska's Board of Regents has recognized the growth and accomplishment of the College by approving several new degree and certificate programs.

In twenty years of existence, Prince William Sound Community College has developed into a recognized leader in the University of Alaska system and continues to serve Prince William Sound and the Cooper Basin area as a comprehensive community college intent on life-long learning.

I urge other Senators to help us pass this resolution to commend the Prince William Sound Community College for these accomplishments in conjunction for these accomplishments in conjunction with its 20th anniversary on May 10, 1998.•

THANKING OUR NATION'S CORRECTIONS OFFICERS

• Mr. TORRICELLI. Mr. President, I rise today to thank our nation's Corrections Officers for their selfless dedication to rehabilitating those members of our society who have strayed from the path of the just. I would especially like to recognize the 5,500 members of the New Jersey State Corrections Officers Association whose daily work allows our children to grow in an environment unfettered by criminal elements. These courageous men and women risk their lives on a daily basis and deserve to be recognized for their efforts on our behalf.

Although Corrections Officers play a critical role in safeguarding our communities from convicted felons, they receive very little public recognition for their work. When a felon is apprehended the police receive the credit for the arrest and the prosecuting attorney is praised for proving the felon's guilt. Juries are hailed as courageous and the judges imposing sentences are lauded for their commitment to justice. Once the trial process is completed and a felon is convicted, that person goes to prison and is forgotten by mainstream society. However, Corrections Officers are not allowed to forget because they deal with convicted felons on a daily basis. From rehabilitating to guarding those people who have forfeited their rights to live in our communities, Corrections Officers find themselves in high risk situations every day.

In a society that believes in the fundamental importance of law and order, it is important to remember the people who help those principles flourish. By ensuring that inmates are rehabilitated before re-entering our communities, Corrections Officers are disciplinarians and teachers. They impose the will of the people while teaching criminals about the need to adhere to the law. Clearly, there are formidable obstacles to these endeavors, and I am continually impressed by the way these officers persevere in spite of the difficulties they encounter. In a criminal justice system that places an ever increasing amount of pressure on Corrections Officers to be infallible, they maintain a consistently positive and professional attitude towards their jobs.

The men and women who work as Corrections Officers in our nation's prisons should be celebrated for their commitment to their communities. I am privileged to recognize their efforts and I encourage my colleagues to do so as well.•

RECOGNITION OF REVEREND TED B. COMBS

• Mr. FAIRCLOTH. Mr. President, I rise to pay tribute to Reverend Ted B. Combs who recently stepped down as Pastor of the Oak Ridge Baptist Church. For 27 years, Reverend Combs faithfully led his congregation and selflessly gave to his community. His wife, Doris, and he have dedicated their lives to the service of God.

Oak Ridge Baptist Church is located in Wilkes County, North Carolina, in the western part of the state. Reverend Combs was born and raised in these parts not far from the church that he would one day pastor. He has been an integral part of the community since attending the local high school, Mountain View. As an adult in Wilkes County, Reverend Combs has served the community in numerous positions including board member of the Wilkes County Nursing Home and honorary member of Mountain View Ruritan.

The greatest testament, however, to Reverend Combs' stature in and respect among the community is given through those that live there. Wilkes County has a population of a little more than 60,000 citizens, and one would be hard pressed to find anyone who didn't speak kindly of Reverend Combs. His work in Wilkes County has touched the lives of so many.

I'm proud to recognize the achievement of Reverend Ted B. Combs before the United States Senate and privileged to call him a fellow North Carolinian.•

MILITARY HEALTH CARE

Mr. CLELAND. Mr. President, one of my proudest honors as a United States Senator is to serve as the Ranking Member on the Personnel Subcommittee of the Senate Armed Services Committee. It is in this capacity that I feel I can contribute to supporting the men and women in our Armed Forces.

Last week I introduced a military health care proposal which I referred to as KP Duty, as in "Keeping Promises Duty." In the military, KP stands for "kitchen police" which is a term for messhall clean up which recruits are tasked to do when they go through basic training. This KP duty I am proposing is for all of us to clean up a commitment—the promises made to our servicemen and women.

The Fiscal Year 1998 National Defense Authorization Act (P.L. 105–85) included a Sense of the Congress Resolution which provided a finding that "many retired military personnel believe that they were promised lifetime health care in exchange for 20 or more years of service." Furthermore, it expressed the sense of Congress that "the United States has incurred a moral obligation" to provide health care to members and retired members of the Armed Services and that Congress and the President should take steps to address "the problems associated with the availability of health care for such retirees within two years." I authored that resolution, and today in year one of this two-year challenge, my friend and colleague, Senator KEMPTHORNE, Chairman of the Personnel Subcommittee of the Senate Armed Services Committee, and I are ready to take the initial steps in fulfilling this obligation to our retirees.

In March, I hosted a military health care roundtable at Fort Gordon, Georgia. The positive and supportive working relationship between the Eisenhower Army Medical Center and the Veterans Administration Medical Center in Augusta, Georgia was highlighted by the panel speakers and audience members. These facilities have established a sharing agreement which allows each to provide certain health care services to the beneficiaries of the other. This type of joint approach has the potential to alleviate a significant portion of the accessibility problem faced by military retirees, especially given the reduction in DoD medical treatment facilities. In spite of these benchmarked efforts in cooperative care, beneficiaries who were in the audience still attested to insufficient accessibility to resources to meet their needs. One of the audience participants who was commenting on a health problem stated, "my life isn't the same as it was a year ago, and all I got was shuttled from one thing to another".

In a statement I submitted last week, I discussed a legislative initiative which would require the Department of Defense (DoD) and Department of Veterans Affairs (VA) to work toward enhancing their cooperative efforts in the delivery of health care to the beneficiaries of these systems. This initiative includes several elements to enhance health care efficiencies. It provides for a study which would determine the demographics, geographic distribution and health care preferences and an assessment of the overall capacity of both systems to treat beneficiaries. The second provision would examine existing statutory, regulatory and cultural impediments that are currently precluding the optimal cooperation of DoD and VA in health care delivery. Finally, this initiative provides for the acceleration of several ongoing efforts such as the Electronic Transfer of Patient Information and the DoD/VA Federal Pharmaceutical Steering Committee. This legislative initiative was included in the Fiscal Year 1999 National Defense Authorization Act.

The legislation I wish to discuss today addresses the retirees who are aged 65 and older. The Government Accounting Office reports that of the population eligible for military health care, approximately 52% are retirees and dependents. Seventy one percent of military retirees are under the age of 65, while 29% of military retirees are aged 65 and older.

As we consider options for improving the DoD and VA health care systems, we need to be mindful of some basic facts. About 60% of retirees under the age of 65 live near a military treatment facility while only about 52% the retirees aged 65 and older live near such a facility. About two thirds of retirees under the age of 65 use the military health system. In comparison, only about a quarter of the retirees aged 65 and older use military medical facilities, and then only on a space available basis and primarily for pharmacy services.

According to a 1994–95 survey of DoD beneficiaries, just over 40 percent of military retirees, regardless of age, had private health insurance coverage. About a third of retirees aged 65 and older also reported having additional insurance to supplement their Medicare benefits. This is in part, due to their belief that the military health care system would take care of their needs throughout their lifetime.

The Military Health System has changed dramatically in recent years. The collapse of the Soviet Union and the end of the Warsaw Pact led to a major reassessment of U.S. defense policy. The DoD health care system changes have included the establishment of a managed care program, numerous facility closures, and significant downsizing of military medical staff. In the last decade, the number of military medical personnel has declined by 15 percent and the number of military hospitals has been reduced by one-third. The Fiscal Year 1994 National Defense Authorization Act directed DoD to prescribe and implement a nationwide managed health care benefit program modeled on health maintenance organization plans and in 1995, beneficiaries began enrolling in this new program called TRICARE. With over 8 million beneficiaries, it is the largest health maintenance organization plan in the Nation.

One of the problems with TRICARE is what happens to retirees when they reach the age of 65. At that point, they are no longer eligible to participate in any TRICARE option. The law currently provides for transition from military health care to Medicare for these beneficiaries.

Mr. President, this is not the right solution, especially given the fact that Medicare does not currently reimburse the DoD for health care services, although Congress recently authorized a test of this concept, nor does Medicare include a pharmacy benefit. In addition, as the military begins to close and downsize military treatment facilities, retirees aged 65 and older are unable to obtain treatment on a space available basis. These retirees are, in effect, being shut out of the medical facilities promised to them.

The Medicare Subvention demonstration project that is scheduled to begin enrollment in the near future will only benefit retirees who live near military treatment facilities—which is only about half of all retirees. Those retirees living outside catchment areas won't even benefit from subvention. Additionally, there are ongoing efforts to initiate a Veterans Affairs Subvention test. The limiting criteria of these tests is that they require beneficiaries to live near the respective treatment facilities. To accommodate those beneficiaries who do not live near treatment facilities or within a catchment area, we must explore other alternatives, including, the Federal Employees Health Benefits Program (FEHBP) option that has received so much attention recently.

There has been an overwhelming outpouring of support for offering FEHBP to military retirees. Although this program has achieved a successful reputation among federal employees, it is a very costly alternative which deserves close scrutiny, along with other health care options. I appreciate the fact that there are many advantages to FEHBP. Furthermore, I share the view that health care for military retirees should be at least as good as the health care we in the Congress afford ourselves.

However, there may be other options, or a combination of options that will allow us to keep our promises with our older retirees in a fiscally responsible manner. The option I am about to discuss is included in the Fiscal Year 1999 National Defense Authorization Act. Senator DIRK KEMPTHORNE, Chairman of the Personnel Subcommittee of the Senate Armed Services Committee, and I have worked closely on this issue over the past several months. Under his leadership, the Personnel Subcommittee held hearings on this issue which included testimony by the service Surgeons Generals, the Acting Assistant Secretary of Defense for Health Affairs, and representatives from military associations. Together, we have developed a plan to assist the Nation in meeting our obligation to the military retirees.

This legislation requires demonstrations to be conducted of three health care options: the Federal Employees Health Benefits Program (FEHBP), TRICARE Standard (which replaced the Civilian Health and Medical Program of the Uniformed Services or CHAMPUS), and Mail Order Pharmacy. Two different sites will be selected for each of the respective demonstrations.

Through FEHBP, military retirees could choose from different plan options. As with active and retired federal employees, military retirees who enrolled would be required to pay a premium. The amount of the premium would vary depending on which plan was chosen and the government and beneficiary share in the cost of the selected plan.

The TRICARE Standard option would be to extend the current coverage beyond age 64. Under this extension, the TRICARE Standard would serve as a supplemental policy to Medicare, covering most out-of-pocket costs not covered by Medicare. Even though this proposal would require retirees to enroll in Medicare part B, retirees should experience lower out-of-pocket costs. Because TRICARE Standard is an established program within DoD, the existing infrastructure could be used without significant increase in administrative costs.

Finally, the Medicare program does not provide coverage for outpatient prescriptions, a major expense for older people, who tend to use more prescription drugs. Military retirees can get prescriptions filled at military treatment facility pharmacies, but these facilities are not readily accessible to all older retirees. Expanding this mail order benefit to those who do not live near military facilities and do not currently have a mail order benefit would fill an important health care coverage gap. This would be the third demonstration.

The demonstrations will be scheduled to conclude within the same time frame as the ongoing Medicare Subvention test, approximately January 1, 2001, so all the test results can be simultaneously compared in determining the best option or combination of options to accommodate the retirees aged 65 and older.

Mr. President, as you know, S. 1334, a bill to provide for a test of FEHBP has 60 cosponsors. We agree that FEHBP warrants further examination which is why we have included it in the Committee's legislative proposal. We are very committed to finding the right solution to this shortcoming which is why we feel that evaluating several options is critical in this decision process. The proposal included in the Defense Authorization Act is far more comprehensive than S. 1334. At the end of these demonstrations, we would have extensive data upon which we could base an informed decision regarding the best way for our Nation to provide health care to those who have earned it through the sacrifices inherent in military service.●

PRESIDENT CLINTON'S ULTIMATUM TO ISRAEL

Mr. MACK. Mr. President, President Clinton's ultimatum to Israel regarding proposals to withdrawal from the West Bank to secure the peace process is wrong and should be abandoned. What business is it of the United States to give an ultimatum to a democratically elected people regarding their own security interest? We should not publicly pressure an ally to violate their own security assessment. This is not a matter for Washington to decide, but rather for the Israeli people to decide.

The deadline imposed on Israel by the Administration removes any incentive for Palestinian President Yasser Arafat to negotiate. The United States should encourage direct negotiation, not dictate the agenda. We need to exercise patience to reach a lasting peace, not risk Israeli security.

Mr. President, the Middle East peace process is taking place in a complex environment; caution—not irresponsible bravado—is required. There is no question that everyone involved wants peace in the Middle East. Yet, we must ask if our current actions are leading Israel and the Palestinian people toward security and freedom, or further from it. Putting pressure upon the people of Israel, forcing them to violate their own security needs, works against peace.

The Middle East continues to be defined by suspicion, hatred, and a continuing arms race. Terrorism's presence can be felt everywhere— in the markets and in the streets and cafes. And while much of the Arab world enters modernity, liberalizing economies and governments, radical Islamic extremism also grows. Anti-Semitism and the anti-Israeli refrain has not yet ceased to be heard through the souks and bazaars of the Middle East. This hatred is unfortunately a very real, very frightening, part of daily existence for the Israeli people.

Over the past several months of bipartisan discussions and personal dialogue with the administration, I've concluded two things. First, America can continue to play a vital role in the peace process, but our role must be limited to mediator and facilitator. Second, in spite of this administration's good intentions, the United States is currently trying to lead the talks toward a false goal—the Israelis understand this and resist. The President must understand that peace through ultimatum may get him an agreement, but an agreement which may provide a risky and false peace.

A lasting and secure peace represents the only worthy goal. And if this means that we wait and demonstrate patience and not arrogance, then we should. The U.S. will eagerly take a share of the credit for a successful agreement, but we must remember—we do not pay the price of failure. The price of failure will be paid by the Palestinian and Israeli people, who will continue to live in fear of another bus bombing in the city center, of their children being targeted in buses and cafes.

50TH ANNIVERSARY OF THE STATE OF ISRAEL

• Mr. LIEBERMAN. Mr. President, I rise today to join those in this Chamber and around the globe who have spiritually linked arms to celebrate the 50th Anniversary of the establishment of the State of Israel. I am particularly happy to see that the people of my own hometown of Stamford, Connecticut have seen fit to join in the international chorus of voices commemorating this milestone.

After the horrors of the Holocaust, the establishment of the State of Israel represented a significant turning point. The world community denounced an endemic hatred that had led to the decimation of a people and in doing so, set the stage for the renaissance of a culture that had been without a home for nearly two thousand years. The time of tribulation had passed and Jews were, at long last, reunited with their ancestral homeland.

Israel and the Old City of Jerusalem represent both the current state of humanity and the heights to which we can aspire. We have been taught that long ago, Israel was a gift to Abraham and his descendants, a token of thanks for his faithfulness. Since that time, Judaism, Christianity, and Islam have each governed this land and each religion has developed a spiritual stake in the land. These religions have lived in neighboring and even overlapping communities for half a century, yet peace and security have remained elusive. We have recently begun to see the first opportunities for a lasting peace. When this opportunity is fully realized, Israel will truly stand as both symbol and reality that the forces that bind us together are far greater than the forces that seek to divide us.

The Jewish Community Center in Stamford will be holding its celebration on May 17, 1998. I am happy to join them and the millions of others who have lifted their voices in commemoration of this very important landmark.•

HONORING THE UNITED JEWISH FEDERATION OF STAMFORD ON ITS 25TH ANNIVERSARY

• Mr. DODD. Mr. President, this month, the world's eyes are on the State of Israel as it celebrates the 50th Anniversary of its independence. I want to take this opportunity to congratulate and praise the people of Israel on this historic occasion.

Many centuries ago, Isaiah prophesied that Israel would become "a light unto the nations." Today, Israel's light is shining brightly—not only for its citizens, but for people throughout the world. This nation arose from the ashes of the Holocaust and has given the Jewish people of the world a permanent homeland.

The modern State of Israel has faced many obstacles in its short life, but it has survived them all, and in fact excelled in spite of them. Its population has grown from 600,000 in 1948 to nearly 6 million today as it has absorbed waves of immigrants from all over the globe. It is a vibrant democracy, with free and open elections and a free press. Despite a shortage of natural resources and many other obstacles, it has developed a thriving economy. And from this small nation, we have seen countless acclaimed writers, artists, and musicians.

Israel has also shared a special relationship with the United States. Over the years, our nations have stood together to preserve Israel's safety and security, and I want to take this opportunity to join my fellow Americans in pledging our continued support for this trusted ally.

This is also a time of celebration for members of the American Jewish population. Festivities are being held all across the country, and in my state of Connecticut, the United Jewish Federation and the Jewish Community Center of Stamford will hold a community-wide festival to commemorate the 50th anniversary on Sunday, May 17th. There will actually be another special event in Stamford the previous Thursday.

On May 14th, the United Jewish Federation of Stamford will celebrate its 25th Anniversary. Throughout the years, the UJF has played a vital role in building and maintaining a sense of unity among Stamford's Jewish community. They have helped to promote and enrich Jewish life in the area by coordinating educational, social and philanthropic activities. They have also worked to defend the political and religious rights of the Jewish people, not only in Connecticut, but around the Nation, in Israel, and throughout the world.

The UJF of Stamford's stated mission is to create a community based on the Jewish ideal of "tzedakah": charity, righteousness and social justice. Well, I would say that their works and actions have clearly embodied these three principles. I want to personally thank them for all that they have done to strengthen and improve both their community and our state, and I offer my sincere congratulations to them on this joyous anniversary.•

PUBLIC SERVICE RECOGNITION WEEK

Mr. SARBANES. Mr. President, I am pleased to join the President, Vice President, and my colleagues in Congress in recognizing the significant contribution of all public employees to our Nation's well-being. This week, from May 4 through May 10, is Public Service Recognition Week and today begins a three-day celebration of events on the Mall designed to highlight the creative, innovative and effective government programs serving Americans across the country.

I am indeed proud to bring special attention to the dedicated individuals who have chosen public service as a career and who, through years of hard work, have helped to contribute to our Nation's growth and prosperity. Their important work includes protecting our Nation, keeping our food supply safe, participating in medical and scientific research, and maintaining highway and air safety.

The excellent service provided by Federal employees often goes unrecognized and it is only when these services become necessary for an individual or when the services are unavailable—as we experienced just 2 years ago during the shutdown of the Federal Government—that people truly appreciate the importance of Federal employees. It is with this in mind that I want to again thank and praise the millions of men and women in the Federal workforce who perform these important jobs every day.

I view public service as an honorable career and a high calling, and I am proud that our Government has such a conscientious and highly qualified workforce. Despite previous attempts to undervalue the ideals which make public service rewarding and attractive to many, Federal employees continue to work positively and responsibly, while accomplishing many vital tasks. President Kennedy once stated:

> Let the public service be a proud and lively career. And let every man and woman who works in any area of our nation's government, in any branch, at any level, be able to say with pride and honor in future years: 'I served the United States Government in that hour of our Nation's need.

The Nation has unquestionably benefitted from the many wonderful achievements of Federal employees. In setting aside this week to acknowledge our Nation's public servants, we all have an opportunity to give these employees the thanks and recognition they so greatly deserve. I am very pleased to extend my appreciation to such a worthy an committed group of men and women and encourage them to continue in their efforts on behalf of all Americans.●

WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION

● Mr. LAUTENBERG. Mr. President, I rise today to congratulate the students of East Brunswick High School, national champions of the We the People . . . The Citizen and the Constitution. This program, administered by the Center for Civic Education and funded by the Department of Education, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. Competing against 50 classes, the East Brunswick High School students demonstrated their superior knowledge of the Constitution in 3 days of simulated Congressional hearings in which students were required to apply constitutional principles and historical facts to contemporary situations.

These young scholars worked diligently to reach and win the national finals by winning local competitions in my home State of New Jersey. I am proud to recognize the distinguished members of the class representing New Jersey:

Mian Amy, Michael Carr, Daniel Cohen, Michael Cohen, Stacie Dubin, Andrea Feit, Naomi Finkelstein, Christian Forsythe, Hillary Gallanter, Gina Gancheva, Heather Gershen, Brett Gursky, Denise Heitzenroder, Rachel Katz, Terry Lin, Jonathan Meer, George Mossad, Amanda Rosen, Joel Pruce, Niyati Shah, Naseer Siddique, Michael Sturm, Robert Thompson, Howard Wachtel, Ari Waldman, Jamie Yonks, Joanna Young.

I would also like to recognize their teacher, John Calimano, who deserves much of the credit for the success of the class. The district coordinator, Robert Strangia, and the state coordinator, Evelyn Taraszkiewicz also contributed a significant amount of time and effort to help the class win the national finals.

I commend these constitutional experts for their great achievement.●

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 100-696, appoints the following Senators as members of the United States Capitol Preservation Commission:

The Senator from Washington (Mr. GORTON)

The Senator from Utah (Mr. BENNETT).

MEASURE READ FOR THE FIRST TIME—H.R. 3717

Mr. ENZI. Mr. President, I understand that H.R. 3717 has arrived from the House and is at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will read.

The legislative clerk read as follows:

> A bill (H.R. 3717) to prohibit the expenditure of Federal funds for the distribution of needles or syringes for the hypodermic injection of illegal drugs.

Mr. ENZI. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. The bill will remain at the desk.

ORDERS FOR FRIDAY, MAY 8, 1998

Mr. ENZI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, May 8. I further ask unanimous consent that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period for morning business until 12 noon, with Senators permitted to speak for up to 10 minutes each, with the following exception: Senator JEFFORDS, 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ENZI. Mr. President, for the information of all Senators, tomorrow morning at 9:30 a.m., the Senate will be in a period for morning business until 12 noon. Following morning business, the Senate will attempt to enter into several time agreements with respect to energy legislation and may confirm any Executive Calendar nominations that can be cleared for action. As a reminder, no votes will occur during Friday's session.

On Monday, May 11, the Senate may consider the agriculture research conference report along with a number of so-called high-tech bills. The Senate may also begin consideration of S. 1873, the missile defense bill. However, no votes will occur during Monday's session.

On Tuesday morning, May 12, the Senate will attempt to reach a time agreement on the D'Amato bill regarding inpatient health care for breast cancer. The Senate will also resume and attempt to complete action on any high-tech bills not completed on Monday. Any votes ordered to occur with respect to the agriculture research conference report and the high-tech bills will be postponed, to occur on Tuesday, May 12, at noon. Also, it will be the leader's intention to begin consideration of the Department of Defense authorization bill during the latter part of next week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ENZI. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:46 p.m., adjourned until Friday, May 8, 1998, at 9:30 a.m.

EXTENSIONS OF REMARKS

SOCIAL SECURITY REFORM

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. GINGRICH. Mr. Speaker, the issue of retirement security is one of the long-term priorities of our nation—a Goal for a Generation. Michael Barone points out in today's Wall Street Journal that this is a discussion that the American people are prepared to have. This is an excellent article and recommended reading. I submit it into the RECORD.

[From the Wall Street Journal, May 7, 1998]

VOTERS ARE READY FOR SOCIAL SECURITY REFORM

(By Michael Barone)

Conventional wisdom has long held that Social Security is the third rail of American politics: Touch it and you die. Political events from the 1940s through the 1980s provided plenty of support for this rule. But now the third rail has shifted to the other side of the track: It is politically risky not to propose changes.

This shift was caused by two trends, neither created by government, and neither much noticed by most politicians. The first change was demographic, and the key year was 1993—the first year in which Americans turning 65 had not served in World War II. This was critical because the bedrock of support for the existing Social Security system is the GI generation, which grew up in the Depression, served in World War II and then went on to build a prosperous postwar America.

This generation has a powerful sense of moral entitlement to Social Security and, since 1965, to Medicare. These Americans felt, justifiably, that they had been dealt a poor hand, played it well, and passed on a much better one to the next generation. Economically, the Social Security system was an amazingly good deal for this generation. Former Sen. Alan Simpson used to point out to complaining elders that the value of the payroll taxes they had had paid during their earning years was only a small fraction of the total they would receive from their monthly checks. They paid him no heed. If younger Americans had to pay much higher payroll taxes than they had to pay, that was just fine.

SMALLER GENERATION

But every day the GI generation becomes smaller. Today about one-quarter of Americans over 65 were born after 1927—members of what authors William Strauss and Neal Howe call the silent generation. They didn't suffer through the Depression or serve in World War II: the escalator of postwar prosperity was already moving up when they stepped on. They lack the sense of moral entitlement that their elders have.

Meanwhile, the younger generations have come to realize that they are on the losing end of a Ponzi scheme. Their payroll taxes are high, and there is no way they are going to receive benefits comparable to their "contributions." Ask twentysomethings what they expect to get from Social Security, and they'll just laugh. They know that the ratio of workers to retirees is falling and that the payroll tax will have to become even steeper to support current Social Security payments. Indeed, the Congressional Budget Office estimates the Social Security tax will have to jump from 12% to 18% over the next 30 years.

The twentysomethings know there is an alternative to that heavy blow. Which brings us to the second great change that makes Social Security reform foreseeable: the boom in investment. Pollster Peter Hart, in a 1997 survey for the National Association of Securities Dealers, found that 43% of Americans owned stock, vs. just 21% in 1990. An NBC/Wall Street Journal survey conducted in 1997 reported that 51% of respondents said they owned at least $5,000 worth of common stock or mutual funds, either individually or through a retirement savings program.

We are becoming a nation of investors. In the 1970s and '80s, most Americans had the bulk of their wealth in residential housing; by 1997, a majority had more wealth in stocks than houses. Americans have long had a stake in stocks through their pension plans; but that stake is increasingly direct, as employers shift from defined-benefit plans (in which a centralized entity does the investing and promises a specific pension) to defined-contribution plans (in which the employee invests his pension directly and the return depends on his own choices).

Over time, the stock market grows faster than incomes, as the investing public has come to understand. Harvard economist Martin Feldstein notes that while funds raised by the payroll tax have historically risen at about 2% a year, stocks rise by 5% to 6% a year over the long run. (Mr. Feldstein's calculations are based on the period 1926–94, which means they include the Depression and exclude the doubling of the market since 1994.) It is increasingly plain to Americans that they would do well to look more to stocks and less to the payroll tax for their retirement income.

But there is increasing evidence that the economic factor most important to Americans is not short-term income but long-term wealth. Voters of the GI generation were sensitive to small fluctuations in income. They remembered the 1930s, when a layoff was often the prelude to years of unemployment. But voters growing up in an age of credit cards and vast job growth know that they can survive a period of temporary income loss. They are more concerned with how they are faring in their lifetime project of accumulating wealth.

A focus on wealth rather than income helps to explain the otherwise puzzling responses of voters to economic events in the 1990s. The relatively small income losses of the 1990–91 recession are not enough to explain why George Bush fell to 37% of the vote in 1992 from 53% in 1988. But a look at where his greatest losses occurred tells the story: They were in New Hampshire and Southern California, which also suffered the nation's biggest drops in housing values. Voters spurned him because they lost wealth and he didn't seem to be doing anything about it.

In 1994, the old political formulas based on macroeconomic indicators suggested the Democrats should have lost about a dozen House seats. Instead they lost 52, in part because their big-government programs threatened wealth accumulation. And how to explain the current euphoric feeling about the direction of the nation, and Bill Clinton's high job ratings amid deepening political scandal? Income growth is lower than the peaks of the Reagan years, so that's not it. But look at the stock market, and the vast increases in wealth it has given millions of Americans—there's the source.

A final bit of evidence: In the 1996 campaign, Democrats hammered away at Republican "cuts" in Medicare (actually lower increases). For months, these attacks hurt Republicans. But at the beginning of October the Republicans counterattacked, and as Peter Hart has noted, the Democrats' Medicare advantage disappeared by the middle of the month. In a country with a vanishing GI generation and two younger generations skeptical that they will receive much from Medicare or Social Security, the Medicare issue was a wash.

So we now have an electorate ready for Social Security reform. Only a few politicians have stepped forward, the first among them being junior Republican representatives like South Carolina's Mark Sanford and Michigan's Nick Smith. Then this January came Mr. Clinton's opportunistic ploy to outflank tax-cut proposals by calling for budget surpluses to be plowed into Social Security. That put the issue into play. In March, Sen. Daniel Patrick Moynihan (D., N.Y.) came forward with his own plan for cutting payroll taxes and establishing supplementary personal investment accounts. Mr. Moynihan's proposal is far from radical, but the direction is apparent. Suddenly U.S. politicians are moving toward an investment based system similar to those already working in Chile and Britain.

STRENGTH AND CONFIDENCE

Will they get their anytime soon? That is by no means clear. Neither the scandal-plagued president nor the razor-thin congressional Republican majority may have the strength and confidence necessary to move ahead. Which would be unfortunate, because suddenly the money to pay for the costs of transition is at hand, in the form of a budget surplus.

But politicians don't have the excuse for hesitation that they had in the 1980s, when they claimed the public would not accept significant changes. The generational shifts and the investment boom of the '90s have created a new America—a nation of investors embarked on a lifetime project of accumulating wealth, confidently relying on their own decisions in the marketplace. Suddenly, the time is ripe for Social Security reform.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IN HONOR OF THE 70TH ANNIVERSARY OF THE FAIRFAX VOLUNTEER FIRE DEPARTMENT

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. DAVIS of Virginia. Mr. Speaker, on Saturday, May 9, 1998, the Fairfax Volunteer Fire Department is celebrating its 70th Anniversary. This anniversary marks the culmination of a long, proud history of providing fire-suppression and emergency medical services to the fine citizens of the City of Fairfax, Virginia.

Early records indicate that there was a volunteer fire brigade in the Town of Fairfax around the turn of the century. A group of visionary citizens decided that a firefighting system needed to be set up to protect their town from the ravages of fire. Their manual firefighting efforts were fortified by their purchase of a horse or man pulled chemical wagon to increase their firefighting efforts. This chemical wagon would allow them to fight fires with "some" water pressure.

On April 7, 1928, the Fairfax Volunteer Fire Department was legally chartered. At this time, the department became the proud owner of their first motorized fire truck, a 1927 Childs. A garage was also built to house this fine piece of fire equipment. They were now able to respond in a more efficient manner to emergencies when asked by the townspeople.

In the 1960's the Town of Fairfax became the City of Fairfax. Fairfax's population had increased along with their need for more fire protection and firefighters. Career firefighters were hired to join volunteers in answering the call for help, and the City of Fairfax built their first fire station to house their fire apparatuses and equipment.

Today, the City of Fairfax has grown to a population of 19,622 and is 15.9 square kilometers in size. The Fairfax Volunteer Fire Department responded to an astounding 8,000 fire and emergency medical calls last year. That's an average of 22 calls a day, which equals to almost one call per hour.

The Fairfax Volunteer's strong fleet of fire and rescue apparatuses are housed in two fire stations, 3 and 33. Fire Station 3 houses the duty Battalion Chief, a pumper, a ladder truck, and an advanced life support medical unit. Fire Station 33 houses a rescue engine and an advanced life support medical unit.

Taking an active role in one's community is a responsibility we all share, but which few of us fulfill. Yet, the Fairfax Volunteer Fire Department firefighters take great pride in providing round the clock emergency services to its neighbors. I know the visionary citizens who started this organization seventy years ago would be proud to see that what started with just a bucket has grown into one of the most respected volunteer fire departments in my district, the Eleventh Congressional District of Virginia.

Mr. Speaker, I know my colleagues join me in paying tribute to the Fairfax Volunteer Fire Department's distinguished volunteer and career firefighters who place their own lives on the line for their fellow citizens everyday. They are truly deserving of the title "hero".

SPECIAL TRIBUTE HONORING AMY FELDCAMP, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence he has compiled in academics, leadership and community service, that I am proud to salute Amy Feldcamp, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Amy is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Amy Feldcamp is an exceptional student at Saline High School and possesses an impressive high school record. She has been involved with the National Honor Society. Amy is also involved with the high school marching band, S.A.D.D., 4–H, and FHA. Outside of school, Amy has been involved as a Sunday school teacher, providing music in her church, and teaching violin lessons.

In special tribute, Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Amy Feldcamp for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

1998 LEADERSHIP AND ACADEMIC ALL-STARS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, within Larimer County, Colorado, my home county, reside some of the best and brightest young people in the state. Twelve of them were appropriately honored by the Fort Collins Coloradoan newspaper as 1998 Leadership and Academic All-Stars, and I would like to honor them here today.

Out of 67 teenagers nominated for the awards by teachers, parents and neighbors, these 12 stood out as particularly deserving of recognition: Loring Pfeiffer, Ryan Johnson, Robert "Bobby" Mosiman and Bret Peterson from Rocky Mountain High School; Elizabeth Leon and Steve Foster from Thompson Valley High School; Caitlin Devereaux, Yue Xu and Tiffany Yaussi from Poudre High School; Daniel Salas from Fort Collins High School; Samuel Severance from Loveland High School; and Scott Wilkinson from Windsor High School.

Besides academic achievement, the criteria for Academic All-Star status includes excellence in leadership and community involvement. These future leaders of our community, state, and country are truly our greatest hope for a stronger nation. Please join me today in paying them tribute.

RECOGNIZING NORTEL (NORTHERN TELECOM)

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. GORDON. Mr. Speaker, I would like to congratulate a good corporate citizen of mine, Nortel (Northern Telecom) for the critical role they are playing in advancing the Internet for the betterment of all mankind.

Recently Donald J. Schuenke, Chairman of the Board of Nortel, was among a stellar list of guests at a White House unveiling of the largest and fastest research and education network in the world. The network, Abilene, is being developed by the University Corporation for Advanced Internet Development (UCAID) with the expertise of Nortel, Qwest Communications, and Cisco Systems. Abilene will provide an advanced backbone network for universities participating in UCAID's Internet2 project. The unveiling was conducted by Vice President AL GORE who said the project ". . . represents the kind of collaboration among government, industry and academia that leverages the expertise and resources of each entity, to enable technological advancements and innovation. This project will provide the technological leadership our nation needs as we prepare to enter the 21st century."

Also attending the unveiling were Joseph P. Nacchio, president and CEO of Qwest, Dr. Douglas E. Van Houweling, UCAID's president and CEO, and John Morgridge, Chairman of the Board of Cisco.

Abilene will allow networking capabilities which will enable researchers and educators to develop advanced applications for higher education. Nortel and Cisco Systems will provide networking equipment that will enable the Abilene network's leading edge capabilities. Qwest will provide access to its state-of-the-art nationwide fiber optic network.

"Nortel is proud to be part of this important effort and to provide the most advanced equipment in the world to help Abilene develop cutting-edge applications that will make a real difference in the lives of constituents," said Schuenke. "This effort will allow researchers the security, capacity and reliability they will need to take technological innovation to a new plateau."

It is expected that initial operation of Abilene will begin before the end of 1998, with full deployment completed within one year. The Abilene project will provide unparalleled networking capabilities to the member universities of UCAID. It will provide advanced networking capabilities such as quality of service and multicasting and will interconnect with existing advanced research and education networks such as the very high performance Backbone Network Service (vBNS).

Nortel has been a leader in promoting the Internet in education. They have given generously to schools both here in the District of Columbia and around the country by providing computers, access to the Internet, teacher training and maintenance. They are also great believers in private-public partnerships. Greg Farmer who heads up Nortel's Washington, D.C. office is a leader in this area. Most recently he formed Partners in Technology, a public-private partnership aimed at ensuring all D.C. students have access to the Internet and teachers are trained to bring them into the 21st Century.

Nortel works with customers in more than 150 countries to design, build and integrate their communications products and advanced digital networks. Nortel has about 27,000 employees in the U.S., more than in any other country. In Nashville, they have about 1,200 employees who work at the company's headquarters or at Nortel's telephone remanufacturing facility. They also have major facilities in Raleigh, North Carolina; Richardson, Texas; Atlanta, Georgia; Sunrise, Florida; and Santa Clara, California.

Mr. Speaker, I hope my colleagues will join me in congratulating Donald Schuenke and everyone at Nortel for the leadership role they are providing in Internet2 and Next Generation Internet.

IN HONOR OF RICHARD J. ERNST

HON. THOMAS M. DAVIS

OF VIRGINIA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. DAVIS at Virginia. Mr. Speaker, my colleague Mr. WOLF, and I rise today to pay tribute to Dr. Richard J. Ernst on the occasion of his retirement as president of Northern Virginia Community College (NOVA). For thirty years, he has made outstanding contributions to Virginia's educational system and to the community.

Dick Ernst joined NOVA in 1968, when it was a three-year-old campus of five thousand students housed in a warehouse. Through his tireless efforts and dedication, NOVA has grown and developed into the second-largest multi-campus community college in the world. The NOVA system now includes five campuses serving more than sixty thousand credit students and three hundred thousand participants in non-credit programs. The development of a sixth campus, the Medical Education campus, is in the preconstruction planning stage. This incredible growth is due to Dick's endless vision and boundless energy that has been the hallmark of his leadership.

Dick Ernst can take pride in the fact that it was his leadership that developed NOVA to one of the best community colleges in the nation. Today it offers training, classes and opportunities to thousands of Northern Virginians from various racial, ethnic and economic backgrounds that, without Dick's efforts, they would not have.

Throughout his educational career, Dick has been involved in numerous community organizations. In 1979–80, Dick served as Interim Chancellor of the Virginia Community College System in addition to his duties as president of NOVA. His many activities include membership in the Fairfax County Chamber of Commerce, the Northern Virginia Roundtable, the Advisory Council of the Northern Virginia Minority Business and Professional Association, the Washington Dulles Task Force Advisory Council, and the Fairfax Committee of 100, and serving on the Board of Directors of the Fairfax Unit of the American Cancer Society, the American Automobile Association Potomac Advisory Board, and the Northern Virginia Community Foundation.

The many honors and awards Dick Ernst has received include CEO of the Year by the Association of Community College Trustees, Blue Chip Community College Leader by the University of Texas National Survey, and Man of the Year by the National Council on Community Services and Continuing Education.

He received his baccalaureate degree in mathematics and science and his master's degree in administration from the University of Florida, and his doctoral degree from Florida State University. Dick and his wife Betty, a retired Fairfax County Public Schools educator, have seen their three children graduate from local area high schools and Virginia colleges and universities.

Mr. Speaker, we know our colleagues join us in saluting Dr. Richard J. Ernst, whose educational and civic contributions to the community have helped improve the quality of life for all Northern Virginians.

SPECIAL TRIBUTE HONORING LINDSAY McHOLME, LeGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence he has compiled in academics, leadership and community service, that I am proud to salute Lindsay McHolme, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Lindsay is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Lindsay McHolme is an exceptional student at Quincy High School and possesses an impressive high school record. She has been involved with the National Honor Society. Lindsay is also involved with the high school newspaper, student council, and the varsity club. She is a member of the varsity softball, basketball, and volleyball teams. Outside of school, Lindsay has been involved with basketball coaching and tutoring.

In special tribute, therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Lindsay McHolme for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

TRIBUTE TO ROLLING MEADOWS CHAMBER OF COMMERCE 1997 HONOREES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. CRANE. Mr. Speaker, I rise today to recognize several special business leaders in my district who will be honored today by the Rolling Meadows Chamber of Commerce.

Tom Rivera, President of Greater Woodfield Convention and Visitors' Bureau, will be honored as the 1997 Business Leader of the Year. Under Tom's guidance, the Bureau has grown to serve 13 northwest suburban communities, and produces more than $25 million in tourism business for the Greater Woodfield area. In addition, Tom is an active member of the boards of Northwest 2001 and the Northwest Cultural Council. He also serves as the Co-Chair of the Illinois International Convention Center Authority and "The Friends of the Northwest Suburbs." For the past four years, he has been the President of "Visit Illinois," the state's public and private sector tourism association which engaged in marketing, lobbying and educational efforts on behalf of Illinois' tourism industry. In 1995, I was pleased to appoint him to serve on the White House Conference on Travel and Tourism. Tom is certainly an expert in his field and contributes a great deal to the Rolling Meadows community.

Mr. John Conyers, Superintendent of Community Consolidated School District 15 will be honored as the 1997 Community Leader of the Year. John is a dedicated educator, having been a classroom teacher and principal in inner-city and suburban schools. He is a member of the Advisory Committee to the State Superintendent of Schools, and also serves on the board of the Palatine Township Senior Citizen Council as well as the Roosevelt University-Robin Campus Community Advising Board. In addition, he serves on the Board of Representatives of the Northwest Suburban Education to Careers Partnership. John also has had articles published in several well-respected educational trade journals, and has served as a member of the State of Illinois Governor's Commission on Japanese Economy and Educational Interchange. Through John's participation, School District 15 has received a due amount of recognition of its excellence.

Incredible Technologies, Inc. will be honored as the Small Business of the Year for 1997. The company is the coin-operated game manufacturer of the popular Golden Tee 3D Golf game. The success of its games has earned the company a reputation for being able to develop innovative games that consumers enjoy playing. The company, and its owners Elaine and Richard Ditton, have been in the Rolling Meadows business community since 1993.

The City of Rolling Meadows has been selected to receive the 1997 Business Beautification Award. In the past four years, the City Council has transformed a virtually unidentifiable downtown area into a place that area residents are proud of. A key improvement was a new community events sign, located in the downtown area, which has an electronic message board to relay messages related to city events and activities.

Also receiving the 1997 Business Beautification Award is the Harris Bank Arlington-Meadows, a long-time member of the Rolling Meadows community. The new building constructed in 1997 has given great appeal to the local downtown area. This state-of-the-art banking center adds convenience to residents' lives as well.

Mr. Speaker, I would like to congratulate these leaders of Rolling Meadows for their hard work and dedication. Rolling Meadows and the Eighth Congressional District of Illinois is a better place to live because of them.

HONORING THE DISTINGUISHED CAREER OF MAYOR JOE B. JACKSON

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. GORDON. Mr. Speaker, I rise today to honor the distinguished career of a hard-working, dedicated public servant, Mayor Joe B. Jackson. Mayor Jackson has served the City of Murfreesboro, my home town, for the past 30 years. First as city councilman from 1968 to 1982, then as Mayor until his retirement on May 7, 1998.

During his tenure, Murfreesboro has grown from the quaint, southern, small town to one of the fastest growing cities in the nation. When Mayor Jackson began his public life, Murfreesboro's population was around 25,000—now, under his leadership, the population has grown to over 60,000. Although the growth has been tremendous, especially in the past ten years, Mayor Jackson has made sure we continue to maintain our exceptional quality of life.

Murfreesboro has faced many challenges since Mayor Jackson first took office. One was to successfully recruit more industry to the area, therefore providing better job opportunities for young people. While many point to industrial development as his single greatest accomplishment, it has been his vision and leadership that has proven time and time again to bring our community together to do the long-range planning necessary.

As the senior member of the council, he has always been the first one willing to learn. One of his greatest talents is his ability to look ahead, not just to the next week or next election, but his ability to look to the future and plan for the changes that lie ahead.

Mayor Jackson has not only served at the helm of our fair city, but he has also held leadership positions as the past-president of the Tennessee Municipal League and as a member of the Board of Directors at The National League of Cities.

Although he may be retiring as Mayor, he is not retiring from public service—it's in his blood. Besides, we do not plan on letting him retire. I know I will turn to him for advice, and am confident future city leaders will do the same.

It goes without saying that Mayor Jackson would not be the leader he is today without the support and guidance of one special individual, his wife, Frances. She not only helped raise three wonderful daughters, Janeese, Jodi and Jennifer, but she has always been there by his side through the ups and downs. Everyone in Murfreesboro knows their accomplishments are joint accomplishments.

On a personal note, Mayor Jackson has meant a great deal to me and my family. Mayor Jackson has known my parents since they all attended college together at Middle Tennessee State University. His family, along with mine, have been longtime members of Saint Mark's Methodist Church in Murfreesboro.

Mayor Jackson, we will forever be indebted to you. Thank you for sharing your time and your love to help make Murfreesboro a better place to live for all of us.

"WHAT AMERICA MEANS TO ME" ESSAY WINNER KYLE KITSCHER

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SCHAFFER of Colorado. Mr. Speaker, the Fort Collins Elks Lodge No. 804 recently held a ceremony honoring three Fort Collins students for having written admirably on the subject of American citizenship. Their essays, entitled, "What America Means to Me," are fine examples of what we can expect when we encourage our children to articulate their patriotism.

This year's first-place winner is Kyle Kitscher, a fifth grader at Tavelli Elementary School. Allow me to share with you excerpts of his essay:

> America is my home. I was born here making me a legal citizen. Many people would like to live here and become citizens because of the freedom we enjoy. The kind of freedom America has is like this: We have the choice of who we want to marry or where we want to live. We have the choice of which religion we want to practice.
>
> America has a great history. We take bits and pieces of other cultures and blend them together for a new culture, this is diverse. America has good land for growing food, minerals for production and clean water and plenty of land for everyone.

Second and third place went to Kelly Taylor and Jordan Bowlby; both from Riffenburgh Elementary School. They, too, are to be commended for superb writing on a subject so dear to us all.

Let me take a moment to thank the Elks Lodge #804 in Fort Collins, which has sponsored this competition now for 14 years. Their many years of contributions to elementary education in Fort Collins are worthy of recognition by the House.

IN HONOR OF LIFE WITH CANCER

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to commend the Inova Fairfax Hospital Program, Life with Cancer, for its fine work helping cancer victims and their families cope with the disease and enhance their quality of life. Life with Cancer is entirely supported by community funds and offers its programs free of charge to patients in the Metropolitan Washington, D.C. area and their families and friends, regardless of where the patient is being treated.

The group was started at Fairfax Hospital in 1987 by a widower whose wife had died of cancer. He was left with two children and a great deal of emotional pain. He used his two-year experience of coping with his wife's illness and its impact on his family to create a program to support families affected by cancer at all stages of the illness. The resulting program is one of the most comprehensive of its kind in the United States. Because the program is based in Fairfax Hospital, which treats more cancer patients than any other hospital in the Washington, D.C. Metropolitan area, program staff are able to work closely with highly skilled physicians and allied health care professionals to provide the most beneficial services to patients.

Life with Cancer supports family members through the duration of the cancer experience by providing the most current information on cancer diagnoses, treatment, and psychosocial impact, assisting children and adults who have lost a loved one to cancer, collaborating with other health care professionals to assure that patients and their families are receiving comprehensive and coordinated services, and educating the community about cancer and its impact.

Classes available to patients and their families include: I Can Cope, a seminar discussing basic facts about coping with cancer, Look Good . . . Feel Better, for patients undergoing chemotherapy or radiation treatments, Spirituality and Cancer, to help families reexamine their religious beliefs given the cancer experience, and Humor and Cancer, to help patients and family members use humor as a means to strengthen their mental attitude toward cancer. Ongoing emotional support is provided by support group and family meetings. Short-term counseling and crisis intervention is available for individual assistance.

Mr. Speaker, I know my colleagues join me in thanking the staff and volunteers of Life with Cancer for their dedication to helping cancer victims and their families. This valuable program, which should serve as a national model, provides a much-needed network of support for those dealing with the impact of this devastating disease.

SPECIAL TRIBUTE HONORING ANDREW NEWHOUSE, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence he has compiled in academics, leadership and community service, that I am proud to salute Andrew Newhouse, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Andrew is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Andrew Newhouse is an exceptional student at Jackson County Western High School and possesses an impressive high school record. He has been involved with the National Honor Society. Andrew is also involved with the Science Academic Games Team and the Jazz band. He is a member of the varsity cross country tack team. Outside of school Andrew, has been involved in volunteer work at his local church, taking a college class, and tutoring learning disabled students.

In special tribute, Therefore, I am proud to join with his many admirers in extending my highest praise and congratulations to Andrew Newhouse for his selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to his success. To this remarkable young man, I extend my most heartfelt good wishes for all his future endeavors.

RECOGNIZING DR. PATRICK DOYLE

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. GORDON. Mr. Speaker, I rise today to recognize the tremendous contributions Dr. Patrick Doyle has made to Middle Tennessee State University (MTSU), his community and our environment.

In 1972, as faculty advisor to the MTSU Biology Club, Dr. Doyle instituted a recycling program on the school's campus. To date, the program has been responsible for the recycling of 9.2 million pounds of newspaper, one million pounds of office paper and 176,000 pounds of aluminum cans. Students recycling on campus and individuals and businesses in Murfreesboro have contributed to Dr. Doyle's recycling efforts.

My Murfreesboro district office staff and I are very grateful to Dr. Doyle and the biology students who collect our cans, newspaper and office paper for the recycling program. I am sure the students who have received scholarships, as a result of this program, are grateful as well. Over the past 20 years, funds totalling $400,000 have been used to assist over 200 students through the more than 20 scholarships generated by the recycling program.

Dr. Doyle has also taught an environmental problems course since the 1970s. One day, back in 1978, a fledgling Congressman visited Dr. Doyle's class. The students bombarded the freshman legislator with questions. He was genuinely concerned with the issues they raised. He told the students he would study the issues and get back with them. True to his word, he researched the students' questions and sent them a letter. Now, Vice President AL GORE is internationally known for his knowledge on environmental issues.

Dr. Doyle is known for more than his environmental achievements. He has distinguished himself on the racquetball court, as well as introducing this Member of Congress to his first semester of college.

I would like to congratulate Dr. Doyle on receiving the Lifetime Achievement Award from the Tennessee Department of Environment and Conservation.

Dr. Doyle, Thank you for the contributions you have made to Middle Tennessee State University and the Murfreesboro community.

A TRIBUTE TO OUR GOLD STAR MOTHERS

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to pay tribute to our Gold Star Mothers, who have suffered the terrible losses of their sons and daughters for the defense of our nation.

We must offer the gratefulness of this Nation to the mothers who have made the greatest of all sacrifices to our country, their children.

The plight of the Gold Star Mothers is being remembered in Philadelphia in a production entitled "Reflections—Going Home" in which students from the Thomas Edison High School are participating. The Play was written, produced and directed by one of my constituents, Vietnam Veteran Frank "Bud" Kowalewski. I commend his tireless work in offering our young people the opportunity to honor lost lives, and teaching them the nature of valor and patriotism. The play strives to educate the nation on the sacrifices made by Gold Star Mothers. I congratulate the cast on their achievements in reminding us all the true reason we celebrate Memorial Day in America.

God bless the Gold Star Mothers. We humbly offer our tears, humility and gratitude as a nation.

We pray there will be no more lives unnecessarily lost and no more tears. God love and protect all of our brave soldiers in this great Nation.

40TH ANNIVERSARY OF THE SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SCHAFFER of Colorado. Mr. Speaker, I rise today to recognize the 40th Anniversary of the Southeastern Colorado Water Conservancy District and to share with you a brief history of water development in Colorado's Arkansas River Valley.

In 1859, discovery of gold in Colorado brought many settlers to the Arkansas River Valley, but few were successful in their search for wealth. More and more gold seekers turned to farming to provide for themselves and their families. As permanent settlements were established, farmers discovered normal rainfall was inadequate for agriculture. The era of irrigation had begun.

Early irrigation in the valley depended on available stream runoff from the Arkansas River and its tributaries. As irrigation farming increased, a demand developed for late-season water which could not be supplied by unregulated streamflow. Storage reservoirs were needed. As a result, farmer-owned irrigation companies were formed between 1890 and 1910. These companies constructed several storage reservoirs having a total storage capacity of nearly 600,000 acre-feet. In addition, they received water from transmountain diversion systems originally importing only a few thousand acre-feet annually.

After years of drought and hardship, and numerous discussions among the residents of the Arkansas Valley, the plan to form a water conservancy district was put forward. Early leaders of water development Harold Christy, Charlie Boustead and Charlie Beise, visited numerous meetings of canal companies to explain the needs and usefulness of a district with taxing power. Petitions to create such a district were then circulated throughout the community.

On May 13, 1958, the Southeastern Colorado Water Conservancy District was formed. At that time, the District Board of Directors were named and included Charles Irwin, Frank Dilley, Selby Yount, Wayne Bennett, Herbert Schroeder, Frank Milenski, Elmer Martin, James Shoun, James Wagner, Kenneth Shaw, Sid Nichols, Roy Cooper, David Ciruli, Harold Christy and William Bauserman.

Just four years later, the Fryingpan-Arkansas Project, a plan to divert additional flows from the western slope, gained approval. On August 16, 1962, President John F. Kennedy traveled to Pueblo, Colorado to sign Public Law 87–590 authorizing the project. At that time he stated, "There is no more valuable lesson for a President . . . than to come to a river and see what grows next to it and come to this city * * * this platform, and know how vitally important water is."

Water is indeed a necessity to the people of the Arkansas River Valley. The Southeastern Colorado Water Conservancy District for the last forty years has been the driving force behind proper water management within the valley and it is for that reason that I honor them today.

CONGRATULATIONS TO PRESIDENT LEE TENG-HUI OF THE REPUBLIC OF CHINA

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, President Lee Teng-hui and Vice President Lein Chan of the Republic of China (Taiwan) will be celebrating their first anniversary in office on May 20, 1998. They have done an excellent job leading their country.

Everything about Taiwan is forward looking. It has successfully weathered the current Asian financial crisis. In the last year, President Lee and Vice President Lien have maintained a steady economic growth, expanded substantive relations with a number of countries and sought a continuing dialogue with mainland China.

On the eve of their second anniversary in office, I join my colleagues in wishing President Lee and Vice President Lien continuing success in leading their country.

BRIGANTINE ELEMENTARY SCHOOL NAMED KINDNESS SCHOOL IN NEW JERSEY

HON. FRANK A. LoBIONDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. LoBIONDO. Mr. Speaker, in a time when the evening news is characterized by conflict and turmoil, it is nice to come across the story of Brigantine Elementary School. Last year, Brigantine Elementary was named the kindest school in my home state of New Jersey. The school received the award after students were urged to perform acts of kindness every day during the month of October. The students responded by performing 50,000 good deeds. Some of these acts included helping parents or calling a sick relative.

The month of May is Kindness Awareness Month in New Jersey. During this month, Brigantine Elementary's kindness program will be promoted as a model for other schools in the state. Brigantine Elementary's success is easily replicated. Their kindness program was developed as a means to reinforce basic values in their students. Administrator, teachers, and parents worked cooperatively to develop the kindness program to support a mission of developing good citizenship qualities in a rich multi cultural setting. Working on a "Kindness is Contagious" theme, the school set goals for each student, had students record their progress and encouraged parents to participate with their children.

The work of these students profoundly demonstrates that each individual can make a difference. They have proven that kindness is indeed contagious as other schools in the state embrace the model of their program. I want to commend the work of the students, staff and parents at Brigantine Elementary. I am proud of the dedication they have shown to make their community a better place.

SPECIAL TRIBUTE HONORING RANDY VANWAGEN, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence he has compiled in academics, leadership and community service, that I am proud to salute Randy VanWagen, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Randy is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Randy VanWagen is an exceptional student at Columbia Central High School and possesses an impressive high school record. He has been involved with the National Honor Society. Randy is also involved with the Student Council, the English Essay and Social Sciences Academic Teams, and is the founder and president of the Varsity Club. He is a member of the varsity Football, Wrestling, and Track teams. Outside of school Randy has been involved in volunteer work and computer graphics.

In special tribute, therefore, I am proud to join with his many admirers in extending my highest praise and congratulations to Randy VanWagen for his selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to his success. To this remarkable young man, I extend my most heartfelt good wishes for all his future endeavors.

DRUG INTERDICTION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. CRANE. Mr. Speaker, I am proud to add another line of defense in our Nation's war against drugs by introducing legislation today to strengthen drug interdiction efforts by the U.S. Customs Service. As my colleagues know, drug use, particularly among teenagers, is widespread and skyrocketing. A critical prong in Congress' attack on illicit drug use is stopping the flow of drugs across our nation's borders before they fall into the hands of our children.

As the Federal agency responsible for protecting the nation's borders, the U.S. Customs Service is our front line in fighting the war on drugs. Customs seized nearly 1 million pounds of illegal drugs last year, more than all other Federal agencies combined. In 1997 alone, over 118 million automobiles, 9.3 million trucks, 321,000 railcars and 4.5 million sea containers entered the United States creating an enormous window of opportunity for drug smugglers and a massive drug enforcement dilemma for Customs.

To provide Customs with the necessary resources to police our borders, my legislation authorizes a significant increase in the number of inspectors and narcotics detection equipment along the U.S. borders with Mexico and Canada, as well as providing additional personnel and equipment at Florida and Gulf Coast Seaports and major metropolitan drug distribution centers such as Chicago, New York, Miami and Los Angeles. The war on drugs is winnable, but it can't be fought with words alone. My anti-drug smuggling bill supplies Customs with the necessary arsenal to defeat the ugly scourge that is casting a dark shadow over our nation.

THE TECHNICAL WORKERS FAIRNESS ACT OF 1998

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise today to introduce the Technical Workers Fairness Act of 1998. This bill, and its companion bill, S. 1924 offered by Sens. Connie Mack (R-FL) and John Kerry (D-MA), would repeal Section 1706 of the 1986 Tax Reform Act in order to provide the necessary tax relief for the technical services industry.

Since the passage of the 1986 Tax Reform Act, Section 1706 added a new subsection (d) to Section 530 of the Revenue Act of 1978. For those businesses classified as "technical services firms," Section 1706 removed the Section 530 employment tax safe havens that otherwise apply to all other types of businesses that use the services of independent contractors. These Section 530 safe havens were enacted by Congress in 1978 to protect business taxpayers, especially small businesses, from arbitrary IRS decisions interpreting the common law employment test in employment tax audits.

Yet Section 1706 singles out one group of taxpayers. As a result of Section 1706, technical services firms must prove to the IRS that their hired workers meet the qualifications as independent contractors under the centuries-old common law employment test. Even if the firm can prove that the employment of the independent contractor is consistent with industry practice or a relevant court ruling, all of which constitutes a "safe haven" under Section 530—none of these factors are relevant because of the enactment of Section 1706.

The harm caused to the technical services industry and its employees is real. There is no rationale as to why a business could be severely penalized by the IRS and forced to pay employment taxes despite the fact that the contractors have already paid these same taxes in full. Unfortunately, some IRS auditors have used Section 1706 to claim that even incorporated independent contractors are not legitimate. Faced with the obstacle of meeting the requirements of the common law employment test to prove a worker's status to the

IRS, many technical services firms will simply refuse to hire any independent contractors in order to avoid tempting an IRS audit.

In 1991, the Treasury Department issued a 100-page study of Section 1706, as required by Congress. The Study found that tax compliance is actually better-than-average among technical services workers compared to other contractors in other industries. In addition, Section 1706 is the only occasion since the enactment of Section 530 that Congress has ever cut back on the safe haven protections in Section 530. Furthermore, in 1996, Congress expanded the Section 530 protection and shifted the burden from the taxpayer to the IRS.

In light of the unfairness of Section 1706, I believe it is time to move for its repeal so that technical services firms will be allowed to compete on a level playing field. As the Ranking Member of the Tax, Finance and Exports subcommittee, I am pleased to take these steps to remove this discriminatory provision.

THE AMERICAN ECONOMY PROTECTION ACT

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. KNOLLENBERG. Mr. Speaker, today I joined my colleagues, JO ANN EMERSON and RON KLINK, to introduce a bill to protect the economy of the United States. Specifically, this bill will prohibit the use of federal funds for any implementation of the Kyoto Protocol to the United Nations Framework Convention on Climate Change until Senate ratification. This bill is companion language to Senator ASHCROFT's bill S. 2019.

The Kyoto Protocol requires the United States to reduce its greenhouse gas emissions to seven percent below 1990 levels by 2008–2012. Other industrialized nations must meet a similarly strict timetable. Meanwhile, the Kyoto Protocol exempts 132 developing nations, including China, India, Brazil, and Mexico, from any greenhouse gas reduction, even though these four nations alone are expected to emit half of the world's greenhouse gases by the year 2050. This creates a two-tiered environmental obligation, forcing the entire burden to reduce greenhouse emissions on industrialized nations while turning the developing world into a pollution enterprise zone. This won't eliminate greenhouse gases, or succeed in reversing global warming, it will just change their point of production.

American families receive the brunt of the burden imposed by the Kyoto Protocol. The Wharton Econometric Forecasting Associates (WEFA), a well respected economic firm, has estimated the Kyoto Protocol would result in Americans paying 50 cents more for a gallon of gasoline and more than $2,000 per American household. WEFA also estimates the Protocol could result in the United States losing over a million jobs each year over a 15 year period.

Even the Clinton Administration, strong supporters of the Kyoto Protocol, admits it could add $70 to $110 to the average American household's annual energy bill. And these estimates were based on several highly optimistic assumptions by White House economists.

Furthermore, the United States Department of Energy studied the impact the Kyoto Protocol will have on six major manufacturing industries. Results indicate that the Kyoto targets and timetables to limit greenhouse gas emissions are tantamount to pink slips for the American worker. Studying petroleum refining, pulp and paper making, cement, steel, basic chemicals, and aluminum, the Department of Energy forecasts hundreds of thousands of American jobs lost and the suppliers for these materials moving to developing nations. Again, worldwide emissions won't be reduced, they will be shipped overseas, just like American jobs.

The U.S. Constitution confers on the Senate the responsibility to evaluate a treaty on its merits and then to give or withhold its advice and consent. As an indicator of where the Senate stands on this issue, last year the Senate passed S. Res. 98 by a vote of 95–0, expressing the sense of the Senate that the United States should not sign onto any treaty placing America at a competitive disadvantage during the climate change negotiations in Kyoto, Japan.

In Kyoto, the Clinton Administration completely ignored the Senate position, and did exactly the opposite. Now, there is wide concern that the Administration is working proactively to implement the Kyoto targets through regulatory fiat. Part of this stems from the Environmental Protection Agency indicating its plan to draft new Clean Air rules enacting portions of the Kyoto Protocol.

The American Economy Protection Act will insure that the Kyoto Protocol is not implemented through the regulatory process. The Founding Fathers in their infinite wisdom provided that the Senate should be a check and balance on international treaties through the ratification process. This bill maintains the integrity of the U.S. Constitution and supports continued economic growth in the United States. I urge your support of this bill.

SPECIAL TRIBUTE HONORING JEREMY BAYER, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence he has compiled in academics, leadership and community service, that I am proud to salute Jeremy Bayer, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Jeremy is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Jeremy Bayer is an exceptional student at Northwest High School and possesses an impressive high school record. He has been involved with the National Honor Society. Jeremy is also involved with the Science team and the Chi Alpha/Religious Club. He is a member of the varsity soccer, swimming and track teams. Outside of school Jeremy, has been involved with the Boy Scout Explorers and served as a soccer referee and soccer camp counselor.

In special tribute, Therefore, I am proud to join with his many admirers in extending my highest praise and congratulations to Jeremy Bayer for his selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to his success. To this remarkable young man, I extend my most heartfelt good wishes for all his future endeavors.

YOUNG NOAH FRANK'S POEM "I WANT TO BE"

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. LANTOS. Mr. Speaker, in honor of National Poetry Month, I would like to take this opportunity to congratulate a young constituent of mine, Noah Frank, who recently won the grand prize for his age group in the national "River of Words" competition for his poem "I Want to Be."

Noah Frank, a second-grader at Lakeshore Elementary School in San Francisco, displays in his poem remarkable wit and maturity, as well as a concrete grasp of the English language. Most importantly, however, his poem poignantly expresses the joy of exploring our world through the imagination.

I can't think of a better theme for National Poetry Month. Through poetry we exercise not only the vitality of language and thought; we exercise our imaginations. It is our imaginations that allow us to wonder.

I WANT TO BE

I want to be a dogfish
and catch a leaping catfish
with whiskers as long as a stream.
And I want to be
the rain trinkling down on the world
telling it it's springtime.

TAX FREEDOM DAY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. PACKARD. Mr. Speaker, I rise today in honor of Tax Freedom Day, which we will celebrate this Sunday, May 10. Tax Freedom Day marks the day when American taxpayers have symbolically "paid off" their total tax burden and may begin working for themselves, not the government.

The truth is, taxpayers are spending more than one-third of their work time paying for wasteful government spending and unnecessary bureaucracies. The average American has worked 45 days this year to pay personal income taxes, 38 days to pay payroll taxes, 18 days for sales and excise taxes, and 12 days for property taxes. Two additional weeks are consumed by corporate income taxes not to mention 3 more days spent paying miscellaneous taxes. This is totally unacceptable—Americans should not have to work 129 days out of the year simply to support the government.

Not only do Americans pay outrageously high taxes, they are being taxed for the wrong reasons. Taxpayers should not be penalized for getting married, investing their money or saving for the future. These taxes are contrary to common sense, and they defy basic American values. It is up to us to reform the tax code so that Americans will no longer have to send their money to Washington for bureaucracies and programs that do not work.

Mr. Speaker, I urge my colleagues to join with me in celebration of Tax Freedom Day. Let's take this opportunity to reaffirm our commitment to lower taxes and cut government spending.

CONGRATULATIONS TO PRESIDENT LEE TENG-HUI

HON. ROBERT SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SMITH of Oregon. Mr. Speaker, two years ago, on May 20, 1996, Dr. Lee Teng-hui and Dr. Lien Chan were sworn into office as the ninth President and Vice President of the Republic of China on Taiwan. In the last two years, Lee and Lien have accomplished a great deal for their country.

For instance, Taiwan has continued to reduce its trade surplus with the United States and maintained its economic and political growth. It has brilliantly survived the current Asian financial crisis. It is also worthwhile to mention that Taiwan's process of democratization is continuing and has drawn praise from Western press.

It is time we should recognize Taiwan for it is a democratic, free enterprising country, worthy of respect and admiration.

I have enjoyed working with Taiwan's Representative in Washington, Ambassador Stephen Chen. He and his aides have kept me totally informed of the developments in Taiwan. They are hardworking diplomats.

Congratulations to the Republic of China on its president's second anniversary in office.

WARM WELCOME TO EAST JESSAMINE MIDDLE SCHOOL

HON. SCOTTY BAESLER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. BAESLER. Mr. Speaker, I am once again pleased and honored to welcome to our Capital City the eighth grade class from East Jessamine Middle School. These bright and ambitious students have traveled to Washington from the heart of the Bluegrass State, Nicholasville, Kentucky. Nathaniel Hawthorne, the great American poet once wrote, "It is natural enough to suppose that the center and heart of America is the Capitol, and certainly, in its outward aspect, the world has not many a statelier or more beautiful edifices." I join with these students in their excitement to explore and learn more about the history and origin of the Capitol. I am proud of these eighth graders and thankful to their teachers for bringing history alive for them. I wish them the best for a most memorable trip in Washington, D.C.

SPECIAL TRIBUTE HONORING CHRISTINA ZIEGLER, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Christina Ziegler, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Christina is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Christina Ziegler is an exceptional student at Litchfield High School and possesses an impressive high school record. She has been involved with the National Honor Society. Christina is also involved with the high school Spanish club, and the varsity cross country, volleyball and track teams. Outside of school, Christina, has been involved with her church youth group and various other community activities.

In special tribute, Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Christina Ziegler for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

RECOGNIZING MICHAEL BERRY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. LEVIN. Mr. Speaker, I rise today to recognize the achievements of Michael Berry as he receives the 1998 Ellis Island Medal of Honor on Saturday, May 9, 1998. The National Ethnic Coalition, the largest ethnic and heritage organization in the United States, presents these medals each year to recognize exceptional humanitarian efforts and outstanding contributions to our country.

In Michael Berry they have found an individual who truly exemplifies the spirit of this award.

Mr. Berry has devoted his life to the welfare of the Arab American community, both in America and abroad. While Mr. Berry has often been described as the "elder Statesman of the Arabic Community" he has always shunned such titles, believing instead that his work should speak for itself.

Having witnessed the efforts of Michael Berry for three decades, I know it would require volumes to capture the depth and intensity of the great work and magnificent contributions of his service. And, more importantly, I know there is no final chapter because his work is ongoing.

The achievements of Michael Berry in the legal, civic, social, humanitarian and public service fields are spread across his home community of Dearborn, the metro-Detroit area, the State of Michigan, the United States, and of course the international community.

Michael Berry served his community through the Dearborn United Community Services, the Southeast Dearborn Civic Association, the Wayne County Citizens Committee on Juvenile Delinquency, the Executive Board of the March of Dimes, and St. Jude's Hospital for which he received the Danny Thomas Award for furthering the goals of the Hospital.

He served as a member and Chairman of the Board of the Wayne County Road Commission for over 15 years. This service was recognized when the International Terminal at Metro Detroit Airport was named the Michael Berry International Terminal.

Michael Berry served his state on the Michigan Committee for Racial and Ethnic Minority Equality and on the Michigan Supreme Court's Task Force for ethnic and racial discrimination in the courts.

He served his nation as a member of the American Task Force for Lebanon. He was selected by the United States Information Service as an exemplary first generation Lebanese American in published materials circulated overseas and he was sponsored by the U.S. Department of State Bureau of Education and Cultural Affairs to participate in a speaking tour of the Near East in 1966.

Michael Berry served the Arab American community at home and abroad. He served as the first ever Muslim co-chairperson of the Greater Detroit Conference of Christians, Jews and Muslims when "Muslims" was added to this generations-old organization. He was President for over twenty years of the Cedars of Lebanon Bar Association, now known as the Arab American Bar Association.

Michael Berry has been cited many times for his humanitarian efforts. He and other Lebanese-American leaders were instrumental in sending $1.6 million worth of medical supplies and equipment to three supply-drained hospitals in Lebanon in 1992.

He was the first co-chairman of the United American Lebanese Association and was awarded the National Order of Cedar of Lebanon by the Lebanese Government on October 21, 1993.

Mr. Speaker, it is with high admiration that I rise today to salute the achievements of a wonderful friend and world citizen as he receives this most prestigious award.

PRESIDENT LEE TENG-HUI OF TAIWAN

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. ORTIZ. Mr. Speaker, the voters in Taiwan went to the polls two years ago to elect the first democratic head of state in Chinese history. Incumbent Lee Teng-hui received 54% of the vote, far outdistancing his three rivals and sending the world an unmistakable message that true democracy has arrived in the Republic of China.

I want to take this opportunity to congratulate the people of Taiwan on their president's second anniversary in office. I was there to see him sworn into office, as part of the official United States delegation representing President Clinton, and it was an awesome sight. I offer my congratulations to President Lee for his unwavering determination to make his country one of Asia's liveliest democracies and the example how profitable a free and democratic Chinese society can be.

President Lee's election victory in 1996 has thrust him onto the international stage and put him in the company of the world leaders. He has been nominated for the Nobel Peace Prize for his vision and his leadership in democratic and economic matters. His repeated attempts to reach out to Chinese leaders have won him worldwide praise.

I ask my colleagues to join me today in offering our collective congratulations to President Lee for his tremendous international accomplishments.

HIGHER EDUCATION AMENDMENTS OF 1998

SPEECH OF

HON. ALLEN BOYD, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes:

Mr. BOYD. Mr. Chairman, in a recent press conference, President Clinton said that "the most principled compromise will leave both sides unhappy." Every person in this chamber knows the truth in that statement.

Our colleagues, Mr. Goodling and Mr. Kildee, have produced such a principled compromise on the student loan interest rate issue in H.R. 6. This agreement is the result of a year of difficult negotiations, and I believe that we should respect and honor their efforts. As Mr. Kildee pointed out the other day on the floor, the compromise is based on the Administration's proposal to set the student interest rate at a point where it will be the lowest it has been in 17 years.

We need to ensure that this compromise is written into law. There is no time left for political posturing as the July 1st deadline is just days away.

I want to thank my colleagues on the Education and Workforce Committee for their fine work on this principled compromise and urge my colleagues in the House to encourage the Senate to ratify it at the earliest possible data.

NATIONAL CORRECTIONS OFFICERS WEEK

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. WATTS of Oklahoma. Mr. Speaker, during this National Correctional Officers and Employees Week, I wish to commend all of the officers and staff who work in correctional facilities in my home state of Oklahoma. In fact, every American owes a debt of gratitude to the men and women who work in our Federal and State correctional facilities all across our country.

Every day, hundreds of Americans are the victims of crime. Hopes and dreams are dashed by arsonists. Families are shattered by domestic abuse. Lives are taken and property lost. Often times, the only ones who stand between our personal safety and criminals are our brave men and women who work in law enforcement, especially those who work in correctional facilities. Correctional officers are given the special task of dealing with society's most incorrigible criminals, while seeking to reform those souls who may yet be turned away from a wasted life of crime.

We owe special thanks this week to the 22 Federal Bureau of Prisons officers and employees who have died in the line of duty since 1901. They gave their lives and sacrificed their futures to keep our families safe. We must keep the families of some of the more recently lost officers and employees in our prayers.

We also owe our gratitude to the public servants who have excelled in their duties and improved the quality of federal prison facilities. We owe our thanks to the people whom the Federal Bureau of Prisons has judged worthy of its highest awards for merit in 1998. These fine Americans include Thelma Olivares, who was named Supervisor of the Year; David Wedeking, who was named Department Head of the Year; Stephanie Gibson, who was named Employee of the Year; Charles Morris, who was named Correctional Officer of the Year; and Kristen Lunsford-Holley, who was named the Doug Krittenbrink Rookie of the Year.

America's correctional officers and employees are the difference between safe neighborhoods and senseless tragedy. Their efforts to reform young offenders while there is still hope, and their work to keep dangerous felons securely behind bars and away from our families are contributions which all too often go unnoticed. Hopefully, during this National Correctional Officers and Employees Week, we will all reflect and be thankful that our country enjoys protection because we have the world's finest correctional employees.

SPECIAL TRIBUTE HONORING ANNE KELLOGG, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence he has compiled in academics, leadership and community service, that I am proud to salute Anne Kellogg, winner of the 1998 LeGrand Smith Scholarship. This award made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Anne is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Anne Kellogg is an exceptional student at Marshall High School and possesses an impressive high school record. She has been involved with the National Honor Society. Anne is also involved with the Student Government, serving as the Class President for four years and the Student Council President her senior year. She is also a member of the varsity soccer and volleyball teams. Outside of school, Anne has been a representative for the United Way, a D.A.R.E. role model and has volunteered at the Tendercare Nursing Home in Marshall.

In special tribute, therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Anne Kellogg for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

MEDICAL INNOVATION TAX CREDIT ACT

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. LEVIN. Mr. Speaker, I rise today, along with my colleague SAM JOHNSON, to introduce legislation that would make it easier for medical schools, teaching hospitals, and not-for-profit hospitals in the United States to conduct potentially life-saving medical research. The enactment of the Medical Innovation Tax Credit would provide an important incentive for companies to fund more clinical research at these institutions. This bill would establish an incremental, 20 percent tax credit in a new section of the Internal Revenue Code for companies that conduct clinical testing research activities at U.S. medical schools and teaching hospitals. To get the tax credit, companies would undertake clinical testing activities at defined academic institutions: medical schools, teaching hospitals owned by, or affiliated with, an institution of higher education, and charitable research hospitals designated as cancer centers by the National Cancer Institute of the National Institute of Health. No tax credit would be available for clinical research activity conducted outside the U.S.

This proposal comes at a time of substantive upheaval and transformation in our nation's health care system. As we all know, our medical schools and teaching hospitals are the backbone of innovation in American medicine. They are the places where scientific discovery intersects with patient care and medical and health professions training. But today these institutions are facing significant financial challenges due to fundamental changes in the health care system. Whereas medical schools and teaching hospitals used to be able to fund some research from excess patient care revenues, in the new competitive environment these institutions can no longer command higher prices from insurers simply because they fulfill the unique and critical missions of research and education. Additional private sector investment in our Nation's research and development is needed so medical schools and teaching hospitals can continue to fulfill their social missions.

I am concerned that while the clinical research market is booming, medical schools and teaching hospitals are losing market share for clinical testing research activities. The Medical Innovation Tax Credit would provide some assistance to these institutions, but would also stimulate them to continue improving their efficiency in operating the clinical research enterprise. And since the tax credit is narrowly tailored, its potential cost to the government is relatively small.

We need some way to help these institutions that is market-based and incentive driven. This proposal presents a creative way to encourage companies to conduct more clinical trials in the United States. It will arrest the declining share of trials conducted at these institutions and help alleviate some of the financial pressures they are experiencing. The Medical Innovation Tax Credit will provide needed resources for medical schools and teaching hospitals to maintain the robust research base necessary for high quality health-oriented education. Finally, it will strengthen the intellectual partnership between the private sector and medical schools and teaching hospitals to help ensure America's continued world leadership in research and innovation. I am proud to introduce this legislation and urge my colleagues to support a measure that will benefit all Americans.

THE ANNIVERSARY OF THE BATTLE OF PALO ALTO

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. ORTIZ. Mr. Speaker, 152 years ago today, the first battle of the Mexican-American War was waged at Palo Alto, Texas, setting in motion a history which still fascinates and touches us today. When the war was over 2 years later, the Treaty of Guadalupe-Hidalgo changed the face of our nation and forever shaped our relationship with Mexico.

The historical significance of this war and its aftermath was a defining one for the young nation of the United States; for the Republic of Mexico; and for the descendants of both countries who populate our communities today. The Mexican-American War has consistently been a major omission in U.S. history. That omission has a hidden cost. Because *who we are* is shaped by our history, we need to know that history. But it is not the past that shapes our future, it is today's new era of cooperation existing between the United States and Mexico.

Since the days when the United States and Mexico met on the battlefield, their descendants have grown together as flowers upon their graves. Our cultures and traditions are intermingled, not by design, but by fate and circumstance. We understand that our futures are interwoven; we share an economic and cultural bond.

The most important element of this shared bond is the North Atlantic Free Trade Agreement (NAFTA). The spirit of NAFTA has brought about a mutual frankness and a newfound respect for one another. All across the Southwest, our mutual histories and customs are mingled, and they are evident in our daily lives. Our commonalties are evident in the food we eat, the music we prefer, and the dual languages we speak.

Economically, the outcome of the Mexican-American War immediately benefited the United States with the addition of the Southwest to the nation's territory. The Treaty of Guadalupe-Hidalgo in 1848 was a turning point in our history. U.S. citizens in the rugged west joined the existing Mexican population, making the American Southwest a fascinating melting pot. This cultural blend produced some of the most enduring legacies of the American West: rodeos, cowboys, and the wild West.

Today, our economic fortunes are profoundly bound together. NAFTA is making North America the largest, most prosperous, and most efficient free trade zone in the world. Let me note here that it was Mexican President Antonio Lopez de Santa Anna, in 1853, who first advocated the commemoration of those killed in the war and at the Battle of Palo Alto. So, it is fair to say that Mexico began the long process of making one-time adversaries into the friends and economic allies we are today.

Our political debates today so often touch on sensitive subjects that engender misunderstandings. Today, I ask my colleagues to join me in offering a message of hope and friendship to Mexico, based on where we have been, where we are now and where we hope to go.

TALBOTT RETIRES: 4TH ESTATE SUFFERS LOSS

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. BLAGOJEVICH. Mr. Speaker, this week, a "-30-" will be placed on Basil Talbott's journalism career when he retires from the Chicago Sun-Times. For Chicago's newspaper readers, journalists and politicians, the loss is significant. Three decades of irreplaceable journalistic experienced guided each of his stories. He had covered the Triple Crown of Chicago journalism—Chicago politics, Springfield's State House and Capitol Hill in Washington, D.C.—for one of the nation's largest daily newspapers. Basil's forceful personality and zeal for news enabled him to find ways to plow through the obstacles to the information he needed. He combined tenacity with directness and integrity, qualities that caused Congressmen to view him with a little trepidation and a lot of respect. Few answered lightly when greeted by Talbott's trademark: "What's up?"

Few reporters were less susceptible to the wiles of spinmeisters than Basil Talbott. He could trample a thin story idea with a single, devastating question. Like the best reporters, he was always skeptical, never cynical. Congressmen looking for high-calorie, low-substance puff pieces should look elsewhere; Basil put the interests of his readers first. As a former philosophy student at one of the nation's top universities, the University of Chicago, he was well-acquainted with Greek and Roman thought. But Basil Talbott's news judgment seemed guided by the more modern philosophy of Yogi Berra: "If it ain't interesting, it ain't interesting." Officials who had the smarts and will to make news found Basil with a ready pen.

Because of his wide experience, his stories got to the heart of the matter. He was always fair, always offered a chance to make a full case. His precise questioning could quickly expose a thin understanding of an issue or coax unexpected, intriguing details; in fact, transcripts of Basil Talbott interviews could serve as models for would-be cross-examiners.

Taken as a whole, the thousands of stories he filed in his career would make a small mountain. Anyone who understands the deadlines, knowledge, the source-work and the scrappiness that went into compiling that small mountain could only call it a substantial achievement.

Basil Talbott made a sustained commitment to compiling the first-draft of Chicago's recent history. His contribution to helping Chicagoans understand their city and their colorful politicians deserves commendation from this Congress. As Basil hits the send key on a 30-plus year career in journalism, we should lament the loss to Chicago's Fourth Estate, salute his fine example and wish him well in his quest to put a good lead on the next phase of his life.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. KIND. Mr. Speaker, I am dismayed to learn that the House of Representatives will once again delay a vote on campaign finance reform. We were promised a vote before May 15th, but now it appears that the leadership of the House has broken their promise again.

Mr. Speaker, there has been a great deal of attention paid recently to the internal debate over the campaign finance investigations in the House. This debate has diverted attention away from the real issue, fixing the abuses in the system that are currently legal. I fear that perhaps that is the goal of the Republican leadership in Congress. By continuing to spend taxpayer dollars on Congressional hearings and keeping the attention on abuses that occurred in the past the leadership feels it will not need to fix the system for future elections. I will not let that happen.

The people of this country have spoken loud and clear, they want campaign finance reform. If you doubt the will of the public just look at all the Republican members who returned from the Easter recess willing to challenge the leadership and sign the campaign finance discharge petition. At that time the leadership gave their word that they would allow an open and honest vote on campaign finance reform. I hope that the leadership keeps its word and allows a vote next week.

HONORING REV. SPURGEON EUGENE CRAYTON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. TOWNS. Mr. Speaker, I rise today to honor Reverend Spurgeon Eugene Crayton, Pastor, Mount Ollie Baptist Church. Rev. Crayton has dedicated his life to the church and the community of Brooklyn, New York.

The 65-year-old Brownsville pastor is one of the busiest in the city. He conducts as many as fifteen revivals a year, preaching in a style that he describes as a combination of old fashioned flare mixed with contemporary versions of biblical stories. As a specialist in teaching Baptist doctrine, Rev. Crayton has held a variety of posts in the Eastern Baptist Association, representing Brooklyn, Queens, Nassau, and Suffolk counties, and is presently an Area Vice President of the Empire State Baptist Convention, which represents some 500 churches from Niagara Falls to East Hampton.

In addition to his pastoral duties, Rev. Crayton has managed to author several books, including a collection of short stories about his Korean War experiences called "Screams and Protest", which is used by the public school system. He has also written "God's Star in the East", a guide to Baptist congregations, and is working on a third book entitled, "The Black Baptist Church of Today". Aways a man of action, Rev. Crayton has even found time to write plays, including "Another One Gone" and "The Erudite".

Through his commitment to work on behalf of the community, this dynamic minister has also served as a charter board member of the Half Way House Rehabilitation Center for Drug Abuse; as a Protestant Chaplain for the Madonna Heights School for Girls, a Catholic School; and is an instructor of English at Central Commercial High School in New York City.

Rev. Crayton's own words exemplify his extraordinary sensitivity to the needs of God's people: "We have a lot of dedicated ministers who want not only to be good preachers, but will help fight for social causes for their parishioners. There is a greater interest now on the part of the ministry to understand the religious, political, social, and economic problems of our communities." He has truly left an indelible mark for all to follow.

Mr. Speaker, please join me in honoring Rev. Spurgeon Eugene Crayton for his valuable contributions to the community of Brooklyn.

THE U.S. ARMY SCHOOL OF THE AMERICAS: COMMITTED TO HUMAN RIGHTS AND DEMOCRACY IN OUR HEMISPHERE

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. COLLINS. Mr. Speaker, as many of my colleagues have come to know, there is an ongoing movement led by the Maryknoll Order of the Catholic Church to attack American foreign policy and her right to defend her interests through closure of the U.S. Army School of the Americas. The School is our nation's preeminent training facility for Spanish speaking militaries and police forces and for U.S. military officers slated to be stationed in South America, Central America, or the Caribbean. The School of the Americas provides training in professional military and police operations (including a Spanish-language Command and General Staff Officer Course). Other coursework includes drug interdiction and eradication, peacekeeping, and resource management. Most importantly, each course focuses on supporting and maintaining democracy and protecting human rights. The School is widely recognized as having developed the foremost human rights training program available at any military training institution in the world, including other U.S. training centers.

Unfortunately, you can lead a horse to water, but you can't make him drink. While the vast majority—well over 99 percent—of the School's graduates have returned to serve their nations honorably, those who oppose U.S. foreign policy in the region have seized upon the horrible actions of a very few School graduates as justification for U.S. disengagement throughout our own hemisphere. These former students have acted illegally and immorally in spite of what they learned at the School, not because of it. Suggestions that the Army's School of the Americas has somehow been responsible for, or complicit in atrocities committed by rogue Latin American soldiers are outrageous, inflammatory, and completely unsubstantiated. Implicating our own dedicated soldiers in the wrongdoings of criminals throughout Latin America represents an attack not only on the School, but also on the U.S. Army, on the U.S. Armed Forces as a whole, and on American foreign policy and the American government's right to protect her national interests abroad.

Today, the United States pursues its foreign policy in Central America, South America, and the Caribbean with fewer military deployments than are required in any other region of the world. We are able to accomplish this because of the confidence that we have in the American-trained military leadership of the region's democracies. If there were no School of the Americas, pursuit of our foreign policy in Latin America would be very costly both in human and monetary terms.

Large military deployments would probably be required to continue current international drug interdiction, peacekeeping, and humanitarian relief missions throughout the region. Such deployments would not only put thousands of American lives at risk, but would also vastly increase the region's burden on the taxpayer. Currently, the entire Southern Command Area of Responsibility (which encompasses ⅙th of the Earth's surface, including all of Central America, South America, and the Caribbean) requires an investment of only about $550 million per year to protect our national security interests. Compare this to the costs associated with operations in the much smaller regions of Bosnia, costing over $2 billion last year, or Iraq, costing over $1.6 billion last year.

An honest assessment of Latin American history over the last 50 years demonstrates clearly that the U.S. Army School of the Americas saves lives.

Recently, Latin American military officers trained at the School were responsible for negotiating a peaceful settlement to the Ecuador/Peru border dispute.

During the 90s, military coups threatened in Venezuela and Paraguay have been averted through U.S. contacts and cooperation with soldiers trained at USARSA.

Jose Serrano, Colombia's new drug czar who was featured recently in the Wall Street Journal, has made great progress in eliminating police corruption and in attacking the operations of that nation's drug kingpins. He is a former guest instructor at the School.

Jaime Guzman, the Minister of Defense of El Salvador, has nearly eliminated human rights abuses by the Salvadoran military. During the 1980s, such abuses numbered nearly 2000 incidents each month. Now they nearly never occur, thanks to the School of the Americas human rights training that General Guzman received at Fort Benning, and then implemented in El Salvador.

While most of the turmoil of the 1980s has receded in the region, new threats have emerged and must be addressed. The Army School of the Americas continues to be an important support structure for many of the region's fledgling democracies, particularly in fighting on the front lines of the war on drugs. With all of the progress that has been made in the region, it would be irresponsible to turn our backs while drug traffickers and terrorists chip away at freedom and democracy in Central and South America and continue to kill our children on our own streets.

Recently, the Commander-in-Chief of the U.S. Southern Command General Charles Wilhelm referred to the inter-American drug supply as the greatest chemical weapons threat currently faced by the United States. Every year, hundreds of billions of dollars worth of deadly, addictive chemicals flow across our borders from Mexico and South America and end up in the bodies of American citizens—many of them children. We must have the School so that we may continue to train Spanish-speaking soldiers and police to interdict drugs and eradicate them at their source. Hundreds of thousands of Americans have died of the effects of narcotics smuggled from without our hemisphere, yet the School's opponents still seek to close this institution which is having a more profound impact on inter-American drug trafficking than any other military training facility in the world.

Opponents of the Army School suggest that it should be closed in the interest of human rights. But whose human rights are we talking about? Through its training programs, the School of the Americas protects the human rights of Latin American citizens from both wayward military officials and drug death squads (like the one that recently ambushed a Colombian National Police scout team, killing them all). Furthermore, the School protects U.S. human rights and interests by attacking the drug crisis at its source and by maintaining peace and constructive relations throughout the militaries of our region. The only humans whose rights would be protected by closing the School are those of the drug lords and criminals who are the enemies of democracy and the murderers of our children and those of Latin America.

Ironically, the School's closing would eliminate the opportunity for Latin America soldiers to study democracy and human rights. Not only are such courses unavailable at other nations' military training facilities, they are not even offered at other U.S. Department of Defense schools. The School's critics seem to be suggesting that the best way to effect a better understanding of human rights and democracy in Latin American militaries is to close down the only facility providing Latin American soldiers and police with training in democracy and human rights. I respectfully disagree.

IN RECOGNITION OF NATIONAL NURSES WEEK, MAY 6–12

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mrs. McCARTHY of New York. Mr. Speaker, I rise today to join my colleagues in recognition of National Nurses Week. The 2.6 million registered nurses in the United States make up our nation's largest health care profession. Throughout our country's history, nurses have been the backbone of our health care system. The nursing profession plays a vital role in meeting the different and emerging health care needs of the American population in a wide range of settings. Moreover, nurses are the human face of our health care system. As the primary care givers, nurses have the most contact with patients and play a direct role in a patient's recovery. As a nurse, I know from firsthand experience that when it comes to patient recovery, good nursing care makes a difference.

Nurses are also the future of our health care system. As our country places renewed emphasis on primary and preventive health care, we will require better utilization of all our nation's nursing resources. The cost-effective, safe and quality health care services provided by registered nurses will be an ever more important component of our health care delivery system in the future. Therefore, we must do everything we can to promote and advance the nursing profession.

I am proud to be the cosponsor of a number of bills that advance the nursing profession by fostering high standards of nursing practice, promoting the economic and general welfare of nurses in the workplace and projecting a positive and realistic view of nursing. Some of the bills I proudly sponsor include H.R. 1165, the Patient Safety Act of 1997, legislation that provides whistle-blower protection for nurses who speak out about patient care issues, and H.R. 2754 the Health Worker Protection Act, which mandates the substitution of existing needlestick products with safer needle devices that would help prevent needlestick injuries. I urge all my colleagues to support these important pieces of legislation, support our nursing professionals and advance the cause of nursing nationwide.

IN HONOR OF ANTHONY AND ANNE CELEBREZZE ON THEIR SIXTIETH ANNIVERSARY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to celebrate the 60th wedding anniversary of Anthony and Anne Celebrezze of Cleveland, Ohio. The couple was married May 7, 1938.

Judge Celebrezze's family moved from Anzi, Italy to the United States when he was two years old. His political career began when he was elected to the Ohio State Senate in 1950. He later became the first foreign-born Mayor of Cleveland, and the only Mayor of Cleveland ever elected to five consecutive terms. He was the first nonnative to be appointed to the Cabinet of the United States, where he served as Secretary of Health, Education and Welfare under Presidents Kennedy and Johnson. And Judge Celebrezze was the first emigre to be appointed Judge of the United States Court of Appeals. In 1973, Judge Celebrezze's leadership was recognized when an Act of Congress designated the Federal Building in Cleveland, the Anthony J. Celebrezze Federal Building.

Not only is Judge Celebrezze a successful, well-known politician, he is a loving husband to Anne Celebrezze. Anne taught in the Cleveland Public School System and has been active in countless community projects helping children, the elderly, and the arts. She was involved in the Cleveland Council and the National Board of the Camp Fire Girls for many years. She served on the Board of the Child Guidance Center of Cleveland where a work room is named after her for her fundraising efforts to expand the program. Anne has also been engaged in the Women's City Club of Cleveland for over thirty years. She was appointed to the National Committee for Education of the Handicapped by President Johnson where she worked to help children with learning disabilities qualify for a public school education.

Together, Anthony and Anne have three children and 10 grandchildren to whom they have passed on their values, leadership skills, involvement in community service, and love. My fellow colleagues, please join me in wishing a happy 60th anniversary to Anthony and Anne Celebrezze. May they have many more happy and healthy years together.

SPECIAL TRIBUTE HONORING JULIA PETERS, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Julia Peters, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Julia is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Julia Peters is an exceptional student at Tecumseh High School and possesses an impressive high school record. President of the National Honor Society, Julia is also the secretary for her school's S.A.D.D. program. She was student of the month 19 times throughout high school. Outside of school, Julia was involved with the Student County Congress and various other community activities.

In special tribute, Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Julia Peters for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

RECOGNIZING CHIEF OF POLICE ROY SUMISAKI FOR HIS OUTSTANDING SERVICE TO THE CITY OF GILROY, CA

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Ms. LOFGREN. Mr. Speaker, I rise today to recognize the outstanding achievement of Chief of Police Roy Sumisaki, who has served the city of Gilroy, California for more then 7 years.

Through trials and triumph Chief Sumisaki has distinguished himself as a devoted crime fighter in a career that has spanned 28 years.

Born in a Japanese-American internment camp during World War II, Chief Sumisaki graduated from Gilroy High School and joined the United States Army. His career, which included at tour of duty in Vietnam as an intelligence officer, spanned 32 years, 8 of which were on active duty. He retired from the Army a Lieutenant Colonel.

During his military service, Chief Sumisaki was awarded the Purple Heart, two Bronze Stars, and Air Medal, the Combat Infantryman's Badge, and the Vietnamese Honor Medal.

Soon after resigning from active duty military service, Chief Sumisaki pursued a career in law enforcement. He holds a master's degree in police administration from Golden Gate University and attended the FBI National Academy. He joined the Pacifica Police Department in 1974, and later transferred to the Marina Police Department, rising to the rank of Commander.

While later serving with the Chico Police Department, he rose to the rank of Captain. In 1990 he returned home to Gilroy to become the first Asian-American police chief in the continental U.S.

During his tenure Chief Sumisaki worked tirelessly to make Gilroy a safer place to live and work. A testament to his high level of professionalism, Chief Sumisaki was awarded the National Police Commendation Medal.

Mr. Speaker, today I ask my colleagues in the United States House of Representatives to join me in recognizing Chief Roy Sumisaki upon his retirement from the Gilroy Police Department.

SPEAKER GINGRICH FALSELY CLAIMS WHITE HOUSE COORDINATION BEHIND CRITICISM OF CHAIRMAN BURTON

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. CONYERS. Mr. Speaker, it seems obvious to me that not every ciriticism of the Clinton Administration is part of a "right-wing conspiracy," but it should be equally clear that not every objection to the tactics of a Clinton critic is the product of a White House conspiracy. This week, Speaker GINGRICH unfairly attacked the congressional criticisms of Chairman BURTON even though he knew those criticisms were justified.

This Tuesday, in response to widespread ciriticism of Chairman BURTON for releasing misleading and distorted excerpts of private conversations of Mr. Hubbell with his wife and his attorney, Speaker GINGRICH spoke out to accuse the Democrats in Congress of acting at the behest of the White House. Rather than honestly dealing with the serious violations of privacy and fairness worked by Chairman BURTON, Speaker GINGRICH changed the subject by claiming "There has been a routine process by this White House to avoid the truth * * * by attacking the person who is seeking the truth."

Remarkably, one day later, Speaker GINGRICH, during a closed Republican conference meeting, scolded Chairman BURTON for his actions, saying "I'm embarrassed for you, I'm embarrassed for myself, and I'm embarrassed for the [Republican] conference at the circus that went on at your committee."

Clearly, Speaker GINGRICH recognizes both that Chairman BURTON'S actions were wrong and that congressional criticisms of him were genuine expressions of outrage and not some "spin" strategy organized by the White House.

This institution is not well-served by the cynical partisanship of the Speaker's attacks on those who were offended by Chairman BURTON'S conduct. With each such outburst, it becomes increasingly unlikely that the important investigative work of Chairman BURTON's committee, or of any other committee which is called on to inquire into allegations of wrongdoing at the White House, will lead to any findings that will be accepted as legitimate by the public.

I appeal to the higher instincts of Speaker GINGRICH and Chairman BURTON to apoloogize directly to the people who have been smeared by these irresponsible attacks—Mr. and Mrs. Hubbell, the President and the First Lady—for the good of the Committee and the integrity of the Congress as a whole.

REGARDING PUBLIC SERVICE RECOGNITION WEEK

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. CUMMINGS. Mr. Speaker, we are in the midst of Public Service Recognition Week, and I salute the public servants whose hard work and determination have markedly improved the way government does business.

Each May, the President's Council on Management Improvement, and the Public Employees Roundtable, launch activities in cities across our nation which highlight excellence in public service at the federal, state, and local government levels. The organization hosts agency exhibits and demonstrations that educate the public about the array of programs and services that public employees provide to the American people.

Activities in my district were kicked off last Friday by the Baltimore Federal Executive Board which held its 31st Annual Excellence in Federal Career Awards program at Martin's West in Woodlawn. Thirty-six agencies submitted a total of 199 nominations for the Board's consideration. Among the 16 first place Gold Award winners were: Lieutenant Colonel David Mansfield, a Logistics Management Officer with the Maryland Air National Guard who was recognized as an outstanding supervisor; Ann Grieb, a computer specialist at the Coast Guard Engineering Logistics Center who was recognized as an outstanding specialist; and Serafin Rivera, a machinist with the Corps of Engineers who was recognized as outstanding in trades and crafts.

Mr. Speaker, while I only have enough time to recognize a few of the winners, I believe that each award recipient and each person nominated deserve our appreciation.

This past Monday, the Public Employees Roundtable held a ceremony here on Capitol Hill and presented its "Breakfast of Champions" award to representatives of exceptional programs at each level of government. The 1998 award winner at the Federal level was New York/New Jersey Veterans Integrated Service Network Consortium on Homeless Veterans. Other programs receiving special recognition this year were the City of Richmond, Virginia Fire Department; Immigrant Visa Unit, U.S. Embassy Moscow; and the Los Angeles County, California Consolidated Criminal History Reporting System.

Beginning today, May 7th, and continuing through Sunday, May 10th, over two dozen federal agencies and employee organizations will have exhibits set up in large tents on the National Mall at 3rd and Independence Avenues. The public is invited to come out to learn more about the functions of these agencies and the services that each provide. There will also be a job fair and a science fair. Some of our military bands and other groups will provide entertainment during this family oriented event.

Mr. Speaker, Public Service Recognition Week offers all Americans, especially young people the opportunity to learn and get excited about a career in public service. It also provides the opportunity to thank those who serve us daily for their efforts. I believe that public service should be valued and respected by all Americans, and the activities occurring this week across the nation prove why.

SPECIAL TRIBUTE HONORING MEREDITH PELTY, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has complied in academics, leadership and community service, that I am proud to salute Meredith Pelty, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Meredith is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Meredith is an exceptional student at Onsted High School and possesses an impressive high school record. Meredith is the Captain of the National Honor Society and was chosen by her peers this year as the Homecoming Queen. Meredith is also involved with varsity cheerleading and track. Outside of school, Meredith is a Confirmation teacher within her church and is involved with her church youth group.

In special tribute, Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Meredith Pelty for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young women, I extend my most heartfelt good wishes for all her future endeavors.

"OMNIBUS MERCURY EMISSIONS REDUCTION ACT OF 1998"

HON. THOMAS H. ALLEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. ALLEN. Mr. Speaker, I rise today to introduce the "Omnibus Mercury Emissions Reductions Act of 1998." This important legislation is aimed at protecting our children from mercury, one of the most dangerous toxins in our environment.

Mercury is a naturally occurring, highly toxic element. Its presence in our environment has built to dangerous levels due to the lack of regulation of power plants, waste incinerators, and some types of manufacturing. Those regions downwind from the major pollution sources are most at risk because mercury can travel great distances before falling to the Earth and washing into our lakes, rivers and streams. My home State of Maine, the tailpipe for our nation's polluted air, has some of the highest mercury levels in the country. As I've often said, the wind travels west to east, always has, always will.

Our children are most at risk. Mercury poisoning can be devastating for children and pregnant women. Contamination can cause damage to the developing central nervous system. Adults can also be affected. Symptoms range from numbness in extremities to paralysis and kidney disease. The most common form of mercury poisoning occurs from eating polluted fish. Exposure can also occur through drinking water and soil contamination. Several states, including Maine, have issued health warnings due to mercury contamination that cover every single body of inland water.

Our wildlife is also in danger. Maine's loons and bald eagles, symbols of the state's beauty and natural habitat, have mercury levels high enough to interfere with reproduction. In fact Maine's bald eagle reproductive rates have remained well below the rest of the country. Studies have found significantly high levels of mercury and other toxins in eggs and eaglets.

The Clean Air Act has achieved remarkable success since its inception. Our families are breathing easier because we have reduced the emission levels of lead and other toxins. Unfortunately, mercury has fallen through the cracks. The Environmental Protection Agency recently released its "Mercury Study Report to Congress." This detailed report contains volumes of information on the dangers of mercury and how to control the levels emitted into our environment. Now that we have the long-awaited report, we must take action.

The legislation I am introducing will do just that. The "Omnibus Mercury Emissions Reduction Act of 1998" requires the EPA to set mercury emission standards for the largest sources. The bill sets an emissions reduction standard of 95 percent for coal-fired powerplants and other utilities, as well as incinerators and chlor-alkali plants. Many may argue this cannot be done, that the costs of controls will be much too high. I disagree. We know mercury can be reduced or removed from powerplants and products. Technology exists for companies to meet the standards, and this bill will allow them to choose the best approach for their facility. We have reduced or eliminated other toxins, without the catastrophic effects the utilities predicted. The time has come to do it with mercury.

When I ran for office last year, people in Maine told me the country needed to continue the environmental strides made by leaders like Senator Edmund Muskie and Senator George Mitchell. Maine is proud of its tradition of environmental activism. Maine Governor Angus King and his administration have taken steps to reduce the levels of mercury emitted by sources within Maine. That, however, will not protect our children from sources that cross our boundaries. Maine has cleaned up its act, and now we must ask for the rest of the nation to help.

Just five years ago, 27 states had issued mercury advisories covering almost 900 water bodies. Today, the number of states with advisories has grown to 39, and the number of water bodies affected has increased to 1,675. The problem is getting worse, not better. We are heading down a path where the entire nation could be under a mercury advisory. Do you want to explain to your children and grandchildren that the reason they can't eat the fresh water fish they just caught is because we failed to take action necessary to protect them?

Mr. Speaker, mercury is one of our last remaining unregulated toxins. We must act, and we must act fast. This is not an easy task. We can't see the mercury dispersed through the air and falling to the ground. However, we now know more about mercury than we ever have. We know the solutions to the problem and we have the technology to fix it. We must implement new strategies now. The future of our environment for our children and grandchildren is at stake.

INTRODUCTION OF THE TRAVEL REFORM RULE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. HAMILTON. Mr. Speaker, my colleagues, CHRIS COX, PETER VISCLOSKY, TOM CAMPBELL and I are introducing today a resolution that would improve accountability in congressional travel and help encourage more travel related to the official business of the House.

Congressional travel, done the right way, can greatly enhance a Member's knowledge of the issues, improving the quality of legislation and congressional oversight. Members of Congress should inspect important government activities at home and abroad, and share the knowledge they gain with their colleagues and the public.

While the 1995 House gift ban curtailed the worst abuses of congressional travel, occasional reports of travel abuse continue. These reports have led the public to view much congressional travel as wasteful or unnecessary, with the detrimental effect of discouraging some important, legitimate trips.

The Travel Reform Rule which we are introducing today aims to strengthen the House's oversight of travel by Members and staff; make all congressional travel records more accessible to the public; and ensure that the information gained through travel is more widely disseminated.

The requirements of Hamilton's resolution would apply to (1) travel that is paid for by official House funds, except for travel to a Member's congressional district; (2) travel with a foreign country paid for by a foreign government; and (3) any other travel related to official duties, including that paid for by private entities.

The Travel Reform Rule, H. Res. XXX, would require more detailed reports: Current House rules require Members and staff to file a report with the Clerk of the House for any committee-funded travel, privately-funded travel, or for foreign government-funded foreign travel.

For privately-funded travel, reports must include the source of funds paying for travel, and an estimate of the cost of transportation, food, lodging, and other expenses, and a determination that all such expenses are necessary. These reports and the reports on foreign government-funded travel must be filed within 30 days of the end of a trip, though House rules include no penalty for failure to do so.

Committee-funded foreign travel reports must disclose the countries visited, the amount of per diem and transportation furnished, and the total foreign currencies and/or appropriated funds expended. These reports must be filed within 60 days of travel.

The Hamilton resolution would improve and harmonize reporting requirements.

First, the resolution would require for all travel a substantive report to the Clerk of the House on the relation of the travel to the official business of the House, including a detailed itinerary and policy findings and recommendations.

Second, reports on travel funded by a nonprofit organization would have to include copies of the organization's reports to the Internal Revenue Service on its contributions and expenditures. This provision is intended to shed light on any shell foundations set up to fund congressional travel.

Third, the resolution requires identification of the funding entity, including: any pertinent information that could be gathered in the case of a private funding source, an estimate of the costs of travel provided by a foreign government, and if transportation is provided by the Department of Defense, the report must include an estimate of the cost of equivalent commercial transportation.

Under the resolution, the Clerk of the House would notify the House Committee on Standards of Official Conduct (the Ethics Committee) of any failure to meet these requirements.

Improve public disclosure: The Hamilton resolution would require the Clerk of the House to publish in the CONGRESSIONAL RECORD and on the Internet a compilation of travel reports for each calendar quarter, as well as an annual summary of all House travel. Currently, the Clerk is only required to publish reports for government-funded foreign travel, and there is not Internet requirement.

Require advance authorization from Ethics Committee: Travel funded by private sources would require advance authorization from the House Ethics Committee. Currently, there is not prior authorization requirement for Members, and for staff, such travel by may be approved by Members without consultation with the Ethics Committee. Prior authorization will take the guess work out of travel, and ensure for the House and the public that all private trips are legitimately related to House business.

Restrict perks: Members and staff would be prohibited from accepting first class airfare, as well as meals and lodging in excess of the federal employee per diem rate, unless previously authorized by the Ethics Committee. Moreover, travel by spouses or family members would be limited to trips where other guests are also permitted to bring their families.

I commend this resolution to my colleagues' attention.

HIGHER EDUCATION AMENDMENTS OF 1998

SPEECH OF

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes:

Mr. MATSUI. Mr. Chairman, I rise today in strong support of the student loan interest rate compromise that was passed last night as part of H.R. 6, the Higher Education Amendments. This bill, with strong bipartisan support, offers a sensible solution to the pressing problem of the interest rate change scheduled for July 1, 1998.

There has been a lot of discussion regarding the appropriate interest rate for student loans. The Department of Education insists that lenders can absorb much larger yield cuts to student loan interest rates without any disruption to the student loan program. Yet they are actively seeking to arrange more than $5 billion in emergency funding in case they are mistaken. Banks and other student lenders vehemently disagree. They have consistently argued that a 0.3 percent reduction in guaranteed loan yields will drive away many lenders, especially small community banks. They also argue that remaining lenders will be discouraged from making loans to high risk borrowers, such as those attending community colleges and trade schools. Yet so far no lender has announced its withdrawal from the loan program.

Suffice it to say, we simply do not know what the impact of the yield cut will be on the guaranteed student loan market. What we do know is that we cannot afford to allow our student loan program to collapse because of this dispute. No one wants to run the risk that any student in their home district will be unable to get their student loans this Fall. But we must act now because the beginning of the Fall award cycle is less than 60 days away. The compromise reached in H.R. 6 corrects the interest rate calculation and ensures that student loans remain available for all students.

For this reason, I find the Administration's veto threat over this interest rate compromise to be somewhat disconcerting. Two years ago, this Congress called for a bipartisan solution to the direct versus guaranteed student loan debate. In the spirit of that decision, we voted overwhelmingly last night in support of this carefully crafted compromise. I urge the Administration to recognize this bipartisan effort and support the interest rate compromise so that we may ensure that no students find their access to financial aid unnecessarily denied.

CONGRATULATIONS TO DARTMOUTH HIGH SCHOOL WINTER PERCUSSION ENSEMBLE

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. McGOVERN. Mr. Speaker, I would like to take a moment today to congratulate the Dartmouth High School Winter Percussion Ensemble for taking first place honors in the Winterguard International World Championships. The thirty-four member group, performing a routine with a "Batman" theme, scored a 98.7, topping one hundred and fifty other bands.

The Dartmouth High School Winter Percussion Ensemble is under the direction of Thomas Aungst, who is ably assisted by Darcy Aungst and Jaime Ecker. The ensemble endured a seventeen hour bus trip to Dayton, Ohio to bring home the World Championship. It is the first time in the history of the competition that a first time entrant has won the championship.

The Dartmouth High School Winter Percussion Ensemble's significant achievement has bestowed a great sense of pride and community spirit to the residents of Dartmouth, as well as the entire citizenry of Massachusetts. They are to be congratulated.

REMARKS BY FORMER SECRETARY OF STATE JAMES BAKER ON U.S. POLICY TOWARD IRAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. HAMILTON. Mr. Speaker, the distinguished former Secretary of State, James A. Baker III, delivered a speech on America's Interest in the Middle East at a May 4, 1998, symposium in Washington sponsored by the magazine, Middle East Insight. He made many important observation about the Middle East peace process, and about U.S. policy in the Gulf. I commend him for his remarks.

I would like to bring the attention of my colleagues an excerpt of his speech, concerning U.S. policy toward Iran:

> . . . Let me turn briefly to Iran. This is a country that I think most everyone who looks at it objectively would have to agree is in transition. And I think there are a number of events over the past year or so that have underscored that fact. The first, of course, and most startling was the election of a moderate or semi-moderate, President Khatami, as president last May. The second was his televised overture to the people of the United States, which we saw in January of this year. And the third and most recent was the release from arrest last month of Teheran's mayor, who had been taken prisoner by the hard-liners. And I think this is really a significant development, because it has been widely interpreted—and, I think, correctly—as a victory for Khatami and his colleagues.
>
> So what I think we may be seeing in Iran is the beginning of a evolution toward a truly post-revolutionary Iran. I think the days of the—the heydays of the revolution are over, and I think Iran is beginning to move in a different direction. I think we're going to begin to see an Iran that is less stridently extreme, and I think we're going to begin to see one that is more open to the outside world. So the question arises: What, then, should the United States of America be doing?
>
> First of all, I think we should be prepared to meet official Iranian representatives anywhere, anytime, to begin the formal dialogue.
>
> Secondly, I think we ought to encourage ongoing to people-to-people contact between the two countries, such as the recent visit of a U.S. wrestling team here not long ago.
>
> And thirdly, I think we should consider easing sanctions when and if it becomes clear that Teheran will publicly condemn state-sponsored terrorism and when it becomes clear that she is actually reducing her support for terrorist groups and her efforts to acquire weapons of mass destruction. That last point, I think, is a particularly vital one, because for us to get there and, actually, for Iran to improve its relations with the United States is going to take actions and not words. We're going to have to see the rhetoric and the reality match; the reality is going to have to match the rhetoric.
>
> And without real, verifiable action on the part of the Iranians, I don't foresee any real thaw in U.S.-Iranian relations. As we contemplate, through, the prospect of such a thaw—and I think is a good prospect that it can occur if the requisite actions take

place—as we contemplate such a thaw, I think we ought to remember two very important points. First is that any process is going to be a protracted process, very likely one of years and not months in duration.

And secondly, an opening to Teheran even if it's successful, is not going to be any substitute for an ongoing, energetic American-led effort to contain the efforts of Iraq to develop biological weapons. Horrific weapons of mass destruction. In other words, I think we ought to avoid the false promise that somehow an improved Washington-Teheran relationship is an ace in the hole when it comes to the question of containing the weapons of mass destruction goals of Iraq. . . .

NATIONAL DAY OF PRAYER

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. LIPINSKI. Mr. Speaker, I rise today to recognize the National Day of Prayer, which takes place this year on Thursday, May 7th. This unique annual observance offers an opportunity for all Americans to join together in prayer.

The National Day of Prayer has been celebrated annually ever since its introduction in 1952 by Congress. In 1988, the National Day of Prayer was set on the first Thursday of each May. For over 45 years, the National Day of Prayer has been an occasion for countless Americans to give thanks for their blessings and ask for God's assistance.

The theme of this year's National Day of Prayer is "America, Return to God." It is a theme that is undoubtedly shared by Americans of all faiths. One of the most important values promoted by the National Day of Prayer is unity among people of different faiths. Americans of all faiths are encouraged to take time during the day to offer their prayers before God.

The National Day of Prayer is a time to thank God for the many gifts and blessings that have been bestowed upon us, individually and as a nation. It is also a time to ask for stability and wisdom, and for God's guidance today so that we may restore moral values in our communities.

My fellow colleagues, I urge you to join me and Americans from every state in praying for America, its leaders, and its people on the National Day of Prayer.

SPECIAL TRIBUTE HONORING HOLLY SPRUNGER, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Holly Sprunger, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Holly is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Holly is an exceptional student at Lenawee Christian High School and possesses an impressive high school record. Holly is the President of the National Honor Society and is Co-Valedictorian of her senior class. Holly is also involved with varsity basketball, volleyball and softball. Outside of school, Holly is involved with various community activities.

In special tribute, Therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Holly Sprunger for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

HONORING GEORGE KING RADANOVICH

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. EHRLICH. Mr. Speaker, I rise to inform you and the members of this body of an important and exciting event that happened today. At 3:15 a.m. here in Washington, D.C. George King Radanovich entered the world.

George King is the son and first child of my friend and colleague, Representative GEORGE RADANOVICH and his wife Ethie. Named after his grandfather, George King is twenty two and one quarter inches long and weighs in at eight pounds, two ounces.

Mr. Speaker, I would like to express my most hearty congratulations to George and Ethie on the birth of their son. The joys of parenthood and the awesome responsibility involved in bringing up children can only be truly understood by parents. I'm happy that George and Ethie now have the chance to fully understand the unique importance of families in our society.

I also want to honor George King. He enters the world in an exciting time. Change is all around us. We can only guess at what advances, what progress he will see in his lifetime. As we change and as we progress we must remember that we owe all children, including George King, a strong society so that they can grow up in loving families, with faith and reliance in God, in safe and secure neighborhoods, and with hope and opportunity for the future.

Mr. Speaker, I know that George King Radanovich will grow up in a strong and loving family. I honor his parents George and Ethie for that and I ask that all my colleagues do the same.

HONORING THE VISIT OF PRESIDENT ALPHA OUMAR KONARE OF MALI TO MICHIGAN STATE UNIVERSITY

HON. DEBBIE STABENOW

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Ms. STABENOW. Mr. Speaker, as part of the Michigan State University community, the people I represent have had the great pleasure of welcoming to Michigan many world leaders who have opened the world to us and introduced us to new cultures. This is why I am so pleased to have his excellency Mr. Alpha Oumar Konare, President of the Republic of Mali, to receive an honorary degree at Michigan State University's May 8th Advanced Degree Commencement Ceremony.

The honorary degree recognizes President Konare's contributions to establishing democracy and peace in Mali, to peacemaking efforts in Africa, and to preserving Mali's cultural heritage through his professional activities as an archaeologist.

In recent years, Mali has moved from a repressive dictatorship to an open parliamentary democracy, a transition which can be largely credited to the leadership and activism of President Konare.

President Konare won the first multiparty presidential election in his country's history and was sworn in as President of the Republic of Mali on June 8, 1992. Prior to his election he was president of the West African Archaeologist Association as well as the first African President of the International Council of Museums.

President Konare's visit celebrates the new and developing partnership the MSU community has had with the people of Mali. In recent years, more than 20 Malians have pursued undergraduate and graduate programs at MSU, while an almost equal amount of American MSU graduate students have conducted their thesis or dissertation research on Mali. The strong research and educational links the MSU community and the people of Mali have forged in recent years can be credited to both President Konare and MSU's great commitment to education and diversity.

But most importantly, President Konare's visit reaffirms the friendship between the MSU community and the people of Mali, and it is my hope that we continue developing new initiatives that will, together, take us well into the 21st Century.

Through President Konare's leadership, the MSU community views the Republic of Mali as more than just a friend of the United States; Mali is our partner in education. I thank President Konare for his contribution to democracy, his worldwide leadership, and his commitment to Michigan State University.

HONORING THE QUEENS BOROUGH PUBLIC LIBRARY SYSTEM

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. MANTON. Mr. Speaker, I rise today to recognize and praise the enormous success of the Queens Borough Public Library system, which was cited in last Tuesday's Washington Post as "far and away the busiest in the United States." Queens has the largest public library system in the country in terms of circulation, and the second largest in terms of holdings.

Mr. Speaker, the Queens Borough Public Library has enjoyed its overwhelming popularity due to the very trait that makes Queens, and indeed all of New York, so very special, namely the diversity of its inhabitants. One in three Queens residents hails from another country and nearly half of the Borough's residents speak a language other than English at home. Queens Borough Public Library's New Americans Program was established in 1977 to provide special services to the area's many new immigrants. The library's collections include, at the Central Library, 101,000 items in Spanish and 93,000 items in Chinese, the country's largest collections in those languages. In addition, the system has thousands of items in Korean, Russian, and South Asian languages.

Mr. Speaker, aside from its impressive collection of books, the Queens Borough Public Library offers a wide array of services designed to ease and facilitate immigrants' assimilation into American society. Queens has the largest library-managed English-as-a-Second-Language program in the country, annually serving nearly 3,000 students, representing 88 countries and 50 languages. It also publishes the "Queens Directory of Immigrant-Serving Agencies," a compilation which includes over 150 agencies that provide free or low-cost social services to immigrants in Queens in 50 different languages. There are many other free lectures and programs available to the library's users.

Mr. Speaker, I urge my colleagues to read the article from the Washington Post. The Queens Borough Public Library deserves this recognition, and I would once more like to offer my heartfelt congratulations for their fine work.

[From the Washington Post, Apr. 27, 1998]

A BOROUGHFUL OF BOOKWORMS

MOTIVATED IMMIGRANTS MAKE QUEENS LIBRARY BUSIEST IN U.S.

(By Blaine Harden)

NEW YORK, April 27—Pin-Pin Lin treks twice a week with her two sons and a big shopping bag to a crowded library in the borough of Queens. The Taiwanese immigrant herds her boys as they plunder books from library shelves and toss them in the bag.

Sitting between her sons at a library table while they rifle through the books, she looks up words in an English-Cantonese dictionary and frets about any "no-good" English words they might read, speak or think.

"I no want to miss anything," explains Lin, who every Thursday morning, when her boys are in school, attends English language class at the Queens library. "If I don't learn about American culture and speak English, I could lose them. If they think I not understand, they not do what I say."

Book-obsessed, worrywart immigrants like Pin-Pin Lin are the driving reason why the Queens Public Library is far and away the busiest in the United States. Most library books in Queens do not go out of date. They wear out from overuse and fall to pieces.

The library circulates the nation's highest number of books, tapes and videos—15.3 million a year.

In the sprawling borough that lies across the East River from Manhattan, library card holders check out more books per capita than users of any big city library system in the country. The 1.95 million residents of Queens use the public library five times more frequently than residents of the District of Columbia, twice as often as residents of Prince George's County and a third more frequently than people in Montgomery County.

The Los Angeles library serves about 1.4 million more people than the Queens library, but last year people in Queens checked out 4 million more books.

"We have complaints all the time from our older clientele, who want quiet and who want space. Well, our libraries aren't quiet and, for the most part, they aren't spacious," says Gary Strong, director of the Queens Public Library, one of three public library networks in the city. There is also a library system in Brooklyn and the New York Public Library serves Manhattan, the Bronx and Staten Island.

"The people who use our library are highly motivated," Strong adds. "They want jobs. They want to learn how to live in America."

Queens has the highest percentage of foreign-born residents of any borough in New York, a city that at the end of the 20th century is sponging up one of the great waves of immigration in its history. Nearly half the residents of Queens speak a language other than English at home. More than a third were born in a foreign country.

The extraordinary love affair between immigrants and libraries is a century-old story in New York, as it is in other American cities that have been immigrant gateways. The most crowded libraries in New York have always been in neighborhoods with the largest population of recent immigrants.

That love affair continues at the end of the century, but with complications, especially in Queens. The book lovers who elbow each other for space in the library's 62 branches are more than ever before a mixed bunch—racially, linguistically and culturally.

The busiest branch in the nation's busiest library system is in Flushing, which has been inundated in the past decade with Chinese, Korean, Indian, Russian, Colombian and Afghan immigrants. Until a handsome new library building opens this summer, the Flushing branch is crammed into a former furniture store.

Inside, there are not nearly enough little chairs for all the little kids who wiggle and squeal and devour picture book after picture book. Stacks of blue plastic-coated foam pads are available so kids and parents can sit on the tile floor.

Queues form behind computer terminals that allow immigrants to search home country periodicals using Chinese, Korean and Roman writing systems. "Watch Your Belongings!" signs are in English, Spanish and Chinese.

There are no public bathrooms—space being too precious to waste on nonessentials. But there are librarians who speak Russian, Hindi, Chinese, Korean, Gujarati and Spanish.

"Have you ever wondered where the new South Asian materials are?" asks a sign taped to a pillar in the Flushing branch library. "Well, wonder no more. They're here! You can find materials in: Bengali, Gujarati, Hindi, Malayalam and Urdu."

"We have gone from a dozen countries to a hundred countries," says Strong. "We are not just waiting for them to come to us after they have solved all their problems, after they have a job and after they have the kids in school. We go after them. We advertise. We do not check their immigration status."

Immigration had already transformed Flushing from a staid middle-class Italian and Jewish community into a polyglot boom town when Ruth Herzburg took over eight years ago as library branch manager. Herzburg quickly discovered that the branch was falling behind the newcomer mix.

Herzburg tentatively put a small collection of Korean-language books out on a shelf five years ago. "Those books walked off the shelves. Before that, we didn't really know the Koreans were here," she said.

As immigrants make the transition from their native language to English, Herzburg says they hunger for basically the same kinds of books—translations of potboiler American fiction like Danielle Steel, self-help books and computer books. Many immigrants to Queens have technical skills, she says, and they demand science, technology and business books.

By spending more money per capita on books and other materials than any other major urban American library system, the Queens Public Library has marshaled its resources to seduce each new group of immigrants and lure them into the branches.

The seduction starts by sending library emissaries to immigrant associations that work with recent arrivals. In the languages of the immigrants, they explain how the library can show them how to get a driver's license, navigate the Internet and learn English. The library runs the largest English-as-a-second-language program in the country and says it could double its enrollment if it had more space and money.

"Starting with the library and it is often the beginning of a lifelong habit," said Adriana Acauan Tandler, head of the library's New Americans program and herself an immigrant from Brazil.

Using census data and a demographer and by commissioning polls among Queens residents, the library has been able to spot holes in library usage. The biggest hole in the late 1980s was among Spanish speakers.

The library went after them with an aggressive public relations campaign. It translated applications for library cards into Spanish, purchased spots on Spanish radio and pulled together a Spanish collection of 100,000 items in 10 branches.

"In just three years, we found that Spanish speakers were using the library as much as anybody in the borough. They read everything from Cervantes to 'Superman.' The secret of our success is that we give people what they want, instead of what we think they should have," Acauan Tandler said.

What adults want, above all else, is translations of American bestsellers in their own language. The library tries to buy them quickly and in quantity. At the Flushing branch, the head librarian has about $125,000 a year to spend as she wishes on "hot" books.

"We don't wait for the central office to send out popular books. We like to go around to all the local bookstores and buy popular books off the shelves. All the books are in foreign languages. We don't even have an English-language bookstore in Flushing," said Herzburg.

Pin-Pin Lin tries to steer her boys, ages 10 and 13, away from Chinese-language books. She prefers they read only in English. To that end, she makes sure they leave the library after each visit with 20 or so English books in the shopping bag.

"I don't care if they read all. Kid is kid. If they don't like books, I bring them back and get more," said Lin.

UNDERSTANDING U.S. NATIONALITY AND CITIZENSHIP IN PUERTO RICO

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. GEKAS. Mr. Speaker, I want to submit for the RECORD a letter dealing with U.S. citizenship and Puerto Ricans dated April 9, 1998, which I received during our recent recess. Its author, Dick Thornburgh, is well-known as a former two-term Governor of my home state of Pennsylvania and as our former U.S. Attorney General.

I join Governor Thornburgh in praising Federal District Court Judge Stanley Sporkin and the State Department for their proper applications of federal immigration laws. In an opinion and order filed April 23, 1998, Federal District Court Judge Stanley Sporkin upheld the policy adopted by the U.S. Department of State on the question of whether persons with U.S. nationality and citizenship based on birth in Puerto Rico can renounce that status and remain in Puerto Rico without a visa. In a ruling that was legally and morally correct, the Court said "no" to the absurd proposition that a person who becomes an alien under federal immigration and nationality law applicable in Puerto Rico in order to become an alien does not have to comply with federal law requiring aliens to get a visa to remain in the United States.

The right of U.S. citizenship and all the benefits it provides should not be the subject of mockery. American citizenship refers to more than just status. It exemplifies all this country represents—the spirit of liberty and democratic values. I commend this letter for all to read.

STATEMENT OF DICK THORNBURGH ON THE DANGERS OF JUDICIAL USURPATION OF PUERTO RICO'S POLITICAL SELF-DETERMINATION

Puerto Rico has been under the sovereignty of the United States for one hundred years, and Puerto Ricans have been citizens of the United States for 81 years. However, the political status of Puerto Rico remains unsettled and advocates within Puerto Rico of separatism under the American flag are working to exploit that political uncertainty. The tactics employed by these advocates harms all U.S. citizens—whether they reside in one of the states of the Union or in Puerto Rico. Separatists within Puerto Rico have been forced to find a way around the 95% of Puerto Ricans who want U.S. citizenship, and they have found support among local judges appointed by the last separatist governor of Puerto Rico.

The will of the people of Puerto Rico was reflected on November 17, 1997, when the Governor of Puerto Rico signed into law a statute approved by the Legislature of Puerto Rico defining a "citizen of Puerto Rico" as a person with United States nationality and citizenship who is a lawful resident of Puerto Rico. This new law affirmed the principles of U.S. constitutional federalism as embodied in the local Puerto Rican constitution, recognized one U.S. nationality based citizenship under the American flag, and clearly expressed the loyalty and patriotism of the 3.8 American citizens of Puerto Rico.

In contrast to the measure adopted by elected leaders, on November 18, 1997, the local territorial court issued a ruling suspending enforcement of a decades old statute requiring U.S. citizenship in order to vote in local elections in Puerto Rico. A majority on the territorial court was appointed by a former governor who supports a perpetual "commonwealth" status for Puerto Rico in which the territory would have some of the attributes of both a state of the union and a separate nation. The local court's decision to exempt Juan Mari Bras, a pro-Castro socialist who renounced his U.S. nationality, from the local U.S. citizenship requirement for voting is based on a doctrine that a separate legal nationality for Puerto Ricans exists within the U.S. constitutional system. While there are many nationalities within the U.S. in the sense of cultural heritage and identity, there is and can be only one legal and constitutional form of national citizenship.

In addition to running afoul of the one legal nationality principle, the local Supreme Court's decision also constitutes an official action by a co-equal branch of the territorial government to nullify application of federal law. Specifically, the local court ruled that a person who has been certified by the State Department to be an alien can nonetheless remain in a territory of the U.S. without a visa or other legal authority from the U.S. The Puerto Rican court held that a non-citizen could remain in Puerto Rico and enjoy all the rights of a separate Puerto Rican nationality and citizenship—even though he has not complied with the immigration and nationality laws of the United States.

Aware of the local court's decision, the State Department adopted a policy of denying certification of loss of citizenship to persons who intend to remain in Puerto Rico based on a claim of local citizenship. On January 27, 1998, in the case of a "copy cat" renunciation by one Alberto Lozada Colon, the Department of State reiterated the fundamental point that the U.S. citizenship of Puerto Ricans is supreme to their citizenship of the constituent territory of the U.S. This will prevent further "copy cat" cases and provides the basis for bringing the previous cases into compliance with U.S. immigration law, thereby rendering meaningless the reckless action by the Puerto Rican court in contravention of federal supremacy.

However, this episode underscores the importance of resolving Puerto Rico's status. H.R. 856, as approved by the House on March 4, 1998, would provide a process to end the current ambiguities about Puerto Rico, and it is hoped the Senate will act soon on this matter. To help sort out the issues of nationality and citizenship related to status, the following principles and legal requirements must be recognized.

Similar to a State of the Union, Puerto Rico has sufficient sovereignty over its internal affairs under the local constitution to prescribe the qualifications of voters. However, Puerto Rico's local sovereignty is a statutory delegation of the authority of Congress to govern territories, and is not a vested, guaranteed or permanent form of sovereignty such as the states have under the 10th Amendment. Even if it were, no state of the Union, much less an unincorporated commonwealth territory, has the power to declare that the citizenship of the state or territory survives legally effective renunciation of U.S. nationality and citizenship (see, discussion below of *Davis v. District Director*, 481 F. Supp. 1178 (1979). Yet, that is precisely what the territorial court in Puerto Rico has attempted to do in the case of Juan Mari Bras.

While Puerto Rico has powers of local government which in some respects are like the states to the extent consistent with federal law and the U.S. Constitution, Puerto Rico does not have the sovereignty or constitutional authority to ignore the supremacy clause of the federal constitution by creating a separate nationality (see, *Rodriguez v. Popular Democratic Party*, 457 U.S. 1 (1982). Congress alone determines and regulates nationality under Article I, Section 8 of the Constitution. In the local court's ruling in the Mari Bras case, however, a person certified by the U.S. Department of State to be an alien under U.S. immigration laws, and who has refused to obtain a visa in compliance with the Immigration and Nationality Act, is supposedly recognized as having the right to reside in the United States, including Puerto Rico, and enjoy the rights and privileges of a fictitious separate Puerto Rican nationality citizenship.

Fortunately, we do not have to wait for an appeal to the U.S. Supreme Court to correct this miscarriage of justice which infringes upon the voting rights of the U.S. citizens of Puerto Rico who are legally qualified to vote under applicable law. Nor do we need to wait for Congress to restore the rule of law by confirming that under existing federal law (8 U.S.C. 1402) there is only one nationality or national citizenship for people born in Puerto Rico as long as it remains within the sovereignty of the United States. For Congress already has provided the statutory authority for the Executive Branch of the federal government to preserve the constitutional and federal legal order applicable to Puerto Rico in these matters. As already mentioned, in the Lozado Colon case the U.S. State Department has rectified the anomaly of the Mari Bras case and determined that the requirements of 8 U.S.C. 1481(a)(5) for loss of U.S. nationality are not satisfied if the person renouncing intends to remain in the U.S. without a visa based on a claim of Puerto Rican nationality.

Specifically, either the individual who has been certified as an alien must be compelled by the INS to comply with the requirements of the Immigration and Nationality Act for his continued presence in the United States, or the State Department must vacate the certification that he expatriated himself in a legally effective manner under 8 U.S.C. 1481(a)(5). As discussed below, it has to be one or the other.

Last year a statement by Congressman George Gekas appeared in the *CONGRESSIONAL RECORD* (143 Cong. Rec. E766 (daily ed. April 29, 1997) (statement of Rep. Gekas) about creeping separatism in Puerto Rico's local judiciary. This wake up call was sounded when a local trial court judge ruled that it was unconstitutional under the Constitution of the Commonwealth of Puerto Rico for the legislative branch of the local government to make U.S. citizenship a voter eligibility requirement in elections in Puerto

Rico—as it is in other states and territory in the United States.

The ruling of the trial court was that a radical socialist named Juan Mari Bras, who had U.S. citizenship granted by a federal statute extending that privilege to people born in Puerto Rico, should be allowed to vote in elections even though he had gone to Venezuela and taken an oath renouncing his U.S. nationality and citizenship in the manner prescribed by Congress. Mari Bras then went to Cuba to show solidarity with the regime there, and returned triumphantly to Puerto Rico. He was admitted back into U.S. territory by INS officials, based on his U.S. birth certificate, without disclosing that the State Department had issued an official document certifying he was a stateless alien with no legal right to enter or reside in the United States without an appropriate visa.

Not only did he assert exemption from visa requirements based on a claim of a separate Puerto Rican nationality, he then sought certification of his eligibility to vote, and was challenged by U.S. citizen voters who do not want their own votes diluted by non-citizens ineligible to vote under Puerto Rican law. Since the elected representatives of the people of Puerto Rico in the territorial legislature, had decided many years ago to make U.S. citizenship a voter qualification under the local election law, the trial judge threw out that statute so the expatriate could cast a ballot. That ballot was sealed pending an appeal of the case to the territorial Supreme Court, which ultimately ordered that the ballot be counted based on the local court's recognition of a separate Puerto Rican nationality and non-recognition of Federal law.

In the statement of April 29, 1997, cited above, Mr. Gekas touched upon an argument which independently has been developed further by the State Department in its own approach to a "copy cat" renunciation case involving an individual named Alberto Lozada Colon. Specifically, now that we know what Mari Bras was actually intending when he executed his oath of renunciation, it may well be that the U.S. State Department should evaluate whether he actually had formed the intention required to meet the criteria of 8 U.S.C. 1481(a)(5). Stated simply, the basis upon which his application for certification of loss of nationality should be reevaluated, and perhaps rescinded, is as follows:

The right to reside in territory under the sovereignty of the United States, including Puerto Rico, arises from U.S. nationality and citizenship or, in the case of non-citizen aliens, compliance with the visa requirements of the federal Immigration and Nationality Act.

In accordance with 8 U.S.C. 1481(a), which prescribes the procedure for renouncing citizenship in a legally effective manner, Mari Bras executed an oath voluntarily and intentionally relinquishing "all rights and privileges" of United States nationality and citizenship.

Since we now know Mari Bras intended to continue to enjoy the right to reside in the United States as a non-citizen alien under federal immigration law without complying with applicable visa requirements, we can presume that he did not truly intend to renounce and cease to enjoy "all rights and privileges" of United States nationality and citizenship.

Consequently his oath of renunciation does not mean the statutory criteria of 8 U.S.C. 1481(a), which, again, requires intent to relinquish all rights and privileges of U.S. nationality and citizenship.

Clearly, Mari Bras has not honored his oath of renunciation, and his certification of loss of U.S. nationality and citizenship should be vacated. He should not be allowed to benefit from a false oath, or to act in a manner which contradicts his oath, without consequence and legal accountability. For there is only one nationality and nationality-based citizenship in the United States, including Puerto Rico. There is no separate Puerto Rican nationality or nationality-based citizenship which enables Mari Bras to reside in Puerto Rico and enjoy the rights of citizenship in violation of federal law.

If Mari Bras is an alien he must comply with federal law regulating the presence of aliens in the United States. If he has not truly expatriated himself due to lack of actual intent to live as a alien in Puerto Rico then his hoax should be brought to an end by proper action to enforce the criteria of 8 U.S.C. 1481(a)(5). This statute and the implementing regulations promulgated by the Secretary of State (22 CFR 50.40–50.50) require the accredited diplomatic officer at the U.S. Embassy involved to "determine" that the statutory criteria for effective renunciation exists, and require the Secretary of State to "approve" the certification of same. If the declarations made by the renouncing party before, during or after the certification, or the actions of the person after certification, establish that the requirements of the statute for effective renunciation have not been met, then the Secretary of State has a responsibility to prevent abuse of the renunciation procedure for purposes of violating or evading Federal immigration laws.

The Supreme Court of the Commonwealth of Puerto Rico based its reasoning on the concept that there is a Puerto Rican citizenship separate from U.S. citizenship that arises from birth in Puerto Rico under U.S. sovereignty. This citizenship is not merely residency or the status of a person subject to the jurisdiction of the Commonwealth of Puerto Rico. Rather it is a separate nationality that exists within U.S. nationality. Of course, the court found no support in the text of Puerto Rican statutes, the Puerto Rican Constitution, or the U.S. Constitution. In its convoluted opinion, the court is saying one thing and doing another in at least two ways.

First, while the court pretends to refrain from declaring the local statute invalid, the court invalidates the statute by amending it in contravention of the Legislature's expressed intent. Thus, instead of affirming the trial court in declaring the statute unconstitutional because its clear language would prevent Puerto Rican born Mari Bras from voting, the court states that it would be unconstitutional if the statute were to be enforced in the case of Mari Bras.

The court's ruling amounts to nothing less than a suspension of the rule of law under local constitution. The effect is that the statute is constitutional only if it is not enforced in the case of a person to whom it applies, so the court avoids making a constitutional determination by amending rather than interpreting the statute.

Second, the court attempts to delimit the constitutional nature of this separate Puerto Rican nationality by claiming that it exists within the framework of the United States-Puerto Rico relationship and is not equivalent to citizenship of an independent country. At the same time, the court is attempting to establish a separate constitutional nationality and legal citizenship which has rights and privileges separate from but duplicating the rights and privileges of U.S. nationality and citizenship in Puerto Rico. This alternative nationality and citizenship is claimed by the Puerto Rican separatists as a right binding on the U.S. in perpetuity which cannot be ended without the consent of Puerto Rico.

The opinion of the Federal Court of Appeals in Davis, 481 F. Supp. 1178 (1979), includes an excellent explanation of why the separate-state-citizenship-as-separate-nationality argument must fail in the case of the states of the union. Certainly a territory with a local commonwealth constitution authorized by Act of Congress (P.L. 81–600) does not have greater sovereignty than a state of the Union. While the people of Puerto Rico consented to the establishment of the Commonwealth of Puerto Rico structure of local government with respect to the internal affairs of the territory, this does not create a local sovereignty or a basis for separate nationality and citizenship superior to that of the states of the Union yet that is what the result would be if, as the Puerto Rico Supreme Court has ruled, "citizenship of Puerto Rico" constitutes a form of citizenship superior to that of citizenship of a state of the Union.

Thus, those who argue that Puerto Rico could become a Quebec-like situation if it is ever admitted as a state had better recognize that the real danger of a Quebec-like problem is if the current ambiguous status continues and this nation-within-a-nation ideology is imposed by local authorities without a clear choice by the people based on a Federal policy to define the current status and options for change accurately. The local judiciary's ruling in this case is an attempt to usurp the authority of Congress under the territorial clause in Article IV, Section 3, Clause 2 and Section 8 of Article I to determine the nationality and nationality-based citizenship of persons born in Puerto Rico. That authority also is recognized in Article IX of the Treaty of Paris under which the U.S. became sovereign in Puerto Rico. The United States has not ceded or restricted that authority by agreeing to establish internal self-government under the commonwealth structure.

The United States gave the mechanisms of internal self-government in the territory the chance to resolve this problem under local law by sorting out the mess and conforming local law to federal law. The elected co-equal branches of government acted responsibly and consistent with the federal and local constitutions. Unfortunately, the territorial court of last resort failed the test. Now this has become a political question which must be resolved by the political branches of the Federal government.

The failure of the judicial branch of the local constitutional government to respect the separation of powers under the local constitution does not bode well for the viability of continued territorial status under the commonwealth structure. The court's ruling in this case suggests that the present status quo is not a permanent solution to the question of Puerto Rico's political status.

However, the territorial commonwealth structure cannot be made acceptable by defining it as something other than what it really is. Revisionist judicial rulings which attempt to transform unincorporated territory status into a form of permanent statehood without going through the admissions process under Article IV of the federal constitution, and at the same time seek separate nationality do nothing to clarify Puerto Rico's political future. It is becoming more clear every day that either statehood or separate nationhood are the only viable solutions to the problem of Puerto Rico's political status.

Clearly, Puerto Rico is not a state, but an internally self-governing territory of the United States. Likewise, the "people of Puerto Rico" are not a separate nationality, but a body politic consisting of persons with United States nationality and citizenship who reside in Puerto Rico. This includes those born there and those who were born or naturalized in a state of the union and now reside there. See, 48 U.S.C. 733; also *Gonzales v. Williams*, 192 U.S. 1 (1904).

CONCLUSION

The local election law in Puerto Rico requiring U.S. citizenship to vote in local elections was enacted by the democratically elected representatives of the people. The local statute approved by the Legislature of Puerto Rico properly recognizes that only the United States can define and confer nationality and citizenship on people born in Puerto Rico as long as it is within U.S. sovereignty.

The attempt of local courts to recognize, and thereby exercise the sovereign power to create, an alternative separate nationality and citizenship status in lieu of the federally defined status, and to impose non-citizen voting on the people of Puerto Rico without their consent, has been repudiated by the Federal government through the State Department's action in the Mari Bras "copy cat" case of Lazada Colon.

Only if the people of Puerto Rico, acting through their constitutional process and in an exercise of self-determination, requested that the U.S. Congress approve legislation to end the current U.S. nationality and citizenship of persons born in Puerto Rico, and Congress in fact does so, would a different result appear to be constitutionally possible.

In that event, presumably, a process leading to separate sovereignty, nationality and citizenship for Puerto Rico would commence. Previously, neither the electorate in Puerto Rico nor the local legislature have expressed significant levels of support for that approach to resolving the ultimate status of Puerto Rico. Inevitably, the decision must be made by the people of Puerto Rico through a process of self-determination in a clear and transparent election. Judicial usurpation of the process of self-determination harms all of us.

INTRODUCTION OF THE MEDICAL INNOVATION TAX CREDIT BILL

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today to introduce legislation to establish the Medical Innovation Tax Credit with my colleague, SANDER M. LEVIN. This new credit will provide an important incentive for companies to expand their pioneering clinical research activities at our Nation's leading medical institutions such as M.D. Anderson, the University of Texas, and the University of Michigan. By promoting more medical research, the credit will help enhance the development of new products and therapies to prevent, treat and cure serious medical conditions and diseases.

The Medical Innovation Tax Credit establishes a narrowly targeted, incremental 20% credit in the Internal Revenue Code. The credit is available to companies for qualified expenditures on human clinical trials conducted at medical schools, teaching hospitals that are under common ownership or affiliated with an institution of higher learning, or by non-profit research hospitals that are designated as cancer centers by the National Cancer Institute (NCI).

The additional private sector investment generated by the Medical Innovation Tax Credit is also essential so that medical schools and teaching hospitals can continue to fulfill their unique and vital roles that benefit both the health of the American public and the economy. These institutions are the backbone of innovation in American medicine. By linking together research, medical training and patient care, they develop and employ the knowledge that can result in major medical breakthroughs.

Today, however, they are under increased financial pressures as markets for health care services undergo rapid, fundamental change. These financial pressures may have an adverse impact on funds traditionally dedicated for research. Recent reports indicate that there has been a decline in clinical trials at medical schools and teaching hospitals. This decline is troubling, since it signals that research dollars are shrinking at our Nation's leading medical research institutions. A new infusion of funds for expanded clinical research activities, stimulated by the Medical Innovation Tax Credit, can help stem and reverse this trend. Moreover, continued and expanded investment in our leading medical research institutions will ensure that the United States maintains its position as the leader in innovative, biomedical research.

The credit also provides an important incentive for research activities to remain in the United States since only domestic clinical research activities are eligible for the credit. This requirement will encourage biotechnology and pharmaceutical companies to keep their clinical trial research projects at home by decreasing the economic incentive to move such activities to "lower-cost" facilities off-shore.

I urge all of my colleagues to support this important legislation. The Medical Innovation Tax Credit will strengthen the partnership between the private sector and our Nation's leading medical institutions to ensure America's continued world leadership in research and medical innovation.

HONORING THE 50TH ANNIVERSARY OF ED AND JERRY WATSON

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. BENTSEN. Mr. Speaker, I am pleased to join with my colleague GENE GREEN in congratulating Ed and Jerry Watson of Deer Park, Texas, as they celebrate their 50th wedding anniversary on May 7, 1998. Throughout their lives, Ed and Jerry have provided tremendous examples of public service, contributing unselfishly to numerous causes while raising a fine family.

Both Ed and Jerry are native Texans who have an abiding love for their state and community.

Ed was born in "Pole Cat Ridge," Wallisville, Texas, on July 20, 1920. He graduated from Anahuac High School in 1939 and joined the U.S. Navy in 1942. After his service in World War II, he attended the University of Houston until he went to work in 1946 at Shell Oil Refinery in Deer Park.

Jerry was born in Saratoga, Texas, on September 30, 1923. She was named Susan Geraldine Eaves, but was called Jerry as her parents had hoped for a boy. Jerry graduated from Kilgore High School in 1941 and was working in Houston when she and Ed met. Jerry's parents were living in Hankamer (near Anahuac) when her younger sister asked Ed to give her big sister a ride back to Houston. The rest, as they say, is history.

They were married on May 7, 1948 at the Lawndale Baptist Church in Houston. Shortly after, Ed was called back into service during the Korean Conflict in 1950 for 15 months. In 1954, having outgrown their home in Pasadena, the Watsons and their four children moved to Deer Park. In March 1955, they became members of the First Baptist Church of Deer Park. At the time, the church was still meeting in the old wooden buildings on Sixth Street. Jerry recalls many Vacation Bible Schools in which she helped and the children participated.

Ed has been involved in politics and community affairs since 1947. He is a 50-year member of the Oil, Chemical, and Atomic Workers International Union, and he was serving as President of Local 4–367 when elected in 1972 as a member of the Texas House of Representatives, a position in which he served for 8 terms. In the Texas Legislature, Ed was a leader on issues of law enforcement, education, environmental protection, and creating economic opportunity, and he served several terms as Chairman of the Harris County Delegation. Currently he is a Community Liaison on my congressional staff in Pasadena and Deer Park, Texas.

Ed is a charter member of the Deer Park Chamber of Commerce and a charter member of the Lions Club. He served fourteen years as a volunteer fireman and is now one of six honorary members. He has been actively involved in the Wheel House, a 30-day alcohol rehabilitation facility, since 1954 and serves on their board of directors. Ed visits daily, reaching out to the residents, solving problems when they arise, and funding.

Ed also serves on the board of directors of the Interfaith Helping Hands Ministry. He also volunteers his time at First Baptist Church, serving on the Benevolence Committee and reaching out to people not only in the church, but in the community as well. Because of his caring ways, Ed was named Deer Park Citizen of the Year in 1987.

Jerry's achievements are also impressive. In 1961 Jerry went to work for the Registrar of San Jacinto College. In 1963 the College began teaching about computer science, and Jerry began taking classes and working on the college information system. During some semesters, she was taking a class, working, and teaching a key-punching class after work. During this time, she and three of her children were all enrolled in college. Jerry received her Certificate Technology Degree in Computer Science the same night her younger son received his A.A. Degree in Computer Science. She retired from San Jacinto College in 1982.

Jerry was one of the earliest members of the Deer Park Ladies Civic Club and assisted in preparing the first Deep Park telephone book to be published. With Ed, Jerry also works with the Interfaith Helping Hands Ministry and she has served on the Bereavement Committee at First Baptist Church many times.

Mr. Speaker, I am honored to recognize Ed and Jerry Watson on the occasion of their 50th wedding anniversary and commend them on a lifetime of achievement. Their commitment not only to one another, but to others as well, is an example for all of us. May the coming years bring good health, happiness, and time to enjoy their eight grandsons, one granddaughter, and one great grandson. On this joyous occasion, I am pleased to join their family, friends, and community in saying congratulations and thank you.

"OVERTURN THE ROYALTY GIVEAWAY AMENDMENT"

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. MILLER of California. Mr. Speaker, last week, legislative larceny was committed in the conference committee on the Emergency Supplemental. As happens too often in this Congress, the hold up was committed by wealthy interests who want to make themselves still richer with money that belongs to the taxpayers of this country.

Senator BARBARA BOXER put up a valiant fight to prevent the committee from accepting the oil companies' $66 million royalty giveaway amendment, but the industry had the conference wired. The oil industry, which has been cheating taxpayers for years, won.

Today, we are introducing legislation to reverse that legislative maneuver and restore the money to the people who own the oil: the taxpayers of the United States.

I wrote the provision of the offshore oil law in 1978 that requires that coastal states receive a share from the oil produced from federal lands adjacent to their coasts. But the oil companies have been cheating taxpayers and the states by underestimating the value of the oil and underpaying royalties to the tune of hundreds of millions of dollars. The Department of Interior's Minerals Management Service drafted rules to end this underpayment fraud and assure that taxpayers get the money they deserve.

But the royalty giveaway amendment stops the Interior Department from implementing new rules that would require more accurate pricing of oil produced from public lands. Those rules, the product of long investigations, would base the value of the oil on actual market prices instead of on the much lower prices reported by the oil companies. Delaying this rule from going into effect will cost taxpayers $66 million a year—$5.5 million for each month that the rule is delayed. That means a loss of $1.8 million a year for California alone.

Our state turns federal oil and gas royalties over to the public schools, and most other states share a portion of these revenues with their schools—money that could be used to buy computers or pay teachers' salaries or reduce class size. If the federal government had collected the royalties we were due, California could have paid the salaries of 45 teachers next year. Instead, thanks to this sneaky amendment, that money will line the oil industry's pockets.

Senator HUTCHISON, who sponsored this amendment, claims more time is needed to study the issue. We already spent years studying the issue. A task force has filed its report documenting hundreds of millions of dollars in underpayments.

The current system must be changed. The Justice Department recently decided to intervene in litigation accusing four major oil companies of knowingly having underpaid hundreds of millions of dollars in royalties from federal and Indian leases in the Gulf of Mexico, Wyoming, New Mexico and California. There is no justification for preventing the Interior Department from performing its legal mandate: to ensure that we get fair market value from the production from public lands.

The giveaway rider ignores substantial evidence of underpayments developed by the House Government Reform and Oversight Committee, thanks to the leadership of Congresswoman CAROLYN MALONEY, who joins us this morning. We call on the Congress to reverse this greedy and unwarranted action and pass the Miller-Boxer bill to restore the royalties that the taxpayers, and the schoolchildren, of this nation deserve.

PART 2: JOBS WITH JUSTICE: FIRST NATIONAL WORKERS' RIGHTS BOARD HEARING

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

Mr. KUCINICH. Mr. Speaker, Jobs With Justice convened its "First National Workers' Rights Board Hearing on Welfare/Workfare Issues" in Chicago in 1997. This hearing featured a number of community, labor and political leaders. I include their remarks for the CONGRESSIONAL RECORD.

Part 2 of this statement includes: Joselito Laudencia of Californians for Justice; Christopher Lamb of the Center on Social Welfare Policy and Law; Sabrina Gillon of the Campaign for a Sustainable Milwaukee; and Paul Booth of the American Federation of State, County and Municipal Employees (AFSCME).

CALIFORNIANS FOR JUSTICE

(By Joselito Laudencia, Executive Director)

Good morning. My name is Joselito Laudencia and I am the Executive Director of Californians for Justice. Californians for Justice is a grassroots multiracial organization working to build political power among communities of color, and poor and young people of all colors in California. Earlier this year, we launched a campaign for Economic Justice. With welfare reform devastating our constituencies, we decided to launch a multiyear campaign for public jobs. Specifically, with the state government pushing hundreds of thousands of welfare recipients into the workforce, we feel that the state government has a responsibility to ensure that jobs are available, that these jobs are good paying jobs with benefits, and that these jobs actually address the needs of California's communities.

Let me provide some context. The signing into law of welfare reform on a federal level sent a simple message that everyone on welfare needs to get a job. The new law says that everyone on welfare must be at work within 24 months for a minimum of 20 hours a week. Currently, there are over 900,000 welfare recipients in California, with at least 300,000 facing this two-year time limit within two years. And families have only 5 years in a lifetime to receive welfare—even if there are no jobs.

This destruction of the welfare system comes at a time when jobs have been leaving over the last 25 years. Corporations have been downsizing, automating, shifting to part-time workers and moving overseas.

If any job growth is happening, it occurs in two fields. One area includes highly skilled jobs. As Times Magazine in January 1997 highlighted, the hottest fields in terms of new jobs include teachers, nurses, executives, lawyers, financial managers, computer engineers, and accountants, jobs which require extensive levels of education and training.

The other arena includes the fast growing occupations and industries that frequently offer part-time or temporary work and often lack basic benefits, especially in the retail trade and the service sector.

We also have to realize that the U.S. and the California economy have never provided enough jobs. Although the unemployment rate has been at its lowest in 23 years, over 1 million people in California are "officially" unemployed. On top of that, California will witness over 100,000 college graduates and over 270,000 public high school graduates. This also doesn't take into account the over 1 million underemployed, who include involuntary part-time workers and persons not working due to lack of child care, transportation and other factors. Plus, this doesn't include discouraged workers who've stopped working and workers who work full time at low-wages that aren't enough to survive.

With millions looking for work and welfare recipients entering the workforce, California projects a job growth of only 270,000 each year.

If we look at traditional efforts to create jobs, we find that they don't work. Providing tax subsidies to corporations to create jobs hasn't worked. Job training programs usually result in individuals completing programs with no jobs at the end process.

With this context, Californians for Justice is waging a public jobs campaign in California and is urging that Jobs with Justice take on a public job creation campaign as a necessary strategy to provide a viable and alternative solution to welfare reform.

We must reassert the role of government to ensure the health and well-being of every person, especially those most in need.

To conclude, I'd like to outline the political principles that guide our efforts to job creation: (1) Jobs must be at living wage salaries and with benefits, including health care and child care; (2) Jobs must be new jobs and not replace or displace pre-existing workers or positions; (3) These jobs must be union jobs; (4) Priority for jobs must be given to communities of color, women and poor communities that have been devastated by unemployment; (5) Public jobs must be in projects that will truly benefit communities. Projects must reflect a politics of redistribution of wealth to low-income communities and communities of color and not predominantly a funding of private industry with public funds in a way that maintains a structure of wealth moving upward for profit maximization; (6) A Jobs program must address the entire need for jobs towards eradicating unemployment; (7) Since this system cannot guarantee jobs for all and because there are people unable to work, there must be a safety net and aright to entitlement benefits, including childcare, medical care, transportation and living wage cash grants.

No one organization or group can make this happen. We all need to work together to expose the truth that the jobs are not out there and push for a pro-active solution that addresses the needs of all our communities.

CENTER ON SOCIAL WELFARE POLICY AND LAW

(By Christopher Lamb)

I. INTRODUCTION

My name is Christopher Lamb. I am a senior attorney at The Welfare Law Center in New York City. We are a national not-for-profit law office dedicated to working with and on behalf of welfare recipients and organizations of welfare recipients in securing and protecting recipients' legal rights to fair and decent treatment both as welfare recipients and, where applicable, as workers in welfare work programs. We are currently counsel in several class action lawsuits involving abuses in New York City's workfare program. We are also coordinating a national effort to support workfare organizing called the Workfare Research and Advocacy Project.

II. WORKFARE BACKGROUND

Workfare is work performed as a condition of receiving a welfare grant. It is not a job. While it may be possible to gain recognition of workfare participants' status as workers to secure them coverage under the multitude of employment laws that most of us take for granted, doing so in most cases will require political and legal battles.

Workfare is not new. Various types of work relief have existed for as long as there has been public assistance and workfare existed as part of the federal AFDC program for its last thirty years. Workfare therefore has a track record and that record shows that it is not an effective path off of welfare or to higher income or to a job.

Despite the dismal history of workfare as a strategy for moving people off of welfare and into jobs, last year's federal welfare reform bill places substantial pressure to expand existing workfare programs and to create new ones. Over a quarter of the states currently have workfare programs and it is likely that more states will add programs as the pressures increase under the federal law to have welfare recipients in what the bill calls "work activities". New York City has the largest workfare program in the nation with close to 40,000 participants.

III. WORKFARE PROBLEMS

As cities and states expand their workfare programs, workfare participants are facing many problems that are common to other low-wage workers as well as some that are unique to their situations as workfare workers. In many instances, these problems are surfacing first and most prominently in New York City's program because of its size and because it has been operating at a very substantial size for longer than most other programs. There is, however, no reason to believe that any of these issues will appear only in New York.

Health and Safety. Workfare workers who were performing hot, dirty work cleaning streets in New York City had to sue this summer to gain access to bathrooms and drinking water, protective clothing, and right to know training about work place hazards. Although the workers won a court order, lack of appropriate protective gear and failure to provide right to know training remain commonplace at worksites throughout the City.

New York City is not alone in failing to maintain appropriate health and safety standards for its workfare workers. In Los Angeles, for example, workfare workers at city hospitals who are required to mop floors soiled with blood and other medical waste are not provided with boots or other protective clothing.

Workers' Compensation. In Ohio, the Ohio Supreme Court recently struck down a state law which limited to $33/week the death benefit paid to the widow of a workfare worker killed by a work-related illness. Similar laws are still in effect in other states. For example, New York law guarantees workers' compensation to workfare workers, "but not necessarily at the same benefit level" provided to other workers.

Minimum and Prevailing Wage. New York City ignored a state law which required it to compensate workfare workers at prevailing wage and then when a court ordered it to comply with the law the City successfully sought to have the statute repealed. Elsewhere, serious minimum wage violations are occurring. In several states, workfare workers are being required to work 35 to 40 hours per week although they receive cash assistance and food stamps that are equal to closer to 20 hours per week at the minimum wage.

Denial of Access to Ed. and Training. In New York City, the growth of the workfare programs has had a devastating impact on welfare recipients' access to education and training. At the City University of New York, the number of welfare recipients enrolled dropped from 27,000 to 22,000 in one year and is still dropping. Small pre-college and vocational educational programs have seen even more devastating drops in enrollment.

IV. IMPACT ON OTHER WORKERS

Large scale workfare programs inevitably result in the displacement of other workers and the loss of jobs paying decent wages. Simultaneously with increasing its workfare program to about 40,000 participants, New York City reduced its payroll by over 20,000 workers. Displacement has also been documented elsewhere. In Baltimore, for example, the school board has replaced custodial workers who were paid a living wage under a local living wage ordinance with workfare workers.

The use of workfare workers also depresses the wages of other workers. In New York, for example, it has been estimated that 30,000 workfare workers working 26 hours per week would result in the depression of wages in the bottom third of the workforce by 9% or in the displacement of 20,000 other workers, or some combination of these two effects.

V. CONCLUSION

The vast majority of welfare recipients with whom I speak in my work want to work. They want to earn a wage with which they can meet their families' basic needs and they want to be treated fairly and decently in the workplace. In other words, they want jobs, not workfare. It is incumbent upon all of us to fight with them toward that goal.

HOW AFDC/W-2 HAS AFFECTED ME

(By Sabrina Gillon)

Hello, my name is Sabrina Gillon and this is my statement of how AFDC/W-2 has affected my life and forced me to leave out of college at Milwaukee Area Technical College.

I first entered college in the Fall of 1995. I originally entered into college at the University of Wisconsin-Milwaukee and half way through the semester I was told that in order to receive any daycare for my son I would have to leave UWM and go to a two year college. At the end of the Fall semester, I left UWM, reluctantly, and went to Milwaukee Area Technical College. Once there, I enrolled in the Administrative Assistant Program which was a very far stretch away from the Wildlife Conservationist program that I was in at UWM.

The entire time I was in classes at MATC, I was constantly being sent letters saying that I was being sanctioned for no reason at all because I was attending all of my classes on a daily basis and working in the computer lab when I wasn't in class. All together I was down at the MATC campus a total of 7 to 8 hours a day. At one point in time, I was being sent sanction letters every other week for about 2 to 3 months. It was a very maddening and frustrating time for me. I would have to miss class in order to go down to the welfare office and get the matter straightened out. My worker, Alexia Daniels, was usually not able to be reached and I would have to request to see her supervisor just to get the situation cleared up.

As spring semester of 1997 came I was continually reminded that my time to be in school was coming to a close and that I should begin looking for a job. When I asked my worker, Jane Jilk, at the Milwaukee Job Center Network (North) about possible ways in which I could stay in school, all she could say was for me to take some evening classes and she emphasized that *daycare would not be provided*. Any my question to her was "how am I going to be able to take night classes when I have no one to watch my 3 year old son while I am in class?" She could not even give me a reasonable answer. This is part of the area of W-2 and/or AFDC that confuses me though. How is it that some participants on AFDC are able to continue their college schooling and also continue to receive daycare for their child(ren), while others are told that they are on their own, or "Gee, that's just too bad." For this system to supposedly be designed to help people, I truly do not see where it shows any caring or compassion for the individuals who are on it, especially those who are trying to achieve a goal greater than one of simply working for minimum wage. Is it so wrong to want for a better life in which we, AFDC recipients, can make reasonable wages so that we can sustain and take care of our families?

In closing, I would just like to say that W-2, as it is now, is just not going to work. Many people are going to be destitute and lost. The United States is one of the richest countries in the world, yet one of the poorest when it comes to caring about its own people. I can only hope that the Government and Thompson soon see that W-2 is not as wonderful and spectacular as they presume it to be. Thank you very much for your thoughtfulness, time, and consideration in listening to what I had to say. It is greatly appreciated.

TESTIMONY OCTOBER 25, 1997 TO NATIONAL WORKERS RIGHTS BOARD

(By Paul Booth, Assistant to the President and Director of Field Services)

If there was a time when the labor movement held itself apart from the trials and tribulations of people on relief, that day is gone.

The AFL–CIO proclaimed our commitment to organizing workfare workers at the February Council meeting, proclaimed the solidarity of the unionized 13 million American workers with the million recipients who are being placed into the workplace. The connections we are creating—in Baltimore, between AFSCME council 67 and local 44, and BUILD, the community organization, and Solidarity Sponsoring Committee, and the welfare recipients who are joining this coalition as members in good standing; in New York, between AFSCME District Council 37, and ACORN, and JWJ, which has now unmistakably demonstrated the demand for representation—these connections exemplify the AFL-CIO's policy, and they defeat the insidious intent of the Gingrich crowd, namely to pit union workers against workfare workers in a Hobbesian conflict that could only destroy our hard-won conditions of work, to the detriment of all.

AFSCME, the Service Employees, and the Communications Workers, took the initiative, as soon as the new law was enacted, to try to redefine the issue. That it be seen not just as the change from welfare dependency, to work; it is about the conditions of that work.

We ask you to make the finding that these questions are within your purview, as matters of Workers Rights . . . that recipients, once placed on the job, are workers, entitled to these rights: To a living wage job; to membership in the union at their workplace; to organize in a union where one is not in place; and to equal treatment under the labor laws.

SENATE—*Friday, May 8, 1998*

The Senate met at 9:30 a.m., and was called to order by the Honorable CHUCK HAGEL, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, our courage is based on the assurance of Your ever-present, guiding Spirit. Therefore, we will not fear. Our hope is rooted in trust in Your reliability. Therefore, we will not be anxious. Your interventions in trying times in the past have made us experienced optimists for the future. Therefore, we will not spend our energy in useless worry. Thank you for another week of progress. You have answered our prayers on time and in time.

Bless the Senators, Lord. Renew them physically, emotionally, and spiritually. Give them profound satisfaction in being used by You to provide Your best for America. May they and all of us who are privileged to work with them claim Your promise, "Those who wait on the Lord shall renew their strength; they shall mount up with wings like eagles, they shall run and not be weary, they shall walk and not faint."—Isaiah 40:31. Through our Lord and Saviour. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 8, 1998.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHUCK HAGEL, a Senator from the State of Nebraska, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. HAGEL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. JEFFORDS. Thank you, Mr. President.

SCHEDULE

Mr. JEFFORDS. Mr. President, for the information of all Senators, this morning the Senate will be in a period of morning business until 12 o'clock noon. As a reminder, the leader has announced that no votes will occur during today's session. The Senate may take up and consider any executive or legislative items that can be cleared for action. The Senate may also attempt to reach time agreements on several high-tech bills.

On Monday, May 11, the Senate may consider the agricultural research conference report, along with a number of high-tech bills if agreements can be reached on those items. The Senate may also begin consideration of S. 1873, the missile defense bill. Again, no votes will occur during Monday's session.

On Tuesday morning, May 12, the Senate will attempt to reach a time agreement on a D'Amato bill regarding inpatient health care for breast cancer. The Senate will also resume and attempt to complete action on any high-tech bills not completed on Monday. Any votes ordered to occur with respect to the agricultural research conference report and the high-tech bills will be postponed to occur on Tuesday, May 12, at 12 noon. Therefore, the next rollcall votes will occur at 12 noon on Tuesday.

Finally, it will be the leader's intention to begin consideration of the DOD authorization bill during the latter part of the week.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The ACTING PRESIDING pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDING pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the Senator from Vermont, Mr. JEFFORDS, is recognized to speak for up to 10 minutes.

MEASURE PLACED ON THE CALENDAR—H.R. 3717

Mr. JEFFORDS. Mr. President, I have further business for the leader which I neglected here. I understand that there is a bill that is due for its second reading at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3717) to prohibit the expenditure of Federal funds for the distribution of needles or syringes for the hypodermic injection of illegal drugs.

Mr. JEFFORDS. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. JEFFORDS. Mr. President, now I will proceed in morning business.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 2054 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JEFFORDS. Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I know we are in morning business with a time limitation of 10 minutes. I ask unanimous consent to be able to proceed for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I thank the Chair.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, in the United States we have the best doctors and hospitals in the world, and the investments we have made in research pay off each day in the form of new therapies and procedures that save lives or dramatically improve the quality of life for countless patients. Yet, too many people are being denied access to medically necessary care by cost-driven insurance companies that are bent on putting profits before patients.

People across the country are concerned. In a recent survey by NBC News and the Wall Street Journal, 80 percent of the respondents said passing a bill of rights, a health care bill of rights, a Patients' Bill of Rights, is very important—including 33 percent who said it was vital.

So, what is wrong with today's health insurance system? We could ask Glenn Nealy's young widow. But before we go through that rather tragic story, I will just review very quickly the essential elements in our Patients' Bill of Rights.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

It guarantees the access to specialists and emergency rooms and other needed care.

It expands the choices, which enable patients to select doctors and plans, and it removes the gag law which, in too many instances, denies doctors the ability to tell their patients about the best medical procedures to take care of their particular needs.

It ensures independent appeals. If individuals find they are denied access to certain types of procedures, there will be an opportunity for an independent appeal—to make sure the kind of care that those individuals are receiving is really the best.

It holds plans accountable for medical decisions. That is extremely important. We should not be excluding these health plans from accountability for the decisions that they make. I am confident that the good plans have nothing to fear from this proposal. They make medical decisions that are carefully considered and justified. But there are increasingly too many plans in this country that are putting the bottom line first and are not living up to their responsibilities. And there is no reason in the world that those plans should not be accountable, consistent with what the State laws provide.

It restores the doctor-patient relationship. All patients who are being treated need to know they are receiving the treatment that is necessary from the medical point of view, rather than from the insurance company's point of view, or some accountant's point of view, back in an office that may be practicing almost cookbook medicine. That is, obviously, not in the interest of the patient and doctor. This is a proposal that allows doctors—who have dedicated themselves to good patient care and then find themselves restricted by the various HMOs and insurance plans—the opportunity to practice the best in medicine.

And it establishes quality and information standards so patients have information available to them and are able to make informed and good judgments.

As one who was the principal sponsor for HMO legislation in the 1970s, I am a great believer in using the concept of preventive medicine in the treatment of patients and in trying to build into our health care system the concept that the system should generate income for those who are going to keep the patients healthy, rather than reward a system that treats patients only when they are sick. That was a very basic and fundamental concept. The good HMOs, and we have many of them in my own State of Massachusetts, have done this. They have invested a great deal in preventing illness and disease. That is not a general feature of our health delivery system today. But some HMOs have done that and have been very aggressive in doing it, in keeping people healthy. In those areas where they have been very successful in keeping people healthy and then providing quality care for those who are sick, they are an extraordinary example for good health care delivery in this country today, and we salute them. We salute them.

But, what we are finding is that these excellent groups are, too often and increasingly, put at a disadvantage by those who are going to represent that they are going to provide those kinds of services to the patients and then, when the time comes, cut back on those services because they are being driven by the economics of treatment of the patients and are making decisions that are based on interest in the bottom line of these HMOs, rather than what is in the interest of the patients.

So we have developed legislation here in the Congress for the Patients' Bill of Rights. It is legislation that also has strong support over in the House of Representatives. There is a broad group of Members of this body who have supported this legislation. There is a very considerable number of our Republican colleagues and friends who have supported this and similar legislation—Congressman NORWOOD, Congressman GANSKE and others in the House of Representatives. There are some differences in the proposals, but there is a general recognition of the need for action in this Congress. That is what we are hopeful of, at least having some action in this Congress.

This past week, we attended to the abuses in the IRS and its reform. It seems to me that we ought to now turn to the abuses that exist out there in the delivery of health care systems which, in many, many instances, mean the difference between life and death.

All of us were shocked and horrified after learning of the abuses of bureaucrats in the IRS and how they treated individuals. That was shocking for, I think, all Americans. We passed legislation responding to that. We acted quickly.

We have even more egregious challenges that are facing patients across this country, and this issue demands action as well. It is really going to be a question of whether we are going to have the opportunity to debate these issues and come to a resolution on those items and do it in the next several days, because we do not have a great deal of time in this session. The time is moving on. We are now into May. Only about 75 legislative days remain before we move towards adjournment.

I cannot think of many measures that are more important than having legislative action to debate and pass this, and to send it to the President.

The President of the United States supports it. There is strong indication by the vote that we had during the budget consideration that almost half of the Members of this body support these concepts. And I believe if we have a full opportunity to debate and discuss these issues, we can certainly develop broad support for this type of legislation.

There is strong support by the American Medical Association. There is strong support because doctors know what is at risk. There is strong support from consumers. We have the support of more than 100 organizations across the country, representing all different factions of the health care system. That is an extraordinary—extraordinary—group of representatives who have strong interests in different aspects of our health care system. But I daresay, I rarely see that kind of a coalition support legislation. When they do, we ought to at least have an opportunity to address it on the floor of the U.S. Senate. We should not be effectively denied that opportunity, and we won't be denied that opportunity.

We will not be denied that opportunity, Mr. President, because the great majority of American people believe that we should address this issue. And those of us who are in strong support of the bill that has been introduced by Senator DASCHLE, and of which many of us are cosponsors, know where there are areas of this bill that can be altered or changed. But we ought to have that opportunity on the floor of the U.S. Senate to do so.

What is not right is telling the American patients in this country, telling the doctors in this country, telling the families in this country who have suffered abuses of the managed care system that, "You are going to be denied any kind of redress." That is effectively what we will be saying if we do not have the opportunity to debate this issue.

Mr. President, let me give you an example. We have been listening to these examples over the past several days. They go on and on. People may say, "Well, you can always find one or two instances out there, and that is not a sufficient reason that we ought to provide a patients' bill of rights."

Of course, that is hogwash, Mr. President, when you look at the range of challenges and problems we are facing in local communities across the country. The type of situation that I will mention in a moment is being replicated every single day in communities all across this Nation and cries out for action, and action we will have, Mr. President. Let me assure you: There is no shortage of tragic stories about families who have been hurt by the current system. And we will continue to raise these examples until this body passes legislation to address the abuses.

I mention this morning a story about a young man, Mr. President, a gentleman called Glenn Nealy. Glenn had a heart condition and was under the care of a cardiologist. In March of 1992, his employer switched health plans, and Glenn chose a new plan after gaining assurances from the plan's agent that he would be allowed to continue seeing his cardiologist from the old plan. He was told that he simply had to choose a plan doctor as his primary care physician and that the plan doctor would then refer him to his current cardiologist for continued treatment.

We are talking about access to a specialist for care that is clearly needed by the patient. Here is a young person, a worker, who changes health plans. He is concerned about changing health plans, but it is represented to him that he can change and continue to use his cardiologist who has been treating him for many months. He goes ahead and signs up with this new program, but he has to follow the procedures to go to a primary care doctor before he can see his cardiologist.

On April 9, 1992, Glenn went to see his new primary care doctor to obtain the referral to his cardiologist, but the new doctor refused to see Glenn because he was not yet issued his new HMO card. It was represented to him, if he switched, there would be a continuity of care, better services. He believed that he would be treated in this manner. He was given assurances of continued care under his cardiologist, and all he would have to do is effectively get the signoff from his new primary care doctor. So he went ahead.

As I mentioned, he went to this primary care doctor, and he was told that his new HMO card had not been prepared. For 3 weeks, Glenn contacted the plan's offices to get the necessary paperwork and was twice issued incorrect cards. When Glenn finally was able to see his new primary care physician, his request for a referral to his cardiologist was refused.

The family had indicated that they never would have signed up for this plan if they were going to be denied access to that doctor. They were given the assurances that they were going to be able to have a continuity of care, but the primary care doctor said no. The doctor professed not to know the HMO rules governing referrals.

In addition, Glenn's prescriptions to treat his heart condition went unfilled because the HMO provided incorrect information to the local pharmacy. Yet another instance of ineptitude that contributed to the tragic result.

On April 29, the HMO formally denied Glenn's request because they had another so-called participating provider in the area. That means they have another provider. It was not the cardiologist that he wanted. He had no idea whether that cardiologist had the training, had the background, or experience of his old cardiologist. He was just told that there was a participating provider for the kind of services that he needed related to his heart. He was assigned, by the plan, a new doctor.

The promises they made while recruiting Glenn to join their plan were meaningless. For 2 weeks, Glenn fought with the plan to continue care with his old doctor, but when faced with no care at all, he agreed to see the HMO's cardiologist. An appointment was made for May 19.

But Glenn never saw the plan's cardiologist. Tragically, he suffered a massive heart attack on May 18, the day before his appointment. He left behind a wife and two children. Glenn was only 35 years old.

This should not happen in America. Health plans must be held responsible for the information they give patients, and patients must have the right to access the care that they bought with their premiums. It is fundamentally unfair to provide HMOs with immunity from bureaucratic decisions that mean the difference between life and death.

Mr. President, we must take up and pass meaningful patient protections this year in the Congress. The legislation, as I mentioned, is supported by more than 100 groups representing millions of patients, health care professionals, and working families. We have the bill, the Patients' Bill of Rights, to prevent tragedies like this from occurring. Our bill would protect and restore the doctor-patient relationship.

Our bill would guarantee that a change in plans does not mean an abrupt change in providers. Our bill would allow Glenn's family to hold their plan accountable for their negligence.

The Senate must show the American people whether they stand with the patients or with the greedy guardians of the status quo.

So next week the Senate may turn to a bill targeted only to breast cancer issues, but the women's community and the breast cancer community and the broader coalition of patients and professionals support comprehensive managed care reform legislation. They want the Patients' Bill of Rights.

They understand the need for the Patients' Bill of Rights because this legislation will provide access to important clinical trials. Clinical trials are critical to promoting the discovery of new life-saving treatments and therapies. They offer hope and opportunity for patients who have nowhere else to turn.

This will be the new century of life sciences. No one can help but pick up the newspaper every single day and find these extraordinary—extraordinary—changes that are taking place, to the benefit of all mankind. Whether we are discussing pharmaceutical breakthroughs, various kinds of surgical procedures, or other treatments—these discoveries are all taking place at this time.

Those that have been afflicted with the terrible tragedy of breast cancer want to be able to participate in clinical trials. And they will be guaranteed that under the Patients' Bill of Rights. But they will not be guaranteed it under the legislation that has been referenced briefly here on the floor this last week.

These women need access to the right specialists. They will be guaranteed that under our bill—but not under the other legislation—and they need to know that care will not be abruptly interrupted when the plans change.

Mr. President, our bill includes the right to an independent and timely appeal, but the other bill does not. If a breast cancer patient or her doctor believe that she is not getting the kinds of treatment, she must have the right to be able to go through her HMO and, if necessary, outside the HMO for a timely appeal. Time is of the essence in these situations. Results are needed quickly—quickly.

Let me be clear. I am strongly opposed to drive-through mastectomies. I cosponsored Senator DASCHLE's legislation to end that practice. And I believe strongly that insurance companies that cover mastectomies have an obligation to also cover reconstructive surgery and prostheses when a woman has had to have a mastectomy. I have worked closely with National Breast Cancer Coalition and many others to correct these injustices. But these two proposals address only a small portion of the serious problems faced by women with breast cancer. These are both included in our comprehensive bill, but they are augmented by additional matters that are of enormous continued importance to those same patients.

We are guaranteeing them in our bill access to the kind of specialty care, the critically important clinical trials, and the ability to hold the plan itself accountable. And when you have a process whereby you can hold a plan accountable, where you have the possibility of enforcement, then you have real rights. When you do not have the ability to enforce something, then that right is not meaningful.

That is true across the board. You can pass laws every day about burglary and robbery and other crimes, but unless you are going to have a penalty, those laws are meaningless—they are meaningless. That is what we understand. We want to have those various plans held accountable for the decisions they make.

Mr. President, the HMOs that are providing good quality medicine have nothing to fear. It is understandable because they are living up to these kinds of quality challenges. They are at a competitive disadvantage by those plans that are trying to trim and reduce services, and therefore claim that they are providing the same range of services but doing so on the cheap. The obvious result is a diminution in care for those patients, and in a number of instances even the loss of life for those patients. And that is wrong.

Mr. President, many Americans have seen that movie, "As Good As It Gets." I think people understand this issue very well. Helen Hunt won an Oscar for her role in this movie. In it, she delivers a sharply worded criticism of her son's managed care plan, and audiences across the country erupt in laughter and applause. These hoots and the hollers make it very clear that the American people understand what is happening in too many of these managed care systems.

Everyone loves their managed care system until they get sick. Then we find too many instances where managed care becomes mis-managed care.

So, Mr. President, I am very hopeful that we can come to a full debate and discussion on this issue. It is a matter, as I mentioned, of life and death in many circumstances. Our colleagues on the floor of the Senate have given these examples. And these examples are not going to go away. The problem is not diminishing; the problem is increasing. This is an area that cries out for action, and the American people deserve no less.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 3717. An act to prohibit the expenditure of Federal funds for the distribution of needles or syringes for the hypodermic injection of illegal drugs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JEFFORDS (for himself, Mr. ROCKEFELLER, Mr. SPECTER, Mr. HOLLINGS, Mr. MURKOWSKI, Mr. LEAHY, and Mr. HAGEL):

S. 2054. A bill to amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a model project to provide the Department of Veterans Affairs with medicare reimbursement for medicare health-care services provided to certain medicare-eligible veterans; to the Committee on Finance.

By Mr. REID:

S. 2055. A bill to require medicare providers to disclose publicly staffing and performance data in order to promote improved consumer information and choice, to protect employees of medicare providers who report concerns about the safety and quality of services provided by medicare providers or who report violations of Federal or State law by those providers, and to require review of the impact on public health and safety of proposed mergers and acquisitions of medicare providers; to the Committee on Finance.

S. 2056. A bill to amend title XVIII of the Social Security Act and title 38, United States Code, to require hospitals to use only hollow-bore needle devices that minimize the risk of needlestick injury to health care workers; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE (for herself, Mr. MCCAIN, Mr. HOLLINGS, Mr. KERRY, Mr. AKAKA, Mr. WYDEN, Mr. GORTON, Mr. SMITH of New Hampshire, Mr. ABRAHAM, Mr. JEFFORDS, Mrs. MURRAY, Mr. GREGG, Mr. D'AMATO, Mr. CHAFEE, and Mr. TORRICELLI):

S. Res. 226. A resolution expressing the sense of the Senate regarding the policy of the United States at the 50th Annual Meeting of the International Whaling Commission; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS (for himself, Mr. ROCKEFELLER, Mr. SPECTER, Mr. HOLLINGS, Mr. MURKOWSKI, Mr. LEAHY, and Mr. HAGEL):

S. 2054. A bill to amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a model project to provide the Department of Veterans Affairs with medicare reimbursement for medicare health-care services provided to certain medicare-eligible veterans; to the Committee on Finance.

THE VETERANS' EQUALITY FOR TREATMENT AND SERVICES ACT OF 1998

Mr. JEFFORDS. Mr. President, I am proud to rise with my colleagues, Senator ROCKEFELLER, Senator SPECTER, Senator HOLLINGS, Senator MURKOWSKI, and my friend from Vermont, Senator LEAHY, to introduce the Veterans' Equality for Treatment and Services Act, or VETS Act, of 1998. This bill will give our Nation's veterans greater freedom to choose where they receive their medical care.

Also known as "Medicare Subvention," the VETS Act will authorize the Department of Veterans Affairs to set up 12 pilot sites around the country for Medicare-eligible veterans who are either barred from getting care at VA facilities, or cannot afford costly VA copayments.

As members of the Senate Finance Committee, Senator ROCKEFELLER and I worked successfully last summer to pass this exact piece of legislation through the Senate Finance Committee. We were disappointed that before final passage of the 1997 Balanced Budget Act our legislation was replaced with a requirement to simply study the matter and issue a report.

Well, we have studied the issue and it is now time to act. The Veterans Health Administration under the able leadership of Ken Kizer has devised Medicare Subvention payment methods and I have recently spoken with Secretary Togo West about our mutual commitment to the passage of Medicare Subvention in this Congress.

Under current law, the VA will not generally treat a non-service connected Medicare-eligible veteran because they have no way to recover the full cost of doing so. Under the VETS Act, this same veteran could go to their VA for care and Medicare would reimburse the VA at the normal Medicare rate. Total Medicare reimbursements would be limited to $50 million annually. The reimbursement level would be reduced if the VA treats fewer Medicare eligible veterans than in the prior fiscal year. The General Accounting Office would also monitor the operation of the sites and report on any increase in costs to Medicare. If the Demonstration Project increases Medicare's costs, the Veterans Affairs would reimburse Medicare for any increased costs and take action to suspend or terminate the program. Therefore, numerous safeguards and limitations in the bill ensure that Medicare Subvention does not drain the Medicare Trust Fund.

Mr. President, we should give our veterans the ability to make the choice of where they will receive their medical care. Although last year's enactment of the Department of Defense Medicare Subvention program alleviated what veterans call a "lockout" from the military health care system, we need to finish the job by allowing all veterans access to the VA health care facility of their choice.

In closing, the Veterans' Service Organizations strongly support the VETS Act. I look forward to working with them, Secretary West and the administration, and my colleagues here in the Senate and in the House to get this legislation signed into law this year.

• Mr. ROCKEFELLER. Mr. President, I am pleased to offer my support to the Veterans' Equality for Treatment and Services Act of 1998. This bill will authorize a demonstration project to allow VA to bill Medicare for health care services provided to certain dual beneficiaries. The legislation is known as VA subvention, which is a concept that has been discussed over the years by those of us in Congress, by veterans service organizations, and by advisory bodies studying the VA health care system. I join my colleagues Senators JEFFORDS, HOLLINGS, and SPECTER in this initiative.

Due to budget constraints, many VA hospitals and clinics have been forced to turn away middle income, Medicare-eligible veterans who seek VA care. To truly understand the need for VA subvention, I ask my colleagues to couple these difficulties in accessing the system, with VA's frozen FY 99 budget. The frozen medical care budget obviously cannot cover even salary adjustments required by law, let alone allow for any growth and expansion within the VA health care system.

For veterans, enactment of the Veterans Equality for Treatment and Services Act of 1998 would mean the infusion of new revenue and thus, improved access to care. For the Health Care Financing Administration (HCFA), a VA subvention demonstration project will provide the opportunity to assess the effects of coordination on improving efficiency, access, and quality of care for dual-eligible beneficiaries in a selected number of sites. Finally, Congress would receive the results of this feasibility study, which, once and for all, would give us the necessary data to make rational policy decisions in the future about Medicare and VA's involvement.

The four VA medical centers in my own State of West Virginia spent $4.2 million caring for nearly a thousand Medicare-eligible veterans with middle incomes in 1995. Though this is telling information, I cannot provide my colleagues with the truly crucial piece of the story, that is, the number of these Medicare-eligible veterans who were turned away from the facilities created to serve them because of lack of resources. This demonstration project would encourage these eligible veterans who have not previously received care from the Huntington, Beckley, Martinsburg, and Clarksburg VAMCs to do so.

The Veterans Equality for Treatment and Services Act is designed to be budget neutral. To that end, the VA would be required to maintain its current level of services to Medicare-eligible veterans already being served and would be effectively limited to reimbursement for additional care provided to new users. Payments from Medicare would be at a reduced rate and would exclude Disproportionate Share Hospital adjustments, Graduate Medical Education payments, and a large percentage of capital-related costs. In effect, the VA would be providing health care to Medicare-eligible veterans at a deeply discounted rate. HHS and VA would have the ability to adjust payment rates, or to shrink or terminate the program if Medicare's costs increase. In the event that these safeguards included in the proposal fail—an event which the VA has declared unlikely—this proposal caps all Medicare payments to the VA at $50 million.

A HCFA representative testified before Congress and stated that this proposal will provide quality service to certain dual-eligible beneficiaries and, "at the same time, preserve and protect the Medicare Trust Fund for all Americans." Although the VA subvention proposal is a small effort compared to the other recent changes made to the Medicare program and the changes to come, it is enormously important to our veterans and the health care system they depend upon.

Last year, Senator JEFFORDS and I successfully offered a similar VA/Medicare proposal at a Finance Committee markup because we saw it as a way to provide quality health care to veterans who are also eligible for Medicare, while at the same time preserving and protecting the Medicare Trust Fund. The Senate later passed the provision, which was included in the Balanced Budget Act of 1997. However, rather than enacting a modest VA demonstration project which would yield the information we need to make rational decisions in the future, budget conferees only approved a Department of Defense subvention plan. To put it bluntly, veterans got shortchanged.

Since that time, VA and HCFA have entered into a Memorandum of Agreement which closely outlines the terms by which Medicare will pay for certain veterans receiving care at participating sites in the same manner as other fee-for-service providers and health maintenance organizations.

I had hoped that the House of Representatives would have acted by now to approve a VA subvention proposal. Unfortunately, this has not occurred. Mr. President, veterans deserve the opportunity to come to VA facilities for their care and bring their Medicare coverage with them. I look forward to working with my colleagues on the Committees on Finance and Veterans' Affairs to make this long sought-after proposal a reality.●

By Mr. REID:

S. 2055. A bill to require Medicare providers to disclose publicly staffing and performance data in order to promote improved consumer information and choice, to protect employees of Medicare providers who report concerns about the safety and quality of services provided by Medicare providers or who report violations of Federal or State law by those providers, and to require review of the impact on public health and safety of proposed mergers and acquisitions of Medicare providers; to the Committee on Finance.

THE PATIENT SAFETY ACT OF 1998

Mr. REID. Mr. President, today I am introducing the Patient Safety Act of 1998. This legislation focuses on the major safety, quality, and workforce issues for nurses employed by health care institutions and the patients who receive care in these facilities. The Patient Safety Act establishes guidelines for hospital participation in Medicare in order to protect both health care consumers and workers.

Health care consumers need access to information about health care institutions in order to make informed decisions about where they receive care. This legislation would require health care institutions to publicly disclose specified information on staffing levels, mix and patient outcomes. At minimum, health care institutions would have to make public: the number of registered nurses providing direct care; numbers of unlicensed personnel utilized to provide direct patient care; average number of patients per registered nurse providing direct patient care; patient mortality rate; incidence of adverse patient care incidents; and methods used for determining and adjusting staffing levels and patient care needs.

Nurses should be able to voice their concerns about dangerous patient care conditions without the fear of retribution from their employers. The Patient Safety Act of 1998 would add whistleblower protections to Medicare law. A violation of this provision would make an institution ineligible for Medicare participation.

Finally, the Patient Safety Act of 1998 would direct the Department of Health and Human Services to review mergers and acquisitions of hospitals to determine their long-term effects on the well-being of patients, the community and employees.

The Patient Safety Act of 1998 is a valuable information resource for consumers. This legislation will ensure that the public has the data necessary to make informed decisions about their health care providers.

By Mr. REID:

S. 2056. A bill to amend title XVIII of the Social Security Act and title 38, United States Code, to require hospitals to use only hollow-bore needle devices that minimize the risk of needlestick injury to health care workers; to the Committee on Finance.

THE HEALTH CARE WORKER PROTECTION ACT OF 1998

Mr. REID. Mr. President, today I am introducing the Health Care Worker Protection Act of 1998. This legislation would reduce the number of health care workers who are accidentally exposed to potentially contaminated, infectious blood via a needle stick injury.

The Health Care Worker Protection Act of 1998 would make the use of safe needle devices, as determined by the Food and Drug Administration (FDA), a condition of participation for Medicare. The bill would call for the FDA to create an Advisory Council to establish safety standards for hollow bore devices. The Advisory Council would be composed of consumers, health care providers and technical experts. Finally, the Department of Health and Human Services would be authorized $5 million to establish education and training programs for the use of the safe devices identified by the FDA.

Approximately eighty percent of all reported occupational exposures result from needle stick injuries, making this the most common cause of health care worker-related exposure to blood borne pathogens. More than twenty pathogens can be transmitted through small amounts of blood including HIV, syphilis, Rocky Mountain spotted fever, varicella-zoster, malaria, Hepatitis B and C, along with other forms of hepatitis. According to the Centers for Disease Control and Prevention, American health care workers report more than 800,000 needle sticks and sharps injuries each year.

The Health Worker Protection Act of 1998 is designed to reduce the risks to health care workers from these accidents. This legislation will ensure that the necessary tools—better information and better medical devices—are made available to front-line health care workers in order to reduce the injury and death that have resulted from needle sticks.

ADDITIONAL COSPONSORS

S. 554

At the request of Mr. HARKIN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 554, a bill to inform and empower consumers in the United States through a voluntary labeling system for wearing apparel or sporting goods made without abusive and exploitative child labor, and for other purposes.

S. 897

At the request of Mr. WYDEN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 897, a bill to make permanent certain authority relating to self-employment assistance programs.

S. 1525

At the request of Mr. SPECTER, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1525, a bill to provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty.

S. 2010

At the request of Mr. CAMPBELL, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 2010, a bill to provide for business development and trade promotion for Native Americans, and for other purposes.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. ASHCROFT, the names of the Senator from Rhode Island [Mr. REED], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of Senate Concurrent Resolution 88, a concurrent resolution calling on Japan to establish and maintain an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.

SENATE RESOLUTION 216

At the request of Mr. LIEBERMAN, the names of the Senator from Louisiana [Mr. BREAUX], the Senator from Maine [Ms. COLLINS], the Senator from Illinois [Mr. DURBIN], the Senator from California [Mrs. FEINSTEIN], the Senator from Nebraska [Mr. KERREY], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Resolution 216, a resolution expressing the sense of the Senate regarding Japan's difficult economic condition.

SENATE RESOLUTION 226—EXPRESSING THE SENSE OF THE SENATE REGARDING THE POLICY OF THE UNITED STATES AT THE 50TH ANNUAL MEETING OF THE INTERNATIONAL WHALING COMMISSION

Ms. SNOWE (for herself, Mr. MCCAIN, Mr. HOLLINGS, Mr. KERRY, Mr. AKAKA, Mr. WYDEN, Mr. GORTON, Mr. SMITH of New Hampshire, Mr. ABRAHAM, Mr. JEFFORDS, Mrs. MURRAY, Mr. GREGG, Mr. D'AMATO, Mr. CHAFEE, and Mr. TORRICELLI) submitted the following resolution; which was considered and agreed to:

S. RES. 226

Whereas whales have very low reproductive rates, making whale populations extremely vulnerable to pressure from commercial whaling;

Whereas whales migrate throughout the world's oceans and international cooperation is required to successfully conserve and protect whale stocks;

Whereas in 1946 the nations of the world adopted the International Convention for the Regulation of Whaling, which established the International Whaling Commission to provide for the proper conservation of the whale stocks;

Whereas the Commission adopted a moratorium on commercial whaling in 1982 in order to conserve and promote the recovery of the whale stocks;

Whereas the Commission has designated the Indian Ocean and the ocean waters around Antarctica as whale sanctuaries to further enhance the recovery of whale stocks;

Whereas many nations of the world have designated waters under their jurisdiction as whale sanctuaries where commercial whaling is prohibited, and additional regional whale sanctuaries have been proposed by nations that are members of the Commission;

Whereas 2 member nations of the Commission have taken reservations to the Commission moratorium on commercial whaling and 1 has recently resumed commercial whaling operations in spite of the moratorium and the protests of other nations;

Whereas another member nation of the Commission has taken a reservation to the Commission's Southern Ocean Sanctuary and continues to conduct lethal scientific whaling in the waters of that sanctuary;

Whereas the Commission's Scientific Committee has repeatedly expressed serious concerns about the scientific need for such lethal whaling;

Whereas the lethal take of whales under reservations to the Commissions policies has been increasing annually;

Whereas there continue to be indications that whale meat is being traded on the international market despite a ban on such trade under the Convention on International Trade in Endangered Species (CITIES), and that meat may be originating in one of the member nations of the Commission;

Whereas 1998 is the International Year of the Ocean and the Commission plays a leading role in global efforts to improve the state of the world's oceans: Now, therefore, be it

Resolved, That is the sense of the Senate that—

(1) at the 50th Annual Meeting of the International Whaling Commission in Oman the United States should—

(A) remain firmly opposed to commercial whaling;

(B) initiate and support efforts to ensure that all activities conducted under reservations to the Commission's moratorium or sanctuaries are ceased;

(C) oppose the lethal taking of whales for scientific purposes unless such lethal taking is specifically authorized by the Scientific Committee of the Commission;

(D) seek the Commission's support for specific efforts by member nations to end illegal trade in whale meat; and

(E) support the permanent protection of whale populations through the establishment of whale sanctuaries in which commercial whaling is prohibited; and

(2) make full use of all appropriate diplomatic mechanisms, relevant international laws and agreements, and other appropriate mechanisms to implement the goals set forth in paragraph (1).

ADDITIONAL STATEMENTS

TRIBUTE TO MARILYN COHEN

• Mr. LIEBERMAN. Mr. President, I rise today to pay a well-deserved tribute to my dear friend Marilyn Cohen on her retirement after thirteen years as the Chairman of the Democratic Town Committee of West Hartford, Connecticut. On May 28, 1998, Marilyn will be the honored guest at the annual Harry Kleinman dinner, where Democrats from West Hartford and throughout Connecticut will have the opportunity to show their appreciation for a job well done.

Marilyn has always been a hands-on Chairman; a tireless and dedicated leader who earned the respect and admiration of her entire community. By any measure Marilyn Cohen has been the most successful Town Chairman in the history of West Hartford. During her tenure, Democrats have enjoyed an unmatched period of success and the high degree of satisfaction of citizens with the town's administrative services serves as the best testament to Marilyn's skill as a political leader.

Many of those individuals counseled and supported by Marilyn have found success both in and beyond West Hartford, and I am proud to be a member of that group. Marilyn served as Political

Director during my first campaign for the U.S. Senate in 1988. I know for a fact that without her unwavering support and finely-tuned political acumen, I would not be a member of this esteemed Chamber today.

Marilyn may be retiring from her position on the Town Committee, but she will never retire from this lifestyle that she loves so much. Currently, she is serving as Political Coordinator for BARBARA KENNELLY, the Democratic candidate for Governor of the State of Connecticut, and will no doubt provide the same high level of direction and support that has been her hallmark for so many years. I am proud to stand before my colleagues today to thank Marilyn for all that she has done and wish her continued success in the coming years.•

TRIBUTE TO GOODWILL INDUSTRIES ON THE OCCASION OF GOODWILL INDUSTRIES WEEK, MAY 3–9, 1998

• Mr. GRAMS. Mr. President, I rise today to pay tribute to Goodwill Industries on the occasion of Goodwill Industries Week, which began May 3 and continues through May 9. Goodwill Industries Week is a national celebration to honor those who have overcome barriers to employment and become independent members of their communities and to honor the organization that helps make those achievements possible.

Goodwill Industries is much more than a business based upon the reselling of used merchandise at a discount price; it is an organization that is based upon volunteers providing leadership, advice, and assistance to those in need everywhere.

Goodwill Industries was founded by Reverend Edgar Helms around the turn of the 20th Century under the philosophy of "a hand up, not a hand out." Goodwill Industries was officially incorporated in 1910 and was originally envisioned by Rev. Helms as both an "industrial program as well as a social service enterprise . . . a provider of employment, training, and rehabilitation for people of limited employability, and a source of temporary assistance for individuals whose resources were depleted." Today, Goodwill Industries has expanded upon Rev. Helms' original mission to include people with physical, mental and emotional disabilities, as well as those trapped by socio-economic barriers such as illiteracy, homelessness, advanced age, past substance abuse, lack of work experience or criminal history.

Goodwill Industries has grown from its original location in Boston, Massachusetts' Morgan Memorial Chapel into a $1.2 billion nonprofit organization with 187 autonomous members in the U.S. and Canada and 54 associate members in 37 countries outside of North America. In 1997, Goodwill served over 200,000 people nationwide who needed assistance in learning job skills and gaining employment.

As for Minnesota, Goodwill first appeared in Duluth, in 1916, and three years later in St. Paul. During its first years in Minnesota, Goodwill provided jobs, low-cost merchandise, and training for young people with disabilities during the Depression era. During World War II, Goodwill Industries aided in the rehabilitation of disabled servicemen.

Goodwill has continued to serve Minnesotans throughout the State and has found ways to remain a successful and a profitable industry. The Duluth Goodwill merged with the Duluth Sheltered Workshop in 1979 and continues to serve Minnesota's northland. The St. Paul Goodwill merged with the Easter Seal Society in 1984 and provides services for the rest of the State. With these changes, in 1997 alone, both of Minnesota's Goodwill Industries offices combined to process over 40 million pounds of donated clothing and household goods for salvage and sale. In addition, Goodwill served over 10,000 Minnesotans in need of assistance.

Mr. President, I commend Goodwill Industries for its continued service to the American people and especially for its commitment to Minnesota. But most of all, I want to pay tribute to both the countless volunteers who provide a "hand up, not a hand out" and all of the participants who use these resources to better themselves.•

ANNOUNCEMENT OF CELEBRATIONS OF ST. STANISLAUS AND MONSIGNOR GABALSKI

• Mr. D'AMATO. Mr. President, I rise today to proudly announce two celebrations of major historical achievement. Our first event is the 50th Anniversary of His Ordination to the Service of Our Lord, the Pastor, Reverend Monsignor John R. Gabalski, P.A. The second event is the 125th Anniversary of St. Stanislaus R. C. Church, B.M. The first event will take place on Saturday, May 23, 1998, with a Mass of Thanksgiving in St. Stanislaus R. C. Church at 4:00 p.m. A banquet will follow at the Rt. Rev. Msgr. Peter J. Adamski Social Center, 389 Peckham Street, Buffalo New York. The second event will take place on Sunday, June 7, 1998 at 4:00 p.m. with a Mass of Thanksgiving with his Excellency, Bishop Henry J. Mansell, Ordinary, of the Diocese of Buffalo. A civic reception will follow at the Hearthstone Manor, 333 Dick Rd., Depew, New York.

Rt. Rev. Msgr. Gabalski, P.A., attended school at SS. Cyril and Methodius Seminary Orchard Lake in February 1945 to May 1948 and was ordained on May 22, 1948 in Buffalo's St. Joseph New Cathedral by Most Rev. John F. O'Hara. The Reverend attended undergraduate studies at Canisius College for math; Norte Dame and Catholic University, Washington for adolescent psychology; and at Manhattanville, New York for music. In June 1948–August 1949 Msgr. Gabalski attended graduate school at De Paul University, Chicago for Polish and in 1949 received his M.A. in Polish. He also attended graduate studies in language at the University of Detroit and obtained a M.E. in education at Canisius in 1968. Msgr. Gabalski has accomplished many achievements too numerous to count and has spent much of his time volunteering with different organizations. He was a Pastor of Queen of Peace from June 1974 to February 1978. Moreover, Reverend Gabalski was a 16-year member at the Orchard Lake Michigan Schools and a faculty member and Director of the Diocesan Preparatory Seminary. Reverend Gabalski started pastoring St. Stanislaus in February 1978. We compliment Msgr. Gabalski with his accomplishments with the church and outside achievements.

The second event is a great milestone in the history of St. Stanislaus R.C. Church which is the 5th oldest parish and the 1st oldest Polish parish in the Diocese of Buffalo. The nucleus of the first Polish parish in Western New York was formed in 1872 under the direction of the Rev. Ivannef Gartner and a recent immigrant, Joseph Kujawski. According to the 1870 United States census, there were no less than 135 natives of Poland within the city limits of Buffalo. John Pitass, on June 8, 1873, organized St. Stanislaus Parish at a meeting of the St. Stanislaus Society. St. Stanislaus B.M. School opened in April, 1874. On August 10, 1882 groundbreaking took place and in 1883 the first level of the church was built. The founding Pastor was Dean Pitass and Rev. Dr. Alexander Pitass was the second Pastor of St. Stanislaus. The third pastor, Rt. Rev. Peter J. Adamski, founded an all-girls high school and was succeeded by the fourth pastor Rev. Msgr. Chester A. Meloch in 1974 who began construction of the Resurrection Mausoleum at the St. Stanislaus Cemetery. After Msgr. Meloch retired, he was succeeded by Msgr. Gabalski. During the current pastor's tenor, the Marian Mausoleum was constructed at the cemetery, a unit of the Knights of Columbus was established at the parish, the Outreach Center was opened, and the Msgr. Adamski Village with apartments for seniors and private homes became a reality. We wish St. Stanislaus the best in their 125th anniversary to be celebrated in 1998.•

TRIBUTE TO DORIS STOCKLAN ON HER 90TH BIRTHDAY

• Mr. SMITH of New Hampshire. Mr. President. I rise today to pay tribute to a unique and wonderful woman, Doris Stocklan, of Dover, New Hampshire. Doris will celebrate her 90th birthday on May 29, 1998. She will be surrounded by family and friends at a party in her honor at the Ashworth Hotel in Hampton Beach on May 24. Although I am unable to join Doris at the festivities, I would today ask that she count me among the admirers who will be wishing her well on her special day.

Doris' parents came to America from Eastern Europe in the late 1800's. She was raised in the Boston area where she met her husband, Louis. They were married for 61 years before he passed away in 1991. They raised three children, Stephen Stocklan, 56, of Barrington, New Hampshire; Maralyn Simond, 67, of Rochester, New Hampshire; and Joyce Goldberg, 65, of North Miami, Florida. They also had five grandchildren; Sandra, Melody, Lisa, Lauren and Jennifer; and one great-grandchild, Thomas.

Doris and Lou moved to Dover in the 1930's, where Lou began work at Dover Hardware. He eventually purchased the store, and business boomed. Soon they were able to buy two more stores in the Seacoast, and Doris pitched in as a cashier and occasional bookkeeper. Steve and Maralyn joined the staff, and the operation was one of the most successful family-run businesses in the area. In the mid-1970's, Doris and Lou also bought The Strand movie theater in Dover. Again, it was a family affair. Doris, Maralyn, and some of the grandchildren worked the ticket booth and the concession stand. The success of Doris and Lou was the embodiment of the "American Dream."

The Stocklans were always active in their community, in politics, and in their synagogue. Doris' commitment to her community and her country started when she was a young mother, volunteering for the local Red Cross during World War II. Doris is a life member of the Sisterhood and the Hadassah of Temple Israel in Dover. She is also a life member of the Wentworth Douglass Hospital, and a 50 year member of the Women's Club of Dover where she serves on the Board. She is loved and respected by her peers, her family, and all the people she has graced with her warm smile and laughing eyes.

There is no one more deserving than Doris of the special honors and kind words that will be bestowed upon her at her 90th birthday celebration. I have known Doris Stocklan for over a decade. She is a lovely and gracious woman with a heart of gold, and I am proud to represent her in the United States Senate.●

TRIBUTE TO UNIVERSITY OF UTAH ROTC CLASS OF 1944

● Mr. BENNETT. Mr. President, I rise today to pay tribute to the University of Utah ROTC Class of 1944 which responded to the call for active military duty during World War II. On May 2, 1998, at the University of Utah members of the ROTC Class of 1944 will hold a reunion commemorating the 55th anniversary of their activation into our national armed services. I believe it is fitting that we honor them today in the United States Senate.

The University of Utah Reserve Officer Training Corps (ROTC) was an unique organization. It was one of the few military units which were called into service during World War II from a specific community and which can return to that home area for a reunion. Most military units include individuals whose residences are scattered throughout the country. Through an Act of Congress in 1916, ROTC programs were established in higher education institutions across the country. Since that time, they have been an important part of this nation's civil defense—in times of war and peace—training generations of students for service to their country.

In the early 1940s, this class trained at the University of Utah with horse-drawn artillery working with an old French 77 millimeter cannon and with a 105 millimeter howitzer, new at the time. As a unit, this ROTC class was first assigned to Camp Roberts in California, for basic training in truck drawn artillery. Later they were assigned to Fort Sill, Oklahoma, for further training and ultimately received further schooling at the Infantry Officers School at Fort Benning, Georgia. After graduation from Fort Benning, these young men, whose average age at the time was slightly over 20, served as officers in various combat units in Italy, France and the South Pacific.

These were brave and honorable men, each one of them. Of the 99 who were called to active duty in 1943, two were killed in action while serving in the 10th Mountain Division in Italy. One was later killed in the Korean Conflict. Of the group's original 99 members, 71 are still alive. Today, I speak for all Utahns and all Americans when I say, we honor these brave men and pay tribute to them for their service and sacrifice for this great country. The Class of 1944's great tradition of discipline and leadership continues today as many of its members are respected professionals in the public and private sector as well as their own communities.

I ask that a copy of the unit's activation orders for March 16, 1943 be printed in the RECORD as part of this tribute.

And finally, Mr. President, before I close, I want to thank Chris S. Metos of Salt Lake City, Utah, for the outstanding job he has done to help organize this upcoming reunion and for the many years of service he has provided to this country and to the people of the state of Utah.

The activation orders follow:

ACTIVATION ORDERS: HEADQUARTERS NINTH SERVICE COMMAND, FORT DOUGLAS, UTAH, MARCH 16, 1943

1. Following-named Enl Res, 1st yr Advanced ROTC, are ordered to AD. WP fr Univ of Utah, Salt Lake City, Utah so as to rpt to Recp Cen. Fort Douglas, Utah on April 5, 1943 for processing and asgmt to Camp Roberts, Calif to receive Mil Tung in lieu of that normally given during 2d yr advanced course ROTC (FA) instructions. Ea Enl Res named herein reporting to Recp Cen will present to Classification Officer transcript of colg academic and ROTC records.

Pvt Ray N. Welling, in charge of detachment; Pvt Rodney E. Alsop; Pvt Arthur S. Anderson; Pvt David F. Anderson; Pvt Warren S. Anderson; Pvt Dale F. Barlow; Pvt Eliot D. Barton; Pvt Ronald A. Bell; Pvt Wallace G. Bennett; Pvt Wilford N. Bergener; Pvt Burton F. Brasher; Pvt Over J. Call; Pvt Louis B. Cardon; Pvt Gordon L. Carlson; Pvt John S. Carlson; Pvt Charles G. Chase; Pvt Lorin W. Clayton; Pvt Jack A. Clegg; Pvt Walter K. Conrad; Pvt Max T. Cornwell; Pvt Everett E. Dahl; Pvt Peter W. Eberle; Pvt Bernard J. Eggertsen; Pvt Keith M. Engar; Pvt Boyd C. Erickson; Pvt Roland T. Evans; Pvt Silvio J. Fassio; Pvt Moffet E. Felkner; Pvt Joseph B. Fetzer; Pvt Donald L. Fox; Pvt Norman J. Fuellenbach; Pvt Orin A. Furse; Pvt James H. Gardner; Pvt Phil R. Garn;

Pvt Edwin G. Gibbs; Pvt LeRoy B. Hansen; Pvt Dale A. Harrison; Pvt Leon G. Harvey; Pvt Clarence R. Hawkins; Pvt Charles S. Hewlett; Pvt Parnell K. Hinckley; Pvt Jesse H. Jameson; Pvt James R. Jarvis, Jr.; Pvt Victor D. Jensen; Pvt Frank L. Johnson; Pvt Melvin A. Johnson; Pvt William L. Korns; Pvt Robert J. Kurtz; Pvt Gerald P. Langton; Pvt Earl V. Larson; Pvt Jack D. Lawson; Pvt Franklin M. Leaver; Pvt Elwin C. Leavitt; Pvt George A. Lockhart; Pvt John S. MacDuff; Pvt Robert H. Marshall; Pvt Herbert W. Maw; Pvt Hal N. Mays; Pvt Christopher S. Metos; Pvt Franklin L. McKean; Pvt Clinton R. Miller; Pvt Edward L. Montgomery; Pvt Robert L. Montgomery; Pvt Jerome R. Mooney; Pvt Robert F. Moore; Pvt Henry G. Nebeker; Pvt Frank A. Nelson, Jr.;

Pvt Delbert E. Olson; Pvt August L. Orlob; Pvt Evan J. Pearson; Pvt Richard V. Peay; Pvt Artmas T. Peterson; Pvt Donald H. Pickett; Pvt Bill J. Pope; Pvt Robert F. Poulson; Pvt John R. Rampton, Jr.; Pvt Garry L. Rich; Pvt Charles E. Richards; Pvt William S. Ryberg; Pvt Ernest J. Sabec; Pvt Robert S. Shriver; Pvt Rocco C. Siciliano; Pvt Frank R. Slight; Pvt Allan R. Sloan; Pvt David W. Smith, Jr.; Pvt Craig Temple; Pvt Donald C. Thomas; Pvt Parry E. Thomas; Pvt LaMar Tibbs; Pvt Joseph Tibolla; Pvt Lawrence S. Tohill; Pvt John Van Den Berghe; Pvt Milton E. Wadsworth; Pvt James C. Waller, Jr.; Pvt Saint C. Weaver; Pvt Shirley R. Wood; Pvt Eugene T. Woolf; Pvt Verner H. Zinik; and Pvt William E. Zwick, Jr.

By command of Major General JOYCE:

P. R. DAVISON,
Colonel, General Staff Corps, Chief of Staff.●

CONGRATULATING COLUMBIA UNIVERSITY SCHOOL OF SOCIAL WORK

● Mr. D'AMATO. Mr. President. I rise today to congratulate the Columbia University School of Social Work on the occasion of the Centennial of the oldest social work training program in the nation. Evolving from a summer program organized by the Charity Organization Society in New York, the

School of Social Work has a long and distinguished history of pioneering research, informed advocacy and exceptional professional training.

Throughout the century, Columbia's faculty, students and alumni have worked tirelessly to address both the causes and symptoms of our most pressing social problems. National movements, such as the White House Conference on Children and the National Urban League, have emerged from projects undertaken by the school's faculty and administrators in cooperation with professional and community organizations. The entire nation has benefitted from the work of people like Eveline Burns who works in Social Security; Mitchell I. Ginsberg who works with the Head Start program; Richard Cloward who works with welfare rights and voter registration; Alfred Kahn and Sheila B. Kamerman who works with cross-national studies of social services; and David Fanshel who works with children in foster care.

It is a remarkable accomplishment that social workers have played key roles in every major social reform movement, from settlement houses to labor reform, from the New Deal to civil rights and voter registration. Many of the things we take for granted today such as Social Security, child labor laws, minimum wage, the 40-hour work week, and even Medicare came into existence simply because social workers saw injustice. Social workers did not simply talk about the problem but thought up solutions to the problems and then implemented their ideas into reality. Social workers are inspirational not only in their actions but also in their courage.

As Columbia University School of Social Work, and indeed the social work profession, move into their second centuries, they will be challenged to respond to social change, new social problems, family change, and evolving societal commitments. Now more than ever, we will need well-trained and dedicated social workers to conduct cutting-edge research, administer social programs, and alleviate society's most intractable problems.

It is with appreciation and admiration that I extend my best wishes to Columbia University School of Social Work on its Centennial and look forward to its future activity and achievement.●

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

(The text of H.R. 2676, as amended, as passed by the Senate on May 7, 1998, reads as follows:)

Resolved, That the bill from the House of Representatives (H.R. 2676) entitled "An Act to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Internal Revenue Service Restructuring and Reform Act of 1998".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Reorganization of the Internal Revenue Service

Sec. 1001. Reorganization of the Internal Revenue Service.
Sec. 1002. IRS mission to focus on taxpayers' needs.

Subtitle B—Executive Branch Governance and Senior Management

Sec. 1101. Internal Revenue Service Oversight Board.
Sec. 1102. Commissioner of Internal Revenue; other officials.
Sec. 1103. Treasury Inspector General for Tax Administration.
Sec. 1104. Other personnel.
Sec. 1105. Prohibition on executive branch influence over taxpayer audits and other investigations.
Sec. 1106. Review of Milwaukee and Waukesha Internal Revenue Service offices.

Subtitle C—Personnel Flexibilities

Sec. 1201. Improvements in personnel flexibilities.
Sec. 1202. Voluntary separation incentive payments.
Sec. 1203. Termination of employment for misconduct.
Sec. 1204. Basis for evaluation of Internal Revenue Service employees.
Sec. 1205. Employee training program.

TITLE II—ELECTRONIC FILING

Sec. 2001. Electronic filing of tax and information returns.
Sec. 2002. Due date for certain information returns.
Sec. 2003. Paperless electronic filing.
Sec. 2004. Return-free tax system.
Sec. 2005. Access to account information.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

Sec. 3000. Short title.

Subtitle A—Burden of Proof

Sec. 3001. Burden of proof.

Subtitle B—Proceedings by Taxpayers

Sec. 3101. Expansion of authority to award costs and certain fees.
Sec. 3102. Civil damages for collection actions.
Sec. 3103. Increase in size of cases permitted on small case calendar.
Sec. 3104. Expansion of Tax Court jurisdiction to responsible person penalties.
Sec. 3105. Actions for refund with respect to certain estates which have elected the installment method of payment.
Sec. 3106. Tax Court jurisdiction to review adverse IRS determination of tax-exempt status of bond issue.
Sec. 3107. Civil action for release of erroneous lien.

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

Sec. 3201. Spousal election to limit joint and several liability on joint return.
Sec. 3202. Suspension of statute of limitations on filing refund claims during periods of disability.

Subtitle D—Provisions Relating to Interest and Penalties

Sec. 3301. Elimination of interest rate differential on overlapping periods of interest on tax overpayments and underpayments.
Sec. 3101A. Property subject to a liability treated in same manner as assumption of liability.
Sec. 3302. Increase in overpayment rate payable to taxpayers other than corporations.
Sec. 3303. Elimination of penalty on individual's failure to pay for months during period of installment agreement.
Sec. 3304. Mitigation of failure to deposit penalty.
Sec. 3305. Suspension of interest and certain penalties where Secretary fails to contact individual taxpayer.
Sec. 3306. Procedural requirements for imposition of penalties and additions to tax.
Sec. 3307. Personal delivery of notice of penalty under section 6672.
Sec. 3308. Notice of interest charges.
Sec. 3309. Abatement of interest on underpayments by taxpayers in Presidentially declared disaster areas.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

PART I—DUE PROCESS

Sec. 3401. Due process in IRS collection actions.

PART II—EXAMINATION ACTIVITIES

Sec. 3411. Uniform application of confidentiality privilege to taxpayer communications with federally authorized practitioners.
Sec. 3412. Limitation on financial status audit techniques.
Sec. 3413. Software trade secrets protection.
Sec. 3414. Threat of audit prohibited to coerce tip reporting alternative commitment agreements.
Sec. 3415. Taxpayers allowed motion to quash all third-party summonses.
Sec. 3416. Service of summonses to third-party recordkeepers permitted by mail.
Sec. 3417. Prohibition on IRS contact of third parties without prior notice.

PART III—COLLECTION ACTIVITIES

SUBPART A—APPROVAL PROCESS

Sec. 3421. Approval process for liens, levies, and seizures.

SUBPART B—LIENS AND LEVIES

Sec. 3431. Modifications to certain levy exemption amounts.
Sec. 3432. Release of levy upon agreement that amount is uncollectible.
Sec. 3433. Levy prohibited during pendency of refund proceedings.
Sec. 3434. Approval required for jeopardy and termination assessments and jeopardy levies.
Sec. 3435. Increase in amount of certain property on which lien not valid.
Sec. 3436. Waiver of early withdrawal tax for IRS levies on employer-sponsored retirement plans or IRAs.

SUBPART C—SEIZURES

Sec. 3441. Prohibition of sales of seized property at less than minimum bid.

Sec. 3442. Accounting of sales of seized property.
Sec. 3443. Uniform asset disposal mechanism.
Sec. 3444. Codification of IRS administrative procedures for seizure of taxpayer's property.
Sec. 3445. Procedures for seizure of residences and businesses.

PART IV—PROVISIONS RELATING TO EXAMINATION AND COLLECTION ACTIVITIES

Sec. 3461. Procedures relating to extensions of statute of limitations by agreement.
Sec. 3462. Offers-in-compromise.
Sec. 3463. Notice of deficiency to specify deadlines for filing Tax Court petition.
Sec. 3464. Refund or credit of overpayments before final determination.
Sec. 3465. IRS procedures relating to appeals of examinations and collections.
Sec. 3466. Application of certain fair debt collection procedures.
Sec. 3467. Guaranteed availability of installment agreements.
Sec. 3468. Prohibition on requests to taxpayers to give up rights to bring actions.

Subtitle F—Disclosures to Taxpayers

Sec. 3501. Explanation of joint and several liability.
Sec. 3502. Explanation of taxpayers' rights in interviews with the Internal Revenue Service.
Sec. 3503. Disclosure of criteria for examination selection.
Sec. 3504. Explanations of appeals and collection process.
Sec. 3505. Explanation of reason for refund denial.
Sec. 3506. Statements regarding installment agreements.
Sec. 3507. Notification of change in tax matters partner.
Sec. 3508. Disclosure to taxpayers.

Subtitle G—Low Income Taxpayer Clinics

Sec. 3601. Low income taxpayer clinics.

Subtitle H—Other Matters

Sec. 3701. Cataloging complaints.
Sec. 3702. Archive of records of Internal Revenue Service.
Sec. 3703. Payment of taxes.
Sec. 3704. Clarification of authority of Secretary relating to the making of elections.
Sec. 3705. IRS employee contacts.
Sec. 3706. Use of pseudonyms by IRS employees.
Sec. 3707. Conferences of right in the National Office of IRS.
Sec. 3708. Illegal tax protester designation.
Sec. 3709. Provision of confidential information to Congress by whistleblowers.
Sec. 3710. Listing of local IRS telephone numbers and addresses.
Sec. 3711. Identification of return preparers.
Sec. 3712. Offset of past-due, legally enforceable State income tax obligations against overpayments.
Sec. 3713. Treatment of IRS notices on foreign tax provisions.
Sec. 3714. Study of payments made for detection of underpayments and fraud.
Sec. 3715. Combined employment tax reporting demonstration project.
Sec. 3716. Reporting requirements in connection with education tax credit.

Subtitle I—Studies

Sec. 3801. Administration of penalties and interest.
Sec. 3802. Confidentiality of tax return information.
Sec. 3803. Study of transfer pricing enforcement.
Sec. 3804. Willful noncompliance with internal revenue laws by taxpayers.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Sec. 4001. Century date change.
Sec. 4002. Tax law complexity analysis.

TITLE V—REVENUE PROVISIONS

Sec. 5001. Clarification of deduction for deferred compensation.
Sec. 5002. Modification to foreign tax credit carryback and carryover periods.
Sec. 5003. Clarification and expansion of mathematical error assessment procedures.
Sec. 5004. Termination of exception for certain real estate investment trusts from the treatment of stapled entities.
Sec. 5005. Certain customer receivables ineligible for mark-to-market treatment.
Sec. 5006. Inclusion of rotavirus gastroenteritis to list of taxable vaccines.
Sec. 5007. Clarification of definition of specified liability loss.
Sec. 5008. Modification of AGI limit for conversions to roth IRAs.
Sec. 5009. Extension of Internal Revenue Service user fees.

TITLE VI—TECHNICAL CORRECTIONS

Sec. 6001. Short title.
Sec. 6002. Definitions.
Sec. 6003. Amendments related to title I of 1997 Act.
Sec. 6004. Amendments related to title II of 1997 Act.
Sec. 6005. Amendments related to title III of 1997 Act.
Sec. 6006. Amendment related to title IV of 1997 Act.
Sec. 6007. Amendments related to title V of 1997 Act.
Sec. 6008. Amendments related to title VII of 1997 Act.
Sec. 6009. Amendments related to title IX of 1997 Act.
Sec. 6010. Amendments related to title X of 1997 Act.
Sec. 6011. Amendments related to title XI of 1997 Act.
Sec. 6012. Amendments related to title XII of 1997 Act.
Sec. 6013. Amendments related to title XIII of 1997 Act.
Sec. 6014. Amendments related to title XIV of 1997 Act.
Sec. 6015. Amendments related to title XV of 1997 Act.
Sec. 6016. Amendments related to title XVI of 1997 Act.
Sec. 6017. Amendments related to Small Business Job Protection Act of 1996.
Sec. 6018. Amendments related to Taxpayer Bill of Rights 2.
Sec. 6019. Amendment related to Omnibus Budget Reconciliation Act of 1993.
Sec. 6020. Amendment related to Revenue Reconciliation Act of 1990.
Sec. 6021. Amendment related to Tax Reform Act of 1986.
Sec. 6022. Miscellaneous clerical and deadwood changes.
Sec. 6023. Effective date.

TITLE I—REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Reorganization of the Internal Revenue Service

SEC. 1001. REORGANIZATION OF THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement a plan to reorganize the Internal Revenue Service. The plan shall—

(1) supersede any organization or reorganization of the Internal Revenue Service based on any statute or reorganization plan applicable on the effective date of this section;

(2) eliminate or substantially modify the existing organization of the Internal Revenue Service which is based on a national, regional, and district structure;

(3) establish organizational units serving particular groups of taxpayers with similar needs; and

(4) ensure an independent appeals function within the Internal Revenue Service, including the prohibition in the plan of ex parte communications between appeals officers and other Internal Revenue Service employees to the extent that such communications appear to compromise the independence of the appeals officers.

(b) SAVINGS PROVISIONS.—

(1) PRESERVATION OF SPECIFIC TAX RIGHTS AND REMEDIES.—Nothing in the plan developed and implemented under subsection (a) shall be considered to impair any right or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws. For the purpose of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action. The venue of any such action shall be the same as under existing law.

(2) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of any function transferred or affected by the reorganization of the Internal Revenue Service or any other administrative unit of the Department of the Treasury under this section, and

(B) which are in effect at the time this section takes effect, or were final before the effective date of this section and are to become effective on or after the effective date of this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Treasury, the Commissioner of Internal Revenue, or other authorized official, a court of competent jurisdiction, or by operation of law.

(3) PROCEEDINGS NOT AFFECTED.—The provisions of this section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) at the time this section takes effect, with respect to functions transferred or affected by the reorganization under this section but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in

this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(4) SUITS NOT AFFECTED.—The provisions of this section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(5) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service), or by or against any individual in the official capacity of such individual as an officer of the Department of the Treasury, shall abate by reason of the enactment of this section.

(6) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) relating to a function transferred or affected by the reorganization under this section may be continued by the Department of the Treasury through any appropriate administrative unit of the Department, including the Internal Revenue Service with the same effect as if this section had not been enacted.

SEC. 1002. IRS MISSION TO FOCUS ON TAXPAYERS' NEEDS.

The Internal Revenue Service shall review and restate its mission to place a greater emphasis on serving the public and meeting taxpayers' needs.

Subtitle B—Executive Branch Governance and Senior Management

SEC. 1101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

"(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (hereafter in this subchapter referred to as the 'Oversight Board').

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Oversight Board shall be composed of 9 members, as follows:

"(A) 6 members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

"(B) 1 member shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury.

"(C) 1 member shall be the Commissioner of Internal Revenue.

"(D) 1 member shall be an individual who is a representative of an organization that represents a substantial number of Internal Revenue Service employees and who is appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS AND TERMS.—

"(A) QUALIFICATIONS.—Members of the Oversight Board described in paragraph (1)(A) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in 1 or more of the following areas:

"(i) Management of large service organizations.

"(ii) Customer service.

"(iii) Federal tax laws, including tax administration and compliance.

"(iv) Information technology.

"(v) Organization development.

"(vi) The needs and concerns of taxpayers.

"(vii) The needs and concerns of small businesses.

In the aggregate, the members of the Oversight Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence.

"(B) TERMS.—Each member who is described in subparagraph (A) or (D) of paragraph (1) shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A)—

"(i) 2 members shall be appointed for a term of 2 years,

"(ii) 2 members shall be appointed for a term of 4 years, and

"(iii) 2 members shall be appointed for a term of 5 years.

"(C) REAPPOINTMENT.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Oversight Board.

"(D) VACANCY.—Any vacancy on the Oversight Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

"(3) ETHICAL CONSIDERATIONS.—

"(A) FINANCIAL DISCLOSURE.—

"(i) IN GENERAL.—During the entire period that an individual appointed under subparagraph (A) or (D) of paragraph (1) is a member of the Oversight Board, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act, except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

"(ii) REPRESENTED ORGANIZATION.—The organization represented by the individual appointed under paragraph (1)(D) shall file an annual financial report with the Committee on Finance in the Senate and the Committee on Ways and Means in the House of Representatives. Such report shall include information regarding compensation paid to the individual so appointed, other individuals employed by the organization, and membership dues collected by the organization.

"(B) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, United States Code, except as provided in subparagraph (D)(i)(II), an individual appointed under subparagraph (A) or (D) of paragraph (1) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Board, except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

"(C) PRIVATE MEMBERS WHO ARE SPECIAL GOVERNMENT EMPLOYEES.—If an individual appointed under paragraph (1)(A) is a special Government employee, the following additional rules apply for purposes of chapter 11 of title 18, United States Code:

"(i) RESTRICTION ON REPRESENTATION.—In addition to any restriction under section 205(c) of title 18, United States Code, except as provided in subsections (d) through (i) of section 205 of such title, such individual (except in the proper discharge of official duties) shall not, with or without compensation, represent anyone to or before any officer or employee of—

"(I) the Oversight Board or the Internal Revenue Service on any matter,

"(II) the Department of the Treasury on any matter involving the internal revenue laws or involving the management or operations of the Internal Revenue Service, or

"(III) the Department of Justice with respect to litigation involving a matter described in subclause (I) or (II).

"(ii) COMPENSATION FOR SERVICES PROVIDED BY ANOTHER.—For purposes of section 203 of such title—

"(I) such individual shall not be subject to the restrictions of subsection (a)(1) thereof for sharing in compensation earned by another for representations on matters covered by such section, and

"(II) a person shall not be subject to the restrictions of subsection (a)(2) thereof for sharing such compensation with such individual.

"(D) EXEMPTIONS FOR MEMBER FROM EMPLOYEE ORGANIZATION.—

"(i) EXEMPTION FROM CRIMINAL CONFLICT LAWS.—An individual appointed under paragraph (1)(D) shall not be subject to—

"(I) section 203 or 205 of title 18, United States Code, for acting as an agent or attorney for (or otherwise representing), with or without compensation, the organization described in paragraph (1)(D),

"(II) section 207 of such title for making, with the intent to influence, any communication or appearance before an officer or employee of the United States on behalf of the organization which such individual represented while a member of the Board, or

"(III) section 208 of such title for personal and substantial participation in a particular matter in which all financial interests which would otherwise prohibit the individual's participation are interests of such organization.

"(ii) COMPENSATION.—Nothing in section 203 of title 18, United States Code, shall prohibit an organization represented by the individual appointed under paragraph (1)(D) from giving, promising, or offering compensation to the individual for acting as its agent or attorney or for otherwise representing such organization.

"(4) QUORUM.—5 members of the Oversight Board shall constitute a quorum. A majority of members present and voting shall be required for the Oversight Board to take action.

"(5) REMOVAL.—

"(A) IN GENERAL.—Any member of the Oversight Board appointed under paragraph (1) (A) or (D) may be removed at the will of the President.

"(B) SECRETARY AND COMMISSIONER.—An individual described in subparagraph (B) or (C) of paragraph (1) shall be removed upon termination of service in the office described in such subparagraph.

"(6) CLAIMS.—

"(A) IN GENERAL.—Members of the Oversight Board who are described in paragraph (1) (A) or (D) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member.

"(B) EFFECT ON OTHER LAW.—This paragraph shall not be construed—

"(i) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions,

"(ii) to affect any other right or remedy against the United States under applicable law, or

"(iii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

"(c) GENERAL RESPONSIBILITIES.—

"(1) OVERSIGHT.—

"(A) IN GENERAL.—The Oversight Board shall oversee the Internal Revenue Service in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

"(B) Mission of IRS.—As part of its oversight functions described in subparagraph (A), the Oversight Board shall ensure that the organization and operation of the Internal Revenue Service allows it to carry out its mission.

"(C) Confidentiality.—The Oversight Board shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

"(2) Exceptions.—The Oversight Board shall have no responsibilities or authority with respect to—

"(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

"(B) specific law enforcement activities of the Internal Revenue Service, including specific compliance activities such as examinations, collection activities, and criminal investigations,

"(C) specific procurement activities of the Internal Revenue Service, or

"(D) except as provided in subsection (d)(3), specific personnel actions.

"(d) Specific Responsibilities.—The Oversight Board shall have the following specific responsibilities:

"(1) Strategic plans.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

"(A) mission and objectives, and standards of performance relative to either, and

"(B) annual and long-range strategic plans.

"(2) Operational plans.—To review the operational functions of the Internal Revenue Service, including—

"(A) plans for modernization of the tax system,

"(B) plans for outsourcing or managed competition, and

"(C) plans for training and education.

"(3) Management.—To—

"(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,

"(B) recommend to the Secretary of the Treasury, after taking into consideration any recommendations of the Commissioner, 3 candidates for appointment as the National Taxpayer Advocate from individuals who have—

"(i) a background in customer service as well as tax law, and

"(ii) experience in representing individual taxpayers,

"(C) recommend to the Secretary of the Treasury the removal of the National Taxpayer Advocate,

"(D) review the Commissioner's selection, evaluation, and compensation of Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service,

"(E) review and approve the Commissioner's plans for any major reorganization of the Internal Revenue Service, and

"(F) review procedures of the Internal Revenue Service relating to financial audits required by law.

"(4) Budget.—To—

"(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

"(B) submit such budget request to the Secretary of the Treasury, and

"(C) ensure that the budget request supports the annual and long-range strategic plans.

"(5) Taxpayer protection.—To ensure the proper treatment of taxpayers by the employees of the Internal Revenue Service.

The Secretary shall submit the budget request referred to in paragraph (4)(B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

"(e) Board Personnel Matters.—

"(1) Compensation of members.—

"(A) In general.—Each member of the Oversight Board who is described in subsection (b)(1)(A) shall be compensated at a rate of $30,000 per year. All other members shall serve without compensation for such service.

"(B) Chairperson.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Oversight Board shall be compensated at a rate of $50,000 per year.

"(2) Travel expenses.—The members of the Oversight Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business for purposes of duties as a member of the Oversight Board.

"(3) Staff.—

"(A) In general.—The Chairperson of the Oversight Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

"(B) Detail of government employees.—Upon request of the Chairperson of the Oversight Board, a Federal agency shall detail a Federal Government employee to the Oversight Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

"(4) Procurement of temporary and intermittent services.—The Chairperson of the Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(f) Administrative Matters.—

"(1) Chair.—

"(A) Term.—The members of the Oversight Board shall elect for a 2-year term a chairperson from among the members appointed under subsection (b)(1)(A).

"(B) Powers.—Except as otherwise provided by a majority vote of the Oversight Board, the powers of the Chairperson shall include—

"(i) establishing committees,

"(ii) setting meeting places and times,

"(iii) establishing meeting agendas, and

"(iv) developing rules for the conduct of business.

"(2) Meetings.—The Oversight Board shall meet at least quarterly and at such other times as the Chairperson determines appropriate.

"(3) Reports.—

"(A) Annual.—The Oversight Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

"(B) Additional report.—Upon a determination by the Oversight Board under subsection (c)(1)(B) that the organization and operation of the Internal Revenue Service are not allowing it to carry out its mission, the Oversight Board shall report such determination to the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate.

"(g) Termination of Board.—The Internal Revenue Service Oversight Board established under subsection (a) shall terminate on September 30, 2008.".

(b) Restriction on Disclosure of Return Information to Oversight Board Members.—Section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

"(5) Internal revenue service oversight board.—

"(A) In general.—Notwithstanding paragraph (1), and except as provided in subparagraph (B), no return or return information may be disclosed to any member of the Oversight Board described in subparagraph (A) or (D) of section 7802(b)(1) or to any employee or detailee of such Board by reason of their service with the Board. Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by any such individual to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary, the Treasury Inspector General for Tax Administration, and the Joint Committee on Taxation.

"(B) Exception for reports to the board.—If—

"(i) the Commissioner or the Treasury Inspector General for Tax Administration prepares any report or other matter for the Oversight Board in order to assist the Board in carrying out its duties, and

"(ii) the Commissioner or such Inspector General determines it is necessary to include any return or return information in such report or other matter to enable the Board to carry out such duties,

such return or return information (other than information regarding taxpayer identity) may be disclosed to members, employees, or detailees of the Board solely for the purpose of carrying out such duties.".

(c) Conforming Amendments.—

(1) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended by striking "or" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", or", and by adding at the end the following new paragraph:

"(7) a member of the Internal Revenue Service Oversight Board.".

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Internal Revenue Service Oversight Board.".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Initial nominations to internal revenue service oversight board.—The President shall submit the initial nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act.

(3) Effect on actions prior to appointment of oversight board.—Nothing in this section shall be construed to invalidate the actions and authority of the Internal Revenue Service prior to the appointment of the members of the Internal Revenue Service Oversight Board.

(4) Special rule for reorganization plan.—The authority of the Internal Revenue Service Oversight Board under section 7802(d)(3)(E) of such Code (as so added) to approve major reorganization plans shall not apply to the reorganization plan under section 1001 of this Act.

SEC. 1102. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

(a) In General.—Section 7803 (relating to other personnel) is amended to read as follows:

"SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

"(a) Commissioner of Internal Revenue.—

"(1) Appointment.—

"(A) In general.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the

President, by and with the advice and consent of the Senate, to a 5-year term. Such appointment shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

“(B) VACANCY.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which such individual's predecessor was appointed shall be appointed only for the remainder of that term.

“(C) REMOVAL.—The Commissioner may be removed at the will of the President.

“(D) REAPPOINTMENT.—The Commissioner may be appointed to more than one 5-year term.

“(2) DUTIES.—The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

“(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party,

“(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel, and

“(C) recommend to the Oversight Board candidates for appointment as National Taxpayer Advocate when a vacancy occurs.

If the Secretary determines not to delegate a power specified in subparagraph (A), (B), or (C), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

“(3) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

“(b) CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE.—

“(1) APPOINTMENT.—There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the consent of the Senate.

“(2) DUTIES.—The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary, including the duty—

“(A) to be legal advisor to the Commissioner and the Commissioner's officers and employees,

“(B) to furnish legal opinions for the preparation and review of rulings and memoranda of technical advice,

“(C) to prepare, review, and assist in the preparation of proposed legislation, treaties, regulations, and Executive Orders relating to laws which affect the Internal Revenue Service,

“(D) to represent the Commissioner in cases before the Tax Court, and

“(E) to determine which civil actions should be litigated under the laws relating to the Internal Revenue Service and prepare recommendations for the Department of Justice regarding the commencement of such actions.

If the Secretary determines not to delegate a power specified in subparagraph (A), (B), (C), (D), or (E), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

“(3) REPORT TO COMMISSIONER.—The Chief Counsel shall report directly to the Commissioner of Internal Revenue.

“(c) OFFICE OF THE TAXPAYER ADVOCATE.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the ‘Office of the Taxpayer Advocate’.

“(B) NATIONAL TAXPAYER ADVOCATE.—

“(i) IN GENERAL.—The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the ‘National Taxpayer Advocate’. The National Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of Internal Revenue.

“(ii) APPOINTMENT.—The National Taxpayer Advocate shall be appointed by the Secretary of the Treasury from among the 3 individuals nominated by the Oversight Board under section 7802(d)(3).

“(iii) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Internal Revenue Service during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the National Taxpayer Advocate.

“(2) FUNCTIONS OF OFFICE.—

“(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

“(i) assist taxpayers in resolving problems with the Internal Revenue Service,

“(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

“(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

“(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

“(B) ANNUAL REPORTS.—

“(i) OBJECTIVES.—Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

“(ii) ACTIVITIES.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

“(I) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

“(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

“(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

“(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

“(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

“(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

“(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

“(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

“(IX) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems,

“(X) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes, and

“(XI) include such other information as the National Taxpayer Advocate may deem advisable.

“(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the committees described in clause (i) without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

“(iv) COORDINATION WITH REPORT OF TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—To the extent that information required to be reported under clause (ii) is also required to be reported under paragraph (1) or (2) of subsection (d) by the Treasury Inspector General for Tax Administration, the National Taxpayer Advocate shall not contain such information in the report submitted under such clause.

“(C) OTHER RESPONSIBILITIES.—The National Taxpayer Advocate shall—

“(i) monitor the coverage and geographic allocation of local offices of taxpayer advocates,

“(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local offices of taxpayer advocates,

“(iii) ensure that the local telephone number for each local office of the taxpayer advocate is published and available to taxpayers served by the office, and

“(iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.

“(D) PERSONNEL ACTIONS.—

“(i) IN GENERAL.—The National Taxpayer Advocate shall have the responsibility and authority to—

“(I) appoint at least 1 local taxpayer advocate for each State,

“(II) evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of a taxpayer advocate described in subclause (I), and

“(III) appoint a counsel in the Office of the Taxpayer Advocate to report directly to the National Taxpayer Advocate.

“(ii) CONSULTATION.—The National Taxpayer Advocate may consult with the appropriate supervisory personnel of the Internal Revenue Service in carrying out the National Taxpayer Advocate's responsibilities under this subparagraph.

“(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the National Taxpayer Advocate within 3 months after submission to the Commissioner.

"(4) OPERATION OF LOCAL OFFICES.—

"(A) IN GENERAL.—Each local taxpayer advocate—

"(i) shall report to the National Taxpayer Advocate,

"(ii) may consult with the appropriate supervisory personnel of the Internal Revenue Service regarding the daily operation of the local office of the taxpayer advocate,

"(iii) shall, at the initial meeting with any taxpayer seeking the assistance of a local office of the taxpayer advocate, notify such taxpayer that the office operates independently of any other Internal Revenue Service office and reports directly to Congress through the National Taxpayer Advocate, and

"(iv) may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.

"(B) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

"(d) ADDITIONAL DUTIES OF THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—

"(1) ANNUAL REPORTING.—The Treasury Inspector General for Tax Administration shall include in one of the semiannual reports under section 5 of the Inspector General Act of 1978—

"(A) an evaluation of the compliance of the Internal Revenue Service with—

"(i) restrictions under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998 on the use of enforcement statistics to evaluate Internal Revenue Service employees,

"(ii) restrictions under section 7521 on directly contacting taxpayers who have indicated that they prefer their representatives be contacted,

"(iii) required procedures under section 6320 for approval of a notice of a lien,

"(iv) required procedures under subchapter D of chapter 64 for seizure of property for collection of taxes, including required procedures under section 6330 for approval of a levy or notice of levy, and

"(v) restrictions under section 3708 of the Internal Revenue Service Restructuring and Reform Act of 1998 on designation of taxpayers,

"(B) a review and a certification of whether or not the Secretary is complying with the requirements of section 6103(e)(8) to disclose information to an individual filing a joint return on collection activity involving the other individual filing the return,

"(C) information regarding extensions of the statute of limitations for assessment and collection of tax under section 6501 and the provision of notice to taxpayers regarding requests for such extension,

"(D) an evaluation of the adequacy and security of the technology of the Internal Revenue Service,

"(E) any termination or mitigation under section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998, and

"(F) information regarding improper denial of requests for information from the Internal Revenue Service identified under paragraph (3)(A).

"(2) SEMIANNUAL REPORTS.—

"(A) IN GENERAL.—The Treasury Inspector General for Tax Administration shall include in each semiannual report under section 5 of the Inspector General Act of 1978—

"(i) the number of taxpayer complaints during the reporting period;

"(ii) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources;

"(iii) a summary of the status of such complaints and allegations; and

"(iv) a summary of the disposition of such complaints and allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such complaints and allegations.

"(B) Clauses (iii) and (iv) of subparagraph (A) shall only apply to complaints and allegations of serious employee misconduct.

"(3) OTHER RESPONSIBILITIES.—The Treasury Inspector General for Tax Administration shall—

"(A) conduct periodic audits of a statistically valid sample of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103 of this title or section 552(b)(7) of title 5, United States Code, and

"(B) establish and maintain a toll-free telephone number for taxpayers to use to confidentially register complaints of misconduct by Internal Revenue Service employees and incorporate the telephone number in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1).".

(b) NOTICE OF RIGHT TO CONTACT OFFICE INCLUDED IN NOTICE OF DEFICIENCY.—Section 6212(a) (relating to notice of deficiency) is amended by adding at the end the following: "Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and phone number of the appropriate office.".

(c) EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.—Section 7811(a) (relating to taxpayer assistance orders) is amended to read as follows:

"(a) AUTHORITY TO ISSUE.—

"(1) IN GENERAL.—Upon application filed by a taxpayer with the Office of the Taxpayer Advocate (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the National Taxpayer Advocate may issue a Taxpayer Assistance Order if, in the determination of the National Taxpayer Advocate—

"(A) the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary, or

"(B) the issuance of a Taxpayer Assistance Order is otherwise appropriate considering the circumstances of the taxpayer.

"(2) DETERMINATION OF HARDSHIP.—For purposes of paragraph (1), a significant hardship shall include—

"(A) an immediate threat of adverse action,

"(B) a delay of more than 30 days in resolving taxpayer account problems,

"(C) the incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted, or

"(D) irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.

"(3) STANDARD WHERE ADMINISTRATIVE GUIDANCE NOT FOLLOWED.—In cases where any Internal Revenue Service employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the National Taxpayer Advocate shall construe the factors taken into account in determining whether to issue a taxpayer assistance order in the manner most favorable to the taxpayer.".

(d) CONFORMING AMENDMENTS RELATING TO NATIONAL TAXPAYER ADVOCATE.—

(1) The following provisions are each amended by striking "Taxpayer Advocate" each place it appears and inserting "National Taxpayer Advocate":

(A) Section 6323(j)(1)(D) (relating to withdrawal of notice in certain circumstances).

(B) Section 6343(d)(2)(D) (relating to return of property in certain cases).

(C) Section 7811(b)(2)(D) (relating to terms of a Taxpayer Assistance Order).

(D) Section 7811(c) (relating to authority to modify or rescind).

(E) Section 7811(d)(2) (relating to suspension of running of period of limitation).

(F) Section 7811(e) (relating to independent action of Taxpayer Advocate).

(G) Section 7811(f) (relating to Taxpayer Advocate).

(2) Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by striking "Taxpayer Advocate's" and inserting "National Taxpayer Advocate's".

(3) The headings of subsections (e) and (f) of section 7811 are each amended by striking "TAXPAYER ADVOCATE" and inserting "NATIONAL TAXPAYER ADVOCATE".

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7803 and inserting the following new item:

"Sec. 7803. Commissioner of Internal Revenue; other officials.".

(2) Section 5109 of title 5, United States Code, is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

(3) Section 7611(f)(1) (relating to restrictions on church tax inquiries and examinations) is amended by striking "Assistant Commissioner for Employee Plans and Exempt Organizations of the Internal Revenue Service" and inserting "Secretary".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) CHIEF COUNSEL.—Section 7803(b)(3) of the Internal Revenue Code of 1986, as added by this section, shall take effect on the date that is 90 days after the date of the enactment of this Act.

(3) NATIONAL TAXPAYER ADVOCATE.—During the period before the appointment of the Internal Revenue Service Oversight Board and notwithstanding section 7803(c)(1)(B)(ii) of the Internal Revenue Code of 1986, as added by this section, the National Taxpayer Advocate shall be appointed by the Secretary of the Treasury from among individuals who have a background in customer service as well as tax law and who have experience in representing individual taxpayers. The Commissioner of Internal Revenue shall submit to the Secretary a list of nominations for consideration under the preceding sentence.

(4) CURRENT OFFICERS.—

(A) In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of the Internal Revenue Code of 1986, as added by this section, shall begin as of the date of such appointment.

(B) Clauses (ii) and (iii) of section 7803(c)(1)(B) of such Code, as added by this section, shall not apply to the individual serving as Taxpayer Advocate on the date of the enactment of this Act.

SEC. 1103. TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.

(a) ESTABLISHMENT OF 2 INSPECTORS GENERAL IN THE DEPARTMENT OF THE TREASURY.—Section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking the matter following paragraph (3) and inserting the following:

"there is established—

"(A) in each of such establishments an office of Inspector General, subject to subparagraph (B); and

"(B) in the establishment of the Department of the Treasury—

"(i) an Office of Inspector General of the Department of the Treasury; and

"(ii) an Office of Treasury Inspector General for Tax Administration.".

(b) AMENDMENTS TO SECTION 8D OF THE INSPECTOR GENERAL ACT OF 1978.—

(1) LIMITATION ON AUTHORITY OF INSPECTOR GENERAL.—Section 8D(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(4) The Secretary of the Treasury may not exercise any power under paragraph (1) or (2) with respect to the Treasury Inspector General for Tax Administration.".

(2) DUTIES OF INSPECTOR GENERAL OF THE DEPARTMENT OF THE TREASURY; RELATIONSHIP TO THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Section 8D(b) of such Act is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following:

"(2) The Inspector General of the Department of the Treasury shall exercise all duties and responsibilities of an Inspector General for the Department of the Treasury other than the duties and responsibilities exercised by the Treasury Inspector General for Tax Administration.

"(3) The Secretary of the Treasury shall establish procedures under which the Inspector General of the Department of the Treasury and the Treasury Inspector General for Tax Administration will—

"(A) determine how audits and investigations are allocated in cases of overlapping jurisdiction, and

"(B) provide for coordination, cooperation, and efficiency in the conduct of such audits and investigations.".

(3) ACCESS TO RETURNS AND RETURN INFORMATION.—Section 8D(e) of such Act is amended—

(A) in paragraph (1), by striking "Inspector General" and inserting "Treasury Inspector General for Tax Administration";

(B) in paragraph (2), by striking all beginning with "(2)" through subparagraph (B);

(C)(i) by redesignating subparagraph (C) of paragraph (2) as paragraph (2) of such subsection; and

(ii) in such redesignated paragraph (2), by striking "Inspector General" and inserting "Treasury Inspector General for Tax Administration"; and

(D)(i) by redesignating subparagraph (D) of such paragraph as paragraph (3) of such subsection; and

(ii) in such redesignated paragraph (3), by striking "Inspector General" and inserting "Treasury Inspector General for Tax Administration".

(4) EFFECT ON CERTAIN FINAL DECISIONS OF THE SECRETARY.—Section 8D(f) of such Act is amended by striking "Inspector General" and inserting "Inspector General of the Department of the Treasury or the Treasury Inspector General for Tax Administration".

(5) REPEAL OF LIMITATION ON REPORTS TO THE ATTORNEY GENERAL.—Section 8D of such Act is amended by striking subsection (g).

(6) TRANSMISSION OF REPORTS.—Section 8D(h) of such Act is amended—

(A) by striking "(h)" and inserting "(g)(1)";

(B) by striking "and the Committees on Government Operations and Ways and Means of the House of Representatives" and inserting "and the Committees on Government Reform and Oversight and Ways and Means of the House of Representatives"; and

(C) by adding at the end the following:

"(2) Any report made by the Treasury Inspector General for Tax Administration that is required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under such subsection, to the Internal Revenue Service Oversight Board and the Commissioner of Internal Revenue.".

(7) TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Section 8D of the Act is amended by adding at the end the following:

"(h) The Treasury Inspector General for Tax Administration shall exercise all duties and responsibilities of an Inspector General of an establishment with respect to the Department of the Treasury and the Secretary of the Treasury on all matters relating to the Internal Revenue Service. The Treasury Inspector General for Tax Administration shall have sole authority under this Act to conduct an audit or investigation of the Internal Revenue Service Oversight Board and the Chief Counsel for the Internal Revenue Service.

"(i) In addition to the requirements of the first sentence of section 3(a), the Treasury Inspector General for Tax Administration should have experience in tax administration and demonstrated ability to lead a large and complex organization.

"(j) An individual appointed to the position of Treasury Inspector General for Tax Administration, the Assistant Inspector General for Auditing of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(1), the Assistant Inspector General for Investigations of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(2), or any position of Deputy Inspector General of the Office of the Treasury Inspector General for Tax Administration may not be an employee of the Internal Revenue Service—

"(1) during the 2-year period preceding the date of appointment to such position; or

"(2) during the 5-year period following the date such individual ends service in such position.

"(k)(1) In addition to the duties and responsibilities exercised by an inspector general of an establishment, the Treasury Inspector General for Tax Administration—

"(A) shall have the duty to enforce criminal provisions under section 7608(b) of the Internal Revenue Code of 1986;

"(B) in addition to the functions authorized under section 7608(b)(2) of such Code, may carry firearms;

"(C) shall be responsible for protecting the Internal Revenue Service against external attempts to corrupt or threaten employees of the Internal Revenue Service; and

"(D) may designate any employee in the Office of the Treasury Inspector General for Tax Administration to enforce such laws and perform such functions referred to under subparagraphs (A), (B), and (C).

"(2)(A) In performing a law enforcement function under paragraph (1), the Treasury Inspector General for Tax Administration shall report any reasonable grounds to believe there has been a violation of Federal criminal law to the Attorney General at an appropriate time as determined by the Treasury Inspector General for Tax Administration, notwithstanding section 4(d).

"(B) In the administration of section 5(d) and subsection (g)(2) of this section, the Secretary of the Treasury may transmit the required report with respect to the Treasury Inspector General for Tax Administration at an appropriate time as determined by the Secretary, if the problem, abuse, or deficiency relates to—

"(i) the performance of a law enforcement function under paragraph (1); and

"(ii) sensitive information concerning matters under subsection (a)(1)(A) through (F).

"(3) Nothing in this subsection shall be construed to affect the authority of any other person to carry out or enforce any provision specified in paragraph (1).

"(l)(1) The Treasury Inspector General for Tax Administration shall timely conduct an audit or investigation relating to the Internal Revenue Service upon the written request of the Commissioner of Internal Revenue or the Internal Revenue Service Oversight Board.

"(2)(A) Any final report of an audit conducted by the Treasury Inspector General for Tax Administration shall be timely submitted by the Inspector General to the Commissioner of Internal Revenue and the Internal Revenue Service Oversight Board.

"(B) The Treasury Inspector General for Tax Administration shall periodically submit to the Commissioner and Board a list of investigations for which a final report has been completed by the Inspector General and shall provide a copy of any such report upon request of the Commissioner or Board.

"(C) This paragraph applies regardless of whether the applicable audit or investigation is requested under paragraph (1).".

(c) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—Section 9(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended in subparagraph (L)—

(A) by inserting "(i)" after "(L)";

(B) by inserting "and" after the semicolon; and

(C) by adding at the end the following:

"(ii) of the Treasury Inspector General for Tax Administration, effective 180 days after the date of the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998, the Office of Chief Inspector of the Internal Revenue Service;".

(2) TERMINATION OF OFFICE OF CHIEF INSPECTOR.—Effective upon the transfer of functions under the amendment made by paragraph (1), the Office of Chief Inspector of the Internal Revenue Service is terminated.

(3) RETENTION OF CERTAIN INTERNAL AUDIT PERSONNEL.—In making the transfer under the amendment made by paragraph (1), the Commissioner of Internal Revenue shall designate and retain an appropriate number (not in excess of 300) of internal audit full-time equivalent employee positions necessary for management relating to the Internal Revenue Service.

(4) ADDITIONAL PERSONNEL TRANSFERS.—Effective 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer 21 full-time equivalent positions from the Office of the Inspector General of the Department of the Treasury to the Office of the Treasury Inspector General for Tax Administration.

(d) AUDITS AND REPORTS OF AGENCY FINANCIAL STATEMENTS.—Subject to section 3521(g) of title 31, United States Code—

(1) the Inspector General of the Department of the Treasury shall, subject to paragraph (2)—

(A) audit each financial statement in accordance with section 3521(e) of such title; and

(B) prepare and submit each report required under section 3521(f) of such title; and

(2) the Treasury Inspector General for Tax Administration shall—

(A) audit that portion of each financial statement referred to under paragraph (1)(A) that relates to custodial and administrative accounts of the Internal Revenue Service; and

(B) prepare that portion of each report referred to under paragraph (1)(B) that relates to custodial and administrative accounts of the Internal Revenue Service.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TRANSFER OF FUNCTIONS.—Section 8D(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "and the internal audits and internal investigations performed by

the Office of Assistant Commissioner (Inspection) of the Internal Revenue Service''.

(2) AMENDMENTS RELATING TO REFERENCES TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF THE TREASURY.—

(A) LIMITATION ON AUTHORITY.—Section 8D(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(i) in the first sentence of paragraph (1), by inserting ''of the Department of the Treasury'' after ''Inspector General'';

(ii) in paragraph (2), by inserting ''of the Department of the Treasury'' after ''prohibit the Inspector General''; and

(iii) in paragraph (3)—

(I) in the first sentence, by inserting ''of the Department of the Treasury'' after ''notify the Inspector General''; and

(II) in the second sentence, by inserting ''of the Department of the Treasury'' after ''notice, the Inspector General''.

(B) DUTIES.—Section 8D(b) of such Act is amended in the second sentence by inserting ''of the Department of the Treasury'' after ''Inspector General''.

(C) AUDITS AND INVESTIGATIONS.—Section 8D (c) and (d) of such Act are amended by inserting ''of the Department of the Treasury'' after ''Inspector General'' each place it appears.

(3) REFERENCES.—The second section 8G of the Inspector General Act of 1978 (relating to rule of construction of special provisions) is amended—

(A) by striking ''SEC. 8G'' and inserting ''SEC. 8H'';

(B) by striking ''or 8E'' and inserting ''8E or 8F''; and

(C) by striking ''section 8F(a)'' and inserting ''section 8G(a)''.

(4) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 7608(b)(1) of the Internal Revenue Code of 1986 is amended by striking ''or of the Internal Security Division''.

SEC. 1104. OTHER PERSONNEL.

(a) IN GENERAL.—Section 7804 (relating to the effect of reorganization plans) is amended to read as follows:

"SEC. 7804. OTHER PERSONNEL.

''(a) APPOINTMENT AND SUPERVISION.—Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

''(b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—Unless otherwise prescribed by the Secretary—

''(1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

''(2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

''(c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6344 is amended by striking ''section 7803(d)'' and inserting ''section 7804(c)''.

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

''Sec. 7804. Other personnel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1105. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

(a) IN GENERAL.—Part I of subchapter A of chapter 75 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7216 the following new section:

"SEC. 7217. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

''(a) PROHIBITION.—It shall be unlawful for any applicable person to request, directly or indirectly, any officer or employee of the Internal Revenue Service to conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.

''(b) REPORTING REQUIREMENT.—Any officer or employee of the Internal Revenue Service receiving any request prohibited by subsection (a) shall report the receipt of such request to the Treasury Inspector General for Tax Administration.

''(c) EXCEPTIONS.—Subsection (a) shall not apply to any written request made—

''(1) to an applicable person by or on behalf of the taxpayer and forwarded by such applicable person to the Internal Revenue Service,

''(2) by an applicable person for disclosure of return or return information under section 6103 if such request is made in accordance with the requirements of such section, or

''(3) by the Secretary of the Treasury as a consequence of the implementation of a change in tax policy.

''(d) PENALTY.—Any person who willfully violates subsection (a) or fails to report under subsection (b) shall be punished upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

''(e) APPLICABLE PERSON.—For purposes of this section, the term 'applicable person' means—

''(1) the President, the Vice President, any employee of the executive office of the President, and any employee of the executive office of the Vice President, and

''(2) any individual (other than the Attorney General of the United States) serving in a position specified in section 5312 of title 5, United States Code.''.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 75 is amended by adding after the item relating to section 7216 the following new item:

''Sec. 7217. Prohibition on executive branch influence over taxpayer audits and other investigations.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 1106. REVIEW OF MILWAUKEE AND WAUKESHA INTERNAL REVENUE SERVICE OFFICES.

(a) IN GENERAL.—

(1) REVIEW.—The Commissioner of Internal Revenue shall appoint an independent expert in employment and personnel matters to conduct a review of the investigation conducted by the task force, established by the Internal Revenue Service and initiated in January 1998, of the equal employment opportunity process of the Internal Revenue Service offices located in the area of Milwaukee and Waukesha, Wisconsin.

(2) CONTENT.—The review conducted under paragraph (1) shall include—

(A) a determination of the accuracy and validity of such investigation; and

(B) if determined necessary by the expert, a further investigation of such offices relating to—

(i) the equal employment opportunity process; and

(ii) any alleged discriminatory employment-related actions, including any alleged violations of Federal law.

(b) REPORT.—Not later than July 1, 1999, the independent expert shall report on the review conducted under subsection (a) (and any recommendations for action) to Congress and the Commissioner of Internal Revenue.

Subtitle C—Personnel Flexibilities

SEC. 1201. IMPROVEMENTS IN PERSONNEL FLEXIBILITIES.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

"Subpart I—Miscellaneous

"CHAPTER 95—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE

''Sec.
''9501. Internal Revenue Service personnel flexibilities.
''9502. Pay authority for critical positions.
''9503. Streamlined critical pay authority.
''9504. Recruitment, retention, and relocation incentives.
''9505. Performance awards for senior executives.
''9506. Limited appointments to career reserved Senior Executive Service positions.
''9507. Streamlined demonstration project authority.
''9508. General workforce performance management system.
''9509. General workforce classification and pay.
''9510. General workforce staffing.

"§9501. Internal Revenue Service personnel flexibilities

''(a) Any flexibilities provided by sections 9502 through 9510 of this chapter shall be exercised in a manner consistent with—

''(1) chapter 23 (relating to merit system principles and prohibited personnel practices);

''(2) provisions relating to preference eligibles;

''(3) except as otherwise specifically provided, section 5307 (relating to the aggregate limitation on pay);

''(4) except as otherwise specifically provided, chapter 71 (relating to labor-management relations); and

''(5) subject to subsections (b) and (c) of section 1104, as though such authorities were delegated to the Secretary of the Treasury under section 1104(a)(2).

''(b) The Secretary of the Treasury shall provide the Office of Personnel Management with any information that Office requires in carrying out its responsibilities under this section.

''(c) Employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any flexibility provided by sections 9507 through 9510 of this chapter unless the exclusive representative and the Internal Revenue Service have entered into a written agreement which specifically provides for the exercise of that flexibility.

Such written agreement may be imposed by the Federal Services Impasses Panel under section 7119.

“§9502. Pay authority for critical positions

“(a) When the Secretary of the Treasury seeks a grant of authority under section 5377 for critical pay for 1 or more positions at the Internal Revenue Service, the Office of Management and Budget may fix the rate of basic pay, notwithstanding sections 5377(d)(2) and 5307, at any rate up to the salary set in accordance with section 104 of title 3.

“(b) Notwithstanding section 5307, no allowance, differential, bonus, award, or similar cash payment may be paid to any employee receiving critical pay at a rate fixed under subsection (a), in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

“§9503. Streamlined critical pay authority

“(a) Notwithstanding section 9502, and without regard to the provisions of this title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 (relating to classification and pay rates), the Secretary of the Treasury may, for a period of 10 years after the date of enactment of this section, establish, fix the compensation of, and appoint individuals to, designated critical administrative, technical, and professional positions needed to carry out the functions of the Internal Revenue Service, if—

“(1) the positions—

“(A) require expertise of an extremely high level in an administrative, technical, or professional field; and

“(B) are critical to the Internal Revenue Service's successful accomplishment of an important mission;

“(2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position;

“(3) the number of such positions does not exceed 40 at any one time;

“(4) designation of such positions are approved by the Secretary of the Treasury;

“(5) the terms of such appointments are limited to no more than 4 years;

“(6) appointees to such positions were not Internal Revenue Service employees immediately prior to such appointment;

“(7) total annual compensation for any appointee to such positions does not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3; and

“(8) all such positions are excluded from the collective bargaining unit.

“(b) Individuals appointed under this section shall not be considered to be employees for purposes of subchapter II of chapter 75.

“§9504. Recruitment, retention, and relocation incentives

“For a period of 10 years after the date of enactment of this section and subject to approval by the Office of Personnel Management, the Secretary of the Treasury may provide for variations from sections 5753 and 5754 governing payment of recruitment, relocation, and retention incentives.

“§9505. Performance awards for senior executives

“(a) For a period of 10 years after the date of enactment of this section, Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service may be paid a performance bonus without regard to the limitation in section 5384(b)(2) if the Secretary of the Treasury finds such award warranted based on the executive's performance.

“(b) In evaluating an executive's performance for purposes of an award under this section, the Secretary of the Treasury shall take into account the executive's contributions toward the successful accomplishment of goals and objectives established under the Government Performance and Results Act of 1993, division E of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679), Revenue Procedure 64–22 (as in effect on July 30, 1997), taxpayer service surveys, and other performance metrics or plans established in consultation with the Internal Revenue Service Oversight Board.

“(c) Any award in excess of 20 percent of an executive's rate of basic pay shall be approved by the Secretary of the Treasury.

“(d) Notwithstanding section 5384(b)(3), the Secretary of the Treasury shall determine the aggregate amount of performance awards available to be paid during any fiscal year under this section and section 5384 to career senior executives in the Internal Revenue Service. Such amount may not exceed an amount equal to 5 percent of the aggregate amount of basic pay paid to career senior executives in the Internal Revenue Service during the preceding fiscal year. The Internal Revenue Service shall not be included in the determination under section 5384(b)(3) of the aggregate amount of performance awards payable to career senior executives in the Department of the Treasury other than the Internal Revenue Service.

“(e) Notwithstanding section 5307, a performance bonus award may not be paid to an executive in a calendar year if, or to the extent that, the executive's total annual compensation will exceed the maximum amount of total annual compensation payable at the rate determined under section 104 of title 3.

“§9506. Limited appointments to career reserved Senior Executive Service positions

“(a) In the application of section 3132, a ‘career reserved position’ in the Internal Revenue Service means a position designated under section 3132(b) which may be filled only by—

“(1) a career appointee, or

“(2) a limited emergency appointee or a limited term appointee—

“(A) who, immediately upon entering the career reserved position, was serving under a career or career-conditional appointment outside the Senior Executive Service; or

“(B) whose limited emergency or limited term appointment is approved in advance by the Office of Personnel Management.

“(b)(1) The number of positions described under subsection (a) which are filled by an appointee as described under paragraph (2) of such subsection may not exceed 10 percent of the total number of Senior Executive Service positions in the Internal Revenue Service.

“(2) Notwithstanding section 3132—

“(A) the term of an appointee described under subsection (a)(2) may be for any period not to exceed 3 years; and

“(B) such an appointee may serve—

“(i) 2 such terms; or

“(ii) 2 such terms in addition to any unexpired term applicable at the time of appointment.

“§9507. Streamlined demonstration project authority

“(a) The exercise of any of the flexibilities under sections 9502 through 9510 shall not affect the authority of the Secretary of the Treasury to implement for the Internal Revenue Service a demonstration project subject to chapter 47, as provided in subsection (b).

“(b) In applying section 4703 to a demonstration project described in section 4701(a)(4) which involves the Internal Revenue Service—

“(1) section 4703(b)(1) shall be deemed to read as follows:

“‘(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;’;

“(2) section 4703(b)(3) shall not apply;

“(3) the 180-day notification period in section 4703(b)(4) shall be deemed to be a notification period of 30 days;

“(4) section 4703(b)(6) shall be deemed to read as follows:

“‘(6) provides each House of Congress with the final version of the plan.’;

“(5) section 4703(c)(1) shall be deemed to read as follows:

“‘(1) subchapter V of chapter 63 or subpart G of part III of this title;’;

“(6) the requirements of paragraphs (1)(A) and (2) of section 4703(d) shall not apply; and

“(7) notwithstanding section 4703(d)(1)(B), based on an evaluation as provided in section 4703(h), the Office of Personnel Management and the Secretary of the Treasury, except as otherwise provided by this subsection, may waive the termination date of a demonstration project under section 4703(d).

“(c) At least 90 days before waiving the termination date under subsection (b)(7), the Office of Personnel Management shall publish in the Federal Register a notice of its intention to waive the termination date and shall inform in writing both Houses of Congress of its intention.

“§9508. General workforce performance management system

“(a) In lieu of a performance appraisal system established under section 4302, the Secretary of the Treasury may establish for all or part of the Internal Revenue Service a performance management system that—

“(1) maintains individual accountability by—

“(A) establishing 1 or more retention standards for each employee related to the work of the employee and expressed in terms of individual performance, and communicating such retention standards to employees;

“(B) making periodic determinations of whether each employee meets or does not meet the employee's established retention standards; and

“(C) taking actions, in accordance with applicable laws and regulations, with respect to any employee whose performance does not meet established retention standards, including denying any increases in basic pay, promotions, and credit for performance under section 3502, and taking 1 or more of the following actions:

“(i) Reassignment.

“(ii) An action under chapter 43 or chapter 75 of this title.

“(iii) Any other appropriate action to resolve the performance problem; and

“(2) except as provided under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998, strengthens the system's effectiveness by—

“(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the Internal Revenue Service's performance planning procedures, including those established under the Government Performance and Results Act of 1993, division E of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679), Revenue Procedure 64–22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

“(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

“(C) using performance assessments as a basis for granting employee awards, adjusting an employee's rate of basic pay, and other appropriate personnel actions, in accordance with applicable laws and regulations.

“(b)(1) For purposes of subsection (a)(2), the term ‘performance assessment’ means a determination of whether or not retention standards

established under subsection (a)(1)(A) are met, and any additional performance determination made on the basis of performance goals and objectives established under subsection (a)(2)(A).

"(2) For purposes of this title, the term 'unacceptable performance' with respect to an employee of the Internal Revenue Service covered by a performance management system established under this section means performance of the employee which fails to meet a retention standard established under this section.

"(c)(1) The Secretary of the Treasury may establish an awards program designed to provide incentives for and recognition of organizational, group, and individual achievements by providing for granting awards to employees who, as individuals or members of a group, contribute to meeting the performance goals and objectives established under this chapter by such means as a superior individual or group accomplishment, a documented productivity gain, or sustained superior performance.

"(2) A cash award under subchapter I of chapter 45 may be granted to an employee of the Internal Revenue Service without the need for any approval under section 4502(b).

"(d)(1) In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, '30 days' may be deemed to be '15 days'.

"(2) Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

"§9509. General workforce classification and pay

"(a) For purposes of this section, the term 'broad-banded system' means a system for grouping positions for pay, job evaluation, and other purposes that is different from the system established under chapter 51 and subchapter III of chapter 53 as a result of combining grades and related ranges of rates of pay in 1 or more occupational series.

"(b)(1)(A) The Secretary of the Treasury may, subject to criteria to be prescribed by the Office of Personnel Management, establish 1 or more broad-banded systems covering all or any portion of the Internal Revenue Service workforce.

"(B) With the approval of the Office of Personnel Management, a broad-banded system established under this section may either include or consist of positions that otherwise would be subject to subchapter IV of chapter 53 or section 5376.

"(2) The Office of Personnel Management may require the Secretary of the Treasury to submit information relating to broad-banded systems at the Internal Revenue Service.

"(3) Except as otherwise provided under this section, employees under a broad-banded system shall continue to be subject to the laws and regulations covering employees under the pay system that otherwise would apply to such employees.

"(4) The criteria to be prescribed by the Office of Personnel Management shall, at a minimum—

"(A) ensure that the structure of any broad-banded system maintains the principle of equal pay for substantially equal work;

"(B) establish the minimum and maximum number of grades that may be combined into pay bands;

"(C) establish requirements for setting minimum and maximum rates of pay in a pay band;

"(D) establish requirements for adjusting the pay of an employee within a pay band;

"(E) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

"(F) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

"(c) With the approval of the Office of Personnel Management and in accordance with a plan for implementation submitted by the Secretary of the Treasury, the Secretary may, with respect to Internal Revenue Service employees who are covered by a broad-banded system established under this section, provide for variations from the provisions of subchapter VI of chapter 53.

"§9510. General workforce staffing

"(a)(1) Except as otherwise provided by this section, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures if—

"(A) the employee has completed, in the competitive service, 2 years of current continuous service under a term appointment or any combination of term appointments;

"(B) such term appointment or appointments were made under competitive procedures prescribed for permanent appointments;

"(C) the employee's performance under such term appointment or appointments met established retention standards, or, if not covered by a performance management system established under section 9508, was rated at the fully successful level or higher (or equivalent thereof); and

"(D) the vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

"(2) An appointment under this section may be made only to a position in the same line of work as a position to which the employee received a term appointment under competitive procedures.

"(b)(1) Notwithstanding subchapter I of chapter 33, the Secretary of the Treasury may establish category rating systems for evaluating applicants for Internal Revenue Service positions in the competitive service under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings.

"(2) Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the position to be filled.

"(3) Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS–9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

"(4) An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories.

"(5) Notwithstanding paragraph (4), the appointing authority may not pass over a preference eligible in the same or higher category from which selection is made unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

"(c) The Secretary of the Treasury may detail employees among the offices of the Internal Revenue Service without regard to the 120-day limitation in section 3341(b).

"(d) Notwithstanding any other provision of law, the Secretary of the Treasury may establish a probationary period under section 3321 of up to 3 years for Internal Revenue Service positions if the Secretary of the Treasury determines that the nature of the work is such that a shorter period is insufficient to demonstrate complete proficiency in the position.

"(e) Nothing in this section exempts the Secretary of the Treasury from—

"(1) any employment priority established under direction of the President for the placement of surplus or displaced employees; or

"(2) any obligation under a court order or decree relating to the employment practices of the Internal Revenue Service or the Department of the Treasury.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of title 5, United States Code, is amended by adding at the end the following:

"Subpart I—Miscellaneous

"95. Personnel flexibilities relating to the Internal Revenue Service .... 9501".

SEC. 1202. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) DEFINITION.—In this section, the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the Internal Revenue Service serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system;

(2) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in paragraph (1);

(3) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(4) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(5) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(6) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(7) any employee who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may pay voluntary separation incentive payments under this section to any employee to the extent necessary to carry out the plan to reorganize the Internal Revenue Service under section 1001.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by an agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before January 1, 2003;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(c) ADDITIONAL INTERNAL REVENUE SERVICE CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, the Internal Revenue Service shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—In paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(d) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Internal Revenue Service.

(e) EFFECT ON INTERNAL REVENUE SERVICE EMPLOYMENT LEVELS.—

(1) INTENDED EFFECT.—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in the Internal Revenue Service.

(2) USE OF VOLUNTARY SEPARATIONS.—The Internal Revenue Service may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 1203. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

(a) IN GENERAL.—Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

(b) ACTS OR OMISSIONS.—The acts or omissions referred to under subsection (a) are—

(1) failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

(3) violation of the civil rights of a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

(4) falsifying or destroying documents to conceal mistakes made by the employee with respect to a matter involving a taxpayer or taxpayer representative;

(5) assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

(6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

(7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry,

(8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect,

(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect, and

(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

(c) DETERMINATION OF COMMISSIONER.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).

(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

(3) NO APPEAL.—Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

SEC. 1204. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) IN GENERAL.—The Internal Revenue Service shall not use records of tax enforcement results—

(1) to evaluate employees; or

(2) to impose or suggest production quotas or goals with respect to such employees.

(b) TAXPAYER SERVICE.—The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.

(c) CERTIFICATION.—Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue that tax enforcement results are not used in a manner prohibited by subsection (a).

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 6231 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100–647; 102 Stat. 3734) is repealed.

(e) EFFECTIVE DATE.—This section shall apply to evaluations conducted on or after the date of the enactment of this Act.

SEC. 1205. EMPLOYEE TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Internal Revenue shall implement an employee training program and shall submit an employee training plan to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(b) CONTENTS.—The plan submitted under subsection (a) shall—

(1) detail a comprehensive employee training program to ensure adequate customer service training;

(2) detail a schedule for training and the fiscal years during which the training will occur;

(3) detail the funding of the program and relevant information to demonstrate the priority and commitment of resources to the plan;

(4) review the organizational design of customer service;

(5) provide for the implementation of a performance development system; and

(6) provide for at least 16 hours of conflict management training during fiscal year 1999 for employees conducting collection activities.

TITLE II—ELECTRONIC FILING

SEC. 2001. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.

(a) IN GENERAL.—It is the policy of Congress that—

(1) paperless filing should be the preferred and most convenient means of filing Federal tax and information returns,

(2) electronic filing should be a voluntary option for taxpayers,

(3) it should be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007, and

(4) the Internal Revenue Service should cooperate with the private sector by encouraging competition to increase electronic filing of such returns, consistent with the provisions of the Office of Management and Budget Circular A–76.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the "Secretary") shall establish a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days. To the extent practicable, such plan shall provide that all returns prepared electronically for taxable years beginning after 2001 shall be filed electronically.

(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the small business community and from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) PROMOTION OF ELECTRONIC FILING AND INCENTIVES.—Section 6011 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) PROMOTION OF ELECTRONIC FILING.—

"(1) IN GENERAL.—The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

"(2) INCENTIVES.—The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns.".

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1998, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary of the Treasury, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2)

shall report to the Committees on Ways and Means, Appropriations, Government Reform and Oversight, and Small Business of the House of Representatives and the Committees on Finance, Appropriations, Governmental Affairs, and Small Business of the Senate on—

(1) the progress of the Internal Revenue Service in meeting the goal of receiving electronically 80 percent of tax and information returns by 2007;

(2) the status of the plan required by subsection (b);

(3) the legislative changes necessary to assist the Internal Revenue Service in meeting such goal; and

(4) the effects on small businesses and the self-employed of electronically filing tax and information returns.

SEC. 2002. DUE DATE FOR CERTAIN INFORMATION RETURNS.

(a) INFORMATION RETURNS FILED ELECTRONICALLY.—Section 6071 (relating to time for filing returns and other documents) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) ELECTRONICALLY FILED INFORMATION RETURNS.—Returns made under subparts B and C of part III of this subchapter which are filed electronically shall be filed on or before March 31 of the year following the calendar year to which such returns relate.".

(b) STUDY RELATING TO TIME FOR PROVIDING NOTICE TO RECIPIENTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study evaluating the effect of extending the deadline for providing statements to persons with respect to whom information is required to be furnished under subparts B and C of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (other than section 6051 of such Code) from January 31 to February 15 of the year in which the return to which the statement relates is required to be filed.

(2) REPORT.—Not later than December 31, 1998, the Secretary of the Treasury shall submit a report on the study under paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns required to be filed after December 31, 1999.

SEC. 2003. PAPERLESS ELECTRONIC FILING.

(a) IN GENERAL.—Section 6061 (relating to signing of returns and other documents) is amended—

(1) by striking "Except as otherwise provided by" and inserting the following:

"(a) GENERAL RULE.—Except as otherwise provided by subsection (b) and", and

(2) by adding at the end the following new subsection:

"(b) ELECTRONIC SIGNATURES.—

"(1) IN GENERAL.—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary may provide for alternative methods of subscribing all returns, declarations, statements, or other documents required or permitted to be made or written under internal revenue laws and regulations.

"(2) TREATMENT OF ALTERNATIVE METHODS.—Notwithstanding any other provision of law, any return, declaration, statement, or other document filed and verified, signed, or subscribed under any method adopted under paragraph (1) shall be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though signed and subscribed.

"(3) PUBLISHED GUIDANCE.—The Secretary shall publish guidance as appropriate to define and implement any method adopted under paragraph (1).".

(b) ACKNOWLEDGMENT OF ELECTRONIC FILING.—Section 7502(c) is amended to read as follows:

"(c) REGISTERED AND CERTIFIED MAILING; ELECTRONIC FILING.—

"(1) REGISTERED MAIL.—For purposes of this section, if any return, claim, statement, or other document, or payment, is sent by United States registered mail—

"(A) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed, and

"(B) the date of registration shall be deemed the postmark date.

"(2) CERTIFIED MAIL; ELECTRONIC FILING.—The Secretary is authorized to provide by regulations the extent to which the provisions of paragraph (1) with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail and electronic filing.".

(c) ESTABLISHMENT OF PROCEDURES FOR OTHER INFORMATION.—In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.

(d) INTERNET AVAILABILITY.—In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures for all tax forms, instructions, and publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database not later than the date such records are available to the public in printed form. In addition, in the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database not later than the date such guidance is available to the public in printed form.

(e) PROCEDURES FOR AUTHORIZING DISCLOSURE ELECTRONICALLY.—The Secretary shall establish procedures for taxpayers to designate, on electronically filed returns, persons to whom information may be disclosed under section 6103(c) of the Internal Revenue Code of 1986.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 2004. RETURN-FREE TAX SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which appropriate individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

(b) REPORT.—Not later than June 30 of each calendar year after 1999, such Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

(1) what additional resources the Internal Revenue Service would need to implement such a system,

(2) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system,

(3) the procedures developed pursuant to subsection (a), and

(4) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a).

SEC. 2005. ACCESS TO ACCOUNT INFORMATION.

(a) IN GENERAL.—Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically (and their designees under section 6103(c) of the Internal Revenue Code of 1986) would be able to review the taxpayer's account electronically, but only if all necessary safeguards to ensure the privacy of such account information are in place.

(b) REPORT.—Not later than December 31, 2003, the Secretary of the Treasury shall report on the progress the Secretary is making on the development of procedures under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

SEC. 3000. SHORT TITLE.

This title may be cited as the "Taxpayer Bill of Rights 3".

Subtitle A—Burden of Proof

SEC. 3001. BURDEN OF PROOF.

(a) IN GENERAL.—Chapter 76 (relating to judicial proceedings) is amended by adding at the end the following new subchapter:

"Subchapter E—Burden of Proof

"Sec. 7491. Burden of proof.

"SEC. 7491. BURDEN OF PROOF.

"(a) BURDEN SHIFTS WHERE TAXPAYER PRODUCES CREDIBLE EVIDENCE.—

"(1) GENERAL RULE.—If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the income tax liability of the taxpayer, the Secretary shall have the burden of proof with respect to such issue.

"(2) LIMITATIONS.—Paragraph (1) shall apply with respect to an issue only if—

"(A) the taxpayer has complied with the requirements under this title to substantiate any item,

"(B) the taxpayer has maintained all records required under this title and has cooperated with reasonable requests by the Secretary for witnesses, information, documents, meetings, and interviews, and

"(C) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430(c)(4)(A)(ii).

"(3) COORDINATION.—Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of proof with respect to such issue.

"(4) EXPANSION TO TAX LIABILITIES OTHER THAN INCOME TAX.—In the case of court proceedings arising in connection with examinations commencing 6 months after the date of the enactment of this paragraph and before June 1, 2001, this subsection shall, in addition to income tax liability, apply to any other tax liability of the taxpayer.

"(b) USE OF STATISTICAL INFORMATION ON UNRELATED TAXPAYERS.—In the case of an individual taxpayer, the Secretary shall have the burden of proof in any court proceeding with respect to any item of income which was reconstructed by the Secretary solely through the use of statistical information on unrelated taxpayers.

"(c) PENALTIES.—Notwithstanding any other provision of this title, the Secretary shall have the burden of production in any court proceeding with respect to the liability of any individual for any penalty, addition to tax, or additional amount imposed by this title.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 76 is amended by adding at the end the following new item:

"SUBCHAPTER E. Burden of proof.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to court proceedings arising in connection with examinations commencing after the date of the enactment of this Act.

Subtitle B—Proceedings by Taxpayers

SEC. 3101. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.

(a) AWARD OF ALL REASONABLE ATTORNEYS FEES.—

(1) IN GENERAL.—Section 7430(c)(1) (relating to reasonable litigation costs) is amended—

(A) by striking clause (iii) of subparagraph (B) and inserting:

"(iii) reasonable fees paid or incurred for the services of attorneys in connection with the court proceeding.", and

(B) by striking the last 2 sentences.

(2) CONFORMING AMENDMENT.—Section 7430(c)(2)(B) is amended by striking "or (iii)".

(b) AWARD OF ADMINISTRATIVE COSTS INCURRED AFTER 30-DAY LETTER.—Paragraph (2) of section 7430(c) is amended by striking the last sentence and inserting the following new flush sentence:

"Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, (ii) the date of the notice of deficiency, or (iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.".

(c) AWARD OF FEES FOR CERTAIN ADDITIONAL SERVICES.—Paragraph (3) of section 7430(c) is amended to read as follows:

"(3) ATTORNEYS FEES.—

"(A) IN GENERAL.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

"(B) PRO BONO SERVICES.—The court may award reasonable attorneys fees under subsection (a) in excess of the attorneys fees paid or incurred if such fees are less than the reasonable attorneys fees because an individual is representing the prevailing party for no fee or for a fee which (taking into account all the facts and circumstances) is no more than a nominal fee. This subparagraph shall apply only if such award is paid to such individual or such individual's employer.".

(d) DETERMINATION OF WHETHER POSITION OF UNITED STATES IS SUBSTANTIALLY JUSTIFIED.—Subparagraph (B) of section 7430(c)(4) is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

"(iii) EFFECT OF LOSING ON SUBSTANTIALLY SIMILAR ISSUES.—In determining for purposes of clause (i) whether the position of the United States was substantially justified, the court shall take into account whether the United States has lost in courts of appeal for other circuits on substantially similar issues.".

(e) TAXPAYER TREATED AS PREVAILING IF JUDGMENT IS LESS THAN TAXPAYER'S OFFER.—

(1) IN GENERAL.—Section 7430(c)(4) (defining prevailing party) is amended by adding at the end the following new subparagraph:

"(E) SPECIAL RULES WHERE JUDGMENT LESS THAN TAXPAYER'S OFFER.—

"(i) IN GENERAL.—A party to a court proceeding meeting the requirements of subparagraph (A)(ii) shall be treated as the prevailing party if the liability of the taxpayer pursuant to the judgment in the proceeding (determined without regard to interest) is equal to or less than the liability of the taxpayer which would have been so determined if the United States had accepted a qualified offer of the party under subsection (g).

"(ii) EXCEPTIONS.—This subparagraph shall not apply to—

"(I) any judgment issued pursuant to a settlement, or

"(II) any proceeding in which the amount of tax liability is not in issue, including any declaratory judgment proceeding, any proceeding to enforce or quash any summons issued pursuant to this title, and any action to restrain disclosure under section 6110(f).

"(iii) SPECIAL RULES.—If this subparagraph applies to any court proceeding—

"(I) the determination under clause (i) shall be made by reference to the last qualified offer made with respect to the tax liability at issue in the proceeding, and

"(II) reasonable administrative and litigation costs shall only include costs incurred on and after the date of such offer.

"(iv) COORDINATION.—This subparagraph shall not apply to a party which is a prevailing party under any other provision of this paragraph.".

(2) QUALIFIED OFFER.—Section 7430 is amended by adding at the end the following new subsection:

"(g) QUALIFIED OFFER.—For purposes of subsection (c)(4)—

"(1) IN GENERAL.—The term 'qualified offer' means a written offer which—

"(A) is made by the taxpayer to the United States during the qualified offer period,

"(B) specifies the amount of the taxpayer's liability (determined without regard to interest),

"(C) is designated at the time it is made as a qualified offer for purposes of this section, and

"(D) remains open during the period beginning on the date it is made and ending on the earliest of the date the offer is rejected, the date the trial begins, or the 90th day after the date the offer is made.

"(2) QUALIFIED OFFER PERIOD.—For purposes of this subsection, the term 'qualified offer period' means the period—

"(A) beginning on the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, and

"(B) ending on the date which is 30 days before the date the case is first set for trial.".

(f) AWARD OF ATTORNEYS FEES IN UNAUTHORIZED INSPECTION AND DISCLOSURE CASES.—Section 7431(c) (relating to damages) is amended by striking the period at the end of paragraph (2) and inserting ", plus", and by adding at the end the following new paragraph:

"(3) in the case of a plaintiff which is described in section 7430(c)(4)(A)(ii), reasonable attorneys fees, except that if the defendant is the United States, reasonable attorneys fees may be awarded only if the plaintiff is the prevailing party (as determined under section 7430(c)(4)).".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred (and, in the case of the amendment made by subsection (c), services performed) more than 180 days after the date of the enactment of this Act.

SEC. 3102. CIVIL DAMAGES FOR COLLECTION ACTIONS.

(a) EXTENSION TO NEGLIGENCE ACTIONS.—

(1) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended—

(A) in subsection (a), by inserting ", or by reason of negligence," after "recklessly or intentionally", and

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by inserting "($100,000, in the case of negligence)" after "$1,000,000", and

(ii) in paragraph (1), by inserting "or negligent" after "reckless or intentional".

(2) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—Paragraph (1) of section 7433(d) is amended to read as follows:

"(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.".

(b) DAMAGES ALLOWED IN CIVIL ACTIONS BY PERSONS OTHER THAN TAXPAYERS.—Section 7426 is amended by redesignating subsection (h) as subsection (i) and by adding after subsection (g) the following new subsection:

"(h) RECOVERY OF DAMAGES PERMITTED IN CERTAIN CASES.—

"(1) IN GENERAL.—Notwithstanding subsection (b), if, in any action brought under this section, there is a finding that any officer or employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregarded any provision of this title the defendant shall be liable to the plaintiff in an amount equal to the lesser of $1,000,000 ($100,000 in the case of negligence) or the sum of—

"(A) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional or negligent actions of the officer or employee (reduced by any amount of such damages awarded under subsection (b)), and

"(B) the costs of the action.

"(2) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under this section unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.".

(c) CIVIL DAMAGES FOR IRS VIOLATIONS OF BANKRUPTCY PROCEDURES.—

(1) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended by adding at the end the following new subsection:

"(e) ACTIONS FOR VIOLATIONS OF CERTAIN BANKRUPTCY PROCEDURES.—

"(1) IN GENERAL.—If, in connection with any collection of Federal tax with respect to a taxpayer, any officer or employee of the Internal Revenue Service willfully violates any provision of section 362 (relating to automatic stay) or 524 (relating to effect of discharge) of title 11, United States Code, or any regulation promulgated under such section, such taxpayer may petition the bankruptcy court to recover damages against the United States.

"(2) REMEDY TO BE EXCLUSIVE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), notwithstanding section 105 of such title 11, such petition shall be the exclusive remedy for recovering damages resulting from such actions.

"(B) CERTAIN OTHER ACTIONS PERMITTED.—Subparagraph (A) shall not apply to an action under section 362(h) of such title 11 for a violation of a stay provided by section 362 of such title; except that—

"(i) administrative and litigation costs in connection with such an action may only be awarded under section 7430, and

"(ii) administrative costs may be awarded only if incurred on or after the date that the bankruptcy petition is filed.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 7433 is amended by inserting "or petition filed under subsection (e)" after "subsection (a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 3103. INCREASE IN SIZE OF CASES PERMITTED ON SMALL CASE CALENDAR.

(a) IN GENERAL.—Section 7463 (relating to disputes involving $10,000 or less) is amended by striking ‘‘$10,000’’ each place it appears (including the section heading) and inserting ‘‘$50,000’’.

(b) CONFORMING AMENDMENTS.—

(1) Sections 7436(c)(1) and 7443A(b)(3) are each amended by striking ‘‘$10,000’’ and inserting ‘‘$50,000’’.

(2) The table of sections for part II of subchapter C of chapter 76 is amended by striking ‘‘$10,000’’ in the item relating to section 7463 and inserting ‘‘$50,000’’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

SEC. 3104. EXPANSION OF TAX COURT JURISDICTION TO RESPONSIBLE PERSON PENALTIES.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

‘‘(c) PETITION FOR REVIEW BY TAX COURT.—

‘‘(1) IN GENERAL.—A person may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the person's liability under subsection (a) if such petition is filed during the 90-day period beginning on the day on which notice and demand of the penalty under subsection (a) is made on such person.

‘‘(2) RESTRICTIONS APPLICABLE TO COLLECTION OF ASSESSMENT.—

‘‘(A) IN GENERAL.—Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court for collection of any assessment of any penalty under subsection (a) shall be made, begun, or prosecuted until the expiration of the 90-day period described in paragraph (1), or, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

‘‘(B) AUTHORITY TO ENJOIN COLLECTION ACTIONS.—Notwithstanding the provisions of section 7421(a), the beginning of any levy or proceeding in court for collection of any assessment of any penalty under subsection (a) during the time the prohibition under subparagraph (A) is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this subparagraph to enjoin any action or proceeding unless a timely petition has been filed under paragraph (1) and then only in respect of the amount of the assessment to which such petition relates.

‘‘(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under paragraph (1) relates shall be suspended for the period during which the Secretary is prohibited by paragraph (2)(A) from collecting by levy or a proceeding in court and for 60 days thereafter.

‘‘(4) APPLICABLE RULES.—

‘‘(A) CREDIT OR REFUND ALLOWED.—Notwithstanding any other law or rule of law (other than section 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this subsection.

‘‘(B) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun, the Tax Court shall lose jurisdiction of the action under this subsection to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable periods that are the subject of the suit for refund.’’.

(b) CONFORMING AMENDMENTS.—

(1) Section 7103(a)(4) is amended by striking ‘‘6672(b)’’ and inserting ‘‘6672(d)’’.

(2) Section 7421(a) is amended by striking ‘‘6672(b)’’ and inserting ‘‘6672 (c) and (d)’’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties imposed after the date of the enactment of this Act.

SEC. 3105. ACTIONS FOR REFUND WITH RESPECT TO CERTAIN ESTATES WHICH HAVE ELECTED THE INSTALLMENT METHOD OF PAYMENT.

(a) IN GENERAL.—Section 7422 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

‘‘(j) SPECIAL RULE FOR ACTIONS WITH RESPECT TO ESTATES FOR WHICH AN ELECTION UNDER SECTION 6166 IS MADE.—

‘‘(1) IN GENERAL.—The district courts of the United States and the United States Court of Federal Claims shall not fail to have jurisdiction over any action brought by the representative of an estate to which this subsection applies to determine the correct amount of the estate tax liability of such estate (or for any refund with respect thereto) solely because the full amount of such liability has not been paid by reason of an election under section 6166 with respect to such estate.

‘‘(2) ESTATES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any estate if, as of the date the action is filed—

‘‘(A) no portion of the installments payable under section 6166 have been accelerated,

‘‘(B) all such installments the due date for which is on or before the date the action is filed have been paid,

‘‘(C) there is no case pending in the Tax Court with respect to the tax imposed by section 2001 on the estate and, if a notice of deficiency under section 6212 with respect to such tax has been issued, the time for filing a petition with the Tax Court with respect to such notice has expired, and

‘‘(D) no proceeding for declaratory judgment under section 7479 is pending.

‘‘(3) PROHIBITION ON COLLECTION OF DISALLOWED LIABILITY.—If the court redetermines under paragraph (1) the estate tax liability of an estate, no part of such liability which is disallowed by a decision of such court which has become final may be collected by the Secretary, and amounts paid in excess of the installments determined by the court as currently due and payable shall be refunded.’’.

(b) EXTENSION OF TIME TO FILE REFUND SUIT.—Section 7479 (relating to declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166) is amended by adding at the end the following new subsection:

‘‘(c) EXTENSION OF TIME TO FILE REFUND SUIT.—The 2-year period in section 6532(a)(1) for filing suit for refund after disallowance of a claim shall be suspended during the 90-day period after the mailing of the notice referred to in subsection (b)(3) and, if a pleading has been filed with the Tax Court under this section, until the decision of the Tax Court has become final.’’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any claim for refund filed after the date of the enactment of this Act.

SEC. 3106. TAX COURT JURISDICTION TO REVIEW ADVERSE IRS DETERMINATION OF TAX-EXEMPT STATUS OF BOND ISSUE.

(a) IN GENERAL.—Section 7478 (relating to declaratory judgments relating to status of certain governmental obligations) is amended—

(1) by striking ‘‘prospective obligations will be’’ both places it appears in subsection (a) and inserting ‘‘previously issued or prospective obligations is or will be’’, and

(2) by striking subsection (b)(1) and inserting the following:

‘‘(1) PETITIONER.—Except as provided in subsection (c), a pleading may be filed under this section only by the issuer or prospective issuer.’’.

(b) NOTICE REQUIREMENT.—Section 7478(b) is amended by adding at the end the following:

‘‘(4) NOTICE TO HOLDERS OF PREVIOUSLY ISSUED OBLIGATIONS.—

‘‘(A) IN GENERAL.—If an issuer of previously issued obligations files a pleading under this section, the court shall not issue a declaratory judgment or decree under this section unless it determines that the petitioner has provided adequate notice to holders of such obligations within 10 days of the filing of the pleading.

‘‘(B) DELIVERY OF NOTICE.—The notice under subparagraph (A) shall be given using the most practicable of the following methods:

‘‘(i) In person.

‘‘(ii) By certified or registered mail sent to the holder's last known address.

‘‘(iii) By printing in appropriate publications.

‘‘(C) CONTENTS OF THE NOTICE.—The notice under subparagraph (A) shall include a statement of the holder's right to intervene in, and participate in, any proceeding under this section with respect to obligations held or formerly held by the holder.’’.

(c) INTERVENTION; OTHER RULES.—Section 7478 is amended by adding at the end the following:

‘‘(c) BONDHOLDER INTERVENTION.—If an issuer of previously issued obligations files a pleading under this section, then the Tax Court shall permit any person who demonstrates to the satisfaction of the court that such person was or is a holder of any of such previously issued obligations to intervene in, and participate in, the proceedings before the court with respect to such pleading, on such terms and conditions as shall be established by the court.

‘‘(d) PERIOD OF LIMITATIONS, COLLECTION, AND IMPOSITION OF INTEREST AND PENALTIES STAYED PENDING CONCLUSION OF PROCEEDINGS.—

‘‘(1) IN GENERAL.—If an issuer of previously issued obligations files a pleading under this section—

‘‘(A) the running of the period of limitations in sections 6501 and 6502 on the assessment and the collection of any tax due by a person (whether or not a party to a proceeding under this section) on the interest paid on such previously issued obligations,

‘‘(B) the collection of such tax due, and

‘‘(C) the imposition of any interest, penalties, additions to tax, or additional amounts in respect to any such unpaid tax,

shall be suspended from the date of such filing until the date on which the decision of the Tax Court becomes final.

‘‘(2) CROSS REFERENCE.—

“For additional suspension of running of period of limitation, see section 6503.”.

(d) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by this section shall apply to determinations made after the date of the enactment of this Act.

(2) SPECIAL RULE.—Notwithstanding section 7478(b)(3) of the Internal Revenue Code of 1986, in the case of a technical advice memorandum which—

(A) provides that any interest on any obligation which is part of an issue (or portion thereof) is not exempt from taxation under the Internal Revenue Code of 1986, and

(B) was publicly released within 1 year of the date of the enactment of this Act,

a pleading may be filed under section 7478 of such Code with respect to such memorandum not later than the 90th day after such date.

SEC. 3107. CIVIL ACTION FOR RELEASE OF ERRONEOUS LIEN.

(a) Right of Substitution of Value.—Subsection (b) of section 6325 (relating to release of lien or discharge of property) is amended by adding at the end the following new paragraph:

"(4) Right of substitution of value.—

"(A) In general.—At the request of the owner of any property subject to any lien imposed by this chapter, the Secretary shall issue a certificate of discharge of such property if such owner—

"(i) deposits with the Secretary an amount of money equal to the value of the interest of the United States (as determined by the Secretary) in the property, or

"(ii) furnishes a bond acceptable to the Secretary in a like amount.

"(B) Refund of deposit with interest and release of bond.—The Secretary shall refund the amount so deposited (and shall pay interest at the overpayment rate under section 6621), and shall release such bond, to the extent that the Secretary determines that—

"(i) the unsatisfied liability giving rise to the lien can be satisfied from a source other than such property, or

"(ii) the value of the interest of the United States in the property is less than the Secretary's prior determination of such value.

"(C) Use of deposit, etc., if action to contest lien not filed.—If no action is filed under section 7426(a)(4) within the period prescribed therefor, the Secretary shall, within 60 days after the expiration of such period—

"(i) apply the amount deposited, or collect on such bond, to the extent necessary to satisfy the unsatisfied liability secured by the lien, and

"(ii) refund (with interest as described in subparagraph (B)) any portion of the amount deposited which is not used to satisfy such liability.

"(D) Exception.—Subparagraph (A) shall not apply if the owner of the property is the person whose unsatisfied liability gave rise to the lien.".

(b) Civil Action To Release Erroneous Lien.—

(1) In general.—Subsection (a) of section 7426 (relating to civil actions by persons other than taxpayers) is amended by adding at the end the following new paragraph:

"(4) Substitution of value.—If a certificate of discharge is issued to any person under section 6325(b)(4) with respect to any property, such person may, within 120 days after the day on which such certificate is issued, bring a civil action against the United States in a district court of the United States for a determination of whether the value of the interest of the United States (if any) in such property is less than the value determined by the Secretary. No other action may be brought by such person for such a determination.".

(2) Form of relief.—

(A) In general.—Subsection (b) of section 7426 is amended by adding at the end the following new paragraph:

"(5) Substitution of value.—If the court determines that the Secretary's determination of the value of the interest of the United States in the property for purposes of section 6325(b)(4) exceeds the actual value of such interest, the court shall grant a judgment ordering a refund of the amount deposited, and a release of the bond, to the extent that the aggregate of the amounts thereof exceeds such value determined by the court.".

(B) Interest allowed on refund of deposit.—Subsection (g) of section 7426 is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting "; and", and by adding at the end the following new paragraph:

"(3) in the case of a judgment pursuant to subsection (b)(5) which orders a refund of any amount, from the date the Secretary received such amount to the date of payment of such judgment.".

(3) Suspension of running of statute of limitation.—Subsection (f) of section 6503 is amended to read as follows:

"(f) Wrongful Seizure of or Lien on Property of Third Party.—

"(1) Wrongful seizure.—The running of the period under section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secretary to the date the Secretary returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned.

"(2) Wrongful lien.—In the case of any assessment for which a lien was made on any property, the running of the period under section 6502 shall be suspended for a period equal to the period beginning on the date any person becomes entitled to a certificate under section 6325(b)(4) with respect to such property and ending on the date which is 30 days after the earlier of—

"(A) the earliest date on which the Secretary no longer holds any amount as a deposit or bond provided under section 6325(b)(4) by reason of such deposit or bond being used to satisfy the unpaid tax or being refunded or released, or

"(B) the date that the judgment secured under section 7426(b)(5) becomes final.

The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the value of the interest of the United States in the property plus interest, penalties, additions to the tax, and additional amounts attributable thereto.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

SEC. 3201. SPOUSAL ELECTION TO LIMIT JOINT AND SEVERAL LIABILITY ON JOINT RETURN.

(a) In General.—Subpart B of part II of subchapter A of chapter 61 is amended by inserting after section 6014 the following new section:

"SEC. 6015. ELECTION TO LIMIT JOINT AND SEVERAL LIABILITY ON JOINT RETURN.

"(a) Election To Limit Liability.—

"(1) In general.—Notwithstanding section 6013(d)(3), and except as provided in paragraphs (2) and (3), if an individual who has made a joint return for any taxable year elects the application of this section—

"(A) the individual's liability for any tax shown on the return which remains unpaid as of the payment due date shall not exceed the individual's separate return amount determined under subsection (b), and

"(B) the individual's liability for any deficiency which is assessed shall not exceed the portion of such deficiency properly allocable to the individual under subsection (c).

"(2) Burden of proof.—Except as provided in paragraph (3) (B) or (C), each individual who elects the application of this section shall have the burden of proof with respect to establishing the individual's separate return amount and the portion of any deficiency allocable to such individual.

"(3) Election.—

"(A) In general.—An election under this subsection for any taxable year shall be made not later than 2 years after the date on which the Secretary has begun collection activities with respect to the individual making the election.

"(B) Certain taxpayers ineligible to elect.—If the Secretary demonstrates that assets were transferred between individuals filing a joint return as part of a fraudulent scheme by such individuals, an election under this section by either individual shall be invalid (and section 6013(d)(3) shall apply to the joint return).

"(C) Election not valid with respect to certain deficiencies.—If the Secretary demonstrates that an individual making an election under this section had actual knowledge, at the time such individual signed the return, of any item giving rise to a deficiency (or portion thereof) which is not allocable to such individual under subsection (c), such election shall not apply to such deficiency (or portion). This subparagraph shall not apply where the individual with actual knowledge establishes that such individual signed the return under duress.

"(b) Separate Return Amount.—For purposes of this section—

"(1) In general.—The term 'separate return amount' means, with respect to an individual, an amount equal to the excess (if any) of—

"(A) the tax liability of the individual which would have been determined (on the basis of the items shown on the joint return) for the taxable year if the individual had filed a separate return, over

"(B) the aggregate payments of such tax properly allocable to such individual.

"(2) Special rules for computing tax liabilities and payment.—

"(A) Treatment of certain credits.—The credits allowed by sections 31, 33, and 34 for any taxable year—

"(i) shall not be taken into account in determining the amount of tax shown on a return or the tax liability of an individual filing a separate return, but

"(ii) shall be taken into account in determining the aggregate payments of tax of the individual to whom such credits are properly allocable.

"(B) Mathematical and clerical errors.—Tax shown on a return shall include any tax assessed on account of a mathematical or clerical error (within the meaning of section 6213(g)(2)) appearing on the return.

"(3) Payment due date.—The term 'payment due date' means the date prescribed for payment of the tax (determined with regard to any extension of time for payment).

"(c) Allocation of Deficiency.—For purposes of subsection (a)(1)(B)—

"(1) In general.—The portion of any deficiency on a joint return allocated to an individual shall be the amount which bears the same ratio to such deficiency as the net amount of items taken into account in computing the deficiency and allocable to the individual under paragraph (3) bears to the net amount of all items taken into account in computing the deficiency.

"(2) Separate treatment of certain items.—If a deficiency (or portion thereof) is attributable to—

"(A) the disallowance of a credit, or

"(B) any tax (other than tax imposed by section 1 or 55) required to be included with the joint return,

and such item is allocated to 1 individual under paragraph (3), such deficiency (or portion) shall be allocated to such individual. Any such item shall not be taken into account under paragraph (1).

"(3) Allocation of items giving rise to the deficiency.—For purposes of this subsection—

"(A) In general.—Any item giving rise to a deficiency on a joint return shall be allocated to individuals filing the return in the same manner as it would have been allocated if the individuals had filed separate returns for the taxable year.

"(B) EXCEPTION WHERE OTHER SPOUSE BENEFITS.—Under rules prescribed by the Secretary, an item otherwise allocable to an individual under subparagraph (A) shall be allocated to the other individual filing the joint return to the extent the item gave rise to a tax benefit on the joint return to the other individual.

"(C) EXCEPTION FOR FRAUD.—The Secretary may provide for an allocation of any item in a manner not prescribed by subparagraph (A) if the Secretary establishes that such allocation is appropriate due to fraud of 1 or both individuals.

"(d) PETITION FOR REVIEW BY TAX COURT.—

"(1) IN GENERAL.—In the case of an individual who elects to have this section apply—

"(A) IN GENERAL.—The individual may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the appropriate relief available to the individual under this section if such petition is filed during the 90-day period beginning on the date on which the Secretary mails by certified or registered mail a notice to such individual of the Secretary's determination of relief available to the spouse. Notwithstanding the preceding sentence, an individual may file such petition at any time after the date which is 6 months after the date such election is filed with the Secretary and before the close of such 90-day period.

"(B) RESTRICTIONS APPLICABLE TO COLLECTION OF ASSESSMENT.—

"(i) IN GENERAL.—Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court shall be made, begun, or prosecuted against the spouse making an election under subsection (a) for collection of any assessment to which such election relates until the expiration of the 90-day period described in subparagraph (A), or, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

"(ii) AUTHORITY TO ENJOIN COLLECTION ACTIONS.—Notwithstanding the provisions of section 7421(a), the beginning of such levy or proceeding during the time the prohibition under clause (i) is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this subparagraph to enjoin any action or proceeding unless a timely petition has been filed under subparagraph (A) and then only in respect of the amount of the assessment to which the election under subsection (a) relates.

"(2) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under paragraph (1)(A) relates shall be suspended for the period during which the Secretary is prohibited by paragraph (1)(B) from collecting by levy or a proceeding in court and for 60 days thereafter.

"(3) APPLICABLE RULES.—

"(A) ALLOWANCE OF CREDIT OR REFUND.—Except as provided in subparagraph (B), notwithstanding any other law or rule of law (other than section 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this section.

"(B) RES JUDICATA.—In the case of any election under subsection (a), if a decision of the Tax Court in any prior proceeding for the same taxable year has become final, such decision shall be conclusive except with respect to the qualification of the individual for relief which was not an issue in such proceeding. The exception contained in the preceding sentence shall not apply if the Tax Court determines that the individual participated meaningfully in such prior proceeding.

"(C) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun by either individual filing the joint return pursuant to section 6532—

"(i) the Tax Court shall lose jurisdiction of the individual's action under this section to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable years that are the subject of the suit for refund, and

"(ii) the court acquiring jurisdiction shall have jurisdiction over the petition filed under this subsection.

"(4) NOTICE TO OTHER SPOUSE.—The Tax Court shall establish rules which provide the individual filing a joint return but not making the election under subsection (a) with adequate notice and an opportunity to become a party to a proceeding under this subsection.

"(e) EQUITABLE RELIEF.—Under procedures prescribed by the Secretary, if—

"(1) a separate return amount determined under subsection (b) or an allocation of deficiency under subsection (c) is attributable to an item being allocated to an individual,

"(2) the individual establishes that he or she did not know, and had no reason to know, of such item, and

"(3) taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either) attributable to such item,

the Secretary may provide that, for purposes of this section, such item shall not be allocated to such individual but shall be allocated to the other individual filing the joint return.

"(f) OTHER RULES.—For purposes of this section—

"(1) COMMUNITY PROPERTY LAWS DISREGARDED.—Any determination under this section shall be made without regard to community property laws.

"(2) LIMITATIONS ON SEPARATE RETURNS DISREGARDED.—If an item of deduction or credit is disallowed in its entirety solely because a separate return is filed, such disallowance shall be disregarded and the item shall be computed as if a joint return had been filed and then allocated between the spouses appropriately. A similar rule shall apply for purposes of section 86.

"(3) CHILD'S LIABILITY.—If the liability of a child of a taxpayer is included on a joint return, such liability shall be disregarded in computing the separate liability of either spouse and such liability shall be allocated appropriately between the spouses.

"(g) LIABILITY INCREASED BY REASON OF TRANSFERS OF PROPERTY TO AVOID TAX.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, any limitation on the tax liability of an individual electing the application of this section shall be increased by the value of any disqualified asset transferred to the individual.

"(2) DISQUALIFIED ASSET.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'disqualified asset' means any property or right to property transferred to an individual making the election under this section with respect to a joint return by the other individual filing such joint return if the principal purpose of the transfer was the avoidance of tax or payment of tax.

"(B) PRESUMPTION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), except as provided in clause (ii), any transfer which is made after the date which is 1 year before—

"(I) in the case of any unpaid tax to which subsection (a)(1)(A) applies, the payment due date of such unpaid tax, and

"(II) in the case of any deficiency to which subsection (a)(1)(B) applies, the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent,

shall be presumed to have as its principal purpose the avoidance of tax or payment of tax.

"(ii) EXCEPTIONS.—Clause (i) shall not apply to any transfer—

"(I) pursuant to a decree of divorce or separate maintenance or a written instrument incident to such a decree, or

"(II) which an individual establishes did not have as its principal purpose the avoidance of tax or payment of tax.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this section, including—

"(1) regulations providing methods for allocation of items other than the methods under subsection (c)(3), and

"(2) regulations providing the opportunity for an individual to have notice of, and an opportunity to participate in, any administrative proceeding with respect to an election made under subsection (a) by the other individual filing the joint return.".

(b) SEPARATE FORM FOR APPLYING FOR SPOUSAL RELIEF.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall develop a separate form with instructions for use by taxpayers in applying for relief under section 6015(a) of the Internal Revenue Code of 1986, as added by this section.

(c) SEPARATE NOTICE TO EACH FILER.—The Secretary of the Treasury shall, wherever practicable, send any notice relating to a joint return under section 6013 of the Internal Revenue Code of 1986 separately to each individual filing the joint return.

(d) CONFORMING AMENDMENTS.—

(1) Section 6013 is amended by striking subsection (e).

(2) Subparagraph (A) of section 6230(c)(5) is amended by striking "section 6013(e)" and inserting "section 6015".

(3) Section 7421(a) is amended by inserting "6015(d)," after "sections".

(e) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by inserting after the item relating to section 6014 the following new item:

"Sec. 6015. Election to limit joint and several liability on joint return.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any liability for tax arising after the date of the enactment of this Act and any liability for tax arising on or before such date but remaining unpaid as of such date.

(2) 2-YEAR PERIOD.—The 2-year period under section 6015(a)(3)(A) of the Internal Revenue Code of 1986 shall not expire before the date which is 2 years after the date of the first collection activity after the date of the enactment of this Act.

SEC. 3202. SUSPENSION OF STATUTE OF LIMITATIONS ON FILING REFUND CLAIMS DURING PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS UNABLE TO MANAGE FINANCIAL AFFAIRS DUE TO DISABILITY.—

"(1) IN GENERAL.—In the case of an individual, the running of the periods specified in subsections (a), (b), and (c) shall be suspended during any period of such individual's life that such individual is financially disabled.

"(2) FINANCIALLY DISABLED.—

"(A) IN GENERAL.—For purposes of paragraph (1), an individual is financially disabled if such *individual is unable to manage his financial affairs by reason of a medically determinable physical or mental impairment of the individual which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to have such an impairment unless proof of the existence thereof is furnished in such form and manner as the Secretary may require.*

"(B) EXCEPTION WHERE INDIVIDUAL HAS GUARDIAN, ETC.—An individual shall not be treated as financially disabled during any period that such individual's spouse or any other person is authorized to act on behalf of such individual in financial matters.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods of disability before, on, or after the date of the enactment of this Act but shall not apply to any claim for credit or refund which (without regard to such amendment) is barred by the operation of any law or rule of law (including res judicata) as of January 1, 1998.

Subtitle D—Provisions Relating to Interest and Penalties

SEC. 3301. ELIMINATION OF INTEREST RATE DIFFERENTIAL ON OVERLAPPING PERIODS OF INTEREST ON TAX OVERPAYMENTS AND UNDERPAYMENTS.

(a) IN GENERAL.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end the following new subsection:

"(d) ELIMINATION OF INTEREST ON OVERLAPPING PERIODS OF TAX OVERPAYMENTS AND UNDERPAYMENTS.—To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by this title, the net rate of interest under this section on such amounts shall be zero for such period.".

(b) CONFORMING AMENDMENT.—Subsection (f) of section 6601 (relating to satisfaction by credits) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to the extent that section 6621(d) applies.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided under paragraph (2), the amendments made by this section shall apply to interest for periods beginning after the date of the enactment of this Act.

(2) SPECIAL RULE.—Subject to any applicable statute of limitation not having expired with regard to either a tax underpayment or a tax overpayment, the amendments made by this section shall apply to interest for periods beginning before the date of the enactment of this Act if the taxpayer—

(A) reasonably identifies and establishes periods of such tax overpayments and underpayments for which the zero rate applies, and

(B) not later than December 31, 1999, requests the Secretary of the Treasury to apply section 6621(d) of the Internal Revenue Code of 1986, as added by subsection (a), to such periods.

SEC. 3301A. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a) (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) SECTION 358.—Section 358(d)(1) (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) SECTION 368.—

(A) Section 368(a)(1)(C) is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—Section 357(c) is amended by adding at the end the following new paragraph:

"(4) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

"(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

"(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability.".

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply.".

(2) SECTION 1031.—The last sentence of section 1031(d) is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(c)(4)) a liability of the taxpayer", and

(B) by striking "or acquisition (in the amount of the liability)".

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) is amended by striking "or acquired".

(4) Section 357(c)(1) is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) is amended by striking "or acquisition (in the amount of the liability)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 3302. INCREASE IN OVERPAYMENT RATE PAYABLE TO TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 6621(a)(1) (defining overpayment rate) is amended to read as follows:

"(B) 3 percentage points (2 percentage points in the case of a corporation).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest for the second and succeeding calendar quarters beginning after the date of the enactment of this Act.

SEC. 3303. ELIMINATION OF PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.

(a) IN GENERAL.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(h) LIMITATION ON PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.—In the case of an individual who files a return of tax on or before the due date for the return (including extensions), no addition to the tax shall be imposed under paragraph (2) or (3) of subsection (a) with respect to the individual's liability for tax relating to the return for any month during which an installment agreement under section 6159 is in effect for the payment of such tax.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for purposes of determining additions to the tax for months beginning after December 31, 1999.

SEC. 3304. MITIGATION OF FAILURE TO DEPOSIT PENALTY.

(a) TAXPAYER MAY DESIGNATE PERIODS TO WHICH DEPOSITS APPLY.—Section 6656 (relating to underpayment of deposits) is amended by adding at the end the following new subsection:

"(e) DESIGNATION OF PERIODS TO WHICH DEPOSITS APPLY.—

"(1) IN GENERAL.—A person may designate the period or periods to which a deposit is to be applied for purposes of this section.

"(2) TIME FOR MAKING DESIGNATION.—A person shall make any designation under paragraph (1) on or before the later of—

"(A) the date the deposit is made, or

"(B) the 90th day after the earlier of the dates determined under subsection (b)(1)(B) with respect to a notice covering the period to which the deposit would be applied but for a designation under this subsection.".

(b) EXPANSION OF EXEMPTION FOR FIRST-TIME DEPOSITS.—

(1) IN GENERAL.—Paragraph (2) of section 6656(c) (relating to exemption for first-time depositors of employment taxes) is amended to read as follows:

"(2) such failure—

"(A) occurs during the 1st quarter that such person was required to deposit any employment tax, or

"(B) if such person is required to change the frequency of deposits of any employment tax, relates to the first deposit to which such change applies, and".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to deposits required to be made after the 180th day after the date of the enactment of this Act.

SEC. 3305. SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT INDIVIDUAL TAXPAYER.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER.—

"(1) IN GENERAL.—In the case of an individual who files a return of tax imposed by subtitle A for a taxable year on or before the due date for the return (including extensions), if the Secretary does not provide a notice of deficiency to the taxpayer before the close of the 1-year period beginning on the later of—

"(A) the date on which the return is filed, or

"(B) the due date of the return without regard to extensions,

the Secretary shall suspend the imposition of any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return which is computed by reference *to the period of time the failure continues to exist and which is properly allocable to the suspension period.*

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any penalty imposed by section 6651,

"(B) any interest, penalty, addition to tax, or additional amount in a case involving fraud, or

"(C) any criminal penalty.

"(3) SUSPENSION PERIOD.—For purposes of this subsection, the term 'suspension period' means the period—

"(A) beginning on the day after the close of the 1-year period under paragraph (1), and

"(B) ending on the date which is 21 days after the date on which notice and demand for payment of tax relating to such return is made by the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 3306. PROCEDURAL REQUIREMENTS FOR IMPOSITION OF PENALTIES AND ADDITIONS TO TAX.

(a) IN GENERAL.—Chapter 68 (relating to additions to the tax, additional amounts, and assessable penalties) is amended by adding at the end the following new subchapter:

"Subchapter C—Procedural Requirements

"Sec. 6751. Procedural requirements.

"SEC. 6751. PROCEDURAL REQUIREMENTS.

"(a) COMPUTATION OF PENALTY INCLUDED IN NOTICE.—The Secretary shall include with each notice of penalty under this title information with respect to the name of the penalty, the section of this title under which the penalty is imposed, and a computation of the penalty.

"(b) APPROVAL OF ASSESSMENT.—

"(1) IN GENERAL.—No penalty under this title shall be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any addition to tax under section 6651, 6654, or 6655, or

"(B) any other penalty automatically calculated through electronic means.

"(c) PENALTIES.—For purposes of this section, the term 'penalty' includes any addition to tax or any additional amount.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 68 is amended by adding at the end the following new item:

"SUBCHAPTER C. Procedural requirements.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices issued, and penalties assessed, after the 180th day after the date of the enactment of this Act.

SEC. 3307. PERSONAL DELIVERY OF NOTICE OF PENALTY UNDER SECTION 6672.

(a) IN GENERAL.—Paragraph (1) of section 6672(b) (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by inserting "or in person" after "section 6212(b)".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6672(b) is amended by inserting "(or, in the case of such a notice delivered in person, such delivery)" after "paragraph (1)".

(2) Paragraph (3) of section 6672(b) is amended by inserting "or delivered in person" after "mailed" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3308. NOTICE OF INTEREST CHARGES.

(a) IN GENERAL.—Chapter 67 (relating to interest) is amended by adding at the end the following new subchapter:

"Subchapter D—Notice requirements

"Sec. 6631. Notice requirements.

"SEC. 6631. NOTICE REQUIREMENTS.

"The Secretary shall include with each notice to an individual taxpayer which includes an amount of interest required to be paid by such taxpayer under this title information with respect to the section of this title under which the interest is imposed and a computation of the interest.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 67 is amended by adding at the end the following new item:

"SUBCHAPTER D. Notice requirements.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices issued after June 30, 2000.

SEC. 3309. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Section 6404 of the Internal Revenue Code of 1986 (relating to abatements) is amended by adding at the end the following:

"(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

"(1) IN GENERAL.—If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

"(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term 'Presidentially declared disaster area' means, with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1996, with respect to taxable years beginning after December 31, 1996.

(c) EMERGENCY DESIGNATION.—

(1) For the purposes of section 252(e) of the Balanced Budget and Emergency Deficit Control Act, Congress designates the provisions of this section as an emergency requirement.

(2) The amendments made by subsections (a) and (b) of this section shall only take effect upon the transmittal by the President to the Congress of a message designating the provisions of subsections (a) and (b) as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

PART I—DUE PROCESS

SEC. 3401. DUE PROCESS IN IRS COLLECTION ACTIONS.

(a) NOTICE AND OPPORTUNITY FOR HEARING BEFORE FILING OF NOTICE OF LIEN.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting before the table of sections the following:

"Part I. Due process for liens.
"Part II. Liens.

"PART I—DUE PROCESS FOR LIENS

"Sec. 6320. Notice and opportunity for hearing before filing of notice of lien.

"SEC. 6320. NOTICE AND OPPORTUNITY FOR HEARING BEFORE FILING OF NOTICE OF LIEN.

"(a) REQUIREMENT OF NOTICE.—

"(1) IN GENERAL.—No notice of lien may be filed under section 6323 unless the Secretary has notified in writing the person described in section 6321 of the Secretary's intention to file such a notice of lien.

"(2) TIME AND METHOD FOR NOTICE.—The notice required under paragraph (1) shall be—

"(A) given in person,

"(B) left at the dwelling or usual place of business of such person, or

"(C) sent by certified or registered mail to such person's last known address,

not less than 30 days before the day of the filing of the notice of lien.

"(3) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1) shall include in simple and nontechnical terms—

"(A) the amount of unpaid tax,

"(B) the right of the person to request a hearing during the 30-day period described in paragraph (2),

"(C) the administrative appeals available to the taxpayer with respect to such lien and the procedures relating to such appeals, and

"(D) the provisions of this title and procedures relating to the release of liens on property.

"(b) RIGHT TO FAIR HEARING.—

"(1) IN GENERAL.—If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

"(2) IMPARTIAL OFFICER.—The hearing under this subsection shall be conducted by an officer or employee who has had no involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section. A taxpayer may waive the requirement of this paragraph.

"(c) CONDUCT OF HEARING; REVIEW; SUSPENSIONS.—For purposes of this section, subsections (c), (d) (other than paragraph (2)(B) thereof), and (e) of section 6330 shall apply.

"PART II—LIENS".

(b) NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.—Subchapter D of chapter 64 (relating to seizure of property for collection of taxes) is amended by inserting before the table of sections the following:

"Part I. Due process for collections.
"Part II. Levy.

"PART I—DUE PROCESS FOR COLLECTIONS

"Sec. 6330. Notice and opportunity for hearing before levy.

"SEC. 6330. NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.

"(a) REQUIREMENT OF NOTICE BEFORE LEVY.—

"(1) IN GENERAL.—No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of the Secretary's intention to make such a levy.

"(2) TIME AND METHOD FOR NOTICE.—

"(A) IN GENERAL.—The notice required under paragraph (1) shall be—

"(i) given in person,

"(ii) left at the dwelling or usual place of business of such person, or

"(iii) sent by certified or registered mail to such person's last known address,

not less than 30 days before the day of the levy.

"(B) LONGER PERIOD FOR LIFE INSURANCE AND ENDOWMENT CONTRACTS.—In the case of a levy on an organization with respect to a life insurance or endowment contract issued by such organization, subparagraph (A) shall be applied by substituting '90 days' for '30 days'.

"(3) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1) shall include in simple and nontechnical terms—

"(A) the amount of unpaid tax,

"(B) the right of the person to request a hearing during the applicable period under paragraph (2), and

"(C) the proposed action by the Secretary and the rights of the person with respect to such action, including a brief statement which sets forth—

"(i) the provisions of this title relating to levy and sale of property,

"(ii) the procedures applicable to the levy and sale of property under this title,

"(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

"(iv) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159), and

"(v) the provisions of this title and procedures relating to redemption of property and release of liens on property.

"(b) RIGHT TO FAIR HEARING.—

"(1) IN GENERAL.—If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

"(2) IMPARTIAL OFFICER.—The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6320. A taxpayer may waive the requirement of this paragraph.

"(c) MATTERS CONSIDERED AT HEARING.—In the case of any hearing conducted under this section—

"(1) REQUIREMENT OF INVESTIGATION.—The Secretary shall verify at the hearing that the requirements of any applicable law or administrative procedure have been met.

"(2) ISSUES AT HEARING.—The person may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including—

"(A) challenges to the underlying tax liability as to existence or amount,

"(B) appropriate spousal defenses,

"(C) challenges to the appropriateness of collection actions, and

"(D) offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.

"(3) BASIS FOR THE DETERMINATION.—The determination by an appeals officer under this subsection shall take into consideration—

"(A) the verification presented under paragraph (1),

"(B) the issues raised under paragraph (2), and

"(C) whether the proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that the collection action be no more intrusive than necessary.

"(4) CERTAIN ISSUES PRECLUDED.—An issue may not be raised at the hearing if—

"(A) the issue was raised at a previous hearing under this section or section 6320 or in any other previous administrative or judicial proceeding, and

"(B) the person seeking to raise the issue participated meaningfully in such hearing or proceeding.

This paragraph shall not apply to any issue with respect to which subsection (d)(2)(B) applies.

"(d) PROCEEDING AFTER HEARING.—

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may appeal a determination under this section to the Tax Court within 30 days of the date of such determination.

"(2) JURISDICTION RETAINED AT IRS OFFICE OF APPEALS.—The Internal Revenue Service Office of Appeals shall retain jurisdiction with respect to any determination made under this section, including subsequent hearings requested by the person who requested the original hearing on issues regarding—

"(A) collection actions taken or proposed with respect to such determination, and

"(B) after the person has exhausted all administrative remedies, a change in circumstances with respect to such person which affects such determination.

"(e) SUSPENSION OF COLLECTIONS AND STATUTE OF LIMITATIONS.—If a hearing is requested under subsection (a)(3)(B), the levy actions which are the subject of the requested hearing and the running of any period of limitations under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), or section 6532 (relating to other suits) shall be suspended for the period during which such hearing, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such hearing.

"(f) JEOPARDY COLLECTION.—If the Secretary has made a finding under the last sentence of section 6331(a) that the collection of tax is in jeopardy, this section shall not apply, except that the taxpayer shall be given the opportunity for the hearing described in this section within a reasonable period of time after the levy.

"PART II—LEVY".

(c) REVIEW BY SPECIAL TRIAL JUDGES ALLOWED.—

(1) IN GENERAL.—Section 7443(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

"(4) any proceeding under section 6320 or 6330, and".

(2) AUTHORITY TO MAKE DECISIONS.—Section 7443(c) (relating to authority to make court decisions) is amended by striking "or (3)" and inserting "(3), or (4)".

(d) CONFORMING AMENDMENT.—Section 6331 is amended by striking subsection (d).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to collection actions initiated after the date which is 180 days after the date of the enactment of this Act.

PART II—EXAMINATION ACTIVITIES

SEC. 3411. UNIFORM APPLICATION OF CONFIDENTIALITY PRIVILEGE TO TAXPAYER COMMUNICATIONS WITH FEDERALLY AUTHORIZED PRACTITIONERS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7525. UNIFORM APPLICATION OF CONFIDENTIALITY PRIVILEGE TO TAXPAYER COMMUNICATIONS WITH FEDERALLY AUTHORIZED PRACTITIONERS.

"(a) GENERAL RULE.—With respect to tax advice, the same common law protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to a communication between a taxpayer and any federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney.

"(b) LIMITATIONS.—Subsection (a) may only be asserted in—

"(1) any noncriminal tax matter before the Internal Revenue Service, and

"(2) any noncriminal tax proceeding in Federal court with respect to such matter.

"(c) DEFINITIONS.—For purposes of this section—

"(1) FEDERALLY AUTHORIZED TAX PRACTITIONER.—The term 'federally authorized tax practitioner' means any individual who is authorized under Federal law to practice before the Internal Revenue Service if such practice is subject to Federal regulation under section 330 of title 31, United States Code.

"(2) TAX ADVICE.—The term 'tax advice' means advice given by an individual with respect to a matter which is within the scope of the individual's authority to practice described in paragraph (1).".

(b) .CONFORMING AMENDMENT.—The table of sections for such chapter 77 is amended by adding at the end the following new item:

"Sec. 7525. Uniform application of confidentiality privilege to taxpayer communications with federally authorized practitioners.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 3412. LIMITATION ON FINANCIAL STATUS AUDIT TECHNIQUES.

Section 7602 (relating to examination of books and witnesses) is amended by adding at the end the following new subsection:

"(d) LIMITATION ON EXAMINATION ON UNREPORTED INCOME.—The Secretary shall not use financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the Secretary has a reasonable indication that there is a likelihood of such unreported income.".

SEC. 3413. SOFTWARE TRADE SECRETS PROTECTION.

(a) IN GENERAL.—Subchapter A of chapter 78 (relating to examination and inspection) is amended by redesignating section 7612 as section 7613 and by inserting after 7611 the following:

"SEC. 7612. SPECIAL PROCEDURES FOR SUMMONSES FOR COMPUTER SOFTWARE.

"(a) GENERAL RULE.—For purposes of this title—

"(1) except as provided in subsection (b), no summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, to produce or analyze any computer software source code, and

"(2) any software and related materials which are provided to the Secretary under this title shall be subject to the safeguards under subsection (c).

"(b) CIRCUMSTANCES UNDER WHICH COMPUTER SOFTWARE SOURCE CODE MAY BE PROVIDED.—

"(1) IN GENERAL.—Subsection (a)(1) shall not apply to any portion, item, or component of computer software source code if—

"(A) the Secretary is unable to otherwise reasonably ascertain the correctness of any item on a return from—

"(i) the taxpayer's books, papers, records, or other data, or

"(ii) the computer software executable code (and any modifications thereof) to which such source code relates and any associated data which, when executed, produces the output to ascertain the correctness of the item,

"(B) the Secretary identifies with reasonable specificity the portion, item, or component of such source code needed to verify the correctness of such item on the return, and

"(C) the Secretary determines that the need for the portion, item, or component of such source code with respect to such item outweighs the risks of unauthorized disclosure of trade secrets.

"(2) EXCEPTIONS.—Subsection (a)(1) shall not apply to—

"(A) any inquiry into any offense connected with the administration or enforcement of the internal revenue laws,

"(B) any computer software source code developed by the taxpayer or a related person for internal use by the taxpayer or such person, or

"(C) any communications between the owner of the source code and the taxpayer or related persons.

"(3) COOPERATION REQUIRED.—For purposes of paragraph (1), the Secretary shall be treated as meeting the requirements of subparagraphs (A) and (B) of such paragraph if—

"(A) the Secretary determines that it is not feasible to determine the correctness of an item without access to the computer software executable code and associated data described in paragraph (1)(A)(ii),

"(B) the Secretary makes a formal request to the taxpayer for such code and data and to the owner of the computer software source code for such executable code, and

"(C) such code and data is not provided within 180 days of such request.

"(4) RIGHT TO CONTEST SUMMONS.—In any proceeding brought under section 7604 to enforce a summons issued under the authority of this subsection, the court shall, at the request of any party, hold a hearing to determine whether the applicable requirements of this subsection have been met.

"(c) SAFEGUARDS TO ENSURE PROTECTION OF TRADE SECRETS AND OTHER CONFIDENTIAL INFORMATION.—

"(1) ENTRY OF PROTECTIVE ORDER.—In any court proceeding to enforce a summons for any portion of software, the court may receive evidence and issue any order necessary to prevent the disclosure of trade secrets or other confidential information with respect to such software, including -requiring that any information be placed under seal to be opened only as directed by the court.

"(2) PROTECTION OF SOFTWARE.—Notwithstanding any other provision of this section, and in addition to any protections ordered pursuant to paragraph (1), in the case of software that comes into the possession or control of the Secretary in the course of any examination with respect to any taxpayer—

"(A) the software may be used only in connection with the examination of such taxpayer's return, any appeal by the taxpayer to the Internal Revenue Service Office of Appeals, any judicial proceeding (and any appeals therefrom), and any inquiry into any offense connected with the administration or enforcement of the internal revenue laws,

"(B) the Secretary shall provide, in advance, to the taxpayer and the owner of the software a written list of the names of all individuals who will analyze or otherwise have access to the software,

"(C) the software shall be maintained in a secure area or place, and, in the case of computer software source code, shall not be removed from the owner's place of business unless the owner permits, or a court orders, such removal,

"(D) the software may not be copied except as necessary to perform such analysis, and the Secretary shall number all copies made and certify in writing that no other copies have been (or will be) made,

"(E) at the end of the period during which the software may be used under subparagraph (A)—

"(i) the software and all copies thereof shall be returned to the person from whom they were obtained and any copies thereof made under subparagraph (D) on the hard drive of a machine or other mass storage device shall be permanently deleted, and

"(ii) the Secretary shall obtain from any person who analyzes or otherwise had access to such software a written certification under penalty of perjury that all copies and related materials have been returned and that no copies were made of them,

"(F) the software may not be decompiled or disassembled, and

"(G) the Secretary shall provide to the taxpayer and the owner of any interest in such software, as the case may be, a written agreement, between the Secretary and any person who is not an officer or employee of the United States and who will analyze or otherwise have access to such software, which provides that such person agrees not to—

"(i) disclose such software to any person other than authorized employees or agents of the Secretary during and after employment by the Secretary, or

"(ii) participate for 2 years in the development of software which is intended for a similar purpose as the software examined.

For purposes of subparagraph (C), the owner shall make available any necessary equipment or materials for analysis of computer software source code required to be conducted on the owner's premises. The owner of any interest in the software shall be considered a party to any agreement described in subparagraph (G).

"(d) DEFINITIONS.—For purposes of this section—

"(1) SOFTWARE.—The term 'software' includes computer software source code and computer software executable code.

"(2) COMPUTER SOFTWARE SOURCE CODE.—The term 'computer software source code' means—

"(A) the code written by a programmer using a programming language which is comprehensible to appropriately trained persons, is not machine readable, and is not capable of directly being used to give instructions to a computer,

"(B) related programmers' notes, design documents, memoranda, and similar documentation, and

"(C) related customer communications.

"(3) COMPUTER SOFTWARE EXECUTABLE CODE.—The term 'computer software executable code' means—

"(A) any object code, machine code, or other code readable by a computer when loaded into its memory and used directly by such computer to execute instructions, and

"(B) any related user manuals.

"(4) OWNER.—The term 'owner' shall, with respect to any software, include the developer of the software.

"(5) RELATED PERSON.—A person shall be treated as related to another person if such persons are related persons under section 267 or 707(b).".

(b) UNAUTHORIZED DISCLOSURE OF SOFTWARE.—Section 7213 (relating to unauthorized disclosure of information) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

"(d) DISCLOSURE OF SOFTWARE.—Any person who willfully divulges or makes known software (as defined in section 7612(d)(1)) to any person in violation of section 7612 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.".

(c) APPLICATION OF SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.—Paragraph (2) of section 7603(b), as amended by section 3416(a), is amended by striking "and" at the end of subparagraph (H), by striking a period at the end of subparagraph (I) and inserting ", and", and by adding at the end the following:

"(J) any owner or developer of a computer software source code (as defined in section 7612(d)(2)).

Subparagraph (J) shall apply only with respect to a summons requiring the production of the source code referred to in subparagraph (J) or the program and data described in section 7612(b)(1)(A)(ii) to which such source code relates.".

(d) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 78 is amended by striking the item relating to section 7612 and by inserting the following:

"Sec. 7612. Special procedures for summonses for computer software.

"Sec. 7613. Cross references.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to summonses issued, and software acquired, after the date of the enactment of this Act.

(2) SOFTWARE PROTECTION.—In the case of any software acquired on or before such date of enactment, the requirements of section 7612(a)(2) of the Internal Revenue Code of 1986 (as added by such amendments) shall apply after the 90th day after such date. The preceding sentence shall not apply to the requirement under section 7612(c)(2)(G)(ii) of such Code (as so added).

SEC. 3414. THREAT OF AUDIT PROHIBITED TO COERCE TIP REPORTING ALTERNATIVE COMMITMENT AGREEMENTS.

The Secretary of the Treasury or the Secretary's delegate shall instruct employees of the Internal Revenue Service that they may not threaten to audit any taxpayer in an attempt to coerce the taxpayer into entering into a Tip Reporting Alternative Commitment Agreement.

SEC. 3415. TAXPAYERS ALLOWED MOTION TO QUASH ALL THIRD-PARTY SUMMONSES.

(a) IN GENERAL.—Paragraph (1) of section 7609(a) (relating to summonses to which section applies) is amended by striking so much of such paragraph as precedes "notice of the summons" and inserting the following:

"(1) IN GENERAL.—If any summons to which this section applies requires the giving of testimony on, or the production of any portion of records made or kept on, any person (other than the person summoned) who is identified in the summons, then".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 7609 is amended by striking paragraphs (3) and (4), by redesignating paragraph (5) as paragraph (3), and by striking in paragraph (3) (as so redesignated) "subsection (c)(2)(B)" and inserting "subsection (c)(2)(D)".

(2) Subsection (c) of section 7609 is amended to read as follows:

"(c) SUMMONS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to any summons issued under paragraph (2) of section 7602(a) or under section 6420(e)(2), 6421(g)(2), or 6427(j)(2).

"(2) EXCEPTIONS.—This section shall not apply to any summons—

"(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person,

"(B) issued to determine whether or not records of the business transactions or affairs of an identified person have been made or kept,

"(C) issued solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in section 7603(b)(2)(A),

"(D) issued in aid of the collection of—

"(i) an assessment made or judgment rendered against the person with respect to whose liability the summons is issued, or

"(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i),

"(E)(i) issued by a criminal investigator of the Internal Revenue Service in connection with the investigation of an offense connected with the administration or enforcement of the internal revenue laws, and

"(ii) served on any person who is not a third-party recordkeeper (as defined in section 7603(b)), or

"(F) described in subsection (f) or (g).

"(3) RECORDS.—For purposes of this section, the term 'records' includes books, papers, and other data.".

(3) Paragraph (2) of section 7609(e) is amended by striking "third-party recordkeeper's" and all

that follows through "subsection (f)" and inserting "summoned party's response to the summons".

(4) Subsection (f) of section 7609 is amended—

(A) by striking "described in subsection (c)" and inserting "described in subsection (c)(1)", and

(B) by inserting "or testimony" after "records" in paragraph (3).

(5) Subsection (g) of section 7609 is amended by striking "In the case of any summons described in subsection (c), the provisions of subsections (a)(1) and (b) shall not apply if" and inserting "A summons is described in this subsection if".

(6)(A) Subsection (i) of section 7609 is amended by striking "THIRD-PARTY RECORDKEEPER AND" in the subsection heading.

(B) Paragraph (1) of section 7609(i) is amended by striking "described in subsection (c), the third-party recordkeeper" and inserting "to which this section applies for the production of records, the summoned party".

(C) Paragraph (2) of section 7609(i) is amended—

(i) by striking "RECORDKEEPER" in the heading and inserting "SUMMONED PARTY", and

(ii) by striking "the third-party recordkeeper" and inserting "the summoned party".

(D) Paragraph (3) of section 7609(i) is amended to read as follows:

"(3) PROTECTION FOR SUMMONED PARTY WHO DISCLOSES.—Any summoned party, or agent or employee thereof, making a disclosure of records or testimony pursuant to this section in good faith reliance on the certificate of the Secretary or an order of a court requiring production of records or the giving of such testimony shall not be liable to any customer or other person for such disclosure.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses served after the date of the enactment of this Act.

SEC. 3416. SERVICE OF SUMMONSES TO THIRD-PARTY RECORDKEEPERS PERMITTED BY MAIL.

(a) IN GENERAL.—Section 7603 (relating to service of summons) is amended by striking "A summons issued" and inserting "(a) IN GENERAL.—A summons issued" and by adding at the end the following new subsection:

"(b) SERVICE BY MAIL TO THIRD-PARTY RECORDKEEPERS.—

"(1) IN GENERAL.—A summons referred to in subsection (a) for the production of books, papers, records, or other data by a third-party recordkeeper may also be served by certified or registered mail to the last known address of such recordkeeper.

"(2) THIRD-PARTY RECORDKEEPER.—For purposes of paragraph (1), the term 'third-party recordkeeper' means—

"(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));

"(B) any consumer reporting agency (as defined under section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)));

"(C) any person extending credit through the use of credit cards or similar devices;

"(D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));

"(E) any attorney;

"(F) any accountant;

"(G) any barter exchange (as defined in section 6045(c)(3));

"(H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof, and

"(I) any enrolled agent.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to summonses served after the date of the enactment of this Act.

SEC. 3417. PROHIBITION ON IRS CONTACT OF THIRD PARTIES WITHOUT PRIOR NOTICE.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses), as amended by section 3412, is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) LIMITATION OF AUTHORITY TO CONTACT THIRD PARTIES.—An officer or employee of the Internal Revenue Service may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of such taxpayer without providing reasonable notice to the taxpayer that such contact will be made. This subsection shall not apply—

"(1) to any contact which the taxpayer has authorized,

"(2) if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax, or

"(3) with respect to any pending criminal investigation.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contacts made after the 180th day after the date of the enactment of this Act.

PART III—COLLECTION ACTIVITIES

Subpart A—Approval Process

SEC. 3421. APPROVAL PROCESS FOR LIENS, LEVIES, AND SEIZURES.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement procedures under which—

(1) a determination by an employee to file a notice of lien or levy with respect to, or to levy or seize, any property or right to property would, where appropriate, be required to be reviewed by a supervisor of the employee before the action was taken, and

(2) appropriate disciplinary action would be taken against the employee or supervisor where the procedures under paragraph (1) were not followed.

(b) REVIEW PROCESS.—The review process under subsection (a)(1) may include a certification that the employee has—

(1) reviewed the taxpayer's information,

(2) verified that a balance is due, and

(3) affirmed that the action proposed to be taken is appropriate given the taxpayer's circumstances, considering the amount due and the value of the property or right to property.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except for automated collection system actions initiated before January 1, 2000.

Subpart B—Liens and Levies

SEC. 3431. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.

(a) FUEL, ETC.—Section 6334(a)(2) (relating to fuel, provisions, furniture, and personal effects) is amended by striking "$2,500" and inserting "$10,000".

(b) BOOKS, ETC.—Section 6334(a)(3) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,250" and inserting "$5,000".

(c) CONFORMING AMENDMENT.—Section 6334 (g)(1) (relating to inflation adjustment) is amended—

(1) by striking "1997" and inserting "1999", and

(2) by striking "1996" in subparagraph (B) and inserting "1998".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to levies issued after the date of the enactment of this Act.

SEC. 3432. RELEASE OF LEVY UPON AGREEMENT THAT AMOUNT IS UNCOLLECTIBLE.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(e) IMMEDIATE RELEASE OF LEVY UPON AGREEMENT THAT AMOUNT IS NOT COLLECTIBLE.—In the case of a levy on the salary or wages payable to or received by the taxpayer, upon agreement with the taxpayer that the tax is not collectible, the Secretary shall immediately release such levy before any intervening salary or wage payment period.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to levies imposed after December 31, 1999.

SEC. 3433. LEVY PROHIBITED DURING PENDENCY OF REFUND PROCEEDINGS.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) NO LEVY DURING PENDENCY OF PROCEEDINGS FOR REFUND OF DIVISIBLE TAX.—

"(1) IN GENERAL.—No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid divisible tax during the pendency of any proceeding brought by such person in a proper court for the recovery of any portion of such divisible tax which was paid by such person if—

"(A) the decision in such proceeding would be res judicata with respect to such unpaid tax, or

"(B) such person would be collaterally estopped from contesting such unpaid tax by reason of such proceeding.

"(2) DIVISIBLE TAX.—For purposes of paragraph (1), the term 'divisible tax' means—

"(A) any tax imposed by subtitle C, and

"(B) the penalty imposed by section 6672 with respect to any such tax.

"(3) EXCEPTIONS.—

"(A) CERTAIN UNPAID TAXES.—This subsection shall not apply with respect to any unpaid tax if—

"(i) the taxpayer files a written notice with the Secretary which waives the restriction imposed by this subsection on levy with respect to such tax, or

"(ii) the Secretary finds that the collection of such tax is in jeopardy.

"(B) CERTAIN LEVIES.—This subsection shall not apply to—

"(i) any levy to carry out an offset under section 6402, and

"(ii) any levy which was first made before the date that the applicable proceeding under this subsection commenced.

"(4) LIMITATION ON COLLECTION ACTIVITY; AUTHORITY TO ENJOIN COLLECTION.—

"(A) LIMITATION ON COLLECTION.—No proceeding in court for the collection of any unpaid tax to which paragraph (1) applies shall be begun by the Secretary during the pendency of a proceeding under such paragraph. This subparagraph shall not apply to—

"(i) any counterclaim in a proceeding under such paragraph, or

"(ii) any proceeding relating to a proceeding under such paragraph.

"(B) AUTHORITY TO ENJOIN.—Notwithstanding section 7421(a), a levy or collection proceeding prohibited by this subsection may be enjoined (during the period such prohibition is in force) by the court in which the proceeding under paragraph (1) is brought.

"(5) SUSPENSION OF STATUTE OF LIMITATIONS ON COLLECTION.—The period of limitations under section 6502 shall be suspended for the period during which the Secretary is prohibited under this subsection from making a levy.

"(6) PENDENCY OF PROCEEDING.—For purposes of this subsection, a proceeding is pending beginning on the date such proceeding commences and ending on the date the decision in such proceeding becomes final.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to unpaid tax attributable to taxable periods beginning after December 31, 1998.

SEC. 3434. APPROVAL REQUIRED FOR JEOPARDY AND TERMINATION ASSESSMENTS AND JEOPARDY LEVIES.

(a) IN GENERAL.—Paragraph (1) of section 7429(a) (relating to review of jeopardy levy or assessment procedures) is amended to read as follows:

"(1) ADMINISTRATIVE REVIEW.—

"(A) PRIOR APPROVAL REQUIRED.—No assessment may be made under section 6851(a), 6852(a), 6861(a), or 6862, and no levy may be made under section 6331(a) less than 30 days after notice and demand for payment is made, unless the Chief Counsel for the Internal Revenue Service (or such Counsel's delegate) personally approves (in writing) such assessment or levy.

"(B) INFORMATION TO TAXPAYER.—Within 5 days after the day on which such an assessment or levy is made, the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relied in making such assessment or levy.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxes assessed and levies made after the date of the enactment of this Act.

SEC. 3435. INCREASE IN AMOUNT OF CERTAIN PROPERTY ON WHICH LIEN NOT VALID.

(a) CERTAIN PROPERTY.—

(1) IN GENERAL.—Subsection (b) of section 6323 (relating to validity and priority against certain persons) is amended—

(A) by striking "$250" in paragraph (4) (relating to personal property purchased in casual sale) and inserting "$1,000", and

(B) by striking "$1,000" in paragraph (7) (relating to residential property subject to a mechanic's lien for certain repairs and improvements) and inserting "$5,000".

(2) INFLATION ADJUSTMENT.—Subsection (i) of section 6323 (relating to special rules) is amended by adding at the end the following new paragraph:

"(4) COST-OF-LIVING ADJUSTMENT.—In the case of notices of liens imposed by section 6321 which are filed in any calendar year after 1998, each of the dollar amounts under paragraph (4) or (7) of subsection (b) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.".

(b) EXPANSION OF TREATMENT OF PASSBOOK LOANS.—Paragraph (10) of section 6323(b) is amended—

(1) by striking "PASSBOOK LOANS" in the heading and inserting "DEPOSIT-SECURED LOANS",

(2) by striking ", evidenced by a passbook,", and

(3) by striking all that follows "secured by such account" and inserting a period.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3436. WAIVER OF EARLY WITHDRAWAL TAX FOR IRS LEVIES ON EMPLOYER-SPONSORED RETIREMENT PLANS OR IRAS.

(a) IN GENERAL.—Section 72(t)(2)(A) (relating to subsection not to apply to certain distributions) is amended by striking "or" at the end of clauses (iv) and (v), by striking the period at the end of clause (vi) and inserting ", or", and by adding at the end the following new clause:

"(vii) made on account of a levy under section 6331 on the qualified retirement plan.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to levies made after December 31, 1999.

Subpart C—Seizures

SEC. 3441. PROHIBITION OF SALES OF SEIZED PROPERTY AT LESS THAN MINIMUM BID.

(a) IN GENERAL.—Section 6335(e)(1)(A)(i) (relating to determinations relating to minimum price) is amended by striking "a minimum price for which such property shall be sold" and inserting "a minimum price below which such property shall not be sold".

(b) REFERENCE TO PENALTY FOR VIOLATION.—Section 6335(e) is amended by adding at the end the following new paragraph:

"(4) CROSS REFERENCE.—

"For provision providing for civil damages for violation of paragraph (1)(A)(i), see section 7433.".

SEC. 3442. ACCOUNTING OF SALES OF SEIZED PROPERTY.

(a) IN GENERAL.—Section 6340 (relating to records of sale) is amended—

(1) in subsection (a)—

(A) by striking "real", and

(B) by inserting "or certificate of sale of personal property" after "deed", and

(2) by adding at the end the following new subsection:

"(c) ACCOUNTING TO TAXPAYER.—The taxpayer with respect to whose liability the sale was conducted or who redeemed the property shall be furnished—

"(1) the record under subsection (a) (other than the names of the purchasers),

"(2) the amount from such sale applied to the taxpayer's liability, and

"(3) the remaining balance of such liability.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to seizures occurring after the date of the enactment of this Act.

SEC. 3443. UNIFORM ASSET DISPOSAL MECHANISM.

Not later than the date which is 2 years after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall implement a uniform asset disposal mechanism for sales under section 6335 of the Internal Revenue Code of 1986. The mechanism should be designed to remove any participation in such sales by revenue officers of the Internal Revenue Service and should consider the use of outsourcing.

SEC. 3444. CODIFICATION OF IRS ADMINISTRATIVE PROCEDURES FOR SEIZURE OF TAXPAYER'S PROPERTY.

(a) IN GENERAL.—Section 6331 (relating to levy and distraint), as amended by section 3401(c), is amended by inserting after subsection (c) the following new subsection:

"(d) NO LEVY BEFORE INVESTIGATION OF STATUS OF PROPERTY.—

"(1) IN GENERAL.—For purposes of applying the provisions of this subchapter, no levy may be made on any property or right to property until a thorough investigation of the status of such property has been completed.

"(2) ELEMENTS IN INVESTIGATION.—For purposes of paragraph (1), an investigation of the status of any property shall include—

"(A) a verification of the taxpayer's liability,

"(B) the completion of an analysis under subsection (f),

"(C) the determination that the equity in such property is sufficient to yield net proceeds from the sale of such property to apply to such liability, and

"(D) a thorough consideration of alternative collection methods.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3445. PROCEDURES FOR SEIZURE OF RESIDENCES AND BUSINESSES.

(a) IN GENERAL.—Section 6334(a)(13) (relating to property exempt from levy) is amended to read as follows:

"(13) RESIDENCES EXEMPT IN SMALL DEFICIENCY CASES AND PRINCIPAL RESIDENCES AND CERTAIN BUSINESS ASSETS EXEMPT IN ABSENCE OF CERTAIN APPROVAL OR JEOPARDY.—

"(A) RESIDENCES IN SMALL DEFICIENCY CASES.—If the amount of the levy does not exceed $5,000, any real property used as a residence by the taxpayer or any other individual.

"(B) PRINCIPAL RESIDENCES AND CERTAIN BUSINESS ASSETS.—Except to the extent provided in subsection (e), the principal residence of the taxpayer (within the meaning of section 121), and assets used in the trade or business of an individual taxpayer.".

(b) CONFORMING AMENDMENTS.—Section 6334(e) is amended—

(1) by striking "subsection (a)(13)" and inserting "subsection (a)(13)(B)",

(2) by adding at the end the following new flush sentence:

"An official may not approve a levy under paragraph (1) unless the official determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.", and

(3) by inserting "AND CERTAIN BUSINESS ASSETS" after "PRINCIPAL RESIDENCE" in the heading.

(c) STATE FISH AND WILDLIFE PERMITS.—(1) With respect to permits issued by a State and required under State law for the harvest of fish or wildlife in the trade or business of an individual taxpayer, "other assets" as used in section 3445 shall include future income that may be derived by such taxpayer from the commercial sale of fish or wildlife under such permit.

(2) The preceding paragraph may not be construed to invalidate or in any way prejudice any assertion that the privilege embodied in such permits is not property or a right to property under the Internal Revenue Code.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART IV—PROVISIONS RELATING TO EXAMINATION AND COLLECTION ACTIVITIES

SEC. 3461. PROCEDURES RELATING TO EXTENSIONS OF STATUTE OF LIMITATIONS BY AGREEMENT.

(a) REPEAL OF AUTHORITY TO EXTEND 10-YEAR COLLECTION PERIOD AFTER ASSESSMENT.—Section 6502(a) (relating to length of period after collection) is amended—

(1) by striking paragraph (2) and inserting:

"(2) if there is a release of levy under section 6343 after such 10-year period, prior to the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before such release.", and

(2) by striking the first sentence in the matter following paragraph (2).

(b) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—Paragraph (4) of section 6501(c) (relating to the period for limitations on assessment and collection) is amended—

(1) by striking "Where" and inserting the following:

"(A) IN GENERAL.—Where", and

(2) by adding at the end the following new subparagraph:

"(B) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues or to a particular period of time, on each occasion when the taxpayer is requested to provide such consent.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to requests to extend the period of limitations made after December 31, 1999.

(2) PRIOR REQUEST.—If, in any request to extend the period of limitations made on or before December 31, 1999, a taxpayer agreed to extend such period beyond the 10-year period referred to in section 6502(a) of the Internal Revenue Code of 1986, such extension shall expire on the later of—

(A) the last day of such 10-year period, or

(B) December 31, 1999.

SEC. 3462. OFFERS-IN-COMPROMISE.

(a) STANDARDS FOR EVALUATION OF OFFERS-IN-COMPROMISE.—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:

"(c) STANDARDS FOR EVALUATION OF OFFERS.—

"(1) IN GENERAL.—The Secretary shall prescribe guidelines for officers and employees of the Internal Revenue Service to determine whether an offer-in-compromise is adequate.

"(2) ALLOWANCES FOR BASIC LIVING EXPENSES.—

"(A) IN GENERAL.—In prescribing guidelines under paragraph (1), the Secretary shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.

"(B) USE OF SCHEDULES.—The guidelines shall provide that officers and employees of the Internal Revenue Service shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the schedules published under subparagraph (A) is appropriate and shall not use the schedules to the extent such use would result in the taxpayer not having adequate means to provide for basic living expenses.

"(3) SPECIAL RULES RELATING TO TREATMENT OF OFFERS.—The guidelines under paragraph (1) shall provide that—

"(A) an officer or employee of the Internal Revenue Service shall not reject an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer, and

"(B) in the case of an offer-in-compromise which relates only to issues of liability of the taxpayer—

"(i) such offer shall not be rejected solely because the Secretary is unable to locate the taxpayer's return or return information for verification of such liability, and

"(ii) the taxpayer shall not be required to provide a financial statement.".

(b) LEVY PROHIBITED WHILE OFFER-IN-COMPROMISE PENDING.—Section 6331 (relating to levy and distraint), as amended by section 3433, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) NO LEVY WHILE CERTAIN OFFERS PENDING.—

"(1) OFFER IN COMPROMISE PENDING.—No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

"(A) during the period that an offer by such person in compromise under section 7122 of such unpaid tax is pending with the Secretary, and

"(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending).

For purposes of subparagraph (A), an offer is pending beginning on the date the Secretary accepts such offer for processing.

"(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (3), (4), and (5) of subsection (i) shall apply for purposes of this subsection.".

(c) REVIEW OF REJECTIONS OF OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—

(1) IN GENERAL.—Section 7122 (relating to compromises), as amended by subsection (a), is amended by adding at the end the following:

"(d) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures—

"(1) for an independent administrative review of any rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under this section or section 6159 before such rejection is communicated to the taxpayer, and

"(2) which allow a taxpayer to appeal any rejection of such offer or agreement to the Internal Revenue Service Office of Appeals.".

(2) CONFORMING AMENDMENT.—Section 6159 (relating to installment agreements) is amended by adding at the end the following new subsection:

"(d) CROSS REFERENCE.—

"For rights to administrative review and appeal, see section 7122(d).".

(d) PREPARATION OF STATEMENT RELATING TO OFFERS-IN-COMPROMISE.—The Secretary of the Treasury shall prepare a statement which sets forth in simple, nontechnical terms the rights of a taxpayer and the obligations of the Internal Revenue Service relating to offers-in-compromise. Such statement shall—

(1) advise taxpayers who have entered into a compromise of the advantages of promptly notifying the Internal Revenue Service of any change of address or marital status,

(2) provide notice to taxpayers that in the case of a compromise terminated due to the actions of 1 spouse or former spouse, the Internal Revenue Service will, upon application, reinstate such compromise with the spouse or former spouse who remains in compliance with such compromise, and

(3) provide notice to the taxpayer that the taxpayer may appeal the rejection of an offer-in-compromise to the Internal Revenue Service Office of Appeals.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to proposed offers-in-compromise and installment agreements submitted after the date of the enactment of this Act.

(2) SUSPENSION OF COLLECTION BY LEVY.—The amendment made by subsection (b) shall apply to offers-in-compromise pending on or made after December 31, 1999.

SEC. 3463. NOTICE OF DEFICIENCY TO SPECIFY DEADLINES FOR FILING TAX COURT PETITION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall include on each notice of deficiency under section 6212 of the Internal Revenue Code of 1986 the date determined by such Secretary (or delegate) as the last day on which the taxpayer may file a petition with the Tax Court.

(b) LATER FILING DEADLINES SPECIFIED ON NOTICE OF DEFICIENCY TO BE BINDING.—Subsection (a) of section 6213 (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by adding at the end the following new sentence: "Any petition filed with the Tax Court on or before the last date specified for filing such petition by the Secretary in the notice of deficiency shall be treated as timely filed.".

(c) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (b) shall apply to notices mailed after December 31, 1998.

SEC. 3464. REFUND OR CREDIT OF OVERPAYMENTS BEFORE FINAL DETERMINATION.

(a) TAX COURT PROCEEDINGS.—Subsection (a) of section 6213 is amended—

(1) by striking ", including the Tax Court." and inserting ", including the Tax Court, and a refund may be ordered by such court of any amount collected within the period during which the Secretary is prohibited from collecting by levy or through a proceeding in court under the provisions of this subsection.", and

(2) by striking "to enjoin any action or proceeding" and inserting "to enjoin any action or proceeding or order any refund".

(b) OTHER PROCEEDINGS.—Subsection (a) of section 6512 is amended by striking the period at the end of paragraph (4) and inserting ", and", and by inserting after paragraph (4) the following new paragraphs:

"(5) As to any amount collected within the period during which the Secretary is prohibited from making the assessment or from collecting by levy or through a proceeding in court under the provisions of section 6213(a), and

"(6) As to overpayments the Secretary is authorized to refund or credit pending appeal as provided in subsection (b).".

(c) REFUND OR CREDIT PENDING APPEAL.—Paragraph (1) of section 6512(b) is amended by adding at the end the following new sentence: "If a notice of appeal in respect of the decision of the Tax Court is filed under section 7483, the Secretary is authorized to refund or credit the overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3465. IRS PROCEDURES RELATING TO APPEALS OF EXAMINATIONS AND COLLECTIONS.

(a) DISPUTE RESOLUTION PROCEDURES.—

(1) IN GENERAL.—Chapter 74 (relating to closing agreements and compromises) is amended by redesignating section 7123 as section 7124 and by inserting after section 7122 the following new section:

"SEC. 7123. APPEALS DISPUTE RESOLUTION PROCEDURES.

"(a) EARLY REFERRAL TO APPEALS PROCEDURES.—The Secretary shall prescribe procedures by which any taxpayer may request early referral of 1 or more unresolved issues from the examination or collection division to the Internal Revenue Service Office of Appeals.

"(b) ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.—

"(1) MEDIATION.—The Secretary shall prescribe procedures under which a taxpayer or the Internal Revenue Service Office of Appeals may request non-binding mediation on any issue unresolved at the conclusion of—

"(A) appeals procedures, or

"(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

"(2) ARBITRATION.—The Secretary shall establish a pilot program under which a taxpayer and the Internal Revenue Service Office of Appeals may jointly request binding arbitration on any issue unresolved at the conclusion of—

"(A) appeals procedures, or

"(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 74 is amended by striking

the item relating to section 7123 and inserting the following new items:

"Sec. 7123. Appeals dispute resolution procedures.

"Sec. 7124. Cross references.".

(b) APPEALS OFFICERS IN EACH STATE.—The Commissioner of Internal Revenue shall ensure that an appeals officer is regularly available within each State.

(c) APPEALS VIDEOCONFERENCING ALTERNATIVE FOR RURAL AREAS.—The Commissioner of Internal Revenue shall consider the use of the videoconferencing of appeals conferences between appeals officers and taxpayers seeking appeals in rural or remote areas.

SEC. 3466. APPLICATION OF CERTAIN FAIR DEBT COLLECTION PROCEDURES.

(a) IN GENERAL.—Subchapter A of chapter 64 (relating to collection) is amended by inserting after section 6303 the following new section:

"SEC. 6304. FAIR TAX COLLECTION PRACTICES.

"(a) COMMUNICATION WITH THE TAXPAYER.—Without the prior consent of the taxpayer given directly to the Secretary or the express permission of a court of competent jurisdiction, the Secretary may not communicate with a taxpayer in connection with the collection of any unpaid tax—

"(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the taxpayer;

"(2) if the Secretary knows the taxpayer is represented by any person authorized to practice before the Internal Revenue Service with respect to such unpaid tax and has knowledge of, or can readily ascertain, such person's name and address, unless such person fails to respond within a reasonable period of time to a communication from the Secretary or unless such person consents to direct communication with the taxpayer; or

"(3) at the taxpayer's place of employment if the Secretary knows or has reason to know that the taxpayer's employer prohibits the taxpayer from receiving such communication.

In the absence of knowledge of circumstances to the contrary, the Secretary shall assume that the convenient time for communicating with a taxpayer is after 8 a.m. and before 9 p.m., local time at the taxpayer's location.

"(b) PROHIBITION OF HARASSMENT AND ABUSE.—The Secretary may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of any unpaid tax. Without limiting the general application of the foregoing, the following conduct is a violation of this subsection:

"(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

"(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

"(3) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

"(4) Except as provided under rules similar to the rules in section 804 of the Fair Debt Collection Practices Act (15 U.S.C. 1692b), the placement of telephone calls without meaningful disclosure of the caller's identity.

"(c) CIVIL ACTION FOR VIOLATIONS OF SECTION.—

"For civil action for violations of this section, see section 7433.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 64 is amended by inserting after the item relating to section 6303 the following new item:

"Sec. 6304. Fair tax collection practices.".

(c) ANNUAL REPORT.—The Inspector General for Tax Administration shall report annually to Congress on any administrative or civil actions with respect to violations of the fair debt collection provisions of section 6304 of the Internal Revenue Code of 1986, as added by this section, including—

(1) a summary of such actions initiated since the date of the last report, and

(2) a summary of any judgments or awards granted as a result of such actions.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3467. GUARANTEED AVAILABILITY OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SECRETARY REQUIRED TO ENTER INTO INSTALLMENT AGREEMENTS IN CERTAIN CASES.—In the case of a liability for tax of an individual under subtitle A, the Secretary shall enter into an agreement to accept the payment of such tax in installments if, as of the date the individual offers to enter into the agreement—

"(1) the aggregate amount of such liability (determined without regard to interest, penalties, additions to the tax, and additional amounts) does not exceed $10,000,

"(2) the taxpayer (and, if such liability relates to a joint return, the taxpayer's spouse) has not, during any of the preceding 5 taxable years—

"(A) failed to file any return of tax imposed by subtitle A,

"(B) failed to pay any tax required to be shown on any such return, or

"(C) entered into an installment agreement under this section for payment of any tax imposed by subtitle A,

"(3) the Secretary determines that the taxpayer is financially unable to pay such liability in full when due (and the taxpayer submits such information as the Secretary may require to make such determination),

"(4) the agreement requires full payment of such liability within 3 years, and

"(5) the taxpayer agrees to comply with the provisions of this title for the period such agreement is in effect.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 3468. PROHIBITION ON REQUESTS TO TAXPAYERS TO GIVE UP RIGHTS TO BRING ACTIONS.

(a) PROHIBITION.—No officer or employee of the United States may request a taxpayer to waive the taxpayer's right to bring a civil action against the United States or any officer or employee of the United States for any action taken in connection with the internal revenue laws.

(b) EXCEPTIONS.—Subsection (a) shall not apply in any case where—

(1) a taxpayer waives the right described in subsection (a) knowingly and voluntarily, or

(2) the request by the officer or employee is made in person and the taxpayer's attorney or other federally authorized tax practitioner (within the meaning of section 7525(c)(1)) is present, or the request is made in writing to the taxpayer's attorney or other representative.

Subtitle F—Disclosures to Taxpayers

SEC. 3501. EXPLANATION OF JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish procedures to clearly alert married taxpayers of their joint and several liabilities on all appropriate publications and instructions.

(b) RIGHT TO LIMIT LIABILITY.—The procedures under subsection (a) shall include requirements that notice of an individual's right to limit joint and several liability under section 6015 of the Internal Revenue Code of 1986 shall be included in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) and in any collection-related notices.

SEC. 3502. EXPLANATION OF TAXPAYERS' RIGHTS IN INTERVIEWS WITH THE INTERNAL REVENUE SERVICE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) to more clearly inform taxpayers of their rights—

(1) to be represented at interviews with the Internal Revenue Service by any person authorized to practice before the Internal Revenue Service, and

(2) to suspend an interview pursuant to section 7521(b)(2) of the Internal Revenue Code of 1986.

SEC. 3503. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including whether taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the same day.

SEC. 3504. EXPLANATIONS OF APPEALS AND COLLECTION PROCESS.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, include with any 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals an explanation of the entire process from examination through collection with respect to such proposed deficiency, including the assistance available to the taxpayer from the National Taxpayer Advocate at various points in the process.

SEC. 3505. EXPLANATION OF REASON FOR REFUND DENIAL.

(a) IN GENERAL.—Section 6402 (relating to authority to make credits or refunds) is amended by adding at the end the following new subsection:

"(j) EXPLANATION OF REASON FOR REFUND DENIAL.—In the case of a denial of a claim for refund, the Secretary shall provide the taxpayer with an explanation for such denial.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to denials issued after the 180th day after the date of the enactment of this Act.

SEC. 3506. STATEMENTS REGARDING INSTALLMENT AGREEMENTS.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, provide each taxpayer who has an installment agreement in effect under section 6159 of the Internal Revenue Code of 1986 an annual statement setting forth the initial balance at the beginning of the year, the payments made during the year, and the remaining balance as of the end of the year.

SEC. 3507. NOTIFICATION OF CHANGE IN TAX MATTERS PARTNER.

(a) IN GENERAL.—Section 6231(a)(7) (defining tax matters partner) is amended by adding at the end the following new sentence: "The Secretary shall, within 30 days of selecting a tax matters partner under the preceding sentence, notify all partners required to receive notice under section 6223(a) of the name and address of the individual selected.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to selections of tax matters partners made by the Secretary of the Treasury after the date of the enactment of this Act.

SEC. 3508. DISCLOSURE TO TAXPAYERS.

Section 6103(d) of the Internal Revenue Code of 1986 is amended by adding at the end thereof a new paragraph to read as follows:

"(6) DISCLOSURE TO TAXPAYERS.—The Secretary shall ensure that any instructions booklet accompanying a general tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms) shall include, in clear language, in conspicuous print, and in a conspicuous place near the front of the booklet, a concise description of the conditions under which return information may be disclosed to any party outside the Internal Revenue Service, including disclosure to any State or agency, body, or commission (or legal representative) thereof.".

Subtitle G—Low Income Taxpayer Clinics

SEC. 3601. LOW INCOME TAXPAYER CLINICS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by section 3411, is amended by adding at the end the following new section:

"SEC. 7526. LOW INCOME TAXPAYER CLINICS.

"(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics, including volunteer income tax assistance programs, and to provide funds for training and technical assistance to support such clinics and programs.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED LOW INCOME TAXPAYER CLINIC.—

"(A) IN GENERAL.—The term 'qualified low income taxpayer clinic' means a clinic which—

"(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

"(ii)(I) represents low income taxpayers in controversies with the Internal Revenue Service,

"(II) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title, or

"(III) provides tax preparation assistance and tax counseling assistance to low income taxpayers, such as volunteer income tax assistance programs.

"(B) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(ii)(I) if—

"(i) at least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and

"(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

"(2) CLINIC.—The term 'clinic' includes—

"(A) a clinical program at an accredited law, business, or accounting school in which students represent low income taxpayers in controversies arising under this title,

"(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives, and

"(C) a volunteer income tax assistance program which is described in section 501(c) and exempt from tax under section 501(a) and which provides tax preparation assistance and tax counseling assistance to low income taxpayers.

"(3) QUALIFIED REPRESENTATIVE.—The term 'qualified representative' means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

"(c) SPECIAL RULES AND LIMITATIONS.—

"(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $6.000,000 per year (exclusive of costs of administering the program) to grants under this section. Not more than 7.5 percent of the amount available shall be allocated to training and technical assistance programs.

"(2) LIMITATION ON ANNUAL GRANTS TO A CLINIC.—The aggregate amount of grants which may be made under this section to a clinic for a year shall not exceed $100,000, except that larger grants may be made for training and technical assistance programs.

"(3) MULTI-YEAR GRANTS.—Upon application of a qualified low income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

"(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary shall consider—

"(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

"(B) the existence of other low income taxpayer clinics serving the same population,

"(C) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low income taxpayers, and

"(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic.

"(5) REQUIREMENT OF MATCHING FUNDS.—A low income taxpayer clinic (other than a clinic described in paragraph (2)(C)) must provide matching funds on a dollar for dollar basis for all grants provided under this section. Matching funds may include—

"(A) the salary (including fringe benefits) of individuals performing services for the clinic, and

"(B) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the institution sponsoring the clinic, shall not be counted as matching funds.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new section:

"Sec. 7526. Low income taxpayer clinics.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle H—Other Matters

SEC. 3701. CATALOGING COMPLAINTS.

In collecting data for the report required under section 1211 of Taxpayer Bill of Rights 2 (Public Law 104–168), the Secretary of the Treasury or the Secretary's delegate shall maintain records of taxpayer complaints of misconduct by Internal Revenue Service employees on an individual employee basis.

SEC. 3702. ARCHIVE OF RECORDS OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

"(17) DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsections (f), (i)(7), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration whose official duties require such disclosure for purposes of such appraisal.".

(b) CONFORMING AMENDMENTS.—Section 6103(p) is amended—

(1) in paragraph (3)(A), by striking "or (16)" and inserting "(16), or (17)",

(2) in paragraph (4), by striking "or (14)" and inserting ", (14), or (17)" in the matter preceding subparagraph (A), and

(3) in paragraph (4)(F)(ii), by striking "or (15)" and inserting ", (15), or (17)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Archivist of the United States after the date of the enactment of this Act.

SEC. 3703. PAYMENT OF TAXES.

The Secretary of the Treasury or the Secretary's delegate shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order made payable to the United States Treasury.

SEC. 3704. CLARIFICATION OF AUTHORITY OF SECRETARY RELATING TO THE MAKING OF ELECTIONS.

Subsection (d) of section 7805 is amended by striking "by regulations or forms".

SEC. 3705. IRS EMPLOYEE CONTACTS.

(a) NOTICE.—The Secretary of the Treasury or the Secretary's delegate shall provide that any correspondence or notice received by a taxpayer from the Internal Revenue Service shall include in a prominent manner the name and telephone number of an Internal Revenue Service employee the taxpayer may contact with respect to the correspondence or notice.

(b) SINGLE CONTACT.—The Secretary of the Treasury or the Secretary's delegate shall develop a procedure under which, to the extent practicable and if advantageous to the taxpayer, one Internal Revenue Service employee shall be assigned to handle a taxpayer's matter until it is resolved.

(c) TELEPHONE HELPLINE OPTION IN SPANISH.—The Secretary of the Treasury or the Secretary's delegate shall provide on all telephone helplines of the Internal Revenue Service an option for any taxpayer questions to be answered in Spanish.

(d) OTHER TELEPHONE HELPLINE OPTIONS.—The Secretary of the Treasury or the Secretary's delegate shall provide on all telephone helplines of the Internal Revenue Service an option for any taxpayer to talk to a live person in addition to hearing a recorded message. The person shall direct phone questions of the taxpayer to other Internal Revenue Service personnel who can provide understandable information to the taxpayer.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall take effect 60 days after the date of the enactment of this Act.

(2) SUBSECTION (c).—Subsection (c) shall take effect on January 1, 2000.

(3) SUBSECTION (d).—Subsection (d) shall take effect on January 1, 2000.

SEC. 3706. USE OF PSEUDONYMS BY IRS EMPLOYEES.

(a) IN GENERAL.—Any employee of the Internal Revenue Service may use a pseudonym only if—

(1) adequate justification for the use of a pseudonym is provided by the employee, including protection of personal safety, and

(2) such use is approved by the employee's supervisor before the pseudonym is used.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to requests made after the date of the enactment of this Act.

SEC. 3707. CONFERENCES OF RIGHT IN THE NATIONAL OFFICE OF IRS.

(a) IN GENERAL.—In any conference of right in the National Office of the Internal Revenue Service, participation in such conference shall, upon request of the taxpayer, be limited to personnel of the National Office.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to requests made after the date of the enactment of this Act.

SEC. 3708. ILLEGAL TAX PROTESTER DESIGNATION.

(a) PROHIBITION.—The officers and employees of the Internal Revenue Service—

(1) shall not designate taxpayers as illegal tax protesters (or any similar designation), and

(2) in the case of any such designation made on or before the date of the enactment of this Act—

(A) shall remove such designation from the individual master file, and

(B) shall disregard any such designation not located in the individual master file.

(b) DESIGNATION OF NONFILERS ALLOWED.—An officer or employee of the Internal Revenue Service may designate any appropriate taxpayer as a nonfiler, but shall remove such designation once the taxpayer has filed income tax returns for 2 consecutive taxable years and paid all taxes shown on such returns.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act, except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999.

SEC. 3709. PROVISION OF CONFIDENTIAL INFORMATION TO CONGRESS BY WHISTLEBLOWERS.

(a) IN GENERAL.—Paragraph (1) of section 6103(f) (relating to disclosure of confidential information to committees of Congress) is amended—

(1) by striking "Upon written" and inserting the following:

"(A) WRITTEN REQUEST BY CHAIRMAN.—Upon written"; and

(2) by adding at the end the following new subparagraph:

"(B) WHISTLEBLOWER INFORMATION.—Any person who otherwise has or had access to any return or return information under this section may disclose such return or return information to a chairman of a committee referred to in subparagraph (A) or the chief of staff of the Joint Committee of Taxation only if—

"(i) the disclosure is for the purpose of alleging an incident of employee misconduct or taxpayer abuse, and

"(ii) the chairman of the committee to which the disclosure is made (or either chairman in the case of disclosure to the chief of staff) gives prior written approval for the disclosure.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3710. LISTING OF LOCAL IRS TELEPHONE NUMBERS AND ADDRESSES.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, provide that the local telephone numbers and addresses of Internal Revenue Service offices located in any particular area be listed in the telephone book for that area.

SEC. 3711. IDENTIFICATION OF RETURN PREPARERS.

(a) IN GENERAL.—The last sentence of section 6109(a) (relating to identifying numbers) is amended by striking "For purposes of this subsection" and inserting "For purposes of paragraphs (1), (2), and (3)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 3712. OFFSET OF PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS AGAINST OVERPAYMENTS.

(a) IN GENERAL.—Section 6402 (relating to authority to make credits or refunds) is amended by redesignating subsections (e) through (i) as subsections (f) through (j), respectively, and by inserting after subsection (d) the following new subsection:

"(e) COLLECTION OF PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS.—

"(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a past-due, legally enforceable State income tax obligation to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

"(A) reduce the amount of any overpayment payable to such person by the amount of such State income tax obligation;

"(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

"(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State income tax obligation.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

"(2) OFFSET PERMITTED ONLY AGAINST RESIDENTS OF STATE SEEKING OFFSET.—Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.

"(3) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

"(A) after such overpayment is reduced pursuant to—

"(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment,

"(ii) subsection (c) with respect to past-due support, and

"(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency, and

"(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from 1 or more agencies of the State of more than 1 debt subject to paragraph (1) that is owed by such person to such an agency, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

"(4) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

"(A) notifies by certified mail with return receipt the person owing the past-due State income tax liability that the State proposes to take action pursuant to this section,

"(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable,

"(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable, and

"(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such State income tax obligation.

"(5) PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATION.—For purposes of this subsection, the term 'past-due, legally enforceable State income tax obligation' means a debt—

"(A)(i) which resulted from—

"(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of State income tax to be due, or

"(II) a determination after an administrative hearing which has determined an amount of State tax to be due, and

"(ii) which is no longer subject to judicial review, or

"(B) which resulted from a State income tax which has been assessed but not collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term 'State income tax' includes any local tax administered by the chief tax administration agency of the State.

"(6) REGULATIONS.—The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State income tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of State income taxes and the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

"(7) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).".

(b) DISCLOSURE OF CERTAIN INFORMATION TO STATES REQUESTING REFUND OFFSETS FOR PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS.—

(1) Paragraph (10) of section 6103(l) is amended by striking "(c) or (d)" each place it appears and inserting "(c), (d), or (e)".

(2) The paragraph heading for such paragraph (10) is amended by striking "SECTION 6402(c) OR 6402(d)" and inserting "SUBSECTION (c), (d), OR (e) OF SECTION 6402".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6402 is amended by striking "(c) and (d)" and inserting "(c), (d), and (e)".

(2) Paragraph (2) of section 6402(d) is amended by striking "and before such overpayment" and inserting "and before such overpayment is reduced pursuant to subsection (e) and before such overpayment".

(3) Subsection (f) of section 6402, as redesignated by subsection (a), is amended—

(A) by striking "(c) or (d)" and inserting "(c), (d), or (e)", and

(B) by striking "Federal agency" and inserting "Federal agency or State".

(4) Subsection (h) of section 6402, as redesignated by subsection (a), is amended by striking "subsection (c)" and inserting "subsection (c) or (e)".

(d) EFFECTIVE DATE.—The amendments made by this section (other than subsection (d)) shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 after December 31, 1998.

SEC. 3713. TREATMENT OF IRS NOTICES ON FOREIGN TAX PROVISIONS.

(a) NOTICE 98–11.—

(1) MORATORIUM.—The Secretary of the Treasury or his delegate shall not implement final or temporary regulations with respect to Internal Revenue Service Notice 98–11 during the period—

(A) beginning on January 16, 1998, and

(B) ending on the date which is 6 months after the date of the enactment of this Act.

(2) SENSE OF SENATE REGARDING NOTICE.—It is the sense of the Senate that—

(A) the Secretary of the Treasury or his delegate should withdraw Internal Revenue Service Notice 98–11 and the regulations issued with respect to such notice, and

(B) Congress, not the Department of the Treasury or the Internal Revenue Service, should determine the policy issues with respect to the treatment of hybrid transactions under subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986.

(b) NOTICE 98–5.—It is the sense of the Senate that—

(1) the Secretary of the Treasury or his delegate should limit any regulations issued with respect to Internal Revenue Service Notice 98–5 to the specific transactions contained in such notice, and

(2) such regulations should—

(A) not affect transactions undertaken in the ordinary course of business,

(B) not have an effective date before the earlier of the dates described in subparagraph (A) or (B) of section 7805(b)(1) of the Internal Revenue Code of 1986, and

(C) be issued in accordance with normal regulatory procedures which include an opportunity for comment.

Nothing in the preceding sentence shall be construed as expressing any intent by the Senate to limit the Secretary's ability to address abusive transactions.

SEC. 3714. STUDY OF PAYMENTS MADE FOR DETECTION OF UNDERPAYMENTS AND FRAUD.

Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall conduct a study and report to Congress on the use of section 7623 of the Internal Revenue Code of 1986 including—

(1) an analysis of the present use of such section and the results of such use, and

(2) any legislative or administrative recommendations regarding the provisions of such section and its application.

SEC. 3715. COMBINED EMPLOYMENT TAX REPORTING DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of the Treasury shall provide for a demonstration project to assess the feasibility and desirability of expanding combined Federal and State tax reporting.

(b) DESCRIPTION OF DEMONSTRATION PROJECT.—The demonstration project under subsection (a) shall be—

(1) carried out between the Internal Revenue Service and the State of Iowa for a period ending with the date which is 5 years after the date of the enactment of this Act,

(2) limited to the reporting of employment taxes, and

(3) limited to the disclosure of the taxpayer identity (as defined in section 6103(b)(6) of such Code) and the signature of the taxpayer.

(c) CONFORMING AMENDMENT.—Section 6103(d)(5), as amended by section 6009(f), is amended by striking "project described in section 976 of the Taxpayer Relief Act of 1997." and inserting "projects described in section 976 of the Taxpayer Relief Act of 1997 and section 3715 of the Internal Revenue Service Restructuring and Reform Act of 1998.".

SEC. 3716. REPORTING REQUIREMENTS IN CONNECTION WITH EDUCATION TAX CREDIT.

(a) AMOUNTS TO BE REPORTED.—Subparagraph (C) of section 6050S(b)(2) is amended—

(1) in clause (i), by inserting "and any grant amount received by such individual and processed through the institution during such calendar year" after "calendar year",

(2) in clause (ii), by inserting "by the person making such return" after "year", and

(3) in clause (iii), by inserting "and" at the end.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed with respect to taxable years beginning after December 31, 1998.

Subtitle I—Studies

SEC. 3801. ADMINISTRATION OF PENALTIES AND INTEREST.

The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study—

(1) reviewing the administration and implementation by the Internal Revenue Service of the interest and penalty provisions of the Internal Revenue Code of 1986 (including the penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989), and

(2) making any legislative and administrative recommendations the Committee or the Secretary deems appropriate to simplify penalty or interest administration and reduce taxpayer burden.

Such studies shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 9 months after the date of the enactment of this Act.

SEC. 3802. CONFIDENTIALITY OF TAX RETURN INFORMATION.

The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as the Committee or the Secretary deems appropriate, to the Congress not later than one year after the date of the enactment of this Act. Such study shall examine—

(1) the present protections for taxpayer privacy,

(2) any need for third parties to use tax return information,

(3) whether greater levels of voluntary compliance may be achieved by allowing the public to know who is legally required to file tax returns, but does not file tax returns,

(4) the interrelationship of the taxpayer confidentiality provisions in the Internal Revenue Code of 1986 with such provisions in other Federal law, including section 552a of title 5, United States Code (commonly known as the "Freedom of Information Act"),

(5) Whether return information should be disclosed under section 6103(d) of the Internal Revenue Code of 1986 to any agency, body, or commission of any State (or legal representative thereof) unless the Secretary determines that such agency, body, or commission (or legal representative) has first notified each person for whom such return or return information was filed or provided by, on behalf of, or with respect to, personally in writing that the request described in section 6103(d) of the Internal Revenue Code of 1986 has been made by such agency, body, or commission (or legal representative) and the specific reasons for making such request, and

(6) the impact on taxpayer privacy of the sharing of income tax return information for purposes of enforcement of State and local tax laws other than income tax laws, and including the impact on the taxpayer privacy intended to be protected at the Federal, State, and local levels under Public Law 105–35, the Taxpayer Browsing Protection Act of 1997.

SEC. 3803. STUDY OF TRANSFER PRICING ENFORCEMENT.

(a) IN GENERAL.—The Internal Revenue Service Oversight Board shall study whether the Internal Revenue Service has the resources needed to prevent tax avoidance by companies using unlawful transfer pricing methods.

(b) ASSISTANCE.—The Internal Revenue Service shall assist the Board in its study by analyzing and reporting to the Board on its enforcement of transfer pricing abuses, including a review of the effectiveness of the current enforcement tools used by the Internal Revenue Service to ensure compliance under section 482 of the Internal Revenue Code of 1986 and to determine the scope of nonpayment of United States taxes by reason of such abuses.

(c) REPORT.—The Board shall report to Congress, not later than 12 months after the date of enactment of this Act, on the results of the study conducted under this subsection, including recommendations for improving the Internal Revenue Service's enforcement tools to ensure that multinational companies doing business in the United States pay their fair share of United States taxes.

SEC. 3804. WILLFUL NONCOMPLIANCE WITH INTERNAL REVENUE LAWS BY TAXPAYERS.

Not later than 1 year after the date of enactment of this Act, the Joint Committee on Taxation, the Secretary of the Treasury, and the Commissioner of Internal Revenue shall conduct jointly a study of the willful noncompliance with internal revenue laws by taxpayers and report the findings of such study to Congress.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

SEC. 4001. CENTURY DATE CHANGE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Internal Revenue Service should place a high priority on resolving the century date change computing problems.

(b) REPORT ON EFFECT OF LEGISLATION ON CENTURY DATE CHANGE.—The Commissioner of Internal Revenue shall expeditiously submit a report to Congress on—

(1) the overall impact of this Act on the ability of the Internal Revenue Service to resolve the century date change computing problems, and

(2) provisions of this Act that will require significant amounts of computer programming prior to December 31, 1999, in order to carry out such provisions.

SEC. 4002. TAX LAW COMPLEXITY ANALYSIS.

(a) COMMISSIONER STUDY.—

(1) IN GENERAL.—The Commissioner of Internal Revenue shall conduct each year an analysis of the sources of the complexity of the administration of the Federal tax laws. Such analysis may include an analysis of—

(A) questions frequently asked by taxpayers with respect to return filing,

(B) common errors made by taxpayers in filling out their returns,

(C) areas of law which frequently result in disagreements between taxpayers and the Internal Revenue Service,

(D) major areas of law in which there is no (or incomplete) published guidance or in which the law is uncertain,

(E) areas in which revenue officers make frequent errors interpreting or applying the law,

(F) the impact of recent legislation on complexity, and

(G) forms supplied by the Internal Revenue Service, including the time it takes for taxpayers to complete and review forms, the number of taxpayers who use each form, and how recent legislation has affected the time it takes to complete and review forms.

(2) REPORT.—The Commissioner shall each year report the results of the analysis conducted under paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The report shall include any recommendations—

(A) for reducing the complexity of the administration of Federal tax laws, and

(B) for repeal or modification of any provision the Commissioner believes adds undue and unnecessary complexity to the administration of the Federal tax laws.

(b) ANALYSIS TO ACCOMPANY CERTAIN LEGISLATION.—

(1) IN GENERAL.—The Joint Committee on Taxation, in consultation with the Internal Revenue Service and the Department of the Treasury, shall include a tax complexity analysis in each report for legislation, or provide such analysis to members of the committee reporting the legislation as soon as practicable after the report is filed, if—

(A) such legislation is reported by the Committee on Finance in the Senate, the Committee on Ways and Means of the House of Representatives, or any committee of conference, and

(B) such legislation includes a provision which would directly or indirectly amend the Internal Revenue Code of 1986 and which has widespread applicability to individuals or small businesses.

(2) TAX COMPLEXITY ANALYSIS.—For purposes of this subsection, the term "tax complexity analysis" means, with respect to any legislation, a report on the complexity and administrative difficulties of each provision described in paragraph (1)(B) which—

(A) includes—

(i) an estimate of the number of taxpayers affected by the provision, and

(ii) if applicable, the income level of taxpayers affected by the provision, and

(B) should include (if determinable)—

(i) the extent to which tax forms supplied by the Internal Revenue Service would require revision and whether any new forms would be required,

(ii) the extent to which taxpayers would be required to keep additional records,

(iii) the estimated cost to taxpayers to comply with the provision,

(iv) the extent to which enactment of the provision would require the Internal Revenue Service to develop or modify regulatory guidance,

(v) the extent to which the provision may result in disagreements between taxpayers and the Internal Revenue Service, and

(vi) any expected impact on the Internal Revenue Service from the provision (including the impact on internal training, revision of the Internal Revenue Manual, reprogramming of computers, and the extent to which the Internal Revenue Service would be required to divert or redirect resources in response to the provision).

(3) EFFECTIVE DATE.—This subsection shall apply to legislation considered on or after January 1, 1999.

TITLE V—REVENUE PROVISIONS

SEC. 5001. CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION.

(a) IN GENERAL.—Section 404(a) (relating to deduction for contributions of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end the following new paragraph:

"(11) DETERMINATIONS RELATING TO DEFERRED COMPENSATION.—For purposes of determining under this section—

"(A) whether compensation of an employee is deferred compensation, and

"(B) when deferred compensation is paid,

no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by subsection (a) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

SEC. 5002. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Section 904(c) (relating to limitation on credit) is amended—

(1) by striking "in the second preceding taxable year,", and

(2) by striking "or fifth" and inserting "fifth, sixth, or seventh".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 1998.

SEC. 5003. CLARIFICATION AND EXPANSION OF MATHEMATICAL ERROR ASSESSMENT PROCEDURES.

(a) TIN DEEMED INCORRECT IF INFORMATION ON RETURN DIFFERS WITH AGENCY RECORDS.—Section 6213(g)(2) (defining mathematical or clerical error) is amended by adding at the end the following flush sentence:

"A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN.".

(b) EXPANSION OF MATHEMATICAL ERROR PROCEDURES TO CASES WHERE TIN ESTABLISHES INDIVIDUAL NOT ELIGIBLE FOR TAX CREDIT.—Section 6213(g)(2), as amended by title VI of this Act, is amended by striking "and" at the end of subparagraph (J), by striking the period at the end of the subparagraph (K) and inserting ", and", and by adding at the end the following new subparagraph:

"(L) the inclusion on a return of a TIN required to be included on the return under section 21, 24, or 32 if—

"(i) such TIN is of an individual whose age affects the amount of the credit under such section, and

"(ii) the computation of the credit on the return reflects the treatment of such individual as being of an age different from the individual's age based on such TIN.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 5004. TERMINATION OF EXCEPTION FOR CERTAIN REAL ESTATE INVESTMENT TRUSTS FROM THE TREATMENT OF STAPLED ENTITIES.

(a) IN GENERAL.—Notwithstanding paragraph (3) of section 136(c) of the Tax Reform Act of 1984 (relating to stapled stock; stapled entities), the REIT gross income provisions shall be applied by treating the activities and gross income of members of the stapled REIT group properly allocable to any nonqualified real property interest held by the exempt REIT or any stapled entity which is a member of such group (or treated under subsection (c) as held by such REIT or stapled entity) as the activities and gross income of the exempt REIT in the same manner as if the exempt REIT and such group were 1 entity.

(b) NONQUALIFIED REAL PROPERTY INTEREST.—For purposes of this section—

(1) IN GENERAL.—The term "nonqualified real property interest" means, with respect to any exempt REIT, any interest in real property acquired after March 26, 1998, by the exempt REIT or any stapled entity.

(2) EXCEPTION FOR BINDING CONTRACTS, ETC.—Such term shall not include any interest in real property acquired after March 26, 1998, by the exempt REIT or any stapled entity if—

(A) the acquisition is pursuant to a written agreement which was binding on such date and at all times thereafter on such REIT or stapled entity, or

(B) the acquisition is described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) IMPROVEMENTS AND LEASES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term "nonqualified real property interest" shall not include—

(i) any improvement to land owned or leased by the exempt REIT or any member of the stapled REIT group, and

(ii) any repair to, or improvement of, any improvement owned or leased by the exempt REIT or any member of the stapled REIT group,

if such ownership or leasehold interest is a qualified real property interest.

(B) LEASES.—Such term shall not include any lease of a qualified real property interest.

(C) TERMINATION WHERE CHANGE IN USE.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to any improvement placed in service after December 31, 1999, which is part of a change in the use of the property to which such improvement relates unless the cost of such improvement does not exceed 200 percent of—

(I) the cost of such property, or

(II) if such property is substituted basis property (as defined in section 7701(a)(42) of the Internal Revenue Code of 1986), the fair market value of the property at the time of acquisition.

(ii) BINDING CONTRACTS.—For purposes of clause (i), an improvement shall be treated as placed in service before January 1, 2000, if such improvement is placed in service before January 1, 2004, pursuant to a binding contract in effect on December 31, 1999, and at all times thereafter.

(4) TREATMENT OF ENTITIES WHICH ARE NOT STAPLED, ETC. ON MARCH 26, 1998.—Notwithstanding any other provision of this section, all interests in real property held by an exempt

REIT or any stapled entity with respect to such REIT (or treated under subsection (c) as held by such REIT or stapled entity) shall be treated as nonqualified real property interests unless—

(A) such stapled entity was a stapled entity with respect to such REIT as of March 26, 1998, and at all times thereafter, and

(B) as of March 26, 1998, and at all times thereafter, such REIT was a real estate investment trust.

(5) QUALIFIED REAL PROPERTY INTEREST.—The term "qualified real property interest" means any interest in real property other than a nonqualified real property interest.

(c) TREATMENT OF PROPERTY HELD BY 10-PERCENT SUBSIDIARIES.—For purposes of this section—

(1) IN GENERAL.—Any exempt REIT and any stapled entity shall be treated as holding their proportionate shares of each interest in real property held by any 10-percent subsidiary entity of the exempt REIT or stapled entity, as the case may be.

(2) PROPERTY HELD BY 10-PERCENT SUBSIDIARIES TREATED AS NONQUALIFIED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any interest in real property held by a 10-percent subsidiary entity of an exempt REIT or stapled entity shall be treated as a nonqualified real property interest.

(B) EXCEPTION FOR INTERESTS IN REAL PROPERTY HELD ON MARCH 26, 1998, ETC.—In the case of an entity which was a 10-percent subsidiary entity of an exempt REIT or stapled entity on March 26, 1998, and at all times thereafter, an interest in real property held by such subsidiary entity shall be treated as a qualified real property interest if such interest would be so treated if held directly by the exempt REIT or the stapled entity.

(3) REDUCTION IN QUALIFIED REAL PROPERTY INTERESTS IF INCREASE IN OWNERSHIP OF SUBSIDIARY.—If, after March 26, 1998, an exempt REIT or stapled entity increases its ownership interest in a subsidiary entity to which paragraph (2)(B) applies above its ownership interest in such subsidiary entity as of such date, the additional portion of each interest in real property which is treated as held by the exempt REIT or stapled entity by reason of such increased ownership shall be treated as a nonqualified real property interest.

(4) SPECIAL RULES FOR DETERMINING OWNERSHIP.—For purposes of this subsection—

(A) percentage ownership of an entity shall be determined in accordance with subsection (e)(4),

(B) interests in the entity which are acquired by the exempt REIT or stapled entity in any acquisition described in an agreement, announcement, or filing described in subsection (b)(2) shall be treated as acquired on March 26, 1998, and

(C) except as provided in guidance prescribed by the Secretary, any change in proportionate ownership which is attributable solely to fluctuations in the relative fair market values of different classes of stock shall not be taken into account.

(d) TREATMENT OF PROPERTY SECURED BY MORTGAGE HELD BY EXEMPT REIT OR MEMBER OF STAPLED REIT GROUP.—

(1) IN GENERAL.—In the case of any nonqualified obligation held by an exempt REIT or any member of the stapled REIT group, the REIT gross income provisions shall be applied by treating the exempt REIT as having impermissible tenant service income equal to—

(A) the interest income from such obligation which is properly allocable to the property described in paragraph (2), and

(B) the income of any member of the stapled REIT group from services described in paragraph (2) with respect to such property.

If the income referred to in subparagraph (A) or (B) is of a 10-percent subsidiary entity, only the portion of such income which is properly allocable to the exempt REIT's or the stapled entity's interest in the subsidiary entity shall be taken into account.

(2) NONQUALIFIED OBLIGATION.—Except as otherwise provided in this subsection, the term "nonqualified obligation" means any obligation secured by a mortgage on an interest in real property if the income of any member of the stapled REIT group for services furnished with respect to such property would be impermissible tenant service income were such property held by the exempt REIT and such services furnished by the exempt REIT.

(3) EXCEPTION FOR CERTAIN MARKET RATE OBLIGATIONS.—Such term shall not include any obligation—

(A) payments under which would be treated as interest if received by a REIT, and

(B) the rate of interest on which does not exceed an arm's length rate.

(4) EXCEPTION FOR EXISTING OBLIGATIONS.—Such term shall not include any obligation—

(A) which is secured on March 26, 1998, by an interest in real property, and

(B) which is held on such date by the exempt REIT or any entity which is a member of the stapled REIT group on such date and at all times thereafter,

but only so long as such obligation is secured by such interest. The preceding sentence shall not cease to apply by reason of the refinancing of the obligation if (immediately after the refinancing) the principal amount of the obligation resulting from the refinancing does not exceed the principal amount of the refinanced obligation (immediately before the refinancing).

(5) TREATMENT OF ENTITIES WHICH ARE NOT STAPLED, ETC. ON MARCH 26, 1998.—A rule similar to the rule of subsection (b)(4) shall apply for purposes of this subsection.

(6) INCREASE IN AMOUNT OF NONQUALIFIED OBLIGATIONS IF INCREASE IN OWNERSHIP OF SUBSIDIARY.—A rule similar to the rule of subsection (c)(3) shall apply for purposes of this subsection.

(7) COORDINATION WITH SUBSECTION (a).—This subsection shall not apply to the portion of any interest in real property that the exempt REIT or stapled entity holds or is treated as holding under this section without regard to this subsection.

(e) DEFINITIONS.—For purposes of this section—

(1) REIT GROSS INCOME PROVISIONS.—The term "REIT gross income provisions" means—

(A) paragraphs (2), (3), and (6) of section 856(c) of the Internal Revenue Code of 1986, and

(B) section 857(b)(5) of such Code.

(2) EXEMPT REIT.—The term "exempt REIT" means a real estate investment trust to which section 269B of the Internal Revenue Code of 1986 does not apply by reason of paragraph (3) of section 136(c) of the Tax Reform Act of 1984.

(3) STAPLED REIT GROUP.—The term "stapled REIT group" means, with respect to an exempt REIT, the group consisting of—

(A) all entities which are stapled entities with respect to the exempt REIT, and

(B) all entities which are 10-percent subsidiary entities of the exempt REIT or any such stapled entity.

(4) 10-PERCENT SUBSIDIARY ENTITY.—

(A) IN GENERAL.—The term "10-percent subsidiary entity" means, with respect to any exempt REIT or stapled entity, any entity in which the exempt REIT or stapled entity (as the case may be) directly or indirectly holds at least a 10-percent interest.

(B) EXCEPTION FOR CERTAIN C CORPORATION SUBSIDIARIES OF REITS.—A corporation which would, but for this subparagraph, be treated as a 10-percent subsidiary of an exempt REIT shall not be so treated if such corporation is taxable under section 11 of the Internal Revenue Code of 1986.

(C) 10-PERCENT INTEREST.—The term "10-percent interest" means—

(i) in the case of an interest in a corporation, ownership of 10 percent (by vote or value) of the stock in such corporation,

(ii) in the case of an interest in a partnership, ownership of 10 percent of the assets or net profits interest in the partnership, and

(iii) in any other case, ownership of 10 percent of the beneficial interests in the entity.

(5) OTHER DEFINITIONS.—Terms used in this section which are used in section 269B or section 856 of such Code shall have the respective meanings given such terms by such section.

(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance to prevent the avoidance of such purposes and to prevent the double counting of income.

(g) EFFECTIVE DATE.—This section shall apply to taxable years ending after March 26, 1998.

SEC. 5005. CERTAIN CUSTOMER RECEIVABLES INELIGIBLE FOR MARK-TO-MARKET TREATMENT.

(a) CERTAIN RECEIVABLES NOT ELIGIBLE FOR MARK TO MARKET.—Section 475(c) (relating to definitions) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR CERTAIN RECEIVABLES.—

"(A) IN GENERAL.—Paragraph (2)(C) shall not include any note, bond, debenture, or other evidence of indebtedness which is nonfinancial customer paper.

"(B) NONFINANCIAL CUSTOMER PAPER.—For purposes of subparagraph (A), the term 'nonfinancial customer paper' means any receivable—

"(i) arising out of the sale of goods or services by a person the principal activity of which is the selling or providing of nonfinancial goods and services, and

"(ii) held by such person (or a person who bears a relationship to such person described in section 267(b) or 707(b)) at all times since issue.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 5006. INCLUSION OF ROTAVIRUS GASTROENTERITIS TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(1) (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

"(K) Any vaccine against rotavirus gastroenteritis.".

(b) EFFECTIVE DATE.—

(1) SALES.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1), in the case of sales on or before the date of the enactment of this Act for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) In General.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

"(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

"(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year.".

(b) Effective Date.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. MODIFICATION OF AGI LIMIT FOR CONVERSIONS TO ROTH IRAS.

(a) In General.—Section 408A(c)(3)(C)(i) (relating to limits based on modified adjusted gross income) is amended to read as follows:

"(i) adjusted gross income shall be determined in the same manner as under section 219(g)(3), except that—

"(I) any amount included in gross income under subsection (d)(3) shall not be taken into account, and

"(II) any amount included in gross income by reason of a required distribution under a provision described in paragraph (5) shall not be taken into account for purposes of subparagraph (B)(i).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2003" and inserting "October 1, 2007".

TITLE VI—TECHNICAL CORRECTIONS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Tax Technical Corrections Act of 1998".

SEC. 6002. DEFINITIONS.

For purposes of this title—

(1) 1986 Code.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) 1997 Act.—The term "1997 Act" means the Taxpayer Relief Act of 1997.

SEC. 6003. AMENDMENTS RELATED TO TITLE I OF 1997 ACT.

(a) Amendments Related to Section 101(a) of 1997 Act.—

(1) Subsection (d) of section 24 of the 1986 Code is amended—

(A) by striking paragraphs (3) and (4),

(B) by redesignating paragraph (5) as paragraph (3), and

(C) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) In general.—In the case of a taxpayer with 3 or more qualifying children for any taxable year, the aggregate credits allowed under subpart C shall be increased by the lesser of—

"(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a), or

"(B) the amount by which the aggregate amount of credits allowed by this subpart (without regard to this subsection) would increase if the limitation imposed by section 26(a) were increased by the excess (if any) of—

"(i) the taxpayer's social security taxes for the taxable year, over

"(ii) the credit allowed under section 32 (determined without regard to subsection (n)) for the taxable year.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a).

"(2) Reduction of credit to taxpayer subject to alternative minimum tax.—The credit determined under this subsection for the taxable year shall be reduced by the excess (if any) of—

"(A) the amount of tax imposed by section 55 (relating to alternative minimum tax) with respect to such taxpayer for such taxable year, over

"(B) the amount of the reduction under section 32(h) with respect to such taxpayer for such taxable year.".

(2) Paragraph (3) of section 24(d) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking "paragraph (3)" and inserting "paragraph (1)".

(b) Amendments Related to Section 101(b) of 1997 Act.—

(1) The subsection (m) of section 32 of the 1986 Code added by section 101(b) of the 1997 Act is amended to read as follows:

"(n) Supplemental Child Credit.—

"(1) In general.—In the case of a taxpayer with respect to whom a credit is allowed under section 24(a) for the taxable year, the credit otherwise allowable under this section shall be increased by the lesser of—

"(A) the excess of—

"(i) the credits allowed under subpart A (determined after the application of section 26 and without regard to this subsection), over

"(ii) the credits which would be allowed under subpart A after the application of section 26, determined without regard to section 24 and this subsection, or

"(B) the excess of—

"(i) the sum of the credits allowed under this part (determined without regard to sections 31, 33, and 34 and this subsection), over

"(ii) the sum of the regular tax and the social security taxes (as defined in section 24(d)).

The credit determined under this subsection shall be allowed without regard to any other provision of this section, including subsection (d).

"(2) Coordination with other credits.—The amount of the credit under this subsection shall reduce the amount of the credits otherwise allowable under subpart A for the taxable year (determined after the application of section 26), but the amount of the credit under this subsection (and such reduction) shall not be taken into account in determining the amount of any other credit allowable under this part.".

SEC. 6004. AMENDMENTS RELATED TO TITLE II OF 1997 ACT.

(a) Amendments Related to Section 201 of 1997 Act.—

(1) The item relating to section 25A in the table of sections for subpart A of part IV of subchapter A of chapter 1 of the 1986 Code is amended to read as follows:

"Sec. 25A. Hope and Lifetime Learning credits.".

(2) Subsection (a) of section 6050S of the 1986 Code is amended to read as follows:

"(a) In General.—Any person—

"(1) which is an eligible educational institution—

"(A) which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

"(B) which makes reimbursements or refunds (or similar amounts) to any individual of qualified tuition and related expenses,

"(2) which is engaged in a trade or business of making payments to any individual under an insurance arrangement as reimbursements or refunds (or similar amounts) of qualified tuition and related expenses, or

"(3) except as provided in regulations, which is engaged in a trade or business and, in the course of which, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.".

(3) Subparagraph (A) of section 201(c)(2) of the 1997 Act is amended to read as follows:

"(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

"'(x) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),'".

(b) Amendment Related to Section 202 of 1997 Act.—Paragraph (1) of section 221(e) of the 1986 Code is amended by inserting "by the taxpayer" after "incurred" the first place it appears.

(c) Amendments Related to Section 211 of 1997 Act.—

(1) Paragraph (3) of section 135(c) of the 1986 Code is amended to read as follows:

"(3) Eligible educational institution.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).".

(2) Subparagraph (A) of section 529(c)(3) of the 1986 Code is amended by striking "section 72(b)" and inserting "section 72".

(3) Paragraph (2) of section 529(e) of the 1986 Code is amended to read as follows:

"(2) Member of family.—The term 'member of the family' means, with respect to any designated beneficiary—

"(A) the spouse of such beneficiary,

"(B) an individual who bears a relationship to such beneficiary which is described in paragraphs (1) through (8) of section 152(a), and

"(C) the spouse of any individual described in subparagraph (B).".

(d) Amendments Related to Section 213 of 1997 Act.—

(1) Section 530(b)(1) of the 1986 Code (defining education individual retirement account) is amended by inserting "an individual who is" before "the designated beneficiary" in the material preceding subparagraph (A).

(2)(A) Section 530(b)(1)(E) of the 1986 Code (defining education individual retirement account) is amended to read as follows:

"(E) Except as provided in subsection (d)(7), any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death of such beneficiary.".

(B) Paragraph (7) of section 530(d) of the 1986 Code is amended by inserting at the end the following new sentence: "In applying the preceding sentence, members of the family of the designated beneficiary shall be treated in the same manner as the spouse under such paragraph (8).".

(C) Subsection (d) of section 530 of the 1986 Code is amended by adding at the end the following new paragraph:

"(8) Deemed distribution on required distribution date.—In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period.".

(3)(A) Paragraph (1) of section 530(d) of the 1986 Code is amended by striking "section 72(b)" and inserting "section 72".

(B) Subsection (e) of section 72 of the 1986 Code is amended by inserting after paragraph (8) the following new paragraph:

"(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED STATE TUITION PROGRAMS AND EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified State tuition program (as defined in section 529(b)) or under an education individual retirement account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph.".

(4) Paragraph (2) of section 135(d) of the 1986 Code is amended to read as follows:

"(2) COORDINATION WITH OTHER HIGHER EDUCATION BENEFITS.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by—

"(A) the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 25A with respect to such expenses, and

"(B) the amount of such expenses which are taken into account in determining the exclusion under section 530(d)(2).".

(5) Section 530(d)(2) (relating to distributions for qualified higher education expenses) is amended by adding at the end the following new subparagraph:

"(D) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.".

(6) Section 530(d)(4)(B) of the 1986 Code (relating to exceptions) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or", and by adding at the end the following new clause:

"(iv) an amount which is includible in gross income solely because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2) for the taxable year.".

(7) So much of section 530(d)(4)(C) of the 1986 Code as precedes clause (ii) thereof is amended to read as follows:

"(C) CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

"(i) such distribution is made on or before the day prescribed by law (including extensions of time) for filing the beneficiary's return of tax for the taxable year or, if the beneficiary is not required to file such a return, the 15th day of the 4th month of the taxable year following the taxable year, and".

(8) Subparagraph (C) of section 135(c)(2) of the 1986 Code is amended—

(A) by inserting "AND EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS" in the heading after "PROGRAM", and

(B) by striking "section 529(c)(3)(A)" and inserting "section 72".

(9) Paragraph (1) of section 4973(e) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—In the case of education individual retirement accounts maintained for the benefit of any 1 beneficiary, the term 'excess contributions' means the sum of—

"(A) the amount by which the amount contributed for the taxable year to such accounts exceeds $500 (or, if less, the sum of the maximum amounts permitted to be contributed under section 530(c) by the contributors to such accounts for such year),

"(B) if any amount is contributed during such year to a qualified State tuition program for the benefit of such beneficiary, any amount contributed to such accounts for any taxable year, and

"(C) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"(i) the distributions out of the accounts for the taxable year which are included in gross income, and

"(ii) the excess (if any) of the maximum amount which may be contributed to the accounts for the taxable year (other than excess contributions within the meaning of subparagraphs (A) and (B)) over the amount contributed to the accounts for the taxable year.".

(e) AMENDMENTS RELATED TO SECTION 224 OF 1997 ACT.—

(1) Clauses (vi) and (vii) of section 170(e)(6)(B) of the 1986 Code are each amended by striking "entity's" and inserting "donee's".

(2) Clause (iv) of section 170(e)(6)(B) of the 1986 Code is amended by striking "organization or entity" and inserting "donee".

(3) Subclause (I) of section 170(e)(6)(C)(ii) of the 1986 Code is amended by striking "an entity" and inserting "a donee".

(4) Section 170(e)(6)(F) of the 1986 Code (relating to termination) is amended by striking "1999" and inserting "2000".

(f) AMENDMENTS RELATED TO SECTION 225 OF 1997 ACT.—

(1) The last sentence of section 108(f)(2) of the 1986 Code is amended to read as follows:

"The term 'student loan' includes any loan made by an educational organization described in section 170(b)(1)(A)(ii) or by an organization exempt from tax under section 501(a) to refinance a loan to an individual to assist the individual in attending any such educational organization but only if the refinancing loan is pursuant to a program of the refinancing organization which is designed as described in subparagraph (D)(ii).".

(2) Section 108(f)(3) of the 1986 Code is amended by striking "(or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D))".

(g) AMENDMENTS RELATED TO SECTION 226 OF 1997 ACT.—

(1) Section 226(a) of the 1997 Act is amended by striking "section 1397E" and inserting "section 1397D".

(2) Section 1397E(d)(4)(B) of the 1986 Code is amended by striking "local education agency as defined" and inserting "local educational agency as defined".

(3) Section 1397E is amended by adding at the end the following new subsection:

"(h) CREDIT TREATED AS ALLOWED UNDER PART IV OF SUBCHAPTER A.—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.".

SEC. 6005. AMENDMENTS RELATED TO TITLE III OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF 1997 ACT.—

(1) Section 219(g) of the 1986 Code is amended—

(A) by inserting "or the individual's spouse" after "individual" in paragraph (1), and

(B) by striking paragraph (7) and inserting:

"(7) SPECIAL RULE FOR SPOUSES WHO ARE NOT ACTIVE PARTICIPANTS.—If this subsection applies to an individual for any taxable year solely because their spouse is an active participant, then, in applying this subsection to the individual (but not their spouse)—

"(A) the applicable dollar amount under paragraph (3)(B)(i) shall be $150,000, and

"(B) the amount applicable under paragraph (2)(A)(ii) shall be $10,000.".

(2) Paragraph (2) of section 301(a) of the 1997 Act is amended by inserting "after '$10,000'" before the period.

(b) AMENDMENTS RELATED TO SECTION 302 OF 1997 ACT.—

(1) Section 408A(c)(3)(A) of the 1986 Code is amended by striking "shall be reduced" and inserting "shall not exceed an amount equal to the amount determined under paragraph (2)(A) for such taxable year, reduced".

(2) Section 408A(c)(3) of the 1986 Code (relating to limits based on modified adjusted gross income) is amended—

(A) by inserting "or a married individual filing a separate return" after "joint return" in subparagraph (A)(ii),

(B) in subparagraph (B)—

(i) by inserting ", for the taxable year of the distribution to which such contribution relates" after "if", and

(ii) by striking "for such taxable year" in clause (i), and

(C) by striking "and the deduction under section 219 shall be taken into account" in subparagraph (C)(i).

(3)(A) Section 408A(d)(2) of the 1986 Code (defining qualified distribution) is amended by striking subparagraph (B) and inserting the following:

"(B) DISTRIBUTIONS WITHIN NONEXCLUSION PERIOD.—A payment or distribution from a Roth IRA shall not be treated as a qualified distribution under subparagraph (A) if such payment or distribution is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to a Roth IRA (or such individual's spouse made a contribution to a Roth IRA) established for such individual.".

(B) Section 408A(d)(2) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(C) DISTRIBUTIONS OF EXCESS CONTRIBUTIONS AND EARNINGS.—The term 'qualified distribution' shall not include any distribution of any contribution described in section 408(d)(4) and any net income allocable to the contribution.".

(4) Section 408A(d)(3) of the 1986 Code (relating to rollovers from IRAs other than Roth IRAs) is amended—

(A) by striking clause (iii) of subparagraph (A) and inserting:

"(iii) unless the taxpayer elects not to have this clause apply for any taxable year, any amount required to be included in gross income for such taxable year by reason of this paragraph for any distribution before January 1, 1999, shall be so included ratably over the 4-taxable year period beginning with such taxable year.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year."; and

(B) by adding at the end the following:

"(F) SPECIAL RULES FOR CONTRIBUTIONS TO WHICH 4-YEAR AVERAGING APPLIES.—In the case of a qualified rollover contribution to a Roth IRA of a distribution to which subparagraph (A)(iii) applied, the following rules shall apply:

"(i) ACCELERATION OF INCLUSION.—

"(I) IN GENERAL.—The amount required to be included in gross income for each of the first 3 taxable years in the 4-year period under subparagraph (A)(iii) shall be increased by the aggregate distributions from Roth IRAs for such taxable year which are allocable under paragraph (4) to the portion of such qualified rollover contribution required to be included in gross income under subparagraph (A)(i).

"(II) LIMITATION ON AGGREGATE AMOUNT INCLUDED.—The amount required to be included in gross income for any taxable year under subparagraph (A)(iii) shall not exceed the aggregate amount required to be included in gross income under subparagraph (A)(iii) for all taxable years in the 4-year period (without regard to subclause (I)) reduced by amounts included for all preceding taxable years.

"(ii) DEATH OF DISTRIBUTEE.—

"(I) IN GENERAL.—If the individual required to include amounts in gross income under such subparagraph dies before all of such amounts are included, all remaining amounts shall be included in gross income for the taxable year which includes the date of death.

"(II) SPECIAL RULE FOR SURVIVING SPOUSE.—If the spouse of the individual described in subclause (I) acquires the individual's entire interest in any Roth IRA to which such qualified rollover contribution is properly allocable, the spouse may elect to treat the remaining amounts described in subclause (I) as includible in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of such individual in which such amounts would otherwise have been includible. Any such election may not be made or changed after the due date for the spouse's taxable year which includes the date of death.

"(G) SPECIAL RULE FOR APPLYING SECTION 72.—

"(i) IN GENERAL.—If—

"(I) any portion of a distribution from a Roth IRA is properly allocable to a qualified rollover contribution described in this paragraph, and

"(II) such distribution is made within the 5-taxable year period beginning with the taxable year in which such contribution was made,

then section 72(t) shall be applied as if such portion were includible in gross income.

"(ii) LIMITATION.—Clause (i) shall apply only to the extent of the amount of the qualified rollover contribution includible in gross income under subparagraph (A)(i).".

(5)(A) Section 408A(d)(4) of the 1986 Code is amended to read as follows:

"(4) AGGREGATION AND ORDERING RULES.—

"(A) AGGREGATION RULES.—Section 408(d)(2) shall be applied separately with respect to Roth IRAs and other individual retirement plans.

"(B) ORDERING RULES.—For purposes of applying this section and section 72 to any distribution from a Roth IRA, such distribution shall be treated as made—

"(i) from contributions to the extent that the amount of such distribution, when added to all previous distributions from the Roth IRA, does not exceed the aggregate contributions to the Roth IRA, and

"(ii) from such contributions in the following order:

"(I) Contributions other than qualified rollover contributions to which paragraph (3) applies.

"(II) Qualified rollover contributions to which paragraph (3) applies on a first-in, first-out basis.

Any distribution allocated to a qualified rollover contribution under clause (ii)(II) shall be allocated first to the portion of such contribution required to be included in gross income.".

(B) Section 408A(d)(1) of the 1986 Code is amended to read as follows:

"(1) EXCLUSION.—Any qualified distribution from a Roth IRA shall not be includible in gross income.".

(6)(A) Section 408A(d) of the 1986 Code (relating to distribution rules) is amended by adding at the end the following:

"(6) TAXPAYER MAY MAKE ADJUSTMENTS BEFORE DUE DATE.—

"(A) IN GENERAL.—Except as provided by the Secretary, if, on or before the due date for any taxable year, a taxpayer transfers in a trustee-to-trustee transfer any contribution to an individual retirement plan made during such taxable year from such plan to any other individual retirement plan, then, for purposes of this chapter, such contribution shall be treated as having been made to the transferee plan (and not the transferor plan).

"(B) SPECIAL RULES.—

"(i) TRANSFER OF EARNINGS.—Subparagraph (A) shall not apply to the transfer of any contribution unless such transfer is accompanied by any net income allocable to such contribution.

"(ii) NO DEDUCTION.—Subparagraph (A) shall apply to the transfer of any contribution only to the extent no deduction was allowed with respect to the contribution to the transferor plan.".

(B) Section 408A(d)(3) of the 1986 Code, as amended by this subsection, is amended by striking subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(7) Section 408A(d) of the 1986 Code, as amended by paragraph (6), is amended by adding at the end the following new paragraph:

"(7) DUE DATE.—For purposes of this subsection, the due date for any taxable year is the date prescribed by law (including extensions of time) for filing the taxpayer's return for such taxable year.".

(8)(A) Section 4973(f) of the 1986 Code is amended—

(i) by striking "such accounts" in paragraph (1)(A) and inserting "Roth IRAs", and

(ii) by striking "to the accounts" in paragraph (2)(B) and inserting "by the individual to all individual retirement plans".

(B) Section 4973(b) of the 1986 Code is amended—

(i) by inserting "a contribution to a Roth IRA or" after "other than" in paragraph (1)(A), and

(ii) by inserting "(including the amount contributed to a Roth IRA)" after "annuities" in paragraph (2)(C).

(C) Section 302(b) of the 1997 Act is amended by striking "Section 4973(b)" and inserting "Section 4973".

(9) Section 408A of the 1986 Code is amended by adding at the end the following new subsection:

"(f) INDIVIDUAL RETIREMENT PLAN.—For purposes of this section—

"(1) a simplified employee pension or a simple retirement account may not be designated as a Roth IRA, and

"(2) contributions to any such pension or account shall not be taken into account for purposes of subsection (c)(2)(B).".

(c) AMENDMENTS RELATED TO SECTION 303 OF 1997 ACT.—

(1) Section 72(t)(8)(E) of the 1986 Code is amended—

(A) by striking "120 days" and inserting "120th day", and

(B) by striking "60 days" and inserting "60th day".

(2)(A) Section 402(c)(4) of the 1986 Code is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", by inserting at the end the following new subparagraph:

"(C) any hardship distribution described in section 401(k)(2)(B)(i)(IV).".

(B) Section 403(b)(8)(B) of the 1986 Code is amended by inserting "(including paragraph (4)(C) thereof)" after "section 402(c)".

(C) The amendments made by this paragraph shall apply to distributions after December 31, 1998.

(d) AMENDMENTS RELATED TO SECTION 311 OF 1997 ACT.—

(1) Subsection (h) of section 1 of the 1986 Code (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the net capital gain, or

"(ii) the lesser of—

"(I) the amount of taxable income taxed at a rate below 28 percent, or

"(II) taxable income reduced by the adjusted net capital gain,

"(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

"(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 28 percent, over

"(ii) the taxable income reduced by the adjusted net capital gain,

"(C) 20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B),

"(D) 25 percent of the excess (if any) of—

"(i) the unrecaptured section 1250 gain (or, if less, the net capital gain), over

"(ii) the excess (if any) of—

"(I) the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain, over

"(II) taxable income, and

"(E) 28 percent of the amount of taxable income in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

"(2) REDUCED CAPITAL GAIN RATES FOR QUALIFIED 5-YEAR GAIN.—

"(A) REDUCTION IN 10-PERCENT RATE.—In the case of any taxable year beginning after December 31, 2000, the rate under paragraph (1)(B) shall be 8 percent with respect to so much of the amount to which the 10-percent rate would otherwise apply as does not exceed qualified 5-year gain, and 10 percent with respect to the remainder of such amount.

"(B) REDUCTION IN 20-PERCENT RATE.—The rate under paragraph (1)(C) shall be 18 percent with respect to so much of the amount to which the 20-percent rate would otherwise apply as does not exceed the lesser of—

"(i) the excess of qualified 5-year gain over the amount of such gain taken into account under subparagraph (A) of this paragraph, or

"(ii) the amount of qualified 5-year gain (determined by taking into account only property the holding period for which begins after December 31, 2000),

and 20 percent with respect to the remainder of such amount. For purposes of determining under the preceding sentence whether the holding period of property begins after December 31, 2000, the holding period of property acquired pursuant to the exercise of an option (or other right or obligation to acquire property) shall include the period such option (or other right or obligation) was held.

"(3) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(4) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term 'adjusted net capital gain' means net capital gain reduced (but not below zero) by the sum of—

"(A) unrecaptured section 1250 gain, and

"(B) 28 percent rate gain.

"(5) 28 PERCENT RATE GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term '28 percent rate gain' means the excess (if any) of—

"(i) the sum of—

"(I) the aggregate long-term capital gain from property held for more than 1 year but not more than 18 months,

"(II) collectibles gain, and

"(III) section 1202 gain, over

"(ii) the sum of—

"(I) the aggregate long-term capital loss (not described in subclause (IV)) from property referred to in clause (i)(I),

"(II) collectibles loss,

"(III) the net short-term capital loss, and

"(IV) the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.

"(B) SPECIAL RULES.—

"(i) SHORT SALE GAINS AND HOLDING PERIODS.—Rules similar to the rules of section 1233(b) shall apply where the substantially identical property has been held more than 1 year but not more than 18 months; except that, for purposes of such rules—

"(I) section 1233(b)(1) shall be applied by substituting '18 months' for '1 year' each place it appears, and

"(II) the holding period of such property shall be treated as being 1 year on the day before the earlier of the date of the closing of the short sale or the date such property is disposed of.

"(ii) LONG-TERM LOSSES.—Section 1233(d) shall be applied separately by substituting '18 months' for '1 year' each place it appears.

"(iii) OPTIONS.—A rule similar to the rule of section 1092(f) shall apply where the stock was held for more than 18 months.

"(iv) SECTION 1256 CONTRACTS.—Amounts treated as long-term capital gain or loss under section 1256(a)(3) shall be treated as attributable to property held for more than 18 months.

"(6) COLLECTIBLES GAIN AND LOSS.—For purposes of this subsection—

"(A) IN GENERAL.—The terms 'collectibles gain' and 'collectibles loss' mean gain or loss (respectively) from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 18 months but only to the extent such gain is taken into account in computing gross income and such loss is taken into account in computing taxable income.

"(B) PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

"(7) UNRECAPTURED SECTION 1250 GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'unrecaptured section 1250 gain' means the excess (if any) of—

"(i) the amount of long-term capital gain (not otherwise treated as ordinary income) which would be treated as ordinary income if—

"(I) section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, and

"(II) only gain from property held for more than 18 months were taken into account, over

"(ii) the excess (if any) of—

"(I) the amount described in paragraph (5)(A)(ii), over

"(II) the amount described in paragraph (5)(A)(i).

"(B) LIMITATION WITH RESPECT TO SECTION 1231 PROPERTY.—The amount described in subparagraph (A)(i) from sales, exchanges, and conversions described in section 1231(a)(3)(A) for any taxable year shall not exceed the net section 1231 gain (as defined in section 1231(c)(3)) for such year.

"(8) SECTION 1202 GAIN.—For purposes of this subsection, the term 'section 1202 gain' means an amount equal to the gain excluded from gross income under section 1202(a).

"(9) QUALIFIED 5-YEAR GAIN.—For purposes of this subsection, the term 'qualified 5-year gain' means the aggregate long-term capital gain from property held for more than 5 years. The determination under the preceding sentence shall be made without regard to collectibles gain, gain described in paragraph (7)(A)(i), and section 1202 gain.

"(10) COORDINATION WITH RECAPTURE OF NET ORDINARY LOSSES UNDER SECTION 1231.—If any amount is treated as ordinary income under section 1231(c), such amount shall be allocated among the separate categories of net section 1231 gain (as defined in section 1231(c)(3)) in such manner as the Secretary may by forms or regulations prescribe.

"(11) REGULATIONS.—The Secretary may prescribe such regulations as are appropriate (including regulations requiring reporting) to apply this subsection in the case of sales and exchanges by pass-thru entities and of interests in such entities.

"(12) PASS-THRU ENTITY DEFINED.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) a regulated investment company,

"(B) a real estate investment trust,

"(C) an S corporation,

"(D) a partnership,

"(E) an estate or trust,

"(F) a common trust fund,

"(G) a foreign investment company which is described in section 1246(b)(1) and for which an election is in effect under section 1247, and

"(H) a qualified electing fund (as defined in section 1295).

"(13) SPECIAL RULES FOR PERIODS DURING 1997.—

"(A) DETERMINATION OF 28 PERCENT RATE GAIN.—In applying paragraph (5)—

"(i) the amount determined under subclause (I) of paragraph (5)(A)(i) shall include long-term capital gain (not otherwise described in paragraph (5)(A)(i)) which is properly taken into account for the portion of the taxable year before May 7, 1997,

"(ii) the amounts determined under subclause (I) of paragraph (5)(A)(ii) shall include long-term capital loss (not otherwise described in paragraph (5)(A)(ii)) which is properly taken into account for the portion of the taxable year before May 7, 1997, and

"(iii) clauses (i)(I) and (ii)(I) of paragraph (5)(A) shall be applied by not taking into account any gain and loss on property held for more than 1 year but not more than 18 months which is properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

"(B) OTHER SPECIAL RULES.—

"(i) DETERMINATION OF UNRECAPTURED SECTION 1250 GAIN NOT TO INCLUDE PRE-MAY 7, 1997 GAIN.—The amount determined under paragraph (7)(A)(i) shall not include gain properly taken into account for the portion of the taxable year before May 7, 1997.

"(ii) OTHER TRANSITIONAL RULES FOR 18-MONTH HOLDING PERIOD.—Paragraphs (6)(A) and (7)(A)(i)(II) shall be applied by substituting '1 year' for '18 months' with respect to gain properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

"(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—In applying this paragraph with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.".

(2) Paragraph (3) of section 55(b) of the 1986 Code is amended to read as follows:

"(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NONCORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

"(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the lesser of—

"(i) the net capital gain, or

"(ii) the sum of—

"(I) the adjusted net capital gain, plus

"(II) the unrecaptured section 1250 gain, plus

"(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

"(C) 20 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (B), plus

"(D) 25 percent of the amount of taxable excess in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

In the case of taxable years beginning after December 31, 2000, rules similar to the rules of section 1(h)(2) shall apply for purposes of subparagraphs (B) and (C). Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h) but computed with the adjustments under this part.".

(3) Section 57(a)(7) of the 1986 Code is amended by adding at the end the following new sentence: "In the case of stock the holding period of which begins after December 31, 2000 (determined with the application of the last sentence of section 1(h)(2)(B)), the preceding sentence shall be applied by substituting '28 percent' for '42 percent'.".

(4) Paragraphs (11) and (12) of section 1223, and section 1235(a), of the 1986 Code are each amended by striking "1 year" each place it appears and inserting "18 months".

(e) AMENDMENTS RELATED TO SECTION 312 OF 1997 ACT.—

(1) Paragraph (2) of section 121(b) of the 1986 Code is amended to read as follows:

"(2) SPECIAL RULES FOR JOINT RETURNS.—In the case of a husband and wife who make a joint return for the taxable year of the sale or exchange of the property—

"(A) $500,000 LIMITATION FOR CERTAIN JOINT RETURNS.—Paragraph (1) shall be applied by substituting '$500,000' for '$250,000' if—

"(i) either spouse meets the ownership requirements of subsection (a) with respect to such property,

"(ii) both spouses meet the use requirements of subsection (a) with respect to such property, and

"(iii) neither spouse is ineligible for the benefits of subsection (a) with respect to such property by reason of paragraph (3).

"(B) OTHER JOINT RETURNS.—If such spouses do not meet the requirements of subparagraph (A), the limitation under paragraph (1) shall be the sum of the limitations under paragraph (1) to which each spouse would be entitled if such spouses had not been married. For purposes of the preceding sentence, each spouse shall be treated as owning the property during the period that either spouse owned the property.".

(2) Section 121(c)(1) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a), and subsection (b)(3), shall not apply; but the dollar limitation under paragraph (1) or (2) of subsection (b), whichever is applicable, shall be equal to—

"(A) the amount which bears the same ratio to such limitation (determined without regard to this paragraph) as

"(B)(i) the shorter of—

"(I) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

"(II) the period after the date of the most recent prior sale or exchange by the taxpayer to which subsection (a) applied and before the date of such sale or exchange, bears to

"(ii) 2 years.".

(3) Section 312(d)(2) of the 1997 Act (relating to sales before date of the enactment) is amended by inserting "on or" before "before" each place it appears in the text and heading.

(f) AMENDMENT RELATED TO SECTION 313 OF 1997 ACT.—Section 1045 of the 1986 Code is amended by adding at the end the following new subsection:

"(c) LIMITATION ON APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—Subsection (a) shall apply to a partnership or S corporation for a taxable year only if at all times during such taxable year all of the partners in the partnership, or all of the shareholders of the S corporation, are natural persons, estates, or trusts (other than trusts having any beneficiary which is a C corporation).".

SEC. 6006. AMENDMENT RELATED TO TITLE IV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 401 OF 1997 ACT.—Paragraph (1) of section 55(e) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—

"(A) $7,500,000 GROSS RECEIPTS TEST.—The tentative minimum tax of a corporation shall be zero for any taxable year if the corporation's average annual gross receipts for all 3-taxable-year periods ending before such taxable year does not exceed $7,500,000. For purposes of the preceding sentence, only taxable years beginning after December 31, 1993, shall be taken into account.

"(B) $5,000,000 GROSS RECEIPTS TEST FOR FIRST 3-YEAR PERIOD.—Subparagraph (A) shall be applied by substituting '$5,000,000' for '$7,500,000' for the first 3-taxable-year period (or portion thereof) of the corporation which is taken into account under subparagraph (A).

"(C) FIRST TAXABLE YEAR CORPORATION IN EXISTENCE.—If such taxable year is the first taxable year that such corporation is in existence, the tentative minimum tax of such corporation for such year shall be zero.

"(D) SPECIAL RULES.—For purposes of this paragraph, the rules of paragraphs (2) and (3) of section 448(c) shall apply.".

(b) AMENDMENT RELATED TO SECTION 402 OF 1997 ACT.—Subsection (c) of section 168 of the 1986 Code is amended—

(1) by striking paragraph (2), and

(2) by striking the portion of such subsection preceding the table in paragraph (1) and inserting the following:

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:".

SEC. 6007. AMENDMENTS RELATED TO TITLE V OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 501 OF 1997 ACT.—

(1) Paragraph (2) of section 2001(c) of the 1986 Code is amended by striking "$10,000,000" and all that follows and inserting "$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) (determined without regard to section 2057(a)(3), and $359,200.".

(2) Subsection (c) of section 2631 of the 1986 Code is amended to read as follows:

"(c) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1998, the $1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—

"(A) $1,000,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.

"(2) ALLOCATION OF INCREASE.—Any increase under paragraph (1) for any calendar year shall apply only to generation-skipping transfers made during or after such calendar year; except that no such increase for calendar years after the calendar year in which the transferor dies shall apply to transfers by such transferor.".

(3) Subsection (f) of section 501 of the 1997 Act is amended by inserting "(other than the amendment made by subsection (d))" after "this section".

(b) AMENDMENTS RELATED TO SECTION 502 OF 1997 ACT.—

(1)(A) Section 2033A of the 1986 Code is hereby moved to the end of part IV of subchapter A of chapter 11 of the 1986 Code and redesignated as section 2057.

(B) So much of such section 2057 (as so redesignated) as precedes subsection (b) thereof is amended to read as follows:

"SEC. 2057. FAMILY-OWNED BUSINESS INTERESTS.

"(a) GENERAL RULE.—

"(1) ALLOWANCE OF DEDUCTION.—For purposes of the tax imposed by section 2001, in the case of an estate of a decedent to which this section applies, the value of the taxable estate shall be determined by deducting from the value of the gross estate the adjusted value of the qualified family-owned business interests of the decedent which are described in subsection (b)(2).

"(2) MAXIMUM DEDUCTION.—The deduction allowed by this section shall not exceed $675,000.

"(3) COORDINATION WITH UNIFIED CREDIT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if this section applies to an estate, the applicable exclusion amount under section 2010 shall be $625,000.

"(B) INCREASE IN UNIFIED CREDIT IF DEDUCTION IS LESS THAN $675,000.—If the deduction allowed by this section is less than $675,000, the amount of the applicable exclusion amount under section 2010 shall be increased (but not above the amount which would apply to the estate without regard to this section) by the excess of $675,000 over the amount of the deduction allowed.".

(C) Subparagraph (A) of section 2057(b)(2) of the 1986 Code (as so redesignated) is amended by striking "(without regard to this section)".

(D) Subsection (c) of section 2057 of the 1986 Code (as so redesignated) is amended by striking "(determined without regard to this section)".

(E) The table of sections for part III of subchapter A of chapter 11 of the 1986 Code is amended by striking the item relating to section 2033A.

(F) The table of sections for part IV of such subchapter is amended by adding at the end the following new item:

"Sec. 2057. Family-owned business interests.".

(2) Section 2057(b)(3) of the 1986 Code (as so redesignated) is amended to read as follows:

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the sum of—

"(A) the amount of such gifts from the decedent to members of the decedent's family taken into account under section 2001(b)(1)(B), plus

"(B) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death.".

(3)(A) Section 2057(e)(2)(C) of the 1986 Code (as so redesignated) is amended by striking "(as defined in section 543(a))" and inserting "(as defined in section 543(a) without regard to paragraph (2)(B) thereof) if such trade or business were a corporation".

(B) Clause (ii) of section 2057(e)(2)(D) of the 1986 Code (as so redesignated) is amended by striking "income of which is described in section 543(a) or" and inserting "personal holding company income (as defined in subparagraph (C)) or income described".

(4) Paragraph (2) of section 2057(f) of the 1986 Code (as so redesignated) is amended—

(A) by striking "(as determined under rules similar to the rules of section 2032A(c)(2)(B))", and

(B) by adding at the end the following new subparagraph:

"(C) ADJUSTED TAX DIFFERENCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The adjusted tax difference attributable to a qualified family-owned business interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under clause (ii)) as the value of such interest bears to the value of all qualified family-owned business interests described in subsection (b)(2).

"(ii) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.—For purposes of clause (i), the term 'adjusted tax difference with respect to the estate' means the excess of what would have been the estate tax liability but for the election under this section over the estate tax liability. For purposes of this clause, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.".

(5)(A) Paragraph (1) of section 2057(e) of the 1986 Code (as so redesignated) is amended by adding at the end the following:

"For purposes of the preceding sentence, a decedent shall be treated as engaged in a trade or business if any member of the decedent's family is engaged in such trade or business.".

(B) Subsection (f) of section 2057 of the 1986 Code (as so redesignated) is amended by adding at the end the following new paragraph:

"(3) USE IN TRADE OR BUSINESS BY FAMILY MEMBERS.—A qualified heir shall not be treated as disposing of an interest described in subsection (e)(1)(A) by reason of ceasing to be engaged in a trade or business so long as the property to which such interest relates is used in a trade or business by any member of such individual's family.".

(6) Paragraph (1) of section 2057(g) of the 1986 Code (as so redesignated) is amended by striking "or (M)".

(7) Paragraph (3) of section 2057(i) of the 1986 Code (as so redesignated) is amended by redesignating subparagraphs (L), (M), and (N) as subparagraphs (N), (O), and (P), respectively, and by inserting after subparagraph (K) the following new subparagraphs:

"(L) Section 2032A(g) (relating to application to interests in partnerships, corporations, and trusts).

"(M) Subsections (h) and (i) of section 2032A.".

(c) AMENDMENTS RELATED TO SECTION 503 OF THE 1997 ACT.—

(1) Clause (iii) of section 6166(b)(7)(A) of the 1986 Code is amended to read as follows:

"(iii) for purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.".

(2) Clause (iii) of section 6166(b)(8)(A) of the 1986 Code is amended to read as follows:

"(iii) 2-PERCENT INTEREST RATE NOT TO APPLY.—For purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.".

(d) AMENDMENT RELATED TO SECTION 505 OF THE 1997 ACT.—Paragraphs (1) and (2) of section 7479(a) of the 1986 Code are each amended by striking "an estate," and inserting "an estate (or with respect to any property included therein),".

(e) AMENDMENTS RELATED TO SECTION 506 OF THE 1997 ACT.—

(1) Paragraph (1) of section 506(e) of the 1997 Act is amended by striking "and (c)" and inserting ", (c), and (d)".

(2)(A) Paragraph (9) of section 6501(c) of the 1986 Code is amended by striking the last sentence.

(B) Subsection (f) of section 2001 of the 1986 Code is amended to read as follows:

"(f) VALUATION OF GIFTS.—

"(1) IN GENERAL—If the time has expired under section 6501 within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on—

"(A) the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), or

"(B) an increase in taxable gifts required under section 2701(d),

the value thereof shall, for purposes of computing the tax under this chapter, be the value as finally determined for purposes of chapter 12.

"(2) FINAL DETERMINATION.—For purposes of paragraph (1), a value shall be treated as finally determined for purposes of chapter 12 if—

"(A) the value is shown on a return under such chapter and such value is not contested by the Secretary before the expiration of the time referred to in paragraph (1) with respect to such return,

"(B) in a case not described in subparagraph (A), the value is specified by the Secretary and such value is not timely contested by the taxpayer, or

"(C) the value is determined by a court or pursuant to a settlement agreement with the Secretary.".

(B) Subsection (c) of section 2504 of the 1986 Code is amended to read as follows:

"(c) VALUATION OF GIFTS.—If the time has expired under section 6501 within which a tax may be assessed under this chapter 12 (or under corresponding provisions of prior laws) on—

"(1) the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), or

"(2) an increase in taxable gifts required under section 2701(d),

the value thereof shall, for purposes of computing the tax under this chapter, be the value as finally determined (within the meaning of section 2001(f)(2)) for purposes of this chapter.".

(f) AMENDMENTS RELATED TO SECTION 507 OF 1997 ACT.—

(1) Paragraph (3) of section 1(g) of the 1986 Code is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(2) Section 641 of the 1986 Code is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(3) Paragraph (4) of section 1361(e) of the 1986 Code is amended by striking "section 641(d)" and inserting "section 641(c)".

(4) Subparagraph (A) of section 6103(e)(1) of the 1986 Code is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(g) AMENDMENTS RELATED TO SECTION 508 OF 1997 ACT.—

(1) Subsection (c) of section 2031 of the 1986 Code is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) TREATMENT OF EASEMENTS GRANTED AFTER DEATH.—In any case in which the qualified conservation easement is granted after the date of the decedent's death and on or before the due date (including extensions) for filing the return of tax imposed by section 2001, the deduction under section 2055(f) with respect to such easement shall be allowed to the estate but only if no charitable deduction is allowed under chapter 1 to any person with respect to the grant of such easement.".

(2) The first sentence of paragraph (6) of section 2031(c) of the 1986 Code is amended by striking all that follows "shall be made" and inserting "on or before the due date (including extensions) for filing the return of tax imposed by section 2001 and shall be made on such return.".

SEC. 6008. AMENDMENTS RELATED TO TITLE VII OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1400 OF 1986 CODE.—Section 1400(b)(2)(B) of the 1986 Code is amended by inserting "as determined on the basis of the 1990 census" after "percent".

(b) AMENDMENT RELATED TO SECTION 1400A OF 1986 CODE.—Subsection (a) of section 1400A of the 1986 Code is amended by inserting before the period "and section 1394(b)(3)(B)(iii) shall be applied without regard to the employee residency requirement".

(c) AMENDMENTS RELATED TO SECTION 1400B OF 1986 CODE.—

(1) Section 1400B(b) of the 1986 Code is amended by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF DC ZONE TERMINATION.—The termination of the designation of the DC Zone shall be disregarded for purposes of determining whether any property is a DC Zone asset.".

(2) Paragraph (6) of section 1400B(b) of the 1986 Code is amended by striking "(4)(A)(ii)" and inserting "(4)(A)(i) or (ii)".

(3) Section 1400B(c) of the 1986 Code is amended by striking "entity which is an".

(4) Section 1400B(d)(2) of the 1986 Code is amended by inserting "as determined on the basis of the 1990 census" after "percent".

(d) AMENDMENTS RELATED TO SECTION 1400C OF 1986 CODE.—

(1) Paragraph (1) of section 1400C(b) of the 1986 Code is amended by inserting "and subsection (d)" after "this subsection".

(2) Paragraph (1) of section 1400C(c) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence in the District of Columbia during the 1-year period ending on the date of the purchase of the principal residence to which this section applies.".

(3) Subparagraph (B) of section 1400C(e)(2) of the 1986 Code is amended by inserting before the period "on the date the taxpayer first occupies such residence".

(4) Paragraph (3) of section 1400C(e) of the 1986 Code is amended by striking all that follows "principal residence" and inserting "on the date such residence is purchased.".

(5) Subsection (i) of section 1400C of the 1986 Code is amended to read as follows:

"(i) APPLICATION OF SECTION.—This section shall apply to property purchased after August 4, 1997, and before January 1, 2001.".

(6) Subsection (c) of section 23 of the 1986 Code is amended by inserting "and section 1400C" after "other than this section".

(7) Subparagraph (C) of section 25(e)(1) of the 1986 Code is amended by striking "section 23" and inserting "sections 23 and 1400C".

SEC. 6009. AMENDMENTS RELATED TO TITLE IX OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 901 OF 1997 ACT.—Section 9503(c)(7) of the 1986 Code is amended—

(1) by striking "resulting from the amendments made by" and inserting "(and transfers to the Mass Transit Account) resulting from the amendments made by subsections (a) and (b) of section 901 of", and

(2) by inserting before the period "and deposits in the Highway Trust Fund (and transfers to the Mass Transit Account) shall be treated as made when they would have been required to be made without regard to section 901(e) of the Taxpayer Relief Act of 1997".

(b) AMENDMENT RELATED TO SECTION 907 OF 1997 ACT.—Paragraph (2) of section 9503(e) of the 1986 Code is amended by striking the last sentence and inserting the following new sentence: "For purposes of the preceding sentence, the term 'mass transit portion' means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and deposited into the Highway Trust Fund, the amount determined at the rate of—

"(A) except as otherwise provided in this sentence, 2.86 cents per gallon,

"(B) 1.43 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,

"(C) 1.86 cents per gallon in the case of liquefied natural gas,

"(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and

"(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas.".

(c) AMENDMENT RELATED TO SECTION 908 OF 1997 ACT.—Paragraph (6) of section 5041(b) of the 1986 Code is amended by inserting "which is a still wine" after "hard cider".

(d) AMENDMENT RELATED TO SECTION 964 OF 1997 ACT.—

(1) IN GENERAL.—Subparagraph (C) of section 7704(g)(3) of the 1986 Code is amended by striking the period at the end and inserting "and shall be paid by the partnership. Section 6655 shall be applied to such partnership with respect to such tax in the same manner as if the partnership were a corporation, such tax were imposed by section 11, and references in such section to taxable income were references to the gross income referred to in subparagraph (A).".

(2) EFFECTIVE DATE.—The second sentence of section 7704(g)(3)(C) of the 1986 Code (as added by paragraph (1)) shall apply to taxable years beginning after the date of the enactment of this Act.

(e) AMENDMENT RELATED TO SECTION 971 OF 1997 ACT.—Clause (ii) of section 280F(a)(1)(C) is amended by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)".

(f) AMENDMENT RELATED TO SECTION 976 OF 1997 ACT.—Section 6103(d)(5) of the 1986 Code is amended by striking "section 967 of the Taxpayer Relief Act of 1997." and inserting "section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.".

(g) AMENDMENT RELATED TO SECTION 977 OF 1997 ACT.—Paragraph (2) of section 977(e) of the 1997 Act is amended to read as follows:

"(2) NON-AMTRAK STATE.—The term 'non-Amtrak State' means any State which is not receiving intercity passenger rail service from the Corporation as of the date of the enactment of this Act.".

SEC. 6010. AMENDMENTS RELATED TO TITLE X OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1001 OF 1997 ACT.—

(1) Paragraph (2) of section 1259(b) of the 1986 Code is amended—

(A) by striking "debt" each place it appears in subparagraph (A) and inserting "position",

(B) by striking "and" at the end of subparagraph (A), and

(C) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) any hedge with respect to a position described in subparagraph (A), and".

(2) Section 1259(d)(1) of the 1986 Code is amended by inserting "(including cash)" after "property".

(3) Subparagraph (D) of section 475(f)(1) of the 1986 Code is amended by adding at the end the following new sentence: "Subsection (d)(3) shall not apply under the preceding sentence for purposes of applying sections 1402 and 7704.".

(4) Subparagraph (C) of section 1001(d)(3) of the 1997 Act is amended by striking "within the 30-day period beginning on" and inserting "before the close of the 30th day after".

(b) Amendment Related to Section 1011 of 1997 Act.—Paragraph (1) of section 1059(g) of the 1986 Code is amended by striking "and in the case of stock held by pass-thru entities" and inserting ", in the case of stock held by pass-thru entities, and in the case of consolidated groups".

(c) Amendments Related to Section 1012 of 1997 Act.—

(1) Paragraph (1) of section 1012(d) of the 1997 Act is amended by striking "1997, pursuant" and inserting "1997; except that the amendment made by subsection (a) shall apply to such distributions only if pursuant".

(2) Subparagraph (A) of section 355(e)(3) of the 1986 Code is amended—

(A) by striking "shall not be treated as described in" and inserting "shall not be taken into account in applying", and

(B) by striking clause (iv) and inserting the following new clause:

"(iv) The acquisition of stock in the distributing corporation or any controlled corporation to the extent that the percentage of stock owned directly or indirectly in such corporation by each person owning stock in such corporation immediately before the acquisition does not decrease.".

(3)(A) Subsection (c) of section 351 of the 1986 Code is amended to read as follows:

"(c) Special Rules Where Distribution to Shareholders.—

"(1) In general.—In determining control for purposes of this section, the fact that any corporate transferor distributes part or all of the stock in the corporation which it receives in the exchange to its shareholders shall not be taken into account.

"(2) Special rule for section 355.—If the requirements of section 355 (or so much of section 356 as relates to section 355) are met with respect to a distribution described in paragraph (1), then, solely for purposes of determining the tax treatment of the transfers of property to the controlled corporation by the distributing corporation, the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock shall not be taken into account in determining control for purposes of this section.";

(B) Clause (ii) of section 368(a)(2)(H) of the 1986 Code is amended to read as follows:

"(ii) in the case of a transaction with respect to which the requirements of section 355 (or so much of section 356 as relates to section 355) are met, the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock shall not be taken into account.".

(d) Amendments Related to Section 1013 of 1997 Act.—

(1) Paragraph (5) of section 304(b) of the 1986 Code is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(2) Subsection (b) of section 304 of the 1986 Code is amended by adding at the end the following new paragraph:

"(6) Avoidance of multiple inclusions, etc.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation or the issuing corporation is a foreign corporation, the Secretary shall prescribe such regulations as are appropriate in order to eliminate a multiple inclusion of any item in income by reason of this subpart and to provide appropriate basis adjustments (including modifications to the application of sections 959 and 961).".

(e) Amendments Related to Section 1014 of 1997 Act.—

(1) Paragraph (1) of section 351(g) of the 1986 Code is amended by adding "and" at the end of subparagraph (A) and by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

"(B) if (and only if) the transferor receives stock other than nonqualified preferred stock—

"(i) subsection (b) shall apply to such transferor, and

"(ii) such nonqualified preferred stock shall be treated as other property for purposes of applying subsection (b).".

(2) Clause (ii) of section 354(a)(2)(C) of 1986 Code is amended by adding at the end the following new subclause:

"(III) Extension of statute of limitations.—The statutory period for the assessment of any deficiency attributable to a corporation failing to be a family-owned corporation shall not expire before the expiration of 3 years after the date the Secretary is notified by the corporation (in such manner as the Secretary may prescribe) of such failure, and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(f) Amendment Related to Section 1024 of 1997 Act.—Section 6331(h)(1) of the 1986 Code is amended by striking "The effect of a levy" and inserting "If the Secretary approves a levy under this subsection, the effect of such levy".

(g) Amendments Related to Section 1031 of 1997 Act.—

(1) Subsection (l) of section 4041 of the 1986 Code is amended by striking "subsection (e) or (f)" and inserting "subsection (f) or (g)".

(2) Subsection (b) of section 9502 of the 1986 Code is amended by moving the sentence added at the end of paragraph (1) to the end of such subsection.

(3) Subsection (c) of section 6421 of the 1986 Code is amended—

(A) by striking "(2)(A)" and inserting "(2)", and

(B) by adding at the end the following sentence: "Subsection (a) shall not apply to gasoline to which this subsection applies.".

(h) Amendments Related to Section 1032 of 1997 Act.—

(1) Section 1032(a) of the 1997 Act is amended by striking "Subsection (a) of section 4083" and inserting "Paragraph (1) of section 4083(a)".

(2) Section 1032(e)(12)(A) of the 1997 Act shall be applied as if "gasoline, diesel fuel," were the material proposed to be stricken.

(3) Paragraph (1) of section 4101(e) of the 1986 Code is amended by striking "dyed diesel fuel and kerosene" and inserting "such fuel in a dyed form".

(i) Amendment Related to Section 1034 of 1997 Act.—Paragraph (3) of section 4251(d) of the 1986 Code is amended by striking "other similar arrangement" and inserting "any other similar arrangement".

(j) Amendments Related to Section 1041 of 1997 Act.—

(1) Subparagraph (A) of section 512(b)(13) of the 1986 Code is amended by inserting "or accrues" after "receives".

(2) Subclause (I) of section 512(b)(13)(B)(i) of the 1986 Code is amended by striking "(as defined in section 513A(a)(5)(A))".

(3) Paragraph (2) of section 1041(b) of the 1997 Act is amended to read as follows:

"(2) Binding contracts.—The amendments made by this section shall not apply to any amount received or accrued during the first 2 taxable years beginning on or after the date of the enactment of this Act if such amount is received or accrued pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before such amount is received or accrued. The preceding sentence shall not apply to any amount which would (but for the exercise of an option to accelerate payment of such amount) be received or accrued after such 2 taxable years.".

(k) Amendments Related to Section 1053 of 1997 Act.—

(1) Section 853 of the 1986 Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Treatment of Taxes Not Allowed as a Credit Under Section 901(k).—This section shall not apply to any tax with respect to which the regulated investment company is not allowed a credit under section 901 by reason of section 901(k).".

(2) Subsection (c) of section 853 of the 1986 Code is amended by striking the last sentence.

(l) Amendment Related to Section 1055 of 1997 Act.—Section 6611(g)(1) of the 1986 Code is amended by striking "(e), and (h)" and inserting "and (e)".

(m) Amendment Related to Section 1061 of 1997 Act.—Subsection (c) of section 751 of the 1986 Code is amended by striking "731" each place it appears and inserting "731, 732,".

(n) Amendment Related to Section 1083 of 1997 Act.—Section 1083(a)(2) of the 1997 Act is amended—

(1) by striking "21" and inserting "20", and

(2) by striking "22" and inserting "21".

(o) Amendment Related to Section 1084 of 1997 Act.—

(1) Paragraph (3) of section 264(a) of the 1986 Code is amended by striking "subsection (c)" and inserting "subsection (d)".

(2) Paragraph (4) of section 264(a) of the 1986 Code is amended by striking "subsection (d)" and inserting "subsection (e)".

(3)(A) Paragraph (4) of section 264(f) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(E) Master contracts.—If coverage for each insured under a master contract is treated as a separate contract for purposes of sections 817(h), 7702, and 7702A, coverage for each such insured shall be treated as a separate contract for purposes of subparagraph (A). For purposes of the preceding sentence, the term 'master contract' shall not include any group life insurance contract (as defined in section 848(e)(2)).".

(B) The second sentence of section 1084(d) of the 1997 Act is amended by striking "but" and all that follows and inserting "except that, in the case of a master contract (within the meaning of section 264(f)(4)(E) of the Internal Revenue Code of 1986), the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives.".

(4)(A) Clause (iv) of section 264(f)(5)(A) of the 1986 Code is amended by striking the second sentence.

(B) Subparagraph (B) of section 6724(d)(1) of the 1986 Code is amended by striking "or" at the end of clause (xv), by striking the period at the end of clause (xvi) and inserting ", or", and by adding at the end the following new clause:

"(xvii) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).".

(C) Paragraph (2) of section 6724(d) of the 1986 Code is amended by striking "or" at the end of subparagraph (Y), by striking the period

at the end of subparagraph (Z) and inserting "or", and by adding at the end the following new subparagraph:

"(AA) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).".

(p) AMENDMENTS RELATED TO SECTION 1085 OF 1997 ACT.—

(1) Paragraph (5) of section 32(c) of the 1986 Code is amended—

(A) by inserting before the period at the end of subparagraph (A) "and increased by the amounts described in subparagraph (C)",

(B) by adding "or" at the end of clause (iii) of subparagraph (B), and

(C) by striking all that follows subclause (II) of subparagraph (B)(iv) and inserting the following:

"(III) other trades or businesses.

For purposes of clause (iv), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.

"(C) CERTAIN AMOUNTS INCLUDED.—An amount is described in this subparagraph if it is—

"(i) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, or

"(ii) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.

Clause (ii) shall not include any amount which is not includible in gross income by reason of a trustee-to-trustee transfer or a rollover distribution.".

(2) Clause (v) of section 32(c)(2)(B) of the 1986 Code is amended by inserting "shall be taken into account" before ", but only".

(3) The text of paragraph (3) of section 1085(a) of the 1997 Act is amended to read as follows: "Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", and", and by inserting after subparagraph (J) the following new subparagraph:

"(K) an omission of information required by section 32(k)(2) (relating to taxpayers making improper prior claims of earned income credit).".

(q) AMENDMENT RELATED TO SECTION 1088 OF 1997 ACT.—Section 1088(b)(2)(C) of the 1997 Act is amended by inserting "more than 1 year" before "after".

(r) AMENDMENT RELATED TO SECTION 1089 OF 1997 ACT.—Paragraphs (1)(C) and (2)(C) of section 664(d) of the 1986 Code are each amended by adding ", and" at the end.

SEC. 6011. AMENDMENTS RELATED TO TITLE XI OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1103 OF 1997 ACT.—The paragraph (3) of section 59(a) added by section 1103 of the 1997 Act is redesignated as paragraph (4).

(b) AMENDMENTS RELATED TO SECTION 1121 OF 1997 ACT.—

(1) Subsection (e) of section 1297 of the 1986 Code is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF HOLDERS OF OPTIONS.—Paragraph (1) shall not apply to stock treated as owned by a person by reason of section 1298(a)(4) (relating to the treatment of a person that has an option to acquire stock as owning such stock) unless such person establishes that such stock is owned (within the meaning of section 958(a)) by a United States shareholder (as defined in section 951(b)) who is not exempt from tax under this chapter.".

(2) Section 1298(a)(2)(B) of the 1986 Code is amended by adding at the end the following new sentence: "Section 1297(e) shall not apply in determining whether a corporation is a passive foreign investment company for purposes of this subparagraph.".

(c) AMENDMENTS RELATED TO SECTION 1122 OF 1997 ACT.—

(1) Section 672(f)(3)(B) of the 1986 Code is amended by striking "section 1296" and inserting "section 1297".

(2) Paragraph (1) of section 1291(d) of the 1986 Code is amended by adding at the end the following new sentence: "In the case of stock which is marked to market under section 475 or any other provision of this chapter, this section shall not apply, except that rules similar to the rules of section 1296(j) shall apply.".

(3) Subsection (d) of section 1296 of the 1986 Code is amended by adding at the end the following new sentence: "In the case of a regulated investment company which elected to mark to market the stock held by such company as of the last day of the taxable year preceding such company's first taxable year for which such company elects the application of this section, the amount referred to in paragraph (1) shall include amounts included in gross income under such mark to market with respect to such stock for prior taxable years.".

(d) AMENDMENT RELATED TO SECTION 1123 OF 1997 ACT.—The subsection (e) of section 1297 of the 1986 Code added by section 1123 of the 1997 Act is redesignated as subsection (f).

(e) AMENDMENTS RELATED TO SECTION 1131 OF 1997 ACT.—

(1) Section 991 of the 1986 Code is amended by striking "except for the tax imposed by chapter 5".

(2) Section 6013 of the 1986 Code is amended by striking "chapters 1 and 5" each place it appears in paragraphs (1)(A) and (5) of subsection (g) and in subsection (h)(1) and inserting "chapter 1" .

(f) AMENDMENT RELATED TO SECTION 1144 OF 1997 ACT.—Paragraphs (1) and (2) of section 1144(c) of the 1997 Act are each amended by striking "6038B(b)" and inserting "6038B(c) (as redesignated by subsection (b))".

SEC. 6012. AMENDMENTS RELATED TO TITLE XII OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1204 OF 1997 ACT.—The last sentence of section 162(a) of the 1986 Code is amended by striking "investigate" and all that follows and inserting "investigate or prosecute, or provide support services for the investigation or prosecution of, a Federal crime.".

(b) AMENDMENTS RELATED TO SECTION 1205 OF 1997 ACT.—

(1) Section 6311(e)(1) of the 1986 Code is amended by striking "section 6103(k)(8)" and inserting "section 6103(k)(9)".

(2) Paragraph (8) of section 6103(k) of the 1986 Code (as added by section 1205(c)(1) of the 1997 Act) is redesignated as-paragraph (9).

(3) The subsection (g) of section 7431 of the 1986 Code added by section 1205 of the 1997 Act is redesignated as subsection (h) and is amended by striking "(8)" in the heading and inserting "(9)".

(4) Section 1205(c)(3) of the 1997 Act shall be applied as if it read as follows:

"(3) Section 6103(p)(3)(A), as amended by section 1026(b)(1)(A) of the 1997 Act, is amended by striking "or (8)" and inserting "(8), or (9)".

(5) Section 1213(b) of the 1997 Act is amended by striking "section 6724(d)(1)(A)" and inserting "section 6724(d)(1)".

(c) AMENDMENT RELATED TO SECTION 1221 OF 1997 ACT.—Paragraph (2) of section 774(d) of the 1986 Act is amended by inserting before the period "or 857(b)(3)(D)".

(d) AMENDMENT RELATED TO SECTION 1226 OF 1997 ACT.—Section 1226 of the 1997 Act is amended by striking "ending on or" and inserting "beginning".

(e) AMENDMENT RELATED TO SECTION 1231 OF 1997 ACT.—Subsection (c) of section 6211 of the 1986 Code is amended—

(1) by striking "SUBCHAPTER C" in the heading and inserting "SUBCHAPTERS C AND D", and

(2) by striking "subchapter C" in the text and inserting "subchapters C and D".

(f) AMENDMENT RELATED TO SECTION 1256 OF 1997 ACT.—Subparagraph (A) of section 857(d)(3) of the 1986 Code is amended by striking "earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies)" and inserting "earliest earnings and profits accumulated in any taxable year to which the provisions of this part did not apply".

(g) AMENDMENT RELATED TO SECTION 1285 OF 1997 ACT.—Section 7430(b) of the 1986 Code is amended by redesignating paragraph (5) as paragraph (4).

SEC. 6013. AMENDMENTS RELATED TO TITLE XIII OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1305 OF 1997 ACT.—

(1) Section 646 of the 1986 Code is redesignated as section 645.

(2) The item relating to section 646 in the table of sections for subpart A of part I of subchapter J of chapter 1 of the 1986 Code is amended by striking "Sec. 646" and inserting "Sec. 645".

(3) Paragraph (1) of section 2652(b) of the 1986 Code is amended by striking "section 646" and inserting "section 645".

(4)(A) Paragraph (1) of section 2652(b) of the 1986 Code is amended by striking the second sentence.

(B) Subsection (b) of section 2654 of the 1986 Code is amended by adding at the end the following new sentence: "For purposes of this subsection, a trust shall be treated as part of an estate during any period that the trust is so treated under section 645.".

(b) AMENDMENTS RELATED TO SECTION 1309 OF 1997 ACT.—

(1) Subsection (b) of section 685 of the 1986 Code is amended by adding at the end the following flush sentence:

"A trust shall not fail to be treated as meeting the requirement of paragraph (6) by reason of the death of an individual but only during the 60-day period beginning on the date of such death.".

(2) Subsection (f) of section 685 of the 1986 Code is amended by inserting before the period at the end "and of trusts terminated during the year".

SEC. 6014. AMENDMENTS RELATED TO TITLE XIV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1422 OF 1997 ACT.—Section 5364 of the 1986 Code is amended by striking "Wine imported or brought into" and inserting "Natural wine (as defined in section 5381) imported or brought into".

(b) AMENDMENT RELATED TO SECTION 1434 OF 1997 ACT.—Paragraph (2) of section 4052(f) of the 1986 Code is amended by striking "this section" and inserting "such section".

(c) AMENDMENT RELATED TO SECTION 1436 OF 1997 ACT.—Paragraph (2) of section 4091(a) of the 1986 Code is amended by inserting "or on which tax has been credited or refunded" after "such paragraph".

(d) AMENDMENT RELATED TO SECTION 1453 OF 1997 ACT.—Subparagraph (D) of section 7430(c)(4) of the 1986 Code is amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(ii)".

SEC. 6015. AMENDMENTS RELATED TO TITLE XV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1501 OF 1997 ACT.—The paragraph (8) of section 408(p) of the 1986 Code added by section 1501(b) of the 1997 Act is redesignated as paragraph (9).

(b) AMENDMENT RELATED TO SECTION 1505 OF 1997 ACT.—Section 1505(d)(2) of the 1997 Act is amended by striking "(b)(12)" and inserting "(b)(12)(A)(i)".

(c) AMENDMENTS RELATED TO SECTION 1529 OF 1997 ACT.—

(1) Section 1529(a) of the 1997 Act is amended to read as follows:

"(a) GENERAL RULE.—Amounts to which this section applies which are received by an individual (or the survivors of the individual) as a result of hypertension or heart disease of the individual shall be excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986.".

(2) Section 1529(b)(1)(B) of the 1997 Act is amended to read as follows:

"(B) under—

"(i) a State law (as amended on May 19, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees hired before July 1, 1992, or

"(ii) any other statute, ordinance, labor agreement, or similar provision as a disability pension payment or in the nature of a disability pension payment attributable to employment as a police officer or fireman, but only if the individual is referred to in the State law described in clause (i); and".

(d) AMENDMENT RELATED TO SECTION 1530 OF 1997 ACT.—Subparagraph (C) of section 404(a)(9) of the 1986 Code (as added by section 1530 of the 1997 Act) is redesignated as subparagraph (D) and is amended by striking "A qualified" and inserting "QUALIFIED GRATUITOUS TRANSFERS.—A qualified".

(e) AMENDMENT RELATED TO SECTION 1531 OF 1997 ACT.—Subsection (f) of section 9811 of the 1986 Code (as added by section 1531 of the 1997 Act) is redesignated as subsection (e).

SEC. 6016. AMENDMENTS RELATED TO TITLE XVI OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1601(d) OF 1997 ACT.—

(1) AMENDMENTS RELATED TO SECTION 1601(d)(1)—

(A) Section 408(p)(2)(D)(i) of the 1986 Code is amended by striking "or (B)" in the last sentence.

(B) Section 408(p) of the 1986 Code is amended by adding at the end the following:

"(10) SPECIAL RULES FOR ACQUISITIONS, DISPOSITIONS, AND SIMILAR TRANSACTIONS.—

"(A) IN GENERAL.—An employer which fails to meet any applicable requirement by reason of an acquisition, disposition, or similar transaction shall not be treated as failing to meet such requirement during the transition period if—

"(i) the employer satisfies requirements similar to the requirements of section 410(b)(6)(C)(i)(II), and

"(ii) the qualified salary reduction arrangement maintained by the employer would satisfy the requirements of this subsection after the transaction if the employer which maintained the arrangement before the transaction had remained a separate employer.

"(B) APPLICABLE REQUIREMENT.—For purposes of this paragraph, the term 'applicable requirement' means—

"(i) the requirement under paragraph (2)(A)(i) that an employer be an eligible employer,

"(ii) the requirement under paragraph (2)(D) that an arrangement be the only plan of an employer, and

"(iii) the participation requirements under paragraph (4).

"(C) TRANSITION PERIOD.—For purposes of this paragraph, the term 'transition period' means the period beginning on the date of any transaction described in subparagraph (A) and ending on the last day of the second calendar year following the calendar year in which such transaction occurs.".

(C) Section 408(p)(2) of the 1986 Code is amended—

(i) by striking "the preceding sentence shall apply only in accordance with rules similar to the rules of section 410(b)(6)(C)(i)" in the last sentence of subparagraph (C)(i)(II) and inserting "the preceding sentence shall not apply", and

(ii) by striking clause (iii) of subparagraph (D).

(2) AMENDMENT TO SECTION 1601(d)(4).—Section 1601(d)(4)(A) of the 1997 Act is amended—

(A) by striking "Section 403(b)(11)" and inserting "Paragraphs (7)(A)(ii) and (11) of section 403(b)", and

(B) by striking "403(b)(1)" in clause (ii) and inserting "403(b)(10)".

(b) AMENDMENT RELATED TO SECTION 1601(f)(4) OF 1997 ACT.—Subsection (d) of section 6427 of the 1986 Code is amended—

(1) by striking "HELICOPTERS" in the heading and inserting "OTHER AIRCRAFT USES", and

(2) by inserting "or a fixed-wing aircraft" after "helicopter".

SEC. 6017. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.

(a) AMENDMENT RELATING TO SECTION 1116.—Subparagraph (C) of section 1116(b)(2) of the Small Business Job Protection Act of 1996 is amended by striking "chapter 68" and inserting "chapter 61".

(b) AMENDMENT RELATING TO SECTION 1421.—Section 408(d)(7) of the 1986 Code is amended—

(1) by inserting "or 402(k)" after "section 402(h)" in subparagraph (B) thereof, and

(2) by inserting "OR SIMPLE RETIREMENT ACCOUNTS" after "PENSIONS" in the heading thereof.

(c) AMENDMENT RELATING TO SECTION 1431.—Subparagraph (E) of section 1431(c)(1) of the Small Business Job Protection Act of 1996 is amended to read as follows:

"(E) Section 414(q)(5), as redesignated by subparagraph (A), is amended by striking 'under paragraph (4) or the number of officers taken into account under paragraph (5)'".

(d) AMENDMENT RELATING TO SECTION 1604.—Paragraph (3) of section 1604(b) of such Act is amended—

(1) by striking "such Code" and inserting "the Internal Revenue Code of 1986", and

(2) by striking "such date of enactment" and inserting "the date of the enactment of this Act".

(e) AMENDMENT RELATING TO SECTION 1609.—Paragraph (1) of section 1609(h) of such Act is amended by striking "paragraph (3)(A)(i)" and inserting "paragraph (3)(A)".

(f) AMENDMENTS RELATING TO SECTION 1807.—

(1) Subparagraph (A) of section 23(b)(2) of the 1986 Code (relating to income limitation on credit for adoption expenses) is amended by inserting "(determined without regard to subsection (c))" after "for any taxable year".

(2) Paragraph (3) of section 1807(c) of the Small Business Job Protection Act of 1996 is amended by striking "Clause (i)" and inserting "Clause (ii)".

(g) AMENDMENT RELATING TO SECTION 1903.—Subsection (b) of section 1903 of such Act shall be applied as if "or" in the material proposed to be stricken were capitalized.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.

SEC. 6018. AMENDMENTS RELATED TO TAXPAYER BILL OF RIGHTS 2.

(a) IN GENERAL.—Subsection (b) of section 6104 of the 1986 Code is amended by adding at the end the following new sentence: "In the case of an organization described in section 501(d), this subsection shall not apply to copies referred to in section 6031(b) with respect to such organization.".

(b) PUBLIC INSPECTION.—Subparagraph (C) of section 6104(e)(1) of the 1986 Code is amended by adding at the end the following new sentence: "In the case of an organization described in section 501(d), subparagraph (A) shall not require the disclosure of the copies referred to in section 6031(b) with respect to such organization.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6019. AMENDMENT RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1993.

(a) IN GENERAL.—Section 196(c) of the 1986 Code is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7), and insert ", and", and by adding at the end the following new paragraph:

"(8) the employer social security credit determined under section 45B(a).".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 13443 of the Revenue Reconciliation Act of 1993.

SEC. 6020. AMENDMENT RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) IDENTIFICATION REQUIREMENT FOR INDIVIDUALS ELIGIBLE FOR EARNED INCOME CREDIT.—Subparagraph (F) of section 32(c)(1) of the 1986 Code is amended by striking "The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—" and inserting "No credit shall be allowed under this section to an eligible individual who does not include on the return of tax for the taxable year—".

(b) IDENTIFICATION REQUIREMENT FOR QUALIFYING CHILDREN UNDER EARNED INCOME CREDIT.—

(1) IN GENERAL.—Clause (i) of section 32(c)(3)(D) of the 1986 Code is amended—

(A) by striking "The requirements of this subparagraph are met" and inserting "A qualifying child shall not be taken into account under subsection (b)",

(B) by striking "each" and inserting "the", and

(C) by striking "(without regard to this subparagraph)".

(2) INDIVIDUALS WHO DO NOT INCLUDE TIN, ETC., OF ANY QUALIFYING CHILD.—Paragraph (1) of section 32(c) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(G) INDIVIDUALS WHO DO NOT INCLUDE TIN, ETC., OF ANY QUALIFYING CHILD.—No credit shall be allowed under this section to any eligible individual who has 1 or more qualifying children if no qualifying child of such individual is taken into account under subsection (b) by reason of paragraph (3)(D).".

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 32(c)(3) is amended by inserting "and" at the end of clause (ii), by striking ", and" at the end of clause (iii) and inserting a period, and by striking clause (iv).

(c) EFFECTIVE DATES.—

(1) ELIGIBLE INDIVIDUALS.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 451 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) QUALIFYING CHILDREN.—The amendments made by subsection (b) shall take effect as if included in the amendments made by section 11111 of Revenue Reconciliation Act of 1990.

SEC. 6021. AMENDMENT RELATED TO TAX REFORM ACT OF 1986.

(a) IN GENERAL.—Section 6401(b)(1) of the 1986 Code is amended by striking "and D" and inserting "D, and G".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 701(b) of the Tax Reform Act of 1986.

SEC. 6022. MISCELLANEOUS CLERICAL AND DEADWOOD CHANGES.

(1) The heading for subparagraph (B) of section 45A(b)(1) of the 1986 Code is amended by striking "TARGETED JOBS CREDIT" and inserting "WORK OPPORTUNITY CREDIT".

(2) The subsection heading for section 59(b) of the 1986 Code is amended by striking "Section 936 Credit" and inserting "Credits Under Section 30A or 936".

(3) Subsection (n) of section 72 of the 1986 Code is amended by inserting "(as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996)" after "section 101(b)(2)(D)".

(4) Subparagraph (A) of section 72(t)(3) of the 1986 Code is amended by striking "(A)(v)," and inserting "(A)(v)".

(5) Clause (ii) of section 142(f)(3)(A) of the 1986 Code is amended by striking "1997, (" and inserting "1997 (".

(6) The last sentence of paragraph (3) of section 501(n) of the 1986 Code is amended by striking "subparagraph (C)(ii)" and inserting "subparagraph (E)(ii)".

(7) The heading for subclause (II) of section 512(b)(17)(B)(ii) of the 1986 Code is amended by striking "Rule" and inserting "RULE".

(8) Clause (ii) of section 543(d)(5)(A) of the 1986 Code is amended by striking "section 563(c)" and inserting "section 563(d)".

(9) Subparagraph (B) of section 871(f)(2) of the 1986 Code is amended by striking "(19 U.S.C. 2462)" and inserting "19 U.S.C. 2461 et seq.)".

(10) Paragraph (2) of section 1017(a) of the 1986 Code is amended by striking "(b)(2)(D)" and inserting "(b)(2)(E)".

(11) Subparagraph (D) of section 1250(d)(4) of the 1986 Code is amended by striking "the last sentence of section 1033(b)" and inserting "section 1033(b)(2)".

(12) Paragraph (5) of section 3121(a) of the 1986 Code is amended—

(A) by striking the semicolon at the end of subparagraph (F) and inserting a comma,

(B) by striking "or" at the end of subparagraph (G), and

(C) by striking the period at the end of subparagraph (I) and inserting a semicolon.

(13) Paragraph (19) of section 3401(a) of the 1986 Code is amended by inserting "for" before "any benefit provided to".

(14) Paragraph (21) of section 3401(a) of the 1986 Code is amended by inserting "for" before "any payment made".

(15) Sections 4092(b) and 6427(q)(2) of the 1986 Code are each amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(16) Sections 4221(c) and 4222(d) of the 1986 Code are each amended by striking "4053(a)(6)" and inserting "4053(6)".

(17)(A) The heading of section 4973 of the 1986 Code is amended to read as follows:

"SEC. 4973. TAX ON EXCESS CONTRIBUTIONS TO CERTAIN TAX-FAVORED ACCOUNTS AND ANNUITIES.".

(B) The item relating to section 4973 in the table of sections for chapter 43 of the 1986 Code is amended to read as follows:

"Sec. 4973. Tax on excess contributions to certain tax-favored accounts and annuities.".

(18) Section 4975 of the 1986 Code is amended—

(A) in subsection (c)(3) by striking "exempt for the tax" and inserting "exempt from the tax", and

(B) in subsection (i) by striking "Secretary of Treasury" and inserting "Secretary of the Treasury".

(19) Paragraph (1) of section 6039(a) of the 1986 Code is amended by inserting "to any person" after "transfers".

(20) Subparagraph (A) of section 6050R(b)(2) of the 1986 Code is amended by striking the semicolon at the end thereof and inserting a comma.

(21) Subparagraph (A) of section 6103(h)(4) of the 1986 Code is amended by inserting "if" before "the taxpayer is a party to".

(22) Paragraph (5) of section 6416(b) of the 1986 Code is amended by striking "section 4216(e)(1)" each place it appears and inserting "section 4216(d)(1)".

(23)(A) Section 6421 of the 1986 Code is amended by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(B) Subsection (b) of section 34 of the 1986 Code is amended by striking "section 6421(j)" and inserting "section 6421(i)".

(C) Subsections (a) and (b) of section 6421 of the 1986 Code are each amended by striking "subsection (j)" and inserting "subsection (i)".

(24) Paragraph (3) of section 6427(f) of the 1986 Code is amended by striking ", (e),".

(25)(A) Section 6427 of the 1986 Code, as amended by paragraph (2), is amended by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(B) Paragraphs (1) and (2)(A) of section 6427(i) of the 1986 Code are each amended by striking "(q)" and inserting "(o)".

(26) Subsection (m) of section 6501 of the 1986 Code is amended by striking "election under" and all that follows through "(or any" and inserting "election under section 30(d)(4), 40(f), 43, 45B, 45C(d)(4), or 51(j) (or any".

(27) The paragraph heading of paragraph (2) of section 7702B(e) of the 1986 Code is amended by inserting "SECTION" after "Application of".

(28) Paragraph (3) of section 7435(b) of the 1986 Code is amended by striking "attorneys fees" and inserting "attorneys' fees".

(29) Subparagraph (B) of section 7872(f)(2) of the 1986 Code is amended by striking "foregone" and inserting "forgone".

(30) Subsection (e) of section 9502 of the 1986 Code is amended to read as follows:

"(e) Certain Taxes on Alcohol Mixtures To Remain in General Fund.—For purposes of this section, the amounts which would (but for this subsection) be required to be appropriated under subparagraphs (A), (C), and (D) of subsection (b)(1) shall be reduced by—

"(1) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol, and

"(2) 0.67 cent per gallon in the case of fuel used in producing a mixture described in paragraph (1).".

(31)(A) Clause (i) of section 9503(c)(2)(A) of the 1986 Code is amended by adding "and" at the end of subclause (II), by striking subclause (III), and by redesignating subclause (IV) as subclause (III).

(B) Clause (ii) of such section is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "fuel".

(32) The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 6023. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

REGARDING UNITED STATES POLICY AT THE 50TH ANNUAL MEETING OF THE INTERNATIONAL WHALING COMMISSION

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 226, submitted earlier today by Senator Snowe and others.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 226) expressing the sense of the Senate regarding the policy of the United States at the 50th Annual Meeting of the International Whaling Commission.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Ms. SNOWE. Mr. President, I am offering a resolution today which expresses the sense of the Senate that the United States, at the next meeting of the International Whaling Commission in two weeks, should remain firmly opposed to commercial whaling and should oppose so-called "scientific whaling."

This resolution is very timely and important. As we work here in the Senate today, representatives of nations from around the globe are preparing for a meeting in Oman later this month that could determine the fate of the world's whales. The International Whaling Commission, to which the U.S. and many other countries belong, will be meeting there to consider proposals to end the existing global moratorium on commercial whaling. I think that the adoption of any such proposals by the IWC would mark a major setback in the cause of whale conservation. It is imperative that the United States remain firm in its opposition to any proposals to resume commercial whaling, and that we, as a nation, continue to speak out against this practice.

Commercial whaling has been prohibited for many species for more than sixty years, but whaling for some species persisted into the 1980's. Despite the partial protections in place for some species, however, commercially targeted whale stocks continued to decline and the IWC declared a global moratorium on all commercial whaling which went into effect in 1986. The United States was a leader in the effort to establish the moratorium, and since then we have consistently provided a strong voice against commercial whaling and have worked to uphold the moratorium. In addition, we have worked through the IWC process to establish sanctuaries around the world to permanently protect whales.

Unfortunately, Norway, Japan, Russia and other countries have begun an aggressive campaign to eliminate the moratorium and to return to the days when whales were treated as commodities. In fact, Norway has begun killing hundreds of whales a year in defiance of the moratorium. Despite international efforts to protect and rebuild whale stocks, the number of whales harvested has increased in recent years, tripling since the implementation of the global moratorium in 1986. This is a dangerous trend that does not show signs of stopping.

It is also time to close a loophole in the IWC rules used by nations to conduct so-called scientific whaling to kill whales without regard to the moratorium or established whale sanctuaries. The practice of scientific lethal whaling is outdated and the value of the data of such studies has been questioned by many scientists who work on the same population dynamics questions as those who harvest whales in the name of science. Japan is the most prominent practitioner of scientific whaling, killing 400 to 500 whales annually. Although the scientific merits of Japan's program are dubious at best, the meat taken from whales killed in the name of science is processed and sold in the marketplace. Also, Japan has reportedly killed many whales in the Southern Ocean Whale Sanctuary established by the IWC around Antarctica. In response to Japan's practices, the Scientific Committee of the IWC has repeatedly passed resolutions calling for the cessation of lethal scientific whaling, particularly that occurring in designated whale sanctuaries.

The resolution that I am offering today reaffirms the United States' strong support for a ban on commercial whaling at a time when our negotiators at the IWC most need that support. It also addresses the dubious practice of scientific whaling by stating that the U.S. should oppose scientific whaling unless it is specifically authorized by the Scientific Committee of the IWC.

Mr. President, here at home we work very, very hard to protect whales in U.S. waters, particularly those considered threatened or endangered. Our own laws and regulations give whales one of the highest standards of protection in the world, and as a result, our own citizens are subject to strict rules designed to protect against the accidental taking or even harassment of whales. Intentional killing, including commercial whaling, is, of course, completely prohibited. Given what is asked of our citizens to protect against even accidental injury to whales here in the U.S., it would be grossly unfair to them if we retreated in any way from our position opposing commercial, intentional whaling in other countries. Whales migrate throughout the world's oceans, and as we protect whales in our own waters, so should we act to protect them internationally. Indeed, the sacrifices that we make here at home to protect whales would be seriously undermined if those same whales could be killed by commercial hunters the moment they leave the jurisdiction of the U.S.

Whales are among the most intelligent animals on Earth, and they play a critically important role in the marine ecosystem. Yet, there is still much about them that we do not know. Resuming the intentional, large-scale harvest of whales is irresponsible, and it could have ecological consequences that we cannot predict. While the IWC was able to implement the global commercial moratorium, it has not had the opportunity to conduct thorough and updated population assessments to determine the status of whale stocks. Therefore, it is premature to even consider easing the current conservation measures. Mr. President, the right policy is to protect whales across the globe, to oppose the resumption of commercial whaling, and to halt the unscientific practice of scientific whaling.

Mr. President, I urge my colleagues to support this important legislation.

Mr. STEVENS. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and any statements with regard to the resolution appear in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 226) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 226

Whereas whales have very low reproductive rates, making whale populations extremely vulnerable to pressure from commercial whaling;

Whereas whales migrate throughout the world's oceans and international cooperation is required to successfully conserve and protect whale stocks;

Whereas in 1946 the nations of the world adopted the International Convention for the Regulation of Whaling, which established the International Whaling Commission to provide for the proper conservation of the whale stocks;

Whereas the Commission adopted a moratorium on commercial whaling in 1982 in order to conserve and promote the recovery of the whale stocks;

Whereas the Commission has designated the Indian Ocean and the ocean waters around Antarctica as whale sanctuaries to further enhance the recovery of whale stocks;

Whereas many nations of the world have designated waters under their jurisdiction as whale sanctuaries where commercial whaling is prohibited, and additional regional whale sanctuaries have been proposed by nations that are members of the Commission;

Whereas 2 member nations of the Commission have taken reservations to the Commission moratorium on commercial whaling and 1 has recently resumed commercial whaling operations in spite of the moratorium and the protests of other nations;

Whereas another member nation of the Commission has taken a reservation to the Commission's Southern Ocean Sanctuary and continues to conduct lethal scientific whaling in the waters of that sanctuary;

Whereas the Commission's Scientific Committee has repeatedly expressed serious concerns about the scientific need for such lethal whaling;

Whereas the lethal take of whales under reservations to the Commissions policies has been increasing annually;

Whereas there continue to be indications that whale meat is being traded on the international market despite a ban on such trade under the Convention on International Trade in Endangered Species (CITES), and that meat may be originating in one of the member nations of the Commission;

Whereas 1998 is the International Year of the Ocean and the Commission plays a leading role in global efforts to improve the state of the world's oceans: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) at the 50th Annual Meeting of the International Whaling Commission in Oman the United States should—

(A) remain firmly opposed to commercial whaling;

(B) initiate and support efforts to ensure that all activities conducted under reservations to the Commission's moratorium or sanctuaries are ceased;

(C) oppose the lethal taking of whales for scientific purposes unless such lethal taking is specifically authorized by the Scientific Committee of the Commission;

(D) seek the Commission's support for specific efforts by member nations to end illegal trade in whale meat; and

(E) support the permanent protection of whale populations through the establishment of whale sanctuaries in which commercial whaling is prohibited; and

(2) make full use of all appropriate diplomatic mechanisms, relevant international laws and agreements, and other appropriate mechanisms to implement the goals set forth in paragraph (1).

UNANIMOUS-CONSENT AGREEMENT—S. 1046

Mr. STEVENS. Mr. President, I ask unanimous consent the majority leader, after consultation with the Democratic leader, may proceed to the consideration of Calendar No. 310, S. 1046, the National Science Foundation reauthorization bill. I further ask unanimous consent there be a total of 10 minutes of debate equally divided on the bill and that no amendments be in order other than a substitute amendment offered by Senator MCCAIN. I further ask unanimous consent that following disposition of the amendment, S. 1046 be read for a third time and the Labor Committee then be discharged from further consideration of the House companion bill, H.R. 1273. I ask unanimous consent that the Senate then proceed to its consideration, all after the enacting clause be stricken, and the text of S. 1046, as amended, be inserted in lieu thereof.

I further ask unanimous consent the bill then be read for the third time and the Senate proceed to a vote on the passage of H.R. 1273, as amended. And I finally ask unanimous consent that S. 1046 then be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1244

Mr. STEVENS. Mr. President, I ask unanimous consent the majority leader, after consultation with the Democratic leader, may proceed to consideration of Calendar No. 314, S. 1244. I further ask unanimous consent there be 10 minutes for debate equally divided in the usual form, and following that debate, the committee substitute be agreed to, the bill be read for a third time, and the Senate proceed to a vote on passage of the bill with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING USE OF THE CAPITOL GROUNDS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 265 which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 265) authorizing the use of the East Front of the Capitol Grounds for performances sponsored by the John F. Kennedy Center for the Performing Arts.

The Senate proceeded to consider the concurrent resolution.

Mr. STEVENS. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 265) was agreed to.

ORDERS FOR MONDAY, MAY 11, 1998

Mr. STEVENS. Mr. President, on behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon on Monday, May 11.

I further ask unanimous consent that on Monday, immediately following the prayer, the routine requests through the morning hour be granted and that there then be a period for the transaction of morning business not to extend beyond the hour of 2:30 p.m., with Senators permitted to speak for up to 10 minutes each, with the following exception: Senator BENNETT be allowed to speak for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. STEVENS. Mr. President, for the information of all Senators, on Monday, the Senate will proceed to morning business until 2:30 p.m. and then attempt to consider several high-tech bills on short time agreements. Also, at approximately 3 p.m., the Senate will consider the agriculture research conference report, and at approximately 4 p.m., the Senate will begin consideration of the missile defense bill. However, no votes will occur during Monday's session of the Senate. Any votes ordered on Monday will be postponed to occur on Tuesday at approximately 12 noon. The Senate could also consider other legislative and executive items cleared for action, including the charitable contributions bill on Tuesday of next week.

AUTHORIZING COMMITTEES TO FILE WRITTEN REPORTS

Mr. STEVENS. Mr. President, I ask unanimous consent that committees have until 1 p.m. to file written reports to reported legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, MAY 11, 1998

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:21 a.m., adjourned until Monday, May 11, 1998, at 12 noon.

HOUSE OF REPRESENTATIVES—*Monday, May 11, 1998*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. MILLER of Florida).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 11, 1998.

I hereby designate the Honorable DAN MILLER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Douglas Tanner, Faith and Politics Institute, Washington, D.C., offered the following prayer.

Let us pray:

Almighty God, who created, sustains, and redeems us, we come before You today thinking we have seen enough rain for a while. We are quite ready for the warm, clear days we have come to expect in the Nation's Capital in May, with the sun shining on bright flowers and fresh foliage. Yet, that which we have learned to expect and that for which we ever more deeply yearn is not yet here. We must learn to live with the rain and we must wait.

Teach us, we pray, to recognize the parallels to other areas of our lives and our life as a nation. Help us to see that which we can have now, that for which we must wait, and that which we could be doing in the meantime, especially where spiritual values intersect with public life.

At the same time, remind us, in the words of Dr. King, that while the moral arc of the universe may be long, it bends toward justice, and rainy days will yield to brighter ones. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas (Mr. BENTSEN) come forward and lead the House in the Pledge of Allegiance.

Mr. BENTSEN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a bill of the following title in which the concurrence of the House is requested:

S. 414. An act to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes.

The message also announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 265. Concurrent resolution authorizing the use of the East Front of the Capitol Grounds for performances sponsored by the John F. Kennedy Center for the Performing Arts.

The message also announced that pursuant to section 276d–276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Senators as members of the Senate Delegation to the Canada-United States Interparliamentary Group during the Second Session of the One Hundred Fifth Congress, to be held in Nantucket, Massachusetts, May 14–18, 1998:

the Senator from Iowa (Mr. GRASSLEY); and

the Senator from Minnesota (Mr. GRAMS).

The message also announced that pursuant to Public Law 100–696, the Chair, on behalf of the President pro tempore, appoints the following Senators as members of the United States Capitol Preservation Commission:

the Senator from Washington (Mr. GORTON); and

the Senator from Utah (Mr. BENNETT).

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, May 11, 1998.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on May 8, 1998 at 2:08 p.m. and said to contain a message from the President whereby he transmits proposed legislation entitled the "Class-Size Reduction and Teacher Quality Act of 1998."

With warm regards,

ROBIN H. CARLE,
Clerk.

CLASS-SIZE REDUCTION AND TEACHER QUALITY ACT OF 1998—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–249)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and the Workforce and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Class-Size Reduction and Teacher Quality Act of 1998." This legislative proposal would help States and local school districts recruit, train, and hire 100,000 additional well-prepared teachers in order to reduce the average class size to 18 in grades 1 through 3 in our Nation's public schools. It is an essential part of our overall effort to strengthen public schools throughout the Nation.

As schools across the Nation struggle to accommodate a surge in enrollments, educators and parents have become increasingly concerned about the impact of class size on teaching and learning, particularly in the critically important early grades, where students learn reading and other basic skills. This concern is justified: rigorous research confirms what parents and teachers have long believed—that students in smaller classes, especially in the early grades, make greater educational gains and maintain those gains over time. These gains occur because teachers in small classes can provide students with more individualized attention, spend more time on instruction and less time on discipline, and cover more material effectively. Moreover, the benefits of smaller classes are greatest for poor, minority, and inner-city children, the children who often face the greatest challenges in meeting high educational standards.

Smaller classes will have the greatest impact on student learning if the new teachers brought into the classroom are well qualified to teach reading and to take advantage of smaller

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

learning environments. For this reason, my proposal emphasizes not just class-size reduction but also professional development for educators, and it will give school districts adequate time to recruit and train staff while phasing in smaller classes. Furthermore, all new teachers hired under the program would be required to pass a State teacher competency test and would also have to be certified to teach or be making satisfactory progress toward full certification.

We can help all of our students learn to read independently and well by the third grade, get a solid foundation in basic skills, and reach high educational standards if we start them off with small classes and well-prepared teachers in the early grades.

Under my proposal, the Department of Education would provide $20.8 billion in mandatory appropriations over a 10-year period (beginning with $1.1 billion in fiscal year 1999) to States. The States would then distribute the funds to local school districts based on their relative class sizes in grades 1 through 3, as well as on their ability and effort to finance class-size reductions with their own resources. The bill would provide States with considerable flexibility in distributing these funds, while ensuring that the most needy school districts receive a fair share.

Moreover, because my proposal would actually appropriate the funds needed to carry out the program, States and local communities could count on these funds without the need for separate congressional appropriations each year. This proposal is fully paid for within my Fiscal Year 1999 Budget, and therefore would not reduce the budget surplus.

School districts would use these funds to reduce class sizes in grades 1 through 3. Just as importantly, these funds would also be available for a variety of activities to ensure that students in the early grades receive sound and effective instruction, such as making sure that teachers know how to teach reading and other subjects effectively in small classes.

This proposal includes strong accountability for results. Participating school districts would produce "report cards" documenting reductions in class sizes and the achievement of their students in reading, based on rigorous assessments. Schools whose students fail to make gains in reading would be required to undertake corrective actions. In addition, the Department of Education would undertake a comprehensive national evaluation of this program and its impact on reading achievement and teaching.

I urge the Congress to take prompt and favorable action on this proposal. Its enactment would help school districts reduce class sizes in the early grades and improve instruction and achievement in reading, issues that are of major importance to parents and to the Nation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 8, 1998.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IN RECOGNITION OF CLYDE DREXLER ON HIS RETIREMENT FROM THE HOUSTON ROCKETS AND THE NBA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BENTSEN) is recognized for 5 minutes.

Mr. BENTSEN. Mr. Speaker, I rise in proud recognition of a great athlete and legend in the City of Houston, Clyde Drexler, on the occasion of his retirement from the Houston Rockets and the National Basketball Association.

Clyde "the Glide" Drexler had an impressive 15-year career in the NBA, but many people in Houston remember him first from his days with the University of Houston Cougars in the early 1980s. Under the leadership of head coach Guy V. Lewis, Drexler and his future NBA teammate, Hakeem Olajuwon, took the Cougars to the NCAA's Final Four in 1982, with Clyde averaging 15.2 points and 10.5 rebounds per game.

In 1983, Drexler earned first-team All-America honors after leading the Cougars to their second straight NCAA Final Four in the first national championship game. The Cougars, known as Phi Slamma Jamma, ended the year 31–3 and won their first Southwest Conference regular season championship with a perfect 16–0 record, and were ranked atop the national polls. Drexler is the only Cougar to amass more than 1,000 points, 900 rebounds, 300 assists, and 250 steals in a career. His 268 career steals remain as a UH record.

A first round selection of the Portland Trail Blazers in 1983, Drexler led the team to two NBA finals and made the playoffs in each of his 15 seasons. A member of the original Olympic Dream Team, Drexler won a gold medal in Barcelona in 1992.

Clyde was reunited with Olajuwon when he was traded to the Rockets on February 14, 1995, and helped lead the Rockets to their second straight NBA championship. Drexler was named one of the NBA's 50 all-time greatest players in 1997 and made five all-NBA teams.

Drexler, Oscar Robertson, and John Havlicek are the only players in league history to post more than 20,100 points, 6,000 rebounds, and 6,000 assists. His 2,963 clear playoff points put him at number 15 on the all-time playoff scoring list. He also grabbed the 1,000th playoff rebound of his career on this past Sunday, when he finished his career in the NBA.

On May 18, 1998, Drexler announced his retirement plans as he accepted the job as the head coach for the men's basketball program at the University of Houston. While the Rockets' season ended on a disappointing note, I'm sure the City of Houston is extraordinarily proud of the career of one of their own, Clyde Drexler. As the next chapter of his career begins, what better place to share his talent, heart, and determination than with the Cougars and the City of Houston.

I know that I join with all sports fans in the City of Houston in looking forward to many more years of basketball excitement from Clyde Drexler, and wish him all the best in his new endeavor.

THE FREEDOM FROM RELIGIOUS PERSECUTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. WOLF) is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, I want to spend a moment talking about the Freedom from Religious Persecution Act, H.R. 2431, which will be on the floor for debate at the end of this week. The bill is bipartisan, it has over 131 cosponsors, and it was reported out of the Committee on International Relations by a vote of 31 for, only 5 against.

Why is this legislation needed?

In the past decade, the Government of Sudan has killed or allowed to starve over 1 million of its own people. Starvation is that government's weapon of choice, liberally spiced with high-altitude bombing and mass murder, and even selling Sudanese boys and girls as slaves.

In China, as we all know, Catholic priests and bishops are imprisoned, some for decades, simply for practicing their faith. Protestant pastors are thrown in jail just for holding house church services. Muslims suffer persecution, as do Buddhist monks and nuns.

My office adopted Bishop Zeng Jingmu. Sunday's Washington Post reported that the Bishop was released 6 months early by the Chinese Government in anticipation of President Clinton's June visit. Bishop Zeng is currently out of prison, yet remains not completely free, but under house arrest, and is allowed to see no one but his close relatives. Still, the fact that he is out of prison is a good development, and a sign that pressure on repressive governments works.

Mr. Speaker, this legislation is supported by a large number of broad-based groups in the Nation. It is supported by the National Association of Evangelicals, by the U.S. Catholic

Bishops Conference, by the Family Research Council, by the Anti-Defamation League, by the Southern Baptist Convention Ethics and Religious Liberty Commission, by the International Campaign for Tibet, by the National Jewish Coalition, by the Christian Coalition, by the Religious Action Center for Reformed Judaism, by Empower America, by Prison Fellowship Ministries, by the Union of Orthodox Congregations of America, by Concerned Women of America, by Campus Crusade for Christ, by the Seventh Day Adventist Church, by the Christian Legal Society, by the Catholic Alliance, by the Ethics and Public Policy Center, by the National Religious Broadcasters, by B'nai B'rith, by the American Family Association, by the Salvation Army. So we can see this has broad-based support.

On Thursday the House will take up the bill, and this bill will set up a system to monitor religious persecution around the world; and when egregious acts are found, limited sanctions will be imposed unless waived by the President. Again, under this legislation, the President has total, complete ability to waive everything and anything in the bill.

In closing, Mr. Speaker, when this bill becomes law, America will reaffirm again, as it has so many times in the past, for all the world that we still honor those ringing words in the Declaration of Independence, authored by Thomas Jefferson, where he said, We hold these truths to be self-evident, that all men and women are created equal, endowed by their creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness.

When this bill passes, in small villages in southern Sudan, people with their little crystal radio sets, people in villages in China with their crystal sets, when they hear that the United States Congress, the people's House, the House of Representatives, has voted for this legislation, it will send a message to the people who are being persecuted around the world that this Congress and this country stands with them.

TRIBUTE TO JIM ANDERSON

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentlewoman from Idaho (Mrs. CHENOWETH) is recognized for 60 minutes as the designee of the majority leader.

Mrs. CHENOWETH. Mr. Speaker, I lost a very good friend a little while ago, in a very, very tragic accident. Jim Anderson was a man that I have known for about 25 years. He was a good man, a good father to his two children, a good husband, a good steward of the land, and a heck of a horseman.

It was my honor to have known Jim Anderson, to be his friend, and it is my honor to tell you a little bit about Jim Anderson today. Jim Anderson was a rancher. It wasn't only what he did as a rancher, but it was who he was.

He was killed in a tragic accident on his ranch on the border of Malheur County in Oregon and Owyhee County in Idaho, in the southwestern edge of my congressional district in Idaho. Jim's grazing allotment was far, far out in the Owyhee Desert, in a wide-open, sweeping land of grasses, of sagebrush, a few hardy juniper trees, a whole lot of rattlesnakes, but a land that cut deeply into the Owyhee River Canyon. It is a rugged, beautiful, brutal country far, far from the nearest cities.

The grassland, the hills, valleys, creeks, are heartbreakingly beautiful. The Owyhee River Canyon is one of the most magnificent wonders of my district and of this Nation. It carves through this beautiful high desert for hundreds of miles, cutting a deep, straight-walled gorge into the desert. The Owyhee can appear benign to the casual observer, but it can suddenly change from a meandering stream to a raging torrent, and from a foot deep to a bottomless pit.

□ 1415

Jim loved this country with his whole heart. It was in his blood. It was where he was born and raised, and where he had lived his entire life. It was where he wanted to raise his two sons, Patrick and Jeff.

Jim was riding the Owyhee River alone 3 weeks ago, gathering his cattle and pushing them onto spring range when the accident occurred. While crossing the river and pushing a small group of cattle ahead of him, Jim's horse stumbled and fell, crushing him underneath it, under the water. The horse struggled back to its feet, waded to a nearby island, and turned back to wait for his master. The cows wandered on. Jim's dog waited near the horse, but their master did not emerge from the river.

The horse and the dog were still waiting there on the island a day later when family and friends came in search of the missing man. When they saw the dog and the horse, they knew what happened to Jim. They knew from that rugged country and the ways of that rugged country that you always believe the animals. Five days later, divers found Jim Anderson's body miles downstream in the river, drowned. Even though Jim was raised there beside the river and was a heck of a horseman, he never learned how to swim. I just pray that he did not die in pain. But he did die alone, far, far from the family he loved, from his friends and from any help. I pray that he died without knowing what happened.

Jim's death was very tragic and incomparably lonely and saddening to his family and friends and every one of us who knew him. Yet every one of the people who knew Jim had a tremendous respect for the man that he was, the life that he led and the way he died.

You see, Jim died doing what he loved. He loved his family but he also loved his work, and he loved the land that he worked. He always knew that if we are good to the land, the land will be good back to us. Many people do not understand this today, when we do not live on the land and when we try to live our lives as comfortably as possible and eliminate every danger, inconvenience and hardship; but inconvenience and hardship and danger was Jim's way of life.

That morning, like every morning, Jim had gotten up before the sun and he went outside into the cold morning and saddled up his horse, called his dog and loaded his animals into the truck for a long, bumpy rough drive out into his grazing allotment. Jim unloaded his horse at dawn and began a wide sweep of his range alone, through some of the most beautiful, most brutal and unforgiving country on God's earth. Physically the work is very hard, demanding, tiring and rough, but that was the life that Jim Anderson wanted and he accepted this hard work with it and did not complain. He was college educated and had a high intelligence.

Jim could have been anything he wanted to be, a teacher, a physician, a stockbroker, a lawyer. He certainly could have been a Congressman. But he chose the way of life of a rancher.

Jim never stopped learning nor did he stop teaching others around him. He read the Wall Street Journal every single day, and other magazines such as National Review and Forbes magazine every day. They shared their places with other magazines like Range, even like TV Guide.

At Jim's funeral, one of Jim's college roommates mentioned total surprise the day that he went out to Jim's cow camp and found a one day old copy of the Wall Street Journal on the cow camp table, many, many, many miles from town.

Jim was always ready to launch into a debate on any number of issues, armed with facts and figures; whether it was corn futures, public land policy, politics, you name it, he was well read on it. Jim embraced his life as a rancher. He accepted the risk, too. He knew anything could happen when riding alone so far from people and so far from help. But it was part of his job; it was part of his way of life.

Jim embraced that risk, that work and that way of life totally. It was what made him who he was and made him a part of our very proud western heritage. The family, the friends, the acquaintances, neighbors and strangers who turned out to aid in the search and to comfort the family after the body was found and to support and help the family through their tough times without Jim's presence are another part of our proud western heritage.

I mentioned the efforts of a search party, as well I should. Five days the community searched for Jim. They knew what happened to him because, like I said, the animals never lie. The animals would not leave the river where they lost their master. But hour after hour, day after day, volunteer searchers traveled on foot, on horse, by four-wheel drive, by ATV, by airplane, by helicopter and back and forth over the Owyhee River canyons, literally searching every crack, every crevice, every ravine, behind every bush, rock, and stump looking for Jim. It was a monumental job but they were tireless.

No government agency or professional search and rescue team could have done the job those friends and neighbors did, searching for Jim. No one else knows the land like they do, and no one else cares like they do. When they found him, though, no one went home. They gathered Jim's cattle. They moved them to where they needed to go. They cared for the family and the area cattlemen made plans to help Jim's family get through the rest of the year. With Jim gone, the community picked up his work and is going to take care of his family, not through charity but through respect for the man he was and because it is the right thing to do. It is the way things are done out there. It really is the American way. It is what makes a community. It is what makes our country great, people like Jim Anderson and the people in the Jordan Valley community that drew together to help this family through their very hard time.

Jim Anderson was a fiercely independent man. His widow and his children will tell you that, and those of us who were his friends will tell you that. Yet, they will also tell you that Jim was a man who worked with his neighbors and helped them out in times of need, too. I first met Jim Anderson in a circumstance when he and his friends and neighbors had pulled together to work on something that they believed in. I owned a natural resource consulting business in Boise, Idaho when Jim Anderson and the Owyhee cattlemen came to me for help in working out a better relationship with the Bureau of Land Management. That was way back in 1979.

We are still working to accomplish that same thing today, a better relationship with the Bureau of Land Management. The BLM manages 74 percent of Owyhee County and 73 percent of Malheur County and has tremendous influence over the lives and the livelihoods of the ranchers in that area. For years the relationship has been declining with the BLM, and Jim Anderson and others were looking for a better way. For the last 25 years I have been working with Jim and the cattlemen in my district to try to help them find a better way. Today, as a Member of Congress, we are still working on finding a better way. I will not stop now.

But always, through all these years, in the battles and the discussions, I have seen the same thing that I saw with the events around Jim's death. I saw people of integrity and people who care really draw together to help each other through a rough time. They care about their families, their neighbors, and they love the land on which they make a living. They have rough, tough jobs, dangerous jobs, but these jobs are not just a way of making a living for them. They are a chosen way of life. In past years their livelihood and their way of life has been threatened. With Jim Anderson and the ranchers in my district, we have fought to protect this unique western heritage and the communities that have developed in the West. These communities still exist and remain strong through the kind of personal integrity, dependability, honor and respect for themselves and their neighbors that we see continue to work for those of us who live in the West.

I said Jim Anderson grew up on a ranch. Indeed he was a fourth-generation rancher. Many of the families who have lived down there have carved their ranches out of the wilderness when Owyhee County was first settled. They brought in long horned cattle from Texas to start their herds and began a long process of improving their range and building homes in some of the most rugged, hostile yet beautiful, country in the world.

You might have heard of the grazing rights these cattlemen have developed. Yes, over time they filed claims on water and they homesteaded lands under various homestead acts, and they proved up on the homesteads and they settled down to raise their families.

I am sure my colleagues have heard of the range wars of the late 1800s and the early 1900s. These range wars raged in my district, and people like Jim Anderson could tell you stories about the challenges their ancestors faced during these times from increasing settlement but, even more, from transient stockmen. The range was open in those days, unfenced and unrestricted. Homestead laws were designed for the East where 160 acres would support a family.

In the arid West, the rugged West, these small parcels were totally inadequate. By looking at a property map, it is readily apparent that the ranchers filed on the best and most valuable lands, those that there were out there in these arid lands, the land with water. Private land winds up and down the creeks and is located on springs or water holes across the landscapes. By homesteading on the creek bottoms where ranchers raised hay for the winter and by owning the water, ranchers were able to graze the open range in their vicinity.

Their goal was to consolidate the range into a workable ranch with the private land and the open grazing land inextricably interlinking elements of the ranch. But other transient cattlemen and transient sheepmen routinely trailed herds back and forth across the land, overgrazing and then moving on, devastating the land. They owned no private land, had no stake in the health of the land, but they simply ravaged the land and then they moved on. The Andersons and many of the old families I mentioned attempted to protect the range they had settled and to keep it in good condition for continued use. They wanted to pass it on to their children in better condition than they got it.

They fought to protect and guard the range and the integrity of the ranch under the provisions of prior beneficial use. But they had no legal basis to exclude others from overgrazing. Well, what resulted was a period of terrible destruction to the land. Transient stockmen ruined the range and prior settled stockmen had no ability to protect their range and no incentive to improve the range or ability to exclude over grazers.

As Members may know, it was cattlemen like Jim Anderson's family who fought for an end to this destructive, degenerating system. It was cattlemen who lobbied for and passed the Taylor Grazing Act of 1934.

The Taylor Grazing Act did four very, very important things. Number one, it eliminated the transient stockmen. Number two, it created grazing allotments out of undesignated lands. Number three, it tied that grazing allotment to a rancher's nearby private property. And, number four, it recognized and guaranteed ranchers prior existing use right to this land in perpetuity. The grazing allotment became appurtenant to the rancher's private land. The grazing allotment was recognized by courts and by banks, by local taxing districts and, yes, by the Internal Revenue Service. Indeed today the value of the grazing allotment is commonly a majority of the value of the ranch.

□ 1430

Grazing allotments are taxed and used as collateral for bank loans. But besides tying private property and the grazing allotment together in one inextricable ecological and economic unit, the Taylor Grazing Act also gave ranchers the ability and the incentive to improve the range.

And ranchers responded with their hearts and their souls and their hard work. The results were absolutely astounding. With the legal ability to exclude the transient stockman and the right to use the land and improve the land, the entire dynamics of the Western livestock industry's grazing changed.

Today, Mr. Speaker, today I can say that we have one of the Nation's finest California big horn wild sheep populations in that very area, well taken care of by not only our Idaho Fish and Game, but also by our ranchers. That population has grown and proliferated so much that we are now able to take some of those wild sheep out and plant them in other States. It is because of the ranchers and the cooperation that we are seeing results such as that.

Ranchers began fencing to hold their cows in different pastures and to divide their range to facilitate proper grazing allotments and rotation. They began developing springs and water holes away from the creeks, to draw the cattle off the riparian areas and spread them across the range to protect those riparian areas and to spread the grazing more evenly. They began improving roads and building ponds, clearing brush, eradicating weeds and improving the land. Very, very hard work.

Jim Anderson, his family and the families that I have mentioned began working to improve their land and perfect their grazing operations. They have been working on it literally for generations, and the results have been incredible.

Think about it. The cumulative knowledge of generations was contained in Jim Anderson's mind. The knowledge of animals, the knowledge of weather, the knowledge of plants, the knowledge of wildlife and of proper stewardship of that land. All this knowledge was resident in Jim Anderson's mind and in his every action. It was this knowledge that he was passing on to his children as it had been passed on to him.

But what kind of life has Jim Anderson passed on to his two young sons? We fought shoulder to shoulder for 25 years to make it a better life and to guarantee them the best opportunities possible. But what have these fine two boys actually inherited?

A legacy of burgeoning bureaucracy, of strife and conflict in management of public lands, of science with a political agenda; and a legacy of continued restrictions and limitations on the way of life that their family has cherished for generations, a way of life that is pictured in movies, in songs, in dress, in poetry, in novels. But it is being regulated out of our existence in America.

I feel for those boys. Their father and their ancestors left them a proud and wonderful legacy, a rich and strong heritage. Our government, on the other hand, has left them a bitter draught, a sad and heartbreaking regulatory stew, and a lifetime of struggle and strife to just continue the family tradition and maintain their way of life.

Unlike the thousands of youngsters before them, I hope that they are not driven from this land in desperation, hoping to be able to pursue a reasonable living somewhere else without continual government intrusion.

The day Jim was out before dawn to gather his cattle along the Owyhee River, the BLM land managers who manage this area were still in bed. Federal land managers are not members of Jim's community, although they would be welcome and, from time to time, some of them do make themselves part of the community and, indeed, they are personally welcomed.

Most of the managers, though, who manage and make the decisions that affect them live in Washington, D.C. They do not live out there on the ranch and they rarely work out there. Long, regular spells of pushing paper in the office are only occasionally punctuated with short and infrequent visits to the actual land that they manage.

Like in old Ireland, ranchers very rarely see their Federal landlords, except carrying bad news or bringing new regulations or restrictions. It is very little wonder that Jim Anderson and the community of Owyhee ranchers feel a great deal of frustration and are calling for better, more responsive land management. They are also calling for more range monitoring, yes, more scientific range monitoring.

Some allotments in Owyhee County are 8 hours of steady driving from the nearest BLM office. Some are 4 hours driving. But no allotment in Owyhee County is nearer than 1 hour of steady driving, about 50 highway miles from the nearest BLM office.

Today, we rarely see the BLM land managers out there on the ground with the cattlemen, yet Jim Anderson knew and I knew that critical, important decisions that affect our ranchers' livelihoods and their children's futures are being made every day by these government land managers. These decisions are often based on faulty information, poor science or science with a political agenda, and are heavily influenced by the litigation and pressure of urban environmental groups who have limited, if any, knowledge or understanding of the dynamics of the Western range.

Our ranchers today are struggling for a small say in the management of the land they have lived on, the land they have loved for generations. And what they are calling for is better land management through science and on-the-ground range monitoring. They are asking for decisions made on the basis of what the range will actually support, and the cattle stocking levels based on clear scientific standards. But that is not what they are getting, and they and the land deserve far better.

Mr. Speaker, I want my colleagues to know that even here in Washington, D.C., I always carry with me the memories of people like Jim Anderson. I am sure my colleagues know what I am talking about. Their faces and their histories and their families and their struggles are always on my mind. I know the names of their children, they have told me their dreams, and they have shared their frustrations with me.

Today I wanted to share it with my colleagues. I wanted my colleagues to know about a person in my district, a man with hopes and dreams, a man we could have helped to have a better life and to give his children a better future, a person who we have needed to consider in our debates and in our discussions for America's future.

But Jim Anderson is now gone and I ask that my colleagues remember, like I do, who he was and what were his hopes and his dreams; remember his children, that we might treat them with greater respect and more thoughtfully in the future.

Today, all I can say is, goodbye, my friend. We will keep working.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BENTSEN) to revise and extend their remarks and include extraneous material:)

Mr. BENTSEN, for 5 minutes, today.

(The following Members (at the request of Mr. WOLF) to revise and extend their remarks and include extraneous material:)

Mr. BOB SCHAFFER of Colorado, for 5 minutes, May 12.

Mr. HERGER, for 5 minutes, May 12.

Mr. FOX, for 5 minutes, May 13.

Mr. WOLF, for 5 minutes, today.

Mr. JONES, for 5 minutes, May 12.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BENTSEN) and to include extraneous matter:)

Mr. KIND.

Mr. WAXMAN.

Mr. KUCINICH.

(The following Members (at the request of Mr. WOLF) and to include extraneous matter:)

Mr. PORTMAN.

Mr. NEY.

Mr. BOB SCHAFFER of Colorado.

Mr. DOOLITTLE.

(The following Members (at the request of Mrs. CHENOWETH) and to include extraneous matter:)

Mr. SHERMAN.

ADJOURNMENT

Mrs. CHENOWETH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 39 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 12, 1998, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9035. A letter from the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Pyriproxyfen; Pesticide Tolerances for Emergency Exemptions [OPP-300651; FRL-5788-2] (RIN: 2070-AB78) received May 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9036. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Bentazon; Extension of Tolerance for Emergency Exemptions [OPP-300646; FRL-5787-4] (RIN: 2070-AB78) received May 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9037. A letter from the Administrator, Food Safety and Inspection Service, transmitting the Service's final rule—Elimination of Prior Approval Requirements for Establishment Drawings and Specifications, Equipment, and Certain Partial Quality Control Programs [Docket No. 95-032F] (RIN: 0583-AB93) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9038. A letter from the Mayor, District of Columbia, transmitting the District of Columbia Government's report on Anti-Deficiency Act violations for fiscal year 1997 covering the period October 1, 1996 through September 30, 1997, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

9039. A letter from the Judge Advocate General, Department of the Navy, transmitting the Department's final rule—Department of the Navy Acquisition Regulations; Shipbuilding Capability Preservation Agreements [48 CFR Part 5231] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9040. A letter from the Acting Assistant Secretary for Reserve Affairs, Department of Defense, transmitting a plan to ensure that, on and after September 30, 2007, all military technician positions are held only by dual status military technicians, pursuant to Public Law 105-85; to the Committee on National Security.

9041. A letter from the Administrator, Panama Canal Commission, transmitting a draft of proposed legislation to authorize expenditures for fiscal year 1999 for the operation and maintenance of the Panama Canal, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on National Security.

9042. A letter from the Secretary of Defense, transmitting notification that the Secretary has approved the retirement of General George K. Muellner, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on National Security.

9043. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the Corporation's semiannual report on the activities and efforts relating to utilization of the private sector, pursuant to 12 U.S.C. 1827; to the Committee on Banking and Financial Services.

9044. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule—Investment and Deposit Activities; Corporate Credit Unions [12 CFR Parts 703 and 704] received May 5, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9045. A letter from the Secretary of Housing and Urban Development, transmitting the results of the third annual "Comprehensive Needs Assessments"; to the Committee on Banking and Financial Services.

9046. A letter from the Secretary of Health and Human Services, transmitting the fiscal year 1996 annual report on occupational safety and health, prepared by the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), pursuant to 29 U.S.C. 671(f); to the Committee on Education and the Workforce.

9047. A letter from the Assistant Secretary for Mine Safety and Health, Department of Labor, transmitting the Department's final rule—Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines (RIN: 1219-AB00) received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9048. A letter from the Assistant Secretary for Occupational Safety and Health, Department of Labor, transmitting the Department's final rule—Respiratory Protection; Correction [Docket No. H-049] (RIN: 1218-AA05) received April 28, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9049. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the Energy Information Administration's "International Energy Outlook 1998," pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Commerce.

9050. A letter from the Secretary of Energy, transmitting the Department's Annual Report for the Strategic Petroleum Reserve, covering calendar year 1997, pursuant to 42 U.S.C. 6245(a); to the Committee on Commerce.

9051. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Property Management Regulations (RIN: 1991-AA28) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9052. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Section 112(l) Authority for Hazardous Air Pollutants; Perchloroethylene Air Emission Standards for Dry Cleaning Facilities; State of California; South Coast Air Quality Management District [FRL-6001-3] received May 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9053. A letter from the Acting Inspector General, Environmental Protection Agency, transmitting the annual report to Congress summarizing the Office of Inspector General's work in the Environmental Protection Agency's Superfund program for fiscal 1997, pursuant to Public Law 99-499, section 120(e)(5) (100 Stat. 1669); to the Committee on Commerce.

9054. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the "Status of the State Small Business Stationary Source Technical and Environmental Compliance Programs (SBTCP) for the Reporting Period, January—December 1996"; to the Committee on Commerce.

9055. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Standards for Business Practices of Interstate Natural Gas Pipelines [Docket No. RM96-1-007, Order No. 587-G] received May 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9056. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Guides for the Use of Environmental Marketing Claims (16 CFR Part 260) received April 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9057. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's report entitled "Report to Congress on Abnormal Occurrences, Fiscal Year 1997," for events at nuclear facilities, pursuant to 42 U.S.C. 5848; to the Committee on Commerce.

9058. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on the nondisclosure of safeguards information for the quarter ending March 31, 1998, pursuant to 42 U.S.C. 2167(e); to the Committee on Commerce.

9059. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective April 12, 1998, the danger pay allowance for Liberia has been eliminated, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

9060. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Fees for Application and Issuance of Nonimmigrant Visas [22 CFR Part 41] received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9061. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the activities of the Multinational Force and Observers (MFO) and certain financial information concerning U.S. Government participation in that organization for the period from January 16, 1996 to January 15, 1998, pursuant to 22 U.S.C. 3425; to the Committee on International Relations.

9062. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting draft legislative initiatives to amend or create expanded authorities under the Foreign Assistance Act of 1961, as amended and the Arms Export Control Act; to the Committee on International Relations.

9063. A letter from the Interim District of Columbia Auditor, District of Columbia, transmitting a report entitled "Audit of the People's Counsel Agency Fund for Fiscal Years 1995 and 1996," pursuant to D.C. Code section 47-117(d); to the Committee on Government Reform and Oversight.

9064. A letter from the Executive Director, Committee for Purchase from People Who are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to and Deletions from the Procurement List—received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9065. A letter from the Manager, Benefits Communications, Farm Credit Bank of Wichita, transmitting the annual report for the

Ninth Farm Credit District Pension Plan for the plan year ending December 31, 1996, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

9066. A letter from the Administrator, General Services Administration, transmitting the 1995–1996 report to Congress on programs for the utilization and donation of Federal personal property, pursuant to Public Law 100–612, section 5 (102 Stat. 3181); to the Committee on Government Reform and Oversight.

9067. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Royalties on Gas, Gas Analysis Reports, Oil and Gas Production Measurement, Surface Commingling, and Security (RIN: 1010–AC23) received April 24, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9068. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Oregon [OR 66–7281a; FRL–6006–8] received May 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9069. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Shallow-water Species Fishery by Vessels using Trawl Gear in the Gulf of Alaska [Docket No. 971208297–8054–02; I.D. 050198A] received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9070. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Louisiana Regulatory Program [SPATS No. LA–017–FOR] received May 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9071. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to compensate certain Indian Tribes for known errors in their Tribal trust fund accounts, to establish a process for settling other disputes regarding Tribal trust fund accounts, and for other purposes; to the Committee on Resources.

9072. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Appellate Procedure that have been adopted by the Supreme Court of the United States, pursuant to 28 U.S.C. 2072; to the Committee on the Judiciary.

9073. A letter from the Acting Assistant Attorney General of the United States, Department of Justice, transmitting claims for damages caused by the FBI, pursuant to 31 U.S.C. 3724(b); to the Committee on the Judiciary.

9074. A letter from the Attorney General, Department of Justice, transmitting the annual listing of all grants awarded pursuant to the DNA Identification Act of 1994, pursuant to 42 U.S.C. 3796kk–5; to the Committee on the Judiciary.

9075. A letter from the Chairman, United States Sentencing Commission, transmitting the Commission's amendments to the sentencing guidelines, policy statements, and commentary, pursuant to 28 U.S.C. 994(p); to the Committee on the Judiciary.

9076. A letter from the Acting Assistant Secretary (Civil Works), Department of the Army, transmitting a draft of proposed legislation to provide for the conservation and development of water and related resources, to authorize the Secretary to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

9077. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to direct the Secretary of Transportation to provide grants for planning and project implementation to improve transportation at international border crossings and along major trade corridors, and for other purposes; to the Committee on Transportation and Infrastructure.

9078. A letter from the Associate Deputy Administrator for Government Contracting and Minority Enterprise Development, Small Business Administration, transmitting a report on Minority Small Business and Capital Ownership Development for fiscal year 1997, pursuant to Public Law 100–656, section 408 (102 Stat. 3877); to the Committee on Small Business.

9079. A letter from the Secretary of Labor, transmitting the quarterly report on the expenditure and need for worker adjustment assistance training funds under the Trade Act of 1974, pursuant to 19 U.S.C. 2296(a)(2); to the Committee on Ways and Means.

9080. A letter from the Assistant Secretary for Import Administration, Department of Commerce, transmitting the Department's final rule—Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order [Docket No. 960123011–8040–02] (RIN: 0625–AA43) received May 4, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9081. A letter from the Secretary of Health and Human Services, transmitting a report on the initial estimate of the applicable percentage increase in inpatient hospital payment rates for fiscal year (FY) 1999, pursuant to Public Law 101–508, section 4002(g)(1)(B) (104 Stat. 1388–36); to the Committee on Ways and Means.

9082. A letter from the Secretary of Labor, transmitting the annual report on trade readjustment allowances (TRA), pursuant to section 231(c)(3) of the Trade Act of 1974, as amended; to the Committee on Ways and Means.

9083. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting notification of a delay in submitting the Annual Counterproliferation Review Committee Report to Congress; jointly to the Committees on National Security and International Relations.

9084. A letter from the General Counsel, Department of Defense, transmitting four items of proposed legislation that address several concerns of the Department of Defense; jointly to the Committees on National Security and Transportation and Infrastructure.

9085. A letter from the General Counsel, Department of Defense, transmitting several drafts of proposed legislation that address several management concerns of the Department of Defense; jointly to the Committees on National Security and International Relations.

9086. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the 1997 annual report on the activities of the Federal Deposit Insurance Corporation relating to the supervision of banks or departments of banks that are operating as municipal securities brokers or dealers, pursuant to 15 U.S.C. 78w(b); jointly to the Committees on Banking and Financial Services and Commerce.

9087. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicare Program; Scope of Medicare Benefits and Application of the Outpatient Mental Health Treatment Limitations to Clinical Psychologists and Clinical Social Worker Services [HCFA–3706–F] (RIN: 0938–AE99) received April 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Commerce and Ways and Means.

9088. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's Federal Equal Opportunity Recruitment Program for Fiscal Year 1997, pursuant to 22 U.S.C. 3905(d)(2); jointly to the Committees on International Relations and Government Reform and Oversight.

9089. A letter from the Director, Office of Government Ethics, transmitting a draft of proposed legislation to amend the Ethics in Government Act of 1978, as amended, to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2007, pursuant to 31 U.S.C. 1110; jointly to the Committees on the Judiciary and Government Reform and Oversight.

9090. A letter from the Director, Office of Government Ethics, transmitting the Office's Fifth Biennial Report to the Congress, pursuant to Public Law 95–452, section 408 (102 Stat. 3032); jointly to the Committees on the Judiciary and Government Reform and Oversight.

9091. A letter from the Secretary of Transportation, transmitting the crude oil tanker ballast facility study, pursuant to Public Law 104–332, section 2(b)(2) (110 Stat. 4081); jointly to the Committees on Transportation and Infrastructure and Resources.

9092. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to reform and improve the administration of certain programs of the Department of Agriculture, and for other purposes; jointly to the Committees on Agriculture, Ways and Means, and Commerce.

9093. A letter from the General Counsel, Department of Defense, transmitting proposals of legislation that address several management concerns of the Department of Defense; jointly to the Committees on National Security, Government Reform and Oversight, and the Judiciary.

9094. A letter from the Secretary of Transportation, transmitting drafts of 2 proposals of legislation, to establish a more effective organization and financing structure for air traffic services and investments within the Federal Aviation Administration and to authorize appropriations for the Federal Aviation Administration for fiscal years 1999—2002, pursuant to 31 U.S.C. 1110; jointly to the Committees on Transportation and Infrastructure, Ways and Means, the Budget, and Rules.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted May 8, 1998]

Mr. ARCHER: Committee on Ways and Means. H.R. 2431. A bill to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes; with an amendment (Rept. 105–480, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. H.R. 2431. A bill to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes; with an amendment (Rept. 105–480, Pt. 3). Referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

[Submitted May 11, 1998]

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2556. A bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act; with an amendment (Rept. 105–522). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER (for himself, Mrs. MORELLA, and Mr. COOK):

H.R. 3824. A bill amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft; to the Committee on Science, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 3825. A bill to amend the National Labor Relations Act to ensure that the National Labor Relations Board does not decline to assert jurisdiction over the horseracing and dogracing industries; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 3826. A bill to amend the Davis-Bacon Act to provide that a contractor under that Act who has repeated violations of the Act shall have its contract with the United States canceled; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 3827. A bill to require the disclosure under freedom of information provisions of Federal law of certain payroll information under contracts subject to the Davis-Bacon Act; to the Committee on Government Reform and Oversight.

By Mr. ANDREWS:

H.J. Res. 118. A joint resolution proposing an amendment to the Constitution of the United States to authorize the line item veto; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

307. The SPEAKER presented a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 141 memorializing the United States Congress to restore food stamp benefits to legal, noncitizen immigrants who have been denied participation in the federal Food Stamp Program due to Public Law 104–193; to the Committee on Agriculture.

308. Also, a memorial of the Senate of the State of Georgia, relative to Senate Resolution 492 memorializing the Congress of the United States to take immediate and appropriate action to have the State of Georgia declared an agricultural disaster area and provide needed assistance to Georgia's farm families; to the Committee on Agriculture.

309. Also, a memorial of the Senate of the Commonwealth of Massachusetts, relative to Resolutions memorializing the President and the Congress of the United States to shift funds from the military to the states; to the Committee on National Security.

310. Also, a memorial of the General Assembly of the State of California, relative to Assmebly Joint Resolution No. 52 memorializing the Congress and the President of the United States to act to vindicate the sailors unjustly blamed for, and the sailors convicted of mutiny following, the Port Chicago disaster, and to rectify any mistreatment by the military of those sailors; to the Committee on National Security.

311. Also, a memorial of the House of Representatives of the State of Vermont, relative to House Resolution 39 memorializing the United States Congress to support legislation that will curtail this economic warfare; to the Committee on Commerce.

312. Also, a memorial of the Assembly of the State of California, relative to Assembly Joint Resolution No. 47 memorializing the 50th anniversary of independence for the State of Israel and looking forward to the celebration of the centurion in the Jewish calendar year 5808; to the Committee on International Relations.

313. Also, a memorial of the Senate of the State of Georgia, relative to Senate Resolution 662 memorializing Congress to oppose any effort to lift or weaken sanctions against Cuba and not to take any other action to support Fidel Castro's communist Cuba; and for other purposes; to the Committee on International Relations.

314. Also, a memorial of the Legislature of the State of Alabama, relative to House Joint Resolution 261 memorializing the Congress of the United States to prepare and submit to the several states an amendment to the Constitution of the United States to add a new article; to the Committee on the Judiciary.

315. Also, a memorial of the General Assembly of the State of Colorado, relative to House Joint Resolution 98–1018, memorializing that the Colorado General Assembly does not support at this time any Congressional action that would establish a national policy expanding taxation of the Internet and other interactive computer services; to the Committee on the Judiciary.

316. Also, a memorial of the General Assembly of the State of Colorado, relative to House Joint Resolution 98–1017 memorializing the United States Congress to enact legislation reauthorizing the federal highway program by May 1, 1998; to the Committee on Transportation and Infrastructure.

317. Also, a memorial of the Legislature of the State of Hawaii, relative to Senate Resolution No. 76 memorializing the United States Congress to enact legislation reauthorizing the federal highway program by May 1, 1998; to the Committee on Transportation and Infrastructure.

318. Also, a memorial of the Senate of the State of Kentucky, relative to Senate Resolution No. 195 memorializing the United States Congress to provide funding without mandates to the Transportation Cabinet; to the Committee on Transportation and Infrastructure.

319. Also, a memorial of the Senate of the State of Georgia, relative to Senate Resolution 591 memorializing Congress to reduce or eliminate the motor fuel tax on low sulphur fuels as a means of encouraging their use and achieving cleaner air.; to the Committee on Ways and Means.

320. Also, a memorial of the Legislature of the State of Alabama, relative to House Joint Resolution 227 memorializing Congress to enact legislation to increase the volume limits for the issuance of private activity tax-exempt bonds; to the Committee on Ways and Means.

321. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 89 memorializing that the Department of Labor and Industrial Relations is requested to develop a workable definition of the term "Hawaii resident"; jointly to the Committees on National Security and Education and the Workforce.

322. Also, a memorial of the Legislature of the State of Texas, relative to House Concurrent Resolution No. 202 memorializing the United States to allocate funds for road expansion in Texas along the designated route for transporting hazardous waste to the WIPP project; jointly to the Committees on Commerce and National Security.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 230: Mr. McINTYRE.

H.R. 965: Mr. BARR of Georgia.

H.R. 1126: Mr. LaFALCE, Mrs. MEEK of Florida, and Mr. MILLER of Florida.

H.R. 1401: Mr. BUNNING of Kentucky.

H.R. 1404: Mrs. CAPPS.

H.R. 1524: Mr. PAPPAS.

H.R. 1595: Mr. KINGSTON.

H.R. 1636: Ms. CARSON.

H.R. 2077: Ms. ESHOO.

H.R. 2094: Mr. LEWIS of Georgia.

H.R. 2229: Mr. ANDREWS.

H.R. 2409: Mr. WATTS of Oklahoma.

H.R. 2639: Ms. STABENOW.

H.R. 2678: Mrs. MORELLA.

H.R. 2829: Ms. DUNN of Washington.

H.R. 2869: Mr. PETRI.

H.R. 2948: Mr. SAXTON, Mr. SNOWBARGER, Mr. CLYBURN, and Mrs. MORELLA.

H.R. 3229: Mr. CANADY of Florida, Mr. LEWIS of Kentucky, Mr. PITTS, and Mr. GUTKNECHT.

H.R. 3230: Mr. CANADY of Florida, Mr. LEWIS of Kentucky, and Mr. PITTS.

H.R. 3304: Mr. SHAW and Mr. FOLEY.

H.R. 3494: Mr. McINNIS.

H.R. 3614: Mr. HOYER, Mr. FILNER, Mr. HILLIARD, and Mr. BATEMAN.

H.R. 3674: Mr. OBEY.

H.R. 3749: Mr. PETERSON of Pennsylania and Mr. FRANKS of New Jersey.

H.R. 3794: Mr. MARTINEZ, Mr. BROWN of California, Mr. STARK, Mr. WAXMAN, Mr. TORRES, Mr. MATSUI, Ms. MILLENDER-McDONALD, Mr. DOOLEY of California, Ms. PELOSI, Ms. LOFGREN, Mr. DIXON, Mr. FAZIO of California, Ms. ESHOO, Ms. SANCHEZ, Mrs. CAPPS, Mr. SHERMAN, Mr. LANTOS, Ms. ROYBAL-ALLARD, and Ms. WOOLSEY.

H. Con. Res. 52: Mrs. TAUSCHER, Mr. STUPAK, and Mr. JENKINS.

H. Con. Res. 271: Mr. BLILEY, Mr. MENENDEZ, Mr. LEVIN, Mr. MANTON, and Mr. McNULTY.

H. Res. 399: Mr. UNDERWOOD.

H. Res. 423: Mr. SOLOMON, Mr. ENSIGN, Mr. PEASE, Mr. MILLER of Florida, Mr. WOLF, and Mr. MORAN of Kansas.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the clerk's desk and referred as follows:

62. The SPEAKER presented a petition of the Board of Supervisors of the County of Yuba, CA, relative to Resolution No. 1996-36 petitioning the President and the Vice President of the United States to endorse and support the 940th ARW as the next KC-135 unit to convert to R-model aircraft; to the Committee on National Security.

63. Also, a petition of the Legislature of Rockland County, New York, relative to resolution No. 103 petitioning the United States Congress to ratify the Convention on the Elimination of all Forms of Discrimination Against Women; to the Committee on International Relations.

64. Also, a petition of the City Council of Maple Heights, OH, relative to Resolution No. 1998-32 petitioning their opposition to the coverage of all state and local employees by Social Security; to the Committee on Ways and Means.

SENATE—*Monday, May 11, 1998*

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, who calls strategic leaders to shape history, we pray for the women and men of this Senate. As we begin a new week, may they feel awe and wonder that You have chosen them through the voice of Your people. May they live humbly on the knees of their hearts, honestly admitting their human inadequacy and gratefully acknowledging Your power. Dwell in the secret places of their hearts to give them inner peace and security. Help them in their offices, with their staffs, in committee meetings, and when they are here together in this sacred, historic Chamber. Reveal Yourself to them. Be the unseen Friend beside them in every changing circumstance. Give them a fresh experience of Your palpable and powerful Spirit. Banish weariness and worry, discouragement and disillusionment. Today, may we often hear Your voice saying, "Come to me, all you who labor and are heavy laden, and I will give you rest."—Matt. 11:28. Lord, help us to rest in You and receive the incredible resiliency You provide. Thank You in advance for a truly productive week. In the Name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. THOMAS. Thank you, Mr. President.

SCHEDULE

Mr. THOMAS. Mr. President, for the information of all Senators, this morning the Senate will be in a period of morning business until 2:30 p.m. Following morning business, the Senate will attempt to enter into several time agreements with respect to the high-tech legislation. At approximately 3 p.m., the Senate will consider the agricultural research conference report, and later this afternoon begin consideration of the missile defense bill.

As a reminder, no votes will occur during today's session, and any votes ordered today will be postponed to occur on Tuesday, at approximately 12 noon. Also, on Tuesday the Senate will attempt to reach a time agreement on the D'Amato breast cancer bill and may also consider the charitable contributions bill. During the latter part of the week, the Senate may also consider DOD authorization. I thank my colleagues for their attention.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

FAA'S ACTIONS ON BOEING 737'S

Mr. FORD. Mr. President, today, I want to take a few minutes to speak on the latest actions by the Federal Aviation Administration with respect to its emergency inspection order of Boeing 737's.

Last Thursday, May 7th, the FAA issued an airworthiness directive which ordered the inspection and possible replacement of fuel tank wiring insulation in certain Boeing 737's, 747's and 767's. The FAA order for 737's required immediate action on an estimated 152 U.S. registered Boeing 737–100 and –200 models with more than 50,000 hours of flying time. A second directive also ordered the operators of 264 Boeing 747's and 231 Boeing 767's to inspect wiring within 60 days.

Yesterday, Sunday May 10th, the FAA ordered the immediate inspection for all older Boeing 737's with between 40,000 and 50,000 flight hours. The FAA ordered that the aircraft could not be operated in commercial service until mechanics could inspect, and repair, if needed, the fuel tank wiring. The FAA's action on Sunday came about after initial inspections by the airlines found additional evidence of electrical problems in the fuel tank wires.

There is no question that the FAA's actions inconvenienced a number of travelers yesterday. The decision by the FAA to issue the emergency order was a tough call, but it was the right call to make. It also demonstrates the FAA's continuing commitment to safety.

As Administrator Garvey said "Safety is our highest transportation priority". Her actions and words are to be commended. I wanted to come to the floor to recognize the actions of FAA Administrator Garvey. She and her staff acted quickly and decisively. Many of us around here have often taken to the floor to say that the FAA's first priority should be safety. And the actions taken by Administrator Garvey are a clear demonstration to all of us that the FAA is vigilant in improving safety within the aviation industry. The actions are also clear evidence of a change in the culture of the FAA—that the agency is proactive in enforcing safety standards.

We should also acknowledge the actions taken by the airlines and the Boeing Company. Working in partnership with the FAA, these inspections were undertaken quickly and as a result, a potentially disastrous situation was averted.

I, for one, feel reassured this morning because of the actions taken by the FAA. I have always been confident that FAA Administrator Garvey would do an outstanding job. Her actions over the weekend have only deepened my confidence in and respect for her, and for the agency.

Mr. BYRD. Mr. President, I ask unanimous consent I may consume such time as I may require.

The PRESIDING OFFICER. Without objection, it is so ordered.

EULOGY TO SENATOR JENNINGS RANDOLPH

Mr. BYRD. Mr. President, it is my sad duty to announce to the Senate the death on last Friday of our former colleague, U.S. Senator Jennings Randolph. With countless West Virginians, and with his many friends across America, I am saddened by the passing of my longtime friend.

Jennings Randolph was a man possessed of a profound love for West Virginia and for the Nation. More, he was a man of seemingly boundless energy and limitless horizons. Both in Government and in his several other fields of interest and expression, Senator Randolph seemed constantly to be looking for ways to assist other people to achieve their own potential, or for avenues by which others might attain a better life for themselves. He was, paradoxically perhaps, an indefatigably optimistic realist. Jennings Randolph knew that life often demands struggle and many times ends in defeat; but for every problem, Jennings believed that goodwilled, intelligent, and decent men and women could find solutions to their mutual and individual problems, if they united their talents in a mutual effort to overcome frustration or evil, or if they but reached into their deepest resources of character.

An educator, writer, public speaker, aviation enthusiast, corporate executive, a Representative and a Senator, Jennings Randolph was a master of many talents. I was honored to serve with him as a colleague, and honored to call him my friend.

If events can foreshadow destinies, perhaps Jennings Randolph's destiny was outlined at his birth, 96 years ago, in 1902. One of Senator Randolph's father's closest friends was the great William Jennings Bryan. Jennings was fond of recounting the anecdote that his father was with Bryan shortly after Jennings' birth. When told of the arrival of a new Randolph male, Bryan asked Mr. Randolph, "Have you named this boy?" "No," the father replied. "Then why don't you give him part of my name as a good Democrat?"

So Jennings Randolph received his name from the perennial Presidential candidate, William Jennings Bryan—a name that Randolph never tarnished and that he burnished brilliantly in his own career.

I recall another story that Jennings Randolph sometimes told out of his boyhood in Salem, West Virginia. According to Jennings, Salem had a water tower that stood high on a hill above the town.

Jennings said that he told his father and mother, "If I could just get a long pole and * * * climb up on that tank, and hold out that pole, I believe I could touch the sky." That is a story that shows the theme of this man's life—the tale of a boy who wanted to touch the sky. And when that boy became a man, touch the sky he did.

Jennings Randolph graduated from Salem College in 1924. From there he went into newspaper work in Clarksburg, West Virginia, and later in Elkins. A short step more took him onto the faculty of Davis and Elkins College as a professor of speech and journalism, and the director of athletics. Working in that capacity, in 1932 Jennings Randolph was elected to the U.S. House of Representatives, entering as a strong supporter of Franklin D. Roosevelt's "New Deal," and serving in the House until January 3, 1947.

In 1947, he accepted a position as assistant to the President of Capital Airlines and Director of Public Relations. In 1958, however, Jennings Randolph returned to politics. He loved politics; he loved to "Press the flesh." He couldn't get politics out of his blood. So he won election to the U.S. Senate to complete the unexpired term of the late Senator Matthew Mansfield Neely from West Virginia. On November 5, 1958, Jennings took the oath of office as U.S. Senator.

Elected in that same election for a full Senate term, for 26 years, I shared with Jennings Randolph the privilege of representing and serving West Virginia in the United States Senate. That partnership I shall cherish always. No man could have asked for a more generous, dedicated, or thoughtful colleague than I had in Jennings Randolph. And I know from my own experience that Jennings Randolph was certainly a man whose touch reached the sky. In West Virginia to this day, thousands of people bless his name for the deeds that he did for them as a friend and as a faithful public servant.

One of Jennings Randolph's greatest areas of ongoing contribution was to the development and advancement of air flight.

Some may recall the ancient Greek myth of the flight of Icarus. According to that legend, Icarus attempted to fly, using wings attached to his body with wax.

Icarus flew, to be sure. But Icarus flew too close to the sun. The sun melted the wax on Icarus's wings, and he fell into the sea.

Early on, Jennings Randolph became interested in flight. Fortunately for him and for us, Jennings went about getting into the air more safely than Icarus did.

As I mentioned, in 1947, Jennings Randolph became an assistant to the President and Director of Public Relations for Capital Airlines—one of the companies that later formed United Airlines. In that position, for the next eleven years, Jennings Randolph advanced the airline industry here and abroad. While Jennings was with Capital Airlines, however, he undertook one mission that places him on an equal footing with Icarus—in bravery and, of course, Jennings was far more successful than Icarus. On November 6, 1948, with a professional pilot at the controls, Jennings Randolph flew from Morgantown, West Virginia, to the Washington National Airport in a propeller plane fueled with gasoline made from coal. Now, that was just like Jennings Randolph—out there pioneering, not only in flight, but also in the use of fuel in that plane that had a West Virginia source—coal. Certainly, that project was an act of faith, for which many remember Senator Randolph.

Not as well remembered is Congressman Jennings Randolph's introduction in 1946 of legislation to create a National Air Museum. Three decades later, on July 4, 1976, Senator Randolph dedicated the National Air and Space Museum complex on the Mall in Washington—noted today as one of the most popular tourist attractions in the Nation's Capital.

Jennings Randolph was an advocate of numerous other items of vital legislation as well—legislation to aid the handicapped and black lung victims, legislation to promote clean water and clean air, legislation to provide vocational and career education, and the legislation that created the National Peace Academy in 1983.

In announcing his decision not to run for reelection to the Senate in the 1984 race, Jennings said, "* * * It's been a happy road. I have no regrets. * * * I believe the Bible says there is a season and a time for every purpose. It is time for me not to run for reelection."

That "happy road" was an unparalleled example of citizenship and public service. In an era in which so many seem preoccupied primarily with grasping and grabbing for themselves, Jennings Randolph was committed to exerting himself—his intellect, his energy, and his considerable talents—on behalf, and in behalf, of his fellow citizens, his fellow West Virginians, his fellow Americans, his fellow human beings.

Jennings lived a long time—a full and active life. But all of us, high and low, rich and poor, must one day say goodby to friends and loved ones in this earthly life and make our journeys to that unknown bourne from which no traveler returns.

It was on last Friday morning that the pallid messenger with the inverted torch beckoned Jennings to depart.

Jennings' passing reminds me of Thomas More's lines.

When I remember all
the friends so linked together
I've seen round me fall
like leaves in wintry weather
I feel like one who treads alone
some banquet hall deserted
whose lights are fled
whose garlands dead
and all but he departed . . .

Whether Jennings, on that last morning, saw a more glorious sun rise with unimaginable splendor above a celestial horizon; whether his dexterous and disciplined faculties are now contending in a higher senate than ours for supremacy; whether he yet remembers us as we remember him, we do not know. These questions are much like the question that came from the lips of that ancient patriarch, a man of Uz, whose name was Job, "If a man dies, shall he live again?"

But we have the consolation expressed by that same man of Uz,

Oh that my words were written in a book and engraved
With an iron pen, and
lead in the rock forever,
For I know that my
Redeemer liveth and that
in the latter day he shall
Stand upon the earth.

So, Jennings Randolph has crossed the Great Divide.

I think of others who were serving here when Jennings Randolph and I took the oath of office to serve in this Chamber. It was almost 40 years ago. I remember Senators on both sides of the aisle: Senator Aiken, Senator Anderson of New Mexico, Senator Harry Byrd, Sr., of Virginia, Senators Capehart of Indiana, Chavez of New Mexico, Cooper of Kentucky, Dirksen, Douglas of Illinois, Eastland, Ellender, Fulbright, Hayden, Hennings of Missouri, Hickenlooper of Iowa, Hill of Alabama, Holland of Florida, "Scoop" Jackson of Washington, Johnson of Texas, Johnston of South Carolina, Langer of North Dakota, McClellan of Arkansas, Magnuson of Washington, Wayne Morse of Oregon, Murray of Montana, Willis Robertson of Virginia, Richard Russell, Saltonstall of Massachusetts, Stennis of Mississippi, Symington of Missouri, and Milton Young. All of these, and others, were here.

Of that illustrious band which sat in this Chamber when Jennings Randolph and I first entered the Senate, only STROM THURMOND and I remain here.

They are drifting away, these friends of old
Like leaves on the current cast;
With never a break in their rapid flow,
We count them, as one by one they go
Into the Dreamland of the Past.

Erma and I extend our condolences to Jennings' two sons, Jay and Frank, and to others of his family.

Mr. ROCKEFELLER. Mr. President, it probably would not have been within the nature of the Senator from West Virginia, Senator Jennings Randolph, to object to something that was about to be said about one of his departed colleagues. He was not like that. But I need to report to you, as of course our colleagues know, that Senator Randolph has died. My colleague, Senator BYRD, spoke to the subject, and did so very eloquently.

I think the sad news, of course, is that he is no longer with us. The good news is, in talking with one of his two sons Jay and Frank—and the Senator from West Virginia talked with Jay—he said he died very peacefully on Friday. He was a great defender of all 13 States in the Appalachian Regional Commission, including the State of Mississippi.

It was a very interesting decision, in fact, when Senator Randolph decided to resign. I now can tell a story which I have never told before because it was one of such exquisite sensitivity on the part of the then-senior Senator from West Virginia, Senator Randolph.

No Governor has ever been elected to the U.S. Senate from the position of Governor of West Virginia. It has never happened in our history. There are reasons for that. In any event, my term was expiring as Governor in 1984, and I wanted very much to run for the Senate, but, on the other hand, Senator Randolph was a very, very formidable Senator, obviously a powerful committee chairman, had been in the Congress longer than anybody. He was the only person to reach back to the original first days of Franklin Delano Roosevelt, Jr., and he was literally at Franklin Roosevelt's side on a number of occasions when he signed bills. This is an enormous bridge of history and bridge of spirit. I think he wanted to rerun for another term. I don't know that, but it is my feeling that he did, because he was a very young 84. Anyone who knew Jennings Randolph knew him to be hardy, vigorous, strong, and very much in love with his job.

He, understanding my interests, and my understanding his interests, he being obviously by far in the stronger position, asked me to come have breakfast with him at his hideaway. Being senior, he had a very nice hideaway. I had never been to a hideaway before, and rarely have been to one since. He had a nice breakfast served there. There was pleasant conversation. He was very relaxed. Then he simply turned to me and he said, "Jay, would you like to be the next Senator from West Virginia?"

I said "Senator, yes, I would, but not if you, Senator Randolph, want to run for reelection." And I meant that.

Without really pausing anymore than I had, he said, "Well, I think you should be the Senator."

If one thinks back as a Senator of what one has known over the years, it is very rarely that a Senator who has spent virtually all of his life in public service willingly, generously, and warmly gives up his seat, which probably could have been his again, in order to step aside for somebody somewhat younger.

That is not a story I have ever heard told before because I am not sure it has happened before, but it is a story that I am very proud to say today because I told Senator Randolph's son, Jay, that I wanted to tell it today. Jay knew about it because his father had told him about it. It is something that, better than anything I could say, characterizes the nature of the generosity of this man, which was counteracted on the other side by a ferocity of intensity about his work.

It is very hard to make any other case, but this man was a giant in legislative history, and one could say for no other reason than he served for as long as he did, simply to say, "I served with Franklin Delano Roosevelt." How many times did I hear him talk about Franklin Delano Roosevelt?

He was by nature a man who believed in government—and he was very much a Democrat that way, although he was a conservative Democrat on many social issues—in terms of what is it the people need, what is it the people shall have, what is it that I think I can help them get. In fact, when he made that decision not to run, our unemployment rate in West Virginia was somewhere around 17 or 18 percent. Government was very important to Senator Randolph, and he led his life and his legislative life very much with that in mind.

He and Senator BYRD were elected at the same time in 1958 because there was a special vacancy because of a special circumstance.

Positive, civil, courteous, and kind he was. I asked, before I arose to make these remarks, where he sat, and I was informed that he sat in five different desks. One of them, I think, is the desk from which Senator LEVIN from Michigan just spoke.

Over his time here, he insisted on courtesy in the Senate, something which has been paralleled by his colleague, Senator BYRD, for so many years. I am told by my father-in-law, Senator Percy, who was also his very close friend, that he would often get up and insist on order in the Senate. He was very much a stickler for protocol and order and also for voting from his or her desk, which is something that Senator BYRD also feels very strongly about.

I remember a Senator of kindness, of good humor who was always in an ebullient mood, who actually bounced sometimes when he talked he was so enthusiastic about what he was doing. But he demanded dignity in the treatment of others. He demanded respect in the treatment of others. He was very old-fashioned in his ways and, thus, I think we miss him even more these days.

He did many things. He was always open to new ideas. He actually, more than 50 years ago, flew an airplane for some distance that was powered entirely by methanol. One, he knew how to fly an airplane, which was unusual; two, he flew an airplane which was powered by methanol, which was almost unprecedented. He involved himself at a very early age, and he did so with extraordinary effectiveness.

I could talk for an hour, which I will not, about what he accomplished. Everybody knows that he really was the founder of the Appalachian Regional Commission, which has done so much to help not only the State he loved, West Virginia, but 12 other States in addition to that. He was a principal architect of the Interstate Highway System which helps to place him in time, because that was done during, as we know, the middle and late fifties.

I think the proudest of all of his achievements, or the one that caused him to talk the most and to be the most enthusiastic about, was the 26th amendment. He was the author and the driver of the 26th amendment which gave 18-year-olds the right to vote in this country.

He protected the environment with ferocity. He was tremendously interested in coal, as well as the environment, in worker safety and, as I have indicated, in aviation issues, and in just simply countless other areas.

He was prodigious in his volume of output. Of course, that was, in part, because he was chairman of a very powerful committee, and he was chairman of that committee for a very long time. That was in the days when the Senate tended to be more in control by one party than the other for a very long time. He worked with the Scoop Jacksons and the Lyndon Johnsons and all of the others. They were able to accomplish an enormous amount. He did that and he loved it—he simply loved doing that. He simply loved laying pavement out across the wide horizons of our country.

There was an interesting aspect to Senator Randolph. He was intense about all of his work, but he was very much of a U.S. Senator from the State of West Virginia. He accepted full responsibility for the title "U.S. Senator" and acted on all matters that related to that with incisiveness and careful thought. But he liked to say—and often said, and said with great pride—quoting him—"I essentially am a West Virginia Senator. I'm not what you'd call a national Senator or international Senator." I think if he were here today, I am not sure the words would be that different.

And to understand that one has to understand his roots. He was born in this tiny community of Salem, WV, which is now the home of probably as many Japanese students in a Salem-Tokyo University setting as reside anywhere else in this country. His father was the mayor of Salem. He was born with very little money, and he worked his way in farm jobs. He knew agriculture very well. He worked for anybody who would give him a job to put a few dollars in his pocket so he could further his education and improve his possibilities. I liked that about him, because he was utterly a rural Senator, but with an urban reach when it came to the national part of his responsibilities.

He started in journalism and was always a prolific writer. He married Katherine Babb and won election to the House of Representatives in 1932 at the age of 30. One can do that these days, although one cannot go much younger than that legally. But then it was extraordinary, it was extraordinary to be able to do that. And I indicated he has two sons, Jay and Frank.

So more than 50 years later, I think the occupant of the Presiding Officer's chair will understand that it is quite a feeling for me to have succeeded him, to have been allowed to succeed him by his own gesture of generosity and, frankly, just to be able to succeed him.

He is long remembered in this body, as well as in the House, for the very exceptional nature that he had: High optimism, great confidence, enormous belief in country, and his absolute love for his State. He also—and I will say this in closing—he had a great love for his profession. And in that I think many of us join him. He was not one of those who felt being in public service was some kind of a second choice; I think he felt it was the best choice of all.

He was somebody who honored his craft, who brought great distinction to his craft, who never compromised on his principles. And when he faced a West Virginia audience or a Senate Chamber, he could stand tall and strong and broad shouldered, as he was, and do his work, because he knew he was doing work which was enormously important for helping the people that he so loved from the State of West Virginia.

So this is a day and a time that we have reason to reflect on Jennings Randolph and what made him an exceptional person. It is sad, I think, this tradition in the Senate when we do this about Senators when they die. It would be almost impossible to create a tradition where we did that while they were still living. But it would be nice if they could hear what it was that we say about them. And I suspect that Senator Jennings Randolph is able to hear and to know on this day, and days to succeed, what his colleagues think about him.

I personally am grateful to him for many reasons, as I think should be very obvious. I am not sure that I would be here if it were not for Jennings Randolph. And I know that my colleagues join me in our prayers and our thoughts for his family and in thanking Jennings Randolph for his enormous contribution to a craft which we call public service. And we do that with honor and pride.

I thank the Presiding Officer.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Thank you, Mr. President.

Before the Senator from West Virginia leaves the floor, let me say I thought he was extraordinarily eloquent. I got a chance to know Senator Randolph a bit as a Member of the House. And the Senator's statement here today really sums up the extraordinary qualities of this great man. I am very pleased to have been able to be here for a few minutes to hear the Senator's very fine speech.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The distinguished Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for as much time as I may need.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Thank you.

TRIVIALIZING GOVERNANCE

Mr. THOMAS. Mr. President, we are not moving along too quickly this morning, so I thought I would take an opportunity to visit about an observation that I have made. We had a few moments ago the remarks by the good Senator from West Virginia about the passing of a former Senator from his State. He talked a bit about the past, a bit about the history of the Senate, and it was extremely interesting. This place, of course, is filled with history, it is filled with tradition, and that is good.

On the other hand, there are changes that have taken place, and one of them is a little troubling to me. It does seem as if we are increasingly moving governance into more of show business and into more of political spin, more of promotion, more of advertising than really dealing with issues based on the facts and how they impact us.

The basic principle, of course, of our historic democracy, thankfully, continues to exist, and we must insist that it does continue to exist—the idea of a government by Constitution and adhering to the basic tenets of the Constitution, the separation of institutions that provide some semblance of power division among the executive and the legislative and judicial branches; the idea of public access, that people have an opportunity to participate fully in government, that people have an opportunity to have the background and the facts that are necessary to participate; the idea of disclosure—we talk about that a lot—majorities deciding the direction that we take in this country based on facts, rule of law. In short, a government of the people, by the people and for the people, of course, and these are basic elements of democracy.

An informed public is essential to that government of the people. Ironically, technology, which has provided us with the greatest opportunity to know more about what is happening more quickly than ever—can you imagine what it must have been like 100 years ago to be home in Wyoming and wonder what is going on in Washington? I suppose there was some comfort in that, as a matter of fact, but, nevertheless, it is quite different than what we have now. We have now the greatest opportunity in history for people to know what is happening and to know instantly what is happening. If a decision is made in Israel this morning, minutes later, the whole world, of course, is familiar with it.

Unfortunately, the same technology that has provided us the opportunity to know so much more has accommodated and, in fact, I suppose, engendered some of the changes that are taking place in terms of the promotion of ideas and our method of governance.

Unfortunately, spinning, promotion, and media hype have replaced real debate based on the issues, and that is too bad. It seems to me that this administration and, I must say, my friends in the minority, have perfected the idea that success is not policy or success is not finishing the job; success is having an opportunity to spin an issue on the evening news; success is getting coverage on the 5 o'clock national report. If polls indicate there is an issue out there in which people are interested and it is currently being discussed, this administration is quick to describe the problem and promise a Federal solution with lots of Federal money—"We'll fix it for you."

Often there is no plan presented to deal with the problem. There is generally no real proposal to implement, nothing is laid before the Congress. Frankly, there is really no expectation that anything is going to happen; that the idea is, "Here's the problem, here's what the polls have said; we'll fix it." And if you don't agree with that, suddenly you are out of step with the world. So success is measured in media rather than solutions. Unfortunately, I think we see more and more of that.

It is interesting to me, because, depending upon your point of view about government, there are problems and there are appropriate ways to fix them and appropriate ways to deal with them. Of course, it is true that people have different views about that. There are those who believe the Federal Government ought to be the primary fixer of whatever the problem. That is a legitimate liberal view. There are those who believe that it is more likely to find satisfactory solutions if you go to the State, the local government, or the private sector. That, I guess, is a more conservative view. But more important than the philosophy, I think it is appropriate that when you have something you want to deal with, we ought to talk a little bit about where it can most appropriately be fixed.

Should it be done at the Federal Government level? Should it be the kind of program that is one size fits all? I am very sensitive about that, I suppose, being from Wyoming. We are the smallest, population-wise, State in this country. So things that work in Pennsylvania, things that work in New York, do not necessarily work in Wyoming or Nevada or Kansas. So we are better off, in many instances, to say, "Wait a minute. This service can better be delivered on the basis of a State solution, although the politics of it is, 'Let's get on TV and say we'll fix it for you,'" even with no expectation of having it happen.

So I think we are finding more and more of that. And it just seems to me that it is something we ought to really evaluate, this idea that we watch the polls, find an issue, go to the TV, say we will fix it, and then beat up on everybody who really does not agree with that, without having any genuine—genuine—debate or discussion or analysis of how we best deal with the problem and where it works.

Generally, these are things that are done certainly in a broad context. Everyone cares about children, so if you have a proposal on children—and to suggest that we do not is offensive to me. Everybody cares about child care, but where is it best dealt with? Everybody cares about health care. Where is it best provided? Everybody cares about secondary and elementary education. Where do we best deal with it? It is not enough just to say, "We've got a problem. I want 100,000 teachers; I want the Federal Government to pay for it. It will become a mandatory program, and we have more and more Federal control."

Those are the debates. Those are the debates. I guess it troubles me because we sort of trivialize governance with this business of applying the media technique. I understand that the minority—and Republicans have been in the minority, of course. For the minority it is easier to make proposals. It is easier to throw stones and things because you do not have the responsibility to finish it up.

So it is, I think, an interesting kind of thing and one that I believe has some bearing on us really solving problems here. I think it is something we all ought to give some consideration to so that we begin to say to ourselves, "Here's the problem. How do we best resolve it?" not just "How do we get the best 5 o'clock news out of it?" Success should not be how much media coverage; success ought to be dealing with the problem, trying to resolve it with real debate, real desire to put it where it belongs. Many problems are best solved in the private sector, best solved in State and local government, best solved—some—by the Federal Government. And those are the decisions that we should make.

So, Mr. President, as we move forward I hope that we do maintain the elements of democracy. I have had the occasion, being chairman of a subcommittee on Foreign Relations, to go some places where they do not have democracy. And obviously the things that keep them from that is not having a constitutional government to which people can adhere and a rule of law which enforces it, an opportunity for people to voice their opinions and an opportunity for people to be informed as they form these opinions. These are the things that I think are important to our democracy and I am very interested in maintaining.

Mr. President, I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Utah is recognized.

Mr. BENNETT. Mr. President, am I correct that I am recognized by previous order for 15 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. BENNETT. I thank the Chair.

THE Y2K PROBLEM

Mr. BENNETT. Mr. President, I rise because this is an anniversary date, not an anniversary of something that happened in the past but an anniversary of something that is going to happen in the future. This is an anniversary that is counting backwards. Depending on how you count it, this is either day No. 599 or day No. 600; 599 to the 31st of December, 1999, or 600 days prior to January 1, 2000—the day of the great New Year's Eve party that everybody is reserving their time for in Times Square, in the various hotels in New York. But it is also a day that we need to look forward to with some concern because of what has come to be known as the millennium bug, the year 2000 problem, or, as the computer people abbreviate it, Y2K.

I used the phrase "Y2K," and my wife said, "What are you talking about? What does it stand for?" Well, the "Y" stands for "year;" "2" and "K," for "kilo" or 1,000 years—2,000—so it shortens it. Call it Y2K. She stopped and thought about it a minute, and she said, "Y2K or year 2000, you only save one syllable. What's the point?" Nevertheless, that is what it has come to be known as.

As the chairman of the newly created committee dealing with this challenge here in the Senate, I want to take this anniversary date to bring the Senate and any who are listening over C-SPAN out in the country as a whole up to date on where we are with the Y2K problem.

First, let me outline the dimensions of the problem. A lot of people say, "Oh, yes; we understand it. It is simply that computers are geared to handle the date with two digits instead of four." So 1998 would be in the computer as "98" instead of "1998." And that means when you get to the year 2000, the "00" to the computer means "1900" because the "19" is assumed in advance.

Actually, it is more serious than that. There are three areas of concern about Y2K.

The first one, of course, is the software concern that I have already mentioned. The software is programmed with two digits for the date instead of four. If you do not change the software program, the computer runs into problems and starts to do very strange things when it hits the year 2000. That is the first area, the area we have been focused on.

Since I have been involved in this issue—and it has been almost a year since I began to focus on it—I have discovered there were two other areas. So in addition to software, you have a hardware problem symbolized in the phrase "embedded chips." These little tiny chips that drive the computers, the miracles of the modern technological age, very often have a date function built into them. And, again, in order to save space on the chip, the date function is built in with two digits.

Where are the embedded chips? They are embedded everywhere. Andy Grove, the CEO of Intel, the largest producer of chips in the United States, was here in Washington a week or so ago. He was asked, "How serious is the Y2K problem?" He said, "It is very serious. And the reason is"—he is focusing on the chip side—"you don't know where the embedded chips are embedded." "For example," he said, "the thermostat in your home may not work after New Year's Eve, 1999." Now, it will not do you any good to call the manufacturer of the thermostat and ask him, because the manufacturer himself does not know. The chips were purchased, put into the thermostat, without concern as to whether or not they had a date function. And if the manufacturer got some chips that had date functions in them and put those chips into your thermostat, you are going to be very chilly on New Year's Day in the year 2000. And there is no way of knowing in advance whether that is going to happen.

That can be a nuisance for you, it can be a life-or-death situation for some people, and it can be an enormous manufacturing challenge where we are storing and refrigerating meat and other perishables that are dependent on those embedded chips. It can be a life-or-death situation for an automobile manufacturer whose entire plant is now automated with robotics, all of which have embedded chips.

So, as I said, Mr. President, it is not just the software that needs to be changed, as the first of these three areas of concern; it is also the embedded chips that need to be found and dealt with.

As a final footnote to this, I was discussing this whole Y2K issue with an individual at the Church of Jesus Christ of Latter Day Saints, more commonly known as the Mormon Church, the largest church in the State which I represent, asking him how prepared the church was. Fortunately, it was good news. He said the church was quite prepared. But he said, "We have identified, among other things, two embedded chips in the tabernacle organ, which if we do not replace means that the Mormon Tabernacle Choir will not have any organ accompaniment to it on January 1, 2000." That shows how ubiquitous the problem of the embedded chips can be and how it can show up in places no one would ever think.

I said there were three areas of concern. I talked about the software and the embedded chips. What is the third? This is the area of connections. Everything in the computer world is connected to everything else in one way or another. I was at the Defense Department talking to those officials about their Y2K problem and made the comment about how difficult it will be in our defense establishment if, on January 1, the screen goes blank, the various screens that handle the computerized information, in our defense establishment.

Deputy Secretary Hamre said, "No, Senator, if the screen goes blank, while that is a problem, it is not a catastrophe; because if the screen goes blank that tells you you have a problem in that particular piece of equipment. The thing we are worried about is if the screen does not go blank, the computer continues to operate, but another computer system to which it is connected starts feeding it inaccurate data." If the computer continues to function, make its calculations that "zero zero" really does mean 1900 and begins to give you bad information, that could contaminate your entire database. That, he says, is a bigger concern than if the screen goes blank. Frankly, that had not occurred to me. I was able to add, unhappily, a third category of concern—software, hardware in embedded chips, and now connections.

What are we looking at in our special committee with respect to the year 2000 problem? I have divided it up into seven areas and prioritized these areas. We will look at them in the following order to try to see what we can do to avert disaster in the next 599 days—all the days that are remaining to us. Obviously, we would like to pass a resolution saying that we have an extra 2 or 3 years. We do not, no matter what the Congress does, no matter what the President does, no matter what anybody else does, we have 599 days and counting down, inexorably from right now.

These are the areas of concern. No. 1, utilities. If the power grid goes down because of connections in the computers or because of embedded chips in certain power plants that shut those power plants down because of bad software somewhere, then it is all over. It doesn't matter if every computer in the country is Y2K compliant if you can't plug it into something. So we are focusing first and foremost on utilities and not just power. The water treatment system in every municipality in this country is computer driven and has the potential of being upset because of embedded chips and bad software. Utilities, therefore, are at the top of the list of the things we are addressing in our committee and are doing what we can to try to expose information about and get people worried and working on it.

Second is telecommunications. What happens if you pick up the phone on January 1, 2000, and you cannot get a dial tone? I don't think that is going to happen in the United States. But the evidence is fairly clear that it is going to happen in some countries. If you are running a multinational organization, be it the Defense Department or a corporation, and you pick up the phone and you cannot get a dial tone in various parts of the world, you are in serious trouble. So, behind utilities, we are looking next at telecommunications.

Third, transportation. Instantly people think of the FAA and the inability of the air traffic control system to control airplanes, and that is a concern, but what about shipping on the high seas—global positioning systems that all have chips in them that control the navigation of the oil tankers and the other freighters that are moving commerce all over the world? Here in the United States the railroads are heavily dependent on computer systems to route the traffic that produce the shipment of the heavy materials that keep our Nation going. Transportation is clearly No. 3 following utilities and telecommunications.

No. 4 is the area that got me interested in this problem in the first place, the financial services. What happens if the banks cannot clear checks? What happens if there can be no electronic transfers of funds? I am happy to report that I believe we are fairly well along the road toward getting this problem solved. We have had seven hearings in my subcommittee on the Banking Committee on this issue, but we cannot relax here, either. The financial services clearly come in as the No. 4 concern.

Then, No. 5, general government services, not only Federal but State and local, as well. What happens if in our large cities the county government cannot distribute welfare checks, the county government cannot handle food stamp distribution because of computerization of the way that situation is handled? What happens if HCFA, the Health Care Financing Administration, cannot handle reimbursement of Medicare or Medicaid funds? I have talked to hospitals and other health care providers that are dependent on HCFA reimbursements for their cash flow projections and they use the HCFA cash flow to do such things as purchase ordinary supplies for running the hospital. The whole health care system could grind to a halt if the government services in this area are not made Y2K compliant. The doctors who I have talked to tell me we have long since quit dealing with HCFA with paper. All of our interconnections with HCFA are electronic, and if that system goes down, the ripple effect will be tremendous.

Next, general manufacturing. Fortune magazine had an article on their web site pointing out how much trouble General Motors is in. I don't mean to single out General Motors because I think every manufacturer has the same kind of problem. In today's world, where computers are available, we operate a just-in-time inventory system where you do not have huge stockpiles of spare parts out on the back lot anymore. With the computer, you have it worked out with your supplier that your spare parts arrive just in time for you to put them in your final manufacturing product. The just-in-time manufacturing system shuts down altogether and the manufacturing shuts down. General Motors has done a survey of every one of their manufacturing plants and they have found embedded chips in every one of their robotic systems. If they do not get this problem solved, they will not be able to produce an automobile after January 1, 2000.

And then, finally, No. 7, listed last because it will come last chronologically, but probably should be listed first in terms of its financial impact if we do not get the other six solved, is litigation. The lawsuits that will be filed will be enormous. Estimates before my subcommittee of the Banking Committee indicate the total litigation bill could run as high as $1 trillion, one-seventh the size of the total economy that will change hands as people sue each other over the problems created by Y2K. We have to make sure we solve the other six so that No. 7 doesn't hit us and destroy us.

The purpose of the special committee created by the Senate, I believe, is to examine all seven of these areas, act as a coordinating point for people involved with each of the areas, and then give reports, both to the Senate and to the people in the country as a whole, as to where we are, because it is not all doom and gloom. We do have areas where we are making progress.

I talked this morning with John Koskinen who heads this effort on behalf of President Clinton in the executive branch. He reported to me that contrary to some of the information we have seen in the press, the Social Security Administration will be all right, and will indeed be able to distribute Social Security checks in the year 2000. Now, if the banking system is all right, those checks can be received, and that is a demonstration of the problem of interconnectivity that we have. But that is a piece of good news. As we focus on the challenge of Y2K, we should not lose sight of the fact that there is good news and there is progress being made.

I close with this observation about the importance of this entire issue. One of the experts with whom I have been in contact since I assumed this new chairmanship said to me, "The one thing we know for sure about this is that nobody has ever done it before. We have no historical precedent to guide us, to tell us how to handle this and what we can expect." And, of course, he was accurate. Of course, that is a true summation of where we are.

Yet when I made that comment to another friend of mine, he said something that I think summarizes exactly the challenge we are facing. He said, "No, BOB, that is not true. We have a historic example. I said, "What is it?" He said, "the Tower of Babel." He said, "The people got together and decided they were going to build a tower to heaven, and God didn't like it, so he fixed it so they could not talk to each other and that ended it." He said, "That is the paradigm of what we are dealing with here, Y2K." We are facing the possibility that after January 1 we cannot talk to each other because the world is all wired by computers, and if, indeed, that turns out to be the case, as was the case in Genesis, that will end it.

I am hoping that everyone recognizes this anniversary for what it is—a milepost on the road toward an inexorable challenge, and that we use the opportunity to take the remaining 599 days to see to it that when we get to New Year's Eve 1999, we can look back and say that we were facing something as serious as the Tower of Babel, but we have, as a Nation, and as a world, faced up to that, and now Y2K is going to be a bump in the road instead of a drive off the cliff.

Mr. DORGAN. Will the Senator from Utah yield for a brief question?

Mr. BENNETT. I am through with my presentation. Yes, I yield.

Mr. DORGAN. Mr. President, I feel very comforted knowing that the Senator from Utah is a cochair of the task force along with Senator DODD. I compliment the majority leader, Senator LOTT, and Senator DASCHLE for putting together a commission of the type they have established. I know, serving as ranking member of the legislative branch appropriations subcommittee of which Senator BENNETT is chairman, that he has, in every circumstance, at every hearing, gone through in some detail this Y2K problem. He knows it well and is very concerned about it.

As he properly indicates here in the Senate, this doesn't just deal with Federal agencies. In fact, that is only a very small fraction of what can be affected, unless this problem is dealt with as a nationwide priority. But I wanted to just say, as I have said before on the floor, I think Senator BENNETT is one of the finest people serving in this body. He has devoted a lot of attention to this issue. If this is not handled properly all across this country in both the public and private sector, this could have catastrophic consequences. If handled properly, we probably won't even know that this situation came and went. But I just want to tell you that I feel comforted by his leadership. I thank him very much for all of the attention and time he has devoted to this. He and Senator DODD will spend a substantial amount of time between now and the year 2000 on this very significant issue.

Mr. BENNETT. Mr. President, I thank my friend who has been very indulgent in my obsession with this issue in the subcommittee of the legislative branch of appropriations. In the spirit of what I just said about reports, I can report to the Senate that he and I heard testimony before our last appropriations subcommittee that the Senate will indeed be Y2K-compliant in the year 2000. The Sergeant at Arms, the Secretary of the Senate, and others, have focused on the priorities and are doing the things necessary to get us there. They are changing the computers in the Senate at the rate now of about a thousand a month. I was startled, as I think my friend, Senator DORGAN, may have been, to learn that there were close to 9,000 computers in the Senate; that is 90 for each Senator. I didn't think we needed that many. But there are. They are being made Y2K-compliant at the rate of about a thousand per month now. That will allow us the requisite amount of time to test the various fixes and see to it that we have it under control.

The one disquieting note that came out of the hearing that I share with my colleagues was that they said, "We will have the mission-critical systems Y2K compliant by January of 2000." I said, "What is your definition of a 'nonmission-critical system?'" They said, "Well, the copier in your office may not work." There will be many constituents that will be delighted to know that we cannot make copies in January of 2000 until additional work gets done. But I thank my friend for his support in that area and for his very kind words. They are much appreciated.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I also say to my colleague from Utah that I hope he continues with his "obsession," as he described it, because we really need his leadership. I am grateful to him for the important work he is doing.

HUMAN RIGHTS ABUSES IN INDONESIA

Mr. WELLSTONE. Mr. President, I ask unanimous consent that a letter that I have sent to the President, which expresses my concern about the ongoing human rights abuses in Indonesia, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 11, 1998.

Hon. WILLIAM J. CLINTON,
President of the United States,
White House, Washington, DC.

DEAR MR. PRESIDENT: I write to express my deep concern about the ongoing human rights abuses in Indonesia. According to the State Department's Country Reports on Human Rights Practices for 1997, the Indonesian Government met calls for political reforms with arrests and crackdowns on opposition parties. The Suharto regime maintains its power through policies of corruption, intimidation and government enforced repression of opposition groups. According to many credible human rights NGO reports, government critics are frequently arrested, tortured, raped, unlawfully killed or disappeared. The people of Indonesia are systematically denied democratic freedoms such as free and fair elections, freedom of the press and freedom of assembly. The lack of an independent judiciary and the lack of accountability for members of the armed forces play a major role in the continuation of serious human rights abuses.

Countless thousands have been subjected to arbitrary detention, with torture used to force detainees to produce names of opposition supporters. Mr. Pius Lustrilanang, a prominent opposition leader who was abducted earlier this year and detained for two months, has said that his captors beat him and administered electric shocks to his hands and feet in an attempt to discover details of his political activities. Lustrilanang spoke out about this experience at great personal risk, endangering not only his own safety, but that of his family as well. Student leaders of the People's Democratic Party, which was banned last September, have been arrested and sentenced to heavy terms of up to thirteen years. Their crime was organizing worker rallies, calling for a referendum on East Timor, and campaigning for a more open political system.

The United States has pursued a policy of engagement and friendship with Indonesia. I feel that we could do more to promote freedom and human rights. While I commend the Pentagon's recent decision to cancel a joint training exercise with the Indonesian military, I am deeply troubled by reports earlier this year that the United States may have been involved in the training of KOPASSUS Special Forces, Indonesia's notoriously brutal military unit, responsible for torture; night raids; and frequent disappearances. The United States also has supplied the Indonesian government with much of the military hardware which is used to foster a climate of fear and intimidation. The military plays a key role in preserving nondemocratic rule in Indonesia by deploying forces at all levels of society to crush peaceful dissent. Continued military support indicates U.S. approval of the Suharto regime's ongoing repression. As a worldwide symbol of freedom and democracy, our foreign policy should reflect our philosophy of political pluralism and government by the consent of the people.

In our economic support for the Indonesian government, through institutions such as the IMF, we should be using our leverage to press for political reforms, democratization and greater respect for human rights. Instead, we have virtually ignored the IMF's statute where it is written, "The International Monetary Fund shall advance the cause of human rights, including by seeking to channel assistance toward countries other than those whose governments engage in gross violations of human rights of citizens."

How can the United States justify bailing out a regime which grows more repressive by the day? We have made economic reforms a condition of our bailout and, at least so far, the Indonesian government has complied. However, the solution to the present economic crisis will require more than just financial transparency and the elimination of corruption. Lack of confidence in the political system is preventing new investments from the private sector. Markets respond with greater confidence to transparent, stable political environments. If we are truly concerned about the welfare of the Indonesian people, our continued funding should be contingent upon greater political openness and improvements in Indonesia's human rights record.

It is time to clearly signal to the Suharto regime that we support multi-party democracy, fair labor practices and a respect for human rights.

Sincerely,

PAUL WELLSTONE,
U.S. Senate.

Mr. WELLSTONE. Mr. President, the context of my speech on the floor of the Senate today is as follows. I have been, as the Senator from Minnesota, moved by the courage of students in Indonesia who are challenging a very repressive government. They do this at great risk. But they have shown the courage to speak out. President Suharto has left for a conference in Egypt and has made it crystal clear that students and others in Indonesia who dare to speak out will suffer the consequences.

The Suharto regime has been corrupt; it has been repressive. There are many reports by all of the reputable human rights organizations of people being arrested, tortured, raped, killed, or they have disappeared. It is in this environment that these young people in Indonesia now step forward with a tremendous amount of courage to speak for freedom and democracy in their country—Indonesia.

It is for this reason that as a U.S. Senator I come to the floor of the Senate to support them. It is for this reason I have sent this letter to the President. It is my hope that our Government, and all of us here in the Senate and in the House of Representatives, will make it clear to Mr. Suharto that we will not turn our gaze away from this repressive government, and that we will support these students and other citizens in Indonesia who speak out for the very things that make our country such a wonderful country—freedom, the right to be able to dissent, democracy.

Mr. Pius Lustrilanang, a prominent opposition leader, was abducted earlier this year and was detained for 2 months. He talks about the ways in which his captors beat him, administered electric shocks to his hands and feet, in an attempt to discover details of his political activity. His political activities were political activities we take for granted. He was writing, speaking, and doing things people should be able to do in their countries.

Student leaders of the People's Democratic Party, which was banned last September, have been arrested and sentenced to terms of up to 13 years. Students, young people—I say to pages who are here—your age, have been sentenced to 13 years in prison. What was their crime? They organized worker rallies, they called for a referendum on East Timor, and they were campaigning for a more open political system; in other words, for the right of people to be able to organize and to speak out. They now are faced with 13-year prison sentences.

I am concerned about what is now happening in Indonesia. I think our Government should be stronger in our support of the students and for the men and women who are speaking up for democracy and human rights in Indonesia. I commend the Pentagon's recent decision to cancel a joint training exercise with the Indonesian military. But I am deeply troubled by reports that the United States may have been involved in training with the Indonesian special forces, which has really become or is known as a very brutal military unit responsible for the torture, the midnight raids, and the frequent disappearance of citizens.

Mr. President, in addition in this letter that I have sent to President Clinton, I raise questions about the ways in which we bail out a regime which grows more repressive day by day. The infusion of capital by the IMF makes "economic" reform a condition for the bailout. I am not sure the IMF prescription has helped. I have said on the floor before that I am an internationalist. I think we ignore the world at our own peril. I think economic development support is critically important, as is humanitarian assistance. I sometimes think the IMF just pours fuel on the fire. In this particular case, the Government says it is raising fuel prices and taking other action like this in response to the IMF, which, of course, imposes additional pain and hardship on the poor, not on Suharto and his family.

But, in any case, it seems to me that if we are truly concerned about the welfare of the Indonesian people, our continuing funding should be contingent upon greater political openness and improvement in Indonesia's human rights record.

I don't know why the administration—President Clinton, the administration, our Government; really, the President speaks for our Government—I don't know why we are not more insistent on these governments who attack, torture, rape, and murder their citizens to abide by elementary standards of decency. In some kind of way, we should make some of our assistance contingent upon this. Surely we can at least speak up. Surely we can at least send a clear signal to the Suharto regime that we support democracy, that we support fair labor practices, that we support human rights, and that we will not stand by idly as this regime, the Suharto regime, continues to repress its citizens.

I come to the floor of the Senate today to speak for the students. I come to the floor of the Senate today to call on the President to speak for the students, courageous students, courageous young people, who I believe are capturing the imagination of Indonesia. They are lighting a candle with their courage. And I think the President and I think the U.S. Congress and the United States of America ought to be on their side.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I appreciate very much what the Senator from Minnesota had to say about the dissidents in Indonesia who, at their own peril and at the risk of their lives, are saying that they would like the right of self-determination and they would like freedom.

I was in China the day Wang Dan was sentenced to 11 years, I believe, in prison in China for criticizing his Government. And I saw Tiananmen Square, I say to the Senator, and I thought about that young man in the white shirt.

You remember the picture during the demonstration in Tiananmen Square when the tanks came to break up the demonstrators and this young man in a white shirt walked out and stood in front of this column of tanks in front of the first tank and forced the tank to change course. Then he moved over again in front of the tank.

I watched that. I thought, What on Earth must be inside of this young man? What kind of courage must it take to say, "I am going to stand in front of a tank and risk my life for freedom"?

That is what the Senator from Minnesota is talking about with respect to the price that is paid by, in many cases, young people, and older people as well, who demonstrate to resist regimes that are oppressive and regimes that tend to try to squelch freedom of speech.

So I think this country should always be vigilant about the need to stand up for those around the world who do that at their own peril. They are asking for only what we understand in this country makes a good society. That is freedom—freedom of speech, freedom of movement.

Mr. WELLSTONE. Will the Senator yield for a comment?

Mr. DORGAN. Yes. Certainly.

Mr. WELLSTONE. Given what the Senator just said about Tiananmen Square, given the courage, again, of the students and others, that is why I wish the President would not go to Tiananmen Square. I think the President is making a terrible mistake. I didn't think the President should be there.

I will just make that comment to my colleague.

Mr. DORGAN. I would respond to the Senator by saying that I think, and have always thought, that our foreign policy must always have a human rights component to it. That is, it seems to me, what we owe to others around the world who struggle for freedom. And I appreciate the leadership of the Senator from Minnesota in this matter. He is once again today calling the Senate's attention to the importance of human rights.

CBO'S MONTHLY BUDGET REVIEW

Mr. DORGAN. Mr. President, I come to the floor to speak first about the Congressional Budget Office, which last week released its monthly budget projection. And I noticed that this projection, this estimate, received prominent coverage in the Washington Post and in other major daily newspapers around the country last week.

Actually, those papers may have mentioned this CBO report twice. First there were news stories saying says that the Congressional Budget Office now predicts that in this fiscal year —1998—we will have a budget surplus, they say, of anywhere from $43 billion to $63 billion. And in the next 24 and 48 hours, there was a spate of stories about a group of people telling us what they would like done with this alleged surplus.

Just as quick as you can light a candle around here, any discussion about a surplus brings people who want to spend it or give it back in tax breaks. And very quickly they clustered around that flame of the surplus and told us what they thought should be done about this.

I would like to simply say that the Congressional Budget Office does us no service when it gives us half the story. The Congressional Budget Office is a fine organization, and I mean no disrespect to the work of CBO or the people who do that work. And CBO is right to say that we have made substantial progress dealing with fiscal policy, and especially the Federal budget deficit in recent years. For a number of reasons, our deficits have shrunk dramatically. We have made remarkable progress.

But we are not there yet, and we will not have and do not have a surplus this year. We will continue to have a deficit this year, albeit a much smaller deficit—shrunk dramatically from its previous size. We are continuing to make great progress, and we will have a surplus soon, but we will not have a surplus this year. Let me explain why.

On April 2d of this year, this Senate passed a budget. I might add that this House still has not yet figured out what it wants to do on a budget. But in the Senate budget resolution, which billed itself as providing a budget surplus, on the fourth page, I believe, it admits that the actual deficit for fiscal year 1998 is going to be $95.6 billion.

That is very much at odds with the Congressional Budget Office, which says, "Gee, things are rosy, and they are getting better. In fact, we will have a very significant surplus." And we have people slicing up this estimate of a surplus, figuring out how to give it back or what to do with it when. in fact, our budget resolution says we are going to have a deficit this year of $95.6 billion.

The key to the difference is in the Budget Act. The Budget Act says—this is law—"The concurrent resolution"—that is, the budget resolution—"shall not include the outlays and revenue totals" of the Social Security system.

In other words, we have enshrined in the law the principle that the revenue of the Social Security system is dedicated tax revenue going into a trust fund to be used only for Social Security. And the revenue will be used for Social Security—because it will be needed in the long term. We all understand that. But this provision of law says that you can't use that revenue, you can't bring it out of that trust fund over here to the budget and say, "By the way, we have all of this revenue we are using over here and the budget looks great."

The law says you cannot do that. But the Congressional Budget Office report just ignores that law. They don't admit they re using the Social Security trust fund, but they, in fact, do it because that is the way they report. They say, well, we are going to have a $43 billion to $63 billion surplus in this year. How do they get that? By taking the Social Security trust fund money, adding it in as other revenues and saying, wow, we have a surplus. And so we have folks who are going to spend this alleged surplus, or create some new tax breaks to give back the supposed surplus before a surplus really exists.

Now, my own vote on the surplus, if one develops, is to say let us begin to reduce the Federal debt just a bit. If for 30 consecutive years you increase the Federal debt, it seems to me that when times are good and you begin to have some significant progress in fiscal policy and you begin to run a real surplus, the prudent thing would be to begin to reduce the Federal debt. So that would be my vote.

But we are not there yet. And I certainly do not support those who rush to this flame now and say, well, if CBO says there is a surplus, here is how we ought to deal with it: Let's provide some more tax breaks. Let's provide some more spending.

What about let's do some honest accounting? What about let's say that the CBO, when it reports, if it reports, it must follow budget law and report to the American people the facts, not just half the story?

So I come to the floor not to say there is not a parade going on—I guess there is a parade—but they are celebrating the wrong thing. Let us celebrate some success. We have had some major progress in fiscal policy. That progress is due in no small part, in my judgment, to the President's 1993 recommendations on a new fiscal policy. That plan required some effort to vote for it, but we did, and.things are better. I would also say some restraint on spending by the Republicans and Democrats here in the Congress and also a growing economy have also helped our budget picture.

All of that contributes to a better story on fiscal policy. But we are not at a real surplus yet. And the Congressional Budget Office knows better, as do the newspapers that print this. In fact, I sat with a reporter last Thursday just briefly just to say hello. We happened to see each other accidentally, and I said I read the story about the supposed budget surplus. I said, "You know that's not in surplus."

Well, that reporter understood about unified budget surpluses and on-budget deficits. But the fact is that CBO was reporting half the story last week, and the press dutifully reports it the way CBO says it, and CBO and everybody here knows they are wrong.

So I hope those who began last week to talk about what they want to do with all this alleged surplus, and who will likely waste this week trying to figure it out, I hope they will take a look at pages 32–33 of The Economic and Budget Outlook produced by CBO in January. There—not in the monthly review, but in the annual January report—CBO has a line that describes what the real deficit is.

But that line is nowhere to be found on their monthly reports that they put on the Internet that resulted in last week's press statements. I hope CBO will change that, and put the information about the real state of our budget in its monthly reviews. And I hope the press picks up on that information and starts reporting it.

That information will add enormously to our budget discussions this summer. Then we might have an honest debate on whether there really is going to be a surplus at the end of this fiscal year, a surplus that can be used for purposes other than Social Security. I don t think there will be, and I look forward to making that point.

A RETURN-FREE TAX SYSTEM

Mr. President, one additional point. Last week we passed a major IRS reform bill. I voted for the bill because I think it has many provisions that ought to be very helpful for taxpayers dealing with the IRS. I have some continuing concerns about other parts of the bill. For example, I m concerned about the method used to pay for it. It was a sleight-of-hand kind of method and needs to be changed in conference.

Having said all that, in this Chamber last week I complimented Senators ROTH, MOYNIHAN and others for their leadership in writing some of these provisions. I want to point out a significant provision in the bill that requires the Treasury Department to study and develop procedures for implementing a return-free tax system beginning after the year 2007.

I have described to my colleagues a piece of legislation that I have worked on for many months that could provide a return-free tax system for up to 70 million Americans. While I am very encouraged by what Senator ROTH and Senator MOYNIHAN have done and fully support it—and think they have advanced this issue some, I have also visited with both, encouraging them to work with us in conference to move up this 2007 date.

The fact is we could much more quickly go to a return-free income tax filing system for anywhere from 50 to 70 million Americans. It is not a very complicated thing to do. It would be relatively easy to say to most Americans with incomes mostly from wages and salaries—and who have only a modest amount of non-wage income such as interests, dividends and capital gains—that they could decide never to file a Federal income tax return again. These taxpayers would make a few simple adjustments on their W–4 form at work, and their employers would withhold their precise tax liability over the year using a table provided by the IRS. This withholding now becomes their exact tax liability for the year. No return needs to be filed. They don't have to go looking for records. They don't have to rush to the post office on the night of April 15 to get a postmark. It becomes the exact tax liability. And, in most cases, these taxpayers won't have to worry about an audit.

Two additional adjustments would be put on the W–4, which all employees now file with their employer, to capture the per child tax credit that Congress adopted last year and a tax deduction for home ownership. These adjustments are provided by the IRS on a table. These adjustments would be no more difficult for the employer.

But from that process, I believe that 50 to 70 million people could be relieved of the obligation to file an income tax return. Some 365 million hours of work now done by taxpayers to prepare returns and get them filed could be eliminated. How much paper for 70 million tax returns and supporting materials gone? And we could do this in the next year or so.

I rise today only to say I am very pleased that Senator ROTH and Senator MOYNIHAN included this return-free approach in the Senate's IRS restructuring bill. I would just commend to them that a piece of legislation I have written would advance that very quickly. We could do it in a year or so. More than 30 countries around the world use some form of return-free filing system—no paper. Employees do not have to file a return. Some of the countries, incidentally, have a reconciliation by the taxing agency, while others mirror my approach where you simply retool the W–4 form to make it slightly more accurate. It isn't much longer and is no more difficulty for the employer, but my plan relieves probably 50 to 70 million people from having to file an income tax return.

I think if we did that, it would be a giant step toward real tax simplification for millions and millions of Americans. There are others in Congress who say, well, what we want to do is get rid of the entire tax system, which is fine. If one believes we should do that, then with what do you replace it? They say, well, a flat tax so that Donald Trump pays the same tax rate as the barber in my hometown.

I don't happen to share the belief that would be a fair system. I think maybe Donald—maybe I shouldn't use his name, but he seems to have his name on everything. He probably would not mind my using it. I think Donald might want to pay a slightly higher rate than the barber in my hometown; or others say, well, let's have a national sales tax.

A study by a tax expert at the Brookings Institution says if you have a national sales tax, the rates would probably be over 30 percent, and then add the State and local taxes, and that would be on almost everything. So say you would like to buy a house and here is the price we have agreed on, and then have someone tell you, oh, yes, you have a 37-percent sales tax applied to that price, 30 percent Federal, 7 percent State and local.

Others say a value-added tax. There are all kinds of ideas for how to change the tax system. I would say it is unlikely that we are going to see the current income tax system completely obliterated. I expect that in some form it will be around for some while, and if it is, I would very much like to see it radically simplified for most of the American people. It is hard to have a one-size-fits-all. I understand that some people have very complicated income situations; they have a lot of income from different areas and a lot of expenses from other areas. I think in some cases those are very complicated; it is very hard to simplify that. But for the vast majority of the American people, working families whose main income comes from a wage or salary and who have very little other income, this income tax system need not be a headache. It could be radically simplified. It could be done very quickly.

We could move to a return-free system, as I indicated, for up to 70 million Americans and we could do it in a year. I very much hope—with the cooperation of my friend, the Senator from Delaware, Senator ROTH, and Senator MOYNIHAN—we can make some progress on that.

As I close, let me also say, as I did last week, they have provided significant leadership, I think, to pass the legislation we did through the Senate last week. I once again commend both of them for that leadership.

Mr. President, I yield the floor and I make a point of order a quorum is not present.

The PRESIDING OFFICER (Mr. BENNETT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—S. 1618, S. 1723, S. 1260, and S. 2037

Mr. McCAIN. Madam President, I intend to, on behalf of the majority leader, propound a unanimous consent request. I understand that at this time the Democratic leader may have to oppose this unanimous consent request. But I also believe that given the next couple of hours perhaps we can get some agreement. Both Senator LOTT and Senator DASCHLE, I understand, are in discussion. But I think we ought to move forward as we told the Senate we would and at least start discussions of these bills.

So, therefore, understanding that we have some optimism about a unanimous consent agreement within the next couple of hours, I will propound the unanimous consent request. I understand Senator DORGAN, the Senator from North Dakota, will object.

Madam President, on behalf of the leader, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S. 1618.

I further ask unanimous consent that there be a total of 2 hours of debate equally divided in the usual form. I further ask that the only amendment in order other than the committee amendments be a managers' amendment.

I finally ask unanimous consent that following the disposition of the above amendments the bill be read a third time and the Senate then proceed to a vote on passage of S. 1618 with no intervening action or debate.

Madam President, that is the antislamming bill, on which, as we know, there have been numerous hearings and discussion and debate not only within the Senate but in the entire country.

Additionally, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S. 1723. I further ask unanimous consent that there be a total of 2 hours of debate equally divided in the usual form. I further ask that no amendment be in order other than the committee-reported substitute amendment.

I finally ask unanimous consent that following disposition of the above amendment, the bill be read a third time and the Senate then proceed to a vote on passage of S. 1723 with no intervening action or debate. That, Madam President, is the skilled workers immigration bill that is sponsored by Senator ABRAHAM.

I also ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S. 1260. I further ask unanimous consent that there be a total of 2 hours of debate equally divided in the usual form. I further ask that no amendments be in order other than the committee-reported substitute amendment.

I finally ask unanimous consent that following the disposition of the above amendment, the bill be read a third time and the Senate then proceed to a vote on passage of S. 1260 with no intervening action or debate. That bill is the Uniform Standards Act.

Finally, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S. 2037. I further ask consent there be a total of 30 minutes of debate equally divided in the usual form, with an additional 15 minutes under the control of Senator ASHCROFT. I further ask that no amendment be in order to the bill.

I finally ask unanimous consent that following the expiration or yielding back of the time, the bill be read a third time and the Senate proceed to a vote on the passage of S. 2037 with no intervening action or debate.

Madam President, that is the so-called WIPO copyright legislation from Senator HATCH, reported out of the Judiciary Committee.

I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. And I shall object, but under my reservation let me point out, as I think the Senator from Arizona pointed out, no such agreement has been reached between the majority and minority leaders on these pieces of legislation dealing with the procedures under which they will be considered. All of the unanimous consent requests provide a limited time and limited amendments. I think in most cases only the managers' amendment would be allowed, which would then preclude amendments from other Members of the Senate. It is my hope that some kind of an agreement will be reached by the majority and minority leaders, but until such an agreement is reached, I am constrained to object, so I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I remain hopeful that within the next couple of hours we can reach this unanimous consent agreement. There has been a great deal of discussion about taking up these pieces of legislation—in fact, several others in addition. But I believe that the Senator from North Dakota shares my optimism that perhaps we can, with some modifications, achieve a unanimous consent agreement.

I yield to the Senator.

Mr. DORGAN. Madam President, if the Senator will yield, I do not think the question here is about the particular issues the Senator proposes to bring to the floor. In fact, most of them will have rather wide support. The question deals with the conditions under which they will be brought to the floor and on the restriction on amendments. As the Senator knows, that is a product of having to consult with other members of the caucus and the consultation between the majority leader and the minority leader. I know they are visiting, and I would expect and hope that that is resolved. But until it is resolved we must object, and I appreciate very much the understanding of the Senator from Arizona.

THE EFFECT OF INFORMATION TECHNOLOGY ON THE ECONOMY

Mr. McCAIN. Madam President, I want to quote from the Department of Commerce:

> During the past few years, the U.S. economy has performed beyond most expectations. A shrinking budget deficit, low interest rates, a stable macroeconomic environment, expanding international trade with fewer barriers, and effective private sector management are all credited with playing a role in this healthy economic performance. Many observers believe that advances in information technology driven by the growth of the Internet have also contributed to creating this healthier than expected economy.
>
> In recent testimony to Congress, Federal Reserve Board Chairman Alan Greenspan noted:
>
> "Our Nation has been experiencing a higher growth rate of productivity—output per hour worked—in recent years. The dramatic improvements in computing power and communication and information technology appear to have been a major force behind this beneficial trend."

Madam President, we all pay close attention to Federal Reserve Board Chairman Alan Greenspan, and usually, especially in this case, we agree.

> Some have even suggested that these advances will create a long boom which will take the economy to new heights over the next quarter century.
>
> While the full impact of information technology cannot yet be precisely evaluated, its impact is significant. Information technology industries have been growing at more

than double the rate of the overall economy, a trend that is likely to continue. Investments in information technology now represent over 45 percent of all business equipment investment. Declining prices for information technology products have lowered overall inflation.

Because the Internet is new and its uses are developing very rapidly, reliable economy-wide statistics are hard to find and further research is needed. Therefore, we have to use industry and company examples to illustrate the rapid pace at which Internet commerce is being deployed and benefits are being realized. Examples showing the growth of the Internet in electronic commerce this past year are numerous.

Fewer than 40 million people around the world were connected to the Internet during 1996. By the end of 1997, more than 100 million people were using the Internet. As of December 1996, about 627,000 Internet domain names had been registered. By the end of 1997, the number of domain names more than doubled to reach 1.5 million.

Traffic on the Internet has been doubling every 100 days.

Madam President, I feel compelled to repeat that.

Traffic on the Internet has been doubling every 100 days.

Cisco Systems closed 1996 having booked just over $100 million in sales on the Internet. By the end of 1997, its Internet sales were running at a $3.2 billion annual rate.

In 1996, Amazon.com, the first Internet bookstore, recorded sales of less than $16 million. In 1997, it sold $148 million worth of books to Internet customers.

One of the Nation's largest book retailers, Barnes & Noble, launched its own on-line bookstore in 1997 to compete with Amazon for this rapidly growing on-line market.

In January 1997, Dell Computers was selling less than $1 million of computers per day on the Internet. The company reported reaching daily sales of $6 million several times during the December 1997 holiday period.

Auto-by-Tel, a web-based automotive marketplace, processed a total of 345,000 purchase requests for autos through its web site in 1996 for $1.8 billion in auto sales. As of the end of November 1997, the web site was generating $500 million a month in auto sales, which is $6 billion annualized, and processed over 100,000 purchase requests each month.

Madam President, that is just a few examples of the way this industry is exploding into American life and through all parts of it. How it is changing America is dramatic and, frankly, there are very few of us who know exactly what the end results are going to be. And there are differing opinions among different experts as to what these impacts are going to be, but there is one area of agreement, and that is it has changed American commerce and perhaps the world's commerce and flow of information in a way that will fundamentally change a lot of the precepts under which we have operated since the Industrial Revolution.

If the trend suggested by this preliminary analysis continues, it, and electronic commerce, can be expected to drive economic growth for many years to come. To realize this potential, however, the private sector and governments must work together to create a predictable, market-driven legal framework to facilitate electronic commerce, to create nonbureaucratic means that ensure that the Internet is a safe environment, and to create human resource policies that endow students and workers with the skills necessary for jobs in the new digital economy.

Thus, in real terms, the expansion of the IT sector accounts for an even larger share of overall economic growth in the mid- to late 1990s. In recent years, IT industries have been responsible for more than one-quarter of real economic growth.

Despite these impressive trends, the digital revolution is just beginning. Growth could accelerate in the coming years not only in the IT sector itself, but across all sectors of the economy as the number of people connected to the Internet multiplies and as its commercial use grows. The growth will be driven by four types of economic activity:

Building out the Internet: In 1994, three million people, most of them in the United States, used the Internet. In 1998, 100 million people around the world use the Internet. Some experts believe that one billion people may be connected to the Internet by 2005. This expansion is driving dramatic increases in computer, software, services and communications investments.

Electronic commerce among businesses: Businesses began using the Internet for commercial transactions with their business partners about two years ago. Early users already report significant productivity improvements from using electronic networks to create, buy, distribute, sell, and service products and services. By 2002, the Internet may be used for more than $300 billion worth of commerce between businesses.

Digital delivery of goods and services: Software programs, newspapers, and music CDs no longer need to be packaged and delivered to stores, homes or news kiosks. They can be delivered electronically over the Internet. Airline tickets and securities transactions over the Internet already occur in large numbers. Other industries such as consulting services, entertainment, banking and insurance, education and health care face some hurdles but are also beginning to use the Internet to change the way they do business. Over time, the sale and transmission of goods and services electronically is likely to be the largest and most visible driver of the new digital economy.

Retail sale of tangible goods: The Internet can also be used to order tangible goods and services that are produced, stored and physically delivered. Though Internet sales are less than 1 percent of total retail sales today, sales of certain products such as computers, software, cars, books and flowers are growing rapidly.

Where advances in telecommunications and computing largely occurred side-by-side in the past, today, they converge in the Internet. Soon, virtually all information technology investment will be part of interlinked communications system, whether internal to a business, between businesses, between individuals and businesses, or individual to individual.

However measured, the Internet is expanding at a very rapid pace.

For instance, the number of Americans using the Internet has grown from fewer than 5 million in 1993 to as many as 62 million by 1997. . . .

The number of names registered in the domain name system grew from 26,000 in July 1993 to 1.3 million in four years . . .

In January 1995, just over 27,000 top-level commercial (com) domain names were assigned. Most businesses used them for little more than posting product and company descriptions, store locations, annual reports and information about how to contact corporate headquarters. Two and a half years later, commercial domain names number 764,000. Static brochures and bulletin boards are giving way to full-fledged businesses offering financial services, news and information, manufactured goods, and travel and entertainment to individuals and businesses.

To meet this increased demand, consumer electronics companies, media giants, phone companies, computer companies, software firms, satellite builders, cell phone businesses, Internet service providers, televisions cable companies and, in a few cases, electric utilities, are aggressively investing to build out the Internet.

Madam President, I made the opening statement as we take up, frankly, what are some very modest bills, pieces of legislation which have to do with the telecommunications industry. I hope this is a beginning. My fundamental premise is, we should get out of the way and stay out of the way of this burgeoning, incredible revolution we are seeing take place throughout the world.

But there are times where we have to act. I would argue that we have to act in a deregulatory manner and a procompetitive manner. One of the issues that the Senator from North Dakota and I have discussed on many occasions and will continue to discuss—and hopefully we can reach some agreement—is the issue of Internet taxation. Other issues that we are going to take up, which are visible and very important to many Americans, like this business of slamming, will have to be addressed.

Madam President, the Presiding Officer now in the chair, you have been very significantly involved in this issue. Your findings and recommendations have been made part of this bill. I understand you may have additional changes that you wish to be made. But we are in agreement this abuse has to stop, and it has to stop immediately.

I hope the Congress, as representatives of the people, will understand that this industry we are talking about today, the telecommunications industry, opens broad new vistas for our children and grandchildren. It also opens vistas for people and countries who have never had access to information and knowledge before. It opens up new vistas and ways for people in rural parts of America, and in low-income parts of urban America, to receive information and knowledge. It seems to me that it has to be one of the most important issues that we address in a comprehensive, cooperative, bipartisan fashion.

I see no reason for partisanship on an issue which really is so important to the future of America. I know we are in agreement that we want to see it grow and expand. And all of us are astonished, literally astonished, at the amount of growth that we have seen. It is not just us neophytes. Literally every expert who has studied the telecommunications industry has underestimated, sometimes by a factor of 10, the growth that has taken place in the past few years. So, therefore, it is very likely they are underestimating the dramatic changes and growth that we will see in the future.

There are some who argue that the information technology we are exporting around the world makes our trade deficit far less meaningful than it has been in the past. There are some who argue that we, as a body, and as a nation, are going to have to address this issue of the proliferation of pornography that now penetrates and permeates every part of the Internet, to the point where young children today, when they go on the Internet and dial an innocuous word like "White House" or "teen" or "nurse," are treated, as the search engine comes upon them, to enticements to people to take advantage of the pornography which is available. I am not advocating censorship here. I don't believe the majority of this body is. But it is a problem. It is an issue that we need to address as well. But it is one of many.

I could spend many hours on the floor here, discussing the challenges of this telecommunications transformation that we are observing. I hope what we do in the next couple of days will do several things. One is to address these relatively modest issues, although slamming is certainly a very important one, but, at the same time, make a commitment that we, as a body, understand, appreciate, the importance of this industry to the future of America, and that we will address these issues in an orderly and bipartisan fashion.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I certainly share the sentiment offered by the Senator from Arizona about the excitement of the Internet, the fascinating, remarkable growth of the telecommunications industry and all that it means for the future of our country and the world. Things are moving so quickly, and changing so rapidly, it is just breathtaking and very hard to keep up with. From a public policy standpoint, regarding the kind of legislation that will be brought to the floor of the Senate at some point—for example, such as the Internet Tax Freedom Act—it is very important that we understand exactly what we are doing and what the consequences of what we are doing might be now and in the future.

I would say the increased commerce over the Internet, that is increasing at a very dramatic pace, illustrates that there is nothing at the moment, nothing anywhere that I am aware of at the moment, that impedes the transaction of commerce on the Internet.

The very growth of that commerce suggests there are no impediments. One way to do commerce in this country is to set up a web page and advertise and sell books, automobiles, travel services, or whatever it is you want to advertise over the Internet. That is one way to do business.

Another way to do business is to rent a storefront someplace to get some inventory moved in, hire some people, open the door and put "Open for Business" and invite customers to come in and look at your merchandise and sell merchandise that way.

Still another way is to have your merchandise in a warehouse somewhere and send a catalog through the mail and do business through mail-order catalogs.

If the Congress decides to change the state and local Tax Codes related to all of those different ways of doing business, it is very important that we not create a circumstance where one way of doing business has preference over another way. I certainly hope that whatever we do to those involved in Internet transactions, we will say, "To whatever extent you are advantaged by this new legislation, the Main Street businesses will be similarly advantaged."

The Internet Tax Freedom Act is very controversial in my judgment. The concerns Governors and many others have about what impact it might or might not have on the State and local revenue bases are serious. The Internet Tax Freedom Act is a very significant piece of legislation and it is very controversial.

Another issue that the Senator from Arizona mentioned is the slamming issue. For those who are not familiar with slamming, it refers to the unauthorized practice of a company changing a consumer's telephone exchange service or telephone toll service. In other words, a company says if you are using one long distance service, we are going to change that and your new long distance carrier is XYZ, and all of a sudden you begin getting bills from XYZ when, in fact, you never authorized changing your long-distance carrier. That is called slamming, and it is a growing, continual problem in this country.

The FCC had about 20,000 complaints of slamming in the last year. We understand the "king of slammers" identified by Chairman Kennard of the FCC is a man named Daniel Fletcher. GAO investigators allege that Fletcher switched at least a half million customers' long-distance service without their knowledge or consent.

I noticed a story in the paper this past weekend in North Dakota that one of the victims of slamming was the attorney general of North Dakota, Heidi Heitkamp. "Heitkamp Victim of Phone Billing Scam" reads one headline.

This company that was slamming would have been well-advised to stay away from the attorney general of that State.

I am confident that the North Dakota attorney general is on the case. She is aggressive and tough and will get to the bottom of who is involved in this slamming.

To all the slammers out there I will say, "Senator McCAIN, I and others will bring a piece of legislation to the floor that will attempt to shut the door on slamming. But, slammers might want to stay away from attorneys general and law enforcement officers, because it is against the law. We hope, prior to the legislation being passed, we can count on State authorities and the FCC to take appropriate action to levy fines and other penalties against those who are involved in this kind of activity.

There are a number of other issues we will discuss when we talk about slamming. I expect the U.S. Senate will pass this legislation by a wide, wide majority. It is a good piece of legislation. I compliment Senator McCAIN for bringing it to the floor. Only because the majority leader and minority leader have not talked and reached agreement on the question of procedure we are not able to proceed at this point. But I expect in the coming hours, when Senator LOTT and Senator DASCHLE will find a mechanism by which we are able to consider this legislation.

I just received a note from someone else, from another Senator in the Chamber that says, "I've been slammed twice." I don't know if that Senator wishes to be identified. In any event, it is not something that only relates to attorneys general. I have not been slammed once, and I am not looking forward to the first slam. Hopefully, before that happens, this kind of legislation can pass. Those who have been victims will be victims no more, and those who have been involved in slamming will begin to pay a significant price for criminal behavior.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LUGAR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—S. 1150

Mr. LUGAR. Madam President, on behalf of the majority leader, after consultation with the minority leader, I ask unanimous consent that the Chair lay before the Senate the conference report accompanying S. 1150, the agriculture research bill.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, as the distinguished chairman of the Ag Committee knows, we agreed previously not to have a recorded vote today. It is my intention, when the conference report is before the Senate, to have at least one motion to recommit with instructions. So rather than have that debate today when no one is here to listen to it, when we know it will have to be debated on another day if we are going to have a recorded vote, I suggest that we simply begin the debate on this issue today and that we bring it up tomorrow, or some date in the future when we can have a recorded vote following a debate on the motion.

I ask that we simply begin the debate today and that we agree on some future date to readdress this question. On that basis, I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Indiana.

AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998—CONFERENCE REPORT

MOTION TO PROCEED

Mr. LUGAR. Madam President, I now move to proceed to the conference report accompanying S. 1150.

Mr. GRAMM. Madam President, I ask that the bill be read.

The PRESIDING OFFICER. The clerk will read.

The assistant legislative clerk proceeded to read the conference report.

Mr. GRAMM. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. It is not in order to suggest the absence of a quorum. The clerk will continue to read.

The assistant legislative clerk continued with the reading of the conference report.

Mr. LUGAR. Madam President, I ask unanimous consent that the reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. It is not in order to suggest the absence of a quorum. Is there objection?

Mr. GRAMM. Madam President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue reading.

The assistant legislative clerk continued with the reading of the conference report.

Mr. HARKIN. Madam President, I ask unanimous consent that further reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue reading.

The legislative clerk continued with the reading of the conference report.

Mr. GRAMM. Madam President, I ask unanimous consent that further reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The text of the conference report is printed on pages H2171–H2205 of the April 22, 1998 edition of the RECORD.)

UNANIMOUS CONSENT AGREEMENT

Mr. LUGAR. Madam President, I thank the distinguished Senator from Texas, and I ask unanimous consent now on behalf of the majority leader, after consultation with the minority, that at 11 a.m. on Tuesday, tomorrow, the Senate proceed to the consideration of the conference report to accompany S. 1150, the agricultural research bill. I further ask unanimous consent that the time until 12:10 p.m. be divided as follows: Senator LUGAR, 30 minutes; Senator GRAMM of Texas, 10 minutes; Senator ROBERTS, 10 minutes; Senator HARKIN, 10 minutes; Senator COCHRAN, 5 minutes. I further ask unanimous consent that, at 2:15 p.m. on Tuesday, Senator GRAMM be recognized in order to move to recommit the conference report. I further ask unanimous consent that no amendments be in order to the motion and debate on the motion be limited to 1 hour equally divided in the usual form. I ask unanimous consent that following the debate, the Senate proceed to a vote on or in relation to the motion.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LUGAR. I thank the Chair.

Madam President, I would point out that, in consultation with Senator GRAMM and others, we have agreed that general debate at 11 tomorrow is appropriate. Senators will be present. They will be able to hear the debate. And our respective conference lunches will hear more debate on this issue, and hopefully, following our hour debate, at 2:15 the issue will be clearer for all of us and perhaps we will be able to proceed tomorrow to final action on this report.

I thank the Chair. I thank all Senators.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I just want to concur in the unanimous consent agreement and commend my chairman, Senator LUGAR, for his leadership on this bill. This is an extremely important bill. We should have gotten it through a long time ago. There are farmers out in my area of the country, all up and down the Midwest—I am sure in the Senator's home State also—who have contracts up this summer on crop insurance, and if we don't hurry up and get this through, we are going to be in big trouble; we will not have the money for the crop insurance program to allow these farmers to renew their contracts for next year. So it is imperative that we do get it through.

If this bill were to be recommitted—and I will have more to say about this tomorrow, but I wanted to talk about this a little here—I think that would be the end of the bill. We tried for a long time in conference to get to this point. It is a delicate balance of many interests, but it is a good balance. It is one that balances all of the interests in all sections of the country. It advances the cause of agricultural research; it does the job of providing the necessary funds to keep the crop insurance program going; and it also fills in the gap on the food stamps for legal immigrants, elderly, disabled, and children, and also refugees and asylees who are in this country.

Madam President, as I said, the conference report of the Agricultural Research Extension and Education Reform Act of 1998 represents a strong statement by the Senate on the importance of research to the future of American agriculture and fulfills important promises to restore food stamp benefits to legal immigrants, refugees, and asylees, and to fully fund the crop insurance program.

Again, I am pleased that both sides of the aisle in both the House and the Senate have come together to invest in the future of agriculture in rural communities as well as nutrition programs for needy individuals who were unfairly cut off from food stamp benefits in the welfare reform bill that we passed in 1996.

I again commend Chairman LUGAR for his diligent and tireless efforts to, first of all, get the changes made in the research program that we so vitally need in this country in our ag research program, and his efforts to get the bill through, and through conference, and to the point where we are now. Chairman LUGAR has done a great job in guiding and directing and leading us in a bipartisan fashion to get the bill through.

We have had great cooperation. I am thankful to him for the great cooperation he has given me as the ranking member, and to his staff for the many kindnesses that his staff has afforded our staff. I also commend our colleagues in the House for assisting and aiding us getting this bill through. I am especially pleased that the agriculture, nutrition and immigrant communities are united in support of this conference report.

Reinforcing the strong support for this bill, on April 24, 71 Senators sent a letter to the leadership asking that we bring up this bill and pass it. Madam President, 71 Senators signed a letter to the majority leader of the Senate asking we bring up this bill and pass it. So I hope we can move quickly on this vital piece of legislation.

Let me just mention the three components of the bill. First, the issue of food stamps. This bill will spend about $816 million over the next 5 years to restore food stamp eligibility for nearly 250,000 individuals. Again, with this action we have reaffirmed our compassion and our priority for taking care of the most vulnerable in our society. The bill takes a major step towards fulfilling a promise that was made by our President and many of us here in the Congress on both sides of the aisle to correct inequities made in the 1996 Welfare Reform Act.

What we have done in this bill, Madam President, mirrors the changes made in last year's balanced budget agreement. That bill eliminated eligibility for several classes of legal immigrants for food stamps. Refugees, asylees, elderly and disabled legal immigrants and their children, Hmong refugees and certain native Americans who were unfairly denied food stamp benefits will once again be eligible for this important food assistance under this bill before us.

I might also add, parenthetically, that it is not just compassion, but it is dollar wise. We know in the past when these people are cut off from the needed food stamps, the elderly and the disabled, their kids are cut off, and when they lack nutrition, where do they end up? They are at the emergency room door of our hospitals, and we pay for that. Better we put some money into adequate food and nutrition to keep them healthy in the first place rather than pay for the needed medical services they would require later on.

Under research and rural development, the research provisions of this bill will ensure that our farmers and ranchers have the world's best science and technology at their disposal to produce food and fiber, to protect the environment, and to create rural economic opportunities. In this regard, we are devoting $600 million in new funds over the next 5 years to advance the science and technology underlying our agricultural system. This new initiative will invest in priority research topics like food safety, biotechnology and environmental quality. There are new incentives for the development of new crops and new uses for existing crops. Finally, modest reforms in the land grant system will help it to remain a leader in research, education and outreach in the coming century.

We have also extended the Fund for Rural America through the year 2002, and we have reaffirmed our commitment to the pressing development needs of our rural communities. This fund was a key component of the 1996 farm bill, created to provide funds to help farmers in rural communities to transition to the new farm policy environment. Although I wish we could have found more funds for this purpose, I am pleased that over the next 5 years, an additional $100 million was added to the Fund for Rural America.

Finally, the third component of the bill is crop insurance. Since the last Crop Insurance Reform Act in 1994, participation in crop insurance has more than doubled in our country. Without agreement to this conference report, millions of farmers face the possibility of canceled insurance policies in just the next few months. That would leave them without risk protection for the 1999 crop season.

The action we have taken in this bill will secure funding for the Crop Insurance Program for the next 5 years. It will set the stage also for a vigorous debate about how to further restructure and reform the program in the coming years. I look forward to working with Chairman LUGAR in moving that discussion and that debate forward. The more tools and options we can give our farmers to manage the risks of production, the more resilient our rural communities will be in the face of market and weather fluctuations.

So this conference report accomplishes a great deal in a single package. We have let the world know that we care about the vulnerable in our society, those who are refugees and asylees who are escaping persecution—many times religious persecution in other countries. A lot of times when they come here, they don't have a million dollars in their pockets. Usually those aren't the kind of people who are persecuted. But those who are persecuted for religious beliefs or otherwise, a lot of times who flee their countries, who come here, they don't have a lot of money. They need an education. And, yes, we provide them food assistance. I think that is a part of what we ought to be about in this country. What this bill does is it restores it. We say to those people, if you are escaping intolerable situations in other parts of the world, our doors will be open to refugees and asylees, and we are going to assure that you have adequate nutrition to get you to the point where you can apply for citizenship.

Second, we have let the world know we are serious about equipping American agriculture for future food production challenges. We have taken the steps to assure the taxpayers that research dollars are expended in the most efficient manner. Finally, we ensure that our farmers will have good risk management tools available to them.

We have done all of this in a very strong, bipartisan manner. We can all take pride in the fact that today we have made a significant investment in a better future, not only for our farmers and ranchers, but also in a better future for an increasingly crowded and hungry world. So, Madam President, I urge my colleagues to agree to this conference report without delay.

Madam President, I will have more to say tomorrow about the pending amendment by the Senator from Texas, who as I understand, would exempt from the coverage of the Food Stamp Program, refugees and asylees who come to this country after, I think it is August of 1996, if I am not mistaken. I think that would just be the wrong step to take, first of all, for a compassionate and caring society, and for those of us who care about asylees and refugees. I think that covers both political parties, and certainly covers all of the religious institutions in America. I know I received letters from—I know Cardinal O'Connor in New York, from many members of the Jewish faith, other Christian faiths who have written to us asking us to please make this fix in food stamps to cover these very vulnerable people who are in our society.

And, second, I would just say again, if the amendment contemplated by the Senator from Texas were to be successful, that is referring this back to conference committee, that would be the end of this bill. Make no mistake about it. The amendment that I have seen written and proposed—he has not offered it yet, but as proposed by the Senator from Texas—would kill this bill. It would kill the research provisions of this bill and it could kill the crop insurance provisions of this bill along with the food stamp provisions.

Why do I say that? For two reasons. First, because we worked long and hard to get to this point in a bipartisan fashion. There were long, serious discussions both in the Senate and in the House and in conference, and we reached our agreements and we have strong bipartisan support for this. If this were to go back to the conference committee—one, either the conference committee would not or could not make these changes, and thus the bill would die in conference; or if the conference committee voted to make these changes and it went back to the House, there is no way that it would succeed in the House. Maybe it wouldn't even succeed in the Senate. I don't know.

But, Madam President, I have been on the Agriculture Committee now, both in the House and the Senate, for 23 years. I have been through a lot of farm bills and a lot of farm bill amendments and modifications. And we have for a long time had a good working relationship with our urban friends in keeping a good, strong coalition together to both answer the needs of those of us who represent rural America and to answer the needs of those who represent urban America.

I believe it has been a good working relationship. When we look at it, hunger in America is almost nonexistent. Yes, we have some gaps out there. Yes, we have some nutritional gaps out there, but compared to any other country, we are light-years ahead.

We provide the needed nutrition from the School Breakfast Program to the School Lunch Program to afternoon programs to the Food Stamp Program to Women, Infants and Children nutrition program, and then we provide support for our food banks and our soup kitchens and feeding facilities around the country along with the private sector.

We have taken care to address the nutritional needs of those who live in our urban areas, and we have taken care of the needs of those who live in our rural areas. As I said, part of this bill is funds for rural America that helps continue to invest in rural economic development so our people who live in small towns and communities will have the kind of jobs and support they need. Our farmers will have the risk management tools and crop insurance they will need to provide the food and fiber for America.

It has been a good coalition, a healthy coalition. The amendment contemplated by the Senator from Texas will tear that coalition apart. That is why I say, if it were to succeed—I don't think it will, I hope it won't, I don't think it will—if it were, that would be the end of this bill.

I am hopeful, and I know the Senator from Texas is sincere in what he is trying to do—I happen to disagree with him, deeply disagree—that we ought to carve out asylees and refugees from the food stamp provisions of this bill.

Be that as it may, I still suggest that this amendment really is a basic amendment that will kill this bill. We can't afford to have that happen. I hope all my colleagues will support the chairman and support others on both sides of the aisle who signed the letter to bring up the bill and to pass it as it is. If we do that, I think we can have a swift conclusion of this bill tomorrow, get it down to the President for his signature, our farmers can go ahead and get their crop insurance contracts renewed, we can begin the process of changing our research system, and we can meet the nutritional needs of the most vulnerable in our society. I yield the floor.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I am pleased that the order has been entered for the consideration of the conference report on the agriculture research bill. As Senators may remember, when we passed the 1996 farm bill, the research programs were only authorized to the year 1997. This allowed the committees of jurisdiction to undertake a reevaluation of the way in which Federal dollars are allocated to research facilities that are operated by the Department of Agriculture and that are used for grants for research and extension service activities at colleges and universities throughout the country.

As a result of that review, this legislation was produced. It improves the way those funds are allocated. It targets those funds to the highest priority subjects for agriculture research in our country. It is this Senator's hope that the Senate will approve the conference report and we can proceed to consider other related legislation.

I point out the fact that we are in the appropriations process now for the next fiscal year. The passage of this conference report will facilitate the handling of the appropriations bill for the Department of Agriculture and other departments of the Government. If we are sent back to rewrite the bill in conference on a motion to recommit, it will slow down the process. It will make it more difficult to achieve the kind of coherent funding procedure that we would otherwise be able to enjoy.

UNANIMOUS-CONSENT REQUEST— S. 1873

Mr. COCHRAN. Mr. President, at this point in the order of business, the majority leader had indicated that it would be appropriate to call up Calendar Order No. 345, S. 1873, the missile defense bill.

On behalf of the majority leader, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 345, S. 1873, the missile defense bill.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

AMERICAN MISSILE PROTECTION ACT OF 1998—MOTION TO PROCEED

CLOTURE MOTION

Mr. COCHRAN. Mr. President, I move to proceed to Calendar Order No. 345, S. 1873, and I send a cloture motion to the desk on behalf of the majority leader.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 345, S. 1873, the missile defense system legislation:

Trent Lott, Thad Cochran, Strom Thurmond, Jon Kyl, Conrad Burns, Dirk Kempthorne, Pat Roberts, Larry Craig, Ted Stevens, Rick Santorum, Judd Gregg, Tim Hutchinson, Jim Inhofe, Connie Mack, R. F. Bennett, and Jeff Sessions.

Mr. COCHRAN. Mr. President, I have been authorized to announce to the Senate on behalf of the majority leader that this cloture vote will occur on Wednesday at a time to be determined by the majority leader, after notification of the Democratic leader.

Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, this legislation was introduced by me and the distinguished Senator from Hawaii, Mr. INOUYE, last month. It is legislation that would change the policy of our country with respect to the deployment of a national missile defense system that would protect our Nation against limited ballistic missile attack. Since its introduction, 48 other Senators have joined us as cosponsors of the legislation, and the Senate Armed Services Committee has reviewed the legislation and reported it for the consideration of the Senate. The committee report is available as Calendar Order No. 345, and I invite the attention of Senators to the report.

The legislation was produced because of the findings of the Subcommittee on International Security, Proliferation, and Federal Services, which I chair, which conducted hearings over the past year looking into the threat caused by the proliferation of weapons of mass destruction and the means for delivering those weapons of mass destruction, particularly missile systems.

We had numerous expert witnesses who talked about the basics of how missile systems are developed, how the Atlas system was developed in our own country. General Bernard Schriever, who was the manager of the Atlas intercontinental ballistic missile program, told of the challenges faced by those who worked to build this first long-range missile system for the United States almost 50 years ago. He told of how, with the passage of time and the development of new technologies and communications systems and the easy access to scientific and technical information, those hurdles that were so difficult to overcome back then are now not difficult at all; that nation states who are intent on developing the capacity to deliver weapons of mass destruction over long distances now can achieve those results not with a 10-year program, but almost overnight if they have the determination, are willing to commit the dollars necessary to acquire the component parts, and have access to outside assistance in the form of either components or technical expertise.

You can see evidence of that and why that is really a new concern for us as a country without a national missile defense system, without the capacity to defend ourselves against an accidental launch of an intercontinental ballistic missile, or an unauthorized launch from another country possessing these systems, or from a rogue nation which puts all of these ingredients together without our being able to detect it and threatens the security of this country.

So this is an effort to change our national policy from the current 3+3 program of the administration, which is to develop within 3 years, starting in 1997, a national ballistic missile defense capability, and then, if a threat is perceived to exist thereafter, to deploy such a system within 3 years from the date that the threat is perceived to exist. That is the 3+3 program of this administration. We are seriously concerned that this is inadequate to meet the threat that currently exists.

First of all, the 3+3 program assumes that there is no threat at this time to the security of the United States or to the citizens of the United States. The legislation we have introduced says that there is a threat, we are vulnerable. There could be—although it might be unlikely—an accidental or unauthorized missile attack from Russia or from China, both of whom, as we know, have intercontinental ballistic missile capabilities right now.

There is also an emerging threat that exists right now, because of events that have occurred over the last several years that we have not been able to detect or discover through our intelligence gathering agencies. I am going to cite some examples. And I invite the attention of Senators to the bill itself, which recites a series of facts that were uncovered during the course of the hearings our committee conducted last year.

The case of Iran is a good example. When that country was provided missile components from Russia, we realized that they were capable of acquiring new expertise not discernible by the Central Intelligence Agency. As a matter of fact, during testimony that was provided to the Senate, the Director of Central Intelligence indicated that it was anticipated that Iran would not be able to develop a medium-range missile system for some 8 years or 9 years into the future.

Now, 1 year after that testimony was delivered to the Senate in 1997, the Director of Central Intelligence suggested that because of outside assistance obtained by Iran from other countries, it appears that they would be able to deploy a medium-range ballistic missile much sooner than had been earlier predicted. Even though the Director of Central Intelligence did not say exactly when that capability could be fielded, a State Department witness told the Senate that, within a year or a year and a half, that missile system could be deployed by Iran.

So what had been viewed as a threat which could occur 8 or 9 years in the future, now, according to testimony recently received, it is clear it could be fielded some 7 or 8 years earlier than had been anticipated as recently as a year ago.

Another example is the case of Pakistan, which recently—a month ago, April 6—tested a ballistic missile with a range of 1,500 kilometers. If you look at a report that was made available to the public back in November of 1997 on proliferation issues, it suggests that Pakistan has missiles at this time with ranges of 300 kilometers. Now we see them test a missile last month with five times the range of what was said to be in their arsenal back in November, 6 months ago.

These are two examples of why the Director of Central Intelligence has said that he is not able to predict with any degree of certainty when other nations, rest-of-world countries, will have intercontinental ballistic missile capability—because of "gaps and uncertainties." He used that phrase in his testimony to the Senate.

Another example of these surprises involved Iraq. You will recall that Secretary Cohen, then Senator Bill Cohen, made comments on the floor of the Senate about the surprise that had occurred when Iraq was able to launch a vehicle that almost put a satellite in Earth orbit and—not only that—demonstrate the capability of using missiles with much longer ranges, with much more sophistication than anyone in our country had anticipated. That was an example of a surprise to our intelligence agencies, who had not anticipated that those capabilities had been developed in Iraq.

Iraq surprised us in other ways. With the purchase of Scud missiles from North Korea and improvements that were made in Iraq, almost overnight the world was confronted with a nation state that had a lethal missile capability; was threatening its neighbors and others; was developing weapons of mass destruction which could be carried as warheads by these missiles; was threatening others with destruction, suggesting that if it had a missile system that would reach the United States, it might use it. Actual threats were being made about catastrophic damage being inflicted on the United States by Iraq.

Fortunately for the defense of our security interests in that region, the Army had been developing the Patriot missile defense system to protect troops in the fields. It was a short-range system; that was really all we had. When the Persian Gulf war broke out, Americans were able to see that this system was effective. It was not the best or the most perfect system you could have because many of the Scud rockets got through. Some of them broke up over Israel. Some of them inflicted property damage all around the region. Twenty-eight soldiers were killed in Dahran. United States troops were killed with those missiles because we were unable to protect their security at that time. We didn't have a system that was good enough to be perfect or fail-safe. There are risks.

But here we are now almost 10 years later and what have we done to improve the capability to protect the citizens of the United States against threats that we have heard from others—which the bill recites—and against the emerging sophistication and range of new missile systems that are under development in other parts of the world? We have gotten ourselves, I think, in the mindset of thinking about Russia and China as the only nations that we have to worry about who have intercontinental ballistic missile capability. We have had with Russia a relationship that has kept either one of us from using our missile weaponry and we are very grateful for the fact that we have come through this period of confrontation with the old Soviet Union without having a catastrophic tragedy as a result of these weapons of mass destruction.

But now we can't just focus our attention on Russia and China. We have to consider what is going on in the rest of the world where there are "gaps and uncertainties" in our ability to know exactly what is going on with respect to weapons development and missile development. But what we know is what we have been able to observe. And what we have observed is a steady and in some cases a rapid acceleration of capability and sophistication in countries that do not consider themselves friends of the United States. Some have talked about threatening us with missile attacks, destroying the United States. Other comments have been made by people like Muammar Qadhafi. Others who have expressed their anger toward the United States do not share our values.

We have to consider this to be a serious threat. The administration's policy is a wait-and-see policy. Let's do research and let's proceed with the development of a missile defense system, but let's wait and see if there is a threat to our security interests posed by intercontinental ballistic missiles, and then we will proceed to deploy the missile defense system.

You listen to anyone who has observed the funding process, the request for appropriations and authorization to proceed to the development of this program, and everybody agrees that there hasn't been enough money put in the program to reach a point where you will have a system deployment. The administration assumes we will have developed a defensive missile system within 3 years. We are into that now, looking at the second year of that program, and the Secretary of Defense has already sent up a request for additional moneys over and above what the President had said they would want for the program, admitting in a letter he has written in response to this legislation that there had not been robust enough funding to achieve that result.

I don't think you can find anybody who says that they are really going to complete this. They have now awarded a contract to a lead system integrator to develop a program pulling together all the component parts that had been under separate research and development, to try to make a coherent system that could be deployed. But I don't know of anybody who believes that can really be done in 3 years.

What we are trying to say to the Senate and to the administration with the filing of this bill and calling up this legislation is that we need to get serious. This is a threat which exists now. It is emerging in other nation states—some rogue states—and we are not doing enough to protect the security interests and the safety of American citizens with the current policy. It is immoral to sit back and do nothing or to do no more than talk about it.

If you look at the executive orders that have been signed by the President over the last 5 years, he has said repeatedly that we are confronted with a national emergency as a result of ballistic missile developments and weapons of mass destruction that we find going on in the world today—a national emergency.

I wonder what would be the judgment of the historians who would observe us in this situation. We are coming upon the end of a fiscal year where it is projected we will have a budget surplus of $30 billion—some say it may go as high as $50 billion—and we wake up one morning to a ballistic missile threat that is very real, or a ballistic missile attack that is made against our country. The American people are going to say what were we doing. And the administration said we asked for 3 billion dollars in this fiscal year. That doesn't sound much like a national emergency to me.

What I am beginning to realize is that if you talk like you are concerned about the problem and you sound sincere about wanting to do something about it or solve a problem, that that is enough. You don't really have to deliver. That is the political situation that I think we see today. We are hearing rhetoric, we are hearing promises, we are hearing a plan announced to get us to a point where we will have a ballistic missile defense system, but when you cut through all the talk and all the orders declaring it to be a national emergency, all of the budget requests, all of the testimony before the hearings and you find out what is really going on, you see a program that has already been described as a "rush to failure," because of the architecture, the way it is constructed, the way the program is managed, all of the reasons that we have seen described in glowing terms by those who say we are doing the right thing, we are doing just enough to keep us on a steady course so we can protect the security of the country.

I don't believe we are doing enough. I don't believe we are managing the program in a correct way, and I don't think we are going to get to a point where we have the capacity to protect our security or the safety of American citizens at a time when there is a threat that we have to be concerned about. I think we need to be concerned now. That is what this legislation does.

I hope that Senators will look at our proposal. It says simply that it is the policy of the United States to deploy a system to defend our country against a ballistic missile attack as soon as the technology is available. That is all this bill says.

The Congressional Budget Office was asked to assess the cost of the legislation. They say that passage of this legislation has no cost impact. The progress of the program to develop and deploy a system would depend upon the annual authorization and appropriations process, like any other acquisition program. And that is the point. This program has not been treated like any other acquisition program, and that is the problem. That is why it is a "rush to failure." It is a rush to act like you are doing something, but not really accomplishing what you are saying you are setting out to accomplish. You are experimenting. You are conducting some tests on various component parts, whether it is communications, missile systems, guidance systems, the interceptors that are needed, the sensors that are necessary. All of those things are being tested. Some are considered successful; some have been considered unsuccessful. We had testimony from General Lyles, who runs the Ballistic Missile Defense Office, who said that they have learned something from all of these tests. To that extent, all of the tests have been successful in that we build on the knowledge gained. Some of the critics who say it is a bad idea to have the capacity to defend our country against ballistic missile attack say that unless you have a perfect test that shows an interceptor hitting an in-coming missile, it is a failure, and it proves that we don't know how to do it.

Well, look back to 1991, when the Persian Gulf war occurred, when we saw Patriot missiles intercepting Scud rockets. Some of the Patriots were intercepting and blowing the Scuds up, or were near hits. The fact is that some of those interceptor missiles were working even then. We have proven that we can hit a bullet with a bullet. We have the technology to do that today. What we don't have is the will to deploy a system to defend our country.

Now, let me say something about the relationship with Russia and the ABM Treaty. Some are saying, "Well, doesn't this mean you are backing out of the ABM Treaty?" You have a treaty with Russia that says each will not develop a defense system against the ballistic missiles of the other. Well, first of all, the ABM treaty doesn't have anything to do with some of these nation states who are developing their own sophisticated and long-range weapons systems. We don't have a treaty with them. We don't have a mutual-assured destruction arrangement with them. We don't have any defense against their missiles. Even under the ABM treaty, there is an opportunity to deploy a single-site missile defense system, and it is under that premise that our program has been developed up to this point—with a view that, if in the minds of those who defend the current policy a threat is perceived to exist at some future date, then we will deploy a system that is compatible with the provisions of the antiballistic missile agreement with Russia.

The treaty also permits that agreement to be amended. Whenever it is considered to be in the national interests of either country, negotiations can take place. As a matter of fact, our President was urged by the Senate to commence negotiation for the purpose of amending the agreements. We know that the administration has undertaken demarcation talks to try to distinguish between theater ballistic missile defense systems and the national ballistic missile defense system contemplated by the ABM Treaty, so that we can proceed to develop theater defenses like the Patriot, Navy Upper-Tier, the Airborne Laser system of the Air Force, and the Theater High Altitude Defense Area Program of the Army—looking at the different options that we have for protecting our troops and limited areas against ballistic missile attack. And so the ABM Treaty has some relevance in the debate, of course; but it is not an impediment to the adoption of this bill. It would not contravene or in any way fly in the face of the Anti-Ballistic Missile Treaty.

Some are beginning to realize that inevitably, at some point, we may have to discuss with Russia further amendments to the ABM Treaty. Russia may consider those amendments to be in their interest, too. They are located in close geographical proximity to some of these other countries that we have already mentioned. Not to suggest that there is any threat now, but there may be. Later, the Russians may have reason to agree with us that this is not only in our mutual interest, but it is in their individual interest. And so this is not a referendum on the ABM Treaty. We do not seek to amend it or withdraw from it, or violate it by the passage of this legislation.

I am hopeful that after Senators review the report of the Armed Services Committee, the fact that the committee has recommended the approval of this legislation, and the findings that were made by our subcommittee, some of which are recited in the language of the bill itself, that it will be the will of the Senate to adopt this bill and to say to all—the American citizens who may be worried about the vulnerability that we find ourselves in now, and those who may be contemplating stealing a march on the U.S. by developing quickly a long-range missile capability that could be used to threaten, intimidate, blackmail, or coerce our leadership—that we are not going to sit idly by and wait and see any longer. We are going to do what is necessary to develop and deploy a national missile defense system against limited ballistic missile attack. So don't waste your money, don't get carried away and go on a spending spree with a national program to develop a weapons system that is going to intimidate the United States, because we are not going to be intimidated. We are not going to be defenseless any longer.

And, finally, this is not a vote today to deploy a system now. It is a vote today to say it is our policy to deploy a system when it is technologically possible, when an effective national missile defense system can be deployed.

So I hope that Senators will agree with this. Fifty Senators are sponsors of this legislation. I urge its adoption by the Senate.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, the legislation being discussed this afternoon would undermine a carefully designed program called the National Missile Defense Deployment Readiness Program, which is currently in place. That is why the Chairman of the Joint Chiefs of Staff and the Secretary of Defense do not support this bill and why they favor their current program that is in place.

This bill would commit us to deploy a national defense system before development is completed, without considering the critical factors that should inform a deployment decision.

There are a number of critical factors. What is the impact on arms reduction of such a commitment to deploy a system that could violate the Anti-Ballistic Missile Treaty? There is nothing in the language of this bill that says it will be treaty compliant. Nothing in this bill says that the national missile defense system that it commits us to deploy will be compliant with the Anti-Ballistic Missile Treaty.

That is a treaty, a solemn agreement between us and Russia. If we threaten to break out of that treaty unilaterally, we threaten the security of this Nation because that treaty permits Russia to ratify the START II agreement and to negotiate a START III agreement, reducing the number of warheads that they have on their missiles and warheads that could also potentially proliferate around the world and threaten any number of places, including us. This is not just a cost debate; it is a debate about committing ourselves to deploying a system not yet developed, and without knowing the cost of that system.

It is not just a debate over whether we ought to commit ourselves to a system of unknown cost, without consideration of other threats to this country from weapons of mass destruction and of the likelihood of those threats actually happening. All those factors should be taken into consideration.

This bill would commit us to deploy a system which could undermine, weaken, lessen, the security of this Nation. And that is why this bill does not have the support of the Joint Chiefs of Staff. That is why this bill does not have the support of the Department of Defense. Yes; it commits us to deploy a system before we know the cost of the system, without even knowing what the cost is and without comparing the cost of this system to the cost of deploying other systems which could defend against or address different threats of delivery of weapons of mass destruction, like ships or trucks.

This bill would simply commit us now to deploy. As far as I know, we have never in the history of this Congress ever committed ourselves to deploy a weapon system before it was developed. But this bill does that. It would be a mistake to do so without consideration of those factors—cost, threats, and relative threats. But the biggest mistake that this bill makes is to commit us to deploy a system which could weaken and reduce the security of this Nation.

All of us want to defend this country. The good Senator from Mississippi wants to defend this country. He is a good friend of mine, and I know he does. I know that is 100 percent his motivation. And I hope and believe that he knows that is my motivation as well.

The question, though, is whether or not we are helping the security of this Nation or reducing the security of this Nation. If we commit ourselves to deploy a system which, in all likelihood, would violate a treaty between ourselves and Russia it would not help our security; it would reduce our security. By the way, if that is not an intent, it is very easy to amend this bill to say it would be a treaty-compliant deployment. But that language is not in this bill. To threaten to break a treaty which is key to the security of this Nation is a terrible mistake.

I just want to repeat what that threat is. Russia has signed the START I agreement and has significantly reduced the number of warheads. It is very clear that if we break out of this ABM Treaty unilaterally, and if they face ABM defenses here, they will not continue with the START I reductions, ratification of START II, and negotiation of START III.

The ABM Treaty has been discussed between our President and the Russian President. It has been discussed at the highest levels of government at a summit meeting. They have issued statements following those summits. Most recently at the Helsinki Summit, March 21, 1997, President Clinton and President Yeltsin issued the following joint statement:

> President Clinton and President Yeltsin, expressing their commitment to strengthen strategic stability and international security, emphasizing the importance of further reductions in strategic offensive arms, and recognizing the fundamental significance of the antiballistic missile treaty, for these objectives, as well as the necessity for effective theater missile defense, consider it their common task to preserve the ABM Treaty, prevent circumvention of it, and enhance its viability.

That is the highest level that we can reach here, at least in our Government. You can't go higher than having the President of the United States and the President of Russia issuing a joint statement, which they just did in March of 1997, that recognizes the fundamental significance of the Anti-Ballistic Missile Treaty for the objective of further reductions in strategic offensive arms. That is about as serious a statement as you can get.

I think we all want those reductions. I don't know of anybody in this body who does not want to reduce the number of strategic nuclear weapons that exist in this world. But for us to threaten to deploy a system which would, in all likelihood, violate the Anti-Ballistic Missile Treaty and would then jeopardize the reduction in nuclear weapons, which we all hope for so fervently, could undermine and weaken the security of this Nation. That is why this bill does not have the support of our uniformed military.

So this isn't a question of whether you are for the security of the United States or not. We are all for the security of the United States. This is a question of how best to achieve the security of the United States. By committing ourselves to deploy a system which will lead to more weapons remaining on this Earth's surface and thus contributing to the proliferation of those weapons, by the mere fact that we would be jeopardizing reductions in the number of weapons, is not a way to contribute to the security of this Nation.

The Chairman of the Joint Chiefs has written us a letter. I hope every Member of this body will take some time to read this letter—it is dated April 21, 1998—in which he compares the bill that we are discussing now, S. 1873, to the current program, the so-called National Defense Deployment Readiness Program. Under the current program, we are going to develop the capability to have a missile defense against intercontinental ballistic missiles. We are going to do it as fast as we can.

But what I think is particularly notable about the defense authorization bill—which will hopefully be on the floor later this week—is that I don't think there is a member of our committee, whichever side of this issue that they are on, who voted additional money for national missile defense. The budget for national missile defense has a significant amount of money in it, some $950 million. And if we are not doing anything, as my good friend from Mississippi said, if we are just sitting around on our hands, or twiddling our thumbs while our security is jeopardized, and if we are not developing a national missile defense system as quickly as we should because we have not made the commitment to deploy, then you would think somebody on the Armed Services Committee, 10 of whom voted for the bill before us, would have voted to add money to develop that system, or proposed it at least.

But while the Armed Services Committee is deeply divided on the question of this bill—10 people voting yes and 7 people voting no, if my recollection is correct—nobody proposed that we add money to the national missile defense to develop a system which is referred to in this bill, presumably, because I think everybody on the committee thought we had adequate funding in our authorization. I do not want to be presuming here. We have to find out whether that is true. Perhaps when the bill comes to the floor, somebody will move to add additional funds.

But I caution people, you can only move at a certain speed without jeopardizing the program. You don't want to do certain things before you have adequately tested what you have already done. General Larry Welch, the retired Air Force Chief of Staff who studied this issue for the Department of Defense, has cautioned us that we should not put more money, should not force more money, into a program and push for a faster deployment without adequately testing what we are doing and providing sufficient time for such testing.

But, nonetheless, we will find out on the floor whether there are people who think we can usefully add more money to the development of a national missile defense, and, if so, I presume there would be an amendment. But that is not this bill. This bill doesn't add any money to a national missile defense system. This bill commits us to deploy the system before it is developed, without consideration of the impact on nuclear arms reductions and without consideration of the cost of the system, since we have not developed it. It also commits us without comparing the relative cost of deploying this system against the long-range missile threats there are at the time of the decision against the cost of deploying defenses against whatever other threats are coming from different directions in the area of weapons of mass destruction.

So we have these two approaches. One is the current approach to a national missile defense system, supported by the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, which puts a significant amount of money into development and which then declares that when the system is developed, that we will make a decision whether or not to deploy. That decision will be made after we have adequately developed and tested a system.

That decision will be based on a number of facts, including the threats, the cost, the cost-effectiveness, the operational effectiveness and, very critically, what arms reductions could be jeopardized by a unilateral deployment of whatever system is developed.

Now, the letter from the Chairman of the Joint Chiefs of Staff to me compares the two bills, as I started to say, and it says that "the bill and the program that we currently have are consistent on many points. However, the following differences make it difficult to support enactment."

Now, these are the reasons why the Chairman of the Joint Chiefs, General Shelton, in his letter to me, says it is difficult to support enactment.

First, he says:

> The bill would establish a policy to deploy as soon as technology allows. The NMD program, on the other hand, requires an emerging ballistic missile threat as well as achievement of a technological capability for an effective defense before deployment of missile defenses.

Secondly, as to why General Shelton says it is difficult to support enactment of this bill, he points out that:

> The bill asserts that the United States has no policy to deploy an NMD system. In fact, the NMD effort is currently a robust research and development program that provides the flexibility to deploy an initial capability within 3 years of a deployment decision. This prudent hedge ensures that the United States will be capable of meeting the need for missile defenses with the latest technology when a threat emerges.

Third, General Shelton says:

> I disagree with the bill's contention that the United States ability to anticipate future ballistic missile threats is questionable. It is possible, of course, that there could be surprises, particularly were a rogue state to receive outside assistance. However, given the substantial intelligence resources being devoted to this issue, I am confident that we will have the 3 years' warning on which our strategy is based.

The fourth point in his letter he has subsequently modified, I understand, so I won't quote that point. I believe he sent a subsequent letter to Senator COCHRAN advising that it no longer is relevant or that the point is now moot, I believe, agreeing with Senator COCHRAN on that point.

But the fifth point he makes as to why he says that "it is difficult to support enactment," as he phrases it, is that "the bill does not consider affordability or the impact a deployment would have on arms control agreements and nuclear arms reductions. Both points are addressed in the NMD Deployment Readiness Program and should be included in any bill on NMD."

Now, those are his reasons. We have a letter from the Secretary of Defense, as well, saying that he does not support this bill, and describing the current system, which is basically the hedge strategy that the Chairman of the Joint Chiefs described in his letter.

General Shalikashvili, the former Chairman of the Joint Chiefs of Staff, wrote us in May of 1996 the following:

> In this regard, efforts which suggest changes to or withdrawal from the ABM Treaty may jeopardize Russian ratification of START II and, as articulated in the Soviet statement of 13 June 1991, could prompt Russia to withdraw from START I. I am concerned that failure of either START initiative will result in Russian retention of hundreds or even thousands more nuclear weapons, thereby increasing both the costs and the risks that we face.

Now, that is the issue which we must decide here. Do we want to commit ourselves to the deployment of a system not yet developed, the costs of which are not known, the risks of which are many including—and these are the words of General Shalikashvili—that we could face additional thousands of nuclear weapons "thereby increasing both the costs and the risks that we face."

Might we want to deploy a system? The answer is yes. Weighing all of the factors which General Shalikashvili and General Shelton tell us should be considered, might we want to deploy a system after it is developed? The answer is yes. That is why we are developing it—to put ourselves in a position where we could deploy—could deploy—a national missile defense system.

Do we want to commit to deploying it before development is completed, without consideration of the impact on arms reductions, without consideration of what the threat is at the time that the deployment decision should be made, without the consideration of those factors? We should not.

Much more important than my saying that is what General Shelton said and what General Shalikashvili said and what the Secretary of Defense said. Do we all want to increase the security of this Nation? We do. Will a commitment to deploy a system which could lead us to face additional thousands of nuclear weapons contribute to the security of this Nation? I doubt it. Could there be a circumstance under which we might want to deploy, despite the ABM Treaty? There could be. Does that circumstance exist now? It does not.

Should we seek to negotiate with the Russians a shift from focusing on offensive weapons to including defenses? We should. Should this be a mutual discussion? Should this be a mutual activity? Surely, it should be. Can we unilaterally now commit ourselves to deploy a system which in all likelihood would violate a keystone treaty between ourselves and the Russians? Should we commit ourselves to do that now? No. Because by doing so we will weaken us, not strengthen us.

Are we doing nothing? No. We are spending billions to develop a system to permit us to decide to deploy it, should we need to. So this is not a matter of should we do something or should we do nothing. We are pursuing a hedge strategy with our current NMD program, as General Shelton described. The hedge is that we are developing a system as fast as it makes sense to develop. And again, if we should develop it faster and if we can, then I am assuming that we would face an amendment on the defense authorization bill that would seek to add more funds for that purpose. But we are developing a system as fast as is prudent. General Welch suggests that we may even be developing it faster than is prudent, thereby jeopardizing the effectiveness of the system we develop.

But nonetheless, should we develop it as quickly as prudent? Yes. Are we? Yes. Should we prejudge the deployment decision and make a determination which, as far as I know, has never been made in the history of Congress to deploy a system before it is developed? We should not. And General Shelton and General Shalikashvili, our senior uniformed military, and our civilian defense leaders, are urging that we stay with the current system, which is that hedge strategy of developing so that we could deploy should all those factors point in that direction after the development is completed.

Finally, Madam President, I want to read one additional paragraph from the letter of General Shalikashvili, then Chairman of the Joint Chiefs of Staff, to Senator Nunn, a letter dated May 1, 1996. I ask unanimous consent that this letter, plus the additional letters that I have referred to, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, May 1, 1996.

Hon. SAM NUNN,
U.S. Senate, Committee on Armed Services, Washington, DC.

DEAR SENATOR NUNN: In response to your recent letter on the Defend America Act of 1996, I share Congressional concern with regard to the proliferation of ballistic missiles and the potential threat these missiles may present to the United States and our allies. My staff, along with the CINCs, Services and the Ballistic Missile Defense Organization (BMDO), is actively reviewing proposed systems to ensure we are prepared to field the most technologically capable systems available. We also need to take into account the parallel initiatives ongoing to reduce the ballistic missile threat.

In this regard, efforts which suggest changes to or withdrawal from the ABM Treaty may jeopardize Russian ratification of START II and, as articulated in the Soviet Statement to the United States of 13 June 1991, could prompt Russia to withdraw from START I. I am concerned that failure of either START initiative will result in Russian retention of hundreds or even thousands more nuclear weapons thereby increasing both the costs and risk we may face.

We can reduce the possibility of facing these increased cost and risks by planning an NMD system consistent with the ABM treaty. The current National Missile Defense Deployment Readiness Program (NDRP), which is consistent with the ABM treaty, will help provide stability in our strategic relationship with Russia as well as reducing future risks from rogue countries.

In closing let me reassure you. Senator Nunn, that I will use my office to ensure a timely national missile defense deployment decision is made when warranted. I have discussed the above position with the Joint Chiefs and the appropriate CINCs, and all are in agreement.

Sincerly,

JOHN M. SHALIKASHVILI,
Chairman of the Joint Chiefs of Staff.

THE SECRETARY OF DEFENSE,
DEFENSE PENTAGON,
Washington, DC. April 21, 1998.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your request for the views of the Department of Defense on S. 1873, the American Missile Protection Act of 1998.

The Department of Defense is committed to ensuring that we properly protect the American people and America's national security interests. This requires that we have a carefully balanced defense program that ensures that we are able to meet threats to our people and vital interest wherever and whenever they arise. A key element of our defense program is our National Missile Defense (NMD) program, which as you know was restructured under Secretary Perry and with the support of Congress as a "3+3" deployment readiness program. Under this approach, by 2000 the United States is to be in a position to make a deployment decision if warranted by the threat, and if a decision to deploy were made at that time the initial NMD system would be deployed by 2003. If in 2000 the threat assessment does not warrant a deployment decision, improvements in NMB system component technology will continue, while an ability is maintained to deploy a system within three years of a decision.

The Quadrennial Defense Review reaffirmed this approach, although it also determined that the "3+3" program was inadequately funded to meet its objectives. Accordingly, I directed that an additional $2.3 billion be programmed for NMD over the Future Years Defense Plan. It must be emphasized, though, that even with this additional funding, NMD remains a high risk program because the compressed schedule necessitates a high degree of concurrency.

I share with Congress a commitment to ensuring the American people receive protection from missile threats how and when they need it. S. 1873, however, would alter the "3+3" strategy so as to eliminate taking into account the nature of the threat when making a deployment decision. This could lead to the deployment of an inferior system less capable of defending the American people if and when a threat emerges. Because of this, I am compelled to oppose the adoption of the bill.

Please be assured, however, that I will continue to work closely with the Senate and House of Representatives to ensure that our NMD program and all of our defense programs are designed and carried out in a manner that provides the best possible defense of our people and interests.

Sincerely,

WILLIAM S. COHEN.

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, April 21, 1998.

Hon. CARL M. LEVIN,
Ranking Minority Member, Committee on Armed Services, Washington, DC.

DEAR SENATOR LEVIN: Thank you for the opportunity to comment on the American Missile Protection Act of 1998 (S. 1873). I agree that the proliferation of weapons of mass destruction (WMD) and their delivery systems poses a major threat to our forces, allies, and other friendly nations. US missile systems play a critical role in our strategy to deter these threats, and the current National Missile Defense (NMD) Deployment Readiness Program (3+3) is structured to provide a defense against them when required.

The bill and the NMD program are consistent on many points; however, the following differences make it difficult to support enactment. First and most fundamental are the conditions necessary for deployment. The bill would establish a policy to deploy as soon as technology allows. The NMD program, on the other hand, requires an emerging ballistic missile threat as well as the achievement of a technological capability for an effective defense before deployment of missile defenses.

Second, the bill asserts that the United States has no policy to deploy an NMD system. In fact, the NMD effort is currently a robust research and development program that provides the flexibility to deploy an initial capability within 3 years of a deployment decision. This prudent hedge ensures that the United States will be capable of meeting the need for missile defenses with the latest technology when a threat emerges.

Third, I disagree with the bill's contention that the US ability to anticipate future ballistic missile threats is questionable. It is possible, of course, that there could be surprises, particularly were a rogue state to receive outside assistance. However, given the substantial intelligence resources being devoted to this issue, I am confident that we will have the 3 years' warning on which our strategy is based.

Fourth, the bill uses the phrase "system capable of defending the territory of the United States." The NMD program calls for defense of only the 50 states. Expanding performance coverage to include all US territories would have considerable cost, design, and location implications.

Finally, the bill does not consider affordability or the impact a deployment would have on arms control agreements and nuclear arms reductions. Both points are addressed in the NMD Deployment Readiness Program and should be included in any bill on NMD.

Please be assured that I remain committed to those programs that discourage hostile nations from the proliferation of WMD and the missiles that deliver them. In that regard, I am confident that our current NMD program provides a comprehensive policy to counter future ballistic missile threats with the best technology when deployment is determined necessary.

Sincerely,

HENRY H. SHELTON,
Chairman of the Joint Chiefs of Staff.

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE, DEFENSE PENTAGON,
Washington, DC, April 20, 1998.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Defense on S. 1873, 105th Congress, a bill "To state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack."

The Department of Defense and the Administration object to the American Missile Protection Act of 1998. In response, the Department of Defense would note that the Administration's National Missile Defense Deployment Readiness Program is correct, prudent, and positions the United States to deploy a defense when a threat emerges.

S. 1873 would seek to make it United States policy "to deploy as soon as technologically possibile an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)."

The Administration's National Missile Defense program is premised on the view that not only must the technology be developed to allow for an effective defense, but that deployment should be based on an emerging rogue ballistic missile threat to the United States. To do otherwise is to waste scarce Defense resources and to forego deploying the most effective defense when the threat actually emerges.

The Intelligence Community has concluded that a long-range ballistic missile threat to the United States from a rogue nation, other than perhaps North Korea, is unlikely to emerge before 2010 but could be accelerated if those nations acquired this capability from beyond their borders. The Intelligence Community concluded that the only rogue nation missile in development that could strike the United States is the North Korean Taepo Dong 2, which could strike portions of Alaska or the far-western Hawaiian Islands. however, as Secretary Cohen stated in his 1998 Annual Report to the President and the Congress, the likelihood of the Taepo Dong 2 being operational by 2005 is very low. The Administration is not complacent about this assessment. The National Missile Defense program is designed to account for the uncertainty about when and where threats may emerge by developing a National Missile Defense capability that can be deployed well ahead of this estimate. The Administration agrees that the United States must work to defend all 50 states against potential limited missile threats from rogue nations. The National Missile Defense Deployment Readiness program will position the United States to deploy an initial capability as early as 2003. But, the Administration opposes S. 1873 because it would commit the United States to deploy a National Missile Defense system in the absence of an emerging rouge state ballistic missile threat. The crucial difference is in timing of a deployment decision. Commitment to deployment now, in the absence of a threat, would divert vital defense funds from more pressing military needs and would result in premature commitment to a technological option that may be outdated when the threat emerges.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

JUDITH A. MILLER.

Mr. LEVIN. Madam President, the paragraph to Senator Nunn reads as follows.

> We can reduce the possibility of facing these increased costs and risks.

And here he is talking about the risk he cited earlier in this letter of thousands of more nuclear weapons being retained by Russia should we unilaterally develop or deploy defenses in violation of the ABM Treaty. General Shalikashvili says:

> We can reduce the possibility of facing these increased costs and risks by planning an NMD system consistent with the ABM Treaty. The current National Missile Deployment Readiness Program, which is consistent with the ABM Treaty, will help provide stability in our strategic relationship with Russia as well as reducing future risks from rogue countries.

Those are the risks we are all concerned about, risks from rogue countries being particularly of concerns—missile risks, yes, but other risks of delivery of weapons of mass destruction also.

I think that is the greatest threat, those weapons of mass destruction and the delivery by various means, everything from suitcases to ships to truck bombs, perhaps to missiles. Those are the greatest risks that this Nation faces as we enter the next century. But we are not reducing those risks; we are probably increasing those risks, if Russia, seeing us commit to deploy a system unilaterally which could violate the ABM Treaty, then decides, as General Shalikashvili suggests they would, that they can no longer comply with START I, cannot ratify START II, or negotiate further reductions in START III.

So, I hope that this bill will not be adopted. It was a vote of 10 to 7 in the Armed Services Committee which approved reporting this bill to the Senate. I assume it would be a very heavily debated bill, should it come before the Senate. But in the meantime, I oppose this bill.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Madam President, I ask unanimous consent that we might proceed as in morning business.

Mr. COCHRAN. Reserving the right to object, Madam President, and I don't want to object, but I had hoped we could conclude this debate here and I would withdraw this motion. I know of no Senators coming over to speak, unless the Senator from Oregon is seeking to speak on this motion to proceed to the bill. I heard there were other Senators who were interested. If the Senator will permit me a couple of minutes, then I will withdraw this motion and he can proceed as in morning business. But right now, the business is the motion to proceed to consider this missile defense bill. It won't take long, I assure the Senator, if he will indulge me.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Madam President, I would like to make one closing point that I think should be made regarding the nature of the threat that exists now from other nations that are rapidly increasing both the range and sophistication of their missile systems. I talked about Iraq, our experience in the Persian Gulf war, what we have known about the capability which they developed very quickly after the purchase of systems from North Korea. We talked about Iran and the medium-range Shahab-3 and -4 systems that they are developing. We talked about Pakistan's testing last month a 1,500-kilometer-range missile, when 6 months ago the Defense Department's report on proliferation around the world said that Pakistan had only a 300-kilometer-range missile and a shorter-range missile in their arsenal. No mention was made of any longer-range missile.

But I have neglected to point out what is happening, and what we know has happened, in North Korea, which has led to an assessment that they are developing missiles with much greater ranges than that. There is under development the Taepo-Dong 2 missile with a 6,000-kilometer intercontinental capacity, which would put within its range portions of Alaska and Hawaii.

These are facts. These are reports that have been made public. We know that they have already deployed systems that are of shorter range than that, creating a very unstable and stressful situation because of the missile threat in that region of the world. We are kidding ourselves if we continue to assume that there is no emerging threat. These threats have emerged, they exist now, and they show the capacity of nation states to develop, with their own technology, their own technicians, weapons systems that are going to have longer and longer ranges and the capacity to deliver weapons of mass destruction.

That is the reality. And when a CIA Director says that he cannot predict when rest-of-the-world nations will have intercontinental ballistic missiles because of "gaps and uncertainties"—when we don't have the capacity to make those findings and projections—it seems to me that the facts are clear, and the facts are serious. They should cause us great concern and convince the Senate that it ought to take action in the passage of this legislation, and change our policy of "wait-and-see" to one of "deploy as soon as the technology is ready." It is going to be in our interests to deploy a system 1 year sooner than it is needed rather than 1 year after it is needed.

Madam President, I had notified other Senators that we were going to withdraw the motion to proceed to consider this bill. There will be other opportunities to talk about it when it comes up on Wednesday, if a vote on cloture is ordered then, or Senators may talk about it as in morning business during the remainder of this evening. But if other Senators do not wish to talk on the subject, it is my intention to withdraw the motion.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, briefly, I ask unanimous consent that the portion of the annual report to the President and Congress from Secretary Cohen entitled "National Missile Defense Program" be printed in the RECORD.

There being no objection, the excerpt of the report was ordered to be printed in the RECORD, as follows:

EXCERPT OF SECRETARY OF DEFENSE WILLIAM S. COHEN'S ANNUAL REPORT TO THE PRESIDENT AND THE CONGRESS, 1998, PAGES 65–66

The Intelligence Community has concluded that the only rogue nation missile in development which could conceivably have the range to strike the United States is the North Korean Taepo Dong 2, which could strike portions of Alaska or the far-western Hawaiian Islands, but the likelihood of its being operational by 2005 is very low. With this exception, no country, other than the declared nuclear powers, will develop or otherwise acquire a ballistic missile in the next 15 years that could threaten the United States, although outside assistance is a wild card that could shorten timelines to deployment.

The NMD program is structured to develop and test system elements the United States could deploy if intelligence indicated that a new strategic threat was emerging. The United States is not making a decision to deploy a national missile defense at this time. Deploying before the threat emerges would preclude deploying the most advanced technology if and when the threat does emerge. If a threat does not emerge, the NMD program will continue to improve the performance of the system by advancing the technology of each element and adding new elements as necessary, while maintaining the capability to deploy a system in a short period of time.

Mr. LEVIN. Madam President, I will just read one paragraph from this, and then I want to ask my good friend from Mississippi a question. The paragraph reads:

> The national Missile Defense Program is structured to develop and test system elements the United States could deploy if intelligence indicated that a new strategic threat was emerging. The United States is not making a decision to deploy a national missile defense at this time. Deploying before the threat emerges would preclude deploying the most advanced technology if and when the threat does emerge. If a threat does not emerge, the NMD program will continue to improve the performance of the system by advancing the technology of each element and adding new elements as necessary, while maintaining the capability to deploy a system in a short period of time.

There is also a discussion in the previous paragraph, which is now incorporated in the RECORD, as to why, relative to the North Korean Taepo Dong 2, and the "likelihood of its being operational by 2005 being very low."

Now, my question of my friend is this. He made reference to the fact that the motion is being withdrawn. I want to be sure I understand; I assume he means that the motion is being set aside at this time—is that correct?—and that the scheduled vote on Wednesday is what is contemplated.

Mr. COCHRAN. That is the intention of this Senator. Thank you.

Mr. LEVIN. I thank the Chair.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, I ask unanimous consent that the motion to proceed be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. COCHRAN. Madam President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNET TAX FREEDOM ACT

Mr. WYDEN. Madam President, we had a thoughtful discussion on the floor of the Senate earlier today with Senator McCAIN and Senator DORGAN especially with respect to the high-tech issues that will be coming up over the course of this week.

In a sense, it is ironic that we call it high-tech week here. I am very pleased that Senator LOTT and Senator DASCHLE have been able to get an agreement to deal with these issues. And, in a sense, we are going to be dealing with high-tech issues all year round as we face the 21st century. It is not going to be something that we look at just from time to time, but it will essentially dominate, in my view, debate about public policy in the years ahead. And I am particularly hopeful that this week we will have an opportunity on the Senate floor to debate the Internet Tax Freedom Act which, as our Presiding Officer knows, was debated at some length in the Senate Commerce Committee earlier this year.

My sense is that these tax issues are especially important because it is so critical that our country lay out a set of ground rules, a set of principles that will address the question of taxation and the digital economy.

Right now, you can live in the Dakotas, and if you want to send a tasty fruit basket from a company in Oregon, you can order it on line, say, from a firm in Virginia, and pay for it with a Florida bank card, and you can end up absolutely baffled with respect to how many jurisdictions may be in a position to impose taxes on this particular transaction.

We have already heard in testimony before the committee that the uncertainty surrounding these transactions has caused some businesses to go under. In particular, we heard from a small business in Tennessee about the problem. The Wall Street Journal recently reports in a Peat Marwick survey that many financial executives are uncertain with respect to how transactions will be handled in cyberspace. This has contributed to uncertainty and reluctance to go forward and do business on line.

Recently, one of the prominent analysts, a firm by the name of Vertex, cited several States where it was really impossible to know how to proceed with respect to electronic commercial transactions because, in effect, the rules were so fluid that you would have to get an interpretation of tax law that really was not written.

So I and others have introduced the Internet Tax Freedom Act. And its purpose is simple. That is to give consumers and businesses engaged in electronic commerce a timeout from discriminatory taxes so that our country can develop a fair and reasonable policy on Internet taxation.

And we are very proud of the strong bipartisan support that this effort has received. Governor George Bush, for example, from the State of Texas, has recently spoken out on this issue. Our colleague, Senator PAT LEAHY of Vermont, Steve Forbes—the list of supporters for this effort literally spans the spectrum.

I believe that the reason it has been possible to generate such strong bipartisan support for the Internet Tax Freedom Act is that during this period where there will be a bar on discriminatory taxes on electronic commerce, all other forms of taxation that are used in the regular course of business would be allowed to go forward. So during the period when our country tries to develop a set of ground rules for taxation of electronic commerce—all of the property taxes, all of the sales taxes, all of the use taxes, all of the business license fees that are nondiscriminatory—would stay in place.

For our colleagues that have been following this issue, it is all laid out very specifically in section 3 of our legislation. For example, under our legislation if Mr. Brown in South Dakota picks up the phone and orders a sweater from J.C. Penney in Illinois he would pay the same sales tax as if he walked into J.C. Penney in Sioux Falls, SD. South Dakota taxes sales of goods over the Internet the same as sales of tangible personal property through more traditional channels. Exactly the same treatment for a transaction, whether it is conducted over the Internet or whether it is conducted through more traditional means.

Going further, if you are a chef in Charleston, SC, and you order a new saucepan from Williams-Sonoma in California, under our legislation you would pay the same sales tax as if you walked in to the Williams Sonoma shop in Charleston. South Carolina taxes sales of goods over the Internet the same as sales of tangible personal property through more traditional channels.

Now, there has been an effort by some to say that this legislation would in some way harm Main Street. The fact of the matter is that Main Street has overwhelmingly come out for this legislation. I will append to my statement a long list of the business groups that support the legislation, but every Member of the U.S. Senate has received a letter from the Chamber of Commerce in recent days with a ringing endorsement of the Internet tax freedom legislation. And the reason for this very strong support, in my view, is that Main Street business has come out strongly for the legislation. I believe the reason that Main Street businesses are so strongly supporting the Internet Tax Freedom Act is that for them, the opportunity to do business on-line ensures that geography will be irrelevant in the 21st century.

A lot of those small businesses on Main Street in rural America—and I represent many of them in the State of Oregon—do have difficulty competing today in the global marketplace. One of the reasons they do is because geography is a very big barrier in terms of their ability to tap the global economy. With the Internet Tax Freedom Act ensuring that they are treated fairly both during this period when there is an effort to come up with new ground rules, and for the 21st century, we give new opportunity to those small Main Street businesses across America. I believe that is why they have endorsed this legislation so strongly.

If ever there was an issue that was appropriate for the U.S. Senate to deal with, it is this question. This is what article 1 of our Constitution is all about. We have 30,000 taxing jurisdictions in America. I believe it is fair to say that if a fair number of these taxing jurisdictions go forward and levy taxes on electronic commerce, in a discriminatory way this will do enormous damage to what I believe will be the business infrastructure of the 21st century.

Senator McCAIN and Senator DORGAN, as I said, had a very thoughtful discussion of the potential of Internet commerce in the years ahead. But let us make no mistake about it, if these small businesses all across this country are going to suddenly have to put on accountants and various kind of tax specialists to figure out what kind of taxes they owe in various local jurisdictions across this country, this will damage electronic commerce and the ability of the small businesses to compete in a profound way.

If you have a two-person operation, a two-person business operating out of an individual's home, and they are somehow supposed to collect scores of different sales and property taxes across this country there is going to be enormous confusion just as we see the electronic marketplace take off. I know no Member of the U.S. Senate wants to see that happen.

The bottom line is that the Internet Tax Freedom Act applies only to those taxes that are not technologically neutral. Only those taxes that single out the Internet would be affected, and every business in America would still have to pay its share of taxes. So if a State has a 3-percent sales tax that a customer has to pay the State when walking into a store to purchase a product, under the Internet Tax Freedom Act, section 3 specifically, the State can, in fact, charge a 3-percent sales tax on goods ordered over the Internet.

I am very hopeful that there will be an opportunity to debate this issue on the floor of the U.S. Senate. A number of my colleagues, Senator DORGAN specifically, have important issues that they want to raise. I and other sponsors of this legislation have sought to address many of them. But I believe this is one of the most important issues that this Senate could be dealing with because it is going to frame the ground work for the digital economy in the 21st century and it is important that all businesses are treated fairly.

It is also important that the U.S. Senate realize the damage that can be done if you continue to see a growth in the kind of confusion that the Vertex Company has pointed out with respect to the inability of businesses to get answers. We will damage Internet commerce if we see more small businesses like the Tennessee businessman who testified before the Commerce Committee that he went out of business because of the confusion on the part of his State with respect to how electronic commercial transactions ought to be handled.

No Member of the U.S. Senate wants to see that happen. We have an opportunity to get this issue with respect to the digital economy right. We have a chance to take a timeout from discriminatory taxes, come up with a policy for Internet taxation that is fair and makes sense. Let's not kill the Internet goose that is showing the capacity to lay an extraordinary number of golden eggs.

I hope we will have a chance to discuss this issue at great length throughout the course of the week. I especially want to thank my colleagues, Senator McCAIN, the chairman of the Senate Commerce Committee, who has worked diligently with me on this legislation for more than a year; my colleague, Senator DORGAN, who does have questions about this legislation but has always been very fair in terms of raising them. I am very hopeful we will have a chance to debate and vote on this legislation during the course of this week.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Florida.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that Dr. Susan Goodman be granted floor privileges during the duration of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, what is the current time limitation for speaking as in morning business?

The PRESIDING OFFICER. Ten minutes is the time limit.

Mr. GRAHAM. I ask unanimous consent to speak for up to 20 minutes to deliver 2 statements on 2 different topics.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2061 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

NATO EXPANSION

Mr. GRAHAM. Mr. President, approximately ten days ago, the Senate voted to ratify the accession of Poland, Hungary, and the Czech Republic into the North Atlantic Treaty Alliance.

I joined 79 of my colleagues in supporting this historic measure.

This vote occurred at the end of a week of debate in the Senate on this matter. But it signaled the beginning of an equally important process—that of redoubling or diplomatic efforts to build greater trust and cooperation with Russia.

Many who argued against expanding the alliance did so on the assumption that such expansion would sour our relations with Russia and reduce the chances for progress in arms control. I believe that the consequences of expanding NATO are still undetermined, and that those consequences will depend largely on how we conduct our relations with Russia in the coming years.

Russia currently has 6,680 strategic nuclear warheads, thousands of tactical warheads, and hundreds of tons of fissile material that could be used to produce additional nuclear warheads.

Ensuring that these weapons are properly controlled and further reductions in strategic warheads are made is one of the principal national security interests of the United States.

This is why it is critical that we take greater steps to reach out to Russia and demonstrate our desire to work with them in a cooperative fashion.

Mr. President, in 1996, I was a member of the Commission on America's National Interests. This commission, which included my colleagues Senator McCAIN, ROBERTS, and former Senator Nunn, as well as other foreign policy experts, was charged with identifying American national interests in the Post-cold-war era.

The Commission specifically addressed the question of expanding NATO, saying, "NATO enlargement is in the U.S. interest, but it will be essential to manage the process in ways that take account of Russian concerns."

We have already taken several important steps, including the U.S.-Russian Founding Act, the Nunn-Lugar programs, and the Partnership for Peace. Indeed, U.S. and Russian forces have served side by side in Bosnia. But there is much more to be done.

We must seek new ways to cooperate and build trust between our two great nations. What is needed is a sustained creative program of outreach to demonstrate that NATO expansion was not a hostile act designed to build a new Iron Curtain closer to Russia's borders.

Nor was it a signal that we have lost interest in helping Russia work through one of the most significant societal transformations in history.

One suggestion for creative outreach involves the Year 2000 Problem, which is sometimes referred to as Y2K.

We have undertaken a massive effort to deal with this issue of the reliability of our information systems after the year 2000. The Defense Department has alone identified 2800 critical systems that must be "cured" before Y2K.

The Russians have not yet determined if they have a similar problem, not to mention they have not commenced the process of attempting to fix it.

It is in our interests to work with Russia to help them identify the scope of their Y2K problem and to remedy it.

It would be detrimental in the extreme to our interests if the Russians awoke on the morning of January 1, 2000, with blank screens on their early warning radars and command and control systems. What could be even worse is if their critical systems continue to operate with false and corrupted information. It is in both U.S. and Russian interests for us to have the highest level of confidence in our command and control systems and to build confidence through transparency and other cooperative measures.

Another area that presents opportunity for sustained outreach to Russia is interparliamentary cooperation. Each member of Congress, regardless of their feelings on NATO enlargement, should make an effort to reach out to our counterparts in Russia to foster greater trust and cooperation.

During the Cold War, intermittent attention was paid to interparliamentary relations. Unfortunately, since 1989, Russians believe that U.S. interest in such contacts has dwindled.

Some efforts at interparliamentary cooperation are underway. I will mention two of them. The Aspen Institute has held yearly meetings since 1994 that bring together U.S. and Russian parliamentarians. Speaker GINGRICH has established an initiative, under the direction of Congressman CURT WELDON, to reach out to the Russian Duma. But more should be done. Because of its responsibility to provide advice and consent on treaties, the Senate has a special responsibility to play a role in this effort.

We can be instrumental in creating an environment in which the Russian Duma will seek to cooperate with the United States. In fact, the commission on America's National Interests spoke of "direct contact—engaging Russia in ways that demonstrate the benefits on nonaggressive behavior," as one of the principal ways that we can promote a benign Russian foreign policy. These types of contacts will also serve to strengthen Russian democracy. All of these are very much in the United States national interest.

While I supported NATO expansion, I was concerned that the Senate entered into the debate after the United States had already committed to expanding the alliance.

The vote for NATO expansion in the Senate was bipartisan, but in my judgment that support was not very deep. Many senators, including myself, felt we were too deeply committed to reject expansion, calculating that the cost of non-action at this point would be greater than the risk of action.

Preventing a repetition of this if and when there is to be additional expansion of the alliance is critical. A serious dialogue must involve Congress, the White House, and the American people, and must take place before commitments are made.

An example of this was the structured consultations that took place between a Congress which was shifting in terms of its partisan leadership and a Democratic President immediately following the end of the Second World War.

In fact, Senator Tom Connelly and Arthur Vandenburg, the Chairman and Ranking Member of the Senate Foreign Relations Committee, were personally involved in negotiating many of the post-war treaties, spending much of 1946, for instance, not in the Senate Chambers but overseas involved in the detailed negotiations of what was to become the framework of our cold war strategy.

President Truman used these close consultations to build a bipartisan consensus that led, among other things, to the establishment of the North Atlantic Treaty Organization in 1949, and the strong vote of support which that treaty received from the U.S. Senate.

Divided government raises the level of partisanship on domestic issues. As a nation, we cannot accept similar destabilization of our international values, goals, and responsibilities.

It will be on our ability to meet those challenges that the ultimate test of the wisdom of our vote to expand the North Atlantic Treaty Organization will be predicated.

Thank you, Mr. President.

140TH ANNIVERSARY OF THE ADMISSION OF THE STATE OF MINNESOTA INTO THE UNITED STATES OF AMERICA

Mr. GRAMS. Mr. President, I rise today to recognize and to help celebrate the 140th anniversary of Minnesota's admission into the United States of America. Let me begin, Mr. President, by quoting James Hill, founder of the Great Northern Railroad and one of Minnesota's true pioneers. It is said that Mr. Hill proclaimed his reasons for living and working in Minnesota by saying, "You can't interest me in any proposition in any place where it doesn't snow."

Well, Minnesota has never had a shortage of snow, which—depending on who you ask and just how many months the winter has lingered—is considered either a blessing or a curse. But even Mr. Hill recognized that snow is just one of Minnesota's many riches. Ever since word began to spread last century about a northern land of promise and prosperity, a land with abundant natural resources and indescribable beauty, people have traveled to Minnesota to live, work, and prosper. And during its 140 years of statehood, Minnesota has produced some of the country's best and brightest, making it a world leader in agriculture, technology, medicine, and business.

Along the way, Minnesotans have endured cold winters, hot summers, floods, tornadoes, and any other natural disaster Mother Nature has thrown their way.

At no time has the resolve of our people been more tested than with the natural disasters that have plagued our state during the last year. Last spring, the people of northwestern Minnesota were hit with the worst flooding in our state's history. Earlier this spring, the residents of south-central Minnesota lived through one of the largest tornadoes ever to hit our state. Yet, in both cases, Minnesotans worked together to rebuild and recover, and Minnesota is stronger for their efforts. Strangers have labeled that willingness to step forward and help one another as "Minnesota Nice." We think that is just the way things ought to be.

Throughout our history, Minnesotans have understood the importance of family, hard work, and personal responsibility. It is not just talk—they live it. Growing up on a Minnesota dairy farm in a small farming community, I saw those strengths firsthand. I saw how these qualities help make Minnesota one of the world's premiere food producers.

Farming and farm-related businesses play a critical role in our state; one of every four Minnesota jobs is tied in some way to agriculture, and 25% of our economy is dependent upon farmers and agri-business. In 1996, Minnesota was ranked 15th in the country in agriculture exports to Asia.

Minnesota's world leadership is not limited only to agriculture. Our state is home to some of the world's leading job providers—including 3M, Pillsbury, Honeywell, Cargill, and a list far too long to mention here. Minnesota is also known for its achievements in the area of health care. It is a leader in the medical device industry and home to one of the world's premiere health care facilities, the Mayo Clinic in Rochester.

The commitment of Minnesotans to hard work and to producing some of the best products in the world has made Minnesota an active participant not only in the nation's economy, but in the world economy as well.

Minnesotans have long understood the importance of America's role within the international community. Our residents have had the insight to understand that we do not live in a vacuum . . . that our economic prosperity depends on our ability to trade freely with the rest of the world. This point was highlighted during a meeting I had last month with farmers in Crookston, Minnesota. Although they asked questions about issues here at home, many of their questions were about IMF, free trade, and the Asian financial crisis. Our farmers and other business people know that what happens in Asia or Europe today can affect business in America and Minnesota tomorrow.

One Minnesotan who has helped to shape our leadership role on international issues is former Governor Harold Stassen. Governor Stassen helped to write the charter for the United Nations and at age 91 continues to be an outspoken proponent of free and open relations with the rest of the world.

This coming weekend, Minnesota's international tradition will continue when Secretary General of the United Nations Kofi Annan comes to Minnesota to tour the Center for Victims of Torture. Many may be surprised to hear that the Secretary General attended college in Minnesota, at Macalester College in Saint Paul.

For the last few minutes, I have been speaking here on the floor, with great pride, about my home state. To some, I am sure it sounds a bit like bragging. But on this day, 140 years after Minnesota became the 32nd State admitted to the Union, I want to express the honor I feel in representing the people of Minnesota in the U.S. Senate—for Minnesota is one of the premier states in the greatest country on Earth.

I want to end today with the sentence used by Minnesota author and radio personality Garrison Keillor to describe the fictitious town of Lake Woebegone, Minnesota . . . . because I think it can be applied to all of Minnesota. I am proud to hail from a state "where all the women are strong, the men are good looking, and the children are above average."

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, May 8, 1998, the federal debt stood at $5,485,869,171,398.56 (Five trillion, four hundred eighty-five billion, eight hundred sixty-nine million, one hundred seventy-one thousand, three hundred ninety-eight dollars and fifty-six cents).

One year ago, May 8, 1997, the federal debt stood at $5,330,417,000,000 (Five trillion, three hundred thirty billion, four hundred seventeen million).

Twenty-five years ago, May 8, 1973, the federal debt stood at $452,712,000,000 (Four hundred fifty-two billion, seven hundred twelve million) which reflects a debt increase of more than $5 trillion—$5,033,157,171,398.56 (Five trillion, thirty-three billion, one hundred fifty-seven million, one hundred seventy-one thousand, three hundred ninety-eight dollars and fifty-six cents) during the past 25 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ENTITLED "CLASS-SIZE REDUCTION AND TEACHER QUALITY ACT OF 1998"—MESSAGE FROM THE PRESIDENT—PM 123

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Class-Size Reduction and Teacher Quality Act of 1998." This legislative proposal would help States and local school districts recruit, train, and hire 100,000 additional well-prepared teachers in order to reduce the average class size to 18 in grades 1 through 3 in our Nation's public schools. It is an essential part of our overall effort to strengthen public schools throughout the Nation.

As schools across the Nation struggle to accommodate a surge in enrollments, educators and parents have become increasingly concerned about the impact of class size on teaching and learning, particularly in the critically important early grades, where students learn reading and other basic skills. This concern is justified: rigorous research confirms what parents and teachers have long believed—that students in smaller classes, especially in the early grades, make greater educational gains and maintain those gains over time. These gains occur because teachers in small classes can provide students with more individualized attention, spend more time on instruction and less time on discipline, and cover more material effectively. Moreover, the benefits of smaller classes are greatest for poor, minority, and inner-city children, the children who often face the greatest challenges in meeting high educational standards.

Smaller classes will have the greatest impact on student learning if the new teachers brought into the classroom are well qualified to teach reading and to take advantage of smaller learning environments. For this reason, my proposal emphasizes not just class-size reduction but also professional development for educators, and it will give school districts adequate time to recruit and train staff while phasing in smaller classes. Furthermore, all new teachers hired under the program would be required to pass a State teacher competency test and would also have to be certified to teach or be making satisfactory progress toward full certification.

We can help all of our students learn to read independently and well by the third grade, get a solid foundation in basic skills, and reach high educational standards if we start them off with small classes and well-prepared teachers in the early grades.

Under my proposal, the Department of Education would provide $20.8 billion in mandatory appropriations over a 10-year period (beginning with $1.1 billion in fiscal year 1999) to States. The States would then distribute the funds to local school districts based on their relative class sizes in grades 1 through 3, as well as on their ability and effort to finance class-size reductions with their own resources. The bill would provide States with considerable flexibility in distributing these funds, while ensuring that the most needy school districts receive a fair share.

Moreover, because my proposal would actually appropriate the funds needed to carry out the program, States and local communities could count on these funds without the need for separate congressional appropriations each year. This proposal is fully paid for within my Fiscal Year 1999 Budget, and therefore would not reduce the budget surplus.

School districts would use these funds to reduce class sizes in grades 1 through 3. Just as importantly, these funds would also be available for a variety of activities to ensure that students in the early grades receive sound and effective instruction, such as making sure that teachers know how to teach reading and other subjects effectively in small classes.

This proposal includes strong accountability for results. Participating school districts would produce "report cards" documenting reductions in class sizes and the achievement of their students in reading, based on rigorous assessments. Schools whose students fail to make gains in reading would be required to undertake corrective actions. In addition, the Department of Education would undertake a comprehensive national evaluation of this program and its impact on reading achievement and teaching.

I urge the Congress to take prompt and favorable action on this proposal. Its enactment would help school districts reduce class sizes in the early grades and improve instruction and achievement in reading, issues that are of major importance to parents and to the Nation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 8, 1998.*

REPORT CONCERNING THE ANNUAL REPORT OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR FISCAL YEAR 1996—MESSAGE FROM THE PRESIDENT—PM 124

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

In accordance with the requirements of section 809 of the Housing and Community Development Act of 1974, as amended (12 U.S.C. 1701j-2(j)), I transmit herewith the annual report of the National Institute of Building Sciences for fiscal year 1996.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 11, 1998.*

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on May 8, 1998, he presented to the President of the United States the following enrolled bill:

S. 1502. An act entitled the "District of Columbia Student Opportunity Scholarship Act of 1998."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4838. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards" (FRL–5969–4) received on April 27, 1998; to the Committee on Environment and Public Works.

EC–4839. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revision" received on May 1, 1998: to the Committee on Environment and Public Works.

EC–4840. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Pulp, Paper, and Paperboard Category" (FRL5924–8) received on April 15, 1998: to the Committee on Environment and Public Works.

EC–4841. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of seven rules regarding acid rain, herbicide residues, pesticide ingredients, fungicide residues, vehicle inspection, halogenated solvents and emissions reduction (FRL6006–2, FRL5788–1, FRL5787–9, FRL5788–5, FRL6007–3, FRL6007–5, FRL6004–5) received on April 29, 1998; to the Committee on Environment and Public Works.

EC–4842. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of four rules regarding the clean fuel fleet program, Clean Air Act implementation plans, gaseous fueled vehicles and engines, and bioaccumulative chemicals (FRL5994–5, FRL5979–4, FRL5999–7, FRL5999–8) received on April 16, 1998; to the Committee on Environment and Public Works.

EC–4843. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of five rules regarding air quality, fungicide tolerances and pesticide tolerances (FRL5996–5, FRL5998–3, FRL5996–4, FRL5783–5, FRL5782–1) received on April 16, 1998; to the Committee on Environment and Public Works.

EC–4844. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of four rules regarding Right-to-Know chemicals, Clean Air Act implementation plans, landfill gas emissions and grants to Indian Tribes for water pollution control (FRL5785–5, FRL6001–2, FRL6003–2) received on April 21, 1998; to the Committee on Environment and Public Works.

EC–4845. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of two rules regarding Right-to-Know chemicals and air quality implementation plans (FRL5785–5, FRL5998–1) received on April 21, 1998; to the Committee on Environment and Public Works.

EC–4846. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of two rules regarding landfill gas emissions in Iowa and Nebraska (FRL6662–4, FRL6002–8) received on April 21, 1998; to the Committee on Environment and Public Works.

EC–4847. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of twenty-five rules including a rule entitled "Technical Amendments to OMB Control Numbers" (FRL–5724–3, FRL–5670–1, FRL–5807–2, FRL–5833–6, FRL–5835–9, FRL–5728–8, FRL–5847–9, FRL–5980–9, FRL–5983–2, FRL–5982–7, FRL–5983–5, FRL–5980–8, FRL–5982–1, FRL–5981–8, FRL–5987–9, FRL–5982–6, FRL–5983–6, FRL–5982–3, FRL–5983–1, FRL–5983–3, FRL–5982–2, FRL–5982–9, FRL–5982–4, FRL–5981–2, FRL–5981–6) received on April 23, 1998; to the Committee on Environment and Public Works.

EC–4848. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of five rules regarding herbicide tolerances, drinking water, hazardous waste management, organobromide wastes, and insecticide residues (FRL–5796–9, FRL–6003–5, FRL–5988–2, FRL–5999–9, FRL–5784–7) received on April 23, 1998; to the Committee on Environment and Public Works.

EC–4849. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule to list one California plant, pallid manzanita, as threatened under the Endangered Species Act (RIN1018–AD35) received on April 21, 1998; to the Committee on Environment and Public Works.

EC–4850. A communication from the Acting Inspector General, U.S. Environmental Protection Agency, transmitting, pursuant to law, the annual Superfund report for fiscal year 1998; to the Committee on Environment and Public Works.

EC–4851. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, a determination and findings regarding a contract for the design and management of independent evaluations of recent EPA initiatives; to the Committee on Environment and Public Works.

EC–4852. A communication from the Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Status of the State Small Business Stationary Source Technical and Environmental Compliance Assistance Program"; to the Committee on Environment and Public Works.

EC–4853. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation regarding transportation grants to improve international border crossings and major trade corridors; to the Committee on Environment and Public Works.

EC–4854. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of an administrative directive regarding the establishment of requirements related to nuclear safety design, criticality safety, fire protection and natural phenomena hazards mitigation at DOE facilities received on April 21, 1998; to the Committee on Environment and Public Works.

EC–4855. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Disaster Assistance; Public Assistance Program Appeals; Hazard Mitigation Grant Program Appeals" (RIN3067–AC67) received on April 20, 1998; to the Committee on Environment and Public Works.

EC–4856. A communication from the Acting Assistant Secretary of the Army for Civil Works, transmitting, a draft of proposed legislation entitled "Water Resources Development Act"; to the Committee on Environment and Public Works.

EC–4857. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation to make technical changes to laws governing the National Wildlife Refuge System; to the Committee on Environment and Public Works.

EC–4858. A communication from the Acting Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice, transmitting, a draft of proposed legislation entitled, "The International Anti-Bribery Act of 1998"; to the Committee on Banking, Housing, and Urban Affairs.

EC–4859. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Standards for Business Practices of Interstate Natural Gas Pipelines" (Docket RM96–1–007) received on May 6,1998; to the Committee on Energy and Natural Resources.

EC–4860. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule amending the Louisiana regulatory program under the Surface Mining Control and Reclamation Act of 1977 received on May 5, 1998; to the Committee on Energy and Natural Resources.

EC–4861. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Amendment of Section 73.202(b) of the Commission's Rules, Table of Allotments, FM Broadcast Stations (Indian Springs, Nevada, Mountain Pass, California, Kingman, Arizona, and St. George, Utah)" received on May 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4862. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Amendment of Section 73.202(b) of the Commission's Rules, Table of Allotments, FM Broadcast Stations (Ashdown and DeQueen, Arkansas)" received on May 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4863. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Amendment of Section 73.202(b) of the Commission's Rules, Table of Allotments, FM Broadcast Stations (Perry, Florida)" received on May 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–4864. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–4865. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of four rules regarding air quality implementation plans in Pennsylvania and Oregon and antimicrobial pesticides (FRL6009–3, FRL5976–5, FRL5789–3, FRL5789–4) received on May 6, 1998; to the Committee on Environment and Public Works.

EC–4866. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of four rules regarding pesticide and herbicide residues, air quality implementation plans in Oregon, and dry cleaning facility emissions in California (FRL5788–2, FRL5787–4, FRL6006–8, FRL6001–3) received on May 6, 1998; to the Committee on Environment and Public Works.

EC–4867. A communication from the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on abnormal occurrences at nuclear facilities for fiscal year 1997; to the Committee on Environment and Public Works.

EC–4868. A communication from the Commissioner of Social Security, Social Security Administration, transmitting, a draft of proposed legislation entitled "The Supplemental Security Income Program Integrity Act of 1998"; to the Committee on Finance.

EC–4869. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update" (Notice 98–26) received on May 6, 1998; to the Committee on Finance.

EC–4870. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 1998" (Notice 98–27) received on May 5, 1998; to the Committee on Finance.

EC–4871. A communication from the Executive Director of the Federal Labor Relations Authority, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1997; to the Committee on Governmental Affairs.

EC–4872. A communication from the Interim District of Columbia Auditor, Office of the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Audit of the People's Counsel Agency Fund for Fiscal Years 1995 and 1996"; to the Committee on Governmental Affairs.

EC–4873. A communication from the Secretary of Defense, transmitting, pursuant to law, a report entitled "Report on the Capacitor and Resistor Industry"; to the Committee on Armed Services.

EC–4874. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule entitled, "Notice of Final Funding Priorities for Fiscal Years 1998–1999 for Certain Centers and Projects" received on May 6, 1998; to the Committee on Labor and Human Resources.

EC–4875. A communication from the Director of Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Radiology Devices; Classifications for Five Medical Image Management Devices" (Docket 96N–0320) received on May 6, 1998; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Report to accompany the bill (S. 1723) to amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of United States' firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers and for other purposes (Rept. No. 105–186).

By Mr. THOMPSON, from the Committee on Governmental Affairs, with amendments:

S. 1364: A bill to eliminate unnecessary and wasteful Federal reports (Rept. No. 105–187).

By Mr. THOMPSON, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 981: A bill to provide for analysis of major rules (Rept. No. 105–188).

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. 2060. An original bill to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. No. 105–189).

By Mr. HATCH, from the Committee on the Judiciary: Report to accompany the bill

(S. 2037) to amend title 17, United States Code, to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, to provide limitations on copyright liability relating to material online, and for other purposes (Rept. No. 105-190).

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. 2057: An original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 2058. An original bill to authorize appropriations for fiscal year 1999 for defense activities of the Department of Energy, and for other purposes.

S. 2059. An original bill to authorize appropriations for the fiscal year 1999 for military construction, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND:

S. 2057. An original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

S. 2058. An original bill to authorize appropriations for fiscal year 1999 for defense activities of the Department of Energy, and for other purposes; from the Committee on Armed Services; placed on the calendar.

S. 2059. An original bill to authorize appropriations for the fiscal year 1999 for military construction, and for other purposes; from the Committee on Armed Services; placed on the calendar.

S. 2060. An original bill to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. GRAHAM (for himself, Mr. CHAFEE, Mr. JOHNSON, Mr. HARKIN, and Mr. GRASSLEY):

S. 2061. A bill to amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself, Mr. CHAFEE, Mr. JOHNSON, Mr. HARKIN, and Mr. GRASSLEY):

S. 2061. A bill to amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities; to the Committee on Finance.

NURSING HOME PATIENT PROTECTION ACT

Mr. GRAHAM. Mr. President, along with Senators CHAFEE, JOHNSON, GRASSLEY, and HARKIN, I will be introducing today the Nursing Home Patient Protection Act. This is legislation to protect our Nation's seniors from indiscriminate patient dumping from nursing homes.

Approximately one month ago, it looked like 93-year-old Adela Mongiovi might have to spend her 61st Mother's Day away from the assisted living facility that she had called home for the last four years.

At least that's what her son Nelson and daughter-in-law Gina feared when officials at the Rehabilitation and Health Care Center of Tampa told them that their Alzheimer's disease-afflicted mother would have to be relocated so that the nursing home could complete "renovations."

As the Mongiovis told me when I met with them and visited their mother in Tampa last month, the real story far exceeded their worst fears. The supposedly temporary relocation was actually a permanent eviction—a permanent eviction of all 52 residents whose housing and care were paid for by the Medicaid program.

The nursing home chain that owns the Tampa facility, and several others across the United States, wanted to purge its nursing homes of Medicaid residents, ostensibly to take more private insurance payers and Medicare beneficiaries, which pay more per resident.

While this may have been a good financial decision in the short run, its effects on our Nation's senior citizens, if practiced on a widespread basis, would be nothing short of disastrous.

In an April 7, 1998, Wall Street Journal article, several nursing home executives argued that State governments and Congress are to blame for these evictions because they have set Medicaid reimbursement rates too low.

While Medicaid reimbursements to nursing homes may need to be revisited, playing Russian roulette with elderly patients' lives is hardly the way to send that message to Congress or to state legislatures. While I am willing to engage in a discussion as to the equity of nursing home reimbursement rates, I and my colleagues are not willing to allow nursing homes to dump patients indiscriminately.

The fact that some nursing home companies are willing to sacrifice elderly Americans for the sake of their own economic bottom line is bad enough. What is even worse is their attempt to evade blame for Medicaid evictions.

The starkest evidence of this shirking of responsibility is found in the shell game many companies play to justify evictions. Current law allows nursing homes to discharge patients for—among other reasons—inability to pay.

If a facility decreases its number of Medicaid beds, the State and Federal governments are no longer authorized to pay the affected residents' nursing home bills. The nursing home can then conveniently, and unceremoniously, dump its former Medicaid patients for—you guessed it—their inability to pay.

Evictions of nursing home residents have a devastating effect on the health and well-being of some of society's most vulnerable members.

A recent University of Southern California study indicated that those who are uprooted from their homes undergo a phenomenon known as "transfer trauma." For these seniors, the consequences of transfer trauma are stark. The death rate among seniors is 2 to 3 times higher than for individuals who receive continuous care.

Those of us who believe that our mothers, fathers, and grandparents are safe because Medicaid affects only low-income Americans, we need to think again.

A three-year stay in a nursing home can cost upwards of $125,000. As a result of this extreme cost, nearly half of all nursing home residents who enter as private-paying patients exhaust their personal savings, lose their health insurance coverage during their stay, and become Medicaid beneficiaries. Medicaid is, for most retirees, the last refuge of financial support.

On April 10, the Florida Medicaid Bureau responded to evidence of Medicaid dumping in Tampa by levying a steep $260,000 fine against the Tampa nursing home. That was strong and appropriate action, but it was only a partial solution. Medicaid funding is a shared responsibility—shared between the States and the Federal Government.

While the most egregious incident occurred in Florida, Medicaid dumping is not the problem of a single State. While nursing homes were once locally run and family-owned, they are increasingly administered by multi-State, multi-facility corporations that have the power to affect seniors across the United States.

Mr. President, let me also point out that the large majority of nursing homes in America treat their residents well, and they are responsible community citizens. Our bill is designed solely to prevent potential future abuses by the bad actors.

This bill is simple and fair. It would prohibit current Medicaid beneficiaries, or those who "spend down" to Medicaid from being evicted from their homes. That is a crucial point, Mr. President.

Adela Mongiovi is not just a "beneficiary"; she is a mother and she is a grandmother. And to Adela Mongiovi, the Rehabilitation and Health Care Center of Tampa is not an "assisted living facility." To Adela Mongiovi, it is home.

This is the place where she wants, and deserves—like all seniors—to live the rest of her life with the security of knowing that she will not be evicted. Through the passage of this bill, we can provide that security to Adela Mongiovi and to all of our Nation's seniors.

Mr. President, I ask unanimous consent that the article to which I referred from the April 7, 1998, Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 7, 1998]

FOR MEDICAID PATIENTS, DOORS SLAM CLOSED

(By Michael Moss and Chris Adams)

INDIANAPOLIS—On Monday, Jan. 26, right after lunch, Betty Nelson and dozens of other residents of Wildwood Health Care Center were brought into the activity room and told they were being evicted.

Rumors about an impending change had circulated at the nursing home for weeks, but the news delivered on this wintry day stunned the elderly patients as they stood at their walkers or sat in their wheelchairs. The facility was ending its relationship with Medicaid, the state-run health subsidy for the poor. Nearly 60 of its 150 residents would have to find new places to live.

Most had worked all of their lives, and many had started out paying their own way at Wildwood, which charged them $3,000 or more a month. But eventually they had run through their savings and had turned to Medicaid to help pay their bills.

There among the crowd were 88-year-old Della Arthur, a glove maker who later served nearly two decades as a Red Cross volunteer; 73-year-old Art Biech, a former postal carrier who handed out Wildwood's mail; and Gregory Dale, a retired pipe fitter with Ford Motor Co. who would turn 90 in two weeks. Some of the residents wept. Others, suffering from dementia, couldn't comprehend what was being said. Mrs. Nelson, who is 72, understood; as the news sank in, she cried out from her wheelchair, "You're kicking us out because we don't have enough money."

Wildwood is among the many nursing homes nationwide that Vencor Inc. is emptying of Medicaid recipients. A publicly traded company based in Louisville, Ky., Vencor ran hospitals before buying a 310-facility nursing-home chain three years ago, to become the nation's fourth largest nursing-home chain. It says it now wants to attract wealthier patients who can afford the higher levels of medical care it plans to provide.

Vencor also says it fears that a growing number of successful lawsuits against nursing-home owners will hold the company to ever-higher standards of care that it can't sustain under Medicaid rates. In Florida, where the state attorney general has retained outside counsel to build a sweeping Medicaid fraud and abuse case against the entire industry, Vencor says it might withdraw all 21 of its homes from Medicaid as a defensive move.

Overall, the company, which hasn't previously detailed its plans publicly, says it has withdrawn or begun withdrawing 13 homes in nine states from Medicaid. It says another 25 homes are candidates to be withdrawn because they are in cities where Vencor wants to link long-term hospitals it already owns with specialized nursing homes aimed at higher-paying patients. Vencor may eventually open 90 non-Medicaid, specialized nursing homes, many of them built from scratch, the rest transformed from existing Medicaid facilities.

In addition, the company says it is doing all it can to maximize the number of non-Medicaid patients coming through its doors—something it regularly trumpets to Wall Street. In nearly all circumstances, a Vencor nursing home with an empty bed will turn a Medicaid resident away in the hopes that a private patient will soon come along and take the space.

"We'll go out of Medicaid in all 300 buildings if we don't start to see a little change in the Medicaid program," says Michael Barr, Vencor's chief operating officer. He says Vencor is losing money on its Medicaid patients—a standard complaint by nursing-home owners. States say they cover all "reasonable" costs and contend that homes can make a profit from Medicaid.

Relinquishing the reliable income of Medicaid—which at least ensures that few beds remain empty—is a gamble. But with big public companies racing into the nursing-home industry and pursuing more aggressive pricing strategies, many other companies also are targeting the higher end of the market. And industry analysts predict that some may follow Vencor's lead in jettisoning Medicaid recipients.

Only a few states, including California and Tennessee, currently bar mass evictions. These states instead require companies seeking to withdraw from Medicaid to wait until patients die or choose to leave. Nearly all other states leave the matter entirely up to the nursing-home owner's discretion.

Economics aside, evicting old people can create hard feelings in the community, as Vencor learned at Wildwood. There, little assistance or planning preceded the eviction notice to the residents. Many families were informed only after the residents were told. Management also kept the news secret from most staff members, many of whom were distraught as weeping residents wheeled or walked from the room after the brief eviction meeting. "It just broke my heart," says Valerie Lynch, a former activities assistant who says she was prompted by the evictions to find a new job.

Panic spread in the next few days as waiting lists sprang up at other homes in the Indianapolis area. Even those who found comparable surroundings say they suffered disorientation and the pain of losing their closest friends. Many blamed themselves, including the pipe fitter, Mr. Dale, whose family waited until two days after his 90th birthday on Feb. 11 to move him out. "Dad felt he had done something wrong," says his daughter, Jackie Vukovits. "The day we took him, he kept saying, 'Why do I have to leave here. They were good to me.' "

Mr. Dale had just made the Wildwood newsletter, his name ringed in stars. the write-up ended: "Greg, we are very happy you chose to live at Wildwood. Congratulations on being chosen Resident of the Month."

Vencor officials stand by their decision to evict Wildwood's Medicaid residents but say they have come to realize that mistakes were made. "We really are doing this for what I consider to be the right reasons. Our goal is to turn this into the best medical nursing facility in that market," says Mr. Barr. "In hindsight, we probably could have done a better job of notifying residents and families." Mr. Barr says he decided last week to send company vice presidents to oversee all forthcoming evictions.

After meeting yesterday with Mr. Barr, local advocates for the elderly and some former residents said they would seek to "increase the pressure" on Vencor, possibly through picketing and by seeking legislation to prohibit evictions. "If Vencor is allowed to get away with this, it opens the floodgates not only for Vencor but other nursing-home chains in this country," says Michelle Niemier, deputy director of United Senior Action, a statewide senior advocacy organization.

The changes were particularly wrenching, residents and staff say, because Wildwood—founded by a local concern in 1988—had a reputation as one of the city's best homes and had remained nearly full in a state with below-average nursing-home occupancies. The residents were a close-knit group, having decided this was where they would live the rest of their lives. One year, residents sold crafts to pay for a gazebo.

Last summer, two years after it purchased the facility, Vencor hired Edward Hastings to run it. A 16-year veteran of nursing-home administration, Mr. Hastings had been a regional administrator for a nursing-home chain and then worked as a consultant for the state of Indiana, monitoring nursing homes that failed their health-care inspections.

In November, only weeks before the eviction announcement, Wildwood residents were cheered by a makeover of the facility: fresh paint, new floor tiles, sleek name plates for residents' doors. Then gossip spread that this fresh look was not meant to benefit everyone. It was left to Mr. Hastings to break the news.

While a handful of nursing homes in some states have always made do without Medicaid residents, the vast majority of nursing homes nationwide have come to rely on the government program for a good chunk of their revenue. Medicaid recipients play a big role in keeping a facility's census up. Even if the reimbursement is much lower than the private rate, it is usually perceived by owners as superior to empty beds.

"It's highly unusual to pull out of Medicaid," says Lori Owen Smetanka, an attorney for the National Citizens' Coalition for Nursing Home Reform, an advocacy group in Washington, D.C. Even in Kentucky, Vencor's home state, state Cabinet for Health Services spokeswomen Barbara Hadley Smith says nursing homes "are fighting to get into Medicaid." Vencor has one Kentucky home, Hermitage Nursing and Rehabilitation Center in Owensboro, that is now in the process of moving its Medicaid residents out.

A review of U.S. Health Care Financing Administration records shows that 127 homes officially pulled out of the Medicaid program in the past two years—nearly all because they closed their doors entirely, merged with other homes or were threatened with termination because of low quality. Only one home indicated to federal officials that it pulled out of Medicaid because of "dissatisfaction with reimbursement."

But it is likely to happen more. In addition to Vencor, other nursing home operators, both large and small, are weighing whether to opt out of their state's Medicaid programs. Dick Richardson, chief executive officer of Renaissance Healthcare Corp., says his nursing home in Holyoke, Mass., dropped out of Medicaid last year due to low reimbursement.

Mr. Richardson says the relatively small home would lose money if it filled all 61 beds with Medicaid residents. So he evicted his Medicaid residents, dropping the census to five non-Medicaid people. He now has 20 private-pay and Medicare patients and says the home will break even at about 32 private patients. "I know there are going to be other homes up here that do the same," he says. "It's unfortunate for Medicaid patients, but for business it might be good."

Vencor, too, contends that it loses money on Medicaid, which, at Wildwood, pays it $82 a day for providing the same intermediate level of care for which private patients are charged $125. But Vencor's average daily take from Medicaid has increased 16% at Wildwood since 1995. And two months ago, the state, sued by Indiana's nursing-home trade group, said it would build a new rate system allowing for more generous payments for sicker patients.

Even with the current Medicaid plan, Wildwood as a whole had an operating profit of $797,410 on revenue of $7.5 million in its most recent fiscal year, its filing to the state shows. That 10.7% margin is higher than the average for nursing homes in Indiana and nationwide. According to H-CIA Inc., a Baltimore health-information concern, the national average margin for nursing homes was less than 5% in 1995, the most recent year for which figures are available.

From its base as an operator of specialty long-term hospitals, Vencor rapidly expanded from 1985 to 1995. Its stock, after an initial public offering in 1989, shot up severalfold in a little more than two years. But regulatory changes and competitive pressures have hurt. Three years ago, Vencor's stock stood at $37; yesterday, it closed at $29.50 a share, up 18.75 cents in composite trading on the New York Stock Exchange.

Now it is hoping that higher fees from private patients will help it make a comeback. Wildwood now charges $168 a day for top-level care. And Vencor has ambitions of higher prices still at Wildwood and its other homes.

New federal rules will help: Changes expected May 1 will allow Medicare rates to go as high as $600 a day for the most intensive level of care, industry analysts say.

What complicates the process of phasing out Medicaid patients is the fact that many start out as paying residents and only later switch to Medicaid. Thus, a nursing-home company that bars Medicaid patients at the door could end up dealing with Medicaid eventually.

At Wildwood, Mr. Dale's story offers an example. After breaking his neck in a fall in 1992, he paid a caretaker $7 an hour to watch over him at home. When he entered Wildwood in 1994, Mr. Dale paid his bills with savings, Social Security and a pension. His daughter, Mrs. Vukovits, says the facility led them to believe that it would gladly allow him to shift over to Medicaid when necessary, and he did so, eventually to supplement his dwindling funds. Even so, she says, he continued to cover a large portion of his $80-a-day bill at Wildwood by turning over his Social Security and pension income.

Vencor says it never really considered letting people like Mr. Dale stay on. "My philosophy is that if you have to do something you're better off to face up to it and do it," Vencor's Mr. Barr says. "This is like having to go through an amputation. If you have to cut your hand off, do you cut it off a finger at a time or just cut your hand off and go on?"

Families of Wildwood residents say they worried most about the difficulties involved in relocation. Three months earlier, Mr. Dale had been moved from Room 400 to Room 303 to accommodate the renovations. "It doesn't seem like a big move, but it really is," says Mrs. Vukovits. "He went downhill. He fell going to the bathroom. It was a longer distance to the dining room, so he had to start using a wheelchair. He stopped going to activities."

"He was just getting over that," she says, when the evictions were announced.

Mr. Hastings says the evictions were scheduled to occur hallway by hallway over five months. "We didn't want to shock everybody," he says. But when news about waiting lists got around, he says. "People panicked a little bit and left."

Joining in the exodus were some residents who still paid the higher private rates but who realized that they, too, might eventually need Medicaid, and Wildwood's occupancy plunged from 150 to 78. Mr. Hastings says it has rebounded into the 90s.

Most who left found homes through their own searching. Many sought help from Kay Mercer, a 62-year-old stroke victim who had been resident council president. "They followed me here," she says at her new home, the Oaks Rehabilitation and Health Care Center, where several Wildwood residents including Mrs. Nelson and Mr. Biech moved. Mr. Dale moved to another home, where he has adjusted to the new view from his window. "I don't think I bother anybody. I hope," he says one warm spring day, eating lunch.

Others didn't fare so well. Two days after Wildwood resident Jane Van Duyn moved into another nursing home, the 57-year-old woman with severe multiple sclerosis slipped into a coma. She died within the week. Her husband, Ed Van Duyn, says he can't blame her death on the move, since she was already quite weak. but he notes that the disease leaves its victims vulnerable to stress and even slight temperature changes. "Every trauma they get sets them back." . . .

Asked about the death, Mr. Barr said, "We're dealing with old people who are fragile, who already have been moved out of their own home, and are in a different home, and there certainly is absolutely no easy way to deal with displacing them again."

Residents and families say that a final insult was that they had to pay expenses connected with the eviction, including the $45 telephone reconnection charges. Mr. Van Duyn says Vencor refused even to pay the $200 ambulance fee for moving his wife. Mr. Barr says Vencor would reconsider this decision.

Residents and their families say they were too overwhelmed at first to fight back. But Lou Ann Newman, Mrs. Nelson's daughter, wrote to Vencor and state agencies on Feb. 6 asking for an investigation. "This matter was handled in a most cold, calloused and unprofessional way," she wrote. She says she didn't get a response.

Mr. Hastings, the administrator, who was familiar with Mrs. Newman's letter, says, "If I was in her position, I'm sure some people thought it was cold and callous because we were throwing them out."

Vencor's Mr. Barr says a regional official overseeing Wildwood was reprimanded for not responding to the letter. Last week, that official resigned. Mr. Barr adds: "I don't want to be defensive of a comedy of errors here because it appears that there were some bad judgments made here. And I'm in a situation right now where I'd like to go up and choke the administrator [Mr. Hastings] and pound his head on the floor a couple of times and tell him not to do it again. I don't want him to use the kind of bad manners that it looks like we used here by not thinking through the whole process with these patients."

On a recent tour of Wildwood, the upbeat Mr. Hastings pointed to the renovations and said, "What you're seeing is only going to get better." Among his ideas, which the company says are preliminary: a day-care center for the elderly, a hospice for patients expected to die within six months and the novel idea of overnight stays for patients who usually live elsewhere. "With the midnight care, you could drop off your father at dinner and pick him up in the morning," Mr. Hastings said. "We're looking for a niche we could fill."

In Room 006, Ms. Arthur was waiting to move. Weeks ago, she packed her belongings into six boxes and stacked them in the bathroom. But she has no immediate family, and she says her guardian had been out of town. The adjoining rooms—formerly occupied by her friends, Mrs. Mercer, Mrs. Nelson, Mr. Dale, Mr. Biech—were vacant.

Holding her big white purse, Ms. Arthur sat in a corner beneath the bare walls, and said she didn't know why she had to leave. "Everyone I've talked to, they've had tears in their eyes. Many here had to go and I miss them so. They were wonderful," she says. "If there was anything I could do to turn it different, I would. I like it here very, very much. It's good. Oh me, why? All these fine buildings and fine furniture. Whatever the cause, I can't figure."

Mr. GRAHAM. Mr. President, I submit the bill and ask for its immediate referral.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

ADDITIONAL COSPONSORS

S. 263

At the request of Mr. McCONNELL, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 358

At the request of Mr. DEWINE, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from Kentucky (Mr. McCONNELL) was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1314

At the request of Mrs. HUTCHISON, the name of the Senator from Idaho (Mr. KEMPTHORNE) was added as a cosponsor of S. 1314, a bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals.

S. 1334

At the request of Mr. BOND, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1389

At the request of Ms. SNOWE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1389, a bill to amend title 39, United States Code, to allow postal patrons to contribute to funding for prostate cancer research through the voluntary purchase of certain specially issued United States postage stamps.

S. 1413

At the request of Mr. LUGAR, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1464

At the request of Mr. HATCH, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 1525

At the request of Mr. SPECTER, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1525, a bill to provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty.

S. 1578

At the request of Mr. MCCAIN, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 1578, a bill to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site.

S. 1618

At the request of Mr. MCCAIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1618, a bill to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes.

At the request of Mr. MCCAIN, the name of the Senator from Washington (Mr. GORTON) was withdrawn as a cosponsor of S. 1618, supra.

S. 1619

At the request of Mr. MCCAIN, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1619, a bill to direct the Federal Communications Commission to study systems for filtering or blocking matter on the Internet, to require the installation of such a system on computers in schools and libraries with Internet access, and for other purposes.

S. 1677

At the request of Mr. CHAFEE, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1724

At the request of Ms. COLLINS, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1724, a bill to amend the Internal Revenue Code of 1986 to repeal the information reporting requirement relating to the Hope Scholarship and Lifetime Learning Credits imposed on educational institutions and certain other trades and businesses.

S. 1862

At the request of Mr. DEWINE, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1862, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 1894

At the request of Mr. THURMOND, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 1894, a bill to amend the Alcoholic Beverage Labeling Act of 1988 to improve a warning label requirement.

S. 2033

At the request of Mr. ABRAHAM, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2033, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

SENATE CONCURRENT RESOLUTION 65

At the request of Ms. SNOWE, the name of the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution calling for a United States effort to end restriction on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. ASHCROFT, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of Senate Concurrent Resolution 88, a concurrent resolution calling on Japan to establish and maintain an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a Executive Session of the Senate Committee on Labor and Human Resources, will be held on Wednesday, May 13, 1998, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The Committee will consider H.R. 2614, The Reading Excellence Act and Presidential Nominations.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Thursday, June 4, 1998, at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Improvement Act of 1997.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Amie Brown or Mark Rey at (202) 224–6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Thursday, June 11, 1998, at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Improvement Act of 1997.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Amie Brown or Mark Rey at (202) 224–6170.

ADDITIONAL STATEMENTS

WELCOME TO PARTICIPANTS OF THE INVENTION/NEW PRODUCT EXPOSITION

• Mr. SANTORUM. Mr. President, I rise to recognize the inventors, manufacturers, marketers, entrepreneurs, investors and media from across the United States and over 35 countries that are convening in Pittsburgh for the Invention/New Product Exposition (INPEX XIV).

INPEX is held in conjunction with The Business Show, the region's business-to-business trade show, and the Global Partnership with Pennsylvania Conference. The conference provides the opportunity for international entrepreneurs to meet with representatives from the region's businesses. This conference helps to promote economic development and job creation in Western Pennsylvania and encourages participants to establish their operations in the region. Participants can attend the educational seminars to learn how to do business in Pennsylvania and network with Pennsylvania chambers, businesses and regional associations.

Most inventions and new products displayed at INPEX are eligible to be a part of the INPEX Awards Program. Entries are judged by an International Jury, with winners determined on the basis of usefulness, overall appeal and creativity. Past sponsors of corporate awards include AAA, the World Trade Center Association, NASA and the Pennsylvania Institute Of Culinary Arts.

Mr. President, I am pleased that Pittsburgh is the site of such innovation, business development and global partnership. I ask my colleagues to join me in extending the Senate's best wishes to participants and organizers of this conference, and in recognizing the week of May 11 as Innovation Week, Business to Business Week and Global Partnership With Pennsylvania Week.•

GULFSTREAM AEROSPACE CORPORATION

• Mr. CLELAND. Mr. President, I rise today to congratulate the Gulfstream Aerospace Corporation and the Gulfstream V industry team on winning the coveted Robert J. Collier Trophy for 1997. The Gulfstream V is the world's first ultra-long range large cabin business jet. Both the Gulfstream V and the Gulfstream IV SP are manufactured in Savannah, Georgia.

The Collier trophy is aviation's most prestigious award. It is given annually by the National Aeronautics Association to recognize the top aeronautical achievement in the United States. Gulfstream and the G-V Industry team were presented the trophy at a ceremony on April 29 hosted by the National Aeronautical Association and the National Aviation Club in Arlington, Virginia.

Gulfstream and the Gulfstream V industry team were recognized specifically "for successful application of advanced design and efficient manufacturing techniques, together with innovative international business partnerships, to place into service the Gulfstream V—the world's first ultra-long range business jet." Past winners of this prestigious award include Orville Wright, Neil Armstrong and the Apollo 11 flight crew, Charles E. "Chuck" Yeager and my colleague from Ohio, Senator and astronaut JOHN GLENN.

Certified by the Federal Aviation Administration (FAA) in April, 1997, the Gulfstream V business jet is the first aircraft of its kind in the world. With unmatched performance, comfort and speed, the Gulfstream V has a range that is 50% greater than any other business jet currently in service. The Gulfstream V can carry eight passengers and a crew of four for nonstop distances of up to 6,500 nautical miles at speeds of up to Mach .88. It is designed to cruise routinely at an altitude of 51,000 feet. Last year, in the first eleven months of service, the Gulfstream V set 47 world and national records, consisting of 22 city pair speed records and 25 performance records.

The Gulfstream V has made nonstop travel between cities such as Tokyo and Washington, London and Beijing, and Los Angeles and Moscow routine business.

The Gulfstream V was recognized as one of the "Ten Most Memorable Flights in 1997" by the National Aeronautic Association for a flight from Washington, DC to Dubai, United Arab Emirates. The flight was 6,330 nautical miles and took 12 hours and 40 minutes. It flew nonstop.

Mr. President, I want to salute and congratulate the 6,000 men and women of the Gulfstream Aerospace Corporation on their outstanding work and this extraordinary achievement.•

COMMEMORATING THE DEPARTMENT OF STATE'S DIPLOMATIC SECURITY SERVICE

• Mrs. FEINSTEIN. Mr. President, as the United States observes National Police Week, I believe this to be an appropriate time to recognize the outstanding work performed by the men and women of the Department of State's Diplomatic Security Service (DSS).

As the security and law enforcement arm of the Department of State, the DSS, since 1916, has protected U.S. diplomatic installations and personnel around the world as well as providing critical security and law enforcement services within the United States. Presently, 260 DSS special agents are serving in over 140 of our embassies and consulates throughout the world. Additionally, 500 special agents are assigned to offices throughout the United States and work closely with their counterparts in federal, state, and municipal law enforcement organizations.

DSS special agents have been in the forefront of the fight against international terrorism and transnational crime. In 1995, DSS special agents assigned to the U.S. Embassy in Islamabad, Pakistan, working closely with Pakistani Authorities, were instrumental in the apprehension of Ramzi Yousef, a terrorist wanted in connection with the World Trade Center bombing in New York City. DSS agents had the lead role in debriefing the original informant, coordinating surveillance of Yousef's activities, and entered Yousef's room alongside Pakistani police to effect his arrest. Subsequently, Yousef was convicted in New York of his heinous act of terrorism and sentenced to life imprisonment without parole.

The DSS also runs effective Counter-Terrorism and Counter-Narcotics awards programs in which it offers large cash rewards of up to $4 million. In 1995, this program, along with the efforts of DSS agents throughout Latin America, helped to bring about the downfall of the Cali drug kingpins of Colombia, apprehending eight high ranking members of that organization. The DSS is currently playing a very key role in attempting to apprehend suspects involved in the Khobar Towers bombing in Saudi Arabia, the bombing of Pan Am flight 103 over Lockerbie Scotland, as well as Mexican drug trafficking.

The DSS also plays an important role in ensuring the security of our borders through investigations of falsified U.S. passports and U.S. visas. In the U.S., work in this area complements the work of state and local authorities as well as other federal agencies. This role enables the DSS to utilize versatile charges that enable it to apprehend fugitives and return them to various jurisdictions throughout the United States.

In my own state of California, DSS agents were instrumental in establishing a verification system involving possession of U.S. visas, whereby many illegal immigrants have been identified who were previously, and fraudulently, claiming and receiving medical and welfare benefits from the state of California. The California Department of Health Services estimates that this system saved California taxpayers over $2 million in 1997 alone.

Additionally, the DSS has conducted extensive training programs for foreign police officials, both in the U.S. and abroad, which over the last decade have resulted in over 18,000 foreign police officers receiving training in anti-terrorism and anti-crime skills. By enhancing the capabilities of these police elements, the DSS is increasing the capacity of other countries to render assistance to the United States in our continuing struggle against international terrorism and crime.

Furthermore, the technical expertise of the DSS' security engineering personnel has enabled the nation's business to be transacted safely and securely in hostile environments throughout the world. U.S. diplomatic installations rely on the ability of the DSS to provide a secure area in which to conduct sensitive functions. These programs provide the secure technical foundation in computer and information security which is so necessary in today's technological age.

The DSS has continually provided crucial support services for our foreign policy and law enforcement objectives. Their contributions have been recognized by the granting of heroism awards by organizations such as the Federal Law Enforcement Officers Association (FLEOA) and the International Organization of Chiefs of Police (IACP).

In the first session of Congress, the Foreign Relations Authorization Act for Fiscal Years 1998 and 1999 (H.R. 1757), approved the inclusion of members of the DSS under the provisions of the Law Enforcement Availability Pay (LEAP). A separate proposal, H.R. 633, would also include these personnel under the law enforcement retirement provisions. These measures, which provide long overdue parity for DSS personnel with federal law enforcement colleagues, will be important in determining the future role of DSS agents.

I would like to thank the Diplomatic Security Service for the tireless role that they have played in combating terrorism and transnational crime as well as helping to protect U.S. businesses, embassies, and all the branches of the U.S. government represented abroad. They have continually provided crucial services in support of our foreign policy and law enforcement objectives, often at substantial risk to their own lives.•

NATIONAL PEACE OFFICERS' MEMORIAL DAY

• Mr. FAIRCLOTH. Mr. President, I rise in recognition of the National Peace Officers' Memorial Day and to pay tribute to the 305 officers of the law who lost their lives in the line of duty during the past year. I want to recognize specifically the six officers in North Carolina who put community safety ahead of their own lives. These six individuals approached the job valiantly. Their courage is inspiring, and their commitment to duty provides the kind of example so desperately needed in today's society.

I would, of course, be remiss if I did not mention the families of the officers I now recognize. I extend my heartfelt gratitude and deepest admiration for those who everyday watch and support their husbands, wives, parents, and children on the front line of crime fighting. Their sacrifice is beyond measure, and we are forever indebted to these brave men and women.

I call to the attention of Congress the names and survivors of North Carolina's six fallen officers and ask that my colleagues join me in saluting these courageous individuals.

Sergeant William Earl Godwin who served with the Morrisville Police Department. Sergeant Godwin's survivors include his wife, Allison, and their daughter, Mercedes.

Detective Paul Andrew Hale who served with the Raleigh Police Department. Detective Hale's survivors include his wife, Connie, and their daughters, Jessica and Stephanie.

Chief of Police Willard Wayne Hathaway who served with the Sharpsburg Police Department Among Chief Hathaway's survivors is his son, Shaun.

Corporal David Walter Hathcock who served with the Cumberland County Sheriff's Office. Corporal Hathcock's survivors include his wife, Barbara, and his sons, Phillip, Daniel, and Kevin.

Sergeant Lloyd Edward Lowry who served with the North Carolina Highway Patrol. Sergeant Lowry's survivors include his wife, Dixie, his daughters, Lori and Melissa, and his grandchildren, Dustin, Brooke, and Nolan.

Officer Mark Allen Swaney who served with the Davidson Police Department. Officer Swaney is survived by his parents, Larry and Glenda.

Mr. President, every North Carolinian mourns the loss of our six peace officers. I am privileged to convey the State's resounding and unanimous sentiment of appreciation, and our continuing respect for the skills, bravery, and dedication of our law enforcement officers.•

1998 JAMES FORRESTAL MEMORIAL AWARD

• Mr. INOUYE. Mr. President, on the evening of May 6th, I had the honor of being in the audience to witness the presentation of the 1998 James Forrestal Memorial Award by the National Defense Industrial Association to the distinguished senior Senator from Alaska, the Chairman of the Appropriations Committee and Chairman of the Defense Subcommittee, Senator TED STEVENS. The first recipient of this impressive award was President Dwight D. Eisenhower, followed by a number of most distinguished citizens who were personally involved in helping our nation during difficult times, and who guided the development of a close working relationship between our government and private industry toward the requirements of National Security.

I have had the privilege of working with Senator STEVENS for nearly 30 years. It is no secret that I admire and deeply respect our colleague. Our nation is truly fortunate to have as Chairman of the Senate Appropriations Committee, an individual as dedicated to public service and to the maintenance of military strength and readiness.

Upon receipt of this award, Senator STEVENS shared with the audience his views on the status of the military and our nation's future. These, perhaps provocative, but, definitely profound remarks should be studied and restudied by all who believe in the importance of our military forces.

Mr. President, I ask that Senator STEVENS' address be printed in the RECORD.

The Address follows:

ADDRESS BY SENATOR TED STEVENS

As one who admired Sec. James Forrestal, it is a great honor to receive this award which bears his name. The name of a great leader who responded with vision and insight to the defense organizational, and leadership, needs of our Nation after World War II.

Indeed, Secretary Forrestal, serving as Secretary of the Navy, demonstrated great courage and wisdom as an advocate for a restructuring of the Department of War and Department of Navy—a restructuring we all know led to today's Department of Defense.

The Forrestal Award is especially meaningful coming from your organization—NDIA. By insuring that industry has a strong, clear voice on defense issues, NDIA serves our Nation well.

Secretary Forrestal's visionary leadership established a national security structure which has seen us through over fifty years of peace and war. With only modest adjustments, the course he charted allowed us to navigate through the cold war.

Some of Secretary Forrestal's observations from 1947 provide a thoughtful perspective on current defense issues.

In testimony on the National Security Act of 1947, Secretary Forrestal said the bill "provides an organization which will allow us to apply the full punitive power of the United States against any future enemy. It provides for the coordination of the three armed services, but what is to me even more important than that, it provides for the integration of foreign policy with national policy, of our civilian economy with military requirements."

Just as our Nation faced a "Post World War" environment in 1947, we now prepare for the 21st century and military contingencies which differ greatly from the cold war. Tonight I will focus on some common themes which motivate us, like Secretary Forrestal, to ponder the need for adjustments in the current defense establishment.

After World War II, the nation had to devise a new military-industrial structure to prepare us for an uncertain future. In 1947 testimony, Secretary Forrestal outlined his thinking—he said:

"First, there is a need, apparent during and since the war, for the planned integration of all of the elements, energies, and forces in our Nation which have to be drawn upon to wage successful war. In these categories come not merely the Army and Navy and the State Department, but industry, and by 'industry' I mean industrial management, which I regard as one of the keystones which produce success in war."

All these concerns are valid today, but the facts underlying the need he discussed will be significantly changed. DOD will be buying in a less competitive environment than ever—requiring careful attention to ensure that innovation and foresight are not lost.

Further, today's defense systems are more complex, take dramatically longer to develop and build, and cost significantly more to acquire, maintain and operate. In the first nine months of 1945, we accepted delivery of 5,111 P–51 Fighters. Now, at the peak rate, we will build 36 F-22's and 48 F-18 E/F's, both with long lead times greater than 33 months.

Not only are there fewer prime defense contractors, but each one is moving to be more efficient; inevitably this process will limit or eliminate excess production capacity. The speed and success of Desert Storm demonstrated the new role for industrial management in a "come as you are" war.

I remember visiting Joint Stars in Saudi Arabia—a system in the demonstration/validation phase of development, but being used in the overall Desert Storm operation—while still under industry control and support.

Indeed, we rarely hear discussion now about raw material shortages or industrial surge capacity. And we are no longer an Island Nation—this Nation's military industrial base is now part of a global economy. This industrial challenge has parallels in our military command structure.

Secretary Forrestal, intimately familiar with the demands of World War II, enunciated what others often think when he said—"Military strength today is not merely military power but it is economic and industrial strength."

Today we continually find ourselves in peacekeeping and other contingency missions—missions for which our soldiers and leaders are not necessarily trained or equipped. Instabilities are more likely to call for a response to terrorism, civil war, and ethnic strife, instead of territorial invasion.

Future battles may take place in urban environments with political constraints on collateral damage, difficult conflict conditions for any military commander. Deploying military force should not be the solution to every regional, ethnic or humanitarian crises. No forces should deploy overseas unless we establish mission objectives that our political and military leadership can plainly articulate.

A second similarity to the challenges faced by James Forrestal is the confidence of the Nation in the weapon systems and combat platforms within the military inventory. Secretary Forrestal concisely outlined his thoughts in words I believe ring true today—"Men fight not for abstractions, but for the concrete things they can visualize in terms of their own country." Following World War II, this Nation felt confident in its ability and the then-existing "Tools of war".

Following operation Desert Storm, the United States was equally confident in our weapons. I saw first hand during the gulf war the impact that "early" generation precision guided weapons and information technologies, such as JSTARS, had on our decisive victory in that conflict.

The entire world saw those advances also—we now need new technologies to assure that our "cutting edge" is sharp. We must implement those technologies rapidly.

Obviously, we also need new tactics, new systems, and a modernized command, control, and communications management concept. And, there are new threats—ballistic missiles, cruise missiles, chemical and biological weapons, information warfare, and space-based sensors and systems.

These resonate Secretary Forrestal's comments on the need for a "planned integration of all of the elements, energies, and forces in our Nation."

These new threats call into question the traditional weapons of war as well as the accepted practice of splitting budget resources among the military services. Just as aircraft technology spawned a new military service, the new technology forces which will influence future warfare demand that we look at our research and development priorities and the allocation of procurement funds.

The last parallel to 1947 I cite is one I deal with most directly as Chairman of the Senate Appropriations Committee—that is the pressure of a substantially decreased budget. As each of you know, the defense budget today has reached dangerously low levels. Defense spending has fallen far faster than any other category of Federal spending—dropping 39% since 1985. In constant dollars, it is lower than 1939. Yet, the budget agreement, as well as current public sentiment, makes it most likely that defense spending will be flat through 2002.

The pressures on this flat budget are as great as I have ever seen, and probably greater than the pressures faced by our leaders in 1947. One basic fact is that neither Congress nor DOD have much flexibility in the Defense budget.

Force structure determines the level of military personnel spending—presently about one-third of our budget. Second, these forces must be trained and ready which consumes roughly one-third of the Defense budget devoted to operation and maintenance.

Finally, the remaining one-third is left to modernize and develop the next generation of military systems which will ensure no adversary can match U.S. soldiers, sailors, marines and airmen. However, this remaining "one-third" for modernization is not what it used to be.

In constant 1998 dollars, procurement has declined from $104 billion in FY 1988 to $49 billion in FY 1998 and R&D declined from $48 billion to $36.5 billion. That decline is exacerbated by on-going contingency operations in Bosnia and Iraq.

The $10.5 billion committed to Bosnia alone from 1995–1999 will consume all the savings achieved by tough base closure and force structure decisions, while also reducing our investment in modernization and R&D. To meet these challenges, we can no longer afford business as usual at DOD.

This brings our discussion back to my first point—future conflicts will stress our current military and defense industrial establishment. These entities will have to work together to consolidate functions, precisely define missions, eliminate redundancy and assure victory through perfection of planning and execution through total use of command, control, communications and intelligence functions.

The challenge before us today is to look towards a new national defense establishment for a new century in a new millennium—a structure which will allow our great Nation to organize, plan, and maintain peace and security.

Secretary Forrestal once said, "The greatest economy is in preventing war. The best insurance against war is national preparedness and an effective coordination of our foreign and our military policy." These are the goals we continue to strive to achieve. I solicit help from each of you in defining new ideas needed to carry this Nation securely into the 21st century.

Knowing I will be working with all of you in the days ahead, I am honored to be recognized by this group with the Forrestal Award.●

ORDERS FOR TUESDAY, MAY 12, 1998

Mr. GRAMS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Tuesday, May 12. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 10 a.m., with Senators permitted to speak for up to 5 minutes each with the following exceptions: Senator MIKULSKI for 15 minutes, and Senator LOTT or his designee for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. I further ask that at 10 a.m. Senator D'AMATO be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. I further ask that at 12:10 p.m. the Senate proceed to the consideration of S. 1046, the National Science Foundation reauthorization bill under a previous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. I further ask that the Senate recess following the vote on the National Science Foundation reauthorization bill until 12:15 p.m. to allow the weekly party caucuses to meet.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

PROGRAM

Mr. GRAMS. Mr. President, for the information of all Senators, tomorrow morning at 9:30 a.m. the Senate will be in a period of morning business until 10 a.m. Following morning business, Senator D'AMATO will be recognized to offer and debate a bill regarding breast cancer, and it is hoped that a short time agreement can be reached with respect to the D'Amato bill.

At 11 a.m. under a previous order, the Senate will then proceed to the consideration of the conference report to accompany S. 1150, the agricultural research bill. The time until 12:10 p.m. will be divided among several Members for debate on the conference report.

Following that debate, the Senate will proceed to the consideration of the National Science Foundation reauthorization bill under a short time agreement. A rollcall vote is expected to occur on passage of that bill at approximately 12:15 p.m. Therefore, all Senators should be aware that the first vote of Tuesday's session will occur at approximately 12:15 p.m.

Also, under a previous order, when the Senate reconvenes at 2:15 p.m. it will resume consideration of the agricultural research conference report. At that time, Senator GRAMM of Texas will be recognized to move to recommit the conference report. There will be 1 hour for debate on the motion equally divided, and at the conclusion or yielding back of time the Senate will proceed to vote on or in relation to the motion. Following that vote, it is hoped that short time agreements can be reached with respect to the agricultural research conference report, any of several high-tech bills or any other legislation or legislative or executive items cleared for action.

And finally, as a reminder to all Members, a cloture vote will occur on Wednesday on the motion to proceed on the missile defense bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRAMS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:36 p.m., adjourned until Tuesday, May 12, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 11, 1998:

THE JUDICIARY

RANER CHRISTERCUNEAN COLLINS, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA, VICE WILLIAM D. BROWNING, RETIRED.

ROBERT S. LASNIK, OF WASHINGTON, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON, VICE CAROLYN R. DIMMICK, RETIRED.

VIRGINIA A. PHILLIPS, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE WILLIAM M. BYRNE, JR., RETIRED.

DEPARTMENT OF THE TREASURY

RAYMOND W. KELLY, OF NEW YORK, TO BE COMMISSIONER OF CUSTOMS, VICE GEORGE J. WEISE, RESIGNED.

JAMES E. JOHNSON, OF NEW JERSEY, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT, VICE RAYMOND W. KELLY.

ELIZABETH BRESEE, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE JAMES E. JOHNSON.

EXTENSIONS OF REMARKS

ON INTRODUCTION OF A BILL DESIGNATING THE CIA AS THE "GEORGE H.W. BUSH CENTER FOR CENTRAL INTELLIGENCE"

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 11, 1998

Mr. PORTMAN. Mr. Speaker, I rise as the proud sponsor of legislation introduced with Representatives GOSS, SKELTON, HAMILTON and others, that would designate the CIA compound in Langley, Virginia as "The George H.W. Bush Center of Central Intelligence." As a former staff member in the Bush White House, I had the true honor of learning firsthand the values and principles of public service that President Bush exemplified. He stood for the proposition that honor, integrity and responsibility are the important ideals for public service. Now, through this legislation, Congress can memorialize these values which, I believe, his name has come to represent.

As you know, George Bush had a remarkable and distinguished career in public service not only as President, but also Vice President, U.N. Ambassador, Chief of the U.S. Liaison Office to the People's Republic of China and Member of Congress. But he has always been particularly proud of his tenure as Director of the Central Intelligence Agency. He guided the Agency through a difficult time and continues to be held in high regard by the CIA and its employees, past and present.

He is also the only President to serve as CIA Director. By making the CIA compound the first public building in the Washington area to be named after President Bush, Congress can honor our 41st President with a lasting and appropriate tribute.

Mr. Speaker, I want to especially thank Chairman of the Select Committee on Permanent Intelligence, PORTER GOSS, Ranking Democrat on the National Security Committee, IKE SKELTON, the Ranking Democrat on International Relations Committee, LEE HAMILTON, and all the others for their individual help in putting together this bipartisan effort to commemorate former President Bush in an appropriate manner. I also want to thank all of the other original cosponsors who have joined in this effort and urge my colleagues on both sides of the aisle to pass this legislation as a lasting tribute to George Bush's legacy of service to the CIA and to the nation.

TRIBUTE TO ROBERT M. HERTZBERG

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 11, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Robert M. Hertzberg who will be receiving the Civic Leadership Award from the Organization for the Needs of the Elderly (ONE).

President Kennedy said, "Change is the law of life. And those who look only to the past or present are certain to miss the future." Assembly member Hertzberg is known throughout our community for his exceptional dedication to our community and his efforts to bring about positive changes, improving the safety of our environment.

Understanding that citizens need a voice, Assembly member Hertzberg took measures which allow San Fernando Valley residents to exercise greater control over our community. He also established a multimillion dollar gang suppression program in L.A., overhauled L.A. County's overburdened juvenile justice system and allowed the membership of the L.A. Unified School District Board to be increased.

Assembly member Hertzberg's positive changes have not just affected the San Fernando Valley, but the state of California as a whole. Working to improve the safety of our communities, he authorized laws which create a state Witness Protection Program to help convict dangerous criminals, establish a pilot project to test a non-emergency "311" telephone system to relieve the overburdened "911" system, and allow citizens to lodge complaints with state departments via Internet.

In addition to representing the 40th Assembly District in the California State Legislature, Assembly member Hertzberg has served on the Board of Directors for several organizations such as CORO, Chinatown Service Center and Mulholland Tomorrow. He has also participated as a member on the Executive Committee on the Jewish Community Relations Committee of the Valley Alliance, the State Issues Committee of the Valley Industry and Commerce Association and the Sherman Oaks Town Council.

Mr. Speaker, distinguished colleagues, please join me in honoring Assembly member Robert Hertzberg for his outstanding leadership and dedication to community service.

COLORADO RIVER COMPACT OF 1922

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 11, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, Mr. Jack Barnett, the Executive Director of the Colorado River Basin Salinity Control Forum came to Washington, D.C., and visited my office on April 28, 1998. He discussed the Colorado River Compact of 1922 which allocated water among the seven basin states along the Colorado River. The Colorado River is apparently getting more saline as demand for water increases on the Colorado River. The geology of the basin particularly contributes to salinity in the Colorado River. Eroding shale in the semi-arid climate leaves salt deposits that amount to nine and one-half tons of salt annually being deposited in Lake Mead. In 1972, under the Clean Water Act discussions, the seven basin states agreed to take a collaborative approach to water quality protection. Under this approach, the basin states must submit a water quality plan every three years to EPA.

Mr. Barnett relayed to me the values of incentive-based programs related to water quality and quantity along the Colorado River. For example, through cost share programs associated with the Salinity Control Forum, irrigators are switching to more efficient, more technologically advanced systems, like surge irrigation. Surge irrigation takes advantage of chemical properties in the soil to enlarge the water coverage on a field. Rather than overly soaking ground close to the ditches, surge irrigation surpasses the ground that is already wet to find dry soil further away. Accordingly, less water is used to produce more from the same field. I commend such voluntary, incentive-based programs that help improve water quality and water quantity along the Colorado River. Such programs are important to my constituents in Colorado, and I thank Mr. Barnett for bringing this program to my attention.

A PROCLAMATION HONORING THE USWA LOCAL #1190 WORKERS MEMORIAL DAY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 11, 1998

Mr. NEY. Mr. Speaker, I wish to call an important proclamation to the attention of my colleagues.

Whereas, the USWA Local #1190 is observing its Workers Memorial Day Service; and,

Whereas, the USWA Local #1190 has set aside this day to remember all steelworkers who have been laid to rest; and,

Whereas, the USWA Local #1190 must be commended for their dedication to its members and their families; and,

Whereas, the USWA Local #1190 has demonstrated a commitment to meet challenges with confidence and outstanding service; and,

Whereas, I join with all citizens of Jefferson County, the members of USWA Local #1190 and the entire 18th Congressional District in observing the Workers Day Memorial Service on April 28, 1998.

TRIBUTE TO EDWARD JAMES OLMOS

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 11, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Edward James Olmos. He will be honored by the St. Joseph Center with the "Hope Through Empowerment Award" for his tireless efforts in helping inner-city youth, kids at risk and his support of many humanitarian efforts.

Known as the "Olivier of the Latino World," Edward James Olmos is an individual flowing with talent and creativity. The talented actor, producer, director and community activist was born and raised in East Los Angeles and spent many years in theatrical roles until his mesmerizing performance in the musical play Zoot Suit, which led to a Tony Award nomination. He later recreated the role for film, then went on to star in a variety of other movies.

From the beginning, Edward believed strongly that he had a responsibility to "give back" to his community and to the world. Edward spends much of his time talking with youth and children. Each year, he speaks on average at 150 schools, charities and juvenile institutions across the country—providing encouragement and counsel. He maintains that these visits with kids at risk serve as an inspiration to his acting. "They are an extraordinary source of energy that I would not have otherwise," he says. "After an hour of speaking with those kids, I walk away with a buzzing feeling inside. You're one person giving to more than three hundred people who are giving back to you."

Edward's most recent project, and the one closest to his heart is the Los Angeles Latino Family Festival. This festival celebrates a variety of areas, including books, the importance of culture in our daily lives, home ownership and travel.

Mr. Speaker, distinguished colleagues, please join me in honoring Edward Olmos. He is a role model to the citizens of Los Angeles.

STERLING, COLORADO IS A HIGH QUALITY CITY

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 11, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I would like to recognize the hardworking people that live, work and recreate in Sterling, Colorado. Sterling is the center of economic activity, professional services and recreation of Northeastern Colorado. The City is situated two hours northeast of Denver, on the South Platte River. With a population of 11,000, the county seat of Logan County boasts a good environment, and a strong, safe community. The community enjoys modern telecommunications technology, and a solid infrastructure. Sterling is easily accessible by plane, rail, and car. Located off of I–76, the City is the hub activity in northeast Colorado. With a regional medical center, and a fully accredited junior college, Sterling provides valued medical and educational services to thousands of my constituents.

Recreational opportunities add to the high quality of life in this admirable community, including public and private golf courses, reservoirs, parks and portions of the Pawnee National Grasslands. Logan County contains rural farms which provide a good environment for people and wildlife alike.

Sterling was recently named one of 30 finalists for the All-American City Award. Representatives from the community will appear before a panel in Mobile, Alabama in June to highlight the reasons why Sterling deserves such an award. The National Civic League and Allstate Insurance Co., present the award each year to ten outstanding communities around the nation. Such recognition recognizes the western spirit and strong values that bind this community together. Good schools, good services, and a good environment make Sterling ideal for new businesses and economic growth. Mr. Speaker, I am proud to serve those that live in and around Sterling, Colorado.

IN HONOR OF SHELLY ROSENBERG

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 11, 1998

Mr. WAXMAN. Mr. Speaker, the gentlemen from California Mr. BERMAN and Mr. SHERMAN and I ask our colleagues to join us in saluting our good friend Shelly Rosenberg, who was honored on Friday, May 8, 1998 for her tremendous contributions to Kehillat Israel and our entire community.

Shelly is deeply committed to the Jewish people, Jewish education, and the centrality of religious worship in Jewish life. She has been actively involved in virtually every aspect of Kehillat Israel's activities, and for the last eight years has ably served as Executive Director. She previously served on the Board of Directors as Nursery School Chair, Religious Education and Youth Chair, and for two years as President of the Board of Directors.

In addition, Shelly has been the driving force to make the dream of constructing a new synagogue a reality. Without her unparalleled energy, her incredible talent, and her resolute determination, this great undertaking simply could not have been achieved.

At the center of Shelly's life is her devoted husband, Ken, and their wonderful daughters, Carin and Cindy—and at the center of their lives together has been Kehillat Israel. They have been active members since 1971 and their now-adult children who give Shelly and Ken such pride, began their nursery school learning, attended religious school, and celebrated their B'nai Mitzva and Confirmations at the synagogue.

In addition to her devoted service to Kehillat Israel, Shelly has served the larger community in numerous ways. She was President of the Pacific Palisades Junior Women's Club; on the board of B'nai B'rith Women, Palisades Coordination Council, New Start, and Las Doradas; and an active member of the PTAs of Webster, Malibu Park Junior High School, and Santa Monica High School.

We all owe Shelly a debt of gratitude for her tireless and selfless work on behalf of our community. We extend our heartfelt thanks to her for her generous commitment and we wish her, Ken, Carin, and Cindy every happiness and success in the future.

TRIBUTE TO MARION ROSS

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 11, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Marion Ross, who will be honored by the Organization for the Needs of the Elderly as the 1998 Legacy Award Recipient.

For many years, Marion has shared her incredible gift with audiences of all ages. As a drama major at San Diego State, her raw talent was recognized, and she was voted the school's most outstanding actress during her Freshman Year. Since that time, she has gone on to win international acclaim as an actress comfortable on the stage of a classic drama or in a contemporary television comedy.

After college, Marion made her break into the Hollywood scene with her debut film, *Forever Female.* She then went on to appear in a variety of television shows, including the one that made her a household name around the world. On *Happy Days,* Marion played the comical, yet reliable housewife, Mrs. Cunningham. In this role, she delighted fans with her warmth, sincerity and quick wit.

After *Happy Days,* Marion returned to her first love—the stage. Oscar Wilde once said that, "The stage is not merely the meeting place of all the arts, but is also the return of art to life." Marion Ross epitomized this ideal in several highly acclaimed dramatic theater performances. The role of a lifetime came with her performance in *Brooklyn Bridge,* a show which won the widespread approval of critics and brought Marion a nomination as Best Actress for both an Emmy and the American Television Awards. Additionally, Marion was named the "Best Comedy Actress of the Year" by the highly respected national organization, the Viewers for Quality Television.

Over the past few years, Marion has remained busy in a diverse collection of roles. She received a Golden Globe nomination for her performance in *The Evening Star* and has starred in several recent television productions.

I can think of no individual more deserving of this award than Marion. Through her many characters, she has given us a legacy of laughter, joy and tears. Mr. Speaker, distinguished colleagues, please join me in honoring one of the preeminent actresses of our time, Marion Ross.

I AM A WEARY AMERICAN

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 11, 1998

Mr. DOOLITTLE. Mr. Speaker, I have known my friend, Paul N. Johnson, for a number of years, and I was most impressed with the insights he shared in the Los Altos Town Crier (December 10, 1997), which he recently sent to me. I agree with the sentiments expressed therein and commend the article to your attention.

I AM A WEARY AMERICAN

(By Paul N. Johnson)

I am weary of career politicians who feed at the public trough, who lie and promise whatever they think will gain them votes with the electorate.

I am weary of bureaucrats, whether in government, business, unions, education, etc., who make mountains out of molehills, who make life difficult for individuals and for those who can make things happen, who add absolutely nothing to our society or economy, and whose main function is to ensure the continuation of their jobs, and only give lip service to what their purpose is supposed to be.

I am weary of people who expect governments to solve every problem we have, not thinking enough to realize that individuals on the local level can solve problems faster, better and more economically than any government.

I am weary of those whose main desire in life is to control the lives of others and tell them what to do, who will use and manipulate anyone or anything that will help them achieve that end, and who want to invade every aspect of our lives.

I am weary of increasing taxes with no end in sight, and of politicians who raise taxes for a specific purpose and then use the revenue for whatever is expedient or for the "current crisis."

I am weary of media biases that are unbalanced, sometimes are not factual, emphasize irrelevant items, and do so self-righteously; and of news "reporting" that too often consists of sound bites of emotion that are supposed to be news or fact.

I am weary of emotional, immoral, vulgar and violent trash in books, on television and in the movies, of those who try to promote pornography as art, and of hearing vulgar language almost everywhere and then being expected to consider it "normal."

I am weary of lawyers who represent unpopular people or causes, claiming high-minded reasons for doing so, but whose real reason is greed and/or publicity; and of lawyers who zealously encourage lawsuits over trivial matters for their own avarice.

I am weary of judges who ignore the law and let criminals free to terrorize citizens again.

I am weary of protesters who trample the rights of others while claiming they represent a higher cause; who shout down speakers, but insist on their right to be heard.

I am weary of people who insist on their "rights" but refuse responsibility for their actions.

I am weary of so many people who are eager to take offense when no offense was intended.

I am weary of "political correctness" that amplifies trivia to appear to be "momentous" and ignores major and important problems.

I am weary of unions who trample on the rights of those who don't agree with them, and sometimes on the rights of those they are supposed to represent.

I am weary of "educators" who don't educate, who don't teach basics, and who don't teach unchanging truths and facts, but instead teach the latest man-made philosophy, which is modified regularly. And then claim "it's not my fault" because we don't have enough money, or the classes are too large, or on and on ad nauseam.

I am weary of hearing about greedy sports "stars" who demand more money, provide less skill, do not have basic moral values (or at least the sense to keep quiet about it), and are pathetic "heroes" for our youth to emulate.

I am weary of so many who want to maintain the status quo even though it obviously has not worked, does not work, and will not work.

I am weary of increasing welfare costs and decreasing effectiveness.

I am weary of religious leaders who are really frustrated politicians and who meddle in issues that are outside their expertise, at localities where they will not be affected by the results.

I am a weary American who does want men and women who are honest, ethical and moral, and who have the integrity to lead our government at all levels, to run businesses, educational institutions, unions, etc., and to set an example for adults and children to follow.

I am a weary American who is grateful to live in this country where there really is more right than wrong, and where there really are more good people than bad.

TRIBUTE TO DAN SCHWALA

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 11, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Mr. Dan Schwala for his outstanding commitment to our community. Both as a successful businessman and as an avid supporter of charitable projects, he has used his intelligence and charisma to distinguish himself as a man of valor.

Dan's dedication to work with the St. Joseph Center has helped them to provide empowering opportunities to low income and homeless men, women, and children for over two decades. The Center is a nonprofit community agency that assists approximately 12,000 people yearly through its eleven programs. St. Joseph Center's mission is to be a caring presence in the neighborhood, attentive to the changing survival needs of the poor and marginalized members of our country. Dan's efforts certainly have helped to continue to change the lives of others.

After the untimely death of the St. Joseph Center's Event Chair, John Gorski, after whom the Center's Community Service Award is named, Dan Schwala stepped into the pivotal role as dinner and auction chair of their single most important event of the year.

With his wife, Denise Hart, he has for the third year provided the leadership, enthusiasm and management to ensure that the St. Joseph Center's 1998 event is their most successful ever.

From his position as the Senior Vice President of Paine Webber, Inc., and his commitment to Saint Monica's Parish in Santa Monica, California, he provides tireless direction in this most important community effort to recognize those who are being honored by the St. Joseph Center.

Mr. Speaker, distinguished colleagues, please join me in honoring Dan Schwala. He is a role model for the citizens of our community.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 12, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 13

9:30 a.m.

Commerce, Science, and Transportation Communications Subcommittee

To hold hearings to examine the Federal Communication Commission's oversight of the Wireless Bureau.

SR–253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

Labor and Human Resources

Business meeting, to consider H.R. 2614, to improve the reading and literacy skills of children and families by improving in-service instructional practices for teachers who teach reading, to stimulate the development of more high-quality family literacy programs, to support extended learning-time opportunities for children, and to ensure that children can read well and independently not later than third grade, and pending nominations.

SD–430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense.
SD-192

Banking, Housing, and Urban Affairs
Financial Institutions and Regulatory Relief Subcommittee
To hold hearings on proposed legislation to authorize funds for the Community Development Financial Institutions Fund (CDFI) program.
SD-538

Foreign Relations
To hold hearings on the Montreal Protocol No. 4 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air (Ex. B, 95th Cong.,1st Sess.), the International Convention for the Protection of New Varieties of Plants (Treaty Doc. 104-17), the Grains Trade Convention and Food Aid Convention (Treaty Doc. 105-4), the Convention on the International Maritime Organization (Treaty Doc. 104-36), and the Trademark Law Treaty (Treaty Doc. 105-35).
SD-419

Commission on Security and Cooperation in Europe
To hold an open briefing on democratic development in Croatia.
340 Cannon Building

10:30 a.m.
Judiciary
To hold hearings to examine whether tobacco legislation is constitutional.
SD-226

2:00 p.m.
Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to examine the economic and political situation in India.
SD-419

Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings on S. 1710, to provide for the correction of retirement coverage errors under chapters 83 and 84 of title 5, United States Code.
SD-342

MAY 14

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the Department of Agriculture's Year 2000 compliance.
SR-332

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings to examine the Bureau of Alcohol, Tobacco and Firearms Gang Resistence, Education and Training (G.R.E.A.T.) program
SD-192

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to examine the safety of food imports.
SD-342

Small Business
To hold hearings on the nomination of Fred P. Hochberg, of New York, to be Deputy Administrator of the Small Business Administration.
SR-428A

10:00 a.m.
Foreign Relations
To hold hearings to review the United States interest at the June 1998 U.S.-China Summit.
SD-419

10:15 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

12:30 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine the Employee Retirement Income Security Act's (ERISA) preemption, focusing on remedies for denied or delayed health claims.
SD-138

1:30 p.m.
Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to examine United States policy toward Iran.
SD-419

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on titles IX and X of S. 1693, to renew, reform, reinvigorate, and protect the National Park System, and S. 1614, to require a permit for the making of motion picture, television program, or other forms of commercial visual depiction in a unit of the National Park System or National Wildlife Refuge System.
SD-366

Judiciary
To hold hearings on pending nominations.
SD-226

MAY 18

2:00 p.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the role of faith-based charities in the District of Columbia.
SD-342

MAY 19

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the fiscal and economic implications of Puerto Rico status.
SH-216

10:00 a.m.
Governmental Affairs
To hold hearings to examine Government computer security.
SD-342

Labor and Human Resources
To hold hearings to examine grievance procedures in the health care industry.
SD-430

MAY 20

10:00 a.m.
Governmental Affairs
To continue hearings to examine Government computer security.
SD-342

Judiciary
To hold hearings on S. 1645, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions.
SD-226

Indian Affairs
Business meeting, to mark up S. 1691, to provide for Indian legal reform.
SR-485

MAY 21

10:00 a.m.
Labor and Human Resources
To hold hearings on genetic information issues.
SD-430

1:00 p.m.
Indian Affairs
To hold oversight hearings on addressing the unmet health care needs in Indian country.
SD-106

2:00 p.m.
Energy and Natural Resources
Energy Research and Development, Production and Regulation Subcommittee
To hold hearings on S. 1141, to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and S. 1418, to promote the research, identification, assessment, exploration, and development of methane hydrate resources.
SD-366

JUNE 4

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD-366

JUNE 11

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD-366

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

SENATE—*Tuesday, May 12, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord God, You have given us consciences so that the beliefs, values, and truths You have worked into the fiber of our character may be worked out in the specific challenges and decisions of this day. Help us to be true to You, ourselves, and our patriotism. Give us sterling, unflinching integrity in all matters. Speak to us through our consciences. We claim the promise of Proverbs 11:3, "The integrity of the upright will guide them." Give us peace of soul when our thoughts and plans are right; conversely, disturb us when we drift from what is best.

Thank You for this new day. Show us each step of the way. Guide us in all we do and say. You are the Potter, we are the clay. We want to do Your will without delay. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Good morning, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, on Monday a good deal of work was done and the predicate was laid for a number of bills to be considered this week. We will begin the morning with morning business until 10 a.m. I observe that there are at least a couple of Senators who wish to take advantage of that.

Following morning business, Senator D'AMATO will be recognized to introduce a bill regarding patient care for breast cancer. It is hoped that a short time agreement can be reached with the D'Amato bill.

At 11 a.m., under a previous order the Senate will proceed to the consideration of the agriculture research conference report. The time until 12:10 will be divided among several Members for debate on that conference report. Following that debate, the Senate will proceed to the consideration of the National Science Foundation reauthorization bill, again under a short time agreement. A rollcall vote will occur on passage of that bill, the National Science Foundation reauthorization, at approximately 12:15 or so. Therefore Members should be aware that the first vote of today's session will occur at 12:15. Then the Senate will recess after that vote for the weekly policy caucuses.

When the Senate reconvenes at 2:15, Senator GRAMM of Texas will be recognized to move to recommit the agriculture research conference report. There will be 1 hour of debate equally divided on the motion. At the conclusion of that debate, the Senate will proceed to vote on or in relation to the motion. Following the vote, it is hoped that a short time agreement can be reached with respect to the agriculture research conference report. Any of several high-tech bills or other legislative or executive items also may be taken up today, if they can be cleared.

I did have a good conversation late on Monday afternoon with Senator DASCHLE. I believe we are going to be able to clear at least three of those high-tech bills. All of them are broadly supported and I believe will have an overwhelming vote once we get to a vote. I won't list them now, but we will make some further announcement on that later on today.

Finally, as a reminder to all Members, a cloture vote will occur on Wednesday on the motion to proceed to the missile defense bill. Senator COCHRAN handled this debate on the floor on Monday. He has done excellent work on this bill. This is something we should do for the defense of our country. The American people, I find, when I go around and talk about missile defense, are shocked to learn that we don't have a National Missile Defense System in place. So this bill is very important, I believe. I appreciate the work that has been done by my colleague from Mississippi.

The next 2 weeks obviously will be extremely busy as Members attempt to complete action on several important pieces of legislation. There are a number of conferences that we hope to have completed and voted on before the Memorial Day recess, including the ISTEA II, the highway transportation bill, the education conference report, the IRS reform and restructuring conference report. We also have a vote already agreed to with regard to Russia-Iran missile technology transfer, which is a continuing concern. Progress is not being made sufficiently, and I do expect that there will be a vote on this before the end of the next week.

There are a number of other very important bills now that Members are getting cleared through committees or that Members are seeking to have voted on. We will try to schedule as many of those as we can. Obviously, we will need the cooperation of all Members as we try to get through this process before the end of the May recess for Memorial Day.

I again emphasize we do have probably three high-tech bills that we have cleared: we have the agriculture conference report, we have the missile defense bill that Senator COCHRAN has been working on, and the National Science Foundation reauthorization bill. And we are going to try to clear some Executive Calendar nominations, too.

So, again, thank you for your cooperation. These are all very important bills for the American people and I hope we can continue the good progress that we have made over the last 3 weeks. When you look back at what we have been able to get through the Senate, in terms of education, the NATO treaty enlargement, and also last week the IRS reform—if we can have another week and complete the week with the Department of Defense authorization bill I think we can feel very good about what we have accomplished over the last month.

I yield the floor.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Mississippi.

AMERICAN MISSILE PROTECTION ACT

Mr. COCHRAN. Mr. President, let me say, first of all, that I appreciate very much the majority leader calling up the missile defense bill on yesterday. At his authorization and direction, a cloture motion was filed on the motion to proceed to consider that bill when an objection was raised by the ranking Democrat on the Armed Services Committee and the ranking Democrat, Senator LEVIN, on the International Security, Proliferation and Federal Services Subcommittee that I chair.

Last year, we had a series of hearings looking into the growing proliferation problem in the development of weapons of mass destruction and missile systems to deliver those weapons by countries that many in our Nation probably weren't aware were developing the sophistication in long-range missile systems that were being developed.

I think yesterday the announcement in India of the detonation of a nuclear device as a test confirms once again what a dangerous environment we are in, in terms of proliferation of capabilities, of having nuclear weapons, of having missile systems that can deliver those weapons over a long range. To

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

put that in context yesterday, Pakistan, just a few weeks ago, tested a new missile that our security analysts and our intelligence agencies weren't aware that they had—another example of how we cannot predict with any degree of certainty or accuracy how soon countries are going to develop missile systems, nuclear weapons with the capability of delivering those weapons systems over long ranges. The Pakistani missile that was tested was a 1,500-kilometer range missile—five times greater in capability than a report that was filed by the Defense Department said that Pakistan had in November of 1997. Think about that.

We get an annual report from the Defense Department using the intelligence capabilities of our CIA, the Defense Intelligence Agency, National Security Agency—all of the resources that our country has, to put together this report for the Congress. And in November of 1997 they said that Pakistan had in its inventory a 300-kilometer range missile, and then in April they test a 1,500-kilometer range missile. What has happened? They have had assistance from other countries. Some say it was China who provided the technology and wherewithal to come up with this new, longer range missile. Some say it was North Korea. Pakistan says it was developed from within with their own technology, their own scientists.

Whatever the reason and however this came to be, it is alarming, and now we see India reacting to that new development by testing a nuclear weapon that is twice as powerful as the atomic bomb that was used in World War II by the United States against Japan.

The point is, this is a very, very dangerous situation that we see developing in that part of the world, but in other countries, too. In Iran. We have seen demonstrated in Iraq the capacity to almost put a satellite in orbit with a missile launch vehicle 10 years ago. That surprised the United States. That surprised our intelligence-gathering agencies.

I am hopeful that the Senate will notice that the time has come for us to stop playing politics with missile defense and national security and work together in a bipartisan way to develop and deploy, as soon as technology permits, a national missile defense system to protect the security of the United States.

We will have that vote on cloture, as the majority leader pointed out, on Wednesday—cloture on the motion to proceed to consider the bill, not on the bill itself. It will still be open for amendment. It will still be open for debate by Senators who want to discuss this issue, but I hope the Senate will invoke cloture so that we can proceed to consider the bill, to discuss the issue further, particularly in view of these developing events that confirm what a dangerous proliferation situation we find ourselves in in the world today, and we are defenseless against long-range or intercontinental ballistic missiles.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes. Under the previous order, the Senator from Maryland is recognized to speak for up to 15 minutes.

Ms. MIKULSKI. I thank the Presiding Officer.

(The remarks of Ms. MIKULSKI and Mr. DASCHLE pertaining to the introduction of S. 2064 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

HEALTH CARE LEGISLATION

Mr. DASCHLE. Mr. President, there is no one from the Republican side of the aisle on the floor at this moment, so I do not want to propound the request until someone is available. But I do want to put our colleagues on notice that I would like very much to be able to propound a unanimous consent request within the next few minutes that would do two things: First, it would ask that Senator D'AMATO be recognized to offer a bill regarding inpatient hospital care for breast cancer with a time limit of 2 hours for debate on the bill, with no amendments or motions in order thereto, and that when all time is used or yielded back, the Senate proceed to vote on passage of the D'Amato bill, and that immediately upon disposition of the D'Amato bill, the Senate then proceed to the immediate consideration of the Daschle-Kennedy Patient Protection Act with a time limit of 2 hours for debate, with no amendments or motions in order thereto, and that when all time is used or yielded back, the Senate proceed to vote on the passage of the bill with all time equally divided and controlled in the usual form, and that the above occur without intervening action or debate. I would ask that those bills begin to be considered at 11 o'clock.

As I said, Mr. President, I will not ask unanimous consent at this time simply in deference to our colleagues. But let me again explain what it is we are attempting to do here. It is our hope this week, in a very limited time-frame, that we can pass two bills of great concern and importance to this country, first and foremost, a bill that many of us have cosponsored dealing with the need to protect patients in an array of different health circumstances that they face. More and more, the American people are saying they are victimized, not assisted, by HMOs. More and more, they are saying that managed care is not working as it is supposed to. More and more, they are saying that we are facing some critical decisions that we must make if we are going to ensure that managed care and HMOs work right.

Day after day, our caucus has come to the Senate floor recognizing the importance of calling the attention of this country to victims of our current managed care system. These victims have lost their health, and in some cases, their lives as a result of very critical decisions being made erroneously by people sitting at computers instead of by doctors and nurses in the hospital rooms and clinics of this country.

We have introduced legislation that would provide protections to patients. It recognizes that in this HMO, managed care environment we have to do a lot better job of focusing on patients, and not on bottom-line calculations that are oftentimes used regardless of patients needs. The Patient Protection Act is absolutely essential to that effort. We also recognize that there is a need, as part of the legislation, to deal with the problem of premature release of patients when they have mastectomies.

Senator D'AMATO and Senator FEINSTEIN and others have made a real effort to highlight that particular problem. And we are very supportive of that effort. So we hope we can pass both bills. Let us pass the Patient Protection Act. Let us pass the Feinstein-D'Amato mastectomy bill. Let us do it en bloc. Let us do it: 2 hours and 2 hours. We are prepared to do it this morning. We can get on with that and also the array of other very important technological bills that we will be bringing up. I thank very much the Senator from Montana for affording me the opportunity to make my presentation. As I noted, just as soon as we find a Republican colleague on the floor I will pose this unanimous consent request.

Mr. DORGAN. Will the Senator yield?

Mr. DASCHLE. I will be happy to.

Mr. DORGAN. Mr. President, as I understand the minority leader, he is talking about the desire to bring to the floor of the Senate for a vote the patients' bill of rights. As the Senator knows, we have every day brought to the floor of the Senate a discussion about the specific problems that patients are encountering out in this country who have been hurt by managed care institutions or organizations and find that their health care decisions are all too frequently not made by the doctor in the doctor's office or in the hospital but by some insurance accountant someplace 500 or 1,000 miles away. And the result has been catastrophic for some of the patients in this country who have not been able to get the health care they need. As I understand it, this piece of legislation talks about the ability to get the health care you need from the doctor you choose, the ability to get to an emergency room when you need one, and a full range of similar concerns that affect patients.

Is it the request of the minority leader that we have an opportunity to vote on that legislation this morning? And if not this morning, at least at a time certain at some point this year? As I understand it, there are some who don't ever want us to have an opportunity to deal with this issue, because the insurance industry and some others, who certainly don't want anybody tampering with the circumstances at all, prefer we not vote on this. But the American people understand we have a serious problem here that needs to be addressed. Is it the intention of the Senator to get a vote on this today or at some specific point in the future?

Mr. DASCHLE. It is our desire to see if we can find a way to take up this legislation and pass it today. And if not today, at a time certain. If we cannot do it for some reason at 11 o'clock this morning, we are prepared to set a time—perhaps June 15—perhaps right after we get back from the Memorial Day recess. If we are doing the tobacco bill next week, and we have technology bills this week, 4 hours today seems to me to be a reasonable period of time to debate both of these bills and pass them. If we cannot do it today, I think it is incumbent upon the Senate to pass this legislation at a time certain—to agree to a debate at a time certain. I am sure that will happen.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. I yield to the Senator from Massachusetts.

Mr. KENNEDY. Is it the position of the Senator that this really is the most important health issue that is before the families of America today? Is it understood that we have been unable to consider this legislation in the Labor and Human Resources Committee, and so this is the only way and only means by which we can have the kind of debate that families across this country want? Is it the opinion of the Senator from South Dakota that this really is a compelling issue, perhaps the most important health care issue that families in South Dakota and across this Nation care most deeply about—to make sure that doctors and not insurance agents are going to be making decisions on health care?

Mr. DASCHLE. Mr. President, I tell the Senator from Massachusetts that, just last week, a family from South Dakota told me that if there is one thing the U.S. Senate should do this year—this year—it is pass the Patient Protection Act. It is to deal with the problems they are having with managed care. And it is to deal with the recognition that there is a growing problem out there. In poll after poll after poll, the American people are saying: We don't care what else you do, do this and do it this year.

So I think it is very clear that the intensity level is as high as it can be. People care about this issue, and they recognize the problem. People know how difficult it is today to face managed care organizations that, in large measure, are not addressing these problems as they should. So the Senator from Massachusetts raises the right question. Do the American people want us to address this issue? The answer is not only yes, but yes with an exclamation point.

Mr. DURBIN. Will the Democratic leader yield?

Mr. DASCHLE. I yield to the Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator for raising this issue. I hope that we put it in context. This is an important procedure that Senators FEINSTEIN and D'AMATO bring to the floor. It addresses the issue of mastectomy. It makes certain that women and families have peace of mind when they face that procedure. I don't think there is going to be any opposition to that bill, and there should not be.

The Senator from South Dakota makes a point—and I think we should make the point—that in this debate there are many other potential injustices, and injustices in the health care system. One should consider the fact that most Americans say, first and foremost, they want to choose their own doctors, and many women say, "I want to be able to make certain during the course of my pregnancy that I have a doctor, an obstetrician who I can be confident in, and one who will give me advice every time I come in for a visit." There are families who worry that when their children are brought into a doctor's office, they will be referred to the right specialist, the one best for that child. They don't want that decision being made by an insurance company. They want it being made by a doctor.

The irony here is that we are saying doctors should make that decision. These doctors who have been chosen by the insurance companies to be part of their plans should be trusted, and their judgment should be trusted. What the Senator from South Dakota is saying is, let's move forward on the Feinstein bill, on this important mastectomy protection; but let's extend this protection to so many other Americans and families and women in other circumstances who are being disadvantaged by insurance companies and HMOs that are unresponsive to families and their needs.

I think the Senator from South Dakota puts a challenge to the Senate today. Will we do one small, but important, part? Or will we take a look at the whole picture and make certain that we can return home after this session with the kind of legislation that the American people will support? I hope the Republicans will join us. This ought to be bipartisan. What is the controversy here when we say patients and their families should come first, and protecting the patients when it comes to important medical decisions?

I thank the Senator from South Dakota. I hope we can get the assurance from the Republican leadership today that we will not only consider the Feinstein-D'Amato bill, but also the patient protection that Senators DASCHLE and KENNEDY will offer.

Mr. DASCHLE. Mr. President, I thank the Senator from Illinois for his very good statement. He raises an interesting point that I failed to mention. Oftentimes, we talk about this as a matter simply of urgency and concern for victims. Indeed, that is the greatest concern—the degree to which victims come to us with stories that they believe call out for attention to this matter. But there are now over a hundred organizations—organizations of all kinds—our doctors, our nurses, an array of working organizations in this country, including education, you name it—organizations that have come forward to say that this isn't just a health issue, this is a worker issue, this is a quality of life issue. This is an array of organizations that rarely come together on any issue. Philosophically, they go from left to right. But the fact is, they care about this issue because they know how critical it is that we solve it this year.

So, as the Senator said, this should not take very long. Indeed, it is important that we get on with moving this legislation.

Ms. MIKULSKI. Will the Senator yield?

Mr. DASCHLE. I yield to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I ask the Senator from South Dakota, our Democratic leader, a question. In all of his research on the bill, has he not found that this is a very compelling issue for women and for children, that there has essentially been a "moat" around access to medical treatment and, therefore, leaving it to the Senate or legislative bodies to make corrections, one procedure at a time, like drive-by deliveries, dumping of mastectomy patients? Would it not be better to take down the "moat" around medical treatment and do this in a comprehensive way, especially a way that it affects the women and children? Has the Senator found that?

Mr. DASCHLE. The Senator from Maryland is absolutely right. She said it very succinctly. That is, in essence, what this legislation will do. This isn't the broad array of health care reforms that we could be addressing. This very narrowly focuses on one of the biggest problems we have in health care delivery today. I appreciate very much her calling attention to that fact.

Ms. MIKULSKI. I thank the Democratic leader.

UNANIMOUS CONSENT REQUEST—S. 249 AND S. 1890

Mr. DASCHLE. Mr. President, now that we do have a Republican colleague on the floor, let me propound the following unanimous consent request:

I ask unanimous consent that at 11 o'clock on Tuesday, May 12, Senator D'AMATO be recognized to offer a bill regarding inpatient hospital care for breast cancer, with a time limit of 2 hours for debate on the bill, with no amendments or motions in order thereto, that when all time is used or yielded back, the Senate proceed to a vote on passage of the bill, and immediately upon disposition of the D'Amato bill, the Senate proceed to the immediate consideration of the Daschle-Kennedy Patients' Bill of Rights bill with a time limit of 2 hours for debate, with no amendments or motions in order thereto, and that when all time is used or yielded back, the Senate proceed to vote on passage of the bill, with all time equally divided and controlled in the usual form, and that the above occur without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Mr. President, reserving the right to object. Mr. President, let me simply state that tying these two requests together—and I appreciate the position of the Senate minority leader—is unacceptable for the majority. Therefore, I will object.

We can have some discussion as to the merits of attempting to tie the two together. I know the minority leader has been speaking. I might even support the Patients' Bill of Rights, but to tie it together in this way is unacceptable. So I am forced to object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Let me just say I am very disappointed. We are not tying them together in any way other than by procedure. We are simply saying, let's debate the D'Amato bill for 2 hours, and then let's debate the Daschle-Kennedy bill for 2 hours. They both deal with protections for patients. They both deal with the need to confront the array of problems we are facing in managed care today. So I am very disappointed the majority has chosen to take this action, and I hope if we can't do it today, perhaps we can do it on the 15th. So let me ask unanimous consent that on a date no later than June 15, both bills be considered in the order that I have just described.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Mr. President, reserving the right to object, again let me say it is one thing to say they are not being tied together, but that is exactly what is taking place. Let me take the time to point out, if I might, that the legislation that has been crafted with the help and consultation of my colleague, Senator FEINSTEIN from California, from the beginning is not controversial, absolutely not controversial and is necessary. To take a bill that is so straightforward and tie it up in procedural knots—and that is what is happening here—so that the women of America, because of these procedures today, are being denied health care that they need, reconstructive surgery, drive-by mastectomies, being put on the streets or being told we are not going to pay for more than 24 hours or 48 hours or whatever the policy limits may be, regardless of the medical necessity, we are not going to pay for reconstructive surgery because, as one plan said and a doctor told me, "It doesn't serve a bodily function so therefore we don't have to have reconstructive surgery," is absolutely wrong.

This is an issue that everyone can support and should support, and we should not tie it down with legislation by its very nature that is so comprehensive as the Patients' Bill of Rights that takes in a myriad of programs and projects, et cetera, many of them that have arguments on both sides. To say that we are going to give one 2 hours and the other 2 hours, which is so complex, is just absolutely using the procedure to stifle this straightforward bill which says we will give women the right without having to appeal to various boards, et cetera, to reconstructive surgery and to know that they are not going to be forced to leave a hospital before it is the right time to do so.

That is what we are talking about here. So we are forced to object. I am sorry that the distinguished leader on the other side is using that as a cover for precluding—and by the way, we may have some Members on the Republican side, I might want to add, who will seek to amend this, who are out of line, I believe, and who will hide behind this and do not have the courage to come down here and to vote up or down. And I would like to see them offer amendments because I have had some colleagues—let's be very candid—to say, "We are going to offer a killer amendment."

Why? Let me give you the argument on the other side. "We don't want mandates." Let me give you another one. One of my distinguished colleagues says, "We shouldn't have legislation by body part." Well, it is too bad, he is right, that we would have to reach this time and this place that it demands that. How much longer should the women of America have to wait? How many years, how many months do we really tie it up? And let me say this to you: This Senator is going to go forward. I know that my colleagues on the Democrat side, and there are many of them, feel equally passionate, and we are going to go forward and we are going to have a vote on this amendment. It is a straightforward piece of legislation.

I see my colleague, Senator FEINSTEIN, is seeking to speak on this, and I am going to——

Mr. DASCHLE. Mr. President, did the Senator from New York object?

Mr. D'AMATO. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. D'AMATO. I call for regular order, Mr. President.

Mr. DASCHLE addressed the Chair.

Mr. D'AMATO. I now call for regular order with respect to the continued time.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. I would remind the Senate of the previous order so that we are at the point, past the point, where morning business is closed.

The PRESIDING OFFICER. Under the previous order, the Senator from New York is recognized.

UNANIMOUS-CONSENT REQUEST—S. 249

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 249 regarding inpatient care for breast cancer, and there be 2 hours for debate equally divided with one relevant amendment in order to be offered by Senator D'Amato, and following the disposition of the amendment the bill be advanced to third reading and a vote occur on its passage, all without intervening action or debate.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DASCHLE. Reserving the right to object, let me just say how disappointed I am that the Senator from New York continues to persist in his erroneous conclusion that somehow these are melded together. I will put forward a new proposal for my colleague and friend from New York. I would propose that we take up the D'AMATO bill today, that we debate it as he suggests so long as by June 15, or at any date in June that would be of his choosing, we can take up and debate the Patient Protection bill for whatever time it takes. If it is complex, let's debate it. If it ought to be amended, let's debate it. If the Senator from New York is prepared to give me that opportunity, to say in June we will take up patient protections with amendments, we will have the debate on his bill today and my bill in June. I would make that proposal to the Senator from New York, reserving the right to object.

Mr. D'AMATO. I understand that, and let me respond by saying that I wish I could and did have the authority to accept that because I would do it, because I think we should have a full debate and a full discussion on the Patients' Bill of Rights. And I think it will not be limited, should not be limited to 2 hours. I thank my colleague, the Senate minority leader, for recognizing the complexity of the bill that is, I don't know how many pages. It is voluminous. And it is important.

Here it is. I don't know whether it has even had a hearing. It is 109 pages. It is controversial, to say the least. And there are many parts of this bill which I would be supporting. There is absolutely no doubt about it.

Mrs. FEINSTEIN. Will the Senator yield?

Mr. D'AMATO. However, we are linking the two together. By suggesting that in order to get this straightforward bill, this legislation that says no more drive-by mastectomies and that women will be guaranteed the right to have reconstructive surgery where there is a radical mastectomy, it is linking the two together. I think that is unfortunate. I might be willing to come and join my colleagues and battle for a date certain or to fight for hearings at least. I don't know whether we have had hearings. I don't think we have. I see Senator KENNEDY here.

But the point of the matter is that we are linking the two. We are saying we are not going to consider whether women should have that right. Where I don't believe there is one Senator here who feels they should not have, not one, why should we link the two, with one bill 109 pages, which 90 percent of the Members have not read, have not studied, have not gone through. Again, it is linkage, and therefore I am compelled to say that notwithstanding the good intents of my friend, it is linkage.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DASCHLE. Continuing to reserve the right to object, since my colleague from New York did now object to my counterproposal, I am flabbergasted. I am absolutely flabbergasted that the Senator from New York would say, since we have not seen action on our bill, we should take up his bill. And why are we taking up his bill under these circumstances? Because the Finance Committee has not acted. That is the reason. We are going to go around the Finance Committee to go straight to the floor, and he is saying we shouldn't go around the Labor Committee to go straight to the floor for the Patient Protection Act.

So let there not be any confusion here as to what is going on. Everyone ought to know this. This is as glaring as the lights themselves. Our Republican colleagues, for whatever reason, are denying the opportunity to consider a Patient Protection Act, today, tomorrow or any other day. And they are hiding behind the mastectomy bill to do it.

Well, let's not hide behind any legislation. Let's strip away all the rhetoric. They do not want to do it. They simply do not want to do it. I don't know why they don't want to do it, given that about 80 or 90 percent of the American people are demanding we do it, but they can explain it.

No one should be misled here. The problem is not that we are combining the two bills. I have just released them. There isn't any connection anymore. We will take up the Feinstein-D'Amato bill today and take up the Patient Protection Act in the next couple of months. Just let us take it up. That is all we are asking.

So, Mr. President, I am really astounded at that logic and that rationale. But I don't think anybody is misled here. They don't want to take up the patient protection legislation, and I am very disappointed, and I think the American people would be as well.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let's look at this in perspective. I have asked staff has there been a hearing with respect to S. 1890, a bill that is over 100 pages, the complexities of which, everyone has to admit, go well beyond a very straightforward, very limited bill which we believe guarantees women a right that I don't think there is one person here who could object to, and that is, length of stay should be determined by the medical necessity of the procedure; and, second, that reconstructive surgery should be a woman's right. She should not have to go to appeal to some board or some insurance plan because ERISA prevents States from having legislation that would order this.

Let me say this. We have had a hearing on S. 249, and we have had two votes to attempt to get it. Senator FEINSTEIN, myself, and others—and I might say our bill has broad, bipartisan support. There is not one Member on the Patients' Bill of Rights from the Republican Party. You can say that you are not linking, you can say you are not blocking, but that is exactly what has happened. The women of America are being denied a right to something that they should have—that we should enact into law, and we should be proud, and all 100 Senators should come down and vote for this and sponsor this—because we want the Patients' Bill of Rights to be heard at a particular time and we are linking the two. That is exactly what is happening.

I could support various provisions in the Patients' Bill of Rights—the clinical trials. I think we should have them. I want to support them. But to say that we should deny the women of America an opportunity to be heard on this and to have a vote on this is counterproductive; it is wrong. It is a shame that the Senate operates in this manner.

But everyone has a right to be heard. Everyone has a right to make their objections. I think it is unfortunate. My friend and colleague from California, Senator FEINSTEIN, has been waiting very patiently. If I might—

Several Senators addressed the Chair.

Mr. DASCHLE. Mr. President, I think the unanimous-consent request is still pending. Reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Reserving the right to object, let me just say the Senator from New York has said on several occasions now that this has not been the subject of any hearings. The Labor Committee has dealt with this issue at more than seven hearings, hearings that have brought people in from around the country, talking about this particular problem and about how serious it is. There has been one meeting in the subcommittee of the Finance Committee on his bill.

So let's talk about hearings. Let's talk about the array of people who have come forth and said, "Why are you waiting? Why aren't you moving ahead with this legislation?" I don't have an answer to that. Our caucus is attempting to promote the opportunity for all people to be heard on this issue.

The Senator from New York also made mention of the fact that his bill deals with mastectomy, and it is a very important contribution. I applaud Senator FEINSTEIN and others for making the effort, as they have, to get to this point. But his legislation is very, very narrowly focused.

He said he supports clinical trials. We want to give him the opportunity to vote for it. He says he supports access to specialists. We want to give him the opportunity to vote for it. He wants to protect the information, the records of patients. Let's give him and others a chance to vote for it. That is what our bill does. It goes way beyond simply the right, that a woman surely should have, to be more confident about her ability to get the proper treatment when in a situation as sensitive as a mastectomy. But let's provide them the protection through clinical trials. Let's ensure that they can see necessary specialists. Let's ensure that their records are going to be protected. Let's do it all. Let's not do half a job, let's do the whole job. That is what we are talking about here.

So I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

Mr. D'AMATO. I call for the regular order.

The PRESIDING OFFICER. The Senator from New York has the floor.

WOMEN'S HEALTH AND CANCER RIGHTS ACT

Mr. D'AMATO. I yield 10 minutes to the Senator from California, Senator FEINSTEIN.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. D'AMATO. Regular order. I believe under the regular order I control up to an hour.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAUCUS. Mr. President, I make a point of order.

Mr. D'AMATO. Mr. President, I yield to the Senator from California, for up to 10 minutes, for a question.

Mr. FORD. Mr. President, take charge and give direction to these Senators.

The PRESIDING OFFICER. The Senator from New York has been recognized under the regular order. The Senator from New York does not control the floor. If he seeks to yield time, that requires a unanimous consent.

Is there objection to yielding time?

Mr. D'AMATO. Mr. President, my colleague from California has a question. I would like to yield for a question to the Senator from California.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York has a right to yield for a question. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I would like to ask the Senator from New York a question.

As I recall, we introduced this amendment as a bill on January 30, 1997. That was 16 months ago. The Patients' Bill of Rights, I believe, was introduced on March 31st of this year. Is that not correct?

Mr. D'AMATO. Would the Senator——

Mrs. FEINSTEIN. My question about when we introduced this bill, a bill that would give a woman and her physician the right to determine the length of a hospital stay when she has a mastectomy, and quite possibly a radical mastectomy. The length of stay in the hospital would be the decision of her physician, not the HMO; we introduced this bill 16 months ago. Correct? The Patients' Bill of Rights was introduced in March of this year. Is that not correct?

Mr. D'AMATO. That is correct. The Senator is correct. We introduced this on January 30, 1997.

Mrs. FEINSTEIN. And, am I correct in that the Senate Finance Committee held a hearing on our bill on November 5, 1997?

Mr. D'AMATO. That is also correct. And the Senator testified—the Senator from California came and gave some very cohesive and forceful testimony as to the need for this legislation.

Mrs. FEINSTEIN. Is it not true that we have filed this bill to be considered by the Senate two times and you offered it in the Finance Committee two times? On March 16, we filed it as an amendment to H.R. 2646, the Parent and Students Savings Account Plus Act. Is that not correct?

Mr. D'AMATO. Absolutely. The Senator is absolutely correct.

Mrs. FEINSTEIN. On May 6, we filed it as an amendment to H.R. 2676, the IRS restructuring bill. Is that not correct?

Mr. D'AMATO. That is absolutely correct.

Mrs. FEINSTEIN. And on March 31 and on February 10 of this year, did my colleague not offer it as an amendment in the Finance Committee?

Mr. D'AMATO. I did. I did. My colleague is right. We brought it to a vote.

Mrs. FEINSTEIN. Is it not true that the Senator has been unable to get the Finance Committee to move this bill to the floor?

Mr. D'AMATO. Absolutely true. Again, procedurally this is raised, just as an analogy, as is being done here—there they raised germaneness, and, unfortunately, they kept the women of America from having the opportunity to have this bill considered at that time. That is correct.

Mrs. FEINSTEIN. Is it not true that the D'Amato-Feinstein mastectomy bill has 21 cosponsors, including a bipartisan group of women Senators—Senators SNOWE, MOSELEY-BRAUN, HUTCHISON, MIKULSKI, and BOXER?

Mr. D'AMATO. Absolutely. It is a bipartisan effort. It has been that way. I applaud my colleague from California for her leadership in this matter. We have done this and conducted this in a manner that has sought to eliminate politics and think about the women of America and the families of America, because we are talking about a disease and procedures that are hurting, harming the families of America.

Mrs. FEINSTEIN. I would like the Senator from New York to know that I am a cosponsor, also, of the Patients' Bill of Rights Act. I understand the importance of this bill. I would very much welcome floor time to consider this bill as well.

However, I did indicate in our Democratic caucus that absent that opportunity, and because women all across this Nation are going through some of the same events that two women who brought this to my attention 3 years ago in California went through, and that is to show up to have a radical mastectomy at 7:30 in the morning, and then to be pushed out on the street at 4:30 that afternoon with drains in them, the effects of anesthetics still upon them, really unable even to walk—is it not true that what we strive to do is make a simple reform and say that no woman without the permission of her physician will be subject to this kind of treatment ever again in the United States of America?

Mr. D'AMATO. The Senator from California is absolutely correct.

Let me say that we worked long and hard on this. We have many of our colleagues who, because of their commitment to deal with this—it is tragic when it hits a family it has so much of an impact—said you have to have at least 48 hours. In other words, 72 hours. And we finally have been working with the people in the medical community, and I must say we built a consensus where we recognize that we should not put any time limitation whatsoever.

If I might, Mr. President, we have the Senator from Montana who is waiting to make a statement. Might I propound a unanimous consent request that he be permitted to speak for up to 3 or 4 minutes as if in morning business, and that might we also have an additional 5 minutes then—we started late—so that he could make his statement, and then without my losing the right to continue and to hold the floor and continue our discussion with respect to this?

Mr. KENNEDY. Reserving right to object, I don't want to object. I would like to have a very brief time to be able to respond. I think, as I understand it, at 11 o'clock under the consent agreement we are going to the agricultural matter.

Mr. D'AMATO. That is why I asked for an additional 5 minutes.

Mr. KENNEDY. I would like to see if we could have, say, 15 minutes to be able to respond to that time.

Mr. D'AMATO. Unfortunately, I am not in a position to agree to that. Let me say this to Senator KENNEDY. Let's say that in one-half hour we would yield to the Senator from New York 10 minutes. Is that fine?

Mr. KENNEDY. That would be very generous.

Mr. D'AMATO. Could Senator BAUCUS' remarks be contained in morning business without interrupting the debate for up to 5 minutes?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I thank all Senators very much for accommodating me.

First of all, I hope that the bill to be offered by the Senator from California and the Senator from New York will be brought up quickly and passed. I think every Member of the Senate does. I very much favor it. At the same time, I very strongly believe the Patients' Bill of Rights, the basic protection bill, we have to pass that. It is very regrettable, frankly, that we are at loggerheads. We need to get that bill passed. I think we should work that out fairly soon. Frankly, it is in the interest of the American people we get this passed very quickly. But it is not going to be resolved right now.

By unanimous consent, the remarks of Mr. BAUCUS pertaining to "Montana Pole Vaulters" are printed in today's RECORD under "Morning Business."

Mr. D'AMATO. Mr. President, might I ask unanimous consent that Senator JOHNSON from South Dakota be given 3 minutes to speak on this issue?

Mr. DORGAN. Mr. President, reserving the right to object, my understanding is that the order by unanimous consent at 10 o'clock required that Senator D'AMATO be recognized to propound a unanimous consent request; not that Senator D'AMATO be recognized between 10 and 11 o'clock. I am wondering. Am I correct on that?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The order provides for the recognition of Senator D'AMATO of New York.

Mr. D'AMATO. I believe I was going to be recognized, and indeed I am attempting to accommodate this. I could speak for this 1 hour. I am attempting to accommodate the needs of my colleagues. That is why I yielded 10 minutes. I am prepared to yield 10 minutes to Senator KENNEDY. The time is clicking off here.

Mr. DORGAN. I will not object. But my understanding of the UC was that the Senator from New York would be recognized to propound a unanimous consent request at which point the floor would be open. I guess I understand the Senator from New York intends to retain the floor until 11 and simply by consent allow others to speak for a certain amount of time.

Mr. D'AMATO. Yes.

Mr. DORGAN. He certainly has that right. Under the unanimous consent agreement he has the right of recognition. So I will not object.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I thank the Senator from New York and the Senator from California for their extraordinary work on this important legislation.

Mr. President, frankly, I have to share a great level of frustration, and to be candid, anger at where we find ourselves this morning: unable to move forward with the breast cancer legislation for which there is broad bipartisan support and little controversy. I have more than simply a public policy concern about this issue. I have a personal concern in my own family, having gone through my wife's breast cancer challenge over the past 2 years. She is doing very well. But we had a situation where she remained in the hospital for one night following surgery. She went home with the drains, and the other complications. We were able to do that all right because we don't have small children at home. We had no complications. But I know of other women in my State of South Dakota who have small children at home who cannot take a great amount of time from work, who have no extra help, who have extra complications, and who have all sorts of matters that are debilitating that cause complications. And 24 hours for many of them is simply not adequate. We have an opportunity here to correct that problem. This doesn't correct everything.

I share the support of the Senator from California for the Patients' Bill of Rights. I am frustrated, as well, that we haven't made greater progress there. I hope that before this session is over we will in fact deal with the more comprehensive health care reform legislation.

I applaud Senator DASCHLE's leadership on the Patients' Bill of Rights legislation. But I do not want to make the perfect the enemy of the good. What we have here is a piece of legislation which we should be able to pass this very day.

It is certainly my hope, while we have the continued discussion about a more comprehensive approach to managed care and ensuring the rights of all patients, that before this session of the 105th Congress expires—and we are running out of time quickly—that, in fact, we get this breast cancer bill to the floor and deal with it in an expeditious fashion.

Again, I simply want to applaud the leadership of the Senators from California and New York on this issue, one that we really should not allow to be delayed longer than it already has.

I yield my time.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the time be extended until 11:05, because we did not start nearly on time, and I further ask unanimous consent that Senator KENNEDY be recognized now for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

Mr. President, let me be clear: I am all in favor of Senator D'AMATO's bill. Its provisions are included in the Patients' Bill of Rights. I was an original cosponsor of Senator DASCHLE's legislation, which preceded the legislation authored by my colleague from New York, that guaranteed breast cancer patients a minimum length of stay in the hospital following a mastectomy. And I worked with the breast cancer community—patients and providers—to write and introduce a bill that would require plans that cover mastectomies to also cover reconstructive surgery, prostheses and treatment for lymphedema, a complication of the surgery. In fact, Senator D'AMATO modified his original bill, which covered only reconstructive surgery, to conform it more closely to mine. We share a commitment to this legislation.

But his proposal does not include other provisions that are in our bill and which are equally important to breast cancer patients, their families and their doctors. The following protections, all of which are in the Patients' Bill of Rights remain unaddressed in the legislation proposed by Senator D'AMATO:

It does not guarantee access to specialists—provisions that would allow an oncologist to act as a cancer patient's care coordinator, or would allow a patient to see an oncologist directly, without first making an unnecessary visit to a so-called "gatekeeper."

It does not ensure for a smooth transition between new and existing doctors for breast cancer patients and survivors whose employers change plans or whose plans change providers in the network.

It does not include access to and coverage of participation in clinical trials, which can so often mean the difference between life and death for patients with nowhere else to turn.

It does not establish the right to an independent and timely appeal—a critical feature for those times when coverage decisions fall into a grey area.

It does not create access to prescription drugs that are not on the formulary, if they are medically indicated in the case at hand.

It does not guarantee that emergency care will be covered, provided a layperson believed they were in an emergency.

With the limited exception for post-mastectomy length-of-stay determinations, it does not fully restore the doctor-patient relationship by returning treatment decisions to the attending physician.

Finally, it does not allow patients to hold health plans accountable for their medical decision-making.

Clearly, the problems are not with what is in the bill, but with what is not in the bill.

We are effectively precluded from including these particular provisions in the D'Amato proposal. And that is why these matters are linked, Mr. President. The items contained in our Patient Protection Act are critically important to breast cancer patients and survivors. Our bill has the broad support from virtually all the various cancer groups and breast cancer groups. But, if we move forward on only those included in the D'Amato proposal, we effectively preclude movement on the rest of the provisions.

One can say, "Well, we are still making some progress." I understand, but there is no reason in the world—none, no reason—that we cannot include these particular provisions for women today—none, make no mistake about it.

We have had eight hearings on the issues relating to the Patients' Bill of Rights. I introduced the original legislation on this issue more than a year ago—over a year ago. The President's advisory commission, which included among its members representation from the business community and insurance industry, reported unanimously last November about what ought to be included in a patients' bill of rights. We have incorporated their recommendations in our bill. They are needed today by women across this country.

All we are asking is for the opportunity to have the Senate debate and go on record with regard to these kinds of protections. But we are foreclosed from acting today. We are denied doing it. We cannot even get a reasonable period of time. The Republican leadership is sitting somewhere in this building. They could have listened to the exchange that was done by the Democratic leader and the Senator from New York. They know what is going on on the floor of the U.S. Senate. They can just come out here and say, "All right, you got it, you are going to have an opportunity to debate this issue; we won't have a time limitation, call the roll and let's have a debate on what is the No. 1 issue before American families." But, no, we are precluded from that.

You don't have to be around here a great deal of time to understand what is going on. We are effectively excluded because of the power of the insurance industry. Do you hear that? We are excluded from having an opportunity to debate this because of the power of the insurance industry. That is what is going on here. That is the issue this morning on the floor of the U.S. Senate.

The industry does not want to provide patients with the protections to which they are entitled and have paid for, and their allies in the Senate are holding this up, Mr. President, by using parliamentary techniques to deny us the chance to consider this legislation. We cannot get a report out of our Labor and Human Resources Committee. We cannot take it up on the floor of the U.S. Senate. It is time for action, and we are denied an opportunity, not just today, not just tomorrow, not just June, but anytime whatsoever—whatsoever.

We are asking the Republican leadership to give us a time. Call the Democratic leader. Bring it up in 2 days. Bring it up in 2 weeks. Bring it up in a month. But give us a time to bring this up. That is what this issue is all about, and that is where we are going, Mr. President. We will bring this issue up time in and time out, again and again. We may be foreclosed now, but the American people are going to demand it. Those women who have or have had breast cancer are going to understand it and demand it as well.

I yield the remaining time to the Senator from California.

I thank the Senator from New York for granting the time.

Mrs. BOXER. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes 15 seconds.

Mrs. BOXER. Mr. President, I say to my colleague, I will reserve 2 minutes for him.

Sometimes we set up false fights, and it is a real false fight between those who want to ban drive-through mastectomies, which I would guess is every single Senator in this Chamber, and those who want to go even further and grant patients protections across the board for breast cancer patients, prostate cancer patients, children, the elderly, anyone who gets sick. There is no fight. Why are we having a fight? We are having a fight because, as the Senator from Massachusetts has said, we are unable to make this a broader bill.

I am very proud to be a sponsor of the D'Amato-Feinstein bill, and I am going to be very excited when this bill becomes law, and it will become law.

We need to do more, and there is no reason why the leadership of the Senate won't give us that opportunity, except that there are many special interests who don't want us to do more, who are pocketing—into deep pockets—profits on a HMO system that shortchanges patients, and that is wrong.

I was visited by a man named Harry Christie. I have told his story on the Senate floor before. His daughter was diagnosed with a rare tumor in her kidney. She was 9 years old. There were two doctors who had experience operating on that type of tumor. His HMO said, "That's too bad, you have to go with a general surgeon."

He said, "This is my only child."

And they said, "You're out of luck."

Fortunately, Mr. Christie was able to come up with the $50,000 he needed, and he saved his daughter's life. Six years later, she is alive and, yes, the HMO was fined a hefty sum by the State of California. If Mr. Christie had listened to the HMO, he might not have his daughter today.

All the Senator from Massachusetts and the Democratic leader are saying is we love this mastectomy bill, we want to help you get this bill through, but help us, help us do more. We can stop a woman from having to go through a horrific, outrageous, demeaning, dangerous drive-through mastectomy, and we will with this bill. But what happens when she is out of hope a couple of years later, and she needs to get into a clinical trial where she can have access to certain drugs because nothing else is working? The mastectomy bill is narrow, it doesn't address that. The broader patient rights bill addresses it.

I want to speak to the issue of the dates when these various bills were put into the hopper, because Senator FEINSTEIN made a good point on that. However, Senator KENNEDY had a bill that was offered before the drive-through mastectomy bill. Others had bills that were offered before as well. We don't need to have this argument which pits one against the other. We should be able to pass this bill banning drive-through mastectomies, and allow it to be amended to take up these broader issues, so that if someone has chest pains and goes to the emergency room, they are not going to be told by their HMO that they can't qualify for a payment because, guess what, they didn't actually die and have a heart attack, they actually lived. But it was a prudent person who made that decision to walk into that emergency room. Why should they be penalized?

I am very hopeful we will pass this drive-through mastectomy bill, but also a broader Patients' Bill of Rights for breast cancer patients, for prostate cancer patients, for Alzheimer's patients, for all the patients, and let's not set up a false argument here. We can do both. Somebody once said you should be able to walk and chew gum at the same time. Well, we should be able to do this very narrow bill and then debate a broader bill and give all of our patients the protection they so richly deserve.

I yield the remaining time to Senator KENNEDY.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. D'AMATO. Mr. President, I ask unanimous consent that my colleague from California, Senator FEINSTEIN, be recognized for 5 minutes.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Senator from New York.

I must say that I think what is happening here is unfortunate. I think what we are seeing overwhelmingly all across the United States is a state of medical care and health insurance in this country that is becoming much more oriented toward business and much less oriented toward medicine. And this is prompting, I think, all across this land a terrible situation for physicians and for patients.

What prompted me to introduce this bill was two California women who wrote to me. I want to read them to you and enter their full statements in the RECORD.

One was from a woman in Newark, CA. And she wrote—and this was almost 2½ years ago—that she had a modified radical mastectomy as an outpatient at the Fremont Kaiser outpatient clinic. She was operated on at 11:30 in the morning and was released at 4:30 that afternoon, with no attempt made to see if she could even walk to the bathroom. She was 60 years old. And the discovery of cancer and the subsequent surgery were extremely draining both emotionally and psychologically.

That is one case. Same day. Let me read you about another case.

> My mastectomy and lymph node removal took place at 7:30 a.m., November 13. I was released at 2:30 p.m. that same day. I received notice, the day before surgery, from my doctor that mastectomy was an outpatient procedure at Kaiser and I'd be released the same day. Shocked by this news, I told my surgeon of my previous complications with anesthesia and the fact that I have a cervical spine condition, which adds an additional consideration for any surgery.

Then she goes on and she says:

> While in a groggy, postoperative daze, swimming in pain and nausea, I was given some perfunctory instructions on how to empty the two bloody drains attached to my body. I was told to dress myself and go home. My doctor's written chart instructions for a room assignment, if I developed acute nausea or pain, were ignored by the nursing staff.

This is the problem we are trying to stop right here and now. I frankly am sorry that the bill isn't broader. But this is something whose cost is small—$100 million. We know it can be accommodated. We know we can get the job done.

This bill is simple. It requires every insurance plan in the United States of America to cover the hospital length of stay determined by the physician to be medically necessary. It does not prescribe a fixed number of days. It does not set a minimum. It leaves the length of the hospital stay for the mastectomy up to the treating physician.

Secondly, it requires health insurance plans to cover breast reconstruction following a mastectomy.

Thirdly, it requires insurance plans to cover breast prostheses and complications of mastectomy, including lymphedema.

And, finally, it prohibits insurance plans from financially penalizing or rewarding a physician for providing medically necessary care or for referring a patient for a second opinion.

This is a simple bill. It is a direct bill. It is going to directly benefit the lives of tens of thousands of women. I regret that it isn't more comprehensive. But we know it is doable, we know what it does, and we know women will immediately be better off because of it.

So I am very proud to stand here with my colleague from New York and with others in the Senate. The great bulk of women Senators are supporting this. This is tangible; it is doable. We believe it can become law quickly. And we say, let us seize the moment and let us accomplish at least this for women of America.

So I thank my colleague from New York for his authorship. I was very proud to be an original sponsor on this bill. We did have a hearing. We have tried to get the job done before, but hopefully it will get done this morning.

As an original cosponsor of S. 249, the Women's Health and Cancer Rights Act, I am pleased to sponsor the amendment on mastectomy hospital length of stay that Senator D'AMATO is urging the Senate to consider. It is time to pass it.

Senator D'AMATO and I introduced this amendment as a bill on January 30, 1997, 16 months ago. The Senate Finance Committee held a hearing on the bill, S. 249, on November 5, 1997. We have filed this as an amendment, to be considered by the Senate, three times:

On March 16, we filed it as an amendment to H.R. 2646, the Parent and Student Savings Account PLUS Act.

On May 6, we filed it as an amendment to H. R. 2676, the IRS restructuring bill.

On March 31 and on February 10 of this year, Senator D'AMATO offered it as an amendment in the Finance Committee.

In sum, we have made numerous efforts to get the Senate to consider this bill.

The D'Amato-Feinstein mastectomy bill has 21 cosponsors, including a bipartisan group of women Senators: Senators SNOWE, MOSELEY-BRAUN, KAY BAILEY HUTCHISON, MIKULSKI and BOXER.

This amendment has four important provisions: For treatment of breast cancer:

> 1. It requires insurance plans to cover the hospital length of stay determined by the physician to be medically necessary. Importantly, our bill does not prescribe a fixed number of days or set a minimum. It leaves the length of hospital stay up to the treating physician.
>
> 2. It requires health insurance plans to cover breast reconstruction following a mastectomy.
>
> 3. It requires insurance plans to cover breast prostheses and complications of mastectomy, including lymphodemas. For treatment of all cancers:
>
> 4. It prohibits insurance plans from financially penalizing or rewarding a physician for providing medically necessary care or for referring a patient for a second opinion

Let me share with you two firsthand experiences, two California women describing their treatment by insurance companies in having a mastectomy.

Nancy Couchot, age 60, of Newark, California, wrote me that she had a modified radical mastectomy on November 4, 1996, at 11:30 a.m. and was released by 4:30 p.m. She could not walk and the hospital staff did not help her "even walk to the bathroom." She says, "Any woman, under these circumstances, should be able to opt for an overnight stay to receive professional help and strong pain relief."

Victoria Berck, of Los Angeles, wrote that she had a mastectomy and lymph node removal at 7:30 a.m. on November 13, 1996, and was released from the hospital 7 hours later, at 2:30 p.m. Ms. Berck was given instructions on how to empty two drains attached to her body and sent home. She concludes, "No civilized country in the world has mastectomy as an outpatient procedure."

These are but two examples of what, unfortunately, is symptomatic of a growing trend and a national nightmare—insurance plans interfering with professional medical judgment and arbitrarily reducing care without a medical basis.

Premature discharges for mastectomy, with insurance plans strongarming physicians to send women home, are one glaring example of the growing torrent of abuses faced by patients and physicians who have to "battle" with their HMOs to get coverage of the care that physicians believe is medically necessary.

Increasingly, insurance companies are reducing inpatient hospital coverage and pressuring physicians to discharge patients who have had mastectomies. This is beyond the pale. It is unconscionable.

The Wall Street Journal on November 6, 1996, reported that "some health maintenance organizations are creating an uproar by ordering that mastectomies be performed on an outpatient basis. At a growing number of HMOs, surgeons must document 'medical necessity' to justify even a one-night hospital admission."

A July 7, 1997 study by the Connecticut Office of Health Care Access found the average hospital length of stay for breast cancer patients undergoing mastectomies decreased from three days in 1991 and 1993 to two days in 1994 and 1995. This study said, "The percentage of mastectomy patients discharged after one-day stays grew about 700 percent from 1991 to 1996."

In the last ten years, the length of overnight hospital stays for mastectomies has declined from 4 to 6 days to 2 to 3 days to, in some cases, "no days." The average cost of one day in a community hospital in 1995 nationwide was $968.00. In California, in 1997, the average cost for one day was $1,329.77. When insurance plans refuse to cover a hospital stay, most Californians have difficulty coughing up $1,300.00. They are forced to go home.

In 1997, over 180,000 women (or one in every 8 American women) were diagnosed with invasive breast cancer and 44,000 women died from breast cancer. Only lung cancer causes more cancer deaths in American women. 2.6 million American women are living with breast cancer today.

In my state, this year, 19,399 women will be diagnosed with breast cancer and 4,585 will die. The San Francisco Bay Area has some of the highest rates of breast cancer in the world. According to the Northern California Cancer Center, San Francisco's 9-county area's rate of breast cancer in 1994 was 50 percent higher than most European countries and 5 times higher than Japan. In September 1997, the Northern California Cancer Center gave us some mixed news: "The good news is we're seeing the rates go down. The bad news is we don't know why," said Angela Witt Prehn. But officials there say, the bottom line is that incidence rates are still higher than national rates.

After a mastectomy, patients must cope with pain from the surgery, with drainage tubes and with psychological loss—the trauma of an amputation. These patients need medical care from trained professionals, medical care that they cannot provide themselves at home.

A woman fighting for her life and her dignity should not also be saddled with a battle with her health insurance plan. A physician trying to provide medically necessary care

As the National Breast Cancer Coalition wrote me on March 12, 1998: "The NBCC applauds this effort and believes this compromise will put an end to the dangerous health insurance practices that allow cost and not medical evidence to determine when a woman leaves a hospital after breast cancer surgery."

Insurance plans also refuse to cover breast reconstruction and breast prostheses. Our bill requires coverage.

Joseph Aita, Executive Vice President and Medical Director of LifeGuard, was quoted in the San Jose, California, Mercury News, as saying "Looking normal is not medically necessary."

Let me contradict Mr. Aita. Looking normal is medically necessary. Breast reconstruction is important to recovery. According to Dr. Ronald Iverson, a Stanford University surgeon, "Breast reconstruction is a reconstructive and not a cosmetic procedure."

He cites a study which found that 84 percent of plastic surgeons reported up to 10 patients each who were denied insurance coverage for reconstruction of the removed breast. This could mean 40,000 cases per year.

Commendably, my state has enacted a law requiring coverage of breast reconstruction after a mastectomy. We need a national standard, covering all insurance policies. Let's follow California's need.

Finally, our amendment prohibits insurance plans from including financial or other incentives to influence the care a doctor's provides, similar to a law passed by the California legislature last year. Many physicians have complained that insurance plans include financial bonuses or other incentives for cutting patient visits or for not referring patients to specialists. Our bill bans financial incentives linked to how a doctor provides care. Our intent is to restore medical decision-making to health care.

For example, a California physician wrote me, "Financial incentives under managed care plans often remove access to pediatric specialty care." A June 1995 report in the Journal of the National Cancer Institute cited the suit filed by the husband of a 34-year old California woman who died from colon cancer, claiming that HMO incentives encouraged her physicians not to order additional tests that could have saved her life.

Our amendment today tries to restore professional medical decision-making to medical doctors, those whom we trust to take care of us. It should not take an act of Congress to guarantee good health care, but unfortunately that is where we are today. As the National Breast Cancer Coalition wrote us on March 12, "* * * until guaranteed access to quality health care coverage and service is available for all women and their families, there are some very serious patient concerns that must be met. Without meaningful health care reform, market forces propel the changes in the health care system and women are at risk of being forced to pay the price by having inappropriate limits placed on their access to quality health care."

This amendment is an important protection for millions of Americans who face the fear, the reality and the costs of cancer every day. When any cancer strikes, it is not just the victim who suffers. It becomes a family matter.

Today I say, enough is enough. It is time for this Senate, for this Congress to send a strong message to insurance companies that we must put care back into health care. Medical decisions must be made by medical professionals, not anonymous insurance clerks.

I ask unanimous consent to have items I referred to previously printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEWARK, CA, NOVEMBER 16, 1996.

Senator FEINSTEIN.
Senator BOXER.

I recently called your office to express my anger at having been forced on Nov. 4 to have a modified radical mastectomy as an outpatient at the Fremont Kaiser Outpatient Clinic. I was operated on at 11:30 am and was released by 4:30 with no attempt made to see if I could even walk to the bathroom.

I am 60 years old and the discovery of cancer and the subsequent surgery was extremely draining both emotionally and psychologically. I feel that Kaiser completely disregarded these feelings, along with my fear of coming home so soon with no professional help. We received a call from Kaiser the following morning and a visit by a home health nurse.

Any woman, under these circumstances, should be able to opt for an overnight stay to receive professional help and strong pain relief.

I am interested in your view of this issue. Contact me if you want further details.

NANCY COUCHOT.

Sorry I am still wobbly writing.

[From the Los Angeles Times, Nov. 21, 1996]

OUTPATIENT MASTECTOMY SURGERY

My thanks to Ellen Goodman for "The Latest HMO Outrage: Drive-Thru Mastectomy" (Commentary, Nov. 18). Last week I became an uninformed victim of this inhumane practice at Kaiser-Permanente, Los Angeles.

I want to acquaint women with my firsthand experience of this degradation and urge my fellow HMO patients to contact their Washington legislators.

My mastectomy and lymph node removal took place at 7:30 a.m., Nov. 13. I was released at 2:30 p.m. that same day. I received notice, the day before surgery, from my doctor that mastectomy was an outpatient procedure at Kaiser and I'd be released the same day. Shocked by this news, I told my surgeon of my previous complications with anesthesia and the fact that I have a cervical spine condition, which adds an additional consideration for any surgery. The pleasant doctor assured me that I'd be admitted, for the night, if I experienced excessive pain or nausea. This was noted in my chart.

In the recovery room and the holding area, I felt like a wounded soldier in a hospital tent during the Civil War. I was surrounded by moaning patients and placed directly next to a screaming infant. When I finally found a voice, I shouted, "Get me out of here!" A nurse flitted by, shot me a disapproving glance, and commented, "Some folks just don't know when to be grateful." This was the ultimate humiliation.

While in a groggy, postoperative daze, swimming in pain and nausea, I was given some perfunctory instructions on how to empty the two bloody drains attached to my body. I was told to dress myself and go home. My doctor's written chart instructions for a room assignment, if I developed acute nausea or pain, were ignored by the nursing staff. Obviously, the reassurance had been given to placate me at the time of my discussion with the doctor but everyone knew an overnight stay was against Kaiser hospital rules. Everyone knew, except me. I had no time to mourn the loss of my breast or regain a sense of composure.

This experience was especially shocking because four years previously, I had undergone a hysterectomy and received excellent treatment and a four-night stay at the very same Kaiser facility.

We women can allow ourselves to be discounted or we can demand more from the HMOs. No civilized country in the world has mastectomy as an outpatient procedure.

VICTORIA BERCK.

Mrs. FEINSTEIN. I yield the floor.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senator from Maine, Senator SNOWE, be recognized to speak for up to 5 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Thank you.

Mr. President, I thank Senator D'AMATO for yielding me such time. I want to applaud him for his leadership on this very important issue for women in America. And I thank my colleague, Senator FEINSTEIN, for her leadership as well and commitment that she has demonstrated on this issue.

Mr. President, I regret that we have reached a point here where we cannot pass one bill because it is being held hostage to another. No one disagrees with the Senator from Massachusetts in terms of the importance of some of the issues that he has raised with respect to a Patients' bill of rights. But this legislation should not be held hostage to that legislation.

We all know that there are many questions with respect to the approach that he has taken—relevant questions, understandable concerns—that should be appropriately discussed and explored in the committee process and then ultimately here on the floor. But this should not hold up this particular bill. And Senator D'AMATO is absolutely correct, we should move forward, because this has strong bipartisan support.

There is not a Senator on the floor who would not support this legislation. So the women of America should not be held hostage because of internal divisions, because of parliamentary maneuvers, because of legislative gridlock.

This legislation has the support of Democrats as well as Republicans. We have 180,000 women every year who are diagnosed with breast cancer. One in eight women in their lifetime will be detected with breast cancer. We have now discovered that, in many instances, mastectomies are being performed on an outpatient basis, and we need to take action to prevent that. Mastectomies are very complicated surgical procedures.

There is no way that that is a decision that should be made by a bureaucrat; but rather, the length of a woman's stay in a hospital, how that procedure will be handled, should be determined by her as well as her doctor. Those are the only two individuals who ought to be making that decision. It should not be a bureaucrat's bottom line.

We have found time and time again women who have had to endure this procedure on an outpatient basis. The physical scars left by mastectomy, which can be complicated and difficult to care for, often require supervision. Women prematurely released may not have the information they need, let alone the care. And dangerous complications have arisen hours after the operation. And all of this is occurring within the context of a traumatic circumstance, and that is having a mastectomy. We want to make sure that this decision is made appropriately within the confines of medical supervision and medical providers.

We have also found that breast reconstructive surgery is considered cosmetic surgery. Well, it is not. Forty-three percent of women who want to undergo breast reconstructive surgery cannot because it is deemed cosmetic. And that is wrong. Breast reconstructive surgery is designed to restore a woman's wholeness. Fortunately, my State has passed legislation to guard against that and to require health insurance companies to consider it as breast reconstructive surgery. But unfortunately for those who are employed by those who are self-insured, they do not receive this kind of coverage.

That is why this legislation that is offered by Senator D'AMATO is so essential. We cannot allow women to have to endure this kind of decisionmaking under the most arduous circumstances because of the indecision and the difficulties that have arisen here.

This legislation had a hearing back in November of 1997 before the Senate Finance Committee. We are entitled to get this legislation through the legislative process. In fact, the President, during his State of the Union Address in January of 1997, had a physician in the gallery who drew attention to the need to change the guidelines that had encouraged outpatient masectomies. Therefore, he called on Congress in January of 1997 to pass this legislation.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. SNOWE. I thank Senator D'AMATO for his leadership. I urge the Senate to move this legislation forward. We will have another day to raise the issues raised by the Senator from Massachusetts.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senator from Alaska be recognized for 2 minutes.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Let me commend the chairman on his efforts to bring this to the floor. This is the second or third time he has done it. I am certainly pleased to be a cosponsor of the Women's Health and Cancer Rights Act.

In our State of Alaska, we have an effort relative to awareness being put on by the Breast Cancer Detection Center of Alaska, which has provided 25,000 women in 81 villages throughout the State an opportunity for free mammograms. This has been done not with government support but with private support. We have raised about $830,000 through a series of fishing tournaments each year, which some Senators have been a party to.

Mr. President, I think that the significance of this bill, which means so much to so many, is that it would put an end to the "drive-through" mastectomies, as we know them today. Many of my colleagues have already spoken on this issue. The bill ensures that mastectomy patients would have access to reconstruction surgery. Scores of women have been denied this procedure because insurers have deemed this procedure to be "cosmetic." Far too often, breast cancer victims who believe they have adequate health coverage have become horrified when they learn that reconstruction is not covered.

In my State of Alaska, of the 324 mastectomies and lumpectomies performed in Alaska in 1996, reconstruction only occurred on 11 of the patients. That means that only 3.4 percent of the women who have a breast removed have reconstructive surgery, compared to the national average of 23 percent.

The reason is cost, Mr. President. And if we look at one of the physicians in my State, Dr. Troxel, of Providence Hospital in Anchorage, who states:

> Women who are not able to receive reconstructive surgery suffer from depression, a sense of loss, and need more cancer survivor counseling. . . .Additionally, reconstructive surgery can be preventive medicine—women who don't have reconstructive surgery often develop back problems and other difficulties.

Mr. President, one out of nine American women will suffer the tragedy of breast cancer. It is today the leading cause of death for women between the ages of 35 to 54.

Alaskan women are particularly vulnerable to this disease. We have the second highest rate of breast cancer in the nation: 1 in 7 Alaska women will get breast cancer and tragically it is the Number One cause of death among Native Alaskan women.

Mr. President, these tragic Alaska deaths are not inevitable. Health experts agree that the best hope for lowering the death rate is early detection and treatment. It is estimated that breast cancer deaths can be reduced by 30 percent if all women avail themselves of regular clinical breast examination and mammography.

But for many Alaska women, especially native women living in one of our 230 remote villages, regular screening and early detection are often hopeless dreams.

For more than 20 years, my wife Nancy has recognized this problem and tried to do something about it. In 1974, she and a group of Fairbanks' women created the Breast Cancer Detection Center, for the purpose of offering mammographies to women in remote areas of Alaska—regardless of a woman's ability to pay.

Now, the Center uses a small portable mammography unit which can be flown to remote areas of Alaska, offering women in the most rural of areas easy access to mammographies at no cost. Additionally, the Center uses a 43-foot-long, 14-foot-high and 26,000-pound mobile mammography van to travel through rural areas of Alaska.

The van makes regular trips, usually by river barge, to remote areas in Interior Alaska such as Tanana.

Julie Roberts, a 42-year-old woman of Tanana, who receives regular mammographies from the mobile mammography van, knows the importance of early screening:

> There's a lot of cancer here (in Tanana)—a lot of cancer. That's why it's important to have the mobile van here . . . I know that if I get checked, I can catch it early and can probably save my life. I have three children and I want to see my grandchildren.

I am proud to say that the Fairbanks Center now serves about 2,200 women a year and has provided screenings to more than 25,000 Alaska women in 81 villages throughout the state. To help fund the efforts of the Fairbanks Center, each year Nancy and I sponsor a fishing tournament to raise money for the operation of the van and mobile mammography unit. After just three years, donations from the tournament have totalled $830,000.

Mr. President, Nancy and I are committed to raising more funds for this important program so that every women in Alaska can benefit from the advances of modern technology and reduce their risk of facing this killer disease.

The importance of mammography and screening cannot be stressed enough—however, there has long been a tragic result of the disease that Congress has either ignored or failed to recognize—and that is the so-called "drive-through" mastectomy.

Currently victims of breast cancer who receive mastectomies are being forced to get out of their surgery bed and vacate the hospital only hours after their surgery. The reason? Because far too often it is the practice of insurance companies to treat the procedure of a mastectomy as merely an "out-patient service."

Here's the horror that many insurance companies cause:

Nancy Couchot, a 60-year-old woman had a radical mastectomy at 11:30 a.m. She was released from the hospital only hours later at 4:30 p.m.—even though she was not able to walk or use the rest room without assistance.

Victoria Berck, had a mastectomy and lymph node removal at 7:30 a.m. and was released at 2:30 p.m. She was given instructions on how to empty two drains attached to her body and sent home. Ms. Berck concludes, "No civilized country in the world has a mastectomy as an out-patient service."

Mr. President that is why I am proud to co-sponsor of S. 249, the Women's Health and Cancer Rights Act. This bill would put an end to the drive-through mastectomies.

Specifically, the Act will require health insurance companies to allow physicians to determine the length of a mastectomy patient's hospital stay according to medical necessity. In other words, the bill makes it illegal to punish a doctor for following good medical judgment and sound medical treatment.

Another important provision of this bill ensures that mastectomy patients will have access to reconstructive surgery. Scores of women have been denied reconstructive surgery following mastectomies because insurers have deemed the procedure to be "cosmetic" and, therefore, not medically necessary.

Mr. President, far too often breast cancer victims, who believe that they have adequate health care coverage, become horrified when the learn that reconstruction is not covered in their health plan.

In Alaska, the problem is even more tragic. Of the 324 mastectomies and lumpectomies performed in Alaska in 1996, reconstruction only occurred on 11 of the patients. That means that only 3.4% of women who have their breast removed have reconstructive surgery, compared to the national average of 23 percent.

The simple reason for this tragically low figure is simple: women can't afford the procedure.

Breast reconstruction costs average about $5,000 for just the procedure. If hospital, physician and other costs are included—the cost averages around $15,000.

Dr. Sarah Troxel, of Providence hospital in Anchorage, states the importance of reconstruction:

> Women who are not able to receive reconstructive surgery suffer from depression, a sense of loss, and need more cancer survivor counseling . . . Additionally, reconstructive surgery can be preventative medicine—women who don't have reconstructive surgery often develop back problems and other difficulties.

Mr. President, insurance companies commonly provide reconstructive surgery for other types of cancers that alter or disfigure the surface of the skin—such as melanomas and all skin cancers.

Here is why federal legislation is needed: Thirty-four states, including Alaska have no state law requiring breast reconstruction after surgery. And in addition, 70 million Americans receive health benefits through federally regulated self-funded ERISA plans which are not covered by state insurance requirements.

These issues are not partisan issues. We may have our differences regarding managing and financing health reform, but I think we all endorse accessible and affordable health care that preserves patient choice and physician discretion. Cancer does not look to see the politics of its victims.

Mr. President, I urge my colleagues to support this important legislation.

Mr. FAIRCLOTH. Mr. President, I rise to support the efforts of my good friend Senator D'AMATO in his efforts to assure that women who need surgery for breast cancer will be able to do so in the hospital if that's what they desire.

I'm disturbed by the recent trend that takes choice away from patients and their doctors in the name of cost savings.

There are some things we just can't sacrifice. Patient's rights to seek care from specialty doctors and have access to cherished healers is a basic right we need to protect.

Breast cancer is a traumatic enough experience for a woman and her family to suffer through. These families need our help in gaining as much support from our medical care system as they can get to bring them through this terrible time in their lives.

This bill is simple. It simply guarantees a woman's right to a proper length of time in the hospital following her surgery. It guarantees the right to have a complete reconstruction of her breast to restore her body and sense of self-esteem.

The bill gives every person diagnosed with cancer the right to a second opinion, and would direct the HMO to pay for this second opinion. Also, the bill directs HMO's to pay for a specialist even if that doctor happens to be outside the plan.

Lastly, and most importantly, this bill prohibits HMO's from paying doctors to reduce or limit their patient care.

This is managed care's dirty little secret. They pay doctors to limit the time spent with their patients and pay doctors not to provide care.

I've heard from many, many, many constituents and doctors who are frustrated with this situation. If a doctor needs to spend time with a patient—time essential to healing—if a woman needs to be supported as she decides what to do for her breast cancer, I say give them all the time they need!

I rise to support Senator D'AMATO's bill today. We need to support our doctors and our women and their families.

Mr. D'AMATO. Mr. President, I believe my colleague from California has a question.

Mrs. FEINSTEIN. Mr. President, I have a question for the author, the Senator from New York. I believe this bill has strong support and a low cost. Its cause is just and correct, and it would be passed by this body overwhelmingly. When might we expect a vote on this bill?

Mr. D'AMATO. Mr. President, I am glad my colleague raised that question. Let me say this: It is disingenuous to say that the women of America are being denied proper health care here when something so basic and elementary is being tied up by procedures. That is exactly what is taking place. This legislation would stop the kind of abuse we see taking place every day. I have women calling and saying they are being denied reconstructive surgery, being denied the kind of health care that everybody agrees on. We have found a methodology of paying for this, and it is not right to tie it to something so comprehensive and say, "unless we get this one, we are not going to get the other."

The women of America are being denied this. I intend to hold hostage, with my colleagues, important legislation that moves through until we get a vote on this—whether it is on a defense bill, a tobacco bill, appropriations bills. When we come down to the floor and—

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. D'AMATO. I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER (Mr. ROBERTS). Is there objection?

Mr. HARKIN. Reserving the right to object, Mr. President. By unanimous consent, yesterday, we were supposed to come up with the research bill at 11 o'clock. We are up against kind of a time problem here. I would like to have some idea as to how soon that will happen. I see the chairman of the Agriculture Committee is here. We are here to begin our debate. I wonder how much longer can we expect to wait.

Mr. D'AMATO. Mr. President, I will withdraw my request and ask that I be given just 2 minutes, because I have yielded more time to more people. I want to set the stage.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Mr. KENNEDY. For 2 minutes?

The PRESIDING OFFICER. Yes.

Mr. KENNEDY. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, let me say that we have been thwarted time and time again, procedurally—by both sides, I might say. But now I find what took place today absolutely horrendous.

Again, it is disingenuous to suggest that we would have to consider both when one is so clear cut, and the need is so necessary, and women are being denied. That is what is going on here. It is wrong. So when we have a bill that is going to be acted on, I will come to the floor—I hope with a number of my colleagues—to offer this legislation as an amendment and get a vote. Let the people of America see this. The people are going to be so full of pride that we will not allow something that is so obviously necessary that they are going to hold it hostage, because that is what is taking place with this legislation. It has been held hostage, and it is disingenuous to come down here and say you have to take this great big piece of legislation or we can't even let the women of America have freedom from the fear that they will be denied that which they should have—reconstructive surgery and to stay in the hospital until their doctor says now is the time to go home, not a bean counter, someone who limits you to 24 or 48 hours.

I hope my colleagues will join with me in this endeavor, making it a bipartisan fight to see that the women and families of America get justice.

Mrs. FEINSTEIN. Mr. President, I certainly will. I thank the Senator for his leadership and commitment to this issue.

AGRICULTURE RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the conference report.

The clerk will report.

The bill clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1150), have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of April 22, 1998.)

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana is recognized to speak for up to 30 minutes.

Mr. LUGAR. Mr. President, I will consume much of my time at this juncture, reserve the balance, and yield to other colleagues.

I am very pleased that the Senate is now prepared to debate the conference report on S. 1150, the Agriculture Research, Extension and Education Reform Act of 1998.

I thank especially Senator TOM HARKIN, the ranking minority member of the committee, and all committee members for their efforts to work together to fashion legislation to garner the support of 74 Senators and a large host of agricultural, nutrition and religious organizations.

I point out that we had a good conference with our House colleagues. This is complex legislation. This is not the first time the Congress has had a conference report. It is usual, at least in matters of this variety, for the report to attract less attention. But ours is important. And I appreciate this opportunity to highlight that importance this morning.

Our initiatives will help farmers in this country to produce food for the world's people and to do so at a profit while guarding the environment of this country and the world. S. 1150 also resolves a funding crisis for the Federal Crop Insurance Program, preventing the loss of coverage for farmers in every State. The bill extends an important initiative from the 1996 farm bill that provides resources for rural development and research priorities. And, finally, S. 1150 allows food stamp benefits to be provided to limited groups of the disabled, the elderly, political refugees, and children who immigrated to this country legally.

Many of our colleagues have called for dramatic increases in funding for Federal scientific research. This advocacy is altogether appropriate. Unfortunately, agricultural research has received much less attention. Funding has declined in real terms for some years, and Mr. President, has declined in some areas to a point that we are no longer prepared to resist some of the insect and other disease pests that endanger our food supply.

It took visionaries like Nobel Peace Prize winner Dr. Norman Borlaug who came before our committee and eloquently pointed out how agricultural research is the future of mankind. It is the basis upon which mankind will be able to persist by the year 2050. Millions of people are now alive who would have died from malnutrition had it not been for the food productivity gains from people like Dr. Borlaug, and the thousands of other scientists. Whether it is through the "Green Revolution" of the 1960s, or today's biotechnology, researchers have found ways to coax more food from each acre, tapping more fully the potential of plant and animal food sources.

Further gains in output are not only possible but they are essential if the food needs of the 21st century are to be met. An increasing world population with rising incomes will require more and better food, feed and fiber. It is estimated, as a matter of fact, that their demand will be three times the demand for food which we now have in this year.

Not every farm around the globe is well suited for food production. We have an interest in avoiding the further deforestation and the exploitation of rain forests around the world and other sensitive ecosystems that will be farmed only at a terrible environmental price. Production must be trimmed in areas most appropriate for agriculture such as the United States.

An important part of the answer to this global crisis is our bill, S. 1150. It devotes $600 million over the next 5 years in mandatory funding to the initiative for future agriculture and food systems. These funds will be competitively awarded to scientists who will undertake cutting-edge research in priority areas such as genome studies, biotechnology, precision agriculture, and other critical fields of work. The new funds will augment the $1.8 billion existing annual budget for research within the Department of Agriculture.

To make certain the existing budget is spent in the most efficient way, S. 1150 also makes a number of reforms to the Nation's research and extension statutes. These reforms will establish benchmarks and set new requirements for coordination of work among universities, placing new emphasis on activities that cut across several disciplines, involve multiple institutions, and integrate research with public dissemination of those results.

S. 1150 will provide $200 million per year in mandatory spending to continue fully funding the Federal Crop Insurance Program. These funds, which under current law would need to be appropriated from discretionary accounts, are an integral part of the agreement between private insurers and the Agriculture Department that allows affordable crop insurance to be afforded to the Nation's farmers. Current caps on discretionary spending do not take these expenses into account. Therefore, if the conference report is not approved soon, Congress will either search for discretionary accounts in USDA and other agencies that can be sacrificed to provide the crop insurance funding, or, failing that, contemplate the prospect of insurance policies being canceled for thousands of farmers who annually face the uncertainty of how the weather will affect their crops.

S. 1150 offsets about half of these crop insurance costs. For the remaining half, the conferees found reforms and spending cuts within the Crop Insurance Program itself that saved the requisite amount of money. These cuts, such as reducing the level of reimbursement provided for companies' administrative costs, set the stage for further reform and improvement of the crop insurance system in the future.

The conference report also provides for $100 million in new funding for Funds for Rural America, recognizing the pressing needs of those in rural areas and working to improve the quality of life for those living in rural America.

The conference report restores food stamp benefits to about 250,000 legal immigrants who otherwise would be ineligible for this portion of the Nation's safety net. Generally, the categories of immigrants covered by S. 1150 correspond to those who last year regained access to the Supplemental Security Income—the SSI Program—under separate legislation; namely, the balanced budget amendment. These immigrants, the elderly, the disabled, political refugees, and seekers of asylum, were either in the United States legally before the passage of the historic 1996 welfare reform law—and that is the case for the elderly, the children, and the disabled—or in the case of asylees and refugees, were subject to political persecution for other circumstances that makes their residence here less than fully voluntary. In addition, immigrant children under 18 who were in the United States legally before the passage of welfare reform will also become eligible. There was no corresponding restoration of SSI benefits last year since children are generally not eligible for SSI.

Senate bill 1150 fully offsets all costs. It reduces expenditure of mandatory funds for computer acquisition by USDA, a practice generally not available to other departments or even to most agencies within USDA. The bill scales back some recent increases in employment and training funds within the Food Stamp Program.

Finally, the bulk of savings in S. 1150 are achieved by correcting an unintentional provision in the welfare reform law which would otherwise allow States to be paid twice for the same administrative costs of providing food stamp benefits determining eligibility and performing other such functions.

S. 1150 is the result of lengthy negotiations, careful thought, and dedicated work. It will help our Nation increase its food supply at a profit to our farmers. The bill shores up the crop insurance system in a timely way, allowing producers to manage risks intelligently. It gives access to the Food Stamp Program to vulnerable individuals who reside in this country legally.

A large coalition of organizations who support this conference report are actively seeking Senate passage. Commodity groups, bankers, those involved in the crop insurance industry, scientific societies, and nutrition advocates, religious organizations, and 67 land grant colleges and universities have voiced their support for this legislation.

Mr. President, I appreciate that many Senators who have written in favor of this legislation by petition or through individual letters to the majority leader have indicated strong support for all of these provisions. But obviously there are Senators—and we shall have a debate this afternoon on the specific question of refugees and asylees and food stamps for these persons as legal immigrants.

Let me dwell for just a moment on the particulars of that issue.

Refugees are immigrants whom the State Department has permitted to enter the United States for the purpose of escaping persecution in their home country based upon their political or religious beliefs.

I want to underline that, Mr. President. These are not persons seeking access to our country illegally, coming across the Rio Grande or the Canadian border or some other nefarious way. They are persons who, by definition, the State Department—and by direction of the President, working with the Judiciary Committees of Congress—has permitted to enter because they are being persecuted for their religious beliefs. Asylees are immigrants who meet the same standards as refugees except they have made it to the United States on their own and applied for permission to stay to avoid having to return to a dangerous situation of jeopardy in their country of origin.

It is not easy to gain either category status. In order to gain admission as a refugee or asylee, someone ordinarily must show that he or she has "a well-founded fear of persecution in his or her own country of origin." The mere fact the would-be immigrant's native country is repressive or enmeshed in civil war is insufficient to support application for refugee or asylum status. The applicant must be able to show individually that he or she is specifically and personally at risk. Many people who have not been able to satisfy this strict standard have been imprisoned or killed by oppressive regimes as they went back, sadly enough. The casualty list of those who failed the test individually, a very rigid test, is very long and death occurred to many of these people as they were forced to return.

Now, a somewhat more lenient standard currently exists for applicants from Vietnam, Laos, and Cambodia and for Jews and Evangelical Christians from the former Soviet Union. Under the Lautenberg amendment, these persons must only show that they have a "credible basis" for their fear of persecution in their homeland. The Lautenberg amendment liberalized the ability of persons from these countries to seek refugee status, but it is scheduled to expire at the end of the current fiscal year.

Although some Members may wish to extend this amendment, CBO has said an extension would have a cost. But I point out that even as we discuss this conference report today, the House of Representatives is about to take up a religious liberty and freedom situation. In the Foreign Relations Committee, we will have a hearing on the very same subject today. And I would just say that those who are rigorous in rooting out food stamps need to consider Jews and Evangelical Christians. Specifically, we are talking about those in other fora. We don't need to talk about them in the Chamber. And these are very important issues, leaving aside ag research, crop insurance, and whatever brought us to this point.

Now, the overwhelming majority of refugees come from just a handful of countries, and I want to go through these specifically. Communist countries: Vietnam, Cuba, Laos; countries making difficult, often violent, transitions: The former Soviet Union and Bosnia; brutal authoritarian regimes: Iraq and Iran; and countries where Christians are persecuted for their beliefs: Parts of the former Soviet Union and Sudan; or Somalia where the central government is dissolved and the land is ruled by myriad petty warlords.

In recognition of the difficult circumstances of their departure from their home countries and their lack of sponsors in the United States, the Immigration and Nationality Act does not require refugees and asylees to refrain from becoming public charges here. Indeed, a specific program of cash and medical assistance is authorized to support newly arrived refugees. Limited appropriations have forced this program to serve only as an adjunct to the basic Federal benefit programs such as Medicaid and food stamps.

As I mentioned before, the agricultural research conference report, one in which we are involved, did not make all of this up from scratch. We simply have adopted precisely the sections of last year's Balanced Budget Act on which we all voted, and at that time at least there was a recognition that people who are in these difficult straits really ought to be treated in a humane manner. Among the provisions of the Balanced Budget Act that the ag research bill would apply to food stamps—and we have already adopted it once before—is a 2-year extension, from 5 years to 7 years, of the eligibility for benefits of refugees and asylees for the food stamp situation.

The 1996 welfare law set the exemption for refugees and asylees at 5 years to correspond roughly with the earliest date that most refugees and asylees can apply. So, Mr. President, we philosophically already have crossed that bridge in the Welfare Act quite apart from the Balanced Budget Act—refugees, the same people, asylees, 5 years. The argument is whether that 5 years should become 7 years; it is not whether we should be paying these refugees and asylees support in a humane way.

Most refugees and asylees cannot apply to naturalize until they have been in our country for 4 years and 9 months. That limit soon proved unrealistic because of long, long backlogs in Immigration Service processing and adjudication of applications to naturalize and in swearing in successful applicants—no fault of the refugees and the asylees, Mr. President, an administrative hassle at INS. In a number of INS offices, the backlog exceeds 2 years. If a refugee's and asylee's eligibility ended after only 5 years in our country, they could be left without recourse while their applications to naturalize are in the INS pipeline.

The extension of their eligibility for SSI and Medicaid to allow them to receive benefits during their first 7 years in the country was not controversial last year. It was included in all major Republican and Democratic proposals for legal immigrants. I repeat that—all Democratic and Republican proposals. The change was not made applicable to food stamps technically, because the money for restoring benefits to immigrants was allocated to the Finance Committee and the Agriculture Committee has jurisdiction over food stamps, and on that basis a change that clearly would have automatically flowed did not occur.

Finally, Mr. President, it should be noted that this provision does not assure refugees and asylees of receiving 7 years of benefits; it only exempts them from the new restrictions on legal immigrants' eligibility during their first 7 years. Refugees and asylees will still have to meet all the criteria for everyone else in America to qualify for the benefits. Even refugees and asylees who are self-sufficient for much of their first 7 years in the country will lose the benefit of that exemption after 7 years. They cannot carry it over in terms of months of eligibility beyond the 7-year time. By conforming food stamp rules to those already adopted for Medicaid last summer, the ag research bill will avoid imposing multiple inconsistent eligibility rules on State and local agencies that finally have the responsibility to administer all of this.

The number of refugees entering the country is controlled primarily by ceilings—ceilings, Mr. President—adopted by the President each year in consultation with the Judiciary Committees prior to the beginning of each fiscal year. These ceilings have been declining and are expected to decline to reflect generally improved world conditions since the collapse of the former Soviet Union. For example, in fiscal year 1992, some 114,000 refugees were admitted under the quotas. But by 1996, this number had declined to just under 75,000.

In fiscal year 2000 and thereafter, CBO now estimates the annual quota will be 65,000; approximately 15,000 additional people are granted asylum each year. So, Mr. President, this is a total of 80,000 persons—or 90,000, as of 1996.

Each year, many more people apply for admission as refugees than can be accommodated under the quotas. Thus, an increase of immigrants seeking admission as refugees would not increase the number admitted; it would merely swell the backlog and the waiting lists. The only significant exception to these quotas is Cubans escaping Castro's regime and admitted under the Cuban Entrant Program. That number has fluctuated in recent years from a low of 3,000 in 1991 to a high of 19,000 in 1996.

The number of refugees and asylees coming to the United States is controlled by Congress and the administration. The major current example of this, as I pointed out, an exception, is the Lautenberg amendment, which allows the southeast Asians, Jews, and Evangelical Christians to gain admission as refugees under more lenient rules than those applied to other applicants. CBO has concluded enactment and repeated extension of this provision has prompted the administration to increase the quota on the number of refugees admitted, and a further extension is likely to cause the administration to raise the refugee quotas by about 18,000 per year.

The number of refugees admitted in the early 1990s as described above includes refugees admitted under the Lautenberg amendment. CBO estimates the increased number admitted will increase Federal costs for means-tested programs, but three-quarters of the cost will come in the Medicaid and SSI Program.

Let me point out, Mr. President, and there is no way that Members would know this without the research of our committee, but it is unlikely that the modest amounts of money available in the food stamp benefits would make, under any circumstances, coming to America more appealing for prospective refugees. The average monthly food stamp benefit for these persons will be under $72 per month, less than one-fifth of the SSI benefit, which is now estimated by CBO as roughly $411 per month. It is estimated the fiscal cost of the refugee situation will be $50 million a year.

I conclude this part of the argument by saying the distinguished occupant of the Chair, as chair of the House Agriculture Committee, and I, worked together on a farm bill which, in conjunction with welfare reform, cut food stamp costs by roughly $24 billion. There are many in the Finance Committee who deserve great credit for rearranging the circumstances of welfare. But when it comes to significant changes in the cost of welfare in this country, significant reform of food stamps, there are no persons, in my judgment, better able to address this problem than the distinguished occupant of the Chair and myself. We were there. That was the bill that created the entire framework for savings under welfare reform, created the entire framework for fairness, for oversight.

I think that simply needs to be said, at a time when we are talking about, at most, 80,000 persons escaping persecution, and as to whether they should be given an extension of 2 more years due to INS hassles and administration, to become citizens. I think that is a very serious point.

Finally, some have raised the question that this is an entitlement program. I point out that the proposals we are making do not entitle anyone to anything. Essentially, we have several multiyear proposals in the farm bill of 1996. They include the Conservation Reserve Program. They include payments, annually, to farmers who are now leaving various crops, or maybe farming altogether, as the case may be, but without regard to planting. In essence, for years we have adopted multiyear programs in farm bills because it was the preference of the Congress not to return to agricultural legislation annually. We are, in this bill, mandating that for 5 years we should do something very important, at the rate of $120 million per year, and that is try to find out, if we can, how to triple our food supply so our acres are more productive, our farmers are more productive, and so the rest of the world will not starve.

I believe that is a very important undertaking. I hope all Senators will see the wisdom of this and support this humane and farsighted measure.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas, Mr. GRAMM, is recognized to speak for up to 10 minutes.

The Senator is recognized.

Mr. GRAMM. Mr. President, I rise today in opposition to the pending conference report. At 2:15, I will be recognized to offer a motion to recommit. What I would like to do in my limited time today is sort of outline how a good bill goes bad through the legislative process.

We passed, in the Senate, a bill funding ag research. The House passed a bill funding ag research. These were not controversial matters, although the method of funding the Senate bill was to some degree controversial. But what happened is when the two Houses met, a simple bill to fund ag research for $517 million suddenly became a $1.9 billion program. Three brand new mandatory, or entitlement, programs—depending on which term you prefer—were created, and suddenly we are voting in a conference report which is technically unamendable on provisions that were never voted in either House of Congress.

One of my predecessors, Lyndon Johnson, used to say, "I deeply resent a deal that I'm not part of." And I understand how these things happen, but I simply want to talk about the problems with this bill and focus on the big problem with the bill, which is related to overturning welfare reform.

Going back to where we started, we had an ag research bill in the House, we had an ag research bill in the Senate. We went to conference, and we ended up with a bill that funds crop insurance, which was in neither original bill, and not only funds it but, for the first time ever, makes it a mandatory program which Congress will not vote on again, funding will be automatic over the next 5 years as a result of this program.

The original bill had no hint of food stamps in it. The issue was never debated. I do not believe that a similar provision, if brought to the floor of the Senate under our rules for full debate, could have possibly passed. And, yet, in a simple bill on ag research, we now have $818 million of funding for food stamps. All of these food stamps go to immigrants who have come to the country and who now have legal status. We had, through the welfare reform bill, eliminated these benefits in a bill which passed both Houses of Congress overwhelmingly and, by the way, is, in terms of the public's mind, the most popular bill that we have passed in the last 3 years. This bill, in a provision that was voted on in neither House of Congress, overturns a substantial portion of our welfare reform bill and gives $818 million of food stamps to immigrants.

The bill also sets up a brand new funding mechanism for the Fund for Rural America and provides a $100 million entitlement, which spends out very slowly, but it ultimately spends out every penny of $100 million. So we now have four entitlement programs in a simple bill that set out to fund ag research. And every program that becomes an entitlement, since we are under a spending cap on discretionary spending—every penny that would have been spent on these programs is now free to spend on other programs. So, in addition to creating four new entitlement programs, we have, in this bill, broken our commitment to limit the growth of discretionary spending, because we have taken discretionary programs and funded them as entitlements, so that now new spending can occur in the discretionary area.

The biggest problem with the bill is it puts a great big neon sign on the border of the United States of America, and the neon sign says: "Come to America and get welfare. We have a welfare office on every corner." That is the biggest problem with this bill.

I remind my colleagues that when a Member of the minority tried to reduce the level of immigration, I helped lead the effort to kill limiting legal immigration. I believe in legal immigration. I do not believe America is full. I don't want to tear down the Statue of Liberty. The story of the immigrant is the story of America, and I don't think that story is finished telling. I believe that we need to let people with a new vision and new energy come to America as long as they don't violate our laws and they come legally, but I want them to come with their sleeves rolled up ready to go to work, rather than with their hands held out going on welfare.

I will offer a motion to recommit with instructions at 2:15 p.m. That is a very simple motion. All it says is one little provision in this bill, which I think is a relatively minor cost, because we are scoring the bill over 5 years, but it is clearly the most destructive element in this bill, and that is we have an element in this bill that says that no matter how far in the future you come to America, if you come 75 or 100 years from now, under the provisions of this bill, if you come as a refugee, you can get food stamps for 7 years. That is a new provision of law in place in this conference report.

It is a provision where we are moving in exactly the opposite direction of the welfare reform bill, and we now make it permanent law that anyone who comes to America in the future as a refugee can be guaranteed they are going to be able to apply for and get almost immediately 7 years of food stamps.

Now, look, my concern is adverse selection. My concern is that we are going to be attracting people to come to America to go on welfare. I think it is a destructive policy to have active enticements to draw people to America for the purpose of going on welfare rather than for the purpose of going to work.

I don't have any doubt that this provision will affect the decision of people to come to America to try to live off the fruits of someone else's labor. There are millions of people who go to bed every night dreaming the American dream. They want to come to America. They want to share what we have shared. Many Members of the Senate are Members whose grandfathers and grandmothers or great grandfathers and great grandmothers came to America looking for opportunity. I don't believe that process should end. But I think it is suicidal for a nation to set up procedures that attract people to come to its shores, not with a dream of opportunity, not with a dream of achievement, but with a dream of benefiting from the fruits of someone else's labor.

My wife's grandfather came to this country from Korea. He didn't know the language. He didn't know a single soul here. He certainly did not come here looking for welfare or food stamps. He came here looking for opportunity and freedom, and he found both.

From the period of the Civil War to the turn of the century, we had 20 million people come to America, most of them desperately poor. But they came here with willing hands and willing hearts, they rolled up their sleeves, and they built a great nation in the process.

My strong objection to the provisions in this bill really boils down to a series of things: Should we be creating four new permanent, mandatory entitlement programs? I say no. And secondly, should we be changing the law to say to people all over the world, "Come to America and we will give you 7 years of food stamps"? I want people to come to America, but I want them to come to work.

The PRESIDING OFFICER (Mr. LUGAR). The time of the Senator from Texas has expired.

The Senator from Iowa is recognized for 10 minutes under the previous order.

Mr. HARKIN. Mr. President, I was trying to listen to the remarks of the Senator from Texas. It is hard to know where to begin to correct the mistakes that he made in his statements because there were so many.

First of all, I say to the Senator from Texas that this was not a $500 million bill when it started. As a matter of fact, when it passed the Senate, it was a $1.3 billion bill and, in fact, it passed unanimously, so the Senator from Texas obviously voted for it.

Secondly, I also point out that crop insurance has always been a mandatory program—always. In 1996, a small portion of it was made discretionary, but the basis of crop insurance has always been mandatory. So this is not some change in that program.

Thirdly, I tell the Senator from Texas that food stamps has always been a part of this bill. It was a part of this bill when it passed our committee, and it was a part of the bill when it passed the Senate. Food stamps was used as an offset to pay for the research portion of the bill. So it was a part of the bill as an offset. The administration said if we are going to use it as an offset, we had to replace some of the nutrition programs, which I will get to.

I also point out that the Senate-passed bill had nutrition provisions in it. It was not just a research bill, as the Senator from Texas has said. It had a provision in there to expand some child nutrition programs with an expanded breakfast grant program. That was taken out in conference, but it was in the Senate-passed bill.

Lastly, I point out that in terms of the mandatory programs the Senator is talking about, the Fund for Rural America was part of the bill as passed in October, for which the Senator voted. It was in the bill at $300 million. Now it is only $100 million. So if the Senator from Texas supported it at $300 million, he shouldn't be too upset that it is now at $100 million. I wanted to make those corrections in the RECORD.

I made my opening statement yesterday on the bill itself in terms of the important research and crop insurance provisions that are in it. Again, I commend my chairman, Senator LUGAR, for all of his hard work in getting the whole research program revamped and restructured to meet the needs of the next century. Senator LUGAR has been a leader in this effort. I was pleased to join him, and, again, I thank Senator LUGAR for his close cooperation and for working together to get a really good research bill passed.

I also commend Senator LUGAR for his leadership in getting the necessary wherewithal to extend our Crop Insurance Program for the next 5 years. I daresay, without his strong leadership, we would not have the provisions that our farmers could rely on for their crop insurance this year.

Again, if, in fact, this motion to recommit is successful, that is the end of this bill. Make no mistake about it, this is not just some motion to recommit to change a little bit. This is a motion to recommit to kill this bill. If this goes back to conference, I don't know that the votes are there to take out the food stamp provisions. Even if they are, it will never pass the House of Representatives, and certainly the Senator from Texas knows that. This is a careful compromise, a careful balance that was worked out in this bill.

Let me get to the issue of the food stamps themselves. The Senator says it is like putting a big neon sign out there, "Come to America." Well, let us take a look at that.

What are we doing in this bill? What we are saying is that for refugees and asylees from religious persecution and political persecution, who cannot exist in their homelands because they are going to be tortured or killed, we say to them that if you come to America under a quota—we have a quota every year; not every refugee gets into this country; we have a quota—but if you get in under that quota, right now as a refugee you are eligible for food stamps and Medicaid and SSI. You are eligible for food stamps for the first 5 years, but you are not after that. And so what it says is that you can come in, you can get Medicaid, you can get SSI for up to 7 years, but you cannot get food stamps after 5 years. As a refugee, it takes 4 years and 9 months to be able to apply for citizenship. We know that, because of the backlog at INS, it takes at least 2 more years, maybe 3 years to get full citizenship.

Let me also point out something else. These food stamps are not automatic. It does not mean because you are a refugee and you are here that you get food stamps. No. You still have to meet the requirements, the work requirements and the income requirements, to be able to qualify for food stamps like anyone else. So we are not talking about automatic food stamps.

The 5-year period, the Senator is correct, was set in the welfare reform bill. But it did provide an exception for refugees and persons granted asylum. They would be able to receive food stamps for 5 years.

In the Balanced Budget Act that we passed last year, we extended that for the elderly, the disabled, and the children of legal immigrants who were here in 1996. And then we looked at what we did. We looked at the 5-year period and said, this is unrealistic because a refugee who is here, as I said, has to be here 4 years and 9 months—and it takes 3, sometimes 4 more years to become a citizen. And it is impossible for a refugee to complete the citizenship process in less than 7 years.

As I said, the Balanced Budget Act last year provided that in the case of Medicaid and SSI, refugees and asylees would be eligible to receive benefits for up to 7 years if they qualify. Not automatic. There is no neon sign. It says, if you qualify.

There was bipartisan agreement on this point. Food stamps were not included because that bill came out of the Finance Committee, and food stamps is not under the jurisdiction of the Finance Committee. They are under the jurisdiction of the Agriculture Committee. And that is why we had to fix it here.

Let me read from a letter from the Council of Jewish Federations that came to our office just today asking that we oppose Senator GRAMM's motion. Let me just read one paragraph. It says:

> The welfare law provided a 5 year exemption from the bar on food stamps for refugees and asylees because Congress acknowledged that these individuals typically come to the U.S. with few, if any, resources. They have no sponsors to rely on and may have difficulty working because of disabilities. Those that can work may find that the training and skills they gained in their home countries are inadequate for most jobs here. As a result, many start in low paying jobs [so] they need food stamps to get an adequate diet.

That is just it. These are refugees and asylees. They do not have sponsors. A lot of them come with a shirt on their back. Let me give you one example. Mr. Wang Dan, the young Chinese man who we have all been reading about, who has now come to this country, came with a shirt on his back. We know how he was persecuted and imprisoned in China. What this amendment says to Wang Dan is, OK, up to 5 years, if you fall on hard times—you have to otherwise qualify; you do not automatically get food stamps—but otherwise if you fall on hard times, yes, you can get some food stamps. But after 5 years—you have worked here; you have worked hard; you have applied for citizenship; it is in the bill; you are going to become a citizen in 2 or 3 years—all of a sudden you lose your job, you get sick, you fall on some hard times, sorry, no food stamps. Is that a neon sign? Not in any way. Not in any way.

That is why, Mr. President, we have this letter from the Council of Jewish Federations, which I ask unanimous consent to have printed in the RECORD, and also a letter from John Cardinal O'Connor, Archbishop of New York, also asking us to support the restoration of food stamp eligibility in this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COUNCIL OF JEWISH FEDERATIONS,
New York, NY, May 12, 1998.

DEAR SENATOR: This morning, Senator Phil Gramm (R-TX) is expected to offer a motion to recommit the *Conference Report on the Agriculture Research, Extension, and Education Reform Act*, S. 1150, with instructions to limit the provision extending food stamps for asylees and refugees from 5 to 7 years to only those individuals who were in the country prior to August 22, 1996. On behalf of the Council of Jewish Federations, I am asking that you oppose Senator Gramm's motion.

Senator Gramm's motion would impose undue hardship on people who have been forced to flee persecution in their homelands. These are people who were persecuted, and in some cases tortured, for their political or religious beliefs. In their homelands, they were subjected to persecution ranging from harassment to beatings and job loss to having their homes burnt down. The U.S. has a long history of providing a "safe haven" to refugees and asylees and Congress has repeatedly stood up in support of this tradition.

The welfare law provided a 5 year exemption from the bar on food stamps for refugees and asylees because Congress acknowledged that these individuals typically come to the U.S. with few, if any, resources. They have no sponsors to rely on and may have difficulty working because of disabilities. Those that can work may find that the training and skills they gained in their home countries are inadequate for most jobs here. As a result, many start in low paying jobs where they need food stamps to get an adequate diet.

Congress set the exemption at 5 years to correspond roughly with the earliest date that most refugees and asylees can apply to become a U.S. citizen. This time-line has proven to be unrealistic because of the backlog in processing naturalization applications. In many INS offices, it may take over 2 years from the date of application to a person's naturalization ceremony. If refugees and asylees are left without access to food stamps after 5 years, they would be punished and left without any nutritional support because of government inefficiency.

For these reasons, I again urge you to oppose Senator Gramm's motion to recommit the S. 1150 to the conference committee.

Thank you.

Sincerely,

DIANA AVIV,
Associate Executive Vice President for Public Policy.

OFFICE OF THE CARDINAL,
New York, NY, April 29, 1998.

HON. ALFONSE M. D'AMATO,
U.S. Senate, Hart Building,
Washington, DC.

DEAR SENATOR D'AMATO: I write to request your support for making legal immigrants once again eligible for food stamps and restoring $818 million in Food Stamp benefits. This would permit 250,000 children, elderly and disabled persons and refugees to seek Food Stamp assistance if they are in need. I am told that the provisions to do this are contained in the conference Report on S. 1150/H.R. 2534, the Agriculture Research, Extension and Education Reauthorization Act of 1997.

Since 1984, as Archbishop of New York, I have been privileged to assist immigrants from almost every country in the world. These many immigrants have enriched the Catholic Church of New York and other churches, just as they have enriched the New York metropolitan area. (In our Catholic churches alone, every Sunday our Divine Services are held in 30 different languages.) From my own experience I know those who migrate to the United States today are essentially no different from our parents and grandparents who came to America fifty or a hundred years ago. The vast majority of immigrants are individuals who come to this country seeking opportunity for themselves and their families. Unfortunately some immigrants—just as those born in this country—fall on hard times.

Under the 1996 Personal Responsibility and Work Act, legal immigrants needing assistance to feed themselves are ineligible for support from the very program their tax dollars help fund. Many are now forced to find emergency and unstable ways to feed themselves and their families. Catholic Charities has been supporting an emergency ecumenical food pantry in the Washington Heights section of New York City—the home and hope of so many newly arriving Dominican immigrants. During the past year, the number of those served at this pantry has doubled—at least in part due to the changes in the 1996 laws. While we try to treat those who come to the pantry with dignity, the availability of food stamps to tide people over the rough times is much more dignified than having mothers and children line up in the street at food pantries and soup kitchens.

I urge you to take this opportunity to ameliorate some of the more severe impacts of that 1996 legislation by supporting the restoration of food stamp eligibility for legal immigrants.

With gratitude for your consideration, and
Faithfully in Christ,

JOHN CARDINAL O'CONNOR,
Archbishop of New York.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. It is the fair and decent thing to do. Let us not kill this bill because of doing the fair and decent thing.

The PRESIDING OFFICER. The Senator from Kansas is now recognized, under previous order, for 10 minutes.

Mr. ROBERTS. Mr. President, I rise today in strong support of the conference report to the Agricultural Research, Extension, and Education Act of 1998. I would like to associate myself with the remarks of the distinguished chairman. This is going to be the most important bill to be passed in the 105th Congress in relation to agriculture. I commend the chairman, the ranking member, and the members of the conference for their efforts in reaching what I consider to be a good and a very bipartisan bill.

This bill has been in the making for 2 years. Due to time constraints and the need to more thoroughly evaluate the future direction of agricultural research, these programs, the research programs, were not dealt with in the new farm bill back in 1996. But we promised our farmers and our ranchers, all of us involved in agriculture, all of the land grant universities and consumers, that Congress would move to complete this important piece of the ag policy puzzle as soon as possible.

After 2 long years, we will soon vote to "reform" our agriculture research programs. We will not only vote to extend these programs and commit funds to feed America, and a very troubled and hungry world, but to reform them as well to make them more competitive. We are also going to provide important funding for crop insurance and rural development and, yes, limited food stamp benefits to a specified group of legal immigrants.

The distinguished chairman, the distinguished ranking minority member, and the distinguished Senator from Texas have talked about that at length. I am going to try to briefly address the importance of funding in each of these areas.

First of all, this bill provides $600 million in new funding for agriculture research. Why is that important? Mr. President, in the last several decades we have seen the population double in this world, and yet we continue to feed this country and, as I have said before, a troubled and hungry world on the same amount of ground. That is a modern miracle. People used to get peace prizes for that. And the main reason is agriculture research. When we passed that new farm bill, producers were promised that funding would be provided to help develop new crops, higher yields and stronger resistance to disease and pests.

In recent weeks, we have heard our colleagues from the northern plains discuss the problems caused by wheat scab. This bill provides funding for research on fighting this disease that has ravaged the wheat crop in many areas of the northern plains.

Let us talk about food safety. We have heard an awful lot of comment in the press and concern—understandable concern—about E. coli. This bill provides funding for research on the implementation of the Hazard Analysis and Critical Control Point Systems (HACCP). It addresses the problem of E. coli.

The bill provides funding for important research into discovering and analyzing trade barriers that prohibit the movement of U.S. ag products on the world market. With the Asian flu today, and our markets declining, nothing could be more important. This research will provide important information to help us move toward these goals in regard to becoming much more market oriented and competitive.

Let me talk about the environment. The one thing that agriculture can do through precision agriculture is to contribute to being more and better stewards of the soil and the environment. Precision agriculture will become one of the most important tools available to producers in the future. It allows them to protect the environment by using satellite technology to determine the proper rates of pesticide and fertilizer applications to the square foot. This has implications all over the world.

I am pleased also that this bill will provide important funding for the Federal Crop Insurance Program. The Crop Insurance Program is currently facing a $200 million funding shortfall in each of the coming 5 years.

Let me just say that this lack of funding is a "train wreck" waiting to happen for American agriculture. Without full funding of this program, farmers could face cancellation of hundreds of thousands of crop insurance policies. Let me repeat that. Hundreds of thousands of farmers, this spring, are facing the cancellation of their crop insurance. That would be devastating.

Obviously, many farmers are required to maintain their crop insurance coverage in order to obtain loans from their rural banks. Without crop insurance policies backing these loans, many loans would be recalled, and it could send agriculture into a credit and financing crisis. Farmers and ranchers were also promised increased access to viable risk management tools with the passage of the 1996 farm bill. Crop insurance ranks at the top of the list of these important and necessary tools.

This bill provides approximately $500 million in new funding for crop insurance over the next 5 years. It also makes internal changes in the program. This $1 billion in combined funding changes solves the funding shortfall in the program and ensures producers access to adequate crop insurance.

Are all the changes made that we need to make in regard to crop insurance? No. There are changes and reforms that are still needed in the program. With the most important issue facing us—the funding shortfall—now solved, the chairman and I, Senator KERREY, and others, in a bipartisan way, will confront this, and we will work to achieve the needed crop insurance reform in the next session of Congress.

Rather than going into the food stamp issue, which the chairman has addressed, Senator GRAMM expressed his concern, and the distinguished ranking member, Senator HARKIN, has addressed, I will go on and point out several other important facts in regard to this bill.

Well, let me say this in regard to food stamps. The very first thing we did in the House Agriculture Committee 3 years ago, when we started to address the farm bill, was take up the issue of food stamps. That is the first hearing we had. Billions and billions of dollars were being spent on food stamps—a program out of control and obviously in need of reform. Working with the distinguished chairman of the Senate Agriculture Committee, and others, we had hearings. We exposed $3 billion to $5 billion in fraud and abuse and organized crime in the program. We instilled reforms, and we saved $23 billion to $24 billion, plus $10 billion in regard to savings with the farm commodity programs. There isn't any other segment of Government that has gone through that kind of savings. No member of any committee of this Senate or of the House previously has ever achieved those kinds of significant cuts and reform in the Food Stamp Program or any other program. So the chairman is right. We would like to think we know a little bit about it.

The 1996 welfare reforms eliminated benefits from 800,000 to 950,000 to illegal immigrants. I know that. This bill extends the benefits back to children, elderly, and the disabled who were in the country before August 22 of 1996. It also extends benefits to refugees and asylees who may have entered after the August 22 date. Benefits will be returned to approximately 250,000 people—not 900,000, but 250,000 people. The trend line is down in regard to refugees.

I point out that a refugee is defined as "a person who is fleeing because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, and who is of special humanitarian concern to the United States."

With all due respect, I don't think that is a beacon. I think they are fleeing, and I think it is certainly within the boundaries of the United States and what the Statue of Liberty is all about that we consider that. There is a cap. Most of the European numbers are used largely for Soviet, religious minorities, and Bosnians. The East Asian numbers are for former Vietnamese reeducation camp detainees, and Laotians. As I have indicated, these numbers are down. It has gone from 100,000 in 1980 to 75,000 in 1998.

In closing, let me say this. This agriculture research bill and this crop insurance bill will likely be the most important piece of legislation we pass for our farmers and ranchers during the 105th Congress.

During the debate on the 1996 farm bill, we promised our farmers, ranchers, and researchers, who depend on the markets, a more market-oriented agriculture. We promised to get the Government out of our decisionmaking, no longer do you put the seed in the ground as dictated by Washington. In return for less government support, we said we would provide the research and the risk management tools. That was a promise. We will endanger the significant reforms that we made in the new farm bill if this bill is not passed.

Let me make one other observation. The amendment by the distinguished Senator from Texas to recommit is, in fact, a killer amendment; $1.7 billion in regards to the way that States are administering the program, based on the reform we passed, will disappear. We do not have the money in the appropriations bill to pay for the research or the crop insurance, and we will face an agriculture crisis.

Mr. President, during the debate on the 1996 Farm bill, we promised our farmers, ranchers, and researchers that we would pass this bill and provide the tools needed to feed a troubled and hungry world. It is unconscionable that at a time when producers are facing low commodity prices, reduced international markets due to the Asian Crisis, and new crop diseases, this bill has languished. The tools included in this bill allow producers and researchers to directly address these issues.

I applaud and thank the Chairman, ranking member, and the greater majority of the members of the Agriculture Committee for their work on this bill.

The PRESIDING OFFICER (Mr. SESSIONS). The time of the Senator has expired.

Mr. ROBERTS. I urge my colleagues to oppose the motion to recommit and support the bill.

The PRESIDING OFFICER. The Senator from Mississippi has 5 minutes.

Mr. COCHRAN. Mr. President, I am pleased to join the distinguished chairman of the Agriculture Committee, Senator LUGAR from Indiana, and my good friend from Kansas, the distinguished Senator who was formerly chairman of the House Agriculture Committee, in asking the Senate today to support this conference report.

Senators may remember that when the 1996 farm bill was written, it reauthorized agriculture research programs for only 1 year. There was included in the committee report a suggestion that there be a thorough reevaluation made by the committees of jurisdiction of the way the Department of Agriculture awarded grants to colleges and universities around the country and funded research programs at Agricultural Research Service facilities. That study was undertaken throughout 1997. I think it began in March of last year. The committee held a series of hearings and reviewed suggestions and options for improving these programs. This conference report is the product of that study and that carefully developed improvement to the Agricultural Research Service programs that are funded by the Department of Agriculture.

I am convinced that we will do a better job under this conference report of identifying the priorities in production agriculture, in food production, and in management of our resources in agriculture than we ever have before under the way we were handling the funding of these programs.

That is the driving force behind this conference report. The reason it is so important for the Senate to approve this conference report is that it puts this in place now.

Mr. President, if that were all this legislation accomplished, some may say that this legislation is unnecessary, but it does more. It also provides $600 million over the next five years for new competitive agricultural research grants at federal laboratories and colleges and universities.

Our appropriations process is beginning at this point. We have the job of allocating, under the discretionary funding allocations that our appropriations subcommittee will receive, funds for these agriculture research programs. With the guidance of this legislation, it will be a much more coherent process and an orderly process, and I can't contemplate what a mess we would be in if this conference report were not agreed to.

Under current law, about $200 million of the delivery expenses for catastrophic crop insurance must be provided annually in the agriculture appropriations bill. This legislation would provide full mandatory funding for those expenses over the next five years. This conversion from discretionary to mandatory spending will ensure that farmers will not have to be concerned with the uncertainty of annual funding bills and whether catastrophic crop insurance protection will be available in the coming growing season.

In addition to the support this bill has from the agriculture community, it also enjoys support from those interested in the provisions which will bring parity between the Food Stamp Program and the Supplemental Security Income Program for those immigrants legally residing in the United States. This was an important component of the compromise we reached with the House of Representatives.

This bill has received support from almost every sector of agriculture. I ask unanimous consent that a letter I received from over 100 organizations, colleges and universities in support of the conference agreement be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 4, 1998.

Hon. THAD COCHRAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COCHRAN: We are writing to ask you to vote "yes" on the conference report for S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998, when it is considered on the floor. This legislation has succeeded in balancing several competing interests and will help prepare the agriculture and food industries for the challenges in the next Century.

This conference report addresses a number of issues that are vitally important to producers, processors, and consumers of food and fiber. The bill provides funding for agricultural research and rural development programs. It provides funding for crop insurance that otherwise will create a severe strain on discretionary budget accounts. Finally, the legislation restores food stamp benefits for some legal immigrants. These funds are fully offset, and the bill is budget neutral.

The House and Senate Committees on Agriculture have worked long and diligently developing this much needed legislation. We believe they have done a remarkable job, and we thank them for their accomplishments.

We respectfully request your assistance in passage of this important legislation. Its impact on the future of our nation will be significant.

Sincerely,

Alabama Farmers Federation.
American Farm Bureau Federation.
American Beekeeping Federation.
American Honey Producers Association.
American Sheep Industry Association.
American Soybean Association.
Grocery Manufacturers of America.
National Association of Wheat Growers.
National Barley Growers Association.
National Broiler Council.
National Cattlemen's Beef Association.
National Corn Growers Association.
National Cotton Council.
National Council of Farmer Cooperatives.
National Farmers Union.
National Food Processors Association.
National Grain Sorghum Producers.
National Milk Producers Federation.
National Peanut Growers Group.
National Pork Producers Council.
USA Rice Federation.
American Association of Crop Insurers.
American Bankers Association.
American Society of Farm Managers and Rural Appraisers.
Crop Insurance Agents of America.
Farm Credit Council.
Independent Bankers Association of America.
Norwest Corporation.
Norwest Ag Credit.
Rural Community Insurance Services.
Agricultural Research Institute.
American Association of Veterinary Medical Colleges.
American Phytopathological Society.
American Society of Agronomy.
American Society of Animal Science.
American Society of Plant Physiologists.
American Veterinary Medical Association.
Coalition on Funding Agricultural Research Missions.
Council of Scientific Society Presidents.
Council on Food, Agricultural, and Resource Economics.
Entomological Society of America.
Crop Science Society of America.
Federation of American Societies of Food Animal Sciences.
Illinois Council for Food & Agriculture Research.
Society of Nematologists.
Soil Science Society of America.
Weed Science Society of America.
Alabama A&M University, School of Agriculture & Home Economics.
University of Alaska, Fairbanks, College of Natural Resource Development & Management.
Alcorn State University, School of Agriculture.
University of Arizona, College of Agriculture.
University of Arkansas, Dale Bumpers College of Agricultural, Food & Life Sciences.
University of Arkansas, Pine Bluff, College of Agriculture and Home Economics.
Auburn University, College of Agriculture.
University of California Systemwide, Division of Agriculture & Natural Resources.
Clemsom University, Public Service & Agriculture.
Colorado State University, College of Agricultural Sciences.
University of Connecticut, College of Agriculture & Natural Resources.
Cornell University, College of Agriculture & Life Sciences.
Delaware State University, School of Agriculture, Natural Resources, Family & Consumer Sciences.
University of Delaware, College of Agriculture & Natural Resources.
Florida A&M University, College of Engineering Sciences, Technology & Agriculture.
University of Florida Agriculture & Natural Resources.
Fort Valley State University, School of Agriculture.
University of Georgia, College of Agricultural & Environmental Sciences.
University of Guam, College of Agriculture & Life Sciences.
University of Hawaii at Manoa, College of Tropical Agriculture & Human Resources.
University of Idaho, College of Agriculture.
University of Illinois at Urbana-Champaign, College of Agricultural, Consumer & Environmental Sciences.
Iowa State University, College of Agriculture.
Kentucky State University, Land-Grant Programs.
University of Kentucky, College of Agriculture.
Langston University, Research and Extension.
Lincoln University, College of Agriculture, Applied Sciences & Technology.
Louisiana State University Agricultural Center.
University of Maine, College of Natural Resources, Forestry & Agriculture.
University of Maryland, College Park, College of Agriculture & Natural Resources.
University of Maryland, Eastern Shore, School of Agricultural & Natural Science.
University of Massachusetts—Amherst, College of Food & Natural Resources.
Michigan State University, College of Agriculture & Natural Resources.
University of Minnesota, College of Agricultural, Food & Environmental Sciences.
Mississippi State University, Division of Agriculture, Forestry & Veterinary Medicine.
University of Missouri—Columbia, College of Agriculture, Food & Natural Resources.
Montana State University, College of Agriculture.
University of Nebraska, Agriculture & Natural Resources.
University of Nevada, College of Agriculture.
University of New Hampshire, College of Life Sciences & Agriculture.
New Mexico State University, College of Agriculture & Home Economics.
North Carolina A&T State University, School of Agriculture.
North Carolina State University, College of Agriculture & Life Sciences.
North Dakota State University, College of Agriculture.
Oklahoma State University, Division of Agricultural Sciences & Natural Resources.
The Ohio State University, College of Food, Agricultural & Environmental Sciences.
Oregon State University, College of Agricultural Sciences.
Pennsylvania State University, College of Agricultural Sciences.
Prairie View A&M University, Department of Agriculture.
Purdue University, School of Agriculture.
University of Rhode Island, College of Resource Development.
Rutgers—The State University of New Jersey, College of Agriculture & Natural Resources.
South Carolina State University, 1890 Research & Extension Programs.
South Dakota State University, College of Agriculture & Biological Sciences.
Southern University A&M College, College of Agriculture and Home Economics.
Tennessee State University, School of Agriculture & Home Economics.
University of Tennessee—Knoxville, College of Agriculture.
Texas A&M University, College of Agriculture & Life Sciences.
Tuskegee University, School of Agriculture & Home Economics.
Utah State University, College of Agriculture.
University of Vermont, Division of Agriculture, Natural Resources & Extension.
Virginia Polytechnic Institute & State University, College of Agriculture & Life Sciences.
Virginia State University, School of Agriculture Science & Technology.
Washington State University, College of Agriculture & Home Economics.

West Virginia University, College of Agriculture, Forestry & Consumer Sciences.

University of Wisconsin-Madison, College of Agricultural & Life Sciences.

University of Wyoming, College of Agriculture.

Mr. COCHRAN. So, Mr. President, Senators should know it's very important that the conference report be adopted. It is a good compromise between the Senate and the House. It involves other provisions that have been discussed eloquently and forcefully by my friends who have spoken before me. I urge the Senate to approve this conference report.

Mr. KYL. Mr. President, when Congress passed the Personal Responsibility and Work Responsibility Reconciliation Act of 1996, it ended public welfare for most aliens who had not worked to earn their benefits.

The 1997 Balanced Budget Act reversed some of the provisions of that bill by reinstating eligibility for the Supplemental Security Income (SSI) program for disabled and elderly immigrants who were in the country before August 22, 1996, the day the omnibus welfare reform package passed into law. But the act also reinstated SSI for immigrants who were in the country as of August 22, 1996 and become disabled in the future. The SSI program is fraught with fraud. According to the General Accounting Office (GAO), the Social Security Administration sends out $27 billion in SSI checks annually. Approximately $4 billion in checks are sent out erroneously. Immigrants, who make up just 6 percent of the population, currently receive over half the cash benefits from the SSI program.

The agriculture research bill we are debating today restores food stamp eligibility for the elderly and the disabled, and for children, as long as they were in the United States before August 22, 1996. But, the agriculture research bill also includes the restoration of food stamp benefits for all immigrants who were in the country as of August 22, 1996, but who become disabled in the future. The Congress is going to spend approximately $800 million to restore all of these benefits. The food stamp program, like the SSI program, does not require that an individual have contributed to the Social Security base. And, the food stamp program is also susceptible to fraud and abuse—in a just released GAO report, it is estimated that recipients were overpaid an estimated $1.5 billion, or 7 percent of the approximately $22 billion food stamps program. And, that is only the fraud that is quantifiable by the government. The GAO believes there are other forms of fraud in the food stamp program that are too difficult to quantify.

As a result of the 1997 Budget and this bill, those individuals who were in the country and disabled on August 22, 1996 will continue to be eligible for SSI and for food stamps. But, the Congress has to draw the line somewhere. The sponsors of currently healthy immigrants who entered the country before August 22, 1996 should be responsible for those immigrants' care should they fall on hard times. That has always been the law. In fact, since the early part of the century any immigrant who becomes a public charge can actually be removed from the United States.

For those individuals who do become disabled and for whom there is no sponsor support, the Immigration and Naturalization Service already has the authority to waive the normal requirements of becoming a citizen. By becoming a citizen, such individuals would automatically be eligible for SSI and for food stamps should they qualify.

Mr. President, now is not the time to reverse our course on welfare reform, as such reform applies both to our U.S. citizens and to our immigrants. America is a land of immigrants, yes. But, we must not perpetuate dependence on public benefits. Our nation must be one of opportunity for our immigrants, not one that skirts the law by providing a loophole for some immigrants to become dependent on public assistance in the future. The Senate should remove the provisions of the conference report that continue food stamp benefits for immigrants in the future.

Mr. KENNEDY. Mr. President, later today, we are voting on a motion by Senator GRAMM to recommit the conference report on the Agricultural Research bill. I strongly oppose Senator GRAMM'S motion.

The 1996 welfare law allows refugees to receive federal benefits, including SSI, Medicaid and food stamps, for their first five years in the United States. It made this exception because refugees and asylum-seekers generally come to the United States with little more than the shirts on their backs after escaping persecution abroad. They have no sponsors. The may have disabilities which make it difficult to work. They need time to get on their feet, and begin to recover from the persecution they fled in their former country.

After five years in the United States, refugees can apply for citizenship. Unfortunately, there are serious backlogs of naturalization applications at INS. In many parts of the country, it takes two years to complete the naturalization process and obtain citizenship—and these backlogs are not expected to go down in the near future. Often, the earliest a refugee will gain citizenship is after 7 years in the United States.

As we did last year with SSI and Medicaid, the Agricultural Research bill extends the time that a refugee can receive food stamps from 5 to 7 years. Senator GRAMM wants to deny this extension to refugees who entered the United States after the welfare law was enacted.

If we do not extend this time limit from 5 to 7 years, thousands of refugees who have applied for citizenship could lose food stamps as they wait in the naturalization backlog for their applications to be processed.

This group includes refugees like Dien Nwin, who fled Vietnam in 1992 with his wife and children. Dien fought on the side of the United States during the Vietnam War and was imprisoned in a Communist re-education camp for 9½ years. He was worked hard and supported his family for over 5 years. He applied for citizenship, but he's stuck in the backlog.

Now, Dien and his family have fallen on hard times. In the past 2 years, Dien has developed nasal cancer and lung cancer. He has been unable to work since then, and his family has had to use food stamps to survive. Dien is lucky. He entered the United States before the passage of the welfare bill. Under Senator GRAMM'S motion to recommit, Dien would be cut off from receiving food stamps after his initial 5 years in the United States.

Last year, over 25,000 refugees came to the United States fleeing religious persecution in the Former Soviet Union. These refugees included Jews, Evangelical Christians, Mormons and other religious minorities fleeing the restriction of their religious liberties. Under Senator GRAMM'S amendment, these refugees will only be eligible for food stamps for their first 5 years in the United States. Since refugees cannot apply for naturalization until they have lived in the United States for 5 years, there will be a gap in their food stamp eligibility, depending on how long the naturalization backlog is at the time they apply.

The naturalization backlog is expected to increase without an increase in INS funding. Record numbers of legal immigrants are applying for citzenship—more than a million per year. This number is not expected to decrease.

Few actions are a more important part of our time-honored commitment to freedom around the world than opening America's doors to those who are denied freedom and face persecution in their own lands.

Whether it is Vietnamese fleeing communism, Bosnians exiled by ethnic cleansing, Jews from the former Soviet Union fleeing anti-semitism, Burmese seeking safe haven from oppression, or Africans escaping political retribution and genocide, our refugee program stands ready to aid, protect, and resettle those who need our help. Part of such help is ensuring that these refugees' needs are met in their new home in this country. Those needs will not be met if their eligibility for food stamps is not extended to 7 years.

I urge my colleagues to oppose Senator GRAMM'S motion.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I want to summarize our debate—which has been a good one this morning—by saying that it is very important that we act today to pass the conference report. As the distinguished Senator from Mississippi stated eloquently and correctly, failure to do that will throw into chaos farmers who are now planting and who count upon crop insurance, reformed albeit as we have reformed it, as an underlying safety net in the year of El Nino, remarkable weather circumstances, it is unthinkable simply to kick away that safety net through our indifference.

Secondly, Mr. President, the agriculture research, which has been characterized as an entitlement, along with crop insurance and other provisions, of course, is a 5-year program, as is our farm bill program.

We have payments to farmers and Conservation Reserve Program payments for the environment. We have designated $120 million for vital research which we believe is necessary simply to fight back the pest diseases that are now jeopardizing our growth.

Mr. President, the yield of wheat in our country has been flat in yield per acre over the last 15 years of time. The breakers are not occurring, and we must triple and not have a zero gain.

Finally, let me simply say that there will not be people lined up all over the world trying to get into America to ruin our welfare reform. As a matter of fact, welfare reform has brought about a better America. This bill will help preserve that in a humane way. Provisions that were made under SSI for income for the very persons who are being talked about today—the elderly, the children, the disabled, and those who have come with a well found sense of persecution to escape torture—will, in fact, be aided in a humane way that I believe all Senators would want to support.

I thank the Chair.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1997

The PRESIDING OFFICER. Under the previous order, there will now be 10 minutes of debate equally divided on S. 1046, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1046) to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes.

The Senate proceeded to consider the bill.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 2386

(Purpose: To authorize appropriations for fiscal years 1998, 1999, and 2000 for the National Science Foundation, and for other purposes)

Mr. JEFFORDS. I understand there is a substitute amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Vermont (Mr. JEFFORDS), for Mr. McCAIN, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mr. FRIST, Mr. ROCKEFELLER, and Ms. COLLINS, proposes an amendment numbered 2386.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. McCAIN. Mr. President, I rise to offer an amendment to the S.1046, the National Science Foundation Authorization Act of 1998. This amendment authorizes the National Science Foundation for a period of 3 fiscal years, 1998, 1999 and 2000.

I am very pleased to see that this amendment represents a bipartisan effort by both the Commerce and the Labor Committees. These two Committees share jurisdiction of the National Science Foundation. I would also like to thank the co-sponsors of this amendment, Senators JEFFORDS, HOLLINGS, KENNEDY, FRIST and ROCKEFELLER, for their support of this amendment.

The National Science Foundation (NSF) plays a critical role in the development of much of this country's science and technology infrastructure. Its efforts cover a variety of issues such as education—from the kindergarten to the post-doctorate levels—research and development, and Internet development.

Given that half of the new economic growth in the economy is due to technological advancements, the role of the National Science Foundation in basic research is an important one. Many companies in the private sector have indicated that they cannot afford to conduct the long term basic research required for many of these technological advances. They have come to rely upon the basic research of the National Science Foundation and other government agencies as the basis for many of their commercial products. For it is through the commercialization process of these research results that the government and the American public benefits. From this process, new industries are started, jobs are created, and many new products are generated to improve our quality of life of all people.

Because of the research at the National Science Foundation, we have the Internet today. The growth of the Internet and the role it is playing in electronic commerce today is far beyond anyone's expectations when the project was started. We look forward to the National Science Foundation's involvement in the Next Generation Internet project.

In a time when we are hearing of the terrible performance of America's students in math and science education, it is important that we do our jobs as members of the Senate and authorize agencies' such as the National Science Foundation to ensure that the Federal Government is doing its share to improve upon the lives of all Americans through education and other related research activities.

I urge the other members of the Senate to support this amendment and the final passage of the bill. Again, I would like to thank the co-sponsors of this amendment for their support and hard work.

Mr. JEFFORDS. Mr. President, I know of no objection to the amendment. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2386) was agreed to.

Mr. JEFFORDS. Mr. President, it is a great pleasure to come before you today to seek Senate approval of S. 1046, the National Science Foundation Authorization Act of 1998. I introduced this legislation, along with my colleagues Senators KENNEDY, FRIST, and COLLINS, on July 22, 1997. The bill was reported unanimously by the Senate Committee on Labor and Human Resources on October 15, 1997. This bipartisan proposal will be further enhanced by the manager's package I am bringing to the floor on behalf of my colleagues Senators McCAIN, HOLLINGS, KENNEDY, FRIST, ROCKEFELLER, and COLLINS. This package reflects similar bipartisan cooperation, builds upon the foundation contained within S. 1046 and contains improvements proposed by both Committees. This legislation will make an important investment in our Nation's scientific and technological future.

S. 1046, as amended, will authorize more than $9 billion for research and development activities, and $2 billion for math and science education activities over the next 3 years. The bill will support more than 19,000 projects at 2,000 colleges, universities, primary, elementary, and secondary schools across the Nation.

This authorization bill also recognizes that the future of science in this country will be determined by our basic educational policy. Two billion dollars is authorized over the next 3 years for K through 12 math and science systematic reform, undergraduate science education activities, graduate education, and efforts to advance the public understanding of science. These efforts will continue to contribute to improvements in the education we offer to our children and maintain a strong cadre of scientific leaders needed to remain competitive well into the next century.

S. 1046 provides a strong bipartisan response to the research and science education challenges facing the Nation.

The strong bipartisan support which NSF enjoys is a reflection of its historic contribution to both our national security and our economic competitiveness. The prominent role of science in the American war effort during World War II left us with a new appreciation of the importance of research in establishing and preserving economic and military security. Federally funded research led to the development of radar, sonar, blood plasma, sulfanilamide, penicillin and the atomic bomb. In 1944, President Roosevelt charged Vannevar Bush, his chief science adviser, with evaluating the most effective way to harness this technological infrastructure in peacetime. The Bush report—Science—The Endless Frontier—established a strategy and rationale for Federal support of basic research. The report argued, and argued correctly, that "a nation which depends upon others for its new basic scientific knowledge will be slow in its industrial progress and weak in its competitive position in world trade regardless of its mechanical skill." This report provided the blueprint for creation of the National Science Foundation.

NSF was established in 1950 to "develop and encourage the pursuit of a national policy for the promotion of basic research and education in the sciences." Following the 1957 Soviet launch of the Sputnik satellite, this mission was expanded to provide greater support for science education and literacy. Over the next 3 decades, NSF became the primary Federal sponsor of basic research in mathematics, physical sciences, computer science, engineering and environmental science at colleges and universities. Equally important to the future of our Nation, NSF became a catalyst for the reform of math and science education.

The manager's amendment which we are bringing to the floor authorizes more than $11 billion for research and development activities at NSF over the next 3 years—$3.5 billion in fiscal year 1998, $3.7 billion in fiscal year 1999, and nearly $3.9 billion in fiscal year 2000. This Federal funding will be very well invested. Although the National Science Foundation's budget accounts for only 4 percent of Federal research and development funding, NSF provides 25 percent of Federal support to academic institutions for research. NSF grants support more than 19,000 research and education projects at 2,000 colleges, universities, primary, elementary, and secondary schools, businesses, and other research institutions. Competition for these grants is fierce. NSF funds only about one-third of the 30,000 proposals it reviews annually and the grants that survive this review process represent the finest proposals that the research community can put forward.

The importance of this investment in basic research cannot be exaggerated. Over the past decade, private sector investment in research and development has eclipsed Federal investment in public science. However, the Federal investment in basic science is a major contributor to industrial innovation in the United States. A recent review of American industrial patent applications revealed that the Government or nonprofit foundations supported 75 percent of the main papers cited as the foundation for new industrial innovation.

A few of NSF's contributions illustrate the importance of our investment in basic research and development:

The Internet—Over the past decade, NSF has transformed the Internet from a tool used by a handful of researchers at the Department of Defense to the backbone of this Nation's university research infrastructure. Today the Internet is on the verge of becoming the Nation's commercial marketplace.

Nanotechnology and "Thin Film"—50 years ago scientists developed the transistor and ushered in the information revolution. Today 3 million transistors can fit on a chip no larger than the first fingernail-sized individual transistor. NSF's investments in nanotechnology and "thin films" are expected to generate a further 1,000-fold reduction in size for semiconductor devices with eventual cost-savings of a similar magnitude.

Genetics—A great deal of attention is paid to the effort conducted by the NIH to map the human genome. What is often overlooked; however, is the critical role played by NSF in supporting the basic research that leads to the breakthroughs for which NIH justly receives so much credit. Research supported by NSF was key to the development of the polymerase chain reaction and a great deal of the technology used for sequencing.

Magnetic Resonance Imaging—MRI technology is widely utilized to diagnose a wide array of illnesses. The development of this technology was made possible by combining information gained through the study of the spin characteristics of basic matter, research in mathematics, and high flux magnets. The Next Generation Nuclear Magnetic Resonance Imager, currently under construction, will allow for the identification of the 3-dimensional structures of the 100,000 proteins whose genes are being sequenced by the HGP.

Buckeyballs—One of the most exciting recent discoveries in the world of material science was the discovery of carbon-60. Although this occurs in nature, its discovery (which won the researchers a Nobel prize) was the product of work by astronomers. This in turn led to the discovery of the nanotube which has been found to be 100 times stronger than steel and a fraction of the weight. Nanotubes may produce cars that weigh no more than 100 pounds.

CD Players—CD players rely on data compression algorithms that were developed using an NSF grant. These algorithms were first used in the transmission of satellite data and now provide the foundation for new developments in data storage.

Jet Printers—The mathematical equations that describe the behavior of fluid under pressure provided the foundation for developing the ink jet printer.

Plant Genome—Research into the genome of a flower plant with no previous commercial value, led to the discovery of ways to increase crop yields, the production of plants with seeds having lower polyunsaturated fats and to the development of crops that produce a biodegradable plastic.

Artificial Retina—Researchers at North Carolina State University have designed a computer chip that may pave the way for creation of an artificial retina. Problems with bio-compatibility have been solved by researchers at Stanford who developed a synthetic cell membrane that adheres to both living cells and silicon chips.

Cam Corders—Virtually all camcorders and electronic devices using electronic imaging sensors are based on charge-coupled devices. These devices, sensitive to a single photon of light, were developed and transformed by astronomers interested in maximizing their capacity for light gathering.

I could go on at length about the many technological advances that we enjoy today that are attributable to basic research supported by NSF. These advances would not be possible, however, if we as a nation did not continue to train and support a cadre of the world's most talented researchers. S. 1046 recognizes the importance of maintaining an investment in human resources and authorizes more than $2 billion for the education and human resources directorate over the next three years. This directorate has primary responsibility for NSF's education and training activities. In contrast with the programs of the Department of Education, NSF science and math education programs are experiments which link learning and discovery. Proposals are selected by outside peer review panels on the basis of their potential to provide long-lasting and broad impact. NSF has made notable contributions in the areas of curriculum and instructional material development, professional development, and improved the participation in science research and science education of women, minorities, and individuals with disabilities. The legislation before you strengthens and enhances these efforts.

The Education and Human Resources Directorate also provides funding for the Experimental Program to Stimulate Competitive Research. As noted in the Committee report, this program plays an important role in ensuring that small states, like Vermont, build the capacity to more fully participate in NSF's research programs. The program has been particularly successful in developing infrastructure in those states where a limited research base has made the attraction and retention of young faculty, equipment purchases, network connections, human resource development, research project development, and technology transfer difficult. Such infrastructure building remains a crucial part of guaranteeing that the participating states are competitive and must be continued.

The Foundation has initiated a new co-funding effort which is designed to integrate the research community in the EPSCoR states more completely into the larger research community. As research funding for NSF increases in general, I expect that the matching requirements for cofunding will not result in the displacement of non-EPSCoR NSF funding which institutions would otherwise receive. I look forward to working closely with the Foundation to ensure continued growth in the co-funding initiative without reducing the amount available for standard grants.

And finally, I want to proudly note the partnership that has been forged between the National Science Foundation and the State of Vermont. NSF currently supports over 74 projects in the Green Mountain State. Grants have been provided to the Barre Town Elementary School, Middlebury College, Mountshire Museum of Science, Woodbury College, Cabot School, Charlestown Elementary School, St. Michael's College, Johnson State College, Trinity College, and the University of Vermont. In 1992, the Vermont Institute for Science, Math and Technology received a five-year award of $7.9 million to establish a collaborative statewide education reform effort linking business, higher education, government, and community sectors. This year, as a result of the success of this collaboration, NSF has elected to extend the award for an additional five years. In addition, Trinity College was this year awarded $1.2 million to improve the instruction of math and science in our primary, secondary, and elementary schools.

This legislation builds upon partnerships like that forged with the State of Vermont. It provides a strong bipartisan response to the research and science education challenges facing our Nation. I also want to note that it reflects the hard work of staff for both Committees. I particularly want to express my appreciation for the work of Scott Giles of my staff, Danielle Ripich, Marianna Pierce and Jonathan Halpern of Senator KENNEDY's staff, Floyd DesChamps of Senator MCCAIN's staff and Lila Helms of Senator HOLLINGS' staff and I urge all my colleagues to support this package.

I urge all of my colleagues to support this package.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I strongly support passage of the National Science Foundation Authorization Act. It is a privilege to join Senator JEFFORDS, Senator MCCAIN, and Senator HOLLINGS in sponsoring this bipartisan legislation, which looks to the future by strengthening our national commitment to research and development. It also ensures the continued success of the teacher training and professional development programs of the NSF. In addition, it will improve science and math education from kindergarten to graduate school, and help maintain America's competitive edge into the 21st century.

Few federal agencies deliver as much "bang for the buck" as the National Science Foundation. It is now funding 20,000 peer-reviewed science and education projects at more than 2,000 colleges, universities, schools, businesses and research facilities in all parts of the United States.

Last year, these projects involved 27,000 senior scientists, 21,000 graduate students, 28,000 undergraduates, 110,000 precollege teachers, and 14,000 students from kindergarten through the twelfth grade. Almost 15 million people are affected by NSF activities through museums, television programs, videos, journals, and outreach activities.

NSF accounts for 4 percent of total federal research and development funding. But it provides 25 percent of basic research support at academic institutions. It provides as much as half of all federal funding for research in fields such as mathematics, computer science, environmental science, and the social sciences.

NSF also plays an important role in training teachers and developing math and science curricula to prepare students for tomorrow's challenges. It promotes innovative education programs in partnerships with colleges, universities, elementary and secondary schools, science museums, and state and local governments. These programs encourage the discovery of new knowledge and its application to real-world problems.

NSF support for basic research and science education has also had an important role in encouraging economic growth over the last fifty years. According to a recent study, each dollar that the federal government spends on basic research contributes 50 cents or more to the national output each year. In other words, investing in NSF pays for itself in two years. These benefits are spread throughout the economy, enhancing the productivity of the nation's workforce and improving the quality of life for all Americans.

At the Massachusetts Institute of Technology, for example, NSF funds have enabled scientists to explore the commercial applications of their research. Technology developed at MIT had a role in the launching of 13 companies in 1995. They manufacture products ranging from computer chips to communication networks. These enterprises have bolstered the state and local economies, and provided jobs and opportunities for many citizens. In fact, a 1997 report by BankBoston found that research and development at MIT has created 125,000 jobs in Massachusetts.

In our state, NSF is funding a wide range of other projects on the cutting edge of research. NSF grants have been instrumental in building the state's biotechnology industry, mapping the oceans at the Woods Hole Oceanographic Institute, developing new superconductors at the Material Research Science and Education Center at Harvard, and creating cooperative partnerships with schools, parents, businesses, and community organizations to strengthen math and science education.

Nationwide, NSF grants cover a broad range of projects from providing health care to fighting crime to protecting the environment. Specific grants are improving the treatment of arrhythmia, facilitating more accurate identification of crime suspects, developing new biotechnology techniques to cleanup hazardous waste sites, enhancing the speed of semiconductors in processing information, and even analyzing the Antarctic meteorite to determine whether life existed on Mars.

NSF funds benefit the humanities as well. The Next Generation Internet Project will give researchers access to information from the world's libraries and museums at rates that are 100 to 1,000 times faster than today's Internet.

This authorization Act will put research and development on a more secure footing over the next two years. It will increase NSF funding by 10 percent in FY1999 and 3 percent in FY2000, which are consistent with the levels recommended in President Clinton's FY1999 budget. The increased funding will provide larger award amounts, so that scientists can undertake longer-range projects.

The legislation also strengthens efforts to improve science, mathematics, engineering, and technology training for teachers and students. In addition, it authorizes the Office of Science and Technology Policy in the White House to prepare a report analyzing indirect costs, which play a vital but little understood role in federal R&D spending.

The National Science Foundation is doing an outstanding job in fulfilling its missions. Passage of this bill will strengthen America's leadership in science and technology, and I urge all of my colleagues to support this important legislation.

I congratulate our chairman for bringing us to this point in the legislative process.

Mr. McCAIN. Mr. President, I would like to engage Senator LOTT, Senate Majority Leader, and Senator JEFFORDS, Chairman of the Labor and Human Resources Committee, in a colloquy on certain programs within the National Science Foundation.

Mr. LOTT. I would be pleased to join Senator McCAIN and Senator JEFFORDS in a colloquy on this subject.

Mr. McCAIN. As Chairman of the Commerce Committee, I have noted with great pleasure the success and impact on the NSF's program to establish outstanding research and education centers at colleges and universities in partnership with industry. These centers are making great contributions to research, science, and technology education, and the economic development and global competitiveness of our nation.

Mr. JEFFORDS. As Chairman of the Labor Committee, I too have been a strong supporter of the NSF's efforts to strengthen research and education efforts at colleges and universities across the nation. NSF provides support to over 2000 colleges and universities and nearly 17,000 researchers nation-wide.

Mr. LOTT. A particular success is the Engineering Research Centers Program which has stimulated focused university-industry partnerships in research and education, and has served as a catalyst for economic development within the United States. Much success can be attributed to the Foundation's leadership in ensuring each center establishes a clear vision and conducts careful strategic planning involving their industry partners. Among the impacts of this program are: Next generation engineering systems developed from new knowledge discoveries and new technological developments; Technology transferred to hundreds of companies and governmental agencies; Technical assistance and training provided for industry and government; Thousands of undergraduate and graduate students involved in the research of the centers and exposed to next generation systems research and development; and Outreach to K–12 and to underrepresented groups.

NSF Science Technology Centers and other NSF university centers have likewise cultivated strong university-industry affiliations with centers focused on specific research areas related to industry needs. For example, the modern Internet browser was developed at the NSF National Center for Supercomputing Applications at the University of Illinois; a turbomachinery computational model developed at the Engineering Research Center for Computational Field Simulation at Mississippi State University is now used by all jet engine manufacturers; the Center for Molecular Biotechnology at the University of Washington is developing tools for industry use to analyze and interpret the information content of biological molecules such as DA and proteins, to analyze and interpret the information content to biological molecules; and the Center for High Pressure Research at the State University of New York at Stony Brook works with several companies to develop new ways that industry can use high-pressure technology to produce exotic materials, such as industrial-grade diamonds. Hundreds of similar contributions can be cited from these and other NSF-funded university centers.

I believe this program should be greatly expanded and that the NSF should become even more active in ensuring the development of long-term vision and strategic planning of each center. Further, NSF should build on successful centers and seek ways to sustain the investment with continual support when appropriate. Areas that show great potential for the future include: computation engineering, biotechnology and bioengineering, manufacturing, and industrial systems, electronics and communications systems, materials processing including polymers and composite materials, manufacturing systems, remote sensing systems and technologies, and optical systems as well as ship building, telecommunications and super-computing supercomputer technology for university research centers.

Mr. McCAIN. I thank the distinguished Majority Leader and the Labor Committee Chairman, for their insights into these matters and how important research and education is to the overall National economy.

Mr. JEFFORDS. The distinguished Majority Leader should be commended for his strong support for basic scientific and engineering research and I look forward to working with him to strengthen the engineering research centers program.

Mr. LOTT. I also would like to thank Senator McCAIN and Senator JEFFORDS for their leadership in these areas of science and technology.

SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Mr. ENZI. I would like to raise an issue that has been brought to my attention since the Labor Committee reported this bill in October. It relates to the Small Business Innovative Research (SBIR) program and I want to highlight the fact that recent NSF decisions may have a negative effect on this very successful program. I have worked closely on small business issues with my friend from Montana, Senator CONRAD BURNS, who also serves on the Small Business Committee with me. It is not my intention to hold up this legislation by offering an amendment at this time, but I want the Chairman, Senator JEFFORDS, to know that it is a very important issue for me. I would like to yield to Senator BURNS for a minute and ask him to describe the situation.

Mr. BURNS. On August 8, 1997, Ms. Linda G. Sundro, Inspector General for the National Science Foundation (NSF) recommended that NSF reduce their SBIR set-aside by approximately $2.5 million by excluding certain education and training costs, as well as program support overhead costs from their total extramural R&D budget. Although funded by the Congress as part of their overall R&D budget, the Inspector General concluded that these costs could be excluded because they do not fit the statutory definition of R&D as set forth in the Small Business Research and Development Enhancement Act of 1992, (Public Law No. 102.564, 15 U.S.C. Part 638(e)(5)).

The Inspector General's recommendation does not take into consideration the guidance provided by the Congress in determining the calculation. The legislation requires each agency "which has an extramural budget for research or research and development" (15 U.S.C. Part 638(f)(1)) to set-aside a percentage for the SBIR program. The legislation clearly defines extramural budget as "the sum of the total obligations minus amounts obligated for such activities by employees of the agency in or through Government-owned, Government-operated facilities * * *" (15 U.S.C. Part 638 (e)(1)). Under existing law, the only exclusion from the calculation is for funds dedicated to intramural R&D efforts.

In its April 17, 1998 report on the SBIR program, the General Accounting Office identified the calculation of the extramural budget as an issue for the SBIR program. Their analysis found that each participating agency was utilizing different methodologies in the calculation. The GAO recommended that the SBA issue guidance to the participating agencies to ensure consistency across the program. The SBA agreed with this recommendation.

Accordingly, I believe the NSF Inspector General's recommendation is inconsistent with the current law and would ask that the Director of the National Science Foundation hold the recommendation in abeyance until such time as the SBA issues guidance to the participating SBIR agencies.

Mr. ENZI. Would the Senator yield for a question? This is clearly a very important issue for members of the Small Business Committee. Would the Senator agree that NSF's coordination with SBA is critical to ensuring a strong SBIR program?

Mr. BURNS. I believe the NSF and all agencies participating in the SBIR program should coordinate with the SBA in determining their extramural research budgets. This is what the GAO recommend.

Mr. ENZI. I thank the Senator from Montana and I thank you, Senator JEFFORDS, for considering this important issue.

Mr. HOLLINGS. Mr. President, I rise today to encourage my colleagues to support passage of S. 1046, the National Science Foundation Authorization Act of 1998. University research continues to be a great American success story, and NSF can be proud of its role in helping to create and sustain this great research enterprise. We continue to ask much of NSF and our universities because we know what this system has contributed to the Nation in the past, and we know that greater contributions await us in the future.

Mr. President, by themselves, universities cannot solve our national problems such as technological competitiveness, the environment, and social issues like crime, poverty, and education. However, the research and trained young people provided by our universities will continue to play a major role in addressing these pressing issues. S. 1046 authorizes the continuation of the vital programs of NSF that support these efforts, including EPSCoR which has helped strengthen science and technology in many of our smaller states.

I would like to take a moment and thank Senator McCAIN, Senator KENNEDY, and Senator JEFFORDS for their efforts in getting this bill passed. The managers' amendment before the Senate today reflects agreement by the Commerce Committee and the Labor Committee on many issues relating to NSF's programs and funding. The two committees worked well together within the guidelines set forth in the standing order of March 3, 1988. Because of this bipartisan effort to address issues that are within the jurisdiction of the two committees, this is a good bill, and I encourage my colleagues to support its passage.

Mr. BURNS. Mr. President, I am pleased to support the National Science Foundation (NSF) authorization bill, which is before us today. Prior to this Congress, when I became chairman of the Communications Subcommittee, I served as chairman of the Subcommittee on Science, Technology and Space, which has jurisdiction over the authorizations for the NSF. I conducted several hearings on NSF during that time. I am also a member of the Senate Appropriations Subcommittee on VA-HUD Independent Agencies, which funds the NSF. As a result, I have had the opportunity to get to know this agency and its program as well.

I will have to tell you that when I came to the U.S. Senate, I did not expect to become a champion for the National Science Foundation and for scientific research, education and technology. But, I quickly became a strong supporter.

I have seen what this agency can do, and its importance to the people in our states. NSF is about seeking new scientific knowledge and using that knowledge. It is about helping the researchers and teachers in our colleges and universities and helping them to make certain that their students receive a good education, with scientific, mathematical, engineering and technological opportunities. It is about offering better training and materials for our K-12 teachers. And, it is about developing infrastructure, such as advanced telecommunication and computing opportunities. Such infrastructure is particularly important for rural states, such as Montana.

NSF has funded research which led to Montana State University's Jack Horner's now famous work on dinosaurs. It has helped us start new program in computational biology. It has funded an Engineering Research Center, which has undertaken cutting edge research in networking connection and supported other networking and telecommunications programs. There is interest in new research opportunities on life in extreme environments, which could include the Yellowstone area, and in the plant genome initiative.

I also want to say a few words about a program that is of particular importance to my state—the Experimental Program to Stimulate Competitive Research (EPSCoR). EPSCoR was created to assist states such as Montana become more competitive in the federal R&D arena. Unfortunately, federal R&D funds are highly concentrated in a few universities in a few states. That is not justifiable. Today's global economy requires that all parts of our nation share in scientific and technology development if we are to keep our entire nation and its industries and workforce competitive. Today, we know that scientific and technological problems and issues in one area of the country are likely to affect people in other areas. And, we know that we cannot have a healthy national science and technology system unless there is widespread support throughout our country for it.

The EPSCoR program is the base for much of our rural states' scientific and technological activities. It helps Montana and 17 other states develop infrastructure. It helps us develop new programs and take advantage of special opportunities. It has recently been assisting our states on participating more fully in other NSF programs. And, it was instrumental in ensuring that the EPSCoR states participate in the vBNS connections program and the Next Generation Internet initiative. I believe in the EPSCoR program, and would like to see the program expanded in terms of financial assistance, especially when NSF funding overall is increasing and also since the co-founding, which is scheduled to increase in this budget year, should be matched by a similar increase in the base EPSCoR program.

I know that the report prepared last fall by the Senate Labor and Human Resources Committee endorsed by EPSCoR program, and we on the Senate Commerce, Science, and Transportation Committee are equally supportive.

The PRESIDING OFFICER. Under the previous order, S. 1046 is deemed read a third time, the Labor Committee is discharged from further consideration of H.R. 1273 and the Senate will now proceed to its consideration. Under the previous order, all after the enacting clause is stricken, the text of S. 1046, as amended, is inserted in lieu thereof, and the bill is deemed read a third time.

The bill (H.R. 1273), as amended, was deemed read a third time.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the role.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski

Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Inhofe

The bill (H.R. 1273), as amended, was passed.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent that I may speak as in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mrs. BOXER. Mr. President, earlier this morning, some of us were on the floor urging the Senate to bring up the Patients' Bill of Rights, a very important bill that would essentially protect patients from decisions made by accountants and bureaucrats in insurance companies and have their health care decisions made by physicians.

I was talking with the Senator from North Dakota who has been presenting a number of cases that proves our point as to why this legislation is needed, and he shared with me a most extraordinary case coming out of California. I am going to tell the Senate about this case, because we cannot close our eyes to what is happening.

I share with you the case of Joyce Ching from Agoura, CA. Joyce Ching lived with her husband David and 5-year-old son Justin. In 1992, when David switched jobs, he was offered an array of plans, but Joyce convinced him to join an HMO because she wanted the entire family to go to the same place to get their care.

In the summer of 1994, Joyce got sick. She began to suffer from severe abdominal pain and from rectal bleeding. The pain was so excruciating that some days she couldn't even get out of bed to be with her son. She visited her HMO doctor and was refused referral to a specialist.

I am not a physician, but I know enough people who have had problems, and when you have rectal bleeding, that is a sign that something is amiss. Yet, this HMO did not refer her to a specialist. Do you know what her doctor in the HMO told her? That her symptoms would be alleviated by a change in diet.

She changed her diet, and the symptoms were not alleviated. Fearing that her illness could hamper her chances of having a second child, she continued to complain to the physician that her pain was getting worse, and the doctor said, "Give your diet time," and still would not refer her to a specialist.

Finally, after nearly 3 months and countless visits, she was referred to a gastroenterologist, but it was too late. Joyce, 34 years old, was diagnosed in the final stages of colon cancer.

What is so shocking about this case is that her doctor never really listened to her concerns and never sent her to a specialist. When you find out why, it will send chills up and down your spine. There was a deal in that HMO. They looked at Joyce's profile and they decided: A healthy woman in her thirties, we can't spend more than $28 a month on Joyce.

I will conclude with this, Mr. President. The HMO's accountants decided that Joyce should cost the HMO $28 a month, and they told the doctor, "If she costs you any more than that, your clinic will have to pay out of its own pocket." So there was a deal made to give incentives to that clinic not to treat this woman, and she is gone. She is gone forever from the lives of her husband and her beautiful son, and she died at 34.

I have to say, when we stand up here day after day with these cases, it is not to hear the sound of our own voices, because there are thousands and thousands of stories like this, and people want action. They want decisions made by physicians. They want patients and physicians to be honest with each other. They don't want incentive payments to doctors so that they will not be treated. This is a tragedy that you cannot even measure, Mr. President. I call on the leadership to allow us to bring up the Patients' Bill of Rights. I yield the floor.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:15 p.m.

Thereupon, at 12:47 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 having arrived, the Senator from Texas is recognized to move to recommit the conference report accompanying S. 1150.

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Mikki Holmes, an intern, be allowed on the floor for the duration of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized under the previous order.

MOTION TO RECOMMIT

Mr. GRAMM. Mr. President, I send a motion to the desk and ask for its immediate consideration. I will have it read.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

> The Senator from Texas [Mr. GRAMM] moves to recommit the conference report on S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998 to the committee on conference with instructions to the managers on the part of the Senate to insist that the expansion of Food Stamp eligibility in Title V, Subtitle A, section 503 shall only apply to refugees and asylees who were lawfully residing in the United States on August 22, 1996.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, it is clear to me, from the debate we had earlier, that it is going to be somewhat difficult to get people to debate this issue. However, let me try by being frank and yet fair to everybody. I would like to outline what happened to this bill in conference, and why I believe it is important that this motion pass.

First of all, let me remind my colleagues that the Senate adopted a bill to promote ag research. It is a bill that I would assume 100 Members of the Senate support.

My State is a very substantial beneficiary of ag research. The institution which I love more than anything, other than my family, Texas A&M, is a major ag research institution. Needless to say, no one should be surprised that I am in favor of ag research. In addition, I am a supporter of research in general.

In 1965, we were spending 5.7 cents out of every dollar we spent in the budget on general research. That is now down to 1.9 percent of the budget on research, because rather than investing money in new technology, new products, and new science for the next generation, we are being driven by politics to invest in the next election by spending money on programs that have big constituencies in the next election rather than beneficiaries in the next generation. Again, I support agriculture research. The Senate bill went to conference on a unanimous vote, and the House passed a bill that was an ag research bill. However, the nature of the bill changed in conference, and it changed dramatically. Many other provisions were added to the conference report that were never voted on in the Senate and never voted on in the House.

The major provision that I want to address in this motion to recommit with instruction is the provision having to do with food stamps. My colleagues will remember that while we had a contentious debate on welfare reform, when it came time to call the roll on August 22, 1996, we passed a comprehensive welfare reform bill on an overwhelming bipartisan vote. Part of that welfare reform process was setting much higher standards on food stamps and eliminating the attractiveness of welfare in general, and food stamps in particular. We were trying to change the law to eliminate a situation where, over the last 25 years, we had seen a change in the welfare law. People were actually being attracted to America not with their sleeves rolled up, but with their hands held out seeking benefits paid for by someone else's labor.

This bill, unfortunately, takes a major step backward. This bill re-institutes $818 million worth of food stamps that were eliminated in the welfare reform bill. I remind my colleagues that the Senate did not vote on the food stamp provisions in this bill. In addition, the bill, as it was voted on in the House, did not contain these food stamp provisions. Yet, in conference, as part of the age-old logrolling process of putting a bill together to be a grab bag for everybody, a provision was added that provided $818 million worth of food stamps for immigrants. The President was a major supporter of this provision. In fact, yesterday, our distinguished ranking member, Senator HARKIN, called this provision a major step toward fulfilling a promise that was made by our President.

Well, our President was not for welfare reform when it was debated and basically was shamed into signing it. What he said at the time was that he intended to go back and undue major parts of it. This provision, in fact, fulfills part of that commitment.

This motion is drafted very, very narrowly. It simply says to not touch the welfare benefits added back for people that were already here on August 22, 1996. Go ahead and take those provisions, but don't set out a provision in law that is giving new food stamps to people who might choose to come in the future.

There is a provision in this bill that would give 7 years of eligibility for food stamps to people who come and who declare themselves refugees in the future. Under the provision in the bill, whether they come next year or 20 years from now, they can come and declare themselves refugees and qualify for 7 years of food stamps. Mr. President, I think that is providing the wrong incentive for people to come to America.

Let me also say that I am a strong supporter of legal immigration. I don't want to tear down the Statue of Liberty. I don't want to build a wall around America. There is still room for hard-working, dedicated people with big dreams to come to America. But I want the dream to be of working and succeeding, not getting on welfare and food stamps.

What my amendment simply says is that the one provision of this bill that is prospective whereby providing food stamps into the future for seven years would be stricken. However, the refugees and asylees who are already here on August 22, 1996, would be able to receive food stamps for seven years.

Our colleagues are going to say that the world is coming to an end if we go back to conference and that somehow this bill will die. Everybody in the Senate and everybody in the House knows that ag research is not going to die. Everybody in the House and everybody in the Senate knows that crop insurance is not going to die.

If we send the bill back to conference, we have an opportunity to begin to correct problems with the bill. Both the Speaker and the majority leader of the House have said, in one forum or another, that they are not in favor of this bill being considered in the House. By sending it back to conference, we have an opportunity to begin the system of inducing moderation into the bill, which I believe can speed up the day we obtain funding for agriculture research and crop insurance.

Let me say again that I support agriculture research, and crop insurance. I don't think we should have to pay tribute every time we put together a program to try to promote job creation and economic growth in America. I don't think that every time we have an agricultural bill that tries to move us toward a more competitive agricultural system, we should have to pay tribute to people who always want an add-on such as the food stamp provisions in this bill. The provision adding food stamps was little more than a tribute for allowing this bill to move forward.

We can pass this bill without the food stamp provisions, but I am suggesting that we deal with one narrow part of the bill. I urge my colleagues to support this provision, because in this provision we don't take any benefits away from the restoration contained in the bill for immigrants who were here when we passed the welfare bill in 1996. Certain legal immigrants who were here when the welfare bill passed will have benefits restored by this provision. This motion, if defeated, would send the signal that we want to create new benefits in the future that would allow you to come to America and can obtain food stamps.

That, I think, is the wrong signal. It is not a signal I want to send. It is a signal that I think is destructive for those of us who believe in legal immigration.

So I urge my colleagues to support this motion to recommit with instructions. I remind my colleagues that the conference has not been discharged. We can go back to conference this afternoon, and this provision can be voted on. If it is adopted in conference, it can come back to the Senate, and it would probably pass unanimously. If it is rejected in conference, we at least know there has been a vote in conference.

The point is, this bill is not going to die if we adopt this motion. I want people to look at this provision and vote on it on its merits. If they will do that, I will be satisfied.

I reserve the remainder of my time.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 3 minutes.

Mr. WELLSTONE. Mr. President, I will try to do this in 3 minutes. First of all, I say to my colleague from Texas, what he is now willing to do is hold up, delay, and potentially kill, crop insurance, which is extremely important to farmers in Minnesota and across the country, and research on alternative uses for agriculture products, crop disease, and research on scab disease in northwest Minnesota.

He is willing to do this because he thinks there is some terrible wrong in this bill. I think it is a right. I think we are doing something that lives up to the very best in America. I say to my colleague and to people in the country, my colleague from Texas wants to hold this bill up because he finds it to be an offensive proposition that we should say that for legal immigrants we will make sure there is some assistance for those people who are elderly, disabled, and for small children.

The Physicians for Human Rights released a report this past week finding an alarming amount of hunger and malnutrition among these legal immigrants. Food stuff use is on the rise. In the United States of America today at the peak of our economic performance we have people who are hungry and in jeopardy. What we ought to do here is restore some assistance for these legal immigrants. These asylees and refugees are people who have fled oppression in countries like Indonesia, China, you name it. They come to our country in the hope that we would be willing to extend a helping hand.

My colleague from Texas talks about that as if it is a bad thing to do. I thought that is what we were about—people who fled persecution, people who were legal immigrants. Many of them were parents. My dad fled persecution from Russia. For the U.S. Senate to say, "Look, we want to correct the harshness. We want to make sure there is some assistance for you to make sure you don't go hungry if you are elderly, if you are disabled, if you are a small child, if you fled persecution from a country." That is the right thing to do. Certainly we ought not to be holding up the agriculture research bill, which is so important to agriculture in our country and so important to farmers in Minnesota.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERTS addressed the Chair.

Mr. LUGAR. Let me inquire of the distinguished Senator from Kansas. Does the Senator require time at this moment?

Mr. ROBERTS. I tell my distinguished chairman, if he could yield to me maybe 5 minutes.

Mr. LUGAR. I yield 5 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I suppose that some of what I am going to say is repetitive in that most of this was discussed during the general debate. But I feel compelled to speak again because of the strong personal interest in this in behalf of myself and many of my colleagues who served on the House Agriculture Committee, and for that matter the Senate Agriculture Committee back in 1996.

There has been a real success story in regards to the Food Stamp Program and reforms that have been initiated. In 1996, with all due respect to that program and others who supported it, it was a program out of control. It couldn't even be audited. The inspector general came in, an inspector general from New York—a tough cop, by the way, named Roger Viadero, who has done an outstanding job, basically said that the Food Stamp Program could not even be audited due to the fraud, abuse, and organized crime involvement. As a matter of fact, he had a tape that we showed during the Committee hearings which ended up on 60 Minutes. And we know all the stories about the Food Stamp Program, about the waiting in line, people with food stamps exchanging them for cash and then buying things that obviously did not represent a nutritious market basket of food.

They got a new inspector general. We exposed the fraud and abuse on 60 Minutes and saved $3 billion to $5 billion in regard to the fraud and abuse. Then we instituted major reforms. I am talking about the Senate Agriculture Committee and the House Agriculture Committee—$24 billion, as the distinguished chairman has pointed out. I just do not think that is a success story that can be equaled.

As a matter of fact, as to the person in charge of the Food Stamp Program there were many allegations made in regard to the performance of duty. She resigned. It is in better hands. Then we gave these reforms to the States. The States have come back with administrative savings. That is where the $1.7 billion comes in that has been referred to in terms of entitlement. And that money, I think, should be used for agriculture research, and I believe it also should be used for crop insurance and risk management. And, yes, there is some limited assistance in regard to food stamps.

But let me refer to the comments made by the distinguished Senator from Texas whose concern I share. I certainly don't want any social welfare program, food stamps or otherwise, to be a beacon for people to come to this country when they wouldn't otherwise.

But we are talking about refugees, and a refugee is defined as follows: A person who is fleeing because of persecution, or well-founded fear of persecution, on account of race, religion, nationality, membership in a particular social group or political opinion, and who is of special humanitarian concern to the United States.

I don't think people choose to be a refugee. That is just not the case. People are not fleeing their country to come to the U.S. with a beacon held out there saying "I am coming because of food stamps." And we have a cap on the number of refugees. It will be 75,000 admissions for the fiscal year as of 1999. Who are these people? The European numbers are used largely for Soviet religious minorities and Bosnians. East Asian numbers are for former Vietnamese, reeducation, camp detainees, and Laotians. I could keep on going down here. Basically, refugee admissions have fallen significantly from over 100,000 per year during fiscal year 1989. Now they are down to 75,000, and they are headed further downward.

Here is the difference. The agriculture research bill's food stamp provisions mirror the SSI provisions of last year's Balanced Both Houses have approved that.

Let's go back to the original food stamp reform that was passed in 1996 that I just talked about. These welfare reforms eliminated the benefits for anywhere from 800,000 to 950,000 noncitizens. This bill extends those benefits back to the children, the elderly, and the disabled who were in the country before August 22. That is the day of enactment of the bill. And, yes, it does also extend the benefits to refugees and asylees who may have entered after the August 22, 1996, debate. That means the total of the benefits will be restored to 250,000 people, not 900,000. I do not think this represents a step back from the far-reaching food stamp reforms that were passed back in 1996.

I think if you take a hard look at these people, I don't think the Food Stamp Program represents a beacon in regard to any kind of a reason that they would come to the United States. I have already read the definition.

I thank the distinguished chairman for yielding me this time.

Mr. LUGAR. Mr. President, I yield 5 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I thank the Presiding Officer, and I thank especially the chairman of our committee.

Mr. President, I rise to speak on behalf of the research bill that we have before us. It has the title of "agricultural research." I think that is really somewhat misleading because this bill has a lot more in it than agricultural research, although agricultural research is critically important. Some who are not in agriculture may wonder: "Why is it so important?" Let me just give them an example from my home State of North Dakota, one of the most agricultural States in the Nation, traditionally one of the largest wheat producers, one of the largest barley producers, one of the largest sunflower and sugar beet-producing States in the Nation, and the State that produces the vast majority of the durum wheat that goes to make pasta which is enjoyed by all of America.

Last year, we lost a third of the crop in North Dakota to a disease. That disease is called scab. Scab is a fungus. In North Dakota we have had 5 years of extremely wet conditions. People may recall that last year we had an extraordinary set of disasters in North Dakota. That is just the continuation of a very severe weather pattern. Because of those overly wet conditions this fungus is growing in the crops of North Dakota; this scab. It destroyed a third of the crop last year. That is stunning. That is a loss of $1.1 billion just in my little State of North Dakota in 1 year.

In this bill there is a provision to provide $26 million over 5 years on scab research so we can attack this problem. That is a reason that this bill is important. That is not the only reason.

There are many other important agricultural research priorities to keep

America on the cutting edge and on the leading edge of production agriculture. It is very important for our people to understand that our chief competitors are spending far more supporting their producers than we are spending supporting ours. In Europe they are spending about $47 billion a year to support their producers. We are spending about $5 billion.

So we are asking our farmers to go out and compete against their farmers with their farmers having a substantial competitive edge.

It is critically important that we not take everything away that our farmers are using to try to stay ahead of the competition.

In addition, in this bill is the money to shore up the crop insurance system, also critically important to those areas that are experiencing losses as a result of these unusual weather patterns we are experiencing. Here on the east coast we have had, I think it is now, 13 days of rain. We have already had 50 percent more rain at this time of the year than is normal. And that is affecting crops as well, because just like overly dry conditions have an adverse effect, so do overly wet conditions. That is what we are seeing, a very odd weather pattern across America this year. The crop insurance system needs to be strengthened and preserved. The funds to do it are in this bill.

Now, our colleague from Texas comes along and he tells all of us, "I want to send this bill back to committee. I want to get some changes made. It won't really endanger the legislation at all."

That is not true. Those of us who are on the Budget Committee understand what is at stake here. We understand that there is a budget resolution that has already passed this Chamber and is over in the other Chamber, and it takes a big chunk of the savings that are from the Agriculture Committee and uses them for another purpose. If this bill does not get passed and get passed quickly, we may lose these funds from agriculture altogether, and that would be a tragedy.

I thank the Chair and yield the floor.

Mr. REED. Mr. President, I rise today to express my support for the Conference Report on S. 1150, the Agricultural, Research, Extension, and Education Reform Act of 1998. Certainly, there are a number of important issues addressed in this bill, but none more critical than the provisions that would restore food stamp benefits to many elderly, children, and disabled legal immigrants.

While I am pleased that over 70 Senators joined the effort to bring this Conference Report to the floor, I am disappointed that action on such an important and bipartisan bill has been needlessly delayed. My colleagues have demonstrated overwhelming support for this Conference Report.

Like many of my colleagues, I was deeply concerned about provisions of the 1996 welfare reform law which denied benefits to legal immigrants, particularly children, the disabled, and the elderly. The welfare reform law was necessary to help people move from dependency to work, but it was not perfect. That is why we worked to restore Supplemental Security Income and Medicaid to legal immigrants in last year's balanced budget agreement.

With the Agricultural Research Conference Report, we take another important step to address the needs of our most vulnerable legal immigrants. Some states, including my home state of Rhode Island, have provided temporary benefits to fill the void created by the welfare reform law, but a permanent and uniform federal solution is needed for this group of immigrants.

Under the Conference Report, food stamp benefits would be restored to those legal immigrants who were in the United States when the welfare reform law went into effect on August 22, 1996, if they met certain conditions such as: (1) they are or become disabled; (2) they are children; or (3) they were over 65 years old at the time the welfare reform law was enacted. In addition, the Conference Report restores food stamp eligibility to Hmong immigrants. While this Conference Report does not restore benefits to all legal immigrants, it is a positive and essential first step.

Mr. President, our nation has prospered from the tremendous contributions of immigrants who have strengthened our economy and brought vitality to our communities. Today, we have the opportunity to restore benefits to children, elderly, and disabled legal immigrants—many of whom have worked and paid U.S. taxes. I urge my colleagues to oppose the motion to recommit and support the Conference Report on S. 1150.

Mr. LEVIN. Mr. President, I am pleased to support the conference report to accompany S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998. This legislation contains very important provisions that will help improve the delivery of safe, healthy, and value-added agricultural products to the American and world marketplace, and keep rural America strong.

The conference report contains a provision very similar to one in S. 1597, a measure I introduced as a companion to a bill introduced in the House by Congresswoman STABENOW. This provision directs the Department of Agriculture to assemble FEMA-like Crisis Management Teams to respond to emergencies, like threats to human health from food-borne pathogens. And, USDA must work with other agencies to ensure coordinated information and actions in the event of such a crisis. This is a very important and non-regulatory way for the Federal government to identify, correct, and prevent future food supply contamination.

S. 1150 contains a host of other important provisions, not the least of which is a funding mechanism to ensure that these new authorizations are paid for. USDA will be the site of a new Food Safety Research Information Office that will centralize and make public research and scientific data on food safety issues. Wheat scab, which has been a multi-billion problem in Michigan and in other barley and wheat producing states in the North Central region, will be the subject of a new research initiative. The crop insurance system will be made solvent. Precision agriculture, which uses high technology to reduce inputs like fertilizer and pesticides, will get new emphasis. And, USDA will conduct focused research to help diversify the crops that make up our main food supply, so that it will be less vulnerable to disruptions due to weather, pests or disease.

Mr. President, this is an important bill and I hope my colleagues will not vote to recommit the conference report. That would send the wrong message to a major sector of our economy and call into question Congress' commitment to a safe and abundant food supply.

Mr. LUGAR. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 7 minutes.

Mr. LUGAR. Mr. President, the report with regard to the conferees on agriculture reform is supported by 17 out of the 18 members of our committee. I make that point because the 17 have written to our leader asking him for this debate. They are grateful for that opportunity. The 18th was predictably our colleague and a very valued member of the committee, the Senator from Texas, Mr. GRAMM, who objects to the conference report and has offered this recommittal motion as a way, in my judgment, of defeating the conference report.

Let me just offer a word of clarification. As the chairman of the conference and one of the conferees, along with Senator COCHRAN and Senator COVERDELL on the Republican side, we supported the conference report after meeting with House colleagues who had very considerable enthusiasms of their own. This is not the first time that the Senate and House have met in a conference and have had to wrestle with issues that were distinctly different in the bills and have come to a compromise which, in my judgment, is a sound one, which was supported immediately by all the conferees in the House and the Senate in both parties and by 74 United States Senators who have written to the majority leader supporting this conference report. They do so because it is extremely timely. There are farmers in the field now dependent upon the crop insurance provisions.

If we are not successful today, of course, we will return to the conference, but I have already turned to the conferees and they are unanimous that we should proceed with the same bill and we will be back in the Chamber delayed by days or weeks as the case may be. The Senate may then pass the conference report. Perhaps the distinguished Senator from Texas is correct that this is going to pass by a very large majority. But is it any more certain that this same conference report will pass days and weeks hence, if we can get floor time, than today? I doubt it.

Now, the reason why conferees will not change the conference report is that the distinguished Senator from Texas has asked for a very narrow change that does not make a lot of sense. Let me review, Mr. President, respectfully, why I make that comment.

Before welfare reform, all legal aliens were eligible for food stamps, for SSI, the Social Security income payments, and for Medicaid. Before welfare reform, all of these persons were eligible. With the passage of welfare reform, most legal aliens became ineligible until such time as they became citizens.

But, Mr. President, follow carefully if you will. Refugees and asylees continued under welfare reform to be eligible for SSI, for food stamps, and for Medicaid. No new entitlement here. Welfare reform simply continued their eligibility from the pre-welfare reform days.

Now, the balanced budget amendment restored Social Security to some of the legal aliens; namely, to children, elderly, the disabled who were in this country on August 22, 1996, when we passed welfare reform. And it made asylees and refugees who already had benefits, who retained those, eligible now for 7 years of Social Security income and Medicaid.

Mr. President, you might ask, while we were at it we all passed this bill, the balanced budget amendment with enthusiasm. Why did we not change the food stamp provision from 5 years, which the refugees and asylees had, to 7 years to conform with what we were doing on income and the rest? Well, we did not because the Finance Committee had jurisdiction over that particular money. The Agriculture Committee has jurisdiction over food stamps. We were not in the picture. We are today. The intent of the motion of the Senator from Texas is in essence over the idea that the 5 years the refugees and asylees already had should not go to 7 years, and we should go back to conference to apparently knock back the 7 to 5. It is something which most Members find incomprehensible.

The distinguished Senator has a larger point, I believe, in his motion. He believes that however you phrase the food stamp situation, it is a beacon of hope for persons to come to our country, as he says, for years, for decades. Well, perhaps, but the asylees and the refugees are not swarming across our borders. They are people one by one who must present themselves and say and affirm: I am a potential victim of persecution, well-founded, and they have to prove that. If they do not prove it, they do not get in. And frequently people who had not gotten in went back and were killed. There are consequences to those decisions.

The people presenting themselves are Evangelical Christians; they are Jews from the former Soviet Union; they are Cubans who have tried to escape Castro; they are people who have fled from Somalia and from racial persecution in Bosnia recently. These are tough cases, and we recognized that in the welfare reform bill. We said keep them with a safety net because they do not have sponsors. They come with the shirts on their backs. And we have done so because we are a humane people. What sort of people are we to think about denying persons who have come in these circumstances to our shores? This is not a neon sign advertisement. It is simply a fact of the kind of country we are.

To send all of this back to conference over the fact that 5 years of eligibility these people now have should be changed to 7 seems to me to be an item the Senate should reject and do so decisively.

Finally, let me just simply say that LARRY CRAIG, the distinguished Senator from Idaho, has said:

> This is more than just a reauthorization bill. Legislation before the Senate today is an investment in the future and represents our commitment to America's farm families. By providing the technical assistance and extension activities that help expand farm income, improve resource management, and develop new crop varieties, federally funded agricultural research assures that our Nation will continue to lead the world in farm production and help bolster the stability of our rural areas.

I concur with that. This is not a question of an entitlement. It is the question of our commitment in the farm bill.

We committed to America's farmers, for a 7-year period of time, a proposition—freedom to farm, the idea to manage your own land and plant for the future. And American farmers have responded to that. They have planted over 10 million more acres. They have raised their income. They have raised exports for America. But we said there will be a safety net in this transition from the old days of supply management. It includes payments to farmers that decrease over the next 5 years. It includes the CRP, the Conservation Reserve Program, that tries to protect the environment for a 5-year period of time. We believe it needs to include farm research during this same period of the next 5 years, and crop insurance with those guarantees. The argument is, it could be done year by year, but this is not of great assurance to our farmers.

So, for all these reasons, I ask the Gramm amendment be defeated and we move on, then, to prompt passage of the conference report. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me explain why the amendment does make sense. And let me do it by going back to our welfare reform bill. I would like to remind my colleagues, not that public popularity is the be-all and end-all—it can often be misleading in the short term—but I am sure many of my colleagues are aware that when asked what action by Congress in the last 4 years they most approved of, the American people, in a set of polls taken last month, said "welfare reform." What we did in welfare reform is, we set higher standards for welfare and we defined work as the norm, and we defined welfare programs as temporary programs to help people help themselves.

When we wrote the welfare reform bill in 1996, and I was active in it and was a conferee, this provision with regard to refugees was a hard-fought provision. Prior to the 1996 bill, there was no limit on the amount of time that a refugee could get food stamps. Many people, including myself, wanted to set a strict limit on it, again with the idea that we were talking about transitional help, but we wanted people to come to America, as millions have come—and millions of Americans have come as refugees; millions of Americans have come as refugees since World War II.

We know that many of these refugees are really economic refugees but they claim to be political refugees, and often it is very difficult to tell the difference because countries that have bad political systems normally have bad economic systems.

So, after a real battle in conference, endless days of negotiations, we settled on a 5-year limit. Now, in this bill, in a bill that, when it was considered in the Senate where it was amendable, there was no food stamp provision, there was no debate on this issue. When it was considered in the House, there was no provision expanding food stamps, no debate, no ability to amend it. Now we have a conference agreement that adds $818 million back in food stamps that were denied as part of welfare reform. This bill is a major step toward overturning the welfare reform bill.

I have singled out this provision because I think it is critically important. Whenever proponents of the provision in the bill debate it, they always like to talk about children, disabled, and elderly—and don't we all?—because, obviously, that is where we can focus our concern. But the provision that I am trying to deal with here has nothing to do with children, disabled, elderly, who were in the country on the day we passed the welfare reform bill. The provision that I am trying to deal with is the prospective provision which simply tries to draw a line and says that we passed a welfare reform bill, we negotiated this out, and here we are, 2 years after it went into effect, raising the number of years that you can be on food stamps under the new welfare bill as an immigrant by an additional 2 years.

Why are we doing it? To quote one of the proponents, "It provides seamless protections so people can come, get food stamps, become citizens, and continue to get food stamps."

I want people to come to America to go to work. I want our assistance program not to be a way of life. We debated this issue 3 years ago, and those who believe that welfare should not be a way of life won on an overwhelming vote. Yet, over and over and over again, in little parts and parcels, we are undoing one of the major legislative activities that we have undertaken in this decade. This bill is such an activity.

So, I am not for the food stamp provision, but I am not asking my colleagues to strike it out. I am asking my colleagues to ask the conference to reconvene and to remove the prospective provision which says that anyone coming in the future can qualify as a refugee and get 7 years of food stamps. I believe that we are, through this provision, taking a step to go back to the days, which we have recently put behind us, where we were asking people to come to America, not with their sleeves rolled up ready to go to work, but with their hand held out ready to go on welfare.

This is a little issue. We are not talking about big amounts of money, but we are talking about a big principle: What do you want the beacon drawing people to America to be? Do you want the beacon to be welfare and food stamps? Or do you want the beacon to be the opportunity to live and work in the greatest country in the history of the world?

So, to some people this may look like a small issue. We are not talking about much money, because this bill is a 5-year bill. Obviously, there are very few people—since you can get food stamps now for 5 years, extending it to 7 will affect only a few people in the last year of the bill. But the principle is a big principle, and the principle is, "what kind of America do you want, and what kind of American do you want?" I want people from all over the world, from all kinds of backgrounds, who share one thing—a dream of having the opportunity to come to America and work and build their dream and the American dream. That is what I am for. That is what this provision is about.

I would like now, Mr. President, to yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Presiding Officer will inform Senators that the Senator from Texas has 12 minutes 10 seconds remaining on his time. The Senator from Indiana has 8 minutes.

The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Mr. President, I have few superlatives that I can claim as a Member of the Senate, but one of them is that I have spent 52 years in active agriculture, farming, and in all phases of it. I would be hard pressed to find the crop or the livestock interest that I have not, at one time or another, been involved in.

North Carolina is home to some of the most productive and largest farms in the Nation and the finest agricultural research universities, by far, in the Nation. I don't think that I play second fiddle to any Senator in support for reauthorization of the agricultural extension bill. It is critical to the farmers of this country and to the universities and the ag research universities. But the bill also makes important reforms to the Crop Insurance Program that will benefit farmers and taxpayers. Planting season is here, and we need to get it settled, and I am ready and anxious to do it.

However, despite what I have just said, let me add, I don't play second fiddle to any Senator in my support of real welfare reform. Workfare, not welfare, was the platform I ran on for the Senate in 1992. The 1996 welfare reform bill, although watered down, was a real accomplishment for the 104th Congress. I preferred the first two bills that were vetoed by the President, but the third was still a good bill. That is why I am so disturbed that we are gutting the welfare reform and doing it in an agricultural research bill.

This bill restores food stamps for 250,000 immigrants. We sit here and say very nicely, "But it doesn't amount to much; it is only 2 years on to 5, so let the 2 years go." Will next year be at 10? In the following session of Congress, do we go to infinity? That is the reason we have a $5.5 trillion debt today, because 2 years wasn't very much, but 3 would be fine, and we kept going.

In effect, it says,

> Welcome to America. Come on, you don't have to be productive. You know when you leave where you are and come to this country that you are going to be eligible for food stamps for 7 years, and by the time you get settled in, we will change the law where you will be eligible and you won't ever have to work because we will feed you.

We already restored SI payments. Now we are throwing food stamps for another $80 million.

We also said that the welfare reform bill ended welfare as we know it. Unfortunately, this agricultural research bill is welfare reform as we did it. These changes to the welfare reform law come at the insistence of President Clinton. He vetoed the first two welfare reform bills, and he has succeeded in rewriting the one that he signed. If he was going to start trying to rewrite it before the ink dried on it, he never should have signed it.

I want the agricultural research bill without the food stamp provision to pass. Nobody is more in support of agricultural research and the whole agricultural bill than I am. It is critical to North Carolina, but the food stamp provision is a another step toward reversal of the welfare reform bill.

Mr. President, the Statue of Liberty holds a torch of freedom, not a book of food stamps and a lifetime right to not to have to work. That is the flag we are waving to people coming into this country: "Sit down, relax, you are home free." The Senator from Texas is doing the right thing, and I am proud to support him. I thank the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Who yields time?

Mr. LUGAR. Mr. President, I yield 3 minutes to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 3 minutes.

Mr. BOND. Mr. President, I rise in strong support of the conference report and urge my colleagues to oppose the motion to recommit. For those in agriculture, it is critical that we move this in a prompt and expedited fashion and avoid any additional delay. The time for passage is now.

I congratulate Chairman LUGAR, Senator HARKIN and their staffs who have labored for months to bring this legislation before us. Simply put, agriculture needs this now. Included in it are urgent reforms and funding necessary to avoid a crisis which would undermine the viability of crop insurance—a safety net that farmers in my State and across the country cannot do without. This legislation is fully offset and paid for and is supported by a united agriculture industry. After months of careful and deliberate negotiations, a bipartisan agreement with the administration has been developed. It was an agreement with the administration and it takes into account the need to get the President's signature on it. I believe the work of the conferees should be applauded and endorsed with our support today.

I am particularly interested in the research title. We expect to see the world's population double in the next 30 years. The demand for food is expected to triple in the next 50 years. The world's population wants more food, cheaper food, more nutritious food, safer food, food that is easier to prepare and they want it produced on less land with fewer chemicals and in a more environmentally sensitive manner.

Those individuals who produce food and fiber for this world today—encumbered with what otherwise would be conflicting mandates—have never faced a greater challenge. Technology is the answer.

Remarkably, plant technology in this half-century has helped make it possible for the farmer, who in 1940 fed 19 people, to feed 129 people today.

Nobel prize-winning chemist Robert F. Curl of Rice University proclaimed that: "* * * it is clear that the 21st will be the century of biology." The March 27 article in Science Magazine entitled: "A Third Technological Revolution,"—after the Industrial and Computer-based revolutions—contends that: "Ultimately, the world will obtain most of its food, fuel, fiber, chemicals and some of its pharmaceuticals from genetically altered vegetation and trees."

The possibilities are breathtaking and the U.S. is poised to lead the third technological revolution as we unlock the secrets plant-by-plant and now, genome-by-genome.

Simply put, this research is about meeting the world's growing nutritional needs, protecting U.S. jobs and preserving the environment.

The legislation before us looks ahead to the challenges of the 21st century by providing additional funding on what all of us back home say is a priority; research. It provides $600 million for the Initiative for Future Agriculture and Food Systems. This will augment our federal commitment to undertake cutting-edge research in priority areas such as genome studies, biotechnology, food safety, precision agriculture and new use development.

I cite as an example, the University of Missouri has just tested a new hybrid corn which when fed to swine reduces phosphorous in manure by a whopping 37 percent. The Monsanto Company, in my State, is using biotechnology to produce cotton plants with genes that produce colors to reduce the need for chemical dyeing. From the corn plant, they have produced a human-like antibody that holds promise for allowing cancer patients to tolerate more frequent doses of a tumor-shrinking drug. The possibilities are breathtaking and the U.S. is leading the charge.

Let me say one thing to those who represent agriculture states. Almost 70 percent of the USDA budget is not for research or export promotion or conservation or for subsidies to farmers—it is for food and nutrition programs, primarily the food stamp program. For those who have watched over the years as a greater and greater percentage of USDA funds have gone to welfare, often at the expense of programs that assist farmers and conservation, this legislation moves $1 billion back to agriculture.

While I understand that some here today would like to see less money for food stamps for legal immigrants, others would like to see more. I recall that the Administration proposed in their budget that all this administrative savings go for legal immigrants and have threatened to veto crop insurance and research if it didn't also include funding for food stamps for legal immigrants.

The food stamp provisions of this act are an essential step to providing much needed assistance to certain legal immigrants. Attempts to undo this carefully-crafted bipartisan compromise will result in delay and ultimately undermine the entire bill.

The bipartisan leaders have worked hard to craft a bill that the President will accept. There should be no further delay and I urge my colleagues to reject the motion to recommit and move swiftly to final adoption of the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I don't have any time, but I ask if somebody will give me a couple minutes.

The PRESIDING OFFICER. Who yields time to the Senator from New Mexico?

Mr. GRAMM. How much time do we have on both sides?

The PRESIDING OFFICER. The Senator from Texas has 6 minutes, 47 seconds; the Senator from Indiana has 4 minutes, 43 seconds.

Mr. DOMENICI. Do we have a time certain to vote, or when the time expires?

The PRESIDING OFFICER. The vote will occur when all debate time has expired.

Mr. GRAMM. I ask unanimous consent that the Senator might have 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object, and I won't object, but I hope if we are going to go down this path that the other side be afforded equal opportunity to have additional time, if so requested. I don't request it, but in case somebody does request it.

Mr. DOMENICI. Mr. President, I say to the Senator from Indiana, what does he think about this? Does he want 5 minutes himself if I get 5?

Mr. LUGAR. Yes, Mr. President. Can we amend the request that there be an additional 5 minutes for me to speak?

Mr. GRAMM. Mr. President, the Senator is not going to speak on behalf of my amendment; he just wants to speak on the bill itself.

Mr. DOMENICI. Will the Senator give me 2 minutes, and that will be enough.

Mr. GRAMM. Let me repeat my request. Since the Senator is not going to engage in the debate before us, but has relevant comments about the bill before us, and we hope, obviously another motion, infinite number of motions are in order, but we hope this will settle the order, I make a unanimous consent request that the Senator have 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Reserving the right to object, I renew my request that Senator DOMENICI have 5 additional minutes and I have 5 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I would like 5 additional minutes, then, as well.

Mr. LUGAR. I object.

The PRESIDING OFFICER. Objection is heard. Who yields time?

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I yield the Senator from Alabama 3 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 3 minutes.

Mr. SESSIONS. Mr. President, I am very, very reluctant to rise in opposition to this conference report as it is presently constituted, and in support of the motion to return this legislation to the conference committee. I believe, however, that returning this legislation to the conference committee is the proper and appropriate thing to do. Having said that, I feel that there are some marvelous provisions contained within this bill. For example, agricultural research is very important, and this legislation will strengthen and improve the work being done to advance this field. Similarly, crop insurance will be made sound under this legislation. Both are matters of critical importance to me.

I do not believe that sending the legislation back to the conference committee to fix this bill's entitlement expansion in the Food Stamp Program will kill this bill or extraordinarily delay it or in any way jeopardize the fundamental reforms that are contained in it. Sending the bill back to conference simply reflects routine business practices in this Senate.

Under this legislation's expansion of the food stamp entitlement, 250,000 new people will be added to the food stamp rolls. In my last campaign, I talked about the fact that the President had committed to undermining the welfare reform bill that was passed several years ago. These provisions have proven that statement to be true. This bill expands from 5 to 7 years the amount of time noncitizens can draw food stamps. It is an expansion of that policy, and it is the kind of expansion I think is not justified. Will we next year come back for 10 years? Will it be 15 years? What will be the next revision?

There will always be pressure for us to expand and expand and expand. I think we have to show some integrity and some fortitude on this issue. And so, with great reluctance, I have to say to the distinguished chairman of the committee and the members of that committee that I cannot vote for this bill. I cannot vote for it because I told the people of Alabama I was not coming up here and voting for the undermining of the welfare bill that was passed last time. I cannot justify this expansion of the Food Stamp Program. So if we cannot send it back, I will be forced to vote no. I will hate to have to do that. I think supporting this motion to recommit the bill is the best way to address this issue.

I thank the Senator from Texas for his leadership and courage in raising this important issue, because we have to get to a point in this country where we can contain our spending tendencies, and if we do not, we will never maintain a balanced budget.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I yield 2 minutes to the ranking member.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 2 minutes.

Mr. HARKIN. I thank my colleague and compliment him on his leadership on this bill and all aspects of the bill, on research on crop insurance and food stamps.

I listened with some amusement to my friend and colleague from Texas talking about this issue, saying that it is principle, that he is doing this on principle. I know we passed the Balanced Budget Act last year in the Senate. That extended from 5 to 7 years Medicaid and SSI to the same refugees and asylees we are talking about. I do not recall the Senator from Texas then offering an amendment to strike it out of the Balanced Budget Act.

Mr. GRAMM. I voted no. I would like the Senator to be aware of that.

Mr. HARKIN. I believe the RECORD will show the Senator from Texas voted when the Balanced Budget Act passed the Senate.

Mr. GRAMM. I did. And I voted no.

Mr. HARKIN. I believe the Senator voted aye when the Balanced Budget Act passed the Senate—maybe not on the conference report but when it passed the Senate. And that provision was in the Senate bill to extend it to 7 years.

Secondly, the Senator from Texas may be philosophically opposed to food stamps. That is fine. That is his position—that may be his position. That is another debate for another time. We settled that in welfare reform, and we settled it in the Balanced Budget Act last year.

All we are doing now is making food stamps compatible with Medicaid and SSI. So I hope the Senator would not hold our farmers hostage, because that is what is happening. We know full well, if this goes back to conference, it is dead. We have hundreds of thousands of farmers who need crop insurance this summer. Over 106,000 winter wheat policies right now will be up on September 30. Farmers all over the plains States will not be able to renew their policies. Many farmers use their crop insurance policies as collateral in order to secure an operating loan. So if we do not have that, thousands of farmers will not have access to the credit they need to get the crop in. That is why we need to pass this bill.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Indiana has 2 minutes 40 seconds.

Mr. LUGAR. I yield myself that time.

Mr. President, let me make as clear as I can the parliamentary situation. We have tried, in the Ag Committee since last fall, to pass a sound research bill. We succeeded last fall. The House did not act finally until the end of the session and did not appoint conferees until a short time ago.

It has been a very difficult conference—not the first time such a thing has occurred. Conferences in the Congress have occurred frequently. Compromises are made.

Mr. President, to suggest glibly that we can go back to conference if the motion made by the Senator from Texas passes, simply excise what he wishes, and return to the Senate with a bill, is inaccurate. I have tested the conferees, and they will not change. The Senator from Texas may not change. Furthermore, if changes are made, the Secretary of Agriculture has written to the committee that he will recommend the President veto the bill. Now we can all estimate, Is the President bluffing? Is the Secretary accurate? Will somebody weaken on the House side—maybe many people—and suddenly see the light? Conceivably, Mr. President. And I pledge I will try. Patiently, for 6 months, I have tried, and if need be, I will continue to do that.

My prediction is, there will be a considerable delay with regard to crop insurance, probably a year or 2 delay in terms of research, and in due course I have no idea what will happen on the food stamp issue.

But, Mr. President, let me simply say, we have a remarkable possibility for achievement here today that I hope will not be defeated on a very narrow point. I understand the objections of our colleagues, but I understand an overwhelming majority, 74 Senators, expressed themselves in writing that this is their will. I hope we will have an opportunity to manifest it in passage of the report.

I yield back our remaining time.

The PRESIDING OFFICER. The Senator from Texas has 3 minutes 23 seconds remaining.

Mr. GRAMM. Mr. President, I yield 2 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 2 minutes.

Mr. DOMENICI. I thank Senator GRAMM.

I did not really think my few words would be this controversial, but I want to share with the Senate a concern. It is not just about this bill. But it seems to me that every day or so we are talking about an approach here in the U.S. Senate which essentially wipes out last year's budget agreement. The cornerstone to last year's budget agreement was the caps we placed on discretionary spending, both defense and domestic. That means, written in the law are numbers that we said we will not violate; that we will not exceed this level of spending.

Everybody who is getting anything from Government would like to turn those discretionary programs into mandatory programs, so they are not subject to the caps. Everybody would like to have a guarantee that their program is going to get funded. That is what we call an entitlement or a mandatory program. We are talking about that in this bill. We are talking about that in the tobacco bill in a very big way.

What is happening now is that we are absolutely breaking the agreement we made, which was so solemn, about getting our budget under control. Every time the budget bites and it squeals a little because a decision is tough, we find a way to avoid it and spend the money in another way. It is money nonetheless, and it is adding to the size of Government nonetheless.

Frankly, I do not agree with Senator GRAMM's position on this bill in terms of the food stamps provisions. But I, frankly, do not believe we ought to shut our eyes to a tendency that could become a very big stream. We are forgetting about appropriated accounts and caps, understandings and agreements, and finding brand new ways to fund programs that will be on automatic pilot.

I submit to you, from the taxpayers' standpoint, there is absolutely no difference. If you are using a dollar of taxpayers' money to break the caps that we agreed upon or if you are spending a dollar for a new entitlement program, it is the same effect.

I hate to make this statement on this bill because I am not necessarily saying the bill should go down to defeat. But I want to warn the Senate—and I am going to warn the Senate on every bill that circumvents the caps—that this is not the way we got to balance. This is not what we promised the American people and the marketplace in terms of where we were going as a Congress, and I plan to call that to everyone's attention on a regular basis.

I yield the floor and thank the Senator for time.

Mr. GRAMM. How much time do I have?

The PRESIDING OFFICER. There is 1 minute remaining.

Mr. GRAMM. Mr. President, I think Senator LUGAR put his finger on the situation when he said that the President would veto the agriculture research bill and crop insurance if the bill didn't contain $818 million worth of new food stamps adding 250,000 people to the food stamp rolls. I believe that is piracy. I do not believe the President would veto this bill. Further, I am confident that we would override his veto, and I think it is imperative that we start standing up and defending the major actions we take, and welfare is one of those actions.

This bill is going to effectively raise the level of spending in the Federal Government by $1.86 billion, because we are going to pay for four entitlement programs in this bill, and we are going to free up $1.86 billion to be spent on discretionary spending. I intend to oppose the bill. I hope my colleagues will vote for this motion.

I yield the floor.

The PRESIDING OFFICER. All time having expired, the question occurs on the motion to recommit the conference report to the committee on conference with instructions offered by the Senator from Texas, Mr. GRAMM.

Mr. GRAMM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 23, nays 77, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—23

Abraham
Allard
Ashcroft
Enzi
Faircloth
Gramm
Gregg
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Kyl
Lott
McCain
Nickles
Sessions
Shelby
Smith (NH)
Snowe
Thomas
Thompson
Thurmond

NAYS—77

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grams
Grassley
Hagel
Harkin
Hatch
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Smith (OR)
Specter
Stevens
Torricelli
Warner
Wellstone
Wyden

The motion was rejected.

Mr. LUGAR. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I have requests from other Senators wanting to speak on other subjects. I would ask the Chair, is it possible we could move to disposition of the business before us?

The PRESIDING OFFICER. Is there further debate on the conference report?

Is there further debate on the conference report?

Mr. KOHL. Yes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I rise today in strong support of the Agriculture Research conference report. A great deal of thanks and appreciation is due to Senators LUGAR and HARKIN for their hard work and efforts to reform and prioritize USDA's agriculture research, extension and education activities.

This conference report is extremely important to the agricultural community. It invests $1.7 billion in agricultural research to develop the new technology that will be used by farms in the next five to ten years, to solve the projected shortfall in crop insurance funding, and to support the Fund for Rural America.

The nation's Land-Grant Universities work with the USDA on issues ranging from the international competitiveness of our family farms, to new food borne illness problems, to ground water contamination. We need to support their efforts with a robust research budget in line with other agencies' research budgets. This bill puts us on the track to do that, and I support it.

I am also pleased to speak in strong support of the provisions of this bill restoring food stamps to legal immigrants.

Mr. President, I supported the 1996 welfare reform law. The time had clearly come for radical change. We rightly concluded that nothing erodes the human spirit more readily than dependence on handouts, and we instituted reforms based upon the principles of personal responsibility and hard work.

But in some cases, a helping hand is truly necessary, and sometimes so much help is needed that only the Federal government is capable of providing it. This is clearly the case with respect to certain classes of legal immigrants. The welfare law provisions restricting legal immigrant access to food stamps went too far.

Legal immigrants pay taxes and serve in our armed forces. They are not granted all the privileges of U.S. citizenship, but are expected to fulfill most of the responsibilities of citizenship. The ban on food stamps for elderly, disabled and other needy legal immigrants from food stamps was harsh and unfair.

While myself and others argued that point during debate on the welfare bill in 1996, the majority of us have learned it since then. In any case, we should all feel confident that we are doing the right thing today by voting for this bill.

Mr. President, my support for the food stamps restoration is particularly heart-felt due to my concern for the Hmong and other legal immigrants from Laos and their families. As my colleagues may know, the Hmong fought along side our American men and women in the Vietnam War. They risked their lives on behalf of all that we hold dear in this country—freedom from oppression, democracy and the pursuit of happiness—and fled to the United States following the War out of fear of persecution. To them, we truly owe a debt of gratitude.

There are 250,000 Hmong and Lao people living in the United States, approximately 40,000 of whom live in Wisconsin. Of those 40,000, roughly 7000 lost eligibility for food stamps under the welfare law. And 75 percent of those individuals who have lost food stamps in Wisconsin live in households with children.

The Hmong and highland people have enriched our country and enriched Wisconsin. They have worked hard to support their families and give back to their communities. Simply put, we are thankful for all they did and thankful for the contributions they continue to make.

Last year, we took steps to restore SSI benefits to the Hmong and other worthy immigrants, and today we are right to take this step with respect to food stamps.

I urge my colleagues to support the conference report.

The PRESIDING OFFICER. Is there further debate on the conference report?

The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise today to discuss the importance of passing the Conference Report on the Agricultural Research Bill, S. 1150.

This bill has the overwhelming support of over 70 Senators, yet we have continued to struggle here in the Senate to get this critically important legislation passed.

In recent years, American agriculture has greatly changed. Because of the 1996 Farm Bill, our producers rely greatly on the crop insurance program to protect them from production risk. The reforms in agricultural research programs included in S. 1150 provide a roadmap for the future of agriculture. As importantly, it includes a funding stream to fund important new investments in agricultural research and rural development by creating and funding The Initiative for Future Agriculture and Food Systems and by extending the Fund for Rural America.

And yes, to the chagrin of some, this legislation reinstates food stamp benefits for our most vulnerable legal immigrants. I would hasten to point out that these provisions are modeled on sections of last year's Balanced Budget Act that restored eligibility for Supplemental Security Income and Medicaid to some legal immigrants.

I applaud the Chairman of the Senate Agriculture Committee and Senator HARKIN for their leadership in crafting the balanced compromise inherent in this legislation. Attempts to derail this compromise put at risk the important investments in agriculture and the sound research and crop insurance reforms included in the bill.

Living in a state like South Dakota, I know first hand, and as most of you saw during last year's disaster, what continual flooding can do to our precious farm land. Again, this year, eight counties in northeastern South Dakota are again experiencing severe flooding conditions.

Without a strong safety net, crop insurance remains as the only safety net for producers to protect them from the vagaries of nature. This bill provides nearly $500 million for partial funding for this important risk management tool.

I have been informed by several crop insurance agents in South Dakota that the Agricultural Research Bill must be passed soon or many producers face the possible cancellation of their policies. Keep in mind, these policies, are in many cases, the only protection producers have from disasters which are not of their acts of mismanagement but as acts of nature.

The bill covers all facets of federally funded agricultural research, including: the Agriculture Research Service of USDA; the Cooperative Extension Service; Land Grant Universities such as South Dakota State University and competitive research and extension programs open to other entities.

S. 1150 includes comprehensive research provisions for our nation's land grant universities. For example, South Dakota State University (SDSU) and other small state schools are protected in this bill by allowing a great deal of flexibility in how SDSU will meet new requirements that direct a percentage of all research and extension funds toward multi-state, disciplinary, and integrated research and extension activities. For example, if SDSU is working on a project that may need expertise from the University of South Dakota, they will be able to include that toward meeting the multi-state research component.

I am also pleased that the conferees have agreed to authorize a competitive research program for tribal colleges, otherwise known as the 1994 institutions.

Unlike the significant research programs that have existed for decades for 1862 and 1890 land-grant institutions, the 1994 institutions currently do not have authorization for an agriculture research program, and thus are not full partners in the land-grant system.

This legislation mitigates this inequity by establishing a modest, competitive research program for the 1994 institutions. Funded research would address high priority concerns of local tribal, national, and multi-state significance and would be conducted through cooperative agreement with 1862 and 1890 land-grant institutions.

Although it is true that some tribal colleges are not yet ready to conduct research, many of them have the capability. Some current research includes:

(1) Water quality research: Conducted through contracts with Indian Tribes, which are required to meet certain standards under the federal Clean Water Act.

(2) Wildlife research: Conducted by a handful of tribal colleges to evaluate and find solutions for the adverse impact of pesticides on local wild bird and deer populations, and to research problems associated with amphibians and irrigation project lines.

(3) Native plant research: Conducted because new development on and near tribal lands is taking a serious toll on wetland areas. This impacts the niche environment of native plants, which are traditionally used for medicinal and other purposes. This is an example of the kind of research that most larger institutions would not focus on because it will not lead to large-scale production agriculture. Without the research currently being conducted at Salish Kootenai College in Pablo, Montana, the nation risks losing some of our native plants.

(4) Range cattle research: Currently underway at several tribal colleges, to address problems of range cattle traversing streams and impacting water quality (and possibly impacting native trout and other fish populations). In addition, one tribal college is conducting research and development on a new strain of more rigorous cattle.

This is just a sampling of the kind of research currently ongoing at the tribal colleges. The primary focus of this research is on the use of niche products to develop and expand reservation economies; the preservation and cultivation of land; and the strengthening of families and communities.

The tribal colleges have not asked for millions and millions of dollars to conduct costly basic research. Rather, they ask for research authority to protect and improve the earth on which they live and to ensure the viability of the plants and animals with which they co-exist.

Another provision of this legislation addresses an inequity in the 1994 land-grant extension program. Under the reauthorization, 1994 institutions would be permitted to enter into cooperative agreements with any 1862 or 1890 institution in the United States, rather than being limited to agreements with only the 1862 in their state.

This provision is important to the effort to create productive, cost-efficient extension programs in Indian Country. Under current law, to participate in extension programs, 1994 institutions are required to enter into cooperative agreements with the 1862 institution in their state, and funding for the program goes to the 1862 institutions rather than the 1994 institutions.

In the case of Sitting Bull College, which straddles the border of North and South Dakota, and Din College, which has campuses in Arizona and New Mexico, this restrictive language could seriously hamper efforts to create the most productive extension program possible for the relevant service area.

This clarification simply makes good business sense. Why should a 1994 or an 1862 institution be prohibited, for fiscal or bureaucratic reasons, from partnering with an institution that has the expertise and resources that are most beneficial to the students and communities the institution serves?

To correct this problem, the legislation states that 1994 institutions may enter into cooperative agreements with any 1862 or 1890 institution in the United States, rather than being limited to an agreement with only the 1862 in their state. Further, the bill directs the Secretary of Agriculture to fund the 1994 institutions directly, rather than passing the funding through mainstream institutions.

Again, Mr. President, passage of the Agricultural Research Bill is crucial to the future of American agriculture. Our Nation's farmers and ranchers work hard each and every day. Not only do they produce an abundant supply of food, they produce it at the most inexpensive price to consumers in the entire world.

With the support of over 70 Senators, this bill has enough support to pass with wide-ranging support. This bill enjoys the support of constituencies—both urban and rural, both—nutritional advocates and crop insurers. It would be a great travesty to allow this bill to fall victim to the philosophical ideologies of a very few.

If we do not act on this immediately, it will show our lack of leadership to help some of our most valuable as well as our most vulnerable members of our society.

I urge my colleagues to pass this bill.

Mr. LEAHY. Mr. President, I appreciate the efforts of the chairman of the Agriculture, Nutrition and Forestry Committee, Senator LUGAR and the Ranking Member, Senator HARKIN, on the research conference report.

I want to highlight that over 70 Senators—including myself—signed a letter to the majority leader urging him to give us an opportunity to vote on this conference report as soon as possible.

The conference agreements we worked out represent a very good package with four major components: crop insurance funding, agricultural research funding, rural development initiatives and food stamp assistance for legal immigrants.

I know that farmers who need crop insurance are very worried—and with good reason—that crop insurance policies will be canceled if this report does not pass.

I know that the agricultural research community, with its Land Grant University system, very strongly supports this research funding so that America can be more competitive in world markets.

In addition to benefiting farmers and the agricultural research community, the report benefits all rural residents thorough its rural development programs.

Sometimes it is forgotten that most rural Americans are not farmers—this effort benefits both farmers and other rural Americans.

I also want to speak briefly on the food stamp changes. The food stamp changes simply restore benefits for certain level immigrants. The changes are modeled on last year's Balanced Budget Act that restored eligibility for SSI and Medicaid to some legal immigrants.

For example, the conference report would apply the provisions in the Balance Budget Act—that extended benefits from 5 years, to 7 years, for refugees and asylum seekers for SSI and Medicaid—to the food stamp program.

The 1996 welfare law made an exception for these types of refugees because they typically come to this country with very little after escaping persecution abroad. They often have no sponsors.

In the past many of them fought along with U.S. troops against our common enemies. Some may have escaped from enemy prisoner of war camps.

That 5-year limit proved unrealistic because of long backlogs at the INS. In a number of INS offices, these backlogs exceeded two years. If the eligibility of these refugees ended after five years in the country, they could be left without recourse while their applications to naturalize were in the INS "pipeline."

The extension of eligibility for SSI and Medicaid to allow them to receive benefits during their first seven years in this country was not controversial last year: it was included in all major Republican and Democratic proposals for legal immigrants.

It should not be controversial this year.

It should be noted that this provision does not assure that these refugees will receive benefits for two more years—they still have to be otherwise eligible for food stamps.

Refugees and asylum seekers still would have to meet the same criteria that all other people have to meet to qualify for benefits.

By conforming food stamp rules to those already adopted for Medicaid last summer, the Agricultural Research Conference Report would avoid imposing multiple inconsistent eligibility rules on state and local agencies that administer both programs.

I urge my colleagues to support Senator LUGAR and Senator HARKIN in their efforts to get the agricultural research conference report passed as quickly as possible. America's rural areas, its farmers and the research community are eagerly awaiting passage of this report.

Mr. HAGEL. Mr. President, I rise today in support of the Conference Agreement on S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998. This measure will solidify the financial foundation for crop insurance and agriculture research well into the next century. Agriculture research and crop insurance are vital to America's farming and ranching livelihood.

Research, crop insurance, regulatory relief, and expanded markets play a vital role in moving federal farm policy away from government intrusion and toward a free market through the Federal Agriculture Improvement and Reform Act of 1996. Farmers and ranchers now have greater flexibility in their crop and livestock production efforts. Crop insurance and research efforts are both tools that will help farm producers become more competitive as they move toward a greater reliance on the free market and less upon the federal treasury.

No country in the world can match America's efficiency in agricultural production. Not only is this a result of American ingenuity and hard work, it's also the result of our investment in cutting edge research. Our research efforts have led to more efficient production, better products, new uses for our products—all of which have led to new markets where we can sell our products. S. 1150 provides 600 million dollars for the Initiative for Future Agriculture and Food Systems.

The global demand for our agricultural goods will continue to grow as the world's population increases and as more nations achieve higher standards of living, resulting in a demand for better diets. Research allows American agriculture to meet the world's demand for food and fiber. Under S. 1150, research dollars will go toward new and alternative uses of agricultural commodities and products, agricultural biotechnology, agricultural genome research, natural resource management, precision agriculture, food safety, and food technology and human nutrition. These dollars will help our agriculture research facilities, such as the University of Nebraska, to continue to lead the world in crop and livestock production sciences.

Expanded markets and increased trade are a clear byproduct of agricultural research. Research will lead American agriculture into the next century and keep American farmers and ranchers at the forefront of global food and fiber production. Research, global food production, global trade and farming profits are all connected.

Crop insurance is also vital to the long-term health of American agriculture. Farming and ranching involves risk. That's a fact of life in American agriculture. Crop insurance provides a very important management tool for our agricultural producers to withstand fluctuations in the market and changes in weather and production conditions.

For example, in recent years, severe weather conditions have forced some Nebraska farmers to face the loss of their crops and livestock. Protecting farmers and the agri-businesses that depend on them from suffering major losses is what crop insurance alternatives do for America's producers. Comprehensive crop insurance plans will minimize losses for many agricultural producers so that the economic damage from diminished crop yields is not overwhelming for our rural towns and communities. This conference report provides 500 million dollars to partially fund crop insurance delivery expenses.

Research and crop insurance are interconnected with agricultural production and basic farm and ranch income. Research keeps American agriculture on the leading edge of production technology. Crop insurance minimizes the many risks involved with producing food and fiber for the world's growing population.

I strongly support S. 1150 and urge my colleagues to support its adoption.

Mr. KERREY. Mr. President, I rise today to voice my support for the Agriculture Research Reauthorization bill.

This bill reaffirms our commitment to American agriculture in a number of ways. It reauthorizes existing research programs at our land grant universities and goes one step further in creating a new, competitive research initiative to study some of the most cutting edge agricultural issues of the day: food safety, agricultural biotechnology, precision agriculture and the competitiveness of small and medium sized farms.

As well, it maintains our commitment to the federal crop insurance program, perhaps the most successful public-private partnership our government has to boast of.

And just as importantly, it restores our commitment to legal immigrants who are elderly, disabled, or children. Restoring food stamp benefits to these groups of people is simply the right thing to do.

But while I commend the conferees for their work in satisfying many parties with their work on this bill, I rise to say it does not go far enough.

We have perhaps no more important research need than that of agricultural research. It represents 2% of the total federal research budget. Yet, between today and thirty years from now, we are going to add 5 billion people to the planet. And all those people are going to need to be fed. And they are likely to be fed on less acres, not more.

The caloric requirement to feed those additional 5 billion people will be more than the caloric consumption for the past 10,000 years. It is a huge increase in consumption requirements. And our research is the key to solving that problem. There is a tremendous amount at stake here for those who worry about peace and prosperity.

We take this agricultural research for granted. Indeed, we take all of agriculture too much for granted. But agricultural research has added so much value to our productive capacities, as well as to the quality of our lives, that it is ridiculous to be struggling to pay for it as we are right now.

At the same time, we are going to double the funding for the National Institute of Health, and double the funding for the National Science Foundation. I support both of those things. But it won't do us any good at all to live longer through NIH investments if we short agricultural research and we aren't able to feed ourselves. And that's precisely what will happen if we don't come up with some satisfactory way to guarantee a long-term funding of ag research at higher levels than we have provided in the past.

Mr. SMITH of Oregon. Mr. President, I rise today to speak in support of the Agricultural Research, Extension, and Education Reform Act of 1998. The conference report before us reauthorizes various agriculture research programs at land-grant colleges and universities through 2002. In addition, it provides for $600 million over five years for a new competitive grants program for research in key areas such as agricultural genome, food safety, nutrition, new and alternative uses of agricultural commodities and products, biotechnology, natural resource management, and farm efficiency. This bill also contains important provisions which authorize funding for crop insurance, rural development, and to restore food stamps to certain legal immigrants.

The critics of S. 1150 most often question the costs of the various provisions included in the conference report. However, it is important to note that our investment in agricultural research provides a tremendous return to our economy, generating economic growth and tax revenue through increased agricultural productivity. This return is estimated to be between 35% and 50% nationwide—and even greater in Oregon. Additionally, in terms of constant dollars, federal spending on agriculture research has declined over the last ten years while other non-defense research spending in such areas as health, space exploration, and the environment has increased. As an added assurance that these funds will be spent in the most efficient way possible, the conference report contains provisions which increase the accountability of these research projects, making them subject to competition, requiring more stakeholder input, peer and merit review, and greater collaboration amongst the research institutions involved. Further, the benefits of other important provisions contained in this bill, such as funding for crop insurance, rural development, and restoration of food stamps to certain legal immigrants, far outweigh the arguments against this legislation. I am especially pleased with the food stamp provision which allows the resources of private charitable groups, such as the Oregon Food Bank, to reach a wider spectrum of our communities. What better way to use these funds than to enhance our food production, feed our nation's hungry, and protect America's farmland?

Currently, some of the most important work in the area of agriculture research is being done in my state, where more than 140,000 jobs are tied to farm production. In just one example, research at Oregon State University facilities on wheat strains and diseases has resulted in an estimated $8 million in increased wheat productivity per year. Results of their studies are shared with other states like Idaho, Montana, Utah, Kansas, and Colorado, presented at national and international symposiums, published in scientific journals, and communicated through industry newsletters. Again, this is just one of the many valuable research projects undertaken in my state by OSU through this partnership of federal and state funds.

Agriculture in my state is diverse—reflecting the varied geography, soil, and climate types of Oregon's beautiful mountains, valleys, coastline, deserts, and forests. There really is no such thing as an average farmer in my state. He or she may be a large scale wheat grower, a small orchardist, a producer of high quality nursery plants, or a family farmer maintaining cranberry bogs. Despite the varied backgrounds of Oregon's farmers, all of them, and I think this would apply to farmers across the country as well, are working hard to maintain America's leadership in agricultural production despite unrelenting pressure from all sides—pressure to continue to produce the world's safest food supply while competing with imports that may be heavily subsidized, produced with pesticides illegal in the U.S., or even, as was widely reported in the media just yesterday, not even meeting our food safety standards.

For the small family farmer, who still exists in my state, this pressure is compounded by the struggle to maintain the way of life which fed our grandparents and their parents before them. Every day they defend their farm, perhaps part of their family for generations, from encroaching development, inheritance taxes, and complicated and ever increasing governmental regulations. Breakthroughs brought about as a direct result of the research dollars we will be voting on today may mean that family farmers in Southern Oregon may be able to squeeze enough productivity out of their land to hold onto their farms for a few more seasons. Or it may mean that a grass seed farmer in the Willamette Valley can export more grass straw to Japan due to a quality assurance program. Or it may mean a farmer in the Columbia Basin can use fewer pesticides on pea plants due to new, more pest resistant strains or new growing techniques. For them, the components of this bill represent the American research and technological know-how that has kept them ahead of the curve—and hopefully, with your support today, will continue to do so into the future.

Let's give our farmers the tools they need to continue to produce a safe and bountiful food supply for our families. The conference report before us reaffirms the traditionally strong Congressional support for American agricultural leadership. This legislation enjoys overwhelming bipartisan support and I urge my colleagues to join me in casting a vote in favor of S. 1150.

Mr. KENNEDY. Mr. President, at long last, we are about to pass the Agricultural Research, Extension and

Education Reform Act conference report. I support all its provisions, but I want to speak briefly about one of the most important—the restoration of food stamps for legal immigrants whose benefits were unfairly eliminated by the harsh 1996 welfare law. Although the amount in this conference report is less than half of the $2 billion proposed in the President's budget, it is at least a down-payment toward restoring food stamps to the nation's neediest legal immigrants.

The food stamp program was cut by $25 billion over 5 years in the 1996 law. That reduction was clearly unfair. According to the Department of Agriculture, at least 935,000 low-income legal immigrants lost their federal food stamps as a result of the 1996 welfare law. Nearly two-thirds are families with children. Two years later, we are finally remedying a significant part of this injustice.

This bill restores food stamps only to the most needy legal immigrants—refugees, the disabled, and some poor children. It helps only 250,000 out of the 935,000 immigrants cut off from the food stamp rolls. No one should think our work is done with the passage of this bill.

The effect of the food stamp terminations is not limited to immigrants. Their children born here are American citizens, but they too are facing sharp reductions in their food stamps. These children remain eligible for food stamps themselves, but the removal of their parents from the program means that, as a practical matter, the food stamp benefits for their families have been cut by 50 to 70 percent in many cases. 600,000 poor children who are American citizens live in families where food stamp benefits have been unfairly lost. These children will not be helped by this bill.

Many elderly immigrants will also receive no assistance from this bill. We cannot forget about their plight. We can and must do more in the future. It is unconscionable that their benefits continue to be denied.

So I regard this legislation as an important step, but only a first step.

Mr. SPECTER. Mr. President, I am pleased to support the Agricultural Research, Extension, and Education Reform Act of 1998. This legislation provides funding for the federal crop insurance program, important agricultural research programs and the restoration of food stamp benefits to approximately 250,000 legal immigrants.

I have long been a strong supporter of federal nutrition programs that help to combat hunger. On November 24, 1997, Senator HARKIN and I sent a letter to Secretary of Agriculture Dan Glickman and Director of the Office of Management and Budget Franklin Raines, which was signed by forty-five of our Senate colleagues. Our letter urged the Administration to provide funding for food stamp benefits for some of the most vulnerable members of our society: legal immigrants who are children, elderly, or disabled.

As the Agricultural Research bill was sent to conference, I joined with four of my colleagues in a March 23, 1998 letter urging the conferees to provide relief to poor legal immigrants and refugees who previously were eligible but had lost federal food stamps under the 1996 welfare law. I am pleased that the final conference report restores these benefits. I also joined seventy of my colleagues in an April 24, 1998 letter urging that the conference report be brought to the floor for a vote as soon as possible.

Besides providing food stamp benefits to vulnerable legal immigrants, this bill also provides critical funding for the federal crop insurance program, which will allow affordable crop insurance to be offered to our nation's farmers. Agriculture is Pennsylvania's number one industry, and it is vital that we provide insurance to our farmers who work so hard to provide our country and the world with a stable food supply. The legislation will also provide $600 million over the next five years in funding for agricultural research programs, which are critical to our country's efforts to produce enough food for an ever-increasing world population.

The Agricultural Research, Extension, and Education Reform Act is an important piece of legislation, for legal immigrants, our nation's agricultural community, and the nation as a whole. I am therefore pleased to support this legislation.

Mr. BAUCUS. Mr. President, I rise today to join my colleagues in support of the Agricultural Research, Extension, and Education Reform Act of 1998. At long last, this important piece of legislation is before the Senate for consideration and passage of the Conference Report.

This Act is the result of more than a year of hard work and can boast broad bipartisan support. By providing $1.7 billion in agricultural research and extension activities at institutions of higher learning across the nation, this Act commits the U.S. government to supporting a strong future for agriculture in Montana and across the nation.

I would like to recognize four areas that affect Montana:

The Montana State University Agriculture Extension Service. We have one of the finest examples of an ag extension service in the country, centered at Montana State University in Bozeman, Montana. The College of Agriculture, led by Dean Tom McCoy, has produced numerous innovative projects worthy of recognition. Research at Montana State University has led to more pest-resistant, higher yielding varieties of barley and wheat. MSU scientists have improved the value of barley as a feedstock for cattle. And they are using the remarkable power of biotechnology to develop the answers to the ag challenges of the next century. The agriculture research bill provides the funding necessary for our scientists to carry out, continue and build upon their mission to serve our agriculture industry.

This bill will also continue funding for the good work demonstrated by our county extension agents. Their efforts on behalf of Montana's agricultural industry go above and beyond to provide resources that help our producers meet their bottom line, improve their yield, and enhance their competitiveness in the world marketplace.

Crop Insurance. Today, while we debate the passage of this bill, several counties in Montana are under severe drought and fire alert. Farmers have waited helplessly for rain while their crops wither and die. This is surely a make it or break it year due to low prices, a dry winter, and unfair grain dumping from our foreign competitors. The mere threat of crop insurers canceling policies is an obstacle that many producers simply cannot overcome. For that reason, I am pleased that this Act contains provisions to strengthen crop insurance—just when our producers need it most. Clearly, we must take the final step and pass this conference report.

Food Animal Residue Avoidance Database. I would like to thank Chairman LUGAR for including my bill, the Food Animal Residue Avoidance Database, more commonly known as FARAD, in this Act. I am pleased that the Conference report authorizes the Secretary of Agriculture to make three-year grants to colleges and universities to operate the FARAD program. FARAD is critical in our food-safety regime. Its database provides invaluable information about dangerous residues that affect our food supply. The FARAD program successfully links producers, veterinarians and the general public to an informational resource network that enables us to produce the safest food in the world.

Agricultural Research Service. I am most proud of the work conducted at the Agricultural Research Service stations in Sidney, Montana and Fort Keogh at Miles City. I strongly believe that their efforts are of tremendous importance to our food industry as well as our agricultural trade. The future of agriculture is in their very capable hands. They enjoy strong support from the agricultural community because they are a part of that community. Whenever I am in these towns, I stop by and visit these facilities because the people that work there, and the community that supports them, are very proud of the great work that they do for our ag industry. This bill will continue the critical work at these locations.

I would also like to recognize that this bill supports many other worthy projects, including the National Food Genome Strategy, an assistive technology program for farmers with disabilities, the important Fund for Rural America, Precision Agricultural research, and research of wheat and barley diseases caused by scab.

This Act is worthy of our immediate action. I urge my colleagues to pass the Agricultural Research, Extension, and Education Reform Act of 1998 and recommend that President Clinton sign it without hesitation.

Ms. SNOWE. Mr. President, I rise today in support of the Agricultural Research Conference Report. The bill, S. 1150 reauthorizes our agricultural research programs and provides $600 million in funding on a competitive grant basis for new and alternative uses of agricultural commodities and products, natural resources management, farm efficiency and profitability, agriculture biotechnology, and food safety, technology and nutrition.

This is good news for our scientists and the agriculture community in Maine. They know their chances of receiving more competitive research funding are excellent because they know they can compete head to head with agriculture researchers from all around the country. This bill gives them that opportunity.

As the Chairman of the Committee is aware, I do have some concerns with provisions in this conference report that were not part of either the House or Senate passed bills. In addition to the food stamp provisions, which have been widely discussed on the floor today, I am concerned with addition of the research title of the Northern Forest Stewardship Act that was included in conference. I voted to recommit the report to the conference committee in hopes that these two provisions, which are unrelated to the important agricultural research, would be removed from the report. Since the vote to recommit failed, I will vote for the report, and will continue to work with Chairman LUGAR to address my concerns.

I have been working with the Chairman and Subcommittee Chairman SANTORUM to obtain a field hearing in Maine on the Northern Forest Stewardship Act (NFSA) before any action was taken by the full Senate. I requested this hearing because many people in Maine are both interested and concerned with the potential impact of this bill on the economies of their rural communities.

I was dismayed, therefore, when I learned that the research title from the NFSA bill was included in the Agriculture Research conference report. Also the language inserted in the report does not include the provision which requires that a governor's request is required before federal assistance can be made available to the state. This language is fundamental because it involves an elected state official in the process, ensuring that the state controls its land use decisions. I will be working to restore the role of the states in making the request for federal assistance, and I thank the Chairman of the Agriculture Committee for his offer of assistance in this matter.

Historically, our state has been defined by our agriculture—from the natural resources of its extensive forests, to the potatoes crops of Aroostook County and to the Wild blueberries of the Down East area of Maine. The Wild lowbush blueberry is unique to Maine, and one of only three berries native to the U.S. that are utilized commercially.

Virtually all of the commercial U.S. lowbush blueberries are produced in our state, with 99 percent of the blueberries being processed and used as a nutritious ingredient in many food products throughout the country. The industry is concentrated in the Down East region of Maine, which is an economically depressed region that relies heavily on natural resource based jobs, such as those in the Wild blueberry industry.

An increase in competitive research grants funding will help to continue a series of research projects that target critical aspects of lowbush blueberry culture and processing challenges, and transferring research solutions to the growers and processors. Much of the research completed to date provides techniques for a sustainable approach to production with environmental benefits.

Research objectives include implementation of a research program that is designed to ensure a consistently productive, high quality, low input crop that is successfully marketed in the U.S. and worldwide, with ongoing projects for such as pesticide reduction/efficacy, pollination alternatives, effects and reduction of low temperature injury, micro nutrient fertility requirements, and fruit quality improvements.

The bill also funds the federal crop insurance program that will give a healthy measure of peace of mind to Maine's wild blueberry industry, who, until recently, could not participate in the program. This report will allow the wild blueberry industry to renew their contracts for crop insurance, giving them protection against an economically devastating total crop loss caused by circumstances beyond their control.

Research for the potato industry is being conducted on new chemical-resistant strains of late blight, now detected in virtually every major potato growing state, and the last blight fungus is quickly developing into the most serious threat to potato production in the United States. History reminds of us the great potato famine in Ireland in the last century caused by late blight, and today's research helps us to never again realize such an devastating experience.

In Maine, late blight has already resulted in millions of dollars in crop losses since 1993, which is not only a concern for our largest agriculture industry, but for potato states throughout the eastern U.S. since Maine is the primary source of seed potatoes for these states.

Comprehensive late blight Integrated Pest Management research programs through current grants and future competitive research grants offered in the bill before us today will continue to prevent a full-scale epidemic from occurring in our region. Needless to say, this is one initiative in which a modest federal investment will help prevent a very costly crop disaster.

The Hatch Act and the McIntire-Stennis Act are the cornerstones of the cooperative/federal/state research effort that has made the U.S. agriculture and forestry industries the world's leaders. Under these programs, and under broad federal guidelines, states can continue to further identify their local research priorities.

Additional competitive research grants for the McIntire-Stennis Program will provide continued funding to 62 universities nationwide, including the University of Maine, that conduct research, teaching, and extension programs in forestry and related natural resource areas. The research focuses on the biology of forest organisms, forest ecosystem health, management of forests for wood, and forest product development. Each dollar of McIntire-Stennis funding is now matched with five dollars from nonfederal sources for these university programs.

Wood utilization research contributes to research at six land-grant Regional Research Centers, including Maine. The work conducted at these universities specializes in the efficient use of wood resources, developing new structural applications for wood, exploiting wood chemical extractives for safer and less expensive alternatives to current pesticides, preservatives, and adhesives, and exploring the pharmacological properties of trees. Wood utilization research is particularly important to forest-based economies in rural areas. In Maine, the annual total contribution in forest products manufacturing is over $5 billion.

Mr. President, our agricultural communities, some of the best stewards of our land, produce the safest, the most nutritious and reasonably priced food products in the entire world. Furthering the competitive grants research system through the Agricultural Research bill before us will go a long way towards the continued improvement of our nation's bountiful harvests and the continued health and productivity of our nation's forests.

Mr. GRAMS. Mr. President, I rise in support of the Conference Report to accompany S. 1150, the Agricultural, Research, Extension, and Education Act of 1998. For the purposes of this debate, I will focus on only the research and federal crop insurance provisions contained in this conference report. These are two of the primary issues important to farmers and those involved in agriculture.

Among the important research provisions provided for in this conference report is funding for Fusarium Head Blight, or Scab, research. This disease has had a devastating impact on producers in Minnesota and North Dakota and has caused severe economic losses over the past five years. The conference report now before us is an important step in continuing the public/private partnership that has evolved as we attempt to find a scab-resistant variety of wheat.

Also contained within this report is funding for genome research. This is important in mapping specific traits of corn and other commodities. Isolating those traits which are resistant to drought and other natural enemies could maximize yields and enhance producer efficiency. The flexibility it provides to research is reason enough to pass this legislation in a timely manner.

However, some of my colleagues have expressed concern over the federal crop insurance provisions contained in this conference agreement. While I certainly understand their point, it is important that we look at the "big picture." Currently, there is a budget shortfall in the program which jeopardizes the ability of farmers and agriculture lenders to make management decisions for the upcoming year. I have spoken with hundreds of individuals involved in agriculture who have urged me to support this funding fix, and I am confident they will be just as forthcoming as we explore options to provide producers with greater risk-management tools. It is important to remember that the conference report does not contain any major program reforms. It allows for five years of mandatory funding while market-orientated reforms are phased-in. Once the crop insurance budget issue is resolved, we can begin the process of achieving substantive reform of the federal crop insurance program.

Mr. President, we must design alternatives that encourage innovation and competition among insurers with an eye towards moving crop insurance in the direction of privately developed policies. I have already begun this process with agriculture leaders in Minnesota. I look forward to working with Senator LUGAR and my colleagues in crafting a program which benefits all taxpayers, while providing farmers the opportunity to craft a risk-management policy that fits their operation.

I urge my colleagues to join me in supporting this important legislation and I look forward to its immediate passage.

Mr. CRAIG. Mr. President, I rise today in support of the Agricultural Research, Extension, and Education Reform Act of 1998. As a member of the Senate Committee on Agriculture, Nutrition, and Forestry, I have worked with Chairman LUGAR and the Committee for two years to see this Act crafted and passed. I am pleased that the Leader has allowed it to come to the floor and encourage my colleagues to support its adoption.

Mr. President, the bill reforms and reauthorizes discretionary agricultural research programs that play an important role in keeping our nation's farmers competitive in the ever expanding world market. These programs and extension activities have experienced dramatic returns—in the form of better land management, environmentally sound farm practices, increased crop yield, improved crop varieties, and countless other ways—and represent a sound investment in the future. The bill's reforms will ensure more collaboration and efficiency in federally funded research and provide for greater accountability to the American taxpayers.

The bill also provides $600 million over the next five years in mandatory funding to the Initiative for Future Agriculture and Food Systems. This new mandatory spending will provide $120 million per year on a competitive grant basis for six high priority mission areas: agricultural genome research; food safety, food technology, and human nutrition; new and alternative uses of agricultural commodities and products; agricultural biotechnology; natural resource management, including precision agriculture; and farm efficiency and profitability.

In addition, the bill addresses the immediate concerns facing all those who rely on federal crop insurance, provides for the Fund for Rural America, and funds food stamps for the elderly, disabled, and children of the nation's poorest immigrants.

Mr. President, more than just a reauthorization bill, the legislation before the Senate today is an investment in the future and represents our commitment to America's farm families. By providing the technical research and extension activities that help expand farm income, improve resource management, and develop new crop varieties, federally funded agricultural research assures that our nation will continue to lead the world in farm production and help bolster the stability of our rural areas.

I encourage all my colleagues to support its adoption.

Mr. DASCHLE. Mr. President, I want to express my strong support for the Conference Report on S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998, and to thank Senator LUGAR and Senator HARKIN for the tremendous effort they have devoted to this important legislation.

Immediate passage of the conference report is critical for agriculture research funding, crop insurance, and nutrition funding for legal immigrants. The legislation represents desperately needed investment in agricultural research, essential to the continuing production of safe, plentiful, diverse, and affordable food and fiber. Furthermore, failure to pass this legislation will result in massive reductions in crop insurance delivery around the country, especially in high risk areas such as the Northern Great Plains.

Not only will terminated policies expose farmers to tremendous risk of crop loss due to events beyond their control, such as weather, but without crop insurance, producers will not be able to take out operating loans essential to planting crops. This will hit young, beginning farmers hardest, which is terrible for agriculture—losing these young producers truly threatens the future of the industry.

When the last farm bill was passed, farmers nationwide were promised increased access to risk management tools. This promise was made in exchange for the elimination of a wide range of commodity and disaster programs that had, until then, provided producers some protection against the potentially devastating shocks that occur in agriculture.

Last year, the Dakotas were devastated by extended below freezing temperatures, winter storms that dumped record levels of snow, and spring flooding worse than anyone living had ever seen. Even with the benefit of crop insurance we lost hundreds of producers and farms that had been in families for over 100 years. I cannot imagine what would be left of the agriculture industry in South Dakota today had we not at least had the benefit of crop insurance last year.

The northeast region of South Dakota is currently experiencing severe flooding that is not likely to subside for some time. This is in an area that has been characterized by good farm land for as long as anyone can remember. No one could have anticipated that the farms in these counties and so many of the roads that connect them would be under water today. A strong and affordable crop insurance program will be critical to producers in this area who are struggling to stay in business. Without it, there would be an exodus from this part of my state, which would destroy the economy of the entire region. It is in all of our interest to provide our nation's agriculture producers with the means to insulate their businesses and the local economies of which they are an essential part against conditions like those we experienced statewide last year, and that our northeast corner is fighting now.

I also want to stress the tremendous importance of the research reauthorization in this conference report. We owe much of the credit for this country's agricultural success to our network of land grant institutions, state agriculture experiment stations, USDA's Agricultural Research Service, and hundreds of county extension offices. These entities work together in a wide range of ways to produce cutting-edge research and then convert it into improved practices and technology meaningful to producers. This report places increased emphasis on collaboration among institutions and disciplines, and encourages pursuit of goals benefiting more than one region or state.

The land grant university in my state, South Dakota State University, currently has a highly regarded record of strong interdisciplinary and multi-state cooperative work. I am extremely proud of the fine research and extension SDSU produces, and I am pleased that this legislation will foster their efforts. It helps level the playing field for small schools competing for limited research funds, and it is sensitive to the relative importance of formula funds for institutions in agrarian states with low populations.

I am pleased that this legislation preserves existing programs that target emerging and critical issues such as the Fund for Rural America. The Fund for Rural America was designed to provide immediate, flexible, and applied research and support to people in rural areas who are adjusting to rapid changes in the agricultural sector since the last farm bill.

The Fund also promotes value-added processing, which is vital to successful rural economic development. Our rural communities must capture more of the revenue their locally produced commodities ultimately generate. Value-added processing keeps that revenue local, which will be critical to the future of those communities.

In conclusion, I cannot overemphasize the importance of this legislation and its prompt passage. If we are to maintain our place in the world as a leader in agriculture production and technology, we absolutely must invest in agriculture research today. If we are to have a vital and diverse agriculture sector in the future, we also must ensure producers have access to reliable and affordable risk management tools like the federal crop insurance program.

The overwhelming bipartisan support for the agriculture conference report is a tribute to the commitment Senator LUGAR and Senator HARKIN have made to assuring passage of this critical legislation. I urge my colleagues to approve the report in its current form.

Mr. MCCAIN. Mr. President, I intend to vote for this conference agreement.

For the most part, the bill provides funding to address legitimate needs of farmers and the agriculture industry for crop insurance, research, and extension and education programs. I applaud the conferees for including provisions throughout the bill which establish competitive, merit-based, or peer-reviewed selection procedures for awarding grants and contracts and allocating funds for various programs.

The bill also requires most recipients of funds to contribute matching amounts from non-federal sources. It also broadens the scope of many established programs to require a national, regional, or multi-state focus or benefit.

While the bill contains language regarding the establishment or continuation of several specific programs, it does not require the Secretary of Agriculture to comply with the direction in the bill, in most cases. For example, the bill authorizes, but does not require, the Secretary of Agriculture to acquire and operate the National Swine Research Center in Ames, Iowa—an institution which has received earmarked funds in appropriations bills for as long as I can remember. I would hope that the Secretary would exercise the discretion provided in this bill and resist the temptation to expand the federal bureaucracy to include this wholly unnecessary swine research facility.

Let me also take a moment to express my support for the provisions in Title V of the bill that make food stamps available to certain categories of legal immigrants who may fall on hard times. These provisions simply restore eligibility for food stamps to certain categories of immigrants who were eligible for assistance prior to August 22, 1996, when sweeping welfare reform legislation was enacted. Only refugees and asylees, disabled and elderly immigrants, children of legal immigrants, certain Indians, and certain Hmong and Highland Laotians, all of whom had to be lawfully residing in the United States on August 22, 1996, are again eligible for food stamps.

In these times of economic prosperity, Americans can certainly afford to be compassionate to our most vulnerable immigrants. Last year, the Congress restored to these same categories of immigrants eligibility for Supplemental Security Income and Medicaid. Finally, it should be noted that the cost of providing assistance to an estimated 250,000 individuals is offset in its entirety by reductions in the administrative expenses of the food stamp program and other programs.

Again, I thank the conferees for including these many excellent provisions in this bill.

However, as usual, there are a number of glaring exceptions to the otherwise good-government approach taken by the conferees.

Mr. President, most disturbing among the objectionable provisions in this bill is Section 401, which establishes a new entitlement program, called the Initiative for Future Agricultural and Food Systems, which is funded at $120 million per year for five years. Although the grants under this new program will be competitively awarded and recipients must provide matching funds, I am concerned that the conferees would find it advisable to establish a brand new mandatory spending program without regard to its effect on other high-priority agriculture programs.

Clearly, this new entitlement is intended to bypass the spending caps that limit how much is spent on agriculture program grants in the annual appropriations process. It violates the spirit and intent of the budget process that has resulted, finally, in a projected federal budget surplus for this year.

Mr. President, I intend to take a very careful look at the appropriations bill for agriculture programs this year. If, as in previous years, another $100 million or more is allocated for the same programs that are to be funded under this new entitlement program, I will be offering an amendment to remove that duplicative funding from the appropriations bill. I hope to have my colleagues' support to prevent this effort to circumvent the budget prioritization process and essentially double the funding for these types of programs.

Other objectionable provisions in the bill establish new bureaucracies and boards to coordinate activities which should be within the capabilities of the existing Department of Agriculture bureaucracy. One such provision establishes a Thomas Jefferson Initiative for Crop Diversification, a program coordinated by a nonprofit center to coordinate cooperative research by public and private entities on new and nontraditional crops. Another is the provision authorizing a grant program for precision agriculture programs and establishing precision agriculture partnerships. Other provisions include the establishment of an Office of Pest Management Policy and a Food Safety Research Information Office, and a mandate to continue the operation of the Food Animal Residue Avoidance Database program.

Funding for these new programs is subject to future appropriations and participants are required to provide non-federal matching funds. However, the parameters and criteria specified in the bill will require new regulations and bureaucracies for implementation. These efforts have both monetary costs and potentially negative effects on other agriculture priorities.

Mr. President, I ask unanimous consent that a list of objectionable provisions in the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OBJECTIONAL SPENDING PROVISIONS IN S. 1150, AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998

Section 241 requires the Secretary of Agriculture to establish an Agricultural Genome Initiative to study the genetic makeup of crops.

Section 242 directs the Secretary of Agriculture to study the control, management, and eradication of imported fire ants, and establishes high priority for 26 specific research and extension programs, including potato blight, ethanol, deer tick ecology, grain sorghum ergot, prickly pear, wood, wild pampas, sheep scrapie, and tomato spotted wilt.

Section 245 directs the Secretary of Agriculture to cede responsibility for awarding grants to develop an agriculture telecommunications network to a consortium called A*DEC, which is made up of private universities and land grant colleges and unspecified international members, with language specifying that grants are to be awarded competitively regardless of the grant seeker's membership in A*DEC.

Section 252 requires $60 million each year for five years to be transferred to the Fund for Rural America.

Section 401 establishes a new entitlement program, the Initiative for Future Agriculture and Food Systems, to provide agriculture research grants at a level of $120 million annually for five years.

Section 405 directs the Secretary of Agriculture to establish the Thomas Jefferson Initiative for Crop Diversification, to coordinate public and private research and promotion of new and non-traditional agricultural products.

Section 604 directs the Secretary of Agriculture to continue the operation of the Food Animal Residue Avoidance Database Program through a program of grants to colleges and universities.

Section 614 directs the Secretary of Agriculture to establish an Office of Pest Management Policy to coordinate pest research and use of management tools.

Section 615 orders the Secretary of Agriculture to establish a Food Safety Research Information Office at the National Agricultural Library, with the direction that the office sponsor a national conference on food safety research priorities within 120 days of enactment of the bill and every year thereafter for four years.

Mr. MCCAIN. Because of the inclusion of these low priority, unnecessary, and wasteful programs, I voted in favor of Senator GRAMM's motion to recommit the bill to conference so that these provisions could be addressed again and, hopefully, deleted from the bill or revised to prevent the waste of taxpayer dollars.

Unfortunately, the motion to recommit was defeated by a wide margin. However, since I believe the many positive aspects of this bill outweigh these onerous provisions, I intend to support the conference agreement.

The PRESIDING OFFICER. Is there further debate on the conference report? The Senator from Iowa.

Mr. HARKIN. Mr. President, let me just wrap up by again thanking Senators for the overwhelming vote that we just had. I think that vote will send a clear signal to the House to move very rapidly on the bill. We will get it down to the President and hopefully get this important conference report signed in very short order.

I can just tell you, there will be a giant sigh of relief among the agriculture community from coast to coast and border to border as soon as this bill gets signed, because then we can get on to the business of getting our crop insurance policies renewed around the country and we can get on with the business of revamping, revising, and strengthening agricultural research throughout America. But the most important and most vital aspect of the bill in the immediate future is the Crop Insurance Program. Farmers will be assured right away that they will be able to continue their protection against disaster losses.

Mr. President, let me again compliment and thank my chairman, Senator LUGAR, first for his leadership on the ag research provisions of the bill. He has said many times that, entering the new century, we need to have a new approach, and new ways of doing our research in agriculture. He is absolutely right. I was happy and proud to support him in those efforts. It took quite a while to get the bill worked through the hearing processes, through negotiations in conference, getting all the issues worked out on research, but it was done, and we had good, bipartisan support.

I believe the chairman has fashioned an Ag research bill that is really going to help us move ahead in the next century in producing new kinds of crops, new products from and uses for crops, in biotechnology, in improving agricultural productivity and natural resource protection. So I believe we will see a whole new focus and revitalization of our agricultural research. It is long overdue, but this bill will move us in that direction.

I thank the chairman also for his leadership on crop insurance, in making sure that we addressed this need to provide that critical element of a safety net for farmers, because, as we all know, they need this crop insurance, both to cover disasters over which they have no control and also to make sure they have the collateral they need for obtaining financing for their farming operations. Farmers rely on crop insurance, and agricultural lenders rely on it.

So, this provision is going to be very, very meaningful to make sure that farmers, and we here in Congress, do not have to be worrying every single year how we will find funding to continue crop insurance—and whether in fact farmers will have crop insurance. That is going to be a great relief to our farming community all over America.

Finally, on the food stamp provisions, again, I thank the chairman for his great leadership in making sure we produced a sound bill and held together our coalition encompassing agricultural and nutrition matters.

I also thank all the staff who worked very hard for a long time, for well over a year now, to get us to this point: Randy Green, our staff director; and Dave Johnson, chief counsel; Ms. Terri Nintemann on the majority side; on the minority side, Dan Smith, Mark Halverson, Phil Schwab and Richard Bender. There are a number of other staff. These are our leaders. They did a great job of pulling this bill together, keeping us on course and making sure we got to conference and got it all wrapped up. We are very blessed with a very good and very capable staff. I thank them for all the long hours and hard work they put in.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the ranking member, Senator HARKIN, was characteristically gracious and generous, and I appreciate his comments. I want to tell him how much I have appreciated working with him and with all of our colleagues on what I believe is a monumental advance for not only American agriculture, but for feeding the world in the next 50 years, as well as the assurance of our farmers immediately in crop insurance and humane measures with regard to nutrition programs.

I simply mention, Mr. President, that Dave Johnson and Terri Nintemann have been mentioned. Of course, our distinguished Randy Green, who does so much on the majority side in likewise guiding all of the committee staff efforts. But I also will mention Marcia Asquith, Beth Johnson, Andy Morton, Michael Knipe, Bob Sturm, Debbie Schwertner, Carol Dubard, Kate Wallem, Kathryn Boots, Chris Salisbury, Danny Spellacy, Terri Snow, Whitney Mueller, and Jennifer Cutshall, because this has been a 2-year effort on the part of all of these individuals and they have contributed highly.

I have consulted with the distinguished majority leader, TRENT LOTT, and with the distinguished ranking member, TOM HARKIN, and it will be our request that there be a final rollcall vote. I alert colleagues that that will be coming, hopefully soon.

I appreciate very much the leader working with us to make this time possible and this opportunity to debate. I mention specifically the importance of the contribution of Senator GRAMM, who is a member of our committee, who argued well a point of view that did not prevail but, at the same time, sharpened the focus of all of us on those things we believe are important in this legislation.

Finally, I mention Senator DOMENICI, who had only a very small speech but an important one with regard to caps and entitlements in the budget and overall considerations. We are mindful of what he had to say and grateful for his support ultimately, of our effort.

I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). Is there further debate?

Mr. LUGAR. I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the conference report? If not, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 8, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—92

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grams
Grassley
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—8

Gramm
Gregg
Helms
Inhofe
Kyl
Nickles
Sessions
Smith (NH)

The conference report was agreed to.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, again I thank all Senators for their strong vote in support of this legislation. Hopefully now we can get it to the President, and get his signature, and again reassure farmers all over the country that they will be able to renew their crop insurance programs for next year.

INDIA'S NUCLEAR TESTS

Mr. HARKIN. Mr. President, I understand that the Senate is not on any legislation right now. I would like to take just a few minutes of the Senate's time to talk about the disturbing events that happened in South Asia yesterday.

Mr. President, to paraphrase a speech that President Roosevelt gave 57 years ago in the House Chamber, yesterday is a day that will live in infamy, for the Nation of India. At a time when world tensions are being reduced, when the cold war is over, when nuclear arsenals are being reduced, at a time when we are on the threshold of signing a Comprehensive Test Ban Treaty, the Nation of India deliberately and provocatively, with total disregard for world opinion and total disregard for regional stability in South Asia, detonated three nuclear weapons. And to make matters even worse, they were detonated near the border with Pakistan.

These tests were conducted without advance warning to the international community. They clearly work against the goals of nonproliferation and international stability. Indian's Prime Minister's principal secretary said afterwards that with the test, "India has a proven capability for a weaponized nuclear program."

Mr. President, India's behavior is clearly unacceptable. These underground tests could well trigger a nuclear arms race in the region.

I believe that the United States should be prepared to exercise the full range and depth of sanctions available under law. For example, the Nuclear Proliferation Prevention Act of 1994 requires the President to cut off almost all U.S. Government aid to India, bar American banks from making loans to the Government, stop exports of American products with military uses such as machine tools and computers, and, most importantly, oppose aid to India by the World Bank and the International Monetary Fund.

An article that appeared this morning in the New York Times pointed out that, "India is the world's largest borrower from the World Bank, with more than $44 billion in loans; it is expecting about $3 billion in loans and credits this year."

Well, I think it is time for the United States to exercise its voice and vote in the World Bank, and let India know that no longer can it come and get that kind of money if all it is going to do is spend its money on developing and testing not only fission weapons but yesterday a thermonuclear weapon, a hydrogen bomb.

Further quoting from this article, Monday's tests "came as a complete shock, a bolt out of the blue" to the White House, one senior administration official said. "It's a fork in the road." "Will India and Pakistan be locked in a nuclear arms race? Will the Chinese resume nuclear testing now?"

What is also disturbing is that our intelligence agencies obviously did not pick up any signs that the tests were imminent and reported that activities at the test site appeared to be routine.

Let's see now. How much did we spend on our intelligence agencies last year? About thirty billion dollars? And they can't even tell us when one of the largest nations on Earth is going to explode nuclear weapons? You wonder what that $30 billion is going for. I think a thorough review needs to be made of our intelligence operation.

Back to the point, Senator JOHN GLENN, our colleague, who is the author of the law, is quoted as saying, "Those sanctions are mandatory," and the only way to delay them is if the President tells Congress that their immediate imposition would harm national security. And that delay can only last 30 days. Congress can only remove the sanctions by passing a law or joint resolution.

"It would be hard to avoid the possibility of sanctions," a senior State Department official said. "There is no wiggle room in the law."

Further quoting our colleague, who is quoted again in the New York Times this morning, Senator GLENN called the tests "the triumph of fear over prudence, a monumental setback for efforts to halt the global spread of nuclear weapons."

Mr. President, the Nation of India is no longer the nation of Mohandas Gandhi, I am sorry to say. The Nation of India has embarked on a new and dangerous course in South Asia, one that I think has ominous foreboding for all of their neighbors in that area, and also for us here in the United States.

Of course, it is my fervent hope that India's neighbors will show restraint. It is my hope and my desire that Pakistan and China and other nations in that region will recognize the importance of caution despite this dangerous, inflammatory and provocative move by India. Again, they should not follow the lead of India but recognize the importance of restraining a nuclear arms race.

I believe that this Senate should also press for appropriate action by the international community. The international community should join with the United States in bringing to bear whatever sanctions it can, especially in the World Bank to cut off all loans to India.

Again, what India has done underscores the need for a nuclear test ban treaty. But now it becomes clear why, in August of 1996, after years of difficult negotiations, we finally got a final treaty supported by all countries for a comprehensive test ban, India refused to sign. Maybe now we know why.

The treaty was endorsed by a 158-to-3 margin at the United Nations. However, India walked out and said they weren't going to sign.

We cannot give up. We cannot let this action by the Government in India deter us from our goal of a comprehensive test ban.

I do not in any way mean my remarks today to implicate all of the wonderful people of India, many of whom I have counted as my friends, many of whom worked very hard on the issues of human rights, social justice, ending child labor. But I do wish by my remarks today to implicate and condemn in the strongest possible language permitted in this body the actions by the Government of India. This was its decision. This was its deliberate decision to conduct these tests in clear disregard for the opinion of the world.

So the Government of India bears a heavy responsibility for what follows. I hope they do not, although my hopes seem to be feint in light of what the Government of India said yesterday, intend to weaponize their nuclear program. Not only have they tested these weapons, they seem to have sent a clear signal that they are going to incorporate these weapons in their military arsenal both for short-range, medium- and obviously perhaps even for long-range purposes.

At a time when India needs to invest in education, when it needs to invest in its infrastructure, at a time when India really needs to reach peaceful agreements with its neighbor, Pakistan, on the issue of Kashmir, which is still a volatile issue. At a time when China and India need to get together to discuss their roles in South Asia in the future, India has thumbed its nose at its neighbors. When the Government of Pakistan came to power under the Prime Minister Nawaz Sharif, it reached out to India, to the previous government. Prime Minister Sharif held out the olive branch. He asked that talks be conducted, that they take steps to reduce the tensions in the region.

Those talks proceeded, tensions were reduced, and then elections were held in India and a new government was elected. The hopes and the dreams, the actions taken by the Prime Minister of Pakistan, Nawaz Sharif, and others in the region are now dashed and doomed if India doesn't make a quick U-turn in its policies. But India has already taken its actions, and its actions, I am afraid, will have very serious repercussions.

But, again, we cannot give up. I know that Pakistan several times called for restraint, to call for talks.

Well, I call on Pakistan and the other nations of the region not give up on their efforts to pursue a peaceful path, to again reach out to India to begin the long and arduous task of negotiations to reduce tensions and to reduce the nuclear arsenal in that area of the world.

I remain fearful not only because of Pakistan but because of China. What will China do now? Will China believe that it must now proceed to further test its nuclear weapons to show India that it is not going to be intimidated? No, Mr. President, what India did yesterday will live in infamy, and it is sad because India has made great progress in the last 50 years. I note at this time the President has recalled our ambassador to India. I compliment him for that action.

Quite frankly, I hope this sends another strong signal to India that it is not going to be business as usual with the U.S. Government because of what they did yesterday. It cannot be said too strongly that India took a terrible, terrible step yesterday and only India can undo it. I hope they will. But their words and their actions indicate to me they may and probably will not. I feel sorry for India. I feel sorry for the people of India. I feel sorry for the kids that are working in the plants and the factories and the carpet looms who want a better future and a better education. I feel sorry for the millions of people in poverty who want a little bit better life in India but are now going to have to struggle because more and more of their money is going into their weapons and their nuclear arsenal. And I feel sorry for the people of Pakistan, too, again, who have made great strides in the last 50 years to build a nation, to build an infrastructure that will allow for a moderate Islamic State to exist in that area, and I feel sorry for the people of China. What is its Government going to do now?

Mr. President, we can only hope and pray that South Asia will now see this as a sign that they must get together and sign a comprehensive test ban treaty now, stop nuclear testing now, stop the arms race now; that India and China and Pakistan must get together and work out their problems through serious peaceful negotiations and not through the bluster of provocative actions taken by India yesterday to increase the arms race, especially the nuclear arms race.

Mr. President, I call on India to disavow what they did yesterday, to admit they made a mistake, to reach out to their neighbors in a serious attempt to sign the Comprehensive Test Ban Treaty, and to stop this madness once and for all.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent for 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BREAST CANCER STAMP

Mr. FAIRCLOTH. Mr. President, I would like to ask everyone to take a moment to look at the most important stamp ever issued in our history, and that is the one we have the painting of here on the easel. I joined the U.S. Postal Service in unveiling this stamp in Chapel Hill, NC, yesterday, the day after Mother's Day, as my colleague, Senator FEINSTEIN, did the day before in Los Angeles, CA.

For the first time in U.S. history, the public will be able to play a more direct role in funding medical research and setting research priorities because of this stamp.

This may look like a regular first-class postage stamp, but it is not. It is a semi-postal stamp, the first of its kind ever issued in this country. It took an Act of Congress to create it, and we did just that. It was done to raise money for breast cancer research.

Incidentally, the United States is the only Nation around the world that has not issued semi-postal stamps before, but this stamp is different because part of the proceeds of this stamp will go directly to the NIH and the Department of Defense to pay for breast cancer research.

My colleague from California, DIANNE FEINSTEIN, introduced this legislation here in the Senate as Congressman VIC FAZIO did in the House of Representatives. While popular, the bill needed a vehicle to get it passed. I decided that if the Post Office could sell a Bugs Bunny stamp, they could sell a stamp to raise money for breast cancer research. I was able to add the proposal to an appropriations bill, and, along with the support of the majority of my colleagues here in the Senate and the House, the stamp now is born and in existence.

The Postal Service was not excited about doing this stamp, and they were concerned that other groups sponsoring other diseases would be pushing for a similar stamp. I find no problem with that. I just cosponsored a bill introduced by Senator SNOWE and Senator BURNS that would create a semi-postal stamp to raise money for prostate cancer research. I think this is a great way to let the public play a much larger role in helping fund medical research, and the effort should be encouraged. In fact, the Postal Service Board of Governors met today and selected an old friend and fellow North Carolinian, Bill Henderson, to serve as the next Postmaster General. Let me be the first to congratulate an old friend.

I have asked each member of the Postal Service Board to contribute an additional amount to this effort by turning over what would normally be collected for administrative costs to the cancer research fund. In other words, all of the gross money would go to cancer research. This is especially important in light of the fact that the Postal Rate Commission has just recommended that we raise the price of a first-class stamp by 1 cent.

If only 20 percent of first-class stamp buyers decide to buy this postal stamp—only 20 percent, one-fifth—we will raise $120 million annually. That is the same amount of funding increase we fought for in last year's budget for the National Cancer Institute. The stamp will be sold for 40 cents when it goes on sale in August. The difference in price from 32 cents or 33 cents required to send a first-class letter, either the 7 cents or 8 cents, will go directly to the NIH and the Department of Defense for their breast cancer research studies.

If I could turn this into a "Home Shopping Channel" for a moment and address all the folks who may be watching: Please, I ask that they themselves buy and urge their friends to buy the stamp when it goes on sale this August. It is a wonderful gift, and when so giving it, when you make a gift, No. 1, you are sure the gift will be used, and you encourage the recipients of the gift to in turn buy the stamp themselves after the gift supply has been exhausted.

There may be some confusion because about a year ago the post office released a breast cancer awareness stamp. This was a nice gesture, but it provided no money. This stamp will raise money for all the women and families afflicted by this dread disease. Let's prove the post office wrong and make the sale of this stamp a record-setting event.

I thank all my colleagues, and especially Senator FEINSTEIN, for their help in making this semi-postal stamp a reality. I urge you to join with the Postal Service, corporate sponsors, and breast cancer groups to plan events to launch the sale of this stamp completely around the country and in all the States. It has to be a success.

I thank the Chair, and I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I suggested the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I ask to speak up to 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE U.S.-INDIAN RELATIONSHIP

Mr. BROWNBACK. Mr. President, Senator HARKIN from Iowa recently spoke on the floor about the terrible occurrence recently happening in India, the explosion of three nuclear devices, which has been roundly condemned around the world. It is very destabilizing in the Indian subcontinent and is going to trigger a set of automatic sanctions.

In the Foreign Relations Committee, at 2 p.m. tomorrow afternoon, we will be holding a hearing about the actions taken by the Indian Government, its consequences on the U.S.-Indian relationship, and its consequences throughout that subcontinent. I certainly invite all the Members of the U.S. Senate and others interested to watch these hearings and to follow those, because this is a significant event that has occurred. It has significant ramifications on U.S.-India relationships and is an action that is happening in one of the most volatile regions of the world.

I think we all advise and advocate strongly, for our allies and other friends of ours in the neighborhood, for there to be a calm, stable response to this and that there not be further testing to take place. We will explore these issues in the Foreign Relations Committee tomorrow at 2 o'clock.

I yield the floor.

HIGH-TECH WEEK

Mr. LOTT. Mr. President, I am pleased that the Senate will be considering a series of bills that truly impact and shape our lives in this age of ever-changing technology.

Many of us in this chamber can remember a time when the words "Internet" and "intellectual property" had no meaning in our day-to-day activities. That is changing. Rapidly changing. New, competitive markets are emerging, and exploding, thanks to continuing technological advancements and innovations.

The potential benefits of such unprecedented growth is exciting. Besides transforming the structure of the communications industry, high technology is literally changing the way millions of us live and do business.

I would like to share a good Samaritan story about how wireless technology does impact, and possibly save, lives.

Mrs. Debbie Sanders, one of my constituents from the small town of Enid, Mississippi, is the 1998 recipient of the VITA Wireless Samaritan Award for her act of heroism. On her way home from a long day at work as a store's assistant manager, Debbie saw a car flipped upside down in a water-filled ditch. She used her wireless phone to call for help and pulled the victim from the vehicle. Not sure of her exact location on this lonely stretch of deserted, rural road, Debbie had to remain on the phone for over one hour with emergency personnel until she and the victim could be reached.

Mr. President, this is only one example of how high technology can enhance our world.

There will be boundless opportunity in the next century for new technological applications to evolve. With that opportunity will come an absolute necessity for a highly skilled labor work force to ensure America's competitive standing and high-technology leadership. Our vibrant economy is directly tied to this cutting-edge technology. Bills that advance our country's ability to compete will strengthen our future and our children's future.

Several measures will be considered, but I want to particularly mention the Consumer Anti-Slamming Protection Act. We need a public policy to crack down on slamming. We need to protect the telephone consumer. The world indeed is shrinking, and we all have come to depend upon long distance service, not as a luxury but as a necessity. We want to talk to those closest to our hearts, wherever they may be.

The practice of "slamming"—unauthorized switching of long distance telephone service carriers by competing service providers—must stop. It is abusive to the consumer, and has become much too frequent and too disruptive. Our colleagues have told us horror stories in the past, and today we will hear even more illustrations of slamming abuses. With this statute, I join my colleagues in urging the FCC to strengthen its enforcement program to stop this unscrupulous practice. Tougher penalties against companies that intentionally slam will be an effective solution.

I want to thank my Senate colleagues for their diligent leadership and keen focus on tackling these legislative challenges. Their willingness and commitment to work in a bipartisan manner is the reason we are here today. Although some of the issues may be fundamentally noncontroversial, I know the issues are complex, and I appreciate their efforts.

Mr. President, I look forward to the debate. It is also my hope that progress will be continued, and consensus achieved, on other critical pieces of legislation to address a variety of high-technology related concerns shared by many in this Chamber.

CONSUMER ANTI-SCAMMING ACT OF 1998

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1618. I ask further consent there be 2 hours of general debate on the bill, equally divided in the usual form.

I further ask consent that the only first-degree amendments, other than committee amendments, be the following, and that the first-degree amendments be subject to relevant second-degree amendments: Manager's amendment; Collins-Durbin amendment—No. 1, liability, No. 2, penalties, No. 3, report slamming complaints; a Rockefeller amendment on Telecom; a Reed amendment on slamming; Levin amendment on billing information, surety bonds switchless; Feingold amendment on CB interference; Feinstein amendment on telephone privacy; McCain amendment that is relevant; a Harkin amendment on telemarketing fraud; and a Hollings amendment that is relevant.

The PRESIDING OFFICER. Is there objection? Without objection, it is ordered.

Mr. McCAIN. Upon disposition of all amendments, the bill be read a third time and the Senate then proceed to vote on passage of S. 1618 with no intervening action or debate; provided further that Senator BRYAN be recognized further to speak on the bill.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object, did the Senator from Arizona note Senator MURRAY in his list of amendments?

Mr. McCAIN. I say to my friend that Senator MURRAY and Senator COATS both agreed to drop their amendments on the assurance that these respective pieces of legislation will be brought up at a later date.

Mr. DORGAN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 1618) to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVED PROTECTION FOR [CONSUMERS AGAINST "SLAMMING" BY TELECOMMUNICATIONS CARRIERS.] *CONSUMERS.*

(a) VERIFICATION OF AUTHORIZATION.—Subsection (a) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended to read as follows:

"(a) PROHIBITION.—

"(1) IN GENERAL.—No telecommunications [carrier shall] *carrier or reseller of telecommunications services shall* submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with this section and such verification procedures as the Commission shall prescribe.

"(2) VERIFICATION.—

"(A) IN GENERAL.—In order to verify a subscriber's selection of a telephone exchange service or telephone toll service provider under this section, the telecommunications carrier *or reseller* shall, at a minimum, require the subscriber—

"(i) to acknowledge the type of service to be changed as a result of the selection;

"(ii) to affirm the subscriber's intent to select the provider as the provider of that service;

"(iii) to affirm that [the subscriber] *the consumer is the subscriber or* is authorized to select the provider of that service for the telephone number in question;

"(iv) to acknowledge that the selection of the provider will result in a change in providers of that service; *and*

["(v) to acknowledge that the individual making the oral communication is the subscriber; and]

"[(vi)] *(v)* to provide such other information as the Commission considers appropriate for the protection of the subscriber.

"(B) ADDITIONAL REQUIREMENTS.—The procedures prescribed by the Commission to verify a subscriber's selection of a provider shall—

"(i) preclude the use of negative option marketing;

"(ii) provide for verification of a change in telephone exchange service or telephone toll service provider in oral, written, or electronic form; and

"(iii) require the retention of such verification in such manner and form and for such time as the Commission considers appropriate.

"(3) INTRASTATE SERVICES.—Nothing in this section shall preclude any State commission from enforcing such procedures with respect to intrastate services.

"(4) SECTION NOT TO APPLY TO WIRELESS.—This section does not apply to a provider of commercial mobile service, as that term is defined in section 332(d)(1) of this Act.".

(b) RESOLUTION OF COMPLAINTS.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended by adding at the end thereof the following:

"(c) NOTICE TO SUBSCRIBER.—Whenever there is a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service, the telecommunications carrier *or reseller* selected shall notify the subscriber in writing, not more than 15 days after the change is [executed, of the change, the date on which the change was effected, and the name of the individual who authorized the change.] *processed by the telecommunications carrier or the reseller—*

(1) of the subscriber's new carrier; and

(2) that the subscriber may request information regarding the date on which the change was agreed to and the name of the individual who authorized the change.

"(d) RESOLUTION OF COMPLAINTS.—

"(1) PROMPT RESOLUTION.—

"(A) IN GENERAL.—The Commission shall prescribe a period of time, not in excess of 120 [days, for a] *days after a telecommunications carrier or reseller receives notice, for the* telecommunications carrier *or reseller* to resolve a complaint by a subscriber concerning an unauthorized change in the subscriber's selection of a provider of telephone exchange service or telephone toll service.

"(B) UNRESOLVED COMPLAINTS.—If a telecommunications carrier *or reseller* fails to resolve a complaint within the time period prescribed by the Commission, then, within 10 days after the end of that period, the telecommunications carrier *or reseller* shall—

"(i) notify the subscriber in writing of the subscriber's right to file a complaint with the Commission concerning the unresolved complaint, the subscriber's rights under this section, and all other remedies available to the subscriber concerning unauthorized changes;

"(ii) inform the subscriber in writing of the procedures prescribed by the Commission for filing such a complaint; and

"(iii) provide the subscriber a copy of any evidence in the carrier's *or reseller's* possession showing that the change in the subscriber's provider of telephone exchange service or telephone toll service was submitted or executed in accordance with the verification procedures prescribed under subsection (a).

"(2) RESOLUTION BY COMMISSION.—The Commission shall provide a simplified process for resolving complaints under paragraph (1)(B). The simplified procedure shall preclude the use of interrogatories, depositions, discovery, or other procedural techniques that might unduly increase the expense, formality, and time involved in the process. The Commission shall issue an order resolving any such complaint at the earliest date practicable, but in no event later than—

"(A) 150 days after the date on which it received the complaint, with respect to liability issues; and

"(B) 90 days after the date on which it resolves a complaint, with respect to damages issues, if such additional time is necessary.

"(3) DAMAGES AWARDED BY COMMISSION.—In resolving a complaint under paragraph (1)(B), the Commission may award damages equal to the greater of $500 or the amount of actual damages. The Commission may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(e) PENALTY.—

"(1) IN GENERAL.—Unless the Commission determines that there are mitigating circumstances, violation of subsection (a) is punishable by a fine of not less than $40,000 for the first offense, and not less than $150,000 for each subsequent offense.

"(2) FAILURE TO NOTIFY TREATED AS VIOLATION OF SUBSECTION (a).—If a telecommunications carrier *or reseller* fails to comply with the requirements of subsection (d)(1)(B), then that failure shall be treated as a violation of subsection (a).

"(f) RECOVERY OF FINES.—The Commission may take such action as may be necessary—

"(1) to collect any fines it imposes under this section; and

"(2) on behalf of any subscriber, any damages awarded the subscriber under this [section.".] *section.*

(g) CHANGE INCLUDES INITIAL SELECTION.—For purposes of this section, the initiation of service to a subscriber by a telecommunications carrier or a reseller shall be treated as a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.

(c) STATE RIGHT-OF-ACTION.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258), as amended by subsection (b), is amended by adding at the end thereof the following:

"[(g)] *(h)* ACTIONS BY STATES.—

"(1) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that a telecommunications carrier *or reseller* has engaged or is engaging in a pattern or practice of changing telephone exchange service or telephone toll service provider without authority from subscribers in that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such unauthorized changes, an action to recover for actual monetary loss or receive $500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right—

"(A) to intervene in the action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

"(8) DEFINITION.—As used in this subsection, the term 'attorney general' means the chief legal officer of a State.

"**[**(h)**]** *(i)* STATE LAW NOT PREEMPTED.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits unauthorized changes in, a subscriber's selection of a provider of telephone exchange service or telephone toll service.".

(d) REPORT ON CARRIERS EXECUTING UNAUTHORIZED CHANGES OF TELEPHONE SERVICE.—

(1) REPORT.—Not later than October 31, 1998, the Federal Communications Commission shall submit to Congress a report on unauthorized changes of subscribers' selections of providers of telephone exchange service or telephone toll service.

(2) ELEMENTS.—The report shall include the following:

(A) A list of the 10 telecommunications carriers that, during the 1-year period ending on the date of the report, were subject to the highest number of complaints of having executed unauthorized changes of subscribers from their selected providers of telephone exchange service or telephone toll service when compared with the total number of subscribers served by such carriers.

(B) The telecommunications carriers, if any, assessed fines under section 258(e) of the Communications Act of 1934 (as added by subsection (c)), during that period, including the amount of each such fine and whether the fine was assessed as a result of a court judgment or an order of the Commission or was secured pursuant to a consent decree.

SEC. 2. REPORT ON TELEMARKETING PRACTICES.

(a) IN GENERAL.—The Federal Communications Commission shall issue a report within 180 days after the date of enactment of this Act on the telemarketing practices used by telecommunications carriers *or resellers* or their agents or employees for the purpose of soliciting changes by subscribers' of their telephone exchange service or telephone toll service provider.

(b) SPECIFIC ISSUES.—As part of the report required under subsection (a), the Commission shall include findings on—

(1) the extent to which imposing penalties on telemarketers would deter unauthorized changes in a subscriber's selection of a provider of telephone exchange service or telephone toll service;

(2) the need for rules requiring third-party verification of changes in a subscriber's selection of such a provider; and

(3) whether wireless carriers should continue to be exempt from the verification and retention requirements imposed by section 258(a)(2)(B)(iii) of the Communications Act of 1934 (47 U.S.C. 258(a)(2)(B)(iii)).

(c) RULEMAKING.—If the Commission determines that particular telemarketing practices are being used with the intention to mislead, deceive, or confuse subscribers and that they are likely to mislead, deceive, or confuse subscribers, then the Commission shall initiate a rulemaking to prohibit the use of such practices within 120 days after the completion of its report.

Mr. MCCAIN addressed the chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, today the Senate begins consideration of a series of bills dealing with critical issues raised by the transformation and rapid growth of the telecommunications industry.

This transformation in telecommunications is being driven by constant changes in telecommunications technology. The small mass media universe of fifty years ago, occupied by a few large AM radio stations, has given way to an electronic marketplace teeming with alternative sources of information and entertainment. FM radio, TV, cable and satellite television, and the Internet have become sometimes competing, and sometimes complementary, mass media outlets. In the world of telecommunications, the days of Ma Bell were numbered by the advent of microwave radio and satellite technology. First there was competition for long-distance service; then wireless services appeared and exploded. Cellular radio, paging, and now personal communications services—all are now an indispensable part of everyday American life.

For those of you old enough to remember back twenty years—and I think the Presiding Officer can do that—think of how different your life is today than it was then. Most of these changes were due to the growth of telecommunications. For those of you too young to remember that far back, I can assure you that twenty years from now, you will look back on today and marvel at the changes you will have seen.

Today the driving force in telecommunications is digital technology. Digital technology has not only made some of today's new services possible—it is also causing formerly different services to converge, and it is promising Americans new and exciting services in the future. The convergence of your television and your computer is on the horizon. So also is a telephone that can simultaneously translate conversations held in different languages.

We need no longer talk about the Information Age in the future tense. It's here and now, and it's reshaping our world.

As telecommunications technology changes the way we live, our laws must change to keep pace. The growth of competition in the long-distance industry now gives consumers over 500 companies to choose from. Because of that competition, the consumer is better off. But the growth in long-distance competition has also given rise to cutthroat marketing practices.

The first bill we will consider and debate today is S. 1618, the Consumer Anti-Slamming Act of 1998. It is offered by myself and my good friend and distinguished colleague Senator FRITZ HOLLINGS of South Carolina, the distinguished Ranking Democrat on the Commerce Committee. Joining us as cosponsors are the distinguished Majority Leader, Senator LOTT, and Senators FRIST, BRYAN, JOHNSON, KERRY, ABRAHAM, SHELBY, SNOWE, FEINGOLD, and BOB SMITH.

The Consumer Anti-Slamming Act is designed to put a stop, once and for all, to inexcusable marketing tactics that lead to a consumers' long-distance telephone company being switched without consent. Right now two consumers are "slammed" every minute of every day, which makes slamming far and away the most pervasive consumer problem in telecommunications today.

We will then shift our focus to Internet-related issues. The information technology industry is estimated to account for one-third of our real economic growth. Currently, electronic commerce is in the neighborhood of several billion dollars per year, but that figure is expected to skyrocket into hundreds of billions in only a few years more.

The growth and continued expansion of the information technology industry has vastly increased the need for highly-skilled individuals to work in this industry. We need these workers, and their skills, to retain our nation's leadership in Information Age technology. Unfortunately, however, our country isn't producing them in the numbers needed. Therefore, temporary solutions must be found to enable our high-tech industries to remain competitive, while we address problems in the educational system that have led to our inability to produce the needed workforce in this country.

S. 1723, The American Competitiveness Act of 1998, will increase the yearly cap on H-1B immigration visas for skilled workers, while creating new educational opportunities for Americans to join the information technology workforce that is now so critically short of the skilled personnel we need.

Mr. President, I am proud to be a cosponsor of this measure. I commend my colleague, Senator ABRAHAM, for his leadership on this issue, and I am proud to be a cosponsor of this bill in company with Senators HATCH, DEWINE, SPECTER, GRAMS, BROWNBACK, ASHCROFT, HAGEL, BENNETT, MACK, COVERDELL, LIEBERMAN, BURNS, Senator BOB GRAHAM of Florida, and Senator GORDON SMITH of Oregon. I would also like to compliment Senator FEINSTEIN for her efforts at reaching a consensus on this issue with her fellow members of the Judiciary Committee.

Should we fail to pass this measure, our industry will not be able to access the wealth of talent not currently available here at home. This reality will have a quantifiable negative impact on American jobs and American industry. Without passage of this bill, we are forcing companies to shift jobs overseas.

A letter signed by the CEOs of fourteen leading companies, including Microsoft's Bill Gates, Netscape's James Barksdale, and Texas Instruments' Thomas Engibous, put this point well:

> Failure to increase the H-1B cap and the limits that will place on the ability of American companies to grow and innovate will also limit the growth of jobs available to American workers * * * Failure to raise the H-1B cap will aid our foreign competitors by limiting the growth and innovation potential of U.S. companies while pushing talented people away from our shores * * * [this] could mean a loss of America's high technology leadership in the world.

Mr. President, our competitors abroad are waiting for the opportunity to surpass us. They can only do this if we allow them to. We cannot allow our high-tech industries to be hamstrung by an arbitrary cap on immigration of skilled workers.

The Internet has provided widespread access to enormous quantities of information. This in turn has made it necessary to update our copyright laws to protect the rights of copyright holders in the Information Age.

S. 2037, The Digital Millennium Copyright Act, is aptly named. As digitization of commerce, education, entertainment, and a host of other online applications proceeds, international copyright agreements have to be maintained and updated. In addition, the rights of copyright owners need to be assured as technology progresses. That not only safeguards the copyright holder's rights, but also assures that new material will be freely produced and made available to all Internet users.

Finally, Mr. President, while information technology has opened up whole new avenues for commerce, learning, and education, it has also opened up whole new approaches to shady dealings and unfair business practices, and the public should be protected from these. And while we continue to work to prevent these occurrences, we must also work to ensure that existing consumer protection laws function as they were intended, and do not produce unintended or unfair results against either consumers or companies.

My colleague, Senator GRAMM, has taken a keen interest in these issues as they are embodied in the Private Security Litigation Reform Act signed into law during the 104th Congress. Senator GRAMM has led the Securities Subcommittee in reviewing the effectiveness of this law, and he and his fellow Subcommittee members have found it to be insufficient in some areas dealing with class-action suits, particularly those brought in state rather than federal courts, and those in which a valid cause of action has been fraudulently or inadequately presented.

Although frivolous security class actions are a particular problem for the high-tech industry, to the extent consumers have been harmed the industry must be held accountable. Therefore, the issue of securities reform is deserving of debate in the Senate.

Mr. President, these four bills, although apparently so different, do have a unifying thread just as old and new methods of communicating are united by a common concern. Whether we are talking about telephones or advanced computer technology, analog or digital, data or video, our laws must be sure that all segments of the telecommunications industry respond to the consumers' needs, respect consumers' rights, and provide the services America needs to take us into the unimaginably exciting and challenging future that lies before us.

These bills are the first of a series of legislative initiatives the Senate will consider this session that together are intended to achieve these goals.

Mr. President, with that, I conclude the overview of these four bills.

Mr. President, concerning S. 1618, the Consumer Anti-Slamming Act, consumers across the country are unfortunately all too familiar with a practice known as "slamming." Slamming is the unauthorized changing of a consumer's long-distance telephone company. It is a problem that continues to harm consumers despite efforts at the Federal and State level to fight it. That is why we need to ensure the passage of the slamming legislation that I have introduced. The distinguished Senator from South Carolina, Senator HOLLINGS, who serves as the ranking member of the Senate Commerce Committee, joins me in cosponsoring this bill. I thank him for his invaluable assistance in developing this important piece of legislation to restore and safeguard consumer rights. I also thank the other cosponsors of this bill: Senators LOTT, SNOWE, REED, FRIST, BRYAN, DORGAN, JOHNSON, HARKIN, KERRY, INOUYE, ABRAHAM, BAUCUS, SMITH, and Bob SMITH, for joining me in this effort.

Mr. President, slamming isn't just persisting, it is increasing. Slamming complaints are the fastest growing category of complaints reported to the Federal Communications Commission, having more than tripled in numbers since 1994. Last year, 44,000 consumers filed slamming complaints with the FCC. That is a 175 percent increase from the 16,000 complaints the FCC received in 1996.

The extent of the slamming problem is even worse than indicated by the number of complaints filed at the FCC. According to the National Association of State Utility Consumer Advocates, slamming is now the most common consumer complaint received by many State consumer advocates. It has been estimated that as many as 1 million consumers are switched annually to a different long-distance telephone company without their consent. The severity of the slamming problem was exemplified just days ago by a new report that 4,800 residents of one small town in Washington State, about 70 percent of the town, were slammed at one time.

For several years, the FCC has attempted unsuccessfully to deter slamming, yet aggressive long-distance telemarketers continue to mislead consumers.

On April 21st, the Federal Communications Commission imposed a $5.7 million fine on a small long-distance company that had been slamming consumers for years. While this is by far the largest fine the FCC has ever levied for this offense, the FCC took action only after receiving over 1,400 complaints about this company over the course of 2 years, and by now the slammer has disappeared. This instance shows yet again that the FCC's current rules are completely ineffective in preventing slamming.

S. 1618 is a bill designed to stop slamming once and for all. This legislation establishes stringent antislamming safeguards as well as stringent civil and criminal penalties that will discourage this practice. It prescribes definitive procedures for carriers to follow when making carrier changes, provides a menu of remedies for consumers that have been slammed and gives Federal and State authorities the power to impose tough sanctions, including high fines and compensatory punitive damages.

Mr. President, these measures, in addition to those that the States may develop, will ensure that consumers are afforded adequate protection against slamming. In light of the seriousness and scope of the slamming problem, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that a letter from the AARP, along with a Monday, May 11 article in USA Today be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AARP,
Washington, DC, May 11, 1998.

Hon. JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN: The American Association of Retired Persons (AARP) commends you for introducing S. 1618, a bill to improve the protection of consumers against the unauthorized switching of long distance telephone service providers. According to the FCC, this practice known as "slamming," is the fastest growing consumer complaint in telecommunications. We believe that the provisions in your bill to amend the Communications Act of 1934 to curtail "slamming" are good for consumers.

S. 1618 includes most of the elements necessary to close off loopholes in the existing law that make telephone subscribers vulnerable to fraudulent or deceptive practices. Key provisions would:

Define switching verification procedures—requiring the telecommunications carrier to receive a series of affirmations from the subscriber prior to verifying the switch;

Preclude the use of negative option marketing—ending this onerous practice of switching subscribers for failure to tell the carrier that they are not interested;

Require a detailed, written notice of change to subscriber—notify the subscriber in writing, within 15 days after the change, of the change, the date on which the change was effected and the name of the individual who authorized the change;

Award treble damages to wronged parties—providing the FCC with authority in resolving a complaint to increase the amount of the original award times three; and

Punish violating carriers with severe first and second offense fines—imposing fines of not less than $40,000 for the first offense and not less than $150,000 for each subsequent offense, a substantial deterrent to violating carriers.

AARP believes that, as competition develops throughout the telecommunications industry, all telephone carriers should be subject to provisions similar to these. We also believe that the issues attendant to the practice of "cramming" need to be addressed in the near future. We look forward to working with you toward that goal. In the meantime, the provisions of this bill move consumer protections in the right direction. The Association stands ready to work with you as you seek final passage of this important piece of legislation.

Sincerely,

HORACE B. DEETS,
Executive Director.

[From USA TODAY, May 11, 1998]

CALLERS FALL VICTIM TO TELCOM WAR

COMPLAINTS OF SLAMMING, PHONY CHARGES SKYROCKET

(By Steve Rosenbush)

NEW YORK.—Jean Franklin, a Salem, Ore., homemaker, was billed last year for several hundred dollars worth of adult-chat phone calls.

American Billing & Collection sent the invoices to her home, but the calls—which eventually totaled $1,100—were billed to a telephone number she and her husband, Kenneth, canceled years earlier when they moved.

She'd been "crammed"—billed for a phone service she never bought.

"I was surprised, but I thought it was a mistake that could be easily corrected," Franklin says. Instead, American Billing, which declined to comment for this story, eventually turned the matter over to a collection agency.

Her credit report marred by reported bad debt, Franklin complained to the California attorney general's office and the Federal Trade Commission. Last month, regulators filed charges in U.S. District Court in Los Angeles accusing American Billing and two other phone companies of using deceptive and unfair practices to bill people for adult-chat services. But the bad debt is still on Franklin's record.

It's a tale from the trenches of the telecom wars, where millions of consumers like Franklin are suffering the collateral damage. Armies of companies have poured into the increasingly deregulated $200 billion U.S. market, overwhelming the limited resources of regulators with aggressive and sometimes illegal practices.

Desperate for a tactical advantage, other companies are rushing to market with innovative products and services that sometimes don't work. Make an evening phone call on a congested network, such as the one in Los Angeles, and seven times out of 100 it won't go through on the first attempt, says Bellcore, a telecommunications research company. AT&T says users of its directory assistance get the number they ask for only nine out of 10 times. Buy a prepaid calling card, and there's a good chance the call won't go through. Many of the basic services and products that people took for granted in the monopoly era simply don't work—or don't work well—today. Annual telephone-related complaints and inquiries have soared more than tenfold since 1990; the Federal Communications Commission logged 44,035 in 1997 alone.

"Here is the dark side of competition and choice," says FCC Chairman William Kennard. "Sure, life was easier when they had no choice," Kennard says. "But that is not what consumers want."

Or is it?

Long-distance rates have fallen 60% since the 1984 dismantling of AT&T, and consumers can choose from hundreds of new carriers. "But it was a lot easier to use the phone before they broke up AT&T. And I don't think you really save that much money now because companies charge you for other things," says Alan Kohn of Woodbridge, N.J., who was dismayed when he couldn't find a pay phone that accepted his calling card.

Statistics from phone companies, consumer advocates and state and federal regulators don't begin to capture the depth of consumer frustration with phone services.

HEADACHES EVERYWHERE

Directory assistance costs more, often requires a wait, and increasingly provides wrong numbers. The toll on callers is more than $50 million a year if just 5% of the 1.5 billion long-distance information calls are inaccurate. Not to mention the frustration of dealing with computer-generated voices instead of operators. Carriers like AT&T blame local phone companies that won't share their databases of names and phone numbers.

Prepaid calling cards, "On the whole, they are worth it," says Dan Singhani, 45, a newsstand owner in Manhattan who uses them several times a week to call relatives in India and Hong Kong. "But some cards don't work. . . . Or you are talking and the line is disconnected."

Pay phone charges. Muriel Flore thought she was using her calling card when she stopped during an interstate trip to call her vet and check on her sick cat. She was stunned several weeks later when Oncor Communications billed her more than $12 for the five-minute call. Oncor agreed to cancel the bill after Flore complained to the FCC. The company did not return phone calls for this story.

Fragile phones. A micro-processor-driven telephone ruined by just a drop of water that seeps through the keypad.

"SLAMMED"

By far, the bulk of consumer complaints to the FCC are about slamming: switching a customer's long-distance service without permission. Last year, the FCC received more than 20,000 complaints. But the actual incidence of slamming is much higher. AT&T alone says 500,000 of its 80 million residential customers were slammed last year.

"I resented the fact that I had been changed without notice," says Jim Pringle of Pittsboro, N.C. "But what I resented almost more was that somebody benefited from the lag between when it occurred and when I realized it."

Ronald J. Carboni thinks a disgruntled neighbor, playing a prank, switched his phone service from Sprint to National Telephone & Communications. Carboni, 52, was charged $8.92, a fee National immediately dropped once notified of the problem. Records show someone had forged Carboni's name as "Batboni." National never confirmed the order.

Lawmakers and regulators are cracking down, though slamming complaints represent only a fraction of the 50 million changes that consumers made in their long-distance service last year. Last month the FCC levied the biggest slamming fine in history, a $5.7 million penalty against the Fletcher Cos., run by a 30-year-old fugitive named Daniel Fletcher. The FCC has vowed

> to increase penalties and force companies to return money they collect from slamming victims. In California, a new law requires long-distance carriers to hire a third party to authenticate every request for service changes.
>
> The phone companies are policing themselves, too. AT&T filed lawsuits in March against three independent sales agents it suspected of the problem. AT&T says agents who account for less than 5% of the company's consumer long-distance sales were responsible for about two-thirds of slamming complaints against AT&T.
>
> BILLED AND BILKED
>
> Scams are multiplying as deregulation spreads. Complaints of cramming—cases like that of Jean Franklin—are the newest twists, and they are soaring.
>
> A host of small, independent companies are billing customers—sometimes on their local phone bills—for information services, such as horoscopes and sports scores, that they didn't order. Some people are billed at random; others are the victims of carelessness and error by carriers and billing companies.
>
> The FCC has processed 1,123 complaints of cramming since it began tracking them last December. And last week, Bell Atlantic cracked down on cramming, in effect saying that it would no longer allow 20 smaller companies to place their charges on Bell Atlantic bills.
>
> The company, which serves more than 41 million customers from Virginia to Maine, said it is receiving hundreds of complaints a day and that more than 80% are legitimate.
>
> Floyd Brown's cramming case is typical. Brown, 76, of Carlsbad, Calif., said American billing charged his mother earlier this year for $44.55 worth of information services it said she had purchased over the phone. "She had been dead for a year and a half," Brown says.
>
> And Franklin and her husband are still struggling to resolve their dispute with the company. The bad debt remains on their credit reports, and shame has kept them from applying for loans to buy a new car and a new house. "It's not going to be over until that item is removed from our credit report," Franklin says.

Mr. MCCAIN. The AARP writes:

> The American Association of Retired Persons (AARP) commends you for introducing S. 1618, a bill to improve the protection of consumers against the unauthorized switching of long distance telephone service providers. According to the FCC, this practice, known as "slamming" is the fastest growing consumer complaint in telecommunications. We believe that the provisions in your bill to amend the Communications Act of 1934 to curtail "slamming" are good for consumers.
>
> * * * * *
>
> AARP believes that, as competition develops throughout the telecommunications industry, all telephone carriers should be subject to provisions similar to these. We also believe that the issues attendant the practice of "cramming" need to be addressed in the near future. We look forward to working with you toward that goal. In the meantime, the provisions of this bill move consumer protections in the right direction. The Association stands ready to work with you as you seek final passage of this important piece of legislation.

Mr. President, yesterday there was an article in the USA Today which is included in the RECORD, and it says: "Callers fall victim to telecom war, complaints of slamming, phony charges skyrocket."

> Jean Franklin, a Salem, Ore., homemaker, was billed last year for several hundred dollars worth of adult-chat phone calls.
>
> American Billing & Collection sent the invoices to her home, but the calls—which eventually totaled $1,100—were billed to a telephone number she and her husband, Kenneth, canceled years earlier when they moved.
>
> She'd been "crammed"—billed for a phone service she never bought.
>
> * * * * *
>
> Long-distance rates have fallen 60% since the 1984 dismantling of AT&T, and consumers can choose from hundreds of new carriers. "But it was a lot easier to use the phone before they broke up AT&T . . .," says Allan Kohn . . . who was dismayed when he couldn't find a pay phone that accepted his calling card.

Mr. President, by far the bulk of consumer complaints at the FCC are about slamming, switching consumers long-distance service without permission. And it goes on to talk about the 20,000 complaints.

AT&T alone says 500,000 of its 80 million residential customers were slammed last year.

> "I resented the fact that I had been changed without notice," says Jim Pringle of Pittsboro, N.C. "But what I resented almost more was that somebody benefited from the lag between when it occurred and when I realized it."

Mr. President, I recognize on the floor Senator COLLINS who has been heavily involved in this issue. And after Senator DORGAN speaks, I think she will seek to address her amendment. But I want to thank her for her involvement in this issue, the hearings that she held in her subcommittee and the enormous contributions she has made in causing this bill to progress.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me add my congratulations to Senator COLLINS on the work that she has done, and certainly to the Senator from Arizona, Senator MCCAIN, and Senator HOLLINGS. Senator HOLLINGS has asked me to be present for him. He is tending to other Senate business at the moment.

This is an important piece of legislation. We appreciate very much the bipartisan work that was done to bring it to the floor of the Senate.

I would like to just, for a couple of moments, give an overview of where we are and then bring it to this piece of legislation—and I will be rather brief—after which I will be interested in hearing from the Senator from Maine as well.

The breathtaking changes in telecommunications and in the telecommunications industry in recent years have been quite remarkable. No one could have anticipated what we would see in technology and in opportunities that exist from the changing technology.

I, in a speech some while ago, held up a vacuum tube, a small vacuum tube that we are all familiar with, and then I held up next to it a little computer chip that was about one-half the size of my little fingernail, and I said, "The little computer chip equals 5 million vacuum tubes." Sometimes we forget to equate what is happening in these little chips and in their power and in their capability, but it is really quite remarkable what has happened to speed, storage density, memory and all the other things that relate to these breakthroughs.

The CEO of one of the large companies, IBM as a matter of fact, in a report to the annual meeting that I had read, I guess, about 6 or 8 months ago, talked about the research they are doing in the area of storage density, which kind of relates to all this technology. And I was struck by what he said. He said we were on the verge of a breakthrough with respect to storage density, such that the time was near, he thought, when we would be able to store all of the volumes of work at the Library of Congress, which represents the largest volume of recorded human history anywhere on Earth—we would be able to store all of that, 14 million volumes of work, on a wafer the size of a penny.

Think of that—carrying around in your pocket to slip into a laptop a wafer the size of a penny that contains 14 million volumes of work. Unthinkable? No. It is where technology is heading.

In my little high school, where I graduated in a class of nine, we had a library the size of a coat closet. That high school now has access to the largest libraries in the world through the Internet. All of this is made possible by the breakthroughs in technology and the telecommunications industry and the development of the information superhighway. Many of us are very concerned, as public policy develops in all of these areas, that we make certain that the benefits of all of this are available to all Americans, that the on-ramps and off-ramps for the information superhighway, yes, stop even in my hometown, in my small county.

So as we develop legislation such as the Telecommunications Act, which Congress passed a couple years ago, and try to evaluate what kinds of policy guidance we can give as this industry grows, it is very important that we do this right.

I might say, as I begin, that I am concerned about universal service, about the availability of universal service—especially in telephone service—in the years ahead, in the high-cost areas and rural areas of our country. I hope very much that the Federal Communications Commission will make a U-turn with respect to some of the policy decisions they have made which I think threaten universal service in the future. There is still time for them to make some recalculations and some different policy judgments. I have met with Chairman Kennard and others, and I hope very much that they will make some different judgments than what we saw from the previous Chairman of the FCC, which I think will implement the Telecommunications Act, which is very detrimental to high-cost areas and rural areas of the country. We are going to debate that more in the months and years ahead.

Let me talk specifically about the telecommunications area that does work and works well. One of the areas that works and provides the fruits and benefits of competition to virtually every American is the competition in long-distance telephone service. This is an area—long-distance telephone service—in which there is robust, aggressive competition. Anywhere you look, you will find a telephone company engaged in selling long-distance service. If you don't think so, just sit down for dinner some night, and somebody will give you a cold call from an office somewhere in a State far away, and they will be trying to sell you their long-distance service. They apparently only dial at mealtime—at least into our home. But I think every American is familiar with these telephone calls—"Won't you take our long-distance service?" As I indicated, up to 500 companies are robustly competing for the consumer dollar. What has happened to the cost of long-distance service? It has gone down, down, down. That represents the fruit and the benefit of good competition.

But one other thing has happened with respect to this competition. As is the case where there is robust competition, there are also some bad actors. In this case, "bad actors" means that people get involved in this business of trying to sell a long-distance service to a customer that already has a long-distance provider but decides they are going to sell it the shortcut way—they are not even going to ask the consumer whether they want to change providers. Through sleight of hand, they are going to engage in a technological stealing of sorts; they are going to switch someone's long-distance service and not tell them about it. That is, in fact, stealing; that is, in fact, a criminal act. One might ask, is that happening a lot? Yes, it is happening a lot.

Here is a story about the king of slammers. I was trying to evaluate where this word "slammer" came from. Frankly, nobody knows where the word "slammer" came from. But the definition of "slammer," as it is used in this context, is someone who goes in and changes someone else's long-distance carrier without telling them and without authorization. It is stealing. It is criminal.

The king of slammers is Daniel Fletcher. Let me cite him as an example. The head of the FCC, William Kennard, said, "This is truly a bad actor. He is a felon who clearly had intent to violate the FCC's rules, and we're hitting him hard." But not too hard, because they haven't found him. He changed a half-million people's long-distance carrier, and he, apparently, made $20 million. Is that stealing? Yes. Is that petty cash? No; that is grand theft. The fact is, that goes on across the country all too often.

Yesterday, Mr. President, on the floor, I held a clipping from the newspaper in North Dakota. It just so happened that, coincidentally, the North Dakota papers had a story that said that the North Dakota Attorney General had been the victim of slamming. Someone had decided to change the attorney general's long-distance carrier without asking her.

Now, am I suggesting that slammers are stupid? Well, not always. They certainly seem to steal a lot of money. But is it a stupid slammer that decides they are going to change the long-distance service of an attorney general of a State without telling them? Yes, that is pretty stupid. But this is not about being stupid or funny, it is about stealing. The hearings that were held by Senator COLLINS, and others, and the work done has been to respond to a very real problem that is significant.

Now, the FCC complaints about this slamming—the unauthorized change of a long-distance service—increased from 2,000 five years ago, to 20,000 last year. The FCC indicates that there is a substantial amount of slamming going on, evidenced by the complaints to the FCC. The GAO did a report that, in fact, was rather critical of the FCC's enforcement on these slamming issues, saying that the antislamming measures "do little to protect the consumers from slamming."

We have a problem; yet, we are not able to solve that problem with the regulatory agency, either because it is not doing what it ought to do, it doesn't exert enough energy, or perhaps it doesn't have enough authority. But whatever the reason—and it might be a combination of all of those reasons —this problem is not going away; it is growing much, much worse.

In 1997, with 20,000 complaints, the FCC obtained only 9 consent decrees from companies nationwide that paid a total of $1.2 million in fines because of slamming. In the same year, California, by comparison, suspended one firm for 3 years because of slamming, and fined it $2 million, and ordered it to repay another $2 million to its customers. One State, the State of California, did far more than the FCC. I hope that this piece of legislation we will pass will give the FCC the authority, energy, and resources to join us and do what we must do to respond to this slamming.

Now, let me read what the legislation does. It strengthens the antislamming laws and requires the FCC to establish the following consumer protections:

One, it prohibits a carrier from changing a local subscriber's long-distance service, unless the carrier follows the minimum verification procedures prescribed by the FCC—sets up specific procedures that must be followed.

Two, it requires carriers to keep an oral, written, or electronic record of a subscriber authorizing a change in their carrier.

Three, it requires a carrier to send a written notification to the consumer informing them of the changed service within 15 days of the change in service.

Four, it requires carriers to provide consumers with the information and procedures necessary to file a complaint at the FCC.

Five, it requires carriers to provide slammed customers with any evidence that authorized that change.

It allows the complaint process to impose stiff penalties, up to $150,000, and a range of other important issues that I think will give us much more enforcement against this slamming process and the slamming practice across the country.

Once again, let me conclude by saying that this is not some minor nuisance issue; this is an issue in which some have taken advantage of consumers who are the victims. It is true that the company that has been changed is also a victim, a company that was serving a customer and is now not serving the customer.

But the ultimate victim here are the consumers who only understand later after they have taken a look at a bill somewhere and discover they are the ones that have been victimized.

This bill also, incidentally, would prohibit some other practices that are deceptive. There are a whole range of practices that have allowed people or persuaded people to sign a coupon in exchange for having an opportunity or a chance to get something, or get a free door prize, or get some sort of free gift. So you sign this little coupon. On the bottom in tiny little script it tells you that despite the fact that you have never read it, you have just signed away and changed your long-distance carrier. That is cheating. Where I come from, and I think where all of us come from, when you cheat and steal, somebody ought to be after you to get you.

That is exactly what we want to have happen with respect to the enforcement against this kind of behavior and practice that is making victims of millions of Americans all across the country.

This one fellow took one-half million households, changed their long-distance carrier, got $20 million into an income stream into shell corporations that he set up, and now he is gone. What does this mean? It means that one-half million Americans were cheated. This fellow stole from not only the companies but especially the Americans who expected to have a long-distance service they had contracted for and discovered someone else changed it.

Let me again, as I began, say thank you to Senator COLLINS, to Senator MCCAIN, and to Senator HOLLINGS and so many others. I am a cosponsor of this, as are a good number of our colleagues in the Senate, because it is good legislation and will do the right thing for consumers in this country.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I thank Senator DORGAN for his kind remarks but also for his very clear and concise depiction of the issue that we are addressing. I think it is important that the record reflect the entirety of his remarks.

Mr. President, I ask unanimous consent that the pending committee amendments be agreed to and considered as original text for purpose of further amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

Mr. MCCAIN. Mr. President, I yield the floor.

Mr. HOLLINGS. Mr. President, I rise today in support of legislation that is necessary to stem the tide of one of the most annoying anti-consumer practices, known as slamming. Slamming occurs when a preferred telecommunications service provider of the consumer is changed without the consent of the consumer. This legislation enhances the verification and other procedures that carriers must use to ensure that the consumer consents to the change in its service provider. It also enhances the enforcement authority of the FCC, the Department of Justice, and the State attorneys general and imposes greater penalties and fines to address the problem of slamming.

Slamming is not a new problem. Many consumers have been victims of slamming, suddenly discovering that their phone service is no longer being provided by their carrier of choice. Instead, it is being provided by an unauthorized carrier. We've all had the sales calls interrupt us at the dinner table. Regardless of what the FCC does, the problem persists.

In a recent USA Today article, the FCC said it received 12,000 consumer complaints about slamming during the first half of 1997. In 1996, it received more than 16,000 total slamming complaints. In its Fall 1996 Common Carrier Scorecard, the FCC stated that slamming was the top consumer complaint category handled by the Enforcement Division's Consumer Protection Branch. It also stated that slamming complaints were the fastest-growing category of complaints, increasing more than six-fold between 1993 and 1995. In its 1997 Common Carrier Scorecard, the FCC indicated that nine companies accused of slamming have entered into consent decrees and have agreed to make payments to the United States Treasury totaling $1,245,000. The FCC has also issued two Notices of Forfeitures with combined forfeiture penalties of $160,000. Nonetheless, slamming continues to be a significant problem.

The provisions we introduce today will hopefully stop this practice of slamming once and for all. The legislation places new responsibilities on carriers for the benefit of consumers. For example, often times, a consumer is slammed and does not know it until the next telephone bill arrives. Sometimes, unscrupulous carriers provide service to slammed customers for a considerable time before the customer becomes aware of the unauthorized switch. To prevent this, the legislation requires that whenever there is a change in the subscriber's carrier, the carrier must notify the subscriber of the change within 15 days. A carrier has 120 days to resolve a slamming complaint. If the carrier is unable to resolve the complaint within the required timeframe, then the carrier must notify the consumer of his or her right to file a complaint with the FCC. The FCC is required to resolve a slamming complaint it receives within 150 days.

The bill also requires a carrier to retain evidence of the consumer's authorization to switch carriers and to inform the consumer of their rights to pursue a resolution of the matter with the Federal Communications Commission and with State authorities. Requiring carriers to store information will make it easier to resolve slamming disputes that arise between the consumer and the carrier. Armed with information on how to resolve slamming disputes, we hope that consumers will pursue their available recourse and help us hold carriers accountable for their illegal actions.

In addition, the bill creates a variety of causes of actions and imposes stiff penalties on carriers. If a carrier violates FCC rules, the FCC can award the greater of actual damages or $500 and has the discretion to award treble damages. If there are no mitigating circumstances, the FCC is required to impose on the carrier a forfeiture of $40,000 or more for the first offense and not less than $150,000 for each subsequent offense. If a company fails to pay a forfeiture, the FCC can limit, deny, or revoke the company's operating authority. Where the slammer's actions have been willful, the Department of Justice can bring an action to impose fines in accordance with Title 18, United States Code and imprison the person who submits or executes a change in willful violation of Section 258. In addition, State attorneys general can bring actions in federal court to: impose criminal sanctions and penalties under Title 18 U.S. Code; recover actual damages or $500 in damages; and recover fines of $40,000 or more for first offenses and not less than $150,000 for subsequent offenses unless there are mitigating circumstances. Finally, this bill gives the FCC authority to pursue billing agents when they place charges on a consumers bill that they know the consumer has not authorized.

Slamming is a troublesome problem. Slamming eliminates a consumer's ability to choose his or her service provider. It distorts telecommunications markets by enabling companies engaged in misleading practices to increase their customer base, revenues, and profitability through illegal means. Today hundreds of long distance carriers compete for a consumer's business. If slamming is not addressed effectively today, it could become much more worrisome. The changes in the telecommunications industry will probably result in a future in which local and long distance phone services are provided by an even greater number of carriers.

It is therefore important that we eliminate the practice of slamming. Consumers have the right to choose their own phone companies when they choose. A consumer's choice should not be curtailed by the illegal actions of bad industry actors and a consumer should not have to spend a significant amount of time addressing issues of slamming. I expect that requirements placed by this bill will help to eliminate slamming. My actions with respect to slamming reflect my continued efforts to protect consumers as I have in the past supported legislation which successfully addressed the problem of junk fax and ensure that companies engage in proper telemarketing practices.

I welcome my colleagues in joining Senator MCCAIN and I as we address the problem of slamming and ensure that no one is allowed to curtail a consumer's choice of phone service provider.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. I yield such time to the Senator from Maine as she may consume.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I want to start by complimenting the chairman of the Commerce Committee for his outstanding leadership in dealing with a very important consumer issue, and that is telephone slamming.

I also want to commend the Senator from North Dakota for his very eloquent explanation of the problem and the solutions.

Mr. President, I rise to express my strong support for S. 1618, legislation that will provide America's consumers with much needed protection against a fraudulent practice known as slamming—the unauthorized switching of a customer's telephone service provider. I want to commend Senators MCCAIN and HOLLINGS for taking steps to attack this rapidly growing problem.

Telephone slamming is spreading like wildfire. In Maine, complaints increased by 100 percent from 1996 to 1997. Nationwide, slamming is the number one telephone-related complaint. While the FCC received more than 20,000 slamming complaints in 1997, a significant increase over the previous year, estimates from phone companies indicate that as many as one million people were slammed during that 12-month period.

Last fall, the Permanent Subcommittee on Investigations, which I chair, undertook an extensive investigation of this problem. At a field hearing this past February in Portland, Maine, at which I was joined by Senator DURBIN, one of the leaders in the fight against slamming, we heard from several consumers who were victimized by this practice. Their words reflect the public attitude toward the intentional slammer, as they described what happened to them as "stealing," "criminal," and "break-in."

My Subcommittee recently held a second hearing, which revealed that a number of what are known as switchless resellers were responsible for a large percentage of the intentional slamming incidents. These operations use deceptive marketing practices and outright fraud to switch consumers' long distance service without their consent.

One recent victim was a hospital in western Maine. This demonstrates that no one is immune from this despicable practice.

Mr. President, our hearings presented a case that dramatically shows the need for tougher sanctions to deal with this problem. I refer to an individual by the name of Daniel Fletcher, who fraudulently operated as a long distance reseller under at least eight different company names, slamming thousands of consumers, and billing them for at least $20 million in long distance charges. While we were struck by the ease with which Mr. Fletcher carried out his activities and evaded detection, we were shocked to learn about the absence of adequate criminal sanctions to deal with his activities.

Mr. Fletcher bilked America's telephone customers out of millions of dollars by charging them for services they did not authorize and obtaining from them money to which he was not entitled. Yet, we lack a statute that expressly makes intentional slamming a crime, and unless that is corrected, we can expect many more Fletchers. Mr. President, the time has come for the United States Congress to disconnect the telephone slammers.

Given our concern about this problem, Senator DURBIN and I introduced slamming legislation, and I want to thank Senators MCCAIN and HOLLINGS for agreeing to incorporate its three main provisions into a Manager's Amendment to their bill. These additions will help make a good bill even better.

The first of these provisions will get tough with the outright scam artists by establishing new criminal penalties for intentional slamming. I should emphasize that these penalties will apply only to those who know that they are acting without the customer's authorization and not to those who make an honest mistake or even act carelessly. It's time we sent the deliberate slammer to the slammer. In addition, anyone convicted of intentional slamming will be disqualified from being a telecommunications service provider, thereby enabling us not only to punish past conduct but also to prevent future violations.

The second provision is designed to remove the financial incentive for companies to engage in slamming by giving slammed customers the option to pay their original carrier at their previous rate. Under current law, it appears that customers are obligated to pay the slammer even after they discover they have been switched without their consent. That hardly acts as a deterrent, something that must be changed.

The third provision will improve enforcement by requiring all telecommunications carriers to report slamming violations on a quarterly basis to the FCC. To avoid putting a burden on the carriers, the report need only be summary in nature, but it will enable the FCC to identify and move against the frequent slammer.

Deregulation of the telephone industry may produce many benefits for consumers but it also has given rise to fraud where it did not previously exist. It was Congress who decided to deregulate the industry, and it is Congress that must act to stop this fraud. Senate bill 1618 will move us in that direction by putting a big dent in telephone slamming and by protecting the right of the American people to choose with whom they wish to do business.

Again, I very much appreciate the cooperation of the distinguished chairman of the Commerce Committee and his willingness to accept the Collins-Durbin amendments.

I thank the Senator, and I yield the floor.

Mr. MCCAIN. Mr. President, I thank Senator COLLINS again. We look forward to working with her on other issues that are as noncontroversial as these, as opposed to campaign finance reform which generated much more concern. But I seriously want to note the hard work that Senator COLLINS devoted in her subcommittee to this issue. It was very important. I thank the Senator.

AMENDMENT NO. 2389

(Purpose: To provide a substitute that incorporates the Committee amendments and additional changes in the bill as reported by the committee)

Mr. MCCAIN. Mr. President, I ask for the incorporation at this time of the managers' amendment to S. 1618. I ask unanimous consent that it be adopted.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. HOLLINGS, proposes an amendment numbered 2389.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment (No. 2389) is printed in today's RECORD under "Amendments Submitted.")

Mr. MCCAIN. Mr President, this amendment defines "subscriber" in a way that allows the person named on the billing statement or account, or those authorized by such a person, to consent to carrier changes.

It clarifies that the time period the FCC prescribes for a carrier to resolve a slamming complaint, which is not to exceed 120 days, applies when a carrier receives notice directly from the subscriber of the complaint.

It makes clear that if a carrier does not resolve a complaint within the period prescribed by the Commission, it must notify the subscriber in writing of the subscriber's rights and remedies only under Section 258 of the Communications Act, not under any other law.

It clarifies that the FCC may dispose of a slamming complaint within the 150-day period established in the bill by issuing a "decision or ruling." The FCC will not be required to issue a formal "order" each time it resolves a complaint. It also clarifies that the 150-day period in the bill is intended to be used by the FCC to determine if slamming has occurred, and if slamming has occurred, the FCC has another 90 days, if such additional time is necessary, to determine what damages and penalties should be assessed.

In discussing the amount of damages that may be awarded by the FCC, the original bill referred to the FCC as "resolving a complaint." This change removes that language and the implication that "resolving a complaint" requires a finding of a violation of the slamming rules. It states that the FCC may award damages only if slamming has occurred.

It allows state Attorneys General to bring an action for each alleged slamming violation to enjoin unauthorized changes and to recover damages, to bring an action to seek criminal sanctions for willful violations, and to bring an action to seek a penalty of not less than $40,000 for the first slamming offense and not less than $150,000 for each subsequent offense. A court may reduce the amount of these penalties if it determines that there are mitigating circumstances involved. The district courts shall have exclusive jurisdiction over all of these actions.

It clarifies that states are not preempted from imposing more restrictive requirements, regulations, damages, and penalties on unauthorized changes in a subscriber's telephone exchange service or telephone toll service provider than are imposed under Section 258 of the Communication Act, as amended by this bill.

It clarifies that when the FCC is resolving slamming complaints, it is not instituting a "civil action." In addition, while a particular slamming compliant involving a particular carrier is pending before the FCC, no state may institute a civil action against the same carrier for the same alleged violation.

It allows the FCC to use the fact of a carrier's nonpayment of a forfeiture for a slamming or billing violation as a basis for revoking, denying or limiting that carrier's operating authority.

It imposes duties on all billing agents, both those that are telecommunications carriers that render bills to consumers and those that operate as billing clearinghouses for carriers. It requires any billing agent that issues telephone bills to follow a certain format for the bill. The bill must list telecommunications services separately from other services and must identify the names of each provider and the services they have provided. Billing agents also must provide information to enable a consumer to contact a service provider about a billing dispute. This provision also prohibits billing agents from submitting charges for a consumer's bill if they know or should know that the consumer did not authorize such charges or if the charges are otherwise improper.

It gives the Commission jurisdiction over billing agents that are not telecommunications carriers but provide billing services for such carriers or for other companies whose charges appear on telephone bills.

It instructs the FCC to include in the report required by Section 6 of the bill an examination of telemarketing and other solicitation practices, such as contests and sweepstakes, used by carriers to obtain carrier changes. The FCC also is required to study whether a third party should verify carrier changes and whether an independent third party should administer carrier changes. This provision will address concerns about the possibility of anticompetitive behavior by the local phone companies once they start to provide long-distance service. Enforcement of slamming rules will remain the responsibility of the FCC.

Mr. McCAIN. Mr. President, I send, on behalf of Senator FEINGOLD, an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is the amendment to the substitute amendment?

Mr. McCAIN. Mr. President, before asking for the reading of the amendment, I ask unanimous consent that the managers' amendment be considered as original text.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is agreed to.

The amendment (No. 2389) was agreed to.

AMENDMENT NO. 2390

(Purpose: To authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment)

Mr. McCAIN. I ask now for consideration of the amendment by Senator FEINGOLD.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. FEINGOLD, proposes an amendment numbered 2390.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . ENFORCEMENT OF REGULATIONS REGARDING CITIZENS BAND RADIO EQUIPMENT.

Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following:

"(f)(1) Except as provided in paragraph (2), a State or local government may enforce the following regulations of the Commission under this section:

"(A) A regulation that prohibits a use of citizens band radio equipment not authorized by the Commission.

"(B) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.

"(2) Possession of a station license issued by the Commission pursuant to section 301 in any radio service for the operation at issue shall preclude action by a State or local government under this subsection.

"(3) The Commission shall provide technical guidance to State and local governments regarding the detection and determination of violations of the regulations specified in paragraph (1).

"(4)(A) In addition to any other remedy authorized by law, a person affected by the decision of a State or local government enforcing a regulation under paragraph (1) may submit to the Commission an appeal of the decision on the grounds that the State or local government, as the case may be, acted outside the authority provided in this subsection.

"(B) A person shall submit an appeal on a decision of a State or local government to the Commission under this paragraph, if at all, not later than 30 days after the date on which the decision by the State or local government becomes final.

"(C) The Commission shall make a determination on an appeal submitted under subparagraph (B) not later than 180 days after its submittal.

"(D) If the Commission determines under subparagraph (C) that a State or local government has acted outside its authority in enforcing a regulation, the Commission shall reverse the decision enforcing the regulation.

"(5) The enforcement of a regulation by a State or local government under paragraph (1) in a particular case shall not preclude the Commission from enforcing the regulation in that case concurrently.

"(6) Nothing in this subsection shall be construed to diminish or otherwise affect the jurisdiction of the Commission under this section over devices capable of interfering with radio communications.".

Mr. McCAIN. Mr. President, I have reviewed the amendment with Senator DORGAN, and it is acceptable on both sides. I encourage its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2390) was agreed to.

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FEINGOLD. Mr. President, as we take up this important anti-slamming bill, which of course deals with consumer problems with telephone service, I am pleased that the Senate has agreed to this amendment to provide a practical solution to the all too common problem of interference with residential home electronic equipment caused by unlawful use of citizens band [CB] radios. I want to thank the Chairman of the Committee, Senator McCAIN, and the ranking member, Senator HOLLINGS, for agreeing to include this amendment in the slamming bill.

The problem of CB radio interference can be extremely distressing for residents who cannot have a telephone conversation, watch television, or listen to the radio without being interrupted by a neighbor's illegal use of a CB radio. Unfortunately, under the current law, those residents have little recourse. The amendment I offered today will provide those residents with a practical solution to this problem.

Up until recently, the FCC has enforced its rules outlining what equipment may or may not be used for CB radio transmissions, how long transmissions may be broadcast, what channels may be used, as well as many other technical requirements. FCC also investigated complaints that a CB radio enthusiast's transmissions interfered with a neighbor's use of home electronic and telephone equipment. FCC receives thousands of such complaints annually.

For the past 3 years, I have worked with constituents who have been bothered by persistent interference of nearby CB radio transmissions in some cases caused by unlawful use of radio equipment. In each case, the constituents have sought my help in securing an FCC investigation of the complaint. And in each case, the FCC indicated that due to a lack of resources, the Commission no longer investigates radio frequency interference complaints. Instead of investigation and enforcement, the FCC is able to provide only self-help information which the consumer may use to limit the interference on their own.

I suppose this situation is understandable given the rising number of complaints for things like slamming. The resources of the FCC are limited, and there is only so much they can do to address complaints of radio interference.

Nonetheless, this problem is extremely annoying and frustrating to those who experience it. In many cases, residents implement the self-help measures recommended by FCC such as installing filtering devices to prevent the unwanted interference, working with their telephone company, or attempting to work with the neighbor they believe is causing the interference. In many cases these self-help measures are effective.

However, in some cases filters and other technical solutions fail to solve the problem because the interference is caused by unlawful use of CB radio equipment such as unauthorized linear amplifiers.

Municipal residents, after being denied investigative or enforcement assistance from the FCC, frequently contact their city or town government and ask them to police the interference. However, the Communications Act of 1934 provides exclusive authority to the Federal Government for the regulation of radio, preempting municipal ordinances or State laws to regulate radio frequency interference caused by unlawful use of CB radio equipment. This has created an interesting dilemma for municipal governments. They can neither pass their own ordinances to control CB radio interference, nor can they rely on the agency with exclusive jurisdiction over interference to enforce the very Federal law which preempts them.

Let me give an example of the kind of frustrations people have experienced in attempting to deal with these problems. Shannon Ladwig, a resident of Beloit, WI has been fighting to end CB interference with her home electronic equipment that has been plaguing her family for over a year. Shannon worked within the existing system, asking for an FCC investigation, installing filtering equipment on her telephone, attempting to work with the neighbor causing the interference, and so on. Nothing has been effective.

Here are some of the annoyances Shannon has experienced. Her answering machine picks up calls for which there is no audible ring, and at times records ghost messages. Often, she cannot get a dial tone when she or her family members wish to place an outgoing call. During telephone conversations, the content of the nearby CB transmission can frequently be heard and on occasion, her phone conversations are inexplicably cut off. Ms. Ladwig's TV transmits audio from the CB transmission rather than the television program her family is watching. Shannon never knows if the TV program she taped with her VCR will actually record the intended program or whether it will contain profanity from a nearby CB radio conversation.

Shannon did everything she could to solve the problem and a year later she still feels like a prisoner in her home, unable to escape the broadcasting whims of a CB operator using illegal equipment with impunity. Shannon even went to her city council to demand action. The Beloit City Council responded by passing an ordinance allowing local law enforcement to enforce FCC regulations—an ordinance the council knows is preempted by Federal law. Last year, the Beloit City Council passed a resolution supporting legislation I introduced, S. 608, on which my amendment is modeled, which will allow at least part of that ordinance to stand.

The problems experienced by Beloit residents are by no means isolated incidents. I have received very similar complaints from at least 10 other Wisconsin communities in the last several years in which whole neighborhoods are experiencing persistent radio frequency interference. Since I have begun working on this issue, my staff has also been contacted by a number of other congressional offices who are also looking for a solution to the problem of radio frequency interference in their States or districts caused by unlawful CB use. The city of Grand Rapids, MI, in particular, has contacted me about this legislation because they face a persistent interference problem very similar to that in Beloit. In all, FCC receives more than 30,000 radio frequency interference complaints annually—most of which are caused by CB radios. Unfortunately, FCC no longer has the staff, resources, or the field capability to investigate these complaints and localities are blocked from exercising any jurisdiction to provide relief to their residents.

My amendment attempts to resolve this Catch-22, by allowing States and localities to enforce existing FCC regulations regarding authorized CB equipment and frequencies while maintaining exclusive Federal jurisdiction over the regulation of radio services. It is a commonsense solution to a very frustrating and real problem which cannot be addressed under existing law. Residents should not be held hostage to a Federal law which purports to protect them but which cannot be enforced.

Now this amendment is by no means a panacea for the problem of radio frequency interference. It is intended only to help localities solve the most egregious and persistent problems of interference—those caused by unauthorized use of CB radio equipment and frequencies. In cases where interference is caused by the legal and licensed operation of any radio service, residents will need to resolve the interference using FCC self-help measures that I mentioned earlier.

In many cases, interference can result from inadequate home electronic equipment immunity from radio frequency interference. Those problems can only be resolved by installing filtering equipment and by improving the manufacturing standards of home telecommunications equipment.

The electronic equipment manufacturing industry, represented by the Telecommunications Industry Association and the Electronics Industry Association, working with the Federal Communications Commission, has adopted voluntary standards to improve the immunity of telephones from interference. Those standards were adopted by the American National Standards Institute last year. Manufacturers of electronic equipment should be encouraged to adopt these new ANSI standards. Consumers have a right to expect that the telephones they purchase will operate as expected without excessive levels of interference from legal radio transmissions. Of course, Mr. President, these standards assume legal operation of radio equipment and cannot protect residents from interference from illegal operation of CB equipment.

This amendment also does not address interference caused by other radio services, such as commercial stations or amateur stations. Mr. President, last year, I introduced S. 2025, a bill with intent similar to that of the amendment I am offering today. The American Radio Relay League [ARRL], an organization representing amateur radio operators, frequently referred to as "ham" operators, raised a number of concerns about that legislation. ARRL was concerned that while the bill was intended to cover only illegal use of CB equipment, FCC-licensed amateur radio operators might inadvertently be targeted and prosecuted by local law enforcement. ARRL also expressed concern that local law enforcement might not have the technical abilities to distinguish between ham stations and CB stations and might not be able to determine what CB equipment was FCC-authorized and what equipment is illegal.

I have worked with the ARRL and amateur operators from Wisconsin to address these concerns. As a result of those discussions, this amendment incorporates a number of provisions suggested by the league. First, the amendment makes clear that the limited enforcement authority provided to localities in no way diminishes or affects FCC's exclusive jurisdiction over the regulation of radio. Second, the amendment clarifies that possession of an FCC license to operate a radio service for the operation at issue, such as an amateur station, is a complete protection against any local law enforcement action authorized by this amendment. Amateur radio enthusiasts are not only individually licensed by FCC, unlike CB operators, but they also self-regulate. The ARRL is very involved in resolving interference concerns both among their own members and between ham operators and residents experiencing problems.

Third, the amendment also provides for an FCC appeal process by any radio operator who is adversely affected by a local law enforcement action under this amendment. FCC will make determinations as to whether the locality acted properly within the limited jurisdiction this legislation provides. The FCC will have the power to reverse the action of the locality if local law enforcement acted improperly. And fourth, my legislation requires FCC to provide States and localities with technical guidance on how to determine whether a CB operator is acting within the law.

Again, Mr. President, my amendment is narrowly targeted to resolve persistent interference with home electronic equipment caused by illegal CB operation. Under my amendment, localities cannot establish their own regulations on CB use. They may only enforce existing FCC regulations on authorized CB equipment and frequencies. This amendment will not resolve all interference problems and it is not intended to do so. Some interference problems need to continue to be addressed by the FCC, the telecommunications manufacturing industry, and radio service operators. This amendment merely provides localities with the tools they need to protect their residents while preserving FCC's exclusive regulatory jurisdiction over the regulation of radio services.

I am very pleased that this amendment has been accepted, and I hope it will become law along with the anti-slamming bill.

Mr. McCAIN. Mr. President, we have, according to my understanding, an amendment by Senator FEINSTEIN, that Senator DORGAN has not had a chance to look at but I will ask that he review, which is acceptable. And I understand we have an amendment by Senator ROCKEFELLER. I do not believe that there are any other amendments that we need to consider because we have dispensed with, according to the unanimous consent agreement, the Collins-Durbin amendment. We have dispensed with the Reed amendment, the Levin amendments, Feingold amendment, and McCain amendment, a Hollings amendment, a Harkin amendment, which leaves us with the Rockefeller amendment after we dispense with the Feinstein amendment.

So I yield the floor.

Mr. DORGAN. Mr. President, I yield 10 minutes to the Senator from Rhode Island, Mr. REED.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. I thank the Chair.

I rise in strong support of S. 1618, the Consumer Anti-Slamming Act of 1998, and I particularly commend Chairman McCAIN and ranking member HOLLINGS for the bipartisan and professional manner in which they have considered this legislation. I am pleased to have been part of this process, and I thank them very much for considering my suggestions to improve this legislation.

Last July 24, again with the assistance of Senators McCAIN and HOLLINGS, I offered a sense-of-the-Senate resolution which outlined the issue involving slamming and proposed several suggested solutions. That resolution passed unanimously. Today, I support S. 1681 because it goes forward from that resolution to incorporate very pragmatic resolutions to the problem of slamming that is confronting so many consumers across this country.

I would also like to thank the National Association of Attorneys General as well as the National Association of Regulatory Utilities Commissioners for their assistance. These organizations and their members are fighting this epidemic of slamming at the State level. They are doing a remarkable job, and they were very helpful to me in preparing my legislation and helping me understand the scope of this problem.

We have taken great strides in our economy by deregulating many of our formerly regulated utilities, particularly the telephone companies, but all of that deregulation is for naught if we cannot give consumers real valid choice. And the problem with slamming is it denies consumers real choice. In effect, it tricks them into making choices that are not beneficial to them or collectively to our society and our economy. We have to do something about it.

I am very pleased that this legislation takes very pragmatic and effective steps to stop this curse of slamming, the illegal switching of telephone services. And this is an enormous problem throughout our economy. It threatens to rob many, many consumers of the benefits of deregulation and of a free market for services like telephone service. The Federal Communications Commission indicates that slamming is their No. 1 reported fraud. In my home State of Rhode Island, it is the top consumer issue in terms of telephone service and other consumer issues.

Yet all of these very impressive statistics may be just the tip of the iceberg, because press reports indicate that many, many more people are victims of slamming, but they do not have either the knowledge or the inclination under present rules and regulations to report these cases of slamming. Indeed, one regional telephone carrier estimated that 1 in 20 changes of telephone service is a result of fraud. Slamming is a multimillion-dollar fraud problem, and today, under the leadership of Senator McCAIN and Senator HOLLINGS, we are addressing this problem head on.

One of the aspects of the issue is that there are numerous consumers who are unaware of the fact that they are victims. Forty-one percent of these individuals, of those who have been affected by slamming, do not report the incidents to regulatory authorities or anyone. When a complaint is logged, it is usually logged with a local telephone carrier; in my case, in upper Rhode Island, it is Bell Atlantic. Now, these local carriers do try to resolve the problem, but often they do not have the tools or the ability to do so, and as a result, the consumer is left a victim of the slammer.

When consumers do report these problems and try to take action, under the present regime it is usually a long and frustrating process to get any relief, if you get any relief at all.

Now, State attorneys general and public utility commissions throughout this country are annually receiving hundreds of thousands of complaints. More than half the State attorneys general have tried to take steps to go to court to bring to justice these slammers using the fraud laws of their State. Unfortunately, these legal actions are cumbersome, lengthy, and often do not really reach the heart of the matter and bring the culprits to justice.

A smaller percentage of victims of slamming will seek relief not at the State level but they will go to the Federal Communications Commission. Last year, 44,000 individuals brought slamming complaints to the FCC. That is a 175 percent increase over complaints in 1996. You can see this is an epidemic that needs to be dealt with decisively, and I am pleased that we are doing that.

Now, the FCC does investigate these complaints, but they are hampered by a lack of proof concerning slamming. They are hampered by not having the kind of record that is necessary to prove definitively that an individual has been a victim of slamming. This legislation goes a long way to ensure that all of our regulatory authorities at every level of Government have the tools to ensure that they can root out slamming in our economy.

First, this legislation places a more stringent requirement on phone companies before they can switch a consumer's service. The bill requires verification that the consumer, first, understands service will be changed; second, the consumer affirms his or her intent to change service and also indicates that he or she is authorized to switch service.

We have heard lots of evidence of phone companies—slammers, really—calling up, finding a 12- or 13-year-old child in the house, and talking to that child and using that as what they claim is appropriate authorization to switch service. Under this legislation, those types of practices will not be allowed. Also, the legislation requires that the entire verification process must be recorded and also provided to the consumer upon request, so that if it is a 12-year-old in the house that is giving the OK to switch, the parent can quickly determine that from the recorded record and make a correction.

Now, the other protection that is provided here is that the bill requires that carriers inform a consumer in clear and unambiguous language within 15 days that a switch has been authorized. Many times, consumers do not realize their phone service has been switched until they get, 30 days later, a bill from a company that they have never heard of claiming that they are now their primary telephone carrier.

Now, this whole verification process will go a very long way in preventing the abuses that we have seen. No longer can slammers use ambiguous or fraudulent verification scripts, essentially tricking consumers into agreeing. Additionally, slammers can't go ahead and conjure up and splice together different bits of pieces of an authorization or conversation to say, "That is the proof you agreed to switch your service." Because of the requirement for a recorded record, that will not be possible.

This bill clearly says and makes as a clear standard that without proper verification, without a record, the carrier is in violation of law if they switch services and there cannot be any more assertions by these carriers that, "Well, someone told us it was OK in the house, but we don't have the record. Someone authorized it, but we don't know who it was." They are now in a position where they have to show clearly that they have the verification.

Also, this legislation provides for avenues of redress for consumers. First, the consumer can take the issue up with the unauthorized carrier, and they are required to respond appropriately, within at least 4 months, in terms of justifying the switch or making some type of amends to the consumer. Second, a slamming victim can take their case to the Federal Communications Commission. Now, the FCC has additional authority to fine and to penalize slamming. Finally, a consumer who is frustrated can, once again, take his petition under State law to State commissions. Indeed, one aspect of the legislation that is very positive is, there is no preemption of State laws. We recognize that attorneys general and utility commissioners can and must have the ability to work hand and hand with the Federal Government to root out this problem of slamming.

Altogether, this is very important legislation that provides the necessary consumer protections, that makes the goal and objective of deregulation in a market where consumers choose a reality, and puts up strong barriers against those who would trick consumers and rob them of the choice that deregulation offers, the choice of the best service for them, their free choice.

Once again, let me commend Chairman McCAIN and ranking member HOLLINGS for their work on this. I am hopeful that we can move expeditiously to passage and that this bill will shortly be law and we can protect the American consumer against slamming.

I yield my time.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I yield myself 1 minute.

Senator HOLLINGS and I incorporated an amendment in the managers' amendment on behalf of Senator SNOWE.

This amendment prevents the FCC from taking any actions that would jeopardize the current ability of consumers to "freeze" their long-distance carrier in place. Once the consumer elects to use a freeze, the long-distance carrier of choice can only be changed by the express authorization of the consumer to the local phone company.

Long-distance carriers are concerned about how this amendment might affect their marketing efforts. But reports now show that two consumers are slammed every minute. Given the severity of the slamming problem, the interest we have in preserving safeguards that will project consumers against any unauthorized carrier changes certainly overrides any concerns the industry may have about their marketing efforts.

I thank Senator SNOWE for her amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 2391

(Purpose: To modify the exception to the prohibition on the interception of wire, oral or electronic communications to require that all parties to communications with health insurance providers consent to their interception)

Mr. DORGAN. Mr. President, on behalf of Senator FEINSTEIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for Mrs. FEINSTEIN proposes an amendment numbered 2391.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . MODIFICATION OF EXCEPTION TO PROHIBITION ON INTERCEPTION OF COMMUNICATIONS.

(a) MODIFICATION.—Section 2511(2)(d) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, it shall not be unlawful under this chapter for a person not acting under the color of law to intercept a wire, oral, or electronic communication between a health insurance issuer or health plan and a subscriber of such issuer or plan, or between a health care provider and a patient, only if all of the parties to the communication have given prior express consent to such interception. For purposes of the preceding sentence, the term 'health insurance issuer' has the meaning given that term in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b), the term 'health plan' means a group health plan, as defined in such section of such Act, an individual or self-insured health plan, the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.), the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.), and the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, and the term 'health care provider' means a physician or other health care professional.".

(b) RECORDING AND MONITORING OF COMMUNICATIONS WITH HEALTH INSURERS.—

(1) COMMUNICATION WITHOUT RECORDING OR MONITORING.—Notwithstanding any other provision of law, a health insurance issuer, health plan, or health care provider that notifies any customer of its intent to record or monitor any communication with such customer shall provide the customer the option to conduct the communication without being recorded or monitored by the health insurance issuer, health plan, or health care provider.

(2) DEFINITIONS.—In this subsection:

(A) HEALTH CARE PROVIDER.—The term "health care provider" means a physician or other health care professional.

(B) HEALTH INSURANCE ISSUER.—The term "health insurance issuer" has the meaning given that term in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b).

(C) HEALTH PLAN.—The term "health plan" means—

(i) a group health plan, as defined in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b);

(ii) an individual or self-insured health plan;

(iii) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(iv) the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.);

(v) the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.); and

(vi) the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, United States Code.

Mrs. FEINSTEIN. Mr. President, I offer a very simple amendment to S. 1618 that will protect the critical area of consumer health care privacy. This amendment provides that in communications with health care insurers or providers, patients have the right not to have their confidential conversations recorded or monitored.

This amendment fills a loophole in existing law. Federal law currently provides that at least one party must consent to the taping or monitoring of a private conversation. The federal law allows states to provide even more stringent restrictions, and require that all parties to a conversation must consent to their taping or monitoring.

However, this law provides no protection to patients against unauthorized taping or monitoring. Even when, as in my State of California, the state law requires all parties to consent for taping or monitoring, the law fails to protect them. Patients are construed to consent to taping or monitoring, whether they expressly consent or not, if they are informed of the taping or monitoring. This is most often accomplished by a recording at the beginning of the telephone call. If patients refuse to have their calls monitored, they are told to simply take their business elsewhere. But there is nowhere else to go.

The confidentiality of details about our health is one of the most sensitive topics imaginable. Physician-patient confidentiality is a bedrock principle that goes back literally thousands of years.

Not only is this an ethical issue, it is a health imperative. In fact, it can be a matter of life and death. Anything less than full confidentiality compromises the willingness of patients to provide the full information that treating physicians need to treat them properly. It can literally jeopardize their health and their life.

We naturally assume that intimate details that we share with our doctor and health care professionals are strictly confidential. But they are not. Today, any communication we have with a health care professional may be taped and monitored.

This problem is exacerbated by the rising role of health insurance companies in treatment. Oftentimes, it is a health insurance company, rather than a trusted doctor, with whom the patient must share intimate personal health details. That health insurance company may not have the same ethical and legal confidentiality obligations as the patient's treating physician.

When my office contacted the top 100 health insurance providers in this country, we learned that most health insurance companies who responded tape or monitor calls from patients.

I want to share briefly some of the responses we received. Kaiser Permanente is a health insurance provider that operates in 19 states and the District of Columbia, and provides care to more than 9 million members. Its practices vary from state to state, depending on applicable state laws.

Among other things, Kaiser Permanente may: Monitor randomly selected calls, in which case it may or may not notify patients in advance; or tape record all or randomly selected calls, in which case it may or may not notify patients in advance.

United HealthCare wrote that they did not believe that recording or monitoring calls presented a privacy issue. Their rationale was that they only randomly record calls and only after advising the caller that the call may be recorded.

Great-West responded that a patient has the option of communicating in writing if the patient does not want to be recorded. Well, let me say simply—that's not good enough for me.

Despite the two-party consent rule in my own State of California, NYL Care Health Plans, Inc., responded that no violation of California law occurs in the absence of a "confidential communication." Under California law, the definition of a "confidential communication" does not include communications where the parties may reasonably expect that the call may be recorded. NYL Care asserted that, since patients were told that their call could be monitored, their calls were not confidential calls.

In my view, NYL Care's interpretation of "confidentiality" turns its commonly understood meaning on its head. In fact, I doubt whether any of my colleagues would agree that communications about one's own health problems are not confidential.

Finger Lakes Blue Cross-Blue Shield of Upstate New York randomly tapes records calls from patients and is in the process of implementing a front-end message to patients.

In the case of Blue Cross Blue Shield of the National Capital Area, a patient receives no notice that the call may be monitored. Their Associate General Counsel stated that in both Maryland and the District of Columbia, no consent was required.

Not only is unauthorized taping or monitoring of telephone calls just plain wrong, it is simply unnecessary. None of the health insurers who responded to my office could provide a valid reason for monitoring or taping incoming calls from patients.

The standard response I received from health insurers was that they monitored or tape recorded calls for "quality control." Yet no one could explain how the health insurer's record of the information discussed protects the patient. It's easy to see, I think, how the industry's practice leaves the patient disadvantaged.

My amendment is simple. First, it requires express consent from patients in order to be taped or monitored by health insurance companies or health care providers.

Second, it requires health insurance companies or health care providers to give patients the option not to be taped or monitored.

Third, it applies only to health insurance companies or health care providers. It does not affect the remaining companies that tape or monitor customer communications.

Mr. President, this amendment simply ensures a basic right that most patients believe they already enjoy. I urge its adoption.

Mr. DORGAN. Mr. President, my understanding is the amendment has been cleared on both sides. I urge the amendment be agreed to.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2391) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DORGAN. I yield 5 minutes to the Senator from Illinois, Senator DURBIN.

Mr. DURBIN. I thank the Senator from North Dakota. I thank my colleague, the Senator from Arizona, for cosponsoring this bill with Senator HOLLINGS.

A little over a year ago, I received a letter in my Senatorial office in Illinois from a young woman who owned a business right outside the City of Chicago. She told a story of having her long-distance carrier changed without her permission, how it ended up costing her over $1,000, and she came to learn there was virtually nothing she could do about it. The recourse under the law currently available was not practical—that she would somehow hire an attorney and go to Federal court over $1,000. That wasn't going to happen. She asked me what could we do about it, so I prepared a piece of legislation, and a large part of it has been incorporated in this good bill, and I am happy to support this bill.

Since then, I have come to learn that hers was not an isolated example. Any group of people you talk to, regardless of their walk of life, who have a telephone at home, will generally tell you that they know somebody or they personally have been victims of slamming. How do they end up having their long-distance carrier changed? Some of them might have been unsuspecting. They went to a carnival or county fair or neighborhood picnic, and they had a little thing handed to them. It said, "Win a free trip to Hawaii. Fill in your name and address and check the box in the bottom." They didn't flip it over to see the other side that said, "You just changed your long-distance carrier."

It would happen time and time again. Folks would get these interminable telephone calls at night saying, "Would you consider moving to this new service?" They say, "No, no, there is no way." It turns out they were being taped. People were splicing together the tapes. When it was all said and done, they took the spliced tapes, and said the person said "yes" when they asked about the long-distance service, but the person said "yes" when they asked about the name.

It turns out a lot of people were being defrauded, and it cost a lot of money, not just for the lady who came to see me and her business, but many others. This is theft. This is stealing. This is not gaming we are dealing with here; it is a situation where a lot of people are making money without the permission of those whose long-distance service is being changed.

I went up to the State of Maine with my colleague, Senator COLLINS, who spoke earlier on the floor, for a hearing on the subject and found it was literally a national problem. From the coast of Maine to California and everything in between, people were going through this and we didn't have the laws in place to protect the consumers. That is why this bill is so important—because this bill finally gives to the consumer an opportunity to say to the person who is slamming them, "You are not going to get away with it."

One of the amendments which Senator MCCAIN was nice enough to adopt and make part of the bill was offered by Senator COLLINS and myself. It said you will never be charged more than what your original long distance carrier would have charged you. So if somebody comes along and doubles your rate without your permission, you still don't have to pay anything more than what was in the original rate structure with your original long-distance carrier. I think that makes sense. I think it is only fair.

The other amendment which we pushed for, the second amendment, creates criminal penalties which are necessary for the most egregious slammers. These are not little companies with little ideas; these are devious groups with a network of information which are trying to set up a network of people across the United States who will be changed to their long-distance service just long enough for them to make some money.

You should have seen the hearing that Senator COLLINS had before the Government Affairs Committee, where she presented a bill from one of these companies to the Chairman of the Federal Communications Commission. She posted it up on the board, and she said to the Chairman: "Take a look at this long-distance bill from a slamming company and tell me one thing. What is the name of the company?"

The Chairman took a look at it, and he said, "I don't see any name of the company up there." You know what? The name of the company was Long Distance Charges. So, when you are going through your telephone bill and you are looking at your local carrier who sent it to you, and you get to a page which reads "Long Distance Charges," it never dawns on you that you are no longer receiving long-distance service from your old carrier. You have a new carrier called Long Distance Charges, and you didn't notice that your long-distance bill just went up. That is the kind of chicanery and trickery these people are guilty of. They make millions of dollars at it. As a consequence, we have to treat them with the criminal penalty which is included in this bill.

I want to make an additional point about the criminal penalties amendment. Creating a criminal statute for slamming in no way lessens the applicability of existing laws such as wire fraud or mail fraud that can help combat slamming, too. Rather, this criminal statute for slamming will make it easier for prosecutors, because it applies specifically to this crime.

Finally, a third amendment agreed to by Senator MCCAIN will require telecommunications carriers to report the number of slamming complaints they receive about each company to the FCC. We know the incidence of slamming is on the rise. We have no way of tracking them. This will establish it. Slamming has already caused telephone customers to become angry and disillusioned with the entire telecommunications industry. These consumers have voiced their concerns to their local phone companies, to their State regulatory bodies, to the FCC. But they feel their complaints have not been heard.

With this legislation, we can begin to restore confidence in the industry and assure consumers that the deceptive practice of slamming will be stopped. Long-distance telephone consumers should be able to stand up for themselves and fight back against slammers, to let them know their actions will not pay.

You have heard, during the course of this debate, lengthy statistics about the nature of the problem. I will not repeat them, only to tell you that it is a serious problem addressed in a serious way by this legislation.

In closing, one small footnote: The outrage of slamming has now been replaced in complaints to my office by the outrage of cramming. It turns out in the lengthy telephone bill you received there may be an item which looks innocent enough for two or three dollars for something you never ordered. Who is going to go through the telephone bill and analyze every line? But unless you do, you may find yourself in a predicament where they are cramming in charges you never asked for.

You are paying three bucks a month every month of the year for something you didn't ask for. How are you going to find it? You have to take the time to read through it. We want to make sure we address that abuse as well.

Today, though, we are addressing in a responsible way a very serious problem that affects consumers across America. I salute Senator MCCAIN, as well as Senator HOLLINGS, who have joined me in this effort through investigations, as well as in preparation of amendments to this very good bill. I am happy to support it. I yield back the remainder of my time.

Mr. CAMPBELL. Mr. President, today I want to express my support for the Consumer Anti-Slamming Act, S. 1618, which addresses the unauthorized switching of telephone service carriers by competing service providers. This abusive practice has become an increasing problem in my home state of Colorado where slamming has grown at an alarming rate. Last October, Chairman BURNS of the Communications Subcommittee of the Commerce, Science, and Transportation Committee held a field hearing in Denver on this issue. In addition to this hearing, anti-slamming legislation has recently passed the Colorado State Legislature. With Colorado as one of the nation's top five states in complaints-per-million customers, I intend to vote for this anti-slamming legislation.

I also am pleased that S. 1618 incorporates provisions from my Anti-Slamming Bill, S. 1051 which I introduced on July 22, 1997. This language requires that the FCC annually report to Congress the "Top Ten" slammers for each year, as well as carriers assessed fines or penalties during the same period. The "Top Ten" list identifies those carriers subject to the highest number of subscriber slamming complaints compared to the total number of subscribers they serve. This ratio approach ensures that large companies are not automatically singled out by virtue of having a large customer base. The focus of my "Top Ten" amendment is on those companies with the highest percentage of slamming complaints relative to their total customer base.

This "Top Ten" list will give Congress an annual opportunity to review and publicly comment on this serious problem known as "slamming". I am convinced that this approach coupled with the language in S. 1618, will prove valuable in deterring carriers from engaging in illegal tactics.

Ms. SNOWE. Mr. President, I rise today to speak in favor of the legislation now before the Senate—S. 1618, the Consumer Anti-Slamming Act—and to urge for its adoption and enactment.

This legislation—which was crafted by the distinguished Chairman of the Commerce Committee, JOHN MCCAIN, and the Ranking Member of the Committee, ERNEST HOLLINGS—will help eliminate a reprehensible practice of unscrupulous telephone companies, and I congratulate them for their leadership on this issue. As a member of the Senate Commerce Committee, I am pleased that my friend and colleague, Chairman MCCAIN, has moved rapidly to address the slamming epidemic that is occurring in Maine by bringing this legislation to the floor of the Senate.

In addition, I would also like to thank my colleague from Maine, Senator COLLINS, for highlighting this issue by holding oversight hearings in her capacity as Chair of the Governmental Affairs Subcommittee on Permanent Investigations, including a recent hearing in the State of Maine—and she has also offered legislation that is designed to combat slamming. In case there is any doubt about the importance of this issue in Maine, the involvement of both Senators should put that to rest!

Mr. President, as many of my colleagues are aware, "slamming" is a term that has been used to describe any practice that changes a consumer's long-distance carrier without the consumer's knowledge or consent. A variety of tactics and techniques can be used to accomplish this goal, including vague or inaccurate phone solicitations; unsolicited "welcome packages" that look like an advertisement but automatically lead to a consumer changing phone companies unless the individual returns a rejection card; and "drawings" for giveaways that also serve as a means of unwittingly changing services.

Regardless of the tactic used to slam a customer, the bottom line is that it's an unfair and illegal practice—and it's one that must be brought to a halt.

Mr. President, phone customers expect high-quality phone service for a fair price. If a phone company is going to "reach out and touch someone," it must be done legally and with fairness to the customer. Consumers who are slammed often receive lower-quality service or higher rates, and sometimes they are not even aware that they have been slammed until they get their bills. This is an outrageous practice and I think we can all agree that its demise is long overdue.

Last year, in my home state of Maine, the number of slamming complaints doubled to a total of 1,000 between 1996 and 1997. Nationwide, more than 20,000 consumers filed slamming complaints with the FCC, the largest category of complaints the agency received. In 1996, it received more than 3,000 total slamming complaints. As a result of these complaints, the FCC has taken enforcement action against 15 companies for slamming violations over the past two years, while assessing more than $1 million in forfeitures and consent decrees with another $500,000 in additional penalties pending.

Mr. President, as these numbers clearly indicate, this is a serious problem that is only going to get worse. In particular, the threat exists that—as competition develops in other communications markets—slamming could extend into new services and become an even more onerous consumer problem if it is left unchecked.

As has been indicated, the Federal Communications Commission (FCC) already has the authority to combat this practice by assessing fines against telephone carriers that slam. But with a 25 percent increase in the number of slamming complaints that were filed in just the past year—and even with the level of fines and penalties that have already been imposed on companies—it is obvious that the FCC's current approach is not working. And it is for this reason that the legislation before this body is so critical.

Mr. President, S. 1618 will put this reprehensible practice to an end by providing definitive procedures for telephone companies to follow in changing a customer's telephone service; giving federal and non-federal authorities the power to impose tough sanctions on companies that are guilty of slamming; and providing measures to ensure that slamming victims are fully compensated.

Specifically, to ensure that changes in phone service are made in a verifiable manner, the bill requires phone companies to obtain written, verbal, or electronic verification from a consumer who is changing providers.

To ensure that customer complaints are dealt with in a timely manner, carriers accused of slamming will be required to defend their actions in no more than 120 days; and the FCC will have no more than 150 days to resolve any outstanding disputes.

If slamming has occurred, the bill gives the FCC the authority to provide compensatory or punitive damages to consumers that companies would be required to pay within 90 days. In addition, provide a strong disincentive to potential slammers, the FCC would be required to impose fines on phone companies that are guilty of slamming of at least $40,000 for a first-time offense and $150,000 for repeat offenses. And If a company refuses to pay these fines, the bill provides that the FCC will also have the authority to prosecute slammers.

Finally, if a consumer wishes to pursue redress through means other than the FCC, this bill allows consumers to pursue their grievances in court through state class-action lawsuits instead of through the FCC. And in the event a specific state does not believe these penalties are strong enough, the bill specifically retains the rights of each state to impose stiffer sanctions.

This bill and the provisions it contains are based on common sense and good policy, and I urge my colleagues to join me in supporting it.

Mr. President, while this bill is a very sound approach to addressing the slamming epidemic, there is one additional technique that consumers already have at their disposal to prevent slamming from occurring, and I believe we should seek to fully protect this consumer option in this bill.

Specifically, if customers are concerned that they will be unwittingly tricked—or unknowingly forced—into changing their phone company, they can now "freeze" into place the long distance carrier of their choice at the local phone company. As a result, no order to change phone companies can be completed without the express, direct authorization of the customer to the local phone company.

To ensure that this option is in no way impeded in the future, I have prepared an amendment that would ensure that no subsequent action by the FCC can be undertaken to restrict or impede the customer's ability to "freeze" in place the carrier of their choice. I understand that this amendment is acceptable to the manager's of the bill, and has now been included in the manager's amendment. Therefore, I would like to thank the chairman and ranking member for addressing this issue and accepting my provision.

Mr. President, the bottom line is, slamming is a serious crime, and this is a serious solution. Companies engaged in slamming will no longer be able to hide behind the anonymity of the phone lines. Phone companies and their customers should reach agreements on phone services, but slamming destroys that relationship. Therefore, this bill will restore an element of trust that has been lost through this abhorrent practice.

Mr. President, slamming is nothing less than high-tech extortion, and the law must be changed to deal with this new criminal threat, and I hope my colleagues will join me in supporting this important legislation.

Mr. HARKIN. Mr. President, every year thousands of Americans are victimized by fraudulent telemarketing promotions. And, unfortunately, these scam artists prey most often on our senior citizens. The losses every year are estimated to be in the billions of dollars. My amendment will help law enforcement to more effectively combat these abuses.

Today, it's all too easy for telemarketing rip-off artists to profit from the current system. How do these rip-offs occur? Advertisements regarding sweepstakes, contests, loans, credit reports and other promotions appear in newspapers, magazines, and other direct mail and telephone solicitations. The operators of many of these phoney promotions set up a telephone boiler room for a few months in which a number of phones are operated to receive calls responding to their ads. They steal thousands—even millions—of dollars from innocent victims and then they simply disappear. They take the money and run—moving on to another location to start all over again.

Here's just one example. Not too long ago, 30,000 Iowans received postcards from an organization calling itself Sweepstakes International, Inc. The postcard enticed recipients to call a 900-number and they were charged $9.95 on their phone bill.

Based on a Postal Service investigation, civil action was initiated in U.S. District Court in Iowa. As a result, the promotion was halted and $1.7 million was frozen. This represented just one and a half month's revenue from the scam!

My amendment will protect telemarketing victims by providing law enforcement the authority to more quickly obtain the name, address, and physical location of businesses suspected of telemarketing fraud. Phone companies would have to provide law enforcement officials only the name, address and physical location of a telemarketing business holding a phone number if the officials submitted a formal written request for this information relevant to a legitimate law enforcement investigation. It will make it easier for officers to identify and locate these operations. This is similar to the procedure that is already in place for post office box investigations.

Mr. President, it is necessary to crack down on serious consumer fraud. With this change, we will have many more successful efforts to shut down these rip-offs artists like several recent cases in my home state of Iowa.

Mr. FEINGOLD. Mr. President, today I rise to speak in support of the anti-slamming bill, S. 1618. I want to commend Senator MCCAIN, Senator HOLLINGS, and the rest of the Commerce Committee for bringing this bill to the floor, and I am proud to be a cosponsor of the bill.

Slamming is an important and widespread consumer problem, and it is high time that the Congress takes action to stop it. Slamming, as most people now know, is a practice carried out by some telecommunications companies to switch a consumer's long distance or local exchange carrier without the consumer's knowledge or consent. Only a few years ago this practice, while persistent and frustrating for some consumers, appeared limited in scope. However, in more recent years this type of consumer fraud appears to have grown into a common profit-making scheme of some telecommunications companies carried out at the consumer's expense.

The rise in slamming complaints has been absolutely astonishing. The Federal Communications Commission reports that the 11,000 slamming complaints they received in 1995 represented a sixfold increase in the number of complaints received in 1993. By 1996, slamming complaints rose by an additional 42 percent over 1995, with the FCC receiving more than 16,000 complaints. And in 1997, the FCC received 44,000 complaints from consumers, nearly triple the 1996 total.

But these numbers only begin to tell the story. In Wisconsin, slamming is the number one telecommunications complaint, and telecommunications is the single largest category of consumer complaints that the Wisconsin Department of Agriculture, Trade and Consumer Protection received last year. That agency reports that slamming complaints were up 400 percent in 1997. The National Association of State Utility Consumer Advocates estimates that as many as one million consumers each year have their long distance carrier or local provider switched without consent.

In September of 1997, the National Consumers League polled telecommunications consumers in Milwaukee, Wisconsin, Chicago, Illinois, and Detroit/Grand Rapids, Michigan. The poll showed that of the 1500 individuals surveyed, three out of 10 reported that they, or someone they know, had been slammed. In Milwaukee, of those who said they had experience with slamming, 41% said their own telephone carrier had been changed without their consent. Even more disturbing, the survey provided evidence that slammers appear to be targeting consumers who have high long distance bills, raising privacy concerns regarding billing information.

Mr. President, this is consumer fraud of monstrous proportions. It causes extra cost and inconvenience to consumers, and it also distorts telecommunications markets and discourages legitimate competitive practices. The prevalence of slamming and the lack of any strong disincentives against it rewards companies that use this fraudulent practice and penalizes those that seek new customers through legitimate and honest means.

The 1996 Telecommunications Act recognized the slamming problem and broadened the scope of FCC's regulatory authority over slamming to cover all telecommunications carriers rather than just long distance service providers. The Act also provided that a carrier that violates the FCC's verification requirements is liable to the customer's original carrier for all charges paid by the customer after he or she had been slammed.

The FCC now has rules prohibiting slamming and requires companies to verify the customer's authorization of any switch in carriers, but these rules obviously haven't done the trick. For one thing, the penalties for slamming just aren't tough enough. While the FCC has taken enforcement action against a number of telecommunications companies, the tremendous profit opportunities from slamming overwhelm the threat of FCC enforcement.

The Consumer Anti-Slamming Act should be an effective antidote to this problem. It establishes minimum verification requirements for submitting changes in local or long distance telephone service. The requirements apply when service is first requested as well. The bill also bans so-called "negative option" marketing—this is where a company sends you a letter that says your service will be switched unless you send back a reply card to say no. With all the junk mail that people now receive, this is a particularly reprehensible business practice, and I am pleased that this bill outlaws it.

The bill also addresses the problem that many people do not even know that when they have been slammed by requiring the new telecommunications company to notify a consumer within 15 days of a change in service. The notification must indicate the name of the person who requested the change and inform the consumer that he or she may request further information about when and how the change was authorized. It must also contain information about how to pursue a complaint if the customer believes he or she has been slammed.

Penalties are also significantly increased in this bill. The FCC may award damages of $500 or the actual damages incurred, whichever is greater, directly to the consumer. And the FCC can fine carriers who violate the anti-slamming regulations $40,000 for a first offence and $150,000 for additional offences. These significant penalties should eliminate the economic incentives to engage in these illegal practices.

Mr. President, the information age has now arrived. Technological advances hold out great promise for making our daily lives easier and more enjoyable. Competition is the driving force in bringing those advances to the consumer at ever more affordable prices. Allowing consumers to choose between competing long distance and local service providers should improve service and lower prices. But when irresponsible or even criminal elements seek to take advantage of unsuspecting consumers through activities like slamming, forceful regulation is necessary.

The unethical and illegal practices of companies who seek to victimize consumers to enhance their own profits must not be tolerated. Protecting consumers from those who engage in these practices is one of my most important responsibilities as a United States Senator. I believe that this bill gives the FCC the tools it needs to crack down on the slamming problem once and for all. I am proud to vote for it.

Ms. SNOWE. Mr. President, S. 1618 is a well-crafted bill that is designed to prevent the unauthorized transferring of a customer's phone carrier. This is accomplished through a variety of provisions, including the threat of strong penalties on telephone companies that engage in slamming.

While I strongly believe that the penalties established in this legislation should be fully-enforced, I would like to clarify the type of conduct that these penalties are being targeted to address. Specifically, is it the Chairman's intent that the significant financial penalties contained in Section 1(f) be imposed for all cases of unauthorized carrier changes, including changes that are accidental or innocent mistakes, such as when an order to change service providers in improperly keyed-in by a customer service agent? Or are these penalties designed to address cases of slamming that involve willful or intentional misconduct on the part of companies?

Mr. MCCAIN. I appreciate the questions of the Senator from Maine, and believe it is important that the intent of this legislation be fully understood. This bill is designed to ensure that companies are deterred from the reprehensible practice of slamming, and that harsh penalties are imposed as a form of punishment if the practice is undertaken by an unscrupulous company. However, the penalties in this bill are not intended to be used for cases of innocent or accidental changes of carriers, such as the situation described by my colleague, Senator SNOWE—and the language of this bill has been crafted accordingly. Specifically, the bill provides that the Commission can waive the minimum penalties if they determine that there are mitigating circumstances, which would include cases of innocent or accidental changes of carriers.

Ms. SNOWE. I thank the Chairman for clarifying this important issue and for crafting language that reflects this intent. I am very appreciative for your leadership and efforts to curb the practice of slamming, and commend the Senator for crafting legislation that will forcefully attack this growing problem.

Mr. BURNS. Mr. President, I rise to support the Consumer Anti-Slamming Act, as it addresses a severe problem that has arisen as an unintended consequence of additional competition in the telecommunications marketplace: the unauthorized switching of customers' telephone service providers. I also understand that the managers' amendment of the bill includes language that addresses another serious, unintended problem posed by the growth of information technology: the explosion of junk e-mail, or "spamming."

I congratulate Senators MURKOWSKI and TORRICELLI for their hard work on dealing with the issue of spamming. S. 1618 as amended includes language that would require commercial e-mailers to identify themselves. This language is simply a "Truth in Advertising Amendment." As any of us who use e-mail are finding out, millions of junk e-mails are sent out with fake e-mail addresses which prevent citizens from requesting that they not be sent any further clutter from the same sources. The amendment also requires that a junk e-mailer must honor requests from individuals to be deleted from mailing lists.

I should add that the problem of junk e-mail is particularly important to customers in rural areas such as Montana. Often, rural residents must pay long distance charges to receive these unwanted solicitations, many of which contain fraudulent messages. "Spamming" is truly the bane of the information age. This problem has become so pervasive that entire new networks have had to be constructed to deal with it, when resources would be far better spent on educational or commercial needs. I welcome the inclusion of this language as a much-needed step forward in dealing with this increasingly serious problem.

I would now like to speak on an issue involving more traditional communications, that of slamming. I have held two field hearings in the Communications Subcommittee on this important topic, one in Billings last August and one in Denver last October.

During the field hearing in Billings, I heard from consumers, industry representatives and regulators on a variety of slamming issues. I learned in Billings that slamming is not confined to big cities. It is reaching every part of our country. Consumers are falling prey every day to companies that intentionally mislead and deceive. Today, I look forward to building on the record we started in Montana.

I should also recognize that Senator BEN NIGHTHORSE CAMPBELL has shown real leadership on this issue through his introduction of an anti-slamming bill, particularly at the field hearing in Denver, which he attended. The bill before the Chamber today, S. 1618, incorporates language from S. 1051, Senator CAMPBELL's slamming bill. The amendment including Senator CAMPBELL's language was passed unanimously out of the Commerce Committee on March 12 of this year.

This language requires that the FCC will annually report to Congress the "Top Ten" slammers for that year, as well as carriers assessed fines or penalties during the same period. The "Top Ten" list would identify those carriers subject to the highest number of subscriber slamming complaints compared to the total number of subscribers they serve. This ratio approach ensures that large companies are not automatically singled out by virtue of having a large customer base. The focus is on those companies with the highest percentage of slamming complaints relative to their total customer base.

This "Top Ten" list represents the core of Senator CAMPBELL's anti-slamming bill. Having held two field hearings in the Communications Subcommittee on this important topic, I am convinced that Senator CAMPBELL's approach will prove very valuable in deterring carriers from engaging in illegal tactics.

As competition develops in new communications markets, we could see slamming migrate to new areas and become an even bigger problem. Clearly, something must be done soon to protect consumers and to protect good, clean competition.

I am confident that the Consumer Anti-Slamming Act as amended will accomplish this goal and I urge my colleagues to support it.

Mr. LEVIN. Mr. President, the mangers' amendment included two amendments to S. 1618 which I authored and which I appreciate the managers of the bill accepting. I am joined in offering these amendments by cosponsors Senator GLENN and Senator DURBIN.

These amendments are the product of hearings held on slamming in the Permanent Subcommittee on Investigations (PSI), chaired by Senator COLLINS. Slamming, the practice of changing a consumer's long distance carrier without the consumer's knowledge and express consent, is the number one complaint received by the Federal Communications Commission (FCC). And those FCC slamming complaints are on the rise—increasing almost 50% from 1995 through 1997. Slamming is also the number one complaint received by the Michigan Public Service Commission. And, Michigan has the unfortunate distinction of being in the top ten states, nationwide, for the number of consumers who have been slammed. A Louis Harris survey taken in September 1997 ranked Detroit and Grand Rapids among the hardest hit cities in the country. About 25% of telephone customers in Detroit and Grand Rapids have either had their telephone carrier switched without their permission or know someone who was illegally switched.

Slamming leaves consumers feeling vulnerable and angry. Consumers have the right to use any long distance carrier they choose and to change carriers whenever they wish. But they want to be in control. Slamming takes choices away from consumers without their knowledge, and rewards companies that engage in deceptive and misleading marketing practices.

Slammers use deceptive marketing practices such as getting subscribers to sign a misleading authorization form, falsifying tape recordings to make it appear that the consumer has verbally agreed to the change, or posing as the subscriber's currently authorized carrier. Unscrupulous carriers have been known to forge letters of authorization or even pull subscribers' numbers from a telephone book and submit them to the local exchange carrier for a long distance carrier change. Unscrupulous resellers generally bill higher rates once the subscriber is switched.

In one case in Michigan, the slammer used the device of a contest—the opportunity to win a trip or a car—to get consumers to sign a card that would then be used to change the long distance service. The Michigan consumer who filed a complaint with the Michigan Attorney General reported that her 14 year old daughter was approached several times in a shopping mall to sign the card under the auspices of participating in the contest. The daughter kept trying to resist—telling the slammer that she was underage for the contest. The slammer finally prevailed, and the 14 year old daughter entered what she thought to be a contest or drawing. However, a week or so later, this constituent was notified that her long distance carrier had been changed—unbeknownst to her. She wrote in her letter to the Attorney General: "I am very upset that this is happening not only to me but to others as well. It's a scam and it needs to stop now!"

Although the large telecommunications companies, called facilities based carriers because they own extensive telephone lines and equipment, have engaged in slamming, according to a recent GAO report, most intentional slamming is perpetrated by switchless resellers. Switchless resellers have no equipment; they purchase network facilities from large long distance companies at a bulk rate and resell the service either to consumers or to other resellers. Currently a switchless reseller can enter into the telecommunications business without any proof of financial capability. All a person has to do is strike a deal with a long distance carrier to use that carrier's lines and facilities, get a billing company to provide billing services and develop a customer base. The switchless reseller is then in business and can use unscrupulous practices to switch the long distance providers of innocent consumers from the carrier the consumer has been using to the switchless reseller. The reseller then charges higher long distance rates.

Many switchless resellers operate legitimately; but there are a surprising number who don't. Currently there is nothing in the law that screens out the scam artists from the legitimate resellers. S. 1618 increases civil penalties, creates new criminal penalties and includes disincentives to eliminate the profit for slammers. I am supportive of those provisions and ask unanimous consent that I be added as a cosponsor.

But, Mr. President, we also need to try to keep the scam artists out of the system—to keep consumers from being slammed in the first place. My amendment would require switchless resellers—those resellers who have no switching facilities under their ownership or control—to post a bond with the FCC before they can engage in the business of selling long distance service. The bond would be in an amount set by the FCC, and the amendment would prohibit a billing agent of a switchless reseller from billing subscribers of long distance services on behalf of the switchless reseller unless the billing agent has confirmed that the reseller has furnished the bond. In this way, a switchless reseller cannot get someone to bill on its behalf unless it has posted a bond with the FCC. The proceeds of that bond can be used to pay for any damages to a consumer awarded by the Commission to reimburse the consumer for excess charges incurred as a result of slamming. The requirement for a bond should keep the unscrupulous resellers out of the business. Take for example, David Fletcher, possibly the most notorious slammer. He started his slamming business, apparently, with no resources and managed to bill up to $20 million in long distance services. He couldn't start his business and no billing agent or phone company could have contracted with him to do his billing unless he had posted a bond with the FCC, under my amendment.

The other amendment which the Managers have incorporated in their substitute requires full disclosure of the long distance services and providers on the local phone bill. We learned, Mr. President, in the hearing on slamming that some switchless resellers go to great lengths to disguise the fact that they have taken over a consumer's long distance service. One reseller, for example, incorporated under the name "Phone Calls." Another used the name, "Long Distance Services." Those names, then, appeared on the consumers' phone bills, and no one would have paid attention to those names. Anyone looking at such a phone bill would have assumed those were not the names of the unexpectedly new long distance carriers, but the identification of the item being listed below—the phone calls. The consumer would continue to assume that his or her long distance carrier had not been switched.

To make it perfectly clear to consumers who their long distance provider is, the provision requires that the local telephone bill explicitly state the name, address and toll-free number of the long distance telephone provider and the specific services provided. This hopefully will address the problem of hidden or disguised switching—where a consumer gets a bill and can't tell that his or her long distance carrier has been switched. This provision gives the FCC the authority to make telephone bills absolutely clear so slammers can't hide behind vague or confusing phone bills.

Mr. President, I want to commend Senator McCAIN and Senator HOLLINGS for their good work in getting this important piece of consumer legislation to the floor so quickly. I also want to commend Senator COLLINS and Senator DURBIN from the PSI Subcommittee for their energy and commitment to publicizing and helping to solve this problem.

S. 1618, with my amendments, will provide important consumer safeguards, Mr. President, to help keep slammers out of the system. Legitimate resellers will be able to conduct their businesses without ruthless slammers tarnishing the reseller business.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I yield myself such time as I may consume.

We have one amendment remaining of Senator ROCKEFELLER. We are awaiting his arrival on the floor. I hope that Senator ROCKEFELLER will arrive pretty quickly, because we have another bill to do tonight. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Thank you, Mr. President. I rise today to address the antislamming legislation before us. I believe that this bill, S. 1618, is a bill that we must act on quickly and decisively. I am happy that when the Senate concludes its business today, we will have passed the legislation and for good reason. The problem which this legislation seeks to address described, I guess, by the euphemism "slamming," is one that is a growing concern to people in my State and, I suspect, to almost all the other States represented in this body.

In Michigan, during the last year, complaints about this practice, which is the changing of an individual's or customer's long-distance service without their knowledge and approval, has risen from relative obscurity to becoming, next to billing problems, the second largest source of complaints received by Michigan's Public Service Commission.

The nature of the complaints are, of course, pretty obvious and have been depicted very well by Chairman MCCAIN and others in the discussion so far today. People find that through no act of their own, or certainly no intentional act of their own, they have had their long-distance service changed usually with negative consequences. In our State, the negative consequences usually fall into two categories, often both happen simultaneously: On the one hand, people find that their service level and quality is diminished; on the other hand, they find that their bills are getting higher.

The latter happens for a variety of reasons. First, because frequently the new company, in fact, just simply has higher bills and charges higher rates. In addition, they find it happens because they have found themselves the victim of slamming on several separate occasions during a billing period. They have moved from one company to a second and sometimes to even a third and fourth. Many of the current rate practices engaged in with respect to long-distance rates give people a reduced rate if they stay with a service a certain period of time.

However, as a result of slamming, people change from one to a second to a third to even a fourth company during a billing period or a period during which a rate is being determined based on continuity of service. Individuals discover that their long-distance calls that they expect to have been charged at a very low rate are, in fact, being billed at very high rates.

For all of these reasons, we need to take action now. I mentioned that in our State, the slamming practice has become the second most widely voiced complaint heard by our Public Service Commission. Our local telephone service carrier, Ameritech, the principal carrier in Michigan, reports that they are receiving complaints. People think somehow they are responsible. Last year alone they received 37,000 such complaints of slamming practices occurring.

In order to find out more about this, I went back to Michigan during a recent recess and began meeting with individuals who were themselves the victims of slamming. What I discovered was that, in fact, the practices used by these long-distance companies border on outright fraud, and in some cases, go over the line to actual fraud.

People have been called up and asked if they want "direct billing" for their long-distance service. They answer yes and find the "Direct Billing" is, in fact, the name of a new long-distance service company and that their answer is being used as a basis for the changing of their service.

In other cases, people engage in a conversation of someone calling over the telephone, an innocuous conversation, but find the information has been rescripted in such a fashion as to give a basis for changing the long-distance service.

The bottom line, Mr. President, is that this practice is wrong. It is hurting consumers across America, and we have an obligation to stop it. I believe the legislation before us now does so.

I am glad we were able to pass it so quickly and so overwhelmingly through the Commerce Committee, and I look forward to the vote today where I am confident we will, once again, send a signal that we are not going to tolerate these practices any longer. The additional penalties that are part of this legislation, in my judgment, set us in the right direction. Not only will they send a strong message, but I believe they dramatically deter anyone from engaging in these practices. The procedures in this legislation should hopefully provide those who are victims with a relatively quick resolution of their problems.

For these reasons, I rise in support of the legislation. I am a cosponsor and am pleased to be part of it. I thank Senator MCCAIN and his staff for working not only on this legislation but other technology bills that we will be addressing over the next day or so. I close by expressing my support, once again, for S. 1618. I look forward to its passage today and ultimately for its passage through the Congress in general and it being signed into law by the President.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, as I mentioned earlier, we are still waiting for the final amendment. I hope we can get it done very quickly. We have another bill to address tonight, and we are still working on that.

So I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I ask unanimous consent that I may be allowed to speak for about 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the chair.

JUNK E-MAIL

Mr. MURKOWSKI. Mr. President, I am pleased that the chairman is including in the manager's amendment language that I offered along with my colleague, Senator TORRICELLI.

Mr. President, one of the downsides of the technological revolution that is symbolized by communications today on the Internet is the growing multitude of junk e-mail. Junk e-mail has quickly become the scourge of the Internet. It clogs America's inboxes and raises costs to all Internet users. Among those who are regular e-mail users, junk e-mail is known as "spam," which many suggest is an insult to the Hormel Corporation. I originally recognized spam as a spinoff of the Second World War where food was given to soldiers, commonly referred to as C rations, that implied a mixture of food products. In any event, it is the name that has been adopted for junk e-mail.

Rural residents of our Nation and my State of Alaska are forced to pay long-distance charges to receive these unwanted solicitations, the majority of which contain fraudulent or pornographic messages. Not only are these junk e-mails objectionable, but they so clog the transmission network that Internet service providers are forced to spend tens of millions of dollars to expand their networks to handle all of these messages.

America Online reports that up to 30 percent of daily incoming e-mail is junk e-mail. This volume has forced it and other Internet service providers, the ISPs, to buy more equipment and divert staff to handle users' complaints. These resources could be better spent by ISPs on improving service or even reducing monthly fees.

My provision, Mr. President, is a modified version of legislation that I introduced last year—S. 771. When I introduced the bill, I put it up on the Web and asked for e-mail comments on the bill. So far, I have received over 1,500—the vast majority of which have been supportive of my efforts.

So this provision is really a Truth in Advertising provision. It will simply require commercial e-mailers to identify who they are, their addresses, and their telephone numbers. The reason we have included this provision is that millions of junk e-mails are sent out with phony e-mail addresses which make it impossible for citizens to request that the sender stop cluttering their e-mail boxes. Under this provision, citizens will know exactly who the sender is and have the option of turning that sender away from their inbox.

The provision further requires that a junk e-mailer must honor the request of an individual who asks that his or her name be deleted from the mailing list permanently. It's as simple as that. I doubt if there is anyone among us here today who would argue against someone's wish to simply be left alone by junk e-mailers.

The amendment permits the Federal Trade Commission, the State Attorneys General, and Internet service providers to protect consumers from Internet junk e-mail by allowing them to sue those junk e-mailers who fail to identify themselves properly or refuse to remove a person's name from a mailing list.

Mr. President, junk e-mail has become so pervasive that some have suggested a complete ban on such unsolicited advertisements. I believe that Internet users should control what comes into their electronic mailboxes, not the government. And I wish to emphasize that. This debate should not be about the government controlling the content of individual electronic mailboxes, but about individual users taking control of their own mailboxes. I think my provision will sufficiently reduce the problems of junk e-mail, and thus show that banning is unnecessary.

Finally, I thank the floor managers for their attention to this issue, as well as the efforts of America Online and the Center for Democracy and Technology.

Mr. TORRICELLI. Mr. President, I want to thank Senator MCCAIN and Senator HOLLINGS for agreeing to include the Murkowski-Torricelli junk E-mail amendment to this bill. And I want to thank my distinguished colleague from Alaska for join with me in this effort.

Last year, Senator MURKOWSKI and I each recognized the growing threat to Internet commerce posed by the proliferation of unsolicited commercial e-mail, known by its Internet slang as "Spam." Although we initially had somewhat different approaches to this problem, we recognized that something had to be done.

The amendment we have today is the product of a good faith effort involving privacy groups, marketers, online service providers, and others to achieve a result that will rein in these destructive e-mail practices, while protecting the first amendment rights of all who wish to send and receive legitimate e-mail. Before I address what our amendments does, I want to briefly discuss the problem of unsolicited commercial junk e-mail.

Junk E-mail, or so called spamming, is an unfortunate side effect of the burgeoning world of Internet communication and commerce. Like many other Americans, I have an account on America Online and am inundated with unsolicited messages, peddling every item under the sun. Similarly, I receive junk e-mail daily at my official Senate e-mail address, as well as the complaints of dozens of constituents who forward me the Spam that they are sent.

The incentive to abuse the Internet is obvious. E-mailing ten million people can cost as little as a couple of hundred dollars. And because the senders of these e-mails are generally unknown, they avoid any possible retribution for consumers.

Today, unsolicited commerical e-mailers are hiding their identities, falsifying their return addresses and refusing to accept complaints or removal requests. Their actions approach fraud, but our current law doesn't seem strong enough to stop them.

I have long been concerned about excessive—indeed any—government regulation of the Internet. Many of the best qualities of American life are represented and enhanced by the Internet, and I fear government regulation has the possibility to stifle the creativity and development of cyberspace.

However, a failure to address this problem now poses a greater threat to the Internet than do these minimal requirements. Junk e-mail is estimated to take up 30 percent of all Internet traffic and is increasingly responsible for slowdowns, and even breakdowns, of Internet services. Let me be clear, this legislation is not a de facto regulation of the Internet. In fact, it does not go as far as some have suggested. It does not ban all unsolicited e-mail because we wanted to avoid any inference of government interference. However, it is a first and needed step in making cyberspace saner.

The Murkowski-Torricelli amendment takes some important and necessary steps. First, it requires senders of unsolicited commercial e-mail to identify themselves and provide a valid return e-mail address. Second, it requires senders to inform recipients that they have the right to reply and stop any future messages by typing "remove" on the subject line. Third, it requires junk e-mail to honor any request to remove someone from their mailing list. Fourth, it authorizes the FTC to enforce these requirements with civil fines and injunctive relief. And finally, it requires the FTC to establish a web site to accept consumer complaints and list its enforcement actions.

Put simply, our amendment strikes a balance that will help consumers prevent unwanted and unsolicited electronic mail, without creating a burdensome regulatory system or unnecessarily restricting free speech. It recognizes that the government should not hastily and haphazardly regulate pass legislation to regulate the Internet. However, it also recognizes that some practices are simply too destructive to ignore.

Mr. President, I urge my colleagues to support this amendment.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2392

(Purpose: Require truth in billing procedures for telecommunications carriers)

Mr. DORGAN. Mr. President, on behalf of Senator ROCKEFELLER, Senator SNOWE, Senator KERREY, and myself, Senator DORGAN, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for Mr. ROCKEFELLER, for himself, Ms. SNOWE, Mr. KERREY and himself, proposes an amendment numbered 2392.

Mr. MCCAIN. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . CONSUMER TRUTH IN BILLING DISCLOSURE ACT.

(a) FINDINGS.—Congress makes the following findings—

(1) Billing practices by telecommunications carriers may not reflect accurately the cost or basis of the additional telecommunications services and benefits that consumers receive as a result of the enactment the Telecommunications Act of 1996 (Public Law 104–104) and other Federal regulatory actions taken since the enactment of that Act.

(2) The Telecommunications Act of 1996 was not intended to allow providers of telecommunications services to misrepresent to customers the costs of providing services or the services provided.

(3) Certain providers of telecommunications services have established new, specific charges on customer bills commonly known as "line-item charges".

(4) Certain providers of telecommunications services have described such charges as "Federal Universal Service Fees" or similar fees.

(5) Such charges have generated significant confusion among customers regarding the nature of and scope of universal service and of the fees associated with universal service.

(6) The State of New York is considering action to protect consumers by requiring telecommunications carriers to disclose fully in the bills of all classes of customers the fee increases and fee reductions resulting from the enactment of the Telecommunications Act of 1996 and other regulatory actions taken since the enactment of that Act.

(7) The National Association of Regulatory Utility Commissioners adopted a resolution in February 1998 supporting action by the Federal Communications Commission and the Federal Trade Commission to protect consumers of telecommunications services by assuring accurate cost reporting and billing practices by telecommunications carriers nationwide.

(b) REQUIREMENTS.—Any telecommunications carrier that includes any change resulting from Federal regulatory action shall specify in such bill—

(1) the reduction in charges or fees for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers) resulting from any regulatory action of the Federal Communications Commission;

(2) total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers);

(3) notify consumers one billing cycle in advance of any charges in existing charges or imposition of new charges; and

(4) disclose, upon subscription, total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including residential basic service, customers of other residential service, small business customers, and other business customers).

Ms. SNOWE. Mr. President, I rise today to join my good friend and colleague from West Virginia JAY ROCKEFELLER, in offering the Consumer Protection Act as an amendment to the Consumer Anti-Slamming bill.

Just as the slamming bill is designed to protect consumers from unscrupulous phone companies that change a customer's phone service without consent, this amendment will protect consumers from misleading or inaccurate billing practices by phone companies. Therefore, I urge that my colleges support this pro-consumer amendment that complements the underlying pro-consumer Anti-Slamming Act.

Mr. President, our nation's $260 billion telecommunications industry is undergoing a period of rapid growth and change. This change is being driven by the enactment and progressive implementation of the Telecommunications Act of 1996—a law that is gradually shifting the industry from being one that is heavily-regulated to one that is open and competitive.

As would be expected for an industry of this size, the transition from a regulated environment to a competitive environment has not been entirely smooth, nor has it been as rapid as many of us would prefer.

To date, there have been countless proceeding at the FCC to restructure the way that services are delivered to consumers and the way that telecommunications companies pay each other for these services. In response to these restructuring efforts, there have been a variety lawsuits filed in court by telecommunications companies, and members of Congress have weighed-in when they believe the new rules do not accurately reflect the intent of the law.

And—as would be expected in an emerging competitive market—there is non-stop haggling between the telecommunications companies that are now able to tread on each other's turf after years of being statutorily limited to their own market niche. But don't get me wrong . . . that's not a bad thing—that's what competition is all about.

Mr. President, during this time of rapid transition and daunting change, it is critical that we not forget the individuals for whom the Telecommunications Act of 1996 was crafted in the first place: the American consumers. Afterall, this landmark law was not passed because Congress simply wanted to deregulate an industry—rather, it was passed because competition will bring consumers a wide array of new and advanced telecommunications services at lower prices.

The amendment we are offering today is specifically designed to protect consumers during this time of transition in the telecommunications industry. Specifically, the Consumer Protection Act will require "truth-in-billing"—a guarantee to consumers that what they see on their phone bills is thorough and accurate.

Mr. President, as my colleagues have undoubtedly heard from their constituents—and may be experiencing themselves—there is a great deal of confusion being generated by new line-item charges that have been added to phone bills in recent months. Since January, many telephone companies have started to place new line-item charges on customer phone bills for a variety of purposes and under a variety of names, including "national access charges," "universal service charges," or both. While the descriptions for these charges vary, the central theme is that these new fees are being imposed because of recent federal actions stemming from the Telecommunications Act of 1996.

In response to these new charges, telephone customers are understandably confused and angry, and want to know why Congress would pass a law—and the President would sign a law—that imposed a host of new costs on them with no apparent benefits. They were told that this legislation would bring competition and lower prices, but all they see is new charges on their phone bills. They want to know what happened to the benefits of deregulation!

Mr. President, customers deserve an answer to these questions and they deserve to know that what they see on their phone bills is accurate. And the simple fact is that the implementation of the Telecommunications Act has brought—and will continue to bring—countless benefits to consumers, and they deserve to know about them.

For instance, in July 1997, access charges—which are the fees paid by long distance companies to local phone companies for use of their networks—were reduced by $1.7 billion. The long distance companies state that these reductions have been passed on to consumers in the form of reduced rates, and I won't dispute their contention. The problem is that their customers don't know the first thing about this federal action to benefit customers—all they know is that new line-items for various charges prescribed to the federal government have been added to their bills!

By the same token, consumers have no idea that the phone companies stand to reap substantial benefits as new markets are opened for competition. As companies are allowed to enter the markets that were previously closed to them, those that are competitive will reap substantial profits that can greatly benefit their customers—but you'd never know this from reading a company's bill.

To remove the confusion that these line-items have generated—and to ensure that companies exercise full disclosure on the impact of deregulation—the amendment we are offering does three things.

First, it directs the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC) to investigate the billing practices of the telecommunications industry to ensure that all fees are being fairly described on bills. If any company is found to be using misleading billing practices, these agencies would be directed to consider disciplinary actions against that company.

Second, the bill ensures that if a company puts a new line-item charge on a phone bill that are attributed to federal actions, it must also include line-items that delineate the benefits of federal actions as well. Customers deserve to know the whole story when it comes to federal regulatory actions—not just the side of the story that is in the company's best interests.

Third, to ensure that the federal regulator of telephone service has all relevant documents available for review, the bill requires that companies submit the same financial disclosure forms to the FCC that they now submit to the Securities and Exchange Commission (SEC). This requirement won't impose a new, excessive burden on phone companies—rather, it simply requires that they make a photocopy of the forms that are already being sent to the SEC and mail them to the FCC.

Overall, this bill ensures that accurate information is being depicted on phone bills—and that customers are told the whole story about federal actions, not just the side that companies would like to tell.

The bottom line is that changes are occurring as part of the transition to a more competitive telecommunications market that will bring substantial benefits to consumers and phone companies alike—but some companies would only like to tell their customers half of the story. That's simply not fair.

The amendment that we are offering is fair. It is a fair for companies, and fair for consumers.

Of critical importance, our amendment does not re-regulate the telecommunications industry—the companies will still decide for themselves if they want to use line items. Our amendment simply ensures that if a company does want to use a line-item for costs, it also will include line-items for benefits. In addition, it ensures that the billing practices of companies are properly examined and improper practices are eliminated.

I would like to thank my friend from West Virginia for offering this amendment today, and urge that my colleagues support this bipartisan, pro-consumer amendment.

Mr. KERREY. Mr. President, the Telecommunications Act of 1996 was clear; competition and consumer choice are to be the hallmarks of the new telecommunication's market. However, the transition to competition has been anything but clear to consumers. The growing pains of the telecommunications industry have proved to be very confusing to customers who lack full information about the various costs associated with telecommunications services.

This lack of information is very troublesome for customers who are trying to make sense of the telecommunications market. In order to help consumers through this confusing morass of information, I recently joined Senators ROCKEFELLER and SNOWE to introduce S. 1897 the Consumer Protection Act. Today, Senator DORGAN joins us as cosponsor of this legislation in the form of an amendment to S. 1618 the Consumer Anti-Slamming Protection Act.

Under the provisions of this amendment, if a company chooses to depict charges that are linked to federal policy on their bills, then the company will be required to depict the benefits of that action on the same bill. This requirement allows customers to see what they are paying for so that they can gain a better understanding of the costs associated with a national telecommunications network.

As we transition from the rigid world of monopoly to a competitive market where consumers have choice, we must make sure that customers have all of the facts. Competition depends upon free flowing information and the Consumer Protection Act gives consumers the facts they need to make good choices in a competitive market.

I strongly urge my colleagues to support this amendment.

Mr. MCCAIN. Mr. President, I must respectfully oppose the amendment offered by my good friend and colleague, Senator ROCKEFELLER.

Let me explain why I am opposed. I take no issue with the Senator's commitment to the principles of universal telephone service. And I most certainly take no issue with the principle that consumers have a right to clear and correct information about material adjustments to their bills. I also believe that companies have an absolute right to inform consumers about increases to their bills that companies have made in response to federal and nonfederal requirements.

But, with all due respect, that's not what's really at issue here.

Mr. President, what's really at issue here is an attempt to rationalize the rate adjustments imposed by the Telecommunications Act of 1996. Unlike Senator ROCKEFELLER, I didn't vote for that act, in part because I thought it would produce precisely the result it is producing—little competition, lots of consolidation, and lots of bill adjustments—mostly increases.

If my colleague's amendment wants to give consumers facts, let's talk about those facts. The telephone industry is built on a very complex system of implicit internal subsidies. Making them explicit, while at the same time adjusting them for the advent of competition, makes adjustments in consumer bills inevitable. Now add these further facts: the Telecom Act creates a whole new multibillion-dollar subsidy, and it requires local telephone companies and interexchange companies to expend billions of dollars to implement the Act's supposedly pro-competitive provisions.

So here are the bottom-line facts. First of all, given this hideously convoluted situation, complete "truthful" disclosure of all the adjustments inherent in a consumer's monthly phone bill would add pages and pages to a bill without necessarily doing much to enlighten the consumer. For example, if a requirement like this were currently in effect, a consumer might today be reading something like this:

> Your long-distance bill might have been lower if your long-distance carrier's reduction in access charge payments to your local carrier had been reflected in your long-distance bill instead of being used to help pay for the schools' and libraries' wiring subsidy. Then again, of course, the FCC, your long-distance carrier, and your local carrier disagree on whether your long-distance carrier is really lowering your bills as much as it might, and maybe someday we'll know the answer—or maybe not. In the meantime, you're being assessed a per-subscriber line charge which may or may not reflect the real cost of your service, but the FCC's working on it. Of course, if you live in the suburbs you should also know that a portion of your bill goes to subsidize rural areas and another portion subsidizes low-income subscribers. And be aware that starting next year there's going to be another substantial increase in some local phone bills as local phone companies start passing along the costs of implementing local number portability, which may or may not accurately reflect all their true costs, which will otherwise be recovered by * * *.

And on and on and on.

I would also note that the Senator's bill would require the FCC to examine the bills of all telecommunications carriers. This would not only require the FCC to investigate the bills of the over 500 long-distance telephone companies that currently exist; it would also require them to investigate the bills rendered by the thousands upon thousands of wireless paging, cellular telephone, and PCS companies too. This would require an enormous expansion of the current FCC bureaucracy.

Mr. President, you get the picture: given the complexities of pricing offsets in changing telephone industry economics, this attempt at so-called truthful disclosure won't work. It will only confuse the consumer to no useful purpose and wind up involving the FCC and the FTC in neverending regulatory micromanagement in an effort to ascertain the unascertainable.

If those who voted for the 1996 Telecom Act are now concerned that the act is unexpectedly driving prices upward, the way to solve the problem is to change the Act—not to present attempted excuses in the form of confusing additions to consumers' bills.

Having said why it's unrealistic to try and explain every single thing that has an impact on every single consumer telecom bill, I emphatically endorse the proposition that consumers have a right to be told why their bills have gone up—especially when an increase is results from a federal or State levy. I would like to offer my own amendment to assure consumers have access to that information.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2392) was agreed to.

Mr. ROCKEFELLER. Mr. President, first of all, I want to thank the chairman of the Commerce Committee for accepting this amendment which I was rushing to the floor to eloquently and brilliantly explain, and it has been accepted. That is really what one prays for in this institution. I hope it survives the conference. I am sure that it will.

Basically, the theory of it was—and I think that the chairman understood it as well as the Senator from North Dakota—that we should be honest with consumers. A lot of people don't know what a lot of the prices are on the telephone long-distance bill. Charges have gone down from an average of 34 cents per minute since deregulation of AT&T to about 16 cents per minute now. We should tell them when we bill them, if the prices go up on certain items, they also go down on others.

As an example, recently there was a $1.5 billion access charge reduction, so actually the cost to the consumer on their residential rate bill was going to go down, but the companies only wanted to show the part that had a $675 million increase—$675 million increase, $1.5 billion decrease; obviously, the net of the decrease wins big time, but they are not going to be told that.

I think this is a very useful amendment that the chairman of the Commerce Committee has accepted. It isn't about reregulation, it is about treating consumers fairly. It is also, frankly, about something which is very complicated that consumers don't understand, nor should they be expected to understand, nor do many of us understand as we should—things like prescribed interchange carrier charge, called PICC. That is a very big thing in all of this.

Even where universal service protects high-cost areas, the whole concept of universal service is not understood by most voters or many in the Congress itself.

We have to be fair. We have to level with them. We have to be straight and honest. That is what this amendment attempts to do. That is one of the reasons I am so glad this amendment has been accepted.

I thank, once again, the chairman of the Commerce Committee, the Senator from Arizona, and also my friend from North Dakota, Senator DORGAN.

I yield the floor.

Mr. McCAIN. That completes our amendments. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? On this question, the yeas and nays have been ordered.

The clerk will call the roll.

Mr. FORD. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Biden

The bill (S. 1618), as amended, was passed, as follows:

S. 1618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-slamming Amendments Act".

TITLE I—SLAMMING

SEC. 101. IMPROVED PROTECTION FOR CONSUMERS.

(a) Verification of Authorization.—Subsection (a) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended to read as follows:

"(a) Prohibition.—

"(1) In general.—No telecommunications carrier or reseller of telecommunications services shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with this section and such verification procedures as the Commission shall prescribe.

"(2) Verification.—

"(A) In general.—In order to verify a subscriber's selection of a telephone exchange service or telephone toll service provider under this section, the telecommunications carrier or reseller shall, at a minimum, require the subscriber—

"(i) to affirm that the subscriber is authorized to select the provider of that service for the telephone number in question;

"(ii) to acknowledge the type of service to be changed as a result of the selection;

"(iii) to affirm the subscriber's intent to select the provider as the provider of that service;

"(iv) to acknowledge that the selection of the provider will result in a change in providers of that service; and

"(v) to provide such other information as the Commission considers appropriate for the protection of the subscriber.

"(B) Additional requirements.—The procedures prescribed by the Commission to verify a subscriber's selection of a provider shall—

"(i) preclude the use of negative option marketing;

"(ii) provide for a complete copy of verification of a change in telephone exchange service or telephone toll service provider in oral, written, or electronic form;

"(iii) require the retention of such verification in such manner and form and for such time as the Commission considers appropriate;

"(iv) mandate that verification occur in the same language as that in which the change was solicited; and

"(v) provide for verification to be made available to a subscriber on request.

"(3) Action by unaffiliated reseller not imputed to carrier.—No telecommunications carrier may be found to be in violation of this section solely on the basis of a violation of this section by an unaffiliated reseller of that carrier's services or facilities.

"(4) Freeze option protected.—The Commission may not take action under this section to limit or inhibit a subscriber's ability to require that any change in the subscriber's choice of a provider of interexchange service not be effected unless the change is expressly and directly communicated by the subscriber to the subscriber's existing telephone exchange service provider.

"(5) Application to wireless.—This section does not apply to a provider of commercial mobile service.".

(b) Liability for Charges.—Subsection (b) of such section is amended—

(1) by striking "(b) Liability for Charges.—Any telecommunications carrier" and inserting the following:

"(b) Liability for Charges.—

"(1) In general.—Any telecommunications carrier or reseller of telecommunications services";

(2) by designating the second sentence as paragraph (3) and inserting at the beginning of such paragraph, as so designated, the following:

"(3) Construction of remedies.—"; and

(3) by inserting after paragraph (1), as designated by paragraph (1) of this subsection, the following:

"(2) Subscriber payment option.—

"(A) In general.—A subscriber whose telephone exchange service or telephone toll service is changed in violation of the provisions of this section, or the procedures prescribed under subsection (a), may elect to pay the carrier or reseller previously selected by the subscriber for any such service received after the change in full satisfaction of amounts due from the subscriber to the carrier or reseller providing such service after the change.

"(B) Payment rate.—Payment for service under subparagraph (A) shall be at the rate for such service charged by the carrier or reseller previously selected by the subscriber concerned.".

(c) Resolution of Complaints.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended by adding at the end thereof the following:

"(c) Notice to Subscriber.—Whenever there is a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service, the telecommunications carrier or reseller selected shall notify the subscriber in a specific and unambiguous writing, not more than 15 days after the change is processed by the telecommunications carrier or the reseller—

"(1) of the subscriber's new carrier or reseller; and

"(2) that the subscriber may request information regarding the date on which the change was agreed to and the name of the individual who authorized the change.

"(d) Resolution of Complaints.—

"(1) Prompt resolution.—

"(A) In general.—The Commission shall prescribe a period of time for a telecommunications carrier or reseller to resolve a complaint by a subscriber concerning an unauthorized change in the subscriber's selection of a provider of telephone exchange service or telephone toll service not in excess of 120 days after the telecommunications carrier or reseller receives notice from the subscriber of the complaint. A subscriber may at any time pursue such a complaint with the Commission, in a State or local administrative or judicial body, or elsewhere.

"(B) Unresolved complaints.—If a telecommunications carrier or reseller fails to resolve a complaint within the time period prescribed by the Commission, then, within 10 days after the end of that period, the telecommunications carrier or reseller shall—

"(i) notify the subscriber in writing of the subscriber's right to file a complaint with the Commission and of the subscriber's rights and remedies under this section;

“(ii) inform the subscriber in writing of the procedures prescribed by the Commission for filing such a complaint; and

“(iii) provide the subscriber a copy of any evidence in the carrier's or reseller's possession showing that the change in the subscriber's provider of telephone exchange service or telephone toll service was submitted or executed in accordance with the verification procedures prescribed under subsection (a).

“(2) Resolution by commission.—

“(A) Determination of violation.—The Commission shall provide a simplified process for resolving complaints under paragraph (1)(B). The simplified procedure shall preclude the use of interrogatories, depositions, discovery, or other procedural techniques that might unduly increase the expense, formality, and time involved in the process. The Commission shall determine whether there has been a violation of subsection (a) and shall issue a decision or ruling at the earliest date practicable, but in no event later than 150 days after the date on which it received the complaint.

“(B) Determination of damages and penalties.—If the Commission determines that there has been a violation of subsection (a), it shall issue a decision or ruling determining the amount of the damages and penalties at the earliest practicable date, but in no event later than 90 days after the date on which it issued its decision or ruling under subparagraph (A).

“(3) Damages awarded by commission.—If a violation of subsection (a) is found by the Commission, the Commission may award damages equal to the greater of $500 or the amount of actual damages for each violation. The Commission may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

“(e) Disqualification and Reinstatement.—

“(1) Disqualification from certain activities based on conviction.—

“(A) Disqualification of persons.—Subject to subparagraph (C), any person convicted under section 2328 of title 18, United States Code, in addition to any fines or imprisonment under that section, may not carry out any activities covered by section 214.

“(B) Disqualification of companies.—Subject to subparagraph (C), any company substantially controlled by a person convicted under section 2328 of title 18, United States Code, in addition to any fines or imprisonment under that section, may not carry out any activities covered by section 214.

“(C) Reinstatement.—

“(i) In general.—The Commission may terminate the application of subparagraph (A) to a person, or subparagraph (B) to a company, if the Commission determines that the termination would be in the public interest.

“(ii) Effective date.—The termination of the applicability of subparagraph (A) to a person, or subparagraph (B) to a company, under clause (i) may not take effect earlier than 5 years after the date on which the applicable subparagraph applied to the person or company concerned.

“(2) Certification requirement.—Any person described in subparagraph (A) of paragraph (1), or company described in subparagraph (B) of that paragraph, not reinstated under subparagraph (C) of that paragraph shall include with any application to the Commission under section 214 a certification that the person or company, as the case may be, is described in paragraph (1)(A) or (B), as the case may be.

“(f) Civil Penalties.—

“(1) In general.—Unless the Commission determines that there are mitigating circumstances, violation of subsection (a) is punishable by a forfeiture of not less than $40,000 for the first offense, and not less than $150,000 for each subsequent offense.

“(2) Failure to notify treated as violation of subsection (a).—If a telecommunications carrier or reseller fails to comply with the requirements of subsection (d)(1)(B), then that failure shall be treated as a violation of subsection (a).

“(g) Recovery of Forfeitures.—The Commission may take such action as may be necessary—

“(1) to collect any forfeitures it imposes under this section; and

“(2) on behalf of any subscriber, to collect any damages awarded the subscriber under this section.

“(h) Change Includes Initial Selection.—For purposes of this section, the initiation of service to a subscriber by a telecommunications carrier or a reseller shall be treated as a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.”.

(d) Criminal Penalty.—

(1) In general.—Chapter 113A of title 18, United States Code, is amended by adding at the end thereof the following:

“§ 2328. Slamming

“Any person who submits or executes a change in a provider of telephone exchange service or telephone toll service not authorized by the subscriber in willful violation of the provisions of section 258 of the Communications Act of 1934 (47 U.S.C. 258), or the procedures prescribed under section 258(a) of that Act—

“(A) shall be fined in accordance with this title, imprisoned not more than 1 year, or both; but

“(B) if previously convicted under this paragraph at the time of a subsequent offense, shall be fined in accordance with this title, imprisoned not more than 5 years, or both, for such subsequent offense.”.

(2) Conforming amendment.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by adding at the end thereof the following:

“2328. Slamming”.

(e) State Right-of-Action.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258), as amended by subsection (c), is amended by adding at the end thereof the following:

“(i) Actions by States.—

“(1) In general.—The attorney general of a State, or an official or agency designated by a State—

“(A) may bring an action on behalf of its residents to recover damages on their behalf under subsection (d)(3);

“(B) may bring a criminal action to enforce this section under section 2328 of title 18, United States Code; and

“(C) may bring an action for the assessment of civil penalties under subsection (f), and for purposes of such an action, subsections (d)(3) and (f)(1) shall be applied by substituting ‘the court’ for ‘the Commission’.

“(2) Exclusive jurisdiction of federal courts.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all actions brought under this section. When a State brings an action under this section, the court in which the action is brought has pendant jurisdiction of any claim brought under the law of that State. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

“(3) Rights of commission.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right—

“(A) to intervene in the action;

“(B) upon so intervening, to be heard on all matters arising therein; and

“(C) to file petitions for appeal.

“(4) Venue; service of process.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the subscriber or defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

“(5) Investigatory powers.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

“(j) State Law Not Preempted.—

“(1) In general.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive requirements, regulations, damages, costs, or penalties on changes in a subscriber's service or selection of a provider of telephone exchange service or telephone toll services than are imposed under this section.

“(2) Effect on state court proceedings.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State not preempted by this section.

“(3) Limitations.—Whenever a complaint is pending before the Commission involving a violation of regulations prescribed under this section, no State may, during the pendency of such complaint, institute a civil action against any defendant party to the complaint for any violation affecting the same subscriber alleged in the complaint.

“(k) Reports on Complaints.—

“(1) Reports required.—Each telecommunications carrier or reseller shall submit to the Commission, quarterly, a report on the number of complaints of unauthorized changes in providers of telephone exchange service or telephone toll service that are submitted to the carrier or reseller by its subscribers. Each report shall specify each provider of service complained of and the number of complaints relating to such provider.

"(2) LIMITATION ON SCOPE.—The Commission may not require any information in a report under paragraph (1) other than the information specified in the second sentence of that paragraph.

"(3) UTILIZATION.—The Commission shall use the information submitted in reports under paragraph (1) to identify telecommunications carriers or resellers that engage in patterns and practices of unauthorized changes in providers of telephone exchange service or telephone toll service.

"(1) DEFINITIONS.—For purposes of this section:

"(1) ATTORNEY GENERAL.—The term 'attorney general' means the chief legal officer of a State.

"(2) SUBSCRIBER.—The term 'subscriber' means the person named on the billing statement or account, or any other person authorized to make changes in the providers of telephone exchange service or telephone toll service.".

(f) REPORT ON CARRIERS EXECUTING UNAUTHORIZED CHANGES OF TELEPHONE SERVICE.—

(1) REPORT.—Not later than October 31, 1998, the Federal Communications Commission shall submit to Congress a report on unauthorized changes of subscribers' selections of providers of telephone exchange service or telephone toll service.

(2) ELEMENTS.—The report shall include the following:

(A) A list of the 10 telecommunications carriers or resellers that, during the 1-year period ending on the date of the report, were subject to the highest number of complaints of having executed unauthorized changes of subscribers from their selected providers of telephone exchange service or telephone toll service when compared with the total number of subscribers served by such carriers or resellers.

(B) The telecommunications carriers or resellers, if any, assessed forfeitures under section 258(f) of the Communications Act of 1934 (as added by subsection (d)), during that period, including the amount of each such forfeiture and whether the forfeiture was assessed as a result of a court judgment or an order of the Commission or was secured pursuant to a consent decree.

SEC. 102. ADDITIONAL ENFORCEMENT AUTHORITY.

Section 504 of the Communications Act of 1934 (47 U.S.C. 504) is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence, the failure of a person to pay a forfeiture imposed for violation of section 258(a) may be used as a basis for revoking, denying, or limiting that person's operating authority under section 214 or 312.".

SEC. 103. OBLIGATIONS OF BILLING AGENTS.

(a) IN GENERAL.—Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following:

"SEC. 231. OBLIGATIONS OF TELEPHONE BILLING AGENTS.

"(a) IN GENERAL.—A billing agent, including a telecommunications carrier or reseller, who issues a bill for telephone exchange service or telephone toll service to a subscriber shall—

"(1) state on the bill—

"(A) the name and toll-free telephone number of any telecommunications carrier or reseller for the subscriber's telephone exchange service and telephone toll service;

"(B) the identity of the presubscribed carrier or reseller; and

"(C) the charges associated with each carrier's or reseller's provision of telecommunications service during the billing period;

"(2) for services other than those described in paragraph (1), state on a separate page—

"(A) the name of any company whose charges are reflected on the subscriber's bill;

"(B) the services for which the subscriber is being charged by that company;

"(C) the charges associated with that company's provision of service during the billing period;

"(D) the toll-free telephone number that the subscriber may call to dispute that company's charges; and

"(E) that disputes about that company's charges will not result in disruption of telephone exchange service or telephone toll service; and

"(3) show the mailing address of any telecommunications carrier or reseller or other company whose charges are reflected on the bill.

"(b) KNOWING INCLUSION OF UNAUTHORIZED OR IMPROPER CHARGES PROHIBITED.—A billing agent may not submit charges for telecommunications services or other services to a subscriber if the billing agent knows, or should know, that the subscriber did not authorize the charges or that the charges are otherwise improper.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to bills to subscribers for telecommunications services sent to subscribers more than 60 days after the date of enactment of this Act.

SEC. 104. FCC JURISDICTION OVER BILLING SERVICE PROVIDERS.

Part III of title II of the Communications Act of 1934 (47 U.S.C. 271 et seq.) is amended by adding at the end thereof the following:

"SEC. 277. JURISDICTION OVER BILLING SERVICE PROVIDERS.

"The Commission has jurisdiction to assess and recover any penalty imposed under title V of this Act against an entity not a telecommunications carrier or reseller to the extent that entity provides billing services for the provision of telecommunications services, or for services other than telecommunications services that appear on a subscriber's telephone bill for telecommunications services, but the Commission may assess and recover such penalties only if that entity knowingly or willfully violates the provisions of this Act or any rule or order of the Commission.".

SEC. 105. REPORT; STUDY.

(a) IN GENERAL.—The Federal Communications Commission shall issue a report within 180 days after the date of enactment of this Act on the telemarketing and other solicitation practices used by telecommunications carriers or resellers or their agents or employees for the purpose of changing the telephone exchange service or telephone toll service provider of a subscriber.

(b) SPECIFIC ISSUES.—As part of the report required under subsection (a), the Commission shall include findings on—

(1) the extent to which imposing penalties on telemarketers would deter unauthorized changes in a subscriber's selection of a provider of telephone exchange service or telephone toll service;

(2) the need for rules requiring third-party verification of changes in a subscriber's selection of such a provider and independent third party administration of presubscribed interexchange carrier changes; and

(3) whether wireless carriers should continue to be exempt from the requirements imposed by section 258 of the Communications Act of 1934 (47 U.S.C. 258).

(c) RULEMAKING.—If the Commission determines that particular telemarketing or other solicitation practices are being used with the intention to mislead, deceive, or confuse subscribers and that they are likely to mislead, deceive, or confuse subscribers, then the Commission shall initiate a rulemaking to prohibit the use of such practices within 120 days after the completion of its report.

SEC. 106. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.

Section 2703(c)(1)(B) of title 18, United States Code, is amended by—

(1) striking "or" at the end of clause (ii);

(2) striking the period at the end of clause (iii) and inserting "; or"; and

(3) adding at the end the following:

"(iv) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).".

TITLE II—SWITCHLESS RESELLERS

SEC. 201. REQUIREMENT FOR SURETY BONDS FROM TELECOMMUNICATIONS CARRIERS OPERATING AS SWITCHLESS RESELLERS.

Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.), as amended by section 103 of this Act, is amended by adding at the end the following:

"SEC. 232. SURETY BONDS FROM TELECOMMUNICATIONS CARRIERS OPERATING AS SWITCHLESS RESELLERS.

"(a) REQUIREMENT.—Under such regulations as the Commission shall prescribe, any telecommunications carrier operating or seeking to operate as a switchless reseller shall furnish to the Commission a surety bond in a form and an amount determined by the Commission to be satisfactory for purposes of this section.

"(b) SURETY.—A surety bond furnished pursuant to this section shall be issued by a surety corporation that meets the requirements of section 9304 of title 31, United States Code.

"(c) CLAIMS AGAINST BOND.—A surety bond furnished under this section shall be available to pay the following:

"(1) Any fine or penalty imposed against the carrier concerned while operating as a switchless reseller as a result of a violation of the provisions of section 258 (relating to unauthorized changes in subscriber selections to telecommunications carriers).

"(2) Any penalty imposed against the carrier under this section.

"(3) Any other fine or penalty, including a forfeiture penalty, imposed against the carrier under this Act.

"(d) RESIDENT AGENT.—A telecommunications carrier operating as a switchless reseller that is not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

"(e) PENALTIES.—

"(1) SUSPENSION.—The Commission may suspend the right of any telecommunications carrier to operate as a switchless reseller—

"(A) for failure to furnish or maintain the surety bond required by subsection (a);

"(B) for failure to designate an agent as required by subsection (d); or

"(C) for a violation of section 258 while operating as a switchless reseller.

"(2) Additional penalties.—In addition to suspension under paragraph (1), any telecommunications carrier operating as a switchless reseller that fails to furnish or maintain a surety bond under this section shall be subject to any forfeiture provided for under sections 503 and 504.

"(f) Billing Services for Unbonded Switchless Resellers.—

"(1) Prohibition.—No common carrier or billing agent may provide billing services for any services provided by a switchless reseller unless the switchless reseller—

"(A) has furnished the bond required by subsection (a); and

"(B) in the case of a switchless reseller not domiciled in the United States, has designated an agent under subsection (d).

"(2) Penalty.—

"(A) Penalty.—Any common carrier or billing agent that knowingly and willfully provides billing services to a switchless reseller in violation of paragraph (1) shall be liable to the United States for a civil penalty not to exceed $50,000.

"(B) Applicability.—For purposes of subparagraph (A), the provision of services to any particular reseller in violation of paragraph (1) shall constitute a separate violation of that paragraph.

"(3) Commission authority to assess and collect penalties.—The Commission shall have the authority to assess and collect any penalty provided for under this subsection upon a finding by the Commission of a violation of paragraph (1).

"(g) Return of Bonds.—

"(1) Review.—

"(A) In general.—The Commission may from time to time review the activities of a telecommunications carrier that has furnished a surety bond under this section for purposes of determining whether or not to retain the bond under this section.

"(B) Standards of review.—The Commission shall prescribe any standards applicable to its review of activities under this paragraph.

"(C) First review.—The Commission may not first review the activities of a carrier under subparagraph (A) before the date that is 3 years after the date on which the carrier furnishes the bond concerned under this section.

"(2) Return.—The Commission may return a surety bond as a result of a review under this subsection.

"(h) Definitions.—In this section:

"(1) Billing agent.—The term 'billing agent' means any entity (other than a telecommunications carrier) that provides billing services for services provided by a telecommunications carrier, or other services, if charges for such services appear on the bill of a subscriber for telecommunications services.

"(2) Switchless reseller.—The term 'switchless reseller' means a telecommunications carrier that resells the switched telecommunications service of another telecommunications carrier without the use of any switching facilities under its own ownership or control.

"(i) Detariffing Authority Not Impaired.—Nothing in this section is intended to prohibit the Commission from adopting rules providing for the permissive detariffing of long-distance telephone companies, if the Commission determines that such permissive detariffing would otherwise serve the public interest, convenience, and necessity.".

TITLE III—SPAMMING

SEC. 301. REQUIREMENTS RELATING TO TRANSMISSIONS OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) Information To Be Included in Transmissions.—

(1) In general.—A person who transmits an unsolicited commercial electronic mail message shall cause to appear in each such electronic mail message the information specified in paragraph (2).

(2) Covered information.—The following information shall appear at the beginning of the body of an unsolicited commercial electronic mail message under paragraph (1):

(A) The name, physical address, electronic mail address, and telephone number of the person who initiates transmission of the message.

(B) The name, physical address, electronic mail address, and telephone number of the person who created the content of the message, if different from the information under subparagraph (A).

(C) A statement that further transmissions of unsolicited commercial electronic mail to the recipient by the person who initiates transmission of the message may be stopped at no cost to the recipient by sending a reply to the originating electronic mail address with the word "remove" in the subject line.

(b) Routing Information.—All Internet routing information contained within or accompanying an electronic mail message described in subsection (a) must be accurate, valid according to the prevailing standards for Internet protocols, and accurately reflect message routing.

(c) Effective Date.—The requirements in this section shall take effect 30 days after the date of enactment of this Act.

SEC. 302. FEDERAL OVERSIGHT OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) Transmissions.—

(1) In general.—Upon notice from a person of the person's receipt of electronic mail in violation of a provision of section 301 or 305, the Commission—

(A) may conduct an investigation to determine whether or not the electronic mail was transmitted in violation of such provision; and

(B) if the Commission determines that the electronic mail was transmitted in violation of such provision, may—

(i) impose upon the person initiating the transmission a civil fine in an amount not to exceed $15,000;

(ii) commence in a district court of the United States a civil action to recover a civil penalty in an amount not to exceed $15,000 against the person initiating the transmission;

(iii) commence an action in a district court of the United States a civil action to seek injunctive relief; or

(iv) proceed under any combination of the authorities set forth in clauses (i), (ii), and (iii).

(2) Deadline.—The Commission may not take action under paragraph (1)(B) with respect to a transmission of electronic mail more than 2 years after the date of the transmission.

(b) Administration.—

(1) Notice by electronic means.—The Commission shall establish an Internet web site with an electronic mail address for the receipt of notices under subsection (a).

(2) Information on enforcement.—The Commission shall make available through the Internet web site established under paragraph (1) information on the actions taken by the Commission under subsection (a)(1)(B).

(3) Assistance of other federal agencies.—Other Federal agencies may assist the Commission in carrying out its duties under this section.

SEC. 303. ACTIONS BY STATES.

(a) In General.—Whenever the attorney general of a State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected because any person is engaging in a pattern or practice of the transmission of electronic mail in violation of a provision of section 301 or 305, the State, as parens patriae, may bring a civil action on behalf of its residents to enjoin such transmission, to enforce compliance with such provision, to obtain damages or other compensation on behalf of its residents, or to obtain such further and other relief as the court considers appropriate.

(b) Notice to Commission.—

(1) Notice.—The State shall serve prior written notice of any civil action under this section on the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve written notice immediately on instituting such action.

(2) Rights of commission.—On receiving a notice with respect to a civil action under paragraph (1), the Commission shall have the right—

(A) to intervene in the action;

(B) upon so intervening, to be heard in all matters arising therein; and

(C) to file petitions for appeal.

(c) Actions by Commission.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of a provision of section 301 or 305, no State may, during the pendency of such action, institute a civil action under this section against any defendant named in the complaint in such action for violation of any provision as alleged in the complaint.

(d) Construction.—For purposes of bringing a civil action under subsection (a), nothing in this section shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of the State concerned to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary or other evidence.

(e) Venue; Service of Process.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(f) Actions by Other State Officials.—Nothing in this section may be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of the State concerned.

(g) Definitions.—In this section:

(1) Attorney general.—The term "attorney general" means the chief legal officer of a State.

(2) State.—The term "State" means any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and any possession of the United States.

SEC. 304. INTERACTIVE COMPUTER SERVICE PROVIDERS.

(a) EXEMPTION FOR CERTAIN TRANSMISSIONS.—

(1) EXEMPTION.—Section 301 or 305 shall not apply to a transmission of electronic mail by an interactive computer service provider unless—

(A) the provider initiates the transmission; or

(B) the transmission is not made to its own customers.

(2) CONSTRUCTION.—Nothing in this subsection may be construed to require an interactive computer service provider to transmit or otherwise deliver any electronic mail message.

(b) ACTIONS BY INTERACTIVE COMPUTER SERVICE PROVIDERS.—

(1) IN GENERAL.—In addition to any other remedies available under any other provision of law, any interactive computer service provider adversely affected by a violation of a provision of section 301 or 305 may, within 1 year after discovery of the violation, bring a civil action in a district court of the United States against a person who violates such provision. Such an action may be brought to enjoin the violation, to enforce compliance with such provision, to obtain damages, or to obtain such further and other relief as the court considers appropriate.

(2) DAMAGES.—

(A) IN GENERAL.—The amount of damages in an action under this subsection for a violation specified in paragraph (1) may not exceed $15,000 per violation.

(B) RELATIONSHIP TO OTHER DAMAGES.—Damages awarded for a violation under this subsection are in addition to any other damages awardable for the violation under any other provision of law.

(C) COST AND FEES.—The court may, in issuing any final order in any action brought under paragraph (1), award costs of suit, reasonable costs of obtaining service of process, reasonable attorney fees, and expert witness fees for the prevailing party.

(3) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant or in which the interactive computer service provider is located, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(c) INTERACTIVE COMPUTER SERVICE PROVIDER DEFINED.—In this section, the term "interactive computer service provider" has the meaning given the term "interactive computer service" in section 230(e)(2) of the Communications Act of 1934 (47 U.S.C. 230(e)(2)).

SEC. 305. RECEIPT OF TRANSMISSIONS BY PRIVATE PERSONS.

(a) TERMINATION OF TRANSMISSIONS.—A person who receives from any other person an electronic mail message requesting the termination of further transmission of commercial electronic mail shall cease the initiation of further transmissions of such mail to the person making the request.

(b) AFFIRMATIVE AUTHORIZATION OF TRANSMISSIONS.—

(1) IN GENERAL.—Subject to paragraph (2), a person may authorize another person to initiate transmissions of unsolicited commercial electronic mail to the person.

(2) AVAILABILITY OF TERMINATION.—A person initiating transmissions of electronic mail under paragraph (1) shall include, with each transmission of such mail to a person authorizing the transmission under that paragraph, the information specified in section 301(a)(2)(C).

(c) CONSTRUCTIVE AUTHORIZATION OF TRANSMISSIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), a person who secures a good or service from, or otherwise responds electronically to, an offer in a transmission of unsolicited commercial electronic mail shall be deemed to have authorized the initiation of transmissions of unsolicited commercial electronic mail from the person who initiated the transmission.

(2) NO AUTHORIZATION FOR REQUESTS FOR TERMINATION.—An electronic mail request to cease the initiation of further transmissions of electronic mail under subsection (a) shall not constitute authorization for the initiation of further electronic mail under this subsection.

(3) AVAILABILITY OF TERMINATION.—A person initiating transmissions of electronic mail under paragraph (1) shall include, with each transmission of such mail to a person deemed to have authorized the transmission under that paragraph, the information specified in section 301(a)(2)(C).

(d) EFFECTIVE DATE OF TERMINATION REQUIREMENTS.—Subsections (a), (b)(2), and (c)(3) shall take effect 30 days after the date of enactment of this Act.

SEC. 306. DEFINITIONS.

In this title:

(1) COMMERCIAL ELECTRONIC MAIL.—The term "commercial electronic mail" means any electronic mail that—

(A) contains an advertisement for the sale of a product or service;

(B) contains a solicitation for the use of a telephone number, the use of which connects the user to a person or service that advertises the sale of or sells a product or service; or

(C) promotes the use of or contains a list of one or more Internet sites that contain an advertisement referred to in subparagraph (A) or a solicitation referred to in subparagraph (B).

(2) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(3) the term "initiate the transmission" in the case of an electronic mail message means to originate the electronic mail message, and does not encompass any intervening interactive computer service whose facilities may have been used to relay, handle, or otherwise retransmit the electronic mail message, unless the intervening interactive computer service provider knowingly and intentionally retransmits any electronic mail in violation of section 301 or 305.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. ENFORCEMENT OF REGULATIONS REGARDING CITIZENS BAND RADIO EQUIPMENT.

Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following:

"(f)(1) Except as provided in paragraph (2), a State or local government may enforce the following regulations of the Commission under this section:

"(A) A regulation that prohibits a use of citizens band radio equipment not authorized by the Commission.

"(B) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.

"(2) Possession of a station license issued by the Commission pursuant to section 301 in any radio service for the operation at issue shall preclude action by a State or local government under this subsection.

"(3) The Commission shall provide technical guidance to State and local governments regarding the detection and determination of violations of the regulations specified in paragraph (1).

"(4)(A) In addition to any other remedy authorized by law, a person affected by the decision of a State or local government enforcing a regulation under paragraph (1) may submit to the Commission an appeal of the decision on the grounds that the State or local government, as the case may be, acted outside the authority provided in this subsection.

"(B) A person shall submit an appeal on a decision of a State or local government to the Commission under this paragraph, if at all, not later than 30 days after the date on which the decision by the State or local government becomes final.

"(C) The Commission shall make a determination on an appeal submitted under subparagraph (B) not later than 180 days after its submittal.

"(D) If the Commission determines under subparagraph (C) that a State or local government has acted outside its authority in enforcing a regulation, the Commission shall reverse the decision enforcing the regulation.

"(5) The enforcement of a regulation by a State or local government under paragraph (1) in a particular case shall not preclude the Commission from enforcing the regulation in that case concurrently.

"(6) Nothing in this subsection shall be construed to diminish or otherwise affect the jurisdiction of the Commission under this section over devices capable of interfering with radio communications.".

SEC. 402. MODIFICATION OF EXCEPTION TO PROHIBITION ON INTERCEPTION OF COMMUNICATIONS.

(a) MODIFICATION.—Section 2511(2)(d) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, it shall not be unlawful under this chapter for a person not acting under the color of law to intercept a wire, oral, or electronic communication between a health insurance issuer or health plan and a subscriber of such issuer or plan, or between a health care provider and a patient, only if all of the parties to the communication have given prior express consent to such interception. For purposes of the preceding sentence, the term 'health insurance issuer' has the meaning given that term in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b), the term 'health plan' means a group health plan, as defined in such section of such Act, an individual or self-insured health plan, the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.), the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.), and the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, and the term 'health care provider' means a physician or other health care professional.".

(b) RECORDING AND MONITORING OF COMMUNICATIONS WITH HEALTH INSURERS.—

(1) COMMUNICATION WITHOUT RECORDING OR MONITORING.—Notwithstanding any other provision of law, a health insurance issuer, health plan, or health care provider that notifies any customer of its intent to record or

monitor any communication with such customer shall provide the customer the option to conduct the communication without being recorded or monitored by the health insurance issuer, health plan, or health care provider.

(2) DEFINITIONS.—In this subsection:

(A) HEALTH CARE PROVIDER.—The term "health care provider" means a physician or other health care professional.

(B) HEALTH INSURANCE ISSUER.—The term "health insurance issuer" has the meaning given that term in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b).

(C) HEALTH PLAN.—The term "health plan" means—

(i) a group health plan, as defined in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b);

(ii) an individual or self-insured health plan;

(iii) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(iv) the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.);

(v) the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.); and

(vi) the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, United States Code.

SEC. 403. CONSUMER TRUTH IN BILLING DISCLOSURE ACT.

(a) FINDINGS.—Congress makes the following findings:

(1) Billing practices by telecommunications carriers may not reflect accurately the cost or basis of the additional telecommunications services and benefits that consumers receive as a result of the enactment of the Telecommunications Act of 1996 (Public Law 104-104) and other Federal regulatory actions taken since the enactment of that Act.

(2) The Telecommunications Act of 1996 was not intended to allow providers of telecommunications services to misrepresent to customers the costs of providing services or the services provided.

(3) Certain providers of telecommunications services have established new, specific charges on customer bills commonly known as "line-item charges".

(4) Certain providers of telecommunications services have described such charges as "Federal Universal Service Fees" or similar fees.

(5) Such charges have generated significant confusion among customers regarding the nature of and scope of universal service and of the fees associated with universal service.

(6) The State of New York is considering action to protect consumers by requiring telecommunications carriers to disclose fully in the bills of all classes of customers the fee increases and fee reductions resulting from the enactment of the Telecommunications Act of 1996 and other regulatory actions taken since the enactment of that Act.

(7) The National Association of Regulatory Utility Commissioners adopted a resolution in February 1998 supporting action by the Federal Communications Commission and the Federal Trade Commission to protect consumers of telecommunications services by assuring accurate cost reporting and billing practices by telecommunications carriers nationwide.

(b) REQUIREMENTS.—Any telecommunications carrier that includes any change resulting from Federal regulatory action shall specify in such bill—

(1) the reduction in charges or fees for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers) resulting from any regulatory action of the Federal Communications Commission;

(2) total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers);

(3) notify consumers one billing cycle in advance of any changes in existing charges or imposition of new charges; and

(4) disclose, upon subscription, total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including residential basic service, customers of other residential service, small business customers, and other business customers).

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

THE EXECUTIVE CALENDAR

Mr. LEAHY. Mr. President, I was just thinking, while we are all here, I know we continue to have a number of names on the Executive Calendar on nominations, and we have, let's see, nine judges, all of whom have been voted out of the Judiciary Committee, I think in most cases unanimously. We have close to 100 vacancies in the Federal judiciary. Among those who are on here is Sonia Sotomayor of the second circuit. This has been out for some time now. She has been before the Senate for a couple of years now, I believe. This is a circuit where the Chief Judge has declared a judicial emergency. I believe it is the first time a circuit court has declared a judicial emergency, I think maybe the first time in history that they have done that.

But what that means is that if you go before the second circuit, you don't even have a panel made up of second circuit judges. You have one second circuit court of appeals judge and two visiting judges. And yet we have two nominees for the second circuit on the Executive Calendar, both of whom could be voted on in the next 5 minutes—they went out of the Judiciary Committee very easily—and it would stop this judicial emergency.

The reason I mention this, Mr. President, is that with 100 vacancies in the Federal judiciary, nearly 100 vacancies, we are finding around the country that prosecutors have to lower charges; they have to nol-pros cases; they have to plea bargain because they cannot give a speedy trial. So the police go through all the work, the Federal agencies and everybody, to apprehend somebody, and then because we can't guarantee a speedy trial because there are so many vacancies in the Federal court, somebody who has been charged with a crime suddenly sees their charge lowered. If you are a taxpayer and you pay the bill, as we all are for these courts, and you have a case, a civil case, you cannot get it heard for sometimes 2, 3, 4, 5 years. Justice delayed is justice denied. I mention this, Mr. President; I certainly, and I understand everybody on this side of the aisle, would be ready to go ahead and vote up or down every one of these nine judges right now and clear this up.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. LEAHY. I yield without losing my right to the floor. Of course, I yield to the distinguished Senator from Kentucky.

Mr. FORD. When the Senator said we had other nominees, and he only listed the judicial, there are other nominees on the Executive Calendar who have no reason to be held. For instance, we have a woman who has been serving for 4 years on the Uranium Enrichment Corporation. She came before the Energy Committee on February 11. She was given the greatest of accolades for the tremendous job she had done, and she is caught up in the holds on everything else. And now 90 days have passed since she was unanimously reported out of the Energy Committee.

The Uranium Enrichment Corporation is about to privatize. There is $2 billion, approximately, in this budget that will have to be voted on by that particular individual. They said—the "they" being the majority—let her have a contract, just a consultant's contract. And that means she can sit there and listen but cannot say a word or cast a vote. We are about ready to close the deal.

So not only do we have the judicial problem, we have other nominations that are vitally important to my State and the State of Ohio of which we have a vital interest. I want to encourage the Senator. I am about to make a unanimous consent request that we bring Margaret Greene up so we might try to do something here to get her moving and on the board so she can continue to make decisions and do the good work she has been complimented for by the Energy Committee. So I thank the Senator.

Mr. LEAHY. If I might say to my friend from Kentucky, the irony is that Margaret Hornbeck Greene, if there was to be a vote on her, would get every vote in this place. So instead, what you have is somebody in the back recesses of a cloakroom somewhere holding this woman up, as are a whole lot of other women on this list being held up by people who say, "We won't vote on these women. We just won't let them come to a vote."

Nobody is going to vote them down. They are all going to be confirmed, if we have a vote. But these women are all being held up by somebody who will not come in the Chamber and say who it is holding them up. But just do it. Frankly, I would like to see all of these people—the committees have passed on them. The committees have given them, in most cases, unanimous recommendations and some overwhelming recommendations.

Let the Senate work its will. I think it is wrong to hold them up but especially in the courts. The courts now face an enormous problem. People are declining appointments to the Federal judiciary because they say they are not going to sit around for 2 or 3 years while their law practices fall apart waiting for the Senate to do what we are paid to do.

We have, as I said earlier, in the second circuit, my own circuit, a judicial emergency, the first time ever, and yet we have two second circuit court of appeals judges voted out of the committee sitting on the calendar and cannot be voted upon. It is wrong, Mr. President, for the Senate to try to diminish the Federal bench.

One of the most important parts of our democracy is the fact that we have an independent judiciary. No other nation on Earth has the ability to appoint to a judiciary, handling as complex and varied items as ours does, and still retain its independence. Some, I am afraid to say, on the other side of the aisle and in the other body feel that we must start intimidating these judges—their words, that we must start holding up these judges—their words.

That is wrong. This democracy is maintained and is able to remain a democracy, even though it is the most powerful nation on Earth, because of an independent judiciary. We hurt all Americans. We hurt the criminal justice system; we allow people to escape for their misdeeds if we do not have the judges there to try the cases. And if you are a private litigant, you cannot be heard. Even though you pay the taxes, you pay the bills, you cannot be heard because the judges are not there.

I see the distinguished senior Senator from Arizona in the Chamber. I know he is seeking recognition.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I would like to thank the Senator from Vermont for his courtesy. I know he is addressing a very important issue and I appreciate his forbearance while I propound a unanimous consent request.

UNANIMOUS-CONSENT AGREEMENT—S. 1260

Mr. McCAIN. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S. 1260. I further ask consent there be 2 hours of general debate on the bill equally divided in the usual form. I further ask that the only first-degree amendments, other than the committee-reported substitute, be the following: That first-degree amendments be subject to relevant second-degree amendments—Sarbanes-Bryan, securities market; Sarbanes-Bryan, securities market—three Sarbanes-Bryan, securities market; two Bryan-Sarbanes, securities market; Cleland, class-action lawsuits; Biden, relevant amendment; Wellstone, State laws; Feingold, dispute resolution; D'Amato, relevant; and Dodd, relevant; that upon the disposition of the listed amendments, the committee substitute be agreed to, the bill be read a third time, and the Senate then vote on passage of S. 1260, with no intervening action or debate, provided that Senator REID of Nevada be recognized to speak for up to 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 2037

Mr. McCAIN. Mr. President, I ask unanimous consent the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S. 2037. I further ask that there be 60 minutes for debate equally divided between Senator HATCH and Senator LEAHY, with 15 minutes of Senator HATCH's time controlled by Senator ASHCROFT. I further ask that the only amendment in order be the managers' technical amendment. I finally ask consent that following the expiration or yielding back of time, the bill be read a third time and the Senate then proceed to a vote on passage of S. 2037, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I would like to say now we have also only one remaining concern about the H-1 B bill of Senator ABRAHAM. We would like to move to it tonight. I understand that on the Democratic side of the aisle there is no objection. We are working on it now.

So I would like to inform my colleagues that we may move to the Abraham bill, which has been cleared on the Democratic side, if we can clear it on the Republican side, and, if so, then there will be amendments considered tonight.

MORNING BUSINESS

Mr. McCAIN. While that is being worked out, I now ask unanimous consent that there be a period for the transaction of routine morning business until 7:15 p.m., with Senators permitted to speak for up to 10 minutes.

Mr. LEAHY. Reserving the right to object, and I shall not object, does that statement by the distinguished acting leader mean there will be no more rollcall votes tonight?

Mr. McCAIN. In light of these agreements, I now announce there will be no further rollcall votes this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONTANA POLE VAULTERS

Mr. BAUCUS. Mr. President, I rise to take a moment to share with the Senate the remarkable accomplishments of some truly "high fliers."

All of us in this body travel to schools and encourage tomorrow's leaders to "aim high." Last week, three Montana pole vaulters did just that and the result was that collegiate and high school records fell.

Three extraordinary women, all from my hometown of Helena, made a bit of history.

On the collegiate level, Helena High Graduate and University of Montana freshman Nicole Zeller twice set new Big Sky Conference records in the pole vault, first by clearing 11 feet 10 inches, and then, improving her own record with a vault of 12 feet, ½ inch.

Meanwhile, two Helena high school students—one from my and Senator ROTH's alma mater, Helena High, the other from Capital High—were registering the two best vaults in the nation this year. One of them set a new national record for high school pole vaulters.

Not only did Shannon Agee of Helena High set a new national record. She beat the old one by a mile. She vaulted 13 feet and eclipsed the old record by a full incredible five inches.

On the same day, Capital High senior Suzanne Krings cleared 12 feet 6 inches, giving her the second-best vault in the nation this year.

So today, Mr. President, I extend my congratulations to Shannon, Suzanne and Nicole for showing all of us how to soar.

THE VERY BAD DEBT BOXSCORE

MR. HELMS. Mr. President, at the close of business yesterday, Monday, May 11, 1998, the federal debt stood at $5,487,765,423,650.36 (Five trillion, four hundred eighty-seven billion, seven hundred sixty-five million, four hundred twenty-three thousand, six hundred fifty dollars and thirty-six cents).

Five years ago, May 11, 1993, the federal debt stood at $4,241,563,000,000 (Four trillion, two hundred forty-one billion, five hundred sixty-three million).

Ten years ago, May 11, 1988, the federal debt stood at $2,511,066,000,000 (Two trillion, five hundred eleven billion, sixty-six million).

Fifteen years ago, May 11, 1983, the federal debt stood at $1,257,970,000,000 (One trillion, two hundred fifty-seven billion, nine hundred seventy million).

Twenty-five years ago, May 11, 1973, the federal debt stood at $453,530,000,000 (Four hundred fifty-three billion, five hundred thirty million) which reflects a debt increase of more than $5 trillion—$5,034,235,423,650.36 (Five trillion, thirty-four billion, two hundred thirty-five million, four hundred twenty-three thousand, six hundred fifty dollars and thirty-six cents) during the past 25 years.

THE AGRICULTURAL RESEARCH, EXTENSION AND EDUCATION REFORM ACT OF 1998

Mr. FEINGOLD. Mr. President, today, the Senate passed the conference agreement on S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998. I am pleased that this important legislation, containing several amendments I authored, has seen its way to the Senate floor for proper and overdue consideration and passage.

Mr. President, the agricultural provisions of this bill are important for all farmers but I am especially proud of the provisions targeted to support our endangered small farmers.

Mr. President, this country is facing a national farming crisis. Day after day, season after season, we are losing small farms at an alarming rate. In 1980, there were 45,000 dairy farms in Wisconsin. In 1997, there are only 24,000 dairy farms. That is a loss of more than 3 dairy farms a day-everyday for 17 years. And it does not begin to measure the human cost to families driven from the land. As small farms disappear, we are witnessing the emergence of larger agricultural operations. This trend toward fewer but larger dairy operations is mirrored in most States throughout the Nation.

Mr. President, the economic losses associated with the reduction in the number of small farms go well beyond the impact on the individual farm families who must wrench themselves from the land. The reduction in farm numbers has hurt their neighbors as well and deprived the merchants on the main streets of their towns of many lifelong customers. For many of the rural communities of Wisconsin, small family-owned farms are the key component of the community. They provide economic and sound stability. They are good people and we need a system in which their farms are viable and their work can be fairly rewarded.

Many feel that basic research is a necessary and underutilized tool that can help to save this dying breed of farmers. There have been plenty of Federal investments in agricultural research, past and present, focusing almost solely on the needs of larger scale agricultural producers-neglecting the specific research needs of small producers. This research bias has hamstrung small farmers, depriving them of the tools they need to adapt to changes in farming and the marketplace and accelerating the trend toward increased concentration.

To address this concern, I worked with the conference committee to include a provision which authorizes a coordinated program of research, extension, and education to improve the viability of small- and medium-size dairy and livestock operations. Among the research projects the Secretary is authorized to conduct are: Research, development, and on-farm education, low-cost production facilities, management systems and genetics appropriate for these small and medium operations, research and extension on management intensive grazing systems which reduce feed costs and improve farm profitability, research and extension on integrated crop and livestock systems that strengthen the competitive position of small- and medium-size operations, economic analyses and feasibility studies to identify new marketing opportunities for small- and medium-size producers, technology assessment that compares the technological resources of large specialized producers with the technological needs of small- and medium-size dairy and livestock operations, and research to identify the specific research and education needs of these small operations.

The provision allows the Secretary to carry out this new program using existing USDA funds, facilities and technical expertise. Dairy and livestock producers should not be forced to become larger in order to remain competitive. Bigger is not necessarily better. And in fact, Mr. President, expansion is often counterproductive for small operations, requiring them to take on even greater debt. Farmers need more help in determining other methods of maintaining long-term profitability. For example, small dairy farmers may find adoption of management-intensive grazing systems, combined with a diversified cropping operation a profitable alternative to expansion. But there has been far too little federally funded research devoted to alternative livestock production systems. Small producers need more Federal research and extension activity devoted to the development of these alternatives. This amendment is a good first step in establishing the Federal research commitment to help develop and promote production and marketing systems that specifically address the needs of small producers.

Using research dollars to help maintain the economic viability of small- and medium-size dairy and livestock operations has benefits beyond those gained by farmers and the communities in which they reside. Keeping a large number of small operations in production can provide environmental benefits as well. As livestock operations expand their herd size without a corresponding increase in cropping acreage, manure storage and management practices become more costly and more burdensome for the operator and raise additional regulatory concerns associated with runoff and water quality among State and Federal regulators. Research that helps dairy and livestock operators remain competitive and profitable without dramatic expansion will help minimize these concerns.

Mr. President, also incorporated into the bill is language requiring the Secretary to fund research on the competitiveness and viability of small- and medium-size farms under the Initiative for Future Agriculture and Food Systems—a new research program authorized by S. 1150 and funded at a total of $600 million for fiscal years 1999 through 2002. With the inclusion of my amendment, the Secretary is directed to make grants for research projects addressing the viability of small- and medium-size farming operations with funding made available under the Initiative in fiscal years 1999–2002. This amendment ensures that the research needs of small dairy, livestock, and cropping operations will be addressed under the substantial new funding provided for agricultural research in this bill.

Finally, Mr. President, the conference committee also accepted important language regarding precision agriculture. Precision agriculture is a system of farming that uses very site-specific information on soil nutrient needs and presence of plant pests, often gathered using advanced technologies such as global positioning systems, high performance image processing, and software systems to determine the specific fertilizer, pesticide and other input needs of a farmer's cropland. This technology may have the benefit of lowering farm production costs and increase profitability by helping the producer reduce agricultural inputs by applying them only where needed. In addition, reducing agricultural inputs may minimize the impact of crop production on wildlife and the environment. While precision agriculture, generally defined, encompasses a broad range of techniques from high-technology satellite imaging systems to manual soil sampling, it is most frequently discussed in terms of the use of capital intensive advanced technologies.

Precision agriculture may result in production efficiencies and improved profitability for some farms, yet many in agriculture are concerned that, because of the capital intensive nature of precision agriculture systems, this new technology will not be applicable or accessible to small or highly diversified farms. It is unclear whether precision agriculture services, even if provided by input suppliers, will be available at affordable rates to small farms. Furthermore, some observers are concerned that private firms may find that marketing efforts directed at small farms are not lucrative enough and thus may avoid efforts to apply the technology to small operations.

In addition to concerns about the applicability and accessibility of precision agriculture to small farms, many are concerned that precision agriculture may not be the most appropriate production system for small farms given the costs of acquiring new technology or contracting for additional services. There may be other production systems, such as integrated whole farm crop, livestock, and resource management systems, that allow small farmers to reduce input costs, improve profitability, and minimize environmental impacts of agricultural production that are more appropriate for smaller operations.

To address this concern, accepted language allows USDA to fund studies evaluating whether precision agriculture technologies are applicable or accessible to small- and medium-sized farms. The amendment also allows USDA to conduct research on methods to improve the applicability of precision agriculture to these operations. It is critical that USDA's research investment in this new technology not exclude the needs of small farmers. If it does, this new research program could ultimately affect the structure of agriculture, potentially providing disproportionate advantages to large scale farming operations, accelerating the trend to fewer and larger farms. My amendment will allow USDA to conduct research on low cost precision agriculture systems that do not require significant financial investments by farmers and that may be more appropriate to small or highly diversified farming operations.

Mr. President, I appreciate the cooperation of the chairman, Mr. LUGAR, and the ranking member, Mr. HARKIN, of the Agriculture Committee and their staff in addressing the important research needs of small- and medium-size farms by maintaining these amendments during conference committee consideration of this bill.

These amendments will ensure that research money is directed at the interests of the small farmer providing the tools to make these operations viable to survive the riggers of farming in the next century.

SHANNEL QUARLES—KANSAS YOUTH OF THE YEAR

Mr. BROWNBACK. Mr. President, today, I rise to recognize an outstanding high school student from Wichita, KS. Shannel Quarles won the Kansas Youth of the Year award for 1998–1999. Along with this award, Shannel will receive a four-year scholarship to the college of her choice, sponsored by Oprah Winfrey's Angel Network.

Mr. President, I am proud to recognize the outstanding accomplishment of this high school sophomore. She is an exemplary role model for young people in our nation. I congratulate Shannel and her family and wish her continued success.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WARNER:

S. 2062. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions; to the Committee on Environment and Public Works.

By Mr. HOLLINGS (by request):

S. 2063. A bill to authorize activities under the Federal railroad safety laws for fiscal years 1999 through 2002, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. MIKULSKI (for herself, Mr. GLENN, and Mr. SARBANES):

S. 2064. A bill to prohibit the sale of naval vessels and Maritime Administration vessels for purposes of scrapping abroad, to establish a demonstration program relating to the breaking up of such vessels in United States shipyards, and for other purposes; to the Committee on Armed Services.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2065. A bill to amend the Internal Revenue Code of 1986 to clarify the tax treatment of Settlement Trusts established pursuant to the Alaska Native Claims Settlement Act; to the Committee on Finance.

By Mr. CHAFEE:

S. 2066. A bill to reduce exposure to environmental tobacco smoke; to the Committee on Environment and Public Works.

By Mr. ASHCROFT (for himself, Mr. LEAHY, Mr. BURNS, Mr. CRAIG, Mrs. BOXER, Mr. FAIRCLOTH, Mr. WYDEN, Mr. KEMPTHORNE, Mrs. MURRAY, and Mrs. HUTCHISON):

S. 2067. A bill to protect the privacy and constitutional rights of Americans, to establish standards and procedures regarding law enforcement access to decryption assistance for encrypted communications and stored electronic information, to affirm the rights of Americans to use and sell encryption products, and for other purposes; to the Committee on the Judiciary.

By Mr. THOMPSON (for himself and Mr. GLENN):

S. 2068. A bill to clarify the application of the Unfunded Mandates Reform Act of 1995, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. DORGAN (for himself and Mr. CONRAD):

S. 2069. A bill to permit the leasing of mineral rights, in any case in which the Indian owners of an allotment that is located within the boundaries of the Fort Berthold Indian Reservation and held in trust by the United States have executed leases to more than 50 percent of the mineral estate of that allotment; to the Committee on Indian Affairs.

By Mr. DEWINE:

S. 2070. A bill to provide for an Underground Railroad Educational and Cultural Program; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, and Mr. GLENN):

S. Res. 227. A resolution to express the sense of the Senate regarding the May 11, 1998 Indian nuclear tests; to the Committee on Foreign Relations.

By Mr. WARNER (for himself and Mr. FORD):

S. Res. 228. A resolution to authorize the printing of a document entitled "Washington's Farewell Address"; considered and agreed to.

By Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN):

S. Res. 229. A resolution commemorating the 150th anniversary of the establishment of the Chicago Board of Trade; considered and agreed to.

By Mr. DODD (for himself and Mr. GRASSLEY):

S. Con. Res. 95. A concurrent resolution expressing the sense of Congress with respect to promoting coverage of individuals under long-term care insurance; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI (for herself, Mr. GLENN, and Mr. SARBANES):

S. 2064. A bill to prohibit the sale of naval vessels and Maritime Administration vessels for purposes of scrapping abroad, to establish a demonstration program relating to the breaking up of such vessels in United States shipyards, and for other purposes; to the Committee on Armed Services.

NAVAL VESSELS LEGISLATION

Ms. MIKULSKI. Mr. President, I wish to bring to the attention of the Senate that today I am introducing legislation to change the way we dispose of Navy ships that are no longer needed. I am proud to say that this bill is being cosponsored by my senior Senator, PAUL

SARBANES, as well as the distinguished Senator from Ohio, Senator JOHN GLENN.

With the end of the cold war, the number of ships to be disposed of in the military arsenal is growing. There are 180 Navy and Maritime Administration ships waiting to be scrapped. These ships are difficult and dangerous to dismantle. They usually contain asbestos, PCBs, and lead paint. They were built long before we understood all of the environmental hazards associated with these materials.

I am prompted to offer this legislation because an issue was brought to my attention by a Pulitzer Prize-winning series of articles that appeared in the Baltimore Sun written by reporters Gary Cohn and Will Englund. They conducted a very thorough and rigorous investigation into the way we dispose of our Navy and maritime ships. They traveled around the country and around the world to see firsthand how our ships are dismantled.

I must advise the Senate that the way we do this is not being done in an honorable, environmentally sensitive, efficient way. I believe that when we have ships that have defended the United States of America, that were floating military bases, they should be retired with honor. When I unfold to you the horror stories that the Sun paper found, you will be shocked, and I hope you will join in the cosponsorship of my bill.

Let me recite from the Sun paper:

> As the Navy sells off obsolete warships at the end of the cold war, a little known industry has grown up in America's depressed ports, and where the shipbreaking industry goes, pollution and injured workers are left in its wake.

Headline No. 1. No. 2:

> The Pentagon repeatedly deals with shipbreakers with dismal records, then fails to keep watch as they leave health, environmental and legal problems in America's ports.

In terms of our own communities on the border in Brownsville, TX:

> In this U.S. shipbreaking capital on the Mexican border, where labor and life are cheap, scrapping thrives amid official indifference.

And, I might say, danger.

Also, even more horrendous is the way we use the Third World to dump American ships: In India, the Sun paper found:

> On a fetid beach, 35,000 men scrap the world's ships with little more than their bare hands. Despite wretched conditions—

And dangerous environmental situations.

I point out what this means close to home. Let me tell you some stories. In Baltimore:

> Workers have been toiling in air thick with asbestos dust. In Baltimore, laborers scrapping the USS Coral Sea ripped asbestos insulation from the aircraft carrier with their bare hands. At times they had no respirators, standard equipment for asbestos work. [As we all know,] inhaling asbestos fibers can have . . . lethal consequences.

It was not limited to Baltimore. At Terminal Island, CA, 20 laborers were fired when they told Federal investigators how asbestos was being improperly stripped from Navy ships. In Baltimore, workers were ordered to stuff asbestos into a leaky barge to hide it from inspectors.

> Dangerous substances from scrapped ships have polluted harbors, rivers and shorelines.

The Sun paper goes on to say:

> A scrapyard along the Northeast Cape Fear River in Wilmington, NC, was contaminated by asbestos, oil and lead. "That site looked like one of Dante's levels of hell," said David Heeter, a North Carolina assistant attorney general.
>
> Ship scrappers frustrate regulators by constructing a maze of corporate names and moving frequently. The Defense Department has repeatedly sent ships to scrappers who have records of bankruptcies, fraud [and] payoffs. . . .

Because of downsizing, the Navy promised that this would be a bonanza, for amounts ranging from $15,000 to dismantle a destroyer—15 grand to dismantle a destroyer—to $1 million for an aircraft carrier.

> They buy the rights to Navy ships, then sell the salvaged metal. . . .
>
> Because of environmental violations and other issues, the Navy has had to take back 20 ships in yards in North Carolina, Rhode Island and California. . . . Of the 58 ships sold for scrapping since 1991, only 28 have been finished.

And, oh, my God, how they have been finished.

I would like to turn to my hometown of Baltimore. Mr. President, this is what the *Coral Sea* looked like while it was being dismantled in the Baltimore harbor. It looks like it was ravaged, like it was cannibalized. It looks like a tenement in a Third World area.

The Sun paper continues:

> In Baltimore, torch handlers worked without other men on fire watch and without fire hoses. . . .

Picture yourself going out there trying to do that in the early morning.

> The *Coral Sea*'s dismal end has been marked by stubborn fires and dumping of oil in the harbor, by lawsuits and repeated delays—but most of all, by the mishandling of asbestos.

Let me tell you that it was so bad that even a Navy inspector who came to look at what they were doing was scared to death to go on that ship because he was afraid it was too dangerous.

I am quoting the Sun paper.

> On September 16, 1993, [the military] sent its lone inspector——

One inspector for the United States——

> On his first visit to the Seawitch Salvage yard in Baltimore. . . . But Evans didn't inspect [it because]. . . . He thought it was too dangerous.
>
> The next day, a 23-year-old worker named Alfio Leonardi Jr. found out how unsafe it would be.

He walked on a flight deck up in that situation and dropped 30 feet from the hangar.

> I felt a burning feeling inside. . . . There was blood coming out of my mouth. I didn't think I was going to live.

He suffered a ruptured spleen, fractured pelvis, fractured vertebrae, and he broke his arms in several places.

The inspector was new to the job when the accident occurred. He had only 20 hours of training on environmental issues. He was not appropriately trained, and he didn't even know what shipbreaking was. At the same time, we had repeated fires breaking out.

In November of 1996, a fire broke out in the *Coral Sea* engine room. There was no one standing fire watch, no hose nearby. The blaze burned quickly out of control, and for the sixth time, Baltimore City's fire department had to come in and rescue the shipyard. At the same time, the owner of this shipyard had a record of environmental violations for which he ultimately went to jail.

We cannot tolerate this in the Baltimore harbor. If you look there, that is where it is, right across from Ft. McHenry that defended the United States of America and won the second battle in the war of 1812. And look at it. That is what it looks like. It is a national disgrace that that was in the harbor as well as a national environment danger.

Right down the road was the Baltimore City Shipyard, the Bethlehem Steel Shipyard that was foraging for work. Another fighting lady from Maryland, Helen Bentley, our former Congresswoman—she and I and Senator PAUL SARBANES worked for Baltimore to be a home port. We were desperate for work in our shipyard—desperate. But no; do you think the Navy turned to shipyards like Bethlehem Steel? They turned to the rogues, the crooks, the scum, the scams, to dismantle our Navy ships.

I think the ships deserve more. I think the Baltimore harbor deserves more. And I think the United States of America deserves more. That is why I am introducing legislation to create a pilot project on how we can dispose of these ships, and in a way that is efficient, is orderly, and environmentally safe, and keeps the work in American shipyards, because while this was so terrible in my own home of Baltimore, MD, let me show you what was going on in the Third World.

This is the U.S. Navy ships being dismantled in India. Thirty-five thousand people work on a beach, often with no shoes, dismantling ships with their bare hands. This is so dangerous, in terms of what they are doing, that I believe it is an international disgrace. I was appalled we were also exporting our environmental problems overseas.

Mr. President, I called upon Secretary Cohen, when I read this series, to immediately stop what we were doing and to take a look. He did it. I want to thank him for his prompt response. He analyzed what they should do, and they made recommendations. But the recommendation was more enforcement of the same old way of doing business. Well, more enforcement of the same old way of doing business will still end up with the same old way of doing business—occupational safety dangers, environmental catastrophes, and a national disgrace.

So that is why I am introducing my own legislation. The first section of the legislation will absolutely ban the shipping, the sending of our 180 Navy ships overseas to be dismantled in such despicable situations. The other part establishes a pilot project for the U.S. Navy to look at how it could put our ships out for dismantling bids in American shipyards that meet environmental and occupational standards. Those shipyards, like the ones in my own hometown of Baltimore, that are fit for duty. They know how to build a ship. They know how to convert a ship. They know how to dismantle a ship.

I think the Navy can do better. The Navy has an outstanding record of dismantling nuclear submarines. They do it in a particular and unique way. They have the ingenuity and the technical competence, but they lack the will and the resources. What I hope my legislation will do is give them both the will and the resources to dismantle this in a way that retires our ships with honor. I knew that when the Senate saw those pictures they would be as taken aback as I have been.

I thank the Sun paper for their outstanding series in bringing this to not only my attention but to America's attention. They won the Pulitzer Prize. But I want the United States of America to be sure that we win an environmental victory here.

So, Mr. President, I am going to be introducing my legislation today as we speak. In fact, I send my legislation to the desk and ask that it be referred to the appropriate committees. I just want to close by saying that when we close military bases, we do it the right way, we pay to clean them up, we close them down and find other basic ways of recycling their use.

Every weekend I am around veterans who wear the ships on which they sailed. They have the U.S.S. Coral Sea; they have a variety of the ships that they sailed on. They are proud of those ships, and I am proud of those ships. And I am proud of the military. I conclude by saying, I thank Secretary Cohen for his leadership as well as Secretary Perry. They have done more environmentally positive things for the military than we have ever had done. But this is the next step.

I yield the floor, and I thank the Senate for its kind attention.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The Democratic leader.

Mr. DASCHLE. Mr. President, let me thank the distinguished Senator from Maryland for her eloquent statement. I appreciate her leadership. Her statement this morning is one that I wish the whole country could hear. Her leadership and her willingness to be involved in this issue is critical to all of us. And I appreciate so much her eloquence and the studious way in which she has pursued this matter.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2065. A bill to amend the Internal Revenue Code of 1986 to clarify the tax treatment of Settlement Trusts established pursuant to the Alaska Native Claims Settlement Act; to the Committee on Finance.

ALASKA NATIVE SETTLEMENT TRUST TAX LEGISLATION

Mr. MURKOWSKI. Mr. President, I am pleased to be joined by Senator STEVENS in introducing legislation that will allow Alaska Native Corporations to establish settlement trusts designed to promote the health, education, welfare and cultural heritage of Alaska Natives.

Mr. President, in 1987, the Alaska Native Claims Settlement Act was amended to permit Native Corporations to establish settlement trusts to hold lands and investments for the benefit of current and future generations of Alaska Natives. Assets in these trusts are insulated from business exposure and risks and can be invested to provide distributions of income to Native shareholders and their future generations.

Although the 1987 amendments were designed to facilitate the development of settlement trusts, many Native Corporations have been stymied in their efforts because the tax law, in many cases, imposes onerous penalties on the Native shareholders when the trusts are created. For example, when assets are transferred to the trust, they are treated as a *de facto* distribution of assets directly to the shareholders themselves to the extent of the corporation's earnings and profits.

Even though the current shareholders receive no actual income at the time of the transfer into the trust, they are liable for income taxes as if they received an actual distribution. This not only requires the shareholder to come up with money to pay taxes on a distribution he or she never received, but also can result in a situation where a trust fund beneficiary is required to prepay taxes on his share of the entire trust corpus, which may be substantially more in taxes than the amount of cash benefits he or she will actually receive in the future.

Our legislation remedies this inequity by requiring that a beneficiary of a settlement trust will be subject to taxation with respect to assets conveyed to the trust only when the actual distribution is received by the beneficiary. Moreover, the legislation provides that distributions from the trust will be taxable as ordinary income even if the distribution represents a return of capital. In addition, to ensure that these trusts do not accumulate excessive levels of the corporation's earnings, the legislation requires that the trust must annually distribute at least 55 percent of their taxable income.

Mr. President, Alaska Native Corporations are unique entities. Unlike Native American tribes in the lower 48, Alaska Native corporations are subject to income tax. But unlike ordinary C corporations, Alaska Native corporations have diverse purposes, one of which is to preserve and protect the heritage of the Native shareholders. The settlement trust concept is well suited to the special needs of Alaska's Natives. As the Conference Committee Report to ANSCA amendments of 1987 stated:

> Trust distributions may be used to fight poverty, provide food, shelter and clothing and served comparable economic welfare purposes. Additionally, cash distributions of trust income may be made on an across-the-board basis to the beneficiary population as part of the economic welfare function.

Settlement trusts will ensure that for generations to come, Native Alaskans will have a steady stream of income on which to continue building an economic base. The current tax rules discourage the creation of such trusts with the result that Native corporations are under extreme pressure to distribute all current earnings rather than prudently reinvesting for the future.

Mr. President, it is my hope that we will be able to see this legislation adopted into law this year. For the long-term benefit of Alaska Natives, this tax law change is fundamentally necessary.

By Mr. CHAFEE:

S. 2066. A bill to reduce exposure to environmental tobacco smoke; to the Committee on Environment and Public Works.

ENVIRONMENTAL TOBACCO SMOKE LEGISLATION

Mr. CHAFEE. Mr. President, today I am introducing legislation regarding one small aspect of the national tobacco debate. This bill addresses the problem of second-hand smoke, also known as Environmental Tobacco Smoke, or ETS for short. It is my hope that the ideas contained in this bill can be incorporated into any tobacco legislation acted on by the Senate.

The Committee on Environment and Public Works recently held a hearing on ETS at which we learned that the principal victims of second-hand smoke are children who live with smokers.

Tobacco smoke has devastating consequences for children under 18 months of age. Annually, up to 15,000 infants are hospitalized for lung infections caused by ETS such as bronchitis and pneumonia. These severe lung infections claim the lives of hundreds of children each year.

Second-hand smoke is also responsible for less severe lung infections in 300,000 infants, 26,000 new cases of asthma among children, millions of middle ear infections, and roughly half the cases of Sudden Infant Death Syndrome (SIDS). These preventable illnesses, but 40 percent of children in one multi-State study were found to be routinely exposed to tobacco smoke.

The bill I am introducing today would assign some of the funds collected under any national tobacco settlement approved by Congress to a state grant program to educate parents about the dangers of smoking in the home. The statistics I just recited are not widely known by parents. Once aware of the profound risk ETS poses for their child, most parents will go to great lengths to protect their child, and I believe that even includes parents who smoke.

With the grant funds from this bill, States could provide information about ETS to pediatricians and other child care professionals for distribution to parents. States also could develop advertising aimed at parents. We only need to arm parents with information. They will do the rest.

This bill has a few other provisions. It affirmatively states that there is no federal preemption of State or local efforts to address ETS. It would ban smoking on international flights that originate or terminate in the United States. It also would extend and codify the President's Executive Order banning smoking in federal buildings. My good friend, Senator WARNER, in his capacity as Chairman of the Senate Rules Committee, is working to ban smoking from the public areas of the Senate. I applaud this effort and encourage my colleagues to support it. My legislation would complement his efforts in other federal buildings.

This bill does not address the question of smoking in private workplaces. Up to 3,000 adults die each year from lung cancer caused by ETS. Because of this statistic, some have argued that the federal government should ban smoking in nearly every building in the nation. Most legislative proposals on this issue would subject every dress shop and church hall in the nation to federal smoking regulations.

Ironically, most of those bills exempt bars and restaurants and other places where smoking can be common. That means they ignore the few places where employees faced a substantial threat from ETS while regulating every other workplace. I believe that there is a more efficient way to address workplaces with dangerous levels of ETS.

We should allow State and local governments to take the lead on this matter, but we also should help them to solve the problem. Some towns and States have taken action already. We can encourage more of them to do so by expanding the grant program described in my bill to reward States that reduce dangerous levels of ETS in the workplace. Incentive grants would allow States to tailor their solutions to address local concerns. Some States could seek a gradual ban while others may establish protective ventilation standards.

Any rule that requires changing a habit as deeply ingrained as smoking will be met with resistance. In contrast to a federal one-size-fits-all approach, State and local efforts can be tailored more easily to local concerns, and will, therefore, be more effective.

I did not address smoking in the workplace in my bill because I hope to work with other interested members to develop language that will be supportable on both sides of the aisle. Such a provision must both avoid rigid federal mandates and provide real incentives for States to address those workplaces with dangerous levels of ETS. I will continue to work with interested parties in an effort to devise such a provision. In the meantime, I wanted to offer the balance of my proposal for the Senate's consideration.

By Mr. ASHCROFT (for himself, Mr. LEAHY, Mr. BURNS, Mr. CRAIG, Mrs. BOXER, Mr. FAIRCLOTH, Mr. WYDEN, Mr. KEMPTHORNE, Mrs. MURRAY, and Mrs. HUTCHISON):

S. 2067. A bill to protect the privacy and constitutional rights of Americans, to establish standards and procedures regarding law enforcement access to decryption assistance for encrypted communications and stored electronic information, to affirm the rights of Americans to use and sell encryption products, and for other purposes; to the Committee on the Judiciary.

THE E-PRIVACY ACT

Mr. ASHCROFT. Mr. President, I rise to speak today on an issue that I find very important to the future of this country's leading position in the technology, and that is encryption. This issue has been under consideration since I first came to Capitol Hill, and for more than three years nothing has been accomplished by way of assistance to law enforcement, or to industry, or most importantly to the users of encryption in this country.

My first involvement in this entire discussion came about as a result of the need for protection and privacy. If we are to operate at our highest and best in the information age, instead of settling for something very far below our potential, we are going to need privacy and protection, and we are going to need the ability to operate with integrity on the Internet. The Internet has to be something more than speaking on the public square, it has to have the ability to allow individuals to communicate with each other. It has to have the same kind of rights and protections that are accorded to other aspects of communication. Without this privacy, the potential of the Internet is destroyed. In my judgment, the Internet would be destined to become just a sort of international bull session, nothing more than an international party line of commentary, or an international broadcast device. I do not believe it will fulfill its potential as a communication, entertainment, commercial and educational opportunity unless Internet communications are secure and the right of privacy is respected.

The Internet allows for the most participatory form of communications ever. In order for us to be able to both invite participation by everyone, and to be able to take advantage of it, we have to be able to exclude some parties from a particular communication. I do not know of any more successful exclusion technique in the electronic world than encryption, especially when so much information is going to be transmitted digitally, much of it through space as well as over hard lines of communication.

We have a tremendous potential for commerce on the Internet: everything from selling clothes, to real estate, to software itself. Electronic commerce has not reached its full potential, but it can. I think we've got a big agenda there, not just encryption but we've got to have legally binding signature legislation and therefore solid encryption.

Resisting efforts for mandatory domestic key recovery is also crucial. We have to remind ourselves that the Internet is like so much of the rest of the culture—government can't solve all the problems. At least we have to plead for restraint by those who would harm this technology. As I have said before, now is the time to draw a bright line against federal regulation of the computer industry. Washington must not start down the road of dreaming up regulations to fix problems that may or may not exist. Two things can be predicted with confidence about congressional meddling in this sector of the economy. First, legislation will be obsolete on the day it is passed. Second, it will hurt consumers, workers, shareholders, and the economy. If Congress had helped set up the transportation industry, there still might be a livery stable in every town, and buggy whip factories in large cities.

The irrationality of limiting the United States to levels of encryption which are far below what the world market is demanding and supplying in other settings, has been mind boggling. This legislation declares that American companies will be full and active participants in the encryption industry. Today, numerous editions of leading American designed and manufactured software bears the stamp, "Not for sale outside the United States," because the software features robust encryption. That stamp does nothing to make Americans more secure, but it does provide aid and comfort to foreign competitors of American business. This legislation would eliminate that stamp once and for all.

Encryption, of course, is the most important issue to the future of electronic commerce and if we are to foster the integrity of the Internet we must have the means of communication domestically and international. I have to reaffirm that we must allow the software industry to compete in an international market where robust encryption already takes place. Months ago I went to a Commerce Committee meeting and took with me an ad from the Internet, which was from Seimens company in Germany advertising robust 128 bit encryption, saying that you can't get this from a U.S. manufacturer. The advertisement also indicated, however, that if you buy this you can use it in the United States and you can use it overseas as well, and, so if you want to have robust encryption buy it from Seimens. The Administration has decided to tie the hands of the U.S. encryption industry. To me that's a disaster, but it is also compounded by people beginning to develop relationships with foreign software providers as a result of the unavailability of 128 bit or robust encryption on the part of U.S. providers.

To see the Germans eagerly promoting this potential, and to have people from my own jurisdiction, from the state of Missouri, say, "John, we have an office in Singapore, we have to be able to speak with them confidentially and communicate with them, and the government is making it impossible for us to send the encryption that we can use domestically. We can't send it to our office in Singapore because we are ineligible to export it." I don't want the situation to be such that I have to say, "Well, go to Seimens in Germany." From Seimens you can buy the encryption that can be sent into the United States and from Seimens in Germany it can be sent to Singapore and so you can have your cake and eat it too by dealing with a non-domestic firm. For us to have a policy which provides for the slitting of our own throats, in a technology arena, where we have held the lead and must continue to hold the lead, I think is foolhardy to say the least. If we are to mark the next century as an "American Century," or even to celebrate this week as high technology week in the Senate, we must be forward thinking and acting. This bill moves us away from antiquated export laws to a future in which American companies will be able to compete in the international marketplace without having one hand tied behind their back by the federal government.

This bill also clarifies the proper approach for encryption domestically as we move ahead in the digital age. The Administration and the FBI first indicated support for language that would mandate key recovery for all domestic encryption and now support several suggested approaches that would make using domestic key escrow a practical—though not legal—necessity. Director Freeh has gone so far as to mention the need for a new Fourth Amendment that considers the realities of the digital age. I think we need a new and improved approach to domestic encryption, not a new updated version of the Fourth Amendment. I, for one, am not eagerly awaiting the FBI's new release of Fourth Amendment 2.0 or First Amendment '98.

I think we have to work together to find a reasonable alternative to the current Administration policy and I think we have to ensure secure transactions. That's a clear responsibility. We can't have a situation where we don't have security and integrity in our business transactions. We have to be able to compete effectively in a worldwide marketplace. For us to limit our own potential in terms of competition makes no sense. We have to make sure that we don't allow those who would use information improperly or illegally to have access to it. That has to do with securing the transactions, and the integrity of the Internet as well.

This legislation is the solution to the problem. It is well thought out and attempts to address the legitimate concerns of all affected parties. I will seek passage of this legislation in this Congress and will commit the resources of my office that may be needed to achieve this end.

Business Week has recently reported that 61 percent of adults responded that they would be more likely to go on-line if the privacy of their information and communications would be protected. Mr. President, simply put, strong encryption means a strong economy. Mandatory access, by contrast, means weaker encryption and a less secure, and therefore less valuable, network.

I ask for unanimous consent that the entire bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2067

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Encryption Protects the Rights of Individuals from Violation and Abuse in Cyberspace (E-PRIVACY) Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Findings.
Sec. 4. Definitions.

TITLE I—PRIVACY PROTECTION FOR COMMUNICATIONS AND ELECTRONIC INFORMATION

Sec. 101. Freedom to use encryption.
Sec. 102. Purchase and use of encryption products by the Federal Government.
Sec. 103. Enhanced privacy protection for information on computer networks.
Sec. 104. Government access to location information.
Sec. 105. Enhanced privacy protection for transactional information obtained from pen registers or trap and trace devices.

TITLE II—LAW ENFORCEMENT ASSISTANCE

Sec. 201. Encrypted wire or electronic communications and stored electronic communications.

TITLE III—EXPORTS OF ENCRYPTION PRODUCTS

Sec. 301. Commercial encryption products.
Sec. 302. License exception for mass market products.
Sec. 303. License exception for products without encryption capable of working with encryption products.
Sec. 304. License exception for product support and consulting services.
Sec. 305. License exception when comparable foreign products available.
Sec. 306. No export controls on encryption products used for nonconfidentiality purposes.
Sec. 307. Applicability of general export controls.
Sec. 308. Foreign trade barriers to United States products.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to ensure that Americans have the maximum possible choice in encryption methods to protect the security, confidentiality, and privacy of their lawful wire and electronic communications and stored electronic information;

(2) to promote the privacy and constitutional rights of individuals and organizations in networked computer systems and other digital environments, protect the confidentiality of information and security of critical infrastructure systems relied on by individuals, businesses and government agencies, and properly balance the needs of law enforcement to have the same access to electronic communications and information as under current law; and

(3) to establish privacy standards and procedures by which investigative or law enforcement officers may obtain decryption assistance for encrypted communications and stored electronic information.

SEC. 3. FINDINGS.

Congress finds that—

(1) the digitization of information and the explosion in the growth of computing and electronic networking offers tremendous potential benefits to the way Americans live, work, and are entertained, but also raises new threats to the privacy of American citizens and the competitiveness of American businesses;

(2) a secure, private, and trusted national and global information infrastructure is essential to promote economic growth, protect

privacy, and meet the needs of American citizens and businesses;

(3) the rights of Americans to the privacy and security of their communications and in the conducting of personal and business affairs should be promoted and protected;

(4) the authority and ability of investigative and law enforcement officers to access and decipher, in a timely manner and as provided by law, wire and electronic communications, and stored electronic information necessary to provide for public safety and national security should also be preserved;

(5) individuals will not entrust their sensitive personal, medical, financial, and other information to computers and computer networks unless the security and privacy of that information is assured;

(6) businesses will not entrust their proprietary and sensitive corporate information, including information about products, processes, customers, finances, and employees, to computers and computer networks unless the security and privacy of that information is assured;

(7) America's critical infrastructures, including its telecommunications system, banking and financial infrastructure, and power and transportation infrastructure, increasingly rely on vulnerable information systems, and will represent a growing risk to national security and public safety unless the security and privacy of those information systems is assured;

(8) encryption technology is an essential tool to promote and protect the privacy, security, confidentiality, integrity, and authenticity of wire and electronic communications and stored electronic information;

(9) encryption techniques, technology, programs, and products are widely available worldwide;

(10) Americans should be free to use lawfully whatever particular encryption techniques, technologies, programs, or products developed in the marketplace that best suits their needs in order to interact electronically with the government and others worldwide in a secure, private, and confidential manner;

(11) government mandates for, or otherwise compelled use of, third-party key recovery systems or other systems that provide surreptitious access to encrypted data threatens the security and privacy of information systems;

(12) American companies should be free to compete and sell encryption technology, programs, and products, and to exchange encryption technology, programs, and products through the use of the Internet, which is rapidly emerging as the preferred method of distribution of computer software and related information;

(13) a national encryption policy is needed to advance the development of the national and global information infrastructure, and preserve the right to privacy of Americans and the public safety and national security of the United States;

(14) Congress and the American people have recognized the need to balance the right to privacy and the protection of the public safety with national security;

(15) the Constitution of the United States permits lawful electronic surveillance by investigative or law enforcement officers and the seizure of stored electronic information only upon compliance with stringent standards and procedures; and

(16) there is a need to clarify the standards and procedures by which investigative or law enforcement officers obtain decryption assistance from persons—

(A) who are voluntarily entrusted with the means to decrypt wire and electronic communications and stored electronic information; or

(B) have information that enables the decryption of such communications and information.

SEC. 4. DEFINITIONS.

In this Act:

(1) AGENCY.—The term "agency" has the meaning given the term in section 6 of title 18, United States Code.

(2) COMPUTER HARDWARE.—The term "computer hardware" includes computer systems, equipment, application-specific assemblies, smart cards, modules, and integrated circuits.

(3) COMPUTING DEVICE.—The term "computing device" means a device that incorporates 1 or more microprocessor-based central processing units that are capable of accepting, storing, processing, or providing output of data.

(4) ENCRYPT AND ENCRYPTION.—The terms "encrypt" and "encryption" refer to the scrambling (and descrambling) of wire communications, electronic communications, or electronically stored information, using mathematical formulas or algorithms in order to preserve the confidentiality, integrity, or authenticity of, and prevent unauthorized recipients from accessing or altering, such communications or information.

(5) ENCRYPTION PRODUCT.—The term "encryption product"—

(A) means a computing device, computer hardware, computer software, or technology, with encryption capabilities; and

(B) includes any subsequent version of or update to an encryption product, if the encryption capabilities are not changed.

(6) EXPORTABLE.—The term "exportable" means the ability to transfer, ship, or transmit to foreign users.

(7) KEY.—The term "key" means the variable information used in or produced by a mathematical formula, code, or algorithm, or any component thereof, used to encrypt or decrypt wire communications, electronic communications, or electronically stored information.

(8) PERSON.—The term "person" has the meaning given the term in section 2510(6) of title 18, United States Code.

(9) REMOTE COMPUTING SERVICE.—The term "remote computing service" has the meaning given the term in section 2711(2) of title 18, United States Code.

(10) STATE.—The term "State" has the meaning given the term in section 3156(a)(5) of title 18, United States Code.

(11) TECHNICAL REVIEW.—The term "technical review" means a review by the Secretary, based on information about a product's encryption capabilities supplied by the manufacturer, that an encryption product works as represented.

(12) UNITED STATES PERSON.—The term "United States person" means any—

(A) United States citizen; or

(B) any legal entity that—

(i) is organized under the laws of the United States, or any State, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(ii) has its principal place of business in the United States.

TITLE I—PRIVACY PROTECTION FOR COMMUNICATIONS AND ELECTRONIC INFORMATION

SEC. 101. FREEDOM TO USE ENCRYPTION.

(a) IN GENERAL.—Except as otherwise provided by this Act and the amendments made by this Act, it shall be lawful for any person within the United States, and for any United States person in a foreign country, to use, develop, manufacture, sell, distribute, or import any encryption product, regardless of the encryption algorithm selected, encryption key length chosen, existence of key recovery or other plaintext access capability, or implementation or medium used.

(b) PROHIBITION ON GOVERNMENT-COMPELLED KEY ESCROW OR KEY RECOVERY ENCRYPTION.—

(1) IN GENERAL.—Except as provided in paragraph (3), no agency of the United States nor any State may require, compel, set standards for, condition any approval on, or condition the receipt of any benefit on, a requirement that a decryption key, access to a decryption key, key recovery information, or other plaintext access capability be—

(A) given to any other person, including any agency of the United States or a State, or any entity in the private sector; or

(B) retained by any person using encryption.

(2) USE OF PARTICULAR PRODUCTS.—No agency of the United States may require any person who is not an employee or agent of the United States or a State to use any key recovery or other plaintext access features for communicating or transacting business with any agency of the United States.

(3) EXCEPTION.—The prohibition in paragraph (1) does not apply to encryption used by an agency of the United States or a State, or the employees or agents of such an agency, solely for the internal operations and telecommunications systems of the United States or the State.

(c) USE OF ENCRYPTION FOR AUTHENTICATION OR INTEGRITY PURPOSES.—

(1) IN GENERAL.—The use, development, manufacture, sale, distribution and import of encryption products, standards, and services for purposes of assuring the confidentiality, authenticity, or integrity or access control of electronic information shall be voluntary and market driven.

(2) CONDITIONS.—No agency of the United States or a State shall establish any condition, tie, or link between encryption products, standards, and services used for confidentiality, and those used for authentication, integrity, or access control purposes.

SEC. 102. PURCHASE AND USE OF ENCRYPTION PRODUCTS BY THE FEDERAL GOVERNMENT.

(a) PURCHASES.—An agency of the United States may purchase encryption products for—

(1) the internal operations and telecommunications systems of the agency; or

(2) use by, among, and between that agency and any other agency of the United States, the employees of the agency, or persons operating under contract with the agency.

(b) INTEROPERABILITY.—To ensure that secure electronic access to the Government is available to persons outside of and not operating under contract with agencies of the United States, the United States shall purchase no encryption product with a key recovery or other plaintext access feature if such key recovery or plaintext access feature would interfere with use of the product's full encryption capabilities when interoperating with other commercial encryption products.

SEC. 103. ENHANCED PRIVACY PROTECTION FOR INFORMATION ON COMPUTER NETWORKS.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(g) ACCESS TO STORED ELECTRONIC INFORMATION.—

"(1) DISCLOSURE.—

"(A) IN GENERAL.—Subject to subparagraph (B), a governmental entity may require the disclosure by a provider of a remote computing service of the contents of an electronic record in networked electronic storage only if the person who created the record is accorded the same protections that would be available if the record had remained in that person's possession.

"(B) NETWORKED ELECTRONIC STORAGE.—In addition to the requirements of subparagraph (A) and subject to paragraph (2), a governmental entity may require the disclosure of the contents of an electronic record in networked electronic storage only—

"(i) pursuant to a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant, a copy of which warrant shall be served on the person who created the record prior to or at the same time the warrant is served on the provider of the remote computing service;

"(ii) pursuant to a subpoena issued under the Federal Rules of Criminal Procedure or equivalent State warrant, a copy of which subpoena shall be served on the person who created the record, under circumstances allowing that person a meaningful opportunity to challenge the subpoena; or

"(iii) upon the consent of the person who created the record.

"(2) DEFINITION.—In this subsection, an electronic record is in 'networked electronic storage' if—

"(A) it is not covered by subsection (a) of this section;

"(B) the person holding the record is not authorized to access the contents of such record for any purposes other than in connection with providing the service of storage; and

"(C) the person who created the record is able to access and modify it remotely through electronic means.".

SEC. 104. GOVERNMENT ACCESS TO LOCATION INFORMATION.

(a) COURT ORDER REQUIRED.—Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(h) REQUIREMENTS FOR DISCLOSURE OF LOCATION INFORMATION.—A provider of mobile electronic communication service shall provide to a governmental entity information generated by and disclosing, on a real time basis, the physical location of a subscriber's equipment only if the governmental entity obtains a court order issued upon a finding that there is probable cause to believe that an individual using or possessing the subscriber equipment is committing, has committed, or is about to commit a felony offense.".

(b) CONFORMING AMENDMENT.—Section 2703(c)(1)(B) of title 18, United States Code, is amended by inserting "or wireless location information covered by subsection (g) of this section" after "(b) of this section".

SEC. 105. ENHANCED PRIVACY PROTECTION FOR TRANSACTIONAL INFORMATION OBTAINED FROM PEN REGISTERS OR TRAP AND TRACE DEVICES.

Subsection 3123(a) of title 18, United States Code, is amended to read as follows:

"(a) IN GENERAL.—Upon an application made under section 3122, the court may enter an ex parte order—

"(1) authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds, based on the certification by the attorney for the Government or the State law enforcement or investigative officer, that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation; and

"(2) directing that the use of the pen register or trap and trace device be conducted in such a way as to minimize the recording or decoding of any electronic or other impulses that are not related to the dialing and signaling information utilized in call processing.".

TITLE II—LAW ENFORCEMENT ASSISTANCE

SEC. 201. ENCRYPTED WIRE OR ELECTRONIC COMMUNICATIONS AND STORED ELECTRONIC COMMUNICATIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 123 the following:

"CHAPTER 124—ENCRYPTED WIRE OR ELECTRONIC COMMUNICATIONS AND STORED ELECTRONIC INFORMATION

"Sec.
"2801. Definitions.
"2802. Unlawful use of encryption.
"2803. Access to decryption assistance for communications.
"2804. Access to decryption assistance for stored electronic communications or records.
"2805. Foreign government access to decryption assistance.
"2806. Establishment and operations of National Electronic Technologies Center.

"§ 2801. Definitions

"In this chapter:

"(1) DECRYPTION ASSISTANCE.—The term 'decryption assistance' means assistance that provides or facilitates access to the plaintext of an encrypted wire or electronic communication or stored electronic information, including the disclosure of a decryption key or the use of a decryption key to produce plaintext.

"(2) DECRYPTION KEY.—The term 'decryption key' means the variable information used in or produced by a mathematical formula, code, or algorithm, or any component thereof, used to decrypt a wire communication or electronic communication or stored electronic information that has been encrypted.

"(3) ENCRYPT; ENCRYPTION.—The terms 'encrypt' and 'encryption' refer to the scrambling (and descrambling) of wire communications, electronic communications, or electronically stored information, using mathematical formulas or algorithms in order to preserve the confidentiality, integrity, or authenticity of, and prevent unauthorized recipients from accessing or altering, such communications or information.

"(4) FOREIGN GOVERNMENT.—The term 'foreign government' has the meaning given the term in section 1116.

"(5) OFFICIAL REQUEST.—The term 'official request' has the meaning given the term in section 3506(c).

"(6) INCORPORATED DEFINITIONS.—Any term used in this chapter that is not defined in this chapter and that is defined in section 2510, has the meaning given the term in section 2510.

"§ 2802. Unlawful use of encryption

"Any person who, during the commission of a felony under Federal law, knowingly and willfully encrypts any incriminating communication or information relating to that felony, with the intent to conceal that communication or information for the purpose of avoiding detection by a law enforcement agency or prosecutor—

"(1) in the case of a first offense under this section, shall be imprisoned not more than 5 years, fined under this title, or both; and

"(2) in the case of a second or subsequent offense under this section, shall be imprisoned not more than 10 years, fined under this title, or both.

"§ 2803. Access to decryption assistance for communications

"(a) CRIMINAL INVESTIGATIONS.—

"(1) IN GENERAL.—An order authorizing the interception of a wire or electronic communication under section 2518 shall, upon request of the applicant, direct that a provider of wire or electronic communication service, or any other person possessing information capable of decrypting that communication, other than a person whose communications are the subject of the interception, shall promptly furnish the applicant with the necessary decryption assistance, if the court finds that the decryption assistance sought is necessary for the decryption of a communication intercepted pursuant to the order.

"(2) LIMITATIONS.—Each order described in paragraph (1), and any extension of such an order, shall—

"(A) contain a provision that the decryption assistance provided shall involve disclosure of a private key only if no other form of decryption assistance is available and otherwise shall be limited to the minimum necessary to decrypt the communications intercepted pursuant to this chapter; and

"(B) terminate on the earlier of—

"(i) the date on which the authorized objective is attained; or

"(ii) 30 days after the date on which the order or extension, as applicable, is issued.

"(3) NOTICE.—If decryption assistance is provided pursuant to an order under this subsection, the court issuing the order described in paragraph (1)—

"(A) shall cause to be served on the person whose communications are the subject of such decryption assistance, as part of the inventory required to be served pursuant to section 2518(8), notice of the receipt of the decryption assistance and a specific description of the keys or other assistance disclosed; and

"(B) upon the filing of a motion and for good cause shown, shall make available to such person, or to counsel for that person, for inspection, the intercepted communications to which the decryption assistance related, except that on an ex parte showing of good cause, the serving of the inventory required by section 2518(8) may be postponed.

"(b) FOREIGN INTELLIGENCE INVESTIGATIONS.—

"(1) IN GENERAL.—An order authorizing the interception of a wire or electronic communication under section 105(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(b)(2)) shall, upon request of the applicant, direct that a provider of wire or electronic communication service or any other person possessing information capable of decrypting such communications, other than a person whose communications are the subject of the interception, shall promptly furnish the applicant with the necessary decryption assistance, if the court finds that the decryption assistance sought is necessary for the decryption of a communication intercepted pursuant to the order.

"(2) LIMITATIONS.—Each order described in paragraph (1), and any extension of such an order, shall—

"(A) contain a provision that the decryption assistance provided shall be limited to the minimum necessary to decrypt the communications intercepted pursuant to this chapter; and

"(B) terminate on the earlier of—

"(i) the date on which the authorized objective is attained; or

"(ii) 30 days after the date on which the order or extension, as applicable, is issued.

"(c) General Prohibition on Disclosure.—Other than pursuant to an order under subsection (a) or (b) of this section, no person possessing information capable of decrypting a wire or electronic communication of another person shall disclose that information or provide decryption assistance to an investigative or law enforcement officer (as defined in section 2510(7)).

"§ 2804. Access to decryption assistance for stored electronic communications or records

"(a) Decryption Assistance.—No person may disclose a decryption key or provide decryption assistance pertaining to the contents of stored electronic communications or records, including those disclosed pursuant to section 2703, to a governmental entity, except—

"(1) pursuant to a warrant issued under the Federal Rules of Criminal Procedure or an equivalent State warrant, a copy of which warrant shall be served on the person who created the electronic communication prior to or at the same time service is made on the keyholder;

"(2) pursuant to a subpoena, a copy of which subpoena shall be served on the person who created the electronic communication or record, under circumstances allowing the person meaningful opportunity to challenge the subpoena; or

"(3) upon the consent of the person who created the electronic communication or record.

"(b) Delay of Notification.—In the case of communications disclosed pursuant to section 2703(a), service of the copy of the warrant or subpoena on the person who created the electronic communication under subsection (a) may be delayed for a period of not to exceed 90 days upon request to the court by the governmental entity requiring the decryption assistance, if the court determines that there is reason to believe that notification of the existence of the court order or subpoena may have an adverse result described in section 2705(a)(2).

"§ 2805. Foreign government access to decryption assistance

"(a) In General.—No investigative or law enforcement officer may—

"(1) release a decryption key to a foreign government or to a law enforcement agency of a foreign government; or

"(2) except as provided in subsection (b), provide decryption assistance to a foreign government or to a law enforcement agency of a foreign government.

"(b) Conditions for Cooperation With Foreign Government.—

"(1) Application for an order.—In any case in which the United States has entered into a treaty or convention with a foreign government to provide mutual assistance with respect to providing decryption assistance, the Attorney General (or the designee of the Attorney General) may, upon an official request to the United States from the foreign government, apply for an order described in paragraph (2) from the district court in which the person possessing information capable of decrypting the communication or information at issue resides—

"(A) directing that person to release a decryption key or provide decryption assistance to the Attorney General (or the designee of the Attorney General); and

"(B) authorizing the Attorney General (or the designee of the Attorney General) to furnish the foreign government with the plaintext of the encrypted communication or stored electronic information at issue.

"(2) Contents of order.—An order is described in this paragraph if it is an order directing the person possessing information capable of decrypting the communication or information at issue to—

"(A) release a decryption key to the Attorney General (or the designee of the Attorney General) so that the plaintext of the communication or information may be furnished to the foreign government; or

"(B) provide decryption assistance to the Attorney General (or the designee of the Attorney General) so that the plaintext of the communication or information may be furnished to the foreign government.

"(3) Requirements for order.—The court described in paragraph (1) may issue an order described in paragraph (2) if the court finds, on the basis of an application made by the Attorney General under this subsection, that—

"(A) the decryption key or decryption assistance sought is necessary for the decryption of a communication or information that the foreign government is authorized to intercept or seize pursuant to the law of that foreign country;

"(B) the law of the foreign country provides for adequate protection against arbitrary interference with respect to privacy rights; and

"(C) the decryption key or decryption assistance is being sought in connection with a criminal investigation for conduct that would constitute a violation of a criminal law of the United States if committed within the jurisdiction of the United States.

"§ 2806. Establishment and operations of National Electronic Technologies Center

"(a) National Electronic Technologies Center.—

"(1) Establishment.—There is established in the Department of Justice a National Electronic Technologies Center (referred to in this section as the 'NET Center').

"(2) Director.—The NET Center shall be administered by a Director (referred to in this section as the 'Director'), who shall be appointed by the Attorney General.

"(3) Duties.—The NET Center shall—

"(A) serve as a center for Federal, State, and local law enforcement authorities for information and assistance regarding decryption and other access requirements;

"(B) serve as a center for industry and government entities to exchange information and methodology regarding information security techniques and technologies;

"(C) support and share information and methodology regarding information security techniques and technologies with the Computer Investigations and Infrastructure Threat Assessment Center (CITAC) and Field Computer Investigations and Infrastructure Threat Assessment (CITA) Squads of the Federal Bureau of Investigation;

"(D) examine encryption techniques and methods to facilitate the ability of law enforcement to gain efficient access to plaintext of communications and electronic information;

"(E) conduct research to develop efficient methods, and improve the efficiency of existing methods, of accessing plaintext of communications and electronic information;

"(F) investigate and research new and emerging techniques and technologies to facilitate access to communications and electronic information, including—

"(i) reverse-stenography;

"(ii) decompression of information that previously has been compressed for transmission; and

"(iii) demultiplexing;

"(G) investigate and research interception and access techniques that preserve the privacy and security of information not authorized to be intercepted; and

"(H) obtain information regarding the most current hardware, software, telecommunications, and other capabilities to understand how to access digitized information transmitted across networks.

"(4) Equal access.—State and local law enforcement agencies and authorities shall have access to information, services, resources, and assistance provided by the NET Center to the same extent that Federal law enforcement agencies and authorities have such access.

"(5) Personnel.—The Director may appoint such personnel as the Director considers appropriate to carry out the duties of the NET Center.

"(6) Assistance of other federal agencies.—Upon the request of the Director of the NET Center, the head of any department or agency of the Federal Government may, to assist the NET Center in carrying out its duties under this subsection—

"(A) detail, on a reimbursable basis, any of the personnel of such department or agency to the NET Center; and

"(B) provide to the NET Center facilities, information, and other nonpersonnel resources.

"(7) Private industry assistance.—The NET Center may accept, use, and dispose of gifts, bequests, or devises of money, services, or property, both real and personal, for the purpose of aiding or facilitating the work of the Center. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Director of the NET Center.

"(8) Advisory board.—

"(A) Establishment.—There is established in the NET Center an Advisory Board for Excellence in Information Security (in this paragraph referred to as the 'Advisory Board'), which shall be comprised of members who have the qualifications described in subparagraph (B) and who are appointed by the Attorney General. The Attorney General shall appoint a chairman of the Advisory Board.

"(B) Qualifications.—Each member of the Advisory Board shall have experience or expertise in the field of encryption, decryption, electronic communication, information security, electronic commerce, privacy protection, or law enforcement.

"(C) Duties.—The duty of the Advisory Board shall be to advise the NET Center and the Federal Government regarding new and emerging technologies relating to encryption and decryption of communications and electronic information.

"(9) Implementation plan.—

"(A) In general.—Not later than 2 months after the date of enactment of this chapter, the Attorney General shall, in consultation and cooperation with other appropriate Federal agencies and appropriate industry participants, develop and cause to be published in the Federal Register a plan for establishing the NET Center.

"(B) Contents of plan.—The plan published under subparagraph (A) shall—

"(i) specify the physical location of the NET Center and the equipment, software, and personnel resources necessary to carry out the duties of the NET Center under this subsection;

"(ii) assess the amount of funding necessary to establish and operate the NET Center; and

"(iii) identify sources of probable funding for the NET Center, including any sources of in-kind contributions from private industry.

"(b) Authorization.—There are authorized to be appropriated such sums as may be necessary for the establishment and operation of the NET Center.".

(b) Technical and Conforming Amendment.—The analysis for part I of title 18, United States Code, is amended by adding at the end the following:

"124. Encrypted wire or electronic communications and stored electronic information .... 2801".

TITLE III—EXPORTS OF ENCRYPTION PRODUCTS

SEC. 301. COMMERCIAL ENCRYPTION PRODUCTS.

(a) Provisions Applicable to Commercial Products.—The provisions of this title apply to all encryption products, regardless of the encryption algorithm selected, encryption key length chosen, exclusion of key recovery or other plaintext access capability, or implementation or medium used, except those specifically designed or modified for military use, including command, control, and intelligence applications.

(b) Control by Secretary of Commerce.—Subject to the provisions of this title, and notwithstanding any other provision of law, the Secretary of Commerce shall have exclusive authority to control exports of encryption products covered under subsection (a).

SEC. 302. LICENSE EXCEPTION FOR MASS MARKET PRODUCTS.

(a) Export Control Relief.—Subject to section 307, an encryption product that is generally available, or incorporates or employs in any form, implementation, or medium, an encryption product that is generally available, shall be exportable without the need for an export license, and without restrictions other than those permitted under this Act, after a 1-time 15-day technical review by the Secretary of Commerce.

(b) Definitions.—In this section, the term "generally available" means an encryption product that is—

(1) offered for sale, license, or transfer to any person without restriction, whether or not for consideration, including, but not limited to, over-the-counter retail sales, mail order transactions, phone order transactions, electronic distribution, or sale on approval; and

(2) not designed, developed, or customized by the manufacturer for specific purchasers except for user or purchaser selection among installation or configuration parameters.

(c) Commerce Department Assurance.—

(1) In general.—The manufacturer or exporter of an encryption product may request written assurance from the Secretary of Commerce that an encryption product is considered generally available for purposes of this section.

(2) Response.—Not later than 30 days after receiving a request under paragraph (1), the Secretary shall make a determination regarding whether to issue a written assurance under that paragraph, and shall notify the person making the request, in writing, of that determination.

(3) Effect on manufacturers and exporters.—A manufacturer or exporter who obtains a written assurance under this subsection shall not be held liable, responsible, or subject to sanctions for failing to obtain an export license for the encryption product at issue.

SEC. 303. LICENSE EXCEPTION FOR PRODUCTS WITHOUT ENCRYPTION CAPABLE OF WORKING WITH ENCRYPTION PRODUCTS.

Subject to section 307, any product that does not itself provide encryption capabilities, but that incorporates or employs in any form cryptographic application programming interfaces or other interface mechanisms for interaction with other encryption products covered by section 301(a), shall be exportable without the need for an export license, and without restrictions other than those permitted under this Act, after a 1-time, 15-day technical review by the Secretary of Commerce.

SEC. 304. LICENSE EXCEPTION FOR PRODUCT SUPPORT AND CONSULTING SERVICES.

(a) No Additional Export Controls Imposed if Underlying Product Covered by License Exception.—Technical assistance and technical data associated with the installation and maintenance of encryption products covered by sections 302 and 303 shall be exportable without the need for an export license, and without restrictions other than those permitted under this Act.

(b) Definitions.—In this section:

(1) Technical assistance.—The term "technical assistance" means services, including instruction, skills training, working knowledge, and consulting services, and the transfer of technical data.

(2) Technical data.—The term "technical data" means information including blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, or read-only memories.

SEC. 305. LICENSE EXCEPTION WHEN COMPARABLE FOREIGN PRODUCTS AVAILABLE.

(a) Foreign Availability Standard.—An encryption product not qualifying under section 302 shall be exportable without the need for an export license, and without restrictions other than those permitted under this Act, after a 1-time 15-day technical review by the Secretary of Commerce, if an encryption product utilizing the same or greater key length or otherwise providing comparable security to such encryption product is, or will be within the next 18 months, commercially available outside the United States from a foreign supplier.

(b) Determination of Foreign Availability.—

(1) Encryption export advisory board established.—There is hereby established a board to be known as the "Encryption Export Advisory Board" (in this section referred to as the "Board").

(2) Membership.—The Board shall be comprised of—

(A) the Under Secretary of Commerce for Export Administration, who shall be Chairman;

(B) seven individuals appointed by the President, of whom—

(i) one shall be a representative from each of—

(I) the National Security Agency;

(II) the Central Intelligence Agency; and

(III) the Office of the President; and

(ii) four shall be individuals from the private sector who have expertise in the development, operation, or marketing of information technology products; and

(C) four individuals appointed by Congress from among individuals in the private sector who have expertise in the development, operation, or marketing of information technology products, of whom—

(i) one shall be appointed by the Majority Leader of the Senate;

(ii) one shall be appointed by the Minority Leader of the Senate;

(iii) one shall be appointed by the Speaker of the House of Representatives; and

(iv) one shall be appointed by the Minority Leader of the House of Representatives.

(3) Meetings.—

(A) In general.—Subject to subparagraph (B), the Board shall meet at the call of the Under Secretary of Commerce for Export Administration.

(B) Meetings when applications pending.—If any application referred to in paragraph (4)(A) is pending, the Board shall meet not less than once every 30 days.

(4) Duties.—

(A) In general.—Whenever an application for a license exception for an encryption product under this section is submitted to the Secretary of Commerce, the Board shall determine whether a comparable encryption product is commercially available outside the United States from a foreign supplier as specified in subsection (a).

(B) Majority vote required.—The Board shall make a determination under this paragraph upon a vote of the majority of the members of the Board.

(C) Deadline.—The Board shall make a determination with respect to an encryption product under this paragraph not later than 30 days after receipt by the Secretary of an application for a license exception under this subsection based on the encryption product.

(D) Notice of determinations.—The Board shall notify the Secretary of Commerce of each determination under this paragraph.

(E) Reports to president.—Not later than 30 days after a meeting under this paragraph, the Board shall submit to the President a report on the meeting.

(F) Applicability of faca.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board or to meetings held by the Board under this paragraph.

(5) Action by secretary of commerce.—

(A) Approval or disapproval.—The Secretary of Commerce shall specifically approve or disapprove each determination of the Board under paragraph (5) not later than 30 days of the submittal of such determination to the Secretary under that paragraph.

(B) Notification and publication of decision.—The Secretary of Commerce shall—

(i) notify the Board of each approval or disapproval under this paragraph; and

(ii) publish a notice of the approval or disapproval in the Federal Register.

(C) Contents of notice.—Each notice of a decision of disapproval by the Secretary of Commerce under subparagraph (B) of a determination of the Board under paragraph (4) that an encryption product is commercially available outside the United States from a foreign supplier shall set forth an explanation in detail of the reasons for the decision, including why and how continued export control of the encryption product which the determination concerned will be effective in achieving its purpose and the amount of lost sales and loss in market share of United States encryption products as a result of the decision.

(6) Judicial review.—Notwithstanding any other provision of law, a decision of disapproval by the Secretary of Commerce under paragraph (5) of a determination of the Board under paragraph (4) that an

encryption product is commercially available outside the United States from a foreign supplier shall be subject to judicial review under the provisions of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the "Administrative Procedures Act").

(c) Inclusion of Comparable Foreign Encryption Product in a United States Product Not Basis for Export Controls.—A product that incorporates or employs a foreign encryption product, in the way it was intended to be used and that the Board has determined to be commercially available outside the United States, shall be exportable without the need for an export license and without restrictions other than those permitted under this Act, after a 1-time 15-day technical review by the Secretary of Commerce.

SEC. 306. NO EXPORT CONTROLS ON ENCRYPTION PRODUCTS USED FOR NONCONFIDENTIALITY PURPOSES.

(a) Prohibition on New Controls.—The Federal Government shall not restrict the export of encryption products used for nonconfidentiality purposes such as authentication, integrity, digital signatures, nonrepudiation, and copy protection.

(b) No Reinstatement of Controls on Previously Decontrolled Products.—Those encryption products previously decontrolled and not requiring an export license as of January 1, 1998, as a result of administrative decision or rulemaking shall not require an export license.

SEC. 307. APPLICABILITY OF GENERAL EXPORT CONTROLS.

(a) Subject to Terrorist and Embargo Controls.—Nothing in this Act shall be construed to limit the authority of the President under the International Emergency Economic Powers Act, the Trading with the Enemy Act, or the Export Administration Act, to—

(1) prohibit the export of encryption products to countries that have been determined to repeatedly provide support for acts of international terrorism; or

(2) impose an embargo on exports to, and imports from, a specific country.

(b) Subject to Specific Denials for Specific Reasons.—The Secretary of Commerce shall prohibit the export of particular encryption products to an individual or organization in a specific foreign country identified by the Secretary if the Secretary determines that there is substantial evidence that such encryption products will be used for military or terrorist end-use, including acts against the national security, public safety, or the integrity of the transportation, communications, or other essential systems of interstate commerce in the United States.

(c) Other Export Controls Remain Applicable.—(1) Encryption products shall remain subject to all export controls imposed on such products for reasons other than the existence of encryption capabilities.

(2) Nothing in this Act alters the Secretary's ability to control exports of products for reasons other than encryption.

SEC. 308. FOREIGN TRADE BARRIERS TO UNITED STATES PRODUCTS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the United States Trade Representative, shall—

(1) identify foreign barriers to exports of United States encryption products;

(2) initiate appropriate actions to address such barriers; and

(3) submit to Congress a report on the actions taken under this section.

Mr. LEAHY. Mr. President, I am pleased to join Senator ASHCROFT, and others, in introducing today the "Encryption Protects the Rights of Individuals from Violation and Abuse in Cyberspace," or E-PRIVACY Act, to reform our Nation's cryptography policy in a constructive and positive manner. It is time the Administration woke up to the critical need for a common sense encryption policy in this country.

I have been sounding the alarm bells about this issue for several years now, and have introduced encryption legislation, with bipartisan support, in the last Congress and again in this one, to balance the important privacy, economic, national security and law enforcement interests at stake. The volume of those alarm bells should be raised to emergency sirens.

Hardly a month goes by without press reports of serious breaches of computer security that threaten our critical infrastructures, including Defense Department computer systems, the telephone network, or computer systems for airport control towers. The lesson of these computer breaches—often committed by computer savvy teenagers—is that all the physical barriers we might put in place can be circumvented using the wires that run into every building to support the computers and computer networks that are the mainstay of how we do business. A well-focused cyber-attack on the computer networks that support telecommunications, transportation, water supply, banking, electrical power and other critical infrastructure systems could wreak havoc on our national economy or even jeopardize our national defense or public safety.

We have been aware of the vulnerabilities of our computer networks for some time. It became clear to me almost a decade ago, during hearings I chaired of the Judiciary Subcommittee on Technology and the Law on the risks of high-tech terrorism, that merely "hardening" our physical space from potential attack is not enough. We must also "harden" our critical infrastructures to ensure our security and our safety.

That is where encryption technology comes in. Encryption can protect the security of our computer information and networks. Indeed, both former Senator Sam Nunn and former Deputy Attorney General Jamie Gorelick, who serve as co-chairs of the Advisory Committee to the President's Commission on Critical Infrastructure Protection, have testified that "encryption is essential for infrastructure protection."

Yet U.S. encryption policy has acted as a deterrent to better security. As long ago as 1988, at the High-Tech Terrorism hearings I chaired, Jim Woolsey, who later became the director of the Central Intelligence Agency, testified about the need to do a better job of using encryption to protect our computer networks. Of particular concern is the recent testimony of former Senator Sam Nunn that the "continuing federal government-private sector deadlock over encryption and export policies" may pose an obstacle to the cooperation needed to protect our country's critical infrastructures.

I have long advocated the use of strong encryption by individuals, government agencies and private companies to protect their valuable and confidential computer information. Moreover, as more Americans every year use the Internet and other computer networks to obtain critical medical services, and conduct their personal and business affairs, maintaining the privacy and confidentiality of our computer communications both here and abroad has only grown in importance. As an avid computer user and Internet surfer myself, I care deeply about protecting individual privacy and encouraging the development of the Internet as a secure and trusted communications medium.

Encryption is the key to protecting the privacy of our online communications and electronic records by ensuring that only the people we choose can read those communications and records. That is why the primary thrust of the encryption legislation I have introduced is to encourage—and not stand in the way of—the widespread use of strong encryption.

Strong encryption serves as a crime prevention shield to stop hackers, industrial spies and thieves from snooping into private computer files and stealing valuable proprietary information. Unfortunately, we still have a long away to go to reform our country's encryption policy to reflect that this technology is a significant crime and terrorism prevention tool.

Even as our law enforcement and intelligence agencies try to slow down the widespread use of strong encryption, technology continues to move forward. Ironically, foot-dragging by the Administration on export controls is driving encryption technology, expertise and manufacturing overseas where we will lose even more control over its proliferation.

Indeed, due to the sorry state of our export controls on encryption, we are seeing rising numbers of our high-tech companies turning to overseas firms as suppliers of the strong encryption demanded by their customers. For example, Network Associates recently announced that it will make strong encryption software developed in the United States available through a Swiss company. Other companies, including Sun Microsystems, are cooperating with foreign firms to manufacture and distribute overseas strong encryption software originally developed here at home.

Encryption technology, invented with American ingenuity, will now be manufactured and distributed in Europe, and imported back into this country.

Driving encryption expertise overseas is extremely short-sighted and poses a real threat to our national security. Driving high-tech jobs overseas is a threat to our economic security, and stifling the widespread, integrated use of strong encryption is a threat to our public safety. The E-PRIVACY Act would reverse the incentives for American companies to look abroad for strong encryption by relaxing our export controls.

Specifically, the bill would grant export license exceptions, after a one-time technical review, for mass market products with encryption capabilities, products which do not themselves provide encryption but are capable of interoperating with encryption products, and customized hardware and software with encryption capabilities so long as foreign products with comparable encryption are available.

At the same time, the bill retains important restrictions on encryption exports for military end-uses or to terrorist-designated or embargoed countries, such as Cuba and North Korea. It also affirms the continued authority of the Secretary of Commerce over encryption exports and assures that before export, the Secretary is able to conduct a one-time technical review of all encryption products to ensure that the product works as represented.

The E-PRIVACY Act puts to rest the specter of domestic controls on encryption. This legislation bars government-mandated key recovery (or key escrow encryption) and ensures that all computer users are free to choose any encryption method to protect the privacy of their online communications and computer files.

At the heart of the encryption debate is the power this technology gives computer users to choose who may access their communications and stored records, to the exclusion of all others. For the same reason that encryption is a powerful privacy enhancing tool, it also poses challenges for law enforcement. Law enforcement agencies want access even when we do not choose to give it. We are mindful of these national security and law enforcement concerns that have dictated the Administration's policy choices on encryption.

With the appropriate procedural safeguards in place, law enforcement agencies should be able to get access to decryption assistance. The E-PRIVACY Act contains a number of provisions designed to address these concerns, including a new criminal offense for willful use of encryption to hide incriminating evidence from law enforcement detection, establishment of a NET Center to help federal, state and local law enforcement stay abreast of advanced technologies, and explicit procedures for law enforcement to obtain decryption assistance from third parties for encrypted communications or records to which law enforcement has lawful access.

One of the starkest deficiencies in the Administration's key recovery proposals has always been the question of foreign government access. The Administration has sought reciprocal relationships with foreign governments as a critical part of an effective global key recovery system. Yet many Americans and American companies are rightfully concerned about the terms under which foreign governments would get access to decryption assistance. The E-PRIVACY Act makes clear what those terms will be and ensures that foreign governments will not get access to private decryption keys, but only, at most, plaintext.

This is not just an important issue for the privacy and security of Americans; it also is a significant human rights issue. Today, human rights organizations worldwide are using encryption to protect their work and the lives of investigators, witnesses and victims overseas. Amnesty International uses it. Human Rights Watch uses it. The human rights program in the American Association for the Advancement of Science uses it. It is used to protect witnesses who report human rights abuses in the Balkans, in Burma, in Guatemala, in Tibet. I have been told about a number of other instances in which strong encryption has been used to further the causes of democracy and human rights.

For example, in the ongoing trial of Argentinean military officers in Spain, on charges of genocide and terrorism arising out of the "dirty war," the human rights group Derechos uses the encryption program Pretty Good Privacy (PGP)—which the United States government tried to keep out of the hands of foreigners—to encrypt particularly confidential messages that go between Spain and Argentina, to stop the Argentinean intelligence forces from being able to read them and so try to jeopardize the trial.

A group in Guatemala is using a computer database to track the names of witnesses to military massacres. A South African organization keeps the names of applicants for amnesty for political crimes carried out in South Africa during the apartheid regime. Workers at both groups could be subject to intimidation, harassment, or murder by those intent on preventing the public discussion and analysis of the claims. Both systems are protected by strong cryptography.

A not-for-profit agency working for human rights in the Balkans uses PGP to protect all sensitive files. Its offices have been raided by various police forces looking for evidence of "subversive activities." Last year in Zagreb, security police raided its office and confiscated its computers in the hope of retrieving information about the identity of people who had complained about human rights abuses by the authorities. PGP allowed the group to communicate and protect its files from any attempt to gain access. The director of the organization spent 13 days in prison for not opening his encrypted files but has said "it was a very small price to pay for protecting our clients."

The Iraqi National Congress, a group opposing Saddam Hussein with offices in London and supporters inside Iraq, uses encrypted e-mail to communicate with its supporters inside Iraq. (Non-governmental Internet connections are banned in Iraq, but the dissidents within Iraq access e-mail by dialing outside the country with satellite telephones).

Burmese human rights activists working in the relative safe haven of Thailand use encryption when communicating on-line, because the Thai government maintains diplomatic relations with the Burmese government and is expected to turn over information to the Burmese authorities.

The FBI has argued that lives may be lost in sensitive terrorist and other investigations if government agencies do not have access to private encryption keys. However, the reverse is equally true: weak encryption or easy government access to decryption assistance could jeopardize lives as well.

Finally, the E-PRIVACY Act contains provisions to enhance the privacy protections for communications, even when encryption is not employed. Specifically, the bill would require law enforcement to obtain a court order based on probable cause before using a cellular telephone as a tracking device. In addition, the bill would require law enforcement agencies to obtain a court order or provide notice when seizing electronic records that a person stores on a computer network rather than on the hard drive of his or her own personal computer. Finally, the bill grants Federal judges authority to evaluate the reasons proffered by a prosecutor for issuance of an ex parte pen register or trap and trace device order, by contrast to their mere ministerial authority under current law.

In sum, the E-PRIVACY Act accomplishes the eight goals that Senator ASHCROFT and I set out during our April 2, 1998, colloquy on the floor. Specifically, we sought to craft legislation that promotes the following principles:

First, ensure the right of Americans to choose how to protect the privacy and security of their communications and information;

Second, bar a government-mandated key escrow encryption system;

Third, establish both procedures and standards for access by law enforcement to decryption keys or decryption assistance for both encrypted communications and stored electronic information and only permit such access upon court order authorization, with appropriate notice and other procedural safeguards;

Fourth, establish both procedures and standards for access by foreign governments and foreign law enforcement agencies to the plaintext of encrypted communications and stored electronic information of United States persons;

Fifth, modify the current export regime for encryption to promote the global competitiveness of American companies;

Sixth, avoid linking the use of certificate authorities with key recovery agents or, in other words, not link the use of encryption for confidentiality purposes with use of encryption for authenticity and integrity purposes;

Seventh, consistent with these goals of promoting privacy and the global competitiveness of our high-tech industries, help our law enforcement agencies and national security agencies deal with the challenges posed by the use of encryption; and

Eighth, protect the security and privacy of information provided by Americans to the government by ensuring that encryption products used by the government interoperate with commercial encryption products.

Resolving the encryption debate is critical for our economy, our national security and our privacy. This is not a partisan issue. This is not a black-and-white issue of being either for law enforcement and national security or for Internet freedom. Characterizing the debate in these simplistic terms is neither productive nor accurate.

Delays in resolving the encryption debate hurt most the very public safety and national security interests that are posed as obstacles to resolving this issue. We need sensible solutions in legislation that will not be subject to change at the whim of agency bureaucrats.

Every American, not just those in the software and high-tech industries and not just those in law enforcement agencies, has a stake in the outcome of this debate. We have a legislative stalemate right now that needs to be resolved, and I hope to work closely with my colleagues and the Administration on a solution.

I ask unanimous consent that the sectional summary for the "E-PRIVACY Act" be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

SECTION-BY-SECTION ANALYSIS OF E-PRIVACY ACT

Sec. 1. Short Title.—The Act may be cited as the "Encryption Protects the Rights of Individuals from Violation and Abuse in Cyberspace (E-PRIVACY) Act."

Sec. 2. Purposes.—The Act would ensure that Americans have the maximum possible choice in encryption methods to protect the security, confidentiality and privacy of their lawful wire and electronic communications and stored electronic information. The Act would also promote the privacy and constitutional rights of individuals and organizations and the security of critical information infrastructures. Finally, the Act would establish privacy standards and procedures for law enforcement officers to follow to obtain decryption assistance for encrypted communications and information.

Sec. 3. Findings.—The Act enumerates sixteen congressional findings, including that a secure, private and trusted national and global information infrastructure is essential to promote citizens' privacy, economic growth and meet the needs of both American citizens and businesses, that encryption technology widely available worldwide can help meet those needs, that Americans should be free to use, and American businesses free to compete and sell, encryption technology, programs and products, and that there is a need to develop a national encryption policy to advance the global information infrastructure and preserve Americans' right to privacy and the Nation's public safety and national security.

Sec. 4. Definitions.—The terms "agency", "person", "remote computing service" and "state" have the same meaning given those terms in specified sections of title 18, United States Code.

Additional definitions are provided for the following terms:

The terms "encrypt" and "encryption" mean the use of mathematical formulas or algorithms to scramble or descramble electronic data or communications for purposes of confidentiality, integrity, or authenticity. As defined, the terms cover a broad range of scrambling techniques and applications including cryptographic applications such as PGP or RSA's encryption algorithms; stegonagraphy; authentication; and winnowing and chafing.

The term "encryption product" includes any hardware, software, devices, or other technology with encryption capabilities, whether or not offered for sale or distribution. A particular encryption product includes subsequent versions of the product, if the encryption capabilities remain the same.

The term "exportable" means the ability to transfer, ship, or transmit to foreign users. The term includes the ability to electronically transmit via the Internet.

The term "key" means the variable information used in or produced by a mathematical formula to encrypt or decrypt wire or electronic communications, or electronically stored information.

The term "technical review" means a review by the Secretary of Commerce based on information about a product's encryption capabilities supplied by the manufacturer that an encryption product works as represented.

TITLE I—PRIVACY PROTECTION FOR COMMUNICATIONS AND ELECTRONIC INFORMATION

SEC. 101. FREEDOM TO USE ENCRYPTION.

(a) In General.—The Act legislatively confirms current practice in the United States that any person in this country may lawfully use any encryption method, regardless of encryption algorithm, key length, existence of key recovery or other plaintext access capability, or implementation selected. Specifically, the Act states the freedom of any person in the U.S., as well as U.S. persons in a foreign country, to make, use, import, and distribute any encryption product without regard to its strength or the use of key recovery, subject to the other provisions of the Act.

(b) Prohibition on Government-Compelled Key Escrow or Key Recovery Encryption.—The Act prohibits any federal or state agency from compelling the use of key recovery systems or other plaintext access systems. Agencies may not set standards, or condition approval or benefits, to compel use of these systems. U.S. agencies may not require persons to use particular key recovery products for interaction with the government. These prohibitions do not apply to systems for use solely for the internal operations and telecommunications systems of a U.S. or a State government agency.

(c) Use of Encryption for Authentication or Integrity Purposes.—The Act requires that the use of encryption products shall be voluntary and market-driven, and no federal or state agency may link the use of encryption for authentication or identity (such as through certificate authority and digital signature systems) to the use of encryption for confidentiality purposes. For example, some Administration proposals would condition receipt of a digital certificate from a licensed certificate authority on the use of key recovery. Such conditions would be prohibited.

Sec. 102. Purchase and Use of Encryption Products by the Federal Government.—The Act authorizes agencies of the United States to purchase encryption products for internal governmental operations and telecommunications systems. To ensure that secure electronic access to the Government is available to persons outside of and not operating under contract with Federal agencies, the Act requires that any key recovery features in encryption products used by the Government interoperate with commercial encryption products.

Sec. 103. Enhanced Privacy Protection for Electronic Records on Computer Networks.—The Act adds a new subsection (g) to section 2703 of title 18, United States Code, to extend privacy protections to electronic information stored on computer networks.

Under *United States* v. *Miller*, 425 U.S. 435 (1976) (customer has no standing to object to bank disclosure of customer records) and its progeny, records in the possession of third parties do not receive Fourth Amendment protection. When held in a person's home, such records can only be seized pursuant to a warrant based upon probable cause, or compelled under a subpoena which can be challenged and quashed. In both these instances, the record owner has notice of the search and an opportunity to challenge it. By contrast, production of records held by third parties can be compelled by a governmental agent with a subpoena to the third party holding the information, without notice to the person to whom the records belong or pertain. The record owner may never receive notice or any meaningful opportunity to challenge the production.

This lack of protection for records held by third parties presents new privacy problems in the information age. With the rise of network computing, electronic information that was previously held on a person's own computer is increasingly stored elsewhere, such as on a network server or an ISP's computers. In many cases the location of such information is not even known to the record's owner.

The Act amends section 2703 to extend the same privacy protections to a person's records whether storage takes place on that person's personal computer in their possession or in networked electronic storage. The term "networked electronic storage" applies to electronic records held by a third party.

who is not authorized to access the contents of the record except in connection with providing storage services, and where the person who created the record is able to access and modify the record remotely through electronic means. Electronic data stored incident to transmission (such as e-mail) and covered under 2703(a) is not included.

The new section 2703(g) requires that a governmental entity may only require disclosure of electronic records in "networked electronic storage" pursuant to (i) a state or federal warrant (based upon probable cause), with a copy to be served on the record owner at the same time the warrant is served on the record holder; (ii) a subpoena that must also be served on the record owner with a meaningful opportunity to challenge the subpoena; or (iii) the consent of the record owner.

SEC. 104. GOVERNMENT ACCESS TO LOCATION INFORMATION.—The Act adds a new subsection (h) to section 2703 of title 18, United States Code, to extend privacy protections for physical location information generated on a real time basis by mobile electronic communications services, such as cellular telephones. This section requires that when cellular telephones are used as contemporaneous tracking devices, the physical location information generated by the service provider may only be released to a governmental entity pursuant to a court order based upon probable cause.

SEC. 105. ENHANCED PRIVACY PROTECTION FOR TRANSACTIONAL INFORMATION OBTAINED FROM PEN REGISTERS OR TRAP AND TRACE DEVICES.—The Act enhances privacy protections for information obtained from pen register and trap and trace devices by amending section 3123(a) of title 18, United States Code. This amendment would not change the standard for issuance of an ex parte order authorizing use of a pen register or trap and trace device, but would grant a court authority to review the information presented in a certification by the prosecuting attorney to determine whether the information likely to be obtained is relevant to an ongoing criminal investigation. Under current law, the court is relegated to a mere ministerial function and must issue the order upon presentation of a certification.

In addition, the amendment requires law enforcement to minimize the information obtained from the pen register or trap and trace device that is not related to the dialing and signaling information utilized in call processing. Currently, such devices capture not just such dialing information but also any other dialed digits after a call has been completed.

TITLE II—LAW ENFORCEMENT ASSISTANCE

SEC. 201. ENCRYPTED WIRE OR ELECTRONIC COMMUNICATIONS AND STORED ELECTRONIC COMMUNICATIONS.—The Act adds a new chapter 124 to Title 18, Part I, governing the unlawful use of encryption, protections and standards for governmental access, including foreign governments, to decryption assistance from third parties, and establishment of a "Net Center" to assist law enforcement in dealing with advanced technologies, such as encryption.

(a) IN GENERAL.—New chapter 124 has six sections. This chapter applies to wire or electronic communications and communications in electronic storage, as defined in 18 U.S.C. §2510, and to stored electronic data. Thus, this chapter describes procedures for law enforcement to obtain assistance in decrypting encrypted electronic mail messages, encrypted telephone conversations, encrypted facsimile transmissions, encrypted computer transmissions and encrypted file transfers over the Internet that are lawfully intercepted pursuant to a wiretap order, under 18 U.S.C. §2518, or obtained pursuant to lawful process, under 18 U.S.C. §2703, and encrypted information stored on computers that are seized pursuant to a search warrant or other lawful process.

§2801. Definitions.—Generally, the terms used in the new chapter have the same meanings as in the federal wiretap statute, 18 U.S.C. §2510. Definitions are provided for "decryption assistance", "decryption key", "encrypt; encryption", "foreign government" and "official request".

§2802. Unlawful use of encryption.—This section creates a new federal crime for knowingly and willfully using encryption during the commission of a Federal felony offense, with the intent to conceal that information for the purpose of avoiding detection by law enforcement. This new offense would be subject to a fine and up to 5 years' imprisonment for a first offense, and up to 10 years' imprisonment for a second or subsequent offense.

§2803. Access to decryption assistance for communications.—In the United States today, decryption keys and other decryption assistance held by third parties constitute third party records and may be disclosed to a governmental entity with a subpoena or an administrative request, and without any notice to the owner of the encrypted data. Such a low standard of access creates new problems in the information age because encryption users rely heavily on the integrity of keys to protect personal information or sensitive trade secrets, even when those keys are placed in the hands of trusted agents for recovery purposes.

Under new section 2803, in criminal investigations a third party holding decryption keys or other decryption assistance for wire or electronic communications may be required to release such assistance pursuant to a court order, if the court issuing the order finds that such assistance is needed for the decryption of communications covered by the order. Specifically, such an order for decryption assistance may be issued upon a finding that the key or assistance is necessary to decrypt communications or stored data lawfully intercepted or seized. The standard for release of the key or provision of decryption assistance is tied directly to the problem at hand: the need to decrypt a message or information that the government is otherwise authorized to intercept or obtain.

This will ensure that third parties holding decryption keys or decryption information need respond to only one type of compulsory process—a court order. Moreover, this Act will set a single standard for law enforcement, removing any extra burden on law enforcement to demonstrate, for example, probable cause for two separate orders (i.e., for the encrypted communications or information and for decryption assistance) and possibly before two different judges (i.e., the judge issuing the order for the encrypted communications or information and the judge issuing the order to the third party able to provide decryption assistance).

The Act reinforces the principle of minimization. The decryption assistance provided is limited to the minimum necessary to access the particular communications or information specified by court order. Under some key recovery schemes, release of a key holder's private key—rather than an individual session key—might provide the ability to decrypt every communication or stored file ever encrypted by a particular key owner, or by every user in an entire corporation, or by every user who was ever a customer of the key holder. The Act protects against such over broad releases of keys by requiring the court issuing the order to find that the decryption assistance being sought is necessary. Private keys may only be released if no other form of decryption assistance is available.

Notice of the assistance given will be included as part of the inventory provided to subjects of the interception pursuant to current wiretap law standards.

For foreign intelligence investigations, new section 2803 allows FISA orders to direct third-party holders to release decryption assistance if the court finds the assistance is needed to decrypt covered communications. Minimization is also required, though no notice is provided to the target of the investigation.

Under new section 2803, decryption assistance is only required under third-parties (i.e., other than those whose communications are the subject of interception), thereby avoiding self-incrimination problems.

Finally, new section 2803 generally prohibits any person from providing decryption assistance for another person's communications to a governmental entity, except pursuant to the orders described.

§2804. Access to decryption assistance for stored electronic communications or records.—New section 2804 governs access to decryption assistance for stored electronic communications and records.

As noted above, under current law third party decryption assistance may be disclosed to a governmental entity with a subpoena or even a mere request and without notice. This standard is particularly problematic for stored encrypted data, which may exist in insecure media but rely on encryption to maintain security; in such cases easy access to keys destroys the encryption security so heavily relied upon.

Under new section 2804, third parties holding decryption keys or other decryption assistance for stored electronic communications may only release such assistance to a governmental entity pursuant to (1) a state or federal warrant (based upon probable cause), with a copy to be served on the record owner at the same time the warrant is served on the record holder; (2) a subpoena that must also be served on the record owner with a meaningful opportunity to challenge the subpoena; or (3) the consent of the record owner. This standard closely mirrors the protection that would be afforded to encryption keys that are actually kept in the possession of those whose records were encrypted. In the specific case of decryption assistance for communications stored incident to transit (such as e-mail), notice may be delayed under the standards laid out for delayed notice under current law in section 2705(a)(2) of title 18, United States Code.

§2805. Foreign government access to decryption assistance.—New section 2805 creates standards for the U.S. government to provide decryption assistance to foreign governments. No law enforcement officer would be permitted to release decryption keys to a foreign government, but only to provide decryption assistance in the form of producing plaintext. No officer would be permitted to provide decryption assistance except upon an order requested by the Attorney General or designee. Such an order could require the production of decryption keys or assistance to the Attorney General only if the court finds that (1) the assistance is necessary to decrypt data the foreign government is authorized to intercept under foreign

law; (2) the foreign country's laws provide "adequate protection against arbitrary interference with respect to privacy rights"; and (3) the assistance is sought for a criminal investigation of conduct that would violate U.S. criminal law if committed in the United States.

§2806. Establishment and operations of National Electronic Technologies Center.—This section establishes a National Electronic Technologies Center ("NET Center") to serve as a focal point for information and assistance to federal, state, and local law enforcement authorities to address the technical difficulties of obtaining plaintext of communications and electronic information through the use of encryption, steganography, compression, multiplexing, and other techniques.

TITLE III—EXPORTS OF ENCRYPTION PRODUCTS

Sec. 1301. Commercial Encryption Products.

(a) Provisions Applicable to Commercial Products.—This title applies to *all* encryption products other than those specifically designed or modified for military use.

(b) Control by Secretary of Commerce.—This section grants exclusive authority to the Secretary of Commerce (the "Secretary") to control commercial encryption product exports.

Sec. 302. License Exception for Mass Market Products.

(a) Export Control Relief.—The Act permits export under a license exception of generally available, mass market, encryption products, which by their nature are uncontrollable given the volume sold and ease of distribution, without a license or restrictions, other than those permitted under this Act, after a 1-time 15-day technical review by the Secretary.

(b) Definitions.—This section defines "generally available" as a product offered for sale, license, or transfer, including over-the-counter sales, mail or phone order transactions, electronic distribution, or sale on approval and not designed, developed or customized by the manufacturer for specific purchasers (except for installation or configuration parameters).

(c) Commerce Department Assurance.—This section permits requests from manufacturers or exporters to the Secretary for written assurance that a product is "generally available," and requires that the Secretary notify the petitioner of a decision within 30 days. This section prohibits imposition of liability or sanctions on petitioners who receive such a written assurance for failing to obtain an export license.

Sec. 303. License Exception for Products Without Encryption Capable of Working With Encryption Products.

This section permits export under a license exception of products, which do not provide any encryption themselves, but that are capable of working with encryption products, without restriction other than those permitted under this Act, after a 1-time, 15-day technical review by the Secretary.

Sec. 304. License Exception For Product Support and Consulting Services.

(a) No Additional Export Controls Imposed if Underlying Product Covered by License Exception.—This section permits export of product support and consulting services, including technical assistance and technical data associated with the installation and maintenance of mass market encryption products or products capable of working with encryption products without an export license and without restrictions other than those permitted under this Act.

(b) Definitions.—This section defines technical assistance as services, such as instruction, skills training, working knowledge, consulting services and transfer of technical data. "Technical data" is defined as information, including blueprints, plans, diagrams, models, formulae, table, engineering designs and specifications, manuals and instructions.

Sec. 304. License Exception When Comparable Foreign Products Available.

(a) Foreign Availability Standard.—This section permits unrestricted export of customized encryption hardware and software products (i.e., not generally available mass market products) if a foreign encryption product using the same or greater key length or providing comparable security is, or will within 18 months, be commercially available outside the United States.

(b) Determination of Foreign Availability.—This section establishes an Encryption Export Advisory Board (the "Board"), which is chaired by the Under Secretary of Commerce for Export Administration, with seven Presidential appointees (3 government and 4 private sector representatives); and four Congressional appointees from the private sector. The Board is required to meet at the call of the Chairman, or if there are any pending applications for a license exception, the Board shall meet at least once every 30 days.

The primary duties of the Board shall be to determine whether comparable foreign encryption products are commercially available outside the United States. The decision is by majority vote, and must be made within 30 days of receipt of application for a license exception. The Board must notify the Secretary of its determination, and submit a report to the President within 30 days. Board meetings are exempt from the Federal Advisory Committee Act.

The Secretary is required to approve or disapprove each Board determination within 30 days of receipt of that determination, notify the Board of the approval or disapproval, and publish notice of the approval or disapproval in the Federal Register. The notice shall include an explanation in detail of the reasons for the decision, including why and how continued export controls will be effective and the amount of lost sales and market share of U.S. encryption product which resulted. Judicial review of the Secretary's decision to disapprove a Board decision that a product is commercially available is permitted.

(c) Inclusion of Comparable Foreign Encryption Products in a United States Product Not Baiss for Export Controls.—This section permits export under a license exception of products incorporating or employing a foreign encryption product in the way it was intended to be used and that the Board has determined to be commercially available outside the United States, without an export license and without restrictions other than those under the Act, after a 1-time 15-day review by the Secretary.

Sec. 306. No Export Controls on Encryption Products Used For Nonconfidentiality Purposes.

(a) Prohibition on New Controls.—This section prohibits restrictions on encryption exports used for nonconfidentiality purposes such as authentication, integrity, digital signatures, nonrepudiation and copy protection.

(b) No Reinstatement of Controls on Previously Decontrolled Products.—This section prohibits administratively imposed encryption controls on previously decontrolled products not requiring an export license as of January 1, 1998.

Sec. 307. Applicability of General Export Controls.

(a) Subject to Terrorists and Embargo Controls.—Nothing in the Act shall limit the President's authority under the International Emergency Economic Powers Act, the Trading With the Enemy Act, or the Export Administration Act to prohibit export of encryption products to countries that have repeatedly provided support for international terrorism, or impose an embargo on exports or imports from a specific country.

(b) Subject to Specific Denials for Specific Reasons.—The Secretary is required to prohibit export of encryption products to an individual or organization in a specific foreign country identified by the Secretary, if the Secretary determines that there is substantial evidence that such encryption product will be used for military or terrorist end-use, including acts against the critical infrastructure of the United States.

(c) Other Export Controls Remain Applicable.—Encryption products remain subject to all export controls imposed for reasons other than the existence of encryption capabilities, and the Secretary retains the authority to control exports of products for reasons other than encryption.

Sec. 308. Foreign Trade Barriers to United States Products.

The Secretary, in consultation with the United States Trade Representative, is required within 180 days of enactment of the Act to: (1) identify foreign barriers to the export of U.S. encryption products; (2) initiate appropriate actions to address such barriers; and (3) submit to Congress a report on the actions taken under this section.

Mr. BURNS. Mr. President, I stand before the Chamber today in support of the e-Privacy Act because the very future of electronic commerce on the Internet is being held hostage to cold-war era export controls. These outdated regulations tie the hands of the U.S. high technology industry and pose a threat to privacy and security of all Americans who use the Internet. Despite some small concessions by the Administration, the competitive advantage of the U.S. high technology industries and the privacy and security of our citizens remain trapped by the Clinton Administration's outdated policy.

The e-Privacy Act will relax current export controls on encryption technologies so that U.S. companies can effectively compete in the global marketplace. The bill will also prevent the government from mandating risky and expensive "key-recovery" or "key-escrow" encryption systems domestically. It's a good bill, it has broad support from the computer and communications industry, Internet users, and privacy advocates from both the left and right of the political spectrum.

The Clinton Administration has expressed concerns about the impact the e-Privacy Act would have on the legitimate needs of law enforcement and national security. My colleagues and I do not take their concerns lightly. Several provisions in the e-Privacy Act address the Administration's valid concerns while at the same time freeing U.S. companies to effectively compete in the global marketplace, and ensuring that the American people can trust the Internet as a secure means of commerce, education, and free expression of ideas.

The e-Privacy Act would create a National Electronic Technology Center ("NET Center") to serve as a central point for information and assistance to federal, state, and local law enforcement authorities to address the technical difficulties of obtaining electronic information because of encryption. National security and law enforcement would be given seats at the table in making these determinations. Once again, I am very sensitive to the legitimate needs of national security and law enforcement, and I think the provisions made in the e-Privacy Act address them.

The e-Privacy Act also extends to citizens that same privacy rights that they have in their homes to their digital property in cyberspace. The bill would require a court order or subpoena to obtain either the plaintext or decryption key from their parties. I believe that this is the correct approach.

Citizens are also specifically given the right to use whatever kind of encryption software at whatever strength they choose. The bill recognizes the folly of requiring the government to create procedures to license "key certificate authorities" and "key-recovery agents," as well as require the development of a massive and complicated infrastructure to ensure that the government could recover the right key out of the hundreds of millions of keys in real time.

On many occasions, the world's leading cryptographers concluded that building such a key recovery infrastructure would be prohibitively expensive and would create a less secure network. The bill recognizes that mandatory key escrow will never work, no one will use it and certainly no criminals or other bad actors will use a system that is immediately accessible by the government.

I urge my colleagues to support the e-Privacy Act, which I feel is the true compromise package. We all have the same goals in mind—allowing for the continued growth of high tech industries while not harming national security. If we move forward with the compromise bill being offered today, I am confident we can do both.

By Mr. THOMPSON (for himself and Mr. GLENN):

S. 2068. A bill to clarify the application of the Unfunded Mandates Reform Act of 1995, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other committee have 30 days to report or be discharged.

UNFUNDED MANDATES LEGISLATION

Mr. THOMPSON. Mr. President, I rise today to introduce a bill to clarify the application of the Unfunded Mandates Reform Act of 1995. On its face, this legislation is necessary to correct the Congressional Budget Office's interpretation of the law as it applies to large entitlement programs. But more fundamentally, it is a bill to force Congress to abide by the spirit of the law we passed in 1995 to discourage Congress from imposing costly new mandates on States and local governments.

CBO's performance in fulfilling its responsibilities under the Unfunded Mandates Reform Act has been commendable. CBO cost estimates have been timely and sound, and analysts have been responsive. However, I have serious concern that CBO is misinterpreting the definition of "Federal intergovernmental mandate" as provided in the law. The result is a loophole that makes the Unfunded Mandates Reform Act inoperative for two-thirds of all federal aid to all governments for all purposes. Every State, every municipality is justifiably concerned; indeed, it is with the strong backing of the National Governors' Association that I introduce this bill today.

The Unfunded Mandates Reform Act defined "federal intergovernmental mandate" with the intent to cover new requirements or a cap on the federal share of costs under Medicaid or other large entitlement programs—unless the legislation imposing the new mandates also provides new flexibility in the program to offset the cost. However, CBO has taken the position that existing flexibility is sufficient to offset the cost of new mandates. For example, CBO has determined that the current ability of States to reduce "optional" Medicaid services is, in effect, the flexibility called for in the law. If this had been the intent of the drafters, there would have been no reason for them to cover Medicaid under the Act in the first place. CBO's interpretation of the law largely removes the point of order as a tool to discourage new mandates or cost-shifts to States under the large entitlement programs where mandates tend to be the most burdensome and expensive.

Let's stop for a moment and consider why it is so important that we act to correct this problem. Congress passed the Unfunded Mandates Reform Act in 1995 with the recognition that State and local governments are not wayward subordinates who cannot be trusted to run their own affairs, nor are they just more entities for the Federal Government to regulate. They are our partners in government. The Unfunded Mandates Reform Act was intended to force Congress to stop and think twice before violating this partnership. It does not preclude new mandates, but it does give any member the right to raise a point of order against new mandates which would cost States or localities more than fifty million dollars.

To avoid the point of order, the House and Senate intended that the flexibility required under the Act be new flexibility, concomitant with the mandate-imposing legislation, for States to amend their responsibilities to provide "required services"—not optional services. CBO is not reading the law as Congress intended. The bill I am introducing today amends the Unfunded Mandates Reform Act to clarify that new flexibility is required to offset any new federally-imposed costs that States or localities will incur under large entitlement programs.

I am pleased that Senator GLENN, an original cosponsor and conferee on the Unfunded Mandates Reform Act of 1995, has joined me in cosponsoring this bill to clarify its application.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2068

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL INTERGOVERNMENTAL MANDATE.

Section 421(5)(B) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 658(5)(B)) is amended—

(1) by striking "the provision" after "if";

(2) in clause (i)(I) by inserting "the provision" before "would";

(3) in clause (i)(II) by inserting "the provision" before "would"; and

(4) in clause (ii)—

(A) by inserting "that legislation, statute, or regulation does not provide" before "the State"; and

(B) by striking "lack" and inserting "new or expanded".

By Mr. DEWINE:

S. 2070. A bill to provide for an Underground Railroad Educational and Cultural Program; to the Committee on Labor and Human Resources.

THE UNDERGROUND RAILROAD EDUCATIONAL AND CULTURAL ACT

Mr. DEWINE. Mr. President, today I am introducing the Underground Railroad Educational and Cultural Act. This legislation will provide for the establishment of programs to research, display, interpret, and collect artifacts relating to the history of the Underground Railroad.

Let me tell you how important the Underground Railroad is to Ohio—and to me personally. In the 20 years prior to the Civil War, more than 40,000 slaves escaped bondage and made their way to free soil on the trails of the Underground Railroad. More than 150 key Underground Railroad sites have been identified in Ohio—sites that symbolized freedom for thousands of enslaved Americans.

When I visit these places, it gives me some real cause for hope about the future of America. When we talk about race relations in this country, we would do well to remind ourselves that at one of the darkest times in our Nation's history—the period of slavery—some blacks and whites took immense personal risks to work together to liberate slaves.

That is the part of the American story that we should be proud of—and build on. In Ohio, we are very proud of the part our ancestors played in this great story—and why I think this legislation is so important.

Mr. President, I ask my colleagues to support this legislation. It is very important to recognize this period in our history.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2070

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UNDERGROUND RAILROAD EDUCATIONAL AND CULTURAL PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Underground Railroad Educational and Cultural Act".

(b) PROGRAM ESTABLISHED.—The Secretary of Education, in consultation and cooperation with the Secretary of the Interior, is authorized to make grants to 1 or more nonprofit educational organizations that are established to research, display, interpret, and collect artifacts relating to the history of the Underground Railroad.

(c) GRANT AGREEMENT.—Each nonprofit educational organization awarded a grant under this section shall enter into an agreement with the Secretary of Education. Each such agreement shall require the organization—

(1) to establish a facility to house, display, and interpret the artifacts related to the history of the Underground Railroad;

(2) to demonstrate substantial private support for the facility through the implementation of a public-private partnership between a State or local public entity and a private entity for the support of the facility, which private entity shall provide matching funds for the support of the facility in an amount equal to 4 times the amount of the contribution of the State or local public entity, except that not more than 20 percent of the matching funds may be provided by the Federal Government;

(3) to create an endowment to fund any and all shortfalls in the costs of the on-going operations of the facility;

(4) to establish a network of satellite centers throughout the United States to help disseminate information regarding the Underground Railroad throughout the United States, if such satellite centers raise 80 percent of the funds required to establish the satellite centers from non-Federal public and private sources;

(5) to establish the capability to electronically link the facility with other local and regional facilities that have collections and programs which interpret the history of the Underground Railroad; and

(6) to submit, for each fiscal year for which the organization receives funding under this section, a report to the Secretary of Education that contains—

(A) a description of the programs and activities supported by the funding;

(B) the audited financial statement of the organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported by the funding as the Secretary may require; and

(D) an evaluation of the programs and activities supported by the funding as the Secretary may require.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $6,000,000 for fiscal year 1999, $6,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $3,000,000 for fiscal year 2002, and $3,000,000 for fiscal year 2003.

ADDITIONAL COSPONSORS

S. 249

At the request of Mr. D'AMATO, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 249, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.

S. 632

At the request of Mr. KOHL, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 632, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes.

S. 719

At the request of Mr. WELLSTONE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 719, a bill to expedite the naturalization of aliens who served with special guerrilla units in Laos.

S. 852

At the request of Mr. LOTT, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 1089

At the request of Mr. SPECTER, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1089, a bill to terminate the effectiveness of certain amendments to the foreign repair station rules of the Federal Aviation Administration, and for other purposes.

S. 1220

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1220, a bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

S. 1244

At the request of Mr. GRASSLEY, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 1244, a bill to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1321

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1344

At the request of Mr. BROWNBACK, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1344, a bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of South Caucasus and Central Asia.

S. 1464

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 1529

At the request of Mr. BIDEN, his name was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1609

At the request of Mr. FRIST, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1609, a bill to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next

Generation Internet program and report to the President and the Congress in its activities, and for other purposes.

S. 1645

At the request of Mr. ABRAHAM, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1645, a bill to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions.

S. 1723

At the request of Mr. ABRAHAM, the names of the Senator from Missouri (Mr. BOND), the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from Idaho (Mr. CRAIG), and the Senator from Washington (Mr. GORTON) were added as cosponsors of S. 1723, a bill to amend the Immigration and Nationality Act to assist the United States to remain competitive by increasing the access of the United States firms and institutions of higher education to skilled personnel and by expanding educational and training opportunities for American students and workers.

S. 1981

At the request of Mr. HUTCHINSON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1981, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 2017

At the request of Mr. D'AMATO, the names of the Senator from Iowa (Mr. HARKIN), and the Senator from Kentucky (Mr. FORD) were added as cosponsors of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2053

At the request of Mr. WARNER, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 2053, a bill to require the Secretary of the Treasury to redesign the $1 bill so as to incorporate the preamble to the Constitution of the United States, the Bill of Rights, and a list of Articles of the Constitution on the reverse side of such currency.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. D'AMATO, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Nevada (Mr. REID) were added as cosponsors of Senate Concurrent Resolution 88, a concurrent resolution calling on Japan to establish and maintain an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.

SENATE RESOLUTION 176

At the request of Mr. DOMENICI, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Minnesota (Mr. WELLSTONE), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Georgia (Mr. COVERDELL), and the Senator from Oregon (Mr. SMITH) were added as cosponsors of Senate Resolution 176, a resolution proclaiming the week of October 18 through October 24, 1998, as "National Character Counts Week."

SENATE CONCURRENT RESOLUTION 95—EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO PROMOTING COVERAGE OF INDIVIDUALS UNDER LONG-TERM CARE INSURANCE

Mr. DODD (for himself and Mr. GRASSLEY) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 95

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PROMOTION OF COVERAGE OF INDIVIDUALS UNDER LONG-TERM CARE INSURANCE.

(a) FINDINGS.—The Congress finds the following:

(1) As the baby boom generation begins to retire, funding Social Security and Medicare will put a strain on the financial resources of younger Americans.

(2) Medicaid was designed as a program for the poor, but in many States Medicaid is being used for middle income elderly people to fund long-term care expenses.

(3) In the coming decade, people over age 65 will represent up to 20 percent or more of the population, and the proportion of the population composed of individuals who are over age 85, who are most likely to be in need of long-term care, may double or triple.

(4) With nursing home care now costing $40,000 to $50,000 on average per year, long-term care expenses can have a catastrophic effect on families, wiping out a lifetime of savings before a spouse, parent, or grandparent becomes eligible for Medicaid.

(5) Many people are unaware that most long-term care costs are not covered by Medicare and that Medicaid covers long-term care only after the person's assets have been exhausted.

(6) Widespread use of private long-term care insurance has the potential to protect families from the catastrophic costs of long-term care services while, at the same time, easing the burden on Medicaid as the baby boom generation ages.

(7) The Federal Government has endorsed the concept of private long-term care insurance by establishing Federal tax rules for tax-qualified policies in the Health Insurance Portability and Accountability Act of 1996.

(8) The Federal Government has ensured the availability of quality long-term care insurance products and sales practices by adopting strict consumer protections in the Health Insurance Portability and Accountability Act of 1996.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Federal Government should take all appropriate steps to inform the public about the financial risks posed by rapidly increasing long-term care costs and about the need for families to plan for their long-term care needs; .

(2) the Federal Government should take all appropriate steps to inform the public that Medicare does not cover most long-term care costs and that Medicaid covers long-term care costs only when the beneficiary has exhausted his or her assets;

(3) the Federal Government should take all appropriate steps not only to encourage employers to offer private long-term care insurance coverage to employees, but also to encourage both working-aged people and older citizens to obtain long-term care insurance either through their employees or on their own;

(4) appropriate committees of Congress, together with the Department of Health and Human Services and other appropriate Executive Branch agencies, should develop specific ideas for encouraging Americans to plan for their own long-term care needs;

(5) the congressional tax-writing committees, together with the Department of the Treasury should determine whether the tax rules for long-term care insurance need to be modified to ensure that the rules adequately facilitate the affordability of long-term care insurance; and

(6) the National Summit on Retirement Income Savings should consider the importance of planning for long-term care in its discussion of retirement security.

Mr. DODD. Mr. President, I am pleased to submit, with my colleague Senator GRASSLEY, a Senate resolution that will focus attention on an extremely important health care issue for American families—long-term care needs.

Rapidly increasing long-term care costs pose huge financial risks to families. With the average cost of nursing home care at $40,000 per year, early planning is required to ensure that long-term care needs don't leave the spouses or children of the elderly and disabled destitute.

What most Americans do not realize is that Medicare is very limited in the type of long-term costs it covers. Medicare only provides coverage for "acute" health care costs, such as short-term stays in certain kinds of nursing homes, or short-term nursing care in the home following a hospitalization. Medicare was never meant to cover chronic long-term health needs.

Medicaid does offer assistance with long-term costs, but only after an individual has totally exhausted his or her assets. This means that families must become completely impoverished in order to get Medicaid coverage for nursing home care.

What fills in the gaps? We know that sixty-five percent of many elderly who live at home and need help rely exclusively on unpaid sources, such as family and friends. But this help is not without a price—it takes a huge toll on families. Caregiving frequently competes with the demand of employment and requires caregivers to reduce work hours, take time off without pay, or quit their jobs. Families whose members must be in institutional settings often exhaust all of their resources paying privately for nursing home care.

As a country, we need to have better alternatives so that our Golden Years can be lived out with dignity. Our job as policy makers is to inform the public of the importance of planning ahead. Employers need to be encouraged to make private long-term care insurance coverage available to their employees. In turn, families should be encouraged to prepare themselves financially well in advance for this potential expense.

A similar proposal by my fellow Connecticut colleague in the House of Representatives, Congressman CHRIS SHAYS, has received strong bi-partisan support. My hope is that this commonsense, forward-looking proposal will receive the same kind of support by my colleagues here in the Senate. This Senate resolution truly represents an investment in our future.

Mr. GRASSLEY. Mr. President, today I am pleased to join Senator DODD in submitting a common-sense Senate resolution to raise public awareness of the need for all Americans to plan ahead for their long-term care needs.

Earlier this year, the Special Committee on Aging, which I chair, held a hearing to explore the challenges of providing long-term care for the baby boomer generation. A key message from that hearing was that policy makers need to encourage personal responsibility for financing long-term care.

It is difficult to pay for long-term care even when one has worked hard and saved for retirement. It's impossible when a family is not prepared. Unfortunately, many seniors and their families find out too late that they have not saved enough. Today's average cost of nursing home care is about $40,000 a year. When individuals are faced with a chronic or disabling condition in retirement, they often quickly exhaust their resources. As a result, these individuals turn to Medicaid for help. In fact, the care for nearly 2 out of every 3 nursing home residents is paid for by Medicaid.

As policy makers, our job is to develop policies for public programs that can deliver efficient and cost-effective services. Yet, equally important is the role of private long-term care financing. We must inform everyone about the importance of planning for potential long-term care needs. And, we must provide incentives now for the baby boomer generation to prepare financially for their retirement.

As Congress works to prepare for a growing demand for long-term care services, the role of private long-term care insurance must not be ignored. Over the past ten years, the long-term care insurance market has grown significantly. The products that are available today are affordable and of high quality.

This common-sense proposal has also been introduced in the House of Representatives by Congress SHAYS where it has received strong bi-partisan support. I encourage my colleagues in the Senate to so-sponsor this worthwhile proposal. And, I look forward to the passage of this resolution this year.

SENATE RESOLUTION 227—EXPRESSING THE SENSE OF THE SENATE REGARDING THE MAY 11, 1998 INDIAN NUCLEAR TESTS

Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, and Mr. GLENN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 227

Whereas the Government of India conducted an underground nuclear explosion on May 15, 1974;

Whereas since the 1974 nuclear test by the Government of India, the United States and its allies have worked extensively to prevent the further proliferation of nuclear weapons in South Asia;

Whereas on May 11, 1998, the Government of India conducted underground tests of three separate nuclear explosive devices, including a fission device, a low-yield device, and a thermo-nuclear device;

Whereas this decision by the Government of India has needlessly raised tension in the South Asia region and threatens to exacerbate the nuclear arms race in that region;

Whereas the five declared nuclear weapons states and 144 other nations have signed the Comprehensive Test Ban Treaty in hopes of putting a permanent end to nuclear testing;

Whereas the Government of India has refused to sign the Comprehensive Test Ban Treaty;

Whereas the Government of India has refused to sign the Nuclear Non-Proliferation Treaty;

Whereas India has refused to enter into a safeguards agreement with the International Atomic Energy Agency covering any of its nuclear research facilities;

Whereas the Nuclear Proliferation Prevention Act of 1994 requires the President to impose a variety of aid and trade sanctions against any non-nuclear weapons state that detonates a nuclear explosive device; Therefore, be it

Resolved, That the Senate

(1) Condemns in the strongest possible terms the decision of the Government of India to conduct three nuclear tests on May 11, 1998;

(2) Calls upon the President to carry out the provisions of the Nuclear Proliferation Prevention Act of 1994 with respect to India and invoke all sanctions therein;

(3) Calls upon the Government of India to take immediate steps to reduce tensions that this unilateral and unnecessary step has caused;

(4) Expresses its regret that this decision by the Government of India will, of necessity, negatively affect relations between the United States and India;

(5) Urges the Government of Pakistan, the Government of the People's Republic of China, and all governments to exercise restraint in response to the Indian nuclear tests, in order to avoid further exacerbating the nuclear arms race in South Asia;

(6) Calls upon all governments in the region to take steps to prevent further proliferation of nuclear weapons and ballistic missiles; and

(7) Urges the Government of India to enter into a safeguards agreement with the International Atomic energy Agency which would cover all Indian nuclear research facilities at the earliest possible time.

Mrs. FEINSTEIN. Mr. President, at this time, on behalf of Senator BROWNBACK, Senator GLENN, and myself, I send to the desk for reference to committee a sense-of-the-Senate resolution which, in essence, deals with the explosion of three nuclear devices by the Government of India yesterday. As this body well knows, the Government of India conducted underground tests on three separate nuclear explosive devices, including a fission device, a low-yield device, and a thermonuclear device. They did this also very close to the border of Pakistan, thereby raising tensions between the two countries and in the entire south Asia region.

This sense of the Senate will condemn that explosion in the strongest possible terms and will call upon the President of the United States to carry out the provisions of the Nuclear Proliferation Prevention Act of 1994 with respect to India and invoke all sanctions therein.

It will also call upon the Government of India to take immediate steps to reduce tensions that this unilateral and unnecessary step has caused.

I am aware that Senator BROWNBACK's subcommittee, of which I am a member, will be meeting tomorrow, and will be discussing this issue, and, hopefully, will be able to agree to this resolution.

I am delighted to work with the Senator, and I note that he is present on the floor at this time, so I will say no more but simply send this to the desk.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I would like to note my support for the resolution of my colleague from California. I think this is an important, quick statement for us to be making to the Government of India and to the nations in the region, both Pakistan and China in particular. The nuclear test that took place yesterday will have a tremendously destabilizing impact in the region. It was a bad move on the part of the Government of India. I think this is something the U.S. Senate needs to speak out on clearly and quickly, to state our displeasure, and that this will have consequences to it. I urge the administration to put forward the sanctions that are called for in the Glenn amendment. I don't think we can stand by and tolerate the sort of actions that have taken place. I urge my colleagues to look at this resolution, to sign on. Hopefully, we can pass this in an expedited fashion.

SENATE RESOLUTION 228—AUTHORIZING THE PRINTING OF A DOCUMENT ENTITLED "WASHINGTON'S FAREWELL ADDRESS"

Mr. WARNER (for himself and Mr. FORD) submitted the following resolution; which was considered and agreed to:

S. RES. 228

Resolved, That the booklet entitled, "Washington's Farewell Address," prepared by the Senate Historical Office under the direction of the Secretary of the Senate, be printed as a Senate document.

SEC. 2. The Senate document described in Section 1 shall include illustrations and shall be in the style, form, manner, and printing as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed 600 additional copies of the document specified in Sec. 1 for the use of the Secretary of the Senate.

SENATE RESOLUTION 229—COMMEMORATING THE 150TH ANNIVERSARY OF THE ESTABLISHMENT OF THE CHICAGO BOARD OF TRADE

Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 229

Whereas the Chicago Board of Trade, which celebrates in April 1998 the 150th anniversary of its establishment, has been an essential contributor to financial growth in Chicago, Illinois, and our Nation;

Whereas futures markets were developed by finance pioneers in Chicago and today Chicago remains the commercial crossroads of the world;

Whereas the Chicago Board of Trade, the oldest and largest futures and options exchange, continues its tradition of innovation, functioning as a global financial leader;

Whereas the Chicago Board of Trade's 150 years of accomplishments include such major achievements as inventing grain futures, founding the world's premier trade clearing system, launching the first stock options exchange, developing the first interest rate futures, advancing the use of technology with its electronic trading system, and constructing the largest and most technologically advanced trading floor in the world;

Whereas the Chicago Board of Trade and its members have achieved success while adhering to the highest standards of uncompromising integrity; and

Whereas the Chicago Board of Trade will continue as a world-leading financial institution into the next millennium: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Chicago Board of Trade and the city of Chicago, Illinois, on the 150th anniversary of the establishment of the exchange; and

(2) expresses its wishes for continued years of innovation, service, and leadership by the Chicago Board of Trade into the next millennium.

AMENDMENTS SUBMITTED

THE NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1998

McCAIN (AND OTHERS) AMENDMENT NO. 2386

Mr. JEFFORDS (for Mr. McCAIN, for himself, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mr. FRIST, Mr. ROCKEFELLER, and Ms. COLLINS) proposed an amendment to the bill (S. 1046) to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Science Foundation Authorization Act of 1998".

SEC. 2. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term "Director" means the Director of the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(2) FOUNDATION.—The term "Foundation" means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(d) BOARD.—The term "Board" means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(4) UNITED STATES.—The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(5) NATIONAL RESEARCH FACILITY.—The term "national research facility" means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with research institutions located in the United States.

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

SEC. 101. FINDINGS; CORE STRATEGIES.

(a) FINDINGS.—Congress finds the following:

(1) The United States depends upon its scientific and technological capabilities to preserve the military and economic security of the United States.

(2) America's leadership in the global marketplace is dependent upon a strong commitment to education, basic research, and development.

(3) A nation that is not technologically literate cannot compete in the emerging global economy.

(4) A coordinated commitment to mathematics and science instruction at all levels of education is a necessary component of successful efforts to produce technologically literate citizens.

(5) Professional development is a necessary component of efforts to produce system wide improvements in mathematics, engineering, and science education in secondary, elementary, and postsecondary settings.

(6)(A) The mission of the National Science Foundation is to provide Federal support for basic scientific and engineering research, and to be a primary contributor to mathematics, science, and engineering education at academic institutions in the United States.

(B) In accordance with such mission, the long-term goals of the National Science Foundation include providing leadership to—

(i) enable the United States to maintain a position of world leadership in all aspects of science, mathematics, engineering, and technology;

(ii) promote the discovery, integration, dissemination, and application of new knowledge in service to society; and

(iii) achieve excellence in United States science, mathematics, engineering, and technology education at all levels.

(b) CORE STRATEGIES.—In carrying out activities designed to achieve the goals described in subsection (a), the Foundation shall use the following core strategies:

(1) Develop intellectual capital, both people and ideas, with particular emphasis on groups and regions that traditionally have not participated fully in science, mathematics, and engineering.

(2) Strengthen the scientific infrastructure by investing in facilities planning and modernization, instrument acquisition, instrument design and development, and shared-use research platforms.

(3) Integrate research and education through activities that emphasize and strengthen the natural connections between learning and inquiry.

(4) Promote partnerships with industry, elementary and secondary schools, community colleges, colleges and universities, other agencies, State and local governments, and other institutions involved in science, mathematics, and engineering to enhance the delivery of math and science education and improve the technological literacy of the citizens of the United States.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1998.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $3,505,630,000 for fiscal year 1998.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $2,576,200,000 shall be made available to carry out Research and Related Activities, of which—

(i) $370,820,000 shall be made available for Biological Sciences;

(ii) $289,170,000 shall be made available for Computer and Information Science and Engineering;

(iii) $360,470,000 shall be made available for Engineering;

(iv) $455,110,000 shall be made available for Geosciences;

(v) $715,710,000 shall be made available for Mathematical and Physical Sciences;

(vi) $130,660,000 shall be made available for Social, Behavioral, and Economic Sciences, of which up to $1,000,000 may be made available for the U.S.-Mexico Foundation for Science;

(vii) $165,930,000 shall be made available for United States Polar Research Programs;

(viii) $62,600,000 shall be made available for United States Antarctic Logistical Support Activities;

(ix) $2,730,000 shall be made available for the Critical Technologies Institute; and

(x) $23,000,000 shall be made available for the Next Generation Internet program;

(B) $632,500,000 shall be made available to carry out Education and Human Resources Activities;

(C) $155,130,000 shall be made available for Major Research Equipment;

(D) $136,950,000 shall be made available for Salaries and Expenses; and

(E) $4,850,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 1999.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $3,773,000,000 for fiscal year 1999.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $2,846,800,000 shall be made available to carry out Research and Related Activities, of which—

(i) $417,820,000 shall be made available for Biological Sciences;

(ii) $331,140,000 shall be made available for Computer and Information Science and Engineering, including $25,000,000 for the Next Generation Internet program;

(iii) $400,550,000 shall be made available for Engineering;

(iv) $507,310,000 shall be made available for Geosciences;

(v) $792,030,000 shall be made available for Mathematical and Physical Sciences;

(vi) $150,260,000 shall be made available for Social, Behavioral, and Economic Sciences, of which up to $2,000,000 may be made available for the U.S.-Mexico Foundation for Science;

(vii) $182,360,000 shall be made available for United States Polar Research Programs;

(viii) $62,600,000 shall be made available for United States Antarctic Logistical Support Activities;

(ix) $2,730,000 shall be made available for the Critical Technologies Institute; and

(B) $683,000,000 shall be made available to carry out Education and Human Resources Activities;

(C) $94,000,000 shall be made available for Major Research Equipment;

(D) $144,000,000 shall be made available for Salaries and Expenses; and

(E) $5,200,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2000.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $3,886,190,000 for fiscal year 2000.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $2,935,024,000 shall be made available to carry out Research and Related Activities, of which up to—

(i) $2,000,000 may be made available for the U.S.-Mexico Foundation for Science;

(ii) $25,000,000 may be made available for the Next Generation Internet program;

(B) $703,490,000 shall be made available to carry out Education and Human Resources Activities;

(C) $94,000,000 shall be made available for Major Research Equipment;

(D) $148,320,000 shall be made available for Salaries and Expenses; and

(E) $5,356,000 shall be made available for the Office of Inspector General.

SEC. 103. PROPORTIONAL REDUCTION OF RESEARCH AND RELATED ACTIVITIES AMOUNTS.

If the amount appropriated pursuant to section 102(a)(2)(A) or (b)(2)(A) is less than the amount authorized under that paragraph, the amount available for each scientific directorate under that paragraph shall be reduced by the same proportion.

SEC. 104. CONSULTATION AND REPRESENTATION EXPENSES.

From appropriations made under authorizations provided in this Act, not more than $10,000 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses. The Director shall have the discretion to determine the expenses (as described in this section) for which the funds described in this section shall be used. Such a determination by the Director shall be final and binding on the accounting officers of the Federal Government.

SEC. 105. UNITED STATES MAN AND THE BIOSPHERE PROGRAM LIMITATION.

No funds appropriated pursuant to this Act shall be used for the United States Man and the Biosphere Program, or related projects.

TITLE II—GENERAL PROVISIONS

SEC. 201. NATIONAL RESEARCH FACILITIES.

(a) FACILITIES PLAN.—

(1) IN GENERAL.—Not later than December 1, of each year, the Director shall, as part of the annual budget request, prepare and submit to Congress a plan for the proposed construction of, and repair and upgrades to, national research facilities.

(2) CONTENTS OF THE PLAN.—The plan shall include—

(A) estimates of the costs for the construction, repairs, and upgrades described in paragraph (1);

(B) estimates of the costs for the operation and maintenance of existing and proposed new facilities; and

(C) in the case of proposed new construction and for major upgrades to existing facilities, funding profiles, by fiscal year, and milestones for major phases of the construction.

(3) SPECIAL RULE.—The plan shall include cost estimates in the categories of construction, repair, and upgrades—

(A) for the year in which the plan is submitted to Congress; and

(B) for not fewer than the succeeding 4 years.

(b) STATUS OF FACILITIES UNDER CONSTRUCTION.—The plan required under subsection (a) shall include a status report for each uncompleted construction project included in current and previous plans. The status report shall include data on cumulative construction costs by project compared with estimated costs, and shall compare the current and original schedules for achievement of milestones for the major phases of the construction.

SEC. 202. ADMINISTRATIVE AMENDMENTS.

(a) NATIONAL SCIENCE FOUNDATION ACT OF 1950 AMENDMENTS.—The National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.) is amended—

(1) in section 4(g) (42 U.S.C. 1863(g))—

(A) by striking "the appropriate rate provided for individuals in grade GS–18 of the General Schedule under section 5332" and inserting "the maximum rate payable under section 5376"; and

(B) by redesignating the second subsection (k) as subsection (l);

(2) in section 5(e) (42 U.S.C. 1854(e)) by striking paragraph (2), and inserting the following:

"(2) Any delegation of authority or imposition of conditions under paragraph (1) shall be promptly published in the Federal Register and reported to the Committee on Labor and Human Resources, and the Committee on Commerce, Science, and Transportation, of the Senate and the Committee on Science of the House of Representatives.";

(3) in section 14(c) (42 U.S.C. 1873(c))—

(A) by striking "shall receive" and inserting "shall be entitled to receive";

(B) by striking "the rate specified for the daily rate for GS–18 of the General Schedule under section 5332" and inserting "the maximum rate payable under section 5376"; and

(C) by adding at the end the following "For the purpose of determining the payment of compensation under this subsection, the time spent in travel by any member of the Board or any member of a special commission shall be deemed as time engaged in the business of the Foundation. Members of the Board and members of special commissions may waive compensation and reimbursement for traveling expenses."; and

(4) in section 15(a) (42 U.S.C. 1874(a)), by striking "Atomic Energy Commission" and inserting "Secretary of Energy".

(b) NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT, 1976 AMENDMENTS.—Section 6(a) of the National Science Foundation Authorization Act, 1976 (42 U.S.C. 1881a(a)) is amended by striking "social," the first place it appears.

(c) NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1988 AMENDMENTS.—Section 117(a) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b(a)) is amended—

(1) by striking paragraph (1)(B)(v) and inserting the following:

"(v) from schools established outside the several States and the District of Columbia by any agency of the Federal Government for dependents of the employees of such agency."; and

(2) in paragraph (3)(A) by striking "Science and Engineering Education" and inserting "Education and Human Resources".

(d) SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT AMENDMENTS.—The Science and Engineering Equal Opportunities Act (42 U.S.C. 1885 et seq.) is amended—

(1) in section 34 (42 U.S.C. 1885b)—

(A) by striking the section heading and inserting the following:

"PARTICIPATION IN SCIENCE AND ENGINEERING OF MINORITIES AND PERSONS WITH DISABILITIES";

and

(B) by striking subsection (b) and inserting the following:

"(b) The Foundation is authorized to undertake or support programs and activities to encourage the participation of persons with disabilities in the science and engineering professions."; and

(2) in section 36 (42 U.S.C. 1885c)—

(A) in subsection (a), by striking "minorities," and all that follows through "in scientific" and inserting "minorities, and persons with disabilities in scientific";

(B) in subsection (b)—

(i) by striking "with the concurrence of the National Science Board"; and

(ii) by striking the second sentence and inserting the following: "In addition, the Chairman of the National Science Board may designate a member of the Board as a member of the Committee."; (C) by striking subsection (c) and (d); (D) by inserting after subsection (b) the following:

"(c) The Committee shall be responsible for reviewing and evaluating all Foundation matters relating to opportunities for the participation in, and the advancement of, women, minorities, and persons with disabilities in education, training, and science and engineering research programs.";

(E) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(F) in subsection (d), as so redesignated by subparagraph (E), by striking "additional".

(e) TECHNICAL AMENDMENT.—The second subsection (g) of section 3 of the National Science Foundation Act of 1950 is repealed.

SEC. 203. INDIRECT COSTS.

(a) MATCHING FUNDS.—Matching funds required pursuant to section 204(a)(2)(C) of the Academic Research Facilities Modernization Act of 1988 (42 U.S.C. 1862c(a)(2)(C)) shall not be considered facilities costs for purposes of determining indirect cost rates under Office of Management and Budget Circular A–21.

(b) Report.—

(1) In general.—The Director of the Office of Science and Technology Policy, in consultation with other Federal agencies the Director deems appropriate, shall prepare a report—

(A) analyzing the Federal indirect cost reimbursement rates (as the term is defined in Office of Management and Budget Circular A–21) paid to universities in comparison with Federal indirect cost reimbursement rates paid to other entities, such as industry, government laboratories, research hospitals, and non-profit institutions;

(B)(i) analyzing the distribution of the Federal indirect cost reimbursement rates by category (such as administration, facilities, utilities, and libraries), and by the type of entity; and

(ii) determining what factors, including the type of research, influence the distribution;

(C) analyzing the impact, if any, that changes in Office of Management and Budget Circular A–21 have had on—

(i) the Federal indirect cost reimbursement rates, the rate of change of the Federal indirect cost reimbursement rates, the distribution by category of the Federal indirect cost reimbursement rates, and the distribution by type of entity of the Federal indirect cost reimbursement rates; and

(ii) the Federal indirect cost reimbursement (as calculated in accordance with Office of Management and Budget Circular A–21), the rate of change of the Federal indirect cost reimbursement, the distribution by category of the Federal indirect cost reimbursement, and the distribution by type of entity of the Federal indirect cost reimbursement;

(D) analyzing the impact, if any, of Federal and State law on the Federal indirect cost reimbursement rates;

(E)(i) analyzing options to reduce or control the rate of growth of the Federal indirect cost reimbursement rates, including options such as benchmarking of facilities and equipment cost, elimination of cost studies, mandated percentage reductions in the Federal indirect cost reimbursement; and

(ii) assessing the benefits and burdens of the options to the Federal Government, research institutions, and researchers; and

(F) analyzing options for creating a database—

(i) for tracking the Federal indirect cost reimbursement rates and the Federal indirect cost reimbursement; and

(ii) for analyzing the impact that changes in policies with respect to Federal indirect cost reimbursement will have on the Federal Government, researchers, and research institutions.

(2) Report to congress.—The report prepared under paragraph (1) shall be submitted to Congress not later than 1 year after the date of enactment of this Act.

SEC. 204. FINANCIAL DISCLOSURE.

Persons temporarily employed by or at the Foundation shall be subject to the same financial disclosure requirements and related sanctions under the Ethics in Government Act of 1978 (5 U.S.C. App) as are permanent employees of the Foundation in equivalent positions.

SEC. 205. NOTICE.

(a) Notice of Reprogramming.—If any funds appropriated pursuant to the amendments made by this act are subject to a reprogramming action that requires notice to be provided to the committees on appropriations of the Senate and the House of Representatives, notice of that action shall concurrently be provided to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Labor and Human Resources of the Senate, and the Committee on Science of the House of Representatives.

(b) Notice of Reorganization.—Not later than 15 days before any major reorganization of any program, project, or activity of the National Science Foundation, the Director of the National Science Foundation shall provide notice to the Committees on Science and Appropriations of the House of Representatives and the Committees on Commerce, Science and Transportation, Labor and Human Resources of the Senate, and Appropriations of the Senate.

SEC. 206. ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS.

(a) Definitions.—In this section:

(1) Educationally useful federal equipment.—The term "educationally useful federal equipment" means computers and related peripheral tools and research equipment that is appropriate for use in schools.

(2) School.—The term "school" means a public or private educational institution that serves any of the grades of kindergarten through grade 12.

(b) Sense of Congress.—

(1) In general.—It is the sense of the Congress that the Director should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999), donate educationally useful Federal equipment to schools in order to enhance the science and mathematics programs of those schools.

(2) Reports.—

(A) In general.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Director shall prepare and submit to the President a report that meets the requirements of this paragraph. The President shall submit that report to Congress at the same time as the President submits a budget request to Congress under section 1105(a) of title 31, United States Code.

(B) Contents of report.—The report prepared by the Director under this paragraph shall describe any donations of educationally useful Federal equipment to schools made during the period covered by the report.

SEC. 207. REPORT ON RESERVIST EDUCATION ISSUES.

(a) Convening Appropriate Representatives.—The Director of the National Science Foundation, with the assistance of the Office of Science and Technology Policy, shall convene appropriate officials of the Federal Government and appropriate representatives of the postsecondary education community and of members of reserve components of the Armed Forces for the purpose of discussing and seeking a consensus on the appropriate resolution to problems relating to the academic standing and financial responsibilities of postsecondary students called or ordered to active duty in the Armed Forces.

(b) Report to Congress.—Not later than 90 days after the date of the enactment of this Act, the Director of the National Science Foundation shall transmit to the Congress a report summarizing the results of the convening individuals under subsection (a), including any consensus recommendations resulting therefrom as well as any significant opinions expressed by each participant that are not incorporated in such a consensus recommendation.

SEC. 208. SCIENCE AND TECHNOLOGY POLICY INSTITUTE.

(a) Amendment.—Section 822 of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 6686) is amended—

(1) by striking "Critical Technologies Institute" in the section heading and in subsection (a), and inserting in lieu thereof "Science and Technology Policy Institute";

(2) in subsection (b) by striking "As determined by the chairman of the committee referred to in subsection (c), the" and inserting in lieu thereof "The";

(3) by striking subsection (c), and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively;

(4) in subsection (c), as so redesignated by paragraph (3) of this subsection—

(A) by inserting "science and" after "developments and trends in" in paragraph (1);

(B) by striking "with particular emphasis on" in paragraph (1) and inserting "including";

(C) by inserting "and developing and maintaining relevant information and analytical tools" before the period at the end of the paragraph (1);

(D) by striking "to determine" and all that follows through "technology policies" in paragraph (2) and inserting "with particular attention to the scope and content of the Federal science and technology research and develop portfolio as it affects interagency and national issues";

(E) by amending paragraph (3) to read as follows:

"(3) Initiation of studies and analysis of alternatives available for ensuring the long-term strength of the United States in the development and application of science and technology, including appropriate roles for the Federal Government, State governments, private industry, and institutions of higher education in the development and application of science and technology.";

(F) by inserting "science and" after "Executive branch on" in paragraph (4)(A); and

(G) by amending paragraph (4)(B) to read as follows:

"(B) to the interagency committees and panels of the Federal Government concerned with science and technology.";

(5) by striking "subsection (d)" in subsection (d), as redesignated by paragraph (3) of this subsection, and inserting in lieu thereof "subsection (c)";

(6) by striking "Committee" in each place it appears in subsection (e), as redesignated by paragraph (3) of this subsection, and inserting "Institute";

(7) by striking "subsection (d)" in subsection (f), as redesignated by paragraph (3) of this subsection, and inserting in lieu thereof "subsection (c)"; and

(8) by striking "Chairman of Committee" each place it appears in subsection (f), as designated by paragraph (3) of this subsection, and inserting "Director of Office of Science and Technology Policy".

(b) Conforming Usage.—All references in Federal law or regulations to the Critical Technologies Institute shall be considered to be references to the Science and Technology Policy Institute.

SEC. 209. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 fast approaching, it is the sense of Congress that the Foundation should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond;

(2) assess immediately the extent of the risk to the operations of the Foundation posed by the problems referred to in paragraph (1), and plan and budget for achieving Year 2000 compliance for all of its mission-critical systems; and

(3) develop contingency plans for those systems that the Foundation is unable to correct in time.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

HUTCHINSON AMENDMENTS NOS. 2387–2388

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted two amendments intended to be proposed by him to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

AMENDMENT NO. 2387

Add at the end the following new title:

TITLE —COMMERCIAL ACTIVITIES OF PEOPLE'S LIBERATION ARMY

SEC. . FINDINGS.

Congress makes the following findings:

(1) The People's Liberation Army is the principal instrument of repression within the People's Republic of China, responsible for occupying Tibet since 1950, massacring hundreds of students and demonstrators for democracy in Tiananmen Square on June 4, 1989, and running the Laogai ("reform through labor") slave labor camps.

(2) The People's Liberation Army is engaged in a massive military buildup, which has involved a doubling since 1992 of announced official figures for military spending by the People's Republic of China.

(3) The People's Liberation Army is engaging in a major ballistic missile modernization program which could undermine peace and stability in East Asia, including 2 new intercontinental missile programs, 1 submarine-launched missile program, a new class of compact but long-range cruise missiles, and an upgrading of medium- and short-range ballistic missiles.

(4) The People's Liberation Army is working to coproduce the SU-27 fighter with Russia, and is in the process of purchasing several substantial weapons systems from Russia, including the 633 model of the Kilo-class submarine and the SS-N-22 Sunburn missile system specifically designed to incapacitate United States aircraft carriers and Aegis cruisers.

(5) The People's Liberation Army has carried out acts of aggression in the South China Sea, including the February 1995 seizure of the Mischief Reef in the Spratley Islands, which is claimed by the Philippines.

(6) In July 1995 and in March 1996, the People's Liberation Army conducted missile tests to intimidate Taiwan when Taiwan held historic free elections, and those tests effectively blockaded Taiwan's 2 principal ports of Keelung and Kaohsiung.

(7) The People's Liberation Army has contributed to the proliferation of technologies relevant to the refinement of weapons-grade nuclear material, including transferring ring magnets to Pakistan.

(8) The People's Liberation Army and associated defense companies have provided ballistic missile components, cruise missiles, and chemical weapons ingredients to Iran, a country that the executive branch has repeatedly reported to Congress is the greatest sponsor of terrorism in the world.

(9) In May 1996, United States authorities caught the People's Liberation Army enterprise Poly Technologies and the civilian defense industrial company Norinco attempting to smuggle 2,000 AK-47s into Oakland, California, and offering to sell urban gangs shoulder-held missile launchers capable of "taking out a 747" (which the affidavit of the United States Customs Service of May 21, 1996, indicated that the representative of Poly Technologies and Norinco claimed), and Communist Chinese authorities punished only 4 low-level arms merchants by sentencing them on May 17, 1997, to brief prison terms.

(10) The People's Liberation Army contributes to the People's Republic of China's failure to meet the standards of the 1995 Memorandum of Understanding with the United States on intellectual property rights by running factories which pirate videos, compact discs, and computer software that are products of the United States.

(11) The People's Liberation Army contributes to the People's Republic of China's failing to meet the standards of the February 1997 Memorandum of Understanding with the United States on textiles by operating enterprises engaged in the transshipment of textile products to the United States through third countries.

(12) The estimated $2,000,0000,000 to $3,000,000,000 in annual earnings of People's Liberation Army enterprises subsidize the expansion and activities of the People's Liberation Army described in this subsection.

(13) The commercial activities of the People's Liberation Army are frequently conducted on noncommercial terms, or for noncommercial purposes such as military or foreign policy considerations.

SEC. . APPLICATION OF AUTHORITIES UNDER THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT TO CHINESE MILITARY COMPANIES.

(a) DETERMINATION OF COMMUNIST CHINESE MILITARY COMPANIES.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Attorney General, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation, shall compile a list of persons who are Communist Chinese military companies and who are operating directly or indirectly in the United States or any of its territories and possessions, and shall publish the list of such persons in the Federal Register. On an ongoing basis, the Secretary of Defense, in consultation with the Attorney General, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation, shall make additions or deletions to the list based on the latest information available.

(2) COMMUNIST CHINESE MILITARY COMPANY.—For purposes of making the determination required by paragraph (1), the term "Communist Chinese military company"—

(A) means a person that is—

(i) engaged in providing commercial services, manufacturing, producing, or exporting, and

(ii) owned or controlled by the People's Liberation Army, and

(B) includes, but is not limited to, any person identified in the United States Defense Intelligence Agency publication numbered VP-1920-271-90, dated September 1990, or PC-1921-57-95, dated October 1995, and any update of such reports for the purposes of this title.

(b) PRESIDENTIAL AUTHORITY.—

(1) AUTHORITY.—The President may exercise the authorities set forth in section 203(a) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)) with respect to any commercial activity in the United States by a Communist Chinese military company (except with respect to authorities relating to importation), without regard to section 202 of that Act.

(2) PENALTIES.—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to violations of any license, order, or regulation issued under paragraph (1).

SEC. . DEFINITION.

For purposes of this title, the term "People's Liberation Army" means the land, naval, and air military services, the police, and the intelligence services of the Communist Government of the People's Republic of China, and any member of any such service or of such police.

AMENDMENT NO. 2388

Add at the end the following new sections:

SEC. . FINDINGS.

Congress makes the following findings:

(1) The United States Customs Service has identified goods, wares, articles, and merchandise mined, produced, or manufactured under conditions of convict labor, forced labor, and indentured labor in several countries.

(2) The United States Customs Service has actively pursued attempts to import products made with forced labor, resulting in seizures, detention orders, fines, and criminal prosecutions.

(3) The United States Customs Service has taken 21 formal administrative actions in the form of detention orders against different products destined for the United States market, found to have been made with forced labor, including products from the People's Republic of China.

(4) The United States Customs Service does not currently have the tools to obtain the timely and in-depth verification necessary to identify and interdict products made with forced labor that are destined for the United States market.

SEC. . AUTHORIZATION FOR ADDITIONAL CUSTOMS PERSONNEL TO MONITOR THE IMPORTATION OF PRODUCTS MADE WITH FORCED LABOR.

There are authorized to be appropriated for monitoring by the United States Customs Service of the importation into the United States of products made with forced labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, $2,000,000 for fiscal year 1999.

SEC. . REPORTING REQUIREMENT ON FORCED LABOR PRODUCTS DESTINED FOR THE UNITED STATES MARKET.

(a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Customs shall prepare and transmit to Congress a report on products made with forced labor that are destined for the United States market.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall include information concerning the following:

(1) The extent of the use of forced labor in manufacturing products destined for the United States market.

(2) The volume of products made with forced labor, destined for the United States market, that is in violation of section 307 of the Tariff Act of 1930 or section 1761 of the title 18, United States Code, and is seized by the United States Customs Service.

(3) The progress of the United States Customs Service in identifying and interdicting products made with forced labor that are destined for the United States market.

SEC. . RENEGOTIATING MEMORANDA OF UNDERSTANDING ON FORCED LABOR.

It is the sense of Congress that the President should determine whether any country with which the United States has a memorandum of understanding with respect to reciprocal trade which involves goods made with forced labor is frustrating implementation of the memorandum. Should an affirmative determination be made, the President should immediately commence negotiations to replace the current memorandum of understanding with one providing for effective procedures for the monitoring of forced labor, including improved procedures to request investigations of suspected prison labor facilities by international monitors.

SEC. . DEFINITION OF FORCED LABOR.

As used in sections through of this Act, the term "forced labor" means convict labor, forced labor, or indentured labor, as such terms are used in section 307 of the Tariff Act of 1930.

COMMUNICATIONS ACT AMENDMENTS

McCAIN (AND HOLLINGS) AMENDMENT NO. 2389

Mr. McCAIN (for himself and Mr. HOLLINGS) proposed an amendment to the bill (S. 1618) to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-slamming Amendment Act".

TITLE I—SLAMMING

SEC. 101. IMPROVED PROTECTION FOR CONSUMERS.

(a) VERIFICATION OF AUTHORIZATION.—Subsection (a) of section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended to read as follows:

"(a) PROHIBITION.—

"(1) IN GENERAL.—No telecommunications carrier or reseller of telecommunications services shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with this section and such verification procedures as the Commission shall prescribe.

"(2) VERIFICATION.—

"(A) IN GENERAL.—In order to verify a subscriber's selection of a telephone exchange service or telephone toll service provider under this section, the telecommunications carrier or reseller shall, at a minimum, require the subscriber—

"(i) to affirm that the subscriber is authorized to select the provider of that service for the telephone number in question;

"(ii) to acknowledge the type of service to be changed as a result of the selection;

"(iii) to affirm the subscriber's intent to select the provider as the provider of that service;

"(iv) to acknowledge that the selection of the provider will result in a change in providers of that service; and

"(v) to provide such other information as the Commission considers appropriate for the protection of the subscriber.

"(B) ADDITIONAL REQUIREMENTS.—The procedures prescribed by the Commission to verify a subscriber's selection of a provider shall—

"(i) preclude the use of negative option marketing;

"(ii) provide for a complete copy of verification of a change in telephone exchange service or telephone toll service provider in oral, written, or electronic form;

"(iii) require the retention of such verification in such manner and form and for such time as the Commission considers appropriate;

"(iv) mandate that verification occur in the same language as that in which the change was solicited; and

"(v) provide for verification to be made available to a subscriber on request.

"(3) ACTION BY UNAFFILIATED RESELLER NOT IMPUTED TO CARRIER.—No telecommunications carrier may be found to be in violation of this section solely on the basis of a violation of this section by an unaffiliated reseller of that carrier's services or facilities.

"(4) FREEZE OPTION PROTECTED.—The Commission may not take action under this section to limit or inhibit a subscriber's ability to require that any change in the subscriber's choice of a provider of interexchange service not be effected unless the change is expressly and directly communicated by the subscriber to the subscriber's existing telephone exchange service provider.

"(5) APPLICATION TO WIRELESS.—This section does not apply to a provider of commercial mobile service.".

(b) LIABILITY FOR CHARGES.—Subsection (b) of such section is amended—

(1) by striking "(b) LIABILITY FOR CHARGES.—Any telecommunications carrier" and inserting the following:

"(b) LIABILITY FOR CHARGES.—

"(1) IN GENERAL.—Any telecommunications carrier or reseller of telecommunications services";

(2) by designating the second sentence as paragraph (3) and inserting at the beginning of such paragraph, as so designated, the following:

"(3) CONSTRUCTION OF REMEDIES.—"; and

(3) by inserting after paragraph (1), as designated by paragraph (1) of this subsection, the following:

"(2) SUBSCRIBER PAYMENT OPTION.—

"(A) IN GENERAL.—A subscriber whose telephone exchange service or telephone toll service is changed in violation of the provisions of this section, or the procedures prescribed under subsection (a), may elect to pay the carrier or reseller previously selected by the subscriber for any such service received after the change in full satisfaction of amounts due from the subscriber to the carrier or reseller providing such service after the change.

"(B) PAYMENT RATE.—Payment for service under subparagraph (A) shall be at the rate for such service charged by the carrier or reseller previously selected by the subscriber concerned.".

(c) RESOLUTION OF COMPLAINTS.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended by adding at the end thereof the following:

"(c) NOTICE TO SUBSCRIBER.—Whenever there is a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service, the telecommunications carrier or reseller shall notify the subscriber in a specific and unambiguous writing, not more than 15 days after the change is processed by the telecommunications carrier or the reseller—

"(1) of the subscriber's new carrier or reseller; and

"(2) that the subscriber may request information regarding the date on which the change was agreed to and the name of the individual who authorized the change.

"(d) RESOLUTION OF COMPLAINTS.—

"(1) PROMPT RESOLUTION.—

"(A) IN GENERAL.—The Commission shall prescribe a period of time for a telecommunications carrier or reseller to resolve a complaint by a subscriber concerning an unauthorized change in the subscriber's selection of a provider of telephone exchange service or telephone toll service not in excess of 120 days after the telecommunications carrier or reseller receives notice from the subscriber of the complaint. A subscriber may at any time pursue such a complaint with the Commission, in a State or local administrative or judicial body, or elsewhere.

"(B) UNRESOLVED COMPLAINTS.—If a telecommunication carrier or reseller fails to resolve a complaint within the time period prescribed by the Commission, then, within 10 days after the end of that period, the telecommunication carrier or reseller shall—

"(i) notify the subscriber in writing of the subscriber's right to file a complaint with the Commission and of the subscriber's rights and remedies under this section;

"(ii) inform the subscriber in writing of the procedures prescribed by the Commission for filing such a complaint; and

"(iii) provide the subscriber a copy of any evidence in the carrier's or reseller's possession showing that the change in the subscriber's provider of telephone exchange service or telephone toll service was submitted or executed in accordance with the verification procedures prescribed under subsection (a).

"(2) RESOLUTION BY COMMISSION.—

"(A) DETERMINATION OF VIOLATION.—The Commission shall provide a simplified process for resolving complaints under paragraph (1)(B). The simplified procedure shall preclude the use of interrogatories, depositions, discovery, or other procedural techniques that might unduly increase the expense, formality, and time involved in the process. The Commission shall determine whether there has been a violation of subsection (a) and shall issue a decision or ruling at the earliest date practicable, but in no event later than 150 days after the date on which it received the complaint.

"(B) DETERMINATION OF DAMAGES AND PENALTIES.—If the Commission determines that there has been a violation of subsection (a), it shall issue a decision or ruling determining the amount of the damages and penalties at the earliest practicable date, but in no event later than 90 days after the date on which it issued its decision or ruling under subparagraph (A).

"(3) DAMAGES AWARDED BY COMMISSION.—If a violation of subsection (a) is found by the Commission, the Commission may award damages equal to the greater of $500 or the amount of actual damages for each violation.

The Commission may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under the preceding sentence.

"(e) DISQUALIFICATION AND REINSTATEMENT.—

"(1) DISQUALIFICATION FROM CERTAIN ACTIVITIES BASED ON CONVICTION.—

"(A) DISQUALIFICATION OF PERSONS.—Subject to subparagraph (C), any person convicted under section 2328 of title 18, United States Code, in addition to any fines or imprisonment under that section, may not carry out any activities covered by section 214.

"(B) DISQUALIFICATION OF COMPANIES.—Subject to subparagraph (C), any company substantially controlled by a person convicted under section 2328 of title 18, United States Code, in addition to any fines or imprisonment under that section, may not carry out any activities covered by section 214.

"(C) REINSTATEMENT.—

"(i) IN GENERAL.—The Commission may terminate the application of subparagraph (A) to a person, or subparagraph (B) to a company, if the Commission determines that the termination would be in the public interest.

"(ii) EFFECTIVE DATE.—The termination of the applicability of subparagraph (A) to a person, or subparagraph (B) to a company, under clause (i) may not take effect earlier than 5 years after the date on which the applicable subparagraph applied to the person or company concerned.

"(2) CERTIFICATION REQUIREMENT.—Any person described in subparagraph (A) of paragraph (1), or company described in subparagraph (B) of that paragraph, not reinstated under subparagraph (C) of that paragraph shall include with any application to the Commission under section 214 a certification that the person or company, as the case may be, is described in paragraph (1)(A) or (B), as the case may be.

"(f) CIVIL PENALTIES.—

"(1) IN GENERAL.—Unless the Commission determines that there are mitigating circumstances, violation of subsection (a) is punishable by a forfeiture of not less than $40,000 for the first offense, and not less than $150,000 for each subsequent offense.

"(2) FAILURE TO NOTIFY TREATED AS VIOLATION OF SUBSECTION (A).—If a telecommunications carrier or reseller fails to comply with the requirements of subsection (d)(1)(B), then that failure shall be treated as a violation of subsection (a).

"(g) RECOVERY OF FORFEITURES.—The Commission may take such action as may be necessary—

"(1) to collect any forfeitures it imposes under this section; and

"(2) on behalf of any subscriber, to collect any damages awarded the subscriber under this section.

"(h) CHANGE INCLUDES INITIAL SELECTION.—For purposes of this section, the initiation of service to a subscriber by a telecommunications carrier or a reseller shall be treated as a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.".

(d) CRIMINAL PENALTY.—

(1) IN GENERAL.—Chapter 113A of title 18, United States Code, is amended by adding at the end thereof the following:

§ 2328. Slamming

"Any person who submits or executes a change in a provider of telephone exchange service or telephone toll service not authorized by the subscriber in willful violation of the provisions of section 258 of the Communications Act of 1934 (47 U.S.C. 258), or the procedures prescribed under section 258(a) of that Act—

"(A) shall be fined in accordance with this title, imprisoned not more than 1 year, or both; but

"(B) if previously convicted under this paragraph at the time of a subsequent offense, shall be fined in accordance with this title, imprisoned not more than 5 years, or both, for such subsequent offense.".

"(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by adding at the end thereof the following:

"2328. Slamming".

"(e) STATE RIGHT-OF-ACTION.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258), as amended by subsection (c), is amended by adding at the end thereof the following:

"(i) ACTION BY STATES.—

"(1) IN GENERAL.—The attorney general of a State, or an official or agency designated by a State—

"(A) may bring an action on behalf of its residents to recover damages on their behalf under subsection (d)(3);

"(B) may bring a criminal action to enforce this section under section 2328 of title 18, United States Code; and

"(C) may bring an action for the assessment of civil penalties under subsection (f), and for purposes of such an action, subsections (d)(3) and (f)(1) shall be applied by substituting "the court" for "the Commission".

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all actions brought under this section. When a State brings an action under this section, the court in which the action is brought has pendant jurisdiction of any claim brought under the law of that State. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right—

"(A) to intervene in the action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the subscriber or defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in which the defendant is an inhabitant or where the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(j) STATE LAW NOT PREEMPTED.—

"(1) IN GENERAL.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive requirements, regulations, damages, costs, or penalties on changes in a subscriber's service or selection of a provider of telephone exchange service or telephone toll services than are imposed under this section.

"(2) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State not preempted by this section.

"(3) LIMITATIONS.—Whenever a complaint is pending before the Commission involving a violation of regulations prescribed under this section, no State may, during the pendency of such complaint, institute a civil action against any defendant party to the complaint for any violation affecting the same subscriber alleged in the complaint.

"(k) REPORTS ON COMPLAINTS.—

"(1) REPORTS REQUIRED.—Each telecommunications carrier or reseller shall submit to the Commission, quarterly, a report on the number of complaints of unauthorized changes in providers of telephone exchange service or telephone toll service that are submitted to the carrier or reseller by its subscribers. Each report shall specify each provider of service complained of and the number of complaints relating to such provider.

"(2) LIMITATION ON SCOPE.—The Commission may not require any information in a report under paragraph (1) other than the information specified in the second sentence of that paragraph.

"(3) UTILIZATION.—The Commission shall use the information submitted in reports under paragraph (1) to identify telecommunications carriers or resellers that engage in patterns and practices of unauthorized changes in providers of telephone exchange service or telephone toll service.

"(l) DEFINITIONS.—For purposes of this section—

"(1) ATTORNEY GENERAL.—The term 'attorney general' means the chief legal officer of a State.

"(2) SUBSCRIBER.—The term 'subscriber' means the person named on the billing statement or account, or any other person authorized to make changes in the providers of telephone exchange service or telephone toll service.".

(f) REPORT ON CARRIERS EXECUTING UNAUTHORIZED CHANGES OR TELEPHONE SERVICE.—

(1) REPORT.—Not later than October 31, 1998, the Federal Communications Commission shall submit to Congress a report on unauthorized changes of subscribers' selections of providers of telephone exchange service or telephone toll service.

(2) ELEMENTS.—The report shall include the following:

(A) A list of the 10 telecommunications carriers or resellers that, during the 1-year period ending on the date of the report, were subject to the highest number of complaints of having executed unauthorized changes of subscribers from their selected providers of telephone exchange service or telephone toll service when compared with the total number of subscribers served by such carriers or resellers.

(B) The telecommunications carriers or resellers, if any, assessed forfeitures under section 258(f) of the Communications Act of 1934 (as added by subsection (d)), during that period, including the amount of each such forfeiture and whether the forfeiture was assessed as a result of a court judgment or an order of the Commission or was secured pursuant to a consent decree.

SEC. 102. ADDITIONAL ENFORCEMENT AUTHORITY.

Section 504 of the Communications Act of 1934 (47 U.S.C. 504) is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence, the failure of a person to pay a forfeiture imposed for violation of section 258(a) may be used as a basis for revoking, denying, or limiting that person's operating authority under section 214 or 312.".

SEC. 103. OBLIGATIONS OF BILLING AGENTS.

(a) IN GENERAL.—Part I of title II of the Communications Act 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following:

"SEC. 231. OBLIGATIONS OF TELEPHONE BILLING AGENTS.

"(a) IN GENERAL.—A billing agent, including a telecommunications carrier or reseller, who issues a bill for telephone exchange service or telephone toll service to a subscriber shall

"(1) state on the bill—

"(A) the name and toll-free telephone number of any telecommunications carrier or reseller for the subscriber's telephone exchange service and telephone toll service;

"(B) the identity of the presubscribed carrier or reseller; and

"(C) the charges associated with each carrier's or reseller's provision of telecommunications service during the billing period;

"(2) for services other than those described in paragraph (1), state on a separate page—

"(A) the name of any company whose charges are reflected on the subscriber's bill;

"(B) the services for which the subscriber is being charged by that company;

"(C) the charges associated with that company's provision of service during the billing period;

"(D) the toll-free telephone number that the subscriber may call to dispute that company's charges; and

"(E) that disputes about that company's charges will not result in disruption of telephone exchange service or telephone toll service; and

"(3) show the mailing address of any telecommunications carrier or reseller or other company whose charges are reflected on the bill.

"(b) KNOWING INCLUSION OF UNAUTHORIZED OR IMPROPER CHARGES PROHIBITED.—A billing agent may not submit charges for telecommunications services or other services to a subscriber if the billing agent knows, or should know, that the subscriber did not authorize the charges or that the charges are otherwise improper.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to bills to subscribers for telecommunications services sent to subscribers more than 60 days after the date of enactment of this Act.

SEC. 104. FCC JURISDICTION OVER BILLING SERVICE PROVIDERS.

Part III of title II of the Communications Act of 1934 (47 U.S.C. 271 et seq.) is amended by adding at the end thereof the following:

"SEC. 277. JURISDICTION OVER BILLING SERVICE PROVIDERS.

"The Commission has jurisdiction to assess and recover any penalty imposed under title V of this Act against an entity not a telecommunications carrier or reseller to the extent that entity provides billing services for the provision of telecommunications services, or for services other than telecommunications services that appear on a subscriber's telephone bill for telecommunications services, but the Commission may assess and recover such penalties only if that entity knowingly or willfully violates the provisions of this Act or any rule or order of the Commission.".

SEC. 105. REPORT; STUDY.

(a) IN GENERAL.—The Federal Communications Commission shall issue a report within 180 days after the date of enactment of this Act on the telemarketing and other solicitation practices used by telecommunications carriers or resellers or their agents or employees for the purpose of changing the telephone exchange service or telephone toll service provider of a subscriber.

(b) SPECIFIC ISSUES.—As part of the report required under subsection (a), the Commission shall include findings on—

(1) the extent to which imposing penalties on telemarketers would deter unauthorized changes in a subscriber's selection of a provider of telephone exchange service or telephone toll service;

(2) the need for rules requiring third-party verification of changes in a subscriber's selection of such a provider and independent third party administration of presubscribed interexchange carrier changes; and

(3) whether wireless carriers should continue to be exempt from the requirements imposed by section 258 of the Communications Act of 1934 (47 U.S.C. 258).

(c) RULEMAKING.—If the Commission determines that particular telemarketing or other solicitation practices are being used with the intention to mislead, deceive, or confuse subscribers and that they are likely to mislead, deceive, or confuse subscribers, then the Commission shall initiate a rulemaking to prohibit the use of such practices within 120 days after the completion of its report.

SEC. 106. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.

Section 2703 (c)(1)(B) of title 18, United States Code, is amended by—

(1) by striking "or" at the end of clause (ii);

(2) striking the period at the end of clause (iii) and inserting "; or"; and

(3) adding at the end the following:

"(iv) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).".

TITLE II—SWITCHLESS RESELLERS

SEC. 201. REQUIREMENT FOR SURETY BONDS FROM TELECOMMUNICATIONS CARRIERS OPERATING AS SWITCHLESS RESELLERS.

Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following: , as amended by section 103 of this Act,

"SEC. 232. SURETY BONDS FROM TELECOMMUNICATIONS CARRIERS OPERATING AS SWITCHLESS RESELLERS.

"(a) REQUIREMENT.—Under such regulations as the Commission shall prescribe, any telecommunications carrier operating or seeking to operate as a switchless reseller shall furnish to the Commission a surety bond in a form and an amount determined by the Commission to be satisfactory for purposes of this section.

"(b) SURETY.—A surety bond furnished pursuant to this section shall be issued by a surety corporation that meets the requirements of section 9304 of title 31, United States Code.

"(c) CLAIMS AGAINST BOND.—A surety bond furnished under this section shall be available to pay the following:

"(1) Any fine or penalty imposed against the carrier concerned while operating as a switchless reseller as a result of a violation of the provisions of section 258 (relating to unauthorized changes in subscriber selections to telecommunications carriers).

"(2) Any penalty imposed against the carrier under this section.

"(3) Any other fine or penalty, including a forfeiture penalty, imposed against the carrier under this Act.

"(d) RESIDENT AGENT.—A telecommunications carrier operating as a switchless reseller that is not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

"(e) PENALTIES.—

"(1) SUSPENSION.—The Commission may suspend the right of any telecommunications carrier to operate as a switchless reseller—

"(A) for failure to furnish or maintain the surety bond required by subsection (a);

"(B) for failure to designate an agent as required by subsection (d); or

"(C) for a violation of section 258 while operating as a switchless reseller.

"(2) ADDITIONAL PENALTIES.—In addition to suspension under paragraph (1), any telecommunications carrier operating as a switchless reseller that fails to furnish or maintain a surety body under this section shall be subject to any forfeiture provided for under sections 503 and 504.

"(f) BILLING SERVICES FOR UNBONDED SWITCHLESS RESELLERS.—

"(1) PROHIBITION.—No common carrier or billing agent may provide billing services for any services provided by a switchless reseller unless the switchless reseller—

"(A) has furnished the bond required by subsection (a); and

"(B) in the case of a switchless reseller not domiciled in the United States, has designated an agent under section (d).

"(2) PENALTY.—

"(A) PENALTY.—Any common carrier or billing agent that knowingly and willfully provides billing services to a switchless reseller in violation of paragraph (1) shall be liable to the United States for a civil penalty not to exceed $50,000.

"(B) APPLICABILITY.—For purposes of subparagraph (A), the provision of services to any particular reseller in violation of paragraph (1) shall constitute a separate violation of that paragraph.

"(3) COMMISSION AUTHORITY TO ASSESS AND COLLECT PENALTIES.—The Commission shall have the authority to assess and collect any penalty provided for under this subsection upon a finding by the Commission of a violation of paragraph (1).

"(g) RETURN OF BONDS.—

"(1) REVIEW.—

"(A) IN GENERAL.—The Commission may from time to time review the activities of a telecommunications carrier that has furnished a surety bond under this section for purposes of determining whether or not to retain the bond under this section.

"(B) STANDARDS OF REVIEW.—The Commission shall prescribe any standards applicable to its review of activities under this paragraph.

"(C) FIRST REVIEW.—The Commission may not first review the activities of a carrier under subparagraph (A) before the date that is 3 years after the date on which the carrier furnishes the bond concerned under this section.

"(2) RETURN.—The Commission may return a surety bond as a result of a review under this subsection.

"(h) DEFINITIONS.—In this section:

"(1) BILLING AGENT.—The term 'billing agent' means any entity (other than a telecommunications carrier) that provides billing services for services provided by a telecommunications carrier, or other services, if charges for such services appear on the bill of a subscriber for telecommunications services.

"(2) SWITCHLESS RESELLER.—The term 'switchless reseller' means a telecommunications carrier that resells the switched telecommunications service of another telecommunications carrier without the use of any switching facilities under its own ownership or control.

"(i) DETARIFFING AUTHORITY NOT IMPAIRED.—Nothing in this section is intended to prohibit the Commission from adopting rules providing for the permissive detariffing of long-distance telephone companies, if the Commission determines that such permissive detariffing would otherwise serve the public interest, convenience, and necessity.".

TITLE III—SPAMMING

SEC. 301. REQUIREMENTS RELATING TO TRANSMISSIONS OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) INFORMATION TO BE INCLUDED IN TRANSMISSIONS.—

(1) IN GENERAL.—A person who transmits an unsolicited commercial electronic mail message shall cause to appear in each such electronic mail message the information specified in paragraph (2).

(2) COVERED INFORMATION.—The following information shall appear at the beginning of the body of an unsolicited commercial electronic mail message under paragraph (1):

(A) The name, physical address, electronic mail address, and telephone number of the person who initiates transmission of the message.

(B) The name, physical address, electronic mail address, and telephone number of the person who created the content of the message, if different from the information under subparagraph (A).

(C) A statement that further transmissions of unsolicited commercial electronic mail to the recipient by the person who initiates transmission of the message may be stopped at no cost to the recipient by sending a reply to the originating electronic mail address with the word "remove" in the subject line.

(b) ROUTING INFORMATION.—All Internet routing information contained within or accompanying an electronic mail message described in subsection (a) must be accurate, valid according to the prevailing standards for Internet protocols, and accurately reflect message routing.

(c) EFFECTIVE DATE.—The requirements in this section shall take effect 30 days after the date of enactment of this Act.

SEC. 302. FEDERAL OVERSIGHT OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) TRANSMISSIONS.—

(1) IN GENERAL.—Upon notice from a person of the person's receipt of electronic mail in violation of a provision of section 301 or 305, the Commission—

(A) may conduct an investigation to determine whether or not the electronic mail was transmitted in violation of such provision; and

(B) if the Commission determines that the electronic mail was transmitted in violation of such provision, may—

(i) impose upon the person initiating the transmission a civil fine in an amount not to exceed $15,000;

(ii) commence in a district court of the United States a civil action to recover a civil penalty in an amount not to exceed $15,000 against the person initiating the transmission;

(iii) commence an action in a district court of the United States a civil action to seek injunctive relief; or

(iv) proceed under any combination of the authorities set forth in clauses (i), (ii), and (iii).

(2) DEADLINE.—The Commission may not take action under paragraph (1)(B) with respect to a transmission of electronic mail more than 2 years after the date of the transmission.

(b) ADMINISTRATION.—

(1) NOTICE BY ELECTRONIC MEANS.—The Commission shall establish an Internet web site with an electronic mail address for the receipt of notices under subsection (a).

(2) INFORMATION ON ENFORCEMENT.—The Commission shall make available through the Internet web site established under paragraph (1) information on the actions taken by the Commission under subsection (a)(1)(B).

(3) ASSISTANCE OF OTHER FEDERAL AGENCIES.—Other Federal agencies may assist the Commission in carrying out its duties under this section.

SEC. 303. ACTIONS BY STATES.

(a) IN GENERAL.—Whenever the attorney general of a State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected because any person is engaging in a pattern or practice of the transmission of electronic mail in violation of a provision of section 301 or 305, the State, as parens patriae, may bring a civil action on behalf of its residents to enjoin such transmission, to enforce compliance with such provision, to obtain damages or other compensation on behalf of its residents, or to obtain such further and other relief as the court considers appropriate.

(b) NOTICE TO COMMISSION.—

(1) NOTICE.—The State shall serve prior written notice of any civil action under this section on the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve written notice immediately on instituting such action.

(2) RIGHTS OF COMMISSION.—On receiving a notice with respect to a civil action under paragraph (1), the Commission shall have the right—

(A) to intervene in the action;

(B) upon so intervening, to be heard in all matters arising therein; and

(C) to file petitions for appeal.

(c) ACTIONS BY COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of a provision of section 301 or 305, no State may, during the pendency of such action, institute a civil action under this section against any defendant named in the complaint in such action for violation of any provision as alleged in the complaint.

(d) CONSTRUCTION.—For purposes of bringing a civil action under subsection (a), nothing in this section shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of the State concerned to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary or other evidence.

(e) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(f) ACTIONS BY OTHER STATE OFFICIALS.—Nothing in this section may be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of the State concerned.

(g) DEFINITIONS.—In this section:

(1) ATTORNEY GENERAL.—The term "attorney general" means the chief legal officer of a State.

(2) STATE.—The term "State" means any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marina Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and any possession of the United States.

SEC. 304. INTERACTIVE COMPUTER SERVICE PROVIDERS

(a) EXEMPTION FOR CERTAIN TRANSMISSIONS.—

(1) EXEMPTION.—Sections 301 or 305 shall not apply to a transmission of electronic mail by an interactive computer service provider unless—

(A) the provider initiates the transmission; or

(B) the transmission is not made to its own customers.

(2) CONSTRUCTION.—Nothing in this subsection may be construed to require an interactive computer service provider to transmit or otherwise deliver any electronic mail message.

(b) ACTIONS BY INTERACTIVE COMPUTER SERVICE PROVIDERS.—

(1) IN GENERAL.—In addition to any other remedies available under any other provision of law, any interactive computer service provider adversely affected by a violation of a provision of section 301 or 305 may, within 1 year after discovery of the violation, bring a civil action in a district court of the United States against a person who violates such provision. Such an action may be brought to enjoin the violation, to enforce compliance with such provision, to obtain damages, or to obtain such further and other relief as the court considers appropriate.

(2) DAMAGES.—

(A) IN GENERAL.—The amount of damages in an action under this subsection for a violation specified in paragraph (1) may not exceed $15,000 per violation.

(B) RELATIONSHIP TO OTHER DAMAGES.—Damages awarded for a violation under this subsection are in addition to any other damages awardable for the violation under any other provision of law.

(C) COST AND FEES.—The court may, in issuing any final order in any action brought under paragraph (1), award costs of suit, reasonable costs of obtaining services of process, reasonable attorney fees, and expert witness fees for the prevailing party.

(3) Venue; service of process.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant or in which the interactive computer service provider is located, is an inhabitant, or transacts business or wherever venue is proper under section 1391 or title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(c) Interactive Computer Service Provider Defined.—In this section, the term "interactive computer service provider" has the meaning given the term "interactive computer service" in section 230(e)(2) of the Communications Act of 1934 (47 U.S.C. 230(e)(2)).

SEC. 305. RECEIPT OF TRANSMISSIONS BY PRIVATE PERSONS.

(a) Termination of Transmissions.—A person who receives from any other person an electronic mail message requesting the termination of further transmission of commercial electronic mail shall cease the initiation of further transmissions of such mail to the person making the request.

(b) Affirmative Authorization of Transmission.—

(1) In general.—Subject to paragraph (2), a person may authorize another person to initiate transmissions of unsolicited commercial electronic mail to the person.

(2) Availability of termination.—A person initiating transmissions of electronic mail under paragraph (1) shall include, with each transmission of such mail to a person authorizing the transmission under that paragraph, the information specified in section 301(a)(2)(C).

(c) Constructive Authorization of Transmissions.—

(1) In general.—Subject to paragraphs (2) and (3), a person who secures a good or service from, or otherwise responds electronically to, an offer in a transmission of unsolicited commercial electronic mail shall be deemed to have authorized the initiation of transmissions of unsolicited commercial electronic mail from the person who initiated the transmission.

(2) No authorization for requests for termination.—An electronic mail request to cease the initiation of further transmissions of electronic mail under subsection (a) shall not constitute authorization for the initiation of further electronic mail under this subsection.

(3) Availability of termination.—A person initiating transmissions of electronic mail under paragraph (1) shall include, with each transmission of such mail to a person deemed to have authorized the transmission under that paragraph, the information specified in section 301(a)(2)(C).

(d) Effective Date of Termination Requirements.—Subsections (a), (b)(2), and (c)(3) shall take effect 30 days after the date of enactment of this Act.

SEC. 306. DEFINITIONS.

In this title.

(1) Commercial electronic mail.—The term "commercial electronic mail" means any electronic mail that—

(A) contains an advertisement for the sale of a product or service;

(B) contains a solicitation for the use of a telephone number, the use of which connects the user to a person or service that advertises the sale of or sells a product or service; or

(C) promotes the use of or contains a list of one or more Internet sites that contain an advertisement referred to in subparagraph (A) or a solicitation referred to in subparagraph (B).

(2) Commission.—The term "Commission" means the Federal Trade Commission.

(3) The term "initiate the transmission" in the case of an electronic mail message means to originate the electronic mail message, and does not encompass any intervening interactive computer service whose facilities may have been used to relay, handle, or otherwise retransmit the electronic mail message, unless the intervening interactive computer service provider knowingly and intentionally retransmits, any electronic mail in violation of section 301 or 305.

FEINGOLD AMENDMENT NO. 2390

Mr. McCAIN (for Mr. Feingold) proposed an amendment to the bill, S. 1618, supar; as follows:

At the appropriate place, insert the following:

SEC. ___. ENFORCEMENT OF REGULATIONS REGARDING CITIZENS BAND RADIO EQUIPMENT.

Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following:

"(f)(1) Except as provided in paragraph (2), a State or local government may enforce the following regulations of the Commission under this section:

"(A) A regulation that prohibits a use of citizens band radio equipment not authorized by the Commission.

"(B) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.

"(2) Possession of a station license issued by the Commission pursuant to section 301 in any radio service for the operation at issue shall preclude action by a State or local government under this subsection.

"(3) The Commission shall provide technical guidance to State and local governments regarding the detection and determination of violations of the regulations specified in paragraph (1).

"(4)(A) In addition to any other remedy authorized by law, a person affected by the decision of a State or local government enforcing a regulation under paragraph (1) may submit to the Commission an appeal of the decision on the grounds that the State or local government, as the case may be, acted outside the authority provided in this subsection.

"(B) A person shall submit an appeal on a decision of a State or local government to the Commission under this paragraph, if at all, not later than 30 days after the date on which the decision by the State or local government becomes final.

"(C) The Commission shall make a determination on an appeal submitted under subparagraph (B) not later than 180 days after its submittal.

"(D) If the Commission determines under subparagraph (C) that a State or local government has acted outside its authority in enforcing a regulation, the Commission shall reverse the decision enforcing the regulation.

"(5) The enforcement of a regulation by a State or local government under paragraph (1) in a particular case shall not preclude the Commission from enforcing the regulation in that case concurrently.

"(6) Nothing in this subsection shall be construed to diminish or otherwise affect the jurisdiction of the Commission under this section over devices capable of interfering with radio communications.".

FEINSTEIN AMENDMENT NO. 2391

Mr. DORGAN (for Mrs. Feinstein) proposed an amendment to the bill, S. 1618, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. MODIFICATION OF EXCEPTION TO PROHIBITION ON INTERCEPTION OF COMMUNICATIONS.

(a) Modification.—Section 2511(2)(d) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, it shall not be unlawful under this chapter for a person not acting under the color of law to intercept a wire, oral, or electronic communication between a health insurance issuer or health plan and a subscriber of such issuer or plan, or between a health care provider and a patient, only if all of the parties to the communication have given prior express consent to such interception. For purposes of the preceding sentence, the term 'health insurance issuer' has the meaning given that term in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b), the term 'health plan' means a group health plan, as defined in such section of such Act, an individual or self-insured health plan, the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.), the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.), and the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, and the term 'health care provider' means a physician or other health care professional.".

(b) Recording and Monitoring of Communications with Health Insurers.—

(1) Communication without recording or monitoring.—Notwithstanding any other provision of law, a health insurance issuer, health plan, or health care provider that notifies any customer of its intent to record or monitor any communication with such customer shall provide the customer the option to conduct the communication without being recorded or monitored by the health insurance issuer, health plan, or health care provider.

(2) Definitions.—In this subsection:

(A) Health care provider.—The term "health care provider" means a physician or other health care professional.

(B) Health insurance issuer.—The term "health insurance issuer" has the meaning given that term in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b).

(C) Health plan.—The term "health plan" means—

(i) a group health plan, as defined in section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b);

(ii) an individual or self-insured health plan;

(iii) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(iv) the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.);

(v) the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.); and

(vi) the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of title 10, United States Code.

ROCKEFELLER AMENDMENT NO. 2392

Mr. DORGAN (for Mr. ROCKEFELLER) proposed an amendment to the bill, S. 1618, supra; as follows:

At the appropriate place, insert the following:

SEC. . CONSUMER TRUTH IN BILLING DISCLOSURE ACT.

(a) FINDINGS.—Congress makes the following findings—

(1) Billing practices by telecommunications carriers may not reflect accurately the cost or basis of the additional telecommunications services and benefits that consumers receive as a result of the enactment the Telecommunications Act of 1996 (Public Law 104–104) and other Federal regulatory actions taken since the enactment of that Act.

(2) The Telecommunications Act of 1996 was not intended to allow providers of telecommunications services to misrepresent to customers the costs of providing services or the services provided.

(3) Certain providers of telecommunications services have established new, specific charges on customer bills commonly known as "line-item charges".

(4) Certain providers of telecommunications services have described such charges as "Federal Universal Service Fees" or similar fees.

(5) Such charges have generated significant confusion among customers regarding the nature of and scope of universal service and of the fees associated with universal service.

(6) The State of New York is considering action to protect consumers by requiring telecommunications carriers to disclose fully in the bills of all classes of customers the fee increases and fee reductions resulting from the enactment of the Telecommunications Act of 1996 and other regulatory actions taken since the enactment of that Act.

(7) The National Association of Regulatory Utility Commissioners adopted a resolution in February 1998 supporting action by the Federal Communications Commission and the Federal Trade Commission to protect consumers of telecommunications services by assuring accurate cost reporting and billing practices by telecommunications carriers nationwide.

(b) REQUIREMENTS.—Any telecommunications carrier that includes any change resulting from Federal regulatory action shall specify in such bill—

(1) the reduction in charges or fees for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers) resulting from any regulatory action of the Federal Communications Commission;

(2) total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including customers of residential basic service, customers of other residential services, small business customers, and other business customers);

(3) notify consumers one billing cycle in advance of any charges in existing charges or imposition of new charges; and

(4) disclose, upon subscription, total monthly charges, usage charges, percentage charges, and premiums for each class of customers (including residential basic service, customers of other residential service, small business customers, and other business customers).

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

BROWNBACK AMENDMENT NO. 2393

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill, S. 2057, supra; as follows:

Strike out section 527, and insert in lieu thereof the following:

SEC. 527. REQUIREMENTS RELATING TO RECRUIT BASIC TRAINING.

(a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) SEPARATE HOUSING FACILITIES.—The Secretary of the Army shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(b) HOUSING PRIVACY.—The Secretary of the Army shall require that access by drill sergeants and other training personnel to a barracks floor on which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor.

"(c) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate housing and privacy for male and female recruits.".

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.

"6931. Recruit basic training: separate housing and privacy for male and female recruits.

"§ 6931. Recruit basic training: separate housing and privacy for male and female recruits

"(a) SEPARATE HOUSING.—The Secretary of the Navy shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(b) HOUSING PRIVACY.—The Secretary of the Navy shall require that access by recruit division commanders and other training personnel to a barracks floor on which Navy recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to recruit division commanders and other training personnel who are of the same sex as the recruits housed on that floor.

"(c) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally .... 6931".

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9319. Recruit basic training: separate housing and privacy for male and female recruits

"(a) SEPARATE HOUSING.—The Secretary of the Air Force shall require that during basic training male and female recruits be housed in separate dormitories or other troop housing facilities.

"(b) HOUSING PRIVACY.—The Secretary of the Air Force shall require that access by drill sergeants and other training personnel to a dormitory floor on which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed on that floor.

"(c) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Air Force that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate housing and privacy for male and female recruits.".

(d) IMPLEMENTATION.—(1) The Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force shall implement section 4319, 6931, or 9319, respectively, of title 10, United States Code (as added by this section), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(2)(A) If the Secretary of the military department concerned determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with the requirement for separate housing at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of the requirement with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with the requirement for separate housing.

(B) If the Secretary of a military department grants a waiver under subparagraph (A) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

(3) In this subsection:

(A) The term "requirement for separate housing" means—

(i) with respect to the Army, the requirement set forth in section 4319(a) of title 10, United States Code, as added by subsection (a);

(ii) with respect to the Navy and the Marine Corps, the requirement set forth in section 6931(a) of such title, as added by subsection (b); and

(iii) with respect to the Air Force, the requirement set forth in section 9319(a) of such title, as added by subsection (c).

(B) The term "basic training" means the initial entry training program of an armed force that constitutes the basic training of new recruits.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Thursday, May 14, 1998 at 9:00 a.m. in SR–328A. The purpose of this meeting will be to examine the year 2000 computer problem compliance of the U.S. Department of Agriculture, Commodity Futures Trading Commission and Farm Credit Administration.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 12, 11998, at 2:00 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate to conduct a hearing on Tuesday, May 12, 1998 at 9:30 a.m. on Indian gaming, focusing on lands taken into trust for purposes of gaming. The hearing will be held in room 106 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, May 12, 1998 at 10:30 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on "Raising Tobacco Prices: the Consequences."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A CRITICAL TIME IN THE MIDDLE EAST PEACE PROCESS

• Mr. WELLSTONE. Mr. President, as a long-time strong supporter of Israel and her security, and a fierce advocate of the Middle East peace process, I want to commend President Clinton, Secretary Albright, Ambassador Ross and Assistant Secretary Indyk for their ongoing efforts to preserve, and even reinvigorate, the stalled peace process. I was encouraged to read this morning that President Clinton has asked Secretary Albright to forgo the G–7 meeting in Germany in order to meet with Prime Minister Netanyahu while he is here this week in the United States.

While they have come under fire recently, as a Member of the Foreign Relations Committee who has for years followed closely the peace process, I believe they should be supported in their efforts to help forge a just and lasting peace for the region by helping the parties to move forward urgently on the Israeli-Palestinian track.

About a month ago 81 Senators joined in a letter to President Clinton expressing concern about the Administration's ideas for the next phase of redeployment being made public, about certain of Israel's security concerns, and about final status talks. I did not sign that letter, in part because I believe the Administration should be commended, not criticized, for sticking with this process at a critical time, and for its willingness to press for Israel's legitimate security concerns while recognizing the legitimate claims of the Palestinians.

I have watched with growing concern over the past week or so as some critics of the Administration's policy toward Israel here in Congress have launched fierce, often partisan, attacks on that policy. The Speaker, late last week, was even quoted as saying, in a press conference in which he criticized the Administration's recent handling of the peace process, that "America's strong-arm tactics would send a clear signal to the supporters of terrorism that their murderous actions are an effective tool in forcing concessions from Israel."

That is, simply put, Mr. President, a scandalous and demagogic accusation to level at the President, who has been engaged for over a year, along with his senior foreign policy advisors, in a vigorous effort to bring the two sides together at a critical time in the peace process, and to help bridge the gaps that exist between them by offering constructive, creative ideas for each to consider. I understand that this proposal was crafted over many months, and was designed to address many of the Israeli government's most pressing security concerns and to meet many of its criteria for evaluating real progress on these issues.

The President has repeatedly made clear that he is not trying to impose a solution on the parties, nor could he. And that he is not issuing ultimatums to anyone—as further evidenced by his willingness to have Secretary Albright reach out again to Mr. Netanyahu this week. After months of on-and-off negotiations, with U.S. envoys shuttling back and forth among the parties, the major points of disagreement have become clear, and President Clinton is now simply offering ideas for them to consider—an approach consistent with America's role at virtually every other critical point in the Middle East peace process over the years. At Camp David, in Madrid, and at subsequent major negotiations, American attempts to bridge the gaps between the parties have played a critical role in reaching final agreement. I have talked with senior American officials involved in the discussions, and remain hopeful that a final agreement will soon be reached. The parties must not miss this key opportunity to move forward in the peace process.

Over the weekend Mr. Netanyahu rejected the Administration's offer, which Mr. Arafat had accepted, to come to Washington this week for a summit to agree on terms for a further withdrawal from the West Bank, and to agree to accelerate final status talks provided for in the Oslo Agreement. I understand from news reports that alternative proposals are now being considered by the Israeli government for a 13 percent withdrawal which could happen in two stages—a substantial withdrawal immediately, followed by an additional 2–4 percent withdrawal once Mr. Arafat makes good on certain tough new security commitments he has reportedly agreed to make as a part of the overall agreement.

I understand these new arrangements include the kind of strong new Palestinian commitments to fight terrorism which the Israeli government has long been seeking, strengthening the terms of the Memorandum of Understanding negotiated at the end of last year, and providing for a test period before this phase of withdrawal is completed. That is a major victory for Israel, and should help to address legitimate Israeli concerns about the Palestinian Authority's commitment to fighting terrorism.

Now I am not an expert, and I acknowledge that I do not know all the details of the various land parcels that are being discussed. But it is clear that on the issue of land, some progress is possible. Let us not forget that the Palestinians had originally sought a 30 percent withdrawal from the West Bank, as the first in a 3-phase withdrawal to which Israel agreed—though the timing and extent of each withdrawal were not explicitly established. So the Palestinians had sought a 30 percent withdrawal, the Israelis offered just under ten percent, and the Administration has been pressing for a compromise of 13 percent. Mr. Netanyahu has reportedly now privately agreed to a withdrawal of about 11 percent.

I understand that Mr. Arafat has also agreed, as a condition for attending a Washington summit meeting with President Clinton and Mr. Arafat, to allow the next redeployment to be considered alongside final status talks, by a joint Palestinian-Israeli Committee, operating on a parallel track. The American proposal also reportedly contemplates greater flexibility on the Oslo timetable, which had been set to conclude by May 4, 1999. Each of these changes would be significant achievements for Israeli negotiators.

Let me make four points about this situation, Mr. President. First, despite all of the recent (frequently partisan) criticism of the Administration, recent polls both here and in Israel show substantial support for further progress in the peace process. And this includes polls of Jewish Americans, of which I am proud to be one. Indeed, I read about a poll last week which noted that a substantial majority of Jewish Americans polled agreed that the U.S. in this process was doing just what we should be doing—offering ideas, facilitating discussions, working with the parties on alternative formulations which could meet all of their legitimate security and other interests.

Second, let me remind my colleagues, especially those who have offered such fierce criticism of the Administration's efforts in recent days, of the need for a sense of proportion. Let me point out that the Administration is not threatening, as the Bush Administration did with settlement assistance, to cut off any kind of aid to Israel in this dispute. It is simply playing the role mediators should play in offering creative ideas, and allowing the parties to make their own decision about whether those ideas are acceptable to them.

Third, let me commend the Administration on remaining engaged in the peace process, a process for which many Israelis—including most recently Prime Minister Rabin—have given their lives. President Clinton has been a strong friend of Israel, and the Administration is right to press the parties to come to a final agreement, to offer solutions which can bridge gaps, to ensure that proposals are on the table from a neutral mediator which one side could perhaps not accept from their adversary, but could accept from a third party.

The administration has done so, I believe, because it knows that the success of these efforts is crucial to fulfilling longstanding American commitments to preserve the peace process, ensure Israel's security, enhance regional stability, and protect U.S. interests in the Middle East. Most urgently, the President recognizes that without a peaceful permanent resolution of the Israeli-Palestinian conflict, Israel's security—clearly a vital U.S. interest—can never be guaranteed. Let us not forget one thing in all of this, Mr. President: peace is the ultimate guarantor of Israel's security.

Finally, let me ask my colleagues to contemplate what could happen if the Administration did not press to preserve this process, and it collapsed—as it almost surely would without such intervention. An alternative scenario, with the peace process in a shambles—an escalation in terrorist attacks, Israel facing newly hostile Arab neighbors on all sides, and increased pressure from the Arab street for violent action against her—is frightening to consider.

Some here in Washington act as if the Israeli-Palestinian stalemate of the past fifteen months does not pose dangers for all sides. I think they are wrong. It poses very grave dangers to Israel, to the Palestinians, and to the whole region. That's why the President's approach of urging the parties to uphold their commitments, facilitating ongoing contacts and negotiations, helping each side understand the other's legitimate security and other needs, and presenting creative ideas intended to help bridge gaps between the parties, makes sense.

Senator FEINSTEIN observed on the floor last week that the Administration's attempts to facilitate an agreement between the parties efforts were "principled, worthy efforts . . . grounded in a deep commitment to Israel's security." I agree with that assessment, and join her, Senator LAUTENBERG, and others in calling for restraint by my colleagues who have unfairly criticized the Administration during this difficult and sensitive time in the peace process. Of course, offering principled, thoughtful critiques of Administration foreign policy-making is a legitimate role of Congress, an important aspect of our system of checks and balances. But it is a right accompanied by a responsibility to be fair and informed.

Mr. President, the recent crisis in the peace negotiations coincides with Israel's celebration of her 50-year jubilee, an occasion of great joy for all of us who love Israel. With the founding of modern Israel, the Children of Abraham and Sara, survivors of over 2000 years of persecution and exile, were home at last and free at last. But Israel's founder David Ben-Gurion's dream, and that of his allies, was not simply to provide a safe haven from centuries of Jewish suffering. It was also about fulfilling Isaiah's prophecy of making Israel "a light unto the nations," a powerful sign and symbol of justice and compassion to all peoples of the world.

Although it's fitting that we pause this year to celebrate all that the people of Israel have accomplished over these past 50 years, we must also look forward to the tasks which face her in the next millennium, chief among them the task of building a just, secure and lasting peace. It is my deepest prayer that our children and grandchildren, fifty years from this year, will be able to say with gratitude that we were the generation which overcame ancient hatreds, and enabled them to achieve a just and lasting peace which has by then embraced the entire region and all its peoples. That is a vision worthy of Israel's founder, and of all those who come after. It is a vision for which we should and must be willing to struggle, to fight for, for which all must continue to take risks.

Prime Minister Netanyahu is coming to the U.S. this week, and will be meeting with Secretary Albright. I have heard from sources both in the Administration and in Israel that the Israeli government is actually close to reaching internal agreement on a variation of the Administration's proposed plan. I hope that is true, and that all the parties will reassess their positions in light of recent developments, and agree this week to take one more important step toward resolving this longstanding and bitter dispute, thereby helping to forge a just and lasting peace for the region worthy of Israel's founders' dream.●

CREDIT UNION MEMBERSHIP

● Mr. ABRAHAM. Mr. President, I rise to support legislation protecting the 70 million Americans who belong to credit unions from being stripped of their financial security and to allow tens of millions of others, who currently are denied access to a credit union, to become members.

One of the most important financial assets our country has, Mr. President, is our extensive system of not-for-profit, community-based credit unions. Credit unions provide unique and valuable services to members, most of whom work for small businesses. Credit unions offer their members lower costs, higher returns, lower loan rates and greater convenience. They nonetheless provide important benefits to their members and crucial competition in the financial services marketplace.

But credit unions have been put in significant danger by a recent Supreme Court decision. That Court ruled that attempts by the National Credit Union Administration during the Reagan Administration to more broadly interpret the 1982 "common bond" requirement for membership are beyond the scope of original intent.

The Court's interpretation of this requirement could result in over 10 million Americans being forced out of their credit unions. It also means that small businesses with fewer than 500 employees—the engine of economic growth in this country—are barred from offering credit union memberships to their employees.

Clearly, in the wake of the Court's ruling, the laws pertaining to credit union membership must be modified. Credit Unions have a proud history of providing important benefits without cost to either businesses or taxpayers. In Michigan alone 4 million people avail themselves of these benefits, and they should be protected against unfair limitations on credit union membership. What is more, the growth of credit unions in America has coincided with a significant expansion of earnings for community bankers, another crucial financial services asset for our people and our economy. As reported by the ABA Banking Journal's Annual Community Banking Earnings Report, the vast majority of community bankers believe that earnings will continue expanding, seeing no threat from credit union expansion.

There is no reason, in my view, to see credit union expansion as anything but a significant benefit for our people and our economy. That is why I am supporting legislation authored by Senator D'AMATO, modelled after H.R. 1151, legislation that already has passed the House. This legislation will grant credit unions authority to add Select Employee Groups of 3,000 or less to their membership.

This legislation also sets a moderate cap on commercial loans in the interest of fairness and consensus. In my opinion, such a requirement was necessary to respond to some of the concerns raised in response to extended membership.

The critical issue, Mr. President, is whether we are going to allow credit unions to continue to provide important services at reasonable cost to a vast and growing number of Americans, or impose new regulatory burdens on one of our economy's most important assets. I believe it is crucial that we save credit unions from undue limitations, and that this legislation will achieve that goal without harming any other industry. I urge my colleagues to support this legislation.•

FIFTH CLASS OF INDUCTEES INTO THE CONNECTICUT WOMEN'S HALL OF FAME

• Mr. DODD. Mr. President, I rise today to congratulate the fifth class of inductees into the Connecticut Women's Hall of Fame. These 5 women gained recognition in fields of nature, justice, the arts, and finance and represent the best of my state and of our nation.

I want to take this opportunity to speak about each of this year's inductees.

Dorrit Hoffleit, a resident of New Haven, Connecticut, has established herself as a premiere astronomer through her work as senior researcher at Yale University. For over seventy years she has studied astronomy and has received an undergraduate degree from Radcliffe in mathematics and a doctorate from Harvard. Her interest in stars began early in her childhood when she saw two stars collide.

During World War II, Professor Hoffleit worked as a mathematician at the Ballistic Research Laboratories at the Aberdeen Proving Ground in Maryland. It is here that she felt the effects of being a female in a male-dominated field. She was paid less for doing the same work as her male colleagues. In fact, despite her doctorate she still received a sub-professional ranking. However, she protested this treatment and as a result was given her due rank and ultimately transferred to Washington.

In 1956, she went on to direct the Maria Mitchell Observatory in Nantucket, Mass. Her work there helped to provide women with more substantial opportunities in astronomy. An indication of her success is that twenty-five percent of the students who worked with Professor Hoffleit have gone on to become professional astronomers.

As a member of the Yale research faculty, Professor Hoffleit has made immense academic contributions to her field. She is most renowned for her two star catalogs. Her most well known catalog, The Bright Star Catalogue, has been defined as "the bible of virtually every stellar astronomer."

Despite retiring from Yale over twenty years ago, Professor Hoffleit continues to go to work every day. In these past twenty years, she has not drawn a salary. She is dedicated to educating her colleagues and future astronomers, rather than promoting herself and her career. As a result of her profound selflessness and service, the effects of her efforts will be as limitless as the stars she has spent a lifetime studying.

A second inductee is Judge Constance Baker Motley. Born in New Haven, Connecticut, Judge Motley first became interested in civil rights after being denied admission into a local public beach and skating rink.

After graduating from high school, she was unable to afford college, so she worked for $50 a month refinishing furniture. She continued to be active and to voice her beliefs, despite her inability to further her education. A local philanthropist, Clarence Blakeslee, heard her speak at the Youth Council in 1939, and he was so impressed with her that he offered to pay for her education. She graduated from New York University in 1943, and three years later received her law degree from Columbia University.

After graduating from Columbia, she worked full time for the Legal Defense and Educational Fund of the NAACP, under then chief counsel Thurgood Marshall. She worked there for twenty years as a staff member and associate counsel and she was known for her impressive skill as an oral advocate. During her time at the Legal Defense and Educational Fund she argued before the Supreme Court ten times, winning nine appeals. She is renowned for her work with Thurgood Marshall and others on the landmark Brown versus Board of Education case.

Judge Motley entered politics in 1964, serving in the New York State Senate. In 1965 she became the first woman to serve as a City Borough President. During this time, she worked on ways to improve the inner-city through better housing and schools. In 1966, she became the first African-American woman to be appointed to a federal judgeship in the U.S. District Court for the Southern District of New York. As a federal judge she continued to break new ground. In 1982 she was made chief judge and in 1986 was appointed senior judge. Neither position had ever been held by a woman before her.

Judge Motley's work for justice over five decades has been responsible for some of the most extraordinary changes in American culture during our history. She has received many awards and honorary degrees for her immense contributions to civil rights and the legal profession.

A third inductee is Rosa Ponselle. Born Rosa Melba Ponzillo, she was a first generation American, the daughter of Italian immigrants who settled in Meriden, Connecticut. She began studying music and singing at age ten. Her musical break came at eighteen when she auditioned for the great opera legend, Enrico Caruso. Immediately after auditioning, she was cast in the role of Leonora in the Metropolitan Opera's staging of Verdi's "La Forza del Destino." She remained loyal to the Metropolitan throughout her career, and she spent all but four seasons of her nineteen-year career performing there. In fact, she was the first American-trained singer to star at the Metropolitan.

Ms. Ponselle shocked the opera world when she retired in 1937. She dedicated the remaining forty-four years of her life to helping train and teach aspiring young operatic youths. One of her most notable students was Placido Domingo. She also served as the artistic director of the Baltimore Civic Opera Company. She died in Baltimore in May 1991.

Her voice was said to exude a blend of youthfulness and maturity and she remains an inspiration to opera students and audiences worldwide.

Lillian Vernon, another inductee, is a resident of Greenwich, Connecticut. She is the founder and CEO of Lillian Vernon Corporation. She entered the industry of mail order catalogues in the 1950's when it was dominated by industry moguls such as Richard Sears and A. Montgomery Ward. The company, which began in 1951, was one of the first to offer personalized merchandise by mail. The corporation was the first company founded by a woman to be publicly traded on the American Stock Exchange.

Ms. Vernon also does a great deal of charity work. She serves on the boards of various non-profit organizations, including the Kennedy Center, Lincoln Center, New York University's College of Arts and Science, and the Children's Museum. She has been honored for her work as a business leader and community activist. She received the Ellis Island Medal of Honor, the Big Brothers-Big Sisters National Hero Award, and the Direct Marketing Hall of Fame Award. Ms. Vernon is a remarkable entrepreneur, businesswoman, and role model.

The final inductee is Mabel Osgood Wright. She was a resident of Fairfield, Connecticut and was the founder and President of the Connecticut Audubon Society. Wright established the first bird sanctuary in the United States, naming it Birdcraft. She founded the sanctuary around the turn of the century, fearing that bird life was being gradually eradicated.

Wright saw conservation education as a key element to sustaining wildlife. She wrote many books in an effort to introduce children to nature appreciation and conservation. She published a field guide to New England birds in 1895. During this time, the Audubon movement was still young and was lacking public support. Through her involvement she helped to revive the organization on the state level. Aside from serving as President of the Connecticut Audubon Society, she served as an officer of the national group and as an editor and writer for Bird Lore magazine.

It is said that Wright was unique in the environmental movement. This is because she was a nature writer as well as a community leader and her message focused not on the protection of our national parks but the preservation of our backyards, our gardens, and our bird sanctuaries. She believed the best way to preserve nature was through teaching children how to do it.

Although she died in 1935, her message lives on at the Birdcraft Bird Sanctuary which remains a museum containing exhibits of Connecticut wildlife and providing frequent tours for school children.

All five of these inductees are richly deserving of this award. I am pleased, indeed, that their remarkable lives will now become better known to the people of Connecticut and the United States for generations to come.•

VETERANS' EQUALITY FOR TREATMENT AND SERVICES ACT OF 1998

• Mr. SPECTER. Mr. President, as Chairman of the Veterans' Affairs Committee, I have sought recognition to express my support for the Medicare subvention demonstration project legislation which has been introduced by Senator JEFFORDS. This important legislation was approved by the Senate last year as part of the Balanced Budget Act, but the measure was stricken from the final version of that legislation in conference. I hope that this year, the House will recede from its objections, and we can send this legislation, which is supported by the Administration, to the President for his signature.

This bill would begin the process of opening a new—and vitally needed—source of funding for the provision of health care services by the Department of Veterans Affairs (VA). It would grant to VA, on a demonstration project basis, the authority to collect and retain funds from Medicare—just as VA collects reimbursement funds from veterans' private insurance carriers—for the costs associated with treating Medicare-eligible veterans' non-service-connected illnesses and injuries.

The Balanced Budget Act specifies that appropriated funding for the provision of health care services by VA will be flat over the next five fiscal years. At the same time, 7.7 million World War II veterans and 4.5 million Korean War veterans—veterans who are eligible for Medicare benefits—will require extensive heath care assistance as they age. It is critical that these veterans be allowed to bring their Medicare benefits to VA so that VA might be better able to meet their needs.

This legislation will surely assist VA by providing a new revenue stream. But it will also benefit Medicare. Under the plan set out in this legislation, VA would be reimbursed at a level not to exceed 95% of the rate Medicare would otherwise pay a private hospital for care supplied to a Medicare-eligible veterans. In summary, under this legislation Medicare would receive care for its veteran beneficiaries at a discount, and VA would receive a vitally needed new source of funding.

Medicare subvention legislation is supported by all of the members of the Veterans Affairs Committee. It is supported by the Administration. All of the major veterans' service organizations have urged enactment of this legislation. And, as I previously noted, the Senate approved this legislation last year as part of the Senate-approved Balanced Budget Act.

I am pleased to add my name to this bill as a cosponsor, and I urge my colleagues to support this legislation.•

RECOGNITION OF DR. LOUIS AVIOLI

• Mr. BOND. Mr. President, on May 19, an endowed lectureship, at Washington University in my home State of Missouri, will be named in honor of Louis Avioli, M.D., for his contribution to the field of bone and mineral metabolism. Washington University and St. Louis University employ the largest group of bone research scientists in the world. Dr. Avioli is known as a legend in this field and for good reason.

Dr. Avioli is the founder of the American Society for Bone and Mineral Research (ASBMR), and is responsible for individually combining the growing research interests beginning from a large range of disciplines into what is now the top scientific society devoted to bone and mineral research. The membership of ASBMR has grown to more than 3,000 scientists and more than 5,000 attend the annual convention. Dr. Avioli has been appointed to numerous positions, been published countless times and has several honorary degrees.

With so many impressive accomplishments, it is no wonder an endowed lectureship is named in his honor. Commending Dr. Avioli for his many years of service to the field of bone and mineral metabolism, I am glad to say that the State of Missouri is enriched with his wisdom and leadership. I join the many who congratulate and thank him for his hard work and wish him continued success in future years.•

VETERANS' EQUALITY FOR TREATMENT AND SERVICES (VETS) ACT OF 1998

• Mr. HOLLINGS. Mr. President, as a supporter of the Veterans' Equality for Treatment and Services Act of 1998, introduced last Friday by Senator JEFFORDS on behalf of myself, Senator ROCKEFELLER, Senator SPECTER, and Senator MURKOWSKI, I am committed to ensuring that our aging veterans have access to quality, affordable, reliable, and convenient health services.

However, as budgets decrease so, unfortunately, do services provided. The demonstration project outlined in the VETS Act of 1998 will allow Medicare to reimburse the VA for its services without putting a strain on the Medicare trust, and will provide an additional funding source for the VA. The project authorized by this legislation will be conducted over a three-year period, at up to 12 sites across the nation, and annual Medicare spending will be capped. Safeguards will also be imposed to ensure the cap is not exceeded. This bill may even save Medicare dollars by imposing a mandatory five percent discount on its reimbursement for services provided to veterans.

Those targeted by this legislation are lower- and middle-income veterans who are no longer eligible for treatment at the VA because of its constrained resources. People like Mr. John C. Elkins, of Columbia, South Carolina, who is in his late seventies and who served over 28 years in the military. Recently, Mr. Elkins wrote this in a letter to me: "Oh, I know some think we hang on to life and drain government resources that are being paid for by the younger workers. But I must ask you and those who question us: isn't three wars in a lifetime worth something?"

The veterans of our nation have served honorably and faithfully, often under perilous conditions, and they have sacrificed both with the loss of their lives and with their livelihoods. Thousands of veterans have experienced any number of health care problems. These veterans should have the same access to health care as all other Americans and, quite frankly, Mr. President, they deserve more for the sacrifices they have made.

Mr. President, you will remember what my good friend, the late President John F. Kennedy said in his inaugural address: "Ask not what your country can do for you. Ask what you can do for your country." The men and women of the armed services, our veterans, did just that. They answered their country's call to duty, and in response they were often put in harm's way. They served 24 hours a day, seven days a week, all around the world. They continue to support and defend our nation's interests, and I believe it is time our nation supported their interests.

I urge my distinguished colleagues to join Senators JEFFORDS, ROCKEFELLER, SPECTER, MURKOWSKI, and me in supporting the VETS Act of 1998. It is among the very least that we in Congress can do to continue our support for these veterans, like Mr. Elkins, who have given so much to this country, while at the same time helping to preserve the VA medical system and the Medicare trust.●

RECOGNITION OF CFIDS AWARENESS DAY

● Mr. SANTORUM. Mr. President, I rise today to reaffirm my support for the tireless efforts of the Chronic Fatigue Syndrome Association of Lehigh Valley to fight Chronic Fatigue and Immune Dysfunction Syndrome (CFIDS), or Chronic Fatigue Syndrome (CFS).

For six years, the CFS Association of Lehigh Valley has been dedicated to finding a cure for CFIDS, increasing public awareness, and supporting victims of this disease. The Lehigh Valley organization is actively involved in CFS-related research. In addition, they regularly participate in seminars to train health care professionals. Public education is an essential aspect of the association's mission. Likewise, the Lehigh Valley organization raises public awareness through the International CFIDS Awareness Day, which is held on May 12 each year. I would also note that the CFS Association of Lehigh Valley received the CFIDS Support Network Action Award in both 1995 and 1996 for their initiatives in public advocacy.

Although researchers have made some advances in the study of this condition, CFIDS remains a mysterious illness. Presently, there is no known cause or cure. Victims experience a wide range of symptoms including extreme fatigue, fever, muscle and joint pain, cognitive and neurological problems, tender lymph nodes, nausea, and vertigo. Recently, the Centers for Disease Control gave CFIDS "Priority 1" status in the new infectious disease category, which also includes cholera, malaria, hepatitis C and tuberculosis. Until this disease is obliterated, the CFS Association of Lehigh Valley will continue its research and education campaigns.

Mr. President, I urge my colleagues to join me in commending the Lehigh Valley organization and in supporting the following proclamation:

PROCLAMATION

Whereas, the Chronic Fatigue Syndrome (CFS) Association of the Lehigh Valley joined the Chronic Fatigue and Immune Dysfunction Syndrome (CFIDS) Association of America, the world's largest organization dedicated to conquering CFIDS, in observing May 12, 1998 as International Chronic Fatigue and Immune Dysfunction Syndrome Awareness Day; and

Whereas, the Chronic Fatigue Syndrome Association of the Lehigh Valley, a member of the Support Network of the CFIDS Association of America, is celebrating their sixth year of service to the community; and

Whereas, CFIDS is a complex illness which is characterized by neurological, rheumatological and immunological problems, incapacitating fatigue, and numerous other symptoms that can persist for months or years and can be severely debilitating; and

Whereas, estimates suggest that hundreds of thousands of American adults already have CFIDS; and

Whereas, the medical community and the general public should receive more information and develop a greater awareness of the problems associated with CFIDS. While much has been done at the national, state, and local levels, more must be done to support patients and their families; and

Whereas, research has been strengthened by the efforts of the Centers for Disease Control, the National Institutes of Health, and other private institutions, the CFS Association of the Lehigh Valley recognizes that much more must be done to encourage further research so that the mission of conquering CFIDS and related disorders can be achieved;

Therefore, the United States Senate commends the designation of May 12, 1998 as CFIDS Awareness Day and applauds the efforts of those battling the illness.

I appreciate the Senate's consideration of this issue, and I thank my colleagues for their attention.●

TRIBUTE TO DEBORAH MILLER

● Mr. LAUTENBERG. Mr. President, I am pleased to extend my congratulations to Deborah Miller on her 14 years of outstanding service to the Solomon Schecter Day School of Raritan Valley in East Brunswick, NJ, where she currently serves as Director. Deborah has decided to leave the school to pursue her own education, and I want to wish her continued success in her future endeavors.

While I'm sure that everyone at Solomon Schecter is saddened by Deborah's departure, her eagerness to earn a Ph.D. in Jewish Education at the Jewish Theological Seminary is a fitting next step in Deborah's already distinguished academic career. After finishing her undergraduate work at Barnard College, Deborah went on to earn a Masters in Jewish Education and a Day School Principals Certificate from the Jewish Theological Seminary of America.

Deborah has been a devoted educator and administrator during her many years teaching. Since her arrival at Solomon Schecter Day School 14 years ago, Deborah has done everything to develop the school and make it a complete success.

While Deborah has served as Director, the school has been nationally recognized for its excellence in education. It is particularly well known for its integration of Jewish and General Studies curricula and its "immersion" Jewish Studies courses in Hebrew. The school has also grown in size during Deborah's tenure. It originally taught students in pre-kindergarten through 6th grade. Now the school teaches 7th and 8th graders as well. When Deborah started, there were 180 students enrolled. Now there are 315.

As if Deborah didn't have enough to keep her busy, her extracurricular activities are equally impressive. Outside of Solomon Schecter, Deborah teaches Jewish Studies to adults in neighboring educational facilities and synagogues. She also happens to be a well-known author of children's fiction. She currently has written five books for children about Judaism. Her style is clever and fun-loving, and her books are enjoyed by all ages as a result.

Deborah's departure from Solomon Schecter Day School may be bittersweet, but she has a great deal to look forward to as she continues to learn about Jewish literature, history and the Torah. The lucky ones are not only those who have known her at Solomon Schecter, but those students who will have the privilege of being in Deborah's classroom when she returns to teaching full time.●

RECOGNITION OF DR. INEZ KAISER

● Mr. BOND. Mr. President, I rise to pay tribute to Dr. Inez Kaiser for being named 1997 National Minority Advocate of the Year. She received this prestigious award from the United States Department of Commerce's Minority in Business Development Agency (MBDA). Dr. Kaiser is president of Inez Kaiser & Associates, Inc., the oldest African-American female-owned public relations firm in the United States.

Dr. Kaiser was chosen for the award based on her forty+ years of advocacy on behalf of minority business development. In addition to her untiring efforts to expand minority roles in the business industry, she was a consultant and advisor to former Presidents Nixon and Ford on minority women's business issues and organized the first nationwide conference of Women in Business for the United States Department of Commerce. Over the years she has strived to help other minority businesses by identifying their problems and offering advice on how to address those problems. Being the only African-American female in the National Hall of Fame of Women in Public Relations, she is also the president of the National Association of Minority Women in Business.

Dr. Kaiser has set a positive example for minority business people everywhere and it is a pleasure to see her impressive accomplishments receive the recognition they deserve. My home State of Missouri is extremely fortunate to have such a shining example of success and hard work. I wish her continued prosperity and achievement in the coming years.•

PRESIDENT OF SUNY FARMINGDALE CELEBRATES TWENTY YEARS

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to Dr. Frank A. Cipriani, whose long and outstanding career as president of SUNY Farmingdale will be celebrated with much pomp on Wednesday, May 20, 1998.

Dr. Cipriani's outstanding qualities of enlightened leadership and innovation brought unprecedented success to SUNY Farmingdale. Dr. Cipriani took the school from a two year agrarian institution to a four-year college, one of the largest of the nine Colleges of Technology in the New York State University system.

His great success is readily visible on the SUNY Farmingdale Campus. Mr. Cipriani's other associations and affiliations are not as well known but are worthy of commendation. They include: Team Chairman for the Middle States Association of Colleges and Schools Evaluation; Chairman of the Board, Regional Industrial Technical Education; Member, New York Statewide Job Training Partnership Council; Member, New York State Education Department's Advisory Council on Postsecondary Education; just to name a few of the associations and affiliations that demonstrate the special concern that Dr. Cipriani has for education.

Born in New York of immigrant parents, Dr. Cipriani has been a New Yorker all of his life, with the exception of a stint in the United States Air Force. He attended PS 14 in Corona, Queens, and Brooklyn Technical High School, and holds the A.B. degree from Queens College and the M.A. and Ph.D. Degrees from New York University.

Dr. Cipriani was an officer in the United States Air Force who achieved the rank of Captain and the rating of Navigator-Flight Instructor before receiving an honorable discharge. As a member of the American Society of Safety Engineers, he pursued his graduate studies while employed in the Engineering Department of an international insurance company. He speaks Italian and French fluently, and has been a strong advocate of international education and a strong supporter of a humanities component in technical education curricula.

Dr. Cipriani is married to Judith M. Pellathy and has four children—Maria, Frank, Michael and Dominique.

His accomplishments are varied and great and we might say that Dr. Frank A. Cipriani is the salt of the earth. He has done much for SUNY Farmingdale and for the state of New York. It is no wonder that such a fine celebration is being prepared to commemorate his twenty years of service to such a fine institution. Frank, I salute you and wish you much health and happiness in the days to come.•

"WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION"

• Mr. McCONNELL. Mr. President, last week, more than 1200 students from across the nation came to Washington, D.C. to compete in the national finals of the "We the People . . . The Citizen and the Constitution" program. I am proud to announce that the competing class for Kentucky represented Louisville Male High School. These young scholars worked diligently to reach the national finals by winning local competitions in the Commonwealth.

The distinguished members of the class who represented Kentucky were: Angela Adams, Perry Bacon, Katherine Breeding, Will Carle, Eric Coatley, Courtney Coffee, Brian Davis, Mary Fleming, Matt Gilbert, Amanda Holloway, Holly Jessie, Heath Lambert, Gwen Malone, Kristy Martin, Brian Palmer, Lauren Reynolds, Shane Skoner, LaVonda Willis, Bryan Wilson, Darreshia Wilson, Beth Wilson, Janelle Winfree, Treva Winlock, Jodie Zeller.

I would also like to recognize their teacher, Sandy Hoover, who deserves much of the credit for the success of the class. The state coordinators, Deborah Williamson and Jennifer Van Hoose, and the district coordinator, Dianne Meredith, also contributed a significant amount of time and effort to help the class reach the national finals.

The "We the People . . . the Citizen and the Constitution" program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three-day national competition simulates a congressional hearing whereby students are given the opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary constitutional issues. The simulated congressional hearing consists of oral presentations by the students before panels of adult judges.

Administered by the Center for Civic Education, the "We the People . . ." program has provided curricular materials at upper elementary, middle, and high school levels for more than 75,000 teachers and 24 million students nationwide. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers.

The "We the People . . ." program is designed to help students achieve a reasoned commitment to the fundamental values and principles that bind Americans together as a people. The program also fosters civic dispositions or traits of public and private character conducive to effective and responsible participation in politics and government.

I want to commend these constitutional experts on their academic achievements as participants in the "We the People . . ." program and commend them for their great achievement in reaching the national finals.•

NEXT GENERATION INTERNET

• Mr. FRIST. Mr. President, I rise today in support of S. 1609, the "Next Generation Internet Research Act of 1998." This legislation funds six agencies that are involved in creating advanced computer networking technology that will make tomorrow's Internet faster, more versatile, more affordable, and more accessible than today. The Next Generation Internet (NGI) is an advanced research program which fosters partnerships among academia, industry, and Federal laboratories to develop and experiment with technologies that will enable more powerful, flexible information networks in the 21st century. The overall objective of the program is to perform fundamental research in technologies that will accelerate the development of a high-speed, high-quality network infrastructure to support revolutionary applications.

The Internet is a prototypical success story. There are in fact, multiple dimensions to its success. It was a successful public-private collaboration. It demonstrated successful commercial application of technology developed as part of a mission-directed research program. It exhibited a successful transition of an operational system from the public to the private sector. And most importantly, it is a prime example of a successful Federal investment.

In some respects the Internet is now "suffering" from too much success. We are currently constrained by the capacity and capabilities of today's Internet technologies, which were not designed for either the scale or mode of its current use. Even though new applications and dramatic private investment have increased the Internet's abilities, technological bottlenecks have sprung up throughout the system.

The Next Generation Internet comes at a crucial juncture in the development of the nation's information infrastructure. During the period of NGI-sponsored research, the telecommunications backbone of the US will likely undergo a dramatic transition in which the levels of packet-based traffic will surpass that of conventional telephone traffic. The speed and degree of the impending transition is indicative of the urgency with which the NGI goals must be pursued and the results of that research transition to the commercial sector.

Recently, I had a first-hand look at some of these advanced applications. Highway 1, a non-profit organization established to educate Members of Congress and their staffs about the Internet and associated technical developments, showcased several remarkable projects. As a physician, I was intrigued by the virtual reality "Immersion Desk" collaboration demonstration. Using special glasses, I was able to take a guided tour of the human ear, observing its structure in three dimensions, and able to interact with the guided and the structure in "real time". It was immediately obvious to me the educational benefits that will evolve from putting similar devices into the hands of our nation's teachers and students. Sophisticated applications, such as the ones I witnessed at Highway 1, place heavy technical demands upon the network. However, until the Internet's infrastructure limitations have been overcome, these applications will remain outside the reach of those who benefit the most.

Some of the limitations that now impede advanced applications can be mastered through a straightforward application of the existing technology, but there is an entire class of problems that requires new approaches. I believe that our nation's research and development enterprise hold the key. The Next Generation Internet program will provide grants to our universities and national laboratories to perform the research that will surmount these technical challenges and create the technology that will energize the Internet of tomorrow.

Mr. President, I believe that passage of this legislation will continue the tradition of prudent and successful investment in science and technology. The Next Generation Internet Research Act will help ensure that the Internet reaches its maximum potential to provide greater education and economic benefits to the country.●

ORDER OF BUSINESS

Mr. McCAIN. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair.

(The remarks of Mrs. FEINSTEIN and Mr. BROWNBACK pertaining to the submission of S. Res. 227 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. BROWNBACK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

SKILLED WORKERS IMMIGRATION BILL

Mr. McCAIN. Mr. President, I had intended to propound a unanimous consent agreement concerning S. 1723, the skilled workers immigration bill, which Senator ABRAHAM has worked on for at least a year and a half that I know of, and worked very hard. There are still some objections. I do not think those objections are major on the other side of the aisle. And since those objections would be voiced, I will not propound that unanimous consent request at this time.

I hope we can work with the other side of the aisle so that there can be an agreement on relevant amendments and we can move forward on this issue. It is a very, very important issue, as Senator ABRAHAM pointed out earlier today. We have now reached our quota of H–1B workers for the year. Our high-tech industries need workers. And this modest proposal, although an important one, would simply raise that limit by at least enough to get these high-tech industries through this year.

I understand the concerns on the other side of the aisle about this bill, and yet I believe that we could address those through the amending process. So it would be our intention tomorrow to try and work out any concerns there might be and move forward tomorrow with the legislation.

Mr. President, as soon as the staff is ready, it will be my intention to move to adjourn.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING THE PRINTING OF A DOCUMENT ENTITLED "WASHINGTON'S FAREWELL ADDRESS"

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 228, submitted earlier today by Senators WARNER and FORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 228) to authorize the printing of a document entitled "Washington's Farewell Address."

The Senate proceeded to consider the resolution.

Mr. McCAIN. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The resolution (S. Res. 228) was agreed to as follows:

S. RES. 228

Resolved, That the booklet entitled, "Washington's Farewell Address", prepared by the Senate Historical Office under the direction of the Secretary of the Senate, be printed as a Senate document.

SEC. 2. The Senate document described in Section 1 shall include illustrations and shall be in the style, form, manner, and printing as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed 600 additional copies of the document specified in Sec. 1 for the use of the Secretary of the Senate.

COMMEMORATING THE 150TH ANNIVERSARY OF THE ESTABLISHMENT OF THE CHICAGO BOARD OF TRADE

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 229 introduced earlier today by Senators MOSELEY-BRAUN and DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 229) commemorating the 150th anniversary of the establishment of the Chicago Board of Trade.

The Senate proceeded to consider the resolution.

Ms. MOSELEY-BRAUN. Mr. President, this year, the Chicago Board of Trade is celebrating its 150th anniversary. Its an anniversary well worth celebrating, and not just in Chicago, but all across our country, because the vibrant, creative marketplace the Chicago Board of Trade created has meant a lot to all of us.

Whether we are in the food production and distribution system, or not; whether we participate in our nation's financial markets or not, we have all benefitted from the agricultural and financial marketplace the Chicago Board of Trade first established 150 years ago. Food prices in the United States are lower than they otherwise would be because of the Board of Trade. Interest rates on federal securities—and, therefore, all interest rates that are related to rates on Treasury securities—are lower than they otherwise would be because of the Chicago Board of Trade. The existence of this extremely efficient, vital marketplace has saved us all money, whether we have ever purchased a futures contract or not.

It is not by accident that this market is located in Chicago. Due to its central location, access to waterways and proximity to farmland, Chicago is the natural crossroads of commerce in the United States. Before the Board was created, however, problems of supply and demand, transportation, and storage created chaos in the agricultural marketplace. The solution was simple but ingenious. Eighty-two Chicago merchants came together to establish a price discovery mechanism to insure against volatile grains prices. The exchange began modestly—even giving a free lunch to guarantee the attendance of traders—but the concept caught on rapidly and spawned the global multibillion dollar futures industry we know today.

Belying its age, the Chicago Board of Trade remains energetic and eternally innovative. In the past ten years, the Board has introduced over 100 new products. Four years ago, the Board launched Project A, their global overnight electronic trading system, that has enjoyed tremendous success and will soon be expanded. This year, the Board of Trade will launch the Chicago Board Brokerage, a new electronic trading system for the trading of cash US Treasury securities.

The success of the Board of Trade has not only created huge benefits for our nation generally, it has also contributed enormously to the economy of Chicago. Chicago's two future exchanges have created over 150,000 jobs, and put over $10 billion each night in the city's banks.

Moreover, the Board has also made major aesthetic contributions to Chicago. In a city world-renowned for its architecture, the beautiful Board of Trade structure stands out as a major example of late Art Deco style—and one of Chicago's treasured landmarks.

The Chicago Board of Trade is a shining example of what a little ingenuity and Midwest common sense can accomplish. The resolution my good friend from Illinois, Senator DURBIN, and I are today introducing, congratulates the Board for 150 years of real accomplishment, and salutes the Board for demonstrating the kind of leadership that will ensure that their markets are as dynamic and useful to everyone involved in agricultural and our financial system—and to our economy generally—over the next 150 years. The Chicago Board of Trade richly deserves to be celebrated, and I urge all of my Colleagues to work with Senator DURBIN and I to ensure that this resolution receives prompt and favorable consideration by the Senate.

Mr. President, I ask unanimous consent that the editorials from the Chicago Tribune and Chicago Sun-Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Apr. 3, 1998]

CBOT LOOKS BACK AND FORWARD AT 150

As the City of Chicago grew up out of the prairie grasses and farmlands of the American Midwest in the latter half of the 19th Century, the Chicago Board of Trade grew with it. Some would say it was the other way around: The city grew as its status as a trade center grew. They wouldn't be wrong.

The first "skyscrapers" to dominate this particular landscape were giant grain silos, erected to hold the millions of bushels of grain pouring into the city from the west and south. The silos are long gone, but the Board of Trade, which celebrates its 150th anniversary this year, remains a vibrant center of commerce linking the buyers and sellers of the world.

Founded by 82 Chicago merchants in 1848, CBOT made its mark by revolutionizing how grain was stored and sold. It standardized a method of weighing and grading grains so that all grain of a particular grade could be stored together. The seller was given a receipt for the grain he brought in, and that receipt was sold to the buyer, who redeemed it for the stated amount and grade of grain.

Of course, it didn't take long for traders to figure out they could make a bundle if they contracted at this month's wheat prices to deliver a load of wheat next month—if the price of wheat were to drop next month. Then they could buy it at next month's low price and sell it for this month's higher price.

Thus was born the futures market, a centralized marketplace for sellers and buyers of grain that replaced the cumbersome method of exchanging specific loads of grain. From those origins have sprouted the world's largest futures exchange, now making markets in everything from soybeans to U.S. Treasury bonds to the Dow Jones industrial average.

Just as in the last century development of the railroads and telegraph helped CBOT reach beyond the Midwest, the modern Board of Trade is using cutting-edge technology to forge links with trading partners worldwide. In 1995, it became the first futures exchange to open a commercial service on the Internet, and since then it has established an electronic system for overnight trades.

This year CBOT has entered into a cooperative agreement with Eurex, its Swiss-German counterpart, and plans are in the works to add a partner in Asia. Eventually, traders on the after-hours electronic system will be able to access those international markets from a single screen.

That's a long way from a bunch of grain merchants exchanging slips of paper and shouting prices in a cloud of wheat dust. But a remnant of that history lives on even at the board's new multimillion-dollar trading floor, where "open outcry" trading still rules during normal trading hours.

It's a charming, chaotic anachronism—a link to the last century that cannot long endure into the next if the Chicago Board of Trade is to maintain its pre-eminent place in global commerce.

[From the Chicago Sun-Times, Apr. 3, 1998]

150 YEARS OF SUCCESS

What has been here as long as Chicago's first railroad? What arrived here with the first telegraph line and the digging of the Illinois and Michigan Canal?

What, despite its age, is so healthy and vital that it is one of the city's biggest economic engines, generating 150,000 jobs and producing $35 billion in bank deposits? And what is so uniquely successful that cities around the world are trying to copy it?

Obviously we are not talking about the Cubs or the White Sox. Not even the world famous Michael Jordan can claim this kind of impact. The answer is the Chicago Board of Trade, which today celebrates the 150th anniversary of its founding.

A far cry from the striking and historic edifice it now occupies at the foot of La Salle Street, the exchange began in 1848 when 83 grain merchants met in rooms over a Water Street flour shop to discuss a creative idea: How to protect themselves against the risks of ever-changing grain prices.

Their idea caught on as Chicago rapidly became an agricultural and shipping hub. Simply put, the exchange offered traders a chance to buy or sell grain for a certain price at a later date. For some, it offered the security of a hedge against troublesome price fluctuations; for others it offered a chance for lucrative profits.

It was pure Chicago—innovative, risky, boisterous, expansive, entrepreneurial and gritty. And it grew with the city, from a handful of corn, soybean and other grain contracts to imaginative trading in everything from precious metals, stock options and interest rate futures to pollution emission allowances and, most recently, the Dow Jones Industrial Average index. That growth and its impact on Chicago and the world are detailed in today's Business section on Page 58.

Its growth has not been without problems. The city's leadership in this form of "risk management" is threatened by copycats, such as markets in Britain and other countries where the freewheeling spirit that gave Chicago its start is alive and well and functioning without some questionable U.S. regulations. A 1995 London Business School study, for example, found that the cost of U.S. regulation is 57 percent higher than in Britain. Furthermore, the Chicago exchanges find themselves forever fending off proposals for new taxes and restrictions on futures and options.

No one should fool himself into thinking such restrictions would affect only a single, high-flying industry. Consider: While banking employment was declining nationally from 1986 to 1994, it grew 10 percent in Chicago. Thank Chicago's exchanges, such as the Board of Trade, whose huge volumes created the need for nearby banks, outfits from New York, Europe and Asia—72 foreign banks in all—with their high-paying jobs.

The Sun-Times, this year celebrating its 50th anniversary, can admire this kind of longevity, especially when it has meant for this community continuing prosperity and opportunity for so many. Congratulations, CBOT.

Mr. DURBIN. Mr. President, I rise today to pay tribute to the Chicago Board of Trade, the most influential marketplace for futures trading in the world, on the 150th anniversary of its establishment. I am pleased to join my colleague, Senator CAROL MOSELEY-BRAUN, in introducing a resolution commemorating this momentous occasion.

On April 3, 1848, 83 merchants who realized that the grain trade was growing rapidly, came together to form a marketplace for grains and livestock. Thus, the world's largest futures and options trading facility was born, bringing buyers and sellers from all walks of life together under one roof for the first time.

With the birth of the Chicago Board of Trade came a financial industry which has spread around the world over the last 150 years. The Chicago Board of Trade has been a vital part of Chicago since the first railroad, telegraph lines, and the digging of the Illinois and Michigan Canal. The Board has weathered through a Civil War, the great Chicago fire, The Great Depression, World War I and II, and countless other struggles.

The Chicago Board of Trade is a powerful economic engine that generates 150,000 jobs throughout the Chicagoland area and also produces $35 billion in bank deposits each year. Over the years, the Chicago Board of Trade has grown beyond grain and livestock, and has branched out into soybean futures, corn options, and wheat options. Last year, the Chicago Board of Trade set the record for the trading of soybean futures traded. The Chicago Board of Trade also established records for the trading soybean meal, and soybean oil.

Mr. President, it has been a long time since the days when prices were shouted through a cloud of dust on the floor of the Chicago Board of Trade. The Board has relocated several times throughout its 150 years. Currently, the Board is located in downtown Chicago. The base of the building spans an entire city block, and is a Chicago landmark.

Mr. President, I would like to take this opportunity to congratulate the Chicago Board of Trade on 150 years of bringing economic vitality to Chicago, the State of Illinois, and the world.

Mr. MCCAIN. I ask unanimous consent that the resolution and preamble be agreed to, en bloc, and the motion to reconsider be laid upon the table, and any statements relating thereto be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 229) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 229

Whereas the Chicago Board of Trade, which celebrates in April 1998 the 150th anniversary of its establishment, has been an essential contributor to financial growth in Chicago, Illinois, and our Nation;

Whereas futures markets were developed by finance pioneers in Chicago and today Chicago remains the commercial crossroads of the world;

Whereas the Chicago Board of Trade, the oldest and largest futures and options exchange, continues its tradition of innovation, functioning as a global financial leader;

Whereas the Chicago Board of Trade's 150 years of accomplishments include such major achievements as inventing grain futures, founding the world's premier trade clearing system, launching the first stock options exchange, developing the first interest rate futures, advancing the use of technology with its electronic trading system, and constructing the largest and most technologically advanced trading floor in the world;

Whereas the Chicago Board of Trade and its members have achieved success while adhering to the highest standards of uncompromising integrity; and

Whereas the Chicago Board of Trade will continue as a world-leading financial institution into the next millennium: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Chicago Board of Trade and the city of Chicago, Illinois, on the 150th anniversary of the establishment of the exchange; and

(2) expresses its wishes for continued years of innovation, service, and leadership by the Chicago Board of Trade into the next millennium.

HONORING THE SESQUICENTENNIAL OF WISCONSIN STATEHOOD

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 360, S. Con. Res. 75.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 75) honoring the sesquicentennial of Wisconsin statehood.

The Senate proceeded to consider the concurrent resolution.

Mr. MCCAIN. I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 75) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 75

Whereas the land that comprises the State of Wisconsin has been home to numerous Native American tribes for many years;

Whereas Jean Nicolet, who was the first known European to land in what was to become Wisconsin, arrived on the shores of Green Bay in 1634;

Whereas Father Jacques Marquette and Louis Joliet discovered the Mississippi River, one of the principal waterways of North America, at Prairie du Chien on June 17, 1673;

Whereas Charles de Langlade founded at Green Bay the first permanent European settlement in Wisconsin in 1764;

Whereas, before becoming a State, Wisconsin existed under 3 flags, becoming part of the British colonial territory under the Treaty of Paris in 1763, part of the Province of Quebec under the Quebec Act of 1774, and a territory of the United States under the Second Treaty of Paris in 1783;

Whereas on July 3, 1836, the Wisconsin Territory was created from part of the Northwest Territory with Henry Dodge as its first governor and Belmont as its first capital;

Whereas the city of Madison was chosen as the Wisconsin Territory's permanent capital in the fall of 1836 and construction on the Capitol Building began in 1837;

Whereas, pursuant to legislation signed by President James K. Polk, Wisconsin joined the United States as the 30th state on May 29, 1848;

Whereas members of Native American tribes have greatly contributed to the unique culture and identity of Wisconsin by lending words from their languages to the names of many places in the State and by sharing their customs and beliefs with others who chose to make Wisconsin their home;

Whereas the Wisconsin State Motto of "Forward" was adopted in 1851;

Whereas Chester Hazen built Wisconsin's first cheese factory in the town of Ladoga in 1864, laying the groundwork for one of the State's biggest industries;

Whereas Wisconsin established itself as a leader in recognizing the contributions of African Americans by being the only State in the union to openly defy the Fugitive Slave Law;

Whereas the first recognized Flag Day celebration in the United States took place at Stony Hill School in Waubeka, Wisconsin, on June 14, 1885;

Whereas Wisconsin has sent 859,489 of its sons and daughters to serve the United States in the Civil War, the Spanish-American War, World War I, World War II, Korea, Vietnam, the Persian Gulf, and Somalia;

Whereas 26,653 Wisconsinites have lost their lives serving in the Armed Forces of the United States;

Whereas Wisconsin allowed African Americans the right to vote as early as 1866 and adopted a public accommodation law as early as 1895;

Whereas on June 20, 1920, Wisconsin became the first State to adopt the 19th Amendment, granting women the right to vote;

Whereas in 1921 Wisconsin adopted a law establishing equal rights for women;

Whereas Wisconsin celebrated the centennial of its statehood on May 29, 1948;

Whereas many Wisconsinites have served the people of Wisconsin and the people of the United States and have contributed to the common good in a variety of capacities, from inventor to architect, from furniture maker to Cabinet member, from brewer to Nobel Prize winner;

Whereas the State of Wisconsin enjoys a diverse cultural, racial, and ethnic heritage that mirrors that of the United States;

Whereas May 29, 1998, marks the 150th anniversary of Wisconsin statehood; and

Whereas a stamp commemorating Wisconsin's sesquicentennial will be issued by the United States Postal Service on May 29, 1998: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) honors the proud history of Wisconsin statehood; and

(2) encourages all Wisconsinites to reflect on the State's distinguished past and look forward to the State's promising future.

SEC. 2. TRANSMITTAL OF CONCURRENT RESOLUTION.

Congress directs the Secretary of the Senate to transmit an enrolled copy of this concurrent resolution to each member of the Wisconsin Congressional Delegation, the Governor of Wisconsin, the National Archives, the State Historical Society of Wisconsin, and the members of the Wisconsin Sesquicentennial Commission.

NATIONAL PEACE OFFICERS MEMORIAL DAY

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 336, S. Res. 201.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 201) to commemorate and acknowledge the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

The Senate proceeded to consider the resolution.

Mr. McCAIN. I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 201) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 201

Whereas the well-being of all citizens of this country is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 men and women, at great risk to their personal safety, presently serve their fellow citizens in their capacity as guardians of the peace;

Whereas peace officers are the front line in preserving our childrens' right to receive an education in a crime-free environment that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 159 peace officers lost their lives in the performance of their duty in 1997, and a total of 13,734 men and women have now made that supreme sacrifice;

Whereas every year 1 in 9 officers is assaulted, 1 in 25 is injured, and 1 in 4,400 is killed in the line of duty; and

Whereas, on May 15, 1998, more than 15,000 peace officers are expected to gather in our nation's Capital to join with the families of their recently fallen comrades to honor them and all others before them: Now, therefore, be it

Resolved, That May 15, 1998, is hereby designated as "National Peace Officers Memorial Day" for the purpose of recognizing all peace officers slain in the line of duty. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with the appropriate ceremonies and respect.

ORDERS FOR WEDNESDAY, MAY 13, 1998

Mr. McCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, May 13th. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate resume consideration of the motion to proceed to S. 1873, the missile defense bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I further ask unanimous consent that the time between 9:30 a.m. and 11:30 a.m. be equally divided for debate on the motion to proceed. Further, I ask unanimous consent that following the debate, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to the missile defense bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCAIN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:39 p.m., adjourned until Wednesday, May 13, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 12, 1998:

DEPARTMENT OF STATE

PAUL L. CEJAS, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELGIUM.

CYNTHIA PERRIN SCHNEIDER, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THE NETHERLANDS.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. CHARLES T. ROBERTSON, JR., 8691.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WALTER S. HOGLE, JR., 6057.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN L. WOODWARD, JR., 3961.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GREGORY S. MARTIN, 6337.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN B. SAMS, JR., 6470.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. CHARLES W. MOORE, JR., 5696.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. ROBERT J. NATTER, 9953.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. THOMAS B. FARGO, 9953.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. WALTER F. DORAN, 4942.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. ARTHUR K. CEBROWSKI, 9746.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. DENNIS V. MCGINN, 1807.

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MICHAEL E. FINLEY, 8251.
CAPT. GWILYM H. JENKINS, JR., 0193.
CAPT. JAMES A. JOHNSON, 6264.

HOUSE OF REPRESENTATIVES—*Tuesday, May 12, 1998*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. PETRI).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 12, 1998.

I hereby designate the Honorable THOMAS E. PETRI to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. MILLER) for 5 minutes.

CONCERNS ABOUT A FAILED CENSUS IN YEAR 2000

Mr. MILLER of Florida. Mr. Speaker, I rise today to raise concerns that we are moving toward a failed census in year 2000. For over 200 years this country has conducted a decennial census, starting back with Thomas Jefferson in 1790, to count all Americans. The purpose of this census is fundamental to our democracy in this country because it is the one man/one vote belief. The only way you know you have the one man/one vote philosophy is you have to count people every 10 years.

This is the basis of elected representatives, whether it is the school board or Members of the House of Representatives, so it is so critical that we do that. Also, billions and billions of dollars that flow out of Washington or out of State capitols are based upon census information, so it is absolutely critical that we have a census that is conducted in year 2000 as one that is the most accurate possible, and as one that is trusted and believed in by the American people.

However, for the year 2000 census, the Clinton administration has proposed a radical new idea. Without the approval of Congress, they do not want to count everybody now. They have all these smart people here in Washington with all these big computers. They say we are going to use sampling and we are going to estimate the population. So for the first time in history, they are going to count less than the full population of this country, and this is where the risk is so great.

The General Accounting Office, which is the auditor for the Federal Government, a nonpartisan organization here in Washington, D.C., has said we are moving toward a failed census. Every report they have issued, they have said—the most recent one being in March—that the risk of failure has increased because they have developed this complex scheme that many of us believe cannot be completed. Even if it is completed, it will not be trusted by the American people.

We believe that the President is trying to use more political science than empirical science in developing this plan. Last week we had a hearing on the subcommittee with oversight of the census. There were two fact points I think we learned at that hearing. First was the fact that the 1990 census was not that bad of a census. It was the second most accurate census in history. But the second part of that census, which was dealing with sampling and adjustment, was a failure.

Let me explain that in a little more detail. The way they conducted the 1990 census is they went out and did an enumeration of the entire population of this country and counted 98.4 percent of the people; again, not a bad count, the second most accurate in history. Then they conducted a sample of 150,000 households. They were going to use that to adjust the total population they have just counted.

The attempt at sampling was a failure. Fortunately they did not use it, because if they had used it, for example, the original recommendation from the Census Bureau was to take a congressional seat away from the State of Pennsylvania. They find out 2 years later there was a computer mix-up that gave them the erroneous information, so they would have taken representation away from a State, Pennsylvania, falsely, because of computer error.

They also found it was less accurate when we deal with populations under 100,000. So for communities under 100,000, cities and towns for census blocks, census tracts, which is the fundamental building stone that we use to build up our congressional district as such, it is less accurate, these are the Census Bureau people telling us, in their analysis of the attempted use of sampling.

So sampling was a failure in 1990, even though the census was not bad. So what does the Clinton administration propose now? They want to totally rely on sampling. Instead of starting off counting everybody, they only want to count 90 percent of the people, so they are going to say 1 in 10 of the people we are not going to count. We are going to have 90 percent of the people.

That is starting off the sampling, and you have nothing to fall back on, because when they come up with this adjustment sample, which is going to be on 750,000 households, larger than 1990, five times as large, they plan to do it in half the amount of time. Unrealistic. They are going to totally rely on it. If sampling fails like it did in 1990, for the year 2000 they have nothing to fall back on. They run the risk of a total failure there.

One of the things they did in 1990 is they released information on what the total census was. They showed that different parts of this country had populations deleted. For example, Bucks County up in Pennsylvania, a suburb of Philadelphia, had 3,000 people deleted from their county by the Census Bureau computers because the Census Bureau computers said, on average, they didn't deserve 3,000 people. So even though they were counted, they were subtracted. That is what upsets the people. That is the reason people say we can't trust a census where you start deleting people after they are counted.

One thing we find out now, one reason they only want to start with 90 percent of the population, is they can justify not releasing that information and showing the deletions. It is a very risky plan. It is moving towards failure. We need to share with the American people exactly the details, and we must have a census that is trusted by the American people, not the plan that has been proposed by the President.

THE HISPANIC VOTE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ) is recognized during morning hour debates for 5 minutes.

Mr. ROMERO-BARCELÓ. Mr. Speaker, a long time ago, American troops landed in New York and claimed it

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

from Spain. In a proclamation to the island residents, the commander of the U.S. forces, General Nelson A. Miles, declared, "We have not come to make war upon the people of a country that for centuries has been oppressed but, on the contrary, to bring you protection, not only to yourselves but to your property, to promote your prosperity, and to bestow upon you the immunities and blessings of the liberal institutions of our government."

Taking General Miles at his word, the people of Puerto Rico sought immediately to make the promise of those immunities and blessings a reality. We were disappointed when the Foraker Act of 1900 defined the territorial relationship with the United States, and our frustration continues unabated. We have now been a territory or, as many claim, a colony for 100 years; and to our country's shame, we are still disenfranchised. We are denied that most fundamental right in a democracy, the right to vote.

Throughout the century, applying the trickle-down theory of democracy, Congress has only grudgingly extended democratic rights to the people of Puerto Rico. First we were granted citizenship in 1917 without the right to elect our own governor. Then, 31 years later, in 1948, we were allowed to elect our own governor, but we were not allowed to exercise our right to self-determination.

I firmly believe that self-determination is one of those unalienable human rights that the Founding Fathers of this democracy held dear. It is not something that 3.8 million American citizens of Puerto Rico should have to earn or demonstrate that we deserve, though if that is the value system of this democracy, we certainly have done both by fighting and dying in this country's service and by enthusiastically and responsibly exercising our right to vote and shape our local government.

What will influence Congress? What will prompt it to act, if it is not, as I would hope, the very rightfulness of Puerto Rican self-determination? The only thing I can figure out is the voters. Voters get every politician's attention. Sadly, it is not the voters of Puerto Rico that I am speaking of, because we are denied the right to vote in presidential elections and we are denied voting representation in Congress.

However, the Hispanic or Latino vote will count. Hispanics are on their way to becoming the largest minority in this country. They represent 34 percent of the population in New Mexico, 25 percent of the population in California, 30 percent of the population in Texas, and 19 percent of the population in Arizona.

Like the U.S. citizens in Puerto Rico, Hispanics are conscientious voters. A bipartisan poll of registered Hispanic voters commissioned by Univision Communications, Inc., revealed that 94 percent of the respondents plan to vote in this year's elections.

Mark Penn, a Democrat and coauthor of the survey, with Mike Deaver, a Republican, thinks that the findings demonstrate the growing importance of Latinos in the American political process. Hispanics, he notes, provide a crucial swing vote in some of the Nation's biggest States.

I am heartened by this survey's findings that 56 percent of Latinos support statehood for Puerto Rico, whereas only 27 percent do not. I am confident that a much larger percentage of Hispanics endorse Puerto Rican self-determination. Puerto Rican self-determination is becoming a telltale issue for Hispanics, revealing a politician's attitude towards the consensus and the political empowerment of the Hispanic electorate. It is a matter of solidarity.

Members of Congress may feel they can continue to dismiss the political aspirations of the U.S. citizens of Puerto Rico with impunity, but the Hispanic vote is a growing power to be reckoned with, and the right of the U.S. citizens of Puerto Rico to self-determination is an issue that will come home to roost at the poll booth. Those that oppose the right of Puerto Ricans to self-determination will be perceived as biased or prejudiced against Hispanics.

I am asking that Members support the bill for self-determination in Puerto Rico. It is the right thing to do. It is the right thing to do for Republicans, it is the right thing to do for Democrats, it is the right thing to do for Congress, and above all, it is the right thing to do for the Nation.

TRIBUTE TO BRIGADIER GENERAL HARRY C. KESSLER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Montana (Mr. HILL) is recognized during morning hour debates for 5 minutes.

Mr. HILL. Mr. Speaker, within these walls we debate and vote on important issues in full public view. We gather before those in the public gallery and those watching across the Nation on television, but we also do so with the spirit of millions of men and women also watching, those who have served this Nation in the Armed Forces.

These brave Americans served us during the days of the Revolutionary War, and are followed through the generation by legions, including those who today are stationed around the globe. They honor our flag of stars and stripes. That flag has changed somewhat since the days of the American Revolution, but the courage and valor of those who serve us is still the standard for the rest of the world.

This afternoon, in the gallery of this Chamber, before this great flag, I welcome the family members of one such courageous American. I ask all Americans to take a few minutes this afternoon and remember the dedicated service of Brigadier General Harry C. Kessler.

Harry Kessler's life and legacy remains important and vibrant today, more than 90 years since his death, and more than 137 years since the bold 18-year-old with a taste for adventure signed up for what would be a proud career of military and national service.

Shortly after enlisting in the 104th Pennsylvania Regiment, Harry Kessler was thrust into the American Civil War. He served as a second lieutenant in his regiment. After service at Camp Lacey, located just outside of Doylestown, Pennsylvania, he was transferred to Washington, D.C. for training. In November of 1861 he served in the Peninsula campaign of Virginia. He served in the battle of Williamsburg, as well as the battles of Fair Oaks and Seven Pines.

In 1862, now as a second lieutenant, Harry Kessler was placed in charge of confederate prisoners who he personally returned to Camp Curtain in Pennsylvania, just outside of Harrisburg. Once there, he helped to provide subsistence to the Pennsylvania troops at the battle of Gettysburg.

In 1863, at the rank of second lieutenant, Harry Kessler resigned from his regiment. In the mid-1870s, Harry Kessler joined his brother Charles in Butte, Montana. In 1876, a number of decisions that would forever change his life were made. He began to purchase land and he staked mining claims, and he established a newspaper known as the Butte Miner.

Most notably, though, Harry Kessler married Josephine Alden Dillworth, whom he had met on his way to Montana. Harry Kessler was elected Silver Bow county commissioner in 1883, and served for 2 years. He was later elected county treasurer.

But, in 1889, Harry Kessler again felt the strong obligation for national service. He formed the First Montana U.S. Volunteer Infantry, which is now known as the National Guard. That regiment was mustered into service 100 years ago, during the outbreak of the Spanish-American War. It fought in the battles of Manila and Caloocan, and Santo Tomas, and San Fernando in the Philippines, among others. The infantry was mustered out of service in 1889, but in praise of his action, Colonel Kessler was brevetted to the rank of brigadier general by President William McKinley.

□ 1245

My fellow Montanans who are looking in today may not have heard of General Kessler until today, but certainly they know his work. During the formative years of the 1st Montana Regiment, he designed a flag which would later become the State flag of Montana after the regimental insignia was removed. Near the end of his life, he returned home to Philadelphia to help with the lithograph company of Booker and Kessler, the company he founded before leaving for Montana.

On September 12, 1907, General Harry Kessler died and was buried at Laurel Hill Cemetery in Philadelphia, survived by his wife and two children.

Mr. Speaker, in less than 2 weeks time there is an important national holiday that needs a renewed perspective. Amid the holiday sales and the barbecues of the Memorial Day weekend, we need to honor the true spirit of those whose lives and dedicated service we are called upon to remember. General Harry Kessler is one of those Americans. I am proud to say that he will be among those honored at a special Memorial Day ceremony paying tribute to Spanish-American War veterans on this 100th anniversary. The ceremony will be held in front of Philadelphia's historic Independence Hall. The Montana Historical Society, located across from my State's Capitol Building in Helena, plans an exhibition of artifacts relating to the life of General Kessler; and the Civil War Museum in Philadelphia is planning an exhibit as well.

We gather here in this Chamber under the proud flag of a proud Nation and we are humbled by the spirits of millions of Americans who, like General Harry Kessler, gave of themselves to build a foundation upon which this great Republic continues to thrive.

I ask all Americans to join me in remembering these courageous spirits on Memorial Day, May 25.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PETRI). Members are reminded under House rules not to refer to visitors in the galleries.

COLLAPSE OF CYPRUS PEACE TALKS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, on May 3rd, the new round of peace talks in Cyprus collapsed when the Turkish Cypriots abruptly changed their position in the negotiations and began insisting that two new conditions be met as preconditions to reunification. Led by U.S. Special Envoy to Cyprus Richard Holbrooke, this new attempt to breathe life into the moribund Cypriot peace talks has been scuttled by the Turks before it even had the slightest chance of producing a breakthrough. There is absolutely no doubt who the obstacle to peace is.

I quote from Mr. Holbrooke, "If progress is to be made on Cyprus, genuine progress," Richard Holbrooke said after the talks collapsed, "both sides will have to be willing to engage in a genuine give and take during serious negotiations. But," added Holbrooke, "this is not the current situation. This was especially true in regard to two positions taken by the Turkish side."

Mr. Speaker, the Turkish side is now vowing that there will be no peace negotiations until the United Nations recognizes the Turkish Republic of Northern Cyprus and until the Greek Cypriots withdraw their application for membership to the European Union. These new demands, Mr. Speaker, are as ridiculous as they are unacceptable.

After nearly 24 years of failed negotiations, the criteria for a settlement are well known to everyone involved. They have been outlined by the international community a variety of times in a number of U.N. resolutions, and they have been agreed to by the Greek Cypriots. Any settlement to the Cyprus situation must be consistent with the numerous U.N. resolutions. None of these, incidentally, even hint at bestowing an iota of legitimacy on the self-declared Republic of Northern Cyprus, which is, of the 180-plus countries in the world today, recognized only by Turkey. What they do say is that any solution to the Cyprus problem must include a bizonal, bicommunal, sovereign federation with a single federal government and a single international identity. There is widespread support on the Greek Cypriot side for structuring this federal government in accordance with these terms and a new federal constitution.

Mr. Speaker, I believe that the administration shares the view of many of us here in Congress that the key to progress in Cyprus lies not with Rauf Denktash and the Turkish Cypriots, but in Ankara, particularly in light of the linkage by the Turkish side of Cypriot accession to the European Union to peace talks. Washington has been wary of Ankara's response to the European Union's decision not to invite Turkey to apply for membership in the European Union since that decision was made in December. Privately, U.S. policymakers feared that the decision would prompt Turkey to take an even harder line on Cyprus, and they are right. That is what has happened.

Mr. Speaker, I think these developments, coupled with the administration's knowledge that Ankara is calling the shots for the Turkish Cypriots, necessitate a swift change in U.S. policy and diplomacy. While I would like to commend Ambassador Holbrooke for his public rebuke of the Turkish side's new conditions, I believe it is time to stop focusing public and private efforts on the Turkish Cypriots and intensify American efforts to move the peace process forward by putting pressure on Ankara and, more importantly, on the Turkish military.

In forceful and unequivocal terms, the administration should convey to Ankara that there will be direct consequences in U.S.-Turkey relations if Ankara does not prevail upon the Turkish Cypriots to retract the two new conditions and allow the Cyprus peace talks to move forward. I intend to do everything I can as a Member of Congress to push U.S. policy towards Turkey in this direction. I hope the administration will work with me and the many Members of Congress who are exasperated with Turkey's intransigence and disrespect for international law and the will of the international community. The people of Cyprus have waited far, far too long for their freedom, and the U.S. should take the appropriate course of action to help them get it.

INDIA'S DETONATION OF THREE NUCLEAR DEVICES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from American Samoa (Mr. FALEOMAVAEGA) is recognized during morning hour debates for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I am somewhat surprised by all the media hype and the reaction of certain nations around the world, including our own country, concerning India's most recent announcement of detonating three nuclear bombs.

Mr. Speaker, as my colleagues may recall, India exploded its first nuclear device in 1974. Since then over the years India has pleaded with the five nuclear nations, namely China, France, then the Soviet Union, now Russia, Great Britain, and the United States and with the nations of the world that if the world is serious about the implementation of the 1970 Nonproliferation Treaty and the terms of the Comprehensive Test Ban Treaty, it is imperative that the five nuclear nations must, over a period of time, dismantle their nuclear arsenals if these two treaties would ever have any real meaning at all.

Mr. Speaker, I suggest to my colleagues and to the administration, let us not be too quick to condemn the most populous democratic nation in the world, India, with a population of approximately 980 million people, for exploding these three nuclear devices, by the way, in their own backyard.

Mr. Speaker, for some 24 years India and its leaders have pleaded with the five nuclear nations and the nations of the world to stop this nuclear madness. Mr. Speaker, I submit it is quite hypocritical for the five nuclear nations to tell the world to sign on to the Nonproliferation Treaty and the Comprehensive Test Ban Treaty against testing, but these same nuclear nations can keep their nuclear bombs to maintain their nuclear options, and I suppose to use these nuclear weapons of mass destruction against their enemies?

Mr. Speaker, in order to maintain our own nuclear bombs ready for use, our Nation is expending about $35 billion a year to sustain our nuclear options. I raise the question, Mr. Speaker, if the American taxpayers know that our nuclear program alone costs approximately $35 billion a year, do we need to have these weapons? Is the cost worth the effort?

Mr. Speaker, the issue of nuclear nonproliferation now has come to the forefront. The issue is not that India has exploded these nuclear bombs. The issue is whether the five nuclear nations are willing and committed to the proposition that the manufacturing and production of nuclear bombs is not in their interest and certainly not for the world as well.

Mr. Speaker, the Carnegie Endowment for International Peace recently issued a statement and a tabulation or record of nuclear tests or nuclear bombs that were exploded in the past, and that these nuclear explosives were conducted by the five nuclear nations. For example, China, since 1964, when it started its nuclear testing program, has exploded over 45 nuclear bombs on this planet. France started its nuclear testing program in Algeria, and after Algeria gained its independence against French colonial rule, the French decided, they needed to go somewhere else. Guess where they went? In the middle of the South Pacific Ocean. Did they ask the French Polynesians whether they wanted nuclear bombs there? No. President DeGaulle decided to go there unilaterally and test over 210 nuclear bombs, which were exploded in the atmosphere, on the surface, and under the ocean surface.

Let us look at the record of the Soviet Union or now Russia, which started its nuclear testing program since 1949. It exploded 715 nuclear bombs; 715 nuclear bombs. The British exploded nuclear bombs in a number of 45. And now our own Nation, we exploded 66 nuclear bombs in the Marshall Islands immediately following World War II. It was in 1954 that we exploded the most powerful hydrogen bomb ever known to mankind; known as the Bravo shot, that hydrogen bomb was 1,000 times more powerful than the bombs we exploded in Hiroshima and Nagasaki. Now India has exploded only four.

Mr. Speaker, I submit to my colleagues and to the American people, India's explosion of these nuclear bombs is because its own national security is at risk. China having a nuclear arsenal; if you were among the 980 million Indians living in a country like India, I would feel very uncomfortable if my neighbor has nuclear bombs and I do not have any to defend myself. But that is not the issue. The issue here is whether the five nuclear nations are willing to dismantle their own nuclear arsenals and let us get rid of this nuclear madness.

[From Carnegie Endowment for International Peace, May 11, 1998]

India Tests Three Nuclear Devices

(By Joseph Cirincione and Toby Dalton)

India first demonstrated its nuclear capability when it conducted a "peaceful nuclear experiment" in May 1974. Twenty-four years later, India has conducted its second series of tests today. Included in this series, according to Indian Prime Minister Vajpayee, were a "fission device, a low-yield device, and a thermo-nuclear device." This breaks an international moratorium on nuclear tests; China conducted its last test in 1996. The Comprehensive Test Ban Treaty, banning all tests everywhere, has been signed by 149 nations and ratified by 13 of the required 44 nations.

WORLD NUCLEAR TESTS

Country	First test	Last test	No. of tests
China	1964	1996	45
France	1960	1996	210
Russia/USSR	1949	1990	715
United Kingdom	1952	1991	45
United States	1945	1992	1030
India	1974	1998	4

Below is a summary of the Indian nuclear program, current capabilities, and delivery options, derived from Tracking Nuclear Proliferation 1998, forthcoming from the Carnegie Endowment.

NUCLEAR WEAPONS CAPABILITY

After years of building larger-scale plutonium production reactors, and facilities to separate the material for weapons use, India is estimated to have approximately 400 kg of weapons-usable plutonium today. Given that it takes about 6 kg of plutonium to construct a basic plutonium bomb, this amount would be sufficient for 65 bombs. With more sophisticated designs, it is possible that this estimate could go as high as 90 bombs.

DELIVERY OPTIONS

India has two potential delivery options. First, India posses several different aircraft capable of nuclear delivery, including the Jaguar, Mirage 2000, MiG–27 and MiG–29. Second, would be to mount the weapon as a warhead on a ballistic missile. It is thought that India has developed warheads for this purpose, but it is not known to have tested such a warhead. India has two missile systems potentially capable of delivering a nuclear weapon: Prithvi, which can carry a 1000 kg payload to approximately 150 km, or a 500 kg payload to 250 km; and Agni, a two-stage medium-range missile, which can conceivably carry a 1000 kg payload to as far 1500–2000 km. Reports in 1997 indicated that India had possibly deployed, or at least was storing, conventionally armed Prithvi missiles in Punjab, very near the Pakistani border.

NON-PROLIFERATION REGIME

India had not been a party to any aspect of the international non-proliferation regime until 1997, when it signed the Chemical Weapons Convention. Among the significant treaties it has not signed are the Nuclear Non-Proliferation Treaty, the Comprehensive Test Ban Treaty, and India has a very limited safeguards agreement with the International Atomic Energy Agency that does not cover any of its nuclear research facilities. In this sense, there is no multilateral mechanism through which to sanction India for its recent nuclear tests. However, the Nuclear Proliferation Prevention Act, passed by the U.S. Congress in 1994 with the leadership of Senator John Glenn (D-Ohio), imposes automatic and severe sanctions. These provision, codified as section 102(b) of the Arms Export Control Act, are detailed below:

SANCTIONS UNDER THE NUCLEAR PROLIFERATION PREVENTION ACT OF 1994 (SEC. 826(A))

Sanctions For Nuclear Detonations or Transfers of Nuclear Explosive Devices

If . . . "the President determines that any country, [after 4/30/94] (A) transfers to a non-nuclear-weapon state a nuclear explosive device, (B) is a non-nuclear weapon state and either—(i) receives a nuclear explosive device, or (ii) detonates a nuclear explosive device,"

Then . . . "The President shall forthwith impose the following sanctions:

(A) The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for humanitarian assistance or food of other agricultural commodities.

(B) The United States Government shall terminate—(i) sales to that country under this Act of any defense articles, defense services, or design and construction services, and (ii) licenses for the export to that country of any item on the United States Munitions List.

(C) The United States Government shall terminate all foreign military financing for that country under this Act.

(D) The United States Government shall deny to that country and credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, except that the sanction of this subparagraph shall not apply—(i) to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities), or (ii) to humanitarian assistance.

(E) The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by any international financial institution.

(F) The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities.

(G) The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of specific goods and technology (excluding food and other agricultural commodities), except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities)."

Waiver: [None]. The President may delay the sanction for 30 days.

SOCIAL SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Michigan (Mr. SMITH) is recognized during morning hour debates for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I want to talk briefly about Social Security. I see a lot of young people in our gallery today, and not only for their future, and what might happen in their retirement years but all workers today, including all retirees today, need to be concerned about Social Security. Let me just give a brief history of how we started our Social Security program. In 1935, somewhat after the depression, there were a lot of seniors, if you will, going over the hill to the poorhouse. A decision was made by the Congress and by the President to develop a program where existing workers paid in their taxes to pay for the benefits of existing retirees, again, sort of a Ponzi game where existing workers paid in taxes. Immediately it was sent out to existing retirees.

It worked very well when it first started because up until, up through the late 1930s, there were almost 40 people working, paying in their taxes for every one retiree. By 1950, that got down to 17 workers paying in their taxes for every one retiree, 1950, 17.

Today, guess how many workers are working paying in their FICA tax for every retiree? Three workers today are working now, paying in their taxes for every retiree. Of course, with fewer and fewer workers in relation to the number of retirees, the only way to keep enough money coming in was to increase the tax on those workers. Here is a statistic that should give us some trouble, and that is, since 1971, we have increased Social Security taxes 36 times. More often than once a year, we have increased that tax on today's workers in order to have enough money coming into Social Security to immediately send out to pay the benefits that were promised.

The chart that I show here on my left I have titled Social Security's Bleak Future. The little blue segment at the top left shows how much extra surplus money is coming into Social Security over and above what is immediately paid out. So there is a little surplus. That surplus goes into what has been called the Social Security Trust Fund. Not a very good name because it is not very trustworthy because what has been happening is, Congress and the President have been spending all of the extra money from Social Security on other programs. So we pretend it is revenue.

You will hear a lot of bragging that we are going to have a surplus this year for the first time in 30 years. Actually, if we consider the over $70 billion that we are borrowing from the Social Security Trust Fund this year, then we do not really have a surplus.

□ 1300

I am introducing legislation that does a couple of things. It says, from now on, we are not going to pretend that we have a balanced budget by including the amount of money that is coming into the Social Security trust fund, and it directs the Office of Management and Budget, under the President, and it directs the CBO, Congressional Budget Office, under Congress, to no longer use in their calculations for balance the money that is coming in from the Social Security trust fund that is borrowed by the Federal Government to spend on other programs.

I think this is important, simply to increase awareness of how we are going to solve the Social Security problem. We can see the dilemma. When we get to the year 2015, 2018, this chart, in today's dollars, by 2010 it will cost $100 billion. The general fund is going to have to come up with $100 billion, way up in this area of the chart, to satisfy benefit needs. But if we use the dollars that will exist because of inflation in 2018, then it is going to take $600 billion out of the general fund, or additional borrowing, to pay back the Social Security trust fund what is owed to it. So I say it is very important that we move ahead now to solve the Social Security trust fund.

The bill that I am introducing does a second thing that I think is reasonable. It says, from now on, instead of using IOUs that are not negotiable, not marketable, from now on anything that the government borrows from the Social Security trust fund has to be a marketable Treasury bill. In other words, the trustees can take it around the corner and cash it in whenever they need it.

Let us be honest, let us be fair, let us move ahead with a solution to Social Security.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PETRI). Members are admonished, pursuant to House Rules, not to refer to visitors in the Gallery.

WAR ON DRUGS TO PROTECT CHILDREN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized during morning hour debates for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, today the House will consider H.R. 423, a resolution to declare war on drugs to protect our children. While this resolution is nonbinding, it is important that we continue to express our commitment towards making America drug free.

Drug-driven violent crime is spiraling out of control, particularly among juvenile offenders. Over the past 10 years, in my State of North Carolina, juvenile arrests have almost doubled, from 11,165 in 1986, to 21,717 in 1996, a startling 93 percent.

And the numbers are far worse for violent crimes: weapons violations and drug offenses. In North Carolina, violent crime among juveniles, murder, rape, robbery, aggravated assault, increased by 129 percent over the past decade. Weapons violations increased by an incredible 492 percent, and drug violations by an unbelievable 460 percent.

We must not only offer our young people change, we must also offer them a chance for a fully productive life. Support the resolution.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 04 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BEREUTER) at 2 p.m.

PRAYER

Rabbi Mark S. Miller, Temple Bat Yahm, Newport Beach, California offered the following prayer:

Oh God, You fashioned humankind in Your image, endowed each of us in this House with conscience and convictions, and granted us a sacred trust as leaders of our people.

As we go about our daily tasks and go forth to our life's work, may we be true to our better selves, be grateful for the opportunity to serve America and guide its destiny, be constant in upholding a moral standard for young and old to emulate, be decisive in distinguishing right from wrong, and be united with all who pursue peace.

May we look into the past and know from whence we come, may we look upon the present with steadfast resolve, and look toward the future with confidence in a brighter tomorrow.

With eyes lifted unto the mountains of faith, with hearts that beat in the cause of freedom, with hands outstretched in deeds that are fruitful, we take up this day's labor, praying that the words of the Psalmist will be fulfilled in our lives: "Happy are they who dwell in Thy House." Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Colorado (Mr. HEFLEY) come forward and lead the House in the Pledge of Allegiance.

Mr. HEFLEY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RABBI MARK S. MILLER

(Mr. SHERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHERMAN. Mr. Speaker, today was a first. We have had many legislative assistants working in the House and the Senate who have dreamed of addressing this body, but I believe that this is the first time that a legislative assistant has addressed this body, not as a Member, but as a guest chaplain.

I am proud to have introduced to this body my rabbi in my formative years and my family's rabbi, Mark S. Miller, who returns to this Capitol many years after serving as a legislative assistant for Senator Mondale.

When the rabbi came to Orange County, my father was the first in our family to meet him; and he came back to the family and said, "I have met a scholar." He was right. After so many sermons that I heard, so many talks that I had with Rabbi Miller growing up, I knew him as a scholar. Much of the Nation knows him as a scholar from his lectures on business ethics and bioethics and his writings on biblical topics.

I know that my friends at Temple Bat Yahm, my mother, my father who is I am sure watching this event from on high, and his wife Wendy and their five children all join me in this joy and this honor in having heard Rabbi Miller give the invocation today.

HUBBELL ROLLS OVER ONE MORE TIME

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, consider this. You have the person who was the third highest position at the Justice Department, who cheated his partners out of a half million dollars, who then cheated the taxpayers out of hundreds of thousands of dollars, and who admits out loud on tape, and I quote, "I need to roll over one more time." For the hear-no-evil, see-no-evil Members, I will say that again. Web Hubbell says to his wife on tape, "I need to roll over one more time."

One more time? This will be truly puzzling to the other side, perhaps, who act as if they are unfamiliar with the language of cover-up, the language of a person who needs to keep silent to protect his friends.

One more time? Is it possible that Mr. Hubbell is referring to his refusal to tell Judge Starr what he knows in order to protect the White House?

Roll over? Perhaps Mr. Hubbell means that he will have to take the hit, accept jail time one more time if that is what it takes to protect his friends.

CHINA RIPPING AMERICA OFF $60 BILLION A YEAR

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the trade representative said, and I quote: China is guilty, guilty of attaching fraudulent "Made in America" labels to Chinese made products. She said she was surprised and, as a result, we are hitting China with a $94 million maximum penalty.

Wow. What a surprise. Every worker in America knows that China has been ripping us off, ripping us off to the tune of now $60 billion a year. If that is not enough to stir your home fries, check this out. China is building the biggest army and the biggest nuclear arsenal in the world with our tax dollars. Think about it.

Look, if the trade representative thinks that $94 million is a lot of money to China, then I believe she thinks that Viagra is a waterfall in West Virginia, folks. They do not know what the hell is going on. Beam me up with this policy.

Mr. Speaker, I yield back what national security and common sense we have left.

NORAD'S 40TH ANNIVERSARY

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, I come to the House floor today to pay tribute to the North American Aerospace Defense Command, or NORAD as it is commonly known. Today NORAD is celebrating its 40th anniversary, and I wish to congratulate them on a job well done.

Located in Colorado Springs, NORAD is charged with the mission of aerospace warning and aerospace control for North America. Since the first binational agreement was signed in 1958 between the United States and Canada, NORAD has faithfully carried out the task of early warning missile and manned aircraft detection. In addition to serving as a vital component of our national defense, NORAD also assists in the detection and monitoring of aircraft suspected of illegal drug trafficking.

Originally conceived as a defense against long-range Soviet bombers, NORAD has always adapted well to changes in the global national security arena. The evolving threat of nuclear-tipped intercontinental ballistic missiles during the Cold War era increased and expanded NORAD's focus to that of a long-range missile attack. It was the early detection capability that I think helped deter nuclear war. I salute NORAD on its 40th anniversary.

SUPPORT SCHOOL CHOICE

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, it is a sad fact but it is true that America's education system is failing our children. Many of today's students are not learning as they should, and some are even afraid to go to school because they are forced to attend a school in which they fear for their safety.

This terrible situation has resulted from years of Federal bureaucracies trying to fill a role that needs to be filled by parents, teachers, and communities. The Federal Government already funds more than 760 Federal education programs which span 40 Federal agencies, boards, and commissions and costs the American taxpayer nearly $100 billion a year. But these efforts have failed our children.

They have failed because a Federal bureaucrat who is hundreds or even thousands of miles away cannot possibly determine what is best for a child like those who see the children every day. It is past time to return education to parents, teachers, and communities where it belongs. I hope my colleagues will support school choice

REMOVE CHAIRMAN BURTON FROM CAMPAIGN FINANCE REFORM INVESTIGATION

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, this is Law Enforcement Officers Memorial Week. During this week, we honor those officers who gave their lives in the line of duty, upholding the law. This is, after all, a Nation founded on a rule of law. This is a Nation which requires that all citizens have faith and confidence in the judicial system and a belief that justice will be served.

That is why, Mr. Speaker, I am so profoundly troubled and angered by the way the gentleman from Indiana (Mr. BURTON) of the House Committee on Government Reform and Oversight has handled its investigation of campaign finance reform.

I am disturbed by the releasing of doctored tapes, by vile name-calling of the President of the United States, and by disregard for procedures which bind every law enforcement agency, but apparently not Members of the U.S.

House of Representatives. The American people know that the truth of matters will come out.

What is sad and unfortunate, Mr. Speaker, is that along the way to truth, we disgrace ourselves and our institution by not maintaining a high standard which we all should be setting. Mr. Speaker, remove the chairman from this investigation.

SUPPORT H.R. 2829, THE BULLETPROOF VEST PARTNERSHIP ACT

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, today H.R. 2829, the Bulletproof Vest Partnership Act, will come before this body to serve one very important purpose, and that purpose is to help save the lives of our law enforcement personnel.

Tomorrow in Carson City, the capital of Nevada, State officials and law enforcement representatives will gather to dedicate the Nevada Law Enforcement Police Officers Memorial. Inscribed on this memorial are the names of every law enforcement officer who lost his or her life in the line of duty.

The passage of H.R. 2829 will help protect our law enforcement officers who, on a daily basis, put their lives on the line to keep our communities and ourselves and our families safe.

It is the hope of all Nevadans, and I know especially the families of law enforcement personnel, that the passage of this legislation will prevent future names and, perhaps, their loved ones from being added to this valorous memorial.

The men and women of law enforcement provide safety and a sense of security to every American citizen. This is our chance to provide a sense of safety and security to them.

PARTISANSHIP FOUND IN CAMPAIGN FINANCE INVESTIGATION

(Mrs. CHENOWETH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CHENOWETH. Mr. Speaker, accusations of partisanship are very common in this city. However, it is also common to notice that those making accusations of partisanship are often among the most bitterly partisan people in the entire city.

The top Democrat on the House Committee on Government Reform and Oversight is a proud partisan with impeccable credentials. Just listen to his impressive record of partisanship. He had no problem with the White House having 900 FBI files on Republicans. He thought White House nonexplanations that no one knew who hired Craig Livingstone was satisfactory. He had no problem with the White House smear of Billy Dale and the others fired in the White House travel office.

Vice presidential fund-raising on government property, no problem. The Vice President having a fund-raiser at a Buddhist Temple in California, no problem. The Democrats see nothing wrong with that. Shaking down impoverished Indian tribes for campaign money, no problem.

The Democrats ask why we should care. Turning the White House coffees into fund-raisers, I have a problem with that, Mr. Speaker.

GLOBAL WARMING

(Mr. PETERSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Pennsylvania. Mr. Speaker, a petition has been signed and released by over 17,000 scientists urging the Congress and other lawmakers around the world to reject the Kyoto Protocols on global climate change. The 17,000 signers include over 2,000 physicists, geophysicists, climatologists, meteorologists, oceanographers, and environmental scientists.

In addition, 4,400 are qualified to assess the effects of carbon dioxide upon the Earth's plant and animal life, and most of the remaining signers have technical training suitable to understanding climate change issues.

The petition letter is a strongly worded statement that goes beyond rejecting the Kyoto Protocol. It denies the existence of any scientific evidence that man-made greenhouse gases will cause catastrophic warming, and even goes so far as to say "increases in atmospheric carbon dioxide produce many beneficial effects upon the natural plant and animal environments of the Earth." That is because carbon dioxide is not a pollutant. It is a life essential gas.

Mr. Speaker, it is time for this administration and its extremists to stop the deception of the American people on global climate change.

□ 1415

HUMAN RIGHTS UNDER ATTACK IN TURKEY

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, this morning in Ankara, Akin Birdal, widely regarded as Turkey's foremost human rights defender, was gunned down in his office by two unknown assailants. He is currently in critical condition in an Ankara hospital. Right-wing extremists have been blamed for the attack, but the Turkish government must bear some responsibility for this unconscionable act of violence, even if they did not pull the trigger.

In recent weeks, the Turkish media has quoted government sources as saying Mr. Birdal, an internationally respected human rights leader, is a tool of the PKK. These stories were designed to turn popular opinion against Mr. Birdal, and these irresponsible lies may now cost him his life.

I visited Turkey earlier this year, Mr. Speaker, and met with government officials who seemed to understand there were serious human rights problems in their country, and they seemed committed to solving these problems. This latest act of violence casts grave doubts on the sincerity of this commitment.

I call on my colleagues to join me today in expressing our strong condemnation of this cowardly attack on a defender of human rights, and our demand that his attackers be brought to justice.

POLITICAL QUESTIONS WITH NO ANSWERS

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, I have some questions for the other side of the aisle, questions that I am absolutely 100 percent sure I will receive no answers for.

I am sure that I will receive no answers, because for nearly three years now the other side has made it abundantly clear that they have no interest in discovering how the Democratic National Committee raised nearly $3 million in illegal campaign contributions from communist China; no interest in discovering how the White House came to possess 900 FBI files of Republicans; no interest in discovering who in the White House ordered the FBI and the IRS to investigate Billy Dale and the other White House Travel Office employees in order to smear them.

My questions are, do you think that Webster Hubbell's statement on his jailhouse tapes that "I need to roll over one more time," is indicative of a crime? Do you think that Webster Hubbell's statement with respect to overbilling that "I will not raise those allegations that might open it up to Hillary," is not indicative of a crime? Do you think that Mrs. Hubbell's great fears she will lose her job if her husband tells the truth about what he knows is not relevant to the committee's investigations?

Questions, yes, Mr. Speaker, that I am sure fellow Americans we will not a receive answer to, not a single one.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. BEREUTER) laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 11, 1998.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on May 11, 1998 at 3:40 p.m. and said to contain a message from the President whereby he transmits the 1996 National Institute of Building Sciences annual report.

With warm regards,
ROBIN H. CARLE,
Clerk.

NATIONAL INSTITUTE OF BUILDING SCIENCES ANNUAL REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking and Financial Services.

To the Congress of the United States:

In accordance with the requirements of section 809 of the Housing and Community Development Act of 1974, as amended (12 U.S.C. 1701j-2(j)), I transmit herewith the annual report of the National Institute of Building Sciences for fiscal year 1996.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 11, 1998.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

GRANITE WATERSHED ENHANCEMENT AND PROTECTION ACT OF 1998

Mrs. CHENOWETH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2886) to provide for a demonstration project in the Stanislaus National Forest, California, under which a private contractor will perform multiple resource management activities for that unit of the National Forest system, as amended.

The Clerk read as follows:

H.R. 2886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Granite Watershed Enhancement and Protection Act of 1998".

SEC. 2. DEMONSTRATION RESOURCE MANAGEMENT PROJECT, STANISLAUS NATIONAL FOREST, CALIFORNIA, TO ENHANCE AND PROTECT THE GRANITE WATERSHED.

(a) RESOURCE MANAGEMENT CONTRACT AUTHORIZED.—The Secretary of Agriculture may enter into a contract with a single private contractor to perform multiple resource management activities on Federal lands within the Stanislaus National Forest in the State of California for the purpose of demonstrating enhanced ecosystem health and water quality, and significantly reducing the risk of catastrophic wildfire, in the Granite watershed at a reduced cost to the Government. The contract shall be for a term of five years.

(b) AUTHORIZED MANAGEMENT ACTIVITIES.—The types of resource management activities performed under the contract shall include the following:

(1) Reduction of forest fuel loads through the use of precommercial and commercial thinning and prescribed burns.

(2) Monitoring of ecosystem health and water quality in the Granite watershed.

(3) Monitoring of the presence of wildlife in the area in which management activities are performed and the effect of the activities on wildlife presence.

(4) Such other resource management activities as the Secretary considers appropriate to demonstrate enhanced ecosystem health and water quality in the Granite watershed.

(c) COMPLIANCE WITH FEDERAL LAW AND SPOTTED OWL GUIDELINES.—All resource management activities performed under the contract shall be performed in a manner consistent with applicable Federal law and the standards and guidelines for the conservation of the California spotted owl (as set forth in the California Spotted Owl Sierran Province Interim Guidelines or the subsequently issued final guidelines, whichever is in effect).

(d) FUNDING.—

(1) SOURCES OF FUNDS.—To provide funds for the resource management activities to be performed under the contract, the Secretary may use—

(A) funds appropriated to carry out this section;

(B) funds specifically provided to the Forest Service to implement projects to demonstrate enhanced water quality and protect aquatic and upland resources;

(C) excess funds that are allocated for the administration and management of the Stanislaus National Forest, California;

(D) hazardous fuels reduction funds allocated for Region 5 of the Forest Service; and

(E) a contract provision allowing the cost of performing authorized management activities described in subsection (b) to be offset by the values owed to the United States for any forest products removed by the contractor.

(2) PROHIBITION ON USE OF CERTAIN FUNDS.—Except as provided in paragraph (1), the Secretary may not carry out the contract using funds appropriated for any other unit of the National Forest System.

(3) CONDITIONS ON FUNDS TRANSFERS.—Any transfer of funds under paragraph (1) may be made only in accordance with the procedures concerning notice to, and review by, the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate that are applied by the Secretary in the case of a transfer of funds between appropriations.

(e) ACCEPTANCE AND USE OF STATE FUNDS.—The Secretary may accept and use funds provided by the State of California to assist in the implementation of the contract under this section.

(f) REPORTING REQUIREMENTS.—Not later than February 28 of each year during the term of the contract, the Secretary shall submit to Congress a report describing—

(1) the resource management activities performed under the contract during the period covered by the report;

(2) the source and amount of funds used under subsection (d) to carry out the contract; and

(3) the resource management activities to be performed under the contract during the calendar year in which the report is submitted.

(g) RELATIONSHIP TO OTHER LAWS.—Nothing in this section exempts the contract, or resource management activities to be performed under the contract, from any Federal environmental law.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Idaho (Mrs. CHENOWETH) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Granite Watershed Enhancement and Protection Act is an excellent bill that will enable the Forest Service to accomplish multiple resource objectives aimed at reducing fire risk and improving water quality under a single contract. H.R. 2886 provides for a pilot project on approximately 8,000 acres of National Forest land located in and around the 1993 Granite Burn on the Groveland District of the Stanislaus National Forest.

Major meadow restoration, thinning, fuels reductions and road maintenance work is needed in order to improve watershed and runoff conditions for this river canyon. Current law does not allow the Forest Service to offer such a multiple services contract. The legislation provides the necessary authority, and specifies that the project will be subject to all applicable environmental rules and standards.

Mr. Speaker, I commend my colleague, the gentleman from California (Mr. DOOLITTLE), for his work on this bill. He has done an admirable job in moving the bill forward with the support of the administration. The legislation reported by the Committee on Resources includes language requested by the administration to clarify the contracting authority, and it addresses concerns that were raised by the environmental community in the district of the gentleman from California (Mr. DOOLITTLE). The meadow restoration, the thinning, the fuels reduction and road maintenance work authorized by the bill will greatly improve the conditions of the Granite watershed.

Now, 25 years after the Granite fire, I urge my colleagues to give their support to H.R. 2886, so that this much-needed work can finally be done.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from Idaho (Mrs. CHENOWETH) for her management of this legislation.

Mr. Speaker, I rise in support of this bill which is sponsored by my good friend, the gentleman from California (Mr. DOOLITTLE). The Forest Service has requested the contracting authority set forth in this legislation in order to more efficiently manage a restoration project on 8,000 acres of land in the Granite Creek watershed of the Stanislaus National Forest in California.

The details of the restoration work to be conducted pursuant to the contract authorized by this bill will be determined after a public process in compliance with NEPA. It is our understanding that the Forest Service is contemplating restoration activities such as thinning, controlled burning and road decommissioning in order to improve forest conditions and water quality in the Granite watershed.

The legislation also provides that funds from the State of California, including CALFED funds, may also be used by the Forest Service to support these restoration activities in a watershed which is part of the Bay-Delta system.

Mr. Speaker, it is important to recognize that this bill provides for consolidated contract authority which is limited to the specific test projects in California, but we on the minority side of the aisle are not prepared to conclude that such authority is necessary or desirable on a nationwide basis. It remains to be seen whether a single contract will result in more efficient and effective restoration work, and we would anticipate continued oversight concerning implementation of this, should it be enacted into law.

The Forest Service has testified before the Committee on Resources in support of consolidated contracting authority for the Granite Creek project. They are satisfied with the bill's text as reported by the committee.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance my time.

Mrs. CHENOWETH. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Speaker, I thank the gentlewoman from Idaho (Mrs. CHENOWETH), our chairman, and the gentleman from American Samoa (Mr. FALEOMAVAEGA) for their kind remarks.

Mr. Speaker, this legislation, as has been indicated, will allow the Forest Service to develop a resource management contract that evaluates the landscape as a whole rather than, as is present practice, in individual pieces, by streamlining the government contracting process and reducing staff time spent developing a project, thereby saving taxpayer dollars.

H.R. 2886 will provide the Forest Service with new innovative contracting authority for the purpose of developing a comprehensive land management contract for the Granite area. Conceptually, the proposed project seeks to combine management activities, like forest thinning, with road maintenance, wildlife monitoring, and repair and maintenance, to improve erosion and runoff conditions.

This bill would allow the Forest Service to use the revenue generated from the sale of commercial timber to offset the cost of conducting nonrevenue producing watershed improvement work.

Existing Federal contracting authority prohibits the Forest Service from offering a contract that bundles multiple resource activities under one umbrella. While a combination of forest thinning and repair and restoration work might be needed in an area to improve forest health conditions, existing law requires the Forest Service to offer separate contracts for this type of work.

These limitations often result in tremendous duplication of effort by staff, unnecessary paperwork and higher preparation costs at the expense of the taxpayer. In the end, the result is an overly bureaucratic process that prevents the Forest Service from developing a project that evaluates the landscape as a whole. This bill alters this dynamic by allowing the Forest Service the opportunity to accomplish a greater amount of resource work by simply streamlining the contracting process.

H.R. 2886 looks to meet both environmental and commercial needs by using a stewardship approach to managing our Federal lands and watersheds. By allowing the Forest Service to implement a project that saves taxpayer dollars, reduces the risks of catastrophic wildfire and improves the quality of water flowing through our forest streams, this project will serve as a learning model of how to coordinate and gain efficiency in multipurpose restoration of forested watersheds.

Mr. Speaker, this bipartisan legislation passed unanimously out of the Committee on Resources, and, as was indicated, it is supported by the administration.

H.R. 2886 includes language that clarifies stewardship contracting authorities of the Forest Service and addresses concerns raised by the environmental community. I would ask for the support of my colleagues, and urge them to pass this legislation today.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I commend the gentleman from California (Mr. DOOLITTLE) for his sponsorship of this legislation. I also want to commend the gentleman from California for his pronunciation of my district. It is not "Somalia," it is not "Sam-o-a," it is "Sa-moa." I really appreciate that.

Again, I thank the gentlewoman from Idaho (Mrs. CHENOWETH) for her management of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. CHENOWETH. Mr. Speaker. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Idaho (Mrs. CHENOWETH) that the House suspend the rules and pass the bill, H.R. 2886, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. CHENOWETH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2886, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Idaho?

There was no objection.

MILES LAND EXCHANGE ACT OF 1997

Mrs. CHENOWETH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1021) to provide for a land exchange involving certain National Forest System lands within the Routt National Forest in the State of Colorado.

The Clerk read as follows:

H.R. 1021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Miles Land Exchange Act of 1997".

SEC. 2. LAND EXCHANGE, ROUTT NATIONAL FOREST, COLORADO.

(a) AUTHORIZATION OF EXCHANGE.—If the non-Federal lands described in subsection (b) are conveyed to the United States in accordance with this section, the Secretary of Agriculture shall convey to the party conveying the non-Federal lands all right, title, and interest of the United States in and to a parcel of land consisting of approximately 84 acres within the Routt National Forest in the State of Colorado, as generally depicted on the map entitled "Miles Land Exchange", Routt National Forest, dated May 1996.

(b) RECEIPT OF NON-FEDERAL LANDS.—The parcel of non-Federal lands referred to in subsection (a) consists of approximately 84 acres, known as the Miles parcel, located adjacent to the Routt National Forest, as generally depicted on the map entitled "Miles Land Exchange", Routt National Forest, dated May 1996. Title to the non-Federal lands must be acceptable to the Secretary, and the conveyance shall be subject to such valid existing rights of record as may be acceptable to the Secretary. The parcel shall conform with the title approval standards applicable to Federal land acquisitions.

(c) APPROXIMATELY EQUAL IN VALUE.—The values of both the Federal and non-Federal lands to be exchanged under this section are deemed to be approximately equal in value, and no additional valuation determinations are required.

(d) APPLICABILITY OF OTHER LAWS.—Except as otherwise provided in this section, the Secretary shall process the land exchange authorized by this section in the manner provided in subpart A of part 254 of title 36, Code of Federal Regulations.

(e) MAPS.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Forest Supervisor, Routt National Forest, and in the office of the Chief of the Forest Service.

(f) BOUNDARY ADJUSTMENT.—Upon approval and acceptance of title by the Secretary, the non-Federal lands conveyed to the United States under this section shall become part of the Routt National Forest, and the boundaries of the Routt National Forest shall be adjusted to reflect the land exchange. Upon receipt of the non-Federal lands, the Secretary shall manage the lands in accordance with the laws and regulations pertaining to the National Forest System. For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Routt National Forest, as adjusted by this section, shall be considered to be the boundaries of the National Forest as of January 1, 1965.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Idaho (Mrs. CHENOWETH) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentlewoman from Idaho (Mrs. CHENOWETH).

□ 1430

Mrs. CHENOWETH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1021, introduced by the gentleman from Colorado (Mr. SCOTT MCINNIS), authorizes an exchange of approximately 84 acres within the Routt National Forest for approximately 84 acres of private land known as the Miles parcel, which is located adjacent to the Routt National Forest.

Ms. Marjorie Miles, the owner of the private land, and the Forest Service proposed a land exchange to remedy a situation where a private inholding adjacent to the forest boundary has created a private-public property line that is complex, to say the least, and expensive for the Forest Service to maintain. H.R. 1021 provides the authority needed to allow the Forest Service to undertake an exchange which will simplify and clarify the property line, and reduce the Forest Service's maintenance costs.

I commend my colleague, the gentleman from Colorado (Mr. MCINNIS) for his fine work on this bill. H.R. 1021 is an equal-value exchange which enjoys the support of all interested parties, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation, which was introduced by the gentleman from Colorado (Mr. MCINNIS), and reported favorably by the Committee on Resources by voice vote. I note that a companion bill sponsored by Senator BEN NIGHTHORSE CAMPBELL of Colorado has already passed the Senate.

In essence, Mr. Speaker, this bill provides for a boundary adjustment of 84 acres in the Routt National Forest in Colorado. The Forest Service would acquire an inholding which they consider to be a worthy addition to the National Forest. In exchange, the private property owner will receive an equal number of acres which are currently occupied under a special use permit. The bill deems this to be an equal value exchange based on assurances from the Forest Service that the land values are approximately equal and that the exchange is in the public interest.

Mr. Speaker, I am not aware of any opposition from this side of the aisle.

Mr. Speaker, I yield back the balance of my time.

Mrs. CHENOWETH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BEREUTER). The question is on the motion offered by the gentlewoman from Idaho (Mrs. CHENOWETH) that the House suspend the rules and pass the bill, H.R. 1021.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. CHENOWETH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Idaho?

There was no objection.

EXTENDING DEADLINE OF FERC PROJECT NUMBER 9248 IN COLORADO

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2217) to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes.

The Clerk read as follows:

H.R. 2217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE AND REINSTATEMENT OF LICENSE.

(a) EXTENSION OF DEADLINE.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to Federal Energy Regulatory Commission project numbered 9248, the Commission shall, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time required for commencement of construction of the project until January 30, 2002.

(b) REINSTATEMENT OF EXPIRED LICENSE.—The Commission shall reinstate, effective as of the date of its expiration, the license of the Town of Telluride, Colorado, for the project referred to in subsection (a) that expired prior to the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. DAN SCHAEFER) and the gentleman from Texas (Mr. HALL) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. DAN SCHAEFER).

GENERAL LEAVE

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, under section 13 of the Federal Power Act, project construction must begin within 4 years of issuance of a license. If construction has not begun by that time, the Federal Energy Regulatory Commission cannot extend the deadline and must terminate the license.

H.R. 2217 provides simply for the extension of this construction deadline of the San Miguel project, a 4.6 megawatt hydroelectric project in the State of Colorado, if the sponsor pursues the commencement of construction in good faith and with due diligence.

These types of bills have not been controversial in the past, and I do not believe, from the other side of the aisle, that this will be. The bill does not change the license requirements in any way and it does not change environmental standards, but merely extends the construction deadlines.

There is a need to act since the construction deadline for the project expired in January of 1996 and FERC has terminated the license. Unless Congress acts, the town of Telluride will lose its investment in this project, and we do not want that to happen.

H.R. 2217 would reinstate the license and extend the construction deadline by 6 years. According to the town of Telluride, the sponsor of the project, construction has not commenced because of delays in obtaining a special use permit from the U.S. Forest Service, and a dredge and fill permit from the U.S. Army Corps of Engineers. Because of that, Telluride lacks the power of sales for the contract. I feel very strongly that this is something that we have to proceed with.

As I stated during the consideration of similar legislation that we have dealt with over a period of time, the lack of a power sales contract is the main reason for the construction of hydroelectric projects, and the fact that they have not been able to commence in a timely manner.

It is very difficult for a hydroelectric project sponsor to secure financing until such time as they are granted a license and the construction deadline begins to run. Mr. Speaker, I, with cooperation from my good friend, the gentleman from Texas (Mr. HALL), we have worked on these things back and forth all the time.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first thank the gentleman from Colorado (Mr. SCHAEFER), and certainly I thank the House. I suggest that H.R. 2217 would simply extend the deadline for the commencement of construction for a 4.6 megawatt hydroelectric project in San Miguel County, Colorado, until January 30 of the year 2002. This would extend the deadline to 10 years after the date the license was issued.

According to the bill's sponsor, the gentleman from Colorado (Mr. MCINNIS), construction had not commenced because of delays in obtaining a special use permit from the U.S. Forest Service, and an U.S. Army Corps of Engineers dredge and fill permit, and because it lacks a power purchase agreement.

This legislation simply provides that the licensee must meet the Federal Power Act Section 13 requirement that it prosecute construction "in good faith and with due diligence."

The Federal Energy Regulatory Commission has indicated in a letter to the Subcommittee on Energy and Power that it has no objection to the enactment of this legislation. Under statute, FERC can only grant a 2-year extension of the construction license.

This legislation is not controversial. I urge my colleagues to support it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. DAN SCHAEFER) that the House suspend the rules and pass the bill, H.R. 2217.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXTENDING TIME REQUIRED FOR CONSTRUCTION OF A HYDROELECTRIC PROJECT

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2841) to extend the time required for the construction of a hydroelectric project, as amended.

The Clerk read as follows:

H.R. 2841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF PERIOD TO COMMENCE CONSTRUCTION.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 805) that would otherwise apply to the Federal Energy Regulatory Commission Project numbered 10395, the Commission shall, at the request of the licensee for the project and after reasonable notice, in accordance with the good faith, due deference, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project, under the extension described in subsection (b), not more than 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the expiration of the extension of the period required for commencement of construction of the project described in subsection (a) that the Commission issued, prior to the date of enactment of this Act, under section 13 of the Federal Power Act (16 U.S.C. 806).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. DAN SCHAEFER) and the gentleman from Texas (Mr. HALL) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. DAN SCHAEFER).

GENERAL LEAVE

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 2841, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation is very similar to the bill we just went through, so that my description is going to be very brief. Then I will yield to my good friend, the gentleman from Kentucky.

Under section 13 of the Federal Power Act, project construction must begin within 4 years of the issuance of a license. We know that. If construction is not begun by that time, the Federal Energy Regulatory Commission, again, cannot issue and cannot extend the deadline and must terminate the license.

H.R. 2841 provides for extension of the construction deadline of the Melhahl project, a 35 megawatt hydroelectric project in the State of Kentucky, if the sponsor pursues the commencement of construction in good faith and with due diligence. According to the City of Augusta, the project sponsor, construction has not commenced because of challenges from various competing applicants for this particular license. H.R. 2841 provides for up to three different consecutive 2-year extensions.

I think that this is something that we have to proceed with, in conferring with my good friend, the gentleman from Texas (Mr. HALL). I have to apologize for my voice. I have a little bit of laryngitis here today.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2841 would simply extend the deadline for commencement of construction of a 35-megawatt hydroelectric project in Bracken County, Kentucky, for up to three additional 2-year periods. According to the bill's sponsor, the gentleman from Kentucky (Mr. BUNNING), construction has not commenced because of the lack of a power purchase agreement. The deadline for commencement of construction on this project expires on July 31, 1999.

H.R. 2841 does not ease the hydroelectric licensing requirement, but merely extends the period for commencement of project construction. The chairman of the Subcommittee on Energy and Power, the honorable gentleman from Colorado (Mr. DAN SCHAEFER), has brought to the floor with this bill a manager's amendment which corrects a typographical error in section 1(b) of the legislation. I support this technical correction.

Mr. Speaker, the legislation is not controversial, I urge my colleagues to support it, and I yield back the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. BUNNING).

Mr. BUNNING. Mr. Speaker, I thank my friend and manager, the gentleman from Colorado (Mr. DAN SCHAEFER), and also my friend, the gentleman from Texas (Mr. HALL), and I rise in strong support of H.R. 2841, legislation I introduced to extend the construction deadline for a proposed hydroelectric plant in my district.

Late last year I learned that the Augusta hydroelectric power project was running into some difficulties in securing private investors because of an impending construction deadline set by the Federal Emergency Regulatory Commission.

This is an extremely important project to my constituents in the northern part of Kentucky, and without congressional actions to extend this deadline, thousands of residents in my State could miss out on a tremendous source of inexpensive electricity.

□ 1445

The bill simply extends the present deadline set by the Federal Energy Regulatory Commission for 6 more years, which will provide the necessary time for the city of Augusta Kentucky to seek and obtain new investors for this important project. However, without our assistance today, this project will not meet its current construction deadline and be terminated.

By passing this legislation, we can help make sure that that does not happen. I appreciate the Committee on Commerce's quick action in bringing this important bill to the floor and look forward to working with them in the future to make sure this project is completed. I urge all of my colleagues to support this meaningful legislation.

I thank the chairman for yielding time to me.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BEREUTER). The question is on the motion offered by the gentleman from Colorado (Mr. DAN SCHAEFER) that the House suspend the rules and pass the bill, H.R. 2841, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SENSE OF THE HOUSE WITH RESPECT TO WINNING THE WAR ON DRUGS

Mr. HASTERT. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 423) expressing the sense of the House with respect to winning the war on drugs to protect our children.

The Clerk read as follows:

H. RES. 423

Whereas drug abuse killed 14,218 Americans in 1995 and it is estimated that nearly 114,000 Americans—many of them our youth—will have died as a result of drug abuse by the end of the period between 1992 and 2001, and it is estimated that 13,000,000 Americans used illegal drugs in 1996;

Whereas American taxpayers footed a $150,000,000,000 bill for drug-related criminal and medical costs in 1997, which is more than we spent in 1997's Federal budget for programs to fund education, transportation and infrastructure improvements, agriculture, energy, space and all foreign aid combined;

Whereas 34 percent of Americans see drug interdiction as a top priority foreign policy issue, above illegal immigration and the threat of terrorism, and 39 percent of Americans believe decreasing drug trafficking should be our primary objective in United States policy toward Latin America; and

Whereas the week of September 13 through 19, 1998 has been designated as the "Drug-Free America Blue Ribbon Campaign Week" to remind our children that they are not alone in the fight for a Drug-Free America: Now, therefore, be it

Resolved, That it is the sense of the House that—

(1) the House declares its commitment to create a Drug-Free America;

(2) the Members of the House should work personally to mobilize kids, parents, faith-based and community organizations, educators, local officials and law enforcement officers, as well as coaches and athletes to wage a winning war on drugs;

(3) the House pledges to pass legislation that provides the weapons and tools necessary to protect our children and our communities from the dangers of drug addiction and violence; and

(4) the United States will fight this war on drugs on three major battlefronts:

(A) Deterring demand.

(B) Stopping supply.

(C) Increasing accountability.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. HASTERT) and the gentleman from Ohio (Mr. BROWN), each will control 20 minutes.

The Chair recognizes the gentleman from Illinois, (Mr. HASTERT).

GENERAL LEAVE

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H. Res. 423.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HASTERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are facing a grave situation in this country, a situation that is not unlike scenes that we have faced within the last 20 years. Our children are being constantly nibbled away at with the threat of drugs, drugs in our communities, drugs in our neighborhoods, drugs in our schools. And we have constantly tried to wage this war. Unfortunately, it has been a war that has not been coordinated over the years, a war that policy does not always meet the appropriations, and a war where the public hears a little bit but sees little.

It is time for this Congress and this Nation to move forward to lay out a plan to win the war on drugs by the year 2002, to give the American people a solid plan to do this, to coordinate a policy and appropriations so the money goes to the place and gets the job done the quickest and the best. We must raise the level of awareness that there is a serious drug epidemic in our society.

This winning the war on drugs resolution takes the initial step to do that by listing the unfortunate facts about drug usage, the associated costs borne by the American taxpayers through drug-related crime and violence as well as higher medical bills.

I am pleased to see that just today the Congress has even pulled the President to the table and spurred him to propose a crime initiative that at its roots claims to target illegal drugs and money laundering, key aspects of the Speaker's Task Force for a Drug Free America agenda. This is a step in the right direction. National leaders need to come together. National leaders need to be engaged on this national problem.

The resolution also designates the second week of September as Drug Free America Blue Ribbon Campaign Week so every American can join together to protest illegal drugs by wearing a straight blue ribbon. Finally and most importantly for this body, it declares the House commitment to win the war on drugs by deterring demand, stopping supply and increasing accountability.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution expressing the sense of the House with respect to winning the war on drugs to protect our children. Since the majority party did not, for whatever reason, have hearings on this bill, I thought I would just read for Members in the House that are watching today just the basic thrust of the bill:

Resolved that it is the sense of the House that the House declares its commitment to create a Drug-Free America; that Members of the House should work personally to mobilize kids, parents, faith-based and community organizations, educators, local officials and law enforcement officers as well as coaches and athletes to wage a winning war on drugs; that the House pledges to pass legislation that provides the weapons and tools necessary to protect our children and our communities from the dangers of drug addiction and violence; and that the United States will fight this war on drugs on three major battle fronts: deterring demand, stopping supply, increasing accountability.

That is the resolution in front of us. Who could oppose it?

While I share my colleagues' commitment to protecting our children from the dangers of drug abuse, Mr. Speaker, I have my doubts that a 3-page resolution which commits this House to the creation of a drug-free America will move the Nation any nearer to accomplish this goal. It will not stop one more child from using drugs. It will not prevent another young man or young woman from overdosing on drugs. It will not stop a single drug dealer from peddling his poisons. Drug abuse in our schools, our workplaces and our communities remains a serious problem that demands serious answers. For these reasons, we must build on successful drug abuse prevention initiatives like the safe and drug-free schools program, which provides grants to State and local schools.

These funds have helped thousands of schools and local communities across the country combat the scourge of drugs by allowing them to implement effective and creative prevention strategies based on the unique needs of the students they are trying to protect in the neighborhoods in which they live.

In the district I represent in northeast Ohio, parents, teachers, and students in areas as diverse as the city of Lorain and Amish farm communities in Geauga County have utilized tools like this program to successfully fight drug abuse. These efforts across the country have helped millions of children reject the lure of illegal drugs and succeed in school. But our fight is not yet won. We clearly need more help.

Additionally, this resolution will not stem the flood of illegal drugs which are being trafficked across our border with Mexico. A recent confidential report entitled "Drug Trafficking, Commercial Trade and NAFTA on the Southwestern Border," by Operation Alliance, a task force led by the U.S. Customs Service, found that it is easier than ever to smuggle drugs into the United States through Mexico. According to the report, drug cartels have purchased legitimate trucking, rail and warehousing companies which they have used as fronts in their smuggling operations. Due to the flood of commercial vehicle traffic across our border, spawned by NAFTA, the failure of State governments, especially in Texas, to inspect trucks and our lax and inadequate inspection system, we have made it much easier for the drug cartels to smuggle their poisons into the United States. A former DEA official said, for Mexico's drug gangs, NAFTA was a deal made in narco-heaven.

So we find not only has this failed trade agreement cost American workers their jobs, it also put our children at greater risk by increasing their exposure to illegal drugs.

Mr. Speaker, we will not deter drug abuse by passing 3-page resolutions expressing the sense of the House of Representatives. We will only help parents, teachers, and students by providing them with the resources and the tools they need to better educate our children to the dangers of drug abuse so they can avoid falling into its deadly grip.

We undermine these efforts by passing bad trade agreements and ignoring the woefully inadequate interdiction efforts on our southwest border, in essence rolling out the red carpet to foreign drug smugglers. While I support this resolution before the body today, I do so in the hopes that my colleagues on the other side of the aisle will join us in passing real meaningful legislation which will help protect our children from drugs.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTERT. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the gentleman from Ohio making the statement. I agree. A 3-page resolution does not get the job done. But a 3-page resolution also makes a claim that this Congress has the will to get the job done. We lose 20,000 Americans each year to drugs and drug-related violence and gang violence on our street corners. Most of those are kids. We have to pass legislation that affects our communities, that affects our borders, that affects the flow of drugs from outside this country.

I agree with the gentleman from Ohio, we need to do that. And my colleagues will see, as we start to roll out pieces of legislation every week for the next 10 weeks, that will affect exactly those issues.

I join the gentleman from Ohio. I hope he will join us in putting together that legislation, voting on that legislation. That will do about six things. First of all, deal with treatment so that we have the most cost-effective treatment and available treatment in this country, to start to deal with communities so that we have the prevention programs that are important that we can deal with law enforcement, that they have the tools to get the job done, that we can deal with the borders, the Border Patrol, the INS, the Customs and those agents along that so we have a coordinated effort, and that we can put a stop to drugs moving across the border.

We also need to deal with the whole issue of foreign source drugs coming into this country, and we also need to deal with the issue of money laundering. We will show a strong initiative over the next 10 weeks, and I look forward to working with the gentleman from Ohio to get that done.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Illinois for his comments and look forward to that challenge.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise today to ask all of my colleagues to carefully look at what this bill states. This legislation asks that all Members work personally to mobilize all members of local communities in fighting drugs and that the House will pass legislation to provide the necessary resources to protect children and communities from the dangers of drug addiction and drug-related violence.

I find it hard to imagine that anyone in this House would disagree with the intent of this legislation, and I find it hard to imagine that anyone would argue with the importance that this message sends.

Let me say this: It is time for this Congress to act in a bipartisan manner and pass meaningful legislation to keep our communities free from drugs and give our children the opportunity to live and learn in a drug-free environment. We have all heard the staggering facts. More than 50 percent of high school seniors have experimented with drugs. The most likely cause of death for a 16-year-old is alcohol related. America's demand for drugs each year is estimated at 5 billion. We as a Nation have an obligation to do something about all of this. We as a Congress have an obligation to do something about this specific issue. We as parents have a duty to address and correct this serious problem.

Congress has before it an aggressive, comprehensive drug legislative strategy. The Office of National Drug Control Policy or, as we know it, ONDCP, unveiled the 1998 National Drug Control Strategy in February of this year. For the first time the 1998 National Drug Control Strategy set specific performance objectives for antidrug programs.

Under the national drug strategy, for each year over the next 10 years antidrug programs will be held accountable for meeting specific performance goals. This is a bipartisan, aggressive, comprehensive plan which will drastically reduce illegal drug use in our country.

Allow me to stress the fact that this plan reflects a bipartisan consensus on drug control policy. As a former border patrol chief who lived and worked on the border, I know the importance of cooperation when combatting drug trafficking.

□ 1500

There should never be an "us" versus "them" mentality when we are trying to help keep our kids alive.

I urge all my colleagues to vote for this legislation and to take its message to heart: Pass meaningful legislation to keep our streets free from illegal drugs.

I have introduced legislation which will increase the number of Customs and INS inspectors along our borders. This increase in manpower will provide us with another tool to combat drug traffickers and their relentless flood of narcotics into our Nation. This legislation will also provide technology to allow us to detect illegal narcotics and prevent those shipments from entering our communities and poisoning our children.

I urge all of my colleagues to act in a responsible, bipartisan manner and support the ONDCP plan and support this legislation that will keep drugs off of our streets and away from our kids.

Mr. HASTERT. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman for yielding me this time, and I particularly thank the gentleman from Illinois for his excellent leadership on this issue in the war against drugs and mobilizing Congress to take greater action.

I rise in strong support of this resolution expressing the sense of Congress that all Americans must remain committed to combating the distribution, sale and use of illegal drugs by our Nation's youth. Why is this important? Because this war against drugs has to start with leadership, and we in Congress must provide that leadership.

During recent weeks I have appeared in a town meeting in the small town of Gentry in my district, a town of about 1,400 people, in which they have had a number of youth that have been devastated by methamphetamine, and they have been sent to drug rehab programs. So the police chief and the mayor asked if I would come, as their Congressman, and address this community because they wanted to do more.

I am going next week, or soon, to Waldron, another community with more drug problems.

And so community after community is starting to recognize the danger of drugs and the impact that it has not just in terms of statistics, but in terms of the lives of our young people.

I am a former Federal prosecutor, but more importantly, I am a parent who has had to raise teenagers during this very difficult time when peer pressure is devastating our young people and driving them into a life of drugs when they do not need to go that direction and know there is a better way.

We are all familiar with the statistics. One study shows us that the number of 4th to 6th graders experimenting with marijuana has increased a staggering 71 percent between 1992 and 1997. Drug use among 12- to 17-year-olds has jumped 78 percent since 1992. And the statistics go on and on.

We know that each of those statistics represents the lives of individuals that are impacted, and this resolution shows a commitment of this Congress that will be followed up with legislation that has been outlined by the gentleman from Illinois. We start with that commitment, and that commitment also carries from community to community and shows those people in the communities that we should not be cynical about the war on drugs, that we do intend to do something.

This Congress intends to do something. This Nation intends to do something. That is why I believe this resolution is important, and the legislation that will follow will back it up with meaningful action coming from this body.

Mr. Speaker, I urge my colleagues to support this resolution, and I compliment the gentleman from Illinois.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding me this time.

Today the House will consider H.R. 423, a resolution to declare a war on drugs to protect children. While this resolution is not binding, it is important that we continue to express our commitment towards making America drug free.

We should understand that we all have a responsibility and opportunity and that we can, indeed, do more than this bill purports to do, but this is an important first beginning.

Crime in our communities has reached an intolerable level. Drug-driven crime, violent crime, is spiraling out of control, particularly among juvenile offenders. The use of guns by young people against other young people is alarming. Our children's futures are at risk, and they put everyone else in the community at risk.

There can be no more urgent time to act than this moment now in history. We can no longer postpone our responsibility in this. The drug and crime problem touches every State, every city, every neighborhood in the United States, both rural and urban.

According to the Children's Defense Fund, every 2 hours in America a child is killed by firearms. Fifteen children will die today as a result of gunshot wounds. And every 14 seconds a child is arrested. North Carolina is no different as a rural State. Over the past 10 years, in our State, juvenile arrests have almost doubled from 11,165 in 1986 to 21,717 in 1996, a startling 93 percent increase.

And the numbers are far worse for violent crimes, weapons violations and drug offenses. In North Carolina, violent crimes among juveniles, murder, rape, robbery, aggravated assault, increased by 129 percent over the past decade. Weapons violations increased by an incredible 492 percent and drug violations by an unbelievable 460 percent.

According to the Governor's Crime Commission, if the current trend continues in North Carolina, over the next 10 years, juvenile crime will again double and will reach a level that is three times higher than adult crime. It is no wonder that many of our young people are now planning their funerals rather than their futures.

Just as hard work and concentrated action have helped to curb crime in our general community, the same kinds of effort must be focused to make sure that we curb juvenile crime.

Some believe that the only key to juvenile crime can be found with more locks. Others, like the Covenant with North Carolina's Children, believe also that prevention plays a very important part in the answer. Whatever we believe, we should join together to support this resolution and continue our commitment.

The future is now. We must not waste time. We must act to curb crime and we must do it while our young people still have a chance. We want to give our young people a chance, make sure we listen to them, provide opportunity for them to develop. Whatever we do, we should make sure that we know that we have a responsibility.

Mr. Speaker, I urge the passage of this resolution.

Mr. HASTERT. Mr. Speaker, I yield myself 15 seconds to say that I associate myself with the statement of the gentlewoman from North Carolina.

Seventy percent of all people in prison are there probably because of drugs, 80 percent of our crime has a basis in drugs, and 75 percent of all domestic violence is there because of either drug or alcohol abuse. She is right on point.

Mr. Speaker, I yield 3¼ minutes to the gentleman from Indiana (Mr. BURTON), a leader on our committee and the task force on drugs.

Mr. BURTON of Indiana. Mr. Speaker, I rise today to lend my support to H. Res. 423, the sense of the House offered by my colleague, good friend, and a great subcommittee chairman, the gentleman from Illinois (Mr. HASTERT). I know he is one of the most tenacious Members of this body when it comes to fighting drugs. He has been down to Latin America, Colombia, several times.

I am proud to say that I have lent the gentleman my support in many of his counternarcotics efforts. He is the leader of the Speaker's Task Force for a Drug Free America, and I can think of no finer choice. As such, he is also the congressional drug czar. He has led many of the efforts and initiatives, along with the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, myself, the gentleman from Indiana (Mr. SOUDER), the gentleman from Florida (Mr. STEARNS), the gentleman from Florida (Mr. MICA), the gentleman from Arizona (Mr. SHADEGG), and others, which have caused the Clinton administration and its Drug Czar, General McCaffery, to take notice and to react to our proposals.

The facts are simple, Mr. Speaker: Our kids are dying on the vine and the Clinton administration is looking the other way. There are nearly 20,000 drug-related deaths in our country every year. Vice President AL GORE estimates that the annual societal cost of drugs in our country exceeds $60 billion. Yet the administration's war on drugs is to treat the wounded, spending more than $15 billion on domestic treatment, prevention, and law enforcement, while spending less than $1 billion on the source and transit zone operations where the drugs are grown and transported to American streets and school yards.

Clearly, we should not cut the successful demand-side programs; rather we should increase the supply-side efforts to a level which is respectable, at a very minimum. The ambitious program of the gentleman from Illinois (Mr. HASTERT) will combine these efforts and produce a well-thought-out, common-sense approach to winning the war on drugs.

The anecdotes are many, but I would like to highlight this one: According to the DEA, over the last 2 years there have been 35, count them, 35 teenage Colombian heroin overdose deaths in the Orlando, Florida, area alone.

The proof is in the pudding, as Colombian heroin has taken over the East Coast market, flooding it with cheap, extremely pure and deadly heroin. Indeed, the DEA confirms that more than 65 percent of the heroin seized on U.S. streets comes from Colombia. Yet the Clinton administration is without a heroin strategy and has fought tooth and nail to stop congressional efforts to combat this deadly problem which is sweeping across every town, big or small, in the country.

Simply put: The Clinton administration refuses to acknowledge the problem and accept Congress' solution. Clearly, Congress has the only heroin solution and strategy.

Mr. Speaker, in closing, let me say I am proud to join my good friend in his courageous efforts to provide the legislative avenue to win the war on drugs. With an absence of leadership in the Clinton administration on this issue, Congress must act now before we lose another generation of American children to this deadly scourge.

I salute the gentleman's efforts and hope he will let me know how I can help.

Mr. HASTERT. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN), chairman of the committee on oversight that has the whole responsibility for overseeing drug operations.

Mr. GILMAN. Mr. Speaker, I am pleased to rise today in strong support of House Resolution 423 by the gentleman from Illinois (Mr. HASTERT), who is the chairman of our House task force on drugs, and I am pleased to cosponsor legislation reaffirming congressional support of fighting and winning our war against drugs.

The threat posed by illegal drugs is one of the greatest national security threats confronting our Nation. This is the cold truth: Virtually all illegal drugs in our Nation come from overseas. And the sooner we recognize that drugs are as much a foreign as a domestic problem, the more effective our response will be.

While opponents argue we spend too much on combating drugs, I contend they ignore the true cost of drug use in our society. In addition to costs associated with supply and demand reduction, drug use costs our Nation billions each year in health care expenses and lost productivity. Moreover, it also has intangible costs in terms of broken families, destroyed lives, many of whom are our young people.

As chairman of our House Committee on International Relations, I have long been dedicated to enlisting the international community on fighting the scourge of illegal drugs. Regrettably, as of late, this is a battle which our Nation has not been winning.

During the 1980s we made remarkable progress in reducing drug use and eliminating the view that drug use was socially acceptable. Between 1979 and 1992 there was a significant drop in "past month" drug users from over 25 million down to 12 million. Our focus during that period was twofold: It followed a dual track of simultaneously reducing both supply and demand.

Regrettably, this administration sharply curtailed interdiction funding and placed greater emphasis on demand reduction. The end result has been a sharp increase in the supply of drugs available on our streets, the highest purity levels ever encountered, and a resurgence of teenage drug use. From 1992 to 1996, teenage marijuana use doubled.

More disturbing, though, is the data reporting a rise in heroin use among our teenagers. Drugs killed over 14,000 Americans in the last 1 or 2 years.

In essence, this administration's policy of focusing on demand reduction is being overwhelmed by the current state of the drug market. With many of our cities literally awash in heroin, the drug dealers are using supply to create demand.

□ 1515

In order to effectively combat the problem of illegal drug use, we are going to have to employ a balanced approach of reducing supply, reducing demand, and doing it simultaneously. Our strategy, to be effective, requires efforts from all levels of our government and society and cooperation by the international community.

Mr. Speaker, I urge my colleagues to support this worthy resolution expressing our commitment to a drug-free America. For too long we have had a disjointed approach in combatting illegal drug use. If we as a Nation are willing to reduce use of tobacco, surely we should do the same for combatting the use of illegal drugs.

Mr. HASTERT. Mr. Speaker, may I inquire how much time is remaining on each side?

The SPEAKER pro tempore (Mr. BEREUTER). The gentleman from Illinois (Mr. HASTERT) has 5½ minutes remaining. The gentleman from Ohio (Mr. BROWN) has 7 minutes remaining.

Mr. BROWN of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. HASTERT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Speaker, I rise today in support of this resolution which declares that we must win the war on drugs.

Drug use is a serious problem in America. Most parents do not realize this, but over half of all high school seniors have admitted to using an illegal drug in their lifetime. It gets worse. Overall, drug use among 12- to 17-year-olds is up 78 percent since 1992, and marijuana use is up 141 percent.

America has experienced an explosion in drug use during the last 6 years. And study after study shows shocking levels that were unimaginable just a short decade ago. But these are not just statistics. They are numbers with broken homes and broken lives and destroyed futures.

In the last 5 years, we have lost the war on drugs. And I am saddened by the lack of leadership from President Clinton. He has repeatedly sent the wrong message. In his first year, he cut funding for the drug czar's office. He reduced funding for drug interdiction. And Federal prosecutions have dropped under this presidency. Keeping drugs out of kids' hands is simply not a priority of this President.

We are losing too many children to drugs. It is time to send the right message. America can win the war on drugs if we reverse the present course and send a clear signal to our kids that we are committed to a drug-free America.

Mr. BROWN of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. HASTERT. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. MCCOLLUM), who has been on the forefront in working on the supply side reduction of drugs.

Mr. MCCOLLUM. Mr. Speaker, we are here today to pass a resolution I strongly support, and I hope every Member of this body does, calling on legislation and an all-out effort to deter demand, stop supply, and have increased accountability in an effort to really create a war on drugs. We have not had that for a while.

Since 1992, we have seen the teenage drug use in this Nation double. If this were anthrax coming into the country instead of drugs coming out of Latin America, cocaine and heroin, we would be at war, literally if not figuratively. We will be supplying the resources necessary to reduce the supply of drugs coming in here as well as taking it to the streets of this country with regard to law enforcement, community efforts, demand reduction in our schools, and so forth. We do not have the leadership right now to do that.

This Congress is committed now in this resolution to a course of action to renew a war on drugs, to truly fight that war. First and foremost, that means reducing the supply of cocaine and heroin and other drugs entering this country by at least 80 percent over the next 3 or 4 years so that we can drive the price of drugs up.

There is an inverse proportion, all the experts say, to the price of drugs. The greater they are, the lower the teenage drug use. We need to do that in order to provide breathing room for our folks at home to be able to do their job to get drug use among teenagers down.

On the other side of the coin, there are those who want to legalize drugs. The most absurd thing, in countries that have done that, we have seen double and triple the drug use among teenagers. Let us put the children first. Let us pass this resolution, and then let us go back and provide the resources necessary to cut the supply of drugs by the necessary amount coming into this country from aboard whatever ships, planes and flying hours are needed, and get back on the streets doing our job.

Mr. BROWN of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. HASTERT. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SESSIONS), who is on the Speaker's drug task force.

Mr. SESSIONS. Mr. Speaker, I appreciate the gentleman yielding me this time.

Mr. Speaker, once again it is my privilege to speak before this body and to the American people. We cannot say enough how important the war on drugs is. This Resolution 423 clearly expresses our sense to the American people that no other victory other than the victory on the war on drugs to protect our children is acceptable.

A few months ago, in the community of Lake Highlands, which is within the Fifth District of Texas, we were ravaged by vandalism; and it turns out that those perpetrators, those people who committed crimes, were high on marijuana laced with methamphetamines.

It saddened me as a parent and also as a Member of Congress that our communities are being invaded by those who desire to pollute our children with killer drugs. We must act responsibly to address this issue by deterring demand, stopping supply, and increasing accountability.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. HASTERT) has 1½ minutes remaining.

Mr. HASTERT. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PAPPAS).

Mr. PAPPAS. Mr. Speaker, I thank the gentleman from Illinois for yielding me the time, and I thank him for his leadership.

Mr. Speaker, this resolution states "the House declares its commitment to create a drug-free America." For the past two weeks, we have adopted two bills, one resolution last week that I authored with the very similar message focusing on young people in schools, and the week before that a resolution dealing with the needle exchanges. Very, very clear messages, very simple messages. And I have been very disappointed back in my district in New Jersey, members of the media have made light of it, have made light of statements that this House and the vast majority of Members of this House have stated very clearly that drug use is unacceptable and a drug-free America is a goal worth fighting for.

I stand here very proudly in supporting this resolution by the gentleman from Illinois (Mr. HASTERT), and I urge the members of the media that they need to join in this fight, not make light of it, not be cynical, not be skeptical, but that we all as Americans might speak as one voice.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 30 seconds.

I appreciate the debate today and the sincerity of my friends on the other side of the aisle. I would hope that as we move on, and the gentleman from Illinois (Mr. HASTERT) mentioned that there will be one of these every week or so for the next 10 weeks, I hope that as we get into more substantive debates and more substantive resolutions and more substantive legislation, that we do go through the committee process and work these through and are able to write, bipartisanly, together, the most effective substantive legislation we can.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. HASTERT. Mr. Speaker, I yield myself the remainder of the time.

I wish to say, Mr. Speaker, that I appreciate the gentleman from Ohio (Mr. BROWN) joining with us today. This is, just as the gentleman said, 3 pages of pages. It is merely words. It is actions that the American people want. It is the will of this country, it is the will of this Congress to get things done. It is moms and dads and teachers and preachers getting together and saying, "We have had enough." On the prevention side, it is doing our job to make sure our borders are secure and the dollars go effectively to stop drugs flowing from other countries into this country.

We owe it to ourselves, we owe it to this Congress, we owe it to the American people; and most of all, we owe it to our children and grandchildren. I ask for a positive vote on this legislation.

Mr. SAM JOHNSON of Texas. Mr. Speaker, drugs are no stranger to my hometown of Plano, Texas. Since the beginning of last year, heroin has claimed the lives of thirteen young people in my district.

Local police are working closely with community leaders and parents to stop this terrible epidemic. The heart of their mission is not just to stop the flow of drugs to these kids, but to get the word out that drugs kill.

Because, you see, somewhere along the line, the message got lost. Somewhere along the line, kids got the idea that drugs weren't that bad. I guess that happens when even the President of the United States jokes about it on M.T.V.

I've met with several law enforcement officials in Plano, and they all tell me the same thing—help us get the word out. And that's what we're doing here today.

This resolution sends a clear message to the President and to the drug users of America that the good times end now. No more. We are committed to ending the scourge of drugs in this country. And the President had better get on board, or he's going to get left behind.

We will not stand by and watch the future of our country waste away in a heroin haze. I owe it to the kids of Plano, Texas, just as the rest of this House owes it to the kids in their district. I urge my colleagues to support this resolution.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today in support of H. Res. 423 and to share with my colleagues my own experience in Kentucky's Second Congressional District.

Last month, the Speaker's Task Force for a Drug-Free America unveiled a plan to renew America's commitment to win the war on drugs.

As many of you know, our congressional agenda will focus on stopping supply, increasing accountability, and deterring demand.

It is critical to protect our borders and to assist our federal, state and local agencies in this war. But I believe the real battle will be fought, and ultimately, won at the local level. This fight will be led by parents and community leaders. And I think we in this Chamber need to play an important leadership in this effort.

Recognizing this fact, I started the Heartland Coalition anti-drug project. The goal is to activate grass-roots coalition groups in all 22 counties in my district. We want every young person in the Second District to understand the dangers of drugs. These county groups are made up of parents, teachers, community leaders and members of law enforcement.

Since the Heartland Coalition was introduced last year, we have:

Held monthly meetings with the advisory council;

Established a directory that lists every organization interested with combating drugs in each county; and

Hosted a law enforcement summit which brought together community leaders involved in the anti-drug movement and law enforcement professionals.

This fall we will focus on our youth. We will listen to teenagers from all over my district to learn their concerns, fears and thoughts on drugs.

There is still a lot more to do, but the overwhelming support I have received from my constituents shows that we have taken a step in the right direction.

So, the war on drugs will not be won from on-high in Washington but in the hearts and homes of all Americans. H. Res. 423 is a pledge from Congress we will stand ready to assist in this effort.

Again, I urge my colleagues to join me in voting for H. Res. 423.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Illinois (Mr. HASTERT) that the House suspend the rules and agree to the resolution, H. Res. 423.

The question was taken.

Mr. HASTERT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

UNITED STATES PATENT AND TRADEMARK OFFICE REAUTHORIZATION ACT, FISCAL YEAR 1999

Mr. COBLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3723) to authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Patent and Trademark Office Reauthorization Act, Fiscal Year 1999".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be made available for the payment of salaries and necessary expenses of the Patent and Trademark Office in fiscal year 1999, $66,000,000 from fees collected in fiscal year 1998 and such fees as are collected in fiscal year 1999, pursuant to title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 et seq.). Amounts made available pursuant to this section shall remain available until expended.

SEC. 3. LEVEL OF FEES FOR PATENT SERVICES.

(a) GENERAL PATENT FEES.—Section 41 of title 35, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) The Commissioner shall charge the following fees:

"(1)(A) On filing each application for an original patent, except in design or plant cases, $760.

"(B) In addition, on filing or on presentation at any other time, $78 for each claim in independent form which is in excess of 3, $18 for each claim (whether independent or dependent) which is in excess of 20, and $260 for each application containing a multiple dependent claim.

"(C) On filing each provisional application for an original patent, $150.

"(2) For issuing each original or reissue patent, except in design or plant cases, $1,210.

"(3) In design and plant cases—

"(A) on filing each design application, $310;

"(B) on filing each plant application, $480;

"(C) on issuing each design patent, $430; and

"(D) on issuing each plant patent, $580.

"(4)(A) On filing each application for the reissue of a patent, $760.

"(B) In addition, on filing or on presentation at any other time, $78 for each claim in independent form which is in excess of the number of independent claims of the original patent, and $18 for each claim (whether independent or dependent) which is in excess of 20 and also in excess of the number of claims of the original patent.

"(5) On filing each disclaimer, $110.

"(6)(A) On filing an appeal from the examiner to the Board of Patent Appeals and Interferences, $300.

"(B) In addition, on filing a brief in support of the appeal, $300, and on requesting an oral hearing in the appeal before the Board of Patent Appeals and Interferences, $260.

"(7) On filing each petition for the revival of an unintentionally abandoned application for a patent or for the unintentionally delayed payment of the fee for issuing each patent, $1,210, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $110.

"(8) For petitions for 1-month extensions of time to take actions required by the Commissioner in an application—

"(A) on filing a first petition, $110;

"(B) on filing a second petition, $270; and

"(C) on filing a third petition or subsequent petition, $490.

"(9) Basic national fee for an international application where the Patent and Trademark Office was the International Preliminary Examining Authority and the International Searching Authority, $670.

"(10) Basic national fee for an international application where the Patent and Trademark Office was the International Searching Authority but not the International Preliminary Examining Authority, $760.

"(11) Basic national fee for an international application where the Patent and Trademark Office was neither the International Searching Authority nor the International Preliminary Examining Authority, $970.

"(12) Basic national fee for an international application where the international preliminary examination fee has been paid to the Patent and Trademark Office, and the international preliminary examination report states that the provisions of Article 33 (2), (3), and (4) of the Patent Cooperation Treaty have been satisfied for all claims in the application entering the national stage, $96.

"(13) For filing or later presentation of each independent claim in the national stage of an international application in excess of 3, $78.

"(14) For filing or later presentation of each claim (whether independent or dependent) in a national stage of an international application in excess of 20, $18.

"(15) For each national stage of an international application containing a multiple dependent claim, $260.

For the purpose of computing fees, a multiple dependent claim referred to in section 112 of this title or any claim depending therefrom shall be considered as separate dependent claims in accordance with the number of claims to which reference is made. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.".

(b) PATENT MAINTENANCE FEES.—Section 41 of title 35, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) The Commissioner shall charge the following fees for maintaining in force all patents based on applications filed on or after December 12, 1980:

"(1) 3 years and 6 months after grant, $940.

"(2) 7 years and 6 months after grant, $1,900.

"(3) 11 years and 6 months after grant, $2,910.

Unless payment of the applicable maintenance fee is received in the Patent and Trademark Office on or before the date the fee is due or within a grace period of 6 months thereafter, the patent will expire as of the end of such grace period. The Commissioner may require the payment of a surcharge as a condition of accepting within such 6-month grace period the payment of an applicable maintenance fee. No fee may be established for maintaining a design or plant patent in force.".

SEC. 4. AUTHORIZATION OF COLLECTION AND EXPENDITURE.

Section 42(c) of title 35, United States Code, is amended by striking the first sentence and inserting the following: "To the extent and in the amounts provided in advance in appropriations Acts, fees authorized in this title or any other Act to be charged or established by the Commissioner shall be collected by and shall be available to the Commissioner to carry out the activities of the Patent and Trademark Office.".

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1998.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3723.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, enactment of H.R. 3723, the U.S. Patent and Trademark Office Reauthorization Act for Fiscal Year

1999, will ensure that users of the Patent and Trademark Office who pay for its operation are getting their money's worth.

The bill before us today increases the Patent and Trademark Office's individual filing and maintenance fees by approximately $132 million to allow the agency to operate at 100 percent of its required needs, as outlined by the administration, but it does not provide additional monies to use for other non-Patent and Trademark Office purposes. The result of this change would actually lower patent and trademark fees for the first time in history and will result in a savings of approximately $50 million in fees charged to the inventors of America.

In addition, Mr. Speaker, the bill before us contains a technical amendment that has been suggested by the appropriators for scoring purposes. I believe we must assist the men and women who pay the fees that enable the Patent and Trademark Office to operate. They are the ones who contributed an element of inventiveness to our economy that would otherwise be nonexistent.

I therefore urge the Committee to report H.R. 3723 favorably to the full House.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with what my friend the gentleman from North Carolina (Mr. COBLE) has said.

I would just want to underline; Members will remember that we debated a patent bill earlier in this Congress. It was contentious. Many of the issues that become disagreements in setting patent policy are either created or exacerbated by delays in the process. To the extent that we adequately fund that office, and this bill will increase the guarantee that that happens because it raises funds and dedicates them to that office, to the extent that the Patent Office is well-funded and can act expeditiously, a number of the disputes we have had will diminish, many of them will, over time and over delay.

So this is a very important piece of legislation. It responds to the need of our economy and our intellectual processes for the encouragement of invention. I hope the bill is passed.

Mr. Speaker, I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I have no requests for time, and I too yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 3723, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

☐ 1530

DEADBEAT PARENTS PUNISHMENT ACT OF 1998

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3811) to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

The Clerk read as follows:

H.R. 3811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deadbeat Parents Punishment Act of 1998".

SEC. 2. ESTABLISHMENT OF FELONY VIOLATIONS.

Section 228 of title 18, United States Code, is amended to read as follows:

"§ 228. Failure to pay legal child support obligations

"(a) OFFENSE.—Any person who—

"(1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000;

"(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000; or

"(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 2 years, or is greater than $10,000;

shall be punished as provided in subsection (c).

"(b) PRESUMPTION.—The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

"(c) PUNISHMENT.—The punishment for an offense under this section is—

"(1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and

"(2) in the case of an offense under paragraph (2) or (3) of subsection (a), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

"(d) MANDATORY RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

"(e) VENUE.—With respect to an offense under this section, an action may be inquired of and prosecuted in a district court of the United States for—

"(1) the district in which the child who is the subject of the support obligation involved resided during a period during which a person described in subsection (a) (referred to in this subsection as an 'obliger') failed to meet that support obligation;

"(2) the district in which the obliger resided during a period described in paragraph (1); or

"(3) any other district with jurisdiction otherwise provided for by law.

"(f) DEFINITIONS.—As used in this section—

"(1) the term 'Indian tribe' has the meaning given that term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a);

"(2) the term 'State' includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

"(3) the term 'support obligation' means any amount determined under a court order or an order of an administrative process pursuant to the law of a State or of an Indian tribe to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living.".

The SPEAKER pro tempore (Mr. BEREUTER). Pursuant to the rule, the gentleman from Florida (Mr. McCOLLUM) and the gentleman from Florida (Mr. WEXLER) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. McCOLLUM).

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

The Deadbeat Parents Punishment Act of 1998 strengthens Federal law by establishing felony violations for the most serious cases of failure to pay legal child support obligations.

H.R. 3811 is a bipartisan bill introduced by the gentleman from Illinois (Mr. HYDE) and the gentleman from Maryland (Mr. HOYER), and is nearly identical to a bill we moved through the Subcommittee on Crime in the Committee on the Judiciary last month. The bill is also similar to one the Justice Department submitted to the 104th Congress.

Mr. Speaker, our current penalties for deadbeat parents are inadequate. It is currently a Federal offense to fail to pay a child support obligation for a child living in another State if the obligation has remained unpaid for longer than a year or is greater than $5,000. A first offense is subject to a maximum of 6 months of imprisonment; and a second or subsequent offense, to a maximum of 2 years. But the law fails to address the problem of more aggravated cases. This bill remedies the problem.

H.R. 3811 establishes two new felony offenses. The first offense is traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than 1 year or is greater than $5,000.

The second offense is willfully failing to pay a support obligation regarding a child residing in another State if the obligation has remained unpaid for a period longer than 2 years or is greater than $10,000.

Both of these offenses involve a degree of culpability that is not adequately addressed by current penalties. As such, the bill provides for a maximum 2-year prison term for these offenses.

H.R. 3811 includes several additional measures which clarify and strengthen Federal child support enforcement provisions. The bill clarifies how these penalties apply to child support orders issued by Indian tribal courts. The bill also includes a venue section that clarifies that prosecutions under the statute may be brought in any district in which the child resided or which the obligated parent resided during a period of nonpayment.

This bill is a reasonable and appropriate step by the House to do what it can to hold accountable those parents who neglect next their most basic responsibilities to their children. The abdication of moral and legal duty by deadbeat parents calls for unequivocal social condemnation. This bill expresses such condemnation, even as it seeks to deter such unacceptable dereliction of duty.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I claim the time of the gentleman from Florida (Mr. WEXLER) until he arrives.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. FRANK) is recognized for 20 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on the Judiciary, I would say that we agree with the gentleman from Florida.

Mr. Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE), the chairman of our full committee.

Mr. HYDE. Mr. Speaker, the parameters of this bill have been well explained by Mr. MCCOLLUM. It is a good bill. It is a necessary bill. It is overdue to punish those who abdicate their fundamental and their legal responsibility to provide for their children.

This legislation deals with the consequences of the disintegration of the family. We do not have an awful lot of power to keep families together, but we can ensure strong condemnation is directed against those who neglect their children in violation of law.

In doing so, we take a small, but important, step to support the family institution and the legal duties of parents to their children. The punishment that we as a society direct against wrongdoing is a clear indication of what we value and of what we hold dear. This bill represents our commitment to be vigilant on behalf of our families and our children.

Mr. Speaker, I want to express my appreciation to the gentleman from Maryland (Mr. HOYER) whose impetus to get this bill to the floor has been very strong, very effective, and who supports this bill, who was present at the creation, and deserves a great deal of credit for its existence. I want to acknowledge that publicly, and I hope we get a large affirmative vote.

Mr. McCOLLUM. Mr. Speaker,. I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield as much time as he may consume to the gentleman from Florida (Mr. WEXLER).

Mr. WEXLER. Mr. Speaker, I rise in support of this bill. This is a very important bill. This country is built on rights and responsibilities. It is the job of the government to protect the rights of the citizens and to make sure that they discharge their responsibilities. There is no responsibility more sacred than that of a parent to a child, to provide for, to care for, to make certain that their children are well.

The ideal situation, I believe, is one in which both parents share the childrearing responsibility. But even in the too-numerous single-parent households, the other parent has a responsibility, at the least, to contribute financially.

There was a period where we, as a society, did not enforce that obligation very rigorously. I am glad to say that that period is over. Through accommodation of stiff penalties and aggressive enforcement strategies, child support collections are way up in the past few years.

This is a lot like what has happened with drunk driving. By toughening law enforcement and relentlessly sending the message that what was once tolerated will not be tolerated any longer, we have been able to change behavior for the better.

This bill will make a significant improvement in current law. It is aimed at people who move from one State to another to avoid paying child support. A custodial parent in Florida can have a very difficult time trying to collect child support from a parent who has moved, for instance, to Ohio.

In 1992, Congress passed the first law establishing Federal penalties for crossing State lines to evade child support. This statute has been an important piece of the very successful effort by the Clinton administration to increase child support collections. Under this current law, first offense is a misdemeanor.

H.R. 3811 will toughen the law so particularly egregious first offenses, those that involve a debt of more than $10,000 or one that has been outstanding for more than 2 years will be felonies punishable by up to 2 years in prison.

I want to note that H.R. 3811 is identical to H.R. 2925, which was introduced by the gentleman from Maryland (Mr. HOYER) and marked up by the Committee on the Judiciary.

I want to commend both the gentleman from Maryland (Mr. HOYER) and the gentleman from Illinois (Mr. HYDE) for their leadership on this issue, and I urge my colleagues to support this bill.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentlewoman from of Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to support the legislation dealing with deadbeat parents and particularly adding additional felonies for those who willfully do not pay child support. This legislation deals more with the idea of financial compensation. It sometimes deals with the very survival of children.

Yesterday, I had the opportunity to meet with women from around my community. We, of course, were talking about what I consider a felony as well, and that is, the present bankruptcy bill that we are marking up that does not respond to protecting child support in its present form.

In the course of discussing that legislation, Mr. Speaker, the pain of expression of the need and dependence on child support was made very clear. In many instances, women or men with custody who have to rely upon the civil process system time after time after time find that the parent that owes the money does not pay child support many times.

The civil proceedings are not raised to the level of enough intensity to require those parents to do what they should do! They usually abscond and then make those individuals who are dependent upon child support parent and child, fight for their survival.

One of my constituents talked about the intimidation of her spouse who held up child support payments by requiring the parent to do something special to receive those child support payments. But the worst thing is not being able to find those individuals who owe the child support payments as they move from State to State. So I want to commend the chairman for this very vital and important bill.

I hope that we can also confront this important issue as we revise the bankruptcy code that needs to be revised, but it needs to be revised with the input and insight of those who also are negatively impacted by it.

Child support is many times a life-or-death matter, Mr. Speaker; I hope that my colleagues will support this legislation.

Mr. Speaker, I support H.R. 3811 the Deadbeat Parents Punishment Act. We must protect our children who rely on child support, and create stiffer penalties for those parents who avoid their financial obligation to their children. Deadbeat parents must understand that this type of irresponsible behavior is unacceptable and that they can be punished for attempting to avoid child support payments by moving between states, or out of the United States.

As Chair of the Children's Congressional Caucus and a strong child advocate, I firmly believe that we must consider children our first priority. For this reason, I cosponsored H.R. 2487 the Child Support Incentive Act, legislation which reformed the child support incentive payment plan, and improved state collection performance. I am also currently opposing H.R. 3150, which would allow credit card companies to have the same priority as parents seeking child support during and after a debtor's bankruptcy.

Child support is an issue critical to the wellbeing of our nation's children. According to a recent study by the Department of Health and Human Services, between 1989 and 1991, 21–28% of poor children in America did not receive any child support from their non-custodial parent. In 1994, one in every four children lived in a family with only one parent present in the home. In the same year, the Child Support Enforcement system handled 12.8 million cases of non-payment. Yet, the system was only able to collect $615 million of the $6.8 billion due in back child support. The result is that the average amount of overdue child support payments is a shocking $15,000 per parent.

In Texas alone, there were 847,243 cases of child support payment delinquencies. Too many families and children in this country are forced to rely upon government assistance because absent parents have attempted to beat the system. We must protect the welfare of our children and support tough and fair child support enforcement laws.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida (Mr. WEXLER) to assume the remainder of the time on the minority side.

Mr. WEXLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. HOYER), who introduced the bill with identical language that we are speaking of now.

Mr. HOYER. Mr. Speaker, I thank the gentleman from Florida for yielding and being so generous in the yielding of time. I thank the gentleman from Florida (Mr. MCCOLLUM), and I want to thank the gentleman from Illinois (Mr. HYDE), whom I just saw leave the floor. I know the gentleman made a statement on this bill before, but I want to thank the gentleman from Illinois (Mr. HYDE).

The gentleman from Illinois (Mr. HYDE) introduced legislation to deal with the deadbeat parent problem of those leaving States to avoid the payment of child support. There was a problem that existed because States were faced with requests to enforce misdemeanor offenses in another State, and the State of residence of the deadbeat parent was reluctant to act.

I went to the gentleman from Illinois (Mr. HYDE) and said I wanted to introduce legislation to up the penalties for these serious, egregious failures to pay child support. He agreed. I introduced that legislation. I am very pleased that the gentleman has now introduced similar legislation in the last few days, and we have this on the floor. The gentleman from Illinois (Mr. HYDE) and I have worked very closely on this.

I, therefore, Mr. Speaker, rise in strong support of this legislation, which sends a clear and unmistakable message to deadbeat parents who attempt to use State borders as a shield against the enforcement of child support orders. That message is, you can run, but you cannot hide from the child support you owe.

I am proud to be a cosponsor of the Deadbeat Parents Punishment Act along with my friend, whom I mentioned earlier, the gentleman from Illinois (Mr. HYDE), Chairman of the Committee on the Judiciary. The Deadbeats Act is a companion to legislation introduced by Senator KOHL of Wisconsin, which unanimously passed the Senate this year.

□ 1545

This legislation will stiffen penalties for deadbeat parents in egregious interstate cases of child support delinquency. It will also enable Federal authorities to go after those who attempt to escape State-issued child support orders by fleeing across State lines.

Under the Child Support Recovery Act sponsored by the gentleman from Illinois (Mr. HYDE) in 1992, to which I earlier referred, parents who willfully withhold child support payments totaling more than $5,000 or owe for more than 1 year, are presently subject to a misdemeanor offense punishable by not more than 6 months. Current law also provides that a subsequent offense is a felony punishable by up to 2 years in prison.

H.R. 3811 addresses the difficulty States frequently encounter in attempting to enforce child support orders beyond their borders. This legislation will augment current law by creating a felony offense for parents with an arrearage totaling more than $10,000 or owing for more than 2 years. This provision, like current law, would apply where the noncustodial parent and child legally reside in different States.

In addition, Mr. Speaker, this legislation will make it a felony for a parent to cross a State border with the intent of evading a child support order where the arrearage totals more than $5,000 or is more than 1 year past due, regardless of residency.

H.R. 3811 is not simply about ensuring just punishment in intentional severe cases of child support evasion; it serves to complement other Federal child support enforcement measures to help States establish and enforce child support orders.

The ultimate goal, of course, Mr. Speaker, is to put deadbeat parents on notice and to induce compliance. Our cumulative efforts, Mr. Chairman, will increase parental accountability, decrease child poverty and dependence on public assistance, and erase the notion that nonpayment of State-ordered child support is a viable option.

Congress, of course, cannot force anyone to be a loving, nurturing and involved parent. However, by acting together, we can strengthen the government's ability to make parents fulfill their minimum moral and legal responsibility, which is to provide financial support for the children they bring into this world.

The deliberate neglect of this obligation should warrant serious consequences for the parent, as serious as the consequences are for that child who is in need of those provisions. The Deadbeat Parents Punishment Act of 1997 will ensure that this is the case, even for those who attempt to use State borders as a barrier to enforcement of child support orders.

Mr. Speaker, I urge my colleagues to vote for this legislation today, and I want to thank the 50 bipartisan cosponsors of this legislation, especially, as I said, the gentleman from Illinois (Chairman HYDE), for his leadership on this issue.

Mr. Speaker, in conclusion, let me say, as someone who has practiced law for over a quarter of a century, who, in fact, tried his last case in 1990 prior to our changing the rules which prohibit me from practicing law further, I was always concerned about how child support was perceived to be perhaps less important to deal with than some other matters that came before our courts; that it was sort of put at the end of the docket, and that the practical judgment was that clearly we cannot incarcerate a father, because then he will not be able to pay it all. I say "father," because over 80 percent of those parents who are referred to as deadbeat parents are the fathers who believe that they can participate in bringing a child into the world, but then somehow not participate in supporting that child. Indeed, the consequence of that is many times to expect a result in the rest of us supporting that child. We have talked a lot about responsibility.

We talked about responsibility in the crime bill. We talked about responsibility in the welfare bill, where we expect work. Here we are talking about an expectation of responsibility as a parent.

As I said earlier, we cannot make a parent love a child. They ought to, and we would hope they would. But we can certainly expect that they will support that child and try to bring that child up in a way that will give that child some opportunity.

Mr. Speaker, again I thank the members of the Committee on the Judiciary, and my friend the gentleman from

Illinois (Mr. HYDE) for his help with this legislation.

Mr. MCCOLLUM. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, children are at the heart of the need for this legislation. No child should go to bed hungry, miss a medical appointment, not have adequate housing or be deprived of quality education. We have no more precious resource than our children. We have no greater responsibility than the protection, development and security of our children.

The greatest uncollected debt in our country, unfortunately, is child support. Thankfully, the Deadbeat Parents Punishment Act of 1998 strengthens Federal law by establishing felony violations for the most serious cases to pay legal child support obligations.

H.R. 3811 is a bipartisan bill introduced by the gentleman from Illinois (Chairman HYDE) and the gentleman from Maryland (Mr. HOYER), and is one that all my colleagues should support.

Mr. PAUL. Mr. Speaker, today the Congress will collectively move our nation two steps closer to a national police state by further expanding a federal crime and paving the way for a deluge of federal drug prohibition legislation. Of course, it is much easier to ride the current wave of federalizing every human misdeed in the name of saving the world from some evil than to uphold a Constitutional oath which prescribes a procedural structure by which the nation is protected from what is perhaps the worst evil, totalitarianism. Who, after all, and especially in an election year, wants to be amongst those members of Congress who are portrayed as soft on drugs or deadbeat parents irrespective of the procedural transgressions and individual or civil liberties one tramples in their zealous approach.

Our federal government is, constitutionally, a government of limited powers. Article one, Section eight, enumerates the legislative areas for which the U.S. Congress is allowed to act or enact legislation. For every other issue, the federal government lacks any authority or consent of the governed and only the state governments their designees, or the people in their private market actions enjoy such rights to governance. The tenth amendment is brutally clear in stating "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Our nation's history makes clear that the U.S. Constitution is a document intended to limit the power of central government. No serious reading of historical events surrounding the creation of the Constitution could reasonably portray it differently. Of course, there will be those who will hang their constitutional "hats" on the interstate commerce general welfare clauses, both of which have been popular "headgear" since the FDR's headfirst plunge into New Deal Socialism.

The interstate commerce clause, however, was included to prevent states from engaging in protectionism and mercantilist policies as against other states. Those economists who influenced the framers did an adequate job of educating them as to the necessarily negative consequences for consumers of embracing such a policy. The clause was never intended to give the federal government carte blanche to intervene in private economic affairs anytime some special interest could concoct a "rational basis" for the enacting such legislation.

Likewise, while the general welfare provides an additional condition upon each of the enumerated powers of the U.S. Congress detailed in Article I, Section eight, it does not, in itself, provide any latitude for Congress to legislatively take from A and give to B or ignore every other government-limiting provision of Constitution (of which there are many), each of which are intended to limit the central government's encroachment on liberty.

Nevertheless, rather than abide by our constitutional limits, Congress today will likely pass H. Res. 423 and H.R. 3811 under suspension of the rules meaning, of course, they are "non-controversial." House Resolution 423 pledges the House to "pass legislation that provides the weapons and tools necessary to protect our children and our communities from the dangers of drug addiction and violence". Setting aside for the moment the practicality of federal prohibition laws, an experiment which failed miserably in the so-called "Progressive era", the threshold question must be: "under what authority do we act?" There is, after all, a reason why a Constitutional amendment was required to empower the federal government to share jurisdiction with the States in fighting a war on a different drug (alcohol)—without it, the federal government had no constitutional authority. One must also ask, "if the general welfare and commerce clause were all the justification needed, why bother with the tedious and time-consuming process of amending the Constitution?" Whether any governmental entity should be in the "business" of protecting competent individuals against themselves and their own perceived stupidity is certainly debatable—Whether the federal government is empowered to do so is not. Being stupid or brilliant to one's sole disadvantage or advantage, respectively, is exactly what liberty is all about.

Today's second legislative step towards a national police state can be found in H.R. 3811, the Deadbeat Parents Punishment Act of 1998. This bill enhances a federal criminal felony law for those who fail to meet child support obligations as imposed by the individual states. Additionally, the bills shifts some of the burden of proof from the federal government to the accused. The United States Constitution prohibits the federal government from depriving a person of life, liberty, or property without due process of law. Pursuant to this constitutional provision, a criminal defendant is presumed to be innocent of the crime charged and, pursuant to what is often called "the Winship doctrine," the prosecution is allocated the burden of persuading the fact-finder of every fact necessary to constitute the crime . . . charged." The prosecution must carry this burden because of the immense interests at stake in a criminal prosecution, namely that a conviction often results in the loss of liberty or life (in this case, a sentence of up to two years). This departure from the long held notion of "innocent until proven guilty" alone warrants opposition to this bill.

Perhaps, more dangerous is the loss of another Constitutional protection which comes with the passage of more and more federal criminal legislation. Constitutionally, there are only three federal crimes. These are treason against the United States, piracy on the high seas, and counterfeiting (and, as mentioned above, for a short period of history, the manufacture, sale, or transport of alcohol was concurrently a federal and state crime). "Concurrent" jurisdiction crimes, such as alcohol prohibition in the past and federalization of felonious child support delinquency today, erode the right of citizens to be free of double jeopardy. The fifth amendment to the U.S. Constitution specifies that no "person be subject for the same offense to be twice put in jeopardy of life or limb . . ." In other words, no person shall be tried twice for the same offense. However, in United States v. Lanza, the high court in 1922 sustained a ruling that being tried by both the federal government and a state government for the same offense did not offend the doctrine of double jeopardy. One danger of unconstitutionally expanding the federal criminal justice code is that it seriously increases the danger that one will be subject to being tried twice for the same offense. Despite the various pleas for federal correction of societal wrongs, a national police force is neither prudent nor constitutional.

The argument which springs from the criticism of a federalized criminal code and a federal police force is that states may be less effective than a centralized federal government in dealing with those who leave one state jurisdiction for another. Fortunately, the Constitution provides for the procedural means for preserving the integrity of state sovereignty over those issues delegated to it via the tenth amendment. The privilege and immunities clause as well as full faith and credit clause allow states to exact judgments from those who violate their state laws. The Constitution even allows the federal government to legislatively preserve the procedural mechanisms which allow states to enforce their substantive laws without the federal government imposing its substantive edicts on the states. Article IV, Section 2, Clause 2 makes provision for the rendition of fugitives from one state to another. While not self-enacting, in 1783 Congress passed an act which did exactly this. There is, of course, a cost imposed upon states in working with one another than relying on a national, unified police force. At the same time, there is a greater cost to centralization of police power.

It is important to be reminded of the benefits of federalism as well as the costs. There are sound reasons to maintain a system of smaller, independent jurisdictions—it is called competition and, yes, governments must, for the sake of the citizenry, be allowed to compete. We have obsessed so much over the notion of "competition" in this country we harangue someone like Bill Gates when, by offering superior products to every other similarly-situated entity, he becomes the dominant provider of certain computer products. Rather than allow someone who serves to provide values as made obvious by their voluntary exchanges in the free market, we lambaste efficiency and economies of scale in the private marketplace. Yet, at the same time, we further centralize government, the ultimate monopoly and one empowered by force rather than voluntary exchange.

When small governments becomes too oppressive, citizens can vote with their feet to a "competing" jurisdiction. If, for example, I do not want to be forced to pay taxes to prevent a cancer patient from using medicinal marijuana to provide relief from pain and nausea, I can move to Arizona. If I want to bet on a football game without the threat of government intervention, I can move to Nevada. If I want my income tax at 4% instead of 10%, I can leave Washington, DC, for the surrounding state suburbs. Is it any wonder that many productive people leave DC and then commute in on a daily basis? (For this, of course, DC will try to enact a commuter tax which will further alienate those who will then, to the extent possible, relocate their workplace elsewhere). In other words, governments pay a price (lost revenue base) for their oppression.

As government becomes more and more centralized, it becomes much more difficult to vote with one's feet to escape the relatively more oppressive governments. Governmental units must remain small with ample opportunity for citizen mobility both to efficient governments and away from those which tend to be oppressive. Centralization of criminal law makes such mobility less and less practical.

For each of these reasons, among others, I must oppose the further and unconstitutional centralization of power in the national government and, accordingly, H. Res. 423 and H.R. 3811.

Mrs. ROUKEMA. Mr. Speaker, I rise today in support of the Deadbeat Parents Punishment Act of 1998. I thank Mr. HYDE for introducing this measure and for supporting the right of children to receive the support payments to which they are legally and morally entitled.

Mr. Speaker, I have spent many years working on the issue of child support enforcement. As part of that work, I had the honor of serving on the U.S. Commission on Interstate Child Support Enforcement. This commission conducted a comprehensive review of our child support system and issued a series of recommendations for reform. I am pleased to be able to say that many of those recommendations have been made part of federal law.

One of the recommendations of the commission was that willful non-payment of support should be made a criminal offense. We have already done that under federal law. Federal law currently carries a six-month jail term for deadbeats who refuse to pay. Willful failure to pay child support is a misdemeanor.

This bill today toughens the federal law by making willful non-payment of child support a felony. It maintains the six-month jail term for first-offenders and establishes a prison sentence of up to two years for second offenders. It also requires that deadbeats who are convicted and sent to jail still have to pay the support that they owe.

In addition, there is an important legal distinction in making this crime a felony. A felony conviction carries more than just a jail term. A convicted felon loses the right to vote, to be licensed in many professions, to hold public office and many other rights.

This is a good bill and it will be a good law. But we must not stop here.

This bill applies only to non-support cases that cross state lines—when the deadbeat parent and his or her child live in different states, or when the deadbeat moves to another state to avoid payment. It does not apply to deadbeats who live in the same state as their children. We must pass legislation requiring that the states make non-payment of support a criminal offense under state law as well. Only then will all the children who are not receiving support get the legal protection to which they are entitled.

The federal government has wisely adopted federal criminal penalties for those who cross interstate lines to avoid child support. But to reach everyone, states should use criminal penalties for those who choose to ignore their legal, financial and moral obligations.

Mr. Speaker, it is a national disgrace that our child support enforcement system continues to allow so many parents who can afford to pay for their children's support to shirk these obligations. The so-called "enforcement gap"—the difference between how much child support could be collected and how much child support is collected—has been estimated at $34 billion!

Failure to pay court-ordered child support is not a "victimless crime." The children going without these payments are the first victims. But the taxpayers are the ultimate victims, when the parents who have custody are forced onto the welfare rolls for the lack of support payments being withheld by deadbeats.

Mr. Speaker, let's make deadbeats pay up or face the consequences. Let's let them know that they can run, but they can't hide.

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 3811, which establish felon violations for parents who fail to pay child support. This legislation will help encourage noncustodial parents to pay their court ordered support payments in a timely fashion or face a substantial fine or up to $10,000 and/or a prison sentence of up to 2 years.

The purpose of this bill is to help local law enforcement officials collect outstanding court-ordered child support payments. This will be especially helpful in situations where the parent has moved to another State in the hopes of avoiding paying child support. There are far too many cases of this occurring in our Nation each year. The children are the ones who are being hurt the most. Those "dead beat parents" who refuse to take responsibility for their children and pay child support, as ordered by the court, should be ashamed of themselves. These support payments are supposed to be used for their children's basic needs such as, clothing and schooling, and in most cases, this additional money is desperately needed in order to provide a decent life to these children.

Just one example of how this failure to pay affects families is in the quality of child care received. Because the parents are divorced and the custodial parent must work, these support payments are used to help defray the cost of child care for their children. When a parent refuses to make their child support payments, the custodial parent has to make choices and if they have to choose between buying groceries and using the best day care center in town, a parent would have to choose the former. However, the child still needs to be in day care, and they may not be able to attend the best facility available. As a result, the children are unnecessarily put in harm's way, because their parent dodged his or her responsibilities and denied his child monetary assistance.

This bill will help the States identify these parents residing in different States than that in which the order was initially issued and hold them accountable for failing to pay child support, by making it a felony under Federal law with punishments of fines and jail sentences. Additionally, the parent will still be responsible for making restitutions of all unpaid child support which is still owned at the time they are sentenced.

Accordingly, I urge my colleagues to join in supporting this measure which will help our Nation's children and make parents assume their responsibility for their children.

Mr. WEXLER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. McCOLLUM) that the House suspend the rules and pass the bill, H.R. 3811.

The question was taken.

Mr. McCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 1998

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2829) to establish a matching grant program to help state and local jurisdictions purchase armor vests for use by law enforcement departments, as amended.

The Clerk read as follows:

H.R. 2829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bulletproof Vest Partnership Grant Act of 1998".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the number of law enforcement officers who are killed in the line of duty would significantly decrease if every law enforcement officer in the United States had the protection of an armor vest;

(2) according to studies, between 1985 and 1994, 709 law enforcement officers in the United States were feloniously killed in the line of duty;

(3) the Federal Bureau of Investigation estimates that the risk of fatality to law enforcement officers while not wearing an armor vest is 14 times higher than for officers wearing an armor vest;

(4) the Department of Justice estimates that approximately 150,000 State, local, and tribal law enforcement officers, nearly 25 percent, are not issued body armor;

(5) according to studies, between 1985 and 1994, bullet-resistant materials helped save the lives of more than 2,000 law enforcement officers in the United States; and

(6) the Executive Committee for Indian Country Law Enforcement Improvements reports that violent crime in Indian country has risen sharply, despite a decrease in the national crime rate, and has concluded that there is a "public safety crisis in Indian country".

(b) PURPOSE.—The purpose of this Act is to save lives of law enforcement officers by helping State, local, and tribal law enforcement agencies provide officers with armor vests.

SEC. 3. MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Y as part Z;

(2) by redesignating section 2501 as section 2601; and

(3) by inserting after part X the following new part:

"PART Y—MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS

"SEC. 2501. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance is authorized to make grants to States, units of local government, and Indian tribes to purchase armor vests for use by State, local, and tribal law enforcement officers.

"(b) USES OF FUNDS.—Grants awarded under this section shall be—

"(1) distributed directly to the State, unit of local government, or Indian tribe; and

"(2) used for the purchase of armor vests for law enforcement officers in the jurisdiction of the grantee.

"(c) PREFERENTIAL CONSIDERATION.—In awarding grants under this part, the Director of the Bureau of Justice Assistance may give preferential consideration, if feasible, to an application from a jurisdiction that—

"(1) has the greatest need for armor vests based on the percentage of law enforcement officers in the department who do not have access to a vest;

"(2) has, or will institute, a mandatory wear policy that requires on-duty law enforcement officers to wear armor vests whenever feasible; and

"(3) has a violent crime rate at or above the national average as determined by the Federal Bureau of Investigation; or

"(4) has not received a block grant under the Local Law Enforcement Block Grant program described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119).

"(d) MINIMUM AMOUNT.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.50 percent of the total amount appropriated in the fiscal year for grants pursuant to this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall be each be allocated 0.25 percent.

"(e) MAXIMUM AMOUNT.—A qualifying State, unit of local government, or Indian tribe may not receive more than 5 percent of the total amount appropriated in each fiscal year for grants under this section, except that a State, together with the grantees within the State may not receive more than 20 percent of the total amount appropriated in each fiscal year for grants under this section.

"(f) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under subsection (a) may not exceed 50 percent. Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non Federal share of a matching requirement funded under this subsection.

"(g) ALLOCATION OF FUNDS.—At least half of the funds available under this part shall be awarded to units of local government with fewer than 100,000 residents.

"SEC. 2502. APPLICATIONS.

"(a) IN GENERAL.—To request a grant under this part, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Director of the Bureau of Justice Assistance in such form and containing such information as the Director may reasonably require.

"(b) REGULATIONS.—Not later than 90 days after the date of enactment of this part, the Director of the Bureau of Justice Assistance shall promulgate regulations to implement this section (including the information that must be included and the requirements that the States, units of local government, and Indian tribes must meet) in submitting the applications required under this section.

"(c) ELIGIBILITY.—A unit of local government that receives funding under the Local Law Enforcement Block Grant program (described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)) during a fiscal year in which it submits an application under this part shall not be eligible for a grant under this part unless the chief executive officer of such unit of local government certifies and provides an explanation to the Director that the unit of local government considered or will consider using funding received under the block grant program for any or all of the costs relating to the purchase of armor vests, but did not, or does not expect to use such funds for such purpose.

"SEC. 2503. DEFINITIONS.

"For purposes of this part—

"(1) the term 'armor vest' means body armor, no less than Type I, which has been tested through the voluntary compliance testing program operated by the National Law Enforcement and Corrections Technology Center of the National Institute of Justice (NIJ), and found to meet or exceed the requirements of NIJ Standard 0101.03, or any subsequent revision of such standard;

"(2) the term 'body armor' means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, stabbing, or other physical harm;

"(3) the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands;

"(4) the term 'unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level;

"(5) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); and

"(6) the term 'law enforcement officer' means any officer, agent, or employee of a State, unit of local government, or Indian tribe authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following new paragraph:

"(23) There are authorized to be appropriated to carry out part Y, $25,000,000 for each of fiscal years 1999 through 2001.".

SEC. 4 SENSE OF THE CONGRESS.

In the case of any equipment or products that may be authorized to be purchased with financial assistance provided using funds appropriated or otherwise made available by this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MCCOLLUM) and the gentleman from Florida (Mr. WEXLER) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MCCOLLUM).

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2829.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.R. 2829, the Bulletproof Vest Partnership Grant Act. This Friday afternoon, the families, friends and colleagues of police officers who have lost their lives in the line of duty this past year will gather on the West Front of the Capitol and remember the courage and sacrifice of their fallen loved ones at the 17th annual National Peace Officers' Memorial Service. This solemn ceremony is the climax of National Police Week here in Washington.

Later today, this House will pay tribute to these fallen men and women of law enforcement in a special resolution commending their heroism. It will be a privilege to join in this recognition. As we remember with great sadness the ultimate sacrifice of America's police officers, both today and on Friday, the legislation before us provides a measure of comfort.

It serves, Mr. Speaker, as an encouragement for us in two ways. First, H.R. 2829 introduced by the gentleman from Indiana (Mr. VISCLOSKY) and the gentleman from New Jersey (Mr. LoBIONDO), reminds if it were not for the bulletproof vest already being worn by thousands of police officers throughout the country, we would certainly be mourning the loss of even more police officers this week.

Second, this bill, in establishing a matching grant program for states and localities to purchase armor vests, offers the real hope of fewer officers being killed in the years ahead.

Mr. Speaker, the men and women in blue on the front line fight against violent crimes, and they are always doing so as targets for violent criminals. H.R. 2829 represents a joint effort by the Federal, state and local governments to protect these officers. The bill creates a matching grant program through which the Federal Government, acting in concert with localities, will provide help for vests for every police officer who needs one.

Today I am bringing forward an amendment to this bill, which the House and Senate have crafted in a fair and bipartisan agreement, to ensure that the funding goes first to those police departments which need it most. The Director of the Bureau of Justice Assistance is given discretion to give preferential consideration to smaller departments whose budgets are stretched thin. Also those jurisdictions which do not receive any funding under the local law enforcement block grant program will be given preference. Additionally, at least half of the funds available under this program shall be awarded to jurisdictions with fewer than 100,000 residents.

The agreement sunsets the program after three years so that Congress can reassess it at that time. In the interim, I fully expect the Department of Justice to review this program and report back to Congress on its progress.

Among the most important elements of this legislation is a requirement that local governments receiving the local law enforcement block grant must consider using their block grants to purchase body armor before becoming eligible for a bulletproof vest grant. The block grant program was established in the Contract with America and has provided $1.5 billion to localities over the last three years. This provision will ensure that this new vest grant program does not undermine the block grant's important goals of local control and flexibility.

Mr. Speaker, I would like to thank the gentleman from New York (Mr. SCHUMER), the gentleman from New Jersey (Mr. LoBIONDO) and the gentleman from Indiana (Mr. VISCLOSKY) and their staffs for their willingness to be flexible and their unyielding commitment to ensure the passage of this bill.

If every officer routinely wears a bullet resistant vest, we may be able to return to a time when we are all astonished, not just saddened, to learn that a police officer was wounded or killed by a criminal with a gun.

Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2829. The body armor should be standard equipment for police officers. When a new officer joins the force, he or she is issued a badge and a gun. A bulletproof vest should be part of that package. When a police officer walks out of the station house each morning, that officer is putting his or her life at risk in order to protect the rest of us. Thankfully, there is equipment available that will minimize the risk; not eliminate it, certainly, but minimize it.

You can walk into virtually any big city police precinct and find an officer whose life may have been saved by a bulletproof vest. Unfortunately, rural and suburban officers are increasingly at risk. An officer making a routine traffic stop on a highway has no idea whatsoever whether the driver is armed and how the driver will respond. We owe it to the men and women who undertake the responsibility of being police officers to make sure that they have the potentially lifesaving equipment that is available.

This bill would authorize $25 million a year in grants to state and local governments to purchase body armor for law enforcement officers. This is not a Federal giveaway. The grant recipient must put up half of the funds. The real purpose is to use a Federal incentive to get local police departments to see vests as standard equipment.

I commend my colleagues, the gentleman from Indiana (Mr. VISCLOSKY) and the gentleman from New Jersey (Mr. LoBIONDO) for their sponsorship of this bill. I understand the differences between the House and Senate versions of this bill have been resolved and that the bill offered by the gentleman from Florida (Chairman McCOLLUM) incorporates the amendments necessary to harmonize the two versions so that we can get this bill on the president's desk by the end of this week. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey (Mr. LoBIONDO), the coauthor of this legislation.

Mr. LoBIONDO. Mr. Speaker, it is with great appreciation and satisfaction that I am here today to speak on behalf of the Bulletproof Vest Partnership Grant Act. As our friends from the law enforcement community gather in Washington to recognize National Peace Officers' Memorial Week, the House's consideration of a program to help protect the lives of those officers seems a fitting and timely tribute.

To me the issue is rather simple: It is as equally ludicrous to put a police officer on the street without a firearm as it is to put that officer on the street without a vest. These men and women pledge to protect and defend our lives and property, and society's commitment back to their personal safety should and must be total.

This bill is on the floor today because of the dedication of my colleague, the gentleman from Indiana (Mr. VISCLOSKY). Without his commitment to this issue and the diligent efforts of Jeff Gerhardt of his staff, this initiative would not have happened. I have enjoyed working with the gentleman from Indiana (Mr. VISCLOSKY) on this, and I thank him very much for his hard work.

I also want to take the opportunity to thank Carlyle Thorsen from my staff, who has put countless hours in on moving this initiative forward as well.

The legislation makes sense, a Federal matching grant program to help states and local governments buy bullet resistant vests for law enforcement officers. As Republicans, we speak often of refraining from micromanaging how states and localities spend Federal resources. However, the fact that close to 150,000 state and local law enforcement officers across the country do not have access to vests makes a powerful case that this bill represents a unique exception to such philosophical resistance.

I am not surprised that our aggressive cosponsorship drive was so successful. Over 100 of our colleagues cosponsored it within the first week of introduction, and a total of 306 members signed on within just a few months. Getting that many cosponsors so early helped us make a convincing case for the bill, and I thank them for validating what the gentleman from Indiana (Mr. VISCLOSKY) and I knew was a good idea and for being part of our effort.

First among equals on that list of coequals was the gentleman from Illinois (Chairman HYDE), and he played no small part in the success of this measure.

□ 1600

My thanks go out to the majority leader, the gentleman from Texas (Mr. ARMEY) for his support as well.

Let me also recognize the guidance and assistance of the gentleman from Florida (Mr. McCOLLUM), chairman of the Subcommittee on Crime of the Committee on the Judiciary. The gentleman worked with us from day 1, offering suggestions of how we could improve the bill and holding a hearing for its consideration.

Also of great assistance in shepherding this measure through the process was the gentleman from New York

(Mr. MCNULTY) and Nicole Nason of the Subcommittee on Crime staff, and I thank them for their competence and accessibility. I am looking forward to working with the chairman of the subcommittee and his excellent staff in the future.

Again, for me, this is about saving lives of our law enforcement officers on the street or in the prison yard. We in government are not the only ones who recognize and address this need. My efforts on a national level to provide officers with body armor are rooted in the great example set by private organizations in my own home district like Vest-A-Cop and Shield The Blue in southern New Jersey.

States and localities should not have to choose between having enough officers on the street, funding necessary training programs for those officers, or purchasing bullet- or stab-resistant vests. The local law enforcement block grant program goes a long ways towards funding their priorities, and many localities are too small to receive funding. So I was surprised to learn that of 46 townships in my district that operate municipal police forces, only 12 received block grants.

It is reassuring that this legislation will provide an additional option for small towns in both southern New Jersey and across America. I ask my colleagues to support the legislation.

Mr. WEXLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. VISCLOSKY), the leading sponsor of the bill.

Mr. VISCLOSKY. Mr. Speaker, I thank the gentleman for yielding me this time.

At the outset of my remarks, I too would like to thank the gentleman from Florida (Mr. MCCOLLUM), the chairman of the subcommittee, and the gentleman from New York (Mr. SCHUMER) the ranking member, for their tireless work on behalf of this legislation.

I would be remiss also at the outset of my remarks if I did not express my heartfelt gratification and thanks to the gentleman from New Jersey (Mr. LOBIONDO), the lead cosponsor of this legislation. Without his tireless efforts on behalf of securing most of those 306 cosponsors, we would not be here this afternoon, and I deeply appreciate his help.

I also want to recognize the tireless efforts of Geoff Gerhardt, a member of my staff, who worked tirelessly on behalf of passage of this legislation.

Mr. Speaker, I am in support of the Bulletproof Vest Partnership Act, which I sponsored. I initially identified the need for such a bill when I found out that many gang members and drug dealers in northwest Indiana had the protection of bulletproof vests, while many of the police officers that patrol the streets in my district did not. I was stunned.

I believe that sworn police officers who are issued a badge should also be issued a bulletproof vest. I believe that if we are going to ask men and women to risk their lives to make our streets safe, then we owe them every bit of protection possible. Unfortunately, we often fall short.

Studies show that between 1985 and 1994, 709 police officers were killed while on duty, and over 92 percent of those deaths were caused by firearms. It is a nondisputed fact that bulletproof vests are extremely effective in protecting officers from death and injury. Between 1985 and 1994, no police officer who was wearing a vest was killed by a firearm penetrating the vest. Unfortunately, before today ends, 2 police officers in the United States of America will be shot.

Despite these statistics, close to 25 percent of the Nation's 600,000 State and local law enforcement officers do not have access to a vest. That means that there are approximately 150,000 officers that are placed in harm's way without the most effective protection we can give them.

I was even more troubled to learn the reason why so many officers do not have vests. During a visit I made to the local chapter of the Fraternal Order of Police in Dyer, Indiana, officers explained to me that bulletproof vests are prohibitively expensive. A good vest can cost upwards of $500. Many small departments, as well as some larger ones, simply cannot afford to purchase vests for all of their officers, a fact which sometimes forces officers to purchase their own.

The problem is particularly pronounced for small, rural police departments. Statistics show that officers in smaller departments are much less likely to have vests than their counterparts in large metropolitan staffs.

H.R. 2829 would meet the goal of saving officers' lives by authorizing up to $25 million per year for a new grant program within the Justice Department providing 50-50 matching grants to State and local law enforcement agencies. These grants would be targeted to jurisdictions where most officers do not currently have access to vests, and they are designed to be free of the red tape that often characterizes other grant programs. In order to make sure that no community is left out of the program, half of the funds are reserved for jurisdictions with fewer than 100,000 residents.

In closing, our legislation is intended to create a partnership with State and local law enforcement agencies in order to make sure that every police officer who needs a bulletproof vest gets one.

Mr. Speaker, this Friday the Nation will come together to mourn the loss of its slain officers on National Police Memorial Day. We pass this bill with the hope that next year, when our Nation's police officers meet in Washington, D.C. to mourn the loss of their fallen colleagues, there will be fewer names added to the wall. There will be more children who still have a mother or father because of what we do today.

Mr. Speaker, I urge my colleagues to stand up in support of police officers everywhere and vote for passage of H.R. 2829.

Mr. MCCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. BUYER), a member of the committee.

Mr. BUYER. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to commend my colleagues, the gentleman from New Jersey (Mr. LOBIONDO) and the gentleman from Indiana (Mr. VISCLOSKY) for seeing the need of our law enforcement communities and addressing it. I also am a cosponsor of this measure and I appreciate the gentleman's work. We also share Lake County, Indiana, so I thoroughly understand the need in the northern part of the county.

This bill will provide local communities with the means to provide its law enforcement officers with bulletproof vests. It also addresses those who are on the lines everyday. The bulletproof vests, as was stated by the gentleman from Florida (Mr. WEXLER), and I agree with him, the vests should be as much a part of the equipment when officers are issued their badge, when they get their night stick, when they get their sidearm, when they are issued an automobile and they get a shotgun. Why they also do not get a bulletproof vest is beyond me. I think it is completely unfortunate.

Let me share one other thing. Even though I am a cosponsor of this bill, what I do not want to do is to build a constituency for that which communities should be doing in the first place. I agree with the 50-50 match, and I kind of look at this in my own mind as an opportunity to send a really good message out across the country, and that is to ensure that the county councils, the city councils are doing the job, providing the funding and the standard operating equipment, and we believe here in Congress that a vest is part of that standard operating equipment.

So I am interested, I want to move forward; and I want Congress to pass this bill and provide the money. But in the long run, I am not interested in growing the Federal Government, in growing a constituency. I want to ensure that jurisdictions across the country do their job.

Mr. Speaker, I urge the passage of this bill.

Mr. WEXLER. Mr. Speaker, I yield 1½ minutes to the gentleman from Wisconsin (Mr. JOHNSON).

Mr. JOHNSON of Wisconsin. Mr. Speaker, I rise today to commend the gentleman from Indiana (Mr. VISCLOSKY) and the gentleman from New

Jersey (Mr. LoBiondo) on this legislation, H.R. 2829, and to lend my support to protect police officers.

Earlier this year I traveled around the 13 counties in my district, met with sheriffs, chiefs of police, law enforcement officers, all across northeast Wisconsin to discuss the need for better access to bulletproof vests. These are the men and women who protect us literally with their lives. They get up every morning with the sole purpose and incredible responsibility of keeping our families and neighborhoods safe. They are our everyday heroes.

To a person, these local sheriffs, deputies and officers applauded our effort to help State and local law enforcement departments purchase bulletproof vests and body armor. They told me they need them, they use them, they want them, and even, yes, in rural areas they are shot at; yet, it is one of the most expensive items on their law enforcement budget.

Our police officers put their safety at risk, their lives on the line every day to protect us and keep our communities safe. If they need new resources to purchase bulletproof vests and it would make their jobs just a little easier and a little safer, it is a worthy investment. It is the reason I signed my name as an original cosponsor of this bill. It is why I will vote today in favor of its passage.

Mr. McCOLLUM. Mr. Speaker, I yield 1½ minutes to the gentleman from Iowa (Mr. Latham).

Mr. LATHAM. Mr. Speaker, I rise today in support of the bill H.R. 2029, to help safeguard the men and women in law enforcement who protect us and our families every day.

This $25 million a year matching grant program will provide bulletproof vests for our Nation's 150,000 law enforcement officers that are currently not protected. In fact, to make sure that no community is left out of the program, the matching requirement could be waived for jurisdictions that demonstrate financial hardship in meeting their half of the match. That is what makes this bill so important to rural areas across the Nation like my district in Iowa where small towns have such small budgets that they cannot afford to hire more than a few law enforcement officers, let alone bulletproof vests.

However, because of the growing methamphetamine problem in Iowa and throughout the Midwest, even rural, small town police are encountering well-armed narcotics dealers. Our rural officers need this protection in order to effectively confront this wave of violent crime sweeping across the heartland.

Again, Mr. Speaker, I urge all of my colleagues to join me in supporting this legislation to protect our men and women in law enforcement.

Mr. WEXLER. Mr. Speaker, I yield 1½ minutes to the gentleman from Oregon (Mr. Blumenauer).

Mr. BLUMENAUER. Mr. Speaker, I too support H.R. 2829, the Bulletproof Vest Grant Partnership Act. Our law enforcement officers deserve every protection available. Mr. Speaker, 62 percent of the officers killed in the last 10 years were not wearing bulletproof vests. This program helps police in every jurisdiction, large and small, to purchase body armor.

In the face of the epidemic of gun violence in this country, there are, in fact, things we can do, and I sincerely hope that this legislation sparks other congressional action to make our law enforcement officers and the communities they serve safer.

One area that I hear from law enforcement officials in my community is the access of crooks to getting body armor themselves. Another area deals with the safe storage of guns. Guns are kept in nearly half the homes in America, and a large percentage of these gun owners keep their guns loaded and ready for use. A million and a half children have access to guns when they get home from school every day.

We can do more to ensure that children learn the lesson early that guns are dangerous and should be stored safely in lockboxes. The children accused of killing their classmates in Jonesboro, AR, tried to open a lockbox with a blow torch and failed, only to find other guns that were unlocked. If all of the guns had been locked away, these children may have gotten discouraged and their classmates and teacher might still be alive.

If more guns were stored safely, think of all of the children who might still be alive today, some of whom might grow up to be police officers themselves. Think of the officers whose body armor might not be put to the test.

Mr. McCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. McInnis).

Mr. McINNIS. Mr. Speaker, I appreciate the time and the courtesy of the gentleman from Florida. Unfortunately, I think the previous speaker kind of sidelined this issue into a second amendment issue. That is not what this is about.

I used to be a cop. I was a police officer, and I can tell my colleagues my first day on the job actually was not on the job; I had to go to the police academy. The first day I was at the academy, they came up to me and said, as they were explaining the benefits of a police officer, what you signed up for, they said, by the way, the cheapest life insurance you can buy in this country is a bulletproof vest. The cheapest life insurance you can buy. Go out and buy it. And I went out and bought it. It makes a difference, and it is an important issue. It is an issue that obviously is bipartisan.

Take a look at that clock up there. Twenty-four hours from now when that clock is right where it is today, 2 more police officers in this country will have been shot. If we pass this bill, if we pass this bill, we will save 1 police officer's death, 1 police officer a week from dying if we pass this bill and those officers wear these vests.

□ 1615

I can tell you from experience that some of the officers I worked with, good, close friends of mine, did get into that habit of, well, it won't happen to me, or it is uncomfortable in the heat of the summer.

So we have to take this a step further. We can supply this for them, but we have to urge those officers to wear the darned things. They do not do you any good if you do not wear them. It does not guarantee us that we are going to save that officer a week, but if these officers wear these vests that we are going, together, jointly with the local communities, going together to supply, if they wear them, that clock will run 1 extra week before another officer dies. We can save the life of a police officer once a week.

I think it is a terrific bill. I think it does exactly what we should do, and that is sharing with the community, cost-sharing. It gives them an incentive to go out and buy their officers vests. I could never figure out why it was not standard issue to give out a bulletproof vest.

Those who say these things are expensive, they are outrageously inexpensive. A good vest you can buy for under 700 bucks. That seems like a lot of money, until you figure out your life is on the line. As they told me that first day in the Police Academy, it is the cheapest life insurance you can buy.

Mr. WEXLER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Klink).

Mr. KLINK. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me take us back in our mind's eye to a tiny town called Saxonburg, PA. Settled by hard-working German immigrants, it is the kind of picturesque farm town, an affluent community, a safe community, that all of us would like to live in and all of us would like to raise our children in.

Back in 1980, the chief of police in that town was a young man named Greg Adams. Greg Adams had patrolled the streets of Washington, DC, and had taken his two young sons and his wife back home to Saxonburg. As he was patrolling the town on December 4th of 1980, Greg Adams pulled a car over for a traffic violation into the parking lot of an Agway store. He did not know at that time that the man behind the wheel was a career criminal who had found his way to Saxonburg, PA, who was wanted on interstate flight to avoid prosecution. No one knows exactly what happened, but when it was over, Greg Adams was shot. As he was bleeding and losing life, he was beaten to death.

I arrived at the scene, as a television reporter, within minutes of the time he was assaulted, and within minutes of the time that he finally breathed his last gasp of breath. His last words were "Pray for me," as he died.

Those who investigated that shooting incident will tell you that if Greg Adams had had a bulletproof vest, his wife would not have become a widow, his young children would not have lost their father in this safe, picturesque farm town where you would not expect danger to prowl the streets.

This is a good bill. It is a good bill not only for those officers who are on the streets today, but for those who will patrol the streets and protect us in small towns, in rural communities, and in cities across this Nation, and in communities like Saxonburg, PA.

I ask my colleagues to support H.R. 2829. In a day and age when gangsters and gang members have bulletproof vests, it only makes sense that police officers like Greg Adams would be able to have that kind of protection when they are on the streets.

Mr. McCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I am very proud to rise in support of this forward-thinking legislation. I commend the gentleman from New Jersey (Mr. LoBIONDO) and the gentleman from Indiana (Mr. VISCLOSKY) for their superb leadership on this issue.

The Bulletproof Vest Partnership Grant Act will provide local police organizations with the much-needed resources that will make sure all officers have the protection of body armor they should have. We need to do everything we can to provide these heroes with the tools they need to protect their lives as they work each day to protect our lives.

These vests can literally mean the difference between life and death. Since 1980, Mr. Speaker, there have been 1,182 felonious deaths of police officers due to firearms. Of that number, 389 were due to shots to the torso area which could have been mitigated by body armor. The risk of fatality increases 14 times when an officer is not vested.

We should do all we can to keep our police as safe as possible. Since 1980 we could have possibly prevented 42 percent of these deaths. I see no reason why we cannot turn that 42 percent loss into 42 percent saved with the adoption of this important legislation.

The district attorney in my district of Montgomery County, PA, Michael Morino, like most DAs across the United States, have endorsed this legislation, saying that there is no higher priority in government than to support and protect our law enforcement professionals.

Nowhere is that more clear than the story of Ed Setzer of my district. On September 30, 1988, Lower Merion Township Officer Setzer responded to an emergency without the protection of a bulletproof vest. He was shot and killed, leaving his children without a father, and his wife Julie to raise them alone. He was an outstanding police officer, husband, and father whom we will miss forever.

For me, the Officer Ed Setzer is the inspiration for the Bulletproof Vest Grant Act, which is designed to assist State and local law enforcement agencies, and provide officers with the protection of bulletproof vests by authorizing up to $25 million per year for a new Justice Department program that would help local law enforcement agencies defray the costs of bulletproof vests, and require State and local governments to split the costs of these vests 50–50 with the Federal Government, and further, to give preference in awarding grants to jurisdictions where officers do not currently have vests.

I take great pride in cosponsoring this bill and in supporting it, and hope that all my colleagues in the House will join the gentleman from New Jersey (Mr. LoBIONDO) and the gentleman from Indiana (Mr. VISCLOSKY) in making sure this bill becomes law as soon as possible.

Mr. WEXLER. Mr. Speaker, I yield 1 minute to the gentleman from Florida, Mr. ROTHMAN.

Mr. ROTHMAN. Mr. Speaker, my colleague makes a joke. I am proud to be from New Jersey.

Today, with the Bulletproof Vest Partnership Grant Act, Congress is taking a major step forward in protecting the safety of our law enforcement officers. Bulletproof vests should become standard issue for every police officer in America. By paying half the cost of the vests for our police and corrections officers, the Federal Government will help save the lives of the people we ask to protect us.

What do we ask from them? We ask from them a lot. Whether it is pulling over a speeding car, responding to a domestic violence call or walking a beat, our officers can be confronted by an armed assailant at any time. They can be just as soon shot in the head as being said hello to on the highway. If we are asking them to protect us, then we must give them the best protection available.

As has been said many times before, our law enforcement officers represent the thin blue line separating civilized society and the good and decent, law-abiding citizens from anarchy and the law of the jungle.

I want to thank the gentleman from New Jersey (Mr. LoBIONDO) and the gentleman from Indiana (Mr. VISCLOSKY) for their leadership on this issue. I have been delighted to work on this issue as a member of the Subcommittee on Crime of the Committee on the Judiciary, and I urge my colleagues to support H.R. 2829.

Mr. McCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for yielding me the time. I also want to thank my colleagues on both sides of the aisle for their collective and outspoken support on this issue.

As we all know, this legislation serves one very important purpose, saving lives. We have all heard the stories about these vests saving peace officers from armed criminals, but I think it is also very important and very useful to understand, and I want to take this opportunity to point out, that providing protective vests to our law enforcement personnel has saved lives over the years in many nonshooting instances as well.

For example, in 1978, Deputy Gary Bale of the Washoe County Sheriff's Department was struck by a drunk driver while responding to a call for assistance from another officer. After sorting through the wreckage, it was determined that Deputy Bale's vest saved his life by absorbing the impact of the horrific accident.

Again, in 1987, Deputy Douglas Brady was directing traffic when he was struck by a vehicle. He was thrown off the road and over a guardrail, yet survived, because, it was again determined, his protective vest absorbed the potential lethal impact.

In another example, Deputy Earl Walling was working as a guard in the Washoe County Jail when an inmate attacked him with a sharpened object. Had Deputy Walling not been wearing his vest, he would have suffered life-threatening injuries.

Mr. Speaker, we need to realize that our law enforcement personnel are not just dodging bullets. It is my hope that by bringing each of these potentially fatal occurrences to mind, we can further stress the importance of providing vests to these officers.

Passage of this bill will allow the families of our law enforcement officers to each year look forward to celebrating another Mother's Day or another Father's Day together with their family. I urge a yes vote on H.R. 2829.

Mr. WEXLER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong support of H.R. 2829. As a former law enforcement officer for 26 years, I know firsthand how our men and women that are peace officers put their lives on the line every day. They courageously defend our borders, our States, our cities, and our neighborhoods. The well-being of our Nation's peace officers should therefore be the highest priority for all of us.

As a Border Patrol chief, my officers confronted numerous criminals who were armed and often dangerous. Bulletproof vests provided my officers with additional protection from firearms and reduced injuries and saved lives. Nonetheless, today many of our Nation's police and sheriff's departments are without this vital piece of equipment. The Justice Department estimates that 150,000 officers nationwide do not have access to these vests. Some communities simply cannot afford them.

This, in my mind, is simply unacceptable. In my opinion, every officer should be provided with a vest. This bill will address this goal. I am personally grateful for this legislation that will authorize $25 million in grant money to help pay for the purchase of bulletproof vests.

As we celebrate this week, National Police Week, let us remember those officers who died in the line of duty by honoring their memory and unanimously passing this legislation. Let us give our officers this important protection. Therefore, I strongly support this bill, and ask this Congress to unanimously support its passage.

Mr. WEXLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, I rise today in strong support of H.R. 2829, the Bulletproof Vest Partnership Grant Act. I want to thank the gentleman from Indiana for sponsoring this legislation and for all the hard work on behalf of our country's law enforcement officers. I also want to thank the gentleman from New Jersey, as well as the ranking member and the chairman of the Subcommittee on Crime, for their leadership in bringing this important legislation before us.

As everyone knows, this week we are celebrating Police Week all across America. It is time to say thank you to all of the law enforcement officers who keep our streets safe. It is also a time to remember and honor those officers who have given their lives for our safety.

Mr. Speaker, it is time for Congress to let our policemen and women know that we stand with them, and that we are committed to making their jobs as safe as possible. That is what this bill is all about. The FBI reported that 64 law enforcement officers were murdered in the line of duty nationwide in 1997. That is an increase over 1996, when 56 officers were murdered. Clearly, it is a dangerous time for those who help to protect our families. However, the Department of Justice estimates that 150,000 of American law enforcement officers do not have bulletproof vests.

We can do a better job protecting our law enforcement officers. H.R. 2829 will establish a grant program through the Department of Justice to help local police departments purchase bulletproof vests. The bill requires local law enforcement agencies to match the Federal funds. This is legislation that will help pay for as many as 100,000 bulletproof vests.

I know that bulletproof vests do not guarantee the safety of our policemen and women. I personally believe we need to do more to get weapons off the street and make sure our law enforcement officers are not outgunned.

We can and should do a better job of keeping guns out of the hands of criminals, and improve our efforts to tracking and tracing firearms used in crime. However, that is a debate for another day. Today, in honor of our police and in honor of those officers killed in the line of duty, I urge my colleagues to vote for H.R. 2829. It is the least that we can do for the dedicated law enforcement officers of America.

Mr. WEXLER. Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding time to me. Mr. Speaker, I would just like to compliment both sides on the issue being brought up here today, and the scope of the debate that is going on here. It is great to see so many people supporting law enforcement on this issue.

I would like to go back, when I was in law enforcement back in 1973, in 1974, when vests started to get really sort of popular. We have heard some comments here that the first thing you should buy is a vest, because it is a good life insurance policy. We often wonder why our departments, why don't they just go ahead and provide the vests?

□ 1630

Back in 1974, when we were just getting going with the bulletproof vests, they were quite expensive, and being a young police officer, and I was, you live from paycheck to paycheck. You are trying to support your family and get things going. The gentleman from Indiana (Mr. VISCLOSKY), the main sponsor here, mentioned about rural areas.

While I was in the Michigan State Police then, we were up in Alpena, Michigan, an area that I represent now, we were tracking some safe crackers and it was December of 1974, and I guess I will probably never forget this. While we were sitting there working and trying to work these guys and trying to catch them, unfortunately when the squad car stopped them, the individual State trooper that stopped them was gunned down as he stepped from his car. The sad part about the story is that he actually had a bulletproof vest; it was at home. It was a Christmas present from his wife.

It still took us another 10 years to get our department to provide bulletproof vests for members of the Michigan State Police. Actually that came about not because management wanted it, but it was because we finally got collective bargaining rights and we then made it part of our negotiations and our contract that we would give up pay and other incentives to have bulletproof vests issued to each and every member.

So when we talk about the need for this, there are about 600,000 law enforcement officers right now who do not have access to bulletproof vests for whatever reason. So if we certainly could get these vests, not only would we save a lot of lives but I think we would save a lot of heartache and a lot of other problems throughout this Nation.

Since we are here and it is Police Officers Memorial Week and we will be doing a number of things and today, actually, we have three bills on the floor supporting law enforcement, I hope we just do not stop here today and do this one shot. Being the founder and cochairman of the Law Enforcement Caucus for several years, we have been working on several pieces of legislation to benefit law enforcement. I hope with everybody here that they listen well and that we actually take up H.R. 959, the body armor bill, which would prevent mail orders of body armor to unknown individuals so we do not have the criminals armed as well as the police officers are protected.

Mr. Speaker, I rise today in support of H.R. 2829, the Bulletproof Vest Partnership Grant Act. Since bulletproof materials became available to law enforcement, the lives of more than 2,000 police officers have been saved, and this bill will help make bulletproof vests available to more officers.

This bill creates a new Department of Justice grant program which will assist state and local law enforcement agencies in providing their officers with the protection of bulletproof vests. The bill would authorize up to $25 million for this new program, and would require the federal government to split the costs of these vests with state and local governments.

As a former law enforcement officer, I know first hand the necessity of bullet proof vests for the men and women who put their lives on the line every day. Unfortunately, 25 percent of the nation's 600,000 state and local law enforcement officers do not have access to bulletproof vests.

The Department of Justice has reported that between 1985 and 1994, 709 police officers were killed while on duty, 92 percent of them killed by a firearm. Studies by the ATF show that no officer killed during that time period died because a bullet penetrated a bulletproof vest. It is clear that bulletproof vests play an important role in the safety of law enforcement officers, and saves lives.

As founder and the Co-Chairman of the Law Enforcement Caucus, I have worked for several years to inform my colleagues about the value of bulletproof vests and the dangers of body armor when it gets in the hands of armed criminals. This bill will go a long way to help protect the men and women who protect us. With the passage of this bill, police departments will be able to provide vests to more officers, and we will be able to reduce the number of officers that are killed each year. I urge my colleagues to support H.R. 2829, and support our law enforcement officers.

Mr. WEXLER. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. I thank the gentleman from Florida for yielding the time to me and I rise to commend the gentleman from Indiana (Mr. VISCLOSKY) as the principal sponsor of this legislation; also the gentleman from Florida (Mr. MCCOLLUM) and others on the committee who have worked on this legislation. This is truly bipartisan legislation which is aimed at trying to make our law enforcement officers safer.

We ask some Americans to do an extraordinary thing; that is, to put on a badge, put on a uniform or in plain clothes to protect us every day, to face the most dangerous people in our society who would undermine our safety, would take our property, and place at risk our families and our neighbors. This bill is a bill that will, I think, enjoy overwhelming support. It is appropriate that we tell local subdivisions, both State and local, municipal, that we will participate with them in trying to ensure further the safety of those we ask to defend what is vital in any democracy, and that is peace and good order.

Obviously, democracy cannot flourish in a society if law and order is not also present in that society. So the very essence of a police officer's duty is to preserve and protect the Constitution and the democratic way of life. So this is a very, very important piece of legislation.

It is appropriate that we pass it this week when we make note of the contributions and the sacrifices and the courage shown by so many in law enforcement throughout this country. I am pleased to be a supporter of this legislation.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

I do not believe that I will consume all of it. I just want to comment about this at the end of the debate and say once again how important this bill is. We have had a number of Members speak on both sides. It is, as the gentleman from Maryland (Mr. HOYER) said, a truly bipartisan piece of legislation.

But this is an exceedingly important piece of legislation because it does present us an opportunity to save lives and save the lives of the people out there protecting our kids and our families every day by putting their lives on the line. It is not very often we get a chance to do that. Usually we are up here after the cow is out of the barn or the horse is gone or whatever and trying to do some remedial correction to help law enforcement.

Today we have a chance to do something in advance to help people who are on the street every day to provide a new grant program, a grant program carefully tailored only to those communities in this country that are not able or have not used their local community block grant monies to provide these vests or those very small communities that do not qualify otherwise, but nonetheless tailored to assure that every community can provide and is providing vests, bulletproof vests for their police officers.

I urge passage of the bill. Again, I commend its authors, the gentleman from New Jersey (Mr. LOBIONDO) and the gentleman from Indiana (Mr. VISCLOSKY). I think it is tremendous that they brought it forward. I have been proud to bring this out of the Subcommittee on Crime and urge its adoption.

Mr. KLECZKA. Mr. Speaker, I rise today to support H.R. 2829, the Bulletproof Vest Partnership Grant Act. I am proud to be a cosponsor of this bill that will help save the lives of men and women who serve and protect our communities—our law enforcement officers.

Under this legislation, the Justice Department will administer grants to assist state and local authorities in purchasing bulletproof vests for their officers. The grant would provide up to 50% of the cost of the vest with local and state governments matching the remaining costs.

Right now, in my home state of Wisconsin, many officers are either wearing secondhand vests not fitted properly to protect them, paying for their own vests, or wearing vests that have passed the 5-year expiration date. In Milwaukee, even though each officer receives a vest at no cost to them, many of them are past the 5-year expiration date, putting the officers' lives in danger. In addition, the vests' integrity is often compromised when they get wet, rendering them useless.

We should not be sending our police out on the streets with bulletproof vests that only work some of the time. The average cost of a bulletproof vest is about $500. Aren't our law enforcement officers' lives worth that?

This bill has been endorsed by numerous groups, including the Fraternal Order of Police and the Wisconsin Professional Police Association. I urge my colleagues to join me in voting for this lifesaving bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of H.R. 2829, the Bulletproof Vest Partnership Grant Act. According to the Justice Department about 150,000 law enforcement officers nationwide do not have access to bulletproof vests. That is one out of four of the nation's 600,000 state and local law enforcement officers. Even though a bulletproof vest is a terrible thing to need, the reality of life is that our officers of the law often have to stare death in the eye in order to protect all of us from danger. Our law enforcement officers need every advantage, protection and privilege related to the performance of their duties that we can give them. To this regard, the matching grant program in H.R. 2829 is a fabulous way to achieve this objective.

Under the provisions of the bill, local law enforcement agencies need only supply half of the costs of the equipment that they need. At present, a vest costs about $500, so this $25 million allocation of funds could provide up to 100,000 vests to those who do not currently have them. Furthermore, the priority for the distribution of the funds provided for under the bill has two conditions. First of all, local police agencies with high numbers of unprotected officers in heavy crime areas are given first priority, as well as those agencies that do not have a local law enforcement grant program to assist them.

The need for this legislation is unquestionable; nearly 1,900 officers have been saved from death or serious injury because of wearing body armor. But this legislation, we can prevent a repeat of the 600+ police officers that were killed in the line of duty with a firearm between 1985 and 1994. These numbers equate to two officers being shot in the United States every twenty-four hours; frankly, a chilling statistic. But the pace has not slowed; in 1997, 160 more law enforcement officers were killed in the line of duty, most of which with a firearm. With this kind of rampant crime and lawlessness abounding, we need to protect those who dedicate their lives to protecting us. I sincerely hope that by passing H.R. 2829, we will not need to use resolutions like H. Res. 422 very often. So I urge all of my colleagues to join with me, and support the Bulletproof Vest Partnership Grant Act, H.R. 2829.

Mr. ETHERIDGE. Mr. Speaker, I rise in strong support of this vitally important legislation, and I urge my colleagues to join with me in voting to pass it.

As we in North Carolina know all too well, violent crime can strike anywhere. All too frequently, that violence is aimed at our men and women in uniform as they patrol our communities. Last year alone, five officers in and around the Second Congressional District of North Carolina were gunned down in the line of duty.

I believe Congress has a duty to help protect our officers. Last November, I joined a bipartisan group of my colleagues in introducing H.R. 2829, the Bulletproof Vest Partnership Grant Act. This legislation will provide $25 million in matching grants through the Department of Justice to help local law enforcement agencies purchase vests for their officers. This bill has been endorsed by the National Fraternal Order of Police, the National Sheriffs Association, the International Union of Police Associations, the National Association of Police Organizations and other law enforcement groups. H.R. 2829 enjoys the support of more than 300 cosponsoring Members of this House, and the Senate recently passed a companion bill.

On March 23, I participated in a live-fire demonstration of the life-saving usefulness of bulletproof vests to bring attention to the need for this equipment. This event demonstrated in dramatic terms the effectiveness bulletproof vests can have in protecting our officers.

The national statistics are compelling. Since the introduction of modern bulletproof material, the lives of more than 2,000 police officers have been saved because they were wearing bulletproof vests or some other form of body armor, according to the Department of Justice. The Bureau of Alcohol, Tobacco and Firearms reports that between 1985 and 1994, no police officer who was wearing a bulletproof vest was killed by a gunshot wound penetrating the officer's vest. The FBI tells us the risk of fatality from a firearm while not wearing body armor is fourteen times higher than for officers wearing body armor. Since 1980, 924 officers were killed while not wearing a vest. Of those 924 officers, 389 (42 percent) were shot in the torso area and could have been saved by a bulletproof vest. Approximately 150,000 of the nation's 600,000 state and local law enforcement officers (25 percent) do not currently have access to a vest. On March 25, I testified in front of the House Judiciary Subcommittee on Crime in support of this important legislation.

In my Congressional District, I have been surveying local jurisdictions to assess law enforcement needs. Although there is universal recognition of the importance of bulletproof vests, small towns and rural counties in North Carolina are having a difficult time providing them to their officers. Of the 1,619 officers in law enforcement agencies in my District, 299 officers—almost one in five—either have no vest or only have an expired vest which cannot guarantee protection. The need is particularly acute in smaller communities. In law enforcement agencies with forces of less than ten officers, more than one in three officers do not have a vest or only have an expired vest.

Despite the difficulty of equipping officers with bulletproof vests, their utility has been vividly on display in recent days. In March, Kenly Police Officer Todd Smith was shot at point-blank range by a suspect he had pulled over for missing tags. According to the physician who attended to Smith, without his vest, he would have died on the spot. One police chief wrote in response to my survey, "I can't think of a better use of our tax dollars, and our officers deserve no less."

Mr. Speaker, I believe Congress has an obligation to help protect the men and women who put their lives on the line each and every day to keep our streets and communities safe and free of crime and violence. H.R. 2829 will make a big difference in my District and across America. I urge the House to pass this bill.

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 2829, the Bulletproof Vest Partnership Grant Act. This legislation will authorize the Bureau of Justice assistance to establish grants to local and State governments to purchase bulletproof vests.

The Department of Justice released statistics which stated that approximately 25 percent of State and local law enforcement officers do not have access to bulletproof vests. That is unacceptable. With the extent of violent crime that occurs in our Nation each year, we need to do something to help protect the men and women who put their lives on the line for our citizens each and every day.

This bill authorizes up to $25 million per year for this new grant program which the Department of Justice will oversee. The program will consist of matching grants to help State and local law enforcement groups purchase bulletproof vests and body armor to be used by their officers. This bill also provides for the matching provision to be waived in certain instances of jurisdictions which cannot pay their half of the costs of the vests.

Additionally, this measure would prohibit any group which participates in this program from purchasing equipment and products which were made by prison labor. It also urges these State and local agencies which receive assistance through this program, to purchase American-made enforcement products.

It has been demonstrated that bulletproof vests do help save lives. Since 1980, 1,182 police officers have been killed by a firearm in the line of duty. The FBI has stated that, had those officers been wearing vests, 42 percent of them would have survived. More than 2,000 law enforcement officers have been saved by wearing a bulletproof vest while on duty. This legislation will help protect and save more lives of our dedicated police officers who protect us all.

I applaud Mr. VISCLOSKY for bringing this important piece of legislation before the House, and I urge my colleagues to support H.R. 2829. Passage of the Bulletproof Vest Partnership Grant Act illustrates a deep commitment to protecting the lives of our Nation's dedicated law enforcement officers.

Mr. RODRIGUEZ. Mr. Speaker, I rise in strong support of HR 2829, the Bulletproof Vest Partnership Grant Act of 1997. I believe this legislation takes an important step towards providing badly needed funds to law enforcement officers in communities facing violent crime. According to the Uniform Crime Reports, between 1987 and 1996, nearly 700 officers were killed in the line of duty. Of those officers, 63 were feloniously killed by firearms.

We cannot bring back those brave officers who gave their lives to protect us. But we can take action today for those police officers who continue to risk their lives in the line of duty. We should pass this legislation to offer needed protection from gunfire. Bulletproof vests will not prevent all deaths; but they will prevent many and provide a means of mitigating the danger that our officers face on a daily basis.

This bill will make grants to units of local government to purchase bulletproof vests for use by law enforcement officers, while giving preferential consideration to communities with the greatest need, a mandatory wear policy, and a violent crime rate at or above the national average. I believe this is a fair and sensible approach to protecting our officers to better help them protect and serve.

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise today to express my support for H.R. 2829, the Bulletproof Vest Partnership Grant Act. This legislation is essential to the survival of our police officers who risk their lives daily. Mr. Speaker, this is a measure that I believe all law abiding citizens should strongly believe in and support.

H.R. 2829 addresses the issue of improving officer safety. Between 1985 and 1994, 709 police officers were killed while on duty. Ninety-two percent of those murders were committed with a firearm. Since the introduction of modern bulletproof material, the lives of more than 2,000 police officers have been saved because they were wearing bulletproof vests. From these invaluable statistics, we can obviously see the impact that bulletproof vests have on saving the lives of our police officers.

Thus, the need to provide every police officer with a bulletproof vest is obvious and necessary. The Bulletproof Vest Parthnership Grant Act is a legislative measure that will assist police departments in providing their officers with such protection. This bill would authorize up to $25 million per year for a new matching grant program to help state and local law enforcement authorities purchase bulletproof vests and body armor. Furthermore, the bill makes preferences in granting awards toward jurisdictions where officers do not currently have vests, and reserves half of the money for jurisdictions with fewer than 100,000 residents. This legislation is very important in light of the fact that on the average, two officers are shot every twenty-four hours. This is disturbing news simply because these figures indicate that approximately 150,000 of the nation's 600,000 state and local law enforcement officers do not currently have access to bulletproof vests.

In consideration of the dangers that today's officers face, I strongly support the passage of H.R. 2829, the Bulletproof Vest Partnership Grant Act. This legislation is needed by the men and women who risk their lives daily for our protection. For their commitment and service, we owe every police officer our support on this issue. As the Representative of the Thirty-Seventh Congressional District of California, I am in strong support of this important legislation. This legislation has been endorsed by the Fraternal Order of Police, the National Sheriff's Association, the International Union of Police Associations, the Police Executive Research Forum, the International Brotherhood of Police Officers, and National Association of Police Organizations, the Long Beach Police Officer's Association and the Compton Police Officer's Association.

Mr. McCOLLUM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HEFLEY). The question is on the motion offered by the gentleman from Florida (Mr. McCOLLUM) that the House suspend the rules and pass the bill, H.R. 2829, as amended.

The question was taken.

Mr. McCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the chair's prior announcement, further proceedings on this motion will be postponed.

QUESTION OF PERSONAL PRIVILEGE

Mr. BURTON of Indiana. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER pro tempore. The gentleman will state his question of privilege.

Mr. BURTON of Indiana. Mr. Speaker, the question of privilege deals with statements made in three editorials published in newspapers within the last week. The editorials contain statements which reflect directly on my reputation and integrity and specifically allege deceptive actions on my part and impugn my character and motive.

The SPEAKER pro tempore. The Chair has examined the press accounts which serve as the basis of the gentleman from Indiana's question of personal privilege and is satisfied that the gentleman states a proper question of personal privilege.

Therefore, the gentleman from Indiana (Mr. BURTON) is recognized for 1 hour.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to tell my colleagues that I regret having to take this time out of our very busy schedule. I will not take the whole hour, but I think it is extremely important that the issues I am going to talk about be made available to my colleagues and to anyone else who is interested.

I rise today to take a point of personal privilege and to discuss the Committee on Government Reform and Oversight's investigation into illegal campaign contributions and other crimes. My conduct as chairman has been criticized by many of my Democratic colleagues. Those criticisms have been echoed in the press so I am taking this point of personal privilege to lay out for the American people the facts about this investigation.

The fact is that this committee has been subjected to a level of stonewalling and obstruction that has never been seen by a congressional investigation in the history of this country. This investigation has been stonewalled by the White House. This investigation has been stonewalled by the Democratic National Committee. This committee has seen over 90 witnesses, 90, either take the fifth amendment or flee the country to avoid testifying, more than 90.

The fact that all of these people have invoked their fifth amendment right to avoid self-incrimination is a pretty strong indication that a lot of crimes have been committed. Tomorrow the committee will vote on immunity for four witnesses, all of whom have previously invoked their right against self-incrimination. The Democrats on the Committee on Government Reform and Oversight have voted once to block immunity and keep these witnesses from testifying. I hope that tomorrow they will reconsider and vote to allow this investigation to move forward as it should.

This investigation has seen enough obstruction and enough stonewalling for a lifetime. Before tomorrow's vote, I want to lay out for the American people and my colleagues what has happened in this investigation over the last year, the stalling and the delaying tactics that have been used against us and what has brought us to this point. I want to give a comprehensive summary of events so I am not going to yield to my colleagues during this speech.

I became chairman of the Committee on Government Reform and Oversight in January of 1997. The President said he would give his full cooperation to all congressional investigations of illegal foreign fund-raising, including ours. So why are we conducting this investigation? Because there is very strong evidence that crimes were committed.

Let us take a look at some of the allegations that compelled us to begin this investigation: that the DNC had accepted millions of dollars in illegal foreign campaign contributions; that $3 million of the $4.5 million in contributions attributed to John Huang had to be returned because of suspicions about their origins; that the Chinese Government had developed and implemented a plan to influence the elections in the United States of America; that Charlie Trie, a friend of the President's from Arkansas, had funneled close to $700,000 in contributions associated with a Taiwanese cult to the President's legal defense fund; that Charlie Trie's Macao-based benefactor had wired him in excess of $1 million from overseas banks; that Charlie Trie was behind roughly $600,000 in suspicious contributions to the Democratic National Committee; that Pauline Kanchanalak and her family funneled a half a million dollars to the Democratic National Party from Thailand; that Chinese gun merchants, Cuban drug smugglers and Russian mob figures were being invited to intimate White House events with the President in exchange for campaign contributions; that the former associate Attorney General received $700,000 from friends and associates of the President, including $100,000 from the Riady family at a time when he was supposed to be cooperating with a criminal investigation.

These are serious allegations about serious crimes. The Justice Department recently brought indictments against three of these individuals and a fourth, Johnny Chung has pled guilty.

In January 1997, I sent letters to the White House requesting copies of all documents relating to this investigation. I asked for documents regarding John Huang, Charlie Trie, White House fund-raisers, et cetera. I gave the White House a chance to cooperate. Chairman Clinger, who preceded me, had written to the White House in October of 1996, and requested all documents regarding John Huang. Press reports had indicated that the White House had already assembled these documents and had them in boxes at the White House before the end of 1996.

The entire month of February passed and we received only a trickle of documents from the White House. In March it was clear that the White House was not going to comply voluntarily. The President had offered his cooperation at the beginning of the year, but the White House refused to turn over documents to the committee. The White House campaign of stalling had begun. So I issued a subpoena for the documents. I held a meeting with the President's new White House counsel, Mr. Charles Ruff. Mr. Ruff assured me that the President would not assert executive privilege over any of the documents. The White House continued to resist turning over documents despite the lawful subpoena that we sent to them.

Despite the earlier assurances, they told us they intended to claim executive privilege, even though they had said previously the President would not on over 60 documents that were relevant to the fund-raising scandal. It had always been White House policy not to claim executive privilege whenever personal wrongdoing or potential criminal conduct was being investigated. President Clinton's own counsel, Lloyd Cutler, had reiterated this policy early in the Clinton administration. But now President Clinton was using executive privilege to block our investigation.

The month of April passed and little or no progress had been made in getting the documents we called for in our subpoena. This was more than four months after my first document request had been sent to the White House.

In May, I was compelled to schedule a committee meeting to hold White House counsel Charles Ruff in contempt of Congress. More than four months had passed since I asked for the President's cooperation in producing documents and there had been nothing but stalling and more stalling. It was only with this sword hanging over their heads that the White House finally began to make efforts to comply with our subpoena.

Mr. Ruff agreed to turn over all documents required by the subpoena within 6 weeks. He also agreed to allow committee attorneys to review documents on their privilege log to determine if the committee needed to have them. We reviewed those documents. We did need many of them.

After months of stalling, we finally got some of them. By June, Mr. Ruff provided me with a letter stating that the White House had and I quote, to the best of his knowledge, end of quote, turned over every document in their possession required by the subpoena. We would find out later that that was not true.

All the while we were struggling to get documents from the White House, I was subjected to a steady stream of mudslinging and vicious personal attacks from Democratic operatives and others close to the President. The DNC, which at the time was resisting complying with our subpoena, was spending thousands of dollars conducting opposition research on my background to try to intimidate me. They produced a scurrilous 20-page report detailing every trip I had ever taken, the contributions I had received over the years, my financial disclosure statements and anything else they could find.

This document, which made outrageous and untrue accusations against me, was faxed around to reporters in an effort to drum up negative publicity about me and intimidate me. So much for cooperation with a legitimate congressional campaign investigation.

In March, the week my committee's budget was to be voted on by the House, a former executive director of the Democratic National Committee made a slanderous accusation that I shook him down for campaign contributions. His accusation was printed on the front page of the Washington Post. His actions, which are completely untrue and absurd on their face, became the subject of a Justice Department investigation.

□ 1645

As it turns out, this individual, Mark Siegel, was a former Carter White House aide, a former DNC executive director, a Democratic fund-raiser and a Democratic lobbyist. More importantly, it became known later that he is a close friend and business associate of then-White House attorney Lanny Davis.

His accusations were clearly politically motivated and timed to hurt the chances for approval of our budget for the investigation. So much for cooperation from the Democrats.

Other sleazy accusations were being dished out to the press by anonymous Democratic agents. One reporter from my home State received derogatory information about me in an unmarked manila envelope without any return address. One Washington reporter got an anonymous phone call and was told to go to a phone booth, a phone booth in the Rayburn Building, and look in the back of the phone book. He went to that phone booth and found an envelope of defamatory information about me glued to the inside of the back of the phone book.

Talk about cloak and dagger. This is the type of smear campaign that every committee chairman who has attempted to conduct oversight of the White House has been subjected to.

They attempted to smear the gentleman from Iowa (Mr. LEACH), they attempted to smear Chairman, former Congressman Bill Clinger, they attempted to smear Senator D'AMATO, they attempted to smear Senator FRED THOMPSON, they even attempted to smear FBI Director Louis Freeh when he sought to convince the Attorney General to appoint an independent counsel. And, of course, Mr. Starr has been smeared, and everybody else that has investigated any aspect of the White House.

What does this kind of behavior by the Democratic Party say to the American people? Is this cooperation? Were these smear campaigns orchestrated by the White House? That is something the American people have a right to know.

In February of 1997, my staff learned, by reading The Washington Post, that the White House had sought a briefing from the FBI about the evidence it had gathered about Chinese efforts to infiltrate our political system and to affect the outcomes of elections. For obvious reasons, the FBI resisted giving such a briefing. The criminal investigation potentially implicated members of the White House staff.

I learned from discussions with FBI Director Louis Freeh that at a time he was traveling in the Middle East, senior officials at the Justice Department attempted to provide this information about the ongoing criminal investigation to the White House, that was part of the investigation, a move that the FBI adamantly opposed.

According to Director Freeh, when his staff learned that the Justice Department lawyers were planning on giving this information to the White House, Director Freeh's chief of staff called him on his airplane halfway around the world in a last-ditch effort to stop the transfer of this information to the White House, which could have potentially jeopardized the investigation. Director Freeh was forced to make an emergency phone call to the Attorney General from his plane in the Middle East to intervene and stop that process.

When the Attorney General testified before our committee in December, she told a different version of events. She testified that she initiated the call to Director Freeh on his airplane to consult with him about providing the information to the White House. However, when Director Freeh testified the next day, he confirmed that it was he who initiated the call, after his staff warned him that the FBI was being circumvented so that sensitive information could be provided to the White House against the FBI's wishes.

Now, let us go back to the White House. The stonewalling and the obstruction from the White House did not stop following our agreement with Mr. Ruff, the President's chief counsel. The letter I received in June of 1997 from Mr. Ruff assured me that, quote, to the best of his knowledge, all documents relevant to our investigation had been provided to the committee. Unfortunately, these assurances were hollow. They were false.

Throughout the summer, boxes of newly discovered documents dribbled into the committee offices. Often, when the documents contained damaging revelations, they were leaked to the press before being provided to the committee. On one occasion, on a Friday night, we got about 12 boxes of documents. We did not even open them until the next Monday. But in the Saturday morning papers there was information that was in those boxes in the papers, and the White House was accusing us of leaking the information when we had not even opened the boxes.

When this happened, the documents were normally given to reporters late on a Friday or over a busy weekend to try to deaden their impact on the American people.

It was not unusual to receive documents pertaining to a White House or a DNC employee shortly after that employee was deposed. This forced us, on a continuing basis, to consider redeposing witnesses, costing additional time and money.

In the Senate, Senator THOMPSON faced the same obstacles. Last July, the Senate Committee on Governmental Affairs heard 2 days of testimony from DNC Finance Director Richard Sullivan. The evening following Sullivan's testimony, after he testified, the White House delivered several boxes of documents shedding new light on Sullivan's activities. The chairman of the committee in the other body was so infuriated that he canceled his agreement allowing the White House to provide documents voluntarily and he issued his first subpoena to the White House.

On August 1, more Richard Sullivan documents turned up at the Democratic National Committee. The DNC turned over several boxes of memos and handwritten notes from the filing cabinet in Sullivan's office.

The idea that the DNC could have overlooked drawers and drawers of relevant documents right in Richard Sullivan's office strains credibility. The Senate was forced to redepose Mr. Sullivan.

The final straw came in October when the White House videotapes were discovered. The White House had in its possession close to 100 videotapes of the President speaking and mingling with subjects of our investigation at DNC fund-raisers and White House coffees. The President could be seen at the White House fund-raisers with John Huang, James Riady, Pauline Kanchanalak, Charlie Trie, and many others.

In one tape the President could be seen introduced at a fund-raiser to Charlie Trie and several foreign businessmen as "The Trie Team." This was serious evidence that the White House had withheld from Congress and the

Justice Department investigation for over 6 months.

Despite the fact our subpoena clearly ordered the production of any relevant videotapes, the White House had, for 6 months, failed to reveal their existence. It was only under pressure from a Senate investigator, who had received a tip from a source, that the White House admitted to the existence of the tapes. In other words, they did not turn over the fund-raising tapes until their hand was caught in the cookie jar.

Charles Ruff has said publicly that he was informed of the existence of the tapes on Wednesday, October 1. Now, remember this. The President's counsel said he was informed of the existence of the tapes on Wednesday, October 1. He met with Attorney General Janet Reno on Thursday, October 2, the day after he found out about the tapes. He did not inform the Attorney General at that meeting that the tapes existed and that they had not been turned over to the Justice Department. I believe he had an obligation to do so.

Now, this was a critical week, because the Attorney General was in the process of deciding whether to seek the appointment of an independent counsel and she had to make her decision on Friday, October 3. So the President's counsel knew about the tapes on the 1st, he talked to the Attorney General on the 2nd, she had to make her decision on the 3rd, but he did not tell her about it. And so she made the decision not to appoint an independent counsel. Had she known about those tapes, her decision might have been otherwise.

On Friday, the Attorney General released a letter declining to appoint an independent counsel. The tapes were not released until the Justice Department—until the weekend. Another stonewalling. In other words, Mr. Ruff had a face-to-face meeting with the Attorney General. He failed to disclose to her that the fund-raising videotapes existed and allowed her to make a very important decision on an independent counsel without having any knowledge of them.

That is just wrong. It is obstruction of our investigation and all these investigations.

I called Charles Ruff and the other attorneys from the White House counsel's office to testify before our committee in November, to answer for their failure to produce these tapes. Under questioning from a committee attorney, White House Deputy Counsel Cheryl Mills admitted that she and White House Counsel Jack Quinn had withheld from the committee for 1 year an important document related to the investigation of political uses of the White House database.

The document in question was a page of notes taken by a White House staffer that indicated the President's desire to integrate the White House database with the DNC's database, which is not legal. This document had a direct bearing on the subcommittee's investigation. Cheryl Mills admitted that she had kept the document in a file in her office for over a year, based on a legal sleight of hand. Her behavior in this instance was another in a long string of incidents that reflected the White House's desire to stall and delay congressional investigations of its alleged misconduct. This kind of behavior is inexcusable for a White House attorney and a public servant.

It was not the only time the subcommittee has faced obstructionism. The White House official most directly responsible for developing the controversial database was Marsha Scott. Committee attorneys had to attempt to depose Ms. Scott on three separate occasions to overcome her refusal to answer questions.

This April, Ms. Scott was subpoenaed to attend a deposition. She arrived for the deposition, began to answer questions, and then abruptly got up and walked out of the deposition. This committee has never seen a witness who was under subpoena walk out in the middle of a deposition.

The subcommittee chairman, the gentleman from Indiana (Mr. MCINTOSH), was forced to call an emergency meeting of the subcommittee at 8 o'clock that night to force Ms. Scott to return and answer the questions.

This is typical of the kinds of obstruction this committee has encountered while dealing with this White House.

The White House strategy was accurately described in a recent New York Post editorial as "The Four Ds: Deny, Delay, Denigrate and Distract." It appears that the White House's game plan has been to stall and obstruct legitimate investigations for as long as possible and then criticize the length of the investigations, all the while attacking the investigators.

It has been fairly noted by a number of leading editorial pages that if the President and his subordinates would simply cooperate and tell the truth, these investigations could be wrapped up quickly. The Committee on Government Reform and Oversight continued to have White House documents dribble in as late as last December, 6 months after Charles Ruff had certified they had given us everything.

Since January of last year, I have been seeking information from the Justice Department about its investigations into allegations that the Government of Vietnam may have attempted to bribe Commerce Secretary Ron Brown to influence policy on the normalization of relations with Vietnam, even though we had not had complete reporting on the 2,300 or 2,400 POWs and MIAs left behind.

The New York Times reported that the Justice Department had received evidence of international wire transfers related to the case, that there was money transferred from Hanoi to another bank. There was information in the papers about that. Despite the fact that the Justice Department had closed the case, they were resisting providing any information to my committee.

On Tuesday, July 8, because the Justice Department would not give me the information, I sent a subpoena to the Attorney General and the Justice Department demanding this information.

Now, get this: 3 days later, after I sent a subpoena to the Attorney General, on Friday, July 11, my campaign had an FBI agent walk in and give us a subpoena for 5 years of my campaign records. Although Mr. Siegel had made his allegations against me in March, there had been no signs of any investigative activity within the Justice Department until I sent a subpoena to the Attorney General about Mr. Brown and that FBI report.

Was this a case of retaliation? That is a question the American people have a right to have answered, and I think I do, too.

This committee has faced obstructions from the White House. That is obvious. It is also true that this committee has faced serious obstructions from other governments in this world.

We tried to send a team of investigators to China and Hong Kong earlier this year. There are important witnesses that need to be interviewed to find out who is behind major wire transfers of money that wound up being funneled into campaigns in this country. The Chinese Government turned us down flat. They would not give visas to our investigators.

We attempted to get information from the Bank of China about who originated the wire transfers of hundreds of thousands of dollars to Charlie Trie, Ng Lap Seng and others. The Bank of China told us they are an arm of the Chinese Government and they would not comply with our subpoena.

I wrote to the President and asked for his assistance to break through this logjam with the Chinese Government. We have received no answer and no assistance whatsoever from the White House.

My friends on the Democratic side of the aisle are fond of complaining about the number of subpoenas I have issued. For the record, I have issued just over 600 since the investigation began a year-and-a-half ago. There is a very simple reason that I have been compelled to issue that many subpoenas. This committee has received absolutely no cooperation from more than 90 key witnesses and participants in efforts to funnel foreign money into U.S. campaigns. And many of these people are personal friends of the President, many of these people worked in the White House, and they have taken the Fifth or fled the country.

More than 90 witnesses have either taken the Fifth to avoid incriminating themselves or fled the country to avoid testifying because they possibly are involved in criminal activity.

The Justice Department did not receive much cooperation either. Director Freeh, when he testified before the committee last December, told us that they had issued over 1,000 subpoenas from the FBI.

□ 1700

Fifty-three people have taken the fifth. These include Webb Hubbell, the President's hand-picked Associate Attorney General; John Huang, the Deputy Assistant Secretary of Commerce, who was in the White House over 100 times during the President's first term; and Mark Middleton, a high-level aide in the office of the White House Chief of Staff.

I want to be clear about what this means. High-level appointees of the President have exercised their fifth amendment rights against self-incrimination in criminal investigations, in crimes. These people do not want to testify because they do not want to admit to the commission of any crime that they may have been involved in. And these are people that have worked in the White House close to the President, his friends.

Thirty-eight witnesses have either fled the country or refused to make themselves available to be interviewed in their countries or their residence. There has never before in the history of this country been a congressional investigation that has had to investigate a scandal that is so broad and so international in scope. There has never before been a congressional investigation that has seen and had over 90 witnesses refuse to cooperate or flee the country.

The fact that we have had so many non-cooperating witnesses is the reason that we have had to issue so many subpoenas. For instance, Charlie Trie, even though he has returned to the United States, has refused to cooperate with the committee. To overcome this problem, we had to issue 117 subpoenas to banks, phone companies, businesses, and other individuals to get information that Mr. Trie could have provided himself to us and to the committee. We have had to issue 60 subpoenas to attempt to get information about Ted Sioeng.

Ted Sioeng and his family have given $400,000 to the Democrat National Committee. They have also given $150,000 to Republican causes. Not only has Ted Sioeng fled the country, but more than a dozen people associated with them have left as well. I mean, they are all heading for the hills. If Ted Sioeng would come back to the United States and cooperate with this investigation, we would not have to issue all of these subpoenas.

Eighty percent of the subpoenas I have issued have been targeted to get information about half a dozen individuals who have been implicated in this scandal and who have taken the fifth amendment to avoid testifying.

Just to be clear, more than 90 people have taken the fifth amendment or fled the country. That is scandalous. It has never happened before in the history of this country. Friends of the President, friends of the administration, contributors, leaders from other countries, have all headed for the hills. This is unprecedented. This should be a clear indication to people of the extent of the lawbreaking that occurred during the last campaign.

At this point, I would like to say a few things about the release of the Webster Hubbell tapes, which we read about in the papers last week. First, Webster Hubbell was the Associate Attorney General of the United States. He was hand-picked by President Clinton to serve as one of the highest law enforcement officers in our land. Within a year, he was forced to resign in disgrace because of a criminal investigation into fraud at his law firm. He was eventually convicted and served 18 months in prison.

Between the time he resigned, between the time he left the Justice Department and he was convicted, about 6 or 7 months later, he received $700,000 in payments from friends and associates of the President's for doing little or no work; and many people believe that was hush money. One hundred thousand dollars came from the Riady family in Indonesia, owners of the Lippo Group. This payment came within a few days of 10 meetings at the White House, some including the President himself, involving the President, John Huang, James Riady, and Webster Hubbell. Serious allegations have been made that this $700,000 was hush money meant to keep Mr. Hubbell silent. A criminal investigation is underway. And Mr. Hubbell was just indicted for failure to pay almost $900,000 in taxes.

The American people have a right to know what happened. They have a right to know why Mr. Hubbell received this money and what he did for it. There is no such thing as a free lunch, and people do not shell out $700,000 for nothing. We would expect the President's hand-picked appointee to a powerful Justice Department position would be the first to volunteer to cooperate with the congressional investigation.

Instead, Mr. Hubbell, a close friend of the President, former leader at the Justice Department, has taken the fifth amendment and remains silent. This has forced us to seek other sources of information. And that is why I subpoenaed the prison tapes of Mr. Hubbell's phone conversations.

Out of 150 hours of conversations, my staff prepared just over 1 hour for release to the public, private conversations that had nothing to do with our investigation, and we screened those out. What was contained in that hour of conversations raises troubling questions. Given the seriousness of the allegations, this material deserves to be on the public record.

On these tapes, we hear Mrs. Hubbell say that she fears that she will lose her job at the Interior Department if Mr. Hubbell takes actions that will hurt the Clintons. We heard Mrs. Hubbell say that she feels she is being squeezed by the White House. Webster Hubbell states, after she says that, that "I guess I must roll over just one more time." "Roll over one more time." These statements raise very disturbing questions about the conduct of the White House and the conduct of the Hubbells. The American people have a right to know the answers.

Let me say a couple things about the charges of selective editing. Mistakes were made in the editing process. As chairman, I take responsibility for those mistakes. But they were just that, innocent mistakes. In the process of editing 149 hours of personal conversations, the staff cut out a couple of paragraphs that should have been left in. Here are a few points to be kept in mind. We are not talking about transcripts. What were prepared were logs of the conversations, logs, summaries of information on the tapes. They were not verbatim transcripts and they were never identified as such. They were logs of where these conversations came from out of the 150 hours of tapes that was condensed on to one.

Exculpatory statements about both Mrs. Clinton and other Clinton administration officials were left in the logs. In one case, an exculpatory statement by Mr. Hubbell about Mrs. Clinton was underlined to highlight it. The tapes were never altered. This charge has been repeated time and time again by the Democrats and it is false. The tapes were not altered.

Once the tapes were made public, reporters were allowed to listen to and record the appropriate sections of the tapes in their entirety. These sections included the statements about Mrs. Clinton and Mr. Hubbell that have been complained about. How can anyone argue that there was an intent to deceive when reporters were allowed to listen to the comments I have been accused of deleting?

Finally, in an effort to end once and for all these charges of selective editing, I have released the tapes of these 50 conversations in their entirety, even though I did not want to because there is personal stuff in there that I did not think should be in the public domain, but the integrity of the investigation had to be maintained.

What I find most unfortunate is that this incident has detracted from the important facts about the Hubbell tapes that it appears that Mr. Hubbell, and his wife were under a great deal of pressure to keep their mouths shut. This is something that absolutely must be investigated. It is something that the American people absolutely have a right to know. She felt she was being squeezed by the White House, and he felt he had to roll over one more time. He had to roll over one more time.

And when we have over 90 people fleeing the country or taking the fifth amendment, we have to wonder if Mr. Hubbell is only one of a number that are scared to talk, that are afraid to say anything because of pressure from the White House.

This brings us to tomorrow's committee meeting. Tomorrow we will try to break through this stone wall one more time by granting immunity to four witnesses. The Justice Department has agreed to immunity. The Justice Department has agreed to immunity. They have been thoroughly consulted. The Justice Department has already immunized two of these witnesses themselves. There is no reason to oppose immunity. Yet 19 Democrats on the Committee on Government Reform and Oversight voted in lock step against immunity. They voted to prevent these witnesses from telling the truth to the American people.

I want to tell the American people a little bit about who these witnesses are. Two of these witnesses were employees of Johnny Chung. They were involved in his conduit contribution schemes, bringing money from illegal sources into the DNC. They were involved in setting up many of his meetings at the White House and with other government officials.

Kent La is a very important witness. He is a business associate of Ted Sioeng, one of the people that had fled the country. He is the U.S. distributor of Red Pagoda Mountain cigarettes. Ted Sioeng has a major stake in these cigarettes. This is the best selling brand of cigarettes in China. This company is owned by the Communist Chinese Government. It is the third largest cigarette selling in the world. This company is owned by the Chinese Government, and it is a convenient way to funnel money into campaigns in the United States by Ted Sioeng, Kent La, and others.

Ted Sioeng and his associates gave $400,000 in contributions to the Democrat National Committee. Of that amount, Kent La gave $50,000. Was that money from Red Pagoda cigarettes from the Chinese Communist Government? We need to find out. The American people have a right to know.

Every witness that we have spoken to says that "If you want to understand Ted Sioeng, you have got to talk to Kent La." And that is one of the people we want to talk to, but we have to get immunity for him first. Kent La has invoked the fifth amendment. He will not testify without immunity. But the Democrats on our committee will not grant him immunity. The Democrats have voted to block immunity. I cannot, for the life of me, understand why they want to do that.

This is not a partisan issue. Ted Sioeng did not just give money to Democrats, he gave to both sides. He gave $150,000 to Republican causes as well as the Democrats. So this is not a partisan issue with Kent La and Ted Sioeng. It seems very clear that most of this half a million dollars donated by Ted Sioeng and his associates came from profits of selling Chinese cigarettes around the world. Kent La is the one individual who can tell us if this is true or not. I do not understand why my colleagues want to keep this witness from testifying and protect a major Communist Chinese cigarette company, especially when the gentleman from California, who has been such a forceful advocate of reducing smoking here in the United States, is one of those voting against immunity.

We have a number of good members on my committee on both sides of the aisle. I think we have conscientious members, both Democrat and Republican, who are outraged by some of the things that have happened during the last election. I hope all of my colleagues are thinking long and hard about their votes, and I hope that they will reconsider and support immunity tomorrow.

Now, in conclusion, I have tried throughout this discussion to try to make clear to the American people and my colleagues that this is an investigation that has faced countless obstacles, stone walls. We have faced obstruction from the White House. We have faced stalling from the Democrat National Committee. We have faced non-cooperation from foreign governments. We have had over 90 people take the fifth amendment or flee the country because they did not want to testify because of criminal activity.

However, we will continue. There are very serious allegations of crimes that have been committed, and the American people have a right to know. I hope that tomorrow we will start to tear down the stone wall by granting immunity to these four witnesses and getting on with the investigation. None of this should be covered up. The American people have a very clear right to know if our government was compromised. They have a right to know if foreign contributions influenced our foreign policy, if it endangered our national defense. These are things the American people have a right to know, and we are going to do our dead level best to make sure they get that right and they get to know it.

PROCEDURE FOR CONSIDERATION OF CAMPAIGN REFORM LEGISLATION

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, on April 22, the leadership issued a statement committing that campaign reform legislation would be brought to the floor and fully debated under an open rule permitting substitutes an amendments. The statement provided that the base bill would be H.R. 2183, the bipartisan freshman bill.

The leadership statement further provided that substitutes would be printed in the CONGRESSIONAL RECORD prior to consideration of the legislation.

While the Committee on Rules will not actually vote on a rule until next week, it is necessary to lay the ground work in order to carry out the commitment by the Republican leadership.

Since the House will not be conducting business on either this Friday or next Monday, any Member who has an amendment in the nature of a substitute for the campaign reform bill should submit it for printing in the CONGRESSIONAL RECORD by the close of business this Thursday, May 14. That is two days from now, two full days.

At the same time, a brief explanation of the substitute should be submitted to the Committee on Rules so that the Committee on Rules will be able to compile a list of all the substitutes that are filed and make those available to the public. Filing substitutes this Thursday means that Members who want to offer perfecting, second degree, amendments to those substitutes will have time to prepare them.

□ 1715

Under an open amending process, any Member may offer any perfecting amendment that complies with the rules of the House to any of the substitutes; that means any germane amendment.

If any Member wants to offer a perfecting amendment which does not comply with the rules of the House to any of these substitutes, that means any nongermane amendment, then they are going to have to submit that by noon on Tuesday, May 19, to the Committee on Rules in my office upstairs.

May 19 is the next day the House will be conducting business after the filing of those substitutes, but it is actually 5 calendar days after the filing of those substitutes. This should allow sufficient time for preparation of perfecting amendments.

I want to stress that only the perfecting amendments to be filed with the Committee on Rules are those which do not comply with the rules. So if Members have perfecting amendments that are germane, you do not have to file them, although it might be a good idea to receive priority recognition if they were to file those with the desk. But if they are nongermane to those substitutes, then you should file 55 copies with my Committee on Rules upstairs by May 19.

I would hope that there would be very few of those. Perfecting amendments which do comply with the rules, again, in the House do not need to be filed with the Committee on Rules.

I hope Members will call the Committee on Rules to get a clarification of what I just said. It is very important.

SENSE OF HOUSE REGARDING LAW ENFORCEMENT OFFICERS WHO HAVE DIED IN LINE OF DUTY

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 422) expressing the sense of the House of Representatives that law enforcement officers who have died in the line of duty should be honored, recognized, and remembered for their great sacrifice.

The Clerk read as follows:

H. RES. 422

Whereas law enforcement officers work daily in communities across the Nation, assisting individuals in the pursuit of life, liberty, and happiness;

Whereas law enforcement officers are, most often, the first contact individuals have with their representatives of government, and they perform the duties and responsibilities of that important liaison role with wisdom and compassion;

Whereas law enforcement officers are expected to perform duties above and beyond those of the average person, including duties such as rescuing individuals from a multitude of life-threatening incidents and assisting families during times of great personal sorrow;

Whereas law enforcement officers engage in a variety of tasks, from visiting with home-bound elderly citizens, mediating domestic disputes, and providing counsel to youngsters on our streets, to retrieving lost pets and bringing a spirit of friendship and compassion to an environment often lacking in these essential qualities;

Whereas law enforcement officers daily encounter individuals within our society who reject all moral values and ethical codes of conduct in pursuit of criminal activities;

Whereas law enforcement officers risk their health, lives, and future happiness with their families in order to safeguard communities from criminal predation;

Whereas in the course of their duties, law enforcement officers may find themselves not only in harm's way, but also victims of violent crime; and

Whereas 159 law enforcement officers throughout the country lost their lives in the performance of their duty in 1997, and more than 14,000 men and women have made that supreme sacrifice to date: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the contributions made by law enforcement officers killed in the line of duty should be honored, their dedication and sacrifice recognized, and their unselfish service to the Nation remembered.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. McCOLLUM) and the gentleman from Maryland (Mr. HOYER) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. McCOLLUM).

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, police officers who have died in the line of duty sacrifice not only their own lives, but the lives of their spouses, children, parents, and friends. In fact, the whole community suffers the loss when a police officer dies.

H. Res. 422 expresses the sense of Congress that contributions made by law enforcement officers should be honored, and their unselfish service to the Nation should be remembered.

Mr. Speaker I could not agree more, and I believe we in Congress should go even further. That is why on Thursday in this week, the Subcommittee on Crime will hold a hearing to specifically highlight acts of heroism and valor by police officers who engage in such acts as a matter of their official duties.

Following this hearing, I expect to introduce legislation to honor our Federal, State, and local law enforcement officers by creating a national medal to recognize their acts of bravery. Mr. Speaker, many other countries have such a medal, and I believe the United States is sorely lacking in this regard.

Our police officers are at war every day against criminal elements which threaten the sanctity and security of this country. A national medal is the least which we in Congress can do to thank them for their sacrifices.

I am proud to support this resolution that is before us today, and I hope that many Members who support this bill will cosponsor the legislation produced shortly, creating the medal for public safety heroism by our officers.

I must say the resolution that we are here to debate today is exemplary. The gentleman from Ohio (Mr. LATOURETTE), my good friend who has been so instrumental in this, I want to commend him in bringing this forward.

I think it is an exceedingly important matter for us to dedicate this week when we have a special law enforcement service that, every year, we have to honor those who have given their lives and have been slain in the line of duty.

Mr. Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. LATOURETTE) and ask unanimous consent that he be allowed to yield time for the proponents of H.Res. 422.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. We have heard a lot of talk this year about the falling crime rate. Violent crime is down more than 16 percent in the past 5 years. We are very pleased with that, of course, across this country. This is a remarkable accomplishment.

I might observe that many of us believe that the President's crime program and community policing have contributed to that result. But in the midst of celebrating, we must not forget the terrible price paid by the people most responsible for this achievement, police officers.

We at the Federal level talk a lot about law enforcement, about crime, and about bringing down the crime rates in this country, but we know full well that it is not at the Federal level that we fight crime, not even, frankly, primarily at the State level, but the local level, at the municipal level.

There were 159 police officers, Mr. Speaker, killed in the line of duty just last year; 159. The even worse news is this number was a huge increase from 1996, during which there were 116 line-of-duty fatalities. It is clear that it is getting more dangerous to protect the rights of citizens in this country.

I believe this resolution is absolutely correct. It honors those law enforcement officers who have made the ultimate sacrifice, who have, in Lincoln's word, given their last full measure of devotion to the cause of protecting the rest of us from harm. For that devotion, the police officers of this country have earned the undying gratitude of their fellow Americans.

Just a few minutes ago, Mr. Speaker, we considered a bill to provide more bulletproof vests for officers. That is a crucial initiative, and I hope it will be signed into law within the month. But even with those vests, police officers will still have to walk out of the door each morning prepared, if necessary, to put their lives at risk in the name of justice, to put their lives at risk in the name of peace and good order, to put their lives at risk so that others of us might have safer schools, safer neighborhoods, safer communities, safer streets, put their lives at risk so that democracy and freedom and justice can prevail.

These brave men and women are true American heroes, Mr. Speaker, and they deserve to be recognized, not just rhetorically, but in any way that we can, to recognize their heroism, to recognize their absolute critical role in the preservation of democracy and justice and order.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution is very, very simple in its wording, and I want to commend the sponsor and the introducer of this resolution, the gentleman from Indiana (Mr. BURTON). Very simply, it says that this resolution indicates it is the sense of the House of Representatives that the contributions made by law enforcement officers killed in the line of duty should be honored, their dedication and sacrifice recognized, and their unselfish service to the Nation remembered.

Later this week, Mr. Speaker, the Nation's law enforcement community will gather from all over the country and will join us in our Nation's capital to remember the over 14,000 men and women in blue who have made the ultimate sacrifice to serve and protect.

During the course of their ceremony, Officer Bill Glover of the Ashtabula City Police Department from my district and 15 officers from other jurisdictions will have their names solemnly added to the silent walls here in the Capitol. Their service is what protects the law-abiding from the lawbreaking, and their sacrifice should be honored and remembered by all in any way that we possibly can. That is what makes H.Res. 422 so fitting and appropriate.

When I have the opportunity to visit the Police Officers' Memorial here on the Capitol on an annual basis, I am often reminded of remarks that we wish that all of the men and women who don police officers' uniforms in this country could die in bed with their socks on, next to their loved ones, and that we would have no need of a memorial to mark those men and women who fall protecting us from those who are bent on violence and destruction.

It is appropriate that we have that memorial. It is a solemn occasion that we will remember this Wednesday, Thursday, and Friday. I would urge all of my colleagues to support H. Res. 422.

Mr. HOYER. Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, it is my privilege to yield 2 minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I thank the gentleman from Ohio for yielding to me.

Mr. Speaker, I only want to make these few comments. I serve on the Committee on National Security and also serve on the Committee on the Judiciary, the Subcommittee on Crime, so I have the unique perspective to share a comment on this measure before the House today.

I applaud the gentleman from Indiana (Mr. BURTON) for bringing the measure. From a national security standpoint, we all know and understand the almost $250 billion we spend as a Nation to ensure that our peace and security is there as we live in the world. But we should also remember our domestic security; and that is those of whom have placed themselves by their own choosing in an environment that involves great hardship, a tremendous amount of risk, and even places themselves in peril.

When I said they do that by their own choosing, they understand that they are serving something that is greater than themselves, and that is that they want to ensure that the children and those who live within the community do so in peace.

They have to make judgments. At times, it would be very easy for them not to place themselves in a high-risk environment, but they step forward and place themselves in a high-risk environment knowing that they placed themselves at risk of even possible death and serious bodily injury.

They do that to serve, I think, a higher cause, which makes their service to our communities, our State, and their country that of high honor and something that we should admire. So when I think about all of those that have given their life in the line of duty, I think that their risk and what they have done should be recognized by our country.

So often we think about the soldiers that die on a distant battlefield, and we give them high honor and respect, but we should also give equal high honor and respect to those who serve in the battlefields within our communities.

That is what we are doing here today, coming together in a bipartisan fashion here in the House to pause and say thank you, not only to those servicemen and servicewomen who are in our communities, but also to the families out there, the widows and their orphans.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just to briefly comment on the last speaker's observations, I think he is absolutely correct. The gentleman from Pennsylvania (Mr. WELDON) and I have participated in a brief ceremony earlier today in which we honored the police officers here on Capitol Hill who responded to the fire in Longworth and who also responded to the fire in the O'Neill Building.

The gentleman from Pennsylvania (Mr. WELDON) made the observation that we lost 28 people in the Persian Gulf War when that Scud attack occurred and they were in their barracks; and we lamented that loss, properly so. It was a grievous loss for our country.

As I mentioned just a little while ago, over 150 lost their lives last year as police officers on the streets of America. It is right and proper that we honor them, as we honor those who we ask to defend us abroad, that we equally honor those who we ask to defend us here at home.

Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, it has been said, and I do not want to be redundant, but it is difficult to not want to pay homage to the soldiers, the foot soldiers in the battle against crime. We honor our veterans on Memorial Day. We have monuments and we have parades because they courageously fought in a war to preserve our freedom. But a war had a beginning and it has an end.

This war has no beginning and no end. It goes on daily, hourly, every night in our big cities and in some of our rural areas. There are people willing, for low pay and for not much recognition, to risk their lives and, of course, their families to protect civilization, protect society, and to protect freedom, just as the soldiers and the sailors and the airmen did in time of war. So we are fortunate to have people who are willing to risk everything to protect society and protect the community and to protect our way of life. So we owe them.

□ 1730

This resolution is little enough that we can do, but it is something. It acknowledges their sacrifice and their great contribution to our society. But I think we can do more, and we should try to work to make this country and make our communities the sort of places that they are defending and they are fighting for and that they have offered their lives for. To give one's life for a cause is about as noble and high a gesture as you can make. One hundred fifty-nine law officers gave their lives last year defending the freedom and civilization that we pride ourselves on.

So they are in the finest tradition of the soldiers and the sailors and the airmen, only they are fighting a never-ending war, and we acknowledge our unpayable debt to them.

Mr. LATOURETTE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise today in support of H. Res. 422, bringing honor, recognition and remembrance for the sacrifice of law enforcement officers. This legislation gives these dedicated individuals the recognition they fully deserve on May 15, 1998, National Peace Officers' Memorial Day. The purpose of this bill is to show honor and appreciation for those fallen law enforcement officials who have given their lives in the line of duty. These individuals represent the first contact citizens often have with our government.

Law enforcement officials' responsibilities include saving people from life-threatening situations and assisting our families during times of personal suffering.

Last year, 159 law enforcement officials died in the line of duty. More than 66,000 officers are assaulted each year, while 24,000 are injured on the job. To date, 14,000 police officers have given their lives protecting our communities. Statistics continue to show that every other day another man or woman is killed while serving in a law enforcement capacity. This illustrates the incredible risk that these officers take to keep America safe.

Law enforcement officials are consistently faced with dangerous situations that provide safety, direction and support in our society.

Protection of our citizens from crime is one of our government's most fundamental responsibilities. Law enforcement officers provide this most necessary service and should be duly recognized for their actions above and beyond the call of duty.

This resolution was introduced by the gentleman from Indiana (Mr. BURTON), the distinguished chairman of the Committee on Government Reform and Oversight, and it will recognize and honor those law enforcement officials who have sacrificed their lives on the job.

This bill gives law enforcement officials the remembrance they have earned by sacrificing for our Nation. As we remember those who have given their lives while serving their Nation in war, we should remember those who risk their lives each day protecting our community and protecting our loved ones. Accordingly, I urge my colleagues to join in support of this bill, which will bring honor, recognition and remembrance to those law enforcement officers who lost their lives.

Mr. HOYER. Mr. Speaker, I yield one minute to the gentleman from Ohio (Mr. TRAFICANT), a member of the House, but who was a former law enforcement officer, a sheriff himself, and knows firsthand that which we commemorate.

Mr. TRAFICANT. Mr. Speaker, I think one of the things that Congress might do, other than having commemorative events and putting names on memorials, I personally believe and have tried to in fact encourage the Congress to give a legislative ear to the following initiative: The killing and murder of a law enforcement officer in America should become a Federal crime, and it should be handled in the Federal Court system. That is the way the Congress could best reward the men and women that go out and put their life on the line.

I have offered it for years. I get a lot of legal constitutional mumbo-jumbo. I think it is time to do that. I am going to reintroduce the bill, and I would hope that everybody who is very concerned, and genuinely so, would take a look at making it a Federal crime to shoot, to kill, our law enforcement officers.

Mr. Speaker, I support the legislation.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for all of the reasons stated by all of our eloquent colleagues here this evening, I would respectfully urge unanimous passage of H. Res. 422.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to give my unequivocal support of H. Res. 422, a resolution expressing the sense of the House that slain law enforcement officers should be honored. The officers of the law that struggle mightily against the powers that be to protect all of us from capricious and unchecked violence in our streets, against our persons and in our homes, deserve the highest of honors that we can give.

These men and women are usually the only buffer that we have between the all too thin line of safety and danger. But the difficult burden of such a job, despite its many rewards, is the risks that one must take each and every day to fulfill one's duty. To serve in law enforcement, one must be prepared to look death right in the eye. And too often, no matter how many precautions are taken, they are simply not enough.

We often lose some of our most valiant officers to the forces that they have been charged to battle against, and simply, I agree without reservation, that they should be remembered. Like any hero who sacrifices their life for others, these brave officers of the law should be remembered. So I support the urging of the Congress to the nation to remember those who have made the ultimate sacrifice of service, those who have given all that they had to all of us; the officers of the law that have fallen in the line of duty. Officers like Cuong Trinh of the Houston Police Department who was slain on April 6 of 1997, in his parents' grocery store while trying to stop an armed robbery attempt. This example, unfortunately, is just one of the 160 such incidents involving law enforcement officers in 1997, and thus, I urge all of my colleagues to support H. Res. 422, and encourage the formal remembrance of our nation's slain law enforcement officers.

Mr. REYES. Mr. Speaker, I rise today to express my strong support for House Resolution 422, which honors law enforcement officers killed in the line of duty.

As a member of the Border Patrol for 26 years, I know the dedication of our nation's men and women of law enforcement. In defending our nation's borders, the agents I supervised were faced with numerous risks and dangers. With our War on Drugs, I saw how criminals became increasingly sophisticated and dangerous. Every day our officers face these dangers and do an outstanding job to protect and secure our communities.

Unfortunately, however, there is a heavy price to be paid for this security. We honor during National Police Week those officers who were killed in the line of duty. These officers deserve our highest respect as they made the ultimate sacrifice as public servants for our well being.

With this resolution we honor the memory of these officers for their service to our communities. We express our gratitude and offer our condolences to their families. As we celebrate National Police Week, let us remember that their sacrifices can not and must not ever be taken for granted or forgotten. I strongly support and encourage the passage of this bill.

Mr. TAYLOR of North Carolina. Mr. Speaker, every day in America police officers keep the peace in our communities. They stand as guardians of that line that too many thugs and hoodlums dare to cross. Tragically, in the line of that duty, some of these brave protectors are killed.

Today we have passed legislation to provide assistance to the men and women out there on the job in our neighborhoods. We passed a measure to make it easier for communities to give their police the protection of bulletproof vests. We also expressed our deepest gratitude to those who have died and our greatest affection for the loving families left behind.

As a grateful nation, we should all take a moment to remember the heroes in blue that have given their lives so that we may enjoy a little more security in ours. This week, as we observe the annual memorial for police officers that died on duty, there will be a number of services here in our nation's capital.

Tomorrow evening, I am honored to lend my voice at a candlelight vigil where the names of those fallen heroes will be read. In addition to reading their names tomorrow, I want to take this opportunity to add North Carolina's fallen peace officers to the CONGRESSIONAL RECORD so that we may always remember their sacrifice. North Carolina is a better place for the efforts they made. Their names and the year they lost their lives are as follows: James H. Becton, February 22, 1908; Samuel J. Brothers, May 6, 1939; Thomas William Buck, April 3, 1963; Daniel C. Chason, March 2, 1907; Mark A. Conner, October 24, 1910; Charles Woodson Easley, August 20, 1940; Willis Jackson Genes, March 16, 1939; William Earl Godwin, May 22, 1997; Paul Andrew Hale, July 11, 1997; Willard Wayne Hathaway, July 18, 1997; David Walter Hathcock, September 23, 1997; Melvin Duncan Livingston, November 14, 1892; Owen Lockamy, March 2, 1907; Lloyd E. Lowry, September 23, 1997; James Woodard McLaurin, March 3, 1951; Wat G. Snuggs, January 22, 1917; and Mark Allen Swaney, December 25, 1997.

Mr. BURTON of Indiana. Mr. Speaker, I rise today to commemorate those men and women who enforce our Nation's laws.

We are a nation of laws and protecting citizens and their property from crime is one of the government's most fundamental responsibilities. This responsibility is carried out daily by men and women who choose to serve their communities as law enforcement officers.

Their service often involves significant hardships and difficulties, and tragically, some of them lose their lives while performing their duties.

Since records were started in 1794, more than 14,000 law enforcement officers have lost their lives in the line of duty.

Sadly, every other day another law enforcement officer is killed while serving in an American community.

In 1997 alone, 159 officers were killed in the line of duty.

On average, more than 66,000 officers are assaulted each year, and 24,000 are injured.

Law enforcement officers who have paid with their lives while defending their fellow citizens are fully deserving of the honor and recognition of the U.S. House of Representatives.

May 15, 1998, is National Peace Officers Memorial Day, and I believe this resolution is a fitting tribute to those Americans who sacrificed their lives to uphold the rule of law.

We as a nation can never repay the price that has been paid by police officers who have fallen in the line of duty while attempting to enforce our laws.

We can, however, honor and recognize their supreme sacrifice and the great loss to their families.

Mr. HOYER. Mr. Speaker, I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HEFLEY). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and agree to the resolution, H. Res. 422.

The question was taken.

Mr. LATOURETTE. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZING USE OF CAPITOL GROUNDS FOR 1998 DISTRICT OF COLUMBIA SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN

Mr. KIM. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con Res 262) authorizing the 1998 District of Columbia Special Olympics Law Enforcement Torch Run to be run through the Capitol grounds, as amended.

The Clerk read as follows:

H. CON. RES. 262

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF RUNNING OF D.C. SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN THROUGH CAPITOL GROUNDS.

On May 29, 1998, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate, the 1998 District of Columbia Special Olympics Law Enforcement Torch Run (in this resolution referred to as the "event") may be run through the Capitol Grounds, as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics summer games at Gallaudet University in the District of Columbia.

SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.

The Capitol Police Board shall take such actions as may be necessary to carry out the event.

SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.

The Architect of the Capitol may prescribe conditions for physical preparations for the event.

SEC. 4. APPLICABILITY OF PROHIBITIONS.

Nothing in this resolution may be construed to waive the applicability of the prohibitions established by section 4 of the Act of July 31, 1946 (40 U.S.C. 193d; 60 Stat. 718), concerning sales, displays, and solicitations on the Capitol Grounds.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. KIM) and the gentleman from Ohio (Mr. TRAFICANT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. KIM).

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 262 authorizes the 1998 District of Columbia Special Olympics Law Enforcement Torch Run to be conducted through the grounds of the Capitol only May 29, 1998, or on such date as the Speaker of the House and the Senate Committee on Rules and Administration jointly designate.

The resolution also authorizes the activities of the Architect of the Capitol, the Capitol Police Board, and the D.C. Special Olympics, the sponsor of the event, to negotiate the necessary arrangements for carrying out the event in complete compliance with the rules and regulations governing the use of the Capitol grounds. In addition, the sponsor of the event will assume all the expenses and liability in connection with the event, and all sales, advertisements and solicitations are prohibited. The Capitol Police will host the opening ceremonies for the run on Capitol Hill, and the event will be free of charge and open to the public.

Over 2,000 law enforcement representatives from local and Federal law enforcement agencies in Washington will carry the Special Olympics torch in honor of 2,500 Special Olympians who participate in this annual event to show their support of the Special Olympics.

For over a decade, the Congress has passed legislation in support of this worthy endeavor. I am proud to sponsor the legislation this year. I support it, and urge colleagues to pass this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support the resolution.

Mr. OBERSTAR. Mr. Speaker, the relay event is a traditional part of the opening ceremonies for the Special Olympics, which take place at Gallaudet University, in the District of Columbia.

This year approximately 2,500 special Olympians compete in 17 events, and more than one million children and adults with special needs participate in Special Olympics worldwide programs.

The goal of the games is to help bring mentally handicapped individuals into the larger society under conditions whereby they are accepted and respected. Confidence and self esteem are the building blocks for these Olympic games. Better health, coordination, and lasting friendships are the results of participation.

D.C. Special Olympics is the sole provider in the District of Columbia of these special services. No other organization provides athletic programs for citizens with developmental disabilities.

I support H. Con. Res. 262 and urge its passage.

Mr. TRAFICANT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KIM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. KIM) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 262, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING USE OF CAPITOL GROUNDS FOR SEVENTEENTH ANNUAL NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. KIM. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 263) authorizing the use of the Capitol Grounds for the seventeenth annual National Peace Officers' Memorial Service, as amended.

The Clerk read as follows:

H. CON. RES. 263

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE.

The National Fraternal Order of Police and its auxiliary shall be permitted to sponsor a public event, the seventeenth annual National Peace Officers' Memorial Service, on the Capitol Grounds on May 15, 1998, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate, in order to honor the more than 160 law enforcement officers who died in the line of duty during 1997.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized to be conducted on the Capitol Grounds under section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) EXPENSES AND LIABILITIES.—The National Fraternal Order of Police and its auxiliary shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, the

National Fraternal Order of Police and its auxiliary are authorized to erect upon the Capitol Grounds such stage, sound amplification devices, and other related structures and equipment, as may be required for the event authorized to be conducted on the Capitol Grounds under section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements as may be required to carry out the event.

SEC. 4. APPLICABILITY OF PROHIBITIONS.

Nothing in this resolution may be construed to waive the applicability of the prohibitions established by section 4 of the Act of July 31, 1946 (40 U.S.C. 193d; 60 Stat. 718), concerning sales, displays, and solicitations on the Capitol Grounds.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. KIM) and the gentleman from Ohio (Mr. TRAFICANT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. KIM).

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 263 authorizes the use of the Capitol grounds for the Seventeenth Annual Peace Officers' Memorial Service on May 15th, 1998, or such a date as the Speaker of the House of Representatives and the Senate Committee on Rules and Administration jointly designate. The resolution also authorizes the Architect of the Capitol, the Capitol Police Board and the Grand Lodge Fraternal Order of Police, the sponsor of the event, to negotiate the necessary arrangements for carrying out the event in complete compliance of the rules and regulations governing the use of the Capitol grounds.

The Capitol Police will be the hosting law enforcement agency. In addition, the sponsor will assume all expense and liability in connection with the event. The event will be free of charge and open to the public and all sales and advertising will be prohibited.

This service will honor over 160 Federal, State and local law enforcement officers killed in the line of duty in 1997. It is a fitting tribute to the men and women who give their lives for our lives.

I support this measure, and I urge my colleagues to agree to the concurrent resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution. I would like to say that I will be introducing legislation that will make the murder of a law enforcement officer a Federal offense, and the punishment shall be the death penalty. I think we put too many names on memorials, and, for some reason, we have yet to truly protect the law enforcement community in America.

Now, this National Peace Officers' Memorial Day Service always has a special meaning for me. During my time as sheriff, one of my deputies was gunned down. He was transporting a prisoner. The MO is very simple: A car ran up in the back of him, forced him out, and an individual with a shot gun at close-range took his life to help that prisoner escape. That murderer is still on death row being paid by the taxpayers of our valley and the family of Sonny Litch. This is stupid. This is ridiculous.

I want to read since 1980 the names of eight officers in just my Congressional District that have given their life in service to their fellow people: John R. "Sonny" Litch of the Mahoning County Sheriff's Office; John Utlak, Niles Police Department; Richard Elton Becker, Poland Police Department; Charles K. Yates, Poland Police Department; Ralph J. DeSalle, Youngstown Police Department; Paul Joseph Durkin, Youngstown Police Department; Millard Williams, Youngstown Police Department; and Carmen J. Renda, Youngstown State University Police.

How many more names do we read, how many more memorials do we build, until we act?

I support this resolution, but I would like to say to the Congress, it is time to take seriously anybody who would take the life of one of our law enforcement officers, and the Congress should be protecting the 160 to 180 potential victims each year. You do that by making it a Federal offense to target one of our law enforcement agents, and you also attach to it the death penalty for anyone who would take their life.

So I am proud to stand here and support this resolution, and I would hope that my legislation would not fall on deaf ears in the Congress of the United States.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of House Concurrent Resolution 263, which authorizes the use of Capitol Grounds for the seventeenth annual National Peace Officer's Memorial Service. I have a long and active history of supporting our nation's law enforcement officers and believe that the vital service that they provide our nation is invaluable.

One hundred and sixty law enforcement officers lost their lives in the line of duty in 1997, which is almost 40 percent higher than the number of police deaths recorded in 1996.

There were 160 federal, state and local law enforcement officers killed in the line of duty during 1997, compared to 116 police fatalities during 1996, according to a joint announcement issued by the National Law Enforcement Officers Memorial Fund and the Concerns of Police Survivors. The 1996 death total was the lowest since 1959. Prior to 1997, there had been an average of 151 law enforcement fatalities annually during the 1990s.

For the fourth straight year, California was the deadliest state in the nation for the law enforcement community, with 14 police fatalities. California was followed by Texas with 10 deaths, Illinois with nine, Florida with eight, and Indiana and Georgia with seven each.

Unfortunately these statistics represent real lives which have been lost in the service of our nation. They represent people who have dedicated themselves to the protection of our communities and their residents.

In the City of Houston, Officer Cuong Trinh lost his life of April 6, 1997, when he was shot by a robbery suspect. Officer Trinh is greatly missed by his colleagues and his family who felt his loss most intimately. His contributions to the Houston Police Department will never be forgotten nor should it. It is very fitting that we honor fallen heros like Officer Trinh through a National Police Officers' Memorial Service.

There have been more than 14,000 peace officers who have been killed in the line of duty throughout our nation's history. It was not until 1991, when the National Law Enforcement Officers Memorial was commemorated that a national symbol of their courage and sacrifice was created. This important memorial bears the names of all federal, state, and local law enforcement officers who have made the ultimate sacrifice.

I join with my colleagues in support of this important event. It is my hope that we find ways to make the lives of law enforcement officers safer.

Mr. Speaker, I yield back the balance of my time.

Mr. KIM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. KIM) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res 263, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING USE OF CAPITOL GROUNDS FOR GREATER WASHINGTON SOAP BOX DERBY

Mr. KIM. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 255) authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby, as amended.

The Clerk read as follows:

H. CON. RES. 255

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF SOAP BOX DERBY RACES ON CAPITOL GROUNDS.

The Greater Washington Soap Box Derby Association (hereinafter in this resolution referred to as the "Association") shall be permitted to sponsor a public event, soap box derby races, on the Capitol grounds on July 11, 1998, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate.

SEC. 2. CONDITIONS.

The event to be carried out under this resolution shall be free of admission charge to the *public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board; except that the Association shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.*

SEC. 3. STRUCTURES AND EQUIPMENT.

For the purposes of this resolution, the Association is authorized to erect upon the Capitol grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment as may be required for the event to be carried out under this resolution.

SEC. 4. ADDITIONAL ARRANGEMENTS.

The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event under this resolution.

SEC. 5. APPLICABILITY OF PROHIBITIONS.

Nothing in this resolution may be construed to waive the applicability of the prohibitions established by section 4 of the Act of July 31, 1946 (40 U.S.C. 193d; 60 Stat. 718), concerning sales, displays, and solicitations on the Capitol Grounds.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. Kim) and the gentleman from Ohio (Mr. Traficant) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. Kim).

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 255 authorizes the use of the Capitol grounds for the 57th Annual Greater Washington Soap Box Derby qualifying races to be held on July 11, 1998, or such date as the Speaker of the House of Representatives and the Senate Committee on Rules and Administration jointly designate.

The resolution authorizes the activities of the Architect of the Capitol, the Capitol Police Board and the Greater Washington Soap Box Derby Association, the sponsor of the event, to negotiate the necessary arrangements for carrying out the event in complete compliance with the rules and regulations governing the use of the Capitol grounds.

□ 1745

The event is open to the public and free of charge. The sponsor will assume all the responsibility for all the expenses and liabilities related to the event. In addition, sales, advertisements, and solicitations are explicitly prohibited on the Capitol grounds for this event.

The races are to take place on Constitution Avenue between Delaware Avenue and Third Street, Northwest. The participants come from Washington, DC and the surrounding communities in Virginia and Maryland, and range in ages from 9 to 16. This event is currently one of the largest races in the country, and the winners of these races will represent the Washington metropolitan area in the National race to be held on August 8, 1998 in Akron, OH.

I support the resolution and urge my colleagues to join in support.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of the best friends of young people 9 through 16 is the sponsor of this legislation, the gentleman from Maryland (Mr. Hoyer). Not the gentleman from Texas (Mr. Stenholm), but the gentleman from Maryland (Mr. Hoyer). The people just love him and he always takes the time to not forget them, and this event is one of the most highlighted events down in our area.

This is a very good resolution and I want to commend the gentleman for what he has done in this regard.

So I yield such time as he may consume to the gentleman from Maryland (Mr. Hoyer), a friend of young people, a friend of all people, and if all the people liked the Democrats as much as they like the gentleman from Maryland (Mr. Hoyer), we would be in the majority for sure.

Mr. HOYER. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. Traficant), my friend, for those very kind remarks. I want to thank the Committee for reporting this resolution out in a timely fashion.

For the last 7 years, Mr. Speaker, I have sponsored a resolution for the Greater Washington Soap Box Derby to hold its race along Constitution Avenue, as the gentleman from California (Mr. Kim) has said.

I proudly introduced H. Con. Res. 255 to permit the 57th running of the Greater Washington Soap Box Derby, which is to take place on the Capitol grounds on July 11 of this year.

This resolution authorizes the Architect of the Capitol, the Capitol Police, and the Greater Washington Soap Box Derby Association to negotiate the necessary arrangements for carrying out the running of the Greater Washington Soap Box Derby in complete compliance with rules and regulations governing the use of the Capitol grounds.

In the past, the full House has supported this resolution, once reported favorably by the Committee on Transportation and Infrastructure. I ask my colleagues to join again with me along with the gentleman from Virginia (Mr. Davis); the gentlewoman from the District of Columbia (Ms. Norton); the gentleman from Maryland (Mr. Wynn); the gentleman from Virginia (Mr. Wolf); the gentlewoman from Maryland (Mrs. Morella); and the gentleman from Virginia (Mr. Moran) in supporting this resolution.

From 1992 to 1997, the Greater Washington Soap Box Derby welcomed over 40 contestants which made the Washington DC race one of the largest in the country. This event has been one of the largest steps in turning the local area into a grand event for kids. Participants, as it has been said, range from 9 to 16, and hail from communities in Maryland, the District of Columbia, and Virginia. The winners of this local event will represent the Washington metropolitan area in the national race, which will be held in Akron, OH on August 8, 1998.

The Derby provides our young people with an opportunity to gain valuable skills, such as engineering and aerodynamics. Furthermore, the Derby promotes teamwork, a strong sense of accomplishment, sportsmanship, leadership and responsibility.

These are positive attributes that we should encourage children to carry into adulthood. The young people involved spend months, Mr. Speaker, preparing themselves for this race, and the day that they complete the race makes it all the more worthwhile. In addition, this event provides parents, local residents, and tourists with a safe and enjoyable day of activities.

I hope my colleagues will support this resolution on behalf of the children and families of the Washington metropolitan area.

Mr. Speaker, this is somewhat like motherhood and apple pie, the Soap Box Derby. Young people using their talent, with an objective and goal in mind, teaching them lessons that will be good for them throughout their lives. It is young people like these contestants in the Soap Box Derby who, I might say, Mr. Speaker, are all winners, all winners for having participated, set for themselves a goal, exercised their talent and enterprise to achieve that goal, and then participate in the competition that is so much a part of life.

Mr. Speaker, I want to again thank the committee for reporting out this resolution in a timely fashion.

Mr. KIM. Mr. Speaker, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, as they say on the streets, I resemble those remarks of our distinguished colleague, the gentleman from Maryland (Mr. Hoyer), and I support the resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Hefley). The question is on the motion offered by the gentleman from California (Mr. Kim) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 255, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 255, House Concurrent Resolution 262, and House Concurrent Resolution 263.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

House Resolution 423, by the yeas and nays;

H.R. 3811, by the yeas and nays;

H.R. 2829, by the yeas and nays;

House Resolution 422, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

SENSE OF THE HOUSE WITH RESPECT TO WINNING THE WAR ON DRUGS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 423.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. HASTERT) that the House suspend the rules and agree to the resolution, H. Res. 423, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 412, nays 2, not voting 18, as follows:

[Roll No. 138]

YEAS—412

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—2

Paul
Sanford

NOT VOTING—18

Bateman
Christensen
Coburn
Engel
Gilchrest
Gonzalez
Greenwood
Harman
Hefner
Kaptur
Kilpatrick
Menendez
Mollohan
Myrick
Rahall
Schumer
Skaggs
Whitfield

□ 1813

Mr. SANFORD changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HEFLEY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

DEADBEAT PARENTS PUNISHMENT ACT OF 1998

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3811.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MCCOLLUM) that the House suspend the rules and pass the bill, H.R. 3811, on which the yeas and nays are ordered.

The Chair will remind members, this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 402, nays 16, not voting 14, as follows:

[Roll No. 139]

YEAS—402

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler

Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—16

Barr
Cannon
Conyers
Furse
Hastings (FL)
Jackson (IL)
LaHood
Lee
Manzullo
Paul
Sabo
Sensenbrenner
Sessions
Stark
Waters
Watts (OK)

NOT VOTING—14

Bateman
Christensen
Gilchrest
Gonzalez
Greenwood
Harman
Hefner
Kilpatrick
Menendez
Mollohan
Myrick
Rahall
Schumer
Skaggs

□ 1822

Mr. CONYERS, and Mr. JACKSON of Illinois changed their vote from "yea" to "nay."

Mr. CLAY changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 1997

The SPEAKER pro tempore (Mr. HEFLEY). The pending business is the question of suspending the rules and passing the bill, H.R. 2829, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MCCOLLUM) that the House suspend the rules and pass the bill, H.R. 2829, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 4, not voting 16, as follows:

[Roll No. 140]

YEAS—412

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer.
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver

Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—4

Blunt
Campbell
Paul
Sanford

NOT VOTING—16

Bateman
Christensen
Gilchrest
Gonzalez
Greenwood
Harman
Hefner
Kilpatrick
Linder
Menendez
Mollohan
Myrick
Rahall
Schumer
Skaggs
Wexler

□ 1830

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SENSE OF HOUSE REGARDING LAW ENFORCEMENT OFFICERS WHO HAVE DIED IN LINE OF DUTY

The SPEAKER pro tempore (Mr. HEFLEY). The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 422.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MCCOLLUM) that the House suspend the rules and agree to the resolution, H. Res. 422, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 16, as follows:

[Roll No. 141]

YEAS—416

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—16

Bateman
Buyer
Christensen
Gilchrest
Gonzalez
Greenwood
Harman
Hefner
Kilpatrick
Menendez
Mollohan
Myrick
Rahall
Schumer
Skaggs
Wexler

□ 1838

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, because I was unavoidably detained in the 15th Congressional District of Michigan, I was not present to vote on H.R. 3811, H.R. 2829, H. Res. 422, and H. Res. 423. Had I been present for these votes, I would have voted "aye" for all of these rollcall votes.

PERSONAL EXPLANATION

Mrs. MYRICK. Mr. Speaker, due to a death in my extended family, I was unavoidably absent on Tuesday, May 12, 1998, and as a result, missed rollcall votes on H. Res. 423, H.R. 3811, H.R. 2829, and H. Res 422.

Had I been present for these votes, I would have voted "aye" for all of these rollcall votes.

BULLETPROOF VEST PARTNERSHIP ACT OF 1998

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1605) to establish a matching grant program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection,

The Clerk read the Senate bill, as follows:

S. 1605

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bulletproof Vest Partnership Act of 1998".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the number of law enforcement officers who are killed in the line of duty would significantly decrease if every law enforcement officer in the United States had the protection of an armor vest while performing their hazardous duties;

(2) the Federal Bureau of Investigation estimates that more than 30 percent of the almost 1,182 law enforcement officers killed by a firearm in the line of duty could have been saved if they had been wearing body armor;

(3) the Federal Bureau of Investigation estimates that the risk of fatality to law enforcement officers while not wearing an armor vest is 14 times higher than for officers wearing an armor vest;

(4) the Department of Justice estimates that approximately 150,000 State, local, and tribal law enforcement officers, nearly 25 percent, are not issued body armor;

(5) the Executive Committee for Indian Country Law Enforcement Improvements reports that violent crime in Indian country has risen sharply, despite decreases in the national crime rate, and has concluded that there is a "public safety crisis in Indian country"; and

(6) many State, local, and tribal law enforcement agencies, especially those in smaller communities and rural jurisdictions, need assistance in order to provide body armor for their officers.

(b) PURPOSE.—The purpose of this Act is to save lives of law enforcement officers by helping State, local, and tribal law enforcement agencies provide those officers with armor vests.

SEC. 3. DEFINITIONS.

In this Act:

(1) ARMOR VEST.—The term "armor vest" means body armor that has been tested through the voluntary compliance testing program operated by the National Law Enforcement and Corrections Technology Center of the National Institute of Justice (NIJ), and found to comply with the requirements of NIJ Standard 0101.03, or any subsequent revision of that standard.

(2) BODY ARMOR.—The term "body armor" means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, stabbing, or other physical harm.

(3) DIRECTOR.—The term "Director" means the Director of the Bureau of Justice Assistance of the Department of Justice.

(4) INDIAN TRIBE.—The term "Indian tribe" has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(5) LAW ENFORCEMENT OFFICER.—The term "law enforcement officer" means any officer, agent, or employee of a State, unit of local government, or Indian tribe authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders.

(6) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(7) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level.

SEC. 4. PROGRAM AUTHORIZED.

(a) GRANT AUTHORIZATION.—The Director may make grants to States, units of local government, and Indian tribes in accordance with this Act to purchase armor vests for use by State, local, and tribal law enforcement officers.

(b) APPLICATIONS.—Each State, unit of local government, or Indian tribe seeking to receive a grant under this section shall submit to the Director an application, in such form and containing such information as the Director may reasonably require.

(c) USES OF FUNDS.—Grant awards under this section shall be—

(1) distributed directly to the State, unit of local government, or Indian tribe; and

(2) used for the purchase of armor vests for law enforcement officers in the jurisdiction of the grantee.

(d) PREFERENTIAL CONSIDERATION.—In awarding grants under this section, the Director may give preferential consideration, where feasible, to applications from jurisdictions that—

(1) have a violent crime rate at or above the national average, as determined by the Federal Bureau of Investigation; and

(2) have not been providing each law enforcement officer assigned to patrol or other hazardous duties with body armor.

(e) MINIMUM AMOUNT.—Unless all applications submitted by any State, unit of local government, or Indian tribe for a grant under this section have been funded, each State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.25 percent.

(f) MAXIMUM AMOUNT.—A qualifying State, unit of local government, or Indian tribe may not receive more than 5 percent of the total amount appropriated in each fiscal year for grants under this section, except that a State, together with the grantees within the State may not receive more than 20 percent of the total amount appropriated in each fiscal year for grants under this section.

(g) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this section may not exceed 50 percent, unless the Director determines a case of fiscal hardship and waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program.

(h) ALLOCATION OF FUNDS.—Not less than 50 percent of the funds awarded under this section in each fiscal year shall be allocated to units of local government, or Indian tribes, having jurisdiction over areas with populations of 100,000 or less.

(i) REIMBURSEMENT.—Grants under this section may be used to reimburse law enforcement officers who have previously purchased body armor with personal funds during a period in which body armor was not provided by the State, unit of local government, or Indian tribe.

SEC. 5. APPLICATIONS.

Not later than 90 days after the date of enactment of this Act, the Director shall promulgate regulations to carry out this Act, which shall set forth the information that must be included in each application under section 4(b) and the requirements that States, units of local government, and Indian tribes must meet in order to receive a grant under section 4.

SEC. 6. PROHIBITION OF PRISON INMATE LABOR.

Any State, unit of local government, or Indian tribe that receives financial assistance provided using funds appropriated or otherwise made available by this Act may not purchase equipment or products manufactured using prison inmate labor.

SEC. 7. SENSE OF CONGRESS.

In the case of any equipment or product authorized to be purchased with financial assistance provided using funds appropriated or otherwise made available under this Act, it is the sense of Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

SEC. 8. AUTHORIZATION FOR APPROPRIATIONS.

There is authorized to be appropriated $25,000,000 for each of fiscal years 1999 through 2003 to carry out this Act.

MOTION OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McCOLLUM moves to strike all after the enacting clause of Senate 1605 and insert, in lieu thereof, H.R. 2829 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The title of the Senate bill was amended so as to read: "A bill to establish a matching grant program to help State and local jurisdictions purchase armor vests for use by law enforcement departments.".

A similar House bill (H.R. 2829) was laid on the table.

PERSONAL EXPLANATION

Mr. DOYLE. Mr. Speaker, due to the illness of a member of my immediate family, I was unavoidably absent on

Thursday, May 7, 1998, and as a result, missed rollcall votes 130 through 137.

Had I been present, I would have voted yes on rollcall 130, yes on rollcall 131, yes on rollcall 132, no on rollcall 133, no on rollcall 134, yes on rollcall 135, yes on rollcall 136, and no on rollcall 137.

APPOINTMENT OF CONFEREES ON H.R. 629, TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, by direction of the Committee on Commerce, I move to take from the Speaker's table the bill (H.R. 629) to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact, with a Senate amendment thereto, disagree to the Senate amendment, insist on the House bill and request a conference with the Senate thereon.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. DAN SCHAEFER) is recognized for 1 hour.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. BONILLA) and 10 minutes to the gentleman from Texas (Mr. REYES), and I ask unanimous consent that they be permitted to control their own time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion before the House is a very simple one. It allows the House to go to conference with the Senate to resolve differences between the two versions of H.R. 629 that was passed by each body.

H.R. 629 would grant the consent of Congress to the Texas, Maine, and Vermont Low-Level Radioactive Disposal Compact. This compact, like the nine others we have passed through Congress, has already been approved. It is necessary to allow these three States to fully comply with their responsibilities under the Federal Low-Level Radioactive Policy Act.

The act was passed as a part of an agreement with the States that they would be responsible for the disposal of low-level waste while the Federal Government would be responsible for high-level radioactive waste disposal. It is important for Congress to complete its work on this matter, and the motion is a necessary step in the legislative process. I would recommend adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. REYES. Mr. Speaker, I yield myself such time as I may consume, and I rise in opposition to House Resolution 622.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, 2 decades ago Congress passed legislation enabling States to form compacts to build low-level radioactive waste dumps. States have spent in excess of $400 million trying to site low-level radioactive waste dumps, but not a single pile of dirt has been overturned.

The Midwest Compact, which is trying to site a low-level radioactive waste dump in Ohio, fell apart last year for the same reason the Texas, Maine, Vermont compact fell apart.

Maine Yankee Atomic Power Company, one of the biggest sources of nuclear waste to go into the dump site in Texas, recently announced they are going to shut the reactor 10 years sooner than they had anticipated.

□ 1845

The Maine Yankee Atomic Power Company has since concluded that the compact no longer makes economic sense and is urging Congress to vote no. When a nuclear power company says something does not make sense, just imagine how bad the thing is.

Compact after compact has fallen apart or been stopped by concerned citizens because the whole approach to building low-level radioactive waste sites is fundamentally flawed. We need a rational low-level radioactive waste policy that does not stick the taxpayers and ratepayers with huge waste disposal bills, that does not mandate the proliferation of dumps across the country, that does not put radioactive waste on the highways and railways.

The people of the United States should not have to pay for the disposal of waste that was generated by commercial nuclear utilities. The people of the United States should not have radioactive waste transported through their communities on its way to a dump thousands of miles away. And the poorest people of the United States should not have radioactive waste sites right in their own communities because they are too poor to fight back.

Though we may not agree on why, the Maine Yankee Atomic Power Company is absolutely right; the Texas compact makes no sense.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Texas (Mr. HALL), ranking member on the subcommittee.

Mr. HALL of Texas. Mr. Speaker, I strongly support the Texas-Maine-Vermont low-level radioactive waste disposal compact.

Mr. Speaker, the Low-Level Radioactive Waste Policy Act is a very good example of State-Federal cooperation, and approval of the compact will fulfill the congressional side of the bargain. A deal was made a long time ago, worked out between the States; a deal that was heard, debated, legislated by each of the States, signed by the governor.

This is the tenth interstate compact to come up for congressional approval, and it behooves us I think to get this bill into conference and into law.

In 1980, and again in 1985, Congress enacted legislation setting up a program under which the States would have primary responsibility and control over the disposal of low-level radioactive waste. This is what the States wanted. And it makes sense because so many important local activities depend on having safe and ready disposal of their low-level waste, including the 3 States that are involved.

While this issue is often discussed in terms of utilities' need alone for disposal facilities, it also affects a lot of other entities. It affects hospitals, greatly affects university research programs. It affects the industry all across this land. Each of these activities utilizes low-level radioactive materials and each of them means jobs, and jobs mean dignity; and none could go forward without an assured economic option for disposal. Just think what would happen if nuclear medicine stopped being available. That gives us an idea of the importance of this bill.

Texas, Maine, and Vermont have done what they need to do; they have done all they can do in order to get a low-level facility. They have gone through their legislative procedure. They have had the hearings. They have selected the site. They have taken care of their own disposal needs. We look to them to do that.

As the largest producer of waste among the three, my State, the State of Texas, agreed to host the facility. Maine and Vermont agreed to share in the cost. I will not pretend that finding a site has been easy or that all of the questions about how to build the right facility are known. These are the questions that have to be resolved in the course of obtaining the license to operate the facility and cannot be settled by laymen like ourselves.

Of course, Congress has an important role to play and it is our job to pass H.R. 558 so that the States can move forward. This will be the tenth compact to receive congressional approval when it is approved and brings to 44 the number of States moving forward to meet their disposal needs. The Texas compact meets the law's requirements. It is needed by the people of Texas. It is needed by the people of Maine. It is needed by the people of Vermont. And I strongly urge my colleagues to support it.

Mr. BONILLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to this compact between the States of Texas, Maine, and Vermont. This is a situation that is endangering the future and the environment for many of the constituencies that I have in the western part of my congressional district. I have received communications from no fewer than a dozen local government, city, and county governments that are right now hoping that the Congress will stand up and finally do the right thing on this issue.

Let me make it clear that there is no language in this bill at all that refers to where in Texas this dump would be constructed. That was decided by the State legislature, the State senators and State representatives, and the governors of Texas. What this does is allow the deal to be consummated, if you will; and we are the last hope that these folks have. Because, in their view, the State government did not do its job back home and have it constructed somewhere else, rather than right in their backyards.

Let us all understand that there have been earthquakes in this area, that the geology is not stable in the surrounding area, and that there is a strong threat to the water supplies, there is a strong threat to the future of communities that want to survive and thrive in this particular part of west Texas. So it is incumbent upon ourselves to consider how it is going to affect the people that live in these areas that could be threatened by these toxic substances that are going to be buried right next to where they have raised their families.

The other issue that is of great concern, not just to the folks who live in this area, but to the people who live in areas leading up to the area, in other words, the highways and the railway systems that lead to these areas where these toxic substances would be brought through, communities as far as 2 or 300 miles away, not only in Texas but in other States surrounding Texas where many of this low-level toxic radioactive waste material would be coming through their areas.

In fact, this question has been raised in the community of San Antonio by some who are questioning right now, "Where is this stuff going to be moving through? Will it be coming through our neighborhood, traveling westbound to be deposited in this particular area?"

So these questions have not been answered, and it is a strong threat to the future of many of these communities. It is for that reason I rise in strong opposition to this compact and urge my colleagues to vote no.

This thing has come up before in the House of Representatives on the floor here. One time earlier we were able to defeat it. The last time around, a lot of folks were spoken to very strongly and it turned out that we lost the second time around. And here we are one more time with an opportunity to say no to this dump and yes to the people that live in this community and are hoping to have their families and grandchildren and future generations survive and thrive in these areas.

Mr. Speaker, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BARTON), sponsor of the bill.

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the motion to send this bill to conference with the Senate. It did pass the House last year 309–107, which is a tremendous bipartisan show of support.

All this bill does is ratify the ability of the States of Maine, Vermont, and Texas to enter into a compact for the storage of low-level nuclear radioactive waste. Nine other compacts have already been ratified by the Congress that comprise 42 States. So this legislation is necessary to give the State of Texas, the State of Vermont, and the State of Maine the opportunity to do what 42 other States already do; and that, simply put, is to enter into a compact for the storage of this waste.

It is low-level radioactive waste, it is not high-level. And I would point out to some of my friends in Texas who oppose this, if we do not ratify it, under the commerce clause of the Constitution, any State could send low-level radioactive waste to the State of Texas.

So this is a good piece of legislation. It has already passed the House once in this Congress 309–107. The Senate passed similar legislation. We need to appoint conferees and go to conference. So I would support the motion of the gentleman from Colorado (Mr. DAN SCHAEFER) to appoint conferees and go to conference and hope that the House would likewise do so.

Mr. REYES. Mr. Speaker, I yield 1½ minutes to my good friend, the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I will make my remarks very brief.

The Doggett language, as agreed to by the House and which is also included in the Senate bill, must be kept as part of the conference language. Why? Because the Doggett language guarantees that we do what is right and that is to ensure no low-level radioactive waste is brought into Texas from any State other than Maine or Vermont.

Sierra Blanca is an inappropriate site for intensely radioactive materials. The consequence of placing this waste in an area that is earthquake-prone is reason enough to support the Doggett language. Add to that the potential threat that would be posed to the Rio Grande River, and I believe it is quite obvious why we would want to preserve this language in conference.

With nuclear power waste, I think it is pretty safe to say we do not get a second chance. Would we want this in our community without appropriate safeguards? I do not think so. And that is all my colleague is seeking to do, make certain safeguards are in place.

I urge my colleagues to vote to preserve this language in conference.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 5 minutes to the gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Speaker, I thank the gentleman from Colorado for yielding me the time.

Mr. Speaker, I rise today in support of the motion to instruct the conferees, as offered by the gentleman from Texas (Mr. HALL) and my colleague, the gentleman from Colorado (Mr. DAN SCHAEFER).

The Governors of Texas, Maine, and Vermont have all signed this compact to ensure that their States have the means to efficiently manage and safely dispose of low-level waste. They entered into the compact to meet the demands placed on the States by Congress through the Low-Level Radioactive Waste Policy Act. They complied. They met the mandate. They should be allowed to meet Federal demands without unnecessary burdens of unwanted amendments.

Congress, to this point, has approved 9 compacts and it has amended none, and it should not start now. There are others who feel this way. The National Conference of State Legislatures stated it would be inappropriate for Congress to attempt to alter a valid effort by the compact States to meet their responsibilities under the Low-Level Radioactive Waste Policy Act.

The National Governors Association said that since 1985, 41 States have entered into 9 congressionally approved compacts without any of these unnecessary amendments. The Texas-Maine-Vermont compact deserves to be the tenth. I urge my colleagues to support this motion to instruct and to allow the States of Maine, Vermont, and Texas to properly dispose of the low-level waste.

Mr. BONILLA. Mr. Speaker, I yield 3 minutes to the gentleman from San Antonio, Texas (Mr. RODRIGUEZ), my neighbor, friend, and colleague.

Mr. RODRIGUEZ. Mr. Speaker, I oppose the Texas-Maine-Vermont low-level radioactive waste dump bill.

This bill as originally written would allow waste dump operators to dispose of waste in Texas from States other than Texas, Vermont, and Maine. That is simply unacceptable.

I served in the Texas legislature in 1993, when the Low-Level Radioactive Compact was approved. At that time the supporters of the bill insisted that only waste generated by the three member States would be disposed at the site. It was on that understanding that the legislators approved the legislation.

For this reason, I believe we should maintain the amendment by my colleague from Texas and the distinguished Senator from Minnesota to guarantee that the site will not become a national dumping ground in west Texas. Supporters of the waste site oppose this amendment on the grounds that it may force the 3 States to re-ratify the compact.

I have seen the arguments, and this is not the case. Even if that is the case, however, I think that is the right thing to do and we should not avoid the issue merely because of convenience. There should not be any hurry to move on this particular motion, to move on this particular piece of legislation.

□ 1900

Furthermore, we should retain the other amendment from the Senate which allows the party to bring suit in case of discriminatory waste dumping. I believe that this safeguard for the residents of the Sierra Blanca is necessary in light of the predominantly minority population in the region where this facility may be located. Approximately 76 percent of the residents are Hispanic; 39 percent live in poverty in the area.

The site is not for relatively harmless medical waste. In fact, there is an effort at amending the site permit to include dumping parts of reactors, not just clothing and instruments.

This is not an issue about States rights. It is about self-determination, self-determination for the community and the land around it and the impact that it has. The residents have not received a fair chance to be able to make a decision on what will be occurring in their backyards.

A recent study, by the way, showed that, of the three existing sites that we have out there in Utah, Washington, and South Carolina, I want you to listen to that, the study indicated that there is a life expectancy of over 29 years. So there is no need for us to move until the year 2027.

Listen to this, in addition to that, beyond that, they have the potential of going up to almost 260 years in the existing sites.

So why are we doing what we are proposing? The only thing I can figure is for economic reasons and deciding to move in that direction. I would ask that we take this very seriously, that we take the time to study. Finally, it is a bad policy and is divisive.

As we look at our agreements with Mexico, we had an agreement in 1983, the La Paz Agreement. In that particular agreement, we talked Mexico into making sure that nothing occurred 60 miles from the Rio Grande on either side so we would not pollute the area. So what has happened? We are the ones that have polluted. We are the ones that are doing the site right next to it.

I ask Members to vote against it.

Mr. REYES. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Texas (Mr. REYES) has 6½ minutes remaining.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. GREEN), a member of the committee.

Mr. GREEN. Mr. Speaker, I thank the gentleman from Colorado (Mr. Dan SCHAEFER), my subcommittee chairman of the Committee on Commerce and Subcommittee on Energy and Power for allowing me to speak tonight.

I rise in support of the motion to instruct conferees. The States of Texas, Maine, and Vermont deserve and expect congressional approval for the disposal and storage of their low-level radioactive waste. Since 1985, Congress has improved nine compacts which include 41 States, so we are not breaking new ground by this legislation. It is vitally important that we move this bill quickly.

In fact, that is frustrating, Mr. Speaker, because I was in the State senate when we approved the compact as a State legislature in 1991. We did not approve the site; that was left to the experts. And now they, the experts, have picked a site in west Texas. It may not have been the one I picked, but I know we need a low-level site. So that is why we are here today, to authorize that.

If the State of Texas wants to pick another site, let them do that, but there is no reason why we should make that decision here on the floor of the House. The better place to do it is in the halls of the State legislature. So, anyway, I support the bill.

Under the terms of the Texas-Maine-Vermont compact, low-level radioactive waste produced in each State will be carefully disposed of at a single facility. Again, it is in west Texas.

I share the concern my colleague from San Antonio has with the 60 miles of the border, but we also have pollution that goes both ways across the border. In fact, it was ironic, last week, last fall rather, I was in California and saw cross-border pollution in California, both ways, from both northern Mexico and from southern California. So we have that problem on both sides within 60 miles of the border.

There is a need for this. Many other States are part of the compact. We need to have Texas and Maine and Vermont have their compact so we can protect the citizens of Texas, because, otherwise, this compact, without this approval, could ultimately be the low-level waste site for all the country. That is not what the States want. That is why other States have created compacts and that is why it is important for Texas to do this.

The waste will be transported from hospitals and university research centers, utilities, and other waste producers in each State to a safe, permanent disposal site to be built in Texas.

Much has been said about the proposed site for the waste disposal facility. In fact, the permit to build the waste disposal facility in west Texas has been requested from our Texas Natural Resources Conservation Commission.

If the Commission finds that the permit meets all of the requirements, it will grant that permit. If Congress does not approve this bill under the Interstate Commerce clause, Texas must accept low-level waste from all other States.

H.R. 629 would allow Texas to limit who sends waste to the facility and be in compliance with the Low-Level Radioactive Waste Policy Act, just like 41 other States, Mr. Speaker, had their ability to limit it in a compact.

Again, Texas, there are three States; I think the minimum number of States that can be in a compact is three States, and so Texas and Maine and Vermont had made this agreement. Again, this is over a period of years. This just did not happen yesterday or last year.

When this first was being discussed, Ann Richards was the Governor of Texas, and now George Bush; and Ann Richards supported a low-level compact just like George Bush supports it.

The compact makes it possible to manage a Texas facility in an orderly and efficient manner. Without the compact, we would have no control in Texas over access. The Texas, Maine, and Vermont compact is an excellent arrangement between the three States, and it has received overwhelming bipartisan support in the legislatures of all three States.

I know because, again, I was there in 1991. We approved the compact commission decision, not the site selection. That, again, is best left to the local legislature and the local experts to do that, not here on the floor of Congress.

We can debate all day whether we like the site in west Texas, or maybe we would like a site in the district of the gentleman from Texas (Mr. RODRIGUEZ). That was one I heard earlier that was proposed in the earlier part of this decade.

Let us let the folks in Texas make that decision and not here, because we do not have that expertise on the floor.

So I urge passage of the bill and support H.R. 629.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 5 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, I rise today in strong support of H.R. 629, the Texas-Maine-Vermont Low-Level Radioactive Waste Compact.

The Low-Level Radioactive Waste Policy Act and its 1985 amendments make commercial low-level radioactive waste disposal a State, not a Federal responsibility. Since that time, 41 States from every region of the country have come together to form compacts.

Essentially, all we are asking today is that our three States be given the same consideration that every other State which went before us received in this process.

In every instance, Congress has understood the benefits of these compacts and has recognized the rights of the different States to come together in their own best interests to form these compacts. In fact, each of these waste compacts passed by voice vote and without amendment.

This compact has been overwhelmingly approved by the legislatures of Texas, Maine, and Vermont. It has the very strong support of the governors of the three States. It has the support of all the Senators from Texas, Vermont, and Maine, all of the House Members from Vermont and Maine, and as I understand it, about two-thirds of the members of the Texas congressional delegation.

We hear a great deal of discussion in this body about devolution, returning powers to the States. If we believe in that concept and believe that States should have the right to come together in their own best interests to address this very difficult issue, then today's vote should be an easy one. This legislation won by a vote of 309 to 107 last year and should be strongly supported today.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Colorado (Mr. SCHAEFER) has 26 minutes.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield 5 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I also rise in support of the motion to go to conference on H.R. 629. This is simply the opportunity for Texas, Vermont, and Maine to continue the process of gaining congressional approval for their low-level radioactive waste compact.

The House voted, as several speakers have said, last November by a vote of 309 to 107 to approve this compact. The Low-Level Radioactive Waste Act places the responsibility for the disposal of low-level waste upon the States.

I do want to come back to my good friend, the gentleman from Ohio (Mr. KUCINICH) who, earlier on, made a reference to Maine Yankee. Maine Yankee is, of course, the owner of the nuclear power facility that is now in the process of decommissioning in Maine. But Maine Yankee's position is now different than it was last year.

By letter dated March 12, 1998, Maine Yankee makes it clear that it does not object to the proposed compact. It has satisfied itself that it can dispose of its waste in the interim, but it does urge that the compact pass with no amendments.

Under this act, the States of Texas, Vermont, and Maine crafted a compact to meet their needs. In Maine, this compact was approved by a three-to-one margin during a referendum. This was not simply passed by the State legislature, which it was, but it was passed on a referendum by the people of Maine.

Over the past several years, Congress has approved nine such compacts covering 41 States. The time has now come to add to that list. It is very important from our point of view that, once the bill goes to conference, a clean bill without amendments, without amendments, is reported back to the House and Senate. The member States are opposed to any amendments to the bill. The amendments to the compact will only cause delay and added costs due to likely litigation.

This compact did not come easily. It was the result of several years of good-faith negotiations by the three member States. Maine and the other member States do not deserve the additional costs and additional delays that would be the result of unwanted amendments.

No compact before this body, no compact has ever been amended without the express consent of the member States. In this case, no consent has been given by Maine, by Texas, or by Vermont.

Mr. Speaker, we must move this issue forward and allow Texas, Vermont, and Maine the opportunity to dispose of their low-level radioactive waste.

Mr. REYES. Mr. Speaker, I yield 5½ minutes to my good friend, the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I can certainly sympathize with the comments of my colleague from Maine. I guess if I lived in Maine or Vermont, I would like to get this stuff as far away as possible as much as anyone else.

There are two very serious misnomers in this compact as proposed. One is that it is a low-level radioactive waste disposal site. It is low-level only as compared with higher level, but not as compared to the life of anybody sitting around here tonight.

Indeed, long after every person in this body is gone from this Earth and everyone who ever knew any of them is gone from this Earth and everyone who knew anyone on this planet is gone from this Earth, this radioactive waste is going to be very, very deadly.

Indeed, this radioactive waste that is going to be put out in Sierra Blanca, Texas, is going to be very deadly to humans for far longer than all of recorded human history in the existence of men and women on this planet. So it is a very momentous occasion when we consider the issue of what we are going to do with waste that is waste and is harmful for thousands and thousands of years.

☐ 1915

It is true that nuclear medicine, as my colleague from Texas indicated, is important, and all of the wastes generated from the academics, from medicine, from other sources of this type as proposed would take up, I believe it is something like five ten-thousandths of a percent of the capacity of this dump site. Well over 90 percent would come from the nuclear power industry. So it is indeed misleading to suggest that we are trying to thwart nuclear medicine, which we certainly are not.

What we are trying to do is to ensure that something that is going to be extremely dangerous for tens of thousands of years is not inappropriately dumped on a poor, impoverished, heavily Hispanic area of Texas, that also happens to be environmentally unsuitable.

The second misnomer in this bill is something we can and have done something about, and that is it is labeled as the Texas-Maine-Vermont compact. Indeed it is so labeled. Yet in the fine print, as the comments of my colleague from Maine suggest, there is a little escape clause that says that a group of unelected commissioners, appointed by governors who have long forgotten about this compact, that this group of people can let anybody into this compact they want to, and have everybody dumping on the poor people of Sierra Blanca, Texas. That is wrong, and that is why this House of Representatives has already gone on record in approving an amendment that I offered to limit the compact to the title, Texas, Maine and Vermont.

The United States Senate did exactly the same thing. They approved the same kind of amendment. So the conferees ought not to have to spend any time on the issue of limiting this dump site to three states, Texas, Maine and Vermont, because both houses of Congress have already acted on this issue.

Unfortunately, our statewide elected officials in Texas have been strangely silent on it, and hopefully the fact that now both the House and the Senate have acted will give them the fortitude to come forward and speak out and say, "Don't mess with Texas; don't dump everybody else's waste." At least limit it, if you are going to mess with Texas, to just the states of Maine and Vermont.

Indeed, that is exactly what they said. My good friend, the gentleman from Rockwall, Texas (Mr. HALL), told this body on October 7 of 1997 that by approving this compact, and I am quoting, "Texas will be required to accept waste only from Maine and Vermont."

The same comments were made by our colleague the gentlewoman from Dallas, Texas (Ms. JOHNSON), by the gentlewoman from Texas (Ms. JACKSON-LEE), and by a number of other of our colleagues, and it was reiterated by Governor George Bush in an interview with the Houston Chronicle on April 19th, that that was the objective of this whole proposal.

Well, if it is, let us write it into law, as we have done.

The suggestion of the gentleman from Maine and others that this somehow would require reratification is nonsense. There is no reason that simply holding these parties to what they presented to this Congress, of limiting it to those three states, would require reratification. Nor does it constitute any violation of the commerce clause, as some have suggested, since it deals exclusively with the compact and not all sources of waste.

But, you know, the real issue here is not the legalism, but the environmental soundness of this decision. The most recent report on the whole subject of nuclear waste dumping, one that came out in December of this past year, indicates we already have excess capacity, that the three waste sites that we have at present are perfectly adequate to meet future waste needs.

Senator WELLSTONE has done an excellent job of adding an amendment in the Senate that deals with this issue of environmental justice. I hope that it is maintained by the conference committee.

I think that the reason this site has been placed in Sierra Blanca, Texas, for Maine and Vermont, and perhaps for other states, is not because of environmental suitability, but because of perceived political weakness. We are today speaking out on behalf of the poor people of Sierra Blanca and all those that care about this nuclear waste issue, to say it is wrong to dump on them what we would refuse to keep in our own backyard.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield five minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the chairman very much for yielding me this time.

Mr. Speaker, this is a difficult question, as many times I come to the floor of the House and I join in with my good friend, the gentleman from Texas (Mr. DOGGETT), and fully appreciate the high moral ground that he now is able to stand upon dealing with the ultimate perceived impact that this legislation, H.R. 629, presents.

But, Mr. Speaker, I ask that this particular legislation go to conference, and I say to the gentleman from Texas (Mr. REYES), who has worked very hard on this issue, he can count on me to work with him to address the State legislature as to the question of site location, and would certainly, as I have indicated in previous debate, be the first to oppose what may be an already established site that would impact negatively on his immediate community.

But, Mr. Speaker, I cannot deny that this is the best approach. This answers the question, what now, and how? For it is through man's knowledge and expertise that we have been able to utilize nuclear science, nuclear technology.

It would be devastating, Mr. Speaker, for us to disallow the utilization of this technology, and, yes, it is in its own realm, very difficult and sometimes very dangerous. But that is why we have established the Low Level Radioactive Waste Policy Amendments Act, in order to be able to assure that Congress does not intervene or dominate on decisions that need to be made by the states.

In this instance, Mr. Speaker, we have the states of Texas, Maine and Vermont who have worked in a bipartisan manner to protect the life and safety of their residents and constituents. This has not been done haphazardly, Mr. Speaker. You have had governors from parties, from both sides of the aisle, who have come together to negotiate this pact. I think it would simply be tragic for us not to allow this to now go to conference.

I do believe, as I have indicated in debate, that the gentleman from Texas (Mr. DOGGETT) has a very good point, and I hope in conference we can work out the agreement where this compact does relate to Texas and Vermont and Maine, but the question becomes, who does have the higher moral ground? Is it those who say we do not know where it should go, throw it to the wind, keep it in limbo, hold Maine hostage or Vermont hostage; or, when Texas has conceded to the point we can work it out, ignore the response of those in Texas?

I think, Mr. Speaker, we have a problem with nuclear waste, and we in our own human frailties have done the best that we can. Because I do not want to see the benefits of nuclear medicine, if you will, go down the drain, when someone laying on an operating room table needs that kind of technology and we cannot give it, because we have no way of disseminating the waste in a proper manner. These are life and death questions, Mr. Speaker, and I believe this low impact radioactive waste policy and the coming together of these states is the best approach.

Any day I will stand with my colleague the gentleman from Texas (Mr. REYES) in the selection. I asked in the last debate last year that the State not precipitously move forward, our State, the State of Texas, but to hold hearings and listen to the constituents and work to ensure that it not be in an area that may be heavily directed toward a low or poor income area.

I still stand on those words. But this is a good piece of legislation that should move through the conference. This is a good process for states to make the decision, and not the United States Congress. This is positive for states to become allies in this very increasing concern.

Mr. Speaker, we must as a country have a way of ridding ourselves of the waste of using nuclear energy or nuclear science in the question of doing what is best for us.

We have found, Mr. Speaker, that more and more of our energy concerns are not relying on nuclear energy, but they have in the past. They may in the future. It is best then for the states to move forward. This policy is one that directs the states to make their arrangements. It is not a Federal policy that dominates the states.

Mr. Speaker, we have had no authority, no choice, no decisionmaking on the site. I think it should be very clear.

I would argue, Mr. Speaker, this is good legislation, it should go to the conference, and we must find a way to make sure and ensure that all of our constituencies are safe; but we must do it in a manner where we are cooperating with the states. That is what this legislation does. I would ask my colleagues to support it.

Mr. BONILLA. Mr. Speaker, I yield the balance of my time, four minutes, to the gentleman from El Paso, Texas (Mr. REYES), who is on the right side of this issue.

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as many know, I have opposed this bill at every turn. On October 7, 1997, the House passed H.R. 629, in spite of overwhelming opposition by the residents of Hudspeth County, Presidio County, Jeff Davis County and others in West Texas.

I respect my colleagues that are on the other side of this issue. I respect the fact that they have strong opinions about the necessity of our State and Vermont and Maine to have a site where nuclear waste can be stored. However, this issue is about fairness. This issue is about understanding that a life in Sierra Blanca, Texas, is worth the same as a life in Rockwall, in Houston, and in any other part of this great country of ours.

I believe that this site threatens the health and safety of our citizens, our citizens that live in Sierra Blanca, Texas. In spite of the designation of "low level," this dump would accept intensely radioactive materials, as my colleague the gentleman from Texas (Mr. DOGGETT) has stated.

The community of Sierra Blanca already has one of the largest sewage sludge projects in the country. The proposed dump site is also at risk in this particular area of Texas from earthquakes. According to the 1993 license application for Sierra Blanca, it is part of the most tectonically active area within the State of Texas. This radioactive site would effectively threaten the water supply of about 3 million people by threatening the Rio Grande River.

I also believe that this bill violates the 1983 La Paz Agreement with Mexico. This bill directs the governments of the United States and Mexico to adopt appropriate measures to prevent, reduce and eliminate sources of pollution within a 60 mile radius of the border. The State of Texas asserts that they just merely must inform the Government of Mexico on actions of this type. I disagree, the Mexican government disagrees, and in fact last week the Mexican Congress in a strongly-worded message passed a resolution taking an official position against the site of this nuclear dump.

During the debate on H.R. 629, the House agreed to an amendment offered by the gentleman from Texas (Mr. DOGGETT) that makes Congressional approval conditional and will be granted only for so long as no low level radioactive waste is brought into Texas from any other State other than Maine or Vermont. As introduced, H.R. 629 did not include that stipulation. This compact was promoted to the Texas legislature as a way to restrict out-of-state waste to those other than those two New England states. I strongly believe and those that support our position, which is the right position, believe that the Doggett amendment should remain as part of this legislation.

When the Senate considered this bill, it also included the Doggett language in the bill. I strongly support this language, and urge the conferees in the strongest possible way to leave this language in the conference bill.

The Senate has also unanimously agreed to an amendment which gives local residents and businesses the right to challenge the compact if they can prove discrimination on the basis of race. This area that has been selected is predominately Hispanic. Eighty-two percent of the residents of Sierra Blanca, Texas, are Hispanic. Therefore, this is a vital and important component in the legislation. Much of the local community believes that there has been discrimination, I believe that there has been discrimination, and the Senate amendment gives the local community a chance to prove its case in court.

Again, in closing, I strongly urge the conferees to preserve the language and think of the people of Sierra Blanca, Texas, and let us not make decisions on where we locate radioactive dumps on the basis of political impotence.

□ 1930

I think it would send a very strong and clear message to the community of Sierra Blanca, Texas, to west Texas, and those that ultimately are going to rely on the Rio Grande River as their main water source that this body, that the House and the Senate, care about the future of this area and this region of the country.

For that reason, I strongly recommend that if we are going to pass this kind of legislation, that it be with the Doggett amendments.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BARTON), the sponsor of the bill.

Mr. BARTON of Texas. Mr. Speaker, I will be very brief.

This legislation passed the House 309 to 107 last year; it passed the Senate earlier this year by unanimous consent. There are 42 other States that have such compacts. The motion before us is simply to send the bill to allow the House to appoint conferees to go to conference with the Senate. I think we can all agree to that. If we pass this in the next several minutes, there will be no motions to instruct. We will just go to conference, we will let the conference work its will and then we will have one final vote of both the House and the Senate on this legislation.

So let us all vote in favor of appointing conferees and send this bill to conference.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I have no further speakers. I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HEFLEY). The question is on the motion offered by the gentleman from Colorado (Mr. DAN SCHAEFER).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

For consideration of the House bill and the Senate amendment and modifications committed to conference:

Messrs. BLILEY,
DAN SCHAEFER of Colorado,
BARTON of Texas,
DINGELL, and
HALL of Texas.

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3534, MANDATES INFORMATION ACT OF 1998

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–529) on the resolution (H. Res. 426) providing for consideration of the bill (H.R. 3534) to improve deliberation on proposed Federal private sector mandates, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 512, NEW WILDLIFE REFUGE AUTHORIZATION ACT

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–530) on the resolution (H. Res. 427) providing for consideration of the bill (H.R. 512) to prohibit the expenditure of funds from the Land and Water Conservation Fund for the creation of new National Wildlife Refuges without specific authorization from Congress pursuant to a recommendation from the United States Fish and Wildlife Service to create the refuge, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 10, FINANCIAL SERVICES ACT OF 1998

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–531) on the resolution (H. Res. 428) providing for consideration of the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes, which was referred to the House Calendar and ordered to be printed.

COMMUNICATION FROM FORMER STAFF MEMBER OF HON. SAM GEJDENSON, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Donald N. Mazeau, former staff member of the Hon. SAM GEJDENSON, Member of Congress:

DONALD N. MAZEAU,
46 FENWOOD DRIVE,
Old Saybrook, CT, May 5, 1998.

Hon. NEWT GINGRICH,
Speaker,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that I have been served with a subpoena ad testificandum issued by the Superior Court for the District of New London, Connecticut, in the case of FDIC *v.* Caldrello, No. 0511581.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

DONALD N. MAZEAU,
Former Congressional Aide to Congressman Sam Gejdenson.

APPOINTMENT OF MEMBERS TO CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of 22 U.S.C. 276d, the Chair announces the Speaker's appointment of the following Members of the House to the Canada-United States Interparliamentary Group, in addition to Mr. HOUGHTON of New York, Chairman, appointed on April 27, 1998:

Mr. GILMAN of New York,
Mr. HAMILTON of Indiana,
Mr. CRANE of Illinois,
Mr. LAFALCE of New York,
Mr. OBERSTAR of Minnesota,

Mr. SHAW of Florida,
Mr. LIPINSKI of Illinois,
Mr. UPTON of Michigan,
Mr. STEARNS of Florida,
Mr. PETERSON of Minnesota, and
Ms. DANNER of Missouri.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SHIMKUS). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO STERLING, COLORADO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. BOB SCHAFFER) is recognized for 5 minutes.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I would like to recognize the hardworking people that live, work, and recreate in Sterling, Colorado. Sterling is the center of economic activity, professional services, and recreation for northeastern Colorado. The city is situated 2 hours northeast of Denver on the South Platte River. With a population of 11,000, the county seat of Logan County boasts a good environment and a strong, safe community. The community enjoys modern telecommunications technology and a solid infrastructure.

Sterling is easily accessible by plane, rail, and car. Located off I–76, the city is the hub of activity in northeast Colorado. With a regional medical center and a fully accredited junior college, Sterling provides valued medical and educational services to thousands of my constituents.

Recreational opportunities add to the high quality of life in this admirable community, including public and private golf courses, reservoirs, parks and portions of the Pawnee National Grasslands. Logan County contains rural farms which provide a good environment for people and wildlife alike and a vibrant agricultural economy.

Mr. Speaker, Sterling was recently named one of 30 finalists for the All-American City Award. Representatives from the community will appear soon before a panel in Mobile, Alabama in June to highlight the reasons why Sterling deserves such an award. The National Civic League and Allstate Insurance Company present the award each year to 10 outstanding communities around the Nation. Such recognition exemplifies the western spirit and strong values that bind this community together. Good schools, good services, and a good environment make Sterling ideal for new businesses and economic growth.

Mr. Speaker, I am proud of those that live in and around Sterling, Colorado.

ALLEGATIONS CONCERNING IMPROPER CONDUCT BY MR. STARR ARE AT LEAST AS CREDIBLE AS ALLEGATIONS AGAINST LABOR SECRETARY ALEXIS HERMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I have just asked the Attorney General to investigate the possibility that independent counsel Kenneth Starr may have improperly shared information and coordinated their activities with the gentleman from Indiana (Mr. BURTON), my friend, or his staff.

In support of this request, I point out that Chairman BURTON coincidentally released his selectively edited transcripts on the same day that Judge Starr announced his new punitive indictments of Mr. Webster Hubble. According to published reports, "The transcription and editing process of the tapes was a crash project aimed to coincide with last week's new indictment of Hubble." Recent reports have also made it clear that members of Chairman BURTON'S staff had developed several close contacts in Judge Starr's office and communicated with them regularly.

For example, it was reported that several Republican sources confirmed that the gentleman from Indiana (Mr. BURTON), this is a quote, "refused to release the transcripts until the week Hubble was indicted for tax evasion and fraud, a committee source said. Mr. Bossee, one committee staffer, has several friends close to independent counsel Kenneth Starr and urged Burton to withhold the tapes until last week."

Yesterday, a Republican aide on Mr. BURTON's committee was quoted in the press as admitting that the timing looked "fishy," but he denied there was any coordination. Well, I agree that it looks bad and that it deserves investigation.

These facts raise a simple question: Did Judge Starr let Chairman BURTON'S staff know in advance that he was returning an indictment on Webster Hubble? If so, what other kinds of information is he sharing with Republican investigators? If Judge Starr has been sharing information with Chairman BURTON, these would constitute violations of law by the independent counsel himself.

Frankly, I believe these allegations are far more specific and credible than those which today compelled Attorney General Reno to seek an independent counsel for Miss Herman.

The Attorney General admitted that she found "no evidence clearly demonstrating Secretary Herman's involvement." Nevertheless, a counsel was appointed.

It disturbs me greatly that the independent counsel law can produce this kind of result. Department of Justice investigators worked for 5 minutes and found no clear evidence of wrongdoing by Ms. Herman. Nevertheless, Attorney General Reno felt compelled to appoint an independent counsel.

Now, if the Attorney General can appoint an independent counsel, a person with unlimited resources and time and money to spend investigating these kinds of allegations, then surely it is appropriate for the Attorney General to at least investigate some of the disturbing coincidences that surround Chairman BURTON's release of the Webster Hubble tapes at the beginning of the month.

☐ 1945

By the way, what was the purpose of Chairman BURTON subpoenaing tapes from the Department of Justice and then releasing them to the public? What was his point? What service was he providing, or thought that he was providing?

Judge Starr has said that the rule of law is supreme, and on that he is right. The law applies to all equally, including him, the Independent Counsel.

Mr. Speaker, I include for the RECORD a communication that I have from Attorney Stuart F. Pierson, counsel for Marsha Scott, who says that he has found that the questions put to him by the Burton committee were extraordinary in that they were virtually identical to the questions put to her less than 2 months ago before a Federal grand jury.

The material referred to is as follows:

LEVINE PIERSON SULLIVAN AND KOCH,
Washington, DC, May 8, 1997.

RICHARD D. BENNETT, Esq.,
Chief Counsel, Committee on Government Reform and Oversight, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

KENNETH W. STARR, Esq.,
Independent Counsel, Office of Independent Counsel, Pennsylvania Avenue, NW., Washington, DC.

DEAR MR. BENNETT AND MR. STARR: As counsel for Marsha Scott, I am writing to advise you of a concern which has arisen in connection with deposition questions propounded by majority counsel of the Committee on Government Reform and Oversight, Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs (the "Burton Committee").

Ms. Scott has appeared five times before federal grand juries under subpoena by the Independent Counsel, once in Little Rock and the remainder in Washington, D.C. The last appearances were on March 26 and 31, 1998.

Prior to her appearances in March, Ms. Scott had been examined by the Independent Counsel about a wide variety of subjects, including her relationship with Webb Hubbell, her communications with Mr. Hubbell and people in the White House while he was in prison, his business activities following his resignation from the Justice Department, his financial condition, and conversations in the White House concerning him, his family and his financial condition. Ms. Scott answered all of those questions to the best of her ability.

Ms. Scott has also appeared at numerous depositions under subpoena by the committees of the United States Senate and the United States House of Representatives. On April 1, 1998, as a consequence of her withdrawal from a deposition that had become repetitious and vexatious, as taken by counsel for the House Subcommittee of the Committee on Government Reform and Oversight (the "McIntosh Subcommittee"), Ms. Scott was required forthwith to appear at a closed-door hearing called by Mr. McIntosh. At that hearing, Ms. Scott agreed to return to complete the deposition by counsel for the McIntosh Subcommittee. Within ten days of that agreement, counsel for the Burton Committee called informally to advise that she intended to take deposition testimony in addition to that to be taken for the McIntosh Subcommittee.

On April 28, 1998, Ms. Scott returned for the completion of her deposition by the McIntosh Subcommittee. Following all testimony taken by counsel for that subcommittee, counsel for the Burton Committee appeared and conducted further examination of Ms. Scott over objection. It is that further examination that has raised the concern to which I refer.

While relatively short, the questioning by counsel for the Burton Committee was in at least five respects virtually identical to examination taken of Ms. Scott by the Independent Counsel before a federal grant jury on March 26, 1998. Specifically, both examinations addressed: (1) whether Ms. Scott was aware of any displeasure expressed by or for the First Lady about the possibility that Mr. Hubbell might sue the Rose law firm concerning his billing dispute; (2) whether Mr. Hubbell ever discussed the nature or extent of his cooperation with the Independent Counsel; and (3) what knowledge Ms. Scott had of conversations with, and the activities of Mr. Hubbell's accountant, Mike Schamfele. Additionally, both examinations repeated questions about any conversations Ms. Scott had with Mr. Hubbell concerning his clients after leaving the Justice Department, and any discussions in the White House that Ms. Scott was aware of concerning Mr. Hubbell's financial condition. The identity of such examination was particularly remarkable considering that Burton Committee counsel had asked to take it without any formal notice less than a month after the Independent Counsel has conducted its examination.

At the close of the examination by counsel for the Burton Committee, I asked that the committee and the subcommittee be advised that I found it extraordinary that the questions asked of Ms. Scott were virtually identical to questions put to her less than two months before in a federal grand jury. I reiterate that observation by this letter, and I request that a responsible representative of the Independent Counsel and the Burton Committee advise me by return letter whether the examination of Ms. Scott is a consequence of the sharing of any information, documents or consultation between the Office of Independent Counsel and the Burton Committee.

Sincerely,

STUART F. PIERSON,
Counsel for Marsha Scott.

TRIBUTE TO THE LATE CLAIR A. HILL

The SPEAKER pro tempore (Mr. SHIMKUS). Under a previous order of the House, the gentleman from California (Mr. HERGER) is recognized for 5 minutes.

Mr. HERGER. Mr. Speaker, I rise today to share a great loss with my colleagues. On April 11 of this year our country lost Clair Hill, a man I was privileged to call a personal friend. Clair Hill's death is an incredible loss to our community, State, and Nation. He was a legend in his own time.

Clair Hill was an internationally renowned engineer who was the major contributor to California's water supply planning and management. Mr. Hill worked on California's water issues most of his great life, and he is one of the principal authors of the original California water plan developed in the 1940s.

Clair Hill was born in 1909 in Redding, California, located within my congressional district. A personal friend of mine, Mr. Hill was the founder and president of Clair A. Hill & Associates, an engineering firm that merged with CH2M in 1971 to form CH2M Hill.

Mr. Hill, who spent much of his life in Redding, died there on April 11, 1998, at the age of 89. The father of two sons, he was married to his wife, Joan, since July of 1935. Clair Hill was an avid outdoorsman, horse enthusiast, and world traveler. Clair Hill studied forestry at Oregon State University, working in the northern California logging camps during the summers. However, engineering was his eventual calling, and Mr. Hill graduated with a civil engineering degree from Stanford University in 1934.

Clair Hill worked with the Standard Oil Company in San Francisco and the California Bridge Department, now Caltrans, before returning to Redding in 1938 to found his engineering firm, Clair A. Hill & Associates. He specialized in water resources, surveying, mapping, and structural engineering, before entering military service in 1941, during World War II. He served 5 years in the Aleutian islands. After the war, in 1946, he reorganized his firm, which grew steadily in responsibility and reputation in the post-war boom.

Working from offices in California and Alaska, Mr. Hill's firm served clients such as the U.S. Air Force, the Sacramento Utility District, and Pacific Gas & Electric Company. Clair Hill had an independent spirit, and his reputation was embodied in his motto, you will never succeed if you don't try.

This dedication and independence spurred Mr. Hill to obtain a pilot's license and purchase his own airplane, which he used to service projects throughout California and the Pacific Northwest. Frequently called "California's Mr. Water," Clair Hill was well known as a major contributor to California's water supply planning and management, having served for 32 years in the California Water Commission, 18 of those as chairman.

While on the commission, he signed California's original State water plan, which outlined projects that today store water in the State's northern section for use by communities and industries throughout the State of California.

In 1988 I was proud to assist in renaming Whiskeytown Dam, near Redding, as the Clair A. Hill Whiskeytown Dam. Mr. Hill's assistance and advocacy led to the development of the dam and reservoir to benefit the Redding area as part of the government's Central Valley water project. Although Clair Hill retired as CH2M Hill's California regional manager in 1974, he remained active as a consultant and adviser to the firm's water resources practice until just recently.

Mr. Hill was the only honorary life member of the California Water Commission. Last year he was one of eight civil engineers nationwide to receive an honorary lifetime membership in the American Society of Civil Engineers. Clair Hill was also the first recipient of the Association of California Water Agency's Lifetime Achievement Award, and the National Academy of Engineering elected him to membership in 1992.

As I mentioned before, it was truly a privilege to count Clair Hill among my good friends. He will be missed by many, and he will never be forgotten. Clair Hill, our Nation thanks you.

"SHORTAGE" OF INFORMATION TECHNOLOGY WORKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. KLINK) is recognized for 5 minutes.

Mr. KLINK. Mr. Speaker, I have risen before to talk about the H–1B program, and I think it is time to do it again, because so many of our colleagues have not looked at this program.

A lot of people say, "H–1B, it sounds like a new Air Force plane." What in fact it is is a program which allows foreign workers to come here temporarily for a 6-year period and take jobs that otherwise would have gone to American citizens. We permit that when the companies have a hard time finding people with specific skills.

In particular, the H–1B program was started back in 1990 to alleviate what was then seen as an anticipated shortage of scientists and engineers, particularly at a Ph.D. Level. I do not think that ever particularly was proven to have come about, because in the interim the Berlin Wall fell, and the demand by our defense industry was a lot less than we thought it should be.

The problem with this program is that there is now no universally accepted definition of who these high-tech workers need to be, particularly as it goes to the information technology area. The reason I stress the information technology area is because under the current program, we allow 65,000 temporary workers to come in a year.

The Information Technology Association of America is now coming to Congress and saying, 65,000 temporary workers is not enough. The fact of the matter is that we never came close to hitting 65,000 until last year. All of a sudden a lot of companies out there, particularly in the temporary training and temporary employee business, have discovered this as a way of making a lot of money.

They have discovered a method whereby they can find workers who come from various countries, from Pakistan, from India, from Russia, and they can bring those workers in here, and they are really little more, Mr. Speaker, than indentured servants. While they have H–1B status, the visa is for an occupation, not for a certain person. That person can be underpaid, they can be forced to work 7 days a week until they get their green card, until they are forced to go back home again. How many of them are going to complain? In the meantime, these high-tech jobs are not going to our kids who are graduating from colleges and universities with degrees, and could easily be trained to go into these fields.

In particular, in information technology, that industry has defined their technology so broadly as to try to overdemonstrate the need for IT workers. Yet, they define very narrowly what the skills are that are needed to fill these jobs.

The Information Technology Association of America and the Commerce Department of the United States government defined the pool of qualified IT workers as those who have obtained a bachelor's degree in computer or information science. They did not consider degrees or certifications in computer or information science other than a B.A. degree in those areas. They did not stop and think that somebody who has a degree in business or social science or math or engineering or psychology or economics or education could be trained to do this technical work.

As I have railed against this, some of these companies that are out there hiring these foreign citizens to take these jobs that I think American citizens could be trained to take, now all of a sudden they have begun to strike back. One of them wrote to the Pittsburgh Post-Gazette this weekend. I was kind of amused by this. She owns a company, and this lady's name is Christine Posti. She owns a company called Posti & Associates.

She says that I ask why our companies cannot do the right thing and train American workers. That is the question I do ask. Ms. Posti says that I am under the mistaken impression that business exists to educate our citizens, when really, it is up to the government to educate workers.

I am amazed. It is now up to the Federal Government, that big Federal Government, that is supposed to go out and do all the job training for all the companies in America. They bear no responsibility. We are going to let big government take care of that. Who pays for that? The fact of the matter is that the taxpayers at every level, local property taxpayers, State taxpayers, Federal taxpayers, are being asked by people like Ms. Posti to go out and subsidize their companies. We are supposed to train people.

If they cannot find people in the education system that are already trained to do it, they will go get foreign workers, bring them here, and have them take the jobs. What are our children supposed to do? What are our displaced workers supposed to be retrained to do? What kind of a society will we have in this country?

If Members remember NAFTA, when we voted on NAFTA back in the 103rd Congress we were told, we are going to lose the manufacturing jobs. As we go from a manufacturing society into an information technology society, the new information technology jobs will go to our people. Now here we are, only 4 years later, and we are being told that our students and our workers are too dumb. We have to bring people in from other countries to do it.

I would ask my friends and colleagues to take a look at the H–1B program. Do not be fooled. Keep Americans in the American jobs.

AIR FORCE PILOT RETENTION ISSUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I wanted to talk a little bit tonight about the state of our military. I was with my good friend, the gentleman from New Jersey (Mr. JIMMY SAXTON) and the gentleman from Georgia (Mr. SAXBY CHAMBLISS), two great members of the Committee on National Security this morning, observing a very interesting and unusual exercise from our takeoff point at Andrews Air Force Base. That was the refueling of a C–5 aircraft somewhere over Pennsylvania. We went up and married up with an aircraft and refueled her out of Dover, out of Delaware, undertook a refueling.

We had an opportunity to talk to our folks, our military folks, while we were doing that, briefly, before the flight and during the flight. Mr. Speaker, I harken back to the days when I came into Congress in 1980. In those days one of our biggest problems was what we called the people problem.

Coming from a Navy town, San Diego, I saw that problem manifested in the thousands of chief petty officers who were getting out of the Navy. Those were the people that really knew how to make the ships sail. It was a tremendous loss. We had a thousand petty officers a month leaving the Navy, and we could not replace them.

As I was briefed by these fine young men and women in the Air Force this morning, I could see that we are revisiting that people problem. It is probably across the board, but what we focused on today was the United States Air Force.

I want to quote General Ryan, Chief of Staff of the Air Force. He said that last year more than 800 pilots refused bonuses of $60,000 to extend their time in service 5 years beyond the 9 they signed up for. Only 36 percent of the pilots at the 9-year mark agreed to stay on, while the Air Force goal was 50 percent, to avoid shortages.

Mr. Speaker, that means that we are going to probably have a shortage of about 835 pilots this year. The taxpayers pay about $6 million, on the average, to train a pilot. When we lose a pilot from the United States Air Force and he goes out ahead of his retirement time to work for an airline company or to gain employment in another civilian field, we lose a great asset.

□ 2000

We not only lose the $6 million of training time because when we find another pilot to take his place, we have to expend that $6- to $8 million to train that pilot up, but we also lose the great experience. And, of course, there is a time lapse between losing those experienced pilots and bringing on the newly trained pilots. So we are losing this resource.

We have been asking people why they are leaving. They are not leaving because of money. A few of them are citing dollars or pay as a reason for leaving, but a lot of them are citing, most of them are citing what they call quality of life. And a lot of that has to do with what we were told about this morning as being the extreme OPTEMPO of our operations. We have a much smaller Air Force now, for example. We are down from 24 fighter airwings during Desert Storm to only about 13 today. Of course that reduction is reflected across the array of U.S. Air Force aircraft. What that means, if you are a pilot or a crewman on one of those aircraft or a ground crew, is that you are going to be working longer hours. You are going to be called up when you do not expect to be called up and when you have some pressing business to do with your own family. That means a lot of our folks are not there to see their son's graduation or their daughter's wedding or any of the other things that we do on the civilian side, on the family side that makes life bearable.

Because of that, a lot of folks are saying, we are not in a war, this is not an emergency; I am going to get a job in an area where I can spend a lot more down time with my family. So this is a family decision that people are making sitting around the kitchen table and unfortunately they are making it, they are coming down on the side of leaving the Air Force.

Mr. Speaker, a lot of these folks that are leaving are the senior people who are qualified in very important fields. A lot of them are instructor pilots. A lot of them are examiner pilots. Aerial refueling-qualified pilots, that is very important because the United States has the bulk and the backbone of the free world's refueling capability. A lot of them are airdrop-qualified pilots and special operation pilots. And so, Mr. Speaker, we are facing this time when, even though we are paying $22,000 additional bonuses now to try to keep these pilots in, we are seeing this continued retreat and exodus from the Air Force of some of our most valuable and qualified people.

We are going to have to do something about that. It is probably going to be, part of that answer to this problem is going to be raising the top line because we are going to need to have more planes and more pilots if we are going to do this job that we have been asked to do over the last several years which has extended our OPTEMPO. I will be talking tomorrow about some other problems.

ON CHILD CARE

The SPEAKER pro tempore (Mr. SHIMKUS). Under a previous order of the House, the gentleman from Arkansas (Mr. SNYDER) is recognized for 5 minutes.

Mr. SNYDER. I could not help but think, when the gentleman from California (Mr. HUNTER) was speaking, I have Little Rock Air Force base in my district and one of the places I like to visit on the base is the child care center there. It is a top flight, very high-quality child care at the center, but it is one of those issues that most Americans do not think about, that so many of our military dependents now have children and they have to be cared for or their parents will decide to get out of the Air Force.

What I wanted to discuss briefly with my colleague, the gentleman from Maine (Mr. ALLEN) is this issue of quality child care. I am from Arkansas. We have a lot of working families there that have two folks working or single-parent families and the parent needs to work. How do you find quality child care during the day or the evening when your kids are home alone?

I am also a family doctor. We have seen a lot of research come out in the last couple years about how important brain development is in the early years of a child's life and that again points to the need for quality child care.

A lot of my district, Mr. Speaker, is rural. As I have traveled around the district, a lot of the parents do not have the option in the rural areas for quality child care that some of the other areas of my district and of the country do. Based on that basis of information and experience, the gentleman from Maine (Mr. ALLEN) and myself worked on a bill that would provide a source of funding that would give school districts in America the option of beginning a quality child care program for their parents if they should choose to in their school districts.

I yield to the gentleman from Maine (Mr. ALLEN) to discuss the topic further.

Mr. ALLEN. I thank the gentleman for yielding to me.

Mr. Speaker, the gentleman from Arkansas (Mr. SNYDER) and I have been working on this legislation for some time. It is called the Education Child Care Partnership Act. This has been something we and our staffs have really put some time and energy into. It is a bill that, if passed, would really expand working families' options for quality care for their young children.

In Maine, when I ran for this office, I called for a new national initiative on child care, and I did that because as I traveled around my district in Maine, what I heard from young parents consistently, day in and day out, was that they were finding that child care was, number one, not readily available and, number two, often more expensive than they could afford. Every day all across this country many parents simply have to go to work and now trust the most precious, the most important people in their lives, their children, to someone else.

We have in this country 13 million kids under the age of 6 in child care during the day. And too much of that child care is of mediocre quality but still not affordable to most working families. The Education Child Care Partnership Act, which the gentleman from Arkansas (Mr. SNYDER) and I have been working on, would provide families with an affordable, accessible, and quality option for child care for our youngest children.

The bill really focuses on children between the ages of zero and six. It earmarks funds within the child care and development block grant for States to fund local education agencies which choose to provide full-day, year-round, school-based child care for children age zero to six. What we are looking for is a seamless system of childhood, early childhood education, because what we have found is that sometimes we have a child care system over here with some child care centers and lots of in-home care, and then over here we have an education institution which really does not begin until the ages of 5 or 6.

What we need to do is create, for those States that want it, complete flexibility, complete choice, the option of funding some child care in a school-based setting for a wide variety of reasons. It can be cheaper because the facilities are already provided. It can be quality, because the playground is already there and more resources can go into the care givers.

So that is why we did this work, that is why we put this bill together.

I thank the gentleman from Arkansas for all his work on this bill.

Mr. SNYDER. Mr. Speaker, I want to describe a situation in one town when I first started thinking about this idea, in Pangburn, Arkansas in White County. White County is where Harding University is, if you are familiar with that college. About 12 years ago the superintendent of the school board there decided that they had a need for child care. They had an industry there. There was no profit or nonprofit groups that had come in with child care and so they took an old building on the campus and converted it into quality child care that begins at 6 weeks. It is now a model for what can be done in a State if a school district chooses to.

I wanted to say a couple things. First of all, one of the things I like about this plan is it is completely local control. It is an elected school board that can decide to participate or not to participate in applying for these grants. Also the way we have crafted the bill, it does provide some money there that the money could be used to help build the facility, a quality child care facility.

MORE ON CHILD CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. ALLEN) is recognized for 5 minutes.

Mr. ALLEN. Mr. Speaker, I would like to continue this dialogue just a little bit longer and start with a few remarks, and then I will yield back to the gentleman from Arkansas (Mr. SNYDER) again.

One of the things I found is that for families with more than one child, transportation issues can really be a headache because they have got one child in school, another child going to child care somewhere else in the city or town. And if they can drop their children off at one place, life is simpler. And some school-based programs extend the use of school bus services to children participating in child care programs.

I think this is a new direction for child care and education in this country. It is not going on everywhere, but it is going on in my district in Maine. It is going on in Arkansas. It is going on in a number of places around the country. Some families, some parents tell me that when a school vacation comes or summer vacation comes, it is really hard to find a place for our kids to go. We do not want to leave them at home watching television all the time. We want someplace where they will be motivated, interested, and have some programs that are helpful to them. The programs that would be eligible under this bill are full-day, year-round programs. So they would be targeted at schools that will stay open during school vacations for the purposes of providing child care, and they will stay open during the summers for the purposes of providing child care.

Quality school-based care programs utilize existing resources in that school, such as arts supplies, sports equipment, playgrounds and so on. And it really gives school employees and social service agencies a way to enhance the quality of the programs that they provide.

I believe that school-based care makes logical sense for both school-aged children as well as preschool children. I believe firmly that if we do not deal with the issues that kids have between zero and six, if we do not pay attention to that age group, we are missing a chance to help kids get off on the right foot. What we need is the national will to leave no child behind and the resources to make that happen. I believe that a country that can support the salaries of players in the NBA and the NFL and major league baseball can take better care of its kids.

So I rise today to challenge my colleagues to commit to policies and practices that reflect the importance of those early years in a child's life. Our mission is simple: Leave no child behind.

I want to thank the gentleman from Arkansas (Mr. SNYDER) because the Education Child Care Partnership Act has been a partnership between our offices, and we now can look forward to having other Members of this body support it.

I yield to the gentleman from Arkansas (Mr. SNYDER) for concluding comments.

Mr. SNYDER. First of all, anyone involved in child care recognizes there has been tremendous work done by other entities. We do not see this as being a competition. We actually would only see school boards stepping in if there was not quality child care going on in their communities. So there is always going to be a place for the profit-making ventures, the nonprofit churches that have child care for Head Start. This is not intended at all to be competing with those. But when you have communities, particularly in rural areas, that do not have any of those options available or the options there are are not meeting the need, I think this gives a community another option through their local officials with completely local control. Also just the quality aspect of it. I was visiting one school one day that had an early childhood program connected to a school building. The kids were taken down to the science lab when there was a teachers' break from other classes and these little kids, little toddlers, were getting little science demonstrations there in the high school science lab. So there are tremendous opportunities for a community to put together a program. We are intending this grant money to be start-up money to help the schools meet the needs in their communities for quality child care.

THE MINIMUM WAGE INCREASE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, Members in the Congress recently released a report, "Making Work Pay," by the Economic Policy Institute which examined the impact of the increase in the minimum wage in the 104th Congress to $5.15.

This report was most encouraging, concluding that increasing the income of the working poor was good for them and good for the Nation's economy. These report findings give strong support for a further increase in the minimum wage. As some are aware, there is legislation to increase the minimum wage to $6.15 an hour by the year 2000. We should consider this legislation this year.

The last increase was during the 104th Congress by 90 cents over 2 years, from $4.25 to $5.15. The last time the wage was increased by Congress before the 104th Congress was 1991.

Since 1991, the minimum wage remained constant while the cost of living rose 11 percent. That is the cost for food, the cost for transportation, cost for shelter and energy to heat our homes.

A single mother supporting two kids at a minimum wage makes $10.70, $2,600 below the poverty line. The report demonstrates that raising the minimum wage benefits primarily adult workers. The report indicates that almost three-fourths, that is 71 percent of all minimum wage workers are adults over the age of 20. In addition, nearly two-thirds, 58 percent of those adult persons are women. Also it is twice as likely that the minimum wage worker will be from rural communities than from urban communities.

We also know that greater than one-third, 36 percent of all minimum wage workers are the sole wage earner in a family.

□ 2015

Fifty-eight percent of all poor children have parents who work full time. More than 4 million individuals worked at or below the minimum wage in 1993, and another 9.2 million earned just above the minimum wage.

The report indicates that some 10 million low-wage workers benefited from the last minimum wage increase, ten million.

Increasing the minimum wage goes a long way towards helping the millions of working poor in this country. An increase of $1 in the minimum wage is an additional $2,000 for a minimum-wage worker working full time year round.

Other recent studies on Federal and State minimum wage reform have shown that an increase in the minimum wage can occur without having any adverse effect on employment. A higher minimum wage can make it easier for employers to fill vacancies and may decrease employee turnover.

A recent survey of employment practices in North Carolina, after the 1991 minimum wage increase, found that there was no significant drop in employment and no measurable increase in food prices. The survey also found that workers' wages actually increased by more than the required change.

In another study, the State of New Jersey raised its minimum wage to $5.05, while Pennsylvania kept its minimum wage at $4.25. The research found that the number of low-wage workers in New Jersey actually increased with an increase in the wage, while those in Pennsylvania remained the same.

A report as of January 1998 showed that the employment in the fast-food industry increased by 11 percent in Pennsylvania and by 2 percent in New Jersey after the 1996 increase. They said that would not happen, an actual increase in the number of workers in the fast-food industry.

The best welfare reform is a job at a livable wage. Raising the minimum wage would make it easier for people to find an entry-level job that pays better than a government subsidy and creates a strong incentive to choose work over welfare.

In 1993, there were 117,000 workers in the State of North Carolina that were working at below the minimum wage.

The American public supports a minimum wage increase. National polls have found that close to two-thirds of all Americans favor increasing the minimum wage.

Job growth in America is the lowest where the gap between the incomes at the top and the lowest level is the greatest, so when we have such a great disparity, we also have a low rate of job growth. Increasing the minimum wage goes a long way towards closing the gap, helping to create jobs rather than reducing jobs.

This important report, when combined with other empirical data, is clear evidence that, indeed, it is good for people and good for our economy.

INDIA'S NUCLEAR TESTS: A CALL FOR INTERNATIONAL NUCLEAR DISARMAMENT

The SPEAKER pro tempore (Mr. SHIMKUS). Under a previous order of the

House, the gentleman from American Samoa (Mr. FALEOMAVAEGA) is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, India conducted three underground nuclear tests in its Pokhran Range with a combined force of up to 20 kilotons. Although the Indian Government claims the underground explosions did not result in radioactive fallout, the fallout from the international community has been incendiary, marked by protests and condemnation.

I submit, Mr. Speaker, that India's return to nuclear weapons testing is highly regrettable, as it threatens stability not only in south Asia, but the whole world, and this latest action by India clearly undercuts nuclear nonproliferation efforts around the world.

While these developments with India are unfortunate, Mr. Speaker, many would find India's actions to be both understandable as well as predictable. In refusing to join in the Comprehensive Test Ban Treaty and Nuclear Nonproliferation Treaty, India has long argued that the treaties are discriminatory and clearly one-sided because they maintain and perpetuate a world of nuclear haves and have-nots, a world where five nuclear nations clearly have distinctive advantages over all other countries.

To remedy this inequality, India has rightfully called for global nuclear disarmament and verifiable arrangements for the elimination of nuclear weapons arsenals by the superpowers.

Since its 1974 test, as a sign of good faith, India has forgone nuclear weapons testing. For almost 2½ decades, India has demonstrated nuclear restraint, while five nuclear nations, the United States, Russia, France, Great Britain and China, have conducted scores of tests in the face of worldwide disapproval.

Now, Mr. Speaker, citing legitimate security concerns with nuclear-armed China and Pakistan's close alliance with Beijing, it is not surprising that India has chosen to exercise the nuclear option. Because of this, there is fear now that Pakistan may follow suit and test a nuclear device of its own.

Mr. Speaker, the only way to stop this spiraling proliferation of nuclear weapons around the world is for the nuclear nations to take responsibility and set an example. How can the United States and the other four members of the nuclear club continue to argue and to urge other countries to forgo nuclear weapons while reserving the right to keep our own nuclear weapons for ready use? If this is not the height of hypocrisy, Mr. Speaker, I do not know what is.

To put it another way, Mr. Speaker, this is like having the five nuclear nations tell India to tie its legs and hands by not becoming a member of the nuclear club, and any time China feels like threatening India with its nuclear arsenal, it is perfectly all right because it is within the spirit of the Nonproliferation Treaty.

With the Cold War over, it is madness, Mr. Speaker, that the United States and Russia alone still have over 5,000 nuclear missiles poised to fire within seconds at each other or any other country that may pose a threat and, still, over 15,000 more warheads on operational alert. In total, over 36,000 nuclear bombs threaten the existence of this planet.

Mr. Speaker, it is time that the nuclear powers negotiate a nuclear weapons convention that requires the phased elimination of all nuclear weapons within a time frame incorporating proper verification and enforcement provisions.

Moreover, Mr. Speaker, the former commander of the U.S. Strategic Air Command, General Lee Butler, and a former Supreme Commander of all NATO forces, General Andrew Goodpaster, representing a group of 60 retired generals and admirals, have concluded the only way to end a nuclear threat is to eliminate nuclear weapons worldwide. As General Butler has stated, and I quote,

> Proliferation cannot be contained in a world where a handful of self-appointed nations both arrogate to themselves the privilege of owning nuclear weapons, and extol the ultimate security assurances they assert such weapons convey.

Mr. Speaker, it is time for the United States to show real leadership as the only true superpower in the world. We have no match for our military capabilities, both in terms of conventional or nuclear weapons resistance. From a position of strength, it is incumbent that we have the courage envisioned to initiate negotiations for the elimination of all nuclear weapons by the nuclear powers to free the world of this threat.

Mr. Speaker, if we fail to do so, it is clear that the example of India's testing yesterday will herald the beginning of a new chapter of nuclear proliferation that will inevitably result in a nuclear tragedy of unimaginable suffering.

Mr. Speaker, I submit for the RECORD three articles relating to the topic I have been speaking on this evening.

[From the New York Times, May 12, 1998]

India Sets 3 Nuclear Blasts, Defying a Worldwide Ban; Tests Bring a Sharp Outcry

Countries with a declared nuclear weapons capacity: United States, Russia, France, Britain, and China.

Countries known to have nuclear weapons capacity: India, Pakistan, and Israel.

Countries seeking nuclear weapons capacity—Iran: The State Department believes that Iran is actively developing nuclear weapons, in part with its civilian nuclear energy program. Iraq: The State Department believes that Iraq aspires to have nuclear weapons but has stopped development because of the United Nations inspections.

North Korea: The Clinton Administration believes that North Korea was actively developing nuclear weapons until 1994, when an agreement was reached to freeze the country's known nuclear weapons development activity.

Indians Risk Invoking U.S. Law Imposing Big Economic Penalties

(By Tim Weiner)

WASHINGTON, May 11.—India's nuclear tests today brought into play an American law that could block billions of dollars of aid to India, and it prompted American officials to plead with Pakistan not to intensify a regional arms race by conducting its own atomic tests.

Samuel R. Berger, the national security adviser, said he and other top officials were scrutinizing the never-used 1994 Nuclear Proliferation Prevention Act, a Federal law which orders President Clinton to impose severe penalties on nations conducting nuclear tests or selling nuclear weapons. The law on nuclear tests covers nations that are developing nuclear weapons but excludes the declared nuclear powers, Russia, China, Great Britain and France.

The law requires Mr. Clinton to cut off almost all Government aid to India, bar American banks from making loans to its Government, stop exports of American products with military uses such as machine tools and computers—and, most importantly, oppose aid to India by the World Bank and the International Monetary Fund. India is the world's largest borrower from the World Bank, with more than $40 billion in loans; it is expecting about $3 billion in loans and credits this year. Last year, of $19.1 billion of the World Bank committed to developing nations, India received more than 1.5 billion. The International Monetary Fund has no programs under way with India, a spokesman for the fund said.

Direct United States assistance to India has not exceeded several hundred million dollars annually in recent years. This year, it included $41 million in licenses to buy military equipment and $51 million in development aid.

The tests "came as a complete shock, a bolt out of the blue," one senior Administration official said. "It's a fork in the road," the official said. "Will India and Pakistan be locked in a nuclear arms race? Will the Chinese resume nuclear testing now?"

Although American officials expressed shock, India's governing Hindu nationalist party announced that it would review the country's nuclear policy the day before it took power in March. Soon after it won the election, the party said it intended to "induct" nuclear weapons into India's arsenal. "Induct" is a technical term meaning formally placing such weapons in military stockpiles, and American officials said today that they had not foreseen that India would take the provocative step of resuming testing.

Nor did United States intelligence agencies pick up any signs that the tests were imminent.

United States officials strongly rebuked India while urging its neighbor, Pakistan, not to conduct its own test. Mr. Berger warned against "a new round of escalation."

President Clinton was "deeply distressed by the announcement of three nuclear tests," his spokesman, Michael D. McCurry, said today, and "has authorized formal presentation of our displeasure to be made to the Government in New Delhi."

The nuclear tests pose a challenge for Mr. Clinton, whose policy toward India and his scheduled trip there this fall both now require rethinking, Administration officials said.

"Sanctions are mandatory," said Senator John Glenn, the law's author and an Ohio Democrat. The only way to delay them is if the President tells Congress that immediate imposition would harm national security, and that delay can only last 30 days.

"It would be hard to avoid the possibility of sanctions," a State Department official said. "There is no wiggle room in the law."

If the World Bank loans to India are cut off as a result of United States pressure, that "would have serious implications for their budget, serious detrimental effects," a World Bank official said today.

While the United States cannot tell the World Bank what to do, "we have a fairly heavy vote," a senior State Department official said.

Senator Sam Brownback, a Kansas Republican who heads the Senate Foreign Relations subcommittee on Near Eastern and South Asian affairs, urged the Administration to punish India under the law. "It's an enormous negative blow to our relationship with India," he said. "It'll destabilize the region."

The British Government does not have a similar law mandating sanctions, but India is the largest recipient of British foreign aid.

Henry Sokolski, a former senior Pentagon official involved in limiting the spread of nuclear arms, said: "India has just dug a big hole for itself by doing this test, a military, political and economic hole. Its banking system's in a world of hurt now. It's about to get a death blow."

The shock of the tests was amplified by the fact that the nation's top experts on the spread of nuclear arms only learned about them this morning from news agencies and television networks, not from the Central Intelligence Agency. Several of those Government experts expressed fury at the United States intelligence community and the Indian Government for failing to provide advance notice of the event.

Government experts said tonight they were still trying to come to grips with the meaning of the tests.

"There are two scenarios," a senior Administration official said. The optimists at the White House believe that "the Indians will say that now that they've secured confidence in their nuclear weapons stockpile, they are prepared to sign the Comprehensive Test Ban Treaty."

The pessimists think the Indians "now have decided they're going to be an open nuclear power," he said. "They will endure international sanctions. They accept that they and the Pakistanis will be locked in a nuclear arms race."

[From the New York Times, May 12, 1998]

India Stages 3 Nuclear Tests, Stirring Worldwide Outcry—Pakistan Hints It Might Follow Suit as Answer to the New Premier

(By John F. Burns)

New Delhi, May 11.—Nearly 24 years after it detonated its only nuclear explosion, India conducted three underground nuclear tests today at a site in the country's north-western desert. The move appeared to signal India's determination to abandon decades of ambiguity in favor of openly declaring that it has nuclear weapons.

After less than two months in office, Prime Minister Atal Bihari Vajpayee, leader of a Hindu nationalist party that has been an advocate of India's embracing nuclear weapons as a step toward great-power status, emerged on the lawn of his residence here and read a statement. Speaking in the late afternoon, he said the tests had been carried out barely an hour earlier at the Pokharan testing range in Rajasthan state, 350 miles southwest of New Delhi, where India's first nuclear test was conducted on May 18, 1974.

With the tests, the Government cast aside a generation of caution and opted instead for a course that brought immediate international condemnation from a world that has officially scorned nuclear testing since 1996. The tests also open the possibility of a costly and dangerous nuclear arms race with India's archrival Pakistan.

The tests, and next step that they appeared to imply—arming Indian missiles with nuclear warheads—were almost certain to provoke economic sanctions under United States law, and to raise tensions with China, a nuclear power that has been described as a greater long-term threat to India than Pakistan is. China had no immediate official reaction to the news from India.

But after waiting 50 years to gain power, the Hindu nationalists appeared to have found all this less compelling than the urge to stake a claim for India as a great power, eager to equate its vast population with a matching military and political muscle. The nationalists may also have gambled on the tests' boosting their popularity, propelling them toward an outright parliamentary majority in the future.

Still, Mr. Vajpayee seemed to reflect the heavy stakes in the somber tone of his announcement. The 72-year-old Prime Minister restricted himself to a sparse, technical account of the tests, barely looking up from his text as he did so, then walked back into his residence without taking any questions.

"I have a brief announcement to make," he said. "Today, at 1545 hours, India conducted three underground nuclear tests in the Pokharan range. The tests conducted were with a fission device, a low-yield device, and a thermonuclear device."

"The measured yields are in line with expected values," he said. "Measurements have confirmed that there was no release of radioactivity into the atmosphere. These were contained explosions like in the experiment conducted in May 1974. I warmly congratulate the scientists and engineers who have carried out the successful tests. Thank you very much indeed."

Mr. Vajpayee's principal secretary, Brajesh Mishra, said afterward that the tests had established "that India has a proven capability for a weaponized nuclear program."

Mr. Mishra said the tests would help scientists design "nuclear weapons of different yields for different applications and for different delivery systems"—meaning, Indian experts said, that the explosions were meant to test different types of nuclear warheads for India's fast-developing missile program, which has a mix of delivery vehicles to reach targets as close as Pakistan and as distant as China.

The tests were widely welcomed in India; with hardly any immediate dissent from opposition political parties and little sign of the Gandhian pacifism that was a strong element in Indian policy in the early years after independence in 1947.

Even Mr. Vajpayee's predecessor as Prime Minister, I.K. Gujral, a moderate who blocked the tests during his year in office, said: "It was always known that India had the capability to do this. The tests only confirm what was already known."

But the outcry from outside India was almost universal, with dozens of governments expressing anger that India had broken an informal moratorium on nuclear testing that went into effect in 1996, when India and Pakistan stood aside as scores of other nations met at the United Nations to endorse the Comprehensive Test Ban Treaty, which prohibits all nuclear tests. The treaty is widely regarded as a key step toward halting the spread of nuclear weapons.

The Indian tests drew immediate condemnation from the Clinton Administration, which said the United States was "deeply disappointed" and was reviewing trade and financial sanctions against India under American nonproliferation laws; from other Western nations, including Britain, which voiced its "dismay" and Germany, which called the tests "a slap in the face" for 149 countries that have signed the treaty, and from Kofi Annan, the United Nations Secretary General, who issued a statement expressing his "deep regret."

But perhaps the most significant reaction came from Pakistan, which raised fears that years of effort by the United States to prevent an unrestrained nuclear arms race on the subcontinent were on the verge of collapse. In the absence of Prime Minister Nawaz Sharif, who was visiting Central Asia, Foreign Minister Gohar Ayub Khan hinted that Pakistan, which has had a covert nuclear weapons program since the early 1970's, would consider conducting a nuclear test of its own, its first.

"Pakistan reserves the right to take all appropriate measures for its security." Mr. Ayub Khan said in a statement to the Senate in Islamabad, the capital, that came amid demands from right-wing politicians and hard-line Islamic groups for an immediate nuclear test.

He laid the blame for the Indian tests on Western nations, mainly the United States, for not moving to head them off after Pakistan raised an alarm in Washington last month about the nuclear plans of the Vajpayee Government. When it took office in March after an election, the Government led pledged that it would review India's policy with a view to "inducting" nuclear weapons into its armed forces.

"We are surprised at the naïveté of the Western world, and also of the United States, that they did not take the cautionary signals that we were flashing to them," the Pakistani Foreign Minister said in an interview with the BBC. He added: "I think they could have restrained India. Now India has thumbed its nose to the Western world and the entire international community."

Pakistan demanded that the United States impose harsh sanctions against India. Benazir Bhutto, a former Prime Minister, said in a BBC interview in London that her Government had a contingency plan in 1996 to carry out a nuclear test if India did. She said the ability still existed, and should be used. "If we don't, India will go ahead and adopt aggressive designs on us," she said.

The Vajpayee Government's decision to conduct the tests so soon after taking office appeared to catch the world's other established nuclear weapons states—the United States, Britain, China, France and Russia—by surprise. Although the test site lies in flat desert terrain, under cloudless skies at this time of the year, India seems to have succeeded in keeping preparations secret, even from American spy satellites.

The surprise was all the greater because the Clinton Administration succeeded in heading off an earlier plan by India to stage nuclear tests in December 1995.

This time, the Vajpayee Government appeared keen to heighten the symbolism of the tests, staging them on the same Buddhist festival day as the first Indian test in

1974. According to nuclear scientists who oversaw the first test, the code message flashed to Prime Minister Indira Gandhi confirming the test's success was, "The Buddha is smiling."

But Indian commentators noted that Mr. Vajpayee's statement differed in one important respect from Mrs. Gandhi's announcement nearly a quarter of a century ago. Mrs. Gandhi had described the test at Pokharan as a "peaceful" explosion, setting the theme for all subsequent Indian policy statements on the country's nuclear program until today.

By avoiding the word "peaceful" in his announcement today, Mr. Vajpayee appeared to signal that the days of artful ambiguity about India's plans are at an end. For years, the Hindu nationalists, led by Mr. Vajpayee's Bharatiya Janata Party, have called for India to take a more assertive role in its dealings with the world, one that the nationalists believe is more appropriate for a nation with a 5,000-year history and a population, now nearing 980 million, that means nearly one in every five human beings is an Indian.

In statements issued after Mr. Vajpayee's announcement, the Indian Government sought to take some of the political sting out of the tests, saying that it held to the long-established Indian position of favoring "a total, global elimination of nuclear weapons," and that it had not closed the door to some form of Indian participation in the test ban treaty if established nuclear powers committed themselves to this goal. But diplomats said this appeared to be mainly aimed at dissuading the United States from imposing sanctions.

The core of the new Government's thinking seemed to be represented by Kushabhau Thakre, the president of the Bharatiya Janata Party, who said the tests showed that the Vajpayee Government "unlike previous regimes, will not give in to international pressure."

Strategists who have the ear of the Hindu nationalists have argued that India's deference to American pressures put the country at risk of being permanently stunted as a nuclear power. According to one recent estimate, by the Institute for Science and International Security, a Washington-based research group, India has stockpiled enough weapons-grade plutonium to make 74 nuclear warheads, while Pakistan has enough for about 10 weapons. A parallel race to develop missiles that could carry nuclear warheads accelerated last month when Pakistan test-fired a missile it says has a range of nearly 1,000 miles.

But many Indians believe that the message of today's tests was intended more for China than for Pakistan. Although Pakistan has fought three wars with India since the partition of the subcontinent in 1947 and is engaged in a long-running proxy conflict with New Delhi in the contested territory of Kashmir, Indian political and military strategists have concluded that even a nuclear-armed Pakistan, with 130 million people and an economy ravaged by corruption, does not pose as great a long-term threat to India as China does.

China is even more populous than India, has long-running border disputes that cover tens of thousands of square miles of Indian-held territory, and has an expanding arsenal of nuclear missiles that it has been developing since the 1960's, with none of the pressures from Western powers to desist that India has faced. Today's tests came barely a week after India's Defense Minister, George Fernandes, warned that China, not Pakistan, is India's "potential enemy No. 1."

[From the Los Angeles Times, May 12, 1998]

INDIA PLAYS WITH NUCLEAR FIRE

India's new government took power two months ago with a hard foreign policy line, including the appalling threat to develop nuclear weapons. Even more shocking was Monday's announcement that three underground nuclear devices had been detonated in a state bordering archenemy Pakistan.

Because the coalition government is dominated by the Hindu nationalists of the Bharatiya Janata Party, Muslims inside and outside India have looked with alarm at the new regime. Pakistan, overwhelmingly Muslim, has fought three wars with India since 1947; in April it announced the successful test-firing of a new missile that could reach deeper into India. That no doubt prompted India's hawks to brandish the nuclear sword.

Monday's explosions, the first major explosions since China and France conducted nuclear tests in 1996, raise the stakes again in South Asia, a restive region long considered vulnerable to nuclear war. Pakistan, predictably, pledged to take "all appropriate measures for its security." Nuclear experts believe that the Islamabad regime is capable of assembling a nuclear weapon on short notice. China, which fought a war with India in 1962, obviously must be concerned by Monday's news.

Previous Indian governments, most of them led by the Congress (I) Party, insisted that New Delhi's only previous nuclear test, in 1974, was a "peaceful" experiment. The new government, in contrast, boasted that Monday's tests demonstrated a nuclear weapons capability, a message that rang loudly in Pakistan. Although China denies it, intelligence sources contend that Beijing has helped Pakistan's nuclear program, also tabbed the "Islamic bomb" due to funding from some Arab nations.

The United States was quick to condemn Monday's tests and clearly will have to rethink President Clinton's planned trip to India and Pakistan later this year. Washington and its allies should make clear to the two Asian nations that weapons tests and hostile rhetoric inflame an already dangerous situation.

DEVELOPMENTS IN SOUTH ASIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, following up on the previous gentleman from American Samoa, this week's headlines have focused on India's nuclear tests at a below-ground location within India. Analysts have interpreted this action as an indication that India is moving from a policy of ambiguity about its nuclear capabilities, a policy that has essentially stood since India conducted its first nuclear test in 1974, to more openly declaring that it has nuclear weapons.

Mr. Speaker, while I oppose nuclear testing by India or any other nation, I want to stress that this week's test should not derail the U.S.-India relationship, which has been growing closer and stronger over the past 5 or 6 years. Particularly in the areas of trade and investment, the United States and India are finding that we have many common interests.

In terms of our strategic relationship, this week's news demonstrates, if anything, the need for closer coordination between the United States and India, the world's two largest democracies, and more effective diplomacy in trying to improve stability and working towards a reduction in nuclear weapons arsenals.

Mr. Speaker, in light of this week's test, it is particularly important to remember the defense situation that India faces. India shares approximately a 1,000-mile border with China, a nuclear-armed Communist dictatorship that has already launched a border war against India and maintains a large force on India's borders. China maintains nuclear weapons in occupied Tibet, on India's borders, and also maintains a military presence in Burma, another neighbor of India.

China has been proven to be involved in the transfer of nuclear and missile technology to unstable regimes, including Pakistan, a country that has been involved in hostile actions against India for many years; and China has conducted some 45 underground nuclear tests over the years.

Mr. Speaker, I bring out these facts to help put India's action this week into perspective, to try to explain to my colleagues here and to the American people the background for India's decision to conduct these tests. I know that India's action has met with widespread criticism, including from our own administration, but India's decision to test a nuclear explosive device should be understood in the context of the huge threat posed by China. Indeed, Mr. Speaker, I believe the United States should be taking the threat from China more seriously and doing much more to discourage and deter China's proliferation efforts.

Now that India has demonstrated its nuclear capability, I would urge India's government to join the Comprehensive Test Ban Treaty, following the other democratic nations in the nuclear club, including the United States, that have now discontinued testing. Having nuclear capability means that India has an even greater burden to ensure peace in its region and in the world.

I would urge President Clinton to wait before imposing sanctions, I am talking about the sanctions that have been discussed, particularly if India announces that it will not conduct any further tests. The implications of the sanctions are so broad that many of our own interests could be damaged, particularly in the area of trade and investment. A wide range of international financial institutions would also be prevented from working in India, potentially thwarting important development projects that will help improve the quality of life for India's people.

Since India conducted its first nuclear test in 1974, it has maintained the strictest controls on transfers of nuclear technology. India's nuclear program is indigenous, and successive Indian governments have not been involved in the transfer or acquisition of nuclear technologies with other nations. I believe it is very important that this policy be maintained, Mr. Speaker.

Mr. Speaker, again, although I oppose the nuclear tests, I believe that we must now work with India and the rest of the world community in enacting and enforcing an effective worldwide ban on nuclear testing, leading to the reduction and ultimate elimination of nuclear weapons from the face of the Earth.

INDEPENDENT COUNSEL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, besides enjoying this past weekend with my constituents and my family, and conveying to the mothers of America a happy Mother's Day, I spent a lot of time interacting with the good people of the 18th Congressional District of Texas. Many, of course, talked about Medicare issues, housing issues, Social Security, but many stopped me and asked the question: Where will it end?

Mr. Speaker, my colleagues might be thinking that I am talking about Armageddon or some crisis being discussed on the floor of the House. I am actually talking about the misunderstood, misconstrued and wrong-headed statute called the Independent Counsel.

What do the names Ken Starr, Carol Elder Bruce, Donald Smaltz, David Barrett, Daniel Pearson, Curtis Van Kan, and an unnamed independent counsel that now still proceeds with the investigation of a HUD Secretary, that started in 1990, have in common? All are individuals that have been established or given authority by the statute, Independent Counsel.

In fact, the recent appointment of an independent counsel to the Secretary of Labor, Alexis Herman, adds an additional wedge in what I perceive to be the system of justice and fairness and the understanding of the American people.

□ 2030

Even the Attorney General yesterday said, as she offered to appoint an independent counsel for Secretary Herman, there was really no evidence of the Secretary's involvement or participation in anything illegal.

The question for the American people then, the common sense question, Mr. Speaker, why then an independent counsel? Most people in my district perceive this as a runaway threat to the fairness and justice that most Americans believe they are owed. Many people have made suggestions that this compares, this onslaught of independent counsels, this runaway process separate and apart from the U.S. Attorney's Department of Justice, seems to suggest there is no fairness in the judiciary or judicial process.

Why? We have Susan McDougal, someone who is now incarcerated under the pretense of obstruction of justice. How can this be, Mr. Speaker? How can Kenneth Starr use his office to intimidate someone who has already indicated that they have no more information about Bill Clinton and Hillary Clinton, who has indicated that they are prepared to take the fifth amendment, but in fact they have no information? Many people question and wonder why a young woman like Susan McDougal, who has lived and grown up in Arkansas, who has paid her dues, who is a young businesswoman, who engaged in business activities in the early years when women were not known to be participating in some of the high finance; the allegations against her have already been tried, and now she is being shackled in courtrooms not because of something that she has personally done but because of something that is perceived that she may have information on some other matter.

As a colleague and I were discussing, members both of the Committee on the Judiciary, we know what is wrong with the independent counsel statute. Is has no end. It has no beginning. This statute and this independent counsel can investigate anything. It is not a crime that they are investigating, Mr. Speaker. They are investigating your name. And so, for example, if today it is Whitewater and tomorrow it may be Monica Lewinsky, made up of course of facts that we do not really know, and tomorrow it may be the circus. So it is not the actual crime that is being investigated, it is not the issue whether someone burglarized something, someone stole something, or someone lied; it is moving from hither to thither.

I would simply say, Mr. Speaker, that the independent counsel statute must be assessed not because we want special privileges for anyone. Absolutely not. But we really must assess it to find out whether or not even the American people are asking whether this is the right kind of tool to bring justice and to oversee the process of government: Is it the kind of tool to avoid cover-ups?

I would simply say, by the evidence and performance of those existing today, but in particular the habits and the performance of Mr. Starr, the intimidating of someone's mother, the trying to go into the White House bedrooms, the intimidating of close White House aides, violating the rights of the President to have confidential conversations and executive privilege, all of this suggests to me, Mr. Speaker, that we have got a problem with the independent counsel statute. And on behalf of the American people, I think it is key that we assess it fairly and objectively. Let us not go back to the McCarthy era, Mr. Speaker. Let us stand up for justice for all America.

RELIGIOUS FREEDOM AMENDMENT

The SPEAKER pro tempore (Mr. SHIMKUS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Oklahoma (Mr. ISTOOK) is recognized for 60 minutes as the designee of the majority leader.

Mr. ISTOOK. Mr. Speaker, this evening I think it is important that we talk about one of the very first liberties, one of the very first freedoms of the United States of America, something which motivated people to cross the ocean hundreds of years ago in some very small and leaky ships.

I am talking about people such as those who first came to Jamestown, those who were the Puritans and pilgrims who were motivated to come to the United States, in large part because they wanted a land of religious freedom. They wanted a land where everyone was free to worship or not worship according to the dictates of their own conscience and not be compelled by the government to give obeisance to any particular faith but certainly to have the freedom without intimidation, whether in private or in public, to express their faith in God.

I bring this to the attention of the House tonight, Mr. Speaker, because this is a liberty that is the first one enshrined in our Bill of Rights and yet which is jeopardized by a series of U.S. Supreme Court decisions that basically go back to 1962, decisions that are decisions that discriminate against those who wish to pray at public school, against school prayer. Voluntary school prayer even is not permitted in the same way that free speech and free religion should permit it. It is restricted at public school graduations.

The Ten Commandments, the U.S. Supreme Court has said, are unconstitutional if someone tries to display them in a schoolhouse. They have struck down nativity scenes and not only Christian emblems but, for example, a Jewish menorah whose display at a county courthouse was struck down by the U.S. Supreme Court, even though, Mr. Speaker, we open sessions of this House with prayer and the Pledge of Allegiance to the flag and we are in a Chamber which has many religious symbols, in a building which has many religious symbols, in a place which has many religious symbols. But the U.S. Supreme Court has been ruling that those are taboo, they are off limits, they are unconstitutional if they are involved in a public place such as in the school or a courthouse or many other public forums.

It is because of those threats, Mr. Speaker, that over 150 Members of this body have banded together as sponsors of the religious freedom amendment, a proposed amendment to the U.S. Constitution upon which we will be voting in this House of Representatives in approximately 3 weeks from now, because it is about time that we correct what the U.S. Supreme Court has done.

Mr. Speaker, I would like to offer for the RECORD, and I will give it to the Clerk in a minute, a very simple fact sheet about the religious freedom amendment. Mr. Speaker, this particular sheet is from a recent publication by the Ethics of Religious Liberty Commission of the Southern Baptist Convention, one of the great number of religious groups in this country who are supporting this amendment.

The religious freedom amendment reads, very simply and very straightforward. It is as follows:

"To secure the people's right to acknowledge God, according to the dictates of conscience: Neither the United States, nor any State, shall establish any official religion, but the people's rights to pray and to recognize the religious beliefs, heritage, or traditions on public property, including schools, shall not be infringed. Neither the United States nor any State shall require any person to join in prayer or other religious activity, prescribe school prayers, discriminate against religion, or deny equal access to a benefit on account of religion."

That is the text of the proposed religious freedom amendment, upon which we will be voting shortly, to correct the decisions of the U.S. Supreme Court which have pushed our country in the wrong direction, not in a direction of neutrality, but in a direction of hostility towards religion.

And reading from the facts sheet of the Southern Baptist Convention Ethics and Religious Liberty Commission, what the religious freedom amendment would and would not do:

It would correct years of judicial misinterpretation of the establishment clause. It would not revoke the establishment clause.

It would reverse many of the restrictions that courts have placed upon the free exercise of religion on government property in general and public schools in particular. It would not permit government-sponsored religion or proselytizing.

It would allow greater freedom for students who wish to pray. It would not require prayer in public schools.

It would require government to treat all religions fairly. It would not permit preference for one religion or sect over another.

It would advance belief in religious freedom. It would not advance any particular religious belief.

It would give greater protection to individuals against government intrusion. It would not create any new right for government.

It would guarantee that no person be discriminated against on account of religion. It would not require that any person be given special status on account of religion.

It would require equal access to all people, regardless of religion. It would not require unreasonable access to government facilities.

It would protect the liberty of conscience of all people. It would not protect only the liberty of people of a majority faith or of a minority faith or of no faith.

That is a good succinct summary, because, Mr. Speaker, it is hard to be brief about the many problems that have come from these Supreme Court decisions.

It was 1962 when the Supreme Court said that even when it is totally voluntary by students, they cannot come together during school time in public school to have a prayer together. And yet, Mr. Speaker, I am so pleased that so many millions of Americans have at least done as much as they could, forming different Bible clubs and huddles of groups, like the Fellowship of Christian Athletes, that meet before school and after school and do everything that they are permitted to do, but they are not permitted the same freedom and the same rights that apply to other school clubs in our public schools.

It was later, it was in 1980, that the U.S. Supreme Court, in the Stone v. Graham case said, you cannot display the Ten Commandments on the wall of the school because, as they wrote, "Students might read them and they might obey them."

Now, Mr. Speaker, if there is anything that would be good for the students in public schools to obey today, it would be the Ten Commandments. And yet, Mr. Speaker, that is what they take down, whether it be on the walls of the school or on the walls of a courthouse. And yet we have the image of Moses looking straight upon us, Mr. Speaker, directly across from us on the walls of this House of Representatives; and his image is there because of the Ten Commandments.

It was followed by other Supreme Court decisions. It was 1985 that they had maybe the most outrageous decision of all, the Wallace v. Jaffrey case. The State of Alabama had a law that said we can at least have a moment of public silence in public schools. And the U.S. Supreme Court said, no, we cannot have a moment of silence; that is unconstitutional, because students could use it for silent prayer.

And it was a 5–4 decision. It could have gone so easily the other way. But it prompted the Chief Justice of the U.S. Supreme Court, William Rehnquist, to say this about what the Supreme Court did with prayer in public schools. Justice Rehnquist wrote in Wallace v. Jaffrey, "George Washington himself, at the request of the very Congress which passed the Bill of Rights, proclaimed a day of public thanksgiving and prayer to be observed by acknowledging with grateful hearts the many and signal favors of Almighty God. History must judge whether it was the father of this country in 1789 or a majority of the court today which has strayed from the meaning of the establishment clause."

The Supreme Court was not satisfied with that. They had the decision, I believe the correct year was 1990, that held that a nativity scene and a Jewish menorah on display at a county courthouse in Pennsylvania, were unconstitutional because they said they were not balanced with non-religious emblems, such as Santa Claus or Rudolph or Frosty the Snowman. And yet the same Supreme Court has never said you cannot have Rudolph unless you balance him with Baby Jesus or a Jewish menorah, or whatever it might be. The Supreme Court has gone the wrong direction.

And then 1992, the graduation prayer case, a Jewish rabbi invited to offer a prayer at a public school graduation in Rhode Island was told afterwards that was unconstitutional because there are some students who might not want to be respectful.

Now, Mr. Speaker, since when have we said we do not want to teach students to be respectful in public schools? Since when have we said that whether we agree or disagree with something, we ought to at least have the courtesy to be able to listen to it and to take something that is intended to be positive without blowing up and literally making a Federal case out of it? Because Mr. Speaker, the intolerance is not on the part of someone who wants to be able to offer a prayer in a public setting.

□ 2045

The intolerance, unfortunately, is on those who want to stifle and censor that prayer.

Mr. Speaker, the religious freedom amendment follows the mechanism established by the Founding Fathers to correct these and other distortions of our religious freedom that the first amendment has been twisted into saying when it does not really say that. But the Supreme Court has found it there, and it is our job to fix it and to correct it.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentleman for yielding to me, and I thank him for consistently leading this fight for the religious freedom amendment. You are constantly out there.

There are many of us who help you. As you said, I think there are 150-plus cosponsors of this amendment in the House. But, clearly, your leadership has made a difference here as we are bringing the attention of the country to the constitutional rights, not that we need to put it in the Constitution, but that we need to restore the Constitution.

Every time I read about this, every time I think about this, every time we discuss it here on the floor or in other places, I am more and more convinced that this effort is really merely an effort to restore the Constitution to what it was for 175 years.

Before 1962, there really was no question in America about the place of religion in our society. There was no question in our history about how the Founding Fathers had felt about religious freedom and the difference, as they say it, between establishing one religion and eliminating God from country. In fact, every piece of money that we have has "In God we trust" on that money. How much more of a commitment to faith can we make than "In God we trust" on that money?

As you see the potential for the amendment, as you and I see the Constitution, I do not think we are in disagreement with the Chief Justice of the Supreme Court when you cited earlier when Judge Rehnquist said that this misinterpretation, this misunderstanding of separation of church and State creates incredible mischief in our society.

In fact, also, it creates a disadvantage for religious groups who cannot do, in a public facility, what virtually any other group could do, any club could do, any group of students coming together could do unless they want to talk about religion, unless they want to study the Bible on public property, unless they want to have prayer in a public assembly that everybody agrees with.

Clearly, we are rethinking America. I heard just here in Washington last week a person has recently written a great book on General Washington. He talked about the attributes that made Washington distinctive. As I left that breakfast meeting and got to thinking about the packed crowd that heard those attributes about Washington, it occurred to me immediately that the one attribute that he left out was Washington's faith.

I advance you cannot understand Washington without understanding his faith. You cannot understand many of the founders without understanding their faith. I do not think you can understand their belief in the kind of government they were establishing unless you understand that they thought it was a government established for a Nation that would be built on godly principles and that those godly principles would be taught.

Whether it was the posting of the Ten Commandments in school, the same Ten Commandments that the Supreme Court sets under the lawgiver as they talk about why we could not have the Ten Commandments posted in the school, or other religious teachings, I think the founders clearly thought that that was part of our society, part of how you define a community.

I have got here the copy of a city seal from a community in the district of the gentleman from Oklahoma (Mr. ISTOOK), Edmond, Oklahoma, except that is what the community seal used to look like.

Mr. ISTOOK. That is correct.

Mr. BLUNT. As I understand it, the community seal does not look like this anymore. The community seal still has these three reflections of community, but this is now a blank spot.

Mr. ISTOOK. Yes.

Mr. BLUNT. Is that right?

Mr. ISTOOK. Yes. Mr. Speaker, what the gentleman has is a copy of the city seal which had been adopted a number of years ago by Edmond, Oklahoma, which is in my congressional district. You can see a multiple number of emblems on it. You see at the top some oil derricks and a locomotive. You see on the left the tower from the University of Central Oklahoma, which is located there. On the bottom, you have a covered wagon in 1899 from the Land Run of 1899. You have a pair of hands above that, collapsed in friendship. Then to the right of that, you have a cross as a symbol of the community's great religious faith.

Unfortunately, a lawsuit was brought, and, ultimately, when it got to the Supreme Court, the ruling of the Supreme Court said the cross has got to go. It was a great shock to a great many people, because they did not mean that as an expression to say that you have to be of one faith or another faith, but they did want to say that religious worship is a vital part of the lives of people in the community. It is part of the tradition or heritage or beliefs of the community, as we mention, of course, in the religious freedom amendment.

Edmond is not alone. Still, Ohio has had to take a Bible off of its city seal. You had a case in Eugene, Oregon where a cross, large cross had to be taken down from public property; one where the Supreme Court ruled last year that a cross, which it stood for almost 70 years in a public park in San Francisco, had to come down. You have a similar case in Hawaii. All over the place. Anything that involves a religious symbol on public property is coming down.

In part, that somewhat begs the issue of, well, how far do you want to go in knocking down religious symbols. You mention, of course, that on our currency we have "In God we trust." You look right behind you and above the Speaker's head, and we have it here in the House Chamber, "In God we trust."

You have States with mottos like that. In Ohio, their State motto is "With God, all things are possible." The ACLU is suing them right now to have them stop using the State motto in Ohio. It is one of all sorts of cases against prayer in public places and football games and on other occasions.

But when you say that because a symbol has religious value to some people, therefore it has to be considered suspect and stricken down. I mean, let us look at what the Supreme Court has done. They have struck down the cross. But the same Supreme Court in 1977 said a Nazi swastika, a symbol of hate, was protected for display at a public march on public streets in Skokie, Illinois, in a community that had many Jewish survivors of the Nazi Holocaust, the effort to exterminate Jews. A symbol of hate the Supreme Court said was protected.

They backed that up in 1992, striking down a hate crimes law because it was against things such as Nazi swastikas or burning crosses. If you carry on with those, I mean how far do you want to go?

A beetle is an ancient Egyptian religious emblem. Eagle feathers are considered sacred to many American Indians. You have other occasions. Things that are considered sacred to one religion, do we say because it is sacred to some religion, that therefore it cannot be displayed on public property? I know that you are going through this right now in your district in a community in Missouri.

Mr. BLUNT. Mr. Speaker, we are. I think the point here we ought to make, too, is everything seems to be protected in our society except those things that relate to faith. In Edmond, Oklahoma, this cross was a symbol of faith. I do not think they came up with anything that was acceptable to replace that symbol so far as the city seal is concerned.

Mr. ISTOOK. They took off the cross and left a blank spot.

Mr. BLUNT. There is a blank spot. So where there was faith, there is now a blank spot. Where the community used to say we are a community based on faith, there is now a blank spot.

We have got a community in my district in southwest Missouri, the city of Republic that is going through exactly that same thing right now. There is a copy of their city seal. Of course Republic is located just about where that star is.

What does the seal say about that community? It says with this helping hand that this is a community that reaches out and helps people. It says with this family that this is a community based on family. Maybe we could even say family values, though that might get that struck off the seal as well, but certainly based on the concept of family.

Of course this symbol, that is a symbol for faith, and, of course, in this case, a specific faith, but that is clearly the predominant faith in that community.

Nobody came to the city council in Republic and said there are other faith groups in this community; could we put some more, could we create a collage of symbols here? That is not the challenge. The challenge is to eliminate this from the seal. The challenge is to do exactly what Edmond, Oklahoma did and wind up with a big white blotch where faith used to be.

Of course the ACLU is coming into this small southwest Missouri community. They are saying we are going to go to court. It is going to cost you about $100,000 to fight us. Do you want to fight, or do you want to give in? At this point, the city council, and I think the vast majority of people in that community, say we want to fight because this is what our community is all about.

Not everybody that lives in Republic lives in a family with children still at home. Probably as great as the community is, not everybody is totally helpful. But these are overall reflections of what that community is all about. Not everybody goes to church on Sunday, but the vast majority of people believe that church on Sunday is important.

That is why that seal is that way and why that community, like the many you have mentioned now, suddenly has to decide can we fund this fight? Can we finance this fight? Is this a fight? Not even as much whether we can win it or not as should we give into clearly this blackmail virtually against what we want our city seal to look like.

So they are fighting that same fight right now; and if the opposition wins, just, perhaps like Edmond, Oklahoma, suddenly faith will be gone as a reflection of that community.

Mr. ISTOOK. I might mention, because I have read comments from different city officials and the city of Republic, and they make the point that that is meant to be an emblem of religion, the principles of religion generally as opposed to saying it has to be any one particular faith.

Indeed, I asked the Congressional Research Service to look at this for me. They gave me information today that, actually, the symbol of a fish has been used for thousands of years around the world, even before Christianity has been used for a thousand of years, even before the life of Christ as a religious symbol. They indicated it had been used in China, in India, in Egypt, in Greece, in Rome in Scandinavia, in the Mideast, even before Jesus Christ was born.

Mr. BLUNT. So our research here indicates this is a universal kind of symbol that reflects faith, religion, not exclusive, but reflective of something that that community would think was important.

Mr. ISTOOK. But there is no perfect symbol. There will always be, to any symbol, some people who object, saying I do not like that. In the case of Edmond, Oklahoma, I thought it was an outrageous comment, but they had a person saying, well, every time I see the city seal on a police car or something, it makes me feel like a second-class citizen.

So what the courts did was they elevated this subjective approach, the fact that somebody felt bad maybe because they were thin-skinned or sensitive or maybe they had had some unfortunate incidents in their life, but because somebody felt bad, it trumped the constitutional rights of free speech and free expression and freedom of religion of everybody else.

That is the problem with the court decisions. They say unless it is unanimous, unless everybody agrees on some religious expression, you cannot have it, and maybe not even then.

Well, you do not expect that of anything else. Why use the first amendment as a weapon against religion, which is what the courts are doing, saying that you do not have freedom of expression of religion, that it is supposedly creating a freedom from hearing about religion on behalf of people that do not want to hear it.

Mr. BLUNT. Every poll I see, if the gentleman would yield, indicates that 98 percent of Americans believe in God.

Mr. ISTOOK. Yes.

Mr. BLUNT. It is hard to think of anything else that 98 percent of all Americans would believe in that we would have to eradicate from our discussion, from our symbols, from our public places of assembly. In fact, I am not sure there is anything else that 98 percent of all Americans believe in.

We try to focus our public discourse and our public displays under these court rulings as if the 2 percent were the 98 percent; that we all have to believe and act like we do not believe in any being greater than ourselves; that faith is not part of not only communities, but part of individual lives. It is just not there.

I do not think there is another example of anything that is so universally held by Americans, that is so universally rejected by the Supreme Court over the last 30 years; that was so universally accepted by the Supreme Court in the 175 years that were closer to the founders who wrote the Constitution and added that Bill of Rights.

□ 2100

Mr. ISTOOK. Let me just make a quick reference. I know there is another member that would like to get involved in this. We look at our currency, and this is the back of the one dollar bill, it says, of course, "in God we trust."

A lot of people do not notice something else. If you look here in this circle of the Great Seal of the United States, on the front side of it you have the eagle, and above its head is a cluster of 13 stars. But look at the pattern in which those stars are arranged. It is a Star of David, the symbol of another faith, Judaism. Are we to say that the Great Seal of the United States of America is unconstitutional because it includes an emblem of the Jewish faith? I do not think so.

I think that that shows, again, a recognition and what should be an acceptance of many different faiths, but you do it by permitting, not by excluding.

I would like to yield to the gentleman from Arkansas (Mr. DICKEY).

Mr. DICKEY. Let me show my support for what you all are talking about by telling a little story that occurred in Pine Bluff, Arkansas, my hometown. We had a Fellowship of Christian Athletes there, it was trying to get started, and a minister was trying to sponsor it. He worked hard at it, but he could come only at certain times, so some of us were called and asked as laymen to come help with the program.

We had five or six people that were coming to the meetings once a week. We started working on it, a bunch of our communities started working on it, and we got the attendance up to maybe 200 in a given week. We set records as far as sending people to the national conference. We had 75 that went to Tulsa one year. We had three buses of kids. We had kids that were working after school on these projects and on the weekends. We had what is called an Olympics Day, as I recall, and we had a contest. We made up our own athletic contest. We did things with the cheerleaders and the girls.

So, what happened? Slowly the opposition started building. First of all, people came in and said, "Oh, you are taking money away from the school." We said, "No, we have been raising money and putting it into the school Treasury, and at the end of the year the school has been taking it. So the school has been making money off of it." They said, "This is supported by a church." We said, "No, it is not. We do not even have a minister who is involved."

So that went by the wayside. Then they said at one point we were favoring one donut store over others, and that was the reason we were having the breakfast meetings.

Then we prayed for victories before the game. We said yes, we did. We prayed for victories, the kids prayed for victories before the game. We also prayed we had good health and that no one was hurt on the other side either.

Finally, finally, after about seven or eight years, a letter came from a person of another faith who said, "We are going to have to consider legal action if you all do not stop or disband the Fellowship of Christian Athletes."

I happened to take a call after we said we couldn't continue, after the school said we could not go any further, I happened to take a call from one of the kids who said, Mr. Dickey, why are we not going to have the FCA anymore?

I could not answer it then, and I cannot answer it now, because what we have done is we have said to the parents and to the families, that which you are teaching your children at home and that which your pastors, when you take your kids to church, that what your pastors are teaching your kids and the Sunday school classes, those things are against the law. God is against the law. You cannot mention him in your schools, unless in fact you do it by taking God's name in vain. Of course, that is protected. But you cannot mention God. You are not going to have anything like Jesus Christ being mentioned, because that is against the law.

In 1962, in my opinion, when we decided in our wisdom that we were going to take over the schools and not give God any place, he sat there and probably said, "Okay, we will just see how you all work it out. I have carried it forward."

Harvard was a theological school. Our kids were taught in the early days by ministers. They were the teachers in the early days. We had Bible-believing people who brought this country to where it is. It was not because we were the smartest, it was not because we were the hardest working, it was not because we were the most militarily strong country. It is because God was blessing our country like no other country in the history of the world.

So what are we doing? We are turning our back on God and saying, "We can take it from here; you go worry about somebody in some other area." We are reaping the whirlwind because of that.

I am very much in favor of this, Mr. Istook, and I want you to know that I appreciate very much what you have said, and I am very happy to be here and discuss this with you. I think it is a vital issue, and I think the real America, the America that wants to respond and say thank you to the founders, is solidly behind us, and I think it is only our duty to go forward and present it for a vote.

Mr. ISTOOK. I thank the gentleman from Arkansas (Mr. DICKEY).

I appreciate, Mr. Speaker, the many Members who have joined together in supporting this amendment, because the American people have never accepted what the Supreme Court has done in taking the First Amendment, which is meant to protect religion, as a shield for freedom of religion, and instead they have used it as a weapon, as a sword against religious freedom, saying that, you know, you have enough chance to speak freely about your religion in private, or maybe at church or other places, and you do not need to be able to do so if you are present on public property.

Yet our children are required to be at school, because we want them to be educated. We want to have a society that is self-sufficient and self-reliant, and that means an educated population. But why do we say that during the time when you are required by law to be at school, you are also required by law to be isolated from normal religious activity, things as simple and common and ordinary and as positive as a prayer, the simple prayer of a child of faith and hope at the start of the day? And if children want to join together and have a prayer, let them do so.

To say that we believe in religious diversity means that we recognize there will be different prayers offered. The Religious Freedom Amendment carefully makes sure that we do not have government officials composing a prayer or insisting that a prayer must be said or insisting that anybody must take part in a prayer. There is an express prohibition against that. But yet there is the freedom, the opportunity, the ability for people to join in prayer together.

I think that it is a sad day to read, as I read in one newspaper recently, can you imagine a newspaper editorial writer actually wrote, "Freedom to pray should stop at the schoolhouse door." I read that in the Arizona republic, in an editorial that they wrote just in this last week. They said "Freedom to pray should stop at the schoolhouse door."

Now, what else are we going to say? Does that newspaper want freedom of the press to stop at the schoolhouse door? Do they want to say that newspapers should be banned in public schools because, after all, they may bring in ideas that not everyone likes? They may bring in some things that are controversial. They may bring in things that make some people uncomfortable. They may bring in, along with the news and information of the day, they may bring in some negative influences too. Do we say, therefore, that the bad outweighs the good and we should not have free speech?

No. We have free speech because we believe that most speech is good, that most ideas are reasonably presented, and if that means that sometimes there is a price to pay, that we let someone with an unpopular idea have the respect for their ideas, just as respect is given to good ideas, then we understand that.

I heard a Member of this House, Mr. Speaker, in the last week take to the floor and say that, well, he was concerned that supposedly what we are doing is opening the door for unpopular groups or cults, or even a group such as a satanic group, to come into schools.

Well, Mr. Speaker, this does not open the door for just anybody to come into school. The schoolhouse door is open for children, for those who have a right to be there. This amendment does nothing to invite other people in.

But if we believe in the right to pray, his opinion was that you will only have negative influences and you will only have negative prayers, or at least that is all that he seems to hear.

But, Mr. Speaker, in my lifetime, in my lifetime, it is almost never that I have ever heard in public or private a prayer that is anything other than a positive experience; and if in order to hear millions of positive prayers, do we say that we are going to suppress them just because once in a very extremely isolated incident there may be someone who uses that same freedom to say something that almost all of us would not like, do we therefore ban prayers in public schools?

I think not. Besides which, if you want to look at the negative influences in school, you will have many people that will tell you, you have already got the devil in public schools, because they will point to the rates of crime, they will point to the rates of violence, they will point to drug use, they will point to alcohol, they will point to gangs, they will point to teenage pregnancies. And do not tell me that you do not have devilish influences in public schools. But yet what the Supreme Court does is not to keep out that type of influence, but to keep out the good, godly, positive, uplifting, spiritual prayers and influences.

That is what has happened. It is the sanitizing of that which is good, and leaving only that which is base or suspect or negative. That is what happens when you try to remove the positive religious influences from a society.

Government does not have the job of telling us what to believe or that we must believe anything about religion, but it also should not have the job of censoring those who want to simply recognize their religious heritage or religion or to offer a simple prayer, who have a right to be in public schools, that are required by law to be in public school. And the ones who want to pray are the true captive audience in our public schools, because they are not permitted to do what is normal and good.

We have prayer to open sessions of this House. We have prayers to open sessions of State legislatures and city councils, chamber of commerce meetings, Kiwanis Club meetings, Rotary Club meetings and a vast number of organizations and groups within our society, because they know it is something that is powerful, something that is good, something that is part of the common bond that brings us together and puts the accent on what we share, not only how we are different.

I think it is useful to understand, as a Supreme Court justice wrote, that you do not isolate children from the understanding that, yes, there are different ways that people go about these things. There are different ways in which people may offer the prayer. There are different faiths. And if you believe in diversity, you do not believe in isolating children from that knowledge, until suddenly they are adult and say oh, this is an adult topic. Now you are ready to handle it.

No, this is a topic that starts at our very earliest age, and is something that brings with it the values and traditions and beliefs of the United States of America itself.

Mr. Speaker, it was a sad day when organizations such as the ACLU persuaded the Supreme Court to distort the First Amendment, and we have had a number of sad days since then where they have continued to distort it, to use it not to promote religious freedom, but to use it as a weapon against religion.

So I find there are some myths that are out there. There is a myth, some say, oh, the amendment is not really needed. We do not need a religious freedom amendment; we have the First Amendment already.

Mr. Speaker, if we were talking about the First Amendment as understood by the Founding Fathers, I think we would all agree, because then we would not have the warping of it from the courts. But as I mentioned before, in 1962 the court struck down not only mandatory, but also voluntarily, prayers by students together in public schools. In 1980 they said the Ten Commandments have to come down. In 1985 they said it is unconstitutional to have a moment of silence. In 1992 they said a prayer at a school graduation was unconstitutional.

What we have left is not neutrality towards religion. It is negative. Yes, school Bible clubs may exist, but they are under restrictions that do not apply to other school clubs.

The Chief Justice of the United States Supreme Court, William Rehnquist, in Wallace v. Jaffree talked about how people throw around, rather than the language of the First Amendment, Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, they throw around instead a catchphrase which they call separation of church and State. But I find what they mean by it and what different people mean will vastly vary. Because, you see, Mr. Speaker, we have people that believe that as government has grown, it is in every aspect of our society today. It is larger than it ever has been before.

□ 2115

As government has grown, if the rule is separation of church and State, where government goes religion cannot be. Where government enters religion must exit. If they say separation of church and State is the guideline, then that means as government grows, religion must shrink.

Let me tell my colleagues what the Chief Justice William Rehnquist wrote about it. This was in that moment of silence case, Wallace v. Jaffree. The Chief Justice of the U.S. Supreme Court, William Rehnquist, said the use of the term separation of church and State has caused what he called "a mischievous diversion of judges from the actual intention of the drafters of the Bill of Rights. A metaphor based on bad history, a metaphor which has proved useless as a guide to judging what should be, frankly and explicitly, abandoned." That is the Chief Justice of the U.S. Supreme Court.

Now, I am not proposing that we abandon the proper interpretation, but it has been twisted and distorted and used as a weapon against religion.

Then we have another myth that somehow government would declare an official faith, that supposedly that is what people want with the Religious Freedom Amendment. Not so. That is why we expressly have the language in it to reiterate what the First Amendment already says, because we are not replacing it; we are only putting this to lay alongside it. But the Religious Freedom Amendment also says, "Neither the United States nor any State shall establish any official religion."

Then we have the myth that, oh, society is more diverse. Nonsense. There were many different religions in the days of the Founding Fathers. There are many different religions today. If they say, well, some people do not want to hear the prayer, what they are really saying is that the most intolerant persons in our society are now told that they can stifle the rest of us. Not because there is anything wrong with what people are saying in a prayer or about their religion, but because some people are so intolerant, they do not want to hear it.

We hear them say things like, oh, it makes me feel bad, or I feel like I do not belong. Mr. Speaker, all of us at one time or another in our lives feel like we may not belong. But part of life is learning that we do belong, and that we believe in things that are common, and the Religious Freedom Amendment restates what we have in common.

Then we have the myth that religion belongs only in the home. Can we imagine if the Founding Fathers had written that we will have freedom of religion only in our homes and no place else; that as government grew and government property was everywhere, that we could not have freedom of religion if we were standing on government property?

Whether it be standing in this Chamber of the House of Representatives, or standing in a schoolroom or in a classroom, to say that religious freedom stops when one goes into the schoolhouse, as this newspaper in Arizona said, is not the American way. It is not what we believe as Americans. And yet, the Supreme Court has been adopting that philosophy of saying the First Amendment is meant to protect from religion rather than to protect religion.

Mr. Speaker, it is the first time that this House, since 1971, will have a vote on a school prayer amendment to the U.S. Constitution, the first time. It has been 27 years; that is far too long. The amendment has been through a number of hearings that were held all over the country by the Committee on the Judiciary over the last 2 or 3 years. It has been approved by the Subcommittee on the Constitution. It has been approved by the Committee on the Judiciary. It is supported by a multitude of religious and faith-based groups, because they believe that religious liberty indeed has been threatened in the United States of America by the Supreme Court decisions, which will be corrected by the Religious Freedom Amendment.

Mr. Speaker, I would like to offer two documents for the RECORD. One is a newspaper article from the Human Events publication that was published this week, an article I authored regarding the Religious Freedom Amendment. Also, I will provide to the Clerk, as well, a copy of a document that was written by the Ethics and Religious Liberty Commission of the Southern Baptist Convention. I would like to offer both of those to appear in the RECORD following my remarks.

Mr. Speaker, I know that we cannot discuss everything about this amendment this evening, and we are continuing to discuss it. But I want to commend the attention of every Member of this body and anyone else who is interested in it that we do have a Web site that talks about much of this. That is, religiousfreedom.house.gov., and I hope that people will take a look at that because, Mr. Speaker, the American people need to tell their Member of Congress now that they want and expect their support for the Religious Freedom Amendment, we are approximately 3 weeks away from the vote the first week in June, to say that once again in the schools of America, government will not insist that it happen, but we will permit students who want to engage in prayer in public school to be able to do so, whether it be a public school or a graduation or a football game, to give that freedom once more that has been taken away by these decisions of the U.S. Supreme Court.

Mr. Speaker, I urge all who are hearing or watching this evening to contact their Member of Congress and tell them, we need you to support the Religious Freedom Amendment.

Mr. Speaker, the material previously referred to is as follows:

FACT SHEET ON THE RFA

[The following is from a recent publication by the Ethics and Religious Liberty Commission of the Southern Baptist Convention]

The Religious Freedom Amendment (RFA) is a proposed amendment to the United States Constitution. The language of the amendment is as follows:

"To secure the people's right to acknowledge God according to the dictates of conscience. Neither the United States nor any State shall establish any official religion, but the people's right to pray and to recognize their religious beliefs, heritage or traditions on public property, including schools, shall not be infringed. Neither the United States nor any State shall require any person to join in prayer or other religious activity, prescribe school prayers, discriminate against religion, or deny equal access to a benefit on account of religion."

WHAT THE RELIGIOUS FREEDOM AMENDMENT WOULD AND WOULD NOT DO:

It WOULD correct years of judicial misinterpretation of the establishment clause.

It WOULD NOT revoke the establishment clause.

It WOULD reverse many of the restrictions the courts have placed upon the free exercise of religion, on government property in general, and public schools in particular.

It WOULD NOT permit government-sponsored religion or proselytizing.

It WOULD allow greater freedom for students who wish to pray.

It WOULD NOT "require" prayer in public schools.

It WOULD require government to treat all religions fairly.

It WOULD NOT permit preference for one religion or sect over another.

It WOULD advance belief in religious freedom.

It WOULD NOT advance any particular religious belief.

It WOULD give greater protection to individuals against government intrusion.

It WOULD NOT create any new right for government.

It WOULD guarantee that no person be discriminated against on account of religion.

It WOULD NOT require that any person be given special status on account of religion.

It WOULD require equal access to all people regardless of religion.

It WOULD NOT require unreasonable access to government facilities.

It WOULD protect the liberty of conscience of all people.

It WOULD NOT protect only the liberty of people of a majority faith, or of a minority faith, or of no faith.

WHY DO WE NEED A CONSTITUTIONAL AMENDMENT?

"We have given the courts more than 30 years to get this issue right, and they have persisted in not doing so. Legislative remedies would in all probability be overturned by the present federal judiciary. It is time for the people to give the courts further instructions . . . by the means provided by our founders, namely amending the Constitution. We must . . . constitutionally guarantee the free exercise of public school students and all citizens. We do not ask for, and do not want, government's help in expressing our beliefs or acknowledging our religious heritage. The most and best government can do is guarantee a level playing field and then stay off the field."

[From Human Events, May 15, 1998]

CONGRESS SOON TO VOTE ON RELIGIOUS FREEDOM AMENDMENT—REFUTING SEVEN ANTI-RFA MYTHS

(By Representative Ernest J. Istook, Jr.)

THE RELIGIOUS FREEDOM AMENDMENT

"To secure the people's right to acknowledge God according to the dictates of conscience: Neither the United States nor any State shall establish any official religion, but the people's right to pray and to recognize their religious beliefs, heritage or traditions on public property, including schools, shall not be infringed. Neither the United States nor any state shall require any person to join in prayer or other religious activity, prescribe school prayers, discriminate against religion, or deny equal access to a benefit on account of religion."

In the first week of June, the U.S. House of Representatives is expected to vote on the Religious Freedom Amendment (RFA), also known as House Joint Resolution (HJ Res) 78. It will be the first time in nearly 28 years that the House has held a vote on a proposed constitutional amendment dealing with voluntary school prayer and religious freedom.

It will correct 36 years of Supreme Court decisions that have warped the original plain and simple meaning of our religious rights under the 1st Amendment to the Constitution. Here is what it will do:

For the first time, our Constitution will mention America's belief in God. Every one of our 50 states has an express reference to God within their state Constitutions. The Religious Freedom Amendment does so for the federal Constitution; it echoes the words in the Declaration of Independence, where our Founding Fathers wrote that our unalienable rights come not from government, but are an endowment from our Creator.

Student-initiated and voluntary prayers could be voiced in public schools, whether in classrooms, school assemblies, graduations, sporting events, or other occasions. Court decisions restrict almost all school prayers; the minor exceptions are usually limited to clubs that gather before or after the school day, and even then only with special controls. The RFA does not permit teachers or any other agent of government to proselytize, or to dictate that any person must join in prayer, or to prescribe what prayer should be said.

The Ten Commandments could again be posted in public schools and other public buildings. The Supreme Court banned the Ten Commandments from school buildings in 1980, but the RFA directs that the people's religious beliefs, heritage and traditions may again be recognized on public property, including schools. (However, the RFA expressly maintains the prohibition on any official religion for America!)

Holiday displays such as Nativity scenes and menorahs, and the singing of Christmas carols, would be protected on public property. The Supreme Court has made it difficult or impossible to recognize special occasions, and the threat of lawsuits has intimidated schools to go even farther than the court has dictated. The RFA fixes this.

Government programs could not use religion as an excuse to deny a benefit. There could be no direct government subsidy to any religion or church, but when government creates a program that furthers other purposes, it could not exclude any group because of their religious affiliation. For example, any government aid to nonpublic schools would have to include families who send their child to a church-affiliated school. As another example, if private drug treatment programs are funded, faith-based drug treatment programs could not be excluded.

Over 150 members of Congress have joined to co-sponsor the Religious Freedom Amendment. Opponents of the left typically resort to smear tactics against it and use hackneyed catch-phrases to try to control the issue and to limit debate.

They attempt to mold the issue by getting the media to use terms such as "state-sponsored prayer," "official prayer," "religious coercion," "mandatory prayer," and the ever-popular (but extremely misunderstood) "separation of church and state."

And a small number on the right claim that if we amend the Constitution, we are agreeing that the Supreme Court possessed the power to make the rulings that the RFA will correct.

In typical fashion, the mass media cover the myths about the RFA rather than explore the issue. We who love the Founding Father's concept of religious freedom must respond to these myths with the truth about how our courts have attacked that concept.

MYTH #1: AMENDMENT ISN'T REALLY NEEDED

"We don't need another constitutional amendment because freedom of religion is fully protected under the 1st Amendment, and we have the highest degree of religious liberty anywhere in the world. Students already can pray, and even meet in thousands of school Bible clubs. This new proposal violates the constitutional principle of separation of church and state."

The issue is not how much religious liberty remains, but instead is how much has been lost. The record shows the Supreme Court had misused the 1st Amendment to attack and limit religion rather than to protect it as the 1st Amendment intended. Prayer and religious speech are being restricted when other speech is not, supposedly as required by this very 1st Amendment!

In 1962, the court struck down not only mandatory and government-composed prayers, but also prayers overlapping with a school activity, even, they said "when observance on the part of the students is voluntary" (Engel v. Vitale).

In 1980 the Supreme Court ruled that the Ten Commandments cannot be displayed in public school (Stone v. Graham), reasoning that otherwise the students might "revere . . . and obey them."

In 1985 (Wallace v. Jaffree) the court voided a moment of silence law, saying it was unconstitutional because it would have permitted silent prayer.

A 1992 ruling (Lee v. Weisman) said a graduation prayer was unconstitutional, because students shouldn't be asked to respect religious expression.

What we have left is not neutral toward religion. School Bible clubs may exist, to be sure, but they are under restrictions that don't apply to other school clubs. (They cannot meet during school hours, or have an advisor, etc.)

The phrase "separation of church and state" doesn't come from the Constitution. The 1st Amendment was meant simply to affirm that America never should make any faith an official or required religion. "Separation of church and state" has been pushed as a substitute, sponsored by those who are intolerant of religion and those who believe in big government. Under their approach, as government expands into more aspects of life, religion must be pushed aside, to assure that "separation." It conveniently also pushes aside the values that religion brings to our lives—values often at odds with big government.

The Chief Justice of the United States, William Rehnquist, pinpointed the problem. Writing in his dissent in Wallace v. Jaffree, Rehnquist wrote that this wrongful use of the term "separation of church and state" has caused a "mischievous diversion of judges from the actual intentions of the drafters of the Bill of Rights. . . . The 'wall of separation between church and State' is a metaphor based on bad history, a metaphor which has proved useless as a guide to judging. It should be frankly and explicitly abandoned."

MYTH #2: GOVERNMENT WILL DECLARE AN OFFICIAL FAITH

"This allows a government to favor majority religions at the expense of others—to declare an official faith, such as designating us a 'Christian Nation.'"

The RFA explicitly says otherwise; it does not permit any faith to be given "official" status. Moreover, it does not repeal the 1st Amendment ("Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof"), but simply corrects its faulty interpretation by the courts.

Some seek to pervert the intent of the Bill of Rights by claiming that it's intended to protect only minorities; the true intent is to protect all of us, minority and majority. But the courts are wrongfully using it to suppress the majority who believe prayer and religious expression are proper in public places.

The Supreme Court has ruled the Constitution does not permit symbols of hate to be banned, such as a Nazi swastika. Yet they say it does require the banning of symbols of love and hope, such as a cross, or a Nativity scene on public property. Government agencies have also banned religious items and symbols from workers' desks, including Christian and non-Christian items, and "Merry Christmas" and "Happy Hannukah" banners in post offices.

MYTH #3: WON'T WORK IN DIVERSE SOCIETY

"School prayer can't work in today's diverse society. There's no way to decide who would pray, or who would compose the prayer. And it makes a captive audience of students who don't want to hear a prayer."

This myth is really a way of attacking free speech itself. If nobody can speak unless everyone agrees, then we have censorship, not freedom. It's dangerous to impose silence simply because someone else disagrees.

We don't ask "How could free speech work?" because we know that neither the courts nor our government should make that decision for us. The same is true with prayer and other religious speech—individuals and groups can work together however they see fit, so long as they don't compel anyone else to take part. Didn't we all learn in kindergarten about taking turns?

Contrary to what the "political correctness" movement seeks, there is no constitutional protection from hearing something we don't like. In schools and public settings, we learn to be tolerant by respecting differing views.

The best model to follow is how we conduct the Pledge of Allegiance. Most students recite it, but some sit silently, and a few even leave the room. The Supreme Court ruled that no student can be compelled to say the Pledge, but those who object are not permitted to silence those who wish to say it.

This is the best model for voluntary school prayer. Students who wish could rotate and take turns just as they do on everything else. It is something simple, just as it was in America's schools for almost 200 years, except that government would not be permitted to select a prayer for students, nor require joining in any prayer.

MYTH #4: HERE COMES THE WITCHES

"Aren't we just inviting cults, witches and Satanists to come into public schools and influence our children?"

This is a scare tactic, because there's no real threat of this type. It never surfaced when school prayer was common, and any such effort would remain exceedingly rare. Would we silence millions of prayers from fear that the privilege would be abused on extremely rare occasions—if even then?

Just as free speech does not give a student the right to interrupt and change topics in class, the RFA does not permit disruptions. It would not require schools to bring in outside groups. Students who belong to highly unpopular groups might indeed want an equal chance to offer a prayer on extremely rare occasions at some school, but this is no reason to censor all prayers across America. It is extremely rare that we hear a truly offensive prayer; it would remain that way .

Those who object strongly may always leave rather than listen to somebody's free speech, but equal treatment does not permit us to silence someone simply because we disagree, even in a public place. We only need to apply normal rules of orderly behavior, just as free speech does not allow someone to yell, "Fire" in a crowded theater. Those standards would remain in constitutional law.

Far-fetched versions of this argument claim the amendment would protect animal sacrifice and other hideous practices, which it absolutely would not do. The 1st Amendment yields when necessary to avoid, as the courts express it, "substantial threat to public safety, peace and order." The courts maintain that free exercise of religion is not a license to disregard general laws on behavior, such as those against advocating the violent overthrow of the government, polygamy, the use of illegal drugs, and prostitution. Those types of protections would continue under the Religious Freedom Amendment.

MYTH #5: RELIGION BELONGS ONLY IN THE HOME

"Children should be taught religion at home and church, not at school they have plenty of time and opportunity to pray in other places; they don't need to do so at school."

The FEA is not about teaching religious doctrine, but about permitting people to keep their faith as a normal part of everyday life. If we have freedom of religion only when we are at home or at church, we do not have true freedom of religion. We would never give up the right to free speech except at home, church, or some other limited places.

This notion also ignores the rights of the majority, who are required to be in school (for the biggest part of their day), yet are forced to leave their normal religious expressions behind while they are there. As Justice Potter Stewart noted in his dissent in Abington v. Schemp (1963), "a compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission for such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion." The real "captive audience" is the majority whose right to pray together is being suppressed!

MYTH #6: THIS IS ABOUT MONEY

"This is about money, not about prayer or religion. The federal treasury should not be funding churches and religious groups, or vouchers for church schools."

The amendment does not permit public funding of actual religious activity. We have a long history, however, of cooperative efforts for the common good, and religious groups have a solid established role, which is now being attacked. Students attending church colleges and universities already qualify for GI Bill benefits and student loans, and they should. The Congressional Research Service reported last year on 51 federal statutes and regulations that disqualify religious organizations or adherents from neutral participation in generalized government programs!

This discrimination needs correction, especially since faith-based charities have a better record of success than most in helping people recover from poverty, drug or alcohol abuse, or other problems.

When the Murrah Federal Building was bombed in Oklahoma City in April 1995, churches suffered some of the heaviest damage. Attorneys for the federal government were ready to deny them the same disaster assistance every other building received. It took congressional action to assure equal and fair treatment for church buildings.

MYTH #7: REAL PROBLEM BUT WRONG SOLUTION

"The problem is real, but the solution is wrong. Let's tell the Supreme Court we don't recognize its authority to make these horrible rulings."

We are challenged to be an orderly society that believes in honoring the law. Some question whether we took a wrong turn two hundred years ago, when the Supreme Court became the de facto arbiter of interpreting the Constitution. It's a practical impossibility now to persuade the country otherwise. Yet the people are ready to support a constitutional amendment on school prayer; 36 years of public opinion polls show support from 75% and more of the public.

If we teach our children to ignore what the courts say, then we are not teaching respect for the law; we would be teaching anarchy, whether we thought so or not. Everyone could ignore whatever court rulings they found inconvenient, whether on religion, crime, drugs, or any other issue.

We've tried every other approach, and are left with a constitutional amendment as the only legitimate remedy. Our Founding Fathers foresaw possible problems, and so created a mechanism for amending the Constitution. It was used for an anti-slavery amendment after the Dred Scott decision, and it's the mechanism being followed by the Religious Freedom Amendment.

Some suggest that Article III should be used, and that Congress can and should altogether remove federal court jurisdiction over selected topics. This is not just mistaken; it's dangerous. If Congress can bar the Supreme Court from taking cases in the freedom of religion, they can also be barred from ruling on other issues found in the Constitution and the Bill of Rights: There would be no way to halt an act of Congress that restricted free speech, or freedom to assemble, or the right to keep and bear arms, or the right to be compensated if government takes our property, or the right to a jury trial, or any other constitutional right. Congress would be enabled to amend and attack our constitutional rights, and we would have no remedy for it. We already have a problem because courts are usurping authority; this supposed 'remedy' would enable Congress to unsurp authority.

The Religious Freedom Amendment took nearly three years to draft, building widespread support among people of many faiths, both Christian and non-Christian. It is the product of painstaking and prayerful work. Now it's being assailed by demagogues who prey upon those who aren't informed about what the courts have done, or about how the Religious Freedom Amendment can repair that damage.

One quick way to inform yourself, and your friends, is through the Religious Freedom Amendment website, at religious freedom.house.gov. There, you can find both simple and detailed information, and download handouts to share with others.

Armed with facts and with prayer, supporters of religious freedom can successfully uphold their principles, and build more support for the RFA. It's vital that each and every member of Congress be overwhelmed by citizen's calls and letters, and that newspapers, talk radio and other media be swamped as well.

The American people have never accepted the Supreme Court's extra burdens levied against voluntary school prayer and against religious freedom during the past 36 years. For the first time, an amendment to remedy this has passed a House subcommittee and committee to come to the floor (the 1971 vote occurred only because of a petition by a majority of members of the House).

We have the opportunity of a lifetime, and we must be informed and ready to protect our religious freedom, and to reverse the attacks that threaten it.

VIOLATIONS OF AMERICANS' RIGHTS DURING OUT-OF-CONTROL INVESTIGATIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan (Mr. STUPAK) is recognized for 60 minutes as the designee of the minority leader.

Mr. STUPAK. Mr. Speaker, a couple of weeks ago I came to the floor and I was talking about these investigations going on, and it was quite interesting, hearing my colleague from Oklahoma tonight talking about the First Amendment and morality and prayer and things like that, and he made some very good points. But I hope we apply that same standard, first amendment freedoms and rights and morality, into the investigations, into what is going on here in Washington, D.C.

I could not help but notice last Sunday's "60 Minutes" program, Mr. Speaker, in which they had an individual on that program, Sara Hawkins, who was an employee of the Madison Savings & Loan, who was accused of illegally backdating appraisals by coworkers that had entered into a plea bargain with Mr. Starr's office. They came to Mrs. Hawkins, they wanted her to plead guilty to a felony, and she found that she did not do anything wrong, so she refused to do so. In fact, the independent counsel had threatened her.

My concern is that as we are doing these investigations, we are violating individual's first amendment rights, fifth amendment rights, eighth amendment rights, sixth amendment rights, trying to threaten them in doing investigations.

If we take a look at what went on and what has been taking place here in these investigations, they go, if you do not plead to the felony, we could bring charges, as they threatened Ms. Hawkins with, for all 80 counts, which would mean 400 years in jail. Ms. Hawkins said that they told her, you know, you have kids, you do not want them to have to go through a jury trial, you do not want them to go through this. They are making all of these threats.

At the time Ms. Hawkins was the sole supporter of her two daughters and her grandchildren. She had her own business. She earned approximately $100,000 a year.

Word got around. It was reported in the Wall Street Journal and in other publications that she was the target of an investigation in this whole savings and loan situation, but when word got around she was a consultant, that was her business, her business just dried right up. She lost everything, under the threat of an investigation.

In fact, she was working, she is now working part-time. Things were so tight, money was so tight she ended up having to go on food stamps, public assistance, if you will, to support herself. Her daughter that she was supporting, her daughter was going to college and had to drop out because her mother could no longer help her.

So after months and months of threats from the Special Prosecutor's office, they then write her a letter and tell her, we do not have enough evidence to charge you on anything, not the 80 counts, but on anything; and therefore, she thought, she was relieved that her nightmare would be over.

Well, a month later, a month later, they come back, and again, according to Mrs. Hawkins, they said that since she would not cooperate with them, they really wondered then what did she have to hide, and so they started to do some more digging, and they told her that we have come up with some new activity that we think that you may be involved in, criminal activity. We are not going to tell you what it is, but we are going to start the process all over again.

The whole idea of, now we are going to investigate you on something else since you will not cooperate with us, is probably government at its worst.

That is what I am concerned about here tonight and that is why I have taken the floor in the past, and I am here once again this evening. Where have we gone as a Nation that the government, the United States Government is beginning to do investigative tactics that are less than legal, less than moral, less than ethically correct?

In that same program, another one of the tactics used by the Special Prosecutor, Mr. Starr, was that FBI agents showed up at a high school to issue a subpoena to a 16-year-old, a 16-year-old, the son of an individual who was subject to an investigation. Another individual linked to Mr. Starr's office tried to pressure him into making false statements regarding the President. In fact, one individual, Professor Smith, who was a professor at the University of Arkansas and the former president of an Arkansas bank and a business partner of Jim McDougal over 20 years ago he was an aide to then-Governor Bill Clinton, levels an even more serious charge about the operation of the Special Prosecutor, Kenneth Starr. Mr. Smith said, "They asked me to lie about other people, and they have lied about what they have done."

In 1985, Mr. Smith pled guilty to a misdemeanor for misusing a loan. He took out a loan and he ended up using it for something other than what it said in there. Mr. Smith pled guilty to the incident and included an agreement to testify against others. That was part of the plea bargain. He was supposed to testify against others in the grand jury.

Well, Mr. Smith has pledged his cooperation with the investigation and the cooperation has begun. But did Starr make it very clear, Starr and his investigators make it clear what they wanted Mr. Smith to say? Instead, Mr. Smith said, again on the program the other night, "60 Minutes", he said that "Oh, they made it very clear what they wanted me to say. They had typed up a script what was purportedly my testimony, and they wanted me to go in and read it to the grand jury," and that "There were things that they were asking me to say that were untrue, things that I had repeatedly told them were not true, things that I told them I had no knowledge about, but yet they typed it up, and that was to be my testimony, and I was to enter it before the grand jury." Fortunately, he refused to do it.

But if we take a look at what is going on here, Mr. Speaker, if the government can do this, bring the weight and pressure of the Federal Government, go back and comb 20 years of one's history and find a misdemeanor charge where one might have said something a little wrong; and then one says, okay, I will plead guilty and cooperate, and then they put before someone testimony that they type up and they make up the facts, and the person has to then go before a grand jury and say it is true, not only about yourself, but also about other people, have we crossed that line?

If government, through these investigations, can do this to friends and associates of the President, then can they not do it to me? Can they not do it to the people sitting at home?

☐ 2130

Can they do it to any American citizen? My concern is that, as all Americans, we should be outraged by the actions of the so-called investigations going on here in Washington, D.C.

Unfortunately, these are not investigations, but violations of everything we hold dear as American citizens. Every basic, every fundamental belief and right on which this great country was founded is being trampled by a select few. But it is these few, those who think they are above the law, that are giving Congress and the government a very, very bad name.

This is more than just giving Congress or government a very bad name. This is about privacy, it is about our Constitution, it is about the laws of this Nation. It is about the oath of office. It is about our own word that we as elected officials take every year, every 2 years, when we are sworn in.

If we take the case of the chairman of the Committee on Government Reform and Oversight, the gentleman from Indiana (Mr. BURTON), who has released private, recorded conversations, and these conversations were covered by the Privacy Act, but yet they are released to the news media, the conversations of Mr. Hubbell, his wife, his attorney, and his family, when these tapes were subpoenaed by the Committee on Government Reform and Oversight from the Justice Department, who had access to them, the committee and the gentleman from Indiana (Mr. BURTON) were warned.

He was allowed access to them, but he was warned not to release them, because they had very sensitive information. But because of his position as a Member of Congress, as the chairman of the Committee on Government Reform and Oversight, and because Congress is not subject to the Privacy Act, he had the right to release these tapes?

The gentleman from Indiana (Mr. BURTON) was warned by the Justice Department that Mr. Hubbell had a right to privacy that was protected, and that the gentleman from Indiana and his committee should safeguard these tapes against any improper disclosure. Still, as a Member of Congress, they put themselves above the law. They have purposely released these tapes.

Now we have learned in the past week or so that to make them sound even more incriminating, a word or two may have been altered or changed to make them sound more incriminating.

Does not one's oath of office, does not the Constitution of the United States, does not the Bill of Rights, does not the Privacy Act, does not human decency mean anything anymore in this country? Since when is it okay for a Member of Congress to trample on the rights of an individual? I submit, Mr. Speaker, whether we agree or disagree with that individual, no one has the right to violate another individual's rights in such a purposeful manner.

Mr. Speaker, the rule of law applies to everyone. No one should be held above the law. No one should be held beneath or below the law. This government cannot pick and choose whether or when it will follow the law. The laws of this Nation mean that everyone must follow the law, everyone, but especially Members of Congress.

When those of us who are elected officials sit by and allow a chairman or any Member of this Congress to openly ignore the law, then we are not worthy of holding the high office to which we are elected. That is why I came down to the floor a couple of weeks ago, and I am here again tonight, and have been doing special orders and one-minutes; that we as Members, or the gentleman from Indiana (Mr. BURTON) as the chairman, cannot place ourselves above the law or beyond the rule of law.

I must ask, Mr. Speaker, who is the next target? Where is the morality of the law that the last group spoke of? Where is the law? Why do the American people tolerate such an invasion of their privacy? Mr. Speaker, in this case, and particularly with the Committee on Government Reform and Oversight, look at what happened. This is no different from Ms. Hawkins, from the 16-year-old who was subpoenaed.

On March 19, if we just go back and look in the last 2 months, on March 19th the Wall Street Journal wrote an article that excerpted pieces of tapes of the conversations between Mr. Hubbell that were rather private and sensitive. The chairman, the gentleman from Indiana (Mr. BURTON), was trying to force Webb Hubbell, once again trying to pressure people to testify before the committee. So to get him to testify, because he refused to, you start leaking information. He was trying to intimidate Mr. Hubbell into testifying; not whether it was the truth, not whether it is appropriate, but to testify.

Does it not really sound familiar, like the Hawkins case we saw on "60 Minutes," or Professor Smith, who was threatened with a misdemeanor some 20 years ago?

Then they go further. That was March 19. Take the May edition of the American Spectator. We all know the owner of that magazine is not a real big fan of the President, who ran an article with the information from the tapes. Where does he get the information from the tapes if it is protected underneath the Privacy Act?

The gentleman from California (Mr. WAXMAN), the ranking member of that committee, he wrote to the gentleman from Indiana (Mr. BURTON) and asked him to stop leaking the tapes on March 20, 1998. The gentleman from Indiana (Mr. BURTON) writes back and says, I have not leaked any tapes; and plus, even if I did, I had unanimous consent to insert the tapes in the CONGRESSIONAL RECORD; therefore, they are public record.

The gentleman from California (Mr. WAXMAN) and his staff went back and checked, and there was no unanimous consent in the record. He wrote back on April 2. The gentleman from Indiana (Mr. BURTON) informs the gentleman from California (Mr. WAXMAN) of his decision that, okay, I got caught on that one, there is no unanimous consent; I am still going to release these tapes, and I am doing it.

April 14th. The gentleman from California (Mr. WAXMAN) requested that the gentleman from Indiana (Mr. BURTON) immediately convene a working group to determine whether the document should be released. The gentleman from Indiana (Mr. BURTON) answered he would not convene the working group, he was going to release the tapes anyway, and he did. Now we know that words have been substituted, things have been changed. We really have to ask, who is next?

Mr. Speaker, prior to coming to Congress I was a police officer for some 12 years, a city police officer and a Michigan State Police trooper. I was injured in the line of duty and medically retired. One of the last cases I worked on, finalized, and actually went to court on, was the criminal investigation of someone in the city and State legislature.

We did not leak information to do our case. We did not violate her rights. We did not invade her privacy. We did not threaten her unjustly, but only treated her with humaneness and respect. We did our job in a professional, courteous manner. We did not run to the Michigan legislature and ask one party or the other party to release the investigation. We convicted her, and the case went to the Michigan supreme court. The conviction was upheld.

I did my investigation. We did honor to the law. We did it without violating people's rights. We did our investigation within the bounds of the law, not outside the bounds of the law.

Today, we had three pieces of legislation to honor law enforcement officers, because this is Law Enforcement Officers Memorial Week. We honored those who gave their lives in the line of duty, upholding the law. After all, we are a Nation founded on law, right? This Nation requires us to have faith and confidence in the judicial system and a belief that justice will be served.

That is why I am really profoundly troubled and, quite honestly, angered by the way the chairman of the Committee on Government Reform and Oversight has handled this investigation of campaign finance reform. I am disturbed about released, doctored tapes. It has involved name-calling of the President of the United States, and a disregard for procedures, criminal procedures, civil procedures, legal procedures that bind every law enforcement agency and every law enforcement officer. And the Privacy Act binds the Attorney General, it binds Ken Starr, but apparently it does not apply to Members of the House of Representatives, and certainly not the chairman of that committee.

It is sad and unfortunate, Mr. Speaker, that we find ourselves in the way that we are disgracing not only our institution, but we are failing to maintain the high standards that we should be setting.

Mr. Speaker, the threat of the gentleman from Indiana (Mr. BURTON) of the Hubbells is wrong; threats to subpoena people, to drag them in, to make them subject to an investigation, to subpoena sons of people who are subject to investigation, that is way outside the law. It is outside common decency. It is contrary to what people, we who are in government, should stand for. I would hope, Mr. Speaker, that the Justice Department will intervene here and protect the rights to privacy afforded all citizens.

My fear is that with the majority party, with all these investigations in Washington, D.C., from the gentleman from Indiana (Mr. BURTON) to Special Prosecutor Ken Starr, each and every day Americans are having their rights violated under the guise of an investigation. The joke around here, quite honestly, Mr. Speaker, is, have you received your subpoena today? And since I have been speaking out, I may very well receive a subpoena about something I should have known or must have known.

But when we use a prosecutor, a grand jury, the subpoena power of the grand jury, as a substitute for professional law enforcement investigation, then we have gone overboard, Mr. Speaker.

There are over 70 FBI agents working with the Starr investigation. Yet, they do not have contact with witnesses; instead, they are subpoenaed. What is the cost? What is the humiliation? What is the reputation? As Ms. Hawkins said, I had a $100,000-a-year position, was supporting my two kids, my two grandchildren. I am on food stamps today. No one trusts me. They have taken my good name and my integrity. They have humiliated me.

When is a mother forced to testify under subpoena about her daughter, or about facts that are untrue, like Professor Smith? When someone leaves a message on a telephone answering machine and then the caller is subpoenaed for expressing an opinion, have we gone too far? Has Big Brother taken over? What are we doing here? Where is the privacy? Under what authority or what right does government have to do these things? Why are agents, special prosecutors, chairmen of committees, Members of Congress, why do they believe they do not have to follow the law?

Whether you are a Democrat or a Republican, a liberal, conservative, Independent, if you are an American you really have to be outraged at the abuses of the power recently displayed in the name of investigations.

I do not personally know the parties involved who may or may not have been subpoenaed, who may or may not have told the truth, who may or may not be guilty or innocent. That is for judges and juries. But I do know that I believe, as an American citizen, I have certain rights that not even Congress can take away, not even a Member of Congress can violate.

As a human being, there is a certain decency, a kindness, a dignity, a respect that people should afford one another. These are the so-called inalienable rights we all enjoy. That is what we should be honoring here during Law Enforcement Officers Memorial Week. We should be honoring those who uphold rights, not be here on the floor talking about big government affecting the rights of every individual.

Who is next, Mr. Speaker? Is it I? Is it my colleagues who may join me here tonight? Is it the folks listening at home? I hope all Americans look at this and not pass judgment, but look at it and say, where have we gone? Where have we led ourselves, in this crazy political world, to try to get the other side? We have trampled the privacy law, we have trampled the Constitution, we have trampled the Bill of Rights. When does all this stop? Who is next?

I think it is time for government to step back. If I can use the Speaker's words, the gentleman from Georgia (Mr. GINGRICH), when we first started this, he asked everybody to step back and let the facts come out. Maybe we ought to step back from this dangerous precipice we are on of violating peoples' rights in the name of investigations. We have gone too far.

As a law enforcement officer, I never would have lasted in the department if I conducted investigations like this. Why, because I am a Member of Congress, do I have some special rights that I can violate, knowingly, intentionally violate, peoples' rights?

Mr. Speaker, I see my colleague, the gentleman from Maine (Mr. ALLEN) is here, the first one here. I would be happy to yield to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding to me. I do not come here tonight with any enthusiasm. I am a member of the Committee on Government Reform and Oversight, and I have to say, it has been a discouraging year-and-a-half on that committee.

There are matters here that need to be investigated and fully investigated, but it is clear to me that the committee has failed to conduct a professional and competent investigation under Chairman BURTON's leadership.

I have heard the chair and other members of the majority party say that there are Democrats who are stonewalling, who are trying to prevent the committee from getting at the truth. They point to the fact that a couple of weeks ago all of us Democrats on the committee voted against granting immunity for several witnesses. I want to talk about that tonight, because there were good reasons for us to vote against immunity a couple of weeks ago, and there are very good reasons why I expect we will do the same tomorrow.

Last fall the same issue came before our committee. Every single Democrat voted for immunity for several witnesses that were coming before us. We voted for immunity in the past, and we certainly will again. But we had a problem last fall. Here is the problem. One of the witnesses came forward and testified to certain violations of immigration and tax laws, and we did not know that he was going to testify about that subject matter. We did not know that he had potential criminal liability in those particular areas. But because we had granted, the committee had granted, full immunity to that person, he can now go scot-free on charges that might have been brought.

□ 2145

That is the problem. What happened? The Republican majority did not ask for a proffer of testimony. That is what every good prosecutor would do. Before we are going to grant immunity, we need a written statement of just what your testimony will be and then we will grant you immunity that will cover the subject matter of that testimony and not go beyond it.

Two weeks ago, Chairman BURTON asked for the committee to grant full immunity for additional witnesses. Well, as far as we are concerned, once burned, twice shy. Democrats asked him, have you secured a proffer of the testimony of those witnesses? And the chairman said, no, we do not have a proffer, no statement of expected testimony. As I said, every good prosecutor would get a proffer, but in this case there was none.

Now, we are not going down that road again. I believe the Democrats on this committee will grant immunity in the future as we have in the past, but first this committee has got to clean up its act. Once we have a fair proceeding, once we have a professional investigation, the chair will get full cooperation again.

I have to say that the comments from the newspapers around the country are uniform. We are seeing the same thing all around the country. This is a quotation from USA Today: "Republican leaders will only compound the impression of partisanship if they fail to turn the fund-raising over to a committee with a less biased leader."

It is unfortunate that that is the case. I think back to when we started this investigation and we said, we objected as Democrats to rules of procedure that gave this chairman more power than had ever been given to any chair of any committee in the House of Representatives in its history; that is, the chair of this committee has complete power to subpoena any documents he wants, to depose any witnesses he wants and to release any information he wants, all without a committee vote and without the consent of the minority. And since the Republicans have a majority on this committee, we know that if they are unified, they can vote to do all that. But at least they would air the issues before they go out.

Mr. STUPAK. Mr. Speaker, Chairman BURTON, is he not the first chairman in congressional history to have the power to unilaterally issue subpoenas and release confidential information?

Mr. ALLEN. That is my understanding. Never before, that in the past the rule has been that before you can subpoena that information or before you could release information which is gathered in the course of a committee investigation, you would need either the consent of the minority or you would have to bring the matter to committee for a committee vote. The majority, as I said, they have more members on the committee. Because they are the majority, they can carry the day. But what is missing when you bypass that procedure is you do not get a chance to air the issues. That is the healthy way to conduct an investigation. That is the way to make it have the flavor of a bipartisan investigation, which this one really does not.

Mr. STUPAK. It is my understanding that, I am not on that committee, it is my understanding that there have been 1,049 subpoenas issued in this case, and of those 1,049 subpoenas, 1,037 were unilaterally issued by Chairman BURTON without permission or consulting the committee. So that leaves only 12 subpoenas that have been issued by the committee in a bipartisan manner. The other 1,037 have been unilaterally thrown out there to see who can get in this big dragnet.

I was always taught, you investigate before you subpoena; you do not subpoena, then begin the investigation. One Member was telling me from California that one of these subpoenas landed on one of his friends. He has spent $100,000 trying to collect information, trying to consult with attorneys. And he is just distressed. He has spent $100,000 trying to comply with this all-encompassing subpoena, and they do not even know if they have good reason to be subject to this subpoena, but if you do not, you get dragged in in front of these hearings, government reform, or the Ken Starr investigation, and there you go. Your reputation, your business, your humility, everything is just stripped away from you, not to mention the financial impact.

I appreciate the gentleman coming down and sharing some input on this government reform.

Mrs. MALONEY of New York. Mr. Speaker, if the gentleman will continue to yield, Chairman BURTON not only has issued the 1,037 unilateral subpoenas, he has also issued unilateral subpoena power that is so incredibly one-sided. It only attacks Democrats. He issued 551 document subpoenas, and all but 9 have gone to Democratic affiliated persons or entities.

The Democratic National Committee alone has received 17 separate document subpoenas, many of which were designed to uncover the Democratic Party's campaign strategy and policy decisions. Along with other members of the committee, we have written the chairman to investigate allegations against some Republican donors. Let us be evenhanded. There has been wrongdoing on both sides of the aisle. But all of the attention has been so partisan, so one-sided that it has really destroyed all credibility. On the Senate side, there was an effort for a bipartisan investigation. It was a far more credible investigation.

Mr. STUPAK. Did not the Senate basically go over the same ground during their investigation?

Mrs. MALONEY of New York. It is very repetitive. Everything is repetitive.

Mr. STUPAK. So we are having a repeat of the same thing with a different twist with a chairman who has unilateral subpoena power who is just all over the place.

Mr. ALLEN. Mr. Speaker, if the gentleman will continue to yield, I was just noticing a quotation that was in the Wall Street Journal, April 10, 1997, a year ago, just over a year ago, a column by Al Hunt. Here is the quotation:

> Mr. BURTON has little regard for fairness. The biggest losers will be taxpayers. The Burton-led circus could cost between $6 million and $12 million.

That was over one year ago. Mr. Hunt's words have stood the test of time. As I understand the word now, we are now past the $6 million, headed toward $12 million and the gentlewoman from New York is right. One of the problems with this investigation is that it is so duplicative. We have done this in the Senate side. The Senate, for a mere, a mere $3 million of the taxpayers' money, has gone ahead and held 33 days of hearings and produced an 1100 page report. I quarrel with that report because it did not deal with campaign finance reform at all, but still they completed the investigation within one year. Here we are pushing $6 million, and we have had 13 days of hearings. And we have got no report to show for it, and the whole investigation is discredited.

Mr. STUPAK. Many times in my town hall meetings and in correspondence from constituents, we talk about these investigations. I have always felt and one of my answers is, when you start having, those of us who are elected officials, politicians, if you will, investigating other politicians, what do you get? More politics. That is exactly what USA Today is saying, Republican leaders will only compound the impression of partisanship if they fail to turn the fund-raising over to a committee with a less biased leader. That is May 6, 1998. New York Times, right over here, Friday, May 8, 1998, the Dan Burton Problem, by now even Representative DAN BURTON ought to recognize that he has become an impediment to a serious investigation of the 1996 campaign finance scandals. Or take the editorial page by the the gentleman from Wisconsin (Mr. BARRETT), Our Opinion, BURTON unfit to lead Clinton probe. It is no wonder that even some Republicans want BURTON replaced.

You start these things and they are driven by politics. Then you have the heavy-handedness of government. Where do we stop this? I think we have to step back. Government has just gone too far here. I am not here defending the guilt or innocence of anyone. This has just gone crazy when we subpoena people before we even know what the investigation is about. I was always taught you are supposed to think before you speak. I wish we would not investigate before we subpoena.

Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Speaker, I appreciate the opportunity to be here with my friend from Maine and and my friend from New York and my friend from Michigan. There are a lot of places I would rather be tonight than right here. This is not exactly my idea of a good time. I think for all of us we ran for and were elected to Congress because we want to deal with the problems that concern our constituents: education, child care, health care, fighting drugs. But the gentleman from Maine (Mr. ALLEN), the gentlewoman from New York (Mrs. MALONEY) and I all serve on the Committee on Government Reform and Oversight so we have sat through these hearings for the last year and a half, and we know what is going on. It has not been a happy year and half for us, but we recognize that we are in the minority. We recognize that it is the Republicans that control the agenda here.

So I think for probably a year our cries of foul have fallen on deaf ears because it is not unusual for minority members to complain about treatment by the Republicans or by the majority party. But I think that the events in the last several weeks have now revealed to the American people exactly what is going on. And what I would like to do is take a couple minutes and go through a few of the editorials that have come from newspapers around the country, and the reason I think it is important to do that is because if I were someone sitting at home tonight and I were watching four Democrats, I would say, those are just Democrats complaining. But what we saw, going back, as Mr. ALLEN indicated, to last October, when every Democrat on the Committee on Government Reform and Oversight did vote for immunity for three separate individuals, unanimously we voted for immunity, what did we find out, we found out that the majority staff had not done its homework, and we had given legal immunity to a person who probably did not deserve it.

I think people have to understand what a vote for immunity is. We have many, many votes here in the House of Representatives. Some votes are important; some votes are not very important. A vote for immunity is a very important vote. That was the first time in my career that I had ever voted to give someone legal immunity. What that meant was that any crimes that that person may have committed that basically were coming before our committee, that they would be excused of. That is a pretty heavy excuse or a pretty heavy price to pay to give someone the opportunity to testify before a committee. So it was not with a lot of enthusiasm that we take that step. It is actually, I think, a vote that probably makes most people nervous, if you are voting to give someone immunity, because it can blow up in your face. But we did that. We did that to act in good faith with the majority. But then we find out that that was something that should not have been done.

But it was really the events in the last month which were the straws that broke this camel's back in terms of convincing me that this was no longer even an attempt to try to have a fair investigation. The comments that Mr. BURTON made to his home newspaper, comments that I will not even repeat in public, that I would be embarrassed to say. In fact, I think Mrs. MALONEY indicated that if her children had used those comments, she would have washed their mouths out with soap, and that probably would be the same thing that would have happened to me as a child if I had used the phrase that he used.

Then he went on to say that he was out to get the President. Now, when you have a chairman of a committee say that he is out to get the President and slurs the President, that does not increase your confidence that this is an attempt to be a fair committee.

But then we saw the release of the Hubbell tapes and we saw the editing of those tapes. Again, I think what that did was that showed anybody who was looking at this that this was a circus, this was not an attempt to be fair at all, and that if we were going to try to be fair, we would have to take a step back and have someone new run this investigation. I want to go through some of these editorials, but before I do that, Mrs. MALONEY has a statement she wants to make.

Mrs. MALONEY of New York. Mr. Speaker, I thank my colleague for continuing to yield to me. I would like to speak to the Speaker and my colleagues and really say that I really have not seen an investigation meltdown like this one since I watched Inspector Clousseau look for the Pink Panther. Of course, what all of us are talking about is the House Committee on Government Reform and Oversight's alleged investigation.

Three of us serve on this committee, and they are looking into the alleged fundraising abuses in the 1996 campaigns. Many of us are beginning to believe that the investigation which would yield more results would be one that would focus on the people or the person in charge. The antics of the chairman have reduced this probe to a series of bumbles and blotches and embarrassments.

Six hundred subpoenas have been issued without the consent of the full committee. This is the first time this has happened since the McCarthy era. The committee has spent $6 million to hold just 6 hearings so far. The Senate investigation ran for days on just over half that cost. Then just in case those numbers were not incriminating enough, the name calling began that my colleague, the gentleman from Wisconsin (Mr. BARRETT) just referred to.

Now tapes are being doctored. The lead investigator has been forced to step down. We have all been labeled squealing pigs, and we are all on the Sunday morning talk shows. What is next? Oprah, Jerry Springer? When they start throwing chairs in the committee, I think we are going to all try to get off that committee.

But in all seriousness, the only chair that should move is that chair which is controlling the so-called probe, the one that is occupied by Mr. DAN BURTON.

The committee is no longer credible. It can no longer move forward under the leadership of the current chair. This is no longer a partisan request. Even the Speaker of this House has indicated that some of Mr. BURTON's actions have been an embarrassment to him.

□ 2200

When I looked outside the Beltway and into the pages of my hometown newspaper, The New York Times, it wrote, after the release of the edited tapes of personal conversations between Webb Hubbell and his wife, and I quote, and there is a part of it right here from my hometown newspaper,

> By now, even Representative Dan Burton ought to recognize that he has become an impediment to a serious investigation of the 1996 campaign finance scandals. If the House inquiry is to be responsible, someone else on Mr. Burton's committee should run it. Coming on the heels of an impolitic remark of Mr. Burton about the President 2 weeks ago, the tapes fiasco is forcing House Republicans to confront two blunders. The first was to entrust the investigation of campaign finance abuses to Mr. Burton; the second was to give him unilateral power to release confidential information.

In the past 16 days more than 50 editorials and columns have been written in papers printed everywhere from Washington, D.C., to Omaha, Nebraska, to Tacoma, Washington, questioning whether Mr. BURTON should continue in this position and taking him to task for his tasks in this supposed probe.

This is not a Beltway sentiment, this is not a partisan sentiment, it is a sentiment that is shared across this country and across party lines.

I truly believe that there are skeletons in the closets of both sides of the aisle and that the real solution is reform. And many of us on both sides of the aisle are working toward that. In the meantime, we need to move forward with a fair, bipartisan investigation.

It is appropriate that the lead investigator step down. It is now appropriate that this should be terminated or sent back to the Senate, which was able to have a more reasoned, sensible hand in the investigation. It just cannot continue the way it has. It has really been an embarrassment not only to Mr. BURTON and the Republicans, but I believe to this entire body.

Mr. ALLEN. I have one closing comment for myself and that is this: The power, the investigatory power of this House, is so broad, so powerful, so important that it has got to be handled carefully. It has got to be handled in a way that does not deteriorate into partisan bickering.

As those of my colleagues who are on the Committee on Government Reform and Oversight with me understand, we continue to slide down. And I think that the only way to pull this investigation back, to get it on track and bring it to a sensible conclusion is to make a change in leadership; and I say that with regret. But it seems to me that it is very important for the health of our democracy and for our ability to function in this House.

This investigation is out of control. On the one hand, it seems no longer to respect people's rights of privacy; on the other, it seems to be wasting taxpayers' money. I think that the fundamental flaw, the thing that went wrong from the beginning, was the sense that it could be run by one party against the other.

Whatever the numbers are, whether we look at the numbers of documents subpoenaed, the number of witnesses deposed or the targets of the document requests that have been issued by subpoena, they are 98 percent to 99 percent to Democratic targets.

We know that both sides have violated the campaign laws. Both sides should be investigated in an efficient, responsible way. And at the end of the day, what we should draw from this is the determination that we are going to change this system; that we are going to contain the influence of money and politics and we are going to step forward and get back to the people's business that the gentleman from Wisconsin (Mr. BARRETT) was referring to, the education, the health care, the Social Security, all of those issues that really brought us to this House in the first place.

So it is with some sadness that I say that it seems to me we need to get this investigation back on track, and that means a change in leadership, a change in direction, and get back to the business of this House of Representatives.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for coming out and joining us tonight, and the gentlewoman from New York (Mrs. MALONEY) and the gentleman from Wisconsin (Mr. BARRETT), and we will continue this, but the point the gentleman is making, whether it is this democracy, this House of Representatives, this government, we cannot pick and choose when we are going to follow the law.

The laws are there. The laws of this Nation mean everyone must follow this law. "Everyone" includes especially us. We are sworn to uphold the law when we take the oath of office, especially Members of Congress.

So when those of us who are elected officials, if we just sit by and allow the chairman of this committee, or any other member, to openly ignore the law and we do not speak out, then we certainly are not doing our job as elected representatives in trying to uphold the principles of this democracy.

As the gentleman from Maine said, there are problems on both sides, but it does not give one side the right to violate the rights of individuals. Whether we like that individual, agree with that individual, or not, no one has that right. And I am pleased that my colleagues here tonight have spoken out with me.

I yield to the gentleman from Wisconsin (Mr. BARRETT), who has been patiently waiting.

Mr. BARRETT of Wisconsin. I thank the gentleman, Mr. Speaker, and a point I want to make here that might be sort of unusual for a politician to make, as a partisan, as a Democrat, frankly, probably the best thing in the world would be to have DAN BURTON remain as chair of this committee, if the only thing we were interested in was to make the Republicans look bad.

Because I think, as this editorial from my hometown newspaper points out, this is from the Milwaukee Journal Sentinel, Saturday May 9th, "Our opinion: Burton unfit to lead Clinton probe. It is no wonder that even some Republicans want Burton replaced."

If we wanted to just center it on the difficulties that our colleagues on the Republican side were having, we would just say, keep him in that chair, let him continue that investigation, because there is no credibility. I have said that for months. This committee has no credibility.

But I think this is an issue where we have to go beyond our party identification and say, this is a waste of money to have this person run this investigation. We have spent literally millions of dollars on this investigation and it simply does not have any credibility.

I want us to have a fair investigation. I think that there have been problems. I think that there have been problems on both sides of the aisle, and I think there is a duty for us to investigate those.

Again, I am very cognizant of the fact that many people say, well, they are just a bunch of Democrats complaining. But I want to read from a couple of editorials. These are all editorials from the last week, and they are from all different parts of the country.

The Pittsburgh Post Gazette, "Tale of the Tapes. Representative Dan Burton brings a serious inquiry into disrepute," from May 8, 1998. This refers to the apology that Mr. BURTON made to his fellow Republicans and that the Speaker made to the Republicans as well. "In apologizing to House Republicans for his mistakes, Representative Burton should have also apologized to the American people. It is they who lose the most by having an important inquiry turned into a circus."

From Roll Call, which is a very respected newspaper right here on Capitol Hill, the title of the editorial, "Out of Control," May 7th, 1998. "So at long last, House Speaker Newt Gingrich realizes that Dan Burton is an embarrassment to House Republicans." The editorial goes on to state. "Removing Burton as chairman might ease GOP embarrassment, but Gingrich also needs to watch his own rhetoric lest he too become an embarrassment."

From the San Antonio Express News, May 6, 1998. "Burton bumbles in bad faith. Burton's antics as chairman of the House Government Reform and Oversight Committee have stripped credibility from the panel's probe." The editorial goes on to state: "Burton's release of the doctored transcripts was a partisan cheap shot, not full disclosure in the name of justice. Clearly, Americans cannot rely on a Burton-led probe to produce the whole truth. Republican House leaders should replace him immediately."

There are several more, if I could continue here. From the USA Today, May 6, 1998, "GOP Stumbles, White House Stonewalls. The distorted record gave proof that the GOP committee leader was engaged in a partisan vendetta. Burton was rightly chastised for his indecent tape-editing. Republican leaders will only compound the impression of partisanship if they fail to turn the fund-raising over to a committee with a less biased leader."

That editorial was also critical of the Democrats, I should add.

The fifth one, from the Allentown Morning Call, May 5, 1998, "Congressman Plays Dirty with Tapes. The current clumsiness of the likes of Representative Dan Burton," the editorial then goes on to say, "isn't very persuasive that a dispassionate search for the truth is all anybody really wants."

The Omaha World Herald, May 5, 1998, "Republican ineptitude in the United States House of Representatives makes it harder to be confident that the public will ever know the truth about the White House scandals. Serious allegations ought to be treated with more professionalism than Burton has shown. The harm done by Burton's earlier appearance of vindictiveness may become difficult to undo."

And finally, from the Tacoma Washington News Tribune, "Transcript Release Unfair, Partisan," May 5, 1998. "Burton says he condensed the transcripts to make these easily understandable and to protect Hubbell's privacy, but these claims do not pass the straight-face test. Somehow he has further undermined public confidence in Congress' ability to conduct credible investigations."

There are problems, and I think that we have acknowledged that, and there are concerns with Democratic fundraising, but there are also concerns with Republican fundraising. I am embarrassed by the amount of money that is in politics, but to argue that somehow the Democrats have raised their money from assorted sources while the Republicans have raised all their money from widows and orphans just defies logic. And I do not think there is an American listening to this who believes that.

The difficulty is that we have to have a fair investigation. That is what the American people want. They want a fair investigation, and we are not getting a fair investigation under Chairman BURTON.

So we can continue. We can continue down the road we have gone for the last year-and-a-half and we will continue to have problems.

I am not interested in granting immunity if I think that all we are doing is continuing a partisan witch hunt. I will vote for immunity if I think that there is going to be a fair investigation. But that is not what I see happening, and I do not see any signs under Chairman BURTON's leadership that that is going to change, and that does not make me happy.

As I said earlier, there are many things I would rather be doing. I would rather be working on the issues that the people in my district sent me here for.

I have three small kids at home. I would much rather be home with them than standing here late at night in Washington, D.C.

But this is an important issue and it is important for us to let the American people know what the complaints are that we have with the process.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for coming down. I know a week or two ago when we did this, he also came down, and I appreciate his insight on the Committee on Government Reform and Oversight.

I find it ironic that some of these laws we have spoken of tonight, especially the Privacy Act, that Mr. BURTON and others were warned that there was sensitive information and that it should not be released. Under that Privacy Act, if that same information, those tapes, were released by the Attorney General or Ken Starr, they could have been prosecuted under the Privacy Act. But because Mr. BURTON is a Member of Congress, and we are exempt from that law, he goes ahead and releases them and, under the debate clause of the rules and the Constitution, he is protected from any kind of criminal prosecution.

I find it ironic that we, the government, pass laws, but that we, the government, choose not to live by them and we apply these standards differently as we proceed through these investigations. The laws of the land must apply to everyone, especially Members of Congress.

Mr. BURTON had an opportunity here, and it is sad to say it has not panned out well, and it brings disrespect to all of us in this House. So I really do hope that the Speaker considers removing him or putting someone else in charge.

As the gentleman said, let us have a fair investigation. Let us look at both sides. There are problems on both sides. I think we would all acknowledge that. But when we start subpoenaing people before we even know what we are investigating, I just think we have it backwards.

As I said earlier, I have always been taught to try to think before I speak. When I was in law enforcement, we always investigated before we issued subpoenas. Unfortunately, here we are issuing subpoenaes, unfortunately 1,047 of them, and we do not even know what we are searching for or what we are going after.

And all we are doing is pressuring people and stripping them of their integrity, their reputation and their pride, and spending a lot of money to fight subpoenas when they have nothing to do with these investigations. The Senate has already investigated all this and submitted their report, but yet we keep going on and on and on.

Again, that is why I guess I have always said that when there are politicians investigating politicians that just gets us into more politics. We have, unfortunately, lost sight here of the integrity of the investigation, the faith in our laws as a Nation, that all citizens should have faith and confidence in our judicial system and a belief that justice will be served.

Unfortunately, I cannot say that about this campaign investigation that is going on in the House of Representatives.

□ 2215

I know at times I hope folks back home are not saying we are just a bunch of Democrats up here trying to protect this person or that person. That is not the issue here. The issue is have we gone too far in giving one Member of Congress such an awesome power to subpoena people. Have we given Congress or a chairman or individual Members an exception to the Privacy Act where they can disclose private conversations of people, and then we find that certain words were doctored or altered to make it sound even more incriminating and where are we going? And if we can do this, if this committee and subpoenas can be friends of the President or Democratic fund-raisers, what is then not to say we will do all blond-haired people tomorrow and do the same kind of treatment to them underneath the guise of an investigation?

I just think we have gone too far. And having been in law enforcement all those years as I was, I just find it quite repulsive that we would do this. And without more people speaking up, I am glad to see some of those newspaper articles and editorials are paying attention, I hope Members of Congress are, and somehow we do something, not just with these investigations that we have here in the House that have gone so one-sided and lopsided, but also with the special prosecutor statute.

This has been going on now for, what, 6 years and $45 to $50 million and we are still in the investigative stage where, as I mentioned the other night, a 16-year-old son of an individual was subpoenaed by FBI agents at his school. I mean, how does his son go back to school the next day?

We have gone overboard in this whole thing. And if we are worried about Big Brother and big government watching us before, with the abuses we have seen in these investigations from Ken Starr to the gentleman from Indiana (Mr. BURTON), where is government going to show up tomorrow?

It is not a good day, not a good day at all. I thank the gentleman from Wisconsin (Mr. BARRETT) for joining us here tonight and I appreciate his input. And I know I am going to continue to speak out on these abuses. I think, as I said before this evening, if we do not, those of us who are elected to uphold the law, then I think we fail in our duties as elected representatives in the democracy.

Mr. BARRETT of Wisconsin. In the spirit of fair play, my friend, the gentleman from Georgia (Mr. KINGSTON) is here and he indicated he wanted to put in his word on the other side. So I am more than happy to yield to the gentleman.

Mr. KINGSTON. Mr. Speaker, let me ask my friends: They all have been kind of bashing the style, not the person, but the style of our friend the gentleman from Indiana (Mr. BURTON) who we all know to be a man of integrity and of honor. But they mentioned the rules about putting Congress under the same laws as the private sector.

Did my colleagues vote for that rule, which was, as my colleagues know, a Republican rule and generally passed on a partisan vote? Did they leave their side of the aisle and vote with the Republicans to make that a reality on the first day of Congress in 1995?

Mr. BARRETT of Wisconsin. Yes, I did. In fact, I was a cosponsor of that bill to have the laws that apply to the private sector also apply to Congress.

Mr. STUPAK. And the same for me.

Mr. KINGSTON. I am glad to see that.

Would my colleagues urge their Democrat colleagues, the 19 who will not vote for immunity for the key witnesses, in order to get around this partisanship, in order to get on with the investigation, would my colleagues urge their Democrat colleagues to vote for immunity, the ones that the Democrat Department of Justice have given and granted immunity to?

Mr. BARRETT of Wisconsin. I am one of those 19 that did not vote for it. And I will not vote for immunity tomorrow because I do not believe this is an attempt to find truth. I do not think this is a fair investigation.

Mr. KINGSTON. If the gentleman would further yield, one of those witnesses is a guy named Kent La, who, as my colleagues probably know, is an associate of Ted Sioeng, who is a business operative with the Red Pagoda Mountain Tobacco Company, which, as my colleagues know, is the third largest selling cigarette in the entire world and it is Communist-owned, and it gave $400,000 to the Democrat National Committee.

Do my colleagues not think that it is important to hear from Kent La on why would a Communist-owned cigarette company give $400,000 to the Democrat Committee?

Mr. BARRETT of Wisconsin. Reclaiming my time, I do not know what the gentleman would be testifying to; and that is part of the problem we have had in the committee. We have given immunity to an individual earlier. He came in. There was no proffer of his testimony. He gave testimony that was different than what the committee expected.

So, again my point is, under the leadership of the gentleman from Indiana (Mr. BURTON), this committee does not have credibility.

Mr. STUPAK. Mr. Speaker, reclaiming my original time, let me answer that quickly if I may.

My problem with this is, the way my colleague phrased his question is, because this person was an associate and there was a business operative and there is a Communist cigarette, he just made three assumptions there.

My answer would be, send the FBI agents out. Check with this individual. If there is a need to bring him before a committee and need to subpoena him, then do their investigation before they subpoena.

CAMPAIGN FINANCE INVESTIGATIONS

The SPEAKER pro tempore (Mr. BURR of North Carolina). Under the Speaker's announced policy of January 7, 1997, the gentleman from Georgia (Mr. KINGSTON) is recognized for one-half of the remaining time tonight.

Mr. KINGSTON. Mr. Speaker, let me get back to the point and invite the gentleman from Michigan (Mr. STUPAK) to hang around if he wants to, who I happen to think a lot of, incidentally.

But Kent La, the man who would be the witness to the Burton committee, which we will vote on tomorrow, and I certainly urge my friend from Wisconsin to reconsider his position, which I would have a hard time believing that it does not have just a little hint of partisanship in it. But I know the gentleman well and I would think more of him than that.

So let me just say about Kent La, because apparently my colleagues have not heard of this guy. But he is an associate of Ted Sioeng and he is the United States distributor of Red Pagoda Mountain Cigarettes. He has a major stake in these cigarettes, the best-selling brand of cigarettes in China and the third largest selling cigarette in the world. The company is owned by the Communist Chinese Government; a fact.

Ted Sioeng and his associates gave $400,000 to the Democrat National Committee. Of this amount, Kent La, the witness, gave $50,000. Now, every witness that has come before their committee has said, "You need to interview Kent La." But Kent La has invoked the fifth amendment. He is one of the 92 who have fled the country or taken the fifth amendment. But he is saying he will testify if he has immunity.

The Democrat Department of Justice gave him immunity. But on the committee, the Democrats are blocking his opportunity to be a witness. Now, inasmuch as this investigation is not about the gentleman from Indiana (Mr. BURTON) but about campaign financing, why will not my colleagues vote to give the guy immunity?

Mr. BARRETT of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Wisconsin.

Mr. BARRETT of Wisconsin. Two corrections. I serve on the committee. My colleague made the statement that the Department of Justice has given him immunity. If the Department of Justice had given him immunity, there would be no need for our committee to give him immunity.

Mr. KINGSTON. Reclaiming my time just to say that the gentleman is correct. What they said, and they said it in writing, is that they have no problem with the committee giving him immunity. So he is correct on a technicality. But again, that is only a technicality. The matter is, what does the witness have to say?

Mr. BARRETT of Wisconsin. If the gentleman would further yield, the second statement that he made I want to correct. My colleague stated that every witness who has come before this committee has talked to this gentleman. I cannot recall a single witness who has testified before this committee who has made that statement. I am on the committee. Not a single witness has said that.

Mr. KINGSTON. Not a single witness has. But let us say my colleague scored.

Mr. STUPAK. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Michigan.

Mr. STUPAK. That just defeats his question, then, if my colleague just agreed with the gentleman from Wisconsin (Mr. BARRETT).

Mr. KINGSTON. Reclaiming my time, and I want to get to my friend from the Upper Peninsula. But let me say this; my colleague wins on a technicality. Two technical points, two minor technical points; they win.

The fact is, I want to know why my colleagues will not give the guy immunity to testify if they are really interested in getting to the truth.

Mr. STUPAK. Technical point. That is not a technicality when the gentleman from Wisconsin (Mr. BARRETT) tells my colleague, and he sits on the committee, that no witness has ever mentioned that the committee should interview this guy. That is not a technical point; that is the truth of the matter.

Mr. KINGSTON. Reclaiming my time, I guarantee my colleagues, I am going to give them that point.

Now my question is, when the Department of Justice has signed off on immunity, why will not my colleagues let the guy testify? And how could my colleague from Michigan say in good conscience that he is being fair and that he is really nonpartisan, he is really interested in getting at the truth, when he will not let a witness come before the committee?

Mr. STUPAK. If your question, and my colleague should have stayed at Michigan State longer because he would have learned this, if his question was and if the truth was that every witness said to have this guy testify, which the gentleman from Wisconsin (Mr. BARRETT) said that is not the truth, based upon his hypothetical, if this was true, I am sure, I cannot speak for committee members, I would vote for it if his statement was true.

Mr. KINGSTON. Reclaiming my time, I am not on the committee. I am not on the committee. I am giving my colleagues those two points.

The question is, and my colleagues know, the greater issue is not the punctuation of the sentence but it is the answer to the question; and the question is, why will my colleagues not let the guy testify?

Mr. Speaker, I yield to the distinguished gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. I thank my friend, the gentleman from Georgia, for yielding; because, Mr. Speaker, I think we have a very interesting case study here. We have here on the floor of the Congress, under the ostensible notion of nonpartisanship or bipartisanship, a very clever and very lawyerly-like dissemination and dissection on technical figures of speech. Indeed, to be completely accurate, if we want to indulge in these types of statements, I would have to gently correct my friend from Michigan; because the accurate statement from the gentleman from Wisconsin was that he could not respect anyone testifying, as my friend from Georgia said.

So we could be awash here in technicalities. But it is very instructive to listen to the tenure and tone of the preceding hour and indeed those characterizations that come to us, with apologies to Drew Pearson and Jack Anderson and others, in this Washington merry-go-round; because it sadly reduces to farce some very important concepts.

I listened with interest to the concerns of our friends from the other side about the gentleman from Indiana (Mr. BURTON), and let me commend them for being rather clever and I believe being totally partisan, while standing there cloaking themselves in the veil of nonpartisanship.

But there is a larger question tonight, Mr. Speaker; and it deals not with the chairman of any House committee, nor on the technicalities of parsing statements and trying to outlawyer each other. Though, for the record, I should point out I am not an attorney. "JD" does not stand for "juris doctorate"; and I consider that to be an asset, quite frankly. No, the larger question has to do with the rule of law in a society and a truly bipartisan attempt to get to the bottom of some very serious, serious allegations.

Indeed, if history is our guide, a quarter century ago, we saw bipartisanship when there were genuine concerns and indeed a constitutional crisis surrounding the White House, when the President made a claim of executive privilege that was overruled by the judicial branch.

Well, this Chamber and the other Chamber moved forward to solve that problem. So the bigger question tonight, as I am happy to yield time back to my colleague from Georgia, has nothing to do with the technicalities and the character questions of any Member of Congress. It has everything to do with over 90 witnesses who have either taken the fifth amendment or fled the country. And indeed, in that context and the serious, serious allegations surrounding not only those actions but what has transpired perhaps at the other end of Pennsylvania Avenue, I would submit to my colleague from Georgia, my friends from the other side of the aisle, that this has little to do with the chairman of any committee here and everything to do, sadly, with this administration and the curious behavior and the curious defenses offered by the left.

Mr. STUPAK. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Michigan.

Mr. STUPAK. I agree with the gentleman from Arizona (Mr. HAYWORTH) that this is a very serious matter and should be taken very seriously. And the part that upsets maybe us and the reason why I have been taking to the floor is, let us go back to the original question that the gentleman from Georgia (Mr. KINGSTON) asked about this individual and the Justice Department granting him immunity and that every witness before the committee, and the only one here who is on that committee is the gentleman from Wisconsin (Mr. BARRETT), said they should interview this guy.

□ 2230

There were about three things wrong with that. See, the problem is this, we are throwing out these accusations which, when corrected, we call a technicality. But when we hurl an accusation in the position we are in as elected Members of the Congress of the United States, it is very important, before we impugn people's reputations, before we make accusations that the facts be crystal clear.

Mr. KINGSTON. Mr. Speaker, let me reclaim the time here, because we can talk about Kent Law, but I have already said you can have the technicality on that. I am not on the committee.

But what I do not quite understand is, do you not have the slightest bit of curiosity as to why the guy who works for the Chinese Communist-owned Red Pagoda cigarette company, why they gave $400,000 to the Democratic National Committee?

I yield to my friend from Michigan.

Mr. STUPAK. To answer the gentleman's question, if your three points were correct, that Justice gave them immunity, that every witness said that it is true——

Mr. KINGSTON. Reclaiming the time. Listen, my friend from the Upper Peninsula, this is part of the Democratic tactic of delay, of distract. I am saying, hey, do you know what, I only know what I read. My question is, forget the technicalities. Tell me why you do not think it is important for a guy to testify.

Mr. STUPAK. If you would let me.

Mr. KINGSTON. Still claiming the time, if you do not want to talk about Kent Law and grant him immunity, what about the $3 million that was funneled through John Huang, which the Democratic National Committee had to return? Does it concern you that the Chinese Government may have been trying to influence the election process?

Or if you do not want to talk about that, could we talk about why Webb Hubbell got $700,000 in money after he left his job and before he went to prison?

Or if you do not want to talk about that, can we talk about Charlie Trie, who is a friend of the President, from Arkansas who funneled $700,000 in contributions to the President's legal defense fund?

If you do not want to talk about that, could we talk about Charlie Trie's Macao-based benefactor that wired him $1 million from overseas banks.

There is enough here that surely we can talk about one issue besides the gentleman from Indiana (Mr. BURTON) and Republicans who do not say things correctly.

Mr. STUPAK. If the gentleman would yield, to the original question on the technicalities——

Mr. KINGSTON. No. Let me reclaim my time.

Mr. STUPAK. You have got to let me answer.

Mr. KINGSTON. No. I think you have already said you have given me an F for grammar, an F for credibility, whatever. I understand that. So do not go back down that trail. I am giving you another two.

Mr. STUPAK. Let me answer your question.

Mr. KINGSTON. Mr. Stupak, I was a salesman, and when you get the order, you get the order. The sale is over with. Go home. I am giving you the order. I am going on to a different issue.

Mr. STUPAK. I am trying to sign my name.

Mr. KINGSTON. I am trying to say, you won that round.

Now I am asking you, which one of these other issues do you want to talk about?

Mr. STUPAK. Mr. Salesman, I am trying to sign my name to your order form.

Mr. KINGSTON. I am always glad to yield to my friend, the gentleman from Michigan, in hopes that he will answer the question finally.

Mr. STUPAK. To sign your order, Mr. Salesman, the answer would be, yes, I would grant him immunity if I was on the committee. Based upon those facts, if they were correct, I would grant him immunity. That is your original question. I would agree with you.

Mr. KINGSTON. How about the gentleman from Wisconsin?

Mr. BARRETT of Wisconsin. I am on the committee.

Mr. KINGSTON. Have we sold you, brother? Can you come around?

Mr. BARRETT of Wisconsin. For me, the issue is credibility and fairness. So you can paint these pictures. I am standing here with no documents; you have got some documents that obviously have been prepared as a tactical point.

Mr. KINGSTON. Reclaiming the time, this is, as a matter of fact, available to you, as it is me. It is the statement of the gentleman from Indiana (Mr. BURTON).

Mr. BARRETT of Wisconsin. That is fine. It is over. For me, it is over in the committee. When you have a committee chair that uses a term, calls the President a term that I think both of you gentlemen would wash out your kids' mouth with soap and says he is out to get the President, I think it flunks the fairness test. That is what it is. It has flunked the fairness test, and it has flunked the credibility test.

Mr. KINGSTON. So because the gentleman perceives the procedure as being unfair, then he says there is no problem.

Mr. BARRETT of Wisconsin. No. No.

Mr. KINGSTON. The issue is the gentleman from Indiana (Mr. BURTON) is so unfair that the potential that the Chinese Communist government is infiltrating our government is not an issue because we do not like the gentleman from Indiana (Mr. BURTON).

Mr. BARRETT of Wisconsin. Would the gentleman yield?

Assuming what you say is true, and I do not know that it is, and that you are bothered by it, I think you heard us talk about every single editorial has said this committee basically has lost its credibility.

Mr. KINGSTON. Wait a minute. Reclaiming the time, if I can go on the technicality argument so eloquently demonstrated by my friend from Michigan, you said "every editorial." Why, that is not true at all. The editorials in my hometown paper, the editorial that I have somewhere around here from the Washington Post says get over the gentleman from Indiana (Mr. BURTON). Look at the tapes. So if you want to get into that—

Mr. HAYWORTH. Indeed, I thank my friend from Georgia because, since we sadly have lapsed into hyperbole and always want to be mindful of the technical requirements of our good friend, the gentleman from Michigan, we can indulge in an institutional memory in this Chamber long before I arrived here.

Indeed, the Wall Street Journal opined on this subject this morning, discussing the tactics of previous chairmen in this House, how one gentleman "used to arrange to have full, detailed news stories appear the same morning his victims were scheduled to testify."

It is very interesting to hear these protestations of a lack of fairness when history is replete with so many abridgements, so many convenient sharings of facts from so many committee chairmen for so long under a previous majority. Again, while we could score debating points, that simply only serves to distract us and play tit for tat when there is a larger question at stake.

Though the truth may ultimately turn out to be uncomfortable perhaps for us all, indeed for us all, why would anyone choose to obfuscate and call into question fellow Members of Congress when, instead, the problem, as much of the evidence indicates, has little to do with the rules of this House and everything, sadly, to do with the reported practices, questionable practices of fund-raising and relationships, and sadly what in fact could turn out, Mr. Speaker, to be crimes.

Why not get to the heart of the matter? The people in my district want to know.

Mr. KINGSTON. Reclaiming the time, we have about 30 minutes. I want to say that you are the first two Democrats who would be willing to come down here and discuss this. It speaks well for both of you and your convictions.

I wanted to say, also, there are certainly a lot of gray areas in this whole debate. But I also say that there is a heck of a lot of partisanship being exhibited that goes beyond the gentleman from Indiana (Mr. BURTON).

Why do we not do this? Why do we not all kind of keep this ball rolling and talk for about a minute each, and everybody can get in his point or two. Of course, if I look real bad, I will claim more time, but if that is agreeable, why do we not do that?

Mr. BARRETT of Wisconsin. I would be more than happy to. It is your time.

Mr. KINGSTON. I yield to the gentleman from Wisconsin, and I will keep this on my watch.

Mr. BARRETT of Wisconsin. Okay. If I wanted to be a partisan hack on this issue, the smartest thing in the world for me to do would be to say, keep the gentleman from Indiana (Mr. BURTON) in that chairmanship, because I have seen these editorials, and I mentioned the editorials I have referred to. The editorials have skewered them. They have not been good, frankly, for the Republicans.

So I would say let him stay there, but I am interested in having the truth. I think that there are other people on this committee, I am on this committee, the gentleman from California (Mr. COX), the gentleman from Connecticut (Mr. SHAYS), the gentlewoman from Maryland (Mrs. MORELLA), the gentleman from California (Mr. HORN), there are many others on that committee who could run that committee and frankly would have credibility.

I think what we have to do is, we have to have a search for the truth. Again, for me, sadly the committee no longer has credibility. That is what the issue is for me. I would be lying to you if I told you anything else. It just simply no longer has any credibility.

I want to thank the gentleman from Georgia (Mr. KINGSTON). As usual, he is a gentlemen. And I appreciate the opportunity to engage with him on this, and the gentleman from Arizona (Mr. HAYWORTH) as well.

Mr. KINGSTON. Do not leave yet, because I do want to respond to that. The gentleman's 60 seconds were just running out.

Let me say this, if the gentleman from Illinois (Mr. HYDE) was the chairman of that committee or the gentleman from Florida, (Mr. CANADY) or the gentleman from Florida (Mr. MCCOLLUM), from a distance, it sounds great.

But when we think about what happened to the gentleman from Michigan (Mr. EHLERS) when he was looking at California vote fraud, he and the gentleman from Ohio (Mr. NEY), the cochair, leading people on that committee were accused of racism even though both Republicans have Hispanics in their immediate family, the gentleman from Michigan (Mr. EHLERS), three Hispanic grandchildren, but he was called a racist by many, many Democrats.

I think that we have gotten into this habit of, if you do not like the content of the debate, attack the person. So if it was not the gentleman from Indiana (Mr. BURTON) and it was the gentleman from Illinois (Mr. HYDE), I am sure we would all start talking about something about him that folks found offensive.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. STUPAK). And, note, I came in at 10 seconds left to go.

Mr. STUPAK. A couple of things. You agreed on the point that we were on some technicalities, but when you are doing investigations like this, or discussions, technicalities, truth has to prevail over technicalities. In the last comments of gentleman from Arizona (Mr. HAYWORTH), you know he is talking about all these other things, but the end does not justify the means.

We have the Constitution here. We have an oath of office. We have a Bill of Rights. We have a Privacy Act. The gentleman from Indiana (Mr. BURTON) was warned not to release those things, and he still did. There the end is trying to justify the means, and you cannot do that. You cannot trample constitutional safeguards to make your points, whatever they may be.

I do not think the gentleman from Illinois (Mr. HYDE) or the gentlewoman from Maryland (Mrs. MORELLA) or the gentleman from California (Mr. HORN) or any others would have done that when they get a letter from the AG saying, this is highly sensitive, do not do that. I do not believe we would have been reading about these tapes in the paper. I think they are sensitive to those things.

I do not think there is a personal agenda with these others, which the gentleman from Indiana (Mr. BURTON) has more or less admitted to. That is what loses credibility in our eyes and the eyes of the American people.

Mr. KINGSTON. Mr. Speaker, I yield to Mr. HAYWORTH.

Mr. HAYWORTH. Mr. Speaker, let me congratulate my friends from the other side for again trying desperately to shift this focus to another Member of Congress, who has endured great criticism in the media, as have other people who are not Members of Congress. The name Kathleen Willey comes to mind and many others who have been placed in a situation where, if they appear to make statements that are contrary either to the minority on this Hill or to those who now reside at the other end of Pennsylvania Avenue, are called into question, their character is called into question. But I think it is worth noting, if we accept for just a minute the premise that——

Mr. KINGSTON. Mr. Speaker, the gentleman's time has expired.

Mr. HAYWORTH. Let me thank my friend, the gentleman from Georgia, for being so judicious to our colleagues on the other side of the aisle.

Mr. KINGSTON. The clock does not lie.

Mr. HAYWORTH. I will sit back and listen with great interest to what the gentleman has to say.

Mr. KINGSTON. It is not my time. I was going to yield to the gentleman from Wisconsin (Mr. BARRETT), but I will yield my time to the gentleman from Arizona (Mr. HAYWORTH).

Mr. BARRETT of Wisconsin. I will thank the gentleman from Georgia very much. He has been a gentleman.

Mr. HAYWORTH. Can I just make a point? This is a very serious question for the American people. I appreciate the comity and the civility, but I would hope on this issue and many others it would never degenerate into levity because what we are discussing is very serious. It goes to the heart of our constitutional Republic.

My friend, the gentleman from Michigan said the ends do not justify the means. Accepting that, then all these matters could be cleared up if over 90 witnesses had not either taken the fifth amendment or fled the country.

Indeed, Mr. Speaker, if the President of the United States who several weeks ago told the press corps and, by extension, the American people that we deserve the facts sooner, not later, would simply come forward and share those facts with the American people. Again, I would remind my friends who remind us that the ends do not justify the means, who are quick to point to our Constitution that, indeed, the Constitution of the United States gives this branch of government, the legislative branch of government, oversight of the actions in the other two branches.

□ 2245

Oversight of actions in the executive branch of government. And, indeed, I am sorry my friend from Michigan did not stay with us, Mr. Speaker, because there is one question that is out there. For if the ends do not justify the means, how then do we reconcile not only the gulf between the statement of our President, who said the American people deserve the facts sooner, rather than later, how then do we also reconcile, Mr. Speaker, the statements of the Vice President of the United States, who in meeting the press after allegations, and indeed later substantiated that fund-raising phone calls were made on Federal property from the White House, then attempted to tell the American people at a press conference that his legal counsel informed him there is no controlling legal authority?

You see, Mr. Speaker, and my colleague from Georgia, this goes to the heart of the matter. There is a controlling legal authority. It is called the Constitution of the United States, and, by extension, the Constitution articulating that it is the Congress of the United States that shall have that oversight.

Indeed, the question remains, as I listened with great interest to my friend from Wisconsin, at long last, is there not one, is there not one member of the minority, who would step forward to vote to grant immunity, as advocated by the Justice Department, so that these serious allegations can be addressed? Is there not one who is willing to step forward?

Is there not one who can heed the lessons of history? And I think, Mr. Speaker, of the former Senator from Tennessee, Howard Baker, who put principle above partisanship, who was willing a quarter century ago to let the chips fall where they may. And I just wonder Mr. Speaker and my colleague from Georgia, have our friends on the other side taken a profoundly different lesson from that history, that the notion of stonewalling and obfuscation and changing the subject can somehow resonate?

Good people can disagree, but the truth should be our guide.

Mr. KINGSTON. If the gentleman will yield, it is interesting you brought up the contrast of Howard Baker and the Republican minority during the Watergate scandal compared to JOHN GLENN. You know, JOHN GLENN, my elementary school hero shared by so many kids, how far he has fallen from those days, high in the stratosphere, to being a lowly politician.

Here is a quote that when he was the ranking member of the Senate Oversight Committee on the Thompson committee, FRED THOMPSON asked how the investigators could get more information when so many people had fled the country? JOHN GLENN's response was, "That is their problem."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BURR of North Carolina). The Chair would remind Members that it is not appropriate to make references to sitting members of the Senate, and would ask the Members to respect that.

Mr. KINGSTON. I think that is a good point, Mr. Speaker. I will submit this for the record, because it is straight out of the editorial page, May 11, Roll Call Magazine.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair cannot entertain a request to insert personal references to a sitting member of the Senate.

Mr. KINGSTON. Mr. Speaker, I will move on.

Here we have a situation where DAN BURTON's big crime, even though he has broken no law, but he is being accused of disclosing doctored tapes. First of all, no tapes whatsoever were altered. These were not tapes that were eavesdropping, surreptitiously sneaked into the household of the Hubbells.

This is where Webb Hubbell, convicted felon, sat in jail and talked with his wife when she came to visit him, and over their head was a sign that said, "All conversations are recorded. If you want your lawyer, come get him." These tapes are public. They came from the prison. Webb Hubbell is a convicted felon.

In those tapes, Ms. Hubbell makes reference to the fact that she is worried about losing her job in the Department of Interior if they do not cooperate with apparently the White House.

In there Ms. Hubbell talks about the White House squeeze play. In there Mr. Hubbell talks about, "I will have to roll over again for the White House."

These are serious matters. Why did they make these statements? Yet not one Democrat member of the committee has the slightest bit of curiosity about it.

Mr. HAYWORTH. I thank the gentleman from Georgia. Again we should point out that since there was the great brouhaha between the alleged discrepancies in the transcript from the majority and the minority version as sent out by the ranking minority member, Mr. WAXMAN of California, both transcripts contained that verbiage.

Again, my colleague from Georgia, would you repeat the comments of Mrs. Hubbell and the comments of Mr. Hubbell? Because I think it is important, Mr. Speaker, that the American people take note that even amidst the great hue and cry and wailing and gnashing of teeth and technical arguments offered by the other side, these statements appeared in both transcripts and directly on the audio tape. Those statements again, Mr. KINGSTON, were?

Mr. KINGSTON. That Ms. Hubbell feared that she would lose her job at the Department of Interior if Mr. Hubbell took actions against the Clintons. Ms. Hubbell said she feels she is being squeezed by the White House. Webster Hubbell says, "I will have to roll over one more time for the White House." That comes from what, 180 hours worth of tapes.

Keep in mind, I will yield back to you, but between the time he resigned from his job and was convicted, Webb Hubbell received $700,000 in payments from friends and associates of the President. $100,000 came from the Riady family associated with the Lippo Group of Indonesia. The payment came within 10 days of a meeting at the White House involving the President, John Huang, James Riady and Webster Hubbell.

This is serious stuff. This is not about DAN BURTON and his style as chairman and how he may have offended somebody. This is about the security of the United States of America. This is serious stuff.

Mr. HAYWORTH. I thank my colleague for yielding. Again, I am not an attorney, I never played one on TV, but there is an expression in the law dealing with a preponderance of physical evidence.

Now, Mr. Speaker, it bears repeating. Despite the valiant efforts at misdirection to focus attention on a committee in this House, again, what is at stake here is the rule of law and, yes, sadly, alleged law breaking within the executive branch of government, with actions taken by those involved in fundraising for the reelection efforts of those involved in the executive branch of government, with apparent foreign donations.

From where I hail, Mr. Speaker, the Sixth District of Arizona, we are always on the watch for wildfires in our wooded areas in the northern part of the district. The expression "Where there is smoke there is fire" often, often, appears to be true.

Now, Mr. Speaker, what the American people need to keep in mind is more than a curiosity, how a disgraced former Justice Department official could, between the time of his sentencing and his arrival in Federal prison receive $720,000 in income, that is a major question, and how over 90 witnesses in the committee's investigation of these matters have either taken the Fifth Amendment against self-incrimination or have fled the country.

Mr. Speaker, the people of the Sixth District of Arizona, whom I am honored to represent, offer this common observation: Is there not fire where the smoke appears; or at least should not that be investigated? And indeed there are pressing problems, problems I am prepared to address from the well of this House with my voting card in terms of the issue that confront us.

But our constitutional charge, Mr. Speaker, is to uphold and defend the Constitution of the United States. Do we sacrifice the Constitution to convenience, or to the predictable cacophony of protests from left-leaning newspapers and editorial boards across the country? I would say no, that principles should always eclipse polling, and that principles should transcend popularity. This, Mr. Speaker, goes to the fundamental question of the rule of law.

Dwight Eisenhower offered a guide for those of us involved in public life. President Eisenhower's admonition was to never indict personalities when dealing with subjects of interest: never to engage in personalities.

By Ike's standard, Mr. Speaker, indeed by the standards of the American public, what we have seen with the spirited campaign of disinformation, whether it comes against Katherine Willey or a chairman of a committee of the Congress of the United States, celebrated in a book written by a Washington Post journalist as being the spin cycle, what we have seen, sadly, in our public discourse and dialogue, is every effort to engage in personalities, and, indeed, through spin, one could fancy that someone as virtuous as Albert Schweitzer could be transformed in the spin cycle to someone as loathesome as Charles Manson.

Mr. KINGSTON. If the gentleman will yield, I think that that is what is very important. I do not believe that the President of the United States is as guilty as some people seem to believe that he is. I really do not. I think he is surrounded by some characters who are very shady, very suspicious and who have broken some laws, and my direct question is, what laws were broken, why were they broken, and did the United States security suffer from it?

If the gentleman does not mind, I want to make a point. We hear so much about Ken Starr is on a witch hunt. Let me give you the names and charges and the year that people that he has dealt with have been convicted.

David Hale, conspiracy, false statements, 1994; Charles Matthews, bribery, 1994; these are all convicted. Eugene Fitzhugh, bribery, 1994; Robert Palmer, conspiracy, 1994; Webster Hubbell, fraud, 1994; Kneel Ainley, fraud, 1995; Chris Wade, fraud, 1995; Stephen Smith, conspiracy, 1995; Larry Kuka, conspiracy, 1995; James McDougal, fraud, 1996; Susan McDougal, fraud, 1996; William Marks, fraud, 1997; Governor Jim Guy Tucker, fraud, 1996 and 1998; John Haley, fraud, 1998; Webster Hubbell, this is under indictment, tax evasion, 1998; Susan McDougal, obstruction, contempt, 1998.

This is finding the head of the snake. Slowly but surely, these people, by a Democrat-appointed special prosecutor, have been convicted. Yet we hear over and over again that this is a witch hunt.

I am very concerned about the integrity of the government and the security of the United States when we hear such rhetoric.

Mr. HAYWORTH. I thank my colleague for yielding. The irony of some of the point-counterpoint, Mr. Speaker, is nothing short of breathtaking. Indeed today, as Members of the press faithfully reported, our President held a conference and invited the press corps in to talk about international justice and the pursuit of those who had allegedly committed crimes against this Nation beyond our borders and the concern of the pursuit of international justice.

Mr. Speaker, I would submit that the most meaningful first step that our President could take toward preserving international justice would be to use the considerable power of his good offices to persuade over 90 individuals who have either taken the Fifth Amendment or fled the country to testify and cooperate fully and/or to return to these shores so that they might be questioned.

□ 2300

Again, Mr. Speaker, the people of the Sixth district of Arizona who have contacted me on this issue say, hey, listen, where there is smoke there is fire, or at least you should check these things out; respectfully request that if, in fact, there is nothing to these stories, and indeed we all share the notion of a presumption of innocence until guilt is proven, why then is there such stonewalling? Why then is there such a reluctance to have at the truth? Why then are we subjected to the cavalcade of personal attacks based on whomever may level an accusation or make a charge at that particular moment within the press corps?

The expression has to do with a preponderance of physical evidence. Indeed, sadly, there is a preponderance of rhetorical evidence and a cycling of the spin cycle which indicates sadly that behavior seems to be contrary to the desires the American people have for a full, fair disclosure of the facts.

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield, I think that when we have a situation where 92 witnesses have fled the country and we have 4 witnesses who the Justice Department says it is okay to give immunity to, and we have 19 Members of the Democrat committee who will not let these 4 witnesses, 4 very, very key witnesses, who will not let them testify under the guise that the gentleman from Indiana (Mr. BURTON), chairman of the committee, has done something wrong, it is pretty ridiculous. It is a sad day for partisanship. It is a new low.

The gentlemen who were with us earlier tonight are men of integrity. I think of them as I know the gentleman does. And I know that it is true that honest people can have honest disagreements. But it would appear to me that out of 19 Members on the committee, surely one wants to hear why an operative with a Chinese-owned cigarette, Communist-owned cigarette company, why he gave $50,000 to the White House and why that company gave $400,000. I would want to hear what the witness had to say, just for that alone.

Mr. Speaker, it is the same pattern over and over again that we keep hearing; well, not this witness, not now. Of course I want to cooperate, but not tonight, not this particular day for whatever reason. We hear so much about the DAN BURTON releasing-of-the-tapes that were not altered one bit. The transcripts had mistakes on them, and that was brought forward.

Now, where was this righteous indignation when Craig Livingstone and the White House operatives had 900 FBI files of private citizens, none who were in jail, none who were convicted felons like Webb Hubbell, why do we not have the moral outrage about 900 FBI files of private citizens being reviewed over at the White House?

Mr. HAYWORTH. Mr. Speaker, indeed, as my colleague from Georgia points out, how profound the gulf between the assertion of the then President-elect in late 1992 that it was his intent to have the most ethical administration in history. How wide the gulf between that assertion and promise and sadly, what has transpired, because not only 900 FBI files, not only serious questions involving foreign donors to political campaigns, not only straining assertions of no controlling legal authority from other members of the administration, but the fact that 5 current or former members of this President's Cabinet are under investigations, either former or ongoing by independent counsels.

Mr. KINGSTON. Incidentally, Mr. Speaker, I want to make the point that Don Schmaltz who is the independent prosecutor investigating the scandals at the Clinton USDA, 1995, the Justice Department wanted to fire him and call him off the investigation. Today, he has had 4 convictions and brought in $10 million worth of fines. Now, we do not hear anybody saying hey, what a fine job this guy has done. All we hear is Starr is spending too much money. What about Schmaltz?

Mr. HAYWORTH. Indeed, if we wanted to compare independent prosecutors, one need only look so far as the efforts of one Lawrence Walsh in the so-called Iran Contra affair, an investigation that continued, if memory serves me correctly, for upwards of 7 years and cost several additional million dollars than any funds spent here to date on this modest attempt to get at the truth.

Mr. KINGSTON. Mr. Speaker, I want to point out also under the Democrats, we had an 8-year investigation of Labor Secretary Ray Donovan and a 7-year investigation of HUD Secretary Samuel Pierce, and on those, I do not think there were any convictions. Starr has not been on the case 4 years, has spent $24 million, and had 14 convictions or guilty pleas. If we could get cooperation in a bipartisan manner, we could probably cut the time and the dollar amount in half.

Mr. HAYWORTH. Mr. Speaker, this comes back to a point that I believe needs to be reinforced, Mr. Speaker, the point that my colleague from Georgia makes so eloquently. Every time I am home in the Sixth district of Arizona, every week I appreciate the bipartisanship, and just the common sense of the citizens whom I am honored to serve. And these questions as they are addressed to me do not come up as questions of Republicans versus Democrats or Congress versus the White House per se; the people who contact me have a legitimate concern about knowing the truth. And that is what this should be about, despite the best efforts to change the focus, to denigrate the actions of others, to complain about substance or complain about time and ignore substance and substantive facts, that remains the mission.

Indeed, Mr. Speaker, in this hour of difficulty, I think it is incumbent upon us all to simply ask a question: Are we prepared to defend the rule of law? Are we prepared to find out the truth? Regardless of political philosophy or partisan stripe, are we prepared to do those things? Should we not do those things in this society? Should we not reaffirm that no person is above the law? Should we not reaffirm that there is a controlling legal authority in our society? It is called the Constitution of the United States. Woe to us as a constitutional republic, woe to us as a society if we say, no, it is really not important. It has everything to do with the future of our constitutional republic and fairness and the rule of law.

Mr. Speaker, I thank the gentleman from Georgia (Mr. KINGSTON) for sharing this time, and I know he has some closing thoughts.

Mr. KINGSTON. Mr. Speaker, let me just say this: I think it is important for us to know that justice knows no party. If Republicans have done wrong, let them pay the price. If Democrats have done wrong, let them pay the price. Whether the person is popular or not, let justice be blind, and let us do it in a bipartisan manner.

These attacks on the chairman and Members of Congress and the investigators have to stop. Let us all be serious. Billy Graham, Perry Mason or Mickey Mouse, in doing the investigation of the chairman of the committee, they too would be attacked and smeared and denigrated. It is time to stop it, it is time to work together to get this thing over with so that we can go on to the business of the people: balancing the budget, protecting our streets from illegal drugs, reforming health care, preserving and protecting Medicare and Social Security, and doing all of the important things we need to do. Let us get past this investigation and do the work of the great American people.

☐ 2310

A CALL FOR AN INVESTIGATION OF MALTREATMENT OF PERSONNEL IN THE U.S. NAVY

The SPEAKER pro tempore (Mr. BURR of North Carolina). Under the Speaker's announced policy of January 7, 1997, the gentleman from Illinois (Mr. RUSH) is recognized for the remainder of the time until midnight.

Mr. RUSH. Mr. Speaker, I come before you today to bring to your attention a disturbing pattern of conduct that has taken place in the United States Navy. My constituent, Lt. Commander Sheryl Washington, who is in the gallery, is a victim of an effort by the U.S. Navy to stifle the voices of those who dare to bring to the surface the maltreatment of those who serve our Nation.

Lt. Commander Washington is an 18-year veteran of the Navy. She has been brought up on charges and an administrative separation proceeding because she supposedly refused to appear for duty. Such administrative proceedings are used to remove persons from military service. Lt. Commander Washington was absent from duty because she was convalescing following a serious automobile accident. Her commander claims she did not contact him during this time. However, Lt. Commander Washington has phone records which clearly disprove this charge.

Lt. Commander Washington was found to be medically disabled by both military and civilian physicians. In total, Lt. Commander Washington was absent for about 3 weeks, from November 12, 1996, to December 2, 1996. She was excused from duty by the military physician from November 15 through the 22nd, as well as November 27th through December 2nd. Ironically, it is this excused period of time that is the basis of the action taken against her, as opposed to the entire 3 weeks of her absence.

I ask Members, how is it possible that a person can be brought up on charges of misconduct for only part of the time that they are absent, and such absence has been justified by military medical personnel? Maybe someone can answer that question. I certainly do not have the answer. It does not seem logical to me.

I question the judgment of Navy personnel in the handling of this matter because, as I indicated earlier, their logic is severely flawed. A period of absence is authorized or it is unauthorized. It cannot be both. I ask the Navy, was Lt. Commander Washington's absence authorized or unauthorized? I state, it cannot be both.

Furthermore, Lt. Commander Washington has submitted to a polygraph examination, which she passed, but for some reason the witnesses whom the Navy is relying upon have not agreed to take a polygraph examination. Does the Navy have a double standard? It appears so to me and to others.

While stationed at Miramar Naval Base, Lt. Commander Washington became aware of the fact that an African American woman who was also stationed there had been gang-raped and sexually assaulted. Both Washington and the rape victim were assigned to the rehabilitation center. Although senior people in the chain of command were aware of what was happening to this young woman, no action was taken by the admiral or any other officers in charge, and this admiral's name is Admiral Marsh.

Perhaps the officers at Miramar thought the rape of this woman was justifiable punishment because she had the audacity to let it be known that she believed that there had been a misappropriation of equipment and supplies by those in charge, knowledge which this young lady was told to keep to herself. Maybe that is why the powers that be did not think twice about the safety of this woman, because they assigned to her an all male barracks which had no privacy nor any sense of security.

This tragic rape of this young woman occurred in 1992, and no investigation took place until 1994, when a naval chaplain, Chaplain Willy Williams, had the courage to reveal what had happened to a reporter, who then reported the story on the evening news.

Lieutenant Commander Washington had previously reported her knowledge of these events to a chaplain, a previous chaplain at a naval base she was later assigned to in the area. It was her sense that this prior chaplain was aware of this misconduct, but was unwilling or afraid to do anything. It was not until the later chaplain, Chaplain Williams, came forward that an investigation commenced, 2 years after this tragic event happened to this young lady at Miramar.

It is ironic, bitter irony, that Admiral Marsh, who was in charge of the investigation into Lt. Commander Washington's conduct, is the same officer who is in charge of the Navy Alcohol Rehabilitation Center at Miramar Naval Base in San Diego, where Washington was stationed from 1991 to 1993, the same person, Admiral Marsh.

When Washington reported what she considered to be racist conduct by the commanding officer at Miramar, she was quickly transferred without notice. The recent investigations initiated, Mr. Speaker, at Great Lakes Training Center, located in the Chicago area, are yet another manifestation of the Navy's insensitivity to our service personnel.

Investigators have been sent to review recruitment and training policies amidst allegations of sexual misconduct, sexual harassment, improper relations between instructors and recruits, as well as an overall climate of hostility and intimidation. It is obvious from the events that have taken place that the U.S. Navy is more concerned with saving face than ensuring the integrity of our military system.

Upon learning of such, it is obvious that no lessons were learned by the Navy from the Tailhook scandal. It keeps going on and on and on, these allegations of sexual harassment, improper relations, discrimination, intimidation by superior officers.

Mr. Speaker, I sincerely, honestly believe in the essence of my soul that this situation surrounding Lt. Commander Washington and the brutal attack on naval female personnel, person, at Miramar deserves an immediate investigation.

□ 2320

The careers of stellar officers have been tarnished because of an environment of fear and forced silence is being perpetuated by the United States Navy. I am saddened by this, but we must all stand up, because if our military system cannot respect the lives of those who serve us, then they cannot truly serve and protect our Nation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BURR of North Carolina). The Chair must remind all Members that under clause 8 of rule XIV, it is not in order to introduce or otherwise call attention to persons in the gallery.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. MYRICK (at the request of Mr. ARMEY) for today on account of a death in the family.

Mr. BATEMAN (at the request of Mr. ARMEY) for today and the balance of the week on account of illness.

Mr. GILCHREST (at the request of Mr. ARMEY) for today and May 13 on account of official business.

Mr. SKAGGS (at the request of Mr. GEPHARDT) for today and the balance of the week on account of illness.

Ms. KILPATRICK (at the request of Mr. GEPHARDT) for Tuesday and Wednesday, May 12 and 13, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.
Mr. KLINK, for 5 minutes, today.
Mr. EDWARDS, for 5 minutes, today.
Mr. SNYDER, for 5 minutes, today.
Mr. ALLEN, for 5 minutes, today.
Mr. WISE, for 5 minutes, today.
Mr. FALEOMAVAEGA, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. HERGER) to revise and extend their remarks and include extraneous material:)

Mr. MCINNIS, for 5 minutes, on May 13.
Mr. DOOLITTLE, for 5 minutes, on May 14.
Mrs. MORELLA, for 5 minutes, on May 19.
Mr. JONES, for 5 minutes, on May 14.
Mr. HUNTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. KIND.
Mr. BENTSEN.
Mr. TOWNS.
Mrs. MALONEY of New York.
Mr. SANDLIN.
Mr. HAMILTON.
Mr. KUCINICH.
Ms. NORTON.
Mr. SCHUMER.
Ms. LOFGREN.
Mr. STARK.
Mr. MCHALE.
Ms. DELAURO.
Mr. ACKERMAN.
Ms. SANCHEZ.
Mr. PASCRELL.
Mr. FRANK of Massachusetts.
Mr. NEAL.
Mr. LANTOS.
Mr. HOYER.
Ms. KILPATRICK.

(The following Members (at the request of Mr. HERGER) and to include extraneous matter:)

Mrs. KELLY.
Mr. OXLEY.
Mr. MCKEON.
Mr. RADANOVICH.
Mr. FORBES.
Mr. FRELINGHUYSEN.
Mr. SOLOMON.
Mr. BEREUTER.
Mr. SMITH of New Jersey.
Mr. BONILLA.
Mr. SENSENBRENNER.
Mr. GILMAN.
Mr. ENSIGN.
Mr. BURTON of Indiana.

(The following Members (at the request of Mr. RUSH) and to include extraneous matter:)

Mr. NEAL of Massachusetts.
Ms. KILPATRICK.
Mr. RODRIGUEZ.
Mr. BONILLA.
Mr. SMITH of Michigan.
Mr. PACKARD.

ADJOURNMENT

Mr. RUSH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until Wednesday, May 13, 1998, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9095. A letter from the Deputy Under Secretary, Natural Resources and Environment, Department of Agriculture, transmitting the Department's final rule—Sale and Disposal of National Forest Timber; Indices to Determine Market-Related Contract Term Additions (RIN: 0596-AB41) received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9096. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Imidacloprid;

Pesticide Tolerance Correction [OPP-300628A; FRL–5785–4] (RIN: 2070–AB78) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9097. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Myclobutanil; Pesticide Tolerance [OPP-300647; FRL–5787–7] (RIN: 2070–AB78) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9098. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Azoxystrobin; Pesticide Tolerances for Emergency Exemptions [OPP-300648; FRL–5787–8] (RIN: 2070–AB78) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9099. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Bromoxynil; Pesticide Tolerance [OPP-300661; FRL–5790–8] (RIN: 2070–AB78) received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9100. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry [AD-FRL–6011–6] (RIN: 2060–AC19) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9101. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters [EPA-F–98–2P4F-FFFFF; FRL–6010–5] (RIN: 2050–AE05) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9102. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maryland; Definition of the Term "Major Stationary Source of VOC" [MD067–3025a; FRL–6012–5] received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9103. A letter from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules Concerning the Inspection of Radio Installations on Large Cargo and Small Passenger Ships [CI Docket No. 95–55] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9104. A letter from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Rule Making to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, To Reallocate the 29.5–30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service And for Fixed Satellite Services [CC Docket No. 92–297] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9105. A letter from the Chairman, Federal Housing Finance Board, transmitting the semiannual report on the activities of the Office of Inspector General, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9106. A letter from the Acting Director, Office of Federal Housing Enterprise Oversight, transmitting the Office's final rule—Implementation of the Privacy Act of 1974 (RIN: 2550–AA05) received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9107. A letter from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Amendment to Appendix III Listing of Bigleaf Mahogany under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (RIN: 1018–AE94) received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9108. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Coast Weakfish Fishery; Change in Regulations for the Exclusive Economic Zone [Docket No. 970829213–7213–01; I.D. 091696A] (RIN: 0648–AJ15) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9109. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 1998 Management Measures [Docket No. 980429110–8110–01; I.D. 042398B] (RIN: 0648–AK25) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9110. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Pacific Halibut Fisheries; Retention of Undersized Halibut in Regulatory Area 4E [Docket No. 980225048–8099–03; I.D. 021898B] (RIN: 0648–AK58) received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9111. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Maryland Regulatory Program [MD–041–FOR] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. COBLE: Committee on the Judiciary. H.R. 2652. A bill to amend title 17, United States Code, to prevent the misappropriation of collections of information; with an amendment (Rept. 105–525). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. H.R. 3303. A bill to authorize appropriations for the Department of Justice for fiscal years 1999, 2000, and 2001; to authorize appropriations for fiscal years 1999 and 2000 to carry out certain programs administered by the Department of Justice; to amend title 28 of the United States Code with respect to the use of funds available to the Department of Justice, and for other purposes; with an amendment (Rept. 105–526). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2886. A bill to provide for a demonstration project in the Stanislaus National Forest, California, under which a private contractor will perform multiple resource management activities for that unit of the National Forest System; with an amendment (Rept. 105–527). Referred to the Committee of the Whole House on the State of the Union.

Mr. COBLE: Committee on the Judiciary. H.R. 3723. A bill to authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes; with an amendment (Rept. 105–528). Referred to the Committee of the Whole House on the State of the Union.

Mr. DREIER: Committee on Rules. House Resolution 426. Resolution providing for consideration of the bill (H.R. 3534) to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes (Rept. 105–529). Referred to the House Calendar.

Mr. McINNIS: Committee on Rules. House Resolution 427. Resolution providing for consideration of the bill (H.R. 512) to prohibit the expenditure of funds from the Land and Water Conservation Fund for the creation of new National Wildlife Refuges without specific authorization from Congress pursuant to a recommendation from the United States Fish and Wildlife Service to create the refuge (Rept. 105–530). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 428. Resolution providing for consideration of the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes (Rept. 105–531). Referred to the House Calendar.

Mr. SPENCE: Committee on National Security. H.R. 3616. A bill to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes; with amendments (Rept. 105–532). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Texas: Committee on the Judiciary. H.R. 375. A bill for the relief of Margarito Domantay; with an amendment (Rept. 105–523). Referred to the Committee of the Whole House.

Mr. SMITH of Texas: Committee on the Judiciary. H.R. 1949. A bill for the relief of Nuratu Olarewaju Abeke Kadiri; with an amendment (Rept. 105–524). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. THOMAS (for himself, Mr. Stump, Mr. Bilirakis, Mr. Spence, Mr. Rangel, Mr. Stearns, Mr. Houghton, Mrs. Johnson of Connecticut, Mr. Sam Johnson, Mr. McCrery, Mr. Barrett of Nebraska, Mr. Bereuter, Mr. Boehlert, Mrs. Chenoweth, Mr. Christensen, Mr. Collins, Mr. Combest, Mr. Cook, Mr. Cooksey, Mr. Crane, Mr. Cunningham, Mr. Deal of Georgia, Mr. Doyle, Mr. Edwards, Mr. Ehrlich, Mrs. Emerson, Mr. English of Pennsylvania, Mr. Ensign, Mr. Everett, Mrs. Fowler, Mr. Fox of Pennsylvania, Mr. Frost, Mr. Gonzalez, Mr. Goodling, Ms. Granger, Mr. Greenwood, Mr. Hall of Ohio, Mr. Hall of Texas, Mr. Hayworth, Mr. Hefner, Mr. Herger, Mr. Holden, Mr. Hulshof, Mr. Hunter, Mr. Hutchinson, Mrs. Kelly, Mr. Kucinich, Mr. LaHood, Mr. Lampson, Mr. Lantos, Mr. Lipinski, Mr. Manzullo, Mr. Metcalf, Mr. Nethercutt, Mr. Portman, Mr. Redmond, Mrs. Roukema, Mr. Rush, Mr. Sanders, Mr. Sandlin, Mr. Saxton, Mr. Serrano, Mr. Skeen, Mr. Smith of New Jersey, Mr. Solomon, Mr. Stupak, Mr. Tanner, Mrs. Thurman, Mr. Tiahrt, Mr. Upton, Mr. Walsh, Mr. Watkins, Mr. Watts of Oklahoma, Mr. Whitfield, and Ms. Woolsey):

H.R. 3828. A bill to amend title XVIII of the Social Security Act to improve access to health care services for certain Medicare-eligible veterans; to the Committee on Ways and Means, and in addition to the Committees on Veterans' Affairs, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOSS (for himself, Mr. Bass, Mr. Boehlert, Mr. Young of Florida, Mr. Lewis of California, Mr. Gibbons, and Mr. McCollum):

H.R. 3829. A bill to amend the Central Intelligence Agency Act of 1949 to provide a process for agency employees to submit urgent concerns to Congress, and for other purposes; to the Committee on Intelligence (Permanent Select), and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HANSEN (for himself, Mr. Cook, and Mr. Cannon):

H.R. 3830. A bill to provide for the exchange of certain lands within the State of Utah; to the Committee on Resources.

By Mr. ANDREWS (for himself, Ms. DeLauro, and Mr. Weldon of Pennsylvania):

H.R. 3831. A bill to provide that children's sleepwear shall be manufactured in accordance with stricter flammability standards; to the Committee on Commerce.

By Mr. ANDREWS:

H.R. 3832. A bill to protect the Social Security system and to amend the Congressional Budget Act of 1974 to require a two-thirds vote for legislation that changes the discretionary spending limits or the pay-as-you-go provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 if the budget for the current year (or immediately preceding year) was not in surplus; to the Committee on Ways and Means, and in addition to the Committees on the Budget, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLAGOJEVICH (for himself, Mr. Castle, Mrs. McCarthy of New York, Mr. Conyers, Ms. Lofgren, Mr. Davis of Illinois, Mr. McGovern, and Mr. Nadler):

H.R. 3833. A bill to better regulate the transfer of firearms at gun shows; to the Committee on the Judiciary.

By Mr. ENSIGN (for himself, Mr. Gibbons, Mr. Gingrich, and Mr. LoBiondo):

H.R. 3834. A bill to amend the Internal Revenue Code of 1986 to provide that meals furnished to all employees at a place of business shall be excludable from gross income if most employees at such place of business are furnished meals for the convenience of the employer; to the Committee on Ways and Means.

By Mr. ENSIGN (for himself, Mr. Cardin, Mr. Fox of Pennsylvania, Mr. Christensen, Mr. Cook, Mr. English of Pennsylvania, Mr. Rahall, Mrs. Chenoweth, Mr. Gibbons, Mr. Nussle, and Mr. Deutsch):

H.R. 3835. A bill to amend title XVIII of the Social Security Act to repeal the financial limitation on rehabilitation services under part B of the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FALEOMAVAEGA:

H.R. 3836. A bill to amend the Federal Election Campaign Act of 1971 to clarify the right of nationals of the United States to make contributions in connection with an election to political office; to the Committee on House Oversight.

By Mr. HYDE (for himself and Mrs. Lowey):

H.R. 3837. A bill to amend title XXI of the Social Security Act to permit States to use funds under the State Children's Health Insurance Program for coverage of uninsured pregnant women; to the Committee on Ways and Means.

By Ms. KAPTUR:

H.R. 3838. A bill to amend title 10, United States Code, to require, in the evaluation of bids and proposals for a contract for the procurement by the Department of Defense of property or services, the consideration of the percentage of work under the contract planned to be performed in the United States, and for other purposes; to the Committee on National Security.

By Mr. KOLBE:

H.R. 3839. A bill to promote protection of Federal law enforcement officers who intervene in certain situations; to the Committee on the Judiciary.

By Mr. KUCINICH (for himself, Mr. Rangel, Mr. Schumer, and Mr. McGovern):

H.R. 3840. A bill to amend the Higher Education Act of 1965 to establish an Advanced Manufacturing Fellowship; to the Committee on Education and the Workforce.

By Mr. NEAL of Massachusetts (for himself, Mr. Moakley, Mr. Delahunt, Mr. McGovern, Mr. Markey, Mr. Frank of Massachusetts, and Mr. Meehan):

H.R. 3841. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain real property tax reduction vouchers received by senior citizens who provide volunteer services under a State program; to the Committee on Ways and Means.

By Mr. PETERSON of Minnesota:

H.R. 3842. A bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committees on National Security, Small Business, International Relations, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RODRIGUEZ (for himself, Mr. Bonilla, Mr. Reyes, Mr. Redmond, Mr. Gutierrez, Mr. Diaz-Balart, Mr. Hinojosa, Mr. Bilbray, Mr. Ortiz, Mr. Skeen, Mr. Filner, Mr. Hastings of Washington, Mr. Becerra, Mr. Paul, Mr. Serrano, Mr. Calvert, Mr. Engel, Ms. Sanchez, Mr. Evans, Mr. Gonzalez, Mr. Romero-Barcelo, Mr. Green, Mr. Meeks of New York, Mr. Frost, Mr. Schumer, Ms. Lofgren, Ms. Kaptur, and Ms. Roybal-Allard):

H.R. 3843. A bill to grant a Federal charter to the American GI Forum of the United States; to the Committee on the Judiciary.

By Mr. TAUZIN (for himself, Mr. Manton, Mr. Stearns, Mr. Pallone, Mr. Klug, Mr. Gordon, Mr. Greenwood, Mr. Sawyer, Mr. Crapo, Mr. Green, Mr. Deal of Georgia, Mr. Rogan, Mr. Shimkus, and Mr. Pickering):

H.R. 3844. A bill to promote and enhance public safety through use of 9–1–1 as the universal emergency assistance number, further deployment of wireless 9–1–1 service, support of States in upgrading 9–1–1 capabilities and related functions, encouragement of construction and operation of seamless, ubiquitous and reliable networks for personal wireless services, and ensuring access to Federal Government property for such networks, and for other purposes; to the Committee on Commerce.

By Mr. THORNBERRY:

H.R. 3845. A bill to amend title 10, United States Code, to establish in the Department of Defense a new unified command for joint forces to have responsibility for providing ready joint forces to the commanders of regional combatant commands and to conduct joint experimentation to further develop joint military forces; to the Committee on National Security.

By Mr. WATKINS:

H.R. 3846. A bill to amend the Equity in Educational Land-Grant Status Act of 1994 to add the Eastern Oklahoma State College on behalf of the Choctaw Nation; to the Committee on Agriculture.

By Mr. WYNN:

H.R. 3847. A bill to prohibit certain transfers or assignments of franchises, and to prohibit certain fixing or maintaining of motor fuel prices, under the Petroleum Marketing Practices Act; to the Committee on Commerce.

By Mr. YATES:

H.R. 3848. A bill to permit certain claims against foreign states to be heard in United

States courts where the foreign state is a state sponsor of international terrorism or where no extradition treaty with the state existed at the time the claim arose and where no other adequate and available remedies exist; to the Committee on the Judiciary.

By Mr. COX of California (for himself and Mr. White):

H.R. 3849. A bill to amend the Communications Act of 1934 to establish a national policy against Federal and State regulation of Internet access and online services, and to exercise congressional jurisdiction over interstate and foreign commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce conducted over the Internet, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHUMER (for himself, Mrs. Capps, Mr. Wexler, Mr. Waxman, and Mrs. Morella):

H. Con. Res. 275. Concurrent resolution expressing the sense of the Congress in support of the determination of the Department of the Treasury not to allow the importation of certain large capacity military magazine rifles that are functionally identical to banned semiautomatic assault weapons; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 12: Ms. Velázquez.

H.R. 218: Mr. Talent, Mrs. Fowler, and Mr. Skeen.

H.R. 372: Mrs. Johnson of Connecticut.

H.R. 453: Ms. DeGette.

H.R. 678: Mr. McCollum, Mr. Gilman, and Mr. Stark.

H.R. 774: Mrs. Capps.

H.R. 814: Mr. McGovern.

H.R. 831: Mr. Horn.

H.R. 859: Mr. Norwood and Mr. Livingston.

H.R. 953: Mrs. Capps, Mrs. Clayton, and Ms. Rivers.

H.R. 1023: Mr. Poshard.

H.R. 1061: Mr. Regula, Mr. Baesler, Mr. Weygand, Mr. Waxman, and Mr. Franks of New Jersey.

H.R. 1126: Mr. Kleczka, Ms. Lee, Mr. Ramstad, Mr. Bunning of Kentucky, Mr. Hinojosa, Mr. Costello, Mr. Levin, and Mr. Hoekstra.

H.R. 1140: Mr. English of Pennsylvania and Mr. Stupak.

H.R. 1283: Mr. Norwood, Mr. Mollohan, Mr. Bentsen, and Mr. Maloney of Connecticut.

H.R. 1378: Mr. Miller of Florida.

H.R. 1382: Mr. Pomeroy, Mr. Clyburn, Mr. Coyne, and Mr. Evans.

H.R. 1390: Ms. Christian-Green.

H.R. 1401: Mr. McCrery and Mr. Wexler.

H.R. 1500: Mrs. Capps and Ms. McCarthy of Missouri.

H.R. 1531: Mr. Reyes.

H.R. 1635: Mr. Castle and Mr. Moakley.

H.R. 1689: Mr. Bryant, Mr. Smith of New Jersey, Mr. John, Mr. Pomeroy, Mr. Talent, Mr. Kolbe, Mr. Bob Schaffer, Mr. Brady, Mr. Armey, and Mr. Gibbons.

H.R. 1715: Mr. Moran of Virginia, Mrs. Johnson of Connecticut, Mr. Jackson, Mr. Lipinski, Mr. Duncan, and Mr. Fazio of California.

H.R. 1972: Mr. Reyes.

H.R. 1995: Mr. Gephardt, Mr. McDermott, and Mrs. Thurman.

H.R. 2009: Mr. Forbes, Mr. Hall of Texas, and Mr. Lipinski.

H.R. 2023: Mr. Matsui.

H.R. 2094: Mr. Neal of Massachusetts.

H.R. 2110: Mr. Lewis of Georgia

H.R. 2173: Mr. Pascrell.

H.R. 2321: Mr. Lewis of California.

H.R. 2327: Mr. Dicks.

H.R. 2450: Mr. Houghton and Mrs. Capps.

H.R. 2509: Mrs. Capps, Mr. Fazio of California, and Mr. Bob Schaffer.

H.R. 2598: Mr. Peterson of Pennsylvania.

H.R. 2681: Mr. Allen.

H.R. 2713: Mr. Frank of Massachusetts, Mr. Sam Johnson, Ms. Slaughter, and Mr. Weygand.

H.R. 2723: Mr. McCollum.

H.R. 2733: Mr. White, Mr. Baker, Mr. Stenholm, Mr. Riley, Mr. Pombo, and Mr. Peterson of Pennsylvania.

H.R. 2828: Mr. Kucinich.

H.R. 2888: Mr. Dooley of California, Mr. McKeon, Mr. Solomon, Mr. Burr of North Carolina, and Mr. Pitts.

H.R. 2923: Mr. Spence.

H.R. 2942: Mrs. Thurman and Mr. Thornberry.

H.R. 2955: Mr. Campbell, Mr. Paxon, Mr. Frank of Massachusetts, and Mr. Upton.

H.R. 3008: Mr. Pallone.

H.R. 3043: Ms. Pelosi and Mrs. Kennelly of Connecticut.

H.R. 3048: Mr. Duncan.

H.R. 3050: Mr. Poshard and Ms. Sanchez.

H.R. 3099: Mr. Gutierrez.

H.R. 3150: Mr. Castle, Mr. Sisisky, and Mr. John.

H.R. 3152: Mr. Towns.

H.R. 3161: Ms. Roybal-Allard.

H.R. 3162: Mr. Hilleary and Mr. Thornberry.

H.R. 3177: Mr. Pitts and Mr. Pappas.

H.R. 3181: Mr. Kennedy of Massachusetts and Mr. Costello.

H.R. 3187: Mr. Peterson of Pennsylvania.

H.R. 3217: Mr. Gephardt.

H.R. 3261: Mr. Stump.

H.R. 3279: Ms. Slaughter.

H.R. 3281: Mr. McDermott and Mr. Yates.

H.R. 3297: Mr. Istook.

H.R. 3304: Mr. Pappas and Mr. Solomon.

H.R. 3382: Mr. Watkins.

H.R. 3400: Mr. Towns and Ms. Pelosi.

H.R. 3433: Mr. Frelinghuysen and Mr. Waxman.

H.R. 3435: Mr. McIntosh, Mr. Brown of California, Mr. Crapo, Mrs. Clayton, and Mr. Holden.

H.R. 3438: Mr. Gutknecht.

H.R. 3484: Mr. Gejdenson, Mr. McHale, Ms. Stabenow, Mr. Frost, Mr. Underwood, Mr. Filner, Mr. Evans, Mr. Cramer, Mr. Edwards, Ms. Slaughter, and Ms. Eddie Bernice Johnson of Texas.

H.R. 3523: Mr. Edwards, Mr. Blumenauer, Mr. Quinn, Mr. Linder, Mr. Parker, Mrs. Northup, Mr. Frost, Mr. Minge, Mr. Jones, Mr. Etheridge, and Mr. McIntosh.

H.R. 3526: Mr. Tierney, Mr. Adam Smith of Washington, Mr. Lantos, Mr. Campbell, Mr. Castle, and Mr. Baesler.

H.R. 3541: Mr. Diaz-Balart, Mr. Stearns, and Mr. Berman.

H.R. 3567: Mr. Bass, Mr. Kennedy of Rhode Island, Mr. Moran of Kansas, and Mr. Matsui.

H.R. 3571: Ms. Slaughter and Mr. Costello.

H.R. 3583: Mr. Weldon of Florida, Mr. Paul, Ms. Pryce of Ohio, Ms. Dunn of Washington, and Mr. Hostettler.

H.R. 3584: Mr. Bonilla.

H.R. 3602: Mr. Hobson.

H.R. 3605: Mr. Hall of Texas, Mr. Kildee, Mr. Sherman, and Mr. Gordon.

H.R. 3610: Mr. Tierney, Mr. Metcalf, Mr. Delahunt, Mr. Traficant, Mr. Sawyer, Mrs. Myrick, Mr. Klink, Mr. Gejdenson, Mr. Manzullo, Mr. Etheridge, Mr. Franks of New Jersey, Mr. Pitts, and Mr. Wolf.

H.R. 3615: Mr. Jackson, Mr. Gutierrez, Mr. Clement, Mr. Moran of Virginia, and Mrs. Meek of Florida.

H.R. 3629: Mr. McIntosh.

H.R. 3636: Mrs. Morella, Mr. Snyder, Mr. Clay, Mr. Clyburn, and Mr. McNulty.

H.R. 3640: Mr. Frost and Ms. Pelosi.

H.R. 3651: Mr. Rangel and Mr. Boehlert.

H.R. 3668: Mr. Stump.

H.R. 3682: Mr. Hayworth and Mr. Pombo.

H.R. 3722: Mr. Hobson, Mr. Taylor of North Carolina, and Mr. Watts of Oklahoma.

H.R. 3734: Mr. Nethercutt, Mr. Lazio of New York, Mr. Sam Johnson, Mr. Coburn, Mr. Diaz-Balart, and Mrs. Myrick.

H.R. 3767: Mr. Johnson of Wisconsin.

H.R. 3789: Mr. Frank of Massachusetts.

H.R. 3794: Mr. Berman.

H.R. 3807: Mr. Blunt, Mr. Livingston, Mr. McIntosh, Mr. Peterson of Pennsylvania, Mr. Pickering, Mr. Rahall, Mr. Skeen, Mr. Strickland, Mr. Talent, Mr. Traficant, Mr. Wicker, and Mr. McKeon.

H.R. 3810: Mr. Andrews, Mr. Pascrell, Mr. Payne, and Mr. Saxton.

H.R. 3820: Mr. Lantos, Mr. Tierney, Mrs. Capps, Mr. Pallone, Mr. Brown of California, Mr. Berman, Mr. Yates, Mr. Abercrombie, Ms. Roybal-Allard, Mr. Stark, and Mr. Gutierrez.

H. Con. Res. 47: Ms. Dunn of Washington, Mr. LaTourette, Mr. Underwood, Mr. Etheridge, Mr. Nethercutt, Mr. Hinchey, Mr. McNulty, and Mr. Costello.

H. Con. Res. 249: Mr. Frost and Ms. Eddie Bernice Johnson of Texas.

H. Con. Res. 254: Mr. Gutierrez.

H. Con. Res. 266: Mrs. Mink of Hawaii, Mr. Tierney, Mr. McGovern, and Ms. Woolsey.

H. Con. Res. 268: Mr. McNulty.

H. Con. Res. 271: Mr. Costello.

H. Res. 37: Mr. Hastings of Washington, Ms. Slaughter, Mr. Wise, Mr. Skelton, Ms. Millender-McDonald, Mr. Berry, Mr. Stenholm, and Mrs. Clayton.

H. Res. 171: Mr. Towns, Mrs. Clayton, and Mr. Sherman.

H. Res. 259: Mr. Farr of California.

H. Res. 321: Mr. Greenwood, Ms. Eshoo, Mr. Towns, Mr. LaFalce, Ms. Millender-McDonald, Ms. Norton, Mr. Lantos, Mr. Davis of Illinois, Mr. Kildee, Mr. Schumer, Mr. McGovern, Ms. Kaptur, Mr. Brown of California, and Mrs. McCarthy of New York.

H. Res. 363: Mr. Cummings.

H. Res. 392: Mr. Wise.

H. Res. 422: Mr. Shuster, Mr. Chabot, Mr. Snowbarger, Mr. Cook, Mr. Franks of New Jersey, Mr. Adam Smith of Washington, Mr. Ehrlich, Ms. Dunn of Washington, Mr. LaTourette, Mr. Nethercutt, Mr. Barr of Georgia, Mr. Sununu, Mrs. Kelly, Mr. Buyer, Mrs. Bono, and Mr. Smith of Michigan.

H. Res. 423: Mr. Gallegly, Mr. Souder, Mr. Hobson, and Mr. McKeon.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10

OFFERED BY: MS. JACKSON-LEE OF TEXAS

(To the Amendment in the Nature of a Substitute Offered By Mr. Leach)

AMENDMENT NO. 4: After section 108 of the Amendment in the Nature of a Substitute, insert the following new section:

SEC. 109. STUDY OF USE OF CHECK CASHING SERVICES TO OBTAIN FINANCIAL SERVICES IN AREAS UNDERSERVED BY OTHER FINANCIAL SERVICE PROVIDERS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of—

(1) the extent to which the lack of availability of a full-range of financial services in low- and moderate-income neighborhoods and to persons of modest means by regulated financial institutions has resulted in an undue reliance in such neighborhoods and by such persons on check cashing services which impose a fee equal to 1 percent or more of the amount of a transaction for each such transaction;

(2) the extent to which the requirement of section 3332(f)(1) of title 31, United States Code, that the Secretary of the Treasury make all Federal payments by electronic fund transfer (as defined in section 3332(j)(1) of such title) after January 1, 1999, will have a disparate financial impact on low- and moderate-income neighborhoods and to persons of modest means because of their lack of access to financial services other than at high-cost check cashing services; and

(3) the extent to which—

(A) check cashing services are regulated and audited by Federal, State, or local governments to prevent unscrupulous practices and fraud; and

(B) the owners and employees of such services are licensed or regularly screened by any such government to prevent the infiltration of such services by elements of organized crime.

(b) REPORT REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress on the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a). The report shall include such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate, including any recommendation with regard to regulating check cashing services at the Federal level.

H.R. 10

OFFERED BY: MS. JACKSON-LEE OF TEXAS

(To the Amendment in the Nature of a Substitute Offered by Mr. Leach)

AMENDMENT NO. 5: After subparagraph (D) of section 6(b)(1) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, insert the following new subparagraph (and redesignate the subsequent subparagraph and any cross reference to such subparagraph accordingly):

"(E) all the insured depository institution subsidiaries of the bank holding company have an outstanding record of extending credit to women-owned businesses and minority-owned businesses.

In subparagraph (F) (as so redesignated) of section 6(b)(1) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, strike "(D)" and insert "(E)".

After paragraph (3) of section 6(b) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, insert the following new paragraph:

"(4) WOMEN-OWNED AND MINORITY-OWNED BUSINESSES DEFINED.—For purposes of paragraph (1)(E), the terms 'women-owned business' and minority-owned business' have the meanings given to such terms in section 21A(r)(4) of the Federal Home Loan Bank Act.

H.R. 512

OFFERED BY: MR. YOUNG OF ALASKA

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Wildlife Refuge Authorization Act".

SEC. 2. REQUIREMENTS RELATING TO DESIGNATION OF NEW REFUGES.

(a) LIMITATION ON APPROPRIATIONS FROM LAND AND WATER CONSERVATION FUND.—

(1) IN GENERAL.—No funds are authorized to be appropriated from the land and water conservation fund for designation of a unit of the National Wildlife Refuge System, unless the Secretary of the Interior has—

(A) completed all actions pertaining to environmental review that are required for that designation under the National Environmental Policy Act of 1969;

(B) provided notice to each Member of and each Delegate and Resident Commissioner to the Congress elected to represent an area included in the boundaries of the proposed unit, upon the completion of the preliminary project proposal for the designation; and

(C) provided a copy of each final environmental impact statement or each environmental assessment resulting from that environmental review, and a summary of all public comments received by the Secretary on the proposed unit, to—

(i) the Committee on Resources and the Committee on Appropriations of the House of Representatives;

(ii) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

(iii) each Member of or Delegate or Resident Commissioner to the Congress elected to represent an area included in the boundaries of the proposed unit.

(2) LIMITATION ON APPLICATION.—Paragraph (1) shall not apply to appropriation of amounts for a unit of the National Wildlife Refuge System that is designated, or specifically authorized to be designated, by law.

(b) NOTICE OF SCOPING.—The Secretary shall publish a notice of each scoping meeting held for the purpose of receiving input from persons affected by the designation of a proposed unit of the National Wildlife Refuge System. The notice shall be published in a newspaper distributed in each county in which the refuge will be located, by not later than 15 days before the date of the meeting. The notice shall clearly state that the purpose of the meeting is to discuss the designation of a new unit of the National Wildlife Refuge System.

(c) LIMITATION ON APPLICATION OF FEDERAL LAND USE RESTRICTIONS.—Land located within the boundaries (or proposed boundaries) of a unit of the National Wildlife Refuge System designated after the date of the enactment of this Act shall not be subject to any restriction on use of the lands under Federal law or regulation based solely on a determination of the boundaries, until an interest in the land has been acquired by the United States.

H.R. 3534

OFFERED BY: MR. DAVIS OF VIRGINIA

AMENDMENT NO. 1: Page 8, after line 11, add the following new section:

SEC. 5. FEDERAL INTERGOVERNMENTAL MANDATE.

Section 421(5)(B) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 658(5)(B)) is amended—

(1) by striking "the provision" after "if";

(2) in clause (i)(I) by inserting "the provision" before "would";

(3) in clause (i)(II) by inserting "the provision" before "would"; and

(4) in clause (ii)—

(A) by inserting "that legislation, statute, or regulation does not provide" before "the State"; and

(B) by striking "lack" and inserting "new or expanded".

H.R. 3534

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 2: Page 8, after line 11, add the following new subsection:

(d) ANNUAL CBO REPORTS.—Within 90 calendar days after the end of each fiscal year, the Director of the Congressional Budget Office shall transmit a report to each House of Congress of the economic impact of the amendments made by this Act to the Congressional Budget Act of 1974 on employment and businesses in the United States.

H.R. 3806

OFFERED BY: MR. MANZULLO

AMENDMENT NO. 1: Page 24, line 2, insert "or the Export-Import Bank of the United States" after "Corporation".

EXTENSIONS OF REMARKS

INTERNATIONAL CHRONIC FATIGUE AND IMMUNE DYSFUNCTION SYNDROME AWARENESS DAY

HON. PAUL McHALE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. McHALE. Mr. Speaker, I would like to take this opportunity to honor and recognize May 12, as International Chronic Fatigue and Immune Dysfunction Syndrome (CFIDS) Awareness Day. The following proclamation was presented to the Chronic Fatigue Syndrome Association of the Lehigh Valley, Pennsylvania:

PROCLAMATION—INTERNATIONAL CHRONIC FATIGUE AND IMMUNE DYSFUNCTION SYNDROME AWARENESS DAY

Whereas, the Chronic Fatigue Syndrome Association of the Lehigh Valley joins The CFIDS Association of America, the world's largest organization dedicated to conquering CFIDS, in observing May 12, 1998 as International Chronic Fatigue and Immune Dysfunction Syndrome Awareness Day; and

Whereas, the Chronic Fatigue Syndrome Association of the Lehigh Valley is celebrating its sixth year of service to the CFIDS community; and

Whereas, the Chronic Fatigue Syndrome Association of the Lehigh Valley recently received CFIDS Support Network Action Awards for excellence in service in the area of CFIDS Awareness Day in 1996 and for excellence in commitment and service to the CFIDS Community in the area of public policy in 1995; and,

Whereas, chronic fatigue and immune dysfunction syndrome (CFIDS), also known as chronic fatigue syndrome, is a complex illness which affects many different body systems and is characterized by neurological, rheumatological and immunological problems, incapacitating fatigue and numerous other symptoms that can be severely debilitating; and,

Whereas, conservative estimates suggest that hundreds of thousands of American adults and children have CFIDS; and

Whereas, it is imperative that education and training of health professionals regarding CFIDS be expanded, that further research be encouraged, and that public awareness of this serious health problem be increased:

Now, Therefore, Congressman PAUL McHALE does recognize May 12, 1998 as International Chronic Fatigue and Immune Dysfunction Syndrome Awareness Day, commends the Chronic Fatigue Syndrome Association of the Lehigh Valley on its Sixth Anniversary and pays tribute to its efforts to conquer CFIDS on behalf of those battling this disabling illness.

Signed and Sealed this Twelfth Day of May, One Thousand Nine Hundred and Ninety-eight.

IN HONOR OF JOHN GANGONE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mrs. MALONEY of New York. Mr. Speaker, I rise today to honor John Gangone, who has been chosen as an honoree for the School Settlement Testimonial Dinner, in Brooklyn, New York, along with his brother, Vincent.

John Gangone, the co-owner of a surgical supply store, has lived for over thirty years in the Greenpoint/Williamsburg section of Brooklyn. After graduating from St. John's University with a degree in business, Mr. Gangone worked briefly for a local industrial real estate firm as an associate broker, and then went on to work for the New York City Division of Housing Preservation and Redevelopment. Although he enjoyed these positions, neither provided the interaction with his own neighborhood that John treasured.

It was at this point that John Gangone, along with his brother, Vincent, pursued his dream and established Salerno Surgical Supplies. The name Salerno was borrowed from the Italian hometown of their parents, Nicola and Anna Gangone.

Mr. Gangone, a successful business and family man, also devotes much of his time to the Greenpoint community. He serves on the board of directors of the St. Nicholas Preservation Corporation, an organization within the community that promotes and manages housing and special programs for the neighborhood's youth and elderly. He is also an active member of the St. Cono Di Teggiano Catholic Association, where he has served as treasurer, advisor, and, currently, as committee chairman for the organization's 25th anniversary.

Mr. Gangone is also a member of the New York State Fraternal Order of Police and the New York City Police Athletic League. In addition, he holds a New York State license as a real estate broker, insurance broker, and a certified real estate appraiser.

Mr. Speaker, I ask that my colleagues rise with me in this tribute to Mr. John Gangone of Brooklyn, New York. He is a dedicated member of the Greenpoint/Williamsburg community, which he has selflessly served for many years in a variety of capacities. I am proud to count him among my constituents.

HONORING BROOKLYN UNION GAS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. TOWNS. Mr. Speaker, I rise today in joining the National Energy Resources Organization in commending the exciting efforts of Brooklyn Union Gas in fostering national energy activities.

The National Energy Resources Organization, NERO, was formed as a non-profit organization whose purpose is to bring together representatives of U.S. industry and government officials so that information can be disseminated and new applications of energy resources may be created. Specifically, NERO has also been committed to educating the public about the advances made in energy technology and its application for modern energy technology for the benefit of mankind. NERO recently recognized Brooklyn Union for its effort in achieving all of these goals with its Research and Development Award.

Brooklyn Union has worked diligently to make fuel cells a clean and efficient means of generating electricity for industrial and commercial customers. While working with International Fuel Cells, Brooklyn Union has been actively involved with fuel cell development for more than 25 years. Its program has centered around demonstrating the environmental benefits and energy-efficiency of fuel cells for industrial and commercial applications, particularly in facilities that need reliable, continuous sources of power.

Mr. Speaker, please join me in honoring Brooklyn Union for all of its achievements and hard work in fuel cell units.

NATIONAL COMMUNITY ACTION WEEK, MAY 3, 1998 TO MAY 9, 1998

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention the Paterson Task Force for Community Action, Inc.

The Paterson Task Force is one of 27 Community Action Agencies in the State of New Jersey. From Sunday, May 3, 1998 to Saturday, May 9, 1998 the Paterson Task Force will be observing National Community Action Week with a series of activities designed to help lower income people in the City of Paterson.

The Paterson Task Force has increasingly assumed duties connected to maintaining the self-sufficiency of those who are unable to maintain themselves without public assistance. Members of the Paterson Task Force are also increasingly devoting themselves to helping move those already on public assistance to self-sufficiency and other non-welfare means of support.

The Paterson Task Force has served the Paterson community since 1964 in providing child care, housing, employment and training, and emergency assistance services. The task Force will continue to expand and improve

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

these services to all low-income residents of the Paterson community.

Mr. Speaker, I ask that you join me, our colleagues, members of the Paterson Task Force for Community Action, the City of Paterson, and the State of New Jersey in recognizing the momentous occasion that is "National Community Action Week," from Sunday, May 3, 1998 to Saturday, May 9, 1998. This proclamation is truly benefitting of the dedication and accomplishments of the members of the Paterson Task Force.

IN HONOR OF THE 15TH ANNIVERSARY OF THE GEORGE FEDOR MANOR

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor the 15th anniversary of one of the focal points in southeast Lakewood, Ohio, the George Fedor Manor.

This eleven-story apartment complex for the elderly provides residents with low-cost Section 8 housing and a breathtaking view of Lake Erie, the Gold Coast and downtown Cleveland. After attending the 75th anniversary of the founding of S.S. Cyril and Methodius Church, a group of parishioners decided that the large number of elderly people living in southeast Lakewood needed conveniently located, low-cost housing. The building's namesake, George Fedor, wanted to give something back to his community and was instrumental in arranging support for the project. He is a lifelong resident of Lakewood and a dedicated parishioner of S.S. Cyril and Methodius Catholic Church, and he understood the needs of this area of Lakewood.

Under the sponsorship of S.S. Cyril and Methodius Church and the leadership of George Fedor, and with funds from the Department of Housing and Urban Development and the City of Lakewood, the complex was finished in May, 1983. Fifteen years later, the building continues to provide senior citizens and handicapped individuals with comfortable and affordable housing in a prime Lakewood location.

My fellow colleagues, please join me in honoring the perseverance of those who recognized a community's need for low-cost housing for senior citizens and have worked tirelessly to see that The George Fedor Manor has filled that need for fifteen years.

IN HONOR OF ANTHONY SUMMA

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mrs. MALONEY of New York. Mr. Speaker, I rise today to honor Anthony Summa of Williamsburg, Brooklyn, who has been chosen as an honoree for the School Settlement Testimonial Dinner.

Anthony Summa graduated from Stuyvesant High School and earned a B.S. from New York University in 1953. Shortly after graduation he was drafted into the Army and carried out a twenty-month tour in Europe. Upon his discharge and return to New York, Anthony was employed by Alexander's Department Stores as a manager.

Mr. Summa then became involved in banking, first at Citibank as a senior examiner and at the largest bank in New Jersey, First National State Bank. He then joined Irving Trust Company where he rose to the honorable position of vice president and deputy auditor. Mr. Summa is now chairman of Cross County Federal Savings Bank.

Mr. Summa remains active in his parish. Our Lady of Mt. Carmel Church, where he has served as usher, lecturer, trustee, member of the Parish Finance Committee, past president of the Parish Council, and as chairman of the Mt. Carmel Parish Centennial.

Mr. Summa is also a past president of the Holy Name Society, a Fourth Degree member of the Knights of Columbus where he is a council recorder and community committee chairman. In addition, Mr. Summa is president of the Daughters & Sons of Italian Heritage Lodge of the Order Sons of Italy in America, as well as treasurer of the New York State Commission for Social Justice, which is an anti-defamation branch of the order.

Mr. Speaker, I ask my colleagues to rise with me in this tribute to Anthony Summa of Brooklyn, New York as he receives this award for his dedication to his community. I am proud to have Mr. Summa as an active member of my district.

THE AMERICAN GI FORUM FEDERAL CHARTER ACT OF 1998

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. RODRIGUEZ. Mr. Speaker, I rise today, on behalf of myself and a number of my colleagues to introduce a bill to grant a federal charter to the American GI Forum (AGIF), a National Veterans Family Organization. I am proud to join an effort which is being advanced by the distinguished Chairman of the Senate Judiciary Committee and his colleagues who have filed identical legislation, S. 1759.

The American GI Forum was founded on March 26, 1948, in Corpus Christi, Texas by the late Dr. Hector P. Garcia, a medical doctor and Army veteran of World War II. This year, the AGIF celebrates its 50th year of service to our Nation's veterans and their families. Today, the AGIF has over 100,000 members in 500 chapters across 32 states and Puerto Rico. Though predominately Hispanic the AGIF is an inter-racial organization open to all veterans and their families.

This is not the first time the AGIF has sought a federal charter. At least as early as the 1960's, in an era when Hispanic veterans were facing exclusion and discrimination, AGIF approached Congress for a federal charter. At that time, as now, the AGIF had the broad-based national and patriotic characteristics which would have entitled it to a federal charter. While numerous groups with similar stature as the AGIF were almost routinely given charters, the American GI Forum was effectively left out.

As the American GI Forum enters its 50th year, we believe it is fitting to secure passage of this important legislation which would finally grant the American GI Forum a federal charter. A federal charter is an honorary recognition that does not convey any special rights or authority. However, within the veteran community, a federal charter is deemed to be recognition of a national veteran organization's commitment and service to our nation's veterans. Other entities sometimes distinguish between Veterans Service Organizations (VSOs) which are congressionally-chartered and those which are not. For example, the Department of Veterans Affairs publishes a directory of VSOs, in which it separately lists groups based upon whether or not they are chartered.

The Hispanic community is among the most patriotic in America, historically ready to answer the call to service. Having earned the highest number of medals of honor per capita, Hispanic Americans have a distinguished record of valor and patriotism. There are over 1,000,000 Hispanic veterans alive today. On behalf of my colleagues and myself, I urge you to join us in sponsoring this legislation to grant a federal charter to this deserving organization.

TRIBUTE TO LAWRENCE R. CODEY

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention Lawrence R. Codey of Spring Lake, New Jersey. Larry is President and Chief Operating Officer of Public Service Electric & Gas Company.

Larry was born and raised in Montclair. After graduating from St. Peter's College in Jersey City in 1966, he attended Seton Hall University's School of Law and was awarded his J.D. degree in 1969. Following admission to the New Jersey Bar, Larry entered military service, attained the rank of Captain, and spent one year of service in Vietnam.

Larry joined Public Service Electric & Gas (PSE&G) in 1973 and was named Corporate Rate Counsel two years later. In 1983 he was elected Vice-President. In 1987 he was elected Senior Vice President, Electric and in September 1991, was elected President and Chief Operating Officer of PSE&G and Director of the Public Service Enterprise Group, Inc. He was also appointed that year to the U.S. Environmental Protection Agency's Clean Air Act Advisory Committee. Recently, Larry became a spokesman on the environmental impact of energy deregulation and, in 1997, he spoke before the National Governors Association on the subject.

Larry serves as Director on the Boards of the Trust Company of New Jersey; United Water Resources, Inc.; Blue Cross and Blue Shield of New Jersey; Sealed Air Corporation; the Regional Business Partnership; the Chamber of Commerce of the Metro Newark Region, Inc.; the New Jersey Utilities Association;

and the Edison Electric Institute. He is also a member of the Board of Trustees of St. Peter's College and the New Jersey Commission on Higher Education.

Mr. Speaker, I ask that you join me, our colleagues, Larry's family and friends, the ARC of Essex County, and the County of Essex in recognizing the many outstanding and invaluable contributions Lawrence R. Codey has made to our community throughout the years.

IN HONOR OF THE 75TH ANNIVERSARY OF ST. ANGELA MERICI CATHOLIC CHURCH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor the 75th anniversary of the first mass held at St. Angela Merici Catholic Church in Fairview Park, Ohio. The parishioners of St. Angela Merici and all the citizens of Fairview Park will join to celebrate the church's anniversary. Mayor Karl Kubb has dedicated May 17 as Diamond Jubilee Celebration Day for St. Angela Merici Parish.

The parish has come a long way from meeting in the basement of the old Fairview Village Town Hall in 1923. The early parishioners were dedicated to outreach programs in the community and to the education of their children. With the continued faith and dedication of the over 3,500 families in the church community today, the parish has carried on these original goals and grown rapidly. The parishioners believe that the young people in the community are their future and invest their time and talents to provide sports and scouting programs, day school and religious education as well as a teen ministry for the youth in the parish.

An extensive schedule of jubilee events includes a one-mile and five-mile run, a consecration of families, a family picnic, a clambake, and a choral concert. Special masses, a school reunion, a golf outing, and the first annual Founders Day celebration are also planned for the following years. The jubilee celebration will close with an outdoor mass.

My fellow colleagues, please join me in recognizing the dedication and faith of the parishioners of St. Angela Merici Catholic Church as they celebrate 75 years of serving the Fairview Park community.

CONGRATULATIONS TO THE 20 GRADUATING SENIORS OF CALIFORNIA STATE UNIVERSITY, HAYWARD'S UPWARD BOUND PROGRAM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. STARK. Mr. Speaker, I would like to take this opportunity to recognize the achievements of the Upward Bound Program at California State University, Hayward (CSUH), in the 13th Congressional District of California. On Saturday, May 16, 1998, twenty high school seniors will be honored for graduating from the program at the Eighth Annual Awards Recognition Banquet.

In 1965, the Upward Bound Program was established at universities and colleges throughout the country. Upward Bound prepares low-income students who will be the first in their families to obtain a degree from a four year college or university. The program provides tutoring, instruction, counseling, career orientation, and an opportunity to experience educational development and personal growth within a college setting while students are still in high school. In 1990, the Program at CSUH became one of the over 550 Upward Bound Programs nationwide. At present there are 72 participants from Southern Alameda County in the Program.

In order to be eligible for the Program a student must have the potential to succeed at the college level, even though his or her test scores and grades may not reflect it. The student must also come from a low income background as established by the U.S. Department of Education, or from a family whose parents or guardians have not graduated from a four year college.

The Program at CSUH consists of an academic year component and a summer session component. During the academic year students attend Saturday instructional sessions at CSUH, tutorial sessions during the week, and field trips to educational, cultural, and recreational sites. The Program provides assistance in preparing applications for college admission and financial aid, and makes a coordinated effort to maximize students' educational development by maintaining close communication with the students' teachers, counselors, and parents.

During the summer students spend an intensive 4 to 6 weeks living and studying on the CSUH campus. The students take high school level development and enrichment courses, and receive career, academic, and personal counseling. They also have access to all facilities, and sports, cultural, and recreational events, with the goal of giving them an opportunity to see what life will be like as a college student.

This year there will be twenty seniors graduating from the program, and I would like to congratulate them by name. They are: Sonia Abrego, Noemi Arrieta, Michael Barrett, Gabriela Bressler, Ricshell Bunton Jr., Damali Burton, Oliver Chang, Eujenia Garcia, Ana Gutierrez, Darryl Hampton, Anthony James, Joshue Jones, Peng Lim, Bogdana Marchis, Feliza Montes de Oca, Reyna Nava, Phuong Nguyen, Vanessa Perez, Marion Thurmond, and Andrea Williams.

Mr. Speaker, I ask that you and all my colleagues join me in congratulating these students on their achievements. CSUH's Upward Bound Program continues to be an effective vehicle for educational equity and opportunity through its efforts to help students progress along the path of academic success.

HONORING COLUMBIA UNIVERSITY SCHOOL OF SOCIAL WORK

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. TOWNS. Mr. Speaker, on the occasion of the Centennial of the oldest social work training program in the nation, I hereby offer congratulations to the Columbia University School of Social Work. Evolving from a summer program organized by the Charity Organization Society in New York, the School of Social Work has a long and distinguished history of pioneering research, informed advocacy and exceptional professional training.

It is a remarkable accomplishment that social workers have played key roles in every major social reform movement, from settlement houses to labor reform, to the New Deal, to civil rights and voter registration. Many of the things we take for granted today—Social Security, child labor laws, the minimum wage, the 40-hour work week, Medicare—came about because social workers saw injustice, acted, and inspired others.

Throughout this century Columbia's faculty, students and alumni have worked tirelessly to address both the causes and symptoms of our most pressing social problems. National movements, such as the White House Conference on Children and the National Urban League, have emerged from projects undertaken by the School's faculty and administrators in cooperation with professional and community organizations. The entire nation has benefited from the work of people like Eveline Burns (Social Security); Mitchell I. Ginsberg (Head Start); Richard Cloward (welfare rights and voter registration); Alfred Kahn and Sheila B. Kamerman (cross-national studies of social services), and David Fanshel (children in foster care).

As your School, and indeed the social work profession, moves into its second century, they will be both challenged to respond to social change, new social problems, family change, and evolving societal commitments. Now more than ever, we will need well-trained and dedicated social workers to work with troubled children and families, organize communities for change, conduct cutting-edge research, administer social programs, and alleviate society's most intractable problems.

Mr. Speaker, it is with appreciation and admiration that I extend my best wishes to the Columbia University School of Social Work on its Centennial and look forward to its future activity and achievement.

IN HONOR OF VINCENT GANGONE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mrs. MALONEY of New York. Mr. Speaker, I rise today to honor Vincent Gangone, who has been chosen as an honoree for the School Settlement Testimonial Dinner, in Brooklyn, New York, along with his brother, John.

Vincent Gangone, the co-owner of a surgical supply store, was born at St. Catherine's Hospital in the Greenpoint/Williamsburg section of Brooklyn over thirty years ago. He attended the Grover Cleveland High School in Ridgewood, Queens, and the School of Pharmacy at St. John's University in Jamaica, Queens. Later, Mr. Gangone graduated from the Police Cadet Corps. Mr. Gangone then became a fixture in the Greenpoint community while working in a neighborhood pharmacy.

In 1990 Mr. Gangone came to a crossroad in his life and decided to open Salerno Surgical Supply with his brother. The Gangones' business, named after the Italian hometown of his parents, Nicola and Anna Gangone, has become a successful surgical supply store and a necessary addition to the Greenpoint/Williamsburg community.

It has been eight years since Salerno Surgical Supplies opened, and Vincent Gangone believes it was one of the best decisions he and his brother have made. The store allows Mr. Gangone to serve and interact with the community, an element of the job that he cherishes.

Mr. Speaker, I ask that my colleagues rise with me in this tribute to Mr. Vincent Gangone of Greenpoint, Brooklyn. He deserves sincere congratulations for receiving such a fine honor from the School Settlement Association. I'm proud to have him as a constituent.

TRIBUTE TO THE GREAT GEORGE FESTIVAL

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention the momentous occasion of the opening of the Great George Festival in the City of Paterson, in memory of the late Grace George.

Grace was born in 1918. Her wealth of knowledge regarding the history of Paterson and dedication to promoting the historic district eventually led to a request from the Mayor that she leave her teaching job of 37 years at Eastside High School in August 1976. She then began directing and operating the Visitor's Center in the Historic District.

At the Visitor's Center, Grace conducted walking tours of Paterson's Historic District for groups of all ages. She also conducted and led educational workshops, presented slide shows and lectures to classes and organizations, and developed teachers' guides for teaching Paterson's history.

In 1994 Grace was presented with the Historic Preservation Committee Heritage Citizenship Award. She passed away in February of 1996. The legacy she leaves behind is one of pride and passion for the great historical past and the uniqueness of the City of Paterson.

Mr. Speaker, I ask that you join me, our colleagues, the family and friends of Grace, and the City of Paterson in recognizing the many outstanding and invaluable contributions Grace George has made to the City of Paterson. It is fitting that we honor a true pioneer such as Grace on this occasion of the opening of the Great George Festival.

IN HONOR OF THE 13TH ANNUAL SENIOR OLYMPICS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to recognize Senior Citizen Resources for sponsoring the 13th annual Senior Olympics in Cleveland, Ohio.

Senior Citizen Resources, Inc. has been serving the 60+ population in the Cleveland area for 27 years. The organization provides much needed services such as transportation, nutrition programs, volunteer opportunities, and health programs to the senior citizens in the community. Thousands of senior citizens take advantage of the outreach programs and services offered by Senior Citizen Resources each year.

The seven-day Senior Olympics is one of the most unique and most popular activities sponsored by Senior Citizen Resources. Some of the events held this week include bowling, miniature golf, darts, swimming, water walking, horseshoes, table tennis, basketball toss, softball throw, lawn toss, ballroom dance, golf, bean bag toss, volleyball, and shuffleboard. There are also special events for the physically challenged. The Olympics will conclude with a Victory Luncheon and an Olympic Parade featuring all the athletes.

My fellow colleagues, please join me in saluting the spirited participants of the Senior Olympics and the leadership of Senior Citizen Resources.

CONGRATULATIONS TO ROBERT LITTLE AND NASA'S SSIP COMPETITION

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. MCKEON. Mr. Speaker, today I rise to recognize a wonderful achievement of a constituent of mine, Robert Little of Saugus, California. Earlier this week, I had the opportunity to personally meet Mr. Little, but felt that I should share his recognition with the rest of my colleagues. This week, Mr. Little was honored by NASA as a High School National Champion in the 18th Annual Space Science Student Involvement Program (SSIP) competition.

The SSIP competition is an interdisciplinary program designed to address the need for greater literacy in the areas of science, critical and creative thinking, mathematics and technology. Nearly 10,000 students from Elementary through High School have competed in five categories including mathematics, science, technology, art, and creative writing. 29 national winners, along with their teachers, came together this week at the National Space Science Symposium to honor their achievements to date.

Robert Little, a student from Saugus High School, was entered in the Intergalactic Art Competition of the Symposium. All this week, his art work, depicting a scene from intergalactic space, as well as an essay describing the picture was displayed in the Ballroom of the Hotel Washington. His ability earned him the championship in the High School division of this competition.

I am proud to congratulate Robert as well as his teacher, Ken Jeffries, on their hard work in receiving this honor. I know that I join my entire community in expressing how proud we are of Robert's success. His hard work is an inspiration to us all.

Mr. Speaker, I would like to conclude by adding Robert's essay to the record depicting his championship scene for this competition.

SCULPTURE IN THE COSMOS

(By Robert Little)

Nebulae give our universe beauty. They are the cloudy sculptures of the cosmos. They are really quite simple. Consisting only of gases, debris, and stars, they are enormous star factories. In my illustration, the Eagle Nebula is portrayed with a star cluster nearly formed into a galaxy in the background. The Eagle Nebula has a very dramatic appearance with its three large columns. The column shown on the left of this illustration is three light years in length. My illustration of the Eagle Nebula and its star cluster shows not only the beauty of nebulae, which inspires me, but also the relationship between nebulae and galaxies. Most of the mass in nebulae is made up of the debris from supernovas. A supernova is an exploding star. Stars explode when they are very old. They run out of the fuel needed to resist their gravity. The star collapses, explodes, and debris is scattered in all directions. In many cases, gas will drift until it clusters with other gases, and gravity holds them together. Inside the newly formed nebula there are usually a multitude of stars being produced.

If nebulae did not exist, we would have a very black empty sky at night. All stars are born from a nebula in a three-step process. First, ultraviolet radiation is emitted from a previous generation of stars onto the nebula. In the Eagle Nebula, the periphery of the columns becomes very hot and begins eroding. The gases near this area have been frequently clumping together. These clumps produce more gravity and grow dense. Next, the radiation erodes the gas from around the denser and stronger area. This creates a tadpole shape coming from the edge of the nebula. It is now an EGG (Evaporating Gaseous Globules), and is known as a protostar. Lastly, the protostar is separated from the nebula due to continuous erosion, and drifts into space. . . .

In the background of my illustration, a star cluster is nearly a galaxy. It lacks the great spiraling motion and contains more stars than gas. The forming of a galaxy is the result of star clustering. The star cluster gains gravity and forms a large spherical heap of stars with enormous gravity. This is a globular cluster. It pulls gas and other matter such as asteroids into the churning disk. Open clusters will not form a large mass but instead will eventually drift apart.

There is a continuous pattern related with stars and nebulae. Stars explode and the dust forms a nebula. The nebula gives birth to stars. Those stars once again explode and the dust adds to the nebula. It is all a cycle of birth, death, and recycling.

TAIWAN CELEBRATES PRESIDENT LEE'S SECOND ANNIVERSARY IN OFFICE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SOLOMON. Mr. Speaker, I join my colleagues in extending my best wishes and congratulations to President Lee Teng-hui of the Republic of China on Taiwan.

Two years ago, the people in Taiwan democratically elected a head of state for the first time in China's history. Incumbent President Lee Teng-hui took a resounding 54 percent of the vote on a platform of democracy and Taiwan's greater international assertiveness.

Two years later, Taiwan's astonishing economic progress and political progress have enabled it to survive the latest Asian financial crisis. Taiwan has been an exemplary nation in the world—reaching out to the Chinese mainland seeking peace and reconciliation and extending financial assistance to all needy neighbors in southeast Asia.

As we congratulate President Lee Teng-hui and the people of Taiwan, I wish to reassure them that many of us in the U.S. Congress and elsewhere believe in a free and democratic Taiwan. Decades of American constancy have helped draw Taiwan into free-market democracy, and it is squarely in the American interest to keep Taiwan democratic and free.

We will make sure that the provisions in the Taiwan Relations Act shall be adhered to and that the United States will not make arrangements for Taiwan's future without full consultation with Taiwan.

CELEBRATION OF WAYNESFIELD SESQUICENTENNIAL

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. OXLEY. Mr. Speaker, today I rise to highlight an especially important milestone for the State of Ohio. From May 15th to the 17th, the Village of Waynesfield will be celebrating its sesquicentennial birthday. Festivities include opening ceremonies, village tours, old time movies and a parade. I would like to recognize this profound civic event. Wayne Township and Waynesfield were named for General Anthony Wayne. General Wayne was a leader and hero in the Revolutionary War. His victories against the Indians in the Northwest Territory helped end this crisis. His soldiers won the second battle of Ft. Recovery, as well as the Battles of Ft. Defiance, Ft. Miami and Fallen Timbers. In 1948, Waynesfield was also home to John R. Bennett, the second to last surviving Civil War veteran in Ohio. Harriet Beecher Stowe's sister, Lucinda, married and lived in Waynesfield. As you can see, Mr. Speaker, Waynesfield has a long and patriotic past that all Americans can view with pride. As the Member of Congress representing the citizens of Waynesfield, I appreciate all their hard work which continues to make theirs a vibrant community. Waynesfield's spirit of family and responsibility serves as a model for other towns to follow. From its family farms to its small-town churches, this town exemplifies all that is good in our great land. I commend all the villagers as they celebrate their 150th birthday, and I look forward to many more to come.

TRIBUTE TO JOHN J. DiNAPOLI

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention John J. DiNapoli who is being honored this evening as the Orange/West Orange UNICO "Man of the Year."

The eldest of Angelo and Antoinette's three sons, John showed his intelligence at an early age by skipping kindergarten. During the remainder of his school years at Immaculate Conception Grammar School and later Montclair High School, he developed a penchant for numbers and mathematics which would serve him well in his chosen field at work. It was also during this time that John developed his underlying loyalty to the New York Yankees and the New York Giants while idolizing a man named DiMaggio.

Upon graduation, John took advantage of an opportunity offered to him by Montclair National Bank, while continuing his education with courses at Seton Hall University. He later attended the Stonier School of Banking at Rutgers University in New Brunswick where he also earned his degree. His banking career took him from an entry-level teller at Montclair National all the way to Vice-President at Chemical Bank, where he has served for 30 years.

In the late 1950's, John made a long standing commitment to one of his loves that remains intact today. He became a season ticket holder to the New York Giants. Eight Autumn Sunday afternoons were spent with family and friends at Giants Stadium cheering on "Big Blue." Saturdays can find John supporting the Mounties of Montclair High School with another group of family and friends.

During the 1960's, John discovered another love, Angela Pomarico. John and Angela dated, and developed a strong mutual love for each other that resulted in marriage. Together, they raised a family of four: John Jr., Diane, Patti, and Carol.

John and his family eventually settled in West Orange, and along with Angela, raised the children and guided them through the school years. A 25th Wedding Anniversary present from their children sent John and Angela to the birthplace of the DiNapoli Family: Calitri, Italy. It was a moving experience that made John appreciate his roots. Soon thereafter, on the recommendation of friends, he became a member of the Orange/West Orange Chapter of UNICO where he has held a variety of positions with the organization including President and District Governor.

Now in his 36th year of marriage to Angela, John's family has grown to include a daughter-in-law Mary Lynn, and sons-in-law Anthony, Robert, and Peter. Much of John's free time is spent with his eight grandchildren: Diana, John III, Danielle, Samantha, Thomas, Brianna, Anthony, and Alexa.

Mr. Speaker, I ask that you join me, our colleagues, John's family, friends, and colleagues, and the members of the Orange/West Orange UNICO as John J. DiNapoli is honored this evening as the organization's "Man of the Year."

PART 3: JOBS WITH JUSTICE—FIRST NATIONAL WORKERS' RIGHTS BOARD HEARING

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. KUCINICH. Mr. Speaker, Jobs With Justice convened its "First National Workers' Rights Board Hearing on Welfare/Workfare Issues" in Chicago in 1997. This hearing featured a number of community, labor and political leaders. I include their remarks for the CONGRESSIONAL RECORD.

Part 3 of this statement includes: Laurie Barretto of Catholic Charities; Ilana Berger of People Organized to Win Employment Rights (POWER); Wardell Yotaghan of the Coalition to Protect Public Housing; and Peggy Haack, a Child Care Provider from Madison, Wisconsin.

LAURIE BARRETTO, CATHOLIC CHARITIES

My name is Laurie Barretto and I am the Director of Governmental Relations at Catholic Charities of the Archdiocese of Chicago. I also chair the Catholic Charities USA Social Policy Committee for our national membership organization.

As a political junkie, I have advocated for and against numerous pieces of enabling legislation followed by implementing rules and regulations followed by government designed and funded initiatives. Some have had enormous positive impact on the way people are cared for and assisted; some, like Workfare, have been gravely flawed with far reaching and unintended consequences.

At Catholic Charities agencies here and across the country we participate in initiatives that are consistent with our mission and when we believe we have the skills and capacity to produce successful outcomes for the people we serve.

Therefore in October, 1992 when Illinois dismantled the General Assistance Program we struggled to determine the best course. Frankly we had been suspect of such programs. We were concerned about unfair treatment, a lack of safety standards, discrimination, and churning of people with low skills and lower self-esteem.

However, it became apparent that participating in the Earnfare Program was consistent with our mission, rooted in Catholic Social Teaching. In addition to the dignity of each individual human being, Catholic Social Teaching talks about the dignity of work. Society is urged to encourage and reward work, to recognize that people have a right to be productive, to earn fair wages, to labor in decent conditions.

Because of our tradition of service, we also know something about work with the poor, and we believed that we could address our justice concerns while making a difference in peoples' lives.

It is now five years later and we continue to operate our Earnfare contract.

And we have learned much. And we have accomplished much.

But now social service agencies and our faith-based communities across the country are seeing and serving people impacted by the overhaul of the welfare system that provided for poor families with children. People who are working come to us because they can't afford to buy food for the whole month; families are living in homeless shelters because their paychecks can't stretch to cover rent.

And so we have urged our colleague agencies to join us and provide meaningful work opportunities to people struggling to transition from welfare to work. We have urged them to provide written job descriptions, with appropriate job titles; we issue employee identification badges, include them in employee orientations and training. We insure that safety measures are in place to protect people in their work assignments. We have encouraged supervisors to establish mutually agreed upon performance expectations.

Because many participants will lack basic job skills, we urge that as employers we must be prepared to provide extensive mentoring and support.

And because many are overcoming enormous barriers to employment—substance abuse, domestic violence, limited skills and education—supportive social services must be available.

We know that, done well, the people whose lives we touch in Workfare Programs are better off for the experience. Because of our participation in Workfare and our relationship with businesses throughout the metropolitan area we have the capacity to move people into the workforce. Workfare Participants have begun to build a resume and job references. They have begun to see, and perhaps believe, that they can be successful.

At Catholic Charities we look upon this endeavor seriously because they are better able to find and perform and keep a real job in the open marketplace.

Earlier I referred to the guiding principles of Catholic Social Training; in addition we believe in a preferential option for the poor and standing in solidarity with the poor. I mention these because even if we create an environment where people leaving welfare can participate in meaningful work in a dignified manner, we are not done.

Catholic Charities USA has conducted a parish impact survey to determine the impact of welfare reform on the parish. Some early anecdotal responses;

St. Mary's Cathedral in Austin Texas: "We are receiving calls from all over Austin from people needing food. Most of these are working but can't feed their families on what they earn. Also many have lost food Stamps or have been refused for them for having a car."

The Oahu, Hawaii Social Ministry reported that because the state cut welfare benefits by 20%, many are unable to pay rent or utilities. "Because we can not provide for the level of need some people . . . have taken up residence in caves in the mountains."

In the Archdiocese of Newark, NJ there has been an increase in the demand for food 20% accompanied by a decrease in food donations.

In Beaumont TX 560 children are on a waiting list for child care so their parents can work.

Catholic Charities of Youngstown OH reported that they received 177 more requests for housing in the second quarter of this year than they did in the first quarter.

And here in Chicago we are working with a family—mother, father, and twin boys. The father cannot find work. Their credit is lousy so apartment hunting is difficult. They have exhausted their resources and their friends so this family is living in one of our shelters.

In closing I would say the panel title is fitting—"First let me work . . . And just as important, Let me live in dignity and with justice."

ILANA BERGER, POWER

POWER, People Organized to Win Employment Rights, is a project of San Francisco's General Assistance Rights union, and is an organization of workfare workers who have come together to fight the City's fifteen year-old workfare program. In the City there are 2,500 workfare workers, with an additional 11,000 men and women who will be required to do some sort of work in exchange for their TANF and Food Stamps benefits in the next two years.

Here's a story to illustrate how workfare workers are treated with no dignity or respect, and are subject to conditions which endanger their health and safety. On Wednesday, October 8 San Francisco workfare worker RG Goudy came to the POWER office feeling dizzy, nauseous and groggy. That day, at his workfare job cleaning buses at the Presidio Muni Yard, he was told by his supervisor to remove graffiti from the inside of buses using "So-Safe" Graffiti remover. When the worker asked to see the Manufacturer's Material Safety Data Sheet (MS-DS) as is his right under Cal-OSHA regulations, the supervisor responded, "I've read it you don't need to."

So-Safe is a cleanser that contains highly toxic chemicals and, according to the MS-DS, should only be used with sufficient ventilation, or with an "appropriate air-supplied respirator (e.g. SCBA or airline with escape pack.)" On May 15, 1997 Arlene Eisen, Acting Health and Safety Director at Muni, sent a memo to all Muni supervisors stating that "GA workers should not be assigned the tasks of interior graffiti removal."

When the worker reported that he felt sick, he was ridiculed, but his supervisor eventually agreed to send him home from work for the day. He came to the POWER office to report the incident, and find out where to receive medical treatment because his on-site supervisor had not provided him with workers' compensation forms. I went with him to the Presidio Yard to obtain workers' compensation forms to enable him to go to SF General Hospital's Occupational Health Office.

The immediate response from the Assistant Superintendent at the Muni yard when we asked for workers' compensation forms was, "Why? He's a GA worker." He continued to refuse to fill out the forms even when we presented official City documents detailing workfare workers' rights to workers' compensation.

For the next six hours, we went back and forth between Muni administrative offices and the yard, being refused from everyone from Emilio Cruz, director of Muni on down. We were locked out of four "private conversations" in offices, ignored, yelled at and ordered to leave. The worker, still suffering from dizziness and nausea was denied treatment for over six hours. He finally decided to go to the hospital without the Workers' Compensation papers.

The next day, the worker returned to the Presidio yard to do his workfare, and was told by the superior that he was to report to his caseworker to be reassigned to another worksite. The Assistant Superintendent at Presidio Yard, Larry Resnick, told the Department of Human Services (which administers and coordinates the workfare program) that Mr. Goudy was being fired for attending a protest at Muni Administrative offices—on his day off. DHS refused to intervene to demand that Muni allow the worker to return to reinforce the GA regulation, stating that, "this thing has become too big, too messy, and the worker must go to a different worksite—if he tries to return, he will be discontinued."

This incident illustrates two major problems with workfare. First, workfare workers do the exact same work as City workers, but are not given the benefits or protections that City workers receive because workfare workers are not considered to be workers—officially they are "volunteers." Second, workfare workers are exposed to hazardous work conditions every day on the job. Our members include men and women who sweep the streets for the Department of Public Works and are exposed to used hypodermic needles, human waste and broken glass without any training or protective gear. When it rains, workers often are not given rain gear or boots. Workers have no access to restrooms during their 7-hour work day. Our members include men and women who clean buses for Municipal Railways, who use toxic chemicals with no training or protective gear. Because at many Muni yards workfare workers are not allowed to use the restrooms that other workers use, they have no access to water to wash their hands, and no access to eye wash for chemical exposure. Workers are often not allowed access to the areas where health and safety information is posted. At San Francisco General Hospital, workers handle linen soaked with human blood and feces, without blood-borne pathogens trainings or Hepatitis-B vaccines.

Part of our work at POWER has been to win health and safety protection for workfare workers: We have been organizing and representing workers in workplace grievances as a union; we have filed complaints with Cal-OSHA, establishing OSHA's recognition of workfare workers as workers and setting an historical precedent; we are demanding that the Department of Human Services implement a systematic enforcement policy of health and safety regulations for any agency employing workfare workers; we have written a Pledge for Fair Work, outlining a policy for non-profit and non-City agencies to employ workfare workers in a manner that will be safe and healthy; we are holding workers' rights trainings with lawyers, representatives from Cal-OSHA, and rank-and-file union members; we are fighting and continuously pushing the envelope to win workfare workers the right to organize and advocate on their own behalf; and finally, we understand that workfare workers' rights will be abused while they are considered volunteers, so we continue to fight for workfare workers to be recognized as workers and for POWER to be recognized as a legitimate union.

The work to win protections for workfare workers is an integral part of our campaign to win equal pay for equal work, equal protection under the law, and equal access to full time job opportunity for workfare workers. The health and safety campaign has won us unprecedented recognition of workfare workers as workers, has provided a forum for introducing the campaign to other workfare workers and the general public, and offers essential personal stories and concrete examples of the abuses in the workfare program which serve as a reference point for people to understand our overall goals and vision.

While POWER continues to fight the hazardous work conditions faced by workfare workers each day on the job, we understand that workfare workers' rights will be abused while they are considered "volunteers." Men and women who do workfare are workers who deserve real jobs, real benefits, respect and dignity. We reject the notion that poor people have no rights, and we're working to let everyone in San Francisco and the country know that slavery is dead and we're not letting anybody bring it back!

COALITION TO PROTECT
PUBLIC HOUSING,
Chicago, IL, October 24, 1997.

Testimony before The Board.

Jobs with Justice Workers' Right's.

MR. CHAIRMAN, PANEL MEMBERS AND LADIES AND GENTLEMAN PRESENT: Good morning, I would like to start by saying in this county we have a housing crisis, congressmen in this country, is making and passing legislation that ill effect low-income people. An example of that legislation, is that the congress passed legislation to demolish 100,000 units of public housing nationally and 18,000 units right here in Chicago. That puzzle me since there is 6,000,000 homeless people in this country and 80,000 right in Chicago.

This new legislation will effect or make homeless 300,000 to 600,000 nationally and 34,000 to 50,000 here in Chicago.

It seems to me that the politicians no longer work for the health, interest, rights, and needs of the people, it seems they only work for the rich and the powerful corporations.

If this government is truly formed, of the people, and by the people, for the people, then something is wrong, because low-income people are really getting KICKED IN THE BUTT.

Thank you,

WARDELL YOTAGHAN.

TESTIMONIAL

(By Peggy Haack, Child Care Provider, Madison, Wisconsin)

I am a family child care provider, one of many providing care and education for young children on a shoestring budget. As a family child care provider, I represent on one hand all the myths one has ever heard about the job of caring for children—myths like these:

Myth 1: Anyone can do this work because training and skills are irrelevant.

Myth 2: Our income doesn't support a family, so it's OK that we only earn on average $9,528 a year after expenses, working 50 hours a week.

Myth 3: Our work is so "cute," certainly not serious business, so we don't need vacations, health insurance, retirement plans and other benefits that some workers take for granted.

Myth 4: We are all just "motherly types" doing what we do best.

At the same time these outrageous myths are dished out, we are being asked to be the bedrock of welfare reform by caring for a few extra children so the mothers of America's poorest children can enter the labor force. Plus we are being asked to continue to be the cornerstone of a healthy U.S. economy by providing care for America's currently working families. And, we are asked to do all this on a shoestring, of course!

Well, I am one grossly misunderstood, undervalued, hard-working, skillful, well-educated and angry family child care professional who is saying NO. And there are thousands of others like me. United with our colleagues in child care centers, nursery schools, Head Start programs, and school-age care programs, we wish to send this simple message to policy makers at all levels of government: We need more money to do this job, and you need us to do it right! We need more money not only to meet an ever-increasing need for child care as a result of welfare reform, but also to do it better!

There is not a parent in the world—whether he or she is a U.S. senator, the president of a corporation, a factory line worker, or a welfare mom—who is able to give the best to their job, any job, when they're worried about their kids and the care they are receiving.

We have tried to cope with this child care system where availability and affordability for parents determine what the system looks like . . . and it isn't working for us or for the families we serve. We have created a system that is mediocre at best, a system that exploits its work force by paying meager wages, does not guarantee healthy development for children, and cannot sustain a society in the long run. It is time for us to focus on quality child care as our top criteria for the provision of child care, because in the long run it is the best investment in our future. Young children do not define their own potential in life based on how much or how little their family earns and how much they can pay for child care . . . even though that is exactly what our current public policies do. Welfare reform as it is now is simply about trimming the federal deficit, not about reforming a system and making this country one that dignifies the worth of all people.

And about welfare recipients doing family child care in order to receive their benefits . . . I personally welcome moms on welfare, as I welcome U.S. congressmen seeking a career change, into my profession. I welcome anyone who shares with me the gift of intimately relating to young children and shares with me a knowledge and understanding of their development. The gift I am referring to is the ability to use your eyes, your touch, and your voice to soothe a needy baby, even when you cannot discern the exact need; to give up some of your big person power to a toddler struggling to discover her own; to see past the anger of an impulsive preschooler to discover the frustration, fear, desperation or repentance that is surely there; to accord the school age children the respect that their insights of life deserve . . . Anyone who has that gift and is provided the opportunity and is willing to be educated in the important aspects of children's growth and tutored in skills that promote their learning, while at the same time able to manage a small business, please do join us. Family child care is a wonderfully challenging place to be. Oh, but be prepared to fight for your self-respect and for your economic survival, because the policy makers of this country demand it of you!

IN HONOR OF YORK COLLEGE ALUMNI INC.

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SCHUMER. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing York College Alumni Inc. for the services which it and its participants have provided for York College of Jamaica, Queens in New York City.

York College Alumni Inc. was started in September 1978 by Jeremy D. Smith, Esq., David J. Thompson, and Elizabeth Williams '77 to promote the well-being of York College, its alumni, and the surrounding community. It has fulfilled this role for the past twenty years, and is run today by Camille T. Allen, Esq., '90.

York College Alumni Inc. has served York College and the surrounding community in a myriad of ways. It has established four scholarships for York College students in addition to awards for distinguished members of the graduating class, outstanding alumni, and in recognition of outstanding service to the Queens community. It has published a quarterly newspaper, the York College Alumni News since March 1980 in addition to holding a number of annual fundraisers, seminars, and receptions. York College Alumni Inc. also organizes community literacy programs, Toys-For-Tots drives, financial planning workshops, and voter education and registration drives.

Strong alumni serve as the symbol of a vigorous college by putting their education to use in the community. In this sense, York College is honored to be represented by an organization like York College Alumni Inc.

I hope that all of my colleagues will join me in commending the fine work that York College Alumni Inc. has accomplished and in wishing it a long and productive future.

HONORING DR. JULIUS S. SCOTT, JR., FOURTEENTH PRESIDENT OF WILEY COLLEGE

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SANDLIN. Mr. Speaker, I rise today to honor Dr. Julius Scott, Jr. for his inspired leadership as the President and Chief Executive Officer of Wiley College, one of the country's greatest Historically Black Colleges, in my hometown, Marshall, Texas. Dr. Scott's example of time-honored values, scholarship, integrity and professionalism significantly impacted Wiley College and the community throughout the college's historic 125th anniversary year.

A native Texan, Dr. Scott followed in the footsteps of his father, who was also a minister and college president. Julius Scott has earned degrees from Wiley College (with honors), Garrett Evangelical Theological Seminary, Brown University, and Boston University, in addition to the fourteen honorary degrees bestowed upon him.

Dr. Scott's impressive career includes teaching at Wiley College, Boston University, Atlanta University and Spelman College; chaplaincy at the Massachusetts Institute of Technology, Texas Southern University and Brown University; and administration at Spelman College, Paine College, Albany State University and Wiley College. His current directorates include the Carnegie Council on Ethics in International Affairs, the Martin Luther King, Jr. Center for Nonviolent Social Change and the Boards of Trustees of Andrew College, the Atlanta University Center, North Central College and Wofford College. Dr. Scott is also a prominent and influential member of the community of Marshall, serving on the Civic Center Advisory Board and the Board of the Chamber of Commerce.

Dr. Scott has shown an unwavering dedication to education and the centrality of the academic program, teaching students the importance of developing "tough minds and tender hearts." Dr. Scott's optimism, enthusiasm and commitment to a vision of a great institution bolstered the credibility and visibility of Wiley College, cultivating many friends and supporters for the institution.

Mr. Speaker, I congratulate Dr. Julius Scott, Jr. for his extraordinary leadership of Wiley College. His legacy of faith, service and good works will endure at Wiley College for years to come.

INTRODUCTION OF LEGISLATION GRANTING A FEDERAL CHARTER TO THE AMERICAN GI FORUM

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. BONILLA. Mr. Speaker, it is with great pleasure that I am introducing legislation, along with my San Antonio colleague Representative Ciro Rodriguez, to grant a federal charter to the American GI Forum (AGIF). The American GI Forum is an institution in Texas and has more than 500 chapters across our great nation. It is the largest national veterans service organization without a federal charter. AGIF members, through their commitment and sacrifice have earned this honorary status for their organization through their military service. It is long past time to grant this honor.

I am fortunate to represent one of the most patriotic congressional districts in America. There are seven military bases in and around my district. There are two veterans cemeteries and three veterans hospitals in my area. It is not surprising that this patriotic area has many chapters of the American GI Forum. The patriotism of the region makes it a natural home for the GI Forum and makes me all the more committed to granting this organization a federal charter.

The American GI Forum celebrates its 50th anniversary this year as our nation's largest predominantly Hispanic veterans organization. It is only fitting that we commemorate this occasion by granting a federal charter. This bipartisan bill provides a means for this Congress to recognize the sacrifices of the one million Hispanic veterans. I urge my colleagues to join this bipartisan effort to provide a federal charter to the American GI Forum.

IN MEMORY OF WILLIAM "HENRY" ALSTON

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention William "Henry" Alston of Passaic, New Jersey who has recently passed away. Henry was born in Warrenton, North Carolina on July 23, 1923. He was the son of the late Wiley P. Alston, Sr. and Maggie Stamper Alston.

A lifelong resident of Passaic, Henry attended Passaic public schools and graduated from Passaic High School. He served in World War II and was very active in the community. He was the former President of both the former President of both the Passaic Democratic Club and the Passaic Alcohol Beverage Board. Henry worked and retired from the Manhattan Rubber Company of Passaic.

On October 7, 1951 Henry married the late Lulu Cornell Alston. From this union, two children were born: Elaine Everett of West Orange and Wayne Alston of Passaic.

Henry is survived by a brother, Irving Alston of Dover, New Hampshire and three sisters, Emma Moody of Passaic, Vernette Cole of Port Charlotte, Florida, and Mary Coleman of Montclair as well as son-in-law Richard Everett, daughter-in-law Dawn Alston, brothers-in-law Robert Cole and Andy Coleman, and grandchildren Brian and Kelly Everett, Branden and Avery Alston, and Derek Hardy.

Mr. Speaker, I ask that you join me, our colleagues, the family, friends and colleagues of Henry, and the City of Passaic in paying tribute to the memory of William "Henry" Alston.

THE WESTCHESTER JEWISH COMMUNITY SERVICES DEDICATION EVENT

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mrs. KELLY. Mr. Speaker, I rise today in recognition of the Westchester Jewish Community Services' (WJCS) Dedication Celebration. This May 17th, 1998, on the 55th year anniversary of the WJCS, the organization's members will celebrate the opening of their brand new headquarters in North White Plains, New York with a WJCS Dedication Celebration at the new headquarters. I am thrilled to offer my congratulations for these milestone events.

WJCS began in 1943 in a three-story walkup in White Plains, New York. Undergoing an enormous expansion since its inception in 1943, the WJCS is currently operating 29 program sites throughout Westchester. This spring, as the center celebrates its 55th anniversary, it will open its doors to their own three-story headquarters at 845 North Broadway, North White Plains, New York.

The Westchester Jewish Community Services is a unique and invaluable resource to our community, offering a comprehensive, coordinated, continuum of quality care for the entire family. Over the past half a century it has educated, counseled, guided and supported countless numbers of Westchester citizens.

I am proud to welcome the Westchester Jewish Community Services' new headquarters to North White Plains, and I look forward to working with the members WJCS as they continue to offer vital services for the people of Westchester.

HONORING THE PASADENA STRAWBERRY FESTIVAL

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. BENTSEN. Mr. Speaker, I rise to congratulate the Pasadena Strawberry Festival as it celebrates its 25th anniversary, kicking off this year's festival with an opening ceremony at the Pasadena Fairgrounds on May 15, 1998. The multi-cultural event draws a crowd of more than 30,000 to enjoy the strawberries, entertainment, food, activities and fun.

The Strawberry Festival began in 1974 when Helen Alexander, better known as Miss Helen, "planted a seed" to promote the grand opening of the new Pasadena Historical Museum. The Museum project was close to her heart and she wanted the opening to be a memorable success. She sought a way to capture the imagination and attention of all the people of Pasadena and thus was born Miss Helen's Magic Festival Seed.

The seed Miss Helen planted grew into today's Pasadena Strawberry Festival, named to honor Pasadena's heritage as the Strawberry Capitol of the World. Rosalie Kuntz was the first chairman and Sterling Loomis, vice-chairman. Miss Helen asked the San Jacinto Day Foundation for help, but otherwise recruited volunteers and donations whenever possible: A.C. Czigan at Houston Lighting and Power provided free electrical hook up; Don Nichols of the Pasadena Citizen arranged for a special section featuring the event and the museum; Oaks TV and C.A. Spears donated the sound system; Bob Jones' Vending Company donated beverages; and Jimmy Harris from the Parks Department pitched in to help. Principal Lonnie Keller agreed to allow the use of the football practice field at Pasadena High School as the festival site.

It was a modest, but highly successful beginning with approximately 30 booths, each decorated with pride and enthusiasm. In the long tradition of festivals, there was a Beauty Pageant. In an interesting twist, however, only redheads and strawberry blondes could enter. It was a hit from the beginning.

When the museum opened on Festival day, the American Legion donated a flag and presided over flag ceremonies and the mayor cut the ribbon. From the large turnout, it was obvious that the Festival could be a very successful annual event for the community. Miss Helen and her associate Beverly Jackson realized the economic benefits and historical significance this event could have for the entire area so they registered the San Jacinto Day

Foundation as a nonprofit historical organization. The Foundation fosters the observance of San Jacinto Day and the Strawberry Festival and continues to grow and help the city of Pasadena.

Today the Pasadena Strawberry Festival is a two-and-a-half day multi-cultural event produced by hundreds of volunteers on the Pasadena Fairgrounds. Continuous live entertainment, arts and crafts, children's games, carnival rides, a fabulous variety of foods, special acts and demonstrations, and of course, "Texas' Largest Strawberry Shortcake," are just a few of the Festival's features. Income from the festival funds scholarships, books for college libraries, and community projects that preserve and promote the study of Texas history.

The Pasadena Strawberry Festival is big and exciting, but still maintains the warm, country charm of the original Festival. Most of all, the Festival remains true to its roots, reflecting the history and rich heritage of Pasadena.

INDIAN NUCLEAR TEST IS A THREAT TO PEACE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. TOWNS. Mr. Speaker, I was very distressed to hear of the recent Indian nuclear test. This test moves the subcontinent closer than it has ever been to a devastating nuclear war and threatens the peace of South Asia and the world.

Recently, the Rand Corporation, a widely-respected think tank, predicted a war between India and Pakistan. The Rand study predicted that this war could go nuclear. Unfortunately, this explosion in the Rajasthan desert brings that prediction dangerously close to materializing.

No one can be sanguine in the face of such a grave threat, especially since India refuses to join the other nuclear states of the world in accepting the restraints of the Comprehensive Test Ban Treaty (CTBT). Pakistan has said that it will sign the treaty when India does; it is the Indian government that refuses to let South Asia escape from the threat of nuclear war.

It appears that even many supporters of India are worried about this dangerous test. The Center for Strategic and International Studies, a pro-India think tank, reportedly said that this test would backfire on India. I am encouraged that a prominent organization that supports India has spoken out about the danger this test poses.

America provides significant support for this nuclear campaign. India is one of the five largest recipients of aid from the hardworking taxpayers of the United States. We should end this aid immediately and impose tough sanctions on India to put the brakes on its aggressive nuclear effort. This will put pressure on India to focus its resources on development at home, where half the people live below the international poverty line, instead of trying to intimidate its neighbors to extend its empire.

The Council of Khalistan recently issued a press release on this issue which speaks strongly and responsibly about measures America can take to make it clear to India that we will not allow it to turn the subcontinent into a theater of nuclear combat. I support the measures outlined in this release and I would like to place this release in the RECORD.

SANCTION INDIA FOR NUCLEAR WEAPONS TEST—PRESIDENT CLINTON SHOULD CANCEL VISIT TO INDIA

WASHINGTON, D.C., May 11—Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, today strongly condemned India for its test of three nuclear devices and called on the Administration and Congress to impose sanctions on India for that test. He also urged President Clinton to cancel his scheduled visit to India.

"India has been pursuing nuclear domination in South Asia for quite a while," Dr. Aulakh said, "even though it is under no military threat." According to a British documentary entitled "Nuclear India," India uses only 2 percent of its development budget on health and 2 percent on education, but 25 percent of its development budget goes to nuclear development. India is one of the five largest recipients of U.S. aid. "It is time for the U.S. government to place sanctions on this imperialist state," he said.

India has refused to sign the Comprehensive Test Ban Treaty (CTBT), Dr. Aulakh pointed out. "Without India's agreement to this treaty, how do we know that India won't spread its nuclear-weapons technology around to hostile countries like Iran?," he asked. India has provided heavy water and nuclear submarines to the Iranian regime, according to newspaper reports.

"This nuclear test poses a serious danger to the world," Dr. Aulakh said. "India has ballistic missiles currently aimed at Pakistan and it shows signs of a country preparing for a military attack," he added. "India can no longer deny its ambition to achieve hegemony in the subcontinent, backed by nuclear weapons," he said. He pointed out that two leaders of the ruling BJD recently called for Pakistan and Bangladesh to become part of India. "I view this nuclear test as an effort to scare India's neighbors into submission to its dreams of hegemony," he said.

"Sanctions against South Africa led to the end of apartheid," he said. "Sanctions against India will bring about an end to its aggressive nuclear weapons development."

Dr. Aulakh called on President Clinton to cancel his visit to India. "Why should the President of the United States grant his symbolic blessing to this aggressive action against all the countries of South Asia?," he asked. "We all want to have good relations with India, but it must pay the price for its destabilizing test," he said. "By cancelling this visit, the President can make it clear that America will not support Indian military aggression or Indian hegemony in the subcontinent."

"The best way to keep India from using its military resources to achieve dominance in South Asia to support Punjab, Khalistan and all of the subcontinent in their struggle for freedom.," Dr. Aulakh said. "Punjab, Khalistan is a natural buffer between India and Pakistan. Sikhs are committed to make Punjab a nuclear-free zone now and in the future. We will not and cannot tolerate nuclear weapons in our homeland and the Sikh Nation will do all in its power to make all of South Asia nuclear-free."

A BILL TO AMEND THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to introduce legislation to make a technical correction to the Federal Election Campaign Act of 1971. The bill clarifies the right of non-citizen nationals of the United States to make contributions in connection with federal elections.

Mr. Speaker, I represent the territory of American Samoa, the only U.S. soil in the Southern hemisphere. Persons born in American Samoa of non-citizen U.S. parents are given the status of U.S. national. These individuals are nationals of the United States, but not U.S. citizens. They owe their allegiance to the United States, serve in the U.S. military, carry U.S. passports, and have the same access to the United States as do U.S. citizens. They are not foreign nationals or aliens. Approximately 90% of the residents of American Samoa are non-citizen U.S. nationals. This status can be acquired only by birth in American Samoa or by birth in a foreign country from parents, one or both of whom are U.S. nationals.

Federal law currently specifies that U.S. citizens and permanent resident aliens may make contributions to candidates for federal office. If federal law were interpreted to prohibit non-citizen U.S. nationals from contributing to federal elections, the vast majority of the residents of my Congressional district would be prohibited from contributing to candidates running for the office of delegate to the U.S. House of Representatives from American Samoa. Additionally, the non-citizen U.S. nationals residing in the states of the United States, estimated to be between 35,000 and 100,000, would also be prohibited from contributing. I do not believe this was the intent of Congress when it passed the Federal Election Campaign Act. At that time, there were many fewer U.S. nationals in the United States, and the position of delegate to the U.S. House of Representatives from American Samoa did not exist.

Several years ago, out of concern that then current law could be interpreted to prohibit non-citizen nationals from making political contributions, I requested and received an opinion from the Federal Elections Commission indicating that political contributions could be accepted from non-citizen nationals. This administrative clarification of an ambiguous law has been the basis upon which I have relied in accepting funds in my Congressional district.

Federal court opinions in recent years have led to increased flexibility in the use of some campaign funds, and publicized violations of federal election law in the 1996 presidential campaign have prompted efforts in Congress to change the current system.

H.R. 34, a bill to prohibit individuals who are not citizens of the United States from making contributions or expenditures to candidates for federal office passed the House by a vote of 369–43, with one member voting present, on March 30, 1998. If H.R. 34 were to become law, the delegate from American Samoa would be prohibited from receiving political contributions from the vast majority of the residents of his or her Congressional district. This is a consequence which I consider unfavorable and which would move the campaign finance system further from the voters in American Samoa. Additionally, I believe that if H.R. 34 were to become law, it would favor the incumbent delegate from American Samoa and work to the detriment of any challengers.

As it now appears that campaign finance legislation will be considered by the House this spring, I wish to bring the issue of non-citizen U.S. nationals to the attention of my colleagues and offer a legislative remedy.

The number of U.S. nationals in the United States and its territories is comparatively small, but this is no reason to ignore this technical problem which could have a significant impact on future elections for the delegate from American Samoa, and which could also, should H.R. 34 or similar language be enacted into law, ensnare candidates for other federal office who unknowingly accept contributions from U.S. nationals.

I urge my colleagues to support this technical change to the Federal Election Campaign Act.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF RIGHT OF NATIONALS OF THE UNITED STATES TO MAKE POLITICAL CONTRIBUTIONS.

Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by inserting after "United States" the following: "or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)".

TRIBUTE TO WALTER HOFFMAN

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention Walter Hoffman of Wayne, New Jersey, who is being honored this evening by the Wayne Democratic Organization.

Walt was born in Newark, New Jersey on December 21, 1924. He was raised in Glen Ridge and East Orange, and was active in scouting activities, including Assistant Scout Master and Explorer Adviser, Walt was also co-captain of his high school's track team.

Walt is a Marine Corps veteran, having served his country during World War II in the Pacific Theater of Operations from 1943 to 1946. Upon leaving Marines, Walt attended the University of Michigan where he earned a Bachelor of Arts degree in Political Science in 1948. Pursuing a career in law, he attended the University of Chicago Law School and earned his J.D. in 1950. He was also Associate Editor of the law school's Law Review.

Walt has an accomplished and distinguished career in both law and public service. He was a trial attorney for the National Labor Relations Board in 1951 and a staff attorney for the House Ways and Means Subcommittee Investigating Administration of Internal Revenue Laws from 1951–52. From 1955 to 1985, Walt sought out the private practice of law and was a senior partner in his own firm for 26 of those years. During this time, however, he still remained active in public matters. Walt served as Chair of the Arms Control and Disarmament Committee and Vice-Chair of the International Courts Committee from 1974–78. He was founder and Executive Vice-President of the Campaign for United Nations reform from 1975–91 and Executive Director and Executive Vice-President of the World Federalist Association from 1985–93. Walt also was appointed by House Speaker Thomas Foley to the United States commission on Improving the Effectiveness of the United Nations, serving from 1992–93, Chair of the International Organizations Interest Group from 1995–96, and President of the Center for U.N. Reform Education from 1993–96.

In addition to his vast experience in governmental affairs, Walt also has a strong teaching background. He has taught courses on Political Science, American Government, Political Theory, and Law at such institutions as William Paterson College and Ramapo College. Currently he is an Adjunct Professor of American and International Studies at both Ramapo College and William Paterson University. Walt is also serving as Legal Counsel to the World Federalist Association and Treasurer of the Center for U.N. Reform Education.

Walt has also been active politically, having served as Councilman for the Township of Wayne from 1964–71. He was also a Democratic candidate for mayor in Wayne as well as the State Assembly, and served in numerous capacities for Presidential candidates Eugene McCarthy and Norman Cousins.

Walt is married to the former Lois Johnson, and together they will celebrate their 50th Wedding Anniversary this June. They have three adult children: Anne Ferruggio, who is Minister of St. Paul's United Church of Christ in Allentown, PA; Laura Calixte, who is the Chief Window Clerk at the Pequannock Post Office; and Charles Hoffman, who is a mortgage banker with Northwest Mortgage Company. Walt and Lois also have three grandchildren: Sylvianne Calixte, who is a student at William Paterson and Raymond and Gregory Hoffman, who are in the 4th and 1st grades respectively, in Havertown, PA.

Mr. Speaker, I ask that you join me, our colleagues, Walt's family and friends, and the Township of Wayne in recognizing Walter Hoffman's many outstanding and invaluable contributions to our society as he is being honored this evening by the Wayne Democratic Organization.

PRAISING THE NATIONAL CHURCH OF THE NAZARENE

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Ms. NORTON. Mr. Speaker, I rise to pay tribute to the National Church of the Nazarene on the occasion of its 80th anniversary celebration.

A little more than eighty years ago, in the shadow of the Nation's Capitol in Northeast D.C., a small group of dedicated Christians, who believed in and had experienced "the blessing of entire sanctification" attended a series of tent meetings where they heard this doctrine preached. This "Holiness Movement" was not generally accepted by the established churches of that day and, in many cases, these people were resented for this belief and met with opposition in their own churches and were often dismissed from them.

Out of these tent meetings, and the desire of this group to serve the Lord in "Holiness" in the Nation's Capital, a church was born. This church was the forerunner of the First Church of the Nazarene, which is now known as the National Church of the Nazarene, Washington, D.C. The name was changed in 1996 since "National" more appropriately described the true nature and mission of the church since its beginning in Washington. Its ministry and impact have been not only city-wide, but nationwide and worldwide.

From its humble beginnings at the tent meetings, the original group was determined to establish a Holiness Church in Washington. It first organized as the Wesleyan Pentecostal Church. As a result of differences, a portion of the group withdrew and formed the Pentecostal Church of the Nazarene. Several other attempts were made to establish the church but, for a number of reasons this did not materialize. Five years later, through the efforts of an ordained Nazarene minister, Reverend Leewin B. Williams and a converted layman, Mr. F.F. Sweeney, the group reformed. The deep desire of this group to become a permanent organization caused the General Superintendent to appoint Rev. W.E. Suber as the first pastor. In the fall of 1917, with 22 charter members the church was formed and was incorporated as the First Church of the Nazarene, Washington, D.C. in July 1920.

Following the resignation of the first pastor, Rev. Williams, once again assumed leadership of the church. One of his first actions was to start a building fund. With $3,500 in the building fund and $450.00 in Liberty Bonds, the church purchased the Epworth Methodist Church building at 7th and A Streets, NE which had been significantly damaged by fire. After extensive renovation, singing "We're Marching to Zion," the entire congregation marched the four blocks to the new church. The mortgage on that property was burned in 1942. This building now houses the Unity of Washington, D.C.

In 1944, a building fund drive was initiated for a "National Church of the Nazarene in Washington, D.C. and a lot was purchased a few blocks from the church home. The members saved dimes, which were placed in a large bucket, to be used for furnishing the new church. In December 1950 a $10,000 pipe organ was purchased from a radio station in Hagerstown, MD for the sum of $3,000—the same amount that was in the bucket at the time. Today, this organ stands in the National Church of the Nazarene at 16th and Webster Streets.

In the 1940's, World War II brought many changes to the churches in Washington. Government workers and military personnel attended Sunday Schools and worship services.

Some of them remained in the area after the War and made their homes here.

In the late 1940's, Rev. Roy Stevens became the pastor. It became obvious that the lot purchased for the new church would not be adequate and it was sold. A lot was purchased at 16th and Webster Streets, NW for $22,000. However, because of the Korean War and the shortage of steel, the project was threatened with delay. After an extended period of prayer by the church and personal contacts Rev. Stevens made with government officials, sufficient steel was released for construction to proceed. On March 15, 1953, the new facilities, on 16th Street, representing a total investment of $430,000, were dedicated. Fifteen years later the mortgage was paid in full.

During the early 1980's there was some thought that the future of the church would be best served by moving to the suburbs. After prayerful, careful analysis the church Board decided, unanimously, that this congregation should become a metropolitan church serving people of every race and culture and remain in Washington, D.C. A Hispanic Congregation began through a Portuguese Sunday School class taught by the wife of the Ambassador of Cape Verde. This congregation now totals 90–100 members. In 1993, a Haitian ministry was formed with 13 members. They now have 50–60 members in attendance on Sunday mornings. The African Christian Fellowship, which ministered to students who had come to Washington, D.C. from their homes in Africa, outgrew their facilities at National Church and now have their own in nearby Maryland. The church has sponsored refugees from several countries including Viet Nam, Hungary and the Philippines. At present, 30 different nationalities are represented in the church.

In 1995, under the leadership of the present pastor, Rev. Michael T. Burns, an extensive repair and renovation program was undertaken in the main sanctuary. Membership now stands at 463—14 of whom have been members for more than 50 years. One person has been a member for 69 years. An important undertaking, at present, is the development of the National Church of the Nazarene Foundation whose purpose is to maintain and perpetuate the ministry of the Church of the Nazarene in Washington, D.C. This will enable the church to develop more ministries that will create additional ports of entry into the church and to assist in its continuing commitment to reach the ever-changing and broadly diverse residents of the greater metropolitan Washington, D.C. area.

Mr. Speaker, over the years the National Church of the Nazarene has been a "sending" Church—where people have come for a period of time and prepared to become active lenders in other areas. Many have gone from its altars as ministers, evangelists, missionaries and laymen. I ask this body to join me in sending a special ovation and salute to the National Church of the Nazarene on the occasion of its 80th anniversary celebration.

HONORING THE RONALD McDONALD HOUSE OF HOUSTON

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. BENTSEN. Mr. Speaker, I rise to honor the Ronald McDonald House of Houston as it prepares to celebrate its first family reunion on the weekend of May 15th and 16th at the newly opened Ronald McDonald House in the Texas Medical Center.

The Ronald McDonald House gives a home away from home to the families of seriously ill children being treated at the Texas Medical Center. It is rightly known as "The House that Love Built." More than one hundred past Ronald McDonald House families from all over the world are coming home this weekend to celebrate the new House and to visit old friends, doctors, nurses, and all those who have become a part of their family over the years.

The idea for the Ronald McDonald House was launched in 1978 by a group of parents and friends, most of whom had experienced the trauma of serious childhood illness in their own families. They were supported by contributions from the Houston McDonald's Operators Association, the Houston Oilers, and area foundations, corporations, community organizations, and individuals. In May 1981, the first family moved into the original Ronald McDonald House.

Because of its many outstanding medical facilities, thousands of children travel to Houston each year to be treated for serious illnesses. The Ronald McDonald House provides a place where the whole family can stay in a homelike environment and find support as they share with other families who are also experiencing the trauma of childhood illness. The Ronald McDonald House strives to relieve the stress and pain of illness by offering these families a warm, caring environment where they can share their concerns.

In the fall of 1994, a $10 million capital campaign was launched to secure funds for the construction of a new, larger Ronald McDonald House of Houston in the Texas Medical Center. With the successful completion of this campaign in September 1997, the doors to the current House were opened.

The new House is a three-story brick atrium building including 50 private bedrooms, an eight-station kitchen, special needs kitchen, dining room, meeting areas, business offices, resident manager quarters, playrooms, laundry, outside play area, and even a schoolroom. The House now averages 32 families a night and is well on its way to a full House of 50 families.

The reunion weekend will consist of an old fashioned Texas Round-up Barbecue hosted by the employees of Southwest Airlines, as well as a breakfast with special guests from the Texas Medical Center, The Spring Fling Children's Party, and a commemorative Closing Ceremony. During the ceremony, the children will plant a garden honoring those children who were unable to attend the reunion.

Mr. Speaker, the Ronald McDonald House of Houston, its staff, volunteers and especially its families over the years are a great inspiration to all Americans and I congratulate them on this special occasion.

SENSE OF CONGRESS ON 50TH ANNIVERSARY OF FOUNDING OF MODERN STATE OF ISRAEL

SPEECH OF

HON. JAY W. JOHNSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 28, 1998

Mr. JOHNSON of Wisconsin. Mr. Speaker, I rise today to honor Israel's 50th birthday and celebrate a half century of freedom, democracy, and independence.

In 1948, a Jewish homeland was created after 2,000 years in which its people knew only exile and, far too often, persecution. For thousands of years, the Jewish people would say, "Next year in Jerusalem," but their cry would go unrealized. But the suffering and wandering ended fifty years ago when the world community fulfilled the dreams of the Zionists, and gave men and women around the globe a place in the holy land to call their own.

It has been a remarkable fifty years. As the Psalmist tells us, "He that keepeth Israel shall neither slumber nor sleep." We have certainly seen this message bear truth. Israel's entire history has been a race of hope versus conflict. Though its people have known tragedy and war, Israel has always triumphed. This tiny nation has persevered and thrived, building an island of democracy in a troubled region and a haven of faith in an uncertain time.

As a representative of all the people of Northeast Wisconsin, it is my great pleasure to congratulate Israel on an extraordinary half century and extend my hope and confidence for its continued strength in the years to come.

In the last fifty years, we have turned the plea of "Next year in Jerusalem" into a promise. Long may that promise flourish.

SALUTING THE STATE OF ISRAEL ON THEIR 50TH ANNIVERSARY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to congratulate the State of Israel on the 50th Anniversary of its establishment. It is an honor to salute Israel, our long-standing ally and to remember that the United States of America was the first nation to recognize officially the State of Israel fifty years ago.

Recently, I had the opportunity to attend several events in the 11th Congressional District of great significance. One event to commemorate the 50th Anniversary of Israel was a joint celebration held by three synagogues in Morristown, New Jersey. The Congregation Ahavath Israel, the Morristown Jewish Center and Temple B'nai Or held a remarkable celebration on the grounds of the Vail Mansion which was both cultural and educational, and it highlighted the "modern miracle that is Israel."

What was of special significance were the number of children present from Conservative, Orthodox and Reform congregations. It was a remarkable event that reinforced the need to remember and to never forget the Holocaust and that the struggle for true peace is never over.

Another special event was the dedication of the Holocaust Memorial Garden and Study Center at Temple Beth Shalom in Livingston.

Mr. Speaker, the garden is a remarkable place. For some it will be a place for recollection, for others medication. Most importantly, the study center and garden is a place to teach the young. Like the Holocaust Museum in Washington, my hope is that this special Memorial Garden and Study Center will attract people of all faiths.

Mr. Speaker, on Tuesday, April 21, the House of Representatives passed a resolution expressing the sense of Congress on the 50th Anniversary of the State of Israel and reaffirming the bonds of friendship between our two nations. I was pleased to both cosponsor and vote for this resolution, which recognized the accomplishments of the Jewish people who helped forge the modern state of Israel, and who make it the vibrant and dynamic country it is today. Mr. Speaker, I am including a copy of that important legislation at the end of my remarks today.

The modern state of Israel is still tied to the ancient Kingdom of Israel, first established over three thousand years ago. The recognition of their history, and respect of tradition, has helped guide Israel's leaders for the past fifty years. David Ben-Gurion, the founding father and first prime minister of Israel, said in an broadcast to the Israelis on May 15, 1948, the day after Independence:

> Whatever we have achieved is the result of the efforts of earlier generations no less than our own. It is also the result of unwavering fidelity to our precious heritage, the heritage of a small nation that has suffered much, but at the same time has won for itself a special place in the history of mankind because of its spirit, faith and vision.

Mr. Speaker, my hope for the future of Israel, for the next fifty years and beyond, was best stated by Chaim Herzog, the fifth president of Israel, in his farewell address to the Knesset. To paraphrase him, I hope that Israel, as a flourishing, cohesive and progressive society, can continue to climb to the summits and reach the height from which they may be a beacon to the nations.

Joint Resolution expressing the sense of the Congress on the occasion of the 50th anniversary of the founding of the modern state of Israel and reaffirming the bonds of friendship and cooperation between the United States and Israel.

Whereas on November 29, 1947, the United Nations General Assembly voted to partition the British Mandate of Palestine, and through that vote, to create the State of Israel;

Whereas on May 14, 1948, the people of Israel proclaimed the establishment of the sovereign and independent State of Israel and the United States Government established full diplomatic relations with Israel;

Whereas the desire of the Jewish people to establish an independent modern State of Israel is the outgrowth of the existence of the historic Kingdom of Israel established three thousand years ago in the city of Jerusalem and in the land of Israel;

Whereas one century ago at the First Zionist Congress on August 29 to 31, 1897, in Basel, Switzerland, participants under the leadership of Theodore Herzl affirmed the desire to reestablish a Jewish homeland in the historic land of Israel;

Whereas the establishment of the modern State of Israel as a homeland for the Jews followed the slaughter of more than six million European Jews during the Holocaust;

Whereas since its establishment 50 years ago, the modern State of Israel has rebuilt a nation, forged a new and dynamic society, and created a unique and vital economic, political, cultural, and intellectual life despite the heavy cost of six wars, terrorism, international ostracism, and economic boycotts;

Whereas the people of Israel have established a vibrant and functioning pluralistic democratic political system including freedom of speech, a free press, free and fair and open elections, the rule of law, and other democratic principles and practices;

Whereas, at great social and financial costs, Israel has absorbed hundreds of thousands of Jews from countries throughout the World, many of them refugees from Arab countries, and fully integrated them into Israeli society;

Whereas for half a century the United States and Israel have maintained a special relationship based on mutually shared democratic values, common strategic interests, and moral bonds of friendship and mutual respect; and

Whereas the American people have shared an affinity with the people of Israel and regard Israel as a strong and trusted ally and an important strategic partner: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States—

(1) recognizes the historic significance of the 50th anniversary of the reestablishment of the sovereign and independent modern State of Israel;

(2) commends the people of Israel for their remarkable achievements in building a new state and a pluralistic democratic society in the Middle East in the face of terrorism, hostility and belligerence by many of her neighbors;

(3) reaffirms the bonds of friendship and cooperation which have existed between the United States and Israel for the past half-century and which have been significant for both countries; and

(4) extends the warmest congratulations and best wishes to the State of Israel and her people for a peaceful and prosperous and successful future.

AKIN BIRDAL—VOICE FOR HUMAN RIGHTS IN TURKEY

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SMITH of New Jersey. Mr. Speaker, many in the human rights community were horrified to learn of the shooting of Akin Birdal, President of Turkey's Human Rights Foundation, by unidentified armed gunmen at his offices in Ankara. Mr. Birdal, a widely recognized and respected human rights advocate, appeared before the Helsinki Commission in the early 1990s and most recently met with members of a Commission delegation that visited Turkey in January. Today's attack occurred against the backdrop of an ongoing campaign of harassment against human rights NGOs in Turkey. The Human Rights Foundation, Turkey's largest human rights monitoring group, has had numerous offices closed down by the Turkish authorities. The Foundation's leadership, including Mr. Birdal, has been repeatedly targeted for prosecution.

The attack against Akin Birdal in a very real sense is an assault on Turkey's fledgling civil society. The development of a genuine civil society is essential if Turkey hopes to develop into a true democracy. Mr. Speaker, instead of viewing human rights advocates like Mr. Birdal as adversaries, Turkey's leaders should embrace these courageous individuals as allies and form a partnership with those dedicated to democracy, human rights, and the rule of law. Our prayers go out to Mr. Birdal and his family in the aftermath of this senseless act.

CONGRATULATIONS TO DR. MAN J. CHA, DR. WALTER FUNG, DR. TOYOKO MAE TAKAHASHI, MR. SUTEE VATANATHAM, AND MS. IA V. XIONG

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Dr. Man J. Cha, Walter Fung, M.D., Toyoko Mae Takahashi, Pharm. D., Sutee Vatanatham, and Ia V. Xiong, for being selected the 1998 Portraits of Success Program Honorees by KSEE 24 and Companies that Care. In recognition of Asian American Heritage Month, these five leaders were honored for their unique contribution to the betterment of the community.

Dr. Man J. Cha has served as Professor of political science and public administration at California State University, Fresno since 1969. He earned his masters and doctoral degrees from the School of Public Administration at the University of Southern California. He also earned his baccalaureate degree in International Relations and Economics from this acclaimed University. Since 1965, Dr. Cha has made significant contributions as an instructor in higher education. He has taught public management, organizational theory and behavior, and many other courses related to American government and public policy issues. He has also conducted extensive research related to environmental issues, economic development and the political and social culture of South Korea. In 1988, he was awarded a Rotary Foundation International Ambassadorial Scholarship to give lectures in Korea and the United States. In 1992 he was awarded a major grant from the Korea Research Foundation to study Korean bureaucracy and public policy. More recently, Dr. Cha was on sabbatical leave conducting policy research in China and Korea. Dr. Cha has published numerous scholarly works on a broad range of social and environmental issues related to Korea, Asian-American politics and

America's economic foreign policy. On the local front, Dr. Cha served as a member of Fresno City Review Committee which recommended Fresno's strong mayor form of government in 1992. He also conducts training workshops to introduce city, county, and state employees to an advanced systems approach to public management methodology and processes.

Dr. Walter Fung was born and raised in Fresno, California. He graduated from Edison High School in 1950 and later from California State University, Fresno. He received his degree in medicine from the University of California at Irvine specializing in gastroenterology. From 1971 until 1974, Dr. Fung served as the Medical Director for the Fresno County Economic Opportunities Commission, providing clinical care, immunization, and health screenings to low-income individuals and children. In 1974 Dr. Fung was confronted with a life-changing experience, which he says brought him a renewed focus on life. He was diagnosed with cancer and given two years to live. He credits this frightening experience with adding a deeper dimension to his physician-patient relationships. His own illness prompted him to serve others as much as possible. His caring and sensitivity has earned him public recognition for providing "extraordinary patient care." More recently, Dr. Fung coordinated the building of the new First Chinese Baptist church in Fresno. The facility has become the hub of activities for the Chinese community. Dr. Fung personally was responsible for raising $700,000 of the $1.5 million needed to complete this project. His past community involvement also includes working with the Boy Scouts, the March of Dimes, and the Boys and Girls Club of Fresno. Today Dr. Fung says he will continue promoting "filial piety" among the Asian community. His future plans include helping to build a skilled nursing and retirement home for Asian seniors to best meet their dietary and cultural needs. Dr. Fung and his wife Barbara have been blessed with three children and two grandchildren.

Dr. Toyoko Mae Takahashi is described by her friends and professional colleagues as a "perennial volunteer" who has been active for many years helping to improve the Fresno and Clovis communities. Dr. Takahashi completed her undergraduate studies at the University of California, Berkeley. She attained a doctoral degree from the School of Pharmacy at the University of California, San Francisco. In 1959, she completed a three-year pharmacy internship at Valley Medical Center in Fresno. In 1960, Dr. Takahashi established Valley Medical Pharmacy, Inc. (Manor drugs) acting as its corporate President. From 1969 until 1987, she served as a consultant for Hope Manor and Clovis Community Hospital. She later became a Partner at Hope Manor Convalescent Hospital, and more recently founded the Professional Pharmacy Alliance, Inc. and currently serves as the corporate President. In addition to her exemplary professional career, Dr. Takahashi is recognized for her extensive community service. She has been active for many years with Central California Asian Pacific Woman, an organization that helps to raise scholarships for deserving Asian Students. As well, she is active in the Soroptomist International of Fresno's Youth Forum. The Youth Forum is organized for students in Fresno and Clovis to provide young people with unique opportunities to discuss ways in which they can help to build a better society. Dr. Takahashi also served for five years as a member of the Board of Directors of the Fresno Private Industry Council, which provides employment and training programs to local residents. She has also been very active with the Central California District Council, Japanese American Citizens League, the Central California Nikkei Foundation, and the Woodward Park Shin Zen Gardens. Additionally, she has served on numerous committees designed to promote small business development, higher education and civil rights protection of Japanese-Americans. In 1990, Dr. Toyoko Mae Takahashi was Appointed by President George Bush to the U.S. Department of Agriculture Citizen Advisory Committee in Equal Opportunity. That same year she was recognized by the U.S. Department of Justice for her support and dedication to the Japanese American Redress Program.

Mr. Sutee Vatanatham was born in Thailand in 1951. He and his family immigrated to Los Angeles, California, in the early 1970's where he attended public schools. In the mid 1970's, Mr. Vatanatham moved to Visalia, California, where he received a two-year degree in Engineering from College of the Sequoias. In 1980, he received a baccalaureate degree in Electrical Engineering from California State University, Fresno. In 1981, he opened the Thai House, the First Thai restaurant in Fresno. The restaurant has been rated the Best Thai Restaurant for four consecutive years, and three times the "Best Asian Restaurant in the Valley" by the "Fresno Bee". The Thai House employs more than 40 employees. In addition to becoming a successful restaurateur, Mr. Vatanatham has also made a significant contribution to our nation's defense. In 1988, he joined the U.S. Naval Reserve. In 1989, he was assigned to six month's active duty in Subic Bay, the Philippines, where he served in Operation Desert Shield. He later served in Bahrain, Saudi Arabia in Desert Storm. Mr. Vatanatham earned the National Defense Medal, the Achievement Commendation Medal, the South West Asian Medal, and the Kuwait Liberation Medal for his military service. On the local front, Mr. Vatanatham has distinguished himself through his charitable work and contributions. He makes year-round contributions to school activities, the Salvation Army, the Cancer Society, AMVETS, the March of Dimes, and the American Heart Association. Now, he volunteers to help build homes for Habitat for Humanity.

Ms. Ia V. Xiong was born in Highland Laos. She is the third daughter of seven children. Her family immigrated to the United States in 1980 when she was 12 years old. Despite the great number of obstacles that confront Southeast Asian immigrants, Ms. Xiong has distinguished herself by becoming a highly successful role model for the Hmong community and society. In 1992, she became the first Hmong-American woman to become a teacher in the Fresno-Clovis Area. Currently, Ms. Xiong works for Fresno Unified School District as a bilingual advisor. Previously, she worked six years with Clovis Unified School District as an elementary bilingual teacher. At Clovis Unified School District she designed unique bilingual reading materials and developed primary language support programs for first and third-grade Hmong students. Ms. Xiong is credited with developing unique multi cultural learning activities, such as her popular "Story Night" program. In 1987 Ia V. Xiong published "The Gift: A Hmong New Year." This book has become a popular resource for people wanting to learn more about Hmong culture. Her translation of "How The Farmer Tricked The Evil Demon," has become another favorite among bilingual teachers who work with Hmong students. Ia V. Xiong is active in community service. She currently serves as a board member for the Fresno Center for New Americans. She is also past President of the Association of California School Administrators, Region IX, and is an active participant of the Hmong Language Institute. Ms. Xiong is married to Chalee Xiong. They are blessed with two young boys, Kien and Vincent.

Mr. Speaker, it is with great honor that I congratulate Dr. Man J. Cha, Dr. Walter Fung, Dr. Toyoko Mae Takahashi, Mr. Sutee Vatanatham, and Ms. Ia V. Xiong for being recognized as the KSEE 24 and Companies that Care 1998 Portraits of Success Honorees in celebration of Asian-American Heritage Month. I applaud the contributions, ideals, and leadership they have exhibited in our community. I ask my colleagues to join me in wishing these fine individuals many more years of success.

VETO PROMISE NOT WARRANTED

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. BEREUTER. Mr. Speaker, it seems that the "Mexico City" policy will continue to be an item of contention between the House of Representatives and the Clinton Administration. This Member hopes the President will reconsider his hard-line opposition to the "Mexico City" policy, but that appears unlikely. As demonstrated during the Reagan years, there are family planning organizations which do not perform abortions that can implement the international family planning programs.

Accordingly, this Member commends to his colleagues an excellent editorial which appeared in the Norfolk (Nebraska) Daily News, on May 12, 1998.

VETO PROMISE NOT WARRANTED

ON ABORTION MATTER, UNITED NATIONS POLICY CONSISTENT WITH REPUBLICANS

Most Americans are accustomed to meeting their obligations, even those made on their behalf by politicians and statesmen with whom they may disagree. The dues payment that the United States provides (or has refused to pay in full in the past) to the United Nations is one of those obligations. The arrears should be paid.

A long battle to reduce the size of that annual assessment, to get the U.N. to be less wasteful and more accountable, was won last year. A compromise was reached, the payment of nearly $1 billion in back dues has been approved by Congress.

President Clinton, who favors the payment, threatens to veto the bill, however. It is because the Republican majority in Congress succeeded in aiding language to the appropriations bill that would preclude any of the federal funds from being used by international family planning organizations which advocate abortion.

Judging by the slim margin of victory for the measure in the Senate a few days ago (51-49), President Clinton could expect to be sustained in his veto action. That would leave the dues unpaid, of course.

Undesirable as it may be to attach special conditions to this sort of appropriations measure, the president needs to back down. Any one of these three reasons is enough.

1. The United Nations itself has adopted a policy consistent with that which the GOP majority is attempting to emphasize. In 1984, at an international conference related to population control, it affirmed this policy: "Abortion is never to be promoted as a means of family planning."

2. Planned Parenthood and other organizations which are involved in this field have adequate means to promote their own policies without tapping either the resources of the American government or the United Nations.

3. The bitter and unreconcilable divisions in America about when, or if ever, abortion is acceptable, should mean that no money obtained from mandatory tax levies should be used for such procedures unless there is virtually unanimous approval.

That the procedure is legal in America, under a variety of conditions approved by the Supreme Court and set forth in law, does not mean that public funds must follow. Private funding for those who choose abortion should be demanded.

President Clinton should not be allowed to claim that his congressional opponents on the abortion issue are voting, in effect, to penalize the U.N. by refusing to give him a spending bill without any strings attached. The conditions imposed are not only a valid expression of the congressional majority's views on an important issue related to international affairs, but also consistent with U.N. policy.

U.S. POLICY ON KOSOVO

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. HAMILTON. Mr. Speaker, the situation in the province of Kosovo in the Federal Republic of Yugoslavia is tense and volatile. It is getting worse by the day.

The United States and its allies and partners in the contact group are attempting to achieve the right combination of incentives, pressures and sanctions to induce Yugoslav President Milosevic to abandon the use of military force and repression and start a negotiation without preconditions with the leaders of the Kosovo Albanians. The goal of these talks would be a return of the region's former autonomy and a clarification of the future status of the region within Serbia and the Federal Republic of Yugoslavia.

At the same time, it is also necessary to make clear to the leaders of the Kosovo Albanians and to the Albanian people of Kosovo in general that the United States and its partners in the contact group do not support independence of Kosovo as a realistic solution to this crisis. It is not at all clear that the people of Kosovo are getting this message as loudly and clearly as they should. This is the emphatic message that visiting Italian Prime Minister Prodi conveyed to the Administration and the Congress during his state visit here last week.

In late March I sent a letter to National Security Advisor Sandy Berger setting forth my policy concerns and suggestions for adjusting U.S. policy in the Kosovo crisis. These suggestions included the need for the Administration to continue to work closely with our allies in the contact group and to state unequivocally and clearly that the United States does not support independence for Kosovo—that a solution for Kosovo must be found consistent with the territorial integrity of Serbia and the Federal Republic of Yugoslavia.

Mr. Berger's response to this letter is very helpful in clarifying U.S. policy on this and other key issues involved in the Kosovo problem. Specifically, in the letter Mr. Berger confirms that ". . . the difficulties in Kosovo cannot be solved through the use of force. We have made it clear that we do not support secession or independence for Kosovo, and that Kosovar Albanians must pursue their legitimate human rights grievances peacefully."

Mr. Speaker, I believe my colleagues will find my exchange of letters with National Security Advisor Berger to be helpful in clarifying Administration policy on Kosovo and in formulating their own views on the continuing crisis in that region. For this reason I am inserting both in the Record at this time. The text follows:

THE WHITE HOUSE,
Washington, May 4, 1998.

Hon. LEE H. HAMILTON,
House of Representatives,
Washington, DC.

DEAR LEE: Thanks for your ideas regarding our policy on Kosovo. Your thoughts broadly reflect our own approach.

As you suggested, we are working to maintain Contact Group unity and thereby sustain effective pressure on Milosevic. In two meetings in March, Contact Group Ministers outlined the specific steps needed to resolve the situation and agreed on a set of measures, including a UN arms embargo, to apply pressure on Milosevic. We demanded an urgent start to authoritative talks between Belgrade and Kosovar Albanians, and pledged to consider further measures, if needed.

We can only avert continued deterioration in Kosovo and serious risk to regional stability through unified, focused, sustained pressure on the parties, especially Belgrade. Strobe Talbott recently visited key European capitals to build support for further Contact Group action at the April 29 meeting in Rome, and beyond. Our proposed approach includes a balanced mix of incentives and disincentives that deserves the support of all Contact Group nations.

As you also advocate, we have been firm with both parties that the difficulties in Kosovo cannot be solved through the use of force. We have made clear that we do not support secession or independence for Kosovo, and that Kosovar Albanians must pursue their legitimate human rights grievances peacefully. We also have made clear to Milosevic that further acts of repression or disproportionate violence by Serbian security forces will only deepen Belgrade's isolation and strengthen international resolve to take further measures.

I appreciate your thoughts on this important issue, and will count on your advice and assistance on this difficult problem in the weeks ahead.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President
for National Security Affairs.

MARCH 31, 1998.

Hon. SAMUEL R. BERGER,
Assistant to the President for National Security Affairs, The White House; Washington, DC.

DEAR SANDY: At a recent breakfast Secretary Cohen had with several Members, the subject of Kosovo came up. Following the meeting, I did some thinking on the issue, and I wanted to share with you some policy suggestions concerning the U.S. approach to the crisis in the Kosovo province of Serbia.

The basic policy problem for the United States, working with the Contact Group, has been getting Yugoslav President Milosevic to compromise on Kosovo. We want him to remove his special police units and initiate a serious negotiating process, without pre-conditions, with leaders of the ethnic Albanian majority in Kosovo to find a mutually acceptable compromise on the future status of the province.

I understand and support the basic goals of the Administration's policy in Kosovo—a peaceful resolution of the crisis through negotiation resulting in a return of full autonomy for the province. However, it is my impression that the Administration's tactics in support of this policy—pushing for sustained pressure on Milosevic by advocating renewed economic and diplomatic sanctions, and making implied or even direct public threats of possible military action if the Serb crackdown in the province gets harsher—is not a policy that our NATO allies in the Contact Group support. They are urging a cautious and more even-handed approach as the best way to get Milosevic to compromise.

I would suggest that U.S. policy on Kosovo be adjusted to give Milosevic both the incentive and the confidence to compromise:

First, the Administration should not make implied or direct public threats of military action in Kosovo. The use of military force against Serbia has no support among our allies. We are already committed in Bosnia with 8,000 troops on the ground. We need Serbia's cooperation to make Dayton work. Threats to use force lack credibility, and air strikes alone are unlikely to change Serbia's policies on an issue as crucial to it as Kosovo.

U.S. threats to use force will also encourage the Kosovo Liberation Army and others to provoke Serbia, thereby enlisting the U.S. on the side of their separatist agenda.

Second, the Administration should stop comparing the situation in Kosovo to wartime Bosnia. Kosovo, unlike Bosnia, is an integral part of Serbia and the Federal Republic of Yugoslavia. We could cite international responsibility to help the independent state of Bosnia, but Kosovo is not an independent state, and has no recognition as such. Continued comparisons of Kosovo to Bosnia will only harden Mikosevic's resolve to defy the international community and circle the wagons in his country.

Third, the Administration must state unequivocally and often that we do not support independence for Kosovo, and that a solution for Kosovo must be found consistent with the territorial integrity of Serbia and the Federal Republic of Yugoslavia. The future of Kosovo must be decided between the Serbian government and representatives of the ethnic Albanian residents of Kosovo, and the international community should do what it can to facilitate those negotiations.

Fourth, we can threaten Milosevic with sanctions, as the Contact Group has done very recently, if he does not start negotiations without preconditions with the ethnic Albanians within the next month. But threats of sanctions must have the support of the Contact Group if they are to be effective—otherwise Milosevic will play off governments against each other. To be consistent and even-handed, we should also tell ethnic Albanian leaders that they must also come to the table without preconditions on independence of the presence of a third-party mediator.

Fifth, the Administration should not blame Milosevic alone for the current crisis in Kosovo. Clearly, he bears heavy responsibility. But to be an effective intermediary, we must also highlight the unacceptable use of violence by armed ethnic-Albanian separatist groups, which is part of the reason for Serbia's recent crack-down in the first place. We must make clear to both sides that we will not accept violence as a means of resolving the conflict.

If we want to get Milosevic to demonstrate compromise on Kosovo, I do not believe the current U.S. policy of threatening sanctions—beyond what the Contact Group supports—and threatening unilateral U.S. military force will achieve such compromise.

Such a policy antagonizes our allies and Russia, and will not result in a lasting political settlement. Such a policy could very well embroil us in a military conflict in Kosovo at a time when the U.S. public and the Congress grudgingly tolerate our continuing involvement in Bosnia, and could harm U.S. interests throughout former Yugoslavia.

I appreciate the opportunity to give you some of my thinking on the Kosovo problem. I intend to follow up with you on the phone on this matter as well, and I am available if you have any questions.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

SPECIAL TRIBUTE HONORING KATIE ROCCHIO, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Katie Rocchio, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Katie is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Katie Rocchio is an exceptional student at Coldwater High School and possesses an impressive high school record. President of the Student Council, Katie is also a member of the National Honor Society, and is the photo editor for her school newspaper. Outside of school, Katie is involved with the Community theater and various other community activities.

In special tribute, therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Katie Rocchio for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

100TH ANNIVERSARY OF THE BOROUGH OF HOPATCONG, SUSSEX, COUNTY, NJ

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to commemorate the 100th Anniversary of the Borough of Hopatcong, Sussex County, NJ.

The Borough of Hopatcong, known originally as the Borough of Brooklyn, was founded on April 2, 1898 off the western shore of Lake Hopatcong, the largest public recreational lake in New Jersey. Although the land surrounding the lake was originally settled by the Lenni Lenape Indians, by 1715, English colonists attracted by the growing fur trade had purchased over 1,000 acres of the lake area.

The discovery of iron ore in the middle 1700's led to the development of a thriving mining industry in the Hopatcong area. The inhabitants of Hopatcong at that time, which numbered no greater than 20 families, stayed in small communities that were close to the local iron forges. The Brookland Forge, one of the most productive in the area, comprised four hearths which produced 300 tons of iron per year. While most iron was transported east, to be used by various companies in creating metal products, high shipping costs eventually led to a decline in the industry by the early 19th century.

As the iron industry in the area waned, a decision in the last 1800's, to dam and merge the two lakes constituting Lake Hopatcong led to a rapid increase in tourism within the vicinity of Hopatcong. Due to the pleasant climate and proximity to New York City, the lake area soon became a major northeastern resort and began to experience high levels of prosperity. By the late 1800's Hopatcong was still part of Byram Township, one of three municipalities bordering the lake at that time. As many summer cottages were built in the surrounding towns, Hopatcong residents became increasingly dissatisfied with the pace of development in their own community.

After some debate, Hopatcong residents decided that officially separating from Byram would allow them to build new roads and make other necessary improvements near the Lake to attract tourists. In 1898, Hopatcong residents were finally granted the right to incorporate as an independent municipality, and the Borough soon developed into a popular resort community. Today, Hopatcong remains a vibrant residential area with a growing business community and a population of over 15,000 persons.

Mr. Speaker, for the past 100 years, the Borough of Hopatcong has prospered as a community and continues to flourish today. By all accounts, it will continue to prosper in the future, and I ask you, Mr. Speaker, and my colleagues to congratulate all residents of Hopatcong on this special anniversary year.

THE PASSING OF A DISTINGUISHED LEADER, PHILIP ROTELLA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. GILMAN. Mr. Speaker, it is with a great deal of regret that I inform our colleagues of the passing of one of the most remarkable public servants my 20th Congressional District of New York has ever produced, Philip Rotella of Haverstraw, N.Y.

Phil Rotella first sought public office in 1946, being elected that year to the Board of Trustees of the Village of West Haverstraw. Two years later, in 1948, he sought election to the position of Town Justice of the Peace, and the then-President of the United States, Harry Truman, came to Haverstraw to campaign for Phil. He was successful in that 1948 contest and went on to serve as Justice of the Peace for 15 years.

On election day 1963, when John F. Kennedy was President, Phil Rotella was promoted by his voters to the office of Town Supervisor of the Town of Haverstraw. Phil was re-elected by the voters every two years continually until he voluntarily retired in 1997. During his tenure of 34 years as Town Supervisor, Phil Rotella was known for his skill in saving the taxpayer's dollars while providing superb town services.

Instead of issuing bonds which had to be repaid by future taxpayers, Phil Rotella squirreled money away, financing a new police and courthouse building in 1974, a new Town Hall and public library in 1981, and a new highway garage in 1992 by his frugal fiscal policy.

Supervisor Rotella, throughout his 34 year tenure, earned a reputation for preserving parkland for future generations. He convinced our local utility company to donate a park to the townspeople in exchange for allowing them to construct a second power plant. He spearheaded the construction of one of the superb marinas on the entire Hudson River, and his town makes about $250,000 a year from marina concession fees. In 1981, Phil successfully negotiated the purchase of Cheesecote Mountain Park from the State of New York for one dollar.

During most of his tenure as Town Supervisor, Phil Rotella also served in the additional capacity as a Rockland County Legislator, as is permissible in that county. In that position, he also fought to make certain that his Town received its due from the county government.

The closest Phil came to facing political defeat during his entire elective career of over 50 years was when, in 1983, the opposition was successful in removing Phil's entire political party from the November ballot due to a legal technicality. It is a remarkable tribute to Phil Rotella's incredible popularity that he was reelected that year by receiving over 5,000 valid write in votes which in New York State are extremely difficult to validly cast.

Our region has truly lost a giant public servant in the passing of Phil Rotella. To his widow Marilyn, to his daughters Carolyn and Diane, to his sons John and Philip Jr., his three stepsons Jack, Edward and Arthur, his stepdaughter Esther, his 13 grandchildren and 12 great-grandchildren we extend our sincere condolences. Although mere words cannot assuage the grief of losing this remarkable man, it is hoped that his many loved ones will have the consolation that he was an outstanding public servant who will long be missed by so many of us.

IN HONOR OF HAROLD "BUD" LOVELL

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Ms. DELAURO. Mr. Speaker, I rise today to recognize Harold Lovell of Stratford, Connecticut on the occasion of tonight's testimonial dinner being held in his honor. As Harold, or "Bud" as he is affectionately known to his friends, is honored this evening, I would like to join his many well-wishers in paying tribute to a man who has spent his life enriching his community and serving others. Bud was born in 1910, raised in Stratford, and educated in Stratford schools. He then continued his studies at DePauw University and graduated in 1934. Bud began his career at the Bridgeport Post Publishing Company soon after graduating from DePauw. It was there that he honed his skills in writing and editing—skills he has used with great success ever since.

Bud left the Post Publishing Company and began his distinguished tenure as editor of the Stratford News. After a prestigious career with the News, Bud left journalism to run his family's business, the H.C. Lovell Hardware and Equipment Company—a Stratford institution since 1783.

Throughout his life, Bud has never strayed from his commitment to his community. He has dedicated countless hours to organizations such as the Stratford YMCA and the American Shakespeare Festival Theater, but his greatest pastime has been his membership in the Lions Club of Stratford. The most senior member of the club, Bud epitomizes the selfless commitment that is the very basis for the Lions. A member since 1956, Bud has served as President and Zone Chairman. He has won several awards in recognition of his good works, including the Melvin Jones Fellow award for his exceptional service to the blind.

A dedicated family man, Bud has been married to his wife Lulu Klein for almost half a century. It has been said that "the good that men do, lives after them," and the many good works of Bud Lovell will echo for generations in his home of Stratford, and beyond.

SPECIAL TRIBUTE HONORING KIMBERLY SECKINGER, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Kimberly Seckinger, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Kimberly is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Kimberly is an exceptional student at Hillsdale High School and possesses an impressive high school record. Kimberly is a board member of the National Honor Society and Senior Class Secretary. Kimberly is also a member of the Varsity Golf Team. Outside of school Kimberly is involved with the PAC Camp as a Counselor and various other community activities.

In special tribute, therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Kimberly Seckinger for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

TRIBUTE TO AMBASSADOR FENG SHAN HO

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in paying tribute to Mr. Feng Shan Ho, an outstanding San Francisco resident who rescued thousands from Nazi destruction during World War II. Mr. Ho died in September 1997 at his home in San Francisco.

Mr. Speaker, Feng Shan Ho left an indelible imprint on the people whose lives he saved. Like the Swedish diplomat and humanitarian, Raoul Wallenberg, and the American diplomat and humanitarian rescuer, Varian Fry, Mr. Ho has shown what an individual can achieve when he has the courage to oppose repression and racism despite seemingly impossible odds.

Feng Shan Ho was the Consul General of China in Vienna in 1938. Following the annexation of Austria by Germany that year, he saw increasing persecution of Jews and others at the hands of the Nazis. Jewish-owned businesses were vandalized and their owners arrested. Jews and other so-called "enemies of the Reich" were sent to concentration camps within weeks of the annexation. Austrian Nazi authorities informed Jews that if they obtained visas for other countries and emigrated, they would be allowed to leave unharmed. Many tried to emigrate, but most found that few countries were willing to permit them entry.

Consul General Ho was appalled at the increasingly desperate situation that he observed. In an act of courage and compassion, he sought to help the refugees. On his own authority as Consul General—and without the permission of his superiors in China—he issued visas for admission to China to any person who requested one. With these visas as proof of destination, Jews could obtain permission from Nazi officials to leave Austria and Germany.

In 1939 Nazi officials confiscated the building in which the Chinese consulate was located because of its Jewish ownership. The Chinese consulate was forced to operate in other, smaller facilities. In 1940 Consul General Ho was transferred to the United States. In 1941, the government of China broke off diplomatic relations with Germany and the Consulate General in Vienna was closed.

After leaving Vienna, Mr. Ho spent the remainder of the war involved in China's struggle against Japan. His first assignment after Vienna was to Washington, DC, and he later served at the Foreign Ministry in China's wartime capital, Chungking. In 1947, Mr. Ho began a nine-year term as Ambassador to Egypt and several other Middle Eastern countries. At the conclusion of the Chinese Civil War, Mr. Ho remained loyal to the Chinese Nationalist government which fled to Taiwan in 1949. Following his term in the Middle East, Ambassador Ho served as China's ambassador to Mexico, Bolivia, and Colombia.

In 1973 after a distinguished career in the diplomatic service of the Republic of China that spanned four decades, Ambassador Ho retired and settled in San Francisco. On September 28, 1997, at the age of 96, he died at his home there, attended by his wife and daughter.

The story of Feng Shan Ho's courageous actions in Vienna is currently being told in a traveling exhibit organized by Mr. Eric Saul that is being shown in American and foreign cities. The exhibit was on display at the Yad Vashem Holocaust memorial in Israel in April, and earlier it was on display at my district office of California.

Mr. Speaker, I invite my colleagues to join me in paying well-deserved tribute to Ambassador Feng Shan Ho—a great man, a dedicated public servant, and a courageous humanitarian.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. KIND. Mr. Speaker, I read with interest an article in today's Los Angeles Times about media coverage of the U.S. Senate primary in California. In the race to win the Republican nomination for the U.S. Senate the news media has provided almost no coverage to the two major candidates. One news station executive said "I can't afford to have a reporter spend two hours for a story that is low-impact, low-merit." It appears that our democratic process has lost out in the ratings game to sex, violence and scandal. This lack of "earned media" coverage has forced candidates to rely solely on paid media advertisements to get out their message. Of course this development is one more benefit for the candidate who has the most money from personal wealth or from special interest contributions.

This is yet one more example of the need to reform our campaign finance system. Money and paid media have come to dominate political campaigns more than ever before. Yet, the Republican leadership has continued to delay a debate on campaign finance reform. It is time to allow a vote on campaign finance reform in the House of Representatives. The people of this country are tired of waiting.

ANNUAL CONGRESSIONAL ARTS COMPETITION PARTICIPANTS HONORED

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, once again, I come to the floor to recognize the great success of strong local school systems working with dedicated parents and teachers. I rise today to congratulate and honor 45 outstanding high school artists from the 11th Congressional District of New Jersey. Each of these talented students participated in the Annual Congressional Arts Competition, "An Artistic Discovery," sponsored by Schering-Plough Corporation. They were recently honored at a reception and exhibit, and their works were exceptional.

Mr. Speaker, I would like to list each of them, their high schools, and their contest entries, for the official record:

Leandro Flaherty, Bayley-Ellard, "Interior";

Lisa Johnson, Bayley-Ellard, "Interior";

Michelle Mechanic, Bayley-Ellard, "Full Circle";

Jonathan Wagner, Bayley-Ellard, "Self Portrait";

Kelli Coghlan, Boonton, "Untitled";

Larissa Schaffnit, Boonton, "Onions";

Lara Victoria Zakk, Boonton, "Foot-Loose";

Matthew Zugale, Boonton, "Untitled";

Mark DeLotto, Delbarton, "Mom and Dad";

Mike Giaccio, Delbarton, "Deconstructing Directions";

Tom Harrison, Delbarton, "Coat";

Eric Joyce, Delbarton, "Untitled";

Vanessa Batters, Kinnelon, "Moonshine";

Deborah J. Link, Kinnelon, "Skyscape";

Cristina Murphy, Kinnelon, "The Two Faces";

Sunnie Kim, Livingston, "Still Life";

Adam Sacks, Madison, "No Title";

Paula Salerno, Madison, "Floral Still Life";

Eliza Jane Thomas, Madison, "Andrew";

Marlene Toledo, Madison, "Egyptian Profile";

Melissa Davis, Millburn, "Pink Walls";

Lauren Doto, Millburn, "Wandering Eyes";

Amy Goldfeder, Millburn, "Whimsical";

Stieg Retlin, Millburn, "White Oak and Hobart";

Greg Espersen, Montville, "Panorama";

Sook-Kyung Lee, Montville, "Shoveling Snow";

Renee Snelson, Montville, "Secret Gatherings";

Tony Yang, Montville, "Speed Check";

Nicholas Black, Morris Knolls, "Self Portrait";

Amy Broadwell, Morris Knolls, "I'm Not Sarah";

Peter Harris, Morris Knolls, "Ascend Into * * *!";

Seth Ruggles Hiler, Morris Knolls, "Fall Memory";

Kate Lovering, Mount Olive, "Time Worn";

Janet Swan, Mount Olive, "Drowned in Anger";

Kimberly Hill, Pequannock, "Tranquillity";

Daniel Muzzio, Pequannock, "Nick My Love";

Steve Su, Pequannock, "Dark Thoughts";

Alyssa Tierney, Pequannock, "Blossoms on a Warm Spring Day";

Erika Mathison, Ridge, "Retrospect";

Emily Schulenburg, Ridge, "Deaconry Livestock";

Glen Wiley, Ridge, "The Core of Wiley";

Peter Wonsowski, Ridge, "Unity Through Music";

Carolina Coppi, West Essex Regional, "Mood Descends";

Keri Moran, West Essex Regional, "Different Shades of Grey"; and

Kathleen Peng, West Essex Regional, "Exotic Amazon".

As you know, Mr. Speaker, each year the winner of the competition will have an opportunity to travel to Washington, D.C., to meet Congressional leaders and to mount his or her artwork in a special corridor of the U.S. Capitol with winners from across the country. This year, first place went to Emily Schulenburg of Ridge High School, for her outstanding acrylic painting, "Deaconry Livestock." In addition, ten other submissions received honorable mention by the judges. As usual, the judges had an extremely hard time with the awards process, and they wished that they could declare every entry a winner.

Indeed, All of these young artists are winners, and we should be proud of their achievements so early in life.

SPECIAL TRIBUTE HONORING RACHELLE TELLER, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Rachelle Teller, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Rachelle is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Rachelle is an exceptional student at Napoleon High School and possesses an impressive high school record. Rachelle is a Class Representative in the Student Government and a member of the schools S.A.D.D. program. Rachelle is also the Editor-in-Chief of the school newspaper. Outside of school, Rachelle is involved with the International Order of Rainbow for Girls and various other community activities.

In special tribute, therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Rachelle Teller for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

MEMORIAL DAY 1998—OUR THANKS AND GRATITUDE TO ALL WHO SACRIFICED FOR OUR NATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. GILMAN. Mr. Speaker, it is an honor for all of us on this Memorial Day to commemorate all those who made the ultimate sacrifice on the battlefield, on the seas, and in the air, so that we in our nation may enjoy the liberty for which they gave their lives.

Our Memorial Day services which date back to our country's tragic conflict, the Civil War period, which tore apart our nation and in which brother fought brother, have taught us how fragile our liberty is.

The first National Memorial Day was held on May 30, 1868 in honor of those who had given their lives during the Civil War. It was Arlington National Cemetery, in the presence of General Ulysses S. Grant, where future President James A. Garfield touched upon the solemnness and reverence of honoring the dead stating:

> If silence is ever golden, it must be here beside the graves of fifteen thousand men whose lives were more significant than speech and whose death was a poem the music of which can never be sung. * * * they summed up and perfect, by one supreme act, the highest virtues of men and citizens. For love of country they accepted death, and thus resolved all doubts, and made immortal their patriotism and virtue.

In the subsequent Spanish American War, the two World Wars, in Korea, in Vietnam, in Somalia, Grenada, Panama, and the Persian Gulf, and in countless other skirmishes, on lawless frontiers, and in peacekeeping efforts throughout the world, our brothers and sisters, our sons and daughters, our parents, our friends and loved ones, our fellow Americans, have given their lives for a greater cause.

Franklin Delano Roosevelt summed up the American Spirit when he said: "We, too, born to freedom, are willing to fight to maintain freedom. We, and all others who believe as deeply as we do, would rather die on our feet than live on our knees." We are a proud peace loving nation, but when alternatives fail, we will fight to maintain liberty and freedom. Memorial Day is a solemn day where we honor those who had the courage to die on their feet.

We honor our fallen heroes of those conflicts, not only because they are worthy of our honor, but also by recalling their sacrifice, we make certain that we keep the peace for our future generations. By honoring our tragic heroes, our nation is reminded to avoid the mistakes and errors that could lead to any future conflict.

As we pause today, remembering our loved ones who died in service, let us take a moment to also recall all those Americans whose fates are still unknown, our POWs and MIAs. There are over two thousand from Vietnam, and countless others from other conflicts. Let us remember those thousands of service men and women who still remain unaccounted for.

We also honor the millions of other Americans who sacrificed to defeat tyranny here and abroad, the women and civilians who worked in our defense plants and who served in the auxiliary during both World Wars, our workers in business and industry who helped to make our nation the "Arsenal of Democracy", the Boy and Girl Scouts who conducted metal and paper drives, the housewives who learned to make do with ration stamps, the workers who learned to car pool, and the senior citizens who served as civil defense officers, those who wrote letters and spent packages to our troops in Korea, Vietnam, The Persian Gulf and Bosnia. All of these Americans have helped make the world safe for democracy.

Mr. Speaker, on this Memorial Day, let us give thanks and praise to all the men and the women, who worked together and in many cases died together, so that we may remain free.

Let us also pause today to pray for the safekeeping and safe return of our thousands of American service men and women serving in distant lands in peacekeeping missions.

Thank you and God bless.

IN HONOR OF VARICK MEMORIAL A.M.E. ZION CHURCH

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Ms. DELAURO. Mr. Speaker, I rise today to recognize Varick Memorial A.M.E. Zion Church of New Haven, Connecticut on the occasion on its 180th anniversary. Blessed with a vibrant and thriving congregation, Varick's history reflects the words of its motto, "Each One Reach One, Each One Teach One, Each One Save One"

Established in 1818 by 35 former slaves, Varick's philosophy reflects the history of this great church. These newly freed men and women first sought to worship at the First Methodist Church. However, Bishop James Varick of the A.M.E. Church of New York soon convinced the group to join with his movement. From its very inception, this parish family has reached out in fellowship to the Dixwell and Greater New Haven Community. In its earliest days the parsonage of the church served on the Underground Railroad, which was led by an A.M.E. Zion Church member named Harriet Tubman.

The church's mission of outreach brought countless distinguished men and women to its pulpit, including educator Booker T. Washington and Civil War hero E. George Biddle. The distinguished ranks of the pastors of Varick Church include six men who went on to enlighten even more people by becoming A.M.E. Zion Bishops.

This year, Varick has the honor of hosting the 1998 New England A.M.E. Zion Church Annual Conference. As their members gather in fellowship, I rise to salute their tireless ministry. Varick Memorial A.M.E. Zion Church has changed the face of New Haven through its moral guidance and unwavering commitment to improving our community. I join with Varick in celebrating their first 180 years, and thank them for their continued faithful service to the many families whose lives have been changed by the good works of Varick Memorial A.M.E. Zion Church.

50TH ANNIVERSARY OF THE BERLIN AIRLIFT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. LANTOS. Mr. Speaker, in just a few days President Clinton will be in Berlin to mark the 50th anniversary of the Berlin Airlift. Just last week, I joined a number of my colleagues in preparing a CARE package to mark this anniversary. These CARE packages will be sent to Berlin for the 50th anniversary celebrations of the airlift, and then they will be shipped on to Afghanistan to provide assistance to the Afghani people who have been devastated by twenty years of war and turmoil.

Mr. Speaker, it is particularly appropriate that we remember and reflect upon the Berlin Airlift and the significance of that event in United States foreign policy as we mark the half century anniversary of this event. It was one of the most critical steps in defining the American response to the Soviet Union and in establishing the parameters of United States policy in the Cold War.

All of us are familiar with the story of the Berlin Airlift. In the spring of 1948, Soviet dictator Josef Stalin began a campaign to force the Western Allies from the occupied city of Berlin, which was isolated inside East Germany, some 150 miles behind the Iron Curtain. In a concerted effort to consolidate his hold over all of Central and Eastern Europe, he pressed to eliminate this island of democracy inside the Soviet occupation zone.

Mr. Speaker, as the occupation of Germany began at the end of World War II, the United States, Britain and France had negotiated air corridors to fly over the Soviet zone in order to reach their sectors of occupied Berlin. Negotiations on land access via autobahn, railroad, and barge were begun but never completed because of the deterioration of relations with the Soviet Union.

On June 11, 1948, Soviet military authorities halted Allied and German freight traffic to Berlin for two days. This was the beginning of a campaign of harassment and bullying that continued for the next two weeks. On June 18, the three Western Allies—the United States, Britain, and France—announced the establishment of a critically important currency reform that paved the way for Germany's post-war economic recovery. Soviet authorities protested the currency reform and announced that they would not participate. On June 22, following a meeting of the four occupying powers, Soviet authorities announced that they would proceed with a separate currency reform in their own zone of occupation. The Western Allies reaffirmed their intention to proceed with their planned reform.

On June 24, 1948, Soviet military authorities enforced a complete prohibition of all ground transportation to and from the western sectors of Berlin—freight and passenger by highway, railroad, and water. The following day, June 25, Soviet authorities served notice that they would not supply food to the Western occupation zones of the city. That very day, the first eight British Royal Air Force aircraft arrived in the British sector of Berlin to commence airlift operations. The Berlin airlift formally began on June 26 with 22 flights of United States C–47 aircraft carrying 80 tons of supplies from Wiesbaden in the U.S. occupation zone to Berlin's Tempelhof airfield.

Mr. Speaker, over the next 320 days—until May 12, 1949, when Soviet authorities reopened ground routes to Berlin—the United States and Great Britain carried out a massive airlift bringing in all of the food and other supplies necessary to maintain the 2.1 million people living in the Western Allied occupation zones of Berlin.

The effort was truly remarkable. By February of 1949 the U.S. Air Force and the Royal Air Force were delivering nearly 8,000 tons daily—the equivalent of 530 German rail carloads of supplies. All kinds of commodities were transported to the city in order to maintain the health and well-being of its citizens. Two-thirds of the material carried to Berlin was coal—the fuel necessary to maintain the western zones of the city. Less than one-third of the material carried to Berlin was food—slightly more than one pound per person per day, which provided the West Berliners with a nourishing, though monotonous, diet. Some 7 percent of the total goods transported were industrial raw materials, in order to maintain the economy of the city, liquid fuel, and other items.

Mr. Speaker, the cost of operating the airlift was high for all involved. West Berliners suffered to maintain their freedom. Their privation was real. Despite the airlift, food and fuel was scarce. Unemployment rose steadily throughout the period of the airlift because industries did not have sufficient fuel and raw materials to maintain their operations. The American and the British people paid an estimated $200 million to operate the airlift over the 320 days that it functioned. Considering the massive scale of the operation, it was remarkably safe. Nevertheless, 76 people died in airlift operations, including 31 American servicemen.

The airlift was an example of one of the finest efforts of the United States military forces. The logistics requirements were extraordinary. Aircraft had to be gathered from American bases around the world, pilots had to be trained, ground crews coordinated. The Tempelhof airfield in Berlin was inadequate to the task, and it had to be expanded and rebuilt at the same time that aircraft were using the runways around the clock. Throughout this massive effort American and British military forces worked side by side.

General George C. Marshall served as our Secretary of State at the time of the Berlin Airlift, and he played a critical role in the decision to establish the airlift. Robert H. Ferrell, in his biography of General Marshall, put the importance of the Berlin Airlift in context:

> The City [of Berlin] was a symbol of the division of Germany. Its continued independence . . . gave evidence of the will power of the Western nations on the whole German question and even more: if Berlin went completely to the Russians, all Germany could follow, and such a procession of calamities might collapse Western Europe.

Mr. Speaker, the Berlin Airlift was a critical event that helped to cement the friendship of the American and the German people following World War II. In 1994, then Secretary of State Warren Christopher told a German audience at the Berlin Airlift memorial at Tempelhof Airport:

> Americans remember the airlift as the bridge that joined us as kindred nations, prepared to stand firm in defiance of tyranny, prepared to endure hardship in defense of liberty. This legacy outlasted the airlift, the division of Germany and, ultimately, the Cold War itself.

The Berlin Airlift was a critical step in establishing the United States response to the Soviet Union at the critical opening stage of the Cold War. President Harry S. Truman, who directed that the airlift be established when Soviet forces attempted to isolate and engulf Berlin, established the fundamental U.S. posture—a firm but measured response to efforts to extend Soviet authority.

As we look back from the perspective of half a century, Mr. Speaker, President Truman and his outstanding Secretary of State, General George C. Marshall, were responsible for setting United States policy toward the Soviet Union. That policy was followed by every President and Secretary of State—both Republican and Democratic—for the next forty years.

When we applaud the fall of the Berlin Wall and the opening of the iron curtain, Mr. Speaker, it is Harry Truman whom we must thank. He did not live to see the triumph of the wise policies that he set in place, but we as Americans are now living in a new and safer world that was shaped and largely brought about through the genius and foresight of Harry Truman and George C. Marshall.

Mr. Speaker, I invite my colleagues to join me in commemorating one of the critical events of this century—the 50th anniversary of the Berlin Airlift.

SPECIAL TRIBUTE HONORING HEATHER ROGERS, LeGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Heather Rogers, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Heather is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Heather is an exceptional student at Deerfield High School and possesses an impressive high school record. Heather is President of the National Honor Society and Treasurer of the school yearbook. Heather also is involved with Varsity basketball, volleyball and cheerleading. Outside of school, Heather is involved with various community activities.

In special tribute, therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Heather Rogers for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

CARNEGIE RECOGNIZES THE HEROISM OF MARC MEUNIER

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. FRANK of Massachusetts. Mr. Speaker, I was very pleased to receive last week a notification from the Carnegie Commission Hero Fund word that they had awarded a medal to Marc Meunier of New Bedford, Massachusetts. On March 18, 1997, Marc Meunier saved two people from drowning. Many of us Mr. Speaker, would be very proud if we were able to give assistance to fellow human beings in trouble. To not simply give assistance but save the lives of two people who were about to drown is obviously an accomplishment of enormous significance. I am very pleased that the Hero Fund extended this extremely well deserved recognition to Mr. Meunier and I ask that the description of his heroics be printed here as an example of how we human beings can act at our best.

> JODI C. RODERICK
> R. STEPHEN MORRISON
> Plymouth, Massachusetts
> MARC M. MEUNIER
> New Bedford, Massachusetts
>
> Jodi C. Roderick, Marc M. Meunier, and R. Stephen Morrison saved Leslie L. and Helene E. Faulkner from drowning, Carver, Massachusetts, March 18, 1997. Faulkner, 62, and his wife, 71, were traveling in their automobile on a roadway atop an earthen dam when that section of the dam collapsed beneath them. Their car dropped into the deep, 10-foot-wide gap that was created initially and was pinned against debris by turbulent breach waters from East Head Pond, the adjacent reservoir. Faulkner and his wife were trapped in the car, which began to fill with water. Among the first motorists on the scene were Roderick, 37, heating and air conditioning technician; Meunier, 40, correction officer, and Morrison, 47, sales representative. Roderick obtained a hammer, then jumped onto the submerging car's exposed trunk and broke out the rear window before returning to the roadway. At the edge of the breach, he, Meunier, and Morrison pulled Faulkner, then his wife, from the car to the roadway, with Meunier, held by Roderick and Morrison, extended into the breach to reach the victims. The turbulent rush of water continued to widen the breach, undermining the pavement from which the men acted. Faulkner and his wife required hospitalization for treatment of their injuries.

REHABILITATION BENEFITS REINSTATEMENT

HON. JOHN E. ENSIGN

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. ENSIGN. Mr. Speaker, today I rise to introduce the "Reinstatement of the Medicare Rehabilitation Act (RMRA) of 1998." RMRA repeals the $1,500 annual limits on physical and occupational rehabilitation services established by the Balanced Budget Act of 1997 (BBA) which are set to go into effect on January 1, 1999 and requires the Health Care Financing Administration to implement a budget neutral alternative payment system no later than January 1, 2000.

In a rush to find savings in the Medicare program last year, Congress imposed an arbitrary $1,500 annual limitation on most outpatient rehabilitation services. Unlike other BBA provisions, the $1,500 limits were adopted without the benefit of committee hearings or a detailed analysis by HCFA of their likely effects on beneficiaries' ability to obtain medically necessary services.

In fact, analyses undertaken since the enactment of the BBA indicate that implementation of the limits will have a disproportionate effect on the most vulnerable Medicare beneficiaries, including victims of stroke and other debilitating conditions which require concentrated therapy services. A $1,500 annual payment may be sufficient to address the "average" case, but it will not be adequate for beneficiaries who require more intensive services. The option of transporting non-ambulatory residents of a skilled nursing facility or other rehabilitation setting to an outpatient hospital department will be disruptive to patients and ultimately more costly to the Medicare program. Savings will be achieved only if this inconvenience and disruption cause patients to forgo medically necessary services to which they are entitled under the Medicare program.

More importantly, American seniors have been encouraged to expect Medicare to cover the cost of medically necessary treatment, subject to reasonable copayments and deductibles. The existence of an arbitrary coverage limitation on otherwise medically necessary services will likely come as a shock to affected beneficiaries and their relatives, often at a time of great stress. Surely, a less disruptive approach can be found to achieve program savings.

VSPA will prevent the $1,500 annual limitations from taking effect on January 1, 1999 and will require HCFA to develop and implement an alternative payment system for outpatient physical therapy, occupational therapy, and speech-language pathology services. Rather than limiting the availability of medically necessary services by imposing an arbitrary annual dollar limitation, the new system would be based on patient need. Payments would be based on patient classification by diagnostic category and would take into account prior use of services in both inpatient and outpatient setting. Payment rates would be established in a budget neutral manner. Mr. Speaker, I acknowledge that I did not oppose the inclusion of this provision in the Balanced Budget Act. Frankly, we did not understand how unfairly it could affect the most vulnerable of Medicare beneficiaries. Now that we have that information, we should not be reluctant to correct a policy which we now know will cause great hardship and unfairness.

For these reasons, I urge my colleagues to join me in support of the Reinstatement of the Medicare Rehabilitation Benefit Act of 1998.

ADOLESCENT COUNCIL WORKSHOPS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. GILMAN. Mr. Speaker, I would like to commend the initiative of two young people who are residents of the Children's Village in Dobbs Ferry, New York who have courageously and creatively confronted a problem within their community.

Tamari Valentine and Nicholas Mercado, ages 14 and 13, have established Adolescent Council Workshops—Sensitivity Workshops with a difference—in response to an ugly incident that had occurred at the Children's Village. Instead of confronting the situation, which arose after some derogatory epithets had been sprayed on some of the residential buildings of the Village, with a response in kind, these young men stood back and thought about the circumstances that had probably motivated this misguided act they believed had been committed by other young people.

The solution Tamari and Nicholas came up with was to create a forum where residents from the Village and other young people from the surrounding community could come together and talk out whatever differences they felt they had between themselves. These meetings soon grew into workshops where the youth of Dobbs Ferry learned that stereotyping a person because of where he lives or his appearance is a barrier to appreciating individuals for who they are and what they have to offer.

The Children's Village Adolescent Council has now conducted more than 40 workshops, including programs for schools, senior citizens groups, corporations, conferences and local groups. As a recognition of their courage and their creativity, Tamari and Nicholas were recently selected by the Walt Disney Company to participate in the U.S. delegation to the 1998 Children's Summit in Paris. I am proud that they are young constituents of mine and I hope my colleagues in the Congress will join in recognizing their outstanding initiative that promises to build a better future.

SPECIAL TRIBUTE HONORING MAUREEN PETERS, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Maureen Peters, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Maureen is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Maureen is an exceptional student at Jackson High School and possesses an impressive high school record. Maureen is actively involved in the Student Government and National Honor Society. Maureen is also involved with Varsity soccer, tennis and volleyball. Outside of school, Maureen is involved with her Church Youth Group.

In special tribute, therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Maureen Peters for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

HONORING SENECA S. FOOTE, PRESIDENT OF THE UNITED METHODIST RETIREMENT COMMUNITIES, INC. ON HIS RETIREMENT

HON. DEBBIE STABENOW

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Ms. STABENOW. Mr. Speaker, I am pleased to acknowledge the work of Seneca S. Foote, president of the United Methodist Retirement Communities, Inc.

Mr. Foote has been associated with the church-affiliated retirement communities since his ordination as a United Methodist Church minister 18 years ago. During his tenure, he has overseen major fund-raising, building, and service projects at retirement communities in Chelsea, Detroit, and Ann Arbor, all of which have made a true difference in the lives of many families around Michigan.

Specifically, there are projects across mid and Southern Michigan, such as the Alzheimer's/memory loss unit at St. Joseph Mercy Hospital or the soon to open 120-bed Alzheimer's and memory loss facility in Chelsea, that would not have been completed without the work, leadership, and commitment of Mr. Foote. These projects have made and will continue to make a positive difference in our community and to our families.

Mr. Foote leaves his post as a nationally recognized leader in the field of long-term care. But most importantly, he ends his tenure after serving the people of Chelsea on the highest level. I thank Mr. Foote for his service and dedication and I wish him and his family the very best in the future.

CELEBRATING THE 50TH CITIZENSHIP ANNIVERSARY OF EMERY GROSINGER

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Ms. LOFGREN. Mr. Speaker, I am honored to make a special tribute to a proud American who is celebrating the 50th anniversary of his U.S. citizenship.

Emery Grosinger came to our country more than 50 years ago as a young boy who had already endured a lifetime of hardship. Born in a part of eastern Europe that has passed back and forth between Romania and Hungary, Emery at the age of 10 was deported, separated from his family, and sent to concentration camps, including Auschwitz. He survived and came to the United States after World War II. He served in the Army, started a business, and raised a family.

Mr. Grosinger is having a celebration for being an American for 50 years. But all of us in America also need to celebrate his 50 years as our fellow American. His life and his passion for freedom and for justice are part of what makes our country great. How fortunate we are to live in a country that stands as a beacon of freedom for the world. How fortunate we are that America looks not to where you are from, but to what is in your heart and where you are going. People like Emery—whose hearts led them to America and whose love for our country enlightens us all—give our country hope and a bright future.

Mr. Grosinger loves America, and I am proud to extend to him my most heartfelt good wishes in honor of the 50th anniversary of his U.S. citizenship.

REORGANIZING GARY BRYAN FILLETTE'S WINNING ESSAY

HON. JOHN COOKSEY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. COOKSEY. Mr. Speaker, The Veterans of Foreign Wars sponsor a yearly scriptwriting contest and I am proud to represent the winner from the State of Louisiana, Mr. Gary Bryan Fillette of Alexandria. Gary wrote an excellent script on "My Voice in our Democracy" and I submit it to be made part of the permanent record. I hope that my colleagues will take a moment to read Gary's words and that we all remember what a great privilege and responsibility we have in representing the ideals that he expresses.

"MY VOICE IN OUR DEMOCRACY"—1997–98 VFW VOICE OF DEMOCRACY SCHOLARSHIP COMPETITION

(Gary Fillette, Louisiana Winner)

When a baby wants something done, he has a way of letting everyone around him know. No matter if he's in his crib or at a crowded mall, he catches the attention of everybody with his distinctive cry, and keeps crying out until someone does something to satisfy him.

I learned from a baby. In a democracy I must freely and adamantly express my ideas until others listen to what I say. With my voice, I help fulfill my ever-present duty to improve America for both present and future generations.

I have a privilege that not all humans have. As an American, I have a voice in a democracy, and I have to use that voice if democracy is to mean something to me. For over 200 years, Americans have risked their lives for our nation. To show respect for these men and women, the least I can do is take what they have given me—a democracy—and support it vocally with my ideas.

Not everyone has the privilege to voice their opinions. In China, the government silences any utterance that opposes the government. In the Tiananmen Square demonstrations, the Chinese government muted the cries for more democracy and less government corruption by murdering 500 to 1,000 innocent Chinese citizens, leaving the democracy movement in ruins. Unlike China's citizens, I can speak about my government whoever and wherever I desire. I did not just get lucky, though. The lives of dedicated men and women in the Armed Services had to be sacrificed so that I could have my voice in our democracy.

Unfortunately, many young Americans often feel as though their opinions are too inferior to mention. Contrary to this belief, as an American citizen from birth, I have always had the responsibility to contribute my ideas to our nation. As a baby I cried at the top of my lungs for something, probably not patriotism; but then, as I became a young child, I learned what was important in my life as an American. I learned to say "The Pledge of Allegiance" and sing "The Star Spangled Banner." I did not just recite these familiar patriotic words. I respected what they stood for—freedom, democracy, and liberty, all made possible by the men and women whose blood was shed so that mine could flow. As I grew older and taller and my voice began to crack, I contributed my ideas as a Boy Scout. With an even deeper voice, I have spoken in mock governments and voted in mock elections as I learned more about the government at Boys State. I speak to others about our democracy in patriotic speech programs. As an adult, my voice will carry even farther, as I run for office or speak in favor of new ideas at election time. And most importantly, my voice will be heard with my vote: the single, most important characteristic of our democracy.

Without my voice and yours, the word democracy means nothing to us. Consider what a government of the people and by the people, would be if all the people were silent. It would be an idea that everyone thought was great, but it would remain just that: an idea. Fortunately, colonists, like Josiah Quincy, spoke out against oppression in favor of independence. Quincy stated, "Under God, we are determined that wheresoever, whensoever, or howsoever we shall be called to make our exit, we will die free men." These words helped inspire the fight for an independent nation. The formation of our democracy was not, however, a stopping point. We must continue to support our government with out voices. In the First Amendment of the Bill of Rights I am guaranteed the all-important freedom of speech. By freely voicing my opinions alongside other Americans, our democracy can thrive "for the people."

Although the audible characteristics of my voice have changed during my lifetime, what my voice has said, has always been loud and clear. Just as a baby's voice catches the attention of everyone, my voice is an intercom to spread the word to others of the importance of each individual in our democracy. Experiencing gradual pitch changes, my voice is also an instrument to show respect for those who sacrificed their lives for mine. In the future, my voice will continue to be a tool to repair and strengthen our democracy for future generations. The next time I hear a baby cry, I'll appreciate his expressions of his ideas, however loud they may be, and follow his example as I cry out for democracy.

SPECIAL TRIBUTE HONORING KRISTIN WARNER, LeGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Kristin Warner, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Kristin is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Kristin is an exceptional student at Jonesville High School and possesses an impressive high school record. Kristin is the team captain for the school Quiz Bowl and a member of the schools S.A.D.D. program. Kristin is also involved with varsity track, cheerleading and cross country. Outside the school, Kristin is involved with various community activities.

In special tribute, therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Kristin Warner for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To his remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

CHELTENHAM UNITED METHODIST CHURCH CELEBRATES ITS 125TH ANNIVERSARY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. HOYER. Mr. Speaker, on September 27, 1998, Cheltenham United Methodist Church will celebrate its 125th anniversary. This white-framed country church in Cheltenham, Maryland has been serving the religious and secular needs of its community since 1873 when its founders met under the chestnut trees that grew where the church now stands.

Although small in size, Cheltenham Church is very active and has a number of ministries that reach out to the local community and beyond. A few of their many activities include serving meals at the Hughesville Shelter for Battered Women, making 1000-plus sandwiches for the homeless for Martha's Table in Washington, D.C., contributing to the Upper Marlboro Food Bank, assisting patients at St. Elizabeth's Hospital at their Sunday church services, and sponsoring several needy families in the area.

Cheltenham Church is an excellent example of late 19th century rural church architecture. Among its other features, the original doorknob and chandeliers remain. The pulpit, still in use today, was made from a cherry tree that fell on church property before the church was built. The bricks for the foundation were hauled from nearby Nottingham by horse and wagon and had been used during the 18th century as ballast in English ships.

Although the church stands a short distance from a major highway, it retains much of its historic setting, buffered by its historic graveyard. It is a noticeable landmark in a still rural area of Prince George's County.

To the members of Cheltenham United Methodist Church, and to their members who have gone on before, we congratulate you on your 125 years of service to your church and to your community!

INTRODUCTION OF TAX LEGISLATION TO CLARIFY TAX TREATMENT OF REAL PROPERTY TAX REDUCTION VOUCHERS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, today I have introduced legislation along with several of my colleagues of the Massachusetts Delegation to correct the tax treatment of real property tax reduction vouchers received in exchange for volunteer work.

The House of Representatives in the Commonwealth of Massachusetts has passed legislation that would exempt real property tax vouchers received in exchange for volunteer work from income for state tax purposes. Similar legislation is pending in the State Senate. Many towns in Massachusetts have implemented a program which allows senior citizens to volunteer in exchange for a voucher of $500 to be used towards their property taxes. Seniors can volunteer to work in libraries, recreational centers, parks, and senior centers in exchange for a voucher to be applied to their property tax.

This program benefits both the community and the individuals volunteering. My legislation would allow vouchers received in exchange for volunteer work to not be included in gross income. The legislation also exempts these vouchers from employment taxes. Senior citizens who are age 65 are eligible for this legislation. The effective date is for payments made after January 1, 1999.

This legislation enhances an important program that is currently taking place in many towns in Massachusetts. I hope that we can address this issue this year and that there will be an appropriate legislative vehicle.

IN HONOR OF THE ISRAEL CENTER OF HILLCREST MANOR'S 50TH ANNIVERSAY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents and the members of the Israel Center of Hillcrest Manor as they join together to celebrate the fiftieth anniversary of the synagogue. Through the insight of such dedicated and talented community members as Joe Goldstein, Eric Gerstel and Sydney Abrahams, the synagogue's first president, the Israel Center of Hillcrest Manor came into being in 1948, the same year the State of Israel was created. Through unique determination and a indefatigable spirit, these men went from door to door throughout the Flushing, Queens neighborhood building up both spiritual and financial support to establish this synagogue.

Since its inception, the Israel Center of Hillcrest Manor has brought to the community a sense of dedicated service and a foundation of stability that has allowed its membership to raise their families and incorporate all age groups into an environment sensitive to their needs.

The Israel Center of Hillcrest Manor, under the leadership of Rabbi Michael Strasberg, its spiritual leader for more than two decades, and its current president, Leo Lederer, has continued the record of service and caring that is the hallmark of this great house of worship. Having provided the Flushing community for half a century with a vibrant Hebrew School, youth program and a highly effective Men's Club and Sisterhood, the Israel Center of Hillcrest Manor is now prepared to lead its members into the second half century of fulfillment.

There are few organizations that have emerged with a continuous record of compassionate achievement as has the Israel Center of Hillcrest Manor. I ask all my colleagues to rise with me in congratulating the synagogue, its members and officers on this wonderful achievement and extending our warmest support for another fifty years of service.

SPECIAL TRIBUTE HONORING ANNETTE LEAZENBY, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Annette Leazenby, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Annette is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Annette Leazenby is an exceptional student at Waldron High School and possesses an impressive high school record. She has been involved with the National Honor Society. Annette is also involved with the high school band and the drama club. She is a member of the varsity basketball, volleyball, softball and track teams. Outside of school, Annette has been involved in volunteer work at her local church, and is taking college classes.

In special tribute, therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Annette Leazenby for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

IN COMMEMORATION ON THE FOURTH ANNIVERSARY OF VIETNAM HUMAN RIGHTS DAY

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Ms. SANCHEZ. Mr. Speaker, today I rise to commemorate the Fourth Anniversary of Vietnam Human Rights Day. I would also like to congratulate the International Committee for Freedom for organizing this important event and I commend the participants who have come together to promote human rights for Vietnam.

I would like to take this opportunity to call on the Government of Vietnam to respect fundamental human rights and release their religious and political prisoners. The people of Vietnam have waited too long for these basic changes to take place.

By commemorating Vietnam Human Rights Day, we confirm the necessity of placing human rights at the center of United States policy toward Vietnam.

We, as a nation, and as a people, need to be steadfastly committed to human rights, democracy, economic liberty and religious freedom for all the people of Vietnam.

I strongly agree that democracy would not only contribute to regional stability and increased economic development of Vietnam, but also grant sorely-lacking civil liberties and basic freedoms to Vietnamese citizens.

I have the privilege of representing Central Orange County, home to the largest Vietnamese-American population in the United States. Last year, I joined over 2,000 of my constituents to rally in support of human rights and democracy in Vietnam. We marched in protest of the human rights abuses and religious oppression by the current government in Thai Binh and Xuan Loc.

I joined my constituents in sending a strong message to Hanoi—a message that these injustices will not be tolerated—a message that the Vietnamese Government must obey, respect and honor human and religious rights in Vietnam. We must remain strong, vocal, and active on our efforts to bring these human rights abuses to the attention of the international community.

I applaud the efforts of the International Committee for Freedom, and members of the international community, who have come together today to commemorate this important day.

INTERNATIONAL CHRONIC FATIGUE IMMUNE DYSFUNCTION SYNDROME AWARENESS DAY

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. FORBES. Mr. Speaker, I rise today in recognition of May 12, 1998, as "International Chronic Fatigue Immune Dysfunction Syndrome (CFIDS) Awareness Day." In doing so, I would like to put a human face to and share the story of an individual in my district who suffers from this illness.

I have met with numerous constituents in my district who are afflicted with CFIDS. Many of these people are waging a valiant battle to bring more public attention and resources to bear on the search for a cure. I would like to recognize in particular the efforts of David Samelman, Marcella Feinsod and the Long Island CFIDS Association, and even Marcella's son, Brandon, who is working in his school to raise public awareness of CFIDS.

Medical professionals have not been able to cure this mysterious ailment. Others do not understand and have often misinterpreted CFIDS as a form of depression. The National Institutes of Health (NIH) and the Centers for Disease Control (CDC) have been investigating CFIDS for years and unfortunately have yet to find an effective treatment. Numerous studies show that biochemically, endocrinologically, neurologically, neuropsychiatrically, and immunologically CFIDS is a separate and distinct disorder from normal depression. It is heartbreaking to see our parents, neighbors, spouses and children, or anyone suffer through the enduring pain and pervasive weakness of CFIDS, with no remedy currently in sight.

One CFIDS sufferer is George Raisglid of East Setauket, NY. George is a retiree and a Holocaust survivor who in 1987 suddenly took ill during a trip to Israel. After months of tests and experiencing clogged ears, sore throat, insomnia, poor tolerance to extreme temperatures and loss of short-term memory, he finally found a doctor who was able to provide treatment for the individual symptoms but knew of no remedy for his general malaise.

George later saw an article in the local newspaper for a support group for CFIDS sufferers, and at the meeting learned that most local physicians, not being familiar with the disease, were unsympathetic to patients' problems. In fact, they often refused to acknowledge that the disease existed. Ten years and thousands of dollars later, George was still ill and had to retire early because of his condition. Today George has good and bad days, and he has expressed to me his sincere desire to increase awareness and funding for CFIDS research to help others like him.

There are an estimated two to three million people in the United States like George Raisglid suffering from CFIDS. In my home area of Eastern Long Island, this cruel disease has stricken a disproportionately high number of people. Experts say an estimated 2,000 cases of CFIDS have been diagnosed throughout Suffolk County. Unfortunately this number may be understated because this disease is often mistaken for a variety of other afflictions.

I am committed to supporting every effort to eradicate this horrible malady, and helping those who suffer its disabling effects. The reality is that doctors and scientists have few answers to this mysterious disease. Though still often treated as depression, researchers have unearthed evidence of subtle abnormalities in the immune systems of CFIDS sufferers. This has led to widely held consensus that Chronic Fatigue is the manifestation of an immune system that has turned on the body that it is supposed to protect.

The National Institute of Allergy and Infectious Diseases has assured me that it is also committed to supporting research that will lead to the discovery of the cause of CFIDS. Just as importantly, we must emphasize the need to develop effective methods for diagnosing, treating and preventing this crippling disorder. In Fiscal Year 1987 research for the disease was funded at $780,000. In FY 1997, CFIDS funding was $7 million, a ten-fold increase over ten years. While this increase is admirable, it still does not compare with $26 million spent annually on Parkinson's disease research or $1 billion spent annually on both cancer and heart disease.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in recognizing today as "International Chronic Fatigue Immune Dysfunction Syndrome Awareness Day." Only through raising recognition of this mysterious ailment can we hope to discover a cure and attain some measure of relief for those who are caught in its exhausting grip.

SPECIAL TRIBUTE HONORING CHRISTIN JURY, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SMITH. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Christin Jury, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Christin is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Christin Jury is an exceptional student at Union City High School and possesses an impressive high school record. She has been involved with the National Honor Society. Christin is also involved with the high school band and the student council, S.A.D.D., and is a peer monitor. She is a member of the varsity basketball, volleyball, softball and track teams. Outside of school, Christin has been involved as a community service director, volunteers at a soup kitchen, and plays the piano.

In special tribute, therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Christin Jury for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

SAINT AUGUSTINE CATHOLIC CHURCH 1858–1998

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

> "The future historian of the Colored Race in America will find interesting and edifying materials for his work in the lives and actions of the important element of Colored Catholics in the Nation's Capital."
>
> *Edmond Mallet, 1882.*

Ms. NORTON. Mr. Speaker, I rise to pay tribute to Saint Augustine Catholic Church which is celebrating 140 years in the District of Columbia.

Saint Augustine Parish had its origins in the efforts of free blacks to obtain dignity and education. The founding of the church resulted from the efforts of a number of African-American freed men and women who worked with Father Charles I. White to build a school for black children. From 1858 until 1863, fund raising and hard work among a number of black families contributed the essential elements to found a school by 1863.

A fair held on the grounds of the White House during July, 1865, resulted in additional funds and a lot was purchased on 15th Street between L and M Streets, NW where a school and chapel were constructed. Building efforts continued and with the assistance of every element within the rapidly growing "colored Catholic" community, vigorous efforts were pursued to erect the grand edifice that would be the first Saint Augustine's.

In 1874, materials and labor were donated to build a new church. To raise the estimated $75,000, members of the church choir gave "operatic representations . . . in the principle cities of the Union" [Thus], "to the Catholic colored people of Washington belongs the honor of having raised the first opera troupe of their race in the country, perhaps, in the world."

The church was completed and dedicated in 1876. The ceremony was attended by many dignitaries including prominent African Americans such as Congressmen J.R. Lynch, J.H. Rainey and Robert Smalls. The church was considered one of the finest Christian monuments in the Nation's Capital. It was admired for its architectural style, its grandeur and for its significance as the "Mother Church for Colored Catholics in the Nation's Capital."

The church continued expansion and its population grew steadily. By 1905, its membership was numbered at more than 3,000. The parish boundaries were described as covering more than one-half of the city since Saint Augustine was the premiere church for the African-American Catholic population.

Growth was also experienced in the organizations and agencies within the church that carried out its religious mission, such as Sodality of the Blessed Virgin Mary, Knights of Saint Augustine, Catholic Beneficial Society (men), Saint Augustine Relief Society (women), Juvenile Benefit Society (children 2–20).

The societies and organizations of the church have changed over the years. The location of the church has shifted as growth patterns in the city have undergone transition and a number of pastors worked in the parish before the arrival of the current pastor, Father John J. Mudd in 1977. In its 140 years, changes in Saint Augustine Parish have been deeply embedded in the traditions and heritage which inspired the first "colored Catholics." This tradition has been rooted in Christian values and social activism. The church and its individual members have maintained a strong commitment to assist the needy and oppose injustices.

Mr. Speaker, I ask that this body join me in saluting the Saint Augustine Catholic Church and celebrating its role in the city's history, its present and its future.

RELIGIOUS LIBERTY AND CHARITABLE DONATION PROTECTION ACT

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. PACKARD. Mr. Speaker, this week the Senate will consider the Religious Liberty and Charitable Donation Protection Act, legislation which was introduced by Senator CHARLES GRASSLEY (R–IA). As you may know, the Senate bill mirrors H.R. 2604, which I introduced here in the House of Representatives last year. This bill plays an integral role in protecting organizations that are very important to me–our churches and charities.

Senator GRASSLEY and I introduced the legislation after hearing reports that churches and charities were being subjected to damaging lawsuits by creditors and bankruptcy trustees. A 1992 Minnesota court decision allowed a creditor to recapture thousands in past tithes from congregation members. As a result, lawyers across the nation have sued churches and charities, demanding that they repay debtors' past contributions.

Churches and charities should not be regarded as "cash-cows" for greedy attorneys. Mr. Speaker, this is having an absolutely devastating effect on religious and charitable organizations across the nation. Lawyers are well aware that most churches and charities don't have the resources to fight a creditor in court. Without protection, every collection plate in America is a risk.

I applaud Senator GRASSLEY for his leadership in the progression of the Religious Liberty and Charitable Donation Protection Act through the Senate. H.R. 2604 is being considered by the House Judiciary Committee today, and I am hopeful that it will pass and be presented before the full House. Mr. Speaker, I urge you to expedite the movement of this legislation so that it might return to the floor for a vote and take effect for the sake of our churches and charities.

FINANCIAL STATEMENTS

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. SENSENBRENNER. Mr. Speaker, through the following statement, I am making my financial net worth as of March 31, 1998, a matter of public record. I have filed similar statements for each of the eighteen preceding years I have served in the Congress.

ASSETS

Real property:	
Single family residence at 609 Ft. Williams Parkway, City of Alexandria, Virginia, at assessed valuation. (Assessed at $600,000). Ratio of assessed to market value: 100% (Encumbered)	$600,000.00
Condominium at N76 W14726 North Point Drive, Village of Menomonee Falls, Waukesha County, Wisconsin, at assessor's estimated market value: (Unencumbered)	94,200.00
Undivided 25/44th interest in single family residence at N52 W32654 Maple Lane, Village of Chenequa, Waukesha County, Wisconsin at 25/44th of assessor's estimated market value of $614,700	349,261.35
Total real property	1,043,461.35

1998 DISCLOSURE: SECTION 2

Common and preferred stock	No. of shares	$ per share	Value
A.C. Nielsen Co	833	26.44	$22,022.44
Abbott Laboratories, Inc	6100	75.31	459,406.25
Airtouch Communications	148	48.94	7,242.75
Allstate Corporation	185	91.94	17,008.44
American Telephone & Telegraph	566.468	65.75	37,245.27
Ameritech	798.82	49.44	39,491.66
Amoco Corp	1362	86.38	117,642.75
Bank One Corp	3438	63.25	217,453.50
Bell Atlantic Corp	493.318	102.25	50,441.77
Bell South Corp	595.3272	67.44	40,147.38
Benton County Mining Company	333	0.00	0.00
Chenequa Country Club Realty Co	1	0.00	0.00
Cognizant Corp	2500	57.38	143,437.50
Darden Restaurants, Inc	1440	15.56	22,410.00
Dunn & Bradsheet, Inc	2500	33.19	82,968.75
E.I. DuPont de Nemours Corp	1200	68.00	81,600.00
Eastman Chemical Co	270	67.44	18,208.13
Eastman Kodak	1080	64.88	70,065.00
El Paso Natural Gas	75	70.63	5,296.88
Exxon Corp	4864	67.63	328,928.00
Firstar Corp	1352	39.50	53,404.00
General Electric Co	5200	86.19	448,175.00
General Mills, Inc	1440	76.00	109,440.00
General Motors Corp	304	67.75	20,596.00
Halliburton Company	2000	50.13	100,250.00
Highlands Insurance Group, Inc	100	26.88	2,687.50
Houston Industries	300	28.75	8,625.00
Imation Corp	99	18.50	1,831.50
Kellogg Corp	3200	43.13	138,000.00
Kimberly-Clark Corp	38868	50.13	1,948,258.50
Lucent Technologies	174	127.88	22,250.25
Merck & Co., Inc	15639	128.19	2,004,724.31
Minnesota Mining & Manufacturing	1000	91.00	91,000.00
Monsanto Corporation	8360	52.00	434,720.00
Morgan Stanley/Dean Whitter	156	72.88	11,368.50
NCR Corp	68	33.06	2,248.25
Newell Corp	1676	48.44	81,181.25
Newport News Shipbuilding	163.356	26.69	4,359.56
Ogden Corp	910	28.75	26,162.50
PG&E Corp	175	33.00	5,775.00
Raytheon Co	19	56.88	1,080.63
Sandusky Voting Trust	26	85.25	2,216.50
SBC Communications	1007.958	43.37	43,716.25
Sears Roebuck & Co	200	57.44	11,487.50
Solutia	1672	29.75	49,742.00
Tenneco Corp	836.115	42.69	35,691.66
U.S. West, Inc	297.923	54.63	16,274.04
Unisys, Inc. Preferred	100	47.25	4,725.00
Warner Lambert Co	2268	170.31	386,268.75
Wisconsin Energy Corp	1022	30.69	31,362.63
Total common and preferred stocks and bonds			7,836,616.09

1998 DISCLOSURE: SECTION 3

Life insurance policies	Face $	Surrender $
Northwestern Mutual #4378000	12,000.00	$37,268.76
Northwestern Mutual #4574061	30,000.00	89,268.24
Massachusetts Mutual #4116575	10,000.00	7,065.13
Massachusetts Mutual #4228344	100,000.00	156,162.13
Old Line Life Ins. #5–1607059L	175,000.00	27,937.93
Total Life Insurance Policies		317,702.19

1998 DISCLOSURE: SECTION 4

Bank and savings and loan accounts	Balance
Bank One, Milwaukee, N.A., checking account	$1,114.19
Bank One, Milwaukee, N.A., preferred savings	144,531.02
Bank One, Milwaukee, N.A., regular savings	791.27
M&I Lake Country Bank, Hartland, WI, checking account	3,672.34
M&I Lake Country Bank, Hartland, WI, savings	327.85
Burke & Herbert Bank, Alexandria, VA, checking account	2,078.51
Firstar, FSB, Butler, WI, IRA accounts	64,352.87
Total bank and savings and loan accounts	216,868.05

1998 DISCLOSURE: SECTION 5

Miscellaneous	Value
1985 Pontiac 6000 automobile—blue book retail value	$1,600.00
1991 Buick Century automobile—blue book retail value	5,100.00
Office furniture & equipment (estimated)	1,000.00
Furniture, clothing & personal property (estimated)	145,000.00
Stamp collection (estimated)	48,000.00
Interest in Wisconsin retirement fund	91,110.67
Deposits in Congressional Retirement Fund	110,730.26
Deposits in Federal Thrift Savings Plan	95,906.46
Traveller's checks	7,418.96
20 ft Manitou pontoon boat & 35 hp Force outboard motor (estimated)	5,000.00
17 ft Boston Whaler boat & 70 hp Johnson outboard motor (estimated)	7,000.00
1994 Melges X Boat with sails	5,000.00
Total miscellaneous	522,866.35
Total Assets	9,937,514.03

1998 DISCLOSURE: SECTION 6

Liabilities:	
Nations Bank Mortgage Company, Louisville, KY on Alexandria, VA residence, Loan #39758–77	$109,443.77
Miscellaneous charge accounts (estimated)	0.00
Total liabilities	109,443.77
Net worth	9,828,070.26

1998 DISCLOSURE: SECTION 7

Statement of 1997 taxes paid:	
Federal income tax	$236,981.00
Wisconsin income tax	45,090.00
Menomonee Falls, WI property tax	2,062.00
Chenequa, WI property tax	14,463.000
Alexandria, VA property tax	6,783.00

I further declare that I am trustee of a trust established under the will on my late father, Frank James Sensenbrenner, Sr., for the benefit of my sister, Margaret A. Sensenbrenner, and of my two sons, F. James Sensenbrenner, III, and Robert Alan Sensenbrenner. I am further the direct beneficiary of two trusts, but have no control over the assets of either trust. My wife, Cheryl Warren Sensenbrenner, and I are trustees of separate trusts established for the benefit of each son under the Uniform Gifts to Minors Act. Also, I am neither an officer nor a director of any corporation organized under the laws of the State of Wisconsin or of any other state or foreign country.

INDIAN NUCLEAR TEST NO SURPRISE

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 12, 1998

Mr. BURTON of Indiana. Mr. Speaker, although our intelligence community was apparently surprised by India's recent nuclear test, it was no surprise to anyone who has been following the situation there.

On February 13, 1994, CBS' "60 Minutes" produced an exposé of India's nuclear program. Reporter Steve Kroft reported that to India, "nothing seems as important as its membership in the nuclear club." He interviewed a retired university professor named Direndra Sharma who said, the "Nuclear power program is to feed our nuclear-weapons program. I have no doubt about it. Nuclear power and nuclear weapons—two are Siamese twins. They cannot be separated."

This report makes it clear that even then, India's nuclear program was working to develop the weapons that India exploded Monday. It is a very distressing report.

I would like to place the transcript of this disturbing report in the RECORD in the wake of this destabilizing test, and I strongly urge my colleagues to read it carefully.

ANOTHER CHERNOBYL?

STEVE KROFT: Nothing frightens the world like a nuclear bomb falling into the wrong hands or a nuclear accident like the one that occurred at Chernobyl, which is why the international community has paid a lot of attention to countries like North Korea, Iran and Iraq, and to the aging, decrepit nuclear reactors of the former Soviet Union. But one country has largely escaped scrutiny—India—where nothing seems as important as its membership in the nuclear club. Over the years, it has steadfastly kept international safety inspectors out of its facilities, while pursuing one of the most ambitious, secret and potentially dangerous nuclear programs in the world.

(Footage of Indian rain forest; of Indian people in common settings)

KROFT: (Voiceover) Deep in the heart of the Indian rain forest, the Indian government is building two brand-new nuclear power plants of outmoded design, surrounded by the kind of secrecy and security that you'd expect to find at a military installation. The Indian government says the reactors are needed to help lift more than 800 million people out of poverty and into the 20th century—that nuclear power is vital to India's future prosperity.

(Footage of meeting)

Unidentified Man #1: Mr. Sharma from India.

Dr. DHIRENDRA SHARMA (Indian Activist): Thank you.

KROFT: (Voiceover) But Dr. Dhirendra Sharma, a retired university professor and one of the few people in India willing to take on the government-controlled nuclear establishment, says there's a reason why the country's nuclear power plants are treated like military installations.

Dr. SHARMA: Nuclear power program is to feed our nuclear-weapons program. I have no doubt about it. Nuclear energy and nuclear weapons—the two are Siamese twins. They cannot be separated.

(Footage of weapons plant; of Indira Gandhi; of Indian nuclear power plants)

KROFT: (Voiceover) They can't be separated, Dr. Sharma says, because the spent fuel from those nuclear power plants is needed to make nuclear bombs for the Indian military.

When the government of Prime Minister Indira Gandhi exploded a nuclear device 20 years ago, the United States and Canada stopped helping India build reactors. And to this day, the sale to India of nuclear fuel, vital spare parts and critical safety systems for its nuclear plants is forbidden by most Western governments. But that hasn't stopped India from making more nuclear bombs and building more nuclear plants, even though Sharma says India probably can't maintain the safety standards that the high-risk technology demands.

Today, the Indian nuclear program is a dangerous failure. Its power plants are all operating at less than 50 percent of capacity, and some are even suspected of using more electricity than they generate. There's little oversight, no independent regulation, and for the most part, Indian reactors are off-limits to international inspectors.

(Footage of nuclear plant control room)

KROFT: (Voiceover) The most recent trouble was in March at Narora, a nuclear power plant built in an earthquake zone, barely 155 miles from the capital of New Delhi. A major fire broke out at the plant, knocking out all of the power in the control room.

How serious was it?

Dr. SHARMA: I would say that it was touch and go.

(Footage of regulatory report)

KROFT: (Voiceover) And he isn't the only one who says so. A US Nuclear Regulatory Commission report called the incident a "close call." Just how close may never be known, Sharma says, because Indian law gives the government the power to operate in almost total secrecy when it comes to nuclear matters.

Dr. SHARMA: It is forbidden to talk, plan, write, investigate about past, present or future nuclear power programs. All this is under the law as forbidden.

KROFT: Aside from the emergency at Narora, the Indian government has admitted to 146 other nuclear mishaps—and that's just last year. Five of them ended up killing people. There was an explosion at the country's main fuel fabrication plant; a jet fire at a heavy water facility that sent flames shooting 130 feet into the air; and an underground leak of radioactive water at a research facility.

(Footage of government building)

KROFT: (Voiceover) That information, but very few details, was provided by India's Atomic Energy Regulatory Board, the government-controlled watchdog group that's responsible for nuclear safety. It's chairman, Dr. A. Gopalakrishnann, makes no apologies for the fact that India is one of the only nuclear power-producing countries in the world to resist safety reviews by the International Atomic Energy Agency in Vienna.

Why don't you allow safety inspectors from the . . .

Dr. A. GOPALAKRISHNANN: (Chairman, Indian Atomic Energy Regulatory Board): Why should we—why—why . . . .

KROFT: . . . international agency to come in and in—and inspect?

Dr. A. GOPALAKRISHNANN: Why should we do it? What is the need for it?

KROFT: Almost every other country in the world does.

Dr. A. GOPALAKRISHNANN: I don't know. What—for—they're coming to look whether the reactors are safe? Or coming to see what—what they are doing there?

(Footage of Rawatbhala facility)

KROFT: (Voiceover) Whatever they're doing here at the Rawatbhala nuclear facility in the state of Rajasthan, they're not doing it very well. The plant has one of the worst operating records in the country. Unit number one was shut down for three years because of a crack in the reactor's endshield.

Dr. A. GOPALAKRISHNANN: Yes, there was a crack in the reactor endshield. That doesn't mean . . .

KROFT: And you shut the plant down for three years.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999

SPEECH OF

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 7, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes:

Ms. MILLENDER-McDONALD. Mr. Chairman, I rise to express my support for H.R. 3694, the Intelligence Authorization for FY 1999. However, my support is not without serious reservations, for I remain deeply concerned about allegations that have been raised regarding CIA involvement in drug trafficking in South Central Los Angeles and elsewhere. While I applaud Chairman PORTER GOSS, Ranking Member NORM DICKS, and the rest of the House Permanent Select Committee for convening a public hearing following release of Volume One of the Central Intelligence Agency Inspector General's report in response to the *San Jose Mercury News'* series "Dark Alliance", I have made my views about the shortcomings in this report known to the Committee and to the Agency. I am aware that Volume Two of the Inspector General's report, which deals with the more substantive issues regarding the extent of the relationship between the intelligence community and the Nicaraguan *Contra* resistance, has been provided to the Select Committee in classified form. I understand that it is being reviewed by the Central Intelligence Agency to determine whether any or all of it may be declassified. And, we are still awaiting release of Inspector General Michael Bromwich's report on the allegations of wrong doing that may have occurred within branches of the U.S. Department of Justice.

However, I would like to take this opportunity to strongly urge C.I.A. Director George Tenet and Chairman GOSS to do everything possible to declassify as much information in the report as possible as its subject matter goes to the heart of the issues raised by my constituents in the public meetings I convened following publication of the *San Jose Mercury News* series. I also urge Attorney General Janet Reno to release the I.G.'s report at the earliest possible opportunity. Failure to make this information public feeds the skepticism of the hundreds of consitutents in my District and throughout the nation who still want answers and who are encouraged by the Committee's expressed commitment to make public as much information as possible.

Furthermore, to fully appreciate our government's efforts to fight the scourge of narcotics, the public must understand its intricacies, including the role of interdiction and intelligence. Public release of the reports, followed by public hearings, and ultimately the conduct by the Committee of its own inquiry, will assist my constituents to evaluate the role the Central Intelligence Agency played in balancing competing nations priorities. Such a process will also give Members of Congress, as policy makers, the information necessary to make informed decisions about handling such issues in the future.

Consequently, I and my constituents continue to eagerly await the public release of the reports by the Inspectors General of Justice and CIA. I reiterate my hope that the Select Committee will give their content, methodologies and findings the scrutiny they deserve and in a similar spirit of openness, make themselves available to my constituents to respond to any questions these reports generate. I believe such openness is critical to restoration of the credibility and public trust necessary to allow intelligence gathering activities, which by their nature are secretive, to coexist with democracy

SENATE—*Wednesday, May 13, 1998*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND.]

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord of all life, You have shown us that a great life is an accumulation of days lived to the fullest, one at a time, by Your grace and for Your glory. Thank You for the strength and vitality that surge within us when we open the floodgates of our minds and hearts and allow Your Spirit to empower us. When we invite You to be the unseen but enabling Presence in everything, we experience greater creativity, we think more clearly, we speak more lucidly, and we accomplish more with less strain and stress.

Make us so secure in Your love, Lord, that we live this day with more concern for the future of our Nation than for the future of our careers, with more concern for our success together than for personal success, and with more dedication to honest debate with civility than to winning arguments. We commit ourselves to press on with crucial issues on the agenda. Give us a renewed sense of our calling to serve You and a deeper trust in Your faithfulness to give us exactly what we need in each hour. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the Senator from Mississippi is recognized.

SCHEDULE

Mr. COCHRAN. Mr. President, at the request of the majority leader, I am pleased to advise all Senators of the schedule of legislative business for today's session of the Senate. This morning, between now and 11:30 a.m., the Senate will debate the motion to proceed to the missile defense bill. Following that debate, the Senate will proceed to vote on the motion to invoke cloture on the motion to proceed to the missile defense bill. And following that vote, the Senate will begin consideration of S. 1244, the charitable contributions bill, under a short time agreement. At the conclusion or yielding back of the time, the Senate will proceed to a vote on passage of that bill.

Following that vote, it is the leader's intention to begin consideration of the Department of Defense authorization bill. Therefore, Members should expect votes throughout today's session with the first votes occurring at approximately 11:30 a.m. As a reminder to all Members, several time agreements were reached last night with respect to two high-tech bills, and those may be considered at some point this week.

Mr. President, may I inquire of the Parliamentarian if there is a time agreement for the consideration and debate of the motion to proceed to the missile defense bill.

The PRESIDING OFFICER (Mr. BROWNBACK). The time is to be evenly divided until 11:30 on the motion to proceed, and then there will be a cloture vote.

Mr. COCHRAN. I assume that under that agreement this Senator is in charge of the time for the proponents of the bill and the distinguished Senator from Michigan, Mr. LEVIN, is in charge of the time for the opponents of the motion.

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. I thank the Chair.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

AMERICAN MISSILE PROTECTION ACT OF 1998—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 1873, and the time until 11:30 a.m. will be equally divided.

The clerk will now report.

The bill clerk read as follows:

Motion to proceed to the consideration of Calendar No. 345 (S. 1873), a bill to state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack.

The Senate resumed consideration of the motion to proceed.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Mr. President, I ask unanimous consent the privilege of the floor be extended to Dr. Anne Vopatek, a fellow on my staff, during the consideration of S. 1873 and all relevant motions thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, it should be noticed by those who are interested in the subject of missile defense that what we are actually debating and deciding this morning is whether or not the Senate should proceed to consider the bill that has been introduced by me and the distinguished Senator from Hawaii, Mr. INOUYE.

This bill is not going to be voted on up or down today; what we will have a vote on at 11:30 is whether or not to proceed to consider the bill. When the majority leader decided to call up this legislation, there was an objection made to proceeding to consider the bill. So under the procedures of the Senate, the majority leader, who is in charge of making decisions about the schedule of the Senate and how we take up legislation in the Senate, was obligated to file a motion to proceed to consider the bill. That motion is debatable.

Under notice from the opponents of the bill, it was clear that motion would be debated at length. So to get to the bill, it was decided by the majority leader that a cloture motion should be filed on the motion to proceed, bringing debate on the motion to a close. If we get 60 votes on that cloture motion, then we can proceed to consider the bill and it can be open for amendment, and Senators who have alternative ideas, or think that the current policy is the policy we should have for missile defense, can make those points and the Senate can consider those views. But until this cloture motion is approved, we can't get to that point. We can't get to the point of considering this bill on its merits and considering any amendments which Senators would have.

So I am trying to put in context what is before the Senate, what the issue is here. The issue this morning is whether or not the Senate thinks this is a matter of such seriousness and consequence to our national security that we ought to consider it, that we ought to debate it, that we ought to let the Senate work its will on a proposal to change our policy with respect to national missile defense. I can't think of a more interesting and serious time, given the events which are occurring in the world today, for the consideration of this issue. It is on everybody's mind, Mr. President, because of the tests which have been undertaken in India of a nuclear warhead. India now announces to the world they are prepared to use this as a part of their nuclear weapons arsenal, that they have it available, and that they are a nuclear weapons state. This is a dramatic change in the situation in India. It is a dramatic change in the security interests of the entire world.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

At this time, we find the United States relying upon a policy with respect to missile defense of developing a national missile defense system in two stages, unlike any other defense acquisition program that we have ever had, or that we now have. We have a technology program—one that is developing the capabilities to have an effective defense system, but we do not have any policy with respect to ever putting that system in the field, or to integrating it into our national defense structure. That decision hasn't been made. We are suggesting in offering this bill that the time has come for the United States to say to the world we are going to develop and deploy a national missile defense system.

We are going to protect the security interests of the United States and the territory of the United States. As a matter of national policy, the Federal Government is going to obligate itself to undertake to protect the security interests of the citizens of the United States and the United States itself from ballistic missile attack. It seems to me that is an obligation that is very clear for us, in moral terms, as a government.

With India having a missile capability of a range of about 1,400 miles already, according to recent reports that are available to the Senate, Pakistan having tested for the first time on April 6 a new medium-range missile with a range of 1,500 kilometers, and India announcing that it is concerned that Pakistan is a covert nuclear weapon state, although it hasn't announced that, we are seeing evidence that around the world—in North Korea, in Iran, and, of course, in Russia and China—there are nation states that are developing, or now have, longer range missile capabilities than ever before. Some have the added capability of nuclear weapons and, some have other weapons of mass destruction that can be delivered with those long-range missile systems. And the United States is defenseless against attack from long-range ballistic missiles.

It has been our policy up until now to have the capacity to destroy any nation that would think about using a nuclear weapon against us. Russia and the United States have had over a period of time this mutual assured destruction relationship: If you destroy me, you can be assured I will destroy you. That confrontation and that balance of power has prevented any use of a missile system or nuclear weapon against the territory of the United States, even though that is not a very happy relationship to have.

Now, we hope, we are moving toward a better and more stable relationship, but there is still always the chance of an unauthorized launch even from Russia. We are working to destroy and build down the weapons stockpile. That is good. But we are not yet to the point where there is no risk. This is not a risk-free relationship with Russia. There could be an accidental launch. If there is, we have no defense whatsoever.

With respect to China, it is certainly unlikely that we are going to have any missile attack from there. Nonetheless, there is an emerging long-range missile system capability in China that is growing more sophisticated, that is going to continue to grow and develop more lethality and longer ranges, and it presents a threat—unlikely, but, nonetheless, there could be an unauthorized or accidental launch of a missile from China.

Already we are seeing the North Koreans developing—and already deploying—some medium-range missile systems. They are now developing, we are told, a missile with a range of 6,000 kilometers. That missile could reach Alaska. It could reach Hawaii. Who knows what their plans are for continuing to develop missiles with increased ranges.

We found out, through a year-long series of hearings that we conducted last year in our Subcommittee on International Security, Proliferation, and Federal Services, that it is much easier now than ever before for nation states who want to improve and develop their missile systems, and to give them longer ranges, to do so with the access they have to information from the Internet and to experts in Russia and other nation states where they already have the capabilities.

Iran provides an example of the surprises we face. One surprise occurred when we found out that Iran had acquired the technology, the components, and the expertise to put together a medium-range missile system. They are in the process of doing that now. One State Department official said that they could have that missile system available by the end of this year.

Last year, when we had the Director of Central Intelligence before a committee of the Senate talking about the advancements that had been made in Iran, he said that he thought—this is in 1997—that it would be up to 10 years before Iran would have medium-range missile system capability. Then he sent word up, that because of new developments and the acquisition of expertise and components from Russia, Iran had made surprising advances and they would have the capability to deploy such a system much sooner. It is because of gaps and uncertainties, he said, that you can't predict when people are going to get these technologies and other equipment from foreign sources, or how quickly they can develop an ICBM threat—you just can't predict that.

So we have seen in Pakistan now, in India, of course, in China, Russia, in Iran, and in North Korea solid evidence of what we are talking about today. And that is that there is in the world today a real threat to the security of this Nation because of the emerging capabilities and technologies for developing and deploying long-range missiles, that there are available in these countries weapons of mass destruction that can be carried by these missiles over long ranges, and that it is time for the United States to acknowledge this threat and say as a matter of policy that we are going to deploy a national missile defense system.

That is what this bill says. It doesn't set out what kind of architecture the missile defense system should have or any deadlines for doing it. We would rely upon the orderly processes of authorization and appropriation, as we have for all other defense acquisition programs, to determine how soon it is developed and when it is deployed. But what we are saying today is that, as a matter of policy, we are going to deploy a national missile defense system.

I think it is also important to notice that this does not require a violation of any existing arms control agreement. In our early discussions of this legislation, we heard others say that this puts in jeopardy the ABM—the antiballistic missile—agreement. It does not. That agreement contemplates that a party to the agreement could have a national missile defense system. It permits a single site for interceptor rockets. We have been proceeding under the current administration plan that this is the kind of a system that would be developed, and eventually, if—under the administration's policy—a threat is perceived to exist, then an effort would be made to deploy the system.

So the real difference in what we are presenting to the Senate today is that this is a policy that is announced to the world and to rogue states that may be saying, "Look, the United States is defenseless. We have an opportunity to put some pressure on them by developing a missile system that is capable of striking the United States. We can coerce them, intimidate them, and blackmail them because they are not at this point considering deploying a defense against intercontinental ballistic missiles." We would end that kind of thinking in nations who may be taking that approach by saying, "Yes, we are. You are not going to see the United States any longer taking a wait-and-see approach." And that is what the administration's policy is—to wait and see if a threat develops.

We are saying, "Mr. President, you have signed Executive orders over the last 4 years, starting in 1994, saying that the United States is confronted with a national emergency because of the proliferation of weapons of mass destruction and missile systems around the world." The President has acknowledged that, and he signed Executive orders that say that. But now it is time to say we are going to do something about it, we are going to do something to protect our security interests against this national emergency that exists. Up until now, we have said we will wait and see if there is a real threat. That puts us at risk here in the United States.

I am saying that we had better get busy. We had better get busy and develop and deploy a system. It would be much better for all of us if we deployed a system that may be a year or two years early getting to the field than waiting until it is a year too late.

That is the issue and it is important given what is happening in the world today, given the fact that our intelligence agencies were not able to even detect that this test in India was about to take place, given that they weren't able to detect, as far as I know, that Pakistan was going to test, or even had, the new missile they tested in April, and given they weren't able to detect that Iran was going to be able to put together a medium-range ballistic missile within 1 year rather than within as many as 10 years. The latest assessment was as many as 10 years; now it is perhaps within 1 year. These are not the only surprises, they are just the most recent ones. Some of us have known about these surprises before now, but now the whole world knows about them. They are acknowledged at the highest levels of our Government. If we can't detect that India is about to test a nuclear warhead, if we can't detect that Pakistan has a missile system that has a range five times greater than what we thought they had, if we can't detect that Iran is developing a medium-range missile with technology and components imported from other countries, and they will be able to put that in the field as many as 9 years earlier than we had thought 1 year ago, then we need to change our policy and quit assuming that we are going to be able to detect the development of an intercontinental ballistic missile system somewhere in the world that can threaten the territory of the United States.

That is the point of this legislation. We can't be sure. And if we can't be sure that we can detect the threat, we need to be prepared to defend against that threat. The Senate ought to consider this issue, and so today we are going to vote on cloture on the motion to proceed to consider that issue. I urge the Senate to vote to invoke cloture. We don't need to drag out a debate on a motion to proceed to this issue. Sure, there are other things that are on the schedule for today, and the leader has committed to taking up other bills after this vote, but I am optimistic that we will have enough Senators who understand the seriousness of this and the urgency of this for us to turn to the missile defense bill. I hope Senators will consider this, and I am happy to yield to other Senators.

I know the distinguished Senator from Michigan is in the Chamber. We have had a number of Senators who have asked for time. I hope my friend from Michigan will allow me to yield to the Senator from Oklahoma, who has another commitment at 10 o'clock, for whatever time he may consume between now and 10 o'clock.

Mr. President, I yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from the great State of Oklahoma.

Mr. INHOFE. Mr. President, first of all, let me say that I applaud the senior Senator from Mississippi for bringing this up. Yesterday I spent some time in the Chamber and evaluated the arguments against this so that I could respond to those arguments. And I will just take a couple moments because I am supposed to be presiding, and I would like to respond to those objections to this legislation that came from the floor.

First of all—and I think this has been discussed already by the senior Senator from Mississippi—the possible effect this would have on the ABM Treaty. I know he presents a very persuasive case that it would not have any threat. Quite frankly, even if it did have a threat to the ABM Treaty of 1972, I would still be supporting this, because I think when you talk to most people who were around in 1972, back when we had two superpowers—we had the U.S.S.R. and the United States—it was not the threat in the world, quite frankly, that it is now, because it was more predictable; we knew what the U.S.S.R. had, and they knew what we had. We had an agreement that I didn't agree with back then. It was called mutually assured destruction; that is, we agree we won't defend ourself and you agree you won't defend yourself. And then, of course, you shoot us, we shoot you, everybody dies, and nobody is happy.

That was a philosophy we lived by which I didn't agree with at the time. And I have to hasten to say, this came in a Republican administration. This was Henry Kissinger and Richard Nixon. But regardless of how flawed that might have been as a policy at that time, certainly now it should not have any application. In fact, I have quoted many times Henry Kissinger on this floor. When I asked him the question: Do you feel with the changing threat that's out there and the environment we are in right now, with some 25 nations with weapons of mass destruction, biological, chemical and nuclear, that it still makes sense to abide by the ABM Treaty? And he said—this is a quote—"It's nuts to make a virtue out of your vulnerability."

That is Henry Kissinger. He was the architect of this ABM Treaty. Of course, I was one who voted against the START II Treaty and even said in the Chamber we had no indication that Russia was going to be signing this anyway. And, of course, we know what is happened since that time. So I think that argument on the ABM Treaty, even if it did offend that treaty, I would still support this legislation from the Senator from Mississippi.

The second objection yesterday was the cost. They said—and this is a quote—"We don't know how much it will cost since the bill does not specify any particular system." Well, it doesn't. And I am glad this bill does not specify a specific system. I have a preference. Mine would be the upper-tier system. The upper-tier system is very close to where we would be able to deploy this thing. We have a $50 billion investment in 22 Aegis ships that are floating around out there today. They have a capability of knocking down missiles, but they can't go beyond the upper tier. So it doesn't do us any good except with short-range missiles that stay in the atmosphere.

If you have from North Korea a missile coming over here that takes 30 minutes to get here, it is only in the last minute and a half that we would be able to use any current technology to knock it down, and then we couldn't do it because we don't have anything that would be that fast, so we are naked.

And the cost is not that great. The opponents of defending America by having a national missile defense system keep saying over and over again that it is going to cost billions and billions. I have heard $100 billion, a whole range. And I suggest to you that we have some specific costs. With that $50 billion investment, it would be about $4 billion more to reach the upper tier with the Navy upper-tier system. There might be another billion and a half on Brilliant Eyes so we would be able to accurately detect where in the world one would be deployed.

And anyone who is among the 81 who supported last week the expansion of NATO—I was one who did not support it—you might keep in mind that if you are concerned about not having an accurate cost figure for this program to defend America from a missile attack, look what we voted on last week in ratifying NATO expansion. We agreed that we are going to expand that to the three countries, and the cost figures had a range from $400 million to $125 billion. Now, I can assure you we are a lot closer to being able to determine what this cost would be.

The last thing, I think, is that when this is all over and the dust settles, maybe what happened yesterday in India and this morning in India might really be a blessing, because at least now we can diffuse the argument that was quoted of General Shelton when he said there is no serious threat emerging, and he said our intelligence said that we will have at least 3 years' warning of such a threat. Well, that is the same intelligence that did not know what India was doing.

If you try everything else and that does not work, let's just look at what is common sense. We know that we have these countries that have weapons of mass destruction. We know that both China and Russia and perhaps other countries have missiles that will reach all the way to any place in the United States of America today. Using the polar route, they can reach any place in the United States of America. And with that out there, why would we assume that China would not do it, or that it would not be an accidental launch, or with some of this technology they are selling to countries like Iran, that other countries wouldn't use it? I am not willing to put the lives of my seven grandchildren at stake by assuming that somehow we are going to have 3 years' warning. I think that is totally absurd.

Lastly, I would only share with you that I went through a personal experience with our explosion in Oklahoma City, which I think everyone is aware of, that took 168 lives. And as tragic as that was, and what a disaster that was—and as I walked through there and I saw the firemen and all of them risking their lives to try to save one or two people after some time had gone by—and you have to have been there, not just seeing it on TV, to really get the full impact on this—the explosive power that blew up the Murrah Federal Office Building in Oklahoma City is one-tenth the power, the explosive power, of the smallest nuclear warhead known today.

So I just think my only regret is that we didn't do this 3 years ago or 4 years ago, because somebody back in 1983 was pretty smart when they said we need to have a system that could be deployed for a limited attack by fiscal year 1998. Here we are, and we are overdue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator for his excellent remarks.

Mr. President, if the distinguished Senator from Texas is prepared to speak, I am prepared to yield to her 10 minutes.

I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from the great State of Texas is recognized for up to 10 minutes.

Mrs. HUTCHISON. Mr. President, I thank the distinguished senior Senator from Mississippi, who has provided great leadership in this area. In fact, I said to the Senator from Mississippi yesterday, if I am ever going to need a consultant on the timing of introducing bills, I am going to call him immediately, because, of course, what has happened just in the last 5 days, proves how absolutely correct the Senator from Mississippi has been in pursuing this very important legislation. I thank the Senator from Mississippi for his leadership.

It is clear that the greatest security threat the United States faces today is that we do not have a defense for incoming ballistic missiles. In fact, if you look back at the latest war that we have had, the gulf war, the largest number of casualties in that war was from a single ballistic missile attack.

We had the Patriot, and the Patriot was actually a missile that was supposed to hit airplanes. We quickly tried to make the Patriot into something that would hit missiles, and, phenomenally, it actually had a 30-percent success rate. But when we have our troops in the field and we have the capability to do better than 30 percent, how could we even think of not going full force to protect our troops in any theater where they might be, anywhere in the world, and to protect the citizens of the United States within the sovereign territory of our country? How could we be sitting on technology without saying this is our highest defense priority?

Today, we have a chance to say this is our highest defense priority. Because if we cannot protect our citizens in our country and our troops in the field, we are leaving ourselves open. And we don't have to do that. Today, we know that over 30 countries in the world have ballistic missile technology. The Senator from Mississippi has gone through what some of these countries now have. Just in the last 5 days, we have seen North Korea threaten to go back on the agreement they made and refuel their nuclear reactors. We have seen, in the last few weeks, that China has been buying our technology without our permission—except for the President letting people do it, presumably because they contributed to his campaign. Pakistan is now deploying a missile with a 1,500 kilometer range. India, as we know, in the last 2 days has actually—has actually—tested nuclear weapons. So, of course, the arms race between Pakistan and India has been rekindled.

Iraq—we fought the Desert Storm war because Iraq was getting ballistic missile technology, and we know they have chemical and biological weapons. Iran—they are receiving assistance from the Russians to develop missile systems. Russia is willing to export a good part of their scientific basis for nuclear weapons, and we don't know how secure is what is left in Russia.

So, how can we look at the facts and not address them vigorously, if we are doing what is right for the American people? We have the capability to do this if we make it a priority. The Senator from Mississippi is introducing a bill that basically says this is a priority, that we will go forward full bore with the capabilities that we have, doing the technological research, doing the testing. All of us are very disappointed that the recent THAAD test was not successful. But we should not back away from it. We should be going forward full bore to try to make sure that we have a national missile defense system, an intercontinental missile system, and a theater missile ballistic system that would defend against any incoming missiles.

Let me make another argument, and that is, as we are going through all of the countries that we know are now building ballistic missile capability with chemical, biological, and nuclear weapons, what would be the very best deterrence from them making that investment? What would be the best deterrence, so India would not feel that it is necessary for their security to test ballistic missiles? The best deterrence would be the capability to deter a launched missile in its boost phase. Simply put, if we can take a missile as it is just being launched and turn it back on the country that is trying to send that missile, isn't that the best deterrence for that country not to send the missile in the first place? Because, obviously, no country is going to launch a ballistic missile if it is going to come back on its own people.

So, if we can get that defense technology, perhaps that is the best way to stop this arms race. Most certainly, the joint threat to us, and to our allies, should be our highest priority. This bill establishes missile defense as a top priority because it says we are going to fund ballistic missile defenses and we are going to deploy them as soon as the technology is there.

The argument against it is incomprehensible to me, although I do not in any way suggest that those making the argument aren't doing it with good faith. I am positive that they believe they are doing the right thing. But to say that the world's greatest superpower is going to wait and see what other countries might get, what ballistic missile technology, and then set on a program full bore that would defend against that—they could not be talking as representatives of the only superpower left in the world. They cannot be thinking what a superpower must do, which is to do what no one else in this world has the capability to do. We are the only country that has the capability to put the resources behind a ballistic missile defense capability. We are the only country that can do that. Why would we hesitate for one moment? Why would we leave one of our troops in the field unprotected for one more moment than is absolutely necessary? There is no excuse. Why would we leave the people of our country unprotected for one more moment than is necessary, when we have the resources to go full force?

It is not an argument from the superpower to say when we know that someone has perfected a technology that could reach the United States then we will deploy our full forces. How many people will die or be maimed because we are not going full force right now?

What better quality-of-life issue is there for our military than to give them every safety precaution, protecting them in the field that we have the capability to do?

We are the leadership of the greatest superpower in the world. We must say we cannot wait for one more moment for the full priority to be given to missile defense technology and capability for our country, for the people who live here, from potential terrorist attacks, and for anyone representing the United States of America in the field.

When our young men and women pledge their lives for our freedom, how can we not give them every protection they deserve to have when they are, in fact, defending our ability to speak on this floor today?

Mr. President, I hope our colleagues on both sides of the aisle will in a very bipartisan vote say, "We will not walk away from our responsibility to provide the protection to our people that they expect and the protection of our troops in the field, wherever they might be, fighting for our freedom or for the freedom of oppressed people in other places." We must give them the protection that we have the capability to do. It is a very clear-cut issue. Thank you, Mr. President.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I commend the distinguished Senator from Texas for her excellent statement and thank her for her assistance in the development of this legislation and our policies on missile defense.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Mr. President, I ask unanimous consent that James Nielsen of Senator KYL's staff be granted the privilege of the floor during the debate on the motion on S. 1873.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield myself 10 minutes.

The bill before us could lessen the security of this Nation, and that is the reason so many of us oppose it. Will the bill add to our security by committing us to deploy a system before it is even developed, threatening the abrogation of a treaty between ourselves and the Russians which have allowed significant reductions in the number of nuclear weapons in this world?

In my judgment—more important, in the judgment of the uniform and civilian military leaders of this country—this bill does not contribute to our security. This bill risks a reduction in the security of this Nation. This bill could contribute to the proliferation of weapons of mass destruction, in this case, nuclear weapons which is the greatest threat that this Nation faces.

It is the proliferation of weapons of mass destruction, in this case, nuclear weapons, which is the greatest threat that this Nation faces. And yet this bill, which purportedly is aimed at a defense against ballistic missiles, could, because it threatens a very significant treaty between us and the Russians which has allowed for significant reduction of nuclear weapons, increase the threat to this Nation from nuclear weapons proliferation.

That is not me saying it, although I believe it; that is Secretary Cohen saying it, that is General Shelton saying it, that is the military leadership of this Nation saying it.

I think we all believe in the security of this Nation with equal passion. I don't doubt that for 1 minute. I think everybody in this Chamber, everybody who serves in this Senate has an equal commitment to the security of this Nation. The issue here is how do we contribute to the security of this Nation?

The answer comes, it seems to me, from General Shelton in a letter which he wrote to me on April 21. He is the Chairman of the Joint Chiefs of Staff, as we all know. What he says is the following:

> Thank you for the opportunity to comment on the American Missile Protection Act of 1998 (S. 1873). I agree that the proliferation of weapons of mass destruction and their delivery systems poses a major threat to our forces, allies, and other friendly nations. U.S. missile systems play a critical role in our strategy to deter these threats, and the current National Missile Defense Deployment Readiness Program (3+3) is structured to provide a defense against them when required.
>
> The bill and the NMD program—

And he is referring to our current program—

> are consistent on many points; however, the following differences make it difficult to support enactment.

Then he goes through those differences, why it is that he does not support enactment of the bill before us; why it is that the Chairman of the Joint Chiefs of Staff does not support enactment of this bill.

One of the things that we hear from the proponents of this bill is that there is no policy on missile defense in this country. There is no policy to deploy a missile defense. We hear that over and over. Here is what General Shelton says, as his second reason for not being able to support this bill:

> Second, the bill asserts that the United States has no policy to deploy [a national missile defense] system. In fact, the [national missile defense] effort is currently a robust research and development program that provides the flexibility to deploy an initial capability within 3 years of a deployment decision. This prudent hedge ensures that the United States will be capable of meeting the need for missile defenses with the latest technology when a threat emerges.

So his second reason for not supporting this bill is this bill says we don't have a policy to deploy a system.

In fact, General Shelton writes, we have a current robust research and development program that gives us the flexibility to deploy a system at the right time. That is what is called a prudent hedge strategy. That is the 3+3 Program. That is the 3+3 policy which we adopted in the Senate 2 years ago.

Section 233 of that bill says:

> It is the policy of the United States to—
>
> (1) deploy as soon as possible affordable and operationally effective theater missile defenses capable of countering existing and emerging theater ballistic missiles;
>
> (2)(A) develop for deployment a multiple site national missile system that: (i) is affordable and operationally effective against limited, accidental, and unauthorized ballistic missile attacks on the territory of the United States, and (ii) can be augmented over time as the threat changes to provide a layered defense against limited, accidental, or unauthorized ballistic missile threats;
>
> (B) initiate negotiations with the Russian Federation as necessary to provide for the national missile defense systems. . .
>
> (C) consider, if those negotiations fail, the option of withdrawing from the ABM Treaty in accordance with the provisions of Article XV of the Treaty. . .
>
> (3) ensure congressional review, prior to a decision to deploy the system developed for deployment under paragraph (2), of: (A) the affordability and operational effectiveness of such a system; (B) the threat to be countered by such a system; and (C) ABM Treaty considerations with respect to such a system.

There is a policy. And the policy is a prudent hedge strategy. The policy, most importantly, is to develop a national missile defense system as quickly as we can so we can be in a position to make a deployment decision as quickly as possible. We have a policy. That is not me saying it. That is General Shelton saying it.

Our policy is to put the horse before the cart. This bill would put the cart before the horse, because what this bill does is say—not just develop and make a decision after you have developed whether to deploy, depending on the circumstances which exist—this bill says commit yourself now to deploy a system no matter what the consequences are, no matter what the circumstances are, as soon as you have something which is technologically feasible.

Now, what is wrong with that? Why not do what we have never done in history, which is to commit ourselves to deploy a system before we have even developed it? What is wrong with that? What is wrong with it is that, No. 1, there is no consideration of the costs of the system. We do not even know what the system is. We are developing it as quickly as possible, but we do not know what the costs of that system are. We do not know what the threats are at the time when we have a system developed.

We do know that North Korea could—could—have a capability to hit parts of this Nation as early as 2005. We know that is a possibility. But we do not know that that threat will continue. It depends on whether they can successfully test a long-range missile.

But what is really critical here, in terms of our battle against proliferation, is that what this bill commits us to is to deploy a system which almost certainly will violate a treaty between us and the Russians. Do we care? Do we care if we breach a treaty called the ABM Treaty? Is it just a cold war relic, that ABM Treaty? Or is it a real deal between us and Russia, a deal that matters, and the breaking of which will have consequences? And the consequences will be that they will not ratify START II, will not negotiate START III and will, therefore, not reduce the number of weapons that threaten us.

I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. The consequences of committing ourselves to deploy a system which almost certainly will violate that agreement are real-world consequences. They threaten our security. They will contribute to the proliferation of weapons of mass destruction. Is that me saying it? Yes. More importantly, is it Secretary Cohen saying it and General Shelton saying it? Yes.

This is what General Shelton said in his final reason for not supporting this bill. The Chairman of our Joint Chiefs says:

> Finally, the bill does not consider affordability or the impact a deployment would have on arms control agreements and nuclear arms reductions. Both points are addressed [he says] in the [current national missile defense program] and should be included in any bill on [national missile defense].

Our highest military officer is telling us that the impact that a deployment will have on arms control agreements and nuclear arms reductions should be included in any bill on national missile defense.

Well, Mr. President, they are not included in this bill. And they should be. The security of this Nation requires that we at least consider the impact of deployment of a system on arms reduction, because if we commit to deploy a system, and that commitment destroys a treaty between us and the Russians, and leads to nonratification of START II and the reversal of START I and the nonnegotiation of START III—and that is the fear here that General Shalikashvili has expressed in a letter that he wrote when he was Chairman of the Joint Chiefs—we have done severe damage to the security of this Nation.

For what reason would we take that risk? In order to develop a system? No. We are developing that system right now. And we should. We are developing a national missile defense system. And we should. It is the commitment to deploy which risks the security of this Nation without consideration of the impact on arms reduction.

That is the mistake that this bill makes. That is what General Shalikashvili pointed out in his letter to Senator Nunn in May of 1996 when he said:

> . . . efforts which suggest changes to or withdraw from the ABM Treaty may jeopardize Russian ratification of START II and, as articulated in the Soviet Statement to the United States of 13 June 1991, could prompt Russia to withdraw from START I. I am concerned [General Shalikashvili said] that failure of either START initiative will result in Russian retention of hundreds or even thousands more nuclear weapons thereby increasing both the costs and risks we may face.
>
> We can reduce the possibility of facing these increased costs and risks by planning an NMD system consistent with the ABM treaty.

That is General Shalikashvili. Is this resolution consistent with the ABM Treaty? Probably not. It is very unlikely we could deploy a system consistent with the ABM Treaty which defends the entire continental United States. But there is an easy way to do it, if that is the intent of the resolution: Just put down "treaty compliant" system in the resolution. Just add those two words, "treaty compliant" system. Put the words "treaty compliant" before the word "deployment," and that would solve that problem.

Those words are missing, and they are not missing inadvertently. It is obvious that many supporters of this resolution do not care whether or not there would be a violation of the ABM Treaty because they believe that we should unanimously withdraw from that treaty. But such an action will lead to exactly the result which we should dread as much as anything, which is the increase in the number of nuclear weapons on the face of this Earth.

Finally, Mr. President, on the ABM Treaty—how many minutes do I have left?

The PRESIDING OFFICER. The Senator has used his additional 5 minutes. The Senator has 42 minutes remaining.

Mr. LEVIN. I thank the Chair. Mr. President, I yield myself 3 additional minutes.

Mr. President, the ABM Treaty is not some abstract relic. It is a living commitment which has been reasserted at the highest levels at a summit in Helsinki in 1997.

President Clinton and President Yeltsin issued the following joint statement. Now, this isn't some person writing an op-ed piece in some newspaper. These are the Presidents of two nations with the largest nuclear inventories in the world, President Clinton and President Yeltsin, expressing their commitment to strengthen the strategic stability and international security, emphasizing the importance of further reductions in strategic offensive arms, and recognizing the fundamental significance of the Anti-Ballistic Missile Treaty for these objectives, as well as the necessity for effective theater missile defense systems, considered their common task to preserve the ABM Treaty, prevent circumvention of it, and enhance its viability.

Then later in that same statement, both Presidents state that the United States and Russia have recently devoted special attention to developing measures aimed at assuring confidence of the parties that their ballistic missile defense activities will not lead to circumvention of the ABM Treaty, to which the parties have repeatedly reaffirmed their adherence.

This bill before the Senate, where there is a motion to proceed pending, surely will undermine the confidence of Russia that we are adhering to a treaty. Since the commitment which this bill makes to deploy missile defenses will almost certainly—almost certainly—violate that treaty—and again I emphasize, if that is not the intent and if that is to be precluded, then the words "treaty compliant" should be added. But I think, as we all know because we debated this issue so many times, that is not the intent of this resolution.

Mr. President, I hope the words of our top military officers will be heeded and that the danger of this bill will be considered. Its intent, obviously, is to contribute to the security, but its effect is to lessen the security of this Nation. We simply cannot afford that risk.

Mr. COCHRAN. Mr. President, I have agreed to yield 5 minutes to the chairman of the full committee at some point. I hope he can be recognized soon.

Mr. LEVIN. How much time does the Senator desire?

Mr. COCHRAN. Five minutes.

Mr. BINGAMAN. Mr. President, I will consume 10 minutes. I have no objection to Senator THOMPSON speaking now if he would like.

Mr. COCHRAN. I thank the Senator. I yield 5 minutes to the distinguished Senator from Tennessee.

Mr. THOMPSON. Thank you.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I thank my colleagues.

Mr. President, in his State of the Union Address, President Clinton underscored the importance of foresight. He said, "preparing for a far off storm that may reach our shores is far wiser than ignoring the thunder until the clouds are just overhead." He was not talking about weapons proliferation and national missile defense, but he could have been—and he probably should have been.

Well, we are hearing the thunder now. It is coming from Iran, where the Shahab-3 missile program made up years of development time in just one year, reminding us that some countries are more technically clever than we give them credit for, and that outside assistance can dramatically accelerate technical progress.

It is coming from Pakistan which has now launched a missile with five times greater range than their next most capable missile, and five times what the United States had given them credit for just six months earlier.

It's coming from North Korea, where the Taepo-Dong 2, capable of striking Alaska and Hawaii, is nearing flight testing, and where the No-Dong is now being deployed, despite the administration's assurances that North Korea would never deploy that missile after only one flight test.

It is coming from Russia, where the government appears either disinclined, or incapable of controlling the flood of hardware and technical assistance flowing to rogue states around the globe.

It is coming from India, where this week their government exploded five nuclear weapons, to the complete and admitted surprise of the United States policy-making and intelligence community.

It is coming from China, where the government repeatedly breaks its non-proliferation promises, and is then rewarded with technology transfers from the U.S.

Despite these and other ominous examples, the United States continues to maintain a non-proliferation policy of self-delusion and a missile defense policy of vain hope. For years, we convinced ourselves that developing countries could not, or would not, fully develop nuclear and other weapons of mass destruction, or the missiles to effectively deliver. Now we know they have. They continue to hope that maybe rogue states will prove less clever than they have in the past, or that our intelligence community will prove more clever, or that our luck just holds out.

My friends, it is time to wake up. The technology to develop nuclear and other weapons of mass destruction is widely available. Many nations, some quite hostile to the U.S. now possess them and are on a crash course to acquire the missiles to carry them to America. And third countries, Russia and China in particular, appear happy to help. Weapons of mass destruction are not going away. The United States will soon face this threat and it's time to prepare.

When the day arrives that America is handcuffed by our vulnerability to ballistic missile attack, when our world leadership is in question because of that vulnerability, or when—heaven help us—an attack actually occurs, what will we tell the American people? That we had hoped this would not happen? That we believed the threat was not so serious?

It should now be clear to all that our present non-proliferation and missile defense policies are out-dated and insufficient. We must prepare now for that "far-off storm." The first step in doing so is to pass S. 1873, the America Missile Protection Act, and commit the United States to a policy of deploying national missile defenses. I commend Senator COCHRAN for his thoughtful leadership on this bill and the many hours he has spent working as Chairman of the International Security and Proliferation Subcommittee to highlight America's vulnerabilities in this area.

Mr. LEVIN. I yield 10 minutes to Senator BINGAMAN.

Mr. BINGAMAN. Thank you.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent two fellows in my office, Bill Monahan and John Jennings, be given floor privileges during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I want to join Senator LEVIN in expressing my opposition to Senate bill 1873, the American Missile Protection Act. The policy expressed in this bill of putting the United States in a position where we are required to deploy a national missile defense system as soon as it is technologically possible I think is a major mistake and undermines our long-term security. We are rushing prematurely—if this legislation becomes law, we will be rushing prematurely to deploy a national missile defense system where that is not necessary and where it could undermine our real security interests.

Why do I say it is not necessary? I say it is not necessary to pass this legislation because we already have in place a program to develop a national missile defense for this country. The administration is committed to the development of a national missile defense over 3 years, so that by the year 2000 the United States will be positioned to deploy an initial capability within 3 years after that, if it is warranted by the threat. We need to continue to assess this threat as we move ahead.

The Cochran bill, which we are considering here, seeks to commit our country to deploy the first available missile defense technology, national missile defense technology, regardless of a whole variety of issues. Let me just discuss those briefly.

The first set of issues that this bill would sidestep entirely is the issues that we have required the Pentagon to take into account in all weapons systems that we develop. We have had a long history, even in the time I have been here in the Senate, of developing weapons systems when we had not adequately considered the cost and we find out they are costing substantially more than we committed to, where we had not adequately considered the performance capability of the system and we find out the system doesn't work as we earlier hoped it would. And we have put in place, and we have required the Department of Defense to put in place, procedures to assure that they keep a sensible balance in the development of their weapons programs. There is a Defense Department directive, which is No. 5000.1. It sets out the Department's basic guidance on weapons system acquisition. It spells out the regulations governing procurement and states: "All programs need to strike a sensible balance among cost, schedule, and performance considerations given affordability constraints." What we would be saying in this legislation is that none of that is required with regard to this program. That would be shortsighted and would undermine our real long-term security needs.

The bill threatens to exacerbate the scheduling and technical risks already present in this national missile defense program. The Armed Services Committee, about a month ago, heard testimony from General Larry Welch, who is the former Chief of Staff of the Air Force. He led a panel of experts to review U.S. missile defense programs at the request of the Pentagon. That panel found that pressures to deploy systems as quickly as possible have led to very high levels of risk in the test programs of THAAD, the theater high-altitude air defense system. It is a theater missile defense system, not a national missile defense system. They pointed out the high levels of risk and failure in that program and in other missile defense systems. This confirmed similar findings in a GAO study that Senator LEVIN and I requested earlier.

This Senate bill we are considering today, S. 1873, would generate the same pressures to hastily field a national missile defense system that have resulted in what General Welch referred to as the "rush to failure" in the THAAD program. That program is now 4 years behind schedule. It is still waiting for the first intercept, as was proposed when the program was designed. They have had five unsuccessful intercept tests. The most recent was yesterday in my home State of New Mexico, at White Sands Missile Range. Despite the delay in the THAAD development program of over a year since the previous test flights, they still have not been able to have a successful test. Now, national missile defense involves even more complex and technological challenges that will risk failure if we rush to deploy that system as well. What we need to do is to take the lessons General Welch is trying to teach us, by pointing to the problems in the THAAD program, and use those lessons to do better in the development of a national missile defense program.

Secretary Cohen's letter has been referred to by Senator LEVIN and, of course, the position of the Chief of the

Joint Chiefs of Staff. This is one of these cases where the Pentagon clearly is opposed to the legislation we are considering. Yet, we, in our ultimate wisdom on the Senate floor, believe that we know better what is in the national security interests of the country than do the people in charge of implementing that national security policy. I think it is shortsighted on our part.

Senator LEVIN also pointed out that not only does this legislation put us in a position where we are mandating pursuit of this program, regardless of the various factors we believe are important in developing of any system, but we are also pursuing it without adequate consideration of the arms control implications. There is no question that in this world we need to have the cooperation of the Russians in order to effectively limit proliferation of nuclear and other types of weapons of mass destruction. If we take action in this Congress and in this country to abrogate the ABM Treaty at this point, it is almost a certainty that the START II Treaty will not be ratified by the Duma and that our ability to continue to build down the nuclear weapons arsenals of the two countries will be substantially impeded.

I believe it is clearly in our best interest to defeat this bill, to vote against cloture, and not to even proceed to full debate of this bill. The administration has indicated its strong opposition to the legislation, as have the Pentagon and various former members of our national security policy team.

So, Mr. President, I hope that when the final vote comes here—I gather it will be in about 45 minutes or an hour—Senators will join in resisting the effort to move ahead with this legislation.

Mr. President, I yield the floor.

Mr. COCHRAN. Mr. President, I am happy to yield 5 minutes to the distinguished Senator from New Hampshire, Mr. SMITH.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

PRIVILEGE OF THE FLOOR

Mr. SMITH of New Hampshire. Mr. President, first of all, I ask unanimous consent that Mr. Brad Lovelace, a fellow in my office, be granted floor privileges throughout debate on both S. 1873 and S. 2060, the fiscal year 1999 DOD authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of New Hampshire. Mr. President, yesterday, India conducted three underground nuclear tests, further destabilizing relations among Pakistan, India, and China. Today, two more tests were conducted.

The whole world was caught by surprise—including the U.S. intelligence community and the Clinton administration. In fact, administration officials were quoted in the Washington Times yesterday saying that, "Our overhead [satellites] saw nothing, and we had zero warning."

The most ominous response came from Pakistan, which recently tested its newest ballistic missile, with a range of 1,500 kilometers, and now says it may conduct a nuclear test of its own.

It is against this very stark backdrop that we are today, this week, considering the American Missile Protection Act of 1998.

I want to commend my colleague, Senator COCHRAN, for his long-time leadership on this issue. He deserves a lot of credit. It is a very timely situation, I must say.

S. 1873 would establish a U.S. policy of deploying a national missile defense system capable of defending the territory of the United States against a limited ballistic missile attack as soon as is technologically possible. How could anyone be opposed to that? It is irresponsible to be opposed to it.

The current administration plan for "3+3" means that an NMD system will be developed for 3 years. And when a threat is acknowledged, this system will be deployed in 3 years. It is a naive plan. It assumes that we see all emerging threats and that when we see one, we can confidently deploy a complex system in 3 years. It is just not feasible.

Well, we saw how easy it was to see three nuclear devices that were tested by India yesterday. We didn't know about it. We didn't know they were coming. Even John Pike of the Federation of American Scientists, a longtime critic of missile defense, says it is "the intelligence failure of the decade." Mike McCurry said, "We had no advance notification of the tests."

According to administration officials quoted in the Washington Times, the United States has been "watching this site fairly carefully and on a fairly regular basis." If that is careful and regular and we don't know about it, I don't know how we can possibly expect to be able to deploy missiles 3 years after we know they are being produced. If we can't detect in advance activities at facilities that we are watching, what is going on at facilities we don't know anything about and are not watching? This is extremely dangerous policy, Mr. President.

How can this administration continue to believe that we will have advance warning and plenty of time to respond to a missile threat when we cannot even detect in advance three unanticipated nuclear tests?

This week's failure to predict India's nuclear tests is part of a pattern.

Pakistan—in a 1997 U.S. Defense Department report on proliferation, Pakistan was only credited with a missile that could fly 300 kilometers. Yet, they tested one at 1,500 kilometers. Here again, the United States was unable to predict the appearance of a new ballistic missile system.

Iran—the DCI told the Senate a few months ago that the intelligence community was surprised at the progress made on this Shahab-3 because of Iranian indigenous advances and help received from Russia.

The Director of Central Intelligence told the Senate that, "Gaps and uncertainties preclude a good projection of when the 'rest of the world' countries will deploy ICBM's," thereby explaining why we might be surprised in the future.

From an intelligence standpoint, there is nothing fundamentally different between medium- and long-range missiles—nothing. We will be just as surprised by ICBM developments as we have been with Iran and Pakistan's shorter-range missiles.

These questions and failures, combined with yesterday's events in India, completely invalidate the administration's approach to NMD. The fact is, we don't know where all of the threats will come from and how fast they will develop. It is irresponsible to stand on this floor and oppose a policy that says we ought to produce this system when it is technologically feasible.

According to Tom Collina of the Union of Concerned Scientists, India tests were designed to "finalize a warhead for delivery on a missile." Mr. Collina added that "it will not take long for India to take the next steps to have a fully deployed, fielded system."

Yet, the administration persists in misleading the American people, and in a Senate hearing on May 1 of this year, the Director of the Arms Control and Disarmament Agency [ACDA] stated that the Defense Department will design a system as the threat emerges, to answer that threat.

How will the Director of ACDA know when the threat is emerging or has emerged?

Trying to deploy an NMD system in 3 years is difficult and extremely risky. It requires doing everything at once—impossible to run a low risk test program to make sure everything fits together first. It leaves no margin for failure or problems—if one thing goes wrong the whole program could collapse. It is a dangerous way to approach defense.

The events in south Asia confirm once and for all that we cannot base the security of the United States on rosy assumptions about our ability to detect and predict existing or emerging threats around the world.

North Korea: In addition to the news out of south Asia, I find that today's New York Times reports that North Korea has announced they are suspending their compliance with the 1994 Nuclear Freeze Agreement that was intended to dismantle that country's nuclear program.

Who will tell the citizens of a destroyed Los Angeles or New York that they were left undefended from ballistic missiles because their Government "did not see an emerging threat"?

With our inability to track and detect ballistic missile development and nuclear tests, and the inherent challenges of fielding highly complex defense systems, we must support the American Missile Protection Act of 1998.

I thank my colleague for yielding.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, with the permission of the Senator from Michigan, I yield myself 8 minutes.

Mr. President, I support the strongest possible defense against the most credible threats to our Nation's security. But I do not support this legislation, and I want to explain why.

Nearly 30 years ago, the Department of Defense spent $21 billion in today's dollars on an antiballistic missile system. It was built in my State of North Dakota. The military declared that antiballistic missile system operational on October 1, 1975. On October 2, 1975, the next day, the U.S. House of Representatives voted to close it—mothball it. It was too expensive to run, and it didn't offer us much in the way of more security. It wouldn't protect this country. Mr. President, $21 billion for what?

The bill on the floor today would require us to deploy a system as soon as it is technologically possible. A quarter century ago it was technologically possible to spend $21 billion and build an antiballistic missile site in North Dakota. That system had interceptor missiles with nuclear warheads on them. That was technologically possible. It was completely irresponsible, but it was technologically possible.

I don't know whether this bill relates to that technology. The bill itself doesn't tell us what kind of technology we'd be required to deploy.

I assume it relates to a hit-to-kill technology, where you try to hit one bullet with another bullet. The failure on Monday of a test flight for THAAD, a theater missile defense system, suggests that hit-to-kill is not nearly as possible as some suggest, at least not now.

But I would ask the question: If it was technologically possible to create an antiballistic missile system in Nekoma, ND, a quarter century ago, it is technologically possible now, using the nuclear interceptor approach. Does this bill, then, require immediate deployment?

Let's step back a bit and look at this bill in the context of the security threats this country faces. One threat is, indeed, a rogue nation, or a terrorist group, or an adversary getting an intercontinental ballistic missile and putting a nuclear warhead on it and having the wherewithal to aim it and fire it at this country. That is, in my judgment, a less likely threat than, for example, a terrorist group or a rogue nation getting a suitcase-sized nuclear device, putting it in the rusty trunk of a Yugo, parked on a New York City dock, and saying, "By the way, we now threaten the United States of America with a nuclear device."

The threat of a truck bomb or suitcase bomb, is that addressed by this bill's requirement to deploy a national missile defense system? No, this system doesn't defend us against that. How about a chemical weapon attack in the United States? No, this wouldn't defend us against a chemical weapons attack. A biological weapon attack here? No. A cruise missile attack, which is far more likely than an ICBM—a cruise missile attack? Cruise missiles are proliferating all around the world. Putting a nuclear device on the tip of a cruise missile and aiming at this country, would this bill defend us against that? No. It wouldn't defend us against that threat, either. A bomber attack, dropping a nuclear bomb? No. Loose nuclear weapons inside the old Soviet Union that must be controlled and we must be concerned about, does this deal with that? No.

Obviously, this bill deals with one threat. And it is probably the less likely threat—an ICBM with a nuclear warhead aimed at this country by a rogue nation or by a terrorist group.

But this bill tells us to deploy as soon as technologically possible—notwithstanding cost, whatever the cost. No matter that the cost estimates from the Congressional Budget Office range up to nearly $200 billion to construct and maintain a national missile defense system. Cost is not relevant here, according to this bill. It requires us to deploy when technologically possible.

This bill also requires us to deploy notwithstanding the impact on arms control. The fact is that strategic weapons are being destroyed, nuclear weapons are being destroyed. Different systems are being destroyed today in the Soviet Union as a result of arms control: arms control has destroyed 4,700 nuclear warheads; destroyed 293 ICBMs and 252 ICBM silos; cut the wings off of 37 former Soviet bombers; eliminated 80 submarine missile launch tubes; and sealed 95 nuclear warhead test tunnels.

That is an awfully good way to meet the threat—destroy the missile before it leaves the ground. Arms control is giving us missile defense that works right now.

I have shown my colleagues this before, and with permission I will do it again. This is a piece of metal from a silo in Pervomaisk, Ukraine. The silo held a Soviet missile aimed at the United States of America. There is no missile there anymore. The warhead is gone. The missile is gone. The silo is destroyed. And where this piece of metal used to be, in a silo holding a missile aimed at this country, there are now sunflowers planted. Not the missile—sunflowers. How did that happen? By accident? No. By arms control agreements, by treaties.

But this bill says, deploy a national missile defense system notwithstanding what it might mean to our treaties, notwithstanding what it might mean to future arms control agreements, notwithstanding what it might mean to arms reductions that occur now under the Nunn-Lugar money that we appropriate, which has resulted in sawing off bombers' wings, resulted in digging up missiles buried in the soil of Ukraine and Russia.

I just do not understand the rationale here. How can we get this notion of defending against a small part of the threats our country faces? This bill doesn't address the cruise missile threat, or the suitcase bomb threat, or a range of other threats. It just tries to address this sliver of threat.

And this bill requires us to deploy a system as soon as technologically possible notwithstanding any other consideration, notwithstanding how much money we are going to ask the taxpayer to pay, notwithstanding what the credible threat is at the moment, notwithstanding the impact on arms control agreements. I just do not understand that logic.

I must say I have the greatest respect for the author of this legislation. I think he is a wonderful legislator. I hate to oppose him on this, but I just feel very strongly that we should continue with the national missile defense research program. I might add that the Administration is seeking over $900 million for research funding for this program this coming year. We should continue that aggressive research.

We ought to continue working on a range of defense mechanisms to deal with threats, not just ICBMs, but cruise missile threats and a range of other threats, including the terrorist threat of a suitcase nuclear device in this country. But we ought not decide that one of those threats ought to be addressed at the expense of defending against other threats.

Mr. President, let me make one final point. I have told this story twice before on this floor because I think it is important for people to understand what is being done in the area of arms control and missile defense right now—not what is proposed to be done in this bill.

On December 3 of last year, in the dark hours of the early morning, north of Norway in the Barents Sea, several Russian antiballistic submarines surfaced and prepared to fire SS–20 missiles. Each of these missiles can carry 10 nuclear warheads and travel 5,000 miles, and can reach the United States from the Barents Sea.

Those submarines, last December 3, launched 20 missiles that soared skyward, and all of our alert systems knew it and saw them immediately and tracked them at Cheyenne Mountain, NORAD, you name it.

And in a few moments at 30,000 feet all of those missiles exploded.

Why? Because this was not a Russian missile attack on the United States. In fact, seven American weapons inspectors were watching the submarines from a nearby ship. These self-destruct launches were a quick and inexpensive way for Russia to destroy submarine-launched ballistic missiles, which it was required to do under our START I arms reduction treaty.

On the morning of December 3 of last year when, at 30,000 feet, those Russian missiles exploded, it was not an accident. And it was not a threat to our country. It was a result of arms control agreements that said we must reduce the threat of nuclear weapons, we must reduce delivery systems. The fact is, the Nunn-Lugar program, which we fund each year in order to further these arms reductions, is working.

We also should, as we make certain Nunn-Lugar continues, be concerned about the ABM Treaty, be concerned about a range of other threats, and we ought to invest money in research and development on the ballistic missile defense system.

But we ought not under any set of circumstances say a system here must be deployed no matter what its cost, no matter what the threat and no matter what its consequences to arms control agreements. That is not in this country's interests. That is not in the taxpayers' interests.

Does our country need to worry about the proliferation of nuclear weapons? Of course we do. The nuclear tests by India in just the last 2 days demonstrate once again that we have a serious problem in this world with respect to the proliferation of nuclear devices.

But what it ought to tell us is that we need to be very, very aggressive as a Nation to lead in the area of nonproliferation. We need to make certain that this club that possesses nuclear weapons on this Earth does not expand. We need to do everything we possibly can do in foreign policy to try to see that our children and grandchildren are not victims of the proliferation, wide proliferation of nuclear weapons that then hold the rest of the world hostage.

But in dealing with the various threats we face, it seems to me the question for all of us is what kind of threats exist? And what kind of credible defense that is both technologically possible and financially reasonable can be constructed to respond to those threats? This bill is not the answer to those questions.

Mr. President, I yield the floor.

Mr. COCHRAN. Mr. President, I am happy to yield 5 minutes to the distinguished Senator from Arizona, Mr. KYL.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Arizona.

Mr. KYL. I thank the Chair. I thank the Senator from Mississippi.

Mr. President, the administration's position on defending the American people is essentially twofold: One, wait until there is a threat; and, two, we will then develop a defense. There are two things wrong with this approach: First, as the Indian nuclear testing has just demonstrated to us, we won't necessarily know when there is a threat. In fact, we always seem to underestimate the threat. Secondly, it always seems to take longer than we anticipate to develop complex systems, and this is particularly true with respect to missile defenses.

So the legislation introduced by the Senator from Mississippi is a much better idea, to protect the American people, Mr. President. It simply says that it is our policy to deploy a national missile defense as soon as it is technologically possible.

Now, what could be more straightforward and more protective for the American people? The American people demand no less.

I would note that the argument of the Senator from North Dakota just a moment ago illustrates, I believe, the lack of ideas to oppose this simple legislation of the Senator from Mississippi. His primary argument was that we need to continue research because, after all, there are other threats, too, like the suitcase bomb. Of course, there are other threats. And our position has always been to prepare to defend against all of the threats but not to ignore one very big threat just because there are other threats as well.

There have been other charges that the adoption of the American Missile Protection Act is somehow going to wreck arms agreements that the United States has entered into. First, there is the complaint about the ABM Treaty that we heard which is particularly puzzling since the words, ABM Treaty don't appear anywhere in this legislation. The bill doesn't require any violation of the ABM Treaty as a matter of fact. It doesn't specify the number of sites, where they would be, or what kind of interceptors or missiles we would have. So that argument is specious.

Secondly, we have heard the argument that if the United States decides to deploy an NMD even against limited threats, the Russians will refuse to ratify START II or negotiate START III. How many times do we have to pay for START II? I count about eight different things that the Russians have said we have to do in order for them to ratify START II or fully implement START I or START II. And we could list those but I am going to put them in the RECORD.

The point is the United States needs to take its defense into its own hands. We cannot simply rely upon a piece of paper with another country, particularly where in the case of, first, the Soviet Union, and now Russia, after that piece of paper is signed—and remember we are putting our safety in the hands of people across the sea who have signed that piece of paper with us—we find that they have changed their mind and tell us that they can't implement that piece of paper until we do other things.

First of all, it was that we had to address concerns regarding NATO expansion and then the CFE Treaty had to be modified. Then they could not afford to dismantle their weapons, and on and on and on. The point here is we should not place our reliance upon pieces of paper signed with other countries but upon what we can do for ourselves to protect the American people.

We heard the argument that the United States must refrain from exercising our rights under the ABM Treaty to deploy even a limited missile defense lest we upset the Russians, the same Russians who operate the world's only current ABM system. Should we take from this suggestion that the Russians have a right not only to defend themselves but to insist that we do not? And yet that is precisely what the opponents of this legislation are saying.

Mr. President, the defense of America should not be subject to a Russian veto. Linking the deployment of national missile defenses to some hoped-for arms control agreement is to be expected from the Russians, but it is unconscionable to be offered by Representatives of this Congress. Arms control for the sake of arms control is not in the national interest, and the Constitution does not allow us to substitute pieces of paper for the real measures which must be taken to protect America.

Then there is an argument that committing to deploy an ABM system will cause the sky to fall on offensive arms control agreements. Let me quote the Senator from Michigan on this issue:

> Nothing in this bill says that the national missile defense system that it commits us to deploy will be compliant with the Anti-Ballistic Missile Treaty. That is a treaty, a solemn agreement between us and Russia. If we threaten to break out of that treaty unilaterally, we threaten the security of this Nation because that treaty permits Russia to ratify the START II agreement and to negotiate a START III agreement, reducing the number of warheads that they have on their missiles and warheads that could also potentially proliferate around the world and threaten any number of places, including us.

This statement is incorrect in several ways. First, the ABM Treaty is not a "solemn agreement between us and Russia." The ABM Treaty was signed by the United States and the Soviet Union. That country no longer exists, and the administration spent four years in negotiations to see who would replace the Soviet Union as parties to that treaty. The President has certified that he will submit the results of those negotiations to the Senate for advice and consent. When and if the Senate agrees, then the ABM Treaty may become "a solemn agreement between us and Russia," but not until then.

Second, S. 1873 does not require "break out" from the ABM treaty. In fact, as I have already pointed out, it allows for deployment of exactly the system being developed under the administration's so-called 3+3 program. And there is nothing in any legislation that calls for that system to be treaty compliant. To the contrary, a non-compliant system is explicitly contemplated by the Defense Department. Here is what the Department of Defense said about its 3+3 program in the Secretary's 1998 report to Congress: "a deployed NMD system either could be compliant with the ABM Treaty as written, or might require amendment of the treaty's provisions." So according to the Secretary of Defense, the system DoD is developing now may not comply with the ABM treaty. And so this arms control argument is nothing but a strawman, erected to be knocked down though it bears no resemblance to anything in this bill.

Senator LEVIN cites as an authority for this odd proposition, the Chairman of the Joint Chiefs of Staff, who, in a letter commenting on S. 1873, said the bill doesn't consider "the impact a deployment would have on arms control agreements and nuclear arms reductions." Let's think about what General Shelton is saying here. The United States has a right to deploy a national missile defense system under the ABM Treaty, and S. 1873 merely calls for a commitment to exercise that right. But General Shelton is saying that our decision to exercise that right should be conditioned on the possible impact a deployment would have on future arms control agreements, meaning, presumably, Russian objections. So General Shelton is saying that our right to deploy a system to protect our citizens—even the severely constrained right embodied in the ABM treaty—should be subject to further negotiation with, and the approval of, the Russian Federation.

I would find this an extraordinary argument under any circumstances, and extraordinarily disturbing coming from the Chairman of the Joint Chiefs of Staff. It can't be comforting to the people of the United States to know that their Chairman believes their defense should be subject to the veto of the Russians. When one considers that the Russians have exercised their right to defend themselves with the only operational ABM system in the world, the position of the Chairman becomes downright bizarre.

The complaints about arms control from opponents of the Cochran-Inouye bill are without merit. They spring from this administration's infatuation with paper agreements, no matter how disconnected from reality those agreements may be. We have a paper arms control agreement called START I, which the Russians are routinely violating. We have START II, which was negotiated, then renegotiated to give the Russians a better deal, and still it lies before the Duma unratified. Yet opponents of this bill would have the United States forego the defense of its people against a threat wholly unrelated to any of these agreements, simply because they fear the Russians will insist upon it.

Mr. President, I urge my colleagues to support S. 1873, the American Missile Protection Act. This is a simple bill which merely states that due to the increasing ballistic missile threat we face, "It is the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)." Outside of the title and findings of the legislation, this is the only sentence in the bill.

As a matter of fact, S. 1873 is noteworthy for the things it does not say. The bill does not say what kind of system architecture the missile defense system should have. It does not say where such a system should be located, or more generally, whether it should be based on land, at sea, or in space. It does not specify a date by which such a system should be deployed, or when we believe specific missile threats to the United States will materialize.

And the bill is silent on arms control issues. It does not address whether continued adherence to the ABM Treaty is in the best interests of the United States or whether the treaty should be modified. Nor does the bill discuss the merits of any future arms control agreements. All of these issues will have to be debated another day. I am disappointed, however, that we are still debating whether the United States should deploy a national missile defense system at some point in the future.

THE THREAT

The ballistic missile threat facing the U.S. is real and growing. Russia and China already have ballistic missiles capable of reaching our shores and several other nations, including North Korea and Iran are developing missiles with increasing ranges.

CHINA

In November 1997, the Defense Department published a report titled, Proliferation: Threat and Response in which it said China already has over 100 nuclear warheads deployed operationally on ballistic missiles. According to this report, Beijing has "embarked on a ballistic missile modernization program," and "while adding more missiles and launchers to its inventory, [is] concentrating on replacing liquid-propellant missiles with mobile solid-propellant missiles, reflecting concerns for survivability, maintenance, and reliability."

Details about this modernization program have been published in the press. The Washington Times reported on May 23, 1997, that a new Chinese road-mobile ICBM, called the Dong Feng-31, is in the late stages of development and may be deployed around the year 2000. This missile's 8,000 kilometer range is sufficient to reach the entire U.S. West Coast and several Rocky Mountain states and it will reportedly utilize reentry vehicle decoys, complicating missile defense. China is also developing the JL-2 SLBM with a 7,300 kilometer range, according to Defense Week. That publication reported last April that the JL-2 is likely to be deployed by the year 2007 and will allow China to target the U.S. from operating areas near the Chinese coast. And finally, on May 1st, the Washington Times disclosed that a Top Secret CIA report indicated 13 of China's 18 nuclear-tipped CSS-4 ICBM's are targeted at American cities. These missiles are reportedly being improved as well, with the addition of upgraded guidance systems.

In addition to its modernization efforts, I am also concerned that Beijing has shown a willingness to use ballistic missiles to intimidate its neighbors. For example, during Taiwan's national legislative elections in 1995, China fired six M-9 ballistic missiles to an area about 160 kilometers north of the island. Less than a year later, on the eve of Taiwan's first democratic presidential election, China again launched M-9 missiles to areas within 50 kilometers north and south of the island, establishing a virtual blockade of Taiwan's two primary ports.

RUSSIA

Russia retains over 6,000 strategic nuclear warheads, which still pose the greatest threat to our nation. While we do not believe Russia has hostile intentions, we must be cautious because its evolution is incomplete. For example, Russia is continuing to modernize its strategic nuclear forces. According to the Washington Times, Russian R&D spending on strategic weapons has soared nearly six-fold over the past three years and Moscow is developing an upgraded version of the SS-25 ICBM, as well as a new strategic nuclear submarine armed with a new nuclear-tipped SLBM.

At the same time Russia is spending precious resources on its modernization effort, its nuclear command and control complex continues to deteriorate. Although unlikely, the threat of an unauthorized or accidental launch of a Russian ICBM has increased in recent years as Russia's armed forces have undergone difficult changes. For example, last March the Wall Street Journal reported that, according to a Russian colonel who spent much of his 33 year career in the Strategic Rocket Forces, Russian nuclear command and control equipment began breaking down 10 years ago and on several occasions parts of the system spontaneously went into "combat mode." Even more troubling were comments made by Russian Defense Minister Rodionov last February, who in a departure from previous assurances that Moscow's nuclear forces were under tight control stated, "Today, no one can guarantee the reliability of our systems of control . . . Russia might soon reach the threshold beyond which its rockets and nuclear systems cannot be controlled."

ROGUE NATIONS

Although Russia and China are the only countries that currently possess missiles capable of reaching the United States, several rogue states such as North Korea and Iran are aggressively developing long-range ballistic missiles.

NORTH KOREA

According to the Defense Department's November report, since its missile program began in the early 1980's, "North Korea has pursued an aggressive program which has steadily progressed from producing and exporting Scud short range ballistic missiles (SRBMs) to work on development of medium and long range missiles." North Korea has deployed several hundred Scud B and C missiles with sufficient range to target all of South Korea, and has completed development of the 1,000 kilometer range No Dong MRBM, which can reach targets in nearly all of Japan, according to the report. In addition, recent press reports indicate North Korea has begun deploying the No Dong missile.

More ominously, North Korea is developing the Taepo Dong 1 missile with an estimated range of 2,000 kilometers which will be capable of striking U.S. military bases in Guam and the Taepo Dong 2 missile, with an estimated range of 4,000 to 6,000 kilometers that could reach Alaska and Hawaii. On April 27th, the Washington Post reported that development of the Taepo Dong 2 missile could be completed "within the next several years."

IRAN

Iran has an ambitious missile program and is currently capable of producing both the 300 kilometer range Scud B and the 500 kilometer range Scud C missiles. This program is becoming increasingly advanced and less vulnerable to supply disruptions. As the Defense Department said in its November 1997 report, "Iran has made significant progress in the last few years toward its goal of becoming self-sufficient in ballistic missile production."

Tehran has made particularly rapid progress over the past year, however, due to the infusion of Russian hardware and know-how which has significantly accelerated the pace of the Iranian program. This Russian assistance has been well documented in the press.

According to these reports, numerous institutes and companies that once were an integral part of the state-owned military complex of the former Soviet Union have provided a variety of equipment and material that can be used to design and manufacture ballistic missiles. They are also helping Iran develop two new ballistic missiles, the Shahab-3 and Shahab-4. The Shahab-3 is reportedly based on North Korea's No Dong ballistic missile and will have a range of 1,300 kilometers with a 700 kilogram payload, sufficient to target Israel and U.S. forces in the region. Seven months ago, on September 18, 1997, Assistant Secretary of State for Near Eastern Affairs Martin Indyk testified to the Senate that Iran could complete development of the Shahab-3 in as little as 12 to 18 months.

The Shahab-4 is reportedly based on the Russian SS-4 medium-range ballistic missile and will have a range of 2,000 kilometers with a payload over 1,000 kilograms. When completed, the Shahab-4's longer range will enable Tehran to reach targets as far away as Central Europe. According to the Washington Times, an Israeli intelligence report indicates the Shahab-4 could be completed in as little as three years. Israeli intelligence sources reportedly also told Defense News that the long-term goals of Iran's missile program are to develop missiles with ranges of 4,500 and 10,000 kilometers. The latter missile could reach the East Coast of the United States.

OTHER NATIONS

In addition to North Korea and Iran, roughly two dozen other countries, including Iraq and Libya either possess or are developing ballistic missiles. The clear trend in these missile programs is toward systems with greater ranges, and as Iran has demonstrated, foreign assistance can greatly reduce the time needed to develop a new missile.

RESPONDING TO THE MISSILE THREAT

The time has come for the United States to defend itself from the increasing missile threat that I have just described. The Cochran bill is the first step on this path.

Some opponents of the bill have pointed to the Administration's so-called "3+3" program as a better way to deal with the missile threat. I have grave concerns about the basic premise of the "3+3" program, which essentially states that the United States should continue to experiment with a variety of missile defense technologies indefinitely, and then, at some time after the year 2000, deploy an NMD system within three years. It is significant that the "3+3" program is the only Major Defense Acquisition Program that takes this wait-and-see approach and assumes a deployment can occur within three years of a decision to deploy.

The development of a complex weapons system, such as a new fighter aircraft or an NMD system can be technically challenging, which is why we structure development programs with clear goals and milestones. We do not continue to tinker indefinitely with the technology needed for the F-22, which will be the next-generation fighter aircraft for the Air Force, or the technology for the next version of the M-1 Abrams tank until some future date awaiting a decision to deploy. Why should we adopt this approach for national missile defense?

Studies on the "3+3" program have faulted the Administration's plan and its execution. For example, a recent study chaired by retired Air Force General Larry Welch criticized the "3+3" program stating that a successful NMD program should have "a clear set of requirements, consistent resource support (which includes an adequate number of test assets), well-defined milestones, and a rigorous test plan. The study group believes that the current NMD program is not characterized by these features and is on a high-risk vector."

Last December, the GAO published a study that also was critical of the "3+3" program due to its high risk and its acquisition schedule, which the study said was half as long as that for America's Safeguard national missile defense system that was developed between 1963 and 1975 and deployed at Grand Forks, North Dakota. The GAO stated that the acquisition schedule for the "3+3" program was "shorter than the average time projected to acquire and field 59 other major weapon systems that we examined" and went on to note, "these systems are projected to take an average of just under 10 years from the beginning of their development until they reach an initial operating capability date."

Mr. President, the general approach underlying the "3+3" program is flawed and due to the delays the program has already encountered I do not think we should stake our future on the premise that the system can be fielded within three years after a decision to deploy. As the GAO said in its study, "Since the 3+3 program was approved, BMDO [the Ballistic Missile Defense Organization] has experienced a 7-month delay in establishing the joint program office to manage the acquisition and a 6-

month delay in awarding concept definition contracts leading to the selection of a prime contractor. Also, a sensor flight-test failure resulted in a 6-month testing delay."

As my colleagues know all too well, unfortunately, it is not uncommon for U.S. weapons development programs to experience delays. For example, despite the best efforts of the Congress and the Administration to quickly field the THAAD theater missile defense system, that program is currently projected to reach its first unit equipped milestone 13 years after development began. Experience tells us that we cannot keep national missile defense technology in a circling pattern and expect to snap our fingers and successfully move to deployment in a very short period of time. Nothing in our history suggests this is a sensible approach.

Mr. President, we need to get on with the task of constructing an effective missile defense system to protect the American people. Like other Senators, I have strong views on the disadvantages of the ABM Treaty and other related missile defense issues, but unfortunately those debates will have to wait for another day. The United States government has a fundamental obligation to provide for our citizens defense. The bill offered by Senator COCHRAN will help ensure that we fulfill this obligation, by committing us to deploying a defense against the growing ballistic missile threat we face. I urge my colleagues to support its passage.

Mr. KERRY. Mr. President, in the early hours yesterday morning on the New Mexican desert, there was an event that brought home in a very practical way one of the series of considered arguments made against the legislation the Senate is considering this morning.

The Army Missile Command, the prime contractor, and dozens of subcontractors had been painstakingly preparing for the fifth intercept test of the Theater High Altitude Area Defense, or THAAD, theater missile defense system. No effort was spared in these preparations, because program officials and Department of Defense officials acknowledged openly that this would be widely viewed as a "make or break" test for the system following its unfortunate string of previous intercept failures.

To the dismay of all involved, this fifth test, too, was a failure.

Mr. President, we nominally are debating a different matter this morning. The bill before the Senate involves an immediate decision to abandon the so-called "3 plus 3" strategy for national missile defense and establish a policy to move as rapidly as possible not only to develop an effective national missile defense technology, but to deploy such a system at the earliest possible time. But the White Sands test yesterday morning should be hoisting another red flag for the Senate to consider as we vote on this bill.

I take a back seat to no one in my support for development of effective missile defense technology. I have a strong record of support for developing and fielding theater missile defense systems, for the protection of our ground forces, our naval forces, and other national interests in theater. We know—and we hear and read on virtually a daily basis—of the efforts underway in a number of nations to develop ever more capable short range ballistic missiles capable of carrying weapons of mass destruction, nuclear, chemical, or biological. Missiles of this type have been used previously. This threat is real, it is immediate, and it is substantial.

But this legislation, Mr. President, does not address either of these key policy matters. We have in place an established policy to develop and field as rapidly as possible theater missile defense systems. The Administration and the Congress have increased the funding for this effort again and again. We have in place an established policy to develop and perfect as rapidly as possible the technology that would be necessary for a national missile defense system, and to bring that effort to a stage where, in three years from a green light, it could be fielded and operational.

As has occurred not infrequently in the course of human history, our aspirations are getting ahead of our scientific expertise and our ability to manipulate the laws of physics to accomplish our objectives. Some may mistakenly believe, Mr. President, that developing effective anti-missile technology is a simple proposition, and that wishing for it is to obtain it. Unfortunately that is not the case. To grossly oversimplify this, this is a task of spotting a warhead, or fragments of a warhead, hundreds if not thousands of miles away, and while it moves at several thousand miles per hour, determining which is the real target, launching another missile in its direction, guiding that missile also traveling at hypersonic speed to a collision point in the great expanse just inside or outside of the upper reaches of the earth's atmosphere, and precisely maneuvering the interceptor to collide with the warhead.

It should be self evident that this is a daunting challenge, given that billions of dollars, thousands of hours of the most capable scientists and program managers our military and private sector can focus on this task, and the most advanced equipment and technology money can buy have produced five successive failures in the THAAD program.

Those who have spoken before me today have identified a host of reasons why we should not rush to judgment today to decide we will spend somewhere between $30 and $60 billion to deploy a national missile defense system that has neither been developed nor proven. If the Senate moves to proceed to the consideration of this legislation, I expect to have something to say about many of those other considerations.

But at this moment, I want to mention to the Senate only two of those considerations. The first is that it would be irresponsible to make a decision of this magnitude—which might cost U.S. taxpayers upwards of $50 billion—before the Senate knows that there is a workable technology. That is even more irresponsible in my judgment when one looks at the intelligence estimates of the ballistic missile threat that faces the U.S. The simple truth, Mr. President, is that only Russia and China have such missiles, and despite the fact that some rogue nations such as North Korea have been working to develop more advanced ballistic missiles, our intelligence and military leaders do not expect those threats to materialize for a decade or more.

Let me reiterate, Mr. President, that the choice the Senate will make today is not about whether we should make a herculean effort to develop anti-missile technology. We are doing that and spending multi-billions of dollars to do it as rapidly and well as our best minds can do so. The vote today will not alter that mission or our commitment to it.

The vote today is about whether—at a time before a real ballistic missile threat from sources other than Russia and China exists, at a time before we perfect the anti-missile technology on which we have been energetically working for years so that we know it is ready to be deployed—we will make a national commitment of scores of billions of dollars to field the nonexistent system against nonexistent threats.

That, Mr. President, would be an unwise decision of great magnitude, particularly at a time when we face very real threats to our national security and when we are struggling to provide the resources to ensure our military and intelligence capabilities are both appropriate and adequate to address those threats. It also ignores the possibility that we will rush pell mell to deploy a national missile defense system based on today's technology when, if we delay the deployment decision until we believe a real threat is looming, we can then deploy the latest technology—the most reliable technology then available—to meet the threat.

The urgency that the bill's proponents are voicing is a false urgency, Mr. President. I hope the Senate will look at this carefully and will choose the prudent course by rejecting the bill before us.

Mr. ALLARD. Mr. President, I rise today as a co-sponsor and supporter of

S. 1873, The American Missile Protection Act of 1998. This important legislation will remove present barriers to the deployment of an effective, reliable missile defense system, so that our citizens will be free from the threat of an attack by missiles launched from across oceans. Prudence demands that we deploy a domestic missile defense system as soon as we possess the technology to do so.

Missile technology developed during the Cold War has forever neutralized what was once our greatest domestic security asset—distance. As a result, today many of our citizens have never known a world in which nuclear missiles were not pointed at their families.

It is unconscionable that now, after years of being in the shadow of nuclear threat, the most powerful nation in the world still cannot defend its own soil against even one ballistic missile attack.

In the post-Cold War era, a multiple array of new threats exist. Not only do we still face the possibility of accidental launch from a nuclear state—a possibility not without precedent—but now the proliferation of missile components and technology compounds the threat beyond even Cold War-levels. The capability of a rogue state to bypass years of development by clandestinely obtaining nuclear, chemical, and biological materials and long-range ballistic missile technology poses a new, more sinister threat. Procurement by rogue nations—especially by those who have a demonstrated desire to use force outside their own borders—cripples our ability to calculate emerging strategic threats with any degree of certainty.

Just as a policy of total vulnerability will no longer suffice, neither will a policy characterized by the "gaps and uncertainty" due to the underestimation of the technological capabilities of states like North Korea, Iran, Iraq, China, and now India.

Refusing to implement a National Missile Defense system as soon as it is technologically possible will render Americans vulnerable to the whims of any rogue regime that manages to procure ICBM technology.

Bearing in mind that this bill itself violates no treaties, nor seeks to mandate the particulars of implementing a missile defense system, S. 1873 is important bipartisan legislation that should be passed. By eliminating a dependence on underestimated capabilities, this bill is a decisive affirmation that our country is indeed committed to ensuring the security of the American people.

I urge all my colleagues to support S. 1873.

Mr. MURKOWSKI. Mr. President, I rise today in support of S. 1873, the American Missile Protection Act. This bill is simple; but extremely important. It makes it clear that it is the policy of the United States to deploy, as soon as technologically possible, a national missile defense system which is capable of defending the entire territory of the United States against limited ballistic missile attack.

Alaskans have been justifiably concerned with this issue for some time. I ask unanimous consent to have printed in the RECORD at this time a resolution passed by the Alaska State Legislature which calls on the Administration to include Alaska and Hawaii in all future assessments of the threat of a ballistic missile attack on the United States. More than 20% of our domestic oil comes from Alaska, all of it through the Trans-Alaska Pipeline. Alaskans are concerned, as should the rest of the country be concerned, that a strike at the pipeline could have dire consequences to our domestic energy production.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

LEGISLATIVE RESOLVE NO. 36

Whereas Alaska is the 49th state to enter the federal union of the United States of America and is entitled to all of the rights, privileges, and obligations that the union affords and requires; and

Whereas Alaska possesses natural resources, including energy, mineral, and human resources, vital to the prosperity and national security of the United States; and

Whereas the people of Alaska are conscious of the state's remote northern location and proximity to Northeast Asia and the Eurasian land mass, and of how that unique location places the state in a more vulnerable position than other states with regard to missiles that could be launched in Asia and Europe; and

Whereas the people of Alaska recognize the changing nature of the international political structure and the evolution and proliferation of missile delivery systems and weapons of mass destruction as foreign states seek the military means to deter the power of the United States in international affairs; and

Whereas there is a growing threat to Alaska by potential aggressors in these nations and in rogue nations that are seeking nuclear weapons capability and that have sponsored international terrorism; and

Whereas a National Intelligence Estimate to assess missile threats to the United States left Alaska and Hawaii out of the assessment and estimate; and

Whereas one of the primary reasons for joining the Union of the United States of America was to gain security for the people of Alaska and for the common regulation of foreign affairs on the basis of an equitable membership in the United States federation; and

Whereas the United States plans to field a national missile defense, perhaps as early as 2003; this national missile defense plan will provide only a fragile defense for Alaska, the state most likely to be threatened by new missile powers that are emerging in Northeast Asia;

Be it Resolved, That the Alaska State Legislature respectfully requests the President of the United States to take all actions necessary, within the considerable limits of the resources of the United States, to protect on an equal basis all peoples and resources of this great Union from threat of missile attack regardless of the physical location of the member state; and be it

Further Resolved, That the Alaska State Legislature respectfully requests that Alaska be included in every National Intelligence Estimate conducted by the United States joint intelligence agencies; and be it

Further Resolved, That the Alaska State Legislature respectfully requests the President of the United States to include Alaska and Hawaii, not just the contiguous 48 states, in every National Intelligence Estimate of missile threat to the United States; and be it

Further Resolved, That the Alaska State Legislature urges the United States government to take necessary measures to ensure that Alaska is protected against foreseeable threats, nuclear and otherwise, posed by foreign aggressors, including deployment of a ballistic missile defense system to protect Alaska; and be it

Further Resolved, That the Alaska State Legislature conveys to the President of the United States expectations that Alaska's safety and security take priority over any international treaty or obligation and that the President take whatever action is necessary to ensure that Alaska can be defended against limited missile attacks with the same degree of assurance as that provided to all other states; and be it

Further Resolved, That the Alaska State Legislature respectfully requests that the appropriate Congressional committees hold hearings in Alaska that include defense experts and administration officials to help Alaskans understand their risks, their level of security, and Alaska's vulnerability.

Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Ted Stevens, Chair of the U.S. Senate Committee on Appropriations; the Honorable Bob Livingston, Chair of the U.S. House of Representatives Committee on Appropriations; the Honorable Strom Thurmond, Chair of the U.S. Senate Committee on Armed Services; the Honorable Floyd Spence, Chair of the U.S. House of Representatives Committee on National Security; and to the Honorable Frank Murkowski, U.S. Senator, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

Mr. MURKOWSKI. Mr. President, last year North Korean defectors indicated that the North Korean missile development program already poses a verifiable threat to American forces in Okinawa and seems on track to threaten parts of Alaska by the turn of the Century. The Taepodong missile, which is under development, would have a range of about 3,100 miles. From certain parts of North Korea, this weapon could easily target many of the Aleutian islands in western Alaska, including the former Adak Naval Air Base.

The Washington Times reported last week that the Chinese have 13 of 18 long-range strategic missiles armed with nuclear warheads aimed at American cities. This is incredible, Mr. President. Opponents to the motion to invoke cloture somehow fail to understand that this threat is real and that we have a responsibility to protect the United States from attack, be it deliberate or accidental. Without question, the threat of an attack on the United States is increasingly real, and we must act now so that we can construct a national missile defense system with the capability of intercepting and deterring an aggressive strike against American soil from all parts of the United States.

Mr. President, I support the motion to invoke cloture and hope that my colleagues will vote overwhelmingly in favor of this legislation in the near future.

Mr. KENNEDY. Mr. President, I oppose this legislation and I urge the Senate not to invoke cloture.

Star Wars was a bad idea in the 1980s, and it is a bad idea today. Developing and deploying a national missile defense system has an enormous cost—billions of dollars a year to develop the system, and billions more to deploy it.

In addition, it ignores more likely threats to our security, especially the danger of terrorist attacks on our territory and our citizens.

Intelligence estimates suggest that there will not be a new, intercontinental ballistic missile threat from any rogue nation until at least 2010. At a time when we are trying to balance the budget and meet the essential readiness and modernization needs of our armed forces, it would be a mistake to spend additional billions of dollars on the proposed missile defense system.

Throughout the Cold War, when the Soviet Union had a far larger nuclear arsenal than today, we decided not to deploy missile defenses because the cost did not justify the protection provided. Now, the Cold War is over. We have far more cooperative relations with Russia and other nations of the former Soviet Union, and they have a much smaller nuclear arsenal. The Secretary of Defense and the Joint Chiefs of Staff tell us that now is not the time to deploy a national missile defense. It makes no sense to reject that advice and push ahead on this costly system.

Declaring our intention to deploy a missile defense system now will also put U.S. policy on a collision course with the Anti-Ballistic Missile Treaty. Such a step would send a strong signal to Russia that cooperation on nuclear arms reductions is not a U.S. priority.

In fact, members of the Russian Parliament have stated that they will oppose ratification of the START II Treaty if the United States begins to develop or deploy ballistic missile defenses in violation of the ABM Treaty. By endangering the prospects for START II ratification by Russia, this bill will ensure that we will face many thousands more Russian nuclear weapons in the near future than we will face if arms reductions are implemented.

This bill also fails to address the most pressing threats to American security. As the World Trade Center bombing and the Oklahoma City bombing make clear, we do face a serious threat of terrorist attacks. But, it is far more likely, for example, that a terrorist will use nuclear, chemical or biological weapons on American soil than that we will be the target of an ICBM attack from a foreign nation. Loose controls on nuclear materials in the former Soviet Union raise the serious threat that such materials can find their way into the hands of extremists bent on using them. This bill fails to address these far more likely threats.

We should continue to do all we can to prevent the spread of nuclear weapons materials. The Nunn-Lugar Cooperative Threat Reduction Program has removed thousands of nuclear warheads from former Soviet arsenals, destroyed hundreds of missile launchers, and has safeguarded vulnerable stockpiles of nuclear materials. The nuclear tests conducted by India earlier this week are a wake-up call to the United States and all nations that our efforts to prevent nuclear proliferation are inadequate. We should do nothing to undermine that high priority even further.

This body has also rightly funded systems to protect our troops from ballistic missile threats and cruise missile threats. To deal with the possibility of future ballistic missile threats to U.S. territory, we have worked with the Administration to prepare a plan that will give us ample time to deploy a missile defense system if the need is clear. Our military leaders continue to agree that this plan is the most sensible way to protect the nation against potential future missile threats.

We need a strong defense, but we must give the highest priority to meeting the most serious threats. Failure to do so will waste billions of taxpayer dollars, and leave the nation less secure. I urge my colleagues to oppose this bill.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, we reserve the remainder of our time on this side of the aisle.

The PRESIDING OFFICER. If neither side yields time, then time will be charged equally to both sides.

Mr. COCHRAN. Mr. President, I appeal to the Chair for a different ruling on that. We are prepared to use our 5 minutes and then proceed to hear from the other side. If I speak now, we have used up our 5 minutes and then they have 20 minutes to complete debate. That is not fair.

The PRESIDING OFFICER. The ruling of the Chair reflects the precedence of the Senate.

Mr. COCHRAN. Mr. President, under the ruling of the Chair, if we do not speak, then we are not going to have any time to speak in about 10 minutes. That is the way I understand the ruling of the Chair.

I ask unanimous consent the running of the time be charged against the opposition, the opponents of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, first of all, let me compliment the distinguished manager of the bill and the ranking member for the level of debate that has already occurred on this important piece of legislation. I have extraordinary respect for both Senators and I appreciate the manner in which they have presented this critical matter to the U.S. Senate.

In listening to the debate on S. 1873, I am struck by the appearance that rigid adherence to ideology seems to be trumping the sound judgment of this Nation's senior military leaders.

The proponents of this latest attempt to deploy ballistic missile defenses at any cost have entitled this bill the American Missile Protection Act. But I think it is important that we be clear as to what this really legislation does. The only thing S. 1873 protects, is the opportunity for defense contractors to move far ahead of where we ought to be with regard to a commitment to develop and deploy national ballistic missile defenses. As stated by the Secretary of Defense and the Chairman of the Joint Chiefs of Staff in their letters opposing S. 1873, deployment of national missile defenses at this time is unnecessary, premature and could end our arms control efforts.

S. 1873, in spite of my great admiration for its author and the manager of this bill, is the wrong bill at the wrong time, and I ask my colleagues, this morning to vote against cloture.

S. 1873 would commit the United States to deploy national missile defenses based on a single criterion—technical feasibility.

Quoting from the bill, the United States should "deploy as soon as is technologically possible an effective national missile defense system."

In the eyes of the sponsors of this bill, the only standard that must be met in deciding whether to deploy defenses is that they be technologically possible.

Mr. President, I cannot find a clear definition of effective defenses in S. 1873.

And yet, many of the same people who demand that important domestic programs meet stringent standards before they can receive funding stay strangely silent when it comes to establishing even the most minimal performance requirements for ballistic missile defenses.

This irony is not lost on just this Senator. In fact, the proponents' attitude is cavalier even by the standards of defense programs. Research by the Department of Defense shows that S. 1873 would make history. For the first time ever, we would be committing this nation to deploy a weapons system before it had even been developed, let alone thoroughly tested.

We need look no further than today's Washington Post to see the folly of this approach.

In a story entitled, "Antimissile Test Yields 5th Failure In a Row," it is pointed out that the THAAD system, a high priority theater anti-missile defense effort, failed yet again and is now 0 for 5 in tests.

Supporters of national defense may argue that the fifth consecutive failure of a theater missile defense system is not relevant to a debate on national missile defenses.

However, as underscored in the Post article, "the repeated inability to demonstrate that THAAD's interceptors can hit incoming warheads has implications beyond battlefield defense. The same hit-to-kill concept is at the core of the even more ambitious national antimissile system."

Moreover, most experts believe that a rush to judgment on ballistic missile defenses will not necessarily lead to the deployment of the most effective system.

According to General John Shalikashvili, former Chairman of the Joint Chiefs of Staff,

> If the decision is made to deploy a national missile defense system in the near term, then the system fielded would provide a very limited capability. If deploying a system in the near term can be avoided, the Defense Department can continue to enhance the technology base and the commensurate capability of the missile defense system that could be fielded on a later deployment schedule.

Not a word in S. 1873, Mr. President, about the costs of this system. The Congressional Budget Office estimates that deployment of even a very limited system could cost tens of billions of dollars.

Given that so much of the technology necessary remains unproven, history tells us the real cost could be much more. Despite the hefty price tag and the technological uncertainty, the proponents of this bill essentially say, "costs be damned, full speed ahead".

Yet, when it comes to proven proposals to improve our nations' schools, increase the quality of health care, or enhance our environment, the first question out of the mouths of many of the proponents of S. 1873 is, "how much does it cost?"

Not a sentence in this bill, Mr. President, about the need for this defense system or the threats it is designed to counter. According to the intelligence community, deployment of defenses is not justified by the rogue nation ballistic missile threat.

In his Annual Report to the President and Congress, Secretary Cohen stated that, with one possible exception, "no country will develop or otherwise acquire a ballistic missile in the next 15 years that could threaten the United States."

The only possible exception is North Korea, a country that is on the verge of collapsing upon itself. Even here, the intelligence community rightly says the probability of North Korea acquiring such a missile by 2005 is, "very low."

Mr. President, S. 1873 says absolutely nothing about how a U.S. deployment of missile defenses would affect existing and future arms control treaties. It is clear from statements made by Russian President Yeltsin and other top officials that if the United States unilaterally abrogates the ABM Treaty, the Russians will effectively end a decades-long effort to reduce strategic nuclear weapons. They will back out of START I. They will not ratify START II. And they will not negotiate START III.

In other words, unilateral U.S. deployment of missile defenses could end the prospect for reducing Russia's nuclear arsenal from its current level of about 9,000 weapons down to as few as 2,000. This is much too steep a price to pay for a course of action that is unproven, unaffordable, and unnecessary.

Finally, Mr. President, I would like to say a few words about the procedure by which this bill is being brought to the floor.

All too frequently these past few months, we have seen bills taken from the Republican agenda and immediately scheduled for floor time under parliamentary procedures that severely limit debate and the opportunity to offer amendments.

When Democrats try to bring up issues important to all Americans—reducing school class size and protecting patients from insurance company abuses—we are told there is no time or they resort to these same parliamentary tactics to stifle our efforts.

The decision to bring up S. 1873 is only the latest manifestation of this practice. Just one day after refusing to set a date to take up patient protection legislation, we find the Senate has time to vote on a bill that should be known as "Son of Star Wars."

Mr. President, I ask my colleagues to reflect on the advice of the Secretary of Defense and the Joint Chiefs of Staff and vote against cloture on S. 1873.

Let us think carefully and thoughtfully about its ramifications. Let us recognize the dangerous implications for arms control, for the federal budget, and, because of the necessity to choose priorities within this budget, for what it means to the Defense Department itself. This is the wrong bill at the wrong time, and I hope we will defeat cloture when the opportunity presents itself, in 10 minutes.

Mr. President, I ask that my time be taken from my leader time, and not from the time accorded the debate on the motion.

The PRESIDING OFFICER. The Senator has that right.

Mr. DASCHLE. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, may I inquire how much time remains on each side?

The PRESIDING OFFICER. The Senator from Mississippi has 5 minutes and the Democratic side has about 12 minutes remaining.

Mr. COCHRAN. I yield 3 minutes to the distinguished Senator from Virginia, Mr. WARNER.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the manager of the bill.

Mr. President, the world has been working in a responsible way for years to try to halt the proliferation of weapons of mass destruction—nuclear, biological and chemical. India's decision both yesterday and today to detonate five underground nuclear explosions has blown a hole in the dyke of the world's nonproliferation efforts. The flood waters are now running. This tragic development should bring into sharper focus both the threat that our nation, and indeed all nations of the world, face from the spread of weapons of mass destruction; and the need for defenses to protect us from that threat. The bill before us offers such protection.

Mr. President, on April 21, the Senate Armed Services Committee voted to favorably report to the Senate S. 1873, the American Missile Protection Act of 1998. I am proud to be an original cosponsor of this legislation. This bipartisan bill, whose principal sponsors are Senator COCHRAN and Senator INOUYE, currently has 50 cosponsors in the Senate. I regret to say that the vote in the Armed Services Committee was along party lines.

The American Missile Protection Act which is before the Senate today is very simple. It states that, "It is the policy of the United States to deploy as soon as is technologically possible a National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized or deliberate)."

This bill is a compromise—a step back from earlier Republican national missile defense (NMD) efforts in that it does not specify a date certain for deployment of an NMD system. As my colleagues will recall, the National

Missile Defense Act of 1997, introduced last January by the Majority Leader, called for deployment of an NMD system by 2003. Many Republicans joined the Majority Leader in his effort last year. Would we still like to see a system deployed by 2003? Of course we would. But the intent of this year's legislation is to build a more bipartisan consensus for deploying a national missile defense system capable of defending the United States.

I have long been a strong supporter of providing Americans here at home, and our troops deployed overseas, with the most effective missile defense systems possible. In my view, there is no greater obligation of a government than to provide for the protection of its people. The Persian Gulf War should have made clear to all Americans our vulnerability to the proliferation of ballistic missiles around the world, and the dire need to develop and deploy effective defenses as soon as possible.

What are the objections to this simple, and seemingly obvious goal? The arguments we have heard from Members on the other side of the aisle are mainly three-fold: (1) a threat does not currently exist—and may not exist for the foreseeable future—that would justify the deployment of an NMD system; (2) we should not commit ourselves to the deployment of such a system when we do not know what that system would cost; and (3) we may be locking ourselves into a technologically inferior system by making a deployment decision today. I will respond to these arguments in turn.

First and foremost, the threat. I respectfully disagree with my Democrat colleagues. In my view, the threat exists today and is growing. Recent events in India are but the latest proof.

In my view, the biggest current threat we face is instability in Russia and the impact that instability could have on Russian command and control of the thousands of intercontinental ballistic missiles capable of reaching this country. A recent segment on ABC's "World News with Peter Jennings," highlighted this problem. I quote one statement: "A crushing lack of funds means Russia's entire 30-year-old nuclear command and control system is becoming unreliable."

I remind my colleagues that with this legislation we are not seeking to deploy a Star Wars-type umbrella over the U.S. which would protect us from a massive strike by the Russians. We are seeking protection from a very limited, unauthorized or accidental attack. That scenario, unfortunately, could happen today.

And what of threats beyond Russia? By the Administration's our admission, the North Koreans will be able to deploy—in the near term—a ballistic missile with a range capable of striking Alaska and Hawaii. And other rogue nations are clamoring to get this type of technology. According to a recent report by the Air Force, "Ballistic missiles are already in widespread use and will continue to increase in number and variety. The employment of weapons of mass destruction on many ballistic missiles vastly increases the significance of the threat."

I believe we have proof enough today that a threat exists which justifies deploying an NMD system. But what if—for the sake of argument—we are wrong? What if a system is not needed for many more years? I would rather err on the side of deploying defense sooner than they might be needed, rather than being caught defenseless if nations move even faster than the Administration expects to develop the capability to attack our shores.

Many of my Democrat colleagues are—quite properly—very concerned about what an NMD system might cost. My reply to that is, what is the cost of not deploying a system? What if even one ballistic missile strikes the United States? What is the cost in terms of loss of life and damage to our nation? That is a cost which must be factored into this debate. That is a cost we should never have to pay.

Who would we answer to the American people in the aftermath of such an attack when they ask why their government failed to provide them with any defenses? We know the threat exists—it will only grow in the years ahead. It is time to stop debating, and time to deploy systems to protect our people.

And finally, the issue of technology. The argument has been made that we should put off a deployment decision until we have the best possible technology for an NMD system. Well, that is an argument that will result in putting off a deployment decision indefinitely. There will always be better technology down the road. That is true for all of our weapons systems. That should not be used as an excuse for not deploying a system which is needed. Our focus instead should be on designing a system which can incorporate technological advances as they become available.

Another point which we must keep in mind as we debate this legislation is that we are not locking ourselves into a particular architecture or a deployment decision that will then just go on "auto-pilot." We are making a broad policy statement that the U.S. should deploy a National Missile Defense system as soon as possible. That is our goal. Subsequent Congresses will decide—through the normal authorization and appropriation process—the details of the type of system to be deployed and the cost of that system. This bill is not the end of the process—it is the beginning.

And finally, there has been discussion about the impact of this bill on arms control agreements with the Russians—particularly the 1972 ABM Treaty. Dire consequences have been predicted if we were to pass this bill which, according to one of our Committee Members, would "violate the ABM Treaty." I would just point out that a statement of policy does not—in and of itself—violate a treaty. Until actual deployment of a system were to take place—which would be years in the future—no violation of a treaty would occur. In the meantime, the United States should be talking to the Russians about modifying the ABM treaty to deal with current realities.

We are no longer living in the world envisioned by the ABM Treaty—a world with two superpowers with missiles targeted on each other. Russia is no longer the only threat we face. We are in a world where an increasing number of nations are acquiring the means to strike others with ballistic missiles. If the Russians would look around their borders they would realize that they have just as much, if not more, need for effective missiles defenses as we do. Regardless, if the Russians do not agree to modifications of this 26-year old treaty, we should not let this document stand in the way of protecting our people from attack.

I urge my colleagues to join us in our effort to provide effective defenses for our country.

Mr. President, in summary, the Nation owes a debt of gratitude to the Senator from Mississippi, Mr. COCHRAN, and the Senator from Hawaii, Mr. INOUYE, for, again, showing the leadership to bring America closer and closer to a system which is absolutely essential for our defense.

When the tragic news unfolded about the resumption of testing by India, I think in the hearts of most Americans two thoughts came about: First, "Well, that's far away, no threat to us;" secondly, "Well, we already have a system which will protect us."

Neither is true, and this tragedy brings into sharper focus the need for the U.S. Senate to move forward on this issue. I hope that sharper focus induces Senators to support moving this bill forward.

Another argument that is frequently brought up is, "Well, what about Russia and the ABM Treaty?" The ABM Treaty in 1972 is against a background of two superpowers who possessed arsenals. That is not the case today. Unfortunately, as a consequence of proliferation, the arsenals that we find in many countries, and with the news in India, that could even expand now the number of countries. Why should not Americans have their prayers answered: Just give us what is necessary to protect against a limited attack from a single or two or three missiles as a consequence of terrorism, as a consequence of a miscalculation, as a consequence of failure of equipment? To me, that is a very reasonable request, and that is the essence of this legislation. I urge it be supported.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield 5 minutes to my friend from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

Mr. President, S. 1873 calls for deployment of a limited national missile defense system as soon as is technologically possible.

Although a case can be made for near-term deployment of this type of capability, I do not believe it is a wise policy to pursue a limited national missile defense system absent any considerations of costs, cost-effectiveness, or treaty implications. In fact, if this legislation were to become law in its current form and unilaterally breach the ABM Treaty, the international condemnation India is receiving for its nuclear testing during the last 48 hours could quickly shift to the United States.

There is no question that an accidental or unauthorized ICBM or SLBM launch by the Russians or PRC, however remote the possibility, would have devastating consequences. Such a threat alone, it could be argued, merits a limited national defense system. Indeed, there were extensive debates in the late eighties in the Senate regarding ALPS, or accidental launch protection system, as proposed by Senator Nunn.

But even in the debate over ALPS, it was understood that we should only go forward if it could be made affordable and cost-effective and deployed within the constraints of the ABM Treaty or a variant of this treaty, as agreed to by the Russians.

Admittedly, the threat situation has changed since the late 1980s. A new ICBM threat, such as a North Korean capability, could present itself in less than 20 years—a relatively short timeframe for deploying and refining a system as complex as a national missile defense. Such threats would become even more ominous in the event technology were transferred in part or in whole to a rogue regime, which is unlikely but not impossible.

Having a viable national missile defense system would not only provide a limited capability for meeting these threats but, far more importantly, it could serve to deter a rogue regime from even expending scarce resources on developing a long-range delivery system.

And rogue regimes would not be the only nations deterred. One of the most troubling strategic developments of the next century will be the rapid expansion of the PRC's strategic nuclear force through MIRVing—placing multiple warheads on each of its ICBMs—thus multiplying its nuclear strike capability many times over. This is not a remote possibility. MIRV technology is over 20 years old, and press reports indicate that, in fact, the Chinese are testing a MIRV capability. Facing a limited U.S. missile defense system which could, if necessary, be expanded to meet a potential Chinese threat, Beijing might choose to abandon any thought of pursuing this destabilizing course.

A limited national missile defense could also serve to deter a breakout by signatories, including the United States, Russia, China, Britain, and France, to future arms limitation agreements, especially those involving a very low number of offensive systems where temptations could be high for rapidly rebuilding capabilities in a crisis.

But we cannot simply dictate deployment of a national missile defense without consideration of costs and treaty implications. Despite decades of multibillion-dollar research and development and testing efforts, we have not yet demonstrated an ability to effectively and consistently hit a bullet with a bullet in either our national or theater missile defense programs, as was demonstrated even yesterday, even in controlled settings against relatively easy threats.

The reality may be that we can get there only with exorbitant expenditures that will siphon funding excessively from U.S. military programs for other more pressing threats. S. 1873 makes no account of costs and is, therefore, not, in my judgment, a prudent policy.

A limited capability could probably be achieved within the confines of the ABM Treaty or a slightly modified treaty. But to call for a defense system without regard to the arms control consequences is very shortsighted.

If our rush to deploy a national missile defense system undermines Russian ratification of START II and, worse yet, pushes the Russians to abrogate START I, the gains of a national missile defense system will be offset overwhelmingly by a restoration of a very costly and destabilizing offensive nuclear arms race. This, again, supports the condition that S. 1873 is simply not a prudent policy.

Legislation similar to S. 1873, but calling for a cost-effective and treaty-compliant limited national missile defense system, would be a much more sensible and responsible approach.

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan has 7 minutes remaining.

Mr. LEVIN. I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the Senator from Michigan.

Mr. President, there are good ideas and bad ideas. There are timely ideas and untimely ones. Whatever our views on a nation-wide ballistic missile defense, S. 1873 is both bad and untimely.

I urge my colleagues—on both sides of the aisle—to look closely at this bill and ask whether we should really be spending our time on it. Once they consider its implications we can reject cloture and get back to real work.

What would it mean to make it U.S. policy "to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)"?

For starters, we would have to deploy a national missile defense even if it broke the bank, the budget agreement, and the U.S. economy. And it might do just that, especially if the bill is interpreted as requiring defense of U.S. territories in addition to every square inch of the 50 states.

This bill would also require deployment before we know the precise nature of the threat—indeed, before we are actually threatened by any strategic missiles other than Russia's and China's, which have posed that threat for years. That raises the distinct risk that we would deploy the wrong defense for the real threats we may someday face.

Worse yet, we would spend the taxpayer's hard-earned money on the first technology, rather than the best technology. And the first technology may not stop missiles with penetration aids, which Russia and others already have.

In addition, by putting pressure on the Pentagon to deploy the first feasible technology, this bill will very likely worsen what General Welch's panel recently called a "rush to failure." Yesterday's fifth consecutive test failure with one of our theater defense missiles is a reminder of how difficult it is to develop any middle defense. Opting to deploy the first system that looks feasible is simply not a prescription for success.

Worst of all, this bill does not require—or even permit—consideration of negative consequences resulting from deployment.

Will the march to deployment destroy the Anti-Ballistic Missile Treaty? Too bad. That's precisely what some of our colleagues want.

Will the adoption of this objective torpedo implementation of START II and block any further reduction of strategic missiles or nuclear warheads? Too bad, again. Some people find "star wars" an easier solution than the hard, patient work of reducing great power armaments and stabilizing our forces.

Will renunciation of the ABM Treaty and the START process lead to a collapse of the Non-Proliferation Treaty? That is a real risk. But once again, too bad.

Do not focus on the Non-Proliferation Treaty's failings, and overlook its successes. What would the world be like if the countries that have stopped short of developing nuclear weapons were to give up on the commitment of the nuclear powers to reduce their forces? Would we really be safer if all those other countries were to go nuclear?

That is a real risk, if we march willy-nilly to deploy a national missile defense. Remember: when Egypt developed a better defense against Israeli attack on its forces, it was able to mount an offensive attack in the Yom Kippur War. The same thing applies to a national missile defense. We may see it as a defense. But the rest of the world will see it as a second-strike defense that enables us to mount first-strike nuclear attacks.

Some day, we may really need a nation-wide ballistic missile defense. That is why the Defense Department is pursuing the 3+3 policy of finding a technology that would permit deployment within three years of determining that there was a serious threat on the horizon.

Some of my colleagues truly believe that we can't wait for that, and I respect their views—although I respectfully believe that they are wrong. Others may be frustrated because they feel the President is trying to steal their issue. "Life is unfair," as another Democrat once said.

But frustration and distrust do not make for good policy. And the policy that this bill would establish is simply too much, too soon. Let's get behind 3+3—make it effective, rather than forcing the Defense Department into an even more unrealistic schedule.

Sensible policy on ballistic missile defense is perfectly feasible. But S. 1873 isn't it. Let's stop wasting the Senate's time with it.

Mr. President, I am confused as the devil what my friends from Mississippi, Virginia, and others are doing here. Again, there are good ideas, there are bad ideas, there are timely ideas and untimely ideas. This is a bad, untimely idea. I truly am confused.

No. 1, we don't have any system that works. No. 2, there is no clear analysis of what the threat is that we are going to defend against. That usually goes hand in hand. We say we are going to build a system and here is the threat.

My friend, the senior Senator from Virginia, says, "Well, you know, the threat may come from terrorist organizations or from specific rogue countries and single-warhead systems." Fine, that is one kind of system. My friend, the junior Senator from Virginia, stands up and points out, if we come up with a missile defense system for a single warhead that is able to be dealt with, do you think the Chinese are not going to sit there and say, "You know, by golly, we're not going to build any MIRV'd warheads, we're not going to do that"?

Right now they may not do that. It is clearly against their interests.

We have this treaty with the Russians, the former Soviet Union, to do away with all multiple warhead missiles because we know they are so pernicious. This will encourage the Chinese to move. No. 1, we don't have an analysis of a threat. No. 2, my conservative friends, who are all budget-conscious guys, like we all are here, have no notion what the cost will be. They are ready to sign on and say, "Deploy. As soon as we find it, deploy it. If it breaks the budget deal, if it causes a deficit, if it breaks the bank, deploy." No. 3, the idea that the ABM Treaty may or may not be impacted upon by this seems to be of no consequence. And No. 4, my friend, the senior Senator from Virginia, and others stood up on the floor when we were dealing with NATO expansion and said, "JOE, JOE, JOE, the Russians, let's worry about how the Russians are going to think about being isolated; let's worry about how this could impact on Russia. Look, JOE, if you go ahead and do this and expand, what's going to happen is that all arms control agreements are going to come to a screeching halt."

Well, let me tell you something. You want to make sure they come to a screeching halt? Pass this, pass this beauty. This will be doing it real well. Bang. All of a sudden, the Duma saying, "Now look, we are going to commit to go to START II, which means we have no multiple warhead weapons, which means we're only going to go to single warhead weapons, which means that, by the way, the U.S. Senate"—and they think we are even smarter than we think we are—"the U.S. Senate just said, 'Go ahead and deploy as soon as you have a feasible system.'"

Now, what do you think those good old boys in the Duma are going to do? They are going to say, "You know, let's continue to destroy our multiple warhead weapons. The only thing we know for sure, these guys can't stop."

Look, what is viewed as good for somebody is viewed as poison for other people on occasion. And let me point out to you, we are sitting here thinking—and we mean it—that what we want to do is we are going to defend the American people. And we do. But you sit there on the other side of the ocean, the other side of the world, and say, "These guys, these Americans, the only people, by the way, who ever did drop an atomic weapon, these guys are building a system that is going to render them impervious to being hit by nuclear weapons. We think they are building that system for a second-strike capability. They can affirmatively strike us knowing they can't be struck back."

Now, don't you think the guys that don't like us might think that? Don't you think that might cross their minds as reasonable planners? And what are we doing this for? What are we doing this for? We have no technology that works now. We are spending $3 billion a year, which I support, on theater and national missile defense research—$3 billion a year. I am for it. We should not get behind the curve so there is a breakout. But to deploy as soon as feasible? So I have only come to one conclusion here, Mr. President. This has to do with either trying to get rid of ABM, which is one of the reasons why some of my friends on the right think it is a bad idea or, No. 2, the President stole the march on the missile defense from them and they are not going to let it happen. This makes no sense.

I thank the Chair.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Who yields time?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Does the Senator from North Dakota want a minute at this point? I yield a minute to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise as a strong supporter of national missile defense. I have introduced legislation on this subject. I strongly believe in it. Just as strongly, I oppose what is before us. I oppose it because, No. 1, I believe it undermines congressional responsibility. I believe there are common-sense criteria we need to apply on any decision of what we deploy. We need treaty compatibility. The ABM and START must not be jeopardized. We need affordability. A balanced budget must be maintained. We should have maximum utilization of existing technology to prevent increased costs.

Mr. President, S. 1873 gives the Pentagon no guidance on all of these issues. In addition to that, our military leadership is telling us that S. 1873 might undermine our Nation's security.

The PRESIDING OFFICER. The Senator has spoken for 1 minute.

Mr. CONRAD. I ask for an additional 30 seconds.

Mr. LEVIN. I ask unanimous consent for an additional minute for this side.

Mr. COCHRAN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, let us listen to our leadership, our military leadership, General Shelton, the current Chairman of the Joint Chiefs of Staff.

The effect NMD "deployment would have on our arms control agreements and nuclear arms reductions * * * should be included in any bill on national missile defense."

General Shalikashvili, the former Chairman of the Joint Chiefs: Efforts that imply "withdrawal in the ABM Treaty may jeopardize Russian ratification of START II and * * * could prompt Russia to withdraw from START I. I am concerned that failure of either START initiative will result in Russian retention of hundreds or even thousands more nuclear weapons, thereby increasing both costs and risks we may face."

Mr. President, I am in favor of NMD, national missile defense. I am opposed to this legislation.

The PRESIDING OFFICER. The Senator from Michigan has 1 minute 30 seconds remaining.

Mr. LEVIN. Mr. President, this is more of an "NMC" bill than an NMD. This is a "Never Mind the Consequence" bill.

General Shelton, our top military leader in the uniform of this country, has said he cannot support this bill for a number of reasons.

The question has been asked, "How can anybody oppose this bill?" A lot of people oppose this bill for a lot of reasons. But the people who support this bill ought to ask themselves, "How is it that our top military leadership oppose it?" And General Shelton, for many reasons, says he cannot support it. And one of the reasons is the one that Senator CONRAD just read. And I want to repeat it. Any bill should "consider affordability [and] the impact a deployment would have on arms control agreements and nuclear arms reductions."

When you commit to deploy a system which will breach in almost dead certainty a treaty between us and the Russians, and cause them to quit cutting the number of nuclear weapons and to start increasing again, we are jeopardizing the security of this Nation and contributing to the proliferation of nuclear weapons.

That is one of the big problems of this bill. That is why our top military leadership do not support this bill.

I ask unanimous consent, Mr. President, that the letters of General Shelton, General Shalikashvili and Secretary Cohen in opposition to this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, April 21, 1998.

Hon. CARL M. LEVIN,
Ranking Minority Member, Committee on Armed Services, Washington, DC.

DEAR SENATOR LEVIN: Thank you for the opportunity to comment on the American Missile Protection Act of 1998 (S. 1873). I agree that the proliferation of weapons of mass destruction (WMD) and their delivery systems poses a major threat to our forces, allies, and other friendly nations. US missile systems play a critical role in our strategy to deter these threats, and the current National Missile Defense (NMD) Deployment Readiness Program (3+3) is structured to provide a defense against them when required.

The bill and the NMD program are consistent on many points; however, the following differences make it difficult to support enactment. First and most fundamental are the conditions necessary for deployment. The bill would establish a policy to deploy as soon as technology allows. The NMD program, on the other hand, requires an emerging ballistic missile threat as well as the achievement of a technological capability for an effective defense before deployment of missile defenses.

Second, the bill asserts that the United States has no policy to deploy an NMD system. In fact, the NMD effort is currently a robust research and development program that provides the flexibility to deploy an initial capability within 3 years of a deployment decision. This prudent hedge ensures that the United States will be capable of meeting the need for missile defenses with the latest technology when a threat emerges.

Third, I disagree with the bill's contention that the US ability to anticipate future ballistic missile threats is questionable. It is possible, of course, that there could be surprises, particularly were a rogue state to receive outside assistance. However, given the substantial intelligence resources being devoted to this issue, I am confident that we will have the 3 years' warning on which our strategy is based.

Fourth, the bill uses the phrase "system capable of defending the territory of the United States." The NMD program calls for defense of only the 50 states. Expanding performance coverage to include all US territories would have considerable cost, design, and location implications.

Finally, the bill does not consider affordability or the impact a deployment would have on arms control agreements and nuclear arms reductions. Both points are addressed in the NMD Deployment Readiness Program and should be included in any bill on NMD.

Please be assured that I remain committed to those programs that discourage hostile nations from the proliferation of WMD and the missiles that deliver them. In that regard, I am confident that our current NMD program provides a comprehensive policy to counter future ballistic missile threats with the best technology when deployment is determined necessary.

Sincerely,

HENRY H. SHELTON,
Chairman, Joint Chiefs of Staff.

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, May 1, 1996.

Hon. SAM NUNN,
U.S. Senate, Committee on Armed Services, Washington, DC.

DEAR SENATOR NUNN: In response to your recent letter on the Defend America Act of 1996, I share Congressional concern with regard to the proliferation of ballistic missiles and the potential threat these missiles may present to the United States and our allies. My staff, along with CINCs, Services and the Ballistic Missile Defense Organization (BMDO), is actively reviewing proposed systems to ensure we are prepared to field the most technologically capable systems available. We also need to take into account the parallel initiatives ongoing to reduce the ballistic missile threat.

In this regard, efforts which suggest changes to or withdrawal from the ABM Treaty may jeopardize Russian ratification of START II and, as articulated in the Soviet Statement to the United States of 13 June 1991, could prompt Russia to withdraw from START I. I am concerned that failure of either START initiative will result in Russian retention of hundreds or even thousands more nuclear weapons thereby increasing both the costs and risks we may face.

We can reduce the possibility of facing these increased costs and risks by planning an NMD system consistent with the ABM treaty. The current National Missile Defense Deployment Readiness Program (NDRP), which is consistent with the ABM treaty, will help provide stability in our strategic relationship with Russia as well as reducing future risks from rogue countries.

In closing let me assure you, Senator Nunn, that I will use my office to ensure a timely national missile defense deployment decision is made when warranted. I have discussed the above position with the Joint Chiefs and the appropriate CINCs, and all are in agreement.

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman, Joint Chiefs of Staff.

THE SECRETARY OF DEFENSE,
Washington, DC, April 21, 1998.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your request for the views of the Department of Defense on S. 1873, the American Missile Protection Act of 1998.

The Department of Defense is committed to ensuring that we properly protect the American people and America's national security interests. This requires that we have a carefully balanced defense program that ensures that we are able to meet threats to our people and vital interests wherever and whenever they arise. A key element of our defense program is our National Missile Defense (NMD) program, which as you know was restructured under Secretary Perry and with the support of Congress as a "3+3" deployment readiness program. Under this approach, by 2000 the United States is to be in a position to make a deployment decision if warranted by the threat, and if a decision to deploy were made at that time the initial NMD system would be deployed by 2003. If in 2000 the threat assessment does not warrant a deployment decision, improvements in NMD system component technology will continue, while an ability is maintained to deploy a system within three years of a decision.

The Quadrennial Defense Review reaffirmed this approach, although it also determined that the "3+3" program was inadequately funded to meet its objectives. Accordingly, I directed that an additional $2.3 billion be programmed for NMD over the Future Years Defense Plan. It must be emphasized, though, that even with this additional funding, NMD remains a high risk program because the compressed schedule necessitates a high degree of concurrency.

I share with Congress a commitment to ensuring the American people receive protection from missile threats how and when they need it. S. 1873, however, would alter the "3+3" strategy so as to eliminate taking into account the nature of the threat when making a deployment decision. This could lead to the deployment of an inferior system less capable of defending the American people if and when a threat emerges. Because of this, I am compelled to oppose the adoption of the bill.

Please be assured, however, that I will continue to work closely with the Senate and House of Representatives to ensure that our

NMD program and all of our defense programs are designed and carried out in a manner that provides the best possible defense of our people and interests.

Sincerely,

BILL COHEN.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, there are two criticisms of this bill that I have heard during the debate from the opponents. The distinguished Senator from Michigan says that the bill should include the words "treaty compliant" and that it is therefore vulnerable to criticism and ought to be rejected. The distinguished Democratic leader says the bill uses the phrase "effective national missile defense system." He says "effective" is not defined in the bill.

Well, my suggestion is, if amendments ought to be offered to this bill we should vote for cloture so that we can get to the bill and amendments will be in order. Criticizing the bill because we are not considering amendments at this time is begging the question. The question is, should the Senate turn to the consideration of the American Missile Protection Act? We are suggesting yes. But the Democrats objected.

It is like when President Clinton, 2 years ago with the authorization bill before the Congress, held the bill up, held it up arguing over missile defense because there was a provision in it that suggested we ought to have a national missile defense, we ought to develop and deploy. They changed the words finally to "develop for deployment," and then that was taken out of the bill in conference.

The point is this administration is taking a wait-and-see attitude, wait until there is a threat. The reality is the threat exists now. We need to debate this issue. We need to debate this bill. The Democrat leadership are opposing that. We hope the Senate will vote cloture. Let us proceed to the consideration of the American Missile Protection Act. If Senators have amendments, suggestions, that is when they will be in order. They cannot be considered now until we invoke cloture. I hope the Senate will vote to invoke cloture on the motion to proceed to consider the bill.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 345, S. 1873, the missile defense system legislation:

Trent Lott, Thad Cochran, Strom Thurmond, Jon Kyl, Conrad Burns, Dirk Kempthorne, Pat Roberts, Larry Craig, Ted Stevens, Rick Santorum, Judd Gregg, Tim Hutchinson, Jim Inhofe, Connie Mack, R.F. Bennett, and Jeff Sessions.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is: Is it the sense of the Senate that debate on the motion to proceed to S. 1873, the missile defense bill, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. BURNS). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 59, nays 41, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—59

Abraham
Akaka
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—41

Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, let me yield to my colleague from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask that the Senate now proceed to the consideration of S. 1244 under the consent order.

RELIGIOUS LIBERTY AND CHARITABLE DONATION PROTECTION ACT OF 1998

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1244) to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Religious Liberty and Charitable Donation Protection Act of 1998".

SEC. 2. DEFINITIONS.

Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

"(3) In this section, the term 'charitable contribution' means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution—

"(A) is made by a natural person; and

"(B) consists of—

"(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

"(ii) cash.

"(4) In this section, the term 'qualified religious or charitable entity or organization' means—

"(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

"(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.".

SEC. 3. TREATMENT OF PRE-PETITION QUALIFIED CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking "(1) made" and inserting "(A) made";

(3) by striking "(2)(A)" and inserting "(B)(i);

(4) by striking "(B)(i)" and inserting "(ii)(I)";

(5) by striking "(ii) was" and inserting "(II) was";

(6) by striking "(iii)" and inserting "(III)"; and

(7) by adding at the end the following:

"(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

"(A) the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

"(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.".

(b) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(1) by striking "(b) The trustee" and inserting "(b)(1) Except as provided in paragraph (2), the trustee"; and

(2) by adding at the end the following:

"(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2). Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.".

(c) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by striking "548(a)(2)" and inserting "548(a)(1)(B)"; and

(B) by striking "548(a)(1)" and inserting "548(a)(1)(A)";

(2) in subsection (f)—

(A) by striking "548(a)(2)" and inserting "548(a)(1)(B)"; and

(B) by striking "548(a)(1)" and inserting "548(a)(1)(A)"; and

(3) in subsection (g)—

(A) by striking "section 548(a)(1)" each place it appears and inserting "section 548(a)(1)(A)"; and

(B) by striking "548(a)(2)" and inserting "548(a)(1)(B)".

SEC. 4. TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS.

(a) CONFIRMATION OF PLAN.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: ", including charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made".

(b) DISMISSAL.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: "In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).".

SEC. 5. APPLICABILITY.

This Act and the amendments made by this Act shall apply to any case brought under an applicable provision of title 11, United States Code, that is pending or commenced on or after the date of enactment of this Act.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in the amendments made by this Act is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

The PRESIDING OFFICER. Under the previous order, there are 10 minutes equally divided on each side.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I rise in strong support of S. 1244, The Religious Liberty and Charitable Donation Protection Act, which I introduced in October of last year.

When I held hearings on this bill before my subcommittee, I learned that churches and charities around the country are experiencing a spate of lawsuits by bankruptcy trustees trying to undo tithes or charitable donations. Under provisions of the Bankruptcy Code originally designed to fight fraudulent transfers of assets or money on the eve of bankruptcy, bankruptcy trustees have begun to sue churches when one of their parishioners declares bankruptcy, charging that tithes are fraud.

Of course, this puts the fiscal health of many churches at serious risk. Most churches and charities don't have big bank accounts. Having to pay back money that has been received and already spent is a real hardship for churches which often live on a shoestring budget. S. 1244 will protect against that.

Protecting churches and charities from baseless bankruptcy lawsuits will protect key players in the delivery of services to the poor. What do churches do with tithes? What do charities do with contributions?

They feed the poor with soup kitchens. They collect used clothing and help provide shelter for the homeless. And they do it with a minimal amount of Government assistance. In this day and age, where Congress is seeking to trim the Federal Government to its appropriately limited role, we must protect the important work of churches and charities. Mr. President, S. 1244 is a giant step in that direction.

This bill doesn't amend Section 548(A)(1) of the Bankruptcy Code. This means that any transfer of assets on the eve of bankruptcy which is intended to hinder, delay or defraud anyone is still prohibited. Only genuine charitable contributions and tithes are protected by S. 1244. Accordingly, a transfer of assets which looks like a tithe or a charitable donation, but which is actually fraud, can still be set aside. For example, if someone who is about to declare bankruptcy gives away all of his assets in donations of less than 15 percent of his income, that would be strong evidence of real fraud and real fraud can't be tolerated.

Mr. President, my legislation also permits debtors in chapter 13 repayment plans to tithe during the course of their repayment plan. Under current law, people who declare bankruptcy under chapter 13 must show that they are using all of their disposable income to repay their creditors. The term disposable income has been interpreted by the courts to allow debtors to have a reasonable entertainment budget during their repayment period. But these same courts won't let people tithe. So, a debtor could budget money for movies or meals at restaurants, but they couldn't use that same money to tithe to their church. This is a direct and outrageous assault on religious freedom. And I think it's quite clearly contrary to Congress' intent in enacting chapter 13. I doubt anyone would have supported the idea that debtors could pay money to a gambling casino for entertainment but could not give the same money to a church as a tithe.

Mr. President, S. 1244 is necessary at this time because the Supreme Court struck down the Religious Freedom Restoration Act as unconstitutional last summer. A badly-divided panel of the Eighth Circuit Court of Appeals has recently ruled that RFRA protects tithes, even after the Supreme Court case. But that decision is being appealed to the Supreme Court. No matter what the Court does, we need to pass this bill now, and to subject churches to uncertainty and harassment by bankruptcy trustees.

Mr. President, I think it's important to remember that my bill protects donations to churches as well as other types of nonprofit charities. I did this because many well-respected constitutional scholars believe that protecting only religiously-motivated donations from the reach of the Bankruptcy Code would violate the establishment clause of the first amendment.

Now a concern was recently raised that S. 1244 doesn't protect unincorporated churches. That just isn't so. Professor Douglas Laycock, perhaps the leading scholar on religious freedom, has written to me on this topic and has concluded that unincorporated churches would in fact be protected. I ask unanimous consent that his letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. GRASSLEY. Mr. President, I would like to close on this note. When I chaired a hearing on tithing and bankruptcy before my subcommittee late last year, I heard from the pastor of Crystal Free Evangelical Church. This church is the one fighting right now in the Eighth Circuit Court of Appeals to keep the bankruptcy court out of its church coffers. Pastor Goold testified in a very compelling way about the practical difficulties his church has faced because of the Bankruptcy Code. As Pastor Goold put it, when there's a conflict between the bankruptcy laws and the laws of God, we should change the bankruptcy laws because God's laws aren't going to change.

Whether someone believes in tithing or not, it's clear that many Americans feel that tithing is an act of worship, required by divine law. It's completely unacceptable to have the bankruptcy code undo an act of worship.

EXHIBIT 1

UNIVERSITY OF TEXAS AT AUSTIN,
SCHOOL OF LAW,
Austin, TX, May 6, 1998.

HON. CHARLES E. GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY: The question has arisen whether S. 1244 and H.R. 2604 would protect unincorporated churches. The answer is yes; unincorporated churches would be protected.

These bills protect organizations defined in §170(c)(2) of the Internal Revenue Code, which includes any "corporation, trust, or community chest, fund, or foundation" organized and operated exclusively for charitable, religious, or other listed purposes. The Internal Revenue Code defines "corporation" to include an "association." 26 U.S.C. §7701(a)(3). An unincorporated association may also be a "fund."

The language of §170(c)(2) dates to shortly after World War I. Related sections drafted more recently use the word "organization," which more obviously includes unincorporated associations. See, e.g., §170b and §§502–511. The implementing regulations under §170 and §501(c)(3) also used the word "organization." 26 C.F.R. §§1.170 and 1.501. "Organization" does not appear to be a defined term. But Treasury Regulations define "articles of organization" in inclusive terms: "The term articles of organization or articles includes the trust instrument, the corporate charter, *the articles of association*, or any other written instrument by which an organization is created." 26 C.F.R. §1.501(c)(3)(b)(2) (emphasis added) "Articles of association" clearly seems designed to include unincorporated associations.

The clearest statement from the Internal Revenue Service appears to be Revenue Procedure 82–2 (attached), which sets out certain rules for different categories of tax exempt organizations. Section 3.04 provides a rule for "Unincorporated Nonprofit Associations." This Procedure treats the question as utterly settled and noncontroversial.

Tax scholars agree that §170 includes unincorporated associations. The conclusion appears to be so universally accepted that there has been no litigation and no need to elaborate the explanation. The leading treatise on tax-exempt organizations states: "An unincorporated association or trust can qualify under this provision, presumably as a fund or foundation or perhaps, as noted, as a corporation." Bruce R. Hopkins, The Law of Tax-Exempt Organizations §4.1 at 52 (7th ed. 1997).

Borris Bittker of Yale and Lawrence Lokken of NYU says: "Since the term corporation includes associations and fund or foundation as used in IRC §501(c)(3) is construed to include trusts, the technical form in which a charitable organization is clothed rarely results in disqualification." Boris I. Bittker & Lawrence Lokken, 4 Federal Taxation of Income, Estates and Gifts ¶100.1.2 at 100–6 (2d ed. 1989).

Closely related provisions of the Code expressly cover churches. I.R.C. §170(b)(1) states special rules for a subset of organizations defined in §170(c), including "a church, or a convention or association of churches." I.R.C. §508(c)(1) provides that "churches, their integrated auxiliaries, and conventions or associations of churches" do not have to apply for tax exemption. These provisions plainly contemplate that churches are covered: they also prevent the accumulation of IRS decisions granting tax exempt status to unincorporated churches. These churches are simply presumed to be exempt.

There are tens of thousands of unincorporated churches in America. I am not aware that any of these churches has ever had difficulty with tax exemption or tax deductibility of contributions because of their unincorporated status. I work with many church lawyers and religious leaders, and none of them has ever mentioned such a problem. There are no reported cases indicating litigation over such a problem. If unincorporated churches were having this problem, Congress would have heard demands for constituent help or corrective legislation.

The fact is that legitimate unincorporated churches that otherwise qualify for tax deductibility under §170 and for tax exemption under §501(c)(3) are not rendered ineligible by their failure to incorporate. There is so little doubt about that that neither Congress, the IRS, nor the courts has ever had to expressly elaborate on the rule that everyone knows. This is a question that can be safely dealt with in legislative history affirming Congress's understanding that unincorporated associations are included in §170(c)(2) and Congress's intention that they be protected by these bills.

I consulted informally with Deirdre Halloran, the expert on tax exempt organizations at the United States Catholic Conference, and with tax professors here and elsewhere, who confirmed these conclusions. Ms. Halloran would be happy to respond to inquiries from your office if you need a second opinion.

Very truly yours,

DOUGLAS LAYCOCK.

Mr. GRASSLEY. I yield the floor.

Mr. HATCH. I compliment the distinguished Senator from Iowa and the distinguished Senator from Illinois for their work on this bill.

This is called the Religious Liberty and Charitable Donations Act of 1998, and I urge all of my colleagues to vote for its passage.

S. 1244 will help spell out the safe harbors for tithe-payers or others who contribute to charitable organizations and then find themselves in bankruptcy. It will work, together with the Religious Freedom Restoration Act in this area, to relieve burdens on often strained organizations that provide important services to our society. It will relieve an untenable burden on the religious rights of tithe-payers throughout America.

Mr. President, the issue of the status of tithes paid to churches by religiously motivated Americans who find themselves in bankruptcy proceedings has vexed tithe-payers and our courts for a number of years now. Vigilant, and some might say over-zealous, bankruptcy trustees have tried to recover tithes paid to churches as fraudulent conveyances under the bankruptcy code. Hundreds, if not thousands, of such claims for recovery against churches have been filed over the last few years. This has imperiled many churches, which operate on the offerings they receive as they come in. By the time a bankruptcy claim is filed, the money has been spent feeding the poor or otherwise serving the needs of the congregation. Many churches find it very difficult to make up money that has already been spent, and when they can, it weakens their ability to do the charitable and spiritual work that is part of the grand tradition of religious charity in America.

Not only are the churches themselves imperiled, but many believers are told by the government that they can no longer pay tithes once they have been in bankruptcy, even if a believing debtor wishes to forgo allowable entertainment expenses to pay the tithing they believe God requires of them. This is an unsupportable interposition of Uncle Sam and the bankruptcy system between believing Americans and God.

I believe we fixed the problem in 1993, when we passed the Religious Freedom Restoration Act ("RFRA"), which gave greater protections to religious activities across the board than the courts were affording at that time. An early bankruptcy case under that law, however, and the position the Clinton Justice Department took in that case, risked undermining those protections. Under pressure from me and others in Congress, the Justice Department reversed itself on direct orders from the President. And, luckily, the 8th Circuit Court of Appeals applied RFRA's stronger protections to the case. When that decision was appealed to the Supreme Court, however, it was vacated and remanded by the Supreme Court for further proceedings in light of the Court's decision in *City of Boerne* v. *Flores*,—U.S.—,117 S. Ct. 2157 (1997), in which it held that RFRA was unconstitutional as applied to the states. Upon the review of the Young case, I filed an amicus brief in the 8th Circuit, arguing with others that Boerne had no effect on questions of federal law such as bankruptcy, and so RFRA was constitutional and should apply in the bankruptcy context. I am pleased to report that the case of *Christians* v. *Crystal Evangelical Free Church*, 1998 WL 166642 (8th Cir. (Minn.)), decided last month, held RFRA to be constitutional for federal law purposes and protective of tithes in bankruptcy proceedings.

The uncertainty caused by Boerne accelerated the challenging of tithes as fraudulent conveyances, and in turn spurred our efforts to clarify the law. I am glad that RFRA will continue to be of service in this area, but I am also pleased that we will have targeted legislation to clear up any remaining confusion without undue confusion during further litigation. S. 1244 will help spell out the safe harbors or tithe payers or others who contribute to charitable organizations and then find themselves in bankruptcy. It will relieve burdens on often-strained organizations that provide important services in our society, and relieve an untenable burden on the religious rights of tithe payers across America.

Let me thank all of those who worked on this legislation, especially Senator GRASSLEY and Senator DURBIN, who are leaders on bankruptcy issues on the Judiciary Committee, and, in the case of at least Senator GRASSLEY and I believe Senator DURBIN, are strong supporters of the religious rights of our people. I thank both of them for the work in this area. We have worked to make this legislation useful and efficacious. So I urge all of our colleagues to vote for its passage.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Alabama.

Mr. GRASSLEY. I yield to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I rise to speak on behalf of the Religious Liberty and Charitable Donation Protection Act of 1998. It is an honor to work with my good friend from Iowa on this important piece of legislation, and I thank him for his leadership on this issue.

In an important 1970 Supreme Court case upholding tax exemptions for churches, Chief Justice Burger spoke of the Government's relationship with religion as being a relationship of "benevolent neutrality". It seems more and more that the Government's "benevolent neutrality" is becoming harder to discern, often being replaced with what appears to be "outright hostility".

A good example of this is found in Federal bankruptcy law. In the 1995 case of "In re Tessier," a couple filed for bankruptcy under Chapter 13. Out of their net monthly income of $1,610, they proposed to continue making contributions to their church in the amount of $100 per month. This couple had deeply-held religious convictions about donating to the church as part of the exercise of their religious faith. They proposed spending only $200 per month on food, and nothing on entertainment, recreation, health insurance, life insurance, cable television, telephone, or even electrical utility service. Nevertheless, the Bankruptcy Court ruled that during the 5 year duration of their Chapter 13 plan, this couple could not make the proposed contributions to their church. This was in spite of the fact that the Court would probably have allowed them to spend that sum of money on entertainment or recreational expenses.

The matter of pre-bankruptcy contributions to a church or charity is also a matter of much concern. Several courts have actually interpreted the bankruptcy law to require churches to refund donations made to them in the year prior to a debtor filing bankruptcy. In making such rulings, the courts hold that donations to the church are "fraudulent conveyances"—that is, by giving the money to the church without (according to the courts) receiving something economically valuable in return, they are defrauding their creditors. In reality, there is no fraud involved. And of course you can imagine the potential burden on small churches that may be just getting by financially—churches that have done nothing wrong—to find that they are required to repay a year's worth of contributions received from a faithful contributor.

The Grassley-Sessions bill is a commonsense bill that would clarify the Bankruptcy law to ensure that our courts will no longer make the sort of rulings that I have described.

Under our bill, contributions of up to 15% of a person's income, or a higher amount that is consistent with an individual's past practice of giving, will not be considered fraudulent when made during the year prior to filing bankruptcy. Consequently, innocent churches and charities would not have to repay such contributions.

Secondly, our bill will allow debtors under Chapter 13 repayment plans to make charitable contributions of up to 15% of their income. If bankruptcy law allows for spending on recreational expenses while under a Chapter 13 repayment plan, it should also allow an individual to tithe to their church or make reasonable charitable contributions.

Mr. President, this is an important bill which will help to restore the Government to its rightful position of benevolent neutrality toward religion. It will provide necessary legislative guidance in an area of bankruptcy law that has gotten off track. I urge my colleagues to join with me in support of this legislation.

Mr. President, I am honored to support this legislation. Senator GRASSLEY has done an excellent job in identifying an unfair component of the Bankruptcy Act. If an individual pays money to a nightclub, a casino, or to any other recreational activity whatsoever, that person who received the money does not have to give it back to the bankruptcy court. If they had given money to a charitable enterprise or a church, they could be required to give it back. And in chapter 13 where an individual pays out their debts on a regular basis, the courts have denied them the right to give money to charitable institutions as part of their regular payments while at the same time allowing them substantial amounts of money for recreational expenditures. We think that is unfair. We think this bill is a sound way to correct that problem.

I am honored to work with Senator GRASSLEY and support him in this effort.

Mr. DURBIN. Mr. President, it is a pleasure to stand in support of this legislation. Senator GRASSLEY and I have worked on it, but I want to give him the lion's share of the credit because this was his notion, his concept, and he has developed it into a very good piece of legislation.

We work closely together on these bankruptcy issues, and for those who are interested in bankruptcy stay tuned; there is more to follow. But I think you will find this bill noncontroversial and certainly one everyone should be able to support.

The bottom line here is whether or not you are dealing with a fraudulent conveyance. Someone in anticipation of bankruptcy may give away money and it is said by the court that you cannot do that; if you are going to give money away for nothing, then we are going to come back later on in the bankruptcy court and recover it. But Senator GRASSLEY has pointed out, I think appropriately, the situation where people give money to a charity or a church, and he says that should be considered in a different category. And I agree. As he has mentioned in the opening statement, there is a limitation in the law of 15 percent of your annual income that can be given in this fashion. So we don't anticipate any type of abuse in this area.

I thank Senator GRASSLEY. It is a pleasure to serve with him and work with him. We have more to follow on the bankruptcy issue, but I am anxious to encourage my Democratic colleagues today to join with us in voting for this legislation.

Mr. SARBANES. Will the Senator yield?

Mr. DURBIN. I will be happy to yield to the Senator from Maryland.

Mr. SARBANES. I am prompted by something the ranking member of the subcommittee said which leads me to put an inquiry to him and to Senator GRASSLEY.

There are a number of bankruptcy districts in the country that are facing very serious problems in handling their caseload. I have been in frequent communication with the subcommittee about this, and obviously my district is one of them. It has consistently now, for 4 or 5 years, ranked at the very top of case overload of all bankruptcy districts in the United States. Every study that has been made has recommended additional bankruptcy judges, and I note for a fact that the existing bankruptcy judges in my district are severely overworked. This is denying economic justice to both creditors and debtors. It is a matter which needs to be addressed. It is a pressing crisis.

Now, the House sent over to us some time ago legislation providing for some additional judges based on comprehensive studies undertaken by the Administrative Office of the Courts and by others. This session is moving along. If we don't get some relief, we are going to continue to have this extraordinary situation which exists in quite a number of districts across the country in terms of reducing their backlog. It is a very severe problem in a number of districts.

I am prompted by Senator DURBIN's reference, and Senator GRASSLEY's assent to it, as I understood it, there is more to follow. So I just put the inquiry whether this is one of the matters to follow. I would certainly hope so.

Mr. DURBIN. Mr. President, if I might say in response to my friend, the Senator from Maryland, I agree with him completely. We now know that the caseload in bankruptcy courts has been growing every single year. It really taxes the system, and if not in this legislation, in the following bill I hope we will provide the resources to make sure the bankruptcy courts can respond.

Mr. GRAMS. Mr. President, I rise in strong support of Senator GRASSLEY's bill, S. 1244, which exempts individual tithes to churches from bankruptcy proceedings. The exemption is up to 15 percent of income to prevent abuse.

This problem was brought to my attention by the Crystal Evangelical Free Church in Minnesota, which prompted my cosponsor of this important legislation. The Church was sued and required to repay tithes given to it by individuals who had declared bankruptcy. Churches depend on tithes for their income to operate effectively. They should not be liable for debt repayment of their parishioners.

This legislation is needed to protect churches from this kind of abuse. It is the right thing to do. I commend the Senator from Iowa for his effective leadership on this issue.

Mr. HATCH. Mr. President, I ask for the yeas and nays on the bill.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There seems to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the committee amendment is agreed to and the bill is read the third time. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—1

Kohl

The bill (S. 1244), as amended, was passed.

Mr. SESSIONS. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business until the hour of 2 p.m. today, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1260

Mr. DOMENICI. Mr. President, I ask unanimous consent that at 2 o'clock, the Senate begin consideration of S. 1260 under the consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2072 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

EQUITY IN PRESCRIPTION AND CONTRACEPTION COVERAGE ACT

Mr. REID. Mr. President, yesterday's USA Today headline: "Viagra heightens insurance hopes for comfort care." The first paragraph says:

> While health insurers try to decide whether to pay for the impotence drug Viagra, a poll shows half of Americans think men should pay for it themselves.

Mr. President, I will bet those half are women. Women have really been treated unfairly in this. Senator OLYMPIA SNOWE and I introduced legislation last May, the Equity in Prescription and Contraception Coverage Act, which in effect said that health care providers that provide prescription drugs should also provide contraceptives.

We have waited a year. We have not been able to even get a hearing on this. The reason I am here today is to speak for American women who have been treated so unfairly by male-dominated legislatures for the last many decades.

Women pay about 70 percent more for their health care than do men, mostly related to reproductive problems. We have a situation where we have 3.6 million unintended pregnancies in this country every year. And 45 percent of them wind up in abortions. We find these insurance companies, these health care providers, will pay for a tubal ligation, they will pay for abortions, they will pay for a vasectomy, but they will not provide money for the pill.

An average pregnancy, unintended pregnancy, in this country costs an average of about $1,700. I say, why can't we talk about something other than what helps men? Viagra is in all the newspapers, trying to make a decision as to whether or not insurance companies should pay for this. Why don't we talk about why insurance companies shouldn't pay for contraceptives, health care providers shouldn't pay for contraceptives? It seems that would be a step in the right direction. Over half of the insurance companies, health care providers, do not cover this.

Our legislation, that of the senior Senator from Maine and me, would require insurers, HMOs, and employee health benefit plans that offer prescription drug benefits to cover contraceptive drugs approved by the FDA. This is long overdue.

I am just telling everyone here that if we do not have the benefit of some hearings on this—the senior Senator from Maine and I have written letters, and we have asked people, and we cannot get the benefit of a hearing. This should not be. It would seem to me we should have a hearing with the Labor and Human Resources Committee.

I have had the benefit of speaking to the senior Senator from Pennsylvania, who has been very concerned about issues like this in the past. And at last resort, we will go to the Appropriations Committee and have a hearing there. We should not have it there, but at last resort we will have it there. I do not think it is appropriate that we have to legislate on appropriations bills, but as a member of the Appropriations Committee, on this, I am going to offer an amendment on the appropriate bill if we do not get some action by the proper authorizing committee. This is simply unfair—unfair—what is going on.

The same newspaper yesterday, in a different article, said:

> Health insurers that cover the new impotence drug Viagra but don't pay for female contraception are guilty of "gender bias," says the American College of Obstetricians and Gynecologists today.
>
> "Pregnancy is a medical condition, just like impotence. And the cost benefit of preventing pregnancy is much greater than treating impotence," says ACOG spokeswoman Luella Klein of Emory University.

Mr. President, it simply is unfair. Over this last decade, we have moved forward a little bit with the help of the junior Senator from Maryland, Senator MIKULSKI. She and I have worked together. We now have a program at the

National Institutes of Health that deals with women's conditions.

But, Mr. President, over the years diseases that afflict women have been ignored. Interstitial cystitis—it is a disease that afflicts 500,000 women in America, a very serious disease of the bladder—until 8 years ago, there was not a penny spent on it for research. They said it was in a woman's head. They learned that is not the case. Now, as a result of work done at the National Institutes of Health, they have a drug that cures the effects of this on 40 percent of the women.

Multiple sclerosis, intercervical and ovarian cancer, and breast cancer, and lupus—these diseases, for research, are basically ignored because they are diseases basically related to women principally.

I am saying here, this is really unfair what is going on here. We are spending so much time with all kinds of jokes on all the talk radio programs, all the TV programs, about Viagra. But it is not a joke that we have over 3.6 million unintended pregnancies, with 44 percent ending in abortion, in this country. And a lot of them are caused simply—in fact, the majority of them—simply because women cannot afford things like the pill.

We have to do something. Not only does it affect that, Mr. President, but a reduction in unintended pregnancies will lead to a reduction in infant mortality, low-birth-weight babies, and maternal morbidity. In fact, the National Commission to Prevent Infant Mortality determined that, "Infant mortality could be reduced by [more than] 10 percent if all women not desiring pregnancy used contraception."

So I think it is, again, unfair that tubal ligation, abortion, vasectomies, are covered and the pill, contraceptives, and contraceptive devices are not covered. In my opinion, we need to move this forward. We have the support of approximately 35 Senators in this body. We need a hearing, and we need to have this legislation passed.

I express my appreciation to the Senator from New York for allowing me to go before him.

The PRESIDING OFFICER. The Senator from New York is recognized.

NUCLEAR TESTING IN INDIA

Mr. MOYNIHAN. Mr. President, as the Senate will know, the Government of India has announced that two further underground nuclear tests occurred at 3:51, eastern daylight time, this morning. These follow the three underground explosions announced on Monday.

Now, this might at first seem a reckless act on the part of the Government of India. But, sir, I would call attention to a statement in an Associated Press report which reads, "The Government said its testing was now complete and it was prepared to consider a ban on such nuclear testing."

Sir, this could be a statement of transcendent importance. It would be useful at this time, when tempers—and I use the word "temper"—are rising in the West, to recall the outrage when France carried out a series of underwater tests in the South Pacific in Mururoa Atoll on September 5, 1995, to the indignation of many other nations, but thereupon signed the Comprehensive Test Ban Treaty the following year. And, sir, it has not only signed that treaty, it has ratified it.

The United States was among the convening nations in 1996 that signed the treaty, but this Senate has not ratified the treaty. The People's Republic of China followed much the same course in completing a series of tests and then agreeing to the test ban treaty.

Just now the press is reporting all manner of administration officials are distressed that the Central Intelligence Agency did not report indications that these tests were about to take place and that somehow we were taken off guard. But I repeat a comment I made to Tim Weiner of the New York Times yesterday that it might help if the American foreign relations community would learn to read.

The BJP Party, the Bharatiya Janata Party—now in office for essentially the first time—leads the ruling coalition and has long been militantly asserting that India was going to be a nuclear power like the other great powers of the world. It is the second most populous nation. In the election platform—technically, a manifesto in the Indian-English usage—issued before the last election, the BJP had this to say: "The BJP rejects the notion of nuclear apartheid and will actively oppose attempts to impose a hegemonistic nuclear regime. . . We will not be dictated to by anybody in matters of security requirements and in the exercise of the nuclear option."

This is hugely important, as is indicated by the enormous ground swell of support in India itself in the aftermath of Monday's explosion.

In the platform put together by the coalition that now governs in India, there is a statement, not quite as assertive, but not less so. This is the National Agenda for Governance, issued 18 March 1998. It says, "To ensure the security, territorial integrity and unity of India we will take all necessary steps and exercise all available options. Toward that end we will re-evaluate the nuclear policy and exercise the option to induct nuclear weapons." That is an Indian-English term, "induct," as in induction into the military. It means to bring them into an active place in the Nation's military arsenal.

Now, the President, who is in Germany, announced today that we would impose the sanctions required under law, the Glenn amendment of 1994, directed against non-declared nuclear nations that begin nuclear testing. This is the law and the Indians knew it perfectly well, even if we have, perhaps, been insufficiently attentive to bringing to their minds the implications of the law. Chancellor Kohl—Germany being a large supplier of aid to India—was with President Clinton when this was said. We should not underestimate the degree to which this might just arouse further resentment in India.

The law is there, but also the resentment is there. In this National Agenda for Governance that I just recited, there are a number of platform "planks," you might say principles. The second on economy reads: "We will continue with the reform process to give a strong Swadeshi thrust to ensure that the national economy grows on the principle that India shall be built by Indians." Swadeshi is a turn of the century term of the independence movement meaning self-reliance, use indigenous materials, sweep imports out.

They are not going to be as intimidated by sanctions as we may suppose. This is the first Hindu government in India in perhaps 800 years. We tend to forget that. When we go to visit India, distinguished persons are taken to view the Taj Mahal, the Red Fort, the India Gate. All those are monuments by conquerors—Islamic, then English. It is something we don't notice. They do. And after 50 years of Indian independence, founded by a secular government which denied all those things, there is now a Hindu government and its sensibilities need to be attended to if only as a matter of common sense.

Do we want India in a system of nuclear arms control or don't we? I think we do. I think we ought to encourage them and explore the implications of the statement reported by the Associated Press. And while we are at it, it would do no great harm to ratify the Comprehensive Test Ban Treaty ourselves.

I see my friend from Nebraska is on the floor. I look forward to a comment he might make.

Mr. KERREY. Mr. President, I want to ask the Senator a question. First of all, I don't think there is anybody in the Senate who has been more consistently critical of the Central Intelligence Agency and has been more diligent in trying to change the way we classify documents. I find both of them to be a bit connected to his comments.

One of the concerns I have in all this is that we look for a scapegoat. Now, one of the things that citizens need to understand is that increasingly we are getting our intelligence through open sources. That is good because when you get your information through open sources there is a debate. Is what somebody said true or not true—and you debate such things.

I quite agree with what the Senator said earlier that for us to be going at the CIA right now because they didn't report this is a little ridiculous. All we have to do is read articles of John Burns over a half dozen months.

Mr. MOYNIHAN. Of the New York Times.

Mr. KERREY. If we head in the direction of finding a scapegoat here what we will miss is an opportunity to debate what our policy ought to be toward the largest democracy on Earth. In addition to the other things that the Senator said about India, this is also the largest democracy. A billion people live in India. Not an easy country to govern.

They have a Hindu nationalist party that campaigned on a platform, and that platform was that nuclear testing would resume. They were not secretive about that. They did not operate in the shadows on that. They were upfront and they followed through.

It seems to me we should blame ourselves for not paying attention to what is going on there and blame ourselves for not giving enough consideration or concern about the direction of the largest democracy on Earth.

The PRESIDING OFFICER. The Chair advises the Senator his 10 minutes has expired.

Mr. MOYNIHAN. I ask for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. I am at the end of my question, Mr. President.

I just wanted, in addition to making the point that the distinguished Senator has been very critical of the CIA—and I think he is quite right in this particular instance to say though we may need some questions answered, the biggest question is why didn't anybody in either the administration or in this Congress notice that the Hindu nationalist party had campaigned on a promise to make India a nuclear power. What does the distinguished Senator from New York think this Congress needs to do to make certain that we are paying attention in the aftermath of these sanctions to what India is doing, to make certain that, first, we don't miss an opportunity to get them to ratify this treaty, and in addition, to get them to do a number of other things that not only would be in their best interests, but to be in our best interests, as well, since a third of the Earth's population lives between India and China in this very, very volatile region to which we obviously have not paid a sufficient amount of attention.

Mr. MOYNIHAN. Well, I would say to my gallant, able friend that the Intelligence Committee could do worse than inviting some of the administration officials who are so indignant that the CIA didn't tell them what was going to happen up to say: have you read any Indian newspaper recently? Do you happen to know what the largest democracy in the world is and who they elected in the last election? Have you looked into their party platforms.

Mr. KERREY. Personally, I think it would be a waste of money to direct the CIA to read the New York Times and report to us what is contained in there relevant to any part of the world, let alone in India.

Mr. MOYNIHAN. I much agree. May I say to my friend that I was Ambassador to India on May 18, 1974, when the Indians exploded a "peaceful" nuclear explosion, as they said, in India on the same testing grounds used this time. It fell on me to call on then Prime Minister Gandhi to express our concerns. I have to say that Secretary Kissinger was mild; he toned down the indignation that came from the Department of State in his draft statement. I did say to Mr. Gandhi on that occasion, speaking for myself, without instructions, that India had made a great mistake, that it was the No. 1 country in south Asia, the hegemonic country in South Asia, Pakistan No. 3, if you like, then you go down to the Maldives, Bangladesh, and Sri Lanka; but in 25 years time there would be a Mongol general in Islamabad with a nuclear capacity, saying, I have got four bombs and I want the Punjab back and I want this region or that region, the Kashmir, or else I will drop them on what was then Bombay, New Delhi, Madras and Calcutta.

Well, something like that is happening and we better see that it doesn't go forward. So to explore the Indian offer here, suggesting the offer, seems to me, a matter of huge importance. We could see the end of the cold war, followed by a nuclear proliferation of a kind we never conceived. We can see China, North Korea, and Pakistan arming in nuclear modes against India and Russia and us looking at an Armageddonic future that we had felt was behind us.

Mr. KERREY. Mr. President, I know the distinguished Senator from Pennsylvania has come here for other reasons. He used to be chairman of the Intelligence Committee. I know from listening to him that he has an active interest in this issue as well. I have heard him comment many times. In fact, he asked the administration officials why they don't attempt to resolve the conflicts between India and Pakistan and India and China, and why do we not pay more attention to it. I suspect the Senator from Pennsylvania would rather not spend too much time commenting on it, but by coincidence, we have another individual on the floor who has an active interest in this issue.

Mr. MOYNIHAN. Mr. President, I thank my friend. I ask unanimous consent that the time from 1:45 p.m. to 2 o'clock be reserved for the Senator from Minnesota, Mr. WELLSTONE.

The PRESIDING OFFICER (Mr. GREGG). Is there objection?

Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair and yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

NUCLEAR PROLIFERATION

Mr. SPECTER. Mr. President, I commend my colleague from New York for his comments about the problems with nuclear proliferation. I thank my colleague from Nebraska for commenting about discussions that we have had over the years about the issues of proliferation of weapons of mass destruction.

I intend to speak directly to a subject that I had talked to the Senator from Nebraska about, and that is the need to have activism by the President of the United States in trying to deal with nuclear proliferation on the subcontinent. In fact, Senator Hank Brown and I had visited with Indian Prime Minister Rao in August of 1995 and also with Pakistani Prime Minister Benazir Bhutto. I then wrote to the President on this precise subject. I intend to discuss that at some length during the course of the remarks that I am about to make.

I believe that the nuclear detonation in India makes it more important than ever that the United States move ahead with leadership to try to defuse the proliferation of weapons of mass destruction, and that the Senate should act promptly to ratify the Comprehensive Test Ban Treaty.

We have had, already, in the course of the last 24 hours, indications of a chain reaction. We have had a response from Pakistan that they may well, too, test nuclear weapons. We have had a report from North Korea, which appears in this morning's press, that "North Korean officials have announced that they are suspending their efforts to carry out the 1994 nuclear freeze agreement that was intended to dismantle North Korea's nuclear program. United States officials said the program was intended to produce weapons in North Korea."

So we see what is happening on the international scene. There needs to be a very positive response by the United States to the likes of these very, very threatening developments.

As I started to comment earlier, Mr. President, Senator Hank Brown and I had occasion to meet with both the Indian Prime Minister and the Pakistani Prime Minister back on August 26 and 27 of 1995. It is summarized best in a letter that I wrote to the President from Damascus, dated August 28, 1995, which reads as follows:

> I think it important to call to your personal attention the substance of meetings which Senator Hank Brown and I have had in

> the last two days with Indian Prime Minister Rao and Pakistan Prime Minister Benazir Bhutto.
>
> Prime Minister Rao stated that he would be very interested in negotiations which would lead to the elimination of any nuclear weapons on his subcontinent within ten or fifteen years including renouncing first use of such weapons. His interest in such negotiations with Pakistan would cover bilateral talks or a regional conference which would include the United States, China and Russia in addition to India and Pakistan.
>
> When we mentioned this conversation to Prime Minister Bhutto this morning, she expressed great interest in such negotiations. When we told her of our conversation with Prime Minister Rao, she asked if we could get him to put that in writing.
>
> When we asked Prime Minister Bhutto when she had last talked to Prime Minister Rao, she said that she had no conversations with him during her tenure as Prime Minister. Prime Minister Bhutto did say that she had initiated a contact through an intermediary but that was terminated when a new controversy arose between Pakistan and India.
>
> From our conversations with Prime Minister Rao and Prime Minister Bhutto, it is my sense that both would be very receptive to discussions initiated and brokered by the United States as to nuclear weapons and also delivery missile systems.
>
> I am dictating this letter to you by telephone from Damascus so that you will have it at the earliest moment. I am also telefaxing a copy of this letter to Secretary of State Warren Christopher.

When the news broke about the action by the government of India in detonating the nuclear weapon, I wrote to the President yesterday as follows:

> With this letter, I am enclosing a copy of a letter I sent to you on August 28, 1995, concerning the United States brokering arrangements between India and Pakistan to make their subcontinent nuclear free.
>
> You may recall that I have discussed this issue with you on several occasions after I sent you that letter. In light of the news reports today that India has set off nuclear devices, I again urge you to act to try to head off or otherwise deal with the India-Pakistan nuclear arms race.
>
> I continue to believe that an invitation from you to the Prime Ministers of India and Pakistan to meet in the Oval Office, after appropriate preparations, could ameliorate this very serious problem.
>
> I am taking the liberty of sending a copy of this letter to Secretary Albright.
>
> Sincerely.

When I discussed the meeting which Senator BROWN and I had with both Prime Ministers in late 1995, the President said that was an item which he would put on his agenda following the 1996 elections. Since those elections, I have had occasion again to talk to the President about this subject, and he expressed concern as to what the response of the Senate would be and what would happen with respect to the concerns of China. I expressed the opinion to President Clinton that I thought our colleagues in the Senate would be very interested in moving ahead to try to diffuse the obvious tension between India and Pakistan on nuclear weapons.

That is all prolog. What we have now is a testing of a nuclear device by India as a matter of national pride. And I think that is what it is.

The new Government of India did give adequate notice, although, here again, I believe there might have been some sharp focus of attention by the CIA. Perhaps it is necessary to talk to the White House even about columns which appear in the New York Times, or some formal way to warn of this threat in a more precise and focused manner, although I quite agree with what the Senator from Nebraska, Senator KERREY, said—that it was obvious what the Government of India had intended to do.

But as I say, that is prolog. Now I think there is an urgent necessity for leadership from the President to try to diffuse this situation. At the same time, Mr. President, I think there is an urgent need that the Senate of the United States proceed to the consideration and ratification of the Comprehensive Test Ban Treaty. The essence of that treaty provides that it is an obligation not to carry out any nuclear weapon test explosion or any other nuclear explosion. That treaty has been considered by a number of countries, has been ratified by many countries, but it is still awaiting action by the United States.

The Senate Governmental Affairs Subcommittee on International Security, Proliferation and Federal Services held a hearing on this subject on October 27, of last year and March 18, of this year, and the Senate Appropriations Subcommittee on Energy and Water Development held a similar hearing on October 29 of last year. But as yet, there has been no action by the Foreign Relations Committee. It seems to me imperative that the matter be brought to the Senate floor as early as possible and whatever hearings are deemed necessary be held so that the Senate may consider this matter.

There are some considerations as to objections to the treaty as to whether we can know in a comprehensive way the adequacy of our nuclear weapons. But it seems to me that whatever the arguments may be, they ought to be aired in a hearing process before the Foreign Relations Committee and on the floor of this Senate and then brought for a vote by the U.S. Senate.

This is a matter of life and death. When we talk about nuclear weapons, we are talking about the force and the power which can destroy civilization as we know it. During the tenure that I had as chairman of the Senate Intelligence Committee, I took a look at the governmental structure in the United States on weapons of mass destruction, saw that some 96 separate agencies had operations, and, in conjunction with the then-Director John Deutch, inserted the provision to establish the commission to consider the governmental structure of the United States in dealing with weapons of mass destruction. That commission is now in operation. John Deutch is the chairman and I serve as vice chairman.

But it is certainly necessary that matters of this magnitude receive early attention at all levels of the government, including the President and the U.S. Senate. Where there is concern in the Senate on the subject of testing to know the capabilities of our weapons, it should be noted that article X of the Comprehensive Test Ban Treaty does provide for the right to withdraw if the Government decides that extraordinary events relating to the subject matter of this treaty would jeopardize the supreme interests, referring to the supreme interests of any nation. President Clinton has stated that he would consider withdrawing if we came to that kind of a situation.

President Clinton signed the Comprehensive Test Ban Treaty on September 24, 1996. Now we are more than a year and a half later without any real significant action having been taken by the U.S. Senate.

The 149 states have signed the treaty, and 13 have ratified it as of April of 1998. There is obviously a problem with what is going to happen with Iraq, Iran, or other countries which seek to develop nuclear weapons. There is obviously a problem with other nations which have nuclear weapons. But the ban on nuclear testing would certainly be a significant step forward in diffusing the situation and in acting to try to have comprehensive arms control on this very, very important subject.

I urge the President to take action, to use his good offices with sufficient preparation, as noted in my letter to him of yesterday, for a meeting in the Oval Office. Very few foreign leaders decline meetings in the Oval Office. That should be of the highest priority on the President's agenda, and similarly on the Senate agenda. Consideration and ratification of the Comprehensive Test Ban Treaty ought to be a very high priority on the Senate's agenda.

Mr. President, in the absence of any other Senator on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECURITY OF ISRAEL

Mr. SPECTER. Mr. President, I have again sought recognition to comment on the issue relating to the conditions which have been set by the U.S. Government on a further meeting with

Israeli Prime Minister Netanyahu and the difference of opinion of what is adequate to handle the security interests of the State of Israel. It is my view that it was inappropriate and counterproductive for the U.S. Government to deliver what I consider to be an ultimatum to Prime Minister Netanyahu that he accept the further redeployment of Israeli forces as a precondition to come to Washington to meet with the President on last Monday, May 11.

Secretary of State Albright briefed a number of Senators yesterday in a room, S. 407, where we have secret discussions, and at that time the Secretary of State said that she had not delivered an ultimatum but instead had stated conditions which would have to be met before the United States would continue to carry forward with the peace process on the current track.

I responded to the Secretary of State that I thought it wasn't even a difference of semantics to say that a condition on further discussions did not constitute an ultimatum, that in fact it was clearly an ultimatum in those discussions.

If the diplomacy is carried out in a quiet way, so be it. But when diplomacy is carried out publicly and where the Prime Minister of another country is put in the position where the Prime Minister has to back down, it seems to me totally counterproductive and unlikely to produce a result where there will be agreement or compliance even if Prime Minister Netanyahu had wanted to do that.

When it comes to the question of the security interests of Israel, I do not believe that anybody can second-guess the security interests of Israel except the Israelis and their Government. The view from the Potomac is a lot different than the view from the Jordan River as it has been said on many, many occasions. And Israel has been fighting more than 100 million Arabs for more than 50 years. They have won quite a number of wars, but they only have to lose one war before it is all over.

Secretary of Defense William Cohen appeared today before the Defense Appropriations Subcommittee, and I asked the Secretary of Defense whether he or anybody in his department had carried out an analysis as to the adequacy of security for Israel if Israel agreed to the proposal of the administration. I commented in the course of that question that I would not think, even if the United States had made that kind of a determination, it would be binding and might not even be relevant as to what Israel thought was necessary for its own security. Secretary of Defense Cohen said that no such analysis had been made on his part. But it would seem to me that as an indispensable prerequisite for the U.S. Government to take a position that Israel ought to have certain withdrawal at least there ought to be a professional determination that the withdrawal would be consistent with Israel's security interests. But as I say, the Secretary of Defense had not undertaken that kind of an analysis.

I submit that the issue of Israel's security is something that has to be judged by the Government of Israel. There is no doubt about the friendship and support of President Clinton's administration for Israel. I do not question that for a minute. But where you have the negotiations at a very, very critical point and public statements are made as a precondition which is realistically viewed an ultimatum, pure and simple, that is totally wholly inappropriate. It is my hope that these peace negotiations can be put back on track. I know that the Secretary of State is going to be meeting with Prime Minister Netanyahu later today. The Appropriations Committee has a meeting scheduled with Prime Minister Netanyahu tomorrow. I hope we can find our way through these negotiations and put the peace negotiations back on track.

I think it is a very difficult matter because while the administration is pressing Israel for a certain level of withdrawal, there are many items which are not being taken care of by the Palestinian authority.

Last year, Prime Minister Netanyahu had said that Arafat had given a green light to certain terrorist activities by the Palestinian Authority. And when Secretary of State Albright was before the Foreign Operations Subcommittee, I asked the question as to whether there had been, in fact, a green light given by Chairman Arafat, as charged by Prime Minister Netanyahu. Secretary of State Albright made the statement that it wasn't a green light, but there wasn't a red light either.

I think it is mandatory that the Palestinian Authority give such a red light. They cannot be guarantors, but a red light and their maximum effort to stop terrorism is required. Under the provisions of an amendment introduced by Senator SHELBY and myself, that kind of a maximum effort against terrorism is a precondition for getting any aid from the United States.

So, these matters are obviously delicate. They require a lot of diplomatic tact. It is my hope that the current stalemate can be surmounted, but I think it can be surmounted only if there is a recognition, as former Secretary of State Warren Christopher had, that security is a matter for the discretion of Israel—it is Israel's security—and that no ultimatum be issued, or at least no precondition be issued, before the Prime Minister of Israel can proceed to have a meeting or negotiations with the United States.

In the absence of any other Senator on the floor seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COATS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL URBAN LEAGUE ENDORSES FAIR MINIMUM WAGE

Mr. KENNEDY. Mr. President, President Clinton and Democrats in Congress strongly support a fair increase in the minimum wage. The economy is in a period of record growth. The stock markets are at an all time high. Unemployment continues to fall to its lowest level in a quarter century. Yet, too many workers on the bottom rungs of the economic ladder are not receiving their fare share of this prosperity.

Most Americans recognize that the minimum wage is not yet a living wage. According to an April NBC/Wall Street Journal Poll, 79 percent of those questioned support an increase.

Time and again, opponents state that increases in the minimum wage are harmful to the economy, and especially harmful to minority communities. But such statements have no basis in fact, as the current evidence makes clear.

In his recent "To Be Equal" column published in over 300 African-American newspapers across the country, Hugh Price, President of the National Urban League, strongly endorses the increase in the minimum wage that many of us have proposed, from its current level of $5.15 an hour to $5.65 an hour on January 1, 1999 and to $6.15 an hour on January 1, 2000. The National Urban League has played a prominent role in the civil rights community for over 80 years. Its 114 affiliates in 34 states and the District of Columbia are at the forefront of the battle for economic and social justice for all Americans.

Raising the minimum wage is a central part of the civil rights agenda to improve the economic condition of the working poor. I am proud that our legislation has the strong support of this renowned organization, and I ask unanimous consent that Hugh Price's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

A DECENT INCOME FOR LOW-WAGE WORKERS

(By Hugh B. Price)

With all the hurrahs over the astonishing current performance of the American economy—the so-called Long Boom—it's easy to forget that portion of the nation's workforce which has hardly shared in the general prosperity: the 12 million Americans who wages range from the current minimum wage of $5.15 an hour up to $6.14 an hour.

That sum, earned by people who work in such low-skill positions as fast-food worker and teacher's aide, adds up to a paltry annual income indeed. The average American worker's hourly wage is $12.64 an hour. But an individual working at the minimum wage for 40 hours a week, 52 weeks a year, earns only $10,712 annually—an income that is $2,600 below the federal government's poverty line for a family of three.

That fact, coupled with recent cuts in welfare and Food Stamps programs, has driven increasing numbers of the working poor to emergency food banks and pantries: A 1996 U.S. Conference of Mayors survey found that 38 percent of those seeking emergency food aid hold jobs, up from 23 percent in 1994; and more and more private charities are saying they can't meet the greater demand on their resources.

We must help Americans who work but often endure great privation move closer to a decent, livable wage. We can do that by supporting legislation in Congress raising the minimum wage to a threshold of $6.15 an hour. Senator Ted Kennedy (D.-Mass.) will try to bring the measure, which has President Clinton's backing, before the Senate after Memorial Day Congressional recess. Representative David Bonior (D.-Mich.) will lead the effort for it in the House. The proposed law would raise the minimum wage by 50 cents each year for 1999 and 2000.

We should raise the minimum wage because it's only fair: hard work deserves just compensation at the bottom as well as the top of the salary ladder.

We know from the experience of the 90-cents minimum-wage hike President Clinton signed into law in 1996 that minimum-wage increases benefit the people who need it most—hardworking adults in low-income families. Based on federal labor department statistics, the Economic Policy Institute, a Washington think tank, found that nearly 60 percent of the gains from that minimum wage hike has gone to workers in the bottom 40 percent of the income ladder. Raising the minimum wage by $1 will help insure that parents who work hard and play by the rules, and who utilize the Earned Income Tax Credit, can bring up their children out of poverty.

Contrary to a widespread view, federal statistics show that most workers earning the minimum wage are adults, not teenagers. Half of them work full time, and another third work at least 20 hours a week. Sixty percent of those earning the minimum wage are women; 15 percent are African-American, and 14 percent are Hispanic.

Our recent experience has shown that raising the minimum wage in an era of strong and balanced economic expansion won't undermine job growth. The hike President Clinton signed into law in August 1996 increased the wages of 10 million workers. Since then, the economy has created new jobs at the very rapid pace of 250,000 per month, inflation has declined from 2.9 percent to 1.6 percent, and the unemployment rate has fallen to 4.6 percent—its lowest level in nearly 25 years.

Some have expressed concern that raising the minimum wage will make it even harder than it routinely is for young black males to find work. Of course, the unemployment rate of black males 16 to 19 years of age remains dangerously high: for 1997 it was 36.5 percent. But the minimum wage itself is hardly a significant cause of this decades-old problem, as we've noted before. Keeping the wages of all low-income workers at subsistence levels will likely only exacerbate the employment problems of young black males—and of the communities they live in.

Increasing the minimum wage now would restore its real value to the level it last held in 1981, before the inflation of the 1980s drove it down. We further recommend that Congress index the minimum wage to inflation starting in the year 2001 to prevent a further erosion of its value. Low-wage workers should be treated no differently than other, higher-income workers who annually receive at least cost-of-living increases in their salaries. With our economy in such glowing health, there could be no better time to raise the minimum wage. As President Clinton urged in his State of the Union Address: "In an economy that honors opportunity, all Americans must be able to reap the rewards of prosperity. Because these times are good, we can afford to take one simple, sensible step to help millions of workers struggling to provide for their families: We should raise the minimum wage."

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 12, 1998, the federal debt stood at $5,491,841,497,777.68 (Five trillion, four hundred ninety-one billion, eight hundred forty-one million, four hundred ninety-seven thousand, seven hundred seventy-seven dollars and sixty-eight cents).

One year ago, May 12, 1997, the federal debt stood at $5,334,445,000,000 (Five trillion, three hundred thirty-four billion, four hundred forty-five million).

Five years ago, May 12, 1993, the federal debt stood at $4,245,570,000,000 (Four trillion, two hundred forty-five billion, five hundred seventy million).

Ten years ago, May 12, 1988, the federal debt stood at $2,510,382,000,000 (Two trillion, five hundred ten billion, three hundred eighty-two million).

Fifteen years ago, May 12, 1983, the federal debt stood at $1,258,875,000,000 (One trillion, two hundred fifty-eight billion, eight hundred seventy-five million) which reflects a debt increase of more than $4 trillion—$4,232,966,497,777.68 (Four trillion, two hundred thirty-two billion, nine hundred sixty-six million, four hundred ninety-seven thousand, seven hundred seventy-seven dollars and sixty-eight cents) during the past 15 years.

Mr. WELLSTONE. Mr. President, I believe that I have reserved 15 minutes, up to 2 o'clock, to speak. I ask unanimous consent that I be able to use this 20 minutes, up to 2, to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, there are two topics that I would like to cover. I have been trying to get to the floor for 2 days. I will not give either one of them the justice they deserve, but I shall do my best.

The PRESIDING OFFICER. The Senator is recognized.

THE MIDDLE EAST PEACE PROCESS

Mr. WELLSTONE. Mr. President, as a long-time supporter of Israel and her security, and as a fierce advocate of the Middle East peace process, I commend President Clinton, Secretary Albright, Ambassador Ross, and Assistant Secretary Indyk for their ongoing efforts to preserve and even reinvigorate the stalled peace process. As a member of the Foreign Relations Committee, as a Jewish Senator, as someone who loves Israel, I have followed this latest round of negotiations carefully. I care fiercely about what happens. And I thank the administration for staying engaged and for making a commitment to a peace process that Prime Minister Rabin gave his life for. I will never forget my visit to Israel for his funeral service. It was so moving to hear his granddaughter speak about him. I really hope and pray that we will have a peaceful resolution in the Middle East. I think it will be important for the Israeli children and the Palestinian children, and the children of other Middle Eastern countries as well.

I have watched with growing concern, over the past several weeks, as some critics of the administration's policy toward Israel here in the Congress have launched fierce partisan attacks on the policy. Speaker GINGRICH last week was even quoted as saying, in a press conference in which he criticized the administration's recent handling of the peace process, "America's strong-arm tactics would send a clear signal to the supporters of terrorism that their murderous actions are an effective tool in forcing concessions from Israel."

Mr. President, I think that is a demagogic accusation leveled at the President. I believe that the administration is trying to do the right thing. I point out that public opinion polls show that the majority of the people in our country believe that the administration is doing the right thing by continuing to put proposals out there, by trying to get this peace process going.

The administration has presented no ultimatums. It cannot force either party to do what it has no intention of doing. But I think this is courageous on the part of the administration. Quite often I am critical of this President, but I believe they are doing the right thing. The majority of the people in the country believe so, and the majority of the American-Jewish community, of which I am proud to be a member, also believe they are doing the right thing.

President Netanyahu is meeting with Secretary Albright. It is my hope that they will have fruitful discussions. I think it is terribly important that this happen.

Let me make three points by way of conclusion: First of all, the administration, as I mentioned a moment ago, is not issuing threats. However, the Bush administration—and I don't mean this as a partisan point, but the Bush administration in connection with policy on settlements did threaten to cut off aid to Israel. There have been no conditions of this kind, putting aside whether the Bush administration was right or wrong to do that.

I also remind colleagues that this peace process is critically important, that it is important that we bridge the gaps, that the United States be a neutral mediator, that we continue to be a third party to which both parties can speak.

Finally, I will simply say that all of us ought to contemplate for a moment what will happen if the administration does not press to preserve this process and if this peace process collapses. I think the alternative scenario, which I shudder to think about, would be an escalation of terrorist attacks, with Israel facing newly hostile Arab neighbors on all sides and increased pressure from the Arab street for violent action against her. It is frightening to consider. I don't think that stalemate or the status quo is acceptable—I believe it is unthinkable. I think it is terribly important the United States continues to show leadership in this process.

Mr. President, this recent crisis in the peace negotiations coincides with Israel's celebration of her 50-year jubilee, an occasion of great joy for all of us who love Israel.

With the founding of modern Israel, the children of Abraham and Sarah, survivors of over 2,000 years of persecution and exile, were home at last and they were free at last. But the dream of Israel's founder, David Ben-Gurion, and that of his allies was not simply to provide a safe haven from centuries of Jewish suffering, it was also about fulfilling Isaiah's prophecy of making Israel "a light unto the nations," a powerful sign and symbol of justice and compassion to all people of the world.

Although it is fitting to pause to celebrate what all the people of Israel have accomplished over the last 50 years, we must also look forward to the tasks which face her in the next millennium, chief among them the task of building a just, secure and lasting peace.

It is my deepest prayer that our children and grandchildren, 50 years from this year, will be able to say with gratitude that we were the generation which overcame ancient hatreds and enabled them to achieve a just and lasting peace which has by then embraced the entire region and all the peoples. That is a vision worthy of Israel's founder and of all of us who come after. It is a vision for which we should and we must be willing to struggle, to fight for and for which all of us must take risks.

I come to the floor to say that I do not believe there would be anything more important than to forge a just and lasting peace for the region. This would truly be worthy of the dream of Israel's founder.

Mr. President, I speak out on the Middle East peace process, again, because I think there has been entirely too much personal attack and I believe it is terribly important that all of us who are committed to the peace process not be silent.

(The remarks of Mr. WELLSTONE pertaining to the introduction of S. 2074 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WELLSTONE. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has approximately 2 minutes left.

Mr. WELLSTONE. In the 2 minutes I have left, I am going to take advantage of being on the floor of the Senate. After all, I always say to my family, you know, I get to speak on the floor of the Senate. That is a huge honor.

PERSECUTION IN INDONESIA

Mr. WELLSTONE. Mr. President, let me just point out to colleagues that six students were murdered by the Suharto regime. I came out on the floor 2 days ago and talked about the fact that this could happen. These students committed no crime except to courageously say there ought to be freedom in that country. They have had the courage to challenge this government and to speak up for freedom for citizens in Indonesia and for democracy, and to end the persecution against people. And for that, they now have been murdered.

I believe that our Government ought to—we ought to use our maximum leverage with international institutions, the International Monetary Fund, the World Bank, to make it clear to Suharto that he does not get financial assistance when he murders his citizens.

We ought to, as a government, speak up on this. We should not be silent. And we should support these courageous students in Indonesia. I want those students to know they have my full support as a Senator from Minnesota.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT—S. 1723

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S. 1723. I further ask consent that there be 2 hours of general debate on the bill, equally divided in the usual form.

I further ask consent that the following be the only first-degree amendments in order, other than the committee-reported substitute, that the first-degree amendments be subject to relevant second-degree amendments; that with respect to any time limit on the first-degree amendment, any second-degree thereto be limited to the same time limits:

Bingaman, relevant;

Bumpers, EB5 visas, 90 minutes equally divided;

Kennedy, layoffs, 40 minutes equally divided; recruit home, 40 minutes equally divided; whistle-blower protection;

Reed of Rhode Island, strike SSIG provision;

Reid of Nevada, international child abduction;

Wellstone, job training;

McCain, relevant;

Warner relevant;

That upon disposition of all amendments the committee substitute be agreed to, the bill be read a third time, and the Senate then proceed to vote on passage without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

The PRESIDING OFFICER. Under the previous order, the clerk will report S. 1260.

The assistant legislative clerk read as follows:

A bill (S. 1260) to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Litigation Uniform Standards Act of 1998".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Private Securities Litigation Reform Act of 1995 sought to prevent abuses in private securities fraud lawsuits;

(2) since enactment of that legislation, considerable evidence has been presented to Congress that a number of securities class action lawsuits have shifted from Federal to State courts;

(3) this shift has prevented that Act from fully achieving its objectives;

(4) State securities regulation is of continuing importance, together with Federal regulation of securities, to protect investors and promote strong financial markets; and

(5) in order to prevent certain State private securities class action lawsuits alleging fraud from being used to frustrate the objectives of the Private Securities Litigation Reform Act of 1995, it is appropriate to enact national standards for securities class action lawsuits involving nationally traded securities, while preserving the appropriate enforcement powers of State securities regulators and not changing the current treatment of individual lawsuits.

SEC. 3. LIMITATION ON REMEDIES.

(a) AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) AMENDMENT.—Section 16 of the Securities Act of 1933 (15 U.S.C. 77p) is amended to read as follows:

"SEC. 16. ADDITIONAL REMEDIES; LIMITATION ON REMEDIES.

"(a) REMEDIES ADDITIONAL.—Except as provided in subsection (b), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

"(b) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(1) an untrue statement or omission of a material fact in connection with the purchase or sale of a covered security; or

"(2) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(c) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in subsection (b), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to subsection (b).

"(d) PRESERVATION OF CERTAIN ACTIONS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), a class action described in paragraph (2) of this subsection that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(2) PERMISSIBLE ACTIONS.—A class action is described in this paragraph if it involves—

"(A) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(B) any recommendation, position, or other communication with respect to the sale of securities of the issuer that—

"(i) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(ii) concerns decisions of those equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(e) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(f) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through 1 or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(2) CLASS ACTION.—

"(A) IN GENERAL.—The term 'class action' means—

"(i) any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits (other than derivative suits brought by 1 or more shareholders on behalf of a corporation) filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(B) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as 1 person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(3) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred.".

(2) CONFORMING AMENDMENTS.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(A) by inserting "except as provided in section 16 with respect to class actions," after "Territorial courts,"; and

(B) by striking "No case" and inserting "Except as provided in section 16(c), no case".

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended—

(1) in subsection (a), by striking "The rights and remedies" and inserting "Except as provided in subsection (f), the rights and remedies"; and

(2) by adding at the end the following new subsection:

"(f) LIMITATIONS ON REMEDIES.—

"(1) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(A) a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security; or

"(B) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(2) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in paragraph (1), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to paragraph (1).

"(3) PRESERVATION OF CERTAIN ACTIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a class action described in subparagraph (B) of this paragraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(B) PERMISSIBLE ACTIONS.—A class action is described in this subparagraph if it involves—

"(i) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(ii) any recommendation, position, or other communication with respect to the sale of securities of an issuer that—

"(I) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(II) concerns decisions of such equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(4) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(5) DEFINITIONS.—For purposes of this subsection the following definitions shall apply:

"(A) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through 1 or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(B) CLASS ACTION.—The term 'class action' means—

"(i) any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits (other than derivative suits brought by 1 or more shareholders on behalf of a corporation) filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(C) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as 1 person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(D) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) of the Securities Act of 1933, at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred.".

SEC. 4. APPLICABILITY.

The amendments made by this Act shall not affect or apply to any action commenced before and pending on the date of enactment of this Act.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, today we begin consideration of S. 1260, the Securities Litigation Uniform Standards Act of 1998.

The Banking Committee reported this bill on April 29 by an overwhelming vote of 14–4. This bill has strong bipartisan support. It comes as no surprise to anybody who has followed the progress of this legislation. This bill is the product of a great deal of hard work. It has been refined through the incorporation of comments from many sources, including the Securities and Exchange Commission. As a result of this process, this bill not only has been improved, but it actually enjoys the support of the Securities Exchange Commission and the White House.

Mr. President, I am not going to ask unanimous consent now that letters from the SEC and the White House be printed in the RECORD as if read, which is something we generally do. I think it is so important that I am going to take the time to refer to both letters and read what has been said, so that my colleagues can hear, and those who are interested in this debate can follow.

This is a letter, dated March 24, from the Securities and Exchange Commission, addressed to me as Chairman of the Banking Committee; Senator GRAMM, Chairman of the Subcommittee; and Senator DODD, who is the ranking member.

Let me read it:

Dear Chairman D'AMATO, Chairman GRAMM, and Senator DODD:

You have requested our views on S. 1260, the Securities Litigation Uniform Standards Act of 1997, and amendments to the legislation which you intend to offer when the bill is marked up by the Banking Committee. This letter will present the Commission's position on the bill and proposed amendments.

The purpose of this bill is to help ensure that securities fraud class actions involving certain securities traded on national markets are governed by a single set of uniform standards."

I think that is important, Mr. President. We should understand that those securities traded on national exchanges are governed by a uniform standard. I think that makes ample sense.

While preserving the right of individual investors to bring securities lawsuits wherever they choose. . .

So we should underscore that, as a premise, the SEC says, we are going to look for a single standard, but we will preserve the rights of individuals to bring securities lawsuits wherever they choose.

. . . the bill generally provides that class actions can be brought only in Federal Court where they will be governed by federal law.

As you know, when the Commission testified before the Securities Subcommittee of the Senate Banking Committee in October 1997, we identified several concerns about S. 1260. In particular, we stated that a uniform standard for securities fraud class actions that did not permit investors to recover losses attributable to reckless misconduct would jeopardize the integrity of the securities market. In light of this profound concern, we were gratified by the language in your letter of today agreeing to restate in S. 1260's legislative history, and in the expected debate on the Senate floor, that the Private Securities Litigation Reform Act of 1995 did not, and was not intended to, alter the well-recognized and critically important scienter standard.

So, Mr. President, we have a concern that was expressed as it existed in the 1995 law, and what the Securities and Exchange Commission said is, look, we want in the new proposal, as it relates to uniform standards, to clearly identify that you did not do away with, but will recognize the scienter standards. That has been accomplished. And I will go back to that.

Our October 1997 testimony also pointed out that S. 1260 could be interpreted to preempt certain state corporate governance claims, a consequence that we believe was neither intended nor desirable. In addition, we expressed concern that S. 1260's definition of class action appeared to be unnecessarily broad. We are grateful for your responsiveness to these concerns and believe that the amendments you propose to offer at the Banking Committee markup, as attached to your letter, will successfully resolve these issues.

So I think it is obvious that there has been considerable ongoing dialog and work between the Chairman of the Subcommittee, Senator GRAMM of Texas, the ranking member, Senator DODD, the Banking Committee staff and the SEC, to look and to deal with what is not only the proposals that we put forth for the first time, but to deal with some of the imperfections and some of the unintended consequences that may have evolved as a result of the 1995 act.

The ongoing dialog between our staffs has been constructive. The result of this dialogue, we believe, is an improved bill with legislative history that makes clear, by reference to the legislative debate in 1995, that Congress did not alter in any way the recklessness standard when it enacted the Reform Act. This will help to diminish confusion in the courts about the proper interpretation of that Act and add important assurances that the uniform standards provided by S. 1260 will contain this vital investor protection.

We support enactment of S. 1260 with these changes and with its important legislative history.

We appreciate the opportunity to comment on the legislation, and of course remain committed to working with the Committee as S. 1260 moves through the legislative process.

Sincerely,

ARTHUR LEVITT,
Chairman;
ISAAC C. HUNT,
Commissioner;
LAURA S. UNGER,
Commissioner.

Mr. D'AMATO. At this time, I ask unanimous consent that the letter be printed in the RECORD so that it can be viewed in its entirety.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Dear Chairman D'Amato, Chairman Gramm, and Senator Dodd: You have requested our views on S. 1260, the Securities Litigation Uniform Standards Act of 1997, and amendments to the legislation which you intend to offer when the bill is marked up by the Banking Committee. This letter will present the Commission's position on the bill and proposed amendments.*

The purpose of the bill is to help ensure that securities fraud class actions involving certain securities traded on national markets are governed by a single set of uniform standards. While preserving the right of individual investors to bring securities lawsuits wherever they choose, the bill generally provides that class actions can be brought only in federal court where they will be governed by federal law.

As you know, when the Commission testified before the Securities Subcommittee of the Senate Banking Committee in October 1997, we identified several concerns about S. 1260. In particular, we stated that a uniform standard for securities fraud class actions that did not permit investors to recover losses attributable to reckless misconduct would jeopardize the integrity of the securities markets. In light of this profound concern, we were gratified by the language in your letter of today agreeing to restate in S. 1260's legislative history, and in the expected debate on the Senate floor, that the Private Securities Litigation Reform Act of 1995 did not, and was not intended to, alter the well-recognized and critically important scienter standard.

Our October 1997 testimony also pointed out that S. 1260 could be interpreted to preempt certain state corporate governance claims, a consequence that we believed was neither intended nor desirable. In addition, we expressed concern that S. 1260's definition of class action appeared to be unnecessarily broad. We are grateful for your responsiveness to these concerns and believe that the amendments you propose to offer at the Banking Committee mark-up, as attached to your letter, will successfully resolve these issues.

The ongoing dialogue between our staffs has been constructive. The result of this dialogue, we believe, is an improved bill with legislative history that makes clear, by reference to the legislative debate in 1995, that Congress did not alter in any way the recklessness standard when it enacted the Reform Act. This will help to diminish confusion in the courts about the proper interpretation of that Act and add important assurances that the uniform standards provided by S. 1260 will contain this vital investor protection.

We support enactment of S. 1260 with these changes and with this important legislative history.

We appreciate the opportunity to comment on the legislation, and of course remain committed to working with the Committee as S. 1260 moves through the legislative process.

Sincerely,

ARTHUR LEVITT,
Chairman;
ISSAC C. HUNT, JR.,
Commissioner;
LAURA S. UNGER,
Commissioner.

Mr. D'AMATO. Mr. President, I took the time to go through this because I think it is important that we understand that this has not been the product of one staff or two staffs. This has not been the product of just the Banking Committee and those in industry who have come to express their concern as to how it is that their class actions are being brought in a frivolous manner, using the State courts to get around what Congress debated and what Congress voted overwhelmingly to bring, which is a standard of conduct that will discourage a race to the courthouse, simply to bring a suit and simply to extort moneys from those who have deep pockets, because these suits can be long, they can be frivolous, and they can be dragged out. The cost factor to the people being sued is enormous—the time, the distraction, particularly to startup companies, and particularly those who want to let people know what they are doing, but who felt restricted as a result of the suits that were brought.

---

*We understand that Commissioner Johnson will write separately to express his differing views. Commissioner Carey is not participating.

I am not going to bother going into the history and the comments that have been made by many. But indeed there have been many, which clearly are a stain on the rightful practice of law to ensure the rights of those who have been aggrieved and would hold people responsible for actions that are not tortious, malicious, malevolent, and indeed when there are no actions that should be sustained under any court, but because of the cost involved would have insurance carriers, accountants firms, securities firms, manufacturers, and others, be held to a situation where they have to settle. Who do they settle with? They settle with the moneys that come from the little guy—their stockholders. So while we say "stockholder derivative actions," the people hurt are indeed the stockholders.

Mr. President, I mentioned two letters. Let me read a second letter.

The second letter is dated a month later to myself as Chairman of the Banking Committee, Senator GRAMM as Chairman of the Subcommittee on Securities, Senator DODD as ranking Member of that Committee, from the White House, dated April 28, 1998.

DEAR CHAIRMAN D'AMATO, CHAIRMAN GRAMM, AND SENATOR DODD: We understand that you have had productive discussions with the Securities and Exchange Commission (SEC) about S. 1260, the Securities Litigation Uniform Standards Act of 1997. The Administration applauds the constructive approach that you have taken to resolve the SEC's concerns.

We support the amendments to clarify that the bill will not preempt certain corporate governance claims and to narrow the definition of class action. More importantly, we are pleased to see your commitment, by letter dated March 24, 1998, to Chairman Levitt and members of the Commission, to restate in S. 1260's legislative history, and in the expected debate on the Senate floor, that the Private Securities Litigation Reform Act of 1995 did not, and was not intended to, alter the Scienter standard for securities fraud actions.

As you know, uncertainty about the impact of the Reform Act on the scienter standard was one of the President's greatest concerns. The legislative history and floor statements that you have promised the SEC and will accompany S. 1260 should reduce confusion in the courts about the proper interpretation of the Reform Act. Since the uniform standards provided by S. 1260 will provide that class actions generally can be brought only in federal court, where they will be governed by federal law, it is particularly important to the President that you be clear that the federal law to be applied includes recklessness as a basis for pleading and liability in securities fraud class actions.

So long as the amendments designed to address the SEC's concerns are added to the legislation and the appropriate legislative history and floor statements on the subject of legislative intent are included in the legislative record, the Administration would support enactment of S. 1260.

Sincerely,

BRUCE LINDSEY,
Assistant to the President and Deputy Counsel;
GENE SPERLING,
Assistant to the President for Economic Policy.

Mr. President, I make note that the SEC informed the Banking Committee and the Subcommittee Chairman and ranking member on March 24. It was fully a month thereafter, on April 28, that again the President reaffirmed his support for this action, and in so doing went out of his way to point out that we, indeed, will improve the present state of the law because of the colloquy that will take place and because of the manner in which the law was written.

So here the President of the United States and the SEC and his Commissioner are saying you are improving upon the law as it stands now, in addition—we will talk about that—to closing a loophole that has been used by those who rush to the courts to bring suits because they are looking to enrich themselves, not to protect the little guy or the small investors. They are costing the little guy and small investors money. I think the broad-based support that this bill enjoys is a tribute to Senator GRAMM. I want to say that for the record. He is here. He worked hard. His staff has worked hard. They have been reasonable. The chief sponsors of this legislation, Senators GRAMM and DODD have put together a tight bill intended to address a specific serious problem.

The problem to which I refer is a loophole that strike lawyers have found in the 1995 Private Securities Litigation Reform Bill which was fashioned again on the most part by Senators GRAMM, DODD, and DOMENICI.

Mr. President, the 1995 Act was passed in the last Congress in response to a wave of harassment litigation that threatened the efficiency and the integrity of our national stock markets, as well as the value of stock portfolios of individual investors. That is what is being hurt—the little guy, the small individual investor in whose companies they had a share in were diminished in value as a result of these suits. This threat was particularly debilitating to the so-called high-tech companies who desperately needed access to our capital markets to raise the money needed for research, development, and production of cutting-edge technology. These companies, which have spearheaded our economy's resurgence, are particularly susceptible to strike suits because of the volatility of the price of their stock. Strike lawyers thrive on stock price fluctuations regardless of whether there is even a shred of evidence of fraud.

Mr. President, this is the crux of the matter: That ultimately the cost of strike suits are borne by shareholders, including ordinary people saving for their children's education, or for their retirement. The average American goes into the stock market for long-term appreciation—i.e., to earn solid rates of return. They do not buy a stock simply to be positioned for a class action when the stock's price drops. It is those people, the ordinary investors, who foot the bill for high-priced settlements of harassment litigation.

We are not talking about preventing legitimate litigation. Real plaintiffs with legitimate claims deserve their day in court. And we preserve that in this bill. But what we have seen in our Federal courts, and what we are now seeing in our State courts is little more than a judicially sanctioned shakedown that only benefits the lawyers. We are talking about lawsuits in which we have nominal plaintiffs, and the lawyers are the only real winners. One of these strike lawyers drove this point home best, one of the biggest and one of the largest, when he bragged that he had "the perfect practice". Why did he say that? He bragged about it. He said he has the "perfect practice." This is the fellow who has the largest, has brought more suits, hundreds of millions of dollars, who said he has "the perfect practice" because he has "no clients."

Isn't that incredible? He has no clients. He recovers hundreds of millions of dollars. When it is recovered, who gets most of it? The lawyers do. The so-called clients get hurt because the company which they have stock in loses value. It loses time. It pays millions of dollars. It has higher insurance costs, higher costs for auditing. The auditors have to charge more because they get sued. The insurance companies have to charge more for their premiums because they wind up paying more. Who do you think gets hurt? The little guy. Who benefits? The fellow who says "I have got the perfect practice."

Now, let me say this to you. This is a very, very, very small part of the law practice, is very specialized, relatively a handful of attorneys who have this, but let me tell you they hold hostage the companies of America, the private sector of America, as a result of what they can do by bringing these suits, suits that have no merit.

As I have previously mentioned, harassment lawyers found a loophole in which to ply their trade—the State court system. In the time since the 1995 Act was passed, we have seen these class-action lawyers rush to State courthouses. One witness before the Securities Subcommittee summarized this phenomenon well when he testified that the single fact is that State court class actions involving nationally traded securities were virtually unknown. In other words, prior to our 1995 Act, they just were not known. Now they are brought with some frequency.

This is a national problem. Regardless of where class actions are brought, they impact on the national stock markets. Money is moved away from job-creating, high-tech firms. Money is taken from shareholders in the form of stock price decline as a result of litigation. And where does this money go? It goes into the pockets of a very select cadre of these attorneys.

In addition, these lawsuits have a chilling, a chilling effect on one of the most important provisions in the 1995 Act and that is called the safe harbor provision. Until this loophole is closed, no company can safely risk issuing any forecast, even though the market desperately wants it. So you cannot get a company to say: "This is what we predict; this is what we see," because they are subject to litigation. To do so is to invite a class action and a high-dollar settlement.

If someone makes a prediction and he is off by a little bit, he is sued. If someone makes a prediction, he says: "We think we are going to increase profits or sales by one-third," and he doesn't hit that target, he has a smaller than anticipated increase, that company is going to be sued. And so you cannot get the kind of advice that investors are looking for.

That is not what we want today. The bill's detractors are wrong. It will not prevent shareholder derivative actions or individual lawsuits or lawsuits by school districts or municipalities or State securities regulator enforcement actions or lawsuits relating to "microcap" or "penny" stock fraud. Those actions will still be permitted.

This is important legislation, and it is narrowly drawn to address a specific and serious problem. Time is short. There are very few legislative days remaining in the session, and I encourage my colleagues on both sides of the aisle not only to support this bill and to support the sponsors of this bill, but also that we move forward in a manner which can see that it is speedily enacted. Every day that we delay occasions more of these suits which needlessly cost consumers and stockholders and the American public millions and millions of dollars.

Again, I commend the architects of this legislation, Senators DODD, GRAMM, and DOMENICI, and I also, again, would point out that we have worked very closely with the Securities and Exchange Commission and with the White House in coming to this point.

I yield the floor.

Mr. SARBANES. Mr. President, I think it is important at the outset of this debate to try to dispel three misconceptions that surround S. 1260. The first is that class-action lawsuits alleging securities fraud have migrated from Federal court to State court since 1995 and the enactment of the earlier legislation.

In fact, as I will describe in some detail shortly, every study indicates that the number of securities fraud class actions brought in State courts, while it increased in 1996, then declined in 1997. So the numbers do not support that assertion.

The next misconception is that this bill would preempt only class-action lawsuits from being brought in State court. In fact, this bill likely will deprive individual investors of their own opportunities to bring their actions in State courts separate and apart from class actions.

The final misperception about this bill, which is suggested, is that it enjoys widespread support. In reality, a broad coalition of State and local officials, senior citizen groups, labor unions, academics, and consumer groups oppose this bill. They oppose it because it goes too far. It will deprive defrauded investors of remedies.

Once again, we have this classic example of being able to sort of try to address a problem and, instead of narrowly dealing with the problem, swinging the pendulum well beyond the problem and taking the so-called corrective legislation so far out that in and of itself it creates additional problems.

Let me turn to the first misperception, the notion that securities fraud class actions are being brought in State court in order to avoid the provisions of the Litigation Act of 1995.

It is correct that the number of such cases went up in 1996, the first year the Litigation Act was effective, but every available study shows that the number declined in 1997. For example, a study done by the National Economic Research Associates, a consulting firm, found that the number of securities class-action suits filed in State courts during the first 10 months of 1996 increased to 79 from 48 filed during the same period in 1995.

In an update released in the summer of 1997, however, NERA found that the number of securities class actions filed in State courts during the first 4 months of 1997 declined to 19, down from 40 in the same period in 1996. So the number actually declined very significantly by more than half the first 4 months of 1997.

These numbers are cited in a report that was prepared by the Congressional Research Service. In July 1997, Professors Joseph Grundfest and Michael Perino of Stanford University Law School testified before the Securities Subcommittee, and in their testimony they show that the number of issuers sued only in State class actions declined from 33 in 1996 to an annualized rate of 18 in 1997. A Price Waterhouse securities litigation study posted by that accounting firm on its Internet site corroborated NERA's findings. Using data compiled by Securities Class Action Alert, based on the number of defendants sued, Price Waterhouse reported that the number of State court actions increased from 52 in 1995 to 66 in 1996 but then declined to 44 in 1997. That was lower than the number of such actions in 1991 or 1993.

The study went on to find that the total number of cases filed in 1997 showed little or no change—little or no change—from the average number of lawsuits filed in the period 1991 through 1995.

Data provided to the committee by Price Waterhouse on February 20, 1998, also demonstrated that State court filings declined in 1997. Measured by the number of cases filed, the number of State securities class actions declined from 71 in 1996 to 39 in 1997. So much for this assertion of a rising number of suits being brought in the State courts. This really is a piece of legislation in search of a problem. And when you look at the facts, when you look at the numbers, the problem is not there.

Now let me turn to the notion that this bill addresses only class-action lawsuits. I think most people understand a class-action lawsuit to refer to lawsuits brought by one person on behalf of himself and all other people similarly situated, an anonymous and potentially large group of people. For class actions to be certified in Federal court, the Federal Rules of Civil Procedure require that the class be so numerous that joinder of all members is impracticable. In Federal court, a judge normally must find that common questions of law and fact predominate over questions only affecting individual members.

Class actions are a tool that allow plaintiffs to share the cost of a lawsuit when it might not be economical for any one of them to bring an action. But, because they can be brought on behalf of potentially an enormous class, they also carry with them the possibility of being misused to coerce defendants into settlement.

This is the sort of situation that is ordinarily described by the proponents of such legislation as requiring a legislative enactment. But when you examine the legislation that comes in behind that assertion, you invariably find that the breadth of the legislation far exceeds this problem which they have identified, and which they constantly use in the discussion and the debate as the example of what they are trying to deal with. If we could limit the legislation to the examples that are cited, we might really come close to obtaining a consensus in this body about corrective measures. But the legislation goes far beyond the examples that are ordinarily used as constituting the basis for legislative enactment, and it is that expanded application of the legislative language, not the specific examples that are generally used, which creates the problem.

This bill is another example of that. It addresses more than the type of class-action case which is ordinarily cited as constituting a potential abuse of the legal process. This bill contains a definition of class action broad enough to pick up individual investors against their will. The bill would amend the Federal Securities laws to include a new definition of class action. It would include as class action any group of lawsuits in which damages are sought on behalf of more than 50 persons if those lawsuits are pending in the same court, involve common questions of law or fact, and have been consolidated as a single action for any purpose.

Even if the lawsuits are brought by separate lawyers without coordination—in other words, you have 50 different investors who feel they have been cheated and want to bring a lawsuit—there is no interplay or interaction amongst them, even if the common questions do not predominate—which is a requirement in class-action suits, but weakened in this legislation—those lawsuits, under this legislation, may qualify as a class action and thus be preempted.

So if an individual investor chooses to bring his own lawsuit in State court, to bear the expenses of litigation himself, he can be forced into Federal court. He can be made to abide by the Federal Rules if 50 other investors make the same decision about bringing a lawsuit, 50 other separate investors. Indeed, the bill provides an incentive for defendants to collude with parties to ensure that the preemption threshold is reached. Such a result goes well beyond ending abuses associated with class-action lawsuits. It deprives individual investors of their remedies.

The definition of class action in the bill would preempt other types of lawsuits as well. It includes as a class action any lawsuit in which damages are sought on behalf of more than 50 persons and common questions of law or fact predominate. The bill specifies that the predomination inquiry be made without reference to issues of individualized reliance on an alleged misstatement or omission. This would ensure that the investor receives the worst of both worlds. While the investor could not bring a class action under State law, because each investor must prove his or her reliance, they nonetheless constitute a class action under the bill and their suit is preempted.

Finally, let me turn to the assertion that there is little or no opposition to this bill. In fact, the bill is opposed by State and local officials very vigorously, as a matter of fact. I note there that Orange County has just begun the first of its recoveries, in terms of being defrauded. Senior citizens groups, labor unions, consumer groups, columnists and editors, legal practitioners and academics have all weighed in on this debate. The headline of a column by Ben Stein in USA Today on April 28, summarizes this opposition: "Investors, beware: Last door to fight fraud could close."

"Investors, beware: Last door to fight fraud could close." He wrote of this bill, the legislation before us:

> State remedies would simply vanish, and anyone who wanted to sue would have to go into Federal court where impossible standards exist.

He warns:

> This is serious business for the whole investing public.

Mr. President, I ask unanimous consent that this entire column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, Apr. 28, 1998]

INVESTORS, BEWARE: LAST DOOR TO FIGHT FRAUD COULD CLOSE

(By Ben Stein)

If you come home from vacation and find that your house has been broken into, you know who to call. You call the police and then your insurance agent to make up the loss.

If someone misuses your credit card, you also know what to do. You call MasterCard or Visa or whoever it is, and the company takes the fraudulent charge off your card.

But what if you open the newspaper one day to find you have been defrauded about the stocks and bonds you own? Who do you call for help if management of a company in which you hold stock has lied to the world about a product or its prospects, induced you to buy stock, and then fled with your money?

You can file a report with the Securities and Exchange Commission, but we all know how slowly even the best bureaucracies work. You can go to your state securities commission. They might be great people, but they also work slowly—in general taking years or decades—and they often are geared more to punishing the wrongdoer than to getting a recovery for the victims.

Also, both the feds and state bureaucracies will be totally overwhelmed and understaffed as a matter of course. You could sue the fraudmeisters yourself, but that kind of suit costs a fortune, literally millions of dollars, and that exceeds most people's losses, not to mention their life savings.

So, who will possibly stand up for you and sue to get your money back? The private class-action securities bar.

These people are not Matt Dillon or Wyatt Earp, but their livelihood is wholly dependent upon getting results for defrauded investors. They aggregate claims by all of the cheated investors in a corporation and sue to get redress. They almost never make any money unless they get a chunk for the defrauded little guy. They are not angels, and they are not saints. They do it for the money. But they get money when you do, so they have to be persistent, aggressive and ruthless against the cheaters.

The people who have done the fraud hate class-action lawyers. So, even more, do accountants and insurance companies. Accountants have often been involved in the fraud or at least ignored it or missed it. They're still around when the business management has gone, so they—the accountants—often get sued successfully. Likewise, the companies that insure accountants for malpractice totally hate the class-action bar for the same reason.

In the 1980's, there was a national upheaval in fraud—junk bonds, S&Ls high-tech fraud. There were some large federal class-action suits under decades-old consumer protection laws from New Deal days. Naturally, these upset the accountants, the insurers and the high-tech firms. There were some large recoveries.

No surprise, then, that the accountants, high-tech firms and insurance companies did what any smart and government-wise group of rich, unhappy people would do. They lobbied Congress, giving immense contributions to representatives and senators. And they got the federal law changed drastically so that it became extremely hard to sue for securities fraud as a class. There was a bar on suits against accountants except in very rare cases, stringent limits on discovering evidence of fraud, and an almost totally impossible level of pleading about how much defendants had to have known.

When those who wanted to protect the small investor—and there were such principled men and women in Congress—complained, the friends of the accountants and fraud makers said, "Hey, maybe the federal law is a bit harsh, but no problem. You can still sue in state court. You still have state remedies." President Clinton vetoed the bill, but it was passed, over his veto, by a Republican Congress that I generally love but that sold out totally here. That was in 1995.

There has yet to be a single recovery for investors in a suit brought under the 1995 law. Now it's 1998, and guess what's happening: congress is racing toward passage of a law proposed by Chris Dodd, senator for Hartford, Conn., insurance capital of the world. The bill, which Congress is to vote on before summer, would spring the trap opened in 1995: It would bar all state class-action securities cases.

The state remedies that were supposed to remain in place would simply vanish, and anyone who wanted to sue would have to go into federal court, where those same impossible standards exist. The excuse of the accountants and high-tech pooh-bahs is that there has been a huge upsurge in state class-action cases since the 1995 law went into effect. The uncontroverted fact, however, is that the number of state court cases of class-action suits has fallen—not risen—since 1995 in the nation and has fallen in all but three states since 1995.

Of course, if you have money in Congress, you don't need no stinking facts. And, the juggernaut of the accountants in Congress is powerful, indeed. They have even managed to get the chairman of the Securities and Exchange Commission, Arthur Levitt, to change his mind. Levitt in recent weeks was saying that state remedies should stay in place until he saw how the 1995 law worked out. He now endorses closing the state courthouse door to small class-action litigants if some changes in the standard of reckless misconduct required for liability are altered slightly.

This is not abstruse stuff for law teachers. This is serious business for the whole investing public. The goal of the accountants and their pals in Hartford is to simply kill the class-action bar. They're gambling that their contributions, plus a general resentment against lawyers, will do the trick. But if it does, next time you're defrauded, you'll be plumb out of luck. You can call, but the phone will just ring and ring and ring, and you'll be all alone at 3 a.m., wondering how you can possibly have such a bitter loss without anyone to help.

Mr. SARBANES. A number of groups representing State and Government officials, including the National League of Cities, the National Association of Counties, the Government Finance Officers Association, and the U.S. Conference of Mayors, oppose this bill, as do the National League of Cities National Association of Counties, Government Finance Officers Association, and the U.S. Conference of Mayors. I ask unanimous consent that a May 11, 1998, letter from these and other groups be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GOVERNMENT FINANCE OFFICERS ASSOCIATION (GFOA), MUNICIPAL TREASURERS' ASSOCIATION (MTA), NATIONAL ASSOCIATION OF COUNTIES (NACO), NATIONAL ASSOCIATION OF COUNTY TREASURERS AND FINANCE OFFICERS (NACTFO), NATIONAL ASSOCIATION OF STATE RETIREMENT ADMINISTRATORS (NASRA), NATIONAL CONFERENCE ON PUBLIC EMPLOYEE RETIREMENT SYSTEMS (NCPERS), NATIONAL LEAGUE OF CITIES (NLC), U.S. CONFERENCE OF MAYORS (USCM),

May 11, 1998.

Hon. PAUL S. SARBANES,
U.S. Senate, Hart Senate Office Building.

Re: S. 1260, Securities Litigation Uniform Standards Act of 1998.

DEAR SENATOR SARBANES: The state and local government organizations listed above write in opposition to S. 1260, the Securities Litigation Uniform Standards Act of 1998, as reported by the Senate Committee on Banking, Housing and Urban Affairs, which we understand will be considered by the full Senate this week. We urge you to support amendments to the bill which would (1) narrow the definition of class action to follow the Federal Rules of Civil Procedure; (2) allow plaintiffs to carry state statute of limitations laws with them in cases filed in state court which are removed to federal court; and (3) provide an exemption for classes comprised of state and local governments. We also ask that you oppose this legislation if the final version too closely resembles the current version of S. 1260. Our most significant concerns are the following:

The consequences for public pension funds and state and local governments which are unable to recover losses in state courts will be significant. If defrauded state or local pension funds are barred from recovering from corporate wrongdoers in state court (having already had many remedies foreclosed in federal court), the state or local government and its taxpayers may be required to make up losses in the fund. Not only would this jeopardize general revenue, leading to a likely loss of jobs and services to the public, but it could also severely damage a jurisdiction's credit rating. This could result in a higher cost of borrowing in the debt market to fund capital and operating expenses.

S. 1260 fails to reinstate liability for secondary wrongdoers who aid and abet securities fraud. Despite two opportunities to do so since the Supreme Court struck down for private actions aiding and abetting liability for wrongdoers who assist in perpetrating securities fraud, the current version of S. 1260 does not reinstate such liability. An amendment offered in the Banking Committee which would have allowed defrauded investors to carry with their federal claim the state law regarding aiding and abetting was defeated.

S. 1260 fails to reinstate a more reasonable statute of limitations for defrauded investors to file a claim. As in the case of aiding and abetting, Congress has now had two opportunities to reinstate a longer, more reasonable statute of limitations for defrauded investors to bring suit. Many frauds are not discovered within this shortened time period, but the Banking Committee again missed an opportunity to make wronged investors whole by defeating an amendment that would have allowed defrauded investors to carry with them in federal suits the state statute of limitations.

The definition of "class action" contained in S. 1260 is overly broad. The definition of class action in S. 1260 would allow single suits filed in the same or different state courts to be rolled into a larger class action that was never contemplated or desired by individual plaintiffs and have it removed to federal court. Claims by the bill's proponents that individual plaintiffs would still be able to bring suit in federal court are belied by this provision.

There have been few state securities class actions filed since the Private Securities Litigation Act (PSLRA) passed. Despite the claims of the bill's proponents, tracking by the Price Waterhouse accounting firm shows that only 44 securities class actions were filed in state court for all of 1997, compared with 67 in 1994 and 52 in 1995. Most of these cases were filed in California, indicating that, if there is a problem in that state, it is one which should be dealt with at the state level. Citizens of the other 49 states should not be penalized as a result of a unique situation in a single state.

The PSLRA was opposed by state and local governments because the legislation did not strike an appropriate balance, and this legislation extends that mistake to state courts. As both issuers of debt and investors of public funds, state and local governments seek to not only reduce frivolous lawsuits but to protect state and local government investors who are defrauded in securities transactions. The full impact of that statute on investor rights and remedies remains unsettled because even now many parts of the PSLRA have not been fully litigated; however, this untested law would now be extended to state courts.

The above organizations believe that states must be able to protect state and local government funds and their taxpayers and that S. 1260 inhibits these protections. We urge you to oppose preemption efforts which interfere with the ability of states to protect their public investors and to maintain investor protections for both public investors and their citizens.

Mr. SARBANES. Why are these public officials concerned about this bill? Why are these associations that represent public officials all across our Nation concerned about this bill? Because these public officials invest taxpayers' funds and public employees' pension funds in securities. And they fear they will be left without remedies if they are defrauded.

Testifying before the Senate Banking Committee, Mayor Harry Smith of Greenwood, MS, warned:

> The most potent protection investors have is the private right of action. To remove that protection could have grave consequences. We oppose taking such a risk. We oppose preemption of traditional State and local rights created to protect our citizens and taxpayers. This bill is inconsistent with Congress' renewed commitment to the preservation of federalism, and reduces protections for our retirees, employees, and taxpayers.

Over two dozen law professors, including such nationally recognized securities law experts as John Coffee, Jr., Joel Seligman and Marc Steinberg, expressed their opposition in a letter earlier this year. I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 23, 1998.

DEAR SENATORS AND MEMBERS OF CONGRESS: We are professors of securities regulation and corporate law at law schools throughout the United States. Our teaching and scholarship focus on the coexistent federal and state systems for the regulation of securities, an extraordinary example of cooperation between the public and private sectors that has created for American businesses the largest capital market in the world, and for investors one of the safest. As events elsewhere in the world over the past few weeks so aptly demonstrate, the stability and integrity of our capital markets is one of our most important national accomplishments.

We are very concerned about legislation now pending in Congress that would preempt private rights of action for securities fraud in class actions brought under the statutes and common law of all fifty states.[1] This sweeping federal preemption of state law is being proposed less than one year after the National Securities Markets Improvement Act of 1996 preempted state "merit review" of most securities offerings, and two years after the federal litigation system itself was overhauled by the Private Securities Litigation Reform Act of 1995 (the "1995 Act"), which made it more difficult for investors to recover for securities fraud in federal court. Defendants in securities fraud suits now argue that the 1995 Act contained a "loophole" because it did not overturn Congress's decision in 1933 and 1934 to leave state fraud remedies intact.[2]

Arthur Levitt, the Chairman of the Securities and Exchange Commission, however, has strongly urged Congress to wait until more is known about the impact of the 1995 Act on litigation in federal and state courts before considering legislation preempting state rights of action.[3] We also believe that Congress should wait to ascertain the effects of the 1995 Act, as well as the direction of state law, before enacting any legislation that would undercut the longstanding role that state law has had in protecting investors from securities fraud. The complex relationship between federal and state securities laws needs to be more fully understood before investors are denied the protection of either body of law.

We therefore urge you and your colleagues at this time not to support S. 1260, H.R. 1689, or any other legislation that would deny investors their right to sue for securities fraud under state law.

Very truly yours,

Ian Ayres, Yale University; Stephen M. Bainbridge, University of California at Los Angeles; Douglas M. Branson, University of Pittsburgh; William W. Bratton, Rutgers University; John C. Coffee, Jr., Columbia University; James D. Cox, Duke University; Charles M. Elson, Stetson University; Merritt B. Fox, University of Michigan;

Tamar Frankel, Boston University; Theresa A. Gabaldon, George Washington University; Nicholas L Georgakopoulos, University of Connecticut; James J. Hanks, Jr., Cornell Law School; Kimberly D. Krawiec, University of Tulsa; Fred S. McChesney, Cornell Law School; Lawrence E. Mitchell, George Washington University; Donna M. Nagy, University of Cincinnati; Jennifer O'Hare, University of Missouri, Kansas City; Richard W. Painter, University of Illinois; William H. Painter, George Washington University; Margaret V. Sachs, University of Georgia; Joel Seligman, University of Arizona; D. Gordon Smith, Lewis and Clark; Marc I. Steinberg, Southern Methodist University; Celia R. Taylor, University of Denver; Robert B. Thompson, Washington University; Manning G. Warren III, University of Louisville; Cynthia A. Williams, University of Illinois.

[1] See S. 1260, 105th Congress, 1st Sess. (1997) (the Securities Litigation Uniform Standards Act of 1997) (the "Gramm-Dodd bill"); and H.R. 1689, 105th Congress, 1st Sess. (1997) (the "White-Eshoo bill").

[2] See Section 16 of the 1933 Act, 15 U.S.C. §77p (1996), and Section 28(a) of the 1934 Act, 15 U.S.C. §78bb(a) (1996).

[3] Prepared Statement of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission Before the Senate Committee on Banking, Housing and Urban Affairs Subcommittee on Securities Concerning the Impact of the Private Securities Litigation Reform Act of 1995, July 24, 1997.

Mr. SARBANES. These distinguished law professors stated:

> We . . . believe that Congress should wait to ascertain the effects of the 1995 Act, as well as the direction of state law, before enacting any legislation that would undercut the longstanding role that state law has had in protecting investors from securities fraud.

These distinguished academics oppose any legislation that would deny investors their right to sue for securities fraud under State law.

Similarly, the New York State Bar Association opposes this bill. A report prepared by the Bar Association Section on Commercial and Federal Litigation concluded: "The existing data does not establish a need for the legislation," and, "the proposed solution far exceeds any appropriate level of remedy for the perceived problem."

Let me repeat that quote from the report prepared by the New York State Bar Association Section on Commercial and Federal Litigation:

> The proposed solution far exceeds any appropriate level of remedy for the perceived problem.

The opposition goes on. As additional examples, I cite a March 30, 1998, editorial from the National Law Journal entitled "What's the Rush?" This editorial concludes:

> The Senate should pause before it neutralizes State laws that still stand as a bulwark protecting investors against flimflam artists.

Mr. President, I ask unanimous consent that this editorial from the National Law Journal entitled "What's the Rush?" and concluding by saying, "The Senate should pause before it neutralizes State laws that still stand as a bulwark protecting investors against flimflam artists," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the National Law Journal, Mar. 30, 1998]

WHAT'S THE RUSH?

You would expect Congress to think long and hard before passing laws that foreclose the right of potential litigants to bring their complaints in the courts. But Capitol Hill is moving swiftly on legislation that would block investor class actions in the state courts, though principles of federalism are in themselves reasons for Congress to proceed with caution.

Bills to amend the Private Securities Litigation Reform Act of 1995, which put strict limits on federal class actions, have enormous support: The Senate bill, S. 1260, already has 30 sponsors, and a virtually identical bill in the House, H.R. 1689, has 193 sponsors. The Senate Banking Committee is expected to mark up the bill this month, and Senate Majority Leader Trent Lott, R-Miss., has promised to bring the bill to a floor vote before the Easter recess, which begins April 3.

The Senate should slow down—and take a careful look at the evidence. Lobbyists for the high-technology companies that have been pushing for pre-emption claim that plaintiffs' lawyers such as San Diego's William S. Lerach, of New York's Milberg Weiss Bershad Hynes & Lerach L.L.P., are making an "end run" around the federal law by bringing their lawsuits in state court. But data collected by Price Waterhouse Inc., a key supporter of pre-emption, show a steep drop in the number of suits brought in state court: In 1996, 71 class actions were filed; in 1997, the number dropped to 39.

But this is more than a numbers story. The federal courts have just begun to interpret the 1995 law, which passed after rancorous debate in the House and Senate, and only after Congress overrode a presidential veto. A ruling in one of the first cases filed under the new law, a class action that Mr. Lerach brought against Mountain View, Calif.'s Silicon Graphics Inc., threatens to wipe out "recklessness" as a sufficient standard of intent in securities fraud cases.

The Securities and Exchange Commission is supporting Mr. Lerach's appeal of this ruling to the 9th U.S. Circuit Court of Appeals, but the court won't hear arguments until next year. By then, Congress may have already blocked state court suits, leaving plaintiffs in investor suits without a forum to assert reckless conduct and, ergo, leaving corporate wrongdoers free to behave irresponsibly.

Other protections available in state court would also be lost. In 33 states, the statutes of limitation on filing suit are longer than the one-year federal limit. Liability for "aiding and abetting" a securities fraud—which was eliminated in federal court actions by a 1994 U.S. Supreme Court ruling—also exists in most states.

Before the Senate rushes to wipe out state fraud actions, it should recall the words of Sen. Pete V. Domenici, R-N.M., who co-sponsored the 1995 act. Addressing criticisms that the new law would allow financiers like Lincoln Savings & Loan's Charles V. Keating to escape liability, Senator Domenici pointed out that Mr. Keating had been sued under many provisions of state law—"laws untouched" by his proposed reforms.

The Senate should pause before it neutralizes state laws that still stand as a bulwark, protecting investors against flimflam artists.

Mr. SARBANES. Mr. President, I would like to point out also the opposition of the American Association of Retired Persons, the Consumer Federation of America, the AFL–CIO, the American Federation of State, County and Municipal Employees, and the United Mine Workers. I ask unanimous consent that letters from these groups expressing their opposition to this bill be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AFL–CIO,
Washington, DC, May 11, 1998.

DEAR SENATOR: Labor unions have an enormous stake in protecting workers' hard-earned retirement savings from securities fraud. Over $300 billion in union members' pension assets are invested in the stock market. Thus, as shareholders and investors, unions and employees count on the protection of both state and federal laws and regulations to protect their investments and to preserve the integrity of the market. For this reason, the AFL–CIO urges you to oppose S. 1260, the Securities Litigation Uniform Standards Act.

State laws can and do provide even greater protection for small investors than is provided by the federal securities laws. Until now, it has been up to each state to decide whether and how to offer enhanced antifraud protections to its citizens.

This well established, dual system of state and federal protection is now threatened, however, S. 1260 preempts investor-friendly state laws and substitutes the federal Private Securities Litigation Reform Act (PSLRA), which would significantly limit the liability of fraud defendants.

In particular, the bill would hurt individual investors, including workers and pensioners, by denying them the ability to pursue effective redress through a class action. In broadly held publicly traded companies, class action litigation is the only economically feasible way in which shareholders can bring security fraud claims. Generally, even the largest institutional shareholders will not pursue a valid claim individually, because their possible individual benefit will not compensate for the costs incurred in bringing such litigation. In light of the SEC's limited resources, private class action litigation has always been the primary means for both institutions and individual shareholders to recoup losses from securities fraud and has been a powerful deterrent to managerial impropriety.

Tampering with the state's antifraud authority would place at risk the retirement savings of tens of millions of Americans. Aside from the obvious flaws, the proposed legislation also disturbs the state/federal balance by removing an important state role in the antifraud field without any sound justification. The AFL–CIO asks you to oppose this bill.

Sincerely,

PEGGY TAYLOR,
Director,
Department of Legislation.

CONSUMER FEDERATION
OF AMERICA,
Washington, May 7, 1998.

DEAR SENATOR: It is our understanding that the Senate will vote next week on S.

1260, "The Securities Litigation Uniform Standards Act of 1997." I am writing on behalf of Consumer Federation of America to reiterate our strong opposition to this anti-investor legislation and to urge you to oppose it.

Our opposition is based on a simple principle: Congress should not extend federal standards to securities fraud class action lawsuits being brought in state court until we know whether those federal standards are preventing meritorious cases from being brought or reducing victims' recoveries. Caution is particularly warranted in this case since both the Securities and Exchange Commission and the state securities regulators opposed the Private Securities Litigation Reform Act on the grounds that it would tip the balance too far in favor of fraud defendants.

The jury is still out on the PSLRA, since its major provisions have yet to be defined in court and there has yet to be a single recovery for investors under the 1995 law. It would be nothing short of irresponsible, in our view, for Congress to preempt state laws without first knowing the full effects of the federal law on meritorious lawsuits.

Supporters have made much of the fact that Securities and Exchange Commission Arthur Levitt now supports S. 1260, having announced his change of heart at his confirmation hearing in April. It is important to understand that nothing in the few cosmetic changes negotiated by Chairman Levitt alters the fundamentally anti-investor nature of this bill.

Furthermore, even as he made his unfortunate decision to endorse the legislation, Chairman Levitt did not withdraw earlier statements that the current federal law tilts the balance too far in favor of securities fraud defendants. Nor did he withdraw statements that this legislation is premature based on the limited data now available. Most importantly, he did not withdraw his assessment, expressed in October testimony before the Senate Banking Committee ". . . that the bill would deprive investors of important protections, such as aiding and abetting liability and longer statutes of limitation, that are only available under state law" and that "great care should be taken to safeguard the benefits of our dual system of federal and state law, which has served investors well for over 60 years."

During the Banking Committee's mark-up of the bill, amendments were offered that would have allowed defrauded investors to rely on longer statutes of limitations and aiding and abetting liability where they were available in state law and would have prevented state courts from consolidating individual lawsuits brought against a common defendant for the purposes of forcing the case into federal court. While these amendments alone cannot alter the fundamental flaws in this legislation, they would ameliorate some of the bill's most onerous effects. CFA believes these pro-investor changes are the minimum necessary to provide a modicum of balance to the bill. Should similar amendments be offered on the Senate floor, we urge you to support them.

As you consider this legislation, keep in mind that just under half of all American households now invest in the stock market directly or through mutual funds. Their primary reason for investing is to provide a decent standard of living for themselves in retirement. When the current bull market comes to its inevitable end, and the frauds that have been perpetrated under its cover are exposed, investors who find their retirement savings decimated by fraud should not be left without any means of recovering those losses.

Because it threatens to further restrict defrauded investors' access to justice, CFA urges you to vote against S. 1260.

Respectfully submitted,

BARBARA ROPER,
Director of Investor Protection.

Mr. SARBANES. Mr. President, much will be made during the debate on this bill of the support it is asserted it enjoys from the Securities and Exchange Commission. But it seems to me that citing the support of the SEC tells only part of the story—only part of the story.

First, SEC Commissioner Norman Johnson has written to express his opposition to the bill. His March 24, 1998, letter concludes:

> I believe that much more conclusive evidence than currently exists should be required before state courthouse doors are closed to small investors through the preclusion of state class actions for securities fraud.

I ask unanimous consent to have Commissioner Johnson's letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, March 24, 1998.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Senate Hart Office Building, Washington, DC.

Hon. PHIL GRAMM,
Chairman, Subcommittee on Securities, U.S. Senate, Senate Russell Office Building, Washington, DC.

Hon. CHRISTOPHER J. DODD,
Ranking Member, Subcommittee on Securities, U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR CHAIRMAN D'AMATO, CHAIRMAN GRAMM, AND SENATOR DODD: It is with regret that I find myself unable to join in the views expressed by my esteemed colleagues in their letter of today's date. For that reason I feel compelled to write separately to express my own differing views.

Consistent with the opinion the Commission and its staff have repeatedly taken, I believe that there has been inadequate time to determine the overall effects of the Private Securities Litigation Reform Act of 1995, and that the proponents of further litigation reform have not demonstrated the need for preemption of state remedies or causes of action at this time.

In the last few years, we have experienced a sustained bull market virtually unmatched at any time during this nation's history. I therefore question the necessity of the displacement of state law in favor of a single set of uniform federal standards for securities class action litigation. The Commission is the federal agency charged with protecting the rights of investors. In my opinion, S. 1260, the Securities Litigation Uniform Standards Act of 1997, does not promote investors' rights. I share in the views of 27 of this country's most respected securities and corporate law scholars who have urged you and your colleagues not to support S. 1260 or any other legislation that would deny investors their right to sue for securities fraud under state law.

In addition, data amassed by the Commission's staff, compiled in unbiased external studies, indicate that the number of state securities class actions has declined during the last year to pre-Reform Act levels. Indeed, a report by the National Economic Research Associates concluded that the number of state court filings in 1996 was "transient." Under these circumstances, S. 1260 seems premature at the least.

This country has a distinguished history of concurrent federal and state securities regulation that dates back well over 60 years. Given that history, as well as the strong federalism concerns that S. 1260 raises, I believe that much more conclusive evidence than currently exists should be required before state courthouse doors are closed to small investors through the preclusion of state class actions for securities fraud.

Sincerely,

NORMAN S. JOHNSON,
Commissioner.

Mr. SARBANES. Secondly, the SEC supports changes to the Federal antifraud standard to make it more protective of investors. In other words, if the SEC is going to be cited, as the proponents of this legislation have done, in support of their position, surely then they ought to pay attention to the SEC position which has been asserted seeking changes in the Federal antifraud standard to make it more protective. Let me give you a few examples.

The SEC supports a longer statute of limitations so that fraud artists do not escape liability by successfully concealing their frauds. The SEC supports the restoration of liability for aiders and abetters of securities fraud so that those who give substantial assistance to fraud artists do not escape liability.

The SEC supports codification of liability—codification of liability—for reckless conduct to ensure that professionals, such as accountants and underwriters, carry out their responsibilities under the Federal securities laws. In fact, Chairman Levitt reiterated his support for these provisions as recently as 6 weeks ago when he appeared before the Banking Committee for his renomination hearing. Nonetheless, these provisions are nowhere to be found in this bill.

The supporters of this legislation argue the desirability of a uniform antifraud standard for securities traded on national securities exchanges, but they fail to address directly the question which we need to ask, whether the current Federal antifraud standard, as reflected by the 1995 act, deserves to be the uniform standard. Is the current antifraud standard, which they are now going to use to bring cases up from the State courts and deny investors the remedies under the State systems, is that standard adequate to protect investors?

I voted against the 1995 act because I was concerned that it did not establish an appropriate standard. I was worried that it did not strike the proper balance between deterring frivolous securities suits and protecting investors who are victimized by securities fraud. None of us is in favor of frivolous securities suits, these so-called strike suits. But at the same time, I, for one, at least, do not want to go so far in trying to deal with that problem that I cease to protect investors who are victimized by securities fraud. There is a line in between, actually, I have asserted many times, I think, on which a consensus can be reached, but the legislation that keeps coming forward always overreaches—it overreaches—and therefore, I think, jeopardizes the protections that are available to investors who are innocent victims of securities frauds.

A number of securities law experts warn that the safe harbor for forward-looking statements enacted by that act could protect fraud. In addition, the proportionate liability provisions leave innocent victims suffering a loss while shielding those who participate in securities fraud. Of course, the 1995 act omitted the statute of limitations in aiding and abetting provisions recommended by the SEC, still recommended by the SEC, and, of course, not included in this legislation.

Since the reform act was enacted, another concern has developed. Some district courts have relied on the legislative history of that act in concluding that the act's pleading standards eliminated liability for reckless conduct. Imagine, eliminating liability for reckless conduct.

If that view prevails in the circuit courts, and if the Congress preempts, as this legislation proposes to do, causes of action under State laws, investors will be left with no remedies—I underscore that, with no remedies—against those whose reckless conduct makes a securities fraud possible.

It is for these reasons that the associations and various commentators I have cited are opposing this bill. They oppose this bill both because of its overly broad reach—clearly because of its overly broad reach—and because its sponsors fail to take this opportunity to correct the flaws of the earlier legislation. If the sponsors are going to eliminate recourse in the State courts, it becomes even more incumbent upon them to correct the Federal standard with respect to the shortcomings which have been identified in it and continue to be identified by the Securities and Exchange Commission.

Mr. BRYAN. Will the Senator yield for a question?

Mr. SARBANES. I yield to my colleague.

Mr. BRYAN. The question I have is with reference to the Senator's observation about standard for reckless misconduct.

As I understand, we have actual knowledge, we can have simple or ordinary negligence, we can have gross negligence, and then we can have a standard of reckless conduct which is an utter disregard of the facts. Is the Senator saying that the legislation that we are processing today does not clarify in the findings of this committee that we want to reaffirm that reckless misconduct ought to be a cause of action for those who are defrauded by investors?

Mr. SARBANES. I say to my colleague, as I understand it, this is what transpired. The 1995 act was being interpreted at the district court level, the Federal district court level—the legislative history of it—that the act's pleading standards eliminated liability for reckless conduct.

Now, the SEC has come to us and said we should codify a reckless conduct right of action into the Federal standard. The legislation before us does not have such a codification.

Now, there is language in the report, but we do not have a codification. So you have the problem about the legislative history for the 1998 act. And it is not quite clear to me how it will supplant the legislative history for the 1995 act. A codification would do that but that is not in this bill.

Mr. BRYAN. We are talking about, if I understand, conduct that is more egregious even than gross negligence. We are talking about an utter disregard of the facts and the consequences that flow from that?

Mr. SARBANES. That is right. If you want to talk about where you put the balance, how in the world would you drive the balance so far over that an investor who was the victim of reckless conduct would not have a remedy? It just defies any equitable striking of the balances with respect to, quote, "frivolous" lawsuits on the one hand, and investor protection on the other.

Mr. BRYAN. So if I understand the Senator's position, if S. 1260 is passed, we preempt State class actions so that small investors would not have the advantage of a longer statute of limitations that a number of States—I believe 33 out of the 50—provide to investors suing at the State level class actions.

We would deprive the small investor of his or her opportunity to go against the accomplices, the lawyers, the accountants, and others who conspired with the primary perpetrator of fraud. That protection is taken away. And we also eliminate the ability to move and to obtain a joint and several liability judgment against those offenders. They are all things which I understand currently exist to the benefit of small investors as class actions at the State level in most States, if I am not mistaken.

Mr. SARBANES. The Senator is correct. Currently, what happened is we set a Federal standard in the 1995 act in the Federal courts. That still left to an investor the option of going into a State court to seek remedy.

Now the proponents of this bill said, "Well, everyone who is going into Federal court bringing the so-called frivolous suits are now going to migrate into the State courts." The numbers show that has not happened. You have a little increase in 1996. The numbers came back down in 1997. The projected numbers are down. So you do not have that flood of litigation into the State courts, and yet investors had available to them State court remedies.

Well, now what they are going to do is they are going to preempt the ability to bring the action in the State courts. Well, then, the proponents will say, "Well, we are just preempting it for these class actions. If you are an individual investor and you want to hire your lawyer, you will still be able to go into State court." But they define a class action in this bill in such a way, so broadly that it will sweep up individual investors who are really not part of a class-action suit.

Those individual investors will then discover—I mean, what is going to happen here, my prediction on this is that what is going to come before the Congress down the road, if this legislation passes, is small investors showing up in the Congress and saying, "This happened to me. And now I discover, because of the legislation which you all enacted, I can't get any remedy. And this isn't right." And Members are going to be looking at that, and they are going to say it is not right.

That is why we are urging Members to pause and take a careful look at this before they put it into law. You can have a situation in which an individual investor goes in under State law within the statute of limitations. Often you do not discover these things. They are concealed. That is what fraud is all about. So he is within the statute of limitations. Other investors do the same thing.

So let us say it is New York or California or Illinois, and a whole wide group of people have been defrauded by some fraud artist. Well, if 50 of them come in and bring some kind of suit against this artist, they can be swept up into a class action, removed into the Federal court. They will go over to the Federal court, and then they say to them, "Well, our statute of limitations is shorter than your State statute of limitations under which you filed this action," which was timely filed in the State court.

They acted on their rights within the time limitation of the State court. They had no idea they were going to get swept up the way this bill permits. And so all of a sudden they are over in Federal court, and they say to them "It's too bad. The statute of limitations has run. And you don't have an action. You don't have a cause of action." You are shut out of the courthouse.

Now, where is the fairness in that? I defy anyone to show me the fairness in that process.

Mr. BRYAN. Is the Senator also suggesting that a remedy available at the State court level against an accomplice, whether it be a lawyer or an accountant, that would be available to the investor under State law, if removed under the process of the Federal court, which the Senator has just described, would preclude that small investor from a recovery against an accomplice who had participated in the fraud that resulted in the investor's loss?

Mr. SARBANES. The Senator is exactly on point. That is exactly what would happen, which would be exactly what would be permitted to take place under this legislation.

When the 1995 bill was passed, people said, "Well, we are defining this Federal standard. People can still go into the State court, the individual investor, and get a remedy."

Now they come along and they say, "Well, we're going to preempt the State courts in quote, 'class actions,' " but then they define class actions so broadly that it will sweep up individual investors. It can sweep up people who are not bringing what we traditionally recognize and know as a class action.

So it is once again an example of overreaching, as this mayor indicated from Greenwood, MS, that removing these protections would have grave consequences. This thing goes beyond anything that is required to deal with—the New York State Bar Association quote, I think, is the best on this very point when they said, "The proposed solution far exceeds any appropriate level of remedy for the perceived problem."

I am saying to the opponents, look, let us examine what you assert as the problem. And we will hear examples of a problem that will be cited. Most of those examples, I am sure I would think something needs to be done about them. But the solution, the proposed solution here will far exceed the examples. What is going to happen is eventually—and that is why I think these people are opposing this legislation I have cited.

I think Senators need to be cautious. This, in effect, is an investor's beware legislation—investors beware. I think in the future we are going to be petitioned or importuned in the Congress to correct this overreaching because innocent people will have been denied their remedy against fraud artists who have cheated them out of their life savings.

Let me just note that we are at a time of record high in our Nation's stock market. The current bull market is the longest in history. Stocks are trading at a price-earnings ratio that exceed even those reported in the 1920s. The level of participation in the stock market by America's families is also at a record level, both directly through ownership of stocks and indirectly through pension funds and mutual funds. History suggests that at some point the bull market will end, and history also suggests that when that occurs is when securities fraud will be exposed. You don't get that much exposure in a rising market.

Should this bill be enacted, at that time many investors will find their State court remedies eliminated. In too many cases investors will be left without any effective remedies at all. Such a result can only harm innocent investors, undermine public confidence in the securities market, and ultimately raise the cost of capital for deserving American businesses.

I urge my colleagues to think long and hard about this legislation, to be very careful about it. It far exceeds what needs to be done in terms of addressing any perceived problem. I think we need to be extremely sensitive to it.

I expect a number of amendments to be offered to this bill as we proceed with its consideration. I look forward to discussing those at the appropriate time as we seek to correct what I think are some of the more obvious and egregious flaws in this legislation.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Connecticut is recognized.

Mr. DODD. Madam President, let me begin by thanking my chairman of the committee, Senator D'AMATO, and Senator GRAMM with whom I authored this particular proposal.

Senator DOMENICI has been very involved in this issue, going back a number of years when the issue first arose, trying to deal with this sinister practice going on of strike lawsuits and predator law firms. I will share briefly some news out this morning as to how the law firms that we are trying to deal with operate, where the issue of fraudulent behavior is hardly their motivation; it has to do with simple stock fluctuation. Some Internet activity today will highlight that in categorical terms, as early as about 4 or 5 hours ago. This is a pervasive problem that needs to be addressed.

We passed this bill out of our committee 14–4 on a strong bipartisan vote. The bill is endorsed by the Securities and Exchange Commission, supported by this administration, the Clinton administration. We will be happy to entertain the amendments as they are offered that come up that were raised in committee. We had hearings on this matter—not a lengthy markup, but an extensive markup—with an opportunity to vote a lot of the issues.

I will pick up on some of the concluding comments and remarks of my two colleagues from Maryland and Nevada with regard to the recklessness standard. We received a letter of endorsement and support from the Securities and Exchange Commission, signed by Chairman Arthur Levitt, Isaac Hunt, and Laura Unger, March 24. This letter, I believe, has been introduced in the RECORD by Chairman D'AMATO, but I am, at this juncture, going to highlight two paragraphs of this letter because they go right to the heart of what was raised a few moments ago when it comes to the recklessness standard. I will address this more directly in my remarks. Let me quote two paragraphs in this letter.

> As you know, when the Commission testified before the Securities Subcommittee of the Senate Banking Committee in October 1997, we identified several concerns about S. 1260. In particular, we stated that a uniform standard for securities fraud class actions that did not permit investors to cover losses attributable to reckless misconduct would jeopardize the integrity of the securities markets. In light of this profound concern, we are gratified by the language in your letter of today agreeing to restate in S. 1260's legislative history, and in the expected debate on the Senate floor, that the Private Securities Litigation Reform Act of 1995 did not, and was not intended to, alter the well-recognized and critically important scienter standard.

Jumping down another paragraph,

> The ongoing dialog between our staffs has been constructive. The result of this dialog, we believe, is an improved bill with legislative history that makes clear, by reference to the legislative debate in 1995, that Congress did not alter in any way the recklessness standard when it enacted the Reform Act.

Then it goes on to complete the paragraph.

I don't know if anything can be more clear in this letter. Certainly the intent, stated in committee, stated on the floor previously, stated in this letter, and we stated again here on the floor today as to what the intentions were of those of us who crafted this legislation when it comes to "recklessness."

Now I agree. I mentioned earlier, some courts, a few district courts, have read otherwise. That happens. But we will try to make it clear that was aberrational behavior, erroneous behavior, in my view, rather than what we intended.

I see my colleague from New York is rising.

Mr. D'AMATO. If the Senator will yield for a question, is it not true, if we were to set aside this legislation and not go forward, there might be a question and that, indeed, what both the White House and the SEC are saying, as a result of our coming forward, we may be eliminating that question, that ambiguity, by moving forward in the way that we proposed in this legislation?

Mr. DODD. I think the chairman of committee raises an excellent point, that in fact our legislative history included with S. 1260, the debate we have had, makes it quite clear what the intent of the committee was in 1995, what the intent of the committee in this legislation is today.

In the absence of that, I think you might have courts ruling otherwise, even though we may have not drawn that conclusion in the earlier legislation.

Mr. SARBANES. Will the Senator yield?

Mr. DODD. I will make my comments, and then I will be glad to yield for a debate, but I want to finish my opening statement.

Mr. SARBANES. Would the Senator have any objection to codifying this standard?

Mr. DODD. I will do that in my remarks.

There is a very difficult problem codifying the standard on recklessness. Congress has wrestled with this over the years. We were not the first committee to try. We thought leaving the standard as it has been in the courts, making sure we are not trying to make any change to that standard here, any way other than what has been an accepted standard, was a better way to proceed, based on the advice we received.

We certainly did not change that standard, as has been the suggestion, either with this act or the act of 1995 despite the fact that some courts may have read it otherwise. I can't preclude a court from misinterpreting the decisions of a Congress.

But the recklessness standard has been a good standard over the years and ought not to be tampered with, in my opinion.

Mr. BRYAN. Will the Senator yield? I don't want to interrupt his presentation. I am always happy to wait, but we are talking of the reckless standard.

If I might inquire of the Senator, the SEC, as I understand it, has sent over a definition of "reckless." If that could be included in the findings of fact as opposed to the report language, I think it would strengthen what we all seek to do, and that is to retain the reckless standard, which I know is the objective of the Senator from Connecticut.

As the Senator knows far better than I, report language is fairly thin gruel compared to the findings of fact which are included or other issues which the sponsors of the legislation—I wonder if the Senator would consider including that definition.

Mr. DODD. The problem has been, as you start trying to codify, we—I will take a look at what the Senator has. I haven't seen it.

The suggestion has been made—what I was trying to respond to, prior to rising here, was that the suggestion was made that somehow this piece of legislation and '95 Act had undone the standard of recklessness that had been used.

We made it quite clear—at least I thought we did—in 1995 that we were not altering the standard. Certainly the SEC believes that was what we intend. This legislative history and this debate on today's bill makes it clear it was not the intent. What I objected to was the suggestion that somehow we had changed the scienter standard. We had not done that. And the letter from the three members of the Securities and Exchange Commission, I think, reinforces the point—not whether or not you add something in the statement of facts or whether or not you have it in the legislative history where I believe it is most appropriate—about addressing the underlying concern and issue. And that is whether or not this legislation in any way, or the 1995 Reform Act in any way, tried to fool around with the standard of recklessness. We didn't then, and we aren't now.

So what I am saying here today, what the chairman of the committee has said, and others, this is raising a red herring. It doesn't exist. It is difficult enough to debate where there is a legitimate disagreement, and there will be amendments offered where clearly there are provisions in the bill which my colleagues, including my distinguished friend from Nevada, disagree with. It is a fundamental difference here. Recklessness, as a matter of this legislation, is not a problem. It is trying to raise an issue that really does not exist. That is the reason I felt I should address that issue prior to making my general comments and statements about what I think is a valuable piece of legislation.

Now, Madam President, let me, if I may, proceed here. It has been said, in the sense that we get the pendulum swings and the proposals are offered, in a sense, this is a very narrow bill. It is not designed to be all-encompassing and all-sweeping, yet it is being received by certain quarters as if it were a wide, sweeping piece of legislation. It is dealing with an underlying problem that still exists. The facts bear out the necessity of us trying to move with nationally traded securities on the national exchanges to see to it that we can set some standards here so we don't continue to end up with a proliferation of lawsuits chasing forums all over this country to satisfy a trial bar at the expense of jobs, investors in these companies out there. That is what has been happening. That is what we try to address with this bill.

At the beginning of the debate today on S. 1260, the securities litigation reform standards, marks, in a sense, an anniversary, Madam President. It was almost 3 years ago that we took the floor of this body, many of my colleagues, in support of the Private Securities Litigation Reform Act of 1995. That bill, overwhelmingly enacted into law by Congress, was designed to curb abuses in the field of private securities class action lawsuits.

Let me pause, if I can, to note just how important the private litigation system has been in maintaining integrity of our capital markets. It is highly questionable whether our markets would be as deep, as liquid, as strong, or as transparent were it not for our system of maintaining private rights of action against those who commit fraud. America's markets are the envy of the world because of the tremendous confidence that American and foreign investors have in the regulatory system that supports those markets.

But it is precisely because of the vital importance of the private litigation system that the depths to which it had sunk by 1995 had become so damaging. The system was no longer an avenue for aggrieved investors to seek justice and restitution, but it had become, instead, a pathway for a few enterprising attorneys to manipulate its procedures for their own considerable profit, to the detriment of legitimate companies and investors all across our Nation.

If we needed a reminder about how abusive that system had become, we received yet another example of it last week, with the conclusion of one of the last lawsuits filed under that old system. This litigation against a Massachusetts biotech company called Biogen, lasted more than 3 years, cost that company, in direct litigation expenses alone, more than $3 million.

But even more than the direct costs, the lawsuit enacted an untold loss on the company because of the time and resources devoted by its top management and their scientists to defending themselves.

The conclusion to this litigation on May 6 came in swift contrast to the lengthy and expensive lawsuit itself, as reported by Reuters:

> A Federal jury has ruled as baseless a class-action shareholder lawsuit accusing Biogen, Inc. and its chairman of misleading investors . . . The 10-member jury took less than three hours to reach their verdict. . . .

So this week's debate marks not only the opening of Congress' effort to establish strong national standards of liability for nationally-traded securities, but also allows us to mark the close of an era in securities litigation that perversely offered more comfort to those filing abusive and frivolous lawsuits than it offered to redress to those who had been legitimately defrauded.

But the very success of the 1995 reform act in shutting down avenues of abuse on the Federal level has created a new home for such kinds of litigation in State courts.

Throughout 1996, the first year of the reform act, reports were coming to Congress that there was a dramatic increase in the number of cases filed in State courts. Prior to enactment of the '95 reform act, it was extremely unusual, extremely unusual, for a securities fraud class action case to be brought in a State court anywhere in this country.

But by the end of 1996, it had become clear from both the number of cases filed in State court, and the nature of those claims, that a significant shift was underfoot, as some attorneys sought to evade the provisions of the reform act that made it more difficult to coerce a settlement, which was what was going on.

John Olson, the noted securities law expert, testified in February before the subcommittee on securities that:

> In the years 1992 through 1994, only six issuers of publicly traded securities were sued for fraud in State court class actions. In contrast, at least 77 publicly traded issuers were sued in State court class actions between January 1, 1996, and June 30, 1997. Indeed, the increase in State court filings may even be greater than indicated by these dramatic statistics. Obtaining an accurate count of State court class actions is extraordinarily difficult, because there is no central repository of such data and plaintiffs are under no obligation to provide notice of the filing of such suits.

In April, 1997, the Securities and Exchange Commission staff reported to the Congress, and the President found that:

> Many of the State cases are filed parallel to a Federal court case in an apparent attempt to avoid some of the procedures imposed by the reform act, particularly the stay of discovery pending a motion to dismiss. This may be the most significant development in securities litigation post-reform act.

Even though the number of State class actions filed in 1997 was down from the high of 1996, it was still 50 percent higher than the average number filed in the 5 years prior to the reform act, and it represented a significant jump in the number of parallel cases filed.

So there was a significant increase. It did drop in 1997. But if you are going to use the bar of when the reform act was passed, it was still substantially higher. It was a rare occasion indeed when people ran to State courts. We didn't think we would need this bill. We honestly thought that dealing with this problem at the Federal level would work. That is where the cases were brought. Why are we here today? We are here because these enterprising attorneys, as the chairman of the committee pointed out—many without clients, by the way—discovered that if they ran into a State court here, they could avoid the legislation that we adopted and passed so overwhelmingly here in 1995. But there are other reasons as well. It isn't just an increase in the caseload. That would not, in my view, necessarily warrant moving today. There are other issues.

This change in the number and nature of the cases filed has had two measurable, negative impacts that I think our colleagues ought to take very good note of.

First, for those companies hit with potentially frivolous or abusive State court class actions, all of the cost and expense that the '95 reform act sought to prevent are once again incurred. So, in effect, we did nothing. Today, all of that cost and discovery, and so forth, before a motion to dismiss could be filed—today you have to go do it all over again. It is as if the '95 act were never passed. That is what happened here.

Some might question whether a State class action can carry with it the same type of incentives to settle even frivolous lawsuits that existed on the Federal level prior to 1995.

Allow me to provide one example of how this is so. Adobe Systems, Inc. wrote to the Banking Committee on April 23, 1998, this year, about its experience with State class action lawsuits.

One of the key components of the 1995 reform act was to allow judges to rule on a motion to dismiss prior to the commencement of the discovery process. This is not precedent-setting procedure. That is normally, in many cases, how you deal with it, a motion to dismiss coming up early. Under the old system, Adobe had won a motion for summary dismissal, but only after months of discovery by the plaintiffs that cost the company more than $2 million in legal expenses and untold time and energy by officials to produce the tens of thousands of documents and numerous depositions.

With the 1995 act in place, those kinds of expenses are far less likely to occur at the Federal level.

But in an ongoing securities class action suit filed in California state court since 1995, Adobe has had to spend more than $1 million in legal expenses and has had to produce more than 44,000 pages of documents, all before the state judge is even able to entertain a motion for summary dismissal.

In fact, in an April 23rd, letter to Chairman D'AMATO, Colleen Pouliot, Adobe's General Counsel, noted that:

> There are a number of California judicial decisions which permit a plaintiff to obtain discovery for the very purpose of amending a complaint to cure its legal insufficiencies.

This one example makes clear that while Adobe, which has the resources for a costly and lengthy legal battle, might fight a meritless suit, these costs provide a powerful incentive for most companies without that kind of wherewithal to settle these suits rather than incur such expenses.

The second clear impact of the migration of class action suits to state court is that it has caused companies to continue to avoid using the safe harbor for forward looking statements that was a critical component of the '95 reform act.

In this increasingly competitive market, investors are demanding more and more information from company officials about where it thinks that the company is going, and what is likely to happen.

In fact, today we have more investors in our markets than ever before. People want more information. The safe harbor provisions which we crafted were designed to encourage companies to step forward and to tell us where they were going. Clearly, there can be some who decide it would be deceitful. In no way do we try to protect anybody who is lying or cheating in the process. We are trying to encourage companies to tell us more about where they are going so those investors can make good decisions. But what has happened as a result of this rush to State courts is that the very companies that said they need the safe harbor provisions are not writing the safe harbor provisions because they know they don't have the same protection in State court, which is where these cases are running.

So after all the encouragement of the 1995 act to have the safe harbor, companies haven't been putting it in. So investors out there trying to make decisions of where to put their hard-earned dollars don't have the benefit of that safe harbor language, which may give them a better idea in which companies to make those investments.

The California Public Employees Pension System, one of the biggest institutional investors in the Nation stated that "forward-looking statements provide extremely valuable and relevant information to investors."

SEC Chairman Arthur Levitt also noted the importance of such information in the marketplace in 1995:

> Our capital markets are built on the foundation of full and fair disclosure. . . . The more investors know and understand management's future plans and views, the sounder the valuation is of the company's securities and the more efficient the capital allocation process.

In recent years, the Securities and Exchange Commission, in recognition of this fact, sought to find ways to encourage companies to put such forward-looking statements into the marketplace. Congress too sought to encourage this and this effort ultimately culminated in the creation of a statutory safe harbor, so that companies need not fear a lawsuit if they did not meet their good-faith projections about future performance.

Unfortunately, the simple fact is that the fear of State court litigation is preventing companies from effectively using the safe harbor.

Again, the SEC's April 1997 study found that "companies have been reluctant to provide significantly more forward looking disclosure than they had prior to enactment of the safe harbor." (p. 24); the report went on to cite the fear of State court litigation as one of the principal reasons for this failure.

Stanford Law School lecturer Michael Perino stated the case very well in a forthcoming law review article:

> If one or more states do not have similar safe harbors, then issuers face potential state court lawsuits and liability for actions that do not violate federal standards. . . . for disclosures that are . . . released to market participants nationwide, the state with the

> most plaintiff-favorable rules for forward looking disclosures, rather than the Federal Government, is likely to set the standard to which corporations will conform.

If the migration of cases to state court were just a temporary phenomenon, then perhaps it would be appropriate for Congress to tell these companies and their millions of investors to simply grin and bear it, that it will all be over soon.

But the SEC report contains the warning that this is no temporary trend: "If state law provides advantages to plaintiffs in a particular case, it is reasonable to expect that plaintiffs' counsel will file suit in state court." The plain English translation of that is that any plaintiff's lawyer worth his salt is going to file in state court if he feels it advantageous for his case; since most state courts do not provide the stay of discovery or a safe harbor, we're confronted with a likelihood of continued state court class actions.

While the frustration of the objectives of the 1995 Reform Act provide compelling reasons for congressional action, it is equally important to consider whether the proposition of creating a national standard of liability for nationally-traded securities makes sense in it's own right.

I certainly believe it does.

In 1996, Congress passed the "National Securities Markets Improvement Act" which established a precedent of national treatment for securities that are nationally-traded.

In that act, Congress clearly and explicitly recognized that our securities markets were national in scope and that requiring that the securities that trade on those national markets comply with 52 separate jurisdictional requirements both afforded little extra protection to investors and imposed unnecessarily steep costs on raising capital.

Last July, then-Securities Commissioner Steven Wallman submitted testimony to the Securities Subcommittee in which he said:

> Disparate, and shifting, state litigation procedures may expose issuers to the potential for significant liability that cannot be easily evaluated in advance, or assessed when a statement is made. At a time when we are increasingly experiencing and encouraging national and international securities offerings and listing, and expending great effort to rationalize and streamline our securities markets, this fragmentation of investor remedies potentially imposes costs that outweigh the benefits. Rather than permit or foster fragmentation of our national system of securities litigation, we should give due consideration to the benefits flowing to investors from a uniform national approach.

That is what we are trying to do with this bill.

At that same hearing, Keith Paul Bishop, then-California's top state securities regulator testified along the same lines that:

> California believes in the federal system and the primary role of the states within that system. However, California does not believe that federal standards are improper when dealing with truly national markets. California businesses, their stockholders and their employees are all hurt by inordinate burdens on national markets. Our businesses must compete in a world market and they will be disadvantaged if they must continue to contend with 51 or more litigation standards.

SEC Chairman Arthur Levitt, at his reconfirmation hearing before the Banking Committee on March 26, 1998, said that the legislation we are debating today:

> Addresses an issue that . . . deals with a certain level of irrationality. That to have to two separate standards is not unlike if you had, in the state of Virginia, two speed limits, one for 60 miles an hour and one for 40 miles an hour. I think the havoc that would create with drivers is not dissimilar from the kind of disruption created by two separate standards [of litigation] and I have long felt that in some areas a single standard is desirable.

which is all we are trying to do here with this bill, to set one speed limit, if you will, on a national debate on trading securities and on markets. That is all, one speed limit, not two, to live up to the fact of what we tried to do with the 1995 bill.

The message from all of these sources is clear and unequivocal: A uniform, national standard of litigation is both sensible and appropriate.

The legislation under consideration today accomplishes that goal in the narrowest, most balanced way possible.

Before I discuss what the legislation will do, let me point out a few things that it won't do:

It will not affect the ability of any state agency to bring any kind of enforcement action against any player in the securities markets;

It will not affect the ability of any individual, or even a small group of individuals, to bring a suit in state court against any security, nationally traded or not;

It will not affect any suit, class action or otherwise, against penny stocks or any stock that is not traded on a national exchange.

It will not affect any suits based upon corporate disclosure to existing shareholders required by state fiduciary duty laws;

And it will not alter the national scienter requirement to prevent shareholders from bringing suits against issuers or others who act recklessly.

There has been a lot of talk about this last point, so let me address it head-on.

It is true that in 1995, Congress wrestled with the idea of trying to establish a uniform definition of recklessness; but ultimately, the 1995 Private Securities Litigation Reform Act was silent on the question of recklessness. While the act requires that plaintiffs plead "Facts giving rise to a strong inference that the defendant acted with the requisite state of mind . . ."

The act at no point attempts to define that state of mind. Congress left that to courts to apply, just as they had been applying their definition of state of mind prior to 1995.

Unfortunately, a minority of district courts have tried to read into some of the legislative history of the reform act an intent to do away with recklessness as an actionable standard.

I believe that these decisions are erroneous and cannot be supported by either the black letter of the statute nor by any meaningful examination of the legislative history.

There are several definitions of recklessness that operate in our courts today, and some of them are looser than others. But I agree with those who believe that reckless behavior is an extreme departure from the standards of ordinary care; a departure that is so blatant that the danger it presents to investors is either known to the defendant or is so obvious that he or she must have been aware of it.

The notion that Congress would condone such behavior by closing off private lawsuits against those who fall within that definition is just ludicrous.

And if, by some process of mischance and misunderstanding, investors lost their ability to bring suits based on that kind of scienter standard, I would be the first, though certainly not the last, Senator to introduce legislation to restore that standard.

As I mentioned a moment ago, Mr. President, S. 1260 is a moderate, balanced and common sense approach to establishing a uniform national standard of litigation that will end the practice of meritless class action suits being brought in state court.

This legislation keeps a very tight definition of class action and applies it's standards only to those securities that have been previously defined in law as trading on a national exchange.

That is why the Securities and Exchange Commission has stated that "We support enactment of S. 1260;" That is why the Clinton administration has also indicated it's support for the legislation.

In the final analysis, it is both the millions of Americans who have invested their hard-earned dollars in these nationally-traded companies and the men and women who will hold the new jobs that will be created as a result of newly available resources, whom we hope will be the real beneficiaries of the action that we take here today.

I strongly urge my colleagues to join the Securities and Exchange Commission, dozens of our colleagues, the Clinton administration, dozens of governors, state legislators and state securities regulators in supporting passage of the Securities Litigation Uniform Standards Act of 1998.

Madam President, I see my colleague.

How much time remains?

The PRESIDING OFFICER. The Senator from New York controls the time. There are 10 minutes 30 seconds remaining.

Mr. D'AMATO. I wonder if I might ask my friend and colleague. I know we are going to have some extended debate with some of the amendments. Senator GRAMM, who has worked with the Senator from Connecticut, would like to be heard, and Senator FEINGOLD has been waiting. He has an amendment that I believe is a very substantive amendment, and is one that might take hours to debate. But I believe we can dispose of it in a relatively short period of time if we were to permit the Senator to proceed.

Mr. DODD. I didn't realize how much time had already gone on. My colleague from Texas is chairman of the Securities Subcommittee and the principal author of the bill, of which I am proud to be a cosponsor.

While he is in the Chamber, let me commend and congratulate my colleague from Texas on this issue. This is a strong bipartisan bill, 14 to 4, coming out of this committee. It took a long time to go through all of this. We have had extensive hearings on it. We have listened to an awful lot of people. This is a good piece of legislation. It is needed out there, if we are going to in this day and age, with so many people wanting to get into this market, get more information to them, having a single standard here. Jobs and investors are affected when you have a handful of attorneys out there deciding they are going to act in a way that really brings great danger to our markets. And so I urge adoption of the legislation.

I yield the floor at this point.

Mr. D'AMATO. Madam President, I yield up to 3 minutes to the Senator from Texas and ask unanimous consent that Senator FEINGOLD from Wisconsin be recognized thereafter for the purposes of introducing an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BRYAN. Reserving my right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I certainly do not want in any way to interfere with the presentation of the amendment of the Senator from Wisconsin, but we are in a time limit where we have an hour on each side and I want to make sure that I do not lose my——

Mr. D'AMATO. It was never the Senator's intent nor would this impinge on the Senator's time. It was an effort to accommodate one of our colleagues.

Mr. BRYAN. I am happy to do that. Can we include one proviso in the proposed unanimous consent that after the Senator from Texas is allowed the time as requested by my friend, the distinguished chairman, and after the Senator from Wisconsin is recognized for purposes of an amendment, will the Senator from Nevada then be next recognized, if that would be agreeable?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Texas.

Mr. GRAMM. Madam President, I often find myself having to speak at length in the Chamber when I do not have the votes. On this bill, I am in the happy position that we have the votes. We are going to win. We are going to defeat all of the amendments, because we have a good bill, and we have a very broad base of support. So I have often found that when you have the votes, it is best not to speak at length.

However, as the author of the legislation, I wanted to say just a couple of things. First, I thank Chairman D'AMATO for his leadership. I want people to know that without his principal leadership on this bill, we would not be here. He was instrumental in helping us pull the coalition together. He set a time schedule on bringing the bill before the full committee, and I thank him for his leadership.

I believe this legislation will benefit the country. I think we will create jobs, growth, and opportunity from enactment of the bill, and I think that Chairman D'AMATO is due a lion's share of the credit.

I thank Senator DODD. I don't think anybody in the Senate has a better, more cooperative ranking member than I do as chairman of the Securities Subcommittee. I thank Senator DODD for his leadership.

The bottom line on this bill is that in 1995 we sought to act to deal with the problem of economic piracy through the courts. We had found ourselves in a position where lawsuits were being filed against companies if their stock price went up, if their stock price went down, if their stock price did not change. New, emerging companies were the special targets of these lawsuits. These are the companies that had great technical ideas but did not have a whole bevy of lawyers on their payroll, and they were finding themselves basically being extorted, as people filed lawsuits that often were just boilerplate documents. These suits were so boilerplate that at times the name of the company being sued was confused in the documents filed in the court.

And so we stepped in to try to do something about it, and we passed a bill called the Private Securities Litigation Reform Act, Public Law 104–67. That legislation basically did five things. No. 1, it said that you had to have a client; that you could not have a lawyer who filed a bunch of motions representing nobody in reality and just collecting a whole bunch of money. The legislation said that there had to be genuine clients, and the client that stood the most to gain could be the lead client and had the privilege to choose the lawyer, and the lawyer had to be accountable to the people who were filing the lawsuit.

You all heard the statement that our chairman quoted, about the bragging of the lead lawyer in this area.

Are my 3 minutes up?

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. D'AMATO. I request an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. So we required that you have real people filing a real lawsuit. We also required that if you are going to file a lawsuit, you have to say specifically what the company did wrong. We further established a procedure whereby you did not have to go through this lengthy and expensive discovery process while the court was considering whether there was even enough merit in the case to proceed further with it. We also eliminated the ability to go after the people that had deep pockets, even though they had no real, substantive liability. Finally, where it was clear that the lawsuit was frivolous, we gave the judge the responsibility to require that the people who filed the lawsuit paid the legal expenses of those who found themselves pulled into court.

It was a good bill, and it is beginning to have an impact. Our problem is that in trying to circumvent it, the same people filing the same lawsuits started to move into State court. So we have written a bill that tries to set uniform national standards. It applies only to class-action suits. It applies only to stocks that are traded nationally.

It is eminently reasonable. It is clearly within the purview of the interstate commerce clause of the Constitution. This is a bill that needs to be passed. I thank everybody who has been involved in it for their leadership.

We will have a series of amendments. We voted on every one of them in committee. Every one of these amendments is aimed at killing the bill by undercutting the basic premise of the bill, which is when you are dealing with nationally traded securities, you need national standards. So I hope our colleagues will join us in the process of defeating these amendments and approving the bill.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I thank the Chair. I thank the manager, the Senator from New York.

AMENDMENT NO. 2394

(Purpose: To amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes)

Mr. FEINGOLD. At this point I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2394.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . CIVIL RIGHTS PROCEDURES PROTECTIONS.

(a) SHORT TITLE.—This section may be cited as the "Civil Rights Procedures Protection Act of 1998".

(b) AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"SEC. 719. EXCLUSIVITY OF POWERS AND PROCEDURES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(c) AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and

(2) by inserting after section 15 the following new section 16:

"SEC. 16. EXCLUSIVITY OF POWERS AND PROCEDURES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 795) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under section 501, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(e) AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.—Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(f) AMENDMENT TO SECTION 1977 OF THE REVISED STATUTES.—Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any Federal law (other than a Federal law that expressly refers to this section) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim concerning making and enforcing a contract of employment under this section, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(g) AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938.—Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this subsection, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(h) AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.—Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) is amended—

(1) by redesignating section 405 as section 406; and

(2) by inserting after section 404 the following new section:

"SEC. 405. EXCLUSIVITY OF REMEDIES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would modify any of the powers and procedures expressly applicable to a right or claim arising under this Act or under an amendment made by this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(i) AMENDMENT TO TITLE 9, UNITED STATES CODE.—Section 14 of title 9, United States Code, is amended—

(1) by inserting "(a)" before "This"; and

(2) by adding at the end the following new subsection:

"(b) This chapter shall not apply with respect to a claim of unlawful discrimination in employment if such claim arises from discrimination based on race, color, religion, sex, national origin, age, or disability.".

(j) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to claims arising on and after the date of enactment of this Act.

Mr. FEINGOLD. Madam President. I rise today to offer an amendment, which is actually a bill I have worked on for some time, the Civil Rights Procedures Protection Act, S. 63, a measure cosponsored by Senators KENNEDY, LEAHY, and TORRICELLI.

What this legislation does is address the rapidly growing and troubling practice of employers conditioning employment or professional advancement upon their employees' willingness to submit claims of discrimination or harassment to arbitration, mandatory arbitration, rather than still having the right to pursue their claims in the courts. In other words, in too many cases employers are forcing their employees to ex ante agree to submit their civil rights claims to mandatory binding arbitration irrespective of what other remedies may exist under the laws of this Nation.

So to address this growing trend of mandatory binding arbitration, this measure, the Civil Rights Procedures Protection Act, amends seven civil rights statutes to guarantee that a civil rights plaintiff can still seek the protection of the U.S. courts. The measure ensures that an employer cannot use his or her superior bargaining power to coerce her or his employees to, in effect, capitulate to an agreement which diminishes their civil rights protection.

To be specific, this legislation affects civil rights claims brought under title VII of the Civil Rights Act of 1964, section 505 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, section 1977 of the revised statutes, the Equal Pay Act, the Family and Medical Leave Act, and the Federal Arbitration Act. In the context of the Federal Arbitration Act, the protections in this legislation are extended to claims of unlawful discrimination arising under State or local law, and other Federal laws that prohibit job discrimination.

Madam President, I want to be clear, because it is important that we promote voluntary arbitration in this country, that this is in no way intended to hinder or discourage or bar the use of arbitration on conciliation or mediation or any other form of alternative dispute resolution short of litigation resolving those claims. I think it is tremendous that we try to encourage people to voluntarily avoid litigation.

I have long been a strong proponent of voluntary forms of alternative dispute resolution. The key, however, is that, in those cases that I can support alternative dispute resolution, it is truly voluntary. That is not what we are talking about here. What is happening here is that these agreements to go to arbitration are mandatory, they are imposed upon working men and women, and they are required prior to employment or prior to a promotion.

Mandatory binding arbitration allows employers to tell all current and prospective employees, in effect, if you want to work for us, you will have to check your rights as a working American citizen at the door. Indeed, these requirements have been referred to recently as front-door contracts; that is, employers require that employees surrender certain rights right up front in order to get in the front door. Working men and women all across the country are faced with a very dubious choice, then, of either accepting these mandatory limitations of their right to redress in the face of discrimination or harassment, or being placed at risk of losing an employment opportunity or professional advancement.

As a nation that values work and deplores discrimination, I don't think we can allow this situation to continue. The way I like to describe it is, what this expects a person to do is to sign an agreement that they will not go to court even before they feel the sting of discrimination. They have to sign this deal before they even sit down to their desk and do their first work for an employer.

So, in conclusion, allow me to stress that this practice of mandatory binding arbitration should be stopped now. If people believe they are being discriminated against or sexually harassed, they should continue to retain all avenues of redress provided for by the laws of this Nation. This amendment will help restore integrity and balance in relations between hard-working employees and their employers. But I think more important, this amendment will ensure that the civil rights laws this Congress passes will continue to protect all Americans.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, I commend the Senator from Wisconsin for coming forth with this proposal. It is an amendment that he has been working on, for quite a period of time. As a matter of fact, it has been referred to the Judiciary Committee.

Having said that, I think at the very least it should have, and requires, a thorough hearing. It is important, and it is important we understand the nuances. It is important that we get the case-by-case documentation as relates to those people who have suffered as a result of this area of the law. It is an area of great concern in terms of whether or not a person has to sign an agreement—and they do now—prior to employment, that they give away or they agree that all matters will be settled by way of arbitration.

Maybe it should not be "all matters." Maybe there are certain matters that no one should ever be required to forfeit. I think we should look at that, because I think there are some very real questions. If there is a question of sexual harassment, do you mean to tell me that a person in that case should have to give up his or her right to bring a claim and that it will be settled in camera, behind the scenes, by way of arbitration? And there may be other areas where, indeed, the arbitration procedure should be the methodology of resolving a dispute.

But I believe the Senator is correct, that there are some areas that really call into question whether or not a person must sign this agreement, otherwise he or she doesn't get the job. They just never get the job. They never get the promotion. So what do you think they are going to do? Of course they are going to sign. So this is serious.

I believe we have an obligation to have a thorough, thoughtful analysis, and, indeed, the Judiciary Committee may want to look at certain aspects. But I believe since, indeed, the financial services community, the banking community, the securities community has to deal with this day in and day out, the proper jurisdiction does lie before the Banking Committee.

With that in mind, I have indicated to the Senator that, before we leave, during the month of July or prior, it will be my intent to hold at least a full hearing, where witnesses to both sides, including the Securities and Exchange Commission—which I understand is studying this matter very carefully—will appear so we could have the benefit of their review, of their testimony, of people who have written and people who have been involved in this, those who have been aggrieved as well as those who can testify to the merits of certain aspects of having arbitration in some limited cases.

But I must say for the record, I believe the Senator has touched on something that is very important and I would not like to move to table at this time. I think it would be unfair to the importance of this legislation.

With that in view, I have indicated to the Senator that I will call these hearings, so we can fully explore this and then bring it to this floor as legislation that has had the benefit of the totality of the input from the SEC, from our staffs, after listening and hearing and getting the kind of in-depth review that I know that not only I feel should take place, but that most of the members of my committee would support.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I thank the Senator from New York who, I think, has given a very sympathetic listen to what we are trying to accomplish here. This issue, in fact, emanates in large part originally from his State and from some of the practices in his State that are now becoming nationwide.

I think he has shown here, in his comments, already a keen understanding of what is involved here. Even though this issue has not been presented formally to his committee, he clearly understands that what is being requested of some of these individuals is simply unreasonable in light of American traditions of protection from discrimination and sexual harassment.

So, even though I think this bill is a very appropriate vehicle to offer this amendment, I am grateful the chairman of the Banking Committee has agreed to hold a hearing in which he will be personally involved, in which I will have the opportunity to testify, prior to the end of July, on this bill.

I look forward to being able to participate in helping to select some of the witnesses. I agree with the Senator very strongly that there are people on both sides, as well as those in the middle such as the SEC, who are seriously looking at this. This would be a useful hearing to move this issue along. I happen to be a member of the Judiciary Committee as well, so I certainly regard this as an appropriate forum as well. But I think this committee, in light of the fact these agreements started in securities firms, is a place where a hearing would be appropriate.

I also understand the Senator does not expect in any way I would be prevented from offering this to other bills at any point.

But, in light of all that and his assurances—which have always been extremely secure whenever I have dealt with him in the past, for the last 5½ years—in light of all that, I look forward to the hearing, I look forward to working with him. I hope that he can support this legislation after he has had a chance to review it.

Given all that, at this point, Madam President, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 2394) was withdrawn.

Mr. D'AMATO. I thank my colleague and tell him that we look forward to working together in a cooperative way in helping to craft a package that will address the true abuses yet maintain the importance of arbitration where it is deemed appropriate, because I think in certain cases it is absolutely appropriate and I think in others it is absolutely indefensible.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is recognized.

Mr. BRYAN. I thank the Presiding Officer.

Just to be clear, in terms of the status, the 22 minutes that are reserved to the Senators in opposition is not affected by the colloquy between my two friends from New York and Wisconsin?

The PRESIDING OFFICER. The Senator is correct.

Mr. BRYAN. Madam President, this legislation that we are debating today, as I have said on previous occasions, is somewhat arcane and esoteric. It is not the sort of thing where, for people who are at home watching this debate, it causes them to move to the edge of their chairs and to hang on every word.

It is, however, terribly important for the tens of millions of small investors who, in recent years, have invested in the future of America, and for their confidence in the market system that we have created, because they are the small investors, they are the ones who will be impacted by this legislation. The large investors, the large institutions, will still have options that heretofore the small investors have had but the small investors will be deprived of as a result of this legislation. So it is the view of the Senator from Nevada that this legislation plunges a dagger into the heart of every small investor in America.

What we are talking about is not whether a case can be brought in State court or Federal court. We are talking about a system, which currently exists, that allows a private small investor to be part of a class action, and other small investors who have been defrauded as a result of the misconduct of others, to come together and file an action in State court and to avail themselves of statutes of limitations that are longer than are available to those of us who file in Federal court to provide, for joint and several liability, the ability to recover from accomplices—particularly important if the primary offender has bankrupted himself or herself or itself or has taken leave—and to avail himself or herself of triple damages under RICO.

So this has a very practical impact. Actions that would be available to small investors at the State court level will no longer—no longer—be available to those small investors, as a practical matter. So we continue a process which alarmed my good friend, the distinguished ranking member of this committee, the distinguished Senator from Maryland, that began with the Private Securities Litigation Reform Act of 1995 and, in our view, simply goes too far.

Those of us who express strong reservations about this bill find no comfort with those who are filing strike suits, those who are involved in litigiousness for the sake of litigiousness. I believe it would be possible to craft a narrow provision that addresses the ostensible concerns that have been raised and yet not deprive small investors in this country of their rights under the law.

The system for private enforcement of remedies has existed now for more than six decades. It is a dual system involving the State courts and the Federal courts. It has worked exceptionally well. The SEC has repeatedly testified as to the importance of private rights of actions as being absolutely essential to augment their own enforcement efforts. Indeed, they have said they have not the ability nor the resources to deal with the vast panoply of investor fraud, and they view the private cause of action as essential.

Indeed, States were the first to enact these protections against fraud in the early 1900s, and when, in the mid-1930s, the statutes that essentially provided the framework for Federal securities regulation were put in place, it was expressly intended to supplement, not to supersede, to complement, not to wipe out, and the language of this legislation today specifically preempts the State cause of action for class actions. These State remedies are vitally important, and States have responded in a number of different ways by providing protections. I am going to talk about three primarily.

The statute of limitations. Why is that important? Those who perpetrate fraud on small investors don't do so openly and nakedly; they try to conceal it to protect that activity. So the unfortunate decision of the court in the Lampf decision, which limits at the Federal level the right of an investor who has been defrauded 1 year from the point of discovery of the fraud, 3 years even though the investor never becomes aware of that fraud, is viewed by the Securities Commission as unreasonable because it takes them, with all of their resources, a minimum of 3½ years.

The statute of limitation is not just an arcane debate about how long one should have, it is the ability of a small investor who has been defrauded without his knowledge and, never having learned of it within the 3-year period of time, is now precluded. Thirty-three States in this country, including my own in Nevada, provide for a longer statute of limitation. Some provide 2 years from the time of discovery of fraud, or 5 or 6 or even 10 years, and some provide no bar at all.

In the vast majority of States in America, small investors filing class actions who do not discover the fraud until after 3 years are currently, under existing law, protected in at least 33 States. This legislation cuts off that right, and even though we all agree or, as the lawyers say, stipulate to the merit of the claim, it is barred—barred—by the 3 years even though the small investor never became aware of the fraud. That is what we are talking about.

Forty-nine of the 50 States provide liability for the accomplices—those who conspired with the primary perpetrator of the fraud, whether they be lawyers, whether they be accountants, whether they be other investment advisers—to provide a cause of action—49 out of 50. Unfortunately, at the Federal level, there is no remedy for plaintiffs against aiders and abetters. So that means that if the primary offender, the perpetrator, becomes bankrupt, leaves the country, or is otherwise unable to respond in damages, historically at the State court level, the class-action plaintiffs could recover against those who conspired and aided in that fraud.

The action that we take with S. 1260 deprives small investors filing class actions from this recovery. So now, if we pass this legislation, they are precluded from moving against those who conspired and actively participated in the fraud.

Moreover, States, as a matter of providing protection to their own citizens, have provided in a number of jurisdictions for joint and several liability. That means if five or six are guilty of the fraud and only one has the ability to respond in damages, States have made the determination that as between the innocent investor, utterly blameless, that the innocent investor ought to be satisfied against the perpetrator of that fraud, even though there may have been several involved. That is wiped out.

We have, in effect, a piece of legislation before us that dramatically limits the right of a small investor to pursue a class action in State court and to avail himself or herself of a whole host of remedies which States have provided on their own.

I must say, the irony of this course of action by a Republican Congress that has proclaimed its devotion to State rights and has raged against preemption by a Congress at the Federal level of essentially State rights does not go unnoticed by this Senator.

Why are class actions important? Again, it is pretty esoteric. Think for a moment. Tens of millions of small investors who may have been victimized by a fraud don't have the ability to hire a lawyer on their own to fight against entrenched special interests who have the ability to provide legal defenses and delays and delays. That is practically no remedy at all. It is only by binding together with other investors, small investors who are similarly situated, as the law says, that those costs can be spread and a recovery can be possible.

When we say, as proponents of this legislation, "Well, the small investor can still file in State court," that is true, but it is a hollow and transparent remedy because, as a practical matter, small investors simply do not have the ability to pay for the lawyer's fees and the costs that are involved in processing these kind of cases.

That was the situation that 23,000 senior citizens who joined in a class action against Charlie Keating and Lincoln Savings and Loan found themselves in a few years ago. It was a class action, and they were ultimately able to recover 65 cents on the dollar of their losses.

Had those plaintiffs been involved today with a shorter cause of action at the Federal level, with the cause of action unavailable at the State level for class actions, those plaintiffs would have not been able to recover that kind of money. The examples of these kinds of groups are not just small individuals, but they include school districts, municipalities, special improvement districts, pension funds at the State and municipal level. All of these are going to be affected by this legislation. As a practical matter, a class action provides the only realistic hope of recovery.

As I pointed out, the SEC, with all its resources, says it takes them up to 3 years to compile the data to bring these securities fraud suits. So in effect, what we are doing now is we are providing for two classes of investors: Those who have been defrauded who are people of means, of wealth, so they can hire their own lawyers, they can still file at the State court level and take advantage of the longer statute of limitations, can take advantage of the provisions that provide liability against accomplices, can take advantage against the joint and several liability protections available at the State level. But if you are a small investor—and that is what most of those who are defrauded are, small investors—that remedy is no longer available to you.

So the question arises: Why are we doing this? What is the problem? Well, frankly, to the great credit of our regulatory framework, we have the safest and the most efficient securities markets in the world.

In 1990, there were 158 IPOs, totaling $4.6 billion. In 1997, 7 years later, there were 619 IPOs, totaling $39 billion. The stock market has recently set record highs. The Dow is over 9,000. And individuals confident in these markets are pouring in $40 billion a month in mutual funds. In 1980, 1 in every 18 households in America invested in the stock market. Less than 20 years later, it is more than one in three. That is a great tribute to the security and safety of this market.

Why are we reducing the investor protections at a time when the stock market is surging and consumer confidence is growing?

Investor confidence is crucial, and it is threatened by increasing fraud. I believe it was President Kennedy who made the observation, that, "A rising tide"—referring to the economy—"raises all boats." And I think that is true. But it is equally true it also hides the shoals.

Newsweek, in its October 6, 1997, edition: "Scam Scuttling: The Bull Market is Drawing Con Artists. SEC Chairman Levitt summarized, "In a market like this, parasites crowd in to feast on the bull's success."

Business Week, December 15: "Ripoff! Secret World of Chop Stocks—And How Small Investors—[and that is what we are talking about] Are Getting Fleeced." The article focuses on small-cap equities manipulated to enrich promotors and defraud thousands of small investors—a $10 billion-a-year business that regulators and law enforcement have barely dented.

The New York Times of November 26 of last year: "Lessons of Boesky and Milken Go Unheeded in Fraud Case." In one case, 1,600 investors were swindled out of $95 million.

Yet Federal and State enforcement resources are shrinking as these fraudulent schemes are perpetrated upon the innocent small investors.

Now is not the time, I would respectfully argue, to in effect rip from the investor his or her opportunity to recover that which has been lost as a result of being victimized by fraud. Our securities markets run on trust, Madam President—on trust—not money. There will be much less trust, I fear, if this legislation occurs.

Look what has happened in countries around the world: "Albania tries to regain control [of the Ponzi scheme]." That can't happen in America with the system that we have created. "Shanghai Stock Market Cited for Scandal." "10,000 Stampede as Russian Stock [Market] Collapses." "Scandal Besets Chinese Markets."

My point being that we have devised a system to protect investors. And I fear, by reason of overly broad legislation, we are depriving small investors of the very opportunity to recover that which has provided the confidence in the market that has encouraged such a massive investment by small investors.

Why? We are led to believe there is a massive influx of cases that must be preempted because everybody is going to the State court to bypass the provisions of the 1995 law.

Price Waterhouse, in January of 1998, made a report, an evaluation. Forty-four State cases—44—were filed in all of 1997, a one-third decrease since 1996—I want to emphasize that, a decrease—when 66 were filed, and less than in the 3 years before the 1995 legislation. A followup Price Waterhouse study, in February, tells us 39 cases were filed.

My point being, whether it is 39 or 44, I would not argue that with my colleagues, but that is, out of 15 million cases, civil cases—not criminal, not traffic, not domestic relations—we are talking about 44 cases or 39 cases out of 15 million filed. That is a very, very small number. And although there are some problems, as has been pointed out by the proponents, none of the problems justifies the sweeping emasculation of investor protections that this legislation provides for.

Now, what are the problems specifically in the act itself?

If one believes that uniform standards are an essential public policy in the country—and, I must say, I have not been persuaded—then I think we would agree that a uniform standard that provides strong investor protections ought to be a part of that uniform standard.

Unfortunately, what we have done, in each and every case, is opted for the lowest common denominator of protection. If the statute of limitations is longer at the State level, we have preempted it and limited the statute of limitations. If the State provides for liability against those who are accomplices, we take that cause of action away from the small investor. If the State allows for joint and several recovery against each and every one of those involved in the fraud, we take that away from the small investor.

So it is my view that this is part of an ongoing process in which we have, in my judgment, left the small investor high and dry in many cases if this legislation passes.

I must say that when you look at the trend line following the 1995 legislative enactments, you can see that pattern unfold. The Lampf decision, which shocked the SEC and others, limited the statute of limitations to 1 year from the time of discovery of the fraud to 3 years. The SEC recognized that that is an unreasonable period of time. And those who argued several years ago for comprehensive reforms said, "Look, we'll address the statute of limitations at that point." We tried, Madam President, in 1995 to address the statute of limitations, but we were rebuffed. Now this legislation takes the longer statute of limitations, available in 33 out of 50 States, away from those small investors.

The Supreme Court, in the Central Bank case, held that there is no ability to hold accomplices liable. We tried to provide for aider and abetter coverage. The SEC strongly supports that. We were told that when we redid the Federal securities laws that that would be included. My colleague from Maryland and I tried, and we were rebuffed in that effort.

Joint and several liability, eliminated in the 1995 act. Civil RICO, eliminated. Discovery provisions, limited. In 1996, we made a determination to divide some of the regulatory responsibility between State and Federal authorities.

In 1998, we are here with S. 1260, which I think is the coup de grace in terms of small investor protection. So I must say that I am greatly disturbed by this threat. I believe that small investors ultimately will pay the price.

It is often said that those of us who oppose this legislation must be working for those nefarious trial lawyers. Let's take a look at the groups who support the position that the senior Senator from Maryland and I take. The American Association of Retired Persons. When I attend one of their meetings, I haven't seen a single retired lawyer in attendance. The AFL-CIO, the American Federation of State County and Municipal Workers, Consumer Federation of America, Consumers Union, and many, many others, as you can see, particularly those involved with the State retirement associations, including the Public Employees Retirement System, the League of Cities, the National Association of Counties and Municipal Treasuries.

Let me read a paragraph from a letter that the able Senator from Maryland introduced, coming from the Government Finance Officers Association, the Municipal Treasurers'Association, National Association of Counties, National Association of County Treasurers, National Association of State Retirement Administrators, National Conference on Public Employee Retirement System, National League of Cities, U.S. Conference of Mayors. They raise many of the same objections that I have outlined today, as has my colleague from Maryland.

Here is their comment:

> The Private Securities Litigation Reform Act was opposed by state and local governments because the legislation did not strike an appropriate balance, and this legislation extends that mistake to state courts. As both users of debt and investors of public funds, state and local governments seek to not only reduce frivolous lawsuits but to protect state and local government investors who are defrauded in securities transactions. . . .
>
> The above organizations believe that States must be able to protect State and local government funds.

We are talking about taxpayer dollars. We are not talking about litigious plaintiffs. We are talking about pension funds, municipal State funds in which those entities have been defrauded and now will be provided much less protection to recover tax dollars—dollars belonging to each and every citizen who is a part of that group.

Let me address one final point here as we conclude this discussion. One of the concerns that has been expressed is that there is no adequate assurance that liability will continue to exist against those who are reckless in their conduct. Now, that is a standard more egregious than simple negligence, more egregious than gross negligence. We are talking about conduct that is reckless in nature.

Prior to 1995, when the Private Securities Litigation Reform Act was enacted, 11 of 13 circuits in this country had addressed the issue and had concluded that there was a cause of action for those who are guilty of reckless misconduct. The 1995 legislation, because it talked about a specific pleading standard, has created some confusion. Following the 1995 enactment, several district courts have concluded that no longer is there liability for reckless misconduct.

Now, the proponents of this legislation say that they do not intend that as a consequence. And I accept their representation. However, we have tried to get into this bill a provision crafted by the SEC defining "reckless" to make it absolutely sure that "reckless" is protected. Their response? If the courts strike down "reckless" we will remedy it.

I never impugn anyone's good faith, but I am a product of the experience that I have had in this legislation. We were told back in the 1990s that we would address the statute of limitation problem when we looked at comprehensive legislation to correct that. It did not occur. We were told after the Central Bank case that we will address the problem in which aiders and accomplices are no longer liable under the law. We were rejected in that effort. So I must say I find my comfort level not very high if the courts intend that. It seems to me if we are in earnest in wanting to protect that "reckless" standard, it is terribly important we use a definition which the SEC has provided. Let's make it part of this legislation.

I am not unmindful of the fact that this bill is a train that is leaving the station. It will pass and it will be signed into law. But it would be a tragic mistake not to make absolutely sure that "reckless" is included. I believe a fair reading of the 1995 legislation should not give rise to an inference that "reckless" has somehow been changed. I don't believe that was the intent. The authors of this legislation say it is not true, but even when we try to get it moved into the findings of the legislation, we get resistance, so I have concern.

Let me conclude by saying this is a piece of legislation which is a solution in search of a problem, overly broad and dangerous to millions of small investors in America.

I yield the floor and reserve whatever time remains.

(Mr. FAIRCLOTH assumed the chair.)

Mrs. FEINSTEIN. Mr. President, I rise today to lend my support to S. 1260, the Securities Litigation Uniform Standards Act. This legislation, introduced by Senator GRAMM and Senator DODD, is essential to my state of California, providing needed uniform national standards in securities fraud class actions.

In 1995, with my support, Congress successfully passed the Securities Litigation Reform Act. The 1995 Act provided relief to American companies hit with frivolous, or nuisance, lawsuits. Specifically, the legislation adopted federal provisions to discourage nuisance securities lawsuits and increase the level of information provided for investors.

This is very important to my state of California, where hundreds of burdensome lawsuits are filed each and every year. More than 60% of all California high tech firms have been sued at least once. Apple Computers executives stated they expect to be sued every two years. These lawsuits levy a heavy cost on businesses who have to pay for expensive legal battles, draining company resources which might otherwise be spent on growing and improving the health of the company. Securities litigation, as several high tech executives have described, is truly "an uncontrolled tax on innovation."

The high-tech industry has been central to the successful economic recovery in California. As thousands of workers in the aerospace industry lost their jobs, and as the recession of the '90s stalled the economy, it was California's entrepreneurial spirit, the investment in new ideas, research and new technology which resulted in a rebounding economy.

In California, there are over 20,000 established high-tech companies. With roughly 670,000 workers, California ranks 1st in the nation in high-tech employment. To put it in another way, for every 1,000 workers in my state, 62 are high-tech. That is significant when one considers that as the 7th largest economy in the world, California supports almost every kind of industry and business known to commerce.

Start-up companies in the high-tech and biotech industries are most directly affected by securities lawsuits. These high-tech and biotech companies dedicate a large percentage of company funds for research and development. The average high tech firm invests between 16–20% of company revenues in research, with biotech firms often as high as 60%. This level of investment is integral to their business success. However, with the burden of frivolous lawsuits, California companies are not able to use their resource on developing innovative technologies and new products for the market place.

The 1995 Securities Litigation Reform moved in the right direction. However, the 1995 legislation did not address recent actions by plaintiffs to file frivolous cases in state courts. Since the passage of the 1995 legislation, suits traditionally filed in federal courts are now being placed in state courts. The current law does not protect companies from this threat.

The bill, which I have been pleased to support, will protect companies from this side-door tactic. The Securities Litigation Uniform Standards Act of 1997 establishes uniform national standards in securities fraud class action suits. It would permit a defendant, whether a company or individual, who is sued in state court to proceed into federal court. This legislation would in effect require that every large securities class action be brought into federal court.

The creation of effective national standards will make it easier to protect companies from so-called nuisance shareholder lawsuits. Specifically, the legislation would provide for the shifting of securities lawsuits filed in a state court into the more appropriate federal court, a process called "removal." The removal authority would only apply for class action suits involving nationally-traded securities, such as the New York Stock Exchange. Without removal authority, these companies, whose securities are traded throughout the fifty states, could face liability under federal securities laws in fifty state courts. This widespread liability would undermine the reforms enacted in the 1995 Securities Litigation Reform Act.

Further, this legislation would prevent "forum shopping," a method for nuisance lawsuits to be initiated in the most sympathetic state jurisdiction. This is a very real concern for California. According to a recent study by former Securities and Exchange Commissioner Joseph A. Grundfest, approximately 26% of litigation activity has moved from federal to state court since the passage of the 1995 law. The study elaborates:

> This increase in state court litigation is likely the result of a "substitution effect" whereby plaintiffs' counsel file state court complaints when the underlying fact appear not to be sufficient to satisfy new, more stringent federal pleading requirements.

California is the home to one-third of the nation's biotechnology companies and medical device companies. These firms have been the source of tremendous growth. Yet these high tech firms are the very ones who face one of every four strike suits and who have had to pay hundreds of millions of dollars in settlements. National standards will address this problem effectively and fairly.

By establishing a uniform system for the movement of cases from state to federal court, Congress can limit abusive lawsuits that inhibit economic and job growth. The Securities Litigation Uniform Standards Act of 1997 will offer important protection for American companies from nuisance lawsuits.

I appreciate the efforts of the Banking Committee and the sponsors, Senator GRAMM and Senator DODD, for their work on this issue and encourage my fellow Senate colleagues to support this legislation.

Mr. JOHNSON. Mr. President, I rise today in opposition to S. 1260, the Securities Litigation Uniform Standards Act. This bill seeks to prevent states from protecting their own citizens from unscrupulous actions by a small minority in the securities industry. We must allow states to protect their own investors, and this further intrusion into states rights is unwarranted by the evidence.

Preempting state remedies now—and requiring fraud victims to seek relief solely under the federal standards promulgated in 1995—could leave investors with severely limited ability to protect themselves against fraud. We should permit the 1995 Private Securities Litigation Reform Act to be interpreted by the courts before we embark on this effort to anticipate future problems with the PSLRA that have not yet arisen. Several federal district courts have issued rulings on the 1995 law that are so restrictive that they threaten almost all private enforcement of securities law—including holding that reckless wrongdoers are no longer liable to their victims under the PSLRA.

The SEC has warned in briefs filed in these cases that such a result would essentially end private enforcement of the federal securities laws. By eliminating state remedies for fraud before knowing whether the courts will finally interpret the PSLRA in a way that provides victims with a viable means to recover their losses, S. 1260 risks not only harming innocent investors but undermining public confidence in our securities markets.

There is no need for any federal action inasmuch as there have been few state securities class actions filed since the PSLRA passed, and most have been in one state. Preemption proponents cite an imaginary "explosion" of state suits filed to "circumvent" the PSLRA in the two years since its enactment. But the mere handful of state securities class actions filed in 1997—only 44 nationwide—represents a one-third decrease since 1996 and is less than in the three years before the PSLRA was passed. It also is an infinitesimally small percentage of the roughly 15 million civil cases filed in state courts each year. No state other than California has had more than seven securities class actions filed in the two years since enactment of the PSLRA. Given these small numbers, there is no reason why states should not be left free to decide how best to protect their own citizens from fraud.

State laws against securities fraud are part of a dual enforcement system that has served the country exceptionally well since the Depression. States enacted protections against financial schemes in the early 1900s. Congress passed federal securities laws in 1933 and 1934 to complement—not replace—state laws and to stop abuses that caused the 1929 crash. Many states have chosen to provide more expansive investor protections than federal law currently provides—through accountability for aiders and abettors, realistic time limits for filing a fraud claim, and the ability to recover fully from professionals who help perpetrate frauds (like lawyers and accountants) when the main wrongdoer is bankrupt, in jail, or has fled the country. For example, according to the SEC, 49 of the 50 states provide liability for aiders and abettors now unavailable under federal law and 33 states provide longer statutes of limitations for securities fraud actions than current federal law. S. 1260 would take away these important state remedies.

This effort has been underway virtually since the PSLRA passed. It is not based on the new realities created by the PSLRA, but rather to eliminate another form of protection for investors. The SEC has repeatedly expressed concern that federal legislation to preempt state laws is premature. In an April 1997 letter to the President forwarding a lengthy SEC report on the operation of the PSLRA, Chairman Arthur Levitt stated, "The Commission endorses the ultimate conclusion of this report: it is too early to assess with great confidence many important effects of the [PSLRA] and therefore, on this basis, it is premature to propose legislative changes. . . The one-year time frame has not allowed for sufficient practical experience with the Reform Act's provisions, or for many court decisions (particularly appellate court decisions) interpreting those provisions." The SEC reiterated this view in October 1997 testimony before both the House and Senate and has specifically criticized the pending preemption legislation, stating that it "would deprive investors of important protections." SEC Commissioner Norman Johnson, a Republican, has been especially critical: "Given the possible adverse effect on investor confidence, as well as the long history of effective and concurrent federal and state securities regulation, and the strong federalism concerns raised by preemption . . . extreme caution should be exercised before state courthouse doors are closed to small investors through the preclusion of state class actions for securities fraud." While three of the five SEC Commissioners no longer oppose S. 1260, there has been no change in any of the underlying facts that led to the SEC's earlier report and testimony. Commissioner Johnson continues to oppose S. 1260.

With more and more Americans participating in the stock market boom, it is more imperative that we maintain these investor protections, not weaken them. According to a front-page article in the November 30, 1997, New York Times, "Investment Fraud Is Soaring Along with the Stock Market." This was only one in a long line of recent articles reporting on widespread fraud in the financial markets—a fact acknowledged by federal and state enforcement officials nationwide. The National White Collar Crime Center reports that corporate financial crime costs $565 billion annually, nearly 12 times the amount of street crime. The New York Attorney General has reported that investor complaints have risen 40% per year in the past two years; the U.S. Attorney in New York City has stated that she has witnessed an "explosion" of securities fraud; and the mob has now infiltrated Wall Street. Yet, federal and state enforcement resources are shrinking. As SEC Chairman Levitt observed in December 1997: "In a market like this, parasites crowd in to feast on the bull's success." In light of all this, Congress should strengthen, not weaken, existing deterrents.

This premption of state law is opposed by a broad coalition, including the American Association of Retired Persons; American Federation of State County and Municipal Workers; Consumer Federation of America; Consumers Union; Gray Panthers; Government Finance Officers Association; Municipal Treasurers' Association; National League of Cities; National Association of Counties; National Association of County Treasurers and Finance Officers and many, many others.

Mr. President, I urge my colleagues to join me in opposing this unnecessary and unwarranted federal intrusion into what should appropriately be state law.

Mr. DODD. Mr. President, S. 1260, the Securities Litigation Uniform Standards Act of 1998, is intended to create a uniform national standard for securities fraud class actions involving nationally-traded securities. In advocating enactment of uniform national standards for such actions, I firmly believe that the national standards must be fair ones that adequately protect investors. I hope that Senator D'AMATO, one of the architects of the Banking Committee's substitute, would engage in a colloquy with me on this point?

Mr. D'AMATO. I would be happy to.

Mr. DODD. At a hearing on S. 1260 last October, the Securities and Exchange Commission (SEC) voiced concern over some recent federal district court decisions on the state of mind—or scienter—requirement for pleading fraud was adopted in the Private Securities Litigation Reform Act of 1995 ('95 Reform Act or PSLRA). According to the SEC, some federal district courts have concluded that the '96 Reform Act adopted a pleading standard that was more rigorous than the Second Court's, which, at the time of enactment of the PSLRA, had the toughest pleading standards in the nation. Some of these courts have also suggested that the 95 Reform Act changed not only the pleading standard but also the standard for proving the scienter requirement. At the time we enacted the PSLRA, every federal court of appeals in the nation—ten in number—concluded that the scienter requirement could be met by proof of recklessness.

Mr. D'AMATO. I am sympathetic to the SEC's concerns. In acting now to establish uniform national standards, it is important that we make clear our understanding of the standards created by the '95 Reform Act because those are the standards that will apply if S. 1260 is enacted into law. My clear intent in 1995, and my understanding today, is that the PSLRA did not in any way alter the scienter standard in federal securities fraud lawsuits. The '95 Reform Act requires plaintiffs, and I quote, "to the state with particularity facts giving rise to a strong inference that the defendant acted with the required state of mind." The '95 Reform Act makes no attempt to alter or define that state of mind. In addition, it was my intent in 1995, and it is my understanding today, that the '95 Reform Act adopted the pleading standard applied in the Second Circuit.

Mr. DODD. I agree with the comments of my colleague from New York. I too, did not intend for the PSLRA to alter the state of mind requirement in securities fraud lawsuits or to adopt a pleading standard more stringent than that of the Second Circuit. In fact, I specifically stated during the legislative debates preceding and following the President's veto that the '95 Reform Act adopted the Second Circuit's pleading standard. This continues to be my understanding and intent today. Ensuring that the scienter standard includes reckless misconduct is critical to investor protection. Creating a higher scienter standard would lessen the incentives for issuers of securities to conduct a full inquiry into potentially troublesome areas and could therefore damage the disclosure process that has made our markets a model for other nations. The U.S. securities markets are the envy of the world precisely because investors at home and abroad have enormous confidence in the way our markets operate. Altering the scienter standard in the way envisioned by some of these district court decisions could be very damaging to that confidence.

Mr. D'AMATO. My friend from Connecticut is correct. The federal securities laws must include a scienter requirement that adequately protects investors. I was surprised and dismayed to learn that some district court decisions had not followed the clear language of the '95 Reform Act, which is the basis upon which the uniform national standard in today's legislation will be created.

Mr. DODD. It appears that these district courts have misread the language of the '95 Reform Act's "Statement of Managers." As I made clear in the legislative debate following the President's veto, however, the disputed language in the Statement of Managers was simply meant to explain that the Conference Committee omitted the Specter amendment because that amendment did not adequately reflect existing Second Circuit caselaw on the pleading standard. I can only hope that when the issue reaches the federal courts of appeals, these courts will undertake a more thorough review of the legislative history and correct these decisions. While I trust that the courts will ultimately honor Congress' clear intent, should the Supreme Court eventually find that recklessness no longer suffices to meet the scienter standard, it is my intent to introduce legislation that would explicitly restore recklessness as the pleading and liability standard for federal securities fraud lawsuits. I imagine that I would not be alone in this endeavor, and I ask my good friend from New York whether he would join me in introducing such legislation?

Mr. D'AMATO. I say to the Senator from Connecticut that I would be pleased to work with him to introduce such legislation under those circumstances. I agree that investors must be allowed a means to recover losses caused by reckless misconduct. Should the court deprive investors of this important protection, such legislation would be in order.

Mr. DODD. I want to thank the Senator from New York, the Chairman of the Banking Committee, for his leadership on this bill and for engaging in this colloquy with me. In proceeding to create uniform national standards while some issues concerning the '95 Reform Act are still being decided by the courts, we must act based on what we intended and understand the '95 Reform Act to mean. As a sponsor of both the Senate bill that became the '95 Reform Act and the bill, S. 1260, that we are debating today, I am glad that we have had this opportunity to clarify how the PSLRA's pleading standards will function as the uniform national standards to be created in S. 1260, the Securities Litigation Uniform Standards Act of 1998.

Mr. REID. Mr. President, in 1995, we passed the Private Securities Litigation Reform Act or PSLRA, as it became known. Our intent was to prevent abusive filings by a group of trial attorneys who were using a loophole in our laws. These lawsuits were often entirely without merit and really amounted to strong-arm efforts to get money out of small start-up companies. Our legislation was aimed at putting an end to these strike suits and to a large extent it has succeeded.

Many of these companies could take the capital they were expending on litigation and settlement costs and invest in research in development. They could provide greater returns to their shareholders. They could create more jobs.

Unfortunately, the small group of attorneys who were involved in this loophole found another way to get their frivolous strike suits heard in court. They shifted their efforts to state courts.

The SEC has noted this development saying that this "apparent shift to state court may be the most significant development in securities litigation" since the '95 legislation was enacted. Before the '95 Act, few, if any, securities class actions were filed in state court. Since its enactment, the number of state claims has exploded.

A study by Price Waterhouse found that the average number of state court securities class actions filed in 1996 grew 355 percent over the 1991-1995 average. In 1997, filings were 150 percent greater than the 1991-1995 average. While the number of state court filings dropped slightly in 1997 compared to 1996 it is believed this is due to a strategic desire by plaintiffs' lawyers to undercut the underlying legislation.

According to Stanford Law School official Michael Perino:

> It is possible that plaintiffs' attorneys may simply have strategically chosen not to pursue a significant number of state cases in order to decrease the apparent necessity for Congress to pass a federal preemption statute. Past experience . . . indicates that plaintiffs respond strategically to legislative initiatives that might alter the costs and benefits of securities litigation.

The State court litigation is a loophole around the PSLRA. This is undermining the bipartisan efforts we made in passing the PSLRA to give companies the ability to disclose more information to investors without the fear of being sued. But the threat of being sued in 50 states chills the disclosure of company information to investors.

People are understandably reluctant to make disclosures under the Federal law's "safe harbor" provision when their statements can be used against them in state court. According to the SEC, fear of state court liability for forward looking statements was inhibiting the use of the PSLRA's safe harbor.

The time to act on this is now. Delay undermines one of the main policy goals of the PSLRA—greater information flow to investors. Delays will cause a proliferation of litigation in state courts. Delay forces all parties to spend millions of dollars arguing about matters that uniform standards legislation can put to rest.

As time goes on, states will reach different legislative and judicial results—this just furthers the confusion. As President Clinton wrote last year, "the proliferation of multiple and inconsistent standards could undermine national law."

We need to prevent this confusion by putting a stop to this end run around Congress. A patchwork system of securities laws undermines America's capital markets. Capital formation is inhibited by overlapping the duplicative legal rules governing securities litigation. Uniform standards legislation ensures that purchasers and sellers of nationally traded securities have similar remedies in securities lawsuits regardless of their state of residence.

It is time to close this loophole and put an end to this high priced extortion that seems to be benefitting only a few trial attorneys.

Mr. LIEBERMAN. Mr. President, I rise today to say a few brief words of support for the bill we are now considering, the Securities Litigation Uniform Standards Act of 1998. I was an original co-sponsor of this important legislation. Through its passage, we in Congress can continue to send the strong message to the nation's securities markets and the country's investors that we first articulated in 1995 with the enactment of the Private Securities Litigation Reform Act: we will not let frivolous lawsuits disrupt our nation's securities markets, devalue our citizens' investments or cut off the free flow of information we all need to make reasoned and well-informed investment decisions.

I was a proud supporter of the 1995 Act, which restored some rationality and common sense to the laws regulating federal securities litigation. That bill set specific standards for federal private class actions alleging securities fraud, so that those deserving of compensation received it, while those seeking only to profit from the filing of an abusive suit did not. Unfortunately, in the wake of that Act, some enterprising plaintiffs' attorneys have turned to State courts to file abusive suits. Through these State court actions, plaintiffs' attorneys have effectively circumvented the reforms the 1995 Act put in place, reforms we in Congress overwhelmingly embraced in the 1995 Act.

Were the regulation of nationally traded securities a matter of purely local concern, I might agree with those who see nothing wrong with this phenomenon—who argue that each State should be free to set for itself the laws governing actions in its courts. But we clearly are not dealing here with something of only local concern. To the contrary, the securities governed by this bill—and it is important to emphasize this point—are by definition trading on national exchanges. As we all know, securities traded on national exchanges are bought and sold by investors in every State, and those investors rely on information distributed on a national basis. It simply makes no sense to open those who make statements about national securities on a national basis to class actions brought under 50 separate State regulatory regimes—not if we want efficient and well-functioning securities markets, that is. In short, not only is a uniform standard appropriate in this case; it provides perhaps the quintessential example of something that should be subject to one set of standards nationwide.

For this reason, it is not surprising that this bill has the support, not only of a significant portion of the Congress, but also of both the SEC and the Administration. As someone involved for many years in efforts to reform our nation's litigation system, I can say with confidence that the fact that both the SEC and the Administration support this bill speaks volumes to the merits of this bill.

Let me close, Mr. President, by thanking the principal sponsors of this bill, particularly Senators DODD, D'AMATO, GRAMM and DOMENICI. They have worked hard to accommodate all legitimate concerns raised about this bill, working particularly closely with both the SEC and the Administration, and making significant changes to the bill as it moved to the floor. I join with them in urging my colleagues to pass this important legislation today.

Mr. WELLSTONE. Mr. President, I rise today to oppose S. 1260, the "Securities Litigation Uniform Standards Act of 1997."

Mr. President, we are considering legislation that would risk imperiling the financial security of those individuals most susceptible to fraud. The American Association of Retired Persons opposes this legislation based on the bill's anti-investment character and the heightened dependence of senior citizens on investment. I find it very odd that in a time when the stock market is doing so well that some of my colleagues are considering exposing Social Security to the vagaries of the booms and busts of Wall Street, we are preventing the states from protecting their citizens from securities fraud. In a time when more Americans are relying on investments for financial security—especially retirees—we are rolling back protections.

Many states, my own included, have laws which provide for increased penalties for fraud perpetrated against seniors and the disabled—the Minnesota statute mentions securities specifically—and Congress has always given the states great leeway in protecting their consumers. In Minnesota, there is an additional civil penalty of $10,000 for each violation where deceptive trade practices, false advertising, or consumer fraud are perpetrated against elderly and disabled persons.

Not only are seniors and the disabled at great risk for fraud, they are increasingly becoming investors and they are least able to recoup the income lost. It is devastating for anyone to lose their life savings through a lie, to have their pension wiped out, but for Americans on a fixed income—it will destroy them, Mr. President.

I cannot support this legislation. It is bad for investors, it is terrible for seniors and the disabled, and it addresses a problem which does not exist at the expense of consumers.

I urge its rejection.

Mr. REED. Mr. President, as a supporter of the Private Securities Litigation Reform Act of 1995 I am pleased to support S. 1260, the Securities Litigation Uniform Standards Act of 1998.

The bill will create a uniform standard for securities class action lawsuits against corporations listed on the three largest national exchanges.

Class action suits are frequently the only financially feasible means for small investors to recover damages.

Yet, such lawsuits have also been subject to abuse, draining resources from corporations while inadequately representing the interests of investor plaintiffs.

Mr. President, in 1995, I voted to curtail such abusive litigation. It was obvious then that some class action suits were being filed after a precipitous drop in the value of a corporation's stock, without citing specific evidence of fraud.

These lawsuits inflict substantial costs upon corporations, harming the business and its shareholders. Unfortunately, since passage of federal procedures protecting corporations from such suits there has been some attempt by class action plaintiffs to circumvent these safeguards by filing similar lawsuits in state courts.

Mr. President, this Act will preempt this circumvention, creating a national standard for class action suits involving nationally traded securities. I favor this legislation because it recognizes the national nature of our securities markets, provides for more efficient capital formation, and protects investors.

However, Mr. President, it is essential to recognize that preemption marks a significant change concerning the obligations of Congress.

When federal legislation was enacted to combat securities fraud in 1933 and 1934, federal law augmented existing state statutes. States were free to provide greater protections from fraud to their citizens, and many have.

The Chairman of the Securities and Exchange Commission has testified concerning the traditional system by which securities have been regulated: through both public and private lawsuits in both state and federal courts.

Many of my colleagues voted for the 1995 legislation knowing that if federal standards failed to provide adequate investor protections, state suits would provide a necessary backup.

With passage of this legislation, my colleagues and I have now accepted full and sole responsibility to ensure that fraud standards allow victimized investors to recoup lost funds.

Only a meaningful right of action against those that defraud guarantees investor confidence in our national markets.

A uniform national standard concerning fraud provides no benefit to markets if issuers can, with impunity, fail to ensure that consumers receive truthful, complete information on which to base investment decisions.

Specifically, my support rests on the presumption that the liability standard was not altered by either the 1995 Act or this legislation.

I strongly endorse the Report which accompanies this legislation, which states clearly that nothing in the 1995 legislation changed either the scienter standard or the previous pleading standards associated with the most stringent rules, those of the Second Circuit.

The reason such standards were not changed in 1995 is that they are essential to providing adequate investor protection from fraud.

I have been deeply troubled by the ruling of several federal district courts which, ignoring the clear legislative history of the 1995 Act, have either changed the requirements of scienter in a fraud case or have invalidated the proper pleading standard for a 10b-5 action.

Mr. President, let me be clear: nothing in the act addressed the scienter standard: which has quite rightly been held by every Circuit to rule on the issue to include recklessness.

With regard to proper pleadings: the PSLRA requires plaintiffs to plead specific facts "giving rise to a strong inference" that the defendants acted with the required state of mind. Prior to the 1995 legislation, some circuit courts allowed scienter to be averred generally. However, the PSLRA's heightened standard was specifically linked to the most stringent pleading standard at the time, that of the Second Circuit. That standard allows a plaintiff to establish a case by either pleading motive and opportunity or recklessness.

Mr. President, I believe that SEC Chairman Levitt, who has a lifetime of experience as both an investor and regulator of markets, has been the most articulate concerning the need for a recklessness standard concerning the scienter requirement.

In October 21, 1997 testimony before the Subcommittee on Finance and Hazardous Materials of the House's Committee on Commerce, Chairman Levitt said:

> In my judgment, eliminating recklessness from the securities anti-fraud laws would be tantamount to eliminating manslaughter from the criminal laws. It would be like saying you have to prove intentional murder or the defendants gets-off scot free. . . . If we were to lose the reckless standard, in my judgement, we would leave substantial numbers of the investing public naked to attacks by fraudsters and schemers.

In testimony before the Banking Subcommittee Chair by Senator GRAMM, on October 29, 1997, Chairman Levitt further articulated his position regarding the impact a loss of recklessness would have. He said:

> A uniform federal standard that did not include recklessness as a basis for liability would jeopardize the integrity of the securities markets, and would deal a crippling blow to defrauded investors with meritorious claims. A higher scienter standard would lessen the incentives for corporations to conduct a full inquiry into potentially troublesome or embarrassing areas, and thus would threaten the disclosure process that has made our markets a model for nations around the world.

I think the danger that a loss of recklessness posses to our citizens and our markets is clear.

Mr. President, equally important is a pleading standard that allows victimized investors to recover their losses. The reason for allowing a plaintiff to establish scienter through a pleading of motive and opportunity or recklessness is clear. As one New York Federal District Court has stated, "a plaintiff realistically cannot be expected to plead a defendant's actual state of mind."

Since the 1995 Act allows for a stay of discovery pending a defendant's motion to dismiss, requiring a plaintiff to establish actual knowledge of fraud or an intent to defraud in a complaint raises the bar far higher than most legitimately defrauded investors can meet.

The SEC has been clear on this point and it has been well recognized by the supporters of both the 1995 and 1998 Acts that neither changed the preexisting standards.

Mr. President, I am pleased that the Chairman of the Committee and the Ranking Member of the Subcommittee, a prime sponsor of this legislation, have today articulated their belief that including reckless behavior in the definition of fraud is essential to the protection of our markets. I join them in their pledge to sponsor legislation should such protections be threatened.

As a result, the legislative history of both bills well establishes that the scienter standard, as well as the pleading standard of the Second Circuit Court of Appeals, remains totally intact. Therefore, it is now clear that federal district court rulings that have held otherwise are clearly in error.

Mr. President, I ask unanimous consent to have printed in the RECORD an analysis, preformed for me by the staff of the SEC, of cases adjudicated under the 1995 Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, April 20, 1998.

TED LONG,
Legislative Counsel, Offices of Senator Jack Reed, Hart Senate Office Building, Washington, DC.

DEAR MR. LONG: The attached responds to your request for staff technical assistance with respect to S. 1260, the "Securities Litigation Uniform Standards Act of 1997." This technical assistance is the work of the staff of the Securities and Exchange Commission; the Securities and Exchange Commission itself expresses no views on this assistance.

I hope the attached is responsive to your request.

Sincerely,

RICHARD H. WALKER,
General Counsel.

Attachment.

PLEADING STANDARD SCORECARD

(As of April 17, 1998)

I. Cases Applying the Second Circuit Pleading Standard:

1. City of Painesville v. First Montauk Financial Corp., 1998 WL 59358 (N.D. Ohio Feb. 8, 1998).
2. Epstein v. Itron, Inc., No. CS-97-214 (RHW), 1998 WL 54944 (E.D. Wash. Jan. 22, 1998).
3. In re Wellcare Mgmt. Group, Inc. Sec. Lit., 964 F. Supp. 632 (N.D.N.Y. 1997).
4. In re FAC Realty Sec. Lit., 1997 WL 810511 (E.D.N.C. Nov. 5, 1997).
5. Page v. Derrickson, No. 96-842-CIV-T-17C, 1997 U.S. Dist. LEXIS 3673 (M.D. Fla. Mar. 25, 1997).
6. Weikel v. Tower Semiconductor Ltd., No. 96-3711 (D.N.J. Oct. 2, 1997).
7. Gilford Ptnrs. L.P. v. Sensormatic Elec. Corp., 1997 WL 757495 (N.D. Ill. Nov. 24, 1997).
8. Galaxy Inv. Fund. Ltd. v. Fenchurch Capital Management, Ltd., 1997 U.S. Dist. LEXIS 13207 (N.D. Ill. Aug. 29, 1997).
9. Pilarczyk v. Morrison Knudsen Corp., 965 F. Supp. 311, 320 (N.D.N.Y. 1997).
10. OnBank & Trust Co. v. FDIC, 967 F. Supp. 81, 88 & n.4 (W.D.N.Y. 1997).
11. Fugman v. Aprogenex, Inc., 961 F. Supp. 1190, 1195 (N.D. Ill. 1997).
12. Shahzad v. H.J. Meyers & Co., Inc., No. 95 Civ. 6196 (DAB), 1997 U.S. Dist. LEXIS 1128 (S.D.N.Y. Feb. 6, 1997).
13. Rehm v. Eagle Fin. Corp., 954 F. Supp. 1246, 1252 (N.D. Ill. 1997).
14. In re Health Management Inc., 970 F. Supp. 192, 201 (E.D.N.Y. 1997).
15. Marksman Partners, L.P. v. Chantal Pharmaceutical Corp., 927 F. Supp. 1297, 1309-10, 1309 n.9 (C.D. Cal. 1996).
16. Fischler v. AmSouth Bancorporation, 1996 U.S. Dist. LEXIS 17670 (M.D. Fla. Nov. 14, 1996).
17. STI Classic Fund v. Bollinger Industries, Inc., No. CA 3:96-CV-0823-R, 1996 WL 866699 (N.D. Tex. Nov. 12, 1996).
18. Zeid v. Kimberley, 930 F. Supp. 431 (N.D. Cal. 1996).

II. Cases Applying a Stricter Pleading Standard than the Second Circuit:

A. Cases Holding that Motive and Opportunity and Recklessness do not Meet Pleading Standard.

1. Mark v. Fleming Cos., Inc., No. CIV-96-0506-M (W.D. Okla. Mar. 27, 1998).
2. In re Silicon Graphics Sec. Lit., 970 F. Supp. 746 (N.D. Cal. 1997).
3. In re Comshare, Inc. Sec. Litig., Case No. 96-73711-DT, 1997 U.S. Dist. LEXIS 17262 (E.D. Mich. Sept. 18, 1997).
4. Voit v. Wonderware Corp., No. 96-CV. 7883, 1997 U.S. Dist. LEXIS 13856 (E.D. Pa. Sept. 8, 1997).
5. Powers v. Eichen, No. 96-1431-B (AJB), 1997 U.S. Dist. LEXIS 11074 (S.D. Cal. Mar. 13, 1997).
6. Norwood Venture Corp. v. Converse Inc., 959 F. Supp. 205, 208 (S.D.N.Y. 1997).
7. Friedberg v. Discreet Logic, Inc., 959 F. Supp. 42, 48-49 (D. Mass. 1997).
8. In re Glenayre Technologies, Inc., 1997 WL 691425 (S.D.N.Y. Nov. 5, 1997).
9. Havenick v. Network Express, Inc., 1997 WL 626539 (E.D. Mich. Sep. 30, 1997).
10. Chan v. Orthologic Corp., et al., No. CIV-96-1514-PHX-RCB (D. Ariz. Feb. 5, 1998) (dicta).

B. Cases Holding only that Motive and Opportunity do not Meet Reform Act's Pleading Standard:

1. Novak v. Kasaks, No. 96 Civ. 3073 (AGS), 1998 WL 107033 (S.D.N.Y. Mar. 10, 1998).
2. Myles v. MidCom Communications, Inc, No. C96-614D (W.D. Wash. Nov. 19, 1996).
3. In re Baesa Securities Litig., 969 F. Supp. 238 (S.D.N.Y. 1997).
4. Press v. Quick & Reilly Group, Inc., No. 96 Civ. 4278 (RPP), 1997 U.S. Dist. LEXIS 11609, at *5 (S.D.N.Y. Aug. 8, 1997).

III. Examples of Cases with Language Questioning Recklessness as a Basis of Liability (All Cases Previously Listed Above):

1. In re Silicon Graphics Sec. Lit., 970 F. Supp. 746 (N.D. Cal. 1997).
2. Friedberg v. Discreet Logic, Inc., 959 F. Supp. 42, 49 n.2 (D. Mass. 1997).
3. Norwood Venture Corp. v. Converse Inc., 959 F. Supp. 205, 208 (S.D.N.Y. 1997).

Mr. REED. Mr. President, as this legislation makes clear, those rulings that reject the reckless standard, or the Second Circuit's pleading standard are clearly wrong and a threat to the security of our markets.

Mr. President, with assurances that proper protections for investors will remain in place, I am pleased to support the 1998 Act, thus moving toward an efficient, national uniform standard for securities class action lawsuits.

I trust that higher courts will adhere to current principles of legislative history and case law to rule that the pleading and scienter standards continue to protect investors and that we will remain true to our commitment and fix any error.

Additionally, as expressed in votes during the mark-up of this legislation, I am concerned that the definition of class action, as currently included in the bill, is too broad.

Specifically, by defining a class as those whose claims have been consolidated by a state court judge, the bill infringes upon the rights of individual investors to bring suit; a situation sponsors have sought to avoid. I hope that this issue can be resolved today on the floor.

Finally, I have appreciated the expert analysis that the Chair, Commissioners, and staff of the Securities and Exchange Commission have provided on this issue. I thank them for their assistance.

Ms. MIKULSKI. Mr. President, I rise to support the Securities Litigation Uniform Standards Act. I supported the 1995 Private Securities Litigation Reform Act for three reasons: to stop the bounty hunters, to put the person who had lost the most money in charge of class action suits, and to penalize people who commit fraud.

I have been very disturbed and disappointed to hear from many Maryland biotechnology and high technology companies that the 1995 reforms are being circumvented and, that in some respects, nothing has changed.

Why has nothing changed even though we enacted those important reforms? Because some have refused to accept the law of the land. Rather than abide by congressional efforts to protect small companies that create jobs and help to maintain our robust economy, a small group of specialized lawyers have simply shifted their filings to state courts.

Enacting this uniform standards legislation would close this loophole and enable Congress to finish the job of eliminating abusive securities litigation that hampers and harms our economic future

Uniform standards would only involve class action suits with at least 50 plaintiffs involving nationally traded securities. These claims were rarely filed in state courts until federal reform became law in December 1995.

This exposure of national companies and their shareholders to lawsuits by 50 different sets of rules amounts to a balkanization of securities law that boosts legal fees, distracts companies from creating jobs, and erodes the value of shareholder investments.

I have heard from Maryland CPAs, venture capitalists, and Maryland companies along the I-270 High-Tech Highway that these uniform standards are needed.

I believe that much of our economic future is in new and developing industries such as high technology and biotechnology. New, high-tech jobs are created only when companies generate capital to allow them to move into new fields. Without a balanced and uniform legal system free of loopholes, these companies must spend too much on frivolous litigation and not enough on investments to generate jobs.

Mr. President, this legislation is about perfecting the important reforms we passed in 1995 to protect our emerging industries as they strive to innovate and create jobs. Promoting job creation is one of my economic principles, and I am pleased to support this legislation today.

Mr. HATCH. Mr. President, I rise today to speak about S. 1260, the Securities Litigation Uniform Standards Act of 1998. I am pleased that this bill is being acted upon today. Enactment of this bill will implement the underlying purpose of the Private Securities Litigation Reform Act of 1995 by establishing uniform standards governing private securities litigation.

The Private Securities Litigation Reform Act of 1995 provided a "safe harbor" for forward-looking statements in order to encourage companies to make voluntary disclosures regarding future business developments. This objective was important to provide an environment in which companies could provide more information to potential investors without undue risk of litigation.

Since passage of the 1995 Act, however, actions are often filed in state courts in order to circumvent these very protections. The resulting threat of frivolous lawsuits and liability under state law discourages corporate disclosure of forward-looking information to investors, eroding investor protection and jeopardizing the capital markets that are so important to the productivity of the fast-growing sectors of our economy.

Uniform liability standards eliminate this threat and the drag on our economy which it causes. The enactment of this bill will, I believe, be a great impetus for new businesses, especially those in the rapidly growing high-tech and bio-tech fields of our economy. This bill thereby creates a business atmosphere that encourages, rather than inhibits economic growth.

I hope my colleagues will join me in supporting passage of S. 1260, the Securities Litigation Uniform Standards Act of 1968.

Mr. GRAMS. Mr. President, I rise in strong support of S. 1260, the Securities Litigation Uniform Standards Act, which is necessary to preserve the intent of the Public Securities Litigation Reform Act of 1995. This bipartisan legislation is narrowly drafted to correct an unexpected consequence of the Public Securities Litigation Reform Act and is supported by the White House and the Securities and Exchange Commission (SEC).

Following enactment of the 1995 Act, it became apparent that trial lawyers were up to their old tricks by circumventing the intent of the law by bringing frivolous class action law suits in state courts, rather than in Federal court. Although brought in a different forum, this action yields the same result—namely raising the cost to investors, workers, and customers. As a member of the conference committee on the 1995 Act, I can assure you that this is not the intent of Congress.

As its name implies, S. 1260 preserves the 1995 Act by establishing uniform standards governing private class actions involving nationally traded securities. This bill does not interfere with the ability to bring criminal suits in state courts or for individuals to seek relief in state courts. Rather, this Act simply requires that class action lawsuits against nationally traded securities be filed in Federal court.

I urge my colleagues to support this legislation and hope that it will be approved expeditiously so as to preserve the intent of the 1995 Act.

Mr. KERRY. Mr. President, I would like to thank the Senators DODD and GRAMM for their work in bringing this legislation before us today. I support this effort to reestablish the reasonable limitations the Congress established in 1995 with respect to class action lawsuits alleging the commission of securities fraud in connection with the purchase or sale of a covered security. This was a warranted and important step, and the efforts to effectively nullify it by bringing such suits in state courts must be halted, which this legislation does by requiring all class action suits of this type be brought in federal courts.

While fraudulent actions by a company's management can destroy an individual investor's retirement nest egg, a frivolous suit filed against a start-up high-technology company can stop that business dead in its tracks. We need to protect the rights and interests of both shareholders and entrepreneurs. Although no law can do that perfectly, I believe this legislation will bring us as close as possible to the correct balance.

The high technology sector has played an important part in the economic development of Massachusetts and the nation. This sector, which has been the most frequent target of securities strike suits, is critical to our future economic growth and the creation of highly skilled, family-wage jobs. Frivolous strike suits have had a chilling effect on start-up high-technology, biotechnology, and other growth businesses.

After the growth of frivolous strike suits during the first part of this decade, passage of the Securities Litigation Reform Act in 1995 was successful to a large degree in limiting strike suits in federal court. But litigants are too often circumvented its impediments to frivolous lawsuits by bringing actions in state court, reinvigorating the threat to emerging companies.

The Securities Litigation Reform Act's limits on discovery fishing expeditions, until a court rules on the merits of a case, does not apply in state court, and plaintiffs have begun to file state lawsuits in order to gain access to important company information—too often this has permitted "fishing expeditions" into corporate files to try to find evidence of fraud. Actions such as these frustrate the intent of the reform law. Moving these cases to federal court should eliminate these meritless "fishing expeditions."

Strike suits in state courts also have had a chilling effect on the number of companies which have released forward-looking statements on earnings. Companies fear that if the information on earnings that they release proves to be inaccurate, they will be held liable in state court. The lack of accurate, forward-looking information on companies makes it more difficult for investors to make informed judgments about their future. Reducing suits to those that can meet federal court standards should give these companies the confidence to release voluntarily their future earnings estimates, which should increase the efficiency of capital and reduce future stock volatility in our markets.

Finally, the Securities Litigation Reform Act included important provisions which restrict the use of "professional plaintiffs," eliminate bounty payments, limit attorneys' fees, assure class action lawsuit members receive notice of settlement terms, and restrict secret agreements under seal. None of these protections is available for class action suits brought in state courts.

Moving all class action securities lawsuits to federal court should lead to the creation of a more favorable, stable climate for businesses while preserving important remedial means for shareholders with legitimate complaints about inappropriate corporate activities. Investors should gain better information about the marketplace. A diminished threat of abusive strike suits will strengthen the ability of businesses to provide investors with more information.

I believe this helps to restore the balance we seek on behalf of all Americans, both those who are investors and those who are entrepreneurs and managers. I will support its passage and complement those who have brought it to passage.

The PRESIDING OFFICER. The time of the Senator from Maryland has expired.

The Senator from New York.

Mr. D'AMATO. Mr. President, I know there are a number of amendments. I ask my colleagues, in the interest of moving forward if they would submit those amendments so we can start working on them.

The PRESIDING OFFICER. The Senator from New York has 2 minutes 36 seconds remaining. The time has expired on the side of the Senator from Maryland.

Mr. SARBANES. Once an amendment is sent to the desk we can have time to proceed; is that correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 2395

(Purpose: To provide that the appropriate State statute of limitations shall apply to certain actions removed to Federal court)

Mr. SARBANES. I send an amendment to the desk for myself, Senator BRYAN and Senator JOHNSON.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES], for himself, Mr. BRYAN and Mr. JOHNSON, proposes an amendment numbered 2395.

Mr. SARBANES. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, between lines 9 and 10, insert the following:

"(d) APPLICABILITY OF STATE STATUTE OF LIMITATIONS.—Notwithstanding subsection (b), an action that is removed to Federal court under subsection (c) shall be subject to the State statute of limitations that would have applied in the action but for such removal.

On page 9, line 10, strike "(d)" and insert "(e)".

On page 10, line 12, strike "(e)" and insert "(f)".

On page 10, line 17, strike "(f)" and insert "(g)".

On page 14, between lines 10 and 11, insert the following:

"(3) APPLICABILITY OF STATE STATUTE OF LIMITATIONS.—Notwithstanding paragraph

(1), an action that is removed to Federal court under paragraph (2) shall be subject to the State statute of limitations that would have applied in the action but for such removal.

On page 14, line 11, strike "(3)" and insert "(4)".

On page 15, line 15, strike "(4)" and insert "(5)".

On page 15, line 20, strike "(5)" and insert "(6)".

Mr. SARBANES. Mr. President, Senator CLELAND has been here for some time on the floor. I know he wishes to speak to the bill, and in the course of those remarks would be speaking to this amendment, so I yield the floor. I hope that Senator CLELAND will be recognized.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Georgia.

Mr. CLELAND. Mr. President, I rise today to express my reservations about the merits of S. 1260.

I served as Georgia's Secretary of State and Commissioner of Securities for many years. I was responsible for administering Georgia's securities laws and providing investor protection for Georgia residents.

We are all aware that the securities markets are an integral part of our nation's economy and that we have experienced tremendous growth in these markets. Nearly half of all American households now invest in the stock market either directly or through mutual funds. These are not just rich people trying to become richer. These are primarily middle class Americans seeking to fund their children's education, to save up for a down payment on a home, and to provide a decent standard of living for themselves in retirement. In 1990, only 17.8 percent of all Americans invested in equities but that figure has grown dramatically, and one in three households now own securities.

Unfortunately, these successes have led to a tremendous increase in fraud and abuse. Recently, top securities watchdogs in the United States have warned that the explosion in the stock market has led to a sharp rise in securities sales fraud and stock price manipulation. Several studies have shown that many Americans lack the financial sophistication to protect themselves from fraud. At a town meeting in Los Angeles, SEC Chairman Levitt cautioned that investors are "more vulnerable than ever to fraud." This concern has been echoed by others who point to a disturbing rise in the level of securities fraud and there are many allegations that organized crime is seeking a foothold in certain sectors of the securities marketplace.

It is unclear whether there is any means for defrauded investors to recover stolen money under federal law following the passage of the 1995 PSLRA, which severely limits the rights of defrauded investors. Preemption of state remedies under S. 1260 could lead investors with no ability to protect themselves against fraud. Several federal district courts have issued rulings on the 1995 law that are so restrictive that they threaten almost all private enforcement—including holding that reckless wrongdoers are no longer liable to their victims under the PSLRA. I strongly disagree with this interpretation because Congress, when it crafted the PSLRA, it did not intend to eliminate recklessness as a standard of liability. On the contrary, it is my understanding that the PSLRA did not, in any way, alter the scienter standard in federal securities fraud suits.

Let us be clear about who suffers in the cases of securities fraud—it is retirees living on fixed incomes, young families struggling to make ends meet and save for their children's education, teachers, and factory workers. Each day, devastating cases are brought to the attention of securities regulators and law enforcement officers. Indeed, financial fraud is a serious and growing problem. No discussion about securities litigation reform is complete without serious consideration of the potential impact on small investors across the country. The elimination of state remedies against fraud could be catastrophic for millions of Americans. The fundamental purpose of securities law is to protect investors, something that S. 1260 does not adequately address. In fact, S. 1260 is designed merely to protect big business.

The confidence in our securities markets results, in part, because of the cooperative enforcement system that has served the United States exceptionally well since the Depression. Substantive securities regulation in this country began at the state level. In 1911, the State of Kansas enacted the nation's first Blue Sky Law. Other states quickly adopted their own version of such legislation. Congress passed federal securities laws in 1933 and 1934 to complement—not replace—state laws and to stop abuses that caused the 1929 crash.

Many states have chosen to provide more expansive investor protections than federal law currently provides—through accountability for aiders and abettors, realistic time limits for filing a fraud claim, and the ability of investors to recover fully from professionals who help perpetrate frauds when the primary wrongdoer is bankrupt, in jail, or has fled the country.

In the late 1980's as Secretary of State, I conducted a series of public hearings to focus on securities fraud taking place in Georgia. This led me to recommend a number of changes to strengthen Georgia's securities laws. These changes established significant disclosure requirements for those dealers offering and selling certain stocks within or from the state of Georgia. These recommendations were unanimously enacted as amendments to the Georgia Securities Act, and gave my staff more tools to effectively deal with securities fraud. The Georgia legislature also installed securities fraud as a predicate offense for purposes of liability under the RICO statute. I am pleased to report that the efforts of the Georgia General Assembly are the rule rather than the exception. According to the SEC, 49 of the 50 states provide liability for aiders and abettors now unavailable under federal law, and 33 states provide longer statutes of limitations for securities fraud actions than current federal law. Mr. President, S. 1260 would undermine these important state remedies.

Simply put, S. 1260 is an affront to the efforts of state governments across the country to locally protect their public investors from fraudulent securities transactions. For example, this bill reinforces the unduly short statute of limitations in federal law. In effect, federal law rewards those perpetrators of fraud who successfully conceal the fraud for more than three years. A majority of states have statutes of limitations that are longer than the federal statute. As currently written, S. 1260 would preempt those state laws. Furthermore, the definition of "class action" contained in this bill is overly broad. I have been informed that the definition of "class action" in S. 1260 would allow single suits filed in the same or different state courts to be rolled into a larger federal class action, and this was never contemplated or desired by individual plaintiffs.

Another cause for concern is that under S. 1260, defrauded state and local pension funds are barred from recovering from corporate wrongdoers in state court. Since many remedies have already been foreclosed in federal court, the state or local government and its taxpayers may be required to make up losses in the pension fund resulting from fraudulent securities transactions. If state and local governments are creatures of state law, shouldn't they be entitled to pursue state remedies?

State and local government representatives are unequivocal in their opposition to S. 1260. The National League of Cities, the U.S. Conference of Mayors, the Government Finance Officers Association, and the National Association of State Retirement Administrators all reject the bill in its current form.

Mr. President, I am not convinced that the federal preemption of state anti-fraud protections is a necessary step. Preemption supporters emphasize an "explosion" of state suits filed to circumvent the PSLRA in the two years since its enactment. Yet the number of state securities class actions filed in 1997—only 44 nationwide—represents a 33 percent decrease since 1996, and is lower than the number filed in any of the three years before the

PSLRA was passed. In addition, most of the state court cases have been filed in California. No state other than California has had more than seven securities class actions filed in the two years since the enactment of the PSLRA. Mr. President, if a problem exists, then it should be addressed in Sacramento, not Washington, and I understand that California has already established a legislative commission to study its laws and make changes if necessary. Other states should be free to decide how to protect their own citizens from fraud.

Mr. President, I support the right of investors to seek legal remedies against those persons selling fraudulent securities. I have supported an investor's right to seek redress through mediation, arbitration, and civil litigation. While I worked to streamline the regulatory process in Georgia, I opposed amendments to federal regulations that would have impaired the ability of a state to protect its investors. Here in the Senate, my focus remains the same. For this reason, I oppose S. 1260.

Thank you Mr. President. I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I believe that my colleague, the Senator from Maryland, is going to speak to this amendment. This amendment would indeed promote forum shopping for those lawyers to look for the State that had the longest statute of limitations.

I point out the Lampf decision, which will be referred to. After that decision, in a sample of actions brought in the State courts, 43 of them were filed within the 4-year period of time—43 out of a total of 44. So we do not believe this amendment will do anything other than to promote forum shopping for the longest period of time, and that it really counteracts the Supreme Court's decision, which has not worked a hardship on plaintiffs who have a legitimate suit or seek to bring it.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

Mr. SARBANES. Mr. President, this amendment, as the Senator from New York has indicated, goes to the question of the statute of limitations, and it seeks to preserve the State statutes of limitations.

Let me quickly review the history. In the Lampf case, which my colleague referred to, the Supreme Court significantly shortened the period of time in which investors may bring securities fraud actions. On a 5 to 4 vote—in other words, in a very closely divided Court—the Supreme Court held that the applicable statute of limitations is 1 year after the plaintiff knew of a violation, and in no event more than 3 years after the violation occurred. In other words, once the violation occurs, if the plaintiff never finds out about it and 3 years pass, you can't do anything about it, even though, of course, one of the hallmarks of securities fraud is concealment and deception specifically designed to keep them from finding it out.

The other aspect was 1 year after the plaintiff knew of the violation. Now, this is shorter—this statute of limitations —than those that exist in private securities actions in the law in 33 of the 50 States, as my distinguished colleague illustrated earlier with his map.

Testifying before the Banking Committee in 1991, SEC Chairman Richard Breeden stated:

> The timeframe set forth in the Court's decision is unrealistically short and will do undue damage to the ability of private litigants to sue.

Chairman Breeden went on to point out that many cases come to light only after the original distribution of securities. The Lampf cases could well mean that, by the time investors discover they have a case, they are already barred from the courthouse. The FDIC and the State securities regulators joined the SEC in 1991 in favor of overturning the Lampf decision. In fact, Chairman Levitt testified before the Securities Subcommittee of our committee in April of 1995:

> Extending the statute of limitations is warranted because many securities frauds are inherently complex and the law should not reward the perpetrator of a fraud who successfully conceals its existence for more than 3 years.

Chairman Levitt reaffirmed his support for a longer statute of limitations before the committee as recently as March 25, 1998. I continue to believe that this time period in the Federal legislation does not allow individual investors adequate time to discover and pursue violations of securities law, but we raised that issue before and that issue was decided.

So this amendment isn't trying to change the time period for securities fraud actions brought in Federal court. This amendment seeks to fix a related problem that will be created by this bill. Because of the overly broad definition of a class action, this bill creates a flaw; namely, that the Federal statute of limitations will now apply in an unfair manner to State cases. Cases that were timely filed under State statute of limitations may now be removed to Federal court and then dismissed under the shorter Federal statute of limitations.

Mr. BRYAN. Mr. President, will the Senator from Maryland yield for a question?

Mr. SARBANES. I yield to my colleague.

Mr. BRYAN. Is the Senator indicating that an investor who files in a State court in a timely fashion after having consulted with legal counsel that said, yes, this is a timely action—and we shall assume for the sake of the discussion meritorious—can have his action, in effect, dismissed by having it removed to the Federal court and the shorter statute of limitations of 1 to 3 years as is required under Federal law?

Mr. SARBANES. Exactly.

Mr. BRYAN. It will wipe them out.

Mr. SARBANES. Investors who file in a timely fashion under State law may find their lawsuits dismissed because, contrary to their intention, and in many instances unbeknownst to them that this would happen, they find themselves lifted out of a State court, put into the Federal court, and at that point the shorter statutes of limitations apply. So their suit is dismissed for failure to meet a shorter time requirement that they couldn't have known was going to be applied to them.

This problem is created in part because of the broad definition of what is a class action that is in this legislation. So you could have an individual investor who finds himself classified as part of a group, although he was not part a group. He filed it on his own. He had his own lawyer, and he wasn't in collusion with anybody else in doing this. Or you could have 50 identified investors—say, school districts, or water and sewer districts—that get defrauded. If there are more than 50, they can be lifted out of the State court and put into the Federal court. When they went into the State court, they met the statute of limitations. But when they get lifted out of the State court and put in the Federal court, they then have to comply with this shorter statute of limitations, and they find themselves dismissed for failure to meet the shorter time requirement.

Mr. BRYAN. So the perpetrator of the fraud, if I understand what the Senator from Maryland is saying, has the ability to wipe out the small investor by removing the cause of action to the Federal court, even though that case was filed timely under State law and even though the small investor says, Look, I want to have this action continued at the State level. So the Senator is saying, if I understand the Senator from Maryland correctly, that the power to wipe out this cause of action, to wipe out any possibility for relief, are now providing that to the perpetrator of the fraud?

Mr. SARBANES. That is correct.

Mr. BRYAN. The perpetrator of the fraud is allowed to do that under this?

Mr. SARBANES. That is right. What this amendment does, very simply, is it provides that when the investors are removed from the State court to the Federal court, they can bring their State statute of limitations with them. If they filed in the State court, and they complied with the statute of limitations, they ought not to find themselves taken into Federal court and then being told they do not comply with the shorter statute of limitations and they are out of the courthouse when they, in fact, complied at the State level with the State statute of limitations.

This is to deal with this unfairness whereby an investor can file a timely suit under State rules and without advance warning later be dismissed under a different set of rules. Anyone who wished to bring the suit in the Federal court would have to abide by the 1- and 3-year limitation of Lampf. But this is clearly unfair to an investor who is acting in a reasonable manner.

This amendment is supported by a broad coalition of government officials and consumer groups. The National League of Cities, the National Association of Counties, the U.S. Conference of Mayors, and others have written to express their support for an amendment to allow plaintiffs to carry State statute of limitations with them in cases filed in State court which are removed to Federal court. The Consumer Federation of America has joined as well.

I hope my colleagues will support this amendment. It is an effort to deal with what, I think, is a very specific and definable flaw in this legislation. I don't think investors going into a State court, timely under State law—and I refer back to the comments of Chairman Breeden and others about the complexities of these cases, the difficulty of discovering the fraud, the difficulty of bringing the suit once the fraud is discovered—that they then ought to find themselves foreclosed altogether from any equitable relief simply by removal to the Federal court and the application of the shorter statute of limitations.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I rise in opposition to the amendment. The purpose of this amendment is, obviously, to thwart the underlying rationale for the legislation.

My colleagues have already pointed out that there are 50 jurisdictions with different statutes of limitations in them. My colleague from Nevada has worked long and hard on the issue of trying to extend the statute of limitations at the Federal level, which is an effort that I applaud and support. After the Lampf decision, I thought it is worthwhile. I don't disagree with him on that. I disagree with my colleague from Maryland. That is not the issue.

The issue, of course, is not whether or not there is a statute of limitations at the Federal level but whether or not you are going to allow 50 different individuals to apply State statute of limitations on nationally traded securities accounts on national markets. The purpose of this bill is a uniform standard for which nationally traded securities are traded on national markets.

If you are going to allow 50 different jurisdictions to apply 50 different statutes of limitations, you have just destroyed the very purpose of the legislation. Vote against the bill if you want. But you can't very well vote for this amendment and then vote for the bill. It doesn't make any sense at all.

Of course, this idea that this has been a great disadvantage, let me share some hard facts with my colleagues about what has happened, because in order to make this amendment a Federal limit, you have to have information backing it, supporting it, underlying it, which indicates there is a problem here.

The evidence since 1991, when the Lampf decision was rendered, clearly refutes the contention that State courts are necessarily a safety net for meritorious claims. The evidence of that would lead one to the opposite conclusion. The statute of limitations was shortened, as my colleague from Nevada and the Senator from Maryland pointed out, by a Supreme Court decision in 1991. That was 4 years, between 1991 and 1995, before we passed the 1995 litigation reform bill.

So it is kind of an interesting 4 years to look at. You have the Lampf decision in 1991. We passed in 1995 the litigation reform bill. What happened between 1991 and 1995? There is almost no evidence, none, that plaintiffs brought securities fraud cases in class actions against nationally traded securities in State courts during 1991 and 1995—no evidence of it at all. That would be the time you might do it because there the law said, of course, you could go into State courts and use the State statute of limitations. If you want to take advantage of it, that period of time would certainly be an indication of what was going on.

There is evidence that many of the suits brought in State courts since the 1995 act are well within the 1 to 3 years. Again, let me emphasize that I don't have any difficulty with the notion of having a longer period. I agree with my colleague on that.

But he knows and I know we have been through that. We haven't been successful in extending it. Now, maybe someday we can. Maybe we can convince others. But that is a different debate—an important debate but a different debate. The debate here raised by this amendment is, do we allow the 50 different jurisdictions, 33 States which do better, 17 which do worse—by the way, in 17 States you would be disadvantaged between what the Federal law provides and what the State courts do. So you get a mixed bag on this.

But since 1995, most of the actions that have been brought in the statute of limitations were brought well within the 1 year of the discovery or 3 years of when the fraud was committed, which is what the Lampf decision allowed and provided for. In fact, it is worthwhile to note that in some of these cases the suggestion somehow that the statute of limitations is a problem is ludicrous on its face. Three suits were filed against Intel Corporation within 48 hours of an adverse earnings announcement—48 hours; three lawsuits were filed within 48 hours. One in 3 years. It is ridiculous; these lawsuits are being filed almost momentarily in many cases.

We have a second case of the EMC corporation. A case was filed within 20 hours of an adverse announcement. The notion somehow that this a great effort to discover fraud in these cases—the notion somehow that those of us in support of this bill in any way want to discourage investors from bringing legitimate lawsuits as plaintiffs is totally wrong.

And part of what we rest our case on, Mr. President—let me share with my colleagues what you could find on your Internet this morning, not a year ago or 5 years ago or 6 months ago. It is entitled "Stock Disasters." "Stock Disasters" it is called. That might suggest we have had some real fraud going on—"Stock Disasters." You hit on your little mouse here, and you hit on "Top Stock Losers of the Day." Boom, this page pops up. You have to get this one, and then you get this one.

What does it show you? It lists stock fluctuations, stocks that lost money, stocks that gained money. That is all.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. DODD. I am happy to yield to my colleague.

Mr. D'AMATO. Let me ask the Senator, does the underlying legislation in any way limit the Securities and Exchange Commission from bringing any action to recover for disgorgement where there is fraud?

Mr. DODD. None whatsoever.

Mr. D'AMATO. There is no statute of limitations?

Mr. DODD. Absolutely none.

Mr. D'AMATO. So the SEC can bring these actions but the strike lawyers can't wait indefinitely and pick a forum. That is what the Senator is saying. But certainly the SEC can still bring these actions at any time that it discovers fraud.

Mr. DODD. My colleague from New York is absolutely correct. The point we have been trying to make here is that if you go here—and "Stock Disasters" is the title of this, Mr. President—and then you switch on "Stock Disasters"—and the stocks decline in a couple cases, some stocks going up—there is no allegation here of fraud or mismanagement, merely stock fluctuations.

Stock disasters? That is not a disaster. It is 10:52 this morning. That is how these suits are filed. It is ludicrous to somehow suggest we are talking about deep fraud in these cases. All we are trying to do is slow this down so that legitimate plaintiffs can bring lawsuits, and also legitimate investors particularly—and a lot of these companies, by the way, I point out, Mr. President, a lot of these companies, if you look at the losers as of 10:52 this morning, are your small high-tech firms. That is the future of our economy, by the way. That is the knowledge-based economy of our country for the 21st century. Let some predator law firm go out there because they get a slight stock fluctuation and bring a lawsuit against them, having to spend millions of dollars to defend the company, you lose the company. Who benefits from that? I tell you who does. The law firm. That is who does. That is all this is about, the bottom line. That is all this is about.

So we talk here about the statute of limitations. Again, I am all for extending it. I think there is a case to be made on that. But to say here with nationally traded securities on national markets, these exchanges, that you are going to have to go through 50 different jurisdictions is to defeat the very purpose of what we are trying to do here. And that is, with nationally traded securities and national exchanges, we ought to have a uniform standard. I would have it be a bit longer, but that is not the issue before us. What is before us is whether or not we are going to have one standard here so that we can try to have some predictability and a little fairness in this process.

Certainly what we have seen, of course, is a rush to the courthouse, and that is why I think this amendment is unnecessary. And if its adoption were to occur, it would destroy the very purpose which has brought us here at this point in our debate.

For those reasons, Mr. President, I urge rejection of the amendment.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Maine.

Ms. COLLINS. Mr. President, I rise in support of the amendment to preserve the state statute of limitations for cases removed to Federal court under this legislation.

I intend to vote for this bill. But in doing so, I think it important to be straightforward about what S. 1260 does. This is a bill that preempts state law. Specifically, it preempts securities antifraud statutes for certain types of class action cases.

I generally oppose preemption, as I think it overlooks the considerable wisdom that exists at the local level. Not without some measure of discomfort, I am nonetheless inclined to vote for this bill, because I find considerable merit to the contention that large class-action cases against companies whose securities are sold in the national marketplace may well belong in the Federal courts. Otherwise, Congress' ability to regulate our national securities markets in an era of international investing is arguably impeded.

I feel strongly, however, that if we are going to preempt state law and impose a single federal standard, it must be a fair one, and that is not the case with the federal statute of limitations. Under federal law, a securities fraud suit must be brought within one year of when the fraud was or should have been discovered, but in no instance after more than three years have elapsed.

I served for five years as the head of the Maine department that regulates financial institutions, and I can tell you from personal experience that a three-year limitations period is too short. The reality is that, even with due diligence, some frauds are not discovered within that time frame. Indeed, the very object of a fraud is to deceive the other party to the transaction for as long as possible.

The limited partnership cases of the last decade illustrate my point. The victims of those frauds were largely elderly, largely trusting, and largely lacking in financial sophistication. It is no wonder that in many of those instances, they did not, and even within reasonable care, could not have, discovered the fraud within three years of its commission.

It is not just my opinion that the Federal limitations period is inadequate. The Securities and Exchange Commission has taken the position that the period is too short.

This is an instance in which the Maine Legislature has shown more wisdom than the Federal Government. Under the law of my state, the limitation period is two years from the date the fraud was, or with reasonable care, should have been discovered, with no outside limit. That gives innocent investors the opportunity to obtain redress for fraud as long as they act with reasonable diligence.

I can understand the argument for a single, Federal standard in this area, but I cannot accept preempting a state standard that is far more consistent with reality. While the best remedy would be to change the Federal limitations period for all securities fraud cases, that issue is not before us today. Thus, we should take the next best step, which is to preserve the state statutes for cases that are removed to Federal court under this legislation.

What this amendment will not do is harm high-tech companies. What it will do—maybe not this year or next, but at some point—is to protect innocent, unsuspecting investors, who are victimized by a securities scam that could not reasonably have been discovered within three years. Thus, I urge my colleagues not to wait until we have such victims, but to stop the problem before it occurs by supporting this amendment.

I thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Nevada.

Mr. BRYAN. Mr. President, I commend the Senator from Maine for her, I think, most illuminating statement in terms of the problem that we face with the shorter statute of limitations. She is absolutely correct. Her State—and my own—apparently, if I understood the distinguished Senator, has a 1- and 5-year statute; 5 years is the outside. That is what we have in Nevada as well.

The testimony beyond refutation is that a 3-year statute is simply too short. The Securities and Exchange Commission, which has all of the resources available to the Federal Government, much more so than any individual investor, tells us that on average it takes more than 3 years to do the investigation, to bring the cause of action. Certainly the small investor is seriously disadvantaged here, so I thank her for her comment and her leadership.

Let me just make a couple of comments. I know we have talked about this in the context of the debate on the bill, but the unfairness of this legislation to the small consumer can best be described: Heads the perpetrator of the fraud wins; tails the small investor loses. This is a "no win" proposition for the small investor.

The thrust of this legislation is to say that the traditional class action lawsuit should no longer be available at the State court level. And, by "traditional class actions" we mean individual plaintiffs who are bound together by a common lawyer who files on behalf of a lot of people who have been victimized by the identical fraud. That is really what a class action traditionally has been.

Our friends on the other side say there have been some abuses. I acknowledge that there may have been some abuses there. I would be willing to work with them in dealing with the abuses. But here is the ingenious and unfair part of this. The proponents say, "The individual has a right to file an action at the State court level, would have all the rights currently available under State law—the longer statute of limitations, the accomplice liability, the joint and several, the RICO provisions." OK, that sounds somewhat fair, although as we have pointed out, most small investors simply don't have the resources to bring such a case. But let's suppose that your teachers' pension fund, or what we have in Nevada, the public employee retirement system—suppose they bring an action at the State level: One plaintiff, one lawyer, and, lo and behold, they have discovered 4 years after the fact of fraud that the public employee retirement system fund has been ripped off by a monstrous fraud. They file suit in State court.

Surely you would think it would be possible for that one plaintiff to pursue a remedy under State law. But here is how the bill is crafted. Without the permission or consent of that public employee retirement system, if there are 49 other plaintiffs who file against the perpetrator of the fraud, then involuntarily, without the permission of the public employee retirement system, they can be forcibly removed from the State court and those rights that exist under State law are effectively divested from them. So in the hypothetical that I cite, a monstrous fraud, which may have cost the public employee retirement system literally millions and millions of dollars, discovered sometime after 3 years for the first time and filed timely under the law—it would be possible for the perpetrator of the fraud to actually get other plaintiffs to file to build up a number of 50, thereby removing the case from State jurisdiction. And once it gets to the Federal court, lo and behold, what happens: the hammer falls because at the Federal level, because of the Lampf decision, the statute of limitations is 3 years, the outside bar.

So here you can have literally tens of thousands of public employees or teacher retirement funds or an Orange County type of investment in which you may have a million or more taxpayers who are unable to recover simply because the perpetrator of the fraud is allowed to remove the single case from State court jurisdiction. What is the fairness of that?

The able and distinguished chairman of the committee says the SEC can bring the action. That is true. But we have been told on many, many occasions that the SEC simply does not have the resources; that both the current chairman and previous chairman, in the time I served with the distinguished chairman of the committee and my colleague and good friend from Connecticut, have repeatedly told us that the SEC simply does not have the resources to pursue all of the fraud out there, and therefore the private cause of action is an absolutely essential and critical part of the regulatory structure, the structure that has created the safest and most efficient market in the world.

Why are we making these changes? Because we are told that we must worship at the shrine of uniformity, that there is a rush to the courthouse door; 44 cases out of 15 million is a rush to the courthouse door? Many, many States have had no cause of action filed at all, at all. I think in my own State of Nevada there has been one. A rush? I must say, I do not think that makes the argument.

If uniformity is an end to itself, isn't it a fairly persuasive argument to say 49 of the 50 States have laws that hold aiders and abettors liable? These are the accomplices, these are the lawyers, the accountants, the investment advisers who participated with the primary individual involved in the fraud to create the loss to the innocent investor—49 out of 50 States say those people ought to be liable, too. They are not, under the 1995 legislation. So if uniformity is to be the standard by which this debate is to be judged, what is wrong with that uniformity?

What we have here, and I regret to say this, it is a systematic attempt to close the courtroom door to innocent investors, small investors in this particular instance that we are debating here. We are talking about an institutional investor who could be taken involuntarily to the Federal court. I don't understand the public policy argument that says that is somehow meritorious. I concede that maybe you could argue preemption if you develop a broader statute of limitations at the Federal level to protect them. Maybe that is a possibility. Maybe we could reach a compromise there. Then maybe you could argue preemption.

But the proponents of this measure—with due respect to my colleague from Connecticut, he does support a longer statute of limitations—but the primary thrust of getting this legislation, the folks who have opposed and resist this, have resisted the longer statute of limitations. So, in effect, we take two weapons away from the small investor: The right at the Federal level to a longer statute of limitations—Lampf took that weapon away from the small investor—and now we are going to go one step further and take it away from that small investor who is filing at the State level, not as part of a class action but as an individual. And I must say I think the unfairness of that is —all of this is being done in the name of, whether it is 39 cases or 44 cases out of 15 million, filed annually.

I come from a part of the country where we understand what "rush" is. The gold rush. There was an exodus of people coming out West. But 44 people? I wouldn't call that a gold rush. That would be a trickle.

So I must say, this is a terribly, terribly important investor protection. My colleague from Maryland and I, we know how to count the votes. We know this legislation is going to pass. But even if you are for this legislation, please, please, I implore you to consider what you do to the small investor who is filing in State court. He or she gets involuntarily wiped out by the perpetrator of fraud by removing that case to the Federal court system where the shorter statute of limitations prevails.

I yield the floor.

Mr. SARBANES. Mr. President, I understand that the leadership doesn't intend to have votes much beyond 6 o'clock or thereabouts, and I suggest to my colleague that we set aside this amendment and do the next amendment, which I will send to the desk, which actually is interrelated in concept with this amendment, and that we have a vote on the two amendments beginning about 5:40.

Mr. D'AMATO. Mr. President, we cannot confirm that it is the intention of the leadership on both sides to curtail votes as of any specific time. However, it would seem to me to be appropriate, notwithstanding that, to move to support the Senator's request that we stack the two amendments with a vote starting at 5:40 for the first one, and thereafter undertake a vote on the second one. Then, of course, if the leadership has decided no further votes, we can put that matter over.

We are looking to shop that right now. I believe that will be the case, but we are waiting for final confirmation. If the Senator wishes to make his request on the basis that we will proceed to our first vote at 5:40 on the pending amendment and that thereafter, immediately after that vote, take up the second amendment and seek a vote on that, I will certainly join in that request.

Mr. SARBANES. For ordering votes, we should not have any second degree.

Mr. D'AMATO. Yes.

Mr. SARBANES. Just to sketch it out, it was my assumption then in the morning we will have one other amendment to offer. We will do that amendment and then final passage is my expectation.

Mr. D'AMATO. That is my expectation, and I will make that recommendation to the leader. Subject to the concurrence of the leaders, I imagine we then will have debate, hopefully limited to, let's say, an hour equally divided on the third amendment, and then go to final passage. How much time does the Senator want in between the third vote and final passage?

Mr. SARBANES. Of course, we have used up all the debate time. What should we have, 10 minutes on each side before final passage, or 30 minutes equally divided before final passage?

Mr. D'AMATO. We can work that out and make that request later, but I certainly will not be opposed to 30 minutes equally divided before final passage.

Mr. SARBANES. Mr. President, I ask unanimous consent to set aside the current amendment, and I will send an amendment to the desk, and that no second-degree amendments be in order to either, and that the vote begin on the amendment to be set aside at 5:40, to be followed by a vote on the amendment which will be sent to the desk.

Mr. D'AMATO. Mr. President, before that amendment is set aside, I ask for the yeas and nays and indicate that I will move to table at the appropriate time.

The PRESIDING OFFICER (Mr. COATS). Is there a sufficient second on the request for the yeas and nays?

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I withdraw the request.

The PRESIDING OFFICER. The Senator's request is withdrawn.

AMENDMENT NO. 2396

(Purpose: To make amendments with respect to the definition of a class action, and for other purposes)

Mr. SARBANES. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. If there is no objection, the pending amendment is set aside.

Mr. SARBANES. I apologize to the Chair. I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Maryland [Mr. SARBANES], for himself, Mr. BRYAN and Mr. JOHNSON, proposes an amendment numbered 2396.

Mr. SARBANES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, strike line 24 and all that follows through page 12, line 11 and insert the following:

"(2) CLASS ACTION.—

"(A) IN GENERAL.—The term 'class action' means any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(i) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated; and

"(ii) questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members.

On page 16, strike line 3 and all that follows through page 17, line 13 and insert the following:

"(B) CLASS ACTION.—

"(i) IN GENERAL.—The term 'class action' means any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated; and

"(II) questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members.

On page 17, line 14, strike "(C)" and insert "(ii)" and move the margin 2 ems to the right.

On page 17, line 21, strike "(D)" and insert "(C)".

Mr. SARBANES. Mr. President, this amendment interrelates with the other amendment that has been set aside on which a vote will occur later.

The sponsors of this bill say their goal is to wipe out frivolous class-action lawsuits alleging securities fraud. What are class-action lawsuits? They are lawsuits brought by a single person, not just on his own behalf, but on behalf of other persons similarly situated. In other words, one person can bring a lawsuit on behalf of an anonymous and potentially enormous group of people.

Why do we allow someone to bring such a lawsuit? Because in many situations, it is the only economical way people can pursue remedies. If a large number of people have each suffered a relatively small loss, it may not be economical for any one of them to pay the costs of a lawsuit. There are many examples of class-action suits by investors who have been defrauded. It is a tool that allows individuals to share the cost of a lawsuit when they are injured.

Because they can be brought on behalf of a potentially enormous class, on occasion they can be misused to coerce defendants into settlement. This is the abuse about which the sponsors of the legislation complain. They argue that companies are coerced by flimsy securities fraud class-action suits, that it is cheaper for the company to settle rather than to fight them, and that these class actions are being misused.

I share the view that frivolous securities fraud class-action suits should not be tolerated, either in Federal court or in State court, and lawyers who file worthless suits hoping to extort a settlement should not be able to pursue that practice. But this bill reaches beyond the frivolous class action.

Here is the problem. The definition of class action in this bill is too broad.

It will prevent investors from bringing individual actions solely on their own behalf in State court. Since they were enacted over 60 years ago, the Federal securities laws have preserved the right of individual investors to bring securities fraud suits under State law. This system has worked well. State remedies offer important protections to investors where Federal remedies fall short.

But the definition that is contained in this bill for "class action" is too broad. The bill has a three-pronged definition of "class action." And these prongs permit individual investors to be brought into Federal court against their will. The bill includes, as a class action, any group of lawsuits in which damages are sought on behalf of more than 50 persons, even if the suits are brought by separate lawyers without coordination.

So to tie it into the previous amendment, what happens is an investor goes into State court, in a timely fashion, he files an individual suit, and if 50 others do the same thing, they can be removed to Federal court as, quote, a "class action," although it is not a class action as a class action is ordinarily considered or ordinarily defined. They lift them out of the State court and put them into the Federal court, and they are shut out because of the statute of limitations.

Individual investors ought not to have to lose their remedies under State law in order to deal with the problem of frivolous class actions. And so the amendment that is offered narrows the bill's definition of "class action" to a suit brought on behalf of unnamed parties similarly situated. We do not use this "50 investor" definition which means unwary people are going to be trapped and lose their remedy.

Now a broad coalition of State and local government associations have written to us supporting this amendment—the National Association of State Retirement Administrators as well. Here is what they have to say about the definition of "class action" in the bill.

> The definition of "class action" contained in S. 1260 is overly broad. The definition of "class action" in S. 1260 would allow single suits filed in the same or different courts to be rolled into a larger class action that was never contemplated or desired by individual plaintiffs and have it removed to Federal court. Claims by the bill's proponents that individual plaintiffs would still be able to bring suit in Federal court are belied by this provision.

If we can narrow the definition of "class action" to a proper class action, and then that is taken into Federal court, then the statute of limitations will apply, if that prevails.

On the other hand, if you are going to have a definition of "class action" that is so broad that individual investors can be covered, they ought not be subjected to the risk of losing their suit altogether because it is removed in a Federal court and they are bound by a statute of limitations that they had no idea was going to come into play in their instance.

So, Mr. President, I very strongly urge this amendment. I think it corrects a very important weakness in this legislation. We can narrow the definition of who is covered by the class action so we no longer have to worry about the individual investor being shut out unfairly. I think we ought to significantly improve this legislation and narrow it so it applies to what it is asserted it is meant to apply to, and does not apply to individual investors who I think need to have their remedies preserved in the State courts.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me tell you basically what this amendment would do. This amendment would have the unintended effect—and I cannot believe that my colleague would want for that to happen—of opening up the whole question of the class-action suits being able to be moved to State courts. It would effectively allow lawyers to circumvent the purpose, the very purpose of this bill since so-called "huge" mass actions could still be brought in the State court.

So what we have is the problem of high-growth companies, small high-growth companies that traditional class actions may be brought against by the strike lawyers; namely, they are expensive and timely to defend, and the plaintiffs are often forced to settle, regardless of the merits, to avoid excessive litigation costs. That is exactly what we are trying to deal with. There should be a uniform standard, and there should be a uniform procedure. And that is why we moved these nationally traded securities.

Senator DODD spoke to this, the nationally traded securities going to a Federal forum. This amendment changes the predominance requirements in the bill's class action definition. This effectively would gut the bill by encouraging State actions which would not qualify as a class action contained in the act. As a result, these class actions would not be able to be removed to the Federal court. And so you have mass action lawyers representing a large number of plaintiffs on an individual basis in either a single action or a group action.

The "class action" definition in the bill was worked out with the SEC. We have worked that out, and it is comprehensive enough to close the loophole. But it also provides State courts with guidance. It says "up to 50 people." That is the bright line. When you get over 50 people, OK, that is the class action. And so this bill does not prevent individual investors from pursuing State court remedies, nor will it prevent a small group of investors from pooling their resources to pursue a claim under State law, but it will stop the strike action suits, the forum shopping that we have attempted to limit, because we have seen that dramatic increase.

I think Senator DODD, when he pointed out what the record was, I think it was a handful, what, five or six cases in a period of years, in all of the years, ballooning up to 40-plus in 1 year. What was that?

Mr. DODD. If my colleague would yield.

Mr. D'AMATO. Yes.

Mr. DODD. Our colleagues have made much of this notion that there has not been this great degree of activity. Try, if you will, to just keep these numbers in mind. These are the actions filed in State court for fraud in class actions against publicly traded companies.

In 1992, there were four cases filed all across the country. In 1993, there was one case filed all across the country. In 1994, there was one case filed all across the country. I do not have numbers for 1995. But they are four, one, and one.

Mr. D'AMATO. Six cases.

Mr. DODD. Then in 1996—we passed a law in 1995—59 cases were filed in State court; and in 1997, 1998, the number did drop down to about 38. But you compare that—they want to talk about how the number fell off to 38 from 59. What they do not want to mention to you is, in 1994 and 1993 and 1992 you had a total of six cases; in 1993 and 1994, one case—one case. And then it jumps, as we see in these other examples of where it moves to.

So I say to my colleague and the chairman of the committee, this is quite clear. And if they wanted to get to statute of limitations problems, why didn't they file more of those cases in that period?

Mr. D'AMATO. Mr. President, I think my colleague, by answering the question, points out quite clearly—it was my impression heretofore that he had mentioned a number of cases, but six cases in 3 years, jumping to 10 times that, 59—slightly less than 10 times that in 1 year—in 1 year—I think it proves the point. And that is why the necessity of seeing to it that we have a uniform standard, that you cannot go forum shopping. And that is why this Senator, at the appropriate time, will move to table the pending amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, this is a very complicated area of law. I know our colleagues are going to come to the floor and want to know what this is all about.

In effect, this amendment would have the impact of creating even further uncertainty in the definition of a class action. It does not provide more certainty; it is less certainty. I think it would upset the very carefully crafted and very balanced definition worked out with the Securities and Exchange Commission.

The reason it took us a little time to get this bill to our colleagues was because we took so much time working with the SEC to try and define these areas. What our colleagues are offering is an amendment that would disrupt the definition worked out with the SEC in this area.

Clearly, with all due respect, the tremendous amount of expertise in crafting it—I am not going to suggest to my colleagues that we have a perfect definition in the bill. But certainly this one is not perfect either. But if you are going to trust one or the other, it seems to me the one worked out with the Securities and Exchange Commission, I urge my colleagues, makes a lot more sense.

Neither of these definitions tracks word for word what is in rule 23. Rule 23—trust me when I tell you this rule 23 goes on for pages, pages. It is one of the more lengthy definitions of class actions that there is. So, we are not tracking that word for word. We are trying to pick up the essence of it. It is tremendously complicated.

We think this definition we have worked out with the Securities and Exchange Commission provides the right kind of balance.

The bill originally had a limit of 25 plaintiffs, now raised to 50 for a single lawsuit. This is by no means an exact science. I am the first to say that if we find shortly that number is not working as well as we would like, we would change it. Anybody who claims they have a word on high as to what is the perfect number here is deluding themselves. It is a number we chose because we thought it made sense based, again, on our discussions with the SEC.

With all due respect to the authors of this amendment, it does undercut what we have tried to achieve here. I want to emphasize to our colleagues, you don't have to agree with every agency and what it suggests and does. But on this definition worked out with the Securities and Exchange Commission, if you want some predictability and some knowledge-based definition, the one we have in the bill is the way to go. To come up all of a sudden with a new one here that I don't think enjoys the kind of expertise that we have been able to achieve through working with the SEC would be unfortunate and could create a lot more problems.

For those reasons, I urge the defeat of this amendment.

Mr. BIDEN. Mr. President, I opposed the 1995 Securities Litigation Act for several reasons—including the precedent-setting changes to this country's judicial system without the input of the Judiciary Committee.

I support the Sarbanes amendment for similar reasons—relating both to procedure, and to substance.

In the past, bills that made changes to the rules that govern citizen's access to State courts were referred to the Judiciary Committee, to enable the committee with expertise to review and work on the legislation.

While my colleagues on the Banking Committee had the opportunity to examine the specific, substantive changes this bill would make to our Nation's securities laws, it seems to me that we have once again skipped a very important step in the process.

The securities litigation bill we are considering on the floor today preempts State court statutes of limitations in securities fraud cases—and yet again the Judiciary Committee was not given the opportunity to examine the issue.

In 1991, the Supreme Court significantly shortened the statute of limitations for Federal securities fraud actions—to the shorter of 3 years after the fraud occurs or 1 year after it is discovered.

Then-SEC Chairman Richard Breeden called the new time limit "unrealistically short." But, S. 1260 would compound the problem by applying the Federal time limit to State actions removed to Federal court—even though it is shorter than the time limit applicable to actions in 33 of the 50 States.

This bill would not only leave investors without State court remedies when brokers and dealers make fraudulent statements when selling corporate stock—but it would also tell them that they need only conceal their fraud for 3 years before being absolved of responsibility in Federal court as well.

And the new time limit will apply even though the 1995 Securities Litigation Act raised the standard investors must meet to win a class action suit—you now have to prove a falsehood was made with clear intent to deceive.

That's incredibly tough to prove.

I will admit, some frivolous lawsuits are filed. And some lawyers do make too much from a suit—leaving defrauded investors too little.

But, immunizing Wall Street professionals who can successfully hide their lies for 3 years is not the answer.

I support the Sarbanes amendment and urge my colleagues to do the same. We should protect the small investor—not let white collar criminals go unpunished.

Mr. D'AMATO. Mr. President, I know my colleague from Nevada is going to speak to this issue, and I ask unanimous consent at 5:30 today the Senate proceed to a vote on or in relation to the Sarbanes amendment 2395, to be immediately followed by a vote on or in relation to amendment 2396, the matter we are now considering, with no amendments in order to the amendments. I finally ask that the time until 5:30 be equally divided between the proponents and opponents. I have no intention of using any of the time, but that all the time be yielded to my colleague.

Mr. SARBANES. Reserving the right to object, and I do not object, subsequent to that, then, I take it what the leadership would like to do is try to finish, so we will offer a third amendment and debate that. We hope the time will not be too long on that. Then we would be able to vote on that amendment and then on final passage.

Mr. D'AMATO. That is correct.

Mr. SARBANES. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York?

Without objection, it is so ordered.

The Senator from Nevada.

Mr. BRYAN. I don't want to prolong this debate unnecessarily. I realize several of my colleagues have time constraints.

Let me say I think the Senator from Maryland has crafted an amendment that is eminently fair. He is using the definition of the Federal Rules of Civil Procedure. The notion that we get involved in describing what is a class action based upon an arbitrary number of individual plaintiffs—some of whom could be private citizens, some could be pension funds, and could be State agencies—makes no sense to me.

So I believe, in trying to provide some sense of balance and fairness—so we do not get a situation where we have discussed throughout a good part of the afternoon that an individual who files an action by himself or herself with his or her lawyer alone, no other coplaintiffs involved, immediately after the discovery of a fraud, that would be 3 to 3 years and 2 months after the fraud occurred—should be allowed to pursue that cause of action and not be involuntarily sucked up into Federal court because 49 other people may have filed similar action, and to give to the errant defendant, the perpetrator of the fraud, the ability to manipulate the process so that the perpetrator of the fraud can file some phony plaintiff's actions, getting up to the threshold of 50, and then have the case removed, the individual plaintiff, the individual pension fund, the individual retirement fund, then having been effectively deprived of pursuing a cause of action that may be meritorious without question.

I certainly urge my colleagues to thoughtfully reflect. This is the Federal Rules of Civil Procedure. They have been around since 1939. Why should we craft some kind of a special rule as to what constitutes a class action, the effect of which deprives individuals—not people filing on behalf of a similarly situated class, but individuals—their opportunity to recover on a fraud perpetrated upon them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Very briefly, the essence of this comes down to this, because this is very complicated.

How does this work? It is a State court judge that has to make this determination as to whether or not these individual suits get consolidated. It is not a Federal judge; it is a State court judge. Obviously, a State court judge has broad discretion in making that determination. Even if he does do that, if an individual feels he does not belong in that grouping—obviously, we are trying to avoid a case where there are 50 or more individual actions that effectively operate as a single action, which would thus gut the bill and the uniform way in which we are attempting to deal with litigation issues.

As I said, the decision to consolidate these individual actions must be with a State court judge, and then if the individual feels as though they really don't belong in that case, the State court judge has broad discretion to take that individual out.

There are a lot of protections here. This is not heavy handed at all. It is a way to try and avoid exactly creating new loopholes where plaintiffs seek to consolidate individual cases and thus evade the provisions of this legislation.

But that decision is the State court judges' decision and to their broad discretion. And secondly, the individual has the opportunity to go to that State court judge and make the case that they don't really belong in that class action. That State court judge has the broad discretion of keeping that person out of that class.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I don't know if it is appropriate at this time, if all time is yielded back, and I know at 5:30 we will vote.

VOTE ON AMENDMENT NO. 2395—MOTION TO TABLE

Mr. D'AMATO. Mr. President, if it is appropriate now, I move to table the Sarbanes amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Maryland. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCAIN (when his name was called). Present.

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—69

Abraham
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Enzi
Faircloth
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerry
Kohl
Kyl
Landrieu
Leahy
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Reid
Robb
Roberts
Roth
Santorum
Sessions
Smith (NH)
Smith (OR)
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—30

Akaka
Biden
Breaux
Bryan
Bumpers
Byrd
Cleland
Collins
Conrad
Dorgan
Durbin
Feingold
Ford
Glenn
Graham
Hollings
Inouye
Johnson
Kennedy
Kerrey
Lautenberg
Levin
Moynihan
Reed
Rockefeller
Sarbanes
Shelby
Snowe
Specter
Wellstone

The motion to lay on the table the amendment (No. 2395) was agreed to.

VOTE ON AMENDMENT NO. 2396 — MOTION TO TABLE

Mr. D'AMATO. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to Amendment No. 2396 offered by Mr. SARBANES.

Mr. D'AMATO. Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCAIN (when his name was called). Present.

The result was announced—yeas 72, nays 27, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—72

Abraham
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Enzi
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kerrey
Kohl
Kyl
Landrieu
Leahy
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Reid
Robb
Roberts
Roth
Santorum
Sessions
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thurmond
Warner
Wyden

NAYS—27

Akaka
Biden
Bryan
Bumpers
Byrd
Cleland
Conrad
Dorgan
Durbin
Feingold
Glenn
Graham
Hollings
Inouye
Johnson
Kennedy
Kerry
Lautenberg
Levin
Moynihan
Reed
Rockefeller
Sarbanes
Shelby
Thompson
Torricelli
Wellstone

The motion to lay on the table the amendment (No. 2396) was agreed to.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Maryland.

AMENDMENT NO. 2397

(Purpose: To preserve the right of a State or a political subdivision thereof or a State pension plan from bringing actions under the securities laws)

Mr. SARBANES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES], for himself, Mr. BRYAN, Mr. JOHNSON and Mr. BIDEN, proposes an amendment numbered 2397.

The amendment is as follows:

On page 10, between lines 16 and 17, insert the following:

"(f) STATE ACTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, nothing in this section may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(2) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

On page 10, line 17, strike "(f)" and insert "(g)".

On page 15, between lines 19 and 20, insert the following:

"(5) STATE ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, nothing in this subsection may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of a State or political subdivision thereof, or by any agency or instrumentality thereof.

On page 15, line 20, strike "(5)" and insert "(6)".

Mr. SARBANES. Mr. President, I offer this amendment on behalf of myself, Senator BRYAN, Senator JOHNSON, and Senator BIDEN. I will be very quick, because the manager has indicated he will accept this amendment.

This amendment preserves the right of State and local governments and their pension plans to bring securities fraud suits under State law. They have never been professional plaintiffs. They have never abused the system. They have to go through an elaborate process to even bring suit. They obviously are concerned with protecting the public and the taxpayers, and it seems to me a reasonable exemption from the provisions of this bill as it applies to these governmental units.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, we have no objection. As the Senator has indicated, these classes are comprised solely of States, counties, and other public entities. There is no record of such class-action suits being brought. I might add, local governments, for the most part, school districts in particular, are typically precluded from investing in stocks, particularly in these stocks. We accept the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2397) was agreed to.

Mr. D'AMATO. Mr. President, I am aware of no further amendments, but I ask unanimous consent that the Senator from Oklahoma be recognized for the purpose of propounding a unanimous-consent request, and that the Senator from California—I think I have 2½ minutes left. I yield 1 minute to the Senator from California.

Mr. BIDEN. Will the Senator yield? I believe a unanimous-consent agreement had room for me to offer an amendment at sometime, and I intend on doing that, although I will not ask for a rollcall vote. I will be a very good boy if you listen for 5 minutes, and then I will withdraw the amendment.

Mr. D'AMATO. I have no objection. I ask that the Senator be recognized to offer an amendment.

AMENDMENT NO. 2398

(Purpose: To amend the bill with respect to title 18, United States Code)

Mr. BIDEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 2398.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . FRAUD AS PREDICATE OFFENSE.

Section 1964(c) of title 18, United States Code, is amended by striking ", except" and all that follows through "final".

Mr. BIDEN. Mr. President, I will be necessarily brief because I have over the years learned to count, and I do not believe I have the votes for this amendment, but I want to make two relatively brief points.

First of all, in 1970, the Congress greatly assisted the fight against organized crime by adopting the Racketeering Influence and Corruption Organizations Act. We know it as RICO.

RICO included a private civil enforcement provision with enhanced penalties, including triple damages for racketeering behavior in furtherance of a criminal enterprise engaged in certain, what they call predicate offenses, including murder, arson, bribery, wire fraud, bankruptcy fraud, and securities fraud—securities fraud.

At the request of the Securities and Exchange Commission and the industry, though against the wishes of law enforcement and State regulators, in 1995, the Securities Litigation Act effectively eliminated securities fraud as a grounds for private civil RICO proceedings. Many of us disagreed with carving out the securities fraud for special status, Mr. President, and protection from application of the civil RICO statute. In fact, my amendment was intended to preserve many civil RICO securities fraud claims and was accepted last time by the full Senate. Unfortunately, it was dropped in committee.

Last November, the Federal grand jury in Manhattan indicted 19 individuals, including two reputed mob chieftains known as "Rossi" and "Curly," for their role in the alleged plot to manipulate a thinly traded stock, so-called penny stocks, and for threatening brokers to drive up the prices.

There is an article that was published that says "The Mob on Wall Street." I ask unanimous consent that an except from this article be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

[From Business Week, Dec. 16, 1996]

The Mob on Wall Street

(By Gary Weiss)

In the world of multimedia, Phoenix-based SC&T International Inc. has carved out a small but significant niche. SC&T's products have won raves in the trade press, but working capital has not always been easy to come by. So in December, 1995, the company brought in Sovereign Equity Management Corp., a Boca Raton (Fla.) brokerage, to manage an initial public offering. "We thought they were a solid second- or third-tier investment bank," says SC&T Chief Executive James L. Copeland.

But there was much about Sovereign that was known to only a very few. There were, for example, the early investors, introduced by Sovereign, who had provided inventory financing for SC&T. Most shared the same post office box in the Bahamas. "I had absolutely no idea of who those people were," says Copeland. He asked Sovereign. "I was told, 'Who gives a s—. It's clean money.'" The early investors cashed out, at the offering price of $5, some 1,575 million shares that they acquired at about $1.33 share—a gain of some $5.8 million.

By mid-June, SC&T was trading at $8 or better. But for SC&T shareholders who did not sell by then, the stock was an unmitigated disaster. Sovereign, which had handled over 60% of SC&T's trades early in the year, sharply reduced its support of the stock. Without the backing of Sovereign and its 75-odd brokers, SC&T's shares plummeted—to $2 in July, $1 in September, and lately, pennies. The company's capital-raising ability is in tatters. Laments Copeland: "We're in the crapper."

A routine case of a hot stock that went frigid. Or was it? Copeland didn't know it, but there was a man who kept a very close eye on SC&T and is alleged by Wall Street sources to have profited handsomely in the IPO—allegedly by being one of the lucky few who sold shares through a Bahamian shell company. His name is Philip Abramo, and he has been identified in court documents as a ranking member, or *capo*, in the New Jersey-based DeCavalcante organized crime family.

James Copeland didn't know it. Nobody at SC&T could have dreamed it. But the almost unimaginable had come true: Copeland had put his company in the hands of the Mob.

Today, the stock market is confronting a vexing problem that, so far, the industry and regulators have seemed reluctant to face—or even acknowledge. Call it what you will: organized crime, the Mafia, wiseguys. They are the stuff of tabloids and gangster movies. To most investors, they would seem to have as much to do with Wall Street as the other side of the moon.

But in the canyons of lower Manhattan, one can find members of organized crime, their friends and associates. How large a presence? No one—least of all regulators and law enforcement—seems to know. The Street's ranking reputed underworld chieftain, Abramo, is described by sources familiar with his activities as controlling at least four brokerages through front men and exerting influence upon still more firms. Until recently Abramo had an office in the heart of the financial district, around the corner from the regional office of an organization that might just as well be on Venus as far as the Mob is concerned—the National Association of Securities Dealers, the self-regulatory organization that oversees the small-stock business.

A three-month investigation by Business Week reveals that substantial elements of the small-cap market have been turned into a veritable Mob franchise, under the very noses of regulators and law enforcement. And that is a daunting prospect for every investor who buys small-cap stocks and every small company whose stock trades on the NASDAQ market and over the counter. For the Mob makes money in various ways, ranging from exploiting IPOs to extortion to getting a "piece of the action" from traders and brokerage firms. But its chief means of livelihood is ripping off investors by the time-tested method of driving share prices upward—and dumping them on the public through aggressive cold-calling.

In its inquiry, Business Week reviewed a mountain of documentation and interviewed traders, brokerage executives, investors, regulators, law-enforcement officials, and prosecutors. It also interviewed present and former associates of the Wall Street Mob contingent. Virtually all spoke on condition of anonymity, with several Street sources fearing severe physical harm—even death—if their identities became known. One, a former broker at a Mob-run brokerage, says he discussed entering the federal Witness Protection Program after hearing that his life might be in danger. A short-seller in the Southwest, alarmed by threats, carries a gun.

Among Business Week's findings:

The Mob has established a network of stock promoters, securities dealers, and the all-important "boiler rooms"—a crucial part of Mob manipulation schemes—that sell stocks nationwide through hard-sell cold-calling. The brokerages are located mainly in the New York area and in Florida, with the heart of their operations in the vicinity of lower Broad Street in downtown Manhattan.

Four organized crime families as well as elements of the Russian Mob directly own or control, through front men, perhaps two dozen brokerage firms that make markets in hundreds of stocks. Other securities dealers and traders are believed to pay extortion money or "tribute" to the Mob as just another cost of doing business on the Street.

Traders and brokers have been subjected in recent months to increasing levels of violent "persuasion" and punishment—threats and beatings. Among the firms that have been subject to Mob intimidation, sources say, is the premier market maker in NASDAQ stocks—Herzog, Heine, Gedule Inc.

Using offshore accounts in the Bahamas and elsewhere, the Mob has engineered lucrative schemes involving low-priced stock under Regulations S of the securities laws. Organized crime members profit from the runup in such stocks and also from short-selling the stocks on the way down. They also take advantage of the very wide spreads between the bid and ask prices of the stock issues controlled by their confederates.

The Mob's activities seem confined almost exclusively to stocks traded in the over-the-counter "bulletin board" and NASDAQ small-cap markets. By contrast, New York Stock Exchange and American Stock Exchange issues and firms apparently have been free of Mob exploitation.

Wall Street has become as lucrative for the Mob that it is allegedly a major source of income for high-level members of organized crime—few of whom have ever been publicly identified as having ties to the Street. Abramo, who may well be the most active reputed mobster on the Street, has remained completely out of the public eye—even staying active on the Street after his recent conviction for tax evasion.

Mob-related activities on the Street are the subject of inquiries by the FBI and the office of Manhattan District Attorney Robert M. Morgenthau, which is described by one source as having received numerous complaints concerning mobsters on the Street. (Officials at both agencies and the New York Police Dept. did not respond to repeated requests for comment.)

Overall, the response of regulators and law enforcement to Mob penetration of Wall Street has been mixed at best. Market sources say complaints of Mob coercion have often been ignored by law enforcement. Although an NASD spokesman says the agency would vigorously pursue reports of Mob infiltration, two top NASD officials told Business Week that they have no knowledge of Mob penetration of member firms. Asked to discuss such allegations, another high NASD official declined, saying: "I'd rather you not tell me about it."

The Hanover, Sterling & Co. penny-stock firm, which left 12,000 investors in the lurch when it went out of business in early 1995, is alleged by people close to the firm to have been under the control of members of the Genovese organized crime family. Sources say other Mob factions engaged in aggressive short-selling of stocks brought public by Hanover.

Federal investigators are said to be probing extortion attempts by Mob-linked short-sellers who had been associated with the now-defunct Stratton Oakmont penny-stock firm.

Mob manipulation has affected the markets in a wide range of stocks. Among those identified by Business Week are Affinity Entertainment, Celebrity Entertainment, Beachport Entertainment, Crystal Broadcasting, First Colonial Ventures, Global Spill Management, Hollywood Productions, Innovative Medical Services, International Nursing Services, Novatek International, Osicom Technologies, ReClaim, SC&T, Solv-Ex, and TJT. Officials of the companies deny any knowledge of Mob involvement in the trading of their stocks, and there is no evidence that company managements have been in league with stock manipulators. These stocks were allegedly run up by Mob-linked brokers, who sometimes used force or threats to curtail short-selling in the stocks. When support by allegedly Mob-linked brokerages ended, the stocks often suffered precipitous declines—sometimes abetted, traders say, by Mob-linked short-sellers. The stocks have generally fared poorly (table, page 99).

Not all of the stocks were recent IPOs, and they were often taken public by perfectly legitimate underwriters. International Nursing, for example, went public at $23 in 1994 and was trading at $8 in early 1996 before falling back to pennies. Short-sellers who attempted to sell the shares earlier this year were warned off—in one instance by a Mob member—market sources assert. International Nursing Chairman John Yeros denies knowledge of manipulation of the stock.

What this all adds up to is a shocking tale of criminal infiltration abetted by widespread fear and silence—and official inaction. While firms and brokerage executives who strive to keep far afield of the Mob often complain of NASD inaction, rarely do such people feel strongly enough to share their views with regulators or law enforcement. Instead, they engage in self-defense. One major brokerage, which often executes trades for small-cap market makers, keeps mammoth intelligence files—to steer clear of Mob-run brokers. A major accounting firm keeps an organized-crime expert on the payroll. His duties include preventing his firm from doing business with brokerages linked to organized crime and the Russian Mob.

Mr. BIDEN. Mr. President, they are not talking about legitimate traders; they are talking about the mob's attempt to infiltrate Wall Street. It seems to me for us to carve out of the original legislation an exemption from RICO predicate statutes securities fraud is a serious mistake. But it would also be a serious mistake for me to push this issue without the votes at this point, because I realize there is an attempt to bring this legislation to a close.

I think it is bad legislation generally. I think it is a serious mistake to have done this, but I also have been here long enough, as I said, to be able to know where the votes are.

I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2398) was withdrawn.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senator from California be recognized for 1 minute and thereafter, the sponsor of the legislation who has not spoken today, Senator DOMENICI, who has been tied up in committee, has asked to be recognized for up to 5 minutes. Then I ask unanimous consent that we go to final passage.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California is recognized for 1 minute.

Mrs. BOXER. Thank you very much, Mr. President.

The question before the Senate today is the following: How many securities litigation laws should there be relative to class-action lawsuits involving nationally traded securities?

I believe the answer is one. And I believed the answer was one when we had this debate in 1995. And even though I advocated for a stronger law at that time, I always thought there ought to be one law.

We, as policymakers, must establish a regulatory environment in which investors have sufficient rights and remedies while also ensuring that the high-growth industries of our economy, many of which are located in my home State of California, are provided the stability and the certainty they need to expand, grow, and create jobs.

This bill does just that. It is narrowly crafted to address only the issue of class action lawsuits and nationally traded securities—I think this is very important. It defines and limits class-action lawsuits. It applies only to nationally traded securities. It is a bill which I am proud to support.

Chairman Levitt, who I respect greatly, Chairman of the SEC, is supportive of this legislation, and I think his words should carry a great deal of weight. We ought to give this law a chance to work in the Federal court and not see this law go to 50 different State courts. This would be very disruptive and it doesn't make sense for nationally traded securities.

If, after a time, we feel the law isn't good enough, isn't strong enough, isn't working as we had envisioned, we can revisit it and address it as necessary. But I think today we ought to support this bill, as drafted, and assert there ought to be one law when it comes to class action lawsuits involving nationally traded securities.

So, Mr. President, I am pleased to join the Chairman of the Banking Committee and the ranking member on the Securities Subcommittee, Senator DODD, in support of this bill. I yield the floor, and I yield the time back to the Senator from New York.

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes.

Mr. DOMENICI. Mr. President, I will not use that amount of time.

I just want to say how pleased I am that today we are going to close the loop and make sure that the small group of entrepreneurial plaintiff lawyers who were taking advantage of our securities laws are now going to follow a uniform law in the States and in the Federal courts.

It was in 1990 that Senator Sanford of North Carolina, who passed away just recently, and I introduced the first legislation on this issue. We did so because we found that a small group of plaintiff's lawyers were engaged in the business of finding meritless lawsuits to file, but since they were class action lawsuits, they would have to get settled. We found a trend across the country where they settled all these cases rather than have jury trials. A small cadre of lawyers became rich, and, as far as we can find out, very few stockholders benefited.

We passed the first bill to tighten up the rules in the Federal court system in 1995. It is the only bill where we overrode President Clinton's veto. And tonight I think we will pass, by an even more overwhelming number, the culmination of this effort. The bill will keep plaintiffs' lawyers from picking State courts to do what we have precluded them from doing in the Federal courts. This bill will stop them from doing what we know they already are doing—they look for a sympathetic state forum where they can get these lawsuits filed.

This is legislation that helps the high-tech companies that get started in America. We have testimony that the Intel company—that great American company—had they faced one of these kinds of suits when they were in their infancy, they are almost certain that they would not exist today. We do not know how many other companies now do not exist because they faced these kinds of lawsuits.

But essentially we are doing an exciting thing for growth, prosperity, and we are harming and hurting no one with legitimate complaints against corporations for fraud, misrepresentation, and malfeasance.

As I said, I rise today in strong support of S. 1260, the "Securities Litigation Reform Uniform Standards Act of 1998" and I want to commend the Majority Leader for bringing this bill to the floor this week. Few issues are more important to the high-tech community and the efficient operation of our capital markets than securities fraud lawsuit reform.

I am pleased to serve as an original co-sponsor of this legislation with Senators D'AMATO, DODD, and GRAMM—a bill to provide one set of rules to govern securities fraud class actions.

As I said previously, this bill completes the work I began more than 6 years ago with Senator Sanford of North Carolina. Back in the early 1990's, Senator Sanford and I noticed that a small group of entrepreneurial plaintiffs' lawyers were taking advantage of our securities laws and the federal rules related to class action lawsuits to file frivolous and abusive claims against high-technology companies in Federal courts.

Often these lawsuits were based simply on the fact that a company's stock price had fallen, without any real evidence of fraud. Senator Sanford and I realized a long time ago that stock price volatility—common in high tech stocks—simply is not stock fraud.

But, because it was so expensive and time consuming to fight these lawsuits, many companies settled even when they knew they had done nothing wrong. The money used to pay for these frivolous lawsuits could have been used for research and development or to create new, high-paying jobs.

So, we introduced a bill to make some changes to the securities fraud class action system. Of course, since we were up against the plaintiffs' lawyers, the bill didn't go anywhere for awhile.

After Senator Sanford left the Senate, the senior Senator from Connecticut, Senator DODD, and I continued to work hard on this issue. In 1995, with tremendous help from Chairman

D'AMATO and Senator GRAMM, we passed a law. The Private Securities Litigation Reform Act of 1995 passed Congress in an overwhelmingly bipartisan way—over President Clinton's veto of the bill.

And since enactment of the Reform Act, we have seen great changes in the conduct of plaintiffs' class action lawyers in federal court. Because of more stringent pleading requirements, plaintiffs' lawyers no longer "race to the courthouse" to be the first to file securities class actions. Because of the new rules, we no longer have "professional plaintiffs"—investors who buy a few shares of stock and then serve as named plaintiffs in multiple securities class actions. Other rules make it difficult for plaintiffs' lawyers to file lawsuits to force companies into settlement rather than face the expensive and time consuming "fishing expedition" discovery process.

Now, it looks like our new law has worked too well. Entrepreneurial trial lawyers have begun filing similar claims in State court instead of federal court to avoid the new law's safeguards against frivolous and abusive lawsuits. Instead of one set of rules, we now have 51—one for the Federal system and 50 different ones in the States.

According to the Securities and Exchange Commission, this migration of claims from Federal court to State court "may be the most significant development in securities litigation" since the passage of the new law in 1995.

In fact, prior to passage of the new law in 1995, State courts rarely served as the forum for securities fraud lawsuits. Now, more than 25 percent of all securities class actions are brought in State court. A recent Price Waterhouse study found that the average number of State court class actions filed in 1996—the first year after the new law—grew 335 percent over the 1991–1995 average. In 1997, State court filings were 150 percent greater than the 1991–1995 average.

So, there has been an unprecedented increase in State securities fraud class actions. In fact, trial lawyers have testified to Congress that they have an obligation to file securities fraud lawsuits in State court if it provides a more attractive forum for their clients. Imagine that—plaintiffs' lawyers admit that they are attempting to avoid federal law.

These State court lawsuits also have prevented high-tech companies from taking advantage of one of the most significant reforms in the 1995 law—the safe harbor for predictive statements. Under the 1995 law, companies which make forward-looking statements are exempt from lawsuits based on those statements if they meet certain requirements. Companies are reluctant to use the safe harbor and make predictive statements because they fear that such statements could be used against them in State court. This fear chills the free flow of important information to investors—certainly not a result we intended when we passed the new law.

So today, the Senate will vote to create one set of rules for securities fraud cases. One uniform set of rules is critical for our high-technology community and our capital markets.

Without this legislation, the productivity of the fastest growing segment of our economy—high tech—will continue to be hamstrung by abusive, lawyer-driven lawsuits. Rather than spend their resources on R&D or creating new jobs, high-tech companies will continue to be forced to spend massive sums fending off frivolous lawsuits.

When I first worked on this issue, executives at Intel Corporation told me that if they had been hit with a frivolous securities lawsuit early in the company's history, they likely never would have invented the microchip. We should not let that happen to the next generation of Intels.

This bill also is important to our markets. Our capital markets are the envy of the world, and by definition are national in scope. Information provided by companies to the markets is directed to investors across the United States and throughout the world.

Under the Commerce Clause of the U.S. Constitution, Congress has the authority to regulate in areas affecting "interstate commerce." I cannot imagine a more classic example of what constitutes "interstate commerce" than the purchase and sale of securities over a national exchange.

Not only does Congress have the authority to regulate in this area, it clearly is necessary and appropriate. Right now, in an environment where there are 50 different sets of rules, companies must take into account the most onerous State liability rules and tailor their conduct accordingly. If the liability rules in one State make it easier for entrepreneurial lawyers to bring frivolous lawsuits, that affects companies and the information available to investors in all other States. One uniform set of rules will eliminate that problem.

Mr. President, I again want to commend my colleagues for their work on this important bill. I understand that this is a bi-partisan bill which has the support of the SEC and at least 40 Senators. I think by the end of the day, many, many more Senators will join us in supporting this bill. Thank you, Mr. President.

Mr. D'AMATO. Mr. President, I have one more unanimous consent. The Senator from Nevada has asked to speak for up to 3 minutes. I ask unanimous consent that he be given that and then we go to final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. BRYAN. I thank the Presiding Officer.

I thank the chairman for his courtesy.

Mr. President, this is a vote that I believe that my colleagues who support the measure—and I am not unmindful of how the votes lie—will live to rue. At a time when investor fraud is mounting with billions and billions of dollars, we have a consistent, steady course of action where we are systematically depriving individual small investors from protections.

This adds a further limitation to the statute of limitations. And 37 out of the 50 States provide a greater remedy. This provides a limitation in terms of the ability of an investor to file an action against an accomplice. And 49 out of 50 States provide that remedy. We take that away in this course of action.

Most States provide a remedy for joint and several liability so that an investor who is defrauded may recover the full amount of his or her loss from any one of the individual investors. If this legislation had been in place at the time of the Keating fraud, where Keating himself was, in effect, judgment proof, there would have been no ability to recover against the fraudulent activity of the accomplices—the accountants, the lawyers, and others.

That is why, contrary to the assertion by the proponents, this is not a plaintiff's lawyer's argument that is being made in opposition to this. There are some abuses, and we should confine ourselves to that. That is why all of the governmental institutions who are charged with their public responsibility as stewards of investment funds, retirement funds, municipalities, school districts, States, all have expressed their opposition to the legislation, because they recognize that the taxpayer, himself or herself, is frequently defrauded by this course of action.

So this is a bad piece of legislation. And we continue on a slippery slope in eliminating basic investor protections. The small guys get dealt out of the game with this legislation. The victims, they can take care of themselves. But for the millions and millions of small investors who have confidence in our markets, who are coming in—one out of every three in the country—they are the big losers in this legislation.

Mr. SARBANES. Will the Senator yield?

Mr. BRYAN. I am happy to yield.

Mr. SARBANES. I want to commend the Senator from Nevada for a very powerful statement and for his very strong presentation of the arguments. All I want to say to my colleague is, I am confident in making the prediction that events down the road, when the investors come in, innocent people, and say, "We didn't have a remedy," he will be proven correct.

Mr. BRYAN. I thank the Senator from Maryland for his comments. He has stood tall, not only in this legislation but in the 1995 legislation on behalf of small investors. That is what this matter is all about. There is no sympathy for plaintiff lawyers. That is not the argument, as the Senator from Maryland and I and others who oppose this legislation know. We are talking about protecting small investors in America who, I believe, are left with fewer defenses as a result of this.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I will be very brief on this. And we have been through this. The last time it was a 5-day debate. We ought to take some solace in the fact that we have done this in half a day. And let me commend my colleagues, all of them, who have been involved in this and over some period of time.

But I say, Mr. President, this is a very sound piece of legislation that can make a huge difference today. That investor that my colleague, the distinguished Senator from Nevada, talks about, that is the investor that deposits their hard-earned money in the securities of struggling businesses, high-tech companies that are the primary targets of these lawsuits. And it is these industries that represent the knowledge-based economy of our 21st century.

Too often we have seen predator lawyers out there go after them. What we are trying to do with this bill is to tighten up the loophole, to make it possible for these companies to grow while simultaneously—simultaneously—seeing to it that investors can bring a rightful cause of action, as plaintiffs, where fraud has been committed.

This is going to make for a far sounder system for people in this country. And I predict to my colleagues that we will see economic growth in these firms and businesses, where they can avoid the kind of tremendous expenditures that have had to be laid out to fight frivolous lawsuits and end up as settlements, costing fortunes with, of course, cases being thrown out of court.

So I predict to my colleagues, this will be a vote they will be very proud of in the years ahead to avoid these frivolous lawsuits we have seen in the past. I urge passage of the legislation.

Mr. D'AMATO. I ask unanimous consent that Senator KOHL be recognized for a request, and then I will call for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Thank you, I say to Senator D'AMATO.

CHANGE OF VOTE—ROLL CALL VOTE NO. 132

Mr. KOHL. Mr. President, on rollcall vote No. 132, I voted no. It was my intention to vote aye. Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 79, nays 21 as follows:

[Rolicall Vote No. 135 Leg.]

YEAS—79

Abraham
Allard
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Enzi
Faircloth
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Leahy
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sessions
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—21

Akaka
Biden
Bryan
Bumpers
Byrd
Cleland
Conrad
Dorgan
Durbin
Feingold
Glenn
Inouye
Johnson
Lautenberg
Levin
McCain
Moynihan
Sarbanes
Shelby
Torricelli
Wellstone

The bill (S. 1260), as amended, was passed, as follows:

S. 1260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Litigation Uniform Standards Act of 1998".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Private Securities Litigation Reform Act of 1995 sought to prevent abuses in private securities fraud lawsuits;

(2) since enactment of that legislation, considerable evidence has been presented to Congress that a number of securities class action lawsuits have shifted from Federal to State courts;

(3) this shift has prevented that Act from fully achieving its objectives;

(4) State securities regulation is of continuing importance, together with Federal regulation of securities, to protect investors and promote strong financial markets; and

(5) in order to prevent certain State private securities class action lawsuits alleging fraud from being used to frustrate the objectives of the Private Securities Litigation Reform Act of 1995, it is appropriate to enact national standards for securities class action lawsuits involving nationally traded securities, while preserving the appropriate enforcement powers of State securities regulators and not changing the current treatment of individual lawsuits.

SEC. 3. LIMITATION ON REMEDIES.

(a) AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) AMENDMENT.—Section 16 of the Securities Act of 1933 (15 U.S.C. 77p) is amended to read as follows:

"SEC. 16. ADDITIONAL REMEDIES; LIMITATION ON REMEDIES.

"(a) REMEDIES ADDITIONAL.—Except as provided in subsection (b), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

"(b) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(1) an untrue statement or omission of a material fact in connection with the purchase or sale of a covered security; or

"(2) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(c) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in subsection (b), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to subsection (b).

"(d) PRESERVATION OF CERTAIN ACTIONS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), a class action described in paragraph (2) of this subsection that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(2) PERMISSIBLE ACTIONS.—A class action is described in this paragraph if it involves—

"(A) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(B) any recommendation, position, or other communication with respect to the sale of securities of the issuer that—

“(i) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

“(ii) concerns decisions of those equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

“(e) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

“(f) STATE ACTIONS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, nothing in this section may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

“(2) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term ‘State pension plan’ means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

“(g) DEFINITIONS.—For purposes of this section the following definitions shall apply:

“(1) AFFILIATE OF THE ISSUER.—The term ‘affiliate of the issuer’ means a person that directly or indirectly, through 1 or more intermediaries, controls or is controlled by or is under common control with, the issuer.

“(2) CLASS ACTION.—

“(A) IN GENERAL.—The term ‘class action’ means—

“(i) any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

“(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

“(II) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

“(ii) any group of lawsuits (other than derivative suits brought by 1 or more shareholders on behalf of a corporation) filed in or pending in the same court and involving common questions of law or fact, in which—

“(I) damages are sought on behalf of more than 50 persons; and

“(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

“(B) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as 1 person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

“(3) COVERED SECURITY.—The term ‘covered security’ means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred.”.

(2) CONFORMING AMENDMENTS.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(A) by inserting “except as provided in section 16 with respect to class actions,” after “Territorial courts,”; and

(B) by striking “No case” and inserting “Except as provided in section 16(c), no case”.

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended—

(1) in subsection (a), by striking “The rights and remedies” and inserting “Except as provided in subsection (f), the rights and remedies”; and

(2) by adding at the end the following new subsection:

“(f) LIMITATIONS ON REMEDIES.—

“(1) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

“(A) a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security; or

“(B) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

“(2) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in paragraph (1), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to paragraph (1).

“(3) PRESERVATION OF CERTAIN ACTIONS.—

“(A) IN GENERAL.—Notwithstanding paragraph (1), a class action described in subparagraph (B) of this paragraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

“(B) PERMISSIBLE ACTIONS.—A class action is described in this subparagraph if it involves—

“(i) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

“(ii) any recommendation, position, or other communication with respect to the sale of securities of an issuer that—

“(I) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

“(II) concerns decisions of such equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

“(4) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

“(5) STATE ACTIONS.—

“(A) IN GENERAL.—Notwithstanding any other provision of this subsection, nothing in this subsection may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

“(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term ‘State pension plan’ means a pension plan established and maintained for its employees by the government of a State or political subdivision thereof, or by any agency or instrumentality thereof.

“(6) DEFINITIONS.—For purposes of this subsection the following definitions shall apply:

“(A) AFFILIATE OF THE ISSUER.—The term ‘affiliate of the issuer’ means a person that directly or indirectly, through 1 or more intermediaries, controls or is controlled by or is under common control with, the issuer.

“(B) CLASS ACTION.—The term ‘class action’ means—

“(i) any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

“(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

“(II) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

“(ii) any group of lawsuits (other than derivative suits brought by 1 or more shareholders on behalf of a corporation) filed in or pending in the same court and involving common questions of law or fact, in which—

“(I) damages are sought on behalf of more than 50 persons; and

“(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

“(C) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as 1 person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

“(D) COVERED SECURITY.—The term ‘covered security’ means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) of the Securities Act of 1933, at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred.”.

SEC. 4. APPLICABILITY.

The amendments made by this Act shall not affect or apply to any action commenced before and pending on the date of enactment of this Act.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I am trying to have an announcement for the Members. But I need to check with a couple of people in just a moment. So if the Senator from Iowa would like to proceed with statements, I would like to maybe interrupt in a moment.

Mr. LEAHY. Mr. President, while the leader is on the floor—if the Senator from Iowa will withhold for just a moment—I know the leader is trying to get a schedule together. I just wanted to note, because there has been some question over here on this side of the aisle, that on S. 2037, the WIPO bill, or the digital new millennium copyright legislation, there is absolutely no objection to going forward with it. I suggest that there will be unanimous support for it over here. I just wanted to advise the distinguished majority leader of that fact.

Mr. LOTT. I might respond to the fact that we do want to get that bill done. We have run into a possible technical problem that we are trying to work out, as you well know.

Mr. LEAHY. I understand what the leader wants to do. I wanted to make sure that he understands this side of the aisle is ready and raring to go.

Mr. LOTT. Mr. President, for the information of all Senators, the Senate has now passed the second of the four high-tech bills that we had been working on and have worked to get agreements. And we have been successful in that. It is our intent at the earliest opportunity to consider and pass the WIPO bill, even though I understand there may be a technical problem with the blue slip issue involving the House of Representatives. We are trying to check that out, and also the immigration bill that the Senator from Michigan has been working on, and Senator KENNEDY from Massachusetts.

It would be our intent to call up that immigration bill, if we do not do it before noon on Monday, with the possibility of stacked votes on Monday afternoon about 5:30. I am not asking unanimous consent to that effect right now. I have discussed that with Senator ABRAHAM, and Senator KENNEDY. But I would need to check that with Senator DASCHLE and others.

But I want the Members to know that we need to complete action on these high-tech bills. A lot of great work has been done. We have been able to pass two of them. We are very close to being able to get the other two done. Our intent is to stay with that until we get it completed.

The Senate will now begin the DOD authorization bill.

Having said all of that, there will be no further votes this evening, and the Senate will consider the DOD authorization bill throughout Thursday's session of the Senate. I had hoped there would be opening statements. But I understand we will just lay the bill down, and then we will begin tomorrow.

But I want the RECORD to show that I was requested to have the remainder of the night for the DOD authorization bill so that we could get 2 or 3 hours on it. We are not going to be able to do that. But I am certainly prepared and willing, and wanted to do that.

UNANIMOUS-CONSENT REQUEST—S. 2057

Mr. LOTT. Mr. President, I now ask unanimous consent the Senate turn to S. 2057, the DOD authorization bill.

Mr. ABRAHAM. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senate majority leader has the floor.

UNANIMOUS-CONSENT REQUEST—S. 1415

Mr. LOTT. Mr. President, I ask unanimous consent that S. 1415, the tobacco bill, be referred to the Finance Committee until 9 p.m. on Thursday, May 14, and if the committee has not reported the bill at that time, the measure be automatically discharged and placed immediately on the calendar, notwithstanding a recess or adjournment of the Senate.

I further ask the Finance Committee have permission to meet during the session of the Senate on Thursday, May 14, to consider S. 1415.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. I would ask the majority leader if he could hold for a few moments on propounding this UC; there are some discussions going on on that subject.

Mr. LOTT. Mr. President, I will withhold the unanimous-consent request at this time, and while I am working on both of these unanimous consent requests, the Senators from Iowa wish to be recognized so I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S, 2078 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. I yield the floor.

UNANIMOUS-CONSENT AGREEMENT—S. 1415

Mr. LOTT. Mr. President, I ask unanimous consent that S. 1415, the tobacco bill, be referred to the Finance Committee until 9 p.m. on Thursday, May 14, and if the committee has not reported the bill at that time, the measure be automatically discharged and placed immediately on the calendar, notwithstanding a recess or adjournment of the Senate.

I further ask that the Senate Finance Committee have permission to meet during the session of the Senate on Thursday, May 14, to consider S. 1415.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. LOTT. Mr. President, I now ask unanimous consent again that the Senate turn to S. 2057, the DOD authorization bill.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 2057) to authorize appropriations for fiscal year 1999 for military activities in the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. INHOFE. Mr. President, I ask unanimous consent that Dan Groeschen be granted the privilege of the floor during the consideration of the 1999 defense authorization bill.

Mr. PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Parliamentary inquiry. What is the floor situation right now? What are we on?

The PRESIDING OFFICER. We are on the bill S. 2057, Department of Defense authorization bill.

NUCLEAR DETONATIONS IN INDIA

Mr. HARKIN. Mr. President, I want to take a little time again today to talk about the perilous situation that we find in south Asia at this point in time. Once again, in complete disregard of world opinion, in complete disregard of peace in the region, in complete disregard of the concerns of its neighbors and its allies and friends, yesterday the nation of India once again detonated two more nuclear devices. That makes five in 2 days.

What I hear around here, Mr. President, people are saying, what have they done? Have they lost their senses? Have they lost all concept of reality? Have they gone berserk? Are they completely nutty now? Those are the kinds of things I hear around the Chamber and around the Capitol—people talking about India, and what has happened to them. I do not believe that all Indians have gone berserk or that all Indians are crazy, but certainly something has happened with their Government to flaunt what they have done, to go ahead and not only set off three in 1 day, but two the next day, and also near the border of Pakistan. For the life of me, I cannot understand what they can possibly be thinking of.

So, I am pleased that the President has announced that he will, in accordance with the law, invoke the full range of sanctions that are required under the Nuclear Policy Prevention Act of 1994. These are tough, and we want to make sure that the administration follows through on them. We have to end all foreign assistance and loans to the Nation of India. We must terminate all military aid and weapons transfers. We must oppose international foreign aid and financial assistance to the Nation through the World Bank and the International Monetary Fund. I understand many of our allies have decided to join in placing these sanctions on India. The law requires it, and we must place the full measure of the law on India in this regard.

Mr. President, I visited the south Asia region twice in the last year and a half. I understand the complexity of their internal politics and their international relations. But I must say this, that whatever problems there may have been before have been multiplied a thousandfold by what India just did.

Again, I hope the nations in that region will exercise caution and restraint in light of this. Right now, India has become the pariah of the world community of nations, and rightfully so, for what it has done. It should remain a pariah for a considerable amount of time, until it reverses its course, until it sits down with its neighbors to reach peaceful solutions in that area, until India is willing to sit down with its neighbor, Pakistan, and solve once and for all the issue of Kashmir; until India is ready to sit down with its neighbor, Pakistan, and secure their borders; until India is willing to disavow putting their nuclear arsenals within their military. Until that time, until these things are done, India will and should remain a pariah among the world community of nations.

Earlier today, our Secretary of Defense appeared before our Appropriations Subcommittee on Defense. We discussed these developments in south Asia and what they mean. Will there be a nuclear arms race now in the region? Will Pakistan follow suit and detonate a nuclear weapons test in response to India? What about China? What is China going to do now? How about Iran? Don't forget, they have a border also. What is Iran going to do now that India has taken this step? So what are all these nations going to do?

Secretary Cohen this morning, in open testimony, indicated that we may see a chain reaction of events. I think that is an apt term, considering the physics of nuclear fission. Just as a nuclear explosion is an uncontrolled nuclear chain reaction, so we may see uncontrolled events now happen in that region. But, just like a nuclear chain reaction, there are things you can do to slow it down and stop it. Just as in a nuclear powerplant, to slow down the chain reaction, they stick in the graphite rods to slow down the reaction, so we need to insert some graphite rods into the events that just happened in south Asia.

What I mean by that is that I believe that certain steps must be taken to slow down these events. First of all, as I mentioned, we must apply the full force and effect of law on the sanctions to India. Second, I believe we must meet with Pakistan at the earliest possible time to discuss our mutual security needs in that area of the world; to discuss them with Pakistan, who has been a friend and an ally going clear back to the establishment of Pakistan as a nation. When people wondered what direction Pakistan would go, would they go to the Soviet Union or would they tilt toward the United States, Pakistan declared at that time they would go with the United States, they would follow the path of democracy and freedom and not with the Soviet Union.

Time and time and time again, Pakistan has come to our aid, our assistance, whether it was overflights over the Soviet Union for purposes of intelligence gathering, helping us in that terrible war in Afghanistan. There are still over a million refugees in the country of Pakistan from that war that helped topple the Soviet Union. Every step of the way, Pakistan has been our friend and our ally. So I think we need to meet with them at the earliest possible time to discuss our mutual security interests in that area.

Next, I hope President Clinton will, at the earliest possible time, indicate that he will not be visiting India this year. I know there has been a trip planned for the President to visit Pakistan and India this fall. I call upon the President to indicate now that, because of these events, it would not be right and proper for him to visit India but that it would be right and proper for him to visit Pakistan and perhaps other nations in that area such as Bangladesh. So, I call upon him to call off that visit to India to send another strong signal.

And, third, in order to put these graphite rods back into this chain reaction and to slow it down, I believe we need to press ahead with the Comprehensive Test Ban Treaty, or the CTBT, that would outlaw all nuclear weapons tests globally. So far, 149 nations have signed the treaty. In fact, we thought we were going to get it all done in August of 1996, except one nation walked out and refused to sign it—India. And now we know why. Is it too late for a Comprehensive Test Ban Treaty? I don't believe so. In fact, I believe what has happened in India more than anything indicates that we have to act now in the U.S. Senate to ratify the Comprehensive Test Ban Treaty.

We have not taken it up yet, and we should. We have signed it. It is now sitting before the Senate. We ought to take it up because the Comprehensive Test Ban Treaty will help put those graphite rods back in that chain reaction, slowing down uncontrolled events in south Asia.

The CTBT will not by itself eliminate the possibility of proliferation, but it will make it extremely difficult for nuclear nations, such as India, to develop sophisticated weapons that could be delivered by ballistic missiles.

Again, we have India, and they set off their underground explosions. But, as we know, that is not the end of the line in terms of developing the kind of weapons that can be delivered by ballistic missiles. If we don't sign and if we don't urge other nations and India to sign the CTBT, this will not be the end of India's nuclear testing, believe me. They are now going to have to refine their warheads. They are going to have to have further testing so that they have the kind of warheads they can deliver with missiles and perhaps aircraft. We have to stop that from happening, and that is why we need the Comprehensive Test Ban Treaty.

It would have been better if we had this in effect beforehand to stop what happened in India, but we didn't have it. We can't turn the clock back. We can't put the genie back in the bottle, but what we can do is we can push ahead now.

Here is how I see it, Mr. President. We have to put the full force and effect of the law on India with all these sanctions, cut off all aid, military assistance and cut off all World Bank loans and IMF. In fact, I think we ought to withdraw our ambassador, which the President has done, and not send him back. Then I believe the U.S. Senate should ratify the Comprehensive Test Ban Treaty and insist that India do so immediately, before we ever lift any sanctions. In that way, India may have a bomb, but they may not have something that they could deliver on the head of a missile.

That is why I believe it is so important that we bring up the Comprehensive Test Ban Treaty and ratify it in the Senate and stop this madness, stop these uncontrolled events that may take place in south Asia unless we act right now.

In fact, I must say, I know the occupant of the chair has spoken on this issue. I know he had a hearing on it today. Quite frankly, I am somewhat shocked that more Senators are not out here talking about what has happened in India in the last couple of days. I believe this is the biggest single danger to world peace that we have faced perhaps in the last 20 to 30 years, because uncontrolled events can start taking place.

On the one hand, I believe we must come down with the full force and effect of the law on India. I believe the President should call off his trip there this fall. I believe we need to meet with our friends in Pakistan to discuss our mutual security needs in that area. On the other hand, we need to ratify a comprehensive test ban treaty and then say to India, "If you want to rejoin the community of nations, sign, join, no more testing." Then we get other nations to sign it, and we will have a comprehensive test ban treaty and will stop the uncontrolled events that may be unfolding in south Asia.

It is a perilous time. India cannot be excused from what it did. Hopefully, the community of nations can put the proper pressure on India to come to its senses and join the rest of the world community in saying, "No; that they will never ever test nuclear weapons ever again."

Mr. President, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

MORNING BUSINESS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business until 7:45 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE OF DECISION TO TERMINATE RULEMAKING

Mr. THURMOND. Mr. President, pursuant to Section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1383), a Notice of Decision to Terminate Rulemaking was submitted by the Office of Compliance, U.S. Congress. This Notice announces the termination of a proceeding commenced by a Notice of Proposed Rulemaking and a Supplementary Notice of Proposed Rulemaking published in the CONGRESSIONAL RECORD on October 1, 1997, and January 29, 1998, respectively.

I ask unanimous consent that this Notice be printed in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: AMENDMENTS TO PROCEDURAL RULES

NOTICE OF DECISION TO TERMINATE RULEMAKING

Summary.—On October 1, 1997, the Executive Director of the Office of Compliance published a notice in the CONGRESSIONAL RECORD proposing, among other things, to extend the Procedural Rules of the Office to cover the General Accounting Office and the Library of Congress and their employees with respect to alleged violations of sections 204-207 of the Congressional Accountability Act of 1995 ("CAA"). These sections apply the rights and protections of the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Notification Act, and the Uniformed Services Employment and Reemployment Act, and prohibit retaliation and reprisal for exercising rights under the CAA. The notice invited public comment, and, on January 28, 1998, a supplementary notice was published inviting further comment. Having considered the comments received, the Executive Director has decided to terminate the rulemaking and, instead, to recommend that the Office's Board of Directors prepare and submit to Congress legislative proposals to resolve questions raised by the comments.

Availability of comments for public review.—Copies of comments received by the Office with respect to the proposed amendments are available for public review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact.—Executive Director, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999; telephone (202) 724-9250 (voice), (202) 426-1912 (TTY). This Notice will be made available in large print or braille or on computer disk upon request to the Office of Compliance.

SUPPLEMENTARY INFORMATION

The Congressional Accountability Act of 1995 ("CAA"), 2 U.S.C. §1301 et seq., applies the rights and protections of eleven labor, employment, and public access laws to the Legislative Branch. Sections 204-206 of the CAA explicitly cover the General Accounting Office ("GAO") and the Library of Congress ("Library"). These sections apply the rights and protections of the Employee Polygraph Protection Act of 1988 ("EPPA"), the Worker Adjustment and Retraining Notification Act ("WARN Act"), and section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA").

On October 1, 1997, the Executive Director of the Office of Compliance ("Office") published a Notice of Proposed Rulemaking ("NPRM") proposing to extend the Procedural Rules of the Office to cover GAO and the Library and their employees for purposes of proceedings involving alleged violations of sections 204-206, as well as proceedings involving alleged violations of section 207, which prohibits intimidation and retaliation for exercising rights under violations of section 207, which prohibits intimidation and retaliation for exercising rights under the CAA. 143 CONG. REC. S10291 (daily ed. Oct. 1, 1997). The Library submitted comments in opposition to adoption of the proposed amendments and raising questions of statutory construction. On January 28, 1998, the Executive Director published a Supplementary Notice of Proposed Rulemaking ("Supplementary NPRM") requesting further comment on the issues raised by the Library. 144 CONG. REC. S86 (daily ed. Jan. 28, 1998). Comments in response to the Supplementary NPRM were submitted by GAO, the Library, a union of Library employees, and a committee of the House of Representatives.

The comments expressed divergent views as to the meaning of the relevant statutory provisions. The CAA extends rights, protections, and procedures only to certain defined "employing offices" and "covered employees." The definitions of these terms in section 101 of the CAA, which apply throughout the CAA generally, omit GAO and the Library and their employees from coverage, but sections 204-206 of the CAA expressly include GAO and the Library and their employees within the definitions of "employing office" and "covered employee" for purposes of those sections. Two commenters argued that the provisions of sections 401-408, which establish the administrative and judicial procedures for remedying violations of sections 204-206, refer back to the definitions in section 101 "without linking to the very limited coverage" of the instrumentalities in sections 204-206, and therefore do not cover GAO and the Library and their employees. However, two other commenters argued to the contrary. One stated that, because employees of the instrumentalities were given the protections of sections 204-206, "the concomitant procedural rights" of sections 401-408 were also conferred on them; and the other commenter argued that construing the CAA to grant rights but not remedies would defeat the stated legislative purpose, "since a right without a remedy is often no right at all." The four commenters also expressed divergent views about whether GAO and the Library and their employees, who were not expressly referenced by section 207, are nevertheless covered by the prohibition in that section against retaliation and reprisal for exercising applicable CAA rights.

Having considered that the comments received express such opposing views of the statute, the Executive Director has decided to terminate the rulemaking without adopting the proposed amendments and, instead, to recommend that the Office's Board of Directors prepare and submit to Congress legislative proposals to resolve questions raised by the comments.

In light of the statutory questions raised, it remains uncertain whether employees of GAO and the Library have the statutory right to use the administrative and judicial procedures under the CAA, and whether GAO and the Library may be charged as respondent or defendant under those procedures, where violations of sections 204-207 of the CAA are alleged. The Office will continue to accept any request for counseling or mediation and any complaint filed by a GAO or Library employee and/or alleging a violation by GAO or the Library. Any objection to jurisdiction may be made to the hearing officer or the Board under sections 405-406 or to the court during proceedings under sections 407-408 of the CAA. Furthermore, the Office will counsel any employee who initiates such proceedings that a question has been raised as to the Office's and the courts' jurisdiction under the CAA and that the employee may wish to preserve rights under any other available procedural avenues.

The Executive Director's decision announced here does not affect the coverage of GAO and the Library and their employees with respect to proceedings under section 215 of the CAA (which applies the rights and protections of the OSHAct) or *ex parte* communications. On February 12, 1998, the Executive Director, with the approval of the

Board, published a Notice of Adoption of Amendments amending the Procedural Rules to include such coverage. 144 CONG. REC. S720 (daily ed. Feb. 12, 1998).

Signed at Washington, D.C., on this 12th day of May, 1998.

RICKY SILBERMAN,
Executive Director, Office of Compliance.

AMERICAN MISSILE PROTECTION ACT OF 1998

Mr. FAIRCLOTH. Mr. President, this morning, the Senate failed to invoke cloture on S. 1873, the American Missile Protection Act of 1998. The bill is simple and its purpose can be stated very easily by reciting Section 3 in its entirety. "It is the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)."

Everyone knows that it is necessary to first vote to stop endless debate on a bill when a filibuster has been threatened, then, after cloture, we can have limited debate followed by a vote on the bill itself. From this morning's vote, it can be seen that more than 40 percent of my colleagues feel that it should be the policy of the United States to keep our citizens exposed to the risks of a ballistic missile attack.

Mr. President, I know that the Cold War is over. Unfortunately, although some would like to believe otherwise, this does not mean that we are one happy world, where all countries are working in mutual cooperation. It is no time for the United States to let down its guard or to cease doing everything possible to maintain our national security.

The nuclear testing in India this week should shake some sense into those calling for the U.S. to disarm itself of our nuclear deterrent capability, as if that would set an example to the rest of the world. We cannot "uninvent" nuclear weapons everywhere in the world. Therefore, we must do the next best thing—prepare our best defense.

During the Cold War standoff with the Soviet Union, we operated under a system known as MAD, for Mutually Assured Destruction. No country, back then, would attack us with a nuclear weapon because there was full realization that it would face certain annihilation because we could and would retaliate in kind, and with greater strength. MAD was never a completely risk-free strategy, though. We had to rely on the hope that other governments would act responsibly and not put their citizens in the path of a direct, retaliatory missile hit. This was the best we could do back then. MAD has outlived its usefulness today because we have the capability to protect ourselves better—we now have the ability to develop defensive technologies that can give us a system that will knock out a ballistic missile before it can land on one of our cities.

It should be clear to everyone that in today's more complicated world the threat of a ballistic missile attack is not confined to a couple of superpowers; there is a greater risk than ever before of a launch against the U.S., either by accident or design, from any of a number of so-called "rogue" nations. And, with the additional risk that chemical or biological weapons can be launched using the same ballistic missile technology as is used for nuclear weapons delivery, the threat is more widespread and we must defend against it.

Without National Missile Defense, there is a greater risk that an incident, even one involving chemical or biological weapons, could escalate into full scale nuclear war. If we must stick with a MAD strategy, we will have to retaliate once we identify a ballistic missile launch at the U.S. It would be much better to eliminate those missiles with a defensive system, and then determine what most appropriate response, diplomatic or military, we would undertake.

Ignoring that National Missile Defense can keep us from an escalating nuclear war, critics of the American Missile Protection Act, through twisted logic, say that if the U.S. builds a defensive capability, this will drive the world closer to a nuclear war. Their argument goes something like this—if we can defend against a ballistic missile attack, there is nothing that will stop us from striking another country first because we no longer have to worry about retaliation. As incredible as it may sound, they say that a National Missile Defense is actually an act of aggression.

In order to buy into such an argument, however, you have to first assume that the United States has been standing by, waiting to take over the world with its nuclear defensive arsenal, but the Soviet bear kept us in our cage. You would have to believe that Americans have been so intent on spreading democracy around the world that we would attack any country that would not adopt our free system of government and force democracy upon its peoples.

No, Mr. President, building a National Missile Defense is not an act of aggression that would free us up to launch an unprovoked attack on other countries. It is an act of common sense in a dangerous world.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and one nomination which was referred to the Committee on Governmental Affairs.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT CONCERNING THE INDIAN NUCLEAR TESTS ON MAY 11, 1998—MESSAGE FROM THE PRESIDENT—PM 125

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

Pursuant to section 102(b)(1) of the Arms Export Control Act, I am hereby reporting that, in accordance with that section, I have determined that India, a non-nuclear-weapon state, detonated a nuclear explosive device on May 11, 1998. I have further directed the relevant agencies and instrumentalities of the United States Government to take the necessary actions to impose the sanctions described in section 102(b)(2) of that Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 13, 1998.*

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT—PM 126

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on developments since the last Presidential report of November 25, 1997, concerning the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c). This report covers events through March 31, 1998. My last report, dated November 25, 1997, covered events through September 30, 1997.

1. There have been no amendments to the Iranian Assets Control Regulations, 31 CFR Part 535 (the "IACR"), since my last report.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since

the period covered in my last report, the Tribunal has rendered one award. This brings the total number of awards rendered by the Tribunal to 585, the majority of which have been in favor of U.S. claimants. As of March 31, 1998, the value of awards to successful U.S. claimants paid from the Security Account held by the NV Settlement Bank was $2,480,897,381.53.

Since my last report, Iran has failed to replenish the Security Account established by the Algiers Accords to ensure payment of awards to successful U.S. claimants. Thus, since November 5, 1992, the Security Account has continuously remained below the $500 million balance required by the Algiers Accords. As of March 31, 1998, the total amount in the Security Account was $125,888,588.35, and the total amount in the Interest Account was $21,716,836.85. Therefore, the United States continues to pursue Case No. A/28, filed in September 1993, to require Iran to meet its obligation under the Algiers Accords to replenish the Security Account.

The United States also continues to pursue Case No. A/29 to require Iran to meet its obligation of timely payment of its equal share of advances for Tribunal expenses when directed to do so by the Tribunal. Iran filed its Rejoinder in this case on February 9, 1998.

3. The Department of State continues to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

On January 16, 1998, the United States filed a major submission in Case No. B/1, a case in which Iran seeks repayment for alleged wrongful charges to Iran over the life of its Foreign Military Sales (FMS) program, including the costs of terminating the program. The January filing primarily addressed Iran's allegation that its FMS Trust Fund should have earned interest.

Under the February 22, 1996, settlement agreement related to the Iran Air case before the International Court of Justice and Iran's bank-related claims against the United States before the Tribunal (see report of May 16, 1996), the Department of State has been processing payments. As of March 31, 1998, the Department of State has authorized payment to U.S. nationals totaling $13,901,776.86 for 49 claims against Iranian banks. The Department of State has also authorized payments to surviving family members of 220 Iranian victims of the aerial incident, totaling $54,300,000.

During this reporting period, the full Tribunal held a hearing in Case No. A/11 from February 16 through 18. Case No. A/11 concerns Iran's allegations that the United States violated its obligations under Point IV of the Algiers Accords by failing to freeze and gather information about property and assets purportedly located in the United States and belonging to the estate of the late Shah of Iran or his close relatives.

4. U.S. nationals continue to pursue claims against Iran at the Tribunal. Since my last report, the Tribunal has issued an award in one private claim. On March 5, 1998, Chamber One issued an award in *George E. Davidson* v. *Iran*, AWD No. 585–457–1, ordering Iran to pay the claimant $227,556 plus interest for Iran's interference with the claimant's property rights in three buildings in Tehran. The Tribunal dismissed the claimant's claims with regard to other property for lack of proof. The claimant received $20,000 in arbitration costs.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents and unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 13, 1998*.

MESSAGES FROM THE HOUSE

At 1:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1021. An act to provide for a land exchange involving certain National Forest System lands within the Routt National Forest in the State of Colorado.

H.R. 2217. An act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes.

H.R. 2841. An act to extend the time required for the construction of a hydroelectric project.

H.R. 2886. An act to provide for a demonstration project in the Stanislaus National Forest, California, under which a private contractor will perform multiple resource management activities for that unit of the National Forest System.

H.R. 3723. An act to authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes.

H.R. 3811. An act to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 255. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

H. Con. Res. 262. Concurrent resolution authorizing the 1998 District of Columbia Special Olympics Law Enforcement Torch Run to be run through the Capitol Grounds.

H. Con. Res. 263. Concurrent resolution authorizing the use of the Capitol Grounds for the seventeenth annual National Peace Officers' Memorial Service.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1605. An act to establish a matching grant program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 629) to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. DAN SCHAEFER of Colorado, Mr. BARTON of Texas, Mr. DINGELL, and Mr. HALL of Texas, as the managers of the conference on the part of the Houses.

The message further announced that pursuant to the provisions of 22 U.S.C. 276d, the Speaker appoints the following Members of the House to the Canada-United States Interparliamentary Group, in addition to Mr. HOUGHTON of New York, Chairman, appointed on April 27, 1998: Mr. GILMAN, Mr. HAMILTON, Mr. CRANE, Mr. LAFALCE, Mr. OBERSTAR, Mr. SHAW, Mr. LIPINSKI, Mr. UPTON, Mr. STEARNS, Mr. PETERSON of Minnesota, and Mr. DANNER.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 2217. An act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2841. An act to extend the time required for the construction of a hydroelectric project; to the Committee on Energy and Natural Resources.

H.R. 2886. An act to provide for a demonstration project in the Stanislaus National Forest, California, under which a private contractor will perform multiple resource management activities for that unit of the National Forest System; to the Committee on Energy and Natural Resources.

H.R. 3723. An act to authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes; to the Committee on the Judiciary.

Pursuant to the order of today, May 13, 1998, the following bill was ordered referred to the Committee on Finance:

S. 1415. A bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes; ordered, referred to the Committee on Finance until 9:00 p.m. on Thursday, May 14, 1998 to report or be discharged.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times, and placed on the Calendar:

H.R. 1021. An act to provide for a land exchange involving certain National Forest Systems lands within the Routt National Forest in the State of Colorado.

H.R. 3811. An act to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-391. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Agriculture, Nutrition, and Forestry.

SENATE RESOLUTION NO. 163

Whereas, Federal departments such as the Environmental Protection Agency have sought to implement strict standards on American farmers regarding pesticide use; and

Whereas, Certain nations allow the use of pesticides that are prohibited for use by American farmers and the export to the United States of agricultural products growth with the assistance of these pesticides; and

Whereas, This provides an unfair advantage to other nations and their citizens over American farmers and American agricultural workers who depend on this productivity for their livelihood; and

Whereas, The United States' agriculture is a vital industry to the nation's economy and quality of life; and

Whereas, Protecting our citizens by proven science and policy is of paramount importance to American citizens; and

Whereas, No nation should be allowed to export items into our nation using methods such as certain pesticides that the government of the United States prohibits its own farmers from using based on debatable claims of health and environmental concerns; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to prohibit the importation of agricultural and other food items from nations that do not have the same requirements, standards, and restrictions on allowable pesticides and chemicals used in the production, preservation, and growth of the products in future trade agreements; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-392. A resolution adopted by the Senate of the Legislature of the Commonwealth of Massachusetts; to the Committee on Appropriations.

RESOLUTION

Whereas, although we believe that the United States should retain its position as the strongest military Nation in the world, we also believe that the security of our Nation is dependent fundamentally not on military might, but on the well-being and vitality of our citizens; and

Whereas, programs which sustain and improve the health, education, and affordable housing, environmental protection, and safety of our citizens are being transferred from the Federal to the State governments; and

Whereas, the funds being provided by the Federal Government to the States are insufficient to fulfill these responsibilities; and

Whereas, the seven countries currently identified as our potential adversaries have a combined military budget of 15 billion dollars, while the United States military budget for 1997 is 265 billion dollars; and

Whereas, the United States military budget remains at cold war levels and contains: 114 billion dollars not requested by the Pentagon, 25 billion dollars for 10,000 nuclear weapons and their delivery systems, and 40 billion dollars in excess and what many former military leaders and leading executives consider sufficient; and

Whereas, current Pentagon spending outweighs all military threats, and creates fewer jobs than increased spending on domestic programs would deliver; and

Whereas, shifting funds from the military to repairing our infrastructure would dramatically improve the lives of our citizens and strengthen our ability to complete successfully in the world market; and

Whereas, sufficient amounts of money need to be redirected from the military budget to the several States so that the States can meet the critical needs of rebuilding communities and inner cities, repairing schools, educating children, reducing hunger, providing housing, improving transportation, protecting the environment, and obtaining a decent level of health care and safety for all of our citizens, thereby increasing fundamentally our security and well-being; Now, therefore, be it

Resolved, That the Massachusetts Senate memorialize the President and the Congress of the United States to shift sufficient funds from the military to the States for the improvement of the lives of citizens; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the clerk of the Senate to the President of the United States, the Presiding Officers of each branch of Congress and the Members thereof from this commonwealth.

POM-393. A resolution adopted by the House of the Legislature of the Commonwealth of Massachusetts; to the Committee on Appropriations.

RESOLUTION

Whereas, in August of 1996, the United States Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, so-called; and

Whereas, Congress in said act forbade use of Federal funds to provide SSI benefits and food stamp benefits for financially needy immigrants lawfully residing in the United States; and

Whereas, legal immigrants pay taxes and contribute in many ways to the productivity and vitality of our communities; and

Whereas, the United States was founded and built by immigrants; and

Whereas, Congress should be applauded for the restoration of SSI benefits for legal immigrants through passage of the Balanced Budget Act of 1997; and

Whereas, Congress must continue in this effort by resolving to restore its financial responsibility in the Food Stamp Benefits Program as the present situation imposes a financial burden on the States and needy residents of the States; therefore, be it

Resolved, That the Massachusetts House of Representatives respectfully requests that the President and the Congress of the United States restore to the States the authority to provide federally funded food stamp benefits to needy, lawful residents of the United States; and be it further

Resolved, That the Massachusetts House of Representatives respectfully requests that the President and the Congress of the United States restore to the Commonwealth adequate Federal funding to allow for the provision of food stamp benefits for financially needy immigrants lawfully residing in this Commonwealth; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the clerk of the House of Representatives to the President of the United States of America, the Presiding Officer of each branch of the United States Congress and each Member of the Massachusetts congressional delegation.

POM-394. A resolution adopted by the Board of Supervisors of the County of Yuba, California relative to Beale Air Force Base; to the Committee on Armed Services.

POM-395. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

ASSEMBLY JOINT RESOLUTION NO. 52

Whereas, on the night of July 17, 1944, two transport vessels loading ammunition at the Port Chicago naval base on the Sacramento River in California were suddenly engulfed in a gigantic explosion, the incredible blast of which wrecked the naval base and heavily damaged the town of Port Chicago, located 1.5 miles away; and

Whereas, everyone on the pier and aboard the two ships was killed instantly—some 320 American naval personnel, 200 of whom were Black enlisted men; and another 390 military and civilian personnel were injured, including 226 Black enlisted men; and

Whereas, the two ships and the large loading pier were totally annihilated and an estimated $12,000,000 in property damage was caused by the huge blast; and

Whereas, this single, stunning disaster accounted for nearly one-fifth of all Black naval casualties during the whole of World War II; and

Whereas, the specific cause of the explosion was never officially established by a Court of Inquiry, in effect clearing the officers-in-charge of any responsibility for the disaster and insofar as any human cause was invoked, laid the burden of blame on the shoulders of the Black enlisted men who died in the explosion; and

Whereas, following the incident, many of the surviving Black sailors were transferred to nearby Camp Shoemaker where they remained until July 31, when two of the divisions were transferred to naval barracks in Vallejo near Mare Island; another division, which was also at Camp Shoemaker until July 31, returned to Port Chicago to help with the cleaning up and rebuilding of the base; and

Whereas, many of these men were in a state of shock, troubled by the vivid memory of the horrible explosion; however, they were provided no psychiatric counseling or medical screening, except for those who were obviously physically injured; none of the men, even those who had been hospitalized with injuries, was granted survivor leaves to visit their families before being reassigned to regular duties; and none of these survivors was called to testify at the Court of Inquiry; and

Whereas, Captain Merrill T. Kline, Officer-in-Charge of Port Chicago, issued a statement praising the African American enlisted men and stating that "the men displayed creditable coolness and bravery under those emergency conditions"; and

Whereas, after the disaster, white sailors were given 30 days' leave to visit their families—according to survivors, this was the standard for soldiers involved in a disaster—while only African American sailors were ordered back to work the next day to clean and remove human remains; and

Whereas, after the disaster, the preparation of Mare Island for the arrival of African American sailors included moving the barracks of white sailors away from the loading area in order to be clear of the ships being loaded in case of another explosion; and

Whereas, the survivors and new personnel who later were ordered to return to loading ammunition expressed their opposition, citing the possibility of another explosion; the first confrontation occurred on August 9 when 328 men from three divisions were ordered out to the loading pier; the great majority of the men balked, and eventually 258 were arrested and confined for three days on a large barge tiered to the pier; and

Whereas, fifty of these men were selected as the ring-leaders and charged with mutiny, and on October 24, 1944, after only 80 minutes of a military court, all 50 men were found guilty of mutiny—10 were sentenced to 15 years in prison, 24 sentenced to 12 years, 11 sentenced to 10 years, and five sentenced to eight years; and all were to be dishonorably discharged from the Navy; and

Whereas, after a massive outcry the next year, in January 1946, 47 of the Port Chicago men were released from prison and "exiled" for one year overseas before returning to their families; and

Whereas, in a 1994 investigation, the United States Navy stated that "there is no doubt that racial prejudice was responsible for the posting of only African American enlisted personnel to loading divisions at Port Chicago"; and

Whereas, in the 1994 investigation, the United States Navy, prompted by Members of Congress, admitted that the routine assignment of only African American enlisted personnel to manual labor was clearly motivated by race; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress and the President of the United States to act to vindicate the sailors unjustly blamed for, and the sailors convicted of mutiny following, the Port Chicago disaster, and to rectify any mistreatment by the military of those sailors; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States.

POM-396. A resolution adopted by the Council of the City of Pittsburgh, Pennsylvania relative to Federal credit unions; to the Committee on Banking, Housing, and Urban Affairs.

POM-397. A resolution adopted by the Mayor and Councilmen of the City of Oak Ridge, Tennessee relative to the Department of Energy Laboratory for Comparative and Functional Genomics in Oak Ridge (TN); to the Committee on Commerce, Science, and Transportation.

POM-398. A joint resolution adopted by the General Assembly of the State of Colorado; to the Committee on Commerce, Science, and Transportation.

HOUSE JOINT RESOLUTION 98-1018

Whereas, the Internet is a massive global network spanning local government, state, and international borders; and

Whereas, transmissions over the Internet are made through packet-switching, a process that makes it not only impossible to determine with any degree of certainty the precise geographic route or endpoints of specific Internet transmissions but infeasible to separate interstate from intrastate Internet transmissions or domestic from foreign transmissions; and

Whereas, the United States Supreme Court has ruled that state taxation of companies operating outside the borders of the state is constitutional only if there is a substantial connection between the state and the company and the tax is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to services provided by the state; and

Whereas, the tax laws and regulations of local governments, state governments, and the federal government were established long before the Internet or interactive computer services became available; and

Whereas, taxation of Internet transmissions by local, state, and federal governments without a thorough understanding of the impact such taxation would have on Internet users and providers could have unintentional and unpredictable consequences and may be unconstitutional if it does not meet the tests set forth by the United States Supreme Court; and

Whereas, the United States Congress is being asked to consider federal legislation that would establish a national policy on the taxation of the Internet and other interactive computer services; now, therefore,

Be It Resolved by the House of Representatives of the Sixty-first General Assembly of the State of Colorado, the Senate concurring herein: That the Colorado General Assembly does not support at this time any Congressional action that would establish a national policy expanding taxation of the Internet and other interactive computer services; *be it further*

Resolved, That the Colorado General Assembly endorses a moratorium on taxation of the internet and interactive computer services until the impact of such taxation can be thoroughly studied and evaluated; *be it further*

Resolved, That the Colorado General Assembly encourages Congress to establish or appoint a consultative group to study, evaluate, and report back to Congress on the impact of any taxation on the use of the Internet and other interactive computer services and the users of those services; *be it further*

Resolved, That any consultative group established or appointed by Congress should include state and local governments, consumer and business groups, and other groups and individuals that may be impacted by a national policy on the taxation of the internet and other interactive computer services; *be it further*

Resolved, That copies of this Joint Resolution be sent to the United States Senate, the United States House of Representatives, Governor Roy Romer, the National Governors' Association, and each member of the Colorado Congressional Delegation.

POM-399. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Commerce, Science, and Transportation.

RESOLUTION NO. 6

Whereas, the Aircraft Repair Station Safety Act of 1997 would provide for more stringent standards for certification of foreign repair stations by the Federal Aviation Administration and would revoke the certification of any repair facility that knowingly uses defective parts; and

Whereas, the Aircraft Repair Station Safety Act of 1997 would require all maintenance facilities, whether domestic or foreign, to adhere to the same safety and operating procedures; now, therefore, be it

Resolved by the Legislature of the State of Minnesota, That it urges the President and Congress of the United States to enact the Aircraft Repair Station Safety Act of 1997; be it further

Resolved, That the Secretary of State of the State of Minnesota is directed to prepare copies of this memorial and transmit them to the President and Vice-President of the United States, the President and the Secretary of the United States Senate, the Speaker and the Clerk of the United States House of Representatives, the chair of the Senate Committee on Commerce, Science, and Transportation, the chair of the House Committee on Transportation and Infrastructure, and Minnesota's Senators and Representatives in Congress.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THOMPSON (for himself and Mr. GLENN):

S. 2071. A bill to extend a quarterly financial report program administered by the Secretary of Commerce; to the Committee on Governmental Affairs.

By Mr. DOMENICI (for himself and Mr. FRIST):

S. 2072. A bill to amend the Internal Revenue Code of 1986 to enhance the global competitiveness of United States businesses by permanently extending the research credit, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. DEWINE, and Mr. ABRAHAM):

S. 2073. A bill to authorize appropriations for the National Center for Missing and Exploited Children; to the Committee on the Judiciary.

By Mr. WELLSTONE:

S. 2074. A bill to guarantee for all Americans quality, affordable, and comprehensive health care coverage; to the Committee on Finance.

By Mr. ASHCROFT (for himself and Mr. MCCONNELL):

S. 2075. A bill to provide for expedited review of executive privilege claims and to improve efficiency of independent counsel investigations; to the Committee on the Judiciary.

S. 2076. A bill to provide reporting requirements for the assertion of executive privilege, and for other purposes; to the Committee on the Judiciary.

By Mr. FORD (for himself, Mr. BOND, Mr. DORGAN, and Mr. LEAHY):

S. 2077. A bill to maximize the national security of the United States and minimize the cost by providing for increased use of the capabilities of the National Guard and other reserve components of the United States; to improve the readiness of the reserve components; to ensure that adequate resources are provided for the reserve components; and for other purposes; to the Committee on Armed Services.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. ROBERTS, Mr. KERREY, Ms. MOSELEY-BRAUN, Mr. HAGEL, and Mr. ALLARD):

S. 2078. A bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 230. A resolution to authorize the production of records by the Select Committee on Intelligence; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself and Mr. FRIST):

S. 2072. A bill to amend the Internal Revenue Code of 1986 to enhance the global competitiveness of United States businesses by permanently extending the research credit, and for other purposes; to the Committee on Finance.

RESEARCH TAX CREDIT LEGISLATION

Mr. DOMENICI. Mr. President, advanced technologies drive a significant part of our nation's economic strength. Our economy and our wonderful standard of living depend on a constant influx of new technologies, processes, and products from our industries.

Many countries can provide labor at lower costs than the United States. As any new product matures, competitors using overseas labor can frequently find a way to undercut our production prices. We maintain our lead by constantly improving our products through encouragement of innovation.

The majority of new products require industrial research and development to reach the market stage. I want to encourage that research and development to create new products to ensure that our factories stay busy and that our workforce stays fully employed at high salaried jobs. I want more of our large multi-national companies to select the United States as the location for their R&D. R&D done here creates American jobs. And frequently the benefits of R&D in one area apply in another area; I want those spin-off benefits in this country, too.

The federal government has used the Research Tax Credit to encourage companies to perform research. But many studies document that the present form of this Tax Credit is not providing as much stimulation to industrial R&D as it could. Today, I introduce legislation to improve the Research Tax Credit.

The single most important change I'm proposing in the Research Tax Credit is to make it permanent. The credit has never been permanent, since Congress created it in 1981. Many studies point out that the temporary nature of the Credit has prevented companies from building careful research strategies. A recent study by Coopers and Lybrand claimed a $41 billion stimulus for the economy by 2010, with $13 billion added to the economy's productive capacity by 2010. Many of my Senate colleagues have endorsed legislation that includes this critical action, more than twenty at last count.

My legislative proposal goes further. The current Credit references a company's research intensity back to their level in the 1984–88 time period. That time period is too outdated to meet today's dynamic market conditions. Many companies now are operating in dramatically different markets, many with totally new product lines. My legislation allows a company to choose a four year period in the last ten years that best matches their own needs. This allows companies to tailor and optimize research strategies to match current market conditions.

The current approach has a provision that severely restricts the ability of many start-up companies to benefit from the full impact of the Credit. Recent analysis shows that 5 out of 6 start-up companies receive reduced benefits because of a provision that limits their allowable increase in research expenditures to half of their current expenditures. I'm concerned when start-up companies aren't receiving full benefit from this Credit. These are just the companies that tend to drive the innovative cycle in this country, they are the ones that frequently bring out the newest leading-edge products. My legislation allows start up companies for their first ten years to take full credit for their increases in research costs.

My legislation addresses several other shortcomings in the current Credit. Now there is a Basic Research Credit" allowed, but rarely used. It is defined to include only research with "no commercial interest." Now, I don't know too many companies that want to support—much less admit to their stockholders that they are supporting—research with no commercial interest. The idea of this clause was to encourage support of long term research; the kind that benefits far more than just the next product improvement. This is the kind of research that can enable a whole new product or service. We need to encourage this long term research. My legislation adds an incentive for this type of research by including any research that is done for a consortium of U.S. companies or any research that is destined for open literature publication. These two additions will include a lot more long term research that has future product applications. I've also allowed this credit to apply to research done in national labs, so companies can select the best source of research for any particular project.

And finally my legislation recognizes the importance of encouraging companies to use research capabilities wherever they exist in the country, whether in other businesses, universities, or national labs. The current credit disallows 35% of all expenses invested in research performed under an external contract—my legislation allows all such expenses to apply towards the Credit. This should encourage creation of partnerships, where different partners can leverage their individual strengths. These partnerships enable our companies to perform research more efficiently, that can further strengthen our economy.

In summary, Mr. President, this proposed Bill significantly strengthens incentives for private companies to undertake search that leads to new processes, new services, and new products. The result is stronger companies that are better positioned for global competition. Those stronger companies will hire more people at higher salaries with real benefits to our national economy and workforce.

By Mr. HATCH (for himself, Mr. DEWINE, and Mr. ABRAHAM):

S. 2073. A bill to authorize appropriations for the National Center for Missing and Exploited Children; to the Committee on the Judiciary.

THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN AUTHORIZATION ACT OF 1998

Mr. HATCH. Mr. President, today I am proud to introduce the National Center for Missing and Exploited Children Authorization Act of 1998. This bill recognizes the outstanding record of achievements of this outstanding organization and will enable NCMEC to provide even greater protection of our Nation's children in the future.

As part of the Missing Children's Assistance Act, the Office of Juvenile Justice and Delinquency Prevention has selected and given grants to the Center for the last 14 years to operate a national resource center located in Arlington, Virginia and a national 24-hour toll-free telephone line. The Center provides invaluable assistance and training to law enforcement around the country in cases of missing and exploited children. The Center's record is quite impressive, and its efforts have led directly to a significant increase in the percentage of missing children who are recovered safely.

In fiscal year 1998, the Center received an earmark of $6.9 million in the

Departments of Commerce, Justice, and State Appropriations conference report. In addition, the Center's Jimmy Ryce Training Center received 1.185M in this report.

This legislation directs OJJDP to make a grant to the Center and authorizes appropriations up to $10 million in fiscal years 1999 through 2003. The authorization would, of course, be subject to appropriations. The bill thus continues and formalizes NCMEC's long partnership with the Justice Department and OJJDP.

NCMEC's exemplary record of performance and success, as demonstrated by the fact that NCMEC's recovery rate has climbed from 62% to 91%, justifies action by Congress to formally recognize it as the nation's official missing and exploited children's center, and to authorize a line-item appropriation. This bill will enable the Center to focus completely on its missions, without expending the annual effort to obtain authority and grants from OJJDP. It also will allow the Center to expand its longer-term arrangements with domestic and foreign law enforcement entities. By providing an authorization, the bill also will allow for better congressional oversight of the Center.

The record of the Center, described briefly below, demonstrates the appropriateness of this authorization.

For fourteen years the Center has served as the national resource center and clearinghouse mandated by the Missing Children's Assistance Act. The Center has worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of Treasury, the State Department, and many other federal and state agencies in the effort to find missing children and prevent child victimization.

The trust the federal government has placed in NCMEC, a private, non-profit corporation, is evidenced by its unique access to the FBI's National Crime Information Center, and the National Law Enforcement Telecommunications System (NLETS).

NCMEC has utilized the latest in technology, such as operating the National Child Pornography Tipline, establishing its new Internet website, www.missingkids.com, which is linked with hundreds of other websites to provide real-time images of breaking cases of missing children, and, beginning this year, establishing a new CyberTipline on child exploitation.

NCMEC has established a national and increasingly worldwide network, linking NCMEC online with each of the missing children clearinghouses operated by the 50 states, the District of Columbia and Puerto Rico. In addition, NCMEC works constantly with international law enforcement authorities such as Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others. This network enables NCMEC to transmit images and information regarding missing children to law enforcement across America and around the world instantly. NCMEC also serves as the U.S. State Department's representative at child abduction cases under the Hague Convention.

The record of NCMEC is demonstrated by the 1,203,974 calls received at its 24-hour toll-free hotline, 1(800)THE LOST, the 146,284 law enforcement, criminal/juvenile justice, and healthcare professionals trained, the 15,491,344 free publications distributed, and, most importantly, by its work on 59,481 cases of missing children, which has resulted in the recovery of 40,180 children.

NCMEC is a shining example of the type of public-private partnership the Congress should encourage and recognize. I urge my colleagues to support this legislation, which would help improve the performance of the National Center for Missing and Exploited Children and thus the safety of our Nation's children.

I ask for unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) For 14 years, the National Center for Missing and Exploited Children (referred to in this section as the "Center") has—

(A) served as the national resource center and clearinghouse congressionally mandated under the provisions of the Missing Children's Assistance Act of 1984; and

(B) worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of the Treasury, the Department of State, and many other agencies in the effort to find missing children and prevent child victimization.

(2) Congress has given the Center, which is a private non-profit corporation, unique powers and resources, such as having access to the National Crime Information Center of the Federal Bureau of Investigation, and the National Law Enforcement Telecommunications System.

(3) Since 1987, the Center has operated the National Child Pornography Tipline, in conjunction with the United States Customs Service and the United States Postal Inspection Service and, beginning this year, the Center established a new CyberTipline on child exploitation, thus becoming "the 911 for the Internet".

(4) In light of statistics that time is of the essence in cases of child abduction, the Director of the Federal Bureau of Investigation in February of 1997 created a new NCIC child abduction ("CA") flag to provide the Center immediate notification in the most serious cases, resulting in 642 "CA" notifications to the Center and helping the Center to have its highest recovery rate in history.

(5) The Center has established a national and increasingly worldwide network, linking the Center online with each of the missing children clearinghouses operated by the 50 States, the District of Columbia, and Puerto Rico, as well as with Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others, which has enabled the Center to transmit images and information regarding missing children to law enforcement across the United States and around the world instantly.

(6) From its inception in 1984 through March 31, 1998, the Center has—

(A) handled 1,203,974 calls through its 24-hour toll-free hotline (1-800-THE-LOST) and currently averages 700 calls per day;

(B) trained 146,284 law enforcement, criminal and juvenile justice, and healthcare professionals in child sexual exploitation and missing child case detection, identification, investigation, and prevention;

(C) disseminated 15,491,344 free publications to citizens and professionals; and

(D) worked with law enforcement on the cases of 59,481 missing children, resulting in the recovery of 40,180 children.

(7) The demand for the services of the Center is growing dramatically, as evidenced by the fact that in 1997, the Center handled 129,100 calls, an all-time record, and by the fact that its new Internet website (www.missingkids.com) receives 1,500,000 "hits" every day, and is linked with hundreds of other websites to provide real-time images of breaking cases of missing children, helping to cause such results as a police officer in Puerto Rico searching the Center's website and working with the Center to identify and recover a child abducted as an infant from her home in San Diego, California, 7 years earlier.

(8) In 1997, the Center provided policy training to 256 police chiefs and sheriffs from 50 States and Guam at its new Jimmy Ryce Law Enforcement Training Center.

(9) The programs of the Center have had a remarkable impact, such as in the fight against infant abductions in partnership with the healthcare industry, during which the Center has performed 668 onsite hospital walk-throughs and inspections, and trained 45,065 hospital administrators, nurses, and security personnel, and thereby helped to reduce infant abductions in the United States by 82 percent.

(10) The Center is now playing a leading role in international child abduction cases, serving as a representative of the Department of State at cases under The Hague Convention, and successfully resolving the cases of 343 international child abductions, and providing greater support to parents in the United States.

(11) The Center is a model of public/private partnership, raising private sector funds to match congressional appropriations and receiving extensive private in-kind support, including advanced technology provided by the computer industry such as imaging technology used to age the photographs of long-term missing children and to reconstruct facial images of unidentified deceased children.

(12) The Center was 1 of only 10 of 300 major national charities given an A+ grade in 1997 by the American Institute of Philanthropy.

(13) In light of its impressive history, the Center has been redesignated as the Nation's missing children clearinghouse and resource center once every 3 years through a competitive selection process conducted by the Office of Juvenile Justice and Delinquency

Prevention of the Department of Justice, and has received grants from that Office to conduct the crucial purposes of the Center.

(14) An official congressional authorization will increase the level of scrutiny and oversight by Congress and continue the Center's long partnership with the Department of Justice and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice.

(15) The exemplary record of performance and success of the Center, as exemplified by the fact that the Center's recovery rate has climbed from 62 to 91 percent, justifies action by Congress to formally recognize the National Center for Missing and Exploited Children as the Nation's official missing and exploited children's center, and to authorize a line-item appropriation for the National Center for Missing and Exploited Children in the Federal budget.

SEC. 2. NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.

(a) GRANTS.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice shall annually make a grant to the National Center for Missing and Exploited Children, which shall be used to—

(1) operate the official national resource center and information clearinghouse for missing and exploited children;

(2) provide to State and local governments, public and private nonprofit agencies, and individuals, information regarding—

(A) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing and exploited children and their families; and

(B) the existence and nature of programs being carried out by Federal agencies to assist missing and exploited children and their families;

(3) coordinate public and private programs that locate, recover, or reunite missing children with their families;

(4) disseminate, on a national basis, information relating to innovative and model programs, services, and legislation that benefit missing and exploited children;

(5) provide technical assistance and training to law enforcement agencies, State, and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children; and

(6) provide assistance to families and law enforcement agencies in locating and recovering missing and exploited children, both nationally and internationally.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section, $10,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

By Mr. WELLSTONE:

S. 2074: A bill to guarantee for all Americans, quality, affordable, and comprehensive health care coverage; to the Committee on Finance.

HEALTHY AMERICANS ACT

Mr. WELLSTONE. Mr. President, today I introduce the Healthy Americans Act. Colleagues will be hearing more about it because there will be amendments that I will offer on this subject here on the floor of the Senate; and with every bit of ability I have as a Senator, I will push this piece of legislation here and talk about it in my State of Minnesota and around the country.

The Healthy Americans Act insures the uninsured; guarantees affordable, comprehensive insurance for all, and ensures quality health care through its patient protection provisions.

Let me start out by providing some context, Mr. President. I have two charts beside me to demonstrate my points. In 1987, we had about 32 million Americans who were uninsured. Today, as you can see from this graph beside me, we are up to close to 45 million Americans who are uninsured. Mr. President, since we debated the subject of universal health care coverage several years ago, a debate both of us were very involved in, we have had about a million more people a year who have been dropped from coverage.

Assuming the same economic growth with no economic downturn, which is a very rosy assumption, we will continue to see this same kind of a profile where we will get up pretty close to 48 million Americans by the year 2005 who will have no health insurance coverage.

So this is still a crisis for many Americans, and this is an issue that walks into the living rooms of many families and stares them in the face.

The second chart shows the actual percent of annual family income, on average, that goes to premiums and out-of-pocket payments in the form of deductibles, copays or other amounts of money that people have to spend on health care. It is, I think, very important to look at this.

First, what you see is that at the bottom end of the income ladder, families with annual incomes of $30,000 or less are spending an inordinate, and I would say unaffordable, percent of their income for their health care. If you look at families with incomes between $10,000 and $20,000, you can see they are spending on average 8 percent of their income on health care expenses. Then when you look at families with incomes under $10,000, you can see that the average family is paying well over 20 percent of their annual income, and these are the people who can least afford to make that kind of payment.

Next, you can see that for families with annual incomes of $30,000 or more, the average amount of that income spent on premiums, deductibles and copays drops to below 5 percent on average—I would say a more affordable amount. But don't forget these are just averages. Many families at every income level are spending more than 10 percent of their family income on health care, especially if someone in the family has a serious illness. That is not affordable. That is not fair.

Now if we look back at the same chart we can see what would happen under the Healthy Americans Act. All Americans would pay what they can afford—people should pay what they can afford—but it will be well within their means. For those hardest-pressed families, people would pay no more than ½ percent of their income. Those with higher incomes would pay no more than 3 or 5 percent; and no family, including those with at the highest income levels, would pay above 7 percent of their annual income for health care.

So, Mr. President, as you can see, these two charts demonstrate the need to provide coverage for the uninsured and to make health care coverage affordable for all.

The Healthy Americans Act does just that. First of all, it covers the uninsured, which I think is the first and most important thing to do. It builds, I say to my colleague from Indiana, on existing State programs. This is universal coverage with maximum flexibility. In addition to covering the uninsured, many of them moderate-income and low-income citizens, we are going to make sure that health care coverage is affordable for all citizens.

In other words, we are going to have family protection. So, first, we cover the uninsured. Then we have family protection, and we say no family pays more than 7 percent of family income on health care, and it goes from about 0.5 percent to 7 percent depending on income. We include Medicare recipients as well. The income profile of elderly people is not that high and they need income protection, too.

So, again, first, we cover the uninsured, expanding existing programs; second, we have protection for family income; third, we make sure there is a good package of benefits comparable to what we have here in the Congress; fourth of all, we have strong consumer protections, strong patient protections, something we have been talking about every day; fifth of all, we expand coverage to include some needed benefits that are long overdue.

In Minnesota, and around the country—it could very well be the case in Indiana, Mr. President—a lot of elderly people are paying well over 30 percent of their monthly income just on prescription drug costs. We cover prescription drug costs and add that benefit to Medicare. We have good, strong mental health parity, and substance abuse coverage as well. And this is, I think, really important.

The way all of this comes together for the States is to have a maximum amount of flexibility. And what we are essentially saying to States is, "Look, here is what we decided in the Senate. We are going to make sure the uninsured are covered. That is phase one. The second thing, we are going to make sure there is protection of family income. The third thing is we are going to make sure there is a good package of benefits, at least as good as what we have in the Congress. The fourth thing that we are going to do is make sure there is good, strong patient protection. If you agree to that, States, there will be Federal money that will go to you on a, roughly speaking, 70–30 matching basis. And you decide how you want to do it. In other words, the funds are there for you to use if you agree to lay out a plan for universal, affordable, comprehensive health care and follow it over the next 4 years. This is a good strategy for going into the next century; it is a good strategy for reaching universal coverage in our country." We are offering the States a carrot; not a stick.

No State has to do it. There is maximum flexibility. I say to my colleague from Indiana—we are friends even though we do not always agree on issues—we will not have this ideological debate about single payer or "pay or play" and all these other things that people do not understand. This piece of legislation, the Healthy Americans Act, leaves it up to the States.

This legislation says to Minnesota, let us expand. We are already above 90 percent on the number insured in my State. Let us expand the coverage for these people who still have no insurance. Let us have some protection of family income, a very big issue for a lot of people who are covered but they are paying way more than they can afford, especially when you include the deductibles and copays and the premiums.

What we are saying to Minnesota or Indiana or California or New York: Let us cover the uninsured. We can build on what you are already doing with the State Children's Health Insurance Plan, by expanding it to adults and more children. Let us make sure there is family income protection. Let us make sure there is patient protection and a good package of benefits that is comprehensive. And you decide how you want to do it. You decide how you want to do it in Indiana. You decide how you want to do it in Minnesota or California or New York or North Carolina or Florida or New Hampshire or Iowa—you name it. You decide how you want to do it.

But the point is, if a State wants to participate—and I think most States will be very interested in participating in this piece of legislation—then there will be Federal grant money that will come on, roughly speaking, a 70–30 matching basis.

Mr. President, I would like to talk a little bit about the cost of this, because I do not want to introduce a piece of legislation and treat people in the United States of America as if they do not have intelligence. If we think something is important, then we invest in it. This piece of legislation, as we have costed it out and done our actuarial estimates, goes like this: In the first year—we are just trying to cover the uninsured—it will be $42 billion; year two, it gets up to $48 billion; year three, $62 billion; years four and five—when we include both coverage for the uninsured and now also providing the family income protection, it gets up to $85 billion, and then, $98 billion.

You would add an additional, roughly speaking, $26 billion to $39 billion to that estimate in the last 2 years if you are going to cover Medicare recipients, making sure they do not pay more than 7 percent of annual income for health care coverage and making sure that prescription drug costs are covered. Now, I say to colleagues, the maximum gets to be above $100 billion—we have estimated this to be $137 billion at the very end of this 5 year period.

How do we pay for this? I will tell you. We have hundreds of billions of dollars of what many of us have called corporate welfare, a variety of different deductions and tax breaks, many of which I do not believe are necessary. In addition, we have some military weaponry that I think there is a very legitimate debate as to whether or not we need to be spending money on some of these items. And in addition, we take a look at some of the domestic programs that I think people can call into question as to whether or not they are essential.

But, Mr. President, my point is that we offset the expenditure. We are not talking about taxpayers paying any more money. But what we are saying is that this is a worthwhile investment. We have a GDP of over $8 trillion, we have an economy at its peak performance, and we are being told that we cannot have universal health care coverage in the United States of America? We are being told that we cannot afford to make sure that every man, woman, and child has decent coverage? That there cannot be some protection of family income? That the uninsured can't be insured? That elderly people aren't able to get the care they need? That some patient protection for the people isn't possible? That is not acceptable. Of course it is possible. Of course we can do this. Of course we can do better as a nation. And that is what this piece of legislation says, Mr. President.

I just say to colleagues again that I have been disappointed that we have put this issue of universal coverage off the table. It should be put back on the table. I have had so many conversations with people in Minnesota, poignant conversations—it happens in other parts of the country, too—which are about health care. I will just give but one example. I think I may have given it one time before on the floor. But, after all, the legislation we introduce is all about people's lives. Why else should we be here? It is all about, hopefully, improving people's lives.

I will never forget a discussion with a woman whose husband I had met a year earlier. When I met him a year earlier, he was in bad shape. He is a young man, maybe 40 at most, a railroad worker struggling with cancer. And then I met her a year later out at a farm gathering, and she came up to me and she said, "I want you to come over and meet my husband again, Senator" or "PAUL." "He's a real fighter. The doctor said he only had 3 months to live, but it's a year later and he's still struggling. He's now in a wheelchair." And so we talked.

Then she took me aside, and she said, "Every day is a living hell. Every day I'm battling with these companies to find out what they're going to cover."

I do not think any American with a loved one who is struggling with an illness or a sickness should have to worry about whether or not there is going to be decent coverage. I think that is unacceptable. I think we can do better in America. I think it is time again to talk about humane, affordable, dignified health care for every man, woman, and child. That is what this Healthy Americans Act does.

I love ideas. I am really interested in policy. I am proud of the people who have helped me on this legislation: Dr. John Gilman in my office; Rick Brown, who is with the UCLA School of Public Health; Doctors Nicole Lurie and Steve Miles from Minnesota.

I like the fact that the Healthy Americans Act is a decentralized plan. I like that. I like the fact that it is simple. I like the fact that it gives States a lot of leeway, so different States can try different approaches, and we can see what works best.

But we do have here, colleagues, a commitment as a nation to make sure those people who are uninsured have health insurance, to make sure families do not go broke and are able to afford health insurance, to make sure it is a package of benefits as good as what we have. Shouldn't the people we represent have as good health care coverage as Members of the Congress have, and shouldn't they be guaranteed strong patient protections?

I think this is, in my not so humble opinion, an excellent piece of legislation. I think it is going to take a real battle to get it passed. But I will bring amendments out on the floor. I will do everything I can as a U.S. Senator to bring this to people in the country. I am absolutely convinced that this is one of the most important things we can do as a Senate to respond to a very real issue that affects the lives of so many people we represent.

By Mr. ASHCROFT (for himself and Mr. MCCONNELL)

S. 2075. A bill to provide for expedited review of executive privilege claims and to improve efficiency of independent counsel investigations; to the Committee on the Judiciary.

EXECUTIVE PRIVILEGE LEGISLATION

S. 2076. A bill to provide reporting requirements for the assertion of executive privilege, and for other purposes; to the Committee on the Judiciary.

THE EXECUTIVE ACCOUNTABILITY ACT OF 1998

Mr. ASHCROFT. Mr. President, I rise today in order to introduce two bills designed to address the abuse and misuse of executive privilege by the President, the Executive Accountability Act of 1998 and a companion bill designed to expedite appeals of executive privilege claims asserted in independent counsel investigations. I want to thank Senator MCCONNELL who has joined me as a co-sponsor of both these measures.

Executive privilege is just that—a privilege extended to the President, and the President alone, to be invoked in those rare circumstances in which the President must keep discussions about official acts secret from the courts, Congress and the American people in order to protect national security.

This President has abused this privilege. He has used it as a delaying tactic to try to shield the details of unofficial acts having nothing to do with national security, but everything to do with Mr. Clinton's personal legal problems. As I detailed in a letter to my colleagues back in March, the President's current claim of executive privilege is legally baseless. I would ask that that letter be included in the record.

Part and parcel of the President's abuse of executive privilege is his unwillingness to acknowledge the mere fact that he has asserted the privilege. Indeed, the President's lawyers recently have attacked the Independent Counsel's office for acknowledging the Court's entirely predictable rejection of the President's assertion of executive privilege. Apparently, the President wants to be able to assert the privilege and have a court rule on it, all without the knowledge of Congress or the American people.

This is an affront to Congress and the public. Congress has a vital interest in the development of the law of executive privilege. Until this Administration, grand jury investigations into presidential communications were rare. Congressional oversight hearings, by contrast, are commonplace. But Congress will have to live with whatever rules the courts develop concerning the scope of executive privilege. Without notice that the President is raising these claims, Congress cannot protect its interests by filing amicus briefs.

The President's covert assertion of executive privilege is of concern not just to Congress but to every citizen. Although a limited executive privilege is necessary to protect national security, the privilege is contrary to the public's right to know. As a consequence, asserting the privilege has historically come with a political cost. President Clinton has tried to enjoy the benefits of the privilege while avoiding these costs. We should ensure that if a President takes the extraordinary step of asserting executive privilege that he not be able to keep that action from the American people.

The Executive Accountability Act of 1998 addresses the problem of the covert use of executive privilege through the simple expedient of requiring full disclosure. If the President decides to invoke the privilege in court, both the President and the presiding judge must disclose that fact to Congress. If the court rules on a claim of executive privilege, the court must inform Congress. If the President decides to appeal an adverse ruling on a claim of executive privilege, he must also disclose that fact to Congress. If the Attorney General provides a written opinion concerning the validity of the privilege, that too should be shared with the Congress. Finally, the Act confirms that any Member of Congress has the capacity to file an amicus brief in any judicial proceeding in which the President asserts executive privilege. The legislation also builds in protections to ensure that none of these disclosures endangers national security.

I am also introducing a companion bill to address the President's misuse of executive privilege as a delaying tactic to try to run out the clock on the Independent Counsel's investigation. The bill would provide for expedited review of such claims and for a direct appeal to the Supreme Court. Hopefully, this provision will remove the temptation to use executive privilege claims as delaying tactics, and will force the President to think twice before asserting a spurious claim of privilege.

When properly confined to official acts affecting national security, executive privilege serves an important function. But when abused as a delaying tactic or to protect unofficial acts, the privilege in its distorted form becomes an unacceptable impediment to the public's right to know. These two bills impose accountability requirements on the executive to ensure that the privilege is used in an appropriate way. Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 28.

Section 594 of title 28, United States Code, is amended by adding at the end the following:

"(m) JUDICIAL REVIEW OF EXECUTIVE PRIVILEGE CLAIMS.—

"(1) EXPEDITED CONSIDERATION.—It shall be the duty of a district court of the United States and the Supreme Court of the United States to advance on the docket and to expedite to the maximum extent practicable the disposition of any claim asserting executive privilege in any investigation authorized pursuant to this chapter.

"(2) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of a district court of the United States disposing of a claim asserting executive privilege in any investigation authorized pursuant to this chapter shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order described in this subsection shall be issued by a single Justice of the Supreme Court of the United States.".

SEC. 2. EFFECTIVE DATE.

Section 594(m) of title 28, United States Code (as added by section 1 of this Act), applies to any claim of executive privilege asserted on or after January 1, 1998, except that, for purposes of an order described in section 594(m)(1) of title 28, United States Code (as added by section 1 of this Act), entered before the date of enactment of this Act, the time periods for appeal provided in section 594(m)(2) of that title 28, United States Code (as added by section 1 of this Act), shall begin running on the date of enactment of this Act.

S. 2076

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Executive Accountability Act of 1998".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Grand jury investigations into Presidential communications have been, to date, extraordinary and rare occurrences, and hopefully, will remain that way. Congressional oversight hearings, by contrast, are commonplace.

(2) If judicial decisions permit presidential aides to withhold crucial information from a grand jury investigating criminal misconduct, congressional inquiries will be stymied by similar claims of executive privilege.

(3) For these reasons, the proper scope of executive privilege is of concern to every Member of Congress, and every Member of Congress has an interest in being notified of assertions of executive privilege by the President and in having the opportunity to file amicus briefs in appropriate cases.

(4) In the context of the current litigation before Judge Norma Holloway Johnson, the President failed to acknowledge publicly that he asserted executive privilege to shield information from the grand jury.

(5) Indeed, lawyers for the President have protested that the outcome of Judge Johnson's order rejecting the President's claim of executive privilege became public.

(6) As a consequence, Members of Congress have not had a proper basis to decide whether to file amicus briefs apprising the court of the unique interests and views of Congress with respect to executive privilege.

SEC. 3. REPORTING REQUIREMENTS.

(a) INITIAL REPORT.—Whenever the President asserts executive privilege in a judicial action or proceeding, the President shall promptly report to Congress and provide an explanation of the reasons for such assertion in such detail as is consistent with national security.

(b) REPORT BY PRESIDING JUDGE OF ASSERTION.—Whenever, in a judicial action or proceeding, the President asserts executive privilege, it shall be the duty of the presiding judicial officer in that action or proceeding promptly to report the assertion to Congress.

(c) REPORT BY PRESIDING JUDGE OF DISPOSITION.—Whenever in a judicial action or proceeding, the President asserts executive privilege, it shall be the duty of the presiding judicial officer in that action or proceeding promptly to report to Congress any order or ruling disposing of that claim and provide an explanation of the reasons for such disposition in such detail as is consistent with national security.

(d) AMICUS BRIEFS.—Any Member of either House of Congress shall have the right to file an amicus brief, regarding an assertion of executive privilege by the President, in any judicial action or proceeding in which that assertion is made.

(e) REPORT CONCERNING DECISION TO APPEAL.—Whenever the President decides to appeal an adverse disposition of a claim of executive privilege or to file a petition for certiorari in response to such adverse disposition, the President shall promptly report the decision to Congress.

(f) ADDITIONAL REQUIREMENT.—Whenever the President asserts executive privilege in any forum, the President shall forward to Congress any written legal opinion regarding the lawfulness of the assertion redacted as is consistent with national security.

(g) REPORT TO CONGRESS.—For purposes of this Act, providing notice or a report to the Senate Majority and Minority Leaders and the Speaker of the House and House Minority Leader shall constitute notice to Congress.

DEAR COLLEAGUE: The newspapers and talk shows have been filled for the past few weeks with discussion of executive privilege. First, there were reports of the President's decision to invoke the privilege to prevent several of his aides from testifying before the grand jury. Now it has been reported that the President has argued that his executive privilege extends to discussions between presidential aides and the First Lady. Many commentators appear to assume that executive privilege applies to these communications and have focused on the prudence of the President's decision to invoke the privilege in light of the parallels to Watergate. I will leave that question for the pundits. The more pressing question for the Congress is whether executive privilege has any application at all to this situation.

Grand jury investigations into Presidential communications are extraordinary and rare occurrences, and hopefully, will remain that way. Congressional oversight hearings, by contrast, are commonplace. If the President's aides are permitted to withhold crucial information from a grand jury investigating criminal misconduct, we can rest assured that congressional inquiries will be stymied by similar claims of executive privilege. For this reason, the proper scope of executive privilege is of concern to every member of Congress.

As Chairman of the Constitution Subcommittee, I have inquired into the law of executive privilege as developed by the courts. Although for years the body of caselaw did not extend much beyond Chief Justice Marshall's opinion in the criminal trial of Aaron Burr, a number of decisions in the last quarter century have clarified the relatively modest scope of executive privilege. A number of critical principles emerge from these cases.

Executive privilege extends only to communications made in relation to official responsibilities. The privilege does not cover unofficial acts. "[The privilege is] limited to communications in performance of [a President's] responsibilities of his office and made in the process of shaping policies and making decisions." *Nixon* v. *Administrator of the GSA*, 433 U.S. 425, 449 (1977); *see also United States* v. *Nixon*, 418 U.S. 683, 715 (1974).

Even if executive privilege applies to a communication, it generally does not prevent disclosure to a grand jury. "The generalized assertion of privilege must yield to the demonstrated, specific need for evidence in a pending criminal trial." *United States* v. *Nixon*, 418 U.S. 683, 713 (1974).

The sole exception is for communications concerning national security. The Court in *United States* v. *Nixon* indicated that the scope of any absolute executive privilege would be limited to "military or diplomatic secrets." 418 U.S. at 710. Outside this context, even a valid claim of executive privilege cannot keep presidential communications from the grand jury as long as the conversations are "preliminarily shown to have some bearing on the pending criminal cases." *Id.* at 713.

I hope you find this summary helpful. For my part, these well-established principles lead me to believe that the President is on tenuous legal ground in asserting executive privilege. In order for his claim to prevail, he first would have to show that the discussions he had with aides concerning how to respond to allegations of sexual misconduct in his private life qualify as official government acts. I sincerely doubt he could make such a showing, especially in light of his asserted ability to compartmentalize his private life from the affairs of state.

However, even if he made such a showing, the President would still need either to demonstrate that the communications concerned "military or diplomatic secrets," or to convince a court that the information is neither necessary nor relevant to the grand jury's investigation. The President seems unlikely to prevail on either issue. Although there is some dispute as to the exact nature of the demonstration of relevance or need that the prosecutor must make, even the most demanding opinion on the subject states that the prosecution "will be able easily to explain" why it should have access to privileged presidential communications when the President and his close aids are the subject of the criminal investigation. *See In re Sealed Case*, 121 F.3d 729, 755 (D.C. Cir. 1997).

In the end, it seems quite likely that the President's claim of executive privilege will share the fate of this administration's other novel theories of privilege, which caused delay, but ultimately were rejected by the courts. First, the President asserted a novel immunity from civil suit that, in his view, extended even to cases of private misconduct occurring before he took the presidential oath of office. The Supreme Court rejected that claim 9–0. *See Clinton* v. *Jones*, 117 S. Ct. 1636 (1997). Then the administration asserted a novel theory of government attorney-client privilege, which would treat taxpayer-financed government attorneys just like private attorneys for purposes of the attorney-client privilege. The Eighth Circuit Court of Appeals rejected that argument, concluding that allowing the White House "to use its in-house attorneys as a shield against the production of information relevant to a federal criminal investigation would represent a gross misuse of public assets." *In re Grand Jury Subpoena Duces Tecum*, 112 F.3d 910, 921 (8th Cir. 1997). The Supreme Court declined to review that decision. *See* 117 S. Ct. 2482 (1997). Now we have novel claims of executive privilege, a privilege extending to communications with the First Lady, and a secret service privilege.

The President's current claim of executive privilege appears to be foreclosed by well-established limits on the privilege and calculated more for delay than anything else. However, we are not privy to all the information that is at the President's disposal. Future developments may strengthen or weaken the President's assertion of privilege or make it clear that the assertion implicates issues that have not yet reached the Supreme Court, such as whether the privilege applies to anyone other than the President.

In the event such novel issues arise, the Constitution Subcommittee may hold hearings in an effort to clarify the proper scope of executive privilege. I continue to believe that the Senate has a critical responsibility to ensure that the doctrine of executive privilege does not become distorted in a manner that will interfere with congressional oversight long after the current scandals subside.

Sincerely,

JOHN ASHCROFT,
Chairman, U.S. Senate Judiciary, Subcommittee on the Constitution, Federalism and Property Rights.

By Mr. FORD (for himself, Mr. BOND, Mr. DORGAN, and Mr. LEAHY):

S. 2077. A bill to maximize the national security of the United States and minimize the cost by providing for increased use of the capabilities of the National Guard and other reserve components of the United States; to improve the readiness of the reserve components; to ensure that adequate resources are provided for the reserve components; and for other purposes; to the Committee on Armed Services.

THE NATIONAL GUARD AND RESERVE COMPONENTS EQUITY ACT OF 1998

Mr. FORD. Mr. President, on behalf of Senator BOND, co-chairman of the Senate National Guard Caucus, Senators DORGAN and LEAHY, I am introducing today the National Guard and Reserve Components Equity Act of 1998.

Over the past few years, we've had to expend a huge amount of energy fending off attacks to the Guard. Worse, the whole time we're dusting ourselves off and assessing the damage, our opponents deny they've ever laid a finger on us.

It reminds me of the boxer who, at the insistence of his trainer, took on the current champ. After the first round, he came back to his corner with a busted lip, and his trainer patted him on the back and said, "You're doing great," then shoved him back out when the second bell sounded. After the second round, he staggered back to his corner with a black eye and a busted cheek, and his trainer said, "You're doing great, he hasn't laid a hand on you." And the boxer replied, "Well you'd better keep an eye on the referee, 'cause someone is beating' the heck out of me."

Year after year, the Guard has come back to its corner, bruised and battered by the budget process, only to hear Pentagon officials insist they haven't laid a hand on them.

I think we all agree that as we enter the 21st Century, the common goal of the U.S. military should be to create and maintain a seamless Total Force that provides our military leaders with the necessary flexibility and strength to address whatever conflicts that might arise.

The 1997 QDR should have been the vehicle to achieve that goal. Unfortunately, it fell far short. One analyst described the QDR as "another banal defense of the status quo."

There are close to a half million men and women in the National Guard, accounting for about 20 percent of this nation's Armed Forces. Because of their dual federal-state mission, National Guardsmen and women are on hand to serve in both the international arena and in our own backyards. Perhaps more than any other soldier, members of the Guard embody our forefathers' vision of the citizen-soldier.

That's because the citizen-soldiers of the National Guard find their roots not only in the history of this country, but equally important, in the communities of this country.

The Army National Guard alone provides more than 55 percent of the ground combat forces, 45 percent of the combat support forces, and 25 percent of the Army's combat support units—all while using only two percent of the Department of Defense budget.

But if you look at the QDR process, you would think the Guard has outlived its usefulness—that their cost-effectiveness, their flexibility, their readiness are all figments of this Senator's imagination.

This contentious relationship got even hotter last spring when leaders of the National Guard expressed outrage at never being given the opportunity to present their case before the QDR and over the Army's failure to be up-front about how deeply they wanted to cut the Army Guard.

The outrage was well placed. The Washington Times was right on target when they wrote back in June that

> The Guard has a greater relevance today than during the Cold War—exactly the kind of relevance the Founding Fathers envisioned when they elected to place the preponderance of the nation's military strength in the state militias.

They understand that with its "dual use system," the Guard is the wave of the future, not a relic of the past.

While many of us felt blind-sided by the QDR, the fact is it was just one more instance where the Pentagon refuses to give the Guard the status it deserves.

I don't believe making the Chief of the National Guard a four star general and a member of the Joint Requirements Oversight Council will solve all of the Guard's problems, but I do believe it would help to change the dynamics of this dysfunctional relationship, and better ensure the Guard's needs are met when the Defense budget is being written, rather than through Congressional intervention.

As many of you probably recall, last year Senator STEVENS offered an amendment to the Defense Authorization bill to make this change. It was approved by the Senate, but later dropped in Conference Committee. Instead, Conferees agreed to having a Two-Star General from the Guard and one from the Reserves—a position the Guard already has.

Since then, I've been working with Senator BOND—my co-chairman of the Senate National Guard Caucus to come up with new legislation reinforcing the important role of both the Guard and the Reserves.

The bill would direct the Secretary of Defense to submit a report to Congress regarding the force structure necessary for the Army National Guard and Army Reserve to meet future national security threats. The bill would freeze the end strength of the Army National Guard and the Army Reserve at the level Congress approved for Fiscal Year 1998, until September 30, 2000. This freeze will provide Congress a chance to review the force structure report submitted by the Secretary of Defense.

The bill also requires the Secretary of Defense to develop a master plan for the modernization of the National Guard And Reserve Components to ensure compatibility of equipment with our active forces. Under this legislation, the Secretary must also submit a master plan to Congress on meeting the military construction needs of the National Guard and Reserve Components.

This legislation builds on Senator STEVENS's amendment to last year's Defense Authorization. It elevates the Chief of the National Guard Bureau to the Grade of General (4-star) and elevates the Senior Representatives of the Reserves one Grade. These are just some provisions of the bill. My Guard Caucus Co-Chairman, Senator BOND, someone who has been deeply committed to improving the readiness of the Guard, will be outlining other provisions of the bill.

Mr President, the Reserve Components are the only contact a majority of Americans have with the military. When they see a neighbor, a child's teacher, or their family doctor representing the U.S. in the international arena or on hand when natural disasters strike, they have a direct link to the military.

That bond has remained strong for well over 200 years. And despite resistance from the Pentagon, I believe Congress has no intention of seeing that bond damaged through insufficient funds or lack of resources—from operations and maintenance to pay and allowances to continued equipment modernization and military construction. This is why the National Guard and Reserve Components Equity Act of 1998 needs to become law.

Muhammad Ali used to say that not only could he knock'em out, but he could pick the round. Opponents to the Guard and Reserves should be on notice—no matter how much they try and bob and weave, this is the round they're going to go down.

Before closing, I'd like to take just a moment to say how much I've enjoyed working with Senator BOND on National Guard issues over the last ten years. We've worked together, along with the other members of the Caucus, in a bipartisan manner to ensure that the National Guard and Reserve components receive the funding these dedicated men and women need to successfully fulfill their role in preserving our national security.

Mr. President, I ask unanimous consent that the National Guard and Reserve Components Equity Act of 1998 be printed in the RECORD, along with a section-by-section description this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Guard and Reserve Components Equity Act of 1998".

TITLE I—STRATEGIC PLANNING

SEC. 101. FORCE STRUCTURE.

(a) REQUIREMENT.—At the same time as the President submits the budget to Congress for fiscal year 2000 under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on the Army reserve component force structure.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) The force structure that the Secretary considers appropriate for the Army National Guard and the Army Reserve for meeting threats to the national security that are considered probable for the six fiscal years beginning with fiscal year 2000.

(2) Specific wartime missions for the units in that force structure, including missions relating to responses to emergencies involving weapons of mass destruction.

(b) FREEZE ON END STRENGTHS.—Notwithstanding any other provision of law, the Armed Forces shall maintain the same strengths for Selected Reserve personnel of the Army National Guard of the United States and the Army Reserve through September 30, 2000, as are authorized under paragraphs (1) and (2), respectively, of section 411(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1719).

SEC. 102. MODERNIZATION PLAN.

(a) PLAN REQUIRED.—The Secretary of Defense shall develop a master plan that provides for the complete modernization of the National Guard and the other reserve components of the Armed Forces, including the modernization necessary to ensure the compatibility of the equipment used by the reserve components.

(b) SUBMISSION TO CONGRESS.—The Secretary shall submit the plan to Congress not later than six months after the date of the enactment of this Act.

SEC. 103. MILITARY CONSTRUCTION.

(a) PLAN REQUIRED.—The Secretary of Defense shall develop a master plan that provides for meeting the unmet requirements of the National Guard and the other reserve components for military construction.

(b) SUBMISSION TO CONGRESS.—The Secretary shall submit the plan to Congress not later than six months after the date of the enactment of this Act.

TITLE II—RESERVE COMPONENT LEADERSHIP

SEC. 201. CHIEF OF THE NATIONAL GUARD BUREAU.

(a) RELATIONSHIP TO THE JOINT CHIEFS OF STAFF.—Section 151 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) PARTICIPATION BY THE CHIEF OF THE NATIONAL GUARD BUREAU.—(1) The Chief of the National Guard Bureau shall identify for the Chairman any matter scheduled for consideration by the Joint Chiefs of Staff that directly concerns the National Guard, domestic security, or public safety.

"(2) Unless, upon request of the Chairman for a determination, the Secretary of Defense determines that a matter identified pursuant to paragraph (1) does not concern the National Guard, domestic security, or public safety, the Chief of the National Guard Bureau shall meet with the Joint Chiefs of Staff when that matter is under consideration. The Chief of the National Guard Bureau has equal status with the members of the Joint Chiefs of Staff for the consideration of the matter by the Joint Chiefs of Staff.

"(3) The Chairman shall provide the Chief of the National Guard Bureau with all agenda for the meetings of the Joint Chiefs of Staff and any other information that the Chairman considers appropriate to assist the Chief of the National Guard Bureau to carry out his responsibilities under this subsection.".

(b) MEMBERSHIP ON THE JOINT REQUIREMENTS OVERSIGHT COUNCIL.—Section 181(c) of such title is amended—

(1) in paragraph (1)—

(A) in subsection (D), by striking out "and";

(B) in subsection (E), by striking out the period at the end and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(F) the Chief of the National Guard Bureau."; and

(2) in paragraph (2), by inserting "and the Chief of the National Guard Bureau" after "other than the Chairman of the Joint Chiefs of Staff".

(c) ADDITIONAL ADVISORY FUNCTIONS.—Section 10502(c) of title 10, United States Code, is amended to read as follows:

"(c) ADVISER ON NATIONAL GUARD MATTERS.—The Chief of the National Guard Bureau is the principal adviser to the President, the Secretary of Defense, any other person designated to exercise national command authority, the Secretary of the Army, the Chief of Staff of the Army, the Secretary of the Air Force, and the Chief of Staff of the Air Force on matters relating to—

"(1) the National Guard;

"(2) the Army National Guard of the United States;

"(3) the Air National Guard of the United States;

"(4) domestic security; and

"(5) public safety.".

(d) RELATIONSHIP TO THE ARMY STAFF AND THE AIR STAFF.—Section 10502 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(e) RELATIONSHIP TO ARMY AND AIR STAFF.—To the extent that it does not impair the independence of the Chief of the National Guard Bureau in the performance of his duties, the Chief of the National Guard Bureau shall serve at the level of the Vice Chief of Staff of the Army in all forums within the Department of the Army, and at the level of the Vice Chief of Staff of the Air Force in all forums within the Department of the Air Force.".

SEC. 202. GRADES OF RESERVE COMPONENT LEADERS.

(a) NATIONAL GUARD BUREAU LEADERSHIP.—

(1) CHIEF.—Section 10502(d) of title 10, United States Code, is amended by striking out "lieutenant general" and inserting in lieu thereof "general".

(2) VICE CHIEF.—Section 10505(c) of such title is amended by striking out "major general" and inserting in lieu thereof "lieutenant general".

(3) OTHER GENERAL OFFICERS.—Section 10506(a)(1) of such title is amended by striking out "major general" each place it appears and inserting in lieu thereof "lieutenant general".

(b) CHIEF OF ARMY RESERVE.—Section 3038(c) of such title is amended by striking out "major general" in the third sentence and inserting in lieu thereof "lieutenant general".

(c) CHIEF OF NAVAL RESERVE.—Section 5143 of such title is amended—

(1) in subsection (b), by striking out "from officers who—" and inserting in lieu thereof "from among officers of the Naval Reserve who—"; and

(2) in subsection (c)(2), by striking out "a grade above rear admiral (lower half)" in the third sentence and inserting in lieu thereof "the grade of vice admiral".

(d) COMMANDER, MARINE FORCES RESERVE.—Section 5144 of such title is amended—

(1) in subsection (b), by striking out "from officers who—" and inserting in lieu thereof "from among officers of the Marine Corps Reserve who—"; and

(2) in subsection (c)(2), by striking out "a grade above brigadier general" in the third sentence and inserting in lieu thereof "the grade of lieutenant general".

(e) CHIEF OF AIR FORCE RESERVE.—Section 8038(c) of such title is amended by striking out "major general" in the third sentence and inserting in lieu thereof "lieutenant general".

(f) EXCLUSION FROM DISTRIBUTION LIMITS FOR GENERAL OFFICERS ON ACTIVE DUTY.—Section 525(b) of title 10, United States Code, is amended by adding at the end the following:

"(6)(A) An officer serving in a position referred to in subparagraph (B) in the grade specified for the position in that subparagraph is in addition to the number that would otherwise be permitted for that officer's armed force for that grade under paragraph (1).

"(B) Subparagraph (A) applies to an officer while serving in any of the following positions:

"(i) The Chief of the National Guard Bureau, if serving in the grade of general.

"(ii) The Vice Chief of the National Guard Bureau, if serving in the grade of lieutenant general.

"(iii) The Director of the Army National Guard, if serving in the grade of lieutenant general.

"(iv) The Director of the Air National Guard, if serving in the grade of lieutenant general.

"(7)(A) An officer while serving in a position referred to in subparagraph (B), if serving in the grade of lieutenant general or vice admiral, is in addition to the number that would otherwise be permitted for that officer's armed force for that grade under paragraph (1) or (2), as applicable.

"(B) Subparagraph (A) applies to an officer serving in any of the following positions:

"(i) The Chief of Army Reserve.

"(ii) The Chief of Naval Reserve.

"(iii) The Commander, Marine Forces Reserve.

"(iv) The Chief of Air Force Reserve.".

(g) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on January 1, 1999.

SEC. 203. ADJUTANTS GENERAL OF THE NATIONAL GUARD.

(a) FEDERAL RECOGNITION.—The Secretary of Defense shall prescribe in regulations a requirement that, whenever a person is appointed to the position of State adjutant general of the National Guard, the board that is to consider the appointee for being extended Federal recognition be convened within 60 days after the date of the appointment.

(b) INVESTIGATIONS OF ADJUTANTS GENERAL.—The Secretary of Defense shall prescribe in regulations a requirement that the Inspector General of the Department of Defense be responsible for conducting investigations regarding appointments of State adjutants general of the National Guard for the Department of Defense.

(c) STATE INCLUDES POSSESSIONS, ET CETERA.—For the purposes of this section, the term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

SEC. 204. REVIEW OF PROMOTIONS AND FEDERAL RECOGNITION FOR NATIONAL GUARD OFFICERS.

(a) GAO REVIEW.—The Comptroller General shall review the promotions of, and extensions of Federal recognition to, officers of the National Guard to determine the timeliness and fairness of the processing of such actions.

(b) SCOPE OF REVIEW.—The Comptroller General shall determine the period and number of actions that are necessary to be reviewed in order to provide a meaningful basis for making determinations under subsection (a).

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the review. The report shall include the Comptroller General's determinations together with any recommendations that the Comptroller General considers appropriate.

TITLE III—USE OF THE RESERVE COMPONENTS FOR EMERGENCIES INVOLVING WEAPONS OF MASS DESTRUCTION

SEC. 301. DISASTER RELIEF.

(a) AUTHORITY.—

(1) DEFINITIONS.—

(A) MAJOR DISASTER.—Paragraph (2) of section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) is amended by striking out "or explosion" and inserting in lieu thereof "explosion, or emergency involving a weapon of mass destruction.".

(B) WEAPON OF MASS DESTRUCTION.—Such section is further amended by adding at the end the following:

"(9) WEAPON OF MASS DESTRUCTION.—'Weapon of mass destruction' has the meaning given that term in section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).

"(10) NATIONAL GUARD.—'National Guard' has the meaning given that term in section 101(3) of title 32, United States Code.

"(11) RESERVE COMPONENTS.—'Reserve components of the Armed Forces' means the reserve components named in section 10101 of title 10, United States Code.".

(2) USE OF RESERVE COMPONENTS.—Section 201(a) of such Act (42 U.S.C. 5131) is amended—

(A) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(B) by adding at the end the following:

"(8) the use of the National Guard or the other reserve components of the Armed Forces to take actions that may be necessary to provide an immediate response to an incident involving a use or threat of use of a weapon of mass destruction.".

(3) REQUESTS BY DIRECTOR OF FEMA.—Section 611 of such Act (42 U.S.C. 5196) is amended by adding at the end the following:

"(l) USE OF THE RESERVE COMPONENTS.—The Director may request the Secretary of Defense to authorize the National Guard or to direct other reserve components of the Armed Forces to conduct training exercises, preposition equipment and other items, and take such other actions that may be necessary to provide an immediate response to an emergency involving a weapon of mass destruction. The Secretary of Defense may authorize the National Guard or direct other reserve components to take actions requested by the Director under the preceding sentence.".

(b) REIMBURSEMENT OF STATES.—

(1) AUTHORITY.—Chapter 1 of title 32, United States Code, is amended by adding at the end the following new section:

"§ 115. Reimbursement for State costs of preparedness programs for emergencies involving weapons of mass destruction

"(a) REIMBURSEMENT AUTHORIZED.—The Secretary of Defense may reimburse a State for expenses incurred by the State for the National Guard of that State to participate in emergency preparedness programs to respond to an emergency involving the use of a weapon of mass destruction. Expenses reimbursable under this section may include the costs of the following:

"(1) Pay, allowances, clothing, subsistence, travel, and related expenses of personnel of the National Guard.

"(2) Operation and maintenance of equipment and facilities of the National Guard.

"(3) Procurement of services and equipment for the National Guard.

"(b) STATE INCLUDES POSSESSIONS, ET CETERA.—For the purposes of this section, the term 'State' includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

"(c) WEAPON OF MASS DESTRUCTION DEFINED.—In this section, the term 'weapon of mass destruction' has the meaning given that term in section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"115. Reimbursement for State costs of preparedness programs for emergencies involving weapons of mass destruction.".

SEC. 302. RESERVES ON ACTIVE DUTY.

(a) AUTHORITY.—

(1) ORDER TO ACTIVE DUTY.—Section 12301(b) of title 10, United States Code, is amended—

(A) by inserting "(1)" after "(b)";

(B) by striking out "for not more than 15 days a year" in the first sentence; and

(C) by adding at the end the following:

"(2) The authority under paragraph (1) includes authority to order a unit or member to active duty to provide assistance in responding to an emergency involving a weapon of mass destruction (as defined section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))).

"(3) A unit or member may not be ordered to active duty under this subsection for more than 15 days a year. Days of service on active duty to provide assistance described in paragraph (2), up to 15 days a year, shall not be counted toward the limitation on the total number of days set forth in the preceding sentence.".

(2) USE OF ACTIVE GUARD AND RESERVE PERSONNEL.—Section 12310 of title 10, United States Code, is amended by adding at the end the following:

"(c)(1) A Reserve on active duty as described in subsection (a), or a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32 in connection with functions referred to in subsection (a), may perform any duties in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction (as defined in section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))).

"(2) The costs of the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for a Reserve performing duties under the authority of paragraph (1) shall be paid from the appropriation that is available to pay such costs for other members of the reserve component of that Reserve who are performing duties as described in subsection (a).".

(b) EXCLUSION FROM STRENGTH LIMITATIONS.—

(1) GENERAL LIMITATION.—Section 115(d) of such title is amended by adding at the end the following:

"(8) Members of the reserve components on active duty and members of the National Guard on full-time National Guard duty to participate in emergency preparedness programs for responding to emergencies involving a weapon of mass destruction (as defined section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))).".

(2) OFFICER PERSONNEL LIMITATION.—Section 12011 of such title is amended by adding at the end the following:

"(c) Members of the reserve components on active duty and members of the National Guard on full-time National Guard duty to participate in emergency preparedness programs for responding to emergencies involving a weapon of mass destruction (as defined section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))) shall not be counted for purposes of a limitation in subsection (a).".

(3) ENLISTED PERSONNEL LIMITATION.—Section 12011 of such title is amended by adding at the end the following:

"(c) Members of the reserve components on active duty and members of the National Guard on full-time National Guard duty to participate in emergency preparedness programs for responding to emergencies involving a weapon of mass destruction (as defined section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))) shall not be counted for purposes of a limitation in subsection (a).".

TITLE IV—STRENGTHENED REFORMS FOR ARMY NATIONAL GUARD COMBAT READINESS

SEC. 401. ADEQUATE FUNDING FOR MEETING NCO EDUCATION REQUIREMENTS.

Section 1114(b) of the Army National Guard Combat Readiness Reform Act of 1992 (title XI of Public Law 102–484; 10 U.S.C. 10105 note) is amended to read as follows:

"(b) AVAILABILITY OF TRAINING.—The Secretary of the Army shall ensure that sufficient training positions and funds are available to enable compliance with subsection (a) without it being necessary for noncommissioned officers to be absent from unit annual training for the units of assignment in order to attend training to meet military education requirements.".

SEC. 402. COMBAT UNIT TRAINING.

Section 1119 of the Army National Guard Combat Readiness Reform Act of 1992 is amended—

(1) by inserting "(a) PROGRAM TO MINIMIZE POST-MOBILIZATION TRAINING NEEDS.—" before "The Secretary";

(2) by inserting "all" before "combat units" in the first sentence;

(3) in paragraph (1)—

(A) in subparagraph (A), by inserting "and professional development" after "qualification";

(B) in subparagraph (B), by striking out "and squad level" and inserting in lieu thereof "squad, and platoon level"; and

(C) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) maneuver training at the platoon level to at least the minimum extent required of all Army units; and"; and

(4) by adding at the end the following:

"(b) ADEQUACY OF FUNDING.—The Secretary shall ensure that sufficient funds are made available for conducting the training required under the program.".

SEC. 403. USE OF COMBAT SIMULATORS.

The text of section 1120 of such Act is amended to read as follows:

"The Secretary of the Army shall—

"(1) expand the use of simulations, simulators, and advanced training devices and technologies to fully support the complete integration of Army National Guard units with active Army units; and

"(2) use and distribute combat simulators so as to serve the training of Army National Guard units as well as active Army units.".

TITLE V—PAY, ALLOWANCES, RETIREMENT, AND OTHER MONETARY BENEFITS

SEC. 501. BASIC ALLOWANCE FOR HOUSING.

(a) RESERVES ON ACTIVE DUTY MORE THAN 100 MILES FROM HOME.—Section 403(g)(3) of title 37, United States Code, is amended by adding at the end the following: "A member of a reserve component on active duty may not be denied a basic allowance for housing at that rate on the basis of being provided quarters of the United States if the member is performing duty more than 100 miles from the member's primary residence.".

(b) Effective Date and Applicability.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply with respect to active duty performed on or after that date.

SEC. 502. ELIGIBILITY FOR HAZARDOUS OR IMMINENT DANGER PAY.

(a) Full Monthly Rate for Active Duty for Partial Month.—Section 310(a) of title 37, United States Code, is amended in the matter preceding paragraph (1) by striking out “for any month in which he was entitled to basis pay” and inserting in lieu thereof “for any month in which he was entitled to any basic pay (without regard to the number of days of duty performed for the month)”.

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date of the enactment of this Act.

SEC. 503. ALLOTMENTS OF PAY.

Section 701(d) of title 37, United States Code, is amended—

(1) by inserting “(including a member of a reserve component of that armed force)” in the first sentence after “a member of the Army, Navy, Air Force, or Marine Corps”; and

(2) by inserting “(three allotments, in the case of a member of a reserve component)” in the second sentence after “six allotments”.

SEC. 504. EARLY RETIREMENT FOR PHYSICAL DISABILITY.

(a) Permanent Authority.—Chapter 1223 of title 10, United States Code, is amended by inserting after section 12731a the following:

§ 12731b. Early retirement for physical disability

“(a) Retirement With At Least 15 Years of Service.—For the purposes of section 12731 of this title, the Secretary concerned may—

“(1) determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

“(A) has completed at least 15, and less than 20, years of service computed under section 12732 of this title; and

“(B) no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability; and

“(2) upon the request of the member submitted to the Secretary, transfer the member to the Retired Reserve.

“(b) Exclusion.—This section does not apply to persons referred to in section 12731(c) of this title.”.

(b) Repeal of Superseded Authority.—Section 12731(a)(c) of such title is amended by striking out paragraph (3).

(c) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 12731a the following:

“12731b. Early retirement for physical disability.”.

TITLE VI—OTHER BENEFITS

SEC. 601. REPEAL OF 10-YEAR LIMITATION ON USE OF MONTGOMERY GI BILL BENEFITS.

(a) Repeal.—Subsection (a) of section 16133 of title 10, United States Code, is amended by striking out “(1)” and all that follows and inserting in lieu thereof “on the date the person is separated from the Selected Reserve.”.

(b) Conforming Amendments.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by striking out “In” in the matter preceding subparagraph (A) and inserting in lieu thereof “Subsection (a) does not apply in”; and

(B) by striking out the comma at the end of subparagraph (B) and all that follows and inserting in lieu thereof a period;

(2) by striking out paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3) and, in such paragraph, by striking out “of this title—” and all that follows through “for the purposes of clause (2)” and inserting in lieu thereof “of this title, the member may not be considered to have been separated from the Selected Reserve for the purposes”.

SEC. 602. DEMONSTRATION PROGRAM ON UNLIMITED USE OF COMMISSARY STORES.

(a) Program Required.—The Secretary of Defense shall carry out a demonstration program to test the efficacy of permitting unlimited use of commissary stores by members and former members of the reserve components who are eligible for limited use of commissary stores under section 1063 and 1064 of title 10, United States Code.

(b) Period for Program.—The program shall be carried out for one year beginning on January 1, 1999.

(c) Report.—Not later than March 31, 2000, the Secretary of Defense shall submit to Congress a report on the results of the demonstration program, together with any comments and recommendations that the Secretary considers appropriate.

SEC. 603. SPACE AVAILABLE TRAVEL FOR MEMBERS OF SELECTED RESERVE.

(a) In General.—Chapter 157 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2646. Space available travel: members of Selected Reserve

“(a) Availability.—The Secretary of Defense shall prescribe regulations to allow members of the Selected Reserve in good standing (as determined by the Secretary concerned), and dependents of such members, to receive transportation on aircraft of the Department of Defense on a space available basis under the same terms and conditions as apply to members of the armed forces on active duty and dependents of such members.

“(b) Condition on Dependent Transportation.—A dependent of a member of the Selected Reserve may be provided transportation under this section only when the dependent is actually accompanying the member on the travel.”.

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2646. Space available travel: members of Selected Reserve.”.

SEC. 604. REPEAL OF EXPIRATION OF ELIGIBILITY FOR VETERANS HOUSING BENEFITS BASED ON SERVICE IN THE SELECTED RESERVE.

Section 3702(a)(2)(E) of title 38, United States Code, is amended by striking out “For the period beginning on October 28, 1992, and ending on October 27, 1999, each” and inserting in lieu thereof “Each”.

TITLE VII—OTHER MATTERS

SEC. 701. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) Ready Reserve-National Guard Credit.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

“SEC. 45D. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

“(a) General Rule.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for the taxable year is an amount equal to 50 percent of the actual compensation amount for the taxable year.

“(b) Definition of Actual Compensation Amount.—For purposes of this section, the term ‘actual compensation amount’ means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day during a taxable year when the employee was absent from employment for the purpose of performing qualified active duty.

“(c) Limitations.—

“(1) Maximum credit.—The maximum credit allowable under subsection (a) shall not exceed $2,000 in any taxable year with respect to any one Ready Reserve-National Guard employee.

“(2) Days other than work days.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for a reason other than to participate in qualified active duty) and ordinarily would not have worked.

“(d) Definitions.—For purposes of this section—

“(1) Qualified active duty.—The term ‘qualified active duty’ means—

“(A) active duty, as defined in section 101(d)(1) of title 10, United States Code;

“(B) full-time National Guard duty, as defined in section 1010(d)(5) of such title; and

“(C) hospitalization incident to duty referred to in subparagraph (A) or (B).

“(2) Compensation.—The term ‘compensation’ means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

“(3) Ready reserve-national guard employee.—The term ‘Ready Reserve-National Guard employee’ means an employee who is a member of the Ready Reserve or of the National Guard.

“(4) National guard.—The term ‘National Guard’ has the meaning given such term by section 101(c)(1) of title 10, United States Code.

“(5) Ready reserve.—The term ‘Ready Reserve’ has the meaning given such term by section 10142 of title 10, United States Code.”

(b) Credit To Be Part of General Business Credit.—Subsection (b) of section 38 of such Code (relating to general business credit) is amended by striking “plus” at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting “, plus”, and by adding at the end the following new paragraph:

“(13) the Ready Reserve-National Guard employee credit determined under section 45D(a).”

(c) Conforming Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45C the following new item:

“Sec. 45D. Ready Reserve-National Guard employee credit.”

(d) Effective Date.—The amendments made by this Act shall apply to taxable years beginning after December 31, 1997.

SECTION-BY-SECTION ANALYSIS

Section 101: Directs the Secretary of Defense to submit a report to Congress regarding the following;

(1) force structure appropriate for the Army National Guard and the Army Reserve to meet national security threats.

(2) freezes the end strength of the Army National Guard and Army Reserve at the levels approved in Public Law 105-85 Stat. 1719 until September 30, 2000.

Section 102: Directs the Secretary of Defense to develop a master plan for the modernization of the National Guard and Reserve Component of the Armed Services to ensure compatibility of equipment. The report is to be submitted to Congress six months from date of enactment of legislation.

Section 103: Directs the Secretary of Defense to develop a master plan regarding the unmet military construction requirements of the National Guard and Reserve Components. This Report will be submitted within six months after passage of the legislation.

Sections 201 & 202: Elevates the Chief of the National Guard Bureau to the Grade of General (4-Star) and elevates the Senior Representatives of the Reserves (Army, Navy, Air Force and Marines) to Lieutenant General (3-Star). Adjusts the responsibility of the Chief of the National Guard Bureau regarding issues that directly affect the National Guard. Includes the Chief of the National Guard Bureau as a full time member of the Joint Requirements Oversight Council.

Section 203: Requires the Secretary of Defense to appoint the Federal Recognition Board for an Adjutant General within 60 days of the Adjutant General's appointment by a Governor. This section also requires the Secretary of Defense to have the Inspector General of the Defense Department be responsible for conducting investigations regarding appointments of State Adjutants General.

Section 204: Requires the General Accounting Office (GAO) to review the National Guard members promotions and extensions of Federal recognition as to the timeliness and fairness of the process. GAO will report to Congress one year after the enactment of the legislation.

Section 301: Enhanced integration of the National Guard Bureau, Reserve Components and the Federal Emergency Management Agency (FEMA) for emergencies involving Weapons of Mass Destruction.

Section 302: Describes duties of Reserves (National Guard & Reserves) in responding to an emergency involving a weapon of mass destruction.

Section 401: Directs the Secretary of the Army to ensure that sufficient training funds are available for enlisted men and women to meet their military education requirements.

Section 402: Directs the Secretary of the Army to ensure that sufficient training funds are available for the training of Army National Guard to maintain Platoon level operations.

Section 403: Directs the Secretary of the Army to expand the use of simulations, simulators and advanced training devices to fully support the integration of Army National Guard with Active Army units.

Section 501: Prohibits the Services from denying Basic Housing allowance to Reserve component members if they are on active duty more than 100 miles from their primary home.

Section 502: Provides equity between Reserve component members and active duty counterparts in receiving Hazardous or Imminent Danger pay.

Section 503: Increases Reserve Components pay allotment authorization to the same level as Active duty personnel.

Section 504: Makes permanent the early retirement for Physical Disability of National Guard and Reserve component members who have between 15 and 20 years of satisfactory service. The present law expires at the end of Fiscal Year 1999.

Section 601: Repeals the Ten Year limitation on the use of the Montgomery GI bill benefits if the reservists remain members in good standing of the Selected Reserve.

Section 602: Provides for a demonstration program on unlimited use of military commissary stores for reserve component members.

Section 603: Directs the Secretary of Defense to develop rules for Reserve Component Members and their families to travel on Department of Defense Aircraft on a space available basis.

Section 604: Makes permanent the eligibility for veterans' home loan guarantees for members of the Selected Reserves. Reserve eligibility is to expire October 1999.

Section 701: Provides a tax incentive to businesses that employ National Guard and Reserve personnel. A business can receive a tax credit of up to $2000.00 per year, per employee for a member of the Guard and Reserve who is absent from employment for the purpose of performing Active Duty assignments.

Mr. BOND. Mr. President, I am proud to join with my colleague and co-chair of the Senate National Guard Caucus, Senator FORD to introduce a bill today to bolster the recognition of the National Guard and reserve components by the Department of Defense. The bill entitled the National Guard and Reserve Components Equity Act of 1998.

Since the Senate National Guard Caucus was established in 1987, Senator FORD and I and the sixty five other members have worked tirelessly to insure the adequate resourcing of the National Guard and reserves. This year will be Senator FORD's final year as Caucus co-chair. I will sorely miss his advise and counsel. The legislation we lay before you this day is testimony to his commitment to improving the quality of life standards for our nation's active, Guard and reserve component service members. He and I have worked to include major quality of life and resourcing issues highlighted by reserve and National Guard Associations.

This bill seeks to provide overdue recognition and benefits to the nation's reservists and Guard personnel and their families. For too long, the nation's reservists and National Guardsmen and women have been the recipients of less than a full commitment by the Department of Defense. The bill we have introduced will stir some controversy I am sure, but these men and women deserve our support. As we ask more and more of our reserve and Guard we owe it to the people who we ask to go into harm's way, to provide them with equality in pay, equality in fielded equipments and equality in training. We owe it to their families to provide them with equal access to commissaries and space available travel. We owe it to them to continue reservist eligibility for VA home loans and repeal Montgomery Bill limitations for Selected Reservists. We need to do all this and more. We must also recognize the sacrifices made by reservist and Guard employers. This bill addresses each of these issues. We must remove any semblance of second class status from the shoulders of these professional and dedicated individuals.

Reserve and Guard components are being called upon to integrate themselves into the tactical operations of the nation's defense plans, in order to do this effectively, the systems used by the components must be compatible. That is not the case today. In many instances, radios and data transfer equipments are incompatible. For instance many artillery units operate independently because they are unable to coordinate their operations. I could hardly believe it, but many fighter aircraft units suffer the same fate, and you can imagine that the theater commanders don't care to have independent fighter units involved in heavily coordinated and multi-national operations. Digitization, situational awareness data link upgrades and avionics modernization of reserve and Guard units is imperative. This bill directs the Secretary of Defense to develop a master plan for the modernization of these components.

The bill also addresses the use of Guard and reserve component personnel in response to an emergency involving a weapon of mass destruction; to include their integration with efforts of the Federal Emergency Management Agency.

Family issues are addressed, as well. As I mentioned earlier, there are provisions for demonstration program for unlimited use of military commissaries by reserve component members, and for the development of rules governing Space Available Travel for reservists and their families.

I urge my colleagues to review this bill, sign on and help us to provide these and other long overdue measures to bring equity in individual recognition and resource allocation to these vital components of our national security.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. ROBERTS, Mr. KERREY, Ms. MOSELEY-BRAUN, Mr. HAGEL, and Mr. ALLARD):

S. 2078. A bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes; to the Committee on Finance.

FARM AND RANCH RISK MANAGEMENT ACT

Mr. GRASSLEY. Mr. President, I rise today to introduce the Farm and Ranch Risk Management Act of 1998.

This bill gives farmers another tool to manage the risk of price and income fluctuations inherent in agriculture. It does this by encouraging farmers to save some of their income during good years and allowing the funds to supplement income during bad years. This new tool will more fully equip family farmers to deal with the vagaries of the marketplace.

Farming is a unique sector of the American economy. Although agriculture represents one-sixth of our Gross Domestic Product, it consists of hundreds of thousands of farmers across the nation. Many of whom operate small, family farms. These farms often support entire families, and even several generations of a family. And they work hard every day and produce the food consumed by the rest of the country, and around the world as well.

Yet farming remains one of the most perilous ways to make a living. The income of a farm family depends, in large part, on factors outside its control. Weather is one of those factors. For instance, I have heard on the Senate floor recently that the income of North Dakota farmers dropped 98% last year because of flooding. Weather can totally wipe out a farmer. And, at best, weather can cause farmers' income to fluctuate wildly.

Another factor is the uncertainty of international markets. Iowa farmers now export 40% of all they produce. But what happens when European countries impose trade barriers on beef, pork and genetically-modified feed grain, as examples. And what happens when Asian governments devalue their currencies. Exports fall and farm income declines. Through no fault of the farmer, but because of decisions made in foreign countries.

Mr. President, the 1996 farm bill took planting decisions out of the hands of government bureaucrats and put them back into the hands of farmers. Farmers now have the ability to plant according to the demands of the market. The farmers I talk to are pleased with this change in philosophy. They would rather make their own decisions and rely on the market for their income, instead of the government.

But the sometimes volatile nature of commodity markets can make it difficult for family farmers to survive even a normal business cycle. When prices are high, farmers often pay so much of their income in taxes that they are unable to save anything. When prices drop again, farmers can be faced with liquidity problems. This bill allows farmers to manage their income, to smooth out the highs and lows of the commodity markets.

In that way, this bill is complementary with the philosophy of the new farm program. Business decisions are left in the hands of farmers, not bureaucrats at the Department of Agriculture, and not elected officials. The farmer decides whether to defer his income for later years. The farmer decides when to withdraw funds to supplement his operation.

Mr. President, I will take just a moment to explain how the bill works. Eligible farmers are allowed to make contributions to tax-deferred accounts, also known as FARRM accounts. The contributions are tax-deductible and limited to 20% of the farmer's taxable income for the year. The contributions are invested in cash or other interest-bearing obligations. The interest is taxed during the year it is earned.

The funds can stay in the account for up to five years. Upon withdrawal, the funds are taxed as regular income. If the funds are not withdrawn after five years, they are taxed as income and subject to an additional 10% penalty.

Essentially, the farmer is given a five-year window to manage his money in a way that is best for his own operation. The farmer can contribute to the account in good years and withdraw from the account when his income is low.

This bill helps the farmer help himself. It is not a new government subsidy for agriculture. It will not create a new bureaucracy purporting to help farmers. The bill simply provides farmers with a fighting chance to survive the down times and an opportunity to succeed when prices eventually increase.

Mr. President, I want to thank my colleagues for supporting this bill, especially Senator BAUCUS, the lead Democratic cosponsor. I look forward to working with him on the Finance Committee to ensure passage of this important effort for our farmers.

ADDITIONAL COSPONSORS

S. 89

At the request of Ms. SNOWE, the names of the Senator from Wisconsin [Mr. FEINGOLD] and the Senator from Oregon [Mr. WYDEN] were added as cosponsors of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 381

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 381, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.

S. 831

At the request of Mr. SHELBY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 863

At the request of Mrs. MURRAY, her name was withdrawn as a cosponsor of S. 863, a bill to authorize the Government of India to establish a memorial to honor Mahatma Gandhi in the District of Columbia.

S. 1260

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1320

At the request of Mr. ROCKEFELLER, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1320, a bill to provide a scientific basis for the Secretary of Veterans Affairs to assess the nature of the association between illnesses and exposure to toxic agents and environmental or other wartime hazards as a result of service in the Persian Gulf during the Persian Gulf War for purposes of determining a service connection relating to such illnesses, and for other purposes.

S. 1334

At the request of Mr. BOND, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1580

At the request of Mr. SHELBY, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 1580, a bill to amend the Balanced Budget Act of 1997 to place an 18-month moratorium on the prohibition of payment under the medicare program for home health services consisting of venipuncture solely for the purpose of obtaining a blood sample, and to require the Secretary of Health and Human Services to study potential fraud and abuse under such program with respect to such services.

S. 1754

At the request of Mr. FRIST, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 1754, a bill to amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health professions and disadvantaged health education programs, and for other purposes.

S. 1758

At the request of Mr. LUGAR, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

S. 1825

At the request of Mrs. MURRAY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1825, a bill to amend title 10, United States Code, to provide sufficient funding to assure a minimum size for honor guard details at funerals of veterans of the Armed Forces, to establish the minimum size of such details, and for other purposes.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1959

At the request of Mr. COVERDELL, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 1959, a bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs.

S. 1973

At the request of Mr. BUMPERS, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1973, a bill to amend section 2511 of title 18, United States Code, to revise the consent exception to the prohibition on the interception of oral, wire, or electronic communications.

S. 1981

At the request of Mr. HUTCHINSON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1981, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 1992

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1992, a bill to amend the Internal Revenue Code of 1986 to provide that the $500,000 exclusion of a gain on the sale of a principal residence shall apply to certain sales by a surviving spouse.

S. 2036

At the request of Mrs. HUTCHISON, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from Oregon [Mr. SMITH], the Senator from Alabama [Mr. SESSIONS], the Senator from Colorado [Mr. ALLARD], the Senator from Mississippi [Mr. LOTT], the Senator from Oklahoma [Mr. NICKLES], the Senator from Alaska [Mr. STEVENS], the Senator from North Carolina [Mr. HELMS], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 2036, a bill to condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces from the Republic of Bosnia and Herzegovina.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. D'AMATO, the name of the Senator from South Dakota [Mr. JOHNSON] was withdrawn as a cosponsor of Senate Concurrent Resolution 88, a concurrent resolution calling on Japan to establish and maintain an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.

SENATE RESOLUTION 176

At the request of Mr. DOMENICI, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Maine [Ms. COLLINS], and the Senator from Montana [Mr. BURNS] were added as cosponsors of Senate Resolution 176, a resolution proclaiming the week of October 18 through October 24, 1998, as "National Character Counts Week."

SENATE RESOLUTION 216

At the request of Mr. LIEBERMAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of Senate Resolution 216, a resolution expressing the sense of the Senate regarding Japan's difficult economic condition.

SENATE RESOLUTION 230—AUTHORIZING THE PRODUCTION OF RECORDS BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 230

Whereas, the Office of the Inspector General of the United States Department of Justice has requested that the Senate Select Committee on Intelligence provide it with copies of committee records relevant to the Office's pending inquiry into the handling and dissemination by the Department of Justice and the Federal Bureau of Investigation of certain foreign intelligence and counterintelligence information;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Senate Select Committee on Intelligence, acting jointly, are authorized to provide to the Office of Inspector General of the United States Department of Justice, under appropriate security procedures, copies of committee records relevant to the Office's pending inquiry into the handling and dissemination by the Department of Justice and the Federal Bureau of Investigation of certain foreign intelligence and counterintelligence information.

AMENDMENTS SUBMITTED

THE SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

FEINGOLD AMENDMENT NO. 2394

Mr. FEINGOLD proposed an amendment to the bill (S. 1260) to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes; as follows:

At the appropriate place, add the following:

SEC. . CIVIL RIGHTS PROCEDURES PROTECTIONS.

(a) SHORT TITLE.—This section may be cited as the "Civil Rights Procedures Protection Act of 1998".

(b) AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"SEC. 719. EXCLUSIVITY OF POWERS AND PROCEDURES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(c) AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and

(2) by inserting after section 15 the following new section 16:

"SEC. 16. EXCLUSIVITY OF POWERS AND PROCEDURES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 795) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this title) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under section 501, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(e) AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.—Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(f) AMENDMENT TO SECTION 1977 OF THE REVISED STATUTES.—Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any Federal law (other than a Federal law that expressly refers to this section) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim concerning making and enforcing a contract of employment under this section, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(g) AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938.—Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would otherwise modify any of the powers and procedures expressly applicable to a right or claim arising under this subsection, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(h) AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.—Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) is amended—

(1) by redesignating section 405 as section 406; and

(2) by inserting after section 404 the following new section:

"SEC. 405. EXCLUSIVITY OF REMEDIES.

"Notwithstanding any Federal law (other than a Federal law that expressly refers to this Act) that would modify any of the powers and procedures expressly applicable to a right or claim arising under this Act or under an amendment made by this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to enforce such right or resolve such claim through arbitration or another procedure.".

(i) AMENDMENT TO TITLE 9, UNITED STATES CODE.—Section 14 of title 9, United States Code, is amended—

(1) by inserting "(a)" before "This"; and

(2) by adding at the end the following new subsection:

"(b) This chapter shall not apply with respect to a claim of unlawful discrimination in employment if such claim arises from discrimination based on race, color, religion, sex, national origin, age, or disability.".

(j) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to claims arising on and after the date of enactment of this Act.

SARBANES (AND OTHERS) AMENDMENTS NOS. 2395–2396

Mr. SARBANES (for himself, Mr. BRYAN, and Mr. JOHNSON) proposed two amendments to the bill, S. 1260, supra; as follows:

AMENDMENT NO. 2395

On page 9, between lines 9 and 10, insert the following:

"(d) APPLICABILITY OF STATE STATUTE OF LIMITATIONS.—Notwithstanding subsection (b), an action that is removed to Federal court under subsection (c) shall be subject to the State statute of limitations that would have applied in the action but for such removal.

On page 9, line 10, strike "(d)" and insert "(e)".

On page 10, line 12, strike "(e)" and insert "(f)".

On page 10, line 17, strike "(f)" and insert "(g)".

On page 14, between lines 10 and 11, insert the following:

"(3) APPLICABILITY OF STATE STATUTE OF LIMITATIONS.—Notwithstanding paragraph (1), an action that is removed to Federal court under paragraph (2) shall be subject to the State statute of limitations that would have applied in the action but for such removal.

On page 14, line 11, strike "(3)" and insert "(4)".

On page 15, line 15, strike "(4)" and insert "(5)".

On page 15, line 20, strike "(5)" and insert "(6)".

AMENDMENT NO. 2396

On page 10, strike line 24 and all that follows through page 12, line 11 and insert the following:

"(2) CLASS ACTION.—

"(A) IN GENERAL.—The term 'class action' means any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(i) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated; and

"(ii) questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members.

On page 16, strike line 3 and all that follows through page 17, line 13 and insert the following:

"(B) CLASS ACTION.—

"(i) IN GENERAL.—The term 'class action' means any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated; and

"(II) questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members.

On page 17, line 14, strike "(C)" and insert "(ii)" and move the margin 2 ems to the right.

On page 17, line 21, strike "(D)" and insert "(C)".

SARBANES (AND OTHERS) AMENDMENT NO. 2397

Mr. SARBANES (for himself, Mr. BRYAN, Mr. JOHNSON, and Mr. BIDEN) proposed an amendment to the bill, S. 1260, supra; as follows:

On page 10, between lines 16 and 17, insert the following:

"(f) STATE ACTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, nothing in this section may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(2) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

On page 10, line 17, strike "(f)" and insert "(g)".

On page 15, between lines 19 and 20, insert the following:

"(5) STATE ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, nothing in this subsection may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of a State or political subdivision thereof, or by any agency or instrumentality thereof.

On page 15, line 20, strike "(5)" and insert "(6)".

BIDEN AMENDMENT NO. 2398

Mr. BIDEN proposed an amendment to the bill, S. 1260, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . FRAUD AS PREDICATE OFFENSE.

Section 1964(c) of title 18, United States Code, is amended by striking ", except" and all that follows through "final".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 13, for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 13, 1998, at 10:00 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 13, 1998, at 10:30 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on "Tobacco Litigation: Is it Constitutional?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 13, 1998, at 9:30 a.m. on Federal Communications Commission Oversight: Wireless Bureau.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on near Eastern and South Asian Affairs be authorized to meet during the session of the Senate on Wednesday, May 13, 1998, at 2:00 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, May 13, 1998, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS ON REGULATORY RELIEF

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions and Regulatory Relief of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, May 13, 1998, to conduct an oversight and reauthorization hearing on the Community Development Financial Institutions Fund (CDFI) Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICE

Mr. DOMENICI. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Wednesday, May 13, 1998 at 2:00 p.m. for a hearing on "S. 1710, The Retirement Coverage Error Correction Act of 1998."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT—CONFERENCE REPORT

● Mr. BROWNBACK. Mr. President, particularly in light of the 1996 Farm Bill, it is important that the federal government focus its attention on the factors that will increase U.S. agriculture's competitiveness in a deregulated farm economy. This includes improving efficiency in the transportation system, keeping international markets active and growing, advancing research, and facilitating use of market oriented risk management tools.

Yesterday the Senate approved the Conference Report to S. 1150, which provides for two of those critical factors. First of all, it provides important funding for agriculture research programs. Though I am critical of government funding of applied research that would otherwise be financed by those who will directly benefit in the private sector, I view basic research as a responsibility of the federal government. It is through research—largely conducted by the land grant universities supported by the federal government—that we experienced the "green revolution" whereby the world learned to produce more food using fewer resources. Through research we have developed technologies that have increased farm efficiency exponentially, transformed food processing, and enhanced human nutrition. Given the structure of the agriculture industry, these advances never would have occurred if it had been up to individual farmers or individual companies to conduct the necessary research.

Furthermore, the intensive use of farmland here in the U.S. means that sensitive ecosystems around the world—which would have to be converted to farmland were it not for the productive capacity of the Midwest—can be spared. Continuing to search for ways to increase the productive capacity of America's farmers will help ensure that these ecosystems are not destroyed in order to provide for the food needs of the world's growing population. So the advances achieved through research have not only improved our own economic position, they have also benefitted the environment worldwide.

The bill also provides a stable funding mechanism for crop insurance, which has been subject to annual debates in recent years. This has been problematic for farmers and insurance agents, who need to be able to plan ahead. With the more liberalized market conditions that the new Freedom to Farm Act provides, risk management is more important than ever for farmers. And, for many, crop insurance is the most viable option for managing risk. In fact, lenders often require that producers obtain crop insurance in order to qualify for operating loans.

All of the spending that is directed toward these programs is offset by savings from food stamp administration accounts and the limitation of Commodity Credit Corporation funding for computers. So, the increased spending in this bill does not jeopardize the balanced budget agreement enacted last year.

It goes without saying that this bill is critical for a farm state like Kansas. However, the benefits of agricultural research and a reliable mechanism to manage risk extend well beyond the state lines of farm states—this country's production affords our consumers in rural communities and cities alike the cheapest, safest, and most abundant food supply on earth. It is imperative that Congress continue the investment that makes this competitive advantage possible. I am glad that the Senate finally approved the Conference Report, and hope that the House will act soon to secure these benefits for rural America.●

CELEBRATION OF ISRAEL'S 50TH ANNIVERSARY

Mr. FEINGOLD. Mr. President, during the last few days, both in Israel and around the world, Jews and millions of others have been celebrating the 50th anniversary of the birth of Israel. A celebration of Israel is a celebration of democracy, prosperity, faith and the fulfillment of the dream of a Jewish homeland.

It was on May 14, 1948, that David Ben-Gurion announced Israel's birth to the world. Fifty years later, Israel is a mature state—a survivor of wars, assassinations and painful regional conflicts. And Israel has not only survived, it has prospered and thrived.

It has bloomed in the desert, taking root against seemingly impossible odds.

But it does not surprise us, for we know that overcoming the insurmountable is the story of the Jewish people. Examples of Israel's achievements abound: it is a world leader in developing agricultural techniques for arid climates, and in harnessing the power of solar energy.

Ben-Gurion believed that Israel could lead the world to a better future by marrying the ethical teachings of the ancients with the discoveries of modern science. "It is only by the integration of the two," he wrote, "that the blessings of both can flourish."

Israel ranks among the most advanced economies in the world, and is a vigorous democracy in a region of largely authoritarian regimes. Voter turnout for Israel's 1996 elections were about 80 percent, a high turnout by any standard, and one that surpasses and challenges the United States, which had just 49 percent turnout that same year. And Israel has successfully resettled Jewish immigrants from the former Soviet Republics and across the globe, including absorbing 680,000 immigrants during a three year period. The culture of Israel is equally vibrant, as Israelis have drawn on their dramatic personal and national histories to create invaluable contributions to the arts.

At 50, Israel has character, strength and dignity. Of course, like anyone who reaches 50, Israel is also experiencing something of a mid-life crisis.

As Israelis take stock of their achievements at this important moment in their history, they find problems yet to be solved and many goals yet to be reached. Israel has not yet made peace with all of her neighbors, and difficult decisions about how to achieve peace, or whether to continue to, at this point, seek peace at all, are causing painful rifts in Israeli society.

Personally, I look at Israel from many perspectives—as an American, as a Jew, as a United States Senator and as a member of the Senate Foreign Relations Committee.

As an American, I see Israel as a staunch ally and friend. As a Jew, I see a spiritual homeland, a place where all Jews have a claim, a right to belong. Israel is an oasis of faith for Jews in every corner of the world. As a United States Senator and member of the Senate's Foreign Relations Committee, I take a deep interest in Israel and the Middle East peace process.

I first visited Israel when I was 19 years old. My father and mother took me as a way to educate me about the importance of Israel, and the trip had an enormously powerful impact on me. I returned two more times, in 1976 and 1977, while I was a student at Oxford University.

My strongest memory of that last trip was our visit to the Western Wall, when I brushed up against a soldier carrying a machine gun under his jacket. It was then that I felt for the first time, through the cold steel of a weapon, what it was like to exist in a society where the threat of violence was a constant. At the time, I hoped upon my next return to Israel that there would be peace in the region—never realizing that we would find ourselves in the stalemate we are in today so many years later. For these 21 years since then, I was unable to return to Israel except for one time and one time only—and then only for 10 hours—for the sad occasion of Yitzhak Rabin's funeral in November 1995.

I went as a very young man and returned much changed—I had become a Senator, a husband and a father—but was still awed by the powerful presence of faith and hope, violence and conflict that still characterize the Jewish state today.

In between these visits, I had the opportunity to study the evolving relationship between Israel and the United States for a paper I did for a history course at the University of Wisconsin-Madison. To research this paper, I read all the comments of Members of Congress in the CONGRESSIONAL RECORD concerning Israel for the years 1948, 1956, 1967 and 1973, and analyzed how those comments reflected a changing definition of U.S. interests in the region from the birth of Israel, through the Suez Crisis, the Six Day War and the Yom Kippur War.

In 1948, most of the talk was about the need for a homeland for the Jewish people, especially after the Holocaust. In 1956, that talk shifted to describing Israel as a blooming democracy; a small outpost of democratic values in the midst of a non-democratic region. In 1967, Israel was the non-aggressive dove who triumphed in a hostile environment. By 1973, my predecessors had shifted to speaking of Israel in a very positive geopolitical and national security terms.

Today, I add my own remarks about Israel to the long chronicle of the American-Israeli relationship in the CONGRESSIONAL RECORD to those of my predecessors who came to speak in times of crisis and triumph for Israel.

The U.S. has played a pivotal role in Israel's history, and our relationship has been a strong one from the beginning. Within minutes of Ben-Gurion's announcement of the birth of Israel, President Harry Truman recognized the fledgling state. Prior to Israel's founding, between the end of the Second World War and May 14, 1948, official U.S. support for a Jewish state was largely grounded in the desire to help re-settle hundreds of thousands of Jewish refugees, displaced people and survivors of the Holocaust.

From May 14, 1948, until today, America could always count on Israel as an island of democracy and stability in an area of the world not altogether familiar with either concept.

The presence of a secure and vital Israel, in and of itself, is in America's interests.

For many years, those interests included containment of Soviet expansion into the Middle East, securing access to the region's oil for the industrialized nations of the West, promoting market economies and democratic institutions and safeguarding Israel's national security. As the inter-relationship between Israel and the United States has developed, matured and adapted to political and economic developments, so too has American policy. During the tenure of President Jimmy Carter, for example, America was very active in the Middle East peace process, culminating in the signing of the Camp David accords.

During the first Reagan term, the administration's priorities of combating terrorism, promoting cooperative security and confronting Soviet expansion found common ground with the perspectives of Prime Ministers Begin and Shamir, and, in general, those closer relations survived the policy differences arising over the Lebanon war in 1982. Ties between Israel and the United States grew stronger during President Reagan's second term, including the signing of several precedent-setting strategic and cooperative defense agreements.

During the early Bush years, U.S.-Israel relations were marked again by tension caused by some policy disagreements, but tension eased in 1990 when—amid Iraqi threats against Israel generated by the Persian Gulf crisis—President Bush repeated the U.S. commitment to Israel's security. Confidence in U.S. support was a primary factor in Israel's decision not to retaliate against Iraq for its Scud missile attacks.

Of course, the first year of the Clinton administration saw the historic signing on the White House lawn of the Declaration of Principles establishing the goals and framework for peace talks. On September 13, 1993, the world watched with hope and trepidation as Prime Minister Rabin and Yasser Arafat inaugurated a new era in the Middle East. This would soon be followed by two other major peace agreements: the May 1994 Gaza-Jericho Agreement that provided for Palestinian control over the Gaza Strip and the environs of Jericho after an Israeli withdrawal, and the September 1995 Interim Agreement that set a timetable and an agenda for final status negotiations.

The Palestinians and Israelis have also agreed to other arrangements, such as the Israeli withdrawal from six Palestinian cities in December 1995, and the Palestinian elections in January 1996.

As much as we hoped the historic moment on the White House lawn would bring an end to terrorism, bloodshed and occupation, we all knew just as well that the road to peace would not be that simple. Years of bitter experience also told us the road would not be that short.

But 1994 and 1995 were relatively good years. The peace process was progressing, and, by late 1995, it seemed relations between Rabin and Arafat were warming. Then, of course, as we can never forget, extremism struck again with the assassination of Yitzhak Rabin by a Jewish radical. It is important to note that this was a terrorist attack like so many in the new Middle East, where extremism and violence of every stripe lashes out against any sign of peace and tolerance.

Today, this extremism and violence present perhaps the greatest and most persistent threat to peace.

Just before he died, Rabin said, "Peace is the future." We must remain faithful to the memory of Rabin and all those who had the courage and the abiding discipline to put ancient hatreds aside and made peace their priority, because Rabin had no illusions about the difficulty of the peace process.

Someone who witnessed Rabin in a meeting on the peace process said to the prime minister, "I can see I'm talking to the converted." Rabin's reply was, "You're talking to the committed, not the converted." It was commitment that peace required of him and requires of all of us.

As we look forward to Israel's next 50 years, we must be able to look forward to a future that gives every Israeli, and every Jew, a peaceful homeland. But the Palestinians are also clearly key to peace in the region, and that is why it is so important to get the current negotiations back on track.

Although our priorities and perceptions on the path to peace sometimes differ, America and Israel have, by and large, moved forward together, and I believe that partnership will continue. Earlier this month, in honor of this 50th anniversary, Congress unanimously passed a resolution which read, in part, "The United States commends the people of Israel for their remarkable achievements in building a new state and a pluralistic democratic society in the Middle East in the face of terrorism, hostility and belligerence by many of her neighbors." The resolution reaffirmed the bonds of friendship between Israel and the U.S., and extended best wishes for a peaceful, prosperous and successful future.

The key to continued success and prosperity in Israel will be a lasting peace, and the United States clearly has an interest in taking an active role in the peace process, as it has done throughout the years.

Helping facilitate the peace process is one facet of U.S. relations with Israel, and another is foreign assistance. Since 1976, Israel has been the largest recipient of U.S. foreign assistance. Over the past 10 years, Israel has annually received about $3 billion in economic and military grants, refugee settlement assistance, and other aid, from the United States.

Recently, we have seen a movement to gradually reduce that level of aid, beginning with the declaration by Prime Minister Netanyahu that Israel should reduce its dependence on the United States when he addressed a joint session of Congress two years ago. Negotiations have since been conducted with the goal of reducing the overall level of American assistance and to gradually phase out economic aid while increasing military aid.

Specifically, the Clinton administration and the Congress are currently reviewing an Israeli proposal to reduce the $1.2 billion in U.S. *economic* assistance to Israel to zero over 10 years, and to increase U.S. *military* aid to Israel from $1.8 billion to $2.4 billion per year. I am intrigued by this idea, and am glad to see Israel taking the lead in this regard. Israel has recognized that in its 50-year history, it has made enormous strides in economic development and, as a result, now boasts a relatively healthy economy. At the same time, Israel recognizes—as I think we all do—that it still faces a substantial security threat, and so must maintain a robust military and access to state-of-the-art weaponry.

The proposal to change our aid relationship reflects this reality. It is an Israeli plan, and as such reflects Israeli priorities, including a desire to decrease its dependence on the United States, and boost its own self-sufficiency. I am concerned about potential unintended consequences of hasty action by the Congress, and so, I, along with others in this body are still considering our legislative response. But by and large I believe these are worthy goals that we should support, just as we have supported Israel in the past.

Ben-Gurion envisioned many achievements for Israel, including one I mentioned earlier, the idea of building a successful nation by marrying scientific advances with ancient Hebrew traditions. He believed that by drawing on the strength, wisdom and skill of a nation of faith and accomplishment, Israel could build a lasting peace with its neighbors.

Israel deserves that peace at last.

Just over 100 years ago, the First Zionist Congress convened in Basel, Switzerland. Under the leadership of Theodore Herzl, the participants announced their desire to reestablish a Jewish homeland in the historic land of Israel. Herzl once said that "If you will it, it is not a dream."

Israel is a testament to the will of a people who believed those words and proved them true.

It would be 51 years until the dream expressed at the First Zionist Congress would become reality, until Holocaust survivors and other Jews persecuted around the world could have a homeland where they could seek refuge and build a life. And 50 years after that founding, Israel has taken root in the desert soil and it has thrived.

The United States has built an alliance and friendship with Israel that has enriched American life and helped Israel thrive, and I hope that partnership will continue for the next 50 years and beyond. But as Israelis well know and all of us must recognize, the dream of those at the First Zionist Congress and of other Jews for centuries, to have a homeland, cannot be truly fulfilled until peace is attained.

Violence and conflict are a constant threat to the people of Israel, and to the Nation of Israel itself. As we celebrate the 50th anniversary of the birth of Israel, we have every right to wish for something more. Not just for a Jewish homeland, but a homeland at peace.

As Theodore Herzl said, "If you will it, it is not a dream."•

TRIBUTE TO THE FLOYD COUNTY EMERGENCY AND RESCUE SQUAD: FORTY YEARS OF VOLUNTEER SERVICE IN EASTERN KENTUCKY

• Mr. McCONNELL. Mr. President, I rise today to recognize the recent anniversary of the Floyd County Emergency and Rescue Squad. Forty years ago, this squad of volunteers was formed to help the people of Eastern Kentucky in times of emergency and disaster, and have been doing so ever since.

The Floyd County Emergency and Rescue Squad was founded on April 27, 1958, as a result of a tragic accident in Prestonsburg, Kentucky, in which a school bus plunged into the Big Sandy River, killing 26 students and the driver. As a result of this tragedy, dozens of community members came together to form the Squad and the late Graham Burchett became the first Captain, a position he held for twenty years.

Since that time, over 300 community members have served on the Squad—doctors and lawyers, coal miners and factory workers—people from all walks of life have worked side-by-side in volunteer service to their community. The Squad operates without any public support. The members are all volunteers and all their equipment is paid for through private donations and grants.

The Squad currently maintains a roster of thirty active members and dozens of reserve members. The Squad is called on for auto extrication, water rescue and drowning recovery, lost or missing persons, and assistance to coal mine rescue teams. In the last month alone, they have assisted in the evacuation of flood victims, recovered a drowning victim and have assisted on four auto accidents.

Despite the fact that the Squad must labor mightily for every dollar they get, they have managed to secure ultra-modern equipment, and are called frequently to assist in recovery activities outside the county and even outside the state.

Mr. President, I hope all my colleagues will join me in offering our congratulations to Captain Harry Adams, Co-Captain Richie Schoolcraft, Treasurer and Secretary Brian Sexton, First Lieutenant Derek Calhoun and Second Lieutenant Lee Schoolcraft and all the volunteers of the Floyd County Rescue Squad. They carry on the Squad's rich tradition of volunteering their time and risking their lives to help the people of their community, and they are all worthy of our admiration and thanks.●

ANTI-SLAMMING AMENDMENTS ACT

● Mr. LEVIN. Mr. President, yesterday, Senator MCCAIN and Senator HOLLINGS proposed a managers' amendment, Amendment No. 2389 to S. 1618, a bill to amend the Communications Act of 1934. The amendment significantly improves the protections for consumers against "slammers," persons who deliberately deceive consumers and change their long distance carrier without proper authorization. The manager's amendment included two of my amendments which were cosponsored by Senator DURBIN and Senator GLENN.

The Permanent Subcommittee on Investigations held a hearing recently on slamming. At this hearing, we became aware of the fact that slammers intentionally used names like Phone Company and Long Distance Services to deliberately deceive customers on their phone bills. Usually local telephone companies or billing agents precede an itemized list of long distance calls by printing the name of the long distance service provider. When deceptive company names are used, customers are not aware that their long distance service provider has been changed. My intention was to remedy this situation by requiring the billing companies to specify the long distance provider using a statement like, "Your provider for the following long distance service is __". If that type of statement were made conspicuously and clearly stated on a consumer's phone bill before the itemized long distance charges, consumers would know if their long distance carrier had been changed.

Section 231 of the manager's amendment, entitled Obligations of Telephone Billing Agents, has language that differs from my proposed amendment. The language in the Manager's amendment is language that was suggested by the staff at the Federal Communications Commission.

I chose not to use the FCC language because my staff contacted several telephone companies and learned that if we used the FCC language several problems could be created which may result in potential increased costs to consumers. GAO has advised my staff that some of the requirements in the provision as passed simply can't be done.

Because of time constraints we were unable to resolve the language in the provision. It is not our intention to increase consumers costs for telephone services in order to alert them about "slammers." If the current bill increases costs, and we believe it could, we need to modify this section so consumers are protected without having to pay for that protection. I sincerely hope we can continue to work to improve this section in the conference committee, if there is one, or before the bill is enacted into law, to make sure that we are not creating a burden on telecommunications carriers which will be passed on to consumers.●

COMMENDING THE CREDIT UNIONS FOR KIDS PROGRAM

● Mr. SMITH of Oregon. Mr. President, I rise today in recognition of the Credit Unions for Kids program, an effort which began in my state of Oregon but which has since spread to more than 35 states across the nation and has served as an outstanding example of community service.

The Credit Unions for Kids program represents credit union employees and members in Oregon and Southwest Washington who have volunteered their resources and time in raising $1.7 million to benefit the Doernbecher Children's Hospital Foundation. Last year, Oregon ranked first in the average dollars raised per credit union on a nationwide basis.

This is a day for celebration, not only for this donation, but for the generosity exhibited by a twelve-year fund-raising effort undertaken by the employees, families, and members of the credit unions in Oregon and Southwest Washington. This combined effort serves as an example to the businesses, communities and corporations in the Pacific Northwest and throughout the nation that anything is possible, even fulfilling the dream of a new children's hospital, one floor at a time.

For a moment, I would like to focus on the recipient of this donation—the new Doernbecher Children's Hospital which replaces a very old and outdated facility on the campus of Oregon Health Sciences University. This four-story, 250,000 square-foot facility houses 120 beds, including the medical/surgical units, a pediatric intensive care unit, the Kenneth W. Ford Cancer Center and the Doernbecher Neonatal Care Center. The hospital also has a 16-bed floor dedicated to inpatient and outpatient cancer treatment.

Perhaps what is most impressive about this facility is the focus on the need of the children and families whom it will serve. Designed by Doernbecher staff, parents and patients, the hospital has places for families to gather together, facilities for families who wish to cook their own meals, and patient rooms that have extra beds so that parents may stay with their children. There are separate playrooms, outdoor play structures and a schoolroom. There are large and numerous windows welcoming natural light. There is artwork of birds and frogs, sculptures, painting, and poems.

One particular poem, "Naknuwisha" which appears in the waiting room of the hospital and is a Sahaptin term among the Yakima, meaning "to care for something precious, particularly children who need our help" was written by Kim Stafford in 1996 and serves as a constant reminder to all who enter the hospital that this is a place for children, and a place where healing and hope begin:

Naknuwisha
young friend,
be part of something old—
be home here in the great world
where rain wants to give you drink
where forest wants to be your house
where frogs say your name and your name
where wee birds carry your wishes far
and the sun reaches for your hand—
be home here
be healed
be well
be with us all
young friend.

Mr. President, this beautiful new hospital is the foundation of a commitment made by the community, families, friends, physicians, and by businesses who have given the gift of time and resources to turn a dream into a reality. I am proud to recognize the Credit Unions of Oregon and Washington, and to congratulate them on their contribution to this facility and this day of celebration of the opening of the Credit Unions for Kids floor of the Doernbecher Children's Hosptial.

Congratulations, and thank you.●

NAN S. HUTCHINSON SENIOR HALL OF FAME HONOREES

● Mr. GRAHAM. Mr. President, I am delighted to recognize and congratulate a group of exemplary citizens upon their induction into the 1998 Dr. Nan S. Hutchinson Senior Hall of Fame. These men and women have each given a great gift to their communities—they have given of themselves.

Arnold Abbott, 73, works everyday to fulfill his self-appointed mission to feed and help the homeless on the streets of Broward County. He also organized a small, dedicated core of volunteers to assist him in finding clothes, counseling and living arrangements, and to reunite the homeless with their family members.

Ruth Forbes, 76, began her work of community service in 1993 with the Area Agency on Aging's Advisory Council. In her time there, she has held the positions of Legislative Chair, Vice Chair, and Chairperson. In addition to improving the lives of those in her own age group, she also aids disadvantaged children.

Arnold & Joann Lanner, 76 and 79, respectively, work with the "I Am Somebody" program at elementary schools. This program is aimed at increasing students' self esteem. In addition, they have raised over $120,000 for the Hepburn Center, an intergenerational, community-based organization that provides after-school care and organizes activities for the elderly.

Evelyn Jones Lewis, 70, began her volunteer work when she was appointed to serve on the Florida Advisory Council on Aging. Since then, she has been active in urging Congress to pass legislation that would improve the ever-changing nutritional and transportation needs of the elderly.

Claire F. Mitchel, 76, is truly an asset to the elderly community because she promotes acceptance and celebration of the aging process. She promotes these values in work with organizations like the Rape Crisis Center, Women in Distress and the Older Women's League.

Estella Mae Moriarty, 62, exemplifies the true meaning of altruism by embracing foster-care children of all ages who have been abandoned, abused or neglected. Realizing that children need a permanent home in the developing stages of their lives, she co-founded the SOS Children's Village, which provides care and comfort for children in distress.

Lily Ann Olfern, 68, is involved with a telephone service bank to build a public safety building. Thanks to her many hours on the phone, the new facility will be opening in Davie next year. She also bags toys for children on Christmas, feeds the homeless on Thanksgiving, and teaches senior citizens how to avoid various scam operations.

Reuben Sperber, 90, came to Florida to retire. However, he has worked just as hard during his twenty years in this community as while he was in the workforce. Over the years, Reuben has served in his temple, given of his time at the Margate General Hospital, and become one of the most respected members of the Alzheimer's Family Center's Board of Directors.

Jacob Statemann, 76, has dedicated his time to the Southeast Focal Point Senior Center in Hollywood for over 10 years. At the Center he has taught classes ranging from current events to foreign language, and he has never hesitated to organize holiday events or assist other classes that need help. He also leads a senior choral group at HUD housing.

Ira Subin, 83, spends much of his time and efforts helping the Area Agency on Aging's Advisory Council plan social events and fundraisers. His advocacy for the Seniors for Seniors Dollar Drive, along with matching funds that the program has received from the state, has substantially increased the quality of services that the Area Agency on Aging can provide.

Mr. President, all of these outstanding seniors have diligently and selflessly given of their time and energy to make Broward County a better place for all its residents. Florida is very fortunate to have these inspiring senior citizens who give so much to our communities. I congratulate them today and wish for them many more productive and healthy years.●

TRIBUTE TO DR. VINCE DAVIS: 27 YEARS AT THE PATTERSON SCHOOL OF DIPLOMACY AND INTERNATIONAL COMMERCE

● Mr. McCONNELL. Mr. President, I rise today to recognize the tremendous accomplishments of Dr. Vince Davis, who is retiring this spring after 27 years at the Patterson School of Diplomacy and International Commerce at the University of Kentucky in Lexington.

Since I was first elected to the United States Senate in 1984, Vince and I have had occasion to discuss important issues of the day in foreign affairs, as well as the underlying trends and currents that shape and guide world events looming just over the horizon. I have never failed to find his views both penetrating and insightful, and have always appreciated his counsel over the years.

But now, Vince has decided to pursue new interests after nearly three decades of toiling in the academic vineyard, and so it's appropriate that we bid him adieu with fondness and with gratitude.

Thinking back over the span of his career, I believe Vince Davis's mark on Kentucky and the world has been and always will be the enormous store of labor and love he poured into the Patterson School of Diplomacy and International Commerce. It's clear to me that Vince's tireless and inspired stewardship of the program has fashioned the Patterson School into the glimmering jewel of excellence for which it is now justly famous. Vince has given his all to the School, and two generations of bright young students have been immeasurably enriched by his exertions.

Mr. President, there is an old Irish proverb that says, "The work praises the man." In that spirit, each time I think of the Patterson School, I will remember Vince Davis, for the Patterson School is his work, and we all should praise that which he leaves as his legacy.

Mr. President, I also ask that an article from the Lexington Herald Leader of Sunday, April 19, 1998, be printed in the RECORD.

The article follows:

TEACHER PRAISED FOR YEARS AT UK DIPLOMACY SCHOOL

(By Holly E. Stepp)

For years, the University of Kentucky's Patterson School of Diplomacy and International Commerce has urged the state's residents—from the business community to average Joes—to think globally.

And one of the leaders behind that charge was retiring professor and former director Vincent Davis.

Last night, Davis, the Patterson Chair professor, was honored for his dedication to that mission during a black-tie dinner at Lexington's Wyndham Garden Hotel. More than 200 alumni and friends of the 39-year-old-school came out to celebrate Davis' commitment to the program.

His retirement becomes effective at the end of this semester.

"With Vince's retirement, not just the Patterson School, but the University of Kentucky, loses one of their academic giants of the past half century," said current director John D. Stempel.

Davis, 67, was the school's second director for 22 years after an active and reserve career in the U.S. Navy. He receives much of the credit for building the school's prestige as a world-class international relations program.

"Patterson School has a unique combination of superior foreign-affairs training and related community outreach," said David D. Newsom, former ambassador and adviser to the Patterson School. Newsom, who was undersecretary of state during the Carter administration, was the featured speaker.

Although the Patterson School was founded in 1959, it was the brainchild of UK's first president, James K. Patterson, who served from 1878 to 1910.

Patterson died in 1922 at the age of 89. In his will, he ordered that his estate's assets go to the university for the creation of such a school, with the proceeds invested for a prolonged period before UK could gain the money.

The school, Patterson also ordered, should be named in honor of William Andrew Patterson, his son.

Davis worked to build the program into one nationally known for the quality of its graduates. Although enrollment is limited to 25 to 30 students, the Patterson School is often compared to similar but larger programs at prestigious universities, such as Harvard and Princeton.

Current and past students of the school praised Davis as an interested mentor with a quick wit.

Davis, himself, didn't dwell on the accolades bestowed on him, including a $100,000 endowed trust to support Patterson students' internships.

"All I have done is to work to carry on the great tradition started by my predecessors," Davis said.

On his retirement, he said he got a hint from a former student a couple of months ago that it was time to retire.

"When your former graduate students start to retire, perhaps it's wise to consider joining them."●

ANTI-SLAMMING AMENDMENTS ACT

● Mr. LEAHY. Mr. President, yesterday, an amendment offered by Senator FEINSTEIN to the anti-"slamming" bill, S. 1618, was passed without debate. While this amendment was intended to enhance the privacy rights of patients, the consequence of this amendment would be far different. Specifically, this amendment would change current federal law and put patients at risk of criminal liability if they record their conversations with health providers and health insurers without first alerting and obtaining the consent of those providers and insurers.

This Feinstein amendment modifies the wiretap law, in title 18 of the United States Code, but was never considered by the Committee of the Judiciary, which has jurisdiction over this law. The risk of passing legislation quickly and bypassing the Committee with jurisdiction over the subject matter is amply revealed by the unintended consequence of this amendment.

If this amendment becomes law, the minority rule adopted by only a small number of States—sixteen—requiring the consent of all parties for the lawful interception of telephone calls, would be applied to all conversations that take place between patients and health insurers or providers. There are a number of legitimate reasons for patients to want to record their calls with a health provider or insurer: medical instructions can be complicated. Insurers' explanations of coverage or decisions regarding reimbursement may be complicated. Patients may have sound reasons for recording those conversations if they are unable to take notes or want to keep the oral instructions for future reference. For example, patients, especially Alzheimer sufferers, may want to record their calls as a memory aid, and be too embarrassed to say so.

A more carefully crafted amendment would have reduced the unwarranted risk of criminal liability to patients. If this provision were to become law, we would have to revisit this issue promptly.●

APPOINTMENT OF CONFEREES—H.R. 2676

The PRESIDING OFFICER. Under the previous order, the Chair appoints the following conferees to H.R. 2676.

The Presiding Officer (Mr. BROWNBACK) appointed Mr. ROTH, Mr. CHAFEE, Mr. GRASSLEY, Mr. HATCH, Mr. MURKOWSKI, Mr. NICKLES, Mr. GRAMM, Mr. MOYNIHAN, Mr. BAUCUS, Mr. GRAHAM, Mr. BREAUX, Mr. KERREY, and from the Committee on Governmental Affairs, Mr. THOMPSON, Mr. BROWNBACK, Mr. COCHRAN, Mr. DURBIN and Mr. CLELAND conferees on the part of the Senate.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105-44

Mrs. HUTCHISON. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on May 13, 1998, by the President of the United States: Treaty with Saint Vincent and the Grenadines on Mutual Legal Assistance in Criminal Matters (Treaty Document No. 105-44).

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of Saint Vincent and the Grenadines on Mutual Legal Assistance in Criminal Matters, and a related Protocol, signed at Kingstown on January 8, 1998. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including drug trafficking offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking of testimony or statements of persons; providing documents, records, and articles of evidence; serving documents; locating or identifying persons; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets; restitution; collection of fines; and any other form of assistance not prohibited by the laws of the Requested State.

I recommend that the Senate give early and favorable consideration to the Treaty and related Protocol, and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 13, 1998.*

AUTHORIZING USE OF CAPITOL GROUNDS FOR GREATER WASHINGTON SOAP BOX DERBY

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 255, which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

> A concurrent resolution (H. Con. Res. 255) authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

The Senate proceeded to consider the concurrent resolution.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 255) was agreed to.

AUTHORIZING TORCH RUN THROUGH CAPITOL GROUNDS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 262, which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

> A concurrent resolution (H. Con. Res. 262) authorizing the 1998 District of Columbia Special Olympics Law Enforcement Torch Run to be run through the Capitol Grounds.

The Senate proceeded to consider the concurrent resolution.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 262) was agreed to.

AUTHORIZING USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 263, which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 263) authorizing the use of the Capitol Grounds for the seventeenth annual National Peace Officers' Memorial Service.

The Senate proceeded to consider the concurrent resolution.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 263) was agreed to.

AUTHORIZING PRODUCTION OF RECORDS BY THE SELECT COMMITTEE ON INTELLIGENCE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 230, submitted earlier today by Senator LOTT and Senator DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 230) to authorize the production of records by the Select Committee on Intelligence.

The Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, the Select Committee on Intelligence has received a request from the Office of the Inspector General of the Department of Justice for copies of committee records relevant to the Inspector General's pending inquiry into the handling by the Department of Justice and the Federal Bureau of Investigation of certain foreign intelligence and counterintelligence information obtained in the course of the Department's ongoing campaign finance investigation.

This resolution would authorize the chairman and vice chairman of the Intelligence Committee, acting jointly, to provide committee records in response to this request, utilizing appropriate security procedures.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that a statement of explanation by the majority leader be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 230) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 230

Whereas, the Office of the Inspector General of the United States Department of Justice has requested that the Senate Select Committee on Intelligence provide it with copies of committee records relevant to the Office's pending inquiry into the handling and dissemination by the Department of Justice and the Federal Bureau of Investigation of certain foreign intelligence and counterintelligence information;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Senate Select Committee on Intelligence, acting jointly, are authorized to provide to the Office of Inspector General of the United States Department of Justice, under appropriate security procedures, copies of committee records relevant to the Office's pending inquiry into the handling and dissemination by the Department of Justice and the Federal Bureau of Investigation of certain foreign intelligence and counterintelligence information.

ORDERS FOR THURSDAY, MAY 14, 1998

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Thursday, May 14. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period for the transaction of morning business until 10:30 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator DEWINE, 15 minutes; Senator LAUTENBERG, 15 minutes; Senator ALLARD, 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. I further ask unanimous consent that following morning business, the Senate resume consideration of S. 2057, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mrs. HUTCHISON. Mr. President, for the information of all Senators, tomorrow morning at 9:30 a.m., the Senate will begin a period of morning business until 10:30 a.m. Following morning business, the Senate will resume consideration of the Department of Defense authorization bill. It is hoped that Senators will come to the floor to debate this important piece of legislation and offer amendments under short time agreements. Members should expect rollcall votes throughout Thursday's session in an attempt to make progress on the defense bill.

Also, the Senate has reached time agreements with respect to the Abraham immigration bill and the WIPO copyright treaty legislation, and those bills could be considered during Thursday's session.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 572 and 573. I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, for reference, those are the confirmations of U.S. District Judge Arthur Tarnow from Michigan and U.S. District Judge George Steeh from Michigan.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Arthur J. Tarnow, of Michigan, to be United States District Judge for the Eastern District of Michigan.

George Caram Steeh, III, of Michigan, to be United States District Judge for the Eastern District of Michigan.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

RECESS UNTIL 9:30 A.M. TOMORROW

Mrs. HUTCHISON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 7:37 p.m., recessed until Thursday, May 14, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 13, 1998:

EXECUTIVE OFFICE OF THE PRESIDENT

JACOB JOSEPH LEW, OF NEW YORK, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET, VICE FRANKLIN D. RAINES, RESIGNED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate May 13, 1998:

THE JUDICIARY

ARTHUR J. TARNOW, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.

GEORGE CARAM STEEH, III, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.

HOUSE OF REPRESENTATIVES—*Wednesday, May 13, 1998*

The House met at 9 a.m.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

We are aware, O gracious God, that we are called to use our abilities in ways that serve people in their need. On this day we express our appreciation to those who have shown a commitment for public service, who seek to fulfill the biblical injunction to do justice, love, mercy, and walk humbly with You. May the values of justice and mercy and humility continue to inspire and encourage people of goodwill to be good stewards of the resources of the Nation so that justice will flow down as waters and righteousness like an ever-flowing stream. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Kansas (Mr. MORAN) come forward and lead the House in the Pledge of Allegiance.

Mr. MORAN of Kansas led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, May 7, 1998, the House declares the House in recess subject to the call of the Chair, to receive the former Members of Congress.

Accordingly (at 9 o'clock and 5 minutes a.m.), the House stood in recess subject to the call of the Chair.

RECEPTION OF FORMER MEMBERS OF CONGRESS

The SPEAKER presided.

The SPEAKER. If the Chair might comment, on behalf of this chair and the Chamber, it is a high honor and distinct personal privilege to have the opportunity of welcoming so many former Members and colleagues as are present here for this occasion.

Those of us serving in this body today are engaged in a tiny piece of a great conversation about self-government that stretches back in time and place to Philadelphia, Pennsylvania, on the 5th day of September, 1774. Today's proceedings provide a unique opportunity to reflect upon that conversation and to recognize that we truly stand on the shoulders of giants.

Let me also mention, if I might, what a pleasure it is for me to be here as we pay tribute to the achievements of Senators Howard Baker and Nancy Kassebaum Baker and their service to this Nation. We all owe them a great deal of thanks, and I think it is quite appropriate that the Former Members Association has decided to honor them with the Distinguished Service Award here today.

Let me also recognize the Honorable Matt McHugh, Vice President of the Association, and ask him to come forward and take the Chair.

Mr. MCHUGH (presiding). Thank you very much, Mr. Speaker, for your welcome and your kind remarks. We very much appreciate your hosting us again.

The Chair directs the Clerk to call the roll of former Members of Congress.

The Clerk called the roll of the former Members of the Congress, and the following former Members answered to their names:

ROLLCALL OF FORMER MEMBERS OF CONGRESS ATTENDING 28TH ANNUAL SPRING MEETING, MAY 13, 1998

James Abdnor of South Dakota (R);
William V. (Bill) Alexander of Arkansas (D);
Howard H. Baker, Jr., of Tennessee (R);
Nancy Kassebaum Baker of Kansas (R);
Perkins Bass of New Hampshire (R);
J. Glenn Beall, Jr., of Maryland (R);
Berkeley Bedell of Iowa (D);
Daniel B. Brewster of Maryland (D);
Don G. Brotzman of Colorado (R);
Glen Browder of Alabama (D);
Clarence J. Brown of Ohio (R);
John Buchanan of Alabama (R);
Jack Buechner of Missouri (R);
Beverly B. Byron of Maryland (D);
Elford A. Cederberg of Michigan (R);
Rod Chandler of Washington (R);
James K. Coyne of Pennsylvania (R);
Neiman Craley, Jr., of Pennsylvania (D);
Robert W. Daniel, Jr., of Virginia (R);
John N. Erlenborn of Illinois (R);
Peter H.B. Frelinghuysen of New Jersey (R);
Louis Frey, Jr., of Florida (R);
Don Fuqua of Florida (D);
Robert N. Giaimo of Connecticut (D);
Sam M. Gibbons of Florida (D);
Robert P. Hanrahan of Illinois (R);
Dennis M. Hertel of Michigan (D);
Jack Hightower of Texas (D);
George J. Hochbrueckner of New York (D);
Lawrence J. Hogan of Maryland (R);
David S. King of Utah (D);
Herb Klein of New Jersey (D);
Ernest L. Konnyu of California (R);
Peter N. Kyros of Maine (D);
H. Martin Lancaster of North Carolina (D);
Lawrence P. (Larry) LaRocco of Idaho (D);
Norman Lent of New York (R);
Cathy Long of Louisiana (D);
Bill Lowery of California (R);
Manual Lujan of New Mexico (R);
Charles "Mac" Mathias of Maryland (R);
Wiley Mayne of Iowa (R);
Romano L. Mazzoli of Kentucky (D);
John Y. McCollister of Nebraska (R);
Matthew F. McHugh of New York (D);
Robert H. Michel of Illinois (R);
Abner Mikva of Illinois (D);
John S. Monagan of Connecticut (D);
Carlos John Moorhead of California (R);
Frank E. Moss of Utah (D);
John T. Myers of Indiana (R);
Lucien N. Nedzi of Michigan (D);
Dick Nichols of Kansas (R);
Stan Parris of Virginia (R);
Shirley N. Pettis of California (R);
Howard W. Pollock of Alaska (R);
Jim Quigley of Pennsylvania (D);
Thomas F. Railsback of Illinois (R);
John J. Rhodes of Arizona (R);
John J. Rhodes, III, of Arizona (R);
Toby Roth of Wisconsin (R);
J. Roy Rowland of Georgia (D);
Marty Russo of Illinois (D);
Ronald D. Sarasin of Connecticut (R);
Bill Sarpalius of Texas (D);
Jim Scheuer of New York (D);
Richard T. Schulze of Pennsylvania (R);
Richard S. Schweiker of Pennsylvania (R);
Jim Slattery of Kansas (D);
Lawrence Jack Smith of Florida (D);
Don Sundquist of Tennessee (R);
James W. Symington of Missouri (D);
Harold L. Volkmer of Missouri (D);
Mike Ward of Kentucky (D);
Charles W. Whalen, Jr., of Ohio (R);
Larry Winn, Jr., of Kansas (R);
Lyle Williams of Ohio (R);
Harris Wofford of Pennsylvania (D);
Lester Wolff of New York (D);
James C. Wright, Jr., of Texas (D);
Samuel H. Young of Illinois (R).

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

□ 0915

Mr. McHUGH (presiding). The Chair announces that 66 former Members of Congress have responded to their names.

The Chair now recognizes the gentleman from Maryland (Mr. HOYER) for remarks on behalf of the Democrats in the Congress.

Mr. HOYER. Speaker McHugh, for some of us, that sounds pretty good; I want you to know that. We are glad to have you back.

Speaker Wright, Speaker Michel, Mr. Speaker, I want you to know that, with all due respect, I said to the gentleman from Illinois (Mr. RAY LAHOOD), I said, Mr. LAHOOD, I will get you 207 votes if you will get 11, and we will make Bob Michel the Speaker. But he still has not come up with those 11 votes, Bob. I don't know what the problem is, but we are working on it.

I am very pleased to have the opportunity once again to be the designated hitter to welcome you back to the halls of Congress. One of my constituents from New Carrollton got an award this morning from the Small Business Administration, so I was down there. As I was driving back from the Grand Hyatt Hotel, I was thinking about welcoming this group back.

The thought occurred to me that it is so nice to have you back, the generation that had those raging deficits. We have balanced the budget, you know. It was your generation that gave us the unrestrained Cold War, and we are welcoming you back now that we have solved that problem.

But also I thought to myself, yours was the generation of unapologetic civility in the Congress of the United States. Those were the good old days, although I might observe, I am sure, that the civility is much greater in its recollection than it was in its experience, because I served with so many of you, and I know that there were acrimonious times even then.

We are very pleased to have you back, because you are part of the brotherhood and sisterhood of those who had the opportunity of serving the peoples' House.

I think all of us, and those who are in the Senate, I see three of my Senators are here, Senator Mathias, Senator Beall, and my patron, as all of you know, Senator Daniel Brewster, who employed me, and effectively made it possible for me to get through Georgetown Law School as a member of his staff. I will forever be thankful for his contribution to my success. We have two Republicans and a Democrat, great friends and great patriots all. We are pleased to have you back.

One of my predecessors is here, Congressman Larry Hogan, who had the experience of having his son run against me some 6 years ago; but we have remained friends, and I am pleased to see all of you back.

It is clear that this body and the body across the Capitol are perceived correctly by the world's population as being the repositories of how people get together in peaceful ways and resolve differences. So many of you have been heroes in that effort.

Senator Baker is mentioned most recently for his role in the crisis confronting a democracy that saw the Constitution of the United States work its will, and the people's will reflected in a peaceful transition of power. So I am pleased, because I know that so much of what we do from a good standpoint, we do and are enabled to do because of the contributions that so many of you made.

I had the privilege of coming to the House under Speaker Tip O'Neill, one of the beloved Speakers of this House. Then I had the great privilege of serving in what I perceived to be, and I know that that may not be a universal judgment, as the most productive Congress in which I served, the 100th Congress, under the leadership of Speaker Jim Wright. Speaker Wright, it is a privilege and pleasure to have served with you and to have you back, and recognize your great contribution to the history of this country and the history of this House.

I am so honored to be with all of you, and so honored to recognize your contributions to America's well-being, to its role not only in this country, for its own citizens, but around the world.

God bless you, good health, and I look forward to seeing you again, over and over. Thank you very much, and welcome.

Mr. McHUGH. We thank our friend, the gentleman from Maryland, for those very thoughtful remarks.

At this time, the Chair recognizes the gentleman from Florida, the Honorable Louis Frey, Jr., who is the president of our association.

Mr. FREY. Thank you, Mr. Speaker. I want to thank the Speaker for those kind remarks. They are deeply appreciated.

Mr. Speaker, I am pleased and honored to have the opportunity once again to be in the Congress to present our 28th annual report to the Congress. We want to thank the Speaker, the gentleman from Georgia (Mr. NEWT GINGRICH) and the minority leader, the gentleman from Missouri (Mr. RICHARD GEPHARDT) and all Members of Congress for the opportunity to allow us to return to this place we dearly love.

We want to thank the gentleman from Maryland (Mr. HOYER) for his warm and generous greeting to us.

GENERAL LEAVE

Mr. FREY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FREY. Mr. Speaker, there are no term limits on public service. The reason we are here today and why we have approximately 600 Members is, each of us believes that serving our country is a lifetime job.

When we were sworn in, we did not take an oath to a political party, we took it to our country. Our nonpartisan organization has a budget of approximately three-quarters of a million dollars and is chartered, but not funded by the United States Congress. Its purpose is to promote the improved public understanding of the role of Congress as a unique institution, as well as the crucial importance of representative democracy as a system of government, both domestically and internationally.

We are not naive. We know that it is a continuing struggle, especially in today's cynical world, to try and get people to understand and appreciate the political institutions that have kept us free for over 200 years. We live in an age where bad news seems to dominate the airwaves, where a television talk show that highlights people verbally and physically abusing each other is the top-rated show.

Yet, underneath the cynicism and sensationalism, most Americans understand intuitively what we have inherited from our Founding Fathers, and if given the chance, want to believe and participate in our system. It is easy to sit on the sidelines and just complain. It is a lot more difficult to be part of the process and work to make it better, but that is our commitment, to spend the rest of our lifetimes making it better.

The future of our country rests with our young people, yet 3 decades after massive student unrest, demonstrations on campuses, and the civil rights struggle, fueled by students, a record low number of college freshmen show much interest in politics.

The annual survey by UCLA for the Washington-based American Council on Education found just 27 percent of the Nation's 1.6 million freshmen believe that keeping up with political affairs is a very important life goal, less than half the percentage than in 1966. Fourteen percent said they frequently discuss politics, down from 30 percent in 1968.

The most important program of this association is our Congress to Campus program. We began teaching in colleges in 1976, and have reached more than 100,000 students across this country. However, we felt the program should be formalized and upgraded, with a goal of reaching 30 college communities a year.

We started in 1996 our Congress to Campus program, in conjunction with the Stennis Center for Public Service at Mississippi State University. This program sent teams of two Former

Members, one Democrat, one Republican, to college communities to teach in colleges and high schools, spend 2½ days there, have formal and informal meetings with the students, morning, noon, and night, talk to the faculty, the community civic clubs, and just be part of that community.

The association arranges the participation of Members who contribute their time. The Stennis Center coordinates the trip, and the colleges and universities pay lodging and meals for the visitors. We have an advisory team of Members of Congress, the gentleman from California (Mr. STEPHEN HORN), the gentleman from Florida (Mr. CLAY SHAW), the gentlewoman from New York (Ms. LOUISE MCINTOSH SLAUGHTER) and the gentleman from Tennessee (Mr. JOHN TANNER), that we work with.

I now would like to yield to the gentleman from North Carolina, the Honorable Martin Lancaster, Treasurer of the association, and then the gentleman from Washington, the Honorable Rod Chandler, to discuss their personal visits to college campuses.

Martin?

Mr. LANCASTER. Thank you, Mr. Speaker. It was a great pleasure for me to have an opportunity to go with the gentleman to the University of New Mexico as a part of the Congress to Campus program.

With the success of our dinner last year, we are pleased that we will be able to expand from approximately 10 schools a year to perhaps as many as 30 schools a year in the future. It is a great opportunity for those of us who are Former Members to get out across the country and to share with the future leaders of our country, the current college students, what the democratic process is all about, since, unfortunately, many of them get a skewed idea of what Congress is about through the media.

Since Members of Congress rarely can spend more than an hour or so on a campus, having an opportunity for two Former Members, a Democrat and a Republican, to spend 2½ days on a campus is truly an outstanding opportunity for those students to get a better understanding of Congress.

As Lou has indicated, a full schedule of meetings is usually a part of the agenda, with students teaching in classes, doing civic club speeches in the community, and meeting informally, one-on-one, with students in their various meeting places across campus.

I would encourage all of you who have not done this, and for some of you who have to make repeat visits. But it is, with the expansion of our program dollars, going to be a challenge to get 30 Democrats and 30 Republican Former Members to participate in this program, so I hope that you will make yourself available. It will be something rewarding and worthwhile, and you will come back with a much better feel for the future, seeing the quality of young people who are now enrolled in our colleges. Thank you.

Mr. CHANDLER. Mr. Speaker, it has been my honor and pleasure to participate in the Congress to Campus program on three separate occasions. I have visited California State University at Monterey Bay, the University of Georgia and Florida State University, and, as President Frey pointed out in his remarks, these were all on a bipartisan basis.

At all three campuses I found students who were eager to learn more about their government. In political science classes, we talked about careers in public service and the personal rewards to be gained from a life of service. I recall well at a Florida State University law class my colleague from Michigan, Bill Ford, a former committee chairman, providing a lengthy but nevertheless fascinating lecture on the development of legislative intent for later interpretation by the courts.

At the University of Georgia, my Democratic colleague and I engaged in a very spirited debate over the future of Social Security, a rather perfect lesson of how adversaries can argue with conviction and passion, and yet remain friends.

We Former Members, when we go to campuses, meet with community groups, faculty members, and student government leaders. At the University of Georgia, I spent several hours with activists from the Young Republican group. At Florida State University, the elected student leaders invited us to a luncheon where we discussed campus elections, the limitations of the administration, and of course, Seminole football.

□ 0930

The U.S. Association of Former Members of Congress is assisted with our Congress to Campus program by the Stennis Center for Public Service of Mississippi. Since 1996, the Stennis Center has provided funding and logistical assistance for the program. Congress to Campus started in 1976 and since then 107 former Members have made 250 visits to 176 campuses in 49 States and the District of Columbia and over 100,000 students have participated.

Mr. Speaker, I suspect most of us who have had the honor to serve in Congress received important inspiration or encouragement from some public servant who went before us. In my case, it was governor Tom McCall of Oregon. All of us, believing in the concept that there are no term limits on public service, volunteer our time to meet with interested young people and share our experience with them. Who knows when one of us will interest, perhaps inspire the next TRENT LOTT, TOM DASCHLE, NEWT GINGRICH OR DICK GEPHARDT? Perhaps one of those students will prove to be a Franklin Roosevelt or Ronald Reagan. At the very least, we can hope that young men and women will take a greater interest in the very institutions our forefathers fought and died for.

If we inspire students to be informed and to vote, we accomplish a great deal.

Mr. FREY. The Congress on Campus program is not government funded. In order to help institutionalize the program, we held our first annual Statesmanship Award Dinner at the Willard Hotel on February 10, 1998. The dinner was highlighted by an award to the Secretary of Agriculture, Dan Glickman. Cokie Roberts served as MC. The dinner also featured a public and silent auction of presidential and congressional memorabilia. I would like the co-chairmen of this incredibly successful dinner, who did such a wonderful job, the gentleman from Kansas, Mr. Jim Slattery and the gentleman from Missouri, Jack Buechner, to discuss this dinner and next year's event, which is already scheduled for February 23 at the Columbia Club and East Hall at Union Station.

Mr. SLATTERY. The first thing I want to do is express my gratitude to you for the tremendous leadership you have provided this organization over the last year. Let us join in giving Lou Frey a great round of applause. You are absolutely super, Lou.

As someone who worked in the capacity with my friend from Missouri, Jack Buechner, in trying to raise a little bit of money in the project, I know that it would not have been possible without Lou Frey on the phone daily calling people all over the country. Lou, you are just a great inspiration to all of us. You shamed us into action.

It is great to see you all today and to have an opportunity to greet so many friends of longstanding. I do not want to say old friends anymore as my hair greys with every passing day, but it is great to see so many of you. I want to thank you all. So many of you did actively get involved in supporting this first effort, which I think is a very important project, this whole concept of trying to take the Congress to the campuses of America and try to help educate young people all across this country about the importance of our basic institutions of self-government.

The other day, one of the most distinguished and respected Members of this body currently serving, the gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary, said, and let me quote what was in the Washington Post, he said, "People today don't understand how painful the development of self-government is. This is a great place," referring to the Congress, "and people demean it. They do not realize what it cost to create it."

It is this problem that I think the gentleman from Illinois (Mr. HYDE) was trying to identify that we are trying to correct with the Congress to Campus program. The land is full of cynicism and it is perhaps no deeper than on our college campuses. With the Congress to Campus program, we hope to be able to go out on a bipartisan basis, spend quality time with students and young leaders all across this country talking to them about self-government, talking to them about what really goes on in this, the people's House.

If we can do this successfully, hopefully as previous speakers have said, we will inspire a greater confidence in the basic institutions of our democracy. I happen to believe very strongly that the people's confidence in the institutions of our democracy is essential to the survival of this democracy. I think that is why we should be investing what time we have and the talent of all of you in trying to carry on this effort across this country. It was a pleasure to work with you, Jack, on this project, and I look forward to working with you next year on it.

Mr. BUECHNER. I thank the gentleman from Kansas. What I am trying to figure out is I have spent 16 years in elective office in my life, always in the minority. And when the Republicans get control of the House, I end up in the Democratic well. I guess I am just, it is forecasted that this is what is going to happen.

I do want to say that it is irrelevant which side of the well I am on, because what I want to talk about is the absolute success that we were able to enjoy with the dinner. We cannot talk about the nitty-gritty things about dollars and cents, but I will say that what we have been able to achieve takes what the Stennis Center has been able to give to us and leapfrogs us into a completely different dimension.

When we started on this effort, the old maxim was that if there is anybody cheaper than sitting Members of Congress, it is former Members of Congress. But throughout the efforts of so many people from all across the United States, and I want you to remember that Lou Frey was operating this out of Florida, and it was a real labor of love that he was contacting people that he had served with and getting them energized. And probably one of most amazing things that occurred was the accumulation of so many fine pieces of memorabilia that we were able to engage in the auction phase of it. I think a special word of thanks needs to go out to Jim Symington. Where are you, Jim? Jim donated a family piece that if you have read the materials it really did not adequately explain the impact of it, which was a letter from a constituent to his Member of Congress who was a unionist from Kentucky, asking that his grandson, excuse me, his nephew would be paroled from a union prison in Alton, Illinois because he was not really a reb, that his grandpa had forced him from Missouri to join the rebel army and that he would support the union, but he needed to be paroled out. And the Congressman had sent a letter to President Lincoln and President Lincoln had written on the bottom of the letter, Find the boy, have him take the pledge, parole him out, Abraham Lincoln.

That was an unbelievable gift from a great man and it set the tone for everybody to, if you didn't have Abraham Lincoln around, did you have Jim Wright, did you have Bob Michel, did you have Howard Baker. We are trying to get as many things for the next auction that are sitting in your closets that maybe you do not want to give to your grandkids because they do not really know much about politics, unfortunately, that is the way life is, but to have an opportunity to help this Congress to Campus program.

It was a great success. We are optimistic. We picked a bigger venue next time round. We want you to come back. We want you to share with your old colleagues a lot of old war stories but, more importantly, to help support this program because it is a great program. I want to tell you though that it does not always work the way you want it to. When Al Swift and I went down to Florida International, they thought we were recruits and they took us to every possible corner of the campus to show us the new boilers and the new classrooms. So you have to remind them you are there to instruct, not to be recruited. But I want to thank the gentleman from Kansas, he deserves an extraordinary amount of applause because he really did take the bull by the horns. And Missourians, we always follow our Kansas neighbors in basketball and some other things, but he did a great job. I would just like to thank you, Jim, and tell you it was a pleasure working with you.

Mr. SLATTERY. Thank you, Jack.

Mr. BUECHNER. And to exhort you all to be participants in the program next February.

Mr. FREY. Talking about the auction, Dick Schulze had the idea for it, the gentleman from Pennsylvania. It was his idea really about this and I would like to yield now to him. He cochaired the auction along with Chris LaRocco, President of the Auxiliary. Dick?

Mr. SCHULZE. I feel like we have reached the point of redundancy here. The Congress to Campus program is a marvelous program. Those of you who have participated know and understand that. You have heard enough about it. So how do we support it? How do we enlarge it and how do we make it more successful? We have got to raise money to do it. Although Jack said that former Members are almost tighter than sitting Members, we have found a way to reach our hands in their pockets; that is, most of us do have boxes of what we might term as junk in the basement or in the attic, various memorabilia from the time when we served in Congress, items, they do not have to be quite as wonderful as that which Jim Symington gave to us, but I wanted to give you an idea. And by the way, let me tell you that we were very successful. We raised $18,000 from the auction and so even those little things that you may not think are very valuable, it all adds up.

I wanted to give you an idea of those who did help so that you can help next year. From David King, whose father was William King, United States Senator from Utah from 1916 to 1940 had, on a trip to the Soviet Union, had been given a set of dinnerware that either by the Czar or that had been used by the Czar that we auctioned off, which was a marvelous one of a kind. We got things from Jay Rhodes, from Jake Pickle, we had Lyndon Johnson's hat, Jake got from Lady Bird, Dan Brewster, Jerry Ford, a variety of people, Bob Dole, TRENT LOTT, from the former Senator from Louisiana, Russell Long gave us an autographed copy of the autobiography of Huey Long, a lot of those things that you or I may not think are extremely valuable but are of value to other people. So I urge you in this next couple of months, take time to look at those boxes in the basement. See if you can get us some letters, some autographed photographs, anything like that, send it over to Former Members headquarters, to Linda and we will put it to good use next year.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. SCHULZE. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I want to thank my friend for his statement today for the work that he has done for the association and being such a pleasant traveling partner. The two of us went to the University of Maine in April and excellent, I urge all of my colleagues and I think the gentleman from Pennsylvania would agree, that that was a very wonderful couple of days we spent with our students, with the faculty, with the administration, talking about democracy, hopefully making a few of the converts that may actually become part of this body at some point. I just want to thank the gentleman for all he did and for being, again, such a pleasant person for those two days.

Mr. SCHULZE. It was my pleasure and your contributions during that trip were outstanding. I assume you have received a couple of letters from the people we talked to. I have. Those of you who have done a little teaching understand what it is like to turn, maybe change a student's life. Those of us who have not are kind of thrilled by that. Some of the letters I have received just make me want to do it again.

I would urge all of you, if you have the opportunity to get involved with the Congress to Campus program, send us your cards and letters, memorabilia, photographs, hats, ties, whatever you have, send it to us and we will auction it off.

Mr. FREY. One of the things we have decided to do is hold a meeting each year in November in California alternating between Northern and Southern California. Our first California meeting in Northern California was hosted by a former member, Congressman Peter Smith, who is the founding President of California State University at Monterey Bay.

We used this opportunity to teach in at colleges and high schools. We went to something like 12 or 13 high schools all over and spent three or four hours there plus, of course, at the university. This year we are going to go to Southern California, the Palm Springs area, beginning in November 15, Shirley Pettis has agreed to have us at the house; Railsback is going to teach us golf. The college of the desert is going to be our host school so it should be a fun time to plan ahead.

One of the things we have tried to do is give Members the ability to travel overseas. We have had 16 study tours in the past throughout the world. Bill Peterson from Florida is the ambassador to Vietnam. Jay Rhodes, who is very close to him in the Congress, has talked with him and we are going over there this October to Vietnam. I would like to yield to the gentleman from Arizona, Jay Rhodes, to talk about this.

□ 0945

Mr. JOHN J. RHODES III. Thanks, Lou. Briefly, on the Congress to Campus, I have been there as well. It is a marvelous experience. I went to Denison University with Austin Murphy. I do not know if we had any impact on the kids, but Austin and I had a wonderful time.

None of us served here in times of budget surplus. Now it seems there is a budget surplus and our current colleagues are hell-bent to try to find a way to spend that money. Why do we not encourage them to spend some of it on the former Members of Congress and the Congress to Campus program. I think that is a wonderful way to spend a budget surplus.

I got a phone call shortly after the board of directors of this organization said we would like to go to Vietnam, a phone call from Lou. And Lou said, I understand you are a Vietnam veteran; and I said, I am. And he said, I understand you went back to Vietnam a few years ago with Pete Peterson: and I said, I did. And he said, I understand you are particularly close with Pete; and I said, I am. And he said, good, you are in charge of this trip; put it together. By the time I could say, what do I look like, a travel agent, the phone was dead. And this is the kind of leadership we get out of Frey, very effective leadership.

There is no saying, no, to Lou, so the answer is, we are going to Vietnam. Peterson wants us to come. Peterson would like us to come in October, if we can put it together.

I have been able to find an organization that actually does trips to Vietnam. They have done 15 trips to Vietnam. They start with getting the visas and they end with taking the luggage off the carousel when you get back in the United States.

We are looking at a trip that would include about 7 days in-country in Vietnam; 2 or 3 days in Hanoi, a couple days in Hue and ending up in Saigon. The possibility for some side trips.

We are in a relatively early planning stage. We should be able to get you some details about cost and so forth within probably 2 to 3 weeks. We would still like to make it in October. The organization that will be helping us is indicating that may be a little bit of a short fuse, but they are willing to try to get us there in October.

We have had preliminary expressions of indication from our membership of about 45 to 50 individuals who would like to go, depending of course on time and cost, and it could grow from that number.

I think it is a very exciting prospect, and I am very encouraged that we have been able to actually locate an organization that can do what Frey told me to do all by myself. And so I think that we will be organizing a trip that will go to Vietnam, hopefully in October of this year, and if not, then early next year.

So I would be happy to yield back to the unchallengeable leader of this organization, unchallengeable only because he hangs up on you before you have a chance to say, Lou, I do not know how to do that.

We will see you in Vietnam in October.

Mr. FREY. Jay, thanks for all that hard work.

I would like to yield now to the former president of the association, the gentleman from Missouri, the Honorable Jim Symington, to talk about the trip to Cuba, which Jim really put together, and the upcoming trip possibly to Cuba.

Before I do, there are two things I would like to say. Number one, just for the press, who is not always accurate, we pay for these; this is not government funded. We pay our own way over and pay our own way back and pay for everything on it.

And secondly, and Jim Slattery mentioned it before, but I think we should all give Jim a round of applause for what he did. He set the tone for this thing and that was an amazing gift that you gave. So, Jim, thank you so much.

Mr. SYMINGTON. Thank you, Lou, Mr. President, colleagues. President Lou, you led the breakthrough visit to Cuba a year ago December by a bipartisan delegation of former members and one sitting Member of Congress. The delegation which you and I cochaired consisted additionally of Toby Roth, Mike Barnes, Dennis DeConcini and the gentleman from Nebraska (Mr. JON CHRISTENSEN). Plus, of course, FMC's consultant, Walt Raymond, who did a lot to put it together.

We were both briefed and debriefed by the gentleman from New York (Mr. GILMAN), the gentleman from Indiana (Mr. HAMILTON), and other key members of the Committee on International Relations in the House and the Committee on Foreign Relations in the Senate. We also met senior officials in the State Department, the National Security Council, Stu Eizenstat, who was in Commerce at the time, but also our government's special emissary to Cuba.

In addition, we made a very concentrated effort to reach out and get the views and input of experts on Cuba, from think tanks, other private groups, including, of course, representatives of the Cuban-American community.

Our report's policy recommendations were entered in the CONGRESSIONAL RECORD February 26, 1997, pages E. 315 to 316. While acknowledging the unrepentant nature and indeterminate duration of Cuba's rigid political system under Fidel Castro, the unanimously signed report called for increased engagement, as preferable to the current policy of isolation, as a way to prepare for a peaceful transition toward democratic governance and free market principles.

Among the report's recommendations, which have resonated positively in the United States, are its emphasis on humanitarian aid and direct flights to relieve suffering and permit greater contact between ordinary citizens of our two countries. The recent visit to Cuba by Pope John Paul not only echoed these themes, but appears to have dramatically altered the religious, if not the political, landscape of the island.

We continue to monitor the situation, as you mentioned, Mr. President. If we determine that another trip could serve a useful purpose, we would certainly give it serious consideration. It would seem that this year, 1998, marking as it does the centennial of the Spanish-American War, calls us now to the colors of a new peace, beginning with the brush strokes of personal contact, family visits and grass-roots diplomacy.

Thank you.

Mr. FREY. Another one of our activities is that we are the secretary to the congressional study group in Germany composed of 130 sitting Members of the

House. It is a bipartisan group and, obviously, it works on trying to understand better what is going on in Germany and the Germans understanding of what is going on here.

It is funded primarily by a grant from the German Marshall Fund of the United States to the association. We had a meeting of the study group in April in the district of the gentleman from Virginia (Mr. OWEN PICKETT). I would like the gentleman from Virginia, the Honorable Dennis Hertel, who attended the meeting, to discuss this event and explain the study group to us a little bit. Dennis.

Mr. HERTEL. Thanks, Mr. President. It is still Michigan. I still pay taxes there.

Mr. FREY. What did I say?

Mr. HERTEL. Virginia.

Mr. FREY. I apologize. I know better.

Mr. HERTEL. I will be brief. The 15th Annual Congress-Bundestag Seminar took place in Virginia Beach on April 6th through 9th, 1998. The main topics of discussion included current domestic, economic and political issues, bilateral trade relations, the Euro, NATO enlargement, and policies toward the Middle East.

The Members' discussion of issues arising out of the Middle East was particularly noteworthy. In discussing Turkey, its political situation, its role in NATO, and its relationship to the European Union, it was clear that Members on both sides would benefit from more attention to this important country.

Likewise, the issue of how to deal with Iran in a constructive and effective manner was discussed at some length, a discussion which benefited from the observations of a Bundestag member who recently visited Iran. Related to that discussion was one of U.S. sanctions legislation directed towards Iran, the effectiveness of it, and the fairness of its implementation.

What makes these discussions so useful is the friendship and underlying values that we share, which enable the Members to speak very openly and frankly about matters of common interest and concern. The discussion served to inform and clarify facts and positions on issues.

Disagreements are aired both within and between the delegation, sometimes passionately but always constructively. In fact, as are all of our programs, we have a bipartisan delegation, sometimes our arguments are more heated than they are with the foreign nations that we deal with.

We plan to follow up on these topics during the course of the year and we look forward to meeting our German colleagues at the 16th annual seminar to be held next year in Germany. This is the longest-standing program of our association, and it continues to be successful.

Mr. FREY. I thank the gentleman from Michigan for that.

We also have a program with the Japanese, where we do the same kind of thing, where we act as a secretariat. We had a trilateral meeting between members of the Bundestag, the Diet, and the U.S. Congress in West Virginia a few weeks ago, and it was in the district of the gentleman from West Virginia (Mr. BOB WISE).

I would like the vice president of the association, the gentleman from New York, the Honorable Matthew F. McHugh, to report on this event.

Mr. MCHUGH. Thank you very much, Lou. I would like to begin by seconding what Jim Slattery and others have said about Lou's extraordinary leadership over the last 2 years. As an officer who has served with him, I can attest that he has done an enormous job of bringing energy and broadening the programs of our association, which you have heard a great deal about already and will hear more. That is a reflection in large measure of Lou's leadership.

One of the programs that we have been developing over the past year would periodically bring together legislators from the Congress, the German Bundestag and the Japanese Diet. Given the importance of these three countries, which account for almost half the world's GNP, we think that more dialogue involving the three groups of parliamentarians together would be constructive.

We initially explored this idea with members of our congressional study groups on Germany and Japan; and as you know, these two study groups have been conducting bilateral meetings for some time, and those meetings will continue in any case. They expressed an interest in these proposed trilateral sessions and so, after an initial planning session, we convened our first group meeting of the three parliamentarian groups earlier this month in West Virginia.

It was hosted by the gentleman from West Virginia (Mr. BOB WISE) in whose district the meeting was held. Representatives from all three parliaments actively participated, as did representatives of our State Department and the German and Japanese embassies. Members of our association also participated, in most cases chairing the panels which took place during the program.

The subjects that we covered in these sessions reflected some of the common interests and challenges that all three of our countries face. One session, for example, covered international economic issues, including trade relations and the current crisis in East Asia.

A second session focused on the security issues common to us all, such as the different security arrangements that have been developed in Europe and Asia. The expansion of NATO and the emergence of China as a power in Asia were among the topics we discussed.

A third session dealt with environmental concerns, with significant time being spent on the Kyoto Conference and what action should or should not be taken to address the global warming question.

Another session considered some of the contrasting political dynamics in each country, such as the role of party discipline in the legislative process and the way in which political campaigns are financed in each of our countries.

A final session considered whether these tripartite meetings should be continued and, if so, how they might best be structured in the future. I think there was general agreement that the meetings are useful, but to be successful over time we have to identify a core group of parliamentarians who will assume continuing responsibility for the conferences, and that is a critical matter which will be pursued in each of the capitals over the next few months.

The tentative conclusion was that we would hold another conference next year, probably in Germany or Japan. In the meantime, the association will continue to work with the existing study groups on Germany and Japan, and subject to funding, will pursue our supportive role in putting together that second conference in 1999.

Thank you, Mr. President.

Mr. FREY. We have a program in the Ukraine where we train interns, which is a really very interesting program to work with their Rada, and we have had 565 interns so far that we have worked with and we have trained. I would like to yield to the gentleman from Michigan, the Honorable Lucien Nedzi, to talk about that.

Lucien, you have been over there and you speak the language, which helps also.

□ 1000

Mr. NEDZI. Mr. Speaker, what a thrill it is to see all of you. And it is also a great pleasure to add to the successes that have been reported on already this morning.

Ukraine is the fourth largest recipient of American assistance in the world; and it is in the strategic interest of this country to help the Ukraine, to help it achieve its potential as a secure, democratic, prosperous and self-confident state. And we all know from history and experience that a freely elected parliament is fundamental to a democracy.

We also know from experience that for a parliamentarian to be effective, adequate staff is absolutely essential. With this awareness, and after discussions between the Ukrainian parliamentary leadership and the association, a program has evolved, which is now in its fourth year, to develop and sustain a staff system in the parliament. This program is a highlight of association activities about which I would like to report.

During the past 3 years, we have supported a staff intern program in an overall total of 135 young Ukrainians. Primarily economists, lawyers, and social scientists have been competitively selected and served as staff to the Rada for 1 year. This year, as the president mentioned, we are supporting 55 staff interns.

Our program has been funded from public and private sources, including the Charles Stewart Mott Foundation and the Eurasia Foundation, and we are negotiating with the U.S. Agency for International Development for additional support.

Interns in this program are given much more responsibility than most interns in the United States Congress. We will not talk about White House interns. Strike that. They serve as mainline staff, and their responsibilities include drafting legislation, analyzing and researching legal issues, writing briefing papers, and actively participating in committee debates. By thus strengthening the staff and providing a critical amount of research and analysis, the FMC program has responded to two vital needs for an effective parliament.

An important observation: To date, this program has been developed in direct negotiation with the parliamentary leadership, thereby enabling the young staffers to steer clear of the old-line, largely unreformed parliamentary secretariat, which maintains control over staff assignments and research activities.

Most intern staff assignments are negotiated directly with the committees, and therefore, committees which seek to develop reform legislation, particularly in the economic area, are able to secure critical staff assistance which would not otherwise be available.

Evidence of the success of this program is its increasing popularity. Our dedicated field representative, Cliff Downen, has done an outstanding job of keeping the program on track, balanced, and free of customary political heavy-handedness. And here we have to give some credit to Walt Raymond also, who oversees these operations from this side of the Atlantic. But Cliff Downen annually visits a large number of universities throughout Ukraine and briefs graduate students on the program.

As testimony to its popularity, over 700 Ukrainians, ages 21 to 29, and these are all well-educated individuals, applied for 55 internships in the 1997–98 term. Moreover, during the 10-month internship, a training seminar is maintained to further broaden the interns' experience. This is designed not only to better equip them for their parliamentary responsibilities, but also to help develop a strong cadre of future Ukrainian political leaders.

The political challenges in the Ukraine increase as it prepares for the 1999 presidential election and digests the results of the March 1998 parliamentary election. I am pleased to report that there is no evidence that the recent election will adversely impact the association's intern program.

There are major economic and political problems as this country, with old traditions and a new system, takes its place as a nation-state in post-Cold War Europe. We are convinced, and this view is shared incidentally by the U.S. ambassador to the Ukraine, that an intern program such as ours is the most cost-effective investment we can make for a successful Ukrainian future.

We have observed with considerable pride how many key positions many of the interns have been offered after completion of their internships. Some remained as permanent staff in the parliament. Others have been offered important positions in the government, the academic world, or private business. Several have or will run for public office. And two have already been elected to city councils.

We had the pleasure of having a luncheon only yesterday, attended by a very prominent reformed politician from Ukraine. The chairman of our Committee on Foreign Affairs, BEN GILMAN, also took the time to be present. And this politician said that this program is not training clerks but future competent politicians.

As a concluding comment, if any of our former Members of Congress are in Ukraine at any time, I can assure them that they will be more than welcome to participate in discussions with our interns.

Mr. FREY. I thank the gentleman. I appreciate it.

Our last speaker, I would like to yield to the gentleman from Wisconsin, Toby Roth, who was involved in the Marshall Center, which is over in Germany. And, Toby, will you tell us a little bit about that program briefly so we can move on to the main event.

Mr. ROTH. Thank you, Mr. President. I get the gist, make it short.

Mr. Speaker, it is wonderful to see all of you here today. Golly, you bring back so many memories when I look into your faces, and so many great anecdotes. I just want you to know how much I appreciate a day like today. Let me say thank you to the Former Members Association for the Congressional Study Group on Germany and programs that you make possible.

I served for 18 years on the Committee on International Relations, and I benefited a great deal from our Former Members and what they gave me that allowed me to do a better job. And I know that what you are doing, helping the present Members, is so extremely important. I know how important these programs are because I benefited from them, as I know you have too.

Let me just say that Lou Frey has had many accolades here today, and he deserves them because he has been a great president. But I also want to say, we have had a great executive director, Linda Reed, and I want to recognize her.

This week we have Dr. Ludolf von Wartenberg here, the executive director, and a delegation from BDI, the German Federation of Industries. And when we see what is happening, for example, at Daimler-Benz and Chrysler, we know how important these relationships are between Germany and the United States. They are going to become more and more important as we move more and more into that global economy.

So I wanted to thank you, the Former Members, for what you are doing for the present Members and for your country. Thank you very much.

Mr. FREY. As you can see, we have taken on a lot of tasks and have a great deal of involvement, e-mail, we are getting a chat room, and we are trying to catch up with the modern times.

I would like to recognize the Honorable Robert Whan, representing the Association of Former Members of the Parliament of Australia, accompanied by his wife Jill. They came all the way from Australia to be with us. Could you please stand up and be recognized?

And the Honorable Barry Turner, who is president of the Canadian Association of Former Parliamentarians. Barry has been with us three or four times. Barry, please.

Obviously, there are thanks to the officers and the counselors. I will not take the time to name everybody individually. But it was a great team effort. The auxiliary headed by Chris LaRocco has done a great job. We are pleased with the Caring Institute, who is our landlord; thanks to Frank Moss and Val Halamandaris, the president of it, who have been wonderful to work with. Senator, thank you very much for your help over there. And of course, we mentioned Linda Reed and Walt Raymond.

Now it is my sad duty to inform the House of those persons who have served in the Congress and passed away since our report last year; and, unfortunately, the list is somewhat long. I will read it.

Bella Abzug of New York; Sonny Bono of California; Walter Capps of California; Peter J. DeMuth of Pennsylvania; Samuel L. Devine of Ohio; Foster Furcolo of Massachusetts; Harold E. Hughes of Iowa; Robert E. Jones of Alabama; Edna Flannery Kelly of New York; Robert Leggett of California; D.R. (Billy) Mathews of my State, Florida; Robert C. McEwen of New York; Dale Milford of Texas; Newt V. Mills of Louisiana; John Moss of California; Joel Pritchard of Washington; Jennings Randolph of West Virginia; Terry Sanford of North Carolina; Steve Schiff of New Mexico; Garner Shriver of Kansas; Frank E. Smith of

Mississippi; William B. Spong of Virginia; Winifred C. Stanley of New York; and John H. Ware, III, of Pennsylvania.

Mr. Speaker, I respectfully ask that all of us rise in a moment of silence in their memory.

May they rest in peace. Amen.

Now to the highlight of this meeting. Each year the Association presents a Distinguished Service Award to an outstanding public servant, and it rotates between parties, as do our offices. Last year Bill Richardson was here to receive the award. This year the recipients are both Republicans, they are both Senators, and they are married. How is that? Thirty questions.

The recipients of the award are Senator Nancy Kassebaum Baker of Kansas and the former Republican leader of the Senate, Howard Baker of Tennessee. The plaque reads "Presented by the U.S. Association of Former Members of Congress jointly to the Honorable Howard H. Baker, Jr., and the Honorable Nancy Kassebaum Baker, each of whom extended the family tradition of public service in the highest degree in many areas, including a total of four decades of exemplary leadership in the United States Senate where their country and colleagues benefited immeasurably from their intuition, their judgment, their humanity and their tireless dedication to the welfare of the Republic, Washington, D.C., May 13, 1998."

Just very briefly, because everybody here and everybody listening knows their backgrounds. But what is really interesting, among other things, is both obviously came from a political family. Nancy Kassebaum's father was the former governor of Kansas and ran in 1936 for the Republican nomination. Senator Baker's mother and father both served in the House of Representatives. And his father-in-law, Senator Dirksen, was the majority leader in the United States Senate for some time. And of course, in the Senate, Senator Kassebaum Baker chaired the Committee on Labor and Human Resources, the Subcommittee on Africa of the Committee on Foreign Relations, and the Committee on Commerce, Science, and Transportation Subcommittee on aviation, serving today on many nonprofit boards. And of course, Senator Baker was the first Republican ever popularly elected in Tennessee, won elections, served both as the minority leader and the leader in the Senate.

Everybody remembers Senator Baker as the vice chairman of the Watergate Committee, the keynote speaker at the Republican National Convention, candidate for President in 1980, received all sorts of awards and medals, which I will not go into because I think we would rather hear from both of you than read any more of it.

I would like you both to come up so I may present this plaque to you.

□ 1015

We also have a scrapbook of letters from many of your colleagues which we will add to along the line. Now we would be very privileged if we could hear some remarks from both of you.

Mr. BAKER. Mr. Speaker, and Lou Frey, ladies and gentlemen, as you can observe, Nancy always has the last word, and that is as it should be.

When I answered my name on the roll call this morning, that was the first word I had ever spoken on the floor of this chamber, notwithstanding, as you say, that I am a congressional brat and that I have been in and around this chamber since I was a very young man, a condition from which I have now fully recovered.

But as I approached the south side of the Capitol, I was reminded of the times when my father brought me here and how awestruck I was by the majesty of this place, of this institution, and the inspiration I took from not only his service but that of you and many others like you who preceded us, and then my chance to serve in the Senate of the United States and to say there were many days when I envied you the rules of this body, especially on the opportunity of leadership to challenge and limit the direction of debate and deliberation. It will always be the high point of my public career that I have had an opportunity to serve in the Congress.

I will not speak further except to say that I believe, as I think you believe, that our constitutional form of presidential government, of congressional government, and judicial oversight is unique in the world. It is very much a continuing process. As you have contributed to its unfolding development, so will our successors. I am greatly honored to be included in this award. I yield the floor to my senior partner.

Ms. KASSEBAUM-BAKER. Thank you. There is an old Russian political adage that says a rooster today, a feather duster tomorrow. There are a few of us here that I could say a hen today. But all of us as feather dusters who are gathered here were gathered, and I think the reason becomes such a unifying experience and pleasure, is because of the friendships formed when one serves in either the United States Senate or the United States House of Representatives. It cuts across party lines.

We may have debated, as it has been said before, against each other against the issues or for the issues, but always remaining friends. It is a tie that does bind.

Secondly, the tie that binds, I believe, is a respect for the institution in which we have served. It is a respect that we should continue to honor. I am so impressed with all that former colleagues are doing to continue that involvement.

So with Howard having said that we always wanted to be able to speak on the House floor, thank you for this opportunity and thank you for this honor.

Mr. FREY. Mr. Speaker, as I said when I began, it is our belief that there are no term limits in public service. Every time I have the privilege to step back on the floor, it is like getting recharged. I love this body. I am proud of my service in the Congress, as each and every one of us are.

We have served our country and we are continuing to serve our country. This is the greatest legislative body in the world. The country is lucky to have a Congress that has carried on for so many years great traditions and will continue to carry it on.

Mr. Speaker, this concludes our 28th annual report by the United States Association of Former Members of Congress.

Mr. Speaker, I yield back my time.

Mr. MCHUGH (presiding). Thank you. The Chair thanks the President and again wishes to thank all of the feather dusters, I mean former Members of Congress for their presence here today.

Before terminating these proceedings, the Chair would like to invite those former Members who did not respond when the roll was called to give their names to the reading clerks for inclusion on the roll.

Again, thank you all very much for being with us. It is great to see you, each and every one. And we wish you the very best of luck.

The House will stand in recess until 10:35 a.m.

Accordingly (at 10 o'clock and 20 minutes a.m.), the House continued in recess.

□ 1036

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CAMP) at 10 o'clock and 36 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1273. An act to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1150) "An Act to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes."

The message also announced that the Senate passed a bill and a concurrent resolution of the following titles, in which concurrence of the House is requested:

S. 1618. An act to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes.

S. Con. Res. 75. Concurrent resolution honoring the sesquicentennial of Wisconsin statehood.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. DREIER. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 429) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 429

Resolved, That the following Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Education and the Workforce: Mr. PARKER.

Committee on Government Reform and Oversight: Mr. LEWIS of Kentucky.

Committee on International Relations: Mr. BURR of North Carolina.

Committee on the Judiciary: Mrs. BONO.

Committee on National Security: Mrs. BONO.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. There will be 15 one-minute speeches on each side.

PRINTING OF PROCEEDINGS HELD DURING RECESS

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that the proceedings held during the recess be printed in the RECORD and that all Members and former Members who spoke during the recess have the privilege of revising and extending their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

TRUE INTERNATIONAL JUSTICE SHOULD BEGIN AT HOME

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I would note for the record that less than one-half hour ago, among the former Members of this Congress stood the former Senator from Tennessee, Howard Baker, who was recognized for his distinguished service. I would ask all of us who serve in this chamber to remember the example of Howard Baker and put principle ahead of partisanship when we deal with awesome questions of constitutional authority.

Indeed, Mr. Speaker, I noted with great interest yesterday that the President held a ceremony dealing with international justice and the pursuit of international justice as our Nation's leading law enforcement officer.

Mr. Speaker, I would suggest that the President could allow his actions to speak louder than words if he and members of his party would seek the testimony of those over 90 individuals who have either taken the Fifth Amendment or fled the country, because, Mr. Speaker, if we want true international justice, it should begin there.

TIME TO TAKE A STAND ON HUMAN RIGHTS

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, I rise in support of the bill of the gentleman from Virginia (Mr. WOLF), the Freedom from Religious Persecution bill, which this House will consider this week.

While in southern Ohio this past weekend, I had the unique opportunity of meeting and speaking with China's newly appointed ambassador to our country, Mr. Li Zhaoxing. I must admit that my concerns about religious persecution, both inside China's borders and around the world, have been significantly reinforced by my discussions with Ambassador Li.

I believe it is imperative that Congress convey unambiguously its resolve and to take action to defend the inalienable rights of self-expression and the pursuit of intellectual and religious freedom, which are fundamental human rights. They demand our attention and are in need of safeguarding.

If we choose not to act, China and many other nations around the world will continue with strong-arm tactics and repressive actions in an attempt to stifle free thinking. We owe it to the thousands of prisoners of conscience to take a stand on this issue.

If we do not, who will?

QUESTIONS IN NEED OF ANSWERS

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, I have some questions for the other side, some questions that I believe need to be asked, given that so many witnesses, 92 at last count, have either fled the country or taken the Fifth Amendment in order to avoid testifying to Congressional committees.

Does the other side really believe that the President is above the law?

Does the other side really believe that the White House should not have to tell the truth about how it ended up with 900 FBI files of Republicans?

Does the other side really believe that it does not matter whether or not the President lied under oath or encouraged others to lie under oath about a personal matter?

Does the other side really believe that how women are treated in the workplace is not relevant, if the economy is doing great and the Dow is over 9,000 points?

Does the other side really, truly, actually believe that how women are treated in the workplace matters only when it comes to Republicans?

I wonder.

A QUESTION OF NATIONAL SECURITY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the White House slapped sanctions on India because India was conducting nuclear tests. Unbelievable. It is like Mike Tyson beating up Woody Allen for failing to fight.

India is not the problem, White House; China is the problem. And the White House policy with China is now not only stupid, Congress, it is dangerous.

China, with our tax dollars, is destabilizing and threatening the entire world, and we are putting sanctions on India for protecting themselves.

Beam me up. The truth of the matter is, this White House does not have the balsam to confront the real problem, which is China, so they kick India around.

I say it is time, Congress, to develop a sound strategy and show some anatomy. We should rescind MFN for China. It is not just about trade, Congress, it is about national security.

TAX FREEDOM DAY IN NEVADA

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, this morning, when Nevadans head off to work, they are going to have a little extra spring in their step and little lighter burden on their shoulders, because this fine morning, not only is the sun starting to peak through the clouds, but working men and women in

Nevada are finally going to work for themselves, their families, their futures, and not the government.

That is right, Mr. Speaker, today, May 13th, is Tax Freedom Day in Nevada. During 1998, so far Nevadans have worked 91 days, almost 3 months, to pay their Federal taxes, and an additional 41 days to pay their State and local taxes.

The fact that these hard working men and women in this country have to spend nearly one-half of the year working to pay the government ought to concern, if not outrage, all of us in this room. Surely, not even the most liberal of my colleagues on the other aisle can defend this tax level.

I call on my colleagues to join me in instituting common sense tax relief in this country. Let us begin by eliminating the marriage tax and the death tax as well. Let us start moving the process back, not forward.

HEAR NO EVIL, SEE NO EVIL

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, in a way, the stonewalling done by the hear no evil, see no evil Members on the Committee on House Oversight is a good thing, but only in a political sense.

Hear no evil, see no evil Members refused to grant immunity to four key witnesses in the campaign finance investigations, even though the Justice Department does not oppose the granting of immunity to these four witnesses so that their testimony may be heard.

The behavior of the hear no evil, see no evil Members is an insult to millions of proud Democrats who do believe in the rule of law, who do believe that politicians should be held accountable for their behavior, and who do believe that truth matters more than polls, more than spin, more than political gain.

The truth will eventually come out, the truth about which Members sought the truth, and which Members did everything in their power to prevent the truth from ever seeing the light of day.

□ 1045

GREAT STONEWALL OF CONGRESS BY DEMOCRATS

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, as a young boy, I learned that the great wall of China was in China. But today, we learn that the Democrats in Congress have extended this great inpenetrable stone wall of China right through the White House and down the center aisle of Congress.

Let me rephrase that. These stonewallers of justice have been busy erecting a new world wonder: A total, air-tight, round-the-clock stonewall by refusing to grant immunity to 4 key witnesses so that they might testify about illegal campaign contributions to the Democrat party from Communist China. Those witnesses are Kent La, Irene Wu, Larry Wong and Nancy Lee, witnesses that President Clinton's own Justice Department does not oppose granting immunity to.

Let me repeat that again, Mr. Speaker. The same Democrats who deny they are stonewalling refuse to grant immunity to 4 key witnesses, even though the Justice Department does not oppose granting immunity to these 4 witnesses.

The same Democrats who defend convicted felon Susan McDougal's refusal to tell the truth are the same Democrats who are blocking these 4 key witnesses from coming forward to tell the truth. Mr. Speaker, the great wall of China has nothing over congressional Democrats, for their great stonewall of Congress is an even bigger spectacle.

CELEBRATING THE U.S. CONSTITUTION ON THE ONE DOLLAR BILL

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, last week I introduced legislation to put an abbreviated version of the Constitution on the reverse side of the $1 bill.

The aim of this legislation is to celebrate the Constitution as a living American symbol and integrate it into our lives on a daily basis. Studies have consistently shown that Americans do not know all the rights and freedoms guaranteed to them by the Constitution.

Placing an abbreviated version of the Constitution on the $1 bill will serve as a daily reminder and teaching tool of the principles upon which the United States was founded. It will spread the philosophy of representative democracy and freedom around the world. It will allow Americans to take pride in this living document, the values for which it stands, and in their Nation.

It has been my pleasure to work with the students at Liberty Middle School in Hanover County, Virginia and their teacher, Randy Wright, on this bill. I commend them for their active participation in our government and am proud to sponsor this legislation on their behalf.

DESPITE EXCESSIVE SURPLUS, POSTAL SERVICE TO IMPOSE STAMP TAX

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I rise today to recall a tax imposed on our colonial forefathers by the British monarchy in the days before the birth of our Nation. Like the British monarchy, the United States Postal Service has imposed a Stamp Tax upon the American people. Despite recording a net operating surplus of more than $4.5 billion over the past 3 years and a surplus of over $1.3 billion already in 1998, the Postal Rate Commission has approved a 1 cent increase in the price of a stamp.

Mr. Speaker, I do not understand how the Postal Service can justify this tax increase on the working families of America, as the agency itself runs a record billion-dollar profit.

Our colonial forefathers would be ashamed of the Postal Service that is now imposing this unnecessary tax on its people.

FEDERAL GOVERNMENT LACKING IN ECONOMIC KNOW-HOW

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, a few days ago at a hearing of the Committee on Resources, the Inspector General of the Interior Department reported some shocking findings. He said that the National Park Service had built 19 employee houses at the Yosemite National Park at an average cost of $584,000. One of the homes cost $700,000.

Now, I know the Federal bureaucracy can rationalize or justify almost anything, and I know that because the national parks are so popular, the Park Service feels it is above criticism and can do just about anything it wants. However, Federal employees already have pay and pensions and hours that are far better than just about everyone except for movie stars and athletes. To build Park Service employees $584,000 homes on top of what they are already getting is ridiculous.

The really sad part, though, is that very few are shocked about this. We have just come to expect things like this from an agency that last year spent almost $400,000 on a fancy two-hole outhouse. Once again, Mr. Speaker, the Federal Government has proved that it cannot do anything in an economical manner.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

NORWEGIANS IN VIOLATION OF MORATORIUM ON COMMERCIAL WHALING

(Mr. METCALF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. METCALF. Mr. Speaker, this year Norway plans to increase the hunting of whales by 30 percent. Yes, my colleagues heard me correctly. The Norwegians plan to kill 671 whales this year. This action will violate the moratorium imposed on commercial whaling in 1982 by the IWC, the International Whaling Commission.

At the 1997 meeting of the IWC, the U.S. administration supported a step backward toward the killing of whales.

Mr. Speaker, I have recently introduced House Resolution 425 to express opposition of the House toward commercial whaling. Last week the Senate unanimously approved legislation to express their opposition to commercial whaling.

Please contact my office to become a cosponsor and help send a signal to the IWC from this House of Representatives.

INDIA TESTS NUCLEAR DEVICE

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, as Chairman of the Subcommittee on Asia and the Pacific, this Member rises to express his deep regret and disappointment at the series of underground nuclear tests staged May 11 and 13 by India.

While offering assurances of their commitment to world peace, India's actions have quite possibly triggered a chain of events that could set back global efforts of nonproliferation and severely increase tensions throughout the region and the world. In Pakistan, public pressure is mounting on the government to proceed with similar nuclear testing. China also has expressed its concern about the tests, and there are some suggestions that Beijing may consider resuming its nuclear testing program.

This Member would note that the law is quite specific on this matter. If a non-nuclear State tests a nuclear device, sanctions must be imposed by our government. Failure to do so would render U.S. nonproliferation policy impotent.

The United States was required to impose the sanctions mandated by law on India. Mr. Speaker, this member calls upon the government of India to carefully reconsider and attempt to back away from what it has unleashed, and urges the government of Pakistan to exercise restraint in its response.

WITHOUT TRUTH, THERE IS NO JUSTICE

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, without truth, there is no justice.

I would like to address the vicious attacks made by the liberals on the Members of Congress who are tasked with finding out the truth about the allegations of crimes by the Clinton White House. These vicious attacks are remarkably similar to the mean and unfair attacks directed at Judge Starr, who is also charged with finding out the truth about the allegations of crimes by the White House.

We have heard this before directed at Senator THOMPSON, at Senator D'AMATO, also tasked with finding out the truth about the allegations of crimes at the White House. As before, these attacks on the gentleman from Indiana (Mr. BURTON), the chairman of the Committee on Government Reform and Oversight, are misleading and absurd.

The tapes released by the Chairman were not doctored, not a single bit. All the tapes were available to anyone in the press who would bother to listen to them. Transcripts which were made available to the press were not taken out of context. Indeed, we would be extremely pleased to hear the spin on Webster Hubbell's comment that he "needs to roll over one more time." We would like to know what he really meant by that. But once again, it is a same old story: Attack the accuser and hide the truth.

RIDDING AMERICA OF DRUGS

(Ms. GRANGER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GRANGER. Mr. Speaker, as a member of the Speaker's Task Force For a Drug-Free America, I am proud to support the Drug-Free Borders Week.

Our Nation's drug crisis is real and it is also rising, but I have always believed that what is wrong with America can be cured by what is right with America. That is why I am so pleased to be a member of this task force.

We believe the war on drugs is one that can be won, must be won, and will be won if only we have the courage to dream of a drug-free America.

Where can we begin? We can begin by bringing some order to our borders. Seventy percent of all illegal drugs found in the U.S. originally cross the U.S.-Mexican border. Eradicating drugs means interdicting them. Interdicting them means stopping them in Brownsville, El Paso and San Diego.

The Drug-Free Borders Act stiffens the penalties for those convicted of smuggling drugs over the border. The bill says to drug smugglers all over the world: If you bring drugs into this country, we will bring you to justice. This bill acknowledges that only when we close our borders to drugs can we open the doors of opportunity for our children. In short, by working together, we can save America from the scourge of drugs.

DETONATION OF NUCLEAR EXPLOSIVE DEVICE IN INDIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–250)

The SPEAKER pro tempore (Mr. CAMP) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Pursuant to section 102(b)(1) of the Arms Export Control Act, I am hereby reporting that, in accordance with that section, I have determined that India, a non-nuclear-weapon state, detonated a nuclear explosive device on May 11, 1998. I have further directed the relevant agencies and instrumentalities of the United States Government to take the necessary actions to impose the sanctions described in section 102(b)(2) of that Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 13, 1998.*

PROVIDING FOR CONSIDERATION OF H.R. 3534, MANDATES INFORMATION ACT OF 1998

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 426 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 426

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3534) to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 306 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by chairman and ranking minority member of the Committee on Rules. After general debate the bill shall be considered for amendment under the five-minute rule. The amendment recommended by the Committee on Rules now printed in the bill shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment. The bill shall be considered as read. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule

XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1100

The SPEAKER pro tempore (Mr. CAMP). The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my good friend, the gentleman from South Boston, Massachusetts (Mr. MOAKLEY), and pending that, I yield myself such time as I may consume. Mr. Speaker, all time yielded will be for purposes of debate only.

Mr. Speaker, this rule makes in order H.R. 3534, the Mandates Information Act of 1998, under a completely open rule providing for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Rules. This is an appropriate rule, since the purpose of H.R. 3534 is to improve deliberation on proposed private sector mandates.

Mr. Speaker, in the first 2 years that the Unfunded Mandates Reform Act went into effect, Congress passed 13 bills with private sector mandates costing more than $100 million. In contrast, only one bill passed with intergovernmental mandates, costing more than $50 million.

To address the very clear bias against the private sector and the way we consider legislation containing Federal mandates, our colleagues, the gentleman from California (Mr. CONDIT), and the gentleman from Ohio (Mr. PORTMAN), introduced H.R. 3534, the Mandates Information Act of 1998. I want to commend them on a job well done.

H.R. 3534 is a revised version of an earlier bill introduced by the same sponsors. It contains necessary safeguards to ensure that the Unfunded Mandates Reform Act procedures cannot be abused. The bill was further improved in the Committee on Rules last week with an amendment providing an exception to the point of order procedure for legislation that results in an overall net reduction of tax or tariff revenue over a 5-year period, and provided that the bill does not include other non-revenue-related mandates that costs $100 million or more.

This change is needed to address a bias in our procedures against tax cuts, and against efforts to overhaul and simplify the tax code.

Mr. Speaker, the current Unfunded Mandates Reform Act does not go far enough to discourage Congress from imposing costly mandates on the private sector. Such mandates cost businesses, consumers, and workers about $700 million annually, or $7,000 per American household. That is more than one-third the size of the entire Federal budget.

These mandates are particularly burdensome on families attempting to climb the economic ladder, Mr. Speaker. Over the next 5 years, 3 million people will move from welfare to private sector payrolls. Small businesses will provide most of those jobs, yet the imposition of new mandates upon existing burdens will reduce the resources available to create those much needed jobs.

It is important to note that H.R. 3534 does nothing to roll back some of those unnecessary mandates, nor does it prevent the enactment of additional mandates. But it will make Congress more accountable by requiring more deliberation and more information when Federal mandates are proposed.

Likewise, Mr. Speaker, this rule would allow us to fully deliberate H.R. 3534, so I urge adoption of the rule and adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will support the rule for consideration of H.R. 3534, the Unfunded Mandate Reform Act, because it is an open rule. It allows the Members to offer amendments.

I just wish I could give the same unqualified support to the bill we are about to consider. Unfortunately, there are some troubling things about the bill and about the way it moved through the committee and onto the floor.

My dear friend, the gentleman from California (Mr. DREIER) who is an expert on the rules, knows that I supported the unfunded mandate law we enacted just a little over 3 years ago. In fact, he and I worked together to fine tune the process, to make it more institutionally sound. So I have no quarrel with the purpose of the law, or the change which the gentleman from California (Mr. CONDIT) and the gentleman from Ohio (Mr. PORTMAN) proposed in this new bill. These changes are in order for Congress to do its job well.

We need to know the costs of proposed legislation on businesses and on individuals, just as we do on the costs of State and local governments. Mr. Speaker, I am very encouraged that we were already seeing a lot of information as a result of the 1995 bill. CBO's report on the financial modernization bill, which may be on the floor this week, contains 11 pages of detailed information on the cost to the private sector.

CBO's report on the religious persecution bill, which we will consider later this week, puts Members on notice that it, too, will impose costs on private business.

But my concern, Mr. Speaker, has always been with the point of order scheme developed in the original bill and continued in this one. It can be too easily abused and used for partisan political purposes. As we know, Mr. Speaker, it is not a true point of order. There is never a strict finding of fact.

All a Member has to do is to claim that an unfunded mandate exists. That claim is enough to trigger an automatic vote on whether the House wants to consider the issue. In other words, Mr. Speaker, a Member can block consideration of an issue, whether it involves an unfunded mandate or not.

I tried to stop the potential for abuse in 1995. Guess what? The very first time the point of order was raised it was used to avoid a politically charged question which did not include an unfunded mandate, but it was used in the most partisan possible way against the motion to recommit, which, as we well know, Mr. Speaker, is the only motion reserved solely for the minority in a House run and ruled by the majority.

Mr. Speaker, Members might imagine my doubts when we started to extend the point of order to private sector mandates. The Committee on Rules heard testimony a few months ago which highlighted some of the potential mischief which could occur under the bill which had been introduced. We worked on a bipartisan basis to improve the legislation. We worked informally through our staffs. We had a new proposal. We had another hearing. I thought we had made some progress.

Then, during the markup, just as my friend, the gentleman from California (Mr. DREIER) was preparing to read the motion and call for a vote, an amendment was dropped into my lap exempting certain tax revenues from the point of order.

Mr. Speaker, under the new language, a point of order would not apply to a bill that includes a tax increase if the revenue is used for tax breaks. This issue was never raised at our hearings, it was not raised in the time we spent working, trying to develop a mutually agreed-upon improvement. It seems, once again, that politics prevailed.

The Dreier amendment says that we have to know how the revenue is spent before we can judge whether a tax is a burden on private business. It bases the judgment on a simple-minded theory that every tax break is good and every government spending is bad.

Think about what that means for excise taxes, like gas and tobacco. If a measure increases gas taxes and requires that the money be spent on highway construction, it is subject to a point of order. But it is completely offset by a provision allowing billionaires to avoid Federal taxes. A point of order does not apply.

A tobacco bill that raises cigarette taxes and spends all of that money on programs to prevent teenaged smoking, health care costs for tobacco farmers, this will trigger a point of order. But if that revenue that is gained as a result of that bill is given away in tax breaks to the very wealthy, the point of order will not apply.

Mr. Speaker, I can only conclude that my Republican colleagues really have not thought through this one. Why would we subject the tobacco bill to a point of order if the money raised is used to stop kids from smoking? Why would we stop a highway bill that uses the money from the gas tax to build and repair our roads?

The answer, Mr. Speaker, is we should not. I will not oppose the rule because it does allow for the amendment process, but I will urge my colleagues to vote no on the bill if the Dreier amendment is not removed.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Glens Falls, New York (Mr. SOLOMON), chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank my vice chairman of the Committee on Rules, a real leader in defending the economy of this country, for yielding me the time.

Mr. Speaker, I just have to say that I do not know whether I am shocked or not, but to hear my good friend, the gentleman from Massachusetts (Mr. MOAKLEY), and he is one of my best friends in this entire body, even though he is probably more liberal on the Democratic side, but he is a great congressman and I have a great respect for him, but I think I heard him say that the Republican majority had not given this thought.

Mr. Speaker, I came here 2 years before Ronald Reagan, and then fought, along with others, to bring Ronald Reagan here so we could start the Reagan revolution. But I have been giving this thought for 20 years, because I was a small business man in upstate New York, had several businesses, as a matter of fact, all successful.

When I started out I did not have any money. We started from scratch, my wife and I and five children. I was working three different jobs. I can recall going to the bank, and the bank would not loan me $50,000 to get going. Then when I did get going, I saw all these regulations that were out there, both on local governments and on the private sector. I said to myself, one of these days, if I ever get to Congress, we are going to do something about that.

Four years ago, did we ever do something about it. I also served as a town supervisor, that is like a town mayor, for 5 years, and as a county legislator, and as a State legislator. Time after time after time we would see these Federal Government regulations piled on not only the public sector but the private sector. On the public sector, it just drove taxes skyrocketing, so people living on fixed incomes could not even live in their homes. They could not pay the taxes.

In the private sector, small business men like me had to take so much of whatever little cash we had, and we had to divert that from expanding our businesses into paying all these extra costs from these Federal regulations.

So 4 years ago, the gentleman from California (Mr. DAVID DREIER) and myself and others, we implemented the unfunded mandate legislation on the public sector. Now we are following through, after giving it a lot of thought and a lot of hearings, and listening to both sides. We have decided it is the right thing to do.

So here we have this legislation before us, and now, before this Congress ever effects any kind of legislation that is going to increase taxes on the American people, take more money out of their pockets, we are going to have a debate about that. We are going to have a debate on this floor set aside just to discuss what the fiscal ramifications are, not only on the public sector but on the private sector. That is what this debate is all about.

I would say to the gentleman from Massachusetts (Mr. MOAKLEY), we have given it 20 years of hard thought. Now is the time to go. Let us go. Let us pass the Dreier amendment and pass this legislation.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is always a pleasure to be with my chairman, and if he would listen for a moment, maybe I can show him the error of his ways.

I would say to the gentleman from New York (Mr. SOLOMON), I am ready, willing and able to vote for the unfunded mandate bill, but can the gentleman tell me why a point of order would lie against a bill that is going to spend money to stop kids from smoking, but yet if we use that same money to give it back to the very rich as a tax break, a point of order would not lie? Can the gentleman just explain that to me?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, with all due respect to the gentleman, any time we are going to raise taxes on the American people, there is going to be a net increase in taxes. The American people are already taxed too much. We ought to have that debate. Do not pick out these heartrending situations. Let us bring that up. If that were the case, then let us debate it on the floor, so all the American people know about it. That is all we are asking.

Mr. MOAKLEY. This is all we are trying to do about it is debate it on the floor. This amendment was dropped in at the last minute. I am ready to vote for the unfunded mandate bill, I think it is a good idea. But I cannot see why, if the money from the taxes is given back as tax rebates to the very rich, no point of order would lie against it, but if it is used to educate children, to stop children from smoking, a point of order lies.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding.

It is very clear that my friends on the other side of the aisle are very concerned about the idea of an overall tax cut, and in spending more time looking at the Dreier amendment, I think people have found that clearly, if we look at a question like capital gains, we have found within the past several weeks that reducing the top rate on capital gains has actually increased the flow of revenues to the Federal Treasury.

When we have a broad bill, a bill that is actually cutting taxes, if there is some adjustment in there, for example, if we were looking at tax simplification, which this Republican Congress is focusing attention on, the idea of a flat tax, the idea of a consumption tax, an overhaul of the present tax code, if we look at the grand scheme of things there, and there is some modification which would have the slightest increase in some area, and I know my friend, as is so often the case from the other side of the aisle, is perpetuating the class warfare of the poor versus the rich, us versus them, but the fact of the matter is that there is even a minor technical correction in there.

All we are saying is that the overall bill cuts taxes. Let us be in favor of reducing that burden on working people in this country. That is the reason we are going ahead with this amendment.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. MOAKLEY. Mr. Speaker, as I said before, I have no problem with the bill. It is the amendment that will not allow monies derived from gas taxes to be spent on improving roads, the point of order lies against it; improving safety in the roads, a point of order lies against it, but it does not lie if the money is given back as a tax rebate. That is wrong.

Mr. DREIER. If my friend, the gentleman from Massachusetts, would further yield, I would simply say that clearly there is nothing in the Dreier amendment that prevents us from having a debate and having a discussion on this issue. We are doing that right now, and I think we will continue to.

The question really will come down to a very simple and basic point. My friends on the other side of the aisle support tax increases. Those on this side of the aisle are passionately committed to reducing that tax burden.

□.1115

Mr. MOAKLEY. We can have the fight on taxes in another bill. But this amendment specifically says a point of order will lie against a bill if monies raised from tobacco, the sale of tobacco or cigarettes, if that money is spent to educate youth or to have stop-smoking programs, but yet if this money is sent back in the form of tax rebates, there is no point of order. Nobody is going to explain that problem to me. It cannot be explained away.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CONDIT), who was the originator of the basic bill, which is a good bill.

Mr. CONDIT. Mr. Speaker, I rise in support of the rule. I am going to encourage everyone to vote in favor of the rule. This is an open rule and for those Members who think that this is not perfection and they want to change the bill or have a suggestion that is a good idea, they ought to come to the floor and do that, and then we will have the opportunity to vote on their idea.

I do want to thank the chairman of the Committee on Rules, the gentleman from New York (Mr. SOLOMON), for his leadership and his effort in bringing this to the floor. I would like as well to thank the gentleman from California (Mr. DREIER) for his efforts in the subcommittee for bringing this to the floor, and certainly I want to thank my colleague, the gentleman from Massachusetts (Mr. MOAKLEY), whom I respect and admire, for his leadership. I thank him very much for his help and, hopefully, we will take up his suggestion as it relates to the Dreier amendment a little bit later in the debate, either today or tomorrow.

I just want to say, the intent of this bill is about information. That is, to give the Members of this House more information so they can make a better decision on public policy. It is about information. It is about accountability. I want to assure everyone, this will not stop unfunded mandates. It will simply require a debate when there is an unfunded mandate and a point of order is made. We then can make a decision by a vote whether or not we want to stop an unfunded mandate with the point of order process.

So really this is a pretty simple idea. It just requires us to get the information and then be held accountable for how we respond to that information.

I would encourage Members to vote for this rule, and if they have a suggestion on how we can improve this idea, this simple idea, come over here, present their ideas, and then we will vote it up or down.

With that, I want to thank my colleagues for giving us this opportunity. I would also like to thank the gentleman from Ohio (Mr. PORTMAN), who has been a leader in the unfunded mandates effort for his involvement, for his help and his assistance.

Mr. MOAKLEY. Mr. Speaker, I hope the rule passes. I think the gentleman from California (Mr. CONDIT) is exactly correct, that we should debate the amendments on the floor.

Mr. Speaker, I yield back the balance of my time.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Cincinnati, Ohio (Mr. PORTMAN), the lead author on this legislation.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman from California for yielding me the time.

Let me say, I appreciate the words from the gentleman from California (Mr. CONDIT), who is the lead sponsor; I am his cosponsor, on this. This thing is just common sense, good government.

I applaud the Committee on Rules for two reasons, one, for coming up with an open rule. I think it is as fair a rule as we are going to get. I think we will have a lively debate on a number of amendments that will be offered on the floor. We may have some debate on the legislation itself, the basic bill, one aspect of it, and that is healthy and that is good.

One of best things about this is it gives us an opportunity to talk about an important issue which is, how does this Congress go about determining whether to impose a mandate, in this case, on the private sector. We did this in the public sector 3 years ago; now it is time to talk about the private sector.

My view is that we ought to do it in a much more informed way, knowing what the costs are, having an honest debate about that and then, in the end, determining by a majority vote whether in fact to proceed with legislation that imposes new burdens, particularly on smaller businesses. Where the burden is on the business, it is on the workers whose job opportunities are reduced; and it is on the consumer, all of us whose pocketbooks are affected. So I want to applaud the Committee on Rules for the open rule and the full and open debate I am sure we are going to have on this.

Second, I want to commend them for working with us to perfect this legislation and, frankly, to move the legislation forward. There is a lot going on right now in this Congress despite what we might hear out there, and the agenda is busy. There are a lot of different items the Committee on Rules is taking up. This one is in their jurisdiction, and they were willing to put it, frankly, on the front burner and deal with it in an expeditious manner, I think again not only to move it forward, but to improve it.

I want to thank the gentleman from California (Mr. DREIER) and I want to thank the chairman, the gentleman from New York (Mr. SOLOMON), and the ranking member, the gentleman from Massachusetts (Mr. MOAKLEY) for moving this process forward. I look forward to the debate.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Sanibel, Florida (Mr. GOSS), chairman of the Permanent Select Committee on Intelligence and the Subcommittee on Legislative and Budget Process of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank my friend, the distinguished gentleman from greater metropolitan San Dimas, and my equally good friend from the Commonwealth of Massachusetts for their graciousness in allowing me to speak this morning on this subject. Obviously, I think it is an important issue.

I think this is a good rule, an open rule. I congratulate the leadership for these open rules, especially on things like the Mandates Information Act of 1998.

I think this bill takes the next step on the issue of unfunded mandates that we need to take. It recognizes the need for greater accountability in this Congress for the impact that our actions have on the lives of real people outside the Beltway. Those are the people we work for.

In the 104th Congress, the new majority broke ground on this subject, implementing changes in our House rules to make sure that Members are aware of the fiscal impact on State and local governments of legislation when we pass it. At that time, we included illustrative provisions relating to so-called, quote, "private sector mandates" or "Federal actions and requirements" that impose significant costs on elements of the private sector.

Today we move that commitment on private sector mandates to a par with what we are already doing vis-a-vis the public sector. It makes sense. It is what we said we were going to do.

This legislation is technical, and it sounds a little complicated, but what it really boils down to is a straightforward concern to American businessmen, consumers, workers, taxpayers, that is, all of us across the country.

The Congress should take prudent steps and exercise due diligence in passing laws that impact upon the lives and pocketbooks of average citizens in reasonable ways only. Sometimes there are real costs associated with legislative changes, costs that may not always be obviously stated in the text of a bill or even realized. Sometimes, believe it or not, we have unintended negative consequences from some of our legislation.

This legislation sets up a process to force some added scrutiny and hopefully ensure that we minimize costly, unintended consequences. I have long supported this type of change because it strengthens accountability and promotes sunshine, two fundamental principles of government that should be the hallmark of everything we do.

Mr. DREIER. Mr. Speaker, as has been said probably most eloquently by the gentleman from South Boston, this is an open rule. For that reason, I urge my colleagues on both sides of the aisle to support the measure.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FINANCIAL SERVICES COMPETITION ACT OF 1997

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 428 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 428

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour, with thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Financial Services and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. No amendment to that amendment in the nature of a substitute shall be in order except those printed in part 2 of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this legislation before us is a structured rule providing for the consideration of H.R. 10, the infamous H.R. 10. It is the Financial Services Modernization Act of 1998.

This rule is balanced and fair to both supporters and opponents of the legislation. The rule allows for consideration of all of the major substantive issues in the realm of financial services reform dealing with banking, dealing with securities and dealing with the insurance industry, three of the most important industries in this Nation because, as their success goes, so goes the success of all of the other industries throughout our country.

Passage of the rule today is another step forward in the deliberative process in this Congress on this issue that has been going on now for more than a decade, and it is important that we take this stride here today.

Mr. Speaker, the rule provides for 1 hour of general debate, 30 minutes equally divided between the chairman and ranking member of the Committee on Banking and Financial Services.

The rule also waives all points of order against consideration of the bill. The rule makes in order an amendment in the nature of a substitute which is printed in part 1 of the committee report and which shall be considered as an original bill for the purposes of amendment and shall be considered as read.

This text, which has been available to the House since March 30, is identical, and Members back in their offices or wherever they might be, this is very important, the text that is before us today is identical to the text the Committee on Rules made in order during an earlier rule for this bill, except the credit union title, which was dropped and passed by the House under suspension of the rules on April 1. So the legislation is identical, minus the credit union legislation.

In addition, for the further information of Members, the gentleman from Iowa (Mr. LEACH) printed this text in the CONGRESSIONAL RECORD on April 30 so, again, if they do not have a copy of the bill itself, if Members get the CONGRESSIONAL RECORD of April 30, it lays out the entire matter before us.

The rule also waives all points of order against the amendment in the nature of a substitute.

□ 1130

The rule further provides that no amendment shall be in order except those printed in the Committee on Rules report, which may be offered only in the order printed, which may be offered only by a Member designated in the report, which shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment except as specified in the report.

The rule also waives all points of order except the amendments printed in the report. The rule allows the chairman of the Committee of the Whole to stack votes, and, finally, the rule provides for one motion to recommit with our without instructions.

Mr. Speaker, this rule allows for consideration of a total of 12 amendments and one bipartisan manager's amendment. There are 7 Republican amendments and there are 4 Democratic amendments. The rule, like the underlying legislation, enjoys bipartisan support, strong support from both sides of the aisle.

The manager's amendment, which includes important consumer protection provisions, agreed to by the chairman of the committee of jurisdiction and the ranking member of the Committee on Commerce, the gentleman from Michigan (Mr. DINGELL), one of the most respected Members of this body, and the most senior Member of this entire body, by the way, will be considered first after general debate.

The House will then proceed immediately, and this is important for Members to be listening to, the House will then proceed immediately to a major substantial proposal offered by the ranking member of the Committee on Banking and Financial Services, the gentleman from my home State of New York (Mr. LAFALCE), which allows for additional financial activities by a bank performed in an operating subsidiary structure, and revises section 104 of the bill governing insurance sales.

That is a very, very controversial issue, but it speaks to this divided House on the issue. And the amendment of the the gentleman from New York (Mr. LAFALCE) will speak very clearly to that.

In addition, I would point out that the gentleman from New York (Mr. LAFALCE) is the ranking member of the Committee on Banking and Financial Services and, therefore, he should have the first priority of offering that amendment dealing with operating subsidiaries. But in addition to that, the gentleman from Louisiana (Mr. BAKER), a Republican, who is a member of the Committee on Banking and Financial Services and a subcommittee chairman, also has a comprehensive amendment which makes several major changes in the bill, including operating subsidiaries.

So Members have two bites at the apple dealing with that very, very controversial issue. His amendment amends also the insurance title of the bill. It eliminates community reinvestment requirements for institutions with assets less than $100 million. And, finally, it contains an operating subsidiary proposal, as I just outlined.

These two amendments are debatable for 40 minutes each. And I would suggest that Members ought to come over here and they ought to listen to that debate in about an hour because it is very, very important to the final passage of the bill.

The rule also addresses the contentious issue of commercial baskets in an evenhanded manner as well. The gentlewoman from New Jersey (Mrs. ROUKEMA), who is chairman of a subcommittee of the Committee on Banking and Financial Services, will offer her amendment to increase the percent of the amount of annual gross revenue from which a financial holding company would be permitted to derive from commercial activities.

The bill, keep in mind, has a 5 percent basket in it, and the gentleman from Iowa (Mr. LEACH) will then offer an amendment to eliminate the commercial basket entirely. Each of the basket amendments are debatable for 30 minutes.

So the bill, containing a 5 percent basket, is then allowed to be amended by Members from both sides of the issue, one that would increase that basket and another that would decrease it to zero. That is fair and that is why Members should come over and vote for this rule.

The rule then allows for seven other amendments debatable for 10 minutes each, and that could be expanded by unanimous consent if need be, which address several issues in the insurance field, the thrift field, and the small bank areas, all of which Members have divided attention to. In this way, the rule allows significant financial services alternatives to be debated and voted on this floor. Everybody will be heard.

Mr. Speaker, this rule meets the twin goals the Committee on Rules grappled with yesterday, allowing fair and vigorous debate on various alternatives and yet moving this delicate compromise forward to House passage.

Mr. Speaker, the rule continues the spirit of compromise surrounding this legislation. I have learned many things in my 20 years in this institution, but one of the best lessons I have learned was the value of compromise for the public good, and that is what we need to have here today to move this legislation forward.

In this regard, I wish to salute my friend, the gentleman from Virginia (Mr. BLILEY), the chairman of the Committee on Commerce, and the gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services, as well as the gentleman from Ohio (Mr. BOEHNER), chairman of the Republican Conference conference. These Members deserve great acclaim, as well as the gentleman from Michigan (Mr. DINGELL) and the gentleman from New York (Mr. LAFALCE) for their patient attention to this very, very important matter.

Mr. Speaker, many Members of Congress on both sides of the aisle have made substantial compromises in order to move this legislation forward. In addition, the affected industries have participated in good faith in these talks and made significant changes in their positions to accommodate the concerns of other stakeholders.

Mr. Speaker, the willingness to compromise among several major banks and the insurance industry and the securities industries have allowed this legislation to proceed to where it is today. Unfortunately, this spirit of compromise was not pervasive in the Washington-based banking trade associations, who have flatly rejected any compromise.

The letter that we received from the Business Bankers Roundtable, from the American Bankers Association, and the Independent Bankers Association had the mitigated gall to write a letter and say no matter what this Congress does on this floor, no matter what combination of amendments are adopted, that they oppose the bill. If my colleagues want to know why, it is because they want a free reign. I will get back to that in just a minute. This is so disappointing, given the strong support for this legislation among some of the country's most prominent financial institutions.

When I was 3 years old, the Glass-Steagall Act prohibiting affiliation with commercial banking and securities activities was passed. And that was 64 years ago. The pace of change in the world and in the marketplace has been absolutely stunning over time. Our financial services laws are, without question, obsolete for a modern global economy.

Mr. Speaker in, this new global environment it is imperative that the banking industry, the insurance industry and the securities industries of the United States be able to compete internationally, because our whole economy depends on it. Jobs in America depend on it. A healthy and competitive financial services sector of the economy leads to overall growth and stability in this country.

Mr. Speaker, the recent waive of mega-mergers and the resulting media attention to those activities only point out further the need for this legislation in the way that it is crafted today, and the way it will be crafted on this floor under a fair debate.

A bipartisan consensus has coalesced around the bank holding company structure as the prudent way to allow for increased financial activities, and the chairman of the Federal Reserve Board has weighed in in strong favor of this report. One of the most respected people in the United States. Any attempt to modernize our financial services law should clearly not toss out the lessons of history, and I will talk about that in just a minute.

Mr. Speaker, having served in the House during the S&L crisis, I can assure Members that financial services modernization should be crafted in a manner which does not jeopardize the interest of the investor, and that means not only people living on fixed incomes that have accumulated a little stock over their lives and now live on that income, it means the pension systems throughout this country, union pensions or the New York State retirement system, all investing in the stock market. These have to be protected. We cannot let the same thing happen to them that happened with the S&L crisis back in the early 1980s.

Mr. Speaker, the news in the last few weeks should be enough evidence for Members to be convinced the time has finally arrived to pass this bill, to get it over to the Senate, and then get it to conference so that the administration can weigh in as well as the Senate and as well as the House. Defeat of the bill today will prevent that from happening and could, my colleagues, result in chaos throughout the financial markets of not only the United States but the world itself.

The world market has changed right before our eyes and we are diminishing the credibility of this lawmaking body if we do not act here today.

Mr. Speaker, the Committee on Rules is presenting the House with a variety of alternatives on this financial services reform with this rule today. The House will have an opportunity to work its will, and that is the way that it should be.

Mr. Speaker, I believe that Members of Congress have a responsibility to lead and to legislate. If Congress does not act now, one day we will wake up and the world will suddenly be so completely different it will be unrecognizable and we will have done nothing to shape it, and every Member of this body can be ashamed of themselves.

Mr. Speaker, I would urge Members to move this process forward. We have studied these issues extensively in our committees for years now. More than 10 years. We now have an appropriate rule before the House. Let us pass the rule and then the bill and send it to the other body for their consideration.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 7 weeks ago the House Republican leadership was forced to withdraw from consideration an unfair and ill-considered rule. Today the Republican leadership has recommended a rule which, while not perfect, is much more fair and one which allows the House to debate many of the issues related to modernizing the financial services industry in this country.

Most importantly, the ranking members of both the committees of jurisdiction have been given the opportunity to offer important amendments to the bill. Seven weeks ago, the Republican majority denied these Members the opportunity to offer these amendments and that action contributed to the eventual withdrawal of the rule.

Mr. Speaker, without a doubt, H.R. 10 is a controversial bill, but I think all Members will agree that financial modernization is essential to ensure that our financial services industry can remain competitive in today's global economy. More than ever, the ability of our financial institutions to compete globally is critical to maintaining our position of economic strength. There is little debate on that point. Moreover, the question of how we construct a financial modernization scheme is a subject of heated debate. This rule, unlike the rule brought up last month, allows for debate on some of the major points of contention in the whole question of financial services modernization.

First, Mr. Speaker, this rule allows for the House to choose between two structures for modernizing financial institutions and for eliminating the barriers between banking securities and insurance activities. As currently written, H.R. 10 allows for a direct affiliation of these activities through the creation of a new holding company structure which would be overseen by the Federal Reserve Board. Each affiliate, however, would be subject to regulation by its own functional regulator; in other words, banks by banking regulators, securities by the SEC, and insurance by State insurance regulators.

This rule, unlike its predecessor, allows the ranking member of the Committee on Banking and Financial Services the opportunity to offer an amendment to this key provision. The LaFalce-Vento amendment would allow banks to choose between the holding company concept or an operating subsidiary system, which would be subject to regulation by the office of Comptroller of the Currency. Without going into the details of the differences between those two regulatory schemes, suffice it to say that this is a critical difference which deserves consideration and debate in the House.

In addition, Mr. Speaker, the rule includes as a manager's amendment, proposals first brought up by the ranking member of the Committee on Commerce. In the first rule proposed for consideration of H.R. 10, the Republican leadership excluded from debate the consumer protection amendments proposed by the gentleman from Michigan (Mr. DINGELL). However, in round two, the Dingell amendment has now become the Bliley-Dingell-Leach manager's amendment and will be the first amendment considered under the rule.

Allowing these amendments to be considered is not only fair, Mr. Speaker, it is necessary for the House to consider them if we are to truly debate the issue of modernizing banking laws that are from another age. Regardless of each Member's position of how to accomplish this long overdue change in our banking laws, it is important the House be able to examine this issue thoroughly, something that the Republican earlier had not tried to do. This is a much better rule and will allow for comprehensive debate on bringing our financial services industry into the 21st century.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Finley, Ohio (Mr. OXLEY), one of the most respected Members of this body, who has contributed so much time to this issue as a subcommittee chairman of the Committee on Commerce.

Mr. OXLEY. Mr. Speaker, I thank the gentleman from New York for yielding me this time and congratulate him on an excellent product, this rule. Indeed, this does allow the House to work its will on several important issues dealing with H.R. 10, and I do rise in support of the rule for the Financial Services Act of 1997.

This is the 10th time that Congress has tried to repeal Glass-Steagall since 1979. In the absence of congressional action, regulators have stepped in and essentially usurped congressional authority to make national policy for financial services. I believe it is time now for Congress to consider this issue and for elected representatives to discharge their constitutional authority rather than unelected regulators. We are, indeed, responsible and answerable to our constituents, and that is the way it should be. Accountability is what this body is all about.

☐ 1145

The rule makes in order a bipartisan manager's amendment dealing with important issues, including consumer protection, SEC backup authority, information sharing among the regulators, and provides for a study of community needs.

And indeed, I congratulate the gentleman from Michigan (Mr. DINGELL), our ranking member on the Committee on Commerce, working very closely with the gentleman from Virginia (Mr. BLILEY) and the gentleman from New York (Mr. MANTON), our ranking member on my subcommittee; as well as the Committee on Banking and Financial Services members, led by the gentleman from Iowa (Mr. LEACH) the gentleman from Minnesota (Mr. VENTO) and the gentleman from New York (Mr. LAFALCE) and others who were able to craft this very important manager's amendment that provides some reasonable consumer protection, but still allows the competitive nature of the enterprises to go forward.

In addition, the rule also eliminates the bulk of the thrift title, which has been of great concern to many thrifts throughout the country who understandably have not wanted to give up their charter. The legislation will now essentially leave all thrifts as they are under current law.

I look forward, Mr. Speaker, to an informed debate on these necessary changes to enhance the competitiveness of our financial services system. Let us hope that, after all these years, Congress can come together, pass a measured bill that breaks down a lot of these barriers to competition, allows for the affiliation between banks and insurance companies and securities companies to give the consumer the kind of savings that have been projected in the $15 billion and more range per year with the reduction of fees and the necessary advantages that come with these changes that are inherent in this bill.

So this is a fair rule. It is one that was carefully crafted to allow all sides in the debate to have their say and to have their vote, and I commend it to the membership.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I thank the gentleman for yielding me the time.

The bill does some good things with respect to the Glass-Steagall law with respect to bank holding company law. But it does some very bad things with respect to the totality of the national bank charter. It is primarily for those reasons and the adverse impact that those changes would have on consumers and the ability of any administration to effectuate bank policy and economic policy that virtually every consumer organization in America that I am aware of opposes H.R. 10, even with the passage of the manager's amendment, and that the administration a month ago, yesterday, and today has indicated that it would veto H.R. 10 in its present form even with the passage of the manager's amendment. That is the bill that we have, and we will address that later.

Now to the rule. The rule under consideration makes in order a number of thoughtful amendments which do frame some of the most difficult issues this House will face this Congress. The implications of mixing commerce and banking raise sensitive questions involving the safety and soundness of our federally insured banking system.

The viability of the traditional national bank charter and the issue of what we expect in return for the granting of these charters in the form of Bank Community Reinvestment Act obligations will be forcefully and passionately debated under this rule. That was not true of the rule a month or so ago. I commend the chairman of the Committee on Rules for permitting it under today's rule.

However, in speaking for the Democrats on the House Committee on Banking and Financial Services, I am not able to say that we are adequately satisfied with the rule. Simply stated, it is incomplete. The issue of financial modernization is one of the most complex bills we shall ever consider. We must try to anticipate the future and interject policy considerations into an intense marketplace struggle between industry giants.

Why must we consider such matters? Millions of our constituents use financial services daily and depend on the accuracy and dependability of these services. They demand to be protected against abusive business practices and insured against the loss of their savings.

The rule we have before us is incomplete. The managers of the Financial Services Act of 1998 have expended hundreds and hundreds of hours of work in the two major committees of the House that have considered this bill; and under the rule, we each will have but 15 minutes to present our views in general debate. I think that is inadequate.

Secondly, while there are a dozen amendments that have been made in order, most of them are either studies or peripheral issues to the key provisions of the legislation. They could have been accepted in large part in the manager's amendment.

On the other hand, 17 amendments were filed by Democratic members and not made in order. I do not say every one should have been made in order. But many of those amendments went to the heart of the bill's purpose.

For example, amendments were filed by the gentleman from Massachusetts (Mr. KENNEDY) that would condition the affiliation of financial giants on their compliance with fair housing and anti-redlining practices. The gentleman from New York (Mr. HINCHEY) filed amendments that dealt with ATM fees and the practice of consumers receiving unsolicited loan checks in the mail. The gentlewoman from California (Ms. WATERS) raised real questions about the commitments of financial institutions to their community needs. These amendments should also have been made in order.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I rise in support of the rule, and I rise in support of the bill, and I rise in support of the manager's amendment.

This is a fair rule. It deserves the consideration and support of every Member of the House. The rule makes in order 12 amendments to be offered by Members of the majority and the minority. These amendments deal with the major issues that were raised during the committee consideration of this legislation, and they make possible full and fair and open debate on an important piece of legislation.

I am pleased to tell my colleagues that the process that has brought us to where we are at this moment is a fair, open, and bipartisan one. I want to thank my good friend, the gentleman from Virginia (Mr. BLILEY), of the Committee on Commerce and the gentleman from Iowa (Mr. LEACH) of the Committee on Banking and Financial Services for their leadership and for their courage and for their willingness to work with me to build reasonable consumer and investor protection into this bill.

I want to point out that the leadership of the majority has been fair in their actions on this matter and that we on this side should appreciate that fact. With the support of my good friend, the gentleman from California (Mr. FAZIO) and many other Members on both sides of this aisle, I am pleased to be joining the gentleman from Virginia (Mr. BLILEY) and the gentleman from Iowa (Mr. LEACH) in offering the manager's amendment, which is made in order under the rule.

That amendment includes the consumer and investor protections that I have sought throughout the process. It provides a safe and sound framework so that the financial services industry, which accounts for some 18 percent of the GNP of this Nation, can compete efficiently and effectively in the new global financial marketplace of the 21st century.

With recently announced mergers, including giant banks and other large financial institutions, a lot of fear has been raised over what the new financial marketplace will look like. The truth is that, without H.R. 10, the financial industry megamergers and consolidations will continue. The regulators will continue their turf wars. The new finance giants will overwhelm a regulatory patchwork process that lacks adequate authority. And U.S. taxpayers will probably face another savings and loan bailout situation and litigation will prevail. This time, however, it will be the banks.

On the other hand, if H.R. 10 is enacted, clear regulatory authority will be present, boundaries will be established within which financial services firms will be free to compete in a fair and open manner, and litigation, confusion, and taxpayer exposure will be reduced.

The choice, then, here before us is clear. I intend to vote for the rule on H.R. 10, and I intend to vote for the manager's amendment. I intend to vote against all other amendments, including amendments which would permit greatly expanded high-risk activities in bank operating subsidies, a real danger to our economic system, and greater mixing of banking and commerce activities than the bill allows.

I urge my colleagues to support the rule. I urge them to support the manager's amendment. And I urge my colleagues to oppose all those other amendments which I view as unwise.

This is a good rule. The bill, if crafted according to the language of the rule, will be a good bill. Let us pass the rule. Let us pass the bill. Let us support the manager's amendment. And let us resolve an issue that has plagued this country for a long time, in an honorable fashion, in a way which serves the interest of the country.

I want to again commend my colleagues who have made this possible, including my good friend, the gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules.

The SPEAKER pro tempore (Mr. CAMP). The gentleman from New York (Mr. SOLOMON) has 14 minutes remaining, and the gentleman from Texas (Mr. FROST) has 18 minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. Even though the time is not balanced yet, Mr. Speaker, I will yield some more time.

But I want to say to my good friend, the gentleman from Michigan (Mr. DINGELL), the senior Member of this entire body from either side of the aisle, he is one of the most respected Members on the other side of the aisle, and we appreciate his statement.

Let me just briefly take to task my good friend, the gentleman from New York (Mr. LAFALCE), because he has insinuated that we have discriminated against the minority in this rule; and let me just state for the record, and here is the record, that every single Democratic amendment that was offered dealing with policy was made in order in one form or another. That includes LAFALCE and VENTO and MARKEY and SANDERS and DINGELL and MORAN.

So the gentleman, if he had other issues in mind, other policies, he should have introduced them as amendments. And out of respect to him as the ranking member of the Committee on Banking and Financial Services, I would have made them in order without question.

Mr. Speaker, I yield 3 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA) one of the most distinguished Members of this body. She is the gentlewoman from the Fifth Congressional District in New Jersey, chairman of the Subcommittee on Financial Institutions and Consumer Credit.

Mrs. ROUKEMA. Mr. Speaker, I thank the chairman of the Committee on Rules.

Mr. Speaker, I rise in strong, strong support of this rule. We have to have this debate today. It is an essential debate, and it must move forward with approval of this rule. If we fail to act today, and I have got to stress this, I have been on this Committee on Banking and Financial Services for a long time, and I have seen lots of changes here, but I have got to stress that if we fail to act today, we are losing the opportunity to reform our financial system in a meaningful and rational way. In my opinion, it is now or never for this Congress.

I certainly appreciate the strong support of the ranking member of the Committee on Commerce, the gentleman from Michigan (Mr. DINGELL), who brings not only his own personal strong support but establishes bipartisan cooperation here.

I might stress to those who are not on the Committee that may have followed this, particularly our newer Members, we will lose the opportunity here to bring to conclusion the Depression era. We are talking about Depression era laws, 1930s, we have got to update them. The important thing is that if we do not do it here today, we will lose the opportunity to stop the regulators and the courts from doing the jobs that Members of Congress should be doing.

□ 1200

Congress must act now, not allow the regulators, in an ad hoc, piecemeal action and the courts to do what Congress is refusing to do with its statutory responsibility.

Technology and market forces have broken down the barriers between banking, securities, and insurance. Our current framework, our current law, however, is stuck in the 1930s, and it has limited our financial institutions' ability to compete in the marketplace, the global marketplace.

By not acting here today, we do not change what is transpiring around the world and here in our own domestic market with foreign bankers and securities people coming in. In the absence of our action here today, again, I want to repeat it, Federal agencies and the courts will find the loopholes and novel interpretations to allow financial institutions to adapt to the marketplace. It will be a blot on the reputation of this Congress.

We have had recent examples of the Comptroller's decision to allow national bank subsidiaries to engage in activities that they never should have been allowed to accept under new statutes. Congressional inaction has led to this piecemeal kind of regulatory reform, and honestly, Members do not want to go home and tell their people in a few years, when we have another savings and loan type debacle, that they voted against strong statutory reasons to redefine financial institutions.

Mr. Speaker, I do congratulate and concur with the Committee on Rules. They dealt with a very difficult subject, and they have provided for a fair and comprehensive debate under this rule with complexities here that it is hard to find a parallel to; but I think they have done it in a very fair way, 12 amendments with all the substance of the issues.

The rule for H.R. 10 makes in order 12 amendments, two of which are mine. The Rules Committee worked hard on this Rule, and Mr. SOLOMON and his Committee should be commended. The new Rule is an improvement over the rule from late March. Under the new Rule, members will get a chance to vote on many of the most contentious issues—insurance sales by bank, deference to the Comptroller, the National Bank Operating Subsidiary, CRA relief for small banks, and other provisions. Giving the members a chance to vote on the issues is a measure of our commitment to fair and comprehensive full debate on the complexities of modernization of financial institutions today's global financial network.

I am disappointed, however, that one amendment was not permitted. Mr. MCCOLLUM offered an amendment to the thrift title. His amendment was similar to provisions of the bill which were voted out of both the Banking and Commerce Committees. Regardless of your position on the issue, it should have been ruled in order. Members should have had an opportunity to vote on this issue.

Mr. Speaker, as with most things in life, things are not always perfect. I will support the rule. I urge my colleagues to vote "for" the rule.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise with concern for this rule and significant concern for the outcome of this product, based on the amendments and status that exists.

We are really facing here a bill that was not written in the Committee on Banking and Financial Services, not written in the Committee on Commerce, a 400-page bill and a smorgasbord of amendments to it that, frankly, will tend to grow if, indeed, some of these amendments are added and as consumed could provide acute indigestion.

Mr. Speaker, I am for banking modernization; I am for deregulation. But the fact of the matter is that what has worked itself into this bill in a haphazard manner and a muddled manner is obviously, on one hand, we claim to be repealing Glass-Steagall, which, of course, the regulators have helped us along with over the years; and the fact is that there is a mixture today just in the very instruments of loans, of annuities, and securities which constitute our financial entities, so much so that they are almost a distinction without a difference.

I am for modernization, but the fact is that this bill is really, and it is still, in a state of denial. It is like finally we dropped somebody in the middle of the ocean; they admit they are in the water, but they have not got the ability to swim, or to take a boat for that matter. Maybe the boat they are taking here is referred to as the H.R. Titanic.

The fact is that this bill is still in denial. It is a grudging permission. In fact, what happens in this bill in the name of modernization is that we take the national bank charter, and it gets shredded. We shred it. That is what happens in this bill.

You permit States bank subsidiaries to do certain activities. You permit bank subsidiaries to do activities in foreign countries, but you will not let the banks subsidiaries function in the U.S. In this bill, incredibly, at a time of megamergers and acquisitions, we diminish the voice of consumers in terms of programs like CRA the Community Reinvestment Act. Some interests do not like CRA, but it is one of the only voices that we have for consumers. So there is a grudging reluctance.

I admit we have to face up and deal with this. The fact is, this bill is muddled. The administration does not support the bill in this form, and 49 of the 50 banking associations do not. Why? In the name of modernization, this bill is not worthy of its name because it takes away from financial institutions activities what they can do today, and then it calls it modernization. That does not make any sense.

That is why every bank in the country, practically, is in an uproar, other than those that need this fig leaf in order to accomplish their acquisition and merger activities.

That is where this Congress is at. I think we can do a lot better. I do not blame the Committee on Rules. This rule, they have done the best they could. They had a bill that was delivered to them, 400-plus pages, that in a sense is going to grow, that they did not have anything to do with; and I did not have very much to do with as one of the ranking members in the Committee on Banking and Financial Services. And that is what is being proposed to be moved. This is put together by people who really, in my judgment, do not want banking modernization. It is a grudging, limited approach that has bound them. It is a balkanized, a reregulation of the financnail institutions market.

Banks in this country, my friends, are the foundation of our economic growth. We ought to be wise enough and prudent enough in this body to admit that. Nobody may love banks, I guess, but the fact is that they are essential to our economic development and growth. We are writing them off in this bill. That is what we are doing. The national bank charter is being shredded; it is being written off in this bill.

We can make some changes, modifications by adopting the good amendment that the gentleman from New York (Mr. LAFALCE) and myself have offered, but that is about the only hope we have to come through this process and keep this process moving.

Frankly, this bill is a mess. I suggest, even if we pass it today, it is going to go to the Senate. It is not going to fare very well unless it gets substantially changed. I think most of us have a good deal of reticence about trusting that the Senate will straighten everything out, as my colleagues might agree, and of course the administration strong opposition and veto threat persists. I think it is time to sit down and work out what needs to be done and really do true modernization.

It should be noted that the basic text of this, some 400 pages, measure is a curious product, claimed to be derived from the Banking and Commerce Committee products, but frankly many provisions and specifics were in neither of the committee products. That is why, I am strongly opposed to the underlying text of H.R. 10. The manager's amendment made in order under this rule does next to nothing to address the serious concerns I have about the overall industry balance of this bill. No doubt many Members have heard from consumer groups, community groups, bankers, and state groups alike, that this bill is flawed. I hope we can make some substantial improvements. And therefore be able to move forward with this measure with some hope of a workable measure and better policy.

I would argue that on an issue of such importance, the future of our financial services industries in our country, Members may need more than an hour of general debate. While the amendments made in order have done a better job of making time to address the key issues on this bill, there actually are some issues that are not addressed clearly, among them, the thrift charter issues. Fortunately the credit union measure, H.R. 1151, is not clouding the issue, as in the March 30 version which was pulled from consideration.

The rule importantly does make in order the key amendment, that is, the LaFalce-Vento amendment to preserve the national bank charter. This amendment makes some balancing changes in the insurance provisions, assures stronger consumer laws apply when there are both federal and state laws, clarifies the matter of deference to the federal banking regulator, reinstates important study and report provisions previously in the bill, and restores a financially viable and safe operating subsidiary for national banks so that national bank subs can engaged in all activities that are financial in nature except insurance underwriting and real estate development and investment. This national bank amendment raises issues of great import to the overall issue of financial modernization, to the Members of the Banking Committee and the Administration. Its passage will be critical to the future of H.R. 10.

The Baker amendment that was made in order in my judgment a troublesome amendment made in order by this rule. It attempts to address several issues and has some positive points. However, it does bring in this bill the issue of even further exempting banks from the Community Reinvestment Act. Under the Baker amendment, banks with less than $100 million in assets will be exempt from CRA. That is not modernization. If we are to bring extraneous issues into this bill, I would suggest that we should have looked to amendments that helped consumers, like banning live loan checks, instead of those that hurt consumers and communities.

It should be noted that the new text of H.R. 10 in an era of mega-merger and acquisition across financial entities lines shrinks the opportunities for consumers and communities to have a voice through CRA.

Further, the Baker amendment muddies the water with regard to what would be an appropriate financial operating subsidiary of national banks. Make no mistake Mr. Baker's operating subsidiary is not workable or fair and has been rejected by the Administration, or for others who want to see a strong and viable national bank with real strength for the federal bank regulator, for communities and for consumers. Furthermore this amendment further seriously undermines the community reinvestment act. Having the Federal Reserve Board define what the OCC's banks' subsidiaries can do is the fox guarding the hen house, a hollow subsidiary for symbolic purposes isn't the answer to avoid concentration, promote competition and serve our communities.

Mr. Speaker, I have worked long and hard and in good faith on a financial services modernization bill for many years as have most of my colleagues on the Banking and Financial Services Committee. This bill jeopardizes the appropriate balance and marginalizes the deliberate consideration and contributions of many Members. While this rule is not egregious as the rule was in March, the process leaves must to be desired. Without passage of key amendments, H.R. 10 will not have my support. With passage of certain amendments, H.R. 10 will not have my support.

The rule today is apparently as good as it gets in the House this Congress, hopefully we will be able to work the will of the House and made a good judgment on the final product. This measure, H.R. 10, in its current form, even with amendments, is not a product in which I would take any pride; we could and should have done much better.

Mr. FROST. Mr. Speaker, how much time is remaining on each side.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Texas (Mr. FROST) has 14 minutes remaining. The gentleman from New York (Mr. SOLOMON) has 10 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise in strong opposition to this rule, and I think that it is important that we recognize that, while all of us are focused on the whole issue of how this bill is going to affect the biggest and most powerful institutions in this country, and perhaps now, in the world, with the new speed of mergers and acquisitions taking place, we are creating ever larger, ever more powerful banks and insurance companies and securities firms.

We are allowing them to gobble up one another in a situation that makes a Pacman machine look, itself, like child's play. But the fact of the matter is, that nowhere in this legislation is there a word printed about how this bill is going to affect the poor. Nowhere in these long pages do we see any indication of whether or not small business lending is going to increase.

Every major study shows that once this legislation passes, we will see the number of branch offices shrink. We will see the number of employees that are going to be working for these institutions shrink. We are going to see, much more importantly, the amount of coverage under the Community Reinvestment Act dramatically reduced. We are going to see the tremendous engine of growth that we have seen in our urban areas dry up as a result of the shrinkage of the Community Reinvestment Act.

Yet, even the Fair Housing Act, the Fair Housing Act, which just says that the biggest banks and the insurance companies and the real estate firms in this country cannot discriminate based on race, color, or creed, when the Justice Department has entered into consent decrees with various banks and insurance companies in the United States of America, we are still going to allow them, without any hindrance, to go out and merge and acquire one another.

We ought to say, fine, it is great. I think it is wonderful that we are going to allow our biggest companies to get bigger and to be able to compete with other nations' large institutions. There is nothing wrong with growing big institutions. But what we ought to make certain of, if we are going to grow those big institutions, is that they look out for the little people. That is what this bill misses.

There is nothing in this bill that makes certain that people are no longer discriminated against because of the color of their skin. Believe me, in the financial institutions of this country, we have rampant discrimination. You go in and try to look at how many minorities get home mortgage loans, get small business loans, compared to whites coming from the same neighborhoods with the same income levels. It is atrocious.

Look at how insurance companies discriminate against people around America. We do not do anything, and we are going to allow them to gobble one another up, to protect the poorest people in America. Come on, this "chamber of deputies" of America. Come on and stand up as parliamentarians for the people that in the United States need you.

The big banks and insurance companies do not need us. It is the working families of America that need their representatives. Stand up against the insurance. Stand up against the securities. Stand up against the banks. Stand for the working families of America.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I have some very serious objections to the bill in chief, but I want to focus my remarks at this particular moment on the rule.

Although this rule, as has been noted, is a better rule and a more open rule than the one which was originally advanced for this bill some time ago, it is still, nevertheless, seriously deficient in that it is still too closed and not open enough.

This particular bill, H.R. 10, is the most substantial and significant piece of financial legislation to come before this House in a very long time. I dare say that there will be few Members presently serving here who will vote on more significant legislation, even if they stay as long as the dean of the House, our revered friend, the gentleman from Michigan (Mr. DINGELL), some 30 years. This bill is critically important and is far-reaching.

Let me just talk a little bit about the issue of fees and how this rule refused to address the issue of bank fees. Customers of banks find themselves increasingly paying more and more and more in fees.

This bill fails to address that problem, and the rule objected to our introducing an amendment which would have limited ATM fees. This is an amendment which had the support of the very respected gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking and Financial Services.

Nevertheless, the Committee on Rules decided that they should not allow an amendment on this floor which would restrict or prevent banks from charging their customers at ATM machines. There are 90 percent of the banks across the country now charging at ATM machines, and those fees are going up. They were $1 in most instances. Now they are going up to $1.50. How long will it be before they are $2 and $2.50 and $5? The banks are insatiable in this regard. This rule does nothing to prevent them from continuing to fleece the American public by charging them higher and higher fees.

Furthermore, there is a broad, sweeping provision in this bill. It is section 104(b)(1), which preempts State legislative bodies in a very broad, sweeping way from enacting protections for customers, consumers across this country.

So even if this Congress is not prepared to protect the banking customers, to protect financial consumers, the bill goes beyond that and makes it difficult, if not impossible, for State legislative bodies to enact fair, reasonable consumer protection laws.

This is an outrageous position, and it is an outrageous position on the part of the Committee on Rules to prevent an amendment which was suggested and offered by the gentleman from Ohio (Mr. KUCINICH), which would have preempted this particular sweeping provision of the bill.

These are just some of the reasons why this outrageous, tight, wrong rule ought to be defeated.

Mr. SOLOMON. Mr. Speaker, I yield myself 1 minute to take exception to the previous speaker and to my good friend, the gentleman from Massachusetts (Mr. KENNEDY), as well.

Mr. Speaker, in this legislation, everyone knows that JERRY SOLOMON is proinsurance and has been for many years. The very fact that I am up here supporting this rule and supporting this bill is because the insurance industry is protected. State regulation is protected in this bill; and do not think it is not, or I would not be standing here supporting it.

As far as the gentleman from Massachusetts (Mr. KENNEDY) is concerned, you know, we are talking about bank modernization and how to protect the investor. We are not talking about redlining districts. We are not talking about fair housing authorities. That is a subject from a different committee, from the Committee on the Judiciary. It ought it be brought to the floor under those jurisdictions, not under this banking bill.

□ 1215

We ought to be concentrating on this, because it is so terribly important, and I will tell you why in a minute.

Mr. Speaker, I yield one minute to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, I want to make several points on the consumer protection and CRA protection issue. In several ways, CRA is expanded in this bill. One is all subsidiary depository institutions will have to have a satisfactory CRA rating to take on any new powers. That is the first extension of CRA in this regard.

Secondly, for the first time, CRA is partially placed on the securities industry and the so-called wholesale financial institutions. Those are expansions, not contractions, of CRA.

The third point I would like to stress is that we are looking at expanding in addition the antitrust authorities of the United States of America. If the managers amendment is adopted, we will have stronger antitrust laws. We will move in the direction of greater oversight, not less, of the antitrust laws of the United States, as applied to financial institutions.

These are very important consumer provisions, and I think that one should be very cautious about reaching judgments to the contrary.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Speaker. I want to thank my good friend for yielding me time.

Mr. Speaker, I just would like to respond by pointing out that the chairman of the Committee on Banking and Financial Services knows full well that under the legislation that is before us there will be a dramatic shrinking of the amount of money that goes into the communities across this country under the Community Reinvestment Act, by virtue of the fact that the subsidiaries will now be pushed out of the bank and into these various affiliates and will no longer be covered under CRA.

I know that the chairman is about to make the point to me that he has an amendment, which I think most people do not believe is going to pass, or the gentleman from New York (Mr. LAFALCE) and the gentleman from Minnesota (Mr. VENTO) have an amendment which we believe is going to have a very difficult time getting through, because of the fact that it stands up for the consumer.

I would like to get back to the point of the gentleman from New York (Mr. SOLOMON). The gentleman indicates that this bill is about looking out after the stockholders and the shareholders of the banks of America. That is almost directly what the gentleman said.

I cannot believe that that is what in fact we view our job in the Congress of the United States to be. It is not to look out after the stockholders and shareholders of these institutions; it is to look out after the people whose taxes back up the Federal Deposit Insurance, the BIF, the SAIF, and all of the basic protections, to make certain that people are not discriminated against.

To say we are not going to stand idly by as banks suck the deposits out of a local community, as insurance companies refuse to write insurance policies to particular sections of communities, as insurance companies refuse to invest their huge deposit base into whole sections of America, those are the protections that we are missing in this bill. Those are the protections that should be foremost on the minds of the people that make up the Congress of the United States.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I would point out that one of the Dingell-LaFalce amendments, which was offered on March 30th, which was supposed to have been in order, would have provided an expansion of CRA to some of the other financial entities. That is conspicuously absent from consideration of what is being considered on today. I would just point out that that is conspicuously absent from the managers amendment today.

I intend to support the managers amendment. I think it is good, as far as it goes. I think the concern is that, in and of itself, it does not go far enough to address the concerns of consumers and the community.

I appreciate the antitrust provisions, as our chairman, the gentleman from Iowa (Mr. LEACH) and I together had written and worked on those and put them in the bill and are now included in the managers amendment. It is one good thing we brought back that was not in the March 30 configuration. But the fundamental issue is that there is a shrinkage of CRA that goes on, will be adverse, and gives less voice to consumers than what they have in today's marketplace.

Mr. KENNEDY of Massachusetts. Mr. Speaker, reclaiming my time, I would also point out that while the committee of the gentleman from Iowa (Mr. LEACH) incorporated an amendment to handle the Federal Housing Administration, the discrimination in housing when it went to the Committee on Rules, when the banking bill went to the Committee on Rules that amendment was conspicuously dropped, which is one of the reasons I am opposing the bill, despite being one of the few Democrats that supported the bill of the gentleman from Iowa (Mr. LEACH) in the committee.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to respond to my very good friend, the gentleman from Massachusetts (Mr. KENNEDY), who is retiring, and this body is going to miss him because he brings a lot to the body.

I want to just clarify what the gentleman was trying to quote me as saying. I said, "This Financial Services Modernization Act should be crafted in a manner which does not jeopardize the interests of the investor or the depositor."

Who are those investors and who are those depositors? Are they all these rich moguls all over this country and the world? I am going to tell you who they are. They are all of your constituents, who are investing their lifetime savings.

I am going to sum up when we get done here and tell you what happened in the S&L crisis, where the investors lost their money, the depositors lost their money and the taxpayers lost their money, and that is why we ought to be dealing with this legislation today.

Mr. Speaker, I yield one minute to the gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Mr. Speaker, just briefly to respond to the gentleman from Massachusetts (Mr. KENNEDY), whose perspective I think we should listen to very carefully, this bill does advance low cost banking accounts as obligations of certain kinds of banking institutions, which is a very powerful step forward to protect low income people.

Secondly, in terms of protecting smaller institutions, this bill allows community institutions of a smaller size to tap into the Federal Home Loan Bank system, which is a government-sponsored enterprise, to be able then to marshal low cost loans for farmers and for small businesses. This is a new power designed for small institutions, basically to serve smaller communities. These are very extraordinary new powers.

Finally, let me just conclude by saying all of us are concerned about some of the trends in finance today. The question is not whether the trends are all wrong, but whether this bill applies more humanity and more reasonableness in controlling and constraining those trends. I believe it does.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas, Mr. BENTSEN.

Mr. BENTSEN. Mr. Speaker, first of all I want to say I have the greatest respect for the chairman of the banking committee, as well as the ranking member of the Committee on Commerce, but I am opposed to this rule.

This bill, first of all, will not greatly, if at all, in my opinion, affect the announced mergers that are going on. A lot are going to occur regardless, and others, like the Citigroup merger, really are not affected by this bill. They have other fish to fry down the road.

This bill is not about size, it is about powers and who has what powers. This bill has changed as it left the Committee on Banking and Financial Services from Glass-Steagell reform to a balkanization of the Nation's financial services structure. It is no longer about financial modernization in the whole; it is about who gets to protect what powers, and that is unfortunate. Maybe we want to do that, but we ought to be honest about what we are doing here.

With all due respect to the chairman of the Committee on Rules, and granted, I am new, I am only in my second term, but the fact we are only going to spend one hour of general debate on a 400 page bill dealing with the bank laws that was filed in the CONGRESSIONAL RECORD a week and a half ago, is absurd to me.

In the business the gentleman was in before and the business I was in before, we would be subject to violations of not having proper disclosure, because we clearly are not disclosing what is going on in this bill today.

If one is concerned about protecting Members from voting against various amendments so they are not voting against particular interest groups that are affected by this bill, you just not are going to be able to do that and deal with the issues. This bill is fraught with peril for Members trying to hide from various interest groups.

Now, I am for modernization, probably for more modernization than some of my colleagues on the other side of the aisle and colleagues on this side of the aisle. But this bill, unfortunately, will not have the Congress moving the banking laws and the financial laws to where the marketplace is today. In effect, I think it will have us moving backwards.

There are some amendments that we can address, that we can try and adopt. The LaFalce-Vento amendment and the Bliley-Dingell-Leach amendment are good amendments and they ought to be adopted. But, otherwise, if they are not, I think to argue that this is our last chance to pass this bill in this Congress really reminds me of what my mother would say. My mother would say, you should have thought about that before you decided to spend most of the Congress in recess, instead of staying here and doing your work.

We could have tried to work on this earlier. We could have brought the parties together, instead of having three or four people put the bill together in a back room. We could have tried to pass it. We can always change it. That is what we are elected to do. But we chose not to do so.

So, unfortunately, and with all due respect for the chairman, I am going to have to oppose the rule. I think this bill in its current form is a real step backward. It may be good for the Congress, but the marketplace is going to run circles around it.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume just briefly to say to the gentleman, the gentleman is new here, but he was a cosponsor of an amendment dealing with the operating subsidiaries. We made both of those amendments in order in LaFalce and we made in order the gentleman from Louisiana's amendment.

But let me say, if the gentleman had other amendments, the gentleman should have offered them, and perhaps we could have looked on them kindly.

Let me just point to the fact that the gentleman said there is only one hour of general debate. I want the gentleman to come back here at 11:30 tonight and tell me that there is only one hour of debate on this issue. We will still be on this floor debating this issue at 11:30 tonight, and the gentleman should pay attention to the clock.

Mr. Speaker, I yield one minute to my very good friend, the gentleman from Des Moines, Iowa (Mr. GANSKE), a member of the Committee on Commerce.

Mr. GANSKE. Mr. Speaker, I rise in support of the rule and the bill.

Mr. Speaker, let me speak about consumers. This bill utilizes the holding company structure to build safe fire walls to separate insured bank liabilities from uninsured liabilities of other financial obligations. I think the holding company approach is safer for consumers than having insurance and security subsidiaries. Functional regulation is a consumer safeguard.

Mr. Speaker, this bill ensures that banks which become holding companies will provide low cost basic banking accounts to consumers, that there is full disclosure on which bank products are and are not insured, that loan applications cannot be conditioned on the purchase of insurance, that complaints can be referred to the appropriate regulator and that a new source of low cost credit through the Federal Home Loan Bank system is available to farmers, small businesses and persons involved in community development.

Most importantly, Mr. Speaker, modernizing these depression-era laws as we enter this next century will allow greater competition in the financial services industry and result in lower prices and better services. This could save $15 billion each year.

Support the bill and the rule.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, with all due respect to the chairman, actually the gentleman did not make my amendment in order. It was the Vento-Bentsen amendment. It was a narrow operating subsidiary amendment, which was not made in order, just for the record.

But with respect to being here at 11:30, I am happy to be here at 11:30. That is what we get paid to do. I guess my point is, why do we have to do it all in one day? If it is such an important bill, let us spend a lot of time on it. I think that is what the American people would want us to do.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say to the gentleman that we could make all of these amendments in order. We could spend four days on this. But, there are things like ISTEA, which deal with roads and bridges and construction in this country, there are things like campaign finance reform, all of which have to get done before the time that we go home for the break.

Mr. Speaker, I yield one minute to my good friend, the gentleman from Ohio (Mr. GILLMOR).

Mr. GILLMOR. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am happy to rise in support of this rule, and I am also happy that the bill includes an amendment that I offered which has been called Fed Lite.

Earlier versions of this legislation would have created an umbrella-like regulatory framework subjecting many financial entities to excessive and conflicting regulatory requirements. No clear argument had been made to authorize Federal Reserve umbrella regulation over securities and insurance entities that had functioned effectively without Federal Reserve supervision. That is why I offered an amendment in the Committee on Commerce to scale back this broad expansion of unwarranted regulatory authority and emphasize true functional regulation.

My amendment, which was passed unanimously in the Committee on Commerce, is commonly known as Fed Lite because it scales back much of the unnecessary authority of the Federal Reserve to require reports and conduct examinations in nonbank subsidiaries of a holding company.

Essentially, Fed Lite eliminates most duplicative and burdensome regulations.

□ 1230

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Speaker, I think that what we are hearing on the floor here at the moment is that this bill is designed to expand the powers and the capabilities of the major financial institutions of this country. While I support that and while I was one of 10 Democrats on the Committee on Banking and Financial Services that voted for this bill, 9 of them are now off of it.

The reason why is because when the gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services, a few moments ago referred to lifeline banking and the fact that that is contained in the bill, something happened between the lifeline banking we passed in the Committee on Banking and Financial Services and the lifeline banking portion of this bill that is on the House floor today; and that is that it no longer has any teeth. It no longer is a requirement. It is now something that a bank might opt to do; they might not opt to do it, as well. They do not do it now, so I do not know why they would opt in.

The fact is that what we see here is a grab by the powerful interests of America without even an acknowledgment of the base of the financial institutions.

I wish we were not all done, Mr. Speaker. We have more to say, but not enough time to say it.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Texas (Mr. FROST) has 30 seconds remaining.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have heard the sharp differences on this piece of legislation. We should move to consideration of the bill, and I urge adoption of the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Let me come over on this side and talk to some of my good friends for a minute.

Mr. Speaker, my good friend from Massachusetts just said it is a power grab by the strong interests of America. That is exactly what we are trying to prevent here.

Mr. Speaker, the administration does not want a bill. They do not want a bill under any circumstances. Why? It is a turf war where the Government of the United States wants to control all of this stuff. Well, that is a shame. Alan Greenspan, the Federal Reserve Board Chairman, one of the most respected people in the country, wants this bill. Arthur Levitt, who is the Chairman of the Securities and Exchange Commission, wants this bill, because they want to make sure we are going to protect the investors and depositors and taxpayers of this Nation.

Mr. Speaker, anyone who comes over here and votes against this rule, I say to my colleagues, in my opinion, is voting to protect their own backsides. My colleagues do not want to have to cast the tough votes. They do not want to debate this issue on the floor.

Let me just say one more thing. I was here in 1980; I came here in 1978. In 1980 a little, small, innocuous bill came on the floor. What it did, among other things, was raise the guarantee on deposits from $25,000 up to $100,000 and it said to Jerry Solomon, who had just sold all of his businesses and had come to Washington, you can invest all of your money in all of these new start-up banks that are going to risk your investments; but it is going to be protected by the FDIC, every single $100,000 account that I invest in.

Well, guess what happened? That brought on the S&L crisis. And then what happened? In a lot of cases, people lost their money. In other cases, the Federal Government came in with the taxpayers' money and bailed them out.

I say to my colleagues, we have seen nothing like what is going to happen in the years down the pike if we have to come in and bail out all of these megamergers. We let all of this happen with no controls out there. My colleagues had better be responsible and vote for this legislation.

Let us go to the Senate, and then let us sit down and negotiate with the White House about making sure that the Federal Reserve Board and the Securities and Exchange Commission and others outside this government are going to have a say, because we all know how we politicians are sometimes. We do not always look out for the best interests of the people. Sometimes we are looking out for our own backsides. Let us do not do it today.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 311, nays 105, not voting 16, as follows:

[Roll No. 142]

YEAS—311

Abercrombie
Ackerman
Allen
Andrews
Archer
Armey
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Boyd
Brady
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Clayton
Clement
Coble
Collins
Combest
Condit
Cook
Cooksey
Cox
Coyne
Crane
Crapo
Cubin
Cummings
Cunningham
Davis (FL)
Deal
DeGette
DeLauro
DeLay
Deutsch
Diaz-Balart
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Fawell
Fazio
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gibbons
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Linder
Livingston
LoBiondo
Lofgren
Lucas
Maloney (NY)
Manton
Manzullo
Markey
Mascara
McCarthy (NY)
McCrery
McDade
McGovern
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meeks (NY)
Metcalf
Mica
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thurman
Towns
Traficant
Upton
Velázquez
Visclosky
Walsh
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Tiahrt
Tierney
Torres
Turner
Vento
Wamp
Waters
Watt (NC)
Waxman
Yates

NAYS—105

Aderholt
Bachus
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Borski
Boswell
Brown (CA)
Brown (FL)
Cardin
Carson
Clyburn
Coburn
Conyers
Costello
Cramer
Danner
Davis (IL)
Davis (VA)
DeFazio
Delahunt
Dickey
Dicks
Dixon
Duncan
Evans
Everett
Farr
Fattah
Filner
Frank (MA)
Gephardt
Goode
Gutierrez
Hastings (FL)
Hefley
Hilleary
Hinchey
Hoyer
Istook
Jackson (IL)
Johnson (WI)
Jones
Kanjorski
Kennedy (MA)
Kucinich
LaFalce
LaHood
Lampson
Lantos
Lee
Lewis (GA)
Lewis (KY)
Lipinski
Lowey
Luther
Maloney (CT)
Martinez
Matsui
McCarthy (MO)
McCollum
McDermott
McHale
McIntyre
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Obey
Olver
Owens
Payne
Pelosi
Poshard
Price (NC)
Riley
Rothman
Roybal-Allard
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skelton
Slaughter
Smith, Adam
Stokes
Taylor (MS)
Thompson
Thune

NOT VOTING—16

Bateman
Christensen
Clay
Ewing
Gekas
Gilchrest
Gonzalez
Hall (OH)
Harman
Hefner
Hilliard
Kilpatrick
Mink
Radanovich
Riggs
Skaggs

□ 1254

Messrs. WAMP, LEWIS of Kentucky, EVERETT, HASTINGS of Florida, DICKEY, DELAHUNT, WAXMAN, STOKES, and CRAMER changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. HANSEN). Pursuant to House Resolution 428 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 10.

□ 1255

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes, with Mrs. Emerson in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Iowa (Mr. LEACH), the gentleman from New York (Mr. LAFALCE), the gentleman from Virginia (Mr. BLILEY), and the gentleman from Michigan (Mr. DINGELL) each will control 15 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Madam chairman, I yield myself such time as I may consume.

Madam Chairman, we come to the Congress today to deal with truly historic legislation. Everybody knows there are massive changes underway in the financial landscape. Not all of us like all of these changes. In fact, I would suspect the majority of the country and the majority of this body have serious doubts. But the bill we are bringing before the Congress is about the question of whether we want to have a government of laws or of men, whether we want to have laws shaped and constrained to defend the financial system for the benefit of the public.

What we really have before us as we deal with issues of this nature are differences between and within industrial groupings, differences between and within regulatory bodies, and questions of the public interest.

In my view, the principal issue is the latter, what is in the public interest. What we have in the bill that is being brought before us is a bill designed to be pro-competitive. In its broadest outlines, there is enormous support in the administration, both sides of Congress, both committees for the principle that we ought to have more competition within financial services; banks being allowed to offer more securities and insurance services, insurance companies more banking and securities products, securities firms more insurance and banking products. That is a pro-competitive circumstance.

Now, there are many differences of judgment on the subtleties: who regulates, who gets what powers relative to what other institutions. My view is very simple. We ought to put a great emphasis on antitrust, we ought to put a great emphasis and decide as many issues as possible on what is the most pro-competitive option, and we ought to be, most of all, concerned for small individuals and small institutions.

□ 1300

Here let me just stress from the perspective of a Midwesterner, for the first time we have historic new powers granted to community banks to allow them to offer lower-cost services for small business and for agriculture based on access to capital from a government-sponsored enterprise, the Federal Home Loan Bank system. We also have the capacity of the consumers to get services from more sources in a single moment, what is called one-stop shopping. That is the framework of the bill. I think it makes sense.

There are different subtleties that we will get into and certainly an amendment that I will be offering that I feel is of enormous consequence. Having said that, let me turn for a moment to the regulatory situation.

What this bill does is establish functional regulation with a bit of a tilt to the Federal Reserve Board. The Department of the Treasury has some objection to this tilt.

I would only say for Members of this body that the Federal Reserve Board is the only institution of the United States Government that has significant experience in the holding company regulatory area, which is what we are really getting into with this legislation.

It is also the only institution that has resources available in a time of emergency, absolutely extraordinary and stunning resources that can be brought to bear in an instantaneous time period. It also has the greatest reputation for being a nonpoliticized institution of the government.

These are reasons that this Congress has historically tilted, not just this legislative body, but historically tilted to the Fed. My own view is, the Department of the Treasury has some reasonable positions that this Congress is going to have to take into consideration. The gentleman from New York (Mr. LAFALCE) will offer an amendment tilting in that direction, I think, fractionally too far, but in any regard, tilting in that direction.

Certainly, whatever happens on this floor, if this bill passes, if we go to conference, I would expect the Treasury to have a seat at the table, and we will certainly take into consideration their views. But I would simply say to my friends and colleagues that have listened to the Department of the Treasury about certain concerns, I would hope that the Department of the Treasury would recognize that the major issue is what is in the public interest, not what is in the parochial interests of any particular institution of government.

We have to be enormously cautious as we proceed that, as new powers are undertaken, as new changes occur in the marketplace, that we have a credible regulatory framework set in place. That is what I believe this bill in its final measure accomplishes. Certainly, there are nuanced changes that can occur without great damage to that structure, but I would hope very much that the administration and the other side would recognize that these are honest differences of opinion that this body will have to deal with over time.

Madam Chairman, In this context, H.R. 10, the Financial Services Act, references a historic effort to modernize the basic laws governing the financial services sector of the economy so that our banks, securities and insurance firms can better serve customers in the United States and remain world leaders as financial services providers.

The Glass-Steagall Act, which has separated commercial banking from investment banking, turns 65 years old this year. During these past six decades, financial services has proved to be one of the fastest evolving sectors of the economy, yet it continues to be governed by legislation that is antiquated.

H.R. 10 has been several years in the making, and has involved negotiations and compromises: between different congressional committees, different political parties, different industrial groupings and different regulators. No single individual or group got all—or even most—of what it wanted.

But it should be remembered that while the work of Congress inevitably involves adjudicating regulatory turf battles and refereeing industrial groups fighting for their piece of the pie, the principal work of Congress in the work of the people. To ensure that citizens have access to the widest range of products at the lowest possible price; that taxpayers are not threatened by institutions that take unacceptable risks; that institutions are able to compete against their international rivals, which far outweigh even our largest financial services groups.

The trick in crafting financial services legislation that works to the public interest is to enhance competitiveness abroad, while advancing competition here at home. In this context, H.R. 10 strengthens the competitive position of America's financial services sector internationally and at some time empowers community banks and small financial institutions to ensure competition and consumer choice.

We address this legislation, of course, in the shadow of large mergers that have been announced in the financial services sector. Many of us have concerns about certain trends in finances. The key, whether one likes or dislikes what is happening in the market place, is to ensure that appropriate regulation is in place—anti-trust, consumer, and perhaps, most critically regulation related to derivatives always and other complex financial products. In this regard, this bill opts for functional regulations and for the primary of non-politicized Federal Reserve supervision.

Here it deserves stressing that amid all the publicity about large financial institutions, the true beneficiaries of this legislation are small community banks and the ordinary citizens and small businesses they serve. This bill is opposed by many of the largest banks in the country, because they can already take part in most of the activities the bill permits.

Americans have long held concerns about bigness in the economy. As we have seen in other countries, concentration of economic power does not lead to increased competition, innovation or customer service.

But the solution to the problem of concentration of economic power is not to deny small banks the new powers included in H.R. 10. It is to empower them to compete against large institutions, combining the new powers granted in this legislation with their personal service and local knowledge in order to maintain and increase their market share.

In order to compete against large regional institutions or new technologies like Internet banking, community based institutions need new powers like the ones granted in H.R. 10. Banks which stick with offering the same old accounts and services in the same old ways will find their viability threatened.

For many communities, retaining their local, independent bank depends upon granting that bank the power to compete against mega-giants which are being formed under the current regulatory and legal framework. In a David versus Goliath circumstance, H.R. 10 is the small banks' slingshot.

H.R. 10 provides community banks with the tools to compete, not only against large mega-banks but also against new technologies such as Internet banking.

First, H.R. 10 gives community banks the ability to offer "one stop shopping," so that they can attract new individual and business customers and retain customers who might otherwise feel they have outgrown a community institution. Large financial institutions can already offer a variety of services. But community banks are usually not large enough to utilize legal loopholes like Section 20 affiliates or creation of the unitary thrift holding company which large institutions—commercial as well as financial—have turned to.

Second, H.R. 10 gives community banks access to low cost federal funds through the Home Loan Bank System, letting small banks compete against the Farm Credit System in providing credit for agricultural and rural development projects. Not only will community banks benefit from this provision, but increased competition in rural lending will lower costs to farmers.

Third, H.R. 10 prohibits what are called "deposit production offices"—that is, offices which are designed to gather up deposits in communities without lending out money to people in these communities. This provision helps ensure that deposits made by members of a community stay in the community, thereby creating economic growth and opportunity.

By bolstering the viability of community-based institutions and providing greater flexibility to them, H.R. 10 increases the percentage of dollars retained in local communities.

It should be our goal to approve a bill that first of all gives greater choice and lowers prices to the consumers of financial services; second, protects the taxpayer; and third, is balanced between the various industrial and commercial interests.

As we all know, there are complex issues involved in this legislation, and there will be differing judgments on major issues by members. One thing we all may agree upon, however, is that Congress needs to reassert its Constitutional role in determining what should be the laws governing financial services, instead of allowing the regulators and courts to usurp this responsibility.

If Congress turns its back on financial services modernization, we should not fool ourselves that rapid evolution in the fields of banking, securities and insurance will cease. It will not. Financial services modernization will take place with or without Congressional approval. Without this legislation, however, changes in financial services will continue unabated, but they will take place in an ad hoc manner through the courts and through regulatory fiat, and will not be subject to the safeguards and prudential parameters established in this legislation.

Now is the time for Congress, not the regulators and the courts, to step up to the challenge of modernizing our nation's financial services sector for the 21st century, to ensure that it remains competitive internationally, that it is stable and poses no threat to the taxpayer, and that it provides quality service to all our citizens and communities.

Madam Chairman, I reserve the balance of my time.

Mr. LAFALCE. Madam Chairman, I yield myself such time as I may consume.

First of all, I want to acknowledge the fact that it has been a pleasure to work with the chairman of the Committee on Banking and Financial Services, the gentleman from Iowa (Mr. LEACH), and the chairman of the Committee on Commerce and the ranking Democrat, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Michigan (Mr. DINGELL).

We have some differences of opinion. There are some very good provisions within the most recent iteration of H.R. 10, but in my judgment there are some very, very bad provisions that take significant steps backward. The issue is, how do we best advance the cause of the American consumer? How do we best protect the cause of the American consumer?

Every consumer group in America that I am aware of opposes H.R. 10, even with the manager's amendment. The administration opposes it, even with the manager's amendment, to such an extent that the Secretary of the Treasury had a press conference yesterday, appeared before Congress today, and indicated that he would strongly recommend a veto of it because it is not in the public interest.

I side with all of these consumer organizations. I side with the administration. I also side on these issues with the State banking regulators and the chairman of the FDIC, the insurance fund.

Now, in its current form, unfortunately, this bill reduces competition; it does not enhance competition. It fuels concentration. I think that is why most of the bigger banks and bigger insurance companies and bigger securities firms are for it, but the smaller banks of America, for example, and the consumers are opposed to it. It leaves smaller and medium-size banks at a serious competitive disadvantage, and it flatly discriminates against national banks as providers of new financial services.

Perhaps most importantly, the bill requires national banks to move assets out of institutions covered by the Community Reinvestment Act in order to offer new products and services.

We Democrats have worked hard for years to ensure that banks actively invest in the communities from which they draw their funds. No such requirements apply to the new conglomerates that will be created as the result of this bill. Only banks are covered by the CRA, and traditional banking institutions are put at a competitive disadvantage under this bill.

The strength of CRA is substantially dependent on the strength of the national bank system. This bill undermines both. For this and a number of other reasons, consumer and community groups generally oppose this legislation.

The creation of large, diversified financial institutions that can compete in global markets must be a part of financial modernization, but there must be room in this country and in this bill for the community-based institutions that we so heavily rely on to provide credit to consumers and local businesses and to fuel community development.

Many Members have also asked me whether this bill is good for consumers and good for their communities. Consumers benefit from innovation and competition. Communities benefit from investment in their citizens and businesses that can spur economic development. This bill, unfortunately, would impede innovation by preventing national banks from offering new products and services within their existing structure. It would reduce competition by eliminating the historical tension between different bank charters and different bank regulators, forcing all institutions into one mold governed by one regulator. For those who fear the power of the Federal Reserve Board, this is not a slight tilt in the Federal Reserve Board's direction; this is a massive shift.

It virtually compels smaller banks to become part of a larger-scale conglomerate in order to compete. It forces assets out of banks and, therefore, out of the reach of the CRA. I cannot honestly say that any one of these things is good for either consumers or communities.

The gentleman from Minnesota (Mr. VENTO) and I will be offering an amendment to cure many of these defects. I would urge Members' strong support of our amendment to cure so many of these defects.

If our amendment should not pass, I would be constrained to oppose the bill as the consumer groups of America do, as this administration does.

Madam Chairman, I reserve the balance of my time.

Mr. BLILEY. Madam Chairman, I yield myself such time as I may consume.

I would like to begin by thanking my good friend and ranking Democratic member on the Committee on Commerce, the gentleman from Michigan (Mr. DINGELL), as well as the gentleman from Ohio (Mr. OXLEY), the gentleman from New York (Mr. MANTON), the gentleman from Ohio (Mr. BOEHNER), and the gentleman from Iowa (Mr. LEACH), who have spent hundreds of hours in meetings and negotiations working on a bipartisan basis to create our best opportunity in 65 years to modernize our financial system.

Every step of the way we were opposed by lobbyists and special interest groups who said it could not be done. But we heard the concerns of the American people about all of these megamergers. We heard the concerns of the local businessmen who want to better compete but have one hand tied behind their backs by the archaic Glass-Steagall restrictions that current law imposes. And we heard from the Federal and State financial regulators who expressed concern about the safety and soundness of the financial system and their consumer protections as we enter into the 21st century if we do not enact reform.

It is a testament to the will of the American people that we have heard your concerns and are here today to pass legislation to protect your future and that of your children.

I have a grandson who is almost 2 years old, Thomas J. Bliley, the 4th. When our committee heard from the OCC bank regulator that they considered critical securities and insurance consumer protection regulations to be only guidelines that banks may or may not have to comply with, I worried about his future. This bill protects us.

Last year, the citizens of Illinois encouraged their legislature to sign a comprehensive law governing bank insurance sales. It was a bipartisan consensus, worked out with the support of all the affected industries. We have taken this great compromise from Illinois and made it one of the central keys to this legislation. We have protected or safe-harbored any State consumer protection law which is no more restrictive than the Illinois consensus.

This means that if my grandson, TJ, goes into a bank in New York, the New York law guaranteeing consumers information that their choice of insurance providers will not affect the loan application will be a requirement, not a guideline. It means if he goes into a financial institution in Florida, that that State's laws providing disclosures will be requirements, not guidelines. And if he goes to Louisiana, which has a law protecting the confidentiality of a consumer's insurance history, something very important to all of us, that such privacy protections will be a requirement that banks have to follow, not just a guideline. But even if those State laws are protected, how much competition will be left by the time he grows up?

Our committee has been inundated with letters and calls by consumers worried about the ongoing megamergers, such as First Union bank's purchase of CoreStates Bank in Pennsylvania, which included plans to cut 4,400 jobs, close 172 bank branches and turn Philadelphia into the top 10 market most dominated by a single bank at an amazing 53 percent of the market. If we do not remove the government restrictions preventing new competition in the banking industry, consumers will continue to face higher fees and increased charges into the future.

This bill immediately triples the number of providers that can potentially offer competing products and will ensure new competition to reduce prices and surcharges.

And banks are not the only ones abusing the protectionist loopholes in the current system. Our committee has investigated extensive fraud by insurance agents who have swindled consumers out of huge premiums for little to no extra policy benefits. H.R. 10 would not only let insurance companies bring competition into the banking industry, but it also allows banks the ability to offer competing insurance products in every branch and location and at a huge potential savings for customers.

I happen to be a friend of both my local bank and my insurance agent. Both are honest and hard-working individuals. But would I like to see them compete to see who can offer me the lowest price for my business? Absolutely. Do I want American consumers to have the same savings? Yes, absolutely yes.

Last month we all heard about the Travelers-Citibank merger which created the biggest corporation in the Nation. I am told that they cannot do this under current law, that we have restrictions in place against this sort of thing, but they did it and more companies will do it, and we do not have the framework in place to regulate it. This bill creates that framework.

With H.R. 10 we create a standard for protecting consumer laws and the safety of our country's finances. Without H.R. 10, we are diving into a river of uncertainty at night hoping what somehow we will make it to the opposite shore in one piece.

I have heard from the administration and the Treasury Department that they oppose this bill because it hurts the national bank charter. Do not be fooled. They are simply losing a turf battle between two agencies, the OCC and the Federal Reserve, over who gets control over these megamergers.

If I have to choose between a Federal Reserve Board that has kept inflation at a long-term low, made the American dollar the envy of the world and strengthened our financial payment system into the best shape it has ever been in versus the OCC bureaucrats that go around threatening to preempt State consumer protection laws and then join political fund-raisers to solicit campaign money from the affected institutions, then I choose the Federal Reserve.

□ 1315

If we do not care more about protecting the American people than protecting a bank charter, then we should turn in our election certificates and find someone who can better represent our country.

Vote "yes" on H.R. 10 to ensure that my grandson TJ and millions of other Americans do not lose the protection of our securities and insurance laws. Vote "yes" on H.R. 10 because it opens up competition and protects consumers from these mega-mergers. Vote "yes" because, after all, there are millions of industry lobbying dollars spent to defeat this bill every year. Our country needs reform, and they are depending on us to do the right thing.

Madam Chairman, I reserve the balance of my time.

The CHAIRMAN. Without objection, the gentleman from New York (Mr. MANTON) will control the time.

There was no objection.

Mr. MANTON. Madam Chairman, I yield myself 2 minutes.

Today we have before us legislation involving the reform of our financial services marketplace. As the ranking member of the Subcomittee on Finance and Hazardous Materials of the Committee on Commerce, and having seen this particular financial services bill die and resurrect itself several times over the last year, I fully appreciate that simply getting this far is quite a feat.

This legislation is very complex and will dramatically affect both financial and nonfinancial companies in the way they do business in the future. There is little disagreement as to the need for reform, the problem is just how to go about it. I believe the package we have before us today, while not perfect, is an excellent step in the right direction and will significantly move this process forward.

This legislation repeals the anti-affiliation provisions of the Glass-Steagall Act that have kept various financial industries from affiliating with one another for the last 65 years. While this restriction may have been a good idea in the 1930's, the landscape has so significantly changed since that time that maintaining such a limitation no longer makes sense.

With an increasingly global marketplace, and consolidation within the industry, the need for this regulation legislation is abundantly clear. Within the last year alone we have witnessed the merging of large financial institutions at an unprecedented rate, especially banks buying up securities firms, while the same securities firms are unable to acquire banks. Rapdily evolving banking laws have allowed for such combinations, while potential competitors are still stuck under the restrictions of Glass-Steagall.

I believe this legislation will create competitive parity and thereby level the playing field between banks and other financial providers. The ultimate beneficiaries of this increased competition will be consumers; who will have a greater number of products and services to choose from, in a more convenient forum, and at lower prices.

I would like to to take a moment to thank the chairman of the Committee on Commerce, the gentleman from Virginia (Mr. BLILEY), and the full committee ranking member, the gentleman from Michigan (Mr. DINGELL) for all of their hard work and diligence in ensuring that adequate consumer and investor protection provisions be built into the manager's amendment which we will consider later today.

The manager's amendment ensures that consumers will be true beneficiaries of the increased competition this legislation seeks to promote. I believe this overall package is a good one, and I urge my colleagues to support it.

Madam Chairman, I reserve the balance of my time.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentleman from New York (Mr. LAZIO), our distinguished colleague and close friend.

Mr. LAZIO of New York. Madam Chairman, I thank the gentleman for yielding me this time, and I want to begin by complimenting the chairman, the gentleman from Iowa (Mr. LEACH), the chairman, the gentleman from Virginia (Mr. BLILEY), the chairman, the gentleman from Ohio (Mr. OXLEY), and the chairman, the gentleman from New York (Mr. MANTON) for their extraordinary work in moving this forward. This was never inevitable. Only because of the hard work and the consensus building that they were able to achieve are we here today.

Let us go back to the early 1930's, Madam Chairman, and the movie the "Wizard of Oz". The stock market collapsed. The Securities and Exchange Commission did not exist and few securities laws were enacted. Between 1930 and 1933, 8,000 banks with $5 billion of deposits, an enormous sum at the time, went bankrupt. American families suffered. Their life's savings, money for food and shelter was lost.

To restore American confidence in our banks, Glass-Steagall erected a wall between commercial banks and investment banks. Deposit insurance was created so American families knew their financial nest egg was safe. In the fragile days of the Great Depression, Glass-Steagall made sense.

Years ago, families kept the bulk of their savings in banks, earning low rates of interest. Today, families invest in the stock market. In the last 7 years stock ownership has doubled. Now, 43 percent of adults own them. Americans are seeking higher returns.

Consumer behavior changed because stocks and mutual funds achieved superior long-term results. People began managing their own retirement funds. In short, Americans are no longer hiding their savings in their mattresses.

Today, we stand at the center of an electronic revolution; computer banking, cash management accounts, online mutual fund investing, moving money to Tokyo and back again in an instant. We can pay our bills through TV, and a customer can see and speak to a teller via the Internet. We simply no longer live in the depression era that gave birth to Glass-Steagall.

Madam Chairman, this bill rids us of the inefficiencies of the financial services system. American families and small businesses should have the same investment and borrowing choices that have been enjoyed for years by large businesses, foreigners and millionaires.

Each year we spend $300 billion for brokerage, insurance and banking services. Some of that money belongs in the pockets of folks living in places like Bayshore, Long Island.

Families go to one place to open a checking account, to another to invest in a mutual fund, then to a third to get an annuity for their retirement. At each of these stops a transaction fee, or a cost, is charged.

Mr. BLILEY. Madam Chairman, I yield 2 minutes to the gentleman from New York (Mr. LAZIO).

Mr. LAZIO of New York. Madam Chairman, I thank the distinguished gentleman for yielding me this time.

While millionaires have been getting the best service at the best price, one-stop shopping is still not available to working families. Financial modernization will give families greater choices where and how to invest their hard-earned savings. Make no mistake, the positive impact of this bill will stretch from Wall Street to Main Street to M Street, from the cradle to the wedding to retirement.

This bill breaks the chains of Glass-Steagall that no longer serve the interests of American families without sweeping us away in the tide of economic euphoria. This bill sustains us as the caretakers of senior citizens' nest eggs and ensures that the life savings of working families are not lost in economic downturns.

We, as legislators, do not know what financial products and services will be demanded by the public in the future, but we should break down barriers and encourage competition creating environments for more innovative products and better prices. A vibrant financial base is at the core of a healthy economy.

Without this bill, ominous news is in store for some American financial institutions and thousands of their workers. We risk trapping some of them by barring them from competition. The United States should make its destiny. We should not stand on the sidelines while foreign banks take over America's oldest securities firms.

Madam Chairman, the Congress has tried time and time again to modernize our financial services laws. I am not certain that we will get another chance, and we certainly cannot afford to stand still. I urge my colleagues, Republican and Democrat, to let American finance step into the future. Support this fine bill, because it will be a positive, constructive part of America's financial services history.

Mr. LAFALCE. Madam Chairman, I yield 4 minutes to the gentleman from Minnesota (Mr. VENTO), the distinguished ranking Democrat on the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Banking and Financial Services.

Mr. VENTO. Madam Chairman, I rise in opposition to H.R. 10. This rule that has structured our consideration of this bill will, hopefully, make improvements to the bill, but for now I am opposed to the substance of this so-called modernization bill.

As I stated earlier, I do not believe it is worthy of its name. This is sort of a one-size-fits-all bill, forcing, or trying to superimpose upon the dynamic U.S. marketplace in our economy, probably the most advanced economy that the world has ever seen, this sort of convoluted regulatory structure. As I said in the consideration of the rule, our banks provide the foundation of this dynamic economy.

A bill worthy of the name modernization ought to, in fact, eliminate some of the barriers. The fact is these barriers have never been black and white with regard to the Glass-Steagall laws. There have been many gray areas. Banks have been involved in insurance, banks have been involved in the sale of insurance, they have been involved in the sale of securities.

We have seen the regulators move banking financial institutions forward to try and address the reality of the marketplace. And rather than try and get out in front of that and rationalize that process in this bill, as my colleague from Texas (Mr. BENTSEN) pointed out, this bill moves to balkanize those issues and to limit financial institutions, especially the national banks, in terms of the exercise of those responsibilities and such powers.

The bill in its current form is a step backwards. It denies the benefits of financial modernization not just to the medium and small banks that we are talking about but also to the communities that, after all, are the true beneficiaries, and stacks the deck against these financial institutions by forcing them to give up profitable, existing, valid and workable lines of business for no compelling public policy reasons.

Our national banks have been and remain a source of economic strength and a solid foundation on which to construct an economic framework for growth. This bill changes the balance between national and State bank charters. It will likely result in some charters flipping. If it is all right for a State bank to conduct an activity in an operating subsidiary, and it is appropriate for an international U.S. bank to function in an operating subsidiary, why do we then limit national banks in that very function and corporate structure, within the national U.S. economy.

This so-called modernization bill should, in fact, restore competitive balance, but this bill, at every turn in the policy decision, fences in activities and tries to protect and insulate and balkanize what is becoming apparent to all of us, and that is that the lines of business of insurance, the line of business of securitization of banking loans is something that has, in fact, greatly changed. These financial instruments have become a distinction but they really look and perform no different.

These new limits and proposed law comes with few, if any, competitive gain for a small or medium sized bank. I hope we can correct that with the LaFalce-Vento amendment and help consumers and help institutions.

Furthermore, Madam Chairman, the commercial basket in this bill which again discriminates against banks. I think that a reasonable, a level playing field with regards to commercial basket should be included. And I am pleased to have joined in sponsorship of an amendment with the gentlewoman from New Jersey (Mrs. ROUKEMA), the chairwoman of the subcommittee, in sponsoring such amendments to this measure.

The bill has any number of flaws that need to be corrected. Clearly, I think reading the litany of groups against this bill, I think, would astound the Members, looking at the banking institutions, the consumer groups, Acorn, many of the other groups that are against the bill. The fact is, who is for it also tells us or suggests what this bill does. Obviously, those that need to be for this measure are the Citibanks and Travelers that have basically entered into agreements which are not permitted under current law. Therefore, the bill is a must pass measure for such institutions.

As we see the bill grow, we should also put in place the safeguards that are absolutely necessary so that the consumer and so that the economy and the government and the deposit insurance programs are protected.

Madam Chairman, I rise in opposition to H.R. 10. The rule that structured our consideration of this bill will hopefully help make improvements to the bill, but for now I am opposed to the substance of this so-called "modernization" bill.

I would like to be making a statement in strong support of financial services modernization legislation this afternoon. Our laws need to catch up with reality by mapping a path of true modernization for financial institutions in the financial services marketplace for today and tomorrow. We need to enhance the competitiveness of our financial services sector and to move forward with predictable, certain, logical, and uniform regulation.

As written today, H.R. 10 would force banks to move financial innovation out of the bank, a loss of diversity that is disadvantageous for many reasons. Structurally, banks would fundamentally be forced to choose a holding company structure in order to participate in a meaningful way in the 21st Century financial services landscape. This is essentially a business decision that should be made on a business basis, not because options have been closed down by this "modernization" bill.

The bill in its current form is a step backwards because it denies the benefits of financial modernization to communities and consumers, and stacks the deck against many financial institutions by forcing them to give up profitable existing, valid and workable lines of business for no compelling public policy reasons.

Our national banks have been and should remain a source of economic strength and a solid foundation to construct an economic framework of growth. This bill changes the balance between the national bank and state bank charters and may push banks to charter flip to state banks where flexibility will remain.

True financial reform need not play off one segment of the financial services industry against another. Rather it should provide competitive balance. H.R. 10 plainly discriminates against national banks by taking away existing powers and creating uncertainty in the conduct of their business. These limits come with few, if any, competitive gains for small- or medium-sized national banks which today ironically have more options and exercise more powers than they would under this H.R. 10.

The commercial basket in this bill is not level between banks and other financial services companies as the bill envisions a limited 5% basket for financial service holding companies affiliated with banks and a 15% basket for securities and insurance firms that become financial holding companies. There is no reason for the competitive inequity for banks other than it fits with the entire bill in its antagonism towards banks and their future options.

Furthermore, H.R. 10 would undermine the Community Reinvestment Act (CRA) by requiring that new financial products and services be offered outside of banks and their subsidiaries and only in holding company affiliates. Of course, these concerns could be remedied by adopting the LaFalce-Vento operating subsidiary amendment and the Roukema-Vento-Baker-McCollum-LaFalce basket amendment. At this point, however, their success is not preordained.

This bill has a number of other flaws. It will undermine our federal banking regulator in the courts by altering the deference standard. If H.R. 10 were to pass as written now, the precedent could be detrimental to other areas of law as well. The complex provisions regarding the interface of state and federal law on insurance have become confusing at best. I would prefer that the bill return to the Banking Committee's balanced provision in Section 104 that would have clarified that no state, by statute, regulation, or order, could prevent or restrict affiliations between financial companies, nor prevent or restrict activities authorized under this Act. H.R. 10 now only serves to confuse the issue and could no doubt send everyone back to the courts for decades to come.

Financial services modernization must do far more than just pave the road with a Congressional stamp of approval on the acquisition and merger phenomena. As I said in the Banking Committee hearing on bank mergers a couple of weeks ago, we need to be vigilant and the regulators need to be vigorous in applying the laws we have today. I do not find heartening, for example, the Federal Reserve Board's current laissez faire attitude with regard to the Citicorp/Travelers merger. In fact, I find it less than comforting that the Fed is coming out so strong in support of the holding company model (as opposed to an op sub option) when they seem sanguine about this premodernization merger.

Nonetheless, these are not mere matters of turf. They are not just matters of committee jurisdiction. Our nation and economy demands a strong national bank charter today and tomorrow. Without changes in this bill to ensure strong national banks, this "modernization" initiative will atrophy bank powers that are being employed today. It will not be worthy of its name or the positive support of Congress.

Madam Chairman, while some of the laws governing the financial services sector are overdue for reform, we should not be replacing old law with bad law. Moving the process forward is not enough for this Member because I cannot logically defend this bill as it is now written. There must be some reason, some fair rationale.

Financial services modernization for the future should be balanced; should enhance competition, and should not foster industry concentration and corporate restructuring at the expense of consumers and communities. Madam Chairman, the Administration has made their concerns known throughout this process. Unfortunately, their input has been largely ignored and this has resulted in a veto threat for this bill. I urge Members to keep these fundamentals in mind as we move to the amendments on H.R. 10 and to oppose this bill without passage of LaFalce-Vento and other parity amendments.

Mr. BLILEY. Madam Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. OXLEY), the very able chairman of the subcommittee.

Mr. OXLEY. Madam Chairman, first I would like to thank the chairman of the full committee, the gentleman from Virginia (Mr. BLILEY), as well as the ranking member, the gentleman from Michigan (Mr. DINGELL), and my good friend the gentleman from New York (Mr. MANTON), the ranking member of our subcommittee, for their good work in bringing this bill to the floor today.

We have reached a critical watershed in the evolution of the financial services industry. Congress has been trying for 63 years to modernize our financial markets; trying for 63 years to allow banks to diversify their portfolios, to protect the solvency of the banking industry, to provide our American companies with some abilities that their foreign competitors already have, and to provide a fair and comprehensive system of functional regulation to protect consumers and the American taxpayer.

When my subcommittee began work on H.R. 10, we focused on three fundamental goals: Protect consumers, increase competition and maintain the safety and soundness of our Nation's financial system. This legislation, H.R. 10, achieves those goals.

H.R. 10 establishes full functional regulation of financial activities, balancing Federal and State regulations to ensure maximum protection to consumers. It repeals the depression era 1930's restrictions on competition so that banks will no longer be forced to make riskier and riskier investments to hang on to a dwindling share of consumer savings. And it brings our American financial industry into the 21st century on an even footing with our foreign competitors with full competition and consumer choice.

When H.R. 10 came to our committee, it was opposed by almost every regulator and industry group. Now, after months of hard work by Republican and Democrat bipartisan committee staff, we have a bill that has the support of the Federal Reserve and Chairman Greenspan, Securities and Exchange Commission, Chairman Arthur Levitt, Consumers First, the National Association of Home Builders, insurance agents, insurance underwriters, securities firms, mutual funds and banks representing a quarter of their market.

Most importantly, this bill helps advance the interests of consumers. Consumers want to be able to go to a financial planner or investment adviser and take care of all their financial needs. They want to be able to have the opportunity to choose from a variety of hybrid products without artificial limits placed on their choices. And they want to take advantage of the $15 billion per year in consumer savings that would result from repealing the inefficient and archaic Glass-Steagall bill.

□ 1330

The Washington lobbyists and the media have panned this bill from day one. They said it could not be done. They said the Congress will not have the will to buck the tide and pass a bill that does not have the unanimous support of all segments of the financial industry. Each step of the way we have proved them wrong. We are going to prove them wrong again today.

Congress will not be paralyzed by lobbyists who get paid to stop good legislation. At the beginning of this year, the gentleman from Ohio (Mr. BOEHNER) and I decided to go around the lobbyists and convened a meeting with top CEOs of the financial industry for their commitment to getting financial reform.

Some lawyers are continuing to try to pick apart our efforts. Some companies do not want to face increased competition and are afraid of H.R. 10's brave new financial world that forces them to be more responsive to their consumers. But the leaders of American business know this bill is good for their shareholders and good for their country. Eventually they came to us and said, we will support your efforts.

Let us support H.R. 10. It is a well-balanced and well-crafted piece of legislation.

Mr. MANTON. Madam Chairman, I yield 2 minutes to the gentlewoman from Colorado (Ms. DeGette).

Ms. DEGETTE. Madam Chairman, I thank the gentleman for yielding.

I rise in support of H.R. 10, the Financial Services Competitiveness Act. We have an opportunity today to modernize financial laws that have not changed since the 1930s. This legislation takes some important steps to modernize Depression-era banking laws that no longer reflect the reality of today's marketplace.

I know there are fears about the complexity of this legislation. I know that those changes make everybody nervous. But this is a complex issue and it demands a complex solution. The good news is the bill has the potential to foster free-market competition and protect the interests of the public with the consumer protections included in the managers' amendment.

Supporters of this bill have heralded how much it will benefit consumers. And it will if we pass the managers' amendment, which includes the very important Bliley-Dingell consumer protection language.

There is an additional consumer protection that is included in the underlying bill and deserves recognition. Buried in H.R. 10 is the first-ever Federal protection aimed at preventing property, casualty and life insurers from discriminating against survivors of domestic violence.

I first raised this issue last October during the Committee on Commerce consideration of H.R. 10. Many of my colleagues on both sides of the aisle were stunned to learn that insurers routinely use domestic violence as an underwriting criterion. Many insurers treat a person's history of abuse as if it were a life-style choice like skydiving or car racing. Domestic violence is indeed dangerous, but it is in no way a life-style choice.

During the intense and often acrimonious negotiations over this legislation, the chairman and ranking member of the Committee on Commerce did not lose sight of the importance of this issue. I am grateful to the gentleman from Virginia (Mr. BLILEY), the gentleman from Ohio (Mr. OXLEY), the gentleman from Michigan (Mr. DINGELL), and the gentleman from New York (Mr. MANTON) for their steadfast commitment to including these important protections in the underlying bill.

I would also like to thank the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Vermont (Mr. SANDERS), who are the original sponsors of the legislation upon which the amendment was built and whose leadership has been instrumental in pushing this issue to the forefront of debate.

While 23 States have passed this protection, H.R. 10 will help all victims of domestic abuse. It will also help consumers. I urge support of the managers' amendment. I urge support of the legislation.

Mr. LEACH. Madam Chairman, I yield 3 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA), distinguished chairman of the Subcommittee on Financial Institutions and Consumer Credit.

Mrs. ROUKEMA. Madam Chairman, I rise in strong support of this legislation.

I base my support for this bill on some very fundamental principles. One, it must preserve the safety and soundness of our Federal deposit system and the rest of the Federal safety net and protect the taxpayers. This bill does that. It must protect against concentration of economic power. And I believe that H.R. 10 maintains both these fundamental principles.

The bill permits banks, security firms, and insurance companies to affiliate under one holding company, and the bill grants bank holding companies the authority to engage in virtually any activity financial in nature. It grants holding companies the authority it make modest amounts of investment in commercial activities. And the bill grants authority to banks to deal in insurance activities while assuring, and I stress that, assuring that the consumers will be protected.

But the bill does not permit underwriting of insurance and real estate investments in the holding company. The bill sets up a nuclear regulatory structure. And, my colleagues, this is fundamental to understanding why I support this bill. We are adopting functional regulation here. While banks, security firms, and insurance companies will be permitted to affiliate, the banking securities and insurance regulators will continue to regulate and supervise these entities. This will provide the so-called level playing field, and it will be level for all participants in a particular area of financial services regardless of what that corporate structure may be.

But here I want to get to the safety and soundness question and I want to stress that the affiliation will not undermine safety and soundness. The bill protects the Federal deposit system so that it will not be used to bail out securities or insurance affiliates of the banks. The transaction with affiliates' "restrictions" found in sections 23(a) and 23(b) will continue to apply to insurance and securities affiliates in this holding company structure. I stress, these types of fire walls are absolutely essential to protect the consumers and the taxpayers.

I would like to tangentially make the point that I oppose the operating subsidiary amendments which will be offered later, but we will debate that at the appropriate time.

This legislation is also necessary, absolutely necessary, to keep us competitive with our foreign competition. Outdated laws need to be updated, and this bill does that; but as well as protecting us in world markets, it also protects us here at home.

I want, in conclusion, to say that we need this legislation to set a statutory framework to direct the regulators who have, I am afraid, in the absence of congressional action, taken arbitrary and ad hoc actions and have rewritten the rules. But they are not directly accountable to the voters, my colleagues. I want to repeat that. The regulators are not accountable to the voters and the taxpayers. We are.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Madam Chairman, today I very reluctantly rise in opposition to the bill in its present form. Like every other member, I think, of the Committee on Banking and Financial Services, on both sides of the aisle, I want very badly to see modernization. But I do not believe that this bill fulfills the flexibility test that I wish that it did. And unless we amend it in significant ways that I do not expect today, I am going to have to vote against it.

I am afraid that it will destroy flexibility in the banking system and will not allow the innovation that we need to have going into the 21st century. I am worried that it increases the amount of regulation, rather than decreasing it, on our financial services system. I am concerned that the bill does not provide, as the committee bills did out of both Banking and Commerce, for the merger of the bank and thrift insurance funds, which very much needs to be done for safety and soundness; and frankly, it is very disappointing we are not doing that here today. And I am fearful that we will invite more litigation because of the vague standards that are in this bill. For those reasons, I am opposed to the bill.

I am not speaking to it for any other reason than to lay out the predicate for it today. It is a sad moment for me to be here opposing my chairman on this issue. I respect him a great deal. I respect all of the people who worked hard on this bill. And I truly hope that we get to a flexible, innovative financial services modernization piece of legislation.

Mr. BLILEY. Madam Chairman, I reserve the balance of my time.

Mr. MANTON. Madam Chairman, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Madam Chairman, I thank the gentleman from New York for yielding me the time, and I want to congratulate him and the gentleman from Ohio (Mr. OXLEY) along with the chairman of the full committee, the gentleman from Virginia (Mr. BLILEY) and the ranking Democrat for the full committee, the gentleman from Michigan (Mr. DINGELL) for their excellent work on this bill; and all the other members, the gentleman from New York (Mr. LAFALCE) and the gentleman from Iowa (Mr. LEACH) and everyone else who has worked on this bill.

Banking, insurance, securities. Now, to the ordinary person listening to this debate, it sounds like a struggle between the very rich and the extremely wealthy. "What is my stake in this debate?" the ordinary person says. Well, it is really a debate about investors and depositors and businesses and consumers. And, in fact, it is a debate about a fundamental change being proposed in the capital formation system in the United States that is the very engine which drives capitalism in the United States.

Now, back in 1933, when Glass-Steagall was put on the books, it was in the aftermath of a great economic collapse in the United States, and there was great concern about the mixture of investment banking with ordinary banking.

Now many people argue times have changed. And they have. But something has not changed. That is human nature. It is still the same. And the very same forces of greed and fear which existed in 1929, 1930, 1931, and 1932, throughout the 1930s, still exists today.

Now, tearing down Glass-Steagall is a good idea if we build in the proper safeguards, fire walls to protect investors and depositors and taxpayers. If we do not, it is a disaster for this country and it would be a great mistake for us to pass legislation here today.

We have tried to pass legislation for the last 15 years or so in this area. But like the character created by Albert Camus in his famous novel, "The Myth of Sisyphus," in 1942, Congress has pretty much engaged in an exercise where we gain great satisfaction from just trying to get the boulder up to the top of the mountain but never successfully making it. And in fact, that is how this whole exercise may actually end. But it is worth the effort.

Over the years, however, it has foundered because, while banks have wanted the extra powers that would come with repealing Glass-Steagall, they have always wanted to do so without the requisite safeguards being put into place so that we do not repeat the past.

The bill before us now has good and bad and ugly, like that old Clint Eastwood spaghetti western. The good is that we keep out Op-subs. We will keep hearing that. It will be defined to us as an operating subsidiary. What Op-sub really stands for is "ordinary people subsidizing" banks. That is what Op-sub means, spreading the Federal protection for banking activities over into securities, over into insurance areas. Ordinary people subsidizing risky business, that is bad. It is not in the bill.

However there are some things in the bill which are bad and ugly. The Leach amendment seeks to deal with the mixture of commerce and banking. I support that amendment. It is a good amendment. The Bliley-Dingell amendment seeks to deal with the deficiencies which exist in the protections for depositors and investors, and I support that amendment. They should both be adopted if our goal is to form a more perfect version of what this legislation should be so that we can move to a future without Glass-Steagall, but at the same time give the protections to investors, to depositors, to taxpayers which they deserve.

□ 1345

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE), my distinguished friend and colleague, the subcommittee chairman.

Mr. CASTLE. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I, too, like most of the other speakers here, rise in support of the repeal of Glass-Steagall and the modernization of financial institutions across the United States of America. I think this is very, very important to do.

I will submit a fuller statement for the RECORD, but I would just like to take the little bit of time I have, to first of all, thank all those who put this together, there is too many to mention in 2 minutes, and to state that the most important reason for supporting this legislation that I can find and I hope others can find is that it will benefit every American seeking to improve their family's financial security by saving and investing more.

This legislation will help them achieve that goal by making more savings and investment products available in one-stop shopping at competitive prices. In addition, the bill contains important disclosure and sales standards that protect consumers as they shop for these products.

The legislation will help consumers, but it will also benefit the businesses seeking to provide these financial products. It will enable banks, insurance companies, and securities firms to affiliate and operate more competitively, which is good for all of us on a level playing field.

It will expand the products that these financial services can offer to their customers while maintaining adequate regulation to preserve the safety and soundness of the system. That is what it is all about.

We needed to find a piece of legislation after 60 years, and Glass-Steagall was questioned almost on the day it passed, I might add, but we needed to find something which we had proper regulation, good capital requirements, the fire walls that we are concerned about in order to move it forward.

In my judgment, this piece of legislation does that. H.R. 10 meets those standards. I am supportive of a number of the amendments which are going to come up, because I feel it should be tilted a little bit one way or the other, as others may feel, too. But in the long run, I intend to support this legislation regardless of how these amendments may come out.

I must say I have a sense of deja vu about all this. My State went through this in the 1980s. We liberalized our banking laws a great deal. Our banks were among the first in the country which were allowed to do a number of things that are being talked about in this legislation when the States were allowed to regulate it.

I cannot tell my colleagues how well it has worked. We have regulated well. We have been careful about what they could do. We have made sure the capital requirements were high. Delaware has prospered mightily as a part of all of this.

I would also say that there are many banks who are opposed to this legislation, and I think we will find in the long run, when we are through in the House and the Senate, that they will be pleased. So support the legislation.

Madam Chairman, I rise in support of H.R. 10, the Financial Services Competition Act. This legislation is long-overdue to modernize our Nation's banking, securities and insurance laws. While the bill before us is not perfect, it does represent a fair compromise on important issues. As is the case with any compromise, not every group is happy. Banking is very important to my State of Delaware and our banks are split over the bill. I will support several of the key amendments to the bill, in an effort to improve some provisions, but regardless of what happens on those amendments, I believe this legislation is a step forward and should be passed today.

As a member of the House Banking Committee, I have been directly involved in the work to modernize our financial services laws since I came to Congress in 1993. It has been a difficult struggle to update our laws to keep pace with and manage what is happening in the market place, while seeking to balance the competing interests of the banking, securities and insurance industries.

Now is the time to act. We must do this to benefit consumers who need a variety of financial products to help them plan for their economic futures. In addition, we must update these laws to allow our financial services providers to compete effectively in the next century.

The most important reason for supporting this legislation is that it will benefit every American seeking to improve their family's financial security by saving and investing more. This legislation will help them achieve that goal by making more savings and investment products available in one-stop shopping at competitive prices. In addition, the bill contains important disclosure and sales standards to protect consumers as they shop for these products.

This legislation will help consumers, but it will also benefit the businesses seeking to provide these financial products. It will enable banks, insurance companies and securities firms to affiliate and operate more competitively on a level playing field. It will expand the products that these financial services firms can offer to their customers, while maintaining adequate regulation to preserve the safety and soundness of the system.

Madam Chairman, as part of the long deliberations seeking to treat all financial services providers fairly, I have been particularly interested in assuring that national banks are permitted to compete fairly in selling and underwriting insurance products. Bank sales and underwriting of insurance will be good for competition and good for American consumers.

To be candid, in my view the provisions in this legislation regarding banking and insurance are not perfect. I believe the language that was contained in the Banking Committee's version of H.R. 10 is superior. The improved compromise language is adequate in protecting the right of national banks to participate in the insurance business, but it has been asserted that section 104 could leave some chance that a State could attempt to treat banks less fairly than other providers of insurance. We should continue to work to further clarify this provision in a potential conference on the bill before it becomes law. I am committed to working toward that goal.

Finally, Madam Chairman, I say to my colleagues that this is historic legislation that has been a long-time in coming and it has been an extremely difficult effort to balance all the competing interests affected by H.R. 10. As I noted, I am not entirely happy with every provision in this bill, and I will work to improve those provisions before it becomes law. But overall, H.R. 10 is a well-crafted effort to make our financial services system ready for the 21st century and to meet the needs of American consumers and business. I urge my colleagues to keep this effort alive and pass H.R. 10 today.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Madam Chairman, I rise in opposition to the Financial Services Act of 1998. I am not opposed to the reform of our banking laws. However, I oppose this bill because it sacrifices the needs of the American consumer and underserved communities in order to benefit our Nation's huge banking securities and insurance industries.

H.R. 10 undermines the Community Reinvestment Act. Many of us inside and outside of Congress have struggled to make financial institutions more accountable to the communities they serve. This bill weakens the CRA by allowing banks to shift assets to affiliates with no CRA obligation.

H.R. 10 does not adequately protect consumers. The bill permits the unprecedented preemption of stronger State consumer protection laws. State banking laws that prohibit ATM surcharges or require the provision of low-cost bank accounts would be subject to Federal preemption.

H.R. 10 allows the dangerous mixing of banking and commerce. H.R. 10 permits banks to merge with retail and manufacturing companies. This would undermine the critical role of banks as the impartial providers of credit and concentrate economic power in the hands of just a few institutions.

None of the national consumer organizations support this bill, and neither do I. I urge my colleagues to vote against H.R. 10.

Mr. BLILEY. Madam Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Republican Conference.

Mr. BOEHNER. Madam Chairman, let me first begin by congratulating the Members from both the Committee on Banking and Financial Services and the Committee on Commerce from the Democrat and Republican side of the aisles for their outstanding work in bringing this piece of legislation to this floor today.

Once again, I think that Congress is about to make history. Despite countless changes in our economy, there has been no significant reform of America's financial service laws since the Great Depression, but we have never been closer to making these changes than we are now. There is today a broad bipartisan consensus that the time to move forward has finally come.

We have worked hard for a consensus bill that ensures that every American is a winner: consumers, bankers, insurers, brokers. American consumers deserve the freedom of one-stop shopping for inspection services which we believe will mean about $15 billion savings directly passed to themselves and to their families. But we should not forget that the financial sector of our economy is also the foundation of our country and the foundation of our economy today.

Madam Chairman, America cannot meet the challenges of the 21st Century with financial service laws that are designed for the 1930s. Financial services reform is not about politics. It is about what is good for America. We are hopeful that the White House would join Chairman Greenspan, Republicans, Democrats together in this bipartisan reform of these financial service laws.

Mr. MANTON. Madam Chairman, we have only one speaker left on our side, and we would inquire of the Chair who has the right to close.

The CHAIRMAN. The gentleman from Iowa (Mr. LEACH) has the right to close. The gentleman from New York (Mr. MANTON) has 7 minutes remaining.

Mr. MANTON. Madam Chairman, I reserve the balance of my time.

Mr. LEACH. Madam Chairman, I yield 1 minute to the distinguished gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Madam Chairman, one of the most important aspects of H.R. 10 is that it is designed to enhance functional regulation of holding companies. As such, it is my understanding that insurance companies within the holding company structure will be regulated by the State insurance regulators, and securities firms will be regulated by the SCC and the State securities regulators.

While the Federal Reserve Board will remain the umbrella supervisor, H.R. 10 will assure that firms within the holding company such as insurance companies will be able to continue to operate in the manner in which they operate today.

Madam Chairman, I simply want to confirm with the gentleman from Iowa (Mr. LEACH) that this is his understanding of the bill as well.

Mr. LEACH. Madam Chairman, will the gentlewoman yield?

Mrs. KELLY. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, the gentlewoman has precisely and correctly laid out the circumstances of the bill. This bill is designed to enhance functional regulation as she has described.

Mrs. KELLY. Madam Chairman, I ask unanimous consent to incorporate a further explanation of this aspect of the bill after consultation with Chairman LEACH.

The CHAIRMAN. A colloquy may not be inserted into the official RECORD.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I thank the gentleman for yielding, and, again, I would reiterate my opposition. I think this bill, frankly, for many of us simply reregulates rather than unregulates what is portrayed as being a modernization bill.

It is grudging in a sense to the point of fencing in many activities and not being responsive to the market. It tries to superimpose on the market something that will not work that will continue to frustrate the efforts of financial institutions to respond to the market.

The opposition from the Clinton administration is very strong. It is not about turf. It is not about committee jurisdiction. It is about trying to write laws that make common sense that respond to today's marketplace and let these capital flows move forward, which, in the end, serve all the vital purposes of our economy.

National banks functioning under the 1862 bank law which created the national bank charter, have been a great success and has led to and provided the economic foundation for today's economy. This bill, frankly, reneges on that. Again, I would reiterate the importance of acting on the LaFalce-Vento amendment in the amendment process to safeguard and preserve the national bank charter.

Mr. BLILEY. Madam Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY) has 2¼ minutes remaining.

Mr. BLILEY. Madam Chairman, I yield myself the balance of the time.

Madam Chairman, I rise in strong support of this bill. The gentleman from Ohio (Mr. BOEHNER) who previously spoke in the well met with the banking industry this week and said, what is your bottom line? What do you want? The bottom line is they want no bill. Why do they want no bill? Because the OCC is giving them everything they want. Guess what. The OCC is leaving. Guess where the OCC is going. It is going to work for Banker's Trust in New York. Isn't that a surprise. And we will get a new one.

If we defeat this bill, this issue will be dead in the House and in the Congress this year. When the Congress goes out this fall for the elections, and the new Congress between that time and the time the new Congress comes in, it is this gentleman's prediction that more authority will be given to the banks. Perhaps they will be allowed into real estate sales, and then try to move the legislation.

My friends, there is never a perfect time. There is never such a thing as a perfect piece of legislation as complex as this issue. But the time is now. For 10 separate Congresses, we have wrestled with this issue to no avail. Today, we are further along then we have ever been.

We hear that the other body will not take it up. We hear that the White House might veto it. We will never know until we send it to them. So let us do our duty. Let us send it to them.

I say to those interested who feel that everything in this bill is not to their liking, go next-door. Make your case. Perhaps you will be successful. When we get to the conference, which I hope we will, as the gentleman from Iowa has so ably pointed out, the administration will have a seat at the table, and we will attempt to address their concerns. But the most important thing today is to pass this bill and send it to the other body.

Mr. MANTON. Madam Chairman, we continue our reservation of time.

Mr. LEACH. Madam Chairman, I would be happy to close, but were there other speakers that wish to speak to the subject?

Mr. LAFALCE. Madam Chairman, I respect the gentleman's right to close, and I believe I have a right to speak immediately preceding him. Therefore, if there are going to be any other speakers from either the side of the gentleman from Virginia (Mr. BLILEY) or the gentleman from New York (Mr. MANTON), they should precede me.

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY) has no more time remaining. The gentleman from New York (Mr. MANTON) has 7 minutes remaining.

Mr. MANTON. Madam Chairman, does the gentleman from New York have any speakers besides himself?

Mr. LAFALCE. Madam Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from New York (Mr. LAFALCE) has 2 minutes remaining.

Mr. LAFALCE. Madam Chairman, I will be using that 2 minutes.

Mr. MANTON. Madam Chairman, I yield as much time as he may consume to the gentleman from Michigan (Mr. DINGELL), the ranking member of the Committee on Commerce.

Mr. DINGELL. Madam Chairman, this is a remarkable day. I never thought I would live long enough to see us discuss this issue with such harmony on the House floor. We have a bipartisan bill. We have a bipartisan managers' amendment, and we have a result which is going to be in the public interest.

I urge my colleagues to support the managers' amendment. I urge them to support the bill. This will resolve an issue which has cursed this Congress for better than 20 years, and it will do it on terms which meet the public interest.

H.R. 10 provides a safe and sound framework for the financial services industries of this country. It does so in a way which protects consumers, which protects investors, and which protects the economy of this Nation.

It also sees to it that the new global economy of the world is going to have active, vigorous, capable American participants in it. The legislation will not spur megamergers. Passing it will mean that we will assure that, if such occurs, there will be reasonable protection for investors and for consumers.

□ 1400

H.R. 10 draws a clear line between bank activities, those which are going to be insured and subsidized by the taxpayers, and far riskier exercises, such as the sale of securities and other activities of that sort.

H.R. 10, along with the managers' amendment, protects the consumer. Just last week NationsBank paid a large fine because their employees sold risky uninsured derivative securities to elderly holders of securities of deposit, telling them that their money was as safe as the Capitol of the United States.

H.R. 10, along with the managers' amendment, protects the investor. It says you are not going to sell stocks or bonds or other instruments under conditions which are going to hurt the consumers, and you are going to have to make, if you do so, the same disclosures and satisfy the same regulatory requirements as everyone else in the business.

It also says some other things which are important. With the managers' amendment, it will protect the taxpayer. It prevents FDIC insurance, which is paid for by the taxpayer, from being extended to cover the losses that might come from risky, speculative activities.

I would remind my colleagues that not long back we passed legislation which unleashed the savings & loan industry, and that led to the problem which was called the savings & loan debacle, which cost the taxpayers of this country better than $500 billion. This will protect against that kind of exercise by bank management.

It promotes fair competition. Banks have lower costs of capital. Why? Because they are taxpayer insured. That is an effective taxpayer subsidy. In fact, it might even be called corporate welfare. But, if it is, and if banks are going to function, they should see to it that that kind of exercise is kept separate from their other activities, so that they cannot use taxpayer subsidies to compete with others in the financial services industry, and also to see to it, as the Congress acted back in the thirties, to assure that banks do not put at risk Federal taxpayer financed insurance of their activities.

H.R. 10, with the managers' amendment, will prevent an Asian banking crisis from spreading like Asian flu to the United States, by putting intelligent limits on the mixing of banking and commerce.

Finally, H.R. 10, with the managers' amendment, does nothing to hurt the banks. It expands the range of allowable bank activities. Any bank can engage in any financial activity, so long as it sets up a separate affiliate. It creates, insofar as humanly possible, a fair, two-way street for all players. And it does something else: It sees to it that when bankers are engaged in these kinds of activities, they play by the same rules that everybody else does.

It does not undermine the Community Reinvestment Act. That is left as it is. I would urge my colleagues to recognize that that is a good thing.

The choice is clear. I intend to vote for the managers' amendment; I intend to vote against other amendments. I intend to try and see to it that we do not expand high risk activities of banks. I intend to try to see that we do not include operating subsidies inside the banks which can pervert the purposes of the managers' amendment or indeed to put at risk taxpayers' guarantees of bank deposits.

I urge my colleagues to support the managers' amendment and to oppose other amendments.

Madam Chairman, this is good legislation. With the managers' amendment, it is an excellent piece of legislation. It resolves the problems which banks complain about. To the degree that it is proper to do so, it protects competition inside the financial services industry. It protects investors, it protects consumers.

I would point out that the bankers have said they are going to oppose this legislation, regardless of how amended, whether the amendment offered by my dear friend the gentleman from New York (Mr. LAFALCE) is included or not. I would point out that the consumers of this country, through the Consumers Union, have said that they support the managers' amendment.

I would urge my colleagues to vote for the bipartisan legislation and the bipartisan amendment. It is an opportunity to resolve a long-standing problem in honorable, effective, decent, public serving, and public interest ways.

Mr. LAFALCE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the gentleman from Michigan (Mr. DINGELL) said that today is a remarkable day, and I concur with him. The gentleman comes before us today and he advocates repeal of Glass-Stegall and significant changes in the Bank Holding Company Act. You think that is remarkable, and I concur with him.

This is something I have fought for for 20 years. But, unfortunately, the bill makes not only those changes; the bill makes significant other changes. It is those other changes that I am concerned about.

Now, the managers' amendment will add consumer protections that the gentleman from Michigan (Mr. DINGELL) and I were fighting for a month or so ago as part of the Dingell-LaFalce amendment, but there are significant other provisions that I wanted addressed that are not addressed, and that is the way in which the bill undermines the national bank charter.

National banks have existed within the United States for over 100 years. They have always been controversial. But, thankfully, we have always been able to preserve their vitality and their viability, and I think it has been the vitality of our national bank system that has contributed to the economic growth of the United States of America.

Every administration has wanted to preserve that economic viability of our national bank system. In our most recent tenure, whether it is the Carter administration, or the Reagan administration, or the Bush administration, or now the Clinton administration, they have said do not undermine the national bank charter; do not undermine the regulator of the national banks.

This bill does that. It undermines the national bank regulator, it undermines the national bank charter. That is the principal reason that the administration says they would veto the bill in its present form, unless the LaFalce-Vento amendment passes.

The by-product of that, the fact that so many assets would potentially be removed from the jurisdiction of the Community Reinvestment Act, is why every consumer group that I am aware of, in any event, opposes the bill also, or at least the principal reason.

I will offer an amendment to cure these defects. If it goes down, I will also offer a motion to recommit that would continue the essence of the bill, the repeal of Glass-Stegall and the changes in the Bank Holding Company Act and the consumer protections that we all want, but would not deal with this undermining of the national bank charter.

Mr. LEACH. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, first I would like to thank my good friend the gentleman from Virginia (Mr. BLILEY) for his leadership, and also the gentleman from Michigan (Mr. DINGELL), the gentleman from New York (Mr. MANTON), and my distinguished friend in dissent, the gentleman from New York (Mr. LAFALCE).

To my colleagues who oppose the bill because they are concerned about consumers, I ask you, what happens if the bill does not pass? This bill contains new Federal consumer and CRA protections that are not now the law of the land. Inaction is anti-consumer.

To my colleagues who object to megamerger trends, I ask, what happens if the bill does not pass? The mergers will continue, but under a regulatory regime with undefined cracks and competitive bureaucratic instincts to regulate weakly. Inaction is simply imprudent.

To my colleagues who, like myself, worry about rural community banks, I ask what happens if the bill does not pass? Small banks will be saddled with competition from mega-businesses likely to sweep money from small communities, unless small institutions are given new powers, such as access to the Federal Home Loan Bank for small business and agricultural lending, and new restraints on the so-called unitary thrifts that merge so ignobly commerce and banking.

Simply put, inaction is the friend of the big, not the small. Inaction puts the taxpayer at grave risk. That is why we need this bill at this time, and I would urge sympathetic consideration by my colleagues.

Mr. HASTINGS of Washington. Madam Chairman, I appreciate the opportunity to share my views on this legislation.

As my colleagues know, this legislation has supporters and detractors. Several hundred of my own constituents have contacted me on this issue over the past several months. And while many support our efforts here today, others, particularly small banks in my district, are concerned that the legislation does not do enough to assist their industry.

In particular, I strongly share their concerns about the lack of relief from the burdensome Community Reinvestment Act. Let me share a few statistics.

The CRA, first passed in 1977, took only two pages of bill language when first authored by former Senator William Proxmire. Yet our federal regulators have now promulgated more than 275 pages of regulations—in microscopic government type, mind you—governing this provision. As a result, what was meant to be a community based, largely voluntary program to infuse private capital into struggling areas has now become a massive, burdensome, and counterproductive federal mandate.

According to one study, our financial community spends more than $1 billion each year, and 15 million man hours, complying with the CRA. The impact is particularly hard on smaller banks, which incur three times the compliance costs of larger institutions.

Some had suggested that CRA requirements be reformed to bring them back in line with the original intent of the 1977 law. One proposal would have provided relief for all banks smaller than $100 million in assets, and for rural banks with assets of under $250 million. This would have gone a long way towards relieving this tremendous financial and paperwork burden on the small community banks in my district. Unfortunately, the bill does not include this common sense reform.

While I am very disappointed with this result, I nonetheless believe that we must take action to reform our depression era banking statutes. In addition, many of my constituents have contacted me to urge their support of this legislation. As a result, I will support this bill today in an effort to keep the reform effort alive. But I will work during the next few months to ensure that critical reforms, like CRA reform, are included in any final package approved by both the House and the Senate and sent to the President.

Mr. STENHOLM. Madam Chairman, the legislation pending before the House, H.R. 10, the Financial Services Competition Act, contains numerous provisions that cause concern. Specifically, I'd like to bring to the attention of the Members of this body the section of the bill that proposes to broadly expand the mission of the Federal Home Loan Bank (FHLB) System. The authorities of the FHLB System would be expanded to provide advances to commercial banks for a variety of purposes, including agricultural lending.

I am concerned that this proposal could actually limit credit availability by adversely affecting the two government sponsored enterprises chartered to serve rural markets: the Farm Credit System (FCS) and the Federal Agricultural Mortgage Corporation (FarmerMac). Expanding the Federal Home Loan Bank mission will convert every commercial bank with assets of less than $500 million into a retail GSE.

As the ranking Democrat on the Agriculture Committee, I have had a keen interest in rural credit availability for many years. Credit is quite literally the lifeblood of our nation's agricultural producers. As a result, I am very interested in new ways to provide additional credit to farmers and rural communities. However, I am concerned that we have not had ample time to fully consider the serious policy implications of expanding the FHLB System's mission.

While I support an appropriate expansion of credit for rural Americans, doing so through the FHLB System, without making important changes in the lending charter of the Farm Credit System, could potentially disrupt the competitive balance that exists in rural markets today. Currently, commercial banks, the Farm Credit System and FarmerMac work to provide competitively priced credit to those who live and work in rural America. We all have an interest in seeing that that competitive balance continues.

The Agriculture Committee is aware of efforts by all participants in the rural credit markets to expand their lending authority. I am convinced that if we proceed down the path of expanding authorities, then we must consider all players that provide rural credit.

Mr. DAVIS of Illinois. Madam Chairman, I rise today in strong opposition to H.R. 10, the "Financial Services Competition Act."

I rise in opposition not because the laws governing our financial system are immune to change * * * just the opposite, in our rapidly changing world our financial system is undergoing a veritable transformation and our legal framework must change to correspond to the new realities. However, let us remember that many of our financial laws and regulations grew out of our great failures of the past in protecting the interests of the great masses of Americans. In addressing the need for change we must also learn from our history.

H.R. 10 weakens the Community Reinvestment Act, a critical tool for low-income communities to develop housing, small business and financial services. CRA should be extended to all bank affiliates: insurance companies, securities firms and mortgage companies. Instead, H.R. 10 encourages the movement of bank assets beyond the reach of the CRA and, indeed, beyond the bank charter.

H.R. 10 does not address insurance redlining, still a major problem in many communities and one which I recently called upon the Attorney General to investigate in my district as regards to auto insurance.

H.R. 10 should prohibit insurance companies from merging with banks until the company is in full compliance with the Fair Housing Act and other relevant legislation.

H.R. 10 breaks down the final protective barriers between banks and commercial firms and adds a new level of risk to our financial stability, one we have not seen in our country in generations, but which we can all see in Southeast Asia today.

H.R. 10 sharply reduces community input, giving automatic approvals FHCs whose banks have Satisfactory or Outstanding CRA ratings. This means that 98% of financial institutions will be beyond community input. It continues a trend brought into sharp national focus with the publication of William Greider's book Secrets of the Temple in 1987.

Secrets brought to the attention of the nation how the Federal Reserve had been given greater command over many issues over the years and how many of the decisions entrusted to them, regardless of how wrong they might be, were made without public input or control.

H.R. 10 ignores history, ignores the lessons of other nations, ignores the interests of poor and working Americans, ignores consumer interests, ignores community reinvestment protections and ignores increased risk to our financial infrastructure.

Madam Chairman, I urge a vote against this legislation.

Mr. HYDE. Madam Chairman, I rise in support of H.R. 10, the "Financial Services Competition Act of 1998." For many years, we have been trying to repeal the outdated restrictions that keep banks, securities firms, and insurance companies from getting into one another's businesses. After all the debate, I think we have finally come up with something in this bill that will open up a whole new world of competition.

Now I know that some of the players in this debate have problems with this bill. That is always the case with major deregulation bills. But we cannot ignore the future. Financial services are becoming increasingly globalized, increasingly computerized, and increasingly seamless. Banking laws passed during the Depression simply will not do in the 21st century.

Do I wish that we could maintain a world where everyone knew their banker on a first name basis and loans were made on a handshake? Sure, and I think in the new world some banks will provide that kind of service to those who demand it. But we need not have laws that limit us to that kind of service, as desirable as it may seem. Everyone is better off if the market decides what kinds of services all financial firms will offer.

Just think about the progress we have made in the past 10 years. When I was a child, only the wealthy owned stocks. Now, with the growth of the mutual fund industry and self-directed retirement funds, millions and millions of average Americans not only own stocks, but make their own investment decisions. These developments create wealth, increase people's incentive to produce, and relieve some of the entitlement burden of government. I believe that this bill will bring more such positive developments.

I want to say a word about my friends JIM LEACH, chairman of the Banking Committee, and TOM BLILEY, chairman of the Commerce Committee. They have done an excellent job of putting this package together. I commend them for their work in bringing about this bill in a very difficult and contentious environment.

I especially want to commend them for working with me on the bank merger provisions of the bill. Under current law, bank mergers are reviewed under special bank merger statutes, and they do not go through the Hart-Scott-Rodino merger review process that covers most other mergers. Now banks will be able to get into other businesses which they have not been able to do before.

The principle that we have tried to follow is that when mergers occur, the bank part of that merger will be judged under the current bank merger statutes, and we do not intend any change in that process or in any of the agencies' respective jurisdictions. The nonbank part of that merger, which will fall under the new section 6 of the Bank Holding Company Act, will be subject to the normal Hart-Scott-Rodino merger review by either the Justice Department or the Federal Trade Commission. The managers' amendment has language that embodies that principle. In short, no bank is treated differently than it otherwise would be because it has some other business within its corporate family. Likewise, no other business is treated differently than it otherwise would be because it has a bank within its corporate family.

We have embodied that same principle with respect to the Federal Trade Commission's authority to enforce the Federal Trade Commission Act and other laws. Section 5 of the Federal Trade Commission Act specifically prohibits the FTC from enforcing the Act against banks because they are heavily regulated. The language in the managers' amendment does not change that, but it does clarify that the bank prohibition does not extend to any other nonbank parts of a bank's corporate family. I would also note that similar language was not necessary for the Justice Department because there are no specific statutory prohibitions on its ability to enforce laws against banks, other than the Hart-Scott-Rodino exemption that I have already discussed.

I think that we all agree on this principle both with respect to the mergers and the other laws, but the specific language may require some further refinement in conference. For that reason, I will be requesting Judiciary Committee conferees on this narrow part of the bill, and I look forward to continuing to work with my Banking Committee and Commerce Committee colleagues in this area.

I also want to announce that the Judiciary Committee will hold a hearing on bank mergers on June 3, and I am hopeful that this hearing will help us determine whether we need to make any further revisions to this language

Let me again commend my friends JIM LEACH and TOM BLILEY and everyone else who has worked on this legislation, and I ask my colleagues to support it.

Mr. STRICKLAND. Madam Chairman, today's financial services marketplace is an increasingly complex web of interconnecting products and service providers. In the 1990's, consumers are going to their bank not just to deposit money in a traditional passbook savings account, but also, increasingly, to purchase insurance products. They visit their insurance broker not only for simple, term life insurance, but also for insurance products that include a long-term investment component. Consumers are no longer content with the choices of the past, but are demanding more advanced financial products and often want the convenience of "one stop shopping." At the same time, financial institutions are consolidating at an increasing rate—banks are merging with other banks and insurance and securities dealers are combining forces—leading to new types of financial entities.

These changes are enhancing the success of U.S. financial markets. They stimulate the economy and provide consumers with more savings and investment options. Unfortunately, the Depression era laws that regulate our financial markets have not kept pace with these market forces, leaving American consumers faced with a "catch 22". Consumers have access to more advanced, enhanced financial products, but are not adequately protected from fraud and abuse by the laws that currently regulate their financial investments and savings. As a result, the regulatory agencies responsible for enforcing those laws are forced to deal with new entities using old formulas that fail to fully appreciate the complexities of the evolving marketplace.

The world recently witnessed in Asia that unregulated financial markets can lead to corruption and weakened economic conditions. With America's financial markets slowly evolving in the same direction as those in Asia, it is crucial that our country learns from Asia's misfortune and take the initiative to develop appropriate measures that will deter similar negative repercussions in our own financial markets.

In the House of Representatives, the House Committees on Commerce and Banking have worked to develop a legislative response to these changes for the past year and a half. We recently reached a critical juncture in the legislative process—the Committees have devised a plan that lays the groundwork for carrying our financial markets safely and soundly into the 21st century. As a member of the House Commerce Committee, I support initiatives that address our antiquated laws and am committed to ensuring that the legislative process continues unhindered by powerful special interest groups.

H.R. 10, the Financial Services Act, permits financial entities, such as banks, insurance and securities groups, to merge, affiliate and associate activities. One of the most pivotal components of H.R. 10 is the concept of functional regulation. Functional regulation would certify that all financial providers would be regulated according to the services which they provide. For example, a financial holding company that has an insurance entity as an operating subsidiary would be regulated by both the state insurance commission (insurance activities) and the Office of the Comptroller of the Currency and the Federal Reserve (banking activities). As a result, financial activities would be regulated by experts in that respective financial field.

The House leadership has reached an agreement on a financial package that I believe is fair to all industries and best serves the public interest. The compromise on H.R. 10 will create a modernized financial system that will allow our country to be financially competitive into the next century. However, H.R. 10 can still be improved with the adoption of a package of consumer protection amendments which will be offered by commerce Committee Chairman TOM BLILEY (R–VA) and Ranking Member JOHN DINGELL (D–MI). This amendment will provide the necessary safeguards for consumers while providing enough freedoms to financial providers to compete globally on a level playing field.

Congress has waited long enough to enact legislation to guarantee the solvency of American financial markets. Congress must move the process forward and provide the necessary consumer protections and regulations to guarantee that all players, big and small, private and public, benefit from the financial prosperity of a developing and growing financial market in the U.S.

Mr. FAZIO of California. Madam Chairman, the Financial Services Act of 1998 revolutionizes American financial institutions and it ensures the United States continued cutting edge success in the world market.

The rules and regulations of the Great Depression aren't enough to maintain a healthy and increasingly globalized interdependent U.S. economy.

The rules have changed and H.R. 10 recognizes these changes.

In the old days, banking, insurance and security institutions each provided a distinct, clear financial service. But in the modern financial marketplace, financial innovations and globalization have increasingly blurred these institution's activities.

H.R. 10 reflects the dynamic changes occurring in the marketplace.

Republicans and Democrats have crafted a balanced bill that fosters open, fair competition, protects consumers and promotes U.S. financial services' competitiveness in the world economy.

Our financial sector contributes over 18 percent to our GNP—this is an economic force that can't be ignored any longer.

Today, my colleagues from both sides of the aisle have the opportunity to enhance competition in the financial services and maintain U.S. prominence in the international economic arena.

I strongly encourage both Republicans and Democrats to vote "yes" for fair competition and "yes" for a prosperous, strong American economy that will take us safely into the 21st Century.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in part 1 of House Report 105–531 is considered as an original bill for the purpose of amendment under the 5 minute rule and is considered read.

The text of the amendment in the nature of a substitute is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; PURPOSES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Services Act of 1998".

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To enhance competition in the financial services industry, in order to foster innovation and efficiency.

(2) To ensure the continued safety and soundness of depository institutions.

(3) To provide necessary and appropriate protections for investors and ensure fair and honest markets in the delivery of financial services.

(4) To provide for appropriate functional regulation of insurance activities.

(5) To reduce and, to the maximum extent practicable, to eliminate the legal barriers preventing affiliation among depository institutions, securities firms, insurance companies, and other financial service providers and to provide a prudential framework for achieving that result.

(6) To enhance the availability of financial services to citizens of all economic circumstances and in all geographic areas.

(7) To enhance the competitiveness of United States financial service providers internationally.

(8) To ensure compliance by depository institutions with the provisions of the Community Reinvestment Act of 1977 and enhance the ability of depository institutions to meet the capital and credit needs of all citizens and communities, including underserved communities and populations.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; purposes; table of contents.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

Sec. 101. Glass-Steagall Act reformed.
Sec. 102. Activity restrictions applicable to bank holding companies which are not financial holding companies.

Sec. 103. Financial holding companies.
Sec. 104. Certain State laws preempted.
Sec. 105. Mutual bank holding companies authorized.
Sec. 106. Prohibition on deposit production offices.
Sec. 107. Clarification of branch closure requirements.
Sec. 108. Amendments relating to limited purpose banks.

Subtitle B—Streamlining Supervision of Financial Holding Companies

Sec. 111. Streamlining financial holding company supervision.
Sec. 112. Elimination of application requirement for financial holding companies.
Sec. 113. Authority of State insurance regulator and Securities and Exchange Commission.
Sec. 114. Prudential safeguards.
Sec. 115. Examination of investment companies.
Sec. 116. Limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.

Subtitle C—Subsidiaries of National Banks

Sec. 121. Permissible activities for subsidiaries of national banks.
Sec. 122. Misrepresentations regarding depository institution liability for obligations of affiliates.
Sec. 123. Repeal of stock loan limit in Federal reserve act.

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

Sec. 131. Wholesale financial holding companies established.
Sec. 132. Authorization to release reports.
Sec. 133. Conforming amendments.

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

Sec. 136. Wholesale financial institutions.

Subtitle E—Streamlining Antitrust Review of Bank Acquisitions and Mergers

Sec. 141. Amendments to the Bank Holding Company Act of 1956.
Sec. 142. Amendments to the Federal Deposit Insurance Act to vest in the Attorney General sole responsibility for antitrust review of depository institution mergers.
Sec. 143. Information filed by depository institutions; interagency data sharing.
Sec. 144. Applicability of antitrust laws.
Sec. 145. Clarification of status of subsidiaries and affiliates.
Sec. 146. Effective date.

Subtitle F—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

Sec. 151. Applying the principles of national treatment and equality of competitive opportunity to foreign banks that are financial holding companies.
Sec. 152. Applying the principles of national treatment and equality of competitive opportunity to foreign banks and foreign financial institutions that are wholesale financial institutions.

Subtitle G—Federal Home Loan Bank System

Sec. 161. Federal home loan banks.
Sec. 162. Membership and collateral.
Sec. 163. The Office of Finance.
Sec. 164. Management of banks.
Sec. 165. Advances to nonmember borrowers.
Sec. 166. Powers and duties of banks.
Sec. 167. Mergers and consolidations of Federal home loan banks.
Sec. 168. Technical amendments.
Sec. 169. Definitions.
Sec. 170. Resolution funding corporation
Sec. 171. Capital structure of the Federal home loan banks.
Sec. 172. Investments.
Sec. 173. Federal Housing Finance Board.

Subtitle H—Direct Activities of Banks

Sec. 181. Authority of national banks to underwrite certain municipal bonds

Subtitle I—Effective Date of Title

Sec. 191. Effective date.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

Sec. 201. Definition of broker.
Sec. 202. Definition of dealer.
Sec. 203. Registration for sales of private securities offerings.
Sec. 204. Sales practices and complaint procedures.
Sec. 205. Information sharing.
Sec. 206. Definition and treatment of banking products.
Sec. 207. Derivative instrument and qualified investor defined.
Sec. 208. Government securities defined.
Sec. 209. Effective date.

Subtitle B—Bank Investment Company Activities

Sec. 211. Custody of investment company assets by affiliated bank.
Sec. 212. Lending to an affiliated investment company.
Sec. 213. Independent directors.
Sec. 214. Additional SEC disclosure authority.
Sec. 215. Definition of broker under the Investment Company Act of 1940.
Sec. 216. Definition of dealer under the Investment Company Act of 1940.
Sec. 217. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.
Sec. 218. Definition of broker under the Investment Advisers Act of 1940.
Sec. 219. Definition of dealer under the Investment Advisers Act of 1940.
Sec. 220. Interagency consultation.
Sec. 221. Treatment of bank common trust funds.
Sec. 222. Investment advisers prohibited from having controlling interest in registered investment company.
Sec. 223. Conforming change in definition.
Sec. 224. Conforming amendment.
Sec. 225. Effective date.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

Sec. 231. Supervision of investment bank holding companies by the Securities and Exchange Commission.

Subtitle D—Study

Sec. 241. Study of methods to inform investors and consumers of uninsured products.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

Sec. 301. State regulation of the business of insurance.
Sec. 302. Mandatory insurance licensing requirements.
Sec. 303. Functional regulation of insurance.
Sec. 304. Insurance underwriting in national banks.
Sec. 305. New bank agency activities only through acquisition of existing licensed agents.
Sec. 306. Title insurance activities of national banks and their affiliates.
Sec. 307. Expedited and equalized dispute resolution for financial regulators.
Sec. 308. Consumer protection regulations.
"Sec. 45. Consumer protection regulations."
Sec. 309. Certain State affiliation laws preempted for insurance companies and affiliates.

Subtitle B—Redomestication of Mutual Insurers

Sec. 311. General application.
Sec. 312. Redomestication of mutual insurers.
Sec. 313. Effect on State laws restricting redomestication.
Sec. 314. Other provisions.
Sec. 315. Definitions.
Sec. 316. Effective date.

Subtitle C—National Association of Registered Agents and Brokers

Sec. 321. State flexibility in multistate licensing reforms.
Sec. 322. National Association of Registered Agents and Brokers.
Sec. 323. Purpose.
Sec. 324. Relationship to the Federal Government.
Sec. 325. Membership.
Sec. 326. Board of directors.
Sec. 327. Officers.
Sec. 328. Bylaws, rules, and disciplinary action.
Sec. 329. Assessments.
Sec. 330. Functions of the NAIC.
Sec. 331. Liability of the Association and the directors, officers, and employees of the Association.
Sec. 332. Elimination of NAIC oversight.
Sec. 333. Relationship to State law.
Sec. 334. Coordination with other regulators.
Sec. 335. Judicial review.
Sec. 336. Definitions.

TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

Sec. 401. Termination of expanded powers for new unitary S&L holding companies.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

SEC. 101. GLASS-STEAGALL ACT REFORMED.

(a) SECTION 20 REPEALED.—Section 20 (12 U.S.C. 377) of the Banking Act of 1933 (commonly referred to as the "Glass-Steagall Act") is repealed.

(b) SECTION 32 REPEALED.—Section 32 (12 U.S.C. 78) of the Banking Act of 1933 is repealed.

SEC. 102. ACTIVITY RESTRICTIONS APPLICABLE TO BANK HOLDING COMPANIES WHICH ARE NOT FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended to read as follows:

"(8) shares of any company the activities of which had been determined by the Board by regulation under this paragraph as of the day before the date of the enactment of the

Financial Services Act of 1998, to be so closely related to banking as to be a proper incident thereto (subject to such terms and conditions contained in such regulation, unless modified by the Board);”.

(b) CONFORMING CHANGES TO OTHER STATUTES.—

(1) AMENDMENT TO THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—Section 105 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1850) is amended by striking “, to engage directly or indirectly in a nonbanking activity pursuant to section 4 of such Act,”.

(2) AMENDMENT TO THE BANK SERVICE COMPANY ACT.—Section 4(f) of the Bank Service Company Act (12 U.S.C. 1864(f)) is amended by striking the period and adding at the end the following: “as of the day before the date of enactment of the Financial Services Act of 1998.”.

SEC. 103. FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—The Bank Holding Company Act of 1956 is amended by inserting after section 5 (12 U.S.C. 1844) the following new section:

“SEC. 6. FINANCIAL HOLDING COMPANIES.

“(a) FINANCIAL HOLDING COMPANY DEFINED.—For purposes of this section, the term ‘financial holding company’ means a bank holding company which meets the requirements of subsection (b).

“(b) ELIGIBILITY REQUIREMENTS FOR FINANCIAL HOLDING COMPANIES.—

“(1) IN GENERAL.—No bank holding company may engage in any activity or directly or indirectly acquire or retain shares of any company under this section unless the bank holding company meets the following requirements:

“(A) All of the subsidiary depository institutions of the bank holding company are well capitalized.

“(B) All of the subsidiary depository institutions of the bank holding company are well managed.

“(C) All of the subsidiary depository institutions of the bank holding company have achieved a rating of ‘satisfactory record of meeting community credit needs’, or better, at the most recent examination of each such institution under the Community Reinvestment Act of 1977.

“(D) All of the subsidiary insured depository institutions of the bank holding company (other than any such depository institution which does not, in the ordinary course of the business of the depository institution, offer consumer transaction accounts to the general public) offer and maintain low-cost basic banking accounts.

“(E) The company has filed with the Board a declaration that the company elects to be a financial holding company and certifying that the company meets the requirements of subparagraphs (A) through (D).

“(2) FOREIGN BANKS AND COMPANIES.—For purposes of paragraph (1), the Board shall establish and apply comparable capital standards to a foreign bank that operates a branch or agency or owns or controls a bank or commercial lending company in the United States, and any company that owns or controls such foreign bank, giving due regard to the principle of national treatment and equality of competitive opportunity.

“(3) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—

“(A) IN GENERAL.—If the requirements of subparagraph (B) are met, any depository institution acquired by a bank holding company during the 24-month period preceding the submission of a declaration under paragraph (1)(E) and any depository institution acquired after the submission of such declaration may be excluded for purposes of paragraph (1)(C) until the later of—

“(i) the end of the 24-month period beginning on the date the acquisition of the depository institution by such company is consummated; or

“(ii) the date of completion of the 1st examination of such depository institution under the Community Reinvestment Act of 1977 which is conducted after the date of the acquisition of the depository institution.

“(B) REQUIREMENTS.—The requirements of this subparagraph are met with respect to any bank holding company referred to in subparagraph (A) if—

“(i) the bank holding company has submitted an affirmative plan to the appropriate Federal banking agency to take such action as may be necessary in order for such institution to achieve a rating of ‘satisfactory record of meeting community credit needs’, or better, at the next examination of the institution under the Community Reinvestment Act of 1977; and

“(ii) the plan has been approved by such agency.

“(c) ENGAGING IN ACTIVITIES FINANCIAL IN NATURE.—

“(1) IN GENERAL.—Notwithstanding section 4(a), a financial holding company and a wholesale financial holding company may engage in any activity, and acquire and retain the shares of any company engaged in any activity, which the Board has determined (by regulation or order) to be financial in nature or incidental to such financial activities.

“(2) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Board shall take into account—

“(A) the purposes of this Act and the Financial Services Act of 1998;

“(B) changes or reasonably expected changes in the marketplace in which bank holding companies compete;

“(C) changes or reasonably expected changes in the technology for delivering financial services; and

“(D) whether such activity is necessary or appropriate to allow a bank holding company and the affiliates of a bank holding company to—

“(i) compete effectively with any company seeking to provide financial services in the United States;

“(ii) use any available or emerging technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

“(iii) offer customers any available or emerging technological means for using financial services.

“(3) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—The following activities shall be considered to be financial in nature:

“(A) Lending, exchanging, transferring, investing for others, or safeguarding money or securities.

“(B) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing.

“(C) Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

“(D) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly.

“(E) Underwriting, dealing in, or making a market in securities.

“(F) Engaging in any activity that the Board has determined, by order or regulation that is in effect on the date of enactment of the Financial Services Act of 1998, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto (subject to the same terms and conditions contained in such order or regulation, unless modified by the Board).

“(G) Engaging, in the United States, in any activity that—

“(i) a bank holding company may engage in outside the United States; and

“(ii) the Board has determined, under regulations issued pursuant to section 4(c)(13) of this Act (as in effect on the day before the date of enactment of the Financial Services Act of 1998) to be usual in connection with the transaction of banking or other financial operations abroad.

“(H) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

“(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or subsidiary of a depository institution;

“(ii) such shares, assets, or ownership interests are acquired and held by a securities affiliate or an affiliate thereof as part of a bona fide underwriting or merchant banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

“(iii) such shares, assets, or ownership interests, are held only for such a period of time as will permit the sale or disposition thereof on a reasonable basis consistent with the nature of the activities described in clause (ii); and

“(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not actively participate in the day to day management or operation of such company or entity, except insofar as necessary to achieve the objectives of clause (ii).

“(I) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

“(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or a subsidiary of a depository institution;

“(ii) such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty insurance (other than credit-related insurance);

"(iii) such shares, assets, or ownership interests represent an investment made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments; and

"(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not directly or indirectly participate in the day-to-day management or operation of the company or entity except insofar as necessary to achieve the objectives of clauses (ii) and (iii).

"(4) ACTIONS REQUIRED.—The Board shall, by regulation or order, define, consistent with the purposes of this Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to activities which are financial in nature:

"(A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

"(B) Providing any device or other instrumentality for transferring money or other financial assets;

"(C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

"(5) POST CONSUMMATION NOTIFICATION.—

"(A) IN GENERAL.—A financial holding company and a wholesale financial holding company that acquires any company, or commences any activity, pursuant to this subsection shall provide written notice to the Board describing the activity commenced or conducted by the company acquired no later than 30 calendar days after commencing the activity or consummating the acquisition.

"(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES.—Except as provided in section 4(j) with regard to the acquisition of a savings association, a financial holding company and a wholesale financial holding company may commence any activity, or acquire any company, pursuant to paragraph (3) or any regulation prescribed or order issued under paragraph (4), without prior approval of the Board.

"(d) PROVISIONS APPLICABLE TO FINANCIAL HOLDING COMPANIES THAT FAIL TO MEET REQUIREMENTS.—

"(1) IN GENERAL.—If the Board finds that a financial holding company is not in compliance with the requirements of subparagraph (A), (B), or (C) of subsection (b)(1), the Board shall give notice of such finding to the company.

"(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—Within 45 days of receipt by a financial holding company of a notice given under paragraph (1) (or such additional period as the Board may permit), the company shall execute an agreement acceptable to the Board to comply with the requirements applicable to a financial holding company.

"(3) BOARD MAY IMPOSE LIMITATIONS.—Until the conditions described in a notice to a financial holding company under paragraph (1) are corrected, the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances.

"(4) FAILURE TO CORRECT.—If, after receiving a notice under paragraph (1), a financial holding company does not—

"(A) execute and implement an agreement in accordance with paragraph (2);

"(B) comply with any limitations imposed under paragraph (3);

"(C) in the case of a notice of failure to comply with subsection (b)(1)(A), restore each depository institution subsidiary to well capitalized status before the end of the 180-day period beginning on the date such notice is received by the company (or such other period permitted by the Board); or

"(D) in the case of a notice of failure to comply with subparagraph (B) or (C) of subsection (b)(1), restore compliance with any such subparagraph by the date the next examination of the depository institution subsidiary is completed or by the end of such other period as the Board determines to be appropriate,

the Board may require such company, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the Board's discretion, to divest control of any depository institution subsidiary or, at the election of the financial holding company, instead to cease to engage in any activity conducted by such company or its subsidiaries pursuant to this section.

"(5) CONSULTATION.—In taking any action under this subsection, the Board shall consult with all relevant Federal and State regulatory agencies.

"(e) SAFEGUARDS FOR BANK SUBSIDIARIES.—A financial holding company shall assure that—

"(1) the procedures of the holding company for identifying and managing financial and operational risks within the company, and the subsidiaries of such company, adequately protect the subsidiaries of such company which are insured depository institutions from such risks;

"(2) the holding company has reasonable policies and procedures to preserve the separate corporate identity and limited liability of such company and the subsidiaries of such company, for the protection of the company's subsidiary insured depository institutions; and

"(3) the holding company complies with this section.

"(f) NONFINANCIAL ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding section 4(a), a financial holding company may engage in activities which are not (or have not been determined to be) financial in nature or incidental to activities which are financial in nature, or acquire and retain ownership and control of the shares of a company engaged in such activities, if—

"(A) the aggregate annual gross revenues derived from all such activities and all such companies does not exceed the lesser of—

"(i) 5 percent of the consolidated annual gross revenues of the financial holding company; or

"(ii) $500,000,000;

"(B) the consolidated total assets of any company the shares of which are acquired by the financial holding company pursuant to this paragraph are less than $750,000,000 at the time the shares are acquired by the holding company; and

"(C) the holding company provides notice to the Board within 30 days of commencing the activity or acquiring the ownership or control.

"(2) INCLUSION OF GRANDFATHERED ACTIVITIES.—For purposes of determining the limits contained in paragraph (1)(A), the gross revenues derived from all activities conducted, and companies the shares of which are held, under subsection (g) shall be considered to be derived or held under this subsection.

"(3) FOREIGN BANKS.—In lieu of the limitation contained in paragraph (1)(A) in the case of a foreign bank or a company that owns or controls a foreign bank which engages in any activity or acquires or retains ownership or control of shares of any company pursuant to paragraph (1), the aggregate annual gross revenues derived from all such activities and all such companies in the United States shall not exceed the lesser of—

"(A) 5 percent of the consolidated annual gross revenues of the foreign bank or company in the United States derived from any branch, agency, commercial lending company, or depository institution controlled by the foreign bank or company and any subsidiary engaged in the United States in activities permissible under section 4 or 6; or

"(B) $500,000,000.

"(4) INDEXING REVENUE TEST.—After December 31, 1998, the Board shall annually adjust the dollar amount contained in paragraphs (1)(A) and (3) by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

"(5) NONAPPLICABILITY OF OTHER EXEMPTION.—Any foreign bank or company that owns or controls a foreign bank which engages in any activity or acquires or retains ownership or control of shares of any company pursuant to this subsection shall not be eligible for any exception described in section 2(h).

"(g) AUTHORITY TO RETAIN LIMITED NONFINANCIAL ACTIVITIES AND AFFILIATIONS.—

"(1) IN GENERAL.—Notwithstanding subsection (f)(1) and section 4(a), a company that is not a bank holding company or a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) and becomes a financial holding company after the date of the enactment of the Financial Services Act of 1998 may continue to engage in any activity and retain direct or indirect ownership or control of shares of a company engaged in any activity if—

"(A) the holding company lawfully was engaged in the activity or held the shares of such company on September 30, 1997;

"(B) the holding company is predominantly engaged in financial activities as defined in paragraph (2); and

"(C) the company engaged in such activity continues to engage only in the same activities that such company conducted on September 30, 1997, and other activities permissible under this Act.

"(2) PREDOMINANTLY FINANCIAL.—For purposes of this subsection, a company is predominantly engaged in financial activities if, as of the day before the company becomes a financial holding company, the annual gross revenues derived by the holding company and all subsidiaries of the holding company, on a consolidated basis, from engaging in activities that are financial in nature or are incidental to activities that are financial in nature under subsection (c) represent at least 85 percent of the consolidated annual gross revenues of the company.

"(3) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A financial holding company that engages in activities or holds shares pursuant to this subsection, or a subsidiary of such financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under subsection (c).

"(4) CONTINUING REVENUE LIMITATION ON GRANDFATHERED COMMERCIAL ACTIVITIES.—

Notwithstanding any other provision of this subsection, a financial holding company may continue to engage in activities or hold shares in companies pursuant to this subsection only to the extent that the aggregate annual gross revenues derived from all such activities and all such companies does not exceed 15 percent of the consolidated annual gross revenues of the financial holding company.

"(5) CROSS MARKETING RESTRICTIONS APPLICABLE TO COMMERCIAL ACTIVITIES.—A depository institution controlled by a financial holding company shall not—

"(A) offer or market, directly or through any arrangement, any product or service of a company whose activities are conducted or whose shares are owned or controlled by the financial holding company pursuant to this subsection, subsection (f), or subparagraph (H) or (I) of subsection (c)(3); or

"(B) permit any of its products or services to be offered or marketed, directly or through any arrangement, by or through any company described in subparagraph (A).

"(6) TRANSACTIONS WITH NONFINANCIAL AFFILIATES.—An insured depository institution controlled by a financial holding company may not engage in a covered transaction (as defined by section 23A(b)(7) of the Federal Reserve Act) with any affiliate controlled by the company pursuant to this subsection, subsection (f), or subparagraph (H) or (I) of subsection (c)(3).

"(h) DEVELOPING ACTIVITIES.—A financial holding company and a wholesale financial holding company may engage directly or indirectly, or acquire shares of any company engaged, in any activity that the Board has not determined to be financial in nature or incidental to financial activities under subsection (c) if—

"(1) the holding company reasonably concludes that the activity is financial in nature or incidental to financial activities;

"(2) the gross revenues from all activities conducted under this subsection represent less than 5 percent of the consolidated gross revenues of the holding company;

"(3) the aggregate total assets of all companies the shares of which are held under this subsection do not exceed 5 percent of the holding company's consolidated total assets;

"(4) the total capital invested in activities conducted under this subsection represents less than 5 percent of the consolidated total capital of the holding company;

"(5) the Board has not determined that the activity is not financial in nature or incidental to financial activities under subsection (c); and

"(6) the holding company provides written notification to the Board describing the activity commenced or conducted by the company acquired no later than 10 business days after commencing the activity or consummating the acquisition.".

SEC. 104. CERTAIN STATE LAWS PREEMPTED.

(a) AFFILIATIONS.—No State may by statute, regulation, order, interpretation, or otherwise, prevent or restrict an insured depository institution or a wholesale financial institution from being affiliated with an entity (including an entity engaged in insurance activities) as authorized by this Act or any other provision of Federal law.

(b) ACTIVITIES—.

(1) Except as provided in paragraphs (2) and (3) and subject to section 18(c) of the Securities Act of 1933, no State may by statute, regulation, order, interpretation, or otherwise, prevent or restrict an insured depository institution or a wholesale financial institution from engaging, directly or indirectly or in conjunction with an affiliate, in any activity authorized under this Act or any other provision of Federal law.+

(2) As stated by the United States Supreme Court in *Barnett Bank of Marion County, N.A.* v. *Nelson*, 116 S.Ct. 1103 (1996), no State may, by statute, regulation, order, interpretation, or otherwise, prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution to engage, directly or indirectly, or in conjunction with an affiliate, in any insurance sales or solicitation activity, except that—

(A) State statutes and regulations governing insurance sales and solicitations which are no more restrictive than provisions in the Illinois "Act Authorizing and Regulating the Sale of Insurance by Financial Institutions, Public Act 90-41" (215 ILCS 5/1400–1416), as in effect on October 1, 1997, shall not be deemed to prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution to engage, directly or indirectly, or in conjunction with an affiliate, in any insurance sales or solicitation activity; and

(B) subparagraph (A) shall not create any inference regarding State statutes, and regulations governing insurance sales and solicitations which are more restrictive than any provision in the Illinois "Act Authorizing and Regulating the Sale of Insurance by Financial Institutions", (Public Act 90-41; 215 ILCS 5/1400–1416), as in effect on October 1, 1997.

(3) State statutes, regulations, orders, and interpretations which are applicable to and are applied in the same manner with respect to insurance underwriting activities of an affiliate of an insured depository institution or a wholesale financial institution as they are applicable to and are applied to an insurance underwriter which is not affiliated with an insured depository institution or a wholesale financial institution shall not be preempted under paragraph (1).

SEC. 105. MUTUAL BANK HOLDING COMPANIES AUTHORIZED.

(a) IN GENERAL.—Section 3(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)(2)) is amended to read as follows:

"(2) REGULATIONS.—A bank holding company organized as a mutual holding company shall be regulated on terms, and shall be subject to limitations, comparable to those applicable to any other bank holding company.".

SEC. 106. PROHIBITION ON DEPOSIT PRODUCTION OFFICES.

(a) IN GENERAL.—Section 109(d) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(d)) is amended—

(1) by inserting ", the Financial Services Act of 1998," after "pursuant to this title"; and

(2) by inserting "or such Act" after "made by this title".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 109(e)(4) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(e)(4)) is amended by inserting "and any branch of a bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)" before the period.

SEC. 107. CLARIFICATION OF BRANCH CLOSURE REQUIREMENTS.

Section 42(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1831r-1(d)(4)(A)) is amended by inserting "and any bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)" before the period.

SEC. 108. AMENDMENTS RELATING TO LIMITED PURPOSE BANKS.

Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "and" at the end of subclause (IX);

(B) by inserting "and" after the semicolon at the end of subclause (X); and

(C) by inserting after subclause (X) the following new subclause:

"(XI) assets that are derived from, or are incidental to, activities in which institutions described in section 2(c)(2)(F) are permitted to engage,";

(2) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) any bank subsidiary of such company engages in any activity in which the bank was not lawfully engaged as of March 5, 1987, unless the bank is well managed and well capitalized;

"(C) any bank subsidiary of such company both—

"(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties; and

"(ii) engages in the business of making commercial loans (and, for purposes of this clause, loans made in the ordinary course of a credit card operation shall not be treated as commercial loans); or

"(D) after the date of the enactment of the Competitive Equality Amendments of 1987, any bank subsidiary of such company permits any overdraft (including any intraday overdraft), or incurs any such overdraft in such bank's account at a Federal reserve bank, on behalf of an affiliate, other than an overdraft described in paragraph (3)."; and

(3) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

"(3) PERMISSIBLE OVERDRAFTS DESCRIBED.—For purposes of paragraph (2)(D), an overdraft is described in this paragraph if—

"(A) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate; or

"(B) such overdraft—

"(i) is permitted or incurred on behalf of an affiliate which is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

"(ii) is fully secured, as required by the Board, by bonds, notes, or other obligations which are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system.

"(4) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—If any company described in paragraph (1) fails to qualify for the exemption provided under such paragraph by operation of paragraph (2), such exemption shall cease to apply to such company and such company shall divest control of each bank it controls before the end of the 180-day period beginning on the date that the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless before the end of such 180-day period, the company has—

"(A) corrected the condition or ceased the activity that caused the company to fail to continue to qualify for the exemption; and

"(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity.".

Subtitle B—Streamlining Supervision of Financial Holding Companies

SEC. 111. STREAMLINING FINANCIAL HOLDING COMPANY SUPERVISION.

Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended to read as follows:

"(c) Reports and Examinations.—

"(1) Reports.—

"(A) In general.—The Board from time to time may require any bank holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

"(i) its financial condition, systems for monitoring and controlling financial and operating risks, and transactions with depository institution subsidiaries of the holding company; and

"(ii) compliance by the company or subsidiary with applicable provisions of this Act.

"(B) Use of existing reports.—

"(i) In general.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that a bank holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

"(ii) Availability.—A bank holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

"(iii) Required use of publicly reported information.—The Board shall, to the fullest extent possible, accept in fulfillment of any reporting or recordkeeping requirements under this Act information that is otherwise required to be reported publicly and externally audited financial statements.

"(iv) Reports filed with other agencies.—In the event the Board requires a report from a functionally regulated nondepository institution subsidiary of a bank holding company of a kind that is not required by another Federal or State regulator or appropriate self-regulatory organization, the Board shall request that the appropriate regulator or self-regulatory organization obtain such report. If the report is not made available to the Board, and the report is necessary to assess a material risk to the bank holding company or its subsidiary depository institution or compliance with this Act, the Board may require such subsidiary to provide such a report to the Board.

"(C) Definition.—For purposes of this subsection, the term 'functionally regulated nondepository institution' means—

"(i) a broker or dealer registered under the Securities Exchange Act of 1934;

"(ii) an investment adviser registered under the Investment Advisers Act of 1940, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

"(iii) an insurance company subject to supervision by a State insurance commission, agency, or similar authority; and

"(iv) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.

"(2) Examinations.—

"(A) Examination authority.—

"(i) In general.—The Board may make examinations of each bank holding company and each subsidiary of a bank holding company.

"(ii) Functionally regulated nondepository institution subsidiaries.—Notwithstanding clause (i), the Board may make examinations of a functionally regulated nondepository institution subsidiary of a bank holding company only if—

"(I) the Board has reasonable cause to believe that such subsidiary is engaged in activities that pose a material risk to an affiliated depository institution, or

"(II) based on reports and other available information, the Board has reasonable cause to believe that a subsidiary is not in compliance with this Act or with provisions relating to transactions with an affiliated depository institution and the Board cannot make such determination through examination of the affiliated depository institution or bank holding company.

"(B) Limitations on examination authority for bank holding companies and subsidiaries.—Subject to subparagraph (A)(ii), the Board may make examinations under subparagraph (A)(i) of each bank holding company and each subsidiary of such holding company in order to—

"(i) inform the Board of the nature of the operations and financial condition of the holding company and such subsidiaries;

"(ii) inform the Board of—

"(I) the financial and operational risks within the holding company system that may pose a threat to the safety and soundness of any subsidiary depository institution of such holding company; and

"(II) the systems for monitoring and controlling such risks; and

"(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any subsidiary depository institution and its affiliates.

"(C) Restricted focus of examinations.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a bank holding company to—

"(i) the bank holding company; and

"(ii) any subsidiary of the holding company that, because of—

"(I) the size, condition, or activities of the subsidiary;

"(II) the nature or size of transactions between such subsidiary and any depository institution which is also a subsidiary of such holding company; or

"(III) the centralization of functions within the holding company system,

could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

"(D) Deference to bank examinations.—The Board shall, to the fullest extent possible, use, for the purposes of this paragraph, the reports of examinations of depository institutions made by the appropriate Federal and State depository institution supervisory authority.

"(E) Deference to other examinations.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and instead reviewing the reports of examination made of—

"(i) any registered broker or dealer or registered investment adviser by or on behalf of the Securities and Exchange Commission;

"(ii) any licensed insurance company by or on behalf of any state regulatory authority responsible for the supervision of insurance companies; and

"(iii) any other subsidiary that the Board finds to be comprehensively supervised by a Federal or State authority.

"(3) Capital.—

"(A) In general.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, guidelines, standards, or requirements on any subsidiary of a financial holding company that is not a depository institution and—

"(i) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority; or

"(ii) is registered as an investment adviser under the Investment Advisers Act of 1940.

"(B) Rule of construction.—Subparagraph (A) shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

"(4) Transfer of board authority to appropriate federal banking agency.—

"(A) In general.—In the case of any bank holding company which is not significantly engaged in nonbanking activities, the Board, in consultation with the appropriate Federal banking agency, may designate the appropriate Federal banking agency of the lead insured depository institution subsidiary of such holding company as the appropriate Federal banking agency for the bank holding company.

"(B) Authority transferred.—An agency designated by the Board under subparagraph (A) shall have the same authority as the Board under this Act to—

"(i) examine and require reports from the bank holding company and any affiliate of such company (other than a depository institution) under section 5;

"(ii) approve or disapprove applications or transactions under section 3;

"(iii) take actions and impose penalties under subsections (e) and (f) of section 5 and section 8; and

"(iv) take actions regarding the holding company, any affiliate of the holding company (other than a depository institution), or any institution-affiliated party of such company or affiliate under the Federal Deposit Insurance Act and any other statute which the Board may designate.

"(C) Agency orders.—Section 9 (of this Act) and section 105 of the Bank Holding Company Act Amendments of 1970 shall apply to orders issued by an agency designated under subparagraph (A) in the same manner such sections apply to orders issued by the Board.

"(5) Functional regulation of securities and insurance activities.—The Board shall defer to—

"(A) the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies; and

"(B) the relevant State insurance authorities with regard to all interpretations of, and the enforcement of, applicable State insurance laws relating to the activities, conduct, and operations of insurance companies and insurance agents.".

SEC. 112. ELIMINATION OF APPLICATION REQUIREMENT FOR FINANCIAL HOLDING COMPANIES.

(a) PREVENTION OF DUPLICATIVE FILINGS.—Section 5(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(a)) is amended by adding the following new sentence at the end: "A declaration filed in accordance with section 6(b)(1)(E) shall satisfy the requirements of this subsection with regard to the registration of a bank holding company but not any requirement to file an application to acquire a bank pursuant to section 3.".

(b) DIVESTITURE PROCEDURES.—Section 5(e)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(e)(1)) is amended—

(1) by striking "Financial Institutions Supervisory Act of 1966, order" and inserting "Financial Institutions Supervisory Act of 1966, at the election of the bank holding company—

"(A) order"; and

(2) by striking "shareholders of the bank holding company. Such distribution" and inserting "shareholders of the bank holding company; or

"(B) order the bank holding company, after due notice and opportunity for hearing, and after consultation with the bank's primary supervisor, which shall be the Comptroller of the Currency in the case of a national bank, and the Federal Deposit Insurance Corporation and the appropriate State supervisor in the case of an insured nonmember bank, to terminate (within 120 days or such longer period as the Board may direct) the ownership or control of any such bank by such company.

"The distribution referred to in subparagraph (A)".

SEC. 113. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following new subsection:

"(g) AUTHORITY OF STATE INSURANCE REGULATOR AND THE SECURITIES AND EXCHANGE COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the Board which requires a bank holding company to provide funds or other assets to a subsidiary insured depository institution shall not be effective nor enforceable if—

"(A) such funds or assets are to be provided by—

"(i) a bank holding company that is an insurance company or is a broker or dealer registered under the Securities Exchange Act of 1934; or

"(ii) an affiliate of the depository institution which is an insurance company or a broker or dealer registered under such Act; and

"(B) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker or dealer, as the case may be, determines in writing sent to the holding company and the Board that the holding company shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker or dealer, as the case may be.

"(2) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the Board requires a bank holding company, or an affiliate of a bank holding company, which is an insurance company or a broker or dealer described in paragraph (1)(A) to provide funds or assets to an insured depository institution subsidiary of the holding company pursuant to any regulation, order, or other action of the Board referred to in paragraph (1), the Board shall promptly notify the State insurance authority for the insurance company or the Securities and Exchange Commission, as the case may be, of such requirement.

"(3) DIVESTITURE IN LIEU OF OTHER ACTION.—If the Board receives a notice described in paragraph (1)(B) from a State insurance authority or the Securities and Exchange Commission with regard to a bank holding company or affiliate referred to in such paragraph, the Board may order the bank holding company to divest the insured depository institution within 180 days of receiving notice or such longer period as the Board determines consistent with the safe and sound operation of the insured depository institution.

"(4) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date an order to divest is issued by the Board under paragraph (3) to a bank holding company and ending on the date the divestiture is completed, the Board may impose any conditions or restrictions on the holding company's ownership or operation of the insured depository institution, including restricting or prohibiting transactions between the insured depository institution and any affiliate of the institution, as are appropriate under the circumstances.".

SEC. 114. PRUDENTIAL SAFEGUARDS.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by inserting after subsection (g) (as added by section 113 of this subtitle) the following new subsection:

"(h) PRUDENTIAL SAFEGUARDS.—

"(1) IN GENERAL.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a depository institution subsidiary of a bank holding company and any affiliate of such depository institution (other than a subsidiary of such institution) which the Board finds is consistent with the public interest, the purposes of this Act, the Financial Services Act of 1998, the Federal Reserve Act, and other Federal law applicable to depository institution subsidiaries of bank holding companies and the standards in paragraph (2).

"(2) STANDARDS.—The Board may exercise authority under paragraph (1) if the Board finds that such action will have any of the following effects:

"(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

"(B) Enhance the financial stability of bank holding companies.

"(C) Avoid conflicts of interest or other abuses.

"(D) Enhance the privacy of customers of depository institutions.

"(E) Promote the application of national treatment and equality of competitive opportunity between nonbank affiliates owned or controlled by domestic bank holding companies and nonbank affiliates owned or controlled by foreign banks operating in the United States.

"(3) REVIEW.—The Board shall regularly—

"(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

"(B) modify or eliminate any restriction or requirement the Board finds is no longer required for such purposes.".

SEC. 115. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—

(1) IN GENERAL.—The Commission shall be the sole Federal agency with authority to inspect and examine any registered investment company that is not a bank holding company.

(2) PROHIBITION ON BANKING AGENCIES.—A Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—The Commission shall provide to any Federal banking agency, upon request, the results of any examination, reports, records, or other information with respect to any registered investment company to the extent necessary for the agency to carry out its statutory responsibilities.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BANK HOLDING COMPANY.—The term "bank holding company" has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

(2) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(3) FEDERAL BANKING AGENCY.—The term "Federal banking agency" has the meaning given to such term in section 3(z) of the Federal Deposit Insurance Act.

(4) REGISTERED INVESTMENT COMPANY.—The term "registered investment company" means an investment company which is registered with the Commission under the Investment Company Act of 1940.

SEC. 116. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting after section 10 the following new section:

"SEC. 10A. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

"(a) LIMITATION ON DIRECT ACTION.—

"(1) IN GENERAL.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a regulated subsidiary of a bank holding company unless the action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such subsidiary that poses a material risk to—

"(A) the financial safety, soundness, or stability of an affiliated depository institution; or

"(B) the domestic or international payment system.

"(2) CRITERIA FOR BOARD ACTION.—The Board shall not take action otherwise permitted under paragraph (1) unless the Board finds that it is not reasonably possible to effectively protect against the material risk at issue through action directed at or against the affiliated depository institution or against depository institutions generally.

"(b) LIMITATION ON INDIRECT ACTION.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a financial holding company or a wholesale financial holding company where the purpose or effect of doing so would be to take action indirectly against or with respect to a regulated subsidiary that may not be taken directly against or with respect to such subsidiary in accordance with subsection (a).

"(c) ACTIONS SPECIFICALLY AUTHORIZED.—Notwithstanding subsection (a), the Board may take action under this Act or section 8 of the Federal Deposit Insurance Act to enforce compliance by a regulated subsidiary with Federal law that the Board has specific jurisdiction to enforce against such subsidiary.

"(d) REGULATED SUBSIDIARY DEFINED.—For purposes of this section, the term 'regulated subsidiary' means any company that is not a bank holding company and is—

"(1) a broker or dealer registered under the Securities Exchange Act of 1934;

"(2) an investment adviser registered under the Investment Advisers Act of 1940, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

"(3) an investment company registered under the Investment Company Act of 1940;

"(4) an insurance company or an insurance agency subject to supervision by a State insurance commission, agency, or similar authority; or

"(5) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.".

Subtitle C—Subsidiaries of National Banks

SEC. 121. PERMISSIBLE ACTIVITIES FOR SUBSIDIARIES OF NATIONAL BANKS.

(a) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.—Chapter one of title LXII of the Revised Statutes of United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A as section 5136C; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

"SEC. 5136A. SUBSIDIARIES OF NATIONAL BANKS.

"(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.—

"(1) EXCLUSIVE AUTHORITY.—No provision of section 5136 or any other provision of this title LXII of the Revised Statutes shall be construed as authorizing a subsidiary of a national bank to engage in, or own any share of or any other interest in any company engaged in, any activity that—

"(A) is not permissible for a national bank to engage in directly; or

"(B) is conducted under terms or conditions other than those that would govern the conduct of such activity by a national bank, unless a national bank is specifically authorized by the express terms of a Federal statute and not by implication or interpretation to acquire shares of or an interest in, or to control, such subsidiary, such as by paragraph (2) of this subsection and section 25A of the Federal Reserve Act.

"(2) SPECIFIC AUTHORIZATION TO CONDUCT AGENCY ACTIVITIES WHICH ARE FINANCIAL IN NATURE.—A national bank may control a company that engages in agency activities that have been determined to be financial in nature or incidental to such financial activities pursuant to and in accordance with section 6(c) of the Bank Holding Company Act of 1956 if—

"(A) the company engages in such activities solely as agent and not directly or indirectly as principal,

"(B) the national bank is well capitalized and well managed, and has achieved a rating of satisfactory or better at the most recent examination of the bank under the Community Reinvestment Act of 1977;

"(C) all depository institution affiliates of the national bank are well capitalized and well managed, and have achieved a rating of satisfactory or better at the most recent examination of each such depository institution under the Community Reinvestment Act of 1977; and

"(D) the bank has received the approval of the Comptroller of the Currency.

"(3) DEFINITIONS.—

"(A) COMPANY; CONTROL; SUBSIDIARY.—The terms 'company', 'control', and 'subsidiary' have the meanings given to such terms in section 2 of the Bank Holding Company Act of 1956.

"(B) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act and, for purposes of this section, the Comptroller shall have exclusive jurisdiction to determine whether a national bank is well capitalized.

"(C) WELL MANAGED.—The term 'well managed' means—

"(i) in the case of a bank that has been examined, unless otherwise determined in writing by the Comptroller—

"(I) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the bank; and

"(II) at least a rating of 2 for management, if that rating is given; or

"(ii) in the case of any national bank that has not been examined, the existence and use of managerial resources that the Comptroller determines are satisfactory.

"(b) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes affiliated with a national bank during the 24-month period preceding the submission of an application to acquire a subsidiary under subsection (a)(2), and any depository institution which becomes so affiliated after the approval of such application, may be excluded for purposes of subsection (a)(2)(B) during the 24-month period beginning on the date of such acquisition if—

"(1) the depository institution has submitted an affirmative plan to the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) to take such action as may be necessary in order for such institution to achieve a 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution under the Community Reinvestment Act of 1977; and

"(2) the plan has been approved by the appropriate Federal banking agency.".

(b) LIMITATION ON CERTAIN ACTIVITIES IN SUBSIDIARIES.—Section 21(a)(1) of the Banking Act of 1933 (12 U.S.C. 378(a)(1)) is amended—

(1) by inserting ", or to be a subsidiary of any person, firm, corporation, association, business trust, or similar organization engaged (unless such subsidiary (A) was engaged in such securities activities as of September 15, 1997, or (B) is a nondepository subsidiary of a foreign bank and is not also a subsidiary of a domestic depository institution)," after "to engage at the same time"; and

(2) by inserting "or any subsidiary of such bank, company, or institution" after "or private bankers".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) ANTITYING.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 is amended by adding at the end the following new sentence: "For purposes of this section, a subsidiary of a national bank which engages in activities as an agent pursuant to section 5136A(a)(2) shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.".

(2) SECTION 23B.—Section 23B(a) of the Federal Reserve Act (12 U.S.C. 371c–1(a)) is amended by adding at the end the following new paragraph:

"(4) SUBSIDIARY OF NATIONAL BANK.—For purposes of this section, a subsidiary of a national bank which engages in activities as an agent pursuant to section 5136A(a)(2) shall be deemed to be an affiliate of the national bank and not a subsidiary of the bank."

(d) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended—

(1) by redesignating the item relating to section 5136A as section 5136C; and

(2) by inserting after the item relating to section 5136 the following new item:

"5136A. Financial subsidiaries of national banks.".

SEC. 122. MISREPRESENTATIONS REGARDING DEPOSITORY INSTITUTION LIABILITY FOR OBLIGATIONS OF AFFILIATES.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1007 the following new section:

"§ 1008. Misrepresentations regarding financial institution liability for obligations of affiliates

"(a) IN GENERAL.—No institution-affiliated party of an insured depository institution or institution-affiliated party of a subsidiary or affiliate of an insured depository institution shall fraudulently represent that the institution is or will be liable for any obligation of a subsidiary or other affiliate of the institution.

"(b) CRIMINAL PENALTY.—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

"(c) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this section, the term 'institution-affiliated party' with respect to a subsidiary or affiliate has the same meaning as in section 3 except references to an insured depository institution shall be deemed to be references to a subsidiary or affiliate of an insured depository institution.

"(d) OTHER DEFINITIONS.—For purposes of this section, the terms 'affiliate', 'insured depository institution', and 'subsidiary' have same meanings as in section 3 of the Federal Deposit Insurance Act.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1007 the following new item:

"1008. Misrepresentations regarding financial institution liability for obligations of affiliates.".

SEC. 123. REPEAL OF STOCK LOAN LIMIT IN FEDERAL RESERVE ACT.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by striking the paragraph designated as "(m)" and inserting "(m) [Repealed]".

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

SEC. 131. WHOLESALE FINANCIAL HOLDING COMPANIES ESTABLISHED.

(a) DEFINITION AND SUPERVISION.—Section 10 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended to read as follows:

‘‘SEC. 10. WHOLESALE FINANCIAL HOLDING COMPANIES.

‘‘(a) COMPANIES THAT CONTROL WHOLESALE FINANCIAL INSTITUTIONS.—

‘‘(1) WHOLESALE FINANCIAL HOLDING COMPANY DEFINED.—The term ‘wholesale financial holding company’ means any company that—

‘‘(A) is registered as a bank holding company;

‘‘(B) is predominantly engaged in financial activities as defined in section 6(g)(2);

‘‘(C) controls 1 or more wholesale financial institutions;

‘‘(D) does not control—

‘‘(i) a bank other than a wholesale financial institution;

‘‘(ii) an insured bank other than an institution permitted under subparagraph (D), (F), or (G) of section 2(c)(2); or

‘‘(iii) a savings association; and

‘‘(E) is not a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978).

‘‘(2) SAVINGS ASSOCIATION TRANSITION PERIOD.—Notwithstanding paragraph (1)(C)(iii), the Board may permit a company that controls a savings association and that otherwise meets the requirements of paragraph (1) to become supervised under paragraph (1), if the company divests control of any such savings association within such period not to exceed 5 years after becoming supervised under paragraph (1) as permitted by the Board.

‘‘(b) SUPERVISION BY THE BOARD.—

‘‘(1) IN GENERAL.—The provisions of this section shall govern the reporting, examination, and capital requirements of wholesale financial holding companies.

‘‘(2) REPORTS.—

‘‘(A) IN GENERAL.—The Board from time to time may require any wholesale financial holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

‘‘(i) the company's or subsidiary's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions with depository institution subsidiaries of the holding company; and

‘‘(ii) the extent to which the company or subsidiary has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

‘‘(B) USE OF EXISTING REPORTS.—

‘‘(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that the wholesale financial holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

‘‘(ii) AVAILABILITY.—A wholesale financial holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

‘‘(C) EXEMPTIONS FROM REPORTING REQUIREMENTS.—

‘‘(i) IN GENERAL.—The Board may, by regulation or order, exempt any company or class of companies, under such terms and conditions and for such periods as the Board shall provide in such regulation or order, from the provisions of this paragraph and any regulation prescribed under this paragraph.

‘‘(ii) CRITERIA FOR CONSIDERATION.—In making any determination under clause (i) with regard to any exemption under such clause, the Board shall consider, among such other factors as the Board may determine to be appropriate, the following factors:

‘‘(I) Whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(7) of the Right to Financial Privacy Act of 1978) or a foreign regulatory authority of a similar type.

‘‘(II) The primary business of the company.

‘‘(III) The nature and extent of the domestic and foreign regulation of the activities of the company.

‘‘(3) EXAMINATIONS.—

‘‘(A) LIMITED USE OF EXAMINATION AUTHORITY.—The Board may make examinations of each wholesale financial holding company and each subsidiary of such company in order to—

‘‘(i) inform the Board regarding the nature of the operations and financial condition of the wholesale financial holding company and its subsidiaries;

‘‘(ii) inform the Board regarding—

‘‘(I) the financial and operational risks within the wholesale financial holding company system that may affect any depository institution owned by such holding company; and

‘‘(II) the systems of the holding company and its subsidiaries for monitoring and controlling those risks; and

‘‘(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any depository institution controlled by the wholesale financial holding company and any of the company's other subsidiaries.

‘‘(B) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a wholesale financial holding company under this paragraph to—

‘‘(i) the holding company; and

‘‘(ii) any subsidiary (other than an insured depository institution subsidiary) of the holding company that, because of the size, condition, or activities of the subsidiary, the nature or size of transactions between such subsidiary and any affiliated depository institution, or the centralization of functions within the holding company system, could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

‘‘(C) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use the reports of examination of depository institutions made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision or the appropriate State depository institution supervisory authority for the purposes of this section.

‘‘(D) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and by instead reviewing the reports of examination made of—

‘‘(i) any registered broker or dealer or any registered investment adviser by or on behalf of the Commission; and

‘‘(ii) any licensed insurance company by or on behalf of any State government insurance agency responsible for the supervision of the insurance company.

‘‘(E) CONFIDENTIALITY OF REPORTED INFORMATION.—

‘‘(i) IN GENERAL.—Notwithstanding any other provision of law, the Board shall not be compelled to disclose any nonpublic information required to be reported under this paragraph, or any information supplied to the Board by any domestic or foreign regulatory agency, that relates to the financial or operational condition of any wholesale financial holding company or any subsidiary of such company.

‘‘(ii) COMPLIANCE WITH REQUESTS FOR INFORMATION.—No provision of this subparagraph shall be construed as authorizing the Board to withhold information from the Congress, or preventing the Board from complying with a request for information from any other Federal department or agency for purposes within the scope of such department's or agency's jurisdiction, or from complying with any order of a court of competent jurisdiction in an action brought by the United States or the Board.

‘‘(iii) COORDINATION WITH OTHER LAW.—For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered to be a statute described in subsection (b)(3)(B) of such section.

‘‘(iv) DESIGNATION OF CONFIDENTIAL INFORMATION.—In prescribing regulations to carry out the requirements of this subsection, the Board shall designate information described in or obtained pursuant to this paragraph as confidential information.

‘‘(F) COSTS.—The cost of any examination conducted by the Board under this section may be assessed against, and made payable by, the wholesale financial holding company.

‘‘(4) CAPITAL ADEQUACY GUIDELINES.—

‘‘(A) CAPITAL ADEQUACY PROVISIONS.—Subject to the requirements of, and solely in accordance with, the terms of this paragraph, the Board may adopt capital adequacy rules or guidelines for wholesale financial holding companies.

‘‘(B) METHOD OF CALCULATION.—In developing rules or guidelines under this paragraph, the following provisions shall apply:

‘‘(i) FOCUS ON DOUBLE LEVERAGE.—The Board shall focus on the use by wholesale financial holding companies of debt and other liabilities to fund capital investments in subsidiaries.

‘‘(ii) NO UNWEIGHTED CAPITAL RATIO.—The Board shall not, by regulation, guideline, order, or otherwise, impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

‘‘(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that—

‘‘(I) is not a depository institution; and

‘‘(II) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority.

‘‘(iv) LIMITATION.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that is not a depository institution and that is registered as an investment adviser under the Investment Advisers Act of 1940, except that this clause shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

"(v) APPROPRIATE EXCLUSIONS.—The Board shall take full account of—

"(I) the capital requirements made applicable to any subsidiary that is not a depository institution by another Federal regulatory authority or State insurance authority; and

"(II) industry norms for capitalization of a company's unregulated subsidiaries and activities.

"(vi) INTERNAL RISK MANAGEMENT MODELS.—The Board may incorporate internal risk management models of wholesale financial holding companies into its capital adequacy guidelines or rules and may take account of the extent to which resources of a subsidiary depository institution may be used to service the debt or other liabilities of the wholesale financial holding company.

"(c) NONFINANCIAL ACTIVITIES AND INVESTMENTS.—

"(1) AUTHORITY FOR LIMITED AMOUNTS OF NEW ACTIVITIES AND INVESTMENTS.—

"(A) IN GENERAL.—Notwithstanding section 4(a), a wholesale financial holding company may engage in activities which are not (or have not been determined to be) financial in nature or incidental to activities which are financial in nature, or acquire and retain ownership and control of the shares of a company engaged in such activities if—

"(i) the aggregate annual gross revenues derived from all such activities and of all such companies does not exceed 5 percent of the consolidated annual gross revenues of the wholesale financial holding company or, in the case of a foreign bank or any company that owns or controls a foreign bank, the aggregate annual gross revenues derived from any such activities in the United States does not exceed 5 percent of the consolidated annual gross revenues of the foreign bank or company in the United States derived from any branch, agency, commercial lending company, or depository institution controlled by the foreign bank or company and any subsidiary engaged in the United States in activities permissible under section 4 or 6 or this subsection;

"(ii) the consolidated total assets of any company the shares of which are acquired pursuant to this subsection are less than $750,000,000 at the time the shares are acquired by the wholesale financial holding company; and

"(iii) such company provides notice to the Board within 30 days of commencing the activity or acquiring the ownership or control.

"(B) INCLUSION OF GRANDFATHERED ACTIVITIES.—For purposes of determining compliance with the limits contained in subparagraph (A), the gross revenues derived from all activities conducted and companies the shares of which are held under paragraph (2) shall be considered to be derived or held under this paragraph.

"(C) REPORT.—No later than 5 years after the date of enactment of the Financial Services Act of 1998, the Board shall submit to the Congress a report regarding the activities conducted and companies held pursuant to this paragraph and the effect, if any, that affiliations permitted under this paragraph have had on affiliated depository institutions. The report shall include recommendations regarding the appropriateness of retaining, increasing, or decreasing the limits contained in those provisions.

"(2) GRANDFATHERED ACTIVITIES.—

"(A) IN GENERAL.—Notwithstanding paragraph (1)(A) and section 4(a), a company that becomes a wholesale financial holding company may continue to engage, directly or indirectly, in any activity and may retain ownership and control of shares of a company engaged in any activity if—

"(i) on the date of the enactment of the Financial Services Act of 1998, such wholesale financial holding company was lawfully engaged in that nonfinancial activity, held the shares of such company, or had entered into a contract to acquire shares of any company engaged in such activity; and

"(ii) the company engaged in such activity continues to engage only in the same activities that such company conducted on the date of the enactment of the Financial Services Act of 1998, and other activities permissible under this Act.

"(B) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A wholesale financial holding company that engages in activities or holds shares pursuant to this paragraph, or a subsidiary of such wholesale financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under section 6(c).

"(C) LIMITATION TO SINGLE EXEMPTION.—No company that engages in any activity or controls any shares under subsection (f) or (g) of section 6 may engage in any activity or own any shares pursuant to this paragraph or paragraph (1).

"(3) COMMODITIES.—

"(A) IN GENERAL.—Notwithstanding section 4(a), a wholesale financial holding company which was predominately engaged as of January 1, 1997, in financial activities in the United States (or any successor to any such company) may engage in, or directly or indirectly own or control shares of a company engaged in, activities related to the trading, sale, or investment in commodities and underlying physical properties that were not permissible for bank holding companies to conduct in the United States as of January 1, 1997, if such wholesale financial holding company, or any subsidiary of such holding company, was engaged directly, indirectly, or through any such company in any of such activities as of January 1, 1997, in the United States.

"(B) LIMITATION.—Notwithstanding paragraph (1)(A)(i), the attributed aggregate consolidated assets of a wholesale financial holding company held under the authority granted under this paragraph and not otherwise permitted to be held by all wholesale financial holding companies under this section may not exceed 5 percent of the total consolidated assets of the wholesale financial holding company, except that the Board may increase such percentage of total consolidated assets by such amounts and under such circumstances as the Board considers appropriate, consistent with the purposes of this Act.

"(4) CROSS MARKETING RESTRICTIONS.—A wholesale financial holding company shall not permit—

"(A) any company whose shares it owns or controls pursuant to paragraph (1), (2), or (3) to offer or market any product or service of an affiliated wholesale financial institution; or

"(B) any affiliated wholesale financial institution to offer or market any product or service of any company whose shares are owned or controlled by such wholesale financial holding company pursuant to such paragraphs.

"(d) QUALIFICATION OF FOREIGN BANK AS WHOLESALE FINANCIAL HOLDING COMPANY.—

"(1) IN GENERAL.—Any foreign bank, or any company that owns or controls a foreign bank, that—

"(A) operates a branch, agency, or commercial lending company in the United States, including a foreign bank or company that owns or controls a wholesale financial institution; and

"(B) owns, controls, or is affiliated with a security affiliate that engages in underwriting corporate equity securities,

may request a determination from the Board that such bank or company be treated as a wholesale financial holding company for purposes of subsection (c).

"(2) CONDITIONS FOR TREATMENT AS A WHOLESALE FINANCIAL HOLDING COMPANY.—A foreign bank and a company that owns or controls a foreign bank may not be treated as a wholesale financial holding company unless the bank and company meet and continue to meet the following criteria:

"(A) NO INSURED DEPOSITS.—No deposits held directly by a foreign bank or through an affiliate (other than an institution described in subparagraph (D) or (F) of section 2(c)(2)) are insured under the Federal Deposit Insurance Act.

"(B) CAPITAL STANDARDS.—The foreign bank meets risk-based capital standards comparable to the capital standards required for a wholesale financial institution, giving due regard to the principle of national treatment and equality of competitive opportunity.

"(C) TRANSACTION WITH AFFILIATES.—Transactions between a branch, agency, or commercial lending company subsidiary of the foreign bank in the United States, and any securities affiliate or company in which the foreign bank (or any company that owns or controls such foreign bank) has invested pursuant to subsection (d) comply with the provisions of sections 23A and 23B of the Federal Reserve Act in the same manner and to the same extent as such transactions would be required to comply with such sections if the bank were a member bank.

"(3) TREATMENT AS A WHOLESALE FINANCIAL INSTITUTION.—Any foreign bank which is, or is affiliated with a company which is, treated as a wholesale financial holding company under this subsection shall be treated as a wholesale financial institution for purposes of subsection (c)(4) of this section and subsections (c)(1)(C) and (c)(3) of section 9B of the Federal Reserve Act, and any such foreign bank or company shall be subject to paragraphs (3), (4), and (5) of section 9B(d) of the Federal Reserve Act, except that the Board may adopt such modifications, conditions, or exemptions as the Board deems appropriate, giving due regard to the principle of national treatment and equality of competitive opportunity.

"(4) NONAPPLICABILITY OF OTHER EXEMPTION.—Any foreign bank or company which is treated as a wholesale financial holding company under this subsection shall not be eligible for any exception described in section 2(h).

"(5) SUPERVISION OF FOREIGN BANK WHICH MAINTAINS NO BANKING PRESENCE OTHER THAN CONTROL OF A WHOLESALE FINANCIAL INSTITUTION.—A foreign bank that owns or controls a wholesale financial institution but does not operate a branch, agency, or commercial lending company in the United States (and any company that owns or controls such foreign bank) may request a determination from the Board that such bank or company be treated as a wholesale financial holding company for purposes of subsection (c), except that such bank or company shall be subject to the restrictions of paragraphs (2)(A), (3), and (4) of this subsection.

"(6) No effect on other provisions.—This section shall not be construed as limiting the authority of the Board under the International Banking Act of 1978 with respect to the regulation, supervision, or examination of foreign banks and their offices and affiliates in the United States.

"(7) Applicability of community reinvestment act of 1977.—The branches in the United States of a foreign bank that is, or is affiliated with a company that is, treated as a wholesale financial holding company shall be subject to section 9B(b)(11) of the Federal Reserve Act as if the foreign bank were a wholesale financial institution under such section. The Board and the Comptroller of the Currency shall apply the provisions of sections 803(2), 804, and 807(1) of the Community Reinvestment Act of 1977 to branches of foreign banks which receive only such deposits as are permissible for receipt by a corporation organized under section 25A of the Federal Reserve Act, in the same manner and to the same extent such sections apply to such a corporation.".

(b) Uninsured State Banks.—Section 9 of the Federal Reserve Act (U.S.C. 321 et seq.) is amended by adding at the end the following new paragraph:

"(24) Enforcement authority over uninsured state member banks.—Section 3(u) of the Federal Deposit Insurance Act, subsections (j) and (k) of section 7 of such Act, and subsections (b) through (n), (s), (u), and (v) of section 8 of such Act shall apply to an uninsured State member bank in the same manner and to the same extent such provisions apply to an insured State member bank and any reference in any such provision to 'insured depository institution' shall be deemed to be a reference to 'uninsured State member bank' for purposes of this paragraph.".

SEC. 132. AUTHORIZATION TO RELEASE REPORTS.

(a) Federal Reserve Act.—The last sentence of the 8th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 326) is amended to read as follows: "The Board of Governors of the Federal Reserve System, at its discretion, may furnish reports of examination or other confidential supervisory information concerning State member banks or any other entities examined under any other authority of the Board to any Federal or State authorities with supervisory or regulatory authority over the examined entity, to officers, directors, or receivers of the examined entity, and to any other person that the Board determines to be proper.".

(b) Commodity Futures Trading Commission.—

(1) Section 1101(7) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(7)) is amended—

(A) by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively; and

(B) by inserting after subparagraph (F) the following new subparagraph:

"(G) the Commodity Futures Trading Commission; or" and

(2) Section 1112(e) of the Right to Financial Privacy Act (12 U.S.C. 3412(e)) is amended by striking "and the Securities and Exchange Commission" and inserting ", the Securities and Exchange Commission, and the Commodity Futures Trading Commission".

SEC. 133. CONFORMING AMENDMENTS.

(a) Bank Holding Company Act of 1956.—

(1) Definitions.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsections:

"(p) Wholesale Financial Institution.—The term 'wholesale financial institution' means a wholesale financial institution subject to section 9B of the Federal Reserve Act.

"(q) Commission.—The term 'Commission' means the Securities and Exchange Commission.

"(r) Depository Institution.—The term 'depository institution'—

"(1) has the meaning given to such term in section 3 of the Federal Deposit Insurance Act; and

"(2) includes a wholesale financial institution.".

(2) Definition of bank includes wholesale financial institution.—Section 2(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(1)) is amended by adding at the end the following new subparagraph:

"(C) A wholesale financial institution.".

(3) Incorporated definitions.—Section 2(n) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(n)) is amended by inserting "'insured bank'," after "'in danger of default',".

(4) Exception to deposit insurance requirement.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by adding at the end the following: "This subsection shall not apply to a wholesale financial institution."

(b) Federal Deposit Insurance Act.—Section 3(q)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(2)(A)) is amended to read as follows:

"(A) any State member insured bank (except a District bank) and any wholesale financial institution as authorized pursuant to section 9B of the Federal Reserve Act;".

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

SEC. 136. WHOLESALE FINANCIAL INSTITUTIONS.

(a) National Wholesale Financial Institutions.—

(1) In general.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136A (as added by section 121(a) of this title) the following new section:

"SEC. 5136B. NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.

"(a) Authorization of the Comptroller Required.—A national bank may apply to the Comptroller on such forms and in accordance with such regulations as the Comptroller may prescribe, for permission to operate as a national wholesale financial institution.

"(b) Regulation.—A national wholesale financial institution may exercise, in accordance with such institution's articles of incorporation and regulations issued by the Comptroller, all the powers and privileges of a national bank formed in accordance with section 5133 of the Revised Statutes of the United States, subject to section 9B of the Federal Reserve Act and the limitations and restrictions contained therein.

"(c) Community Reinvestment Act of 1977.—A national wholesale financial institution shall be subject to the Community Reinvestment Act of 1977.

"(d) Examination Reports.—The Comptroller of the Currency shall, to the fullest extent possible, use the report of examinations made by the Board of Governors of the Federal Reserve System of a wholesale financial institution.".

(2) Clerical amendment.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136A (as added by section 121(d) of this title) the following new item:

"5136B. National wholesale financial institutions.".

(b) State Wholesale Financial Institutions.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 9A the following new section:

"SEC. 9B. WHOLESALE FINANCIAL INSTITUTIONS.

"(a) Application for Membership as Wholesale Financial Institution.—

"(1) Application required.—

"(A) In general.—Any bank may apply to the Board of Governors of the Federal Reserve System to become a wholesale financial institution and, as a wholesale financial institution, to subscribe to the stock of the Federal reserve bank organized within the district where the applying bank is located.

"(B) Treatment as member bank.—Any application under subparagraph (A) shall be treated as an application under, and shall be subject to the provisions of, section 9.

"(2) Insurance termination.—No bank the deposits of which are insured under the Federal Deposit Insurance Act may become a wholesale financial institution unless it has met all requirements under that Act for voluntary termination of deposit insurance.

"(b) General Requirements Applicable to Wholesale Financial Institutions.—

"(1) Federal reserve act.—Except as otherwise provided in this section, wholesale financial institutions shall be member banks and shall be subject to the provisions of this Act that apply to member banks to the same extent and in the same manner as State member insured banks, except that a wholesale financial institution may terminate membership under this Act only with the prior written approval of the Board and on terms and conditions that the Board determines are appropriate to carry out the purposes of this Act.

"(2) Prompt corrective action.—A wholesale financial institution shall be deemed to be an insured depository institution for purposes of section 38 of the Federal Deposit Insurance Act except that—

"(A) the relevant capital levels and capital measures for each capital category shall be the levels specified by the Board for wholesale financial institutions; and

"(B) all references to the appropriate Federal banking agency or to the Corporation in that section shall be deemed to be references to the Board.

"(3) Enforcement authority.—Subsections (j) and (k) of section 7, subsections (b) through (n), (s), and (v) of section 8, and section 19 of the Federal Deposit Insurance Act shall apply to a wholesale financial institution in the same manner and to the same extent as such provisions apply to State member insured banks and any reference in such sections to an insured depository institution shall be deemed to include a reference to a wholesale financial institution.

"(4) Certain other statutes applicable.—A wholesale financial institution shall be deemed to be a banking institution, and the Board shall be the appropriate Federal banking agency for such bank and all such bank's affiliates, for purposes of the International Lending Supervision Act.

"(5) Bank merger act.—A wholesale financial institution shall be subject to sections 18(c) and 44 of the Federal Deposit Insurance Act in the same manner and to the same extent the wholesale financial institution would be subject to such sections if the institution were a State member insured bank.

"(6) Branching.—Notwithstanding any other provision of law, a wholesale financial institution may establish and operate a branch at any location on such terms and conditions as established by the Board and, in the case of a State-chartered wholesale financial institution, with the approval of the Board, and, in the case of a national bank wholesale financial institution, with the approval of the Comptroller of the Currency.

"(7) Activities of out-of-state branches of wholesale financial institutions.—

"(A) General.—A State-chartered wholesale financial institution shall be deemed a State bank and an insured State bank and a national wholesale financial institution shall be deemed a national bank for purposes of paragraphs (1), (2), and (3) of section 24(j) of the Federal Deposit Insurance Act.

"(B) Definitions.—The following definitions shall apply solely for purposes of applying paragraph (1):

"(i) Home state.—The term 'home State' means—

"(I) with respect to a national wholesale financial institution, the State in which the main office of the institution is located; and

"(II) with respect to a State-chartered wholesale financial institution, the State by which the institution is chartered.

"(ii) Host state.—The term 'host State' means a State, other than the home State of the wholesale financial institution, in which the institution maintains, or seeks to establish and maintain, a branch.

"(iii) Out-of-state bank.—The term 'out-of-State bank' means, with respect to any State, a wholesale financial institution whose home State is another State.

"(8) Discrimination regarding interest rates.—Section 27 of the Federal Deposit Insurance Act shall apply to State-chartered wholesale financial institutions in the same manner and to the same extent as such provisions apply to State member insured banks and any reference in such section to a State-chartered insured depository institution shall be deemed to include a reference to a State-chartered wholesale financial institution.

"(9) Preemption of state laws requiring deposit insurance for wholesale financial institutions.—The appropriate State banking authority may grant a charter to a wholesale financial institution notwithstanding any State constitution or statute requiring that the institution obtain insurance of its deposits and any such State constitution or statute is hereby preempted solely for purposes of this paragraph.

"(10) Parity for wholesale financial institutions.—A State bank that is a wholesale financial institution under this section shall have all of the rights, powers, privileges, and immunities (including those derived from status as a federally chartered institution) of and as if it were a national bank, subject to such terms and conditions as established by the Board.

"(11) Community reinvestment act of 1977.—A State wholesale financial institution shall be subject to the Community Reinvestment Act of 1977.

"(c) Specific Requirements Applicable to Wholesale Financial Institutions.—

"(1) Limitations on deposits.—

"(A) Minimum amount.—

"(i) In general.—No wholesale financial institution may receive initial deposits of $100,000 or less, other than on an incidental and occasional basis.

"(ii) Limitation on deposits of less than $100,000.—No wholesale financial institution may receive initial deposits of $100,000 or less if such deposits constitute more than 5 percent of the institution's total deposits.

"(B) No deposit insurance.—No deposits held by a wholesale financial institution shall be insured deposits under the Federal Deposit Insurance Act.

"(C) Advertising and disclosure.—The Board shall prescribe regulations pertaining to advertising and disclosure by wholesale financial institutions to ensure that each depositor is notified that deposits at the wholesale financial institution are not federally insured or otherwise guaranteed by the United States Government.

"(2) Minimum capital levels applicable to wholesale financial institutions.—The Board shall, by regulation, adopt capital requirements for wholesale financial institutions—

"(A) to account for the status of wholesale financial institutions as institutions that accept deposits that are not insured under the Federal Deposit Insurance Act; and

"(B) to provide for the safe and sound operation of the wholesale financial institution without undue risk to creditors or other persons, including Federal reserve banks, engaged in transactions with the bank.

"(3) Additional requirements applicable to wholesale financial institutions.—In addition to any requirement otherwise applicable to State member insured banks or applicable, under this section, to wholesale financial institutions, the Board may impose, by regulation or order, upon wholesale financial institutions—

"(A) limitations on transactions, direct or indirect, with affiliates to prevent—

"(i) the transfer of risk to the deposit insurance funds; or

"(ii) an affiliate from gaining access to, or the benefits of, credit from a Federal reserve bank, including overdrafts at a Federal reserve bank;

"(B) special clearing balance requirements; and

"(C) any additional requirements that the Board determines to be appropriate or necessary to—

"(i) promote the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

"(ii) prevent the transfer of risk to the deposit insurance funds; or

"(iii) protect creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

"(4) Exemptions for wholesale financial institutions.—The Board may, by regulation or order, exempt any wholesale financial institution from any provision applicable to a member bank that is not a wholesale financial institution, if the Board finds that such exemption is not inconsistent with—

"(A) the promotion of the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

"(B) the protection of the deposit insurance funds; and

"(C) the protection of creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

"(5) Limitation on transactions between a wholesale financial institution and an insured bank.—For purposes of section 23A(d)(1) of the Federal Reserve Act, a wholesale financial institution that is affiliated with an insured bank shall not be a bank.

"(6) No effect on other provisions.—This section shall not be construed as limiting the Board's authority over member banks under any other provision of law, or to create any obligation for any Federal reserve bank to make, increase, renew, or extend any advance or discount under this Act to any member bank or other depository institution.

"(d) Capital and Managerial Requirements.—

"(1) In general.—A wholesale financial institution shall be well capitalized and well managed.

"(2) Notice to company.—The Board shall promptly provide notice to a company that controls a wholesale financial institution whenever such wholesale financial institution is not well capitalized or well managed.

"(3) Agreement to restore institution.—Within 45 days of receipt of a notice under paragraph (2) (or such additional period not to exceed 90 days as the Board may permit), the company shall execute an agreement acceptable to the Board to restore the wholesale financial institution to compliance with all of the requirements of paragraph (1).

"(4) Limitations until institution restored.—Until the wholesale financial institution is restored to compliance with all of the requirements of paragraph (1), the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances.

"(5) Failure to restore.—If the company does not execute and implement an agreement in accordance with paragraph (3), comply with any limitation imposed under paragraph (4), restore the wholesale financial institution to well capitalized status within 180 days after receipt by the company of the notice described in paragraph (2), or restore the wholesale financial institution to well managed status within such period as the Board may permit, the company shall, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the Board's discretion, divest control of its subsidiary depository institutions.

"(6) Well managed defined.—For purposes of this subsection, the term 'well managed' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(e) Conservatorship Authority.—

"(1) In general.—The Board may appoint a conservator to take possession and control of a wholesale financial institution to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator for a national bank under section 203 of the Bank Conservation Act, and the conservator shall exercise the same powers, functions, and duties, subject to the same limitations, as are provided under such Act for conservators of national banks.

"(2) Board authority.—The Board shall have the same authority with respect to any conservator appointed under paragraph (1) and the wholesale financial institution for which such conservator has been appointed as the Comptroller of the Currency has under the Bank Conservation Act with respect to a conservator appointed under such Act and a national bank for which the conservator has been appointed.

"(f) Exclusive Jurisdiction.—Subsections (c) and (e) of section 43 of the Federal Deposit Insurance Act shall not apply to any wholesale financial institution.".

(c) Voluntary Termination of Insured Status by Certain Institutions.—

(1) Section 8 designations.—Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

(2) VOLUNTARY TERMINATION OF INSURED STATUS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 8 the following new section:

“SEC. 8A. VOLUNTARY TERMINATION OF STATUS AS INSURED DEPOSITORY INSTITUTION.

“(a) IN GENERAL.—Except as provided in subsection (b), an insured State bank or a national bank may voluntarily terminate such bank's status as an insured depository institution in accordance with regulations of the Corporation if—

“(1) the bank provides written notice of the bank's intent to terminate such insured status—

“(A) to the Corporation and the Board of Governors of the Federal Reserve System not less than 6 months before the effective date of such termination; and

“(B) to all depositors at such bank, not less than 6 months before the effective date of the termination of such status; and

“(2) either—

“(A) the deposit insurance fund of which such bank is a member equals or exceeds the fund's designated reserve ratio as of the date the bank provides a written notice under paragraph (1) and the Corporation determines that the fund will equal or exceed the applicable designated reserve ratio for the 2 semiannual assessment periods immediately following such date; or

“(B) the Corporation and the Board of Governors of the Federal Reserve System approved the termination of the bank's insured status and the bank pays an exit fee in accordance with subsection (e).

“(b) EXCEPTION.—Subsection (a) shall not apply with respect to—

“(1) an insured savings association; or

“(2) an insured branch that is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978.

“(c) ELIGIBILITY FOR INSURANCE TERMINATED.—Any bank that voluntarily elects to terminate the bank's insured status under subsection (a) shall not be eligible for insurance on any deposits or any assistance authorized under this Act after the period specified in subsection (f)(1).

“(d) INSTITUTION MUST BECOME WHOLESALE FINANCIAL INSTITUTION OR TERMINATE DEPOSIT-TAKING ACTIVITIES.—Any depository institution which voluntarily terminates such institution's status as an insured depository institution under this section may not, upon termination of insurance, accept any deposits unless the institution is a wholesale financial institution subject to section 9B of the Federal Reserve Act.

“(e) EXIT FEES.—

“(1) IN GENERAL.—Any bank that voluntarily terminates such bank's status as an insured depository institution under this section shall pay an exit fee in an amount that the Corporation determines is sufficient to account for the institution's pro rata share of the amount (if any) which would be required to restore the relevant deposit insurance fund to the fund's designated reserve ratio as of the date the bank provides a written notice under subsection (a)(1).

“(2) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit fee under this subsection.

“(f) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—

“(1) TRANSITION PERIOD.—The insured deposits of each depositor in a State bank or a national bank on the effective date of the voluntary termination of the bank's insured status, less all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of not less than 6 months and not more than 2 years, as determined by the Corporation. During such period, no additions to any such deposits, and no new deposits in the depository institution made after the effective date of such termination shall be insured by the Corporation.

“(2) TEMPORARY ASSESSMENTS; OBLIGATIONS AND DUTIES.—During the period specified in paragraph (1) with respect to any bank, the bank shall continue to pay assessments under section 7 as if the bank were an insured depository institution. The bank shall, in all other respects, be subject to the authority of the Corporation and the duties and obligations of an insured depository institution under this Act during such period, and in the event that the bank is closed due to an inability to meet the demands of the bank's depositors during such period, the Corporation shall have the same powers and rights with respect to such bank as in the case of an insured depository institution.

“(g) ADVERTISEMENTS.—

“(1) IN GENERAL.—A bank that voluntarily terminates the bank's insured status under this section shall not advertise or hold itself out as having insured deposits, except that the bank may advertise the temporary insurance of deposits under subsection (f) if, in connection with any such advertisement, the advertisement also states with equal prominence that additions to deposits and new deposits made after the effective date of the termination are not insured.

“(2) CERTIFICATES OF DEPOSIT, OBLIGATIONS, AND SECURITIES.—Any certificate of deposit or other obligation or security issued by a State bank or a national bank after the effective date of the voluntary termination of the bank's insured status under this section shall be accompanied by a conspicuous, prominently displayed notice that such certificate of deposit or other obligation or security is not insured under this Act.

“(h) NOTICE REQUIREMENTS.—

“(1) NOTICE TO THE CORPORATION.—The notice required under subsection (a)(1)(A) shall be in such form as the Corporation may require.

“(2) NOTICE TO DEPOSITORS.—The notice required under subsection (a)(1)(B) shall be—

“(A) sent to each depositor's last address of record with the bank; and

“(B) in such manner and form as the Corporation finds to be necessary and appropriate for the protection of depositors.”.

(3) DEFINITION.—Section 19(b)(1)(A)(i) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)) is amended by inserting “, or any wholesale financial institution subject to section 9B of this Act” after “such Act”.

Subtitle E—Streamlining Antitrust Review of Bank Acquisitions and Mergers

SEC. 141. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.

(a) AMENDMENTS TO SECTION 3 TO REQUIRE FILING OF APPLICATION COPIES WITH ANTITRUST AGENCIES.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended—

(1) in subsection (b) by inserting after paragraph (2) the following new paragraph:

“(3) REQUIREMENT TO FILE INFORMATION WITH ANTITRUST AGENCIES.—Any applicant seeking prior approval of the Board to engage in an acquisition transaction under this section must file simultaneously with the Attorney General and, if the transaction also involves an acquisition under section 4 or 6, the Federal Trade Commission copies of any documents regarding the proposed transaction required by the Board.”; and

(2) in subsection (c)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(b) AMENDMENTS TO SECTION 11 TO MODIFY JUSTICE DEPARTMENT NOTIFICATION AND POST-APPROVAL WAITING PERIOD FOR SECTION 3 TRANSACTIONS.—Section 11 of the Bank Holding Company Act of 1956 (12 U.S.C. 1849) is amended—

(1) in subsection (b)(1)—

(A) by striking “, if the Board has not received any adverse comment from the Attorney General of the United States relating to competitive factors,”;

(B) by striking “as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval.” and inserting “as may be prescribed by the appropriate antitrust agency.”; and

(C) by striking the 3d to last sentence and the penultimate sentence; and

(2) by striking subsections (c) and (e) and redesignating subsections (d) and (f) as subsections (c) and (d), respectively.

(c) DEFINITIONS.—Section 2(o) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(o)) is amended by adding at the end the following new paragraphs:

“(8) ANTITRUST AGENCIES.—The term ‘antitrust agencies’ means the Attorney General and the Federal Trade Commission.

“(9) APPROPRIATE ANTITRUST AGENCY.—With respect to a particular transaction, the term ‘appropriate antitrust agency’ means the antitrust agency engaged in reviewing the competitive effects of such transaction.”.

SEC. 142. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT TO VEST IN THE ATTORNEY GENERAL SOLE RESPONSIBILITY FOR ANTITRUST REVIEW OF DEPOSITORY INSTITUTION MERGERS.

Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) in paragraph (3)(C) by striking “during a period at least as long as the period allowed for furnishing reports under paragraph (4) of this subsection”;

(2) by striking paragraph (4) and inserting the following new paragraph:

“(4) FACTORS TO BE CONSIDERED.—In determining whether to approve a transaction, the responsible agency shall in every case take into consideration the financial and managerial resources and future prospects of the existing and proposed institutions, and the convenience and needs of the community to be served.”;

(3) by striking paragraph (5) and inserting the following new paragraph:

“(5) NOTICE TO ATTORNEY GENERAL.—The responsible agency shall immediately notify the Attorney General of any approval by it pursuant to this subsection of a proposed merger transaction. If the responsible agency has found that it must act immediately in order to prevent the probable failure of one of the banks involved, the transaction may be consummated immediately upon approval by the agency. If the responsible agency has notified the other Federal banking agencies referred to in this section of the existence of an emergency requiring expeditious action and has required the submission of views and recommendations within 10 days, the transaction may not be consummated before the 5th calendar day after the date of approval of the responsible agency. In all other cases, the transaction may not be consummated before the 30th calendar day after the date of approval by the agency, or such shorter period of time as may be prescribed by the Attorney General.";

(4) by striking paragraph (6) and redesignating paragraphs (7) through (11) as paragraphs (6) through (10), respectively;

(5) in subparagraph (A) of paragraph (6) (as so redesignated by paragraph (4) of this section)—

(A) by striking "(5)" and inserting "(4)"; and

(B) by striking "(6)" and inserting "(5)";

(C) by striking "In any such action, the court shall review de novo the issues presented.";

(6) in paragraph (6) (as so redesignated by paragraph (4) of this section)—

(A) by striking subparagraphs (B) and (D); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(7) in paragraph (8) (as so redesignated by paragraph (4) of this section)—

(A) by inserting "and" after the semicolon at the end of subparagraph (A):

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(8) by inserting after paragraph (10) (as so redesignated by paragraph (4) of this section) the following new paragraph:

"(11) Requirement to file information with Attorney General.—Any applicant seeking prior written approval of the responsible Federal banking agency to engage in a merger transaction under this subsection shall file simultaneously with the Attorney General copies of any documents regarding the proposed transaction required by the Federal banking agency.".

SEC. 143. INFORMATION FILED BY DEPOSITORY INSTITUTIONS; INTERAGENCY DATA SHARING.

(a) Format of Notice.—

(1) In general.—Notice of any proposed transaction for which approval is required under section 3 of the Bank Holding Company Act of 1956 or section 18(c) of the Federal Deposit Insurance Act shall be in a format designated and required by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) and shall contain a section on the likely competitive effects of the proposed transaction.

(2) Designation by agency.—The appropriate Federal banking agency, with the concurrence of the antitrust agencies, shall designate and require the form and content of the competitive effects section.

(3) Notice of suspension.—Upon notification by the appropriate antitrust agency that the competitive effects section of an application is incomplete, the appropriate Federal banking agency shall notify the applicant that the agency will suspend processing of the application until the appropriate antitrust agency notifies the agency that the application is complete.

(4) Emergency action.—This provision shall not affect the appropriate Federal banking agency's authority to act immediately—

(A) to prevent the probable failure of 1 of the banks involved; or

(B) to reduce or eliminate a post approval waiting period in case of an emergency requiring expeditious action.

(5) Exemption for certain filings.—With the concurrence of the antitrust agencies, the appropriate Federal banking agency may exempt classes of persons, acquisitions, or transactions that are not likely to violate the antitrust laws from the requirement that applicants file a competitive effects section.

(b) Interagency Data Sharing Requirement.—

(1) In general.—To the extent not prohibited by other law, the Federal banking agencies shall make available to the antitrust agencies any data in their possession that the antitrust agencies deem necessary for antitrust reviews of transactions requiring approval under section 3 of the Bank Holding Company Act of 1956 or section 18(c) of the Federal Deposit Insurance Act.

(2) Continuation of data collection and analysis.—The Federal banking agencies shall continue to provide market analysis, deposit share information, and other relevant information for determining market competition as needed by the Attorney General in the same manner such agencies provided analysis and information under section 18(c) of the Federal Deposit Insurance Act and 3(c) of the Bank Holding Company Act of 1956 (as such sections were in effect on the day before the date of the enactment of this Act) and shall continue to collect information necessary or useful for such analysis.

(c) Definitions.—For purposes of this section, the following definitions shall apply:

(1) Antitrust agencies.—The term "antitrust agencies" means the Attorney General and the Federal Trade Commission.

(2) Appropriate antitrust agency.—With respect to a particular transaction, the term "appropriate antitrust agency" means the antitrust agency engaged in reviewing the competitive effects of such transaction.

SEC. 144. APPLICABILITY OF ANTITRUST LAWS.

No provision of this subtitle shall be construed as affecting—

(1) the applicability of antitrust laws (as defined in section 11(d) of the Bank Holding Company Act of 1956; as so redesignated pursuant to this subtitle); or

(2) the applicability, if any, of any State law which is similar to the antitrust laws.

SEC. 145. CLARIFICATION OF STATUS OF SUBSIDIARIES AND AFFILIATES.

(a) Clarification of Federal Trade Commission Jurisdiction.—Any person which directly or indirectly controls, is controlled directly or indirectly by, or is directly or indirectly under common control with, any bank or savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act) and is not itself a bank or savings association shall not be deemed to be a bank or savings association for purposes of the Federal Trade Commission Act or any other law enforced by the Federal Trade Commission.

(b) Savings Provision.—No provision of this section shall be construed as restricting the authority of any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) under any Federal banking law, including section 8 of the Federal Deposit Insurance Act.

SEC. 146. EFFECTIVE DATE.

This subtitle shall take effect 6 months after the date of enactment of this Act.

Subtitle F—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

SEC. 151. APPLYING THE PRINCIPLES OF NATIONAL TREATMENT AND EQUALITY OF COMPETITIVE OPPORTUNITY TO FOREIGN BANKS THAT ARE FINANCIAL HOLDING COMPANIES.

Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by adding at the end the following new paragraph:

"(3) Termination of grandfathered rights.—

"(A) In general.—If any foreign bank or foreign company files a declaration under section 6(b)(1)(E) or which receives a determination under section 10(d)(1) of the Bank Holding Company Act of 1956, any authority conferred by this subsection on any foreign bank or company to engage in any activity which the Board has determined to be permissible for financial holding companies under section 6 of such Act shall terminate immediately.

"(B) Restrictions and requirements authorized.—If a foreign bank or company that engages, directly or through an affiliate pursuant to paragraph (1), in an activity which the Board has determined to be permissible for financial holding companies under section 6 of the Bank Holding Company Act of 1956 has not filed a declaration with the Board of its status as a financial holding company under such section or received a determination under section 10(d)(1) by the end of the 2-year period beginning on the date of enactment of the Financial Services Act of 1998, the Board, giving due regard to the principle of national treatment and equality of competitive opportunity, may impose such restrictions and requirements on the conduct of such activities by such foreign bank or company as are comparable to those imposed on a financial holding company organized under the laws of the United States, including a requirement to conduct such activities in compliance with any prudential safeguards established under section 5(h) of the Bank Holding Company Act of 1956.".

SEC. 152. APPLYING THE PRINCIPLES OF NATIONAL TREATMENT AND EQUALITY OF COMPETITIVE OPPORTUNITY TO FOREIGN BANKS AND FOREIGN FINANCIAL INSTITUTIONS THAT ARE WHOLESALE FINANCIAL INSTITUTIONS.

Section 8A of the Federal Deposit Insurance Act (as added by section 136(c)(2) of this Act) is amended by adding at the end the following new subsection:

"(i) Voluntary Termination of Deposit Insurance.—The provisions on voluntary termination of insurance in this section shall apply to an insured branch of a foreign bank (including a Federal branch) in the same manner and to the same extent as they apply to an insured State bank or a national bank.".

Subtitle G—Federal Home Loan Bank System

SEC. 161. FEDERAL HOME LOAN BANKS.

The 1st sentence of section 3 of the Federal Home Loan Bank Act (12 U.S.C. 1423) is amended—

(1) by striking "the continental United States" and all that follows through the "eight"; and

(2) by inserting "the States into not less than 1" before "nor".

SEC. 162. MEMBERSHIP AND COLLATERAL.

(a) Subsection (f) of section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended to read as follows:

"(f) Federal Home Loan Bank Membership.—A Federal savings association may become a member, of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act, beginning January 1, 1999.".

(b) Section 10(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)(5)) is amended—

(1) in the 2d sentence, by striking "and the Board"; and

(2) in the 3d sentence, by striking "Board" and inserting "Bank".

(c) Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) in the 2d sentence, by striking "All long-term advances" and inserting "Except as provided in the succeeding sentence, all long-term advances";

(2) by inserting after the 2d sentence, the following sentence: "Notwithstanding the preceding sentence, long-term advances may be made to members insured by the Federal Deposit Insurance Corporation which have less than $500,000,000 in total assets for the purpose of funding small businesses, agriculture, rural development, or low-income community development (as defined by the Board)."; and

(3) by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) In the case of any member insured by the Federal Deposit Insurance Corporation which has total assets of less than $500,000,000, secured loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such secured loans.".

(d) Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended by adding at the end the following new paragraph:

"(3) Eligibility requirements for community financial institutions.—The requirements of paragraph (2) (other than subparagraph (B) of such paragraph) shall not apply to any insured depository institution which has total assets of less than $500,000,000".

(e) Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by striking the 1st of the 2 subsections designated as subsection (e) (relating to qualified thrift lender status).

SEC. 163. THE OFFICE OF FINANCE.

The Federal Home Loan Bank Act (12 U.S.C. 1421) is amended by inserting after section 4 the following new section:

"SEC. 5. THE OFFICE OF FINANCE.

"(a) Operation.—The Federal home loan banks shall operate jointly an office of finance (hereafter in this section referred to as the 'Office') to issue the notes, bonds, and debentures of the Federal home loan banks in accordance with this Act.

"(b) Powers.—Subject to the other provisions of this Act and such safety and soundness regulations as the Finance Board may prescribe, the Office shall be authorized by the Federal home loan banks to act as the agent of such banks to issue Federal home loan bank notes, bonds and debentures pursuant to section 11 of this Act on behalf of the banks.

"(c) Central Board of Directors.—

"(1) Establishment.—The Federal home loan banks shall establish a central board of directors of the Office to administer the affairs of the Office in accordance with the provisions of this Act.

"(2) Composition of Board.—Each Federal home loan bank shall annually select 1 individual who, as of the time of the election, is an officer or director of such bank to serve as a member of the central board of directors of the Office.

"(d) Status.—Except to the extent expressly provided in this Act, the Office shall be treated as a Federal home loan bank for purposes of any law.".

SEC. 164. MANAGEMENT OF BANKS.

(a) Subsections (a) and (b) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(a) and (b)) are amended to read as follows:

"(a) The management of each Federal home loan bank shall be vested in a board of 15 directors, 9 of whom shall be elected by the members in accordance with this section, 6 of whom shall be appointed by the Board referred to in section 2A, and all of whom shall be citizens of the United States and bona fide residents of the district in which such bank is located. At least 2 of the Federal home loan bank directors who are appointed by the Board shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections. No Federal home loan bank director who is appointed pursuant to this subsection may, during such bank director's term of office, serve as an officer of any Federal home loan bank or a director or officer of any member of a bank, or hold shares, or any other financial interest in, any member of a bank.

"(b) The elective directors shall be divided into three classes, designated as classes A, B, and C, as nearly equal in number as possible. Each directorship shall be filled by a person who is an officer or director of a member located in that bank's district. Each class shall represent members of similar asset size, and the Board shall, to the maximum extent possible, seek to achieve geographic diversity. The Finance Board shall establish the minimum and maximum asset size for each class. Any member shall be entitled to nominate and elect eligible persons for its class of directorship; such offices shall be filled from such nominees by a plurality of the votes which members of each class may cast for nominees in their corresponding class of directors in an election held for the purpose of filling such offices. Each member shall be permitted to cast one vote for each share of Federal home loan bank stock owned by that member. No person who is an officer or director of a member that fails to meet any applicable capital requirement is eligible to hold the office of Federal Home Loan Bank director. As used in this subsection, the term "member" means a member of a Federal home loan bank which was a member of such Bank as of a record date established by the Bank.".

(b) Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended—

(1) by striking subsections (c) and (h); and

(2) by redesignating subsections (d), (e), (f), (g), (i), (j), and (k) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively.

(c) Subsection (c) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) (as so redesignated by subsection (b) of this section) is amended by striking the 1st and 2d sentences and inserting the following 2 new sentences: "The term of each position of director shall be 3 years. No director serving for 3 consecutive terms, nor any other officer, director or that member or any affiliated depository institution, shall be eligible for another term earlier than 3 years after the expiration of the last expiring of said 3-year terms. 3 elected directors of different classes as specified by the Finance Board shall be elected by ballot annually.".

(d) Subsection (d) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(e)) (as so redesignated by subsection (b) of this section) is amended to read as follows:

"(d) Transition Provision.—In the 1st election after the date of the enactment of the Financial Services Act of 1998, 3 directors shall be elected in each of the 3 classes of elective directorship. The Finance Board may, in the 1st election after such date of enactment, designate the terms of each elected director in each class, not to exceed 3 years, to assure that, in each subsequent election, 3 directors from different classes of elective directorships are elected each year.".

(e) Subsection (g) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) (as so redesignated by subsection (b) of this section) is amended by striking "subject to the approval of the board".

SEC. 165. ADVANCES TO NONMEMBER BORROWERS.

Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in subsection (a), by striking "(a) In General.—";

(2) by striking the 4th sentence of subsection (a), and inserting "Notwithstanding the preceding sentence, if an advance is made for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code of 1986, the advance may be collateralized as provided in section 10(a) of this Act."; and

(3) by striking subsection (b).

SEC. 166. POWERS AND DUTIES OF BANKS.

(a) Subsection (a) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431(a)) is amended—

(1) by inserting "through the Office of Finance" after "to issue";

(2) by striking "Board" after "upon such terms and conditions as the" and inserting "board of directors of the bank".

(b) Subsection (b) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431(b)) is amended to read as follows:

"(b) Issuance of Federal Home Loan Bank Consolidated Bonds.—

"(1) In general.— The Office of Finance may issue consolidated Federal home loan bank bonds and other consolidated obligations on behalf of the banks.

"(2) Joint and several obligation; terms and conditions.—Consolidated obligations issued by the Office of Finance under paragraph (1) shall—

"(A) be the joint and several obligations of all the Federal home loan banks; and

"(B) shall be issued upon such terms and conditions as shall be established by the Office of Finance subject to such rules and regulations, as the Finance Board may prescribe.".

(c) Section 11(f) of the Federal Home Loan Bank Act (12 U.S.C. 1430(f) (as designated before the redesignation by subsection (e) of this section) is amended by striking both commas immediately following "permit" and inserting "or".

(d) Subsection (i) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431(i)) is amended by striking the 2d undesignated paragraph.

(e) Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) through (k) as subsections (c) through (j), respectively.

SEC. 167. MERGERS AND CONSOLIDATIONS OF FEDERAL HOME LOAN BANKS.

Section 26 of the Federal Home Loan Bank Act (12 U.S.C. 1446) is amended by designating the current paragraph as "(a)" and adding the following new sections:

"(b) Nothing in this section shall preclude voluntary mergers, combinations or consolidation by or among the Federal home loan banks pursuant to such regulations as the Finance Board may prescribe.

"(c) Number of Elected Directors of Resulting Bank.— Subject to section 7 of this Act, any bank resulting from a merger, combination, or consolidation pursuant to this section may have a number of elected directors equal to or less than the total number of elected directors of all the banks which participated in such transaction (as determined immediately before such transaction).

"(d) Number of Appointed Directors of Resulting Bank.—The number of appointed directors of any bank resulting from a merger, combination, or consolidation pursuant to this section shall be a number that is three less than the number of elected directors.

"(e) Adjustment of District Boundaries.—After consummation of any merger, combination, or consolidation of 2 or more Federal home loan banks, the Finance Board shall adjust the districts established in section 3 of this Act to reflect such merger, combination, or consolidation.".

SEC. 168. TECHNICAL AMENDMENTS.

(a) Repeal of Sections 22A and 27.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by striking sections 22A (12 U.S.C. 1442a) and 27 (12 U.S.C. 1447).

(b) Section 12.—

(1) Section 12(a) of the Federal Home Loan Bank Act (12 U.S.C. 1432(a)) is amended—

(A) by striking "subject to the approval of the Board" immediately following "transaction of its business"; and

(B) by striking "and, by its Board of directors, to prescribe, amend, and repeal by-laws, rules, and regulations governing the manner in which its affairs may be administered; and the powers granted to it by law may be exercised and enjoyed subject to the approval of the Board. The president of a Federal Home Loan Bank may also be a member of the Board of directors thereof, but no other officer, employee, attorney, or agent of such bank," and inserting "and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable statute and regulation, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal home loan bank".

(2) Section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432) is amended by inserting after subsection (b) the following new subsection:

"(c) Prohibition on Excessive Compensation.—

"(1) In general.—The Finance Board shall prohibit the Federal home loan banks from providing compensation to any officer, director, or employee that is not reasonable and comparable with the compensation for employment in other similar businesses involving similar duties and responsibilities. However, the Finance Board may not prescribe or set a specific level or range of compensation for any officer, director, or employee.

"(2) Regulations.—The Finance Board, by regulation, may provide for the requirements of paragraph (1) to be phased-in over a period not to exceed 3 years.

"(3) Exception for existing contracts.—Paragraph (1) shall not apply to any contract entered into before June 1, 1997.".

(c) Powers and Duties of Federal Housing Finance Board.—

(1) Subsection (a)(1) of section 2B of the Federal Home Loan Bank Act (12 U.S.C. 1422b(a)(1)) is amended by striking the period at the end of the sentence and inserting "; and to have the same powers, rights, and duties to enforce this Act with respect to the Federal home loan banks and the senior officers and directors of such banks as the Office of Federal Housing Enterprise Oversight has over the Federal housing enterprises and the senior officers and directors of such enterprises under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(2) Subsection (b) of section 2B of the Federal Home Loan Bank Act (12 U.S.C. 1422b(b)) is amended—

(A) by striking "(1) Board staff.—";

(B) by striking "function to any employee, administrative unit" and inserting "function to any employee or administrative unit";

(C) by striking the 2d sentence in paragraph (1); and

(D) by striking paragraph (2).

(3) Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by striking "Federal Home Loan Bank Board" and inserting "Federal Housing Finance Board".

(d) Eligibility to Secure Advances.—

(1) Section 9.—Section 9 of the Federal Home Loan Bank Act (12 U.S.C. 1429) is amended—

(A) in the second sentence, by striking "with the approval of the Board"; and

(B) in the third sentence, by striking ", subject to the approval of the Board,".

(2) Section 10.—

(A) Subsection (a) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended in paragraph (3), by striking "Deposits" and inserting "Cash or deposits".

(B) Subsection (c) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(c)) is amended—

(i) in the 1st sentence by striking "Board" and inserting "Federal home loan bank"; and

(ii) by striking the 2d sentence.

(C) Subsection (d) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(d)) is amended—

(i) in the 1st sentence, by striking "and the approval of the Board";

(ii) in the last sentence, by striking "Subject to the approval of the Board, any" and inserting "Any".

(D) Section 10(j) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)) is amended—

(i) in the 1st sentence of paragraph (1) by striking "to subsidize the interest rate on advances" and inserting "to provide subsidies, including subsidized interest rates on advances";

(ii) in paragraphs (2), (3), (4), (5), (9), (11), and (12) by striking "advances" and "subsidized advances" each place such terms appear and inserting "subsidies, including subsidized advances";

(iii) in paragraph (1), by inserting "(A)" before the 1st sentence, and inserting the following at the end of the paragraph:

"(B) Subject to such regulations as the Finance Board may prescribe, the board of directors of each Federal home loan bank may approve or disapprove requests from members for Affordable Housing Program subsidies, and may not delegate such authority.";

(iv) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraph:

"(B) finance the purchase, construction or rehabilitation of rental housing if, for a period of at least 15 years, either 20 percent or more of the units in such housing are occupied by and affordable for households whose income is 50 percent or less of area median income (as determined by the Secretary of Housing and Urban Development, and as adjusted for family size); or 40 percent or more of the units in such housing are occupied by and affordable for households whose income is 60 percent or less of area median income (as determined by the Secretary of Housing and Urban Development, and as adjusted for family size).";

(v) in paragraph (5)—

(I) by striking the colon after "Affordable Housing Program";

(II) by striking subparagraphs (A) and (B); and

(III) by striking "(C) In 1995, and subsequent years,";

(vi) in paragraph (11)—

(I) by inserting ", pursuant to a nomination process that is as broad and as participatory as possible, and giving consideration to the size of the District and the diversity of low- and moderate-income housing needs and activities within the District," after "Advisory Council of 7 to 15 persons";

(II) by inserting "a diverse range of" before "community and nonprofit organizations"; and

(III) by inserting after the 1st sentence, the following new sentence: "Representatives of no one group shall constitute an undue proportion of the membership of the Advisory Council."; and

(vii) in paragraph (13), by striking subparagraph (D) and inserting the following new subparagraph:

"(D) Affordable.—For purposes of paragraph (2)(B), the term "affordable" means that the rent with respect to a unit shall not exceed 30 percent of the income limitation under paragraph (2)(B) applicable to occupants of such unit.".

(e) Section 16.—Subsection (a) of section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended in the 3d sentence by striking "net earnings" and inserting "previously retained earnings or current net earnings"; by striking ", and then only with the approval of the Federal Housing Finance Board"; and by striking the 4th sentence.

(f) Section 18.—Subsection (b) of section 18 of the Federal Home Loan Bank Act (12 U.S.C. 1438) is amended by striking paragraph (4).

(g) Section 11.—Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by inserting after subsection (j) (as so redesignated by section 166(e) of this subtitle) the following subsection:

"(k) Prohibition on Other Activities.—

"(1) A Federal home loan bank may not engage in any activity other than the activities authorized under this Act and activities incidental to such authorized activities.

"(2) All activities specified in paragraph (1) are subject to Finance Board approval.".

SEC. 169. DEFINITIONS.

Paragraph (3) of section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(3)) is amended to read as follows:

"(3) The term "State" in addition to the states of the United States, includes the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands."

SEC. 170. RESOLUTION FUNDING CORPORATION

(a) In General.—Section 21B(f)(2)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is amended to read as follows:

"(C) Payments by federal home loan banks.—To the extent the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation each calendar year 20.75 percent of the net earnings of such bank (after deducting expenses relating to subsection (j) of section 10 and operating expenses).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1999.

SEC. 171. CAPITAL STRUCTURE OF THE FEDERAL HOME LOAN BANKS.

(a) IN GENERAL.—Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended to read as follows:

"SEC. 6. CAPITAL STRUCTURE OF FEDERAL HOME LOAN BANKS.

"(a) CAPITAL STRUCTURE PLAN.—On or before January 1, 1999, the board of directors of each Federal home loan bank shall submit for Finance Board approval a plan establishing and implementing a capital structure for such bank which—

"(1) the board of directors determines is the best suited for the condition and operation of the bank and the interests of the shareholders of the bank;

"(2) meets the requirements of subsection (b); and

"(3) meets the minimum capital standards and requirements established under subsection (c) and any regulations prescribed by the Finance Board pursuant to such subsection.

"(b) CONTENTS OF PLAN.—The capital structure plan of each Federal home loan bank shall meet the following requirements:

"(1) STOCK PURCHASE REQUIREMENTS.—

"(A) IN GENERAL.—Each capital structure plan of a Federal home loan bank shall require the shareholders of the bank to maintain an investment in the stock of the bank in amount not less than—

"(i) a minimum percentage of the total assets of the shareholder; and

"(ii) a minimum percentage of the outstanding advances from the bank to the shareholder.

"(B) MINIMUM PERCENTAGE LEVELS.—The minimum percentages established pursuant to subparagraph (A) shall be set at levels sufficient to meet the bank's minimum capital requirements established by the Finance Board under subsection (c).

"(C) MAXIMUM ASSET BASED CAPITAL REQUIREMENT.—The asset-based capital requirement applicable to any shareholder of a Federal home loan bank in any year shall not exceed the lesser of—

"(i) 0.6 percent of a shareholder's total assets at the close of the preceding year; or

"(ii) $300,000,000.

"(D) MAXIMUM ADVANCE-BASED REQUIREMENT.—The advance-based capital requirement applicable to any shareholder of a Federal home loan bank shall not exceed 6 percent of the total outstanding advances from the bank to the shareholder.

"(E) MINIMUM STOCK PURCHASE REQUIREMENT AUTHORIZED.—A capital structure plan may establish a minimum dollar amount of stock of a Federal home loan bank in which a shareholder shall be required to invest.

"(2) ADJUSTMENTS TO STOCK PURCHASE REQUIREMENTS.—The capital structure plan adopted by each Federal home loan bank shall impose a continuing obligation on the board of directors of the bank to review and adjust as necessary member stock purchase requirements in order to ensure that the bank remains in compliance with applicable minimum capital levels established by the Finance Board.

"(3) TRANSITION RULE FOR STOCK PURCHASE REQUIREMENTS.—

"(A) IN GENERAL.—A capital structure plan may allow shareholders who were members of a Federal home loan bank on the date of the enactment of the Financial Services Act of 1998 to come into compliance with the asset-based stock purchase requirement established under paragraph (1) during a transition period established under the plan of not more than 3 years, if such requirement exceeds the asset-based stock purchase requirement in effect on such date of enactment.

"(B) INTERIM PURCHASE REQUIREMENTS.—A capital structure plan may establish interim asset-based stock purchase requirements applicable to members referred to in subparagraph (A) during a transition period established under subparagraph (A).

"(4) CLASSES OF STOCK.—

"(A) IN GENERAL.—Each capital structure plan shall afford each shareholder of a Federal home loan bank the option of meeting the shareholder's stock purchase requirements through the purchase of any combination of Class A or Class B stock.

"(B) CLASS A STOCK.—Class A stock shall be stock of a Federal home loan bank that shall be redeemed in cash and at par by the bank no later than 12 months following submission of a written notice by a shareholder of the shareholder's intention to divest all shares of stock in the bank.

"(C) CLASS B STOCK.—Class B stock shall be stock of a Federal home loan bank that shall be redeemed in cash and at par by the bank no later than 5 years following submission of a written notice by a shareholder of the shareholder's intention to divest all shares of stock in the bank.

"(D) RIGHTS REQUIREMENT.—The Class B stock of a Federal home loan bank may receive a dividend premium over that paid on Class A stock, and may have preferential voting rights in the election of Federal home loan bank directors.

"(E) LOWER STOCK PURCHASE REQUIREMENTS FOR CLASS B STOCK.—A capital structure plan may provide for lower stock purchase requirements with respect to those shareholder's that elect to purchase Class B stock in a manner that is consistent with meeting the bank's own minimum capital requirements as established by the Finance Board.

"(F) NO OTHER CLASSES OF STOCK PERMITTED.—No class of stock other than the Class A and Class B stock described in subparagraphs (B) and (C) may be issued by a Federal home loan bank.

"(5) LIMITED TRANSFERABILITY OF STOCK.—Each capital structure plan shall provide that any equity securities issued by the bank shall be available only to, held only by, and tradable only among shareholders of the bank.

"(c) CAPITAL STANDARDS.—

"(1) IN GENERAL.—The Finance Board shall prescribe, by regulation, uniform capital standards applicable to each Federal home loan bank which shall include—

"(A) a leverage limit in accordance with paragraph (2); and

"(B) a risk-based capital requirement in accordance with paragraph (3).

"(2) MINIMUM LEVERAGE LIMIT.—The leverage limit established by the Finance Board shall require each Federal home loan bank to maintain total capital in an amount not less than 5 percent of the total assets of the bank. In determining compliance with the minimum leverage ratio, the amount of retained earnings and the paid-in value of Class B stock, if any, shall be multiplied by 1.5 and such higher amount shall be deemed to be capital for purposes of meeting the 5 percent minimum leverage ratio.

"(3) RISK-BASED CAPITAL STANDARD.—The risk-based capital requirement shall be composed of the following components:

"(A) Capital sufficient to meet the credit risk to which a Federal home loan bank is subject, based on an amount which is not less than the amount of tier 1, risk-based capital required by regulations prescribed, or guidelines issued under section 38 of the Federal Deposit Insurance Act for a well capitalized insured depository institution.

"(B) Capital sufficient to meet the interest rate risk to which a Federal home loan bank is subject, based on an interest rate stress test applied by the Finance Board that rigorously tests for changes in interest rates, rate volatility, and changes in the shape of the yield curve.

"(d) REDEMPTION OF CAPITAL.—

"(1) IN GENERAL.—Any shareholder of a Federal home loan bank shall have the right to withdraw the shareholder's membership from a Federal home loan bank and to redeem the shareholder's stock in accordance with the redemption rights associated with the class of stock the shareholder holds, if—

"(A) such shareholder has filed a written notice of an intention to redeem all such shares; and

"(B) the shareholder has no outstanding advances from any Federal home loan bank at the time of such redemption.

"(2) PARTIAL REDEMPTION.—A shareholder who files notice of intention to redeem all shares of stock in a Federal home loan bank may redeem not more than 1/2 of all such shares, in cash and at par, 6 months before the date by which the bank is required to redeem such stock pursuant to subparagraph (B) or (C) of subsection (b)(4).

"(3) DIVESTITURE.—The board of directors of any Federal home loan bank may, after a hearing, order the divestiture by any shareholder of all ownership interests of such shareholder in the bank, if—

"(A) in the opinion of the board of directors, such shareholder has failed to comply with a provision of this Act or any regulation prescribed under this Act; or

"(B) the shareholder has been determined to be insolvent, or otherwise subject to the appointment of a conservator, receiver, or other legal custodian, by a State or Federal authority with regulatory and supervisory responsibility for such shareholder.

"(4) RETIREMENT OF EXCESS STOCK.—Any shareholder may—

"(A) retire shares of Class A stock or, at the option of the shareholder, shares of Class B stock, or any combination of Class A and Class B stock, that are excess to the minimum stock purchase requirements applicable to the shareholder; and

"(B) receive from the Federal home loan bank a prompt payment in cash equal to the par value of such stock.

"(5) IMPAIRMENT OF CAPITAL.—If the Finance Board or the board of directors of a Federal home loan bank determines that the paid-in capital of the bank is, or is likely to be, impaired as a result of losses in or depreciation of the assets of the bank, the Federal home loan bank shall withhold that portion of the amount due any shareholder with respect to any redemption or retirement of any class of stock which bears the same ratio to the total of such amount as the amount of the impaired capital bears to the total amount of capital allocable to such class of stock.

"(6) POLICIES.—Subject to the requirements of this section, the board of directors of each Federal home loan bank shall promptly establish policies, consistent with this Act, governing the capital stock of such bank and other provisions of this section.".

SEC. 172. INVESTMENTS.

Subsection (j) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) (as so redesignated by section 166(e) of this subtitle) is amended to read as follows:

"(j) INVESTMENTS.—Each bank shall reduce its investments to those necessary for liquidity purposes, for safe and sound operation of the banks, or for housing finance, as administered by the Finance Board.".

SEC. 173. FEDERAL HOUSING FINANCE BOARD.

Section 2A(b)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1422(b)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(2) by inserting before subparagraph (B) (as so redesignated by paragraph (1) of this section) the following new subparagraph:

"(A) The Secretary of the Treasury (or the Secretary of the Treasury's designee), who shall serve without additional compensation."; and

(3) in subparagraph (C) (as so redesignated by paragraph (1) of this section) by striking "Four" and inserting "3".

Subtitle H—Direct Activities of Banks

SEC. 181. AUTHORITY OF NATIONAL BANKS TO UNDERWRITE CERTAIN MUNICIPAL BONDS

The paragraph designated the Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24(7)) is amended by adding at the end the following new sentence: "In addition to the provisions in this paragraph for dealing in, underwriting or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank's own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of the Internal Revenue Code of 1986) issued by or on behalf of any state or political subdivision of a state, including any municipal corporate instrumentality of 1 or more states, or any public agency or authority of any state or political subdivision of a state, if the national banking association is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act).".

Subtitle I—Effective Date of Title

SEC. 191. EFFECTIVE DATE.

Except with regard to any subtitle or other provision of this title for which a specific effective date is provided, this title and the amendments made by this title shall take effect at the end of the 270-day period beginning on the date of the enactment of this Act.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

SEC. 201. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

"(4) BROKER.—

"(A) IN GENERAL.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

"(B) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a broker because the bank engages in any of the following activities under the conditions described:

"(i) THIRD PARTY BROKERAGE ARRANGEMENTS.—The bank enters into a contractual or other arrangement with a broker or dealer registered under this title under which the broker or dealer offers brokerage services on or off the premises of the bank if—

"(I) such broker or dealer is clearly identified as the person performing the brokerage services;

"(II) the broker or dealer performs brokerage services in an area that is clearly marked and, to the extent practicable, physically separate from the routine deposit-taking activities of the bank;

"(III) any materials used by the bank to advertise or promote generally the availability of brokerage services under the contractual or other arrangement clearly indicate that the brokerage services are being provided by the broker or dealer and not by the bank;

"(IV) any materials used by the bank to advertise or promote generally the availability of brokerage services under the contractual or other arrangement are in compliance with the Federal securities laws before distribution;

"(V) bank employees (other than associated persons of a broker or dealer who are qualified pursuant to the rules of a self-regulatory organization) perform only clerical or ministerial functions in connection with brokerage transactions including scheduling appointments with the associated persons of a broker or dealer, except that bank employees may forward customer funds or securities and may describe in general terms the range of investment vehicles available from the bank and the broker or dealer under the contractual or other arrangement;

"(VI) bank employees do not directly receive incentive compensation for any brokerage transaction unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of a self-regulatory organization, except that the bank employees may receive compensation for the referral of any customer if the compensation is a nominal one-time cash fee of a fixed dollar amount and the payment of the fee is not contingent on whether the referral results in a transaction;

"(VII) such services are provided by the broker or dealer on a basis in which all customers which receive any services are fully disclosed to the broker or dealer;

"(VIII) the bank does not carry a securities account of the customer except in a customary custodian or trustee capacity; and

"(IX) the bank, broker, or dealer informs each customer that the brokerage services are provided by the broker or dealer and not by the bank and that the securities are not deposits or other obligations of the bank, are not guaranteed by the bank, and are not insured by the Federal Deposit Insurance Corporation.

"(ii) TRUST ACTIVITIES.—The bank—

"(I) effects transactions in a trustee capacity and is primarily compensated based on an annual fee (payable on a monthly, quarterly, or other basis) or percentage of assets under management, or both; or

"(II) effects transactions in a fiduciary capacity in its trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards and—

"(aa) is primarily compensated on the basis of either an annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management, or both, and does not receive brokerage commissions or other similar remuneration based on effecting transactions in securities, other than the cost incurred by the bank in connection with executing securities transactions for fiduciary customers; and

"(bb) does not publicly solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.

"(iii) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank effects transactions in—

"(I) commercial paper, bankers acceptances, or commercial bills;

"(II) exempted securities;

"(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

"(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

"(iv) CERTAIN STOCK PURCHASE PLANS.—

"(I) IN GENERAL.—The bank effects transactions, as part of its transfer agency activities, in—

"(aa) the securities of an issuer as part of any pension, retirement, profit-sharing, bonus, thrift, savings, incentive, or other similar benefit plan for the employees of that issuer or its subsidiaries, if the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan;

"(bb) the securities of an issuer as part of that issuer's dividend reinvestment plan, if the bank does not—

"(AA) solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan;

"(BB) net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; or

"(cc) the securities of an issuer as part of a plan or program for the purchase or sale of that issuer's shares, if—

"(AA) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan or program;

"(BB) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

"(CC) the bank's compensation for such plan or program consists of administration fees, or flat or capped per order processing fees, or both, plus the cost incurred by the bank in connection with executing securities transactions resulting from such plan or program.

"(II) PERMISSIBLE DELIVERY OF MATERIALS.—The exception to being considered a broker for a bank engaged in activities described in subclause (I) will not be affected by a bank's delivery of written or electronic plan materials to employees of the issuer, shareholders of the issuer, or members of affinity groups of the issuer, so long as such materials are—

"(aa) comparable in scope or nature to that permitted by the Commission as of the date of the enactment of the Financial Services Act of 1998; or

"(bb) otherwise permitted by the Commission.

"(v) SWEEP ACCOUNTS.—The bank effects transactions as part of a program for the investment or reinvestment of bank deposit funds into any no-load, open-end management investment company registered under the Investment Company Act of 1940 that holds itself out as a money market fund.

“(vi) AFFILIATE TRANSACTIONS.—The bank effects transactions for the account of any affiliate of the bank (as defined in section 2 of the Bank Holding Company Act of 1956) other than—

“(I) a registered broker or dealer; or

“(II) an affiliate that is engaged in merchant banking, as described in section 6(c)(3)(H) of the Bank Holding company Act of 1956.

“(vii) PRIVATE SECURITIES OFFERINGS.—The bank—

“(I) effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 or the rules and regulations issued thereunder;

“(II) at any time after one year after the date of enactment of the Financial Services Act of 1998, is not affiliated with a broker or dealer that has been registered for more than one year; and

“(III) effects transactions exclusively with qualified investors.

“(viii) SAFEKEEPING AND CUSTODY ACTIVITIES.—

“(I) IN GENERAL.—The bank, as part of customary banking activities—

“(aa) provides safekeeping or custody services with respect to securities, including the exercise of warrants and other rights on behalf of customers;

“(bb) facilitates the transfer of funds or securities, as a custodian or a clearing agency, in connection with the clearance and settlement of its customers' transactions in securities;

“(cc) effects securities lending or borrowing transactions with or on behalf of customers as part of services provided to customers pursuant to division (aa) or (bb) or invests cash collateral pledged in connection with such transactions; or

“(dd) holds securities pledged by a customer to another person or securities subject to purchase or resale agreements involving a customer, or facilitates the pledging or transfer of such securities by book entry or as otherwise provided under applicable law.

“(II) EXCEPTION FOR CARRYING BROKER ACTIVITIES.—The exception to being considered a broker for a bank engaged in activities described in subclause (I) shall not apply if the bank, in connection with such activities, acts in the United States as a carrying broker (as such term, and different formulations thereof, are used in section 15(c)(3) and the rules and regulations thereunder) for any broker or dealer, unless such carrying broker activities are engaged in with respect to government securities (as defined in paragraph (42) of this subsection).

“(ix) BANKING PRODUCTS.—The bank effects transactions in traditional banking products, as defined in section 206(a) of the Financial Services Act of 1998.

“(x) DE MINIMIS EXCEPTION.—The bank effects, other than in transactions referred to in clauses (i) through (ix), not more than 500 transactions in securities in any calendar year, and such transactions are not effected by an employee of the bank who is also an employee of a broker or dealer.

“(C) BROKER DEALER EXECUTION.—The exception to being considered a broker for a bank engaged in activities described in clauses (ii), (iv), and (viii) of subparagraph (B) shall not apply if the activities described in such provisions result in the trade in the United States of any security that is a publicly traded security in the United States, unless—

“(i) the bank directs such trade to a registered or broker dealer for execution;

“(ii) the trade is a cross trade or other substantially similar trade of a security that—

“(I) is made by the bank or between the bank and an affiliated fiduciary; and

“(II) is not in contravention of fiduciary principles established under applicable Federal or State law; or

“(iii) the trade is conducted in some other manner permitted under rules, regulations, or orders as the Commission may prescribe or issue.

“(D) NO EFFECT OF BANK EXEMPTIONS ON OTHER COMMISSION AUTHORITY.—The exception to being considered a broker for a bank engaged in activities described in subparagraphs (B) and (C) shall not affect the commission's authority under any other provision of this Act or any other securities law.

“(E) FIDUCIARY CAPACITY.—For purposes of subparagraph (B)(ii), the term 'fiduciary capacity' means—

“(i) in the capacity as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gift to minor act, or as an investment adviser if the bank receives a fee for its investment advice;

“(ii) in any capacity in which the bank possesses investment discretion on behalf of another; or

“(iii) in any other similar capacity.

“(F) EXCEPTION FOR ENTITIES SUBJECT TO SECTION 15(e).—The term 'broker' does not include a bank that—

“(i) was, immediately prior to the enactment of the Financial Services Act of 1998, subject to section 15(e); and

“(ii) is subject to such restrictions and requirements as the Commission considers appropriate.”.

SEC. 202. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

“(5) DEALER.—

“(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for such person's own account through a broker or otherwise.

“(B) EXCEPTION FOR PERSON NOT ENGAGED IN THE BUSINESS OF DEALING.—The term 'dealer' does not include a person that buys or sells securities for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

“(C) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a dealer because the bank engages in any of the following activities under the conditions described:

“(i) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank buys or sells—

“(I) commercial paper, bankers acceptances, or commercial bills;

“(II) exempted securities;

“(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes of the United States, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

“(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

“(ii) INVESTMENT, TRUSTEE, AND FIDUCIARY TRANSACTIONS.—The bank buys or sells securities for investment purposes—

“(I) for the bank; or

“(II) for accounts for which the bank acts as a trustee or fiduciary.

“(iii) ASSET-BACKED TRANSACTIONS.—The bank engages in the issuance or sale to qualified investors, through a grantor trust or otherwise, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations, or pools of any such obligations predominantly originated by the bank, or a syndicate of banks of which the bank is a member, or an affiliate of any such bank other than a broker or dealer.

“(iv) BANKING PRODUCTS.—The bank buys or sells traditional banking products, as defined in section 206(a) of the Financial Services Act of 1998.

“(v) DERIVATIVE INSTRUMENTS.—The bank issues, buys, or sells any derivative instrument to which the bank is a party—

“(I) to or from a corporation, limited liability company, or partnership that owns and invests on a discretionary basis, not less than $10,000,000 in investments, or to or from a qualified investor, except that if the instrument provides for the delivery of one or more securities (other than a derivative instrument or government security), the transaction shall be effected with or through a registered broker or dealer; or

“(II) to or from other persons, except that if the derivative instrument provides for the delivery of one or more securities (other than a derivative instrument or government security), or is a security (other than a government security), the transaction shall be effected with or through a registered broker or dealer; or

“(III) to or from any person if the instrument is neither a security nor provides for the delivery of one or more securities (other than a derivative instrument).”.

SEC. 203. REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.

Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*-3) is amended by inserting after subsection (i) the following new subsection:

“(j) REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.—A registered securities association shall create a limited qualification category for any associated person of a member who effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and shall deem qualified in such limited qualification category, without testing, any bank employee who, in the six month period preceding the date of enactment of this Act, engaged in effecting such sales.”.

SEC. 204. SALES PRACTICES AND COMPLAINT PROCEDURES.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

“(s) SALES PRACTICES AND COMPLAINT PROCEDURES WITH RESPECT TO BANK SECURITIES ACTIVITIES.—

“(1) REGULATIONS REQUIRED.—Each Federal banking agency shall prescribe and publish in final form, not later than 6 months after the date of enactment of the Financial Services Act of 1998, regulations which apply to retail transactions, solicitations, advertising, or offers of any security by any insured depository institution or any affiliate thereof other than a registered broker or dealer or an individual acting on behalf of such a broker or dealer who is an associated person of such broker or dealer. Such regulations shall include—

“(A) requirements that sales practices comply with just and equitable principles of trade that are substantially similar to the Rules of Fair Practice of the National Association of Securities Dealers; and

"(B) requirements prohibiting (i) conditioning an extension of credit on the purchase or sale of a security; and (ii) any conduct leading a customer to believe that an extension of credit is conditioned upon the purchase or sale of a security.

"(2) PROCEDURES REQUIRED.—The appropriate Federal banking agencies shall jointly establish procedures and facilities for receiving and expeditiously processing complaints against any bank or employee of a bank arising in connection with the purchase or sale of a security by a customer, including a complaint alleging a violation of the regulations prescribed under paragraph (1), but excluding a complaint involving an individual acting on behalf of such a broker or dealer who is an associated person of such broker or dealer. The use of any such procedures and facilities by such a customer shall be at the election of the customer. Such procedures shall include provisions to refer a complaint alleging fraud to the Securities and Exchange Commission and appropriate State securities commissions.

"(3) REQUIRED ACTIONS.—The actions required by the Federal banking agencies under paragraph (2) shall include the following:

"(A) establishing a group, unit, or bureau within each such agency to receive such complaints;

"(B) developing and establishing procedures for investigating, and permitting customers to investigate, such complaints;

"(C) developing and establishing procedures for informing customers of the rights they may have in connection with such complaints;

"(D) developing and establishing procedures that allow customers a period of at least 6 years to make complaints and that do not require customers to pay the costs of the proceeding; and

"(E) developing and establishing procedures for resolving such complaints, including procedures for the recovery of losses to the extent appropriate.

"(4) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraphs (1) and (2), after consultation with the Securities and Exchange Commission.

"(5) PROCEDURES IN ADDITION TO OTHER REMEDIES.—The procedures and remedies provided under this subsection shall be in addition to, and not in lieu of, any other remedies available under law.

"(6) DEFINITION.—As used in this subsection—

"(A) the term 'security' has the meaning provided in section 3(a)(10) of the Securities Exchange Act of 1934;

"(B) the term 'registered broker or dealer' has the meaning provided in section 3(a)(48) of such Act; and

"(C) the term 'associated person' has the meaning provided in section 3(a)(18) of such Act.".

SEC. 205. INFORMATION SHARING.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

"(t) RECORDKEEPING REQUIREMENTS.—

"(1) REQUIREMENTS.—Each appropriate Federal banking agency, after consultation with and consideration of the views of the Commission, shall establish recordkeeping requirements for banks relying on exceptions contained in paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934. Such recordkeeping requirements shall be sufficient to demonstrate compliance with the terms of such exceptions and be designed to facilitate compliance with such exceptions. Each appropriate Federal banking agency shall make any such information available to the Commission upon request.

"(2) DEFINITIONS.—As used in this subsection the term 'Commission' means the Securities and Exchange Commission.".

SEC. 206. DEFINITION AND TREATMENT OF BANKING PRODUCTS.

(a) DEFINITION OF TRADITIONAL BANKING PRODUCT.—

(1) IN GENERAL.—For purposes of paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5)), the term 'traditional banking product' means—

(A) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank;

(B) a banker's acceptance;

(C) a letter of credit issued or loan made by a bank;

(D) a debit account at a bank arising from a credit card or similar arrangement;

(E) a participation in a loan which the bank or an affiliate of the bank (other than a broker or dealer) funds, participates in, or owns that is sold—

(i) to qualified investors; or

(ii) to other persons that—

"(I) have the opportunity to review and assess any material information, including information regarding the borrower's creditworthiness; and

"(II) based on such factors as financial sophistication, net worth, and knowledge and experience in financial matters, have the capability to evaluate the information available, as determined under generally applicable banking standards or guidelines; or

(F) any derivative instrument, whether or not individually negotiated, involving or relating to—

(i) foreign currencies, except options on foreign currencies that trade on a national securities exchange;

(ii) interest rates, except interest rate derivative instruments (I) that are based on a security; or (II) that provide for the delivery of one or more securities; or

(iii) commodities, other rates, indices, or other assets, except derivative instruments that are securities or that provide for the delivery of one or more securities.

(2) CLASSIFICATION LIMITED.—Classification of a particular product as a traditional banking product pursuant to this subsection shall not be construed as finding or implying that such product is oris not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

(3) DEFINITIONS.—For purposes of this subsection—

(A) the term "bank" has the meaning provided in section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6);

(B) the term "qualified investor" has the meaning provided in section 3(a)(55) of such Act; and

(C) the term "Federal banking agency" has the meaning provided in section 3(z) of the Federal Deposit Insurance Act (12 U.S.C. 1813(z)).

(b) TREATMENT OF NEW BANKING PRODUCTS FOR PURPOSES OF BROKER/DEALER REQUIREMENTS.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsection:

"(i) RULEMAKING TO EXTEND REQUIREMENTS TO NEW BANKING PRODUCTS.—

"(1) LIMITATION.—The Commission shall not—

"(A) require a bank to register as a broker or dealer under this section because the bank engages in any transaction in, or buys or sells, a new banking product; or

"(B) bring an action against a bank for a failure to comply with a requirement described in subparagraph (A);

unless the Commission has imposed such requirement by rule or regulation issued in accordance with this section.

"(2) CRITERIA FOR RULEMAKING.—The Commission shall not impose a requirement under paragraph (1) of this subsection with respect to any new banking product unless the Commission determines that—

"(A) the new banking product is a security; and

"(B) imposing such requirement is necessary or appropriate in the public interest and for the protection of investors, consistent with the requirements of section 3(f).

"(3) NEW BANKING PRODUCT.—For purposes of this subsection, the term 'new banking product' means a product that—

"(A) was not subjected to regulation by the Commission as a security prior to the date of enactment of this subsection; and

"(B) is not a traditional banking product, as such term is defined in section 206(a) of the Financial Services Act of 1998.

"(4) CONSULTATION.—In promulgating rules under this subsection, the Commission shall consult with and consider the views of the appropriate regulatory agencies concerning the proposed rule and the impact on the banking industry.".

SEC. 207. DERIVATIVE INSTRUMENT AND QUALIFIED INVESTOR DEFINED.

Section 3(a) of the Securities Exchange Act of 1934 is amended by adding at the end the following new paragraphs:

"(54) DERIVATIVE INSTRUMENT.—

"(A) DEFINITION.—The term 'derivative instrument' means any individually negotiated contract, agreement, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets, but does not include a traditional banking product, as defined in section 206(a) of the Financial Services Act of 1998.

"(B) CLASSIFICATION LIMITED.— Classification of a particular contract as a derivative instrument pursuant to this paragraph shall not be construed as finding or implying that such instrument is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

"(55) QUALIFIED INVESTOR.—

"(A) DEFINITION.—For purposes of this title and section 206(a)(1)(E) of the Financial Services Act of 1998, the term 'qualified investor' means—

"(i) any investment company registered with the Commission under section 8 of the Investment Company Act of 1940;

"(ii) any issuer eligible for an exclusion from the definition of investment company pursuant to section 3(c)(7) of the Investment Company Act of 1940;

"(iii) any bank (as defined in paragraph (6) of this subsection), savings and loan association (as defined in section 3(b) of the Federal Deposit Insurance Act), broker, dealer, insurance company (as defined in section

2(a)(13) of the Securities Act of 1933), or business development company (as defined in section 2(a)(48) of the Investment Company Act of 1940);

"(iv) any small business investment company licensed by the United States Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958;

"(v) any State sponsored employee benefit plan, or any other employee benefit plan, within the meaning of the Employee Retirement Income Security Act of 1974, other than an individual retirement account, if the investment decisions are made by a plan fiduciary, as defined in section 3(21) of that Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser;

"(vi) any trust whose purchases of securities are directed by a person described in clauses (i) through (v) of this subparagraph;

"(vii) any market intermediary exempt under section 3(c)(2) of the Investment Company Act of 1940;

"(viii) any associated person of a broker or dealer other than a natural person; or

"(ix) any foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978).

"(B) ADDITIONAL QUALIFICATIONS DEFINED.—For purposes of paragraphs (4)(B)(vii) and (5)(C)(iii) of this subsection, and section 206(a)(1)(E) of the Financial Services Act of 1998, the term 'qualified investor' also means—

"(i) any corporation, company, or partnership that owns and invests on a discretionary basis, not less than $10,000,000 in investments;

"(ii) any natural person who owns and invests on a discretionary basis, not less than $10,000,000 in investments;

"(iii) any government or political subdivision, agency, or instrumentality of a government who owns and invests on a discretionary basis not less than $50,000,000 in investments; or

"(iv) any multinational or supranational entity or any agency or instrumentality thereof.

"(C) ADDITIONAL AUTHORITY.—The Commission may, by rule or order, define a 'qualified investor' as any other person, other than a natural person, taking into consideration such factors as the person's financial sophistication, net worth, and knowledge and experience in financial matters.".

SEC. 208. GOVERNMENT SECURITIES DEFINED.

Section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(E) for purposes of section 15C as applied to a bank, a qualified Canadian government obligation as defined in section 5136 of the Revised Statutes.".

SEC. 209. EFFECTIVE DATE.

This subtitle shall take effect at the end of the 270-day period beginning on the date of the enactment of this Act.

Subtitle B—Bank Investment Company Activities

SEC. 211. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANK.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(f)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by striking "(f) Every registered" and inserting the following:

"(f) CUSTODY OF SECURITIES.—

"(1) Every registered";

(3) by redesignating the 2d, 3d, 4th, and 5th sentences of such subsection as paragraphs (2) through (5), respectively, and indenting the left margin of such paragraphs appropriately; and

(4) by adding at the end the following new paragraph:

"(6) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person, promoter, organizer, or sponsor of, or principal underwriter for, a registered management company may serve as custodian of that registered management company.".

(b) UNIT INVESTMENT TRUSTS.—Section 26 of the Investment Company Act of 1940 (15 U.S.C. 80a–26) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person of a principal underwriter for, or depositor of, a registered unit investment trust, may serve as trustee or custodian under subsection (a)(1).".

(c) FIDUCIARY DUTY OF CUSTODIAN.—Section 36(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–35(a)) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (2) the following:

"(3) as custodian.".

SEC. 212. LENDING TO AN AFFILIATED INVESTMENT COMPANY.

Section 17(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(a)) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(4) to loan money or other property to such registered company, or to any company controlled by such registered company, in contravention of such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.".

SEC. 213. INDEPENDENT DIRECTORS.

(a) IN GENERAL.—Section 2(a)(19)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(A)) is amended—

(1) by striking clause (v) and inserting the following new clause:

"(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

"(I) the investment company,

"(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services, or

"(III) any account over which the investment company's investment adviser has brokerage placement discretion,";

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

"(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

"(I) the investment company,

"(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services, or

"(III) any account for which the investment company's investment adviser has borrowing authority,".

(b) CONFORMING AMENDMENT.—Section 2(a)(19)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(B)) is amended—

(1) by striking clause (v) and inserting the following new clause:

"(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

"(I) any investment company for which the investment adviser or principal underwriter serves as such,

"(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such, or

"(III) any account over which the investment adviser has brokerage placement discretion,";

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

"(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

"(I) any investment company for which the investment adviser or principal underwriter serves as such,

"(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such, or

"(III) any account for which the investment adviser has borrowing authority,".

(c) AFFILIATION OF DIRECTORS.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)) is amended by striking "bank, except" and inserting "bank (together with its affiliates and subsidiaries) or any one bank holding company (together with its affiliates and subsidiaries) (as such terms are defined in section 2 of the Bank Holding Company Act of 1956), except".

(d) Effective Date.—The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of enactment of this subtitle.

SEC. 214. ADDITIONAL SEC DISCLOSURE AUTHORITY.

Section 35(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–34(a)) is amended to read as follows:

"(a) Misrepresentation of Guarantees.—

"(1) In general.—It shall be unlawful for any person, issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company—

"(A) has been guaranteed, sponsored, recommended, or approved by the United States, or any agency, instrumentality or officer of the United States;

"(B) has been insured by the Federal Deposit Insurance Corporation; or

"(C) is guaranteed by or is otherwise an obligation of any bank or insured depository institution.

"(2) Disclosures.—Any person issuing or selling the securities of a registered investment company that is advised by, or sold through, a bank shall prominently disclose that an investment in the company is not insured by the Federal Deposit Insurance Corporation or any other government agency. The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the manner in which the disclosure under this paragraph shall be provided.

"(3) Definitions.—The terms 'insured depository institution' and 'appropriate Federal banking agency' have the meaning given to such terms in section 3 of the Federal Deposit Insurance Act.".

SEC. 215. DEFINITION OF BROKER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(6)) is amended to read as follows:

"(6) The term 'broker' has the same meaning as in the Securities Exchange Act of 1934, except that such term does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.".

SEC. 216. DEFINITION OF DEALER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(11)) is amended to read as follows:

"(11) The term 'dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 217. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

(a) Investment Adviser.—Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)) is amended in subparagraph (A), by striking "investment company" and inserting "investment company, except that the term 'investment adviser' includes any bank or bank holding company to the extent that such bank or bank holding company serves or acts as an investment adviser to a registered investment company, but if, in the case of a bank, such services or actions are performed through a separately identifiable department or division, the department or division, and not the bank itself, shall be deemed to be the investment adviser".

(b) Separately Identifiable Department or Division.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the end the following:

"(26) The term 'separately identifiable department or division' of a bank means a unit—

"(A) that is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

"(B) for which all of the records relating to its investment adviser activities are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, and such records are so maintained or otherwise accessible as to permit independent examination and enforcement by the Commission of this Act or the Investment Company Act of 1940 and rules and regulations promulgated under this Act or the Investment Company Act of 1940.".

SEC. 218. DEFINITION OF BROKER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(3)) is amended to read as follows:

"(3) The term 'broker' has the same meaning as in the Securities Exchange Act of 1934.".

SEC. 219. DEFINITION OF DEALER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(7)) is amended to read as follows:

"(7) The term 'dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 220. INTERAGENCY CONSULTATION.

The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 210 the following new section:

"SEC. 210A. CONSULTATION.

"(a) Examination Results and Other Information.—

"(1) The appropriate Federal banking agency shall provide the Commission upon request the results of any examination, reports, records, or other information to which such agency may have access with respect to the investment advisory activities—

"(A) of any—

"(i) bank holding company,

"(ii) bank, or

"(iii) separately identifiable department or division of a bank,

that is registered under section 203 of this title; and

"(B) in the case of a bank holding company or bank that has a subsidiary or a separately identifiable department or division registered under that section, of such bank or bank holding company.

"(2) The Commission shall provide to the appropriate Federal banking agency upon request the results of any examination, reports, records, or other information with respect to the investment advisory activities of any bank holding company, bank, or separately identifiable department or division of a bank, any of which is registered under section 203 of this title.

"(b) Effect on Other Authority.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company, bank, or department or division under any provision of law.

"(c) Definition.—For purposes of this section, the term 'appropriate Federal banking agency' shall have the same meaning as in section 3 of the Federal Deposit Insurance Act.".

SEC. 221. TREATMENT OF BANK COMMON TRUST FUNDS.

(a) Securities Act of 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking "or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian" and inserting "or any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940".

(b) Securities Exchange Act of 1934.—Section 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)(iii)) is amended to read as follows:

"(iii) any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940;".

(c) Investment Company Act of 1940.—Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(3)) is amended by inserting before the period the following: ", if—

"(A) such fund is employed by the bank solely as an aid to the administration of trusts, estates, or other accounts created and maintained for a fiduciary purpose;

"(B) except in connection with the ordinary advertising of the bank's fiduciary services, interests in such fund are not—

"(i) advertised; or

"(ii) offered for sale to the general public; and

"(C) fees and expenses charged by such fund are not in contravention of fiduciary principles established under applicable Federal or State law".

SEC. 222. INVESTMENT ADVISERS PROHIBITED FROM HAVING CONTROLLING INTEREST IN REGISTERED INVESTMENT COMPANY.

Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a–15) is amended by adding at the end the following new subsection:

"(g) Controlling Interest in Investment Company Prohibited.—

"(1) In general.—If an investment adviser to a registered investment company, or an affiliated person of that investment adviser, holds a controlling interest in that registered investment company in a trustee or fiduciary capacity, such person shall—

"(A) if it holds the shares in a trustee or fiduciary capacity with respect to any employee benefit plan subject to the Employee Retirement Income Security Act of 1974, transfer the power to vote the shares of the investment company through to another person acting in a fiduciary capacity with respect to the plan who is not an affiliated person of that investment adviser or any affiliated person thereof; or

"(B) if it holds the shares in a trustee or fiduciary capacity with respect to any person or entity other than an employee benefit plan subject to the Employee Retirement Income Security Act of 1974—

"(i) transfer the power to vote the shares of the investment company through to—

"(I) the beneficial owners of the shares;

"(II) another person acting in a fiduciary capacity who is not an affiliated person of that investment adviser or any affiliated person thereof; or

"(III) any person authorized to receive statements and information with respect to the trust who is not an affiliated person of that investment adviser or any affiliated person thereof;

"(ii) vote the shares of the investment company held by it in the same proportion as shares held by all other shareholders of the investment company; or

"(iii) vote the shares of the investment company as otherwise permitted under such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.

"(2) Exemption.—Paragraph (1) shall not apply to any investment adviser to a registered investment company, or any affiliated person of that investment adviser, that holds shares of the investment company in a trustee or fiduciary capacity if that registered investment company consists solely of assets held in such capacities.

"(3) Safe harbor.—No investment adviser to a registered investment company or any affiliated person of such investment adviser shall be deemed to have acted unlawfully or to have breached a fiduciary duty under State or Federal law solely by reason of acting in accordance with clause (i), (ii), or (iii) of paragraph (1)(B).".

SEC. 223. CONFORMING CHANGE IN DEFINITION.

Section 2(a)(5) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(5)) is amended by striking "(A) a banking institution organized under the laws of the United States" and inserting "(A) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or a branch or agency of a foreign bank (as such terms are defined in section 1(b) of the International Banking Act of 1978)".

SEC. 224. CONFORMING AMENDMENT.

Section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2) is amended by adding at the end the following new subsection:

"(c) Consideration of Promotion of Efficiency, Competition, and Capital Formation.—Whenever pursuant to this title the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.".

SEC. 225. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the date of the enactment of this Act.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

SEC. 231. SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES BY THE SECURITIES AND EXCHANGE COMMISSION.

(a) Amendment.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by redesignating subsection (i) as subsection (l); and

(2) by inserting after subsection (h) the following new subsections:

"(i) Investment Bank Holding Companies.—

"(1) Elective supervision of an investment bank holding company not having a bank or savings association affiliate.—

"(A) In general.—An investment bank holding company that is not—

"(i) an affiliate of a wholesale financial institution, an insured bank (other than an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956), or a savings association,

"(ii) a foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978, or

"(iii) a foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act,

may elect to become supervised by filing with the Commission a notice of intention to become supervised, pursuant to subparagraph (B) of this paragraph. Any investment bank holding company filing such a notice shall be supervised in accordance with this section and comply with the rules promulgated by the Commission applicable to supervised investment bank holding companies.

"(B) Notification of status as a supervised investment bank holding company.—An investment bank holding company that elects under subparagraph (A) to become supervised by the Commission shall file with the Commission a written notice of intention to become supervised by the Commission in such form and containing such information and documents concerning such investment bank holding company as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this section. Unless the Commission finds that such supervision is not necessary or appropriate in furtherance of the purposes of this section, such supervision shall become effective 45 days after receipt of such written notice by the Commission or within such shorter time period as the Commission, by rule or order, may determine.

"(2) Election not to be supervised by the Commission as an investment bank holding company.—

"(A) Voluntary withdrawal.—A supervised investment bank holding company that is supervised pursuant to paragraph (1) may, upon such terms and conditions as the Commission deems necessary or appropriate, elect not to be supervised by the Commission by filing a written notice of withdrawal from Commission supervision. Such notice shall not become effective until one year after receipt by the Commission, or such shorter or longer period as the Commission deems necessary or appropriate to ensure effective supervision of the material risks to the supervised investment bank holding company and to the affiliated broker or dealer, or to prevent evasion of the purposes of this section.

"(B) Discontinuation of Commission supervision.—If the Commission finds that any supervised investment bank holding company that is supervised pursuant to paragraph (1) is no longer in existence or has ceased to be an investment bank holding company, or if the Commission finds that continued supervision of such a supervised investment bank holding company is not consistent with the purposes of this section, the Commission may discontinue the supervision pursuant to a rule or order, if any, promulgated by the Commission under this section.

"(3) Supervision of investment bank holding companies.—

"(A) Recordkeeping and reporting.—

"(i) In general.—Every supervised investment bank holding company and each affiliate thereof shall make and keep for prescribed periods such records, furnish copies thereof, and make such reports, as the Commission may require by rule, in order to keep the Commission informed as to—

"(I) the company's or affiliate's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions and relationships between any broker or dealer affiliate of the supervised investment bank holding company; and

"(II) the extent to which the company or affiliate has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

"(ii) Form and contents.—Such records and reports shall be prepared in such form and according to such specifications (including certification by an independent public accountant), as the Commission may require and shall be provided promptly at any time upon request by the Commission. Such records and reports may include—

"(I) a balance sheet and income statement;

"(II) an assessment of the consolidated capital of the supervised investment bank holding company;

"(III) an independent auditor's report attesting to the supervised investment bank holding company's compliance with its internal risk management and internal control objectives; and

"(IV) reports concerning the extent to which the company or affiliate has complied with the provisions of this title and any regulations prescribed and orders issued under this title.

"(B) Use of existing reports.—

"(i) In general.—The Commission shall, to the fullest extent possible, accept reports in fulfillment of the requirements under this paragraph that the supervised investment bank holding company or its affiliates have been required to provide to another appropriate regulatory agency or self-regulatory organization.

"(ii) Availability.—A supervised investment bank holding company or an affiliate of such company shall provide to the Commission, at the request of the Commission, any report referred to in clause (i).

"(C) Examination authority.—

"(i) Focus of examination authority.—The Commission may make examinations of any supervised investment bank holding company and any affiliate of such company in order to—

"(I) inform the Commission regarding—

"(aa) the nature of the operations and financial condition of the supervised investment bank holding company and its affiliates;

"(bb) the financial and operational risks within the supervised investment bank holding company that may affect any broker or dealer controlled by such supervised investment bank holding company; and

"(cc) the systems of the supervised investment bank holding company and its affiliates for monitoring and controlling those risks; and

"(II) monitor compliance with the provisions of this subsection, provisions governing transactions and relationships between any broker or dealer affiliated with the supervised investment bank holding company and any of the company's other affiliates, and applicable provisions of subchapter II of chapter 53, title 31, United States Code (commonly referred to as the 'Bank Secrecy Act') and regulations thereunder.

"(ii) Restricted focus of examinations.—The Commission shall limit the focus and scope of any examination of a supervised investment bank holding company to—

"(I) the company; and

"(II) any affiliate of the company that, because of its size, condition, or activities, the nature or size of the transactions between such affiliate and any affiliated broker or dealer, or the centralization of functions within the holding company system, could, in the discretion of the Commission, have a materially adverse effect on the operational or financial condition of the broker or dealer.

"(iii) Deference to other examinations.—For purposes of this subparagraph, the Commission shall, to the fullest extent possible, use the reports of examination of an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956 made by the appropriate regulatory agency, or of a licensed insurance company made by the appropriate State insurance regulator.

"(4) Holding company capital.—

"(A) Authority.—If the Commission finds that it is necessary to adequately supervise investment bank holding companies and their broker or dealer affiliates consistent with the purposes of this subsection, the Commission may adopt capital adequacy rules for supervised investment bank holding companies.

"(B) Method of calculation.—In developing rules under this paragraph:

"(i) Double leverage.—The Commission shall consider the use by the supervised investment bank holding company of debt and other liabilities to fund capital investments in affiliates.

"(ii) No unweighted capital ratio.—The Commission shall not impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

"(iii) No capital requirement on regulated entities.—The Commission shall not, by rule, regulation, guideline, order or otherwise, impose any capital adequacy provision on a nonbanking affiliate (other than a broker or dealer) that is in compliance with applicable capital requirements of another Federal regulatory authority or State insurance authority.

"(iv) Appropriate exclusions.—The Commission shall take full account of the applicable capital requirements of another Federal regulatory authority or State insurance regulator.

"(C) Internal risk management models.—The Commission may incorporate internal risk management models into its capital adequacy rules for supervised investment bank holding companies.

"(5) Functional regulation of banking and insurance activities of supervised investment bank holding companies.—The Commission shall defer to—

"(A) the appropriate regulatory agency with regard to all interpretations of, and the enforcement of, applicable banking laws relating to the activities, conduct, ownership, and operations of banks, and institutions described in subparagraph (D), (F), and (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956; and

"(B) the appropriate State insurance regulators with regard to all interpretations of, and the enforcement of, applicable State insurance laws relating to the activities, conduct, and operations of insurance companies and insurance agents.

"(6) Definitions.—For purposes of this subsection—

"(A) The term 'investment bank holding company' means—

"(i) any person other than a natural person that owns or controls one or more brokers or dealers; and

"(ii) the associated persons of the investment bank holding company.

"(B) The term 'supervised investment bank holding company' means any investment bank holding company that is supervised by the Commission pursuant to this subsection.

"(C) The terms 'affiliate', 'bank', 'bank holding company', 'company', 'control', and 'savings association' have the meanings given to those terms in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

"(D) The term 'insured bank' has the meaning given to that term in section 3 of the Federal Deposit Insurance Act.

"(E) The term 'foreign bank' has the meaning given to that term in section 1(b)(7) of the International Banking Act of 1978.

"(F) The terms 'person associated with an investment bank holding company' and 'associated person of an investment bank holding company' means any person directly or indirectly controlling, controlled by, or under common control with, an investment bank holding company.

"(j) Authority To Limit Disclosure of Information.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under subsection (h) or (i) or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a broker or dealer, investment bank holding company, or any affiliate of an investment bank holding company. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraphs (A), (B), and (C) of subsection (i)(5) as confidential information for purposes of section 24(b)(2) of this title.".

(b) Conforming Amendments.—

(1) Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended by adding at the end the following new subparagraphs:

"(H) When used with respect to an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956—

"(i) the Comptroller of the Currency, in the case of a national bank or a bank in the District of Columbia examined by the Comptroller of the Currency;

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or any corporation chartered under section 25A of the Federal Reserve Act;

"(iii) the Federal Deposit Insurance Corporation, in the case of any other bank the deposits of which are insured in accordance with the Federal Deposit Insurance Act; or

"(iv) the Commission in the case of all other such institutions.".

(2) Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended—

(A) by striking "this title" and inserting "law"; and

(B) by inserting ", examination reports" after "financial records".

Subtitle D—Study

SEC. 241. STUDY OF METHODS TO INFORM INVESTORS AND CONSUMERS OF UNINSURED PRODUCTS.

Within one year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the efficacy, costs, and benefits of requiring that any depository institution that accepts federally insured deposits and that, directly or through a contractual or other arrangement with a broker, dealer, or agent, buys from, sells to, or effects transactions for retail investors in securities or consumers of insurance to inform such investors and consumers through the use of a logo or seal that the security or insurance is not insured by the Federal Deposit Insurance Corporation.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

SEC. 301. STATE REGULATION OF THE BUSINESS OF INSURANCE.

The Act entitled "An Act to express the intent of the Congress with reference to the regulation of the business of insurance" and approved March 9, 1945 (15 U.S.C. 1011 et seq.), commonly referred to as the "McCarran—Ferguson Act") remains the law of the United States.

SEC. 302. MANDATORY INSURANCE LICENSING REQUIREMENTS.

No person or entity shall provide insurance in a State as principal or agent unless such person or entity is licensed as required by the appropriate insurance regulator of such State in accordance with the relevant State insurance law, subject to section 104 of this Act.

SEC. 303. FUNCTIONAL REGULATION OF INSURANCE.

The insurance sales activity of any person or entity shall be functionally regulated by the States, subject to section 104 of this Act.

SEC. 304. INSURANCE UNDERWRITING IN NATIONAL BANKS.

(a) In General.—Except as provided in section 306, a national bank and the subsidiaries of a national bank may not provide insurance in a State as principal except that this prohibition shall not apply to authorized products.

(b) Authorized Products.—For the purposes of this section, a product is authorized if—

(1) as of January 1, 1997, the Comptroller of the Currency had determined in writing that national banks may provide such product as principal, or national banks were in fact lawfully providing such product as principal;

(2) no court of relevant jurisdiction had, by final judgment, overturned a determination of the Comptroller of the Currency that national banks may provide such product as principal; and

(3) the product is not title insurance, or an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

(c) Definition.—For purposes of this section, the term "insurance" means—

(1) any product regulated as insurance as of January 1, 1997, in accordance with the relevant State insurance law, in the State in which the product is provided;

(2) any product first offered after January 1, 1997, which—

(A) a State insurance regulator determines shall be regulated as insurance in the State in which the product is provided because the product insures, guarantees, or indemnifies against liability, loss of life, loss of health, or loss through damage to or destruction of property, including, but not limited to, surety bonds, life insurance, health insurance, title insurance, and property and casualty insurance (such as private passenger or commercial automobile, homeowners, mortgage, commercial multiperil, general liability, professional liability, workers' compensation, fire and allied lines, farm owners multiperil, aircraft, fidelity, surety, medical malpractice, ocean marine, inland marine, and boiler and machinery insurance); and

(B) is not a product or service of a bank that is—

(i) a deposit product;

(ii) a loan, discount, letter of credit, or other extension of credit;

(iii) a trust or other fiduciary service;

(iv) a qualified financial contract (as defined in or determined pursuant to section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act); or

(v) a financial guaranty, except that this subparagraph (B) shall not apply to a product that includes an insurance component such that if the product is offered or proposed to be offered by the bank as principal—

(I) it would be treated as a life insurance contract under section 7702 of the Internal Revenue Code of 1986, as amended; or

(II) in the event that the product is not a letter of credit or other similar extension of credit, a qualified financial contract, or a financial guaranty, it would qualify for treatment for losses incurred with respect to such product under section 832(b)(5) of the Internal Revenue Code of 1986, as amended, if the bank were subject to tax as an insurance company under section 831 of such Code; or

(3) any annuity contract the income on which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986, as amended.

SEC. 305. NEW BANK AGENCY ACTIVITIES ONLY THROUGH ACQUISITION OF EXISTING LICENSED AGENTS.

If a national bank or a subsidiary of a national bank is not providing insurance as agent in a State as of the date of the enactment of this Act, the national bank and the subsidiary of the national bank may provide insurance (which such bank or subsidiary is otherwise authorized to provide) as agent in such State after such date only by acquiring a company which has been licensed by the appropriate State regulator to provide insurance as agent in such State for not less than 2 years before such acquisition.

SEC. 306. TITLE INSURANCE ACTIVITIES OF NATIONAL BANKS AND THEIR AFFILIATES.

(a) AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or any other law, no national bank, and no subsidiary of a national bank, may engage in any activity involving the underwriting or sale of title insurance other than title insurance activities in which such national bank or subsidiary was actively and lawfully engaged before the date of the enactment of this Act.

(2) INSURANCE AFFILIATE.—In the case of a national bank which has an affiliate which provides insurance as principal and is not a subsidiary of the bank, the national bank and any subsidiary of the national bank may not engage in any activity involving the underwriting or sale of title insurance pursuant to paragraph (1).

(3) INSURANCE SUBSIDIARY.—In the case of a national bank which has a subsidiary which provides insurance as principal and has no affiliate which provides insurance as principal and is not a subsidiary, the national bank may not engage in any activity involving the underwriting or sale of title insurance pursuant to paragraph (1).

(4) AFFILIATE AND SUBSIDIARY DEFINED.—For purposes of this section, the terms "affiliate" and "subsidiary" have the meaning given such terms in section 2 of the Bank Holding Company Act of 1956.

(b) PARITY EXCEPTION.—Notwithstanding subsection (a), in the case of any State in which banks organized under the laws of such State were authorized to sell title insurance as agent as of January 1, 1997, a national bank and a subsidiary of a national bank may sell title insurance as agent in such State in the same manner and to the same extent such State banks are authorized to sell title insurance as agent in such State.

SEC. 307. EXPEDITED AND EQUALIZED DISPUTE RESOLUTION FOR FINANCIAL REGULATORS.

(a) FILING IN COURT OF APPEAL.—In the case of a regulatory conflict between a State insurance regulator and a Federal regulator as to whether any product is or is not insurance as defined in section 304(c) of this Act, or whether a State statute, regulation, order, or interpretation regarding any insurance sales or solicitation activity is properly treated as preempted under Federal law, either regulator may seek expedited judicial review of such determination by the United States Court of Appeals for the circuit in which the State is located or in the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in such court.

(b) EXPEDITED REVIEW.—The United States court of appeals in which a petition for review is filed in accordance with paragraph (1) shall complete all action on such petition, including rendering a judgment, before the end of the 60-day period beginning on the date such petition is filed, unless all parties to such proceeding agree to any extension of such period.

(c) SUPREME COURT REVIEW.—Any request for certiori to the Supreme Court of the United States of any judgment of a United States court of appeals with respect to a petition for review under this section shall be filed with the United States Supreme Court as soon as practicable after such judgment is issued.

(d) STATUTE OF LIMITATION.—No action may be filed under this section challenging an order, ruling, determination, or other action of a Federal financial regulator or State insurance regulator after the later of—

(1) the end of the 12-month period beginning on the date the first public notice is made of such order, ruling, or determination in its final form; or

(2) the end of the 6-month period beginning on the date such order, ruling, or determination takes effect.

(e) STANDARD OF REVIEW.—The court shall decide an action filed under this section based on its review on the merits of all questions presented under State and Federal law, including the nature of the product or activity and the history and purpose of its regulation under State and Federal law, without unequal deference.

SEC. 308. CONSUMER PROTECTION REGULATIONS.

(a) REGULATIONS REQUIRED.—

(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 45. CONSUMER PROTECTION REGULATIONS.

"(a) REGULATIONS REQUIRED.—

"(1) IN GENERAL.—The Federal banking agencies shall prescribe and publish in final form, before the end of the 1-year period beginning on the date of the enactment of this Act, consumer protection regulations (which the agencies jointly determine to be appropriate) that—

"(A) apply to retail sales, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution; and

"(B) are consistent with the requirements of this Act and provide such additional protections for consumers to whom such sales, solicitations, advertising, or offers are directed as the agency determines to be appropriate.

"(2) APPLICABILITY TO SUBSIDIARIES.—The regulations prescribed pursuant to paragraph (1) shall extend such protections to any subsidiaries of an insured depository institution, as deemed appropriate by the regulators referred to in paragraph (3), where such extension is determined to be necessary to ensure the consumer protections provided by this section.

"(3) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraph (1), after consultation with the State insurance regulators, as appropriate.

"(b) SALES PRACTICES.—The regulations prescribed pursuant to subsection (a) shall include anticoercion rules applicable to the sale of insurance products which prohibit an insured depository institution from engaging in any practice that would lead a consumer to believe an extension of credit, in violation of section 106(b) of the Bank Holding Company Act Amendments of 1970, is conditional upon—

"(1) the purchase of an insurance product from the institution or any of its affiliates or subsidiaries; or

"(2) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

"(c) DISCLOSURES AND ADVERTISING.—The regulations prescribed pursuant to subsection (a) shall include the following provisions relating to disclosures and advertising in connection with the initial purchase of an insurance product:

"(1) DISCLOSURES.—

"(A) IN GENERAL.—Requirements that the following disclosures be made orally and in writing before the completion of the initial sale and, in the case of clause (iv), at the time of application for an extension of credit:

"(i) UNINSURED STATUS.—As appropriate, the product is not insured by the Federal Deposit Insurance Corporation, the United States Government, or the insured depository institution.

"(ii) INVESTMENT RISK.—In the case of a variable annuity or other insurance product which involves an investment risk, that there is an investment risk associated with the product, including possible loss of value.

"(iv) COERCION.—The approval of an extension of credit may not be conditioned on—

"(I) the purchase of an insurance product from the institution in which the application for credit is pending or any of its affiliates or subsidiaries; or

"(II) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

"(B) MAKING DISCLOSURE READILY UNDERSTANDABLE.—Regulations prescribed under subparagraph (A) shall encourage the use of disclosure that is conspicuous, simple, direct, and readily understandable, such as the following:

"(i) 'NOT FDIC-INSURED'.

"(ii) 'NOT GUARANTEED BY THE BANK'.

"(iii) 'MAY GO DOWN IN VALUE'.

"(C) ADJUSTMENTS FOR ALTERNATIVE METHODS OF PURCHASE.—In prescribing the requirements under subparagraphs (A) and (D), necessary adjustments shall be made for purchase in person, by telephone, or by electronic media to provide for the most appropriate and complete form of disclosure and acknowledgments.

"(D) CONSUMER ACKNOWLEDGMENT.—A requirement that an insured depository institution shall require any person selling an insurance product at any office of, or on behalf of, the institution to obtain, at the time a consumer receives the disclosures required under this paragraph or at the time of the initial purchase by the consumer of such product, an acknowledgment by such consumer of the receipt of the disclosure required under this subsection with respect to such product.

"(2) PROHIBITION ON MISREPRESENTATIONS.—A prohibition on any practice, or any advertising, at any office of, or on behalf of, the insured depository institution, or any subsidiary as appropriate, which could mislead any person or otherwise cause a reasonable person to reach an erroneous belief with respect to—

"(A) the uninsured nature of any insurance product sold, or offered for sale, by the institution or any subsidiary of the institution; or

"(B) in the case of a variable annuity or other insurance product that involves an investment risk, the investment risk associated with any such product.

"(d) SEPARATION OF BANKING AND NONBANKING ACTIVITIES.—

"(1) REGULATIONS REQUIRED.—The regulations prescribed pursuant to subsection (a) shall include such provisions as the Federal banking agencies consider appropriate to ensure that the routine acceptance of deposits and the making of loans is kept, to the extent practicable, physically segregated from insurance product activity.

"(2) REQUIREMENTS.—Regulations prescribed pursuant to paragraph (1) shall include the following requirements:

"(A) SEPARATE SETTING.—A clear delineation of the setting in which, and the circumstances under which, transactions involving insurance products should be conducted in a location physically segregated from an area where retail deposits are routinely accepted.

"(B) REFERRALS.—Standards which permit any person accepting deposits from, or making loans to, the public in an area where such transactions are routinely conducted in an insured depository institution to refer a customer who seeks to purchase any insurance product to a qualified person who sells such product, only if the person making the referral receives no more than a one-time nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

"(C) QUALIFICATION AND LICENSING REQUIREMENTS.—Standards prohibiting any insured depository institution from permitting any person to sell or offer for sale any insurance product in any part of any office of the institution, or on behalf of the institution, unless such person is appropriately qualified and licensed.

"(e) DOMESTIC VIOLENCE DISCRIMINATION PROHIBITION.—

"(1) IN GENERAL.—In the case of an applicant for, or an insured under, any insurance product described in paragraph (2), the status of the applicant or insured as a victim of domestic violence, or as a provider of services to victims of domestic violence, shall not be considered as a criterion in any decision with regard to insurance underwriting, pricing, renewal, or scope of coverage of insurance policies, or payment of insurance claims, except as required or expressly permitted under State law.

"(2) SCOPE OF APPLICATION.—The prohibition contained in paragraph (1) shall apply to any insurance product which is sold or offered for sale, as principal, agent, or broker, by any insured depository institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution.

"(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that, by the end of the 30-month period beginning on the date of the enactment of this Act, the States should enact prohibitions against discrimination with respect to insurance products that are at least as strict as the prohibitions contained in paragraph (1).

"(4) DOMESTIC VIOLENCE DEFINED.—For purposes of this subsection, the term 'domestic violence' means the occurrence of 1 or more of the following acts by a current or former family member, household member, intimate partner, or caretaker:

"(A) Attempting to cause or causing or threatening another person physical harm, severe emotional distress, psychological trauma, rape, or sexual assault.

"(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances that place the person in reasonable fear of bodily injury or physical harm.

"(C) Subjecting another person to false imprisonment.

"(D) Attempting to cause or cause damage to property so as to intimidate or attempt to control the behavior of another person.

"(f) CONSUMER GRIEVANCE PROCESS.—The Federal banking agencies shall jointly establish a consumer complaint mechanism, for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under the section, which shall—

"(1) establish a group within each regulatory agency to receive such complaints;

"(2) develop procedures for investigating such complaints;

"(3) develop procedures for informing consumers of rights they may have in connection with such complaints; and

"(4) develop procedures for addressing concerns raised by such complaints, as appropriate, including procedures for the recovery of losses to the extent appropriate.

"(g) EFFECT ON OTHER AUTHORITY.—

"(1) No provision of this section shall be construed as granting, limiting, or otherwise affecting—

"(A) any authority of the Securities and Exchange Commission, any self-regulatory organization, the Municipal Securities Rulemaking Board, or the Secretary of the Treasury under any Federal securities law; or

"(B) any authority of any State insurance commissioner or other State authority under any State law.

"(2) Regulations prescribed by a Federal banking agency under this section shall not apply to retail sales, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or to any person who is engaged in such activities at an office of such institution or on behalf of the institution, in a State where the State has in effect statutes, regulations, orders, or interpretations, that are inconsistent with or contrary to the regulations prescribed by the Federal banking agencies.

"(h) INSURANCE PRODUCT DEFINED.—For purposes of this section, the term 'insurance product' includes an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.".

SEC. 309. CERTAIN STATE AFFILIATION LAWS PREEMPTED FOR INSURANCE COMPANIES AND AFFILIATES.

No State may, by law, regulation, order, interpretation, or otherwise—

(1) prevent or restrict any insurer, or any affiliate of an insurer (whether such affiliate is organized as a stock company, mutual holding company, or otherwise), from becoming a financial holding company or acquiring control of an insured depository institution;

(2) limit the amount of an insurer's assets that may be invested in the voting securities of an insured depository institution (or any company which controls such institution), except that the laws of an insurer's State of domicile may limit the amount of such investment to an amount that is not less than 5 percent of the insurer's admitted assets; or

(3) prevent, restrict, or have the authority to review, approve, or disapprove a plan of reorganization by which an insurer proposes to reorganize from mutual form to become a stock insurer (whether as a direct or indirect subsidiary of a mutual holding company or otherwise) unless such State is the State of domicile of the insurer.

Subtitle B—Redomestication of Mutual Insurers

SEC. 311. GENERAL APPLICATION.

This subtitle shall only apply to a mutual insurance company in a State which has not enacted a law which expressly establishes reasonable terms and conditions for a mutual insurance company domiciled in such State to reorganize into a mutual holding company.

SEC. 312. REDOMESTICATION OF MUTUAL INSURERS.

(a) REDOMESTICATION.—A mutual insurer organized under the laws of any State may transfer its domicile to a transferee domicile as a step in a reorganization in which, pursuant to the laws of the transferee domicile and consistent with the standards in subsection (f), the mutual insurer becomes a stock insurer that is a direct or indirect subsidiary of a mutual holding company.

(b) RESULTING DOMICILE.—Upon complying with the applicable law of the transferee domicile governing transfers of domicile and completion of a transfer pursuant to this section, the mutual insurer shall cease to be a domestic insurer in the transferor domicile and, as a continuation of its corporate existence, shall be a domestic insurer of the transferee domicile.

(c) LICENSES PRESERVED.—The certificate of authority, agents' appointments and licenses, rates, approvals and other items that a licensed State allows and that are in existence immediately prior to the date that a redomesticating insurer transfers its domicile pursuant to this subtitle shall continue in full force and effect upon transfer, if the insurer remains duly qualified to transact the business of insurance in such licensed State.

(d) EFFECTIVENESS OF OUTSTANDING POLICIES AND CONTRACTS.—

(1) IN GENERAL.—All outstanding insurance policies and annuities contracts of a redomesticating insurer shall remain in full force and effect and need not be endorsed as to the new domicile of the insurer, unless so ordered by the State insurance regulator of a licensed State, and then only in the case of outstanding policies and contracts whose owners reside in such licensed State.

(2) FORMS.—

(A) Applicable State law may require a redomesticating insurer to file new policy forms with the State insurance regulator of a licensed State on or before the effective date of the transfer.

(B) Notwithstanding subparagraph (A), a redomesticating insurer may use existing policy forms with appropriate endorsements to reflect the new domicile of the redomesticating insurer until the new policy forms are approved for use by the State insurance regulator of such licensed State.

(e) NOTICE.—A redomesticating insurer shall give notice of the proposed transfer to the State insurance regulator of each licensed State and shall file promptly any resulting amendments to corporate documents required to be filed by a foreign licensed mutual insurer with the insurance regulator of each such licensed State.

(f) PROCEDURAL REQUIREMENTS.—No mutual insurer may redomesticate to another State and reorganize into a mutual holding company pursuant to this section unless the State insurance regulator of the transferee domicile determines that the plan of reorganization of the insurer includes the following requirements:

(1) APPROVAL BY BOARD OF DIRECTORS AND POLICYHOLDERS.—The reorganization is approved by at least a majority of the board of directors of the mutual insurer and at least a majority of the policyholders who vote after notice, disclosure of the reorganization and the effects of the transaction on policyholder contractual rights, and reasonable opportunity to vote, in accordance with such notice, disclosure, and voting procedures as are approved by the State insurance regulator of the transferee domicile.

(2) CONTINUED VOTING CONTROL BY POLICYHOLDERS; REVIEW OF PUBLIC STOCK OFFERING.—After the consummation of a reorganization, the policyholders of the reorganized insurer shall have the same voting rights with respect to the mutual holding company as they had before the reorganization with respect to the mutual insurer. With respect to an initial public offering of stock, the offering shall be conducted in compliance with applicable securities laws and in a manner approved by the State insurance regulator of the transferee domicile.

(3) AWARD OF STOCK OR GRANT OF OPTIONS TO OFFICERS AND DIRECTORS.—For a period of 6 months after completion of an initial public offering, neither a stock holding company nor the converted insurer shall award any stock options or stock grants to persons who are elected officers or directors of the mutual holding company, the stock holding company, or the converted insurer, except with respect to any such awards or options to which a person is entitled as a policyholder and as approved by the State insurance regulator of the transferee domicile.

(4) CONTRACTUAL RIGHTS.—Upon reorganization into a mutual holding company, the contractual rights of the policyholders are preserved.

(5) FAIR AND EQUITABLE TREATMENT OF POLICYHOLDERS.—The reorganization is approved as fair and equitable to the policyholders by the insurance regulator of the transferee domicile.

SEC. 313. EFFECT ON STATE LAWS RESTRICTING REDOMESTICATION.

(a) IN GENERAL.—Unless otherwise permitted by this subtitle, State laws of any transferor domicile that conflict with the purposes and intent of this subtitle are preempted, including but not limited to—

(1) any law that has the purpose or effect of impeding the activities of, taking any action against, or applying any provision of law or regulation to, any insurer or an affiliate of such insurer because that insurer or any affiliate plans to redomesticate, or has redomesticated, pursuant to this subtitle;

(2) any law that has the purpose or effect of impeding the activities of, taking action against, or applying any provision of law or regulation to, any insured or any insurance licensee or other intermediary because such person or entity has procured insurance from or placed insurance with any insurer or affiliate of such insurer that plans to redomesticate, or has redomesticated, pursuant to this subtitle, but only to the extent that such law would treat such insured licensee or other intermediary differently than if the person or entity procured insurance from, or placed insurance with, an insured licensee or other intermediary which had not redomesticated;

(3) any law that has the purpose or effect of terminating, because of the redomestication of a mutual insurer pursuant to this subtitle, any certificate of authority, agent appointment or license, rate approval, or other approval, of any State insurance regulator or other State authority in existence immediately prior to the redomestication in any State other than the transferee domicile.

(b) DIFFERENTIAL TREATMENT PROHIBITED.—No State law, regulation, interpretation, or functional equivalent thereof, of a State other than a transferee domicile may treat a redomesticating or redomesticated insurer or any affiliate thereof any differently than an insurer operating in that State that is not a redomesticating or redomesticated insurer.

(c) LAWS PROHIBITING OPERATIONS.—If any licensed State fails to issue, delays the issuance of, or seeks to revoke an original or renewal certificate of authority of a redomesticated insurer immediately following redomestication, except on grounds and in a manner consistent with its past practices regarding the issuance of certificates of authority to foreign insurers that are not redomesticating, then the redomesticating insurer shall be exempt from any State law of the licensed State to the extent that such State law or the operation of such State law would make unlawful, or regulate, directly or indirectly, the operation of the redomesticated insurer, except that such licensed State may require the redomesticated insurer to—

(1) comply with the unfair claim settlement practices law of the licensed State;

(2) pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on licensed insurers or policyholders under the laws of the licensed State;

(3) register with and designate the State insurance regulator as its agent solely for the purpose of receiving service of legal documents or process;

(4) submit to an examination by the State insurance regulator in any licensed state in which the redomesticated insurer is doing business to determine the insurer's financial condition, if—

(A) the State insurance regulator of the transferee domicile has not begun an examination of the redomesticated insurer and has not scheduled such an examination to begin before the end of the 1-year period beginning on the date of the redomestication; and

(B) any such examination is coordinated to avoid unjustified duplication and repetition;

(5) comply with a lawful order issued in—

(A) a delinquency proceeding commenced by the State insurance regulator of any licensed State if there has been a judicial finding of financial impairment under paragraph (7); or

(B) a voluntary dissolution proceeding;

(6) comply with any State law regarding deceptive, false, or fraudulent acts or practices, except that if the licensed State seeks an injunction regarding the conduct described in this paragraph, such injunction must be obtained from a court of competent jurisdiction as provided in section 314(a);

(7) comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance regulator alleging that the redomesticating insurer is in hazardous financial condition or is financially impaired;

(8) participate in any insurance insolvency guaranty association on the same basis as any other insurer licensed in the licensed State; and

(9) require a person acting, or offering to act, as an insurance licensee for a redomesticated insurer in the licensed State to obtain a license from that State, except that such State may not impose any qualification or requirement that discriminates against a nonresident insurance licensee.

SEC. 314. OTHER PROVISIONS.

(a) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over litigation arising under this section involving any redomesticating or redomesticated insurer.

(b) SEVERABILITY.—If any provision of this section, or the application thereof to any person or circumstances, is held invalid, the remainder of the section, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 315. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) COURT OF COMPETENT JURISDICTION.—The term "court of competent jurisdiction" means a court authorized pursuant to section 314(a) to adjudicate litigation arising under this subtitle.

(2) DOMICILE.—The term "domicile" means the State in which an insurer is incorporated, chartered, or organized.

(3) INSURANCE LICENSEE.—The term "insurance licensee" means any person holding a license under State law to act as insurance agent, subagent, broker, or consultant.

(4) INSTITUTION.—The term "institution" means a corporation, joint stock company, limited liability company, limited liability partnership, association, trust, partnership, or any similar entity.

(5) LICENSED STATE.—The term "licensed State" means any State, the District of Columbia, American Samoa, Guam, Puerto Rico, or the United States Virgin Islands in which the redomesticating insurer has a certificate of authority in effect immediately prior to the redomestication.

(6) MUTUAL INSURER.—The term "mutual insurer" means a mutual insurer organized under the laws of any State.

(7) PERSON.—The term "person" means an individual, institution, government or governmental agency, State or political subdivision of a State, public corporation, board, association, estate, trustee, or fiduciary, or other similar entity.

(8) POLICYHOLDER.—The term "policyholder" means the owner of a policy issued by a mutual insurer, except that, with respect to voting rights, the term means a member of a mutual insurer or mutual holding company granted the right to vote, as determined under applicable State law.

(9) REDOMESTICATED INSURER.—The term "redomesticated insurer" means a mutual insurer that has redomesticated pursuant to this subtitle.

(10) REDOMESTICATING INSURER.—The term "redomesticating insurer" means a mutual insurer that is redomesticating pursuant to this subtitle.

(11) REDOMESTICATION OR TRANSFER.—The terms "redomestication" and "transfer" mean the transfer of the domicile of a mutual insurer from one State to another State pursuant to this subtitle.

(12) STATE INSURANCE REGULATOR.—The term "State insurance regulator" means the principal insurance regulatory authority of a State, the District of Columbia, American Samoa, Guam, Puerto Rico, or the United States Virgin Islands.

(13) STATE LAW.—The term "State law" means the statutes of any State, the District of Columbia, American Samoa, Guam, Puerto Rico, or the United States Virgin Islands and any regulation, order, or requirement prescribed pursuant to any such statute.

(14) TRANSFEREE DOMICILE.—The term "transferee domicile" means the State to which a mutual insurer is redomesticating pursuant to this subtitle.

(15) TRANSFEROR DOMICILE.—The term "transferor domicile" means the State from which a mutual insurer is redomesticating pursuant to this subtitle.

SEC. 316. EFFECTIVE DATE.

This subtitle shall take effect on the date of enactment of this Act.

Subtitle C—National Association of Registered Agents and Brokers

SEC. 321. STATE FLEXIBILITY IN MULTISTATE LICENSING REFORMS.

(a) IN GENERAL.—The provisions of this subtitle shall take effect unless by the end of the 3-year period beginning on the date of the enactment of this Act at least a majority of the States—

(1) have enacted uniform laws and regulations governing the licensure of individuals and entities authorized to sell and solicit the purchase of insurance within the State; or

(2) have enacted reciprocity laws and regulations governing the licensure of nonresident individuals and entities authorized to sell and solicit insurance within those States.

(b) UNIFORMITY REQUIRED.—States shall be deemed to have established the uniformity necessary to satisfy subsection (a)(1) if the States—

(1) establish uniform criteria regarding the integrity, personal qualifications, education, training, and experience of licensed insurance producers, including the qualification and training of sales personnel in ascertaining the appropriateness of a particular insurance product for a prospective customer;

(2) establish uniform continuing education requirements for licensed insurance producers;

(3) establish uniform ethics course requirements for licensed insurance producers in conjunction with the continuing education requirements under paragraph (2);

(4) establish uniform criteria to ensure that an insurance product, including any annuity contract, sold to a consumer is suitable and appropriate for the consumer based on financial information disclosed by the consumer; and

(5) do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(c) RECIPROCITY REQUIRED.—States shall be deemed to have established the reciprocity required to satisfy subsection (a)(2) if the following conditions are met:

(1) ADMINISTRATIVE LICENSING PROCEDURES.—At least a majority of the States permit a producer that has a resident license for selling or soliciting the purchase of insurance in its home State to receive a license to sell or solicit the purchase of insurance in such majority of States as a nonresident to the same extent such producer is permitted to sell or solicit the purchase of insurance in its State, without satisfying any additional requirements other than submitting—

(A) a request for licensure;

(B) the application for licensure that the producer submitted to its home State;

(C) proof that the producer is licensed and in good standing in its home State; and

(D) the payment of any requisite fee to the appropriate authority,

if the producer's home State also awards such licenses on such a reciprocal basis.

(2) CONTINUING EDUCATION REQUIREMENTS.—A majority of the States accept an insurance producer's satisfaction of its home State's continuing education requirements for licensed insurance producers to satisfy the States' own continuing education requirements if the producer's home State also recognizes the satisfaction of continuing education requirements on such a reciprocal basis.

(3) NO LIMITING NONRESIDENT REQUIREMENTS.—A majority of the States do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(4) RECIPROCAL RECIPROCITY.—Each of the States that satisfies paragraphs (1), (2), and (3) grants reciprocity to residents of all of the other States that satisfy such paragraphs.

(d) DETERMINATION.—

(1) NAIC DETERMINATION.—At the end of the 3-year period beginning on the date of the enactment of this Act, the National Association of Insurance Commissioners shall determine, in consultation with the insurance commissioners or chief insurance regulatory officials of the States, whether the uniformity or reciprocity required by subsections (b) and (c) has been achieved.

(2) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over any challenge to the National Association of Insurance Commissioners' determination under this section and such court shall apply the standards set forth in section 706 of title 5, United States Code, when reviewing any such challenge.

(e) CONTINUED APPLICATION.—If, at any time, the uniformity or reciprocity required by subsections (b) and (c) no longer exists, the provisions of this subtitle shall take effect within 2 years, unless the uniformity or reciprocity required by those provisions is satisfied before the expiration of that 2-year period.

(f) SAVINGS PROVISION.—No provision of this section shall be construed as requiring that any law, regulation, provision, or action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws, be altered or amended in order to satisfy the uniformity or reciprocity required by subsections (b) and (c), unless any such law, regulation, provision, or action is inconsistent with a specific requirement of any such subsection and then only to the extent of such inconsistency.

SEC. 322. NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS.

(a) ESTABLISHMENT.—There is established the National Association of Registered Agents and Brokers (hereafter in this subtitle referred to as the "Association")

(b) STATUS.—The Association shall—

(1) be a nonprofit corporation and be presumed to have the status of an organization described in section 501(c)(6) of the Internal Revenue Code of 1986 unless the Secretary of the Treasury determines that the Association does not meet the requirements of such section;

(2) have succession until dissolved by an Act of Congress;

(3) not be an agency or establishment of the United States Government; and

(4) except as otherwise provided in this Act, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29y-1001 et seq.).

SEC. 323. PURPOSE.

The purpose of the Association shall be to provide a mechanism through which uniform licensing, appointment, continuing education, and other insurance producer sales qualification requirements and conditions can be adopted and applied on a multistate basis, while preserving the right of States to license, supervise, and discipline insurance producers and to prescribe and enforce laws and regulations with regard to insurance-related consumer protection and unfair trade practices.

SEC. 324. RELATIONSHIP TO THE FEDERAL GOVERNMENT.

The Association shall be subject to the supervision and oversight of the National Association of Insurance Commissioners (hereafter in this subtitle referred to as the "NAIC") and shall not be an agency or an instrumentality of the United States Government.

SEC. 325. MEMBERSHIP.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Any State-licensed insurance producer shall be eligible to become a member in the Association.

(2) INELIGIBILITY FOR SUSPENSION OR REVOCATION OF LICENSE.—Notwithstanding paragraph (1), a State-licensed insurance producer shall not be eligible to become a member if a State insurance regulator has suspended or revoked such producer's license in that State during the 3-year preceding the date such producer applies for membership.

(3) RESUMPTION OF ELIGIBILITY.—Paragraph (2) shall cease to apply to any insurance producer if—

(A) the State insurance regulator renews the license of such producer in the State in which the license was suspended or revoked; or

(B) the suspension or revocation is subsequently overturned.

(b) Authority To Establish Membership Criteria.—The Association shall have the authority to establish membership criteria that—

(1) bear a reasonable relationship to the purposes for which the Association was established; and

(2) do not unfairly limit the access of smaller agencies to the Association membership.

(c) Establishment of Classes and Categories.—

(1) Classes of membership.—The Association may establish separate classes of membership, with separate criteria, if the Association reasonably determines that performance of different duties requires different levels of education, training, or experience.

(2) Categories.—The Association may establish separate categories of membership for individuals and for other persons. The establishment of any such categories of membership shall be based either on the types of licensing categories that exist under State laws or on the aggregate amount of business handled by an insurance producer. No special categories of membership, and no distinct membership criteria, shall be established for members which are insured depository institutions or wholesale financial institutions or for their employees, agents, or affiliates.

(d) Membership Criteria.—

(1) In general.—The Association may establish criteria for membership which shall include standards for integrity, personal qualifications, education, training, and experience.

(2) Minimum standard.—In establishing criteria under paragraph (1), the Association shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

(e) Effect of Membership.—Membership in the Association shall entitle the member to licensure in each State for which the member pays the requisite fees, including licensing fees and, where applicable, bonding requirements, set by such State.

(f) Annual Renewal.—Membership in the Association shall be renewed on an annual basis.

(g) Continuing Education.—The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to or greater than the continuing education requirements under the licensing laws of a majority of the States.

(h) Suspension and Revocation.—The Association may—

(1) inspect and examine the records and offices of the members of the Association to determine compliance with the criteria for membership established by the Association; and

(2) suspend or revoke the membership of an insurance producer if—

(A) the producer fails to meet the applicable membership criteria of the Association; or

(B) the producer has been subject to disciplinary action pursuant to a final adjudicatory proceeding under the jurisdiction of a State insurance regulator, and the Association concludes that retention of membership in the Association would not be in the public interest.

(i) Office of Consumer Complaints.—

(1) In general.—The Association shall establish an office of consumer complaints that shall—

(A) receive and investigate complaints from both consumers and State insurance regulators related to members of the Association; and

(B) recommend to the Association any disciplinary actions that the office considers appropriate, to the extent that any such recommendation is not inconsistent with State law.

(2) Records and referrals.—The office of consumer complaints of the Association shall—

(A) maintain records of all complaints received in accordance with paragraph (1) and make such records available to the NAIC and to each State insurance regulator for the State of residence of the consumer who filed the complaint; and

(B) refer, when appropriate, any such complaint to any appropriate State insurance regulator.

(3) Telephone and other access.—The office of consumer complaints shall maintain a toll-free telephone number for the purpose of this subsection and, as practicable, other alternative means of communication with consumers, such as an Internet home page.

SEC. 326. BOARD OF DIRECTORS.

(a) Establishment.—There is established the board of directors of the Association (hereafter in this subtitle referred to as the "Board") for the purpose of governing and supervising the activities of the Association and the members of the Association.

(b) Powers.—The Board shall have such powers and authority as may be specified in the bylaws of the Association.

(c) Composition.—

(1) Members.—The Board shall be composed of 7 members appointed by the NAIC.

(2) Requirement.—At least 4 of the members of the Board shall have significant experience with the regulation of commercial lines of insurance in at least 1 of the 20 States in which the greatest total dollar amount of commercial-lines insurance is placed in the United States.

(3) Initial board membership.—

(A) In general.—If, by the end of the 2-year period beginning on the date of the enactment of this Act, the NAIC has not appointed the initial 7 members of the Board of the Association, the initial Board shall consist of the 7 State insurance regulators of the 7 States with the greatest total dollar amount of commercial-lines insurance in place as of the end of such period.

(B) Alternate composition.—If any of the State insurance regulators described in subparagraph (A) declines to serve on the Board, the State insurance regulator with the next greatest total dollar amount of commercial-lines insurance in place, as determined by the NAIC as of the end of such period, shall serve as a member of the Board.

(C) Inoperability.—If fewer than 7 State insurance regulators accept appointment to the Board, the Association shall be established without NAIC oversight pursuant to section 332.

(d) Terms.—The term of each director shall, after the initial appointment of the members of the Board, be for 3 years, with ⅓ of the directors to be appointed each year.

(e) Board Vacancies.—A vacancy on the Board shall be filled in the same manner as the original appointment of the initial Board for the remainder of the term of the vacating member.

(f) Meetings.—The Board shall meet at the call of the chairperson, or as otherwise provided by the bylaws of the Association.

SEC. 327. OFFICERS.

(a) In General.—

(1) Positions.—The officers of the Association shall consist of a chairperson and a vice chairperson of the Board, a president, secretary, and treasurer of the Association, and such other officers and assistant officers as may be deemed necessary.

(2) Manner of selection.—Each officer of the Board and the Association shall be elected or appointed at such time and in such manner and for such terms not exceeding 3 years as may be prescribed in the bylaws of the Association.

(b) Criteria for Chairperson.— Only individuals who are members of the National Association of Insurance Commissioners shall be eligible to serve as the chairperson of the board of directors.

SEC. 328. BYLAWS, RULES, AND DISCIPLINARY ACTION.

(a) Adoption and Amendment of Bylaws.—

(1) Copy required to be filed with the NAIC.—The board of directors of the Association shall file with the NAIC a copy of the proposed bylaws or any proposed amendment to the bylaws, accompanied by a concise general statement of the basis and purpose of such proposal.

(2) Effective date.—Except as provided in paragraph (3), any proposed bylaw or proposed amendment shall take effect—

(A) 30 days after the date of the filing of a copy with the NAIC;

(B) upon such later date as the Association may designate; or

(C) such earlier date as the NAIC may determine.

(3) Disapproval by the NAIC.—Notwithstanding paragraph (2), a proposed bylaw or amendment shall not take effect if, after public notice and opportunity to participate in a public hearing—

(A) the NAIC disapproves such proposal as being contrary to the public interest or contrary to the purposes of this subtitle and provides notice to the Association setting forth the reasons for such disapproval; or

(B) the NAIC finds that such proposal involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying the Association in writing of such finding, require that the procedures set forth in subsection (b) be followed with respect to such proposal, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such paragraph.

(b) Adoption and Amendment of Rules.—

(1) Filing proposed regulations with the NAIC.—

(A) In general.—The board of directors of the Association shall file with the NAIC a copy of any proposed rule or any proposed amendment to a rule of the Association which shall be accompanied by a concise general statement of the basis and purpose of such proposal.

(B) Other rules and amendments ineffective.—No proposed rule or amendment shall take effect unless approved by the NAIC or otherwise permitted in accordance with this paragraph.

(2) Initial consideration by the NAIC.—Within 35 days after the date of publication of notice of filing of a proposal, or before the end of such longer period not to exceed 90 days as the NAIC may designate after such date if the NAIC finds such longer period to be appropriate and sets forth its reasons for so finding, or as to which the Association consents, the NAIC shall—

(A) by order approve such proposed rule or amendment; or

(B) institute proceedings to determine whether such proposed rule or amendment should be modified or disapproved.

(3) NAIC PROCEEDINGS.—

(A) IN GENERAL.—Proceedings instituted by the NAIC with respect to a proposed rule or amendment pursuant to paragraph (2) shall—

(i) include notice of the grounds for disapproval under consideration;

(ii) provide opportunity for hearing; and

(iii) be concluded within 180 days after the date of the Association's filing of such proposed rule or amendment.

(B) DISPOSITION OF PROPOSAL.—At the conclusion of any proceeding under subparagraph (A), the NAIC shall, by order, approve or disapprove the proposed rule or amendment.

(C) EXTENSION OF TIME FOR CONSIDERATION.—The NAIC may extend the time for concluding any proceeding under subparagraph (A) for—

(i) not more than 60 days if the NAIC finds good cause for such extension and sets forth its reasons for so finding; or

(ii) for such longer period as to which the Association consents.

(4) STANDARDS FOR REVIEW.—

(A) GROUNDS FOR APPROVAL.—The NAIC shall approve a proposed rule or amendment if the NAIC finds that the rule or amendment is in the public interest and is consistent with the purposes of this Act.

(B) APPROVAL BEFORE END OF NOTICE PERIOD.—The NAIC shall not approve any proposed rule before the end of the 30-day period beginning on the date the Association files proposed rules or amendments in accordance with paragraph (1) unless the NAIC finds good cause for so doing and sets forth the reasons for so finding.

(5) ALTERNATE PROCEDURE.—

(A) IN GENERAL.—Notwithstanding any provision of this subsection other than subparagraph (B), a proposed rule or amendment relating to the administration or organization of the Association may take effect—

(i) upon the date of filing with the NAIC, if such proposed rule or amendment is designated by the Association as relating solely to matters which the NAIC, consistent with the public interest and the purposes of this subsection, determines by rule do not require the procedures set forth in this paragraph; or

(ii) upon such date as the NAIC shall for good cause determine.

(B) ABROGATION BY THE NAIC.—

(i) IN GENERAL.—At any time within 60 days after the date of filing of any proposed rule or amendment under subparagraph (A)(i) or (B)(ii), the NAIC may repeal such rule or amendment and require that the rule or amendment be refiled and reviewed in accordance with this paragraph, if the NAIC finds that such action is necessary or appropriate in the public interest, for the protection of insurance producers or policyholders, or otherwise in furtherance of the purposes of this subtitle.

(ii) EFFECT OF RECONSIDERATION BY THE NAIC.—Any action of the NAIC pursuant to clause (i) shall—

(I) not affect the validity or force of a rule change during the period such rule or amendment was in effect; and

(II) not be considered to be final action.

(c) ACTION REQUIRED BY THE NAIC.—The NAIC may, in accordance with such rules as the NAIC determines to be necessary or appropriate to the public interest or to carry out the purposes of this subtitle, require the Association to adopt, amend, or repeal any bylaw, rule or amendment of the Association, whenever adopted.

(d) DISCIPLINARY ACTION BY THE ASSOCIATION.—

(1) SPECIFICATION OF CHARGES.—In any proceeding to determine whether membership shall be denied, suspended, revoked, and not renewed (hereafter in this section referred to as a "disciplinary action"), the Association shall bring specific charges, notify such member of such charges and give the member an opportunity to defend against the charges, and keep a record.

(2) SUPPORTING STATEMENT.—A determination to take disciplinary action shall be supported by a statement setting forth—

(A) any act or practice in which such member has been found to have been engaged;

(B) the specific provision of this subtitle, the rules or regulations under this subtitle, or the rules of the Association which any such act or practice is deemed to violate; and

(C) the sanction imposed and the reason for such sanction.

(e) NAIC REVIEW OF DISCIPLINARY ACTION.—

(1) NOTICE TO THE NAIC.—If the Association orders any disciplinary action, the Association shall promptly notify the NAIC of such action.

(2) REVIEW BY THE NAIC.—Any disciplinary action taken by the Association shall be subject to review by the NAIC—

(A) on the NAIC's own motion; or

(B) upon application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action, or the institution of review by the NAIC on the NAIC's own motion, shall not operate as a stay of disciplinary action unless the NAIC otherwise orders.

(g) SCOPE OF REVIEW.—

(A) IN GENERAL.—In any proceeding to review such action, after notice and the opportunity for hearing, the NAIC shall—

(i) determine whether the action should be taken;

(ii) affirm, modify, or rescind the disciplinary sanction; or

(iii) remand to the Association for further proceedings.

(B) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review disciplinary action if the NAIC finds that—

(i) the specific grounds on which the action is based exist in fact;

(ii) the action is in accordance with applicable rules and regulations; and

(iii) such rules and regulations are, and were, applied in a manner consistent with the purposes of this Act.

SEC. 329. ASSESSMENTS.

(a) INSURANCE PRODUCERS SUBJECT TO ASSESSMENT.—The Association may establish such application and membership fees as the Association finds necessary to cover the costs of its operations, including fees made reimbursable to the NAIC under subsection (b), except that, in setting such fees, the Association may not discriminate against smaller insurance producers.

(b) NAIC ASSESSMENTS.—The NAIC may assess the Association for any costs it incurs under this subtitle.

SEC. 330. FUNCTIONS OF THE NAIC.

(a) ADMINISTRATIVE PROCEDURE.—Determinations of the NAIC, for purposes of making rules pursuant to section 328, shall be made after appropriate notice and opportunity for a hearing and for submission of views of interested persons.

(b) EXAMINATIONS AND REPORTS.—

(1) The NAIC may make such examinations and inspections of the Association and require the Association to furnish it with such reports and records or copies thereof as the NAIC may consider necessary or appropriate in the public interest or to effectuate the purposes of this subtitle.

(2) As soon as practicable after the close of each fiscal year, the Association shall submit to the NAIC a written report regarding the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year. The NAIC shall transmit such report to the President and the Congress with such comment thereon as the NAIC determines to be appropriate.

SEC. 331. LIABILITY OF THE ASSOCIATION AND THE DIRECTORS, OFFICERS, AND EMPLOYEES OF THE ASSOCIATION.

(a) IN GENERAL.—The Association shall not be deemed to be an insurer or insurance producer within the meaning of any State law, rule, regulation, or order regulating or taxing insurers, insurance producers, or other entities engaged in the business of insurance, including provisions imposing premium taxes, regulating insurer solvency or financial condition, establishing guaranty funds and levying assessments, or requiring claims settlement practices.

(b) LIABILITY OF THE ASSOCIATION, ITS DIRECTORS, OFFICERS, AND EMPLOYEES.—Neither the Association nor any of its directors, officers, or employees shall have any liability to any person for any action taken or omitted in good faith under or in connection with any matter subject to this subtitle.

SEC. 332. ELIMINATION OF NAIC OVERSIGHT.

(a) IN GENERAL.—The Association shall be established without NAIC oversight and the provisions set forth in section 324, subsections (a), (b), (c), and (e) of section 328, and sections 329(b) and 330 of this subtitle shall cease to be effective if, at the end of the 2-year period after the date on which the provisions of this subtitle take effect pursuant to section 321—

(1) at least a majority of the States representing at least 50 percent of the total United States commercial-lines insurance premiums have not satisfied the uniformity or reciprocity requirements of subsections (a) and (b) of section 321; and

(2) the NAIC has not approved the Association's bylaws as required by section 328, the NAIC is unable to operate or supervise the Association, or the Association is not conducting its activities as required under this Act.

(b) BOARD APPOINTMENTS.—If the repeals required by subsection (a) are implemented—

(1) GENERAL APPOINTMENT POWER.—The President, with the advice and consent of the United States Senate, shall appoint the members of the Association's Board established under section 326 from lists of candidates recommended to the President by the National Association of Insurance Commissioners.

(2) PROCEDURES FOR OBTAINING NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS APPOINTMENT RECOMMENDATIONS.—

(A) INITIAL DETERMINATION AND RECOMMENDATIONS.—After the date on which the provisions of part a of this section take effect, then the National Association of Insurance Commissioners shall have 60 days to provide a list of recommended candidates to the President. If the National Association of Insurance Commissioners fails to provide a list by that date, or if any list that is provided does not include at least 14 recommended candidates or comply with the requirements of section 326(c), the President shall, with the advice and consent of the United States Senate, make the requisite appointments without considering the views of the NAIC.

(B) Subsequent appointments.—After the initial appointments, the National Association of Insurance Commissioners shall provide a list of at least 6 recommended candidates for the Board to the President by January 15 of each subsequent year. If the National Association of Insurance Commissioners fails to provide a list by that date, or if any list that is provided does not include at least 6 recommended candidates or comply with the requirements of section 326(c), the President, with the advice and consent of the Senate, shall make the requisite appointments without considering the views of the NAIC.

(C) Presidential oversight.—

(i) Removal.—If the President determines that the Association is not acting in the interests of the public, the President may remove the entire existing Board for the remainder of the term to which the members of the Board were appointed and appoint, with the advice and consent of the Senate, new members to fill the vacancies on the Board for the remainder of such terms.

(ii) Suspension of rules or actions.—The President, or a person designated by the President for such purpose, may suspend the effectiveness of any rule, or prohibit any action, of the Association which the President or the designee determines is contrary to the public interest.

(d) Annual Report.—As soon as practicable after the close of each fiscal year, the Association shall submit to the President and to Congress a written report relative to the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year.

SEC. 333. RELATIONSHIP TO STATE LAW.

(a) Preemption of State Laws.—State laws, regulations, provisions, or actions purporting to regulate insurance producers shall be preempted in the following instances:

(1) No State shall impede the activities of, take any action against, or apply any provision of law or regulation to, any insurance producer because that insurance producer or any affiliate plans to become, has applied to become, or is a member of the Association.

(2) No State shall impose any requirement upon a member of the Association that it pay different fees to be licensed or otherwise qualified to do business in that State, including bonding requirements, based on its residency.

(3) No State shall impose any licensing, appointment, integrity, personal or corporate qualifications, education, training, experience, residency, or continuing education requirement upon a member of the Association that is different than the criteria for membership in the Association or renewal of such membership, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(4) No State shall implement the procedures of such State's system of licensing or renewing the licenses of insurance producers in a manner different from the authority of the Association under section 325.

(b) Savings Provision.—Except as provided in subsection (a), no provision of this section shall be construed as altering or affecting the continuing effectiveness of any law, regulation, provision, or action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including, but not limited to, countersignature laws.

SEC. 334. COORDINATION WITH OTHER REGULATORS.

(a) Coordination With State Insurance Regulators.—The Association shall have the authority to—

(1) issue uniform insurance producer applications and renewal applications that may be used to apply for the issuance or removal of State licenses, while preserving the ability of each State to impose such conditions on the issuance or renewal of a license as are consistent with section 333;

(2) establish a central clearinghouse through which members of the Association may apply for the issuance or renewal of licenses in multiple States; and

(3) establish or utilize a national database for the collection of regulatory information concerning the activities of insurance producers.

(b) Coordination With the National Association of Securities Dealers.—The Association shall coordinate with the National Association of Securities Dealers in order to ease any administrative burdens that fall on persons that are members of both associations, consistent with the purposes of this subtitle and the Federal securities laws.

SEC. 335. JUDICIAL REVIEW.

(a) Jurisdiction.—The appropriate United States district court shall have exclusive jurisdiction over litigation involving the Association, including disputes between the Association and its members that arise under this subtitle. Suits brought in State court involving the Association shall be deemed to have arisen under Federal law and therefore be subject to jurisdiction in the appropriate United States district court.

(b) Exhaustion of Remedies.—An aggrieved person must exhaust all available administrative remedies before the Association and the NAIC before it may seek judicial review of an Association decision.

(c) Standards of Review.—The standards set forth in section 553 of title 5, United States Code, shall be applied whenever a rule or bylaw of the Association is under judicial review, and the standards set forth in section 554 of title 5, United States Code, shall be applied whenever a disciplinary action of the Association is judicially reviewed.

SEC. 336. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) Insurance.—The term "insurance" means any product defined or regulated as insurance by the appropriate State insurance regulatory authority.

(2) Insurance producer.—The term "insurance producer" means any insurance agent or broker, surplus lines broker, insurance consultant, limited insurance representative, and any other person that solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance or offers advice, counsel, opinions or services related to insurance.

(3) State law.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(4) State.—The term "State" includes any State, the District of Columbia, American Samoa, Guam, Puerto Rico, and the United States Virgin Islands.

(5) Home state.—The term "home State" means the State in which the insurance producer maintains its principal place of residence and is licensed to act as an insurance producer.

TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

SEC. 401. TERMINATION OF EXPANDED POWERS FOR NEW UNITARY S&L HOLDING COMPANIES.

(a) In General.—Section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)) is amended by adding at the end the following new paragraph:

"(9) Termination of expanded powers for new unitary S&L holding company.—

"(A) In general.—Subject to subparagraph (B), paragraph (3) shall not apply with respect to any company that becomes a savings and loan holding company pursuant to an application filed after March 31, 1998.

"(B) Existing unitary S&L holding companies and the successors to such companies.—Subparagraph (A) shall not apply, and paragraph (3) shall continue to apply, to a company (or any subsidiary of such company) that—

"(i) either—

"(I) acquired 1 or more savings associations described in paragraph (3) pursuant to applications at least 1 of which was filed before April 1, 1998; or

"(II) became a savings and loan holding company by acquiring ownership or control of the company described in subclause (I); and

"(ii) continues to control the savings associations referred to in clause (i)(I) or the successor to any such savings association.".

(b) Technical and Conforming Amendment.—Section 10(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)(3)) is amended by striking "Notwithstanding" and inserting "Except as provided in paragraph (9) and notwithstanding".

The CHAIRMAN. No amendment to that amendment in the nature of a substitute is in order unless printed in part 2 of that report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, shall be considered debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chair may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider Amendment No. 1 printed in part 2 of House Report 105–531.

AMENDMENT NO. 1 OFFERED BY MR. BLILEY

Mr. BLILEY. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 printed in part 2 of House Report 105–531 offered by Mr. BLILEY:

[1. CUSTOMER FEE DISCLOSURE]

At the end of title II of the Amendment in the Nature of a Substitute, insert the following new subtitle (and conform the table of contents accordingly):

Subtitle E—Disclosure of Customer Costs of Acquiring Financial Products

SEC. 251. IMPROVED AND CONSISTENT DISCLOSURE.

(a) REVISED REGULATIONS REQUIRED.—Within one year after the date of enactment of this Act, each Federal financial regulatory authority shall prescribe rules, or revisions to its rules, to improve the accuracy, simplicity, and completeness, and to make more consistent, the disclosure of information by persons subject to the jurisdiction of such regulatory authority concerning any commissions, fees, markups, or other costs incurred by customers in the acquisition of financial products.

(b) CONSULTATION.—In prescribing rules and revisions under subsection (a), the Federal financial regulatory authorities shall consult with each other and with appropriate State financial regulatory authorities.

(c) CONSIDERATION OF EXISTING DISCLOSURES.—In prescribing rules and revisions under subsection (a), the Federal financial regulatory authorities shall consider the sufficiency and appropriateness of then existing laws and rules applicable to persons subject to their jurisdiction, and may prescribe exemptions from the rules and revisions required by subsection (a) to the extent appropriate in light of the objective of this section to increase the consistency of disclosure practices.

(d) ENFORCEMENT.—Any rule prescribed by a Federal financial regulatory authority pursuant to this section shall, for purposes of enforcement, be treated as a rule prescribed by such regulatory authority pursuant to the statute establishing such regulatory authority's jurisdiction over the persons to whom such rule applies.

(e) DEFINITION.—As used in this section, the term "Federal financial regulatory authority" means the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Commodity Futures Trading Commission, and any self-regulatory organization under the supervision of any of the foregoing.

[2. SEC BACKUP AUTHORITY]

In section 17(i)(6) of the Securities Exchange Act of 1934, as amended by section 231(a) of the Amendment in the Nature of a Substitute, after "For purposes of this subsection" insert "and subsection (j)".

In section 17 of the Securities Exchange Act of 1934, as amended by section 231(a) of the Amendment in the Nature of a Substitute, redesignate subsection (j) as subsection (k) and before such redesignated subsection (k) insert the following new subsection:

"(j) COMMISSION BACKUP AUTHORITY.—

"(1) AUTHORITY.—The Commission may make inspections of any wholesale financial holding company that—

"(A) controls a wholesale financial institution,

"(B) is not a foreign bank, and

"(C) does not control an insured bank (other than an institution permitted under subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956) or a savings association,

and any affiliate of such company, for the purpose of monitoring and enforcing compliance by the wholesale financial holding company with the Federal securities laws.

"(2) LIMITATION.—The Commission shall limit the focus and scope of any inspection under paragraph (1) to those transactions, policies, procedures, or records that are reasonably necessary to monitor and enforce compliance by the wholesale financial holding company or any affiliate with the Federal securities laws.

"(3) DEFERENCE TO EXAMINATIONS.—To the fullest extent possible, the Commission shall use, for the purposes of this subsection, the reports of examinations—

"(A) made by the Board of Governors of the Federal Reserve System of any wholesale financial holding company that is supervised by the Board;

"(B) made by or on behalf of any State regulatory agency responsible for the supervision of an insurance company of any licensed insurance company; and

"(C) made by any Federal or State banking agency of any bank or institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956.

"(4) NOTICE.—To the fullest extent possible, the Commission shall notify the appropriate regulatory agency prior to conducting an inspection of a wholesale financial institution or institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956.

[3. SAVINGS CLAUSE FOR CFTC]

At the end of subtitle A of title II of the Amendment in the Nature of a Substitute, insert the following new section (and conform the table of contents accordingly):

SEC. 210. RULE OF CONSTRUCTION.

Nothing in this Act shall supersede, affect, or otherwise limit the scope and applicability of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

[4. CONSUMER PROTECTION]

In subparagraph (A) of section 45(a)(1) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, insert "practices" after "retail sales".

In paragraph (1) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike "(1) No provision" and insert "(1) IN GENERAL.—No provision".

In paragraph (1)(B) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, insert "except as provided in paragraph (2)," after "(B)".

In paragraph (2) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike "(2) Regulations" and insert "'(2) COORDINATION WITH STATE LAW.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), regulations".

At the end of paragraph (2) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, add the following new subparagraph:

(B) PREEMPTION.—If, with respect to any provision of the regulations prescribed under this section, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Board of Directors of the Federal Deposit Insurance Corporation determine jointly that the protection afforded by such provision for consumers is greater than the protection provided by a comparable provision of the statutes, regulations, orders, or interpretations referred to in subparagraph (A) of any State, such provision of the regulations prescribed under this section shall supersede the comparable provision of such State statute, regulation, order, or interpretation.

[5. LIFELINE BANKING]

In paragraph (1) of section 6(d) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, strike "or (C)" and insert "(C), or (D)".

In paragraph (4)(D) of section 6(d) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, strike "or (C)" and insert "(C), or (D)".

[6. STATE SECURITIES AND INSURANCE]

In section 104(a)(1) of the Amendment in the Nature of a Substitute, strike "restrict" and insert "significantly interfere with the ability of".

In section 104(a)(1) of the Amendment in the Nature of a Substitute, strike "from being" and insert "to be".

In section 104(b)(1) of the Amendment in the Nature of a Substitute, strike "paragraphs (2) and (3) and subject to section 18(c) of the Securities Act of 1933" and insert "paragraphs (2), (3), and (4)".

In section 104(b)(1) of the Amendment in the Nature of a Substitute, strike "restrict" and insert "significantly interfere with the ability of".

In section 104(b)(1) of the Amendment in the Nature of a Substitute, strike "from engaging," and insert "to engage,".

In section 104(b)(2) of the Amendment in the Nature of a Substitute, strike "As stated by the United States Supreme Court" and insert "In accordance with the decision of the Supreme Court of the United States".

In section 104(b)(2) of the Amendment in the Nature of a Substitute, strike subparagraph (B) and insert the following new subparagraph:

(B) subparagraph (A) shall not create any inference regarding State statutes and regulations governing insurance sales and solicitations other than State statutes and regulations described in subparagraph (A).

In section 104(b) of the Amendment in the Nature of a Substitute, strike paragraph (3) and insert the following new paragraph:

(3) State statutes, regulations, orders, and interpretations or otherwise shall not be preempted under paragraph (1) if they—

(A) relate to, or are enacted or issued for the purpose of regulating, the business of insurance in accordance with the McCarran-Ferguson Act;

(B) apply only to entities that are not insured depository institutions or wholesale financial institutions but which are engaged in the business of insurance;

(C) do not relate to, and are not enacted or issued for the purpose of regulating—

(i) cross-marketing; or

(ii) activities, including cross-marketing, which are subject to paragraph (2);

(D) are applicable to and are applied in the same manner with respect to an affiliate of an insured depository institution or a wholesale financial institution as they are applicable to and are applied to those entities that are not affiliated with an insured depository institution or a wholesale financial institution; and

(E) do not prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution to engage in activities authorized for such institution under this Act or any other provision of Federal law.

In section 104(b) of the Amendment in the Nature of a Substitute, after paragraph (3) insert the following new paragraph:

(4) Paragraphs (1) and (2) shall not be construed as affecting the jurisdiction of the securities commission (or any agency or office performing like functions) of any State, under the laws of such State, to investigate and bring enforcement actions, consistent with section 18(c) of the Securities Act of 1933, with respect to fraud or deceit or unlawful conduct by any person, in connection with securities or securities transactions.

After section 116 of the Amendment in the Nature of a Substitute, insert the following new section (and amend the table of contents accordingly):

SEC. 117. INTERAGENCY CONSULTATION.

(a) PURPOSE.—It is the intention of Congress that the Board of Governors of the Federal Reserve System, as the umbrella supervisor for financial holding companies, and the State insurance regulators, as the functional regulators of companies engaged in insurance activities, coordinate efforts to supervise companies that control both a depository institution and a company engaged in insurance activities regulated under State law. In particular, Congress believes that the Board and the State insurance regulators should share, on a confidential basis, information relevant to the supervision of companies that control both a depository institution and a company engaged in insurance activities, including information regarding the financial health of the consolidated organization and information regarding transactions and relationships between insurance companies and affiliated depository institutions. The appropriate Federal banking agencies for depository institutions should also share, on a confidential basis, information with the relevant State insurance regulators regarding transactions and relationships between depository institutions and affiliated companies engaged in insurance activities. The purpose of this section is to encourage this coordination and confidential sharing of information, and to thereby improve both the efficiency and the quality of the supervision of financial holding companies and their affiliated depository institutions and companies engaged in insurance activities.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—

(1) INFORMATION OF THE BOARD.—Upon the request of the appropriate insurance regulator of any State, the Board may provide any information of the Board regarding the financial condition, risk management policies, and operations of any financial holding company that controls a company that is engaged in insurance activities and is regulated by such State insurance regulator, and regarding any transaction or relationship between such an insurance company and any affiliated depository institution. The Board may provide any other information to the appropriate State insurance regulator that the Board believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(2) BANKING AGENCY INFORMATION.—Upon the request of the appropriate insurance regulator of any State, the appropriate Federal banking agency may provide any information of the agency regarding any transaction or relationship between a depository institution supervised by such Federal banking agency and any affiliated company that is engaged in insurance activities regulated by such State insurance regulator. The appropriate Federal banking agency may provide any other information to the appropriate State insurance regulator that the agency believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(3) STATE INSURANCE REGULATOR INFORMATION.—Upon the request of the Board or the appropriate Federal banking agency, a State insurance regulator may provide any examination or other reports, records, or other information to which such insurance regulator may have access with respect to a company which—

(A) is engaged in insurance activities and regulated by such insurance regulator; and

(B) is an affiliate of an insured depository institution, wholesale financial institution, or financial holding company.

(c) CONSULTATION.—Before making any determination relating to the initial affiliation of, or the continuing affiliation of, an insured depository institution, wholesale financial institution, or financial holding company with a company engaged in insurance activities, the appropriate Federal banking agency shall consult with the appropriate State insurance regulator of such company and take the views of such insurance regulator into account in making such determination.

(d) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to an insured depository institution, wholesale financial institution, or bank holding company or any affiliate thereof under any provision of law.

(e) CONFIDENTIALITY AND PRIVILEGE.—

(1) CONFIDENTIALITY.—The appropriate Federal banking agency shall not provide any information or material that is entitled to confidential treatment under applicable Federal banking agency regulations, or other applicable law, to a State insurance regulator unless such regulator agrees to maintain the information or material in confidence and to take all reasonable steps to oppose any effort to secure disclosure of the information or material by the regulator. The appropriate Federal banking agency shall treat as confidential any information or material obtained from a State insurance regulator that is entitled to confidential treatment under applicable State regulations, or other applicable law, and take all reasonable steps to oppose any effort to secure disclosure of the information or material by the Federal banking agency.

(2) PRIVILEGE.—The provision pursuant to this section of information or material by a Federal banking agency or State insurance regulator shall not constitute a waiver of, or otherwise affect, any privilege to which the information or material is otherwise subject.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY; INSURED DEPOSITORY INSTITUTION.—The terms "appropriate Federal banking agency" and "insured depository institution" shall have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) BOARD; FINANCIAL HOLDING COMPANY; AND WHOLESALE FINANCIAL INSTITUTION.—The terms "Board", "financial holding company", and "wholesale financial institution" shall have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

In paragraph (1) of section 309 of the Amendment in the Nature of a Substitute, strike "restrict" and insert "significantly interfere with the ability of".

In paragraph (1) of section 309 of the Amendment in the Nature of a Substitute, strike "from becoming" and insert "to become".

In paragraph (1) of section 309 of the Amendment in the Nature of a Substitute, strike "from acquiring" and insert "to acquire".

In paragraph (3) of section 309 of the Amendment in the Nature of a Substitute, strike "restrict" and insert "significantly interfere with".

[7. BROKERAGE COMMISSIONS]

In section 3(a)(4)(B) of the Securities Exchange Act of 1934, as amended by section 201 of the Amendment in the Nature of a Substitute, strike clause (ii) (relating to trust activities) and insert the following:

"(ii) TRUST ACTIVITIES.—The bank effects transactions in a trustee capacity, or effects transactions in a fiduciary capacity in its trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards, and (in either case)—

"(I) is primarily compensated on the basis of an administration or annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management, or a flat or capped per order processing fee, or any combination of such fees, but does not otherwise receive brokerage commissions, or other similar remuneration based on effecting transactions in securities, that exceed the cost incurred by the bank in connection with executing securities transactions for trustee or fiduciary customers; and

"(II) does not publicly solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.

In section 3(a)(4)(B) of the Securities Exchange Act of 1934, as amended by section 201 of the Amendment in the Nature of a Substitute, strike clause (iv) (relating to certain stock purchase plans) and insert the following:

"(iv) CERTAIN STOCK PURCHASE PLANS.—

"(I) EMPLOYEE BENEFIT PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of any pension, retirement, profit-sharing, bonus, thrift, savings, incentive, or other similar benefit plan for the employees of that issuer or its subsidiaries, if—

"(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan; and

"(bb) the bank's compensation for such plan or program consists of administration fees, or flat or capped per order processing fees, or both, but the bank does not otherwise receive brokerage commissions, or other similar remuneration based on effecting transactions in securities, that exceed the cost incurred by the bank in connection with executing securities transactions under this subclause (I).

"(II) DIVIDEND REINVESTMENT PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of that issuer's dividend reinvestment plan, if—

"(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan;

"(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

"(cc) the bank's compensation for such plan or program consists of administration fees, or flat or capped per order processing fees, or both, but the bank does not otherwise receive brokerage commissions, or other similar remuneration based on effecting transactions in securities, that exceed the cost incurred by the bank in connection with executing securities transactions under this subclause (II).

"(III) ISSUER PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of a plan or program for the purchase or sale of that issuer's shares, if—

"(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan or program;

"(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

"(cc) the bank's compensation for such plan or program consists of administration fees, or flat or capped per order processing fees, or both, but the bank does not otherwise receive brokerage commissions, or other similar remuneration based on effecting transactions in securities, that exceed the cost incurred by the bank in connection with executing securities transactions under this subclause (III).

"(IV) PERMISSIBLE DELIVERY OF MATERIALS.—The exception to being considered a broker for a bank engaged in activities described in subclauses (I), (II), and (III) will not be affected by a bank's delivery of written or electronic plan materials to employees of the issuer, shareholders of the issuer, or members of affinity groups of the issuer, so long as such materials are—

"(aa) comparable in scope or nature to that permitted by the Commission as of the date of the enactment of the Financial Services Act of 1998; or

"(bb) otherwise permitted by the Commission."

[8. ANTITRUST]

Strike subtitle E of title I of the Amendment in the Nature of a Substitute and insert the following new subtitle (and conform the table of contents accordingly):

"Subtitle E—Preservation of FTC Authority

"SEC. 141. AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956 TO MODIFY NOTIFICATION AND POST-APPROVAL WAITING PERIOD FOR SECTION 3 TRANSACTIONS.

"Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting "and, if the transaction also involves an acquisition under section 4 or section 6, the Board shall also notify the Federal Trade Commission of such approval" before the period at the end of the 1st sentence.

"SEC. 142. INTERAGENCY DATA SHARING.

"To the extent not prohibited by other law, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System shall make available to the Attorney General and the Federal Trade Commission any data in the possession of any such banking agency that the antitrust agency deems necessary for antitrust review of any transaction requiring notice to any such antitrust agency or the approval of such agency under section 3, 4, or 6 of the Bank Holding Company Act of 1956, section 18(c) of the Federal Deposit Insurance Act, the National Bank Consolidation and Merger Act, section 10 of the Home Owners' Loan Act, or the antitrust laws.

"SEC. 143. CLARIFICATION OF STATUS OF SUBSIDIARIES AND AFFILIATES.

"(a) CLARIFICATION OF FEDERAL TRADE COMMISSION JURISDICTION.—Any person which directly or indirectly controls, is controlled directly or indirectly by, or is directly or indirectly under common control with, any bank or savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act) and is not itself a bank or savings association shall not be deemed to be a bank or savings association for purposes of the Federal Trade Commission Act or any other law enforced by the Federal Trade Commission.

"(b) SAVINGS PROVISION.—No provision of this section shall be construed as restricting the authority of any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) under any Federal banking law, including section 8 of the Federal Deposit Insurance Act.

"(c) HART-SCOTT-RODINO AMENDMENT.—Section 7A(c)(7) of the Clayton Act (15 U.S.C. 18a(c)(7)) is amended by inserting before the semicolon at the end thereof the following: 'except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) requires notice under section 6 of the Bank Holding Company Act of 1956; and (B) does not require approval under section 3 or 4 of the Bank Holding Company Act of 1956'.

"SEC. 144. ANNUAL GAO REPORT.

"(a) IN GENERAL.—By the end of the 1-year period beginning on the date of the enactment of this Act and annually thereafter, the Comptroller General of the United States shall submit a report to the Congress on market concentration in the financial services industry and its impact on consumers.

"(b) ANALYSIS.—Each report submitted under subsection (a) shall contain an analysis of—

"(1) the positive and negative effects of affiliations between various types of financial companies, and of acquisitions pursuant to this Act and the amendments made by this Act to other provisions of law, including any positive or negative effects on consumers, area markets, and submarkets thereof or on registered securities brokers and dealers which have been purchased by depository institutions or depository institution holding companies;

"(2) the changes in business practices and the effects of any such changes on the availability of venture capital, consumer credit, and other financial services or products and the availability of capital and credit for small businesses; and

"(3) the acquisition patterns among depository institutions, depository institution holding companies, securities firms, and insurance companies including acquisitions among the largest 20 percent of firms and acquisitions within regions or other limited geographical areas."

[9. DERIVATIVE INSTRUMENTS]

In section 206(a)(1)(F) of the Amendment in the Nature of a Substitute, strike clauses (ii) and (iii), and insert the following:

"(ii) interest rates, except interest rate derivative instruments (I) that are based on a security or a group or index of securities (other than government securities or a group or index of government securities); (II) that provide for the delivery of one or more securities (other than government securities); or (III) that trade on a national securities exchange; or

"(iii) commodities, other rates, indices, or other assets, except derivative instruments (I) that are securities or that are based on a group or index of securities (other than government securities or a group or index of government securities); (II) that provide for the delivery of one or more securities (other than government securities); or (III) that trade on a national securities exchange."

In section 206(a)(3) of the Amendment in the Nature of a Substitute, strike "and" at the end of subparagraph (B); redesignate subparagraph (C) as subparagraph (D); and after subparagraph (B), insert the following new subparagraph:

"(C) the term 'government securities' has the meaning provided in section 3(a)(42) of such Act, and, for purposes of this subsection, commercial paper, bankers acceptances, and commercial bills shall be treated in the same manner as government securities; and".

[10. QUALIFIED INVESTOR]

In paragraph (55)(A) of section 3(a) of the Securities Exchange Act of 1934, as added by section 207 of the Amendment in the Nature of a Substitute, strike "or" at the end of clause (viii).

In paragraph (55)(A) of section 3(a) of the Securities Exchange Act of 1934, as added by section 207 of the Amendment in the Nature of a Substitute, strike the period at the end of clause (ix) and insert "; or".

In paragraph (55)(A) of section 3(a) of the Securities Exchange Act of 1934, as added by section 207 of the Amendment in the Nature of a Substitute, insert the following new clause after clause (ix):

"(x) the government of any foreign country."

[11. COMMUNITY NEEDS]

At the end of subtitle A of title I of the Amendment in the Nature of a Substitute, insert the following new section (and amend the table of contents accordingly):

"SEC. 109. RESPONSIVENESS TO COMMUNITY NEEDS FOR FINANCIAL SERVICES.

"(a) STUDY.—The Secretary of the Treasury, in consultation with the Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act) and the Securities and Exchange Commission, shall conduct a study of the extent to which adequate services are being provided as intended by the Community Reinvestment Act of 1977, including services in low- and moderate-income neighborhoods and for persons of modest means, as a result of the enactment of this Act.

"(b) REPORT.—Before the end of the 2-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Federal banking agencies and the Securities and Exchange Commission, shall submit a report to the Congress on the study conducted pursuant to subsection (a) and shall include such recommendations as the Secretary determines to be appropriate for administrative and legislative action with respect to institutions covered under the Community Reinvestment Act of 1977."

[12. PRIVACY STUDY]

After section 109 (as so added) of the Amendment in the Nature of a Substitute, insert the following new section (and amend the table of contents accordingly):

"SEC. 110. REPORTS ON ONGOING FTC STUDY OF CONSUMER PRIVACY ISSUES.

"With respect to the ongoing multistage study being conducted by the Federal Trade Commission on consumer privacy issues, the Commission shall submit to the Congress an interim report on the findings and conclusions of the Commission, together with such recommendations for legislative and administrative action as the Commission determines to be appropriate, at the conclusion of each stage of such study and a final report at the conclusion of the study."

[13. TECHNICAL CORRECTION]

In section 322(b) of the Amendment in the Nature of a Substitute, strike paragraph (1) and insert the following:

"(1) be a nonprofit corporation:"

The CHAIRMAN. Is the gentleman from Virginia (Mr. BLILEY) the designee of the gentleman from Iowa (Mr. LEACH)?

Mr. LEACH. Yes, Madam Chairman, he certainly is. With great pride I designate him such.

The CHAIRMAN. Under the rule, the gentleman from Virginia (Mr. BLILEY) does offer the amendment in his own right.

Pursuant to House Resolution 428, the gentleman from Virginia (Mr. BLILEY) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in strong support of the managers' amendment, which represents a bipartisan, bi-committee agreement that will significantly improve H.R. 10.

I thank my good friend and ranking Member, JOHN DINGELL, and Committee on Banking and Financial Services chairman, the gentleman from Iowa (Mr. LEACH), for their commitment to this legislation. They deserve a great deal of credit for being able to roll up their sleeves and make reasonable compromises. The result is one every Member can be proud to support, for it promotes good public policy for American consumers and American businesses.

The managers' amendment will strengthen investor and consumer protection, clarify regulations for the businesses that have to comply with them, and make regulatory standards more consistent for all parties in the insurance business, including banks. The agreement accomplishes all this without imposing any needless regulatory burdens.

The managers' amendment improves upon investor and consumer protection by providing for SEC regulatory authority over securities activities of wholesale financial institutions. It charges Federal regulators to review the adequacy of the disclosure of fees charged by financial institutions, but requires those regulators to consider the sufficiency of existing regulations when making that determination.

Consumers have a rate to understand the fees they are charged by their financial institutions. This amendment will help ensure they get or continue to get the disclosure they need.

The amendment preserves the authorities of State insurance and securities regulators. The amendment also makes the applicability of the Barnett "significant interference" test more uniform throughout the bill to prevent State insurance regulations from unfairly interfering with the insurance activities of banks.

The amendment ensures that banks can enter the brave new world of affiliations and continue to provide and be paid for trust and other securities-related services.

The managers' amendment also reserve the application of Hart-Scott-Rodino, the act that requires certain filings with the Justice Department when big companies merge. The act does not eliminate any exemption that currently applies under that act. Rather, it preserves current law as it would apply once H.R. 10 were signed into law.

The managers' amendment enjoys the strong support of Federal Reserve Board Chairman Greenspan, SEC Chairman Levitt, State securities and insurance regulators and a wide array of financial service providers.

This amendment will benefit every participant in our Nation's financial markets, from businesses to consumers. I urge every Member of this body to support this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. LAFALCE. Madam Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from New York (Mr. LAFALCE) is recognized for 15 minutes.

Mr. LAFALCE. Madam Chairman, I yield myself 4 minutes.

Madam Chairman, the bill before us today is extremely complex and controversial. It would usher in a new era and a new structure for financial services, one in which banking, investment, insurance and other services would be merged, and enormous financial resources could be concentrated in huge financial conglomerates.

□ 1415

I wish to commend the authors of the manager's amendment, therefore, for offering a number of important changes in H.R. 10 that I believe are essential if this legislation is to serve the needs and interests of consumers and investors.

The amendment would correct a provision relating to consumer protections in bank sales of insurance products that would otherwise have permitted any related State statute or regulation to preempt and nullify the consumer protections in Federal law and regulation.

The manager's amendment clarifies that the stronger Federal or State standard in terms of these specific protections provided to consumers will prevail. We had this in the Committee on Banking and Financial Services product; it is absolutely essential. I am delighted it is in the manager's amendment.

This change relates to specific consumer protection rules for insurance sales which, as I said, were in the original Committee on Banking and Financial Services product. A number of colleagues have related concerns which I share about how the broader preemption language in section 104 will affect and possibly preempt other State consumer statutes. Regrettably, the manager's amendment does not address this issue.

The amendment corrects a serious shortcoming of the bill relating to a provision originally sponsored by the gentlewoman from California (Ms. WATERS) that now requires financial services holding companies to offer and maintain low-cost, basic banking accounts for lower-income consumers, but provides for no enforcement authority. The amendment, the manager's amendment, provides this needed authority to assure ongoing compliance with this important requirement.

The manager's amendment also addresses the problem of potential new and undisclosed charges to consumers in the cross-marketing of financial products by banks. It gives the financial regulators authority to issue new or revised rules that will improve the disclosure of information about fees, commissions and other costs to consumers.

The manager's amendment also makes other important changes to enhance SEC authority, to protect individual investors, to preserve the FTC's authority to review the antitrust implications of bank mergers and to require expanded studies of consumer privacy issues and CRA compliance by banks.

Madam Chairman, financial modernization presents enormous potential benefits to consumers in terms of new products, greater convenience and lower cost. But if we permit this process to undermine consumer rights and rob their pocketbooks, we have achieved neither reform nor modernization.

The manager's amendment makes a number of needed changes in H.R. 10 that can help assure that the consumer will benefit. It does not go far enough, but what it does do it does in the right direction, and therefore, I would urge adoption of the manager's amendment.

Madam Chairman, I reserve the balance of my time.

Mr. BLILEY. Madam Chairman, I yield 6 minutes to the gentleman from Michigan (Mr. DINGELL) and I ask unanimous consent that he may control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. DINGELL. Madam Chairman, I want to thank my good friend, the gentleman from Virginia (Mr. BLILEY), the chairman of the Committee on Commerce. I yield myself 3 minutes.

Last month, Madam Chairman, USA Today carried an editorial with a title, "Protecting Consumers Is a Big Part of Reforming Bank Laws." With this amendment, the House will say resoundingly, "We agree." I would note to my colleagues that we have heard no condemnation nor criticism of the amendment.

Consumers Union today submitted a letter urging Members to vote for the manager's amendment, and I will insert that letter, and an explanation of the manager's amendment, following my remarks.

Breaking down the barriers between financial services industries raises serious risks to consumers. USA Today raised some of these.

Rip-off risks. The big promise to consumers from merging banking, securities and insurance firms is one-stop shopping. But that opens consumers up to enormous pressure to absorb all of the services that the banks can give. Clearly, a person badly in need of a loan is going to be extremely responsive to that, hardly a situation which we want. The manager's amendment protects against that.

Uninsured risks is another. Will bank customers be misled about which products are insured and which are not? Bank deposits are FDIC insured; if the bank goes under, taxpayers pony up to cover the deposits, as we had to do on savings and loans. Stock funds and other investment vehicles are not. Consumer groups complain that it will be too easy for banks to woo customers into higher-risk, higher-paying investments with consumers thinking that their assets are protected. Clear guidelines are a must, says USA Today. Our amendment provides them.

Taxpayers' risks. Taxpayers are also facing heightened risks. Banks might be tempted to use insured deposits as leverage to make riskier investments, knowing that if the investments turn sour, taxpayers will bail them out. That is what happened to the savings and loans in the bailouts of the late 1980s. It cost taxpayers hundreds of billions of dollars.

These are things against which the manager's amendment protects. The manager's amendment will also protect customers and consumers with strong protections against risks and abuses as banks move into other financial fields.

Madam Chairman, I would urge my colleagues to support this amendment, and at this time I will include for the RECORD the previously referred to materials.

PROTECTING CONSUMERS IS BIG PART OF REFORMING BANK LAWS

For many, many years, overhauling the banking industry has been one of Congress' favorite pastimes. Just promise to change the nation's Depression-era banking laws, and a host of competing industries starts flooding campaign coffers with cash in an effort to protest their interests. The trick for lawmakers was to not actually pass anything.

This week's announcement of an $83 billion merger of Citicorp and Travelers Group could bring that game to a halt. The marriage will likely prompt other banks to start courting insurance and securities firms. All of which will put intense pressure on lawmakers to get off the dime and kill the 1933 law that sought to minimize risks to depositors by preventing banks from underwriting securities or insurance products. But breaking down the financial service industry's firewalls also raises serious risks to consumers.

Rip-off risks. The big promise to consumers from merging banking, securities and insurance firms is one-stop shopping. But will those looking for a mortgage be pressured into buying other services from the lender? Or will banks offer package deals that seem appealing but are far more expensive than if each were bought separately? Some consumer-protection ground rules are needed here.

Uninsured risks. Will bank customers be misled about which products are insured and which aren't? Bank deposits are FDIC insured—if the bank goes under, taxpayers pony up to cover the deposits. Stock funds and other investment vehicles aren't. Consumer groups complain that it will be too easy for banks to woo customers to riskier, higher-paying investments, with customers thinking their assets are protected. Clear guidelines are a must.

Taxpayer risks. Taxpayers also face heightened risks. Banks might be tempted to use insured deposits as leverage to make riskier investments, knowing that if the investments turn sour, taxpayers will bail them out. That's what happened in the S&L bailout of the late '80s. It cost taxpayers hundreds of billions of dollars. Firms also might be tempted to loan that money to struggling subsidiaries—again boosting taxpayer risk. Strong safeguards against this "moral hazard" problem have to be in place.

It is nevertheless clear that banking laws designed for an economy 65 years ago don't work as well now. The goal of the 1933 Glass-Steagall Act was to keep banks separate from insurance and securities firms as a way to protect banks.

But the law has weakened banks. They've lost ground at home and abroad to more flexible foreign financial firms.

Responding to this concern, the Federal Reserve Board over the past decade used its authority as regulatory of bank holding companies to chip away slowly at the Glass-Steagall wall, giving banks more leeway to set up securities subsidiaries. The Fed has gone about as far as it can under the law. Congress has to tear down the rest of the wall.

As lawmakers remove obstacles to the brave new world of finance, they must take care not to leave the consumer behind.

CONSUMERS UNION,
Washington, DC, May 13, 1998.

VOTE FOR PRO-CONSUMER AMENDMENTS TO H.R. 10

DEAR REPRESENTATIVE: We are writing to urge you to vote for amendments to H.R. 10 that make substantial improvements for consumers. If these amendments are not adopted, we urge you to oppose the bill. The following amendments will help make the bill better for consumers.

Restoration of Consumer Protections, Basic Banking Enforcement and Fee Disclosure—Bliley-Dingell-Leach Amendment: H.R. 10 includes a package of consumer safeguards against deceptive and misleading bank insurance sales practices. Section 308(g)(2) would undo these safeguards by allowing states to preempt them with laws that are "contrary or inconsistent" to the protections provided. The amendment would fix the standard to conform with other consumer banking laws, ensuring state laws that provide greater protection than the federal regulations would not be preempted.

The amendment also mandates ongoing commonplace with H.R. 10's requirement that all depository institutions affiliated with financial services holding companies provide low-cost, basic banking accounts. In addition, the amendment requires improved fee and commission disclosures to enhance comparison shopping; deletes sections relating to antitrust authority that would limit the ability of regulators to assess certain competition problems associated with mergers; preserves the authority of antitrust regulators; and closes further certain loopholes in the securities laws as they apply to banks. We urge you to vote for the amendment.

We strongly urge you to oppose the Baker amendment that would rollback consumer safeguards for retail sales activities and eliminate Community Reinvestment Act (CRA) requirements for institutions with less than $100 million in assets.

Elimination of Banking and Consumer Provisions—Leach-Bereuter-Campbell Amendment: The longstanding barrier between banking and commerce is still needed to prevent our taxpayer-backed banking system from being exposed to the kinds of risks that have plagued Asian neighbors. H.R. 10 currently allows holding companies to derive 5% of their revenues from commercial activities, with some dollar limits. Some argue that this is small enough to avoid risks but many large firms may still come under that limit and the commercial firm can grow once in financial services holding company. The amendment would delete the 5% basket. On the other hand, we urge you to oppose the Roukema-Vento-Baker-McCollum-LaFalce amendment that would increase the basket to 10% or, in some cases, 15% and thereby create more risks to taxpayers.

Even with the adoption of these pro-consumer amendments that substantially improve the bill, we are extremely concerned about language that would place at risk state consumer laws that are critical in this increasingly complicated marketplace. Section 104(b)(1) would extend a sweeping preemption standard to any activity authorized not only under H.R. 10 but also under "any other provision of Federal law." Although this section was designed to address regulatory turf disagreements between insurance, securities and banking interests, this language places at risk a host of state consumer laws that protect consumers from excessive fees and otherwise protect consumers and has a chilling effect on state legislators. The Kucinich amendment, that would have addressed this problem, was not ruled in order. Because consumers are still at risk under this bill, Consumers Union cannot support the bill.

Sincerely,

MARY GRIFFIN.

EXPLANATION OF MANAGER'S AMENDMENT

The Bliley-Dingell-Leach manager's amendment consists in the main of the investor and consumer protections originally contained in the Dingell amendment. It addresses concerns raised by the Federal and State regulators and consumer groups, and incorporates the historical positions of the Commerce Committee on matters within its securities and insurance jurisdiction under the rules of the House. This statement is offered as clarification of the meaning of those provisions and shall constitute the legislative history. I am pleased to have been able to contribute to this important effort.

1. Customer Fee Disclosure. Section 251 directs the Federal financial regulators to review the adequacy of existing disclosures of fees, commissions, markups, and other costs, and, using existing authorities, to consider improving their accuracy, simplicity, completeness, and consistency. It is the intent of this provision that the regulators, prior to adopting any new rules or rule amendments pursuant to section 251, would first consult with each other, and with the appropriate State financial regulators, in determining whether any new rules or rule amendments are appropriate, necessary, and in the public interest. It is the intent of Congress that the Securities and Exchange Commission (SEC) should take the lead in setting disclosure standards with respect to securities, and that the Federal bank regulators should apply the same standards as those adopted by the SEC with respect to securities sold by banks. It is the intent of Congress that disclosure for consumers and investors be improved so that they can make informed decisions. The Congress intends to give the financial regulators flexibility to achieve this goal through any effective means, including increasing the disclosure of prices for debt securities.

2. SEC Backup Authority. Section 231(a) adds a new subsection (j) to section 17 of the Securities Exchange Act to give the SEC explicit securities inspection backup authority over wholesale financial holding companies and other bank affiliates for the purpose of monitoring and enforcing compliance with the Federal securities laws. In the same manner as bank regulators are required to rely on the SEC's oversight before inspecting registered broker-dealer affiliates of banks, the SEC is required, to the fullest extent possible, to defer to the reports of examinations of banks made by bank regulators and of insurance companies made by insurance regulators and to provide notice to the appropriate regulatory agency. Reasonable limits are imposed on the scope of any inspection under this subsection. It is the intent of Congress that this Act maintain the SEC's ability to enforce the Federal securities laws vigorously for the protection of investors.

3. Saving Clause For CFTC: By letter dated March 19, 1998, the Commodity Futures Trading Commission (CFTC) complained that the bill designates many CFTC-regulated products as "traditional banking products," thereby creating a misconception that banks dealing in certain defined derivatives might need only comply with Federal banking laws and not the Commodity Exchange Act (CEA). This is not the intent of the Congress. This bill and this amendment do not address the scope of the CFTC's jurisdiction under the CEA. Accordingly, section 210 explicitly preserves the current extent of the authority of the CFTC under the CEA.

4. Consumer Protection. Section 308 of the bill adds a new section 45 of the Federal Deposit Insurance Act directing the Federal banking agencies to prescribe consumer protection regulations for insurance sales by insured depository institutions and wholesale financial institutions. The regulations cover retail sales practices, disclosures and advertising (especially with respect to uninsured status, investment risk, and coercion), prohibition on misrepresentations and domestic violence discrimination, separation of some activities, and the establishment of a consumer grievance mechanism. The amendment responds to concerns of consumer groups and banks with the effect of this provision on other laws. It provides that the regulations prescribed under section 45 will preempt State law only if the Federal Reserve, Comptroller of the Currency, and FDIC jointly determine that the joint Federal regulations provide consumers with greater protection. It is not the intention of Congress that this preemption provision shall override or be read in a manner inconsistent with section 104 of this Act.

5. Lifeline Banking. Section 103 of the bill adds new section 6 to the Bank Holding Company Act. Section 6(b) establishes eligibility criteria for forming a financial holding company and engaging in its expanded activities. One of the requirements is that the subsidiary insured depository institutions of such company offer and maintain low-cost basic banking accounts. The amendment provides for ongoing compliance as is the case with the other requirements. The provision does not affect banks who choose not to form financial holding companies.

6. State Securities and Insurance. Section 104 of the bill would preempt all State laws, including State securities law and State insurance solvency laws, not specifically preserved with regard to affiliations and activities authorized by this Act or any other provision of Federal law. The amendment adds a new paragraph (4) to section 104(b) to preserve State regulation of securities. State regulation of insurance underwriting is preserved under a new paragraph (3) that sets forth five tests that must be met. The amendment makes clear that the U.S. Supreme Court Barnett Bank decision's "prevent or significantly interfere" standard will be applicable to both affiliations and activities with respect to allowable State regulation of bank insurance sales. Federal banking and State insurance regulators are directed to share information (consistent with applicable confidentiality and other privileges) regarding financial holding companies that own insurance companies, and Federal banking agencies shall consult with the appropriate State insurance regulator before making any determination regarding initial or continued affiliations with insurance companies. It is the intent of Congress that these regulators cooperate in order to enhance the safety and soundness of the financial system and the protection of consumers.

7. Brokerage Commission. Title II of the bill requires the functional regulation of bank securities activities. Subtitle A amends the Securities Exchange Act of 1934 to eliminate the outdated blanket exceptions for banks from the definitions of "broker" and "dealer." The bill preserves specific exceptions for some existing bank securities activities based on the limited nature of those activities. In general, the fifteen exceptions reflect our intent to exclude certain existing banking activities while ensuring that activities that require securities regulation are subject to the securities laws. These exceptions are designed to assure that activities that most need to be subject to securities regulation in an era of financial modernization and increasing competition do not escape that regulation.

It is the intent of Congress that banks that act like brokerage firms must be regulated as brokerage firms unless these activities are limited in nature, narrowly constrained, and subject to limits to preclude the concerns that require broker-dealer oversight. To that end, the amendment makes clear that a bank will not be considered a "broker" only when it effects transactions in a trustee capacity, or in a fiduciary capacity in its trust department, subject to key limitations, or when, acting in its transfer agent capacity, it conducts brokerage transactions for: (1) employee benefit plans, (2) dividend reinvestment plans, and (3) open enrollment plans, as long as the bank does not solicit transactions, or provide investment advice concerning the purchase and sale of securities, or receive brokerage commissions exceeding the bank's execution costs. To take advantage of this exception, these excepted bank activities must be regularly examined by bank examiners for compliance with fiduciary principles and standards. It is the intent of Congress that such examinations be specifically focused on these activities and rigorous in nature. The amendment also spells out that banks that use these exceptions may be primarily compensated by an administration or annual fee, a percentage of assets under management, a flat or capped per order processing fee, or any combination of such fees. Such fees must not be structured in such a way that they give rise to the sales incentives inherent in brokerage commissions.

8. Antitrust. The bill substantially streamlines antitrust review of bank acquisitions and mergers under the Federal Reserve. The amendment strikes that language and replaces it with language preserving the authority of the appropriate antitrust regulators, the Attorney General and the Federal Trade Commission. It provides for interagency data sharing to facilitate antitrust reviews and requires a GAO report on market concentration in the financial services industry and its impact on consumers. It is the intent of Congress that the ongoing consolidation and merger activity in the financial services industry undergo complete and rigorous review in order to preserve competition and protect consumers.

9. Derivative Instruments. The bill preserves the ability of the SEC to determine what is a "security," and when new bank products are "securities," by providing a definition of "traditional banking product" as a stand-alone statute—not in the Federal securities laws or in the banking laws. The definition includes such things as deposit accounts, letters of credit, credit card debit accounts, certain loan participations, and certain derivative instruments that traditionally have not been regulated as securities. If banks sell products within the scope of this definition, they are not required to register as a broker or a dealer.

Derivatives involving or relating to foreign currencies, interest rates, commodities, other rates, indices or other assets, except instruments that are (1) based on a security including a group or index of securities, (2) that provide for the delivery of one or more securities, or (3) that trade on a national securities exchange, are defined as traditional banking products. If a derivative other than an interest rate swap or a foreign currency swap is a security, it would not qualify as a traditional banking product unless it was based on a government security, commercial paper, banker's acceptance or commercial bill or a group or index of one of more of these products. The amendment makes technical and clarifying changes to this provision to ensure that the SEC maintains jurisdiction over derivatives that are securities.

The bill includes a new provision that establishes a process by which the SEC shall decide whether banks that sell "new banking products" that are securities must register with the SEC as brokers, dealers, or both. Specifically, the SEC must engage in a rulemaking proceeding and must determine (1) that the new product is a security and (2) that imposing a registration requirement on a bank to sell the new product is necessary or appropriate in the public interest and for the protection of investors. Under this provision, during the rulemaking process, the SEC is also required to consult with and consider the views of the appropriate banking agencies concerning the proposed rules and the impact of those rules on the banking industry.

10. Qualified Investors. The amendment expands the bill's definition of "qualified investor" to include the governments of foreign countries.

11. Community Needs. The amendment responds to the concerns of consumer and community groups about the impact of this bill and the recent megamergers on the cost and availability of financial services to communities and persons of modest means. The amendment requires the Treasury Department, in consultation with the Federal banking regulators and the SEC, to study the impact of the changes affected by this Act on Community Reinvestment Act obligations and performance, and to submit a report to Congress with any appropriate recommendations based on the results of that study.

12. Privacy Study. The amendment requires the Federal Trade Commission to submit to Congress an interim report on its ongoing study of consumer privacy issues together with recommendations for legislative and administrative action. This responds to growing concerns about the use and sharing of confidential customer information for cross-marketing and other purposes.

Madam Chairman, I reserve the balance of my time.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, on Court TV we always hear "order in the court" as one of the calling cries of that popular show. I think this manager's amendment brings order to the financial services structure that is so much needed by the consumers.

It particularly regulates and protects the consumers as they come into the banking institution needing a variety of services, maybe needing only one and winding up buying or going away with two or three, because it is attractive to come in and buy a variety of services. I think there is a great need for that. It certainly protects and regulates the whole question of dealing with what is insured and what is not insured, and provides that kind of security for the consumer that uses these services. It brings a sense of balance between our insurance entities and, as well, our banking entities; and I would say, Madam Chairman, that it helps us understand this merging market and brings protection there as well.

I simply say that we are going in the right direction, but I would also argue very vigorously against the Baker amendment that seeks to eliminate the Community Reinvestment Act. We can protect small banks, but we need to protect small business owners and minority communities who have yet to participate in the financial structure of this Nation.

The Community Reinvestment Act has for many years provided investment in the inner cities, rebuilding homes and businesses. How dare we go to move to eliminate an act that has just begun? We may need some tinkering, but we do not need any elimination.

I stand on behalf of the women business owners in inner-city communities, minorities, Hispanics, African Americans and Asians who are seeking to rebuild their communities, the innovative American community who is just beginning to use the Community Reinvestment Act and having banking institutions that are supportive.

The Baker amendment is wrong-directed in eliminating the Community Reinvestment Act. The manager's amendment does attack the problem from a consumer's perspective and brings the right kind of balancing to this industry. I thank the ranking member, and as well the chairman of this committee for this legislation.

Mr. BLILEY. Madam Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Madam Chairman, I thank my distinguished friend for yielding to me.

I rise also in support of this manager's amendment. The amendment before us was negotiated on a bipartisan, multiple-committee basis. It contains changes requested by the Committee on Agriculture, the Committee on the Judiciary, and the Committee on Ways and Means. The most significant changes are the insurance provisions and the provisions relating to antitrust.

The revisions contained in the amendment relating to the insurance provisions are intended to help strike an appropriate balance between the need of the States to regulate insurance activities in banks and the ability of national banks to engage in insurance activities without being subject to State laws that prevent or significantly interfere with that activity.

This House has been a firm supporter of States' rights and, in particular, leaving the regulation of insurance to the States. However, this House also believes that States should not regulate the manner which has, either directly or indirectly, the effect of preventing or significantly interfering with the ability of a bank to engage in activities that it is properly authorized to do by Federal law. The manager's amendment addresses this issue by clarifying these relationships.

Second, the manager's amendment at my request strengthens the antitrust laws in a number of ways. It restores the Federal Reserve's ability to consider anticompetitive issues in reviewing the acquisition of banks; it bolsters the Federal Trade Commission's antitrust authority, and it assures that financial affiliations that will be permissible under this bill will receive appropriate antitrust review by the Department of Justice and the FTC.

Other provisions of the manager's amendment incorporate amendments that were filed by the gentleman from Michigan (Mr. DINGELL), the gentleman from Massachusetts (Mr. MARKEY), the gentleman from New York (Mr. LAFALCE), and the gentleman from Minnesota (Mr. VENTO) last month and during the most recent consideration of the bill.

Finally, the manager's amendment includes a number of subtleties as well as a number of studies and consumer provisions. I believe it is well-balanced and thoughtful, protects the consumer, as well as establishes a clear guideline for certain competition in financial services. I think it deserves the support of this body.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I intend to enter into a colloquy with the gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services.

Madam Chairman, I would ask the gentleman to clarify that it is our mutual understanding that the soon-to-be created electronic accounts, ETA accounts, would be one way to satisfy the low-cost, basic banking provisions in the bill and the requirement that banks help meet the credit needs of local communities under the Community Reinvestment Act. The ETA accounts are those that are required to be established for Americans to receive Federal benefits or payments by the Debt Collection Improvement Act of 1996 (Chapter 10, Public Law 104–134).

Mr. LEACH. Madam Chairman will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, that is precisely my understanding, and I would like to compliment the gentleman for his work in this field as well as for his articulation of a very common-sense approach.

Mr. VENTO. Madam Chairman, reclaiming my time, I want to thank the chairman for his clarification, and I would urge Members to support this amendment, and I intend to speak on it further myself.

Mr. BLILEY. Madam Chairman, could I inquire as to how much time I have remaining?

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY), has 4 minutes, the gentleman from Michigan (Mr. DINGELL) has 3 minutes, and the gentleman from New York (Mr. LAFALCE) has 8½ minutes.

Mr. BLILEY. Madam Chairman, do I have the right to close?

The CHAIRMAN. The gentleman is correct.

Mr. BLILEY. Madam Chairman, I reserve the balance of my time.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Madam Chairman, this is an amendment on which I am in profound agreement with my colleague from Michigan (Mr. DINGELL) and the two managers of the bill, the gentleman from Virginia (Mr. BLILEY), and the gentleman from Iowa (Mr. LEACH).

When H.R. 10 left the Committee on Banking and Financial Services last year, it included an amendment that I and our colleague, the gentleman from North Carolina (Mr. WATT), had drafted which would provide for securities sales in banks to be under the auspices of the National Association of Security Dealers. I think that the idea of increasing SEC regulatory oversight of Bank Securities sales that is in the manager's amendment is a step in the right direction. I commend the gentleman for offering it.

□ 1430

I think we should have functional regulation, and I think we have to have market modernization, but I think we also need to ensure that consumers are protected, and that the playing field is equal between both in-bank and out-of-bank securities sales. This amendment moves in that direction.

I would encourage my colleagues to vote for the manager's amendment. We obviously have profound disagreements on other issues, but this is, I think, a good amendment. As the gentleman mentioned the issue of proper regulation of bank mutual fund sales has come up, and we know that the Federal bank regulators have had difficulties in their ability to properly regulate the sales of these instruments and protect investors. This amendment should go a long way toward correcting this matter.

I appreciate the gentleman for offering it, and I intend to support it.

Mr. LAFALCE. Madam Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, I rise in support of this manager's amendment, which include the Vento amendment antitrust provisions with respect to the required ongoing GAO annual reports, the different cultures that exist within the financial entities, insurance, securities, and banking. I am very concerned what this may do in terms of venture capital and the other capacities.

The consumer protection provisions with regard to this, I think there are some concerns that banks have even with this manager's amendment concerning what happens with insurance sales. Obviously, the banks are not satisfied even with the LaFalce-Vento amendment, but I think we are willing to accept that and move forward; such provisions represent progress.

I appreciate the lifeline provisions and note the CRA study provisions and question the focus. What is conspicuously absent from this, of course, is the good work in terms of extending CRA that was actually initiated in a previous March 30 Dingell-LaFalce amendment.

I would also like to comment on SEC enforcement, and the National Association of Securities Dealers, enforcement they do very important regulatory work. My colleague from the Committee on Banking and Financial Services just pointed out the important work in terms of having functional regulation.

In 1996, as an example, the Securities and Exchange Commission, under its authority, actually imposed over $325 million worth of assessments reflected in terms of illegal profits, and $67 million worth of civil penalties. The S.E.C. in 1996 noted 180 civil actions, 239 administrative proceedings and 32 civil and criminal contempt proceedings.

It has been pointed out repeatedly here that Nations Securities, NationsBank's Nations Securities, has had a penalty most recently reported in the paper derived from a 1994 incident. Incidentally, it was not just Nations Securities, it was Dean Witter and Nation's Bank who jointly owned Nation's Securities. Dean Witter, of course, is a securities firm, but other firms have also had some problems. It was, of course, functional regulation that, in that instance, actually penalized Nations Securities. That is not changed in this measure or in the LaFalce-Vento amendment.

But other firms also have had some very significant fines in 1996, and I realize it is very important we see this type of discipline, this regulatory enforcement. A securities firm Lazard along with Merrill Lynch had a $10 million fine in 1996. PaineWebber was fined in a number of instances, as were many others. I could go through the entire list and point out the violations of securities firms—mistakes have been made and penalties exacted.

Suffice it to say that the Securities and Exchange Commission is doing its job. I commend them for that. I commend them for the work they did with Nations Bank and Dean Witter, the owners of Nations Securities. It is interesting to note that, but functional regulation would not change under this bill, under the operating subsidiary, any different from what actually happened in the recent penalty that is being highlighted by my colleagues. It is exactly this type of rigorous regulation and rigorous exercise by the regulators that will prevent the type of abuses that occurred with the S&L crisis. Without rigorous regulation no corporate structure will suffice. The law must provide for enforcement and a willing watch dog.

We worked mightily in 1989 and 1991 to pass new regulations on banks and S&Ls to prevent any repeat of that type of crisis. We hope that law works. We have not seen the ups and downs in the economy to demonstrate that it will work, I will admit freely, but I think we have some pretty sound law in place to deal with that, forged in the heat of a red hot furnace catastrophe, the S&L crisis.

I think what is proved or demonstrated by the reports that we have had here with regard to Nations Bank/Dean Witter role with NationsSecurities, is that the operating subsidiary, when functionally regulated, can be adequately controlled and penalized, just as we control securities firms when indeed they do run afoul of the law, as we did in 1996 with $325 million worth payback and $67 million in fines.

Mr. DINGELL. Madam Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. MANTON), the ranking member of the subcommittee.

Mr. MANTON. Madam Chairman, I rise in strong support of the manager's amendment. By voting for the manager's amendment, we ensure the most important goal of this legislation is realized.

This amendment will make certain that consumers and investors receive clear and meaningful fee disclosure when buying products from a financial institution. Simply stated, this means that when someone buys a product from a bank, they will be provided with information on all of the costs associated with that purchase.

This amendment also considers how the Community Reinvestment Act should be incorporated under this new holding company structure, where financial holding companies or their subsidiaries can potentially hold the assets of a bank.

This amendment requires that a study be conducted on whether adequate services are being provided to low- and moderate-income neighborhoods. Because the new holding company regime will allow for greater flexibility in how financial institutions are structured and financed, how CRA will be affected should certainly be examined by the regulators that oversee them.

These are just a few of the consumer and investors' protections built into the manager's amendment. I believe H.R. 10 is improved significantly by this amendment, and I urge all of my colleagues to support it.

Mr. DINGELL. Madam Chairman, I yield 1 minute to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, I am in strong support of the manager's amendment, primarily because of the numerous consumer protection provisions that it contains. I am particularly concerned about preservation of the community services that are intended by the Community Reinvestment Act.

The Community Reinvestment Act is vitally important to many, many areas in this country. In my district in Denver, for example, the Community Reinvestment Act has been used to revitalize our local urban economy.

I was concerned in the underlying bill that because of the structuring, that the Community Reinvestment Act would be undermined. I retain those concerns, but I feel that the 2-year review period contained in the manager's amendment will give us ample time to see the effect of H.R. 10 on the CRA.

I hope and I urge that Congress, at the end of this 2-year period, will take a strong look as if the CRA is being preserved and expanded, and take quick legislative action if it is not, so our urban communities, our small women- and minority-owned businesses, can be preserved, while at the same time we have financial expansion and modernization.

Mr. DINGELL. Madam Chairman, I yield 1 minute to my distinguished friend, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Madam Chairman, I thank the gentleman for yielding me the time, and I want to congratulate him and the gentleman from Virginia (Mr. BLILEY) and the gentleman from New York (Mr. LAFALCE), and all those that worked to put together this bipartisan manager's amendment, because it really does help to close up a lot of the problem areas that had developed in the drafting of the legislation with regard to how investors and depositors were going to be protected in the legislation.

Specifically, I speak here as the ranking Democrat on the Subcommittee on Telecommunications, Trade, and Consumer Protection. We had real questions about whether or not the Federal Trade Commission was going to have the authority to be able to follow these antitrust questions, as banks affiliated with insurance or with financial institutions, securities institutions, or even with nonfinancial institutions.

In this amendment, we clarify that the Federal Trade Commission has the antitrust authority to be able to look at these transactions, and that the Hart-Scott-Rodino antitrust review is retained in a way that covers these bank mergers with financial and nonfinancial institutions. I thank the gentleman for making that possible.

The CHAIRMAN. All time of the gentleman from Michigan (Mr. DINGELL) has expired.

The gentleman from New York (Mr. LAFALCE) has 4 minutes remaining.

Mr. LAFALCE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I am delighted that everyone who has spoken has spoken in support of this manager's amendment, because the objectives that it would effectuate are certainly in the public interest.

There are still, however, even after we pass this manager's amendment, a number of deficiencies. One of them has not been mentioned very much, and I would like to address that now. That is the issue of the redomestication of mutual insurance companies. I am very concerned about that.

It is my understanding that there are approximately 70 million Americans who have ownership in mutual insurance companies. It is my understanding that this bill has a provision within it that would allow State law to preempt Federal law, not when the State law gives greater consumer protection, but when the State law gives lesser consumer protection. Further, I understand that this State law then could become the operative national law for these mutual insurance holding companies.

This is very worrisome to me, because there are a good many States that want to protect the rights of individuals who own a stake in mutual insurance companies. This Federal legislation will permit certain State legislatures to enact legislation which would then entice the transfer of the corporate headquarters to their State, and enable them to operate on a national basis on the basis of the lowest common denominator. The manager's amendment does not deal with this issue.

The other big provision, of course, is the Community Reinvestment Act. This is very fundamental. The manager's amendment does nothing about the mandate in the bill that if they want to engage in new, innovative products and services, they must, they must move their activities into an affiliate that is not subject to the Community Reinvestment Act; that is, if they want to remain a national bank.

So they have the option of either becoming a financial services holding company, which most small national banks would not want to do, or they have the option of converting from the national bank charter to a State bank charter, because most State banks would permit them to conduct these activities in operating subsidiaries, where the regulators have said that you have as much safety and soundness as you would in the affiliate. So it would permit the undermining of the Community Reinvestment Act, the undermining of the national bank system.

The manager's amendment does not deal with that. So vote yes on the manager's amendment, but that is not enough to turn a bad bill into a good bill.

Mr. BLILEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this has been a good debate. It is now coming to a close, and we will shortly have a vote. This amendment is a good amendment. It represents the House at its best: two committees, two parties working side by side in the interests of the Nation. That is the way it should be more often. Sadly, unfortunately, it is not. But this is a good amendment. We are going to have a long day, so let us have the question.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BLILEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BLILEY. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 407, noes 11, not voting 14, as follows:

[Roll No. 143]

AYES—407

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro

DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—11

Bachus
Dreier
Goode
Johnson, Sam
LaHood
McCollum
Riley
Scarborough
Schaffer, Bob
Thune
Tiahrt

NOT VOTING—14

Bateman
Christensen
Clay
Fattah
Gibbons
Gilchrest
Gonzalez
Harman
Hefner
Hilliard
Kilpatrick
Radanovich
Skaggs
White

□ 1503

Mr. BACHUS changed his vote from "aye" to "no."

Mr. HEFLEY and Mr. BOSWELL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. DICKEY). It is now in order to consider amendment No. 2 printed in part 2 of House Report 105–531.

AMENDMENT NO. 2 OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2, Amendment No. 2, printed in House Report 105–531 offered by Mr. LAFALCE:

[1. INSURANCE]

In section 104(b)(2) of the Amendment in the Nature of a Substitute, strike "As stated by the United States Supreme Court" and insert "In accordance with the decision of the Supreme Court of the United States".

In section 104(b)(2) of the Amendment in the Nature of a Substitute, strike "to engage" each place such term appears and insert ", or any subsidiary or other affiliate thereof, from engaging".

In section 104(b)(2) of the Amendment in the Nature of a Substitute, strike subparagraph (B) and insert the following new subparagraph:

(B) subparagraph (A) shall not apply after the end of the 5-year period beginning on the date of the enactment of this Act.

In section 104(b)(3) of the Amendment in the Nature of a Substitute, insert "not relating to crossmarketing activities subject to paragraph (2)" after "orders, and interpretations".

In section 104(b)(3) of the Amendment in the Nature of a Substitute, insert "to the extent that such statutes, regulations, orders, and interpretations do not have a disparate impact on insurance underwriters affiliated with an insured depository institution or wholesale financial institution" before the period at the end.

[2. OP-SUBS]

Strike the heading for subtitle C of title I of the Amendment in the Nature of a Substitute and insert the following new heading:

Subtitle C—Subsidiaries of Insured Depository Institutions

Strike section 121 of the Amendment in the Nature of a Substitute and insert the following new sections (and redesignate subsequent sections and amend the table of contents accordingly):

SEC. 121. SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.

(a) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.—Chapter one of title LXII of the Revised Statutes of United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A as section 5136C; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

"SEC. 5136A. FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.

"(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.—

"(1) IN GENERAL.—A subsidiary of a national bank may engage in an activity that is not permissible for a national bank to engage in directly, but only if—

"(A) the activity is a financial activity (as defined in paragraph (4));

"(B) the national bank is well capitalized, well managed, and achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of the bank;

"(C) all depository institution affiliates of such national bank are well capitalized, well managed, and have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution; and

"(D) the bank has received the approval of the Comptroller of the Currency.

"(2) NO EFFECT ON EDGE ACT OR AGREEMENT CORPORATIONS.—Paragraph (1) shall not apply with respect to any subsidiary which is a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act.

"(3) OTHER SUBSIDIARIES PROHIBITED.—A national bank may not control any subsidiary other than a subsidiary—

"(A) which engages solely in activities that are permissible for a national bank to engage in directly or are authorized under paragraph (1); or

"(B) which a national bank may control pursuant to section 25 or 25A of the Federal Reserve Act, the Bank Service Company Act, or any other Act that expressly by its terms authorizes national banks to control subsidiaries.

"(4) FINANCIAL ACTIVITY DEFINED.—For purposes of this section and subject to paragraph (5), the term 'financial activity' means any 1 or more of the following:

"(A) Receiving money subject to a deposit or other repayment obligation.

"(B) Lending, exchanging, transferring, investing, or safeguarding money or other financial assets.

"(C) Providing any device or other instrumentality for transferring money or other financial assets.

"(D) Acting as agent or broker in the placement of annuities contracts or contracts insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death.

"(E) Providing financial, investment, or economic advisory or information services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

"(F) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly.

"(G) Arranging, effecting, or facilitating financial transactions for the account of third parties.

"(H) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities that the financial subsidiary controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

"(i) the shares, assets, or ownership interests are not acquired or held by a depository institution;

"(ii) such shares, assets, or ownership interests are acquired and held by a securities affiliate or an affiliate thereof as part of a bona fide underwriting or merchant banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

"(iii) such shares, assets, or ownership interests, are held only for such a period of time as will permit the sale or disposition thereof on a reasonable basis consistent with the nature of the activities described in clause (ii); and

"(iv) during the period such shares, assets, or ownership interests are held, the financial subsidiary does not actively participate in the day to day management or operation of such company or entity, except insofar as necessary to achieve the objectives of clause (ii).

"(I) Underwriting, dealing in, or making a market in securities.

"(J) Engaging in any activity that was, by regulation or order, permissible for a bank holding company pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956 (as in effect on the day before the date of enactment of the Financial Services Act of 1998).

"(K) Engaging, in the United States, in any activity that—

"(i) a bank holding company may engage in outside the United States; and

"(ii) the Board of Governors of the Federal Reserve System determined, under regulations issued pursuant to section 4(c)(13) of the Bank Holding Company Act of 1956 (as in effect on the day before the date of enactment of the Financial Services Act of 1998) to be usual in connection with the transaction of banking or other financial operations abroad.

"(L) Owning shares of a company to the extent permissible under section 4(c)(7) of the Bank Holding Company Act of 1956 (as in effect on the day before the date of enactment of the Financial Services Act of 1998).

"(M) Engaging in any activity that the Comptroller of the Currency determines by regulation or order is the functional equivalent of any activity described in 1 or more of subparagraphs (A) through (K).

"(N) Engaging in any activity that the Comptroller of the Currency determines by regulation or order to be financial, or related to a financial activity, having taken into account—

"(i) the purposes of this title and the Financial Services Act of 1998;

"(ii) changes or reasonably expected changes in the market in which bank subsidiaries compete;

"(iii) changes or reasonable expected changes in the technology delivering financial services; and

"(iv) whether such activity is necessary or appropriate to allow a bank and the subsidiaries of a bank to—

"(I) compete effectively with any company seeking to provide financial services in the United States;

"(II) use any available or emerging technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

"(III) offer customers any available or emerging technological means for using financial services.

"(5) OTHER DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(A) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means a company which—

"(i) is a subsidiary of a national bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

"(ii) is engaged in a financial activity pursuant to paragraph (1) that is not a permissible activity for a national bank to engage in directly.

"(B) SUBSIDIARY.—The term 'subsidiary' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

"(C) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act and, for purposes of this section, the Comptroller shall have exclusive jurisdiction to determine whether a national bank is well capitalized.

"(D) WELL MANAGED.—The term 'well managed' means—

"(i) in the case of a bank that has been examined, unless otherwise determined in writing by the Comptroller, the achievement of—

"(I) a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the bank; and

"(II) at least a rating of 2 for management, if that rating is given; or

"(ii) in the case of any national bank that has not been examined, the existence and use of managerial resources that the Comptroller determines are satisfactory.

"(6) INSURANCE UNDERWRITING AND DIRECT INVESTMENT.—Except as provided in title III of the Financial Services Act of 1998, no subsidiary of a national bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act) may underwrite noncredit-related insurance or engage in real estate investment or development activities (except to the extent a national bank is specifically authorized by statute to engage in any such activity directly).

"(7) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes affiliated with a national bank during the 12-month period preceding the submission of an application to acquire a financial subsidiary and any depository institution which becomes so affiliated after the approval of such application may be excluded for purposes of paragraph (1)(C) during the 12-month period beginning on the date of such acquisition if—

"(A) the national bank has submitted an affirmative plan to the Comptroller of the Currency to take such action as may be necessary in order for such institution to achieve a 'satisfactory record of meeting community credit needs', or better, during the most next examination of the institution; and

"(B) the plan has been accepted by the Comptroller.

"(b) CAPITAL DEDUCTION REQUIRED.—

"(1) IN GENERAL.—In determining compliance with applicable capital standards—

"(A) the amount of a national bank's equity investment in a financial subsidiary shall be deducted from the national bank's assets and tangible equity; and

"(B) the financial subsidiary's assets and liabilities shall not be consolidated with those of the national bank.

"(2) REGULATIONS REQUIRED.—The Comptroller shall prescribe regulations implementing this subsection.

"(c) SAFEGUARDS FOR THE BANK.—A national bank that establishes or maintains a financial subsidiary shall assure that—

"(1) the bank's procedures for identifying and managing financial and operational risks within the bank and financial subsidiaries of the bank adequately protect the bank from such risks;

"(2) the bank has, for the protection of the bank, reasonable policies and procedures to preserve the separate corporate identity and limited liability of the bank and subsidiaries of the bank; and

"(3) the bank complies with this section.

"(d) NATIONAL BANKS WHICH DO NOT COMPLY WITH REQUIREMENTS OF THIS SECTION.—

"(1) IN GENERAL.—If the Comptroller determines that a national bank which controls a financial subsidiary, or a depository institution affiliate of such national bank, does not continue to meet the requirements of subsection (a), the Comptroller shall give notice to the bank to that effect, describing the conditions giving rise to the notice.

"(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

"(A) CONTENT OF AGREEMENT.—Within 45 days of the receipt by a depository institution of a notice given under paragraph (1) (or such additional period as the Comptroller may permit), the depository institution failing to meet the requirements of subsection (a) shall execute an agreement with the appropriate Federal banking agency for such institution to correct the conditions described in the notice.

"(B) COMPTROLLER MAY IMPOSE LIMITATIONS.—Until the conditions giving rise to the notice are corrected, the Comptroller may impose such limitations on the conduct of the business of the national bank or subsidiary of such bank as the Comptroller determines to be appropriate under the circumstances.

"(3) FAILURE TO CORRECT.—If the conditions described in the notice are not corrected within 180 days after the bank receives the notice, the Comptroller may require, under such terms and conditions as may be imposed by the Comptroller and subject to such extensions of time as may be granted in the discretion of the Comptroller—

(A) the national bank to divest control of each subsidiary engaged in an activity that is not permissible for the bank to engage in directly; or

"(B) each subsidiary of the national bank to cease any activity that is not permissible for the bank to engage in directly.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended—

(1) by redesignating the item relating to section 5136A as section 5136C; and

(2) by inserting after the item relating to section 5136 the following new item:

"5136A. Financial subsidiaries of national banks.".

SEC. 122. ACTIVITIES OF SUBSIDIARIES OF INSURED STATE BANKS.

Section 24(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(d)) is amended—

(1) by adding at the end the following new paragraphs:

"(3) CONDITIONS ON CERTAIN ACTIVITIES.—

"(A) IN GENERAL.—Subject to the approval of the appropriate Federal banking agency, a subsidiary of a State bank may engage in an activity in which a subsidiary of a national bank may engage as principal pursuant to subsection (a)(1) of section 5136A of the Revised Statutes of the United States but only if the State bank meets the same requirements which are applicable to national banks under subparagraphs (B) and (C) of such subsection and subsections (b) and (c) of such section.

"(B) APPLICATION OF SECTION 5136A OF REVISED STATUTES.—For purposes of applying section 5136A of the Revised Statutes of the United States with regard to the activities of a subsidiary of a State bank, all references in such section to the Comptroller of the Currency, or regulations and orders of the Comptroller, shall be deemed to be references to the appropriate Federal banking agency with respect to such State bank, and regulations and orders of such agency.

"(4) STATE BANKS WHICH FAIL TO COMPLY WITH PARAGRAPH (3) CONDITIONS.—

"(A) IN GENERAL.—If the appropriate Federal banking agency determines that a State bank that controls a subsidiary which is engaged as principal in financial activities pursuant to paragraph (3) does not meet the requirements of subparagraph (A) of such paragraph, the appropriate Federal banking agency shall give notice to the bank to that effect, describing the conditions giving rise to the notice.

"(A) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

"(i) CONTENT OF AGREEMENT.—Within 45 days of the receipt by a bank of a notice given under paragraph (1) (or such additional period as the appropriate Federal banking agency for such bank may permit), the bank failing to meet the requirements of paragraph (3)(A) shall execute an agreement with the appropriate Federal banking agency for such bank to correct the conditions described in the notice.

"(B) AGENCY MAY IMPOSE LIMITATIONS.—Until the conditions giving rise to the notice are corrected, the appropriate Federal banking agency for the State bank may impose such limitations on the conduct of the business of the bank or a subsidiary of the bank as the agency determines to be appropriate under the circumstances.

"(C) FAILURE TO CORRECT.—If the conditions described in the notice are not corrected within 180 days after the bank receives the notice, the appropriate Federal banking agency for the State may require, under such terms and conditions as may be imposed by such agency and subject to such extensions of time as may be granted in the discretion of the agency—

"(i) the bank to divest control of each subsidiary engaged in an activity as principal that is not permissible for the bank to engage in directly; or

"(ii) each subsidiary of the bank to cease any activity as principal that is not permissible for the bank to engage in directly.".

SEC. 123. RULES APPLICABLE TO FINANCIAL SUBSIDIARIES.

(a) TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARIES AND OTHER AFFILIATES.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d), the following new subsection:

"(e) RULES RELATING TO BANKS WITH FINANCIAL SUBSIDIARIES.—

"(1) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section and section 23B, the term 'financial subsidiary' means a company which—

"(A) is a subsidiary of a bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

"(B) is engaged in a financial activity (as defined in section 5136A(a)(4)) that is not a permissible activity for a national bank to engage in directly.

"(2) APPLICATION TO TRANSACTIONS BETWEEN A FINANCIAL SUBSIDIARY OF A BANK AND THE BANK.—For purposes of applying this section and section 23B to a transaction between a financial subsidiary of a bank and the bank (or between such financial subsidiary and any other subsidiary of the bank which is not a financial subsidiary) and notwithstanding subsection (b)(2) and section 23B(d)(1), the financial subsidiary of the bank—

"(A) shall be an affiliate of the bank and any other subsidiary of the bank which is not a financial subsidiary; and

"(B) shall not be treated as a subsidiary of the bank.

"(3) APPLICATION TO TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARY AND NONBANK AFFILIATES.—

"(A) IN GENERAL.—A transaction between a financial subsidiary and an affiliate of the financial subsidiary shall not be deemed to be a transaction between a subsidiary of a national bank and an affiliate of the bank for purposes of section 23A or section 23B of the Federal Reserve Act.

"(B) CERTAIN AFFILIATES EXCLUDED.—For purposes of subparagraph (A) and notwithstanding paragraph (4), the term 'affiliate' shall not include a bank, or a subsidiary of a bank, which is engaged exclusively in activities permissible for a national bank to engage in directly.

"(4) EQUITY INVESTMENTS EXCLUDED SUBJECT TO THE APPROVAL OF THE BANKING AGENCY.—Subsection (a)(1) shall not apply so as to limit the equity investment of a bank in a financial subsidiary of such bank, except that any investment that exceeds the amount of a dividend that the bank could pay at the time of the investment without obtaining prior approval of the appropriate Federal banking agency and is in excess of the limitation which would apply under subsection (a)(1), but for this paragraph, may be made only with the approval of the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) with respect to such bank.".

(b) TREATMENT OF FINANCIAL SUBSIDIARIES UNDER OTHER PROVISIONS OF LAW.—

(1) BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 is amended by adding at the end the following new sentence: "For purposes of this section, a financial subsidiary (as defined in section 5136A(a)(5)(A) of the Revised Statutes of the United States or referenced in the 20th undesignated paragraph of section 9 of the Federal Reserve Act or section 24(d)(3)(A) of the Federal Deposit Insurance Act) shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank."; and

(2) FEDERAL RESERVE ACT.—The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by adding at the end of the following new sentence: "To the extent permitted under State law, a State member bank may acquire or establish and retain a financial subsidiary (as defined in section 5136A(a)(3)(A) of the Revised Statutes of the United States, except that all references in that section to the Comptroller of the Currency, the Comptroller, or regulations or orders of the Comptroller shall be deemed to be references to the Board or regulations or orders of the Board.".

[3. CONSUMER PROTECTION]

In paragraph (1) of section 45(a) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, insert "governing sales practices" after "regulations" in the portion of such paragraph which precedes subparagraph (A).

In paragraph (1) of section 45(d) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike "and the making of loans".

Strike paragraph (2) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, and insert the following new paragraph:

"(2) EFFECT ON OTHER LAWS.—Subject to section 104, regulations prescribed by a Federal banking agency under this section shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the regulations prescribed by a Federal banking agency under this section and then only to the extent of the inconsistency. For purposes of this paragraph, a State statute, regulation, order, or interpretation is not inconsistent with the regulations prescribed by a Federal banking agency under this section if the protection such statute, regulation, order, or interpretation affords any consumer is greater than the protection provided by the regulations under this section.

[4. LIFELINE BANKING]

In paragraph (1) of section 6(d) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, strike "or (C)" and insert "(C), or (D)".

In paragraph (4)(D) of section 6(d) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, strike "or (C)" and insert "(C), or (D)".

[5. DEFERENCE]

In section 307(e) of the Amendment in the Nature of a Substitute, strike ", without unequal deference".

[6. GAO STUDY—ANTITRUST]

After section 145 of the Amendment in the Nature of a Substitute, insert the following new section (and redesignate the subsequent section and conform the table of contents accordingly):

SEC. 146. ANNUAL GAO REPORT.

(a) IN GENERAL.—By the end of the 1-year period beginning on the date of the enactment of this Act and annually thereafter, the Comptroller General of the United States shall submit a report to the Congress on market concentration in the financial services industry and its impact on consumers.

(b) ANALYSIS.—Each report submitted under subsection (a) shall contain an analysis of—

(1) the positive and negative effects of affiliations between various types of financial companies, and of acquisitions pursuant to this Act and the amendments made by this Act to other provisions of law, including any positive or negative effects on consumers, area markets, and submarkets thereof or on registered securities brokers and dealers which have been purchased by depository institutions or depository institution holding companies;

(2) the changes in business practices and the effects of any such changes on the availability of venture capital, consumer credit, and other financial services or products and the availability of capital and credit for small businesses; and

(3) the acquisition patterns among depository institutions, depository institution holding companies, securities firms, and insurance companies including acquisitions among the largest 20 percent of firms and acquisitions within regions or other limited geographical areas.

[7. PRIVACY STUDY]

After section 108 of the Amendment in the Nature of a Substitute, insert the following new section (and amend the table of contents accordingly):

SEC. 110. REPORTS ON ONGOING FTC STUDY OF CONSUMER PRIVACY ISSUES.

With respect to the ongoing multistage study being conducted by the Federal Trade Commission on consumer privacy issues, the Commission shall submit an interim report on the findings and conclusions of the Commission, together with such recommendations for legislative and administrative action as the Commission determines to be appropriate, to the Committee on Commerce and the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at the conclusion of each stage of such study and a final report at the conclusion of the study.

The CHAIRMAN pro tempore. Pursuant to House Resolution 428, the gentleman from New York (Mr. LAFALCE) and a Member opposed each will control 20 minutes.

Is the gentleman from Virginia (Mr. BLILEY) opposed to the amendment?

Mr. BLILEY. I am, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. BLILEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill in its current form is a frontal attack on the national bank system. That is why this administration, past administrations, any future administration would veto the bill before us.

The bill before us promotes the movement of assets out of those institutions covered by the Community Reinvestment Act. It undermines the national bank charter and the authority of the national bank regulator. It places small and mid-sized banks at an enormous competitive disadvantage vis-a-vis the giant conglomerates this bill helps facilitate. It permits discrimination against banks as providers of new financial services, and it would create a serious competitive imbalance between nationally and State chartered banks and between big banks which can and small banks which cannot use a holding company structure.

The amendment the gentleman from Minnesota (Mr. VENTO) and I offer, along with a good many others, would correct these problems. It would correct these problems by permitting national banks to offer a broad range of new financial services efficiently and safely through subsidiaries so that these assets remain covered by CRA. It would ensure that banks are not subject to discriminatory restrictions when providing new financial services, and it would maintain for the national bank regulator the same authority traditionally granted all, each and every, Federal regulator to interpret Federal law.

The Treasury Secretary has repeatedly pointed out there is no safety and soundness reason whatsoever, none, zero, and no competitive reason that would justify a radical shift from the operation of a bank subsidiary to a wholesale transfer of assets out of the national bank system, out of the jurisdiction of the Comptroller of the Currency, the Federal bank regulator, into the hands of the Federal Reserve Board.

The chairman of the FDIC, present and past, has concurred in that judgment. The State bank regulators have concurred in that judgment. Now, why should we care? Why should we care whether national banks are disadvantaged in this bill? Is this just an esoteric debate about corporate structure? It is not.

There are sound public policy reasons to value national banks and their ability to offer new financial services through their own subsidiaries. Fundamentally, adopting this amendment will ensure that a significant portion of America's financial assets continue to flow through banks. That is good for consumers. That is good for communities.

If we want a law, rather than a one-House bill, we will adopt this amendment and we then will ultimately bring with us the support of the administration and produce something that can be enacted into law. If this amendment goes down, we may or may not get a one-House bill but we will not get a law.

Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in opposition to the amendment offered by my friends, the gentleman from New York (Mr. LAFALCE) and the gentleman from Minnesota (Mr. VENTO). I have three concerns with this amendment.

One, it puts taxpayer money at risk. It does this by expanding the subsidy provided by Federal deposit insurance and the Federal safety net; two, these operating subsidies are not truly separate from banks and will confuse customers; and three, it undoes the careful compromise on insurance we have reached so that disputes over insurance will be treated equally without unfair deference to one side or the other.

This amendment represents a radically different course in this legislation. It grants new powers for banks in operating subsidiaries. These new powers include full securities underwriting and merchant banking.

I remember when Congress made the disastrous mistake of expanding the powers and the insurance coverage of savings and loan institutions. The result of that legislation was that the taxpayers had to spend billions to bail out the S&Ls that had invested in casinos, strip malls, and other developments. I resolved that never would we do something like that again.

I believe that expansion of operating subsidiaries powers poses the same dangers as did the expansion of the powers of savings and loans. Alan Greenspan, the distinguished Chairman of the Federal Reserve, has testified both before the Committee on Banking and Financial Services and the Committee on Commerce that granting banks additional authority in operating subsidiaries expands the reach of the taxpayer subsidy. This expansion of Federal subsidy is both anti-competitive and dangerous to taxpayers.

Operating subsidiaries are anti-competitive because securities or merchant banking done in operating subsidiaries will be able to take advantage of the Federal subsidy to finance their business more cheaply than their competitors. Congress is abolishing subsidies. We ended farm subsidies in the last Congress. Wall Street firms made over $14 billion last year. They need open competition, not subsidies.

Operating subsidiaries are dangerous to taxpayers. If a child takes the family car and goes on a joy ride smashing into a building, who is on the hook? The parents. Similarly, if operating subsidiaries get into trouble, who will hold the bag? The Federal taxpayers. That is why Americans For Tax Reform is opposed to this amendment.

I believe that operating subsidiaries pose dangers to consumers. Last week the SEC brought an enforcement action against a major bank operating subsidiary for selling billions of dollars in unsuitable investments to elderly people. These people had maturing CD's at the bank. Officers of the operating subsidiary called them up and sold them dangerous strip derivatives claiming they were treasury securities. The OCC could have done something about this but the OCC did not. They waited for the SEC to have to bring an action to stop this fraud. I believe we should not expand powers of operating subsidiaries in the face of abuses like this.

☐ 1515

Mr. LAFALCE. Mr, Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, I rise in support of the amendment.

Our good friend from Virginia made me want to call the history police. The misuse of history is one of the downsides of our debate. No, this has nothing to do with why the savings and loans got in trouble. We had tax changes. We had a real estate bubble. We had a lot of other reasons.

This is a very important amendment. I must say that if this amendment were to be adopted, I could vote for a bill which I will otherwise feel constrained to oppose. The smaller banks that I deal with in the State of Massachusetts are banks which have been responsible, which have tried to meet the needs of local communities, so oppose the bill without this amendment. That is a major cause of opposition because what it says to the smaller banks is, none of these new powers are in fact available to them, and indeed much of what they may have been doing they will have to stop doing.

This greatly disadvantages the smaller banks, who are then forced either to forgo getting into these new activities or to get out of the ones they are in, because they will not be able to set up the holding companies. The notion that if we have a holding company with siblings, they do not implicate each other, but if we have an operating subsidy, they do, does not seem to me to hold water.

The analogies of the gentleman, I must say, do not seem to me any more persuasive than his history. I was sorry to hear about the kid who stole his parents' car and had an accident. What it has to do with banking it will probably take me till Sunday to figure out, but it certainly does not have anything to do with this particular issue.

Yes, we are talking about the same overall entity being in both insured and noninsured activities. Whether or not they do it through a holding company or operating subsidiaries does not affect the quality of regulation, nor will it affect the drain on the insured deposit.

What it will do is weaken the ability of small banks further, and maybe this is partly what some had in mind, obviously not all, it weakens the reach of the Community Reinvestment Act because the activities conducted in the operating subsidiaries will be covered by the Community Reinvestment Act. If, in fact, it becomes the holding company, they will not be. So the effect of the bill without this amendment will be to diminish some of the reach of the Community Reinvestment Act.

Now, I realize that is not enough for some people who would like to totally cut off the arms of the Community Reinvestment Act in a later amendment. But I must also say that one surefire way to guarantee that no legislation goes forward is to cut back on the Community Reinvestment Act, which many of us believe to have been a significant improvement in our communities which most need it.

So I hope in the interest of getting reasonable legislation through, that the amendment is adopted.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL), ranking minority member of the Committee on Commerce.

Mr. DINGELL. Mr. Chairman, bankers said it this morning, and I want my colleagues to hear what the ABA had to say. They said, "No amendment or combination of amendments will be offered that will make the bill acceptable."

Do not think, Mr. Speaker, that voting for this amendment is going to buy us any peace or approval from the bankers. I want my colleagues to understand that.

Now, I want to say a word of respect and affection for my good friend, the gentleman from New York (Mr. LAFALCE), the author of the amendment. I think that the bill is a good bill. It helps the banks. It allows them to underwrite municipal revenue bonds. It allows them to engage in all kinds of financial activity as the agent of the bank in an operating subsidiary. It knocks down current Glass-Steagall and Bank Holding Company Act barriers against affiliations between banks, securities firms, insurance companies, and other firms.

The bankers trade association, the ABA, does not want a bill. It never did. So voting for this amendment is not going to buy us peace with the banks.

But voting for this bill and voting against the LaFalce amendment is going to buy us a bill which is good and in the public interest, which helps banks, and which does something else, which protects people against the abuses that the banks committed which brought about the crash of 1929.

The Fed is right. Listen to Mr. Greenspan. Listen to Chairman Levitt. Listen to other former chairmen of the SEC, pointing out the need to have real separation between banks and between nonbank subsidiaries.

Operating subs are permitted to do all kinds of interesting things: accounting games, shifting of assets back and forth between the sub and the parent company, and opportunities for committing all kinds of, quite honestly, improper and doubtful practices which are nonetheless fully legal.

The simple fact of the matter is that just recently we saw an in-house subsidiary of a bank engaging in grotesquely improper practices, selling to old folks securities which they cast as being government guaranteed. They were not. And they wound up having to pay a $7 million fine. That tells us that bankers are willing to do whatever is necessary to make money and to compete in a hard world.

The only way that we can protect investors against this is to see to it that the banks are situated in a situation where they can be fully observed, where their accounting can be properly watched, and where they cannot shift assets back and forth, and where the bank has no incentive to engage in either bad accounting practices, or to achieve the permission of the regulators to engage in special accounting practices, which will protect them against the failure or the loss of a subsidiary to the dissatisfaction of the public at large.

Remember the abuses that brought about the savings and loan crash? They were caused by in-house actions by the savings and loans. Do not repeat it with the banks.

Mr. LAFALCE. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO), coauthor of the amendment.

Mr. VENTO. Mr. Chairman, I rise in strong support of the LaFalce-Vento amendment, and I urge my colleagues to support it.

Now, it may be true that in fact the banks are not going to support this bill with the LaFalce-Vento amendment, but there are a lot of good reasons to support it in spite of that. The fact is that I think it will be a better bill with this and it is the right policy path that we should pursue.

We should not be superimposing a type of corporate structure on these entities unless there is good reason to do so. The fact is that this amendment is good for small- and medium-size banks that they can participate and exercise some of the new powers that are anticipated by virtue of this modernization policy to exercise powers that they do today in the structure that serves them. And, this amendment will help our communities through the application of the Community Reinvestment Act.

This is an important amendment. In fact, this amendment goes a long way towards resolving and reconciling the issue with regard to insurance. We adopt in this amendment the same language with regard to the Illinois case that is part of this basic text. We reached out to try to find compromise that is workable. And, of course, trying to preserve the National Bank Charter is immensely important, an entity that has been in existence for 135 years and has served our Nation very, very well in terms of building the economic foundation of banking in this country, which is, of course, the envy of the world.

There is no greater security under a holding company, affiliate-type structure than there is under a subsidiary corporate structure. That is why the current and past chairpersons of the Federal Deposit Insurance Corporation, which has the principal responsibility to safeguard the public funds the deposit insurance program, I think, that there is absolutely no safety or soundness reason to oppose having in a subsidiary version an affiliate or holding company corporate form.

The fact is that the same procedures, the same laws, the same regulations apply, 23(a) and (b) under the Holding Company Act; 23(a) and (b) a similar type of regulations exercised by the Comptroller of the Currency. And the FDIC can step in and avert types of action which are improper in any instance.

As a matter of fact, as far as the bank is concerned and the insurance funds, the money flows in a one-way direction out of a subsidiary to, in fact, support the source of strength with regards to a bank and thereby protect the taxpayer to a greater extent. This is a good amendment for small- and medium-size banks. While we cannot win the support of all the bankers, the fact is it is good for our economy and it is good in terms of permitting bank to serve communities.

Now, with regard to allegations here regarding functional regulation and penalties, as I was pointing out in my statement previously, there have been nearly $325 million in 1996 of misbegotten funds that have been assessed and recovered from securities firms, and there were $67 million worth of fines in 1996 from these securities firms.

So there has been and this is functional regulation at its best. And this entity, NationsSecurities, was owned by NationsBank and the securities company Dean Witter when the events and violations occurred. This is not a sound basis upon which to oppose one corporate form over another.

The LaFalce-Vento amendment will provide a better balance, a more appropriate direction for a competitive future financial services industry.

As I stated earlier in the general debate, the underlying bill is fundamentally flawed for national banks, the national bank regulator, and ultimately, consumers and communities.

This amendment makes some technical changes in Section 104. Left to my druthers, I would have preferred the Banking Committee's version of Section 104, or at the very least, a grandfathering of the Illinois State law test. These cut and bite amendments, however, are reasonable, and I think are reflected in some if not all of the changes made by the Manager's amendment.

The changes to section 308 would ensure that with regard to consumer protections, the stronger law, whether State or Federal law, would apply. That is a bare minimum for consumers across this Nation who will be impacted by this legislation.

Our amendment carries three other provisions that were included in the Manager's amendment: the enforcement provisions for lifeline banking, the annual antitrust report, and the privacy study.

Importantly, the LaFalce-Vento amendment would address the deference issue. As written, H.R. 10 will undermine our Federal banking regulator in the courts by altering the deference standard. If H.R. 10 were to pass as written now, the precedent could be detrimental to other areas of law as well.

Last but by no means least, the LaFalce-Vento amendment would make a critical correction in the bill by allowing for the creation of financially viable and safe operating subsidiary for national banks. The amendment would permit all financial activities within the operating subsidiary with the exception of insurance underwriting, and real estate investment and development.

As written today, H.R. 10 would force banks to move financial innovation out of the bank, a loss of diversity that is disadvantageous for many reasons.

Structurally, banks would fundamentally be forced to choose a holding company structure in order to participate in a meaningful way in the 21st Century financial services landscape. This is essentially a business decision that should be made on a business basis, not because options have been closed down by this "modernization" bill.

Small- and medium-sized banks may not wish to form such a corporate holding company structure, a much more complex and difficult process than creating a subsidiary. For example, a bank would need to form the company through a filing or reorganization, chartering an interim bank, merger the "two" banks, obtain approval by shareholders with public review, DOJ review and OCC approval, obtain approval to engage in non-banking activity with public notice requirements. As a subsidiary, the bank only works to obtain OCC approval with public notice and hearing if applicable (4 steps vs. 1 step). This loss of flexibility through limiting the powers of the operating subsidiary will not further competition in the marketplace nor improve consumer service in many communities across this Nation.

Contrary to some of the rhetoric we will hear today, this lack of diversity within a bank's portfolio does not benefit the deposit insurance funds. The FDIC has opined more than once that operating subsidiaries are not more risky to a bank than affiliates in a holding company. The LaFalce-Vento amendment provides that only well-capitalized and well-managed banks could have operating subsidiaries that are engaged in these expanded financial activities. Because the bank's equity investment in the subsidiary would be deducted from the bank's assets and equity capital while the bank remains well-capitalized, this structure should pose no additional risk to the deposit insurance funds. In fact, these operating subsidiaries should instead provide additional, positive revenues for banks. The same restrictions on transactions applied to holding company affiliates by the FRB, 23(A) and (B), would apply between banks and financial subsidiaries.

Without our amendment, there is yet another disadvantage for the communities in which banks are located. Without the viable operating subsidiary provided in the LaFalce-Vento amendment, bank assets will be shifted away from coverage under the Community Reinvestment Act (CRA) into a bank holding company or financial holding company affiliate, which are not as yet covered by community investment requirements. The OCC is the only bank regulator to count the assets of subsidiaries in terms of analyzing CRA capacity of a bank.

Some may assert that operating subsidiaries will be renegades that will subvert laws, such as securities laws. On the contrary, op subs will be doubly regulated in the instance of securities activities—both by the financial securities regulators—the SEC and the NASD—and the OCC. While bank subs have had their problems, as highlighted by the recent Nations Securities fine, they do not have a corner of the market for less than scrupulous practices. With regard to Nations Securities, the SEC and the NASD were the primary regulators, not the OCC. Unfortunately, that cannot prevent a breaching of suitability and product selection processes.

As to safety and soundness, let me reiterate that the FDIC, the entity responsible for deposit insurance, has not found op subs to be more risky than affiliates. As to arguments that this will bring on the next S&L crisis, I would remind my colleagues that diversity is a good thing. The thrifts got in trouble for a number of reasons, including a mightmare-ish interest rate situation, bad loans and bad investment. Among those that survived without cost to the taxpayers, were the thrifts associated in the more diverse unitary thrift holding companies. Further, following the S&L crisis, Congress enacted two strong laws, FIRREA and FDICIA, that greatly empowered the regulator, specifically the FDIC. If the FDIC finds any activity by any banks is too risky, they can stop that activity from happening under section 24 of the FDI Act.

As to true competitive parity, without the LaFalce-Vento amendment, national banks will not have a subsidiary option that state banks have and that banks, regulated by the Federal Reserve Board, have when operating abroad.

If the LaFalce-Vento amendment were to pass, the Administration has indicated they will take another look at this bill. If it doesn't pass, the veto recommendation will stand. There is no strong public policy reason that this amendment should not pass. I urge my colleagues to vote for this amendment.

Mr. BLILEY. Mr. Chairman, I yield 2½ minutes to the gentleman from Ohio (Mr. OXLEY), chairman of the subcommittee.

Mr. OXLEY. Mr. Chairman, the LaFalce amendment would strike down any ability of a State to regulate bank affiliated insurance agents. I want to make that very clear. The gentleman from Minnesota stated quite the opposite, that this amendment would provide functional regulation. I would challenge him on that.

For example, if a bank-affiliated insurance agent commits fraud by representing health care coverage, for example, the result of this amendment offered by the gentleman from Minnesota and the gentleman from New York would mean that we would have virtually no regulatory authority whatsoever at the State level.

Now, if we believe in functional regulation and we believe strongly that State insurance regulators have the ability to regulate insurance, then we have to oppose this amendment. The State insurance regulators have indicated very strongly that they believe this amendment would be catastrophic. It would go beyond the fact that we would have no discrimination, but it would result in no regulation at all.

Now, those of us who believe in State regulation and functional regulation also believe, I think, that the States are the laboratories for democracy. Let us take a real-life look at what happened in banking sales of insurance in the real world.

Our committee held hearings on this bill, and we had the president of the State Bankers Association from Illinois and the president of the State Insurance Agents from Illinois testify about the fact that they had gotten together, worked out a compromise on State bank sales of insurance, had gone to the State legislature in Illinois, not an insignificant State, probably represents a great microcosm of this country, and passed that legislation unanimously and signed by the governor.

We decided in our committee, after a lot of hard work and a lot of head-knocking between the parties, to basically provide that the Illinois statute become a safe harbor for legislation, so if the States had regulation, they would be able to put it up against what Illinois had done. This was the real world. This was a compromise that was worked out very effectively.

Before my time runs out, let me tell my colleagues the States that would be deleted from protecting different State laws. Let me just list the States if I could, Mr. Chairman. These regulatory functions would be struck down in these States if the LaFalce amendment becomes law.

States of Texas, Virginia, Tennessee, Pennsylvania, Michigan, Maine, Louisiana, Indiana, Connecticut, Colorado, Arkansas, Massachusetts, New Hampshire, New Mexico, Rhode Island, West Virginia, Florida, Georgia, and Vermont. All of those State regulatory laws would be out the window if the LaFalce amendment passes.

All of my colleagues who represent those States, and everybody else, let us defeat the LaFalce amendment and preserve the integrity of this regulatory process.

Mr. LAFALCE. Mr. Chairman, I yield myself 15 seconds simply to say that the gentleman from Ohio is in error in his interpretation of our amendment. We leave the Illinois law and less restrictive State statutes as a safe harbor. We keep the language of the bill on that.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Mr. Chairman, this rhetoric that we are hearing on the House floor today really, I think, centers around one issue and one issue only, and that is cutting the cake. It is a determination as to whether or not the Committee on Banking and Financial Services is going to gain greater jurisdiction by having more and more of these larger institutions under a regulator that the Committee on Banking and Financial Services oversees, or whether or not the securities industry is going to be the winner and, therefore, the Committee on Commerce is going to oversee the jurisdiction.

☐ 1530

That is what this is all about. It is not about whether or not we are going to look after the interests of the taxpayer. It is not about whether we are going to look out after the interests of working families. It is not about whether we are going to make sure that the insurance companies are going to provide insurance policies to all parts of our country, to people of every race, creed, and color. It is not about whether or not we are going to make certain the banks lend into the communities from which they take their deposits. It is about one thing. It is about power.

All I say is it is fine with me for these institutions to gobble one another up, to get stronger, to be able to compete internationally, to be able to compete here in the United States. But if we are going to do that, then we darn well ought to make sure that working families and the poor have every bit of right of access to these institutions, to the creation of wealth as anybody else.

That is what is wrong with this bill, because this bill does not provide the assurance that makes sure that these banks and insurance companies and securities firms cannot discriminate. It does not make certain that they are going to lend money back into the communities from which they suck out their deposits.

That is why I believe we should support the LaFalce amendment, because at a very minimum, at a very minimum, it suggests that these institutions, these powerful companies are not going to be able to serve out to their affiliates their requirements under the Community Reinvestment Act to lend back to the communities from which they take their deposit. It is a minimal standard. It is a very small crumb to provide to the working families of America.

Support the LaFalce amendment. Stand up for the working people of our country.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. FAZIO), the chairman of the Democratic Caucus.

Mr. FAZIO of California. Mr. Chairman, I rise to commend the efforts of my colleagues, the gentleman from New York (Mr. LAFALCE) and the gentleman from Minnesota (Mr. VENTO), but to oppose their amendment.

Their hard work and dedication is going to be required if we are going to pass this bill, and sometime down the road, see it enacted into law. We hope that, in the months ahead, we can find the key to bringing this bill into law.

But if we agree to the amendment of the gentleman from New York (Mr. LAFALCE) today, it promises to undermine not only the very intent of H.R. 10, but also the manager's amendment we just overwhelmingly adopted.

It gets us no support from the banks, and it earns us the undying opposition of the entire insurance industry. It, therefore, is the killer amendment that will determine whether or not we pass a bill today and move it along in the process so that we can confront our differences and do something about modernizing this industry that so clearly needs it, before it becomes a wholly-owned subsidiary of foreign investors.

Instead of igniting reform and competition, the amendment of the gentleman from New York (Mr. LAFALCE) gives banking institutions extended privileges I fear they lack the mechanisms to properly administer; and the insured deposits of those entities, means this is a problem for the rest of us, for the taxpayers.

The gentleman from Massachusetts (Mr. FRANK) has told us it is not an appropriate analogy to talk about the S&L crisis, but the same underlying problem exists. History reminds us of that bailout. The crisis, that drained the savings of millions of Americans, cost taxpayers billions and embarrassed this country and the financial institutions within it on a global basis.

This amendment leads American financial institutions to a potentially similar economic disaster and places the financial burden of risky banking activity on the shoulders of the average taxpayer. We cannot allow that to occur.

I think we need to support this bill, hopefully in numbers that will give the Senate a message that they need to deal with it, and then sit down with the administration and find a common solution so that we can do what we all say we want to do, and that is, modernize the laws and rules and regulations of our financial institutions.

If we vote for this amendment, we might as well fold our tent, pull the bill, and close it down for another year, another failure. How many times in these past 2 decades are we going to go down that road? I urge a no vote on this amendment.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of the LaFalce-Vento amendment.

I am a little surprised that people who typically talk about giving businesses more flexibility are now on the other side of this issue, saying we want to remove flexibility from businesses. Typically, the byword is, let us give businesses the opportunity to organize and operate in a fashion that they believe is most advantageous to them. Yet, here we are, apparently, in this bill, willing to take away that kind of flexibility from banks.

It has a particularly bad impact on small- and medium-sized banks, because they are not going to run out and spend the time and money to create these holding companies. It is just not going to happen. Consequently, this bill is, and the additional powers that we are giving to them are going to be of less value to them than to the larger banks. So for that reason, the increased flexibility reason, I support this amendment.

Another reason that I support the amendment is because I think, to the maximum extent we can, we need to bring assets into the bank and under the bank in such a way that those assets are subjected to the Community Reinvestment Act.

Our communities need a strong commitment from financial institutions, and banks in my congressional district have made that kind of strong commitment. I do not think we ought to be giving them any incentives to take assets away from that commitment.

Mr. BLILEY. Parliamentary inquiry, Mr. Chairman. How much time remains on this side?

The CHAIRMAN pro tempore (Mr. DICKEY). The gentleman from Virginia (Mr. BLILEY) has 9½ minutes remaining. The gentleman from New York (Mr. LAFALCE) has 6 minutes remaining.

Mr. BLILEY. Further parliamentary inquiry, Mr. Chairman. Who has the right to close?

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. BLILEY) has the right to close.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, let me just say there are three reasons to oppose this well-intended amendment. Number one, it does get around the McCarran-Ferguson Act, which says States regulate insurance. It would supersede laws in Texas, Georgia, Virginia, Pennsylvania, and Michigan, just to name a few. This is a time when we are trying to decentralize power out of Washington. We do not want to usurp it from the States.

Number two, this law will have the unintended consequences of rapid bank investment and expansion into nonbanking activities. Look at the Asian model. Here we are with the Asian markets right now in absolute disaster, which the American taxpayers have been asked to contribute $18 billion to help correct and help bail them out. We do not need another S&L-type crisis in America.

Number three and finally, this is corporate welfare. Why should hard-working, middle-class taxpayers who are busting their tail to get to work in the morning and making ends meet at the end of the month, why should they give a subsidy to an industry that made $14 billion in profit last year? American taxpayers do not need more corporate welfare for folks who are already making money.

Those are three good reasons to vote against this amendment. Let us vote it down. Pass the bill as is.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Chairman, the colleague that just spoke before me was wrong on at least two of his counts and possibly on three.

But let me start out, I want to quote Alan Greenspan, because we have heard him talked a lot about. This quote is from the hearing on May 21, 22, 1997 in the House Committee on Banking and Financial Services, and this is in response to a question which I asked about safety and soundness with respect to operating subsidiaries.

He says, "My concerns are not safety and soundness." So once and for all, this is Alan Greenspan and what he said. With respect to the subsidy, if we read the rest of the testimony, he says, The issue here is that the amount of the subsidization that is employed by the holding company in financing a section 20 securities affiliate is significantly less than it would be were it being financed as a subsidiary of a bank.

Mr. Greenspan says that while there is no safety and soundness issue with respect to operating subsidiaries, there is a subsidy that occurs in both the holding company model as well as in the operating subsidiary model. Of course, he did not provide any evidence of that, and no one else has.

Let me ask a question, a question of the subsidy: How does the marketplace see it? If the marketplace sees a tombstone for bond issue offering that are being underwritten by NationsBank Montgomery Securities, do they see that as a subsidy, an implicit guarantee that is going from the bank or from the Federal Government? Even though that is a holding company and an affiliate model, the marketplace is sophisticated enough to understand it.

Let me say also what this bill does. This creates an inequity between the national bank charter and the holding company charter. It shifts regulation of the Nation's banking system away from the elected government, through the Comptroller of the Currency, to the Federal Reserve, an appointed entity.

If we were talking about doing that with the Securities and Exchange Commission, a number of us, including both the gentlemen from the Committee on Commerce, would be down here raising a lot of Cain, as would I.

The fact is, this is not a safety and soundness issue. This is a parity issue. It does affect CRA. And, to assert that somehow this is tied to the savings and loan crisis is just factually incorrect.

I urge my colleagues to support the amendment offered by the gentleman from New York (Mr. LAFALCE) and the gentleman from Minnesota (Mr. VENTO).

Mr. Chairman, I insert the following:

Mr. Chairman, I rise in support of the LaFalce-Vento amendment and ask unanimous consent to revise and extend my remarks.

As currently drafted H.R. 10 allows banks to engage in securities underwriting through a holding company structure regulated by the Federal Reserve System, but not through a national bank regulated by the Comptroller of the Currency.

As a result, this legislation will restrict some national banks from offering comprehensive financial services for consumers while allowing it for others. The LaFalce-Vento amendment would also ensure that there is a level playing field for all types of financial institutions by allowing banks to make decisions based upon good business strategy rather than the one-size-fits-all bank holding company structure.

I am also convinced that there is no safety and soundness risk associated with operating subsidiaries vs. affiliates. When I questioned Federal Reserve Chairman Alan Greenspan about this issue in the House Banking Committee, he agreed there was no safety and soundness problem associated with an operating subsidiary structure. Rather, he argued that a subsidiary structure extends an implicit taxpayer subsidy to that subsidiary. There is no evidence to back up this claim and in fact Mr. Greenspan goes on to admit that affiliates under a holding company structure also benefits from a subsidy. Further, some argue that the market will interpret a subsidy in an op-sub but not an affiliate. Again, there is no evidence to back up this claim. First, when one sees Nationsbank Montgomery Securities, do they see an implicit subsidy and bank guarantee? But that is an affiliate, not an op-sub.

I also believe that permitting operating subsidiaries is good banking practice. If the operating subsidiary is making profits, its profits will flow up to the parent bank. However, the LaFalce-Bentsen amendment includes proper safeguards that will prevent the operating subsidiary from impacting their parent bank just as the holding company structure attempts to prevent the affiliate from dragging down the holding company and thus the bank. The LaFalce/Vento amendment would only permit national banks that are well-capitalized and well-managed to establish operating subsidiaries. The LaFalce/Vento amendment also requires operating subsidiaries to separately capitalize their operations and keep their operations completely separate from the parent bank. And it subjects the operating subsidiary to full functional regulation. I believe both of these safeguards should ensure that taxpayers are not at risk with operating subsidiaries any more than they would be with a holding company/affiliate structure.

The LaFalce/Vento amendment would also ensure that all of the assets of the bank are subject to the Community Reinvestment Act (CRA). This is critical when many banks are restructuring and being merged with other financial companies. If banks are required to establish affiliates, all of their capital and operations that are directly associated with their affiliate are not subject to CRA. This would have the effect of reducing the amount of assets that are subject to CRA and would reduce the investment that banks are currently making into their communities. I am a strong supporter of CRA and believe that we must ensure that banks continue to invest in their communities.

The LaFalce/Vento amendment corrects the inequity in the underlying bill by providing parity between national banks and bank holding companies. To do otherwise would eviscerate the national bank charter and result in a dramatic shift in regulatory authority over the banking system from the elected to the appointed branch of government. If we proposed that with the Securities and Exchange Commission, I think many would object.

Finally, with respect to section 104 and bank insurance sales, this would correct the provision in the bill that would effectively reverse the Chevron precedent set by the Supreme Court. I must admit that I am ambivalent on this issue.

I strongly support a level playing field with respect to regulation of bank insurance sales. Since McCarran-Ferguson provides for insurance to be regulated at the state level, banks should be subject to state regulation so long as such regulation does not have the effect of discriminating and prohibiting bank insurance sales contrary to the Barnett decision.

In all honesty, I was prepared to accept section 104 as written so long as the operating subsidiary language was also accepted and in fact Mr. VENTO and I had proposed such an amendment, but that was not allowed under the rule. I believe the only true fix to the bank insurance sale power question will come as a result of practice because compromise among the parties has been impossible.

In the end it is necessary that the House adopt the LaFalce/Vento amendment to H.R. 10 to make this bill live up to its name of financial modernization.

Mr. BLILEY. Mr. Chairman, it gives me great, great pleasure to yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, again, let us go back. What are we talking about? Separate subsidiary means we are putting it over here in a separate operation that makes it possible for the SEC, for insurance regulators, to know what we are doing. An Op-sub is an operating subsidiary. That is what they want to call it. That means it will be right inside the bank, hard for the SEC, hard for the insurance regulators to get inside to know what is going on. Op-sub really stands for "ordinary people subsidizing" risky business by banks.

Alan Greenspan, here is what he said in a letter to the gentleman from Michigan (Mr. DINGELL) on May 4, last week, "Operating subsidiaries also pose serious risks to banks and their deposit insurance funds, and potentially the taxpayer, and will cause serious conflicts in the ability of functional regulators to carry out their supervisory responsibilities."

Chairman Breeden, George Bush's chair of the Securities and Exchange Commission, he says that it will cause a "dulling narcotic effect of those subsidies and the related bureaucratic nannyism will work a prompt and significant alteration on the culture of Wall Street."

We can create a level playing field allowing each of these industries to compete and to consolidate without having the inherent bias that is built in, the conflicts that are built in by having the expansion of the Federal safety net blur over into these operating subsidiaries and causing real dangers to depositors and taxpayers alike.

Vote no on the LaFalce amendment if we do not want to see a repetition of some of the financial shenanigans which we have all come to see during our lifetime.

Mr. LAFALCE. Mr. Chairman, how much time do we have remaining on this side?

The CHAIRMAN pro tempore. The gentleman from New York (Mr. LAFALCE) has 4 minutes remaining.

Mr. LAFALCE. Mr. Chairman, is there a speaker other than the closing speaker?

Mr. BLILEY. Mr. Chairman, we have another speaker.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I rise for the purpose of entering into a colloquy with the gentleman from Iowa (Mr. LEACH).

Mr. Chairman, there is some uncertainty about what, and I quote, "any other provision of Federal law" means in section 104(b)(1) of the bill. Some consumer groups expressed concern that this language might be unnecessarily broad and might unintentionally preempt a broad range of consumer laws.

Will the gentleman from Iowa work with me on this matter as this bill moves forward to conference, through the Senate to conference, that this language will be reviewed so as not to be interpreted in an overly broad manner?

Mr. Chairman, I yield to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Chairman, the gentleman has raised probably the most controversial section of the bill in terms of subtleties of language. I share some of his concerns, and I will assure the gentleman, as we move forward there, this language will be carefully reviewed. I cannot guarantee an outcome because there are people on all sides of this issue, but I do believe that a careful review is warranted, and I assure the gentleman that we will continue to look at that precise language.

☐ 1545

Mr. BLILEY. Mr. Chairman, I yield one minute to the distinguished gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I rise in opposition to the amendment as a member of the Committee on Banking and Financial Services. I understand the greater flexibility for small and middle size banks, and that is important. But there is something more important, and I want to remind my colleagues that this Congress listens, the Americans listen, and the world listens to Alan Greenspan when he speaks.

Alan Greenspan has been quoted here several times. Here is what he had to say before the House Committee on Banking and Financial Services on May 22, and he made a similar statement on July 17 to the Committee on Commerce:

> The Federal Reserve Board is of the view that the risks from securities and insurance underwriting are manageable using the holding company framework as compared to the operating subsidiaries. But there is another risk, the risk of transference to nonbank affiliates of the subsidy implicit in the Federal safety net. Deposit insurance, the discount window and access to the payment window with attendant moral hazard. As the committee knows, the Board believes that the subsidiary is more readily transferable to a subsidiary of the insured deposit institution than to its affiliates, and the holding company structure creates the best framework for limiting this leakage.

The Federal Reserve Board will oppose this bill if we approve the LaFalce amendment.

Mr. LAFALCE. Mr. Chairman, I yield one minute to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Chairman, I want to respond to my colleague from Nebraska. At that same hearing, Mr. Greenspan again said, "My concerns are not safety and soundness," and, again if you read the testimony, he does make the argument that there is an implicit subsidy that goes through an operating subsidiary.

He says the same subsidy exists through a bank holding company with an affiliate structure. But then he went on to make an unsubstantiated argument that somehow the subsidy is less through a holding company structure than it is through an operating subsidiary.

But Ricki Helfer, the then-Chairman of the FDIC, as the gentleman will recall, went on to say that in the FDIC's study of the issue, not only did they find there was no safety and soundness concern with respect to an operating subsidiary compared to an affiliate through a holding company structure, but, furthermore, that they saw no difference in the subsidy whatsoever, if in fact there is such a subsidy. So the gentleman will recall from the hearing, it was a year ago, but it was very clear where Mr. Greenspan stood on the issue at the time. The chairman of the Federal Reserve says a lot of things. Sometimes he is consistent, and, quite frankly, sometimes he is not. On this issue, he has apparently not been very consistent.

Mr. BLILEY. Mr. Chairman, I yield two minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I must say that this is a safety and soundness issue, and I am rising in opposition to this amendment.

I must say also that one of the things that Mr. Greenspan has been quite careful to enunciate is that there are heightened concerns in these days of mega-mergers. We should be giving much more attention to the implication of the subsidy.

It is a safety and soundness issue, and this dictates that new activities must be an affiliate under a holding company. The new activities will not pose a threat to the bank or the deposit insurance fund if they are conducted through an affiliate, not a subsidiary. We should not permit operating subsidiaries to pose this kind of danger.

I want to say, my friend, the gentleman from Massachusetts (Mr. FRANK) is not here right now, but I do want to say this does bring to mind "deja vu all over again" to the ghost of the savings & loan debacle.

Make no mistake about that, my colleagues. This subsidiary proposal severely violates the functional regulatory structure that we have at the heart of this legislation.

I want to repeat again, I believe that the gentleman from Nebraska (Mr. BEREUTER) correctly quoted Mr. Greenspan in context, stating his opposition to the operating subsidiary, both in terms of the subsidy, as well as in terms of the safety and soundness.

In addition to Mr. Greenspan being opposed to this, Mr. Levitt, the chairman of the Securities and Exchange Commission, is also opposed to it, and I might say that there is significant opposition from my colleagues, and bipartisan opposition, on the Committee on Commerce.

I stand here ready to alert my colleagues that this would be really undermining the whole purpose of this bill if this amendment were passed, so I would urge a no vote.

Mr. Chairman, I rise today, in opposition to this amendment. I support many of the provisions in this package of amendments. In fact, I asked the Rules Committee to let me offer 3 insurance amendments which are similar to some of the insurance provisions in this package. In addition, I support a small bank CRA exemption. However, I continue to have grave reservations about the operating subsidiary and will vote against the package based on this.

The operating subsidiary is a bad idea, and the House should vote it down.

Proponents argue that an operating subsidiary is necessary to keep the national bank charter vital and flexible. Some even say that it will promote CRA.

The operating subsidiary is not necessary for any of these reasons. On flexibility and vitality—national banks will be permitted to engage in many new opportunities under the bill. They just have to do it over in the holding company.

The debate here is over where the activities must be housed. Should the new activities be as affiliates under the holding company or should they be subsidiaries under the national bank.

This is a safety and soundness issue. And heightened concern in these days of mega mergers. Safety and soundness dictates that the new activities take place in an affiliate under the holding company. These new activities will not pose a threat to the bank or the Federal deposit insurance funds if they are conducted through an affiliate. We should not permit operating subsidiaries to pose a risk to safety and soundness. This does bring deja vous all over again to the savings and loan debacle. This subsidiary proposal severely violates the functional regulatory structure we have as the heart of the legislation.

I am not alone in opposing the operating subsidiary. The operating subsidiary is opposed by Mr. Greenspan, the Chairman of the Federal Reserve Board. It is also opposed by Mr. Levitt, the Chairman of the Securities and Exchange Commission. There is bipartisan opposition to the operating subsidiary. I am joined by Mr. BLILEY and Mr. DINGELL as well as many other members of the Banking Committee. Much has been made about Secretary Rubin supporting the operating subsidiary. Many seem to forget that Treasury Secretary Regan during the Reagan Administration opposed the operating subsidiary.

Don't make a safety and soundness mistake. Vote no on the operating subsidiary.

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, the primary issue is the Community Reinvestment Act. If we pass this amendment, we will permit a structure where you can retain assets under the jurisdiction of the CRA. If we reject this amendment, we mandate that a good many present activities, and most all future activities, would go outside of the jurisdiction of the Community Reinvestment Act. That is fundamental.

Secondly, with respect to safety and soundness, Chairman Greenspan testified before the Committee on Banking and Financial Services on two separate occasions, this is not a safety and soundness issue. So sayeth Alan Greenspan before the Committee on Banking and Financial Services when he was not negotiating with legislators for a particular bill.

Secondly, this was the testimony of the State banking regulators.

Third, this was the testimony of the present chairman and the past chairman of the Federal Deposit Insurance Commission. This is the not a safety and soundness issue. The safety and soundness can be conducted just as well or better under the operating subsidiary concept as under the separate affiliate concept.

Secondly, with respect to functional regulation, there is no difference. We would have the same functional regulation under an operating subsidiary by the SEC, by the State insurance commissioners, et cetera, that we would have under the separate financial holding company affiliate. That is a non-issue.

Big banks, they really do not care. They are going to the financial services holding company routes. The security firms, they do not really care. They want a bill to accomplish repeal of Glass-Stegall and changes the bank holding company law.

The ones that care are the consumers who will not be subject to the Community Reinvestment Act, whose communities will not be subject to it, and the smaller banks, because these smaller banks will be forced to either be taken over or to convert to State chartered institutions.

That is this amendment, and we have the chance of passing a law, rather than a one House bill.

Mr. BLILEY. Mr. Chairman, it is a great pleasure for me to yield the balance of my time to the gentleman from Iowa (Mr. LEACH), the distinguished chairman of the Committee on Banking and Financial Services, who has been so helpful and so cooperative in working together on this bill.

The CHAIRMAN pro tempore (Mr. DICKEY). The distinguished chairman of the Committee on Banking and Financial Services is recognized for 3½ minutes.

Mr. LEACH. Mr. Chairman, with reluctance, I stand in opposition to this amendment.

Let me say what is in the bill is a compromise between the Committee on Banking and Financial Services and the Committee on Commerce. If this amendment had gone back to the Committee on Banking and Financial Services' position, I probably would have been obligated to support it. But I will tell you, it goes further. What it does, it adds under the power of a bank, merchant banking authority. This is authority that is very, very significant.

Merchant banking constitutes direct ownership and control of commercial investments. I used to argue in the 1980's that the two dirtiest words in the American language were "direct investment," rights which were authorized S&L's in half a dozen states to use

Federally insured deposits to make investments in entities that they would then control. Instead of making loans to people, they would simply own things. Here let me just comment on common sense. If you are an outsider listening to this debate, the esoterics of an operating subsidiary versus affiliate must seem very large. But does any common-sense American think that a bank ought to be able to come in and under its own volition start to own commercial businesses, rather than simply make loans, in ways that involve potentially the deposit insurance system and what could be a subsidy involved thereof?

I know the subsidy issue is controversial. The Fed says one thing, the Treasury something else. In my time in public life, I always found the argument that a subsidy exists to be valid.

Secondly, let me say there is a question of history that has been articulated. That is, the Department of Treasury has said no Treasury could support any position the one being taken. The gentleman from New York has suggested that his is a historical position of all Treasuries.

Well, that, frankly, is not precisely the case. I would like to direct both the Treasury and my good friends to this statement of the Honorable Donald T. Regan, the Department of the Treasury Secretary under the Reagan Administration.

Secretary Regan said, "The administration," meaning the Reagan Administration:

> Does not believe that non-depository institution activities should be conducted through a subsidiary or service corporation in which a bank or a thrift has a direct equity investment. The investment would be at risk if the subsidiary's activities were to falter and the funds for the investment would be raised with Federal assistance not available to non-depository institution competitors and a cost advantage to the bank or the thrift.

I raise this simply to note, as this testimony reflects, that the Reagan Administration was in opposition to this administration's position on this subject, and in consonance with this bill and with the position of Mr. Greenspan.

Finally, let me just stress that there are articulated differences that relate to CRA. The Federal Reserve has a very profound letter out on this subject, and I commend it to my colleagues, which shows that the CRA argument has been widely exaggerated, and that the differences in CRA treatment of a national bank and a bank under the supervision of the Federal Reserve is very, very similar.

This bill expands CRA, it does not contract it, in significant ways. What are the unarticulated differences, or some of the differences, between the Treasury and the Fed in which there is a major battle underway?

Mr. Chairman, I would simply inform the membership that the rest of the words would have been extraordinarily compelling.

Mr. Chairman, truth be told, the CRA argument on this bill is proffered to mask the extraordinary differences between the Treasury and the Federal Reserve Board on which institutions should be the primary federal regulator of the banking system. Just as the Fed perhaps exaggerates a bit the importance of the subsidy that exists with the offering of insured deposits, the Treasury magnifies the CRA argument. The reason these arguments are so critical to these two institutions is that the Treasury believes Congress will tilt to it if a case can be made that Fed supervised institutions have lower CRA obligations, and the Fed believes Congress may tilt to it if it can be shown that competitive advantages accrue to institutions with subsidized federally insured deposits.

Actually, Congress has historically considered the Federal Reserve to be the appropriate principal regulator for new power approaches for a different set of reasons: (1) It is the Fed which has the predominance of experience with holding company regulations. (2) It is the Fed, and only the Fed, which has the resources to act on a moment's notice in a time of emergency. While the Treasury has no treasury, the Fed has the capacity to liquify virtually any problem of any size. (3) With its functional and precise regulatory approach, the bill is designed to resolve issues of regulatory turf in such a way that financial companies can't engage in regulatory arbitrage thus precipitating weaker regulation. (4) While sometimes controversial in its monetary policy deliberations, the Fed has a sterling record for being above politics on the regulatory front.

From the very beginning of development of this bill I have been impressed with how much support exists for the general framework of change but how extraordinary the divisions on the subtleties are.

In the private sector there are natural maximization of profit motivations; on the public side, there are maximization of power concerns. Ironically, as we come to the conclusion of the House consideration process, the rivalry between the Fed and the Treasury has come more to the fore than rivalries between and within industrial groupings.

One of the most profound observations of the month was that of a prominent New York banker who told me: "All I want is to get out of the Fed-Treasury crossfire." The bill provides certitude as well as fairness.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. LAFALCE).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LAFALCE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 115, noes 306, not voting 11, as follows:

[Roll No. 144]

AYES—115

Allen
Baesler
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blumenauer
Boehlert
Bonior
Borski
Boswell
Brown (CA)
Capps
Cardin
Carson
Castle
Clayton
Clyburn
Conyers
Davis (IL)
Davis (VA)
DeFazio
Dixon
Dreier
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Gibbons
Goode
Goodlatte
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hinchey
Hooley
Hostettler
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lee
Lewis (GA)
Luther
Maloney (CT)
Maloney (NY)
Martinez
McDermott
McHale
McInnis
McIntosh
McKinney
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (CA)
Moakley
Mollohan
Moran (VA)
Myrick
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Payne
Pelosi
Petri
Price (NC)
Ramstad
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Schumer
Serrano
Sherman
Slaughter
Smith, Adam
Snyder
Souder
Stark
Stokes
Thompson
Thurman
Tierney
Torres
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Weygand
Woolsey

NOES—306

Abercrombie
Ackerman
Aderholt
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blunt
Boehner
Bonilla
Bono
Boucher
Boyd
Brady
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Etheridge
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gillmor
Gilman
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Horn
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kennelly
Kildee
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe

LaHood
Largent
Latham
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHugh
McIntyre
McKeon
McNulty
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mink
Moran (KS)
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Rahall
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanchez
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Towns
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Whitfield
Wicker
Wise
Wolf
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—11

Bateman
Christensen
Clay
Gilchrest
Gonzalez
Harman
Hefner
Hilliard
Kilpatrick
Radanovich
Skaggs

☐ 1619

Messrs. COBURN, INGLIS of South Carolina, PICKETT, STENHOLM, Mrs. LOWEY, and Messrs. LEVIN, MASCARA, and FORBES changed their vote from "aye" to "no."

Messrs. BISHOP, FARR of California, MOAKLEY, GOODLATTE, GIBBONS, Ms. ESHOO, and Messrs. OLVER, McINTOSH, DAVIS of Virginia, and MORAN of Virginia changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. KILPATRICK. Madam Chairman, because I was unavoidably detained in the 15th Congressional District, I missed several roll call votes. Had I been present, I would have voted Nay on roll call number 142, Aye on roll call vote number 143, and Aye on roll call number 144.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 2 of House Report 105-531.

AMENDMENT NO. 3 OFFERED BY MR. BAKER

Mr. BAKER. Madam Chairman, I offer an amendment under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2, amendment No. 3, printed in House Report 105-531, offered by Mr. BAKER:

After section 181, insert the following new sections (and conform the table of contents accordingly):

SEC. 182. CRA AMENDMENT.

Section 803(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(2)) is amended by inserting "which has total assets of more than $100,000,000" before the semicolon at the end.

In section 305 of the Amendment in the Nature of a Substitute, strike "If a national bank" and insert "(a) IN GENERAL.—If a national bank".

In section 305 of the Amendment in the Nature of a Substitute, insert the following new subsections after subsection (a) (as so redesignated):

(b) STATE WAIVER.—If, in any community served by a national bank or a subsidiary of a national bank, there is no company licensed by the appropriate State regulator to provide insurance as agent which is available for acquisition, the State insurance regulator may, upon application by the national bank or subsidiary, waive the limitation of subsection (a) with respect to the provision of insurance as agent by such bank or subsidiary within such community.

(c) SUNSET.—This section shall cease to be effective at the end of the 3-year period beginning on the date of the enactment of this Act.

In paragraph (1) of section 45(d) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike "and the making of loans".

In paragraph (2) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike "Regulations prescribed" and insert "Subject to section 104, regulations prescribed".

After section 309 of the Amendment in the Nature of a Substitute, add the following new section (and conform the table of contents accordingly):

SEC. 310. STUDY OF EFFECTIVENESS OF SAFE HARBOR.

(a) STUDY REQUIRED.—3 years after the date of the enactment of this Act, the Comptroller of the Currency shall study, in conjunction with the National Association of Insurance Commissioners should such Association choose to participate, the effectiveness of the provisions of section 104(b)(2)(A) in establishing a safe harbor for the regulation by States of insurance sales and solicitation activity.

(b) REPORT.—The Comptroller of the Currency, together with the National Association of Insurance Commissioners should such Association choose to participate, shall submit a report to the Congress before the end of the 6-month period beginning 3 years after the date of the enactment of this Act on findings made and conclusions reached with regard to the study required under subsection (a), together with such recommendations for legislative or administrative action as the Comptroller and the Association determine to be appropriate.

Paragraph (9) of section 10(c) of the Home Owners' Loan Act, as added by section 401 of the Amendment in the Nature of a Substitute, is amended by adding at the end the following new subparagraph:

"(C) NO ACQUISITION OF GRANDFATHERED UNITARIES BY UNREGULATED NONFINANCIAL COMPANIES.—Notwithstanding subparagraph (B), paragraph (3) shall not apply to any company described in subparagraph (B)(i)(II) which is not, at the time of the acquisition referred to in such subparagraph, subject to licensing, regulation, or examination by a Federal banking agency, the Securities and Exchange Commission, the Commodities Futures Trading Commission, or a State insurance regulator.".

Strike the heading of subtitle C of title I of the Amendment in the Nature of a Substitute and insert the following new heading (and amend the table of contents accordingly):

SUBTITLE C—SUBSIDIARIES OF INSURED DEPOSITORY INSTITUTIONS

Strike section 121 of the Amendment in the Nature of a Substitute and insert the following new sections (and redesignate subsequent sections and amend the table of contents accordingly):

SEC. 121. SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.

(a) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.—Chapter one of title LXII of the Revised Statutes of United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A as section 5136C; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

"SEC. 5136A. FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.

"(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.—

"(1) IN GENERAL.—A subsidiary of a national bank may engage in an activity that is not permissible for a national bank to engage in directly, but only if—

"(A) the activity is a financial activity (as defined in paragraph (4));

"(B) the national bank is well capitalized, well managed, and achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of the bank;

"(C) all depository institution affiliates of such national bank are well capitalized, well managed, and have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution; and

"(D) the bank has received the approval of the Comptroller of the Currency.

"(2) NO EFFECT ON EDGE ACT OR AGREEMENT CORPORATIONS.—Paragraph (1) shall not apply with respect to any subsidiary which is a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act.

"(3) OTHER SUBSIDIARIES PROHIBITED.—A national bank may not control any subsidiary other than a subsidiary—

"(A) which engages solely in activities that are permissible for a national bank to engage in directly or are authorized under paragraph (1); or

"(B) which a national bank may control pursuant to section 25 or 25A of the Federal Reserve Act, the Bank Service Company Act, or any other Act that expressly by its terms authorizes national banks to control subsidiaries.

"(4) FINANCIAL ACTIVITY DEFINED.—For purposes of this section and subject to paragraphs (5) and (6), the term 'financial activity' means any activity determined under section 6(c) of the Bank Holding Company Act of 1956 to be financial in nature or incidental to financial activities.

"(5) OTHER DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(A) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means a company which—

"(i) is a subsidiary of a national bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

"(ii) is engaged in a financial activity pursuant to paragraph (1) that is not a permissible activity for a national bank to engage in directly.

"(B) SUBSIDIARY.—The term 'subsidiary' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

"(C) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act and, for purposes of this section, the Comptroller shall have exclusive jurisdiction to determine whether a national bank is well capitalized.

"(D) WELL MANAGED.—The term 'well managed' means—

"(i) in the case of a bank that has been examined, unless otherwise determined in writing by the Comptroller, the achievement of—

"(I) a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the bank; and

"(II) at least a rating of 2 for management, if that rating is given; or

"(ii) in the case of any national bank that has not been examined, the existence and use of managerial resources that the Comptroller determines are satisfactory.

"(6) INSURANCE UNDERWRITING, MERCHANT BANKING, AND DIRECT INVESTMENT.—Except as provided in title III of the Financial Services Act of 1998, no subsidiary of a national bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act) may underwrite noncredit-related insurance, engage in real estate investment or development activities (except to the extent a national bank is specifically authorized by statute to engage in any such activity directly), or engage in merchant banking (as described in section 6(c)(3)(H) of the Bank Holding Company Act of 1956).

"(7) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes affiliated with a national bank during the 12-month period preceding the submission of an application to acquire a financial subsidiary and any depository institution which becomes so affiliated after the approval of such application may be excluded for purposes of paragraph (1)(C) during the 12-month period beginning on the date of such acquisition if—

"(A) the national bank has submitted an affirmative plan to the Comptroller of the Currency to take such action as may be necessary in order for such institution to achieve a 'satisfactory record of meeting community credit needs', or better, during the most next examination of the institution; and

"(B) the plan has been accepted by the Comptroller.

"(b) CAPITAL DEDUCTION REQUIRED.—

"(1) IN GENERAL.—In determining compliance with applicable capital standards—

"(A) the amount of a national bank's equity investment in a financial subsidiary shall be deducted from the national bank's assets and tangible equity; and

"(B) the financial subsidiary's assets and liabilities shall not be consolidated with those of the national bank.

"(2) REGULATIONS REQUIRED.—The Comptroller shall prescribe regulations implementing this subsection.

"(c) SAFEGUARDS FOR THE BANK.—A national bank that establishes or maintains a financial subsidiary shall assure that—

"(1) the bank's procedures for identifying and managing financial and operational risks within the bank and financial subsidiaries of the bank adequately protect the bank from such risks;

"(2) the bank has, for the protection of the bank, reasonable policies and procedures to preserve the separate corporate identity and limited liability of the bank and subsidiaries of the bank; and

"(3) the bank complies with this section.

"(d) NATIONAL BANKS WHICH DO NOT COMPLY WITH REQUIREMENTS OF THIS SECTION.—

"(1) IN GENERAL.—If the Comptroller determines that a national bank which controls a financial subsidiary, or a depository institution affiliate of such national bank, does not continue to meet the requirements of subsection (a), the Comptroller shall give notice to the bank to that effect, describing the conditions giving rise to the notice.

"(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

"(A) CONTENT OF AGREEMENT.—Within 45 days of the receipt by a depository institution of a notice given under paragraph (1) (or such additional period as the Comptroller may permit), the depository institution failing to meet the requirements of subsection (a) shall execute an agreement with the appropriate Federal banking agency for such institution to correct the conditions described in the notice.

"(B) COMPTROLLER MAY IMPOSE LIMITATIONS.—Until the conditions giving rise to the notice are corrected, the Comptroller may impose such limitations on the conduct of the business of the national bank or subsidiary of such bank as the Comptroller determines to be appropriate under the circumstances.

"(3) FAILURE TO CORRECT.—If the conditions described in the notice are not corrected within 180 days after the bank receives the notice, the Comptroller may require, under such terms and conditions as may be imposed by the Comptroller and subject to such extensions of time as may be granted in the discretion of the Comptroller—

(A) the national bank to divest control of each subsidiary engaged in an activity that is not permissible for the bank to engage in directly; or

"(B) each subsidiary of the national bank to cease any activity that is not permissible for the bank to engage in directly.

"(e) FUNCTIONAL REGULATION.—

"(1) IN GENERAL.—A financial subsidiary of a national bank shall not be treated as a bank for purposes of any definition of bank in the Federal securities laws.

"(2) DEFERENCE TO SEC.—The Comptroller shall defer to the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies.

"(3) DEFERENCE TO EXAMINATIONS.—In the case of a financial subsidiary of a national bank which is a registered broker or dealer or a registered investment adviser, the Comptroller shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Comptroller by forgoing an examination and instead reviewing the reports of examination made of such subsidiary by or on behalf of the Securities and Exchange Commission.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended—

(1) by redesignating the item relating to section 5136A as section 5136C; and

(2) by inserting after the item relating to section 5136 the following new item:

"5136A. Financial subsidiaries of national banks.".

SEC. 122. ACTIVITIES OF SUBSIDIARIES OF INSURED STATE BANKS.

Section 24(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(d)) is amended—

(1) by adding at the end the following new paragraphs:

"(3) CONDITIONS ON CERTAIN ACTIVITIES.—

"(A) IN GENERAL.—A subsidiary of a State bank may engage in an activity in which a subsidiary of a national bank may engage as principal pursuant to subsection (a)(1) of section 5136A of the Revised Statutes of the United States but only if the State bank meets the same requirements which are applicable to national banks under subparagraphs (B) and (C) of such subsection and subsections (b) and (c) of such section.

"(B) APPLICATION OF SECTION 5136A OF REVISED STATUTES.—For purposes of applying section 5136A of the Revised Statutes of the United States with regard to the activities of a subsidiary of a State bank, all references in such section to the Comptroller of the Currency, or regulations and orders of the Comptroller, shall be deemed to be references to the appropriate Federal banking agency with respect to such State bank, and regulations and orders of such agency.

"(4) STATE BANKS WHICH FAIL TO COMPLY WITH PARAGRAPH (3) CONDITIONS.—

"(A) IN GENERAL.—If the appropriate Federal banking agency determines that a State bank that controls a subsidiary which is engaged as principal in financial activities pursuant to paragraph (3) does not meet the requirements of subparagraph (A) of such paragraph, the appropriate Federal banking agency shall give notice to the bank to that effect, describing the conditions giving rise to the notice.

"(A) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

"(i) CONTENT OF AGREEMENT.—Within 45 days of the receipt by a bank of a notice given under paragraph (1) (or such additional period as the appropriate Federal banking agency for such bank may permit), the bank failing to meet the requirements of paragraph (3)(A) shall execute an agreement with the appropriate Federal banking agency for such bank to correct the conditions described in the notice.

"(B) AGENCY MAY IMPOSE LIMITATIONS.—Until the conditions giving rise to the notice are corrected, the appropriate Federal banking agency for the State bank may impose such limitations on the conduct of the business of the bank or a subsidiary of the bank as the agency determines to be appropriate under the circumstances.

"(C) FAILURE TO CORRECT.—If the conditions described in the notice are not corrected within 180 days after the bank receives the notice, the appropriate Federal banking agency for the State may require, under such terms and conditions as may be imposed by such agency and subject to such extensions of time as may be granted in the discretion of the agency—

"(i) the bank to divest control of each subsidiary engaged in an activity as principal that is not permissible for the bank to engage in directly; or

"(ii) each subsidiary of the bank to cease any activity as principal that is not permissible for the bank to engage in directly.".

SEC. 123. RULES APPLICABLE TO FINANCIAL SUBSIDIARIES.

(a) Transactions Between Financial Subsidiaries and Other Affiliates.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d), the following new subsection:

"(e) Rules Relating to Banks With Financial Subsidiaries.—

"(1) Financial subsidiary defined.—For purposes of this section and section 23B, the term 'financial subsidiary' means a company which—

"(A) is a subsidiary of a bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

"(B) is engaged in a financial activity (as defined in section 5136A(a)(4)) that is not a permissible activity for a national bank to engage in directly.

"(2) Application to transactions between a financial subsidiary of a bank and the bank.—For purposes of applying this section and section 23B to a transaction between a financial subsidiary of a bank and the bank (or between such financial subsidiary and any other subsidiary of the bank which is not a financial subsidiary) and notwithstanding subsection (b)(2) and section 23B(d)(1), the financial subsidiary of the bank—

"(A) shall be an affiliate of the bank and any other subsidiary of the bank which is not a financial subsidiary; and

"(B) shall not be treated as a subsidiary of the bank.

"(3) Application to transactions between financial subsidiary and nonbank affiliates.—

"(A) In general.—A transaction between a financial subsidiary and an affiliate of the financial subsidiary shall not be deemed to be a transaction between a subsidiary of a national bank and an affiliate of the bank for purposes of section 23A or section 23B of the Federal Reserve Act.

"(B) Certain affiliates excluded.—For purposes of subparagraph (A) and notwithstanding paragraph (4), the term 'affiliate' shall not include a bank, or a subsidiary of a bank, which is engaged exclusively in activities permissible for a national bank to engage in directly.

"(4) Equity investments excluded subject to the approval of the banking agency.—Subsection (a)(1) shall not apply so as to limit the equity investment of a bank in a financial subsidiary of such bank, except that any investment that exceeds the amount of a dividend that the bank could pay at the time of the investment without obtaining prior approval of the appropriate Federal banking agency and is in excess of the limitation which would apply under subsection (a)(1), but for this paragraph, may be made only with the approval of the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) with respect to such bank.".

(b) Treatment of Financial Subsidiaries Under Other Provisions of Law.—

(1) Bank holding company act amendments of 1970.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 is amended by adding at the end the following new sentence: "For purposes of this section, a financial subsidiary (as defined in section 5136A(a)(5)(A) of the Revised Statutes of the United States or referenced in the 20th undesignated paragraph of section 9 of the Federal Reserve Act or section 24(d)(3)(A) of the Federal Deposit Insurance Act) shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank."; and

(2) Federal reserve act.—The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by adding at the end of the following new sentence: "To the extent permitted under State law, a State member bank may acquire or establish and retain a financial subsidiary (as defined in section 5136A(a)(3)(A) of the Revised Statutes of the United States, except that all references in that section to the Comptroller of the Currency, the Comptroller, or regulations or orders of the Comptroller shall be deemed to be references to the Board or regulations or orders of the Board.".

The CHAIRMAN. Pursuant to House Resolution 428, the gentleman from Louisiana (Mr. BAKER) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BAKER).

REQUEST FOR MODIFICATION TO AMENDMENT NO. 3 OFFERED BY MR. BAKER

Mr. BAKER. Madam Chairman, I ask unanimous consent to modify the amendment.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Amendment, as modified, offered by Mr. Baker:

After section 181, insert the following new sections (and conform the table of contents accordingly):

SEC. 182. CRA AMENDMENT.

Section 803(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(2)) is amended by inserting "which has total assets of more than $100,000,000" before the semicolon at the end.

In section 305 of the Amendment in the Nature of a Substitute, strike "If a national bank" and insert "(a) In General.—If a national bank".

In section 305 of the Amendment in the Nature of a Substitute, insert the following new subsections after subsection (a) (as so redesignated):

(b) State Waiver.—If, in any community served by a national bank or a subsidiary of a national bank, there is no company licensed by the appropriate State regulator to provide insurance as agent which is available for acquisition, the State insurance regulator may, upon application by the national bank or subsidiary, waive the limitation of subsection (a) with respect to the provision of insurance as agent by such bank or subsidiary within such community.

(c) Sunset.—This section shall cease to be effective at the end of the 3-year period beginning on the date of the enactment of this Act.

In paragraph (1) of section 45(d) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike "and the making of loans".

After section 309 of the Amendment in the Nature of a Substitute, add the following new section (and conform the table of contents accordingly):

SEC. 310. STUDY OF EFFECTIVENESS OF SAFE HARBOR.

(a) Study Required.—3 years after the date of the enactment of this Act, the Comptroller of the Currency shall study, in conjunction with the National Association of Insurance Commissioners should such Association choose to participate, the effectiveness of the provisions of section 104(b)(2)(A) in establishing a safe harbor for the regulation by States of insurance sales and solicitation activity.

(b) Report.—The Comptroller of the Currency, together with the National Association of Insurance Commissioners should such Association choose to participate, shall submit a report to the Congress before the end of the 6-month period beginning 3 years after the date of the enactment of this Act on findings made and conclusions reached with regard to the study required under subsection (a), together with such recommendations for legislative or administrative action as the Comptroller and the Association determine to be appropriate.

Paragraph (9) of section 10(c) of the Home Owners' Loan Act, as added by section 401 of the Amendment in the Nature of a Substitute, is amended by adding at the end the following new subparagraph:

"(C) No acquisition of grandfathered unitaries by unregulated nonfinancial companies.—

"(i) In general.—Notwithstanding subparagraph (B), paragraph (3) shall not apply to any company described in subparagraph (B)(i)(II) which is not, at the time of the acquisition referred to in such subparagraph, subject to licensing, regulation, or examination by a Federal banking agency, the Securities and Exchange Commission, the Commodities Futures Trading Commission, or a State insurance regulator.".

"(ii) Sunset provision.—This subparagraph shall cease to be effective at the end of the 5-year period beginning on the date of the enactment of the Financial Services Act of 1998.".

Strike the heading of subtitle C of title I of the Amendment in the Nature of a Substitute and insert the following new heading (and amend the table of contents accordingly):

Subtitle C—Subsidiaries of Insured Depository Institutions

Strike section 121 of the Amendment in the Nature of a Substitute and insert the following new sections (and redesignate subsequent sections and amend the table of contents accordingly):

SEC. 121. SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.

(a) Financial Subsidiaries of National Banks.—Chapter one of title LXII of the Revised Statutes of United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A as section 5136C; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

"SEC. 5136A. FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.

"(a) Subsidiaries of National Banks Authorized to Engage in Financial Activities.—

"(1) In general.—A subsidiary of a national bank may engage in an activity that is not permissible for a national bank to engage in directly, but only if—

"(A) the activity is a financial activity (as defined in paragraph (4));

"(B) the national bank is well capitalized, well managed, and achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of the bank;

"(C) all depository institution affiliates of such national bank are well capitalized, well managed, and have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution; and

"(D) the bank has received the approval of the Comptroller of the Currency.

"(2) NO EFFECT ON EDGE ACT OR AGREEMENT CORPORATIONS.—Paragraph (1) shall not apply with respect to any subsidiary which is a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act.

"(3) OTHER SUBSIDIARIES PROHIBITED.—A national bank may not control any subsidiary other than a subsidiary—

"(A) which engages solely in activities that are permissible for a national bank to engage in directly or are authorized under paragraph (1); or

"(B) which a national bank may control pursuant to section 25 or 25A of the Federal Reserve Act, the Bank Service Company Act, or any other Act that expressly by its terms authorizes national banks to control subsidiaries.

"(4) FINANCIAL ACTIVITY DEFINED.—For purposes of this section and subject to paragraphs (5) and (6), the term 'financial activity' means any activity determined under section 6(c) of the Bank Holding Company Act of 1956 to be financial in nature or incidental to financial activities.

"(5) OTHER DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(A) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means a company which—

"(i) is a subsidiary of a national bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

"(ii) is engaged in a financial activity pursuant to paragraph (1) that is not a permissible activity for a national bank to engage in directly.

"(B) SUBSIDIARY.—The term 'subsidiary' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

"(C) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act and, for purposes of this section, the Comptroller shall have exclusive jurisdiction to determine whether a national bank is well capitalized.

"(D) WELL MANAGED.—The term 'well managed' means—

"(i) in the case of a bank that has been examined, unless otherwise determined in writing by the Comptroller, the achievement of—

"(I) a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the bank; and

"(II) at least a rating of 2 for management, if that rating is given; or

"(ii) in the case of any national bank that has not been examined, the existence and use of managerial resources that the Comptroller determines are satisfactory.

"(6) INSURANCE UNDERWRITING, MERCHANT BANKING, AND DIRECT INVESTMENT.—Except as provided in title III of the Financial Services Act of 1998, no subsidiary of a national bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act) may underwrite noncredit-related insurance, engage in real estate investment or development activities (except to the extent a national bank is specifically authorized by statute to engage in any such activity directly), or engage in merchant banking (as described in section 6(c)(3)(H) of the Bank Holding Company Act of 1956).

"(7) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes affiliated with a national bank during the 12-month period preceding the submission of an application to acquire a financial subsidiary and any depository institution which becomes so affiliated after the approval of such application may be excluded for purposes of paragraph (1)(C) during the 12-month period beginning on the date of such acquisition if—

"(A) the national bank has submitted an affirmative plan to the Comptroller of the Currency to take such action as may be necessary in order for such institution to achieve a 'satisfactory record of meeting community credit needs', or better, during the most next examination of the institution; and

"(B) the plan has been accepted by the Comptroller.

"(b) CAPITAL DEDUCTION REQUIRED.—

"(1) IN GENERAL.—In determining compliance with applicable capital standards—

"(A) the sum of—

"(i) the amount of a national bank's equity investment in a financial subsidiary; and

"(ii) the amount equal to the sum of the retained earnings of each financial subsidiary,

shall be deducted from the national bank's assets and tangible equity; and

"(B) the financial subsidiary's assets and liabilities shall not be consolidated with those of the national bank.

"(2) REGULATIONS REQUIRED.—The Comptroller shall prescribe regulations implementing this subsection.

"(c) SAFEGUARDS FOR THE BANK.—

"(1) IN GENERAL.—A national bank that establishes or maintains a financial subsidiary shall assure that—

"(A) the bank's procedures for identifying and managing financial and operational risks within the bank and financial subsidiaries of the bank adequately protect the bank from such risks;

"(B) the bank has, for the protection of the bank, reasonable policies and procedures to preserve the separate corporate identity and limited liability of the bank and subsidiaries of the bank; and

"(C) the bank complies with this section.

"(2) PROHIBITION ON PIERCING THE CORPORATE VEIL.—Notwithstanding any other law (including any law relating to insurance), no obligation of a financial subsidiary of a national bank arising more than 270 days after the date of enactment of the Financial Services Act of 1998 may be charged against such bank by reason of any ruling, determination, or judgment disregarding the separate corporate identity or limited liability of the bank or the financial subsidiary.

"(3) MAINTENANCE OF SEPARATE CORPORATE IDENTITY AND SEPARATE LEGAL STATUS—

"(A) IN GENERAL.—The Comptroller shall take steps, including conducting the review required by subparagraph (B), to assure that each national bank observes the separate corporate identity and separate legal status of each of the bank's financial subsidiaries.

"(B) EXAMINATIONS.—The Comptroller, when examining a national bank, shall review whether the bank is observing the separate corporate identity and separate legal status of the bank's financial subsidiaries.

"(d) NATIONAL BANKS WHICH DO NOT COMPLY WITH REQUIREMENTS OF THIS SECTION.—

"(1) IN GENERAL.—If the Comptroller determines that a national bank which controls a financial subsidiary, or a depository institution affiliate of such national bank, does not continue to meet the requirements of subsection (a), the Comptroller shall give notice to the bank to that effect, describing the conditions giving rise to the notice.

"(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

"(A) CONTENT OF AGREEMENT.—Within 45 days of the receipt by a depository institution of a notice given under paragraph (1) (or such additional period as the Comptroller may permit), the depository institution failing to meet the requirements of subsection (a) shall execute an agreement with the appropriate Federal banking agency for such institution to correct the conditions described in the notice.

"(B) COMPTROLLER MAY IMPOSE LIMITATIONS.—Until the conditions giving rise to the notice are corrected, the Comptroller may impose such limitations on the conduct of the business of the national bank or subsidiary of such bank as the Comptroller determines to be appropriate under the circumstances.

"(3) FAILURE TO CORRECT.—If the conditions described in the notice are not corrected within 180 days after the bank receives the notice, the Comptroller may require, under such terms and conditions as may be imposed by the Comptroller and subject to such extensions of time as may be granted in the discretion of the Comptroller—

"(A) the national bank to divest control of each subsidiary engaged in an activity that is not permissible for the bank to engage in directly; or

"(B) each subsidiary of the national bank to cease any activity that is not permissible for the bank to engage in directly.

"(e) FUNCTIONAL REGULATION.—

"(1) IN GENERAL.—A financial subsidiary of a national bank shall not be treated as a bank for purposes of any definition of bank in the Federal securities laws.

"(2) DEFERENCE TO SEC.—The Comptroller shall defer to the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies.

"(3) DEFERENCE TO EXAMINATIONS.—In the case of a financial subsidiary of a national bank which is a registered broker or dealer or a registered investment adviser, the Comptroller shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Comptroller by forgoing an examination and instead reviewing the reports of examination made of such subsidiary by or on behalf of the Securities and Exchange Commission.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the

Revised Statutes of the United States is amended—

(1) by redesignating the item relating to section 5136A as section 5136C; and

(2) by inserting after the item relating to section 5136 the following new item:

"5136A. Financial subsidiaries of national banks.".

SEC. 122. ACTIVITIES OF SUBSIDIARIES OF INSURED STATE BANKS.

Section 24(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(d)) is amended—

(1) by adding at the end the following new paragraphs:

"(3) CONDITIONS ON CERTAIN ACTIVITIES.—

"(A) IN GENERAL.—A subsidiary of a State bank may engage in an activity in which a subsidiary of a national bank may engage as principal pursuant to subsection (a)(1) of section 5136A of the Revised Statutes of the United States but only if the State bank meets the same requirements which are applicable to national banks under subparagraphs (B) and (C) of such subsection and subsections (b) and (c) of such section.

"(B) APPLICATION OF SECTION 5136A OF REVISED STATUTES.—For purposes of applying section 5136A of the Revised Statutes of the United States with regard to the activities of a subsidiary of a State bank, all references in such section to the Comptroller of the Currency, or regulations and orders of the Comptroller, shall be deemed to be references to the appropriate Federal banking agency with respect to such State bank, and regulations and orders of such agency.

"(4) STATE BANKS WHICH FAIL TO COMPLY WITH PARAGRAPH (3) CONDITIONS.—

"(A) IN GENERAL.—If the appropriate Federal banking agency determines that a State bank that controls a subsidiary which is engaged as principal in financial activities pursuant to paragraph (3) does not meet the requirements of subparagraph (A) of such paragraph, the appropriate Federal banking agency shall give notice to the bank to that effect, describing the conditions giving rise to the notice.

"(A) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

"(i) CONTENT OF AGREEMENT.—Within 45 days of the receipt by a bank of a notice given under paragraph (1) (or such additional period as the appropriate Federal banking agency for such bank may permit), the bank failing to meet the requirements of paragraph (3)(A) shall execute an agreement with the appropriate Federal banking agency for such bank to correct the conditions described in the notice.

"(B) AGENCY MAY IMPOSE LIMITATIONS.—Until the conditions giving rise to the notice are corrected, the appropriate Federal banking agency for the State bank may impose such limitations on the conduct of the business of the bank or a subsidiary of the bank as the agency determines to be appropriate under the circumstances.

"(C) FAILURE TO CORRECT.—If the conditions described in the notice are not corrected within 180 days after the bank receives the notice, the appropriate Federal banking agency for the State may require, under such terms and conditions as may be imposed by such agency and subject to such extensions of time as may be granted in the discretion of the agency—

"(i) the bank to divest control of each subsidiary engaged in an activity as principal that is not permissible for the bank to engage in directly; or

"(ii) each subsidiary of the bank to cease any activity as principal that is not permissible for the bank to engage in directly.".

SEC. 123. RULES APPLICABLE TO FINANCIAL SUBSIDIARIES.

(a) TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARIES AND OTHER AFFILIATES.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d), the following new subsection:

"(e) RULES RELATING TO BANKS WITH FINANCIAL SUBSIDIARIES.—

"(1) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section and section 23B, the term 'financial subsidiary' means a company which—

"(A) is a subsidiary of a bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

"(B) is engaged in a financial activity (as defined in section 5136A(a)(4)) that is not a permissible activity for a national bank to engage in directly.

"(2) APPLICATION TO TRANSACTIONS BETWEEN A FINANCIAL SUBSIDIARY OF A BANK AND THE BANK.—For purposes of applying this section and section 23B to a transaction between a financial subsidiary of a bank and the bank (or between such financial subsidiary and any other subsidiary of the bank which is not a financial subsidiary) and notwithstanding subsection (b)(2) and section 23B(d)(1), the financial subsidiary of the bank—

"(A) shall be an affiliate of the bank and any other subsidiary of the bank which is not a financial subsidiary; and

"(B) shall not be treated as a subsidiary of the bank.

"(3) APPLICATION TO TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARY AND NONBANK AFFILIATES.—

"(A) IN GENERAL.—A transaction between a financial subsidiary and an affiliate of the financial subsidiary shall not be deemed to be a transaction between a subsidiary of a national bank and an affiliate of the bank for purposes of section 23A or section 23B of the Federal Reserve Act.

"(B) CERTAIN AFFILIATES EXCLUDED.—For purposes of subparagraph (A) and notwithstanding paragraph (4), the term 'affiliate' shall not include a bank, or a subsidiary of a bank, which is engaged exclusively in activities permissible for a national bank to engage in directly.

"(4) EQUITY INVESTMENTS EXCLUDED SUBJECT TO THE APPROVAL OF THE BANKING AGENCY.—Subsection (a)(1) shall not apply so as to limit the equity investment of a bank in a financial subsidiary of such bank, except that any investment that exceeds the amount of a dividend that the bank could pay at the time of the investment without obtaining prior approval of the appropriate Federal banking agency and is in excess of the limitation which would apply under subsection (a)(1), but for this paragraph, may be made only with the approval of the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) with respect to such bank.".

(b) TREATMENT OF FINANCIAL SUBSIDIARIES UNDER OTHER PROVISIONS OF LAW.—

(1) BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 is amended by adding at the end the following new sentence: "For purposes of this section, a financial subsidiary (as defined in section 5136A(a)(5)(A) of the Revised Statutes of the United States or referenced in the 20th undesignated paragraph of section 9 of the Federal Reserve Act or section 24(d)(3)(A) of the Federal Deposit Insurance Act) shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank."; and

(2) FEDERAL RESERVE ACT.—The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by adding at the end of the following new sentence: "To the extent permitted under State law, a State member bank may acquire or establish and retain a financial subsidiary (as defined in section 5136A(a)(3)(A) of the Revised Statutes of the United States, except that all references in that section to the Comptroller of the Currency, the Comptroller, or regulations or orders of the Comptroller shall be deemed to be references to the Board or regulations or orders of the Board.".

Mr. BAKER (during the reading). Madam Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

PARLIAMENTARY INQUIRY

Mr. DINGELL. Point of parliamentary inquiry, Madam Chairman.

Are we reading the amendment, or discussing the amendment which is authorized by the rule, or something different?

The CHAIRMAN. The reading of the modification was just dispensed with.

Is there objection to modifying the amendment offered by Mr. BAKER?

Mr. DINGELL. Reserving the right to object, Madam Chairman, we have not had a chance to review this or what it means. The Committee on Rules has spoken rather clearly on it, and with great respect and affection for the distinguished gentleman from Louisiana (Mr. BAKER), I have to object. I do object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would like to respond just briefly to the intent to modify, so that the distinguished individual can understand our intent.

Madam Chairman, under the provisions of the consolidated amendment, there is one small element of the insurance provisions——

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Parliamentary inquiry, Madam Chairman. Are we under regular order? Is time being consumed on the 40 minutes now? Because that is regular order.

The CHAIRMAN. That is correct.

Mr. BAKER. Madam Chairman, I would like to respond to the gentleman's inquiry. Under the provisions of the insurance portions of the amendment, there was a technical reference to section 104 being cross-referenced with section 308; stated in other words, consumer protection standards for the sales of insurance by banks.

Given the fact that some in the insurance community had expressed concerns about the consequences of those provisions, I simply chose to remove that section from the consideration from the House, thinking that that would be moving in the gentleman's direction in the consideration of this amendment. I regret that he was unable to allow that modification to be considered.

Madam Chairman, the amendment before us is substantive and quite broad-based. Simply stated, it is an amendment which addresses many of the community banks' concerns who, in the process of financial modernization, have felt, frankly, not only left out, but all too often stepped on.

Just last month this House passed H.R. 1151, which gave credit unions the unfettered right to continue to provide services to their consumers. Unfortunately for most small banks in this country, they are feeling increased competitive pressures from the mergers and consolidations, increased regulatory oversight, and little ability to offer new products to their shrinking consumer base.

Madam Chairman, reemphasizing the point, there is little in this bill, as it now stands, that is attractive to the community banker who is struggling to survive with high end regulatory costs.

This amendment makes four simple changes. It exempts community banks under $100 million in asset size from compliance with CRA; it amends the insurance provisions to allow enhanced flexibility for the marketing of insurance products; it provides an operating subsidiary structure reported out by the Committee on Banking and Financial Services months ago, which does not allow for merchant banking, underwriting of insurance, or direct investment in real estate; it provides for a prohibition on the sale of unitary thrifts to commercial enterprises.

Many of my colleagues on the other side of this issue are very much concerned about the merger of commerce and finance, and the giant corporations gobbling up small town banks. We now have in law what is known as a unitary thrift, a unique financial creature which combines the resources of commercial enterprises with financial resources.

This amendment would prohibit the future sale of those enterprises to the Microsofts, the General Electrics, the General Motors. It is, in fact, a protection against the further breach of banking and commerce.

This is an extraordinarily important amendment, and I would suggest that unless the amendment is adopted, it is highly unlikely that many of the hometown bankers now calling Members' offices and complaining about the consideration of this bill will find an ability to tolerate the provisions of H.R. 10, without the inclusion of this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. BLILEY. Madam Chairman, I claim the time in opposition.

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY) is recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. LAFALCE. Parliamentary inquiry, Madam Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. LAFALCE. Madam Chairman, should the time in opposition be given to a member of the same party in opposition, or to a member of the opposition party in opposition?

The CHAIRMAN. The time in opposition has been given to the manager of the bill.

Mr. BLILEY. Madam Chairman, I yield myself 1½ minutes.

Madam Chairman, I will see that the gentleman from New York (Mr. LAFALCE) gets time.

Madam Chairman, this amendment is similar to the amendment offered by the gentleman from New York (Mr. LAFALCE) and the gentleman from Minnesota (Mr. VENTO) in that it expands the powers of operating subsidiaries. It undoes the insurance compromise we have crafted to end deference to the OCC. It also restricts other provisions.

Like Alan Greenspan, like Americans for Tax Reform, like Ronald Reagan's Treasury, I am opposed to expanding the powers in operating subsidiaries.

□ 1630

The reason I am opposed is that these are not free; they increase risk to taxpayers. Americans for Tax Reform say that operating subsidiaries pose just that danger. I do not think it is worth the risk.

H.R. 10 gives bank affiliates full securities, insurance and merchant banking powers. It does it in an affiliate structure that protects taxpayers. No one, other than the bureaucrats at the OCC, care about operating subsidiaries. Protecting taxpayers is more important than protecting them. I urge Members to oppose this amendment.

Please note that even if this Baker amendment passes, the community banks will not support this bill.

Madam Chairman, I reserve the balance of my time.

Mr. BAKER. Madam Chairman, I yield 4 minutes to the gentleman from New York (Mr. LAZIO).

Mr. LAZIO of New York. Madam Chairman, I thank the gentleman for his hard work and for his effort to try and improve this bill, at least as it affects banks.

Let me explain the operating subsidiary provisions in the amendment before the House. First, these provisions are similar to the operating subsidiary provisions adopted by the Committee on Banking and Financial Services.

Second, the powers of a bank op-sub are limited to those powers granted to a bank holding company under the bill. Third, op-subs are not authorized to engage in insurance underwriting, merchant banking and real estate. In that sense, fourth, they push out the most risky business.

Fifth, the safeguards of section 23A and 23B of the Federal Reserve Act apply. Section 23A limits how many transactions a bank can have within its op-sub. Section 23B says every one of those transactions must be conducted at arm's length. The Federal Reserve writes the rules for op-subs.

Sixth, the bank must be well managed, well capitalized and meet community credit needs before it can have an operating subsidiary.

Seventh and most importantly, any bank investment in the op-sub must be deducted from the bank's regulatory capital, so a bank can lose its entire stake in the subsidiary and it will be protected and remain well capitalized.

These provisions further reinforce that securities activities will be regulated by the SEC, and it empowers State securities officials to regulate these activities.

There are even more safety provisions. If the bank is not well capitalized or well managed, regulators have authority to impose additional terms and conditions. Failure to comply with these conditions may result in divestiture.

Then FDIC Chairwoman Ricki Helfer submitted testimony to the House Committee on Banking and Financial Services on March 5, 1997. She said, "With appropriate safeguards, having earnings from new activities in bank subsidiaries lowers the probability of failure and thus provides greater protection for the insurance fund than having the earnings from new activities in bank holding company affiliates." This from one of our top regulators.

Two experts, Gerard Lynch and Peter Strauss, state further in the October 1997 issue of the Columbia Law Review that banks should not be denied the use of operating subsidiaries. For years U.S. banks operating overseas have had separate op-subs with these powers. Banks in most G–10 countries have long, and successfully, engaged in these financial services in a subsidiary, including underwriting and brokering securities, which is what we are pushing now.

A survey of bank failures in the United States over the last 20 years demonstrates that the cause of failures is typically due to deterioration in the quality of the traditional assets that they hold, not to involvement in nonbanking activities.

These op-sub provisions were contained in the amendment that I filed with the Committee on Rules along with the gentleman from Louisiana (Mr. BAKER), the gentleman from Delaware (Mr. CASTLE) and the gentleman from Iowa (Mr. LEACH). They represent a reasonable, rational, safe and sound approach to expanding an op-sub's ability to engage in new powers and are reflective of our need and desire to modernize our financial services in this country.

Mr. BLILEY. Madam Chairman, I ask unanimous consent to yield 10 minutes to the gentleman from New York (Mr. LAFALCE) and that he may be permitted to control the time, and that the balance of my time be under the control of the gentleman from Ohio (Mr. GILLMOR).

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. LAFALCE. Madam Chairman, I yield myself 1 minute. I thank the distinguished chairman of the Committee on Commerce for his generosity.

I have tremendous respect for the gentleman from Louisiana (Mr. BAKER). We attempted to work out an amendment together. I wish that we could have done it, because right now I think the Committee on Rules has divided us and maybe, by dividing us, hoped to conquer. If the gentleman could have joined with me, I think we would have done much better.

The difficulty I have in joining with him is his provision that repeals the requirements of CRA for banks $100 million or less. That is a poison pill for Democrats. We simply cannot support it.

So prescinding from the relative merits or demerits of the rest of his amendment, so long as it contains this provision, a repeal of CRA for banks with $100 million or less, we are constrained to oppose it.

Madam Chairman, I reserve the balance of my time.

Mr. BAKER. Madam Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. BACHUS), another distinguished member of Committee on Banking and Financial Services.

Mr. BACHUS. Madam Chairman, I would like to say that the gentleman from New York said something that I agree with. That is, that we are mixing a lot of things in this amendment. And I wish that the Committee on Rules had given us an opportunity to address CRA reform in a separate amendment. I had offered an amendment to exempt the community banks of CRA up to $250 million, but this House is not going to get to address that.

However, in this amendment, there is a provision which will exempt the small banks up to $100 million in assets from CRA. Let me tell my colleagues, this is not a revolutionary idea. In fact, the gentleman from Pennsylvania (Mr. KANJORSKI), Democratic Member of this body, offered and the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Banking and Financial Services passed a provision which exempted banks up to $150 million and rural banks up to $250 million in 1991. We continue to back-pedal on this issue.

In the Senate, 12 Democratic Senators have endorsed the idea of a two-tier approach to CRA. Forty-one Democrats have joined in the House, saying that we need to have a two-tier approach. But first of all, we are not going to get to vote on that in a clear shot. I wish we all did.

I wish that the Committee on Rules had seen in their wisdom to let us take a stand on this issue. All we will get to do today is vote on this provision, and one of the things it has in it that I strongly support is an exemption for banks up to $100 million in assets. And who are these banks? Seventy-five percent of them are in communities of 10,000 people and less; 45 percent of them, the majority of their loans are agricultural loans to small farmers. These banks are simply being driven out of the market by the cost of compliance. It is open season on the small banks.

H.R. 10 is going to continue to put them at a disadvantage and put them out of business, but at least this amendment gives them a little bit of relief, not as much as the Democratic House of Representatives in 1991 gave them, because we obviously love regulation today more than we did then, not as much as this entire House did when it passed the provisions a few years ago.

We are back-pedalling, making the exemption smaller, giving less relief, but good gosh, can we not at least do this?

Mr. GILLMOR. Madam Chairman, I yield 2 minutes to the distinguished gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Madam Chairman, I thank the gentleman for yielding time to me.

I rise today in opposition to this amendment. I do so reluctantly because there are parts of this package that I really supported. For example, the insurance amendments, where I wanted amendments of my own on the insurance question. But they were not permitted in the rule. And also I think the small bank CRA exemption has merit.

However, I want my colleagues to understand this, and it is interesting that it follows on the Vento-LaFalce operating subsidiary question that we just voted on. Make no mistake about it, the core of this package, the essence of this amendment is the operating subsidiary provision. This is the core issue, none other.

So I must repeat again what I said in the prior debate, that particularly in this time of megamergers, we have to be very concerned about how the operating subsidiary relates to the safety and soundness issue. As far as I am concerned, this actually just goes to the heart and violates the very heart of the bill we have before us.

The reason I am for this mixture of modernization of financial institutions is because I am sure that we have a sound regulatory structure, but this amendment, if adopted with the operating subsidiary, will really violate the essence of the functional regulation and the bank holding company structure that we have in this bill. So I must again oppose the amendment, and again, I guess I have got to repeat, because there are an awful lot of us around who either were here or taxpayers at home, when we remember the savings and loan debacle and how that came about at the end of the 1980s, it built up through the 1980s, came there at the end of the 1980s, and we are still living with the cost to the taxpayer of that issue.

I do not want to make, even have a potential opening for that kind of mistake again. I must reluctantly oppose this package because of the operating sub provision.

Mr. BAKER. Madam Chairman, I yield 2 minutes to the gentleman from Utah (Mr. COOK).

Mr. COOK. Madam Chairman, I rise today in support of the amendment offered by my good friend, the gentleman from Louisiana (Mr. BAKER).

Although the Baker amendment has several components, I would like to focus on one section that is particularly important to the health of small banks across our Nation. The Baker amendment would remove Community Reinvestment Act obligations from banks with less than $100 million in assets.

I respect very much the views of my friends on the other side of the aisle who believe the CRA is important for helping underserved communities, rural and urban alike, but CRA, as it was intended, does not work efficiently in practice, particularly with small banks. Let me take a moment to share a bit of anecdotal evidence.

An acquaintance of mine recently received a CRA loan for a home purchase. The loan was well below the going interest rate with no points or origination fees. This person makes a good income, has no family to support and could easily handle an identical mortgage at standard rates, but this person makes just under the median income of 57,000 in the area where he is from. The loan recipient told me that his experience is an example of how CRA has good intentions, but does not really work in practice.

This person himself does not believe that he is the intended recipient of CRA assistance. The problem is not with the financial institution who granted this discounted loan; the problem is with the Federal law that forces banks to make such loans just in order to receive high CRA ratings.

This is especially true with small, community-based financial institutions that probably have a personal relationship with their loan applicants. In reality, small institutions are deeply engaged with the communities they serve. If they were not, they would simply be out of business. CRA obligations are onerous burdens that tie the hands of small institutions, cause an increase in bank fees, and make car, home and business loans out of reach for many Americans.

For these reasons, I urge my colleagues to support the Baker amendment.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Madam Chairman, sometimes in this Chamber we act as though we have a collective sense of amnesia.

I want to stand in opposition to the Baker amendment today, an issue that the gentleman from Louisiana (Mr. BAKER) and I engaged in some years ago, as well, and with great regard for the gentleman's abilities. But I would like to point out that oftentimes we forget what has occurred here.

In 1991, I offered this amendment on the House floor that would call for the opportunity for lending institutions to do a better job of keeping track of the loans that they made to small business and to small farms. At that time, I had the support of Andy Ireland, who was the ranking member on the Committee on Small Business, but in the end we were able to come to an agreement that allowed the call report to be amended so that we could do a better job of tracking this information as it applied again to small business and to small farms.

□ 1645

Now, the FIDICIA act of 1991, in the midst of the magic words that some of us also might remember here, the credit crunch, where we had regulators arguing that there was no credit crunch, what the real argument was about was they were unable to secure the necessary data that accompanied that information so that we could have done a better job beyond anecdotal evidence, as highlighted by the previous speaker. We need to be in a position where we can secure this information so that we can act accordingly.

Now, let me talk, if I can about that FIDICIA markup. At that time my amendment was included in the final package, and to this day we are able to go and retrieve that information in a timely manner. I offered that amendment at the time to collect evidence that small banks were not lending to small businesses. I was pleased at the time that the data was included, and I believe it encouraged banks to make loans to small businesses, which we oftentimes celebrate here as the engine of economic growth.

Now, I know the economy today is not in the same state that it was in in 1991. The banks are reporting record profits. And I do not think anybody here would argue that there still exists a credit crunch. But who in this chamber knows how long that is going to last?

We should reject the Baker amendment, stick with the CRA requirements, and retrieve this information in a timely manner so that we can make better decisions.

Mr. BAKER. Madam Chairman, I yield 3 minutes to the gentleman from California (Mr. DREIER), a distinguished member of the Committee on Rules and former member of the Committee on Banking and Financial Services.

Mr. DREIER. Madam Chairman, I thank my friend from Baton Rouge for yielding me this time, and I would like to begin by congratulating him for his excellent work as chairman of the Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises of the Committee on Banking and Financial Services, where he has been the driving force for this whole issue of the three-way street affiliations; which are very important, so that we can continue our quest to meet the consumer demand.

I rise in very strong support of his amendment for a number of reasons. I think one of the most important is, in fact, to counter the argument that was just provided by my friend, the gentleman from Springfield, Massachusetts (Mr. NEAL). I believe the provisions that were initially put forward by our friend, the gentleman from Alabama (Mr. BACHUS), are very important to deal with that tremendous regulatory burden which has been placed onto the shoulders of those small banks that are trying to deliver financial services to people in small communities.

I think that we have a tremendous chance with this amendment to greatly improve what I think is a flawed measure. And so I think that as we look at the work that has been done by the gentleman from Louisiana (Mr. BAKER) and others in this effort, that this amendment deserves our very, very serious consideration and support. And I urge my colleagues to join in doing just that.

Mr. GILLMOR. Madam Chairman, I yield 2 minutes to the gentleman from New York (Mr. SOLOMON), chairman of the Committee on Rules.

Mr. SOLOMON. Madam Chairman, I spoke from this side of the well earlier, almost on the same subject. I am going to switch and talk to my Republican colleagues in particular over here.

What I asked earlier of my good friends on the Democratic side of the aisle was did they remember what happened in the early 1980s. Do we remember? The gentleman from New York (Mr. LAFALCE) and others were here back in 1980 when this Congress brought an innocuous bill to the floor which caused the S&L crisis.

What we did at that time was that we raised the guaranty on simple deposits by our constituents from $25,000 up to $100,000. Then we said they could place $100,000 in 50 banks across the country, if they wanted to, and the Federal Government is going to guaranty every nickel of it.

So what happened is, people like me, who had sold their businesses, had a little bit of money, we said, sure, we can invest in these new banks that are starting up, and let them go into the high risk knowing that we are going to get our money back if it fails. And lo and behold they did fail. They failed by the dozens all over this country. Not in my neck of the woods, up in the Adirondacks, in the Hudson Valley. They are prudent, cautious, conservative bankers, and none of them failed, but they failed in other places. And yet we, our investors, our depositors and our taxpayers, had to bail out these others.

My colleagues, we have not seen anything yet. We let this legislation go down the drain, and if this amendment passes, regardless of its merits, and I have great respect for the sponsor, he is one of the most respected Members and the most knowledgeable Member in this House on these issues, but if we let this legislation fail, we are going to see 4 or 5 years from now that we are going to be bailing out much larger, mega, mega bailouts than we have in the past, and it will be all our taxpayers that are doing it.

That is why we need this legislation today. Defeat this amendment. Let us go to the Senate and then let us work as a team with the administration together to try to fashion a bill that will protect the consumers, protect the investors, the depositors and, above all else, protect the taxpayers. Please defeat the amendment.

Mr. BAKER. May I inquire of the Chair how much time is remaining?

The CHAIRMAN. The gentleman from Louisiana (Mr. BAKER) has 7½ minutes remaining, the gentleman from Ohio (Mr. GILLMOR) has 4½ minutes remaining, and the gentleman from New York (Mr. LAFALCE) has 7 minutes remaining.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chair, I rise in opposition to the amendment. Fundamentally, I am concerned. This amendment, I think, is a grudging recognition of the importance of the operating subsidiary which has been turned down in the previous amendment.

I will not reiterate the arguments for an operating subsidiary. This is a more limited operating subsidiary. It is set forth, in fact, with the permission of the Federal Reserve Board. So I guess the Fed already provides operating subsidiaries in U.S. banks that operate abroad, and this tries to give them some of the same powers. But the fact is that in giving powers to an operating subsidiary, we give it to them so that they can serve the communities. So this amendment gives with one hand but then it takes back with the other.

If I remember correctly, about 80 percent of the banks would not be subject to CRA. And what is CRA, after all? It is a successful law that assures that financial institutions are actually participating in providing creditworthy activity within the communities that they serve. Where they are taking deposits, they make loans. Where they are taking deposits, they finance businesses and farms and make home loans.

That is what Community Reinvestment Act has provided. It is workable. The new program that has been put together with the lead of the Comptroller of the Currency, incidentally, working with the Fed and working with the Federal Deposit Insurance Corporation, has, in fact, put a CRA program in place that emphasizes performance, not paperwork. It is working.

There are many examples. I said jokingly before that not many will get up and say I love my bank, as my colleague did with regard to other financial institutions. But the fact is that many small and medium-sized banks within my community in Minnesota are, in fact, performing tremendous service in the community, both as volunteers but, most importantly, fulfilling that important work.

In fact, what we are finding with CRA is that a lot of loans are being made that before were not recognized as being creditworthy. CRA works and we ought to keep it in place.

Mr. GILLMOR. Madam Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL), the ranking member of the Committee on Commerce.

Mr. DINGELL. Madam Chairman, I would like to commend and compliment my colleagues. This has been one of the most constructive and, I believe, gentlemanly debates I have seen in my career in this Congress.

And I particularly want to pay tribute to my friend from New York (Mr. LAFALCE), and my colleagues on the other side, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Louisiana (Mr. BAKER), and the other Members of the Congress who have participated.

I would like to speak about the amendment, and I would like to point out several things. First of all, if my colleagues voted against the LaFalce amendment earlier, because it allowed for operating subsidiaries inside the banks to engage in nonbank activities, they should oppose this because this amendment does exactly the same thing.

Now, a large number of my other colleagues voted for the LaFalce amendment because they said it kept intact the community reinvestment requirements that are in the CRA. That was a valid reason for my colleagues to vote that way, although I do not think that was controlling in that particular matter. I would observe, however, if that was the reason for my colleagues voting that way on that amendment, they should vote "no" on this amendment because this amendment removes the requirements of the CRA from community banks, small banks, it is said. But the number of the banks that are absolved of those responsibilities are 6,500. Sixty-five hundred banks no longer have to meet that requirement if this amendment is adopted.

Now, this also violates the compromise which was achieved with the insurance agents and brokers. I would assume that if Members voted against the provisions of the LaFalce amendment, or if Members voted for it because they were concerned about CRA, they would vote against this amendment in the firm knowledge that they have every reason to so do.

Now, there is one other point to be made. A lot of my colleagues are still troubled about the concerns of the banks, and very truthfully I am, too, because banks are important to this country and to the economy. But I would observe for my colleagues, clearly, that the banks have made it plain that the adoption of this or any other amendment is not going to make this bill acceptable to them.

Mr. LAFALCE. Madam Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from New York (Mr. LAFALCE) has 5 minutes remaining.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY of Massachusetts. Madam Chairman, I think that it is interesting that the way this bill is now being debated is whether or not we can use the excuse to merge and acquire more and more banks, more insurance companies, more securities firms to actually undercut and drop back the bar on our investments to the poorest communities in this country. That is what we have come to in the Congress of the United States.

It seems if we are really serious about looking at the effects of CRA, let us take a look at the fact that since 1977 the regulators have indicated that over $400 billion have been invested in the poorer communities of this country. Not communities where banks lose money, but rather communities where banks have invested, the communities have grown and prospered, and we see home ownership rates rising among blacks and Hispanics and Asians, as well as poor whites.

We see communities that have been neglected for years and years, despite the fact that they put deposits in banks. Banks sucked up those deposits and then turned around and lent the money someplace else. All CRA says is put the money back into the communities from which the deposits are taken.

Why would anybody try to undercut that basic fundamental premise? Why would we say that they should not do that? Why should we say that small banks have less of an obligation to do that than big banks, when if we look at the data, the fact of the matter is that small banks have worse records in terms of lending to minorities, lending to people of color, lending into the poorer communities than the bigger banks.

Sixty-five percent of all the banks in the United States would be exempted by virtue of the amendment that we are currently debating. Sixty-five percent. We are going to turn around and say to 65 percent of the banks in the United States that they can go ahead and buy each other up, they can merge and acquire one another, they can go into the insurance industry, go into the securities industry, but, boy, they really do not have to go back to Main Street; they do not have to go back and lend money into the communities from which they take their deposits.

It is a crime for us to be suggesting that we want to allow that kind of pullback on our commitment to the poorest people in this country as a provision in order to allow the bigger banks to get even bigger.

Mr. LAFALCE. Madam Chairman. I yield 1½ minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Madam Chairman, I rise to voice my strong opposition to the Baker amendment. If passed, the Baker amendment would exempt more than 60 percent of all banks from the requirements of the Community Reinvestment Act. This amendment is a frontal attack on the Community Reinvestment Act and has absolutely no place in this bill.

The fact of the matter is the Baker amendment tries to solve a problem that does not exist. The new CRA regulations have already streamlined the exam process for small banks. Under the new rule, banks with assets of less than $250 million are no longer required to collect, report or disclose any data. Instead, examiners look at a small bank's loan-to-deposit ratio and distribution of loans across geography and income levels.

□ 1700

Even though the new rule went into effect in January of 1996, the effect is already being felt. According to the Office of the Comptroller of the Currency, over 80 percent of all banks covered by CRA qualify for the streamlined performance standards for small banks and thrifts. They also report that the actual time spent in community banks on CRA examinations have been reduced by 30 percent. To argue that small banks are still suffering under unfair burdens is absolutely preposterous.

CRA works. The Community Reinvestment Act has been an extremely hard-fought reform of our banking sector that has brought over $400 billion in resources to poor and minority communities. This has meant the availability of critically needed lending for community, small business, and housing developments.

That is why the friend of my colleague got some money. He lives in a community that had not been getting the money, and now he has got it. It has nothing to do with affirmative action. So we have a successful law. It should not be dismantled. Vote against this amendment.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. NETHERCUTT) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

FINANCIAL SERVICES COMPETITION ACT OF 1997

The CHAIRMAN. The Committee will resume its sitting.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Madam Chairman, it surprises a number of my colleagues on the Committee on Banking and Financial Services that the gentleman from Louisiana (Mr. BAKER) and I are quite often on the same side of financial services issues. But I have got to jump ship on him today when he starts trying to do away with CRA for small banks. Sixty-four percent of the banks in this country, in fact, would be exempted under this amendment. I cannot go there with him.

The CRA requirements for small banks, those under $250 million in assets, were already streamlined in 1995. I am not sure what it is we are responding to with this proposed amendment, because in February of 1996, the American Banker headlines said, "Small banks give thumbs up to streamlined CRA exams."

They are not complaining. Who is it that we are trying to protect? This is an amendment in search of a problem to solve. And I am not sure why we are trying to solve a problem in the midst of this bill that has a bunch of problems in it for people who do not even perceive that they have a problem.

CRA has served a very important purpose in our communities. The gentleman from Utah (Mr. COOK) is absolutely wrong in his assessment that the purpose of CRA is for community people. It is not an affirmative action program. It is for small businesses, small farmers, people who live in the communities. It has got nothing to do with affirmative action. We ought to all be supporting CRA rather than trying to abolish it.

I think we ought to oppose this amendment even though there are some other aspects to it that might be valuable.

Mr. BAKER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, in 1950, the average American family had 50 percent of their assets in a bank. Today, that percentage is 17 percent. And in the corporate arena, it is even worse.

For many years, the banks were the only place in town where moderate- to large-size businesses could get credit to grow or expand. And from perhaps 80 percent of corporate lending, we now find that banks provide less than 20. And it is not only just that markets are changing. New products are being created.

In 1980, there were 266 mutual funds in this country. Today there are over 2,600. As the stock market continues to surge ahead to unparalleled record highs, investors are not worried about deposit insurance; they are worried if they are going to miss out on the next 25 percent rate of return.

The creation of money market funds, a nonbank product, allowing people to put their money in a perceived safe location and earn interest on their checking accounts, again, more disintermediation, more money flowing out of the banks into nontraditional sources.

So many banks in the marketplace are surging ahead with these new mergers because this gives them a way to keep the profitability up as they spread fixed operating cost over larger and larger and larger customer bases. It makes good sense for the large institutions. It is reported that the NationsBank merger, for that institution alone, will result in annual savings in excess of $2 billion. Phenomenal savings are occurring through these efficiencies in the marketplace.

Now, the question becomes, how does the typical $47 million bank in America, the 6600 subject of the CRA amendment, see any benefit from any of this? Is there any provision that we can point to in this bill that we can go back to hometown XYZ in our State and say, this is going to help make us more profitable, it is going to relieve us of regulatory burden, it is going to give us an opportunity to grow and prosper?

Sure, if they are a billion-dollar institution with branches in multiple States, maybe who has even acquired a recent insurance company in spite of Federal prohibitions to the contrary, they might see tremendous potential in diversification and opportunities, particularly if H.R. 10, as currently constituted, is passed.

But for the average consumer who goes home today and uses their ATM machine, if they have them in their community, who is complaining about those fee increases, who bitterly hates the new charges for all the service the banks are providing, those banks are desperate. They are looking for ways to get new revenue streams. Because it is a historical fact, interest on loans is in decline and the real growth market is in the fee business and trying to find new products.

Again, that is not a significant problem to a competent management team who has diverse interests. But to the hometown bank, walk in a hometown bank, the the president and vice president are not only the loan officer, not only the fellow who locks the door, there are probably two tellers at the window, they are the CRA compliance department. They are the OCC compliance department. They put up with the audit from the FDIC or the Federal Reserve. They are doing it all.

Make no mistake, this amendment is a great deal more than just limiting the load of CRA and its financial obligations on small town institutions. It is, in fact, the product of the Committee on Banking and Financial Services on restructuring how a bank can sell new products.

There is nothing insidious about the words "operating subsidiary." It is a way of doing business. And quite to the contrary opinion of the Federal Reserve, the Secretary of the Treasury, I am told, will urge a veto of this legislation because we do not allow operating subsidiaries to be engaged, in the base text of H.R. 10, as envisioned by the administration.

I would also point out, for those who are scared of the new world of commerce and finance, of all the megamergers and the banks gobbling one another and perhaps the giant of all, Microsoft, one day finding a way to enter the financial marketplace, guess what? The unitary thrift is alive and well if this bill passes. And even worse, it is bigger than ever if this bill fails.

And there is no restraint, no other amendment, no limiting factor. There are approximately 800 unitaries that have been in the marketplace quite successfully. They own over 62 percent of all thrift assets in the country. They are enormously successful. Look down the application line.

Why, even in Louisiana, we have got my Farm Bureau and 26 more who are joining together on March 9 to apply for a unitary thrift charter. Do my colleagues think they just want to make farm loans? I think they have got other plans.

Now, all of these applications, unless there is something just basically deficient with the applicant, will be approved. It could be 1,500, it could be 2,000 of these new commercial enterprises that own thrifts. Under the bill, there is no prohibition about selling these entities to Microsoft or to General Motors or any of the other horror stories we have heard time after time after time as we concern ourselves about where our financial markets are going. This amendment would prohibit those sales. It would keep the Microsofts from buying unitary thrifts.

This amendment is a lot more than just CRA operating subsidiaries and closing down thrifts. It is an amendment that does important insurance reform. If they want to get into the insurance business in this bill, as a bank, they have to buy an existing insurance agency that has been in business for 2 years.

What if they are in a town that does not have an existing insurance agency that has been in business for 2 years? This amendment allows them to petition the State insurance commissioner to certify there is no competition in the community and allows them then to enter into the insurance business, a small-town, small-bank provision.

Sure, I know financial modernization is an absolute necessity and frankly will proceed whether this Congress or the regulators notwithstanding choose to take a position that moves the marketplace forward. Bright people are going to find a way to get around the law, the Congress notwithstanding. But we can facilitate it. We can make it less expensive.

For the past 50 years, this Congress has taken the pasture of financial services and fenced it off; and what we decide is some people get 10 acres, some people get 30, some people get the really pretty waterfront property in the fertile valley, others get the rocks.

Now, whether they have 10 acres in the rocks or 30 acres on the waterfront has depended on how successful their lobbying effort is. That ought not to be the case. We ought to take down the fence lines. We ought to let them roam wherever they choose and eat as much grass as they want. But if they get sick, do not come back to us.

This proposal does not allow for that innovation. This proposal makes it difficult for small banks to be innovative, to sell new products, to use that dreaded operating subsidiary, to reach out to their consumers and provide them competitive products at competitive prices in small towns across this country. This amendment speaks to that point.

I understand the differences that some Members may have with the philosophy of this amendment. I understand that the Federal Reserve and the OCC fight each other for regulatory turf. I understand there are a lot of reasons for people to be opposed to this amendment. But I can honestly tell my colleagues, the sole motivation for seeing it included in H.R. 10 is to give hope back to the small community banks across this great Nation.

Mr. GILLMOR. Madam Chairman, I yield 2½ minutes to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Madam Chairman, let me first of all say that it has been an excellent debate. I have great respect for the gentleman from Louisiana, as he well knows, and he certainly has expressed his position exceptionally forcefully and well to this body.

Frankly, I have some empathy for his position, particularly on some CRA relief versus small banks. But I really do have major concerns with how this particular amendment treats insurance sales in banks. As I had indicated earlier during the debate on the LaFalce amendment, this issue, the bank sales of insurance, has bedeviled this Congress for a long, long time. It has basically kept this modernization legislation from passing Congress now for the last 20 years.

We finally in our committee, after a lot of hard work and a lot of gnashing of teeth and a lot of long nights and negotiations between the parties, came to an agreement on how we would best deal with banks selling insurance; and we basically came to that conclusion that indeed, based on court decisions, the Barnett decisions and decisions by the OCC that indeed banks would be in a position to sell insurance.

So the next question is how do we best protect the consumer and at the same time allow that kind of activity to take place. So we got the players together, the president of the insurance agents, the representatives of the insurance agents, representatives of the banks, or some banks at least, the ones that were participating in our effort, particularly Bank One and NationsBank, who were real leaders in trying to come to a conclusion. And after a lot of negotiations and after having testimony from the Illinois representatives of the agents and the banks telling us how they worked so hard to get a bill passed in the Illinois legislature unanimously and signed by the governor that became essentially the template for what we tried to do in this piece of legislation.

□ 1715

It is not perfect. In many cases, all of us would have written this differently depending on where we are coming from. But the fact is it was forged in the caldron of compromise in a major State and signed off on by the major players. That is really what we use the basis for our provision on insurance in our committee. It has survived on to the floor.

Unfortunately, the amendment of the gentleman from Louisiana (Mr. BAKER) would rend asunder our ability to make those kind of changes that we basically have the major players sign off on. It removes, in my estimation, a critical consumer protection preventing implicit coercion; that is tying of insurance sales to loans. I think we do have to provide the kind of protection for the consumer that is absolutely necessary.

Another concern I have is that the Baker amendment contains a mischievous provision requesting the OCC, the Federal bank regulator, to report to Congress on the effectiveness of State insurance laws. That, in my estimation, is already predetermined how that would come out. I ask you to defeat the Baker amendment, as well-intentioned as it may be and support the underlying bill.

Ms. JACKSON-LEE of Texas. Madam Chairman, I rise to speak in opposition to the Baker Amendment.

This amendment's aim and consequence is to eviscerate the Community Reinvestment Act. That Act was created in order to encourage banks to meet the credit needs of the communities in which they were located.

That Act is the child of a successful grassroots movement that is over 20 years old: the "anti-redlining" campaign.

In the late 60s, the "anti-redliners" took it upon themselves to investigate just how well banks were treating the customers from the communities in which they were located. Their discoveries were shocking. Many banks were using their financial leverage to siphon the savings of middle and lower income neighborhoods, only to turn around and invest those same funds in upper-class neighborhoods.

Although not alone, the Community Reinvestment Act remedied much of this problem. It gave many deserving Americans access to credit and capital for the first time. And it did so, and continues to do so by simply telling banks that they must make better efforts to serve each and every person that comes before them.

Respected Colleagues, this Act did what it was advertised to do, something I wish I could say about much of what we produce. It has resulted in over 200 billion dollars' worth of investments in low-income and minority areas.

Under the Baker Amendment, any bank worth less than $140 million would be exempt from the requirements of the Community Reinvestment Act. Ladies and gentlemen, that exemption would capture 80% of all of our banks and thrifts!

Under the current law, most of these banks already operate under a relaxed version of the Community Reinvestment Act standards. These "streamlined" rules are more than satisfactory to banks. There is no reason to fix something that is not broken.

This amendment is a profound step backwards for urban communities and minorities. Not only do I not want to face constituent-entrepreneurs who can no longer obtain loans for their small businesses. I also do not want to hear the outcries from the neighborhoods that are being deprived of the essential services which only come to them in the form of locally-owned, family businesses.

I also realize that the Community Reinvestment Act if often the only means that urban development groups can reach agreements with banks. If this Congress wants to continue to look for private solutions for social problems—why do we want to take away the most effective tool for getting private institutions and local communities to sit down at the same table? It just makes no sense.

What does make sense? The Community Reinvestment Act has been instrumental in over 300 different community renewal projects in over 70 different metropolitan and rural communities.

Furthermore, this amendment allows the banking industry to measure its own performance in providing minority access to lending against other banking institutions. Even more importantly, it removes the proverbial leash from banks, allowing them to revert to their discriminatory lending practices of the past.

I ask my fellow colleagues not only to vote against this amendment, but also realize that the Community Reinvestment Act provides benefits to all citizens of the United States, giving us all equal access to the "economic wells" that make our country great.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. BAKER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BAKER. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 281, answered "present" 1, not voting 10, as follows:

[Roll No. 145]

AYES—140

Aderholt
Archer
Armey
Bachus
Baker
Barrett (NE)
Bartlett
Barton
Bereuter
Bilbray
Bilirakis
Boehlert
Boehner
Bonilla
Bono
Boucher
Brady
Bryant
Bunning
Buyer
Callahan
Camp
Canady
Cannon
Castle
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crapo
Davis (VA)
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fox
Gallegly
Gilchrest
Goode
Goodlatte
Goss
Graham
Granger
Gutknecht
Hansen
Hayworth
Hefley
Hill
Hilleary
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Klug
Largent
Latham
LaTourette
Lazio
Linder
Lucas
McCollum
McCrery
McInnis
McIntosh
McKeon
Miller (FL)
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Neumann
Norwood
Nussle
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pombo
Portman
Pryce (OH)
Ramstad
Redmond
Regula
Riley
Rogers
Rohrabacher
Ryun
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Smith (MI)
Smith (TX)
Snowbarger
Souder
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Tiahrt
Wamp
Watkins
Watts (OK)
Weldon (FL)
Wicker

NOES—281

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Ballenger
Barcia
Barr
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Bonior
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Burton
Calvert
Campbell
Capps
Cardin
Carson
Chabot
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crane
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goodling
Gordon
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hastert
Hastings (FL)
Hastings (WA)
Herger
Hinchey
Hinojosa
Hobson
Holden
Hooley
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Morella
Murtha
Nadler
Neal
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Payne
Pelosi
Pickett
Pitts
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rogan
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Hall (TX)

NOT VOTING—10

Bateman
Christensen
Gonzalez
Green
Harman
Hefner
Hilliard
Paxon
Radanovich
Skaggs

□ 1737

Ms. FURSE and Mr. McHUGH changed their vote from "aye" to "no."

Messrs. DOOLITTLE, CANNON, DICKEY and REDMOND changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GREEN. Madam Chairman, I missed rollcall vote 145 because I was unavoidably detained. Had I been here, I would have voted no.

The CHAIRMAN. The Chair has been advised that Amendment No. 4 has been withdrawn.

It is now in order to consider Amendment No. 5 printed in part 2 of House Report 105–531.

AMENDMENT NO. 5 OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mrs. ROUKEMA:

Strike subparagraph (A) of section 6(f)(1) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, and insert the following new subparagraph:

"(A) the aggregate annual gross revenues derived from all such activities and all such companies does not exceed 10 percent of the consolidated annual gross revenues of the financial holding company;".

Strike paragraph (2) of section 6(f) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute.

Strike paragraph (3) of section 6(f) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, and insert the following new paragraph:

"(2) FOREIGN BANKS.—In lieu of the limitation contained in paragraph (1)(A) in the case of a foreign bank or a company that owns or controls a foreign bank which engages in any activity or acquires or retains ownership or control of shares of any company pursuant to paragraph (1), the aggregate annual gross revenues derived from all such activities and all such companies in the

United States shall not exceed 10 percent of the consolidated annual gross revenues of the foreign bank or company in the United States derived from any branch, agency, commercial lending company, or depository institution controlled by the foreign bank or company and any subsidiary engaged in the United States in activities permissible under section 4 or 6.".

Strike paragraph (4) of section 6(f) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute and insert the following new paragraph:

"(3) FINANCIAL HOLDING COMPANY GROWTH BEYOND CAP.—Notwithstanding paragraph (1), the Board may, on a case by case basis, allow the aggregate annual gross revenues derived by a financial holding company from activities engaged in, or companies the shares of which such holding company owns or controls, under this subsection to exceed the 10 percent limitation contained in subparagraph (A) of such paragraph so long as—

"(A) such aggregate annual gross revenues do not exceed 15 percent of the consolidated annual gross revenues of the financial holding company; and

"(B) the financial holding company does not commence any new activity, or acquire ownership or control of shares of a company, under this subsection after the date on which such gross revenues first exceed 10 percent of the consolidated annual gross revenues.".

After paragraph (3) (as so redesignated) of section 6(f) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute insert the following new paragraph:

"(4) DOMESTIC GROWTH OF FOREIGN BANK BEYOND CAP.—Notwithstanding paragraph (2), the Board may, on a case by case basis, allow the aggregate annual gross revenues derived by a foreign bank from activities engaged in, or companies the shares of which such foreign bank owns or controls, in the United States under this subsection to exceed the 10 percent limitation contained in such paragraph so long as—

"(A) such aggregate annual gross revenues do not exceed 15 percent of the consolidated annual gross revenues of the foreign bank or company in the United States derived from any branch, agency, commercial lending company, or depository institution controlled by the foreign bank or company and any subsidiary engaged in the United States in activities permissible under section 4 or 6; and

"(B) the foreign bank does not commence any new activity, or acquire ownership or control of shares of a company, under this subsection after the date on which such aggregate annual gross revenues first exceed the 10 percent limitation contained in paragraph (2).".

Strike subsection (g) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute (and redesignate the subsequent subsection and amend any cross reference to any such subsection accordingly).

The CHAIRMAN. Pursuant to House Resolution 428, the gentlewoman from New Jersey (Mrs. ROUKEMA) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this amendment is a straightforward one. All financial holding companies, under this amendment, will be entitled to derive 10 percent of their gross annual revenue from nonfinancial activities and investments.

Once a financial holding company hits the 10 percent commercial basket, they would not be permitted to make new investments. They would be permitted to have a 10 percent commercial basket with a cap. They would not be permitted to make new investments in commercial entities or activities once they reach that cap. The Federal Reserve, and this is very important, could approve on a case-by-case basis a financial holding company application for an additional 5 percent, but it would only be at the discretion of the Fed, with very strict parameters.

There are several good reasons, in my opinion, for increasing the commercial basket to 10 percent. In the first place, I believe we need that famous, or infamous, two-way street for all market participants. It should be understood by my colleagues that banks, security firms and insurance companies need to be able to affiliate on an equal basis as in a holding company.

The 10 percent commercial basket is especially important for those who are concerned about their banks. It would establish parity among banks, securities firms and insurance companies by establishing a single limit that applies to all participants.

The basket is only modest. As I have said, it would have strict safety and soundness supervision and examinations by Federal and State regulators. Sections 23(a) and 23(b) of the Federal Reserve Act impose a significant limitation on transactions with affiliates, and the Federal safety net, the deposit insurance funds and the Federal payment systems, are more than adequately protected by the limits in this bill.

□ 1745

I want to assure people of that. The commercial basket would accommodate normal growth of income from commercial activities. I do not have time to go into the business cycle effects, but I think that really indicates, it is really an indication of a lot of common sense about that. It gives the elasticity to accommodate the banks, the securities firms and the insurance industry.

If financial services holding companies can invest in commercial activities, as under this bill, as under this amendment, there will be a new potential source of capital for small and midsized companies. I know I have heard that question raised by numbers of constituents, and I think we can go back to our small and midsized companies, which all of us know are really an engine of growth in our communities, and we know what trouble they have attracting capital. I believe that this 10 percent basket will be very helpful to them.

Madam Chairman, every day I think that we know that there are new products and services and we can certainly understand how this 10 percent basket would help in creating those new innovations for variable annuities, money market deposit accounts and sweep accounts, and it would be a help to those.

Now, I want to stress to all of our Members that this is probably a subject that is not well understood by many Members, but I have to tell my colleagues that the Committee on Banking and Financial Services, in committee, adopted an even larger basket, a 15 percent basket, with a 2-to-1 margin. After studying this for months and months and months, our committee voted 35-to-19 to allow a 15 percent basket.

Madam Chairman, my amendment is more modest. It takes a more modest, smaller step towards this innovation. But I also must say that all 5 subcommittee chairmen of the Committee on Banking and Financial Services support this amendment, and I note with great pride and appreciation the fact that we have bipartisan support with the ranking member of the full committee, the gentleman from New York (Mr. LAFALCE), and the gentleman from Minnesota (Mr. VENTO), my ranking member on the Subcommittee on Financial Services. We all give strong support to this amendment.

The securities industry and the insurance industry strongly support the amendment, and I must repeat that this is particularly important to the bankers because the amendment does give parity, a parity arrangement for banks in this new financial services world.

BACKGROUND—WHAT THE AMENDMENT DOES

My amendment is straightforward. All financial holding companies would be entitled to derive 10% of their gross annual revenue from nonfinancial activities and investments. Once a financial holding company hits the 10 percent commercial revenue cap, they would not be permitted to make new investments in commercial entities or activities. The Federal Reserve could approve, on a case by case basis, financial holding company application to receive up to an additional 5 percent in earnings from existing commercial activities.

The bill as currently drafted would limit the amount of revenue to 5 percent of annual gross domestic revenues. My amendment would expand that limit to 10 percent of annual gross domestic revenues.

There are several good reasons for increasing the size of the commercial basket to 10 percent.

THE TWO WAY STREET

We need a two way street for all market participants.

Banks, securities firms and insurance companies need to be able to affiliate on an equal basis in a holding company.

Insurance companies and securities firms are not prohibited from affiliating with commercial entities. They derive significant revenue from these nonfinancial activities.

Insurance companies and securities firms need a commercial basket so they can be financial services holding companies. Without a basket they will have to curtail existing commercial activities.

The bill would grandfather existing commercial activities of securities and insurance firms—up to 15 percent of annual gross revenues.

Bank holding companies would be limited to 5% of annual gross domestic revenues.

My 10 percent commercial basket would establish parity among banks, securities firms and insurance companies, by establishing a single limit that applies to all participants.

SAFETY AND SOUNDNESS

The basket is modest—only 10 percent of annual gross revenues.

Strict supervisiion and examination by the State and Federal regulators.

Sections 23A and 23B of the Federal Reserve Act impose significant limitations on transactions with affiliates.

The federal safety net—the deposit insurance funds and the federal payment systems—are adequately protected by the limits in the bill.

10 PERCENT ACCOMMODATES BUSINESS FLUCTUATIONS

The 10 percent commercial basket would accommodate normal growth of income from commercial activities.

It is the hope of every businessman that their businesses will grow. The 10 percent commercial basket will permit enough flexibility to accommodate reasonable increases in income from commercial activities.

The 10 percent commercial basket would also help accommodate any seasonal decrease in the amount of revenue derived from "financial" activities.

The business cycle affects all industries. For instance a securities firm's revenues may rise or fall depending on general economic conditions. Insurance company revenues can be affected by natural disasters. Banks revenues are significantly affected by interest rate changes.

The basket will be large enough to account for normal fluctuations in the holding company's financial business.

ECONOMIC GROWTH

A commercial basket will encourage economic growth.

If financial services holding companies can invest in commercial entities there will be a new potential source of capital for small and midsized companies.

Small and midsized companies—which are the engine of most growth in the United States—frequently have problems attracting equity financing.

The 10 percent commercial basket may help these new and innovative companies.

The 10 percent commercial basket may also promote community reinvestment. Holding companies could make investments in their community's businesses and contribute to vibrant, growing local economy.

ENHANCE COMPETITION

The 10 percent commercial basket will enhance competition between all participants in the financial services industry.

This bill is supposed to level the playing field between the banking, securities and insurance industries.

The insurance and securities firms have never been prohibited from affiliating with commercial firms.

The 10 percent basket would permit a "modest" level of commercial affiliation and would enhance competition.

NEW PRODUCTS AND SERVICES

Innovation is the United States.

Every day there are new products and services.

Examples include: variable annuities, money market deposit accounts, and sweep accounts.

A basket which is too small would result in statutory and regulatory barriers which the legislation is supposed to eliminate.

We need to have a basket large enough to accommodate the new products and services which the financial services industry creates in the coming years.

This amendment has significant support.

The Banking Committee adopted a larger 15 percent basket by a vote of 35–19. A 2 to 1 margin.

All 5 Banking Subcommittee Chairmen supported this amendment.

The amendment enjoyed strong bipartisan support in committee.

I note that Mr. LAFALCE, the ranking minority member of the full committee, and Mr. VENTO, the ranking member on my financial institutions subcommittee, support this amendment.

Other members of the committee will be speaking in support of this amendment.

The securities industry and the insurance industry strongly support this amendment. And this amendment, to repeat, will give parity to the Banks.

Madam Chairman, I reserve the balance of my time.

Mr. LEACH. Madam Chairman, I rise in opposition to the amendment.

I do not want to speak at length at this time; I simply would say that the gentlewoman has outlined a very thoughtful perspective on a very troubling area of law. I happen to believe this is perhaps the most profound amendment, if not profound approach, that applies to the financial landscape in the United States that can be expressed or will be addressed by this body, and I will have a substitute amendment at the appropriate time that will be designed, in effect, to negate the effects of this particular amendment.

I would simply suggest to my colleagues that if one believes that what this country needs is more conglomeration, greater integration of financial institutions with other parts of commerce, then this amendment is a very sensible way to go. If, on the other hand, one believes that the engine of dynamism in this country are smaller enterprises, more discreet enterprises, enterprises that are hallmarked by competition, enterprises that are hallmarked by nonintertwined capitalism, then I think one will want to give serious thought to alternatives, or the alternative that I will be presenting.

Madam Chairman, at this time I would allow the gentlewoman and the advocates of her approach to make as strong a case as they can marshal, and I reserve the balance of my time.

Mrs. ROUKEMA. Madam Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO), the ranking member of the subcommittee.

Mr. VENTO. Madam Chairman, I rise in strong support of the Roukema-Vento-LaFalce, and Baker amendment. This is a good amendment. This I think is an amendment which provides parity for both the banking, the securities, and the insurance industries.

As we seek to modernize financial institutions, Madam Chairman, in the past, the Committee on Banking and Financial Services has guided into enactment, working with the Senate and the administration, the Branching and Interstate Banking Act, which in essence, vertically integrated and provided an opportunity for banks to work across State lines and eliminate some of the geographic barriers.

What is occurring here and what has been said by the regulators is, of course, the recognition that financial entities, insurance, banking, and securities, have instruments that look very much alike. What we want is a 2-way street regards their ability to do business. We want the securities and insurance industry, which has historically involved an equity ownership that is commerce, to, in fact, be able to participate and not to have to change the entire nature of the way that they operate in a limited extent, and of course operating at a 10 percent equity ownership position would facilitate that.

Now, on the banking side, we have had any number of intrusions in terms of commerce. In fact, this bill personifies some of those intrusions, such as the non-bank bank provisions of this bill; such as the provisions in this bill that permit nearly 100 unitary thrifts to continue to have a commerce role, 100 of them, without any limitation as to a percent of revenue or assets. There is no 10 percent limitation in this example.

Then, of course, we have banks that are owned by commercial companies in this Nation. There are 4 or 5 of them. And we have, of course, looking beyond that, looking at our U.S. banks that operate abroad, they all have a commerce role in those market places where they are not limited. They own commercial interests abroad and exercise, I might say, many other powers out of a holding company or even subsidiary going back to a past argument and are regulated by the Federal Reserve, curiously, who doesn't object to such relationship.

So there is a mixture of commerce and banking. That already is an established fact. I have just given my colleagues 4 or 5 instances of commerce banking ownership by banks. The question is, are we going to rationalize and regulate this in a consistent and fair manner? That is what we are trying to do with this amendment.

We recognize that to completely shut off commerce in banking, we would be shutting down this particular bill in terms of what securities firms or insurance firms may be able to do, and to deny that the Federal Reserve Board, through some artifice that they suggest: Well, the bank does not have controlling interest, they only have this investment in this area; they only have a participation in this particular area. Well, that is an artifice. That is an artificial distinction, and we should recognize that and adopt an amendment that gives parity to both banks and the other institutions such as the Roukema-Vento amendment, and I urge my colleagues to adopt it.

I rise in support of the Roukema-Vento amendment that will provide a parity basket—that is an equal 10 percent basket for all financial holding companies—as opposed to the unequal 5 percent for banks and 15 percent for everyone else basket.

As my colleague stated, the amendment would provide a 10 percent of annual gross revenues basket for commercial activities. This limited basket is further narrowed because affiliations would be prevented between the largest 1,000 U.S., companies. A further safeguard is the prohibition on transactions with affiliates engaged in non-financial activities.

This amendment is a responsible approach that recognizes the reality of our financial marketplace and works within that framework. It would reduce the disparity between bankholding companies that would be frozen at 5 percent, and the new financial holding companies formed by securities or insurance companies that would have a 15 percent basket. There is no rationale for the difference.

What is important to recognize is that commerce and banking are already in the marketplace on an "ad hoc" and "exception to the rule" basis. What the bill does and the Roukema-Vento amendment does better is make a clear and reasonable framework for the linking. Without a basket, there is no "two way street" which is modernization speak for an opportunity for securities and insurance companies to affiliate with bank. That is why even the Leach ZERO basket approach allows the very thing he and his supporters will preach against—a 15 percent basket for up to 15 years.

If Congress were acting in a void, the creation of a financial system that creates an absolute and total separation of banking and commerce might be achievable. In fact, however, we are not working in a void.

There is a long tradition of equity ownership with investment banking and insurance industries. The regulators have been playing around the edges with regard to operating subsidiary powers and on Section 20 affiliates. The unitary thrift holding company provides a clear opportunity for commerce and banking and that over 100 unitaries are using today. We have non-bank banks, grandfathered banks, and grandfathered activities. What we don't have is a level and open playing field that recognizes the reality of today's marketplace. We need a rational overall structure that establishes the same firewalls, the same rules and same competitive opportunities for everyone within the U.S. financial services industries.

This amendment, really a take off from legislation Mrs. ROUKEMA and I introduced early last session, provides that overarching structure and a two-way street. Total restrictions on banking and commerce need to be lifted so that financial services entities can diversify: spreading risk and increasing profitability. The EQUAL 10 percent basket, with the ability for the Federal Reserve Board to move to 15 percent in strict circumstances, will provide running room to allow for ups and downs in the business cycle and will assure that the majority of financial services companies will not immediately bump up against the top of the basket.

I urge my colleagues to support this amendment and to oppose the Leach amendment that follows. This basket parity amendment is one small step in the direction of the banking industry. This parity amendment will keep the law relevant to the current and future market conditions of all players. While this bill remains flawed for banks, passage of this amendment will alleviate one of the unfair aspects of H.R. 10—while the Leach amendment will only make it worse.

Mr. LEACH. Madam Chairman, I yield 4 minutes to the distinguished gentleman from Nebraska (Mr. BEREUTER), who has such a thoughtful perspective on this issue, and who is also the chairman of the Subcommittee on Asia and the Pacific, and I think might want to address that perspective.

Mr. BEREUTER. Madam Chairman, I am a 17-, 18-year member of the Committee on Banking and Financial Services. I do chair the Subcommittee on Asia and the Pacific of the House Committee on International Relations, and I think, frankly, that is a more relevant set of experience right now for this legislation than service on the Committee on Banking and Financial Services. Because of that combination, I have had an opportunity to watch up close, first as a member of the authorizing subcommittee for the IMF legislation or the activities of the IMF, and then from the Asia and Pacific Subcommittees to see what is happening in Japan and Korea and Thailand in recent months.

I want to speak in the strongest possible terms of my opposition to the Roukema-Vento amendment and for the Leach-Campbell-Bereuter substitute.

What we have seen over the last few years is a Japanese banking system where the assets have grown tremendously because Japanese banks have been able to take equity positions or ownership in businesses. So as the economy was good in Japan, the assets of those banks also moved upward dramatically with the progress of those industries. So Japan had most of the largest 20 or 25 banks in the world. But what happens with their mixing of banking and commerce is that it also exaggerates trends downward. So at a time when the Japanese need a strong banking system, they do not have that strong banking system to help them spin out of their economic difficulties.

In fact, if we take a look at the ownership of a Japanese bank today and their assets, we will find that they can take 5 percent ownership in this business, 5 percent in this business, 5 percent in this business, and so on, and as those businesses had trouble, then, in fact, the asset base of the banks also has deteriorated.

We have also had, there and in Korea, an incestuous relationship between banks and businesses. So we have the disaster in the Republic of Korea today with the chaebols, those huge conglomerates, when banks gave loans to such businesses without considering the real risk, but only on the basis of those incestuous business relationships. And the same sort of thing happened in Japan and Thailand. I can tell my colleagues that the burden of proof should be on those people in Congress and not American society that want to change Glass-Steagall—those who want to eliminate the separation between commerce and banking.

What did Paul Volcker tell the Committee on Banking and Financial Services? I want to quote from his statement to us. He said, "The American financial system is the most vigorous, flexible, innovative, quickest-to-change, most efficient in allocating capital, and it has been done by maintaining the separation. So the burden of proof seems to me to be on those who want to end this separation. We are doing fine without it, and without exception those countries that have more connections between banking and commerce are noted for having inflexible systems."

The burden of proof, my colleagues, is on those people who want to establish this so-called "basket," and certainly, it is on those people who want to accentuate the size of it. Once we cross that line, once we eliminate the separation between commerce and banking, we know what is going to happen. The beneficiaries of this change are going to be in here every year asking for an increase. That is not in the best interests of the United States.

Madam Chairman, I want to suggest to my colleagues that the burden of proof indeed should be on those people that want to break down the barriers between commerce and banking, on those who want to disturb the status quo. We have the strongest banking system in the world, and we have loans being made on the basis of risk, not on the basis of incestuous relationships between banks and business.

I would like to ask my colleagues to take a look at a "Dear Colleague" letter that the gentleman from Iowa (Mr.

LEACH), the chairman of the committee, and the gentleman from California (Mr. CAMPBELL) and I have circulated to show my colleagues the breadth of the opposition to any changes in Glass-Steagall. It is extraordinary. It spans the ideological-business-political-labor spectrum. This elimination of the Glass-Steagall barrier is a step we do not want to take. Vote "no," vote "no" emphatically on the Roukema-Vento amendment, and support the status quo, which keeps the barrier between banking and commerce.

Mrs. ROUKEMA. Madam Chairman, I yield myself such time as I may consume to observe my colleague's arguments against my amendment. I will reserve most of them for the debate on the Leach proposal, but I would say that there is no comparison, none whatsoever, between what the Japanese, the south Koreans or the Indonesians do in terms of regulatory controls and the accounting practices and the forcing of conflicts of interest under their system. So the comparisons with Southeast Asia are not valid.

□ 1800

To tell Members the truth, some of the strongest banking financial systems in the world are in Europe, particularly in great Britain, Germany, and other European countries. Virtually every one of those countries have at least a 10 percent commercial entity, and in many cases, many more, and have had them for a long period of time.

Madam Chairman, I yield 2 minutes to our colleague, the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Madam Chairman, I thank the gentlewoman from New Jersey for yielding time to me.

Madam Chairman, I rise in strong support of the 10 percent basket amendment, the Roukema-Vento-Baker-LaFalce amendment.

This amendment is similar to an amendment I offered during the markup of this bill in the Committee on Commerce. As a New Yorker, I fully understand the importance and significance of providing the proper framework where financial services can thrive.

Our nation's markets are the envy of the world, and New York is the capital of the world's economy. Any legislation that is reported must ensure that our financial structure retains its ability to adapt to the changing needs of the public.

To this end, I believe that financial modernization legislation must allow banks, securities, and insurance firms with commercial interests to invest some percentage of its domestic gross revenues in nonfinancial services. Financial modernization legislation should reflect the current market, and permit some form of commercial affiliation. A 10 percent commercial basket is a reasonable first step toward integrating commerce and banking.

Legislation on this matter must be flexible enough to ensure that financial service providers can continue to evolve. We cannot push back progress. Without a basket, many firms would be forced to choose between their current commercial activities and newly authorized banking powers. In addition, many firms would have difficulty competing in the global economy without having some ability to invest in foreign entities.

While we are pleased that a 5 percent basket was included in the bill, a 10 percent basket provides the proper cushion to accommodate both the normal growth of a commercial enterprise and the potential decrease of financial activity revenues.

To this end, I strongly urge my colleagues to vote for the 10 percent basket amendment. Financial providers must have the ability and the flexibility needed to move forward as we approach the 21st century. As the gentlewoman correctly pointed out, a 15 percent basket would even make more sense, but this is a scaled-back bill, a moderate bill, a bill trying to make progress, and a bill trying to get a majority of the votes.

We cannot put our heads in the sand. We cannot be blinded. We cannot pretend that progress does not march on. To pretend that this is the same financial economy as that of 50 or 60 years ago just does not make sense. I urge my colleagues to vote for this very, very modest amendment, which moves us in the right direction.

Mr. LEACH. Madam Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Madam Chairman, I want to express affection and respect for the authors of this amendment, but I want to differ with them strongly on its need. I talked to the distinguished chairman of the Federal Reserve Board. He opposes this amendment, and he says this in his May 4 letter to me: "There is every reason to move with caution in this area. The combining of banking and commerce is clearly irreversible. Once permitted, the Congress is unlikely to impose the costs and disruption of disentanglement."

Let us look at Germany. Their financial institutions have been discussed. The German economy is stagnant. They are exporting jobs because they cannot start them up at home.

Look at Asia, and look what is happening. Over there, a bank can do anything it wants. They own property, they own real estate, they own businesses, they own stock. When values start going down on those kinds of assets, the bank is in serious trouble. It happened in Thailand, it happened in Korea, it has happened in Japan, and all three economies are stagnant, in good part because of this.

Listen to what Chairman Greenspan says:

> The current turmoil in some Asian economies highlights the risk that can arise from the interrelationships between banks and nonbank corporate entities. First, if the interrelationships are too close, the banks' decisions with respect to lending might be based, not on the underlying creditworthiness or other relevant characteristics of the borrowers, but rather on such factors as implicit or explicit subsidies, personal and business relationships, and common managers.

That is exactly what has happened in Japan, Thailand and Korea.

Listen further:

> Second, the interrelationships can become so complex and nontransparent that investors and counterparties cannot properly understand or assess the banks' financial soundness.

Again, this is happening in Korea, in Japan, and Thailand, and in the Asian economies which are in trouble. This amendment would authorize a replication of that unfortunate situation.

Continuing,

> Both of those risks are important elements in the problems now facing some Asian banking systems and are the reasons why banking and commerce have historically been separated in the United States.

If Members want a more clear warning on the dangers of this amendment, check with Chairman Greenspan. Madam Chairman, the Chairman goes on to say this:

> Thus, it is critical that H.R. 10 retain its ongoing $500 million cap. Such a cap allows the controlled experimentation of the mixing of banking and commerce, without locking policymakers into one particular approach that, as noted, may be impossible to reverse and that could do more harm than good. . . . If the fundamental and longstanding structural separation of banking and commerce in this country is to be changed, the Board strongly believes that any modification should proceed at a deliberate pace, in order to test the response of market and technological innovations as well as the supervisory regimes to the altered rules.

I urge my colleagues to heed the warning that is present in these words. Do not replicate the follies of Korean, Japanese, Thai banking. Let us use responsibility. The strength of this country has been that, although our banks have not been as big as they would like to be, they have been strong.

I have heard the banks complain constantly about the size of Japanese and Korean banks and their ability to do all manner of things. It turns out that this ability to do all manner of things has created a disaster for these countries. We are being asked to bail them out. What are we going to do when our replication of their banking system creates the same abuses, the same hazards, and the same economic collapse for our constituents?

I beg the Members, reject this amendment.

Mrs. ROUKEMA. Madam Chairman, I yield 3 minutes to the gentleman from New York (Mr. LAFALCE), the ranking member of the full committee.

Mr. LAFALCE. I thank the gentlewoman for yielding time to me, Madam Chairman.

Surely the whole question of banking and commerce is one of the most difficult for the committee to come to grips with. An attempt was made within the Committee on Banking and Financial Services to put responsible limitations on that combination. That was 15 percent across the board. But then the bill was changed when the Republican leadership brought it forth, and it is 15 percent for these new financial services' holding companies, and 5 percent for bank holding companies.

So we have to understand that what the amendment that the gentlewoman from New Jersey would do is not to increase it from the existing bill, it is to level it. It is to bring the 15 percent down to 10, the 5 percent to 10; to have a leveling of the field between these financial services holding companies, and the banks.

It is also my understanding that subsequent to this amendment, the chairman of the committee, the gentleman from Iowa (Mr. LEACH) will be offering an amendment with a zero basket but with a grandfather provision that would allow up to 15 percent. So even in this zero basket, as I understand it, the grandfathered institutions would have a higher basket than the Roukema amendment would provide.

This is a difficult issue, but if we are to allow the mixing of banking and commerce, I think a 10 percent across-the-board basket would be more appropriate.

In fashioning my motion to recommit, however, stripping the bill of the controversial national bank charter provisions, so we simply would not deal with it, so that we would simply deal with the Glass-Steagall and the bank holding company changes, it is my intent to follow the disposition of the House on this issue. If the House wants to go for 15, 5, or 10, or a zero basket with a 15 percent for the grandfathered institutions, that is what I would incorporate in my motion to recommit.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Madam Chairman, in 1694 the British parliament ruled that banking should not mix with commerce. In 1791, Alexander Hamilton, in the United States, decided that banking should not mix with commerce. Thus, it has been over the last 300 years in the Anglo-American tradition.

Now we are told, since the 1980s, that we should mirror the Japanese model of Keiretsu, where bankers and industrialists work very closely together. In fact, we were told in the 1980s here in Congress that if we did not model ourselves upon the Japanese economic system, that we would become an economic power of the past.

Now, in the 1990s, what do we see? Keiretsu in Japan means bankers and industrialists apologizing to the Japanese people for destroying their economy over the last 15 years. The American system continues on with its entrepreneurial, Darwinian, Adam Smith, ruthless set of decisions, with bankers deciding, venture capitalists deciding, which one of the American companies deserves more capital, not because it is tied to it, not because it is married to it.

What happens as a result of the Japanese system? Something called Asian flu. That comes from having bankers too closely tied to industrialists, having too deep of an investment in them and anyone who gets close to them. What is recommended here by the Roukema amendment? That we should, as well, engage in Keiretsu.

Our system is working. It has worked for 300 years. We do not have to abandon it and emulate the Japanese. The correct vote here tonight is no on Roukema, no on the Japanese system. It has failed, and failed badly. Vote yes on the Leach amendment. The Leach amendment will keep the continuation of the Anglo-American system.

Mr. DINGELL. Madam Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Michigan.

Mr. DINGELL. Madam Chairman, it is also no on the Korean system and the Thai system.

Mr. LEACH. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me make several points. There has been a lot of talk on the floor today about the bill in general. This amendment comes to summarize several aspects of it.

For example, there has been talk about consumer issues, protecting the public. I do not know a bigger consumer issue or a bigger public protection issue than the question of do we allow the safety net of financial institutions to be spread to commercial activities of banking institutions. This is what has cost lots of countries in the world lots of money.

Asian countries, European countries, a French bank, a Spanish bank, German institutions have cost substantial funds either to their institutions or to their public deposit safety nets, if they exist.

Let me give an example in Germany, because we have focused so much time in the Far East. In Germany a few years back there was a metals firm that went under called Metallgesellschaft. This particular metal company entered into some very sophisticated derivatives trading.

A study at the Chicago Federal Reserve Bank has indicated that they believe that the risk environment involved, the lack of supervision, because it was associated with a commercial bank, caused substantial losses; by "substantial", $6 billion.

The Chicago Federal Reserve then examined an American company not associated with the bank, a major American company called Enron. Enron entered into the same kinds of derivative transactions on the same metals at the same time. It made a mistake or two, but because of the discipline of the United States stock market, Enron run survived quite nicely, and it is prospering today. Metallgesellschaft caused enormous losses to a particular financial institution.

□ 1815

Now, if we think about what it is that is at stake in all of this that one relates to, is there a difference between financial prowess and management of enterprise prowess? What we have developed in this country today are the most sophisticated capital markets, but also capacities of people that know how to manage money to take over lots of enterprises, enterprises that they may not be very good at managing.

I happen to think that there is a huge distinction between management and financial prowess. And what this approach before us has in mind is the idea that because one is a good money manager, one then can become a manager of manufacturing, a manager of retail sales, and the end result is very simple. It is a concentration of ownership.

This country has long had an antipathy to concentration of ownership. Here we are going to be looking at combining financial and commercial ownership in ways that I think, if one takes a step back and looks at it, one should have grave doubts about. I know, frankly, some very smart individuals have brought this approach to the Congress that are Members; smart people on the outside have suggested it would be the way to go. But every time I try to describe it neutrally to people in my district and I ask the local Rotary if they think the local bank ought to own the local department store, if they think it would be smart for a national auto company to be intertwined with a national bank, I get people saying, you have got to be crazy.

That is what this amendment not only endorses, but leads to.

I personally think we ought to just take a step back, think it through and suggest that mixing commerce and banking, which is an abstract concept, just simply does not fit the United States of America. I urge serious consideration of the amendment that I will shortly be offering to this particular approach.

Mrs. ROUKEMA. Madam Chairman, I yield such time as he may consume to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Madam Chairman, I rise in strong support of the Roukema amendment.

Mrs. ROUKEMA. Madam Chairman, I yield myself the balance of my time.

I would simply like to say there have been a lot of dramatics here and a lot of quotes here and a lot of economic analysis, and I do not know that there has been substantiation of any of it. I do know that when Mr. Greenspan came before our committee, he indicated, no, he did not want to hold open the commercial basket, but he did say that we had to take a step in this direction. It was inevitable with technology and the global markets with which we are dealing. It was out there; we had to deal with it in some way or other.

We are not opening it up, as has been implied here, to unlimited commercial activity. We are saying that 10 percent gives the legitimate two-way street and the parity and the kind of mixture that we are having between banks, insurance and securities. And that is all.

Forget the drama. It is not keiretzu. When we get to the Leach amendment, I will give a little more of my own analysis of why we are not talking about Asian flu.

The CHAIRMAN. It is now in order to consider substitute amendment No. 6 printed in part 2 of House Report 105-531.

AMENDMENT NO. 6 OFFERED BY MR. LEACH AS A SUBSTITUTE FOR AMENDMENT NO. 5 OFFERED BY MRS. ROUKEMA

Mr. LEACH. Madam Chairman, I offer an amendment as a substitute for the amendment that would eliminate the commercial basket for financial services holding companies.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2 amendment No. 6 printed in House Report 105-531 offered by Mr. LEACH as a substitute for amendment No. 5 offered by Mrs. ROUKEMA:

Strike subsection (f) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute (and redesignate subsequent subsections and any cross reference to any such subsection accordingly).

In paragraph (1) of subsection (f) (as so redesignated) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute, strike "subsection (f)(1) and".

In paragraph (2) of subsection (f) (as so redesignated) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute—

(1) strike ", as of the day before the company becomes a financial holding company,"; and

(2) insert "(excluding revenues derived from subsidiary depository institutions)" before ", on a consolidated basis".

In paragraph (4) of subsection (f) (as so redesignated) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute, insert "(excluding revenues derived from subsidiary depository institutions)" before the period at the end.

In paragraph (5) of subsection (f) (as so redesignated) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute, strike ", subsection (f),".

In paragraph (6) of subsection (f) (as so redesignated) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute, strike ", subsection (f),".

After paragraph (6) of subsection (f) (as so redesignated) of section 6 of the Bank Holding Company Act of 1956, as added by section 103(a) of the amendment in the nature of a substitute, insert the following new paragraph:

"(7) SUNSET OF GRANDFATHER.—A financial holding company engaged in any activity, or retaining direct or indirect ownership or control of shares of a company, pursuant to this subsection, shall terminate such activity and divest ownership or control of the shares of such company before the end of the 10-year period beginning on the date of the enactment of the Financial Services Act of 1998. The Board may, upon application by a financial holding company, extend such 10-year period by not to exceed an additional 5 years if such extension would not be detrimental to the public interest.

Strike paragraph (1) of section 10(c) of the Bank Holding Company Act of 1956, as added by section 131(a) of the amendment in the nature of a substitute (and redesignate subsequent paragraphs and any cross reference to any such paragraph accordingly).

In subparagraph (A) of paragraph (1) (as so redesignated) of section 10(c) of the Bank Holding Company Act of 1956, as added by section 131(a) of the amendment in the nature of a substitute, strike "paragraph (1)(A) and".

In subparagraph (C) of paragraph (1) (as so redesignated) of section 10(c) of the Bank Holding Company Act of 1956, as added by section 131(a) of the amendment in the nature of a substitute, strike "or (g)".

In subparagraph (B) of paragraph (2) (as so redesignated) of section 10(c) of the Bank Holding Company Act of 1956, as added by section 131(a) of the amendment in the nature of a substitute, strike "Notwithstanding paragraph (1)(A)(i), the" and insert "The".

In subparagraph (A) of paragraph (3) (as so redesignated) of section 10(c) of the Bank Holding Company Act of 1956, as added by section 131(a) of the amendment in the nature of a substitute, strike ", (2), or (3)" and insert "or (2)".

The CHAIRMAN. Pursuant to House Resolution 428, the gentleman from Iowa (Mr. LEACH) and a Member opposed, each will control 15 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Madam Chairman, I yield myself such time as I may consume.

The movement to go beyond the integration of financial services and eliminate the traditional legal barriers between commerce and banking is simply a bridge we should not cross. It is a course fraught with risk and devoid of benefit and one for which there is no justification.

Such a step would open the door to a vast restructuring of the American economy and an abandonment of the traditional role of banks and impartial providers of credit, while exposing the taxpayer to liabilities on a scale far exceeding the savings and loan bailout. At issue with financial services modernization is increased competition. At issue with mixing commerce and banking is economic conglomeration, the concentration of ownership of corporate America.

Recognizing this, warnings about mixing commerce and banking have been issued by the Federal Reserve Board, by Paul Volcker, and by consumer activist Ralph Nader. It is opposed by groups representing consumers, labor organizations, community bankers, farmers, travel agents, realtors, pharmacists, building contractors and the self-employed. In other words, the concept is opposed by the millions of workers, small businessmen and women who are the generators of economic prosperity in the United States.

Proponents of a commercial basket argue that U.S. financial holding companies need a commercial basket to be able to compete with foreign competitors, and that virtually all European countries permit banks to make direct investments in commercial activities. However, this overlooks a couple of simple facts.

First, in testimony before our committee, Chairman Volcker noted that the mixing of commerce and banking in Germany, France, Spain, Japan and elsewhere has led to massive financial losses for both banks and taxpayers in these countries. There is plenty of recent experience in other parts of the world to suggest that potential problems with banking-commerce links are not just theoretical, Paul Volcker noted.

Second, a recent New York Times article indicated that the European universal banks have a lower return on equity than U.S. banks, such as Citicorp, which does not have a commercial basket. So why would we encourage our banks to go in that direction?

Third, the U.S. financial system has much more depth and credit in equity markets. That is one of the strengths of the United States system. It thus could not be more ironic that powerful groups in Washington are today suggesting that Congress redesign America's financial landscape to make it more like that of Japan and Germany, France and Spain and the 1980s United States S&L industry.

Mixing commerce and banking only benefits large banks and large corporations at the expense of small banks and small business. For decades small business has been the engine of job creation in the United States, and mixing banking and commerce places American job growth in jeopardy.

For instance, would an individual hoping to open a restaurant in a town where the only bank was owned by McDonald's be able to obtain a loan, or would the bank disregard its role as an impartial provider of credit? Would a bank owned by a real estate developer provide comparably priced credit to competing developers? Given these troubling possibilities, it is no surprise that the nonpartisan General Accounting Office issued a report demonstrating that there is no compelling economic argument for mixing commerce and banking and a lot of socioeconomic and political jeopardy in doing so.

In this time of crisis in Asian economies, the lessons of the chaebols of Korea, the keiretzus of Japan and cartels of Indonesia should not be lost in the United States. Those who advocate financial modernization legislation which mixes commerce and banking might want to take a hard look at the conflicts of interest endemic to systems that have allowed such mixing.

In East Asia, bank ownership of industrial firms led to crony capitalist relationships with the government. The virtue of America's decentralized, stock-market-oriented financial system is that credit and investment decisions are made based on economic fundamentals, not entangled relationships or corporate favoritism.

America is a country which has traditionally opposed concentrations of power, both political and economic. It is the country of Jeffersonian individualism, Jacksonian bank skepticism and Teddy Roosevelt trust busting. The contemplated mixture of commerce and banking goes beyond the lessons that we have learned and the values that we hold.

Madam Chairman, I reserve the balance of my time.

Mr. VENTO. Madam Chairman, I rise in opposition to the Leach amendment.

The CHAIRMAN. The gentleman from Minnesota (Mr. VENTO) is recognized for 15 minutes.

Mr. VENTO. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, I rise in opposition to this amendment. This amendment, what it actually says, and I respect the chairman and his staunch opposition to commerce and banking; he has been consistent in that particular view. But what this amendment does is it says, they rise in opposition to the Roukema amendment which provides a 10 percent basket even for securities, insurance or banking firms, but this one says, 10 percent is too much, but 15 percent is just about right.

That is what this amendment does. This provides 15 percent commerce ownership within a securities or insurance firm for 15 years.

Here we are in an environment in which economic events within a short period of time, in days, maybe months, certainly years, in 15 years we could see dramatic changes in terms of what happens in the economy. We are saying, we are providing a level playing field, taking the most important financial entities in our country, banks, and treating them in a disparate way. Of course, I mentioned the many, many exceptions.

Now, in order to sell this particular proposal to the Members, we have had the bloody flag of the S&L crisis waved back and forth. It has been suggested that somehow our culture and free enterprise system and free people are going to accept the type of government and type of control that exists in Asia, in Japan or Korea or Germany. I do not think so.

I think that our free enterprise system is strong enough and mature enough to recognize what actually is taking place. What happens when banks permit the financing for mergers and acquisitions? What happens when banks make these tremendous loans and end up collecting these companies as collateral? They become, in a sense, investors. They end up picking up that collateral and having that control. And there are many, many exceptions. In fact one of the largest corporations in my State, 3M owns a bank. It has not undercut 3M yet. They are still going to the private market.

I oppose this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. LEACH. Madam Chairman, I yield 3 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Madam Chairman, it is a compliment to the side of the argument presented by the chairman of the committee that those opposing his amendment would say that it allows 15 percent commercial investment to continue, as though they realize what danger it is to allow such mixture of commerce and banking.

Let me at the start put to rest this argument. The 15 percent that would be allowed to continue for the bank holding company during the period of a wind-down is in order to allow a reasonable phaseout of the mixture of banking and commerce that is already in existing law.

The fundamental debate here tonight is between those who wish to go to zero mixing of commerce and banking and those who would permit it, those who believe that 5 percent mixture is not enough and, in the Roukema amendment, that it be 10, or as we heard in the debate earlier, that some would even go to 15.

I think the real debate thus is, shall we have a mixture of commerce and banking? Admittedly, the Leach amendment, of which I am proud to be a cosponsor, has a phaseout provision. That is appropriate for now. Eventually, however, under the Leach amendment there will be no mixture of commerce and banking, as there should be no mixture of commerce and banking.

Under the Roukema amendment, it will be 10 percent today, probably 15 percent or 20 in years to come.

What is the objection to the mixture? I think it has been adequately explained by my colleagues in regard to the risk that comes from a commercial investment made by someone that ought to be a neutral provider of capital. I would rather address one point that has not been made, and that is whether the fire walls are adequate, because we know that in the bill itself and in the amendment from our colleague, the gentlewoman from New Jersey (Mrs. ROUKEMA), there is a set of fire walls to make sure that the bank does not offer a loan to the very commercial enterprise in which it has an equity stake.

But there is no fire wall against providing a loan to the customers of that commercial enterprise or to the suppliers of that commercial enterprise. And so a bank might own some stock in General Motors, and General Motors cannot get its new fleet out on time because Firestone has a little trouble providing the tires, due to cash flow. Will the bank not be tempted to give a little bit of leniency on any loan to Firestone? It would not break any fire wall to do so because the fire wall only applies as to the extension of credit to General Motors, if, by hypothesis, the bank has an equity stake in General Motors.

The point is simple, there is no way that the imagination of humankind can prevent the temptation from arising. If a bank has an equity stake in an enterprise, that enterprise will have a claim on the bank's lending policy.

Lastly, why do we care so much? Because it is not the companies' money. I have no problem with the company retaining earnings and using it for its own intended investment—splendid, but not with the taxpayers' money. What we are dealing with here tonight is Bank Insurance Fund money which, if the Bank Insurance Fund is stressed, will, as in the case of the savings and loan crisis, and will, in this context again, be a tax upon the taxpayers.

□ 1830

Mr. VENTO. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. PAUL), a member of the committee.

Mr. PAUL. Madam Chairman, I rise in opposition to the Chairman's amendment and in strong support of the amendment of the gentlewoman from New Jersey.

There are two positions that one could take on this. We could have zero integration, which this amendment would do; or we could think about the market. The market would just allow it to exist.

Earlier, somebody quoted Hamilton as being opposed to an integration of commerce in banking. Well, of course, at that particular time in history we had the Jeffersonians, and they were strongly in support of the market and even against central banking.

So I think, considering all things, that I cannot get my 100 percent, and we certainly do not want zero. We need to move in a direction, so I would say this very modest request is very justified.

I think this FDIC insurance is something we should be concerned about, but that is a different issue for the moment. I object to that, but I do not believe this will solve the FDIC problem.

We have to think about how we got here. In the 1920s, the Federal Reserve created a lot of credit. They created a boom and a booming stock market and good times. Then the Federal Reserve raised the interest rates and there was a stock market crash and a depression. And out of the depression came the desire to regulate banking and commerce. That caused the depression, which was erroneous, because the cause of the depression was excessive credit and then a deflated bubble, which should be all laid at the doorstep of the Federal Reserve.

This is the size of the Glass-Steagall Act, a few pages, in order to solve a problem that did not exist. But we have been living with this for all these years. And now, over these several years, we have been trying to solve the problem. Now, this is the size of the solution. This is H.R. 10, this is the version of the Committee on Commerce as well as the version of the Committee on Banking and Financial Services that went to the Committee on Rules.

We need to look at the fundamental cause of our problems and not jump off a cliff and do the wrong thing. I strongly support the Roukema amendment.

Mr. LEACH. Madam Chairman, I yield 3 minutes to the gentleman from Nebraska (Mr. BEREUTER), my distinguished friend and coauthor of the amendment.

Mr. BEREUTER. Madam Chairman, I thank the gentleman for yielding this time to me.

The gentleman from Texas has just spoken to us about letting the market work. The problem with the mixing of commerce and banking is that market decisions are not made. Credit decisions are made on the basis of equity that a bank has in a business. We are more likely to have the market working properly when we have this division between banking and commerce as we have had since the 1930s, even tracing far back beyond that, as the gentleman from Massachusetts (Mr. MARKEY) earlier said, tracing back in some form to a period even before the founding of the Republic.

I just cannot help but think of what happened in the home State of the gentleman from Texas (Mr. PAUL) when we had under S&L law in Texas, in that State and some other States, an opportunity under their legislation to use federally insured deposits to make investments in their own name instead of loans to residents of their community. And I recall something like 50 percent of the total losses in the S&L debacle were in the gentleman's home State of Texas.

The gentleman from Minnesota (Mr. VENTO) suggests that this 10 percent basket is a modest step. Well, I think we are more likely to pay attention to what the gentleman from New York (Mr. ENGEL) said. He said this 10 percent basket is a reasonable first step as a basket. And that is the point this gentleman was trying to make some time ago; that there is, in fact, no end to this process for a larger basket all the time once we break the barrier down between commerce and banking. We are going to be back here with such amendments year after year.

Mr. VENTO. Madam Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Minnesota.

Mr. VENTO. I wanted to suggest that I did not agree with the gentleman from New York (Mr. ENGEL) on the first step.

Mr. BEREUTER. I thank the gentleman for that clarification.

I watch with awe and wonder the gentleman from New York (Mr. LAFALCE), who speaks to us in such a soothing voice, about how the changes that are being made here are actually reducing it from 15 percent basket to 10 percent basket. And, well, that is accurate. But in reality, of course, the status quo is a zero basket. And that is what we who are supportive of the Leach amendment think is a crucial and proper level. It is crucial that we maintain this barrier against mixing banking and commerce. I think it provides us a much higher likelihood of the impartial provision of credit by bankers to people and to businesses that deserve to receive credit. It avoids a concentration of economic power.

Earlier, too, we heard references about a bloody flag being waved in the debate on S&Ls. But I think that is appropriate for we have to learn from our experience. And it boggles my mind, it boggles foreign legislators' minds that we in America would be re-creating, the kind of unhealthy banking situations that we find in Asian countries.

And as the gentlewoman from New Jersey (Mrs. ROUKEMA) asked earlier, well, what about Europe? Well, in fact, the problems resulting from the mix of commerce and banking exist in Europe, too. And, in fact, in France and Spain the public treasuries were raided to make insolvent large banks more solvent after they made imprudent commercial investments. And that is what we would have to have.

Do not trade the separate American banking and commercial systems for the failures of Asia or Europe.

Mr. VENTO. Madam Chairman, I yield 3 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Madam Chairman, I thank the gentleman for yielding me this time.

This is, no question, a very difficult issue. I can come down almost on either side. But if we do not deal with it tonight, and my bet is we probably are not going to deal with it tonight, we are going to have to deal with it at some point in the future.

Again, I have nothing but the greatest respect for the chairman of the Committee on Banking and Financial Services, and I think he has thought long and hard about this, but we have to consider a few things.

First of all, the chairman talked really about two types of commercial baskets. I think he talked about what this amendment or the Roukema amendment was about, and then he talked about what he thinks may come in the idea of a reverse basket where McDonald's owns banking entities around the country.

Of course, we already have a system in place where we have the small town banker that owns the bank and the car dealership and the feed store and everything else, and that is allowed under current law. But I think we also have to remember we have a much more dynamic marketplace.

And that leads into my second point. It is not really fair to compare the United States' economy to that of Asia or even Europe. Our market is much more sophisticated. It is much more diversified. Our capital and credit markets are much more diversified, much more efficient, much larger. So, yes, there may well be risk, but I think it is a very unfair comparison to make.

I think that the gentleman uses the example of the German company and Enron, which happens to be based in my home city of Houston, and how efficient the U.S. market, the stock market treats it, and I think that is true with respect to banks.

We could turn this over to Mr. Greenspan and let him write the entire bill and just rubber stamp it when it gets back over here and let him go on with his business. I think that would be inappropriate. But what I think Mr. Greenspan and the former chairman, Mr. Volcker, said, when they testified before the committee, is getting back to the real crux of the issue, which is, well, we are opening the door a little bit and it is going to get broader.

But herein lies the problem. Because, as the chairman knows, we are going to find, and we are finding it now, that where banks, as they become stronger, are going to get into areas which are not financial in nature, whether it is data processing or others, that have to be part of their function to be competitive. And we are going to have to address this problem. If we do not address it tonight, we will be addressing it down the road very shortly, I believe.

So I think the chairman has thought a lot about his amendment, I appreciate what he has to say about it, but I think we ought to defeat it and support the amendment of the gentlewoman from New Jersey.

Mr. LEACH. Madam Chairman, I yield 1 minute to the distinguished gentleman from California (Mr. CAMPBELL), who is also a coauthor of the amendment.

Mr. CAMPBELL. Madam Chairman, I asked for the additional time just to stand in defense of the free market. Our good friend and colleague the gentleman from Texas (Mr. PAUL) spoke on behalf of the free market, and it is hard to beat him when he speaks on behalf of the free market, but I am not weak in my own right in terms of defending the free market—on this floor, and in our Committee on Banking and Financial Services.

I say people should do whatever they want with their own money. If they want to have a commercial enterprise and a bank and an insurance company and a real estate company, may God bless them. May they succeed and prosper in America, the greatest economy in the world, but on their own dime. But, if they have access to the Federal tax dollar through the FDIC, its successor, the Bank Insurance Fund, then no, sir, no, ma'am. I want to make sure they are restricted with what they do when taxpayers' funds are at risk. I want to make sure they are careful.

And do not tell me it will not happen. I came to this Congress in 1989. I joined the Committee on Banking and Financial Services, and the thrift crisis happened. I hope no one suggests causality in that order of events. But let me say to my colleagues there were people telling me I should not worry; that the thrifts were safe; savings and loans could not be better. And we ended up, we the taxpayers, paying for it.

I'm for the free market—on their own dime, but not on the taxpayers.

Mr. VENTO. Madam Chairman, I yield 2½ minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Madam Chair, I thank my colleague for yielding me this time.

I do not know where to begin here. There have been so many strawmen and exceptions to prove the rule thrown out here that it is really a little difficult to answer. But I do want to say to my colleagues, let us be very sure. This is not the time of Jefferson or Hamilton. It is not even the time of Teddy Roosevelt. We are in modern times with technological changes that are so fast pace we can hardly absorb them, and in global market places. And that is the reality of what we are trying to do here.

Now, I secondly want to point out that, with all due respect to my good friend and colleague, the chairman of the committee, and my other good friend and colleague, the gentleman from Nebraska (Mr. BEREUTER), my colleague on the committee, we have worked long and hard on lots of different issues, but with all due respect we cannot be making these parallels between Southeast Asia and what we are proposing here with a 10 percent commercial basket with the kinds of regulatory reforms and fire walls and structures that we have in place in this bill.

This is not Japan, South Korea or Indonesia. It is not unlimited investment, as those countries have. It is a 10 percent basket. Also, we do not have a situation where banks lend to only certain companies. We also do not have the family connection things of those foreign countries. Banks in the United States are generally examined annually, and we have the generally accepted accounting principles and stricter requirements. The foreign banks do not have this.

I could go on and on. In fact, I will, in one more respect. U.S. bank transactions with affiliates are subject to the protections, and under this bill would continue to be subject to the protections of 23(a) and 23(b) of the Federal Reserve Act. And this is very important because it is specific to how you cannot make these gross comparisons that are being made. The restrictions on the amount of loans a bank can make to their affiliates, and requires fair deal for all, not giving better deals to any one particular affiliate. There are all kinds of distinctions in this bill.

We are making a modest step forward and one that I believe any objective observer would say get with the program, figure out a regulatory structure that would accommodate so that we can compete with virtually every other of the successful European countries with whom we are competing.

Mr. LEACH. Madam Chair, I yield myself such time as I may consume.

First, let me talk about competition. In case no one has noticed, over the last 2 decades the United States of America has outstripped competitively virtually every Western European country. We organize differently than Europe. We decentralize.

In case nobody has noticed, the last 7 years Japan has averaged about 1 percent growth. The United States 2 to 4 times the rate of growth in each of these years in Japan. We organize differently.

In terms of speed, in very short order, very large things can occur. We have just witnessed announcement in the last 4 or 5 weeks of the largest financial combination in American history. Reports after the fact indicate that the leadership of the two institutions involved, Travelers and Citicorp, reached a decision in a 6 to 7 week time frame.

As financial institutions grow, these percentage restraints grow with them. So we have a circumstance that the larger financial institutions become, the larger the commercial enterprises they can intertwine with. In very, very short order the American commercial landscape as well as financial landscape can change if this kind of approach is adopted.

Finally, let me just note that in addition to concentration of ownership that can occur, we are likely to get a concentration of geographic control.

□ 1845

It simply is a fact that most large enterprises are not located in rural areas. It simply is a fact that people in what are called money center areas are more mobile with large sums of capital than people who are not.

And so, in very short order, if one goes ahead with an approach that authorizes the mixing of banking and commerce, one can see a concentration of ownership grow in this country and one can see a geographic concentration of that ownership come to be of rather telling dimensions.

So I would simply urge this Congress to note that, other than some very large interest groups, I know of no one that advocates this approach. I have never in my time in public life gotten a letter that has said, "What ails America is that Chase Manhattan and General Motors are not combined." I have never gotten a letter that says, "What we need are larger enterprises, not from growth within but from conglomeration." And I just suspect that if the American public thought this through, there is not only lack of majority support, there is lack of any support other than a very, very few very, very wealthy people.

So I would urge restraint.

Mr. BEREUTER. Madam Chairman, will the gentleman yield?

Mr. LEACH. I yield to the gentleman from Nebraska.

Mr. BEREUTER. The Chairman is exactly right about the small number of entities, if any, that are supportive of it. There are a handful of firms and banks. But on the other side, perhaps it is good to reiterate the people that are in favor of the Leach amendment, maintaining the status quo of the zero basket. The chairman has mentioned a few of them before.

Mr. VENTO. Madam Chairman, I yield myself 1½ minutes.

I wanted to point out that the Leach proposal has a 15 percent basket for securities and insurance firms. And what I presume that means, the way it operates, is that until the year 2013, for 15 years, they could have that 15 percent basket of equity position. They then could go, under this Glass-Steagall provision, and buy banks, buy insurance firms, and maintain 15 percent equity ownership. So it boggles the mind.

I understand that we are against commerce and banking, except that this particular configuration until the year 2013 would prevail. In my judgment, it is an untenable position in terms of what is going on. As I listen to the debate here, I wonder if really we are prepared, or the proponents of this amendment are prepared, to really repeal the Glass-Steagall amendment. Because they seem to have learned no lessons or recognized no difference between the fact that we are not able to distinguish some of the instruments of these financial entities; that in fact the banks write two-thirds of the derivatives, that the types of loan programs that they are involved in, I think very often look like investments. The inconsistency of this in this particular bill, in the marketplace, it seems that they are in a state of denial, quite frankly.

I am just amazed at the vehemence in terms of this particular position. And then to compare us to Germany and Japan and other countries where they do not have a regulatory system, a culture, and a free enterprise system as we have. I must state again, this is not my first step. This is just a recognition to get out there and regulate it.

Madam Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Madam Chairman, I just wanted to point out to the gentleman from Minnesota (Mr. VENTO) regarding the grandfathering arrangement, it is a 10-year period. It could be extended for five years. But this is dealing with an anomalous situation. It is a condition created by regulators because the Congress did not act earlier. These anomalous conditions are not a good situation, but the grandfather clause is a valuable way to remedy these anomalous situations.

Mr. VENTO. Reclaiming my time, I understand. I think the gentlemen are being very fair. Except it just becomes very inconsistent in terms of what the effect is. It just becomes unworkable and it is untenable to present a bill like this where we have such an unlevel playing field; and to criticize 10 percent at the same time they are providing 15 percent here just boggles the mind.

Madam Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. BAKER), a distinguished member of the Committee on Banking and Financial Services.

Mr. BAKER. Madam Chairman, I thank the gentleman for yielding the time.

I certainly want to acknowledge the hard work that the gentleman from Iowa (Mr. LEACH) has given in the difficult management of H.R. 10 throughout not just this session, but many years.

However, this is one issue where the chairman and I have had significant differences of legitimate opinion as to the appropriateness of diversified financial structures. If we were to adopt the zero parity amendment that is proposed by this amendment, we would find significant dislocations in the current marketplace. There would be corporations and entities legally engaged in businesses which they have engaged in for many years which would, of necessity, have to divest those revenue streams from their corporate structure. Stated another way, people lawfully engaged in business that does no harm would now, by action of this Congress, be told they can do that no more.

That, to me, seems to be a bit unreasonable, especially when we realize that one of the important elements this amendment does not address is the structure of the unitary thrift, which will continue to exist and proliferate, which may be resold without limit in which one cannot only have nonfinancial income, they can own a plywood plant, a hotel, a restaurant, and a thrift.

Mr. VENTO. Madam Chairman, if the gentleman will yield, there is no 10 percent limit in there. There could be a 100 percent.

Mr. BAKER. That is correct. The gentleman makes the point that there is no revenue limit at all with regard to the unitaries that can be sold to commercial enterprises, so that a General Motors can get into the thrift business by accessing that charter. This amendment does not address that question.

And so what we have left at the end of consideration if this amendment were to prevail is a very unbalanced marketplace where a few authorized actors have the right to have very diverse incomes, while we are taking banks and financial enterprises down to zero level and requiring them to divest themselves of currently legally authorized activities.

When we look at those currently authorized institutions that have significant activity, American Express, for example, enjoys 9 to 14 percent of revenue annually coming from nonfinancial related activities. We see A.G. Edwards, Charles Schwab, Lehman Brothers, we can go down the list and look at what is going on in the market today and realize the consequences of this amendment are not minor.

Now, I certainly understand the proponents' perspective that we should not allow commercial and financial interests to intermingle. But I have to tell my colleagues, smart people are figuring out ways to do that no matter what the Congress might attempt to limit.

This is a very serious amendment. It is a very thoughtful amendment. It is a very important amendment. But it is a disaster for the existing financial marketplace of this country if it were to be adopted.

Mr. TOWNS. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Iowa.

The five percent commercial basket contained in H.R. 10 recognizes that the securities industry has a long, troublefree history or affiliation with commercial companies. In fact, there are instances in which securities firms have benefitted greatly from the capital a commercial affiliate has contributed. Additionally, allowing financial holding companies (F.H.C.s) to invest a percentage of their domestic gross revenues in non-financial activities will provide companies with a source of capital and will help F.H.C.s.

The Commerce Committee reported out this with a 5% commercial basket. The Banking Committee passed a 15% commercial basket amendment by a 35 to 19 vote. At no point did either committee say that there should be no commercial basket. Modernization legislation can not continue the status quo. This bill must reflect the current market and permit some form of commercial affiliation. Therefore, I would urge my colleagues to oppose this amendment and to support the gentlelady from New Jersey's amendment to increase the commercial basket to 10%.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Iowa (Mr. LEACH) as a substitute for the amendment offered by the gentlewoman from New Jersey (Mrs. ROUKEMA).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. VENTO. Madam Chairman, on that I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 428, further proceedings on the substitute amendment offered by the gentleman from Iowa (Mr. LEACH) will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider amendment No. 7 printed in part 2 of House Report 105–531.

AMENDMENT NO. 7 OFFERED BY MR. KINGSTON

Mr. KINGSTON. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. KINGSTON:

After section 108 of the Amendment in the Nature of a Substitute, insert the following new section (and conform the table of contents accordingly):

SEC. 109. GAO STUDY OF ECONOMIC IMPACT ON COMMUNITY BANKS AND OTHER SMALL FINANCIAL INSTITUTIONS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of the projected economic impact that the enactment of this Act will have on financial institutions which have total assets of $100,000,000 or less.

(b) REPORT TO THE CONGRESS.—The Comptroller General of the United States shall submit a report to the Congress before the end of the 6-month period beginning on the date of the date of the enactment of this Act containing the findings and conclusions of the Comptroller General with regard to the study required under subsection (a) and such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

The CHAIRMAN. Pursuant to House Resolution 428, the gentleman from Georgia (Mr. KINGSTON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Madam Chairman, I yield myself such time as I may consume.

This amendment is a very simple one. It simply says that after 6 months of enactment of this legislation that a study will be done on institutions with $100 million or less in assets to see how House Resolution 10 impacts them, and it requires the Comptroller of the Currency to conduct that study and just to be sure that our smaller financial institutions, usually community banks, see if they are negatively impacted by it.

It is not second-guessing the bill as much as it is saying the bill may not be perfect, there may be some unintended consequences that affect the bill if it is passed without this amendment. So all we are trying to do is say, let us take a look at it, let us make sure that things are working as they are intended to work, and let us get that report back to Congress.

Mr. BLILEY. Madam Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Virginia.

Mr. BLILEY. Madam Chairman, we have looked at the amendment. We think it is a good amendment, and we are prepared to accept it.

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, in my view, it is a very thoughtful amendment. We are very appreciative that the gentleman has offered it, and I hope it will be adopted.

Mr. KINGSTON. Reclaiming my time, I appreciate that.

Mr. LAFALCE. Madam Chairman, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from New York.

Mr. LAFALCE. Madam Chairman, I concur in the judgments of the gentleman from Virginia (Mr. BLILEY) and the gentleman from Iowa (Mr. LEACH).

Mr. KINGSTON. Madam Chairman, I appreciate that, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. NUSSLE). The question is on the amendment offered by the gentleman from Georgia (Mr. KINGSTON).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. KINGSTON. Mr. Chairman, on that I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore (Mr. NUSSLE). Pursuant to House Resolution 428, further proceedings on the amendment offered by the gentleman from Georgia (Mr. KINGSTON) will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider Amendment No. 8 printed in part 2 of House Report 105–531.

AMENDMENT NO. 8 OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mrs. ROUKEMA:

After subtitle H of title I, insert the following new subtitle (and redesignate the subsequent subtitle and conform the table of contents accordingly):

Subtitle I—Deposit Insurance Funds

SEC. 186. STUDY OF SAFETY AND SOUNDNESS OF FUNDS.

(a) STUDY REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation shall conduct a study of the following issues with regard to the Bank Insurance Fund and the Savings Association Insurance Fund:

(1) The safety and soundness of the funds and the adequacy of the reserve requirements applicable to the funds in light of—

(A) the size of the insured depository institutions which are resulting from mergers and consolidations since the effective date of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994; and

(B) the affiliation of insured depository institutions with other financial institutions pursuant to this Act and the amendments made by this Act.

(2) The concentration levels of the funds, taking into account the number of members of each fund and the geographic distribution of such members, and the extent to which either fund is exposed to higher risks due to a regional concentration of members or an insufficient membership base relative to the size of member institutions.

(3) Issues relating to the planned merger of the funds, including the cost of merging the funds and the manner in which such costs will be distributed among the members of the respective funds.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall submit a report to the Congress on the study conducted pursuant to subsection (a).

(2) CONTENTS OF REPORT.—The report shall include—

(A) detailed findings of the Board of Directors with regard to the issues described in subsection (a);

(B) a description of the plans developed by the Board of Directors for merging the Bank Insurance Fund and the Savings Association Insurance Fund, including an estimate of the amount of the cost of such merger which would be borne by Savings Association Insurance Fund members; and

(C) such recommendations for legislative and administrative action as the Board of Directors determines to be necessary or appropriate to preserve the safety and soundness of the deposit insurance funds, reduce the risks to such funds, provide for an efficient merger of such funds, and for other purposes.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c) of the Federal Deposit Insurance Act.

(2) BIF AND SAIF MEMBERS.—The terms "Bank Insurance Fund member" and "Savings Association Insurance Fund member" have the meaning given to such terms in section 7(l) of the Federal Deposit Insurance Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 428, the gentlewoman from New Jersey (Mrs. ROUKEMA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I will not take the 5 minutes.

This is a very direct and straightforward amendment, and I believe that it can easily be understood. It simply asks for a study to be done. It requires that the FDIC conduct a study regarding the two deposit insurance funds, the Bank Insurance Fund and the Savings Association Insurance Fund, the SAIF.

The FDIC, under this study amendment, would look at the number of institutions in each fund and the risk posed by the concentration of deposits in those individual institutions or in certain regions of the country. The FDIC would be required to address how the funds might be merged and how long such a merger would be taken into effect and how such a merger would be paid for if there were extenuating costs circumstances. The FDIC would be required to file a written report with the Congress within 9 months after enactment.

I think, Mr. Chairman, those of us that have been working on this issue over the years have understood that originally there was a central element of the bill that was going to require integration of the funds, of the deposit insurance funds, and we dropped that because we felt that we did not quite know enough about the costs and how they would be allocated and whether or not indeed there would be enough capital in those deposits.

□ 1900

So I think that this is the better part of valor so that we cannot abandon the complications of the BIF SAIF implications as we have known them, but I think it gives us an intelligent useful way to take our time, go about it, and know the complexities of it, not only nationwide, but on a regional basis. I think this will serve us well.

Mr. BLILEY. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I am happy to yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, we have read the amendment. We think it is a good amendment, and we would support the amendment.

Mr. LEACH. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Iowa, the chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Mr. Chairman, again, I think this is a very thoughtful amendment, and I am delighted the gentlewoman has brought it to the attention of the House and urge its adoption.

Mr. LAFALCE. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, I would concur in the judgments of the gentleman from Virginia (Mr. BLILEY) and the gentleman from Iowa (Mr. LEACH).

Mr. Chairman, this amendment would require the FDIC to produce a study on the BIF and SAIF Funds within 9 months of the date of enactment.

The study would focus on concentration in the two funds. The FDIC would look at the number of banks or savings associations in the particular fund. They would tell us if concentration in terms of the percentage of deposits, number of institutions or regional concentration poses any safety and soundness concerns.

The FDIC would also report on how it will merge the two funds, how long it will take, the expected cost and how the costs would be divided among the members of the Deposit Insurance Funds.

Mr. Chairman, many of the members of the Banking Committee are worried about the deposit insurance funds. With respect to the SAIF—which insures savings associations—the largest savings association in the United States—Washington Mutual—accounts for over 11% of the deposit which are insured by the SAIF. They are based primarily on the West Coast of the United States. We are particularly concerned about the concentration of savings association deposits on the West Coast.

With respect to the bank insurance fund, the recent merger of NationsBank and BankAmerica raises a smaller, but similar, issue. The combined bank will hold roughly 8.6% of the deposits which are insured by the BIF. We are not quite as concerned about regional concentration with respect to the BIF as we are with the SAIF.

The FDIC has said in recent testimony before the House Banking Committee that they would like to have the insurance funds merged. Several members, including Mr. McCOLLUM and myself, are very concerned about concentration also, and would like to see the funds merged.

I believe we should not prejudge the situation but request a report which will form the basis for further Congressional action.

The CHAIRMAN pro tempore (Mr. NUSSLE). Is there a Member who rises in opposition to the amendment from the gentlewoman from New Jersey?

Seeing none, the question is on the amendment offered by the gentlewoman from New Jersey (Mrs. ROUKEMA).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mrs. ROUKEMA. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 428, further proceedings on the amendment offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 428, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Substitute amendment No. 6 offered by the gentleman from Iowa (Mr. LEACH), amendment No. 5 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA), amendment No. 7 offered by the gentleman from Georgia (Mr. KINGSTON), and amendment No. 8 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 6 OFFERED BY MR. LEACH

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 6 offered by the gentleman from Iowa (Mr. LEACH) as a substitute for amendment No. 5 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 193, not voting 10, as follows:

[Roll No. 146]

AYES—229

Abercrombie
Aderholt
Andrews
Archer
Bachus
Baesler
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Becerra
Bereuter
Berman
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Bonilla
Bonior
Borski
Boswell
Boyd
Brady
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cummings
Danner
Davis (VA)
Deal
DeFazio
Delahunt
Diaz-Balart
Dicks
Dixon
Doolittle
Duncan
Edwards
Ehlers
Emerson
Ensign
Evans
Ewing
Fawell
Filner
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodling
Goss
Graham
Gutierrez
Gutknecht
Hamilton
Hansen
Hastings (WA)
Herger
Hilleary
Hinchey
Hinojosa
Hobson
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kildee
Kim
Kingston
Kleczka
Klug
Kolbe
Kucinich
Latham
Leach
Lewis (CA)
Lipinski
LoBiondo
Lofgren
Lucas
Luther
Maloney (NY)
Manzullo
Markey
Martinez
Matsui
McCarthy (MO)
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moran (KS)
Nadler
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quinn
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Rogers
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Shadegg
Shaw
Shimkus
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snyder
Souder
Sununu
Taylor (NC)
Thomas
Thune
Tierney
Torres
Traficant
Upton
Wamp
Waters
Watkins
Waxman
Weller
Whitfield
Wicker
Wolf
Woolsey
Young (FL)

NOES—193

Ackerman
Allen
Armey
Baker
Barcia
Bartlett
Bentsen
Bilbray
Blumenauer
Boehner
Bono
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Capps
Carson
Castle
Clay
Clayton
Clyburn
Cook
Coyne
Cunningham
Davis (FL)
Davis (IL)
DeGette
DeLauro
DeLay
Deutsch
Dickey
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Ehrlich
Engel
English
Eshoo
Etheridge
Everett
Farr
Fattah
Fazio
Foley
Ford
Fossella
Frank (MA)
Frost
Furse
Gekas
Goodlatte
Gordon
Granger
Green
Greenwood
Hall (OH)
Hall (TX)
Hastert
Hastings (FL)
Hayworth
Hefley
Hill
Hilliard
Hoekstra
Holden
Hooley
Hunter
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Johnson, Sam
Jones
Kelly
Kennelly
Kilpatrick
Kind (WI)
King (NY)
Klink
Knollenberg
LaFalce
LaHood
Lampson
Lantos
Largent
LaTourette
Lazio

Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Livingston
Lowey
Maloney (CT)
Manton
Mascara
McCarthy (NY)
McCollum
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Neal
Neumann
Ney
Owens
Pascrell
Pastor
Paul

Paxon
Payne
Pitts
Porter
Price (NC)
Rahall
Ramstad
Rangel
Riggs
Roemer
Rogan
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanchez
Sawyer
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shays
Sherman
Shuster
Smith (MI)
Smith, Adam
Snowbarger
Solomon
Spratt
Stabenow

Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thompson
Thornberry
Thurman
Tiahrt
Towns
Turner
Velázquez
Vento
Visclosky
Walsh
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Wise
Wynn
Young (AK)

NOT VOTING—10

Bateman
Christensen
Forbes
Gonzalez

Harman
Hefner
Radanovich
Skaggs

Spence
Yates

□ 1924

Messrs. LIVINGSTON, HEFLEY, ROGAN, WALSH, DOGGETT, GEKAS, JONES, and BRYANT changed their vote from "aye" to "no."

Messrs. OXLEY, KIM, DICKS, GANSKE, KENNEDY of Massachusetts, WAXMAN, McKEON, McINTOSH, ISTOOK, McDERMOTT, MILLER of California, ADERHOLT, BASS, DELAHUNT, POMEROY, MICA, DOOLITTLE, GOODLING, and SHIMKUS, Ms. RIVERS, and Ms. LOFGREN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 428, the Chair announces that she will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

PARLIAMENTARY INQUIRY

Mrs. ROUKEMA. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state it.

Mrs. ROUKEMA. Madam Chairman, I have had many, many questions in the last few minutes, that Members were rather confused on what they were voting on. Will the Chair please explain what this second vote will be, with precision?

The CHAIRMAN. The Chair is about to put the question on the Roukema amendment, as amended by the substitute by the gentleman from Iowa (Mr. LEACH), on which the committee just voted.

Mrs. ROUKEMA. I think Members have to understand that would mean that it would change the bill to include no commercial basket.

The CHAIRMAN. The Chair cannot interpret the amendment.

Mrs. ROUKEMA. Who can then? Who can?

AMENDMENT NO. 5 OFFERED BY MRS. ROUKEMA, AS AMENDED

The CHAIRMAN. The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. The question is on Amendment No. 5 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. ROUKEMA. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5 minute vote.

The vote was taken by electronic device, and there were—ayes 218, noes 204, not voting 10, as follows:

[Roll No. 147]

AYES—218

Abercrombie
Aderholt
Andrews
Archer
Bachus
Baesler
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Bonior
Bono
Borski
Boswell
Boyd
Brady
Burton
Buyer
Calvert
Camp
Campbell
Canady
Cardin
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Danner
Deal

DeFazio
Delahunt
Diaz-Balart
Dicks
Dixon
Doolittle
Duncan
Dunn
Ehlers
Emerson
Ensign
Evans
Ewing
Fawell
Filner
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodling
Goss
Graham
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastings (WA)
Herger
Hilleary
Hinchey
Hinojosa
Hobson
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Inglis
Istook

Jackson (IL)
Jenkins
Johnson (CT)
Johnson (WI)
Jones
Kanjorski
Kasich
Kennedy (MA)
Kennedy (RI)
Kildee
Kingston
Kleczka
Klug
Kolbe
Kucinich
Lampson
Latham
Leach
Lipinski
Lofgren
Lucas
Luther
Maloney (NY)
Manzullo
Markey
Martinez
Matsui
McCarthy (MO)
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (CA)
Miller (FL)
Minge
Moran (KS)
Murtha
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley

Pallone
Parker
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pomeroy
Portman
Poshard
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Rogers
Ros-Lehtinen

Rothman
Roybal-Allard
Sabo
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Shadegg
Shaw
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith, Linda
Snyder
Souder
Stark

Sununu
Taylor (MS)
Taylor (NC)
Thomas
Thune
Tierney
Torres
Traficant
Upton
Wamp
Waters
Watkins
Waxman
Weller
Whitfield
Wicker
Wolf
Woolsey
Young (FL)

NOES—204

Ackerman
Allen
Armey
Baker
Barcia
Bartlett
Bilbray
Blagojevich
Blumenauer
Boehner
Bonilla
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Callahan
Cannon
Capps
Carson
Castle
Clay
Clayton
Clyburn
Conyers
Cook
Coyne
Cubin
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
DeGette
DeLauro
DeLay
Deutsch
Dickey
Dingell
Doggett
Dooley
Doyle
Dreier
Edwards
Ehrlich
Engel
English
Eshoo
Etheridge
Everett
Farr
Fattah
Fazio
Forbes
Ford
Fossella
Frank (MA)
Frost
Furse
Goodlatte
Gordon
Granger
Green
Greenwood
Hall (TX)
Hastert
Hastings (FL)

Hayworth
Hefley
Hill
Hilliard
Hoekstra
Holden
Hooley
Hyde
Jackson-Lee (TX)
Jefferson
John
Johnson, E.B.
Johnson, Sam
Kelly
Kennelly
Kilpatrick
Kim
Kind (WI)
King (NY)
Klink
Knollenberg
LaFalce
LaHood
Lantos
Largent
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lowey
Maloney (CT)
Manton
Mascara
McCarthy (NY)
McCollum
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Mink
Moakley
Mollohan
Moran (VA)
Morella
Myrick
Nadler
Neal
Neumann
Ney
Owens
Packard
Pappas
Pascrell
Pastor
Paul
Paxon
Payne

Pitts
Pombo
Porter
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Riggs
Roemer
Rogan
Rohrabacher
Roukema
Royce
Rush
Ryun
Salmon
Sanchez
Sawyer
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shays
Sherman
Shimkus
Shuster
Slaughter
Smith (MI)
Smith (OR)
Smith, Adam
Snowbarger
Solomon
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Thompson
Thornberry
Thurman
Tiahrt
Towns
Turner
Velázquez
Vento
Visclosky
Walsh
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Wise
Wynn
Young (AK)

NOT VOTING—10

Bateman
Christensen
Gonzalez
Harman
Hefner
Kaptur
Radanovich
Skaggs
Spence
Yates

□ 1937

Messrs. SPRATT, JOHN, RUSH, and EDWARDS changed their vote from "aye" to "no."

Ms. WATERS and Mr. HUNTER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. KINGSTON

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 7 offered by the gentleman from Georgia (Mr. KINGSTON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

PARLIAMENTARY INQUIRY

Mr. SABO. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SABO. Madam Chairman, is this a request for a rollcall vote on an amendment which passed without dissent?

The CHAIRMAN. A recorded vote was requested.

Mr. SABO. Madam Chairman, the amendment was accepted by all the managers of the bill without dissent?

The CHAIRMAN. The Chair shortly will ask those in support of a recorded vote to rise. The Chair did not happen to be presiding at the time that that vote took place.

Mr. SABO. Maybe we should vote "no."

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 404, noes 18, answered "present" 1, not voting 9, as follows:

[Roll No. 148]

AYES—404

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—18

Abercrombie
Blumenauer
Bonior
Conyers
Dooley
Fazio
Kanjorski
Kind (WI)
LaHood
Mink
Oberstar
Parker
Sabo
Sanchez
Stark
Torres
Velázquez
Vento

ANSWERED "PRESENT"—1

DeFazio

NOT VOTING—9

Bateman
Frank (MA)
Gonzalez
Harman
Hastert
Hefner
Radanovich
Skaggs
Yates

□ 1947

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MRS. ROUKEMA

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 8 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 406, noes 13, not voting 13, as follows:

[Roll No. 149]

AYES—406

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth

Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—13

Conyers
Dickey
Hefley
Hostettler
Kanjorski
LaHood
Oberstar
Parker
Peterson (MN)
Pombo
Sabo
Stenholm
Stump

NOT VOTING—13

Armey
Bass
Bateman
Crapo
Frank (MA)
Gonzalez
Harman
Hefner
Lewis (CA)
Nethercutt
Radanovich
Skaggs
Yates

□ 1956

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 9 printed in part 2 of House Report 105–531.

AMENDMENT NO. 9 OFFERED BY MR. SANDERS

Mr. SANDERS. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. SANDERS: After section 241 of the Amendment in the Nature of a Substitute, insert the following new section (and conform the table of contents accordingly):

SEC. 242. STUDY OF LIMITATION ON FEES ASSOCIATED WITH ACQUIRING FINANCIAL PRODUCTS.

Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the efficacy and benefits of uniformly limiting any commissions, fees, markups, or other costs incurred by customers in the acquisition of financial products.

The CHAIRMAN. Pursuant to House Resolution 428, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, my understanding is that this amendment has the support of both the majority and the minority, and therefore, I will be very, very brief.

Madam Chairman, this amendment simply requires the Controller General of the United States to conduct a study on whether it would be beneficial, in light of the expected consolidation of the financial industry, if H.R. 10 were to pass to establish uniform limits on commissions and other fees charged to consumers who purchase stocks, bonds, insurance, and other financial products.

□ 2000

This amendment would require a report to be submitted to Congress concerning the results of the study within 1 year of enactment of this bill. That is the short version of my speech.

Mr. BLILEY. Madam Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Virginia.

Mr. BLILEY. Madam Chairman, we have looked at the amendment. We think it is helpful, and we will accept it.

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, likewise, it is a very thoughtful amendment from a very thoughtful Member. I urge its consideration.

Mr. SANDERS. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. If there is no Member in opposition, the question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The amendment was agreed to.

The CHAIRMAN. The Chair has been advised that amendment No. 10 to have been offered by the gentleman from Massachusetts (Mr. MARKEY) has been withdrawn.

It is now in order to consider amendment No. 11 printed in part 2 of House Report 105–531.

AMENDMENT NO. 11 OFFERED BY MR. METCALF

Mr. METCALF. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2 Amendment No. 11, offered by Mr. METCALF:

After section 401 of the Amendment in the Nature of a Substitute, insert the following new section (and conform the table of contents accordingly):

SEC. 402. RETENTION OF "FEDERAL" IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.

Section 2 of the Act entitled "An Act to enable national banking associations to increase their capital stock and to change their names or locations." and approved May 1, 1886 (12 U.S.C. 30) is amended by adding at the end the following new subsection:

"(d) RETENTION OF 'FEDERAL' IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.—

"(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, any depository institution the charter of which is converted from that of a Federal savings association to a national bank or a State bank after the date of the enactment of the Financial Services Act of 1998 may retain the term 'Federal' in the name of such institution so long as such depository institution remains an insured depository institution.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'insured depository institution', 'national bank', and 'State bank' have the same meanings given to such terms in section 3 of the Federal Deposit Insurance Act.".

The CHAIRMAN. Pursuant to House Resolution 428, the gentleman from Washington (Mr. METCALF) and the gentleman from Texas (Mr. BENTSEN) each will control 5 minutes.

The Chair recognizes the gentleman from Washington (Mr. METCALF).

Mr. METCALF. Madam Chairman, I yield myself such time as I may consume.

It is my understanding that the minority does not oppose what I consider to be just clearly a technical amendment. I would like to thank the gentleman from Iowa (Mr. LEACH), the gentleman from Virginia (Mr. BLILEY) and, of course, the gentleman from New York (Mr. SOLOMON) and the consideration of my ranking members, the gentleman from New York (Mr. LAFALCE) and the gentleman from Michigan (Mr. DINGELL) for allowing me to bring this technical amendment that would assist over 500 financial institutions across the country.

This amendment would simply change the law to allow federally chartered financial institutions that have the word "Federal" in their name or in their title to opt for a State banking charter if they so choose.

Last year, when this issue came up in the Committee on Banking and Financial Services during markup of H.R. 10, this same amendment passed unanimously.

Over 500 financial institutions across the country are hamstrung because they have the word "Federal" in their name. Some of these banks and thrifts may be over 100 years old and would like to benefit from the dual banking system and would simply like to change from a national charter to a State charter without having to change their name.

I urge my colleagues to support this amendment to bring parity and fairness for all financial institutions. Like financial modernization, let us bring forth a level playing field for all financial institutions to have flexibility not only in the marketplace but also in the ability to change from a national to State charter.

Mr. BLILEY. Madam Chairman, will the gentleman yield?

Mr. METCALF. I yield to the gentleman from Virginia.

Mr. BLILEY. Madam Chairman, we have looked at the amendment. We think it is a good amendment, and we are prepared to support it.

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. METCALF. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, I also believe that what the gentleman is doing makes sense.

I would only also stress what an enormous contribution he has made to the committee this year. I think this is a worthy amendment.

Mr. METCALF. I appreciate those comments.

Madam Chairman, I reserve the balance of my time.

Mr. BENTSEN. Madam Chairman, I yield myself such time as I may consume.

If I might, I would like to engage the gentleman from Washington in a colloquy if I could ask him a question about his amendment.

If I understand this correctly, if you have a bank or savings bank or thrift which is currently federally chartered and has the name "Federal" in it and then, as of this bill, that thrift or that bank decides to recharter as a State thrift or State bank, even though they will be a State institution, they can keep the name "Federal" or keep the word "Federal" in their name; is that correct?

Mr. METCALF. Madam Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from Washington.

Mr. METCALF. If my amendment goes through, that is correct. Many of them have had the name for a long time and would like to transfer to a State charter without having to change their name.

Mr. BENTSEN. Madam Chairman, as we understand, current law does not allow for any institution which switches a charter from Federal to State or State to Federal to retain the previous name of origin, if you will, in their name, that they were a State bank or Federal bank.

Mr. METCALF. Madam Chairman, if the gentleman will continue to yield, I know that one cannot, if they have the name "Federal", cannot switch to a State charter today.

Mr. BENTSEN. I thank the gentleman.

If you have a State and you go to a Federal, could you retain State in your name under this amendment?

Mr. METCALF. Madam Chairman, I do not think that my amendment touches that.

Mr. BENTSEN. I thank the gentleman.

My only concern with this, and I think all of us are concerned with this legislation in terms of consumer protection and disclosure and appearances of whether or not there is some sort of taxpayer-backed guarantee to other financial activities that banks or thrifts are getting into. The problem I have with this particular amendment is that we are going to take the moniker of Federal and allow it to be used for nonfederally chartered institutions. I am not an expert on banking law, but I would imagine this is highly unprecedented.

I appreciate what the gentleman is trying to do. I am a strong supporter of the dual banking system, as the gentleman knows from our work together on the Committee on Banking and Financial Services, but I think this raises a lot of questions with respect to proper disclosure. And I think that you have the problem that a depositor comes into a bank and they think it is a federally chartered bank, maybe they think it is still regulated by the Comptroller of the Currency, but it has shifted to a State-chartered bank. They may feel that they have more protections because the name Federal is in there than what they might have under a State charter. I appreciate what the gentleman is doing, but I have to oppose the amendment.

Madam Chairman, I reserve the balance of my time.

Mr. METCALF. Madam Chairman, I yield myself such time as I may consume.

I would answer in this way, that the important factor is that State-chartered institutions are still regulated by the Federal Reserve. They must carry Federal deposit insurance and they must still pay Federal taxes. In that regard, I think that the amendment is legitimate.

Mr. LAFALCE. Madam Chairman, will the gentleman yield?

Mr. METCALF. I yield to the gentleman from New York.

Mr. LAFALCE. Madam Chairman, initially I had a conversation with the distinguished author of the amendment in which I said I would probably defer to the judgment of the chairman of the Committee on Banking and Financial Services on this issue. But I regret to inform him that now that I have reflected upon it, I feel compelled to oppose his amendment.

I simply think it is misleading and it would also assist in the tendency that this bill will promote having national banks convert to a State charter. That is the effect, I think, of the governing structures that we have created in the bill.

Now, the gentleman's amendment, I think, would make it a bit easier because they would be able to convert to the State charter, but still retain the word "Federal." So it is with deep reluctance, but after reflection and consideration, hearing the gentleman from Texas (Mr. BENTSEN), I feel constrained to oppose the gentleman's amendment.

Mr. BENTSEN. Madam Chairman, how much time remains on both sides?

The CHAIRMAN. The gentleman from Washington (Mr. METCALF) has 30 seconds remaining, and the gentleman from Texas (Mr. BENTSEN) has 2 minutes remaining.

Mr. BENTSEN. Madam Chairman, who has the right to close?

The CHAIRMAN. The gentleman from Texas (Mr. BENTSEN) has the right to close.

Mr. BENTSEN. Madam Chairman, I reserve the balance of my time.

Mr. METCALF. Madam Chairman, I yield myself such time as I may consume.

I would just reiterate that the important factor is that State-chartered institutions still are regulated by the Federal Reserve, carry Federal deposit insurance and must still pay Federal taxes. I think this is legitimate, to not force them to change the name that many of them have had for 100 years. I think that that is unfortunate if they want to change to a State charter.

Mr. BENTSEN. Madam Chairman, I yield myself the balance of my time.

I have nothing but great respect for my colleague from Washington State. I think his amendment is well-intentioned but problematic. He mentions that State-chartered banks are still regulated by the Federal Reserve, but we also have State-chartered banks that are nonmember banks which are not members of the Federal Deposit Insurance Corporation, which means that you could switch your charter and create a bank, and there are still some in Texas, I believe, that are State-chartered banks that are not protected by the FDIC. But if you retain "Federal," retain the Dime Box Federal Bank, someone might go in and think that they are still an FDIC bank.

I am sure that when everybody walks into the bank, they look on the glass door there to make sure it says FDIC protection, they read all the language that is in there so they know. But I just think with all of our concern that has been raised today, whether it is the consumer protections which I support, or this issue of whether or not there is an implicit subsidy that occurs through operating subsidiaries or even as the chairman of the Federal Reserve, Mr. Greenspan says, with affiliates through holding companies, that this gives the wrong appearance.

Quite frankly, I would just close by saying, this is one amendment where I cannot quote the chairman of the Federal Reserve and apparently no one else can. It is surprising, because we have heard his comments on every other amendment that we have addressed, but my feeling is probably, and I do not want to speak for the Fed chairman, but my feeling is probably if you push the Fed on this, they probably would not think this is a particularly good idea as well. Certainly anybody who is involved in disclosure would probably think this is not a good idea.

I think the gentleman is very well intentioned in what he is trying to do. I do support the dual banking system, but I am not sure that we want to do this. Therefore, I would ask my colleagues to oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. METCALF).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. KLECZKA. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 428, further proceedings on the amendment offered by the gentleman from Washington (Mr. METCALF) will be postponed.

It is now in order to consider amendment No. 12 printed in part 2 of House report 105–531.

AMENDMENT NO. 12 OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2, amendment No. 12, offered by Mr. MORAN of Virginia: At the end of section 305 of the Amendment in the Nature of a Substitute insert the following new sentence: "This section shall cease to have effect 5 years after the date of the enactment of this Act.".

The CHAIRMAN. Pursuant to House Resolution 428, the gentleman from Virginia (Mr. MORAN) and the gentleman from Virginia (Mr. BLILEY), each will control 5 minutes.

Does the gentleman from Virginia (Mr. BLILEY) oppose the amendment?

Mr. BLILEY. Madam Chairman, we are prepared to accept the amendment.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. DINGELL. Madam Chairman, we are happy to accept the amendment over here.

The CHAIRMAN. Without objection, the gentleman from Virginia (Mr. BLILEY) will be recognized for 5 minutes.

There was no objection.

Mr. MORAN of Virginia. Madam Chairman, I yield myself such time as I may consume.

I know when I am ahead and I will keep this brief, but just simply explain that this amendment would sunset, that is, repeal after 5 years the requirement that any bank that is not currently selling insurance products would not have to purchase an insurance agency that has been regulated within their State for at least 2 years. That reduces the competition, and this is obviously a compromise amendment that will at least take this prohibition away and produce greater competition in the marketplace. It was a fairly restrictive amendment. By providing 5 years before the sunset, I do not think any of the industries are going to take particular exception to it.

I appreciate the fact that there is no opposition to it.

Madam Chairman, I yield to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I commend the gentleman for his amendment. I recommend it to my colleagues, but I think this just points out one of the major problems with this bill in that, throughout this bill, this measure has treated national banks in a disparate manner. It is suggested that for only 5 years you cannot go into a State, under modernization and deregulation, mind you, you cannot go into a State and start de novo, that is, start from scratch, an insurance business under this deregulation bill for only 5 years. And then after that 5 years, now, with this amendment, of course, it was forever based on what was in the bill. So the gentleman has made a great improvement in the bill.

Unfortunately, it still has restrictions for towns of 5,000 for the sale of insurance for banks. It still has restrictions that treat national banks in a different way than they treat State banks for the purpose of insurance. It still has in the bill restrictions in terms of the sale of title insurance, in terms of national banks.

□ 2015

So on and on it goes with this disparate treatment. And this is one more reason, I am afraid, that this bill should not be passed.

And I commend the gentleman for trying to improve it, it just does not improve it enough. I think we needed a lot more than what is in this one amendment that they permitted the gentleman to offer.

Mr. OXLEY. Madam Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Ohio.

Mr. OXLEY. Madam Chairman, I thank my friend from Virginia, and let me commend him on his amendment. I was at the Committee on Rules when he offered the amendment.

To correct my friend from Minnesota, this was the product of a very carefully balanced compromise between warring parties that have been at this for at least 20 years. We finally got an agreement with many of the banks and with the insurance industry and the agents to finally put this issue behind us. That was the essence of what this compromise is all about.

Did it give the banks everything they wanted? Of course, not. And the gentleman from Minnesota seems to think that that is the way it ought to be. I would suggest to the gentleman that this was a product of a reasonable compromise. That is what this bill is all about. The gentleman's amendment will provide, I think, a meaningful amendment.

Let me just say, in closing, I commend the gentleman on his amendment but simply say that the gentleman from Minnesota wants it all and that is not the way the process works around here.

Mr. VENTO. Madam Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Minnesota.

Mr. VENTO. The gentleman from Minnesota does not want it all, but he wants a level playing field to permit banks that are national to have the same rights of banks that are State. And this bill does not do it. And it is intentional.

I understand it was a tough negotiation. I commend the gentleman. But the only thing balanced about this is the deal that is being offered to the House. I do not think it is good enough. I commend the gentleman for trying to improve it but it does not go far enough.

Mr. MORAN of Virginia. Madam Chairman, I thank my two friends and colleagues for expanding the battlefield upon which this amendment might be considered, but again let me just say that without this amendment the bill would have created a situation where some banks can continue to sell insurance under current Federal and State guidelines while other banks would be forced to buy an insurance agency first before they can sell the very same insurance products.

I appreciate the support that it has.

The CHAIRMAN. Does the gentleman from Virginia (Mr. BLILEY) wish to consume the balance of the time?

Mr. BLILEY. Madam Chairman, I yield back the balance of the time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN).

The amendment was agreed to.

AMENDMENT NO. 11 OFFERED BY MR. METCALF

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Washington (Mr. METCALF) on which further proceedings were postponed, and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was refused.

On a division (demanded by Mr. KLECZKA) there were ayes 14, noes 7.

So the amendment was agreed to.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BARRETT of Nebraska) having assumed the chair, Mrs. EMERSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes, pursuant to House Resolution 428, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. KLECZKA. Mr. Speaker, I demand a separate recorded vote on amendment No. 11, the so-called Metcalf amendment.

The SPEAKER pro tempore. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment:

After section 401 of the Amendment in the Nature of a Substitute, insert the following new section (and conform the table of contents accordingly):

SEC. 402. RETENTION OF "FEDERAL" IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.

Section 2 of the Act entitled "an Act to enable national banking associations to increase their capital stock and to change their names or locations," and approved May 1, 1886 (12 U.S.C. 30) is amended by adding at the end the following new subsection:

"(d) RETENTION OF 'FEDERAL' IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION—

"(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, any depository institution the charter of which is converted from that of a Federal savings association to a national bank or a State bank after the date of the enactment of the Financial Services Act of 1998 may retain the term 'Federal' in the name of such institution so long as such depository institution remains an insured depository institution.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'insured depository institution', 'national bank', and 'State bank' have the same meanings given to such terms in section 3 of the Federal Deposit Insurance Act.".

Mrs. ROUKEMA (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. METCALF. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 166, not voting 10, as follows:

[Roll No. 150]

YEAS—256

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Brady
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cooksey
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeGette
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson, Sam
Jones
Kasich
Kelly
Kilpatrick
Kim
King (NY)
Kingston
Klug
Knollenberg
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lucas
Manton
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Millender-McDonald
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pallone
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Rush
Ryun
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stabenow
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—166

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Bereuter
Berman
Berry

Bishop
Blagojevich
Blumenauer
Blunt
Bonior
Borski
Boyd
Brown (CA)
Brown (FL)
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cook
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Ford
Furse
Gejdenson
Gephardt
Gillmor
Gordon
Green
Hamilton
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Holden
Hoyer
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kind (WI)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Reyes
Rodriguez
Roemer
Rothman
Roybal-Allard
Royce
Sabo
Sanchez
Sandlin
Schumer
Serrano
Shays
Sherman
Shimkus
Skelton
Slaughter
Snyder
Spratt
Stark
Stearns
Stokes
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise

NOT VOTING—10

Bateman
Cox
Doolittle
Frank (MA)
Gonzalez
Harman
Hefner
Radanovich
Skaggs
Yates

☐ 2048

Mrs. LOWEY, Mr. ABERCROMBIE and Mr. MINGE changed their vote from "yea" to "nay."

Ms. WOOLSEY and Messrs. RUSH, DEUTSCH, DIAZ-BALART, and HULSHOF changed their vote from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LAFALCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 213, not voting 6, as follows:

[Roll No. 151]

AYES—214

Ackerman
Andrews
Archer
Armey
Baker
Ballenger
Barcia
Barr
Bartlett
Bass
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Boehlert
Boehner
Bono
Boyd
Brown (OH)
Bryant
Bunning
Burton
Buyer
Calvert
Castle
Chabot
Coble
Collins
Condit
Cook
Cooksey
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Deal
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Fawell
Fazio
Forbes
Ford
Fossella
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Greenwood
Hall (OH)
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hyde
Inglis
John
Johnson (CT)
Johnson, E. B.
Kasich
Kelly
Kennelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Linder
Livingston
LoBiondo
Lowey
Maloney (NY)
Manton
Markey
McCarthy (NY)
McCrery
McDade
McGovern
McIntosh
McKeon
McNulty
Meeks (NY)
Metcalf
Mica
Miller (FL)
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Paxon
Pease
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Riggs
Rogan
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Schaefer, Dan
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Shimkus
Smith (MI)
Smith (NJ)
Smith, Adam
Smith, Linda
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Towns
Upton
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Whitfield
Wise
Wolf
Young (FL)

NOES—213

Abercrombie
Aderholt
Allen
Bachus
Baesler
Baldacci
Barrett (NE)
Barrett (WI)
Barton
Becerra
Bentsen
Bereuter
Berman
Berry
Blumenauer
Blunt
Bonilla
Bonior
Borski
Boswell
Boucher
Brady
Brown (CA)
Brown (FL)
Burr
Callahan
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coburn
Combest
Conyers
Costello
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
Dickey
Dixon
Doggett
Dreier
Duncan
Edwards
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Foley
Fowler
Frank (MA)
Furse
Gephardt
Goode
Graham
Granger
Green
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hastings (FL)
Hefley
Hilleary
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Hulshof
Hunter
Hutchinson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Lee
Lewis (GA)
Lewis (KY)
Lipinski
Lofgren
Lucas
Luther
Maloney (CT)
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCollum
McDermott
McHale
McHugh
McInnis
McIntyre
McKinney
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (KS)
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pombo
Poshard
Ramstad
Redmond
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogers
Rothman
Roybal-Allard
Rush
Ryun
Sabo
Sanchez
Sanders
Sandlin
Scarborough
Schaffer, Bob
Scott
Serrano
Sessions
Sherman
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (OR)
Smith (TX)
Snowbarger
Snyder
Stark
Stenholm
Stokes
Taylor (MS)
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weygand
Wicker
Woolsey
Wynn
Young (AK)

NOT VOTING—6

Bateman
Gonzalez
Harman
Hefner
Skaggs
Yates

☐ 2112

Mr. EWING and Mr. MALONEY of Connecticut changed their vote from "aye" to "no."

Messrs. ARCHER, MILLER of Florida and STEARNS changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT CONCERNING NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–252)

The SPEAKER pro tempore (Mr. BARRETT of Nebraska) laid before the House the following message from the

President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

I hereby report to the Congress on developments since the last Presidential report of November 25, 1997, concerning the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c). This report covers events through March 31, 1998. My last report, dated November 25, 1997, covers events through September 30, 1997.

1. There have been no amendments to the Iranian Assets Control Regulations, 31 CFR Part 535 (the "IACR"), since my last report.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since the period covered in my last report, the Tribunal has rendered one award. This brings the total number of awards rendered by the Tribunal to 585, the majority of which have been in favor of U.S. claimants. As of March 31, 1998, the value of awards to successful U.S. claimants paid from the Security Account held by the NV Settlement Bank was $2,480,897,381.53.

Since my last report, Iran has failed to replenish the Security Account established by the Algiers Accords to ensure payment of awards to successful U.S. claimants. Thus, since November 5, 1992, the Security Account has continuously remained below the $500 million balance required by the Algiers Accords. As of March 31, 1998, the total amount in the Security Account was $125,888,588.35, and the total amount in the Interest Account was $21,716,836.85. Therefore, the United States continues to pursue Case No. A/28, filed in September 1993, to require Iran to meet its obligation under the Algiers Accords to replenish the Security Account.

The United States also continues to pursue Case No. A/29 to require Iran to meet its obligation of timely payment of its equal share of advances for Tribunal expenses when directed to do so by the Tribunal. Iran filed its Rejoinder in this case on February 9, 1998.

3. The Department of State continues to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

On January 16, 1998, the United States filed a major submission in Case No. B/1, a case in which Iran seeks repayment for alleged wrongful charges to Iran over the life of its Foreign Military Sales (FMS) program, including the costs of terminating the program. The January filing primarily addressed Iran's allegation that its FMS Trust Fund should have earned interest.

Under the February 22, 1996, settlement agreement related to the Iran Air case before the International Court of Justice and Iran's bank-related claims against the United States before the Tribunal (see report of May 16, 1996), the Department of State has been processing payments. As of March 31, 1998, the Department of State has authorized payment to U.S. nationals totaling $13,901,776.86 for 49 claims against Iranian banks. The Department of State has also authorized payments to surviving family members of 220 Iranian victims of the aerial incident, totaling $54,300,000.

During this reporting period, the full Tribunal held a hearing in Case No. A/11 from February 16, through 18. Case No. A/11 concerns Iran's allegations that the United States violated its obligations under Point IV of the Algiers Accords by failing to freeze and gather information about property and assets purportedly located in the United States and belonging to the estate of the late Shah of Iran or his close relatives.

4. U.S. nationals continue to pursue claims against Iran at the Tribunal. Since my last report, the Tribunal has issued an award in one private claim. On March 5, 1998, Chamber One issued an award in *George E. Davidson* v. *Iran*, AWD No. 585–457–1, ordering Iran to pay the claimant $227,556 plus interest for Iran's interference with the claimant's property rights in three buildings in Tehran. The Tribunal dismissed the claimant's claims with regard to other property for lack of proof. The claimant received $20,000 in arbitration costs.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 13, 1998.*

□ 2115

MANDATES INFORMATION ACT OF 1998

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Pursuant to House Resolution 426 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3534.

□ 2116

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3534) to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes, with Mr. SESSIONS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York (Mr. SOLOMON) and the gentleman from Massachusetts (Mr. MOAKLEY) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in a bit of ecstacy, not only for the passage of the last bill, but to bring to this floor another very important bill on behalf of business and industry and all Americans, and that is H.R. 3534, the Mandates Information Act of 1998. Today, the House will build on the important work that the 104th Congress began in the area of unfunded intergovernmental mandates and private sector mandates.

Mr. Chairman, the House has operated under the strictures of the Unfunded Mandate Reform Act since January of 1996. It is the opinion of the Committee on Rules that this statute has served the House well and we are prepared to recommend a modest improvement on it today, one that affects not only the public sector, and that means towns and villages and cities and counties and States, but now it affects the private sector.

A report from the Congressional Budget Office last year found, not surprisingly, that the Republican-controlled Congress has not passed unfunded mandates on State and local governments on the private sector. CBO has found in the last 2 years only 11 percent of the bills and amendments they analyzed contained intergovernmental mandates, and just 2 percent contained costs exceeding the $50 million threshold into the law.

On the private sector side, CBO has found that only 13 percent of the bills and amendments contained private sector mandates and a scant 5 percent contained costs exceeding the $100 million threshold.

CBO appeared before the Committee on Rules' oversight hearings on the operation of the law, and they testified that the goals of the law providing reliable information for Members and the public, as well as congressional accountability for passing a mandate, have largely been met. In other words, we succeeded in doing what we set out to do.

Under that law, CBO has prepared these estimates for committee reports, and the information on public and private sector mandates has been available for Members when they come to this floor to vote so that they know what the long-range ramifications of casting that vote will be.

In the opinion of the Committee on Rules, the underlying law has served as an effective deterrent for Congress to mandate, because of the point of order available on the House floor.

There have been instances in the Committee on Rules's experience where a mandate on the public or private sector was discovered and the offending language was deleted or altered in a rule in an effort to address the concerns, rather than face an automatic debate on the vote on the floor. In other words, Congress has paid attention and they have not brought these unfunded mandates to the floor knowing they are going to have to face this test.

The law has worked in a manner impossible to quantify in these instances, Mr. Chairman.

At the close of the 104th Congress, the Committee on Rules was pleased to report to the House in its activity report that in the first year of existence of the unfunded mandate law, it could find no single instance in which it had waived the unfunded mandates point of order, not once. There were several instances in which the committee waived all points of order, but in those cases the committee was not aware of any CBO estimate of an unfunded mandate in the underlying legislation.

In fact, in several prominent instances, such as the immigration reform bill, the committee waived all points of order except those arising under the unfunded mandate statute.

Mr. Chairman, the Committee on Rules has an excellent track record of adherence to the principles of the unfunded mandates law in this 105th Congress as well. The experience of the House with the Nuclear Waste Policy Act is illustrative of the fact that the Committee on Rules prefers not to waive the mandates point of order, but rather prefers to force the committees of jurisdiction to defend their work product on the floor of this House and then let the House work its will.

With 2 years of positive experience with the unfunded mandates procedure in the public sector as our foundation, the Committee on Rules is compelled to recommend H.R. 3534 to the House as an improvement to our proceedings.

Under current law, CBO is only required to estimate the direct costs of all Federal private sector mandates that exceed $100 million, and the amount of Federal financial assistance, if any, provided by the legislation to assist with the compliance costs.

The bill before the House amends the Unfunded Mandates Reform Act to require committee reports on bills or joint resolutions to include a statement from CBO estimating the impact of private sector mandates on consumers, on workers, on small businesses, including any disproportionate impact in particular regions or on particular industries within those regions. It would subject such legislation to a point of order if it is not feasible for the CBO to prepare such an estimate, as well.

Current law only allows a point of order against consideration of a bill, joint resolution or amendment, motion or conference report if it exceeds $50 million in direct costs in Federal mandates on intergovernmental (State and local governments), unless that mandate is paid for with new Federal financial assistance. This bill would prohibit the consideration of the legislation containing private sector mandates whose direct costs exceed $100 million and thereby expand the available points of order under the landmark law.

The bill further constrains the Chair from recognizing more than one point of order with respect to private sector mandates for any one bill, joint resolution, amendment, motion or conference report. It is anticipated that one point of order, one 20-minute debate, and one vote is sufficient to encapsulate the debate on the private sector mandates contained in any one legislative measure.

The bill also contains a provision during the markup of the Committee on Rules as an amendment by our friend, the vice chairman of the committee, the gentleman from California (Mr. DREIER) which excludes from the private sector mandates point of order any legislation which results in a net tax cut.

For purposes of illustration, if the Committee on Ways and Means reported a bill which resulted in a net tax cut as scored by CBO and the Joint Committee on Taxation, a private sector mandates point of order would not apply because the net tax would be a decrease as opposed to an increase.

However, if the Committee on Ways and Means reported a bill which increased mandatory spending and, in turn, provided a revenue offset which resulted in a private sector mandate over $100 million, a private sector mandate point of order would then clearly be in order.

The bill further amends clause 5 of House rule XXIII to always make in order motions to strike an unfunded mandate on the intergovernmental and private sector side unless specifically waived by a rule from the Committee on Rules.

Mr. Chairman, it is important for small businesses across the country to know that Congress is fully aware of the consequences when it mandates on the private sector. This bill will help us improve our own deliberations in this House while maintaining important institutional prerogatives.

The bill before us is strongly supported by, and let me just read some of these organizations: the American Dental Association; the American Farm Bureau, which is very, very important in my district; the American Rental Association; the American Subcontractors Association; the Associated Builders and Contractors; Citizens For a Sound Economy; the National Association of Self-Employed, small businesses; the National Association of Manufacturers; the National Association of Wholesale Distributors; the National Federation of Independent Business, which is the largest organization of small businesses in this entire country; the National Restaurant Association; the National Retail Federation, and it goes on and on and on, ending up with the United States Chamber of Commerce in strong support of this bill.

Mr. Chairman, I do not have to tell my colleagues that years ago, before I came to this Congress, I was a small businessman and I started out from scratch. I had 5 children, and we did not have any money really, but we went into business and we started that business, and I had to work sometimes 2 or 3 different businesses, and the banks did not want to lend any money because we did not have established credit, and yet whatever available cash we had was tied up in all of these duplicative regulations that are piled on local businesses throughout this country, and it was almost impossible to get started.

This legislation is meant to prevent that. It is meant to educate every Member of Congress to know exactly what he is voting for on this floor and how it affects that small business back in one's district before one casts that vote. That is how important this legislation is.

So I would urge support for the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. Chairman, I ask unanimous consent that the gentleman from California (Mr. DREIER) be permitted to take over the management of this legislation.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to make something very, very clear. I am opposed to unfunded Federal mandates. I represent 23 cities and towns in the Commonwealth of Massachusetts that are paying for the biggest Federal mandate this government has ever imposed: the cleanup of Boston Harbor. In the end, the Boston Harbor cleanup cost well over $3 billion; only 19 percent of that $3 billion was paid for by the Federal Government. The rest of the costs had to be borne by the citizens of those 43 cities and towns in the Commonwealth, families and businesses, and believe me, it was not easy.

I know how hard it can be for communities to shoulder the cost of complying with governmental edicts, and I firmly belief we should keep those costs in mind when passing any kind of legislation. Before we pass a bill, we should know what the costs would be for businesses. We should know what the costs would be for individuals, as well as for the State and local governments. But, Mr. Chairman, this bill is not the way to do it. This bill contains language that will further gut the well-intentioned, unfunded mandates bill.

□ 2130

It further erodes the idea that any mandate could be harmful by accepting bills that raise taxes, as long as the money raised is used to lower taxes somewhere else.

Contrary to what some of my colleagues may think, all government spending is not necessarily bad, and all tax breaks are not necessarily good. Under this bill, if a tax on coal revenues is coupled with a tax break on ethanol, it is okay. If it spends the money on miners' health benefits, someone can raise a point of order and someone can call attention to it.

Mr. Chairman, I do not believe we should decide in advance which types of mandates are good and should be ignored and which are bad and should be exposed to a point of order. Either we should request all of them, or we should examine none of them.

I urge my colleagues to defeat the bill in the present form, if the Dreier language is not removed. It just takes a worthwhile idea and pollutes it with political assumptions.

Mr. Chairman, I reserve the balance of my time.

Mr. DREIER. Mr. Chairman, I am happy to yield 3 minutes to my good friend, the gentleman from Sugarland, Texas (Mr. DELAY), the distinguished Republican Whip.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman yielding time to me, and I appreciate all his hard work on this very important legislation. I rise today in support of it, and I really urge my colleagues it take a look at this legislation, and I hope they will vote for it.

This is a small but yet a very significant step for small business. Basically, it says if we are going to put mandates on the private sector, we need to let the American people know that we are doing it. That is all it is. This is the same principle that we have used for the last 3 years for the mandates we put on State and local government. If we are going to make the businessmen and women of America pay for our good ideas, we should make certain that we have a debate on the floor about the merits of those ideas.

This bill allows Members to raise a point of order against any bill that the Congressional Budget Office determines would cost the private sector more than $100 million a year. If after 20 minutes of debate the House decides that such a mandate is necessary, we can vote to consider the rest of the bill.

I just think this is a commonsense piece of legislation, because it makes Members of Congress think about what they are voting for before they vote. It makes them think about the costs to the private sector. It makes them think about the potential job loss. It makes them think about the role of government in our society. It brings much needed transparency to our government.

This is a very important piece of legislation that forces the House to understand what they are doing to the real people in the real world. I urge my colleagues to support this pro-small business piece of legislation.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I agree with the gentleman who just left the microphone. If this were the same bill that we had in the Committee on Rules just before the Dreier amendment was put in, I would buy it. But this, what it says, in effect, is that if you get money in the highway bill, you cannot spend it on roads, you cannot spend it on safety if it is over and above, but if you give a tax break back to the very rich, then the point of order does not apply.

That is the part that I do not like, it is what we do when it is an unfunded mandate, what we do with the money. The proceeds from the tobacco bill cannot be used to educate children to stop smoking, but if we want to give it back to the tobacco companies and people who invest in tobacco as a tax break, that is fine.

If that is fair, Mr. Chairman, if that is equitable, then I have missed something along the line.

Mr. Chairman, I yield such time as he may consume to my good friend, the gentleman from California (Mr. CONDIT).

Mr. CONDIT. Mr. Chairman, I rise tonight obviously in support of H.R. 3534, the Mandate Information Act of 1998. This is not a new idea, it is an old idea with a little different twist. It still requires accountability and openness.

The chairman of the Committee on Rules explained the bill very well, talked about the $100 million threshold, the fact that if you reach a $100 unfunded mandate that there is a point of order process. That is basically what this bill does, it allows us to have a debate.

As we hear discussion about this tonight and tomorrow, Members are going to hear that this unfunded mandate bill will set us back, that it will destroy some of the things that we have done, say in the workplace, safety in the workplace, et cetera.

That is not true. This bill does not turn anything back. It simply requires us to be accountable and responsible for the unfunded mandates we place on the private sector. That is what this bill does. It requires us to have an open debate. We cannot take away the mandate with that debate. We still have a vote after we call the point of order.

What this simply does, it is a very simple idea, it just gives us more information that Members can make an informed decision about a mandate on the private sector.

With that, Mr. Chairman, I want to thank the gentleman from Ohio (Mr. PORTMAN), who is the cosponsor and has been the lead person on the other side of the aisle in this area for unfunded mandates, not only in the private sector but for State and local government. I want to thank him for all the work that he has done.

I want to also say tonight we will hear two proposals, two amendments to this bill. I support those amendments. The gentleman from Virginia (Mr. MORAN) and the gentleman from Virginia (Mr. DAVIS) will have an amendment, and the gentleman from Ohio (Mr. TRAFICANT) will have an amendment. I encourage us to accept those amendments. I think they improve the bill.

This bill is about information, about the Members getting more information. It is about openness, about fairness and accountability, and Members should not let anyone tell them any different. We ought to look at the amendments that are going to come up. They may improve the bill. We ought not to be fearful to support those amendments if they improve the bill.

But this is a simple idea. If we cannot pass this simple idea to hold ourselves accountable, to hold ourselves accountable for the mandates we place on the private sector; that we cannot say, we voted for that, and we voted for that with full information, that we knew what the cost was going to be, then we are going to have a difficult time doing any kind of reforms in this House, Mr. Chairman.

Mr. DREIER. Mr. Chairman, I yield 6 minutes to my friend and hallmate, the gentleman from Cincinnati, Ohio (Mr. PORTMAN), the lead author of this measure who has worked long and hard on not only this issue, but the unfunded mandates that were imposed on State and local governments.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman from California (Mr. DREIER) for yielding time to me, and for all his help in getting us to this point. I also want to commend the gentleman from California (Mr. GARY

CONDIT), who has been my partner on this and also on the private sector mandates fight.

Mr. Chairman, this is really legislation that builds on what we did 3 years ago, in 1995 in the public sector side. Let me try to put it in some context. The gentleman from New York (Chairman SOLOMON) has already mentioned this.

Three years ago we said we were going to stop public sector mandates. We passed legislation which required that three things be done: number one, there be a cost analysis done of every new public sector mandate; number two, there be a debate on the floor that any Member of Congress could insist on by a process called a point of order; and number three, there would be a vote, an actual vote by a majority of this House.

By a simple majority we could decide to go ahead with the legislation, notwithstanding the mandate. But at least we would then have a clear understanding of what the costs were, all the information that we did not have previously. In the end we would come up with better legislation.

It has actually worked to curtail these public sector mandates. I think 394 Members of this Congress voted for that bill, after a lot of controversial amendments were offered. In the end I think we convinced most people, and they were right, it has worked. This simply builds on that. This says, now let us shift to the private sector.

In the last legislation, again, the 1995 legislation, we were able to get into the legislation that the Congressional Budget Office, which does the analysis on the public sector side, would also analyze the private sector mandates, if they exceeded a threshold which was twice the public sector threshold, $100 million rather than $50 million.

What we were not able to get in the last legislation 3 years ago was the ability to come to this floor and to raise that point of order, to actually put some teeth in that analysis, and to enable Members of Congress to take a careful look at those costs and then decide whether they wanted to move forward with the legislation, notwithstanding those costs.

We are taking that next important step tonight. We did not do it last time, frankly, because this was a pretty controversial idea. It was precedent-setting. It turns out it worked, and now we are doing what I think is the next logical thing, which is to move to the private sector side.

It is not going to stop all mandates, just as our public sector bill in 1995 did not stop all public sector mandates. It has curtailed them. Incidentally, it has not curtailed them just because we have had these debates on the floor. It has been done in a very responsible way, at the committee level, because the committees have been forced to work with State and local government to come up with new ways to get things through this Congress that in fact do represent the will of this Congress, but to not send an unfunded requirement down on our State and local governments. That is what this would do also, this legislation, if we can get it passed tonight and get it enacted into law.

There are a lot of debates that are going to take place over the next couple of hours tonight and then tomorrow on various amendments and on various interpretations of the bill. My good friend, the gentleman from Massachusetts (Mr. MOAKLEY) a little while ago made the statement, and I tried to write it down as he said it, I may have gotten it wrong, correct me, he said that proceeds from the tobacco bill cannot be used to help children if this passes.

Of course, that is not true. Proceeds from the tobacco bill, if we do a tobacco bill, if it has a tobacco tax in it, can certainly be used for whatever purpose this Congress thinks they should be used for. By a simple majority vote this Congress will decide whether in fact a new mandate, if it is a tobacco tax, it is a new mandate, whether that should indeed be something we want to do. What is wrong with that? What is wrong with a little openness and accountability around here?

So I know we are going to have a lot of debates. The gentleman from Massachusetts (Mr. MOAKLEY) is going to make some very legitimate points about the impact of this legislation on various areas of our government, particularly labor, environment, and so on. His particular concern, I think, is going to be on the so-called Dreier amendment, which was accepted in the Committee on Rules.

I want to be very clear about this. All it says is that we have a debate on it. If in the end, because there is a tobacco tax that is not offset by tax cuts somewhere else or tax relief somewhere else, therefore, this legislation goes into effect, all we are saying is we are going to have a debate on the merits of this and then vote.

The point is a very simple one. All we are saying is that we want the opportunity, just as we have in the public sector, to begin to legislate with better information, and therefore, to legislate more wisely in this place.

With regard to the tobacco example, I will just say, if this Congress in fact looks at the tobacco bill that has a tax increase, it is considered a mandate, one Member of Congress can raise his or her hand, force a point of order on it, and then by a simple majority we can determine whether that is the appropriate thing to do. That does not stop it, that simply forces us to be more accountable.

I want to thank the gentleman from California (Mr. GARY CONDIT) again, I want to thank the Committee on Rules for working with us, the gentleman from Massachusetts (Mr. MOAKLEY), the gentleman from Massachusetts (Chairman SOLOMON), the gentleman from California (Mr. DAVID DREIER), to perfect this legislation over the last few months.

It is very important legislation. That is why it is supported by so many groups around the country. It will help consumers, it will help particularly small businesses, and it will help to create more jobs in this country. I want to thank again the Committee on Rules for allowing us to get this to the floor, because they have a lot on their agenda.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to commend the gentleman for his outstanding explanation. He is completely right, there would be a point of order raised on that tax bill. But if they allocated that money to a tax break, there would not be a point of order. It is only if they wanted to spend it to educate the smokers, or if they wanted to spend it on stopping kids from smoking, that is when the mandate would kick in. But if somebody allocated that money as a tax break, there would be no point of order the against the mandate.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, maybe we should back up a second to explain what the amendment is. The gentleman from California (Mr. DREIER) is here, who is going to explain it later, I am sure. But in this legislation there is one provision that came out of the Committee on Rules which says that in the case of tax legislation that is on the floor of the House, where there is a net tax decrease, in other words, where there is tax relief, that the point of order would not apply.

Why? One, taxes are different than requirements.

Mr. MOAKLEY. Mr. Chairman, if the gentleman would stop right there, that is what I am talking about. If there was some money there and they decided, the majority party decided to give that back in a tax break, rather than educate smokers, there would be no violation of the unfunded mandate. I would ask the gentleman, am I correct?

Mr. PORTMAN. If the gentleman will continue to yield, Mr. Chairman, the single point of order which is able to be raised under this legislation, which is the consolidation of whatever private sector mandates are there, would not be able to be raised in a case where there was not a tax increase, because there is not a tax increase. So that is the one exception to this bill, where it would be raised.

In the gentleman's case, I would say to the gentleman from Massachusetts

(Mr. MOAKLEY) that this will in every other case apply, this legislation. In the case that the gentleman has brought forward, which is the case where that tax increase would be used to fund government programs, there would be a point of order to be raised.

□ 2145

But it would simply be a simple majority. If the Dreier legislation were not part of this legislation, the same thing would happen. In other words, all the Dreier amendment does is it takes the cases where there is no tax increase and says, we shall not apply this point of order which can be overridden by simple majority vote.

I do not now how the Dreier amendment affects your example one way or the other. In any case, there would be a point of order on the scenario that you have laid out.

Mr. MOAKLEY. We can debate this when my amendment comes up. I thank the gentleman for his explanation.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, in 1992–1993, I introduced unfunded mandates legislation. This was during the time when the Democratic Party was in the majority. I could not get it out of the Government Operations Committee. My friend and colleague from California, I am sure, recalls that he also had unfunded mandates legislation which suffered the same fate. Then when the Republican majority took over the Congress, it, of course, became the first legislation to be enacted.

At that time, when that bill was debated, I had an amendment. That amendment was designed to correct an oversight which was that it did not include private sector mandates. It only applied to public sector mandates. It did not get included because the House leadership did not give its stamp of approval at that time, and it was not part of the Republican contract on America. So it did not get the votes necessary for adoption.

The legislation that we are considering today does just what that amendment was designed to do. It is the same amendment. That is why I support this rule and this bill because it does correct something that was left unfinished when we passed the original unfunded mandates legislation.

My original legislation actually only required that if it is an unfunded mandate, that you come up with the actual cost that is being passed on to States and localities and the private sector. The gentleman from California (Mr. CONDIT) went further and required a point of order, which is ultimately what got legislated.

There is one other aspect, though, of the unfunded mandates issue which pertains to a public sector mandate, and that affects particularly the Medicaid program. We will address that when the Davis-Moran amendment is raised, and I know that that will have the full support of this body as well.

Again, this is a bill that will correct what was unfinished the last time we had unfunded mandates legislation, and I think that the rule and the bill will undoubtedly get passed overwhelmingly.

I thank the gentleman for yielding me the time.

Mr. DREIER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), a very able member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of this bill but particularly to converse with my colleague, the gentleman from Massachusetts (Mr. MOAKLEY), on the issue of his concern about tax reductions.

The goal of this bill is to put in place a far more accountable process in regard to government's mandating of expenses on other levels of government, which we did in the past, and now in the private sector. It comes from very deep bipartisan concern with government's rather casual attitude toward the costs of the legislation that it is passing and the way those costs tend to be borne by others than themselves in society.

When we cut taxes, on the other hand, when we give a tax break, we are essentially talking about how we use our own resources, so we are mandating a cost on ourselves and we are paying for it by foregoing revenues that we would otherwise collect. So I do not think that the issue is the same when we forgo revenue through a tax break as the underlying issue that this mandates bill seeks to address.

If we choose to spend our revenues by collecting them and then appropriating them, that is one thing. If we choose to spend our revenues by, in a sense, granting a tax exemption, that is also our right. But that is a separate issue from the issue that this bill addresses, which is making us accountable and making visible the costs that will follow from the responsibilities that we are imposing on our society.

Mr. MOAKLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Chairman, say for instance the gentlewoman is a corporation. She gets taxed. Then someone raises a point of order and someone says, well, we will give it back as a tax relief.

The CHAIRMAN. The time of the gentlewoman from Connecticut (Mrs. JOHNSON) has expired.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume.

So we say, well, instead of putting it into the company, we are going to give a tax break to other people. The company still pays that tax. It is a way of taxing people.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Chairman, the company does not have the right to give a tax break. The company must pay the taxes that we require them to pay.

Mr. MOAKLEY. Mr. Chairman, the mandate is the same, whether they get taxed to build roads or they give it back as a tax break, that company we are trying to protect is still getting the same tax.

Mrs. JOHNSON of Connecticut. Mr. Chairman, if the gentleman will continue to yield, they are still getting taxed exactly the same. The goal of this bill is to make evident the costs we are imposing on the society, whether it is on another level of government or a private sector entity or an individual, the costs that we are imposing on them to carry out a public benefit. And I think all the vote on the House floor does, when the point of order is raised, is to make clear that I agree that this level of cost for a small businesses is worth it for our society to achieve a certain common goal. That is accountability.

Mr. MOAKLEY. The small businessperson still gets taxed.

Mrs. JOHNSON of Connecticut. Absolutely.

Mr. MOAKLEY. But the reason for this mandate is to stop this spending to take place, stop penalizing small companies. But if we say, we are going to tax them and then someone says, well, a point of order, and then someone says, we will give it back as a tax break, that company is still paying the tax even though that is going back as a tax break rather than going into the industry it is supposed to police.

Mr. DREIER. Mr. Chairman, I yield 3 minutes to the gentleman from Fairfax, Virginia (Mr. DAVIS), author of a very important amendment which we intend to accept.

Mr. DAVIS of Virginia. Mr. Chairman, I will address my amendment a little later. Let me say, taxes are pretty straight forward, put a tax on business or people, and unfunded mandates are hidden taxes.

The purpose of this is to let the public know and Members recognize when they are putting these mandates, unfunded mandates, that have the effect of being hidden taxes on companies just as we have done on local governments. Unfunded mandates over the last decade drove up the cost of local governments by the tens of billions of dollars.

Congress passed the Unfunded Mandate Reform Act in 1995, because Congress for too long prior to that had been passing the bills and then passing the buck on to the localities who would then have to either raise local taxes. And generally these were property taxes, sales taxes, much more regressive taxes than the Federal income tax, or, in some cases, if they were financially strapped, these unfunded mandates, in driving up the cost of local government, they would have to substitute Washington's priorities for their own priorities.

We felt that was wrong and, as a Congress, by overwhelming majorities 2 years ago, 3 years ago were able to pass unfunded mandates reform. And only 5 times in the last Congress, 5 times were objections, points of order even raised on the House floor. At least in two of those cases, we proceeded, after voting to overrule the point, not to sustain the point of order.

This bill takes unfunded mandate reform to the next level, as the gentleman from Virginia (Mr. MORAN) just talked about, something we would have liked to have done 3 years ago, but some Members thought it was too ambitious or even too radical. Now that we have had some experience dealing with State and local governments, I think we are more comfortable. Unfunded mandates, though, to America's businesses often lead to higher prices for American consumers, and they will now be subject to points of order if the cost to American businesses are over $100 million.

Remember, American businesses are now engaged in a global economy. We are competing against Japanese companies, German companies, Mexican companies, Chinese companies. If Congress wants to add additional mandates on American businesses, often these mandates will not apply to these foreign businesses as they manufacture goods. That has the effect of raising America's businesses' costs, of making them less competitive, leading to job losses or, in many cases, driving jobs offshore. That has the net effect of unfunded mandates on American business.

There may be times and there may be circumstances and there may be priorities where we as a Congress decide it is important to do this because of what we are trying to accomplish. But this at least allows Members to not only recognize what those costs are, but to have an affirmative vote ongoing and moving forward with this cost. This is an important step for America's businesses, something that has been addressed widely by a number of business organizations and, I might also add, by State and local government organizations.

Finally, let me just note, Congress does not lose any flexibility to enact any of these mandates, but we will have the information before us. We will have to act in an affirmative manner, recognizing that we are imposing basically a hidden tax or an unfunded mandate on these businesses.

I am proud to be here tonight and support my friend in this legislation and hope the House will act favorably on it. I will address my amendment during the amendment period.

Mr. DREIER. Mr. Chairman, may I inquire of the Chair how much time remains for general debate on each side?

The CHAIRMAN. The gentleman from California (Mr. DREIER) has 9 minutes remaining, and the gentleman from Massachusetts (Mr. MOAKLEY) has 17½ minutes remaining.

Mr. DREIER. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, I thank the gentleman for yielding me the time.

I only wish that a number of Members and colleagues were watching this debate. I think this is an important bill. By definition, points of order stifle debate. The reason a Member raises a point of order is to short-circuit debate on a bill or amendment. That is why I oppose this bill. No one ever raises a point of order to extend debate.

Yes, the point of order created by H.R. 3534 would prompt 20 minutes of debate, 10 on each side. But the reason for the point of order is to prevent the much greater debate that would otherwise occur.

Let us take the example of the Saxton-Boehlert substitute to the Clean Water Act. A point of order against the amendment would have granted 20 minutes of debate, but without that point of order, we had a day and a half of debate, a full debate that would not be able to occur under this bill.

There are lots of other examples. Proponents argue in effect that a point of order would not limit debate if it were defeated. But surely proponents are not working for this bill on the assumption that points of order would never prevail. What the bill does is skew the discussion by requiring an official objective estimate of costs but no similar information on benefits. If Members truly believe that benefits can never be quantified, then it is curious that Congress would have spent so much time pushing for cost-benefit analysis.

However, my main objection to H.R. 3534 is the point of order, not the additional cost analysis called for in the bill. It is just that the way the bill dismisses benefits is a sign that it is designed to help only one side in the debate, not to provide balance.

Can anyone think of a bill that has gone through Congress in which the costs on the private sector were not debated?

The impact of H.R. 3534, whatever its sponsors' intent, is not to ensure that industry's view is heard but, rather, that it has a greater chance of prevailing. Even more importantly, however, the primary threat of 3534 is not the point of order once the bill reaches the floor. The problem is that the availability of a point of order will make it harder to affect the bills before they come to the floor because committees will want to avoid points of order. This will prevent many amendments from getting a full hearing.

If proponents believe that general debate allows enough time for any Member disagreeing with industry to get his point across, why is that not true for industry's proponents as well? Why does industry need a point of order to bolster its side in an argument? Think of the existing laws that H.R. 3534 would have made more difficult to negotiate and to pass, including the Clean Water Act and the Clean Air Act. Think of the pending legislation before Congress this year. I am talking about tobacco. I am talking about a patient Bill of Rights. This bill will place roadblocks in front of that legislation.

□ 2200

I do not believe that Congress should pass mandates on industry without full discussion. I do not object to Congress having full and fair information, like the CBO scoring of private mandates already required by current law. I do object to a bill whose only possible impact is to shortcircuit any debate on any bill or amendment that industry might oppose.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, there are a number of things the gentleman said that seem inconsistent to me. The gentleman just said a moment ago that he was happy to support something that forces us to understand what the costs are to new legislation on the private sector, and then the gentleman said but he would not want a point of order.

Let me be clear. This point of order is not the kind of point of order that we would normally have where we simply come to the floor, raise a point of order, and that stops the legislation if it is approved. This permits a debate precisely for the reason the gentleman stated earlier. We get 10 minutes on each side to be able to debate the question as to whether we should proceed on the legislation. The precise question the gentleman is raising.

The argument that some Members will make, which might include the gentleman on environmental legislation, from the way I am hearing what he is saying, would be we need a full debate on this question.

Mr. GANSKE. Reclaiming my time, Mr. Chairman, the point is this: That a point of order brought on this would allow only 20 minutes of debate, 10 minutes per side, on a complicated issue that really should not be limited by that time limit.

I am fine with the analysis. I have voted for that in the past. It is the point of order that I think tilts the side too much to one side to prevent legislation from being fully debated. And that is why I have to oppose this amendment or this bill.

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, let me just make the point that what we do here, I guess the gentleman and I have a different view of this place. The gentleman's sense, as I have tried to write down what he said, is there has never been legislation around here where the costs have not been fully debated. I do not know that there is any legislation, including the banking bill we just passed, where we ever understand what the full costs are, whether it is to the public sector or the private sector.

Maybe the gentleman's staff reads all the legislation and gives him a cost breakdown, but mine certainly does not, and I do not know that that is true of any other Member. What we need is to have some debate on the cost, because the rest of the debate is always about the benefits.

Mr. DREIER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, when legislation is debated on the floor of the House, the legislation is debated because someone has a good idea. It is a great sounding idea.

We talk a lot about the benefits, and we do it continually. What we do not talk about is the cost to the private sector and to the public sector. This simply permits the Congress to focus on that issue and then determine in its will by a simple majority vote whether to proceed with the legislation or not.

So this is good government. It is accountability that will get at exactly what the gentleman earlier stated was his objective, which was to be fully informed about the cost of the legislation.

Mr. GANSKE. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from Iowa.

Mr. GANSKE. I appreciate the intent of this legislation, but I think the effect, because of the time limits on a point of order, would be to limit debate on a lot of bills.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume to congratulate the prior speaker on his analysis and I agree with him. I think he did a wonderful job.

Mr. DREIER. Mr. Chairman, I yield myself such time as I may consume to say that I thought that my friend agreed with the bill, with the exception of the Dreier amendment that was in here.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume to suggest to the gentleman from California if he would just take the Dreier amendment out, we can wrap it up tonight.

Mr. DREIER. Mr. Chairman, I yield myself such time as I may consume to point out that the gentleman from Iowa, with whom the gentleman from Massachusetts has just agreed, was actually disagreeing with the whole thrust of the legislation.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume to respond that I believe the gentleman said that the other side of the aisle does not give enough time, and I agree with him. Twenty minutes is not enough time on this.

Mr. CONDIT. Mr. Chairman, I rise today in support of H.R. 3534, the Mandates Information Act of 1998. I want to thank the Rules Committee Chairman and Vice-Chairman for bringing this bill to the floor under an open rule and for their commitment to pass this legislation.

This bill is a new version of an old idea, which will yield the same results—accountability and openness. This bill is similar to H.R. 1010, the Mandates Information Act of 1997, which I introduced on March 11, 1997. These bills were introduced as a follow-up to the successes we have had with the Unfunded Mandate Reform Act.

As you are aware, the Unfunded Mandate Relief Act required the Congressional Budget Office to estimate the cost of unfunded mandates a bill would place on both local governments and the private sector. These cost estimates are required to be included in the committee's report which accompanies a bill reported to the House.

The law also established a point of order procedure for bills imposing a mandate on local governments in excess of $50 million. The Mandates Information Act of 1998 will establish a similar point of order procedure for bills containing an unfunded mandate on the private sector in excess of $100 million.

The Mandates Information Act of 1998 has been modified to address the concerns raised by the House Rules committee that the point of order procedure would be used as a delaying tactic and could impede the legislative process. The new version of the Mandates Information Act would allow Members of Congress to raise a single point of order against a bill or amendment containing a mandate in excess of $100 million. It is important to note that this bill would not affect a Member's ability to raise a separate point of order if the Congressional Budget Office failed to adequately estimate the impacts of a private sector mandate. Nor does H.R. 3534 prevent Members from raising multiple points of order against a bill containing intergovernmental mandates.

Tonight we will hear arguments that this bill is an assault on the environment, health and worker safety. Mr. Chairman, nothing could be further from the truth. H.R. 3534 cannot be used to block important environmental health and safety regulations. H.R. 3534 is simply a way to guarantee an accurate and informed debate on the costs of proposed mandates.

Mr. Chairman, I urge my colleagues to support information and accountability by supporting the Mandates Act of 1998.

Mr. CANNON. Mr. Chairman, I am pleased to rise today in support of H.R. 3534.

Just as this great body voted in 1995 to release state and local governments from the stranglehold of unfunded federal mandates, we must vote today to free our private sector as well.

Our booming economy thrives on the ability of our private sector to continue flourishing. We must ensure that government does not impede this development.

I have received letters in support of this legislation from all groups involved in our growing economy: consumers, taxpayers, farmers, and small businesses.

I would like to emphasize that this latter group, in particular, succeeds or suffers in direct proportion to the increased government mandates placed on it. Federal mandates discourage development of small businesses and start-ups, the most valuable, yet most vulnerable engine furthering growth and job creation in our economy.

We have voted time and time again over these past few years to lessen the government burdens on this sector.

This legislation represents the next logical step in making this body more cognizant of the impact of our actions on our developing economy.

Mr. MOAKLEY. Mr. Chairman, I yield back the balance of my time.

Mr. DREIER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment printed in the bill is adopted and the bill, as amended, is considered as an original bill for further amendment and is considered read.

The text of H.R. 3534, as amended by the amendment recommended by the Committee on Rules, is as follows:

H.R. 3534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mandates Information Act of 1998".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Before acting on proposed private sector mandates, the Congress should carefully consider the effects on consumers, workers, and small businesses.

(2) The Congress has often acted without adequate information concerning the costs of private sector mandates, instead focusing only on the benefits.

(3) The costs of private sector mandates are often borne in part by consumers, in the form of higher prices and reduced availability of goods and services.

(4) The costs of private sector mandates are often borne in part by workers, in the form of lower wages, reduced benefits, and fewer job opportunities.

(5) The costs of private sector mandates are often borne in part by small businesses, in the form of hiring disincentives and stunted growth.

SEC. 3. PURPOSES.

The purposes of this Act are the following:

(1) To improve the quality of the Congress' deliberation with respect to proposed mandates on the private sector, by—

(A) providing the Congress with more complete information about the effects of such mandates; and

(B) ensuring that the Congress acts on such mandates only after focused deliberation on the effects.

(2) To enhance the ability of the Congress to distinguish between private sector mandates that harm consumers, workers, and small businesses, and mandates that help those groups.

SEC. 4. FEDERAL PRIVATE SECTOR MANDATES.

(a) IN GENERAL.—

(1) ESTIMATES.—Section 424(b)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 658c(b)(2)) is amended—

(A) in subparagraph (A) by striking "and" after the semicolon; and

(B) by redesignating subparagraph (B) as subparagraph (C), and inserting after subparagraph (A) the following:

"(B) when applicable, the impact (including any disproportionate impact in particular regions or industries) on consumers, workers, and small businesses, of the Federal private sector mandates in the bill or joint resolution, including—

"(i) an analysis of the effect of the Federal private sector mandates in the bill or joint resolution on consumer prices and on the actual supply of goods and services in consumer markets;

"(ii) an analysis of the effect of the Federal private sector mandates in the bill or joint resolution on worker wages, worker benefits, and employment opportunities; and

"(iii) an analysis of the effect of the Federal private sector mandates in the bill or joint resolution on the hiring practices, expansion, and profitability of businesses with 100 or fewer employees; and".

(2) POINT OF ORDER.—Section 424(b)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 658c(b)(3)) is amended by adding after the period "If such determination is made by the Director, a point of order under this part shall lie only under section 425(a)(1) and as if the requirement of section 425(a)(1) had not been met.".

(3) THRESHOLD AMOUNTS.—Section 425(a) of the Congressional Budget Act of 1974 (2 U.S.C. 658d(a)) is amended by—

(A) striking "and" after the semicolon at the end of paragraph (1) and redesignating paragraph (2) as paragraph (3); and

(B) inserting after paragraph (1) the following new paragraph:

"(2) any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal private sector mandates *(excluding any direct costs that are attributable to revenue resulting from tax or tariff provisions of any such measure if it does not raise net tax and tariff revenues over the 5-fiscal-year period beginning with the first fiscal year such measure affects such revenues)* by an amount that causes the thresholds specified in section 424(b)(1) to be exceeded; and".

(4) APPLICATION RELATING TO APPROPRIATIONS COMMITTEES.—(A) Section 425(c)(1)(A) of the Congressional Budget Act of 1974 (2 U.S.C. 658d(c)(1)(A)) is amended by striking "except".

(B) Section 425(c)(1)(B) of the Congressional Budget Act of 1974 (2 U.S.C. 658d(c)(1)(B)) is amended—

(i) in clause (i) by striking "intergovernmental";

(ii) in clause (ii) by striking "intergovernmental";

(iii) in clause (iii) by striking "intergovernmental"; and

(iv) in clause (iv) by striking "intergovernmental".

(5) THRESHOLD BURDEN.—(A) Section 426(b)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 658e(b)(2)) is amended by inserting "legislative" before "language".

(B) Section 426(b)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 658e(b)(2)) is amended by striking "section 425 or subsection (a) of this section" and inserting "part B".

(6) QUESTION OF CONSIDERATION.—(A) Section 426(b)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 658e(b)(3)) is amended by striking "section 425 or subsection (a) of this section" and inserting "part B".

(B) Section 426(b)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 658e(b)(3)) is amended by inserting ", except that not more than one point of order shall be recognized by the Chair under section 425(a)(1) or (a)(2)" before the period.

(7) APPLICATION RELATING TO CONGRESSIONAL BUDGET OFFICE.—Section 427 of the Congressional Budget Act of 1974 (2 U.S.C. 658f) is amended by striking "intergovernmental".

(b) RULES OF THE HOUSE OF REPRESENTATIVES.—Clause 5(c) of rule XXIII of the Rules of the House of Representatives is amended by striking "intergovernmental" and by striking "section 424(a)(1)" and inserting "section 424 (a)(1) or (b)(1)".

(c) EXERCISE OF RULEMAKING POWERS.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it shall be considered as part of the rules of such House, respectively, and shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

The CHAIRMAN. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The chairman of the Committee of the Whole may postpone a demand for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to the bill?

AMENDMENT NO. 1 OFFERED BY MR. DAVIS OF VIRGINIA

Mr. DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by the gentleman from Virginia (Mr. DAVIS):

Page 8, after line 11, add the following new section:

SEC. 5. FEDERAL INTERGOVERNMENTAL MANDATE.

Section 421(5)(B) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 658(5)(B)) is amended—

(1) by striking "the provision" after "if";

(2) in clause (i)(I) by inserting "the provision" before "would";

(3) in clause (i)(II) by inserting "the provision" before "would"; and

(4) in clause (ii)—

(A) by inserting "that legislation, statute, or regulation does not provide" before "the State"; and

(B) by striking "lack" and inserting "new or expanded".

Mr. DAVIS of Virginia. Mr. Chairman, I rise to offer an amendment to H.R. 3534, the Unfunded Mandates Information Act of 1998.

Mr. Chairman, my amendment would simply serve as a clarification of the Unfunded Mandates Reform Act, of which I was a primary sponsor in the 104th Congress. This amendment is necessary due to the Congressional Budget Office's interpretation of an important provision of the Unfunded Mandates Reform Act in a way that is inconsistent with the intent of Congress. The CBO interpretation has a significant impact on the States.

The definition of "Federal Intergovernmental Mandate" as drafted under the Unfunded Mandates Reform Act was specifically intended to include Medicaid and other large entitlement programs and efforts to impose new Medicaid mandates without new flexibility.

However, when asked to review the President's proposal for a cap on the Federal share of Medicaid spending per beneficiary, CBO determined that the proposal did not contain a mandate as defined by UMRA, the Unfunded Mandates Reform Act. According to CBO, this was because States currently have the flexibility to amend their own financial and programmatic responsibilities by reducing some optional services or by choosing not to serve some local optional beneficiaries.

This interpretation is at odds with congressional intent. In passing UMRA, Congress intended that the flexibility required under clause (ii) be new flexibility, concomitant with the mandate-imposing legislation, for States to amend their responsibilities to provide "required services", not optional services. However, because the Unfunded Mandates Reform Act, as passed, does not say new flexibility specifically, CBO believes its interpretation is consistent with the law as written.

My amendment is supported by Ohio Governor George Voinovich, the National Governors' Association, the Council of State Governments, the National Conference of State Legislatures, the National Association of Counties, and the National League of Cities.

As a former chairman of the Fairfax County Board of Supervisors, I recognize the incredible burdens placed on

States and localities by unfunded mandates, of which I just spoke during the general debate, and I would urge my colleagues to support this common sense amendment.

Mr. MORAN of Virginia. Mr. Chairman I move to strike the last word.

Mr. Chairman, in addition to having an opportunity to pass an amendment that I thought should have been passed back in January of 1995, that I had offered then, I think probably it helps in a Republican Congress to have a Republican offeree, and I trust that this bill will pass, although I suspect that there will be more opposition to it than is present here tonight.

This is also an opportunity to correct a technical problem that we have encountered with the Congressional Budget Office's scoring of State and local mandates. That is why I urge everyone to support the Davis-Moran amendment.

Mr. DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Virginia.

Mr. DAVIS of Virginia. Mr. Chairman, I think this has the best of all worlds, according to the gentleman from Virginia. This has the Moran intellect and the Davis name, and when we put the two together, from what I hear the gentleman saying, it is a "can't lose" amendment.

Mr. MORAN of Virginia. Reclaiming my time, Mr. Chairman, that was not exactly the point I was trying to make, but I am certainly willing to let that stand in the record if my friend and colleague wants to suggest that.

The gentleman from Virginia (Mr. DAVIS) is known not only by his name but by his intellect, and I am more than happy to join him in this amendment. I was actually referring in a more general way. I was not suggesting that the only way we could get our amendment passed was if it had the gentleman's name on it. The gentleman has worked very hard on this, but I will now amplify some of the points that the gentleman made.

The reason why the amendment is necessary is because the Congressional Budget Office determined that any new Federal mandates in the area of entitlement programs are not subject to the Unfunded Mandates Reform Act's point of order procedure if there is sufficient flexibility in the affected entitlement program to offset the new State and local costs.

The best example of this is on June 10th, 1996, when CBO ruled that a point of order would not exist for a proposed cap on Federal Medicaid expenditures and any other mandatory Federal aid programs except food stamps. The effect of this interpretation is to exempt more than two-thirds of all granted aid. In other words, all the mandatory entitlement programs from coverage under the Unfunded Mandates Reform Act.

What may appear to be an optional Federal mandate program from CBO's perspective, such as, for example, expanded Medicaid coverage to pregnant women and children, is not an optional program from the State's perspective. I do not know of any State willing to reduce Medicaid coverage to pregnant women and children in order to help offset the cost of new Federal mandates.

Our amendment would correct this implementation problem by adding a few simple words to the Unfunded Mandates Reform Act to clarify that any cut or cap of safety net programs constitutes an intergovernmental mandate unless State and local governments are given new or additional flexibility and the authority to offset the cut or the cap.

This amendment has been endorsed by the five major State and local organizations. It ought to be supported. I urge all my colleagues to support it, and, again, I am honored to be able to offer it in coordination with my friend and colleague, the gentleman from Virginia (Mr. DAVIS).

I will conclude at this point, Mr. Chairman, feeling as though I have given my cosponsor more than sufficient recognition.

Mr. DREIER. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment, as long as it does not lead the gentleman from Massachusetts (Mr. MOAKLEY) to come out in opposition of the amendment.

So I am going to proceed, and I will assure the gentleman from Virginia (Mr. MORAN) and the gentleman from Virginia (Mr. DAVIS) that I will withdraw my name and I will, in fact, not support the amendment if it in any way jeopardizes the support of the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Chairman, if the gentleman would just go a little further and remove the amendment that has his name on it, I would be very happy to support everything.

Mr. DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Fairfax, Virginia.

Mr. DAVIS of Virginia. We could call it the Moran-Davis, Davis-Moran, Dreier-Moakley unity bipartisan amendment.

Mr. DREIER. Mr. Chairman, reclaiming my time, I thank my friends for their contribution. It seems to me that we have bipartisan agreement on the measure and I strongly support it.

The brief statement that I would like to provide here, Mr. Chairman, states that under section 421(5)(B) of the Congressional Budget Act, Federal entitlement programs such as Medicaid, child nutrition, and foster care are considered unfunded intergovernmental mandates if Congress imposes new conditions, places caps on funding, or cuts funding without giving the States the authority to adjust those changes. Although this was the clear intent of the Unfunded Mandates Reform Act, the Congressional Budget Office has used a different interpretation which undermines the act. Specifically, CBO contends that UNRA's language does not specify new authority and that States already have sufficient authority or options to adjust to any cut or cap to an entitlement program except for the food stamp program.

The Davis-Moran amendment clarifies that any funding cut or cap is considered a new mandate unless the States are given new or additional flexibility to adjust their programmatic or financial responsibilities in order to offset the additional mandate costs.

I believe it is a very important amendment, and I will clearly support it and urge my colleagues to join in doing the same.

Mr. CONDIT. Mr. Chairman, I move to strike the last word to speak in favor of the amendment.

I want to rise and show my support for the amendment, and I would like to commend the gentleman from Virginia (Mr. DAVIS) and the gentleman from Virginia (Mr. MORAN) for being on their toes and being on guard for State government.

This is an amendment that is needed for the State governments, and I just commend them and congratulate them for doing this.

□ 2215

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words just briefly again to commend sponsors of this amendment.

We did work with the gentleman from Virginia (Mr. MORAN) last time around and were not able to do what really should have been done, it turned out. This is a needed technical correction really to the 1995 legislation, because it clarifies the intent of the original act to make it clear that State and local government could be given newer, expanded authority to meet their programmatic responsibilities if additional costs were imposed on them through entitlement reform.

So I want to thank the authors of the amendment and also echo what the gentleman from California (Mr. CONDIT) has said and issue my strong support.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding.

I would just like to offer an addendum to the very thoughtful list of supporters that was provided by the gentleman from Virginia (Mr. DAVIS), and say that I suspect not many Members are aware of the fact that the International City-County Management Association, which is headed by Gary Gwinn, also strongly supports the Davis-Moran amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. DAVIS).

The amendment was agreed to.

Mr. DREIER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PORTMAN) having assumed the chair, Mr. SESSIONS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3534) to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and provide extraneous material on H.R. 3534.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SESSIONS). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HOUGHTON) is recognized for 5 minutes.

Mr. HOUGHTON. Mr. Speaker, I would like to talk for a minute about a bill that we will be voting on tomorrow, and that is called the Freedom From Religious Persecution Act of 1998. The number is H.R. 2431.

This has gone through the Committee on International Relations. I was on that committee. I voted against it, and it has gone to the Committee on Ways and Means for a particular issue of a sequential referral.

I understand why people are concerned with persecution of individuals and various religions throughout this world, and many times it is out of a sense of compassion for these people. And yet at the same time, I think that there are ways of handling this which I do not think are being recognized here.

What this bill will do, and I know things have been changing rather rapidly in terms of the terminology, is, it will establish an Office of Religious Persecution Monitoring. Think of it, an Office of Religious Persecution Monitoring in our government. And that man who is in charge of that office will then recommend, in his own infinite wisdom, to the Secretary of State whether persecution is taking place throughout the world.

There are various categories involved here. I will not go into the specifics, but the important thing is that if a country has been decided to be involved in religious persecution in any way, whether this is tribal or whether this is two religions, whether the country has no control over it whatsoever, that country will then have a denial of United States foreign assistance, it will be subject to various trade sanctions, denial of visas, prohibition of exports, U.S. support for multilateral bank assistance, and a whole variety of different things. I think that is the wrong way of going about it.

We all in our own way and our own sense have a feeling of religion inside us, and we do not want to see anybody persecute it. The question is, really, who are the beneficiaries of this? I have talked to members of the Russian Orthodox Church. I have talked to the people who are in charge of the religious expression of a variety of different sects in Sudan. I have been to India. I have been to Zimbabwe. I have talked really recently to the National Council of Churches.

And whether it was in the Middle East or whether it was somebody who represented 27 million Muslims in Indonesia, I asked the question, "Who wants this?" The letters that we see supporting this particular act all come out of New York or Washington. None come from abroad. "Who wants this?" And there was not a single affirmative answer in that whole group.

So what we were doing, therefore, was literally imposing sort of a post-colonial Western sense of what is right and what is wrong on the peoples of this world. And in many cases, the governments have absolutely no control over what the religious persecution is. I know this is true in terms of Sudan. I know it is true in terms of a variety of other countries. And by the United States imposing its will upon those countries, those areas, which they really know very little about, they are going to be hurting more people than they are going to be helping.

So the question is, who are the intended beneficiaries? Not many. Billy Graham does not think this is a good idea. The Dalai Lama does not think this is a good idea. The Council of Churches does not think this is a good idea. A variety of organizations, such as the American Farm Bureau, does not think it is a good idea.

Why are we doing this? I think we are doing this out of a sense of compassion, but misdirected compassion.

It is wrong for us to set ourselves up as the arbiter of what goes on in a country. As much as we have a feeling for this thing, we must be very, very careful not to superimpose our own standards on the rest of the world, particularly when it involves something so very, very personal such as your religious feelings.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2431, FREEDOM FROM RELIGIOUS PERSECUTION ACT

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–534) on the resolution (H. Res. 430), providing for consideration of the bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes, which was referred to the House Calendar and ordered to be printed.

TRIBUTE TO OFFICER DENNIS FINCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, yesterday we were on the floor, as it is National Law Enforcement Officers Memorial Week, and we were talking about law enforcement and a number of bills we were trying to put forth and pass in this Congress, as we normally do during National Law Enforcement Officers Memorial Week.

As founder and cochair of the Law Enforcement Caucus, I spend a lot of time on law enforcement issues. In fact, tomorrow at 3:30 in the Longworth Building, the Law Enforcement Caucus will be meeting to talk about pending legislation we have on body armor and the educational school benefits for those dependents of law enforcement officers who were killed in the line of duty, the police officers' bill of rights, a number of other issues that the Members would like to bring up to discuss with the Law Enforcement Caucus.

Actually, yesterday as we were debating the Visclosky bill, the Bulletproof Vest Partnership Grant Act, H.R. 2829, which overwhelmingly passed this House; we talked a lot about what happens with police officers, and I mentioned a case which happened back in 1974 when I was a police officer.

Unfortunately, at that time, we did not know and the statistic was put forth that about every 2 days we lose a police officer. Up in my northern Michigan rural community, we lost a police officer in Traverse City yesterday. I regret to inform the Nation that Sergeant Dennis Finch of the Traverse City Police Department was murdered as he went to check on an individual at a residence in Traverse City. Sergeant Dennis Finch is survived by his wife Agnes and their two daughters, who are 30 and 23 years old.

It is a rather unusual report that we have been picking up in the news media about what happened to Sergeant Finch, but I think it certainly highlights what police officers go through day in and day out in their job. They never know the dangers they face.

The individual who murdered Sergeant Finch was well-known by police officers. They had a number of incidents with the individual, and he was described by neighbors as a disturbed man who believed the Mafia was after him. And in fact, yesterday, Tuesday, he was actually seen with a gun strapped to his hip, a pistol if you will, and it was described as a large handgun strapped in a holster; and he came up to people and he was talking to people about the Mafia and that the Mafia was giving him a hard time.

It made people nervous. And as often happens, they called police officers to investigate. And according to the newspaper articles, the assailant here was convinced that the Traverse City Police Department, that the cops are the Mafia, and as he told some people, "Don't make any mistake about that."

□ 2230

Unfortunately, in our line of work, people unfortunately do die, and we should not make any mistake about that. I find it ironic that as we were debating those bills that try to help all police officers, we had one in our district, at least in northern Michigan, lose his life. That is a very rare thing that happens in northern Michigan. Seldom do we have that kind of violence, but it surrounds us at all times.

As we go through National Law Enforcement Memorial Week, I hope we will keep Sergeant Finch in mind in some of the legislation we work on for law enforcement officers. Those of us who are past law enforcement officers, we try to work with this Congress to bring some degree of kindness and humanity to a very difficult occupation.

On Friday, it is usually my role as chair of the Law Enforcement Caucus to join in on Police Memorial Day, which is always on May 15, and that will be this Friday. This Friday I had planned on actually being in Traverse City, part of my district. I will be leaving Thursday night and had planned on taking part in a ceremony they hold every year in Traverse City on May 15 for fallen law enforcement officers.

This year's ceremony, unfortunately, will have a much deeper meaning for those of us who represent Traverse City and who knew Sergeant Finch. I will be in my district in Traverse City Friday and, hopefully, will get a chance to express the outrage and regret that this Congress feels when any police officer has fallen in the line of duty.

Our sympathies and deepest regrets go to his wife and his daughters and the rest of his family, his friends and fellow officers. This thing ended, after Sergeant Finch was shot, probably some 8, 9 hours later in a standoff before the assailant was finally apprehended.

We just ask that the good Lord may give strength to the family and to our communities in northern Michigan, and we may have peace returned to our northern Michigan communities as we have known before, and that the good Lord may take away our pain and bless this family that has suffered so much for this country and for Traverse City in northern Michigan communities.

DEMOCRATS DENY GRANTING OF IMMUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BARR) is recognized for 5 minutes.

Mr. BARR of Georgia. Mr. Speaker, before I get into my remarks, I would like to thank the previous speaker, the gentleman from Michigan (Mr. STUPAK) for his remarks as we look to celebrate Law Enforcement Officers Day. I extend my condolences and sympathies to the people in his district and particularly to the family of the slain officer.

Mr. Speaker, I think it was Winston Churchill who speculated that, every now and then, mankind trips over the truth; but inevitably, he speculated and observed, mankind picks itself up, dusts itself off, and keeps right on going.

Unfortunately, Mr. Speaker, by action of the Democrats unanimously today in the Committee on Government Reform and Oversight, we were not even afforded the opportunity to trip over the truth. The Democrats have erected yet another stonewall designed to prevent us from getting at the truth.

I speak, Mr. Speaker, of the unanimous vote by the Democrats on the Committee on Government Reform and Oversight to deny what would be an important tool and what always has been an important tool for either law enforcement or investigative work of the Congress to get at the truth; and that is the granting of immunity.

Granting of immunity is a mechanism of long-standing and important history in our country, both here in the Congress and its investigative work as well, as in the work of law enforcement in which I engaged as a United States attorney in the Northern District of Georgia.

Granting immunity to witnesses is frequently the only way that law enforcement has of uncovering evidence sufficient to successfully prosecute important cases or for the Congress to elicit important testimony and evidence from recalcitrant witnesses.

Normally, when the Department of Justice, as it did in the case of the four proposed witnesses today, tells the Congress it has no objection to the granting of immunity for the witnesses, it is a pro forma, routine vote by whatever committee of the Congress it is that is seeking to elicit the testimony from those immunized or to-be-immunized witnesses to seek a grant of immunity. This is provided for in the United States statute, Title 18 of the U.S. Code, Section 6005(b)(2).

Unfortunately, the mechanism provided in that statute has been abused by the Democrat minority in its absolute effort to protect this administration from accountability. That particular statute requires a two-thirds vote by the committee, whichever committee it is of the House seeking to immunize witnesses.

There are only two committees in the House that have that ratio such as guarantees the search for the truth. Unfortunately, the Committee on Government Reform and Oversight is not among them.

On two occasions now the Democrats have steadfastly denied both the committee and this great body, as well as the American people, the opportunity to search for the truth and elicit truthful testimony from witnesses. That was what happened today.

I have therefore, Mr. Speaker, introduced legislation today to amend 18 U.S.C. 6005(b)(2) to require a simple majority vote by a committee or subcommittee of the House in order to seek immunity for witnesses. This is consistent with the other provision of 18 U.S.C. 6005(b)(1) which provides that, for the House itself to grant immunity, it only requires a majority vote.

What is appropriate and proper for the House should apply, particularly in light of recent events whereby the provisions of the Code have been abused by the Democratic minority and have prevented the American people from knowing the truth. I believe that it is important to bring these two provisions of the United States Code to be consistent with each other, and therefore, I have introduced this legislation. I commend it to this body.

Hopefully, once it is enacted, we will once again be able to do what I would have hoped all of us in this body would want to do and would work towards achieving, and that is a search for the truth and accountability by our top elected leaders in this country.

END U.S. SUPPORT FOR SUHARTO DICTATORSHIP IN INDONESIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. SANDERS) is recognized for 5 minutes.

Mr. SANDERS. Mr. Speaker, the time is now to end U.S. support for the Suharto dictatorship in Indonesia. I will be sending a letter to the President tomorrow with a number of signatures from my colleagues to urge him to help us do that.

History has taught us that it is not in the best interest of this country or for the people of affected countries that the United States back corrupt, authoritarian regimes whose leaders are opposed by the vast majority of their people.

It was wrong for us to have supported the Mobuto government in Zaire, the Saddam Hussein government in Iraq, the Noriega government in Panama, and many other dictatorships that we have backed over the years. It is wrong for us to support the Suharto government today.

As a result of our support for these corrupt and detested governments, our credibility in the world community suffers and our commitment to freedom and human rights is rightfully challenged.

As you know, Mr. Speaker, General Suharto is currently in his seventh 5-year term at the helm of the Government in Indonesia, which, according to the most recent U.S. State Department report on human rights, "remains strongly authoritarian." That is from the U.S. State Department.

This same report states that in 1997 the Suharto government "continued to commit serious human rights abuses" and "demonstrated that it would not tolerate challenges to the fundamental elements of the political system by arresting and placing on trial some of its critics."

The State Department report documents Suharto's failure to allow free and fair elections in Indonesia in the most recent elections, just as he has done in the previous five held since 1971.

Today, the leader of the free trade union movement in Indonesia, Muchtar Pahpahan, remains in jail because of his radical belief that workers in this country have the right of freedom of association.

Further, General Suharto is widely acknowledged to be a dictator with an enormous amount of blood on his hands. In 1965, when he toppled General Sukarno as leader of Indonesia, it is estimated that some half million Indonesians were killed. Half a million, one of the great slaughters in modern history.

In East Timor, it is believed General Suharto's decisions have led to the deaths of 200,000 people or one-third, one-third of East Timor's population. Just yesterday, six unarmed students were shot down in cold blood by the Suharto military for protesting against the dictatorship. Recent testimony before Congress shows that Suharto's government is currently disappearing and torturing hundreds of its opponents.

General Suharto is known, not only for his brutality, but for his corruption and his greed. He is the sixth wealthiest person in the world, and it is estimated that his family is worth between $30 billion and $40 billion. This wealth has been accumulated in a country where the average income is less than $20 a week and where child labor is widespread.

The Suharto family owns much of Indonesia's wealth, and they have strong control over the economy there. It is widely acknowledged the Suharto family makes huge sums of money by running cartels and receiving bribes and kickbacks in perhaps the outstanding international example of crony capitalism.

Every day, more and more Indonesians are showing extraordinary courage and are putting their lives on the line by standing up to the Suharto dictatorship. Not only have tens of thousands of Indonesian students taken to the streets, but even retired generals and former cabinet ministers are now calling for General Suharto's ouster. Mr. Amien Rais, a prominent Muslim leader, recently said, "I urge the government of President Suharto to step down, as the people demand." If the brave people of Indonesia are prepared to risk their lives to demand that General Suharto step aside, how can we ignore their cries for freedom?

It is important that we act soon. If General Suharto understands that we no longer support him, and international support for his regime is fading, it is far more likely that he will give up power soon, avoiding unnecessary bloodshed. In other words, the sooner that the United States tells Suharto that we will not support him, the more likely it is that he will perhaps flee his country and prevent the widespread bloodshed that might otherwise happen.

In my view, the President must utilize all diplomatic tools available to expedite the replacement of the Suharto dictatorship with a democratically elected government. Such steps should include but not be limited to immediate contact by Secretary of Defense Cohen with the Indonesian military, urging them not to use their guns against their own people.

The immediate freeze on all US weapons, spare parts and ammunition sales to Indonesia, including the financing of dual-use technologies through the Export-Import Bank.

In conjunction with the United Nations, dispatch an emergency relief group composed of non-governmental representatives, including human rights and famine-relief groups, to monitor the military and provide relief to famine stricken areas of East Timor and Indonesia.

Suspend further IMF loans to Indonesia until fundamental human rights are established under a new government.

Mr. Speaker, you have the opportunity to send a message to the Indonesian people and the entire world that the United States will not support dictators who deny their people basic human rights. The time to act is now.

DEMOCRATS ON CHAIRMAN BURTON'S COMMITTEE JUSTIFIED IN REFUSING TO VOTE FOR IMMUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, several hours ago, the House Committee on Government Reform and Oversight gave a vote of no confidence to the campaign finance investigation being headed by my friend, the gentleman from Indiana (Mr. BURTON). The committee declined to immunize four witnesses and haul them before his committee. As a past chairman of that committee, I can tell you that what the committee did today was the only course of action they could take.

□ 2245

My Democratic colleagues were not asking for much. They simply wanted procedures for subpoenas that would give them a chance to object and force a committee vote before such subpoenas could be issued. They were willing to negotiate, but Chairman BURTON was not.

I am sorry to say this, but Chairman BURTON'S recent actions have discredited the Committee on House Oversight of the Congress, which is supposed to set the example for fair investigative procedure. Never in my tenure as chairman of that committee, not once, did the minority complain that a major investigation was unfair or conducted without their full involvement.

Consider the causes for our embarrassment. More than 600 subpoenas have been unilaterally issued, without one of them ever having a committee vote or the involvement of members of the committee; a stubborn and continuing refusal to subpoena any witnesses requested by the Democratic members of the committee; a tasteless decision to release the private conversations between Mr. Hubbell and his wife, that had no connection to the subject matter that the committee was investigating; the misleading editing of the tape transcripts, which should have never been released in the first place, forcing a public rebuke by the Speaker himself for the embarrassment caused to the House of Representatives; and, finally, growing evidence that the committee may be improperly and perhaps illegally coordinating its investigation with that of Independent Counsel Kenneth Starr, which, by Federal law, is supposed to remain secret.

So the failure of the committee's investigation carries an important lesson for all of us in Congress: The concerns of every member of a committee, especially an investigative committee, cannot be ignored or shunted aside by procedural maneuvers.

I am hopeful that my colleagues will keep these lessons in mind as we move forward from the ashes of the BURTON investigation.

PRESERVING THE INTEGRITY OF THE BILL OF RIGHTS

The SPEAKER pro tempore (Mr. SESSIONS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Texas (Mr. EDWARDS) is recognized for 37 minutes as the designee of the minority leader.

Mr. EDWARDS. Mr. Speaker, in three weeks the gentleman from Oklahoma (Mr. ISTOOK) will try to amend the U.S. Bill of Rights, the sacred document that has served America for well over 200 years.

Perhaps the greatest contribution of the American experiment in democracy is our Nation's religious freedom. Because of our Bill of Rights, America is not torn by religious wars.

In contrast to the religious strife in Northern Ireland and in the Middle East, Americans are at peace. In contrast to Islamic fundamentalist states that use government to force religion upon its citizens, America's Founding Fathers had the wisdom to write a Bill of Rights that separated the power of government from the freedom of religion.

These and others are powerful reasons why the Bill of Rights has never been amended in our Nation's 207 years; never, never has been amended since the Bill of Rights was adopted 207 years ago.

Yet Mr. ISTOOK not only wants to tamper with the Bill of Rights, he wants to rewrite the first 16 words of the First Amendment of the Bill of Rights, those words that say "Congress shall make no laws respecting an establishment of religion or prohibiting the free exercise thereof."

Now, Mr. ISTOOK calls his bill the religious freedom amendment. I would suggest that James Madison and our Founding Fathers beat Mr. ISTOOK to the punch by just over 200 years. The real religious freedom amendment is called the First Amendment of our Constitution. I believe Mr. ISTOOK'S bill should frankly be called the religious freedom destruction act.

It is amazing that some of the same people who do not entrust the Federal Government to deliver our mail want government involved in something as sacred as our children's and grandchildren's prayers. To change the Bill of Rights for any reason is a grave undertaking. To change it for reasons that simply do not exist is wrong.

Mr. ISTOOK bases his amendment on several myths. His arguments are a temple built on a false foundation.

Myth number one: Mr. ISTOOK alleges that students cannot pray in public schools. Nothing could be further from the truth. The law of this land allows students to pray before, after, and even during school. What the law prohibits, as it should, as intended by our Founding Fathers, is that government-sponsored prayers should be prohibited.

Time Magazine on April 27, 1998, and CNN have recently reported there are thousands of prayer and Bible groups that have been formed in public schools all across America in just the last few years.

Mr. Speaker, I enclose for the RECORD the article from Time Magazine of April 27 record entitled "Spiriting Prayer into School."

Mr. Speaker, let me take several excerpts from this Time Magazine article. "Politicians may bicker about bringing back prayer, but in fact it is already a major presence, thanks to the many after-school prayer clubs." The article goes on to say that "available statistics are approximate, but they suggest that there are clubs in as many as one out of every four public schools in the country. In some areas, the tally is much higher."

Later the article says this: "The resulting Equal Access Act of 1984 required any federally-funded secondary school to permit religious meetings if the schools allowed other clubs not related to curriculum, such as public-service Key Clubs. The crucial rule was that the prayer clubs had to be voluntary, student-run, and not convene during class time."

The article goes on to point out the Supreme Court in 1990 sustained this law by a vote of 8 to 1.

Let me read additional excerpts from the Time Magazine article. "Evangelicals had already seized the moment. Within a year of the 1990 court decision, prayer clubs bloomed spontaneously on a thousand high school campuses. Fast on their heels came adult organizations dedicated to encouraging more. Proffitt's, Tennessee-based organization, First Priority, founded in 1995, coordinates inter-church groups in 162 cities, working with clubs in 3,000 schools. The San Diego-based National Network of Youth Ministries has launched what is called Challenge 2000, which pledges to bring the Christian gospel to 'every kid on every secondary campus in every community in our Nation by the year 2000.' It also promotes a phenomenon called 'See You at the Pole,' encouraging Christian students country-wide to gather around their school flagpoles on the third Wednesday of each September; last year, 3 million students participated."

Mr. Speaker, I would suggest that this article points out very clearly that Mr. ISTOOK'S allegation that somehow we simply do not have prayer at our public schools does not bear out with today's facts.

The Time article also says, "Says Doug Clark," quoting him, "field director of the National Network of Youth Ministries, 'Our energy is being poured into what kids can do voluntarily and on their own. That seems to us to be where God is working.'"

They then go on in the article finally to say, "For now, the prospects for prayer clubs seem unlimited."

The doom of Mr. ISTOOK'S predictions simply is not there.

Mr. Speaker, the fact is that students can pray silently in the classroom, or out loud over the lunch table. For anyone to suggest that prayer is not alive and well in schools is not facing reality. For anyone to suggest that somehow God has been taken out of our schools, underestimates the God that I and my family worship. No person, no law, has the power to take an all-powerful God from anyplace in this world, much less a school classroom.

Myth number two, used by Mr. ISTOOK to push his amendment of the Bill of Rights: Mr. ISTOOK suggests that liberal Federal courts have misinterpreted our Founding Fathers.

That is simply not the case. To begin with, the majority of these so-called liberal Federal courts have been appointed by Republican presidents, Gerald Ford, George Bush, and that well-known liberal president, Ronald Reagan.

I would also point out that Thomas Jefferson could not have been more clear in his interpretation of the First Amendment of the Bill of Rights inasmuch as it deals with religious freedom. This is what Mr. Jefferson, Thomas Jefferson, our third president, the author of our Declaration of Independence, said in his letter to the Danbury Baptists.

"Religion is a matter which lives solely between man and his God that he owes account to none other for his faith or worship, that the legislative powers of government reach actions only, and not opinions, I contemplate with sovereign reference that act of the whole American people which declared that their legislatures should "make no law respecting an establishment of religion or prohibiting the free exercise thereof," thus, building a wall of separation between church and state."

The fact is that modern day Federal judges, including the majority of judges that have been appointed in our Federal courts by Mr. Bush and Mr. Reagan and Mr. Ford, have interpreted today's law exactly to be consistent with the intention of Thomas Jefferson and our Founding Fathers; not to demean religion by separating it from government, but to respect religion and to defend religious liberty by the very act of building a wall of separation to protect religion from the intrusion of government.

Myth number three Mr. ISTOOK has gone so far as to call opponents of this bill "demagogues." He has suggested that those opposed to his amendment are somehow committed to keeping children from praying in schools.

He has also suggested, or others have suggested, I should say, other supporters of Mr. ISTOOK, that opponents of Istook are somehow anti-religion.

The implication that somehow Istook supporters are pro-prayer and pro-religion and opponents of Mr. ISTOOK's amendment of the Bill of Rights are anti-prayer and anti-religion could well be a surprise to the numerous religious groups strongly opposing the Istook amendment. Let me mention just a few of the religious and educational groups opposing the Istook amendment, for the very reason they believe that Istook would harm religious freedom in America, not defend it.

These groups would be disappointed to know that Mr. ISTOOK has referred to opponents of his amendment as "demagogues," and if opposing Istook and defending the words of James Madison and our Bill of Rights, make me a demagogue, Mr. Speaker, then I am in good company. Let me just list some of that company that oppose the Istook amendment.

The American Association of School Administrators; the American Association of University Women; the American Baptist Churches, USA; the American Jewish Committee; the American Jewish Congress; the Antidefamation League; the Baptist Joint Committee on Public Affairs; the Episcopal Church; the Lutheran Office for Governmental Affairs; the Evangelical Lutheran Church in America; the National Association of Elementary School Principals; the National Education Association; the Southern Christian Leadership Conference; the United Church of Christ, Office for Church and Society.

I join in good company, Mr. Speaker, along with our Founding Fathers, such as Jefferson and Madison and others, in defending the Bill of Rights, not amending it; not changing it, not undermining it.

I agree with Brent Walker, the General Counsel of the Baptist Joint Committee, who said this: "The Istook amendment is unnecessary, unwise, and unfaithful to our heritage of religious freedom and separation of church and State."

The fact is that, in my words, Mr. Speaker, the Istook amendment is a house built on sand.

□ 2300

Its foundation is flawed, unfounded, and false. In the days ahead, I will also take time to point out the numerous possible harmful consequences of the Istook amendment.

To name just a few this evening, the Istook amendment could first, allow Satanic prayers and even animal sacrifices as part of prayer rituals in first and second and third grade public school classrooms across America.

Second, it could lead to censorship of prayers.

Third, it could allow outside religious groups to proselytize young students on public school grounds so that our children will be going to public schools learning reading, writing and arithmetic and perhaps will be proselytized by some religious group such as those we see at our Nation's airports across America. I am not sure America's parents sending their children to public schools want to have to worry about religious groups, or possibly even cults, proselytizing their children while they should be learning on the school grounds.

Fourth, the Istook amendment could be an unfunded mandate of Biblical proportions, stemming from its words that we cannot "Deny equal access to benefit on account of religion." Who knows how many decades of court decisions it might take and divisiveness in our country to interpret that particular language. But certainly, on the surface, it could appear that this language of the gentleman from Oklahoma (Mr. ISTOOK) could basically have required the Federal Government to fund David Koresh and the Branch Davidians in my hometown of Waco, Texas for a child care program or a child care center because other groups, nonreligious groups, were given Federal funding for child care centers, despite the fact that before his death, Mr. Koresh said that, in his religious beliefs, that God had encouraged him to have sex with girls as young as 10 years old.

I am offended by the possibility that America's taxpayers' dollars could go to fund such religious groups and programs.

Fifth, the Istook amendment could lead to majoritarian prayers in many of our public schools, and there are many others. But let me just read from a statement prepared by the Coalition to Preserve Religious Liberty. They said this:

> The following are a few examples of activities that would be permitted under the amendment:
>
> A tax could be levied for support of sectarian schools.
>
> Crosses, stars of David, or statues of the goddess Gaia could be erected in public places such as courthouses, public schools and military bases to represent religious heritage or belief.
>
> New testament readings and specific prayers could be prescribed for all meetings of government employees (except public schools) as long as no one was required to participate.
>
> Devotional Bible readings or meditations from the Quran could be required in public schools as long as no one was required to participate.
>
> Upon a student's suggestion, a teacher could lead prayers for his or her kindergarten classes, as long as the prayers were not prescribed by the government and participation was not required.
>
> Bibles, Books of Mormon or Qurans could be printed or distributed to all public school students or public employees as a way of recognizing the people's heritage.
>
> Public schools could be required to teach creation science along with evolution as a way of recognizing the beliefs and heritage of the people.
>
> Tax money could be used to fund mission programs sponsored by Baptists, Buddhists or Branch Davidians, Methodists, Mormons or Mennonites.
>
> A judge or juror could lead the courtroom in prayer and limit such prayers to the majority faith of the surrounding community.

Mr. Speaker, I am afraid it will take far longer than one hour to point out why so many religious groups and people of deep religious faith are opposing the Istook amendment. For that reason, I would like to focus on some of the cases of "Religious persecution" that Istook supporters use to justify their taking such drastic action as amending our Bill of Rights for the first time in our Nation's history.

I would refer to a recent publication by the People For The American Way Action Fund, and, Mr. Speaker, I would like to submit this statement for the RECORD following my remarks. This is what they say in the report:

> The true facts behind the Christian Coalition's "religious persecution" claims.
>
> As part of its May 22, 1977 Religious Freedom Celebration on Capitol Hill, the Christian Coalition is presenting 4 claims of what it calls "religious persecution" which purportedly justify a constitutional amendment concerning religion. In fact, these claims are nothing of the sort. Instead, they are instances where officials properly applied school or job rules without improper religious discrimination, or, in one instance, where school officials made a mistake and promptly corrected it. In the case of the school-related examples that the Christian Coalition is using, all 3 incidents are at least 5 years old. Religious freedom should be celebrated in our country with the true facts about the First Amendment which fully protects religious liberty for all people.

The People For The American Way Action Fund statement then goes on to mention these purported claims by the Christian Coalition of religious persecution. Brittany Settle Gossett's, "Received an 'F' on a research paper simply because her topic was Jesus Christ." The Christian Coalition letter, May 8, 1997. The true facts behind the claim, according to this report, are these: "As both a Federal trial and appeals court found, Ms. Gossett's grade on this 1991 assignment was based not on religious discrimination, but on her 'refusal to comply with the requirements' of the teacher, including changing her paper topic, without permission, and choosing a topic with which she was already familiar.

"As one judge explained, 'The student has no constitutional right to do something other than that assignment and receive credit for it. The First Amendment already protects a student's right to address religious topics in homework if relevant and otherwise compliant with the assignment.' "

The second purported claim of religious persecution that is being used to justify amending the Bill of Rights goes to the case of Kelly DeNooyer who "Was told by her school principal that she could not show a videotape of herself performing a religious song in church for her part in the VIP of the week program in her school classroom 'because it had Christian things in it.' "

The response of the facts according to this report is this: "As a Federal Court of Appeals found, the school's decision in 1990 was upheld based not on the content of the video, but because the purpose of the program was to increase 'students' communication skills by requiring a live classroom presentation by the student,' and that purpose 'would be frustrated if every student were permitted to show a videotape instead.' "

Example number 3 used by the supporters of the Istook amendment to say why Mr. Madison and Mr. Jefferson's first amendment is somehow inadequate today. Audrey Pearson was told by school officials that "She could not read the Bible on the school bus." This is the response, according to this report: "Within days, Audrey was back reading her Bible on the bus after only a few phone calls to the principal's office in 1989."

Mr. Speaker, it is amazing to me that Members of this House and supporters of the Istook amendment would use a case from 1989, a problem that was resolved within a few hours with a handful of phone calls, knowing that that problem had been corrected because of the misinterpretation of the law, to use that case to justify massacring the First Amendment of the Bill of Rights is unbelievable.

The final case of religious persecution used to undermine our constitutional protections of religious freedom goes to the story of Brad Hicks, a North Carolina police officer who was "Reprimanded by his police department for offering a religious tract to a woman whom he had pulled over for speeding and was later fired for refusing a police department request to refrain from speaking about religion whenever in a police uniform." The response is this: "According to the police chief, Hicks was dismissed not for speaking about religion, but because he refused to stop proselytizing to citizens while on duty. As Hicks admitted, for 7 months, "Whenever I would pull someone over to come into contact with them on some kind of call, while on duty and on police business, he sought to proselytize and witness."

□ 2310

The chief explained that, "You cannot stop someone on the road as a police officer and proceed to give them a church sermon."

Mr. Speaker, I would agree with the judicial decision, that a police officer in uniform should not be allowed to use the power and threatening nature, at times, of his government position to proselytize his personal religious views upon the citizens of this land.

In 3 weeks, Mr. Speaker, Members of this House must make a choice. They must choose between defending our Bill of Rights or dismantling it. Members must choose between the wisdom of our Founding Fathers, such as James Madison and Thomas Jefferson, and the latest and often-amended version of the Istook amendment.

We must choose in this House between the cautious, careful consideration of our Founding Fathers as they drafted that cherished document we know as the Bill of Rights, versus a constitutional amendment by the gentleman from Oklahoma (Mr. ISTOOK) that received 1 day of hearings, 1 day of hearings in 1998.

Mr. Speaker, it is amazing to me that the leadership of this House would even allow a measure to come to this floor attempting to amend the first 16 words of the First Amendment of our Bill of Rights, after having less days of hearings on it, on amending the Constitution and the Bill of Rights, than they had in reviewing the Branch Davidian situation in my hometown of Waco.

In less than 3 weeks Members must choose between America's proud 200-year history of religious freedom versus the world's history of religious intolerance caused by the commingling of government and religion.

How ironic and sad it would be for America, which is a beacon of religious freedom to the world, to take the first step down the path of Islamic fundamentalist states to prove how religious freedom is imperiled when the wall of separation between church and state is dismantled.

The choice is clear, in my opinion. Madison and Jefferson were right, and my colleague, the gentleman from Oklahoma (Mr. ERNEST ISTOOK), no disrespect intended, is wrong. I believe the Bill of Rights should be protected, not dismantled.

The materials referred to earlier are as follows:

[Prepared by People for the American Way Action Fund]

THE TRUE FACTS BEHIND THE CHRISTIAN COALITION'S 'RELIGIOUS PERSECUTION' CLAIMS

As part of its May 22, 1977 Religious Freedom Celebration on Capitol Hill, the Christian Coalition is presenting four claims of what it calls "religious persecution" which purportedly justify a constitutional amendment concerning religion. In fact, these claims are nothing of the sort. Instead, they are instances where officials properly applied school or job rules without improper religious discrimination or, in one instance, where school officials made a mistake and promptly corrected it. In the case of the school-related examples that the Christian Coalition is using, all three incidents are at least 5 years old. Religious freedom should be celebrated in our country with the true facts about the First Amendment, which fully protects religious liberty for all people.

The Christian Coalition claim:

Brittany Settle Gossett "received an F on a research paper simply because her topic was Jesus Christ." (Christian Coalition letter May 8, 1997)

The true facts behind the claim:

As both a federal trial and appeals court found, Ms. Gossett's grade on this 1991 assignment was based *not* on religious discrimination, but on her "refusal to comply with the requirements" of the teacher, including changing her paper topic without permission and choosing a topic with which she was already familiar. 1995 Lexis Fed. App. 141, 4–5. As one judge explained, "the student has no constitutional right to do something other than that assignment and receive credit for it." *Id.* at 20. The First Amendment *already protects* a student's right to address religious topics in homework if relevant and otherwise compliant with the assignment.

The Christian Coalition claim:

Kelly DeNooyer "was told by her school principal that she could not show" a videotape of herself performing a religious song in church for her part of the VIP of the Week program in her school classroom "because it had Christian things in it." (Rutherford Inst. Rep. Oct. 1992)

The true facts behind the claim:

As a federal court of appeals found, the school's decision in 1990 was upheld based *not* on the content of the video, but because the purpose of the program was to increase "students" communication skills by requiring a 'live' classroom presentation by the student," and that purpose "would be frustrated if every student were permitted to show a videotape" instead. 1993 U.S. App. Lexis at 4.

STATEMENT PREPARED BY THE COALITION TO PRESERVE RELIGIOUS LIBERTY

The following are a few examples of activities that would be permitted under the amendment:

A tax could be levied for support of sectarian schools.

Crosses, stars of David or statues of the goddess Gaia could be erected in public places such as courthouses, public schools and military bases to represent religious heritage or belief.

New Testament readings and specific prayers could be prescribed for all meetings of government employees (except public schools) as long as no one was required to participate.

Devotional Bible readings or meditations from the Quran could be required in public schools as long as no one was required to participate.

Upon a student's suggestion, a teacher could lead prayers for his or her kindergarten classes, as long as the prayers were not prescribed by the government and participation was not required.

Bibles, Books of Mormon or Qurans could be printed and distributed to all public school students or public employees as a way of recognizing the people's heritage.

Public schools could be required to teach creation science along with evolution as a way of recognizing the beliefs and heritage of the people.

Tax money could be used to fund mission programs sponsored by Baptists, Buddhists or Branch Davidians; Methodists, Mormons or Mennonites.

A judge or juror could lead the courtroom in prayer and limit such prayers to the majority faith of the surrounding community.

[From the Time—April 27, 1998]

SPIRITING PRAYER INTO SCHOOL

POLITICIANS MAY BICKER ABOUT BRINGING BACK PRAYER, BUT IN FACT IT'S ALREADY A MAJOR PRESENCE—THANKS TO THE MANY AFTER-SCHOOL PRAYER CLUBS

(By David Van Biema)

On an overcast afternoon, in a modest room in Minneapolis, 23 teenagers are in earnest conversation with one another—and with the Lord. "Would you pray for my brother so that he can raise money to go [on a preaching trip] to Mexico?" asks a young woman. "Out church group is visiting juvenile-detention centers, and some are scared to go," explains a boy. "Pray that God will lay a burden on people's hearts for this."

"Pray for the food drive," says someone.

"There's one teacher goin' psycho because kids are not turning in their homework and stuff. She's thinking of quitting, and she's a real good teacher."

"We need to pray for all the teachers in the school who aren't Christians," comes a voice from the back.

And they do, Clad in wristbands that read w.w.j.d. ("What Would Jesus Do?") and T shirts that declare upon this rock I will build my church, the kids sing Christian songs, discuss Scripture and work to memorize the week's Bible verse, John 15:5 ("I am the vine and you are the branches"). Hours pass. As night falls, the group enjoys one last mass hug and finally leave its makeshift chapel—room 133 of Patrick Henry High School. Yes, a public high school. If you are between ages 25 and 45, your school days were not like this. In 1963 the Supreme Court issued a landmark ruling banning compulsory prayer in public schools. After that, any worship on school premises, let alone a prayer club, was widely understood as forbidden. But for the past few years, thanks to a subsequent court case, such groups not only have been legal but have become legion.

The club's explosive spread coincides with a more radical but so far less successful movement for a complete overturn of the 1963 ruling. On the federal level is the Religious Freedom amendment, a constitutional revision proposed by House Republican Ernest Istook of Oklahoma, which would reinstate full-scale school prayer. It passed the Judiciary Committee 16 to 11, last month but will probably fare less well when the full House votes in May. One of many local battlefields is Alabama, where last week the state senate passed a bill mandating a daily moment of silence—a response to a 1997 federal ruling voiding an earlier state pro-school prayer law. Governor Fob James is expected to sign the bill into law, triggering the inevitable church state court challenge.

But members of prayer clubs like the one at Patrick Henry High aren't waiting for the conclusion of such epic struggles. They have already, brought worship back to public school campuses, although with some state-imposed limitations. Available statistics are approximate, but they suggest that there are clubs in as many as 1 out of every 4 public schools in the country. In some areas the tally is much higher, evengelicals in Minneapolis-St. Paul claim that the vast majority of high schools in the Twin Cities region have a Christian group. Says Benny Proffitt, a Southern Baptist youth-club planter: "We had no idea in the early '90s that the response would be so great. We believe that if we are to see America's young people come to Christ and America turn around, it's going to happen through our schools, not our churches." Once a religious scorched-earth zone, the schoolyard is suddenly fertile ground for both Vine and Branches.

The turnabout culminates a quarter-century of legislative and legal maneuvering. The 1963 Supreme Court decision and its broad-brush enforcement by school administrators infuriated conservative Christians, who gradually developed enough clout to force Congress to make a change. The resulting Equal Access Act of 1984 required any federally funded secondary school to permit religious meetings if the schools allowed other clubs not related to curriculum, such as public-service Key Clubs. The crucial rule was that the prayer clubs had to be voluntary student-run and not convened during class time.

Early drafts of the act were specifically pro-Christian. Ultimately, however, its argument was stated in pure civil-libertarian terms: prayers that would be coercive if required of all students during class are protected free speech if they are just one more after-school activity. Nevertheless, recalls Marc Stern, a staff lawyer with the American Jewish Congress, "there was great fear that this would serve as the base for very intrusive and aggressive proselytizing." Accordingly, Stern's group and other organizations challenged the law—only to see it sustained, 8 to 1, by the Supreme Court in 1990. Bill Clinton apparently agreed with the court. The President remains opposed to compulsory school prayer. But in a July 1995 speech he announced that "nothing in the First Amendment converts our public schools into religion-free zones or requires all religious expression to be left at the schoolhouse door." A month later Clinton had the Department of Education issue a memo to public school superintendents that appeared to expand Equal Access Act protections to include public-address announcements of religious gatherings and meetings at lunchtime and recess.

Evangelicals had already seized the moment. Within a year of the 1990 court decision, prayer clubs bloomed spontaneously on a thousand high school campuses. Fast on their heels came adult organizations dedicated to encouraging more. Proffitt's Tennessee-based organization, First Priority, founded in 1995, coordinates interchurch groups in 162 cities working with clubs in 3,000 schools. The San Diego-based National Network of Youth Ministries has launched "Challenge 2000," which pledges to bring the Christian gospel "to every kid on every secondary campus in every community in our nation by the year 2000." It also promotes a phenomenon called "See You at the Pole," encouraging Christian students countrywide to gather around their school flagpoles on the third Wednesday of each September; last year, 3 million students participated. Adult groups provide club handbooks, workshops for student leaders and ongoing advice. Network of Youth Ministries leader Paul Fleischmann stresses that the resulting clubs are "adult supported," not adult-run, "If we went away," he says, "they'd still do it."

The club at Patrick Henry High certainly would. The group was founded two years ago with encouragement but no specific stage managing by local youth pastors. This afternoon its faculty adviser, a math teacher and Evangelical Free Church member named Sara Van Der Werf, sits silently for most of the meeting, although she takes part in the final embrace. The club serves as an emotional bulwark for members dealing with life at a school where two students died last year in off-campus gunfire. Today a club member requests prayer for "those people who got in that big fight [this morning]." Another asks the Lord to "bless the racial-reconciliation stuff." (Patrick Henry is multiethnic; the prayer club is overwhelmingly white.) Just before Easter the group experienced its First Amendment conflict: whether it could hang posters on all school walls like other non-school-sponsored clubs. Patrick Henry principal Paul McMahan eventually decreed that putting up posters is off limits to everyone, leading to some resentment against the Christians. Nonetheless, McMahan lauds them for "understanding the boundaries" between church and state.

In Alabama, the new school-prayer bill attempts to skirt those boundaries. The legislation requires "a brief period of quiet reflection for not more than 60 seconds with the participation of each pupil in the classroom." Although the courts have upheld some moment-of-silence policies, civil libertarians say they have struck down laws featuring pro-prayer supporting language of the sort they discern in Alabama's bill. In the eyes of many church-club planters, such fracases amount to wasted effort. Says Doug Clark, field director of the National Network of Youth Ministries: "Our energy is being poured into what kids can do voluntarily and on their own. That seems to us to be where God is working."

Reaction to the prayer clubs may depend on which besieged minority one feels part of. In the many areas where Conservative Christians feel looked down on, they welcome the emotional support for their children's faith. Similarly, non-Christians in the Bible Belt may be put off by the clubs' evangelical fervor; members of the chess society, after all, do not inform peers that they must push pawns or risk eternal damnation. Not everyone shares the enthusiasm Proffitt recently expressed at a youth rally in Niagara Falls, N.Y.: "When an awakening takes place, we see 50, 100, 1,000, 10,000 come to Christ. Can you imagine 100, or 300, come to Christ in your school? We want to see our campuses come to Christ." Watchdog organizations like Americans United for the Separation of Church and State report cases in which such zeal has approached harassment of students and teachers, student prayer leaders have seemed mere puppets for adult evangelists, and activists have tried to establish prayer clubs in elementary schools, where the description "student-run" seems disingenuous.

Nevertheless, the Jewish committee's Stern concedes that "there's been much less controversy than one might have expected from the hysterical predictions we made." Americans United director Barry Lynn notes that "in most school districts, students are spontaneously forming clubs and acting upon their own and not outsiders' religious agendas." A.C.L.U. lobbyist Terri Schroeder also supports the Equal Access Act, pointing out that the First Amendment's Free exercise clause protecting religious expression is as vital as its Establishment Clause, which prohibits government from promoting a creed. The civil libertarians' acceptance of the clubs owes something to their use as a defense against what they consider a truly bad idea: Istooks's school-prayer amendment. Says Lynn: "Most reasonable people say, 'If so many kids are praying legally in the public schools now, why would you possibly want to amend the Constitution?'"

For now, the prospects for prayer clubs seem unlimited. In fact, the tragic shooting of eight prayer-club members last December in West Paducah, Ky., by 14-year-old Michael Carneal provided the cause with martyrs and produced a hero in prayer-club president Bob Strong, who persuaded Carneal to lay down his gun. Strong recalls that the club's daily meetings used to draw only 35 to 60 students out of Heath High School's 600. "People didn't really look down on us, but I don't know if it was cool to be a Christian," he says. Now 100 to 150 teens attend. Strong has since toured three states extolling the value of Christian clubs. "It woke a lot of kids up," he says. "That's true everywhere I've spoken. This is a national thing."

TRANSFER OF TECHNOLOGY COULD REPRESENT MAJOR SECURITY BREACH

The SPEAKER pro tempore (Mr. SESSIONS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Pennsylvania (Mr. WELDON) is recognized for the remaining time until midnight as the designee of the majority leader.

Mr. WELDON of Pennsylvania. Mr. Speaker, I do not rise to speak in the well to talk about scandals in this city. Many of my colleagues do, and many of our colleagues talk about the latest scandal of the day, whether it is in the White House or from other parts of our society. I do not like to do that, and in fact, I have not done that.

Mr. Speaker, I rise tonight to talk about, first of all, an issue that I usually speak about on the floor when I get the opportunity. That is our national security, and our relationship with those countries who have been our adversary, or who may be our adversary in the future.

Tonight, unfortunately, Mr. Speaker, I rise to talk about both of those issues, our national security and a scandal that is currently unfolding that I think will dwarf every scandal that we have seen talked about on this floor in the past 6 years.

Mr. Speaker, this scandal involves potential treason, and if in fact the facts are true as they have been outlined in media reports, which we are currently trying to investigate, I think will require articles of impeachment.

Mr. Speaker, there was a story that ran in the New York Times in the early part of April that outlined a technology transfer involving American companies and institutions in China involving the Long March space launch vehicle. In February of 1996 the Long March space launch vehicle exploded, blew up, and destroyed a $200 million satellite built by the Loral Company that it was supposed to place into orbit.

What happened after that explosion, Mr. Speaker, is the subject of intense investigation right now, but there are some facts that we do know. What we do know is that there was some degree of cooperation between one and perhaps two American companies and the Chinese government and their military and space agencies that allowed for a technology transfer to assist the Chinese in not just their commercial space launch program, but, more importantly, their ability to place long range missiles into the upper atmosphere and have a capability of deploying multiple warheads, posing an extremely significant threat to the U.S. and our allies.

The military significance of the technology transfer that took place following this explosion was of such gravity that a criminal investigation was opened by the U.S. Justice Department, and a grand jury was empaneled. The grand jury was empaneled to consider whether indictments were warranted in this cooperative technology transfer with the Chinese.

However, before any formal charges were filed, the criminal inquiry was dealt a very serious blow two months ago, in fact, this would have been in February or March of this year, when President Clinton quietly authorized the export to China of similar technology by one of the companies under investigation, the Loral Corporation.

So in effect, the President's quiet authorization of this technology transfer, which up until this time was not allowed under U.S. law, basically took the entire foundation away from the Justice Department investigation. In fact, Mr. Speaker, we know the Justice Department opposed that decision by the White House, arguing that it would be much more difficult to prosecute the companies if the government gave its blessing to the deal that had occurred. In fact, it is probably now impossible to have any indictments against Loral and Hughes because of the President's actions.

Why is this a scandal, Mr. Speaker? First of all, and I am going to get into this in great detail, this, perhaps, will do as much harm to our security as that situation that occurred years ago when the Russians were able to get our quieting technology that they basically illegally acquired, that allowed them to build their submarines in a quiet manner that makes it extremely difficult and in some cases impossible for our U.S. intelligence sources to monitor these submarines as they travel across the oceans of the world. This is a very egregious violation of transferring technology that directly threatens the U.S. and our people, as well as our allies.

But in addition, Mr. Speaker, the American people need to understand something else about the Loral Corporation. First of all, the CEO of the Loral Corporation, Mr. Schwartz, was the largest contributor to the Democratic National Committee in the year during which this entire process occurred. That in itself raises some concerns.

The questions that need to be answered are, did the CEO of Loral Corporation's involvement in contributing hundreds of thousands of dollars of personal wealth to one political party affect the President's decision to waive a requirement that basically undermined a judicial investigation, a criminal judicial investigation of this incident? We are attempting to find that out right now, Mr. Speaker.

The American people and our colleagues in this institution need to know whether or not this administration basically allowed a technology to be transferred to China that was up until that point in time prohibited, and that appears not only is that in itself an outrageous act; but then on top of that, did the influence of the CEO of that corporation, and the fact that that corporation hired one of the most well-connected lobbyists in the city, whose brother in fact had been working at the White House, did that connection have an impact on the President's decision? If it did, in my opinion, Mr. Speaker, that is treason.

□ 2320

Mr. Speaker, the whole issue of this technology transfer itself is a scandal. Newspapers across this city and across this country, through bits and pieces, have picked up the story and have attempted to piece it together.

The Speaker of the House, leadership on both sides of the national security effort in this body are concerned about the technology transfer itself as well as whether or not there was an impact of this CEO's involvement with one political party and convincing the President to waive the requirement that would have allowed the criminal prosecution of Loral and possibly Hughes to move forward.

We need to know the answers, and we need to have that information provided to us. To me it is an absolute outrage that this occurred even without the connection of the dollars from the CEO of Loral and his contributions to the Democratic National Committee.

But, Mr. Speaker, I think even of more significance to us for the long-term security of our country is the fact that this is a continuing pattern that we have seen over the past six years of this administration, advocating an aggressive arms control policy but in fact doing the complete opposite when it comes to violations of arms control agreements or the transfer of sensitive technology.

Mr. Speaker, there are those who are sitting in their offices tonight or those around the country who would say, here is another Republican just railing about this administration or railing about issues involving security, someone who wants to use China and perhaps Russia as a scapegoat for larger defense budgets.

Let me state at the outset, Mr. Speaker, that I have supported this administration in many instances on this floor on security issues. In fact, just several months ago, I traveled to Moscow very quietly to make the case to members of the Russian State Duma that they should understand the reason why President Clinton was about to take on Saddam Hussein if he, in fact, did not allow the U.N. inspectors to complete their investigations throughout Iraq. I did that in support of this President because I felt that Russia should understand why Americans were concerned and why Democrats and Republicans were supportive of our President in this very difficult decision to stand down Saddam Hussein when he basically ignored the requirements of the United Nations.

In addition, Mr. Speaker, I take great pride in working in a very bipartisan way with the Members of our Committee on National Security. In fact, just last week we reported our bill out of committee with a vote of 51 to 1, a strong bipartisan measure that had Democrat and Republican active involvement. And next week we will have that bill on the floor. Again, it will be a strong bipartisan effort.

In terms of Russia and China, Mr. Speaker, I take great pride in leading this body in our interactive effort with Russia. In fact, next week, again, I will be hosting senior leaders of the Russian State Duma from all nine major factions as we begin again the ongoing interactive dialogue that I helped start on a formal basis between the Russian State Duma and our Congress 2 years ago. Having traveled to Moscow and Russia some 14 times and having led delegations there to discuss a broad range of issues, including helping encourage more investment in Russia, stabilizing the economy, helping create a middle class, I take great pride in proactively engaging the Russian people and their leaders.

Likewise, Mr. Speaker, in the case of China, I support the policy of the President in engaging China. I think an isolationist approach advocated by some of my conservative colleagues is the wrong approach. And to that extent, last year I led two delegations of our colleagues to Beijing and Shanghai. In fact, while in Beijing, I was the first U.S. policymaker to address the National Defense University of the People's Liberation Army both times I went. I gave the first lecture at Fudan University in the Lincoln lecture series, and I will go back to China this year where I will deliver lectures at two other Chinese universities where they will name me an honorary member of their faculty.

I mention these facts, Mr. Speaker, because I want our colleagues and I want the American people to understand that it is not my intent to sensationalize the problems that I am going to outline here or to think that I am always critical of this administration when it comes to our relationship with other countries throughout the world. But, Mr. Speaker, this administration has a major problem in the arms control area. And this country needs to understand it, needs to think through the effect that this policy is having on us in the short-term and, more importantly, needs to understand the undermining this policy is going to have on future stability in the world in the 21st century.

I have given you one specific proliferation case, an egregious case that occurred this year that involves the potential for the largest scandal I think that this administration will have encountered since it took office 6 years ago. But I want to go through some other instances, Mr. Speaker, because unfortunately we see a pattern, a pattern that I think is causing us a more destabilized relationship with the major powers of the world, with the emerging powers of the world and with rogue nations.

This is extremely important because we are reading the headlines, Mr. Speaker, every day, most recently of India conducting underground nuclear tests. We were assured by this administration that arms control agreements would prevent countries like India from further proliferating nuclear weapons by conducting underground tests. Right before these underground tests by India, in fact about a month earlier, the same newspapers reported on their front pages Pakistan testing a medium range missile, which perhaps led to India's underground nuclear tests. The question then becomes, how and why are India and Pakistan becoming involved in what I think is one of the world's newest and potentially most devastating arms races?

One only has to look at the arms control record of this administration to see a pattern that unfortunately has occurred over the past 6 years.

The same pattern exists not just with technology involving missiles and weapons of mass destruction but involves supercomputers. Let me cite, Mr. Speaker, another example. Documents that have been made public, again by the news media show, that the Clinton administration approved the export of U.S. built supercomputers to Communist China in late December 1997, even though the Chinese officials were unwilling to allow on-site inspections of the delivery venue of those supercomputers which is required by U.S. law. Facts have shown that commerce officials for this government at our embassy in Beijing were denied permission by the Chinese government to inspect the university where these supercomputers were headed prior to the export of these digital high performance computers.

In fact, according to a December 19, 1997 letter to Lee Yu Hu, director general for science and technology at China's ministry of foreign trade and economic cooperation or MFTEC, cosigned by Commerce Department officials, Amanda Bus, assistant secretary for export enforcement, and Roger Mayjack, assistant secretary for export administration, and I quote, We were disappointed at MFTEC's decision not to allow an on-site end-use check and refusal to permit an embassy representative to travel to the stated university at the university's invitation. Because we were unable to work through MFTEC, we gathered information on the end user through other sources and have approved the license through those means.

A case where the administration did not even abide by the laws on the books of this country to secure a complete understanding of where these supercomputers were headed. Why is that so important?

□ 2330

It is so important because this body and the other body passed a new law in 1997 requiring that we know where this administration is allowing supercomputers to be sold.

Well, why would we pass a law like that, Mr. Speaker? We passed a law like that because in 1995 this administration allowed the export of high-speed supercomputers to Russia. Now, these supercomputers going to Russia, Mr. Speaker, were supposedly intended for a project involving wetlands analysis. When the actual determination was made as to where these supercomputers ended up, we found that these supercomputers ended up in nuclear weapons laboratories in Russia, a clear violation of the intent of the transfer and, obviously, a concern to Members' on both sides of the aisle in this institution and in the other body.

Because of that transfer and the fact that this administration allowed these supercomputers that were supposed to go for Russia for an environmental project to end up going to a nuclear weapons laboratory, we passed a law. That law was violated, Mr. Speaker, earlier this year when the President did not, in fact, require the Chinese government to allow us to see the end location of where these most recent supercomputers were going in China.

Mr. Speaker, this administration has maintained throughout the past 6 years that our security relationships around the world are based on arms control agreements. In fact, in many cases this administration has said that we do not need defensive military systems because arms control negotiations and deterrence and control of technology through these documents will provide the stability in the world and, therefore, we do not need defensive systems.

So not only has this administration opposed defensive systems, and not only have they tried to impose limitations on the Congress' ability to deploy these systems, but even more egregiously, Mr. Speaker, this administration, which claims to base its security arrangements on arms control agreements, has failed to enforce sanctions time and time again when proliferations occur; when companies and institutes in China and in Russia are caught transferring technology illegally to other nations.

Now, to back up my claim, Mr. Speaker, I would like to insert in the record for all of our colleagues and the American people to see several documents. The first involves a chronology compiled not by some Republican think tank but rather by the Congressional Research Service, an independent nonpartisan arm of the Congress, supported, I might add, by Democrats and Republicans. A chronology of Chinese weapons-related transfers since 1992.

Over the past 6 years our intelligence community caught China transferring technology illegally 271 times. This administration imposed sanctions once. Twenty-one times China transferred technology.

November 1992. M-11 missiles transferred to Pakistan. Violations: Missile Technology Control Regime, Arms Control Export Act, Export Administration Act. This time administration sanctions were imposed and then they were waived on November 1 of 1994.

In 1994-95. Dozens and possibly hundreds of missile guidance systems and computerized machine tools transferred by China to Iran. Violations of the MTCR, the Iran-Iraq Arms Nonproliferation Act, the Arms Export Control Act, the Export Administration Act. The administration's response: Nothing. No sanctions.

Second quarter of 1995. Parts for the M-11 missile to Pakistan. Violations: MTCR, Arms Export Control Act, Export Administration Act. The administration's response: Nothing. No sanctions.

December 1994 to mid 1995. 5,000 ring magnets to be used for nuclear enrichment programs for nuclear weapons in Pakistan. Violations: The Nonproliferation Treaty, the Export-Import Bank Act, the Nuclear Proliferation Prevention Act, the Arms Export Control Act. The administration's response: They considered the sanctions but they never imposed them.

July 1995. More than 30 M-11 missiles stored in Sargodha Air Force Base in Pakistan. Violation: MTCR, Arms Export Control Act, Export Administration Act. This administration's response: Nothing. No sanctions.

September 1995. Calutron electromagnetic isotope separation system for uranium enrichment to Iran. Again, for a nuclear weapons program. Violation: Nuclear Nonproliferation Treaty, Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Control Act. Response by this administration: Nothing. No sanctions.

1995 and 1997. C-802 anti-ship cruise missiles and C-801 air launch cruise missiles, again to Iran. Violation: Iran-Iraq Arms Nonproliferation Act. Response by the administration: Nothing. No sanctions.

February 1996. Dual-use chemical precursors and equipment to aid Iran's chemical weapons program. Violation: Arms Export Control Act, Export Administration Act. Result: Sanctions were imposed. The one time in 21. Sanctions were imposed May 21, 1997.

Summer 1996. 400 tons of chemicals transferred to Iran. Violation: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act. Administration response: Nothing. No sanctions.

August 1996. A plant to manufacture M-11 missiles or missile components in Pakistan. Violation: MTCR, Arms Export Control Act, Export Administration Act. Response by the administration: Nothing. No sanctions.

August 1996. Gyroscopes, accelerometers and test equipment for missile guidance systems, again to Iran. Violation: MTCR, Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act. Response by the administration: Nothing. No sanctions.

September 1996. Special industrial furnace and high-tech diagnostic equipment to unsafe guarded nuclear facilities in Pakistan. Violation: NPT, Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Control Act. Response by the administration: Nothing. No sanctions imposed.

July to December of 1996. The Director of Central Intelligence reports, and I quote, tremendous variety, end quote, of technology and assistance for Pakistan's ballistic missile program. Violations of the MTCR, the Arms Export Control Act, the Export Administration Act. Response by the administration: Nothing. No sanctions.

July-December of 1996. The same Director of Central Intelligence reports, and I quote, a tremendous variety, end quote, of assistance for Iran's ballistic missile program. Violations: MTCR, Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act. Response by the administration: Nothing. No sanctions.

July-December 1996 again. Again this Director of Central Intelligence reports, principal supplies of nuclear equipment, material and technology for Pakistan's nuclear weapons program. Violations: NPT, Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Administration Act. Response by the administration: Nothing. No sanctions.

July-December 1996. The same director reports key supplies for technology for large nuclear projects in Iran. Violations: NPT, Iran-Iraq Arms Nonproliferation Act, Nuclear Proliferation Prevention Act. Export-Import Bank Act, Arms Export Administration Act. Response by the administration: Nothing. No sanctions.

□ 2340

Again in July and December of 1996. The same Director of Central Intelligence reports, considerable chemical weapons-related transfers for production equipment and technology to Iran. Violations: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act. Response by the Administration: Nothing. No sanctions.

January of 1997. Dual use biological items to Iran. Violation: The BWC, the Iran-Iraq Arms Nonproliferation Act, the Arms Export Control Act, the Export Administration Act. Response by the Administration: Nothing. No sanctions.

1997 again. Chemical precursors, production equipment, and production technology for Iran's chemical weapons program including a plant for making glass-lined equipment. Violations again of the Iran-Iraq Arms Nonproliferation Act, the Arms Export Control Act, the Export Administration Act. Response by the Administration: Nothing. No sanctions.

September–December of 1997. The China Great Wall Industry Corporation provided telemetry equipment used in flight tests to Iran for its development of the Shahab III and Shahab IV medium-range ballistic missiles. Violation: MTCR, Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act. Response by the Administration: Nothing. No sanctions.

And finally, November 1997 through April of 1998. We now find they may have transferred technology for Pakistan's Ghauri medium-range ballistic missile that was flight-tested on April 6, 1998, violating the MTCR, the Arms Export Control Act, the Export Administration Act. No sanctions. No action taken by the administration.

Mr. Speaker, this is the record that is causing us to see a scenario unfolding that will place this country and the world at the greatest possible risk of confrontation. We see the administration daily railing about Iran's capability, Iraq's capability. We see them railing about India doing underground nuclear tests, Pakistan testing medium-range missiles. When here we have 21 specific cases, all documented, where this administration, which purports to base its arms control treaty relationships, as the basis for stopping proliferation in a situation where they do not enforce any of them except in one case.

And yet they wonder why, they wonder why India and Pakistan are now in a major arms control race. And they wonder why Iran and Iraq continue to develop threatening capabilities that threaten to destroy Israel, all of our allies in that region, all of our Arab friends, as well as our troops in that region.

Mr. Speaker, I argue on the floor tonight, it is this administration that is causing the problem we currently see in India, in Pakistan, Iraq, and Iran. It is this administration that bases its security relationships on arms control agreements but never enforces those very agreements when they are in fact violated.

Let us talk about Russia, Mr. Speaker. We have documented here for the RECORD 16 specific violations since 1990 and 1991 by the Russians of various treaties, and only for two of those 16 did the administration impose sanctions.

Early in the 1990s, we do not know the exact year, Russians sold drawings. Now listen to this, Mr. Speaker. The Russians sold drawings of a sarin plant manufacturing procedures and toxic agents to a Japanese terrorist group. The Russians sold these drawings to a Japanese terrorist group.

And we all know, several years ago in Japan in a subway we had a sarin weapons attack in a subway that killed Japanese citizens. Violations, Mr. Speaker, of the Arms Export Control Act, section 81, and the Export Administration Act, section 11(c). No publicly known sanctions were administered by this administration.

In 1991, Mr. Speaker, Russia transferred to China, Russian entities, 3 RD-120 rocket engines and electronic equipment to improve the accuracy of ballistic missiles, a violation of the MTCR; the Arms Export Control Act, Section 73; the Export Administration Act, section 11(b). No sanctions imposed by the Administration.

From 1991 and 1995, Russian entities transferred cryogenic liquid oxygen hydrorocket engines and technology to India, Mr. Speaker. Now China is supplying Pakistan. Russia is supplying India. Violations: MTCR; the Arms Export Control Act, section 73; the Export Administration Act, section 11(b). Sanctions against Russia and India under both of those cases were imposed on May 6 for 2 years and then they expired after 2 years. But they were imposed in that one instance.

From 1992 to 1995, Russian transfers to Brazil of carbon fiber technology for rocket motor cases for a space launch program. Violating the MTCR, the Arms Export Control Act, and the Export Administration Act. Sanctions were reportedly secretly imposed and then waived, although we never knew that because it was all done in secret.

From 1992 to 1996, Russian armed forces delivered 24 Scud-B missiles and eight launchers to Armenia, violating the MTCR, the Arms Export Control Act, the Export Administration Act. Sanctions again were never introduced or implemented by this administration.

June of 1993. Additional Russian enterprise involved in missile technology transfers to India, violating the MTCR, the Arms Export Control Act, the Export Administration Act. Sanctions were imposed on June of 1993, but they were waived until July. No publicly known follow-up on those sanctions.

1995 to the present, Mr. Speaker. Construction of a 1,000 megawatt nuclear reactor at Bushehr in Iran. And by the way, there was a side deal that the Ministry of Atomic Industry in Russia initially had that even Boris Yeltsin was not aware of on this nuclear power plant deal that only because inside of Russia it was exposed was that separate effort actually canceled, but the construction of the Bushehr nuclear power plant continued. Violations of the Iran-Iraq Arms Nonproliferation Act, the Foreign Operations Appropriations Act, the Nuclear Proliferation Prevention Act, and the Foreign Assistance Act. The response by the administration: They refused to renew some civilian nuclear cooperation agreements. They waived sanctions on aid. Waived sanctions, Mr. Speaker.

August of 1995. Russian assistance to Iran to develop biological weapons. Violations of the Biological Weapons Convention, the Arms Export Control Act, the Export Administration Act, the Iran-Iraq Arms Nonproliferation Act, the Foreign Assistance Act. No known sanctions.

November 1995. Russian citizens transferred to unnamed country technology for making chemical weapons, violating the Arms Export Control Act, the Export Administration Act. The sanctions were imposed in this case on a Russian citizen on November 17, 1995.

December of 1995. Russian gyroscopes from submarine launched ballistic missiles smuggled to Iraq through middlemen. We caught them red-handed, Mr. Speaker, red-handed, violating the United Nations sanctions, the Missile Technology Control Regime, the Arms Export Control Act, the Export Administration Act, the Iran-Iraq Arms Nonproliferation Act, and the Foreign Assistance Act. No sanctions were ever imposed.

In fact, Mr. Speaker, we were told when I wrote to the President on this particular transfer that we would pursue this aggressively, and we did not impose sanctions, the Administration said, because Russia was pursuing a criminal investigation.

We now know that last fall Russia ended the criminal investigation. No criminal levies were brought against any Russian citizen or company, and in fact, no sanctions were ever imposed. The transfer took place. In fact, we now know there were 120 sets of these guidance systems that went to Iraq from Russia three different times.

July–December of 1996. The Director of Central Intelligence reported Russia transferred to Iran a variety of items related to ballistic missiles. Violating the MTCR, the Arms Export Control Act, the Export Administration Act, the Foreign Assistance Act, the Iran-Iraq Arms Nonproliferation Act, and the Foreign Operations Appropriations Act. The administration's response, no sanctions.

November of 1996. Israel reported Russian assistance to Syria to build a chemical weapons plant. Violating the Arms Export Control Act, the Export Administration Act, and the Foreign Assistance Act.

□ 2350

No publicly known sanctions. 1996 and 1997, Russia delivered 3 kilowatt diesel electric submarines to Iran, violations of the Iran-Iraq Arms Nonproliferation Act, the Foreign Assistance Act. No sanctions imposed.

January to February of 1997, Russia transferred detailed instructions to Iran on the production of the SS-4 missile, which now, within a year, will threaten all of Israel and all of our friends and our troops in that theater, violating the MTCR, the Missile Technology Control Regime, the Arms Export Control Act, the Export Administration Act, the Foreign Assistance Act, the Iran-Iraq Arms Nonproliferation Act, and the Foreign Operations Appropriations Act. No sanctions imposed, Mr. Speaker.

April of 1997, Russia sold S-300 antiaircraft, antimissile missile systems to Iran to protect the nuclear plant that they were building, again in violation of treaties. These violations were of the Iran-Iraq Arms Nonproliferation Act and the Foreign Assistance Act. No known sanctions.

Finally, in October of 1997, Israeli intelligence reported Russian technology transfers for Iranian missiles developed with ranges between 1,300 and 10,000 kilometers. The transfers included engines and guidance systems, violating the MTCR, the Arms Export Control Act, the Export Administration Act, the Iran-Iraq Arms Nonproliferation Act, and the Foreign Operations Appropriations Act. No known sanctions.

Mr. Speaker, I know I sound repetitious in going through all of those violations, but I think it is about time, Mr. Speaker, that we lay the cards on the table. This administration has no foreign policy. This administration maintains that arms control agreements are the basis of our security relationships.

I have just cited on the RECORD, with documentation involving China and Russia, which I ask all of our colleagues and the American people to review, 40 separate occasions where violations of agreements have taken place and where on only three occasions has this administration imposed sanctions.

We wonder why the President says Iran and Iraq have this capability. We wonder why Russian entities continue to sell technology to Iraq and to Iran. We wonder why India is doing underground nuclear tests. We wonder why

Pakistan is testing medium-range missiles, all of which are destabilizing world security.

Why are all these things happening? Because everyone in the world knows this administration does not enforce the laws that we place on the books, that we ask every nation that is a signatory to abide by.

Mr. Speaker, time is running out. In the 12 years that I have been in this institution, I have never seen a greater lack of confidence in any administration by this body and the other body in enforcing arms control agreements.

Last November, after this body found out, primarily by the actions of the leaders of Israel, Mr. Netanyahu and the Israeli intelligence community, after we found out from them that Russia had signed deals, the Russian space agency with the Iranians, to build this missile that is going to threaten Israel a year from now, the Congress was outraged.

A bipartisan Iran sanctions bill was introduced by the gentleman from New York (Mr. GILMAN), co-endorsed by the gentlewoman from California (Ms. HARMAN), and supported by Democrats and Republicans.

Vice President GORE, who I have the highest respect for, called a group of us down to the White House. This was in November of last year. There were 12 or 13 of us in the room, the Vice President's meeting room, along with some of his security people.

We met for an hour. There were Senators, Democratic, Republican Senators, and there were Democratic, Republican House Members, chairmen of committees, and key people involved in international and defense issues.

The Vice President personally pleaded with us. He said, my friends, please do not let this Iran sanctions bill pass the House, because if it passes, it will send the wrong signal. It will send the signal that the Congress has no confidence in this administration's ability to control proliferation.

When he finished, every one of us in the room, Democrats and Republicans, Senators and House Members, said, Mr. Vice President, it is too late. The Congress has lost confidence.

That same week, Mr. Speaker, the RECORD speaks for itself, the Iran missile sanctions bill came up on the House floor, and almost 400 Members of this body voted in favor of that bill in spite of the Vice President lobbying personally against it. Liberals, conservatives, southerners, northeasterners, big city representatives, and rural areas all came together and said, we have got to send a signal that this policy of the past 6 years is failing. It is destabilizing the world. The bill passed the House.

Then a month and a half ago, I got a call from the White House to come back down because the Vice President again wanted to meet with a group of us. So I went back down to the White House. Again, I was with the Vice President. On one side of him was a Member of the National Security Council. On the other side was one of his key staffers.

The Vice President met with the 13 or 14 of us again for 90 minutes. He went through all of the efforts being taken to assist Russia in controlling proliferation. When he finished his discussion, I said, Mr. Vice President, I agree, you are making efforts, and you are getting some results, but you have not totally stopped the proliferation.

He said, I know. You are right. We have not totally cut it off. He said, but please do not pass that bill in the Senate.

That bill is pending right now for a vote in the Senate. If it is brought up, my prediction is it will pass.

Mr. Speaker, we have got a problem. This Congress has lost confidence in this administration's ability to stop proliferation. Why is that important, Mr. Speaker? Because every day we pick up the newspaper, we are reading more horror stories that shake this world that are eventually going to lead to a confrontation, a confrontation perhaps between India and Pakistan, and the tensions are flaring there rapidly; a confrontation between North Korea and perhaps Japan or South Korea; a confrontation between Iran and Israel or Iraq and Israel or some other nation, all of which have benefited from these technology transfers that this administration has ignored for 6 straight years, all the time saying we do not need defensive systems because our arms control negotiations are the security blanket we need to provide stability in the world.

On top of all of this, Mr. Speaker, we read of a situation, front page in the New York Times, that one of our companies assisted the Chinese illegally, were under a criminal investigation with the grand jury when the President of the United States very quietly issued an executive order waiving, waiving the actual prohibition so that the entire criminal investigation of Loral Corporation was undermined by the action of the President.

Then we find out that the CEO of that corporation is, in one year, the single largest contributor politically to the President's campaign and the Democratic National Committee, over $300,000 by one person, the CEO of that same company that was able to get itself out of what was an aggressive criminal investigation.

Mr. Speaker, we are going to get to the bottom of this. Not because this is a scandal that would embarrass the President, not because this is some kind of a campaign fund-raising issue, but because this threatens the security of this Nation.

If the facts are as they have been reported in the New York Times and the other major national media, this, in fact, Mr. Speaker, in my mind, is an act of treason, and this, in my mind, would result in a call for impeachment proceedings against this President.

Mr. Speaker, I thank the staff of the House for staying through this ordeal, and I thank you, Mr. Speaker, for remaining here during this time so that I could present this special order.

Mr. Speaker, I include for the RECORD the documents I referred to:

TECHNOLOGY SCANDAL WITH RISKY PORTENT

[From the Washington Times, Apr. 7, 1998]

(By Frank Gaffney, Jr.)

The front page of Saturday's New York Times featured an article that should alarm every American. It reported that two of America's leading aerospace companies—Loral Space and Communications and Hughes Electronics—are suspected of having provided "space expertise that significantly advanced Beijing's ballistic missile program."

It will be recalled that the PRC's ballistic missile program includes missiles capable of delivering nuclear weapons against cities in the United States. This is hardly an abstract threat.

Not so long ago, a top Chinese official intimated to the longtime No. 2 man at the U.S. Embassy in Beijing that such an attack against Los Angeles would be in prospect if the United States interfered in China's campaign of intimidation against Taiwan.

Although this is not the first time American firms are alleged to have supplied foreign governments with militarily relevant equipment and know-how that could wind up being used to harm the United States, its citizens or interests, it is a particularly egregious example of the syndrome.

According to the New York Times, the two American concerns were called in to help the Chinese determine why their Long March space-launch vehicle blew up in February 1996, destroying a $200 million satellite built by Loral that it was supposed to place on-orbit. The article states that "Those exchanges, officials believe, may have gone beyond the sharing of information that the companies had been permitted, giving the Chinese crucial assistance in improving the guidance systems of their rockets. The technology needed to put a commercial satellite in orbit is similar to that which guides a long-range nuclear missile to its target."

In fact, the military significance of this technology transfer was of sufficient gravity that a criminal investigation was opened and a grand jury empaneled to consider indictments in the matter. Before formal charges were filed, however, "the criminal inquiry was dealt a serious blow two months ago when President Clinton quietly authorized the export to China of similar technology by one of the companies under investigation"—namely, Loral.

The chilling effect Mr. Clinton's action would have was clearly understood at the time it was taken. In the words of the New York times: "The decision was opposed by Justice Department officials, who argued that it would be much more difficult to prosecute the companies if the government gave its blessing to the deal." In fact, as a practical matter, it will probably be impossible to prosecute the case against Loral and Hughes.

This is a scandal on three levels.

First, the Clinton administration's indifference to the arming of communist China is simply stupefying. Even the most pollyannish of experts in the field recognize that there is a chance that the massive modernization program upon which the People's Liberation Army (PLA) has embarked may produce a "peer competitor" to the United States in the next century. More realistic observers judge the PLA's doctrine and procurement programs as dispositive evidence of a determined effort to attain such a status.

The Clinton team has nonetheless approved among other technology transfers to China: The sale of machine tools used to manufacture advanced military aircraft; jet engines suitable for use in fighter aircraft and cruise missiles; sophisticated telecommunications equipment; and 46 supercomputers that have wound up in the Chinese military-industrial complex, including its nuclear weapons program. Now, the administration has endorsed the sale of equipment and know-how that will assist Beijing in delivering its nuclear arms to American targets. This is all the more appalling given Clinton-Gore's determination to deny the American people near-term, effective defenses against ballistic missile attack.

Second, even if the Chinese space-launch program were not an inherently dual-use affair (that is, a program that has both military and civilian dimensions, with technology flows between the two unavoidable), the administration's policy of abetting China's space activities would still be contrary to long-term U.S. interests.

To be sure, some U.S. companies (notably, Loral and Hughes) are anxious to find inexpensive launch services for their satellites. They tend to be delighted with Mr. Clinton's easing of restraints on American use of massively subsidized space-launch operations in China and Russia, operations trying to buy into and ultimately to dominate the commercial launch market. In helping its friends in Beijing and the Kremlin to undercut an already-struggling U.S. space launch industry, however, the Clinton administration is further jeopardizing the United States' ability to assure its access to space. This is a critical national security, as well as commercial capability.

Regrettably, Mr. Clinton does little more than pay lip service to the need for this and other means necessary for the United States to exercise the dominance of outer space necessitated by both military and private sector requirements. Instead, he compounds the damage done by his line-item vetoes last fall of critical U.S. space control technologies with initiatives that reward Russia and China with dual-use missile technology for merely reaffirming their commitment to non-proliferation—even as they continue to engage in it. In fact, it is a safe bet, that at least some of the missile technology sold to China by Loral and others will wind up in the weapons fielded by enemies of Israel and other American friends.

Finally, it must be asked: Could the fact that Loral's CEO Bernard Schwartz, was the largest personal contributor to the Democratic National Committee last year have anything to do with the president's decision effectively to vitiate legal proceedings against his company? Or was this simply yet another instance in which a federal case involving Chinese interests was sabotaged by members of the Clinton team? (in 1996, someone—probably at the State Department—blew a sting operation as it was about to net a PRC "princeling" implicated in running thousands of AK-47s to U.S. agents who were posing as purchasers for drug lords and street gangs.)

Any way you slice it, the administration's handling of the China account is a scandal. Will it be held accountable for the damage it is thus doing to the nation's security, to long-term U.S. commercial interests and, perhaps ultimately, even to the physical safety of individual Americans?

Date of transfer or report	Reported transfer by China	Possible violation	Administration's response
Nov. 1992	M–11 missiles or related equipment to Pakistan (The Administration did no officially confirm reports that M–11 missiles are in Pakistan.).	MTCR: Arms Export Control Act, Export Administration Act.	Sanctions imposed on Aug. 24, 1993, for transfers of M–11 related equipment (not missiles); waived on Nov. 1, 1994.
Mid-1994 to mid-1995	Dozens or hundreds of missile guidance systems and computerized machine tools to Iran.	MTCR: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
2nd quarter of 1995	Parts for the M–11 missile to Pakistan	MTCR: Arms Export Control Act, Export Administration Act.	No sanctions.
Dec. 1994 to mid-1995	5,000 ring magnets for an unsafeguarded nuclear enrichment program in Pakistan.	NPT: Export-Import Bank Act, Nuclear Proliferation Prevention Act, Arms Export Control Act.	Considered sanctions under the Export-Import Bank Act; but announced on May 10, 1996, that no sanctions would be imposed.
July 1995	More than 30 M–11 missiles stored in crates at Sargodha Air Force Base in Pakistan.	MTCR: Arms Export Control Act, Export Administration	No sanctions.
Sept. 1995	Calutron (electromagnetic isotope separation system) for uranium enrichment to Iran).	NPT: Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Control Act.	No sanctions.
1995–1997	C–802 anti-ship cruise missiles and C–801 air-launched cruise missiles to Iran.	Iran-Iraq Arms Nonproliferation Act	No sanctions.
Before Feb. 1996	Dual-use chemical precursors and equipment to Iran's chemical weapon program.	Arms Export Control Act, Export Administration Act	Sanctions imposed on May 21, 1997.
Summer 1996	400 tons of chemicals to Iran	Iran-Iraq Arms Nonproliferation Act,[1] Arms Export Control Act, Export Administration Act.	No sanctions.
Aug. 1996	Plant to manufacture M–11 missiles or missile components in Pakistan.	MTCR: Arms Export Control Act, Export Administration Act.	No sanctions.
Aug. 1996	Gyroscopes, accelerometers, and test equipment for missile guidance to Iran.	MTCR: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
Sept. 1996	Special industrial furnace and high-tech diagnostic equipment to unsafeguarded nuclear facilities in Pakistan.	NPT: Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Control Act.	No. sanctions.
July–Dec. 1996	Director of Central Intelligence (DCI) reported "tremendous variety" of technology and assistance for Pakistan's ballistic missile program.	MTCR: Arms Export Control Act, Export Administration Act.	No sanctions.
July–Dec. 1996	DCI reported "tremendous variety" of assistance for Iran's ballistic missile program.	MTCR: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
July–Dec. 1996	DCI reported principal supplies of nuclear equipment, material, and technology for Pakistan's nuclear weapon program.	NPT: Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Administration Act.	No sanctions.
July–Dec. 1996	DCI reported key supplies of technology for large nuclear projects in Iran.	NPT: Iran-Iraq Arms Nonproliferation Act, Nuclear Proliferation Prevention Act, Export-Import Bank Act, Arms Export Administration Act.	No sanctions.
July–Dec. 1996	DCI reported "considerable" chemical weapon-related transfers of production equipment and technology to Iran.	Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
Jan. 1997	Dual-use biological items to Iran	BWC: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
1997	Chemical precursors, production equipment, and production technology for Iran's chemical weapon program, including a plant for making glass-lined equipment.	Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
Sept. to Dec. 1997	China Great Wall Industry Corp. provided telemetry equipment used in flight-tests to Iran for its development of the Shahab-3 and Shahab-4 medium range bailistic missiles.	MTCR: Iran-Iraq Arms Nonproliferation Act, Arms Export Control Act, Export Administration Act.	No sanctions.
Nov. 1997/April 1998	May have transferred technology for Pakistan's Ghauri medium-range ballistic missile that was flight-tested on April 6, 1998.	MTCR: Arms Export Control Act, Export Administration Act.	No sanctions.

[1] Additional provisions on chemical, biological, or nuclear weapons were not enacted until February 10, 1996.

BWC: Biological Weapons Convention.
MTCR: Missile Technology Control Regime.
NPT: Nuclear Nonproliferation Treaty.

Date of transfer or report	Reported Russian transfers that may have violated a regime or law	Possibly applicable treaties, regimes, and/or U.S. laws	Administration's response
Early 1990s	Russians sold drawings of a sarin plant, manufacturing procedures, and toxic agents to a Japanese terrorist group.	AECA sec. 81, EAA sec. 11C	No publicly known sanction.

Date of transfer or report	Reported Russian transfers that may have violated a regime or law	Possibly applicable treaties, regimes, and/or U.S. laws	Administration's response
1991	Transferred to China three RD-120 rocket engines and electronic equipment to improve accuracy of ballistic missiles.	MTCR: AECA sec. 73, EAA sec. 11B	No publicly known sanction.
1991-1995	Transferred Cryogenic liquid oxygen/hydrogen rocket engines and technology to India.	MTCR: AECA sec. 73 EAA sec. 11B	Sanctions against Russia and India under AECA and EAA imposed on May 6, 1992; expired after 2 years.
1992–1995	Russian transfers to Brazil of carbon-fiber technology for rocket motor cases for space launch program.	MTCR: AECA sec. 73, EAA sec. 11B	Sanctions reportedly secretly imposed and waived.
1992–1996	Russian armed forces delivered 24 Scud-B missiles and 8 launchers to Armenia.	MTCR: AECA sec. 73, EAA sec. 11B	No publicly known sanction.
June 1993	Additional Russian enterprises involved in missile technology transfer to India.	MTCR: AECA sec. 73, EAA sec. 11B	Sanctions imposed on June 16, 1993 and waived until July 15, 1993; no publicly known follow-up sanction.
1995-present	Construction of 1,000 megawatt nuclear reactor at Bushehr in Iran.	IIANPA sec. 1604 and 1605, FOAA, NPPA sec. 821, FAA sec. 620G.	Refused to renew some civilian nuclear cooperation agreements; waived sanctions on aid.
Aug. 1995	Russian assistance to Iran to develop biological weapons.	BWC, AECA sec. 81, EAA sec. 11C, IIANPA sec. 1604 and 1605, FAA sec. 620G and 620H.	No publicly known sanction.
Nov. 1995	Russian citizen transferred to unnamed country technology for making chemical weapons.	AECA sec. 81, EAA sec. 11C	Sanctions imposed on Nov. 17, 1995.
Dec. 1995	Russian gyroscopes from submarine launched ballistic missiles smuggled to Iraq through middlemen.	United Nations Sanctions, MTCR, AECA sec. 73, EAA sec. 11B, IIANPA sec. 1604 and 1605, FAA sec. 620G and 620H.	No publicly known sanction.
July–Dec. 1996	DCI reported Russia transferred to Iran "a varity" of items related to ballistic missiles.	MTCR AECA sec. 73, EAA sec. 11B, FAA sec. 620G and 620H, IIANPA sec. 1604 and 1605, FOAA.	No publicly known sanction.
Nov. 1996	Israel reported Russian assistance to Syria to build a chemical weapon plant.	AECA sec. 81, EAA sec. 11C, FAA sec. 620G and 620H	No publicly known sanction.
1996–1997	Delivered 3 Kilo diesel-electric submarines to Iran	IIANPA sec. 1604 and 1605, FAA sec. 620G and 620H	No publicly known sanction.
Jan.–Feb. 1997	Russia transferred detailed instructions to Iran on production of the SS–4 medium-range missile and related parts.	MTCR: AECA sec. 73, EAA sec. 11B, IIANPA sec. 1604 and 1605, FOAA.	No publicly known sanction.
April 1997	Sale of S–300 anti-aircraft/anti-missile missile system to Iran to protect nuclear reactors at Bushehr and other strategic sites.	IIANPA sec. 1604 and 1605 FAA sec. 620G and 620H	No publicly known sanction.
Oct. 1997	Israeli intelligence reported Russian technology transfers for Iranian missiles developed with ranges between 1,300 and 10,000 km. Transfers include engines and guidance systems.	MTCR: AECA sec. 73, EAA sec. 11B, IIANPA sec. 1604 and 1605, FAA sec. 620G and 620H FOAA.	No publicly known sanction.

Regimes: BWC: Biological Weapons Convention. MTCR: Missile Technology Control Regime.

U.S. Laws: AECA: Arms Export Control Act. EAA: Export Administration Act. FAA: Foreign Assistance Act. FOAA: Foreign Operations Appropriations Act, IIANPA: Iran-Iraq Arms Non—Proliferation Act. NPPA: Nuclear Proliferation Prevention Act.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today, after 6:30 p.m., on account of physical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SANDERS) to revise and extend their remarks and include extraneous material:

Mr. CONYERS, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:

Mr. HOUGHTON, for 5 minutes, today.

Mr. BARR, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SANDERS) and to include extraneous matter:)

Mr. HAMILTON.
Mr. TOWNS.
Mr. KUCINICH.
Mr. KIND.
Mr. STARK.
Mr. KLECZKA.
Mr. DEUTSCH.
Mr. DAVIS of Illinois.
Mr. BERRY.
Mr. SCHUMER.
Mr. FARR of California.
Mr. LANTOS.
Ms. LEE of California.
Mr. HINCHEY.
Mr. OLVER.
Mr. SABO.
Ms. KILPATRICK.
Mr. CONYERS.

(The following Members (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. CAMPBELL.
Mr. GOODLING.
Mr. KINGSTON.
Mr. CANNON.
Mr. RADANOVICH.
Mr. CASTLE.
Mr. HASTERT.
Mrs. SMITH of Washington.
Mr. THORNBERRY.
Mr. SMITH of Michigan.
Mr. KNOLLENBERG.
Mr. CUNNINGHAM.
Mr. SOLOMON.
Mr. MICA.
Mr. GIBBONS.
Mr. COLLINS.

(The following Members (at the request of Mr. WELDON of Pennsylvania) and to include extraneous matter:)

Mr. GILLMOR.
Mr. CLYBURN.
Mr. GINGRICH.
Mr. JOHNSON of Wisconsin.
Mr. OWENS.
Mr. DEFAZIO.
Mr. UPTON.
Mr. RAMSTAD.
Mr. CARDIN.
Mr. MCINNIS.
Mrs. NORTHUP.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 75. Concurrent resolution honoring the sesquicentennial of Wisconsin statehood; to the Committee on Government Reform and Oversight.

ADJOURNMENT

Mr. WELDON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, May 14, 1998, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9112. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Mediterranean Fruit Fly; Addition to the Quarantined Area [Docket No. 97–056–11] received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9113. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Diflubenzuron; Temporary Pesticide Tolerance [OPP–300660; FRL–5790–5] (RIN: 2070–AB78) received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9114. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule Tebufenozide; Pesticide Tolerances for Emergency Exemptions [OPP–300640; FRL–5784–7] (RIN: 2070–AB78) received May 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9115. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—N-(4-fluorophenyl)-N- (1-methylethyl)-2 [[5-(trifluoromethyl)— 1,3,4-thiadiazol-2-yl]o]acetamide; Time-Limited Pesticide Tolerance, Correction [OPP–300636A; FRL–5787–6] (RIN: 2070–AB78) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9116. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Special Combinations for Tobacco Allotments and Quotas (RIN: 0560–AF14) received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9117. A communication from the President of the United States, transmitting requests to make available emergency appropriations for the Departments of Agriculture, Defense, the Interior, and Transportation; the Corps of Engineers; the Federal Emergency Management Agency; the United States Information Agency; and International Security Assistance, pursuant to Public Law 105—174; (H. Doc. No. 105—251); to the Committee on Appropriations and ordered to be printed.

9118. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Electronic Funds Transfer [DFARS Case 98–D012] received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9119. A letter from the Director, Office of Management and Budget, transmitting a report on direct spending or receipts legislation within seven days of enactment, pursuant to Public Law 101—508; to the Committee on the Budget.

9120. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits [29 CFR Part 4044] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9121. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Determination of Functional Equivalency on Harmonization [NHTSA–98–3815] (RIN: 2127–AG62) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9122. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Finding of Failure to Submit Required State Implementation Plans for Carbon Monoxide; Arizona; Phoenix Carbon Monoxide Nonattainment Area [OAQPS # AZ–007–FON; FRL 6010–3] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9123. A letter from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Procedures for Reviewing Requests for Relief From State and Local Regulations Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934 [WT Docket No. 97–192, ET Docket No. 93–62, RM–8577] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9124. A letter from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules to Relocate the Digital Electronic Message Service From the 18 GHz Band to the 24 GHz Band and to Allocate the 24 GHz Band For Fixed Service [ET Docket No. 97–99] received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9125. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule—Natural Rubber-Containing Medical Devices; User Labeling [Docket No. 96N–0119] received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9126. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Forces's Proposed Letter(s) of Offer and Acceptance (LOA) to the Republic of Korea for defense articles and services (Transmittal No. 98–40), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9127. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC–22–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9128. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Turkey (Transmittal No. DTC–18–98), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9129. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Brunei (Transmittal No. DTC–4–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9130. A letter from the Chief Financial Officer, Export-Import Bank of the United States, transmitting the Bank's management report for the fiscal year ending September 30, 1997 and a copy of the 1997 Annual Report, pursuant to 12 U.S.C. 635g(a); to the Committee on Government Reform and Oversight.

9131. A letter from the President, Federal Financing Bank, transmitting the Bank's Annual Management Report for Fiscal Year 1997, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform and Oversight.

9132. A letter from the Chairman, Federal Maritime Commission, transmitting the semiannual report on the activities of the Office of Inspector General, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

9133. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

9134. A letter from the Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants: Final Rule to List the Preble's Meadow Jumping Mouse as a Threatened Species (RIN: 1018–AE06) received May 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9135. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—SPECIAL LOCAL REGULATIONS; El Nuevo Dia Offshore Cup, Bahia De Mayaguez, Puerto Rico [CCGD07 98–012] (RIN: 2115–AE46) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9136. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class D Airspace; Twin Falls, ID [Airspace Docket No. 97–ANM–24] received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9137. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—SAFETY ZONES, SECURITY ZONES, AND SPECIAL LOCAL REGULATIONS [USCG–1998–3772] received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9138. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Short Brothers Model SD3–30 and SD3–60 Series Airplanes Equipped with Fire Fighting Enterprises (U.K.) Ltd. Fire Extinguishers [Docket No. 96–NM–175–AD; Amendment 39–10509; AD 98–09–28] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9139. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Commercial Passenger-Carrying Operations in Single-Engine Aircraft under Instrument Flight Rules [Docket No. 28743; Amendment Nos. 43, 73] (RIN: 2120–AG55) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9140. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Borrego Springs, CA [Airspace Docket 96–AWP–4] (RIN: 2120–AA66) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9141. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class D Airspace; Mountain View, CA [98–AWP–9] (RIN: 2120–AA66) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9142. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company Model GE90–76B Turbofan Engines [Docket No. 97–ANE–28–AD; Amendment 39–10496; AD 98–09–15] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9143. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Osceola, AR [Airspace Docket No. 92–ASW–35] received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9144. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A330–301 Series Airplanes [Docket No. 97–NM–300–AD; Amendment 39–10511; AD 98–09–30] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9145. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives Boeing Model 747–400 Series Airplanes [Docket No. 97–NM–138–AD; Amendment 39–10510; AD 98–09–29] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9146. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL–215–1A10 and CL–215–6B11 Series Airplanes; Correction [Docket No. 98–NM–05–AD; Amendment 39–10458] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9147. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes [Docket No. 98–NM–131–AD; Amendment 39–10512; AD 98–10–01] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9148. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes [Docket No. 97–NM–199–AD; Amendment 39–10513; AD 98–10–02] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9149. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) (Eurocopter Deutschland) Model MBB-BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters [Docket No. 97–SW–45–AD; Amendment 39–10246; AD 97–26–03] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9150. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company 90, 100, 200, and 300 Series Airplanes (formerly known as Beech Aircraft Corporation 90, 100, 200, and 300 series airplanes) [Docket No. 97–CE–05–AD; Amendment 39–10207; AD 97–23–17] (RIN: 2120–AA64) received May 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9151. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Credit for Producing Fuel From a Nonconventional Source, 29 Inflation Adjustment Factor, and 29 Reference Price [Notice 98–28, 1998–19 I.R.B.] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9152. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, First-out Inventories [Revenue Ruling 98–26] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9153. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Valuation of Certain Farm, Etc., Real Property [Revenue Ruling 98–22] received May 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3504. A bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance; with an amendment (Rept. 105–533). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 430. Resolution providing for consideration of the bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes (Rept. 105–534). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on Commerce discharged from further consideration. H.R. 1023 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1704. Referral to the Committees on Government Reform and Oversight and House Oversight extended for a period ending not later than May 22, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. DELAY as an expenditure by the candidate.

H.R. 3850. A bill to provide reporting requirements for the assertion of executive privilege, and for other purposes; to the Committee on the Judiciary.

By Mr. OBEY:

H.R. 3851. A bill to amend the Federal Election Campaign Act of 1971 to provide for expenditure limitations and public financing for House of Representatives general elections, and for other purposes; to the Committee on House Oversight, and in addition to the Committees on Ways and Means, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBEY:

H.R. 3852. A bill to amend the Federal Election Campaign Act of 1971 to provide for public financing for House of Representatives general elections for candidates who voluntarily limit expenditures, and for other purposes; to the Committee on House Oversight, and in addition to the Committees on Ways and Means, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PORTMAN (for himself, Mr. BISHOP, and Mr. SOUDER):

H.R. 3853. A bill to promote drug-free workplace programs; to the Committee on Small Business.

By Mr. BARR of Georgia (for himself, Mr. SOLOMON, Mr. MICA, Mr. GRAHAM, Mr. BURTON of Indiana, Mr. LATOURETTE, Mr. MCINTOSH, and Mr. SESSIONS):

H.R. 3854. A bill to amend title 18, United States Code, to modify immunity provisions in certain cases involving Congressional investigations; to the Committee on the Judiciary.

By Mr. BROWN of Ohio (for himself, Mrs. JOHNSON of Connecticut, and Mr. GREENWOOD):

H.R. 3855. A bill to provide for payments to children's hospitals that operate graduate medical education programs; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EWING (for himself and Mr. WELLER):

H.R. 3856. A bill to provide for the conveyance of the vacant Army Reserve Center in Kankakee, Illinois; to the Committee on National Security.

By Mr. HOUGHTON (for himself, Mr. LEVIN, Mr. WELLER, Mr. ENGLISH of Pennsylvania, Mr. RAMSTAD, Mr. CAMP, Mr. METCALF, Mr. TRAFICANT, Mr. FROST, Ms. STABENOW, Ms. LOFGREN, Mr. MCDERMOTT, and Mr. KLECZKA):

H.R. 3857. A bill to amend the Internal Revenue Code of 1986 to allow the research credit for expenses attributable to certain collaborative research consortia; to the Committee on Ways and Means.

By Mr. HUNTER (for himself, Mr. BILBRAY, Mr. PACKARD, Mr. REYES, and Mr. CUNNINGHAM):

H.R. 3858. A bill to assure drug-free borders by increasing penalties for certain drug-related offenses, to enhance law enforcement efforts for counterdrug activities, and for other purposes; to the Committee on the Judiciary.

By Mr. SCARBOROUGH:

H.R. 3859. A bill to amend the Internal Revenue Code of 1986 to repeal the estate and gift tax; to the Committee on Ways and Means.

By Mr. SCARBOROUGH:

H.R. 3860. A bill to amend the Internal Revenue Code of 1986 to eliminate taxes on capital gains after December 31, 2001; to the Committee on Ways and Means.

By Mrs. LINDA SMITH of Washington (for herself and Mr. HUNTER):

H.R. 3861. A bill to amend the Internal Revenue Code of 1986 to provide, for purposes of computing the exclusion of gain on sale of a principal residence, that a member of the Armed Forces of the United States shall be treated as using property as a principal residence while away from home on extended active duty; to the Committee on Ways and Means.

By Mr. UPTON (for himself and Mr. Towns):

H.R. 3862. A bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers; to the Committee on Commerce.

By Mr. WATTS of Oklahoma (for himself, Mr. Taylor of Mississippi, Mr. Hefley, Mr. Ryun, Mr. Bilbray, Mr. Boyd, Ms. Eddie Bernice Johnson of Texas, and Mr. Filner):

H.R. 3863. A bill to provide for a special Medicare part B enrollment period, a reduction or elimination in the part B late enrollment penalty, and a special medigap open enrollment period for certain military retirees and dependents; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WHITFIELD (for himself and Mr. Rogers):

H.R. 3864. A bill to designate the post office located at 203 West Paige Street, in Tompkinsville, Kentucky, as the "Tim Lee Carter Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. SAXTON:

H. Con. Res. 276. Concurrent resolution expressing the sense of the Congress that United States foreign policy with respect to the Middle East peace process should not include an attempt to require Israel to make concessions which Israel does not believe to be in its self-interest, including concessions which would jeopardize the security of Israel; to the Committee on International Relations.

By Mr. DREIER:

H. Res. 429. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. Walsh.

H.R. 371; Mr. Hutchinson.

H.R. 678: Mr. Ramstad, Mr. Smith of Oregon, Mr. Barrett of Wisconsin, Mr. Dooley of California, Ms. Jackson-Lee of Texas, Mr. Hinchey, Mr. Kanjorski, Mr. Torres, Mr. Moakley, Mr. Kennedy of Massachusetts, Mr. Kennedy of Rhode Island, Mr. Hefley, Mrs. Northup, Mr. Brown of California, Mr. Bonilla, Mr. Gallegly, Mr. Jones, Mr. Kim, Mr. Packard, and Mr. Porter.

H.R. 716: Mr. Wamp.

H.R. 746: Mrs. Myrick and Mr. Farr of California.

H.R. 754: Mr. Neal of Massachusetts and Ms. Furse.

H.R. 815: Ms. Norton.

H.R. 864: Mr. Bishop, Mr. Torres, Mr. Roemer, Mr. Dingell, and Mr. Gillmor.

H.R. 872: Mr. Farr of California, Mr. Saxton, and Mr. Stearns.

H.R. 922: Mr. Kim.

H.R. 953: Ms. Danner and Mr. Deutsch.

H.R. 979: Mr. Sawyer, Mr. Ortiz, Mr. Cooksey, Mr. Towns, and Mr. Hastings of Washington.

H.R. 1038: Mr. Rohrabacher.

H.R. 1126: Mr. Upton, Mr. Clement, Mr. Kind of Wisconsin, and Mr. Solomon.

H.R. 1320: Mr. McGovern and Mr. Andrews.

H.R. 1401: Mr. Neal of Massachusetts and Mrs. Kennelly of Connecticut.

H.R. 1450: Mr. Sabo.

H.R. 1560: Mr. Greenwood, Mr. Everett, Mr. Calvert, Mr. McInnis, Mr. Callahan, Mr. Leach, Ms. Pryce of Ohio, Mr. Hansen, Mr. Chambliss, Mrs. Myrick, Mr. Hastings of Washington, Mr. Shadegg, Mr. Jones, Mr. Gillmor, Mr. Camp, Mrs. Northup, Mr. Gutknecht, Mr. Sununu, Mr. Lewis of Kentucky, Mr. Ehlers, Mr. Cox of California, Mr. Fossella, Mrs. Fowler, Mr. Barr of Georgia, Mr. Deal of Georgia, Mr. Manzullo, Mr. Ehrlich, Mr. Redmond, Mr. Cooksey, Mr. Forbes, Mr. Riley, Mr. Smith of Texas, Mrs. Kelly, Mr. DeLay, Mr. Weldon of Florida, Mr. McCollum, Mr. Sessions, Mr. Wicker, Mr. Snowbarger, Mr. Upton, Mr. Graham, Mr. McKeon, Mr. Peterson of Pennsylvania, Mr. Hayworth, Mr. Packard, Mr. Rogers, Mr. Pickering, Mr. Watts of Oklahoma, Mr. Hostettler, Mr. Chabot, Mr. Neumann, Mr. Armey, Mr. Boehlert, Mr. LaHood, Mr. McIntosh, Mr. Hastert, and Mr. Lewis of California.

H.R. 1571: Mr. Jefferson, Mr. Matsui, and Mr. Schumer.

H.R. 1619: Mr. Paul.

H.R. 2202: Ms. Carson, Mr. Brown of Ohio, Mr. Lantos, Ms. Lee, and Mr. McGovern.

H.R. 2222: Ms. Norton.

H.R. 2250: Mr. Hostettler.

H.R. 2523: Mr. Kucinich.

H.R. 2568: Mr. Hutchinson.

H.R. 2612: Mr. Hobson.

H.R. 2635: Mr. Boucher, Mr. Peterson of Minnesota, Mr. Manton, Mr. Fawell, Ms. Lee, and Mr. Watt of North Carolina.

H.R. 2699: Mr. Dixon.

H.R. 2844: Mr. Herger.

H.R. 2888: Mr. Holden and Mr. Doolittle.

H.R. 2908: Mr. Mascara, Mrs. Johnson of Connecticut, and Mr. Hulshof.

H.R. 2938: Mr. Graham.

H.R. 2939: Mr. Bentsen.

H.R. 3014: Mr. Cox of California.

H.R. 3053: Mr. Hinojosa, Mr. Stokes, Mr. Blumenauer, Ms. Pelosi, and Ms. Eddie Bernice Johnson of Texas.

H.R. 3126: Ms. Pelosi.

H.R. 3134: Mr. Abercrombie, Mr. Gutierrez, Mr. Gejdenson, Ms. Stabenow, Ms. DeLauro, and Mr. Edwards.

H.R. 3140: Mr. Stenholm, Mr. Peterson of Pennsylvania, and Mr. Spence.

H.R. 3156: Mr. Dingell, Mr. Regula, Mr. Doyle, Mr. Wise, and Mr. Boyd.

H.R. 3185: Mr. Pitts, Mrs. Myrick, Mr. Peterson of Minnesota, Ms. Dunn of Washington, Mr. Cramer, and Mr. Barr of Georgia.

H.R. 3270: Mr. Wynn and Ms. Sanchez.

H.R. 3274: Mr. Wynn and Ms. Sanchez.

H.R. 3304: Mr. Franks of New Jersey.

H.R. 3331: Mrs. Bono.

H.R. 3351: Mr. Pomeroy.

H.R. 3379: Ms. Pelosi, Ms. Lofgren, and Mr. Sabo.

H.R. 3396: Mr. Graham, Mr. Campbell, Mr. Mascara, Ms. Pelosi, Ms. Kaptur, Ms. DeLauro, Mr. Peterson of Pennsylvania, Mr. Watkins, Mr. Ehlers, Mr. Buyer, Mr. Livingston, Mr. Jefferson, Mr. Scarborough, and Mr. Goss.

H.R. 3435: Mr. Hastings of Washington.

H.R. 3494: Mr. Talent.

H.R. 3506: Mr. Buyer, Ms. Kaptur, Mr. Bonior, Mr. Taylor of North Carolina, Mr. Parker, Mr. Hulshof, and Mr. Boyd.

H.R. 3514: Mr. Farr of California.

H.R. 3526: Mr. Houghton.

H.R. 3539: Mr. Cannon and Mr. McInnis.

H.R. 3553: Ms. Norton, Mr. Filner, and Mrs. Morella.

H.R. 3566: Mr. Gekas.

H.R. 3567: Mr. Hoekstra.

H.R. 3596: Ms. Jackson-Lee of Texas, Ms. Kilpatrick, Ms. Carson, Mr. Davis of Illinois, Mr. Wynn, Mr. Hastings of Florida, Ms. Norton, Mr. Meeks of New York, Mr. Owens, Ms. Lee, Ms. Brown of Florida, Ms. Ros-Lehtinen, Mr. Hilliard, and Mr. Frank of Massachusetts.

H.R. 3613: Mr. Lucas of Oklahoma.

H.R. 3624: Ms. Pelosi, Mr. Romero-Barceló, Mr. Costello, Mr. Evans, Mr. Hinchey, Mr. McGovern, Mr. Underwood, and Mr. Coyne.

H.R. 3634: Mr. Fox of Pennsylvania, Mr. Bonilla, Mr. McHugh, Mr. Metcalf, Mr. Wicker, Mr. McInnis, Mr. Peterson of Pennsylvania, Mr. Hutchinson, Mr. Baker, Mr. Lewis of California, Mr. Lucas of Oklahoma, Mr. Watkins, Mr. Brown of California, and Mr. Stearns.

H.R. 3644: Mr. Rangel.

H.R. 3648: Mr. Boehner, Mr. Collins, and Mr. Sam Johnson of Texas.

H.R. 3659: Mr. Aderholt, Mr. Doolittle, Mr. Pitts, Mr. Stump, Mr. LaFalce, and Mr. Paul.

H.R. 3681: Mr. Nethercutt.

H.R. 3682: Mr. Fossella and Mr. Cox of California.

H.R. 3690: Mr. Chabot.

H.R. 3700: Mr. Thompson, Ms. Eddie Bernice Johnson of Texas, and Ms. Millender-McDonald.

H.R. 3701: Mr. Thompson, Ms. Eddie Bernice Johnson of Texas, and Ms. Millender-McDonald.

H.R. 3710: Mr. Calvert, Mr. Redmond, Mr. Metcalf, Mr. Kennedy of Rhode Island, Mr. Wamp, Mr. Underwood, Mr. Pease, Mr. Bonior, Mr. Porter, Ms. Rivers, Mr. Gejdenson, Mr. Towns, Ms. Eshoo, Mr. Burton of Indiana, and Mr. Miller of Florida.

H.R. 3726: Mr. Martinez, Mr. Menendez, Mr. Ortiz, Mr. Romero-Barcelo, Mr. Underwood, Mr. Pastor, Mr. Reyes, Mr. Hinojosa, Ms. Sanchez, Ms. Velázquez, Mr. Torres, Mr. Becerra, Mr. Rodriguez, and Ms. Roybal-Allard.

H.R. 3733: Mr. Moran of Kansas, Mr. Snowbarger, Mr. Tiahrt, Mr. English of Pennsylvania, and Mr. Kucinich.

H.R. 3744: Mr. McHugh, Mr. Moran of Virginia, and Mr. John.

H.R. 3749: Mr. Baldacci.

H.R. 3774: Mr. English of Pennsylvania, Mr. Frost, Mr. Matsui, Mr. Martinez, and Mr. Oberstar.

H.R. 3775: Mr. Etheridge.

H.R. 3807: Mr. Barrett of Nebraska, Mr. Canady of Florida, Ms. Danner, Mr. Doyle, Mr. Hoekstra, Mr. Ney, Mr. Smith of Michigan, and Mr. Upton.

H.R. 3820: Mr. Skaggs and Mr. Bonior.

H.R. 3829: Mr. Castle, Mr. Bereuter, and Mr. Shuster.

H.R. 3841: Mr. Tierney.

H. Con. Res. 112: Mr. Lewis of Georgia.

H. Con. Res. 125: Mr. Etheridge.

H. Con. Res. 188: Mr. Pascrell.

H. Con. Res. 210: Mr. Baldacci.

H. Con. Res. 241: Mr. Yates, Mr. Frost, Mr. Gutierrez, and Mr. Clement.

H. Con. Res. 264: Mr. Peterson of Pennsylvania, Mr. Moran of Kansas, Ms. Woolsey, Mr. Sam Johnson of Texas, and Mr. Maloney of Connecticut.

H. Con. Res. 270: Mr. BROWN of Ohio.

H. Con. Res. 271: Mr. ROGAN and Mr. FILNER.

H. Res. 144: Mr. BARR of Georgia, Mr. DEAL of Georgia, Mr. PETERSON of Pennsylvania, Mr. SESSIONS, Mr. LEACH, Mr. CHAMBLISS, Mr. SMITH of Michigan, Mr. CAMP, Mr. SUNUNU, Mrs. NORTHUP, Mr. GUTKNECHT, Mr. WICKER, Mr. PICKERING, and Mr. WELDON of Florida.

H. Res. 399: Mr. MCKEON and Mr. SPRATT.

H. Res. 418: Mr. WALSH, Ms. KAPTUR, Mr. RAMSTAD, Mrs. THURMAN, Mr. GILLMOR, Mr. KIND of Wisconsin, Mr. LUTHER, Mr. VENTO, Mr. SABO, and Mr. BARCIA of Michigan.

H. Res. 421: Mr. ARCHER and Mr. KENNEDY of Massachusetts.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3721

OFFERED BY: MR. BASS

(Amendment in the Nature of a Substitute to H.R. 2183)

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Real Campaign Reform Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.
Sec. 102. Increased contribution limits for State committees of political parties and aggregate contribution limit for individuals.
Sec. 103. Reporting requirements.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

Sec. 201. Definitions.
Sec. 202. Civil penalty.
Sec. 203. Reporting requirements for certain independent expenditures.
Sec. 204. Independent versus coordinated expenditures by party.
Sec. 205. Coordination with candidates.

TITLE III—DISCLOSURE

Sec. 301. Filing of reports using computers and facsimile machines.
Sec. 302. Prohibition of deposit of contributions with incomplete contributor information.
Sec. 303. Audits.
Sec. 304. Reporting requirements for contributions of $50 or more.
Sec. 305. Use of candidates' names.
Sec. 306. Prohibition of false representation to solicit contributions.
Sec. 307. Soft money of persons other than political parties.
Sec. 308. Campaign advertising.

TITLE IV—PERSONAL WEALTH OPTION

Sec. 401. Voluntary personal funds expenditure limit.
Sec. 402. Political party committee coordinated expenditures.

TITLE V—MISCELLANEOUS

Sec. 501. Prohibiting involuntary use of funds of employees of corporations and other employers and members of unions and organizations for political activities.
Sec. 502. Use of contributed amounts for certain purposes.
Sec. 503. Limit on congressional use of the franking privilege.
Sec. 504. Prohibition of fundraising on Federal property.
Sec. 505. Penalties for knowing and willful violations.
Sec. 506. Strengthening foreign money ban.
Sec. 507. Prohibition of contributions by minors.
Sec. 508. Expedited procedures.
Sec. 509. Initiation of enforcement proceeding.

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

Sec. 601. Severability.
Sec. 602. Review of constitutional issues.
Sec. 603. Effective date.
Sec. 604. Regulations.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

"(a) NATIONAL COMMITTEES.—

"(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a political party), or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

"(1) IN GENERAL.—An amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) for Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) FEDERAL ELECTION ACTIVITY.—

"(A) IN GENERAL.—The term 'Federal election activity' means—

"(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

"(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); and

"(iii) a communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

"(B) EXCLUDED ACTIVITY.—The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

"(i) campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, provided the campaign activity is not a Federal election activity described in subparagraph (A);

"(ii) a contribution to a candidate for State or local office, provided the contribution is not designated or used to pay for a Federal election activity described in subparagraph (A);

"(iii) the costs of a State, district, or local political convention;

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office;

"(v) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of an individual who spends more than 20 percent of the individual's time on Federal election activity) as determined by a regulation promulgated by the Commission to determine the non-Federal share of a State, district, or local party committee's administrative and overhead expenses; and

"(vi) the cost of constructing or purchasing an office facility or equipment for a State, district or local committee.

"(c) FUNDRAISING COSTS.—An amount spent by a national, State, district, or local committee of a political party, by an entity that is established, financed, maintained, or controlled by a national, State, district, or local committee of a political party, or by an agent or officer of any such committee or entity, to raise funds that are used, in whole or in part, to pay the costs of a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party, an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, an agent acting on behalf of any such party committee, and an officer or agent acting on behalf of any such party committee or entity), shall not solicit any funds for, or make or direct any donations to, an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application to the Secretary of the Internal Revenue Service for determination of tax-exemption under such section).

"(e) CANDIDATES.—

"(1) IN GENERAL.—A candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office shall not solicit, receive, direct, transfer, or spend funds for a Federal election activity on behalf of such candidate, individual, agent or any other person, unless the funds are subject to the limitation, prohibitions, and reporting requirements of this Act.

"(2) STATE LAW.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for any activity other than a Federal election activity.

"(3) Fundraising events.—Paragraph (1) does not apply in the case of a candidate who attends, speaks, or is a featured guest at a fundraising event sponsored by a State, district, or local committee of a political party.".

SEC. 102. INCREASED CONTRIBUTION LIMITS FOR STATE COMMITTEES OF POLITICAL PARTIES AND AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUALS.

(a) Contribution Limit for State Committees of Political Parties.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C)—

(A) by inserting "(other than a committee described in subparagraph (D))" after "committee"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $10,000".

(b) Aggregate Contribution Limit for Individual.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking "$25,000" and inserting "$30,000".

SEC. 103. REPORTING REQUIREMENTS.

(a) Reporting Requirements.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 203) is amended by inserting after subsection (d) the following:

"(e) Political Committees.—

"(1) National and congressional political committees.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

"(2) Other political committees to which section 323 applies.—A political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in subparagraphs (A) and (B)(v) of section 323(b)(2).

"(3) Itemization.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(4) Reporting periods.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) Building Fund Exception to the Definition of Contribution.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

SEC. 201. DEFINITIONS.

(a) Definition of Independent Expenditure.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) Independent expenditure.—

"(A) In general.—The term 'independent expenditure' means an expenditure by a person—

"(i) for a communication that is express advocacy; and

"(ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.".

(b) Definition of Express Advocacy.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) Express advocacy.—

"(A) In general.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by—

"(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates;

"(ii) referring to 1 or more clearly identified candidates in a paid advertisement that is broadcast by a radio broadcast station or a television broadcast station within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

"(iii) expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a hole and with limited reference to external events, such as proximity to an election.

"(B) Voting record and voting guide exception.—The term 'express advocacy' does not include a printed communication that—

"(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more candidates;

"(ii) that is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent;

"(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates.".

(c) Defintiion of Expenditure.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) a payment for a communication that is express advocacy; and

"(iv) a payment made by a person for a communication that—

"(I) refers to a clearly identified candidate;

"(II) is provided in coordination with the candidate, the candidate's agent, or the political party of the candidate; and

"(III) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).".

SEC. 202. CIVIL PENALTY.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(ii) by adding at the end the following:

(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A)."; and

"(B) in paragraph (6)(B), by inserting "(except an action instituted in connection with a knowing and willful violation of section 304(c))" after "subparagraph (A)"; and (2) in subsection (d)(1)—

(A) in subparagraph (A), by striking "Any person" and inserting "Except as provided in subparagraph (D), any person"; and

(B) by adding at the end the following:

"(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.".

SEC. 203. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) of subsection (c) as subsection (f); and

(3) by inserting after subsection (c)(2) (as amended by paragraph (1)) the following:

"(d) Time for Reporting Certain Expenditures.—

"(1) Expenditures aggregating $1,000.—

"(A) Initial report.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

"(B) Additional reports.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) Expenditures aggregating $10,000.—

"(A) Initial report.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

"(B) Additional reports.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) Place of filing; contents.—A report under this subsection—

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.".

SEC. 204. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking "and (3)" and inserting ", (3), and (4)"; and

(2) by adding at the end the following:

"(4) Independent versus coordinated expenditures by party.—

"(A) In general.—On or after the date on which a political party nominates a candidate, a committee of the political party shall not make both expenditures under this subsection and independent expenditures (as defined in section 301(17)) with respect to the candidate during the election cycle.

"(B) Certification.—Before making a coordinated expenditure under this subsection with respect to a candidate, a committee of a political party shall file with the Commission a certificate, signed by the treasurer of the committee, that the committee has not and shall not make any independent expenditure with respect to the candidate during the same election cycle.

"(C) Application.—For the purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

"(D) Transfers.—A committee of a political party that submits a certification under subparagraph (B) with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.".

SEC. 205. COORDINATION WITH CANDIDATES.

(a) Definition of Coordination With Candidates.—

(1) Section 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "or" at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) anything of value provided by a person in coordination with a candidate for the purpose of influencing a Federal election, regardless of whether the value being provided is a communication that is express advocacy, in which such candidate seeks nomination or election to Federal office."; and

(B) by adding at the end the following:

"(C) The term 'provided in coordination with a candidate' includes—

"(i) a payment made by a person in cooperation, consultation, or concern with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

"(ii) a payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

"(iii) a payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made;

"(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

"(v) a payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made;

"(vi) a payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign;

"(vii) a payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (vi) for a communication that clearly refers to the candidate and is for the purpose of influencing an election (regardless of whether the communication is express advocacy);

"(viii) direct participation by a person in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate;

"(ix) communication by a person with the candidate or an agent of the candidate, occurring after the declaration of candidacy (including a pollster, media consultant, vendor, advisors, or staff member), acting on behalf of the candidate, about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy; or

"(x) the provision of in-kind professional services or polling data to the candidate or candidate's agent.

"(D) For purposes of subparagraph (C), the term 'professional services' includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.

"(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.".

(2) Section 315(a)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

"(B) a thing of value provided in coordination with a candidate, as described in section 301(8)(A)(iii), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

(b) Meaning of Contribution or Expenditure for the Purposes of Section 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

TITLE III—DISCLOSURE

SEC. 301. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting the following:

"(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

"(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

"(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form, including the use of a facsimile machine, if not required to do so under the regulation promulgated under clause (i).

"(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

"(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.".

SEC. 302. PROHIBITION OF DEPOSIT OF CONTRIBUTIONS WITH INCOMPLETE CONTRIBUTOR INFORMATION.

Section 302 of Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following:

"(j) Deposit of Contributions.—The treasurer of a candidate's authorized committee shall not deposit, except in an escrow account, or otherwise negotiate a contribution from a person who makes an aggregate amount of contributions in excess of $200 during a calendar year unless the treasurer verifies that the information required by this section with respect to the contributor is complete.".

SEC. 303. AUDITS.

(a) Random Audits.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1) In general.—" before "The Commission"; and

(2) by adding at the end the following:

"(2) Random audits.—

"(A) In general.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act. The selection of any candidate for a random audit or investigation shall be based on criteria adopted by a vote of at least 4 members of the Commission.

"(B) Limitation.—The Commission shall not conduct an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in an election cycle.

"(C) Applicability.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.".

(b) Extension of Period During Which Campaign Audits May Be Begun.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking "6 months" and inserting "12 months".

SEC. 304. REPORTING REQUIREMENTS FOR CONTRIBUTIONS OF $50 OR MORE.

Section 304(b)(3)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)(A) is amended—

(1) by striking "$200" and inserting "$50"; and

(2) by striking the semicolon and inserting ", except that in the case of a person who makes contributions aggregating at least $50 but not more than $200 during the calendar year, the identification need include only the name and address of the person;".

SEC. 305. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not—

"(i) include the name of any candidate in its name; or

"(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of the committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 306. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after "Sec. 322." the following: "(a) In General.—"; and

(2) by adding at the end the following:

"(b) Solicitation of Contributions.—No person shall solicit contributions by falsely representing himself or herself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 307. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

(a) In General.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 103(c) and section 203) is amended by adding at the end the following:

"(g) Disbursements of Persons Other Than Political Parties.—

"(1) In general.—A person, other than a political committee or a person described in section 501(d) of the Internal Revenue Code of 1986, that makes an aggregate amount of disbursements in excess of $50,000 during a calendar year for activities described in paragraph (2) shall file a statement with the Commission—

"(A) on a monthly basis as described in subsection (a)(4)(B); or

"(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

"(2) Activity.—The activity described in this paragraph is—

"(A) Federal election activity;

"(B) an activity described in section 316(b)(2)(A) that expresses support for or opposition to a candidate for Federal office or a political party; and

"(C) an activity described in subparagraph (C) of section 316(b)(2).

"(3) Applicability.—This subsection does not apply to—

"(A) a candidate or a candidate's authorized committees; or

"(B) an independent expenditure.

"(4) Contents.—A statement under this section shall contain such information about the disbursements made during the reporting period as the Commission shall prescribe, including—

"(A) the aggregate amount of disbursements made;

"(B) the name and address of the person or entity to whom a disbursement is made in an aggregate amount in excess of $200;

"(C) the date made, amount, and purpose of the disbursement; and

"(D) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.".

(b) Definition of Generic Campaign Activity.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 201(b)) is further amended by adding at the end the following:

"(21) Generic campaign activity.—The term 'generic campaign activity' means an activity that promotes a political party and does not promote a candidate or non-Federal candidate.".

SEC. 308. CAMPAIGN ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(ii) by striking "an expenditure" and inserting "a disbursement"; and

(iii) by striking "direct"; and

(B) in paragraph (3), by inserting "and permanent street address" after "name"; and

(2) by adding at the end the following:

"(c) Any printed communication described in subsection (a) shall—

"(1) be of sufficient type size to be clearly readable by the recipient of the communication;

"(2) be contained in a printed box set apart from the other contents of the communication; and

"(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

"(d)(1) Any broadcast or cablecast communication described in paragraphs (1) or (2) of subsection (a) shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

"(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any broadcast or cablecast communication described in paragraph (3) of subsection (a) shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: '   is responsible for the content of this advertisement.' (with the blank to be filed in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If broadcast or cablecast by means of television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

TITLE IV—PERSONAL WEALTH OPTION

SEC. 401. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 101) is amended by adding at the end the following:

"SEC. 324. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMITS.

"(a) Eligible House Candidate.—

"(1) Primary election.—

"(A) Declaration.—A candidate is an eligible primary election House candidate if the candidate files with the Commission a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

"(B) Time to file.—The declaration under subparagraph (A) shall be filed not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

"(2) General election.—

(a) Declaration.—A candidate is an eligible general election House candidate if the candidate files with the Commission—

"(i) a declaration under penalty of perjury, with supporting documentation as required by the Commission, that the candidate and the candidate's authorized committees did not exceed the personal funds expenditure limit in connection with the primary election; and

"(ii) a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

"(B) Time to file.—The declaration under subparagraph (A) shall be filed not later than 7 days after the earlier of—

"(i) the date on which the candidate qualifies for the general election ballot under State law; or

"(ii) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

"(b) Personal Funds Expenditure Limit.—

"(1) In general.—The aggregate amount of expenditures that may be made in connection with an election by an eligible House candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed $50,000.

"(2) Sources.—A source is described in this paragraph if the source is—

"(A) personal funds of the candidate and members of the candidate's immediate family; or

"(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

"(c) Certification by the Commission.—

"(1) In general.—The Commission shall determine whether a candidate has met the requirements of this section and, based on the determination, issue a certification stating whether the candidate is an eligible House candidate.

"(2) TIME FOR CERTIFICATION.—Not later than 7 business days after a candidate files a declaration under paragraph (1) or (2) of subsection (a), the Commission shall certify whether the candidate is an eligible House candidate.

"(3) REVOCATION.—The Commission shall revoke a certification under paragraph (1), based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means, if the Commission determines that a candidate violates the personal funds expenditure limit.

"(4) DETERMINATIONS BY COMMISSION.—A determination made by the Commission under this subsection shall be final, except to the extent that the determination is subject to examination and audit by the Commission and to judicial review.

"(d) PENALTY.—If the Commission revokes the certification of an eligible House candidate—

"(1) the Commission shall notify the candidate of the revocation; and

"(2) the candidate and a candidate's authorized committees shall pay to the Commission an amount equal to the amount of expenditures made by a national committee of a political party or a State committee of a political party in connection with the general election campaign of the candidate under section 315(d).".

SEC. 402. POLITICAL PARTY COMMITTEE COORDINATED EXPENDITURES

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) (as amended by section 204) is amended by adding at the end the following:

"(5) This subsection does not apply to expenditures made in connection with the general election campaign of a candidate for the House of Representatives who is not an eligible House candidate (as defined in section 324(a)).".

TITLE V—MISCELLANEOUS

SEC. 501. PROHIBITING INVOLUNTARY USE OF FUNDS OF EMPLOYEES OF CORPORATIONS AND OTHER EMPLOYERS AND MEMBERS OF UNIONS AND ORGANIZATIONS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1)(A) Except with the separate, prior, written, voluntary authorization of the individual involved, it shall be unlawful—

"(i) for any national bank or corporation described in this section to collect from or assess a stockholder or employee any portion of any dues, initiation fee, or other payment made as a condition of employment which will be used for political activity in which the national bank or corporation is engaged; and

"(ii) for any labor organization described in this section to collect from or assess a member or non-member any portion of any dues, initiation fee, or other payment which will be used for political activity in which the labor organization is engaged.

"(B) An authorization described in subparagraph (A) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such subparagraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(2)(A) Prior to the beginning of any 12-month period (as determined by the corporation), each corporation described in this section shall provide each of its shareholders with a notice containing the following:

"(i) The proposed aggregate amount for disbursements for political activities by the corporation for the period.

"(ii) The individual's applicable percentage and applicable pro rata amount for the period.

"(iii) A form that the individual may complete and return to the corporation to indicate the individual's objection to the disbursement of amounts for political activities during the period.

"(B) It shall be unlawful for a corporation to which subparagraph (A) applies to make disbursements for political activities during the 12-month period described in such subparagraph in an amount greater than——

"(i) the proposed aggregate amount for such disbursements for the period, as specified in the notice provided under subparagraph (A); reduced by

"(ii) the sum of the applicable pro rata amounts for such period of all shareholders who return the form described in subparagraph (A)(iii) to the corporation prior to the beginning of the period.

"(C) In this paragraph, the following definitions shall apply

"(i) The term 'applicable percentage' means, with respect to a shareholder of a corporation, the amount (expressed as a percentage) equal to the number of shares of the corporation (within a particular class or type of stock) owned by the shareholder at the time the notice described in subparagraph (A) is provided, divided by the aggregate number of such shares owned by all shareholders of the corporation at such time.

"(ii) The term 'applicable pro rata amount' means, with respect to a shareholder for a 12-month period, the product of the shareholder's applicable percentage for the period and the proposed aggregate amount for disbursements for political activities by the corporation for the period, as specified in the notice provided under subparagraph (A).

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

SEC. 502. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

"SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

"(a) PERMITTED USES.—A contribution accepted by a candidate, and any other amount received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

"(1) for expenditures in connection with the campaign for Federal office of the candidate or individual;

"(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

"(3) for contributions to an organization described in section 170(e) of the Internal Revenue Code of 1986; or

"(4) for transfers to a national, State, or local committee of a political party.

"(b) PROHIBITED USE.—

"(1) IN GENERAL.—A contribution or amount described in subsection (a) shall not be converted by any person to personal use.

"(2) CONVERSION.—For the purposes of paragraph (1), a contribution or amount shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal officeholder, including—

"(A) a home mortgage, rent, or utility payment;

"(B) a clothing purchase;

"(C) a noncampaign-related automobile expense;

"(D) a country club membership;

"(E) a vacation or other noncampaign-related trip;

"(F) a household food item;

"(G) a tuition payment;

"(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

"(I) dues, fees, and other payments to a health club or recreational facility.".

SEC. 503. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

"(A) A Member of Congress shall not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that Office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that year or for election to any other Federal office.".

SEC. 504. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—

"(1) IN GENERAL.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value of a political committee or a candidate for Federal, State or local office from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. An individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, shall not solicit a donation of money or other thing of value for a political committee or candidate for Federal, State or local office, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

"(2) PENALTY.—A person who violates this section shall be fined not more than $5,000, imprisoned more than 3 years, or both."; and

(2) by inserting in subsection (b) after "Congress" "or Executive Office of the President".

SEC. 505. PENALTIES FOR KNOWING AND WILLFUL VIOLATIONS.

(a) INCREASED PENALTIES.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraphs (5)(A), (6)(A), and (6)(B), by striking "$5,000" and inserting "$10,000"; and

(2) in paragraphs (b)(B) and (6)(C), by striking "$10,000 or an amount equal to 200 percent" and inserting "$20,000 or an amount equal to 300 percent".

(b) Equitable Remedies.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking the period at the end and inserting ", and may include equitable remedies or penalties, including disgorgement of funds to the Treasury or community service requirements (including requirements to participate in public education programs).".

(c) Automatic Penalty for Late Filing.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

"(13) LTY for late filing.—

"(A) In general.—

"(i) Monetary penalties.—The Commission shall establish a schedule of mandatory monetary penalties that shall be imposed by the Commission for failure to meet a time requirement for filing under section 304.

"(ii) Required filing.—In addition to imposing a penalty, the Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

"(iii) Procedure.—A penalty or filing requirement imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5), or (12).

"(B) Filing an exception.—

"(i) Time to file.—A political committee shall have 30 days after the imposition of a penalty or filing requirement by the Commission under this paragraph in which to file an exception with the Commission.

"(ii) Time for Commission to rule.—Within 30 days after receiving an exception, the Commission shall make a determination that is a final agency action subject to exclusive review by the United States Court of Appeals for the District of Columbia Circuit under section 706 of title 5, United States Code, upon petition filed in that court by the political committee or treasurer that is the subject of the agency action, if the petition is filed within 30 days after the date of the Commission action for which review is sought.";

(2) in paragraph (5)(D)—

(A) by inserting after the first sentence the following: "In any case in which a penalty or filing requirement imposed on a political committee or treasurer under paragraph (13) has not been satisfied, the Commission may institute a civil action for enforcement under paragraph (6)(A)."; and

(B) by inserting before the period at the end of the last sentence the following: "or has failed to pay a penalty or meet a filing requirement imposed under paragraph (13)"; and

(3) in paragraph (6)(A), by striking "paragraph (4)(A)" and inserting "paragraph (4)(A) or (13)".

SEC. 506. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting the following: "CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS"; and

(2) by striking subsection (a) and inserting the following:

"(a) Prohibition.—It shall be unlawful for—

"(1) a foreign national, directly or indirectly, to make—

"(A) a donation of money or other thing of value, or to promise expressly or impliedly to make a donation, in connection with a Federal, State, or local election to a political committee or a candidate for Federal office; or

"(ii) a contribution or donation to a committee of a political party; or

"(B) for a person to solicit, accept, or receive such contribution or donation from a foreign national.".

SEC. 507. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by sections 101 and 401) is amended by adding at the end the following:

"SEC. 325. PROHIBITION OF CONTRIBUTIONS BY MINORS.

An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.".

SEC. 508. EXPEDITED PROCEDURES.

(a) In General.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) (as amended by section 505(c)) is amended by adding at the end the following:

"(14)(A) If the complaint in a proceeding was filed within 60 days preceding the date of a general election, the Commission may take action described in this subparagraph.

"(B) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur, the Commission may order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties.

"(C) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

"(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

"(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.".

(b) Referral to Attorney General.—Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking subparagraph (C) and inserting the following:

"(C) The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section.".

SEC. 509. INITIATION OF ENFORCEMENT PROCEEDING.

Section 309(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking "reason to believe that" and inserting "reason to investigate whether".

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 602. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 603. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect January 1, 1999.

SEC. 604. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 270 days after the effective date of this Act.

H.R. 3721

Offered by: Mr. Campbell

(Amendment in the Nature of a Substitute to H.R. 2183)

Amendment No. 2: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Can't Vote, Can't Contribute Campaign Reform Act of 1998".

TITLE I—LIMITATIONS ON CONTRIBUTIONS

SEC. 101. LIMITATION ON AMOUNT OF CONTRIBUTIONS TO CANDIDATES BY INDIVIDUALS NOT ELIGIBLE TO VOTE IN STATE OR DISTRICT INVOLVED.

Section 315(a)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(A)) is amended by striking "in the aggregate, exceed $1,000;" and inserting the following: "in the aggregate—

"(i) in the case of contributions made to a candidate for election for Senator or for Representative in or Delegate or Resident Commissioner to the Congress by an individual who is not eligible to vote in the State or Congressional district involved (as the case may be) at the time the contribution is made (other than an individual who would be eligible to vote at such time but for the failure of the individual to register to vote), exceed $100; or

"(ii) in the case of any other contributions, exceed $1,000;".

SEC. 102. BAN ON ACCEPTANCE OF CONTRIBUTIONS MADE BY NONPARTY POLITICAL ACTION COMMITTEES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) Notwithstanding any other provision of this Act, no candidate for election for Federal office may accept any contribution from a political action committee.

"(2) In this subsection, the term 'political action committee' means any political committee which is not—

"(A) the principal campaign committee of a candidate; or

"(B) a national, State, local, or district committee of a political party, including any subordinate committee thereof.".

TITLE II—ENSURING VOLUNTARINESS OF CONTRIBUTIONS OF CORPORATIONS, UNIONS, AND OTHER MEMBERSHIP ORGANIZATIONS

SEC. 201. PROHIBITING INVOLUNTARY USE OF FUNDS OF EMPLOYEES OF CORPORATIONS AND OTHER EMPLOYERS AND MEMBERS OF UNIONS AND ORGANIZATIONS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1)(A) Except with the separate, prior, written, voluntary authorization of the individual involved, it shall be unlawful—

"(i) for any national bank or corporation described in this section (other than a corporation exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986) to collect from or assess a stockholder or employee any portion of any dues, initiation fee, or other payment made as a condition of employment which will be used for political activity in which the national bank or corporation is engaged; and

"(ii) for any labor organization described in this section to collect from or assess a member or nonmember any portion of any dues, initiation fee, or other payment which will be used for political activity in which the labor organization is engaged.

"(B) An authorization described in subparagraph (A) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such subparagraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(2)(A) Prior to the beginning of any 12-month period (as determined by the corporation), each corporation to which paragraph (1) applies shall provide each of its shareholders with a notice containing the following:

"(i) The proposed aggregate amount for disbursements for political activities by the corporation for the period.

"(ii) The individual's applicable percentage and applicable pro rata amount for the period.

"(iii) A form that the individual may complete and return to the corporation to indicate the individual's objection to or approval of the disbursement of amounts for political activities during the period.

"(B) It shall be unlawful for a corporation to which subparagraph (A) applies to make disbursements for political activities during the 12-month period described in such subparagraph in an amount greater than the sum of the applicable pro rata amounts for such period of all shareholders who return the form described in subparagraph (A)(iii) to the corporation prior to the beginning of the period and indicate their approval of such disbursements.

"(C) In this paragraph, the following definitions shall apply:

"(i) The term 'applicable percentage' means, with respect to a shareholder of a corporation, the amount (expressed as a percentage) equal to the number of shares of the corporation (within a particular class or type of stock) owned by the shareholder at the time the notice described in subparagraph (A) is provided, divided by the aggregate number of such shares owned by all shareholders of the corporation at such time.

"(ii) The term 'applicable pro rata amount' means, with respect to a shareholder for a 12-month period, the product of the shareholder's applicable percentage for the period and the proposed aggregate amount for disbursements for political activities by the corporation for the period, as specified in the notice provided under subparagraph (A).

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

TITLE III—RESTRICTIONS ON SOFT MONEY

SEC. 301. BAN ON SOFT MONEY OF NATIONAL POLITICAL PARTIES AND CANDIDATES; BAN ON USE OF SOFT MONEY BY STATE POLITICAL PARTIES FOR FEDERAL ELECTION ACTIVITY.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"RESTRICTIONS ON USE OF SOFT MONEY BY POLITICAL PARTIES AND CANDIDATES

"SEC. 323. (a) BAN ON USE BY NATIONAL PARTIES.—

"(1) IN GENERAL.—No political committee of a national political party may solicit, receive, or direct any contributions, donations, or transfers of funds, or spend any funds, which are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY.—Paragraph (1) shall apply to any entity which is established, financed, maintained, or controlled (directly or indirectly) by, or which acts on behalf of, a political committee of a national political party, including any national congressional campaign committee of such a party and any officer or agent of such an entity or committee.

"(b) CANDIDATES.—

"(1) IN GENERAL.—No candidate for Federal office, individual holding Federal office, or any agent of such a candidate or officeholder may solicit, receive, or direct—

"(A) any funds in connection with any Federal election unless the funds are subject to the limitations, prohibitions and reporting requirements of this Act;

"(B) any funds that are to be expended in connection with any election for other than a Federal office unless the funds are not in excess of the applicable amounts permitted with respect to contributions to candidates and political committees under paragraphs (1) and (2) of section 315(a), and are not from sources prohibited from making contributions by this Act with respect to elections for Federal office; or

"(C) any funds on behalf of any person which are not subject to the limitations, prohibitions, and reporting requirements of this Act if such funds are for the purpose of financing any activity on behalf of a candidate for election for Federal office or any communication which refers to a clearly identified candidate for election for Federal office.

"(2) EXCEPTION FOR CERTAIN ACTIVITIES.—Paragraph (1) shall not apply to—

"(A) the solicitation, receipt, or direction of funds by an individual who is a candidate for a non-Federal office if such activity is permitted under State law for such individual's non-Federal campaign committee; or

"(B) the attendance by an individual who holds Federal office at a fundraising event for a State or local committee of a political party of the State which the individual represents as a Federal officeholder, if the event is held in such State.

"(c) STATE PARTIES.—

"(1) IN GENERAL.—Any payment by a State committee of a political party for a mixed political activity—

"(A) shall be subject to limitation and reporting under this Act as if such payment were an expenditure; and

"(B) may be paid only from an account that is subject to the requirements of this Act.

"(2) MIXED POLITICAL ACTIVITY DEFINED.—As used in this section, the term 'mixed political activity' means, with respect to a payment by a State committee of a political party, an activity (such as a voter registration program, a get-out-the-vote drive, or general political advertising) that is both for the purpose of influencing an election for Federal office and for any purpose unrelated to influencing an election for Federal office.

"(d) PROHIBITING TRANSFERS OF NON-FEDERAL FUNDS BETWEEN STATE PARTIES.—A State committee of a political party may not transfer any funds to a State committee of a political party of another State unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(e) APPLICABILITY TO FUNDS FROM ALL SOURCES.—This section shall apply with respect to funds of any individual, corporation, labor organization, or other person.".

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this Act shall apply with respect to elections occurring after January 1999.

H.R. 3721

OFFERED BY: MR. OBEY

(Amendment in the Nature of a Substitute to H.R. 2183)

AMENDMENT NO. 3: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; FINDING.

(a) SHORT TITLE.—This Act may be cited as the "Let the Public Decide Campaign Finance Reform Act".

(b) FINDING.—The Congress finds that the existing system of private political contributions has become a fundamental threat to the integrity of the national election process and that the provisions contained in this Act are necessary to prevent the corruption of the public's faith in the Nation's system of governance.

TITLE I—EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

SEC. 101. NEW TITLE OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new title:

"TITLE V—EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

"SEC. 501. LIMITATION ON EXPENDITURES IN HOUSE OF REPRESENTATIVES GENERAL ELECTIONS.

"A candidate in a House of Representatives general election may not make expenditures other than as provided in this title.

SEC. 502. SOURCES OF AMOUNTS FOR EXPENDITURES BY CANDIDATES IN HOUSE OF REPRESENTATIVES GENERAL ELECTIONS.

"The only sources of amounts for expenditures by candidates in House of Representatives general elections shall be—

"(1) the Grassroots Good Citizenship Fund, under section 505; and

"(2) additional amounts from State and national party committees under section 506.

SEC. 503. DISTRICT LIMITATION ON EXPENDITURES BY MAJOR PARTY CANDIDATES.

"(a) IN GENERAL.—Except as provided in section 506, the maximum amounts of expenditures by major party candidates in House of Representatives general elections shall be based on the median household income of the districts involved, as provided for in subsections (b) and (c).

"(b) MAXIMUM FOR WEALTHIEST DISTRICT.—In the congressional district with the highest median household income, maximum combined expenditures for all major party candidates with respect to a House of Representatives general election shall be a total of $1,000,000.

"(c) MAXIMUM FOR OTHER DISTRICTS.—In each congressional district, other than the district referred to in subsection (b), the maximum combined expenditures for all major party candidates with respect to a House of Representatives general election shall be an amount equal to—

"(1) the maximum amount referred to in subsection (b), less

"(2) the amount equal to—

"(A) ⅔ of the percentage difference between the median household income of the district involved and the median household income of the district referred to in subsection (b), times

"(B) the maximum amount referred to in subsection (b).

"(d) ALLOCATION.—The maximum expenditure for a major party candidate in a congressional district shall be 50 percent of the maximum amount under subsection (b) or (c), as applicable.

SEC. 504. DISTRICT LIMITATION ON EXPENDITURES BY THIRD PARTY AND INDEPENDENT CANDIDATES.

"(a) IN GENERAL.—Except as provided in section 506, the maximum amounts of expenditures by third party and independent candidates in House of Representatives general elections shall be the amount allocated under subsection (b).

"(b) ALLOCATION.—The maximum expenditure for a third party or independent candidate in a congressional district shall be—

"(1) the amount that bears the same ratio to the maximum amount under subsection (b) or (c) of section 503, as applicable, as the total popular vote in the district for candidates of the third party or for all independent candidates (as the case may be) bears to the total popular vote for all candidates in the 5 preceding general elections; or

"(2) in the case of a candidate in a district in which no third party or independent candidates (as the case may be) received votes in the 5 preceding general elections, the amount corresponding to the number of signatures presented to and verified by the Commission according to the following table:

"20,000 signatures	$75,000
30,000 signatures	100,000
40,000 signatures	150,000
50,000 signatures	200,000

SEC. 505. GRASSROOTS GOOD CITIZENSHIP FUND.

"(a) CREATION OF FUND.—There is established in the Treasury a trust fund to be known as the 'Grassroots Good Citizenship Fund', consisting of such amounts as may be credited to such fund as provided in this section.

"(b) DISTRICT ACCOUNTS.—There shall be established within the Grassroots Good Citizenship Fund an account for each congressional district. The accounts so established shall be administered by the Commission for the purpose of distributing amounts under this title.

"(c) PAYMENTS TO CANDIDATES.—Subject to subsection (d), the Commission shall pay to each candidate from the Grassroots Good Citizenship Fund the maximum amount calculated for such candidate under section 503 or 504.

"(d) INSUFFICIENT AMOUNTS.—If, as determined by the Commission, there are insufficient amounts in the Grassroots Good Citizenship Fund for payments under subsection (c), the Commission may reduce payments to candidates so that each candidate receives a pro rata portion of the amounts that are available.

"(e) TRANSFERS TO FUND.—There are hereby credited to the Grassroots Good Citizenship Fund amounts equivalent to the amounts designated under section 6097 of the Internal Revenue Code of 1986.

"(f) EXPENDITURES.—Amounts in the Grassroots Good Citizenship Fund shall be available for the purpose of providing amounts for expenditure by candidates in House of Representatives general elections in accordance with this title.

SEC. 506. ADDITIONAL AMOUNTS FROM STATE AND NATIONAL PARTY COMMITTEES.

"(a) CONTRIBUTIONS.—In addition to amounts made available under section 503 or 504, in the case of a candidate in a House of Representatives general election who is the candidate of a political party, the State and national committees of that political party may make contributions to the candidate totaling not more than 5 percent of the maximum expenditure applicable to the candidate under section 503 or section 504.

"(b) EXPENDITURES.—A House of Representatives candidate who is the candidate of a political party may make expenditures of the amounts received under subsection (a).

SEC. 507. PUBLIC SERVICE ANNOUNCEMENTS.

"(a) IN GENERAL.—Beginning on January 15, and continuing through April 15 of each year, the Commission shall carry out a program, utilizing broadcast announcements and other appropriate means, to inform the public of the existence and purpose of the Grassroots Good Citizenship Fund and the role that individual citizens can play in the election process by voluntarily contributing to the fund. The announcements shall be broadcast during prime time viewing hours in 30-second advertising segments equivalent to 200 gross rating points per network per week. The Commission shall ensure that the maximum number of taxpayers shall be exposed to these announcements. Television networks, as defined by the Federal Communications Commission, shall provide the broadcast time under this section as part of their obligations in the public interest under the Communications Act of 1934. The Federal Election Commission shall encourage broadcast outlets other than the above mentioned television networks including radio to provide similar announcements.

"(b) GROSS RATING POINT.—The term 'gross rating point' is a measure of the total gross weight delivered. It is the sum of the ratings for individual programs. Since a household rating period is 1 percent of the coverage base, 200 gross rating points means 2 messages a week per average household.

"SEC. 508. DEFINITIONS.

"As used in this title—

"(1) the term 'House of Representatives candidate' means a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress;

"(2) the term 'median household income' means, with respect to a congressional district, the median household income of that district, as determined by the Commission, using the most current data from the Bureau of the Census;

"(3) the term 'major party' means, with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office;

"(4) the term 'third party' means with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, less than 25 percent of the total number of popular votes received by all candidates for such office;

"(5) the term 'independent candidate' means, with respect to a House of Representatives general election, a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who is not the candidate of a major party or a third party; and

"(6) the term 'House of Representatives general election' means a general election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

TITLE II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

SEC. 201. DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR GRASSROOTS GOOD CITIZENSHIP FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR GRASSROOTS GOOD CITIZENSHIP FUND

"Sec. 6097. Designation of overpayments for Grassroots Good Citizenship Fund.

SEC. 6097. DESIGNATION OF OVERPAYMENTS FOR GRASSROOTS GOOD CITIZENSHIP FUND.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) a specified portion (not less than $1 or more than $10,000, and not less than $1 or more than $20,000 in the case of a joint return) of any overpayment of tax for such taxable year, and

"(2) any contribution which the taxpayer includes with such return,

shall be paid over to the Grassroots Good Citizenship Fund under section 505 of the Federal Election Campaign Act of 1971.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for such taxable year. Such designation shall be made on the 1st page of the return.

"(c) Overpayments Treated as Refunded.—For purposes of this title, any portion of an overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed."

(b) Clerical Amendment.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part IX. Designation of overpayments and contributions for certain purposes relating to House of Representatives elections."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 202. INCREASE IN CORPORATE INCOME TAX ON TAXABLE INCOME ABOVE $10,000,000.

(a) In General.—Paragraph (4) of subsection (b) of section 11 of the Internal Revenue Code of 1986 is amended by striking "35 percent" and inserting "35.1 percent".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(c) Use of Amounts Received.—Amounts received by reason of the amendment made by subsection (a) shall be paid over to the Grassroots Good Citizenship Fund under section 505 of the Federal Election Campaign Act of 1971.

TITLE III—BAN ON USE OF SOFT MONEY BY HOUSE CANDIDATES

SEC. 301. BAN ON USE OF SOFT MONEY BY HOUSE CANDIDATES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"BAN ON USE OF NON-REGULATED FUNDS BY HOUSE CANDIDATES

"Sec. 323. (a) In General.—No funds may be solicited, disbursed, or otherwise used with respect to any House of Representatives election unless the funds are subject to the limitations and prohibitions of this Act.

"(b) House of Representatives Election Defined.—In this section, the term 'House of Representatives election' means any election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

TITLE IV—INDEPENDENT EXPENDITURES

SEC. 401. BAN ON INDEPENDENT EXPENDITURES IN HOUSE OF REPRESENTATIVES ELECTIONS.

(a) In General.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) No person may make any independent expenditure with respect to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

(b) Clarification of Definitions Relating to Independent Expenditures.—

(1) In general.—Section 301 of such Act (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following new paragraphs:

"(17) The term 'independent expenditure' means an expenditure for a communication (other than a communication which is described in clause (i) or clause (iii) of paragraph (9)(B) or which would be described in such clause if the communication were otherwise treated as an expenditure under this title)—

"(A) which is made during the 90-day period ending on the date of a general election for Federal office and which identifies a candidate for election for such office by name, image, or likeness; or

"(B) which contains express advocacy and is made without the participation or cooperation of, or consultation with, a candidate or a candidate's representative.

"(18) The term 'express advocacy' means, when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity, or an expression which would reasonably be construed as intending to influence the outcome of an election.".

(2) Contribution definition amendment.—Section 301(8)(A) of such Act (2 U.S.C. 431(8)(A)) is amended—

(A) in clause (i), by striking "or" after the semicolon at the end;

(B) in clause (ii), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A) that does not qualify as an independent expenditure under paragraph (17)(B).".

SEC. 402. BAN ON USE OF SOFT MONEY FOR CERTAIN EXPENDITURES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is further amended by adding at the end the following new section:

"BAN ON USE OF NON-FEDERAL FUNDS FOR CERTAIN EXPENDITURES

"Sec. 324. (a) In General.—No person may disburse any funds for any expenditure described in subsection (b) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(b) Expenditures Described.—The expenditures described in this subsection are as follows:

"(1) An expenditure made by an authorized committee of a candidate for Federal office or a political committee of a political party.

"(2) An expenditure made by a person who, during the election cycle, has made a contribution to a candidate, where the expenditure is in support of that candidate or in opposition to another candidate for the same office.

"(3) An expenditure made by a person, or a political committee established, maintained or controlled by such person, who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act (22 U.S.C. 611) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register.

"(4) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(5) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(A) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(B) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.".

TITLE V—PROVISIONS RELATING TO HOUSE OF REPRESENTATIVES PRIMARY ELECTIONS

SEC. 501. LIMITATION ON EXPENDITURES IN HOUSE OF REPRESENTATIVES ELECTIONS OTHER THAN GENERAL ELECTIONS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 401, is further amended by adding at the end the following new subsection:

"(j)(1) The maximum expenditures for a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in any election other than a general election may not exceed ⅓ of the maximum applicable to the candidate in a general election under title V.

"(2) For purposes of limitations under this Act, any expenditure by a candidate referred to in paragraph (1), including an expenditure for the preparation, production, or presentation of communications through electronic media or in written form, shall, regardless of when the expenditure is made, be attributed to the appropriate general election, unless such expenditure is made solely for an election other than a general election.".

SEC. 502. LIMITATION ON ACCEPTANCE OF LARGE DONOR MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTIONS BY HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 401 and 501, is further amended by adding at the end the following new subsection:

"(k)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, and the authorized political committees of such candidate, may not, with respect to an election other than a general election, accept contributions from large donor multicandidate political committees in excess of 20 percent of the maximum amount which the candidate may expend with respect to the election under subsection (j).

"(2) In paragraph (1), the term 'large donor multicandidate political committee' means a multicandidate political committee that accepts contributions totaling more than $200 from any single source in a calendar year.".

TITLE VI—CONSIDERATION OF CONSTITUTIONAL AMENDMENT

SEC. 601. EXPEDITED CONSIDERATION OF CONSTITUTIONAL AMENDMENT.

(a) In General.—If any provision of this Act or any amendment made by this Act is found unconstitutional by the Supreme Court, the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in section 602 in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(b) Special rules.—For purposes of applying subsection (a) with respect to such provisions, the following rules shall apply:

(1) Any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on the Judiciary of the House of Representatives and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on the Judiciary of the Senate.

(2) Any reference to the date on which the President transmits a report shall be deemed

a reference to the date on which the Supreme Court finds a provision of this Act or an amendment made by this Act unconstitutional.

SEC. 602. CONSTITUTIONAL AMENDMENT DESCRIBED.

For purposes of section 601, a joint resolution described in this section is a joint resolution proposing the following text as an amendment to the Constitution of the United States:

“ARTICLE —

“SECTION 1. Congress may provide for reasonable restrictions on contributions and expenditures in campaigns for election for Federal office as necessary to protect the integrity of the electoral process.

“SEC. 2. Congress shall have power to enforce this article by appropriate legislation. No legislation enacted to enforce this article shall apply with respect to any election held after the last day of the year of the third Presidential election held after the date of the enactment of the legislation, unless the period in which such legislation is in effect is extended by an Act of Congress which is signed into law by the President.”.

H.R. 3721

OFFERED BY: MR. OBEY

(Amendment in the Nature of a Substitute to H.R. 2183)

AMENDMENT NO. 4: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; FINDING.

(a) SHORT TITLE.—This Act may be cited as the “Let the Public Decide Campaign Finance Reform Act”.

(b) FINDING.—The Congress finds that the existing system of private political contributions has become a fundamental threat to the integrity of the national election process and that the provisions contained in this Act are necessary to prevent the corruption of the public's faith in the Nation's system of governance.

TITLE I—VOLUNTARY EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

SEC. 101. NEW TITLE OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new title:

“TITLE V—VOLUNTARY EXPENDITURE LIMITATIONS AND PUBLIC FINANCING FOR HOUSE OF REPRESENTATIVES GENERAL ELECTIONS

“Subtitle A—Public Financing for Certified House Candidates

“SEC. 501. PUBLIC FINANCING FOR CERTIFIED HOUSE CANDIDATES.

“A certified House candidate in a House of Representatives general election shall be entitled to payments from the Grassroots Good Citizenship Fund under section 521.

“SEC. 502. PROCEDURES FOR CERTIFICATION.

“(a) IN GENERAL.—The Commission shall certify that a candidate initially meets the requirements for a certified House candidate under if the candidate submits to the Commission in writing a statement with the following information and assurances:

“(1) An agreement to obtain and furnish to the Commission such evidence as it may request to ensure that the candidate meets the requirements relating to limitations on expenditures under subtitle B.

“(2) An agreement to keep and furnish to the Commission such records, books, and other information as it may request.

“(3) An agreement to audit and examination by the Commission and to the payment of any amounts found to be paid erroneously to the candidate under this title.

“(4) Such other information and assurances as the Commission may require.

“(b) AUTHORITY OF COMMISSION TO REJECT OR REVOKE CERTIFICATION.—The Commission may reject a candidate's application for treatment as a certified House candidate or revoke a candidate's status as a certified House candidate if the candidate knowingly and willfully violates or has violated any of the applicable requirements of this title with respect to the election involved or any previous election.

“Subtitle B—Limitations on Expenditures by Certified House Candidates

“SEC. 511. LIMITATION ON EXPENDITURES.

“A certified House candidate in a House of Representatives general election may not make expenditures other than as provided in this subtitle.

“SEC. 512. SOURCES OF AMOUNTS FOR EXPENDITURES BY CERTIFIED HOUSE CANDIDATES.

“The only sources of amounts for expenditures by certified House candidates in House of Representatives general elections shall be—

“(1) the Grassroots Good Citizenship Fund, under section 521; and

“(2) additional amounts from State and national party committees under section 522.

“SEC. 513. DISTRICT LIMITATION ON EXPENDITURES BY MAJOR PARTY CANDIDATES.

“(a) IN GENERAL.—Except as provided in section 515 and section 522, the maximum amounts of expenditures by certified House candidates in House of Representatives general elections who are major party candidates shall be based on the median household income of the districts involved, as provided for in subsections (b) and (c).

“(b) MAXIMUM FOR WEALTHIEST DISTRICT.—In the congressional district with the highest median household income, maximum combined expenditures for all certified House candidates who are major party candidates with respect to a House of Representatives general election shall be a total of $1,000,000.

“(c) MAXIMUM FOR OTHER DISTRICTS.—In each congressional district, other than the district referred to in subsection (b), the maximum combined expenditures for all certified House candidates who are major party candidates with respect to a House of Representatives general election shall be an amount equal to—

“(1) the maximum amount referred to in subsection (b), less

“(2) the amount equal to—

“(A) ⅔ of the percentage difference between the median household income of the district involved and the median household income of the district referred to in subsection (b), times

“(B) the maximum amount referred to in subsection (b).

“(d) ALLOCATION.—The maximum expenditure for a certified House candidate who is a major party candidate in a congressional district shall be 50 percent of the maximum amount under subsection (b) or (c), as applicable.

“SEC. 514. DISTRICT LIMITATION ON EXPENDITURES BY THIRD PARTY AND INDEPENDENT CANDIDATES.

“(a) IN GENERAL.—Except as provided in section 515 and section 522, the maximum amounts of expenditures by certified House candidates who are third party and independent candidates in House of Representatives general elections shall be the amount allocated under subsection (b).

“(b) ALLOCATION.—The maximum expenditure for a certified House candidate who is a third party or independent candidate in a congressional district shall be—

“(1) the amount that bears the same ratio to the maximum amount under subsection (b) or (c) of section 503, as applicable, as the total popular vote in the district for candidates of the third party or for all independent candidates (as the case may be) bears to the total popular vote for all candidates in the 5 preceding general elections; or

“(2) in the case of a candidate in a district in which no third party or independent candidates (as the case may be) received votes in the 5 preceding general elections, the amount corresponding to the number of signatures presented to and verified by the Commission according to the following table:

“20,000 signatures	$75,000
30,000 signatures	100,000
40,000 signatures	150,000
50,000 signatures	200,000

“SEC. 515. INCREASE IN AMOUNT FOR CANDIDATES WITH NONPARTICIPATING OPPONENT.

“In the case of a certified House candidate in a House of Representatives general election with an opponent who is a major party candidate who is not a certified House candidate, the amount otherwise provided in section 513 or section 514 (as the case may be) shall be increased by 100 percent.

“Subtitle C—Payments to Certified House Candidates

“SEC. 521. GRASSROOTS GOOD CITIZENSHIP FUND.

“(a) CREATION OF FUND.—There is established in the Treasury a trust fund to be known as the ‘Grassroots Good Citizenship Fund’, consisting of such amounts as may be credited to such fund as provided in this section.

“(b) DISTRICT ACCOUNTS.—There shall be established within the Grassroots Good Citizenship Fund an account for each congressional district. The accounts so established shall be administered by the Commission for the purpose of distributing amounts under this title.

“(c) PAYMENTS TO CANDIDATES.—Subject to subsection (d), the Commission shall pay to each certified House candidate from the Grassroots Good Citizenship Fund the maximum amount calculated for such candidate under section 513 or 514.

“(d) INSUFFICIENT AMOUNTS.—If, as determined by the Commission, there are insufficient amounts in the Grassroots Good Citizenship Fund for payments under subsection (c), the Commission may reduce payments to certified House candidates so that each candidate receives a pro rata portion of the amounts that are available.

“(e) TRANSFERS TO FUND.—There are hereby credited to the Grassroots Good Citizenship Fund amounts equivalent to the amounts designated under section 6097 of the Internal Revenue Code of 1986.

“(f) EXPENDITURES.—Amounts in the Grassroots Good Citizenship Fund shall be available for the purpose of providing amounts for expenditure by certified House candidates in House of Representatives general elections in accordance with this title.

“SEC. 522. ADDITIONAL AMOUNTS FROM STATE AND NATIONAL PARTY COMMITTEES.

“(a) CONTRIBUTIONS.—In addition to amounts made available under section 521, in the case of a certified House candidate in a House of Representatives general election who is the candidate of a political party, the State and national committees of that political party may make contributions to the candidate totaling not more than 5 percent of the maximum expenditure applicable to the candidate under section 513 or section 514.

"(b) EXPENDITURES.—A certified House candidate who is the candidate of a political party may make expenditures of the amounts received under subsection (a).

"Subtitle D—Miscellaneous Provisions

"SEC. 531. PUBLIC SERVICE ANNOUNCEMENTS.

"(a) IN GENERAL.—Beginning on January 15, and continuing through April 15 of each year, the Commission shall carry out a program, utilizing broadcast announcements and other appropriate means, to inform the public of the existence and purpose of the Grassroots Good Citizenship Fund and the role that individual citizens can play in the election process by voluntarily contributing to the fund. The announcements shall be broadcast during prime time viewing hours in 30-second advertising segments equivalent to 200 gross rating points per network per week. The Commission shall ensure that the maximum number of taxpayers shall be exposed to these announcements. Television networks, as defined by the Federal Communications Commission, shall provide the broadcast time under this section as part of their obligations in the public interest under the Communications Act of 1934. The Federal Election Commission shall encourage broadcast outlets other than the above mentioned television networks including radio to provide similar announcements.

"(b) GROSS RATING POINT.—The term 'gross rating point' is a measure of the total gross weight delivered. It is the sum of the ratings for individual programs. Since a household rating period is 1 percent of the coverage base, 200 gross rating points means 2 messages a week per average household.

"SEC. 532. DEFINITIONS.

"As used in this title—

"(1) the term 'certified House candidate' means, with respect to a House of Representatives general election, a candidate in such election who is certified by the Commission under subtitle A as meeting the requirements for receiving public financing under this title;

"(2) the term 'median household income' means, with respect to a congressional district, the median household income of that district, as determined by the Commission, using the most current data from the Bureau of the Census;

"(3) the term 'major party' means, with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office;

"(4) the term 'third party' means with respect to a House of Representatives general election, a political party whose candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in the preceding general election received, as the candidate of such party, less than 25 percent of the total number of popular votes received by all candidates for such office;

"(5) the term 'independent candidate' means, with respect to a House of Representatives general election, a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who is not the candidate of a major party or a third party; and

"(6) the term 'House of Representatives general election' means a general election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

TITLE II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

SEC. 201. DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR GRASSROOTS GOOD CITIZENSHIP FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR GRASSROOTS GOOD CITIZENSHIP FUND

"Sec. 6097. Designation of overpayments for Grassroots Good Citizenship Fund.

"SEC. 6097. DESIGNATION OF OVERPAYMENTS FOR GRASSROOTS GOOD CITIZENSHIP FUND.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) a specified portion (not less than $1 or more than $10,000, and not less than $1 or more than $20,000 in the case of a joint return) of any overpayment of tax for such taxable year, and

"(2) any contribution which the taxpayer includes with such return,

shall be paid over to the Grassroots Good Citizenship Fund under section 521 of the Federal Election Campaign Act of 1971.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for such taxable year. Such designation shall be made on the 1st page of the return.

"(c) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any portion of an overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part IX. Designation of overpayments and contributions for certain purposes relating to House of Representatives elections."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 202. INCREASE IN CORPORATE INCOME TAX ON TAXABLE INCOME ABOVE $10,000,000.

(a) IN GENERAL.—Paragraph (4) of subsection (b) of section 11 of the Internal Revenue Code of 1986 is amended by striking "35 percent" and inserting "35.1 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(c) USE OF AMOUNTS RECEIVED.—Amounts received by reason of the amendment made by subsection (a) shall be paid over to the Grassroots Good Citizenship Fund under section 521 of the Federal Election Campaign Act of 1971.

TITLE III—BAN ON USE OF SOFT MONEY BY HOUSE CANDIDATES

SEC. 301. BAN ON USE OF SOFT MONEY BY HOUSE CANDIDATES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"BAN ON USE OF NON-REGULATED FUNDS BY HOUSE CANDIDATES

"SEC. 323. (a) IN GENERAL.—No funds may be solicited, disbursed, or otherwise used with respect to any House of Representatives election unless the funds are subject to the limitations and prohibitions of this Act.

"(b) HOUSE OF REPRESENTATIVES ELECTION DEFINED.—In this section, the term 'House of Representatives election' means any election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

TITLE IV—INDEPENDENT EXPENDITURES

SEC. 401. BAN ON INDEPENDENT EXPENDITURES IN HOUSE OF REPRESENTATIVES ELECTIONS.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection;

"(i) No person may make any independent expenditure with respect to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

(b) CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.—

(1) IN GENERAL.—Section 301 of such Act (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following new paragraphs:

"(17) The term 'independent expenditure' means an expenditure for a communication (other than a communication which is described in clause (i) or clause (iii) of paragraph (9)(B) or which would be described in such clause if the communication were otherwise treated as an expenditure under this title)—

"(A) which is made during the 90-day period ending on the date of a general election for Federal office and which identifies a candidate for election for such office by name, image, or likeness; or

"(B) which contains express advocacy and is made without the participation or cooperation of, or consultation with, a candidate or a candidate's representative.

"(18) The term 'express advocacy' means, when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity, or an expression which would reasonably be construed as intending to influence the outcome of an election.".

(2) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of such Act (2 U.S.C. 431(8)(A)) is amended—

(A) in clause (i), by striking "or" after the semicolon at the end;

(B) in clause (ii), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A) that does not qualify as an independent expenditure under paragraph (17)(B).".

SEC. 402. BAN ON USE OF SOFT MONEY FOR CERTAIN EXPENDITURES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is further amended by adding at the end the following new section:

"BAN ON USE OF NON-FEDERAL FUNDS FOR CERTAIN EXPENDITURES

"SEC. 324. (a) IN GENERAL.—No person may disburse any funds for any expenditure described in subsection (b) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(b) EXPENDITURES DESCRIBED.—The expenditures described in this subsection are as follows:

"(1) An expenditure made by an authorized committee of a candidate for Federal office or a political committee of a political party.

"(2) An expenditure made by a person who, during the election cycle, has made a contribution to a candidate, where the expenditure is in support of that candidate or in opposition to another candidate for the same office.

"(3) An expenditure made by a person, or a political committee established, maintained or controlled by such person, who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act (22 U.S.C. 611) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register.

"(4) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(5) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(A) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(B) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.".

TITLE V—LIMITATIONS ON ACCEPTANCE OF LARGE DONOR PAC CONTRIBUTIONS IN HOUSE OF REPRESENTATIVES PRIMARY ELECTIONS

SEC. 501. LIMITATION ON ACCEPTANCE OF LARGE DONOR MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTIONS BY HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 401, is further amended by adding at the end the following new subsection:

"(j)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who is not a certified House candidate under title V (and the authorized political committees of such candidate) may not, with respect to an election other than a general election, accept contributions from large donor multicandidate political committees in excess of 20 percent of the maximum amount which a certified House candidate may expend with respect to the general election under title V.

"(2) In paragraph (1), the term 'large donor multicandidate political committee' means a multicandidate political committee that accepts contributions totaling more than $200 from any single source in a calendar year.".

TITLE VI—CONSIDERATION OF CONSTITUTIONAL AMENDMENT

SEC. 601. EXPEDITED CONSIDERATION OF CONSTITUTIONAL AMENDMENT.

(a) IN GENERAL.—If any provision of this Act or any amendment made by this Act is found unconstitutional by the Supreme Court, the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in section 602 in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(b) SPECIAL RULES.—For purposes of applying subsection (a) with respect to such provisions, the following rules shall apply:

(1) Any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on the Judiciary of the House of Representatives and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on the Judiciary of the Senate.

(2) Any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the Supreme Court finds a provision of this Act or an amendment made by this Act unconstitutional.

SEC. 602. CONSTITUTIONAL AMENDMENT DESCRIBED.

For purposes of section 601, a joint resolution described in this section is a joint resolution proposing the following text as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. In campaigns for election for Federal office, as necessary to protect the integrity of the electoral process, Congress may provide for reasonable restrictions on the making of independent expenditures for public communications made during the 90-day period ending on the date of a general election and on the making of expenditures for public communications which contain express advocacy.

"SEC. 2. Nothing in clause 1 may be construed to affect the validity of any restrictions on expenditures in campaigns for election for Federal office which are in effect prior to the adoption of this article.

"SEC. 3. Congress shall have power to enforce this article by appropriate legislation. No legislation enacted to enforce this article shall apply with respect to any election held after the last day of the year of the third Presidential election held after the date of the enactment of the legislation, unless the period in which such legislation is in effect is extended by an Act of Congress which is signed into law by the President.".

EXTENSIONS OF REMARKS

INTRODUCTION OF THE HOMEOWNERS MILITARY EQUITY ACT

HON. LINDA SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mrs. LINDA SMITH of Washington. Mr. Speaker, today I rise to introduce legislation correcting an inadvertent inequity in the Taxpayer Relief Act (TRA) we passed last year.

The TRA gives taxpayers who sell their principal residence a much-needed tax break. Prior to this, taxpayers were allowed a one-time exclusion on the profit from selling their home, but to take the exclusion you had to be at least 55 years old and live in the residence for 2 of the 5 years preceding the sale.

In 1997, we changed that. Under the TRA all taxpayers who sell their personal residence on or after May 7, 1997, are not taxed on the first $250,000 of profit from the sale ($500,000 for joint filers.) To qualify, there is a two-part test. The taxpayer must own the home for at least 2 of the 5 years preceding the sale, and he or she must also have lived in the home as their main home for at least 2 years of the last 5 years. For most people, Mr. Speaker, all of this is fine. But there is a very important group of people we left out—military personnel on active duty away from home.

For these people—the men and women serving in our military who are assigned somewhat away from their home—qualifying for the new exemption can be difficult. I'm sure everyone would agree that our military personnel should be able to qualify for the same tax relief available to every other homeowner. Serving one's country away from home shouldn't be an impediment to qualifying for the exemption, but that's exactly what it is in many cases.

The measure I am introducing today amends the home ownership test in the Taxpayer Relief Act so that military personnel who are away on active duty can include that time spent serving our country when they calculate the number of years they lived in their primary residence. Under the bill's provisions, members of our Armed Forces will be considered to be using their house as their main residence for any period that they are away on extended active duty as long as they lived in the house as a principle residence before being ordered away.

Senator MCCAIN has introduced a similar measure in the other body. I hope my colleagues here in the House will support this legislation and act swiftly to extend the same tax relief available to everyone else to the dedicated men and women in our Armed Forces.

IN HONOR OF THE LAND O' LAKES FISH AND GAME CLUB'S 50TH ANNIVERSARY

HON. JAY W. JOHNSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. JOHNSON of Wisconsin. Mr. Speaker, I rise today to pay tribute to the Land O' Lakes Fish and Game Club as they celebrate their 50th Anniversary. It is a remarkable milestone for a remarkable organization.

The Land O' Lakes Fish and Game Club is the oldest club of its kind in the state of Wisconsin. The club has been dedicated to the preservation of natural resources and wildlife from its inception. It is also dedicated to sponsoring educational projects in the public schools, as well as granting scholarships to teachers and students about to enter college.

For their commitment to the environment and Wisconsin's Northwoods, for their work to foster education and learning, for their public service, I want to officially recognize the Land O' Lakes Fish and Game Club on a half century of excellence.

I hope my colleagues will join me in congratulating the club on this extraordinary occasion, and wishing them another fifty years of success.

SPECIAL TRIBUTE HONORING KELLY GEORGE, LEGRAND SMITH SCHOLARSHIP WINNER

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. SMITH of Michigan. Mr. Speaker, it is with great respect for the outstanding record of excellence she has compiled in academics, leadership and community service, that I am proud to salute Kelly George, winner of the 1998 LeGrand Smith Scholarship. This award is made to young adults who have demonstrated that they are truly committed to playing important roles in our Nation's future.

As a winner of the LeGrand Smith Scholarship, Kelly is being honored for demonstrating that same generosity of spirit, intelligence, responsible citizenship, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan.

Kelly George is an exceptional student at Grand Ledge High School and possesses an impressive high school record. She has been involved with the National Honor Society. Kelly is involved with Drama and varsity tennis and track. Outside of school Kelly, has been involved with her church as a student leader and various other community activities.

In special tribute, therefore, I am proud to join with her many admirers in extending my highest praise and congratulations to Kelly George for her selection as a winner of a LeGrand Smith Scholarship. This honor is also a testament to the parents, teachers, and others whose personal interest, strong support and active participation contributed to her success. To this remarkable young woman, I extend my most heartfelt good wishes for all her future endeavors.

SPECIAL INTERESTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 6, 1998 into the CONGRESSIONAL RECORD.

THE POWER OF LOBBYISTS AND SPECIAL INTERESTS

One of the public's biggest criticisms of Congress is the power that lobbyists and special interests have over the legislative process. People see them as extremely powerful wheeler-dealers, able to manipulate the system for their own advantage, "buying" the votes of Members of Congress through extensive campaign contributions and other favors, and basically corrupting the political system.

CONCERNS

Certainly there are legitimate reasons for concern. Lobbying is constitutionally protected under the right to petition government, yet the powers of pressure groups are formidable. Their numbers are large and their resources vast. There are special interest groups for almost every cause, and lobbying is the third largest business in the nation's capital, behind only government and tourism.

Special interests gain access to Members through campaign contributions and determined lobbying, and often put pressure on Members to vote with them on their key votes. They also have a broader impact on the legislative process. Lobbyists regularly meet with leaders of Congress to help lay out the congressional agenda, and play a role in drafting legislation, often behind closed doors. Congress will sometimes debate bills that have little or no chance of passage, but which will appease key supporters.

Interest groups have also been criticized for sending out misleading information on the issues and running expensive "issue advocacy" attack ads against those who don't support their positions. They typically try to push through measures that benefit narrow rather than broader interests, and can make more difficult the compromise that is so essential to our system of government. There is no doubt that Members hear disproportionately from the well-off and the politically active groups—such as seniors, veterans, small business owners, and gun owners.

The power of special interests has long been recognized. More than 200 year ago,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

James Madison and the other founding fathers were particularly concerned about the power of "factions" in a democracy. And over the years, many congressional scandals have been related to powerful special interests and influence buying—from the Union Pacific and Credit Mobilier stock scandals in the 1800s to more recently the Keating Five, Koreagate, and Abscam affairs.

BENEFITS

Yet despite these concerns I believe that there is still a legitimate and important role for lobbyists and special interests to play in our system of government, and that the public's perception of their influence is often exaggerated.

As the founding fathers recognized, special interests have their drawbacks but they also play an important role in informing legislators of the concerns of major segments of the population. Advocacy groups can inform Congress of the ways legislation impacts their members, provide extensive information on upcoming issues, and help focus the public's attention on important issues. This flow of information between government and the governed enhances what Jefferson called the "dialogue of democracy". I've found that the most effective lobbyists are those providing reliable information to Members and staff. Lobbyists understand that trust is their most precious asset.

Special interests don't somehow just represent "the bad guys". Almost every American is represented by them in some way and has benefitted from their work. Lobbyists work, for example, for the continuation of the home mortgage interest deduction, for expanded medical research, for protecting our lakes and rivers, for improving interstate highways, for maintaining the student loan program, and for protecting religious freedom. Advocacy groups have helped pass legislation ranging from key civil rights protections to the deficit reduction package that has finally balanced the federal budget. Hoosiers benefit directly from the lobbyists representing the interests of the State of Indiana and local cities and towns in Washington.

It is true that lobbyists sometimes get through Congress measures that help only a few at the expense of the broader public. But the ease by which special interests can manipulate the system and push things through is exaggerated by the public. First, while Members do pay attention to what advocacy groups say, they also pay very close attention to the broad interests of their constituents. The bottom line for Members is that if they ignore the wishes of their constituents, they simply won't get re-elected. Second, special interest groups have proliferated so much in recent years that they often cancel each other out. For example, in the area of health policy one or two groups used to dominate, but now there are 750 health groups alone. Third, the founding fathers specifically set up our government with numerous obstacles for special interests trying to push through legislation. With its complex rules and maze of procedural hurdles, Congress was designed to slow things down and allow all sides a chance to be heard.

WHAT'S NEEDED

Special interest groups have a mixed impact on our political system. We shouldn't simply condemn them, but we do need to rein in some of the excesses and address legitimate concerns.

Various steps are needed. First, we need to pass campaign finance reform to curb the increasing reliance of lawmakers on money from special interests. Second, the House in recent years has basically banned gifts from lobbyists. Although some people are unhappy with the change, we need to keep tough gift restrictions in place. Third, Congress passed improved lobbying disclosure in 1995 to get a better handle on who is lobbying and what they are doing. That was important, but we need to closely monitor the law to make sure it is not easily avoided, as past reforms have been. Fourth, we need to prohibit travel for Members and staff funded by groups with direct interest in legislation before Congress. Fifth, we need better disclosure of when lobbyists have played a major role in drafting legislation Congress is considering. Clearly the public has a right to know that. Sixth, because Members are much more likely to be contacted by special interest groups representing the better-off, we need to recognize that bias and make a special effort to ensure that all people in our society, including the less well-off, still have a voice in the decisions being made. Finally, all of us need to focus more on what's good for the country as a whole and less on what's good for each of us as individuals. At the end of the day, we are all Americans.

CONCLUSION

The proliferation of special interest groups may in some ways be worrisome, but it is an integral part of our system of government. As Madison noted, a free society nurtures politically active groups. They may not always act in the way that some of us might like and they may be prone to excesses, but they are still an important force in our system of representative democracy.

HONORING MADALYN AND MATTHEW LINSKEY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. GINGRICH. Mr. Speaker, it is with great pride that I submit to the CONGRESSIONAL RECORD the following essay, "Honoring Our Heroes," written by Madalyn Linskey, an eight year old constituent of mine who attends Kincaid Elementary. Madalyn speaks eloquently about the love and inspiration she and her family receive on a daily basis from her ten year old autistic brother, Matthew. I was privileged to be able to read Madalyn's essay at the April 25 Atlanta Investment Conference, the proceeds of which benefit the Friends of Autism. Through his enormous personal strength, Matthew reminds us all that with determination, courage, and love, we can overcome the most onerous of burdens to live a productive and fruitful life. I am proud to represent Matthew and Madalyn.

"HONORING OUR HEROES"

I would like to tell you about my real hero. He is my brother, Matthew Arthur Linskey, Jr. He is ten years old.

My brother was born with a disability called autism. He is mentally challenged and sees the world through a troubled and confused mind. He lives in a world that none of us can imagine. Somehow he finds a way to survive.

Adults and children sometimes stare and make fun of him because they don't understand his strange behavior. I'm sure that it hurts his feelings but he shows a lot of courage and tries to go on with his life.

He is very caring and compassionate to me when I am sad or angry about something even though I know he does not understand.

Matthew is persistent when trying to learn how to do simple tasks. He is very brave when he has to do things that his mind tells him to be afraid of.

This past summer after many years of swim lessons, Matthew competed in his first race. It was in our neighborhood on the summer swim team. We were swimming against another neighborhood team. Matthew swam against boys his own age and finished last. He was so happy. Watching him made me feel so much joy in my heart. I was so proud that he tried his best.

Matthew has been a special gift to me and my family. He has taught me to be patient and understanding to people with special needs. He has also taught me never to give up trying to reach my goals. If he has the courage to do it, then I do too.

I admire and love Matthew Arthur Linksey, Jr. He is my brother, my best friend, and my "Real Life Hero" forever.

A SPECIAL TRIBUTE TO JOSEPH HEYMAN ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT, NEW YORK

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to a truly outstanding young man from Ohio's Fifth Congressional District, Joseph L. Heyman. Joe has recently accepted his appointment to attend the United States Military Academy at West Point, New York.

Joe, who is from Grand Rapids, Ohio, has distinguished himself as an outstanding student and a fine student-athlete while attending Ostego High School.

During his career at Ostego High School, Joe excelled academically by achieving a perfect grade point average of 4.00, which ranks him first in his class of 132 students. In addition, Joe has been active in the National Honor Society and was named a National Merit Scholar Semifinalist.

On the fields of competition, Joe has proven himself to be a talented and gifted student-athlete through his performances in both varsity football and varsity track. Joe has also been active in government and community service organizations. He has served on the Ostego High School Student Council, and is currently working on his Eagle Scout Award with the Boy Scouts of America.

Mr. Speaker, I am confident that Joe will be very successful at West Point, and in all of his future endeavors. I would urge my colleagues to stand and join me in paying tribute to Joseph Heyman, and in wishing him all the best as he prepares for the United States Military Academy.

LENAWEE COUNTY POLICE OFFICERS MEMORIAL

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. SMITH of Michigan. Mr. Speaker, law enforcement officers work daily in communities across the Nation, assisting individuals in the pursuit of life, liberty, and happiness;

Law enforcement officers are, most often, the first contact individuals have with their representatives of government, and they perform the duties and responsibilities of that important liaison role with wisdom and compassion;

Law enforcement officers are expected to perform duties above and beyond those of the average person, including duties such as rescuing individuals from a multitude of life-threatening incidents and assisting families during times of great personal sorrow;

Law enforcement officers engage in a variety of tasks, from visiting with home-bound elderly citizens, mediating domestic disputes, and providing counsel to youngsters on our streets, to retrieving lost pets and bringing a spirit of friendship and compassion to an environment often lacking in these essential qualities;

Law enforcement officers daily encounter individuals within our society who reject all moral values and ethical codes of conduct in pursuit of criminal activities;

Law enforcement officers risk their health, lives, and future happiness with their families in order to safeguard communities from criminal predation;

In the course of their duties, law enforcement officers may find themselves not only in harm's way, but also victims of violent crime; and

The contributions made by Dep. Stanley B. Hoisington, Tpr. Cal Jones, Tpr. Douglas Pellot, Marshall Richard Teske, Tpr. Roger Adams, Ptlm. Bobby Williams, Ptlm. Steven Reuther, Tpr. Byron Erikson, law enforcement officers killed in the line of duty, should be honored, their dedication and sacrifice recognized, and their unselfish service to the Nation remembered.

HONORING POLICE OFFICERS KILLED IN THE LINE OF DUTY

HON. JAY W. JOHNSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. JOHNSON of Wisconsin. Mr. Speaker, I rise today to express my pride and respect for our brave law enforcement officials during National Police Week. I regret, however, that this body has not been afforded the chance to truly honor fallen police officers, as they would under my legislation, H. Con. Res 47. Unfortunately, my bill was not included on yesterday's suspension calendar of votes.

The bill that Congress voted on and passed yesterday remembers the sacrifices of police officers. I do not intend to demean its purpose. It is a worthy bill with honest sentiment. However, by denying the members in this chamber the ability to also vote on H. Con. Res 47, the leadership has failed to do all they can to honor police officers killed in the line of duty.

Under my bill, whenever a police officer is killed in the line of duty, a special U.S. Flag flown over the Capitol Building would be lowered to half-staff and then given to the family of the officer after it is flown. Currently, a flag is flown at half-staff only once a year to honor Police Officers Memorial Day. More than just words, this measure would entrust our nation's most powerful symbol, our flag, to remind Americans on a daily basis of the bravery and sacrifices of this nation's law enforcement officers.

This flag flown at half-staff over the Capitol would send a signal to Congress, to all of Washington and the entire nation that our brave law enforcement officers deserve our highest respect. The cold reality is that every 57 hours, an officer will die in the line of duty in this country. When we lose a police officer in the line of duty, we have lost a hero.

My bill has been endorsed by the National Fraternal Order of Police, the National Association of Chiefs of Police, and the International Union of Police Associations.

We must do all we can to protect and honor the police officers who risk their lives for the safety of our communities. When decisionmakers in Washington see this constant reminder of the bravery of law enforcement officers, it will strengthen their support for the men and women who fight crime across America. I would hope that this Congress will seize the occasion of Police Memorial Day to enact H. Con. Res 47, important legislation to honor fallen officers with a U.S. Flag at the U.S. Capitol dedicated to their service.

A BRAVE TALE

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. CANNON. Mr. Speaker, I am proud to rise today to honor an extraordinary American and constituent of mine from the Third District of Utah.

On March 12, 1998, Sgt. First Class Bryan Smethurst, a recruiter for the Army National Guard in Utah, was on his daily morning commute through Provo Canyon. Little did he know at the time that he would perform an uncommon act of bravery that Thursday morning that would save the life of a woman, her pregnant daughter and her three year old granddaughter.

The morning was pretty typical for that time of year and Bryan Smethurst was driving the icy and wet Provo Canyon road to work. But through the hazy windshield that morning he spotted something a little different—fresh skid marks on the asphalt were up ahead and then veered toward the river to an overturned car. Realizing that the accident must have just occurred—it would have been cleaned up by then if it had happened earlier—he stopped to investigate. The sight to behold left him no time to assess the danger to himself: He dove into the freezing Provo River to rescue the occupants of the overturned car.

In moments, Bryan was struggling out of the river and pulling to safety the driver of the car, a young and pregnant woman who was frantically trying to help her mother and daughter still trapped. Rushing back into the river and moving against the current, Bryan was able to open one of the car doors and pull the grandmother to safety. The third passenger of the overturned car was a child, who although quite secure in a car seat, was trapped upside-down with the icy river flowing just below her eyebrows. Battling an impending numbness in his hands from the freezing water and weather, Bryan released the child from the car seat and brought her safely to shore as well.

All three occupants of the car had to be treated at a local hospital for hypothermia, minor cuts and bruises. They were able to return to their homes later in the day.

Three lives were saved on the morning of March 12 by Sgt. First Class Bryan Smethurst, a courageous individual who acted without regard for his own life, but rather in the name of unselfish and brotherly love.

It is precisely for such acts of bravery and kindness that we must strive to convey the appropriate recognition, honor and gratitude.

TRIBUTE TO PASTOR G.L. JOHNSON

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Pastor G.L. Johnson, Senior Pastor of the Peoples Church of Fresno, California. Pastor Johnson is celebrating 35 years of exceptional religious service at the Peoples Church of Fresno.

G.L. Johnson was born in Houston, Texas on February 24, 1928. In 1950, G.L. Johnson married Jacqueline (Jackie) Cockerell, and in 1953 they had their only daughter Cindy. Pastor Johnson attended Navarro Junior College of Corsicana, Texas; Southwestern Assembly of God College of Waxahachie, Texas; and Mennonite Biblical Seminary of Fresno, California. He was ordained in Fort Worth, Texas in 1951.

In the Ministry, Pastor Johnson served as Youth Minister throughout the United States from 1946–1952. He served as a pastor in Corsicana, Texas from 1951–1953 and served as a Statewide Evangelist from 1953–1957. G.L. Johnson moved on to serve as a Pastor in Owensboro, Kentucky from 1957–1958 and then in Tallahassee, Florida from 1958–1961. He was the Associate Director of a Latin American Orphanage from 1961–1963. G.L. Johnson currently serves as Senior Pastor at the Peoples Church of Fresno where he has been serving since 1963.

Some of the many awards and recognition that Pastor Johnson has received include the Distinguished Service Award from the City of Fresno, acting as Mayor of Fresno for the Day in 1973 and 1987, and being recognized as a Distinguished Minister by the California Theological Seminary Hall. He received the P.C. Nelson Distinguished Alumnus Award from Southwestern College and the Calab Encouragement award. He is the author of "How to

Conduct a Stewardship Campaign in the Local Church" and the "Loneliness Booklet."

Mr. Speaker, it is with great honor that I pay tribute to Pastor G.L. Johnson for 35 years of service to the Peoples Church in Fresno, California. I applaud his commitment and dedication to Christianity, and his effort to strengthen religion in the community is commendable. I ask my colleagues to join me in wishing Pastor G.L. Johnson many more years of success.

TEEN SMOKING

HON. NEWT GRINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. GINGRICH. Mr. Speaker, I would like to encourage my colleagues to read the following column, "Blowing Smoke on Smoking," from the April 27, 1998 edition of the Marietta Daily Journal.

Like most Americans, I was sickened to discover internal tobacco industry documents which revealed a marketing plan geared to teenagers. As a result of this and other unsavory revelations about the industry, I feel the tobacco lobby has zero clout on Capitol Hill today.

This editorial clearly illustrates that the current debate over the tobacco issue is not one of who favors stopping teen smoking and lung disease. We all favor that. The question is whether we get there through legislation that specifically targets teen smoking without a net tax increase, as most of my Republican colleagues and I favor, or do we get there by passing a large tax increase on the poor, using the increased revenue to line the pockets of trial lawyers, fund bigger government spending on new programs, and create even more federal bureaucracy, as the Clinton administration favors. That is the choice we face.

[From the Marietta Daily Journal, Apr. 27, 1998]

BLOWING SMOKE

Newt Gingrich said the other day that President Clinton was insincere in his support of tobacco legislation, and President Clinton responded with a counter-attack. A better option was available to him. The president should have abandoned the insincerity.

"This is not a question of who cares about children or who cares about stopping lung disease," the Republican House speaker is quoted as having said in a speech. "This is an issue about whether or not liberals deliberately used a passionate, powerful, emotional issue as an excuse for higher taxes, bigger government and more bureaucracy."

For those unkind words and others, President Clinton orchestrated a response in which he and other Democrats essentially called Gingrich a shill for the tobacco industry and accused him of being someone who doesn't much care if teens start smoking and eventually die from lung cancer.

But Gingrich spoke the unvarnished truth. The White House has been supporting legislation that would increase federal regulatory powers, abridge First Amendment free-speech protections and hike cigarette taxes that are disproportionately paid by people with low incomes. The revenues, Clinton has made clear, would then be used for expensive new programs mainly benefiting the middle class.

Some 98 percent of smokers are adults and the proposed $1.10-a-pack tax would only cause an estimated 2 percent drop in teen smoking. Nevertheless, Gingrich himself has said he would support a tax increase if it would not be so high as to cause a black market in cigarettes. What he doesn't support is the way the White House plans to spend the money, and here's where presidential sincerity can be measured. If the president and the Democrats truly want to curb teen smoking instead of bribing voters with new giveaways, why not use the extra funds for anti-smoking campaigns? Or the White House could do what Gingrich favors and support using the revenue for health care costs.

Because of an escalating greed for revenues, the administration-supported bill sponsored by Republican Sen. John McCain may now be dead. But if the president should get his way, the government would become a kind of shareholder in the tobacco industry, counting on its ongoing prosperity for the continued financing of programs that might well grow in popularity.

Do the president's actions, then, demonstrate that he cares about saving teens from smoking and premature death, or do they demonstrate that he cares about political advantage?

It doesn't take a Ph.D. in political science to figure out the answer.

A SPECIAL TRIBUTE TO COL. JOSEPH T. COX ON THE OCCASION OF HIS RETIREMENT FROM THE U.S. ARMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to recognize a soldier and a gentleman on the occasion of his retirement. Col. Joseph T. Cox will retire Friday, May 15, 1998, after thirty years of distinguished service in the United States Army.

Joe Cox was commissioned as a Second Lieutenant in the Signal Corps after graduating with honors from Lafayette College in 1968. During his career, he served as both a group and battalion communications officer in the Republic of Vietnam, as Commander of the 501st Signal Battalion of the 101st Airborne Division, and as a permanent Professor of English at the United States Military Academy at West Point, New York.

In a nation that reveres diversity as strength, Col. Cox's career is uniquely American. As a soldier, he has mastered the art of warfare, earning a Ranger tab, receiving two bronze stars, and numerous other military awards. As a teacher, he has inspired countless young men and women to master the art of the written word and an appreciation for poetry. As a mentor, he has shown by example the importance of personal honor and choosing the harder right over the easier wrong. As a husband and father, he has kept his family at the center of his life.

Mr. Speaker, Joe Cox is a soft-spoken gentleman whose record of service speaks loudly for what is good about America. I ask my colleagues to join me in thanking him for his service to country and in wishing he and his family all the best as he opens a new chapter in his life. May he fully enjoy the blessings of the freedom he has so ably defended as an officer in the United States Army.

ECONOMIC DEVELOPMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, May 13, 1998 into the CONGRESSIONAL RECORD.

ECONOMIC DEVELOPMENT IN SOUTHERN INDIANA

The Ninth Congressional District has changed dramatically since I came to Congress in 1965. Southern Indiana has retained its rural character, but our communities are now more closely linked to the national and global economies. Hoosier farmers and businesses now sell their products throughout the world, and we are attracting more businesses, including major corporations like Toyota and AK Steel, than ever before.

There have been many important players in this economic development, from entrepreneurs to community leaders to local, state and federal officials. It has been my privilege to have worked with them on a wide range of projects which have helped make southern Indiana what it is today: a region with a booming economy, record-low unemployment and a rising standard of living.

During the 34 years I have been in Congress, approximately $2 billion in federal grants and loans have been directed to the communities of the Ninth Congressional District. Those funds have served a wide range of purposes in promoting growth, development and quality of life for Hoosier residents.

TYPES OF ECONOMIC DEVELOPMENT

Federal support has aided development in six key areas:

HIGHWAYS AND AIRPORTS

Federal funding has helped transform our transportation system in southern Indiana. The I–64 and I–65 corridors have provided Hoosier businesses with a vital link to the national economy, and have attracted numerous companies and well-paying jobs to our state. I–65, for example, has become a magnet for growth, with many manufacturers and major distribution centers locating along the corridor. We are working now to complete the I–265 beltway in the greater Louisville area and make other highway improvements to the region, including construction of a new U.S. 231 in Spencer County. Federal funds have also helped with the development and expansion of smaller airports in southern Indiana as well as major national airports in Louisville, Cincinnati, and Indianapolis.

OHIO RIVER

The Ohio River has been a powerful force in our region's economy, transporting commodities and creating thousands of jobs. The Clark Maritime Centre with key federal assistance, has given a boost to our river economy. Even if Hoosiers are not in agreement about river-boat gambling, there is no way to ignore the economic impact of this new industry which will bring an investment of $1 billion to the area and the creation of some 15,000 jobs. The Ohio River is also one of the most comprehensively managed rivers in the world, with 20 locks and dams and a network of flood-walls and levees to protect river communities. The federal government built this navigation system, and with my support, is modernizing the McAlpine Locks and Dam in New Albany and renovating flood protection facilities from Lawrenceburg to Evansville.

REDEVELOPMENT

Military base closings, factory closings and natural disasters have placed strains on some of our communities over the years. The federal government has helped these communities to successfully recover. I have pushed the Army to clean up the Jefferson Proving Ground in Madison so that it can be turned to productive use; helped community leaders in Clark County as they prepare to redevelop the ammunition plant in Charlestown; and worked with several communities as they recovered from natural disasters—most notably the flood-plagued Town of English, which decided to move to higher ground. Last year, for example, the federal government made a special allocation of $6.5 million to help river communities rebuild after the 1997 floods.

WATER AND SEWER

Constructing water and sewer systems in our communities has been a longstanding priority. These facilities are necessary to improve water quality and to allow communities to grow. When I first came to office, the focus was on improving the water supply in southern Indiana by constructing reservoirs at Brookville, Patoka and elsewhere. The emphasis today is on building or extending water and sewer lines. My office spends hundreds of hours each year helping towns and cities throughout the district apply for the grants and loans to get these projects going, and we have had remarkable success getting our fair share of assistance from state and federal sources.

HOSPITALS, LIBRARIES AND SCHOOLS

I have attended scores of dedications for improvements made in southern Indiana's libraries, schools, and hospitals, many of them completed with the help of federal grants and loans. I experience genuine satisfaction as I reflect on the improvement each facility makes in the quality of Hoosiers' lives.

RECREATION

Southern Indiana is blessed with some of the most scenic areas in the Midwest, and has long been a tourist destination. I have worked to promote recreational opportunities, including: creation of the Muscatatuck Wildlife Refuge as well as the new Charlestown State Park; expansion of the Hoosier National Forest; construction of the Falls of the Ohio River Park and Interpretive Center, with its access to the ancient fossil beds on the Ohio River; and creation of a new Ohio River Greenway linking the communities of New Albany, Clarksville, and Jefferson.

LESSONS LEARNED

The past 34 years have provided many lessons in how to promote economic development. First, local officials must take the lead in planning for new development and attracting new businesses. Second, there must be a strong local emphasis on building a skilled workforce, including investment in our schools, vocational programs, and workplace training initiatives. These efforts will be particularly important in coming years as global competition for well-paying jobs intensifies. Third, our state must place a high priority on improving infrastructure. The highway bill currently pending in Congress will significantly boost Indiana's share of federal highway dollars and help address many unmet highway needs. Fourth, we must focus on encouraging our young people and entrepreneurs, never forgetting that the backbone of the Indiana economy is small business, which employs more than 2 million Hoosiers.

And lastly, even with its flaws, government will always be an important part of the economic equation. My experience in Congress has taught that good government at all levels can make our communities more competitive and our lives more pleasant. It can never replace individual Hoosiers' skill, hard work and creativity, but it can help lay the groundwork for successful development efforts, develop through education and training the needed skills in the workforce, build vital infrastructure, and help leverage limited funds to attract investors to our region.

HONORING E. DUANE THOMPSON ON HIS RETIREMENT

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. HASTERT. Mr. Speaker, I rise today to honor a man whose years of service to the citizens of my District cannot be overstated.

Dewey Thompson, for the past thirty-two years, has led the Association for Individual Development with both excellence and compassion. The Association serves individuals of all ages who are developmentally and/or physically disabled or mentally ill, and Dewey Thompson has played a critical role in meeting the needs of these individuals and their families. A former teacher and counselor, Dewey joined AID in 1966 as its President, and since then the Association has grown to include more than thirty programs and serves more than 1,400 clients annually.

I do not have the time to read off a list of Dewey Thompson's accomplishments and the awards he has received, but it is symbolic of his esteem within the community that AID's Rehabilitation Center was renamed in his honor in 1991.

Mr. Speaker, I urge you and my colleagues to join me in honoring Dewey Thompson for his years of service to the people of Illinois and my District, and wish him the best on his retirement.

WASHINGTON TOWNSHIP HEALTH CARE DISTRICT MEETING HEALTHCARE NEEDS IN THE 13TH CONGRESSIONAL DISTRICT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. STARK. Mr. Speaker, I would like to take this opportunity to recognize The Washington Township Health Care District which has provided 50 years of service to the community of Fremont, California.

Half century ago, a group of civic minded citizens created the Washington Township Health District in the belief that healthcare is just as much a matter of public duty and public financing as is public education.

The District opened Washington Hospital, a 150 bed facility, within 10 years. Washington Hospital has been providing superior health care services for the past 40 years; the Hospital has grown right along side the community and has consistently been able to meet the needs of our community.

The founding members of the Board had the foresight to envision that returning profits to the Township, in the form of services and programs, would benefit the community more than profits being distributed to shareholders outside the District. In addition, the creation of a publicly elected Board of Directors provided ongoing community access to the governance of the District.

Mr. Speaker, please join me in recognizing Washington Township Health Care District for the service it provides to meet healthcare needs in our community.

TRIBUTE TO BROWNIE TROOP #434 KEY WEST, FLORIDA

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. DEUTSCH. Mr. Speaker, I rise today to congratulate Brownie Troop No. 434 from Poinciana Elementary School in Key West, Florida. The troop received the community award in the 1998 Make a Difference Day Awards on April 19th from USA Weekend, a nationally distributed publication.

Make a Difference Day, an annual event held on the fourth Saturday of every October, was started in 1992 by USA Weekend and The points of Light Foundation. The Poinciana Troop first participated in their event in 1996 by holding a school-wide food drive which succeeded in collecting 692 cans.

The troop's original goal was to collect 1,000 canned goods and recruit 13 businesses to volunteer as collection sites. They surpassed their goal last October 25th by collecting 2,213 items of food for St. Mary's Soup Kitchen and enlisting the participation of sixty-five businesses.

The Poinciana Elementary School Brownie Troop No. 434 is composed of 13 young girls, ages 6 to 8 who are: Katherine Albury, Allison Baker, Yanessa Barroso, Diana Baucom, Britney Bethel, Alexandria Caballero, Claire Dolan-Heitlinger, Espi O'Dell, Brittany Rogowski, Melissa Roos, Amanda Talbott, Andrea Wells,and Sheri Yoest. The troop is led by Troop Leader Dawn Albury. As their congressman, I am proud to represent such socially-conscious young girls. I am sure the citizens of Key West join me in wishing them continued success in 1998.

A TRIBUTE TO OUR LADY OF MOUNT CARMEL CHURCH

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. KLECZKA. Mr. Speaker, I rise today to honor the Our Lady of Mount Carmel Church in West Allis, Wisconsin on the celebration of its 60th Anniversary as a congregation.

The dream of having a church where the needs of the area Italian speaking community could be met began in the 1930's for a group of about 250 Italian-Americans. But several attempts to rent space for worship did not prove successful, and in 1938, members of the Italian community began to work to raise funds to build a church of their own.

On September 21, 1939, the dream was realized, as Father Raymond Leng was named as the church's first administrator, and the parish began its official existence. The Sisters of Charity of St. Joan Antida also took up residence near the church and have since provided religious training to many generations of children from Our Lady of Mount Carmel.

Father Leng served the congregation until 1946, and was succeeded by Father Salvatore Tagliavia, who served until 1956. Father Albert Valentino then became administrator, and remained with the congregation for nearly 35 years until his death in 1991.

The present administrator, Father James Posanski, was appointed in 1991. Since then, the church has undergone several renovation projects, the parish council was reorganized, and a number of spiritual and social activities were reintroduced to the congregation.

In 1992, the local Korean community began having bi-weekly masses at Our Lady of Mount Carmel. And, as interest in these masses grew, Father John Mace, S.J. soon introduced weekly worship for the Korean-American community.

Sadly, however, in December of 1996, due to a shortage of priests and declining numbers of parishioners, the Catholic Archdiocese announced the closing of Lady of Mount Carmel and several other area churches. The parish's final date for services will be July 12, 1998, the Feast of Our Lady of Mount Carmel.

The church's diamond anniversary celebration was moved to May of 1998, to give the congregation time to properly celebrate the history and life of their beloved parish community. Although the coming months may present a great many challenges as decisions are made concerning the future of this congregation, please join me in celebrating the 60 wonderful years of this devoted and faithful parish.

May the Lord bless them on whatever paths their futures hold.

TRIBUTE TO QUINN CHAPEL AFRICAN METHODIST EPISCOPAL CHURCH

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Quinn Chapel African Methodist Episcopal Church of Sumter, South Carolina. This Church has provided a means of worship to the Sumter community for one hundred and fifty years, an anniversary which underscores the important role the Church plays in the Sumter community. It was my great honor to worship with the congregation March 15th as they celebrated this momentous occasion.

The precise date of the Church's construction is unknown. The building was originally erected in the first half of the nineteenth century, but Quinn Chapel African Methodist Church was burned to the ground a few years ago later when the adjacent school building caught fire. In the absence of a physical church building, members used a "bush shed" for worship. Rebuilt in 1864, the Church stood for the next 98 years until 1962.

A new sanctuary was erected in 1964 under the leadership of the Reverend B.J. Johnson, and in 1993, the Memorial Hall was added under Reverend H.H. Felix. Family and friends of the Church provided leadership and funds for the initial building phase, and the Hall was dedicated in September of 1993. In January 1996, renovation of the sanctuary and bathroom facilities was completed under Reverend F.J. Gadson, whose vision of an enlarged sanctuary and new educational building was realized in October of 1996.

Throughout the physical changes, Quinn Chapel African Methodist Episcopal Church has held true to its mission to be an outreach ministry that provides support and relief to the disheartened, disadvantaged, and disenfranchised. The Church continues to serve the Sumter community by being a loving ambassador for Christ.

I ask that Congress join me in showing true appreciation for Quinn Chapel African Methodist Episcopal Church as it continues to play such an important role in South Carolina, guiding Christian men, women, and children in their daily lives. The Sumter community is indebted to the Church, as the gift of love is difficult to repay. I congratulate the Quinn Chapel African Methodist Episcopal Church as it reaches a landmark One Hundred Fiftieth Anniversary.

IN DEFENSE OF ORGANIC STANDARDS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to congratulate the USDA on its decision to revise the proposed rule on national organic standards.

On December 16, 1997, the USDA published a proposed rule for national organic standards that would have undermined some of the basic tenets of organic farming. USDA wisely requested comment from the public on its proposal. The organic industry instantly mobilized and circled its wagons around the widely accepted, although uncodified, standards that the industry has been following for decades. Organic farmers and consumers wanted to protect the standards behind the label they trust.

The USDA received 200,000 comments on its proposed rule, largely because of the efforts of organic farmers, consumer advocates, and industry groups which publicized the holes in the rule and urged people to voice their concerns. I applaud the efforts of those who have worked to protect the integrity of the organic label. I would like to thank Rep. DEFAZIO for organizing a letter to Secretary Glickman urging him to work with the organic industry to bring the rule more into line with current standards and consumer preferences. And I commend the thirty-five of my colleagues who signed the letter.

Finally, I congratulate Secretary Glickman on his decision to revise the proposed rule. In a press release dated May 8, Secretary Glickman noted that "If organic farmers and consumers reject our national standards, we have failed." I couldn't agree more. Consumer expectations and preferences have driven the organic market to where it is today, earning over $3 billion in sales. Strict organic standards that reinforce current practices and promote consumer preferences will help the market grow even more.

I look forward to reviewing the revised proposal from USDA and to working with my colleagues and the organic industry to ensure that our national organic standards are meaningful and conform to consumer expectations.

MARISA ERDMAN, VOICE OF DEMOCRACY CONTEST WINNER

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. CASTLE. Mr. Speaker, I am pleased to call the attention of the House to the work of Marisa Erdman of Millsboro, DE. Marisa is Delaware's State winner of the Veterans of Foreign War's Voice of Democracy script writing contest and has been named a national winner and recipient of a $1,000 scholarship award from the VFW. I congratulate Marisa, her family, and VFW Post 7422 in Millsboro, DE for sponsoring this excellent program.

As my colleagues know, the VFW has sponsored the Voice of Democracy Competition for 51 years to promote patriotic and civic responsibility among our young people and to help them attend college through the scholarship awards. The competition requires students to write and record a 3 to 5 minute essay on a patriotic theme. This year, over 93,000 secondary school students participated in the contest on the theme: "My Voice in our Democracy." I am very proud to share with the House, Marisa's excellent essay on the need for young people to be involved in their community, to gain knowledge, and to use their experience as a voice in our democracy.

Again, congratulations to Marisa, the Erdman family, and the members of the VFW Post 7422 for their fine work.

"MY VOICE IN OUR DEMOCRACY"—1997-1998 VFW VOICE OF DEMOCRACY SCHOLARSHIP COMPETITION

(By Marisa Erdman)

The Golden Gate Bridge in San Francisco, California, which was once the world's largest bridge, attracts hundreds of thousands of

West Coast tourists annually. Each day, millions of travelers cross the Kanmon Bridge between the Japanese islands of Hunshu and Kyushu. With a length of 4,626 feet, the Humber Bridge in eastern England is the longest single span bridge in the world. What do these three famous bridges have in common? They are all suspension bridges in which towers holding long steel cables support the roadway. And although the towers serve as the main structures, it is the bridge's many individual cables that provide the strength needed to sustain the weight crossing the bridge.

A democracy, such as that of our United States, because of its design is much like a suspension bridge. Democracy serves as the backbone of our nation's strength supporting the weight of natural disaster, economic recession, war, and change. Our forefathers crossed from the shore of oppression and tyranny into the promised land of choice and freedom. The principles and spirit of democracy are the towers serving as the basis for all other ideas that branch from our government. The individuals who comprise and fuel our government with their voices and insights serve as the cables that lift our great nation. Without several of its cables, a bridge will stand and function, however it will not prove as sturdy and may eventually collapse. Just as a democracy without the contribution of all its voices will still run, it will not be a true representation of the wants and needs of the people.

But how can I make my one individual voice heard? Because of my young age, I often feel that I am unable to play an important role in our democracy. But like many people, I keep the spirit of democracy alive by being active in my community. Millions of teenagers like myself volunteer in programs such as Big Brothers and Big Sisters and participate in food drives, benefit walks, and charity fundraisers in an effort to help those in need. By being involved in organizations such as the Student Government Association and by furthering my education, I can familiarize myself with the workings, ideas, and functions of our government. Through actions such as this, I have begun to keep the spirit of our democracy alive and thriving by dedicating my time, energy, and ideas.

In the future, I can make my individual voice heard by supporting the principles of our democracy in louder ways. I can support the plans and ideas of politicians by casting my vote for the candidate I feel will best satisfy my needs. Above and beyond that, I have the opportunity to represent my fellow citizens by serving on community councils or by holding political office. Like the millions of Americans who have bravely risked their lives far and away to keep the bridge of democracy standing, I also have the opportunity to defend my country by serving in the military. I can help keep the principles of our democracy alive through my talents, skills, and actions for the betterment of my community and our great nation.

Through knowledge and contribution, I have become an effective cable in the bridge of our democracy that will allow our great society to cross into the future . . . and my voice in our democracy will be heard.

HONORING THE BROOKLYN CHILD ADVOCACY CENTER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. TOWNS. Mr. Speaker, I rise today to join Innovations in American Government, an awards program of the Ford Foundation and Harvard University's John F. Kennedy School of Government in partnership with the Council for Excellence in Government, in commending the exciting efforts of Brooklyn Child Advocacy Center (BCAC) in creating a program which put children first.

Innovations in American Government is recognized as one of the most prestigious public awards in the country. Innovations awards and recognizes programs and policies that represent original and effective government initiatives. The Brooklyn Child Advocacy Center is among the 100 semifinalists for the award this year. BCAC is an inter-agency partnership that brings together all the jurisdictional agencies responsible for the investigation and prosecution of child sexual abuse.

Traditionally, the investigation of child sexual abuse meant multiple interviews with multiple professionals, disclosing the abuse to three separate agencies. Through the creation of BCAC, previous practices have changed dramatically. When children disclose sexual abuse, they are brought to the BCAC, a child-friendly environment, instead of police precincts, emergency rooms, and municipal offices. At the Center, specialized units of each agency's staff work together in a coordinated, multidisciplinary team approach.

Mr. Speaker, please join me in honoring Brooklyn Child Advocacy Center for all of its achievements and hard work to meet the needs of children who have been victimized.

TRIBUTE IN HONOR OF PRINCIPAL PATRICIA K. O'CONNOR

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. SCHUMER. Mr. Speaker, I would like to take a few minutes today to give tribute to Ms. Patricia K. O'Connor, the principal of St. Edmund Elementary School, in recognition of her 25 years of service to the students of St. Edmund.

Principal O'Connor spent her first twelve years at St. Edmund teaching students in the middle and upper grades before assuming the position of principal in 1984. Since then, her dedicated spirit and enthusiasm have left an indelible mark on St. Edmund Elementary School.

During her tenure, Principal O'Connor has helped St. Edmund to flourish and grow. She introduced a pre-Kindergarten program and a full-day Kindergarten program for the benefit of the youngest students at St. Edmund. Keeping pace with new technologies, Principal O'Connor has ensured that the school has a fully equipped computer lab for use by the students. Her efforts have won Middle States Accreditation for St. Edmund Elementary School.

A school is not just an academic institution, it is also a community of students, parents, and teachers. Principal O'Connor has contributed to this community in the same way, and with the same dedicated work, that she has contributed to the classrooms of St. Edmund Elementary. She has started the Children's Choir which performs at many Liturgical celebrations in addition to establishing a Children's Liturgy at Mass on the third Sunday of each month. She has organized school plays such as a Christmas Pageant and a Passion Play which is performed during Holy Week. By helping to start a student-run newspaper she has strengthened the sense of community at St. Edmund immeasurably.

Principal O'Connor's talents have been previously recognized through her position as Liaison to District #22 for Remediation. I am sure that all of my colleagues today will be delighted to join with me in honoring Principal Patricia K. O'Connor for her twenty-five years of service to the community of St. Edmund Elementary School as a teacher, a principal, and as a leader.

HANOVER AREA CHAMBER OF COMMERCE CELEBRATES ENDURING COMMITMENT TO COMMUNITY AFTER 75 YEARS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. GOODLING. Mr. Speaker, May 13, 1998 will mark the 75th anniversary of south central Pennsylvania's, Hanover Chamber of Commerce. Since its establishment in 1923, the Chamber has been dedicated to serving the community and promoting the economic interests of Hanover's merchants and manufacturers.

For three quarters of a century, the Hanover area has benefitted tremendously from the Chamber's efforts to improve the quality of life in the community. Because of the Chamber's enduring dedication to promote the business opportunities in the area, Hanover has become Pennsylvania's fifth largest retail trading area and eighth largest manufacturing center.

Today, the Chamber's leadership has been even more vital to the future of their community. As Hanover continues to experience an explosion of commercial and residential growth, the Chamber recognized this challenge by adopting a visionary agenda—the Hanover 2000 Plan—to effectively manage this tremendous expansion. The plan focuses on community development, human services, water and scenic resource protection, and infrastructure improvements.

This combination of economic promotion and community service initiatives are sure to bring the Hanover area to the forefront of excellence as we enter the 20th century. In recognition of its past and future successes, I am pleased to associate myself with such an important organization committed to better serving the greater Hanover area and join them as they celebrate their Diamond Anniversary.

TRIBUTE TO MAYOR ROGER SHEPHERD

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great man.

Roger Shepherd was a person who was proud of his community and envisioned great things for the future. As a school teacher, he touched the lives of children and helped to shape future generations. As Mayor of Harrisburg, Arkansas, he touched an entire city.

In serving from 1975 to 1976, Mayor Shepherd produced an impressive list of accomplishments, He worked continually to bring grants into the city to help Harrisburg reach its full potential. Mayor Shepherd was responsible for the creation of a city park in Harrisburg. He was mayor when our nation celebrated its 200th birthday and directed the successful Harrisburg Bicentennial Celebration.

The city of Harrisburg will remember Mayor Shepherd through an upcoming city festival being held in his honor. The festival will serve as a testament to him and the contributions he made to his hometown. It is selfless people like Roger Shepherd that make the world a better place.

HONORING GULFSTREAM AEROSPACE CORPORATION AND THE GULFSTREAM V INDUSTRY TEAM ON WINNING THE 1997 ROBERT J. COLLIER TROPHY

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. KINGSTON. Mr. Speaker, it is a thrill for me to speak in this chamber today not to talk about any pressing matters at hand or particular legislation, but to pay tribute to an outstanding company that is based in Georgia's 1st Congressional District. This company is known as Gulfstream Aerospace Corporation, and they have reached a milestone.

Throughout my years as a public servant, I have come to know the Gulfstream Family in Savannah. They truly represent what it takes to become the nation's leading manufacturer in corporate/business jets. Every time I visit a member of this fine organization, I am always reminded of what symbolizes dedication and excellence.

Because of their unprecedented achievement, the Gulfstream V, and their flawless reputation, the National Aeronautic Association has awarded the 1997 Robert J. Collier Trophy to the Gulfstream Family. This acknowledgment is no ordinary, run-of-the-mill trophy. It is aviation's most prestigious award.

The Collier Trophy is given annually by the National Aeronautic Association to recognize the top aeronautical achievement in the United States. Gulfstream and the G-V Industry Team were presented the trophy at a ceremony and dinner at which I was privileged to attend on April 29, 1998, hosted by the National Aeronautic Association and the National Aviation Club in Arlington, Virginia.

Gulfstream and the Gulfstream V industry team were recognized specifically "for successful application of advanced design and efficient manufacturing techniques, together with innovative international business partnerships, to place into service the Gulfstream V—the world's first ultra-long range business jet." Past winners of the award include Orville Wright, Neil Armstrong and the Apollo 11 flight crew, Charles E. "Chuck" Yeager and United States Senator JOHN GLENN.

Certified by the FAA in April, 1997, the Gulfstream V business jet is the first aircraft of its kind in the world. With unmatched performance, comfort and speed, the Gulfstream V has a range that is 50% greater than any other business jet currently in service. The Gulfstream V can carry eight passengers and a crew of four non-stop distances up to 6,500 nautical miles at speeds up to Mach .88. The V is designed to cruise routinely at 51,000 feet. Last year, in the first eleven months of service, the Gulfstream V set 47 world and national records, consisting of 22 air speed records and 25 performance records. The Gulfstream V has made non-stop travel between cities such as Tokyo and Washington, London and Beijing, Los Angeles and Moscow routine business.

The Gulfstream V was recognized as one of the "Ten Most Memorable Flights in 1997" by the National Aeronautic Association on the flight from Washington, D.C. to Dubai, United Arab Emirates. The flight was 6,330 nautical miles and took 12 hours and 40 minutes. It flew non-stop.

On behalf of the citizens of the 1st District of Georgia, I would like to congratulate the 6,000 men and women at Gulfstream for their outstanding work and for achieving this extraordinary milestone. I am very proud to have the opportunity to recognize the Gulfstream Family this day.

Thank you, and may others throughout the aviation community be inspired to follow Gulfstream's path to success.

TRIBUTE TO THE TUNA CLUB OF SANTA CATALINA ISLAND

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. CUNNINGHAM. Mr. Speaker, I rise today to celebrate the Centennial anniversary of the Tuna Club of Santa Catalina Island. Founded in 1898 by Dr. Charles Frederick Holder, following his rod and reel capture of a 183-pound leaping tuna, the Tuna Club inaugurated the sport of big game fishing. During the last century, the Tuna Club has advanced angling as a sport by designing rules that gave their quarry a sporting chance, introducing tackle categories that recognize an individual's skill, and initiating a code of sport fishing ethics. Many of these accomplishments have been adopted by angling clubs worldwide.

In addition, the Tuna Club has had a significant impact on how the public perceives the importance of protecting marine resources. The Tuna Club has led by example, holding its members to a high degree of sportsmanship and fighting to secure legislation to protect the Catalina Islands fishery.

Let the permanent RECORD of the Congress of the United States make note of the Tuna Club of Catalina Island, recognizing its first century of angling, sportsmanship, conservation and good fellowship. May its membership have good fishing for the Tuna Club's next century.

HONORING KIRA CORRILLO CORSER, FRANCES PAYNE ADLER AND HEIDI McGURRIN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. FARR of California. Mr. Speaker, I am pleased to announce that the works of two photographers and one poet from my district are currently on display in the Cannon Rotunda.

This is the second year that I have hosted "A Matriot's Dream: Health Care for All" at a reception in the Rayburn Foyer. This collection of photographs by Kira Corrilo Corser and poetry by Frances Payne Adler creates a visual story of compelling social issues. This heart-wrenching exhibit on the plight of the uninsured is a must-see for everyone. Many of us don't worry about health care once we've made our choice during open season, but what about those who can't afford health care; or have maxed out the coverage with horrendously high medical costs related to cancer or childhood leukemia; or those who simply can't afford the co-pay on medication they must take three times a day for high blood pressure. The photographs and poetry go straight to the heart on these and other questions.

Also showing in the Cannon Rotunda is a photo essay on the daily lives of the Cuban people. In 1996 the artist, Ms. Heidi McGurrin, spent a number of months on a photo-journalistic assignment in Cuba. Her current show, "Cuba: So near . . . yet so far", presents the Cuban people—from a young bride to a homeless man; a man on his pillow to a woman hanging laundry—in amazing clarity and detail. Ms. McGurrin's work centers mostly around La Habana, Mantazas and Varadero. This is an incredible opportunity to meet the Cuban people and gain a small insight into their daily lives.

Ms. McGurrin wrote a short statement which she titled "Lasting impressions of La Habana". This statement gives you a taste of the richness that is Cuba and that shines through Ms. McGurrin's photographs. I submit this statement for the RECORD.

LASTING IMPRESSIONS OF LA HABANA

Blown by the winds
She stands proud and naked
Pulsing with music
and beautiful faces . . . jumping colors
dripping beauty
open hearts
a heaven glimpsed . . . a sadness felt
old passions lived

A country full of heart, honesty, soul, passion, rhythm.

Blacks, honey colored mulattos, mixtures of Chinese and Spanish, Cubanos.

Handsome. Full of music.

Beautiful souls who sing and dance and cry and feel, whose struggle is for truth, honor, beauty and heaven. Proud.

Flowers are everywhere, even in the trees, the beautiful trees. The buildings with old ironwork, stained glass, marble everywhere, are like old peeling faded dancers of every color and hue, so regal. Pale blue, deep blue, pale green, burgundys and wines, soft rouge colors, standing like proud haunting crumbling angels.

The women are beautiful. They pay attention and look at you as though they have never seen anyone like you before, they make you feel very much alive, but kind of like a ghost. You are there but you are not there, just like the buildings . . . the feelings can be elusive.

Walking through the inner city I saw families sitting in the doorways . . . the least gesture from me would bring such warmth, a beautiful smile. I feel so much love for these people.

SUPPORT FOR UNDERGROUND RAILROAD

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to lend my support to an effort in the Senate to amend the Higher Education Bill and give the Secretary of Education in consultation with the Secretary of the Interior, authority to provide grant money to create an educational center to research and celebrate the history of the Underground Railroad.

Under the agreement, as I understand it, the Department of Education would be authorized to evaluate competitive proposals put forward by non-profit educational groups and select a proposal that meets certain criteria, including the utilization of an existing public-private partnership and an on-going endowment to sustain the facility in the future.

Mr. Speaker, in 1990 this Congress directed the National Park Service to conduct a study of alternatives for commemorating and interpreting the Underground Railroad. The Park Service found that there were numerous sites in several States involved in the operation of this secret enterprise. Consequently, the Park Service could not recommend just a single site for an Underground Railroad memorial.

The effort in the Senate solves this dilemma by providing funds for the development of a major "hub" site and creation of satellite centers all over the country—true to the actual operation of the Underground Railroad.

Mr. Speaker, the efforts to include this amendment on the Education Bill is also true to the Underground Railroad, because the lessons of the organization are still appropriate today. This commemoration is more than just an historical monument, but instead is a teaching and research tool, that will be used to teach us about our heritage.

Mr. Speaker, I hope the Senate will include this amendment and I hope the House conferees will accept the language in conference.

TRIBUTE TO PATRICIA A. FORD

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Ms. LEE. Mr. Speaker, I rise in honor of Patricia A. Ford, the 1998 recipient "Unionist of the Year" award bestowed by the Central Labor Council of Alameda County on May 8, 1998 in Oakland, CA. Raised and educated in Oakland, California, Patricia A. Ford began her career as a labor activist in the early 1970's when he helped to form an employee caucus at Alameda County's Highland Hospital. The group sought to reform its independent union, the Alameda County Employees Association, and Ford helped lead a successful effort to affiliate the union with SEI as Local 616.

Ford became one of the new local's first and most effective shop stewards, and Local 616 members quickly tapped her for leadership. In 1975, she was the first African-American woman elected Vice President of the Executive Board, and in 1978, the first African-American woman elected Local 616 President. Meanwhile, Ford made the union her career as she became the first rank-and-file member selected to work as a field representative. In 1989, the Local 616 Executive Board appointed Ford to the union's top position, Executive Director and a member of the Executive Committee of the Central Labor Council of Alameda County. She was the first African-American to serve in that capacity.

Under Ford's leadership, Local 616 made tremendous strides, successfully extending its organizing into the private sector, where it now represents employees of Prison Health Services and the AIDS Project of the East Bay. Ford also developed and hosted the first SEIU-sponsored Civil and Human Rights Conference, attended by leaders and members from throughout the SEIU western region. Since then, the International Union has expanded the Civil and Human Rights Conference to all regions.

In 1992, Ford was elected to the SEIU International Executive Board, and became President of SEIU Joint Council 2 in the Bay Area. In 1995, Ford was elected Secretary-Treasurer of the Western Conference, a position she still holds. In April 1996, Ford made SEIU history when she was elected as the International Executive Vice President on a leadership slate headed by International President Andrew L. Stern. She, thus, became the first African-American, and only the second woman, elected to a top leadership post at SEIU.

Ford was a member of the Board of Directors of the Alameda Alliance for Health which manages the MediCal program for Alameda County and is a parishioner of the Williams Chapel Baptist Church in Oakland, California. She has a son, Andre, and two grandchildren, Ayauna Phajae and Christopher Erin.

Her life-long commitment to service for all working people has been a model for all of us. With heartfelt congratulations, I salute Patricia A. Ford as the Central Labor Council of Alameda County's 1998 "Unionist of the Year."

COMMEMORATING ALBANY, OREGON'S SESQUICENTENNIAL

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. DEFAZIO. Mr. Speaker, May 17, 1998 marks the Sesquicentennial of the date that Walter and Thomas Montieth filed a land claim in what became known as Albany, Oregon.

Found in the heart of the Williamette Valley along the banks of the Williamette and Calapooia rivers, Albany, is renowned for its beautiful victorian homes, gracious downtown district, and diverse economy. Albany has flourished as a center of business activity for the region while preserving its roots as a pioneer settlement. Oregonians should take great pride in the foresight of Albany's community leaders who preserved its historic architecture and in those who make it available to all of us to enjoy today.

I'm proud to have the honor to represent the people of the Albany area in the United States Congress. I congratulate the City and its leaders on its 150th birthday.

INTRODUCTION OF THE "POISON CONTROL CENTER ENHANCEMENT AND AWARENESS ACT OF 1998"

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. UPTON. Mr. Speaker, I rise today in support of legislation that I am introducing with my colleague and friend Rep. ED TOWNS to provide a stable source of funding for our nation's poison control centers, create a national toll-free number to provide ready access to these centers, and increase public education about poison prevention and the availability of poison control resources.

Poison control centers provide vital, very cost-effective services to the American public. Each year, more than 2 million poisonings are reported to poison control centers throughout the United States. More than 90 percent of these poisonings occur in the home, and over 50 percent of poisoning victims are children under the age of 6. For every dollar spent on poison control center services, seven dollars in medical costs are saved.

In spite of their obvious value, poison control centers are in jeopardy. They are currently financed through unstable arrangements of various public and private sources. Over the last two decades, the number of centers has steadily declined, jeopardizing access to services.

The legislation I am introducing today will provide up to $27.6 million per year over the next five years to provide a stable source of funding for these centers, establish a national toll-free poison control hotline, and improve public education on poisoning prevention and services. The legislation is designed to ensure that these funds supplement—not supplant—other funding that the centers may be receiving and provides the Secretary of Health and

Human Services with the authority to impose a matching requirement.

I encourage my colleagues to join me in support of this very cost-effective investment in the safety and health of the American public, especially our children.

INTRODUCING H.R. 3845 TO CREATE A JOINT FORCES COMMAND

HON. WILLIAM M. "MAC" THORNBERRY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. THORNBERRY. Mr. Speaker, I believe that one of the most important, and in many ways most difficult, challenges facing our government and our Nation over the next few years is the transformation of our national security organizations to meet our security needs of the next century. Toward that end, I have introduced H.R. 3845, to create a Joint Forces Command in the U.S. military.

Inside and outside of government, there is widespread recognition that the world security environment has changed and that our security structures will have to change as well. Throughout history, nations that have prepared to fight the last war have paid the price. Nations that recognize changing conditions, develop new technologies and doctrines, and exert the institutional discipline to overcome the natural resistance to change have had the advantage.

The threats to our security are changing—which is not to say they are lessening. There is less risk of a nuclear war with Russia, but there continue to be many nations seeking nuclear weapons. The chemical and biological threat is growing. Conflicts in all parts of the world are more troubling as they are brought into our living rooms and as the world becomes more interdependent.

Meanwhile, technology is advancing at a dizzying pace, creating both new dangers and opportunities. Worldwide commerce is becoming dependent upon space, just as it was dependent on the oceans in the past. But limited budgets and uncertainty as to our role in the world, added to the institutional resistance to change, place doubt on our ability to adapt to meet future challenges.

One thing is certain: Change is happening all around us, and it will continue to happen. We will have to be prepared to deal with it; the only question is whether we will be prepared in time.

We must rethink all of our security structures, not just the military. Our diplomatic, nuclear energy, and international economic efforts must all be part of a new approach. But I fear that bureaucratic self-interests, fighting for scarce resources, focusing on day to day problems, and the lack of urgency will conspire to prevent the kind of timely transformation which is required.

This kind of transformation in the military requires changes in process, culture, organization, doctrine, as well as taking advantage of technology. The role for Congress in this transformation is obviously limited. But just as in the past with Goldwater-Nichols, the Congress's role is indispensable. H.R. 3845 would take one small, but significant step toward making sure we make the transformation which is required of us.

Since 1991, the Atlantic Command has responsibility for training, force integration and force provider, in addition to having the geographic responsibility for the Atlantic Ocean and the Supreme Commander of NATO. Currently, there is no permanent joint experimentation process. Each of the services has its own.

My bill would create a Joint Forces Command, similar to the way Congress created the Special Operations command in 1991. The Joint Forces Command would be the force provider for the geographic CINC's, oversee joint training and experimentation, and coordinate and integrate the service battle labs.

Goldwater-Nichols pushed the military into jointness in carrying out military operations. We do not have the level of jointness needed to prepare for military operations. We also do not have a permanent joint experimentation process to help us make smart procurement decisions and to develop joint doctrine, both of which will be indispensable.

Since the QDR and NDP reports, virtually every witness before the National Security Committee, who has been asked, has acknowledged that this transformation process is one of the most important and one of the most difficult challenges our country faces over the next few years. DOD witnesses have testified that these issues are being considered and worked by each service. I do not want to replace that. I do want to bring the service's work together, and the Joint Forces Command will help to focus these variety of initiatives into an efficient, joint force.

I hope that this proposal will spawn others. I hope that Congress and the military and outside experts will engage in full and fruitful dialogue about where we need to go and how we can get there. My goal is to make sure that Congress fulfills its responsibilities to see that this transformation takes place so that we can continue to provide for the common defense into the next century.

TRIBUTE TO HERB WHEELER

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. OLVER. Mr. Speaker, I rise to recognize the community leadership of my constituent, Mr. Herb Wheeler of Athol, Massachusetts.

On May 20th, 1998, the North Quabbin Chamber of Commerce will be honoring Mr. Wheeler as Citizen of the Year. Mr. Wheeler is the co-owner, with his wife Colleen, of Flowerland Florist, located in Athol. The prestigious Citizen of the Year award is given to the person who has most exemplified selfless dedication to the pursuit of economic prosperity for the North Quabbin region.

From the beginning of his career, Herb Wheeler understood how important a thriving retail climate was for Main Street, not only to his own success, but to that of the whole town. Herb has worked diligently to bring retail businesses into Athol's downtown. His interest and involvement led him to the Athol Merchant's Association, of which he eventually became president. Through Herb's leadership, this organization grew into a group who's proactive commitment to economic development is unsurpassed in the region.

Herb Wheeler has become even more involved in his community as the years have progressed. In addition to his leadership role with the Athol Merchant's Association, Herb is an executive board member of the North Quabbin Chamber of Commerce, a board member of Athol-Orange Public Access Television, and a member of the Athol/Royalston School District Building Committee.

I join the Chamber in saluting Herb Wheeler's contributions, and look forward to working with Herb and the North Quabbin Chamber of Commerce on future economic development endeavors.

50TH ANNIVERSARY OF AMERICAN LEGION POST #1172

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. COSTELLO. Mr. Speaker, I rise today in honor of the 50th Anniversary of American Legion Post #1172 in Evansville, Illinois. On Memorial Day, the Post will hold a special program in honor of this milestone.

While celebrating its 50th anniversary, Post #1172 will also be honoring several members for fifty years of continuous membership. Members recognized at the ceremony will be: John H. Bauer, Herbert Diercks, Clarence Jany, Edgar Kisro, Ralph Moll, Michael R. Otten, Glen U. Simpson, and Charles Suhre. John H. Bauer and Edgar Kisro both have the additional distinction of being charter members of Post #1172.

It is fitting that the Post hold this celebration on Memorial Day. Memorial Day is traditionally a special day for the members of the American Legion, and for our nation. It is a day for people across the nation to gather to honor brave men and women who gave their lives so that we may live in freedom. Members of Post #1172 are proud of that service. Today, we honor their sacrifice on our behalf as well as joining them in celebrating this special anniversary.

Southern Illinois has a strong tradition of honoring the soldiers who have defended our honor and our nation. At its earliest inception Memorial Day was known as Decoration Day. Major General John A. Logan, of Illinois, declared the first national Decoration Day in 1868 to honor the war dead. A stone in a cemetery in Carbondale, Illinois states that the first Decoration Day ceremony took place there in 1866.

General Logan ordered soldiers' graves to be decorated with these words: "We should guard their graves with sacred vigilance. Let no neglect, no ravages of time, testify to the present or to the coming generations that we have forgotten as a people the cost of a free and undivided republic."

General Logan's words are as true today as they were 130 years ago. As Southern Illinois continues this fine tradition of observing Memorial Day, I ask my colleagues to join me in honoring American Legion Post #1172 and all of our nation's veterans.

HONORING VINCENT A. BERGAMO FOR 40 YEARS OF SERVICE AS A NEW YORK STATE RACING OFFICIAL

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. HINCHEY. Mr. Speaker, it is my privilege to recognize the retirement of Vincent A. Bergamo from the New York State Racing and Wagering Board. After forty years of service, Vince leaves behind a legacy in the sport of harness racing that will forever be a testament to his deep-rooted love of horses and racing. His enthusiasm and experience will surely be missed.

I have had the pleasure of knowing Vince for several years. He has impressed me as a man of great character and integrity and I am fortunate to call him a friend. His career as a racing judge was characterized by hard-work and dedication and his contributions have left a lasting effect on the industry.

Vincent Bergamo began his distinguished career in 1958 at the Monticello Raceway in Monticello, New York as an Assistant Race Secretary. Having grown up with a keen appreciation for horses, Vince immediately excelled around the track. He was quickly offered a position in Saratoga, New York as presiding judge. He was 24 at the time, the youngest presiding judge in the state.

Vince's love of harness racing and his enthusiasm for his job brought him to every track in New York as well as tracks in Florida, Maryland, New Hampshire and Pennsylvania. Throughout all of these locations, Vince set the standard for judging. He was honest, fair and demanded the highest degree of competitiveness from the participants of his races. He was also the recipient of numerous accolades recognizing his accomplishments.

Mr. Speaker, aside from judging, Vince tackled several other tasks in harness racing. On a purely voluntary basis, he became actively involved in the Goshen Historic Track—realizing that the track as the oldest exiting sporting site in the nation at that time. He has been credited with leading the crusade that saved the track. His efforts directly led to the listing of the track on the National Register of Historic Sites. Vince remains actively involved in the operation of this track and continues to promote racing throughout New York, the United States, and even the world—Vince's creation, the popular Billings Amateur Series has lasted some 16 years and has attracted international attention.

Looking past Vince's professional awards and accomplishments, and there are many, it is clear that above all else, Vince is a family man. While maintaining an extraordinarily active career, Vince, along with his wonderful wife, raised 10 beautiful children. He was, and remains today, active in all aspects of their lives.

Mr. Speaker, it is not often that a man like Vince Bergamo comes along. He is the epitome of class and integrity and his accomplishments both professionally and personally are remarkable. I invite my colleagues to join me in honoring Vincent Bergamo for 40 years of dedicated service and in wishing Vince, his wife, and his entire family many more years of health and happiness.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. KIND. Mr. Speaker, today is May 13. The last time the leadership of the House promised a vote on campaign finance reform they guaranteed a vote before May 15. That leaves one more legislative day left to consider this important issue. Unfortunately it appears that this date will pass without a debate and vote on campaign finance reform. It is one more broken promise by the leadership of the House on this issue.

We have now heard that debate may begin next week and a vote will come the first week in June. I will believe it when I see it. It is painfully clear that the leadership will do anything in their power to kill finance reform. The leadership should not, however, believe that this issue will go away. Tremendous momentum is building across this country in favor of campaign finance reform. I for one will use the extra time between now and June to let the public know who is behind the continued delay in allowing a vote on campaign finance reform.

It will not be me or other members of Congress who will keep the pressure on the leadership to allow a vote, it will ultimately be the public. I hope that the leadership of this House will listen to the demands of the citizens of this nation and allow a vote on campaign finance reform.

DEMOCRATS ON CHAIRMAN BURTON'S COMMITTEE JUSTIFIED IN REFUSING TO VOTE FOR IMMUNITY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. CONYERS. Mr. Speaker, several hours ago, the House Government Reform and Oversight Committee gave a vote of no confidence to the campaign finance investigation being headed by my friend Chairman DAN BURTON of Indiana. The Committee declined to immunize four witnesses and haul them before his Committee. As a past Chairman of that Committee, I can tell you that what the Committee did today was the only course of action they could take.

My democratic colleagues were not asking for much. They simply wanted procedures for subpoenas that would give them a chance to object and force a Committee vote before such subpoenas could be issued. They were willing to negotiate, but Chairman BURTON refused.

I'm sorry to say this, but Chairman BURTON's recent actions have discredited the major oversight committee of the Congress, which is supposed to set the example for fair investigative procedure.

Never in my tenure, not once, as Chairman of that committee, did the minority complain that a major investigation was unfair, or conducted without their full involvement.

Consider the causes for embarrassment:

More than 600 subpoenas issued without ever having one Committee vote or the involvement of members of the Committee;

A stubborn refusal to subpoena any witnesses requested by the Democratic members of the Committee;

A tasteless decision to release the private conversations between Mr. Hubbell and his wife that had no connection to the subject that the Committee was investigating;

The misleading editing of the tape transcripts, which should have never been released in the first place, forcing a public rebuke by the Speaker for the embarrassment caused to the House of Representatives;

The growing evidence that the Committee may be improperly, and perhaps illegally, coordinating its investigation with that of Independent Counsel Kenneth Starr, which by federal law is supposed to remain secret.

The failure of the Oversight Committee's investigation carries an important lesson for all of us in Congress. The concerns of every member of a committee—especially an investigative committee—cannot be ignored or shunted aside by procedural maneuvers. I am hopeful that my colleagues will keep these lessons in mind as we move forward from the ashes of the Burton investigation.

50 YEARS OF EXCELLENCE FOR STUYVESANT FALLS VFW POST 9593

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. SOLOMON. Mr. Speaker, it is my pleasure to commemorate the anniversary of Veterans of Foreign Wars Post number 9593. This post, I am proud to say, is based in Stuyvesant Falls, New York of my congressional district, and is celebrating a remarkable 50th year in existence.

The V.F.W., Mr. Speaker, has been an organization of exceptional merit and service to the needs of many veterans. It is only appropriate that those brave men and women who placed themselves in harms way overseas be represented by such an able organization. The members of Post 9593 have been receiving just such outstanding service for 50 years now. And beyond that, they have been providing their fellow veterans, their loved ones, and their community with service themselves as active members of an active Post. It is comforting to know that those who served the needs of our country and fought for the principles and ideals of America all over the globe can depend on the support of an organization like Post 9593 back home in upstate New York.

Mr. Speaker, the service of Post 9593 in Stuyvesant Falls is worthy of significant recognition. This Post, and others like it, are the reason I fought so hard to attain Department level status for Veterans' Affairs. When Ronald Reagan signed that legislation into law, veterans were finally afforded the degree of national consideration they deserve. The efforts of V.F.W. Posts like this one, Mr. Speaker, having served the needs of veterans since 1948, assured veterans the assistance and recognition they deserved prior to approval of this government department and continue to encourage fair consideration of veterans' issues.

In addition Mr. Speaker, I can tell you that the members of Post 9593 take great pride in their service to country and in the existence and activities of their distinguished Post. In fact, their VFW Post has been honored with the distinction that it is one of only a few that has consistently maintained 100 percent membership every year for its entire 50 year history. That is the sort of pride and dedication that marks an organization comprised of brave soldiers who have served their country and community faithfully and honorably. They have made us all proud. For all of this, Mr. Speaker, we owe Post 9593 a tremendous debt of gratitude and I ask that all members of the House rise with me in tribute to each and every brave veteran who has comprised the 50 year history of this Post.

SECRETARY OF STATE MADELEINE K. ALBRIGHT DISCUSSES THE MIDDLE EAST PEACE PROCESS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. LANTOS. Mr. Speaker, no American Administration since the presidency of Harry Truman has been as supportive of Israel as has our current Administration. The President is personally engaged and committed to the safety and security of the state of Israel, and he has affirmed on many occasions—most recently in a letter I received from him dated May 5th—that our nation's unshakable support for Israel's security "has been and will continue to be a central feature of the U.S.-Israeli relationship and a guiding principle for this Administration's role in the Israeli-Palestinian peace process." He noted that "fighting terrorism is not optional; it is a basic premise of the peace process."

Our distinguished Secretary of State, Madeleine Albright, has personally played a critical role in working to move along the peace process, and she has devoted a great deal of time, effort, and energy to make meaningful progress. Our Secretary of State's personal intellectual and emotional commitment to move the peace process forward is one of the principal reasons for the progress that has been made.

Mr. Speaker, in the past several days, there has been considerable heat, but little light on the status of negotiations and the role of the United States in that process. Secretary Albright yesterday spoke at the National Press Club on the "Middle East Peace Process" and outlined the framework and the focus of the Administration's policy in this regard.

Mr. Speaker, because of the acrimony and misconceptions that have been magnified in the press, I think it is important for my colleagues to see for themselves first hand a concise and coherent discussion of our policy. I submit Secretary Albright's address at the National Press Club to be placed in the RECORD, and I urge my colleagues to give thoughtful attention to her excellent remarks.

THE MIDDLE EAST PEACE PROCESS

(Delivered by Secretary of State Madeleine K. Albright at the National Press Club)

Thank you very much. I am very pleased to be here.

Two weeks ago, before departing for Asia and talks in London on the Middle East, I attended a dinner sponsored by Seeds of Peace. This is a group that brings young people together from all around the Middle East to learn about and from each other, to go beyond the stereotypes and to understand how much they have in common.

At that dinner, I was given a letter signed by Arab and Israeli youngsters, which I hand-delivered in London to Prime Minister Netanyahu and Chairman Arafat. I want to begin my remarks today by quoting from that letter: "In our history books, the Middle East has always appeared as a magnificent crossroads. Yet we have not tasted its grandness, for we are blinded by its destructive wars. We at Seeds of Peace had a taste of what it is like to co-exist peacefully. We learned to accept the fact that both sides, Arabs and Israelis, have a right to a home in this disputed holy land. We are writing this letter as people who have experienced peace temporarily and we enjoyed the taste, but we want the whole pie. However, this is up to you. It is up to you to shape or build our future."

That is a part of the letter that I delivered.

I would have liked very, very much to have been able to return to the United States this past weekend with the news that the prayers of those young people had been answered and that a new milestone in the Middle East peace process had been reached. It was our hope that this week would have marked the start of permanent status negotiations between Prime Minister Netanyahu and Chairman Arafat, hosted by President Clinton.

Unfortunately, despite exhaustive and exhausting efforts to remove them, there remain obstacles to an agreement that would allow those permanent status talks to begin. However, I look forward to meeting with Prime Minister Netanyahu here in Washington tomorrow to see if it is possible to clear the way.

Today, I want to do two things. First, on behalf of President Clinton, I want to reaffirm America's commitment to the pursuit of Arab-Israeli peace and our determination to continue exploring every possible avenue for helping the parties to achieve it. We do this because it is in our interest and because it is right. The people of the Middle East deserve a future free from terror and violence, a future in which they can prosper in security and peace.

Second, I want to explain the logic of our approach and provide some perspective about what we have been doing in recent months to overcome the impasse that has developed in Israeli-Palestinian negotiations.

The past year has been the most disappointing since the Oslo Accords were signed in 1993. It was 16 months ago that active US mediation helped to produce an agreement on Hebron. Since then, a crisis of confidence has arisen between Israelis and Palestinians that has stalled at the bargaining table and put at risk both historic accomplishments and future hopes.

In only two years, we have gone from a situation where Israel had some form of peace negotiation, relationship, or promising contact with every Arab state except Iraq and Libya to a stalemate which has eroded regional cooperation on issues such as water, economic integration, the environment and refugees, stalled Arab-Israeli contacts, and caused optimism to be replaced by a sense of fatalism and helplessness about the future.

At the root of the stalemate is a crisis of partnership between Israelis and Palestinians wherein short term tactical considerations have too often trumped broader understandings of common interest and cooperation. Indeed, we have gone from a situation where no problem was too big to solve to a situation where every issue is argued about. We have seen tragic incidents of terror, unilateral actions and provocation rhetoric undermine the historic accomplishments of the Israeli-Palestinian negotiations.

For more than a year now, the United States has been working hard to revive the missing spirit of partnership. We have been trying literally to restore the ability of the parties to talk constructively with each other, to overcome mistrust, to solve problems, to arrive at agreements and to implement obligations.

Early last year, we were approached by Prime Minister Netanyahu with an idea for reorienting the process. He argued that the confidence building period provided for under the Oslo Accords had begun instead to destroy confidence; and he was right. The Prime Minister argued that it therefore made sense to move directly into final status negotiations, and to do so on an accelerated timetable. He asked President Clinton to help achieve this purpose; and as Israel's ally and friend, the President decided to try to do so.

Beginning last spring and throughout the summer of 1997, we sought an agreement that would put the process back on track by focusing the parties on the importance of getting to permanent status talks. In August I proposed in a speech here in Washington that the parties "marry the incremental approach of the interim agreement . . . to an accelerated approach to permanent status."

Then last September the Israelis and Palestinians agreed to a four-part agenda that included accelerated permanent status talks and three other issues: security with the emphasis on preempting and fighting terror; the further redeployment of Israeli troops; and a time-out on unhelpful unilateral steps. There followed several months of intensive discussions on that agenda along with resumed negotiations on key interim issues.

During this period there was some narrowing in the differences between the parties, but very substantial gaps remained. Despite our efforts, we could not get the Israelis and Palestinians to agree to an accord. Both urged us, nevertheless, to persist and to help them find a way to bridge the differences. By early this year we had come to the conclusion that even if the parties could not be responsive to each other's ideas, they might respond to ours. Working closely and quietly with both sides, we began to share our views on how the parties might resolve their differences over the four-part agenda.

In January, here in Washington, President Clinton met with Prime Minister Netanyahu and Chairman Arafat. And I met with them when I traveled to the region in February, and then again in Europe in March. Ambassador Ross and Israeli and Palestinian negotiators have been in almost constant contact. Throughout, we continued to urge the parties to sort out the issues directly with each other.

Unfortunately, none of these discussions produced sufficient results. It was clear that tough decisions were required if Israelis and Palestinians were to reach an agreement that neither side was prepared to make.

Having worked since January to share our thoughts informally with the parties at the highest level, it was logical that we should at some point share a more fully integrated set of ideas in an effort to facilitate decisions. We took this step not because we wanted to, but because there seemed no other way to break the dangerous logjam that had developed.

Our ideas stemmed from intensive consultations with both sides and take into account both the obligations each side has accepted and the vital interests each must protect. They are balanced, flexible, practical and reasonable. They are based on the principle of reciprocity—another concept stressed by Prime Minister Netanyahu and embraced by us because of our belief that parallel implementation of each side's obligations is the only way to restore the partnership between Israelis and Palestinians.

In presenting our ideas, we made it clear that we were offering them as suggestions, not as an ultimatum or an effort to impose a settlement. Both parties have their own decision-making processes and interests, which we respect. Our purpose was only, in response to the parties' request, to help them find the way forward.

The role of the mediator is never an easy one. The challenge is how to meet the needs of both sides in a way that is acceptable to the other. Logically, that presents both sides with the need to be flexible and to make decisions that reflect the concerns not just of one party, but of two. In this regard, our ideas were designed to find that balance and to persuade each side that the balance could be struck in a way that addressed their particular requirements.

Now, let me try to explain our approach as it relates to addressing Israel's requirements, foremost of which is security. Let me say at the outset that there should be no doubt about the commitment of the Clinton Administration or of America to Israel's security. That commitment is unshakable and has been demonstrated over and over again, not only in words but in actions; in our joint struggle against terrorism; in the assistance to Israel that the American people have so long and so generously provided; and in the steps we have taken to ensure Israel's qualitative military edge.

These include providing Israel with the F-15-I, the most advanced fighter aircraft in the American arsenal; the pre-positioning of American military stock and material in Israel for joint use; and jointly-funded research and development projects designed to enhance Israel's ability to protect itself against long range missiles and Katyusha rockets. And let me add that our to Israel's security does not come with a time limit. There is no expiration date. It will continue today, tomorrow and for as long as the sun shall rise. I said that in Israel last year and I meant it. And that's true whether there is progress in the Middle East peace process or not—or whether we have differences with Israel at a particular moment or not.

At the same time, we have agreed with Israeli leaders from Prime Minister Ben Gurion to Begin and from Rabin to Netanyahu that the key to long term security for the Israeli people lies in lasting peace. That is why we have been working so hard to resolve the present impasse. In so doing, we would not for a minute assert for ourselves that right to determine Israel's security needs. That is—and must remain—an Israeli prerogative.

Moreover, both in our ideas and in the way we presented them, we took fully into account Israeli concerns both about process and substance. For example, we have given the parties many weeks to consider our ideas in private. We did not launch a public campaign on their behalf. And in response primarily to Israeli requests, we allowed more time and then more time and then more time for our suggestions to be studied, considered and discussed.

Moreover, the ideas we presented posed some very difficult choices for the Palestinians. They were required to make substantial changes in their negotiating position. Nevertheless, Chairman Arafat agreed to our ideas in principle.

The real centerpiece of our efforts to address Israeli requirements focused on dealing with Israel's fundamental and legitimate security concerns. It was no coincidence that security was the first point on our four-point agenda. Creating the right environment for negotiations had as its focus the issue of ensuring that Israeli-Palestinian security cooperation was functioning at 100 percent, and that Palestinians were exerting 100 percent effort to take effective unilateral steps against terror. That's why our ideas on security create a structure to ensure that the fight against terror will not be episodic, but that it endures.

From the beginning, we have made the security issue the center of our dialogue with the Palestinians. We have pressed them to understand that the fight against terror is a basic Palestinian interest. And what we have seen, especially over the past several months, is a concerted Palestinian effort—even in the absence of an agreement with Israel on the four-part agenda—against those who would threaten peace with terror and violence. The Palestinian Authority deserves credit for taking on such groups, but it is essential as they do that others in the region who tell us they support peace refrain from greeting with cordial hospitality and financial backing the enemies of peace.

Our suggestions for Israeli redeployments were also formulated with Israel's prerogatives and concerns in mind. We recognize, as reflected in the Christopher letter, that further redeployment is an Israeli responsibility under Oslo, rather than an issue to be negotiated. But it is in the nature of partnership that Israel should take Palestinian concerns into account, while following the terms of its agreement. Otherwise, the peace process cannot move forward.

In presenting our ideas, we did not define the areas from which Israel should redeploy. Our ideas placed a premium on Israel retaining overall security responsibility in the areas affected by the proposed redeployment. And our suggestion about the size of the next redeployment came down far closer to Israel's position than to that of the Palestinians.

Why did we suggest a size? Because that is the only way to reach the agreement on launching permanent status talks that Prime Minister Netanyahu asked us to achieve. In presenting and discussing our ideas, we have acted with discretion and patience. Because we realize the difficulty of the decisions the parties were being asked to make, we have gone the extra mile—in fact, the extra 20,000 miles, back and forth across the Atlantic many times. And we have done so without complaint, because America will always go the extra mile for peace.

I want to mention at this point also that America's commitment to peace and security in the Middle East has historically been a bipartisan commitment, stretching from the administrations of Truman and Eisenhower to Bush and Clinton. Because that commitment involves the security of a cherished ally and the vital strategic interests of the United States, our leaders have historically stood together in support of Israel, and shoulder to shoulder with our Arab friends in pursuit of peace. If America is to play its proper role in promoting stability in the Middle East, it is imperative that our leaders now—in the Executive Branch, in Congress, and within the Jewish-American and Arab-American communities—continue to work together on behalf of shared goals.

Tomorrow, I will meet with Prime Minister Netanyahu again, and I very much look forward to the meeting. We are working hard to overcome differences an I hope we will be able to make progress.

But the key point that I have been emphasizing to both Israeli and Palestinian leaders is that although America remains committed to the pursuit of peace, it is up to them—not to us—whether peace is achieved.

Over the past months, we have played the role of mediator, counselor, friend, shuttler, cajoler and idea-maker. We have responded whenever called at literally any time of the day or night. We have done this because we care about Israel and its people; and we care about the Palestinians and Arabs; and we care about the future peace and stability of the region.

We are not giving any ultimatums, and we're not threatening any country's security. We are not trying to make any party suffer at the expense of another. All we are trying to do is find the path to peace, as the parties have repeatedly urged us to do. And what we have especially been trying to do in recent weeks is to issue a wake-up call. The leaders of the region have reached a crossroads. Act before it is too late. Decide before the peace process collapses. And understand that in a neighborhood as tough as the Middle East, there is no security from hard choices, and no lasting security without hard choices.

The parties must understand, as well, that there is urgency to this task. For time is no longer an ally of this process; it has become an adversary. The historic accomplishments that flowed from the Oslo process represented a strategic opportunity for peace that is now being put at risk. Consider that just two years ago, at Sharm al-Sheikh, representatives from Israel and a host of Arab states gathered at the Summit of the Peacemakers to say no to terror and yes to peace. They saw Israel as a partner. Unfortunately, that exhilarating sense of partnership has been lost.

Second, the very idea that negotiations can peacefully resolve the Arab-Israeli conflict is now under threat. Unless the leaders are willing to make hard choices, the field will be left to extremists who have no interest in peace.

Third, the clock continues to tick. The interim period under Oslo concludes on May 4, 1999—less than a year from now. Those who believe that drifting is acceptable, or who believe they can declare unilateral positions or take unilateral acts when the interim period ends, are courting disaster. Both sides must understand that the issues reserved for permanent status discussions—including the status of the West Bank and Gaza and of settlements—can only be settled by negotiation. That was the spirit and logic of Oslo.

America's interest and goal is a comprehensive Arab-Israeli peace based on UN Security Council Resolutions 242 and 338, including the principle of land for peace. That will require decisive progress on all tracks, including the Israel-Lebanon track and the Israel-Syria track.

We are not a party to the negotiations. As President Clinton has repeatedly emphasized, it is not our right, nor our intention, nor is it within our capacity, to dictate terms or impose a settlement. At the same time, our credibility and interests are indeed affected by what the Israelis, Palestinians and Arabs do or fail to do. We are prepared to support their efforts as long as we judge they are serious about wanting to reach an agreement—and serious enough to make the decisions necessary to achieve it.

For too long, too many children in too many parts of the Middle East have grown up amidst violence, deprivation and fear. Too many lives have been cut short by the terrorist's bomb, the enemy's shell and the assassin's bullet. Too many opportunities have been lost to heal old wounds, narrow differences and transform destructive conflict into constructive cooperation.

Everyone with a stake in the Middle East has an obligation to do what can be done to seize the strategic opportunity for peace that now exists, and thereby to make possible a future of stability and prosperity for all the people of the region.

The United States believes this kind of future is within our grasp. But the peoples of the region will not realize that future if their leaders do not reach out with a vision as great as the goal to overcome past grievances, treat neighbors as partners and undertake in good faith the hard work of cooperation and peace. All that is required is for each to accord dignity and accept responsibility, and to act not out of passion and fear, but out of reason and hope.

For the peoples of the region who have suffered too long, the path out of the wilderness is uphill, but clearly marked. The time has come now, before the dusk obscures the guideposts, to move up that road; and by so doing, to answer the too-long denied prayers of the children—all the children—of the Middle East.

Thank you very much.

HONORING FARMINGTON HILLS HARRISON HIGH SCHOOL AND THEIR MANY ACCOMPLISHMENTS

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. KNOLLENBERG. Mr. Speaker, I rise today to bring to your attention the achievements of the Harrison High School football team in Farmington Hills, Michigan. The Harrison High School football team, with a 46–8 record in 16 playoff appearances and eight state titles under their belts, are true champions in every sense of the word. Most recently, the Hawks added the 1997 Class "A" State Championship to their long list of accomplishments. In addition to their athletic prowess, the team also holds the eighth highest grade point average in the state with a 3.67 average GPA. Mr. Speaker, please join me in congratulating these talented young athletes and the many others who were an integral part of the Hawk's tremendous success.

A "POINT-OF-LIGHT" FOR ALL AMERICANS: DR. BETTY SHABAZZ

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. OWENS. Mr. Speaker, I rise in celebration of the renaming of the Glenmore School in Brooklyn, New York to the "Dr. Betty Shabazz Elementary and Preparatory School." Dr. Betty Shabazz stands as a model of what the students of Glenmore School must strive to become—an individual with strength, resilience and perseverance in overcoming life's greatest challenges. Dr. Betty Shabazz is a great "Point-of-Light" whose legacy will live on forever and will positively influence many more generations to come.

On Monday, June 23, 1997, a great presence in the lives of countless citizens of the world departed this earth. Dr. Betty Shabazz was not just an inspiration to the African-American community, an advocate of equality for women and a proponent of children's rights. She was an inspiration to the human community; she was an advocate of equality for all people and she was an incarnation of every ideal upon which this Nation was founded.

Born Betty Sanders in Detroit, Michigan on May 28, 1936, Dr. Shabazz married activist and civil rights leader El-Hajj Malik El-Shabazz (Malcolm X) in New York in 1958. On February 21, 1965, she witnessed the assassination of her husband after the bombing of their home just three weeks earlier. Despite this tragedy, she exhibited determination as a single mother, raising and educating her six daughters: Attallah, Qubilah, Ilyasah, Gamilah, and twins Malikah and Malaak.

When the harsh winds of hatred swept across our country and prematurely ended the life of Malcolm X, they could not overcome the strength of his wife. Dr. Betty Shabazz continued the struggle after his death, keeping his quest for justice alive. She found time to become a certified nurse, and later earned Bachelor's and Master's degrees, and a Doctorate in Education Administration from the University of Massachusetts. Admirably and courageously, she took the movement into academia, where she touched the lives of hundreds of students. Dr. Shabazz served Medgar Evers College in Brooklyn as Director of Public Relations and Director of Institutional Advancement with ability, passion, and caring, qualities reflected in everything she did in life.

As a single mother, Dr. Shabazz's challenges as a parent were not unique. However, they were heightened by the fact that she was the single mother of Malcolm X's children. She reared her six daughters alone, constantly preparing them for a life in the forefront of the African-American community, one that is a requirement for their lineage. In this way, Betty Shabazz has served as a model of motherhood and a reflection of the family values that every American family aims to emulate.

The greatness of Dr. Betty Shabazz is apparent. Despite the firebombing of her home in 1965 and the brutal murder of her husband, she refused to turn what must have been inconsolable anger into motivation. She turned inward, furthering her education and strengthening her resolve as she embarked upon her mission to raise six children alone and make significant contributions to the community at the same time.

A warrior in her own right, Dr. Shabazz has made her mark on the cause to uplift oppressed people around the globe, and especially within the African-American community. Her message will be forever with us, an inspiration to all who choose a life of service to their fellow man.

Dr. Betty Shabazz turned tragedy into triumph. She exemplified what we all can do if we are willing to make sacrifices. During this celebration, let us reflect upon the lessons taught to us by Dr. Betty Shabazz. Her life has been a testament to the virtues of family, community, and activism, and it is fitting for the Glenmore School to be renamed the "Dr. Betty Shabazz Elementary and Preparatory School" in her honor. Dr. Betty Shabazz is a great "Point-of-Light" for all to admire.

NATIONAL POLICE WEEK

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. RAMSTAD. Mr. Speaker, the events of National Police Week officially begin tonight with the 10th Annual Candlelight Vigil on the grounds of the National Law Enforcement Officers Memorial.

Tonight the names of 305 American heroes will be added to the Memorial's wall, which honors officers killed in the line of duty. 160 of these officers were killed in 1997, and the others died in previous years but have just recently been discovered.

The 160 police heroes killed last year represent an increase of 21% over the 132 officers who were killed in 1996. This is particularly disturbing in light of the recent overall decreases in the violent crime rate.

Another disturbing trend last year was the high number of alcohol-related deaths of law enforcement officers. Alcohol was a factor in at least 19 of last year's police fatalities, including killings by drunk drivers and shootings by individuals who had been drinking.

My home state of Minnesota lost one of its finest last year—a state trooper named Tim Bowe who had served as a protector for Governor Arne Carlson. Corporal Bowe was a 14-year veteran of the force who had 9 commendations and three life-saving awards, including two revivals of heart attack victims with CPR.

At nearly midnight on June 7, 1997, Corporal Bowe was about to finish his shift when he responded to a request for help from three Chisago County Sheriff's deputies. He and the deputies at the scene of a reported shooting had just begun approaching a nearby car when an assailant fired and shot Corporal Bowe in the chin. He died from the wound shortly afterward, leaving behind his beloved wife, Denise, a 6-year-old daughter and a 9-and-a-half-month-old son.

As someone who has many close friends serving in law enforcement, as someone who has logged 1,600 hours riding with police during the "dog watch" and power shift, and as one who has accompanied high risk entry teams on 65 crack raids, I am well aware of the risks that officers like Corporal Bowe face each day they put on the badge. My home state of Minnesota has lost a total of 185 peace officers, and America has lost over 14,622 since the first recorded death in 1794.

The names of slain officers are inscribed on the wall of the National Law Enforcement Officers Memorial, located just blocks from this Capitol. I encourage every visitor to our nation's capital to visit this meaningful reminder of the men and women who paid the ultimate price to protect our communities.

As of co-chair of the House Law Enforcement Caucus with my colleague, BART STUPAK from Michigan, I have been working in a bipartisan way to promote legislation that honors these fallen heroes. We have had some success.

In last year's Taxpayer Relief Act, I worked with other colleagues to include a provision that makes the survivor benefits for families of public safety officers killed in the line of duty tax-free. Very recently, the House passed the Higher Education Act reauthorization with an amendment to provide scholarships to families of slain officers. Just yesterday, the House passed a resolution honoring law enforcement officers and a bill which will provide life-savings bulletproof vests to police departments.

Much more needs to be done. I encourage my colleagues who are not already part of the 71-member bipartisan Law Enforcement Caucus to join. We are holding a meeting tomorrow, in Room 1640 of the Longworth Building, to review our accomplishments and discuss legislative initiatives. I hope all interested members and staff will participate in this important dialogue.

We need to honor the fallen, and we need to empower the living who protect our communities. The thousands of officers who put their lives on the line every day are the reasons we observe Police Week and commemorate Peace Officers Memorial Day each year on May 15.

PRESIDENTIAL RANK EXECUTIVES

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. MICA. Mr. Speaker, on May 7, I had the distinct honor and privilege of attending the annual dinner to recognize the members of the Senior Executive Service who have earned the distinction of Presidential Rank. This year, the dinner, sponsored by the Senior Executive Association's Professional Development League, honored the achievements of 68 leaders of the federal government's career service who have played important roles in improving the performance of federal agencies. They reflect achievements within 11 Cabinet Departments and six independent agencies, and they have contributed to saving American taxpayers billions of dollars.

I would like to enter into the RECORD capsule summaries of the achievements of these dedicated public servants and to express my appreciation as Chairman of the Civil Service Subcommittee for the distinguished leadership that they have provided to the federal workforce.

NATION'S TOP CIVIL SERVANTS RECEIVE PRESIDENTIAL RANK OF DISTINGUISHED EXECUTIVE

Recipients of the nation's highest civil service award have saved the federal government $67.2 billion over the course of their careers. These 68 executives, who received the Presidential Rank of Distinguished Executive, were honored for their accomplishments at a black tie dinner on May 7 at the State Department, sponsored by the Senior Executives Association Professional Development League (SEA PDL).

Of the 11 departments and six agencies represented by this year's winners, the Office of the Secretary of Defense at the Defense Department led the way in savings, with the three winners from that agency posting a cumulative savings of $16 billion. NASA was second with $12.7 billion in savings, and the Office of Management and Budget third with $12.6 billion.

However, savings alone do not tell the full story of these winners. The accomplishments of only one-third of the winners cited by SEA President Carol Bonosaro at the May 7 event include:

Serving as key author of START II, which will eliminate multiple-warhead, land-based missiles and cut U.S. and Russian strategic weapons by 50 percent below START I levels (Franklin Carroll Miller, Principal Deputy Assistant Secretary for International Security Policy, Office of the Secretary of Defense).

Leading a joint effort by government and industry using NASA technology to develop smart airbags for cars to improve children's safety (Dr. Daniel Mulville, Chief Engineer, NASA).

Managing the largest single contract case in Air Force history, with claims of nearly $2 billion (Anthony Perfilio, Director, Air Force Materiel Command Law Center).

Creating a multi-media workstation used by students in schools around the world to make environmental observations as part of global information systems (Dr. Alexander MacDonald, Director, Forecast Systems Laboratory, National Oceanic and Atmospheric Administration).

Selected the "Best Boss in America" by Redbook magazine (Steven Winnick, Deputy General Counsel, Program Service, Department of Education).

Perfecting the MK 48 Advanced Capability torpedo, widely acknowledged as the world's best (Dr. John Sirmalis, Technical Director, Naval Undersea Warfare Center).

Creating a national campaign to stop telemarketing fraud—which costs American consumers over $40 billion a year—result in the conviction of almost 50 telemarketers (Eileen Harrington, Associate Director, Marketing Practices, Federal Trade Commission).

Publishing two of the "100 Most Cited" papers in the life sciences, one of which has become a Citation Classic (Dr. Kenneth Olden, Director, National Institute of Environmental Health Sciences, Department of Health and Human Services).

Coordinating the massive mobilization of on-site relief for the Oklahoma City bombing, while managing daily operations of the largest industrial complex in the Defense Department (Gerald Yanker, Executive Director, Oklahoma City Air Logistic Center, Department of the Air Force).

Restoring the Hubble Space Telescope to its anticipated capability, on schedule and within budget, while improving its observing powers beyond original specification, with spectacular results (Joseph Rothenberg, Director, Goddard Space Flight Center, NASA).

Serving as both Chief Financial Officer and Chief Information Officer, the only career executive in whom both of those statutory functions have been placed (Stephen Colgate, Assistant Attorney General for Administration, Justice Management Division, Department of Justice.

Establishing a cooperative effort with Walt Disney World to share technologies, including advanced animation techniques, to develop a virtual reality environment for soldiers (James Skurka, Deputy to the Commander, U.S. Army Simulation, Training & Instrumentation Command).

Coordinating the government's response to a terrorist plot to bomb 11 U.S. planes flying Asian-Pacific routes, resulting in capture of the conspiracy's leader, the mastermind of the World Trade Center bombing (James Reynolds, Chief, Terrorism and Violent Crime Section, Criminal Division, Department of Justice).

Designing and presenting a departmental budget of over $350 billion, the fourth largest budget in the world (Dennis Williams, Deputy Assistant Secretary, Office of Budget, Department of Health and Human Services).

Serving on a 14-nation board of directors governing development of a joint air command control system in Europe (Spain Woodrow Hall, Jr., Deputy Assistant Secretary and Chief Information Officer, Information Management, Department of Energy).

Having the primary responsibility for an investigation and prosecution which resulted in a fine of $100 million—nearly seven times the highest fine ever previously imposed in a criminal antitrust case (Gary Spratling, Deputy Assistant Attorney General, Antitrust Division, Department of Justice).

Directing the co-invention of the implantable Ventricular Heart Assist Device, which could eventually eliminate the need for heart transplants (Leonard Nicholson, Director, Engineering, Lyndon B. Johnson Space Center, NASA).

Serving as Chief Operating Office of the only national mint in the world that can produce its lowest denomination coin at a cost below face value, and which scored an American Customer Satisfaction Index rating equal to such giants in customer satisfaction as Maytag, FedEx and Mercedes-Benz (Dr. Andrew Cosgarea, Jr., Assistant Director and Chief Operating Officer, U.S. Mint).

Personally handling negotiations concerning disposition of President Nixon's White House tape recordings (Neil Koslowe, Special Litigation Counsel, Federal Programs Branch, Civil Division, Department of Justice.)

Leading the development of a program to generate the technologies to design and build an environmentally compatible and economically competitive supersonic airliner for the 21st century (Robert Whitehead, Associate Administrator for Aeronautics, NASA).

Overseeing information processing and international voice and data communications systems which provide services for 40 million beneficiaries, with an agency home page recognized as one of the Internet's "101 Best Bets" by PC Magazine (Martin Baer, Regional Commissioner (Seattle), Social Security Administration.)

Being recognized as an international authority on animal health and foodborne diseases with discoveries on the epidemiology and genetics of trichinosis (Kenneth Murrell, Deputy Administrator, Agricultural Research Service, Department of Agriculture).

Serving as principal staff director for six Commanders-in-Chief of the U.S. Atlantic Fleet, the world's largest naval base, with $10 billion in operating and manpower accounts (Dr. Roger Whiteway, Director, Warfare Program and Readiness, U.S. Atlantic Fleet, Department of the Navy).

Transforming an organization of 152 domestic and 26 foreign locations operating with a deficit to one operating with a surplus, achieving $37 million in savings and increased overall performance (Waler Biondi, Former Assistant Commissioner, Office of Investigations, U.S. Customs Service).

Being responsible for protecting the President and his family, a President whose foreign visits have included countries that presented significant terrorist threats and/or hostile combat zones (Lewis Merletti, Special Agent in Charge, Presidential Protection Division, U.S. Secret Service).

Directing the largest and most complex medical center serving the highest concentration of veterans anywhere in the United States (Kenneth Clark, Medical Center Director, West Los Angeles VA Medical Center, Department of Veterans Affairs).

Providing the leadership and dedication which were essential elements of the teamwork that returned the Apollo 13 Spacecraft and crew safely (Tommy Holloway, Manager, Space Shuttle Program, Lyndon B. Johnson Space Center, NASA).

INTRODUCTION OF THE REINSTATEMENT OF REHABILITATION BENEFITS FOR SENIORS ACT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. CARDIN. Mr. Speaker, I rise in support of important legislation for Medicare beneficiaries who require outpatient therapy, the Reinstatement of Rehabilitation Benefits for Seniors Act. This bill repeals the Balanced Budget Act provision that imposes an arbitrary cap on outpatient physical therapy, occupational therapy, and speech-language pathology services as of January 1, 1999.

Section 4541(c) of the Balanced Budget Act places annual caps of $1,500 per beneficiary on all outpatient rehabilitation services except those furnished in a hospital outpatient department. I am deeply concerned about the impact this limitation will have on Medicare beneficiaries who require necessary rehabilitation services.

If this cap is implemented, senior citizens suffering from medical conditions common to the elderly such as stroke, hip fracture, and coronary artery disease will have diminished access to rehabilitation care they require to resume normal activities of daily living.

The $1,500 cap is arbitrary and, according to BBA, cannot be adjusted for the medical condition of the patient, or the health outcomes of the rehabilitation services. These caps are, by definition, insensitive to patients suffering from diseases or chronic injuries or who have multiple episodes of care in a given calendar year.

The $1,500 cap dramatically reduces Medicare beneficiaries' choice of provider. Congress has committed to offering beneficiaries greater health care choices. However, a senior citizen who has met the $1,500 cap will have no choice but to seek care in a hospital outpatient department. More convenient provider choices such a rehabilitation agencies, physical therapists in independent practice, and Comprehensive Outpatient Rehabilitation Facilities will be foreclosed to them. Beneficiaries in rural areas will have a particularly difficult time obtaining needed services.

Furthermore, absolute dollar limitations on outpatient rehabilitation services are unnecessary. Effective January 1, 1999, the same date the $1,500 cap goes into place, all outpatient rehabilitation services will be reimbursed according to a fee schedule based upon the Resource Based Relative Value Scale (RBRVS). The movement from cost-based reimbursement to a fee schedule obviates the need for an arbitrary fixed dollar limit on beneficiary services. The screens and edits within the existing fee schedule are designed to control utilization of services.

Confusion has surrounded the interpretation of how the $1,500 cap is to be applied. While the $900 cap that exists for physical therapists and occupational therapists in independent practice today applies separately to both physical therapy and occupational therapy, discussions with HCFA indicate the $1,500 cap may be applied differently. HCFA has indicated the new provision of law could be interpreted as establishing two separate caps. The first cap of $1,500 would be for occupational therapy services, while the second cap would be split between physical therapy and speech-language pathology. Speech-language pathology is not currently capped in outpatient settings.

Finally, Congress held no hearings on the imposition of an arbitrary cap prior to adopting this provision last year. As a result, we have been unable to consider the potential problems that may arise with implementation. In comparison, multiple hearings were held on new payment mechanisms for skilled nursing facilities, home health agencies, and managed care plans.

Passage of the Reinstatement of Rehabilitation Benefits for Seniors Act, which I am proud to cosponsor, is necessary to ensure that seniors have sufficient access to necessary physical therapy, occupational therapy, and speech-language pathology services under Medicare. I am proud to say that this bill is also fiscally responsible, requiring the Secretary of Health and Human Services to implement a new methodology for payment of rehabilitation services by January 1, 2000, to ensure budget neutrality. I urge my colleagues to cosponsor this important legislation.

HONORING NEIL RHODES' WINNING ESSAY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. McINNIS. Mr. Speaker, please include the attached text in the CONGRESSIONAL RECORD.

"MY VOICE IN OUR DEMOCRACY"

1997–98 VFW VOICE OF DEMOCRACY SCHOLARSHIP COMPETITION

(By Neil Rhodes, Colorado Winner)

A few years ago, when I was about eleven years old, I was profoundly affected by the chronicle of a young Jewish girl during the second world war: a girl who, while hiding out from the Nazis, wrote in the red-checkered diary she had received for her thirteenth birthday; a martyr who was eventually discovered and sent to her death in a concentration camp; a visionary whose diary writings encompassed the plight of millions around the world. That little girl was Anne Frank.

One of the final entries in Anne's red-checkered diary proclaimed the desperation of a nation without democracy. It read: "ideals, dreams, and cherished hopes rise within us only to meet the horrible truth and be shattered . . . ."

At the young age I was, this was the first real connection I had ever experienced with the evils of tyranny. Since then I've encountered a multitude of other stories and situations that have increased my awareness of democracy.

Like the time I visited a small holocaust museum and spoke with Mr. Kelen—a survivor of the holocaust himself; or the time I traveled just across the Mexican border, and witnessed first-hand the crippling poverty caused by government corruption; the time I sat glued to the television, my eyes locked on the image of a young Chinese boy facing certain death as he stood in the path of an oncoming military tank.

Every new experience helped shape my thoughts, mold my perspective, and strengthen my voice as an American citizen. I have come to realize just how fortunate I am—how fortunate we all are—to possess the light of democracy.

I've learned that democracy is priceless and powerful. Priceless, because our basic rights are stained with the blood of millions who fought to gain them. Democracy also has boundless power: quite simply, the power to shatter the chains of bondage forever.

But as we live our lives in freedom we must remember the horrible truth that Anne Frank wrote about. The horrible truth is that there are still millions of people living in the darkness of oppression. For those not yet experiencing liberty, we must continue the battle. If we believe in our own sovereignty, that is our duty. The Declaration of Independence does not say "All Americans are created equal" but that "All men"—all around the world—"are created equal." Thus, we cannot simply work to continue our own democratic system; we must bring that system to the rest of the world. Only then will the visions of our forefathers be completed.

In the social and political arena every American has a voice—a platform from which to speak. In many parts of the globe that could not be farther from the truth. Anne Frank never had a voice. I, however, do. I stand before you now, and I speak on behalf of those who couldn't and those who still cannot.

My voice in our democracy is the reflection of a free person; my voice pays tribute to the thousands who died for the cause of liberty; my voice cries out an urging for the respect of our nation and an offering of hope for the future.

Yes, even in the midst of the cruelest oppression, hope is one thing that can never be destroyed. Because, you see, I never finished the quotation by Anne Frank that I gave earlier. Here is the quote in its entirety: "ideals, dreams, and cherished hopes rise within us only to meet the horrible truth and be shattered . . . yet in spite of everything I still believe that people really are good at heart."

Anne Frank's devotion to the human spirit should serve as an example to all of us, and especially to Americans. Progress in the world must begin with you and me. I would hope that one day all Americans would understand that with strength, compassion, diligence, and the fortitude of our voices, we have the ability to change democracy from an ideal, a dream, and a cherished hope . . . into a powerful and permeating reality.

IN MEMORY OF BISHOP JUAN JOSE GERARDI

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. SABO. Mr. Speaker, I rise today to express my deep condolences to the people of Guatemala on the brutal murder of Bishop Juan Jose Gerardi on April 26th.

Bishop Gerardi played a leading role in establishing and directing the Catholic church's human rights office in Guatemala. Just two days before his death, his office made public its report, entitled "Guatemala: Never More," which documented over 55,000 instances of violence and human rights violations in that country's 36-year civil war. His death reminds us that despite the strides Guatemala has made since peace accords were signed in December 1996, the process of building peace, reconciliation and respect for human rights remains fragile. For that reason, I have joined several of my colleagues in writing a letter to President Arzu of Guatemala expressing our condolences on the death of Bishop Gerardi and urging him to maintain a clear and strong commitment to implement the peace accords.

Bishop Gerardi was truly a martyr to the cause of truth. The best way that we in the Congress can honor his memory is to pass the Human Rights Information Act, H.R. 2635, which would require all federal agencies charged with the conduct of foreign policy to declassify and disclose records on human rights violations in Guatemala and Honduras after 1944. The survivors of human rights violations in these countries, and the relatives of those who did not survive, have a right to know the truth. If we are serious about our commitment to democracy, peace and human rights in Central America, then we should do no less.

IN HONOR OF KENTUCKY NURSES WEEK

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mrs. NORTHUP. Mr. Speaker, today I would like to recognize the nurses of Kentucky, as well as throughout this nation. Nurses are a strong component of our health care system and are known for providing health care with a human touch.

In my home state, nurses are celebrating Kentucky Nurses Week and they have every reason to be proud. Working hard and achieving professional and personal goals, many nurses in my community have proven themselves time and time again. Continually striving to upgrade standards of care and improve services, Kentucky nurses have shown that they are committed to providing the best quality health care possible for their patients.

I hope you will join me in recognizing this noble professional during this week, and throughout the year. Certainly, they are deserving of this acknowledgment.

THE NATIONAL GUARD IN A BRAVE NEW WORLD

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 13, 1998

Mr. GIBBONS. Mr. Speaker, I submit the following for the RECORD.

[From the Economist Newspaper Limited, May 13, 1998]

THE NATIONAL GUARD IN A BRAVE NEW WORLD

ANYTHING USEFUL TO DO, BESIDES FIGHTING THE ARMY?

It was one of the sweetest victories in the 350-year history of the National Guard. the citizen-soldiers of Nevada left their factories, farms and investment banks for a battlefield in California, where they disguised their American tanks as Russian T–80s and donned the colours of an imaginary country called Krasnovia. Within a few hours they had pierced the defences of the adversary, a mechanised brigade of full-time soldiers from Georgia (the American state, that is). Guardsmen across the nation rejoiced at their Nevadan comrades' success. They had given the Pentagon sceptics a bloody nose—and proved that "weekend warriors" are perfectly capable of engaging in full-scale armoured combat whenever Uncle Sam needs them.

Unfortunately, not every battle in the relentless conflict between the full-time American army and the Army National Guard, a mostly part-time force with strong local roots, has such a rapid and decisive outcome. Most of the time, the two institutions are locked in an inconclusive war of attrition which makes it impossible for Pentagon strategists to use either of them effectively. Like everybody else who is competing for slices of the Pentagon's shrunken pie, each side in this argument dismisses its opponents as superannuated, cold-war relics.

The swift, high-tech wars of tomorrow may have little place for the dentist or schoolteacher who likes to drive tanks or fly helicopters as a hobby, according to the full-time army—whose strength has been slashed by about 40%, to 495,000, since the Soviet collapse. Nonsense, retorts the National Guard, which has lost only 20% of its cold-war strength and numbers around 370,000. As the guard sees things, the huge regular army that was built to fight the Soviet Union and its allies was an aberration in American history. Now that the cold war is over, America should revert to reliance on the citizen-soldier, a concept which dates back to colonial times. "Americans have always been suspicious of standing armies, ever since we fought the British redcoats," says a spokesman for the National Guard Association, one of the more formidable lobbies on Capitol Hill. To settle the matter, guardsmen point out that their position is safeguarded by the American constitution, which calls for the raising of militias "to execute the laws of the Union, suppress insurrections, and repel invasions."

But full-time army commanders remain sceptical. The guard's eight combat divisions, its pride and joy, have been steadfastly excluded from any significant role in the army's plans to fight two regional wars (presumably in the Gulf and the Korean peninsula) simultaneously—the worst-case scenario on which much Pentagon thinking is based. In the guard's view, this exclusion is based on a self-serving calculation: the army would not be able to justify retaining ten combat divisions of its own if it admitted that the guard could also play an important role.

As the army sees things, the Gulf war of 1991 proved its point: modern conflicts are too quick and deadly to have much place for troops that require 90 days or more to reach the proper state of readiness. The guardsmen allege, with real bitterness, that their combat brigades were kept out of the war even when they were well prepared.

The deadlock is so intractable, and the mistrust so deep, that the entire process of adapting the military to a changing world is at risk of paralysis. The latest round of peace talks, convened in April by John Hamre, the deputy defence secretary, persuaded the guard that the Pentagon's civilian bosses do want a solution. But the part-timers remain intensely suspicious of the army. They insist that they are ready for painful changes, such as converting some of their heavy-armour divisions into lighter ones, but only if the army does the same. "We are willing to change if the army is willing to change, but we cannot take them at their word," says Major-General Edward Philbin, director of the National Guard Association.

Tensions increased a lot last year when the Pentagon published a quadrennial defence review that called for a cut of 40,000 in the guard's strength. Guardsmen muttered that the army had conspired against them; the army retorted that it was about time the guard bore its share of defence cuts like everybody else. Eventually the guard offered to accept a cut of 15,000 over three years, but only if the army recognised the guard's importance by signing up to 11 principles. Otherwise, all deals were off the table.

The reason why the guardsmen feel able to take such a firm line is that they have extraordinary political clout. Because guardsmen are based in every part of the country, no lawmaker can afford to ignore them. They also have a natural constituency in the state governors, who rely on them to cope with riots, explosions and (especially in recent months) natural disasters. At least in peaceful times, the $5.5 billion which the Pentagon spends every year on maintaining the guard is a sort of transfer from Washington to the governors, who are gaining influence on several other fronts and are highly protective of their local troops.

The net result is a stalemate—and intense frustration for the defence planners, who long to save money on army personnel (whether full- or part-time) and use it to buy high-tech weapons. The Pentagon says annual procurement spending must rise by about $20 billion, to $60 billion per year, by 2001 if America is to retain its military edge against all comers. But with every legislator determined to protect bases and guard units in his or her home district, it looks harder and harder to see how money can be freed for this shopping spree.

In recent months, a new factor has emerged which could have a large, unpredictable effect on the stand-off between the army and the guard, and on the broader balance of power in the Pentagon. It is the belief among defence thinkers—especially those not wedded to any particular bureaucratic interest—that domestic security risks may be rising at a time when the United States locks virtually unchallengeable overseas. In military jargon, this is the theory of "asymmetrical threats". It goes like this: no adversary in his right mind would try to match America's vast arsenal of tanks, ships or nuclear weapons. It makes far better sense for the enemy—be it a terrorist group, a rogue state, or a combination of both—to wage chemical, biological or even cyber-warfare against American society, exploiting its openness.

There was, initially at least, much rejoicing among the guardsmen last year when the national defence panel, a group of experts with a mandate to review the country's military priorities, called for greater emphasis on countering poison gas or germ warfare attacks at home. The panel suggested that a Homeland Defence Command could be organised around the National Guard.

But, on second thoughts, the guardsmen feel more cautious about the new defence thinking. Dealing with the ghastly consequences of a chemical or biological attack has always been part of their job, they point out. Governors would need them badly during the few crucial hours when the emergency was too serious for local police and fire services to cope and the federal authorities had not yet arrived. But the guard will strongly resist any changes to its structure that would compromise its ability to join the regular army on overseas combat missions. Since "the army would love to turn us into a constabulary" with purely local duties, the guard is bracing itself for a fresh bureaucratic fight, says General Philbin.

In fact, the advent of "asymmetrical threats" may not suit the institutional interests of any of the Pentagon's quarrelsome soldiers. Consider how the lines of authority would shift in the event of a chemical or biological attack on Anytown, America. Once the emergency became too serious for the state government, responsibility for "crisis management"—identifying the culprit and stopping further attacks—would shift to the FBI. The appalling human consequences of the crisis would be dealt with by a shadowy organisation called the Federal Emergency Management Agency (FEMA), originally designed to keep government functioning in secret in a nuclear war, but better known for mismanaging the aftermath of hurricanes. The mainstream defence establishment would hardly enter the picture. If the attack was clearly launched by a foreign state, the generals might get busy retaliating. But what if the culprits were home-grown terrorists?

In practice, nobody knows who would do what if American city-dwellers faced a lethal cloud of anthrax or nerve gas. An exercise in March, designed to test the authorities' response to a genetically engineered virus spread by terrorists on the Mexican-American border, led to bitter squabbling among rival agencies. "There is no clear demarcation line between the FBI and FEMA, and knowledge about disease and hazardous materials is spread over a broad array of institutions," says Zachary Selden, a germ-warfare boffin. "Somebody is needed to sit on top of these operations."

But as America waits for the barbarians, its soldiers and guardsmen may at last have found something in common. Both have an interest in keeping the Pentagon's mind concentrated on hypothetical overseas wars, as opposed to deadly attacks on the homeland which look all too possible.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 14, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 18

2:00 p.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the role of faith-based charities in the District of Columbia.
SD–342

MAY 19

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume oversight hearings to examine the Federal Communications Commission, focusing on the Mass Media Bureau.
SR–253

Energy and Natural Resources
To hold oversight hearings on the fiscal and economic implications of Puerto Rico status.
SH–216

10:00 a.m.
Governmental Affairs
To hold hearings to examine Government computer security.
SD–342

Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine antitrust implications of certain bank mergers.
SD–226

Labor and Human Resources
To hold hearings to examine grievance procedures in the health care industry.
SD–430

2:00 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine certain business bankruptcy issues.
SD–226

MAY 20

9:30 a.m.
Commerce, Science, and Transportation
Oceans and Fisheries Subcommittee
To hold hearings to examine the harmful effects of algal blooms.
SR–253

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense, focusing on Army programs.
SD–192

Governmental Affairs
To continue hearings to examine Government computer security.
SD–342

Judiciary
To hold hearings on S. 1645, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions.
SD–226

Indian Affairs
Business meeting, to mark up S. 1691, to provide for Indian legal reform.
SR–485

2:30 p.m.
Judiciary
Technology, Terrorism, and Government Information Subcommittee
To hold hearings on S. 512, to amend chapter 47 of title 18, United States Code, relating to identity fraud.
SD–226

MAY 21

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the content of certain music lyrics.
SR–253

10:00 a.m.
Labor and Human Resources
To hold hearings on genetic information issues.
SD-430

1:00 p.m.
Indian Affairs
To hold oversight hearings on addressing the unmet health care needs in Indian country.
SD-106

2:00 p.m.
Energy and Natural Resources
Energy Research and Development, Production and Regulation Subcommittee
To hold hearings on S. 1141, to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy- based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and S. 1418, to promote the research, identification, assessment, exploration, and development of methane hydrate resources.
SD-366

JUNE 4

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD-366

JUNE 11

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To resume hearings on S. 1253, to provide to the Federal land management agencies the authority and capability to manage effectively the federal lands in accordance with the principles of multiple use and sustained yield.
SD-366

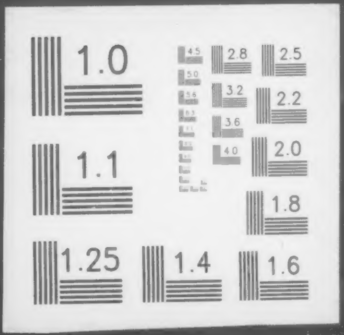
OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

LIBRARY OF MICHIGAN

FEB 0 6 2004

U.S. DOCUMENT
RECEIVED DEPOSITORY


1.0
4.5
5.0
5.6
2.8
2.5
3.2
2.2
3.6
4.0
2.0
1.1
1.8
1.25
1.4
1.6